

Supreme Court Number: 76098

IN THE SUPREME COURT OF THE STATE OF NEVADA

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LISA ANN NASH,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

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Appeal from the Eighth Judicial District Court of Nevada

**APPELLANT LISA ANN NASH'S APPENDIX**

**VOLUME V**

THERESA RISTENPART, Attorney-at Law

Nevada Bar Number 9665

464 South Sierra Street

Reno, NV 89501

(775) 200-1699

Counsel for Appellant

**APPELLANT LISA ANN NASH'S APPENDIX**

**VOLUME V**

Jury Trial, Day 5- September 15, 2017

APP 0732-0922

Jury Instructions

APP 0923-0953

1 TRAN  
2 CASE NO. C-15-308570-1  
3 DEPT. NO. 25  
4

5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

7 \* \* \* \* \*

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9 THE STATE OF NEVADA, )  
10 )  
11 Plaintiff, ) REPORTER'S TRANSCRIPT  
12 ) OF  
13 vs. ) JURY TRIAL  
14 LISA ANN NASH, )  
15 )  
16 Defendant. )  
17 \_\_\_\_\_ )

18 BEFORE THE HONORABLE KATHLEEN DELANEY  
19 DISTRICT COURT JUDGE

20 DATED: FRIDAY, SEPTEMBER 15, 2017  
21  
22  
23  
24

25 REPORTED BY: Sharon Howard, C.C.R. #745

1 APPEARANCES:

2 For the State:

DENA RINETTI, ESQ.

3 JACOB VILLANI, ESQ.

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7 For the Defendant:

STEVE EVENSON, ESQ.

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1 LAS VEGAS, NEVADA; FRIDAY, SEPTEMBER 15, 2017

2 P R O C E E D I N G S

3 \* \* \* \* \*

4  
5 THE COURT: Good morning. I had one matter I  
6 would like to address from yesterday. There was a juror  
7 question we did ask and I want to make a record of it.

8 I had discussed it with counsel in chambers, and  
9 Juror 2 posed a question, and it's marked as Court's  
10 Exhibit 13.

11 How would your commander in the Air Force feel if he  
12 was to view the video. And would the Air Force be  
13 acceptable with your behavior in the video being you were  
14 in uniform.

15 We determined those were improper questions,  
16 speculation and did not ask them. That juror question  
17 will be part of the record as Court's Exhibit 13.

18 Anybody want to put anything on the record about  
19 that.

20 MS. RINETTI: Not from the State.

21 MR. EVENSON: No, your Honor.

22 THE COURT: The next in line as Court's Exhibit  
23 14, I have 4 items. I have the State's full original  
24 proposed, since the court has made some adjustments, or  
25 intends to make adjustments to those, and I wanted to have

1       that in there.

2               And to follow as Court's 15, the full set of  
3 Defendant's proposed. So some obviously are coming in  
4 from both sets, but this way it will be in the record what  
5 they looked like it's the original proposals to the  
6 court.

7               I then have Ms. Rinetti's email to the court with the  
8 commentary as to Defendant's proposed. I have  
9 Mr. Evenson's email to the court -- sorry -- Ms. Rinetti's  
10 email with attachment will be Court's 16. Then I have  
11 Mr. Evenson's email with his commentary as to the  
12 instructions and the State's commentary on that, will be  
13 Court's 17.

14              I'll give those to my clerk so that all of that is in  
15 the record. If either counsel feels anything else needs  
16 to be provided, I'm open to that. I just felt that that  
17 gave us the picture in terms of what was proposed and what  
18 the commentary was from counsel prior to today's  
19 settling.

20              Before we get into that discussion, I did note -- I  
21 was given by my staff this morning that Mr. Evenson you  
22 had filed two motions. One styled as a motion for  
23 directed verdict and one styled as motion to force amended  
24 information.

25              Has the State received these motions.

1 MS. RINETTI: I did about half hour ago.

2 THE COURT: Probably my thought on those would  
3 be not to address those this morning to try to get through  
4 the jury instructions and get those settled so you can get  
5 instructions and go complete closings and include those as  
6 needed. Then, address these when we reconvene later  
7 today. Unless the parties want to. I haven't -- it was  
8 just handed to me, so I haven't --

9 MS. RINETTI: Court's pleasure. The State is  
10 ready to argue, but whatever the court would like.

11 THE COURT: As I said, let the court have a  
12 chance to get up to speed.

13 MR. EVENSON: If I may get the original fully  
14 filed with the court. You have an email that wasn't  
15 signed. I sent it in. I have the signed motion to file  
16 in open court, if I may.

17 THE COURT: Okay. Bring them up to the clerk  
18 then. Since you're already up here --

19 MR. EVENSON: Want me to distribute to  
20 everyone.

21 THE COURT: Yes.

22 Hang on to that. That's just for my reference in  
23 a minute. That's not to be looked at now. What the court  
24 has done in an effort to try to move things along --  
25 sorry, I left it in my office, one of the pieces of the



1 puzzle.

2 What the document is I was just handed out is a draft  
3 of the court's instructions based on State's proposed and  
4 Defendant's proposed. As we go through your proposed and  
5 to the extent we have the dialogue, then I can show you  
6 what it is the court has put together in that regard, and  
7 then we can make a final determination what that  
8 instruction should look like. In the interest of time  
9 there wasn't going to be time for me to just settle based  
10 on your two proposed and create a set.

11 Again, I think the best way to proceed is to let it  
12 sit there on your table without trying to read it and  
13 understand it yet. Then as I'm talking about them, I can  
14 point you to the proposed. It wasn't my intention to have  
15 you talk about those. That's not the best way to settle  
16 them.

17 Anything preliminary before we jump into the  
18 instruction discussion.

19 MR. VILLANI: No, your Honor.

20 THE COURT: So my mention yesterday was that I  
21 thought we would start with -- we can do it one or two  
22 ways. We could start with Defendant's proposed, because  
23 much of the discussion that was processed by the State --  
24 or given by the State and responded to by Mr. Evenson  
25 surrounds that. Then when we are done, we can look at the

1 bulk of the remainder that were primarily the State's  
2 stocks, for all intent and purposes, that have become the  
3 court's stocks with some adjustments. That might be the  
4 most efficient.

5 We can go through the State's proposed, which  
6 contains so many of the stocks, then go one by one and  
7 meet up with something that overlaps with the Defendant's  
8 and we can do that.

9 You have a preference.

10 MS. RINETTI: No.

11 THE COURT: Just for clarity of the record,  
12 because the court's draft tracks obviously using as its  
13 initial base the State's proposed, then we'll meet up with  
14 where the defense had a proposed corresponding we'll  
15 address that. Okay.

16 So obviously the first several instructions as you  
17 refer to either as State's proposed or Defense's proposed,  
18 which again have been marked in evidence as Court's 14,  
19 and 15, we'll refer to page numbers. I know the  
20 Defendant's proposed had a few numbering of the actual  
21 instructions, but we'll use page numbers.

22 For State's proposed pages 1, 2 -- 1 through 5, are  
23 encompassing the initial stocks and the information. The  
24 number 4, then, or page 6, then, would be the separate --  
25 each charge and the evidence pertained to be considered

1 separately. Defense had a similar proposal. This is  
2 included as a separate instruction in this set the court  
3 proposed. Sometimes it's added to and just at the bottom  
4 of the information where it says, it is the duty of the  
5 jury to apply the rules and determine whether or not the  
6 Defendant is guilty of one or more of the offenses  
7 charged. But it appears both counsel suggested it be  
8 separate, so it will be separate.

9 Now, we get over as to State's Proposed page 7, we  
10 get over to the abuse instructions. Then, of course,  
11 those would follow and need to necessarily include where  
12 we get into the request for using parental privilege  
13 instructions and Newman based instructions.

14 The court had some concerns in reference to narrowly  
15 tailoring the child abuse turned to just child abuse, when  
16 the charge is child abuse and neglect or endangerment.  
17 This is not a major point. I have found that can and it  
18 would be confusing to the jury if we have a charge and we  
19 name the portion of the charge so it doesn't track to the  
20 charging document.

21 So the court's proposal would be to reference the  
22 charge as child abuse, neglect, or endangerment as opposed  
23 to child abuse. I think what follows and is still going  
24 to be some version of what is proposed. We need to do  
25 that.

1           Then the court's concern also with the State's -- so  
2           that's page 7, would be primarily that.

3           MR. EVENSON: Page 7 or Instruction 7.

4           THE COURT: I'm looking at State's proposed.

5           MR. EVENSON: Sorry, Judge. Just making sure.  
6           Okay.

7           THE COURT: You want to give me back the court's  
8           set so there is no confusion. You can give it back. I'm  
9           not ready to show you that yet.

10          MR. EVENSON: I understand now. I thought we  
11          were going through this one and tracking it with this.

12          THE COURT: For the record, what I'm doing.  
13          State's proposed is what we're going through to talk about  
14          what is included, what isn't in terms of the court's  
15          discussion. And to the intent it ties into what's  
16          proposed by the defense, we'll address those. Okay.

17          MR. EVENSON: Okay.

18          THE COURT: When it comes to me telling you what  
19          the court's dialogue looks like, then I will point to you  
20          specific instruction numbers in the court's set. Okay.

21          State's page 7, then we come over to State's page 8,  
22          and State's page 9, those are the following instructions  
23          that define abuse and that then define negligent treatment  
24          or mall-treatment. I noted, Ms. Rinetti, in your  
25          commentary to the Defendant's proposed which led into then

1 the discussion about the parental privilege and Newman  
2 instruction proposed by the defense, that you talked about  
3 this particular case and what is being asserted in this  
4 particular case. Of course, your commentary also included  
5 to Defendant's annotation that there are multiple theories  
6 upon which child abuse can be brought as a charge and that  
7 the State is only pursuing the negligent treatment or  
8 mall-treatment.

9 It does appear from the court's perspective that  
10 evidence that has been deduced and the fact there is, as  
11 you noted, both physical discipline and non-physical  
12 discipline that at least two of the theories of abuse are  
13 present in this case and need to be adjudicated by the  
14 triers of fact. And that would be the -- I want to get  
15 the wording -- physical or mental injury by it's nature  
16 would be two of the theories.

17 I think because we are talking about physical  
18 discipline and corporal punishment analysis and because  
19 we're talking about non-physical or other forms of  
20 punishment that are not corporal that's where those two  
21 theories tie. I didn't think it was complete, the  
22 instruction on page 8 and the instruction on page 9 to be  
23 inclusive of what instructions the jurors needed to make  
24 the determination in the case.

25 So I would also note, of course, in the corresponding

1 Defendant's proposed -- I am going of the Defendant's  
2 original set. This may get confusing for counsel because  
3 as the court's initial take of your set, Mr. Evenson, and  
4 fixed spacing, because some of your instructions had come  
5 up to the end of the prior page, but ultimately what's  
6 going into evidence as Court's Exhibits as 14 and 15, is  
7 your proposed in the original version you provided. There  
8 may be confusion as to page numbers, but we'll get into  
9 all those matters.

10 Your proposals for the abuse instruction should look  
11 like -- run roughly from your page, kind of overlapping  
12 with the privilege doctrine proposals. They run roughly  
13 from page 19, in your proposed, through and including page  
14 24, again roughly, and the child abuse definitional  
15 provision starting at pages 25 through 29.

16 So what the court has fashioned out of those  
17 proposals and starting first with what the instruction is  
18 to what child abuse is, or is not, and the definitions  
19 needed to support that that is now found. If you want to  
20 turn now to the court's proposed set, at instruction  
21 numbers 5 and 6, and I can explain how I dealt with the  
22 privilege request.

23 Instructions 5 and 6, on pages 8 and 9 in the court's  
24 set, Instruction 5, on page 8, is essentially the same as  
25 to what the State proposed.

1           Then turn to page 9, Instruction 6, where you see the  
2     incorporating Defendant's proposed, which defense had one  
3     as well, defining willfully. The court included the abuse  
4     definition that the State proposed.

5           Then the court included physical injury and mental  
6     injury definitions from Defendant's proposed. Made a  
7     slight adjustment there to flow with the wording.

8           Then Instruction No. 6, page 9, the court's set,  
9     negligent treatment or maltreatment definition the State  
10    proposed.

11          It is this court's belief that those two  
12    instructions, read together, will give the fullest  
13    understanding to the jurors of what is being charged and  
14    what information they need to have to assess whether that  
15    charge has been met.

16          Let me turn to the State first.

17                 MS. RINETTI: Thank you so much. I appreciate  
18    the amended regarding the child abuse definition, which is  
19    found on the court's Instruction 5, which mirrors that of  
20    the State's Proposed on page 7.

21          The only thing I'll put in the record and made  
22    abundantly clear just out of cautionary, why I, most of  
23    the time, omit the neglect or endangerment is because I  
24    know the Nevada Supreme Court has taken a lot of issue  
25    with the fact that you can't interchange abuse and

1 neglect, Subsection one, Subsection two. Every language  
2 in the charging document, all of the language in the jury  
3 instructions are under Subsection one. Although neglect  
4 is in the title, everything in regard to how the jury will  
5 be instructed and how the Defendant has been charged is  
6 under Subsection one.

7 THE COURT: That's an important record to have.  
8 I only want to comment to this and this is the balance  
9 that's difficult to strike. Is what is going to be less  
10 confusing or best informative to the jurors. So they're  
11 seeing in the charging document and/or prior instruction  
12 the full title and what is underpinning that is abuse.  
13 But when we change the title in the instruction, it causes  
14 me concern unless there were to be an amendment to the  
15 information. But that's for other reasons posed by the  
16 defense, we'll address later today, just again, because  
17 the offence has that title, but the sub-pinning of how  
18 they are going to determine whether that offence applies  
19 is clearly the abuse categories. I think we are doing the  
20 instruction correctly, but I appreciate that concern.

21 MS. RINETTI: One more thing.

22 THE COURT: Fine. Let's finish, and I'll turn  
23 to Mr. Evenson.

24 MS. RINETTI: The only other concern I have is  
25 that the charging document in this case, as the court



1       noted, is 5 theories of child abuse here in the State of  
2       Nevada. Based upon case law and those requirements the  
3       Defendant has to be aware of the theories in which the  
4       State has elected to proceed. We have elected to proceed  
5       under negligent treatment or maltreatment theory. The  
6       case law indicates the State can always change a theory  
7       prior to -- before the jury gets the case. However, the  
8       one thing I would note -- the court has included physical  
9       injury and mental injury definitions under 200.508. The  
10      only concern the State has is there is no physical injury.  
11      There is no permanent or temporary disfiguring or  
12      impairment. We haven't provided any evidence of such and  
13      we have not provided necessarily that there has been  
14      injury to Shaylyn's intellectual or psychological  
15      capacity. The State rarely uses that for a variety of  
16      strategic reasons. So that's the State's only concern  
17      regarding court's instruction on page 9 and the State  
18      Proposed Instructions on pages 8 and 9.

19               THE COURT: Let me follow up with this question  
20      to then -- and this is why I said this is the court's  
21      draft and there could be adjustment. Because I struggled  
22      with how to have both the physical discipline and the  
23      other punishments, non-corporeal for purposes of this  
24      discussion, you referred to in Defendant's proposed -- the  
25      court's record is Court's 16 -- is we have evidence that

1 goes to the jury that they could weigh -- find to be  
2 corporal punishment and physical.

3 When I look at the definition of negligent treatment  
4 or mall-treatment, I struggle to see how the evidence fits  
5 under that -- corporal fits under that also. If that  
6 makes sense. I'm not articulating very well. I  
7 apologize.

8 When we have a definition negligent treatment and  
9 mall-treatment, a child has been abandoned is without  
10 proper care, control or supervision, lack of education or  
11 medical care necessary for the welfare and well-being of  
12 the child -- et cetera -- I struggle to see how that  
13 definition alone encompassed all of the aspects of what is  
14 seen.

15 When you look at the definition of abuse and when you  
16 look at those factors, then we haven't gotten into the  
17 following instructions which talk about what is or is not  
18 in terms of corporal punishment or other punishments and  
19 whether they are excessive or unreasonable. When that all  
20 ties together, that shows that either theory could be  
21 available. That's where I struggled.

22 It appears that either theory could be available. But  
23 weather they ultimately weigh physical injury, mental  
24 injury and it's not there, fair enough. But any way they  
25 go under which theory, it's still available as a theory of

1 child abuse. It appears that evidence would conform to  
2 both theories. That's why I put it in.

3 So if you want to have more dialogue by that, my  
4 basis of my question was long-winded, I apologize, is does  
5 all of the evidence presented fall under negligent  
6 treatment or mall-treatment alone.

7 MS. RINETTI: Because it's excessive corporal  
8 punishment and under 432(b), it may rule in abuse. What  
9 we look at in the definition of negligent treatment or  
10 mall-treatment and the Nevada Supreme Court has as well  
11 focused on that without proper care and control. The  
12 court -- the Nevada Supreme Court made an analogy decision  
13 in regard to the theory of negligent treatment or  
14 mall-treatment, where there was no physical injury or  
15 mental injury. In an example of a parent is driving  
16 drunk. There is no accident. She's -- he or she is  
17 pulled over. The child is unharmed, but that would fall  
18 under -- according to the Nevada Supreme Court, a  
19 negligent treatment or mall-treatment because the child is  
20 not -- the parent is not providing proper care or control.

21 In this case we believe the evidence, the video, was  
22 is that the Defendant was not providing Shaylyn Shelton  
23 the proper care and control, based upon NRS 432(b).

24 THE COURT: Okay.

25 MR. EVENSON: Your Honor, you indicated when you

1       took the bench you had not reviewed my recently filed  
2       motion and recently sent motion. It was sent before it  
3       was filed. Your comments are not the same way I worded  
4       it, but are exactly what I was thinking. If you read that  
5       motion and you read my request to amend the information  
6       it's based exactly on what you are talking about.

7             I think that you are spot on with the analysis. If I  
8       can take one step further for purposes of my record, I  
9       would just note that I believe there are 6 ways. They say  
10      there's 5. There's 1 and the 4 ways of doing it.

11            THE COURT: Let's turn to your proposed where  
12      you have that listing.

13            MR. EVENSON: Yes.

14            THE COURT: I have it on --

15            MR. EVENSON: Let me finish this thought.

16            What I wanted to focus on is it's my reading of the  
17      statute and the Clay case No. 6, and I label Subsection 1,  
18      where it says through physical injury or placing a child  
19      in a situation where a child may suffer, those are two  
20      distinct ways of doing things. In the statute it's an or.  
21      It doesn't say and/or, it's or. I believe that is active  
22      abuse versus passive abuse. What we have here, I wrote in  
23      the motion was, is passive abuse jury instructions being  
24      use for active abuse. That's the problem I have.

25            The other thing is in terms of being extraordinarily

1        confusing to the jury is they do list both active through  
2        negligent treatment and the passive through negligent  
3        treatment. And my -- the motion to amend would say pick  
4        one, but don't do both. Then you're able to have it both  
5        ways. And basically Ms. Nash and I are firing bullets at  
6        moving targets. Particularly where I do a middle closing  
7        and they do last. Whatever I say then in the middle  
8        closing to counter what they said first, then they hop to  
9        a whole other theory to theirs. Or I have to argue what  
10       is in essence 12 counts of child abuse, because of the two  
11       ways on top and the four ways on each, and then -- of  
12       doing it. Then I have to deal with the negligent,  
13       mall-treatment aspect of both. And they can go back and  
14       forth between the other.

15                I could not do anything to make that motion or have  
16       the train of thought you had until the presentation of  
17       evidence was done because of their ability to amend.  
18       We're now past that, hence my motion being filed this  
19       morning on that issue.

20                I agree with your comments. I want to turn to one of  
21       my jury instructions to follow that. Thank you for  
22       letting me make that record.

23                THE COURT: Page 25 of your proposed talks about  
24       your reading of the law to say that abuse is defined as --  
25       or child abuse could be physical or mental injury of a

1 non-sexual nature. Sexual abuse, sexual exploitation,  
2 negligent treatment and maltreatment. That's 4, really.  
3 Because they go to negligent treatment and maltreatment  
4 together.

5 You mention 6, but the reality is is what the court  
6 had seen the evidence conforming to and the possible  
7 theories available are 2, correct.

8 MR. EVENSON: I agree with that analysis.

9 My analysis of there being 6 is active abuse under  
10 Subsection 1. Inactive abuse under Subsection 1. And  
11 then abuse or neglect defined as the 4 ways of doing it  
12 seen on page 24 in the instruction.

13 So there's 6 and not 5. The discrepancy I'm pointing  
14 out in the motion is there.

15 Thank you.

16 MS. RINETTI: Just to be cautious for the  
17 record.

18 So Nevada Supreme Court is very cautious regarding  
19 200.508, active or passive. The Supreme Court has said  
20 multiple times -- for the record -- that under Lobastida  
21 (ph), Thomson, Ramirez, that passive actions both apply to  
22 Subsection 2, neglect, and not Subsection 1. That is one  
23 where murder by child abuse, abuse, or the definition of  
24 murder for 200.010 must be active under Subsection 1. And  
25 murder, first degree, cannot be pursued under Subsection

1       2, because it's passive. I want to be real clear on  
2       active versus passive under Nevada law.

3               THE COURT: It is this court's impression that  
4       what the State has put forward is active under Subsection  
5       1. The court is believing that the evidence presented  
6       could be supportive of two theories of child abuse. And  
7       that to make Instruction 5, which is the explanation to  
8       them of a person is guilty of child abuse or endangerment  
9       if. And while it's not inclusive of every aspect of what  
10      could be that charge, it is inclusive of the aspects that  
11      pertain to this case in that charge. And it was an A and  
12      B, suffered unjustifiable pain or mental suffering of  
13      abuse, or be placed in a situation of such.

14             I think it is required -- and of course willfully  
15      again appears in that instruction -- required of us to  
16      help them understand those terms as they apply in this  
17      case. I believe they way they apply in this case the  
18      abuse definition that would be inclusive of the two  
19      aspects of theories under which abuse could be found in  
20      this case.

21             I respectfully don't agree with your math, Mr.  
22      Evenson, that it's 2 theories, times 2, times 4, times  
23      however it is, whatever it is.

24             Here's the charge. And here's the way in which the  
25      charge can be met. And maybe the facts in evidence show

1       this and maybe they don't. Maybe they show this and maybe  
2       they don't, but those are the 2 ways. The State is free  
3       to argue that if they find this occurred, then they have  
4       this basis. And if they cannot, then the State has  
5       pointed them to this basis. And that the law supports  
6       that this would meet that definition. They are free to  
7       argue that. You are free to argue otherwise.

8           I do believe that this instruction and these  
9       definitions provide a clarity to conform to the  
10      evidence.

11           Now, where we turn to more specifics about corporal  
12      punishment, other punishments and how to address the  
13      Newman case and how to address whether or not the State of  
14      Nevada has adopted -- let me say that correctly -- has  
15      codified parental privilege, there's much talk about a  
16      reference to the model penal code. It's not this court's  
17      determination that would be utilized. I agree very much  
18      with the State that having the model penal code and the  
19      instructions is not appropriate and confusing.

20           I do think there has to be instructions to the jurors  
21      of what is and is not abuse when it comes to a parent  
22      exercising discipline. So before we get to instructions  
23      related to that the State had in their proposed set,  
24      included those at the back after the verdict form as what  
25      are called specials. And those were found on pages 35 and



1       36. There was reference, Ms. Rinetti, in your email and  
2       commentary proposed that much of what you are proposing  
3       here in the specials in the back were not necessarily what  
4       you were suggested that the court utilize, but to clarify,  
5       if the court were to allow the instructions, what they  
6       should look like.

7             In Defendant's proposed -- as we pointed out -- these  
8       parental privilege and abuse instructions run roughly from  
9       pages 19 through 29, and the parental privilege discussion  
10      largely based on the Newman decision starts at page 19.  
11      There are a number of instructions related to this in that  
12      area.

13            The court's feeling is although Newman case does give  
14      us the understanding there needs to be instruction that  
15      would make it clear that certain types of physical  
16      punishment or other punishments engaged in could be  
17      appropriate in certain circumstances. And they could  
18      apply to child abuse in certain circumstances.

19            The court has fashioned, out of that, instructions in  
20      its proposed set Instructions 7, 8, and 9 on pages 10  
21      through 12. What the court has done here -- I will be  
22      candid, I had some prior cases in which instructions  
23      similar to this had been utilized, but I did create  
24      instructions and specifically Instruction 9 for this case.

25            The way I thought to explain it -- so the parties can

1 turn to the court's set -- I did not include the model  
2 penal code definition either Defendant proposed or the  
3 State, slightly revised proposed. I did not include a  
4 number of the instructions related to how the Newman case  
5 may call out parental privilege as it's recognized.

6 What I did do was I said what is not child abuse,  
7 neglect, or endangerment pertaining to corporal  
8 punishment. Then I provided a definition in Instruction  
9 7. Then the converse which is corporal punishment is  
10 excessive and could result. Then I gave Instruction 8  
11 what corporal punishment definition is supported by the  
12 case law. And then further explanation of what excessive  
13 corporal punishment is.

14 Then the instruction in this regard goes to the  
15 non-physical punishments or other punishments and the  
16 correct reading of the Newman case, which is it cannot  
17 support that charge if it is used to correct the child,  
18 but if it is cruel or abusive it may result in that active  
19 form of abuse of negligent treatment or maltreatment and  
20 can result in the charge.

21 Take a minute and look at those 3 and see if you have  
22 any commentary as to those. That is how I would  
23 incorporate the Newman decision into these cases.

24 MS. RINETTI: I appreciate that, Judge. The  
25 State doesn't have too much of an objection to 10, 11, and

1 12. It is an accurate statement of the law. I appreciate  
2 you looking into an interesting bit of area of law in  
3 reviewing some of the Nevada case law.

4 I think the court's Instruction 8, accurately  
5 reflects 432(b), regarding excessive corporal punishment  
6 and the case law, as well as the court's Instruction 9,  
7 which does encompass the Newman opinion that the court is  
8 referring to and both parties have referred to in our  
9 comments to one another's jury instructions.

10 The essence of that case where the Supreme Court says  
11 to look at the intent in which the act is done, which is  
12 reflected in the court's instructions, as well as whether  
13 or not it exceeds the boundaries of reasonableness, which  
14 is also included.

15 What the State would ask for is Jury Instruction 7,  
16 page 10, the court's instruction, however, if corporal  
17 punishment is excessive, we just ask that it may result in  
18 child abuse, neglect, or endangerment.

19 THE COURT: So that it not be limited to one  
20 theory.

21 MS. RINETTI: Correct.

22 THE COURT: What occurred there, Mr. Evenson's  
23 comment, because I was utilizing as my template for this a  
24 case where there was only the one theory, and as I brought  
25 it over I think I neglected to remove it to either add the

1 other or need to remove the one so it's not confusing. I  
2 would agree with that change.

3 MS. RINETTI: As a result of that, I would  
4 also -- court's Instruction 9, however, if punishment is  
5 cruel or abusive it may result in child abuse, neglect or  
6 endangerment.

7 THE COURT: Not to parse it out, that is  
8 inadvertent. I'll leave that out all together. That was  
9 inadvertent. My goal was to be sure we covered both  
10 theories.

11 Mr. Evenson.

12 MR. EVENSON: Your Honor, am I to understand --  
13 I haven't gone through 10 on, these are the only  
14 instructions regarding parental --

15 THE COURT: Correct. It's encompassed fully  
16 with the Newman decision and incorporates that decision in  
17 the instructions for this case. Yes.

18 MR. EVENSON: Parental preference doctrine is an  
19 appropriate defense. Once it is raised, and we have  
20 raised it via the facts, I believe she's entitled to the  
21 parental privilege to be specified. That then they have  
22 to find in the instruction beyond a reasonable doubt that  
23 she was not exercising that parental privilege. That is  
24 not contained in these instructions.

25 I believe the evidentiary standard for receiving that

1 is very low. I believe that that was well-stated, both in  
2 her testimony and I think we're entitled to those  
3 instructions. I strongly urge the court to give them.

4 Additionally, Judge, relative to these, which I  
5 appreciate the court's efforts in putting these  
6 together.

7 THE COURT: These being.

8 MR. EVENSON: 7, 8, and 9, which you didn't take  
9 what either of us -- you -- my concern with this is simply  
10 that it appears as if these instructions seem to say that  
11 if corporal punishment is excessive, it may result in  
12 physical or mental injury constituting child abuse,  
13 neglect or endangerment.

14 Am I to understand that that instruction would  
15 incorporate the prior definitions that were given, right,  
16 regarding to those terms.

17 THE COURT: Mr. Evenson, we just had a  
18 discussion, so I want to make sure we're on the same  
19 page.

20 The court inadvertently included both theories and  
21 recommended the change by the State, which the court  
22 agrees with is necessary is physical or mental injury  
23 constituting -- those languages are going to be removed  
24 from 7. It was inadvertently left in from another case in  
25 which that was the only theory. The State pointed that

1 out and the court just indicated its going to remove that  
2 language.

3 If it was left in there, the definitions would apply.  
4 It doesn't belong there. It should read, however, if  
5 corporal punishment is excessive, it may result in child  
6 abuse, neglect, or endangerment. Then we'd have the  
7 definition of what follows and what constitutes excessive.

8 MR. EVENSON: You are eliminating the words  
9 physical or mental injury.

10 THE COURT: Correct.

11 If you look at Instruction 9, it stays in the same  
12 vain.

13 MR. EVENSON: So negligent and mall-treatment is  
14 removed.

15 THE COURT: Correct.

16 MR. EVENSON: Here is my concern, Judge. In  
17 both of these instructions we have child abuse. Child  
18 abuse is alleged, according to 200.501, Sub 1. They're  
19 proceeding on both theories. You have put in the  
20 negligent or endangerment, but you use a comma. I think  
21 that would be appropriate, but the word by or via or  
22 something. Because the jury has to understand the only  
23 way they can find the child abuse necessary under those  
24 elements is to find neglect or endangerment. That's in  
25 the statute.

1           THE COURT: I'm not sure I follow that argument.  
2       That's not at all what our statute requires. The title of  
3       the charge is child abuse, neglect, or endangerment. What  
4       is happening in this case and what the instructions are is  
5       that this is a child abuse case, under Section 1, under 2  
6       theories.

7           So to say that somehow they have to prove neglect or  
8       endangerment in order to get child abuse is the complete  
9       opposite of what we just discussed on what the child abuse  
10      instructions are.

11          MR. EVENSON: Forgive my confusion. But  
12      remember they're doing negligent treatment and  
13      mall-treatment. So I would think that if you put a period  
14      after the term child abuse and eliminate the neglect or  
15      endangerment that states where we are in the case and  
16      there won't be any confusion with regard to those terms.

17          THE COURT: The only reason I'm laughing is we  
18      just had this discussion, Mr. Evenson. So I'm not clear  
19      where the disconnect is.

20          We started the discussion with the fact of why I  
21      didn't just say child abuse and why I cap the charge.  
22      Because in the information, which is also reflected in  
23      discussion number 3, the charge is all 3. And I need the  
24      jurors to understand that that is the charge title.  
25      That's why it's capped. But to reach that charged title,

1 we have abuse as the theory. We have two forms of abuse  
2 as the theory. And these are definitions that go along  
3 with those theories of abuse.

4 And in no way, shape, or form are we using the lower  
5 case neglect or endangerment to mean those actions. It's  
6 simply the charged title.

7 I'm very concerned if I remove from the charge title  
8 neglect and endangerment as part of the charge title, and  
9 they just see child abuse, that they are not going to  
10 understand how that comports with the information and the  
11 charging document with the other title.

12 MR. EVENSON: I understand.

13 THE COURT: I hear you both have said this  
14 different times in this morning's argument. I hear you.  
15 It's just my experience that the jurors occasionally focus  
16 on and are confused by things to us lawyers wouldn't make  
17 sense, which is they should get and understand this is  
18 just a straight up child abuse case. I'm concerned that  
19 if they see a different charge from what's in the charging  
20 document they will be distracted by that. That's why I'm  
21 keeping it capitalized in the charge, while the  
22 instructions will just be abuse.

23 MR. EVENSON: On that basis, I completely  
24 understand what you're doing. Thank you.

25 THE COURT: But it is inclusive of what the



1 court is going to include as far as Newman and parental  
2 privilege instruction. So I do appreciate you've made  
3 your record, that you believe it would be error on the  
4 court's part not to include the others that the court has  
5 declined to include.

6 MR. EVENSON: It's still an affirmative defense.  
7 Am I getting any instruction for that. Again, I haven't  
8 had a chance to read the packet. Do I get an affirmative  
9 defense right now or not.

10 They have -- once I raise an affirmative defense,  
11 they have to prove beyond a reasonable doubt that's not  
12 what happened. So if this is a statement of parental  
13 preference doctrine that you're putting in your  
14 instruction, I would get an instruction they have to prove  
15 it wasn't beyond a reasonable doubt.

16 THE COURT: Let me see if I can answer that the  
17 best way I can think to answer it.

18 There is a reasonable doubt instruction in these  
19 instructions, of course, because our Supreme Court made it  
20 clear there is one and only one reasonable doubt  
21 instruction that we are to use. It's going to be as clear  
22 as possible to the jurors from these instruction that to  
23 find guilt of the Defendant as to any one or more of the  
24 charges, they have to do so beyond a reasonable doubt.

25 The circumstances upon which the Newman case points

1 out that there is the potential for there to be physical  
2 punishments, non-physical punishments of a nature that may  
3 not rise to abuse, that there is the potential also for  
4 those punishments to be excessive, and they could rise to  
5 abuse. And that that is what is required to be understood  
6 by the jurors and put in the instructions.

7 The court is not recognizing anything beyond that to  
8 an uncodified parental privilege or an affirmative defense  
9 of a parental privilege that is such as you are describing  
10 that needs further instructions upon which we would say  
11 more beyond a reasonable doubt, burden of proof  
12 instructions. So I don't know that I articulated all that  
13 that well, but to sum it up, my belief is the sum total of  
14 instructions we have to have as to what is child abuse and  
15 what is not child abuse and what the jurors need to weigh  
16 in those determinations and overall understanding that it  
17 is the State's burden beyond a reasonable doubt to show  
18 the guilt that it was not excessive, it was in fact  
19 excessive or unreasonable, and that it fits in the  
20 definition and fully encompasses what is mandated under  
21 the current state of Nevada law. And anything beyond that  
22 is unnecessary.

23 So if you're asking me what can you argue, can you  
24 stand up there and say there is a parental privilege in  
25 the State of Nevada and they have an affirmative defense

1 to prove beyond a reasonable doubt she didn't do X, Y, and  
2 Z, that's not encompassed in these instructions.

3 I think your appropriate argument is she has the  
4 ability, as a parent to discipline, and it cannot be  
5 excessive. And we would submit to you it's not excessive.  
6 That in so many words. I hope that answers your  
7 question.

8 MR. EVENSON: It's well-quoted in the cases, in  
9 Newman, and in other cases that parental privilege is an  
10 affirmative defense. So if you're making a ruling that  
11 you're acknowledging it exists by putting forth these  
12 instructions and they are saying that it's not an  
13 affirmative defense, I just want to be clear for the  
14 record.

15 So these instructions are what's being given. The  
16 other privilege doctrine issues I have had rejected and  
17 it's not being allowed to be raised as an affirmative  
18 defense.

19 THE COURT: The struggle I'm having, Mr.  
20 Evenson, is I don't know -- I feel like on one hand we're  
21 saying the same thing, then I feel on the other hand like  
22 you are trying to get me to either say you cannot use a  
23 closing argument you want to use, which I'm not saying, I  
24 don't believe, or somehow to restate my determination in a  
25 way that sounds like dit's anti-Newman or anti-case law in

1 the State of Nevada. I don't believe it is.

2 I just went through, if what your closing argument  
3 sound like is we have -- she has the ability, as a parent,  
4 to discipline. That is clear under the laws of the State  
5 of Nevada. And as long as it's not excessive, as long as  
6 it's not unreasonable, then that's a defense to these  
7 charges. They have to prove she's guilty of these charges  
8 beyond a reasonable doubt. And they haven't done that and  
9 here's why, blah, blah, blah. I'm not trying to give you  
10 a closing. I know you have your closing. I'm just  
11 saying, if that's your argument, that's accurate. I think  
12 that's absolutely what Newman says. That gives you the  
13 right to assert an affirmative defense, without using the  
14 legal terminology affirmative defense, because you know  
15 exactly what that is. These instructions exactly  
16 encompass what the Newman case requires. And the  
17 reasonable doubt instructions exactly encompasses what n  
18 is the burden on the State, reflective of their charge  
19 and your defense.

20 But you keep repeating it's an affirmative defense.  
21 They have to have X, Y, and Z of something else. I don't  
22 know why that's different then what I just said, but to  
23 the extent you think it is, then, you might need to  
24 rethink how you're planning to argue. If you're going to  
25 stand there and try to state the law in a way that's other

1       then what the court has indicated in the instructions the  
2       law is, then I think that would be a problem. But I think  
3       we're say saying the same thing.

4             You have defense. You raise your defense. They have  
5       to prove the guilt beyond a reasonable doubt. They have  
6       to prove the defense is not available beyond a reasonable  
7       doubt. That's what this says. So I don't know what it is  
8       you think is missing or that somehow you think you cannot  
9       argue.

10            MR. EVENSON: If I can have one moment. I want  
11       to make sure I'm clear.

12            Well, I am going to say this. There is no  
13       terminology used in the instruction regarding the term  
14       parental privilege.

15            THE COURT: Correct. Because we don't have a  
16       code here. We don't use that terminology here. We have  
17       the Newman decision, which means you can raise the  
18       defense, affirmatively. It means they have to prove  
19       beyond a reasonable doubt you don't have it. You are  
20       creating court instructions from the Newman case and I  
21       think these instructions encompass that fully.

22            Nobody is saying you don't have an affirmative  
23       defense. No one is saying you can't argue the defense.  
24       No one is saying it isn't their burden to prove her guilt.  
25       What are we saying that's not the same.

1                   MR. EVENSON: I just believe that the  
2 terminology of parental privilege is important. I believe  
3 it should be an instruction. I believe once an affirmative  
4 defense is raised, along those lines, it's important to  
5 instruct the jury that they have to prove beyond a  
6 reasonable doubt the affirmative defense did not occur or  
7 was invalid under the law. That's a huge difference then  
8 saying child abuse didn't occur or corporal punishment  
9 wasn't excessive. It's a burden shift that occurs when an  
10 affirmative defense like self-defense is made.

11                  I've taken self-defense cases to jury trial with  
12 success. And the instructions there were very clear that  
13 it was an affirmative defense and that the jury had to be  
14 told that they had to prove it wasn't that beyond a  
15 reasonable doubt. You're saying that by these corporal  
16 punishment instructions, they have to show it wasn't  
17 corporal punishment. That is a totally different rule  
18 then saying this lady has the parental privilege. It's  
19 been asserted, ladies and gentlemen of the jury. And in  
20 order to disprove that they have to prove she wasn't using  
21 that beyond a reasonable doubt before you even get into  
22 the corporal punishment, slash, child abuse and all of  
23 that. That's my point. That's the best record I can  
24 make.

25                  If you disagree with me, we'll go forward.

1           THE COURT: Ms. Rinetti, anything further to add  
2     on this point.

3           MS. RINETTI: Just one thing. I just saw as we  
4     are discussing page 12, Jury Instruction 9. I know you  
5     took some to the language from the Newman case. Now, this  
6     instruction deals with non-physical action perpetrated by  
7     the Defendant. It says, what was the result of the  
8     exercise of reasonable and moderate force. The one word  
9     maybe should be changed. Force implies a physical act  
10    versus maybe reasonable or moderate --

11          THE COURT: That's the tricky part to  
12    incorporate a decision in Newman here, right.

13          MS. RINETTI: Just to be reasonable and moderate  
14    discipline.

15          THE COURT: Makes sense. So as not to confuse  
16    the jury. That was the court's intention in using the  
17    language that tracked to the decision. I think in this  
18    case to conform that decision to this case that's an  
19    appropriate change.

20           Do you want to speak at all to the issue of the  
21    affirmative defense language, if you will, and beyond a  
22    reasonable doubt burden shifting Mr. Evenson made.

23          MS. RINETTI: No.

24           Other than under Nevada law corporal punishment is  
25    allowed. Excessive corporal punishment is not. That's

1 accurately reflected in the jury instructions.

2 THE COURT: That's where the court will leave  
3 it. I do believe that the Newman decision, the ability to  
4 raise the defense, the requirements they prove beyond a  
5 reasonable doubt defense available, the circumstances of  
6 which -- not the court saying it's only corporal  
7 punishment in the instructions.

8 It's the court is providing these instructions in  
9 belief, subject to a higher court saying otherwise, that  
10 these instructions fully encompass the fact that there's a  
11 defense and that it's the State's burden to show that that  
12 was not available. That there is reasonable and not  
13 excessive or the circumstances are such that beyond a  
14 reasonable doubt there is guilt of the charge. It  
15 provides exactly what is understood to be the parental  
16 discipline circumstances that are allowed pursuant to  
17 Newman common law decision. And that these instructions  
18 encompass what the court's instructions should be to the  
19 jury.

20 I don't think, again, we're saying anything  
21 different, Mr. Evenson, other than I think your focus on  
22 the legalese terminology of affirmative defense and burden  
23 shifting and those things are compassed here. But to the  
24 extent of how you state the law to the jurors later, if  
25 you want to use that terminology, to the extent I think



1       there is any misstatement of the law, that will be subject  
2       to objection and the court will make its ruling.

3             I think we've said the same thing. I think they're  
4       encompassed in the instructions. I think you're going to  
5       argue the defense.

6             Next up in the -- back to the State's Proposed as our  
7       starting point are instructions on pages 10, 11, 12, 13,  
8       14, and 15. Those are all battery by domestic violence,  
9       strangulation, which is the charge. And the various  
10      definitions that pertain to it. The various lesser  
11      included offenses that would pertain to it. And specific  
12      instruction to the -- from the court to the jurors as to  
13      how to determine whether or not the lesser included  
14      offence. So the verdict form will make sense when they  
15      see all those listed and they pick one.

16            I did make some slight adjustments to those that are  
17      reflected in the court's proposed -- draft, beginning at  
18      pages 13, running through pages 15, Instructions 10, 11,  
19      and 12 as proposed. I believe this is the most succinct  
20      and clearest way instruct the jurors what battery means,  
21      battery constituting domestic violence means. How they  
22      would find strangulation exists. Then ultimately to  
23      understand what is charged in this case is battery  
24      constituting domestic violence strangulation. And that  
25      includes the lesser offenses. Then it tells them how to

1 determine each one on down to simple battery.

2 I think that it is a version of what the State  
3 proposed in the instructions identified and a version of  
4 what defense proposed. It's instructions found at pages  
5 28, 29, and 30 for the battery and how the lesser included  
6 is used as well. It's a different version of the battery  
7 domestic violence -- battery by domestic violence, versus  
8 battery -- I think you reversed the terminology there, Mr.  
9 Evenson. But ultimately I think the court's draft  
10 encompasses what both sides were looking for in the  
11 clearest way possible to the jurors.

12 State.

13 MS. RINETTI: The State has no objection to the  
14 court's 10 through 12.

15 THE COURT: Mr. Evenson, did you have any  
16 objection. Take a moment to take a look. The one -- your  
17 definitions of battery and domestic violence can be  
18 provided and track. Yours differ in how to include the  
19 lesser includeds, but that's court's proposed Instruction  
20 12 -- draft 12.

21 MR. EVENSON: Looking at 10 and 11, I have a  
22 problem in which order is out there. I think the felony  
23 charge should be the first thing and the lesser included  
24 should be second.

25 Then in regard to number 12, I really think this

1 instruction is confusing. It's confusing to me as I'm  
2 reading it. And there is a couple reasons why.

3 First of all, on page 15, line 7 and 8 says, this  
4 offense necessarily includes the lesser offense of battery  
5 constituting domestic violence, battery by strangulation  
6 and battery.

7 THE COURT: What's confusing about that.

8 MR. EVENSON: There is no such battery by  
9 strangulation statute. Strangulation is a term of legal  
10 art. It has an instruction you've given in the beginning,  
11 which is the neck, the breathing, the nose and those  
12 things that automatically makes it a C Felony. I guess  
13 you're saying that it would be a lesser included offense  
14 if they didn't live together. Judge, we'll stipulate the  
15 live together to avoid putting in any confusing language  
16 about a battery by strangulation. There is no question  
17 from the evidence they live together.

18 So I'm not going to argue that there was a battery  
19 committed on a non-domestic person and that that involves  
20 strangulation. One word you will not hear from me in my  
21 closing is she committed a battery by strangulation  
22 against a non-domestic -- somebody that doesn't fulfill  
23 the requirement of living in the same house. Those words  
24 aren't going to come out of my mouth. So I just don't  
25 want the battery by strangulation language in there. And

1 I don't want the battery language in there. Any battery  
2 that was committed in this case by Ms. Nash upon that  
3 minor child would be your -- I know -- I don't want to be  
4 trite -- your garden variety domestic violence charge  
5 between two people living in the same house. I don't want  
6 to confuse them by battery with the strangulation.

7 THE COURT: One second. I'm still trying to  
8 find your proposed -- page 29 and 30. You have -- you  
9 have a reference to the charge battery domestic violence  
10 by strangulation. Then you have battery constituting  
11 domestic violence, includes a lesser domestic battery.  
12 Again, these titles don't track to -- you're only arguing  
13 there should be one lesser included offence.

14 MR. EVENSON: Yes, battery constituting domestic  
15 violence.

16 THE COURT: You're not seeking the lesser  
17 included of battery.

18 MR. EVENSON: I do not -- well, Judge, battery  
19 constituting domestic violence without strangulation, yes,  
20 I am seeking that. But on line 8 of page 15, you have  
21 battery by strangulation, battery. I don't want those in  
22 there because they're not factual.

23 In order to get those charges on as lesser included,  
24 I'd have to argue that Shaylyn did not live with Lisa.  
25 Obviously, she did live with Lisa.

1           The have the other misdemeanor on, I'd have to say  
2           she lived with Lisa but Lisa didn't strangle her. I'm not  
3           going to say that either. The jury is going to find there  
4           was a battery as a result of whatever took place or not,  
5           but I don't want to muddle it up with battery by  
6           strangulation and battery. Either domestic or domestic  
7           with strangulation.

8           THE COURT: To be clear as we're finishing this  
9           discussion. I have on pages 29 and 30, where it starts, in  
10          your proposed defense instructions under pages -- you've  
11          got 1, 2 -- looks like 3 instructions related in this  
12          area. What is battery. What is a lesser included. What  
13          is strangulation.

14          MR. EVENSON: That's how I applied that lesser  
15          included.

16          THE COURT: I just want to be sure I understand  
17          clearly that you're not seeking to have on the verdict  
18          form and corresponding instructions of any lesser included  
19          other than battery constituting domestic violence. That's  
20          the only lesser included you want.

21          MR. EVENSON: Correct. I think legally that is  
22          all I can ask for.

23          THE COURT: I'm not asking what you can legally  
24          ask for. How do I put it this way, Mr. Evenson. I have  
25          had trial, after trial, after trial where there are lesser

1 included offenses where nobody thinks that that's what the  
2 evidence shows, but they're lesser included. They have to  
3 be in there. They have to be instructed The jurors are  
4 free to find them and pick them. It happens all the time.  
5 Nobody is saying you have to stand up and say, I want you  
6 to say just battery because Shaylyn didn't live there.  
7 That's not how that works.

8 I'm concerned that we may be committing some error if  
9 there is, in fact, a lesser included that we don't  
10 include. I guess that's my confusion.

11 Ms. Rinetti, anything you want to add at this point.

12 Obviously, the State proposed all of the lesser  
13 includeds and the court really reworked it in a way that  
14 it thought might just flow a little better as to how that  
15 decision making process would take place. How do you feel  
16 about defense request to eliminate other lesser includeds  
17 other than battery constituting domestic violence.

18 MS. RINETTI: I think they can if they would  
19 like to. The only issue is because domestic violence is  
20 an element the State has to prove, if they want to  
21 stipulate -- they can't be forced to -- but the State  
22 would need a stipulation that that is proved because we do  
23 have to prove each and every element beyond a reasonable  
24 doubt.

25 MR. EVENSON: To be clear. I think it was put

1 in my instructions, and I want to make it clear now. To  
2 the extent the court is concerned that there is some  
3 error, the instruction on page 10 says, battery  
4 constituting domestic violence takes place when an  
5 individual commits a battery upon someone with whom they  
6 are actually residing. There's no question about that in  
7 this case. My client admitted it and everybody else said  
8 it.

9 THE COURT: So let me interrupt here, because  
10 this is important, if you heard what Ms. Rinetti just  
11 said.

12 This seem to be -- sorry this is going to sound  
13 critical, but this is where the disconnect in this  
14 conversation is. You're having your conversations and  
15 your thoughts and you're not connecting to what the other  
16 counsel is saying or what the court is saying.

17 Ms. Rinetti just said if you want to stipulate to the  
18 fact that this was a domestic situation and you want to  
19 say that the only other lesser included would be battery  
20 constituting domestic violence and waive those other  
21 lessers includes, then that means their element they need  
22 to prove, that isn't already stipulated to, is the  
23 strangulation piece. If you want to do that, the court  
24 will make the adjustments in the instructions.

25 I think that it is available to have other lesser

1 includeds. I think these are the other lesser includeds.  
2 I think it is clear what it tells them to weigh to decide  
3 if they believe these other lesser includeds exist, if  
4 there were to be no stipulations.

5 If you want to stipulate that there is a domestic  
6 situation here and therefore this one or that one, I'll  
7 accept that stipulation in the record, and I can make the  
8 adjustments.

9 MR. EVENSON: Please.

10 THE COURT: That's what you want to do.

11 MR. EVENSON: It is.

12 THE COURT: Okay.

13 MS. RINETTI: Could I have the stipulation be  
14 on page 13 on the Instruction 10 of the court, after it  
15 gives the definition to say it has been stipulated to.

16 MR. EVENSON: I don't have a problem with that.  
17 If they saying it during opening or closing, that's fine.  
18 If you want to include that, that's good too.

19 MS. RINETTI: I want it.

20 MR. EVENSON: As I recall, my client doesn't  
21 have to be here for this. You can waive her presence.  
22 That is your choice.

23 THE COURT: It's not my decision. If she wants  
24 to waive her presence for this, fine.

25 MR. EVENSON: She's going to go come back.



1 THE COURT: Okay.

2 The definition of coercion is -- anybody have an  
3 issue with that.

4 Next up is State's instructions and I believe it  
5 starts at page 16. It appears to track to what the  
6 defense proposed. Defense indicated there is an  
7 alternative. The court ultimately went with what it has  
8 standard used in these types of instructions.

9 Any issue with that.

10 MS. RINETTI: No.

11 MR. EVENSON: No.

12 THE COURT: I noticed in your comments you  
13 identified your coercion as the last page of yours, page  
14 36.

15 MR. EVENSON: I don't have a great amount of  
16 heartache over that.

17 THE COURT: Okay. You are okay with the court's  
18 version on page 16 of the court's draft, Instruction 13.

19 MR. EVENSON: Okay. Thank you.

20 THE COURT: The rest really -- let's keep going  
21 through.

22 The rest of the State's Proposed I don't recall  
23 making any changes to those. The defense proposed there  
24 being changes to those, I think through the rest of the  
25 State's I believe those are all intact. I think the only

1 change I made was State's Proposed on page 25. You  
2 reference play-backs and read-backs, I made a minor  
3 adjustments there. That's the conclusion of the State's  
4 Proposed.

5 There are -- maybe I can conclude this now. I'm  
6 mindful it's 11:00 and I want to give you as much time to  
7 incorporate the court's set in your closings.

8 The remainder of State's Proposed -- sorry -- the  
9 remainder of the court's draft will show that I did  
10 incorporate several additional of the Defendant's Proposed  
11 in the final set. I want to get to where that is.

12 So back now to the court's draft. We left off at  
13 page 16, Instruction 13, coercion. As you now go forward  
14 page 17, Instruction 14, is stock; page 18, Instruction 15  
15 is stock.

16 Reasonable doubt, I would note that Mr. Evenson had a  
17 number of other proposals reflective of versions of the  
18 reasonable doubt instruction. The court is declining to  
19 give them. I feel very strongly that our case law has  
20 settled on a version of reasonable doubt instruction and  
21 that's the one we are to give.

22 Tied to that on page 6 of Defendant's Proposed, the  
23 Defendant had proposed what he sort of identified as the  
24 runner-type instruction, we'll call it the susceptible to  
25 interpretation instruction. While it is true that there

1 are cases that have found it's not error to give it.  
2 There are cases that have found it's not error to not give  
3 it. The court believes -- and has studied this issue  
4 significantly because it has been raised in a number of  
5 cases -- is that that instruction is not appropriate to be  
6 given when there is an appropriate reasonable doubt  
7 instruction. And not appropriate in circumstances, absent  
8 very unique circumstances involving cases based entirely  
9 on circumstantial evidence and how that circumstantial  
10 evidence should be weighed and how that is susceptible to  
11 interpretation. When we have a situation with a case like  
12 this that's primarily direct evidence, that it would not  
13 be appropriate to give that instruction that the defense  
14 proposed and that's why you will not find it here.

15 MR. EVENSON: The instruction you were speaking  
16 of specifically before that one I was trying to find that.  
17 That's was one in which was -- the one right before that  
18 one.

19 THE COURT: Reasonable doubt.

20 MR. EVENSON: Yeah. Is that the one the  
21 defendant is clothed in the presumption until the contrary  
22 is proved.

23 THE COURT: Are you talking about your proposed.

24 MR. EVENSON: Yes.

25 THE COURT: So far the only one I've raised of the

1 defendant's proposed as not being given that ties into  
2 where I'm at in the court's draft is the susceptible to  
3 interpretation. So that's not here.

4 The court also did not include the presumption of  
5 innocence instruction that defendant's proposed either. I  
6 believe the instruction in the court's draft on 19,  
7 Instruction 15, is the appropriate correct and compete  
8 statement of the presumption of innocence and the  
9 reasonable doubt instruction. They are combined and they  
10 are here. This is standard court's instruction. I  
11 believe it's in keeping with what our Supreme Court has  
12 mandated to be the instruction. So I did not provide the  
13 instruction on page 11, the Defendant's Proposed other  
14 version of those.  
15 Did you want to make a record on that.

16 MR. EVENSON: Your Honor, I made my record.  
17 I'll stop talking.

18 THE COURT: For the record, that is Court's  
19 Exhibit 17.

20 Page 19 of the court's draft, Instruction 16,  
21 unchanged as proposed, the evidence to be considered.

22 Page 20, Instruction 17 of the court's draft, is that  
23 instruction that the -- both parties had discussed in some  
24 fashion as to weighing the evidence, the weight of  
25 evidence not being with the greater number of witnesses.

1 Each had proposed a version of this. The court actually  
2 utilized a version it thinks is the proper version of how  
3 to tell the jurors that there could be one witness whose  
4 testimony is worthy of belief and could prove a fact to  
5 support a verdict. That you have to consider the entirety  
6 of the witness and the facts in the case and can accept  
7 that witness' testimony.

8 I think this is the more proper way to say this  
9 instruction. It's not exactly what the State or defense  
10 proposed, but I think it is a proper version.

11 We're talking now on court's draft, page 20,  
12 Instruction 17.

13 MS. RINETTI: No objection.

14 THE COURT: Mr. Evenson.

15 MR. EVENSON: That instruction is fine.

16 THE COURT: Thank you.

17 Page 21 of the court's draft, Instruction 18, again,  
18 stock in terms of credibility or believability of the  
19 witness.

20 The discrepancy in a witness' testimony, the court  
21 did use that. You'll see that on the court's draft,  
22 Instruction 19, page 22. This is an instruction that has  
23 been used most regularly in civil practice, but since the  
24 defense proposed it and since we did have quite a bit of  
25 this trial testimony from court, testimony now, that it

1       probably isn't a bad idea to give a little further  
2       instruction to the jurors on this point. This is  
3       typically a stock in civil cases, but I think it's  
4       appropriate to give here.

5             Any concerns with this version of the instruction.

6             MS. RINETTI: Just noted comments, I'll  
7       submit.

8             THE COURT: Thank you.

9             State's comments being in the court's exhibit on  
10       16.

11            The next up in the court's draft page 23,  
12       Instruction 20, this is the Tavaris Instruction. I  
13       determined not to include it. I want to be clear for the  
14       record, I'm including it at this time because recognize  
15       that there was any error at time of trial that there was  
16       any evidence put in that should have or would have invoked  
17       that instruction then. I'm putting it in now out of an  
18       abundance of caution because there was discussion in the  
19       testimony of Ms. Nash, in her testimony yesterday, that  
20       she was -- I'm not going to remember it exactly -- there's  
21       been some testimony that came in most recently through the  
22       defendant where it's possible that she was engaged in  
23       other acts or had been accused of engaging in other acts.  
24       It will come back to me what the specifics were, but I  
25       felt at this point to the extent anybody reviewing the

1 record would find that we should have given the  
2 instruction earlier in the trial and did not that the best  
3 course of action is to give it now, prior to the jurors  
4 deliberating, just in case. And perhaps what I'm thinking  
5 also comes into play because of that tortured back and  
6 forth about prior connection with CPS, domestic violence,  
7 a gun being involved, there really wasn't any further  
8 clarity given on that. They were instructed to disregard  
9 that, but because it wasn't clear what was happening and  
10 whether that was pertaining to Ms. Nash or not, again,  
11 just out of an abundance of caution I think the jurors  
12 should have this Tavaris instruction at this time.

13 MS. RINETTI: I appreciate your record you made.  
14 I echo that in the sense it's error not to instruct on a  
15 bad act.

16 To the extent in which Defendant testified yesterday  
17 about a prior CPS contact -- case, I'm thinking now it's  
18 because of the ex-husband. However, I understand the  
19 court's kind of concerned with that regard, that line of  
20 questioning. I'd note at one point the jurors were to  
21 told to disregard.

22 The testimony was elicited on direct examination,  
23 just for the record regarding the discipline that Ms. Nash  
24 uses in the house, which could be construed as a bad act.  
25 However, most of it that came out was merely reasonable

1 discipline as far as I smacked her in the head, like,  
2 once, or I think she mentioned one time she slapped her  
3 arm. She made a motion and brushed her arm. None of that  
4 rises to the level of criminal conduct or anything. Under  
5 the Newman case it's appropriate as far as the defense is  
6 concerned on how she disciplined her other children. In  
7 the event it's a bad act, I understand the court's  
8 concern. I wanted to make that record.

9 THE COURT: Mr. Evenson.

10 THE COURT: This is your proposed. Can you  
11 identify which page number it is.

12 MR. EVENSON: It was pretty early on.

13 My intent in that document, jury instruction  
14 request was --

15 THE COURT: Page 6, of your proposed.

16 MR. EVENSON: -- I related this to what I've  
17 used to be uncharged conduct within the statement  
18 introduced into evidence. The State has assured me they  
19 are going to tie those things together as substantively  
20 charged acts. I have now changed my position on this, and  
21 I think to the extent that the State intends -- if the  
22 State is going to tell me they are not going to argue any  
23 of her testimony or any of these uncharged acts were prior  
24 bad acts -- she had a long history of abuse. There's  
25 evidence in what you've heard. If that's where we are, I



1 don't need that instruction.

2 At the point asked for it, Judge, we'd had a rowel  
3 over that statement. The State is still saying they are  
4 going to tie that up. They've already indicated they  
5 don't believe the conduct is criminal. As long as they're  
6 not going to argue in their closing what I specified, I'll  
7 withdraw it.

8 THE COURT: Let me make sure I understand.

9 The discussion of the statement, to be clear,  
10 what is admitted as State's Exhibit 2 -- statement of  
11 Megan Nash.

12 The State has argued consistently they believe  
13 there's nothing in there that is charged in this case,  
14 given the time frame of the amended information charging  
15 document in this case from approximately April to --

16 MS. RINETTI: July.

17 THE COURT: And therefore, there is -- that's  
18 the time frame -- that's where those circumstances come  
19 from. In that regard they don't think there are any  
20 uncharged acts there.

21 Then they don't believe they have elicited anything  
22 that is a prior bad act that occasioned the need for a  
23 prior Petrocelli hearing. The court found that was not  
24 warranted and not in the evidence because it believed what  
25 was changed was what was in the statement.

1           This is now focusing on as testimony of Ms. Nash may  
2     have raised potential for there to be other circumstances  
3     that she admitted to that were not charged, potentially,  
4     not known to the State and not charged and/or some  
5     testimony that may have come in that could implicate that  
6     that was confusing about the prior CPS issue. I disagree  
7     overall it was understood to be related to not Ms. Nash  
8     but her ex-husband. But out of an abundance of caution I  
9     wanted them to understand that if they believed Ms. Nash  
10    did anything else that isn't charged here, that they have  
11    to understand they cannot and should not consider it in  
12    any way.

13           What I hear you saying is somehow they don't have the  
14    ability to argue beyond that there were only two instances  
15    testified to by Ms. Nash somehow, or was in the video  
16    somehow as being the basis for the charges. I don't think  
17    that's accurate. I don't think that's how the State should  
18    be so limited.

19           Can you clarify what it is you think you are asking  
20    the State to --

21           MR. EVENSON: Well, I guess if the State is  
22    going to say we're only going to argue in closing argument  
23    is 8 charges that are on the information, and we're not  
24    going to bring up any other bad acts allegations, then we  
25    don't need this instruction.

1           Ms. Rinetti already said there wasn't anything in Ms.  
2       Nashes' testimony regarding her acts that was criminal or  
3       would be used as intent type, see she did it before, she  
4       did it again type thing.

5           THE COURT: That's not how the Tavaris  
6       instruction works. The Tavaris instruction works that  
7       they're not going to argue for more charges then what  
8       they've asserted in the charging document. Those are the  
9       8 charges. That's what's on the verdict form. That's  
10      what they're arguing for.

11          But to the extent they're going to argue that the  
12      totality of what they believe was going on in this time  
13      frame or what those videos show what could have been  
14      occurring and reasonable inferences from the evidence,  
15      they're entitled to do that. It doesn't go away because  
16      they're only arguing the charges. It's either in or out  
17      because there might have been testimony that came into the  
18      trial that shows perhaps Ms. Nash committed other  
19      uncharged bad acts. And we want them to understand they  
20      can't use that for some belief she's a bad person. That  
21      that can only be used to show a couple of things and  
22      that's what that is.

23          MR. EVENSON: From the standpoint of my closing  
24      argument, my defense, from what I understand, I don't  
25      believe this instruction is necessary any longer.

1           Judge, I'm asking it be withdrawn. I don't wish it  
2           given based upon what you just said. I'm ago with what  
3           you just said.

4           THE COURT: Ms. Rinetti.

5           MS. RINETTI: I'll submit it. I belive it's  
6           appropriate given the -- obviously the State was against  
7           it until Ms. Nash took the stand.

8           MR. EVENSON: Judge, they just said that the  
9           brush she testified to and the CPS stuff does not involve  
10          anything they could have charged or would charge is bad  
11          act evidence. If that's the case, we don't need the  
12          instruction. I'm asking -- I'm imploring the court to  
13          please withdraw that instruction. I'll waive it to the  
14          extent a waiver needs to be done.

15          THE COURT: The instruction stays in because  
16          testimony has come into trial that the jurors may be  
17          confused about the fact Ms. Nash may have committed other  
18          bad acts. To the extent that happened, they must be  
19          instructed they cannot consider that.

20          I have no understanding of why the argument would be  
21          made now when you have so strongly asked for it before, to  
22          the extent of asking for a Petrocelli hearing, and now  
23          that it is potentially implicated based on yesterday's  
24          testimony it should come in, you ask to have it removed.  
25          I think it would be error on the court's part to remove

1       it. And you're escalating your argument to now implore me  
2       to remove it, again, makes zero sense to me. The court is  
3       not going to remove it. That completes this discussion.

4               What other record do you need to make.

5               MR. EVENSON: The line they wish to use is it  
6       may be consider only by you for the limited purpose of  
7       proving motive or intent. That's what they'll be jumping  
8       up and down on.

9               THE COURT: They didn't propose this  
10       instruction.

11              MR. EVENSON: That's why I don't want it.

12              THE COURT: You proposed it and it's now been  
13       implicated by the evidence in the case. It's in. Sit  
14       down, please.

15              Help me with some cogent legal argument as to why it  
16       should be in or out, not some speculation the State is all  
17       of a sudden now, based on an instruction the court has put  
18       in, because it's necessary, that they even said they don't  
19       want it. They're not going to turn it around against your  
20       client. That's not how this works. I think it's error on  
21       anyone's part to leave it out, given the evidence that  
22       came in yesterday. That's why it's going in.

23              MR. EVENSON: For the record, I disagree.

24              THE COURT: Thank you. I didn't know until you  
25       just clarified it.

1           The court's draft page 24, Instruction 21,  
2       Defendant's Proposed at page -- you can assist Mr. Evenson  
3       by helping us find your page number -- page 9, the court  
4       did believe it was necessary to have this instruction for  
5       clarification. On this point the State thought it was  
6       irrelevant because it didn't think there would be anything  
7       that would come in that would make this instruction  
8       necessary. Again, according to the testimony of Ms. Nash  
9       yesterday this instruction is being included.

10           MS. RINETTI: I agree.

11           THE COURT: Mr. Evenson.

12           MR. EVENSON: Yes.

13           THE COURT: The remainder are stocks, general  
14       instructions to the jurors. There was one other defense  
15       proposed that was looking to have more specifics on these  
16       instructions, but I believe these are complete and give  
17       the necessary instructions to the jurors.

18           Anything we haven't addressed. It's about 11:20. It  
19       will take me 15 to 20 minutes to get you the final set.  
20       It won't be the two hours I'd hoped to give you for  
21       preparation of your closings, but I'll get you the final  
22       set with numbers as quickly as I possibly can.

23           MS. RINETTI: Thank you.

24           Based on the stipulation on battery domestic  
25       violence, the verdict form needed to be changed as well.

1           THE COURT: To eliminate the lessers. I'm still  
2 not sure what the stipulation is going to look like.  
3 That's the one that's bothering me. That's the one I'm  
4 trying to figure out how to word. We'll figure it out.  
5 To the extent that I send you the set and either of you  
6 have a quibble with how it's worded, send me back your  
7 proposed change, not just I have a problem, but here's  
8 what I think it should say, and I'll make the final  
9 adjustment.

10           I'm not concerned about that, because I don't see  
11 that going into your final presentations. We can make  
12 that adjustment on the fly at the very end.

13           MS. RINETTI: The State proposed jury  
14 instruction page 37, the Cowling instruction. It's not  
15 included in the court's instructions. So that was the  
16 only thing the State had a question about.

17           THE COURT: What's the defense position.

18           MR. EVENSON: It's in the State's, your Honor.

19           THE COURT: Yes, the last page 37 one with  
20 cites.

21           MR. EVENSON: I disagree. I understand why they  
22 want it in here. I disagree with it.

23           THE COURT: The Cowling decision, I think the  
24 court inadvertently did not address it. The way it was  
25 preparing it's draft, working from stock, and as needed

1 adjusting and including the proposed that were appropriate  
2 that we just didn't get this far.

3 What about it is either inaccurate or inappropriate  
4 for the case.

5 MR. EVENSON: It's my recollection, Judge, that  
6 we did not have any witnesses fail to remember making a  
7 statement. They may have made contradictory statements,  
8 but they did not fail to recollect making that  
9 statement.

10 THE COURT: Ms. Rinetti.

11 MS. RINETTI: I believe Megan Nash said I don't  
12 remember as well as she exaggerated and we were confronted  
13 with inconsistent statements.

14 THE COURT: We have a number of witnesses at  
15 certain times failed to remember. The Crowley instruction  
16 will be included in the set.

17 Let me get these done. I will send them to your  
18 emails as soon as they are complete -- 15, 20 minutes.

19 See you back at 1:00 o'clock.

20 (Lunch recess taken.)

21 THE COURT: I have a copy set of the final set  
22 of instructions, one for each counsel. If somebody wants  
23 to -- Ms. Rinetti, thank you. I did have a communication  
24 from Mr. Rinetti that the copy seemed to be complete and  
25 included the changes that were discussed. I didn't get



1 any feedback from either side that there was anything  
2 problematic about the stipulation, which was the new  
3 instruction or the revisions made.

4 Did you not --

5 MR. EVENSON: What number was that one.

6 THE COURT: It was in my email. Did you not  
7 receive it.

8 MR. EVENSON: Your Honor, I was not at my chair  
9 here.

10 THE COURT: Do you have any opportunity to view  
11 it now, Mr. Evenson.

12 MR. EVENSON: Just a brief moment.

13 I did have a concern about No. 8 if I could. I guess  
14 my concern with No. 8 is this. If they're saying corporal  
15 punishment goes from excessive corporal punishment may  
16 constitute child abuse, couldn't it also constitute  
17 domestic violence. If we're having a domestic violence as  
18 a lesser included offense is this going to confuse the  
19 jury. I don't know if we should put either domestic  
20 violence or child abuse, neglect or endangerment, or  
21 however you want to do that. But I'm just concerned that  
22 in the context of reading the instructions it may make the  
23 domestic violence instruction moot or may make it sound  
24 like there is no middle ground between child abuse neglect  
25 and endangerment and corporal punishment.

1           THE COURT: I'm struggling to follow the  
2 argument. At this time the instructions are complete and  
3 appropriate as to each of the charges, so you have your  
4 record and I appreciate that. I don't have the email I  
5 sent out of which pages the changes are on so that we can  
6 expedite Mr. Evenson actually looking at them.

7           MR. VILLANI: The stipulation is on 12,  
8 Instruction 12 page 15.

9           MR. EVENSON: Sorry.

10          THE COURT: I indicated I was going to provide  
11 them as close to quarter till as I could. That wasn't the  
12 only changed instruction, Mr. Evenson. I sent them to  
13 counsel so they could be reviewed to ensure they are  
14 complete and accurately reflected what we discussed this  
15 morning.

16          Mr. Villani, the instruction numbers he should focus  
17 on.

18          MS. RINETTI: Instruction 7.

19          MR. EVENSON: Okay.

20          THE COURT: Okay.

21          Can I get your statement, Mr. Evenson, rather than if  
22 you have questions or concerns about the instruction. Is  
23 it appropriate, so to speak. I appreciate we have all  
24 objections from this morning, I don't know what okay means  
25 other than maybe you read it. Do you have any changes you

1 want to make a request for.

2 MR. EVENSON: I do not, Judge. I believe it is  
3 exactly what we discussed during settlement.

4 THE COURT: Next is 9.

5 MR. VILLANI: Correct, your Honor.

6 MR. EVENSON: No objection to 9. It appears to  
7 be what was discussed this morning.

8 THE COURT: We'll proceed with that.

9 Next in the court's list.

10 MR. VILLANI: 10, 11, and 12.

11 THE COURT: 12 being the new stipulation. Mr.  
12 Evenson said we can proceed with that.

13 10 and 11 were previously done as separate  
14 instructions. What is in 10 now is combined in 11. I in  
15 part combined No. 10 from what was in 10 and 11,  
16 recognizing there was some confusion indicated that --  
17 this is argued by Mr. Evenson -- that it should start with  
18 the charge and work from there. I added language about  
19 what the charge is. I then put the underpinnings of  
20 components of the charge and how they might reach it.  
21 Then 11 is now the lesser included minus the battery by  
22 strangulation.

23 MR. EVENSON: That appears to be the language we  
24 agreed upon in 10 and 11.

25 THE COURT: The remainder was adding the Crowley

1 instruction. That would be it as far as that.

2 MR. EVENSON: We're good.

3 THE COURT: Thank you.

4 Anything else before we bring the jurors back and  
5 proceed with the instructions and closings.

6 MS. RINETTI: Defense filed this morning the two  
7 motions.

8 THE COURT: Thank you.

9 I knew there was something. Yes. We have I believe  
10 already discussed and I think it would now be moot subject  
11 to if Mr. Evenson has other argument, the motion to force  
12 amended information. The reason I suggested it's moot is  
13 that we have discussed and addressed the issue with regard  
14 to the abuse charge and the two theories upon which the to  
15 definitions related thereto included in the instructions.  
16 In think that addresses that. I don't see any need to  
17 amend the information further. The charges are what the  
18 charges are. The factual assertions supporting the  
19 charges are what they are.

20 Is there any reason you believe this motion still  
21 needs to be considered.

22 MR. EVENSON: As I said, Judge, I believe the  
23 jury instructions now reflect a great deal of what was in  
24 the motion and other relief you have pretty much indicated  
25 you're not going to be granting. I did file that motion

1 before we did the jury instructions. A lot of what you  
2 had opened up with this morning took care of this  
3 earlier.

4 THE COURT: The only thing I saw in the motion  
5 that is not the language, I guess, would not be reflected  
6 in the instructions but for reasons discussed earlier  
7 today is there is some distinction between passive and  
8 active and that somehow the instructions or the arguments  
9 by counsel are instructions that counsel may argue somehow  
10 toggle back and forth between active and passive.

11 The State clarified their case is under Subsection 1,  
12 as active. And it is -- child abuse is what they are  
13 persuing and the two theories upon which that could be  
14 found. I don't know that there is any basis -- I would  
15 consider as you said, this was filed prior to settling of  
16 the instructions. We have now settled the instructions.  
17 I believe it is moot. It will be denied on that basis.

18 MR. EVENSON: Thank you.

19 THE COURT: The other motion you have styled as  
20 directed verdict.

21 MR. EVENSON: Yes.

22 THE COURT: Anything you wish to argue.

23 MR. EVENSON: I don't believe that many of the  
24 charges, if not all of them, can meet the jury  
25 instructions that have been prepared, proposed. I don't

1 believe there is proof beyond a reasonable doubt on any of  
2 the 8 charges. I'll leave it at that. There is a number  
3 of factual assertions in the charges that have not been  
4 proven.

5 THE COURT: Ms. Rinetti, any argument -- you  
6 indicated you were prepared to make argument, but  
7 postponed it until the time --

8 MS. RINETTI: The testimony that was elicited in  
9 Ms. Nashes' written voluntarily statement that's in  
10 evidence and the videos speak for themselves regarding the  
11 charges.

12 THE COURT: I would suggest that the more proper  
13 styling of this motion would be a motion to dismiss, based  
14 on what evidence has been presented. However, it is  
15 styled I do believe that the State has provided sufficient  
16 evidence to have the charges, all of them, considered by  
17 the jury and the motion will be denied on that basis.

18 Thank you for the opportunity to resolve that. Is  
19 there anything else outstanding before we bring in the  
20 jurors.

21 MS. RINETTI: No, your Honor.

22 MR. EVENSON: No, your Honor.

23 THE COURT: Thank you.

24 Resuming in the trial of State of Nevada vs.  
25 Lisa Nash. We have reached the point in trial with each

1 of the parties having rested their case to now instruct  
2 you on the law that applies to this case.

3 It's been a few days, so I'll remind you that you are  
4 welcome to take notes if you wish, but when you go in to  
5 deliberate each of you will have your own individual copy  
6 of these instructions. The reason I don't hand them out  
7 in advance, I have found when I use to do that as people  
8 are flipping through and half listening and looking ahead  
9 and the pages make noise it keeps people from really being  
10 able to pay attention.

11 As with those instruction we gave at the beginning of  
12 trial as counsel was making their final selection for the  
13 panel, I would just ask that you please bear with us,  
14 listen closely. Recognize you will have this document in  
15 front of you when it is time to deliberate. But this is  
16 the law that you will apply to the facts as you find them  
17 to be when you deliberate. After we conclude the  
18 instructions counsel will be given, each, an opportunity  
19 to argue and because the State does bear the burden in the  
20 case, they will be given the opportunity to argue first  
21 and last.

22 We'll proceed with the instructions. Ladies and  
23 gentlemen of the jury, it is my duty as judge to instruct  
24 you on the law that applies to this case. It is your duty  
25 as jurors to follow these instructions and to apply the

1 rules of law to the facts, as you find them, from the  
2 evidence. You must not be concerned with the wisdom of  
3 any rule of law stated in these instructions. Regardless  
4 of any opinion you may have as to what the law ought to  
5 be, it would be a violation of your oath to base a verdict  
6 upon any other view of the law than that given in the  
7 instructions of the court.

8 If in these instructions any rule, direction, or idea  
9 is repeated or stated in different ways, no emphasis  
10 thereon is intended by me and none may be inferred by you.  
11 For that reason you are not to single out any certain  
12 sentence or any individual point or instruction and ignore  
13 the others, but you are to consider all the instructions  
14 as a whole and regard each in the light of all the  
15 others.

16 The order in which the instructions are given has no  
17 significance as to their relative importance.

18 An information is but a formal method of accusing a  
19 person of crime and is not of itself any evidence of his  
20 or her guilt.

21 In this case it is charged in an amended information  
22 that on or between April 1, 2014 and July 31, 2014 Lisa  
23 Ann Nash committed the offenses of child abuse, neglect or  
24 endangerment, battery constituting domestic violence  
25 strangulation, and coercion.



1 Committed at and within the County of Clark, State of  
2 Nevada, contrary to the form, force and effect of statutes  
3 in such cases made and provided and against the peace and  
4 dignity of the State of Nevada.

5 Count (1), child abuse, negligent, or endangerment.  
6 Did willfully, unlawfully, and feloniously cause a child  
7 under the age of 18 years, to wit, S.S. to suffer  
8 unjustifiable physical pain or mental suffering as a  
9 result of abuse or neglect, to wit, negligent treatment or  
10 mall-treatment, and/or cause the said S.S. to be placed in  
11 a situation where said S.S. might have suffered  
12 unjustifiable physical pain or mental suffering as a  
13 result of abuse or neglect, to wit, negligent treatment or  
14 mall-treatment by said Defendant yelling and/or screaming  
15 at the said S.S., and/or causing, and/or directing the  
16 said S.S. to act like an animal.

17 Count (2), battery constituting domestic violence,  
18 strangulation. Did then and there willfully, unlawfully,  
19 and feloniously use force or violence upon the person of  
20 the Defendant's spouse, former spouse, or any other person  
21 to whom the Defendant is related by blood or marriage, a  
22 person with whom the Defendant is was actually residing, a  
23 person with whom the Defendant is having a dating  
24 relationship, a person with whom the Defendant has a child  
25 in common, the minor child of any of those persons or the

1 Defendant's minor child, to wit, S.S. by strangulation.

2 Count (3), child abuse, neglect, or endangerment.

3 Did then and there willfully, unlawfully, and feloniously  
4 cause a child under the age of 18 years, to wit, S.S. to  
5 suffer unjustifiable physical pain or mental suffering as  
6 a result of abuse or neglect, to wit, negligent treatment,  
7 and/or mall-treatment, and/or force the said S.S. to be  
8 placed in a situation where the said S.S. might have  
9 suffered unjustifiable physical pain or mental suffering  
10 as a result of abuse or neglect, to wit, negligent  
11 treatment and/or mall-treatment by said Defendant shoving  
12 the face of the said S.S. into the ground and/or slamming  
13 the face of the said S.S. into a floor.

14 Count (4), child abuse, neglect, or endangerment.

15 Did willfully, unlawfully, and feloniously cause a child  
16 under is age of 18 years, to wit, S.S. to suffer  
17 unjustifiable physical pain or mental suffering as a  
18 result of abuse of neglect, to wit, negligent treatment or  
19 mall-treatment, and/or cause the said S.S. to be placed in  
20 a situation where the said S.S. might have suffered  
21 unjustifiable physical pain or mental suffering as a  
22 result of abuse or neglect, to wit, negligent treatment or  
23 mall-treatment by said Defendant yelling and/or screaming  
24 at the said S.S., and/or causing, and/or directing the  
25 said S.S., to run up and down the stairs.

1           Count (5), child abuse, neglect, or endangerment.  
2       Did willfully, unlawfully, and feloniously cause a child  
3       under the age of 18 years to suffer, to wit, S.S. to  
4       suffer unjustifiable physical pain or mental suffering as  
5       a result of abuse or neglect, to wit, negligent treatment  
6       or mall-treatment, and/or cause the said S.S. to be placed  
7       in a situation where the said S.S. might have suffered  
8       unjustifiable physical pain or mental suffering as a  
9       result of abuse or neglect, to wit, negligent treatment or  
10      mall-treatment by said Defendant slapping, and/or hitting  
11      the said S.S. about the head, and/or face, and/or body.

12           Count (6), coercion. Did then and there willfully,  
13      unlawfully, and feloniously use physical force or the  
14      immediate threat of such force against S.S., with the  
15      intent to compel her to do, obtain from doing, an act  
16      which she had the right to obtain from doing by strangling  
17      the said S.S. and preventing her from getting up or  
18      moving.

19           Count (7), child abuse, neglect, or endangerment.  
20      Did willfully, unlawfully, and feloniously cause a child  
21      under the age of 18 years, to wit, S.S., to suffer  
22      unjustifiable physical pain or mental suffering as a  
23      result of abuse or neglect, to wit, negligent treatment or  
24      mall-treatment or cause S.S. to be placed in a situation  
25      where the said S.S. might have suffered unjustifiable

1 physical pain or mental suffering as a result of abuse or  
2 neglect, to wit, negligent treatment or mall-treatment by  
3 said Defendant slapping, and/or smacking, and/or hitting  
4 the said S.S. about the head, and/or face, and/or body,  
5 and/or poking the said S.S. with a knife.

6 Count (8) child abuse, neglect, or endangerment. Did  
7 willfully, unlawfully, and feloniously cause a child under  
8 the age of 18 year, to wit, S.S. to suffer unjustifiable  
9 physical pain or mental suffering as a result of abuse or  
10 neglect, to wit, negligent treatment or mall-treatment  
11 and/or cause the said S.S. to be placed in a situation  
12 where the said S.S. might have suffered unjustifiable  
13 physical pain or mental suffering as a result of abuse or  
14 neglect, to wit, negligent treatment or mall-treatment, by  
15 said Defendant yelling, and/or screaming at the said S.S.,  
16 and/or causing, and/or directing the said S.S. to run up  
17 and down the stairs and/or threatening to push the said  
18 S.S. down the stairs.

19 It is the duty of the jury to apply the rules of law  
20 contained in these instructions to the facts of the case  
21 and determine whether or not the Defendant is guilty of  
22 one or more of the offenses charged.

23 Each charge and the evidence pertaining to it should  
24 be considered separately The fact you may find the  
25 Defendant guilty or not guilty as to one of the offences

1 charged should not control your verdict as to any other  
2 offence charged.

3 A person is guilty of the offence of child abuse,  
4 neglect, or endangerment if the person willfully causes a  
5 child under the age of 18 years, (a), to suffer  
6 unjustifiable physical pain or mental suffering as a  
7 result of abuse, or (b), to be placed in a situation where  
8 the child may suffer unjustifiable physical pain or mental  
9 suffering as a result of abuse.

10 As used in these instructions the word willfully,  
11 when applied to the intent in which an act is done,  
12 implies simply a purpose or willingness to commit the act  
13 in question. It does not require in its meaning that a  
14 defendant held any intent to violate any law or to injure  
15 another or to acquire any advantage.

16 Abuse means physical or mental injury of a  
17 non-accidental nature and/or negligent treatment or  
18 maltreatment of child under the age of 18 years under  
19 circumstances that indicate the child's health or welfare  
20 is harmed or threatened with harm.

21 Physical injury means permanent or temporary  
22 disfigurement or impairment of any bodily function or  
23 organ of the body.

24 Mental injury means injury to the intellectual or  
25 psychological capacity or the emotional condition of a

1 child as evidenced by an absorbable, sustainable  
2 impairment of the ability of the child to function with a  
3 normal range of performance or behavior.

4 Negligent treatment or maltreatment of a child  
5 occurs if a child had been abandoned, is without proper  
6 care, control, and supervision or lacks the sustenance,  
7 education, shelter, medical care or other care necessary  
8 for the well-being of the child because of the faults or  
9 habits of the person responsible for the welfare of the  
10 child, or the neglect or refusal of the person to provide  
11 them when able to do so.

12 It is not child abuse, neglect, or endangerment if  
13 the physical act was a result of a reasonable exercise of  
14 discipline by a parent or guardian of the child involving  
15 the use of corporal punishment. However, if the corporal  
16 punishment is excessive it may constitute child abuse,  
17 neglect, or endangerment.

18 As used in these instructions corporal punishment  
19 means the intentional infliction of physical pain,  
20 including without limitation hitting, pinching, or  
21 striking.

22 Excessive corporal punishment may constitute child  
23 abuse, neglect, or endangerment. Excessive corporal  
24 punishment goes beyond what is proper or reasonable under  
25 the circumstances in light of various factors, including,

1 without limitation, the age, condition of the child; the  
2 behavior being disciplined; the child's response, and the  
3 amount of force used.

4 It is not child abuse, neglect, or endangerment if  
5 the non-physical act was the result of the exercise of  
6 reasonable and moderate discipline by a parent or guardian  
7 to correct the child. However, if the punishment involved  
8 was cruel or abusive, it may constitute child abuse,  
9 neglect, or endangerment.

10 In this case the Defendant is charged with battery  
11 constituting domestic violence strangulation. Battery  
12 means any willful and unlawful use of force or violence  
13 upon the person of another.

14 Battery constituting domestic violence occurs when an  
15 individual commits a battery upon his or her spouse,  
16 former spouse, any other person ton whom he or she is  
17 related by blood or marriage, a person with whom he or she  
18 is actually residing -- is or was actually residing, a  
19 person with whom he or she has had or is having a dating  
20 relationship, or a person with whom he or she has a child  
21 in common.

22 You if find that a battery constituting domestic  
23 violence has occurred, you must also determine whether or  
24 not that battery constituting domestic violence was  
25 committed by strangulation.

1           As used in these instructions, strangulation means  
2 intentionally impeding the normal breathing or circulation  
3 of the blood pressure by applying pressure on the throat  
4 or neck, or by blocking the nose or mouth of another  
5 person in a manner that creates a risk of death or  
6 substantial bodily harm.

7           When it is impossible to commit a particular crime  
8 without committing at the same time by the same conduct  
9 another offence of lesser or greater degree, the latter is  
10 with respect to the former a lesser included offence.

11           In this case Defendant is charged with battery  
12 constituting domestic violence strangulation. This  
13 offence necessarily includes the lesser offence of battery  
14 constituting domestic violence. If you find, beyond a  
15 reasonable doubt, that Defendant committed battery  
16 constituting domestic violence strangulation, then you are  
17 instructed that battery constituting domestic violence  
18 strangulation is the appropriate verdict.

19           If you find, beyond a reasonable doubt, that a  
20 battery constituting domestic violence occurred, but you  
21 determine that the Defendant's actions did not amount to  
22 strangulation, then you are instructed that battery  
23 constituting domestic violence is the appropriate  
24 verdict.

25           The State and the Defendant have stipulated to the



1 fact the charges in this case concern a person to whom the  
2 Defendant is related by blood and with whom she was  
3 actually residing.

4 Any person who uses violence upon another person or  
5 threatens violence or injury to another person with the  
6 specific intent to compel another to do or abstain from  
7 doing an act with which such other person has a right to  
8 do -- let me start again. I think I misspoke.

9 Repeating Instruction No. 13. Any person who uses  
10 violence upon another person or threatens violence or  
11 injury to another person with the specific intent to  
12 compel another to do or abstain from doing an act which  
13 such other person has a right to do or abstain from doing  
14 is guilty of coercion.

15 To constitute the crimes charged there must exist a  
16 union or joint operation of an act forbidden by law and an  
17 intent to do the act.

18 The intent with which an act is done is shown by the  
19 facts and circumstances surrounding the case. Do not  
20 confuse intent with motive. Motive is what prompts a  
21 person to act. Intent refers only to the state of mind  
22 with which the act is done. Motive is not an element of  
23 the crimes charged and the State is not required to prove  
24 a motive on the part of the Defendant in order to convict.  
25 However, you may consider evidence of motive or lack of

1       motive as a circumstance in the case.

2           The Defendant is presumed innocent unless the  
3       contrary is proved. This presumption places upon the  
4       State the burden of proving, beyond a reasonable doubt,  
5       every element of the crime charged and the Defendant is  
6       the person who committed the offence.

7           A reasonable doubt is one based on reason. It is not  
8       mere possible doubt, but is such a doubt as would govern  
9       or control a person in the more weighty affairs of life.  
10       If the minds of the jurors, after the entire comparison  
11       and consideration of all the evidence, are in such a  
12       condition that they can say they feel an abiding  
13       conviction of the truth of the charge, there is not a  
14       reasonable doubt. Doubt to be reasonable must be actual,  
15       not mere possibility or speculation.

16          If you have a reasonable doubt as to the guilt of the  
17       Defendant, she is entitled to a verdict of not guilty.

18          The evidence which you are to consider in this case  
19       consists of the testimony of the witnesses, the exhibits,  
20       and any facts admitted or agreed to by counsel. There are  
21       two types of evidence direct and circumstantial.

22          Direct evidence is the testimony of a person who  
23       claims to have personal knowledge of the commission of the  
24       crime which has been charged, such as an eye-witness.

25          Circumstantial evidence is proof of a chain of facts

1 and circumstances which tend to show whether the Defendant  
2 is guilty or not guilty. The law makes no distinction  
3 between the weight to be given to either direct or  
4 circumstantial evidence. Therefore, all of the evidence  
5 in the case, including the circumstantial evidence should  
6 be considered by you in arriving at your verdict.

7 Statements, arguments, and opinions of counsel are  
8 not evidence in the case. However, if the attorneys  
9 stipulate to the existence of a fact, you must accept the  
10 stipulation as evidence and regard that fact as proved.

11 You must not speculate to be true any insinuations  
12 suggested by a question asked to a witness. A question is  
13 not evidence and may be considered only as it supplies  
14 meaning to the answer.

15 You must disregard any evidence to which an objection  
16 was sustained by the court and any evidence ordered  
17 stricken by the court. Anything you may have seen or  
18 heard outside the courtroom is not evidence must also  
19 be disregarded.

20 The weight of evidence is not necessarily with the  
21 greater number of witnesses. The testimony of one witness  
22 worthy of belief is sufficient for the proof of any facts  
23 and would justify a verdict in accordance with such  
24 testimony, even if a number of witnesses have testified to  
25 the contrary.

1           If from the whole case considering the credibility of  
2 witnesses, after weighing the factors of evidence, you  
3 believe there is a balance of probability pointing to the  
4 accuracy and honesty of the one witness, you should accept  
5 his or her testimony.

6           The credibility or believability of a witness should  
7 be determined by his or her manner on the stand; his or  
8 her relationship to the parties; his or her fears,  
9 motives, interests, or feelings; his or her opportunity to  
10 have observed the matter to which he or she testified; the  
11 reasonableness of his or her statements, and the strengths  
12 or weakness of his or her recollections.

13           If you believe a witness has lied about any material  
14 fact in the case, you may disregard the entire testimony  
15 of that witness or any portion of his or her testimony  
16 which is not proved by other evidence.

17           Discrepancies in a witness' testimony or between the  
18 witness' testimony and that of others, if there were  
19 discrepancies, should not necessarily mean the witness  
20 should be discredited. Failure of recollection is a  
21 common experience and innocent misrecollection is not  
22 uncommon. It is a fact also that two persons witnessing  
23 an incident or transaction often will see or hear it  
24 differently. Whether a discrepancy pertains to a fact of  
25 importance or only to a trivial detail should be

1 considered in weighing its significance.

2 When a trial witness fails, for whatever reason, to  
3 remember a previous statement made by that witness, the  
4 failure of recollection may be construed as a denial of  
5 having made the prior statement. Evidence that at some  
6 other time a witness made a statement that is inconsistent  
7 to his or her testimony in this trial may be considered by  
8 you not only for the purpose of testing the credibility of  
9 the witness but also as evidence of the trust of the facts  
10 as stated by the witness on that former occasion.

11 Evidence the Defendant committed offenses other than  
12 that for which she is on trial, if believed, was not  
13 received and may not be considered by you to prove she is  
14 a person of bad character, or to prove she as a  
15 disposition to commit crimes. Such evidence was received  
16 and may be considered by you only for the limited purpose  
17 of proving the Defendant's motive or intent. You must  
18 weigh this evidence in the same manner as you do all other  
19 evidence in the case.

20 A statement made by a Defendant, other than at trial,  
21 may be consider by you as an admission or a confession.  
22 An admission is a statement by a Defendant, which, by  
23 itself is not sufficient to warrant an inference of guilt,  
24 but which tends to prove guilt when considered with the  
25 rest of the evidence.

1           A confession is a statement by a Defendant which  
2       exposes an intentional participation in a criminal act for  
3       which he or she is on trial, and which discloses his or  
4       her guilt of the charge. You are the exclusive judges as  
5       to whether or not an admission or a confession was made by  
6       the Defendant in this case, and, if so, whether such  
7       statement is true in whole or in part based upon the  
8       circumstances and facts presented.

9           If you should find that any such statement is  
10      entirely untrue, you must reject it. If you should find  
11      that any such statement is true in part, you may consider  
12      that part which you find to be true and give it whatever  
13      weight you consider appropriate in light of all of the  
14      facts presented.

15          Although you are to consider only the evidence in the  
16      case in reaching a verdict, you must bring to the  
17      consideration of the evidence your every day common sense  
18      and judgment as reasonable persons. Thus, you are not  
19      limited solely to what you see and hear as the witnesses  
20      testify. You may draw reasonable inferences from the  
21      evidence which you feel are justified in the light of  
22      common experience, keeping in mind that such inferences  
23      should not be based on speculation or guess.

24          A verdict may never be influenced by sympathy,  
25      prejudice, or public opinion. Your decision should be the

1 product of sincere judgment and sound discretion in  
2 accordance with these rules of law.

3 In your deliberation you may not discuss or consider  
4 the subject of punishment, as that is a matter which lies  
5 solely with the court. Your duty is confined to the  
6 determination of whether the Defendant is guilty or not  
7 guilty.

8 When you retire to consider your verdict, you must  
9 select one of your number to act as foreperson who will  
10 preside over your deliberation and will be your  
11 spokesperson here in court.

12 During your deliberation you will have all the  
13 exhibits, which were admitted into evidence, these written  
14 instructions, and forms of verdict which have been  
15 prepared for your convenience. Your verdict must be  
16 unanimous. As soon as you have agreed upon a verdict,  
17 have it signed and dated by your foreperson and return  
18 with it to this room.

19 During your deliberation you must not communicate  
20 with anyone other than each other in any way regarding the  
21 case or its merits, either by phone, email, text,  
22 Internet, or other means. You must not read, watch, or  
23 listen to any news or media accounts or commentary about  
24 the case. You must not do research, such as consult  
25 dictionaries, using the Internet, or using reference

1 materials. And you must not make any investigation, test  
2 a theory of the case, recreate as aspect of the case,  
3 conduct any experiments, or any in any way investigate or  
4 learn about the case on your own.

5 If during your deliberation you should desire to be  
6 further informed on any points of law or hear again  
7 portions of the testimony, you must reduce your request in  
8 writing, signed by the foreperson. The officer will then  
9 return you to court where the information sought will be  
10 given you in the presence of and after notice to the  
11 district attorney and the Defendant and her counsel.

12 Read backs of testimony are time consuming and are  
13 not encouraged, unless you deem it a necessarily. Should  
14 you require a read back, you must carefully describe the  
15 testimony to be read back so that the court reporter can  
16 arrange her notes. Remember, the court is not at liberty  
17 to supplement the evidence.

18 Now, you will listen to the arguments of counsel who  
19 will endeavor to aid you to reach a proper verdict by  
20 refreshing in your minds the evidence and by showing the  
21 application thereof to the law. But whatever counsel may  
22 say, you will bear in mind it is your duty to be governed  
23 in your deliberations by the evidence, as you understand  
24 it and remember it to be, and by the law as given to you  
25 in these instructions, with the sole, fixed, and steadfast



1 purpose of doing equal and exact justice between the  
2 Defendant and the State of Nevada.

3 These instructions have been signed and dated by me  
4 today. You'll have your copy set when you retire to  
5 deliberate.

6 I will invite the State, at this time, to make their  
7 closing remarks.

8 CLOSING STATEMENT

9 BY MR. VILLANI:

10 Thank you, your Honor.

11 Ladies and Gentlemen, I want to start by  
12 thanking you on behalf of the State of Nevada for your  
13 service as jurors. Something not a whole lot of people  
14 want to do. I know a whole lot of you have better things  
15 to do then be here all week. I appreciate the time and  
16 attention you've given to this case, and the State of  
17 Nevada appreciates the time you've given to this case.

18 Ladies and gentlemen, this case is unlike most child  
19 abuse cases. This is a crime that occurs in secret. This  
20 isn't a crime that's video taped that often, which is why  
21 this case has gone through this kind of argumentative back  
22 and forth posture. You're lucky to a certain extent to  
23 have this on video.

24 The way these crimes get reported never reflects how  
25 they actually occur. If this crime were written in a

1 report, you wouldn't have nearly the idea of the severity  
2 of what was done to Shaylyn.

3 I want to start off by telling you what we're not  
4 asking of you as jurors. We're not asking you to decide  
5 whether or not the Defendant is a good person. We're not  
6 asking you to decide if she's a bad person. And just  
7 based on Megan's comments, we're not asking you to decide  
8 even whether she's a child abuser. We're not asking you  
9 to decide whether she was a good parent or even whether  
10 it's okay to use physical discipline. As you'll see in  
11 the corporal punishment instruction, there are appropriate  
12 times where you are within your rights to use physical  
13 discipline, if you so desire. We're not asking you to  
14 decide any of this stuff.

15 What we are asking you to decide is within the date  
16 range charged April 1, 2014 and July 1st, 2014 Defendant  
17 committed the crimes which we have alleged she committed  
18 in the amended information. That's all we're asking you  
19 to do. We're not asking you to pass judgment on her as a  
20 person.

21 I want to go through the various counts. I'm going  
22 to start a little out of order here. I'm going to start  
23 with Count (2), which is the battery domestic violence by  
24 strangulation and build up from there. Just to kind of  
25 make it easier and more organized.

1           What is battery domestic violence strangulation.

2           Well, a battery is the unlawful use of force or violence  
3           upon the person of another. Now, you pick those words  
4           apart. What is unlawful. Unlawful basically means  
5           without justification. If it's self-defense, it's not a  
6           battery because it's not unlawful.

7           Corporeal punishment in certain circumstances, not  
8           unlawful, if you stay within the bounds. We'll discuss  
9           that later.

10          Unlawful use of force or violence is battery. So  
11          what makes it domestic violence. Domestic violence is  
12          simply, in this case, they live together, or they are  
13          related by blood. That's stipulated by the parties.  
14          There is no where further to go there. If you find a  
15          battery occurred, it was a battery constituting domestic  
16          violence.

17          Now we move on to strangulation. The court has  
18          informed you strangulation means intentionally impeding  
19          normal breathing by applying pressure to the throat or  
20          neck in a manner that creates the risk of death. Pretty  
21          generally accepted definition by strangulation.

22          We have charged battery domestic violence  
23          strangulation in Count (2). We've charged it unlawfully  
24          and feloniously she used force upon the person of S.S. by  
25          strangulation. That's how that count comes together.

1       Those 3 issues come together to form how we charged  
2       this.

3           You have evidence of this count in State's Exhibit 1.  
4       That's on the video. Now, I'm going to play a few clips  
5       of the video. Some of them are repeats. None of this is  
6       meant to inflame you. None of this is meant to upset you.  
7       We have a burden, as the State of Nevada, to prove this  
8       case beyond a reasonable doubt. We don't know until the  
9       verdict comes back whether we met that burden, so I must  
10      show you every little bit of evidence that proves up the  
11      counts that we've gone through in this trial. So just the  
12      nature of this case lends itself to this upsetting  
13      video.

14           Here is the battery domestic violence strangulation,  
15      as we see it.

16           Now, some of the testimony, some of the witnesses  
17      seem to indicate that, I didn't have my hands on her neck.  
18      I had my hands on her shoulders, and I was pushing down on  
19      the floor by her shoulders. What I have done here, I have  
20      zoomed up on this video. There is going to be a portion  
21      of this video -- I'll put a red arrow where you should be  
22      looking. There's no sound to this portion, but I want you  
23      to look -- what we can see is the back side, right here,  
24      of Shaylyn's shoulder. I would like you to pay attention  
25      to where the Defendant's hands are in relation to

1       Shaylyn's shoulder. Here's the red arrow.

2             If you look at that portion, she's wearing a dress,  
3       so you can see her back. I'll take the arrow away. This  
4       is what the defense, with the questioning, what some of  
5       the testimony said, well, she's got her hands on her  
6       shoulder. I also want you to pay attention to where her  
7       left arm is. What is she trying to do with her left arm.  
8       She's trying to protect her right shoulder, or is she  
9       trying to pull her hand off of her throat. That's enough  
10      of that.

11            This is what your verdict form is going to look like  
12      when you get back there. This is Count (2), battery  
13      constituting domestic violence strangulation. You have 3  
14      choices with this particular count. This is the only  
15      count where you have what's called a lesser included  
16      charge. The lesser included battery domestic violence  
17      strangulation is battery constituting domestic violence.  
18      If you find there was not a strangulation in the evidence  
19      you've seen, the evidence you take back with you, then  
20      your choice is battery domestic violence. If we didn't  
21      prove any of it, your choice is not guilty. We think we  
22      proved it. We're asking you to find her guilty of battery  
23      domestic violence strangulation.

24            We're going to move to Count (1), the multiple child  
25      abuse count. First, the court's informed you of what

1 child abuse is. Okay. A person is guilty of child abuse  
2 if it causes a child under 18 years of age -- which  
3 Shaylyn was -- to suffer unjustifiable physical pain or  
4 mental severing as a result of the abuse.

5 What is abuse. Abuse means -- we're proceeding in  
6 this case under -- abuse means negligent treatment or  
7 mall-treatment of a child under 18 years of age.  
8 Negligent treatment or mall-treatment, we defined that  
9 term.

10 Negligent treatment or mall-treatment occurs when a  
11 child lacks the care necessary for the well-being of the  
12 child because of faults and habits of the person  
13 responsible for the welfare of a child. You beat up on a  
14 child in your care, you are not providing them proper  
15 care. That's child abuse.

16 MR. EVENSON: Your Honor, I'll object. I believe  
17 that's a misstatement of the law.

18 THE COURT: Overruled.

19 MR. VILLANI: Thank you, your Honor.

20 I believe Mr. Evenson said in his opening  
21 statement that he acknowledged the videos were upsetting.  
22 The reason those videos are upsetting is not because you  
23 are watching a parent discipline their child. It's  
24 because you're watching a parent abuse their child.  
25 That's why they are upsetting to you.

1           Now, you are allowed to use physical violence in the  
2       course of disciplining children. There is that. The law  
3       give us that right. But you have to stay within certain  
4       bounds. Those bounds are obviously crossed here, but  
5       here's Instruction 8. Corporeal punishment means the  
6       intentional infliction of physical pain, including without  
7       limitation hitting, pinching, or striking. Also pay  
8       attention to this portion of the instruction. Excessive  
9       corporal punishment goes beyond what is proper or  
10      reasonable under the circumstances in light of various  
11      factors. Then it gives you those factors to consider --  
12      age and condition of the child, the behavior being  
13      disciplined, the child's response, and amount of force  
14      used.

15           I want to be clear about another thing. The State is  
16      not saying this is abuse because of Shaylyn's condition,  
17      because she has a lesser IQ, because she's special needs.  
18      We're saying this is abuse regardless. But you can take  
19      into account the fact that Shaylyn had a lesser IQ.  
20      Shaylyn had special needs. Shaylyn had been through the  
21      foster care system. You can take that into account.  
22      We're saying this is abuse regardless if this happened to  
23      Megan or Shaylyn, regardless.

24           You have another corporal punishment instruction. If  
25      the physical act is a result of the reasonable exercise of

1 discipline of a child, it's corporal punishment. However,  
2 if it is excessive it may constitute child abuse. As it  
3 does in this case.

4 So Count (1), I'm going to kind of pick apart this  
5 first one. Then we have multiple other courts after this  
6 those. Here's how we charged this. You cause a child  
7 under 18 years of age, S.S. -- Shaylyn Shelton -- to  
8 suffer unjustifiable physical pain or mental suffering as  
9 a result of abuse or neglect, to wit, negligent treatment  
10 or mall-treatment -- that's the term we defined -- and/or  
11 cause her to be placed in a situation where she might have  
12 suffered unjustifiable physical pain or mental suffering  
13 as a result of abuse or neglect, to wit, negligent  
14 treatment or mall-treatment. That's what we defined for  
15 you.

16 Then we go to, how did she do it. How are we  
17 alleging she did it. To wit, by Defendant yelling and/or  
18 screaming at S.S. and/or causing and/or directing her to  
19 act like an animal.

20 This is that June 20th video of the Defendant in full  
21 military garb barking orders at Shaylyn. Remember we only  
22 have a few seconds of this, but Defendant herself  
23 testified this behavior went on for about 5 minutes.  
24 Defendant also testified they were having a good time.  
25 This was all a joke. I ask you to pay attention to



1       Shaylyn's expression during this and see if she seemed to  
2       think they were joking around.

3               That's abuse, Ladies and Gentlemen. That's going  
4       well above and beyond what was necessary to break that  
5       behavior. That's going well above what was necessary  
6       given the condition of the child here. Given that, we're  
7       asking you to find the Defendant guilty on Count (1),  
8       guilty of child abuse, neglect or endangerment.

9               Count (3), also child abuse, neglect, or  
10       endangerment. The preamble is the exact same as I just  
11       went over. To wit, negligent treatment or mall-treatment  
12       by Defendant shoving S.S. into the ground or slamming the  
13       face of S.S. into the floor. That is also on the video.  
14       This is that video. These two clips loop. I'm only going  
15       to let them do it a couple times, and I'll move on. That's  
16       the one instance. Here's the second instance, slamming  
17       the face into the floor.

18              I want to go back to Maryland is what she's saying.  
19       We're asking you to find the Defendant guilty on Count  
20       (3). That is child abuse, neglect, or endangerment.

21              Count (4) now. We've charged this as yelling or  
22       screaming or causing or directing her to run up and down  
23       the stairs. Let's talk about this as well. In a vacuum,  
24       making her run up and down the stairs as punishment,  
25       that's okay. Take into account the surrounding

1       circumstance. Remember, the stairs incident is happening  
2       at the same time the strangling incident is happening, the  
3       same time she's slamming her head into the floor, that's  
4       she's slapping her around. And remember what it was all  
5       about, because the behavior that's being corrected is also  
6       something to take into consideration. It was never about  
7       eating pretzels she couldn't eat. She's allowed to eat  
8       the pretzels, according to the Defendant's own testimony.  
9       It was the manner in which she ate the pretzels. And it  
10      wasn't that she was crinkling the bag. It's that she  
11      wasn't crinkling the bag. She was sneaking pretzels.  
12      That's the behavior that's being corrected here. You'll  
13      actually get a count as you're listening here. I believe  
14      she stops on 11 or the video stops on 11. Eleven times up  
15      and down the stairs.

16           I have a two-story house. If I have forget something  
17      2 or 3 times, I'm not the most in-shape person in the  
18      world, but good for her being able to do this 11 times up  
19      and down the stairs, and that's when she starts getting on  
20      her about not being able to get up.

21           Here's the getting in her face, yelling and  
22      screaming. That comes after ordering her up and down the  
23      stairs. Sneakingly eating pretzels. Here's another  
24      yelling in her face. Megan help me. No one to help me.

25           Here's her trying to get her to go up and down the

1       stairs. Here's after she collapses. That's our evidence,  
2       with Count (4), Ladies and Gentlemen. We're asking you,  
3       again, find the Defendant guilty on child abuse, neglect,  
4       or endangerment. That's what it is. That's what she did.

5             Count (5), same preamble. This one is for slapping  
6       or hitting her on the head or face or body. This is on  
7       video as well. This is the first act of slapping in the  
8       video. That's well beyond corporal punishment. It's well  
9       beyond the punishment necessary for sneakingly eating  
10      pretzels. And it's well beyond the punishment necessary  
11      for Shaylyn, given her condition. For that we're asking  
12      you to find her guilty of Count (5), child abuse, neglect,  
13      or endangerment.

14            Count (6) is coercion. I'm going to jump to Count  
15      (7). Count (7), again, child abuse, neglect, or  
16      endangerment -- slapping, smacking, hitting. The same  
17      behaviors we've seen on video. Where this differs is this  
18      has to do with the statement Megan wrote back in evidence  
19      as State's Exhibit 2. This is how child abuse is normally  
20      reported, with a recitation of somebody as to what they  
21      viewed and what happened. Okay. When we don't have  
22      video, this is how we've proven up child abuse, especially  
23      with an uncooperative witness.

24            MR. EVENSON: Your Honor, I'll object and ask to  
25      approach, if I can.

1 THE COURT: Please.

2 (Discussion held at the bench.)

3 THE COURT: Sustained. You may proceed.

4 MR. VILLANI: Thank you, your Honor.

5 Going back, here's the statement you have back  
6 with you in evidence. When Megan was confronted with this  
7 on the stand she did a lot of minimization. I don't fault  
8 Megan. Megan was in a really rough spot of testifying  
9 against her mother years after, right. The law  
10 unfortunately doesn't work quickly. We're a number of  
11 years after this incident happened. Relationships mend.  
12 I don't fault her for this. What I do want to show you  
13 though is evidence that contradicts her claim that she was  
14 exaggerating throughout the whole thing. You've all seen  
15 the video in its entirety now. You've seen the various  
16 clips up to this point. Here's what she wrote in the  
17 video, particularly about what happens in the video. I'll  
18 read this to you in the red and green here.

19 It says, "in the videos she was forced to run up  
20 and down the stairs because she, quote, unquote, snuck  
21 pretzels. Due to being tired and out of breath my mother  
22 grabbed her hair and choked her, while slamming her head  
23 into the floor. She threatened to push her down the  
24 stairs, then screamed in her face again."

25 You've seen the video. There's no lying about what

1       happened there. Does this seem like an exaggeration. If  
2       anything she's holding back here. There's much more than  
3       that that occurred in the video.

4               So then what Megan said is this has happened on more  
5       than one occasion. On another occasion my cousin held a  
6       knife over a candle to see if it would melt. My mother  
7       smacked Shaylyn, made her run up and down the stairs, then  
8       poked her with the knife. Does this seem like something  
9       that Megan didn't witness with those particular details in  
10      there. No, she witnessed this. She's protecting her  
11      mother, which is absolutely understandable.

12              Web also heard evidence from Lonny about this  
13      incident. Megan relayed this incident to Lonny.

14              MR. EVENSON: Your Honor, that's a misstatement  
15      of the evidence.

16              THE COURT: Overruled.

17              MR. EVENSON: He never -- that's a misstatement  
18      of the evidence.

19              THE COURT: Would you like to approach.

20              MR. EVENSON: Yes, your Honor, I would.

21              (Discussion held at the bench.)

22              THE COURT: The objection is overruled. You may  
23      proceed.

24              MR. VILLANI: Thank you, your Honor.

25              This is what our entire Count (7) is based on,

1       this statement right here. We don't have any video of  
2       this incident about smacking Shaylyn around, poking her  
3       with the knife or whatever. This is it.

4               If you believe that this occurred beyond a  
5       reasonable doubt, based upon the statement, which seems to  
6       be consistent with all the other incidents that occurred,  
7       then find her guilty of child abuse for this other  
8       incident.

9               If you believe the Defendant's testimony that the  
10       only other time that she's hit Shaylyn is one of these.  
11       Once because of something she couldn't remember, that's  
12       absolutely fine. What the State's saying is this. She  
13       did this. We have the testimony of two people on it and a  
14       written statement from the time. We're asking you, on  
15       that basis, to find her guilty on Count (7), child abuse,  
16       neglect, or endangerment.

17               Count (8), directing her to run up and down the  
18       stairs, this one -- there were two incidents of directing  
19       her to run up and down the stairs. The beginning of the  
20       video is her running up and down the stairs. She does  
21       some push-ups. Then there is a get back on the stairs.  
22       Threaten to take food away. And this is for that first  
23       incident, and at one point, she gets in her ear and  
24       threatens her if she doesn't get up she's going down those  
25       stairs. The threat is child abuse, causing her to run up

1 and down the stairs under these circumstances is child  
2 abuse. Here's the video of those two incidents.

3 Running up and down the stairs goes on here. Here's  
4 the threat to throw her down the stairs. That is what  
5 this count is based off of. Count (8), we're asking you  
6 to find her guilty of child abuse, neglect, or  
7 endangerment, because that's what she did.

8 Now we're going to coercion. Coercion is probably  
9 something that's not in the general realm of knowledge.  
10 The legal definition basically is intentionally stopping  
11 someone from doing something they want to do, or  
12 intentionally making someone do something they don't want  
13 to do. In this particular case we've charged the  
14 straddling of Shaylyn and holding her down while screaming  
15 at her to get up. The thing that Shaylyn doesn't want to  
16 do, she's stopped from doing, is being held to the ground.  
17 She doesn't want to be held to the ground. She wanted to  
18 get up. That is our allegation in this count.

19 It's also supported by the video. Here's how we  
20 charged it - straddling Shaylyn, preventing her from  
21 getting up or moving. I showed you this at the beginning,  
22 but just to wrap it up.

23 There are a couple of different things there.  
24 There's battery domestic violence strangulation based upon  
25 the choking, but also the holding her down when she had a

1 right to get up and she wanted to get up. Based on that,  
2 we're asking you to find her guilty of Count (6),  
3 coercion.

4 Let's talk about this just briefly. This isn't  
5 charged in any of the counts, but there was testimony as  
6 to whether or not withholding food was ever used as a  
7 punishment. The Defendant herself testified, well, I put  
8 her on a diet, but I'd never withhold food. There's two  
9 instances in the video I'll play real quick to show you  
10 withholding food was the punishment. You can take that  
11 into account when determining credibility of the  
12 witness.

13 Whether you want to eat or not, I don't care. You're  
14 running. Remember, it's all about sneakingly eating  
15 pretzels. Please keep that in mind when watching these  
16 videos.

17 This is one of my favorite instructions. This is  
18 what allows jurors to be jurors. This is the common sense  
19 instruction. Where not expecting you to be robots day in  
20 and day out. You can bring into your deliberation your  
21 common sense and judgment as reasonable men and women of  
22 the community. That's why we're here. That's why the  
23 jury system is so great. That's what this instruction  
24 allows you to do.

25 The instruction also informs you a verdict may never



1 be influenced by sympathy. That's kind of what I led off  
2 with. We're not asking you to find her a bad person, a  
3 bad mother, a child abuser. We're not asking you to slap  
4 on labels. We're asking you to take these facts and  
5 determine whether these facts apply to the law as read to  
6 you by the court and whether that proves her guilty beyond  
7 a reasonable doubt of the counts as charged.

8 I'm going to finish with this. The Defendant made a  
9 lot of noteworthy quotes yesterday at the stand. This one  
10 really stuck in my mind. This is about the pretzels.  
11 This is exactly what she said. I just wanted to send a  
12 message to her. Enough is enough. For sneakingly eating  
13 pretzels. That's all the State is asking you to do. Send  
14 a message to Lisa Nash that enough is enough.

15 Thank you.

16 THE COURT: Mr. Evenson.

17 MR. EVENSON: I just need a moment.

18 CLOSING STATEMENT

19 BY MR. EVENSON:

20 Your Honor, I would be asking to play the video  
21 if the State could set it up for me.

22 I want to be very clear about one thing with  
23 each and every one of you today. There is not one fact on  
24 those videos that we are running from. There is not one  
25 fact on those video that you have seen that we're proud

1 of. They happened, somewhat, perhaps, in the manner in  
2 which they happened. I'll get to that briefly. But we're  
3 not here to say the sky is green, the trees are blue.  
4 We're not doing that.

5 The State likes to present this as if we're running  
6 from these facts. We're running from this law. This is  
7 all terrible for her. You might want to go back to  
8 opening statements, when I talked with you about knowing  
9 the law and applying the facts to the law. This is not a  
10 court of emotion. This is not a court of feelings. This  
11 is a court of the law. I want to keep you in mind in this  
12 case, I'm the criminal defense attorney to you today  
13 asking you to follow the law. And I think the best way to  
14 express that to each and every member of this jury is  
15 simply by this. What machinations did the State have to  
16 go through to put together those 8 counts. How many times  
17 back and forth did they go. I got this running up and  
18 down stairs here, and over there. And this one counts.  
19 And we got this over here. And this over there for  
20 another count. And she's guilty of this because we said  
21 so.

22 That is exactly what just happened to you. You know  
23 how subjective it is. You know how invasive it is. I'm  
24 going to show you. He gave you the definition of  
25 strangulation. He gave it to you on this screen. And

1       then what did he do to minimize that definition. What did  
2       the State do to fool you. They played the video 37 times,  
3       however long it was. I lost track of it. Of that child  
4       being shook up and down. Then said, well, find her guilty  
5       of strangulation because that's what happened.

6               Then they have the unmitigated gall to tell you to  
7       use your common sense and judgment at the end of this  
8       case. Really. They want you to use common sense and  
9       judgment on strangulation charge. I'm sorry. If you're  
10      being strangled, do you make a noise. Did you hear things  
11      coming out of her voice at that moment. Yes, you did.  
12      That might be a sign she's not being straddled as the  
13      legal definition. We'll get back to that in a second.

14             This case centers on the video tapes. And the State  
15      is very happy to say to you, oh, we've got videos and dah,  
16      dah, dah, dah, dah about the videos. Videos and videos  
17      and videos. Look at the videos. Don't look at the video.  
18      Don't look at the law. Look at the video. Look at the  
19      video. That is exactly what has gone on throughout this  
20      entire trial.

21             They don't want you to look at the law. They don't  
22      want you to go back and do an analysis. They don't want  
23      you to look at this stuff. They want you to be the robot  
24      he just told you you're not and regurgitate guilt. That's  
25      all they want.

1           Each and every one of you promised to do your duty  
2           and evaluate the facts to the law. Each and every one of  
3           you said that if you were in that chair, there's no reason  
4           why you wouldn't want you in this chair. All we're asking  
5           you to do is hold you to that promise. That's all. Just  
6           like he said, I'm not asking you to like my client. I'm  
7           not asking you to parent like my client. I'm not asking  
8           you to have coffee with her tomorrow. I'm asking you to  
9           evaluate these facts on the law, period. That's it.

10           You know, it's kind of like it's a rush to judgment.  
11           And the State said it very repeatedly to you guys, and  
12           you've heard it so now I have to say it. This is not like  
13           the typical child abuse case. We have a video. Okay.  
14           Great. Congratulations. Does that means that the State  
15           doesn't have to do their job any longer. Does that mean  
16           that there is no forensic interview of the minor child.  
17           Does that mean there is no follow up with Megan's  
18           statement. Does that mean from what we saw there's a  
19           grand total of two law enforcement officers. One of whom  
20           did something, then the other one of whom was the first on  
21           scene and found Shaylyn in her bed asleep and described  
22           her as a happy-go-lucky kid with no marks on her.

23           I mean, there was zero follow up by the State here,  
24           zero. Nothing. No investigation, nothing, nada. They  
25           didn't care. Megan wants to withdraw her statement. We

1 don't care. Did anybody ever talk to Megan before that,  
2 after that. Nope, never. They don't care.

3 MS. RINETTI: Objection, misstates the facts in  
4 evidence that anyone spoke to her.

5 THE COURT: Sustained. It's speculative as to  
6 what the State's suspected of doing.

7 MR. EVENSON: Okay.

8 There was no evidence of any follow up  
9 examinations with everyone. So what I'm going to do here  
10 is now go back to my original thoughts on closing. What I  
11 want to address is what the State had done to you to try  
12 to fool you.

13 If there's one thing that should happen in this  
14 case, if there's one thing that should go on in any  
15 prosecution involving your taxpayer dollars in the State  
16 of Nevada, if there's anything that should go on with  
17 that, they should be saying it's right here. She did it.  
18 She did it on this date, at this time, at this location.  
19 Here it is. Rather than going through 3 or 4 different  
20 sections of the video to put together one charge. This is  
21 not a linear presentation of the video. Well, here she is  
22 going up and down the stairs. Then she's being yelled at  
23 there. And then she's yelled at there. We'll get to that  
24 and you'll see.

25 I was reading an opinion piece in a Canadian

1 newspaper --

2 MS. RINETTI: Objection.

3 MR. EVENSON: -- about a Canadian news story.

4 THE COURT: One second. Your basis for the  
5 objection.

6 MS. RINETTI: With regard to facts of a news  
7 story.

8 MR. EVENSON: I'm not.

9 There was an opinion piece on the news story. And it  
10 had this paragraph in it, which I thought was fantastic.

11 MS. RINETTI: Objection.

12 THE COURT: Please have counsel approach the  
13 bench. Please bring your article to the bench so we can  
14 see it.

15 MR. EVENSON: Sure.

16 (Discussion held at the bench.)

17 THE COURT: Thank you for the clarification, Mr.  
18 Evenson. You may proceed.

19 MR. EVENSON: The opinion piece on this Canadian  
20 news story had these words in it, which I thought were  
21 especially appropriate.

22 "In the modern world with its pension for brutal and  
23 superficial decisions being made in a second, moments  
24 being deemed to take far too long, it rarely happens."  
25 The it in that story was a thorough, fair, professional

1 evaluation of the facts following an investigation in a  
2 case and everything else. That's what we've asked you  
3 guys to do. That's what you said you're going to do. So  
4 as we go forward on today, I want to be the one that  
5 focuses on the law and on the facts.

6 Now, if I could impose upon Mr. Villani -- one of the  
7 things -- another analogy I wanted to make, I'm going to  
8 go ahead and make it since I went through the time and  
9 effort to do it. I believe that all criminal cases are  
10 like building a building. I brought a toolbox today. And  
11 the criminal information that State has supplied is the  
12 plans. This is the information. You're getting it in the  
13 jury instructions. This is the information. And these  
14 plans, they're asking you to build into a conviction.

15 So the question becomes, inside the toolbox that's  
16 here, do you have the tools necessary to build what they  
17 want you to build. Without being superficial and making  
18 judgments too quickly. The first tool I'll bring out of  
19 the toolbox is the jury instructions, which you'll all get  
20 a copy of.

21 So I want to analyze their tools and that process in  
22 this case without boring you to tears or taking too long.  
23 I'll do my best to do that. I want to point out a couple  
24 of jury instructions to you that were not discussed to  
25 begin with. Remember in Instruction 24, the last sentence

1 is, your duty is confined to the determination of whether  
2 or not the Defendant is guilty or not guilty. That's it.  
3 No emotion, no sympathy or prejudice for the victim or for  
4 her, just an analysis of the law and the facts. And then  
5 it says, each charge and the evidence pertaining to it --  
6 this is Instruction 4 -- should be considered separately.  
7 The fact that you may find the Defendant guilty or not  
8 guilty as to one of the offences charged should not  
9 control your verdict as to any other offence charged.  
10 That means go through all 8 of them separately and do the  
11 analysis that's required.

12 So in looking at the information when compared to the  
13 jury instructions, let's see what exactly the State has  
14 alleged. I'm going backwards. I'll read it off in parts.  
15 And in case you didn't notice this, they have done this in  
16 every single count. The facts that are alleged.

17 In Count (1), yelling and/or screaming at S.S. and/or  
18 causing and/or directing the said S.S. to act like animal.  
19 That video is 13 seconds. And while Lisa testified that  
20 went on for 5 minutes, she said, one, she didn't have a  
21 stop watch on. Two, we don't have any idea if this went  
22 on for 5 minutes. And three, the part of that was the  
23 child going up and down. What was the reason for that.  
24 Because she had been disruptive at camp. She was  
25 concerned she was going to get kicked out of camp. That



1 was going to be a problem. She didn't want that to  
2 happen. So I'm going to be bossy to you. Okay. Jump up  
3 and down.

4 Here's the interesting thing we get to on this. They  
5 want you to speculate about what's not on the tape. Well,  
6 what do you think. You can't know what happened before.  
7 She said that the child was sitting up and down -- getting  
8 up and down out of a chair, right. Fair enough. Then  
9 Megan -- I'm sorry, we're talking about a 14-year-old girl  
10 with a cell phone at this time -- films the part that she  
11 thinks is bad or funny or whatever at that time and goes  
12 about her business. You have no evidence that that went  
13 on for 5 minutes. You have no -- that that conduct went  
14 on for 5 minutes. You have no evidence of her being  
15 harmed.

16 And why is that important. Well, in a shocking  
17 development, and yes, that's said for the State's benefit.  
18 The jury instructions tell you why that's important. As  
19 we go through them and on here -- one moment -- I want to  
20 be clear where we are. We're talking about child abuse,  
21 which has been defined as, to suffer unjustifiable  
22 physical pain or mental suffering. Okay. Unjustifiable  
23 physical pain or mental suffering. You may think mental  
24 suffering is one thing. Some may think it's another. You  
25 may think it's a third thing. Well, what is it. Wait,

1       it's on the next page. That's page 9 in the packet.

2             It says --

3             MS. RINETTI: Objection, misstates the law. If  
4       we want to approach.

5             MR. EVENSON: She is correct. I'm going to  
6       change the question and ask it to be struck, what I  
7       said.

8             THE COURT: I will let counsel correct  
9       himself.

10            MR. EVENSON: It says to be placed to suffer  
11       unjustifiable physical pain or mental suffering as a  
12       result of abuse. Then it defines abuse. Okay.

13            Abuse means physical or mental injury of a  
14       non-accidental nature, and/or negligent treatment or  
15       mall-treatment. Then they tell physical injury means  
16       permanent or temporary disfigurement or impairment of any  
17       bodily function.

18            Mental injury means, injury to the intellectual or  
19       psychological capacity or emotional condition of the child  
20       as evidenced by observable and substantial impairment of  
21       the ability of the child to function within the normal  
22       range of behavior. Are those two pretty high bars, it  
23       sounds like. Is that the same as getting pricked by a  
24       pin. Having somebody step on your toe. Those are pretty  
25       serious things.

1           So the State can't charge that. They're telling you  
2           that that's not their theory, although that's part of the  
3           charges. So then they say, well, this is negligent  
4           treatment or mall-treatment. Remember that. Remember I  
5           went over that argument with you. I don't pay that much  
6           attention to pacing. I'm certain not one to beat up  
7           somebody for talking fast. And I'm going to do my best to  
8           talk real slow right now. But I'm going to tell you what  
9           negligent or mall-treatment is.

10           MS. RINETTI: Judge, disparaging counsel.

11           THE COURT: Mr. Evenson, I'll ask you to stick  
12           to the purposes of closing, which is to remind the jurors  
13           what the evidence has been and how to interpret it under  
14           the law. Any editorializing about other components of how  
15           the instructions are presented really is unnecessary at  
16           this point.

17           MR. EVENSON: May I proceed, your Honor.

18           THE COURT: Proceed.

19           MR. EVENSON: Thank you.

20           So negligent treatment or mall-treatment of a child  
21           occurs if the child has been abandoned. Do we have any  
22           evidence of abandonment here. No. Is without proper care  
23           or control or supervision. The State said, if you're  
24           beating your child you're not giving proper care and  
25           control and supervision. Okay. I didn't see that in that

1 first video. We'll talk about it later on the other  
2 video. I'm not combining everything out. Lacks the  
3 substantive education, shelter, medical care or other care  
4 necessary for the well-being of the child, because of the  
5 faults or habits of the person responsible for the welfare  
6 of the child, or neglect or refusal of the person to  
7 provide them when able to do so. Is there any fact  
8 yesterday that makes her sound like negligent treatment or  
9 mall-treatment. Took the kid to the doctor's appointment.  
10 Never got a diagnosis of what's wrong with her. Went with  
11 her to school. Met with the teachers. Did everything you  
12 expect a parent to do. Okay. Fine. That doesn't mean,  
13 as the State will tell you, that's she's not guilty.  
14 Great. So let's look at what they are saying.

15 Without proper care and control or supervision. So a  
16 child is about to get kicked out of camp. She gets the  
17 child home, and she has the child do 5 minutes of sitting  
18 up and down, meowing (sic) like a dog. I believe it says  
19 in the video, I'm bossing you. I'm bossing you. Just  
20 like they are going to do, just like a boss is going to  
21 boss you. You deal with it. And, of course, Shaylyn is  
22 sitting there looking sad and grumpy, because as Lisa  
23 testified to you yesterday Shaylyn tried to hide it.  
24 Shaylyn didn't own up to it. When she did own up to it,  
25 she knew she was in trouble. So we have a 13 second video

1 tape of a child caught with her hands in the cookie jar,  
2 so to speak, in trouble being disciplined.

3 Now, picture for yourselves 13 seconds of any  
4 disciplinary action anywhere ever being presented to a  
5 jury of child abuse. And that's what you have right here.  
6 Thirteen seconds of any discipline ever imposed by anybody  
7 on their children. And how many times does the State  
8 under that argument ask for a felony conviction. Every  
9 single time, under their standard of child abuse in that  
10 case.

11 MS. RINETTI: Objection as to their standard  
12 It's just the law.

13 THE COURT: Sustained. You're arguing the law,  
14 Mr. Evenson.

15 MR. EVENSON: Fair enough.

16 Under the interpretation of the law that they  
17 want you to give it, remember your applying the law to the  
18 facts. They don't tell you. You get to do that. Every  
19 bit of power today in this courtroom is with you. They  
20 have no power. I have no power. The judge always has  
21 power, but not over this decision. That's up to you. And  
22 what I'm telling you is is that 13 seconds of a video does  
23 not meet any of the statutory definitions found herein.

24 So we'll now move to Count (2). Remember, yes, I  
25 jumped up. Yes, I was a little bit fired up. I have

1 reasons for that. The reason for that goes back to the  
2 instructions once again. The instruction regarding  
3 domestic violence.

4 The State pointed out to you the strangulation  
5 portion of the statute. Strangulation means -- and  
6 remember, they showed this definition and played the video  
7 37 times.

8 MS. RINETTI: Objection. For the record it wasn't 37  
9 times.

10 MR. EVENSON: I said roughly.

11 THE COURT: Mr. Evenson, the jurors can note  
12 that for themselves. You're not saying roughly. You're  
13 saying it for effect. I'll overrule the objection, but I  
14 am going to ask you to properly reference to help the  
15 jurors understand what was presented.

16 You may proceed.

17 MR. EVENSON: Strangulation means intentionally  
18 impeding the normal breathing or circulation of the blood  
19 by applying pressure on the throat, neck, or on the nose  
20 or mouth of another person in a manner that creates a risk  
21 of death or substantial bodily harm.

22 Did you hear any evidence from anyone that her airway  
23 was blocked. Did you hear from anyone there was a  
24 substantial risk of death. Did you hear from anyone there  
25 was a substantial risk of bodily harm that took place.

1           Of course, on top of that you have to remember that  
2           Shaylyn, Lisa, and Megan deny that she was strangled or  
3           choked. We do have, however, a social worker who drove  
4           her to the airport say she was strangled four days later.  
5           No police investigation, no bruising, no marks nothing  
6           ever on this child while she was in Ms. Nashes' custody.  
7           Not a mark ever.

8           You can't presume -- the State argued to you what  
9           Shaylyn went through. What Shaylyn went through, that's  
10          an interesting concept here because can you answer what s  
11          she went through. They're telling you that there is 8  
12          felony counts after doing the annotation of Porta Rico to  
13          get those counts put together. A whole bunch of  
14          machination on the tape in a second. You are applying the  
15          law to the facts and it's so critically important.

16          Of course, we have Count (3), which is where I lose  
17          track of what is being charged and what isn't. But as we  
18          go through Count (3), keep in mine you can analogize this  
19          to a contract to prove to you to find this woman guilty.  
20          Well, here we go again on the to wits on Count (3),  
21          shoving the face of said S.S. onto the ground and into the  
22          floor, shoving the face of the said S.S. into the floor.  
23          Shoving the face of the said S.S. into the ground and  
24          slamming the face of the said S.S. into the floor.

25          You know, I think now, in light of the way the video

1 was played at that time it would be great if you could  
2 open up the video where she is running up and down the  
3 stairs and play it straight through.

4 Let me make a note while I'm thinking about it. She  
5 never ran from that video, but I want you to keep in mind  
6 what you heard about this. It was on a phone, right. If  
7 it was on a laptop when the cops looked at it. Somebody  
8 looked at it on a laptop. Then it was on a zip drive or  
9 thumb drive -- for purposes of this. Then somehow it  
10 ended up on a disc in the DA's office. What don't you  
11 have, by the way, with regard to that tape. You don't  
12 have who did what to it when, right.

13 Since that video was viewed that night. Did they  
14 show it to the officer and ask if it was the same one he  
15 saw. Nope. Did they show -- Megan said she didn't want  
16 to watch it. The other officer said he didn't watch it.  
17 Lonny who saw it then, didn't watch it.

18 MS. RINETTI: Objection as to mischaracterizing  
19 the testimony of the officers.

20 MR. EVENSON: No, I'm saying he watched it since  
21 that night.

22 MS. RINETTI: I believe it still  
23 mischaracterizes the testimony.

24 MR. EVENSON: Okay.

25 THE COURT: The jurors can recall who testified



1 to what about what they'd seen. There's certainly was  
2 testimony with regard to Megan having seen it prior to her  
3 testimony.

4 MR. EVENSON: Megan was very clear in her  
5 testimony she only saw part of it and hadn't seen it all  
6 the way through. She didn't know who had done what to it.  
7 That was Lisa's same concern, are things being changed, is  
8 volume turned up, we have no idea.

9 Then during closing statement the DA focuses in and  
10 had her by the shoulder and says I have her by the  
11 shoulder. Have any of you ever wrestled. Where do they  
12 think the shoulder blade ends, right. You can get penned  
13 back that far and the shoulder is over to here. Can  
14 somebody be grabbed here and it's the shoulder, yes.

15 The State is trying to tell you because it wasn't in  
16 the position the State feels it needs to be in that that  
17 means she's choking the girl. And if you believe anything  
18 else you're wrong because they have it on tape. Even  
19 though the two witnesses said it wasn't a choking,  
20 including the one alleged to be choked. But that's the  
21 only testimony under oath.

22 Yes, I am being sarcastic there, because to me what  
23 matters a lot of the time is what people say on that  
24 stand. Because we do take an oath to tell the truth. Do  
25 I think Megan was a hundred percent true. You know, some

1 of us have one hamster that's going. I probably have 5 or  
2 6. Sometimes I'll be going in the same direction. I  
3 think Megan has about 58 hamsters going in her head, and  
4 they're all going in a different direction. I bet it's  
5 problematic for her for what she did with her relationship  
6 with her mother and this case and everything else. She  
7 said she couldn't stand to look at it. She didn't like  
8 what was on there. I understand that. But does she know  
9 that it's been tampered with. Does she -- is there other  
10 reasons she doesn't want to admit to it.

11 MS. RINETTI: Objection, speculation.

12 THE COURT: Sustained.

13 MR. EVENSON: Is there any other reasons that's  
14 out there possible that could be --

15 MS. RINETTI: Objection.

16 MR. EVENSON: Like her relationship with her  
17 father.

18 THE COURT: Mr. Evenson, when an objection is  
19 posed you are not to over-emphasize what you said. I'll  
20 admonish you again to allow the court to make its ruling  
21 before you respond.

22 MR. EVENSON: Yes, your Honor.

23 THE COURT: Sustained.

24 MR. EVENSON: There's other reasons in evidence  
25 as to why Megan may not want to watch that tape that

1 include the fact her father was around. The fact that all  
2 these other things were taking place at that time. It's  
3 pretty clear it was a motivation for her to leave the  
4 house. She's ashamed of her conduct. She ashamed for  
5 what happened. That's why she doesn't want to look at it.

6 Now, the Count (3), the slamming the head on the  
7 floor, I want to remind you of how that tape was presented  
8 to you during close argument. You saw two separate head  
9 pushes. One here. One there. Then they were very cut  
10 and very short. We have the whole tape.

11 We're going to start at the beginning. I want you to  
12 keep in mind one thing and this is critically important.  
13 It's a material misrepresentation made to you as we go  
14 through and build this house with the building plans.

15 The State said that the choking and the strangulation  
16 and the hits and shoving her face in the floor, that was  
17 all over pretzels, right. He said that multiple times.

18 MS. RINETTI: Objection.

19 MR. EVENSON: That's what she said.

20 THE COURT: Sustained. Mischaracterizes the  
21 Defendant's testimony. Proceed.

22 MR. EVENSON: Frantic pace of running, running,  
23 running, or is that a trot. Is she really on her.

24 Go ahead, Counsel.

25 (Video played to the jury.)

1           MR. EVENSON: Are those the knees on the ground.  
2           Knees push-ups. They're not full-on push-ups. Just  
3           checking, because this is supposed to be so horrible for  
4           her.

5           Answer me this for the purpose of consistency in  
6           charging. Why is it that running up and down the stairs  
7           is child abuse, but the knees and the push-ups in the  
8           middle isn't. Why isn't that mentioned in any of the two  
9           videos. The knee push-ups.

10          So apparently in the way they're charging crimes,  
11          running up and down stairs, that's off grounds. But you  
12          have somebody on the ground doing the knee push-ups, well,  
13          that's okay. But when she runs up the stairs again,  
14          that's felony child abuse. That's the way literally  
15          they're asking you to interpret the law. They just did,  
16          literally, ask you to interpret the law.

17          Please, proceed Counsel.

18                        (Video played to the jury.)

19          MR. EVENSON: That's one minute and 16 seconds  
20          of PT. No yelling, no hurry it up. Not the best push-ups  
21          in the world, even on her knees. No yelling. No  
22          screaming. No nothing. That's okay.

23          So she goes. Do any of you have children. I  
24          imagine some of you do. If your children goes to the  
25          ground in a method that child just did, is that child

1 going to get up again. That's the sole drama. I'm done.  
2 I'm not getting up. I'm not getting up. The pretzels is  
3 not it. This is for eating something you shouldn't at the  
4 time you ate it.

5 MS. RINETTI: Objection. Misstates the  
6 evidence.

7 THE COURT: Sustained.

8 MR. EVENSON: Do you hear her riding her doing  
9 push-ups. No. What happens next is what causes what  
10 happened next. And what happens next.

11 MS. RINETTI: Objection. Mischaracterizes the  
12 evidence.

13 THE COURT: Sustained.

14 MR. EVENSON: The child then refuses to get up.  
15 That is what happened.

16 Go ahead, Counsel.

17 Stop right there. I'm sure we haven't seen that.  
18 Well, maybe not with a 250 pound girl when you're Lisa's  
19 size. Not that she can't take care of herself. She's in  
20 the military.

21 Go ahead, Counsel.

22 MS. RINETTI: Could we just get a, please.

23 MR. EVENSON: I believe we have a hair pulling  
24 as an and/or on one of these charges. There is the hair  
25 pulling that takes place. They'er trying to get her up.

1 Did she pull out chunks of hair. Did she actually,  
2 physically pick her up by her hair. No. She tried to get  
3 her to move herself, I want you to get up. I'm going to  
4 do this for you.

5 Please, Counsel. Thank you.

6 MR. EVENSON: The DA's office did not charge  
7 that as child abuse. They didn't.

8 MS. RINETTI: Objection.

9 THE COURT: Be more specific when you say  
10 that.

11 MR. EVENSON: They did not charge the 3 seconds  
12 we just watched as child abuse. He told you that that was  
13 strangulation. In fact, he played it 3 more times -- or 15  
14 or 30, however many it was.

15 He told you that's strangulation. That's what they  
16 choose to charge. They brought us here today to do this.  
17 We can only answer the charges they bring. I'm not being  
18 flippant here in any way. But that is charged as domestic  
19 violence by strangulation, what you just watched. We can  
20 watch it again. That is what Mr. Villani told you was  
21 domestic violence by strangulation. Which, of course, if  
22 you time it out -- you may take the video back there and  
23 do that -- it's about 3 seconds. While it's going on you  
24 can still hear her, which through your common sense she  
25 can still breathe. There was no strangulation, which

1 means you have to acquit her on that change. But what you  
2 can't do is use that for child abuse. It can only be used  
3 for strangulation by domestic violence, or if you think it  
4 is beyond the realm of corporal punishment you can then  
5 find guilty of domestic violence. It's not strangulation.  
6 It's in your jury instructions. They chose the charge.

7 Mr. Villani, if you could back up see what I just  
8 talked about and they can time it out.

9 It appears as if these are 3 separate videos By the  
10 way Megan testified to, I believe, there was 3 mentioned.  
11 Now, there's 4. The dates aren't clear. Who transferred  
12 to where are not clear. All that is still out there.

13 Go ahead.

14 (Video played for the jury.)

15 MR. EVENSON: The child refused to get up when  
16 directed to by her mother or soon to be mother.

17 (Video playing for the jury.)

18 MR. EVENSON: She had CPS in her house  
19 frequently. She had the child in school every day. She  
20 had the child to her medical appointments. Not once was  
21 there a report. Not once report of an incident. Not once  
22 a report of occurrence of something like this, not once.

23 So here's the insidious side of this whole thing. To  
24 me, coming out of the toolbox now, for the State, Megan's  
25 statement.

1           You, not the State, not me, not the judge, not  
2           anybody you decide what, if anything, this is worth.  
3           Okay. So I would note it says they want you to find on  
4           another occasion my cousin held a knife over a candle to  
5           see if it would melt. My mother smacked Shaylyn. Made  
6           her run up and down the stairs, then poked her with a  
7           knife. They want to use that substantively, that  
8           statement, to find this human being here guilty on I  
9           believe Counts (6) -- sorry (7). And here we go again.  
10          This is their factual assertion to you that support this  
11          charge -- slapping and/or smacking and/or hitting the said  
12          S.S. about the head and/or face and/or body and/or poking  
13          the said S.S. with a knife.

14               Does that sound like they have any clue what went on  
15          that night or that day or whenever the hell that  
16          happened.

17               MS. RINETTI: I believe the law does allow  
18          subjective pleadings.

19               THE COURT: Sustained.

20               MR. EVENSON: Does it sound like they have any  
21          idea what occurred at the time this event occurred, or  
22          does it literally sound like they are reaching into a  
23          bucket and throwing up some stuff against the wall.  
24          Because not one witness in this case testified to that  
25          occurring. Not one. In fact, Lonny, who in their



1 estimate verified it said, well, something went on with  
2 the knife, but they never poked her. The word poked never  
3 came out of his mouth. It was something involving candle  
4 wax or something. I don't even think he said that she  
5 allegedly did it. I think he said he wasn't there but  
6 heard about it from Megan who heard about it from her  
7 brother.

8 MS. RINETTI: Objection, mischaracterizes the  
9 evidence. Lonny said he heard it from Megan.

10 MR. EVENSON: Who testified that she heard it  
11 from her brother.

12 THE COURT: Thank you for the clarification.  
13 You may proceed.

14 MR. EVENSON: So that, Ladies and Gentlemen,  
15 that right there is the type of evidence they are asking  
16 you to convict this lady on. That's it. Remember they  
17 are telling you to convict her for that charge just as  
18 much as every other one they got. She is as guilty of  
19 that as every other one.

20 What proof is that that ever happened, except for a  
21 statement written at 11:50 at night on July 21, 2016, by  
22 a girl who's mad at her mom and trying to live with her  
23 boyfriend. How hard is it to right correctly when you  
24 video tape something. That's very easy to do. It's also  
25 very easy to make up stuff when you've heard it from

1       somebody else, or they got it wrong, or they got it from  
2       somebody else.

3               There is absolutely the level of prove here is not  
4       what is necessary to convict. And what I'm encouraging  
5       you all to do is to continue to do -- well, one other  
6       thing. I want showed you was happened here. I showed you  
7       happened. I showed you how we're not running from things,  
8       and how they've charged it. There's one charge here that  
9       I want to answer.

10              And, again, just as with Count -- the knife count,  
11       that's (7), I want to go over coercion in detail. Can we  
12       go back to the part you said where she was straddling the  
13       child and preventing her from getting up and moving.  
14       Because remember folks, these facts alleged in these  
15       things, they matter. They matter to her a lot, because  
16       they're not in these tapes. Here's the reason why. They  
17       talk about coercion, then they say, well, this is the  
18       facts. By straddling the said S.S. and preventing her  
19       from getting up and moving. Mr. Villani tells you and  
20       Shaylyn said she wanted to move. That's what he said up  
21       here a few minutes ago.

22                       (Video played for the jury.)

23              MR. EVENSON: How asinine is it the entire  
24       argument they're having is over her getting up and the  
25       State is alleging she's preventing her from getting up by

1 straddling her. Hi, I'm from the government. I'm here to  
2 help.

3 I want you to think about what they are actually  
4 alleging in this case on this count. They are saying this  
5 is supported by the facts and the law as every other count  
6 they have that straddling and not allowing her to get up,  
7 when she wanted to get up. It is almost Kafkaesque.

8 MS. RINETTI: Objection, disparaging.

9 THE COURT: Overruled.

10 MR. EVENSON: Thank you.

11 It is almost Kafkaesque in its charging.  
12 Because the entire incident occurred because she refused  
13 to get up and finish the PT. Then they go around and  
14 charge her with straddling her and preventing her from  
15 getting up or moving and use that portion of the tape to  
16 say that's what happened.

17 They don't allege that it's coercion for her to say  
18 she's going to push her down the stairs. That's a whole  
19 separate child abuse. They didn't do that. They didn't  
20 do those things. The law, the facts, analysis, verdict,  
21 we don't run from it folks. We welcome it. We beg you to  
22 do it. We beg you do it.

23 Thirteen seconds, Count (1), no other evidence of any  
24 kind anywhere, other than -- oh, at the end we made it  
25 into a joke. I told her to sing the national anthem.

1 This did not take place and I challenge the State any way,  
2 shape, or form.

3 Count (4), yelling and/or screaming at S.S. and  
4 causing or directing S.S. to run up and down the stairs.  
5 Keep in mind, we're calling these and/or.

6 Count (5) slapping and/or hitting S.S. about the face  
7 and/or body -- about the head and/or the face and/or the  
8 body.

9 Count (7), slapping and/or smacking and/or hitting  
10 the S.S. about the head and/or body and/or poking the said  
11 S.S. with a knife.

12 Count (8), yelling and/or screaming at the said S.S.  
13 and/or causing and/or directing the said S.S. to run up  
14 and down the stairs and/or threatening S.S. to push S.S.  
15 down the stairs.

16 Every single count, they've reached back in that  
17 bucket and throw. Every single count. Not one time in  
18 this information against this lady have they stuck their  
19 chin out at you and said charge her and do this for  
20 this.

21 MS. RINETTI: Objection, regarding pleading  
22 documents and the lengths allowed by the law.

23 THE COURT: Sustained.

24 MR. EVENSON: I'm allowed to comment.

25 THE COURT: Sustained. Move on.

1           MR. EVENSON: It's our position when and/or is  
2 repeated and repeated and repeated they don't know what  
3 happened.

4           MS. RINETTI: Objection.

5           THE COURT: Sustained. The jury is ordered to  
6 disregard that statement by Mr. Evenson. It is not a  
7 correct reflection of the law. Proceed.

8           MR. EVENSON: Again, I would welcome, after  
9 watching this tape all the way through and watching the 13  
10 seconds, I'd love you to go back and inform us or the  
11 other prosecutors inform us -- Ms. Rinetti -- to informs  
12 us what my client is being charged with. I think a lot of  
13 you already remember that we were dancing around and  
14 hopping back and forth in all of this. I don't know,  
15 we're not in control of that. They decide how. They  
16 decided the plans, but fortunately our system of  
17 government allows you to take the tools out of the tool  
18 box to take the statements, all of the other things, the  
19 tape, the statements, all the other things that are  
20 supposed to be in the box and decide whether or not  
21 there's enough to build a house, build a conviction as the  
22 case may be.

23           Again, as stated in the beginning of this, nobody is  
24 asking you to like this. Nobody is asking you to endorse  
25 this. Nobody is asking you to put your stamp on any of

1       this. It's a simple question of whether or not under the  
2       law you have been provided, under every single one of  
3       those jury instructions, whether or not first and foremost  
4       those facts were shown beyond a reasonable doubt. Oh, and  
5       by the way, yes, I'm a defense attorney who doesn't  
6       mention beyond a reasonable doubt until it's 40 minutes  
7       into argument. The highest standard of proof in the law,  
8       far beyond any other standard out there. Defined for you  
9       by the Nevada Supreme Court, case law. That instruction  
10      is what it is. And we ask you to follow it. Because you  
11      can't find a reasonable doubt with all these and/ors on  
12      the facts. You can't find it by all those and/or facts to  
13      the law. And when you go back to that critical, critical  
14      instruction, the strangulation charge is history. The  
15      coercion charge as I explained based on what you've seen  
16      is almost Kafkaesque. We believe that's history as well.

17            You can make your own decisions, but given the facts  
18      those should be not guilty verdicts.

19            The child abuse charges, all of them, should be not  
20      guilty verdicts too. Because of the way these things are  
21      charged and the way the facts are charged in this matter,  
22      period. When you're looking at the jury instructions back  
23      here in the toolbox, when you look at the jury  
24      instructions, you go back to the child abuse ones, for all  
25      child the abuse charges, all I ask that you do is go back

1 and read, reread page 9, the definitions attached thereto  
2 and determine how Ms. Nash was negligent treatment.

3 Remember, it's not alleged. It is not. In order to  
4 do the physical injury mental injury part you'd have to  
5 make a finding those physical and mental injuries were  
6 there. It's not there. To follow your duty you can't do  
7 that.

8 So then it says, indicate the child's health or  
9 welfare are arm or threatened. Where do you get any of  
10 that. Was there ever a word of testimony from anybody  
11 they had two CPS workers up on the stand. Did they ever  
12 say Shaylyn's health and welfare was threatened by that.  
13 Anybody.

14 Negligent treatment -- child is abandoned, is without  
15 proper care, control, and supervision, lack of sustenance,  
16 education shelter and other necessary things for the  
17 well-being of the child because of the faults or habits of  
18 the person responsible. What testimony has there been  
19 that she has any faults or habits that are terrible.  
20 Where. What testimony was there. What testimony was  
21 there that that video tape that secured that young girl to  
22 be able to move out of her house, that that incident,  
23 which, of course, we have some doubts about, there are  
24 evidentiary doubts. We're not running from it. But in  
25 any event, that that incident was anything other than an

1 anomaly. Have you heard on testimony from anybody else  
2 that that was an anomaly.

3 They like to talk about Lonny's testimony. When I  
4 asked Lonny straight up -- you may have seen on TV, they  
5 say you never ask a question you don't know the answer to.  
6 There is truth in that. So I got up there and took a big  
7 deep gulp and swallowed and asked -- I didn't know what  
8 the answer was going to be -- what else did you ever hear  
9 about that. He said I heard one other time, or something  
10 like that, once she had to run the stairs. That was it.  
11 That was Lonny, who was Megan's boyfriend at the time, and  
12 that's what he testified to but they still want you to  
13 take Megan's statement like that's the best evidence in  
14 this case.

15 The worst moment of her life in parenting is  
16 encapsulated on 5 minutes of video tape. I believe she  
17 told you that yesterday. That does not mean she is a  
18 multiple offender child abuser. I appreciate the State  
19 saying that we're not asking you to call her a child  
20 abuser. I don't know what you call somebody if you  
21 convict her of six counts of child abuse other than a  
22 child abuser. I don't understand that argument. But if  
23 you're going to make the argument she should be convicted,  
24 then they should look at her right now and say you're a  
25 child abuser.



1           What's very interesting is, even in their closing  
2 argument the State didn't do it. Oh, don't worry about  
3 calling her a child abuser, just watch that video over and  
4 over again. Forget about that law stuff. Even at that  
5 moment he minimizes.

6           Now, I don't get the speak to you again, but that  
7 doesn't eliminate the fact that the facts are what they  
8 are. The law is what it is. When you do your duty, as  
9 you promised to do, and you apply the law to those facts  
10 you cannot find Lisa Nash guilty on any charge. We ask  
11 you so find that on each and every count on the verdict  
12 form.

13           Thank you.

14           THE COURT: Thank you, Mr. Evenson. I'll let you  
15 remove the items that you have.

16           Ms. Rinetti.

17                           CLOSING STATEMENT

18           BY MS. RINETTI:

19           Thank you. Ms. Nash, you committed child abuse.  
20 There you go. What did the State -- we're not running  
21 from anything.

22           It's ironic that Mr. Evenson got up here and  
23 said the Sate was running away from the law. Mr. Villani  
24 had -- I don't know how many power point slides about the  
25 law before he showed you the video, because his job is to

1 talk about the law and how to apply it to the facts. So  
2 I'm not quite sure how Mr. Villani ran from the law when,  
3 in fact, he spent a great deal of time talking about the  
4 law.

5 Mr. Evenson said we're not run from the video.  
6 That's ironic, because what did he keep saying over and  
7 over again, and his client said during her  
8 cross-examination, well, it appears to be. It could have  
9 been altered. Yet the Defendant acknowledges what  
10 happened in those videos. Yes, we were joking around  
11 about the animals. And, yeah, I made her do things on the  
12 stairs because of it's pretty hard to talk about.

13 She acknowledges that, but, yet, without saying it  
14 was her on the video. Why do that. Because she's filmed  
15 comitting child abuse and for no other reason. Because  
16 there is absolutely zero evidence in this case that the  
17 video was somehow altered.

18 Mr. Evenson indicated, you know what, there should  
19 have been a follow-up investigation. If you remember your  
20 what, child protective services met with a variety of  
21 individuals and talked to them, including Megan Nash and  
22 Shaylyn. But frankly what else do you need. It's on the  
23 video, Ladies and Gentlemen. I'm not going show it again.  
24 All of the crimes or a majority of the crimes are on  
25 video. Plain and simple.

1           It is child abuse for negligent treatment or  
2           mall-treatment, because the Defendant did not give Shaylyn  
3           the proper care, control, or supervision. Because she  
4           administered excessive discipline. And as a result is  
5           liable under the laws of the State of Nevada.

6           Mr. Evenson said, well, there's no one to say she was  
7           in fact threatened with harm. Well, there was. Because  
8           Shaylyn was removed from the Defendant's house and was  
9           ultimately shipped back to Maryland.

10           MR. EVENSON: Your Honor, I'm going to object.  
11           I believe the reason for the removal from the home was the  
12           arrest and CPS. There was never a finding made she was  
13           removed for these incidents. That's a misstatement of the  
14           evidence.

15           THE COURT: Remember the admonishment. You may  
16           go, please. One of the jurors has to take a break.  
17           Everybody may go to the restroom.

18                       (Brief recess taken.)

19           THE COURT: Juror 9 had difficulty, then, of  
20           course, the other jurors did as well. I try not to look  
21           at the jurors, because when I look at them I find they  
22           look at me and that distracts them from other things. I  
23           don't know how long she's been distressing. When you came  
24           in.

25           MR. VILLANI: I noticed it when I came in.

1 THE COURT: Was she already in distress.

2 MR. VILLANI: The first I looked at her she was  
3 definitely in distress.

4 THE COURT: We'll, resume with whatever you need  
5 to address.

6 The other thing is you were posing an objection.  
7 I knew the juror was in distress. I don't recall what was  
8 said. We'll revisit that and make that record.

9 MS. RINETTI: I don't remember. Removal of  
10 Shaylyn from the house.

11 MR. EVENSON: By CPS.

12 THE COURT: You said what.

13 MS. RINETTI: I had said something to effect  
14 that no one found that there was any threat to Shaylyn  
15 regarding the jury instruction mall-treatment. My comment  
16 was she was ultimately removed from the house and went  
17 back to Maryland.

18 THE COURT: Your objection.

19 MR. EVENSON: That she was removed from the  
20 house when my client was taken to jail. And that was her  
21 testimony. It was emergency placement because my client  
22 was in custody. That's the facts.

23 THE COURT: Her statement is not inconsistent  
24 with that. It just doesn't include that. Her statement  
25 was she was removed from the house and went back to

1 Maryland.

2 MR. EVENSON: Well, I think it needs to be full  
3 disclosure. She's saying it under negligent,  
4 mall-treatment.

5 THE COURT: It's not an element of the charge.  
6 It's not the fact related to the charge. It's a factual  
7 statement. It's not inaccurate. Yours is more complete,  
8 but it's not inaccurate.

9 The objection is overruled. Are we otherwise ready  
10 to proceed.

11 MS. RINETTI: Yes.

12 MR. VILLANI: Real quick. While he have them  
13 out. I need to make a record before I forget. During  
14 the defense's closing it kept being said over and over 37  
15 times. I know this wouldn't come through on the record  
16 unless I say it. That video wasn't played 37 times. It  
17 was cut down when we made a copy for the power point. It  
18 will be admitted as a court's exhibit. It was cut down  
19 only to show the back of her shoulder. It was know where  
20 near 37 times.

21 THE COURT: Ms. Rinetti made that record. The  
22 court allowed the comment to be made a few times on  
23 multiple objections. It was sustained and clarified. The  
24 jurors can decide that for themselves.

25 MR. VILLANI: Thank you.

1 THE COURT: Take your seats as you reach them.  
2 The court apologizes to the jurors for not noticing sooner  
3 there was someone in need of assistance. What you may not  
4 know, of course I speak with counsel in advance, we have  
5 an idea of how long the closings will take. We knew that  
6 we were approaching the conclusion and felt that we could  
7 complete, absent somebody needing a break. Thank you for  
8 bringing that to our attention.

9 We'll reassume with closings.

10 Prior to the break Mr. Evenson posed an objection to  
11 a comment Ms. Rinetti said. The court overruled that  
12 objection and Ms. Rinetti, you may pick up where you left  
13 off.

14 MS. RINETTI: Thank you.

15 CONTINUED CLOSING STATEMENT

16 BY MS. RINETTI:

17 The kitchen video, it's abuse. Watch it one  
18 time, watch it a hundred times. As the trier of fact, you  
19 are here to determine whether or not that is reasonable  
20 discipline under the law. It's Jury Instruction No. 9,  
21 reasonable, moderate discipline by a parent or guardian to  
22 correct the child. However, if the punishment involved is  
23 cruel or abusive, it may constitute child abuse, neglect,  
24 or endangerment.

25 Why else do you make a teenage girl get on her knees

1 and moo like a fucking cow, other than to demean, degrade,  
2 and belittle that child. That is abuse of any child. But  
3 let's take it one step further. We are talking about  
4 Shaylyn Shelton. A child who has been in the foster care  
5 system since she was 4 years old. A victim of both  
6 physical and sexual abuse, to the Defendant's comment and  
7 CPS's, Ms. Nash was her last resort.

8 Shaylyn has been in a residential treatment set up  
9 for up to a year. A child that was on a variety of  
10 different medications, a variety of different  
11 diagnoses -- mental health diagnoses, and who the  
12 Defendant herself believed may have Autism and scheduled  
13 an evaluation at UNLV in order to be evaluated for Autism.  
14 Shaylyn, as the Defendant stated, had low self-esteem, and  
15 that's what she chose to do with that child.

16 Put her on her knees and make her moo like a fucking  
17 cow and meow like a cat. You heard her barking like a dog  
18 as the video starts. It's demeaning. It's demoralizing.  
19 And it is cruel and abusive under Nevada law.

20 The Defendant's defense it's discipline. It's not.  
21 It's unreasonable. It's cruel and abusive. The way to  
22 explain it now, we were joking. We were joking. Watch  
23 that video and tell me if Shaylyn looks like she's having  
24 fun. Look at that video and see the position of those two  
25 people. That is a power play on behalf of the Defendant.

1 She's standing over the child who is kneeling on her  
2 knees. It's a power play.

3 She must be joking. Look at her words. Just so kind  
4 and gentle because we're joking around. Moo like a  
5 fucking cow. Those are the words. Okay. Let's look at  
6 the tone of the Defendant as seen on the video. Does that  
7 show she was joking, or was she barking orders. That  
8 entire video is not some type of joking interchange  
9 between the Defendant and Shaylyn. That's cruel and  
10 abusive conduct that constitutes negligent treatment or  
11 mall-treatment of Shaylyn Shelton.

12 Next is the stair video, Jury Instruction No. 7.  
13 It's not child abuse, neglect or endangerment if the  
14 physical act was the result of the reasonable exercise of  
15 discipline by a parent or guardian of a child involved in  
16 corporal punishment. However, corporal punishment is  
17 excessive and may constitutes child abuse.

18 Both Instructions 7 and 9 apply to the video of the  
19 stairs. Reasonable, and when you look at the instruction  
20 regarding excessive corporal punishment some of the  
21 factors to consider is the age and condition of the child,  
22 what is trying to be corrected, and the reaction of that  
23 child. Do any of those factors indicate that it was  
24 reasonable.

25 The trigger for this incident, folks, is because on



1 the way home from Disneyland, as the Defendant herself  
2 testified, she was sneaky about the way she took the  
3 pretzels out of the bag. Because of that behavior Shaylyn  
4 Shelton, the special needs, prior abuse victim with mental  
5 health issues, is choked, is slapped, is hit, is  
6 threatened to go down the stairs.

7 What is the child's reaction. I can't. Help me.  
8 Help me, Megan. I can't. I can't run any more. I can  
9 breathe. Look at her body.

10 Mr. Evenson wants to minimize saying it's just a  
11 typical teenager who doesn't want to do what she's being  
12 told. Watch that video That is a child who is being  
13 abused and is giving up. That video is abuse, and there  
14 are several instances of abuse So Ms. Nash, you committed  
15 acts of child abuse.

16 What's really interesting is compare the testimony  
17 regarding some of the other behaviors, the other  
18 discipline in the house. Do you remember Lonny mentioned,  
19 you know, the Defendant just treated Shaylyn different  
20 than Megan. Remember Megan and Shaylyn are same age. The  
21 Defendant treated Megan like my mom treated me, but she  
22 treated Shaylyn like a dog.

23 What was the Defendant's own testimony. Megan was in  
24 her bedroom with her boyfriend. The Defendant assumes  
25 something sexual going on between her 15-year-old child

1 and hr boyfriend. She was so angry that she kicks him out  
2 of the house, and the form of discipline is to take the  
3 door off the bedroom.

4 Shaylyn is talking to a boy, supposedly, and planning  
5 to run away. Do you remember the response from the  
6 Defendant when asked by her counsel, well, what did you do  
7 about it. I took away her cell phone, and that was  
8 enough. But by goodness, if Shaylyn sneaks pretzels from  
9 that crinkly bag she's going to get choked, slapped, hit,  
10 and threatened with going down those stairs. Does that  
11 seem reasonable at all. It doesn't. Because it's  
12 abusive. It's cruel. And it is excessive.

13 The strangulation speaks for itself. I'm not going  
14 to belabor the point. You have seen it on the video a  
15 couple of times. I ask you to look at where the  
16 Defendant's hands are, where her hands are not. Shaylyn's  
17 body reaction You can actually see her body going up and  
18 down as the Defendant's hands are her neck. You can hear  
19 Shaylyn's sounds. Listen to that video again. It's two  
20 sounds -- (making sounds that can't be translated.)

21 MR. EVENSON: I object. That is not what the  
22 video says at all.

23 THE COURT: The objection is noted. The jurors  
24 will obviously have the opportunity to watch the video and  
25 determine for themselves. The video speaks for itself.

1 MS. RINETTI: I know you have seen it enough  
2 Watch it listen.

3 Megan put in her voluntarily, mom choked her, on  
4 the video. Mr. Villani said we're not faulting that Megan  
5 wants to protect her mom. We get it. It doesn't mean it  
6 didn't happen.

7 There are no injuries, as far as Mr. Evenson  
8 indicated, on July 23rd, 2014. Eighteen days after the  
9 July 3rd video and 3 days after the mooing incident, there  
10 were no injuries. The law does not require an injury for  
11 negligent treatment or mall-treatment. It's merely the  
12 lack of proper care, control, or supervision Because the  
13 Defendant was using excessive corporal punishment, and  
14 it's unreasonable, cruel, and abusive.

15 Crimes on video, but for the candle incident, it's  
16 all on video. I can stop and start it as many times as  
17 you would need to. But one thing is absolutely clear from  
18 that video. Special needs Shaylyn, you got to see Shaylyn  
19 was abused by her last resort.

20 She went back to Maryland She's still in the foster  
21 care system, despite the fact that she's reached the age  
22 of majority. She did not deserve the treatment you see in  
23 those videos. There was no conduct no child deserves that  
24 treatment, let alone for something as trivial as not  
25 making noise with the pretzel bag on the way home from

1       Disneyland.

2               The Defendant committed child abuse. We are not  
3 running from the law. We're asking you to apply the law.  
4 We're not running from anything. We know exactly what we  
5 charged. And/or, and/or is all the kind of conduct in  
6 that video. For all of those reasons, for all of the  
7 conduct that you see take place, we ask that you find the  
8 Defendant guilty of each charge.

9               Thank you.

10              THE COURT: Thank you.

11              That concludes the closing arguments on behalf  
12 of counsel. Now, it is time for the court's officer to  
13 take control of the jurors and for you to begin your  
14 deliberations, those 12 of you who will deliberate.

15              As you know two of you are alternates. And at  
16 this time before I reveal who the alternates are and who  
17 will deliberate and go with the marshall. Those who are  
18 alternates will go with the other court's officer,  
19 Mr. Anderson. At this time, I need the clerk to swear  
20 them in to take control of the jurors.

21              THE CLERK: You do solemnly swear you will keep  
22 this jury in some private and convenient place, that you  
23 will not allow any person to speak to them nor speak to  
24 them yourself, unless it be by order of the court to ask  
25 if they have agreed upon a verdict, and will return them

1 to court, when they have so agreed, so help God.

2 COURT OFFICERS: (I will.)

3 THE COURT: At this time the alternates will go  
4 with Mr. Anderson. The two alternates, who will get  
5 further instructions from Mr. Anderson, are Teresa Kensey  
6 and Alberto Ogawa. The others are to deliberate and go  
7 with the marshall until you have reached a verdict.

8 The clerk will get the exhibits and the computer to  
9 you to play the video.

10 Jury Deliberating

11 THE COURT: Ladies and gentlemen, may I see by a  
12 show of hands if the jury has selected a foreperson and  
13 who that foreperson may be. It's been a long day. I  
14 apologize for the confusion.

15 Juror 11, has identified himself as the foreperson.  
16 Has the jury reached a verdict in this case.

17 JUROR 11: Yes, we are.

18 THE COURT: Give it to my marshall for the  
19 court's review.

20 I'm now am going to provide the verdict to the clerk  
21 so it can be read as part of the formal record.

22 THE CLERK: Clark County, Nevada, State of  
23 Nevada, Plaintiff vs. Lisa Ann Nash, Defendant, case  
24 C-308570, Department 25, verdict.

25 We the jury in the above-entitled case find the

1 Defendant, Lisa Nash as follows.

2 Count (1), child abuse, neglect or endangerment.

3 Guilty of child abuse, neglect, or endangerment.

4 Count (2), battery constituting domestic violence  
5 strangulation. Guilty of battery constituting domestic  
6 violence strangulation.

7 Count (3), child abuse, neglect, or endangerment.

8 Guilty of child abuse, neglect, or endangerment.

9 Count (4), child abuse, neglect, or endangerment.

10 Guilty of child abuse, neglect, or endangerment.

11 Count (5), child abuse, neglect, or endangerment.

12 Guilty of child abuse, neglect, or endangerment.

13 Count (6), coercion. Not guilty.

14 Count (7), child abuse, neglect, or endangerment.

15 Not guilty.

16 Count (8), child abuse, neglect, or endangerment.

17 Not guilty.

18 Stated this 15th day of September 2017, foreperson.

19 Ladies and Gentlemen of the jury, are these your  
20 verdicts as read so say you one so say you all.

21 IMPANELED JURORS: (Choir of yeses.)

22 THE COURT: Thank you.

23 Does either of counsel wish to have the jurors  
24 individually polled.

25 MS. RINETTI: No, your Honor.

1 MR. EVENSON: No, your Honor.

2 THE COURT: Thank you.

3 Ladies and gentlemen, at this time you have  
4 completed your service in this case. On behalf of  
5 counsel, Ms. Nash, the court and staff, we are very  
6 appreciative of your service this week. You are now at  
7 this time officially discharged from your duty.

8 (Court further thanks the jurors and releases  
9 them from their admonishment. Not transcribed.)

10 THE COURT: As one or more verdict have been  
11 returned guilty against the Defendant, this matter does  
12 need to be set over for sentencing. Are there any other  
13 matters or motions to be considered before we set that  
14 sentencing date.

15 MS. RINETTI: Judge, just at this time, pursuant  
16 to the jury verdict, we are asking that the Defendant be  
17 remanded at this time.

18 MR. EVENSON: My client is employed. She's been  
19 out for 3 years. There's no violations of law. She has  
20 met all previous conditions of release. We understand  
21 these are all probationable offenses. She did serve  
22 enough time -- credit time served for the domestic  
23 violence. We ask she remain released on her current  
24 conditions.

25 THE COURT: On that latter basis, I have

1 consideration for that circumstance, but assessing what  
2 the court is aware of the circumstances of Ms. Nashes'  
3 lack of criminal history, as you pointed out, employment  
4 and other factors to be considered on whether or not the  
5 court would grant OR release or continued OR release, in  
6 this case the court will not remand Ms. Nash into custody  
7 at this time.

8 I will set a sentencing date for someone who remains  
9 out of custody -- 120 days.

10 MS. RINETTI: For the record because the child  
11 abuse requires a danger evaluation that needs to be  
12 arranged prior to sentencing. P&P does not arrange  
13 that.

14 THE COURT: There is an evaluation that needs to  
15 take place. I'm certain Mr. Evenson is aware of it. If  
16 he's not, I think that information would be readily  
17 available from Parole and Probation.

18 You'll return for sentencing. The sentencing date --  
19 120 days.

20 THE CLERK: Due to the holiday, January 17, 2018  
21 at 9:00.

22 MR. EVENSON: I can't access my calendar now. I  
23 will have to call you Monday morning if I have a conflict.

24 THE COURT: Get back with my JEA and copy the  
25 other side, but we'll anticipate that scheduled date,



1       unless we hear otherwise.

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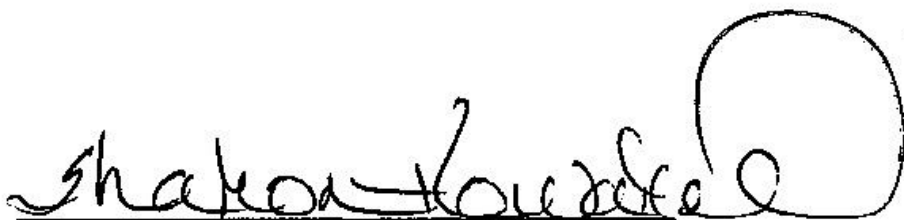
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CERTIFICATE  
OF  
CERTIFIED COURT REPORTER

\* \* \* \* \*

I, the undersigned certified court reporter in and for the  
State of Nevada, do hereby certify:

That the foregoing proceedings were taken before me at the  
time and place therein set forth; that the testimony and  
all objections made at the time of the proceedings were  
recorded stenographically by me and were thereafter  
transcribed under my direction; that the foregoing is a  
true record of the testimony and of all objections made at  
the time of the proceedings.

A handwritten signature in cursive script, appearing to read "Sharon Howard", is written over a horizontal line. The signature is fluid and stylized, with a large loop at the end.

Sharon Howard  
C.C.R. #745

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DISTRICT COURT  
CLARK COUNTY, NEVADA

SEP 15 2017

BY, Boyle  
S. BOYLE, DEPUTY

THE STATE OF NEVADA,

Plaintiff,

\ -vs-

LISA ANN NASH,

Defendant.

CASE NO: C-15-308570-1

DEPT NO: XXV

JURY INSTRUCTIONS

C-15-308570-1  
INST  
Instructions to the Jury  
4683064



LADIES AND GENTLEMEN OF THE JURY:

It is my duty as judge to instruct you in the law that applies to this case. It is your duty as jurors to follow these instructions and to apply the rules of law to the facts as you find them from the evidence.

You must not be concerned with the wisdom of any rule of law stated in these instructions. Regardless of any opinion you may have as to what the law ought to be, it would be a violation of your oath to base a verdict upon any other view of the law than that given in the instructions of the Court.

INSTRUCTION NO. 2

If, in these instructions, any rule, direction or idea is repeated or stated in different ways, no emphasis thereon is intended by me and none may be inferred by you. For that reason, you are not to single out any certain sentence or any individual point or instruction and ignore the others, but you are to consider all the instructions as a whole and regard each in the light of all the others.

The order in which the instructions are given has no significance as to their relative importance.

An Information is but a formal method of accusing a person of a crime and is not of itself any evidence of his guilt.

In this case, it is charged in an Amended Information that on or between April 1, 2014 and July 31, 2014, Defendant LISA ANN NASH committed the offenses of CHILD ABUSE, NEGLECT, OR ENDANGERMENT, BATTERY CONSTITUTING DOMESTIC VIOLENCE-STRANGULATION, and COERCION committed at and within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada,

COUNT 1 - CHILD ABUSE, NEGLECT OR ENDANGERMENT

did, willfully, unlawfully and feloniously cause a child under the age of 18 years, to-wit: S.S., to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect, to wit: negligent treatment or maltreatment, and/or cause the said S.S. to be placed in a situation where the said S.S. might have suffered unjustifiable physical pain or mental suffering as a result of abuse or neglect, to wit: negligent treatment or maltreatment, by said Defendant yelling and/or screaming at the said S.S. and/or causing and/or directing the said S.S. to act like an animal.

COUNT 2 - BATTERY CONSTITUTING DOMESTIC VIOLENCE-STRANGULATION

did, then and there, willfully, unlawfully and feloniously use force or violence upon the person of the defendant's spouse, former spouse, or any other person to whom the defendant is related by blood or marriage, a person with whom the defendant is or was actually residing, a person with whom the defendant is having a dating relationship, a person with whom the defendant has a child in common, the minor child of any of those persons or the defendant's minor child, to-wit: S.S., by strangulation.

///

///

1 COUNT 3 - CHILD ABUSE, NEGLECT OR ENDANGERMENT

2 did, willfully, unlawfully and feloniously cause a child under the age of 18 years, to-  
3 wit: S.S., to suffer unjustifiable physical pain or mental suffering as a result of abuse or  
4 neglect, to wit: negligent treatment and/or maltreatment, and/or cause the said S.S. to be  
5 placed in a situation where the said S.S. might have suffered unjustifiable physical pain or  
6 mental suffering as a result of abuse or neglect, to wit: negligent treatment and/or  
7 maltreatment, by said Defendant shoving the face of the said S.S. into the ground and/or  
8 slamming the face of the said S.S. into a floor.

9 COUNT 4 - CHILD ABUSE, NEGLECT OR ENDANGERMENT

10 did, willfully, unlawfully and feloniously cause a child under the age of 18 years, to-  
11 wit: S.S., to suffer unjustifiable physical pain or mental suffering as a result of abuse or  
12 neglect, to wit: negligent treatment or maltreatment, and/or cause the said S.S. to be placed  
13 in a situation where the said S.S. might have suffered unjustifiable physical pain or mental  
14 suffering as a result of abuse or neglect, to wit: negligent treatment or maltreatment, by said  
15 Defendant yelling and/or screaming at the said S.S. and/or causing and/or directing the said  
16 S.S. to run up and down stairs.

17 COUNT 5 - CHILD ABUSE, NEGLECT OR ENDANGERMENT

18 did, willfully, unlawfully and feloniously cause a child under the age of 18 years, to-  
19 wit: S.S., to suffer unjustifiable physical pain or mental suffering as a result of abuse or  
20 neglect, to wit: negligent treatment or maltreatment, and/or cause the said S.S. to be placed  
21 in a situation where the said S.S. might have suffered unjustifiable physical pain or mental  
22 suffering as a result of abuse or neglect, to wit: negligent treatment or maltreatment, by said  
23 Defendant slapping and/or hitting the said S.S. about the head and/or face and/or body.

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27 ///

1 COUNT 6 - COERCION

2 did, then and there, willfully, unlawfully, and feloniously use physical force, or the  
3 immediate threat of such force, against S.S., with intent to compel her to do, or abstain from  
4 doing, an act which she had a right to do, or abstain from doing, by straddling the said S.S.  
5 and preventing her from getting up or moving.

6 COUNT 7 - CHILD ABUSE, NEGLECT OR ENDANGERMENT

7 did, willfully, unlawfully and feloniously cause a child under the age of 18 years, to-  
8 wit: S.S., to suffer unjustifiable physical pain or mental suffering as a result of abuse or  
9 neglect, to wit: negligent treatment or maltreatment, and/or cause the said S.S. to be placed  
10 in a situation where the said S.S. might have suffered unjustifiable physical pain or mental  
11 suffering as a result of abuse or neglect, to wit: negligent treatment or maltreatment, by said  
12 Defendant slapping and/or smacking and/or hitting the said S.S. about the head and/or face  
13 and/or body and/or poking the said S.S. with a knife.

14 COUNT 8 - CHILD ABUSE, NEGLECT OR ENDANGERMENT

15 did, willfully, unlawfully and feloniously cause a child under the age of 18 years, to-  
16 wit: S.S., to suffer unjustifiable physical pain or mental suffering as a result of abuse or  
17 neglect, to wit: negligent treatment or maltreatment, and/or cause the said S.S. to be placed  
18 in a situation where the said S.S. might have suffered unjustifiable physical pain or mental  
19 suffering as a result of abuse or neglect, to wit: negligent treatment or maltreatment, by said  
20 Defendant yelling and/or screaming at the said S.S. and/or causing and/or directing the said  
21 S.S. to run up and down stairs and/or threatening to push the said S.S. down the stairs.

22 It is the duty of the jury to apply the rules of law contained in these instructions to the  
23 facts of the case and determine whether or not the Defendant is guilty of one or more of the  
24 offenses charged.

INSTRUCTION NO. 4

Each charge and the evidence pertaining to it should be considered separately. The fact that you may find the defendant guilty or not guilty as to one of the offenses charged should not control your verdict as to any other offense charged.



A person is guilty of the offense of Child Abuse, Neglect or Endangerment if the person willfully causes a child under the age of 18 years:

- (a) To suffer unjustifiable physical pain or mental suffering as a result of abuse or,
- (b) To be placed in a situation where the child may suffer unjustifiable physical pain or mental suffering as a result of abuse.

As used in these instructions:

The word "willfully," when applied to the intent with which an act is done, implies simply a purpose or willingness to commit the act in question. It does not require in its meaning that a defendant held any intent to violate any law, or to injure another, or to acquire any advantage.

"Abuse" means physical or mental injury of a non-accidental nature and/or negligent treatment or maltreatment of a child under the age of 18 years, under circumstances that indicate the child's health or welfare is harmed or threatened with harm.

"Physical injury" means permanent or temporary disfigurement or impairment of any bodily function or organ of the body.

"Mental injury" means injury to the intellectual or psychological capacity or the emotional condition of a child as evidenced by an observable and substantial impairment of the ability of the child to function with a normal range of performance or behavior

"Negligent treatment or maltreatment" of a child occurs if a child has been abandoned, is without proper care, control and supervision, or lacks the subsistence, education, shelter, medical care or other care necessary for the well-being of the child because of the faults or habits of the person responsible for the welfare of the child or the neglect or refusal of the person to provide them when able to do so.

INSTRUCTION NO. 7

It is not Child Abuse, Neglect or Endangerment if the physical act was the result of the reasonable exercise of discipline by a parent or guardian of the child involving the use of corporal punishment. However, if the corporal punishment is excessive, it may constitute Child Abuse, Neglect or Endangerment.

As used in these instructions:

"Corporal punishment" means the intentional infliction of physical pain, including, without limitation, hitting, pinching, or striking. Excessive corporal punishment may constitute Child Abuse, Neglect or Endangerment. Excessive corporal punishment goes beyond what is proper or reasonable under the circumstances in light of various factors including, without limitation, the age and condition of the child, the behavior being disciplined, the child's response, and the amount of force used.

INSTRUCTION NO. 9

It is not Child Abuse, Neglect or Endangerment if the non-physical act was the result of the exercise of reasonable and moderate discipline by a parent or guardian to correct the child. However, if the punishment involved was cruel or abusive, it may constitute Child Abuse, Neglect or Endangerment.

In this case, the Defendant is charged with Battery Constituting Domestic Violence – Strangulation.

Battery means any willful and unlawful use of force or violence upon the person of another.

Battery Constituting Domestic Violence occurs when an individual commits a battery upon his or her spouse, former spouse, any other person to whom he or she is related by blood or marriage, a person with whom he or she is or was actually residing, a person with whom he or she has had or is having a dating relationship, or a person with whom he or she has a child in common.

If you find that a Battery Constituting Domestic Violence has occurred, you must also determine whether or not that Battery Constituting Domestic Violence was committed by strangulation.

As used in these instructions:

“Strangulation” means intentionally impeding the normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person in a manner that creates a risk of death or substantial bodily harm.

When it is impossible to commit a particular crime without committing, at the same time and by the same conduct, another offense of lesser grade or degree, the latter is, with respect to the former, a lesser included offense.

In this case, the Defendant is charged with Battery Constituting Domestic Violence – Strangulation. This offense necessarily includes the lesser offense of Battery Constituting Domestic Violence.

If you find beyond a reasonable doubt that Defendant committed Battery Constituting Domestic Violence – Strangulation, then you are instructed that Battery Constituting Domestic Violence – Strangulation is the appropriate verdict.

If you find beyond a reasonable doubt that a Battery Constituting Domestic Violence occurred, but you determine that Defendant's actions did not amount to strangulation, then you are instructed that Battery Constituting Domestic Violence is the appropriate verdict.

INSTRUCTION NO. 12

The State and the Defendant have stipulated to the fact that the charges in this case concern a person to whom the Defendant is related by blood and with whom she was actually residing.



INSTRUCTION NO. 13

Any person who uses violence upon another person or threatens violence or injury to another person with the specific intent to compel another to do or abstain from doing an act which such other person has a right to do or abstain from doing is guilty of Coercion.

To constitute the crimes charged, there must exist a union or joint operation of an act forbidden by law and an intent to do the act.

The intent with which an act is done is shown by the facts and circumstances surrounding the case.

Do not confuse intent with motive. Motive is what prompts a person to act. Intent refers only to the state of mind with which the act is done.

Motive is not an element of the crime charged and the State is not required to prove a motive on the part of the Defendant in order to convict. However, you may consider evidence of motive or lack of motive as a circumstance in the case.

The Defendant is presumed innocent unless the contrary is proved. This presumption places upon the state the burden of proving beyond a reasonable doubt every element of the crime charged and that the Defendant is the person who committed the offense.

A reasonable doubt is one based on reason. It is not mere possible doubt but is such a doubt as would govern or control a person in the more weighty affairs of life. If the minds of the jurors, after the entire comparison and consideration of all the evidence, are in such a condition that they can say they feel an abiding conviction of the truth of the charge, there is not a reasonable doubt. Doubt to be reasonable must be actual, not mere possibility or speculation.

If you have a reasonable doubt as to the guilt of the Defendant, she is entitled to a verdict of not guilty.

The evidence which you are to consider in this case consists of the testimony of the witnesses, the exhibits, and any facts admitted or agreed to by counsel.

There are two types of evidence; direct and circumstantial. Direct evidence is the testimony of a person who claims to have personal knowledge of the commission of the crime which has been charged, such as an eyewitness. Circumstantial evidence is the proof of a chain of facts and circumstances which tend to show whether the Defendant is guilty or not guilty. The law makes no distinction between the weight to be given to either direct or circumstantial evidence. Therefore, all of the evidence in the case, including the circumstantial evidence, should be considered by you in arriving at your verdict. Statements, arguments and opinions of counsel are not evidence in the case. However, if the attorneys stipulate to the existence of a fact, you must accept the stipulation as evidence and regard that fact as proved.

You must not speculate to be true any insinuations suggested by a question asked to a witness. A question is not evidence and may be considered only as it supplies meaning to the answer.

You must disregard any evidence to which an objection was sustained by the court and any evidence ordered stricken by the court.

Anything you may have seen or heard outside the courtroom is not evidence and must also be disregarded.

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3       The weight of evidence is not necessarily with the greater number of witnesses. The  
4 testimony of one witness worthy of belief is sufficient for the proof of any fact and would  
5 justify a verdict in accordance with such testimony, even if a number of witnesses have  
6 testified to the contrary. If, from the whole case, considering the credibility of witnesses,  
7 and after weighing the various factors of evidence, you believe that there is a balance of  
8 probability pointing to the accuracy and honesty of the one witness, you should accept his or  
9 her testimony.  
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3 The credibility or believability of a witness should be determined by his or her  
4 manner upon the stand, his or her relationship to the parties, his or her fears, motives,  
5 interests or feelings, his or <sup>HER</sup> opportunity to have observed the matter to which he or she  
6 testified, the reasonableness of his or her statements, and the strength or weakness of his or  
7 her recollections.

8 If you believe that a witness has lied about any material fact in the case, you may  
9 disregard the entire testimony of that witness or any portion of his testimony which is not  
10 proved by other evidence.  
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Discrepancies in a witness' testimony or between the witness' testimony and that of others, if there were any discrepancies, do not necessarily mean that the witness should be discredited. Failure of recollection is a common experience, and innocent misrecollection is not uncommon. It is a fact, also, that two persons witnessing an incident or transaction often will see or hear it differently. Whether a discrepancy pertains to a fact of importance or only to a trivial detail should be considered in weighing its significance.

When a trial witness fails, for whatever reason, to remember a previous statement made by that witness, the failure of recollection may be construed as a denial of having made the prior statement.

Evidence that, at some other time, a witness made a statement that is inconsistent with his or her testimony in this trial, may be considered by you not only for the purpose of testing the credibility of the witness, but also as evidence of the truth of the facts as stated by the witness on that former occasion.



Evidence that the Defendant committed offenses other than that for which she is on trial, if believed, was not received and may not be considered by you to prove that she is a person of bad character or to prove that she has a disposition to commit crimes. Such evidence was received and may be considered by you only for the limited purpose of proving the Defendant's motive or intent. You must weigh this evidence in the same manner as you do all other evidence in the case.

INSTRUCTION NO. 22

A statement made by a defendant other than at trial may be considered by you as a admission or a confession.

An admission is a statement by a defendant which, by itself, is not sufficient to warrant an inference of guilt, but which tends to prove guilt when considered with the rest of the evidence.

A confession is a statement by a defendant which discloses an intentional participation in the criminal act for which he or she is on trial and which discloses his or her guilt of the charge.

You are the exclusive judges as to whether or not an admission or a confession was made by the Defendant in this case, and, if so, whether such statement is true, in whole or in part, based upon the circumstances and facts presented. If you should find that any such statement is entirely untrue, you must reject it. If you ~~find~~ find should find that any such statement is true in part, you may consider that part which you find to be true and give it whatever weight you consider appropriate in light of all of the facts presented.

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2 Although you are to consider only the evidence in the case in reaching a verdict, you  
3 must bring to the consideration of the evidence your everyday common sense and judgment  
4 as reasonable persons. Thus, you are not limited solely to what you see and hear as the  
5 witnesses testify. You may draw reasonable inferences from the evidence which you feel are  
6 justified in the light of common experience, keeping in mind that such inferences should not  
7 be based on speculation or guess.

8 A verdict may never be influenced by sympathy, prejudice or public opinion. Your  
9 decision should be the product of sincere judgment and sound discretion in accordance with  
10 these rules of law.  
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INSTRUCTION NO. 24

In your deliberation you may not discuss or consider the subject of punishment, as that is a matter which lies solely with the Court. Your duty is confined to the determination of whether the Defendant is guilty or not guilty.

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3 When you retire to consider your verdict, you must select one of your number to act  
4 as foreperson who will preside over your deliberation and will be your spokesperson here in  
5 court.

6 During your deliberation, you will have all the exhibits which were admitted into  
7 evidence, these written instructions and forms of verdict which have been prepared for your  
8 convenience.

9 Your verdict must be unanimous. As soon as you have agreed upon a verdict, have it  
10 signed and dated by your foreperson and then return with it to this room.  
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During your deliberation, you must not communicate with anyone other than each other in any way regarding the case or its merits—either by phone, email, text, internet, or other means; you must not read, watch, or listen to any news or media accounts or commentary about the case; you must not do any research, such as consulting dictionaries, using the internet, or using reference materials; and you must not make any investigation, test a theory of the case, re-create any aspect of the case, conduct any experiments, or in any other way investigate or learn about the case on your own.

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3 If, during your deliberation, you should desire to be further informed on any point of  
4 law or hear again portions of the testimony, you must reduce your request to writing signed  
5 by the foreperson. The officer will then return you to court where the information sought  
6 will be given you in the presence of, and after notice to, the district attorney and the  
7 Defendant and her counsel.

8 Readback of testimony are time-consuming and are not encouraged unless you deem  
9 it a necessity. Should you require a readback, you must carefully describe the testimony to  
10 be read back so that the court recorder can arrange her notes. Remember, the Court is not at  
11 liberty to supplement the evidence.  
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INSTRUCTION NO. 28

Now you will listen to the arguments of counsel who will endeavor to aid you to reach a proper verdict by refreshing in your minds the evidence and by showing the application thereof to the law; but, whatever counsel may say, you will bear in mind that it is your duty to be governed in your deliberation by the evidence as you understand it and remember it to be and by the law as given to you in these instructions, with the sole, fixed and steadfast purpose of doing equal and exact justice between the Defendant and the State of Nevada.

GIVEN:

  
DISTRICT JUDGE

9/15/17



Supreme Court Number: 76098

IN THE SUPREME COURT OF THE STATE OF NEVADA

---

LISA ANN NASH,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

---

Appeal from the Eighth Judicial District Court of Nevada

**APPELLANT LISA ANN NASH'S APPENDIX**

**VOLUME IV**

THERESA RISTENPART, Attorney-at Law

Nevada Bar Number 9665

464 South Sierra Street

Reno, NV 89501

(775) 200-1699

Counsel for Appellant

**APPELLANT LISA ANN NASH'S APPENDIX**

**VOLUME IV**

Jury Trial, Day 4- September 14, 2017

APP 0577-0731

1 TRAN  
2 CASE NO. C-15-308570-1  
3 DEPT. NO. 25  
4

5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

7 \* \* \* \* \*

8  
9 THE STATE OF NEVADA, )  
10 )  
11 Plaintiff, ) REPORTER'S TRANSCRIPT  
12 ) OF  
13 vs. ) JURY TRIAL  
14 LISA ANN NASH, )  
15 )  
16 Defendant. )  
17 \_\_\_\_\_)

18 BEFORE THE HONORABLE KATHLEEN DELANEY  
19 DISTRICT COURT JUDGE

20 DATED: THURSDAY, SEPTEMBER 14, 2017  
21  
22  
23  
24

25 REPORTED BY: Sharon Howard, C.C.R. #745

1 APPEARANCES:

2 For the State: DENA RINETTI, ESQ.

3 JACOB VILLANI, ESQ.

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6  
7 For the Defendant: STEVE EVENSON, ESQ.

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I N D E X  
O F  
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\* \* \* \* \*

1 LAS VEGAS, NEVADA; THURSDAY, SEPTEMBER 14, 2017

2 P R O C E E D I N G S

3 \* \* \* \* \*

4  
5 THE COURT: Resuming in the trial of State of  
6 Nevada vs. Lisa Nash. On the record. I still need to  
7 canvass Ms. Nash about her right to testify. It was  
8 represented at the bench yesterday that she would be  
9 testifying, but we still need to have that discussion in  
10 the record.

11 Anything else preliminarily before I do that.

12 MR. VILLANI: Not before that, your Honor.

13 THE COURT: Thank you.

14 Ms. Nash, you are welcome to keep your seat. I  
15 know it's difficult not to, but we can dispense with that  
16 unless you prefer to stand. It's just I have some  
17 questions to discuss with you about your right to testify,  
18 right not to testify, and all of the matters that relate  
19 to that.

20 It occurred to me -- yes, I do have it handy. I want  
21 to make sure -- I do have the instruction.

22 So Ms. Nash, I'm sure you've had a discussion with  
23 your counsel about your right not to be compelled to  
24 testify and whether or not you want to exercise a waiver  
25 of that right. I don't want to know what was discussed.

1 Can you just confirm for the record you did have that  
2 discussion with counsel prior to this discussion now.

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: What I'm going to do is read you a  
5 series of questions and ask for your responses and then  
6 make a final determination at that time whether or not you  
7 have made an election one way or the other.

8 You have the right under the constitution of the  
9 United States and the constitution of the State of Nevada  
10 not to be compelled to testify in this case.

11 You understand that right.

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: That means that no one can make you  
14 take the stand and make you answer any question.

15 Is that clear.

16 THE DEFENDANT: Yes.

17 THE COURT: You may, if you wish, give up this  
18 right and you may take the witness stand and testify. If  
19 you do, you will be subject to cross-examination by the  
20 district attorney as well as your own attorney and  
21 anything you say, whether it's in answer to the questions  
22 put to you by your attorney or by the district attorney,  
23 will be the subject of fair comment when the attorneys  
24 speaks to the jury in final argument.

25 Do you understand how that works.

1 THE DEFENDANT: Yes.

2 THE COURT: If you choose not the testify, the  
3 court will not permit the district attorney to make any  
4 comments to the jury concerning the fact you have not  
5 testified.

6 You understand.

7 THE DEFENDANT: Yes.

8 THE COURT: If you choose not to testify not  
9 only will the court not permit the district attorney to  
10 comment on that fact, but to the extent your attorney  
11 would request it -- and it is included in any proposed  
12 instructions -- a particular instruction the court will  
13 give to the jury.

14 I'll read to you now what that instruction would be  
15 if you were to choose not the testify so you're clear.  
16 I'm going to read it to you substantially the same way I'd  
17 read it to the jurors themselves.

18 It is a constitutional right of a defendant in a  
19 criminal trial that he or she may not be compelled to  
20 testify. Thus, the decision as to whether he or she will  
21 testify is left to the Defendant on the advice and counsel  
22 of his or her attorney. You must not draw any inference  
23 of guilt from the fact he or she does not testify, nor  
24 should this fact be discussed by you or enter into your  
25 deliberations in any way.



1           That would be the instruction I would give to the  
2 jurors should you choose not the testify.

3           Any question about the instruction.

4           THE DEFENDANT: No, your Honor.

5           THE COURT: Do you have any questions at this  
6 point about your constitutional rights or the  
7 circumstances that we've just gone over.

8           THE DEFENDANT: No.

9           THE COURT: Few more things.

10           I don't think these are applicable necessarily,  
11 but just in case, I want to go over them.

12           If you choose to testify and you have been  
13 convicted of a felony within the past 10 years or have  
14 been on parole or probation for a felony in the past 10  
15 years, the district attorney would be permitted to ask  
16 specific things -- if you've been convicted what was the  
17 felony, when it happened. No details could be gone into  
18 regarding those prior felony convictions, if any. If you  
19 were to deny the conviction, the State could seek to  
20 impeach your testimony with copies of the conviction,  
21 which could contain information that's more specific than  
22 simply what, when, and where.

23           Again, not suggesting it's applicable, but it is part  
24 of the discussion and canvass we have to have.

25           Do you understand those options.

1 THE DEFENDANT: Yes.

2 THE COURT: At this time Mr. Nash, what is your  
3 determination on whether or not you would like to waive  
4 your right against self-incrimination, which is  
5 essentially what you would be doing to take the stand.

6 THE DEFENDANT: I wish to waive my right to  
7 self-incrimination.

8 THE COURT: You wish to take the stand an  
9 testify, correct.

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Are there any other matters we need  
12 to address before we have the jurors join us.

13 MR. VILLANI: Briefly, your Honor, with Ms. Nash  
14 taking the stand there's a couple of things we want to  
15 bring to the court's attention.

16 The State believes it's irrelevant to get in beyond  
17 the fact she's served in the military any awards or such  
18 she's received in the military, as well as anything like  
19 that they believe is more prejudicial then probative to  
20 the issue at hand. As well as there was some prior  
21 domestic violence we believe between Ms. Nash and her  
22 husband. We belive getting into that would serve no other  
23 purpose then to have the jury sympathize with her as a  
24 jury nullification purpose. We're considering this as an  
25 oral motion in limine to preclude examination to those two

1 areas.

2 THE COURT: Mr. Evenson, we'll take them one at  
3 a time. Let's start with the latter point -- the second  
4 point. The issue if it is a moot point, you do not wish  
5 to inquire into or set any foundation or historical  
6 information with regard to the relationship between Ms.  
7 Nash and her former husband, then we don't need to have  
8 any further argument. If you are intending to inquire, we  
9 now have an oral motion in limine to preclude that  
10 inquiry, that it is not relevant to this proceeding.

11 Do you have --

12 MR. EVENSON: I do.

13 Your Honor as you know as a part of my opening  
14 statement I gave my promises to the jury in that very  
15 opening statement.

16 Secondly, Mr. Nash was present at the time Megan  
17 wrote her statement. Mr. Nash was a part of the decision  
18 making on the, quote, turning in Ms. Nash or not, based  
19 upon what he'd seen and told by Megan. It goes toward  
20 motive behind Megan's actions. It goes towards a lot of  
21 those kind of things.

22 It also is and the only reason I'm bringing it up was  
23 I intend to ask her if she ever had any prior CPS contact  
24 with any agency regarding any of her children, other than  
25 with regard to trying to get Shaylyn to come out here from

1 Maryland.

2 She said, yes. We did have contact in California.  
3 As an offer of proof, the answer will be, yes, we had  
4 contact in California because Mr. Nash held a gun to my  
5 head and these sorts of things. Not only did CPS come in  
6 and kick Mr. Nash out of the home, they gave her custody  
7 of all Mr. Nashes' children that were not hers.

8 Also as a result of that the parent of one other of  
9 Lisa's children, Summer, got custody from Lisa of Summer  
10 and maintained custody until Summer was over the age of  
11 18. It's an integral part of the background story how we  
12 got to where we are. It's important to show the dynamic  
13 between Megan and her dad. Later the defense will be  
14 raised about the falsity of the allegations that are  
15 contained in the police report. Megan's acknowledged  
16 these are false.

17 I think it's a very important part of the case. I  
18 think it meets the probative standard from relevancy.

19 THE COURT: Ms. Nash shook her head. I want you  
20 to be able to clarify for the record, something about  
21 Summer.

22 MR. EVENSON: My mistake, Judge. She didn't  
23 stay there until she was 18. She was there for several  
24 years until she was 15.

25 THE COURT: I saw Ms. Nash shake her head.

1 I do have some follow up for you. I have questions.  
2 This would be along the lines of a proffer.

3 When did Ms. Nash and Mr. Nash divorce.

4 MR. EVENSON: I have to defer to my client.

5 THE DEFENDANT: I believe 2002, your Honor.

6 THE COURT: Is it a fair assumption for me to  
7 make you can clarify these circumstances of the prior  
8 domestic violence, did they occur all prior to the  
9 divorce.

10 THE DEFENDANT: Yes.

11 THE COURT: Do you have a time frame of when  
12 those things occurred.

13 THE DEFENDANT: It occurred about 2 years before  
14 the divorce. We were separated for awhile.

15 THE COURT: Do you recall when you separated.  
16 There is a reason why I'm asking this, sort of, time frame  
17 question.

18 THE DEFENDANT: Megan was 3 weeks old at the  
19 time.

20 THE COURT: She's 19 now.

21 THE DEFENDANT: He was a cop. Fairly high  
22 ranking cop. And he lost his job because of it, and he  
23 never kind of recovered from that. He held that against  
24 me for many years, and so ...

25 THE COURT: One other thing, Mr. Evenson. I

1 don't independently recall you making reference to these  
2 circumstances in your opening. Do you have a copy of what  
3 you said in your opening that you can refresh the court's  
4 recollection. I'm trying not to ask the court reporter to  
5 go back and find that in her transcript. I'm not even  
6 sure ...

7 MR. EVENSON: Judge, I remember how I said it,  
8 the way I said it. I said, you're going to hear that Ms.  
9 Nash had no prior CPS contact other than some contact she  
10 had with a relationship to an incident that occurred with  
11 a prior husband in California. That's how I laid it  
12 out.

13 THE COURT: So my determination on this aspect of  
14 the State's motion in limine is that that inquiry, in  
15 terms of explanation of contact with CPS and knowledge of  
16 CPS process and the circumstances to how Ms. Nash may have  
17 responded in this case, I do believe that it's relevant.  
18 And that can be inquired into.

19 The circumstances leading up to that CPS contact, the  
20 prior DV, that is all going to be excluded. It's too  
21 remote in time, in the court's determination, to be able  
22 to be determined to be relevant to Ms Nashes' actions in  
23 this case, at this time. And there is not a relevancy  
24 that the court can see to those circumstances. It's not  
25 necessary to provide those circumstances to explain that

1 CPS occurred, other than the basics of the initiation of  
2 there was a CPS and that it was related to a circumstance  
3 with the husband of, however specifically she can testify  
4 as to why she called.

5 MR. EVENSON: You don't mean a 10 minute  
6 dissertation.

7 THE COURT: Correct. We're not having a history  
8 of their relationship.

9 MR. EVENSON: You said it wasn't relevant toward  
10 what she did.

11 THE COURT: That being the DV history.

12 MR. EVENSON: Yes. But also offering it as a  
13 motive for Mr. Nash to be with Megan Nash when the --

14 THE COURT: I understood your argument. I  
15 believe I did, but let me clarify.

16 These circumstances involving the animosity and/or  
17 the DV between the husband and -- ex-husband and Ms. Nash  
18 is too remote in time for this court to determine that it  
19 could be relevant to these circumstances. We're talking  
20 12-plus years, if not more.

21 Yes, it's already been put into the testimony that  
22 Mr. Nash was present. Megan Nash testified that she  
23 believed there was not a good relationship between the  
24 two. The jurors are free to weigh that however they see  
25 fit. But to try to now talk about those circumstances and

1 bring forward and speculate that somehow those things have  
2 relevance to what occurred here, when it was Ms. Megan  
3 Nash who wrote the statement, and ultimately we have her  
4 testimony surrounding that, is pure speculation that  
5 Mr. Nash had anything to do to drive that train. In  
6 fact, it was not -- Megan Nash testified nobody influenced  
7 her to write that statement in a particular way. So we  
8 are speculating.

9 I do believe there's -- even if there were some remote  
10 relevancy to that, that it is outweighed by the danger of  
11 the nullification, the potential for jury nullification to  
12 the extent it would be utilized in generating sympathy.

13 While there will be some leeway given to discuss  
14 prior contact with CPS and a very small foundation of what  
15 occasioned that, the history of the DV and then some  
16 commentary that that could be related to what occurred  
17 now, when there is no evidence of that, that's pure  
18 speculation. That cannot be utilized in front of the  
19 juror.

20 MR. EVENSON: If Ms. Nash has testimony that it  
21 is not speculation, you would entertain that.

22 Do you want to hear it now or do you want to hear it  
23 when she's on the stand.

24 I'm saying that in the context of there is further  
25 evidence to offer regarding that issue, and I don't want



1       you to think I'm overstepping my bounds in front of the  
2       jury and stepping on your toes with the ruling. You asked  
3       me about supplying prior motive. I wasn't talking about  
4       evidence that we had from 2014 saying there was a  
5       motive.

6               THE COURT: Mr. Evenson, the testimony that has  
7       come into trial so far from everyone, but most importantly  
8       from Megan Nash, and what occasioned her to write that  
9       statement, there is zero direct evidence of any kind that  
10      Mr. Nash influenced that statement. Zero.

11             There is evidence she spoke with him before she  
12      videotaped. I know you want to draw that inference. The  
13      evidence is simply not there to support it. I do not  
14      suspect that there is any evidence that Ms. Nash has to  
15      give, where absent some confession by her former husband  
16      after the fact, is going to fly to show there is evidence  
17      to support that. It's pure speculation because of a  
18      belief and animosity, and perhaps a real animosity between  
19      the two. But there's zero to link it to Ms. Megan Nashes'  
20      statement, and that's what you're attempting to do. I  
21      don't have evidence of that.

22             If you want to make a proffer now, that might be the  
23      time.

24             MR. EVENSON: Okay.

25             Ms. Nash has a text messages or a couple of text

1 messages between Mr. Nash and his daughter at that time  
2 that indicate that they were, for lack of better way of  
3 putting it, plotting and planning to do what they did.

4 THE COURT: Which is what, the taping. That's  
5 already been testified to.

6 MR. EVENSON: No. The moving out and the  
7 telling -- and the moving out part. It's additional  
8 information. She remembered it She refreshed her  
9 recollection by looking at the text messages. You saw the  
10 text messages. I believe she can and should be able to  
11 testify to that as part of her defense.

12 THE COURT: Does the State want to respond to  
13 that new information.

14 MR. VILLANI: Your Honor, I guess I'm a little  
15 confused as to what it is providing the intent or motive  
16 for. We're trying the case for the child abuse that  
17 appears on video. Our position is it's irrelevant how the  
18 video got out there, absent some suppression motion which  
19 has already been overcome. We are trying the actual  
20 abuse.

21 I understand -- look, his testimony, if he was  
22 standing over her to write the statement, okay, that's  
23 fair game. But there's has been nothing to --

24 THE COURT: Mr. Villani, you can't have it both  
25 ways in this argument. We've had argument at the bench

1       that's put in the record that what is charged in this case  
2       is not exclusive to what's in the video. And that part of  
3       what's being charged is what's in that statement. And  
4       there has been some testimony, or Mr. Evenson has not  
5       necessarily been hiding the ball on this, that there is a  
6       belief that the husband -- ex-husband in some way  
7       influenced Megan to writing the statement. My indication  
8       at this time is there is zero evidence of that. I'm not  
9       going to go on that speculation from the jury based on a  
10      relationship that ended 15 years prior regardless of  
11      recent communications. It's not out of the realm of  
12      possibility that Megan Nash reached out to her father to  
13      get advice and gave advice and she did some things related  
14      to that advice. I don't see or know anything and haven't  
15      heard anything that would tie it to the writing of that  
16      statement.

17               MR. VILLANI: If she has text messages that say  
18      they were colluding with the statement, fair game. I  
19      haven't seen anything with that regard. So if he has an  
20      offer of proof, he can show a text message along those  
21      lines, fine.

22               Ms. RINETTI: Sorry. Just to add to that.

23               The fact that her husband could potentially have  
24      influenced Megan Nash, we still don't have information how  
25      the DV is relevant to the influence; therefore, the

1 influence to Megan Nash. If they want to argue somehow  
2 because he's present at the house and has animosity that  
3 somehow Megan felt pressured, I guess that could be  
4 argued. However, the DV happened when Megan was 3 weeks  
5 old. So there's no --

6 THE COURT: I've ruled on the domestic violence.

7 MS. RINETTI: I'm sorry.

8 THE COURT: We're past that. Mr. Evenson had a  
9 follow up to discuss about the circumstances of was there  
10 more present evidence, current evidence of the  
11 ex-husband's influence on what occurred. Again, focusing  
12 on the statement my indication is I don't see it. Absent  
13 it, we're not going into these.

14 MR. EVENSON: July of 14, not current to  
15 today.

16 THE COURT: Contemporaneous.

17 Let me ask, coming back to you, is there  
18 anything in the text messages that you can show us that  
19 would link the dialogue between Megan and her father to  
20 Megan's actual writing of the statement.

21 MR. EVENSON: Judge, my client was using those  
22 to refresh her recollection. She printed them off  
23 herself, that's why I'm not proffering them and did not  
24 proffer them. So just give me one second.

25 The text messages are communication contemporaneous.

1 May I approach. You want me to read it.

2 THE COURT: Say what it is. If you are going to  
3 read, read slowly for my reporter to take it down.

4 MR. EVENSON: The text message from Megan to Mr.  
5 Nash -- Do you have any guardianship over me?

6 "Because me and my boyfriend's parents are thinking  
7 I can go, quote, live with, quote, you, so we can turn my  
8 mom in. And I'll go stay with a family friend of theirs  
9 that I'm really close to, just until you can come down  
10 here. If you're okay with that, I need to get out of my  
11 house, dad, my brother just pushed my boyfriend up against  
12 the wall and was screaming in his face. Then I shoved him  
13 and he was going to hit me until Ronnie broke it up. I  
14 can't be here anymore. It's exhausting."

15 He responds, "If you were taken away from your mom,  
16 they would place you with me -- and words to that effect.

17 She did not have the entire text message chain.  
18 Apparently, I believe Lisa can talk to this better. It  
19 has something to do with a cloud and her having the cell  
20 phone account and text messages that are screen  
21 shotted (sic) up in the cloud with photographs and other  
22 text messages going away.

23 THE COURT: I gave up a long time ago on how the  
24 cloud works.

25 Respectfully, Mr. Evenson and Ms. Nash, there is

1 nothing in that exchange that would tie to Megan's  
2 production of her written statement. We already have  
3 ample testimony about circumstances of that statement,  
4 where she stands about that statement today, what that  
5 statement is. The jurors will have an testimony to weigh  
6 that, but this circumstance of and effort to show that the  
7 husband somehow influenced the allegations that were  
8 brought that ultimately resulted in these charges, the  
9 link isn't there.

10 MR. EVENSON: I'm not trying to bring it for  
11 that purpose. It goes toward the allegation that I've  
12 made several times in front of the jury that she wanted to  
13 go live with somebody else other than her mom. Which she  
14 already testified to. However, comma, she said it was  
15 only part of the reason there was conflict with the mom  
16 and everything else. It makes it clear she'd go live with  
17 the boyfriend.

18 THE COURT: You have elicited all that through  
19 Megan and to some extent you're going to elicit it through  
20 your client, that's not the issue. We're talking about  
21 the husband -- ex-husband.

22 MR. EVENSON: The only reason that statement I  
23 just read is what she used to refresh her recollection to  
24 what she's going to testify to. As long as you are saying  
25 she can testify to her refreshed recollection along those

1 lines --

2 THE COURT: I'm not saying anything until it  
3 comes in as testimony. This was a motion in limine,  
4 orally made by the State, to preclude domestic violence  
5 history between Ms. Nash and her ex-husband, and I  
6 precluded that.

7 You raised the issue you thought there was still  
8 evidence of the animosity between the ex-husband and Ms.  
9 Nash and that that somehow could be a link that would  
10 bring the older evidence into the future and that current  
11 discussion, current meaning at the time of the incident in  
12 2014 and discussion between Ms. Megan Nash and her father  
13 somehow would show that. It doesn't show that, therefore,  
14 the DV is precluded. We'll deal with the rest of the  
15 testimony as it comes out.

16 MR. EVENSON: Very good, your Honor.

17 THE COURT: The first basis for the motion by  
18 Mr. Villani -- remind me again.

19 MR. VILLANI: Her military service.

20 THE COURT: Any remarks as to that.

21 MR. EVENSON: We don't intend to go into the  
22 numerous awards my client received from the military. We  
23 do wish to say she was an E-8, and that that is an  
24 incredibly high rank for a female reservist to achieve.  
25 Then go into the associated stresses with the job and

1 things associated with that.

2 In terms of awards, no. In terms of lengthy  
3 testimony about service, no. But basic foundation  
4 questions that you ask about.

5 THE COURT: Let me make sure I clarify it. This  
6 is the time in which we're going to be seeing your theory  
7 of the case. My understanding of your theory of the case  
8 up to this point isn't, I did it, but I was under a lot  
9 of stress and that's why.

10 My understanding of your theory up to now is, I  
11 didn't do it, or what I did not amount to legal child  
12 abuse and negligent.

13 This seems like another theory, which is, again, I  
14 was under a lot of stress for whatever I did, forgive me.  
15 And that is not appropriate argument in front of the jury  
16 so.

17 I have no problem, to be clear, with the jury  
18 understanding who Ms. Nash is. She has a history. She's  
19 had service to the country. She's had circumstances she's  
20 had. Fine.

21 Going further into what it all means to be that rank  
22 and those things -- especially if you put in some time  
23 context, whatever doing at the time. Ms. Megan Nash  
24 testified yesterday to a host of things she was doing  
25 under stress about at that time. But there's going to be



1 a fine line to how long we're spending on her background  
2 and circumstances and what we're needing to elicit  
3 relevant to this incident.

4 MR. EVENSON: I understand that perfectly.

5 THE COURT: The mMotion in limine is denied  
6 without prejudice to specific objections being raised  
7 depending on the line of questioning.

8 MR. EVENSON: Thank you, your Honor.

9 THE COURT: Anything else.

10 MR. EVENSON: Not that I'm aware of your  
11 Honor.

12 THE COURT: Okay.

13 Thank you ladies and gentlemen. We're resuming  
14 in the trial of State of Nevada vs. Lisa Nash. If you  
15 recall, yesterday the State rested their case. Defense  
16 called initial witnesses and recalled some -- an initial  
17 witness.

18 I'll turn to Mr. Evenson, your next witness.

19 MR. EVENSON: Thank you, your Honor. We would  
20 call Lisa Ann Nash to the witness stand.

21 THE COURT: Ms. Nash.

22 THE CLERK: You do solemnly swear the testimony  
23 you are about to give in this action shall be the truth,  
24 the whole truth and nothing but the truth, so help you  
25 God.

1 THE WITNESS: I do.

2 THE CLERK: Be seated. State and spell your  
3 name for the record.

4 THE WITNESS: Lisa Nash, N-a-s-h.

5 THE COURT: Thank you. Whenever you are ready,  
6 Mr. Evenson.

7 MR. EVENSON: Thank you, your Honor.

8 DIRECT EXAMINATION

9 BY MR. EVENSON:

10 Q. Ms. Nash, I'll ask this question, how old are  
11 you?

12 A. 51.

13 Q. Where were you born?

14 A. Rollaway, New Jersey.

15 Q. Did you graduate from high school from  
16 Rollaway?

17 A. No, I moved around a bit. I graduated from  
18 Westminster High School.

19 Q. Do you have siblings?

20 A. Yes.

21 Q. How many siblings do you have?

22 A. Two younger brothers.

23 Q. What are their names?

24 A. David and Darrell.

25 Q. And where is David today?

1           A.       Baltimore Maryland.

2           Q.       Where is Darrell today?

3           A.       Baltimore, Maryland.

4           Q.       Do they go to school in Baltimore?

5           A.       Later, they did.

6           Q.       Did they graduate high school out there?

7           A.       David never graduated. Darrell graduated. He  
8 got -- actually Darrell got his certificate in  
9 California -- in Paris California.

10          Q.       What I was getting at is explain how that  
11 happened -- the Reader's Digest condensed version.

12          A.       How it got to the point that Darrell graduated  
13 from California.

14          Q.       How you guys ended up across country from each  
15 other.

16          A.       When I was 12, 13 I was in 8th grade. My mom  
17 had an aneurysm, and she went to the hospital. She had  
18 brain surgery, then we went to go live with my  
19 grandmother.

20          Q.       Where did she live?

21          A.       In California.

22          Q.       So you were back east then you came to  
23 California?

24          A.       I was never back east.

25          Q.       Got it.

1           A.       So we were living with my grandma and my  
2 mom --

3           MR. VILLANI:   Objection.

4           THE COURT:   Objection.

5           MR. VILLANI:   Relevance.

6           THE COURT:   I will overrule give a little bit of  
7 leeway into the relationship Ms. Nash had with her  
8 brothers.

9           Mr. Evenson.

10          MR. EVENSON:   I'm not going to do the War and  
11 Peace version.   Just trying to explain how it got this  
12 way.

13          THE COURT:   The objection is appropriately made  
14 because it's unclear what point in time we're in.   It's  
15 unclear how much more time we're going to go through  
16 before we get to the key time frame of the case.   So I  
17 think the objection is noted.   I'll overrule it, and I'll  
18 give you some leeway in asking that you get where we need  
19 to go.

20          BY MR. EVENSON:

21          Q.       You were 12 or 13 when the separation happened  
22 or ended up happening?

23          A.       I was 14 when my brothers left and went back  
24 east.

25          Q.       Did they at some point come back.   One had

1       come back?

2           A.       Darrell did.

3           Q.       When was that? How old were you when that  
4       happened, so we can --

5           A.       I was about 22.

6           Q.       When Darrell came back?

7           A.       Yes.

8           Q.       How old were you when he left?

9           A.       About 15ish -- 14, 15.

10          Q.       How close were you at the time he left when  
11       you were 15?

12          A.       Very close.

13          Q.       Who was responsible for is daily care?

14          A.       Me.

15          Q.       Why?

16          A.       I don't want to speak bad about my mom. My  
17       mom was really young. She had 3 kids by the time she was  
18       20. She pretty much relied on me for the day-to-day,  
19       everything for my brothers from a really young age -- 7.  
20       My brothers kind of considered me their mom. They would  
21       actually ask me if they could go outside versus my mom,  
22       because mom was often not available.

23          Q.       So do you believe that your mom has mental  
24       health issues?

25                   MR. VILLANI: Objection.

1           THE COURT: What is the basis of the  
2           objection.

3           MR. VILLANI: Relevance, once again.

4           MR. EVENSON: Mr. Evenson, I don't see the  
5           relevance of this line of questioning. The relationship  
6           between her and her brothers, I understand.

7           MR. EVENSON: I think the jurors have even  
8           asked -- if I may -- or --

9           THE COURT: Make your proffer.

10          MR. EVENSON: My proffer would be to explain why  
11          the family is having some of the problems it is.  
12          Sometimes mental illness is the issue as opposed to  
13          genetics or environmental issues. All of those have been  
14          raised in this case, and we even had questions from the  
15          jurors on that.

16          THE COURT: I'll sustain the objection. I'm not  
17          sure that we have any relevancy related to Ms. Nashes'  
18          mother or even mental illness in this case. We have had  
19          testimony with regard to Shaylyn's condition, but that's  
20          been put in evidence. There isn't relevance to know  
21          historically the family.

22          MR. EVENSON: Fine. Thank you.

23          BY MR. EVENSON:

24                 Q.         So, did you -- how -- after you graduated high  
25                 school, what did you do next?

1           A.       A week after I graduated from high school I  
2 married my high school sweetheart. He was in the navy and  
3 we went to Japan.

4           Q.       What was his name?

5           A.       Dan.

6           Q.       Dan what?

7           A.       Wetrowsky (ph).

8           Q.       Did you have children with him?

9           A.       No.

10          Q.       You moved to Japan to do what?

11          A.       He was in the military. He was in the navy.

12          Q.       Then what did you do?

13          A.       Then I came back.

14          Q.       Then what happened?

15          A.       Then I joined the military, Air Force, as a  
16 linguist. I think I had only been there a few months and  
17 I was calling to see how Dan was doing. We were separated  
18 and his mom told me that he had died in a car incident.

19          Q.       So did you end up having some other  
20 relationships, those kinds of things?

21          A.       I'm not proud to say, but I've had several.

22          Q.       With regard to your children what are their  
23 names?

24          A.       Chay Douglas, Summer Shurpe, and Megan Nash.

25          Q.       How old is Chay today?

1           A.       27.

2           Q.       Is he the 24-year-old nephew, or whatever,  
3           that we heard about being in a confrontation with Lonnie  
4           yesterday?

5           A.       Yes. He's not my nephew.

6           Q.       He's your son.

7           A.       Yes.

8           Q.       Summer is how old?

9           A.       Summer is 23.

10          Q.       And the jury has met Megan, right?

11          A.       Yes.

12          Q.       Did you have contact with your brother  
13          throughout their births, his children's lives and  
14          everything?

15          A.       Through Darrell?

16          Q.       Yes.

17          A.       Yes.

18          Q.       You've kept in regular contact with Darrell  
19          over the years?

20          A.       Yes.

21          Q.       When did you first become aware that Darrell  
22          was having issues with his children and CPS in Maryland?

23                You don't need to be exact. Just a year.

24          A.       Honestly I don't remember the year. Chay was  
25          about 2, so it was a long time ago -- 25 years ago. And



1 my brother had -- he was married to Melissa, and they had  
2 4 children. They both had special needs. They had 4  
3 children back to back.

4 They had CPS call on them because the house was so  
5 filthy and the children were taken out. So he called me  
6 for help because my brother always called me for help, and  
7 I would -- I called my mom, because at the time I couldn't  
8 get out there personally. I paid for my mom to fly from  
9 Florida up to Baltimore to clean the house, so they could  
10 get the kids back.

11 Q. You said that was 25 years ago. So that  
12 situation had gone on for a very long time with CPS and  
13 your brother?

14 A. Yes.

15 Q. And at some point he had Shaylyn and there  
16 were 3 other children. Where does Shaylyn rank in the 1  
17 to 4 in terms of birth?

18 A. It was not 25 years ago. It couldn't have  
19 been. It was probably 15 years ago. Sorry. I don't do  
20 math in public.

21 Q. Did you try to get involved assisting in that  
22 process as soon as you could?

23 A. I thought everything was taken care of once  
24 the house was cleaned. My mom said she took out 50 bags  
25 of garage, dog feces. It was terrible. So I thought it

1        was all taken care of once the house was cleaned. And,  
2        you know, then there weren't any issues for awhile. Then  
3        my brother call me up and said, hey, CPS is getting  
4        involved again in my home.

5            Q.        After that phone call, have the kids ever been  
6        back with your brother?

7            A.        No.

8            Q.        To your knowledge, roughly, how old was  
9        Shaylyn when she was taken out of custody in Maryland?

10          A.        She was 4.

11          Q.        To your knowledge since the time she was 4,  
12        other then the 7 months she was here with you, has she  
13        been in state custody in Maryland?

14          A.        Yes.

15          Q.        When did it first become apparent -- well, how  
16        did you get involved further with CPS in looking for  
17        placement for Shaylyn?

18          A.        They contacted me, I want to say 2005-ish. I  
19        can't remember. They asked if I would be willing to take  
20        all 4 of the kids, and I said, yes, I would.

21                At the time -- and I still have a 5 bedroom home --  
22        I had my kids in the home, but I figured I would make due.  
23        And throughout the process I realized -- at the time I was  
24        living up north in Fallen, Nevada, and they gave me the  
25        records on the kids, and I saw all of the issues that

1       Shaylyn had and realized I would have to probably quit my  
2       job and give her full-time care by going to Reno and back.  
3       So regrettably I had to stop.

4               I had flown out there and met the kids and talked  
5       with them and they were all excited, and I felt terrible  
6       having to stop, but I had to.

7               Q.       So at some point you are living your life and  
8       you are still doing military service?

9               A.       Yes.

10              Q.       What was your ranking grade when you separated  
11      from the military?

12              A.       I was an E-8, senior master sergeant.

13              Q.       Is that a common position for a woman to  
14      obtain in the military?

15              A.       3 percent of the enlisted force gets to that  
16      rank. The percentage is lower for woman.

17              Q.       Relative to that career, is that why you were  
18      in Fallen?

19              A.       No. I came to Fallen as a defense contractor  
20      on a joint AV project. It was a 3-year project.

21              Q.       So did you keep in touch with them, continue  
22      to -- by them, I mean your brother?

23              A.       Yes.

24              Q.       Throughout this entire time period?

25              A.       Yes.

1           Q.       When, if ever, did it kickback into high gear  
2 about getting Shaylyn?

3           A.       I want to say 2010, 2011 they contacted me and  
4 said the other 3 children had been adopted. The two boys  
5 had been adopted by one family, and Shaylyn's sister was  
6 adopted by another -- they were all foster families.

7           Shaylyn had been in facilities since she was about  
8 5-and-a-half or 6, so they asked if I would be willing to  
9 take her, because, you know, I have been willing to take  
10 all 4 of them. At the time I was living in Vegas. I knew  
11 the resources for Shaylyn a lot better then they had been  
12 in Fallen, so I said, yes, definitely, I'll take her.

13          Q.       At that time what were you doing for the  
14 military? What was your role in the military at the time  
15 you agreed to take her, or the time she actually came  
16 here?

17          A.       I was the intelligence superintendent. I'd  
18 just gotten done being a first sergeant.

19          Q.       What base doing what?

20          A.       Creech Air Force Base, on the remotely piloted  
21 aircraft mission.

22          Q.       Did you have a security clearance there?

23          A.       Yes.

24          Q.       Relative to all of those things, have you  
25 ever -- had you ever had any criminal arrests of any

1 kind --

2 A. No.

3 Q. -- prior to this case?

4 A. I couldn't do my job, if I did. No.

5 Q. Did you -- when you say you said again you'd  
6 say yes to having Shaylyn here, was that the same time you  
7 got Shaylyn or did the process take awhile?

8 A. No, it was not the same time. It took almost  
9 4 years to get Shaylyn.

10 Q. Okay.

11 A. It was a very long, frustrating, involved  
12 process, because I was dealing with Baltimore and Nevada  
13 and they both had their own requirements and it just  
14 seemed like one thing after another after another. Yeah,  
15 in the meantime, I was developing a close relationship  
16 with Shaylyn. I was flying out to Baltimore and spending  
17 weekends with her in a hotel room. We would go to  
18 Ripely's Believe It or Not or the Inner Harbor. It was a  
19 frustrating process there were a couple of times I wanted  
20 to give up, but Shaylyn wouldn't let me. There was just  
21 no way. I couldn't let her down.

22 Q. So let's talk about when she got out here.

23 A. Yes.

24 Q. Your daughter yesterday made references to you  
25 having quite a bite going on. That your life was -- were

1       those things true that your daughter talked about  
2       yesterday?

3             A.       Yes. There was more then that, so, yeah.

4             Q.       So in terms of trying to juggle all those  
5       chainsaws when she got out here, so to speak, how was that  
6       going?

7             A.       It wasn't going as well as I would have liked.  
8       I've always been a super achiever. I've always been able  
9       to handle a lot of stuff, and I kept thinking I could  
10      handle this. I can get through this. I can do this. I  
11      mean my stress level was kind of crazy, but, you know, I  
12      was doing what I could to get through everything.

13            Q.       Let's talk about specifics now involving  
14      Shaylyn and her coming out here.

15            A.       Okay.

16            Q.       A lot of effort was made yesterday in finding  
17      out or discussing I believe with both social workers had  
18      testified whatnot. Were you ever given, yourself, a solid  
19      diagnosis from somebody with the appropriate letters after  
20      their name as to what Shaylyn has or suffers from?

21            A.       That is a yes and no. Technically, no, but  
22      there were many, many diagnoses. It ranged from bipolar  
23      to anxiety to emotional, sort of mood disorder. It was  
24      kind of all over the place. And so honestly, I couldn't  
25      tell what her real true issue was.

1           Q.       Did you ever know what the true issue was at  
2 any time? Did you ever find out?

3           A.       No. I was in the process of doing that. I  
4 was going to take her to UNLV and have her evaluated  
5 through their autism program when I got arrested.

6           Q.       And the -- let's go back a little further in  
7 time to when she got here.

8                   Did you ever have an opportunity to review all the  
9 records and know all the stuff and talk to all the social  
10 workers in Maryland about what was going on with her?

11          A.       It was kind of hit and miss. They would send  
12 records and repeats of records they sent before. And like  
13 I said, it was kind of all over the place. It was 4 years  
14 I was able to get reports from the facility when she was  
15 there. They sent them directly to me. But as far as  
16 medical records, no.

17          Q.       And were you under strict -- I don't want to  
18 say supervision or scrutiny, I don't have any other words  
19 popping in my head -- from CPS?

20          A.       Yes.

21          Q.       Were they there at your home -- they call them  
22 home visits?

23          A.       Yes.

24          Q.       How often were those home visits?

25          A.       Once a month.

1           Q.       Did you have other contact with CPS, other  
2 then that minimum once a month home visit?

3           A.       Yes.

4           Q.       Did they come by and talk to on a regular  
5 basis?

6           A.       Yes.

7           Q.       Did you talk to them on the phone on a regular  
8 basis?

9           A.       Yes. We'd email, on the phone.

10          Q.       What was the subject matter and context of all  
11 those contacts you were having with them?

12          A.       Well, Shaylyn, and how she was doing. Things  
13 that were going on with her. Things that were going on --  
14 it was always what can I do. Like for instance, I wanted  
15 to send her to horse camp. She wanted to go to horse  
16 camp. So I had to figure out how I could do that. It was  
17 things like that that I was having to communicate with  
18 them about.

19          Q.       At some point did you take her to a doctor's  
20 visit here? Did you take her to doctor's visits in Las  
21 Vegas?

22          A.       I took her to the doctor multiple times.

23          Q.       At one of those visits did a physician  
24 diagnose her with some obesity issues?

25          A.       Yes, the first one.



1 Q. What did he say to you at that time?

2 A. She said that Shaylyn was at the 99 percentile  
3 and that she had -- she's obese.

4 Q. 99 percentile for weight?

5 A. Yes.

6 Q. Did he want you to do anything about it?

7 A. She suggested --

8 Q. Did she want you to do anything about it?

9 A. I'm not going to call you a sexist right  
10 now.

11 Q. I deserve it.

12 A. She said that Shaylyn should exercise more,  
13 watch her diet, things that they say. And Shaylyn agreed  
14 with her.

15 Q. Okay. Did you actually take that advise to  
16 heart?

17 A. Yes.

18 Q. Did you start beginning doing a program with  
19 her?

20 A. Well, it was good timing. I had to get ready  
21 for my PT test too which we have to take every 6 months or  
22 year depending on how you score. So she was jogging with  
23 me, doing push-ups, sit-ups with me. We were doing it  
24 together.

25 Q. Okay. When roughly did that start?

1           A.       I want to say probably March or April, when it  
2 wasn't super chilly.

3           Q.       Did you notify CPS that you were doing that?

4           A.       Yes.

5           Q.       And did you -- were you able to refresh the  
6 dates you told CPS you were doing that?

7           A.       Well, I think the first time --

8           Q.       Hold on.

9                    Were you able to refresh your memory as to the  
10 dates you told CPS when you started doing the PT?

11          A.       It was in April-ish.

12          Q.       Of what year?

13          A.       2014.

14          Q.       Okay. How did you refresh your recollection  
15 as to those dates?

16          A.       I reviewed the reports earlier -- CPS  
17 reports.

18          Q.       Who were those made by?

19          A.       At that time, Ms. Marshal.

20          Q.       And in her reports she says --

21                   MR. VILLANI: Objection.

22                   MR. EVENSON: I'll rephrase the question.

23                   BY MR. EVENSON:

24          Q.       Do her reports refresh your recollection ss to  
25 when --

1 MR. VILLANI: Objection.

2 MR. EVENSON: -- you mentioned to her --

3 THE COURT: You can refresh recollection if you  
4 have a report to show her, but you cannot elicit hearsay.  
5 The objection is sustained.

6 BY MR. EVENSON:

7 Q. Do you need the reports to look at from  
8 talking to Ms. Marshal to tell you when you told her about  
9 the physical therapy -- the PT, physical training?

10 A. Yes, please.

11 MR. VILLANI: May we approach.

12 THE COURT: Sure.

13 (Discussion held at the bench.)

14 THE COURT: With that clarification if you have  
15 that document to refresh the witness' testimony.

16 MR. EVENSON: Just a moment. Yes.

17 BY MR. EVENSON:

18 Q. This is 52 pages of the report from Tatanyia  
19 Marshal?

20 A. Yes.

21 THE COURT: If you have a page or paragraph to  
22 direct her to. This is not testimony about the report.

23 MR. EVENSON: It's not. I understand that. So  
24 let me --

25 BY MR. EVENSON:

1           Q.       In refreshing your recollection regarding  
2       dates we're talking about, is that the report you looked  
3       at?

4           A.       Yes.

5           Q.       Is there dates in there from April 2014 that  
6       refresh your recollection as to when you told her about  
7       the physical training?

8           A.       Let me find those.

9           THE COURT:   You -- I'll remind the witness this  
10       is to refresh her recollection so she can testify.  It's  
11       not to be read from.

12           MR. EVENSON:  I didn't want to have it marked  
13       because sometimes --

14           THE COURT:  I just need you to show her where  
15       she needs to read.  Thank you.

16       BY MR. EVENSON:

17           Q.       What date is that that reflects when you first  
18       told her about that?

19           A.       April 2014.

20           Q.       Are there subsequent entries of subsequent  
21       dates you told her?

22           A.       There were.  I don't remember those.  And it  
23       wasn't on April 15.  It was Shaylyn that told her.

24           Q.       It was Shaylyn that told her about the boot  
25       camp?

1 A. Yes.

2 Q. Okay. So CPS knew about the boot camp?

3 A. Yes.

4 Q. Talk to us for a second about your  
5 relationship with Shaylyn. I believe the individual that  
6 testified yesterday, Lonnie, said you treated her like a  
7 dog?

8 A. No.

9 Q. Tell us about your relationship with  
10 Shaylyn?

11 A. There were times when I was hard on her,  
12 definitely. But I love Shaylyn. I still love Shaylyn.  
13 Whenever we went on trips she went with us even though the  
14 foster agency said she didn't have to go. You can leave  
15 the foster kid somewhere and take their family members,  
16 and I said, no. She is my family. She is going to be my  
17 child. No way am I leaving her. That would be  
18 horrible.

19 So she -- I treated her like I would my own kids,  
20 honestly. I don't know what else to say.

21 Q. Let's start with that for a second. In all of  
22 this review and all the talks with CPS, were you made  
23 aware of any issues that Shaylyn had with regard to being  
24 violent?

25 MR. VILLANI: Objection, hearsay, your Honor.

1           THE COURT: State the basis for hearsay so we  
2 have it for the record. I have an understanding of what  
3 it might be, but I need you to say it for the record.  
4 Thank you.

5           MR. EVENSON: It goes -- if I cannot -- for the  
6 truth of matter asserted, state of mind. It goes for the  
7 basis of doing what she was doing.

8           THE COURT: Ask the question again.

9 BY MR. EVENSON:

10          Q. Were you -- when you were told about Shaylyn's  
11 issues -- and we focused on the mental health stuff --  
12 were you told about the behavior stuff as well?

13          A. Yes.

14          Q. What did they tell you about the behavior  
15 stuff?

16          A. Well, they didn't necessarily tell me. They  
17 sent me weekly reports.

18          Q. What was in those reports?

19           MR. VILLANI: Objection. Goes hearsay.

20           MR. EVENSON: Goes to state of mind.

21           THE COURT: Can I have counsel at the bench to  
22 make sure I'm on the same page before we proceed.

23           (Discussion held at the bench.)

24           THE COURT: Objection is sustained with that  
25 clarification. You may proceed.

1 BY MR. EVENSON:

2 Q. Was it made clear to you that she has behavior  
3 problems?

4 A. It was made clear through the reports,  
5 definitely.

6 Q. Did you read those reports?

7 A. Yes.

8 Q. Did you recall all of them?

9 A. All the ones they sent to me, yes.

10 Q. Based upon those records sent to you, did you  
11 come to the conclusion yourself as to what her behavior  
12 issues were?

13 MR. VILLANI: Objection. Calls for hearsay.

14 THE COURT: Overruled.

15 THE WITNESS: Well, my conclusion, based on the  
16 reports, and I don't know what I'm allowed to say or  
17 not.

18 MR. EVENSON: Keep talking until somebody says  
19 stop.

20 THE COURT: You're allowed to testify not to  
21 what someone else said.

22 THE WITNESS: Okay.

23 I realized that Shaylyn was -- could be very  
24 angry and violent at times. And I knew, based on that  
25 that I was going to have to be very firm with her because

1 otherwise I was afraid of what she was capable of.

2 MR. VILLANI: May we approach, your Honor.

3 THE COURT: You may.

4 (Discussion held at the bench.)

5 THE COURT: You made proceed.

6 MR. EVENSON: Thank you, your Honor.

7 BY MR. EVENSON:

8 Q. Was that the only conclusion you reached  
9 regarding behavioral issues or were there other issues in  
10 terms of things that were seen or discussed that you  
11 concluded from reading the reports?

12 A. I concluded she was on way too much  
13 medication. I concluded that she could be angry. It  
14 would sometime take 3 staff members to --

15 MR. VILLANI: Objection, hearsay.

16 THE COURT: Sustained.

17 MR. EVENSON: You can't talk about specifics you  
18 read.

19 THE COURT: The court just admonished the  
20 witness of that. Do not testify to what someone else has  
21 said. We are asking about your opinion or your  
22 conclusions.

23 MR. EVENSON: Thank you, your Honor.

24 THE WITNESS: My opinions were that Shaylyn  
25 could be physically aggressive. That was my opinion.



1 BY MR. EVENSON:

2 Q. Was there any thoughts she was verbally  
3 aggressive or she was confrontational?

4 A. Yeah. That was some other of my opinions.  
5 She obviously had issues with authority from what I was  
6 reading. She had -- she did not like to be told what to  
7 do at all.

8 Q. You can't say specifics.

9 A. She would be verbally aggressive. She had a  
10 lot of behavioral issues, in my opinion.

11 Q. When she got out here, did she exhibit any of  
12 those? Did you actually see any of those?

13 A. Not to the level that I had been reading,  
14 because that was -- like I said, it took 4 years to get  
15 her, so during that process they had actually halted it at  
16 one point because --

17 Q. When you say halted it, it is it?

18 A. The process.

19 Q. Okay.

20 A. They had stopped the process because of an  
21 incident.

22 Q. You can't be specific about --

23 A. I don't remember it. But they halted it and  
24 they had to put her in a higher level facility for 6  
25 months and she ended up being in there for a year.

1        Basically for her to stabilize before she could come live  
2        with me. The social worker told me one of the reasons  
3        they did that.

4                MR. VILLANI: Objection.

5                THE WITNESS: Sorry. Hearsay again.

6                THE COURT: Perhaps one of the things we can do,  
7        there is some history on how Shaylyn came to the home.  
8        What is relevant to this trial is Shaylyn in the home.  
9        That would be appropriate to proceed.

10               MR. EVENSON: Thank you.

11        BY MR. EVENSON:

12               Q.        So Shaylyn did exhibit a lot of those things  
13        when she got here?

14               A.        No.

15                      Heart of it was because I think I had  
16        established a relationship with her. The other reason I  
17        believe is because when we final knew she was going to be  
18        staying and living with me I sat down with her and I said,  
19        Shaylyn, I read all of this stuff about you and you need  
20        to realize that that's not going to fly here. You are not  
21        going to be allowed to do or getaway with most of those  
22        things. And she said I understand. And I guess I can't  
23        go into specifics, but I did tell her that she needed to  
24        behave.

25               Q.        Okay.

1           As she stayed here was there any issues -- we heard  
2 a lot of things from Megan about thievery and stealing.  
3 It's not like she's taking hundred dollar bills, but talk  
4 to us about that for a second.

5           A.       Well, she would take strange things from  
6 school. She would take pens and paper. One time she took  
7 5 pieces of felt. She was always taking things. And I  
8 would actually have to search her when she got home from  
9 school to see what she had taken that day, then I would  
10 tell her you've got to take it back. I emailed the  
11 teacher and explained what was going on. Then the teacher  
12 would have to email me back to let me know that Shaylyn  
13 had actually given it to her. There were a couple of  
14 times that Shaylyn would only give part back. It was a  
15 constant struggle with her.

16           Q.       Were you involved in the IABs at school?

17           A.       Very.

18           Q.       Were you involved in the daily routines at  
19 school?

20           A.       Yes.

21           Q.       Meet with teachers?

22           A.       Yes.

23           Q.       Talk about things with them?

24           A.       Yes. And I emailed them.

25           Q.       How frequent was that contact?

1           A.       At one point it became daily. The emails  
2       for -- the teachers were emailing me daily because of all  
3       the problems we were having with Shaylyn. So she was  
4       giving me a daily report.

5           Q.       You were with Shaylyn. You know a lot about  
6       her and the way that she talks and the way she does  
7       things. Does she have a speech impediment?

8           A.       She does. Instead of her R's she makes like a  
9       D sound. That was something that she and I were working  
10      on all the time too.

11          Q.       Did she, in terms of the those things at  
12      school we're talking about and the -- I'm sorry I lost my  
13      train of thought, your Honor, I apologize.

14                   THE COURT: All right.

15                   BY MR. EVENSON:

16          Q.       So with her speech impediment you had a lot of  
17      opportunity be around her and see how she talked and see  
18      how she remembered things and stuff. Tell us, based upon  
19      your knowledge of her, how she saw things and remembered  
20      things and understood things?

21          A.       Shaylyn -- this was part of my issue with her  
22      too. She would tell stories so that it benefited her.  
23      She is very high functioning. Her IQ, far as I know when  
24      they tested her was 85, which they said was high normal.  
25      They said at that school the kids at special needs had a

1       40 IQ. That's why she was moved out of there to go to  
2       Arbor View.

3               You can't trust a whole lot that Shaylyn says,  
4       because there is usually much more to the story or much  
5       less to the story.

6               Q.       Did you see an example of that when the social  
7       worker yesterday took her to the airport related what  
8       Shaylyn told her on the way to the airport? Did you see  
9       an example of that that you can recall.

10              If I may point you. There was some statements  
11       that's allegedly, that I got from the State about Shaylyn  
12       being in an advanced honors algebra class. Do you  
13       remember that now?

14              A.       Yes.

15              Q.       Was any of that true?

16              A.       No. Shaylyn would like to say she knew  
17       algebra, and she -- I knew she didn't know algebra. So I  
18       said, let's start with your times tables. She didn't know  
19       those. So I spent many, many, many, hours with her  
20       teaching her her times tables. She was really proud  
21       because when she went to summer school her first test was  
22       on her times table. She got a 100. She was really  
23       excited. That was good.

24              Q.       So the concept of her saying something to the  
25       somebody on the way to the airport, I'm in an honors

1 class, I passed 8th grade and all that stuff, that didn't  
2 surprise you at all that she would make that kind of  
3 representation?

4 A. No. No. That was very normal for Shaylyn.

5 Q. Okay.

6 Relative to this case and Shaylyn, as far as you  
7 know did anybody ever do a forensic or specific interview  
8 with Shaylyn regarding the allegations made against you?

9 A. As far as I know?

10 Q. Yes.

11 A. No.

12 Q. Was she ever interviewed by a detective or  
13 anybody else in law enforcement other than -- we heard  
14 nobody interviewed her. So in this trial did anybody  
15 interview her about what happened in law enforcement?

16 A. I don't believe so.

17 Q. So getting -- wrapping back around to where we  
18 were a little bit. So tell us about Shaylyn and where she  
19 was in this June, July time period. What was going on  
20 with her. How things were going. What was going on in  
21 that time frame?

22 A. Well, there was a lot going on. She was in  
23 summer school. She was -- there was some break for summer  
24 school and during part of that break I put her in horse  
25 camp. She went there.

1           Another part of the break was this other camp that  
2           was part of Las Vegas. She was -- because CPS made it  
3           very clear to me that she was not allowed to ever be  
4           alone, I had to always have either I would be with her and  
5           Summer ended up getting licensed as well. And Shaylyn had  
6           day care.

7           Q.       You had to go through a full licensing  
8           process?

9           A.       Yes.

10          Q.       You'd go through those and CPS was there  
11          regularly?

12          A.       Yes.

13          Q.       Did you ever -- yesterday there was the issue  
14          with the losing weight to ride the horses. Shaylyn raised  
15          it and your daughter raised it. Talk to us about that.

16          A.       Shaylyn wanted to go to horse camp, the lady  
17          who ran the horse camp who I had worked with on other  
18          things, she said that they didn't want --

19                 MR. VILLANI: Objection, hearsay.

20                 MR. EVENSON: It's --

21                 THE COURT: There's no -- how do I make this  
22          clear so there is no confusion with the jury.

23                 As a witness in a trial, one witness cannot testify  
24          to what a another potential witness might have said, if  
25          they're not here themselves to testify in

1 cross-examination. That's why you can't testify about  
2 what someone else said.

3 You are precluded to and can testify about what you  
4 know, what you directly observed, what you may have said.

5 MR. EVENSON: I wasn't planning on her giving  
6 someone's statements. I'll move on.

7 THE COURT: You may proceed.

8 BY MR. EVENSON:

9 Q. Were you made aware of at her current level of  
10 weight whether or not she would be able to attend camp?

11 A. No.

12 Q. Did you take some action relative to that?

13 A. Yes.

14 Q. Was that just -- what was that action?

15 A. Shaylyn wanted to go so we worked out.

16 Q. Continued doing what you were doing?

17 A. Yeah.

18 Q. The diagnosis of asthma that has been talked  
19 about with Shaylyn. Shaylyn testified that she was on  
20 some sort of daily steroid or those kind of things. Do  
21 you recall seeing that in any of her records?

22 A. She was not.

23 Q. Ever?

24 A. No.

25 Q. Did you ever have to administer that to her in



1 the time she was here?

2 A. No. No. Summer has asthma. She'd have to do  
3 that quite often. Never Shaylyn.

4 Q. Relative to Shaylyn's asthma did they send her  
5 out here with any medication?

6 A. No.

7 Q. What did -- did anybody recommend you get an  
8 inhaler for her?

9 A. I went back through her records, some of the  
10 records I had, and there was an asthma prescription there.  
11 I put her on my military insurance so I wanted to make  
12 sure she had all of the medications she was supposed to  
13 have. Because everything was so all over the place is the  
14 best way to describe it, so I didn't -- I wanted to make  
15 sure he had everything that have ever been -- not ever  
16 but -- anyway I found that they had given her Albuterol at  
17 some point. I showed the doctor and I said just to be  
18 safe, can you go ahead and prescribe this. If she has  
19 this history if she actually had these issues, I haven't  
20 seen them, but I want to make sure that I have an  
21 inhaler.

22 Q. Did she ever need the inhaler when you guys  
23 were running or exercising?

24 A. No. She did in the beginning when we were  
25 first jogging, she would get out of breath, which is

1 normal. I do too. She stopped, caught her breath, and we  
2 kept running.

3 Q. Did you ever get the feeling like she couldn't  
4 breath, like what goes on with asthmatic people, that  
5 there's a problem with breathing, or was it just being  
6 like if I tried to run hundred yards today?

7 A. Or if I tried. No.

8 Q. Out of shape. Just out of shape?

9 A. Pretty much, yeah. I was athletic my whole  
10 life so I know there were times when I was out of shape in  
11 between so I know.

12 Q. Had she ever had to do any physical exercise  
13 in her life that you knew of before she got here?

14 A. No. No.

15 Q. Did she, in fact, loose weight?

16 A. When she got her she was between a 22 and 24.  
17 She weighed about 235 pounds, 5'8". Through the course of  
18 several months she ended at size 16. I know because I had  
19 to keep buying her new clothes. She was real happy about  
20 the weight she was losing. She was having muscle  
21 definition. She even showed the social worker, look at my  
22 muscles.

23 She got down to 16 and I believe 210 or 215 pounds  
24 in 5 or 6 months.

25 Q. Did you have the typical teenage issues with

1 her in terms of defiance and not doing what you wanted her  
2 to do?

3 A. Yes.

4 Q. How regularly did that occur?

5 A. Pretty often.

6 Q. What discipline did you use with her?

7 A. We -- I mean, the PT wasn't my first form of  
8 discipline with her ever. I would take things away. She had  
9 an iPod, I'd take that away. She was into Barbies because  
10 she never really had Barbies, so for Christmas I bought  
11 her just tons and tons of Barbie stuff. She's say, gosh,  
12 it looks like my room is throwing up Barbies. But I would  
13 take things away.

14 At one point when she had gotten involved with this  
15 boy, not too long after she got here, and was trying to --  
16 well, she was using Megan's cell phone to contact this boy  
17 to try to make plans to run away with him and all these  
18 different things, and it was teen stuff, you know. When  
19 that happened, of course, I immediately got involved. I  
20 got the school involved. Because he was from the school.  
21 I got them put in separate classrooms. I did everything  
22 to stop the situation.

23 Q. What sort of discipline did you do relative to  
24 that?

25 A. With that?

1 Q. Yeah.

2 A. I thought that was discipline enough. She was  
3 not happy that she was in a different class from him.

4 Q. Understood.

5 These issues where on going and happened  
6 regularly?

7 A. Yes.

8 Q. Did there -- there is a lot of places I'm  
9 going here. Give me a second to think about the next one.

10 Let's talk about the specifics we see on the  
11 videos?

12 The first video that's shown, what precipitated  
13 that 10 second, 12 second clip?

14 A. That was the day I had gotten a phone call  
15 from camp.

16 Q. Not what they told you. What was the nature  
17 of what they told you.

18 A. I got the impression that Shaylyn was going to  
19 be kicked out of camp that she had been misbehaving all  
20 week. They were not happy with it.

21 Q. What was one of the reasons she was going to  
22 be kicked out that was related to you?

23 A. Because she was -- she told me this.

24 MR. VILLANI: Objection.

25 THE WITNESS: My gosh. I don't have this

1 hearsay down well. I'm sorry.

2 MR. EVENSON:

3 Q. Based upon what they told you, did you come to  
4 a determination as to what the issue was?

5 MR. VILLANI: Same objection, hearsay.

6 THE COURT: Just ask what she did next.

7 BY MR. EVENSON:

8 Q. What did you do next?

9 A. I re-advised Shaylyn that she needed to follow  
10 the rules. That they were not bossing her around. And  
11 that she obviously needed a refresher course in what it  
12 was like to be bossed around.

13 Q. Okay.

14 A. When Shaylyn first came to live with me I had  
15 told her that when she talk -- when she deals with people  
16 in authority, such as teachers, camp counselors and all of  
17 that, she had to give them the same respect she would give  
18 me, and she needed to listen to what they said and follow  
19 their direction. If there was something she didn't think  
20 was fair, she had to come to me and tell me, and I would  
21 handle it. And I said, Shaylyn, I always have your back  
22 but if you're wrong I'm also going to tell you.

23 So that day we got home -- well, first, because I  
24 had been on the phone for 30 minutes and I was aware of  
25 what had happen, I questioned Shaylyn about it.

1 Q. Without saying what was said.

2 A. She was evasive. I then reminded her I had  
3 just gotten off the phone and I knew a lot more than she  
4 was trying to say. And she said, oh -- then, I said,  
5 well, we need to go home. And remember when you first  
6 came to live with me and I said you have to follow the  
7 rules, then we're going to go back and basically I'm going  
8 to bark orders at you till you figure it out.

9 Q. Is that what happened?

10 A. Exactly what happened.

11 Q. How long did this barking orders go on for?

12 A. Not super long. I want to say 5 minutes at  
13 most.

14 Q. You didn't have a clock on it either?

15 A. No.

16 Q. And we have 12 seconds of tape?

17 A. Yes.

18 Q. We saw what we saw there. Whatever the other  
19 time frame was, how -- was it the same kind of stuff?

20 A. No.

21 Q. What was rest of it?

22 A. Initially it was actually Shaylyn thought it  
23 was funny, because I was like, okay, do this, do that. I  
24 can't even remember.

25 She said, oh, you're joking, right. I said, no,

1 I'm not joking. I'm not kidding. This is serious stuff.  
2 CPS made it very, very clear to me that during that 6  
3 month period the pre-adoption phase, if I had any issues  
4 with her, they were going to take her and send her back to  
5 Maryland. I was under that thought of, oh, my God. I  
6 cannot have her running off with boys or doing things like  
7 stealing, or getting kicked out of camp, or any of that  
8 kind of stuff.

9 I knew I had to be hard on her to make sure none of  
10 that happened. Because Shaylyn and I had worked together  
11 for 4 years to get her to come live with me, and she was  
12 finally there.

13 Sorry. So it was serious to me that she was going  
14 to get kicked out of camp. I needed to make sure she  
15 understood how serious it was. So I through all of these  
16 random things at her, just whatever came off the top of my  
17 head.

18 What is also not in the tape is at the end I turned  
19 to Shaylyn and I said, okay, now stand on your head, say  
20 the star spangled banner and go ahead and gargle some  
21 water while you're at it. And we laughed. That was it.  
22 It was done. That was how it ended.

23 Q. Any hysteria?

24 A. She wasn't happy. I didn't want her to be  
25 happy. I wanted her to understand it was serious stuff.

1 That she couldn't get kicked out of camp.

2 Q. Did you physically touch her at any point?

3 A. No. No. Uh-uh.

4 Q. Did you use physical discipline at that time  
5 at all in any way, shape or form?

6 A. During that?

7 Q. During that incident?

8 A. No.

9 Q. Let's talk about the next viewing we had.  
10 Relative to what was shown to the jury, what precipitated  
11 that occurrence?

12 A. That was definitely not a proud parenting  
13 moment for me. What happened was we had just spent 3 days  
14 at Disneyland. It was Megan, Shaylyn, my grandson, Ryan,  
15 and me. And we had blast. We were staying at a hotel.  
16 We went to California Adventure and Disneyland, back and  
17 forth. Shaylyn even said -- we're on our way home from 3  
18 days of lot of fun and while we were driving everyone was  
19 sleeping. It was dead quite in the car. And I was  
20 driving, then I looked in my rear-view mirror and I see  
21 Shaylyn. I thought she was asleep as well. I'd already  
22 fed the kids. I said, hey, Shaylyn, hand me some of those  
23 yogurt covered pretzels. She -- they were not there  
24 anymore. She indicated such.

25 I was wondering why. I started thinking about it,



1 and I thought, oh, my goodness. She's right behind me in  
2 the car. They're asleep. The car is dead quiet, and it  
3 was a little Toyota, and those pretzels are very crinkly,  
4 The bag was really, really, crinkly, so she had to have  
5 been extremely sneaky, in my opinion, to go in, slowly  
6 take them out. Be really quiet. And it kind of went to  
7 that whole, the sneakiness. It didn't sit well with me,  
8 because that was the behavior that we were really working  
9 on.

10 Q. So what happened next?

11 A. We got home not long after that, and I said,  
12 okay. You're going to run up and down the stairs for  
13 punishment, discipline, whatever you want to call it. And  
14 she did.

15 Q. Then she got up to the top of the stairs and  
16 dropped for 10?

17 A. Yes.

18 Q. Then ran some more?

19 A. Yes.

20 Q. Then dropped for 10?

21 A. Yes.

22 Q. Then she didn't get up. What happened next?

23 A. I felt -- because we had worked together,  
24 worked out together multiple times and I knew what Shaylyn  
25 could do and not do, I felt like she was trying to

1       manipulate the situation. And because I was already upset  
2       with her over being sneaky, I become more upset.

3           Q.       Did you -- for one second I want to step back  
4       into things.

5                   Did you have a feeling of the sneaky and the  
6       manipulation those kinds of things, had that been a  
7       concern of yours from when?

8           A.       The visit -- I believe it was Thanksgiving  
9       when she came out and visited in 2014. She -- let's go  
10      back.

11                   There was a visit where she came out. I believe it  
12      was for a brief period of time. It might have been spring  
13      break. She came out, and she -- I got a call that she had  
14      a cell phone, and in the facility she wasn't allowed to  
15      have a cell phone. So she had taken it from my house. I  
16      had random cell phones sitting around. She had taken it.  
17      So I realized that the next time I probably needed to  
18      search her luggage.

19                   The next time she visited she had -- well, there  
20      had been an incident with Megan's ring and some other  
21      things that were missing and Shaylyn found them. And so  
22      then we went to -- it was time for her -- I helped her  
23      pack that night. And everything was correct that was in  
24      the bags. So the next morning I said, okay Shaylyn, let's  
25      go. We've got to go get to the airport, and she was in her

1 room taking a long time. So I walked in and I realized  
2 that she had taken out the stuff we packed and was  
3 replacing it with all the things like, boots, my  
4 honor-grad boots, just strange things like old cell  
5 phones.

6 Anyway, she had hidden them under the bed so she  
7 could sneak them in that night, or that morning before we  
8 left.

9 So then we were late getting to the airport because  
10 I had to repack everything. So I realized she had these  
11 issues and I knew it was an issue. When I called the  
12 social worker and told her about the issues, I was told --

13 MR. VILLANI: Objection, hearsay.

14 THE COURT: Sustained.

15 MR. EVENSON: Ms. Nash, you can't be  
16 conversational.

17 THE COURT: We've instructed the witness. I  
18 sustained it because I don't think this was going to be  
19 admitted as to hearsay.

20 Move on.

21 BY MR. EVENSON:

22 Q. So that was another concern of yours going  
23 forward?

24 A. Yes.

25 Q. With her being so -- what happened, what did

1       you feel? What happen next?

2           A.       During the incident?

3           Q.       What is it you wanted her to do?

4           A.       I wanted her to comply. I wanted her to stop  
5 running the show or feeling like she could run the show.  
6 I wanted her to behave. There were so many things that --  
7 I just wanted it to stop. I wanted -- it was almost a  
8 daily thing, multiple times a day sometimes. I just  
9 wanted to send a message to her, enough is enough. Enough  
10 is enough.

11          Q.       Did you -- were you ever told by any person at  
12 CPS, either in Nevada or Maryland, that you could not use  
13 physical discipline with her?

14          A.       No.

15          Q.       Were you ever told by medical provider with  
16 letters after their names, psychiatric business, that she  
17 was incapable or unable of deal with physical  
18 discipline?

19          A.       No.

20          Q.       Did anybody ever say to you, don't use  
21 physical discipline with her?

22          A.       No.

23          Q.       With regard to the physical discipline you did  
24 use with her, how many total times that she was with you  
25 did you ever use physical discipline with her?

1           A.       Do you mean as in smacking her.

2           Q.       Yes, in physically touching her?

3           A.       Twice.

4           Q.       By twice, I mean incidents not numbers. So

5 two incidents?

6           A.       Yes.

7           Q.       One of incidents is on the video tape?

8           A.       Yes.

9           Q.       And there's another incident?

10          A.       Yes, but I don't remember what it was or the

11 circumstances were. I don't remember it at all. I do

12 remember doing one of these to her shoulders. Knock it

13 off.

14          Q.       Okay. So although the goal that day was --

15 the day of the video tapes -- was to get her to comply?

16          A.       Yes. I was exasperated.

17          Q.       Did she comply?

18          A.       She did. After.

19          Q.       After all that.

20          A.       The next 3 weeks were heavy, but we got along

21 great. She met with the social workers. She reiterated

22 she wanted me to adopt her.

23          Q.       Let me talk about that day. Did you have a

24 doctor's appoint with Shaylyn that day?

25          A.       Yes.

1           Q.       That day, to be clear, that day we are talking  
2       about is July 21st of 2014, right?

3           A.       Yes.

4           Q.       Because as we know from the testimony you and  
5       Shaylyn have -- officers have appeared at your house 12,  
6       18 or something 12, 40 on the 22nd, so everything we're  
7       talking about the 21st?

8           A.       Yes.

9           Q.       So on the 21st, which is the day before you  
10      were arrested, did you have a medical appointment?

11          A.       Yes.

12          Q.       What was that medical appointment for?

13          A.       It was the adoption physical. She also met  
14      with the social worker that day.

15          Q.       At any time in any event in any way, shape, or  
16      form did Shaylyn ever express any concerns about the care  
17      you provided for her?

18          A.       To my knowledge, no.

19          Q.       Okay. Did she ever express any concern about  
20      not having her medical needs met or educational needs  
21      met?

22          A.       No.

23          Q.       Did the social work ever say to you that you  
24      were not meeting their expectations or anything like  
25      that?

1           A.       No.

2           Q.       Did the social worker indicate to you, or did  
3 you ever hear from anyone in the government agencies,  
4 ICPC -- Interstate Compact and Placement of Children --  
5 you were not meeting their expectation with regards to  
6 her?

7           A.       No.

8           Q.       Now, I want to go to what has come up as some  
9 of the surrounding issues with what has taken place in  
10 this case.

11                   Apparently there was some issue with --

12                   MR. VILLANI:  Objection, leading.

13                   THE COURT:  Give us some foundation.

14                   MR. EVENSON:  I'm trying to point with  
15 direction.

16                   THE COURT:  Overruled.

17           BY MR. EVENSON:

18           Q.       There was some issue with Lonnie.  Remember  
19 that?

20           A.       Yes.

21           Q.       Is your recollection just a wee bit different  
22 then what your daughter's recollection is?

23           A.       Yes, it's different.

24           Q.       What is your recollection?

25           A.       Lonnie and Megan were laying down in her

1 bedroom with a blanket over them with the door shut and  
2 locked. I was -- they were not watching a movie.

3 Q. How old were they at the time?

4 A. 15 and 16.

5 Q. Your daughter was 15 and Lonnie was 16?

6 A. Yes.

7 Q. Go ahead.

8 A. So I went to open the door and realized it was  
9 locked. Knocked on the door. Lonnie basically -- they  
10 were laying not too far from the door, reached up, and  
11 didn't have the decency to get up. Opened the door, and I  
12 walked in and said, what's going on.

13 Q. Can't say what they say. So they said what  
14 was going on and you said?

15 A. I said, you both need to get up. This is not  
16 something I'm comfortable with. This is not acceptable,  
17 et cetera, et cetera. Then I said to Lonnie that I'm  
18 pretty sure your parents would not allow this.

19 Q. Okay.

20 A. And yesterday he said -- am I allowed to say  
21 what he did.

22 Q. You can say what he did.

23 A. He, basically still on the ground, handed the  
24 cell phone to me and said call them. I wasn't very happy  
25 with that. I said, you know what. Forget it. Both of



1       you get your asses up now. Sorry. I do cuss a lot. That  
2       is how I talk.

3               They both got up. Lonnie was coming from Megan's  
4       room -- and I told him you guys need to leave -- he needs  
5       to leave now. So he came out of the room and started  
6       mumbling a bunch of things under his breath that were  
7       disrespectful. I can't remember what they are.

8               But then -- so he had to walk all the way from  
9       Megan's room around. He went down the stairs, the whole  
10      time running his mouth, so I went to the loft area and  
11      looked down and there is an entryway. As he was going out  
12      the door I said, yeah, if you are going to continue  
13      talking like that and disrespect me, you don't have to  
14      come back.

15              Then he turned around to go back into the house  
16      doing this, like, I don't know.

17              Q.       Puffed up?

18              A.       Pretty much. I said, now, you're not coming  
19      back. That was how that ended. It wasn't a happy time  
20      for either of us.

21              Q.       Either of you being who?

22              A.       Megan. Lonnie, and me.

23              Q.       After that did you have any relationship with  
24      Lonnie at all?

25              A.       No.

1 Q. What happened involving, if anything, the  
2 members of his family?

3 A. His father came over to my house to talk to  
4 me. I was fine with that. Parents should talk about  
5 things going on with their kids.

6 Q. Without getting into what he said.

7 A. I was under the impression from the  
8 conversation that I was in the wrong, that I should not  
9 have had the audacity to ask his son to leave my home or  
10 talk that was to his son in my home.

11 Q. Turn that around into Megan and her issues  
12 that are apparent.

13 Who is her father?

14 A. Richard Nash.

15 Q. Were you married to him?

16 A. I was.

17 Q. Is Megan the only child with him?

18 A. Yes.

19 Q. Megan indicated she has mental illnesses. Are  
20 you aware of those diagnoses as well?

21 A. It's a personality disorder. She has  
22 borderline personality disorder.

23 Q. What does that entail?

24 A. Oh, my goodness. It's really strange. From  
25 what I have read and learned and when I talk to counselors

1 I have found that people with borderline personality  
2 disorder get very engrossed in their relationships. They  
3 go from zero to I love you within a week, and it's 110  
4 percent in that relationship nothing else matters.

5 They also -- they are kind of black and white.  
6 They either hate you or they love you. And it's all in  
7 either way.

8 So when they are angry with you, they are angry  
9 with you. They have no issues saying and doing really  
10 terrible things.

11 The other things that they do generally, from what  
12 I've learned, is they cut themselves. They have suicide  
13 attempts.

14 MR. VILLANI: Objection, your Honor.

15 THE COURT: Much of this testimony came from  
16 Ms. Nash herself.

17 MR. EVENSON: That's fine.

18 BY MR. EVENSON:

19 Q. So relative to that issue, those issues, what  
20 sort of relationship did Megan have with her father prior  
21 to this incident taking place with her and Lonnie and this  
22 tape deal?

23 A. She had not visited with him since her 14th  
24 birthday.

25 Q. Was there a blow up between you and Mr. Nash

1 before her 14th birthday?

2 A. Yes.

3 Q. That was about a year beforehand?

4 A. Yes.

5 Q. Very quickly what was the gist -- what  
6 happened that Mr. Nash allowed her to do that upset you?

7 A. He allowed Megan to get a tattoo.

8 Q. Okay. She has gotten a few more sense. So  
9 she was 14 when that happened?

10 A. Just turned 14.

11 Q. You were against that?

12 A. Yes.

13 Q. Did it surprise you to find out through the  
14 course of all this that Mr. Nash was involved in having  
15 Megan call law enforcement?

16 MR. VILLANI: Objection, leading. Has to  
17 rephrase. Facts not in evidence, as well.

18 THE COURT: On that basis, sustained.

19 BY MR. EVENSON:

20 Q. Did it surprise you to hear that Mr. Nash  
21 Lonnie's house --

22 MR. VILLANI: Objection leading.

23 MR. EVENSON: Did it surprise you to hear --  
24 I'll rephrase the question.

25 BY MR. EVENSON:

1           Q.       You heard Megan testify as to Mr. Nash being  
2       at Lonnie's house when the call was made and the statement  
3       was written?

4           A.       Yes.

5           Q.       Did that surprise you?

6           A.       Yeah, actually.

7           Q.       Why?

8           A.       Because he never came out to visit Megan.  
9       Prior to her 14th birthday, he hadn't come out for 2  
10       years. I didn't understand why he was there, why he  
11       came -- drove the 3 hours at a drop of the hat.

12          Q.       Did you find out information that gave you an  
13       understanding of what that reason was?

14          A.       Yes.

15          Q.       Without getting into specifics, what did you  
16       find and what did that information tell you?

17          A.       I had a screen shotted e-mail -- not e-mail,  
18       text message between Megan and her father that had  
19       been -- she and I shared the same I-Cloud account so it  
20       came onto my phone. It was -- I saw that and --

21          Q.       Did you print that out?

22          A.       Yes.

23          Q.       Would it refresh your recollection to review  
24       what that text message was?

25          A.       Yes.

1 MR. EVENSON: Approach, your Honor.

2 THE COURT: You may.

3 MR. EVENSON: Thank you.

4 BY MR. EVENSON:

5 Q. Does that refresh your recollection?

6 A. Yes.

7 Q. What was the content -- without reading it,  
8 what was the content?

9 MR. VILLANI: Objection, hearsay.

10 THE COURT: Other than what's in the document,  
11 it's not in evidence, what is your question.

12 MR. EVENSON: Understood. I'll rephrase the  
13 question.

14 BY MR. EVENSON:

15 Q. What was the nature of what was going on in  
16 that text message?

17 MR. VILLANI: Same objection.

18 THE COURT: May I have counsel at the bench,  
19 please.

20 (Discussion held at the bench.)

21 THE COURT: Objection sustained.

22 Move on.

23 BY MR. EVENSON:

24 Q. So based upon the text message you reviewed  
25 and the testimony yesterday you've heard what conclusion

1 have you reached?

2 MR. VILLANI: Objection, vague.

3 BY MR. EVENSON:

4 Q. What conclusion with regard to Megan and Mr.  
5 Nashes' involvement in Megan having people turn you in,  
6 did you --

7 MR. VILLANI: Objection, leading. Objection,  
8 vague. I'll also throw in hearsay.

9 THE COURT: Counsel at bench. This might be a  
10 good time to have a break as well. It's been a little  
11 over an hour. I'm sure folks need to use the restroom and  
12 stretch a little bit.

13 See you back at 3:00.

14 JURY ADMONITION

15 During the recess, ladies and gentlemen, you are  
16 admonished not to converse among yourselves or with anyone  
17 else, including, without limitation, the lawyers, parties  
18 and witnesses, on any subject connected with this trial,  
19 or any other case referred to during it, or read, watch,  
20 or listen to any report of or commentary on the trial, or  
21 any person connected with this trial, or any such other  
22 case by any medium of information including, without  
23 limitation, newspapers, television, internet or radio.

24 You are further admonished not to form or express any  
25 opinion on any subject connected with this trial until the

1 case is finally submitted to you.

2 See you back at 3:00 o'clock.

3 (Brief recess taken.)

4 THE COURT: For the record, about leaving the  
5 witness stand as the jurors are exiting. Every other  
6 witness that has been on the stand the jurors have exited  
7 and they've waited on the stand. I didn't think that that  
8 was an issue. I very abruptly said stay there until the  
9 jurors leave. Just trying to make that record so the  
10 witness understands why I did that.

11 We don't want to interfere with the movement of the  
12 jurors our of courtesy and respect for the jurors when  
13 they come and go. That's why I say that.

14 We need to get this nailed down. I don't want to do  
15 this in front of the jurors. Mr. Evenson, we'll make a  
16 record here. I'm just telling you my thoughts so you can  
17 make your record back. There is zero evidence in this  
18 case that Mr. Nash influenced the reporting in terms of  
19 what was in the statement in the evidence upon which these  
20 charges are based. You have evidence in the case already,  
21 and I have obviously no problem with this witness  
22 testifying to her knowledge of things that occurred, about  
23 other circumstances, the son and the boyfriend having a  
24 fight and who was present when things were done and  
25 whatnot. But you are now trying to elicit testimony



1 related to something that simply there is no evidence of  
2 for pure speculation for the jurors that somehow  
3 Ms. Nashes' ex-husband created this scenario.

4 It's not in evidence. We're not going there. We  
5 talked about those texts and we talked about what was in  
6 them and what wasn't in them. Your discussions with your  
7 witness about whatever the theory is about what was really  
8 going on with Megan, so be it. But you know that you  
9 cannot show somebody a document and say refresh your  
10 recollection then ask her to say what's in it. You know  
11 you can't ask leading questions along these lines, I don't  
12 know what we're doing here.

13 MR. EVENSON: I'll stop.

14 THE COURT: I'm not sure that that's responsive  
15 or creates a record but if you say you'll stop, that's  
16 fine.

17 MR. EVENSON: If you want, if I can have the  
18 liberty, your Honor.

19 THE COURT: I just said I'm making a comment so  
20 you can respond. I'm really, really growing very  
21 impatient, if it's not obvious, Mr. Evenson, with the  
22 commentary in between about somehow you need special  
23 permission or other things.

24 Every time I invite you to comment you make a comment  
25 as if somehow I'm precluding you from commenting. Please

1 stop doing that. I just said I was going to make my  
2 statement so you'd know where I was and you could  
3 respond.

4 Please, respond.

5 MR. EVENSON: The point is, Judge, to me, is  
6 that it is further evidence, the text message, the whole  
7 context of things, Megan minimized her father's  
8 involvement. This maximizes her father's involvement.  
9 This whole subject of the text message is her basically  
10 saying she wants to live with him but in reality she wants  
11 to live with Lonnie and all these kinds of things from a  
12 15-year-old girl. Which is not appropriate. She is  
13 incredibly manipulative, which is an incredibly biased  
14 thing to do. In my humble opinion -- I know they're going  
15 to think I'm crazy, because they already do, undermines  
16 the entire credibility of their case on a variety of  
17 grounds.

18 That's where I'm coming from. If you disagree with  
19 me, as you already have stated you have, then I've made my  
20 record and I'll move on to another subject.

21 I appreciate your counsel and advice. I'm always  
22 trying to be polite and courteous to the Court. You and I  
23 just speak around each other, and I apologize for the  
24 misunderstanding on some of the way that you speak.

25 Thank you.

1           THE COURT: The allegations in this case are  
2 based on a video -- 4 videos, sorry -- and a statement.  
3 That's what's relevant to the charges in the case. And  
4 the discussions that are being had about what might have  
5 been going on between Megan and her father that might have  
6 motivated her to make those videos, or the timing of her  
7 making those videos and the fact that he had some role in  
8 advising her to make those videos, that's already in  
9 evidence.

10           I haven't seen anything proffered in the earlier  
11 discussion today or now that would indicate to me that  
12 there is anything in those text messages or anything else  
13 that would indicate any direct role, and again, contrary  
14 to what Ms. Megan Nash testified. So if there was  
15 something obviously it would be of value to see that  
16 anybody influenced her in writing of that statement.

17           MR. EVENSON: Okay.

18           THE COURT: At this point in time I'm trying to  
19 understand the relevancy of what it is you are trying to  
20 inquire about.

21           There has been testimony. There can continue to be  
22 testimony about what Mr. Nash was doing, understanding,  
23 and seeing and why she was acting the way she was acting  
24 or doing the things she was doing. And to some degree how  
25 things came about. I'm really at a loss how there's

1 anything relevant about this line of inquiry.

2 So, again, I have sustained the objection previously.  
3 Then the dialogue continued. I felt best to excuse the  
4 jurors so we could try and wrap this up.

5 You have to keep asking the questions you think are  
6 appropriate to complete your testimony with your witness.  
7 The State can continue to object and we'll continue to  
8 rule. But I think we've put that one to close. I don't  
9 know what else to discuss.

10 Mr. Villani.

11 MR. VILLANI: My only --

12 THE COURT: We have two bench conferences to put  
13 on the record since we're on break.

14 MR. VILLANI: I'd ask for a curative instruction  
15 that attorney questions are not evidence, given the  
16 summation he did after the initial objection. That is my  
17 only request.

18 THE COURT: I have two bench conferences. I'll  
19 take that under consideration.

20 I have two bench conferences tied together as one  
21 prior to this one, which resulted in this dialogue now.

22 Two prior bench conferences had to do with Ms. Nash  
23 testifying to her receipt and review of CPS records from  
24 Maryland and her understanding of then the behavior issues  
25 that Shaylyn may have.

1           The first discussion had to do with whether or not  
2           that was hearsay and how that would be testified to  
3           clarify that. Mr. Evenson went on with the questioning  
4           and proceeding there.

5           Second one was having to do with Mr. Villani seeking  
6           to strike some of the responses from Ms. Nash that went  
7           into specifics about possible anger or violent tendencies  
8           of Shaylyn. I declined that request, overruled that  
9           objection and indicated that the information could be  
10          either the subject of cross-examination to the extent of  
11          what Ms. Nash observed of Shaylyn, but that ultimately her  
12          knowledge of and her understanding of what was and what  
13          might have precipitated how Shaylyn coming into her  
14          custody was appropriate and relevant to be testified to.

15          Anything that either side wishes to add to that bench  
16          conference record.

17          Mr. Villani.

18                 MR. VILLANI: No, your Honor.

19                 THE COURT: Anything, Mr. Evenson.

20                 MR. EVENSON: No, your Honor.

21                 THE COURT: I told the jury to be back at 3:00.  
22          Let's take a brief bathroom recess and we'll reconvene  
23          shortly.

24                         (Brief recess taken.)

25                 THE COURT: Anything before we go back on the

1 record.

2 MR. EVENSON: No.

3 MR. VILLANI: No.

4 THE COURT: Approximately how much more time.

5 MR. EVENSON: 15, 20 minutes.

6 THE COURT: Thank you.

7 Let's make sure our cell phones are off or  
8 silenced if you used them during the break.

9 As we resume the questioning, if you could  
10 acknowledge for the record you understand you are still  
11 under oath.

12 THE WITNESS: Yes, your Honor.

13 THE COURT: Thank you.

14 Whenever you are ready.

15 MR. EVENSON: Thank you.

16 THE COURT: For the record the objection posed  
17 prior to the break is sustained and the jurors will be  
18 reminded of a prior instruction they received, which is  
19 any information supplied in the question to a witness is  
20 not itself evidence. It's only there to supply meaning to  
21 the answer.

22 Mr. Evenson, whenever you are ready.

23 MR. EVENSON: Thank you, your Honor.

24 BY MR. EVENSON:

25 Q. So prior to your contact with CPS when you

1       were trying to get Shaylyn to Nevada, had you ever had any  
2       contact, negative or positive, with CPS in the past?

3           A.       Yes.

4           Q.       When and for what, briefly?

5           A.       It was 1998.

6                   MR. VILLANI:  Objection, relevance.

7                   THE COURT:  Can I have counsel at the bench,  
8       briefly, please.

9                   (Discussion held at the bench.)

10                  THE COURT:  Thank you.  After that clarification  
11       I'm going to overrule the objection with regard to a prior  
12       discussion we have had.

13                  MR. EVENSON:  Thank you.

14       BY MR. EVENSON:

15           Q.       Was there an incident in California where you  
16       had negative contact with CPS, yes or no, or your family  
17       had negative contact with CPS?

18           A.       Yes.

19           Q.       Were you married?

20           A.       Yes.

21           Q.       Who were you married to?

22           A.       Richard Nash, Megan's dad.

23           Q.       When did you divorce Mr. Nash?

24           A.       I want to say 2002.

25           Q.       Was that negative contact with CPS, did it

1 involve you or involve Mr. Nash?

2 A. It involved him.

3 Q. What was the nature of the contact that he  
4 caused CPS to have?

5 THE COURT: One clarification before the witness  
6 answers that question. The question was related to this  
7 witness' prior contact with CPS. It's my understanding  
8 she had involvement -- I don't mean --

9 MR. EVENSON: They lived in the same house.

10 THE COURT: no specifics about it. I'm  
11 concerned now that there are two different situations.

12 MR. EVENSON: One. Only one. Am I correct in  
13 recalling there is only one.

14 THE WITNESS: Yes.

15 BY MR. EVENSON:

16 Q. What was that situation?

17 A. There was an incident of domestic violence.

18 Q. Who was the victim of that?

19 A. I was.

20 Q. Did it involve a fire arm?

21 MR. VILLANI: Objection. May we approach.

22 THE COURT: You may.

23 (Discussion held at the bench.)

24 THE COURT: Objection sustained.

25 The members of the jury are directed to disregard the



1 question asked and are again reminded there is no  
2 evidentiary value to a question being supplied to a  
3 witness. And the counsel is admonished there is a prior  
4 ruling by the court in terms of appropriate inquiry and  
5 relevant inquiry and inappropriate inquire and irrelevant  
6 inquiry.

7 I'll direct counsel to proceed with questioning  
8 related to only relevant information that the court has  
9 determined. Please proceed.

10 MR. EVENSON: Thank you.

11 BY MR. EVENSON:

12 Q. Did you yourself ever have any negative  
13 contact or investigation from CPS, ever, prior to your  
14 contact trying to get Shaylyn here?

15 A. No. If I had, I don't -- they wouldn't have  
16 licensed me.

17 Q. Okay. And relative to one thing we discussed  
18 during the break. You wanted to clear up with the jury,  
19 you made reference to 85 being high normal?

20 A. What is it is low normal.

21 Q. But it was high normal for the group she was  
22 in because some people had 40s?

23 A. Yes.

24 Q. With regard to that, did you ever get any  
25 indication that Shaylyn is going to be incapable of doing

1 things in her life or incapable of holding jobs or  
2 incapable of doing any of those things?

3 A. No. I have kind of personal experience with  
4 that.

5 Q. What is the nature of your personal experience  
6 with that stuff?

7 A. Shaylyn's dad, my brother, has the same issues  
8 that Shaylyn has and he's been working at Raven Stadium  
9 doing security for the last 10, 15 years. It's sporadic  
10 work so he doesn't make a ton of money, but he has had  
11 this job. He used to mow lawns and various things like  
12 that to earn money. And he has -- right now he has a  
13 girlfriend he's living with. They have a 5-year-old child  
14 together. He -- my, quote, unquote, normal brother didn't  
15 graduate from high school, and my brother with learning  
16 issues and the same issues that Shaylyn has did graduate  
17 from high school. So I know very much what Shaylyn is  
18 capable of, because I know what my brother is capable  
19 of.

20 Q. Did you want for Shaylyn to meet her full  
21 capabilities?

22 A. Heck yeah.

23 Q. Do you believe that what you were doing in  
24 terms of the schooling and medical appointments and the  
25 diagnoses you were trying to obtain and the IPs, all those

1 things you testified to, what do you believe you were  
2 doing relative to goals.

3 A. I thought I was making her -- I felt -- when  
4 Shaylyn first -- when I first got involved in Shaylyn's  
5 life she -- you could tell had really, really low  
6 self-esteem. She was constantly hunching like this. She  
7 almost needed to have permission to be around people. And  
8 when we would walk she would walk way behind me. I would  
9 have to constantly say get up here with me. And I was  
10 always on her about hold herself up, having pride.

11 Her hygiene was really bad. So we had to work on  
12 that. She had really not so good manners. She would eat  
13 with her mouth open. I was working with her on all of  
14 those things because the way I looked at it, I wanted her  
15 to be a contributing member of society. Shaylyn is  
16 actually smarter than my brother.

17 MR. VILLANI: Objection to the narrative, your  
18 Honor.

19 THE COURT: At this point I believe we have gone  
20 beyond the response necessary for the question. You are  
21 welcome to ask the next question.

22 MR. EVENSON: Okay. Thank you.

23 BY MR. EVENSON:

24 Q. Do you have a belief as to Shaylyn's  
25 capabilities versus you brother's?

1 MR. VILLANI: Objection, relevance.

2 THE COURT: Sustained.

3 BY MR. EVENSON:

4 Q. Were you trying to make Shaylyn the best she  
5 could be?

6 A. Yes.

7 Q. Were you willing to assist her in doing that  
8 every step of the way?

9 A. Yes.

10 Q. How were you doing that?

11 A. By being really involved in her school.  
12 Taking -- setting her up with psychiatrist's appointments,  
13 which was very difficult. Our first appointment --

14 MR. VILLANI: None responsive.

15 THE COURT: The witness will understand the  
16 testimony here as your own counsel pointed out at the  
17 beginning of questioning is a question answer process, not  
18 a narrative process. We have lapsed into a narrative.

19 Mr. Evenson, you could assist as well when you know  
20 your client has answered the question to pose the next  
21 question. If it elicits further testimony along those  
22 lines, fine. But we need to make sure we maintain the  
23 appropriate process.

24 The objection is sustained. You may continue your  
25 questions.

1 BY MR. EVENSON:

2 Q. Is everything we talked about today, was -- is  
3 that where you were going with all of that was to make her  
4 best self?

5 A. Yes.

6 Q. Now, at any point at any time did you ever  
7 intend to hurt in any physical way, Shaylyn?

8 A. No.

9 Q. Would you have hurt her in any physical way?

10 A. No. No.

11 Q. Did you at any time ever choke her?

12 A. No.

13 Q. Strangle her?

14 A. No.

15 Q. You are very sure of that?

16 A. I'm very sure. I was there. I know I grabbed  
17 her by the shoulder. There was no choking at all.  
18 Shaylyn was talking through the whole thing.

19 Q. Did you ever tend to have her pass out or lose  
20 her airway or anything like that?

21 A. No. No.

22 Q. Did you ever abuse her in any way?

23 A. No.

24 Q. Relative to her care and treatment in your  
25 home, what do you have to say about that overall?

1 MR. VILLANI: Objection, vague.

2 THE COURT: Sustained. It's intending to elicit  
3 a narrative. If you have a specific question.

4 BY MR. EVENSON:

5 Q. Did you -- was there anything that Shaylyn  
6 needed that she was lacking?

7 A. Absolutely not.

8 Q. Did you withhold food from her, ever?

9 A. She was on a diet, but I didn't withhold food  
10 from her. I required that she eat more healthy.

11 Q. Okay. But you didn't withhold the food she  
12 was allowed to eat?

13 A. She ate dinner with the rest of us. It was  
14 what we ate. I just made sure I only cooked healthy  
15 stuff.

16 Q. Did she have a pattern and practice when she  
17 came here of what her dietary habits were?

18 A. In the very beginning she hate a whole entire  
19 block of cheese in one sitting. She didn't have the best  
20 eating habits.

21 Q. Okay. Did you have any goal or anything with  
22 Shaylyn you'd like to tell the jury?

23 MR. VILLANI: Objection. Calls for a narrative.  
24 Asked and answered.

25 THE COURT: Overruled. With the admonishment

1       you're not to enter into a narrative with your answer.

2               THE WITNESS: My only goal with Shaylyn was for  
3 her to reach her potential. And I felt that when she'd  
4 been in State's care, as long as she flew under the radar  
5 and didn't cause issues in the facility, that she could  
6 not push herself and do whatever it was that she wanted,  
7 as long as she didn't cause problems.

8               I wanted more then that for her.

9       BY MR. EVENSON:

10              Q.       Is what you were doing with the running up and  
11 down the stairs, and all those things, was that a part of  
12 a design along with everything else we talked about  
13 today?

14              A.       That and it was a bonding thing for her and me  
15 too, because we did workout together.

16              Q.       Were you close to her?

17              A.       Very.

18              MR. EVENSON: Nothing further for her at this  
19 time.

20              THE COURT: Thank you.

21              Ms. Rinetti.

22                              CROSS-EXAMINATION

23       BY MS. RINETTI:

24              Q.       You have seen the 4 videos that have been  
25 marked into evidence?

1           A.       Correct.

2           Q.       The one that takes place in the kitchen, in  
3 fact, that was you on the video, correct? You can see  
4 yourself in the video, correct?

5           A.       Well, it's hard to say, because --

6           Q.       Just a yes or no answer, ma'am. Sorry.

7           MR. EVENSON: She's answering the question.

8           THE COURT: The question was, is that her in the  
9 video. Are you indicating the answer to that is, no, and  
10 you're trying to explain that answer.

11          THE WITNESS: No, I'm not saying, it's no. What  
12 I'm saying is that we've had multiple versions of the  
13 video. One thing says there is 2 videos. The other says  
14 there's 3. Come to find out, there's 4 videos.

15 BY MS. RINETTI:

16          Q.       The woman we see in fatigues on that video, is  
17 that yourself?

18          A.       I don't know if that video has been altered.

19          Q.       Ma'am, I'm just asking you.

20          A.       It does appear to me be.

21          Q.       The video on the stairs, do you see yourself  
22 in the video?

23          A.       It appears to be me, yes.

24          Q.       Does it also appear to be Shaylyn?

25          A.       It does appear to be Shaylyn.



1           Q.       Mr. Evenson asked you questions regarding some  
2 information you received from Maryland regarding potential  
3 behavioral issues with Shaylyn, correct?

4           A.       Correct.

5           Q.       You testified in direct examination you had  
6 several conversations, both over the phone and by e-mail  
7 and in person, with members of Child Protective Services;  
8 is that correct?

9           MR. EVENSON: I'll object to that question. She  
10 just asked about Maryland, then she talks about CPS in --

11          THE COURT: What is the basis of your  
12 objection.

13          MR. EVENSON: It's not clear. The question is  
14 not clear which agency she's referring to.

15          THE COURT: Can you clarify.

16 BY MS. RINETTI:

17          Q.       You had contacts with Nevada Child Protective  
18 Services during the month in which Shaylyn lived with you,  
19 correct?

20          A.       Correct.

21          Q.       You had phone conversations with them,  
22 correct?

23          A.       It was mainly about procedures, yes.

24          Q.       I'm asking whether or not there was a  
25 conversation. You had email conversations between

1       yourself and members of Child Protective Services here in  
2       Las Vegas?

3             A.       Yes.

4             Q.       And you had in-person meetings with members of  
5       Child Protective Services, correct?

6             A.       Correct.

7             Q.       And during those meetings is it fair to say  
8       that you noted that Shaylyn never exhibited any type of  
9       aggressive behavior, correct?

10            A.       I don't believe that was brought up. I could  
11       be wrong.

12            Q.       In fact, on April 8 of 2014, you indicated to  
13       Ms. Marshall that Shaylyn had no significant behavioral  
14       problems, correct?

15                   MR. EVENSON: She's testifying.

16                   THE COURT: Do you have a basis.

17                   MR. EVENSON: Hearsay, your Honor. It's not  
18       from my client at that time. It's from Ms. Marshall.

19                   THE COURT: Overruled.

20                   MR. EVENSON: Is Ms. Marshall going to  
21       testify.

22                   THE COURT: The objection is overruled. The  
23       basis for the question and the statement is coming from  
24       Ms. Nash. It's not hearsay.

25                   Overruled.

1 BY MS. RINETTI:

2 Q. April 8, 2014 did you indicate to Ms. Marshall  
3 you had no significant behavioral issues with Shaylyn?

4 A. I don't remember that conversation.

5 Q. Would looking at the CPS report help refresh  
6 your recollection?

7 A. It would.

8 MS. RINETTI: May I approach, Judge. Page 32 of  
9 52.

10 THE COURT: You may.

11 BY MS. RINETTI:

12 Q. First large paragraph on the top. Does that  
13 help refresh your recollection?

14 A. Yes. But I would like to clarify.

15 Q. I'm asking whether or not it refreshes your  
16 recollection.

17 In fact, did you indicate to Ms. Marshall on April  
18 8, 2014, that Shaylyn had no significant behavioral  
19 problems?

20 A. No significant.

21 Q. That's what I asked.

22 A. Correct.

23 Q. Then on April 15, 2014, did you tell Ms.  
24 Marshall you had no significant concerns with Shaylyn?

25 A. I believe in that same report from the day

1 before, I did.

2 Q. I didn't ask about the day before. I asked  
3 about April 15 of 2014, did you tell Ms. Marshall you had  
4 no significant concerns with Shaylyn?

5 A. But then I went further on --

6 Q. I just asked --

7 A. -- that I still had issues with her  
8 stealing.

9 THE COURT: I'll admonish the witness to answer  
10 the questions. Not only will this attorney be asking you  
11 questions that you need to answer, but your counsel will  
12 obviously have the opportunity to redirect with you as  
13 well. So you are admonished you need to answer the  
14 questions.

15 MR. EVENSON: If I may make a record.

16 THE COURT: Of what.

17 MR. EVENSON: I believe my client said that at  
18 that same time she --

19 MS. RINETTI: If we can approach.

20 THE COURT: That's not the question that I  
21 understood to be asked. That is not the answer that was  
22 given. And, again, you'll have an opportunity to  
23 redirect.

24 Ms. Rinetti.

25 BY MS. RINETTI:

1           Q.       April 15, 2014 did you tell Tatanyia Marshall  
2 you had no significant concerns with Shaylyn?

3           A.       That was one of the things.

4           Q.       Okay.

5                 You mention an incident between yourself, your  
6 daughter Megan and her boyfriend, Lonnie where you caught  
7 them behind closed doors in the bedroom?

8           A.       Correct.

9           Q.       I believe you said on direct examination you  
10 weren't happy about the situation and no one was happy  
11 about the situation.

12          A.       Correct.

13          Q.       At the time, did you believe they were doing  
14 things -- inappropriate things for a 15 year old behind  
15 closed doors?

16          A.       Correct.

17          Q.       Did you discipline Megan by making her kneel  
18 on the ground and moo like a cow?

19          A.       No.

20          Q.       Did you discipline Megan by telling her to  
21 meow like a cat?

22          A.       No.

23          Q.       Did you have Megan run up and down the  
24 stairs?

25          A.       No, I did not.

1 Q. Did you slap Megan?

2 A. No.

3 Q. Did you slam her head into the floor?

4 MR. EVENSON: Your Honor, I'm going to object.  
5 That's facts not in evidence.

6 THE COURT: Overruled.

7 BY MS. RINETTI:

8 Q. Did you slam her head against the floor in  
9 order to discipline her?

10 A. No.

11 Q. Did you tell her to cut the fucking shit out  
12 as a result of the discipline?

13 A. Yes.

14 Q. Did you tell her to shut the fuck up?

15 A. I did. Not that, but, yes, I cussed at  
16 Megan.

17 Q. Did you physically discipline her for that  
18 incidents?

19 A. No.

20 MS. RINETTI: Nothing further.

21 THE COURT: Mr. Evenson, any redirect.

22 REDIRECT EXAMINATION

23 BY MR. EVENSON:

24 Q. Just to be clear did you discipline her for  
25 that incident?

1 A. Yes.

2 Q. What did do you, again?

3 A. I took the door off her room. I took away her  
4 make-up, things like that. I took away her phone. She  
5 was not allowed to be on the computer. I'd done that with  
6 Shaylyn as well.

7 Q. With regard to the discipline of your children  
8 at this time, how old was Shaylyn?

9 A. 24.

10 Q. How old was Summer at this time?

11 MS. RINETTI: Beyond cross.

12 THE COURT: Objection sustained. Move on.

13 BY MR. EVENSON:

14 Q. So did the incident involving Megan involve  
15 her not complying with the discipline you had imposed?

16 A. No.

17 Q. Did the incident with Shaylyn on the video  
18 tape involve her not complying with the discipline you  
19 imposed?

20 A. Yes.

21 Q. Did your children follow the discipline you  
22 imposed on them?

23 A. Usually.

24 Q. If they didn't?

25 A. Then it got more severe.

1 Q. It involved physical discipline at points?

2 A. There were a few times.

3 Q. Again, to remind the jury how many times  
4 physical discipline was used ever with Shaylyn?

5 A. Twice.

6 Q. Is that consistent with what Lonnie testified  
7 to yesterday?

8 MS. RINETTI: Objection, as far as consistent.

9 MR. EVENSON: Is that what Lonnie testified to  
10 yesterday.

11 MS. RINETTI: Objection.

12 THE COURT: Sustained. Improper question.

13 BY MR. EVENSON:

14 Q. Had you ever been faced with a situation  
15 before with any of your children -- I'll withdraw that  
16 question.

17 MR. EVENSON: Nothing further, your Honor.

18 THE COURT: Was there any further questions with  
19 this witness.

20 MS. RINETTI: No.

21 THE COURT: May I see by a show of hands if any  
22 of the jurors have questions for this witness. It  
23 appearances we may have questions -- maybe 2 or 3.

24 I'm going to ask everyone to keep their seats and  
25 I'll ask counsel to come in chambers.



1 (Discussion held in chambers.)

2 THE COURT: Okay.

3 We have a number of questions. I'll be asking  
4 them again. I know I reminded as the marshal picked up  
5 the questions, but I'll read them as they are written.  
6 I'm not at liability to try to interpret or embellish  
7 them. I'll read them as they've been written. You are to  
8 respond to the jurors.

9 First question, did you work with a professional --  
10 in parentheses -- doctor, psychologist -- end  
11 parenthesis -- on how to best manage, treat, work with  
12 Shaylyn's behavioral and mental issues? What treatments  
13 did they subject.

14 THE WITNESS: No. Because I was in the process  
15 of getting that set up. Part of the issue was we didn't  
16 have a real diagnosis. That was why I was trying to have  
17 her properly diagnosed. Then we would know, I would know  
18 exactly the things I needed to do with her.

19 THE COURT: Would it be fair to say you punished  
20 each of your children in a different way and that they all  
21 respond differently.

22 THE WITNESS: Definitely. My middle daughter, I  
23 just look at her funny and she breaks down. Yes,  
24 definitely.

25 THE COURT: Have you ever used PT as a form of

1 discipline with your own children.

2 THE WITNESS: No. No.

3 THE COURT: There are multiple questions here so  
4 I'll ask them separately.

5 Do you feel as no snacks are allowed to eat on road  
6 trips.

7 THE WITNESS: No, snacks are allowed to be eaten  
8 on road trips. I never said she couldn't eat snacks  
9 during road trips.

10 THE COURT: Why would she not be allowed to eat  
11 a snack without permission.

12 THE WITNESS: It wasn't that she wasn't -- she  
13 was allowed to eat it. It was the sneaky way that she did  
14 it.

15 THE COURT: Did you ever think about Shaylyn  
16 seeing a counselor, therapist to contain behavioral  
17 issues.

18 THE WITNESS: Yes. Like I said, we had  
19 everything wet up. Her first appointment wasn't even  
20 going to be until July 31st.

21 THE COURT: Mr. Evenson, do you have any  
22 follow-up questions with regard to the jurors questions.

23 MR. EVENSON: I do, your Honor.

24 BY MR. EVENSON:

25 Q. With regard to the pretzels and eating. Did

1 she eat just a few or did she eat the whole bag?

2 A. When we had been to Death Valley she ate a  
3 whole entire bag of them, so none of the other kids were  
4 able to get any. Which was fine. But I told her, you  
5 can't eat a whole entire bag of pretzels.

6 That was coincidental. We had yogurt covered  
7 pretezels and Shaylyn likes them. They were part of our  
8 snacks for the whole trip. And it wasn't a thing of her  
9 not eating it at all. It was literally the way it was  
10 done. I bought them for her.

11 Q. Okay. Relative to the discipline of your  
12 other children through PT, why did you decide to do that  
13 with Shaylyn only?

14 A. This is a long answer. When Shaylyn came to  
15 me there were a lot of issues. I knew there were a lot of  
16 issues. I felt like -- I don't know how to say this any  
17 better -- I felt like she -- her bad habits needed to be  
18 fixed, and I needed to build her up so she would be proud  
19 and confident and all that. I thought what's the best way  
20 to do that. That's what they do in the military. They  
21 take all of these people from different backgrounds and  
22 they put you together and they have you basically become  
23 what the military needs. I felt like Shaylyn needed some  
24 additional discipline and guidance.

25 The boot camp thing, I reported it. I was told

1       there were no issues. So I don't -- I wasn't doing it to  
2       be mean or hateful or anything like that. I just -- it  
3       was what I knew to do.

4               I read up on boot camp programs. People pay to  
5       send their kids to programs. Shaylyn fit every one of the  
6       criteria for those kids that people send -- emotional  
7       issues, ADHD, obesity, all of it. I thought, heck, why  
8       spend thousands and thousands of dollars, I know what  
9       basic training is like. And that's where that came  
10      from.

11             Q.       With regards to each of your children, so that  
12      by extension is what you did with discipline thought it  
13      was best for her?

14             A.       For her, yes. My children had been in my  
15      home.

16             MS. RINETTI: Objection, non-responsive.

17             THE COURT: Sustained.

18             BY MR. EVENSON:

19             Q.       Is what is seen on that tape an anomaly or  
20      regular occurrence?

21             A.       It's definitely an anomaly. It was a one time  
22      thing.

23             MR. EVENSON: Do you want me to go into the  
24      other --

25             THE COURT: At this point we'll conclude the

1 questions of the jurors. Give Ms. Rinetti a chance to see  
2 if she has any questions to follow up on.

3 BY MS. RINETTI:

4 Q. One of the jurors asked about the pretzels.  
5 Was that on the way to Disneyland or from Disneyland?

6 A. It was on the way from.

7 Q. Do remember where you were -- in California or  
8 Nevada when you --

9 A. We were in Nevada. We weren't that far from  
10 home.

11 Q. Where?

12 A. I want to say 15, 20, 30 minutes from home.  
13 It wasn't that long before.

14 Q. Were you in Las Vegas, outside Las Vegas at  
15 the time?

16 A. We were coming right into Las Vegas.

17 Q. Your address at the time, where in Las Vegas  
18 is that located?

19 A. Northwest.

20 Q. Thank you. Nothing further.

21 THE COURT: Are you asking to reopen your  
22 examination of the witness.

23 MR. VILLANI: No objection from the State.

24 THE COURT: Mr. Evenson, you may proceed.

25 BY MR. EVENSON:

1           Q.       Relative to the question regarding the video  
2       tape that were asked before by Ms. Rinetti, why are you  
3       hesitant about the tape?

4           A.       I don't like seeing it.

5           Q.       Why are you hesitant about what is on the  
6       tape, based upon you said there were 2 and 3 and all those  
7       kind of things?

8           A.       Well, the tape went from Megan's phone to a  
9       computer, where it sat for awhile, to the police. And  
10      then it went from two video 2 videos, 3 videos, to 4  
11      videos. I don't know if it's been edited, if it's been --  
12      like the volume has been enhanced to seem worse. I don't  
13      know. The incident that was videotaped, I mean, I was  
14      there. I'm not proud of things that -- I just don't know  
15      what all has been done to that video. I have no idea.

16               MR. EVENSON: Nothing further for this witness  
17      at this time.

18               THE COURT: Anything.

19               MS. RINETTI: No, your Honor.

20               THE COURT: Thank you. All right.

21               Ms. Nash, you may retake your seat with counsel.

22               Mr. Evenson.

23               MR. EVENSON: Your Honor, we have no further  
24      witnesses. We rest at this time.

25               THE COURT: All right. The defense has rested.

1 Any rebuttal from the State.

2 MS. RINETTI: No, your Honor.

3 THE COURT: The State has formally rested as  
4 well. Since it's almost 4 o'clock and we obviously still  
5 have to complete the trial, the necessity of the court to  
6 instruct you on the law that will be applied to the facts  
7 of the case and for counsel to have an opportunity to make  
8 closing arguments, we are going to adjourn early today.

9 One of the things I didn't discuss with counsel, we  
10 had originally planned on having a 1 o'clock start, and I  
11 think we are going to retain that start time. Although  
12 the court's schedule did clear up a little, and we  
13 possibly could have started earlier, but I think you all  
14 were expecting an afternoon start, so we'll go ahead and  
15 keep that 1:00 p.m. start.

16 We should start promptly at 1:00 tomorrow. We'll have  
17 instructions, closing, then give you all the opportunity  
18 to deliberate tomorrow afternoon.

19 JURY ADMONITION

20 During the recess, ladies and gentlemen, you are  
21 admonished not to converse among yourselves or with anyone  
22 else, including, without limitation, the lawyers, parties  
23 and witnesses, on any subject connected with this trial,  
24 or any other case referred to during it, or read, watch,  
25 or listen to any report of or commentary on the trial, or

1 any person connected with this trial, or any such other  
2 case by any medium of information including, without  
3 limitation, newspapers, television, internet or radio.

4 You are further admonished not to form or express any  
5 opinion on any subject connected with this trial until the  
6 case is finally submitted to you.

7 We'll see you tomorrow at 1:00.

8 (Jurors excused.)

9 MS. RINETTI: I want to make a record regarding  
10 one of the bench conversations.

11 THE COURT: I have one I need to make a record  
12 of. It's probably the same one. I apologize. I have a  
13 note right here and skipped over it.

14 MS. RINETTI: I appreciate it.

15 There was a line of questioning regarding the  
16 Defendant's prior contact with CPS. And prior to starting  
17 today the court had a lengthy conversation with  
18 Mr. Evenson regarding what he could get into regarding the  
19 prior Child Protective Services case and what he could not  
20 get into, which were the details of the battery domestic  
21 violence between her and her ex-husband approximately --  
22 the date of the offence was sometime about 14 years  
23 prior.

24 On direct examination Mr. Evenson went down the exact  
25 path this court told him not to, despite the fact that



1 before this line of questioning Mr. Villani objected and  
2 we approached and this court, again, admonished Mr.  
3 Evenson regarding that line of questioning.

4 Knowing the bell cannot be unrung, to a certain  
5 degree, because what came out was something regarding a  
6 firearm being used. Had the State done what Mr. Evenson  
7 has done I would have imagine this court would entertain a  
8 motion to dismiss with prejudice and my boss Steve Wolfson  
9 would get a phone call, because of a blatant, flagrant  
10 disregard for this court's order. I just wanted to make  
11 that record.

12 THE COURT: I don't think there needs to be any  
13 further discussion on that record at this time, other then  
14 the court will make a record of the bench conference.

15 The court -- there were several objections that were  
16 occurring as far as the discussion. The first one being I  
17 think all of our surprise at the time frame given in the  
18 question as far as CPS -- I'm sorry, timing in the answer  
19 as far as when the CPS event occurred. Because it was the  
20 court's understanding -- could have been incorrect --  
21 evidently so -- when the court was trying to get the  
22 proffer and was examining Ms. Nash prior to the jurors  
23 being present to understand the time frame, my  
24 understanding was the encounter with CPS was that Ms. Nash  
25 would have had familiarity with was much closer in time to

1 end of the marriage, which was placed in the beginning of  
2 the year 2000. The question did CPS contact from 1998  
3 raise red flags.

4 What was discussed was the State was concerned it was  
5 going to go into the DV, which the court squarely  
6 indicated was not to be discussed.

7 So at the bench conference there was discussion with  
8 regard to no discussion of the DV and no going into that  
9 circumstance.

10 There ensued further questions and a further bench  
11 conference in which the court obviously addressed again  
12 and reiterated it's earlier ruling that the DV could not  
13 be inquired on. That way the concerns of where the  
14 questioning was going and what's happening we gave  
15 Mr. Evenson some opportunity to lead to help us understand  
16 CPS contacts and what the CPS contacts were.

17 The next questions in line were DV related, DV  
18 related with a firearm. Very clearly from the court's  
19 perspective inappropriate, already ruled upon,  
20 inadmissible information in the questions.

21 I am somewhat speechless how to address this issue.  
22 I already indicated concerns with Mr. Evenson previously  
23 throughout this trial of what the court perceives to be a  
24 blatant disregard for the court's orders and effort to  
25 continue to pursue whatever line of conduct or line of

1       questioning defense wants to pursue, again, with complete  
2       disregard to what the court ordered.

3               I didn't take to task the discussion that was had by  
4       Mr. Evenson previously when we were having debates on some  
5       issues of how he understands the court order's and  
6       indicating that somehow we are having some difficulty. We  
7       are not having any difficulty. I have never had a  
8       difficulty that I'm having in this trial with a counsel  
9       following the court's directives or the court's orders.  
10      And as I indicated, however, that still has nothing to do  
11      with this trial and how this trial will proceed, what  
12      evidence is appropriate to go before the jurors. The  
13      court's rulings are entirely based of the understanding of  
14      the evidence and law on what is appropriate, and, of  
15      course, attempting to be consistent with prior rulings.  
16      But there will be a hearing at the conclusion of this  
17      trial possibly tomorrow to address the contemptuous  
18      behaviors that have occurred here.

19             I will leave my remarks at that. Mr. Evenson, if you  
20      would like to say anything on the record you are welcome  
21      to do so at this point on these subjects.

22             MR. EVENSON: I have nothing to say, your  
23      Honor.

24             THE COURT: Thank you.

25             I have -- let me tell you what I received then

1 we go and figure out timing and do this. One thing I can  
2 invite, but at the risk again of some misunderstanding of  
3 the conversation, I'm mindful that counsel was asked to  
4 and would have prepared today for closings and had the  
5 opportunity presented we would have gone there. The time  
6 needed for questioning it didn't occur, fair enough.

7 The reason I'm mentioning what preparation might  
8 be taking place tomorrow is because I originally  
9 understood and believed I would be in evidentiary hearing  
10 all morning. That hearing need to be continued. So I  
11 have time in the morning that we could reconvene and go  
12 over the instructions and that could give any final  
13 opportunity, if needed, Mr. Evenson, because I did give  
14 the opportunity until 12 o'clock today if there was to be  
15 any commentary with regard to each others proposals. I  
16 saw some come in from the State. I didn't see any come in  
17 from defense.

18 I also indicated yesterday if defense either didn't  
19 have time for it or wished to wait until the discussion to  
20 have that commentary, that was fine too.

21 But I didn't know if there was a desire on the part  
22 of defense to provide any written commentary for the  
23 record. I will by making a record in court exhibits of  
24 the communications and the version that have been proposed  
25 so we'll have that when all is said and done, but I didn't

1 know if Mr. Evenson might want to have an opportunity to  
2 comment on the State's proposed, or comment on the State's  
3 comments. Whichever way would be most efficient to share  
4 with the court in advance the ultimate settling  
5 discussion. If you'd rather do it orally with argument,  
6 that's fine too.

7 MR. EVENSON: I don't understand the process  
8 here with regard to jury instruction. Are we doing jury  
9 instructions in this room on the record and that's how  
10 it's done.

11 THE COURT: Correct. But I don't know what you  
12 mean by that. We'll settle the instructions in the  
13 courtroom on the record. There is not possible typically  
14 and although the circumstances and the way this trial has  
15 evolved and my schedule has evolved, there could be time  
16 for me to make the final set after having a discussion for  
17 the first time with counsel. One of the reasons why I  
18 asked and give the opportunity for counsel to give their  
19 opinions, I believe this to be a standard practice  
20 throughout the State, but I know this is the practice in  
21 this courtroom, and I believe there is certainly some  
22 indication of what our expectations are with jury  
23 instructions prior to trial, but regardless, my indication  
24 was that in order for me to begin to put together the  
25 final set that I needed to know what instructions are

1       being proposed by both sides. And that it would be  
2       beneficial before settling to have the input from each  
3       side if they had anything they want the court to be aware  
4       of, whether it was case citations, arguments, as to those  
5       instructions. That's why I gave the opportunity for that  
6       to be done.

7               There will still be ultimately a settling of all the  
8       instructions, what are given, what are not given and why  
9       on the record. But it's always helpful to the court to  
10      have the attorneys' input in advance.

11             MR. EVENSON: It's a little more official down  
12      here then Monroe County where we meet in chambers and go  
13      over them and put them on the record -- the instructions  
14      we don't agree with and what we do agree with is already  
15      being processed, what we don't is already processed. We  
16      just make a record of what we don't agree with.

17             Seeing that your process is formally in court on the  
18      record, which I have no problem with, I don't know after  
19      heading the State's comments to mine, me reading theirs  
20      there is going to be too much dispute over the  
21      instructions. I do believe in terms of preparation for  
22      closing argument there is are a couple of instructions in  
23      particular argument there is a couple instructions in  
24      particular that would benefit us if resolved today or if  
25      the court is incline to do so. I don't know how the State

1 feels about that or you feel about that. That would be of  
2 grave assistance to us in terms of preparing for closing  
3 statement.

4 THE COURT: When I sit down to settle these I  
5 will be settling them in their entirety, rather than me  
6 trying to do that now or whether we come back tomorrow  
7 morning to do it, which in all candor would be the court's  
8 presence. I'll tell you why in a minute because I think  
9 I'm missing some pieces.

10 Is there any reason why if we met in the morning for  
11 whatever time it took -- I'll have an estimate for that to  
12 share in a moment -- then we broke so I can complete the  
13 instructions, would that not give ample opportunity for  
14 closing arguments to be finalized.

15 MR. EVENSON: I have point and pieces ready to  
16 go. If you are saying a couple hours in between that that  
17 would be okay.

18 THE COURT: I would think there would at least  
19 be two hours, if not more.

20 MR. VILLANI: Fine.

21 THE COURT: Anybody opposed to and will  
22 everybody have the opportunity time wise to come meet  
23 tomorrow morning around 9:30.

24 MR. VILLANI: Yes.

25 THE COURT: I anticipate it taking about an hour

1 hour-and-a-half to go through and make the record  
2 necessary for the change that may need to be made to the  
3 instructions.

4 MR. EVENSON: I don't think there is -- we're  
5 only off 6 or 8 instructions. What I have seen, although  
6 a lot are duplicative to what they already submitted, but  
7 I didn't have the stocks I had some stocks that had some  
8 objections to my stocks that are probably correct. So I  
9 don't know that there is more than 6 or 8, or that they're  
10 necessarily critical. So however you want to approach  
11 that is fine.

12 THE COURT: I know how I intend to approach it.  
13 If I'm being too subtle. Do you want to make any written  
14 commentary about their instructions prior to tomorrow  
15 morning to give me the opportunity to know what you are  
16 thinking. If you do, please, do so and tell me what time.  
17 If you don't, fine, you don't have to.

18 I don't disagree with the assessments. Much of what  
19 was proposed is duplicative as far as the stocks go, that  
20 this basically boils down to few can instructions related  
21 to the charges and we need to nail that down. I still  
22 have to go through the formality. Do you want to make any  
23 written input in advance of that. It's entirely up to  
24 you, as the State has done.

25 MR. EVENSON: Yes.



1           THE COURT: What time frame can you get that to  
2 me.

3           THE COURT: What time can you get it to me.

4           MR. EVENSON: Tell me when you want it.

5           THE COURT: What time frame can you get it to  
6 me.

7           MR. EVENSON: We've used 9:00 o'clock at night  
8 a lot this week, if that's agreeable with the court. If  
9 you want it sooner --

10          THE COURT: I'm going to say 8:00, only because  
11 it's 4:15. We've normally broken at 5:30. At whatever  
12 point I have it is when I do the bulk of my work. When  
13 they come in at 8:00 or 9:00 that's when I do my work.  
14 That's fine, but obviously at this point I already gave  
15 the opportunity for that written response to come in by  
16 noon today, it didn't come in. I'm giving additional time  
17 because I don't want there to be any confusion that  
18 everybody had the opportunity to give written input in  
19 advance of settling discussion. Whatever you give me,  
20 fine. Whatever you decide.

21          We'll meet then at 9:30. We'll settlement  
22 instructions substantially the same way we just discussed.  
23 We'll hear from the State. We'll resolve any disputes  
24 that overlap with defense. I'll discuss any defense that  
25 are additional that haven't been addressed at that

1 point.

2 Here is my problem. In the State's commentary to  
3 Defendant's proposed there were references to a number of  
4 instructions that were provided and page numbers were  
5 referenced. I didn't get those. The only version I have  
6 from the State I have right in front of me goes up to page  
7 31. And the instruction that's on 31, is the Defendant's  
8 right not to testify instruction. There is reference  
9 clearly to other specials coming after that. I simply  
10 don't have them. I don't know how the explain that, but I  
11 can get them now and that's fine.

12 MS. RINETTI: What happened was we gave the  
13 first set of instructions based upon the email to the  
14 court. We'll email all right now.

15 THE COURT: I've got one set from the State.

16 MS. RINETTI: We sent two.

17 MR. VILLANI: Did your Honor get the one with  
18 cites, do you remember.

19 THE COURT: We did not get one with cites.

20 MR. VILLANI: We've been sending them to  
21 spring --

22 THE COURT: That's my JEA. I've been pulling  
23 them off myself because she's on vacation.

24 MR. VILLANI: I'll double check.

25 THE COURT: I have one with page numbers only.

1 Do you have a set with cites from the State.

2 MR. EVENSON: I do. I was researching what they  
3 cited to determine if I wanted to make comments or go with  
4 what they proposed.

5 THE COURT: We've already made a record of why  
6 you did what you did.

7 MR. EVENSON: That's not what I'm saying.

8 THE COURT: Resend it.

9 We had the one version, the version that came in  
10 the night before. It was through and including pages 31,  
11 that was also inclusive of the verdict form, which by the  
12 way I put out separate on a separate caption page.

13 This is how I prepare. I obviously pulled  
14 together things to discuss that I thought possibly needed  
15 to be included in there, so that when we sit down to  
16 settlement then we now have input from the parties on what  
17 their proposals are then to the extent I get the input on  
18 what their objections are to the other. I have also my  
19 input. So I had anticipated some of those things, but I  
20 didn't realize until I saw your commentary to Defendant's  
21 that you had supplied those things. That's why I'm  
22 asking. That's why I need more time.

23 MR. VILLANI: I'm sending them now to your law  
24 clerk and Cindy Springberg.

25 THE COURT: Before we break, anything else.

1 MS. RINETTI: No.

2 MR. EVENSON: Can I approach with counsel.

3 THE COURT: Yes.

4 (Discussion held at the bench.)

5 THE COURT: I'll be right back to let you know  
6 if I got that.

7 MR. VILLANI: Okay.

8 THE COURT: Yes, Mr. Villani, they came  
9 through.

10 MS. RINETTI: Thank you.

11 THE COURT: Just one point because I have to  
12 have some fun. I don't play poker very well. You did all  
13 the objecting then you stood up to examine, what was all  
14 that about. I expected you to get up, Mr. Villani.

15 MR. VILLANI: As did I, your Honor.

16 THE COURT: I didn't mean to put anybody on the  
17 spot. At least maybe ask the question of the court. See  
18 you all tomorrow.

19

20

21

22

\* \* \* \* \*

23

24

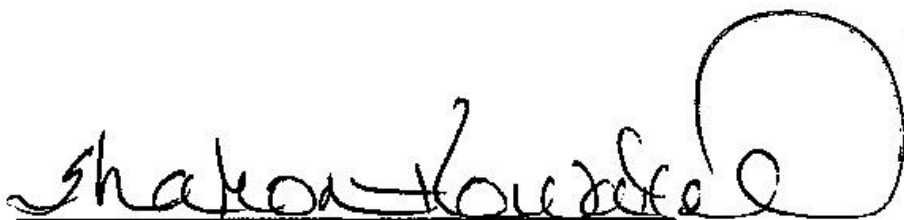
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CERTIFICATE  
OF  
CERTIFIED COURT REPORTER

\* \* \* \* \*

I, the undersigned certified court reporter in and for the  
State of Nevada, do hereby certify:

That the foregoing proceedings were taken before me at the  
time and place therein set forth; that the testimony and  
all objections made at the time of the proceedings were  
recorded stenographically by me and were thereafter  
transcribed under my direction; that the foregoing is a  
true record of the testimony and of all objections made at  
the time of the proceedings.

A handwritten signature in cursive script, reading "Sharon Howard", is written over a horizontal line. The signature is fluid and stylized, with a large loop at the end.

Sharon Howard  
C.C.R. #745

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Supreme Court Number: 76098

IN THE SUPREME COURT OF THE STATE OF NEVADA

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LISA ANN NASH,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

---

Appeal from the Eighth Judicial District Court of Nevada

**APPELLANT LISA ANN NASH'S APPENDIX**

**VOLUME III**

THERESA RISTENPART, Attorney-at Law

Nevada Bar Number 9665

464 South Sierra Street

Reno, NV 89501

(775) 200-1699

Counsel for Appellant

**APPELLANT LISA ANN NASH'S APPENDIX**

**VOLUME III**

Jury Trial, Day 3- September 13, 2017

APP 0437-0576

1 TRAN  
2 CASE NO. C-15-308570-1  
3 DEPT. NO. 25  
4

5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

7 \* \* \* \* \*

8  
9 THE STATE OF NEVADA, )  
10 )  
11 Plaintiff, ) REPORTER'S TRANSCRIPT  
12 ) OF  
13 vs. ) JURY TRIAL  
14 LISA ANN NASH, )  
15 )  
16 Defendant. )  
17 \_\_\_\_\_)

18 BEFORE THE HONORABLE KATHLEEN DELANEY  
19 DISTRICT COURT JUDGE

20 DATED: WEDNESDAY, SEPTEMBER 13, 2017  
21  
22  
23  
24

25 REPORTED BY: Sharon Howard, C.C.R. #745



1 APPEARANCES:

2 For the State:

DENA RINETTI, ESQ.

3 JACOB VILLANI, ESQ.

4  
5  
6  
7 For the Defendant:

STEVE EVENSON, ESQ.

8  
9  
10 \* \* \* \* \*

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1 LAS VEGAS, NEVADA; WEDNESDAY, SEPTEMBER 13, 2017

2 P R O C E E D I N G S

3 \* \* \* \* \*

4  
5 THE COURT: Resuming in the trial of State of  
6 Nevada vs. Lisa Ann Nash.

7 Anything from counsel.

8 MR. VILLANI: I did.

9 Your Honor, I am going to move to admit Megan's  
10 voluntary statement at this time. I mentioned yesterday  
11 doing the analysis, whether it was a collateral issue.  
12 She was being impeached. On going through it I think she  
13 was questioned as to content thereof. It's read front to  
14 back. I think it's information the jury is going to want  
15 to see, if we don't provide it to them. I think it's  
16 relevant to prior inconsistent statements given. Her back  
17 and forth whether it ever happened before it being the  
18 abuse of Shaylyn and whether the issue with the knife came  
19 up, whether she saw that or not, and also the fact that  
20 she was exaggerating. She made that a big part of her  
21 testimony that she was exaggerating. But what the  
22 document shows, if anything, is that she was exactly  
23 specific as to what happened in the video and a few things  
24 outside the video she said she's now exaggerating. I  
25 think she was saying she's exaggerating on things we saw

1 in the video as well.

2 THE COURT: We do have a basis for why the State  
3 would move it. I think the issue becomes we have  
4 obviously have case law and a collateral fact rule that  
5 would indicate that if there is need to impeach that  
6 whether or not that can be done with extrinsic evidence,  
7 whether it's a collateral matter then you cannot use  
8 extrinsic evidence to impeach. Of course, the courts do  
9 have discretion in this area to address this. So I want  
10 to give Mr. Evenson an opportunity to respond.

11 MR. EVENSON: Your Honor, thank you. First of  
12 all, I was going to ask to speak to the court about this  
13 very issue. I'm deeply concerned over the questions that  
14 were asked yesterday of Megan Nash with regard to prior  
15 uncharged conduct. Now, the State is saying that it's  
16 charged conduct. Of course, I have no idea on what basis  
17 they're saying that, but that's what they're saying.

18 THE COURT: That reminds me so we can clear up  
19 the record so there's no confusion. There wa a bench  
20 conference in which the issue was discussed. I made a  
21 record of a separate bench conference but because most of  
22 the bench conferences did not have substantive information  
23 that wasn't otherwise then put in the record once we  
24 resumed the questioning, that particular issue, however,  
25 was not put in the record at that time. You did raise the

1 issue of your concern that this was other uncharged bad  
2 acts. Mr. Villani responded that the time frame was board  
3 in the charging document and that there is no date or time  
4 frame given here and that there is every reason to believe  
5 that it was within that time frame, just as if it was not.  
6 And there were specific instances that were not in the  
7 video that were charged based on that statement. So the  
8 court did permit that. There is no indication it's not a  
9 charged act, but it did not implicate the need for a  
10 Petrocelli hearing for that to be admitted.

11 I'm not trying to say you can't reargue it now. I  
12 needed to make that record of the bench conference.

13 MR. EVENSON: I believe that's an accurate  
14 representation of what took place at the bench  
15 yesterday.

16 My concerns remain for same issue. The State is not  
17 done presenting evidence, but I'm still deeply concerned  
18 about that statement and the use of the statement in the  
19 manner in which it was used.

20 With regard to collateral facts, I think the court  
21 has accurately state the law on that. Additionally, I  
22 would note --

23 THE COURT: The court stated accurate statement  
24 of the law, in what respect. Are you arguing it should be  
25 kept out or are you arguing to allow it in.

1                   MR. EVENSON: I heard what you said and I agree  
2 with what you said to that point. I don't think you have  
3 done a full on analysis.

4                   THE COURT: Do you have anything you want to  
5 add.

6                   MR. EVENSON: There are multiple reasons to keep  
7 it out. I think it will confuse the jury. I think it  
8 will not do what the State is asking it to do. I think it  
9 will be more emotional issues and not factual issues.

10                  Additionally, Judge, with regard to the knife  
11 incident, Megan Nash was very clear yesterday, I believe  
12 twice, under questioning from Mr. Villani that she was not  
13 present. That that was something she heard from her  
14 brother. That's hearsay. So the fact that she put that  
15 into writing as if she knew that it happened does not make  
16 it less hearsay. People do that all the time. That's why  
17 they are cross-examined or examined on those statements.  
18 That's why those statements don't get let in.

19                  When that's the case and that statement -- the bottom  
20 of that statement is deemed hearsay, which I think either  
21 the witness admitted it was or you ruled it was during one  
22 of my objections, something along those lines, but I think  
23 that then we start redacting things and everything else  
24 and I think that that's actually worse then anything you  
25 do with the jury when you start redacting stuff for

1 substantive reasons.

2 In any event, Judge, I don't think it should be let  
3 in. I think, based upon the evidence presented, the  
4 questions that were asked -- can I have just one more  
5 second -- I know we're running behind.

6 Our view on this is that under the law and under the  
7 evidence, this is not a strong case for the State. And a  
8 lot of what they're doing here is going to be based upon  
9 Megan's statement. This had been going on for however  
10 long it's been going, whether it was 2 or 3 times per, and  
11 those kinds of things, which she then denied. So I think  
12 there is a lot of legal reasons that I've already  
13 enunciated that merge into those reasons to not allow it  
14 into evidence. It's much more prejudicial then probative.  
15 I think she denied the contents on the stand. And I'm  
16 hopeful we can move forward without that evidence.

17 Thank you.

18 THE COURT: As the proponent of the document,  
19 anything you want to address.

20 MR. VILLANI: With regard to the issue with the  
21 knife it is the fact that she is saying that her brother  
22 told her and that that document gives details about that  
23 incident. It's why we're actually saying it's an  
24 inconsistent statement.

25 As far as her denying the entire contents of the

1 document, what she did do is indicate, yes, I wrote that.  
2 So she did authenticate the document as something she  
3 prepared.

4 That's all I have to that.

5 THE COURT: There's a lot of confusion on this  
6 point in terms of impeaching with extrinsic evidence and  
7 it may be something allowed to come in or not come in.

8 Really this method of impeachment and all those  
9 methods of dealing with this issue are exempt from the  
10 collateral fact rule. The collateral fact rule applies in  
11 very narrow circumstances. One of the places is -- and  
12 what the collateral fact rule is of course, as we all  
13 know, but just to put in the record, prohibits use of  
14 extrinsic evidence from something collateral that's  
15 occurred and that is going to be utilized.

16 The case law is certainly more recent, but there is  
17 older case law that doesn't really flush this out very  
18 well. There's recent case law, including Vato (ph) vs.  
19 State and -- I don't know if I pronounced that  
20 correctly -- and cases from the early, mid-2000s, which  
21 have not been overruled that go through directly into this  
22 and talk about that there is -- whether you want to call  
23 it exceptions to collateral fact rule or the fact that it  
24 simply does not apply -- when you are talking about  
25 something that goes to the issue of a witness' possible



1 material motive for testifying a certain way, or you're  
2 attacking that witnesses capacity or personal knowledge.  
3 There were many times when Ms. Nash stated she didn't  
4 remember, just didn't remember, just didn't remember.  
5 Then she had some specific recollection. Her testimony,  
6 in all candor, was all over the place about what she  
7 remembered and what say didn't remember. What she'd say  
8 happened now or was not.

9 However, she made clear that was her statement. She  
10 recognized it. She authenticated it. She said she  
11 exaggerated certain things, and we did go through some of  
12 those points and she clarified what was or was not. But  
13 at the end of the day, this document has inconsistent  
14 statements and it is, in that respect, in my opinion, not  
15 something that is applicable to collateral fact rule, but  
16 because it is addressing her capacity, her personal  
17 knowledge, her potential motive to state something now  
18 differently then she stated then, for whatever reason, not  
19 the least of which could be she didn't want to testify  
20 against her own mother. The bottom line extrinsic  
21 evidence of a witness' capacity or motive to testify is  
22 not collateral in this court's determination and it's not  
23 subject to those limitations set out in NRS 50.056,  
24 Subsection 3, which talks about that.

25 That is the court's finding. The document will be

1 admitted. I don't know if it had been marked or proposed,  
2 but it will be next in line for the State.

3 MR. VILLANI: We're going to 2.

4 THE COURT: State's Proposed 2 will be admitted.

5 MR. EVENSON: The position with regard to the  
6 court on hearsay statement contained in the statement  
7 being redacted if it's found to be hearsay.

8 THE COURT: The court does not find the  
9 statement to be hearsay. I know there was testimony about  
10 whether it was something told to her by the brother.  
11 There's nothing in the statement that indicates that.

12 Again, based on the issues of reliability of the  
13 witness' testimony and those points, at this point in time  
14 I do not find that statement to be hearsay.

15 The discussion was made in the objection when there  
16 was talk about saying something that the brother said or  
17 somebody else said, there was a concern posed. I asked  
18 for the question to be rephrased. I don't think we got to  
19 a definitive ruling there was anything in that statement  
20 that was hearsay. And the statement on it's face does not  
21 appear to contain hearsay.

22 MR. EVENSON: Can I make one more --

23 THE COURT: Can I make my final ruling.

24 So there will be no redaction necessary. The  
25 document, Mr. Villani --

1 MR. EVENSON: Is that the original.

2 THE COURT: Let's get it marked and get it in.

3 MR. EVENSON: Sorry.

4 THE COURT: It's admitted as State's 2.

5 MR. EVENSON: Before you admitted it, I was  
6 going to ask one more thing. In terms of the allegation  
7 contained in the beginning of the statement being made to  
8 be substantive application against Ms. Nash criminal  
9 admirability, will you withhold ruling on the  
10 admissibility on that document until the end of the  
11 presentation of evidence.

12 THE COURT: No. The court has admitted the  
13 document because the State has met the burden to show that  
14 it is extrinsic evidence that goes to the credibility of  
15 the witness and is not subject to collateral fact rule and  
16 there is no other basis the court can determine its need  
17 to be excluded.

18 MR. EVENSON: I've already said more prejudicial  
19 then probative, prior uncharged allegation contained  
20 therein. Just because he says there's charged allegation  
21 in a 9 count complaint doesn't mean there actually are.  
22 That's my concern.

23 I don't think -- I don't think at the end of the  
24 presentation of evidence, Judge, you're going to be able  
25 to point to that statement and say it's a charged

1 allegation.

2 THE COURT: I'm denying your motion or argument  
3 without prejudice. If you come back at the end of  
4 evidence, fine. At this point the document is admitted.

5 MR. EVENSON: Understood.

6 THE COURT: The court had something it wanted to  
7 address before we bring in the jurors.

8 I don't know how to say this, other than to say it  
9 this way to get everybody's attention and explain what I  
10 mean. I feel like I'm in a very bad remake of the movie  
11 My Cousin Vinny. What I mean by that is I have someone  
12 who is not regularly practicing here from out of town who  
13 no matter what this court says does something completely  
14 different than what the court says. Then, if not my  
15 actions, my actual words seems to be giving the  
16 impression, wait, you were serious about that. I could  
17 not have been more clear. I think I said it at least 4  
18 times, if not more, before we adjourned. That you were to  
19 provide to the court and to opposing counsel your complete  
20 set of jury instructions last night by 9:00. That did not  
21 occur.

22 There was a set. It wasn't provided until about 8:40  
23 something, and it appears to be, although I haven't  
24 prepared it page for page, the exact same document you  
25 gave to the court, except with page numbers added.

1           You then proceeded today, Mr. Evenson, to provide  
2 multiple follow up instruction being submitted and with no  
3 explanation other than some stray reference in one of the  
4 emails the fact that your computer wasn't working the way  
5 you wanted it to today. Nothing about yesterday. And  
6 then these things trickle in and about, quarter to 12:00,  
7 Mr. Villani asked -- and I have not seen a response to  
8 that -- that you would provide a complete set that was  
9 inclusive of all the stuff that came in today, even though  
10 the court had very specifically said that was not to  
11 occur, and that you were to put the time in necessary and  
12 gave the time necessary by any stretch of my imagination  
13 that it would take you to complete a set of instructions.  
14 If you had left the trial and diligently pursued that  
15 between that time, 5:30 and 9:00, to be able to do so.

16           I'm at a loss because this isn't the first time that  
17 this situation has occurred. The court said something in  
18 court. It appears to have been clearly stated. And it  
19 appears to have been clearly understood. And it appears  
20 to have been clearly disregarded by you, Mr. Evenson.

21           I will address those issues, because that has no  
22 impact with regard to how this trial will proceed and it  
23 certainly is not held against your client. But I am  
24 strongly considering having a hearing on sanctions because  
25 I am done with you disregarding the court's practice.

1           If you want to try to make some record or explanation  
2       for why I received what I received today, you are welcome  
3       to do so. Again, the court will address this at the end  
4       of the trial. But I cannot state strongly enough that any  
5       further instances of your disregard of the court's  
6       directives will be met with the strongest possible  
7       response.

8           Anything you'd like to say.

9           MR. EVENSON: Absolutely.

10          THE COURT: Please.

11          MR. EVENSON: I worked my tail off last night.

12       And, yes, I was doing other jury instructions while I was  
13       doing the other stuff. I got those in at 9:00. I sent in  
14       those things at 9:00. I said would be more. I had to --  
15       keep in mind, your Honor, I did not get the State's  
16       instructions until yesterday. I had to compare those  
17       instructions to the other instructions I had to some other  
18       stock instructions I was able to obtain, and I'm trying to  
19       make sure there's a full and complete record of  
20       instructions. I have multiple criminal counts involving  
21       what, to me, and maybe not the court, and maybe not to  
22       counsel on the other side of the room, is a complicated  
23       area of law with relationship to jury instructions under  
24       200.508. I'm trying to make the best record and the best  
25       set of instructions available for my client's factual

1       circumstances of this case.

2               I did nothing today but jury instructions. I did not  
3       last night but jury instructions. So I am a little  
4       indignant, Judge. There are a lot of things you can  
5       attack about mr, but you can't attack my work ethic. And  
6       you cannot attack how hard I work and how often I work for  
7       everybody who pays me money to represent them. I take  
8       those allegations very seriously.

9               Additionally, Judge, one of issues that came up with  
10       the stocks that I sent in today, this morning, were that  
11       the stocks you told -- what had happened in -- again, I  
12       even reject the reference to My Cousin Vinny, because I'm  
13       not a clown. I certainly think Joe Pesci's character --

14              THE COURT: Back up, Mr. Evenson. I made it  
15       with some humor to catch your attention. If you remember  
16       that movie well he was anything but a clown and he won his  
17       client's case. If you want to take offense, let's take  
18       offense at something legitimate, which is your claim that  
19       I'm attacking your work ethic.

20              As I put through, and I'm only to page 12 of  
21       instructions that are identical to the ones you gave the  
22       court before we adjourned at 5:30, and all I see different  
23       are page numbers. Then I continues flipping to see what  
24       else was added form the time you worked your tail off from  
25       5:30 last night till 9:00 -- sorry -- 8:48, when you sent

1       them.

2               Go ahead. I'm listening.

3               MR. EVENSON: I believe the last 4 or 5  
4 instructions on that set will be different.

5               THE COURT: I'm looking.

6               THE COURT: I'm going to guess you are from what  
7 I'm seeing, but I'm looking.

8               MR. EVENSON: If I am, then I'll own it.

9               THE COURT: Keep talking. You want to make your  
10 record. I'm listening.

11              MR. EVENSON: Well -- I'm sorry, Judge. I do  
12 believe I'm entitled to eat. So I did have a meal last  
13 night. That was the only thing I did, other than jury  
14 instructions. I don't know what you want to say to that.  
15 That's what I did. I have done nothing but jury  
16 instructions today. I've done case research. I've done  
17 everything else. At 9:00 this morning my Word Perfect  
18 crashed. I was able to research it on the internet to  
19 find out what happened. I was able to get that diagnosed  
20 and fixed. It's what's called Word Perfect error 38. It  
21 has to do with their licensing and you have to reactivate  
22 it internally. That wasted a half hour, 45 minutes.

23              To me, Judge, in a jury trial, jury instructions are  
24 at times a moving target. And where I was going before I  
25 got side tracked was every court I have practiced in, I



1 receive a set of stocks from the court, then the State  
2 supplies there, then we supply ours. Your stocks are not  
3 like the stocks I've seen in any other court. There were  
4 instructions I've seen in a lot of cases, a lot of  
5 jurisdictions. As I said to the jury, this is my ninth  
6 county doing jury trials, where there are a lot more stock  
7 instructions that I sent in today that are not specific.  
8 They are stock jury instructions from other jurisdictions  
9 I have practiced in that were not reflected in what the  
10 State gave and they are very important instructions for  
11 this woman's constitutional rights. This is not a game  
12 I'm playing. This is not some make-up. It's not kicking  
13 dirt on your shoes. If I'm going to kick dirt on your  
14 shoes, I'm going to tell you I'm kicking dirt on your  
15 shoes. And that is the last thing I'm doing.

16 I have found you to be gracious to me. I have found  
17 you to be very fair in your rulings. I have no problem  
18 with the way you're conducting court, the way you're  
19 treating me or doing anything here. But to come in say  
20 and say I'm flagrantly disregarding your orders and not  
21 working hard enough and not getting things in on time, the  
22 only thing I can say to that, Judge, I'm doing the best I  
23 can. If that's not good enough for you, and you need to  
24 sanction for me for that, have a field day.

25 THE COURT: The court has completed the review

1 of the two sets of instructions. The one that bears the  
2 page numbering, which came in at about quarter till, ten  
3 till 9:00 last night, do include an additional number of  
4 instructions from the set that was provided at the  
5 conclusion of trial yesterday -- numbering pages 20, 21,  
6 22, and 23.

7 I'm not going to go over which ones they are at this  
8 point, but there are 4 additional ones here. It's very  
9 hard for the court to understand how it is possible that  
10 we did not have a whole set from you yesterday. The part  
11 that I will acknowledge so that we can figure out where  
12 the disconnect in communications is, because whether you  
13 practiced back in this jurisdiction or not, I don't  
14 perceive or believe I do anything particularly different  
15 in this courtroom then any other criminal department in  
16 this court house. So to the extent you're running a foul  
17 of expectations here, this is a good learning experience  
18 for future reference.

19 At the end of the day, the court's order previously  
20 or direction previously was that we were going to exchange  
21 instructions on Monday. We couldn't do that because you  
22 weren't prepared to do that or you weren't intending to do  
23 that, even though the court had directed the parties to do  
24 that. You came in on Monday and said you didn't want to  
25 reveal your strategy, you didn't think you had to and had

1 a better opinion then what the court had given the prior  
2 week.

3 So the State said, we're not giving ours until he  
4 gives his. So I went ahead, even thought it was against  
5 my better judgment, and gave two additional days, till  
6 yesterday, to get a complete set, to get a complete set  
7 from each side. The State provided theirs. You didn't  
8 provide yours. I don't know why there wasn't a set coming  
9 in here. I don't know why time needed to be taken to  
10 compare to theirs. That's what today was for, before  
11 providing the set. But bottom line is we'll get there at  
12 some point and get it done and get where we need to go.  
13 But I still cannot look at this -- and I'm not trying to  
14 tell you you can't eat, Mr. Evenson. I'm not trying to  
15 say you can't do anything. I think it's somewhat a little  
16 protesting too much. I didn't attack any of your work  
17 ethic. I said I told you to have it done by 9:00, and  
18 it's hard for me to understand how it didn't happen.

19 You made your explanation. I can see 4 additional  
20 instructions. Neither of which seem to be terribly  
21 complicated or lengthy, but they're here. So obviously  
22 some time and effort was put in beyond just regurgitating  
23 what you provided at the end of trial.

24 My point was, multiple times, I indicated we needed  
25 to have them and we needed to have them by that time

1 frame. And there was no expectation I could have as to  
2 how or why I couldn't have a full set from you. You've  
3 explained it. And we will, as I said, I'm not addressing  
4 anything at this point in terms of my concerns with the  
5 ongoing, what I believe to be, failure to comply with the  
6 court's directives that have happened at this point. If  
7 we don't have any further, fine. If we do, then so be it,  
8 we'll deal with it.

9 I believe at this point I have now, at least through  
10 the various pieces that have been received from yesterday  
11 and today the defenses full proposed set, but Mr. Villani  
12 did request at the end, and I think it's a fair request to  
13 make, perhaps Ms. Johnson was the one communicating to do  
14 so, that all of it be combined in the sum set that we can  
15 work with.

16 MR. EVENSON: That was done before we came into  
17 court.

18 THE COURT: I have not seen that. I've only  
19 seen that done piecemeal. But my JEA was at lunch, so n  
20 it's possible it's been received. The State is shaking  
21 its head indicating they've not received it.

22 So you'll reach out to Ms. Johnson, just ensure that  
23 by the end of the day we have it.

24 MR. EVENSON: I understand from your ruling then  
25 there is no other jury instructions allowed to be

1 admitted.

2 THE COURT: Mr. Evenson, that's not my  
3 instruction. What I'm saying is I've given you multiple  
4 deadlines to have them done. How much longer are we going  
5 to be chasing this moving target. When are you going to  
6 have them done. What else do you have.

7 MR. EVENSON: When you say a full set, okay --

8 THE COURT: Whatever it is you want to  
9 propose.

10 MR. EVENSON: Well, if you're asking how much  
11 more time I need to do jury instructions, I can assure you  
12 that there is no reason I won't have any and all -- what  
13 I've given you is a lot. There have been 10, 12, 15 more  
14 pages today. I lost count. There may be a couple more  
15 related to some of the charges specifically and I'll do  
16 the best I can do to get that out as soon as I can.

17 Judge, if you think I'm being contemptuous in my  
18 behavior --

19 THE COURT: Stop baiting me with what I might  
20 do, Mr. Evenson. And stop speculating on what I might do.  
21 I'm trying to have an adult conversation. We needed the  
22 jury instructions on Monday. You didn't give them to  
23 us. I waited until Wednesday for you to give them to us.  
24 I'm sitting here now Tuesday night, you didn't give them  
25 to us. I'm sitting here on Wednesday, again, and you're

1       telling me there might be more coming in. When is there  
2       an end game. You tell me that's the deadline, and you  
3       give them to me. I don't want to play this game.

4               MR. EVENSON: I'm not, Judge.

5               THE COURT: I thought you were done. That's why  
6       I made the comment is this it. This should be it Now,  
7       you're telling me, oh, there might be some more. I want  
8       all your proposed instructions. I want them in a  
9       reasonable time today, so we can all look at them, because  
10      I'm presuming we'll have to settle them tomorrow. And if  
11      we end up not settling them until Friday, fine, that gives  
12      us more time. I'm just trying to get your instructions.

13              When are you going to do this. I appreciate how hard  
14      you're working. I don't have what I need. I need what I  
15      need. Get it to me. Tell me when you can get it to me.  
16      What time. What time tonight. Give me a time.

17              MR. EVENSON: I don't know, Judge, because I  
18      don't know what evidence they're going to present this  
19      afternoon that may have impact on my jury instructions I  
20      want to make. You're asking me for a final, final, final  
21      copy, and I can't give that to you until they're done with  
22      their case and I'm done with my case.

23              THE COURT: Mr. Evenson, there's a big  
24      difference between, your Honor, I appreciate that you  
25      asked me for my full set of proposed. At this time, this

1 is my full set of proposed. If something should change  
2 and I need to add one, I will seek the court's permission  
3 and I will propose it. But this rolling out of, here's a  
4 few more, and here's a few more. And I might have a few  
5 more is not acceptable.

6 MR. EVENSON: That's not what I'm saying.

7 THE COURT: That's exactly what you're saying  
8 and that's exactly what you're physically doing.

9 MR. EVENSON: I don't wish to belabor this  
10 point. You asked me to defend myself. I've adequately  
11 defended myself. I understand the court's direction with  
12 regard to jury instructions. I am a one-man-show down  
13 here. I'm doing the best I can. I have all the powers of  
14 the State of Nevada.

15 THE COURT: You could have had these  
16 instructions in a full proposed set.

17 MR. EVENSON: I have never had to provide a  
18 fully proposed. I have never in 48 jury trials.

19 THE COURT: You're not hearing what I'm saying.  
20 Your proposed, I'm not asking you to give me the stocks.  
21 I'm not asking you to give me a whole complete set that  
22 you think is entailed in all. All I want is everything  
23 you have to propose. You could have given me something on  
24 Monday. You didn't. You could have given me something  
25 last night. You gave me something, but it wasn't anywhere

1 close to being complete because we got this whole pile  
2 coming in today. All I'm asking is you give me whatever  
3 it is you want to propose and that it be compete, as much  
4 as it can be at this time. I haven't seen any evidence of  
5 that. You wanted this to be at the end of the case. This  
6 is what it looks like is happening. I've heard what you  
7 have to say. All I'm asking is, I need you to give me the  
8 ones you know you need.

9 Is there anything else out there right now, absent  
10 more evidence coming into the trial today or tomorrow,  
11 that you haven't done. Is this set of whatever you have  
12 given me complete, up through trial as of the end of the  
13 day yesterday. Yes or no.

14 MR. EVENSON: I would have to say in analysis if  
15 trial has been delayed, somebody got sick, broke a leg,  
16 I'd probably be writing some jury instructions. I think  
17 it's probably 4 or 5. It's not a vast number. They're  
18 not very long. They're issue specific. They may not even  
19 be something I'll use, but I want you to know I'm always  
20 evaluating jury instructions. I think they are the most  
21 important part of the case. I try and stay on top of  
22 them. I'm doing the best I can. That's all I can tell  
23 you.

24 THE COURT: We'll readdress the matter at the  
25 end of the day. Anything else before we bring the jurors



1 in.

2 MS. RINETTI: No, your Honor. The State will be  
3 resting today.

4 THE COURT: I understood as much. Do you think  
5 the witnesses will take us to the end of the day.

6 MS. RINETTI: Maybe, maybe not.

7 MR. VILLANI: If anything, it will be a little  
8 short, your Honor.

9 THE COURT: We can cut it short today. Will  
10 defense be prepared to start witnesses tomorrow.

11 MR. EVENSON: My client was talking to me,  
12 Judge. What was it.

13 THE COURT: The State indicated they had -- as  
14 they said yesterday -- 8 witnesses. They were going to do  
15 half yesterday and half today. They believe they're on  
16 track to complete witnesses and rest by the end of today.  
17 It might even be a little short before 5:00, which is  
18 fine. I'm not going to impose upon the defense to start  
19 calling witnesses today, but I'm just ensuring defense is  
20 prepared to begin their case in chief tomorrow.

21 MR. EVENSON: Yes, your Honor, we are. And  
22 along those lines, if we wanted to start going over the  
23 jury instructions tonight.

24 THE COURT: I don't have the opportunity to  
25 settle them tonight. That's not how I do it. I will

1 start putting together my set and we'll settle them one  
2 time and one time only in the record. That's why I need  
3 to get to an end game of when I have your instructions.

4 MR. EVENSON: Understood.

5 THE COURT: We'll revisit what that time frame  
6 will be at the end of the State's case, when we conclude  
7 today.

8 MR. EVENSON: Very well.

9 THE COURT: Anything else.

10 MR. VILLANI: No.

11 THE COURT: Let's have the jurors.

12 Before we brought you in, we have been busy with  
13 matters we needed to address before we brought you in.  
14 But we hope that will allow us to move more smoothly for  
15 the presentation of the State's case for the remainder of  
16 the afternoon.

17 Is the State ready to call their next witness.

18 MS. RINETTI: Yes, your Honor, Officer raise.

19 THE COURT: Come to the witness stand and my  
20 clerk will swear you in.

21 THE CLERK: You do solemnly swear the testimony  
22 you are about to give in this action, shall be the truth,  
23 the whole truth, and nothing but the truth, so help you  
24 God.

25 THE WITNESS: I do.

1                   THE CLERK: Be seated. State and spell your  
2 name for the record.

3                   THE WITNESS: Praise Witham, P-r-a-i-s-e,  
4 W-i-t-h-a-m.

5                   THE COURT: Ms. Rinetti, I need to double check  
6 by a show of hands if there are any jurors who cannot see  
7 or hear the witness, based on where the monitor is placed.  
8 We move it out of the way in the morning and back in place  
9 every afternoon. I want to make sure that spot is fine.  
10 Seeing no hands, Ms. Rinetti, whenever you're ready.

11                   MS. RINETTI: Thank you, Judge.

12                                 DIRECT EXAMINATION

13 BY MS. RINETTI:

14                   Q.       How are you employed?

15                   A.       I'm employed as a police officer with Las  
16 Vegas Metropolitan Police Department.

17                   Q.       How long have you worked for Las Vegas  
18 Metropolitan Police Department?

19                   A.       10-and-a-half years.

20                   Q.       What is your current assignment?

21                   A.       My current assignment is as a field training  
22 officer in South Central now.

23                   Q.       What is a field training officer?

24                   A.       I'm in charge of when the new officers  
25 complete the Academy to take them out on the street and

1 train them so that they can go out on their own.

2 Q. Back on July 21, 2014, what was your position  
3 with Las Vegas Metropolitan Police Department?

4 A. Full officer, Northwest Area Command.

5 Q. How long at that point had you been with  
6 Northeast Area Command?

7 A. Approximately 7 years.

8 Q. On July 21, 2014, at approximately 10:47 p.m.,  
9 did you respond to 8228 Dust Valley here in Las Vegas,  
10 Clark County, Nevada?

11 A. I did.

12 Q. Did you go by yourself or with someone?

13 A. I was paired with a partner and patrol car.

14 Q. Who was that?

15 A. That was Mike Marano.

16 Q. Prior to responding to a call as a police  
17 officer, are you given details of what kind of call you  
18 were going to?

19 A. Yes.

20 Q. Do you rely upon that information for your  
21 investigation in how you are going to conduct yourself at  
22 that scene?

23 A. Yes.

24 Q. What information were you provided prior to  
25 getting to the scene?

1                   MR. EVENSON: I'll object on grounds of  
2                   relevance.

3                   THE COURT: Overruled.

4                   BY MS. RINETTI:

5                   Q.       Please answer the question.

6                   A.       The details of the call basically stated that  
7                   we are going to be investigating a child abuse case.

8                   Q.       When you got there, did you make contact with  
9                   anyone?

10                  A.       I made contact with a few people actually in  
11                  the residence.

12                  Q.       Was one of the people Megan Nash?

13                  A.       Yes.

14                  Q.       Was one of the persons Francis Jones?

15                  A.       Yes.

16                  Q.       Was Francis Jones the person that called into  
17                  911?

18                  A.       She was.

19                  Q.       During your time at the residence at 8228  
20                  Dusty Valley, did you observe any video?

21                  A.       I did.

22                  Q.       Who was present when you observed those  
23                  videos?

24                  A.       Megan Nash and the person who called us.

25                  Q.       Is that Francis Jones?

1           A.       Yes.

2           Q.       After you watched the videos, did you go to  
3 another location?

4           A.       I did.

5           Q.       Did you go to 10419 Prairie Mountain Avenue,  
6 here in Las Vegas, Clark County, Nevada just shortly after  
7 midnight?

8           A.       Yes.

9           Q.       Is it fair to say based upon your arrival time  
10 at those two locations, you spent approximately an hour at  
11 that first location?

12          A.       Yes.

13          Q.       Do you remember who was present at the time  
14 you went to 10419 Prairie Mountain Avenue?

15          A.       Yes.

16          Q.       Who was present?

17          A.       Lis Nash, her niece Shaylyn Shelton and her  
18 son.

19          Q.       Did you have any contact with Shaylyn  
20 Shelton?

21          A.       I did not, no.

22          Q.       Did you have contact with the other members  
23 that were at the residence?

24          A.       Yes.

25          Q.       Ultimately, at the time -- your time at the

1 residence was ultimately the Defendant arrested?

2 A. While I was there?

3 Q. Correct.

4 A. No.

5 Q. Was that done at a later point?

6 A. Yes.

7 MS. RINETTI: Thank you so much. I'll pass the  
8 witness.

9 THE COURT: Mr. Evenson, any questions for this  
10 officer.

11 MR. EVENSON: Just a moment, your Honor.

12 THE COURT: Take your time.

13 MR. EVENSON: No, your Honor. Nothing for this  
14 witness at this time.

15 THE COURT: May I see by a show of hands if our  
16 jurors have any questions for this witness. Seeing none,  
17 Officer, you are excused. Mind your step as you exit the  
18 courtroom.

19 MR. EVENSON: One question, Judge.

20 THE COURT: I'll ask the officer to retake her  
21 seat. I'll remind you even though I technically excused  
22 you you are still under oath.

23 MR. EVENSON: I apologize.

24 THE COURT: Mr. Evenson, go ahead.

25 CROSS-EXAMINATION

1 BY MR. EVENSON:

2 Q. Did you write a written report as a result of  
3 this?

4 A. I did not.

5 THE COURT: Mr. Villani, your next witness.

6 MR. VILLANI: State calls Lonny Hennessy.

7 THE COURT: Come forward and take the witness  
8 stand. My clerk will swear you in.

9 THE CLERK: You do solemnly swear the testimony  
10 you are about to give in this action, shall be the truth,  
11 the whole truth, and nothing but the truth, so help you  
12 God.

13 THE CLERK: I do.

14 THE CLERK: Be seated. State and spell your  
15 name for the record.

16 THE WITNESS: Lonny Hennessy, L-o-n-n-y,  
17 H-e-n-n-e-s-s-y.

18 THE CLERK: Thank you.

19 DIRECT EXAMINATION

20 BY MR. VILLANI:

21 Q. Good afternoon, Ms. Hennessy, you know this  
22 woman, Ms. Nash?

23 A. Yes.

24 Q. Is this her?

25 A. It is.



1 Q. How do you know her?

2 A. She's the mother of my ex-girlfriend.

3 Q. What is your ex-girlfriend's name?

4 A. Megan Nash. I know her as Niki.

5 Q. Is that Nicki?

6 A. Nicky.

7 Q. How long were you dating?

8 A. 11 months.

9 Q. Do you know what the time period was you were  
10 dating?

11 A. I believe it was March 2014 to April of  
12 2015.

13 Q. During that time period where was Megan  
14 living?

15 A. She was living with her mom. Then after  
16 everything happened she lived with us.

17 Q. I'm sorry. I'm going to back. I'm not going  
18 to call her Niki I'm going to call her Megan?

19 A. Fine.

20 Q. When she was living with her mom, did you ever  
21 have an opportunity to go to their house?

22 A. Yes. I went there several times.

23 Q. Who was living at the home at that time?

24 A. Megan, Lisa, her mother Chea, and then  
25 Shaylyn.

1           Q.       With regard to Shaylyn, did you ever see any  
2 interactions between Ms. Nash, Lisa, and Shaylyn?

3           A.       Yeah. They -- I mean, just living. They just  
4 lived a normal life. I saw her pretty frequent basis.

5           Q.       Did you see Ms. Nash interact with Megan about  
6 that same time period?

7           A.       It was the same.

8           Q.       Did you notice any difference between the  
9 interactions with Ms. Nash and Megan and Ms. Nash and  
10 Shaylyn?

11          A.       Yes.

12          Q.       What specifics?

13          A.       She would talk -- Lisa would talk to Megan  
14 like my mom would talk to me. She would talk to Shaylyn  
15 like she was less than her daughter. Like she was a dog,  
16 honestly.

17          Q.       Like a dog. What do you mean by that?

18          A.       Whenever she talked to her, she needed  
19 something from her, she needed her to do something, it was  
20 more or less, come here, why are you doing this, stop  
21 doing that, do this more.

22          Q.       Did you notice the same interaction with  
23 Megan?

24          A.       No, never like that with Megan.

25          Q.       Did you get along with Lisa Nash?

1           A.       Yeah. When we met we got along great. She  
2 liked me. I liked her. We were cordial with each other.  
3 After a while we didn't see eye to eye so I didn't really  
4 like her at that point. I don't think she liked me much  
5 at that point either.

6           Q.       You mentioned Megan's brother, Chea. Did you  
7 have any interaction with him?

8           A.       Yeah. Me and him talked a little bit, just as  
9 much as boyfriend and daughter's boyfriend would. He was  
10 a little angry a lot of the time, so I kind of tried to  
11 veer away from him honestly. I was like 16, and was  
12 intimidated by him. He's a big guy. He was intimidating  
13 and not all that nice. I tried to stay away from him a  
14 bit. I did talk to him on occasion.

15          Q.       I want to talk to you about some videos that  
16 were taken of some contact between Ms. Nash and Shaylyn.  
17 Do you know what I'm talking about?

18          A.       Yes.

19          Q.       Leading up to Megan taking those videos, did  
20 you two ever have a conversation with regard to what is  
21 going on between Shaylyn and Ms. Nash?

22                Just yes or no. I don't want you to elaborate.

23          A.       Yes.

24          Q.       Was it at some point decided that a video  
25 would be taken? Was that decision made with you and

1 her?

2 A. I honestly didn't know she was going to take a  
3 video until she showed me the video.

4 Q. Did she give you any indication as to why she  
5 took the video?

6 A. She felt bad for Shaylyn. She was there all  
7 the time when Lisa would be how she was to Shaylyn. I  
8 guess, it was like a weight that got heavier and heavier  
9 on her shoulders. She felt bad. She didn't want to  
10 betray her mom. It's like, I got to do what's right.  
11 That's how she explained it to me. But she felt bad  
12 enough to the point she felt she did what she had to do.

13 Q. Is it fair to say you saw these videos before  
14 the police were called?

15 A. Yes. I was the first one she showed them  
16 to.

17 Q. So the decision wasn't made the second you saw  
18 the videos and you decided to call the police now?

19 A. No. She didn't want to call the police,  
20 because the same thing. Like, it's mom. She didn't want  
21 to betray her mom. She had a lot to do on her own. I was  
22 there to support her, a shoulder to cry on for the whole  
23 thing.

24 Q. Do you remember the videos you were shown?

25 A. Yes, I remember the videos.

1           Q.       If I was to show them to you would you be able  
2 to authenticate them? Yes, these are the videos I saw?

3           A.       Yeah, easily.

4           MR. VILLANI: Permission the public Exhibit 1.

5           THE COURT: You may.

6           MR. VILLANI: For the record, your Honor, I'm  
7 going to started with -- there are 4 files on the disc.  
8 I'll start with the top one, which is IMG, underscore,  
9 0084, dot, M as in Mary, 0-A.

10                   (Video being played for the jury.)

11 BY MR. VILLANI:

12           Q.       You recall seeing that video?

13           A.       Yes, I do.

14           MR. VILLANI: I'll now play video IMG,  
15 underscore, 0719, dot, MOV.

16           THE COURT: The Length of that video.

17           MR. VILLANI: 4 minutes and 30 seconds.

18           THE COURT: Thank you.

19                   (Video being played to the jury.)

20 BY MR. VILLANI:

21           Q.       Is that also one of the videos you saw?

22           A.       Yeah.

23           MR. VILLANI: The next is IMG, underscore, 720,  
24 dot, MOV. This video is 54 seconds in length.

25                   (Video being played to the jury.)

1 BY MR. VILLANI:

2 Q. Is that one of the videos you saw as well?

3 A. Yes.

4 MR. VILLANI: The final one is IMG, underscore,  
5 0721, dot, MOV. It's 1 minute and 14 seconds in length.

6 (Video played for the jury.)

7 BY MR. VILLANI:

8 Q. Is that one of the videos you say as well?

9 A. Yes.

10 Q. Did Megan give you any indication that that  
11 was the only occasion something like that happened?

12 MR. EVENSON: Objection, calls for hearsay.

13 THE COURT: Mr. Villani.

14 MR. VILLANI: The response is Megan's testimony  
15 was it was to the contrary. It's a prior inconsistent  
16 statement.

17 THE COURT: I'll allow it. You may proceed.

18 THE WITNESS: Repeat the question.

19 BY MR. VILLANI:

20 Q. Did she give you any indication that was the  
21 only time something like that happened? That that was the  
22 first time it happened?

23 A. No.

24 Q. Did she give you any indication to the  
25 contrary?

1           A.       Yes. She told me a story about her mom  
2       slapping Shaylyn while she had her cornered against the  
3       wall. And another story about Shaylyn playing with a  
4       knife, like picking wax in a candle with a knife.

5           MR. EVENSON: Your Honor, I'd object to double  
6       hearsay in this instance. She testified she heard that  
7       from her brother yesterday.

8           THE COURT: I didn't hear double hearsay in this  
9       witness' recounting. I heard this witness saying  
10      something inconsistent with what was offered yesterday and  
11      this is for that purpose of what this witness knows.

12          MR. EVENSON: Understood.

13          THE COURT: It's overruled, the objection, this  
14      time as well.

15      BY MR. VILLANI:

16          Q.       Please continue. What do you recall her  
17      telling you about the situation with the knife?

18          A.       She said that Shaylyn had a steak knife and  
19      was either -- it was either a melted candle and she was  
20      dipping it in the melted wax or she was scraping wax off  
21      the side of the candle. I don't remember that part.

22          Lisa had seen her playing with the knife and she  
23      didn't like she was doing that, so she snatched the knife  
24      from her and got in her face, which is in the videos, had  
25      the point of the knife, like the sharp end, towards her

1 face and said things along the lines like, you think you  
2 are so cool playing with a knife. Knives hurt people.  
3 Like this should show you playing with knives -- pointed  
4 the knife at her. And Shaylyn got upset.

5 That's as far as I remember.

6 Q. As Shaylyn was recounting this story, did you  
7 get the indication that she heard that this happened?

8 A. Could you repeat the question.

9 Q. As she told you this story, did it seem like  
10 it's something she witnessed or something somebody told  
11 her?

12 A. I don't remember to be honest with you. I  
13 don't remember.

14 Q. No problem.

15 MR. VILLANI: Brief indulgence. I'll pass the  
16 witness. May I approach the witness to return the  
17 exhibit.

18 THE COURT: Please.

19 Mr. Evenson.

20 CROSS-EXAMINATION

21 BY MR. EVENSON:

22 Q. Mr. Hennessy, were you ever -- did you ever  
23 make a statement to law enforcement in July of 2014 about  
24 what went on?

25 A. No.



1           Q.       Did you ever talk to any detectives or  
2       investigators about anything you heard or been involved  
3       with in this case?

4           A.       No.

5           Q.       When was the first time you spoke with these  
6       folks today or was it today -- whenever you spoke to them  
7       about this case?

8           A.       It was -- they spoke to me one time before  
9       when they were trying to put everything together. It was  
10       November of last year.

11          Q.       At that time did you meet with one of these  
12       prosecutors or did you meet with somebody else?

13          A.       I only talked on the phone and text Elaine.

14          Q.       Elanie?

15          A.       Yes.

16          Q.       She's from --

17          A.       The DA.

18          Q.       In the DA's office where, who she's with?

19          A.       No.

20          Q.       When you say you text her, did you ever make a  
21       written statement at that time or anything else?

22          A.       No. It was only text. The last time was when  
23       you guys called me. She was telling me she was putting  
24       the case together and might need me.

25          Q.       They were putting the case together November

1 of 2016; is that right?

2 A. I think so.

3 Q. I guess, I have a few questions for you.

4 A. Sure.

5 Q. We see Shaylyn running up and down the stairs.  
6 Did you see child abuse in that?

7 MR. VILLANI: Objection.

8 THE COURT: Sustained. It's calling for this  
9 witness to reach a conclusion that is in the preview of  
10 the jury. The court will give the law to apply to the  
11 facts.

12 MR. EVENSON: Okay.

13 BY MR. EVENSON:

14 Q. Well, let me ask you this question. Did you  
15 make the call to police?

16 A. No.

17 Q. Did Megan make the call to police?

18 A. No.

19 Q. Who made the call to police?

20 A. My aunt, Francis.

21 Q. Okay. And one other thing here. You didn't  
22 like Chea much, the brother that lived in the house?

23 A. Not so much.

24 Q. You said he's a big guy and kind of  
25 intimidating?

1           A.       Yes.

2           Q.       How tall and big do you think Chea is?

3           A.       I remember him being shorter than me. I think  
4 he's probably 5'7" or 5'8". He's very stocky, like  
5 muscular guy. I also heard from Megan he had a bit of a  
6 drinking problem, could be violent when he drank. I had  
7 personally seen him drink before. I just didn't want to  
8 be around him. So that's the reason I tried to stay away  
9 from him. I was intimidated by him. I was afraid he'd  
10 snap at me if he was drinking or something.

11          Q.       Did you ever see him drink?

12          A.       Yes.

13          Q.       Did you ever see him snap?

14          A.       Yes, he snapped on me one time.

15          Q.       So now we're going from he has this reputation  
16 that she told me about and I was afraid of it, now you're  
17 saying he actually did it.

18                 Do you want to choose one?

19                 THE WITNESS: Both.

20                 MR. VILLANI: Objection, argumentative.

21                 MR. EVENSON: I'll withdraw it.

22                 BY MR. EVENSON:

23                 Q.       It was both?

24                 A.       Both. I was intimidated by him and there was  
25 an instance where I was frightened when he snapped at me.

1           Q.       Safe to say you said later on in your  
2 relationship with Lisa you developed a dislike for her  
3 too, right?

4           A.       Yes.

5           Q.       And you said you guys didn't see eye to eye?

6           A.       Yes.

7           Q.       That was over Megan, right?

8           A.       Yes.

9           Q.       After all this went down as you already  
10 testified Megan came and stayed with you?

11          A.       Yes.

12               MR. EVENSON:  Nothing further.

13               THE COURT:  Mr. Villani, any questions.

14               MR. VILLANI:  No further questions.

15               THE COURT:  May I see by a show of hands if the  
16 jurors have questions for Mr. Hennessy.

17               May I have counsel at the bench.

18               (Discussion held at the bench.)

19               THE COURT:  Remember it's the jurors asking the  
20 questions.

21               Did Megan seem deceptive to you.

22               THE WITNESS:  Deceptive how.

23               THE COURT:  Answer to the best of your ability.  
24 Counsel will have an opportunity to follow up.

25               Did Megan seem deceptive to you.

1 THE WITNESS: Deceptive.

2 THE COURT: The jury is asking the question.

3 THE WITNESS: Toward me, yes, she was toward me  
4 in our relationship. As far as Chea, her mom, that kind  
5 of thing, never.

6 THE COURT: Mr. Villani, any questions.

7 BY MR. VILLANI:

8 Q. So with regard to deception with Shaylyn, did  
9 you get the feeling that she was exaggerating or being  
10 deceptive with regard to when she was telling you about  
11 what was going on with her mom and Shaylyn?

12 A. No.

13 THE COURT: Mr. Evenson, any follow up to  
14 that.

15 MR. EVENSON: Just a moment, your Honor. I'm  
16 going to follow up, if I can.

17 THE COURT: Mr. Evenson, we don't have to have  
18 this debate. After the jurors ask a question of the  
19 witness, I'll invite counsel to ask questions. If you  
20 have a question, ask it. If you don't, please, sit  
21 down.

22 BY MR. EVENSON:

23 Q. You answered on direct examination that Megan  
24 told you about two other instances, one involved a knife  
25 and one involved Shaylyn being cornered for something and

1 got smacked. Roughly what your testimony was?

2 A. Yes.

3 Q. That's the only other acts of physical abuse  
4 you heard of?

5 A. Yes.

6 Q. So this statement that's in evidence here from  
7 Shaylyn, you say she was never deceptive toward anybody  
8 about her issues with Shaylyn and her mother. I'm going  
9 to show you this written statement?

10 MR. VILLANI: I'm going to object to  
11 mischaracterization.

12 THE COURT: I do believe your question  
13 mischaracterized the question of the juror and response  
14 given by the witness. The question was did he know her to  
15 be deceptive. He said, yes, toward him.

16 If you want to ask if he has some specifics about  
17 those instances and whether he perceived deception, fine.  
18 I'm not certain what you're attempting to do with the  
19 statement here.

20 MR. EVENSON: Can I hand him the statement.

21 THE COURT: You think this witness is familiar  
22 with that statement.

23 MR. EVENSON: I do.

24 THE COURT: Were you present when the statement  
25 was written.

1 MR. EVENSON: No.

2 THE COURT: Was it written at your house.

3 THE WITNESS: No. Shaylyn was not at our  
4 house.

5 MR. EVENSON: I'm confused. Maybe I confused  
6 you.

7 MR. VILLANI: I believe he has Shaylyn's  
8 statement.

9 MR. EVENSON: I may have. That may have come  
10 out of my mouth backwards. This is Megan's statement.

11 THE WITNESS: Okay.

12 MR. EVENSON: I'm capable of making mistakes.  
13 Megan wrote that statement. Did she write it at your  
14 house.

15 THE WITNESS: I don't remember.

16 MR. EVENSON: You weren't around when that was  
17 written.

18 THE WITNESS: I was but there was a lot going  
19 on. It was very hectic. I don't remember her writing  
20 that statement.

21 MR. EVENSON: You know she wrote a statement.

22 MR. VILLANI: Objection, asked and answered.

23 MR. EVENSON: I'm confused by the answer.

24 THE COURT: You may finish.

25 BY MR. EVENSON:

1           Q.       Do you know she wrote a statement that day at  
2 your house or not?

3           A.       I don't remember.

4           Q.       You have no recollection of that?

5           A.       No.

6           Q.       She testified she did. If I show it to you it  
7 may refresh some of what you saw or talked about that  
8 day?

9           A.       Maybe.

10           MR. EVENSON: Approach, your Honor.

11           THE COURT: For refreshing recollection read to  
12 see if it refreshes recollection to yourself.

13           THE WITNESS: Okay.

14           BY MR. EVENSON:

15           Q.       So you see in this statement what she wrote?

16           THE COURT: Mr. Evenson, the correct follow up  
17 is whether or not this refreshes his recollection of  
18 whether there was a statement made he's aware of and  
19 familiar with.

20           BY MR. EVENSON:

21           Q.       Does this refresh your recollection as to that  
22 statement that was made at your house that night?

23           A.       No. I still don't remember her writing it. I  
24 remember her writing at my house. There is an instance  
25 there that I remember her telling me about, but as far as



1 her writing the statement at my house it didn't remind me  
2 of that at all.

3 Q. In this statement she wrote that it  
4 happened?

5 MR. VILLANI: Objection.

6 THE COURT: Basis of objection.

7 THE COURT: Let me hear what the question is  
8 first.

9 MR. VILLANI: I apologize.

10 THE COURT: Before he poses the objection, I  
11 want to hear the question.

12 MR. EVENSON: I'll withdraw the question.

13 BY MR. EVENSON:

14 Q. So your statement is that Megan only told you  
15 about the candle and the cornered incident and that was  
16 it, right?

17 A. Then the instances in the video we watched.

18 Q. Right. Other than that you never heard about  
19 any other instances?

20 A. No.

21 MR. EVENSON: Nothing further.

22 THE COURT: Mr. Villani, would you like to have  
23 a follow up opportunity.

24 MR. VILLANI: No. Thank you, your Honor.

25 THE COURT: You are excused, Mr. Hennessy. Mind

1 your step existing the box.

2 THE WITNESS: Thank you.

3 THE COURT: I have a scheduling question, could  
4 you approach briefly.

5 (Discussion held at the bench.)

6 THE COURT: You may call your next witness.

7 MS. RINETTI: Shanna Davis.

8 For the record, the last questioning regarding a  
9 written voluntarily statement by Megan Nash, that's been  
10 marked and admitted as State's Proposed Exhibit 2.

11 THE COURT: Thank you. Yes. That is in  
12 evidence as State's Proposed and admitted 2.

13 Ms. Davis come around that podium and come straight  
14 back to the witness stand here. My clerk will swear you  
15 in.

16 THE CLERK: You do solemnly swear the testimony  
17 you are about to give in this action, shall be the truth,  
18 the whole truth, and nothing but the truth, so help you  
19 God.

20 THE WITNESS: I do.

21 THE CLERK: Be seated. State and spell your  
22 name for the record.

23 THE WITNESS: Shanna Davis, Shanna Davis.

24 DIRECT EXAMINATION

25 BY MS. RINETTI:

1 Q. Ms. Davis, how are you employed?

2 A. I'm employed as a senior specialist for Family  
3 Services.

4 Q. How long have you worked for Clark County  
5 Department of Family Services for?

6 A. For 6 years.

7 Q. Prior to your employment with Nevada  
8 Department of Family Services, did you have similar work  
9 in another jurisdiction?

10 A. Yes.

11 Q. Where?

12 A. Los Angeles County Department of Children and  
13 Family Services.

14 Q. How long did you work there for?

15 A. 3 years.

16 Q. What is your duties and responsibilities with  
17 your position with Child Protective Services Department of  
18 Family Services?

19 A. I investigate child abuse and neglect  
20 allegations and determine if there is present or impending  
21 danger, which would ultimately determine whether to leave  
22 the children in the family home or take the children into  
23 protective custody.

24 Q. I want to ask you just a few questions about  
25 the procedures regarding Child Protective Services in

1 Nevada.

2 Is there something called a hotline?

3 A. Yes.

4 Q. What is hotline, what is designed for?

5 A. The hotline is basically an in-take unit.  
6 It's design to take calls regarding child abuse and/or  
7 neglect. They take the call, determine whether the  
8 incident needs to be screened in or out. They make a  
9 report. Then after, if they made a report, then they send  
10 them to the geographical zone or specialized unit.

11 Q. Is it fair to say there's not only a  
12 geographical zone, but there's particular units with a  
13 specialty 4 and under?

14 A. Yes.

15 Q. When a call comes in is it given some type of  
16 priority?

17 A. Yes.

18 Q. Are there different types of priority?

19 A. Yes.

20 Q. Can you explain to the ladies and gentlemen of  
21 the jury what those priorities are and what the protocol  
22 is?

23 MR. EVENSON: Again, I'll object on the grounds  
24 of relevance.

25 THE COURT: I understood your objection.

1 Overruled.

2 BY MS. RINETTI:

3 Q. You may answer.

4 A. Okay. There are 3 priorities. There are  
5 priority one, which requires a response time of at least  
6 at minimum 3 hours from the time the call was received. A  
7 priority 2 report would have to be the family would have  
8 to be seen within 24 hours. And a priority 3 would be 72  
9 hours.

10 Q. When a call comes in to in-take after hours,  
11 is there something at Child Protective Services called  
12 emergency response team or ERT?

13 A. Yes.

14 Q. What are their responsibilities?

15 A. Their responsibility are to respond to -- most  
16 of the time priority 1 or 2 calls, depending on the day,  
17 and determining whether or not there is a present danger  
18 to the child in the home.

19 Q. In your position do you get assigned cases  
20 potentially from those emergency response team members?

21 A. Yes.

22 Q. Now, we're here to talk today about a case  
23 involving a minor child by the name of Shaylyn Shelton.  
24 Were you assigned that case?

25 A. Yes.

1 Q. How did you become assigned to that case?

2 A. I received the case from an ERT worker and I  
3 just fell in that rotation.

4 Q. As a senior investigator, were you assigned  
5 the case on July 23rd?

6 A. Yes.

7 Q. Is it typical that an ERT response worker  
8 would potentially have the case a day or so and then  
9 transfer it over to you?

10 A. They're required to send the case over to the  
11 geographical zone the day of or the next day after,  
12 depending on the time it comes in.

13 Q. When you were assigned the case, did you go  
14 out and talk to the individuals related to the Shaylyn  
15 Shelton case?

16 A. Yes.

17 Q. When you did so, did you speak to an  
18 individual by the name of Megan Nash on July 23rd, 2014?

19 A. Yes.

20 Q. Where did that conversation take place?

21 A. It took place at Megan's boyfriend's parent's  
22 home.

23 Q. Who was present -- do you remember what room  
24 you were in when you spoke to Megan?

25 A. We were in the family room, kitchen area,

1 dining room. It was a combination area.

2 Q. Who was present when you spoke to Megan?

3 A. Initially her father was there and the  
4 boyfriend family and boyfriend. But to do the interview,  
5 I interviewed her alone in the room with her aunt.

6 Q. Fair to say you asked Megan's father and her  
7 boyfriend's family to step out of the room?

8 A. Yes.

9 Q. What was Megan's demeanor like when you spoke  
10 to her?

11 A. She appeared to be pretty calm. It was clear  
12 she had told the story more than once. She didn't appear  
13 to be very nervous. She was willing to speak to me, and  
14 she was open in regard to answering questions.

15 Q. During your conversation with Megan Nash, did  
16 she indicate the physical discipline she saw between  
17 Shaylyn --

18 MR. EVENSON: Objection, leading.

19 THE COURT: Sustained.

20 BY MS. RINETTI:

21 Q. What did she say?

22 A. She outlined the physical abuse of her cousin  
23 Shaylyn by her mother, Lisa Nash. She said that this was  
24 not the first time that Shaylyn had been physically  
25 abused -- or I'm sorry physically disciplined. She said

1       that this time she decided to video tape it because she  
2       didn't think that anyone would believe that this  
3       happened.

4           Q.       Did she indicate that the physical discipline  
5       ever got worse as time went on?

6           A.       If I recall, she said that it hadn't been this  
7       bad before, but that this was the last straw she had to  
8       video tape it or no one would believe it.

9           Q.       Did Megan Nash indicate anything to you with  
10      regard to how the Defendant treated Shaylyn and her weight  
11      issues?

12          A.       She said that Shaylyn needed to lose weight  
13      and she was going to send her to a boot camp to lose  
14      weight.

15          Q.       Did she ever indicate that her mother was  
16      taunting Shaylyn about her weight?

17                THE COURT:   I didn't hear the objection.   You  
18      may proceed and answer the question.

19                THE WITNESS:   Okay.   Can you repeat the  
20      question.

21      BY MS. RINETTI:

22          Q.       Did Megan ever indicate that her mother  
23      taunted Shaylyn about her weight?

24                MR. EVENSON:   Your Honor, I'm going to object to  
25      leading question.



1                   THE COURT: Rephrase. I think some questions  
2 obviously have to have some information in them to  
3 understand what's being asked, as long as they don't  
4 supply the answer it's not leading.

5                   If you can rephrase.

6 BY MS. RINETTI:

7                   Q. Did Megan mention any negative comments about  
8 the Defendant's view of Shaylyn's weight?

9                   A. She said that her mother felt she was over  
10 weight and believed this is why she used physical PT  
11 training to discipline her as well.

12                  Q. In addition to speaking to Megan Nash, did you  
13 have an opportunity to speak to Lisa Nash on July 24th,  
14 2014?

15                  A. Yes.

16                  Q. During that conversation did you talk about  
17 Shaylyn's history, as far as how she came to be placed  
18 with the Defendant?

19                  A. Yes.

20                  Q. What did she say?

21                  A. She said that she -- Shaylyn was the daughter  
22 of her brother and that she had been in and out of the  
23 system since she was a very young child and that she was  
24 placed in her home through an ICP placement from  
25 Maryland.

1 Q. Did the Defendant, Ms. Nash, ever indicate  
2 whether or not Shaylyn was ever a victim of prior abuse?

3 A. Yes, she said she was a victim of abuse and  
4 neglect, including sexual abuse.

5 Q. Did the Defendant indicate whether or not  
6 Shaylyn had any learning disabilities or cognitive  
7 issues?

8 A. Yes. She informed me that she had cognitive  
9 or learning disabilities, but she could not provide the  
10 specifics of any diagnosis.

11 Q. Did the Defendant give you any medical history  
12 regarding Shaylyn?

13 A. Yes.

14 Q. What did she say as far as her medical  
15 history?

16 A. She said that she was diagnosed with asthma.  
17 She takes medication, not only for the asthma, but I  
18 believe for mental health issues.

19 Q. Did you ask Ms. Nash about the events that  
20 caused you to go out to investigate?

21 A. Yes.

22 Q. What did Ms. Nash say initially?

23 A. She initially said that she was told she could  
24 use physical training or PT for physical discipline by the  
25 State of Maryland Department of Family Services. And she

1       denied that she strangled or hit Shaylyn. She said she  
2       was providing her with her inhaler if she needed it.

3           Q.       Did you confront Ms. Nash with the fact that  
4       there was videos involved?

5           A.       Yes.

6           Q.       Had you viewed the video prior to speaking to  
7       Ms. Nash?

8           A.       Yes.

9           Q.       Did you confront her with what you saw in the  
10      video?

11          A.       Yes.

12          Q.       Did Ms. Nash continue to deny that she laid  
13      any hand on --

14               MR. EVENSON: Objection. That misstates the  
15      testimony.

16               THE COURT: Overruled.

17               MR. EVENSON: Laid any hands --

18               THE COURT: Overruled. She denied contact.

19               THE WITNESS: She did deny that. She continued  
20      to deny any physical contact.

21      BY MS. RINETTI:

22           Q.       On July 25th, 2014, did you transport Shaylyn  
23      Shelton from Child Haven to Las Vegas MacCarren Airport?

24           A.       Yes.

25           Q.       Just for clarification what is Child Haven?

1           A.       Child Haven is a facility where children are  
2 held if they are pending placement or they will be soon  
3 released to their family or parents after the child has  
4 been brought into protective custody.

5           Q.       Besides transporting Shaylyn on that day, did  
6 you stop anywhere?

7           A.       Yes.

8           Q.       Where did you stop?

9           A.       We stopped at Wal-Mart.

10          Q.       Why did you stop at Wal-Mart?

11          A.       We stopped at Wal-Mart because Child Haven ran  
12 out of duffel bags and I wanted to get her a duffel bag  
13 before she boarded the plane.

14               MR. EVENSON: Can we approach.

15               (Discussion held at the bench.)

16               THE COURT: You may. I don't recall if you posed  
17 the objection before you asked to approach, but to the  
18 extent there was an objection it's overruled.

19               Proceed.

20               MS. RINETTI:

21          Q.       During the time you were with Shaylyn what was  
22 her demeanor like?

23          A.       She appeared to be happy. She spoke about  
24 school. And I asked her questions about herself. She  
25 spoke about her history, being in and out of different

1 foster homes. She spoke about how happy she was at first  
2 to be in her aunt's home and how she wanted to continue a  
3 relationship with her cousin Megan. She spoke about  
4 school and wanted to be more in the mainstream classes as  
5 oppose to special education track. She asked did I know  
6 which foster home she was going to, and then she began to  
7 speak about the different foster homes in Maryland. But  
8 she was pretty happy. She didn't -- she wasn't sad or  
9 anything.

10 Q. During your conversation with Shaylyn did she  
11 ever mention anything of the physical discipline or  
12 physical interactions or abuse at the hands of her aunt?

13 MR. EVENSON: That's a leading question. She  
14 asked and answered it. She asked for contents of the  
15 conversation that was already given.

16 THE COURT: Rephrase, Ms. Rinetti.

17 BY MS. RINETTI:

18 Q. Did she talk about the events that caused you  
19 to investigate the case?

20 A. Yes.

21 Q. What did Megan say?

22 A. Shaylyn.

23 Q. Shaylyn. I apologize.

24 A. She said that -- well, I asked her about  
25 physical discipline in the past. She said she had been

1 physically disciplined in the past. It just had not  
2 gotten to this level. She also spoke about the incident  
3 itself, said that she could not breathe and she said  
4 that -- I believe she said that she had asked Ms. Nash for  
5 her inhaler, but she never gave it to her.

6 Q. Did Shaylyn indicate whether or not her aunt  
7 choked her or strangled her?

8 A. I don't recall.

9 Q. In addition to interviewing Shaylyn do you go  
10 back to the office and put together notes regarding the  
11 conversation?

12 A. Yes.

13 Q. Would looking at your notes regarding that  
14 conversation help refresh your recollection?

15 A. Yes.

16 MR. EVENSON: We're going to have to approach.

17 THE COURT: Okay.

18 MR. EVENSON: What page.

19 MS. RINETTI: 18 of 24.

20 MR. EVENSON: Thank you.

21 BY MS. RINETTI:

22 Q. I'll ask you to read that to yourself, not out  
23 loud?

24 A. Yes.

25 THE COURT: Let's take a recess with the jurors

1       that way we can determine what the documentation is so  
2       there is no confusion on that point. One moment before  
3       you are excused.

4                               JURY ADMONITION

5               During the recess, ladies and gentlemen, you are  
6       admonished not to converse among yourselves or with anyone  
7       else, including, without limitation, the lawyers, parties  
8       and witnesses, on any subject connected with this trial,  
9       or any other case referred to during it, or read, watch,  
10      or listen to any report of or commentary on the trial, or  
11      any person connected with this trial, or any such other  
12      case by any medium of information including, without  
13      limitation, newspapers, television, internet or radio.

14              You are further admonished not to form or express any  
15      opinion on any subject connected with this trial until the  
16      case is finally submitted to you.

17              See you back in 15 minutes. Just to stretch your  
18      legs and use the restroom. Be back here at 5 to 3:00.

19              I'm going to use the restroom. We'll make a  
20      record of what was provided and confirmed if we need  
21      copies made. I'll let staff know to make copies, that  
22      kind of thing.

23                               (Brief recess taken.)

24              THE COURT: I know Ms. Nash is trying to make  
25      calls. I don't know if this is going to be able to be

1       communicated the way I hope, I'm sure my marshall tried.  
2       The reason I'm trying to find out if we're going to have  
3       witnesses or not is because I didn't anticipate taking  
4       this break. I don't want to bring them in and have 10  
5       more minutes of questioning and have to kick them out  
6       again.

7               MR. EVENSON: I'm trying to get hold of people.

8               THE COURT: I'm just trying to explain it.

9               Now my question is, I'm trying to find out, if  
10       we don't have some reasonable expectation of knowing in  
11       the next few minutes, then I'd rather bring the jury back  
12       in and be done for the day. If there is a chance, I would  
13       like to give it to you. I don't know because my marshall  
14       is not able to get that information from you all.

15              MR. EVENSON: We can ask.

16              THE COURT: He indicated he asked and got we're  
17       trying. That's not enough information.

18              MR. EVENSON: Sorry. We have not received any  
19       text messages back from anybody local that we'd be trying  
20       to bring in today. We have one witness we'd like to bring  
21       in today, but we may not be able to. We'll deal with  
22       that.

23              THE COURT: At this point, we've been on break 5  
24       minutes longer than we anticipated. We can take longer.

25              MR. EVENSON: If I can't get them back, we'll



1 break for the day. That's what you wanted to do.

2 THE COURT: It doesn't appear to me there's any  
3 realistic expectation that the witness you want to call is  
4 going to be available today. If you think there is any  
5 chance that the witness you want to call today might be  
6 back to you, I'm willing to take some more time.

7 MR. EVENSON: Can we take a couple more  
8 minutes.

9 THE COURT: I'll take ten more minutes, if you  
10 know great, if you don't we'll bring the folks back in and  
11 finish this witness.

12 MR. EVENSON: Great.

13 MS. RINETTI: Can we make one record.

14 THE COURT: Sure. When we start again.

15 (Brief recess taken.)

16 THE COURT: Outside the presence. Ms. Rinetti.

17 MS. RINETTI: Two things. Before the break we  
18 took a break because Mr. Evenson was going to refresh  
19 Mr. Davis' recollection with 18 of 24 child protective  
20 services records. Mr. Evenson indicated he had not  
21 received those documents. For the record --

22 MR. EVENSON: I will stipulate I did receive the  
23 documents. They were misfiled in my belongings. I wasn't  
24 able to find them on the fly. We'll proceed without a  
25 record made. My mistake.

1           THE COURT: Let me make the record. There was  
2           some communication at the bench, separate communication  
3           about when an email was sent, et cetera. I have no  
4           problem with you not being able to find something on the  
5           fly, what was sent when, so there is no confusion in the  
6           record itself.

7           MR. EVENSON: I appreciate that. Thank you.

8           MS. RINETTI: Child Protective Services records  
9           have a water mark for when they were handed over to me by  
10          Department of Family Services. They indicate January  
11          28th, 2016. I have in my hand an e-mail I sent to Mr.  
12          Evenson the same e-mail address the court and counsel have  
13          been using to communicate as far as jury instructions.  
14          That is dated February 2nd of 2016 with an attachment that  
15          reads CPS records, pdf.

16          THE COURT: That's part of that production.

17          MS. RINETTI: It was mailed 5 days after  
18          receiving and I turned them over.

19          THE COURT: The copies are -- have by both  
20          counsel for purpose of resuming testimony. Everybody has  
21          a copy.

22          MR. EVENSON: Yes, your Honor.

23          THE COURT: Okay.

24          MS. RINETTI: At the break as well as prior to  
25          Mr. Evenson indicated that he was trying to contact

1 witnesses in order to see if they were available for  
2 today. I asked him just now whether or not he could tell  
3 me who he was potentially going to call. The only concern  
4 the State has is Defendant has not filed a notice of  
5 witness in this case in regard to any witnesses.  
6 Therefore, I think pursuant to statute, defense is  
7 required by NRS to file a notice of witness of any  
8 witnesses they do intend to call in their case in chief.

9 MR. EVENSON: Judge, that is correct. I'm  
10 recalling witnesses. I'm recalling Megan and Shaylyn.  
11 She didn't have a flight at 10 o'clock this morning. Her  
12 flight leaves at 10 o'clock tomorrow morning or 7:00.

13 THE COURT: So do you anticipate calling both  
14 today.

15 MR. EVENSON: Trying to. I have Shaylyn on her  
16 way. I'm trying to get hold of Megan who is enjoying her  
17 time in Las Vegas.

18 THE COURT: We also had one bench conference  
19 that we need to address and as I sit here at this moment I  
20 wrote the bench conference on a note and don't know what  
21 the substance was at this time.

22 You said we didn't need to make a record, Mr.  
23 Evenson.

24 MR. EVENSON: That was on the discipline  
25 question or deception question of Juror 8. We talked

1       about it. I waived it. I asked a series of questions  
2       after that question was asked.

3               THE COURT: Right.

4               MR. EVENSON: The concern was --

5               THE COURT: When we had the discussion about the  
6       question you had a concern that it was eliciting testimony  
7       regarding propensity for truthfulness or something else  
8       that might not be allowed. We had further discussion not  
9       only about that witness as a potential rebuttal or  
10      impeachment witness, but also the question as worded and  
11      the way it was responded to did not appear to be  
12      problematic from that standpoint. I think you said you'd  
13      withdraw that objection or you at least understood the  
14      basis for that determination.

15              I said I would make a record. You said I didn't need  
16      to, just, again, so there is not a misunderstanding to  
17      what's taken place. Then the scheduling record.

18              Thank you for that.

19              Anything from the State.

20              MS. RINETTI: No.

21              THE COURT: Okay. I think we'll resume with  
22      Ms. Davis. Let's get Davis back on the stand before we  
23      bring the jurors in. Ms. Davis, before we resume  
24      questioning can you acknowledge for the record you  
25      understand you're still under oath.

1 THE WITNESS: Yes.

2 THE COURT: Thank you.

3 Ms. Rinetti, just because we had a longer break  
4 then anticipated we've resolved as far as the  
5 documentation and our ability to proceed with that line of  
6 questioning, but we need to reorient where we left off.

7 MS. RINETTI: I was asking about before the  
8 break about some comments Shaylyn made regarding whether  
9 or not she was choked or strangled. I'm -- you mentioned  
10 that referring to your notes would refresh your  
11 recollection in that regard.

12 BY MS. RINETTI:

13 Q. Did you have an opportunity to fully read that  
14 prior to the break?

15 A. Yes.

16 Q. Did it refresh your recollection what she told  
17 you regarding if she was choked?

18 A. Yes.

19 Q. What did Shaylyn tell you?

20 A. She said she had been shocked and strangled  
21 this time and that was the first time she'd been  
22 strangled.

23 Q. Did she indicate in the conversation she had  
24 been physically assaulted or hands laid on her  
25 previously?

1 A. Yes.

2 Q. How many times had that occurred?

3 A. She had been physical disciplined a few time  
4 and that she had been hit in the head by Ms. Nash 3 or 4  
5 times, I believe.

6 Q. Finally I wanted to make brief reference again  
7 to a conversation you had with Megan on July 23rd of 2014.  
8 I believe it took place at her boyfriend's residence?

9 A. Yes.

10 Q. During that conversation with Megan Nash, did  
11 you inquire as to whether or not Megan knew if Shaylyn had  
12 stole any items?

13 A. She -- Megan -- I asked Megan if Shaylyn stole  
14 any items from her mother and she said she had no  
15 knowledge of Shaylyn ever stealing items from her  
16 mother.

17 MS. RINETTI: I'll pass the witness.

18 THE COURT: Thank you.

19 Mr. Evenson.

20 CROSS-EXAMINATION

21 BY MR. EVENSON:

22 Q. Did you ask Shaylyn about stealing from  
23 Megan?

24 A. No, I did not.

25 Q. Are you aware Megan testified that she had

1 items stolen from her like trinkets and knickknacks?

2 A. No.

3 Q. Did you ask about -- specifically ask about  
4 anything like that?

5 A. No.

6 Q. The reports I have from you are on a system  
7 called -- what is your Overview system you have?

8 A. Unity.

9 Q. The Unity system. That is correct. With  
10 regard to that Unity system and the items in the Unity  
11 system, is that something you can all access for each  
12 other all the time? You keep all that stuff, if you know  
13 what I'm talking about.

14 A. It's accessible by anybody in Department of  
15 Family Services.

16 Q. Is it commonly taken a business record and  
17 those things?

18 A. Yes.

19 Q. In this particular case the notes that I have  
20 start -- at this moment start on 7/22 of 2104?

21 A. Okay.

22 Q. Okay. Did you read those notes in terms of  
23 before you talked to Megan or doing anything with Megan or  
24 evaluating any of this case?

25 A. Yes.

1           Q.       So you do remember the note where Megan said  
2       that the reason --

3                   MS. RINETTI:   Objection.

4                   THE COURT:   Basis.

5                   MS. RINETTI:   Hearsay.

6                   MR. EVENSON:   Megan is in the Unity system.  She  
7       used it to make her evaluation.

8                   THE COURT:   The basis for hearsay exception.

9                   MR. EVENSON:   It's a business record.  She's  
10      already testified to that.  And she used it to make her  
11      evaluation and testified she made her evaluation.  She an  
12      investigator.  She has knowledge of what's in the report.  
13      She used the report.  These things -- it's basically to  
14      impeach whether or not Megan is -- it's a leading up  
15      question is what I'm getting to.

16                   THE COURT:   I'll allow some latitude here, but  
17      obviously there's a hearsay rules.

18                   MR. EVENSON:   Understood.

19      BY MR. EVENSON:

20           Q.       Did you read the report before you talked to  
21      Megan?

22           A.       I read the in-take report.

23           Q.       That was from Balinda Jackson-Gordon?

24           A.       No.

25           Q.       Who is the in-take report from?



1           A.       The in-take report, I read notes from the  
2 emergency response team, which was Balinda Jackson.

3           Q.       You read Balinda's notes?

4           A.       Yes.

5           Q.       Before you talked to Megan?

6           A.       Yes.

7           Q.       Do you recall in her notes is a reason that  
8 Megan called law enforcement. Do you recall what that  
9 reason was?

10          A.       Yes. I believe it was she did -- said she  
11 knew that no one would believe her.

12          Q.       Do you know why law enforcement was called?

13          A.       I don't recall.

14          Q.       Would it refresh your recollection to look at  
15 that --

16          A.       Yes.

17               MR. EVENSON: Approach.

18               THE COURT: You may.

19               MS. RINETTI: For the record, he's going to  
20 refresh her recollection on somebody else's report.

21               THE COURT: You can refresh recollection on any  
22 document. We just need to know what document --

23               MR. EVENSON: I'm sorry. It's page 1 of 24 in  
24 the Unity case notes.

25               THE COURT: Thank you. Ms. Davis, read that to

1       yourself. When you are complete it we'll take that back  
2       and see if that refreshes your recollection.

3               MR. EVENSON: I'll direct you to 3 asterisk part  
4       at the bottom.

5               THE WITNESS: Okay.

6       BY MR. EVENSON:

7               Q.       Does it refresh your recollection as to what  
8       the reason was?

9               A.       Yes.

10              Q.       What was that reason stated by Megan Nash in  
11       the statement?

12              A.       Sorry. It said she called the police  
13       because -- part of it said she called the police because  
14       it wasn't clear. She said she called police because -- if  
15       I could see that again.

16              MR. EVENSON: May I approach.

17              THE COURT: She offered it back. We don't want  
18       her to read from it. If it refreshes recollection, you  
19       can indicate.

20       BY MR. EVENSON:

21              Q.       Go ahead.

22              A.       She called the police to report abuse and  
23       neglect with Shaylyn.

24              Q.       And the incident that --

25              A.       And there was apparently an incident in that

1 statement that said that her -- Lisa pushed her  
2 boyfriend.

3 Q. Sorry. Who pushed her boyfriend?

4 THE COURT: Read what it says.

5 MR. EVENSON: It says, there was no real  
6 specific reason why Megan decided to call day -- according  
7 to source. But there was an incident at the home between  
8 Megan and 17-year-old boyfriend and Lisa's 24-year-old  
9 nephew. Lisa's nephew grabbed Megan's boyfriend and  
10 pushed him up against the wall. This was reportedly the  
11 straw that broke the camel's back. Megan said she did not  
12 know what to do or who to report this physical abuse to.

13 Is that the statement said.

14 A. Yes.

15 Q. Did you ever look into that in your  
16 investigation before you talked to Megan about that?

17 A. I read it. I read it and to my understanding  
18 it was saying that she was calling regarding the abuse and  
19 neglect with Shaylyn.

20 Q. Well, it sounds to me like there was an  
21 incident at the home between Megan and her 17-year-old  
22 boyfriend and Lisa's 24 year old --

23 MS. RINETTI: Objection, argumentative.

24 THE COURT: Sustained.

25 MR. EVENSON: There is another reason stated in

1       there, right.

2                   THE WITNESS:   Yes.

3       BY MR. EVENSON:

4           Q.       You never investigated or found out which  
5       reason it was or checked into that comment or statement in  
6       your own record?

7           A.       I asked Megan why she decided to call or why  
8       she decided to video tape.

9           Q.       I didn't ask about the video tape.  I'm  
10      talking about a phone call not the video tape.

11                  Let me ask you this about the video tape.  You  
12      reported purportedly that video tape was taken 3 weeks  
13      before this happened, right?

14          A.       Before what happened.

15          Q.       Let's call it Shaylyn's removal from the  
16      Nashes' home?

17          A.       Okay.

18          Q.       You are aware that the video tape was  
19      apparently taken 3 weeks before that?

20          A.       I was not.

21          Q.       So have you been under the belief these entire  
22      3 years that video tape was the same day?

23          A.       Yes.

24          Q.       Did you ever investigate that portion of  
25      things about when the tape was taken?

1           A.       I asked when the incident occurred. She said  
2 the day before.

3           Q.       They said the day before?

4           A.       Yes.

5           Q.       Who said it was the day before?

6           A.       Megan -- I don't remember if Lisa said that.  
7 Megan and Chea.

8           Q.       So if the date mark on the video tape is 7/3  
9 of 2014, you are being told by various people that it's  
10 the day before, did you investigate that?

11          A.       I don't recall there being on the copy of the  
12 video I saw -- I don't recall seeing a date mark.

13          Q.       Did you ever review the video with the  
14 district attorney's office?

15          A.       No.

16          Q.       Did you ever review -- have you seen the video  
17 since that date?

18          A.       No.

19                 MR. EVENSON: Judge, can we get the video played  
20 back. I don't have the technology to do this.

21                 THE COURT: We discussed that before the video  
22 needs to be played. Are you seeking to play the video.

23                 MR. EVENSON: Just the screen on -- you are  
24 looking at that screen up on the camera I assume.

25                 THE WITNESS: Yes, sir.

1 MR. EVENSON: Permission to hover for a second  
2 behind the witness to point her to where I'm going.

3 THE COURT: I don't know you need that. You can  
4 direct it.

5 BY MR. EVENSON:

6 Q. Are there any dates on there?

7 A. Yes.

8 Q. What are the dates on the video?

9 A. There's a date that says yesterday 7:04 a.m.

10 Q. So that would be -- do we know if that's  
11 yesterday, yesterday or yesterday in 2014?

12 A. I don't.

13 Q. So what's the next date?

14 A. Yesterday 7:06 a.m. and yesterday 6:04 a.m.

15 Q. There's nothing on this tape that said when it  
16 was made apparently?

17 A. No.

18 Q. So let's move on to a couple of other things.  
19 I wanted to get that date in there?

20 So these Unity notes, when you get, from a child  
21 who's on an ICPC placement and there's some abuse and  
22 neglect taking place, is that handled in a vacuum or do  
23 you review Unity notes from the case worker?

24 A. Can you clarify what you mean. Which case  
25 worker.

1           Q.       At the time Tatiana Mitchell, Michelle  
2       Slaughter, and her other case workers filed notes in this  
3       case. Did you review their Unity notes?

4           A.       No, we're not privy to those.

5           Q.       We are not permitted to look at those?

6           A.       We look from -- my job is to investigate the  
7       incident that occurred. I don't look back into what the  
8       ICPC notes are.

9           Q.       So you don't look back into any of the CPS  
10       history of anybody?

11          A.       If the child is abused or neglected in the  
12       State of Nevada or specifically Clark county do you review  
13       that history.

14          Q.       Did you review any other history in this case  
15       that you can recall at this time involving any reports  
16       from Ms. Mitchell or Ms. Slaughter?

17          A.       No.

18          Q.       Did you ever speak to Ms. Kathy (inaudible) at  
19       that time?

20          A.       I speak to -- I spoke to Tatiana a couple  
21       times, yes.

22          Q.       Did she tell you --

23                   MS. RINETTI: Objection, hearsay.

24                   MR. EVENSON: Rephrase.

25                   THE COURT: She already indicated she didn't

1 read the reports.

2 BY MR. EVENSON:

3 Q. You had a conversation with her?

4 A. Yes.

5 Q. Were you aware at any time in your  
6 investigation of this matter that --

7 MS. RINETTI: Objection.

8 THE COURT: I'll hear the question.

9 MR. EVENSON: Thank you.

10 BY MR. EVENSON:

11 Q. Were you aware at any time in your  
12 investigation of this matter from any source that Ms. Nash  
13 had reported to CPS she was using PT discipline with  
14 Shaylyn?

15 MS. RINETTI: Objection, foundation. Hearsay.

16 THE COURT: Overruled.

17 THE WITNESS: I was made aware by Ms. Nash that  
18 she spoke to Maryland case workers who informed her that  
19 it was okay for her to use physical training or PT as  
20 discipline.

21 Q. Are you aware of whether or not she reported  
22 that to any Nevada case workers?

23 A. No, I'm not.

24 Q. You hesitated for a second. Are you trying to  
25 remember and need more time?



1           A.       When you are saying Nevada workers, because  
2           you have brought into the question the ICPC workers. I'm  
3           trying to see whether you are speaking of them or ERT  
4           worker.

5           Q.       I'm not using your agency terminology. I  
6           apologize for that. Of course by social worker anybody  
7           affiliated with your agency.

8           A.       Yes.

9           Q.       So you don't have any knowledge of Ms. Nash is  
10          saying that -- or telling Nevada?

11          A.       No.

12          Q.       But you also don't have knowledge she didn't  
13          say that?

14          A.       Correct.

15          Q.       Now you also -- did you do any research in the  
16          background of this? I mean, does ERT folks just come in  
17          and do that in that situation and that's it, or did you  
18          check into Shaylyn's background?

19          A.       Usually the ERT worker just investigates or  
20          determines whether or not there is present danger in the  
21          home. I did -- what my job is to do is investigate  
22          whether -- to ask questions of the family members of the  
23          children's history and behavioral issues, things like  
24          that.

25          Q.       You said Ms. Nash could not provide a

1 diagnoses; is that correct?

2 A. She did not.

3 Q. I understand that. I believe -- I may have  
4 wrote it down wrong. I thought you wrote could not.  
5 You're saying did not. Are you aware of whether or not  
6 she ever had one to give out?

7 A. She did not provide it to me. I just assumed  
8 she knew what her diagnosis was.

9 Q. When you say she had a diagnosis, are you  
10 saying you knew one from some other source?

11 A. No.

12 Q. Are you saying you don't know what the  
13 diagnosis was either and Ms. Nash didn't supply it to  
14 you?

15 A. What I'm saying is that when I asked Ms. Nash  
16 what Shaylyn was on medication for she did not provide a  
17 diagnosis -- specific diagnosis.

18 Q. Granted that could be medication that treat  
19 several different things?

20 A. Yes.

21 Q. So it's entirely possible she didn't know what  
22 those medications are for?

23 MS. RINETTI: Objection, speculation.

24 MR. EVENSON: Rephrase the question.

25 THE COURT: Sustained.

1 MR. EVENSON: Thank you.

2 BY MR. EVENSON:

3 Q. Do you believe that Ms. Nash -- when you asked  
4 Ms. Nash did you ask her this in the context of, do you  
5 know what's wrong with Shaylyn, or did you ask her in the  
6 context of what these medications are for?

7 A. I believe I asked her what she had medication  
8 for.

9 Q. Are you aware of when those medications were  
10 prescribed?

11 A. I don't know the exact date, no.

12 Q. Do you know whether or not Shaylyn brought  
13 those out to Nevada and they just kept being given to  
14 her?

15 A. I believe she was prescribed medications  
16 before being brought to Nevada. I don't know what was  
17 prescribed before being brought to Nevada.

18 Q. I understand that.

19 Did -- now did you ever do any sort of background  
20 check or CPS check on Ms. Nash?

21 MS. RINETTI: Objection, relevance.

22 THE COURT: Sustained.

23 BY MR. EVENSON:

24 Q. Well, did you have occasion to meet  
25 Mr. Richard Nash as some point?

1 A. Yes.

2 Q. Did you meet Mr. Richard Nash?

3 A. Yes.

4 Q. Where did you meet him at?

5 A. At Megan's boyfriend's parent's home.

6 Q. Was he staying there at that time?

7 A. No, I don't believe so.

8 Q. Now, did you ever -- were you aware he was  
9 present when reports were written and those things  
10 involving Ms. Nash?

11 MS. RINETTI: Objection, foundation. Vague.

12 THE COURT: Sustained. Rephrase.

13 MR. EVENSON: I'll rephrase. Thank you, your  
14 Honor.

15 BY MR. EVENSON:

16 Q. July 22nd, 2014, the date this incident was  
17 reported, are you aware Mr. Nash was present at the home  
18 of the boyfriend?

19 A. No.

20 Q. Are you aware he was present when Megan Nash  
21 wrote her statement?

22 MS. RINETTI: Objection, relevancy.

23 THE COURT: Sustained on both grounds.

24 MR. EVENSON: Okay.

25 BY MR. EVENSON:

1 Q. Did Ms. Nash tell you that she was using  
2 physical discipline, PT training with Shaylyn?

3 A. Yes.

4 Q. Did she say why she's doing it?

5 A. She said that she physically used the PT  
6 training because she was stealing things.

7 Q. Did she say whether or not they ever working  
8 out together or ran together or exercised outside of that  
9 physical training?

10 A. I don't believe so.

11 Q. Did you ask?

12 A. I don't recall asking.

13 Q. Did you ever ask -- did you know that one of  
14 Shaylyn's diagnosis from her doctors in Nevada was she was  
15 over weight?

16 A. I was told by Ms. Nash that she was over  
17 weight.

18 Q. And were you told by Ms. Nash that the doctor  
19 told --

20 MS. RINETTI: Objection, hearsay regarding what  
21 the doctor told his client.

22 THE COURT: Sustained.

23 MR. EVENSON: I'll rephrase.

24 BY MR. EVENSON:

25 Q. Did Ms. Nash tell you why she was undertaking

1 the physical discipline and treatment of that?

2 A. Why she was taking --

3 Q. Why she was undertaking the physical  
4 discipline portion of that and working out with Shaylyn,  
5 did she tell you that?

6 A. I'm a little unclear as to -- it sounds like  
7 you are compacting the physical discipline along with the  
8 PT because she was over weight. She said she was using  
9 PT, physical training, as a form of physical discipline  
10 because she stolen items from Mr. Nash -- Shaylyn stole  
11 from Ms. Nash.

12 Q. Did you research Shaylyn's background?

13 A. I did not research to the extent of -- I  
14 didn't research all the way back to when she came into  
15 care.

16 Q. What you did do, did you see whether or not  
17 she had a history of lying and stealing?

18 MS. RINETTI: Objection, foundation.

19 MR. EVENSON: Goes toward all these --

20 THE COURT: If this witness doesn't have  
21 foundation for it, you can't ask the question. Lay the  
22 foundation and ask the question and see if she can have a  
23 reasonable answer.

24 You don't get to supply the answer. I know this is  
25 cross-examination, but you still to have a foundation for

1 the question.

2 Fair enough. Sustained.

3 BY MR. EVENSON:

4 Q. In your investigation did you become aware  
5 through any source at any time of any history that Shaylyn  
6 may or may not have had with stealing or not or lying or  
7 not?

8 A. Ms. Nash said she had a history of stealing.

9 Q. Did you research that any further?

10 A. No.

11 Q. Do you have any reason to doubt Ms. Nash?

12 MS. RINETTI: Objection.

13 THE COURT: Overruled.

14 BY MR. EVENSON:

15 Q. Do you have any reason to doubt Ms. Nash?

16 A. No.

17 Q. Did you know whether or not Shaylyn was ever  
18 diagnosed with being violent toward anybody?

19 A. I don't.

20 Q. Did Ms. Nash report that to you?

21 A. No.

22 Q. Did you ask Ms. Nash that question  
23 specifically to elicit an answer?

24 A. No.

25 Q. So Ms. Nash may have known that but because

1       you didn't ask --

2                   MS. RINETTI:  Objection, speculation.

3                   MR. EVENSON:  Okay.

4                   THE COURT:  Sustained.

5       BY MR. EVENSON:

6           Q.       I want to go forward. I have a whole bunch of  
7       notes on a whole bunch of things. I notice this note from  
8       7/25 on a trip to the airport.

9                   You didn't have a real clear memory of this until  
10       you reviewed this, right?

11          A.       Yes. It was 3 years ago.

12          Q.       So you reviewed this and said, okay, that's  
13       what I wrote?

14          A.       Yes.

15          Q.       Do you -- when you say that, for example, you  
16       have a whole lot of things said about what Shaylyn said  
17       about her education?

18          A.       Yes.

19          Q.       Being in honor classes?

20          A.       Yes.

21          Q.       Did you verify those statements as true or  
22       false?

23          A.       I did not.

24          Q.       You're on you way to the airport with her and  
25       she says that she doesn't need to be in special education



1 classes and the only reason she's there is because of a  
2 speech delay. Did you verify that one way or another?

3 A. No.

4 Q. Did you ever find out whether or not she had  
5 as A in algebra when she was in the 8th grade?

6 A. I did not.

7 Q. Did you find out if she'd ever gotten less  
8 than a B when she was in school like she told you. Did  
9 you verify that?

10 A. No.

11 Q. Could those things be easily verified what her  
12 grades were?

13 A. I could have requested the records.

14 Q. Or you could have asked Ms. Nash?

15 A. I asked Ms. Nash.

16 Q. What did Ms. Nash say?

17 A. Ms. Nash didn't really say anything about  
18 Shaylyn.

19 Q. Did you ask her about any educational grades?  
20 Did you specifically ask about what grades she got?

21 A. I didn't ask about 8th grade, no.

22 Q. So did you ever compare the testimony that you  
23 gave based on your recollection in this piece of paper,  
24 did you ever compare that to the tape?

25 MS. RINETTI: Objection, vague.

1 THE COURT: Rephrase.

2 MR. EVENSON: I'll rephrase.

3 BY MR. EVENSON:

4 Q. Did you ever compare what you wrote down on  
5 here that Shaylyn told you versus what is seen on the  
6 video tape?

7 A. If I recall, I had seen the video tape before  
8 seeing Shaylyn.

9 Q. I understand that. Did you ever compare the  
10 two?

11 A. I don't recall.

12 Q. So is it -- are you able to compare what's  
13 said in that -- in those statements to you versus a video  
14 tape? Would you be able to do that in the course of your  
15 investigation?

16 A. I didn't have a copy of the video until  
17 later.

18 Q. Did you ever do what I'm asking whether or not  
19 you did?

20 A. No.

21 MR. EVENSON: I have no further questions.

22 THE COURT: Ms. Rinetti.

23 MS. RINETTI: No further questions.

24 THE COURT: Can I see by a show of hands if the  
25 jurors have questions for this witness. It looks like a

1 couple of questions from the jurors.

2 I'll read what written. You answer to the best of  
3 your ability. I'll give counsel the opportunity to see if  
4 they have follow up.  
5 Counsel approach.

6 (Discussion held at the bench.)

7 THE COURT: Did Shaylyn say whether or not she'd  
8 seen the video prior to recounting her version of what  
9 happened.

10 THE WITNESS: She didn't say.

11 THE COURT: In your opinion what was Shaylyn's  
12 attitude toward her aunt at the time when you took her to  
13 the airport.

14 THE WITNESS: What she said to me or in my  
15 opinion, she didn't have ill-will towards Lisa, but she  
16 did say she was happy to go back to Maryland.

17 THE COURT: Thank you.

18 Ms. Rinetti, any follow up.

19 MS. RINETTI: No, your Honor.

20 THE COURT: Mr. Evenson.

21 MR. EVENSON: Can I process.

22 THE COURT: Take your time.

23 BY MR. EVENSON:

24 Q. When you give an answer like that and when I  
25 have to ask this question, I don't have any ill-will

1       toward Lisa. I'm happy to go back to Maryland.

2               They are not listed in the report as being back to  
3 back statements, so I'm assuming they weren't back to back  
4 statements.

5           A.       I didn't say she said she didn't have any  
6 ill-will. I said in my opinion she did not appear to have  
7 any ill will.

8           Q.       The questions were back to back. Are you  
9 saying you have that impression then she verbalized she's  
10 was happy to go back to Maryland?

11          A.       During the course of our conversation she said  
12 she was happy to go back to Maryland.

13          Q.       At that moment did she have a choice?

14          A.       No.

15               MR. EVENSON: Nothing further.

16               THE COURT: All right. Thank you.

17               Thank you, Ms. Davis. You are excused.

18               THE WITNESS: Thank you.

19               THE COURT: State have any further witnesses.

20               MS. RINETTI: At this time the State rests.

21               THE COURT: The State has rested it's case. Mr.  
22 Evenson, is defense prepared to call their witnesses.

23               MR. EVENSON: Your Honor, I appreciate the time  
24 you gave us during the break because if the short  
25 afternoon to try and have witnesses ready.

1           I don't know if they are here yet or not. I would  
2 also like the opportunity to talk with them for a couple  
3 of minutes before I put them on the stand. Although y0ou  
4 didn't necessarily want to break again. However you want  
5 to do things.

6           THE COURT: Check to see if one or both  
7 witnesses may be available.

8           MR. EVENSON: They have not arrived in the time  
9 frame.

10          THE COURT: We'll take a brief recess and see if  
11 we have an understanding when they will arrive to be  
12 called today.

13                               JURY ADMONITION

14          During the recess, ladies and gentlemen, you are  
15 admonished not to converse among yourselves or with anyone  
16 else, including, without limitation, the lawyers, parties  
17 and witnesses, on any subject connected with this trial,  
18 or any other case referred to during it, or read, watch,  
19 or listen to any report of or commentary on the trial, or  
20 any person connected with this trial, or any such other  
21 case by any medium of information including, without  
22 limitation, newspapers, television, internet or radio.

23          You are further admonished not to form or express any  
24 opinion on any subject connected with this trial until the  
25 case is finally submitted to you.

1           Before I have you step out, my marshall is going to  
2 go ahead and make sure the witness is ready.

3           See you back in 10 minutes.

4                       (Brief recess taken.)

5           THE COURT: Are we ready for the jury.

6           Resuming in the trial. All counsel and parties  
7 are present with our jurors.

8           MR. EVENSON: Yes.

9           THE COURT: Come forward and my clerk will swear  
10 you in.

11           THE CLERK: You do solemnly swear the testimony  
12 you are about to give in this action, shall be the truth,  
13 the whole truth and nothing but the truth, so help you  
14 God.

15           THE WITNESS: I do.

16           THE CLERK: State and spell your name for the  
17 record.

18           THE WITNESS: Megan Nash, M-e-g-a-n, N-a-s-h.

19                       DIRECT EXAMINATION

20           BY MR. EVENSON:

21           Q.       Megan, you're back here. Were you having a  
22 hard time expressing some things yesterday?

23           A.       Yes.

24           Q.       Why?

25           A.       Because I'm anxious. It's like hard to

1 articulate my words when I'm, like -- I feel like I'm  
2 being, basically -- I don't know, not forced, but people  
3 are trying to -- God.

4 Okay. So when I was 15, I had issues, okay. I had  
5 issues with my mom at home. I can't like --

6 Q. Take a breath. Stop and hold on. I have to  
7 ask questions. This is how this works.

8 First of all, did anybody tell you anything to say,  
9 their side or my side, tell you what to say?

10 A. No.

11 Q. Have you felt from anybody that there were  
12 high expectations or low speculations of you or anything  
13 else?

14 A. Yes.

15 Q. So without getting into that, let go back to  
16 2014. When you wrote the statement now in evidence here,  
17 you testified yesterday you overexaggerated, et cetera, et  
18 cetera?

19 Do you maintain that testimony today?

20 A. Yes.

21 Q. Did you at any point try to tell the district  
22 attorney's office you wanted to withdraw that statement?

23 A. Yes.

24 Q. What was the district attorney's office  
25 response?

1           A.       That it was unnecessary or something.

2           Q.       Okay. Did you make a call to somebody there  
3 at the DA's office?

4           A.       Yes.

5           Q.       This was awhile back, if I'm not mistaken?

6           A.       Yes.

7           Q.       How long ago?

8           A.       Year-and-a-half, 2 years ago.

9           Q.       And did you know that a social worker made a  
10 note that indicated the one of reasons why you made the  
11 call was because you wanted to go stay with a boyfriend or  
12 something to that effect?

13                   MR. VILLANI: Facts not in evidence.

14                   THE COURT: I'm going to overrule on that basis,  
15 but the question is if she has information about the  
16 reason for the call, ask her the question. What the  
17 social worker put in her note she hasn't seen.

18                   MR. EVENSON: Fair enough.

19 BY MR. EVENSON:

20           Q.       Is it possible you told a social worker some  
21 reason for getting law enforcement involved or making the  
22 call regarding your cousin that was not --

23           A.       Like I said, I don't remember speaking to any  
24 social workers. I -- there were problems at home that I  
25 didn't want to be home because it was -- there was



1 conflict.

2 Q. With who?

3 A. Me and my mom and Chea. Basically  
4 everybody.

5 Q. Chea is who?

6 A. My brother.

7 Q. Is he older or younger than you?

8 A. Older.

9 Q. How old is he?

10 A. 28 now.

11 Q. So at that time her was roughly 24 or 25?

12 A. Yeah.

13 Q. Was there at some point a physical altercation  
14 between him and your boyfriend at that time?

15 A. Yes.

16 Q. Was that right around the time of this report  
17 to police about what happened?

18 A. Yes.

19 Q. And did -- with regard to that particular  
20 issue, were you allowed or -- I guess did you go live with  
21 your boyfriend and his family after that?

22 A. Yes.

23 Q. And was part of the conflict with your mom  
24 over the incident that took place involving you and your  
25 boyfriend a couple of weeks prior to July 21st of 2014?

1 A. Yes.

2 Q. What was the nature of that incident?

3 A. We were on the floor in the bedroom.

4 Q. Who is we?

5 A. Lonny and myself.

6 Q. Lonny Hennessy?

7 A. We were laying on the floor and we were  
8 watching a movie. The light was on. The door was open  
9 but my mom, when she gets stressed about things kind of  
10 like gets upset about little things more then she would.

11 Q. Well, you are saying it's a little thing or a  
12 big thing. Were you under blankets?

13 A. Yes.

14 Q. So you are saying the door was open?

15 A. Yes.

16 Q. You and boyfriend were under blankets when you  
17 were 14 or 15 at that time?

18 A. Yes.

19 Q. How old was Lonny?

20 A. 16.

21 Q. And this is in her house, right?

22 A. Yes.

23 MR. VILLANI: I would object to leading.

24 THE COURT: This is your witness.

25 MR. EVENSON: I'm trying to get through it.

1 THE COURT: A little more foundation.

2 BY MR. EVENSON:

3 Q. So what happened when she saw you and your  
4 boyfriend underneath the blanket in your room watching a  
5 movie with the door open?

6 A. She got upset and her and Lonny were  
7 arguing.

8 Q. Lonny started arguing with your mom?

9 A. Yes.

10 Q. Over what?

11 A. Over the fact that she was upset about us --  
12 she said going to call his parents, okay. She was going  
13 to call his parents. He said he doesn't care. And she  
14 said something about him being disrespectful, then he  
15 left.

16 Q. Okay. That was within a couple of weeks of  
17 this incident occurring as well?

18 A. Yes. Probably. I don't know. I don't have  
19 like a specific time frame.

20 Q. Okay. I understand.

21 And just to be hundred percent clear on this  
22 particular issue. The issue that you related in your  
23 written statement regarding the knife, that was told to  
24 you by somebody else?

25 A. My brother.

1 Q. And did you -- were you present when that took  
2 place?

3 A. No.

4 MR. EVENSON: Nothing further.

5 THE COURT: Mr. Villani.

6 MR. VILLANI: Thank you.

7 CROSS-EXAMINATION

8 BY MR. VILLANI:

9 Q. Megan, did you talk to your mom's attorney  
10 since you testified yesterday?

11 A. Since what? I talked to Steve in the room.

12 Q. Any other conversation other than that?

13 A. No.

14 Q. How did you get the call to come here?

15 A. My mom -- well, I didn't answer. She tried  
16 calling to come back.

17 Q. How did you know to respond to the court  
18 house?

19 A. I got a missed call talking about -- you guys  
20 told me I had to come back to your office. You said --  
21 Steve said I had to come back.

22 Q. You received a call from Mr. Evenson?

23 A. I had missed calls from Steve and my mom.

24 Q. Do those missed calls leave messages?

25 A. I don't know. I got a text.

1 Q. They told you to come back here today?

2 A. I also got a call from Chea, all 3 of them.

3 Q. Fair enough. You said you told the DA's  
4 office you wanted to withdraw your statement a  
5 year-and-a-half ago. What statement are you referring  
6 to?

7 A. The one you have.

8 Q. What did you want to withdraw?

9 A. The whole thing.

10 Q. Because of what?

11 A. I overexaggerated.

12 Q. There's nothing in there that's true?

13 A. Sorry. You are making me mad.

14 Q. I'm not trying to. Are you saying that  
15 everything in that statement is not true?

16 A. I'm not saying everything in the statement  
17 isn't true, but for the most part it has been  
18 overexaggerated.

19 Q. Things weren't good for you at your house with  
20 your mom in this time period, right?

21 A. Yes.

22 Q. You wanted to get out of there?

23 A. Yes.

24 Q. You took the video because you wanted to get  
25 your mom in trouble?

1 A. Yes.

2 Q. You knew your mom was going to get physical  
3 didn't you?

4 A. I knew she was?

5 Q. Yeah.

6 A. What do you mean. When I took the video I was  
7 taking a video of her doing PT. That's how it started.

8 Q. Why were you taking a video of her doing PT?

9 A. Because it -- I was trying to make a point to  
10 people I was around.

11 MR. VILLANI: No further questions.

12 THE COURT: Mr. Evenson.

13 REDIRECT EXAMINATION

14 BY MR. EVENSON:

15 Q. Just briefly. Those videos were taken about 3  
16 weeks before the call was made, right?

17 A. Yes.

18 Q. There is a very brief one of the animal thing  
19 going on. Was that taken on a different date or the same  
20 date?

21 A. Yes.

22 Q. When you say you exaggerated, you went through  
23 yesterday item by item what was exaggerated what was on  
24 the tape and what was false and you went through all of  
25 that yesterday with Mr. Villani, right?

1           A.       Yes.

2           Q.       You went through it with me?

3           A.       Yes.

4           Q.       Are you changing any of that at all or are you  
5 standing by that?

6           A.       I'm standing by that.

7           Q.       That's why you wanted to withdraw the  
8 statement?

9           A.       Yes.

10           MR. EVENSON:  Nothing further.

11           THE COURT:  Any additional questions.  We may  
12 have a question.

13           Counsel.

14                   (Discussion held at the bench.)

15           THE COURT:  It appears to be broken down in  
16 questions, but really it's one full question.  So I'll  
17 read it all through and you can answer to the best of your  
18 ability to the jurors.

19                   Do you believe that your mom's actions when she  
20 is stressed excusable whether it's yelling PT -- physical  
21 training -- cursing, hitting, is this a form of discipline  
22 you agree with.

23           THE WITNESS:  No, it's not.  But I'm sure  
24 everybody in here has been stressed out, but not to the  
25 point where you are putting on 5-K runs, trying to adopt

1       your niece, trying to do things for the VFW, killing  
2       people with drones, then just multiple other things that  
3       are personal to her that have built up this situation in  
4       her life. If I genuinely believed my mom was a child  
5       abuser at this time, I would let you know. Because this  
6       is fucked. Like seriously.

7               THE COURT: Any further questions for, Ms.  
8       Nash.

9               MR. VILLANI: No.

10              THE COURT: Mr. Evenson.

11              MR. EVENSON: No, your Honor.

12              THE COURT: Thank you. Ms. Nash, you are  
13       excused.

14              MR. EVENSON: Mr. Evenson.

15              MR. EVENSON: Your Honor, I hesitate to keep  
16       waiting for -- I just need --

17              THE COURT: May I have counsel at the bench,  
18       please. We'll take a few moments. We may have an  
19       additional witness to call.

20              MR. EVENSON: Thank you. Ladies and gentlemen,  
21       appreciate it.

22                               (Brief recess taken.)

23              THE COURT: Any additional witnesses to call  
24       today.

25              MR. EVENSON: No, not today.



1           THE COURT: May I have counsel at the bench for  
2 a scheduling issue.

3           (Discussion held at the bench.)

4           THE COURT: Ladies and gentlemen, we are  
5 complete for this afternoon.

6           The reason I'm having somewhat of a discussion for  
7 scheduling purposes is we're trying to figure out time  
8 wise if it's possible to complete evidence and be able to  
9 give you instructions, close and allow you to deliberate  
10 tomorrow. We're not hundred percent certain how that may  
11 go.

12          We have a few things take care of to be able to do  
13 that so if I return you at 1:00, there's a possibility  
14 there would be a longer break in the afternoon. There's  
15 also the possibility that we'll adjourn early tomorrow and  
16 bring you back on Friday. I'm sorry I can't be more  
17 specific.

18          I know we qualified you until Friday. I know you  
19 prepared for that. If we are complete with trial, my  
20 preference is to give you the opportunity to receive it  
21 and deliberate tomorrow. Because I can't be hundred  
22 percent certain, but we'll try and be prepared to proceed  
23 in whatever way ultimately the witnesses and our process  
24 dictate.

25          I'm going to ask you to return at 1:00 tomorrow. And

1 just be prepared for the possibility, whether it's a book  
2 or something, that you might have a chunk of time or  
3 longer break in the afternoon.

4 Please return at 1:00 tomorrow.

5 JURY ADMONITION

6 During the recess, ladies and gentlemen, you are  
7 admonished not to converse among yourselves or with anyone  
8 else, including, without limitation, the lawyers, parties  
9 and witnesses, on any subject connected with this trial,  
10 or any other case referred to during it, or read, watch,  
11 or listen to any report of or commentary on the trial, or  
12 any person connected with this trial, or any such other  
13 case by any medium of information including, without  
14 limitation, newspapers, television, internet or radio.

15 You are further admonished not to form or express any  
16 opinion on any subject connected with this trial until the  
17 case is finally submitted to you.

18 See you tomorrow at 1:00.

19 (Jury dismissed for the evening.)

20 THE COURT: We still have to have a discussion  
21 to figure out how we're going to settle jury instructions.  
22 I have hearings in the morning that are likely to take all  
23 morning, so I don't have the luxury of settling them in  
24 the morning. I know you all probably were not prepared to  
25 have trial resume in the morning.

1            Obviously, I have to give staff an opportunity  
2            for lunch as well. Those have been in short supply this  
3            week. So my thought process is that if I have all the  
4            tools and information available to me prior to the lunch  
5            recess, I can put together and complete the bulk of what  
6            we need and do that at some point when we complete  
7            testimony.

8            If the testimony goes long enough into the afternoon  
9            that we can not complete them, so be it. But right now  
10           the way things are lining up, it appears to me we should  
11           be able to complete testimony, instruct, and close  
12           tomorrow.

13           So I don't want anybody predisposed to assume that  
14           that's not going to happen. Please be prepared for the  
15           closings tomorrow.

16           In addition to that, we -- I have bulk of  
17           responsibility with the jury instructions. It's not going  
18           to be easy, because at this point I still don't believe  
19           they are complete from the defense side. Mr. Evenson, in  
20           my opinion, everything you need to know about what  
21           instructions you need to provide to the court you know at  
22           this point, so by all means, have a meal and by 9:00  
23           tonight I need have to all the instructions you intend to  
24           propose.

25           My preference is that you send one complete email

1 with all of them including in it, so we're not guessing if  
2 there's one over here and one over there because we have  
3 multiple emails One email from you by 9:00 tonight,  
4 inclusive of all the instructions you are proposing.

5 MR. EVENSON: Yes.

6 THE COURT: I can anticipate now that I've gone  
7 through them which are going to be opposed and which are  
8 not. I think we can in relatively quick order settle  
9 them. But to the extent that you have anything you want  
10 me to review, as far as your opinions about each others, I  
11 need to have that by noon tomorrow. Okay. I don't know  
12 when I'm going to break my court, but it give me the  
13 opportunity once I have it to fold in some additional  
14 information in my mind as I'm putting it together what is  
15 my, basically, proposed set.

16 Counsel have questions about how this is going to  
17 go.

18 MS. RINETTI: Judge, if I knew, would you like a  
19 bench memorandum regarding the opposing counsel's jury  
20 instructions. My only -- I'll try to do them tonight  
21 without having the finalized set, we can't refer to which  
22 number, do we'll do our best.

23 The second of all is hopefully the court -- we kind  
24 of figured how the court was going to handle jury  
25 instructions, so after Mr. Evenson has done the variety of

1 emails, this morning we also emailed our set again with  
2 cites and legal cites.

3 THE COURT: Fine.

4 MS. RINETTI: And the additional ones.

5 THE COURT: Fine. We asked for them to be  
6 provided with cites. Neither side did so I wasn't going  
7 to take either side to task.

8 If you have cites to provide, you're welcome to. If  
9 you haven't you need to be prepared to argue and provide  
10 whatever support for the argument you have tomorrow for  
11 the ones you are a proponent of.

12 I'll take each of the things submitted from Mr.  
13 Evenson, make your commentary to that. Do that tonight,  
14 if you have any. Then whatever comes in to add to it,  
15 fine. I'll pull it all together when it's time for me to  
16 do mine. Of course, the defense, when it's appropriate,  
17 do the same thing. But all I'm looking for, I don't care  
18 what it looks like, I need you two, each side, to  
19 meaningfully communicate with me if you have an opposition  
20 to one or more instruction the other side has proposed, to  
21 tell me what that is by noon tomorrow.

22 Any question about what I'm asking.

23 MR. VILLANI: Thank you.

24 THE COURT: Mr. Evenson.

25 MR. EVENSON: No, your Honor.

1           THE COURT: Any doubt that you are going to be  
2           able to comply with the court's request.

3           MR. EVENSON: Hundred percent doubtful. I'll do  
4           everything I can to do it.

5           You've got me doing closings. You got me providing  
6           instructions with legal citations, any opposing on theirs,  
7           and prepare our witness and everything else.

8           No problem.

9           THE COURT: Mr. Evenson, sit back down. Your  
10          recap of what I just said bears nothing to what I said. I  
11          didn't say you had to prepare cites. I didn't say you had  
12          to provide lengthy argument. I am giving you until 12  
13          noon tomorrow. The only thing asking for tonight, the  
14          only thing I'm asking to receive by 9:00, which is 3 hour  
15          and 15 minutes from now, is the few, 4 or 5, you mentioned  
16          additional instructions that you had that you will provide  
17          them to us.

18          Other than that, this is trial. Of course you need  
19          to be prepared to make your closing remarks. You need to  
20          be prepared to exam your client, witness. Of course, you  
21          are prepared to examine your client witness. I have no  
22          doubt you have that. So I don't even know what we're  
23          talking about. But you want to keep making those  
24          disclaimers for the record, feel free. I'm not asking for  
25          a response now. I'm not asking for anything here that is

1 remotely unreasonable. You should be prepared for your  
2 witness. You should be preparing for your closings. This  
3 is the time for trial. I don't know when you expected to  
4 do all of these things, but I'm sorry the somehow it's all  
5 coming to pass at the same time. That's trial practice.  
6 I'm asking for one thing from you, which should have been  
7 done Monday and should have been done last night now I'm  
8 asking for it to be done night. Which is whatever  
9 instructions you have to propose, please give them to me.  
10 And by 12 noon tomorrow, whatever that hour time frame is,  
11 that you have commentary you wish to make to theirs and  
12 any citations you wish to propose, give them to me.

13 If you don't and you wants to wait until the time  
14 frame to settle them, that's fine to. I'm just asking to  
15 you to do the very basics that will allow the court to  
16 complete its job and deliver this to the jurors. Okay. I  
17 don't think that's too much to ask.

18 We're adjourned. Thank you all.

19  
20  
21  
22 \* \* \* \* \*  
23  
24  
25

CERTIFICATE  
OF  
CERTIFIED COURT REPORTER

\* \* \* \* \*

I, the undersigned certified court reporter in and for the  
State of Nevada, do hereby certify:

That the foregoing proceedings were taken before me at the  
time and place therein set forth; that the testimony and  
all objections made at the time of the proceedings were  
recorded stenographically by me and were thereafter  
transcribed under my direction; that the foregoing is a  
true record of the testimony and of all objections made at  
the time of the proceedings.

A handwritten signature in cursive script, appearing to read "Sharon Howard", is written over a horizontal line. The signature is fluid and includes a large, circular flourish at the end.

Sharon Howard  
C.C.R. #745



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Supreme Court Number: 76098

IN THE SUPREME COURT OF THE STATE OF NEVADA

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LISA ANN NASH,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

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Appeal from the Eighth Judicial District Court of Nevada

**APPELLANT LISA ANN NASH'S APPENDIX**

**VOLUME II**

THERESA RISTENPART, Attorney-at Law  
Nevada Bar Number 9665  
464 South Sierra Street  
Reno, NV 89501  
(775) 200-1699

Counsel for Appellant

**APPELLANT LISA ANN NASH'S APPENDIX**

**VOLUME II**

Jury Trial, Day 2- September 12, 2017

APP 0236-0436

1 TRAN  
2 CASE NO. C-15-308570-1  
3 DEPT. NO. 25  
4

5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

7 \* \* \* \* \*

8  
9 THE STATE OF NEVADA, )  
10 )  
11 Plaintiff, ) REPORTER'S TRANSCRIPT  
12 ) OF  
13 vs. ) JURY TRIAL  
14 LISA ANN NASH, )  
15 )  
16 Defendant. )  
17 \_\_\_\_\_ )

18 BEFORE THE HONORABLE KATHLEEN DELANEY  
19 DISTRICT COURT JUDGE

20 DATED: TUESDAY, SEPTEMBER 12, 2017  
21  
22  
23  
24

25 REPORTED BY: Sharon Howard, C.C.R. #745

1 APPEARANCES:

2 For the State:

DENA RINETTI, ESQ.

3 JACOB VILLANI, ESQ.

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6  
7 For the Defendant:

STEVE EVENSON, ESQ.

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\* \* \* \* \*



1 LAS VEGAS, NEVADA; TUESDAY, SEPTEMBER 12, 2017

2 P R O C E E D I N G S

3 \* \* \* \* \*

4  
5 THE COURT: We're outside the presence.

6 MS. RINETTI: Mr. Evenson brought up a point  
7 that he's attempting to file a motion in limine for the  
8 State referencing the named victim's condition. In all  
9 due candor to the court, I do intend to elicit that  
10 information. We expect it to come out in trial during my  
11 opening statement. So instead of being objecting to  
12 during my opening, I wanted to bring it to the court's  
13 attention. I do plan, in fact, on mentioning the special  
14 needs of the victim.

15 THE COURT: I appreciate you letting us to that.  
16 I would note that we get a report -- I've bene made aware  
17 of this recently -- counsel for the State is aware of  
18 this -- it's a relatively recent development. We get a  
19 report every day of all of matters that have been filed in  
20 any of our cases. It's quite lengthy.

21 MR. EVENSON: I don't think it got filed  
22 yesterday.

23 THE COURT: It's reflecting it's pending, but we  
24 don't have the document. We -- unless you provide it to  
25 us or to counsel, we don't get the document along with the

1 notice. Until they populate into the system, they are not  
2 accessible to us. I still have not seen the substantive  
3 argument. I know it was styled as a motion in limine to  
4 preclude reference to the -- I forget what the title  
5 was -- reference to preclude reference to the -- you got  
6 it there. You know what the title is.

7 MR. EVENSON: It was motion in limine  
8 regarding --

9 THE COURT: The actual title to it. I want to  
10 reference it in the reference.

11 MR. EVENSON: It was a motion in limine --  
12 parentheses -- of mental condition of alleged victim.  
13 Something along those lines.

14 THE COURT: We know what the subject matter is.  
15 I was going to reference it for the record since we know  
16 it's going to be coming into the record at some point as a  
17 filing.

18 As the court noted, under our statutory requirements,  
19 it is an untimely filing, but the court indicated  
20 yesterday and believed this is correct it's still an issue  
21 that is subject to objection. However, again, as the  
22 court indicated would not have speaking objections. It is  
23 this court's determination -- I did review these matters  
24 as they were discussed yesterday and would be prepared to  
25 address them -- that it is relevant information. It is not

1 out weighed by prejudice. I do not have a problem as to  
2 its relevancy. I'll overrule that objection. We can have  
3 it be a standing objection, if you so wish, but I'm not  
4 going to allow there to be argument made to the jury.

5 MR. EVENSON: You haven't allowed argument.

6 THE COURT: We had significant argument  
7 yesterday, Mr. Evenson.

8 MR. EVENSON: That's fine.

9 THE COURT: Mr. Evenson, I'm going to set the  
10 ground rules for this trial right now. You can be  
11 frustrated and slump in your chair all you want, but I'm  
12 not having it. Every time I say something here you make  
13 an argument that somehow this court is just going rough  
14 shot over the parties and doing what it's going to do  
15 regardless of what you think it should be the case, or  
16 what State think should be the case, whatever we're going  
17 to do in our case. That's not how this works. There was  
18 a full blown argument yesterday in this courtroom on this  
19 record of what your argument was, what the counter  
20 argument was and the whole situation was discussed. I'm  
21 not precluding anyone from making an argument. If you  
22 think you need to make more oral argument, it probably  
23 would have been better if you had served us with your  
24 written motion and we still could have seen what you had  
25 to say then we could have made the determination. It's

1 procedurally untimely. It is not going to be considered  
2 as a substantive motion. However, I understand what your  
3 argument is. If you want to make more of a record this  
4 morning, I'm not precluding you from doing that. I'm  
5 telling you I reviewed everything, other than I didn't  
6 have your written motion because it didn't get provided as  
7 a courtesy copy, but I have know of knowing what your  
8 argument is. I went back and looked at the statute. I  
9 looked at the charges. I looked at the admissibility  
10 rules, and I reviewed everything so I could actually tell  
11 you my opinion here today. If you would like to make a  
12 record, you are welcome to do so.

13 MR. EVENSON: Your Honor, thank you. I would  
14 like to add to what was said yesterday.

15 THE COURT: Please.

16 MR. EVENSON: The bottom line is neither the  
17 charged offenses nor the defense to be raised by the  
18 Defendant has anything to do with the alleged victim's  
19 alleged mental health issues. Again, there are multiple  
20 issues with raising what I believe they intend to raise at  
21 this time.

22 Additionally, Judge, I am very concerned that that  
23 issue as it was during jury selection, in my opinion, will  
24 be the star of the show, and that they will continue to  
25 refer to that throughout the trial every opportunity they

1 get, in short, to get those 14 people to hate my client,  
2 period, and to find guilty against her, which is their  
3 job. I'm saying they're crossing the line in doing it by  
4 consistently and constantly reflecting to something that  
5 is already known from their vantage point that this child  
6 has special needs.

7 It is our contention, okay, if that's what you're  
8 saying, prove it, I guess. And until they to that, I  
9 don't think it should come in as evidence. And that's  
10 where we are on the issue they've raised.

11 I do intent to object. I will object during opening.  
12 I will object during testimony, unless you're telling me  
13 right now that any time she mentions that term, we'll  
14 having a standing objection in a second. Because I don't  
15 want to put you in the position of having to rule. If we  
16 have an understanding we'll have an objection now and let  
17 the free flow of the trial continue, I'm okay with that,  
18 as long as it's clear on the record.

19 Thank you.

20 THE COURT: Ms. Rinetti, do you want to respond  
21 to any of the issues. He did raise again the issue of  
22 relevancy on at least some level.

23 Maybe before you respond, Ms. Rinetti. Mr. Evenson,  
24 you eluded there are multiple issues relating to this.  
25 Can you flag what they are. The court's impression in

1 your argument is it's not relevant. And to the extent the  
2 court deems it's relevant, it's out weighed by substantial  
3 prejudice.

4 Are there other issues.

5 MR. EVENSON: When you say other issues --

6 THE COURT: You just said multiple issues. I'm  
7 trying to figure out what you mean.

8 MR. EVENSON: I guess I mean multiple issues  
9 under the flag you raised. First of all it's intended to  
10 get the sympathy of the jurors. And thank you for the  
11 opportunity.

12 It's intended to get the sympathy of the jurors  
13 towards the victim and against my client. It's intended to  
14 make my client seem like she was doing something horribly  
15 oppressive that would not have been overly oppressive to a  
16 quote, unquote, normal child.

17 Then we get into what isn't normal. Then they get  
18 into what is special needs. To the extent they want to  
19 argue that I think they have to say exactly what they're  
20 talking about. All we've heard is special needs.

21 I will say this during voir dire yesterday which she  
22 was entitled to do, she never brought up the issue with  
23 this child. By the time she was done with special needs  
24 and everything else, everybody on that jury was assuming  
25 we're talking about a 6 year old or 7 year old. Nobody

1 had any idea this child was 15 years old -- 14 or 15 years  
2 old the day the event took place -- allegedly took  
3 place.

4 Judge, it is those nuggets of misleading information  
5 that I feel once they're rang they're very hard to unring  
6 and that's why I'm bring up the issue. That's why I'm  
7 objecting as to relevance.

8 If they are unable or unwilling to provide somebody  
9 that can say these are the exact diagnoses. These exact  
10 diagnoses make this person special needs. This is what  
11 Ms. Nash knew about these special needs. This is what Ms.  
12 Nash was told about parenting these special needs, then I  
13 feel the information is irrelevant.

14 They have given me no indication nor will I see  
15 anything in any discovery that I have that any of those  
16 issues I just raised are any piece of evidence or any  
17 piece of information that is going to come before this  
18 court from any witness. That's why I'm raising it.

19 Judge, I apologize. I know you didn't want speaking  
20 objections. I will respect that.

21 THE COURT: We're not in front of the jurors.  
22 This is exactly the time to have speaking objections.

23 MR. EVENSON: I understand, Judge.

24 Right now I'm laying it all out there before  
25 opening statements are done. I'm laying it all out there.

1 I don't have any information that tells me that and I  
2 believe Ms. Nashes' testimony is going to contradict that.  
3 Again, I don't have any information from the State that  
4 says "X" diagnoses was made by "X" doctor and "X"  
5 information was told to Ms. Nash about parenting this  
6 child as by social worker or by a doctor or anybody.

7 Now, we can get into the meat of that, but to  
8 run around and parade and waive the slang of special  
9 needs, special needs, special need, this is a child who  
10 has a job. This is a child that's gone to regular school.  
11 This is a child that has an IEP. There are lots of kids  
12 that have IEPs that are not special needs. Just because  
13 you have an IEP does not make you special needs.

14 So I don't know where we go with that. I don't know  
15 where the image they're trying to portray to the jury is.  
16 I guess, what I'm trying to say is if this child is as  
17 special needs as they say she is then I need -- it may  
18 come out when she testifies, by her appearance, by her  
19 actions, by her demeanor. If they want to make arguments  
20 on that, that's open season. I can't prevent that.

21 If they want to go out there and throw up all  
22 these -- what's the word -- doggedness about certain  
23 terminology meaning certain things that make people react  
24 in certain ways, that's where I draw the line on behalf of  
25 my client.



1           Thank you.

2           THE COURT: There was a lot there to try to  
3 address. I don't necessarily need to address all of it,  
4 Mr. Evenson.

5           But, first of all, I'm not going to make my rulings  
6 in this case at any point in time or any case based on the  
7 speculation of what someone's theory, motivation of  
8 putting in evidence might be.

9           It's either relevant evidence and it comes in and  
10 it's not substantially out weighed by the prejudice, or  
11 it's irrelevant or it's out weighed by prejudice and it  
12 doesn't come in. Those are our issues. Your speculation  
13 as to what their motivations might be about how they're  
14 going to use it or why they're wanting to use it, it's not  
15 something the court can base its rulings on.

16          You referenced, again, how it was sort of the key  
17 aspect of voir dire was that there was a reference to this  
18 how would certain parents handle special needs. The  
19 record will reflect how much of voir dire focused on that.  
20 I disagree that it was the key point. I don't know what  
21 the arguments are going to be.

22          The issue is we have a party here who is going to  
23 testify and to the extent there is a basis to describe the  
24 individual a certain way that they believe the evidence  
25 will support, they're entitled to do that. If it comes

1 out from the demeanor or testimony, from the appearance,  
2 from other witnesses that's up to them in their opening  
3 statements to put in evidence they believe can and will  
4 support throughout the trial.

5 Your statement of what the evidence has to be of a  
6 certain quality or quantity, I'm sorry, I don't -- I  
7 respectfully disagree that there has to be certain  
8 diagnoses or that there has to be certain instructions  
9 have been given to Ms. Nash for parenting should be given  
10 here. They have charges. They have elements of the  
11 charges. They have to met the elements of the charges.  
12 And my determination that the -- however we want to phrase  
13 it, needs of the child, mental capacity of the child, the  
14 circumstances of what they are relevant and are not  
15 substantially out weighed by prejudice.

16 Obviously, through the course of trial if it turns  
17 into an emphasis and focus on information in a certain way  
18 that doesn't appear to be relevant, so be it. The court  
19 will address your objection. I'm not forcing you in any  
20 way to have a standing objection. What I'm telling you is  
21 that if there is an appropriate time to object in the  
22 opening, you can make an objection and say relevancy, and  
23 I will, as you now from this discussion, overrule.

24 MR. EVENSON: And we'll move on.

25 THE COURT: To the extent it comes up again in

1 trial for testimony, you should pose your objection. You  
2 should not waive your objection or be perceived as waiving  
3 any objection you might have in the testimony.

4 What will not be appropriate is continuing objections  
5 in the same circumstance of either the opening or a  
6 witness once the ruling has been made. If you make a  
7 subsequent objection that we're basically talking about  
8 the same thing here, I will note your objection and  
9 indicate that it's understood to stand for this particular  
10 situation. But I don't want you to feel that the court  
11 has said nothing that would indicate you should somehow  
12 sit on any objection you need to make. My point is  
13 speaking objections that are inclusive of argument in  
14 front of the jury.

15 MR. EVENSON: Understood.

16 THE COURT: I think we know where we're going.  
17 If there are other things that we should address, I'm  
18 going to let those go for now because we are getting late  
19 in starting with jurors. I'd like to start with them as  
20 timely as possible.

21 Ms. Rinetti, is there anything from the State's  
22 perspective to wrap up this discussion you feel the State  
23 should address, either the relevancy issue. I know there  
24 was quite a few significant record made yesterday on that  
25 point in terms of how that came up in voir dire, how it's

1 intended to be used in trial.

2 Is there anything you want to say at this point.

3 MS. RINETTI: No, your Honor. I think you've  
4 covered it.

5 THE COURT: We will proceed with bring in the  
6 jurors.

7 MR. EVENSON: Judge, I have a motion.

8 THE COURT: One moment.

9 We'll swear them. We'll read the information  
10 and get started with openings and go from there. I'm  
11 sorry. I thought we had addressed your issue.

12 MR. EVENSON: Judge, they're planning on playing  
13 the video tapes that were provided --

14 THE COURT: They're planning on playing videos.

15 MR. EVENSON: During the opening statements.  
16 I'm objecting to that, for the record. I don't think it's  
17 appropriate. They're not in evidence, yet. Once that  
18 bell is rung, I can't unring it either. To the extent  
19 they have a factual basis to believe the video is going to  
20 come in, I believe there's going to be some difficulty  
21 there.

22 THE COURT: Let's address it now. What's the  
23 difficulty. If they're going to put it in their openings,  
24 they haven't indicated that, but if that's true and  
25 there's evidence actually going to be provided in the

1 openings, be it through power point or video, then there  
2 has to be the basis to believe it's going to come in in  
3 evidence. If you have a reason to believe it's going to  
4 come in evidence, then we should address it now.

5 MR. EVENSON: If I can have a moment, your  
6 Honor.

7 THE COURT: Sure.

8 MR. EVENSON: Based upon my discussion with a  
9 percipient witness with regard to the video, I cannot  
10 believe they can lay an accurate foundation to it. If you  
11 need more specifics then that I will be happy to provide  
12 them to you in-camera. I do not wish to show my trial  
13 strategy before the trial to the State, which is why I  
14 don't want the video to come in in opening statements.

15 THE COURT: Mr. Evenson, I don't know how to  
16 address this, so I'll make a blanket statement now and you  
17 can do with it what you will.

18 We are in trial. The hide the ball of what your  
19 strategy is, the hide the ball of what jury instructions  
20 you might be proposing, the hide the ball of whatever this  
21 is you think is your trial strategy is not going to fly  
22 for much longer. I don't know how else to describe that  
23 but that way.

24 At this point you have indicated you don't believe  
25 they will be able to make the foundation to bring in the

1 video. I'll ask the State to respond to that, because I  
2 think that is enough of an objection at this point for us  
3 to have to address it.

4 MR. VILLANI: So we pretrialed with Megan Nash,  
5 who took the videos, approximately 2 hours ago. We showed  
6 her the videos that we burned onto the disc. She verified  
7 to us those are the videos I took. The disc that your  
8 Honor has as State's Proposed Exhibits 1 and 1-A has Megan  
9 Nashes' initials on it. She initialed that disc. Those 4  
10 files on that disc are the 4 files she did, indeed, take.

11 The admission is going to be fairly easy. Do you  
12 recognize this disc. What's on it. What is it.

13 THE COURT: Are these the entirety of the  
14 videos.

15 MR. VILLANI: They are files. She emailed the  
16 files to the police. And that's what we have. They are  
17 self-enclosed files. They are MP4 files from an iPhone.

18 THE COURT: You reviewed them with her and she's  
19 authenticated them.

20 MR. VILLANI: Correct.

21 THE COURT: Mr. Evenson.

22 MR. EVENSON: That is an absolute fabrication of  
23 the factual circumstances in this case. I'm very  
24 disappointed the State does not know the facts that well.

25 What happened, Judge, is that a zip drive at some

1 point was handed to the State. I believe it was an officer  
2 at the scene. That zip drive was handed to the officer by  
3 Ms. Nash. That zip drive, to my knowledge, was downloaded  
4 by the officer.

5 THE COURT: Made by Megan Nash.

6 MR. EVENSON: Yes, correct.

7 And unfortunately I don't know that the State is  
8 aware of this. The zip drive that upon which the videos  
9 came to the State was not made by Megan Nash, nor was she  
10 present when it was made, nor can she verify whether or  
11 not those files were tampered with or not. The State to  
12 meet with her and say are these what you did and  
13 everything else without asking those kind of foundational  
14 questions, I don't know who was present for this  
15 interview. I don't know if it was an investigator or not.  
16 I don't know if co-counsel for the State is going to now  
17 wish to be a witness in the case -- they are the only ones  
18 that met with her, but my meeting with her was very clear  
19 about how the zip drive came to be in possession of the  
20 State.

21 They were not emailed. They were not emailed by her.  
22 They were not emailed on her account. It was a zip drive.  
23 It's in the police report it's a zip drive handed to them.  
24 That zip drive was not made by her and she cannot, from  
25 what she told me and will not verify whether or not it was

1 or wasn't tampered with, because she does not know what  
2 the person did when she handed it to be downloaded to the  
3 zip drive.

4 That is a major foundational issue in this case that  
5 needs to be addressed. I'm not trying to hide any balls  
6 with you, Judge. And let me be very clear. I am not -- I  
7 believe that defense strategy is one of the few  
8 protections that a Defendant has in a criminal case. I  
9 have the jury instruction. We have one copy. We finally  
10 got them printed out about 15 minutes before we came over  
11 here. That's why Ms. Nash was a couple of minutes late.  
12 She had to park her car. If we need a couple more copies  
13 made to give out -- there may be some more depending on  
14 how some evidence comes out. I don't think that's unusual  
15 in this case. We have 20 jury instructions now that we  
16 can present to you and to the State. I'm happy to email  
17 them.

18 I'm not trying to hide anything or do anything  
19 untoward, but on this issue of this tape coming in or this  
20 CD coming in, they did not -- to be clear, Ms. Nash did  
21 not hand them a CD. She handed them a zip drive. I don't  
22 know what was said. I wasn't there. I know what ms.  
23 Megan Nash told me and that is not consistent with what  
24 the State just represented.

25 THE COURT: We'll deal with the issue of jury



1 instructions on a break. I will need the electronic  
2 versions at some point. There can be exchanging of hard  
3 copies as well.

4 Back to Mr. Villani. Obviously, I have two  
5 variations on this evidence. If what Mr. Evenson says Ms.  
6 Nash said to him is accurate, meaning what Ms. Nash said  
7 to him is accurate and not questioning his  
8 representations. But if what she said does not seem to be  
9 consistent what you have said she said to you. So I don't  
10 know if she's present and we can voir dire her to find out  
11 if we can make that foundation now or not. But what  
12 information can you provide.

13 MR. VILLANI: So she's set to be here at 2  
14 o'clock, your Honor. I don't think it's being disputed  
15 that she took the video. What's being disputed is the  
16 way --

17 THE COURT: He just said she didn't take the  
18 videos.

19 MR. EVENSON: I didn't say she didn't take the  
20 videos. They were on her phone. She gave them to  
21 somebody else to put onto a zip drive. She was not  
22 present for that process, had no idea what took place in  
23 that process. She received the zip drive from that person  
24 and gave them to the State. She cannot say whether they  
25 were corrupted, edited, or anything.

1           THE COURT: he said she watched them. She said  
2 they were the ones she took. I thought I heard you say  
3 she didn't take them. I apologize.

4           MR. EVENSON: I may have said it. I speak fast.

5           He's indicating that she's verifying -- again, I  
6 don't know what question was asked. I don't know how it  
7 was asked. She will tell you that she cannot verify that  
8 what is on the video is what she took because she was not  
9 there for the transfer process. She does not know. The  
10 stuff on there looks familiar to her, but she can't say  
11 what it was.

12           She hasn't seen it in 3 years. She doesn't have  
13 a recollection of what is on there. I think her comment  
14 was, well, it looks like what was there. But I don't know  
15 whoever it was that did that did.

16           That's the issue I have from a defense attorney  
17 standpoint. I believe under the case law of the State --  
18 and there are many cases -- that's an important area that  
19 has to be discussed about who transferred it, how it was  
20 transferred and whether or not it was corrupted. I don't  
21 know that the representations of counsel mean much when  
22 compared to what Ms. Megan Nash can testify to.

23           If there is an issue there, presenting those to the  
24 jury is very prejudicial, if it doesn't come in --

25           THE COURT: How long is your opening.

1 MS. RINETTI: 10 minutes. Most of it is the  
2 video.

3 THE COURT: Mr. Villani, can you clarify.  
4 Before now I thought I knew what I'm asking. I thought I  
5 heard counsel say one thing. I thought I heard you say  
6 one thing.

7 Did she watch the videos.

8 MR. VILLANI: Yes.

9 THE COURT: Did she indicate to you that those  
10 were the videos that she took.

11 MR. VILLANI: Yes.

12 THE COURT: Did she express any concern that  
13 those videos had been altered in any way.

14 MR. VILLANI: She did not.

15 THE COURT: Did you ask her any questions about  
16 whether or not those videos had been altered in any way.

17 MR. VILLANI: No. We did not.

18 THE COURT: Did the issue with regard to the  
19 transfer of the video at one point to something and then  
20 back to -- or over to -- so how did they get it to come to  
21 you through a third party.

22 MR. VILLANI: It came to us through the  
23 detective.

24 So my understanding is -- and this is from  
25 pretrial detectives and take into account this is why I

1 know.

2 She emailed them to the detective's laptop. At  
3 some point the videos from the laptop were transferred  
4 onto a thumb drive. That thumb drive was then booked into  
5 evidence. We have a property impound sheet. Then some  
6 time the videos were transferred to us.

7 I can tell you the videos are still dated in there  
8 sub-data.

9 THE COURT: So the only other person involved  
10 with the videos, besides Ms. Nash, was the police  
11 detective.

12 MR. VILLANI: Correct.

13 THE COURT: We have evidence showing the chain  
14 of custody of the videos.

15 MR. VILLANI: The chain of custody is to the  
16 thumb drive and impounded into evidence. That -- we  
17 assume that those videos on there are the same videos.  
18 And what she's authenticated is these are the videos I  
19 gave detectives. These are the ones taken from the date  
20 in question. Chain of custody is kind of a different  
21 issue. The State's position --

22 THE COURT: I'm not saying it's not a different  
23 issue. I'm just trying to clarify all the issues.

24 MR. VILLANI: I'm just trying to --

25 THE COURT: My point is here, the way the

1 discussion was is somebody did a zip drive and somebody  
2 did a thing. I'm thinking there's some random third  
3 person out there and we don't know who they are. I'm not  
4 saying there couldn't be something done by police. I'm  
5 not trying to suggest that either. I'm saying we've got a  
6 chain of custody that shows videos coming in. We've got a  
7 thumb drive created and put into evidence. We've got that  
8 evidence then going through a chain to now. And  
9 ultimately what you have is you showing the actual videos,  
10 not just the title on a computer, but the actual videos  
11 and her telling you those were the videos.

12 MR. VILLANI: That's correct. She had us turn  
13 to volume down. It was upsetting to her, but yes we  
14 showed her the videos.

15 THE COURT: Mr. Evenson, any response.

16 MR. EVENSON: Yes.

17 I'm trying to read a 3-page police report where  
18 it's discussed about the handing in of the USB drive. It  
19 is the report of -- I'm not sure which one it is, but it  
20 talks about that. Anyway, it talks about -- on the back  
21 page it says Officer S. Witham secured the USB that  
22 contained the videos of Ms. Shelton into evidence at the  
23 Northwest Area Command. For further details see Megan's  
24 voluntary statement.

25 I believe, your Honor, that there is no evidence

1       indicating who made the USB drive. I specifically asked  
2       who made the USB drive, and she told me and it's not a  
3       detective and it's not an officer. And it wasn't her and  
4       she wasn't there when it was done. So their  
5       representation that it was emailed to the officer then  
6       burned onto disc, I have no record of that taking place.

7               If they have a record of it, and they're making that  
8       representation and it's in the reports, I would like to  
9       hear it and reference to a report where it says that. If  
10      that's his pretrial with an officer and his officer didn't  
11      write a report on that that's an issue that the jury needs  
12      to hear or you need to hear. I don't know.

13             All I know is that this USB drive -- I called it a  
14      zip drive -- the USB thumb drive, I'm a Neanderthal on  
15      that -- the thumb drive was not made by Ms. Nash. She was  
16      adamant about that. I asked her whether or not she could  
17      verify what is in the tapes and if they had been tampered  
18      with or not and she said, no, I was not there.

19             She can make the representations that counsel said.  
20      Her testimony is in conflict with what she told us in how  
21      this was obtained.

22             THE COURT: When you spoke with Ms. Megan Nash  
23      did you show her the videos.

24             MR. EVENSON: I did not.

25             THE COURT: At this time I believe the State has

1 met its burden to utilize the video in the opening  
2 statement. That the original probability of there being  
3 evidence to support a coming into trial with use of those  
4 videos exists. This chain of custody issue that has been  
5 discussed here is not determinative of the issue. We have  
6 a witness who has been identified who will say these are  
7 the videos the witness took. That is sufficient to get  
8 the videos in.

9 You want to pose objections and have a discussion at  
10 that time when the evidence comes in, you are welcome to  
11 do so, Mr. Evenson. If you want to cross-examine the  
12 witness on those issues, that's fair game. The end of the  
13 day, they can use them in their opening.

14 MR. EVENSON: Well, Judge, I object, just for  
15 the record. I feel strongly that until that testimony is  
16 heard they should not be able to show the video.

17 THE COURT: I understand how strongly you feel,  
18 Mr. Evenson. Thank you.

19 Anything else before we start with the jurors.

20 MR. VILLANI: Not from the State, your Honor.

21 THE COURT: Let's have the jurors.

22 We'll continue the trial of State of Nevada vs.  
23 Lisa Ann Nash. Let the record reflect counsel are present  
24 for the Defendant and the State. The Defendant and the  
25 jurors are now present in the courtroom.

1           I do need at this time to remind everyone make sure  
2           your cell phones are off or silenced as we proceed. I'll  
3           let you have a second to check all those. You don't want  
4           to be the juror whose phone goes off in the middle of  
5           trial.

6           For the record, that does mean we'll confiscate the  
7           phones for the remainder of the trial or the remainder of  
8           the day of trial.

9           In the meantime, as you are now present here and have  
10          been impaneled to serve as jurors, there is an oath we  
11          give to jurors. It's different then the oath you took  
12          yesterday in answering the questions put to you to  
13          determine whether or not you would be qualified to  
14          serve.

15          Now that you have been impaneled, my clerk here is  
16          going to administer the oath. If you can, please, stand  
17          and raise your right hand.

18                 THE CLERK: You and each of you do solemnly  
19          swear you will well and truly try the case at issue and a  
20          true verdict render, according to the evidence, so help  
21          you God.

22                 IMPANELED JURORS: (Choir of I does.)

23                 THE CLERK: Thank you.

24                 THE COURT: Your pads and pens are there. Let  
25          me remind you, they are there for your note taking so that



1       you can refresh your recollection as needed when you go  
2       back to deliberate. You will not have a transcript of the  
3       proceedings. There are some specific instructions that  
4       speak to that at the end of trial. I just wanted to let  
5       you now that. Don't let your note taking distract you  
6       from actually receiving the evidence. I don't want you to  
7       be so busy trying to write it down you miss the next  
8       question and next piece of evidence. To your own best  
9       decision making as far as how much note taking you do.

10           Use a full page from that note pad to the extent you  
11          have a question or multiple questions for any of the  
12          witnesses who testify. Be sure you put those questions on  
13          a separate page in its entirety and put your name and  
14          juror number.

15           Each of you have a badge that identify you as jurors.  
16          On the back is your number. But also, of course, your  
17          seats 1 through 5 in back. Six through 10 in the middle.  
18          Eleven through 14 in front.

19           As we indicated yesterday this trial will commence  
20          with the reading of the actual charging document in this  
21          case. I want to remind you again, even though it was part  
22          of our discussion yesterday, this charging document is a  
23          charging document. It is not evidence of any information  
24          it contains. It is important that you understand now as  
25          we come to trial the charges that have been brought

1       against the Defendant.

2               Again, remember that is not evidence. Also the  
3       opening statements of counsel if not evidence. The  
4       evidence will come in through witnesses and exhibits, but  
5       the opening statement will be to show you evidence that's  
6       expected to be brought in. And the closing arguments will  
7       also be evidence brought in by counsel and how counsel  
8       believes it should be weighed. Keep that in mind as we  
9       proceed.

10              The clerk will read you the charging document in this  
11       case, which is the amended information filed on September  
12       1st, 2015.

13              THE CLERK: District Court, Clark County,  
14       Nevada, State of Nevada, Plaintiff vs. Lisa Ann Nash,  
15       Defendant, case C-308570, Department 25, amended  
16       information.

17              State of Nevada, County of Clark, Steven B. Wolfson,  
18       district attorney within and for the County of Clark,  
19       State of Nevada, in the name and by the authority of the  
20       State of Nevada informs the court that Lisa Ann Nash,  
21       Defendant above-named, having committed the crime of child  
22       abuse, negligent, or endangerment, felony;

23              Battery constituting domestic violence,  
24       strangulation, felony; and coercion, felony, in the manner  
25       as follows:

1           Said Defendant on or between April 1, 2014 and July  
2           31, 2014 at and within the County of Clark, State of  
3           Nevada, contrary to the form, force, and effect of  
4           statutes in such cases made and provided and against the  
5           peace and dignity of the Sate of Nevada.

6           Count (1), child abuse, negligent, or endangerment.  
7           Did willfully, unlawfully, and feloniously cause a child  
8           under the age of 18 years, to wit, S.S. to suffer  
9           unjustifiable physical pain or mental suffering as a  
10          result of abuse or neglect, to wit, negligent treatment or  
11          mall-treatment, and/or cause the said S.S. to be placed in  
12          a situation where said S.S. might have suffered  
13          unjustifiable physical pain or mental suffering as a  
14          result of abuse or neglect, to wit, negligent treatment or  
15          mall-treatment by said Defendant yelling and/or screaming  
16          at the said S.S., and/or causing, and/or directing the  
17          said S.S. to act like an animal.

18          Count (2), battery constituting domestic violence,  
19          strangulation. Did then and there willfully, unlawfully,  
20          and feloniously use force or violence upon the person of  
21          the Defendant's spouse, former spouse, or any other person  
22          to whom the Defendant is related by blood or marriage, a  
23          person with whom the Defendant is was actually residing, a  
24          person with whom the Defendant is having a dating  
25          relationship, a person with whom the Defendant has a child

1 in common, the minor child of any of those persons or the  
2 Defendant's minor child, to wit, S.S. by strangulation.

3 Count (3), child abuse, neglect, or endangerment.  
4 Did then and there willfully, unlawfully, and feloniously  
5 cause a child under the age of 18 years, to wit, S.S. to  
6 suffer unjustifiable physical pain or mental suffering as  
7 a result of abuse or neglect, to wit, negligent treatment,  
8 and/or mall-treatment, and/or force the said S.S. to be  
9 placed in a situation where the said S.S. might have  
10 suffered unjustifiable physical pain or mental suffering  
11 as a result of abuse or neglect, to wit, negligent  
12 treatment and/or mall-treatment by said Defendant shoving  
13 the face of the said S.S. into the ground and/or slamming  
14 the face of the said S.S. into a floor.

15 Count (4), child abuse, neglect, or endangerment.  
16 Did willfully, unlawfully, and feloniously cause a child  
17 under is age of 18 years, to wit, S.S. to suffer  
18 unjustifiable physical pain or mental suffering as a  
19 result of abuse of neglect, to wit, negligent treatment or  
20 mall-treatment, and/or cause the said S.S. to be placed in  
21 a situation where the said S.S. might have suffered  
22 unjustifiable physical pain or mental suffering as a  
23 result of abuse or neglect, to wit, negligent treatment or  
24 mall-treatment by said Defendant yelling and/or screaming  
25 at the said S.S., and/or causing, and/or directing the

1       said S.S., to run up and down the stairs.

2               Count (5), child abuse, neglect, or endangerment.

3       Did willfully, unlawfully, and feloniously cause a child  
4       under the age of 18 years to suffer, to wit, S.S. to  
5       suffer unjustifiable physical pain or mental suffering as  
6       a result of abuse or neglect, to wit, negligent treatment  
7       or mall-treatment, and/or cause the said S.S. to be placed  
8       in a situation where the said S.S. might have suffered  
9       unjustifiable physical pain or mental suffering as a  
10      result of abuse or neglect, to wit, negligent treatment or  
11      mall-treatment by said Defendant slapping, and/or hitting  
12      the said S.S. about the head, and/or face, and/or body.

13             Count (6), coercion. Did then and there willfully,  
14      unlawfully, and feloniously use physical force or the  
15      immediate threat of such force against S.S., with the  
16      intent to compel her to do, obtain from doing, an act  
17      which she had the right to obtain from doing by strangling  
18      the said S.S. and preventing her from getting up or  
19      moving.

20             Count (7), child abuse, neglect, or endangerment.

21      Did willfully, unlawfully, and feloniously cause a child  
22      under the age of 18 years, to wit, S.S., to suffer  
23      unjustifiable physical pain or mental suffering as a  
24      result of abuse or neglect, to wit, negligent treatment or  
25      mall-treatment or cause S.S. to be placed in a situation

1 where the said S.S. might have suffered unjustifiable  
2 physical pain or mental suffering as a result of abuse or  
3 neglect, to wit, negligent treatment or mall-treatment by  
4 said Defendant slapping, and/or smacking, and/or hitting  
5 the said S.S. about the head, and/or face, and/or body,  
6 and/or poking the said S.S. with a knife.

7 Count (8) child abuse, neglect, or endangerment. Did  
8 willfully, unlawfully, and feloniously cause a child under  
9 the age of 18 year, to wit, S.S. to suffer unjustifiable  
10 physical pain or mental suffering as a result of abuse or  
11 neglect, to wit, negligent treatment or mall-treatment  
12 and/or cause the said S.S. to be placed in a situation  
13 where the said S.S. might have suffered unjustifiable  
14 physical pain or mental suffering as a result of abuse or  
15 neglect, to wit, negligent treatment or mall-treatment, by  
16 said Defendant yelling, and/or screaming at the said S.S.,  
17 and/or causing, and/or directing the said S.S. to run up  
18 and down the stairs and/or threatening to push the said  
19 S.S. down the stairs.

20 By Barbara Schifalacqua, chief deputy district  
21 attorney. To which the Defendant has entered pleas of not  
22 guilty.

23 THE COURT: Thank you. May I have counsel at  
24 the bench. I need to talk about a technology issue.

25 (Discussion held at the bench.)

1           THE COURT: At this time, I'll ask the State to  
2 put on the video. That was my concern. It looks like we  
3 do have it.

4           I'll advice the State to make their opening  
5 remarks.

6                           OPENING STATEMENT

7 BY MS. RINETTI:

8           Thank you. Please the court and counsel. This  
9 case is about Shaylyn. You just heard the amended  
10 information. Shaylyn is referenced as S.S. Her initials.  
11 Shaylyn is a person. You'll see her today.

12           This case is about Shaylyn and the abuse she suffered  
13 at the hands of the Defendant, Lisa Nash, in 2014. What  
14 you're going to hear is that Shaylyn came to live with her  
15 aunt, slash, foster mother, slash, prospective adoptive  
16 parent, the Defendant. Lisa Nash in early 2014, sometime  
17 in January 2014. In less than 7 months later the  
18 Defendant was charged with the crimes listed a moment ago.

19           In 2014 Shaylyn was 15 years old. She was a ward of  
20 the State of Maryland, meaning she was under the  
21 guardianship of Department of Family Services in Maryland.  
22 She came to live with her aunt, as a potential adoptive  
23 placement. You'll hear that Shaylyn was going to school  
24 here and that she had an IEP, an individualized education  
25 program. She is very bright.

1           You're going to hear though that she has some  
2           disabilities and her individual caseworker believes that  
3           Shaylyn has an autism spectrum. You'll hear that in 2014  
4           Shaylyn acted fairly young for her age. She's supposed to  
5           be in high school and Shaylyn likes babies and doll  
6           houses. You'll hear Shaylyn in court. She's 19 years old  
7           now. And you, as ladies and gentlemen of the jury, will  
8           get to see her demeanor, the way she speaks, the tones,  
9           the intonations and how she responds to questions.

10           You are also going to hear that the Defendant knew  
11           she was a previous victim of abuse. It's in this context  
12           that Shaylyn came to live with her aunt. You're going to  
13           hear that not only was Shaylyn living with her aunt, she  
14           was also living with her cousin, the Defendant's daughter,  
15           Megan Nash.

16           I'm going to be up front, Megan Nash will testify It  
17           is an obviously an uncomfortable situation she's going to  
18           be called as a State's witness, but she is the daughter of  
19           the Defendant.

20           The reason she's going to be called to the witness  
21           stand is for two reasons. One, she witnessed some of the  
22           abuse against her mother against Shaylyn. You're going to  
23           hear that she recounted an incident in which Defendant was  
24           angry at Shaylyn for playing with candles and that she  
25           took the knife that Shaylyn was playing with and poked her



1       in the face.

2           You are also going to hear that Megan Nash witnessed  
3       some of this abuse and ultimately decided to video tape  
4       some of this abuse. There are two videos. The first one  
5       occurred on June 20, 2014. It occurs in the kitchen. You  
6       will see Shaylyn on her knees and the Defendant is barking  
7       orders. When I say barking orders on purpose, because  
8       what she's doing is telling this 15-year-old girl, who is  
9       in an individualized education program, that the Defendant  
10      believes is on the autism spectrum, to meow like a cat and  
11      moo like a cow.

12                   (Video played for the jury.)

13           MS. RINETTI: The next video you will see occurs  
14      on July 3rd of 2014. Again, Megan Nash is recording the  
15      interaction and ultimately the abuse between her mother  
16      and her cousin, Shaylyn.

17           You'll hear that Shaylyn suffers from asthma and  
18      requires an inhaler. Because Shaylyn snuck pretzels the  
19      Defendant made Shaylyn, who is over weight, run up and  
20      down the stairs. She is yelling at her, and ultimately  
21      she becomes physically violent with Shaylyn.

22                   (Video played for the jury.)

23           MS. RINETTI: And the Defendant proceeds to yell  
24      at Shaylyn, and it continues.

25                   (Video continued to be played.

1                               for the jury.)

2                   MS. RINETTI: She cries for help. The Defendant  
3 threatens to throw her down the stairs. And it  
4 continues.

5                   (Video continued being playing for the jury.)

6                   MS. RINETTI: Then her cousin goes into the  
7 bedroom to retrieve her cousin's inhaler.

8                   (Video continues to be played for the jury.)

9                   MS. RINETTI: Ultimately the police are called.  
10 Child Protective Services gets involved. And ultimately  
11 Shaylyn is removed from the Defendant's custody.

12                  At the conclusion of all of the evidence both myself  
13 and Mr. Villani will have an opportunity to speak to you  
14 again, and at that time, we'll ask to you find the  
15 Defendant guilty of all charges.

16                  THE COURT: Thank you, Ms. Rinetti.

17                  Mr. Evenson, does the defense wish to make an opening  
18 statement.

19                  MR. EVENSON: I do. I need to approach to  
20 approach on a technological issue myself.

21                  THE COURT: Certainly.

22                  (Discussion held at the bench.)

23                  THE COURT: We resolved the issue. Mr. Evenson,  
24 your opening remarks.

25                  MR. EVENSON: Thank you, your Honor.

## 1 OPENING STATEMENT

2 BY MR. EVENSON:

3 Nobody is ever going to come up here and say  
4 that this entire case, this entire circumstance isn't  
5 about Shaylyn. Clearly the State has an opinion. Clearly  
6 the State believes it's doing their job. Clearly we have  
7 a difference of opinion. We believe the law follows our  
8 side. We believe the evidence will show that.

9 Now, are those videos easy to watch. Of course, not.  
10 Are those the entirety of the videos. Of course, not. If  
11 and when you see all the videos, you will be able to ask  
12 yourselves why the State cherry-picked what they showed  
13 you in their opening. If and when you see the entire  
14 videos, you'll wonder why the State is presenting evidence  
15 in that way to you. You'll be wondering why the State is  
16 charging the way that they have.

17 Keep in mind, what you heard is that the evidence  
18 will show that screaming or yelling at someone and causing  
19 or directing someone to act like an animal is felony child  
20 abuse. You are being told that the evidence will show and  
21 that the law will show that screaming at S.S. and causing  
22 and/or directing her to run up and down the stairs is  
23 felony child abuse.

24 You will be told that sitting across her chest  
25 preventing her from getting up the evidence is going to

1 show you is felony coercion.

2 You are being told that slapping and/or hitting her  
3 in the head, and/or face, and/or body -- at some point you  
4 may wonder why the evidence always has all those and/or in  
5 it. But, in any event, they are telling you that is  
6 felony child abuse.

7 They're telling you that they have evidence that  
8 indicates that the abuse went from April 1st 2014 until  
9 July 31st of 2014. I'm sorry. How many different tapes,  
10 different events.

11 The State notes that this child --

12 MS. RINETTI: I apologize for interrupting. I  
13 believe this is opening statement not closing argument.

14 THE COURT: I will say the argument, the opening  
15 statement is tending to --

16 MR. EVENSON: On the line. I'll move back from  
17 the line. Fine.

18 THE COURT: We do need to know what evidence  
19 you'll put into the case and how you wish to dispute the  
20 evidence.

21 MR. EVENSON: I understand.

22 The evidence will -- the State is telling you  
23 the evidence will show that Shaylyn was playing with a  
24 candle and because she was playing with a candle she got  
25 poked with a knife. That is not what happened. The

1 evidence is totally different then that when you hear  
2 exactly what happened. But it goes toward the way and  
3 count of the evidence. You'll hear a lot about that.

4 The case is definitely about Shaylyn. The question  
5 is and the question that each and every one of you said  
6 you would fairly answer on the facts and evidence is  
7 whether or not the law is met by the State.

8 Here are some other facts about Shaylyn. She has  
9 been in the system since she was 4. They literally at  
10 that point were seeking out Lisa as an adoptive parent  
11 because the State had no where else to put her. You will  
12 hear evidence that Lisa fought to have Shaylyn brought out  
13 here, fought to have her 3 siblings brought out here for 5  
14 years going through CPS, going through background checks,  
15 going through all of those things to secure and assist her  
16 family in raising those children.

17 She realized, you will hear, that Shaylyn was a full  
18 hand on her own. Why is that. Because, as the State  
19 already indicated, the evidence will show she's very  
20 bright. I believe most, if not all of you, have children.  
21 And I'm sure most of you have been around children. I'm  
22 fairly certain most of you at some point were children and  
23 were teenagers. I'm going to guess that at times you or  
24 your friends, the evidence will show and the evidence will  
25 show in this case, were manipulative, lying, stealing, not

1 good kids, not good people.

2 What was the evidence that you saw on that tape that  
3 you are going hear more of. Shaylyn, you will stop your  
4 shit. Sorry. That's what was said. Does that sound like  
5 the evidence is showing felony child abuse, or that the  
6 evidence is showing something to correct behavior. Does  
7 that evidence sound like --

8 MS. RINETTI: I hate to interrupt again. That's  
9 argument.

10 MR. EVENSON: All right.

11 THE COURT: It's argument.

12 MR. EVENSON: I'll move on. No, I'll move on  
13 agree with it. It's fine.

14 THE COURT: Fair enough.

15 MR. EVENSON: The evidence is going to show that  
16 each and every act that she is excused of doing, one,  
17 legally she didn't do. And two, the evidence is going to  
18 show it was designed with the intent to correct behavior.  
19 That is what the evidence is going to show.

20 Now, here is what the evidence is going to show. She  
21 was on the adoptive track. She was going to be the sole  
22 parent of this child.

23 Now, I don't know if you noticed, but the evidence  
24 will show that Shaylyn is not a small human. She is a big  
25 girl. Nothing wrong with that one way or the other. But

1 the evidence is going to show that, one, the diagnosis the  
2 State is talking about with her is obesity. So guess what  
3 the evidence is going to show you that Ms. Nash started to  
4 do with her. She had started with her to work out. The  
5 evidence is going to show she went from a size 22 to a  
6 size 16. Does that sound like evidence pointing to child  
7 abuse.

8 The evidence is going to show you she went, Lisa, on  
9 the day that this was reported to the police, on the day  
10 she was taken out of her house by police in handcuffs, the  
11 evidence is going to show you was the same day that she  
12 went to a medical appointment for the child to conclude  
13 the adoption.

14 The evidence is going to show you that in those  
15 medical reports there is not evidence of one bruise.  
16 There's not evidence of one broken bone. There is not  
17 evidence of one burn. There is not evidence of a rug burn  
18 from this. Nothing.

19 The State says there's going to be evidence shown to  
20 prove their charge of -- I want to make sure about this  
21 one -- shoving the face of the said S.S. into the ground  
22 and/or slamming the face of S.S. into a floor. You would  
23 think that that might leave some marks. There's no  
24 evidence at any time of any marks on this child.

25 MS. RINETTI: Judge, I just caution again about

1       being argumentative versus what the evidence will show.

2               THE COURT: Overruled. Please let me rule.

3               MR. EVENSON: Okay.

4               THE COURT: ms. Rinetti, I'll remind you these  
5 are not speaking objections. Just state the basis for the  
6 objection.

7               MS. RINETTI: Thank you.

8               MR. EVENSON: Overruled.

9               THE COURT: Proceed, Mr. Evenson.

10              MR. EVENSON: That's the evidence about  
11 Shaylyn.

12              Here's the evidence you are going hear about Ms.  
13 Nash. Security clearance in the Air Force. No prior  
14 criminal history of any kind. No prior criminal history  
15 since. That she has 3 children and a grandchild. That  
16 she's on excellent terms with all of them. That she  
17 watches her grandchild every day. That she's active in  
18 all of her family's lives. That there's no prior CPS  
19 contact to hear we're trying to bring in these kids into  
20 Nevada from Maryland. Other then she lived in California  
21 and a prior spouse or something was horrible to her and  
22 CPS was called over and removed all the children from the  
23 residence. Gave all the children, including the guy's  
24 from a prior relationship to her because of what he did  
25 that was so terrible to her. That's it. The only contact



1 she ever had.

2       You folks, during jury selection and throughout this  
3 entire process have promised to do -- and I need a  
4 reminder, Judge, sorry -- promise to evaluate the law and  
5 the facts. And by the way, as we're sitting here nobody  
6 knows what the law is in this case, yet, because it hasn't  
7 been given to you. So as you hear the facts and testimony  
8 today, remember, when you hear the State say that Megan  
9 Nash took these videos to report her mom's abuse, one of  
10 the questions you can ask yourself is whether or not Megan  
11 had any idea what child abuse meant under the law. Maybe  
12 you'll find out from Megan Nash what was going on with her  
13 and from Lisa Nash what was going on with her at that  
14 time. And very interestingly, the first thing shown, do  
15 you see what happens afterwards. Do you see what happens  
16 before. The second video when and if you see it all,  
17 you'll be able to evaluate that as well.

18       This case, at the end of the day -- I apologize for  
19 not being as technologically prepared as I should have  
20 been for you folks -- I want to make sure that I've  
21 covered it all. I apologize for the dead air.

22       There are basically 3 sets of charges. One count  
23 strangulation. One count coercion. Five counts of child  
24 abuse -- six. As I've said before, you will not see any  
25 evidence of physical injury or mental injury to this

1 child. You will see no fulfillment of the statutory  
2 requirements for those offences during the case.

3 You'll see about the job that law enforcement did.  
4 You will hear whether or not a forensic interview was done  
5 with the minor child or not. You will hear whether or not  
6 the State mined any further to determine whether or not  
7 this lady should be charged or not, or whether or not they  
8 collected a thumb drive, handed the case over to the DA's  
9 office and that was that. And when you hear the answer to  
10 that question, you'll be able to ask yourself why did they  
11 do that. Why did they handle things that way. And is the  
12 evidence and the facts that the State is handing to you in  
13 this case, have they been handled in such a way to give  
14 you confidence in the verdict you'll be asked to render.

15 One of the things so many people forget about is  
16 serving on a jury is solemn duty. You take an oath to  
17 listen to the facts, to listen to the evidence, to listen  
18 to the law given to you by the judge. We're very  
19 confident that after you hear all the facts and keep the  
20 open mind you promised to yesterday, that you will do your  
21 duty and find Lisa Ann Nash not guilty on every single  
22 charge presented.

23 Thank you.

24 THE COURT: Thank you, Mr. Evenson.

25 Is the State prepared to call their first witness.

1 MS. RINETTI: Yes, your Honor. State calls  
2 Officer Marano.

3 THE COURT: Officer Morano to the stand.

4 THE CLERK: You do solemnly swear the testimony  
5 you are about to give in this action shall be the truth,  
6 the whole truth, and nothing but the truth, so help you  
7 God.

8 THE WITNESS: I do.

9 THE CLERK: State and spell your name for the  
10 record.

11 THE WITNESS: Michael Marano, M-i-c-h-a-e-l,  
12 M-a-r-a-n-o.

13 THE COURT: Can I see by a show of hands if  
14 there is anyone who can't see and hear the witness, given  
15 where the monitor is. Seeing no hands, when you are ready  
16 to proceed, Ms. Rinetti.

17 DIRECT EXAMINATION

18 BY MS. RINETTI:

19 Q. How are you employed?

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

22 Q. How long have you been with Metropolitan  
23 Police Department?

24 A. Since April 2009, so 8 years.

25 Q. Are you with patrol?

1           A.       Yes, I am.

2           Q.       Are you assigned to a particular area command  
3 here in Las Vegas?

4           A.       Yes I am.

5           Q.       What area command are you assigned to?

6           A.       Northwest Area Command.

7           Q.       Can you tell the ladies and gentlemen of the  
8 jury where Northeast Area Command is?

9           A.       So our station is located at 9850 West  
10 Cheyenne. And primarily our borders are -- our southern  
11 most boarder is Charleston. We go basically as far west  
12 as you can imagine into the mountains. Eastbound boarder  
13 is Jones, a portion of Decatur. East of that is North Las  
14 Vegas. Then we go as far north as Clark County Shadow  
15 Ridge High School.

16          Q.       In July of 2014 were you assigned to Northwest  
17 Area Command as well?

18          A.       Yes, I was.

19          Q.       Did you respond to a call for service at 8228  
20 Dusty Valley here in Las Vegas, Clark County, Nevada?

21          A.       Yes, I did.

22          Q.       Did you arrive at approximately 10:47 p.m.

23          A.       Yes.

24          Q.       Did you arrive by yourself or with someone?

25          A.       I arrived with my partner.

1 Q. Who is your partner?

2 A. Officer Perry (ph) Witham.

3 Q. Did you ride together in one car or separate  
4 cars?

5 A. Together in one car.

6 Q. When you arrived, was someone present at the  
7 house?

8 A. Yes.

9 Q. Who was present at the house?

10 A. There were numerous people there. Several  
11 males and females.

12 Q. What was your duty and responsibility or what  
13 did you do when you got on scene?

14 A. The details of the call we received, we were  
15 responding to an investigating a possible child abuse,  
16 neglect type call.

17 Q. So when you got there, who did you make  
18 contact with?

19 A. We made contact with a female. I believe she  
20 was a juvenile. I believe Megan Nash was her name.

21 Q. Did you have an opportunity to speak to her at  
22 all?

23 A. Yes, I did.

24 Q. Did you also have an opportunity to view any  
25 video?

1 A. Yes, I did.

2 Q. How did that come about that you were able to  
3 look at any type of video?

4 A. Megan had gone into detail about what she  
5 stated took place at her residence, and she indicated to  
6 Officer Witham and I that she had taken video of these  
7 incidents and she was able to show us those.

8 Q. Did she show them to you?

9 A. She did.

10 Q. After you saw the videos, do you remember if  
11 you saw them on -- what device you saw them on?

12 A. It was a laptop computer.

13 Q. Is that something that Metro provides to  
14 certain patrol officers.

15 A. No. We don't have those in patrol.

16 Q. So it was something that was done at the  
17 residence?

18 A. That's correct.

19 Q. After you viewed the video, did you respond to  
20 another residence?

21 A. Yes, I did.

22 Q. Did you respond to 10419 Prairie Mountain  
23 Avenue here in Las Vegas, Clark County, Nevada?

24 A. Yes.

25 Q. Did you arrive there shortly after midnight?

1           A.       Yes, that's correct.

2           Q.       You were at the first scene, the Dusty Valley  
3 address for approximately an hour?

4           A.       That's correct.

5           Q.       When you got to the second location, who was  
6 present?

7           A.       Who was present at that time was Lisa Nash and  
8 a young lady by the name of Shayler or Shaylyn. I can't  
9 recall how you say it.

10          Q.       Did you arrive by yourself or with someone to  
11 that second location?

12          A.       I also arrived with Officer Witham.

13          Q.       Do you see the Defendant, Lisa Nash, here  
14 today?

15          A.       Yes, I do.

16          Q.       Could you point to her and describe what she's  
17 wearing?

18          A.       She's the lady sitting across from me wearing  
19 a gray blazer.

20               MS. RINETTI: Record reflect the identification  
21 of the Defendant.

22               THE COURT: The record will so reflect.

23               BY MS. RINETTI:

24          Q.       Did you have any contact with the Defendant,  
25 Lisa Nash?

1 A. Yes, I did.

2 Q. What kind of contact did you have with her?

3 A. I was there with Officer Witham. We advised  
4 Lisa Nash why we were there and what it was we were  
5 investigating. Then we asked come in to continue to speak  
6 with her and also to check on the other young lady  
7 Shaylyn.

8 Q. Fair to say she complied and allowed officers  
9 into the residence?

10 A. Yes.

11 Q. Once you made entry into the residence did you  
12 attempt to locate Shaylyn?

13 A. Yes.

14 Q. Were you successful in locating Shaylyn?

15 A. I was.

16 Q. Where did you find her?

17 A. In her bedroom.

18 Q. Was she awake or asleep?

19 A. Asleep.

20 Q. What was the purpose of locating Shaylyn?

21 A. So that a body check could be completed on her  
22 to check for visible injuries.

23 Q. Were you going conduct that body check?

24 A. No, I was not.

25 Q. Why were you not going to conduct that body



1 check?

2 A. I'm a male officer. I had a female paramedic  
3 unit with me who was able to conduct it. I was not with  
4 them to do that.

5 Q. So it's fair to say the paramedics arrived at  
6 that location?

7 A. That's correct.

8 Q. Were you present for that body check?

9 A. I was outside of the room, but I was outside  
10 of her bedroom door.

11 Q. Can you describe what you believe a body check  
12 is, how you refer to a body check?

13 A. I would refer to a body check as a visual  
14 observation, if you will, of a person's torso, legs, their  
15 entire body to check to see if there are any injuries,  
16 cuts, bruising, swelling those types of things.

17 Q. This occurred on July 23rd, correct?

18 A. Correct. Yes.

19 Q. Were you able to talk to Shaylyn?

20 A. Briefly, yes.

21 Q. You say briefly. What was her demeanor  
22 like?

23 A. After I woke her up, I let her know who I was,  
24 that everything was okay, and that we were there to check  
25 on her. We wanted to make sure she was okay.

1 Q. What was her demeanor like, her affect?

2 A. She seemed to be a happy-go-lucky young  
3 lady.

4 Q. Did -- you mentioned you had a brief  
5 interaction or brief conversation with Shaylyn?

6 A. Yes.

7 Q. Based upon that conversation, without going  
8 into the contents, did you have an opinion of the mental  
9 condition of Shaylyn?

10 A. Yes. She didn't appear to be a normal 15 or  
11 16 year old young lady. She appeared to be slower than  
12 what I would call a normal young lady.

13 Q. Is it fair to say the decision was made on  
14 scene not to interview Shaylyn Shelton because of that  
15 reason?

16 A. Yes, correct.

17 Q. Ultimately, did you contact Child Protective  
18 Services?

19 A. Yes.

20 Q. Why do you contact Child Protective  
21 Services?

22 A. As a mandated reporter we're required to  
23 contact them when allegations of child abuse or neglect  
24 are made so they can conduct their own individual  
25 investigation.

1 MS. RINETTI: Thank you so much. I'll pass the  
2 witness at this time.

3 THE COURT: Mr. Evenson, any questions for the  
4 officer.

5 CROSS-EXAMINATION

6 BY MR. EVENSON:

7 Q. Officer, did you write a report in this  
8 case?

9 A. I did not author a report. Let me rephrase.  
10 If I recall I did give CPS a report over the phone with a  
11 reference number, but I did not authorize or write a  
12 report.

13 Q. So you're thinking a report in the terminology  
14 of calling CPS and telling them what's going on so they  
15 can come over?

16 A. That would be correct.

17 Q. I'm talking about a written police report?

18 A. No, I did not.

19 Q. You didn't make one?

20 A. No, I did not.

21 Q. Did you have an opportunity to review your  
22 partner's report?

23 A. Yes.

24 Q. That was when?

25 A. Before I came to trial today.

1           Q.       And was that today then, is that what you're  
2 saying?

3           A.       I believe I checked it before I came here.

4           Q.       Today?

5           A.       Yes.

6           Q.       Had you had any contact with the case since  
7 that date, that date being when you were out there?

8           A.       I don't think I've had -- you mean have I  
9 reviewed --

10          Q.       Did you do anything on the case?

11          A.       Other than what I said, no.

12          Q.       Okay. That's what I'm asking.

13                 Acoustics are bad. I'm older then I should admit,  
14 but she said I believe July 23rd, is that what the date  
15 was I heard?

16          A.       I think that's what the date is because of the  
17 time. That's was the time, that's the date that we got to  
18 the second address.

19          Q.       All right. With regard to the EMS unit, did  
20 you have an opportunity to review the findings from the  
21 EMS unit contained in your brethren officer's report?

22          A.       I've never seen any EMS report.

23          Q.       Did you see your officer's report that talked  
24 about the findings of the EMS people?

25          A.       No, I did not.

1 Q. You didn't see that in the report?

2 A. I read the arrest report. I didn't see the  
3 EMS report.

4 Q. I'm asking about the EMS findings contained in  
5 the written report made by your partner?

6 A. If that's what you're referring to, I'm sorry.  
7 I misunderstood you. No visible injuries, if I recall,  
8 were what was in the arrest report.

9 Q. She wasn't transported?

10 A. Not to my knowledge, no.

11 Q. No first aid was administered?

12 A. No.

13 Q. Nothing was wrong with that girl at that time,  
14 best of your knowledge?

15 A. Correct.

16 MR. EVENSON: Nothing further.

17 THE COURT: Mr. Rinetti, anything else.

18 REDIRECT EXAMINATION

19 BY MS. RINETTI:

20 Q. What is a CAD report?

21 A. CAD is essentially our departments or our  
22 agency's way of documenting through date and time and  
23 event number, location what happens where and sometimes  
24 why.

25 Q. Is there something called an event number?

1           A.       Yes.

2           Q.       What is an event number?

3           A.       Each time a person calls 311 or 911 an event  
4 number is generated through a call taker.

5           MR. EVENSON: Your Honor, is this not beyond the  
6 scope.

7           THE COURT: It does appear to be questions with  
8 regard to the reporting that was done or not done, so I'll  
9 allow it.

10          MR. EVENSON: Okay.

11          THE WITNESS: So an event number is generated  
12 from a 311 or 911 calls. It corresponds to the officers  
13 who were dispatched, responded to, whatever they did  
14 involving that specific call is connected to that event  
15 number that is generated when someone calls 311 or 911.

16          BY MS. RINETTI:

17          Q.       The first 6 numbers, does that include the  
18 date of the call?

19          A.       Yes. The first two number are the year. The  
20 second two numbers are the month. The last two numbers  
21 are the date in the month.

22          Q.       What do the last 4 digits of the event number  
23 reference?

24          A.       That's the numeric value of the number of  
25 calls we as an agency did that day. So today is the 12th

1 of September. If I leave here today and I get dispatched  
2 to event number 170912-2445, that's the 2,455th event that  
3 Las Vegas Metropolitan Police Department responded to that  
4 day. It doesn't include just calls for service. It  
5 includes person stops, car stops, investigations all  
6 those other types of police activity we engage in.

7 Q. In reference to this particular case in it  
8 event number 140721003320?

9 A. Sorry. I heard the last four of that.

10 Q. I apologize -- 140721003320?

11 A. Correct.

12 Q. So that is July 21st -- July 21st, 2014. I  
13 misspoke on direct examination as the 23rd.

14 A. Correct.

15 Q. It's shortly after midnight that you arrived  
16 at the second location on July 22nd?

17 A. Correct.

18 MS. RINETTI: Thank you. Nothing further.

19 THE COURT: Anything further.

20 MR. EVENSON: Just a moment.

21 RECROSS-EXAMINATION

22 BY MR. EVENSON:

23 Q. I'm assuming you take great care when you know  
24 you're going to come to court and testify?

25 A. Yes, sir.

1           Q.       I assume that you prepared for court today by  
2 reading reports, right?

3           A.       Yes.

4           Q.       I assume that on each and everyone of those  
5 reports you read for today you know the case number?

6           A.       Correct.

7           Q.       Was these event numbers?

8           A.       Yes.

9           Q.       You just testified under oath that event  
10 numbers on the reports, I have a declaration and event  
11 numbers in my files -- I'll just pick out the, for counsel  
12 referenced in discovery page. I'm not introducing this in  
13 evidence, your Honor. This is for purposes of conflicting  
14 statement.

15                 But I also have a continuation report filed by  
16 another officer in this matter. The event number I'm  
17 seeing is 14021-3320. I didn't hear anything about 721 or  
18 any other numbers.

19           A.       14021-3320.

20           Q.       Then the middle two --

21                 MS. RINETTI: Can I see what you are  
22 referencing.

23                 MR. EVENSON: Sure.

24                 MS. RINETTI: It's missing a number.

25                 MR. EVENSON: Sorry I was interrupted. Can you



1 repeat your answer.

2 THE WITNESS: Just going as I said, I'm not the  
3 author of it, I'm just going on the information you are  
4 providing me with. It would be my assumption purely that  
5 the middle two numbers 07 have been erroneously left  
6 out.

7 BY MR. EVENSON:

8 Q. You prepared for today, right?

9 A. Yes.

10 Q. You should have noticed that mistake?

11 A. I should have. I was reading the content of  
12 the report.

13 Q. I understand that. Content is not at issue  
14 because counsel for the State brought this into issue. So  
15 now I have different numbers.

16 Are you now saying there's two event numbers?

17 A. That's not what I'm saying. It appears though  
18 an error was made. I'm not saying anything was  
19 intentionally left out.

20 Q. Do you know who made the error?

21 A. I didn't author the report.

22 Q. Do you have an explanation as to why on a  
23 continuation report an ID event number is 7011167?

24 A. 7011167 -- sir, I have no idea.

25 Q. So -- and the other thing that I want to

1 question you about that you are testifying to under oath  
2 is the difference of 723 versus 721 versus 722, kind of  
3 important, aren't they?

4 A. I would agree so, yes.

5 Q. When the error with the date was apparently  
6 wrong to begin with from the State you didn't notice that  
7 either?

8 A. No. It's been a couple of years. To be honest  
9 I must have overlooked that today.

10 Q. We can -- you and I can already acknowledge  
11 that your testimony has two mistakes as to the case number  
12 or event number and as to your testimony on this date,  
13 correct?

14 A. On the dates of that number, yes, that's  
15 correct.

16 MR. EVENSON: Thank you.

17 THE COURT: Anything further.

18 MS. RINETTI: May I approach.

19 THE COURT: You may.

20 BY MS. RINETTI:

21 Q. Showing, you the right-hand corner, I believe,  
22 it's an event number and it references 14021-3320. See  
23 that?

24 A. Yes.

25 Q. Is that a full event number?

1 A. No, it's not.

2 Q. Is it missing two digits?

3 A. It's missing one.

4 Q. Correct. There's also, Mr. Evenson referenced  
5 a number, 11 -- a number that ends in 1167, correct?

6 A. Yes.

7 Q. Is it fair to say when someone is booked in  
8 the Clark County Detention Center they're given an ID  
9 number?

10 A. Yes, they do.

11 Q. The inmate's ID number is 7011167?

12 A. Best of my knowledge, yes.

13 MS. RINETTI: Thank you. Nothing further.

14 THE COURT: Are we complete with this witness.

15 MR. EVENSON: One question.

16 BY MR. EVENSON:

17 Q. That is not your report she read from that  
18 made the error, right?

19 A. I was not the author of that.

20 Q. So that's 3 errors, right. One of them isn't  
21 yours?

22 A. I would argue none are with regard to mine.

23 MR. EVENSON: Thank you.

24 THE COURT: Ms. Rinetti.

25 MS. RINETTI: Nothing.

1           THE COURT: May I see by a show of hands if the  
2 jurors have questions for this witness. Seeing no  
3 questions for this witness you are excused. Mind your  
4 step as you exit the box.

5           THE WITNESS: Thank you, your Honor.

6           THE COURT: Your next witness.

7           MS. RINETTI: May we approach.

8           THE COURT: Yes.

9           (Discussion held at the bench.)

10          THE COURT: We'll take a brief recess. As we  
11 indicated yesterday while going through the process of  
12 taking regular breaks. We'll do that among witness' time,  
13 that make sense. We've been going about an hour.

14          I do want to remind the jurors, based on the Supreme  
15 Court, I have an admonishment I have to read every time we  
16 take a break because it's that important.

17                               JURY ADMONITION

18          During the recess, ladies and gentlemen, you are  
19 admonished not to converse among yourselves or with anyone  
20 else, including, without limitation, the lawyers, parties  
21 and witnesses, on any subject connected with this trial,  
22 or any other case referred to during it, or read, watch,  
23 or listen to any report of or commentary on the trial, or  
24 any person connected with this trial, or any such other  
25 case by any medium of information including, without

1 limitation, newspapers, television, internet or radio.

2 You are further admonished not to form or express any  
3 opinion on any subject connected with this trial until the  
4 case is finally submitted to you.

5 We're going to give you a 15 minute break then return  
6 to us here at 10 to 3:00. You're welcome to exit. See  
7 you back in 15 minutes.

8 (Brief recess taken.)

9 THE COURT: Should we have an introduction  
10 now.

11 MR. EVENSON: I'm going to meet with her in the  
12 anti-room.

13 MR. VILLANI: When we spoke to her yesterday.  
14 She wanted to talk with him, so we're making her  
15 available.

16 (Brief recess taken.)

17 THE COURT: Did the meetings take place.

18 MR. EVENSON: They took place, and we're ready  
19 to go.

20 THE COURT: All right. Take your seats. We are  
21 on the record. Thank you for the little bit of additional  
22 time necessary to work out some logistics. Are we ready  
23 to proceed with the State's next witness.

24 MS. RINETTI: We call Shaylyn Shelton.

25 THE CLERK: You do solemnly swear the testimony

1       you are about to give in this action shall be the truth,  
2       the whole truth, and nothing but the truth, so help you  
3       God.

4                   THE WITNESS:   I do.

5                   THE CLERK:   State and spell your name for the  
6       record.

7                   THE WITNESS:   Shaylyn Shelton, S-h-a-y-l-y-n,  
8       S-h-e-l-t-o-n.

9                                   DIRECT EXAMINATION

10       BY MS. RINETTI:

11           Q.       Can I call you Shaylyn?

12           A.       Yes.

13           Q.       How old are you, Shaylyn?

14           A.       I'm 18.

15           Q.       When is your birthday?

16           A.       My birthday is September 22nd, 1998.

17           Q.       Where do you live?

18           A.       Baltimore, Maryland.

19           Q.       Who do you live with?

20           A.       Arlene Ingram.

21           Q.       Who is Arlene Ingram?

22           A.       She's my foster parent.

23           Q.       How long have you been living with Ms.

24       Arlene?

25           A.       4 years going.

1 Q. Do you like Ms. Arlene?

2 A. She is nice.

3 Q. She's nice. Do you live there with anybody  
4 besides yourself?

5 A. Her son Terrace Ingram and sometimes her other  
6 son Lynwood Ingram comes by.

7 Q. Shaylyn, did you live here in Las Vegas?

8 A. In 2014 for 7 months.

9 Q. Who did you live with?

10 A. Lisa Goodwich-Nash.

11 Q. Who is Lisa Goodwich-Nash?

12 A. My aunt.

13 Q. Your aunt. Did you live in a house or an  
14 apartment when you were living here?

15 A. A 2-story house.

16 Q. A 2-story house. Besides your aunt, was there  
17 anyone else living at the house?

18 A. Yes, Shay Summer and Megan.

19 Q. Who is Shay?

20 A. Chea is Megan's older brother, my cousin.

21 Q. Is Chea spelled Chea?

22 A. Chea.

23 Q. Is it C-h-e-a?

24 A. Yes.

25 Q. Who is Megan?

1           A.       Megan is my week -- a week younger cousin.

2           Q.       When you were here in Las Vegas did you go to  
3 school?

4           A.       Yes.

5           Q.       Where did you go to school?

6           A.       I forgot to name of the high school,  
7 honestly.

8           Q.       Okay. Did you like going to school here?

9           A.       It was nice.

10          Q.       What did you like about it?

11          A.       The curriculum was a lot better then the ones  
12 in Baltimore.

13          Q.       How was it better here?

14          A.       More organized.

15          Q.       When you lived here in Las Vegas -- well, let  
16 me ask you this. Shaylyn do you have asthma?

17          A.       Yes, I do.

18          Q.       Do you use an inhaler?

19          A.       Yes, I do.

20          Q.       How often do you use your inhaler?

21          A.       Not a lot, but I used to have extreme troubles  
22 with my asthma.

23          Q.       What kind of extreme troubles did you have?

24          A.       There would be times where I have basically  
25 like a hyper-ventilation issue. I would have to take my



1        inhaler.

2            Q.        Was it hard to breathe sometimes?

3            A.        Yes.

4            Q.        Shaylyn, when you lived with your Aunt Lisa,  
5 did she ever hit you?

6            A.        No.

7            Q.        Did she ever smack you?

8            A.        No.

9            Q.        Did she ever choke you?

10          A.        No.

11          Q.        Did she ever yell at you?

12          A.        When I do the wrong, yes.

13          Q.        What kind of things did you do that were  
14 wrong?

15          A.        Like any other teenager in their lifetime. I  
16 have stolen. I have lied. And I have disrespect.

17          Q.        Did you get punished for those things?

18          A.        Like any teenager, yes, I did.

19          Q.        Just like any other teenager?

20          A.        Yes.

21          Q.        Is that, yes. Sorry. The woman in front of  
22 you has to take down everything.

23          A.        Yes.

24          Q.        Did your Aunt Lisa ever make you moo like a  
25 cow?

1           A.       No.

2           Q.       Okay.  Shaylyn, when you left Las Vegas, did  
3 you go back to Maryland?

4           A.       Yes.

5           Q.       Is that when you started living with Ms.  
6 Arlene?

7           A.       Yes.

8           Q.       Do you have a cell phone?

9           A.       Yes.

10          Q.       Do you have any other computers?

11          A.       I have a computer, an XBox 1 and a  
12 television.

13          Q.       Do you play games?

14          A.       Yes.

15          Q.       What kind of games do you play?

16          A.       Mainly racing or building.

17          Q.       What kind of building games?

18          A.       Minecraft.

19          Q.       What kind of things do you build in  
20 Minecraft?

21          A.       Houses, statues.

22          Q.       When you moved back to Maryland, did you talk  
23 to your Aunt Lisa via Skype?

24          A.       Yes.

25          Q.       How many times would you talk to your

1 Aunt Lisa?

2 A. At the time it was twice.

3 Q. Did you guys -- do you have a Facebook page?

4 A. Yes, we do.

5 Q. Does your Aunt Lisa have a Facebook?

6 A. Yes.

7 Q. Did you used to do Facebook messages?

8 A. Yes.

9 Q. Do you remember a lady taking you to the  
10 airport from Las Vegas so you could get on a plane to  
11 Maryland?

12 A. Yes.

13 Q. Does the name Shanna ring a bell?

14 A. Yes.

15 Q. Now, I know you mentioned, do you remember  
16 telling Shanna that your Aunt Lisa hit you 3 or 4 times?

17 A. Yes.

18 Q. Do you remember telling Shanna your Aunt Lisa  
19 choked you?

20 A. No, I don't.

21 Q. Do you remember telling Shanna that you  
22 couldn't breathe when your aunt was sitting on you and you  
23 couldn't breathe?

24 A. When she was shaking me, yes. I went into  
25 hyper-ventilation I couldn't breathe.

1           Q.       Do you remember talking about liking your  
2       cousin Megan to Shanna?

3           A.       Me and Megan got along well.

4           Q.       Do you remember telling Ms. Shanna that you  
5       were very thankful that Megan reported things that were  
6       going on in the house?

7           MR. EVENSON:   Your Honor, may we approach.

8           THE COURT:    You may.

9           (Discussion held at the bench.)

10          THE COURT:    With that clarification Ms. Rinetti,  
11       restate the question.

12       BY MS. RINETTI:

13          Q.       Brief indulgence.   I need to take a break for  
14       a second, Shaylyn.

15          MS. RINETTI:   I'll pass the witness.

16          THE COURT:    Mr. Evenson.

17                       CROSS-EXAMINATION

18       BY MR. EVENSON:

19          Q.       Hi Shaylyn?

20          A.       Hi.

21          Q.       I know you are unfamiliar with this process  
22       and all of that, so I have to ask you a couple of  
23       questions, if that's all right?

24          A.       Yes.

25          Q.       You do have to verbalize or state all your

1       answers out loud. You can't shake your head up and down  
2       or go like that.

3             A.       Okay.

4             Q.       Okay. All right.

5                   Shaylyn, you were asked some questions about  
6       Skyping or anything like that with your Aunt Lisa or being  
7       in contact with her on Facebook. Was there ever any no  
8       contact orders or anything else like that issued between  
9       you guys?

10            A.       No.

11            Q.       Did you feel that Lisa was trying to do  
12       something improper by talking to you?

13            A.       No.

14            Q.       Did you want to talk to her?

15            A.       Yes.

16            Q.       Why?

17            A.       I love my aunt. She's my favorite.

18            Q.       Now, the State has asked you questions about  
19       you being a teenager and lying and stealing?

20            A.       Yes.

21            Q.       Do you remember when you got to Las Vegas,  
22       were you -- let's talk about asthma for a couple of  
23       minutes.

24            A.       Yes.

25            Q.       I have asthma. So do you take regular daily

1 dose inhaler or a steroid or anything like that?

2 A. I used to. Now I don't.

3 Q. That daily dose, do you know when it was, what  
4 it was, how long ago did you do that?

5 Sitting here right now I know you are under the  
6 gun, so to speak.

7 A. Before I went to Las Vegas where I had to take  
8 it daily.

9 Q. But you weren't doing that when you got to Las  
10 Vegas?

11 A. No.

12 Q. Is it safe to say when you were in Las Vegas  
13 you were using a rescue inhaler?

14 A. Yes.

15 Q. Was it Ventolin or Albuterol, do you remember  
16 which one?

17 A. It had the color red.

18 Q. It was a red one?

19 A. Yes.

20 Q. You only had to take that when you needed  
21 it?

22 A. Yes.

23 Q. Sometimes you would need it for no reason.  
24 Just an allergy or something would kick up and you felt  
25 the need and you'd use it, right?

1 A. Yes.

2 Q. Would you need it if you exercised?

3 A. If I start having trouble breathing, it opens  
4 my lungs.

5 Q. I guess the question to ask is were there  
6 times you were exercising when you didn't need it?

7 A. No.

8 Q. Did you always need it?

9 A. I have it on me in case of an emergency.

10 Q. If you needed it you'd use it?

11 A. Yes.

12 Q. But you didn't have to use it every time you  
13 exercised?

14 A. Yes.

15 Q. So I want to turn to a couple of specific  
16 events that are being talked about here.

17 Do you ever remember Lisa having you run up and  
18 down the stairs?

19 A. Yes, as exercise.

20 Q. Did she, a couple of times, have you do that  
21 as punishment?

22 A. Yes. I'll admit that.

23 Q. Why did she do that?

24 A. Because I used to steal and lie.

25 Q. You know I don't like talking about this stuff

1 in front of people, but I have to talk about some things  
2 about people you don't like. Did you -- have you had a  
3 weight problem?

4 A. Yes, I have.

5 Q. Has that been something you have struggled  
6 with your whole life?

7 A. Yes, I have.

8 Q. Have you been in the custody of the various  
9 state care givers for a long time?

10 A. Yes.

11 Q. Then you came to Lisa's for 7 months here?

12 A. Yes.

13 Q. Then you went back to somebody in the state?

14 A. Yes.

15 Q. Did Lisa try to help you with your weight?

16 A. Yes. That's why she had me run up and  
17 downstairs and run around the block with her.

18 Q. Did it help?

19 A. Yes.

20 Q. Do she, at any time, have you run and feel  
21 like she was abusing you?

22 A. No.

23 Q. Did you feel like there was a serious risk of  
24 harm to you by what she was making you do, go up and down  
25 the stairs?



1           A.       No.

2           Q.       Do you feel like there was some risk of your  
3 asthma taking over or anything else?

4           A.       Sometimes, but not all the time.

5           Q.       If you asked for your inhaler, did she give it  
6 to you?

7           A.       Yes.

8           Q.       Every single time?

9           A.       Not every single time.

10          Q.       Okay.

11          A.       Because I would be able to calm down.

12          Q.       She only wanted to give it to you if you  
13 didn't calm down. Did you get excited because you  
14 couldn't breathe sometimes, or did you just get excited  
15 and not be able to breathe?

16          A.       Not be able to breathe.

17          Q.       Sometimes you got yourself worked up?

18          A.       Yes.

19          Q.       All right. But I'm talking straight exercise,  
20 running around the block or up and down the stairs.  
21 Follow what I'm saying?

22          A.       Yes, I do.

23          Q.       Did she ever taunt you or withhold the inhaler  
24 and say you can't get this unless you do something or  
25 anything like that?

1           A.       No.

2           Q.       Did you ever feel she was being mean to you  
3 over the inhaler or keeping it from you maliciously or  
4 anything like that?

5           A.       No.

6           THE COURT: I'll caution the witness to let him  
7 finish the question before you answer because you need to  
8 be sure you've heard the entire question. Also as we've  
9 talked about, the reporter is writing it down, and she  
10 can't write down two people speaking at once. So make  
11 sure you wait until the question is complete. Mr.  
12 Evenson, if you could, your questions are sometimes  
13 lengthy. I'm not having a problem with that, but to the  
14 extent you can shorten them up.

15 BY MR. EVENSON:

16          Q.       So when you said -- by the way, did Lisa take  
17 you to doctor's appointments?

18          A.       Yes.

19          Q.       Did she give you all your prescribed  
20 medications you were supposed to have?

21          A.       Yes.

22          Q.       Did she actually take you to all the doctor's  
23 appointments?

24          A.       Yes, she did.

25          Q.       Did she ever pawn that off to any of her kids

1 or anybody else in the family?

2 A. No.

3 Q. Did she take you to enroll you in camp?

4 A. Yes.

5 Q. Did she take you to Disneyland?

6 A. Yes.

7 Q. Did she take you guys to Death Valley?

8 A. Yes.

9 Q. Did she take you with all the other  
10 children?

11 A. Yes.

12 Q. Did you have feel like you were being treated  
13 differently then the other kids?

14 A. No.

15 Q. Do you feel that in any way, shape, or form  
16 Lisa or anybody in the family tried to manipulate you or  
17 get you to testify in a certain way today?

18 A. No.

19 Q. Did you meet with the deputy district  
20 attorneys today?

21 A. Yes, I did.

22 Q. Did you meet with them yesterday?

23 A. Yes.

24 Q. Did you at that time describe to the deputy  
25 district attorneys what exactly happened when they are

1 saying you were choked?

2 A. Yes.

3 Q. What did you explain to them?

4 A. That where Megan was standing it made it look  
5 like she was choking me.

6 Q. Was she?

7 A. Her hands were directly on my shoulders.

8 Q. Were they around you neck in any way?

9 A. No.

10 Q. Did you ever feel a loss of breath from her  
11 hands around your neck?

12 A. No. I couldn't understand what was  
13 happening.

14 Q. That was later on you had the panic attack and  
15 Megan brought you the inhaler, right?

16 A. Yes.

17 Q. So getting back to the allegation of the hands  
18 being around the neck. They were actually on your  
19 shoulders?

20 A. Yes.

21 Q. You told them that?

22 A. Yes.

23 Q. Do you know why they didn't ask you that  
24 question on direct exam when she was asking questions?

25 MS. RINETTI: Objection, speculation.

1 THE COURT: Sustained.

2 BY MR. EVENSON:

3 Q. Did -- just a moment, your Honor. I'm trying  
4 to phrase it right. I'm sorry.

5 From the incident -- that entire incident where you  
6 were shook by the shoulders that we're talking about, that  
7 entire thing when you got excited and you couldn't  
8 breathe. Did you have any bruises, bumps, or marks on  
9 your neck?

10 A. No.

11 Q. Did anybody ever take any pictures of bruises  
12 or bumps as a result of that?

13 A. Not that I remember.

14 Q. Did you ever see any marks or anything from  
15 any of that?

16 A. No.

17 Q. Did -- now, there was this incident where I  
18 think you were talked about, did she -- did Lisa -- I want  
19 to be clear about this.

20 There is an allegation that at some point Lisa made  
21 you say animals -- farm animal sounds. Are you familiar  
22 with that allegation?

23 A. Yes. And it's not true.

24 Q. Well, let me ask you this. You haven't seen  
25 any videos or anything, right? The State didn't show you

1 any videos?

2 A. They did not.

3 Q. Do you just not remember that?

4 A. Must of the time I was in Las Vegas I forgot  
5 about.

6 Q. Do you know why?

7 A. No, I don't.

8 Q. You are feeling a lot of stress?

9 A. Most of the time, yes.

10 Q. Why?

11 A. I don't know why.

12 Q. Do you stress yourself out a lot?

13 A. I guess so.

14 Q. It happens to the best of us.

15 Did you -- do you remember what happened to you at  
16 camp?

17 A. Yes.

18 Q. Did you get kicked out of camp?

19 A. No.

20 Q. You didn't?

21 A. No, I didn't.

22 Q. What happened in camp?

23 A. I went the whole summer.

24 Q. Okay. Did you ever say things to Lisa like  
25 you are not the boss of me. You can't boss me around.

1       Those kinds of things?

2           A.       On occasion when I was angry, yes.

3           Q.       Not recently, so we're talking about when you  
4       were in Las Vegas, right?

5           A.       Yes.

6           Q.       So you remember saying those things?

7           A.       Yes, I do.

8           Q.       When the State was asking you about Lisa  
9       striking you 3 or 4 times and you telling that to somebody  
10      else, you don't have a recollection of saying that to  
11      them?

12          A.       No.

13          Q.       Since you don't have a recollection, do you  
14      know what you were talking about when you said it?

15               Do you follow what I'm saying?

16          A.       No.

17          Q.       If you don't remember saying it, then you  
18      can't say what you were talking about?

19          A.       Not really.

20          Q.       I'm going to ask you a couple of really tough  
21      questions. I just want to be understanding, as best as we  
22      can.

23          A.       Okay.

24          Q.       Have appeared -- I'm going to take a lot of  
25      time asking these questions and ask them slowly so we can

1 be on the same page.

2 A. Okay.

3 Q. What expectations do you feel have been placed  
4 on you in Maryland in terms of improving yourself, doing  
5 better for yourself, those kinds of things? Do you think  
6 there's expectations for improvement or are you  
7 stagnant?

8 A. I'm stagnate at the moment.

9 Q. Stagnant?

10 A. Yes.

11 Q. Do you know what stagnate means?

12 A. Not really.

13 Q. It means staying the same. Stagnant means  
14 moving basically. Is that what you meant?

15 A. Yes.

16 Q. Did Lisa have expectations for you?

17 A. Yes.

18 Q. Were they good expectations or bad ones?

19 A. Good.

20 Q. How were they good?

21 A. She wanted me to improve myself, to be more  
22 fit and more in school and following directions.

23 Q. To the best of your knowledge, is everything  
24 she did designed to make you get there?

25 A. Yes.



1 Q. Any doubts about that looking back?

2 A. No.

3 MR. EVENSON: Nothing further.

4 THE COURT: Ms. Rinetti, any further  
5 questions.

6 MS. RINETTI: No.

7 THE COURT: By a show of hands are there any  
8 questions for this witness. Seeing none, you are excused.  
9 Take your bag as you leave the courtroom.

10 THE WITNESS: Yes, ma'am.

11 THE COURT: Your next witness.

12 MR. VILLANI: Balinda Jackson-Gordon. May we  
13 approach, your Honor.

14 THE COURT: Yes.

15 Hang back with that witness.

16 (Discussion held at the bench.)

17 THE COURT: Remain standing so my clerk can  
18 swear you in.

19 THE CLERK: You do solemnly swear the testimony  
20 you are about to give in this action shall be the truth,  
21 the whole truth, and nothing but the truth, so help you  
22 God.

23 THE WITNESS: I do.

24 THE CLERK: Be seated. State and spell your  
25 name for the record.

1                   THE WITNESS: Balinda Jackson-Gordon,  
2                   J-a-c-k-s-o-n-G-o-r-d-o-n.

3                   DIRECT EXAMINATION

4                   BY MR. VILLANI:

5                   Q.       You brought some paperwork with you. Do you  
6                   mind if I come and retrieve that from you?

7                   A.       Sure.

8                   Q.       Thank you.

9                   Ma'am, how are you employed?

10                  A.       I'm employed by the Clark County Department of  
11                  Family Services and Child Protective Services.

12                  Q.       How long have you been with Child Protective  
13                  Services?

14                  A.       13 years.

15                  Q.       What did you do before that?

16                  A.       I worked in Alameda County, Child Protective  
17                  Services in Northern California and Sacramento Child  
18                  Protective Services in Northern California.

19                  Q.       What particular area of child services do you  
20                  work in now?

21                  A.       Emergency response. I work on the graveyard  
22                  shift.

23                  Q.       Were you working in that same position back in  
24                  July 2014?

25                  A.       Yes.

1 Q. What hours are graveyard?

2 A. 10:30 at night until 9:00 in the morning.

3 Q. Does emergency response have an acronym they  
4 use?

5 A. Yes, ERT.

6 Q. How long have you been in this particular  
7 assignment with ERT?

8 A. 11 years.

9 Q. On July 22nd, 2016, did you respond to a call  
10 at approximately 12:47?

11 A. Yes.

12 Q. What was the basis of you responding to that  
13 call? How did that call come in?

14 A. It came into our in-take unit as what is  
15 called a priority 1 or P-1.

16 MR. EVENSON: Your Honor --

17 THE COURT: Objection basis.

18 MR. EVENSON: I'll withdraw it, your Honor.

19 THE COURT: Mr. Villani, you may continue.

20 THE WITNESS: The call came in into our  
21 in-take unit.

22 MR. EVENSON: Your Honor, I'll object to that  
23 being hearsay. She can say what the nature of the call  
24 was.

25 THE COURT: The objection is hearsay. If we

1       need to approach and have a discussion at this time, the  
2       court will do that. But based on the question asked and  
3       the answer given, I don't believe we have implicated  
4       hearsay.

5               I'll let Mr. Villani redirect the question. The  
6       witness is aware or is made aware by the court now that  
7       you can't testify to what somebody else told you, but you  
8       can testify about things you have direct knowledge of.

9       BY MR. VILLANI:

10            Q.       What information did you have going out there  
11       to that scene?

12            A.       I was given a report, and I responded to the  
13       residence on allegations.

14            Q.       What were those allegations of?

15            A.       The allegations were that --

16                   MR. EVENSON: Your Honor, I'll object to that as  
17       hearsay.

18                   THE COURT: Overruled on the objection to  
19       hearsay on giving direction to what this witness did next  
20       in their actions.

21                   THE WITNESS: The allegations were physical  
22       abuse taking place within a household between an aunt and  
23       her niece.

24       BY MR. VILLANI:

25            Q.       Whose house did you respond to?

1           A.       I responded to Ms. Nashes' house.

2           Q.       Was that 10419 -- was it on Prairie Mountain  
3 Avenue?

4           A.       Yes.

5           Q.       That's in Las Vegas, Nevada?

6           A.       Yes.

7           Q.       What is your jurisdiction as a responder?

8           A.       Bunkerville, Searchlight, everywhere.

9           Q.       Mesquite, Laughlin pretty much?

10          A.       Yeah.

11          Q.       What makes it an ERT call as opposed to a CPS  
12 call?

13               MR. EVENSON: I object as to relevance.

14               THE COURT: Overruled.

15               MR. VILLANI: You can answer.

16               THE WITNESS: Emergency response, they  
17 categorizes the calls as they come in to our in-take unit.  
18 I was given this call to respond to because it was  
19 classified as a response that needed immediate response,  
20 which was within a 30 minute period I am to arrive at the  
21 residence.

22          Q.       That's internal policy?

23          A.       Yes.

24          Q.       What if something happened up in Mesquite?

25          A.       If it takes longer we work that out with

1       whoever is making the report, taking in mind travel time  
2       involved.

3           Q.       This was a propriety 1 call?

4           A.       Yes, it was.

5           Q.       You were there within 30 minutes?

6           A.       Yes.

7           Q.       What did you see when you arrived?

8           A.       When I arrived law enforcement officers were  
9       at the residence. It was a shift change at that time,  
10      swing shift was crossing over with graveyard shift. They  
11      met me outside and briefed me what they found and what  
12      they were dealing with at the time. I proceeded to  
13      investigate the case.

14          Q.       How do you proceed to investigate?

15          A.       First of all, officers told me what they found  
16      and showed me in the patrol car a video that was taken of  
17      the incident that had taken place within the household. I  
18      viewed the video, the strangulation and battery that were  
19      the charges.

20          Q.       You said you viewed the video from the patrol  
21      car. How was that video playing or what was it playing  
22      on?

23          A.       Some type of screen in the vehicle. I believe  
24      it was downloaded from a phone.

25          Q.       You watched it on a screen. You weren't

1 watching it on a phone in the car?

2 A. No.

3 Q. After you saw that and received the  
4 information, how was the information of whether they  
5 arrested Ms. Nash relevant to your investigation?

6 A. Because if a parent or a care-taker is  
7 arrested, then at that point there is no one to care for  
8 the child, so we have to figure out what to do with that  
9 child. In this instance the child has to come into  
10 custody.

11 Q. Did abuse and neglect respond?

12 A. Not at this time, no.

13 Q. Abuse and neglect is not an arm of CPS,  
14 correct? We're talking about officers.

15 A. That's correct.

16 Q. After you saw the video what steps did you  
17 take next in your investigation?

18 A. I proceeded in the house. We're supposed to  
19 see the children first to interview them separately so we  
20 can get a clean interview. Interview family members if at  
21 all possible. Interview the parent or parents and  
22 care-taker.

23 Q. Do you recall the order you interviewed?

24 A. Not necessarily, but I believe I interviewed  
25 Ms. Nash last. She was sitting on the couch handcuffed.

1 Q. Did you interview Shaylyn?

2 A. Yes, I did. I transported her to Child Haven.  
3 And we talked initially in the house, then we talked all  
4 the way to Child Haven.

5 Q. At what point was the decision made to  
6 transport Shaylyn to Child Haven?

7 A. After I determined that Ms. Nash was arrested,  
8 I staffed the case with my supervisor and informed my  
9 supervisor of the findings and was given directives to  
10 bring the child into custody.

11 Q. Outside of Ms. Nash being arrested, from what  
12 you saw on the video, would you have removed Shaylyn?

13 MR. EVENSON: Your Honor, objection as to  
14 relevance.

15 THE COURT: Overruled.

16 THE WITNESS: Given all the factors and with the  
17 directive of my supervisor, I don't make decisions solely  
18 on my decision making.

19 MR. EVENSON: I'd object as to hearsay. She  
20 didn't make the decision.

21 THE COURT: May I have counsel at the bench,  
22 please.

23 (Discussion held at the bench.)

24 THE COURT: The objection is overruled. You may  
25 proceed. If she needs the question repeated, you may do



1 so.

2 BY MR. VILLANI:

3 Q. I forget where we're at. The basic point is  
4 as an ERT worker has there ever been times you respond  
5 where you don't remove the child?

6 A. Do not remove a child?

7 Q. Yes?

8 A. Yes.

9 Q. This was not one of those times. A child was  
10 removed, correct?

11 A. Yes.

12 Q. You personally drove Shaylyn to Child Haven?

13 A. Yes.

14 Q. At what point did your involvement end?

15 A. After I bring a child into Child Haven, I  
16 ensure she's medically cleared. All medical staff, they  
17 do a medical assessment. At that point, when she's  
18 situated in, I leave her there at Child Haven and go back  
19 to my office. I put my case notes in so the day worker  
20 receiving the case will have a working knowledge of what  
21 transpired. I deal with the family for just a few  
22 hours.

23 Q. With this particular case, were you aware of  
24 the circumstances under which Shaylyn was placed in the  
25 home?

1           A.       She was going through an ICP process, which is  
2 interstate compact out of Maryland. She was in the  
3 process of being adopted by Ms. Nash.

4           Q.       Can you explain for the ladies and gentlemen,  
5 who may not be familiar, what an ICPC process is?

6           A.       It's an agreement between state to state when  
7 a child is in a different county or jurisdiction, we make  
8 an agreement and we do a courtesy safekeeping of the  
9 child, if a child is going through an adoption process.

10          Q.       During that time is CPS monitoring the  
11 child?

12          A.       It's not my department, so I can't elaborate  
13 on their process.

14          Q.       Fair enough. During your contact with  
15 Shaylyn, did you get a feel for her mental progress?

16          A.       Based on the report I read and based on  
17 talking with her, she was very mild. Although she is very  
18 big -- at that time she was 15 -- very big and very tall.  
19 She looked like she was a lot older then what she was, but  
20 while I was engaging with her she presented herself as if  
21 she was younger in terms of her mental cognition.

22          Q.       Do you have contact with a lot of children in  
23 your job?

24          A.       Every day.

25          Q.       Do you feel like you have a good feel for

1       whether a child is acting of age, or under age, or above  
2       their age?

3           A.       Yes.   In my training I have.

4           Q.       Do you have an opinion as to whether Shaylyn  
5       was acting her age?

6                   MR. EVENSON:   Your Honor, I'd object as to --  
7       I'm sorry.   Let me rephrase that.   Can I rehear the  
8       question.

9                   THE COURT:   Restate the question.

10       BY MR. VILLANI:

11           Q.       Do you have an opinion as to whether Shaylyn  
12       was acting her age when she was interacting with you?

13           A.       She was acting appropriately with me.   I deal  
14       with children all the time for many, many years.   There  
15       are some children that I really don't like, but I really  
16       liked Shaylyn.   She was polite and a sweet girl.

17           Q.       Fair enough.   You said you had a chance to  
18       talk to Ms. Nash as well?

19           A.       Yes.

20           Q.       What was the basis for that conversation?   How  
21       did that occur?

22           A.       Well, we are suppose to talk to everyone in  
23       the household.   I was talking to her and trying to get  
24       some type of information from her as to how this whole  
25       thing evolved, what was going on.   She, from what I

1       remember, she didn't really say a lot. She was just  
2       sitting on the couch with a very flat affect. If I were  
3       to go through something like that --

4               MR. EVENSON: Your Honor, I'd object as to  
5       speculation as to what she would go through.  
6       Non-responsive.

7               THE COURT: Sustained.

8       BY MR. VILLANI:

9               Q.       Just keeping it on Ms. Nash, her affect, how  
10       would you describe it?

11              A.       Flat and no emotions.

12              Q.       Was she crying?

13              A.       Nothing.

14              Q.       Was she engaging you in conversation?

15              A.       Not much.

16              Q.       Was she yelling?

17              A.       No.

18              Q.       Did you also interview a female my the name of  
19       Summer Christine?

20              A.       Yes.

21              Q.       Who was that?

22              A.       I believe it was Ms. Nashes' older daughter.

23              Q.       Did she have information that was germane to  
24       your investigation?

25              MR. EVENSON: Your Honor, I'd object on

1 hearsay.

2 MR. VILLANI: I'm not asking you to state the  
3 information, just did she or not.

4 THE COURT: Based on the question being a yes or  
5 no, overruled.

6 THE WITNESS: Yes.

7 BY MR. VILLANI:

8 Q. Now, with regard to Shaylyn, did you have any  
9 information with regard to her physical ailments? In  
10 other words, was she on any medication? Did she have any  
11 diagnoses?

12 A. Yes.

13 Q. What information, if any, did you have?

14 A. That she operated on a level of a child that  
15 was about 8 years old. She has suffered from  
16 post-traumatic stress disorder. She's been diagnosed with  
17 ADD and ADHD. She's got asthma. She's been classified as  
18 being emotionally and developmentally disturbed. And she  
19 has been sexually abused in her past. She's been  
20 separated from her family. Her siblings have all been  
21 adopted out and Ms. Nash was her last recourse.

22 Q. Do you know whether or not she's on  
23 psychotropic meds?

24 A. According to the report she was.

25 Q. What is a psychotropic med for the jury.

1           A.       They're mood altering, stabilizing  
2 medication.

3           Q.       Do you recall the medication?

4           A.       No, I don't.

5           MR. VILLANI: Court's brief indulgence. I'll  
6 pass the witness.

7           THE COURT: Mr. Evenson, any questions for this  
8 witness.

9                   CROSS-EXAMINATION

10          BY MR. EVENSON:

11           Q.       Briefly ma'am, when you talked about Ms. Nash  
12 you said that you were talking to her about her affect.  
13 Am I correct in recalling she was in handcuffs on a  
14 couch?

15           A.       Yes.

16           Q.       Can you explain to me where is the guide book  
17 for how somebody is supposed to behave when they're  
18 handcuffed and at home on their couch?

19           A.       No.

20           Q.       Was she violating some societal norm in the  
21 way she was behaving at that moment with handcuffs on the  
22 couch?

23           A.       No.

24           Q.       By the way, when you say all of the things  
25 that Shaylyn had had going on with her life, you are

1 reading that from a report right?

2 A. Yes.

3 Q. You did not make those determinations?

4 A. No.

5 Q. Can you tell me the name of the doctor that  
6 made those determinations?

7 A. I don't have that information.

8 Q. Is that a yes or a no?

9 A. No.

10 Q. Did you read a report from a doctor saying  
11 they made those determinations?

12 A. No.

13 Q. Do you know whether or not this lady was told  
14 the same information or not?

15 A. No.

16 Q. Do you know whether or not she was told  
17 conflicting information or not?

18 A. No.

19 Q. So you've dealt with a lot of these kinds of  
20 cases over the years -- ICPC kids, who have been in the  
21 system for a very long time, right?

22 A. Yes.

23 Q. It's entirely possible -- dare I say  
24 likely -- that a lot of times there is conflicting  
25 information, conflicting diagnoses, conflicting treatment,

1 conflicting findings, right?

2 A. Yes.

3 Q. With the same child?

4 A. Yes.

5 Q. In the same reports?

6 A. Yes.

7 Q. So all of those things that you read were from  
8 far before 2014, right? None of those findings were made  
9 after July 2104. They were all made before?

10 A. Yes.

11 Q. So you're not tying any of those things into  
12 anything that Ms. Nash has alleged to have done, right?

13 A. No.

14 Q. I want to be clear about the last thing you  
15 said. Given her history and everything she had going on,  
16 Ms. Nash was the last resort, right?

17 A. Yes.

18 Q. Or she would stay in the State custody in  
19 Maryland?

20 A. I don't know if that was her last resort.

21 MR. EVENSON: Nothing further, your Honor.

22 THE COURT: Mr. Villani, anything.

23 MR. VILLANI: No, your Honor.

24 THE COURT: Do the jurors have any questions for  
25 this witness. I appears we have a juror question.



1           As we said, I'll remind the jurors you have jury  
2 numbers. Tear up the entire sheet and my marshall will  
3 bring them forward as soon as you're ready.

4           The court will read question as written. Remember  
5 the jurors are asking the question.

6           I have two questions here. I'll ask them in order.  
7 Did Shaylyn ever seem deceptive or untrustworthy.

8           A.       No.

9           Q.       Was Shaylyn aware of what had happened?

10          A.       I'm not sure about that one. I know that  
11 she --

12               THE COURT: Remember the jurors are asking.

13               THE WITNESS: She experienced what she  
14 experienced in the household. As far as why she was  
15 removed, I'm not sure of that. I don't know if she was  
16 mentally able to cognitively understand what had taken  
17 place. She has been diagnosed with having the mental  
18 capacity of someone that is 8, so I don't know if she  
19 understands the full degree of what is going on.

20               THE COURT: Mr. Villani, any follow-up questions  
21 to that testimony.

22               MR. VILLANI: No. Thank you, your Honor.

23               THE COURT: Mr. Evenson, any follow-up questions  
24 to that.

25               MR. EVENSON: I'm going to ask a couple of

1 questions, your Honor.

2 BY MR. EVENSON:

3 Q. I'm concerned about the testimony you gave  
4 regarding her having the capacity of an 8 year old. Was  
5 that -- what was the date of that report that said she had  
6 the capacity of an 8 year old?

7 A. There was no date given.

8 Q. Is it possible she was 8 years old and that  
9 was when the report was done?

10 A. Possibly, yes.

11 Q. So is there a reason why you're trying to make  
12 it seem like this 14, 15-year-old child had the capacity  
13 of an 8 year old when we don't know the date of the  
14 report?

15 A. That's what I have to go by. I have to go by  
16 what's stated in the report that's submitted to me.

17 Q. I understand that. But you have no idea when  
18 that 8 year old tag came out?

19 A. No, I don't.

20 Do you know on July -- when you talked to Shaylyn -- and  
21 by the way, it's Shaylyn not Shalene -- Shaylyn. When you  
22 talked to Shaylyn on the 22nd of July of 2014, do you know  
23 through a medical provider what her mental age was?

24 A. No.

25 Q. And with regard to deception or manipulation

1 or those things, are those records commonly found in CPS  
2 reports?

3 A. If documented, yes.

4 Q. Did you read every single CPS report on her?

5 A. No.

6 Q. Tell me what you read on her that night to  
7 determine that she had no history of being deceptive or  
8 manipulative?

9 MR. VILLANI: Objection. Mistake the question.

10 THE COURT: Sustained.

11 MR. EVENSON: May we approach.

12 THE COURT: You may.

13 (Discussion held at the bench.)

14 THE COURT: Any other questions.

15 BY MR. EVENSON:

16 Q. When you are asked a question about deceptive  
17 or not truthful, you can only relate it to that one  
18 occurrence you had with her on July 22, 2014?

19 A. Correct.

20 Q. You saw nothing that night that said  
21 anything?

22 A. No.

23 MR. EVENSON: Nothing further.

24 THE COURT: Mr. Villani, anything further.

25 MR. VILLANI: No.

1           THE COURT: Thank you Ms. Jackson-Gordon. You  
2 are excused. Take your belongings and mind your step  
3 existing.

4           THE WITNESS: Thank you.

5           THE COURT: We'll take a recess.

6                           JURY ADMONITION

7           During the recess, ladies and gentlemen, you are  
8 admonished not to converse among yourselves or with anyone  
9 else, including, without limitation, the lawyers, parties  
10 and witnesses, on any subject connected with this trial,  
11 or any other case referred to during it, or read, watch,  
12 or listen to any report of or commentary on the trial, or  
13 any person connected with this trial, or any such other  
14 case by any medium of information including, without  
15 limitation, newspapers, television, internet or radio.

16           You are further admonished not to form or express any  
17 opinion on any subject connected with this trial until the  
18 case is finally submitted to you.

19           See you back in 10 minutes.

20                           (Brief recess taken.)

21           THE COURT: We need to make a record of the  
22 bench conferences that took place during testimony of  
23 Ms. Jackson-Gordon.

24           There was an objection raised with regard to  
25 relevancy of some of the testimony that was elicited

1       regarding her knowledge of the -- her knowledge of  
2       Ms. Shelton and her diagnoses. The objection was  
3       overruled. The discussion was allowed to take place. I  
4       may be misstating that.

5               It was objections with regard to her having  
6       discussion about why Ms. Shelton was removed from the  
7       home, that decision making process, and whether or not  
8       that was relevant for the jurors to understand whether  
9       this as a criminal trial or create confusion to the jurors  
10      based on this being a criminal trial with certain  
11      charges.

12             The court did determine that was relevance. Was part  
13      of the story of circumstances. Did not believe that it  
14      was irrelevant or that it was out weighed by substantial  
15      prejudice and indicated that the questioning continue.

16             Mr. Evenson indicated his basis for objection and  
17      indicated the desire potentially direct the jury  
18      instructions. We can address the jury instruction matter  
19      at another time. I think it would be more appropriate at  
20      the conclusion of the trial today because we have to talk  
21      about when jury instructions provided and the schedule of  
22      settlement.

23             Would you like to make any additional record, Mr.  
24      Evenson, with regard to your objection that was made at  
25      the bench.

1           MR. EVENSON: I believe you accurately stated  
2           it, your Honor, and succinctly so. I concur with the  
3           comments and your ruling, but I appreciate your accurate  
4           statement of my concerns.

5           THE COURT: Anything Mr. Villani regarding the  
6           objection stated further at the bench. It was ruled on in  
7           the record, but the bench conference and the more detailed  
8           basis for the objection was up for discussion.

9           Anything to add.

10          MR. VILLANI: No, thank you, your Honor.

11          THE COURT: A few minutes to use the restroom.

12          MS. RINETTI: I have one matter. I apologize.

13          THE COURT: You have one remaining witness.

14          MS. RINETTI: Mr. Evenson indicated at the bench  
15          he would like to potentially recall the victim in this  
16          case. She is a potential State witness. She had been  
17          called and cross-examined. We have flight arrangements  
18          tomorrow at 10:00 a.m. She is under State's subpoena.

19                 I have asked her guardian to come back with  
20          Shaylyn. She is more than welcome to serve her with a  
21          subpoena and make arrangements for travel to make sure she  
22          stays. But as far as a State's witness, we have met our  
23          obligation regarding her testimony.

24          THE COURT: Mr. Evenson, my thought and it  
25          somewhat dovetails with what the State just said was it's

1 not at all uncommon in a trial circumstance to have a  
2 witness taken out of order who might otherwise have been  
3 called in defense case in chief so that that witness can  
4 be here and appear one time and one time only. In the  
5 circumstances it would be necessary to complete this  
6 witness' testimony while this witness is present in the  
7 State.

8 As the State indicated, if you've made other travel  
9 arrangements or otherwise served a subpoena on the  
10 witness -- I have no problem recalling the witness today  
11 and allowing you to finish that examination. I do not  
12 understand a basis upon which it would be necessary or  
13 required to have this witness wait until later in the week  
14 only to be recalled to the stand.

15 MR. EVENSON: I'm not the one that decided the  
16 order of witnesses. There is a myriad of witnesses to  
17 testify. She's a critical witness. The State subpoena  
18 allows me to have the power to recall her I believe. And  
19 in terms of, you know, being required to make travel  
20 arrangements, if that's what we're required to do we'll be  
21 happy to do that.

22 I don't know no -- they have no obligation to provide  
23 me with an order of witnesses. That's how the game is  
24 played and that's fine. But they called her today. I  
25 very well may need her later in the week on my case in

1 chief. If you're requiring a subpoena be issued rather  
2 then a recall, that's fine. I'm happy to do that. I'd  
3 just ask that that be issued to her now and we do what  
4 needs to be done in that regard.

5 I'm at a disadvantage because I don't have the  
6 ability to spit a subpoena out of my office. In terms of  
7 if we have to make travel plans or the State's can't be  
8 transferred for an extra cost, then we have to do that. I  
9 do not, you know -- that's where I stand, Judge. She is  
10 somebody that -- I can't sit here and say I need to recall  
11 call her, because again I don't know what evidence is  
12 going to be presented after she testifies that could  
13 require her to be recalled. It's not my -- she lives in  
14 Maryland. That has nothing to do with us. I'm just --  
15 whatever ruling you make I'll abide.

16 Thank you.

17 THE COURT: Mr. Evenson, neither of the options  
18 that the court -- we were just talking about were the just  
19 court indicated was its preference was, you finished your  
20 testimony with this witness and she's here today. You're  
21 talking about maybe you want to recall her this week,  
22 maybe you don't and somehow you're disadvantaged. There's  
23 no disadvantage here. If you want to wait until later in  
24 the week and then make arrangements to fly herr back out  
25 here because you determine after all of the State's



1 evidence comes in and you want to recall her, you're  
2 welcome to do that. That doesn't make sense from the  
3 court, but that's your prerogative.

4 My point was this is trial. This is the witness.  
5 I'm quite certain you're well-prepared and you have  
6 already examined the witness for whatever it was you  
7 wanted to examine the witness about. I don't know what  
8 speculation there is about what other events might come in  
9 that somehow needs to be recalled of that particular  
10 witness and not nay others.

11 If you wanted that witness here under your own  
12 subpoena you have an issue. If you want that witness to  
13 travel back here and you want to put this witness through  
14 that effort, that's your choice. I do not quite  
15 understand why the court's preferences can't be a  
16 accomplished, which is accomplished in every trial, except  
17 apparently any jurisdiction which you practice, that is to  
18 take one witness, one day, and finish all the direct, all  
19 the cross for both sides. You don't want to do that,  
20 that's your choice.

21 MR. EVENSON: That's fine. It's not that and I  
22 apologize for your misunderstanding.

23 THE COURT: I don't ever misunderstand, Mr.  
24 Evenson, but I do have my opinions.

25 MR. EVENSON: I understood what you are stating,

1 Judge. I will just ask for the break to make a  
2 determination on what I want to do. I'll act accordingly.  
3 Give me a couple of minutes to think about it.

4 THE COURT: I'll direct the State at the same  
5 time on break to perhaps advise Ms. Shelton and the  
6 guardian that there is the possibility they would be  
7 flying back and help them understand what choice they may  
8 wish to make.

9 THE COURT: We'll return at 4:15.

10 Are these the jury instructions.

11 MR. EVENSON: Your clerk would slap me if at  
12 4:30 the day of trial I handed that to her.

13 THE COURT: She would. So I have a set of  
14 instructions. Did you receive the State's.

15 MS. RINETTI: As soon as I go back to my office  
16 I'll email it.

17 THE COURT: Did I give you back what you gave  
18 me.

19 MS. RINETTI: You have an extra copy.

20 THE COURT: Give me a second to track them down.  
21 Really what I want tomorrow is I want input from each  
22 other on them by the end of the day. Let me see, I'll  
23 have you email them to my JEA. Let me see.

24 THE COURT: Did you get the copy set.

25 MR. EVENSON: I may have 2, 3, 4, 5 more

1 tomorrow.

2 THE COURT: These are my JEA's cards with her  
3 email address on them so each side can email your proposed  
4 sets.

5 MR. EVENSON: Judge, to notify you and your  
6 staff. Earlier today I sprung a leak in my nose because  
7 of the medication I'm taking. I had a heart attack in  
8 March, so I'm on blood thinners. If I might run up and  
9 get some Kleenex, I apologize. I haven't had problems  
10 yet.

11 THE COURT: Let's talk a few more seconds about  
12 the instructions. Ms Nash --

13 MR. EVENSON: We can waive her presence for this  
14 discussion.

15 THE COURT: Here's all I need from counsel. At  
16 the end of the day tomorrow when we break trial, I would  
17 like to have, for certain, what your proposed sets are in  
18 their entirety. I'm trying not to get them in piecemeal.  
19 When you said you were going to send 4, 5 more, I'd like  
20 to get the entirety of your set and the entirety of the  
21 State's set. Then I would like to have your commentary as  
22 to each others. So if you oppose -- Mr. Evenson, this  
23 might help you. If you can add page numbers to yours, it  
24 helps for reference purposes. And make sure that whatever  
25 you send by email to the State and to the court is

1 complete, that would be great.

2 I appreciate that if you haven't shared them with  
3 each other you can't give me commentary on them, but I did  
4 indicate that you could exchange them tomorrow. I would  
5 like whatever you exchange to be complete. I'd like the  
6 set date and time by which you give me your take, if you  
7 will, on each others.

8 Does the State have page numbers. You do. Okay.

9 MR. EVENSON: I have most you have yesterday  
10 done. I sent them in an email to myself to get printed  
11 out and sent a second set this morning.

12 THE COURT: You have them.

13 MR. EVENSON: Yeah.

14 THE COURT: Since you have them, it's not that  
15 you're still working on them. At some point this evening,  
16 say by 6:00, if that's fair, could both sides have sent a  
17 set to each other and to the court that are inclusive of  
18 page numbers and of all proposed instructions. You can  
19 have those tonight and have an opportunity then it's fair  
20 for me to ask by a certain time tomorrow night to have  
21 your commentary on each others. Is that fair.

22 MR. EVENSON: More than fair. The only thing I  
23 would ask is that I've got to make sure -- I assume the  
24 court had a stock set I would have and I have their stock  
25 set.

1           THE COURT: Their stock set is inclusive of the  
2 court's stock set. I'm going to create the court's set  
3 from your two sets, but the State has the stocks.

4           MR. EVENSON: Fine. The only thing I need to do  
5 is I'm going to do another instruction for the CPS that I  
6 feel necessary -- or not as the case may be. And I can do  
7 that in the 6:00 deadline.

8           THE COURT: It could be later. Here's my point.  
9 Whatever time you tell me you can have it done. I'm not  
10 trying to get people to work late into the evening, say by  
11 9:00.

12           If by 9:00 tonight you can have emailed each side  
13 sets with page numbers inclusive of all the instructions,  
14 so we know -- open them up and look at them -- I'm not  
15 going to get them tomorrow, here's 5 more I forgot about.  
16 I want to know what I'm looking at is complete. I  
17 probably will start to work on them. As long as I have  
18 them tonight and you look at them, I would think it's  
19 reasonable to ask that by the end of the day I could have  
20 the commentary as to if you oppose the others and in what  
21 basis.

22           If you want to say, I have page number 6, fine. You  
23 want to say I oppose this one. I want a counter proposed  
24 that's fine. Okay.

25           Tonight by 9:00 the court will have received each

1 party's sets each has proposed inclusive of numbers and of  
2 all proposed instructions.

3 We have one last witness from the State today. How  
4 late do you think it will take.

5 MR. VILLANI: I believe my direct should be 15  
6 minutes.

7 THE COURT: All right. The witness, I'm  
8 sorry.

9 MR. VILLANI: Megan Nash.

10 THE COURT: Okay. Let's call your next witness.

11 MR. VILLANI: State calls Megan Nash.

12 THE COURT: We have all counsel, our jurors,  
13 Ms. Nash is present.

14 Megan Nash, please.

15 THE CLERK: You do solemnly swear the testimony  
16 you are about to give in this action shall be the truth,  
17 the whole truth, and nothing but the truth, so help you  
18 God.

19 THE WITNESS: I do.

20 THE CLERK: Be seated. State and spell your  
21 name for the record.

22 THE WITNESS: Megan Nash, M-e-g-a-n, N-a-s-h.

23 THE COURT: Mr. Villani, whenever you're ready  
24 to proceed.

25 MR. VILLANI: Thank you.

## 1 DIRECT EXAMINATION

2 BY MR. VILLANI:

3 Q. Megan, are you related to Lisa Nash?

4 A. Yes, sir.

5 Q. How are you related to her?

6 A. She's my mom.

7 Q. Were you living there back in 2014?

8 A. Yes.

9 Q. With your mom?

10 A. Yes.

11 Q. Who else were you living with?

12 A. Shaylyn, I think that was it. Yeah, just  
13 Shaylyn and my mom.

14 Q. Do you have brothers and sisters?

15 A. Yes, I do.

16 Q. Who are they?

17 A. Chea Douglas and Summer Troopie (ph).

18 Q. Did they all live at the home at the time?

19 A. I honestly don't remember.

20 Q. At the time you were living there with  
21 Shaylyn, how long did Shaylyn live with you?22 A. From December -- because I remember she stayed  
23 with us on Christmas, just stayed. So from December to  
24 whatever time this happened, I guess.

25 Q. By the time this happened, what are you

1       referring to?

2           A.       This situation that we're here for.

3           Q.       Okay. Describe what Shaylyn was like when she  
4 was living with you?

5           A.       Really difficult to handle and slightly  
6 manipulative. She stole a lot.

7           Q.       What types of things did she steal?

8           A.       Random -- anything. It was strange.

9           Q.       Like what?

10          A.       Let me see if I can think of something. I  
11 honestly can't. It was just a bunch of random little  
12 things. Nothing in particular that she was fascinated by,  
13 but she'd randomly take things.

14          Q.       Stuff around the house?

15          A.       Yeah. For no reason or took stuff from school  
16 as well.

17          Q.       Do you know whether she had asthma?

18          A.       Asthma?

19          Q.       Yes.

20          A.       I think so.

21          Q.       Do you remember at any point your mom striking  
22 Shaylyn?

23          A.       Like?

24          Q.       Hitting her?

25          A.       Yeah.



1 Q. About how many occasions?

2 A. Maybe like on the video. And I don't know if  
3 there were other times. I'm trying to think. It's been  
4 long. I'm sorry.

5 Q. I understand. Would your mom physically abuse  
6 Shaylyn?

7 A. That one time. Other stuff was PT.

8 Q. What's PT?

9 A. What they do PT tests in the military.  
10 Exercise, boot camp.

11 Q. Boot camp, what type of boot camp?

12 A. Run up and down the stairs, like exercise,  
13 randomly. I don't know like the -- I don't know. I don't  
14 exercise. It's called push-ups, stuff like that or  
15 sit-ups.

16 Q. Would you say your cousin had mental  
17 disabilities?

18 A. Yes.

19 Q. Would you say your mom would choke her?

20 A. No.

21 Q. Did your mom ever choke her?

22 A. No. It was more or less grabbing her shoulder  
23 area. I wasn't close enough to determine whether or not,  
24 so that's what it might have looked like at the time but I  
25 don't --

1 Q. So you are referring to the video?

2 A. Yes.

3 Q. Did your mom ever choke her on other  
4 occasions?

5 A. No.

6 Q. Did your mom pull her hair?

7 A. I don't think so. I don't know. I don't  
8 remember.

9 Q. Would your mom get up in her face?

10 A. Yeah.

11 Q. What would she do when she got up in her  
12 face?

13 A. Yelling and stuff.

14 Q. Yell about what? What sort of things would  
15 she yell about?

16 A. Most of the time it wasn't for no reason. It  
17 was because like Shaylyn would do certain stuff, like -- I  
18 don't know, like sneaking around, like, things that she  
19 wasn't supposed to be doing.

20 Q. Sneaking around with boys?

21 A. Yeah. She has done that before.

22 Q. She's snuck out with boys before?

23 A. Yeah.

24 Q. Out of the house?

25 A. Not out of the house, no. She didn't -- like,

1 I let her use my phone, so it wasn't anything like weird,  
2 just when my mom found out she was upset.

3 Q. What did your mom do?

4 A. She told me I couldn't let her use my phone  
5 anymore. She took away her TV privileges.

6 Q. Outside of the videos, do you recall your mom  
7 slapping or pushing Shaylyn?

8 A. Maybe like one time she like shoved her, but  
9 it was like -- it wasn't like -- I don't know. It wasn't  
10 intentionally trying to hurt her more like scare her.

11 Q. Would your mom keep Shaylyn from eating as a  
12 punishment?

13 A. Keep her from eating like starve her.

14 Q. Keep her from eating?

15 A. She would try putting her on a diet because  
16 she was like really heavy and she wanted her to ride  
17 horses.

18 Q. I'm talking outside of diets or other  
19 circumstances. Did your mom ever deprive her of food?

20 A. No.

21 Q. You recall the videos that are the subject of  
22 this case?

23 A. Yes.

24 Q. You met with myself and Ms. Rinetti earlier  
25 today?

1 A. Yes.

2 Q. You saw those videos?

3 A. Yes.

4 Q. Those videos were burned onto a disc?

5 MR. EVENSON: Those are all leading questions.

6 THE COURT: They're foundational. Overruled.

7 BY MR. VILLANI:

8 Q. Were those videos burned onto a disc?

9 A. The ones that she had?

10 Q. Yes.

11 A. Yeah. Somebody burned them onto disc.

12 Q. We showed you that disc, right?

13 A. Yes.

14 Q. You signed that disc?

15 A. Yes.

16 Q. You signed the videos on that disc?

17 A. Yes.

18 MR. VILLANI: Approach the witness.

19 THE COURT: You may.

20 BY MR. VILLANI:

21 Q. Showing you what has been previously marked as  
22 State's Proposed Exhibit 1-A. I'll take the CD out of the  
23 sleeve, 1-A. This is Exhibit 1, the disc. You recognize  
24 that, the marking in blue pen?

25 A. Yes. I'm sorry.

1 Q. What is that?

2 A. My signature.

3 Q. What is on this disc?

4 A. Those videos.

5 MR. VILLANI: Move for admission of State's  
6 Proposed Exhibits 1 and 1-A, your Honor.

7 MR. EVENSON: I object. I ask if I can voir  
8 dire the witness.

9 THE COURT: Voir dire the witness. I was asking  
10 if you had objection. Give you objection first.

11 MR. EVENSON: Foundation.

12 THE COURT: All right.

13 VOIR DIRE

14 BY MR. EVENSON:

15 Q. Megan, I need you to track the history, to the  
16 best of your knowledge, backwards of what's on those.

17 Did you ever see that disc before today?

18 A. No.

19 Q. Did you see every minute of every second of  
20 every video on that disc?

21 A. No.

22 Q. How many videos were you shown on that disc  
23 today?

24 A. All of them, I think.

25 Q. How many is that?

1 A. Four.

2 Q. When did you find out there were 4 videos?

3 A. Today.

4 Q. Did you remember there being 4 videos?

5 A. No.

6 Q. Had you any awareness of there being 4  
7 videos?

8 A. It's been so long, I forgot everything that  
9 happened in those videos. It's been 4 years.

10 Q. Did you know that there were 4 videos?

11 A. No.

12 Q. How many did you think there were?

13 A. I thought there were 2.

14 Q. Did it surprise you there were 4?

15 A. Yeah.

16 Q. You hadn't seen that tape before today. Do  
17 you know where that CD came from, in terms of -- you were  
18 present with these folks in an office. They downloaded  
19 it. They didn't show you every minute. Did they fast  
20 forward it and stuff?

21 A. I didn't want to see the whole thing.

22 Q. I understand that. But regardless of that,  
23 you, in their office, they fast forwarded it, right?

24 A. Yes.

25 Q. So that video that was downloaded onto that

1 CD, do you know where that came from before it was  
2 downloaded on your CD. You know where it was?

3 A. No.

4 Q. Do you know who handled it?

5 A. No.

6 Q. Do you know whether or not it was tampered  
7 with?

8 A. No.

9 Q. Now, we don't know how it got there, so I'll  
10 ask you what you do know about what was given. Okay.

11 Going back to July of 2014?

12 A. What was?

13 Q. What was given to police July 2014?

14 A. The USB drive.

15 Q. I guess that's what it was.

16 Did you ever show a video on your phone to a law  
17 enforcement officer?

18 A. No.

19 Q. Did you ever yourself download a video from  
20 your phone to a laptop?

21 A. No, I didn't.

22 Q. From your phone to a laptop?

23 A. No.

24 Q. Did you ever yourself download the video from  
25 your phone to a USB drive?

1 A. No.

2 Q. Were you present when any of those things were  
3 done?

4 A. No.

5 Q. I'm sorry?

6 A. No.

7 Q. Do you know how that USB drive got from USB  
8 drive to the video in their office today?

9 A. No.

10 Q. Can you say with any certainty at all -- I'm  
11 talk 50 percent, 75 percent, 25 percent -- can you say  
12 with certainty that you know, to the best of your  
13 knowledge, those are the videos you took?

14 A. I don't know completely. I haven't seen them  
15 in so long.

16 Q. I understand that. Do you know if they were  
17 tampered with?

18 A. I don't know.

19 Q. You thought there were 2 now there's 4. Do  
20 you know whether or not they were edited.

21 A. No.

22 Q. If they were, do you know who did it?

23 A. No.

24 MR. EVENSON: Foundational objection.

25 THE COURT: Do you have more questions for the



1 witness.

2 MR. VILLANI: Yes.

3 BY MR. VILLANI:

4 Q. You viewed those videos in our office,  
5 correct?

6 A. Yes.

7 Q. We offered to show you them in their entirety.  
8 You were satisfied, correct?

9 A. Yes.

10 MR. EVENSON: That's a leading question.

11 THE COURT: Overruled. We can get through this  
12 more quickly if everyone has opportunities to have  
13 questions. This is foundation.

14 You may proceed.

15 BY MR. VILLANI:

16 Q. So do you have any doubt that those videos on  
17 there are the ones you took?

18 A. No, I don't. I haven't seen them in however  
19 long, so I don't even know.

20 MR. VILLANI: Permission to approach the witness  
21 with a laptop. May I publish.

22 THE WITNESS: I don't want to -- I'm not going  
23 to sit here and watch those again.

24 MR. VILLANI: Were you the person who took the  
25 videos.

1 THE WITNESS: Yes.

2 MR. VILLANI: Do those videos fairly and  
3 accurately represent the videos you took way back when.

4 THE WITNESS: From what I remember you.

5 MR. VILLANI: You are qualifying it.

6 THE WITNESS: From what I remember.

7 MR. VILLANI: Is there any reason to doubt that  
8 these videos on there depict something that did not  
9 occur.

10 THE WITNESS: No.

11 MR. VILLANI: Move to admit, your Honor.

12 THE COURT: Ms. Nash, obviously nobody wants to  
13 make you uncomfortable or make you watch things you don't  
14 want to watch. We may have enough information to make a  
15 determination at this time, but there are certain court  
16 rules and foundation rules we have to meet in order for  
17 something to into evidence. What was represented by the  
18 State is they spoke with you earlier that you were shown  
19 the videos, to whatever degree you all agreed to look at  
20 them, and that you believe that those videos are the ones  
21 that you took. Is that fair?

22 THE WITNESS: Yes.

23 THE COURT: The objection is overruled. You may  
24 display or publish for the State at this time if you wish  
25 to do so.

1 MR. VILLANI: Thank you, your Honor.

2 BY MR. VILLANI:

3 Q. With regard to those videos, I'm not going to  
4 make you watch them, but they depict Shaylyn running up  
5 and down the stairs?

6 A. Yes.

7 Q. Those are because -- those videos of her  
8 running up and down the stairs, that is because she snuck  
9 pretzels, right?

10 A. Yes.

11 Q. Is that the random stuff she used to steal?

12 A. No. I have little trinkets in my room. I  
13 would go through her room and she'd have them. I'm like  
14 what is this, like -- that is the kind of stuff she would  
15 steal.

16 THE COURT: Mr. Villani, I want to caution you.  
17 We are past the foundation. Ask properly direct  
18 questions.

19 MR. EVENSON: Thank you.

20 MR. VILLANI: If I may approach, your Honor.  
21 May we approach.

22 THE COURT: Sure.

23 (Discussion held at the bench.)

24 THE COURT: Thank you. Mr. Villani, when you  
25 are ready to proceed with that clarification.

1 BY MR. VILLANI:

2 Q. Megan, with regard to the type of abuse we saw  
3 in the video, how often would you say this happened?

4 MR. EVENSON: I'll object to the phraseology,  
5 the type of abuse we saw on the video.

6 THE COURT: The basis of your objection, Mr.  
7 Evenson.

8 MR. EVENSON: I'll withdraw it. It's fine, your  
9 Honor.

10 THE COURT: Proceed.

11 BY MR. VILLANI:

12 Q. The type of abuse we saw in the video, how  
13 often would you say that would happen between your mom and  
14 Shaylyn?

15 A. That was the first time it's ever been like as  
16 bad as it was. Not bad, but --

17 Q. That's the first it's ever been almost to that  
18 point?

19 A. No.

20 Q. Do you recall an instance where your cousin  
21 Shaylyn held a knife over a candle to see if it would  
22 melt?

23 A. I wasn't there for that.

24 MR. EVENSON: Objection. Calls for hearsay.  
25 She wasn't there for that. Hearsay.

1           THE COURT: You want to lay a foundation. The  
2           objection is sustained.

3           BY MR. VILLANI:

4           Q.       With regard to that instance, you recall in  
5           your voluntary statement for police on July 3, 2014?

6           A.       Do I remember doing it?

7           Q.       Yes.

8           A.       Yes.

9           Q.       In that voluntarily statement you were  
10          truthful, I assume?

11          A.       I honestly don't remember. I was kind of --  
12          very possible I could have over exaggerated because I was  
13          extremely angry at my mom. I have borderline personality  
14          disorder. Sometimes I do things that I shouldn't do.

15          Q.       Would it refresh your recollection as to  
16          whether or not you were exaggerating to review that?

17          MR. EVENSON: Counsel is saying the statement  
18          from July 3, 2014. I have no statement from July 3, 2014  
19          in my possession. I have July 21st, 2014.

20          MR. VILLANI: It is July 3rd.

21          MR. EVENSON: The date at the bottom where she  
22          signed it is July 21st.

23          THE COURT: Just confirm, Mr. Evenson, for the  
24          confusion of the jury, the document, looking at the same  
25          one that Mr. Villani has that's July 3rd at the top and

1 July 21st at the bottom.

2 MR. EVENSON: It's the way it appears. I wanted  
3 to make sure of that.

4 THE COURT: I'm trying to make sure there's no  
5 confusion and we're talking about the same document and  
6 you have it.

7 Mr. Villani approach witness stand so the witness  
8 understands. All we're asking you to do is refresh your  
9 recollection about the report. You are to read that to  
10 yourself and see if that refreshes your recollection.

11 Mr. Villani, may have further questions. Tell us  
12 when you are complete in reading it.

13 THE WITNESS: I over-exaggerated.

14 THE COURT: Mr. Villani may have questions, Ms.  
15 Nash.

16 BY MR. VILLANI:

17 Q. I would like the ladies and gentlemen of the  
18 jury to have some context in which you understand this.

19 You remember that night?

20 A. Yeah, hardly. Just the whole situation.

21 Q. Where were you when the police first  
22 responded?

23 A. At my boyfriend, at the time, his house.

24 Q. How did it come about that 911 was called?

25 A. I discussed it with my father. Then he told

1 me that I should do something about it.

2 Q. How did you discuss it with your father?

3 A. I showed him the video.

4 Q. Did your father live in Nevada at the time?

5 A. No.

6 Q. Where did he live?

7 A. California.

8 Q. How did you show him the video in  
9 California?

10 A. He came down to visit me. I sent -- I  
11 probably sent one to him. I don't quite remember. I  
12 remember him seeing it.

13 MR. EVENSON: Objection, hearsay.

14 THE COURT: May I have counsel at the bench,  
15 please.

16 (Discussion held at the bench.)

17 THE COURT: Objection is overruled. I will let  
18 Mr. Villani proceed as ask another question.

19 And Ms. Nash, we had a request and the court  
20 would make the request as well, you are hard to hear and  
21 even though the microphone is there you are very close to  
22 it, if you would please speak up a little bit and help us  
23 all. Okay.

24 It will speed up the process as well. Go ahead Mr.  
25 Villani.

1 MR. VILLANI: Thank you.

2 BY MR. VILLANI:

3 Q. You mentioned your dad was coming down to  
4 visit you. Is it true he was coming down because you  
5 called him regarding this event?

6 A. Yes.

7 Q. Why did you call him regarding this event?

8 A. Because I wanted advice from him. I wasn't  
9 sure what it -- I think it was more or less, more, but I  
10 got scared. It's weird seeing my mom -- she's never done  
11 that before. It's not like -- not like -- I don't know.

12 Q. So your dad came down from California, and you  
13 called police at 10:00 at night, right?

14 A. I waited for him till 10:00 at night. I don't  
15 remember what time, but I know we were waiting for him a  
16 few hours.

17 Q. Was your dad there when you called the police  
18 or was he in route?

19 A. He was there -- I think -- hold on. Sorry.  
20 He was there.

21 Q. So your boyfriend is there. Is anybody else  
22 there at the house?

23 A. Yeah. My boyfriend's parents, then his  
24 aunt.

25 Q. And the event in question on the video, did



1 not happen that night, right?

2 A. No. It didn't happen that night.

3 Q. How long had you had those videos?

4 A. I think about a month, maybe.

5 Q. Did you have discussions with your boyfriend  
6 as to whether or not you are going to show somebody or  
7 along those lines?

8 A. Yes.

9 Q. Why did you take the videos?

10 A. I honestly don't know. I think it was  
11 probably because, I don't know. I'd never seen my mom  
12 like that before so it was like -- I don't know how to  
13 explain it.

14 Q. Back to circumstances in which you wrote this  
15 report. You were asked by a police officers to write it  
16 down, what has been going on?

17 MR. EVENSON: Your Honor, objection, leading  
18 question.

19 MR. VILLANI: I'll rephrase. Sorry, your  
20 Honor.

21 THE COURT: Sustained. Rephrase.

22 BY MR. VILLANI:

23 Q. What were you asked when you wrote this  
24 report? What were you asked to do?

25 A. Just write a statement about the situation.

1 Q. And you did that?

2 A. Yeah.

3 Q. I asked you questions earlier about outside  
4 the video your mom choking Shaylyn?

5 A. Outside, no, she never --

6 Q. With regard to the statement you read while  
7 you are up there, did you tell police your mom choked  
8 Shaylyn?

9 A. I don't remember.

10 Q. Would it help to refresh your recollection --

11 A. You mean in the statement?

12 Q. Correct.

13 A. Yes, in the statement I did.

14 Q. You said, yes?

15 A. In the statement I did. Sorry, I'm trying  
16 to --

17 Q. In the statement did you tell police your mom  
18 pulled her hair?

19 A. Yes.

20 Q. In the statement did you tell the police your  
21 mom would keep her from eating as a punishment?

22 A. Like I said, that was way over-exaggerated.

23 Q. All that stuff was outside the video in your  
24 statement, the statement you wrote?

25 A. Yes. Well, some of it.

1           Q.       Because there's a point in here when you note  
2       in the video, here's what happened. Is that fair?

3           A.       Yes.

4           Q.       But all of that stuff you're telling them  
5       about, you mom choking shocking her, your mom pulling her  
6       hair that's all before that point in the statement?

7           A.       In the statement before that point,  
8       probably.

9           Q.       Would it help refresh your recollection?

10          MR. EVENSON: Can we approach.

11          THE COURT: Yes.

12          THE COURT: The request for objection is  
13       overruled. Mr. Villani, you had asked to approach.

14       BY MR. VILLANI:

15          Q.       Back to the question.

16          A.       Do you have a copy of it so I can have -- I  
17       don't want anything to --

18          Q.       Well, I'm trying to go by your memory now. If  
19       this refreshes your memory, that's fine. If it doesn't  
20       refresh your memory and you need us to take other actions,  
21       let me know. I'll approach to have you read on your own.

22          A.       What was question, again?

23          Q.       The question you are reading that for is  
24       whether the event you are talking about with your mom  
25       choking and pulling her hair and keeping food out for

1 punishment happened outside the video with regard to that  
2 statement, right?

3 A. That didn't really happen. Like her keeping  
4 food from her and stuff, that was like a dietary thing.  
5 It was over-exaggerated.

6 Q. How about the pulling hair and choking?

7 A. I don't recall her pulling her hair.

8 Q. Did you write it in your statement?

9 A. Yes, I did write it in my statement.

10 Q. You wrote she choked her in your statement?

11 A. Yes, I did.

12 Q. Did you, in fact, write it twice?

13 A. I -- yes, I did.

14 Q. Did you write this happens 2 to 3 times a  
15 month in that statement?

16 A. Yes.

17 Q. Did you write about the incident where your  
18 cousin held a knife over a candle to see if it would melt?  
19 You wrote about that?

20 A. Yes.

21 Q. Did you write that my brother told me that  
22 statement?

23 A. No, I didn't.

24 Q. Did you write your mom smacked Shaylyn and  
25 made her run up and down the stairs and poked her with

1       that knife?

2           A.       Yes.

3           Q.       Did you write that your brother told you that  
4       happened in that statement?

5           A.       No, I didn't.

6           MR. VILLANI:   If I may retrieve it. We're  
7       done.

8           THE WITNESS:   Sorry.

9           MR. VILLANI:   I'll pass the witness.

10          THE COURT:   Mr. Evenson.

11                       CROSS-EXAMINATION

12       BY MR. EVENSON:

13          Q.       Megan, how old are you today?

14          A.       I'll be 19 the end of September.

15          Q.       You've had an opportunity to read and have the  
16       statement presented to you that you wrote?

17          A.       Just now, yes.

18          Q.       Have you ever been presented that statement  
19       before today?

20          A.       No.

21          Q.       So in the 3 years since this crime was  
22       charged, the district attorney's office never asked you to  
23       go over that statement before today?

24          A.       I don't think so, no.

25          Q.       They've never talked to you about it before

1 today?

2 A. No.

3 Q. They never asked you about it before today?

4 A. No.

5 Q. You think they really care what your answers  
6 are?

7 MR. VILLANI: Objection, argumentative.

8 MR. EVENSON: I'll rephrase the question.

9 THE COURT: Sustained.

10 BY MR. VILLANI:

11 Q. Based upon the questions you've been asked by  
12 the district attorney today, do you believe they care  
13 about your answers?

14 MR. VILLANI: Objection, speculation.

15 THE COURT: Sustained. I'll caution you ask  
16 appropriate questions of the witness.

17 MR. EVENSON: Okay.

18 BY MS. RINETTI:

19 Q. Did you ever get interviewed about what's gone  
20 on in your life to get to the point you are at?

21 A. No.

22 Q. Have you ever been interviewed by law  
23 enforcement or CPS -- in fact, we had a lady here from CPS  
24 earlier. I don't know if you saw her come in or out, but  
25 did you ever, that night, July 22 -- the morning of July

1 22, 2014, did you ever talk to anybody from CPS?

2 A. Yes, I believe -- not about me, just about  
3 Shaylyn.

4 Q. Right. But I understand that. But did you  
5 talk to them about any of this statement or anything  
6 else?

7 A. No.

8 Q. I want to understand this process. I want to  
9 make sure I understand how this worked.

10 You were presented a blank form from a police  
11 officer?

12 A. Yes.

13 Q. He said fill this out and give it back to  
14 me?

15 A. Yes.

16 Q. That's what you did?

17 A. Yes.

18 Q. When he gave it back to you, did he ask you  
19 any questions?

20 A. No.

21 Q. Did he ask you to put a time frame on any of  
22 this?

23 A. No.

24 Q. Did he ask you to attach dates to any of it?

25 A. No.

1           Q.       Did he ask any background information at  
2       all?

3           A.       No.

4           Q.       Did he ask for any other people who were  
5       present, for example, were your siblings present during  
6       this incident?

7           A.       No.

8           Q.       Did he ask whether any of this information was  
9       hearsay?

10          A.       No.

11          Q.       Did he ask you whether or not all the  
12       information you personally knew or whether it had been  
13       told to you?

14          A.       No.

15          Q.       Did he ask you where this had taken place?

16          A.       No.

17          Q.       Did he ask you anything about corroborating  
18       information, anything that would -- not necessarily a  
19       video -- anything involving something that would refresh  
20       your recollection so you could put an exact date on any of  
21       this? Did he try to do any of that with you?

22          A.       No.

23          Q.       Am I to understand then that you took this  
24       statement, you filled it out, and you handed it back to a  
25       law enforcement officer -- may I approach, your Honor.



1 THE COURT: You may.

2 BY MR. EVENSON:

3 Q. Once you are done filling out the statement,  
4 you hand it back to the cop. What I'm doing now is  
5 exactly what the copy did?

6 A. Basically.

7 Q. Didn't ask you any questions or anything else.  
8 Then it ends up in a file and 3 years later you end up in  
9 a courtroom answering questions about it?

10 A. Yes.

11 Q. So are you telling us under oath in front of  
12 this jury today the truth?

13 A. Yes.

14 Q. Any doubt in your mind about that,  
15 whatsoever?

16 A. No.

17 Q. Do you know for a fact whether or not those  
18 videos are exactly what you gave police?

19 A. No.

20 Q. Do you know for a fact -- let me ask that  
21 question a different way.

22 The video -- Judge, am I correct the video is in  
23 evidence now.

24 THE COURT: The video has been presented in  
25 opening statements. They are not yet in evidence. We

1 reminded the jurors again and again opening statements are  
2 not evidence. My understanding is the videos will be  
3 presented into evidence.

4 MR. VILLANI: May we approach.

5 THE COURT: You may.

6 (Discussion held at the bench.)

7 THE COURT: The court's recollection that we had  
8 not technically admitted the videos, although they were  
9 shown and the signature on the disc had been shown and  
10 there is discussion about presenting it at a later time.  
11 The court did not recall ever actually having them been  
12 moved. The State has moved for admission. What is your  
13 position on it's admission, other than the stated  
14 objection as to foundation.

15 MR. EVENSON: Which I have offered.

16 THE COURT: To the extent we did that and have  
17 not completed the process, the videos are in evidence.  
18 You may proceed.

19 BY MR. EVENSON:

20 Q. Getting back to that video that the jurors saw  
21 earlier today. Is that video, from your point of view, in  
22 other words you were the one taking the video?

23 A. Yes.

24 Q. Did you at any time in that video see your  
25 mother punch Shaylyn?

1           A.       No.

2           Q.       Did you at any time in your life see your  
3 mother punch Shaylyn?

4           A.       No.

5           Q.       Did you at any time -- let me ask you this  
6 question.

7                   Do you know what the legal definition of child  
8 abuse is Nevada?

9           MR. VILLANI:  Objection.

10          THE COURT:  Basis for the objection.

11          MR. VILLANI:  Calls for legal conclusion.

12          MR. EVENSON:  Okay.

13          THE COURT:  Whether this witness would know that  
14 or not is not relevant.  I'll instruct the jurors on what  
15 the legal definition is.

16          MR. EVENSON:  I understand.

17          BY MR. EVENSON:

18          Q.       Do you know the legal terminology for the term  
19 child abuse?

20          MR. VILLANI:  Objection -- same.

21          THE COURT:  Same question, Mr. Evenson.

22          BY MR. EVENSON:

23          Q.       Okay.

24                   You wrote in this statement that she has kept her  
25 from eating as a punishment.  Is that a true statement?

1 A. No.

2 Q. Then you wrote -- I'm dealing with the stuff  
3 that's not in the video right now.

4 Then you wrote, slapped her, choked her, and has  
5 also kept her from eating -- pulled her hair. Other than  
6 what is in the video, did you ever see your mother do  
7 those things?

8 A. No.

9 Q. You indicated earlier that she had smacked her  
10 for something she did one other time. Do you remember  
11 what it was?

12 A. I don't remember, honestly.

13 Q. You remember something, but you don't remember  
14 what it was for?

15 A. Yeah.

16 Q. My math isn't real good. If we're in -- your  
17 birthday is the 29th of September?

18 A. Yes, sir.

19 Q. Same as my mother's. She's got a couple of  
20 years on you.

21 So you are going to be 19?

22 A. Yes.

23 Q. So at this time, 3 years ago, you were 15?

24 A. Yes.

25 Q. You are not comfortable talking about your

1       mental health conditions and what they make you do and  
2       don't do and those kind of things. I'm going to ask you  
3       to talk about those things and what you know about them.

4           A.       Yeah.

5           Q.       First of all, does your mother know about  
6       those conditions?

7           A.       Yes.

8           Q.       Does she help treat you for those?

9           A.       Yes.

10          Q.       Has she always helped you with those  
11       conditions?

12          A.       Yeah, ever since we found out.

13          Q.       How long ago was that?

14          A.       I think I was 16-and-a-half, 17, maybe.

15          Q.       2016 -- couple years ago, year-and-a-half. Is  
16       it a year. Help me out.

17          A.       Two years maybe.

18          Q.       Has your mom been intimately involved in  
19       getting diagnoses for you?

20          A.       Yes.

21          Q.       Describe to the best of your ability, you, at  
22       15.

23          A.       I don't know, angry irrational,  
24       overexaggerating, a lot. I wasn't diagnosed with anything  
25       other than anxiety, depression. I'm super anxious all the

1 time. Self-harming behavior, that is all I can think  
2 of.

3 Q. How long had that been going on?

4 A. My self-harming.

5 Q. All of it.

6 A. Probably since I was maybe 11, 12.

7 Q. Is the best way of putting things, you've been  
8 a handful?

9 A. Yeah. Yeah.

10 Q. Now, I want to ask you some other questions  
11 about one -- let me rephrase that.

12 Describe your mother as a care giver.

13 A. Nurturing, cares a lot. I go through these  
14 episodes where I randomly have bouts of suicidal thoughts  
15 where I want to relapse and self-harm. I just went  
16 through one of those, and she helped me out a lot with  
17 it.

18 Q. Do you remember what, if anything, you were  
19 going through in this time period in July 2014, other than  
20 the standard stuff you've talked about. Was there  
21 anything in particular you remember?

22 A. That I was going through?

23 Q. Or had going on.

24 MR. VILLANI: Objection.

25 THE COURT: Basis.

1 MR. VILLANI: Relevance.

2 MR. EVENSON: Goes toward the statement.

3 THE COURT: The question is vague. It's not set  
4 to a time frame. If it's relevant to the time frame, you  
5 can make the question make that clear.

6 MR. EVENSON: Happy to do that.

7 THE COURT: Just generalized, sustained.

8 BY MR. EVENSON:

9 Q. I'll use their -- from this time frame when  
10 this statement was written, which talks about an incident  
11 on July 3rd that was filled out on July 22nd. You  
12 understand?

13 A. Yes.

14 Q. Do you recall what's going on through July of  
15 2014, anything in particular?

16 A. No. But I was really -- like nothing  
17 specifically, but stuff very similar to -- I have  
18 episodes. I used to have longer periods of them.

19 Q. How well do your mom and father get along?

20 MR. VILLANI: Objection, relevance.

21 MR. EVENSON: She asked him for advice during  
22 this time period. He allegedly kind of guided her. I'm  
23 sorry.

24 THE COURT: I'm allowing you to speak. Complete  
25 your response to why you feel this is relevant.

1                   MR. EVENSON: It was brought up as it would go  
2 toward why she's given advice from her father.

3                   THE COURT: Overruled. YOu can ask it.

4 BY MR. EVENSON:

5           Q.       How well do your dad and mom get along?

6           A.       Not well at all.

7           Q.       Did you think that maybe having your dad  
8 involved in this, did you think through that that might be  
9 a bad idea as opposed to a good idea?

10          A.       No.

11          Q.       Did it ever occur to you that talking to him  
12 he might have his own agenda?

13          A.       No.

14          Q.       Have there been -- in hindsight, do you see  
15 how that could have been the case?

16          A.       Yeah.

17          Q.       You lived in the house, right?

18          A.       Yes.

19          Q.       Did Shaylyn loose weight?

20          A.       Yes, I believe so. We were trying to get her  
21 to a goal so she would ride the horses at Spirit Therapy.  
22 They wouldn't let you do if you weighed so much.

23          Q.       Let's not talk about the numbers, whatever  
24 they are. I don't know what they are.

25                   Was that goal set within the family?



1           A.       Yeah.

2           Q.       Let's go to what's in the videos. Did you  
3 ever actually see your mother's hands around Shaylyn's  
4 neck?

5                   MR. VILLANI: Objection, best evidence.

6                   THE COURT: Qualifying the question the way you  
7 did in the video, I would have to sustain. If you want to  
8 rephrase, rephrase.

9 BY MR. EVENSON:

10          Q.       Well --

11                  THE COURT: You asked the question, she saw it  
12 in video. If you have a question to ask about what she saw  
13 in the video, rephrase.

14                  MR. EVENSON: I may have misunderstood my  
15 question. I understand the video speaks for itself.

16 BY MR. EVENSON:

17          Q.       Did you ever see your mother's hands around  
18 Shaylyn's neck?

19          A.       No.

20          Q.       Did you see it when you reviewed the video?

21          A.       No.

22          Q.       Of course, if the video, it says all of this  
23 happened more than one occasion. It happens to or three  
24 times a month, is that true?

25          A.       Way over-exaggerated.

1 Q. Well, is it true at all?

2 A. No.

3 Q. How many times did it happen in the video?

4 A. That happened a long time -- essentially,  
5 that's to that extent of -- I don't know. I don't know.  
6 We've never seen my mom like that before.

7 Q. Let me ask you this. Have you seen your mom  
8 parent your old sister? You're the youngest, right?

9 A. Yes.

10 Q. Have you seen her parent the older siblings?

11 A. Yes.

12 Q. Have you seen her parent yourself?

13 A. Yes.

14 Q. Are you a hundred percent convinced that  
15 whatever seconds of whatever is on this tape or the worst  
16 you have seen of your mother?

17 A. Yes.

18 Q. Any doubt about that?

19 A. No.

20 Q. Was that in any way, shape, or form what's on  
21 those videos a regular occurrence?

22 A. No.

23 Q. In anybody's life in the family?

24 A. No.

25 Q. Sorry?

1           A.       No.   Sorry.

2           Q.       So the question is, you have to answer this  
3 question as truthfully and honestly as you've answered  
4 every other question.

5                   Why did you write this statement?

6           A.       I was angry with my mom.

7           Q.       Why?

8           A.       I don't know.   Her and I weren't getting  
9 along.   I was just arguing all the time.   She was really,  
10 really stressed out because she was -- she's the type of  
11 person who would always handle too much at once.   I think  
12 like ultimately it effected her in a negative way.

13          Q.       Were you -- when you say, this, this situation  
14 with Shaylyn, the situation in the house in general?

15          A.       The situation in the house in general.   Like  
16 her and I would argue a lot.   Me and my mom didn't get  
17 along so I was --

18          Q.       Well, I've got to ask this question. Was  
19 that -- did that happen after or before Shaylyn got  
20 there?

21          A.       It got worse after Shaylyn got here.

22          Q.       Let me ask you this question.   Were you  
23 jealous of the attention that Shaylyn was getting?

24          A.       No.   It was more or less -- I don't know.  
25 Like, you know, she just felt a little oppressive.   Had a

1 very oppressive -- I couldn't stand it, so her and I  
2 wouldn't get along and I would rebel.

3 Q. So let me get this straight. The parents had  
4 an oppressive vibe against the 15-year-old daughter?

5 A. Yes.

6 MR. EVENSON: Nothing further for this  
7 witness.

8 THE COURT: Mr. Villani, any redirect.

9 REDIRECT EXAMINATION

10 BY MR. VILLANI:

11 Q. Briefly. I'll be as short as possible.

12 Megan, you said for your voluntary statement you  
13 were exaggerating, right?

14 A. Yes.

15 Q. But it is true you weren't exaggerating what  
16 was in the video were you?

17 A. I was exaggerating what was in the video, what  
18 I saw at the time.

19 Q. If I told you in this statement you wrote that  
20 she was forced to run up and down the stairs, was that an  
21 exaggeration what you saw in the video?

22 A. No.

23 Q. If I told you that it was because she stole  
24 pretzels, is that an exaggeration?

25 A. No.

1           Q.       If I told you she was tired and out of breath  
2 and your mom grabbed her hair, is that an exaggeration?

3           A.       Probably. I don't --

4           Q.       Is that what happened on the video?

5           MR. EVENSON: Your Honor, asked and answered.  
6 She said probably.

7           THE COURT: I haven't ruled. She was trying to  
8 answer. Can you clarify.

9 BY MR. VILLANI:

10          Q.       Remember your mom pulling her hair on the  
11 video?

12          A.       No.

13          Q.       But you wrote it in the statement?

14          A.       I wrote it in the statement.

15          Q.       You wrote in your statement your mom choked  
16 her while she was slamming her head into the floor. Is  
17 that fair?

18          A.       Yes.

19          Q.       Then you wrote in your statement she  
20 threatened to push her down the stairs and screamed in her  
21 face. Is that all correct?

22          A.       Yes.

23          Q.       Is that an exaggeration?

24          A.       For the most part. I think -- I don't  
25 remember the video.

1           Q.       So in the video you may or may not have been  
2 exaggerating. But everything else is exaggerating?

3           MR. EVENSON: Misstates the testimony.

4           THE COURT: Clarify the question. It's  
5 confusing.

6 BY MR. VILLANI:

7           Q.       Were you exaggerating when you wrote those  
8 things I just went over with you in the statement?

9           A.       Yes.

10          Q.       What were you exaggerating?

11          A.       The severity. I could have used other word  
12 choices, like slamming her head into the floor, no.

13          Q.       With regard to the questions, you were lying  
14 about that stuff happening 2 to 3 times a month?

15          A.       Yes.

16          Q.       Mr. Evenson asked if you were interviewed by  
17 CPS at the scene. Remember that question?

18          A.       Yes.

19          Q.       Remember speaking to Shanna Davis at the  
20 scene, the CPS worker?

21          A.       No.

22          Q.       Do you remember telling Shanna Davis --

23                 MR. EVENSON: She doesn't remember speaking to  
24 her. This is not appropriate.

25                 THE COURT: Overruled. Clarify more

1 specifically.

2 BY MR. VILLANI:

3 Q. You don't remember speaking to Shanna Davis at  
4 your boyfriend's house?

5 A. No.

6 Q. Do you remember speaking to any CPS workers?

7 A. No.

8 Q. Do you remember telling a CPS worker you and  
9 Shaylyn had a close bond?

10 A. No.

11 Q. Do you remember you told the CPS worker when  
12 you were at your boyfriend's house your mom behavior was  
13 unnecessary, especially given Shaylyn's asthma?

14 A. No.

15 THE COURT: I'm only going to interrupt here  
16 because what she said previously in the statement she  
17 didn't recall. We had something to help refresh her  
18 recollection. If we don't have that, fair enough. This  
19 may be a situation where, depending on how that could  
20 assist or the witness recall, I don't know what you've got  
21 to help her refresh recollection.

22 MR. VILLANI: We have a witness we can call.

23 THE COURT: Can I have counsel at the bench,  
24 please.

25 MR. VILLANI: Sure.

1 (Discussion held at the bench.)

2 THE COURT: Thank you for the opportunity to  
3 clarify. Based on that representation of counsel, bear  
4 with this witness while foundation questions are asked.  
5 You may proceed.

6 BY MR. VILLANI:

7 Q. Do you remember July 23, 2014, Shanna Davis  
8 about an incident in 8th grade when your mom was abusive  
9 toward Shaylyn?

10 A. No.

11 Q. Do you remember telling Shanna Davis on July  
12 23, 2014 that physical discipline started getting extreme  
13 in June toward Shaylyn?

14 A. I don't remember talking to CPS.

15 Q. On that same day do you remember telling  
16 Shanna Davis that you decided to video these things  
17 because you knew that no one would believe the type of  
18 discipline Lisa was using?

19 A. No.

20 Q. Do you remember telling Shanna Davis on that  
21 date that Lisa was always taunting the victim about her  
22 weight?

23 A. No.

24 Q. Do you remember telling Shanna Davis on that  
25 date you believed your mom needs help?



1           A.       No.

2           Q.       Do you remember telling Shanna Davis on that  
3 date that Lisa often takes thing out on the victim?

4           A.       No.

5           Q.       Did your mom ever do any of those things we've  
6 seen on the video to you?

7           A.       No.

8           Q.       Did she ever do any of that stuff to your  
9 brother or sister?

10          A.       No.

11               MR. VILLANI: No further questions, your  
12 Honor.

13               THE COURT: Any further examination of this  
14 witness.

15               MR. EVENSON: Not at this time. Subject to  
16 recall.

17               THE COURT: May I see by a show of hands if the  
18 jurors have questions of this witness. It looks like we  
19 are going to have questions for the jurors.

20               The way this process will proceed, once I have the  
21 questions I review them with counsel. Any questions I  
22 determine appropriate to ask, I will read them to you, but  
23 you remember that jurors are the one asking them. Okay.

24               May I have counsel at the bench, please.

25               (Discussion held at the bench.)

1           THE COURT: I reviewed the questions with  
2 counsel. I'll read them, and I'll read them as they are  
3 written. Answer to the best of your ability as you  
4 understand the question. Respond to the jurors with your  
5 answer.

6           Was anyone else present when you were writing your  
7 voluntarily statement.

8           THE WITNESS: Yes.

9           THE COURT: Did anyone influence what you wrote  
10 in your statement in any way.

11          THE WITNESS: No.

12          THE COURT: Look at the jurors and speak up.

13          THE WITNESS: No.

14          THE COURT: Would Shaylyn look up to you as a  
15 role model, copy your behaviors, influence.

16          THE WITNESS: She was -- she didn't copy my  
17 behaviors, no.

18          THE COURT: Does your mom use foul language with  
19 you and/or your siblings.

20          THE WITNESS: Foul language or just  
21 conversational.

22          THE COURT: Does your mom use foul language with  
23 you and/or your siblings.

24          THE WITNESS: No.

25          THE COURT: Has a doctor diagnosed the reason

1 for your depression and/or your anxiety.

2 THE WITNESS: Not the reason. I just have it.

3 THE COURT: Thank you.

4 Mr. Villani, any follow up.

5 BY MR. VILLANI:

6 Q. Who was present when you were writing your  
7 voluntary statement?

8 A. Francis Jones and my dad Richard Nash. Cheryl  
9 and Lonnie and Lonnie's sister.

10 Q. So Lonnie, is your boyfriend.

11 A. Yes.

12 Q. Who are the other people?

13 A. Francis is Lonnie's aunt. Cheryl and Lonnie  
14 are -- Cheryl is his mom. And Sharon is Lonnie's  
15 sister.

16 MR. VILLANI: Thank you, your Honor.

17 THE COURT: Mr. Evenson.

18 BY MR. EVENSON:

19 Q. Just, may I -- just one question to follow  
20 up?

21 THE COURT: These jurors' question, I invite  
22 counsel to ask follow-up questions with regard to their  
23 questions.

24 BY MR. EVENSON:

25 Q. Those people that were present, am I to

1 understand from some of your prior testimony you were in  
2 communication with them for some time about this  
3 situation?

4 A. Yes.

5 Q. Right?

6 A. Yes.

7 Q. Had you already embellished things to them  
8 along the way what was going on? Did they have  
9 expectation as to what you were going to say?

10 A. I don't remember what I said to them.

11 Q. Is it possible that their presence influenced  
12 your writing of the statement in hindsight looking back  
13 now kind of knowing the influence. Your dad had driven up  
14 from California and various things too?

15 A. Yes.

16 Q. Sorry?

17 A. Yes.

18 Q. Is it possible they influenced that by being  
19 there?

20 A. Yes.

21 Q. For understanding of that kind of stuff,  
22 explain what borderline personality disorder does to you  
23 and how you handle things?

24 A. I don't know. Like there is a lot of stuff  
25 that goes with it. Just I tend to over-exaggeration,

1 irrational, self-harm. I don't know. I can't even think  
2 of everything. It's a lot.

3 THE COURT: Nothing further.

4 MR. EVENSON: Nothing, thank you. One other  
5 thing. Sorry.

6 BY MR. EVENSON:

7 Q. Did you understand what foul language is?  
8 They're not talking about ducks?

9 A. Like cussing.

10 Q. F bombs -- are you saying your mom never  
11 cusses in the house?

12 A. That's not what I'm saying. She doesn't  
13 discuss at us.

14 Q. Does she cuss when she's mad at you?

15 A. No.

16 Q. No?

17 A. She'll throw a cuss word like, what the "F."

18 Q. Let me ask you this. Did she ever call you  
19 guys horrible names with cuss words?

20 A. No.

21 Q. Did she do that to Shaylyn?

22 A. No. Not that I recall.

23 Q. In the video with Shaylyn, is she cussing  
24 negatively to Shaylyn or just saying get your "F" out of  
25 my face. Do you follow what I'm saying. She's not

1       being -- foul language directed at Shaylyn, just being  
2       used. You understand the difference?

3           A.       Yes.

4           Q.       So does she use foul language when talking to  
5       you guys?

6           A.       Yes.

7           Q.       But she doesn't call you foul names?

8           A.       She doesn't.

9           Q.       So it's the same as what went on with Shaylyn  
10       in the video?

11          A.       Yes.

12          Q.       Using it, but not calling you it?

13          A.       Yes.

14          Q.       I wanted today make sure that was clear.

15               MR. EVENSON:  Nothing further.

16               THE COURT:  Anything further.

17               MR. VILLANI:  No.  Thank you, your Honor.

18               THE COURT:  Thank you, Ms. Nash.  You are  
19       excused.  Mind your step.

20               Ladies and gentlemen, we'll take our overnight recess  
21       at this time.

22                               JURY ADMONITION

23               During the recess, ladies and gentlemen, you are  
24       admonished not to converse among yourselves or with anyone  
25       else, including, without limitation, the lawyers, parties

1 and witnesses, on any subject connected with this trial,  
2 or any other case referred to during it, or read, watch,  
3 or listen to any report of or commentary on the trial, or  
4 any person connected with this trial, or any such other  
5 case by any medium of information including, without  
6 limitation, newspapers, television, internet or radio.

7 You are further admonished not to form or express any  
8 opinion on any subject connected with this trial until the  
9 case is finally submitted to you.

10 See you tomorrow at 1:00 o'clock.

11 MS. RINETTI: Mr. Evenson informed me he's not  
12 going to recall Shaylyn so I'll inform Shaylyn's guardian  
13 she can go on as planned tomorrow.

14 THE COURT: Okay.

15 There was a reference to recalling possibly Ms.  
16 Nash. Same circumstance. She's not under subpoena, but  
17 if you wish to bring her forward you'll have to be  
18 responsible for whatever it is you need to do to get her  
19 here, if you needed to recall here.

20 MR. EVENSON: I don't believe that will be an  
21 issue.

22 THE COURT: There was some discussion,  
23 Mr. Villani about the report that was so much of the focus  
24 of the questioning of Ms. Nash possibly being proposed and  
25 introduced into evidence. Is there any intent to do

1       that.

2               MR. VILLANI: Your Honor, I'm not going to move  
3       for it to be admitted. I thought I was. She was so  
4       inconsistent with it I do the prior inconsistent statement  
5       doctrine, but I'll leave that alone.

6               THE COURT: I'm not trying to influence you one  
7       way or the other. Any time you have a situation where  
8       you're impeaching someone, if you intend to do it with  
9       extrinsic evidence there is a certain findings that needs  
10      to be made, collateral or not collateral. I'm prepared to  
11      address that if you wish. If you make a determination to  
12      change your we can address it at that time. We'll leave  
13      the testimony as is.

14              MR. VILLANI: Thank you. See you tomorrow.

15              THE COURT: See you tomorrow.

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\* \* \* \* \*

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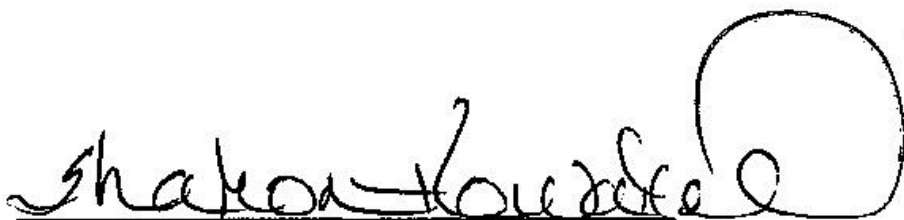


CERTIFICATE  
OF  
CERTIFIED COURT REPORTER

\* \* \* \* \*

I, the undersigned certified court reporter in and for the  
State of Nevada, do hereby certify:

That the foregoing proceedings were taken before me at the  
time and place therein set forth; that the testimony and  
all objections made at the time of the proceedings were  
recorded stenographically by me and were thereafter  
transcribed under my direction; that the foregoing is a  
true record of the testimony and of all objections made at  
the time of the proceedings.

A handwritten signature in cursive script, appearing to read "Sharon Howard", is written over a horizontal line. The signature is fluid and includes a large loop at the end.

Sharon Howard  
C.C.R. #745

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Supreme Court Number: 76098

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed  
Feb 07 2019 10:33 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

---

LISA ANN NASH,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

---

Appeal from the Eighth Judicial District Court of Nevada

**APPELLANT LISA ANN NASH'S APPENDIX**

**VOLUME I**

THERESA RISTENPART, Attorney-at Law  
Nevada Bar Number 9665  
464 South Sierra Street  
Reno, NV 89501  
(775) 200-1699

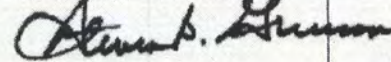
Counsel for Appellant

**APPELLANT LISA ANN NASH'S APPENDIX**

**VOLUME I**

Notice of Appeal	APP 0001
Trial Court Docket Sheet	APP 0002-0007
Judgment of Conviction	APP 0008-0009
Information	APP 0010-0011
Amended Information	APP 0012-0015
Jury Trial, Day 1- September 11, 2017	APP 0016-0235





1 NOASC  
2 Lisa A. Nash  
3 1220 Roberson Lane  
4 Fallon, NV 89406  
5 702-423-2461  
6 [lisa.goodrich66@gmail.com](mailto:lisa.goodrich66@gmail.com)  
7 Self-Represented

8 *The undersigned hereby affirms this document does*  
9 *not contain the social security number of any person.*

Electronically Filed  
Jun 15 2018 11:12 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

10 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
11 **IN AND FOR THE COUNTY OF CLARK**

12 THE STATE OF NEVADA,

13 Plaintiff,

14 vs.

Case No.: C-15-308570-1

15 LISA ANN NASH,  
16 #7011167

Dept. No.: XXV

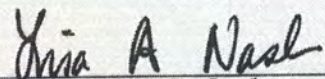
17 Defendant.  
18 \_\_\_\_\_/

19 **NOTICE OF APPEAL**

20 NOTICE IS HEREBY GIVEN that LISA ANN NASH, Defendant, In Pro Per, hereby  
21 appeals the JUDGMENT OF CONVICTION (JURY TRIAL) entered by this Court on May 7,  
22 2018, for which a Notice of Entry of Order has not been filed.

23 *The undersigned hereby affirms this document does not contain a social security number.*

24 Dated this 6<sup>th</sup> day of June, 2018.

25   
26 LISA A. NASH, Defendant

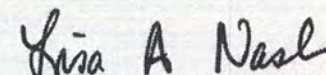
27 **CERTIFICATE OF SERVICE**

28 Pursuant to NRCP 5(b), I certify that I am the Defendant in the instant matter, am representing myself, and  
that I served a true and correct copy of the NOTICE OF APPEAL by the following:

[ X ] E-FILE: By electronically filing the foregoing with the Clerk of the Court by using the ECF  
system which will send a notice of electronic filing to the individual(s) listed below:

DINA RINETTI, ESQ.  
CLARK COUNTY DISTRICT ATTORNEY'S OFFICE

DATED: This 6<sup>th</sup> day of June, 2018.

  
Lisa A. Nash, Defendant



DEPARTMENT 25  
**CASE SUMMARY**  
**CASE NO. C-15-308570-1**

State of Nevada  
vs  
Lisa Nash

§	Location:	Department 25
§	Judicial Officer:	Delaney, Kathleen E.
§	Filed on:	08/06/2015
§	Cross-Reference Case	C308570
§	Number:	
§	Defendant's Scope ID #:	7011167
§	ITAG Booking Number:	1400038192
§	ITAG Case ID:	1615986
§	Lower Court Case # Root:	14F11585
§	Lower Court Case Number:	14F11585X
§	Metro Event Number:	1407220396

CASE INFORMATION

Offense	Deg	Date	Case Type:	Felony/Gross Misdemeanor
<b>Jurisdiction: District Court</b>				
1. CHILD ABUSE, NEGLECT, OR ENDANGERMENT PCN: 0025513588 Arrest: 07/22/2014	F	07/03/2014	Case Flags:	Appealed to Supreme Court Custody Status - Not in Custody Bond/Bail Exonerated Charge Description Updated JC Custody Status at Time of B/O AUG 18 2015 10:00AM: SURETY BOND
2. BATTERY CONSTITUTING DOMESTIC VIOLENCE - STRANGULATION	F	04/01/2014		
3. CHILD ABUSE, NEGLECT OR ENDANGERMENT	F	04/01/2014		
4. CHILD ABUSE, NEGLECT OR ENDANGERMENT	F	04/01/2014		
5. CHILD ABUSE, NEGLECT OR ENDANGERMENT	F	04/01/2014		
6. COERCION	F	04/01/2014		
7. CHILD ABUSE, NEGLECT OR ENDANGERMENT	F	04/01/2014		
8. CHILD ABUSE, NEGLECT OR ENDANGERMENT	F	04/01/2014		

**Bonds**

Surety #555118253-6 \$35,000.00  
4/26/2018 Exonerated  
7/22/2014 Active  
Counts: 1

DATE

CASE ASSIGNMENT

**Current Case Assignment**

Case Number	C-15-308570-1
Court	Department 25
Date Assigned	08/06/2015
Judicial Officer	Delaney, Kathleen E.

PARTY INFORMATION













		Lead Attorneys
Defendant	Nash, Lisa Ann	Colquitt, Ronald Retained 702-384-1000(W)
Plaintiff	State of Nevada	Wolfson, Steven B 702-671-2700(W)

DATE










EVENTS & ORDERS OF THE COURT

INDEX














DEPARTMENT 25  
**CASE SUMMARY**  
**CASE NO. C-15-308570-1**

08/06/2015	 Criminal Bindover Packet Las Vegas Justice Court
08/07/2015	 Amended Criminal Bindover Packet Las Vegas Justice Court
08/10/2015	 Information <i>Information</i>
08/18/2015	 <b>Initial Arraignment</b> (10:00 AM) (Judicial Officer: De La Garza, Melisa)
08/18/2015	<i>CANCELED Initial Arraignment</i> (10:00 AM) (Judicial Officer: De La Garza, Melisa) <i>Vacated - Duplicate Entry</i>
09/01/2015	 <b>Arraignment Continued</b> (10:00 AM) (Judicial Officer: De La Garza, Melisa)
09/01/2015	 Amended Information <i>Amended Information</i>
09/01/2015	<b>Plea</b> (Judicial Officer: Delaney, Kathleen E.) 1. CHILD ABUSE, NEGLECT, OR ENDANGERMENT Guilty PCN: 0025513588 Sequence:  2. BATTERY CONSTITUTING DOMESTIC VIOLENCE - STRANGULATION Guilty PCN: Sequence:  3. CHILD ABUSE, NEGLECT OR ENDANGERMENT Guilty PCN: Sequence:  4. CHILD ABUSE, NEGLECT OR ENDANGERMENT Not Guilty PCN: Sequence:  5. CHILD ABUSE, NEGLECT OR ENDANGERMENT Guilty PCN: Sequence:
09/09/2015	 Substitution of Attorney <i>Substitution of Attorney</i>
01/28/2016	 Notice of Witnesses and/or Expert Witnesses <i>Notice of Witnesses and/or Expert Witnesses</i>
02/01/2016	 <b>Request</b> (9:00 AM) (Judicial Officer: Delaney, Kathleen E.) <i>State's Request: Status Check Re: CPS Records</i>
02/05/2016	 <b>Minute Order</b> (3:35 PM) (Judicial Officer: Delaney, Kathleen E.)
02/08/2016	 <b>Calendar Call</b> (9:30 AM) (Judicial Officer: Delaney, Kathleen E.)
02/09/2016	 Ex Parte Motion <i>Ex Parte Motion and Order for Release of Medical Records</i>

DEPARTMENT 25  
**CASE SUMMARY**  
**CASE NO. C-15-308570-1**

02/16/2016	<b>CANCELED Jury Trial</b> (10:30 AM) (Judicial Officer: Delaney, Kathleen E.) <i>Vacated - per Judge</i>
02/22/2016	 <b>Ex Parte Motion</b> <i>Ex Parte Motion and Order for Release of Medical Records</i>
06/01/2016	 <b>Request</b> (9:00 AM) (Judicial Officer: Delaney, Kathleen E.) <b>06/01/2016, 06/08/2016</b> <i>State's Request Re: Status Check Trial Readiness</i>
09/12/2016	<b>CANCELED Calendar Call</b> (9:30 AM) (Judicial Officer: Delaney, Kathleen E.) <i>Vacated - per Judge</i>
09/19/2016	<b>CANCELED Jury Trial</b> (10:30 AM) (Judicial Officer: Delaney, Kathleen E.) <i>Vacated - per Judge</i>
11/21/2016	 <b>Supplemental Witness List</b> <i>Second Supplemental Notice of Witnesses and/or Expert Witnesses(NRS 174.234)</i>
11/21/2016	 <b>Supplemental Witness List</b> <i>Supplemental Notice of Witnesses and/or Expert Witnesses(NRS 174.234)</i>
12/02/2016	 <b>Supplemental Witness List</b> <i>Third Supplemental Notice of Witnesses and/or Expert Witnesses [NRS 174.234]</i>
12/05/2016	 <b>Supplemental Witness List</b> <i>Fourth Supplemental Notice of Witnesses and/or Expert Witnesses [NRS 174.234]</i>
12/05/2016	 <b>Calendar Call</b> (9:30 AM) (Judicial Officer: Ames, Jack B.)
12/07/2016	 <b>Minute Order</b> (3:00 AM) (Judicial Officer: Barker, David) <i>Minute Order Re: 12/09/16 Overflow</i>
12/09/2016	<b>CANCELED Overflow</b> (8:30 AM) (Judicial Officer: Gonzalez, Elizabeth) <i>Vacated - per Judge</i> <i>Dina Renetti &amp; David Stanton / Steve Evenson, 10 witnesses, 3 out of state, 1 child w/ guardian, 5 day trial</i>
12/12/2016	<b>CANCELED Jury Trial</b> (10:30 AM) (Judicial Officer: Delaney, Kathleen E.) <i>Vacated - per Judge</i>
12/14/2016	 <b>Trial Setting</b> (9:00 AM) (Judicial Officer: Delaney, Kathleen E.) <b>12/14/2016, 01/09/2017</b> <i>Trial Re-Setting</i>
09/06/2017	 <b>Calendar Call</b> (9:30 AM) (Judicial Officer: Delaney, Kathleen E.)
09/11/2017	 <b>Jury Trial</b> (1:00 PM) (Judicial Officer: Delaney, Kathleen E.) <b>09/11/2017-09/15/2017</b>
09/11/2017	 <b>Jury List</b>
09/15/2017	 <b>Jury List</b>


DEPARTMENT 25  
**CASE SUMMARY**  
**CASE NO. C-15-308570-1**

09/15/2017	 Motion <i>Defendant's Motion to Force Amended Information</i>
09/15/2017	 Motion <i>Defendant's Motion for Directed Verdict</i>
09/15/2017	 Instructions to the Jury
09/15/2017	 Verdict
09/18/2017	<b>Disposition</b> (Judicial Officer: Delaney, Kathleen E.) 4. CHILD ABUSE, NEGLECT OR ENDANGERMENT Not Guilty PCN: Sequence:  6. COERCION Not Guilty PCN: Sequence:  7. CHILD ABUSE, NEGLECT OR ENDANGERMENT Not Guilty PCN: Sequence:  8. CHILD ABUSE, NEGLECT OR ENDANGERMENT Not Guilty PCN: Sequence:
11/30/2017	 Order Filed By: Plaintiff State of Nevada <i>Order for Transcript</i>
12/05/2017	 Motion to Continue Filed By: Defendant Nash, Lisa Ann <i>Motion to Continue Sentencing Hearing</i>
12/12/2017	 PSI
12/12/2017	 PSI - Defendant Statements
01/04/2018	 Motion to Withdraw As Counsel Filed By: Defendant Nash, Lisa Ann <i>Motion To Withdraw as Attorney of Record</i>
01/12/2018	 Motion to Withdraw As Counsel <i>Motion To Withdraw as Attorney of Record</i>
01/16/2018	 <b>Minute Order</b> (3:00 AM) (Judicial Officer: Delaney, Kathleen E.)
01/22/2018	 <b>Motion to Withdraw as Counsel</b> (9:00 AM) (Judicial Officer: Delaney, Kathleen E.) <i>Defendant's Motion To Withdraw as Attorney of Record</i>
01/30/2018	 Reporters Transcript

DEPARTMENT 25  
**CASE SUMMARY**  
**CASE NO. C-15-308570-1**

*Reporter's Transcript of Trial Testimony of Lisa Nash September 14, 2017*

02/12/2018

 **Sentencing** (9:00 AM) (Judicial Officer: Delaney, Kathleen E.)

02/12/2018, 03/12/2018, 04/23/2018

04/23/2018

**Disposition** (Judicial Officer: Delaney, Kathleen E.)

1. CHILD ABUSE, NEGLECT, OR ENDANGERMENT

Guilty

PCN: 0025513588 Sequence:

2. BATTERY CONSTITUTING DOMESTIC VIOLENCE - STRANGULATION

Guilty

PCN: Sequence:

3. CHILD ABUSE, NEGLECT OR ENDANGERMENT

Guilty

PCN: Sequence:

5. CHILD ABUSE, NEGLECT OR ENDANGERMENT

Guilty

PCN: Sequence:

04/23/2018

**Sentence** (Judicial Officer: Delaney, Kathleen E.)

1. CHILD ABUSE, NEGLECT, OR ENDANGERMENT

Adult Adjudication

Sentenced to Nevada Dept. of Corrections

Term: Minimum:19 Months, Maximum:48 Months

Suspended-Period of Probation: Indeterminate, Not To Exceed: 3 Years

04/23/2018

**Sentence** (Judicial Officer: Delaney, Kathleen E.)

2. BATTERY CONSTITUTING DOMESTIC VIOLENCE - STRANGULATION

Adult Adjudication

Comment (Credit For Time Served)

04/23/2018

**Sentence** (Judicial Officer: Delaney, Kathleen E.)

3. CHILD ABUSE, NEGLECT OR ENDANGERMENT

Adult Adjudication

Sentenced to Nevada Dept. of Corrections

Term: Minimum:19 Months, Maximum:48 Months

Concurrent: Charge 1

Suspended-Period of Probation: Indeterminate, Not To Exceed: 3 Years

04/23/2018

**Sentence** (Judicial Officer: Delaney, Kathleen E.)

5. CHILD ABUSE, NEGLECT OR ENDANGERMENT

Adult Adjudication

Sentenced to Nevada Dept. of Corrections

Term: Minimum:19 Months, Maximum:48 Months

Concurrent: Charge 3

Suspended-Period of Probation: Indeterminate, Not To Exceed: 3 Years

Condition

1. Additional Condition, Standard Conditions

2. Additional Condition, Do not travel without the permission of Parole and Probation (P&P).

3. Mental Health Evaluation

4. Anger Management Counseling and/or Classes

5. Impulse Control Counseling

6. Comply With Curfew Imposed By Probation Officer

7. Maintain Full-Time Employment

8. Report to P&P after Sentencing PO Assignment

Fee Totals:






Administrative

Assessment Fee

25.00

DEPARTMENT 25  
**CASE SUMMARY**  
**CASE NO. C-15-308570-1**

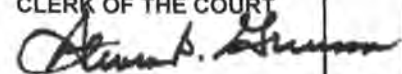
\$25	
DNA Analysis Fee	150.00
\$150	
Genetic Marker	
Analysis AA Fee	3.00
\$3	
Fee Totals \$	178.00

05/07/2018	 Judgment of Conviction Party: Plaintiff State of Nevada <i>Judgment of Conviction</i>
05/23/2018	 Order Admitting Defendant to Probation & Fixing Terms Party: Plaintiff State of Nevada <i>Probation Agreement and Rules Order Admitting Defendant to Probation and Fixing the Terms Thereof</i>
06/06/2018	 Notice of Appeal (criminal) Party: Defendant Nash, Lisa Ann <i>Notice of Appeal</i>
06/06/2018	 Case Appeal Statement Filed By: Defendant Nash, Lisa Ann <i>Case Appeal Statement</i>
06/06/2018	 Request Filed by: Defendant Nash, Lisa Ann <i>Request for Transcript</i>

DATE

FINANCIAL INFORMATION

<b>Defendant</b> Nash, Lisa Ann	
Total Charges	178.00
Total Payments and Credits	178.00
<b>Balance Due as of 6/11/2018</b>	<b>0.00</b>



**JOC**  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

-vs-

LISA ANN NASH,  
#7011167

Defendant.

CASE NO: C-15-308570-1

DEPT NO: XXV

**JUDGMENT OF CONVICTION  
(JURY TRIAL)**

The Defendant previously entered pleas of not guilty to the crimes of COUNTS 1, 3, 4, 5, 7, and 8 – CHILD ABUSE, NEGLECT, OR ENDANGERMENT (Category B Felony) in violation of NRS 200.508(1); COUNT 2 – BATTERY CONSTITUTING DOMESTIC VIOLENCE – STRANGULATION (Category C Felony) in violation of NRS 200.481, 200.485, 31.018); and COUNT 6 – COERCION (Category B Felony) in violation of NRS 207.190, and the matter having been tried before a jury, and the Defendant being represented by counsel and having been found guilty of the crimes of COUNTS 1, 3, and 5 – CHILD ABUSE, NEGLECT, OR ENDANGERMENT (Category B Felony) in violation of NRS 200.508(1); and COUNT 2 – BATTERY CONSTITUTING DOMESTIC VIOLENCE (Misdemeanor) in violation of 200.481, 200.485, 31.018; and thereafter on the 23rd day of April, 2018, the Defendant was present in Court for sentencing with her counsel, RONALD COLQUITT, ESQ., and good cause appearing therefor,

///

///

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1 THE DEFENDANT HEREBY ADJUDGED GUILTY of the crimes as set forth in the  
2 jury's verdict and, in addition to the \$25.00 Administrative Assessment Fee, \$150.00 DNA  
3 Analysis Fee including testing to determine genetic markers, and \$3.00 DNA Collection Fee,  
4 the Defendant is sentenced as follows: as to COUNT 1 - to a MINIMUM of NINETEEN (19)  
5 MONTHS and a MAXIMUM of FORTY-EIGHT (48) MONTHS in the Nevada Department  
6 of Corrections (NDC), SUSPENDED; placed on PROBATION for an indeterminate period  
7 not to exceed THREE (3) YEARS; as to COUNT 3 - to a MINIMUM of NINETEEN (19)  
8 MONTHS and a MAXIMUM of FORTY-EIGHT (48) MONTHS in the NDC, SUSPENDED;  
9 placed on PROBATION for an indeterminate period not to exceed THREE (3) YEARS,  
10 COUNT 3 to run CONCURRENTLY WITH COUNT 1; and as to COUNT 5 - to a MINIMUM  
11 of NINETEEN (19) MONTHS and a MAXIMUM of FORTY-EIGHT (48) MONTHS in the  
12 Nevada Department of Corrections (NDC), SUSPENDED; placed on PROBATION for an  
13 indeterminate period not to exceed THREE (3) YEARS, COUNT 5 to run CONCURRENTLY  
14 WITH COUNT 3. With the Court sitting as a Magistrate, COURT FURTHER ORDERED, as  
15 to COUNT 2 - Defendant sentenced to CREDIT FOR TIME SERVED. The jury declared  
16 Defendant NOT GUILTY as to COUNTS 4, 6, and 8.

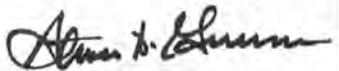
17 CONDITIONS: Abide by the Standard Conditions of Probation. Abide by these Special  
18 Conditions of Probation:

- 19 1. Do not travel without the permission of Parole and Probation (P&P).  
20 2. Complete a mental health evaluation and any recommended case plan, medication regiment,  
21 or counseling.  
22 3. Complete anger management counseling.  
23 4. Complete impulse control counseling.  
24 5. Abide by any curfew imposed.  
25 6. Obtain and maintain full time employment.  
26 7. Report to P&P within 48 hours.

27 DATED this 3<sup>rd</sup> day of May, 2018

28 jg/SVU

  
DISTRICT JUDGE

  
CLERK OF THE COURT

1 **INFM**  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 BARBARA SCHIFALACQUA  
6 Chief Deputy District Attorney  
7 Nevada Bar #010436  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

12 **I.A. 08/18/2015**  
13 **10:00 AM**  
14 **SMITH, B.**

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

15 THE STATE OF NEVADA,  
16  
17 Plaintiff,

CASE NO: **C-15-308570-1**

18 -vs-

DEPT NO: **XXV**

19 LISA ANN NASH,  
20 #7011167

21 Defendant.

**INFORMATION**

22 STATE OF NEVADA )  
23 ) ss.  
24 COUNTY OF CLARK )

25 STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State  
26 of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

27 That LISA ANN NASH, the Defendant above named, having committed the crime of  
28 **CHILD ABUSE, NEGLECT OR ENDANGERMENT (Category B Felony - NRS**  
**200.508(1) - NOC 55226)** in the manner following:

That the said Defendant, on or between the April 1, 2014 and July 31, 2014, at and  
within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes  
in such cases made and provided, and against the peace and dignity of the State of Nevada,  
did, willfully, unlawfully and feloniously cause a child under the age of 18 years, to-wit: S.S.,  
to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect, to wit:  
negligent treatment or maltreatment, and/or cause the said S.S. to be placed in a situation where  
the said S.S. might have suffered unjustifiable physical pain or mental suffering as a result of

1 abuse or neglect, to wit: negligent treatment or maltreatment, by said Defendant yelling and/or  
2 screaming at the said S.S. and/or causing and/or directing the said S.S. to act like an animal,  
3 and/or shoving the face of the said S.S. into the ground and/or slamming the face of the said  
4 S.S. into a floor, and/or yelling and/or screaming at the said S.S. and/or causing and/or  
5 directing the said S.S. to run up and down stairs, and/or slapping and/or hitting the said S.S.  
6 about the head and/or face and/or body, and/or slapping and/or smacking and/or hitting the  
7 said S.S. about the head and/or face and/or body and/or poking the said S.S. with a knife.

8 STEVEN B. WOLFSON  
9 Clark County District Attorney  
Nevada Bar #001565

10  
11 BY /s/ BARBARA SCHIFALACQUA  
12 BARBARA SCHIFALACQUA  
13 Chief Deputy District Attorney  
14 Nevada Bar #010436  
15  
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26

27 DA#14F11585X/hjc/SVU  
28 LVMPD EV#1407213320  
(TK01)

ORIGINAL

AINF  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
BARBARA SCHIFALACQUA  
Chief Deputy District Attorney  
Nevada Bar #010436  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

FILED IN OPEN COURT  
STEVEN D. GRIERSON  
CLERK OF THE COURT

SEP 01 2015

BY Kristen Brown  
KRISTEN BROWN, DEPUTY

DISTRICT COURT  
CLARK COUNTY, NEVADA

C-15-308570-1  
AINF  
Amended Information  
4484382



THE STATE OF NEVADA,  
Plaintiff,

CASE NO: C-15-308570-1

-vs-

DEPT NO: XXV

LISA ANN NASH,  
#7011167  
Defendant.

AMENDED  
INFORMATION

STATE OF NEVADA }  
COUNTY OF CLARK } ss.

STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That LISA ANN NASH, the Defendant above named, having committed the crime of **CHILD ABUSE, NEGLECT OR ENDANGERMENT (Category B Felony - NRS 200.508(1) - NOC 55226), BATTERY CONSTITUTING DOMESTIC VIOLENCE - STRANGULATION (Category C Felony - NRS 200.481; 200.485; 33.018 - NOC 54740) and COERCION (Category B Felony - NRS 207.190 - NOC 53159)** in the manner following:

That the said Defendant, on or between the April 1, 2014 and July 31, 2014, at and within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada,

//

1 COUNT 1 - CHILD ABUSE, NEGLECT OR ENDANGERMENT

2 did, willfully, unlawfully and feloniously cause a child under the age of 18 years, to-  
3 wit: S.S., to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect,  
4 to wit: negligent treatment or maltreatment, and/or cause the said S.S. to be placed in a  
5 situation where the said S.S. might have suffered unjustifiable physical pain or mental  
6 suffering as a result of abuse or neglect, to wit: negligent treatment or maltreatment, by said  
7 Defendant yelling and/or screaming at the said S.S. and/or causing and/or directing the said  
8 S.S. to act like an animal.

9 COUNT 2 - BATTERY CONSTITUTING DOMESTIC VIOLENCE - STRANGULATION

10 did, then and there, willfully, unlawfully and feloniously use force or violence upon  
11 the person of the defendant's spouse, former spouse, or any other person to whom the defendant  
12 is related by blood or marriage, a person with whom the defendant is or was actually residing,  
13 a person with whom the defendant is having a dating relationship, a person with whom the  
14 defendant has a child in common, the minor child of any of those persons or the defendant's  
15 minor child, to-wit: S.S., by strangulation.

16 COUNT 3 - CHILD ABUSE, NEGLECT OR ENDANGERMENT

17 did, willfully, unlawfully and feloniously cause a child under the age of 18 years, to-  
18 wit: S.S., to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect,  
19 to wit: negligent treatment and/or maltreatment, and/or cause the said S.S. to be placed in a  
20 situation where the said S.S. might have suffered unjustifiable physical pain or mental  
21 suffering as a result of abuse or neglect, to wit: negligent treatment and/or maltreatment, by  
22 said Defendant shoving the face of the said S.S. into the ground and/or slamming the face of  
23 the said S.S. into a floor.

24 COUNT 4 - CHILD ABUSE, NEGLECT OR ENDANGERMENT

25 did, willfully, unlawfully and feloniously cause a child under the age of 18 years, to-  
26 wit: S.S., to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect,  
27 to wit: negligent treatment or maltreatment, and/or cause the said S.S. to be placed in a  
28 situation where the said S.S. might have suffered unjustifiable physical pain or mental



1 suffering as a result of abuse or neglect, to wit: negligent treatment or maltreatment, by said  
2 Defendant yelling and/or screaming at the said S.S. and/or causing and/or directing the said  
3 S.S. to run up and down stairs.

4 COUNT 5 - CHILD ABUSE, NEGLECT OR ENDANGERMENT

5 did, willfully, unlawfully and feloniously cause a child under the age of 18 years, to-  
6 wit: S.S., to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect,  
7 to wit: negligent treatment or maltreatment, and/or cause the said S.S. to be placed in a  
8 situation where the said S.S. might have suffered unjustifiable physical pain or mental  
9 suffering as a result of abuse or neglect, to wit: negligent treatment or maltreatment, by said  
10 Defendant slapping and/or hitting the said S.S. about the head and/or face and/or body.

11 COUNT 6 - COERCION

12 did, then and there, willfully, unlawfully, and feloniously use physical force, or the  
13 immediate threat of such force, against S.S., with intent to compel her to do, or abstain from  
14 doing, an act which she had a right to do, or abstain from doing, by straddling the said S.S.  
15 and preventing her from getting up or moving.

16 COUNT 7 - CHILD ABUSE, NEGLECT OR ENDANGERMENT

17 did, willfully, unlawfully and feloniously cause a child under the age of 18 years, to-  
18 wit: S.S., to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect,  
19 to wit: negligent treatment or maltreatment, and/or cause the said S.S. to be placed in a  
20 situation where the said S.S. might have suffered unjustifiable physical pain or mental  
21 suffering as a result of abuse or neglect, to wit: negligent treatment or maltreatment, by said  
22 Defendant slapping and/or smacking and/or hitting the said S.S. about the head and/or face  
23 and/or body and/or poking the said S.S. with a knife.

24 COUNT 8 - CHILD ABUSE, NEGLECT OR ENDANGERMENT

25 did, willfully, unlawfully and feloniously cause a child under the age of 18 years, to-  
26 wit: S.S., to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect,  
27 to wit: negligent treatment or maltreatment, and/or cause the said S.S. to be placed in a  
28 situation where the said S.S. might have suffered unjustifiable physical pain or mental

1 suffering as a result of abuse or neglect, to wit: negligent treatment or maltreatment, by said  
2 Defendant yelling and/or screaming at the said S.S. and/or causing and/or directing the said  
3 S.S. to run up and down stairs and/or threatening to push the said S.S. down the stairs.

4 STEVEN B. WOLFSON  
5 Clark County District Attorney  
6 Nevada Bar #001565

7 BY Barbara Schifalacqua  
8 BARBARA SCHIFALACQUA  
9 Chief Deputy District Attorney  
10 Nevada Bar #010436

11 Names of witnesses known to the District Attorney's Office at the time of filing this  
12 Information are as follows:

13 COR or Designee; CCDC

14 COR or Designee; CPS/DFS

15 COR or Designee; LVMPD COMMUNICATIONS

16 COR or Designee; LVMPD RECORDS

17 COWMAN; LVMPD#09809

18 FULTON; LVMPD#04348

19 JONES, FRANCIS; UNK

20 M.N.; c/o CCDA-SVU/VWAC

21 MARANO; LVMPD#14007

22 NASH, RICHARD; UNK

23 PARENT/GUARDIAN of M.N.; c/o CCDA-SVU/VWAC

24 PARENT/GUARDIAN of S.S.; c/o CCDA-SVU/VWAC

25 S.S.; c/o CCDA-SVU/VWAC

26 WITHAM; LVMPD#04594

27 DA#14F11585X/hjc/SVU  
28 LVMPD EV#1407213320  
(TK01)

1 TRAN

2 IN THE EIGHTH JUDICIAL DISTRICT COURT  
3 CLARK COUNTY, NEVADA  
4

5 THE STATE OF NEVADA, )  
6 )  
6 Plaintiff, )  
7 )  
7 vs. ) CASE NO.  
8 )  
8 LISA ANN NASH, ) C-15-308570-1  
9 )  
9 Defendant. ) DEPT. NO. XXV  
10 )  
10 \_\_\_\_\_ )

11 REPORTER'S TRANSCRIPT OF PROCEEDINGS  
12 JURY VOIR DIRE  
13 BEFORE THE HONORABLE KATHLEEN DELANEY  
14 MONDAY, SEPTEMBER 11, 2017  
15

16 APPEARANCES:

17 For the State:

18 DENA RINETTI, ESQ.  
19 JACOB J. VILLANI, ESQ.  
20 DEPUTY DISTRICT ATTORNEYS

21 For the Defendant:

22 STEVE EVENSON, ESQ.  
23  
24

25 REPORTED BY: DANA J. TAVAGLIONE, RPR, CCR No. 841



1 LAS VEGAS, NEVADA, MONDAY, SEPTEMBER 11, 2017

2 \* \* \* \* \*

3  
4 THE COURT: Ready to go on the record?

5 THE REPORTER: Yes.

6 THE COURT: Okay. So we have our panel  
7 now. Just noting, for the record, juror who would  
8 have been in Seat No. 13 as we began our modified  
9 Arizona method of selection for this trial, juror  
10 last three digits 150, apparently had a fall while  
11 still in jury services, is being attended by either  
12 paramedics or somebody providing some emergency  
13 services to her.

14 So we are going to proceed, given the late  
15 hour. It's now 1:20. With the Court's delay  
16 getting started because of its late morning calendar  
17 and the fact that we have a panel of 49 to proceed,  
18 without objection from counsel. We're going to go  
19 ahead and fill that Seat No. 13 with the next in  
20 line, Juror 164, Supnet, is Juror 150, Rapp, who  
21 will not be in the panel today.

22 And what we'll do is we'll proceed with the  
23 modified Arizona, where we will have 24 people  
24 seated in the box and the remainder of the panel to  
25 be back in the gallery behind plaintiff's counsel

1     table, State's counsel stable. We will initially  
2     canvass the group in its entirety as to hardship  
3     issues; acquaintanceship, if any, with the parties  
4     to the case; the facts of the case; and  
5     qualifications obviously, minimum qualifications.  
6     And then to the extent that we lose anybody from the  
7     primary panel following those discussions, we will  
8     then fill the seats that had been vacated with the  
9     next in line from the gallery panel.

10             I've indicated to Mr. Evenson, when we  
11     first came in before we took our break this  
12     morning -- State was not present -- but it was just  
13     to give the guidance on the fact because the  
14     questions that the Court will ask we're showing on  
15     the ELMO, that the Court will inquire these  
16     generalized questions, and of course, either side is  
17     entitled to a couple of followup individual  
18     questions. We just don't do individual canvassing,  
19     one by one.

20             But you will obviously have your  
21     opportunity to do individual questions as you need  
22     to make sure that you've had a chance to speak to  
23     each member of the panel or at least hear each  
24     member of the panel spoken to. But I do prefer that  
25     the questions that are posed to the panel initially

1 are posed as general questions.

2 And, you know, I've heard counsel use that  
3 sort of way to get to individual people, "If nobody  
4 volunteers, I'm going to pick on somebody. Okay."  
5 So and so, so and so. So make sure you get  
6 questions asked and answered of whomever you want to  
7 speak to. But, again, we won't do a one-by-one  
8 canvassing. And we'll handle any cause excusal  
9 discussions, any hardship excusal discussions with  
10 counsel in the -- we'll call it "chambers," but  
11 basically in the hallway -- just so that no juror is  
12 aware of who's requesting who to be excused type of  
13 thing.

14 Are there any questions about selection  
15 process before we then make the record about how  
16 we're going to do the alternates?

17 MR. EVENSON: Judge, I have no question  
18 about the selection process. I do have a question,  
19 when you're done, with the alternate process.

20 THE COURT: Okay. So issue has been raised  
21 that there is recent case law that would, could  
22 potentially be read to direct us to allow  
23 preemptions to be made, a certain portion of the  
24 panel for preemptions to be the deliberators, if you  
25 will, and then the portion of the panel to be

1 alternates.

2 I think, effectively, the Court's process  
3 still effectuates the result of that decision  
4 because it is understood by counsel that the  
5 alternates will be the last two seated. However, I  
6 have not mandated that selections take place with a  
7 certain portion of the panel and another portion of  
8 the panel to achieve those 12 to deliberate and two  
9 to alternate. Instead, I give each side five. You  
10 utilize your five back and forth. Understanding  
11 that, as you eliminate from the bottom of the panel,  
12 that the last two seated will eventually be your  
13 alternates. That will be unknown to them obviously.

14 Mr. Evenson, you indicated you had  
15 something to --

16 MR. EVENSON: Your Honor, are we still at  
17 five half days? I mean, I know that your calendar  
18 can sometimes change everything else. And sometimes  
19 that's something we need to address with the jurors  
20 in terms of your time --

21 THE COURT: I always advise the jurors what  
22 the court schedule looks like because I want them to  
23 be aware of those who might ready to raise their  
24 hand and say "I can't come here because it's going  
25 to impact my work," et cetera. Then, again, if

1 they're only here for four hours, give or take, in  
2 the afternoon, maybe it makes a difference.

3 At this point in time, the hearings that I  
4 had scheduled on Thursday morning and Friday  
5 morning, where I normally might have the opportunity  
6 to put time for a trial, are still set to go, which  
7 means we would be looking at five half days.

8 MR. EVENSON: Judge, I just -- I mean, I'll  
9 call this for what it is. I know that the State's  
10 Fourth Supplemental and Amended Witness List had  
11 47 witnesses on it, I believe. Are we -- I mean, if  
12 we're not done Friday at 5:00 o'clock, what happens?

13 And I'm only addressing that because they  
14 have 47 witnesses on their witness list.

15 THE COURT: Well, I mean, I think you all  
16 understand that the State is not going to call that  
17 many witnesses. The State has already indicated  
18 that they think they can complete in five half days.  
19 So I'll take them at their word.

20 MR. EVENSON: Okay.

21 THE COURT: I would prefer not to speculate  
22 right now on what happens. I did set another trial  
23 today to start on Monday, but that trial is likely  
24 to go no more than two to three days. So if that  
25 trial needs to be bumped to a later-in-the-week

1 start to accommodate this trial hearing, so be it.  
2 If it's just not completed with their deliberations,  
3 fair enough. Then they can come back and finish  
4 their deliberations, and we start a new trial.

5 But my anticipation is that we'll start  
6 with openings and witnesses tomorrow, and we'll give  
7 full attention each afternoon. If we need to start  
8 at 1:00 instead of 1:30, we can do so. And if we  
9 need to complete a witness and go a little bit into  
10 the 5:00 o'clock hour, we can do that. I don't  
11 typically stay much past 5:00 though to accommodate  
12 the staff's needs, to accommodate the lack of  
13 overtime funding and other reasons.

14 But we'll see how it goes. I think we  
15 should be able to proceed and get --

16 MR. EVENSON: Appreciate that, Your Honor.  
17 Thank you.

18 THE COURT: -- it done this week.  
19 Anything else before we bring the jurors in?

20 MR. EVENSON: No, Your Honor.

21 THE COURT: All right. Let's go ahead and  
22 have the jurors in.

23 (Pause in the proceedings.)

24 THE COURT: I'll also ask counsel to  
25 introduce themselves, their witnesses, but give a

1      brief synopsis of the case; and I'll also do all the  
2      canvassing about their prior experiences with  
3      criminal justice system. They were really backed-up  
4      in jury services today. So they're probably a  
5      squirrely bunch already.

6                              (Discussion off the record.)

7                      THE COURT: I'm going to invite counsel and  
8      the staff to please have a seat.

9                      And I'm going to ask everybody who just  
10     came in, if you could, just briefly, we do have an  
11     oath that my clerk is going to administer to you  
12     because we are going to be asking you some questions.  
13     And it's very, very important that all your  
14     questions are complete and honest, and so we give  
15     you this oath.

16                      Please pay attention and please indicate  
17     your answer as soon as we're complete.

18                      Go ahead. If everybody could please stand  
19     and raise your right hand.

20                      (Oath administered to the panel.)

21                      THE COURT: Thank you.

22                      Thank you. Go ahead and have a seat,  
23     please. So ladies and gentlemen, as we get started  
24     here today, you'll notice already that you're kind  
25     of broken up into two groups. So let me explain how

1 that works before I get down to the details of who  
2 we all are and what we're all here for.

3 The reason you're broken down into the two  
4 groups is because the bulk of the questions that we  
5 are going to direct, we're going to direct to the  
6 panel that's here to my left, in the jury box, in  
7 the row in front. So the seats and the folding  
8 chairs and the ones in front are artificially in  
9 place just for now until we can get our panel.

10 We need to select a total of 14 people to  
11 serve on this trial, and ultimately we will qualify  
12 24 people to reach that final number of 14. We have  
13 49 people, total, brought into the courtroom. And  
14 so basically the way it works is we're going to ask  
15 some general questions of the entire group here  
16 shortly, and then we're going to turn our attention  
17 primarily to this group of 24.

18 Because we have no way to know who's going  
19 to be randomly selected to be where in the list, but  
20 if you were in the first 24, you are essentially on  
21 the jury unless -- or qualified in the panel unless  
22 you are somehow disqualified from the panel.

23 If we vacate a seat over here, then as  
24 you're seated in your order there, you will fill the  
25 vacant seats over here. So if it hasn't quite



1 clicked yet, for those of you who are in the  
2 furthest back row and close to the back row, your  
3 likelihood of getting up here is slim, but we want  
4 you to please pay attention, not only because it  
5 will make the time be more interesting, but we do  
6 want you to be prepared, if you have to take one of  
7 these seats, to remember what questions have been  
8 asked and where we've been so you can hopefully get  
9 more quickly up to speed. Those in the front row,  
10 of course, you may have an opportunity to come over  
11 here and join us in the panel to the left.

12 We are going to proceed. This is the date  
13 and time set in the trial of the State of Nevada vs.  
14 Lisa Ann Nash. In a moment, I'm going to have the  
15 counsel introduce themselves and any potential  
16 witnesses they may be calling. Before I do that,  
17 though, I'd like to introduce myself and my staff.

18 My name is Kathleen Delaney. I'm the  
19 District Court judge in Department 25, where you  
20 have been assigned for possible jury duty.

21 I have also present in the courtroom,  
22 members of my staff, Elvis Easley, the marshal, who  
23 you would have already met. And just keep in mind,  
24 if you have any communication you need to have with  
25 the Court now or if you happen to remain on our

1 panel in the future, the marshal is the only person  
2 that you are able to communicate with. We have  
3 reasons for that, and I'll explain that in a little  
4 bit.

5 I have Shelley Boyle here to my right, who  
6 is our court clerk. Dana -- I'm sorry. I'm going  
7 to blank on your last name.

8 THE REPORTER: Tavaglione.

9 THE COURT: Dana Tavaglione is our court  
10 reporter for today. I don't believe she'll be  
11 returning with us tomorrow, but if she is or does, I  
12 have other court reporters who will be with us; and  
13 I believe this week is our court reporter,  
14 Sharon Howard. We also have a court reporter,  
15 Renee Silvagio, and you may see one or both of them.

16 Behind the scenes, I have two additional  
17 staff members. I have my judicial executive,  
18 Cindy Springberg; and I have my law clerk,  
19 Elliott Anderson. So I need to see, at this point,  
20 by a show of hands, if there is anyone in the panel  
21 that believes that you know of or are acquainted  
22 with any of us, any of the court staff, the Court,  
23 judge, anybody.

24 All right. Seeing no hands, there was one  
25 preliminary question I should have asked also of the

1 group. So let me do that before I turn it over to  
2 counsel to introduce themselves and the case and the  
3 potential witnesses.

4 Jury services is usually very good about  
5 this initial screening, but the very minimum  
6 qualifications to serve as a juror are that you have  
7 to be a U.S. citizen and/or you have to be somebody  
8 who, if you were previously convicted of a felony,  
9 have had your rights restored.

10 Is there anyone here on the panel who  
11 believes that they don't meet those minimum  
12 criteria?

13 Is there anyone here who is not a  
14 U.S. citizen or is a convicted felon whose rights  
15 have not been restored?

16 So the juror who raised your hand -- this  
17 is how we're going to proceed as we go through the  
18 rest of today to do selection, if you have an answer  
19 to give to a question, you'll raise your hand to get  
20 the Court's attention. I will then call on you.  
21 It's really important that you give us your name and  
22 the last three digits of your badge number so we can  
23 identify you.

24 And just to be clear, on that badge, we  
25 know there's a lot of numbers. But the one I think

1 that, as you look at the badge, it's in the upper  
2 left. It's slightly larger. It would say "Badge  
3 Number," or it could be -- I don't know what the  
4 word is on the badge, now that I think about  
5 it -- but regardless, it will say "Badge Number," so  
6 if you'll see.

7 And, for instance, our juror in our Seat  
8 No. 7, Edgar Preciado-Herrera, your badge number is  
9 11 -- last three digits are 112.

10 Okay? What do you believe is the criteria  
11 that you do not meet to be a juror?

12 MR. PRECIADO-HERRERA: U.S. citizen.

13 THE COURT: Okay. So you are not, at this  
14 time, a U.S. citizen?

15 MR. PRECIADO-HERRERA: Not yet.

16 THE COURT: Okay. And so obviously, again,  
17 that is one of our minimum qualifications. I'm  
18 sorry that wasn't caught in the screening process.  
19 But we will go ahead and excuse you at this time.

20 MR. PRECIADO-HERRERA: Okay.

21 THE COURT: If you'll go ahead and go back  
22 to jury services --

23 He goes back to jury services; right?

24 THE MARSHAL: No. You just go home.

25 THE COURT: That's right. I forgot.

1 They've kind of changed the process recently.

2 So you'll just turn your badge in to the  
3 marshal on your way out, and you will be excused.  
4 And we'll make sure that we correct that  
5 circumstance on the list. Thank you, sir.

6 And before we proceed then, I would like to  
7 fill that vacant No. 7 seat. So our next in line  
8 can take that seat.

9 THE CLERK: Badge No. 214, Kenneth Eliason.

10 THE COURT: Mr. Eliason. Thank you.

11 While Mr. Eliason takes a seat, I am going  
12 to ask, at this time, for the attorneys representing  
13 the State of Nevada to introduce themselves and  
14 their potential witnesses and a brief synopsis of  
15 the case, please.

16 MR. VILLANI: Thank you, Your Honor.

17 Good afternoon, ladies and gentlemen. My  
18 name is Jake Villani. With me is my co-counsel,  
19 Dena Rinetti. We are both chief deputy district  
20 attorneys for Clark County District Attorneys Office  
21 in the Special Victims Unit. We have been assigned  
22 to prosecute this case, State of Nevada vs. Lisa Ann  
23 Nash.

24 Ms. Nash is charged with multiple counts of  
25 child abuse; one count of coercion; and one count of

1 battery constituting domestic violence,  
2 strangulation. These charges arise out of Ms. Nash's  
3 guardianship of her niece back in 2000, between the  
4 dates of April 1st, 2014, and July 31st, 2014.

5 During that time, the State alleges that  
6 multiple counts of abuse occurred of the details in  
7 which you'll hear throughout the trial. In proving  
8 these counts, we will present one or more of the  
9 following witnesses, which I'm about to read to you.  
10 I'd ask you to please pay attention to these names,  
11 and let the Court know if you recognize anybody on  
12 this list.

13 THE COURT: And, Mr. Villani, before you do  
14 that, because I know and I want to make sure the  
15 jurors understand, it is required of the counsel,  
16 obviously, to disclose any names of people who might  
17 be potential witnesses. That does not mean that  
18 every person who is named here is going to be called  
19 as a witness, not by a long shot.

20 However, what we're trying to find out, at  
21 this time, is if there is any of you who might be  
22 acquainted or know of any of them. And you might  
23 hear a name that sounds familiar and you're not  
24 sure. Obviously, when we get done, when we ask the  
25 question, you raise your hand, you'll let us know.

1 Mr. Villani is going to probably go through the list  
2 pretty quickly.

3 Always keep in mind, too, that for those  
4 who actually come and testify, if you see someone  
5 you recognize but you didn't happen to recognize  
6 their name -- maybe they're your kids' soccer coach  
7 or somebody you know from church or whatever -- you  
8 could always let the marshal know, and he can  
9 address it at that time. Just do your best to pay  
10 attention to the list.

11 It might be easier, Mr. Villani, if you  
12 don't mind, if you come up to the podium just so you  
13 can kind of look at both groups at the same time,  
14 and we'll go through the names on the list and call  
15 to see if anyone is familiar with any of the names  
16 while we're up here.

17 MR. VILLANI: Okay. Officer Bulmer. All  
18 the officers I will read are with the Las Vegas  
19 Metropolitan Police Department, unless they  
20 otherwise testify. Officer Butler. Dr. Sandra  
21 Cetl. The custodian of records for the following  
22 agencies: AMR, Clark County School District,  
23 Las Metropolitan Police Department dispatch,  
24 Maryland Child Protective Services, Nevada Child  
25 Protective Services, Southwest Medical Center,

1 Baltimore City Department of Social Services,  
2 Variety School, Arbor View High School, United States  
3 Air Force; Praise Cowman, who's an officer; Shanna  
4 Davis, with Child Protective Services; Thea Douglas;  
5 Oscar Fulton, who is an officer; Lisa Gavin,  
6 Dr. Lisa Gavin, with the Clark County Medical  
7 Examiners Office; Officer Gray; Officer Grego-Smith;  
8 Elynee Greene, with the Las Vegas Metropolitan  
9 Police Department; Audra Gutierrez; Dr. Anita  
10 Henderson; Lonny Hennessy; Balinda Jackson-Gordon,  
11 Child Protective Services; Joan Johnson, who's a  
12 registered nurse; Frances Jones; B. Lofthouse, who's  
13 with Churchill County; Michael Marano; Tatanyia  
14 Marshall; Brittany Mitchell; Megan Nash; Richard  
15 Nash; Marjorie Prout; Officer Reed; Dr. Ruben Reyes;  
16 Officer Ruiz; Shaylyn Shelton; Officer Saari. Last  
17 name is S-A-A-R-I; Officer Witham, that's officer  
18 Praise Witham; and then there's Officer Shane Witham  
19 as well; and Tamara Young, with the Baltimore City  
20 Department of  
21 Social Services.

22 Thank you, ladies and gentlemen.

23 THE COURT: And before I, excuse me, have  
24 you indicate if you know any of these individuals,  
25 let me hear from Mr. Evenson, counsel for Ms. Nash,



1 with your introductions and your potential  
2 witnesses.

3 MR. EVENSON: Thank you, Your Honor.

4 My name is Steve Evenson. I am not an  
5 attorney from this neck of the woods. I actually  
6 practice up in Northern Nevada. I'm a native  
7 Nevadan, and I've lived here my entire life. I did  
8 live in Las Vegas for ten years and was very active  
9 at the university and various things around the  
10 community. So a lot of you may have known me maybe  
11 a long time ago. Maybe not.

12 I've been in practice for 25 years, and  
13 this is the ninth Nevada county I've had the honor  
14 of doing a jury trial. My client today is Lisa Nash.  
15 She is a 28-year military veteran, and she is  
16 maintaining her innocence against these charges that  
17 have been wrongfully brought against her by the  
18 agents of the State of Nevada. Thank you.

19 THE COURT: Okay. And do you have any  
20 witnesses that you're going to be --

21 MR. EVENSON: Your Honor, other than the  
22 numerous witnesses that the State intends to call,  
23 we have no other witnesses.

24 THE COURT: All right. Thank you.

25 So can I see, by a show of hands at this

1 time, if there is anyone in the panel who believes  
2 they are either acquainted with the facts of the  
3 case -- and we appreciate you know very little,  
4 there's a reason for that -- you're to know some,  
5 but of course those who are actually serving on the  
6 panel will know all that there is to know about the  
7 case as time proceeds.

8 But if you believe you have any  
9 acquaintance with any of the people that were listed  
10 as potential witnesses, the defendant, any of the  
11 attorneys that were referenced, any of the witnesses  
12 again that were referenced, I would need to know now  
13 by a show of hands.

14 I see a couple of hands. Okay. So what  
15 I'm going to do is I'm going to call on you in the  
16 order in which you're seated -- and that will,  
17 again, be a typical process that we will do for the  
18 remainder of the afternoon, as we do the selection.

19 In the back row there, I believe in  
20 Seat No. 3, if you could give us your name and the  
21 last three digits of your badge number.

22 MR. POWELL: Eric Powell, 090.

23 THE COURT: And, Mr. Powell, who do you  
24 believe that you are acquainted with?

25 MR. POWELL: Dr. Ruben Reyes.

1 THE COURT: Okay. And how do you know  
2 Dr. Reyes?

3 MR. POWELL: He's my daughter's  
4 pediatrician.

5 THE COURT: Okay. And is that someone that  
6 you regularly have contact with?

7 MR. POWELL: Only when my daughter is sick.

8 THE COURT: Okay. Makes sense.

9 The reason for doing the identification is,  
10 first of all, to see if you would know anyone. It's  
11 not a certainty, again, as to anyone who's on the  
12 list who might actually be called to testify. But  
13 knowing that Dr. Reyes has a role in this case, is  
14 there any reason why that would impact your ability  
15 to be fair and impartial?

16 MR. POWELL: No.

17 THE COURT: And the followup question to  
18 that is, you know, it's going to be the duty of each  
19 juror who's on the panel to ultimately listen to the  
20 evidence that comes in at the time of trial, through  
21 the witnesses, through the exhibits, and give  
22 whatever weight they think that testimony or  
23 evidence is entitled. That's up to the jurors and  
24 the jurors and the deliberation to make those  
25 determinations. And we just want to make sure that

1 everybody is given the same sort of fair look.

2 Is that how you intend to proceed?

3 MR. POWELL: Yes.

4 THE COURT: Okay. Thank you.

5 I think in the second row, did I see a  
6 hand -- or the third row. I'm sorry. Third row,  
7 can you give us your name and badge number.

8 MR. BRADEN: Matthew Braden, 181.

9 THE COURT: And who do you believe you  
10 know, Mr. Braden?

11 MR. BRADEN: Well, he listed off a litany  
12 of people and entities. In this case, Arbor View,  
13 my son goes to Arbor View High School. He's a  
14 senior.

15 THE COURT: Okay.

16 MR. BRADEN: He's on their soccer team.

17 THE COURT: Okay. And I understand they  
18 have a good one. Did you recognize any of the other  
19 names, just besides the school?

20 MR. BRADEN: I'm sorry. Last names, names  
21 as a general rule, I have a tough time.

22 THE COURT: But not the faces.

23 MR. BRADEN: But faces, I can, you know,  
24 approach somebody I know, but I'll never be able to  
25 tell the name.

1           THE COURT: Well, and we did mention that  
2 to the extent, if you ended up on the panel and to  
3 the extent someone came in to testify and you were  
4 to recognize them, you would obviously want to let  
5 the marshal know that.

6           Is there any reason, knowing that there  
7 might be a connection to some evidence coming from a  
8 representative of Arbor View High School, that would  
9 impact your ability to be fair and impartial?

10          MR. BRADEN: All I can tell you is that I'm  
11 already having an issue with my son's soccer coach  
12 and a father -- the father of a son that's on the  
13 team. The coach is partial to this father who  
14 videotapes the team for free, letting his freshman  
15 son play soccer versus my senior son, and it's a  
16 senior team, J.V. So there's already some  
17 favoritism going there with the coach. I don't know  
18 how far width that is with the members of the Arbor  
19 View School District.

20          But I can tell you my girlfriend works for  
21 CCSD in the payroll, and I hear a lot of things about  
22 Clark County School District through her. So I don't  
23 know how much she may or may not know about any of  
24 what would be transpiring here with this Court,  
25 seeing as how you mentioned Arbor View, and it

1 happens to be in the Clark County School District.  
2 I don't know. I can't answer that clearly.

3 THE COURT: Okay. So let me try to break  
4 down a little bit of what you told us. So I'm not  
5 aware of any facts in this case that would connect  
6 this case to the soccer team or the soccer coach.

7 There may have been some records, because  
8 what was identified as the custodian of records for  
9 the school, that if their records are presented,  
10 then there would be, essentially, a custodian of  
11 records that would need to authenticate them. I  
12 don't know beyond that because I, again, will be  
13 receiving the evidence basically at the same time  
14 the jurors do, if there's anything beyond that.

15 But I guess my point in asking the question  
16 is whatever that circumstance is -- and I have  
17 friends whose kids play soccer and I'm constantly  
18 hearing about, you know, these kinds of issues. But  
19 whatever that circumstance is and whatever  
20 circumstance there is in terms of concerns about the  
21 school district things generally, can you set those  
22 aside and can you recognize that, in this trial, the  
23 determination of whether or not Ms. Nash is guilty  
24 or not guilty of the charges --

25 Let me finish my question because you don't

1 know what the question is if I haven't finished.

2 MR. BRADEN: I'm sorry.

3 THE COURT: These charges that have been  
4 brought against Ms. Nash by the State and the  
5 evidence obviously that's going to be weighed to  
6 decide whether or not the State meets its burden to  
7 prove Ms. Nash guilty beyond a reasonable doubt.  
8 We'll have some further discussions about that.

9 That evidence is only going to be what  
10 comes in here in this courtroom, through the  
11 testimony and through the exhibits. Whatever the  
12 circumstances are, can you set those aside?

13 This is obviously not the school district's  
14 case. This is the State's case against this  
15 individual.

16 Can you set that aside, and can you be fair  
17 and impartial? If you cannot, then, you know, we  
18 need that answer too.

19 MR. BRADEN: I cannot. And that's because  
20 my son who, at age of 22, was born in 1995. Five  
21 years after he was born, he was in private school,  
22 and a nurse at that private school -- again, not  
23 related to CCSD but does have something to do with  
24 the Child Protective Services -- said that my son  
25 had been abused by myself.

1           In fact, my dog had stepped on his face,  
2           and in record, at the U.C. Davis Medical Center, it  
3           was proven that no human could have caused the  
4           slight damage to --

5           THE COURT:   So, Mr. Braden, I'm only going  
6           to interrupt you -- I'm only going to interrupt you  
7           because we don't need to have the entire history of  
8           the circumstances why you don't think you can be  
9           impartial.   Thank you for your answer.   That's  
10          complete and sufficient at this time.

11          MR. BRADEN:   Okay.

12          THE COURT:   Is there anyone else?   I think  
13          I saw two hands over there.

14          Second row, on the end there.

15          MR. HOUCHINS:   Yeah, Christopher Houchins,  
16          263.

17          THE COURT:   Okay.

18          MR. HOUCHINS:   I'm an employee for  
19          Clark County School District, and I have talked to  
20          with CPS on a number of occasions, and they're one  
21          of the agencies listed.

22          THE COURT:   Right.

23          MR. HOUCHINS:   I did not notice any of the  
24          names there.

25          THE COURT:   What do you do for the school



1 district?

2 MR. HOUCHINS: I'm a kindergarten teacher.

3 THE COURT: Okay. And you've had occasion  
4 to work with the agency but not necessarily did you  
5 recognize these names?

6 MR. HOUCHINS: I didn't. No, not at all.

7 THE COURT: All right. And do you have any  
8 reason to believe that your role with the school  
9 district and/or the fact that you've had dealings  
10 with these agencies before would impact your ability  
11 to receive the evidence in this case and be fair and  
12 impartial in your deliberations?

13 MR. HOUCHINS: No.

14 THE COURT: Okay. Thank you.

15 And was one additional hand -- oh, two  
16 more. I'm sorry. Okay. Front row then.

17 MS. WILSON: Frances Wilson, 220. I  
18 actually didn't raise my hand first. I'm sorry.  
19 I'm prior Air Force. I work for CCSD. I've had  
20 contact with CPS in different states, but I didn't  
21 actually raise my hand because I didn't think it  
22 mattered. I can still be fair and impartial. I  
23 didn't know any of those people or any of the facts  
24 of this case.

25 THE COURT: And that's really what the

1 followup question obviously is --

2 MS. WILSON: Yeah, so that's why I hadn't  
3 raised my hand, but then when he did, I was like  
4 "Oops, maybe I better." I didn't want anything  
5 improper.

6 THE COURT: No, it's good to know. And,  
7 again, you're not yet up here. There's still a  
8 chance, potentially, you could be up there based on  
9 where you're seated. But it is good to know if you  
10 have these connections. When we get to the more  
11 detailed questions, and I don't know if it's up on  
12 the board yet, but we do go through  
13 question-and-answer panels.

14 I see your hand up. I'll come back to you  
15 in just a second.

16 We do go through jobs and potential  
17 connections through jobs of our, you know, the  
18 potential jurors' family members, close friends,  
19 things like that so we would have that understanding.  
20 But the ultimate reason we find that out, first of  
21 all, is to know what those connections are but also  
22 ultimately to get your position on whether or not  
23 you could still be fair and impartial, and I believe  
24 you said you could.

25 MS. WILSON: Yeah.

1 THE COURT: That's correct. Okay.

2 Another hand I saw back there. Yes, in the  
3 back row.

4 MS. LE: Tami Le, 298. I think I know  
5 Frances Jones.

6 THE COURT: Okay. And when you say you  
7 "think" you know, who do you understand Frances  
8 Jones to be?

9 MS. LE: A former colleague, optometrist.

10 THE COURT: The indication from the State  
11 is it's not the same Frances Jones, but if it does  
12 turn out that you end up over here and end up on the  
13 panel and you see somebody come in that might fit  
14 that description, then we can address it at that  
15 time.

16 Okay. Just out of curiosity, though, for  
17 the record, if this was the Frances Jones that you  
18 knew, which it doesn't appear to be, is there any  
19 reason why that would impact your ability to be fair  
20 and impartial in this trial?

21 MS. LE: No.

22 THE COURT: Juror in the first seat over  
23 here, who raised her hand.

24 MS. NORRIS-LEWIS: 1084. I don't know none  
25 of the --

1 THE COURT: You're Ms. Norris?

2 MS. NORRIS-LEWIS: Uh-huh.

3 THE COURT: Yes.

4 MS. NORRIS-LEWIS: I worked for the school  
5 district 28 years, but I don't know none of those  
6 people.

7 THE COURT: Okay. Where did you work in  
8 the school district?

9 MS. NORRIS-LEWIS: Where I work now?

10 THE COURT: No. I mean, you've worked in  
11 the school district for a long time. What is your  
12 role? Are you a teacher? Are you an administrator?

13 MS. NORRIS-LEWIS: I'm a building manager.

14 THE COURT: Building manager, okay. But  
15 you didn't recognize any of the those names?

16 MS. NORRIS-LEWIS: (No audible response.)

17 THE COURT: Like I said, we're going to get  
18 through jobs. Is there any reason being an employee  
19 of the school district would affect your ability to  
20 be fair and impartial?

21 MS. NORRIS-LEWIS: I would be fair.

22 THE COURT: All right. Thank you.

23 Anybody else that thought about it now,  
24 that hasn't raised their hand?

25 Okay. Middle row.

1 MS. TACANG: I work for the school district  
2 too.

3 THE COURT: Can I have your name and your  
4 badge number, please.

5 MS. TACANG: Jacyl Tacang, 1272.

6 THE COURT: All right. What do you for the  
7 school district?

8 MS. TACANG: I'm a custodian.

9 THE COURT: Okay. Did you recognize any of  
10 the names?

11 MS. TACANG: No.

12 THE COURT: Okay. Is there any reason why  
13 you believe you could not be fair and impartial in  
14 this trial, based on the fact that you happen to  
15 work for the school district?

16 MS. TACANG: (No audible response.)

17 THE COURT: Did you understand the  
18 question?

19 Can you stand up so I can see you a little  
20 bit better. There you go. Like I've asked the  
21 others who have maybe some knowledge of one or more  
22 of the potential witnesses or some folks that might  
23 be giving evidence in the case, the question then  
24 is, is that going to be a problem for you to be  
25 otherwise fair and impartial in receiving the

1 evidence in this case?

2 Can you do that?

3 MS. TACANG: (No audible response.)

4 THE COURT: Is that a "yes"?

5 MS. TACANG: (No audible response.)

6 THE COURT: Do you understand my question?

7 MS. TACANG: I'm sorry.

8 THE COURT: That's okay. You don't need to  
9 be nervous. Is English your second language?

10 MS. TACANG: Yeah.

11 THE COURT: Do you use English in your  
12 everyday work?

13 MS. TACANG: Yes. Uh-huh.

14 THE COURT: I know this might be a tricky  
15 question, but if you had to give me a percentage  
16 from 0 to 100 percent of how much you believe you  
17 are following and understanding of this discussion,  
18 could you give me percentage?

19 Yeah, I can't hear you.

20 MS. TACANG: I'm so nervous.

21 MR. EVENSON: She said 50, Judge.

22 THE COURT: Did she say 50 percent?

23 All right. You may have a seat. We'll  
24 come back to you in a moment.

25 Was there anybody else that we haven't

1     talked to you yet?

2             All right. The other thing I need to  
3     discuss with the panel, at this time, is the length  
4     of trial that we expect to have here is through and  
5     including Friday, but what you need to know is that  
6     the Court cannot give all day to trials. So that  
7     means you don't have to give all day to trials.

8             The only time we would be available to  
9     conduct this trial will be in the afternoons but  
10    typically starting in here at 1:00 o'clock, so  
11    whatever you would know of your travel time to be  
12    able to be here to start at 1:00, and ending at  
13    5:00.

14            Now, occasionally we might roll a little  
15    bit into the 5:00 o'clock hour to complete a witness  
16    or for other purposes; but generally, between 1:00  
17    and 5:00, with the travel time on either side is the  
18    time commitment we would be asking for from you each  
19    day this week and through and including this Friday.

20            So for those of you who have other work  
21    obligations, other circumstances, hopefully you  
22    would be able to understand that mere inconvenience  
23    is obviously not a basis not to complete jury duty.  
24    This is -- obviously we all know and believe how  
25    very important jury duty is. But it truly is one of

1 the only ways that the public can serve the  
2 community, if they're not otherwise either an  
3 elected official or volunteering in some  
4 governmental way, to actually serve the public.

5 And it is one of our fundamental rights is  
6 that anyone who is accused of a crime has the right  
7 to have the State prove their guilt, if possible,  
8 beyond a reasonable doubt; and then it needs to be a  
9 jury of their peers who make that determination. So  
10 we want people who are here, who are taking this  
11 seriously and who appreciate very much how very  
12 important this duty is.

13 And so but we obviously did not know,  
14 before we sent out the jury notices, who might have  
15 issues. Now the kinds of things that would make you  
16 unavailable, from the Court's perspective, would be  
17 say you have already purchased nonrefundable flight  
18 travel during this week, that obviously would be  
19 something we would need to know about.

20 If you have a medical procedure scheduled  
21 that has been scheduled for months, which would be  
22 very difficult, if not impossible to reschedule,  
23 then that would make you unavailable. We would  
24 obviously want to know about that.

25 We obviously want to know about anything



1 that you believe would make you unavailable, shall  
2 we say, to serve. But, again, we hope that you  
3 appreciate and understand that mere inconvenience,  
4 we all appreciate that. We all appreciate, if you  
5 walked in here today, you would probably rather be  
6 anywhere but here.

7 Although some of you, some people do really  
8 want to serve as jurors and really look forward to  
9 that process. But the majority of people, we  
10 appreciate it can be an inconvenience to them, and  
11 we very much appreciate your service.

12 And I would like to see, by a show of hands  
13 at this time, if there is anyone who knows that they  
14 have an absolute hardship with the ability to be  
15 here through trial afternoons, 1:00 through 5:00,  
16 the remainder of this week. I just see a couple of  
17 hands. What I'll do is I'll just go row by row. So  
18 as we go through it, if you think of something that  
19 you need to bring to the Court's attention, bring it  
20 to our attention.

21 Back row, on the far right.

22 MR. SNEARLY: Yes. Snearly, 108.

23 THE COURT: Yes.

24 MR. SNEARLY: This is not intended to be  
25 comical, but I've been retired for 20 years. And my

1 most productive time is early in the mornings. And  
2 I just wonder if I'll be in contempt of court if I  
3 dozed off during your trial.

4 THE COURT: No, I mean, it's a fair  
5 question to ask. We would expect nobody to doze  
6 off. And the reason is, of course, you have to be  
7 receiving the evidence in order to be prepared at  
8 the time of the conclusion of trial to deliberate  
9 with your fellow jurors. You'll have notepads.  
10 You'll have pens. You're with us here in the  
11 afternoon. Hopefully, you know, found so far what  
12 we have done to be interesting and will continue to  
13 do so.

14 But do you have any -- and I'm not trying  
15 to be impertinent here back to you, but do you have  
16 any medical conditions that preclude you from  
17 serving in terms of wakefulness or medications that  
18 you take? Anything like that?

19 MR. SNEARLY: No. I have to hobble around,  
20 but other than that, I'm fine.

21 THE COURT: But other than that, as long as  
22 it is -- as you said, maybe you're more of a morning  
23 person and you have more energy in the mornings, but  
24 at this point, you're still with us this afternoon  
25 and paying attention. Okay?

1 MR. SNEARLY: (No audible response.)

2 THE COURT: All right. Thank you,  
3 Mr. Snearly.

4 Second row, were there any. Yeah, third  
5 row, sir.

6 MR. SORBELLO: 180, Alexander Sorbello.

7 THE COURT: Uh-huh.

8 MR. SORBELLO: I'm not sure if -- I have  
9 two different things. I'm not sure how to -- I  
10 don't know if I can go back against the case and  
11 what it's for, as far as like subject.

12 THE COURT: I'm not sure what you're trying  
13 to tell me. Do you have a hardship in terms of your  
14 time to serve?

15 There may be other things that we will get  
16 into that might impact your ability to be a juror in  
17 this particular case, and we understand that.

18 But do you have anything right now -- this  
19 is the, what we would call the "hardship discussion,"  
20 meaning it would be a hardship, time wise, for you  
21 to serve. Do you have anything in that regard?

22 MR. SORBELLO: I have three children, along  
23 with a great grandmother that I'm taking care of,  
24 and I actually quit my full-time job on Friday in  
25 pursuit for something else, self-employment that was

1 supposed to start this week and to progress with  
2 that. So me being here does impact the financial  
3 ability to support my family.

4 THE COURT: Is the self-employment  
5 something that you do from home?

6 MR. SORBELLO: It's going to be from home.

7 THE COURT: Okay. But you have not yet  
8 commenced that at this time; is that correct?

9 MR. SORBELLO: Yes. That's what I was  
10 going to accomplish.

11 THE COURT: And the four hours in the  
12 afternoon each day is not something that you can  
13 work around in terms of doing your self-employment  
14 in the morning or after we conclude for the day?

15 MR. SORBELLO: Unfortunately, it would  
16 impact that ability.

17 THE COURT: Okay.

18 Was there anybody else in that row? In the  
19 front row?

20 Mr. Braden, before we move on to the front  
21 row, did you have a hardship?

22 MR. BRADEN: I'm required by law and court  
23 ordered to pay 12 -- or just under \$1,200 a month  
24 for child support. I'm making \$258 a week. If I  
25 were to maintain any time this week, not employed

1 gainfully, I would be --

2 THE COURT: Where do you work?

3 MR. BRADEN: I'm a union member, Local 357,  
4 journeyman wireman, currently working for Sturgeon,  
5 remodeling the Harrah's.

6 THE COURT: Okay. And did you speak to  
7 your employer to find out what their paneling of  
8 jury duty is in terms of whether you would be  
9 compensated or not?

10 MR. BRADEN: They said that if I can afford  
11 the time off, then I take the time off because  
12 getting paid well, allegedly, is the only thing that  
13 I have going for me if I want time off. In other  
14 words, you know, save your money because you could  
15 be off work for nine months and work three months.

16 THE COURT: Thank you.

17 Anything in the front row?

18 MS. PETROVA: Sorry about my English. So I  
19 have an appointment --

20 THE COURT: I need your name.

21 MS. PETROVA: Antoaneta.

22 THE COURT: Petrova?

23 MS. PETROVA: Yes.

24 THE COURT: Juror 184. Go ahead.

25 MS. PETROVA: I have epilepsy. So I got a

1 seizure last week. So I should have to see my  
2 doctor.

3 THE COURT: When is your doctor's  
4 appointment?

5 MS. PETROVA: Wednesday.

6 THE COURT: What time?

7 MS. PETROVA: Around 3:00.

8 THE COURT: In the afternoon?

9 MS. PETROVA: Yeah.

10 THE COURT: Okay. And if you needed to  
11 show us proof of that appointment, you could show  
12 that to us?

13 MS. PETROVA: Yeah.

14 THE COURT: Okay. Is that something you  
15 could possibly reschedule to a morning time?

16 MS. PETROVA: No.

17 THE COURT: Anybody else in that row? Yes.

18 MR. HARE: Micah Hare, 200. It sounds a  
19 little silly, but I work at T Mobile, and we have a  
20 phone that will be launching on Friday. Whenever we  
21 have a new phone launching, it's one of the busiest  
22 days of the year.

23 THE COURT: And, yeah, we would be  
24 expecting to be in trial that Friday afternoon, as I  
25 said. So all right. No, that's not silly. I mean,

1 it's a work concern and a work issue.

2 Would you have time to anticipate that  
3 coming into Friday -- I don't know what your role in  
4 the, you know, workplace is -- to have coverage if  
5 you needed to be present here?

6 MR. HARE: Potentially, but we do work off  
7 commission. So it's also kind of a --

8 THE COURT: Good day for you to be there.

9 MR. HARE: It is, yes.

10 THE COURT: Understood. All right.  
11 Thank you.

12 Was there anybody in the first row behind  
13 counsel table? Yes, ma'am.

14 MS. COPELAND: Michelle Copeland, 234.

15 THE COURT: Okay.

16 MS. COPELAND: I have an autistic son at  
17 home, and planning childcare is extremely hard for a  
18 special needs child.

19 THE COURT: And, again, I know sometimes  
20 when I follow-up, it may sound like I'm being either  
21 impertinent or questioning you. It's really not  
22 that. It's just for making our record here. You  
23 were obviously able to find coverage for today.

24 MS. COPELAND: My husband took the day off  
25 work. He's actually our provider.

1 THE COURT: Okay. And did you anticipate  
2 thinking ahead to the extent that, if you were  
3 having to serve jury duty, how you would cover the  
4 remainder of the days?

5 MS. COPELAND: We were military transplant.  
6 So we don't have any family in the area. We have  
7 very few friends and not many people -- nobody we  
8 know that's truly equipped to handle a special needs  
9 child that does not speak his needs.

10 THE COURT: How old is the child?

11 MS. COPELAND: He's three and a half.

12 THE COURT: Okay.

13 MS. COPELAND: And he has a hearing test on  
14 Wednesday, late morning.

15 THE COURT: All right.

16 MS. COPELAND: We have been waiting for  
17 that appointment for three months.

18 THE COURT: Thank you for your service and  
19 thank you for bringing that to our attention. And  
20 like I said, we're going to finish going through the  
21 folks, and we'll address it.

22 I see, the first row, another hand.

23 MS. BIVONA: Bivona, 217. This is  
24 unrelated, but I have to use the restroom, and it's  
25 an emergency.



1 THE COURT: Please.

2 Did I see anyone with any hands raised in  
3 the middle row? How about the back row? I see two  
4 hands. Let me start with the -- because I believe  
5 they're seated in order of left to right. So the  
6 gentleman (indicating).

7 MR. CHENG: Timothy Cheng, No. 1292.

8 THE COURT: Let me just find you on my  
9 list. One second, Mr. Cheng. I see you.

10 Go ahead.

11 MR. CHENG: I have school Monday through  
12 Thursday.

13 THE COURT: Where do you go to school?

14 MR. CHENG: CSN.

15 THE COURT: Okay. And so you're just back  
16 to -- well, you're in the back a little ways. But  
17 do you have tests? What is your actual school  
18 schedule?

19 MR. CHENG: I have a test every Wednesday.

20 THE COURT: Okay. When is the test?

21 MR. CHENG: 7:30 to 10:30.

22 THE COURT: In the morning?

23 MR. CHENG: Yeah, but studying takes the  
24 majority of my time.

25 THE COURT: Understood. Do you also work

1 or just school full time?

2 MR. CHENG: I do work Friday, Saturday, and  
3 Sunday.

4 THE COURT: I can't hear you.

5 MR. CHENG: I work Friday, Saturday and  
6 Sunday.

7 THE COURT: Okay. So just on the weekend.  
8 All right. Thank you.

9 And next to you.

10 MR. LE: 298, Tami Le. I'm a doctor, and I  
11 have a schedule tomorrow. I'm the only provider on  
12 week days. I also have --

13 THE COURT: Is it at your own practice, or  
14 are you at a group, or what --

15 MS. LE: Yes. I have a group that I'm the  
16 only provider on those days.

17 THE COURT: On the weekdays.

18 MS. LE: Yes. And I have a conference  
19 Monday through Friday.

20 THE COURT: Is that in town?

21 MS. LE: It's in town, between 9:00 and  
22 7:00.

23 THE COURT: But you're the only provider  
24 during the week that you have this conference?

25 Again, I'm not trying to challenge you.

1 I'm just trying to fully understand what you're  
2 telling me.

3 MS. LE: Yes. So tomorrow I have a full  
4 schedule, from 10:00 to 7:00, the patient already  
5 scheduled. And Wednesday and Thursday, I have a  
6 full conference. It's a doctor-related conference.

7 THE COURT: Understood. All right.  
8 Thank you.

9 Is there anybody that we missed?

10 All right. I'm going to ask everybody to  
11 keep their seats for a moment. I'm going to ask  
12 counsel to please join me in chambers. We'll have a  
13 brief discussion, and we'll come back.

14 (Pause in the proceedings.)

15 THE COURT: All right. Thank you.

16 We do have some excusals to give at this  
17 time. So I'm going to ask that you wait until I  
18 have read off the names of those who are currently  
19 excused. Those who are excused, once I've completed  
20 reading the names, you're welcome to exit the  
21 courtroom. We thank you for your service. Please  
22 provide your badge to the marshal, and then you are  
23 excused. You do not need to report back to  
24 Jury Services.

25 Excused at this time Juror No. 180,

1 Sorbello; Juror No. 181, Braden. I just indicated  
2 to please keep your seats until I've read all the  
3 names and I can go through the list to make sure  
4 everybody hears them; and then when I'm done, I will  
5 indicate that you're excused, and you can turn your  
6 badges in to the marshal. I'm sorry if I wasn't  
7 clear about that.

8 180, Sorbello; 181, Braden; 184, Petrova;  
9 200, Hare; Juror No. 234, Copeland; Juror No. 272,  
10 Tacang; Juror No. 292, Cheng; and Juror No. 298, Le,  
11 you are all excused. Thank you for your patience as  
12 I read through the list. You may now exit the  
13 courtroom and provide your badge to the marshal.

14 We do have some vacant seats in the first  
15 set of 24 seats. So we're now going to need to fill  
16 those with the next in line. So the first vacant  
17 seat that I have, that we're going to come to is in  
18 the third row there. As you're approaching the  
19 seat, the one on the left, and that's going to be  
20 filled by:

21 THE CLERK: Badge No. 217, Jessica Bovina.

22 THE COURT: And then next two, Juror No. 217  
23 will be the next in line.

24 THE CLERK: 218, Kimberly Gai ther.

25 THE COURT: Filling then the seat furthest

1 left here in the front row will be:

2 THE CLERK: Frances Wilson, Badge No. 220.

3 THE COURT: And the last seat to be filled  
4 in the first set of 24, which is in the front row,  
5 towards the middle will be:

6 THE CLERK: Badge No. 223, Dana Lauren.

7 THE COURT: All right. Thank you.

8 At this time, as I mentioned before, but  
9 just to remind everybody, if you are seated in the  
10 gallery, behind the counsel table, we are now going  
11 to turn our attention to focusing on the folks here  
12 in the first 24 seats.

13 It might make it more interesting if you  
14 pay attention. But, also, do keep in mind, if you  
15 are going to be joining this panel, we are going to  
16 be asking you some of the same questions. So it is  
17 helpful if you pay attention as we go along, but you  
18 will not be asked to answer these questions.

19 What I'm going to do, posted on the board  
20 right now, can you see the jury questions?

21 I'm getting nods of heads. So everybody  
22 can see it. So what I need you to do, please, and  
23 we're going to start with Seat No. 1, Ms. Norris,  
24 please do give us the last three digits of your  
25 badge number, and as we go along the row, give us

1 your name and the last three digits of your badge  
2 number, and then if you could, please, run through  
3 those questions.

4 If you're having problems seeing the board,  
5 I can talk you through it too. No problem.

6 MS. NORRIS-LEWIS: 1084.

7 THE COURT: Yeah, the last three digits  
8 would be 084, but that's fine. Go ahead. And we  
9 got your name.

10 MS. NORRIS-LEWIS: Marie Norris-Lewis,  
11 building manager. Education --

12 THE COURT: And you indicated you're  
13 building manager for Clark County School District.

14 But the reason I'm interrupting you here is  
15 because I want people to understand we're looking to  
16 not only know what your job title is, but we're also  
17 looking to know for whom you work.

18 And if you are not currently employed, of  
19 course, your most recent former job from which you  
20 have either retired or are no longer working so that  
21 we can have a better idea about that.

22 Your highest level of education.

23 MS. NORRIS-LEWIS: I graduated and a little  
24 college.

25 THE COURT: Okay.

1 MS. NORRIS-LEWIS: No. 4, I'm married.

2 THE COURT: Your spouse's name, please.

3 MS. NORRIS-LEWIS: Paul Lewis.

4 THE COURT: And what does he do?

5 MS. NORRIS-LEWIS: Retired.

6 THE COURT: From?

7 MS. NORRIS-LEWIS: Clark County School  
8 District.

9 THE COURT: What job?

10 MS. NORRIS-LEWIS: Sprinkler tech.

11 THE COURT: Do you have any children old  
12 enough to work -- and is that question -- and I  
13 should have been more clear about this. I'll have  
14 to maybe adjust these questions to be a little more  
15 detailed. We're just looking for folks who are old  
16 enough to work in the community, again, trying to  
17 find out if there might be some connections to the  
18 case that we otherwise wouldn't know about.

19 We don't necessarily need to know if you  
20 have a child who's old enough to work if they work  
21 in another state or something like that.

22 Any children working in our community?

23 MS. NORRIS-LEWIS: Yes.

24 THE COURT: Okay. How many?

25 MS. NORRIS-LEWIS: One.

1 THE COURT: And name. Son? Daughter?

2 MS. NORRIS-LEWIS: Mikea Monet.

3 THE COURT: Okay.

4 MS. NORRIS-LEWIS: She does real estate,  
5 and she's a dealer for Party Pit.

6 THE COURT: Okay.

7 MS. NORRIS-LEWIS: How long have you lived  
8 in Las Vegas? 49 years.

9 THE COURT: Okay. Have you ever been a  
10 juror before?

11 MS. NORRIS-LEWIS: Yes.

12 THE COURT: And was it a civil or a  
13 criminal case, if you can remember?

14 MS. NORRIS-LEWIS: Criminal.

15 THE COURT: It was criminal.

16 And do you remember how long ago?

17 MS. NORRIS-LEWIS: Over ten years, maybe.

18 THE COURT: But it was here in Clark  
19 County?

20 MS. NORRIS-LEWIS: Yes, ma'am.

21 THE COURT: And do you remember not what  
22 the verdict was, but did you deliberate and reach a  
23 verdict?

24 MS. NORRIS-LEWIS: No.

25 THE COURT: There was no deliberation?



1 MS. NORRIS-LEWIS: The girl was on drugs,  
2 and she didn't show up. So they set a new trial.

3 THE COURT: So there wasn't ever any actual  
4 substantive trial that went forward, or did you take  
5 testimony -- what we're trying to get at is have you  
6 ever actually sat there and received evidence and  
7 that kind of thing.

8 MS. NORRIS-LEWIS: Yes, ma'am.

9 THE COURT: So it did start, the trial. It  
10 just didn't finish?

11 MS. NORRIS-LEWIS: Yes, ma'am.

12 THE COURT: Gotcha. So no deliberations,  
13 no verdict. All right. Thank you.

14 (Reporter inquiry.)

15 THE COURT: She just said "some college."  
16 I don't think she gave a name.

17 Highest level of education, we're, again,  
18 trying to understand high school, college graduate,  
19 trade, whatever it might be.

20 Let's go to the next juror.

21 MS. RICHARDSON: Hayley Richardson, 087. I  
22 work for an event planning company.

23 THE COURT: Which is?

24 MS. RICHARDSON: Hello Las Vegas.

25 THE COURT: Okay.

1 MS. RICHARDSON: Highest level of  
2 education, I have an Associate's in business  
3 management.

4 THE COURT: Okay.

5 MS. RICHARDSON: Not married. I don't have  
6 any children. And I've lived in Las Vegas my whole  
7 life.

8 THE COURT: And which is? How old are you?

9 MS. RICHARDSON: 24.

10 THE COURT: Okay.

11 MS. RICHARDSON: And I never been a juror  
12 before.

13 THE COURT: Never been a juror before.  
14 All right. Thank you, Ms. Richardson.

15 Next over.

16 MR. POWELL: Eric Powell, 090. Director of  
17 surveillance for Arizona Charlie's on Decatur;  
18 community college. I do have a spouse. No children  
19 that are --

20 THE COURT: Who's your spouse, and what  
21 does she do?

22 MR. POWELL: April Powell. She's a Subaru  
23 warranty admin.

24 THE COURT: Okay. You started -- sorry.  
25 You said no children?

1 MR. POWELL: No children that are old  
2 enough to work.

3 THE COURT: Okay. Out of curiosity, how  
4 many children?

5 MR. POWELL: One.

6 THE COURT: Okay. Still school aged though?

7 MR. POWELL: Yes.

8 THE COURT: Okay. And then how long lived  
9 in Las Vegas?

10 MR. POWELL: 42 years.

11 THE COURT: And have you ever been a juror  
12 before?

13 MR. POWELL: Yes.

14 THE COURT: All right. How long ago, if  
15 you can recall?

16 MR. POWELL: About 15 years ago.

17 THE COURT: And was it a civil or a  
18 criminal case?

19 MR. POWELL: Civil.

20 THE COURT: And do you remember if a  
21 verdict was reached?

22 MR. POWELL: Yes.

23 THE COURT: So you had the opportunity to  
24 deliberate. Were you the foreperson?

25 MR. POWELL: No.

1 THE COURT: Okay. All right. Thank you  
2 for your potential service, again, for this trial.

3 Next.

4 MS. DI OKNO-VALDEZ: Val ene Di okno-Val dez,  
5 097. I currently work as a catering conference  
6 account executive at the Cosmopolitan of Las Vegas.  
7 I have some college. No spouse, no children. I've  
8 lived here for 11 years. And I've never been a  
9 juror before.

10 THE COURT: And I should ask because I  
11 think you're the first one that this might come up  
12 because other folks have been here their whole lives  
13 or for extended periods of time:

14 Have you ever had jury service anywhere  
15 else that you might know?

16 MS. DI OKNO-VALDEZ: No.

17 THE COURT: Okay. Because that question  
18 isn't just about jury service here in Clark County.  
19 That's about any jury service you might have had,  
20 and it helps us to know if you've had that  
21 experience.

22 All right. Thank you, Ms. Val dez.

23 Next.

24 MS. LALE: Erin Lale, 101. I have multiple  
25 jobs, including writer and a pet sitter. I have a

1 B.A. from U.C. Santa Cruz. No spouse, no kids.  
2 I've lived here 27 years. I have never been a juror  
3 before.

4 THE COURT: So you're a writer?

5 MS. LALE: Yes.

6 THE COURT: And when you indicated you have  
7 multiple jobs and you mentioned writer, so are you  
8 essentially self-employed?

9 MS. LALE: Yes.

10 THE COURT: Have you ever worked for any of  
11 the entities that were listed here or anything in  
12 the community related to those jobs?

13 MS. LALE: No.

14 THE COURT: Okay. All right. Thank you.  
15 And is "Lale" or "Laley"?

16 MS. LALE: "Lale."

17 THE COURT: "Lale." Okay. Thank you,  
18 Ms. Lale.

19 MR. SNEARLY: William Snearly, No. 108.

20 THE COURT: And, Mr. Snearly, before you go  
21 through those questions -- and I should have raised  
22 this before. We all recognize that you do have the  
23 option of whether or not you would serve as a juror,  
24 and you are here, and so we assume that you had  
25 elected to want to proceed as a juror.

1                   But then of course, you wouldn't have known  
2                   until you got here about the time frames in which  
3                   you would be serving. You do have the option, at  
4                   this time, if you wish to be excused. You would be  
5                   thanked for your service and you could be excused.  
6                   If you would like to stay, you're welcome to stay.  
7                   But we wanted to give that to you.

8                   MR. SNEARLY: I would like to be excused.

9                   THE COURT: All right.

10                  MR. SNEARLY: I have a real hard time after  
11                  1:00 or 2:00 o'clock in the afternoon.

12                  THE COURT: We are going to go ahead, at  
13                  this time, Mr. Snearly, and excuse you. And mind  
14                  your step as you exit the box, please, and then  
15                  we'll fill your spot before we go to the further  
16                  questions.

17                  MR. SNEARLY: Thank you.

18                  THE COURT: Thank you. Thank you for your  
19                  service. Just make sure you give the marshal your  
20                  badge on the way out there.

21                  THE CLERK: Badge No. 232, Luann Ervin.

22                  THE COURT: You'll take that seat that  
23                  Mr. Snearly just vacated.

24                  Can you see the board okay, and can you go  
25                  ahead and give us the answers to the questions? If

1 not, I can walk you through.

2 MS. ERVIN: Walk me through.

3 THE COURT: All right. We have your -- we  
4 need your badge number, which we just got, which  
5 was, I believe last three digits was 232, Ms. Ervin.

6 Can you tell us if you are currently  
7 employed, and if so, what's your job title? Where  
8 do you work?

9 MS. ERVIN: I work for Smith's Grocery. I  
10 am a cake decorator, and I've been there for ten  
11 years. I am divorced.

12 THE COURT: So see you were paying  
13 attention over there. So let me go back and just  
14 make sure we covered everything. First of all, by  
15 the way, delicious cakes at Smith's.

16 MS. ERVIN: I'm fond of them as well.

17 THE COURT: I am very fond of them.

18 The highest level of education that you  
19 have.

20 MS. ERVIN: High school.

21 THE COURT: Okay. And you had mentioned, I  
22 think you said you were divorced.

23 MS. ERVIN: Correct.

24 THE COURT: Okay. Is your spouse, by any  
25 chance, working in the community in any relation to

1 any of the jobs we heard about?

2 MS. ERVIN: Many miles away.

3 THE COURT: Many miles away.

4 Any children allowed to work in the  
5 communi ty?

6 MS. ERVIN: Yes. Two.

7 THE COURT: Okay. And where do they work?

8 MS. ERVIN: My daughter works in Henderson,  
9 in that pottery place over there, painting.

10 THE COURT: Like at The District, there's a  
11 place Color Me Mine or whatever --

12 MS. ERVIN: Correct. Yes.

13 THE COURT: Okay.

14 MS. ERVIN: And the other one works for  
15 Alaskan Airlines at McCarran.

16 THE COURT: Okay. And how long have you  
17 lived in Las Vegas?

18 MS. ERVIN: Ten years.

19 THE COURT: And I think you said that one  
20 earlier but just to confirm. And then have you ever  
21 been a juror here or anywhere you've lived?

22 MS. ERVIN: No.

23 THE COURT: No, you haven't. Okay. Well,  
24 you're in the first 24 at the moment. So we'll see  
25 what transpires.



1                   Coming down now to the next row.

2                   MR. ELIASON:   Kenneth Eliason, 214.   I'm a  
3   business owner of digital -- it's a digital  
4   marketing company called "Neon Brand," located right  
5   down the street.   I graduated from college, attended  
6   one year of law school.   I have a spouse.   Her name  
7   is Danielle Eliason.   She's a former teacher.   Right  
8   now she stays home with our four kids, none of which  
9   are old enough to work.   They are 7, 5, 3, 3 weeks.  
10   So brand new.

11                  THE COURT:   Oh, wow.

12                  MR. ELIASON:   I've lived in Las Vegas my  
13   whole life, which is 34 years, and I've had jury  
14   duty three times and never once has it gone past  
15   outside the doors.

16                  THE COURT:   You've never been at this part  
17   of the process?

18                  MR. ELIASON:   No.

19                  THE COURT:   You're kind of getting a feel  
20   of what this part looks like now.

21                  And I think you said -- you covered  
22   everything well.   I was going to maybe make a joke  
23   about escaping law school after the first year which  
24   the rest of us weren't smart enough to do.

25                  Did you go to law school here?

1 MR. ELIASON: No, I went in San Diego,  
2 California Western.

3 THE COURT: Okay. All right. I think you  
4 did cover everything. Thank you.

5 Next to you is Mr. Beach.

6 MR. BEACH: My name is Joseph Beach, and I  
7 work --

8 THE COURT: I have Juror No. -- just so I  
9 can get it in the record -- 119.

10 Last three digits of your badge, please.

11 MR. BEACH: 119. My name is Joseph Beach.  
12 I work with Timet, and I'm a steel operator. And I  
13 graduated from Central High, Michigan, and I'm  
14 married.

15 THE COURT: What does your spouse do? And  
16 who's your spouse?

17 MR. BEACH: Well, she works for Metro.

18 THE COURT: Okay. We're going to have  
19 questions about those connections to law enforcement  
20 coming up. But what does she do?

21 Is she currently working for Metro?

22 MR. BEACH: Yes. She currently works for  
23 Metro, but she assigns officers to their shifts.

24 THE COURT: Okay. Sort of a -- not  
25 dispatcher to actual cases.

1 MR. BEACH: Right.

2 THE COURT: But like just what their shift  
3 work is.

4 MR. BEACH: She set up meetings for  
5 lieutenants and sheriff.

6 THE COURT: All right. What's her name?

7 MR. BEACH: Janet Beach.

8 THE COURT: Okay. And do you have any  
9 children old enough to be working in the community?

10 MR. BEACH: I have three sons but only one  
11 works here.

12 THE COURT: And what does he do?

13 MR. BEACH: He's a furnace operator. He  
14 works at the same company I work for.

15 THE COURT: Oh, okay. And how long have  
16 you lived in Las Vegas?

17 MR. BEACH: 18 years.

18 THE COURT: Have you ever had jury service  
19 here or anywhere that you've lived previously?

20 MR. BEACH: I've been -- so I been, like he  
21 said, I been outside the door at least eight times.

22 THE COURT: Was it all it's cracked up to  
23 be so far? You never got to see this part now?

24 MR. BEACH: Never got to this point.

25 THE COURT: All right. Thank you,

1 Mr. Beach. All right. Next to you.

2 MS. MUNOZ: I'm Maria Munoz, No. 121.

3 I work at Sun City Summerlin in the accounting  
4 department. High school is my education. Divorced.  
5 I have two sons in town that work. One works for  
6 Red Bull as a sales manager, and the other for  
7 Fasteners, Inc., as a truck driver. I've lived in  
8 Vegas for about 35 years. I was a juror about  
9 25 years ago. It was a civil case, and we did reach  
10 a verdict, and I was not the foreperson.

11 THE COURT: All right. But you did get the  
12 chance to receive the evidence and deliberate and  
13 all of that?

14 MS. MUNOZ: Yes.

15 THE COURT: All right. Well, thank you  
16 again for your potential service in this case.

17 Next to you now.

18 MR. CLARKE: Yes. My name Jack Clarke,  
19 Badge No. 135. Program manager for the Boring  
20 Corporation. College education. I have a spouse.  
21 Her name is Ann Clark. She's a Registered Nurse at  
22 MountainView. And I have one child that's old  
23 enough, but she does not live in this state. I've  
24 been in Las Vegas for four years. And before that,  
25 Phoenix, Arizona. And I've never been a juror

1 before.

2 THE COURT: All right. Thank you.

3 Next to Mr. Clark.

4 MS. JOHNI GAN: Sheila Johnigan, 137.

5 Housewife, homemaker. Education, 11th grade

6 high school. Then trade school, certified Nurse

7 Assistant. Spouse, Gerald Johnigan. My husband, he

8 works at the Wynn Hotel. He's a shine tech.

9 Children, I have four children.

10 THE COURT: Are any of them working in our  
11 community?

12 MS. JOHNI GAN: Yes. One right now. My  
13 daughter, Angelica Johnigan, at the Four Seasons  
14 Hotel.

15 THE COURT: How long have you lived in  
16 Las Vegas?

17 MS. JOHNI GAN: 16 years.

18 THE COURT: And have you ever had jury  
19 service here or anywhere?

20 MS. JOHNI GAN: Well, I got this far about  
21 eight months ago.

22 THE COURT: Oh, they brought you back in  
23 less than two years. That's unusual. Thank you for  
24 your service again for this trial. I think we've  
25 covered -- you've never actually had service where

1       you've been selected and served on a jury before?

2               MS. JOHNIGAN:   No.

3               THE COURT:   All right.   Next to you.

4               MS. OAKLEY:   Lisa Oakley, No. 149.   I'm a  
5       former teacher of the Northwest Independent  
6       High School in Texas.   I have a Bachelor's degree.  
7       My husband is Mint Oakley.   He works for American  
8       Airlines here at McCarran.   I have one child home  
9       from school right now living with us that is old  
10      enough to hold a job.   The rest are in high school  
11      and they're not employed.   He works at an animal  
12      shelter clinic.

13              THE COURT:   Which one?   You might as well  
14      get a plug.

15              MS. OAKLEY:   Pardon?

16              THE COURT:   Which one?   You might as well  
17      get a plug.

18              MS. OAKLEY:   They're all in Henderson.  
19      They have four locations.   I think he works at the  
20      Stephanie Animal Hospital.   I've lived actually in  
21      Las Vegas two-and-a-half months, but three years  
22      ago, we moved to Logandale from Moapa Valley from  
23      Texas.

24              THE COURT:   But you live in Las Vegas now,  
25      or are you commuting down from --

1 MS. OAKLEY: We're actually in Henderson.  
2 We'd been commuting for three years. It drove my  
3 husband nuts.

4 THE COURT: Some people would consider  
5 Henderson a commute too.

6 MS. OAKLEY: Well, we're 20 minutes from  
7 the airport. So much better than Moapa Valley.

8 I have been a juror before in Texas. It  
9 was a criminal case. We did reach a verdict, and I  
10 was the foreperson.

11 THE COURT: You were the foreperson for  
12 that trial. All right. Thank you. How long ago  
13 was that, just out of curiosity?

14 MS. OAKLEY: It would have to be 17 years  
15 ago.

16 THE COURT: Okay. So it was some period of  
17 time ago. All right. Thank you.

18 Third row, all the way here. I can't quite  
19 see her.

20 MS. SUPNET: I'm Milagros Supnet. My badge  
21 is 1164. I'm retired and married and he retired  
22 too.

23 THE COURT: What job did you retire from?

24 MS. SUPNET: Clothing store.

25 THE COURT: Okay.

1 MS. SUPNET: And high school. That's  
2 high school.

3 THE COURT: How about your husband, what  
4 job did he retire --

5 MS. SUPNET: Bartender.

6 THE COURT: All right. And how long have  
7 you -- do you have any children that are working?

8 MS. SUPNET: Yes. I have two, and they  
9 live in Hawaii.

10 THE COURT: Okay. They're not here. How  
11 long have you lived in Las Vegas?

12 MS. SUPNET: 14 years.

13 THE COURT: All right. And have you ever  
14 been a juror before?

15 MS. SUPNET: Yes. I was three times, but I  
16 always get excused.

17 THE COURT: Okay. So you've been excused  
18 before.

19 MS. SUPNET: Yes.

20 THE COURT: May I ask you this, just  
21 because we've had it come up with a few of the other  
22 jurors: Is English your second language.

23 MS. SUPNET: Yes.

24 THE COURT: Do you have good comprehension  
25 though of English language?



1 MS. SUPNET: Not really.

2 THE COURT: Okay. You seem like you have  
3 followed the questions so far, but I always want to  
4 ask. I did ask one of the other jurors, and maybe  
5 you can answer the question as well: If you had to  
6 say from 0 percent to 100 percent how much you  
7 believe you are following or comprehending of what  
8 we're doing, what would you say?

9 MS. SUPNET: 50.

10 THE COURT: You think you're at 50 percent?  
11 All right. Thank you.

12 Next to you.

13 MR. McELRATH: My name is Marc McElrath,  
14 Badge No. 166. I am currently a freelance software  
15 engineer for a web designer. I formerly worked at  
16 UNLV as a software engineer. I have a Master's  
17 degree from UNLV. I'm currently separated from my  
18 wife. She works at the Harrah's as a floor  
19 supervisor. I have a nine-year-old son. And I've  
20 lived in Las Vegas for 35 years. And I've never  
21 been a juror before.

22 THE COURT: Thank you. Mr. McELRATH.  
23 Next to you.

24 MR. CHIU: My name Alvin Chiu, Badge  
25 No. 170. I'm a manager at Kings Space.

1 THE COURT: At where?

2 MR. CHIU: King's Space. It's a teahouse.

3 THE COURT: Oh, okay. Tea, like T-E-A.

4 Okay. Gotcha.

5 MR. CHIU: I have some college. Not  
6 married, no children. I just moved here about a  
7 year and a half ago. Before at San Gabriel,  
8 Via Verde, California. And then I've never been a  
9 juror before.

10 THE COURT: Where did you work when you  
11 worked in California?

12 MR. CHIU: Same thing. Teahouse.

13 THE COURT: Okay. And you've never had  
14 jury service here or there?

15 MR. CHIU: No.

16 THE COURT: Okay. Thank you, Mr. Chiu.

17 MR. FERNANDEZ: Doone Fernandez, Badge  
18 No. 176. I'm a self-employed motorcycle mechanic.  
19 I went to Motorcycle Mechanics Institute in Phoenix.  
20 My wife is Nicole Fernandez. RN manager at  
21 Southwest Medical in adult medicine. And I have  
22 three children, two attending Green Valley and one  
23 attending UNLV, and she works at Chick-fil-A on  
24 Stephanie in Henderson.

25 THE COURT: She must be busy.

1 MR. FERNANDEZ: And been in Vegas for about  
2 15 years and never been a juror.

3 THE COURT: All right. Thank you. Next.

4 MS. BIVONA: My name is Jessica Bivona. My  
5 Badge number is 217. I am currently at Thomas  
6 Dermatology as a medical biller but will be starting  
7 my lab tech position either Thursday or Friday. But  
8 they'll understand.

9 THE COURT: But they'll give you a little  
10 bit of time, yes.

11 MS. BIVONA: My education level is  
12 Everest for a medical administrative assistant,  
13 which I started at my job now and worked my way up.  
14 I don't have a spouse, but I do have a boyfriend. I  
15 do not have any children unless you count my fur  
16 baby.

17 THE COURT: They always count but not for  
18 this.

19 MS. BIVONA: Right. I've lived in  
20 Las Vegas 27 years, which I was born and raised.  
21 And as far as the jury selection, I've been on that  
22 side and got dismissed.

23 THE COURT: Now there's vet clinic back  
24 there represented so you can go to that clinic for  
25 your fur babies. You can make that connection.

1 Next to you. Thank you, Ms. Bivona.

2 MS. GAITHER: Kimberly Gaither, 218. I'm a  
3 claims supervisor for Davita Medical Group. I have  
4 some college. My husband is William Gaither. He's  
5 a police officer for students. I have three boys.  
6 One of them is still employed that lives in Vegas.  
7 The other two are out of state. I've been in Vegas  
8 for 16 years. I've been a juror on criminal,  
9 criminal case and reached a verdict.

10 THE COURT: How long ago was the jury  
11 service here?

12 MS. GAITHER: Oh, no. It was in  
13 Los Angeles.

14 THE COURT: Oh, it was in Los Angeles. I'm  
15 sorry. But you did say it was a criminal case, and  
16 you did get a chance to receive evidence and  
17 deliberate. Were you the foreperson?

18 MS. GAITHER: No.

19 THE COURT: And did you say how long ago  
20 that was? I forgot.

21 MS. GAITHER: '87.

22 THE COURT: Okay. So it was awhile back.  
23 Thank you again for your potential service here.

24 Coming now to the front row.

25 MS. WILSON: Badge No. 220. My name is

1 Frances Wilson. I am a teacher, and I have a  
2 Bachelor's plus some, plenty. Divorced. Ex's don't  
3 live in this state. I have one adult child that  
4 lives in this community and one child in school. My  
5 adult child is an office manager for a dental  
6 clinic. And this time, I've lived in Vegas four  
7 years so far.

8 THE COURT: But there was a time before  
9 that you lived here?

10 MS. WILSON: A long time -- long, long,  
11 long time ago.

12 THE COURT: Where did you move from when  
13 you came back the most recent time?

14 MS. WILSON: California. And I was teacher  
15 there and actually had jury duty there. It was a  
16 criminal case. We did reach a verdict, and I was  
17 not the foreperson.

18 THE COURT: Okay. And do they still do  
19 jury duty there where you get like ten days,  
20 dependent upon maybe you get on a trial, maybe you  
21 don't? Still like that?

22 MS. WILSON: No. We went and sat on  
23 hardwood benches in the historic courthouse, and  
24 then they asked everybody raise your hand if you  
25 know somebody, and everybody knows everybody there.

1 So since I wasn't a local, I'd only lived there like  
2 12 years, I was a newbie. So I didn't know all the  
3 people.

4 THE COURT: So you got to do it --

5 MS. WILSON: So, yeah, and we just did it  
6 like that day, and they said, "Okay. Come back  
7 tomorrow." Came back the next three days maybe, I  
8 think.

9 THE COURT: Thank you for your service and  
10 potentially getting on this case.

11 Next to you.

12 MS. NAPLES: Badge No. 185. My name is  
13 Baylee Naples. I have a job. I have three. Under  
14 Armor, I'm a manager. I also work at Starbucks, and  
15 also I'm a promotor for Omni, which is a nightclub  
16 on the Strip. Education, yes. I'm currently  
17 attending UNLV. I usually go to school Tuesday and  
18 Thursdays. So it kind of works out. Spouse, none.  
19 Children, none. I've lived here whole life, so 22  
20 years. Have I been a juror, no.

21 THE COURT: And the school schedule, again,  
22 we would, essentially, Tuesday and Thursday  
23 afternoons from about 1:00 to 5:00, would that  
24 impact your school?

25 MS. NAPLES: I'm off at, like, 1:00-ish.

1           THE COURT:   Actually works out really well,  
2           potentially.

3           MS. NAPLES:   Yeah.

4           THE COURT:   Next to you.

5           MR. HICKS:   Brian Hicks, Badge No. 187.  I  
6           am currently the music director at St. Elizabeth  
7           Catholic Church.  I have a Master's degree in music  
8           and currently am working on a Master's in theology  
9           as well.  I'm married.  My wife, Brenda, is an  
10          executive citizen for Basic Land Management in  
11          Henderson.

12          I have two children that are old enough to  
13          work.  They're both married.  One is 18, at an all  
14          cats veterinarian clinic.  The other is an office  
15          assistant at a law firm, and I don't remember which  
16          one it is.  I've lived in Las Vegas 44 years and  
17          never been a juror.

18          THE COURT:   We may come back and ask you  
19          questions because I'm going to have some questions  
20          after our break about connections to law  
21          enforcement, the legal justice system, that type of  
22          thing.  And so maybe between now and then, you'll  
23          remember which firm perhaps.  But thank you.

24          Next.

25          MS. LAUREN:   Badge 223, Dana Lauren.  I am

1 a revenue officer with the state of Nevada. I have  
2 an Associate's degree, and I'm also a senior at  
3 Regis University. I'm not married. I have two  
4 children that are old enough to work, one at MGM  
5 finance; and the other one is unemployed, living on  
6 my couch. I've been in Vegas about four-and-a-half  
7 years.

8 THE COURT: Where did you come from?

9 MS. LAUREN: Denver, Colorado. And I kind  
10 of got this far in Denver. I haven't ever done it  
11 in Vegas. But it was done a little differently  
12 there, but I was excused before we got here.

13 THE COURT: So you didn't actually  
14 deliberate and serve?

15 MS. LAUREN: Right.

16 THE COURT: All right. Thank you. Next.

17 MS. KINSEY: Badge No. 204, Teresa Kinsey.  
18 I work -- I do accounting for Greenberg Traurig.

19 THE COURT: Which is a law firm here in  
20 town. They primarily do civil; correct?

21 MS. KINSEY: We do some litigation and  
22 corporate.

23 THE COURT: I just don't remember there  
24 being any criminal casework that the firm does. I  
25 think it's all corporate.



1 MS. KINSEY: No, yeah.

2 THE COURT: Okay.

3 MS. KINSEY: I have some college. I'm  
4 divorced. I have two children that work here in  
5 Las Vegas. One works for UNLV. She's the director  
6 of the simulation center for their medical; and the  
7 other works for the Venetian. And I have --

8 THE COURT: Do you know what she does for  
9 the Venetian?

10 MS. KINSEY: He's the manager of -- butler  
11 manager.

12 THE COURT: One of the butlers, okay.

13 MS. KINSEY: I've lived here about  
14 35 years, and I have been on a jury before. It was  
15 civil.

16 THE COURT: Here in Clark County?

17 MS. KINSEY: Uh-huh, and it was about  
18 15 years ago.

19 THE COURT: Okay. Did you serve in the  
20 deliberations?

21 MS. KINSEY: Yes.

22 THE COURT: Was a verdict reached?

23 MS. KINSEY: Yes.

24 THE COURT: And were you the foreperson?

25 MS. KINSEY: No.

1 THE COURT: Okay. We have a few folks with  
2 jury service, only one foreperson. But thank you  
3 for that.

4 And our last juror here in the front row.

5 MS. OGAWA: Alberta Ogawa, 205. Stay-home  
6 grandma.

7 THE COURT: A stay home grandma? Okay.

8 MS. OGAWA: Yeah.

9 THE COURT: Okay. Everybody wants one of  
10 those.

11 MS. OGAWA: I'm married. My husband's name  
12 is Larry Ogawa. He's retired. I have four children.  
13 They live in Hawaii, one here. One quit the  
14 religion to work with his so-called partner who seen  
15 a vision with him working with him, and it's a  
16 Poke Express.

17 THE COURT: Poke Express.

18 MS. OGAWA: You need to check it out.

19 THE COURT: I like some Poke. I'll check  
20 it out.

21 MS. OGAWA: Yes, yes. And, no, I haven't  
22 been a juror.

23 THE COURT: And you've never done jury  
24 service here or anywhere?

25 MS. OGAWA: Here or at home.

1 THE COURT: And how long did you say you've  
2 been here, 16 years?

3 MS. OGAWA: 16.

4 THE COURT: Okay. So I think we've covered  
5 everybody in terms of the fact and information. I  
6 do have some general questions that I'm going to  
7 pose to the group when we come back from a break.  
8 It's 3:00 o'clock. We've been at it now over an  
9 hour, and I think now would be a good time to take a  
10 break.

11 There is an admonishment that I will be  
12 reading to the jurors who actually are seated for  
13 this trial because our Supreme Court and our  
14 District Court and all of the courts believe that  
15 this is as important as anything can be to  
16 understand what your obligations are.

17 So I'm going to make you familiar with it  
18 now. And to the extent that you can honor it now as  
19 you could then because you've probably got a little  
20 curiosity going about the case and some circumstances  
21 and maybe you want to talk to somebody about what's  
22 going on, you can't do any of that. Right?

23 So here's your admonishment that you'll  
24 hear regularly if you are on panel but for now to  
25 keep in mind: That you are not to talk or converse

1 among yourselves or with anyone else on any subject  
2 connected with this trial or read, watch, or listen  
3 to any report of, commentary on the trial or any  
4 person connected with the trial by any medium of  
5 information, including without limitation,  
6 newspapers, television, radio, or Internet.

7           You are not to engage in any social media  
8 communications of any kind. You're not to do any  
9 independent research or any Internet searches of any  
10 kind. And most importantly, or as importantly, not  
11 form or express any opinion on any subject connected  
12 with the trial until the case is finally submitted  
13 to you.

14           We're going to take about a ten-minute  
15 break. Resist the temptation to go run and feed the  
16 meter because I don't think you have time for that  
17 because we would like to start promptly in about ten  
18 minutes, at 3:10, to bring you back in here and pick  
19 up with our questioning. Okay?

20           Now, everybody does have to leave the  
21 courtroom. Please take, you know, with you whatever  
22 you need to take with you. Thank you.

23           (Pause in the proceedings.)

24           (Out of the presence of the panel.)

25           THE COURT: So the lady with the language

1 concerns seemed to be following everything as far as  
2 I was concerned. So my inclination is to keep her  
3 and let her be questioned.

4 But anybody have any problem with her?

5 MR. EVENSON: I think -- I always have my  
6 same feeling on that, if they're saying it's  
7 50 percent, it may be 70 and they're trying to  
8 minimize it, and then they're not paying attention  
9 as a result, bad for everybody. I would just assume  
10 excuse somebody in that position.

11 But I'm not going to make an issue about it  
12 unless the State has something to say. I mean, I --  
13 I always think the best thing to do is to excuse  
14 them and thank them, but that's --

15 THE COURT: Usually it's a little more  
16 obvious to me that there's a problem; whereas, in  
17 that particular case, there didn't appear to be one.  
18 But, you know, if they are trying to be excused, I  
19 don't disagree with you that that can be problematic.

20 MR. EVENSON: I'm more worried about the  
21 legal terminology later. I think we're speaking  
22 right now, shall I say, plain English, as opposed to  
23 legalese --

24 THE COURT: To some degree, yes.

25 MR. EVENSON: -- when we get to jury

1 instructions.

2 THE COURT: Any objection to the State if  
3 we were to let Ms. Supnet go?

4 MS. RINETTI: No.

5 MR. VILLANI: No, Your Honor.

6 THE COURT: All right. Elvis, Ms. Supnet,  
7 who has a bright shirt on -- red, pink whatever --  
8 you know which one she is. If you could tell her  
9 that she is excused if you see her out there or when  
10 you gather them again. And then we'll call up the  
11 next juror into that 13th seat.

12 (Pause in the proceedings.)

13 THE COURT: I'll go ahead and invite  
14 counsel to take their seat while everyone else is  
15 taking a seat.

16 We did excuse one additional juror from the  
17 panel over here to my left of 24. So we now need to  
18 fill the seat. It's the furthest left in the third  
19 row, and if the next person in line can please come  
20 fill that seat.

21 You are?

22 THE CLERK: Badge 250, Jeremy Long.

23 THE COURT: Mr. Long?

24 MR. LONG: Yes.

25 THE COURT: I was asking her to say your

1 name, for the record. Sorry if that was confusing.  
2 Go ahead and make your way over there, if you can,  
3 Mr. Long. And, Mr. Long, since you're just joining  
4 us, could you go ahead and go through these  
5 questions for us.

6 MR. LONG: I am Jeremy Long. Job, I worked  
7 for Game Changer Sports, training facility. Former  
8 job, I worked in law enforcement for 12 years.

9 THE COURT: What did you do in law  
10 enforcement?

11 MR. LONG: I worked for the State, State of  
12 Nevada, at a corrections facility, corrections  
13 officer.

14 THE COURT: Okay. For adult or children?

15 MR. LONG: Adult. And I also worked down  
16 at the City of Las Vegas Detention Center as a  
17 corrections officer.

18 THE COURT: How long ago was that?

19 MR. LONG: From 1999 to 2010.

20 THE COURT: Okay.

21 MR. LONG: I worked for the city until '03  
22 to '10.

23 THE COURT: And what did you do for the  
24 city? Same thing? Corrections officer?

25 MR. LONG: Corrections officer. Yes.

1           THE COURT:   Okay.   All right.   And how  
2   about your highest level of education?

3           MR. LONG:   I have a Bachelor's degree from  
4   the University of New Orleans.   I'm divorced.   I do  
5   have a 19-year-old daughter that's old enough to  
6   work, but she goes to school in Reno.   I have a  
7   14-year-old daughter that does not work.

8           I've lived in Las Vegas pretty much my  
9   whole life, 41 years.   I been a juror before --  
10   well, I been on that side of the table, and I never  
11   got to the box, when I was 18 actually.

12          THE COURT:   I think that's it.   I think  
13   that covers all those questions, and I think we  
14   covered everything we needed to cover.

15          So now what I'm going to do is turn the  
16   questions to the group as a whole.   And so you'll be  
17   reminded that, if you have an answer to the  
18   question, you'll raise your hand, and then of  
19   course, I'll call on you in the order in which  
20   you're seated.   This ought to seem pretty basic or  
21   pretty obvious.

22          But really we do want to know if there are  
23   any folks that have a problem with our criminal  
24   justice system because you never know.   Some folks  
25   might have that.   But I'm just going to remind



1 everyone, and this will come up probably throughout  
2 the course of the trial, that under our criminal  
3 justice system, there are certain principles of the  
4 law that apply in every case.

5 They are that there is a charging document,  
6 in this case, an Information, that has been filed in  
7 the case, that is an accusation of the chargers but  
8 is not, in any way, evidence of guilt; that the  
9 defendant, as she is here in the courtroom today, is  
10 not only presumed innocent, but I would even state  
11 it more succinctly that she is, in fact, innocent.

12 Unless and until she's proven guilty beyond  
13 a reasonable doubt by a jury of her peers, she is  
14 innocent. And it is the burden of the State to  
15 prove the defendant is guilty of any one or more of  
16 the charges beyond a reasonable doubt. You will be  
17 given instructions on what "beyond a reasonable  
18 doubt" means and how to weigh the evidence and how  
19 to make those decisions.

20 But those basic principles of our American  
21 justice system, is there anyone who does not either  
22 believe in those basic principals or would not  
23 follow those basic principals?

24 All right. Seeing no hands, we've already  
25 gone through whether anybody was familiar with

1 anybody in the case or the facts and circumstances  
2 of the case. I'm now going to ask some questions  
3 that are going to kind of get a little closer to  
4 connections you might have with potential witnesses  
5 in the case, generally, and/or to the case itself.

6 And the first question I have -- and I know  
7 we have a couple of folks already who have  
8 indicated -- any connections through either you,  
9 yourself, a family member or a close friend to law  
10 enforcement, to a job in law enforcement.

11 And I want you to kind of interpret that  
12 question broadly, meaning obviously Metro or any of  
13 our law enforcement agencies, correction officers,  
14 military police, the court system, judicial system,  
15 that type of thing, the justice system.

16 Anybody involved in that kind of work that  
17 we can talk to you about? I see a few hands.  
18 Couple hands in every row. So let's go row by row.

19 I believe Mr. -- did I see your hand up,  
20 Mr. Powell?

21 MR. POWELL: Yes.

22 THE COURT: Mr. Powell, you mentioned that  
23 you have some connection in law enforcement.

24 What is that connection?

25 MR. POWELL: I do have two close friends

1       that work for Henderson P.D.

2               THE COURT:   Okay.   And what do they do?

3               MR. POWELL:   Police officers.

4               THE COURT:   Okay.   And is that a situation  
5 where you talk to them about their work a lot?

6               MR. POWELL:   Yes.

7               THE COURT:   Okay.   And the reason that  
8 we're asking this question, and so it will become  
9 familiar by the time we get down the row to the rest  
10 of the people who raised their hand, is you  
11 mentioned before -- I don't know that you were the  
12 juror that we had this conversation, but you might  
13 have been because you had another potential  
14 connection in the case.

15               We just want to be sure, if you were on  
16 this jury, that anybody who's going to come and give  
17 testimony, the jurors are just going to give  
18 whatever weight they think that testimony is  
19 entitled to.

20               So the way to say that, is there any reason  
21 that you would give greater weight or maybe lesser  
22 weight but significant other weight to the testimony  
23 of someone just because they're a police officer.

24               MR. POWELL:   No.

25               THE COURT:   And you recognize that, you

1 know, there's good cops; there's bad cops. There's  
2 you know, that type of thing. Right? And but  
3 ultimately the evidence is going to come into the  
4 case through the witnesses and whatever credibility,  
5 and there will be instructions on how to decide the  
6 credibility of witnesses also.

7 But whatever credibility you want to give,  
8 would you be open-minded, receive the evidence with  
9 your fellow jurors, and deliberate fairly and  
10 impartially when the time comes?

11 MR. POWELL: Yes.

12 THE COURT: Okay. Thank you.

13 Anybody else in the back row with a  
14 connection to law enforcement?

15 I'm sorry. I didn't mean to skip over you,  
16 Ms. Richardson. You are 087. Mr. Powell is 090. I  
17 may have neglected to say that.

18 Ms. Richardson, what's your connection?

19 MS. RICHARDSON: I have close family  
20 friends that are in Metro.

21 THE COURT: Okay. What do they for Metro?

22 MS. RICHARDSON: Two of them are police  
23 officers. One of them, I believe, is a lieutenant.  
24 And then the other does a lot of the academy  
25 training of officers.

1 THE COURT: Okay. And you said these are  
2 close friends of the -- family friends. Are they  
3 close family friends to you or other members of your  
4 family? Does that makes sense?

5 MS. RICHARDSON: Both.

6 THE COURT: Both? Okay. And do you talk  
7 to them about their work a lot?

8 MS. RICHARDSON: No, not really.

9 THE COURT: Okay. And but same question I  
10 would pose to you then that I posed to Mr. Powell is  
11 are you going to tend to favor a witness and the  
12 testimony just because they're a member of law  
13 enforcement?

14 Would you be able to be fair and impartial  
15 in receiving the evidence from all the witnesses and  
16 giving it just such weight you think it's entitled  
17 and deliberate fairly and impartially with your  
18 fellow jurors?

19 MS. RICHARDSON: Yes.

20 THE COURT: Okay. Thank you. And, again,  
21 there's no right or wrong answers here. So if the  
22 answer to the question is in the negative, that's  
23 fine too. We just need to know. But I appreciate  
24 your candor there.

25 Is there anybody else in that back row?

1 Yes, Ms. Lale.

2 MS. LALE: My boyfriend is a retired  
3 federal officer.

4 THE COURT: Okay. And then you're Juror  
5 101. What type of federal officer?

6 MS. LALE: Homeland Security.

7 THE COURT: Okay. And how long ago did he  
8 retire?

9 MS. LALE: Three years.

10 THE COURT: Okay. And so that is, you  
11 know, to some degree, involved in law enforcement,  
12 criminal justice system.

13 Is there any reason why that would impact  
14 your ability to be fair and impartial in this trial?

15 MS. LALE: No.

16 THE COURT: Would you be open-minded in  
17 receiving of the evidence and deliberate fairly with  
18 your fellow jurors?

19 MS. LALE: (No audible response.)

20 THE COURT: That's a "yes"? Okay.

21 Thank you.

22 Was there anybody else in that row?

23 How about the second row? I know we had

24 Mr. Beach. But let me start over here with

25 Mr. Eliason.

1 MR. ELIASON: 214. I have two  
2 brother-in-laws that are on Metro.

3 THE COURT: Okay. Currently serving?

4 MR. ELIASON: Yeah. One is on patrol. The  
5 other one is a COP.

6 THE COURT: Okay.

7 MR. EVENSON: What's a "COP"?

8 MR. ELIASON: Community oriented policing,  
9 I believe it's called.

10 THE COURT: And do you talk to them about  
11 their work?

12 MR. ELIASON: Yeah, I talk to them every  
13 couple weeks when we see each other, yeah.

14 THE COURT: All right. And do you think  
15 that there's going to be any impact on your receipt  
16 of evidence in this case?

17 MR. ELIASON: No.

18 THE COURT: You know we're going to have  
19 testimony from law enforcement folks, and would you  
20 just give it the weight that you believe it's  
21 entitled?

22 MR. ELIASON: Yep.

23 THE COURT: You won't give it any greater  
24 weight or lesser weight? You'll just give it the  
25 weight you think it's entitled?

1 MR. ELIASON: Yes, ma'am.

2 THE COURT: Okay. And you think you'll be  
3 able to deliberate fairly and impartially with your  
4 fellow jurors on whatever the evidence is?

5 MR. ELIASON: Yes.

6 THE COURT: Thank you.

7 Now, Mr. Beach, we know before, I think you  
8 mentioned that your wife works for Metro. You  
9 indicated she's in some part of scheduling or  
10 administrative type position; right?

11 MR. BEACH: Yes. She does the programming  
12 for meetings and for -- she also orders all their  
13 equipment and things like that.

14 THE COURT: All right. And Mr. Beach is  
15 Juror 119. I neglected to say that.

16 So, Mr. Beach, how about you? How about  
17 your feelings in terms of folks who are going to  
18 come in here and testify, who are members of law  
19 enforcement, are you going to give them any greater  
20 weight to their testimony just because they're  
21 members of law enforcement?

22 MR. BEACH: No.

23 THE COURT: All right. Will you listen to  
24 them and weigh their evidence like you would any  
25 other evidence in the case?



1 MR. BEACH: Yes, I would.

2 THE COURT: Okay. And you think you could  
3 be fair and impartial in your deliberations with  
4 your fellow jurors if you're chosen?

5 MR. BEACH: Yes.

6 THE COURT: All right. Thank you.

7 Was there anybody else in that second row?  
8 How about the third row?

9 UNIDENTIFIED SPEAKER: I don't think --

10 THE COURT: Oh, I did. I'm sorry.  
11 All right. Now, well, obviously we have here you  
12 just moved in there, Mr. Long. But you indicated  
13 you were a C.O. for a period of time. It looks like  
14 you left law enforcement before any of the  
15 allegations in this case arose.

16 But did you recognize any of the names of  
17 any of the folks?

18 MR. LONG: None of the names.

19 What I was going to tell you guys, from  
20 2010 to 2015, I worked in behavioral services.

21 THE COURT: Okay.

22 MR. LONG: So I worked closely with --  
23 well, not that closely, but at times with like, you  
24 know, Child Haven and --

25 THE COURT: CPS-type cases?

1 MR. LONG: Yeah. But --

2 THE COURT: And but you didn't recognize  
3 any of the names?

4 MR. LONG: No.

5 THE COURT: Now, obviously -- I'm going to  
6 ask this question a little bit differently of you  
7 because of your, you know, much more direct  
8 connection potentially to the testimony that will be  
9 given and to some of the, you know, facts and  
10 circumstances that are going to be put into the  
11 trial.

12 You know, do you believe you'd be able to  
13 set aside the circumstances of your prior work and  
14 just listen to the evidence in this case?

15 MR. LONG: Yes.

16 THE COURT: And would you give any greater  
17 weight to testimony of CPS workers or Metro workers  
18 or anybody like that just because of those  
19 connections?

20 MR. LONG: No.

21 THE COURT: All right. And I had another  
22 question, and it's escaping me. I'm kind of  
23 stalling because I'm trying to remember what it was,  
24 but it had to do with when you said you worked for  
25 behavioral services.

1           You know, just, again, we're just trying to  
2 make sure -- oh, I kind of wanted to try couch it  
3 this way: So ultimately the job of jurors is to do  
4 fair and equal justice between the State and the  
5 defendant; and then to, again, deliberate, with that  
6 in mind, with their fellow jurors to reach a fair  
7 and impartial verdict.

8           And we just want to make sure, is there any  
9 reason you would doubt your ability to do that?

10          MR. LONG: No.

11          THE COURT: Okay. Thank you.

12          Anybody else in that third row?

13          Ms. Gaither? You're juror?

14          MS. GAITHER: 218.

15          THE COURT: 218. Thank you.

16          MS. GAITHER: My husband works for  
17 Clark County School District. He's a police  
18 officer.

19          THE COURT: You mentioned that he was a  
20 police officer for the school district.

21          Did he ever work for any other law  
22 enforcement, other than that?

23          MS. GAITHER: Yes. He worked up in Alaska.

24          THE COURT: Oh, okay. Another state. But  
25 was he a police officer there as well?

1 MS. GAITHER: Yes.

2 THE COURT: And he currently has that  
3 position. So he's kind of uniquely a police  
4 officer, but he's also worked with students. He's  
5 worked with schools.

6 Do you think your connection to someone  
7 who's in that type of law enforcement would have any  
8 impact in your ability to be fair and impartial  
9 here?

10 MS. GAITHER: No.

11 THE COURT: Do you think you can receive  
12 the evidence that's going to come in and give it  
13 just such weight as you think it's entitled?

14 MS. GAITHER: Yes.

15 THE COURT: Will you deliberate fairly and  
16 impartially and with your fellow jurors?

17 MS. GAITHER: Yes.

18 THE COURT: And did I see anybody's hands  
19 in the front row? Couple hands. Oh, let me start  
20 there. Mr. Hicks.

21 MR. HICKS: Yes.

22 THE COURT: No. 187.

23 MR. HICKS: Yeah, I mean, just the  
24 connection with my daughter in a law firm. But I  
25 still can't remember the name.

1 THE COURT: So you can't remember it?

2 MR. HICKS: No. I know that it was founded  
3 by Harry Reid, which caused her mother and I great  
4 distress. But other than that...

5 THE COURT: And I should know what firm  
6 that is, but I'm not sure. Is it Beckley,  
7 Singleton?

8 MR. HICKS: No.

9 THE COURT: Sounds like a civil law firm to  
10 me.

11 MR. HICKS: Yeah.

12 THE COURT: But do you know if she does any  
13 criminal-defense type work, or is it just civil?

14 MR. HICKS: Well, she does filing and  
15 things like that. And I've never talked to her  
16 about any cases she's been involved with or  
17 anything.

18 THE COURT: Okay. So any reason you  
19 believe that that connection to the court system --

20 MR. HICKS: Not that connection. Not that  
21 connection.

22 THE COURT: No connection, okay. And we'll  
23 come back and see if there's any evidence that may  
24 impact -- when you say "not that connection," is  
25 there something else that you have a concern about

1 your ability to be fair and impartial in this trial?

2 MR. HICKS: Yes.

3 THE COURT: What is that?

4 MR. HICKS: I have a niece that was  
5 molested from the time she was 9 to 13, and when she  
6 confronted her attacker, he turned on the family,  
7 murdered my sister-in-law and my 15-year-old nephew.  
8 My 17-year-old nephew managed to get her out of the  
9 house. But knowing nothing about this case, I'm  
10 finding myself getting upset.

11 THE COURT: You already feel some sort of  
12 physical reaction to what you know about this case?

13 MR. HICKS: Yes.

14 THE COURT: I can tell you there are not  
15 those types of facts in this case, and I'm very  
16 sorry for what sound like horrific circumstances in  
17 your family experience.

18 But at this point in time, knowing what you  
19 do know about the case, which is what amount has  
20 been said by the counsel, do you believe that you  
21 would have a difficulty being fair and impartial?

22 MR. HICKS: I'd like to believe I'd be  
23 impartial. I'm getting upset.

24 THE COURT: Uh-huh. Fair enough.

25 All right. Thank you.

1                   Next to you, I think I saw Ms. Lauren had  
2 her hand up as well in connection to law  
3 enforcement.

4                   MS. LAUREN: Yes, Judge. Badge 223. My  
5 name is Dana Lauren. I'm a revenue officer with the  
6 state. So sometimes we work with law enforcement.  
7 We did a search and seizure a couple months back,  
8 and we were assisted by Boulder City Police  
9 Department. They gave us an escort, and we went in.  
10 So our main police force is capital police, but  
11 we're state employees. I don't carry a gun. I do  
12 carry a badge.

13                   And I also work with the judges on a  
14 regular basis through hearings, Judge Dena Smith and  
15 Judge Ellison. I'm sorry. Alicia Hansen. I was in  
16 a hearing last week. So it's Department of  
17 Taxation. So it's different, but we do work with  
18 different agencies.

19                   THE COURT: Sure. And we want to know that  
20 because, again, where it really boils down to is,  
21 you know, different type of law enforcement  
22 obviously. But still it's a situation where what  
23 we're looking for are people who will recognize that  
24 this trial has got its own set of facts and it's got  
25 its own set of witnesses.

1                   And there's going to be evidence that's  
2 going to come in that the jurors will have to listen  
3 to with an open mind, sit down with their fellow  
4 jurors, when the time comes, to deliberate and reach  
5 a fair and impartial verdict to the best of their  
6 ability. So is that something that you believe that  
7 you can do.

8                   MS. LAUREN: Yes.

9                   THE COURT: So the contacts that you have  
10 with law enforcement, to judges, and other members  
11 of the sort of what we call the larger criminal  
12 justice system, you don't believe would impact your  
13 ability to be fair and impartial?

14                  MS. LAUREN: No.

15                  THE COURT: Okay. Thank you.

16                  Anybody else in that row? I think on the  
17 end there.

18                  MS. OGAWA: I have a family friend who's --

19                  THE COURT: You are Ms. Ogawa, 205.

20                  MS. OGAWA: Oh, 205. And he's a sergeant  
21 in Metro.

22                  THE COURT: Currently?

23                  MS. OGAWA: Yes.

24                  THE COURT: Okay. And is this someone that  
25 you talk to about his work often?



1 MS. OGAWA: We don't go -- well, we're  
2 church family. So we don't talk about --

3 THE COURT: But you don't talk about that?

4 MS. OGAWA: Yeah.

5 THE COURT: Is that going to have any  
6 reason you would believe to impact your ability to  
7 be fair and impartial here?

8 MS. OGAWA: I would be fair.

9 THE COURT: Okay. You'll listen to  
10 everybody's testimony and give it the weight you  
11 think it's entitled?

12 MS. OGAWA: Yes.

13 THE COURT: Okay. Thank you.

14 Now, this is going to be a little bit  
15 different of a question.

16 And I already know your answers to this,  
17 Mr. Hicks. So I'm not necessarily seeking  
18 information from you at this time.

19 But to the extent that anyone here has had  
20 interactions with the criminal justice system. Now,  
21 again, this question goes to you, to your family  
22 members, or to your close friends. Any interactions  
23 with the criminal justice system as a -- and I'm  
24 going to ask you it both ways just to see what  
25 information comes to light. Either a victim of

1 crime or as accused of crime.

2 Do you see what we're getting at?

3 Have you ever had occasion -- you,  
4 yourself; family member, close friend -- to be  
5 involved in some way with the court system, the  
6 police, accused of crime or victim of crime. And  
7 we'd like to know if there's anybody here that has  
8 those kinds of connections. So we can ask a little  
9 bit more about that.

10 Can I see with just a show of hands at this  
11 time, anybody who has those experiences.

12 Looks like just a few, and as we go along,  
13 if you can answer or if you think of something you  
14 need to bring to our attention, you'll do so.

15 But the back row there, Ms. Valdez.

16 MS. DI OKNO-VALDEZ: Yes. Badge 097.

17 THE COURT: Uh-huh.

18 MS. DI OKNO-VALDEZ: I was a sworn witness  
19 once to a battery case.

20 THE COURT: Okay. So was it a family  
21 member or a stranger or --

22 MS. DI OKNO-VALDEZ: It was a friend.

23 THE COURT: Okay. And so you actually  
24 testified in trial?

25 MS. DI OKNO-VALDEZ: Yes.

1 THE COURT: Okay. All right. How long ago  
2 was that?

3 MS. DI OKNO-VALDEZ: I'd say about a few  
4 months ago.

5 THE COURT: Recent, okay. And was the  
6 person the victim or the accused?

7 MS. DI OKNO-VALDEZ: They were the accused.

8 THE COURT: Okay. And you gave that  
9 testimony. That case, overall, how did you -- I  
10 mean, I know that -- I'm trying not to ask a too  
11 open-ended question, but how did you feel that the  
12 system handled that case?

13 MS. DI OKNO-VALDEZ: I get a little  
14 emotional talking about it, but I feel I was pushed  
15 to answer questions or give answers. I'm sure it's  
16 a different case, but it felt like the plaintiffs  
17 were trying to get me to answer a question that I  
18 really, myself, I saw what they were trying to push  
19 me to answer differently. So I --

20 THE COURT: Now, was this a civil case?  
21 Because you said "plaintiffs," or was this a  
22 criminal, or do you know?

23 MS. DI OKNO-VALDEZ: I think it was civil  
24 case.

25 THE COURT: Somebody suing for damages?

1 MS. DI OKNO-VALDEZ: Yes. Sorry. I just  
2 didn't like being put in a position where my  
3 integrity was being questioned, and I firmly believe  
4 what I saw, but they kept going forward. They  
5 showed a video, and they kept saying, "I don't see  
6 what you're trying to see," and they kept pushing  
7 for a different answer.

8 THE COURT: I see. So, I mean, obviously,  
9 as you said, you have some emotion, and the incident  
10 was relatively recent. You also pointed out that  
11 you understand that this is a different case and a  
12 different set of circumstances.

13 But we do want to know, do you believe that  
14 you would be able to listen to the evidence coming  
15 in, give the weight that you think it's entitled and  
16 set aside the experience that you had recently to do  
17 that?

18 MS. DI OKNO-VALDEZ: I been trying to keep  
19 my open mind, and I will work to make sure that I,  
20 you know, don't let this experience weigh on this  
21 case.

22 THE COURT: I mean, I think that's the  
23 fairest answer we can have at this point. Counsel  
24 may have some followup questions for you about that,  
25 but we appreciate that.

1           Excuse me. Was there anybody else in that  
2 row? How about the second row? Seeing no hands.

3           Yes, Ms. Bivona.

4           MS. BIVONA: Badge No. 217. I'm going to,  
5 I think it's a civil case, of my boyfriend and his  
6 two previous roommates are being sued right now for  
7 a dog fight. He just got served papers, but we  
8 haven't had any followups or anything.

9           THE COURT: Okay. And I would expect that  
10 to be a civil case, somebody suing for some damages.

11           Has that case been investigated up to this  
12 point? Has there been any interactions with police  
13 that you know of?

14           MS. BIVONA: As far as I know, a police  
15 officer came and took a report. One of the three  
16 co-people or whatever, hers got dropped. So I'm not  
17 quite sure what's going on with either my boyfriend  
18 and his co-owners/roommates for his position right  
19 now, his job.

20           THE COURT: Okay. And so is there anything  
21 about that case, either pending or the circumstances  
22 of that, that you think would impact your ability to  
23 be fair and impartial here?

24           MS. BIVONA: I would be fair. It has  
25 nothing to do with this type of situation.

1 THE COURT: Unrelated. And, again,  
2 sometimes though -- and I think we've had a few  
3 folks already, maybe they were even a little  
4 surprised by the emotions that came up in just the  
5 fact the idea of being sort of in the court system  
6 at all. But you think you can handle that okay?

7 MS. BIVONA: I wasn't there, and it's not  
8 my dog. So I'm not too worried about it.

9 THE COURT: Fair enough. Okay. All right.  
10 Let's see about the --

11 UNIDENTIFIED SPEAKER: I'm sorry. I didn't  
12 mean to raise my hand.

13 THE COURT: You didn't mean to raise your  
14 hand. Okay. Anybody else in the third row?

15 Front row? Okay. Let me start with  
16 Ms. Wilson.

17 MS. WILSON: I'm not sure it was relevant.  
18 So I may not have meant to raise my hand either. I  
19 wasn't involved in the legal proceeding, but I did  
20 have some good friends who had a family member that  
21 was a victim of terrible crime and --

22 THE COURT: Here in Clark County or  
23 somewhere else?

24 MS. WILSON: No. It was way back in  
25 Oklahoma.

1 THE COURT: But you probably had some  
2 communications with them about that case?

3 MS. WILSON: With the family. I didn't  
4 have any interactions with the Texas rangers or  
5 anything. It was big involved stuff.

6 THE COURT: That solves the accent  
7 question. Texas.

8 MS. WILSON: Well, apparently I tried to be  
9 a Texan. I lived in Oklahoma, just grew up in  
10 Texas. And then when I was in the Air Force, I was  
11 in Louisiana, just east of Texas. Texas wouldn't  
12 have me.

13 THE COURT: In all candor and all  
14 seriousness, I just want to make sure: So, you  
15 know, was their experience with that case and your  
16 knowledge of that, even though it's maybe somewhat  
17 real remote, is that going to impact your ability to  
18 be fair and impartial here?

19 MS. WILSON: No, no.

20 THE COURT: Okay. Well, we do appreciate  
21 you telling us because, again, there maybe some  
22 counsel --

23 MS. WILSON: Like that "Have you ever" kind  
24 of question, well once, you know. I don't want to  
25 answer wrong.

1           THE COURT: Counsel may have -- there's no  
2 right or wrong answers, and I probably should have  
3 said that right out of the gate. Just honest  
4 answers; right? But counsel may have some followup  
5 questions for you too.

6           Ms. Naples, Juror 185.

7           MS. NAPLES: Badge No. 185. It was back  
8 when I was in high school. It was -- it never got  
9 to a case, but my dad hit my aunt. My little  
10 brother called the cops, and my dad ended up hitting  
11 my aunt because she came over to try to get my  
12 brother, and my dad, you know, got mad. And they  
13 called the cops. And my ended up, like, not doing  
14 anything.

15          THE COURT: Okay. Doesn't sound like it  
16 was a good situation.

17          MS. NAPLES: Yeah, it wasn't.

18          THE COURT: And, now, just the way that  
19 that got handled, it sounds like it was sort of  
20 resolved, and I'm not trying to comment on how it  
21 was resolved, but by the family members.

22          MS. NAPLES: My dad ended up, he did go in  
23 for the day, the whole night. I remember. But then  
24 came out the next day, and my aunt didn't charge  
25 him.



1 THE COURT: So police were involved in some  
2 fashi on?

3 MS. NAPLES: Yeah, which is my mom's sister.

4 THE COURT: And how long ago was this, did  
5 you say?

6 MS. NAPLES: I was back in high school. So  
7 I think I was a freshman or sophomore. I'm 22 now.  
8 So I was like 15.

9 THE COURT: Any feelings that you have  
10 about how either law enforcement or the  
11 circumstances were handled in that case?

12 MS. NAPLES: It was handled correctly. The  
13 cops came. You know, we called them.

14 THE COURT: Did what they were supposed to  
15 do.

16 MS. NAPLES: Yeah.

17 THE COURT: Is there any reason why that  
18 experience might impact your ability to be fair and  
19 impartial here?

20 MS. NAPLES: You know, I'll try not to be,  
21 but I can't give you an honest --

22 THE COURT: Well, and here's the thing, you  
23 know, nobody can guarantee anything.

24 MS. NAPLES: Yeah, no.

25 THE COURT: I think we can say -- and

1     that's why, you know, when I ask the questions, I  
2     try to ask them in a way that makes the  
3     understanding is are you going to do your best to  
4     receive the evidence fairly and impartially, if you  
5     are selected, and sit down with your fellow jurors  
6     and weigh that evidence with them and deliberate?

7             You know, this is a criminal trial. So the  
8     State has to meet its burden, and the verdict has to  
9     be unanimous. So it's up to you folks to balance  
10    and weigh evidence and deliberate.

11            Do you think you can do that?

12            MS. NAPLES: Yeah, I'll do my best.

13            THE COURT: Okay. Fair enough. Having  
14    heard from the folks that have answered, and many of  
15    those circumstances were direct circumstances.

16            But of course reminding everyone that the  
17    question was asked as broadly as possible, which is  
18    you, your family members, close friends that might  
19    have had these experiences. Again, either a victim  
20    of crime or accused of crime such that there would  
21    have been any involvement with the criminal justice  
22    system that might, you know, impact you here.

23            Is there anybody who didn't raise their  
24    hand who might have information to share with us?

25            MR. BEACH: Yeah, I would.

1 THE COURT: Mr. Beach.

2 MR. BEACH: Well, my son, when he came out  
3 of the Marines, his girlfriend, he tried to break up  
4 with her, and she accused him of pulling a gun on  
5 her.

6 THE COURT: So some sort of threat or  
7 domestic violence assault type thing?

8 MR. BEACH: Yeah, but it was thrown out  
9 because she was lying about it, but she was more  
10 like a fatal attraction.

11 THE COURT: How long ago was that?

12 MR. BEACH: Within three years.

13 THE COURT: Was he here, or was he  
14 somewhere else?

15 MR. BEACH: He was here. It was here.

16 THE COURT: It was here. Was there some  
17 sort of investigation related to it, you said?

18 MR. BEACH: Well, yeah. They did look into  
19 it, and they found out she had did it to maybe a  
20 couple of other guys.

21 THE COURT: So in that particular  
22 circumstance though, you know you have someone who  
23 was accused. You have a system that had a certain  
24 result. Is there anything about that that you  
25 might, you know, bring into this trial that might

1 impact how you handle this trial?

2 MR. BEACH: No. I just thought I should  
3 mention it.

4 THE COURT: Definitely want to know. And  
5 so you still believe you can set that aside and be  
6 fair and impartial here?

7 MR. BEACH: Yes.

8 THE COURT: Can I have counsel at the  
9 bench, just briefly, before we proceed.

10 (Bench conference.)

11 THE COURT: Before I proceed with asking  
12 counsel to inquire of the panel, we are, at this  
13 time, going to thank Mr. Hicks for his service and  
14 go ahead and excuse you at this time. Not every  
15 trial is the right fit for every person. So it's  
16 possible that if you're ever called in the future,  
17 there may be another trial --

18 MR. HICKS: I was actually excited I got  
19 this far.

20 THE COURT: -- that you'd be better suited.  
21 But thank you. At this time, No. 187, you are  
22 excused. Please give your badge to the marshal, and  
23 you are excused at this time.

24 And Mr. Hicks' seat in the front row there  
25 will be filled by the next juror on the panel.

1 THE CLERK: Badge 261, Brad Cartwright.

2 THE COURT: All right.

3 MR. CARTWRIGHT: Sorry about the  
4 sunglasses. I left my other glasses in the car.

5 THE COURT: No, I was going to just say  
6 that I assume that these are your corrective lenses.

7 MR. CARTWRIGHT: Yes. Well, they're  
8 corrective lenses. I won't be wearing them anymore  
9 than through this time.

10 THE COURT: No problem.

11 MR. CARTWRIGHT: Brad Cartwright, 261. I  
12 was a trader at the board of trade in Chicago for  
13 32 years. I'm retired. I have a college degree.  
14 My wife is Susan Cartwright. She works at  
15 Scientific Games in corporate communications. My  
16 kids live out of state. They're raised, in their  
17 20s and 30s. I've lived here for four years. Never  
18 been a juror anywhere. No criminal trials or a  
19 party to anything like that.

20 THE COURT: No connection to law  
21 enforcement of any kind?

22 MR. CARTWRIGHT: No, no.

23 THE COURT: Okay. And no interaction to  
24 you, family member, close friend with the criminal  
25 justice system in any way? Law enforcement in any

1 way? Court system in any way?

2 MR. CARTWRIGHT: Huh-uh.

3 THE COURT: All right. I'm going to turn  
4 to the State and ask Ms. Rinetti, are you going to  
5 inquire of the panel? You may, please. And we have  
6 a podium, if that would help you, or you've got the  
7 Elmo.

8 MS. RINETTI: Do you mind if I turn the  
9 Elmo off so they can't see my notes?

10 THE COURT: Not at all, or what we can do  
11 is you can just -- it looks like you hit the power  
12 off, and it's not doing it. If you can just take it  
13 off the screen.

14 MS. RINETTI: Okay.

15 THE REPORTER: I'm sorry, Your Honor.

16 MS. RINETTI: Okay. Jury selection can be  
17 similar to what the judge is doing. We test and  
18 compile and come up to understand your personal  
19 space. Some of you are getting a profile view of  
20 me. Those of you seated in the gallery are to my  
21 back. So I apologize for that.

22 I'm asking open-ended questions and  
23 inquiring kind of the entire panel. I'm going to  
24 ask if you agree or disagree or if you have a  
25 comment, just to raise your hand. And, again, just

1 like the judge, I'll go row by row by row, based  
2 upon your comments.

3 So my first question to the panel is you  
4 all got a jury summons in the mail saying: Guess  
5 what, you're so lucky to come down on September 11th  
6 of 2017 and come to jury duty at the Regional  
7 Justice Center. I know jury summons usually comes  
8 at a bad time. Usually people, they often aren't  
9 ecstatic.

10 Did anyone have either a really positive or  
11 real negative reaction when seeing that jury summons  
12 come in that mailbox?

13 UNIDENTIFIED JUROR: Yes.

14 MS. RINETTI: Juror number? Give me your  
15 first name.

16 MS. JOHNI GAN: 137.

17 MS. RINETTI: 137.

18 MS. JOHNI GAN: Sheila Johnigan.

19 MS. RINETTI: What was your reaction to  
20 your jury summons?

21 MS. JOHNI GAN: Well, I felt -- I felt  
22 really bad. I felt "not again."

23 MS. RINETTI: Not again?

24 MS. JOHNI GAN: Yeah.

25 MS. RINETTI: And you haven't gotten as far

1 as being empaneled on a jury. I know you had  
2 mentioned that you came close, kind of sitting out  
3 in the hallway but never actually been picked for a  
4 jury?

5 MS. JOHNI GAN: Correct.

6 MS. RINETTI: Okay. Now that you're here  
7 and it's been a couple of hours, still --

8 MS. JOHNI GAN: No. Want out.

9 MS. RINETTI: I appreciate your honesty.  
10 Anyone else have a reaction? Ms. Wilson,  
11 Badge number?

12 MS. WILSON: 228.

13 THE COURT: Thank you so much. And what  
14 was your reaction?

15 MS. WILSON: Okay. Actually, when I  
16 figured out the date and the times, I was like, oh,  
17 thank God. If I get chosen this time, I don't have  
18 to be a sub because I don't have a class right now.

19 MS. RINETTI: Trying to get out of work?

20 MS. WILSON: So, timewise, I thought:  
21 Well, this would be a good time to do it.

22 MS. RINETTI: All right.

23 MS. WILSON: So it wasn't what I expected.  
24 It usually is, if you have to get called out during  
25 school, it just stinks. I'd rather go to school



1 dead than prepping for a sub, but I don't have to do  
2 that right now. So it's good.

3 MS. RINETTI: Okay. Excellent.

4 I saw another hand in my peripheral. Okay.  
5 Badge No. 217, Bivona.

6 MS. BIVONA: At first, I was like: Oh, no,  
7 but who is really exited for this? You know, but  
8 due to me starting a new position in my company,  
9 after hearing everything, when you said 1:00 to  
10 5:00, I also have my normal 7:30 till about  
11 12:00 o'clock lunchtime to get back here from  
12 Henderson.

13 MS. RINETTI: Perfect. You work at the  
14 Henderson location?

15 MS. BIVONA: Yes. We have two locations.

16 MS. RINETTI: Okay. Anybody else?

17 Yes, ma'am, in the back. Juror 097.

18 MS. DIOKNO-VALDEZ: Like I mentioned, I was  
19 not excited to receive my jury summons. I knew I  
20 was already going to be out of work for a week,  
21 having been on vacation. But it was my first  
22 official day at work. And like you said, throughout  
23 the time that I've been here, I've just been getting  
24 anxiety because of all the work I have to catch up  
25 on.

1 I'm pretty much on call 24/7 because I am  
2 taking off two programs next week. So I'll have to  
3 be -- the judge mentioned that "You could possibly  
4 be here until Friday," then that's giving me some  
5 sense of anxiety. I can't promise I'll not be  
6 feeling that.

7 MS. RINETTI: And it's fair that we know  
8 that you guys have lives outside of this courtroom.  
9 Just know that we do not. But what we ask is  
10 because it is a criminal case, it's a serious case,  
11 and what we just ask is -- you know, the judge is  
12 only giving you half days; so you have four hours,  
13 you know, from 8:00 till 1:00 to do whatever you  
14 need to do -- what we just ask for is your attention.

15 Just when you see witnesses, hear  
16 testimony, that you're just able to listen and to  
17 pay attention. That's all we ask of you.

18 MS. DIOKNO-VALDEZ: I'll do my best.

19 THE COURT: Thank you so much.

20 Anybody else? All right. I see no hands.

21 I'll move on. The judge talked a little  
22 bit about the criminal justice system, and I want to  
23 ask it in this way: Does everyone understand that  
24 the State of Nevada has the burden of proof?

25 Meaning that it's my responsibility and

1 Mr. Villani's responsibility to prove the defendant  
2 beyond a reasonable doubt. The defendant has no  
3 burden in a criminal case.

4 Does everyone agree with that statement?

5 I see no hands.

6 Does anyone disagree or take issue with the  
7 fact that the State of Nevada has the burden of  
8 proof and the defendant has no burden whatsoever?

9 I see no hands.

10 I know a lot of you have children. Some of  
11 your children are older and live out of state.  
12 Some, unfortunately, still live at home. Some are  
13 in high school and things of that sort. Given that,  
14 taking that aside. I know I have a few teachers,  
15 Ms. Wilson being one of them, which is a former  
16 teacher.

17 Do anyone, as members of the panel, work  
18 with children as part of their employment?

19 Yes, sir. All right. Going to Mr. Long,  
20 Badge No. 250.

21 MR. LONG: Yeah, I do sports training with  
22 kids.

23 MS. RINETTI: Okay. What kind of sports  
24 training? I hate to --

25 MR. LONG: Like speed agility and fitness

1 training, strength and conditioning. Things like  
2 that.

3 MS. RINETTI: Is there a specific age group  
4 that you target?

5 MR. LONG: We usually go to about -- we  
6 have five to six years old all the way up through  
7 high school.

8 MS. RINETTI: Okay. Is it primarily  
9 focused on children, or is it all ages and it just  
10 happens that children are --

11 MR. LONG: No, it's for children, youth.  
12 Youth sports.

13 MS. RINETTI: Now, can I just piggyback  
14 because you mentioned that, as part of being a  
15 corrections officer, you also worked at behavioral  
16 health or behavioral services. Is that through  
17 Nevada Department of Corrections?

18 MR. LONG: No. I was private.

19 MS. RINETTI: Okay. And what did you do  
20 for behavioral services?

21 MR. LONG: Basic skills training and  
22 psychosocial rehabilitation. Counseling, pretty  
23 much.

24 MS. RINETTI: Okay. Counseling. What is  
25 your background that enabled you to get that

1       posi ti on?

2               MR. LONG:   I have my Bachelor's degree in  
3       soci ol ogy.

4               MS. RINETTI:   What was your main clientele?  
5       Were they children or adult clients?

6               MR. LONG:   Both.

7               MS. RINETTI:   Both.

8               MR. LONG:   It was mostly children, but I've  
9       counseled a lot of adults too.

10              MS. RINETTI:   And did these children have  
11       mental health issues, or did they --

12              MR. LONG:   Mostly behavioral.

13              MS. RINETTI:   Behavioral.   And you said you  
14       did basic life skills, and what was the other?

15              MR. LONG:   Psychosocial rehabilitation.

16              MS. RINETTI:   Okay.   And how long did you  
17       do that for?

18              MR. LONG:   Five years.

19              MS. RINETTI:   Thank you so much.

20              I know there was a hand in the back.   Juror  
21       in Seat No. 1, Badge No. 084, Ms. Norris-Lewis.  
22       Yes, ma'am.

23              MS. NORRIS-LEWIS:   I work at a high school ,  
24       19 to 22-year-olds that didn't graduate.

25              MS. RINETTI:   And you mentioned you work as

1 a building manager?

2 MS. NORRIS-LEWIS: Yes, ma'am.

3 MS. RINETTI: What are the duties and  
4 responsibilities as the building manager?

5 MS. NORRIS-LEWIS: Make sure there's a  
6 clean environment. I'm over-the-grounds person.  
7 I'm over the custodians.

8 MS. RINETTI: Okay. Perfect. Thank you so  
9 much.

10 Anybody else have contact -- yes, ma'am. I  
11 should remember your last name by now. I apologize.

12 MS. JOHNI GAN: That's okay. Johnigan, 137.

13 MS. RINETTI: Yes, ma'am.

14 MS. JOHNI GAN: Well, I don't work outside  
15 of the home. I'm at home, but I watch my three  
16 grandchildren.

17 MS. RINETTI: Okay. And how old are your  
18 grandchildren?

19 MS. JOHNI GAN: Well, the two boys, one is  
20 three years old. The other one is four.

21 MS. RINETTI: Three and four, okay.

22 MS. JOHNI GAN: And my granddaughter, she's  
23 a year old now.

24 MS. RINETTI: So you're busy.

25 MS. JOHNI GAN: Very busy with them.

1 MS. RINETTI: And how often do you watch  
2 them?

3 MS. JOHNI GAN: I would say, pretty much,  
4 maybe like five times out of the week.

5 MS. RINETTI: Okay. So kind of like a full  
6 time --

7 MS. JOHNI GAN: Sometimes. But they come at  
8 different times. The one daughter working at the  
9 Four Season Hotel, she brings hers on some of the  
10 days; and then my other daughter, she has the two,  
11 the boy and the girl. So right now, she's off work.  
12 She was working at the Wynn. But now she's off, but  
13 still she goes to do other things. The chiropractor.  
14 You heard of that.

15 MS. RINETTI: So fairly busy with those  
16 grandchildren, grand babies?

17 MS. JOHNI GAN: Yeah.

18 MS. RINETTI: Thank you so much. Now,  
19 Ms. Ogawa.

20 MS. OGAWA: "Ogawa."

21 MS. RINETTI: Badge number?

22 MS. OGAWA: 205.

23 MS. RINETTI: 205. You also mentioned  
24 you're a stay-at-home grandmother?

25 MS. OGAWA: Yes. But my grandkids are,

1       they're 8 and 12.

2                   MS. RINETTI:   And how often do you watch  
3       them?

4                   MS. OGAWA:    I live with them.

5                   MS. RINETTI:   Oh, boy.   Okay.   So no time  
6       off.

7                   MS. OGAWA:    No.   But they're in sports.   So  
8       mom and dad -- well, mom basically -- after church,  
9       she takes them to practice, whatever.   So I see them  
10      in the evening sometimes because I have to clean my  
11      room and watch my Queen Drama.

12                  MS. RINETTI:   What kind of TV do you watch?

13                  MS. OGAWA:    No, I'm on my tablet.

14                  MS. RINETTI:   Oh, your tablet, okay.   Fair,  
15      fair, fair.

16                  Now, Ms. Wilson, you mentioned that you  
17      were a former teacher?

18                  MS. WILSON:   No, I am a teacher.   I just  
19      don't have a class right now because with all the  
20      numbers and stuff in the district, I'm actually  
21      doing an assessment through our grade level and  
22      helping out, and I don't have a full-time class  
23      roster right now.

24                  MS. RINETTI:   What grade do you normally  
25      teach when you have a full-time roster?



1 MS. WILSON: Kindergarten.

2 MS. RINETTI: And how long have you been  
3 teaching kindergarten for?

4 MS. WILSON: This is my third year this  
5 go-round. I've taught it before. I've moved  
6 around. Kindergarten, first grade; I've taught up  
7 to fourth grade, down to three-year-olds.

8 MS. RINETTI: Is it fair to say that it's  
9 mostly elementary school aged?

10 MS. WILSON: Yeah.

11 MS. RINETTI: All right. Fair enough.

12 Do I have other teachers? Without looking  
13 at my notes.

14 MS. OAKLEY: I'm a former.

15 MS. RINETTI: Former teacher, okay.

16 MS. OAKLEY: From another state.

17 MS. RINETTI: All right. And just for the  
18 record, Badge No. 149, Oakley.

19 MS. OAKLEY: Yes.

20 MS. RINETTI: Ms. Oakley, when you did  
21 teach, what grade level did you teach?

22 MS. OAKLEY: My last year was the juniors  
23 and seniors of the specially handicapped, extremely  
24 handicapped.

25 MS. RINETTI: Okay. So was it a

1 self-contained classroom?

2 MS. OAKLEY: No. We did rotate, but we  
3 didn't rotate in with the general population that  
4 much. But we had such a large department in the  
5 special needs that we had several classes that  
6 rotated.

7 MS. RINETTI: All right. And did you rely  
8 upon aides in that classroom as well?

9 MS. OAKLEY: Oh, yes.

10 MS. RINETTI: And how many kids do you  
11 typically have in that classroom?

12 MS. OAKLEY: It depends on the rotation and  
13 what their needs were in their IEP. But this  
14 classroom was Science and English. And so at  
15 different times, it rotated through the group of  
16 them. But like I said, they were severely and  
17 special needs, and so it was like hands on hand,  
18 completely no response, no verbal, in and out of  
19 wheelchairs, that kind of thing.

20 MS. RINETTI: Is it fair to say that  
21 there's different levels of care in the school  
22 district as far as special education? Some are  
23 severely handicapped; some have some mental health  
24 issues; it's kind of a variety of things?

25 MS. OAKLEY: There is certainly a variety,

1 a whole wide spectrum.

2 MS. RINETTI: And you mentioned an "IEP."  
3 And what is an "EIP"?

4 MS. OAKLEY: It's an assessed area of  
5 behavior that they would like to see accomplished  
6 with a student.

7 MS. RINETTI: Is that something that's on a  
8 yearly basis or --

9 MS. OAKLEY: Yes. There are reviews with  
10 the parents and the teachers to see where to  
11 improve.

12 MS. RINETTI: Thank you so much.

13 Now, in addition to -- now I'm going to  
14 broaden my question to not just contact with  
15 children because of your employment but maybe for  
16 some extracurricular activities, whether it's  
17 volunteer work at a church or an organization or if  
18 you're a coach of your child's baseball team, soccer  
19 team, and things like that.

20 Does anyone have some type of  
21 extracurricular activities involving children?

22 I see a couple of hands. I'm going to go  
23 back row first.

24 Ms. Valdez, Badge No. 097, what kind of  
25 contact do you have?

1 MS. DI OKNO-VALDEZ: I volunteer once a  
2 month for Ronald McDonald House Charity, just to  
3 have dinner served. So limited to the kids who live  
4 there, not necessarily the kids who are in need of  
5 the healthcare.

6 MS. RINETTI: So their siblings and family  
7 that are here locally for some type of procedure and  
8 things like that?

9 MS. DI OKNO-VALDEZ: (No audible response.)

10 MS. RINETTI: How long have you been doing  
11 that for?

12 MS. DI OKNO-VALDEZ: I would say about three  
13 years now.

14 MS. RINETTI: What got you involved in  
15 that?

16 MS. DI OKNO-VALDEZ: Volunteering. The  
17 Cosmopolitan offers us an opportunity to volunteer,  
18 and that was one of their things that sort of tugged  
19 at my heartstrings, that, or we also do the dinner  
20 service at the homeless shelter down by Main Street.

21 MS. RINETTI: The one downtown. Okay.  
22 Fair. That's fair.

23 Second row. Now, Mr. Ervin (sic).

24 MR. ELIASON: Me?

25 MS. RINETTI: Yeah.

1 MR. ELIASON: "Eliason."

2 MS. RINETTI: Close, close. All right.

3 And how do you volunteer?

4 MR. ELIASON: I'm the assistant coach to my  
5 kids' little league team. First game is tonight at  
6 5:15.

7 MS. RINETTI: Okay. All right. I  
8 understand completely. I know you have four. I got  
9 two, five, two, and three-weeks. I know the  
10 three-week old doesn't play.

11 MR. ELIASON: The seven and five-year-old  
12 are on the same team.

13 MS. RINETTI: All right. And how long have  
14 you been coaching that little league for?

15 MR. ELIASON: This will be the second  
16 season.

17 MS. RINETTI: Second season? All right.  
18 Well, good luck tonight.

19 And, Mr. Beach, I believe you raised your  
20 hand as well?

21 MR. BEACH: Yes. 119.

22 MS. RINETTI: Thank you so much for --

23 MR. BEACH: I have seven granddaughters.

24 MS. RINETTI: Is that seven?

25 MR. BEACH: Yes.

1 MS. RINETTI: Okay. And all granddaughters?

2 MR. BEACH: Yes.

3 MS. RINETTI: Oh, boy.

4 MR. BEACH: And the youngest four, I watch  
5 quite a lot. The youngest, I really watch a lot.

6 MS. RINETTI: What are the ages before that  
7 you watch a lot?

8 MR. BEACH: 12, 8, 4, 2.

9 MS. RINETTI: All right. Fair to say  
10 you're busy as well then.

11 MR. BEACH: Yeah.

12 MS. RINETTI: Anyone else in that second  
13 row? Yes, ma'am.

14 MS. OAKLEY: 149, Ms. Oakley. I just  
15 started working with a group of girls, ages 12 to  
16 18, through my church, helping them achieve a  
17 program, set of goals through a program that it's  
18 called "Personal Program." But being that I've only  
19 been in that area for such a short time, it's just  
20 been recently that I started working with them.

21 MS. RINETTI: Is that something you're  
22 calling, you're kind of the programming --

23 MS. OAKLEY: The church has a program, and  
24 then they assign you, and so I volunteer to do  
25 whatever they ask me, so.

1 MS. RINETTI: Perfect. So your other  
2 church activities, have you ever had to volunteer  
3 with children or had --

4 MS. OAKLEY: I've worked extensively with  
5 the BSA, with the Cub Scouts, to help some of the  
6 older boys get through their Eagle Scout program and  
7 keep them on task and keep them moving.

8 MS. RINETTI: That's not an easy feat.  
9 Okay. Thank you so much. I really appreciate it.

10 Okay. Third row. Yes, sir.

11 MR. FERNANDEZ: Badge No. 176.

12 MS. RINETTI: 176, Mr. Hernandez.

13 MR. FERNANDEZ: "Fernandez."

14 MS. RINETTI: "Fernandez," okay. It's  
15 almost 4:00 o'clock.

16 MR. FERNANDEZ: My son races BMX.

17 MS. RINETTI: Oh, nice.

18 MR. FERNANDEZ: At the Whitney Ranch Rec.  
19 Center, kids as young as five years old, on to  
20 teenage. He's 16. And, you know, even adults race.  
21 Yeah, kids as young as five, and race nights and  
22 practice nights.

23 MS. RINETTI: So what do you do?

24 MR. FERNANDEZ: I help out with the track,  
25 help with the kids. You know, they're always

1 falling off their bikes.

2 MS. RINETTI: I would imagine. So how long  
3 have you been doing that for?

4 MR. FERNANDEZ: A year.

5 MS. RINETTI: For a year. Okay. Perfect.  
6 Did you get involved because of your son?

7 MR. FERNANDEZ: Yeah.

8 MS. RINETTI: Thank you so much.

9 Mr. Long, you've kind of had your hand up a  
10 little bit.

11 MR. LONG: I coach a high school club  
12 basketball team, 14 through 17.

13 MS. RINETTI: Nice. How long have you been  
14 doing that for?

15 MR. LONG: About ten years.

16 MS. RINETTI: Ten years. And how's the  
17 record?

18 MR. LONG: It was better the first six  
19 years.

20 MS. RINETTI: Fair, fair.

21 How about this last row, any volunteer work  
22 or charity work? Okay. Ma'am.

23 MS. NAPLES: 185.

24 MS. RINETTI: Ms. Naples.

25 MS. NAPLES: Yes. I volunteer at the YMCA



1 Centennial Hills, which I coach a boys' basketball  
2 team, seven to ten.

3 MS. RINETTI: All right. What ages do you  
4 get?

5 MS. NAPLES: Seven to ten.

6 MS. RINETTI: Seven to ten, okay. And how  
7 long have you been doing that for?

8 MS. NAPLES: Senior year of high school.  
9 So five years now.

10 MS. RINETTI: What got you interested in  
11 doing that?

12 MS. NAPLES: I played basketball since I  
13 was in fifth grade. So I like basketball.

14 MS. RINETTI: Oh, okay. All right.  
15 Awesome. Thank you so much.

16 All right. Mr. Cartwright.

17 MR. CARTWRIGHT: Yep. 261. I am a  
18 Big Brother. I'm in the Big Brother, Big Sister  
19 program. And I have a little brother, and he's  
20 12 years old.

21 MS. RINETTI: How long have you been with  
22 Big Brother, Big Sister program?

23 MR. CARTWRIGHT: Two years.

24 MS. RINETTI: Two years. And how do you  
25 like it?

1 MR. CARTWRIGHT: I like it a lot.

2 MS. RINETTI: And how did you get involved  
3 with that organization?

4 MR. CARTWRIGHT: I just called them, said I  
5 want to volunteer.

6 MS. RINETTI: What made you kind of call  
7 them?

8 MR. CARTWRIGHT: I used to do it when I was  
9 in Chicago. They would bus kids to the board of  
10 trade, and we would reach them after school. So I  
11 did that for about five years.

12 MS. RINETTI: Okay. Thank you so much.

13 Anyone else in that last row? Okay.  
14 Seeing no further hands.

15 Now, I know I spoke to Ms. Oakley about  
16 this a little bit and then Mr. Long as well. But in  
17 kind of the terms of contact with children, has  
18 anyone had any sense of contact with kids that are  
19 special needs, whether that be mentally or  
20 physically or some type of mental health issue?  
21 Besides Ms. Oakley and Mr. Long.

22 All right. Going to go to the back and  
23 start there. All right. Juror No. 084,  
24 Ms. Norris-Lewis.

25 MS. NORRIS-LEWIS: At the school.

1 MS. RINETTI: Just at the school kind of  
2 passing by, or do you have a lot of interactions  
3 with them?

4 MS. NORRIS-LEWIS: I talk to them, and  
5 sometimes they work with us, and I joke with them.

6 MS. RINETTI: Okay. Thank you so much.

7 Anyone else in that back row?

8 All right. Next row, Badge No. 135,  
9 Mr. Clarke.

10 MR. CLARKE: Yeah, about 25 years ago, I  
11 was a residential manager for an autistic home in  
12 Arizona, in northern Arizona, but that's been my  
13 only experience, back then.

14 MS. RINETTI: And how long did you work at  
15 that residential home?

16 MR. CLARKE: Probably for about two years.

17 MS. RINETTI: Two years. Okay. What made  
18 you get involved in that type of work?

19 MR. CLARKE: I enjoy working with  
20 handicapped children. It's just part of my natural  
21 outreach of my heart and my mind, wanting to help  
22 the less fortunate.

23 MS. RINETTI: I appreciate it very much.

24 Anyone else in that row? Next row. Seeing  
25 no hands. And finally the bottom row. Okay.

1 MS. LAUREN: 223.

2 MS. RINETTI: Thank you. I was going to  
3 get there. Badge No. 223. Lauren?

4 MS. LAUREN: Yes. Both my children have  
5 PTSD. One of them has FMLA leave for it, even  
6 though she's working. The other one struggles with  
7 it. One's medicated; one isn't. They both have  
8 emotional and behavioral problems.

9 MS. RINETTI: Are they seeing a  
10 psychologist?

11 MS. LAUREN: One sees a psychiatrist and a  
12 psychologist. The other one refuses treatment.

13 MS. RINETTI: Okay. And has that been a  
14 lifelong diagnosis or something that was diagnosed  
15 as a teenager?

16 MS. LAUREN: Diagnosed, probably, just two  
17 and five.

18 MS. RINETTI: Two and five. Okay. Thank  
19 you so much. I appreciate it.

20 Ms. Wilson, I see your hand. Badge No. 220.

21 MS. WILSON: Yeah, I have subbed a lot in  
22 my career, and a lot of my subbing was done in  
23 self-contained classrooms. In fact, even this year,  
24 I've helped out in the really young special kids  
25 program. We have a lot of kids with IPs come to the

1 general ed. classroom whether they're pushed in for  
2 part of the day or they're there all the day long or  
3 whatever.

4 I don't know how, exactly what "extensive"  
5 means to you, but I've had a good bit of experience  
6 with special needs kids on all different types of  
7 needs. We've had learning disabled. We've had  
8 autism. We've had lots of stuff.

9 MS. RINETTI: And I don't want to put words  
10 in your mouth, but I heard that you at least subbed  
11 at a self-contained classroom?

12 MS. WILSON: Yes, I have.

13 MS. RINETTI: Okay. And what type of --

14 MS. WILSON: I've actually done that  
15 elementary through high school. I actually -- yeah,  
16 there for awhile, it was quite -- where I come from,  
17 in California, subbing is different than it is here.  
18 It's a very small community. People get to know  
19 you, and you are called specifically to those  
20 classes frequently. So for awhile, I was doing  
21 quite a bit of that.

22 MS. RINETTI: And, now, those  
23 self-contained classrooms that you had contact with,  
24 were these children that -- were they able to  
25 interact with children at the school at all, or were

1 they completely self-contained and weren't allowed  
2 any access to other kids?

3 MS. WILSON: Some of the kids went with the  
4 gen. ed. population to like recess and lunch, and  
5 that would be their only gen. ed. minutes. But as  
6 far as "not allowed," that's not the right term.  
7 Like, at the high school, all of the classroom, all  
8 the kids were known by the other kids.

9 I mean, there was some interaction, not  
10 necessarily -- not all the kids necessarily had  
11 classes outside of that class, but there was  
12 interaction at least in the hallways and the general  
13 population area there.

14 MS. RINETTI: I get that. Okay.

15 All right. Now my next question has to do  
16 with contact with Child Protective Services.

17 Now, I know probably Ms. Wilson and  
18 Ms. Oakley have had some contact with Child  
19 Protective Services, given their former current  
20 employment. Child Protective Services, commonly  
21 referred to as "CPS."

22 Has anyone been reported to by CPS, meaning  
23 that there was a case plan that there was an  
24 accusation and they were investigated or had to call  
25 regarding concerns of potential child abuse or child

1 neglect on an individual?

2 All right. I see a couple of hands. Let's  
3 start with back row, see no hands.

4 Second row, see no hands. And the third  
5 row, I see Mr. Long's hand is up.

6 MR. LONG: Well, I was a mandatory  
7 reporter. So I've had to report child abuse and  
8 neglect a couple of times.

9 MS. RINETTI: Now, is that in your  
10 employment with behavioral services?

11 MR. LONG: Yes.

12 MS. RINETTI: And anything to do with your  
13 training or anything like that?

14 MR. LONG: No, nothing. Just with  
15 protective services.

16 MS. RINETTI: And so as a mandated reporter  
17 here in Nevada, you're required to report any  
18 suspicion of child abuse and child neglect to child  
19 protective services?

20 MR. LONG: Yes.

21 MS. RINETTI: Anybody else in that third  
22 row? In the back row? Besides -- I got, I  
23 understand Ms. Wilson and you.

24 Ms. Lauren, you had your hand up, I  
25 believe?

1 MS. LAUREN: I'm from Michigan originally,  
2 and I was in a custody dispute for 16 years. Okay?  
3 It lasted that long. The case just closed not that  
4 long ago. So there was CPS going back and forth. I  
5 have been the target. When they were really young,  
6 they came over and wrote a report, a cursory report,  
7 and left.

8 And then a custody video was done when we  
9 lived in Denver, then following lived in Michigan.  
10 The children flew back every summer and Christmas to  
11 stay there, and so I know that CPS was called to his  
12 house many times.

13 MS. RINETTI: Multiple reports involving  
14 your ex, were you involved in the investigation?

15 MS. LAUREN: Yes, yes.

16 MS. RINETTI: Were you called by CPS  
17 investigators or caseworkers or by any of their  
18 employees?

19 MS. LAUREN: And police officers.

20 MS. RINETTI: Okay. And police officers.  
21 Did you think Child Protective Services and law  
22 enforcement, were you satisfied with the way that  
23 they handled those?

24 MS. LAUREN: No.

25 MS. RINETTI: Okay. You're going to hear



1 that there's going to be people from Child  
2 Protective Services and law enforcement here today  
3 that are going to come in and testify during this  
4 trial.

5 MS. LAUREN: Uh-huh.

6 MS. RINETTI: Would you hold that  
7 experience against those witnesses that come in and  
8 testify on behalf of the State of Nevada?

9 MS. LAUREN: I might.

10 MS. RINETTI: Okay. And when I hear "I  
11 might," I know the judge kind of mentioned it a  
12 little bit. I know you can't foresee the future.

13 MS. LAUREN: Right.

14 MS. RINETTI: But as you'll hear from the  
15 jury instructions, will you keep holding that  
16 justice to the State of Nevada as well as the  
17 defendant in this case?

18 MS. LAUREN: Right.

19 MS. RINETTI: So what I'm hearing -- I  
20 don't want to put words in your mouth -- is that  
21 based upon some of your past experiences with  
22 Child Protective Services, you potentially could not  
23 put that experience aside and weigh this case based  
24 upon just the evidence that came into this  
25 courtroom?

1 MS. LAUREN: I feel like I'll be prejudiced  
2 against the defendant.

3 MS. RINETTI: Okay.

4 MS. LAUREN: I do. I'm sorry to say that  
5 out loud, but I really do.

6 MS. RINETTI: And it's fair, and we just  
7 want honest answers. So like the judge said, there  
8 are no wrong answers, just honesty.

9 THE COURT: And I said it before when we  
10 excused, I believe it was Mr. Hicks, that, you know,  
11 not every trial is the best fit for every person.  
12 You could be sitting here for an auto accident case  
13 maybe and not bat an eye; right?

14 MS. LAUREN: Right.

15 THE COURT: It's just not every trial  
16 matches every person.

17 MS. LAUREN: Yeah, the more you're talking  
18 about it, the more I'm not liking the questions at  
19 all, for myself personally. Like the things you're  
20 asking and having to raise my hand, I don't want to  
21 talk about these things and I don't want to think  
22 about it either.

23 MS. RINETTI: Okay. That is fair. Okay.  
24 I appreciate your honesty.

25 Now, and I hate to keep picking on people.

1 So but I'm going to keep picking on you.

2 MS. LAUREN: I'm the star student, yea me.

3 MS. RINETTI: You heard from Mr. Evenson a  
4 little bit during the introduction that the  
5 defendant has some prior military experience.

6 Does anyone else, besides Ms. Wilson, have  
7 any prior military experience -- whether it be  
8 Air Force, Navy, Marine Corps, Army -- and I don't  
9 want to -- Coast Guard? Anything of that sort?

10 Any of the Armed Services?

11 So in the back, I see no hands.

12 Second row, Mr. Clarke.

13 MR. CLARKE: Yes.

14 MS. RINETTI: I'm going to inquire. I  
15 don't know your badge number.

16 MR. CLARKE: 135.

17 MS. RINETTI: 135.

18 MR. CLARKE: U.S. Army.

19 MS. RINETTI: U.S. Army. How long were you  
20 in the Army for, sir?

21 MR. CLARKE: Four years.

22 MS. RINETTI: Four years. And did you  
23 enlist or --

24 MR. CLARKE: Enlisted out of high school.

25 MS. RINETTI: Okay. And what did you do

1 for the Army?

2 MR. CLARKE: I started out as a truck  
3 driver, and then I ended up working for NATO as a  
4 security officer.

5 MS. RINETTI: Were you ever deployed  
6 overseas?

7 MR. CLARKE: Yes.

8 MS. RINETTI: Okay. I'm guessing since the  
9 whole NATO thing that, I assumed that happened. I'm  
10 assuming you were deployed at some point.

11 MR. CLARKE: Yes.

12 MS. RINETTI: Where exactly were you  
13 deployed?

14 MR. CLARKE: Well, I started out in  
15 Stuttgart, Germany, and I ended up in the  
16 Netherlands.

17 MS. RINETTI: Thank you so much.

18 Thank you for your service.

19 Third row, Ms. Bivona.

20 MS. BIVONA: Bivona, 217.

21 MS. RINETTI: Yes, ma'am.

22 MS. BIVONA: My mom is retired Air Force,  
23 25 years. She is a GS-11 for civilians. She's the  
24 graphic arts, and she just retired in May.

25 MS. RINETTI: Very cool. So as a daughter

1 of someone who was in the Air Force, did you have to  
2 move around a lot?

3 MS. BIVONA: No. She got lucky. She did  
4 graphic arts in town here. She moved here in '69  
5 from Oregon with the family. So as far as I know,  
6 she did graphic arts at some printing place. But  
7 she did some government work, and then they put her  
8 on full time. And since the full time, being the  
9 only female in that department and the only person  
10 in that department to be the graphic arts, it's been  
11 25 years.

12 MS. RINETTI: Fair enough. The fact that  
13 the defendant may have had some previous military  
14 experience, would that change your ability to be  
15 fair and impartial in the case?

16 MS. BIVONA: No, it wouldn't change it. I  
17 would still be fair.

18 MS. RINETTI: Thank you so much.

19 Finally the last row. Military service.  
20 Besides Ms. Wilson. Anyone else?

21 All right. Does anyone disagree with this  
22 statement that: "Parents always act in the best  
23 interest of their child"? Always act. Always act  
24 in the best interest of their child.

25 UNIDENTIFIED SPEAKER: I disagree.

1 MS. RINETTI: You disagree?

2 UNIDENTIFIED SPEAKER: I disagree.

3 MS. RINETTI: Okay. Fair, fair, fair  
4 enough. Okay. You disagree. We've got a lot of  
5 disagreement.

6 Okay. And what I mean by this and why I  
7 ask the question is we all want to hope that parents  
8 or guardians of children act in the best interest,  
9 but sometimes parents do things that can potentially  
10 be abusive or neglectful situations. The question  
11 is meant to kind of gauge whether or not you think  
12 it's a possibility that parents could be potentially  
13 abusive or neglectful to their children.

14 Does anyone think there's no way a parent  
15 or guardian could ever be abusive or neglectful to a  
16 child?

17 I see no hands.

18 You're going to hear -- obviously  
19 Mr. Villani read to you the charges and the case  
20 name, to include child abuse, and so obviously,  
21 there potentially will be a victim that is going to  
22 come in here to testify.

23 Do you expect a child who the State of  
24 Nevada believes was abused, to act a certain way on  
25 the witness stand? Meaning that they must be crying

1 or otherwise it didn't happen or they if they smiled  
2 in any way, that means it didn't happen?

3 I see Ms. Valdez in the back, kind of  
4 shaking her head, and I don't want to -- oh, I  
5 should know your badge number by now. 097. You're  
6 shaking your head. Why are you shaking your head?

7 MS. DIOKNO-VALDEZ: I just feel like people  
8 react differently to their experiences. Could be  
9 crying, could be troubled, could be smiling. But  
10 she's here. She could be crying, could be  
11 falling --

12 MS. RINETTI: Parents can be all -- and  
13 like he mentioned, we're all kind of different human  
14 beings. We all kind of act differently in different  
15 situations. So it's fair to say it's kind  
16 nerve-racking standing in front of people talking.  
17 Some potential jurors got really nervous having to  
18 talk in public.

19 Now, I'm going to actually talk to you just  
20 a little bit, because of your prior experience and I  
21 don't want to upset you at all, about being  
22 questioned. And I imagine it was a civil case.

23 Was it actually in court or during a  
24 deposition?

25 MS. DIOKNO-VALDEZ: I really don't remember

1 much. But what I had told the judge, it was this  
2 summer or last summer. It was about eight months  
3 ago when that had happened. I really don't remember  
4 what type of case it was. I just knew I was called  
5 in as a witness for my friend who was being charged  
6 for domestic abuse.

7 MS. RINETTI: Was there a judge there?

8 MS. DIOKNO-VALDEZ: Yes.

9 MS. RINETTI: Okay. And you were asked  
10 questions?

11 MS. DIOKNO-VALDEZ: Yes.

12 MS. RINETTI: You mentioned that they kind  
13 of wanted you to say something a certain way and it  
14 kind of got -- and I don't want to put words in your  
15 mouth, but it kind of felt like you were being  
16 forced into, like kind of boxed into a corner?

17 MS. DIOKNO-VALDEZ: Yes.

18 MS. RINETTI: Fair to say it was an  
19 intimidating situation?

20 MS. DIOKNO-VALDEZ: Very much.

21 MS. RINETTI: Okay. Mr. Eliason, Badge  
22 No. 214, you kind of had a reaction to when I  
23 mentioned: Hey, do you expect the potential victims  
24 of child abuse to act a certain way.

25 MR. ELIASON: Yeah, my kids react different



1 ways all the time. So it's hard to tell what  
2 they -- in front of an audience and everything else,  
3 not one attitude is going to convey one message  
4 versus another.

5 MS. RINETTI: Fair. Thank you.

6 How about Mr. Clarke, what do you think  
7 about that?

8 MR. CLARKE: I believe that, having two  
9 children myself, varying ages and different genders,  
10 that you can't just stereotype a child and their  
11 reactions. They're as individual as anybody else,  
12 and it would be hard to expect them to act and  
13 behave a certain way under stressful situations.

14 MS. RINETTI: I'm going to try to stick  
15 with you, if you don't mind. You mentioned that you  
16 have at least one adult child.

17 Do you have more than one child?

18 MR. CLARKE: I have a 13-year-old son -- or  
19 12 years old. 12 years old. Sorry.

20 MS. RINETTI: How do you discipline your  
21 12-year-old son?

22 MR. CLARKE: My wife --

23 MR. EVENSON: Your Honor, can we approach.

24 THE COURT: Yes.

25 (Bench conference.)

1 MS. RINETTI: All right. Mr. Clarke --

2 THE COURT: The objection was technically  
3 posed, for the record. No, I think you just asked  
4 to approach.

5 MR. EVENSON: I did.

6 THE COURT: We will allow you to proceed.

7 MS. RINETTI: Mr. Clarke, you can continue.  
8 How do you discipline your 12-year-old son?

9 MR. CLARKE: Well, I have a long distance  
10 relationship with him now since the divorce. So I  
11 fly out there and occasionally visit with him.  
12 Skype, phone. So I really don't have a day-to-day  
13 type of disciplinary interaction with him, if you  
14 will.

15 And of course the ex-wife is doing her best  
16 to keep that day-to-day activities and behaviors  
17 away from me. So I only have really an interaction  
18 with him of what he tells me. So I don't have any  
19 more of that type of discipline in his life.

20 MS. RINETTI: When you were around your  
21 son, I guess when he was living with you, how would  
22 you discipline him?

23 MR. CLARKE: For the most part, he was a  
24 good boy. There would be times where we would have  
25 to take away some items, some toys, for a period of

1 time. I would have him write sometimes like 30  
2 lines of, you know, "I will not tell a lie" or that  
3 kind of thing or a timeout or two. By and large,  
4 that was the extent of my discipline.

5 MS. RINETTI: Thank you so much, Mr. Clarke.

6 Badge No. 137, and now I know you were  
7 talking about your grand babies too.

8 How do you discipline your grandchildren or  
9 your kids when they were younger?

10 MS. JOHNI GAN: Well, my grandchildren get  
11 timeout. I try not to yell too much because they're  
12 a little fragile. They're little, and they get  
13 scared. So pretty much timeout. So that's their  
14 mother. And then my own children, it would be take  
15 toys away, tell them to -- pretty much the same,  
16 timeout, no TV for awhile, pretty much.

17 MS. RINETTI: What about Ms. Munoz, Badge  
18 No. 121, your children are adults now. How did you  
19 used to discipline your children?

20 MS. MUNOZ: Well, back in my day, a little  
21 spanking went a long way.

22 MS. RINETTI: But?

23 MS. MUNOZ: And it worked.

24 MS. RINETTI: Okay.

25 MS. MUNOZ: We didn't have cell phones and

1 games to take away from them. It was more like "You  
2 can't go outside and play," which kids don't do a  
3 whole lot these days.

4 MS. RINETTI: I'm just going to pick on row  
5 No. 2, Mr. Beach, because you have seven  
6 granddaughters and your children.

7 How would you discipline your children, and  
8 then how do you discipline all of your  
9 granddaughters?

10 MR. BEACH: My three sons, when they were  
11 growing up, I let my wife discipline them. I just,  
12 you know, I just had to look at them, and that was  
13 enough for them. But my granddaughters, they --  
14 it's like she said, they're different kids; and  
15 they, you know, they react different.

16 So I never really spank my granddaughters.  
17 I mean, they're like, you know, everything to me.  
18 So I will give them a timeout. That's the most they  
19 get. Maybe take a toy from them, but that's it.

20 MS. RINETTI: And Mr. Hernandez --  
21 Fernandez, not "Hernandez."

22 MR. FERNANDEZ: Yeah.

23 MS. RINETTI: Badge No. 176, and you  
24 mentioned you have a couple of children.

25 How do you discipline your children?

1 MR. FERNANDEZ: Yeah, nowadays, it's taking  
2 away the games, taking away the phones. I did grow  
3 up getting spanked myself. So I can't do that to my  
4 kids. I was a single dad for about four-and-a-half,  
5 almost five years. So it's just me and the kids, so.

6 MS. RINETTI: Busy?

7 MR. FERNANDEZ: Yeah, not anymore. I'm  
8 married. But back then, yeah. You can't just spank  
9 them, so.

10 MS. RINETTI: Now, let's see. Badge  
11 No. 218, Ms. Gai ther.

12 MS. GAI THER: "Gai ther."

13 MS. RINETTI: "Gai ther." I apol ogi ze.

14 MS. GAI THER: No probl em.

15 MS. RINETTI: Do you have chil dren?

16 MS. GAI THER: Yes.

17 MS. RINETTI: And how would you di sci pline  
18 your chil dren?

19 MS. GAI THER: Well, I lived with my  
20 grandmother when I had my children, and I'm from the  
21 old school. So my grandmother helped me di sci pline  
22 them by making them stay in their room and not  
23 watching TV. Different things like that. Not going  
24 outside.

25 MS. RINETTI: Let's see. I'll pick on

1 someone at the bottom row too. It's not fair.

2 Let's see. Ms. Kinsley.

3 MS. KINSEY: "Kinsey."

4 MS. RINETTI: "Kinsey." Badge No. 204.

5 How about you?

6 MS. KINSEY: They must have got timeout or  
7 had to go to their room. Toys were taken away and  
8 things like that.

9 MS. RINETTI: Thank you so much.

10 All right. Now, I know Mr. Hicks, who's no  
11 longer with us, had some church affiliation. I  
12 think he was working on his theology degree.

13 The next question is kind of designed for  
14 those who may have a difficult time sitting in  
15 judgment of their fellow man, and this is what I  
16 mean by that. If selected as a juror, you're going  
17 to go back into the deliberation room and decide  
18 ultimately whether the State of Nevada has proven  
19 the defendant guilty beyond a reasonable doubt.

20 And some people, for some type of moral  
21 reason or other type of reason, cannot sit in  
22 judgment of their fellow man, saying they can't  
23 render that ultimate decision because it's not  
24 something that they should be doing, whether it's  
25 their religious beliefs, moral beliefs, or whatnot.

1 Does anyone take issue with the fact that,  
2 if selected as a juror, going back into that  
3 deliberation room and ultimately deliberating and  
4 trying to come up with a decision?

5 Yes, ma'am. Again, I keep --

6 MS. JOHNI GAN: Badge 137.

7 MS. RINETTI: Thank you, ma'am. And can I  
8 ask you what you take issue with.

9 MS. JOHNI GAN: Well, I feel that I'm not  
10 emotionally able to do that because of what happened  
11 with my son, and I feel like I would be judging  
12 someone wrong, to try to judge.

13 I'm still hurting over what happened with  
14 my son. And I feel very uncomfortable even being in  
15 here, like, when I saw the jury notice come in the  
16 mail again, it's like "not court again." I was here  
17 with one son about 15 times; and then my oldest son,  
18 during that same time, got hit and killed on  
19 Las Vegas on his way to work.

20 And it's like it was just so much court  
21 going on at one time, and then the jury notice come  
22 in the mail, and I thought everything was over for  
23 awhile, and then it's like here it go again, more  
24 court. And I don't feel I could put a judgment,  
25 place a judgment on a case.

1 MS. RINETTI: I appreciate your honesty and  
2 apologize for everything you've gone through.

3 Anybody else?

4 All right. May I approach, Judge.

5 (Bench conference.)

6 THE COURT: At this time, we are going to  
7 go ahead and excuse two of the panel, and then we  
8 will ask the next two seated to take their place  
9 before we proceed with further inquiry by the State  
10 and/or inquiry by defense counsel.

11 Excused, at this time, are Jurors 1 and 7,  
12 Ms. Johnigan; and Juror 223, Ms. Lauren.

13 Thank you for your service. Please see the  
14 marshal on the way out.

15 Elvis, we have the badges to collect from  
16 Ms. Johnigan and Ms. Lauren.

17 THE MARSHAL: Yes.

18 THE COURT: Thank you. Hold on a second.

19 No, you guys go. Somebody raised their  
20 hand, and I want to let you exit before I --

21 MR. FERNANDEZ: I just need to use the  
22 restroom. I'm sorry.

23 THE COURT: We can take a brief recess,  
24 restroom break as well, before we bring the other  
25 folks forward and ask them to fill us in on who they



1 are and then get to the next set of questions.

2 Let me remind you, again, as we conclude  
3 this process today, we might go a little bit into  
4 the 5:00 o'clock hour but hopefully not too much.  
5 We will see how we proceed because we want to give  
6 everybody a fair chance to be a part of. But please  
7 do return here promptly. Let's just take a quick  
8 bathroom break, five minutes at the most.

9 During this recess, you are admonished not  
10 to talk or converse among yourselves --

11 Okay. Counsel, don't stand up when I'm  
12 trying to read the admonishment so that everybody  
13 else stands up at the same time, please. Bear with  
14 me two seconds.

15 I know you've got to go, but I still have  
16 to -- and I want to read this because it's that  
17 important not to talk or converse among yourselves  
18 or with anyone else on any subject connected with  
19 this trial or to read, watch, or listen to any  
20 report of or commentary on the trial on any person  
21 connected with the trial by any medium of  
22 information including, without limitation,  
23 newspapers, television, radio or Internet -- no  
24 social media interaction of any kind -- or form or  
25 express any opinion on any subject connected with

1 the trial until the case is finally submitted to  
2 you. See you back in about five minutes.

3 (Pause in the proceedings.)

4 THE COURT: In all candor, Mr. Evenson,  
5 obviously you have to have whatever time you need to  
6 inquire of the panel, but how long do you typically  
7 take? I'm not going to artificially limit you. I'm  
8 just trying to get a handle on --

9 MR. EVENSON: No, I understand that, Judge.  
10 I don't know how long she's had. I think she's had  
11 at least 45 minutes.

12 THE COURT: I don't do it that way.

13 MR. EVENSON: I know.

14 THE COURT: A lot of times the defense  
15 takes a lot less than the State because the State  
16 covers so much ground. Whatever time you need, you  
17 can have it. I just want to have an idea of what  
18 that might be. I'm not artificially truncating you.  
19 I'm not saying that you can't --

20 MR. EVENSON: Well, what I don't want to  
21 hear --

22 THE COURT: -- have what they have.

23 MR. EVENSON: All right.

24 THE COURT: I'm just, you know, trying to  
25 understand.

1 MR. EVENSON: Yeah. Okay.

2 THE COURT: She covered a lot of ground  
3 that might be ground that you would already cover.

4 But what do you think you need?

5 MR. EVENSON: We're at 4:30. Judge, I  
6 would anticipate I could be done by 5:15, 5:30, if  
7 she's concluded. But I got no indication she was  
8 done.

9 THE COURT: She said at the bench --

10 MR. EVENSON: Oh, are you done?

11 THE COURT: -- that she would quickly.

12 MR. EVENSON: At the bench? Okay, okay.

13 THE COURT: And we'll have obviously the  
14 next two --

15 MR. EVENSON: We've got to do the two.  
16 You're right.

17 THE COURT: -- in line will come up, and  
18 they'll say and we'll see if they have anything that  
19 they want to add on. Ms. Rinetti, if she has  
20 anything she wants to ask, and then you can get  
21 started.

22 MR. EVENSON: Fair enough. Thank you,  
23 Your Honor. I'm sorry.

24 THE COURT: All right. No problem.

25 MR. EVENSON: Who are the next two,

1 Madam Clerk, just for clarity?

2 THE CLERK: Seat No. 11 will be filled by  
3 Badge No. 263, Christopher Houchins; and Seat 22  
4 will be filled by Alba Garay, Badge No. 264.

5 (Pause in the proceedings.)

6 THE COURT: I invite everyone else to have  
7 a seat. We do have two empty seats we need to fill.  
8 One is in the second row towards the right.

9 And the next person in the panel to come  
10 forward.

11 THE CLERK: Badge 263, Christopher  
12 Houchins.

13 THE COURT: And the other vacancy was in  
14 the front row, towards the middle.

15 THE CLERK: Badge No. 264, Alba Garay.

16 THE COURT: All right. Can we start with  
17 Mr. Houchins, please. Just so we can get to know  
18 you a little bit better, can you go through the  
19 questions on -- oh, is it not up on the board, or is  
20 it back in front --

21 MS. RINETTI: It's back in front of them.

22 MR. HOUCHINS: Christopher Houchins, 263.  
23 I am a current teacher of the Clark County School  
24 District. I teach kindergarten. It's my fifth year  
25 teaching. I have a Bachelor's degree I got from

1 Kent State University in Ohio, over five years ago.  
2 I moved here five years ago.

3 I am married to Jessica Perney (phonetic)  
4 is her maiden. Jessica Houchins is her name now,  
5 and we have two little boys together. They're my  
6 stepsons, and we share custody with her ex-husband,  
7 and they're not old enough to work. I've lived here  
8 for five years, a little less than five years, and  
9 I've never been a juror before.

10 THE COURT: All right. And you heard some  
11 of the questions I have. So let me run through  
12 those again quickly. Any connections to law  
13 enforcement, criminal justice system?

14 You, yourself, a family member, or a close  
15 friend ever been accused of a crime, victims of  
16 crime? Anything like that that we would need to  
17 know about that you heard people discussing?

18 MR. HOUCHINS: No.

19 THE COURT: All right. And then what about  
20 the questions -- I'm going to still give Ms. Rinetti  
21 an opportunity to speak with you and Ms. Garay, if  
22 she has any followup questions.

23 But anything that you heard questioning  
24 about in terms of the circumstances that might be  
25 relevant to your ability to serve in this case that

1 you would want to bring to our attention?

2 We know you work with children.

3 MR. HOUCHINS: Yeah, working with children  
4 is very close to me. Child abuse is a really touchy  
5 issue for me obviously because a lot of the students  
6 I work with, I've had to talk to CPS before. A lot  
7 of my colleagues, more so they've had more cases to  
8 talk to CPS. So it's definitely an issue that I do  
9 have a problem with.

10 THE COURT: Uh-huh. Understood. And I  
11 guess the question, of course, we want to know would  
12 be are you going to prejudge anything in this case?

13 The point of any criminal case, of course,  
14 is that the parties start out with, you know,  
15 presenting evidence to the jurors with no, hopefully,  
16 preconceived outcome, ideas; and then it's the  
17 State's burden, as we've discussed, to present the  
18 evidence that would, if it can, show the guilt of  
19 the defendant beyond a reasonable doubt.

20 The defendant is, of course, innocent  
21 unless that burden is met, and that the evidence  
22 would have to be looked at and weighed and  
23 deliberated upon by you and your fellow jurors.

24 Do you believe that you can receive that  
25 evidence and weigh that evidence fairly and

1 impartially?

2 MR. HOUCHINS: I will definitely try my  
3 best.

4 THE COURT: And, you know, and, again, like  
5 we said, we're not looking for guarantees because  
6 the last thing that we would want would be someone  
7 who would say, "Oh, yeah," definitively yes and  
8 then, you know, it turned out to be otherwise.

9 But when you say you will do your best, is  
10 it -- I guess what we're trying to understand, has  
11 there been a situation in the past that somehow you  
12 would try to address that situation in this case?

13 MR. HOUCHINS: No. I wouldn't --

14 THE COURT: Do you see what I'm saying?

15 MR. HOUCHINS: Yes. I wouldn't apply those  
16 situations to this situation.

17 THE COURT: Fair enough. Ms. Rinetti may  
18 have some followup questions.

19 Ms. Garay, can you give us -- am I  
20 pronouncing your name correctly?

21 MR. GARAY: Yes.

22 THE COURT: I hope so. Can you give us  
23 your background information first.

24 MS. GARAY: Yes. My name is Alba Garay,  
25 and I work at Excalibur Hotel, at the front desk.

1 And I'm married. My husband is Daniel Garay. And I  
2 have three children, two in high school. One is  
3 working in a warehouse. I been in Las Vegas for  
4 28 years, and I never been a jury before.

5 THE COURT: Okay. Any connection, you,  
6 yourself, family member, close friends, to anybody  
7 working in law enforcement? Court system? Judicial  
8 system? Anything like that?

9 MS. GARAY: No.

10 THE COURT: All right. Anybody having any  
11 interactions with law enforcement either because of  
12 being accused of a crime or victims of crime?

13 Anything like that?

14 MS. GARAY: No.

15 THE COURT: All right. Any situations  
16 where you worked closely with children, either as a  
17 volunteer or through work or, again, those kinds of  
18 connections that you might have heard the other  
19 people talking about?

20 MS. GARAY: No.

21 THE COURT: Okay. At this time, I'm just  
22 going to ask Ms. Rinetti, do you have some follow-up  
23 questions you would like to ask of these folks?

24 MS. RINETTI: No, I do not.

25 THE COURT: All right. Thank you.



1           Then, Mr. Evenson, are you ready to inquire  
2 of the panel?

3           MR. EVENSON: I am, Your Honor. Thank you.

4           THE COURT: Thank you.

5           MR. EVENSON: I know it took a second  
6 before we get the Elmo off.

7           Can we get the Elmo off.

8           THE COURT: Sure. Yes. We're going to do  
9 it again. I'll have my marshal do it. I think he's  
10 just, you know --

11          MR. EVENSON: Sorry.

12          THE COURT: -- shutting the whole shooting  
13 match down, but we'll let you know. Looks like it's  
14 down now.

15          MR. EVENSON: I appreciate that.

16          THE COURT: Okay. Thank you.

17          MR. EVENSON: Folks, I appreciate all of  
18 your attention and all of the thoughtful answers  
19 that we are receiving from all of you because this  
20 case is a truly important case. It's obviously a  
21 truly important case for the State because of the  
22 two quality attorneys that they've sent here today  
23 to prosecute this case. It's also a very important  
24 case to Ms. Nash because of what she is facing here.  
25 Now, you all have been asked a lot of questions

1 about special needs children and about those kind of  
2 things.

3 Do any of you, right now, know the age of  
4 the child involved in this case?

5 Do any of you right now know what the  
6 allegations of abuse are?

7 Do any of you right now know what she is  
8 alleged to have done to this child to bring her into  
9 court today?

10 Do any of you know the age of that child  
11 today?

12 Had any of you, before I asked you those  
13 questions, already made up your minds or had  
14 thoughts running through your heads?

15 You know, those hamsters go. With my ADHD,  
16 I got eight hamsters going about eight different  
17 directions. Sir.

18 MR. CARTWRIGHT: I thought I heard  
19 "strangulation" in the opening comments.

20 MR. EVENSON: Fair enough. That is an  
21 opening comment. That is an allegation. Let me  
22 follow-up that question with -- that is a charge.  
23 It's here. I'm not denying that. But child  
24 abuse -- but let me ask you this question:

25 Do you know, as you sit here today, what

1 the legal definition of "strangulation" is in  
2 Nevada?

3 MR. CARTWRIGHT: (No audible response.)

4 MR. EVENSON: So if those hamsters are  
5 going and hearing those terms and you're already  
6 assuming some things, do you follow how you may not  
7 be as fair as you stated?

8 I just want people that listen.

9 Are all of you today, as you're sitting  
10 here, these 24, are each and every one of you  
11 committed to hearing the exact allegations in this  
12 Information?

13 And are you all committed to hearing what's  
14 actually in here?

15 And are all of you committed to actually  
16 listening to what the people that are going to sit  
17 in that box are going to say? Are all of you  
18 committed to doing that too?

19 And then -- and I may do this generally  
20 more than once because I always say "the person in  
21 the black robe," but --

22 THE COURT: I have one hanging back there,  
23 and I don't have to wear it. So I wear the green  
24 one instead.

25 MR. EVENSON: Okay. But the person in the

1 green robe will then, at the end of this case, go  
2 through a long series of jury instructions.

3 And if there was a point where I was  
4 concerned about that gentleman nodding off during  
5 the case, it would have been during jury  
6 instructions because she basically reads for a half  
7 an hour.

8 Do each and every one of you promise to  
9 take the evidence that is presented and then apply  
10 it to the law that the judge gives you?

11 Do each and every one of you promise to do  
12 that, to the best of your ability? With all the  
13 questions about fairness and with all the questions  
14 about listening. Because it was very, very  
15 interesting, and I believe it was -- and I'll  
16 butcher names all over the place. I believe it was  
17 Mr. Long earlier who said that he was forced a  
18 couple of times to turn in people for suspected  
19 child abuse.

20 Is there anybody here who believes that  
21 because he picked up the phone and called somebody  
22 in for what he suspected or what one of his kids  
23 told him, that whoever committed that act was guilty  
24 the moment he picked up the phone?

25 Does anybody here believe that? Anybody?

1           Is there anybody here who believes today  
2 just because the State has filed all these charges  
3 against her, that she's guilty as she's sitting  
4 there right now? Anybody?

5           That's what this case is about, your  
6 ability to be fair and to listen to everything. And  
7 do each and every one of you, as I go through this,  
8 maintain, after hearing what I've said, that you  
9 have that ability?

10           And do each one of you promise to exercise  
11 your individual knowledge and judgment and reason  
12 and understanding and background before you get to a  
13 conclusion? Each and every one of you?

14           THE COURT: And, Mr. Evenson, just to be  
15 clear, that long list of instructions I'm going to  
16 read is going to instruct you how to do that and how  
17 you want to do that. There's still the ability to  
18 bring your common sense as reasonable men and women.  
19 You will deliberate with your fellow jurors, but  
20 there is instruction with regard to how to do so  
21 individually and collectively.

22           So we will address that in the instructions  
23 as well, just so that there's no confusion. And  
24 each juror will have a copy set of the instructions  
25 when they go to deliberate. So it's not a memory

1 contest about that. Okay? Just to make that clear.

2 MR. EVENSON: Very true. And thank you,  
3 Your Honor. I appreciate that clarification.

4 You know, one of the things that was talked  
5 about also is everybody's perceptions and  
6 relationships and stuff with law enforcement and CPS  
7 workers. We had one lady here who wasn't real fond  
8 of what happened with CPS in a 16-year custody  
9 battle. I do divorce work. That's the new track  
10 record I have. 16 years is a long time. I really  
11 felt that.

12 But when you put people on the stand and  
13 they start talking, one of your jobs is to sit there  
14 and say: "Does that make sense?"

15 Can you all do that?

16 This case occurred -- the facts of this  
17 case that you're going to be hearing testimony about  
18 occurred three years ago.

19 Do you agree that people's memories and  
20 perceptions can be influenced and things done and  
21 take over in three years?

22 Do you promise to evaluate that when you  
23 hear those facts as well?

24 And if a law enforcement officer -- some of  
25 you have law enforcement experience. Some of you, I

1 believe -- how many of you on this panel have been  
2 post certified?

3 And if you have been, you're going to know  
4 what that is or a certified law enforcement officer.  
5 We have a revenue officer here, don't we? Oh, she  
6 was the one who was excused. So she wasn't post  
7 certified, but she carried a badge. They teach  
8 officers -- Mr. Long has had the training to write  
9 reports, do reports, understand what you put in the  
10 reports. He can't bring that experience to you.

11 But do you understand that if they're asked  
12 questions about that and I or the State brings up  
13 what they did and didn't do, you're entitled to  
14 evaluate their work?

15 Do you understand that?

16 In essence, jurors, a lot of times, get  
17 to --

18 MS. RINETTI: Judge, can we approach.  
19 Apologize for interrupting.

20 THE COURT: Sure.

21 (Bench conference.)

22 THE COURT: Thank you. You may proceed,  
23 Mr. Evenson.

24 MR. EVENSON: Thank you.

25 So you will hear evidence about officers

1 and their report writing and everything else, and  
2 the judge will give you instructions and you'll  
3 promise to evaluate that when deciding the weight of  
4 their testimony; right?

5 You heard a series of doctors' names that  
6 are going to testify. You get to do the same thing  
7 with them and under the same instructions.

8 Do you all understand that and promise to  
9 do that? Everybody?

10 I know that a number of you are coaches and  
11 a number of you do a lot of activities with kids.

12 Is there anybody here who feels that a  
13 child -- that corporal punishment should never be  
14 used under any circumstances ever by anybody?

15 Is there anybody who feels that way?

16 If you can't raise your hand, it's fine.  
17 That's a valid belief.

18 Is there anybody here who -- we heard a lot  
19 of questions asked about different punishments for a  
20 child. Is there anybody who's going to take that  
21 personal judgment and apply it to the law that this  
22 judge is going to give you?

23 Do you follow what I'm saying?

24 I guess the best way to put that is, do you  
25 promise to let the law control and not your personal



1 beliefs?

2 MS. RINETTI: Judge, we're going to --

3 THE COURT: I understand, Ms. Rinetti.

4 So, again, Mr. Evenson, I would like you  
5 to, as you proceed, think about if you have any  
6 specific questions of the jurors to followup.

7 MR. EVENSON: Okay, okay.

8 THE COURT: But to do that again, let me  
9 just remind the jurors again what I said a moment  
10 ago: The law that will apply to this case and the  
11 way in which you will carry out your duties to  
12 deliberate will be included in the instructions that  
13 the Court gives you.

14 And while I don't quibble with generalized  
15 questions to understand, to some degree, the judge  
16 saying you have certain duties, understand that you  
17 will be instructed on how to do that, and I don't  
18 want there to be any confusion based on these  
19 questions about how that will take place.

20 Your job as jurors is to find the facts  
21 from the evidence that's presented in this trial,  
22 and not from any other source, and then to apply the  
23 law, as I give it to you in the instructions, to  
24 deliberate with your fellow jurors to reach a fair  
25 and impartial verdict. That's how this will

1 proceed.

2 Mr. Evenson, if you have questions  
3 specifically to --

4 MR. EVENSON: Individualized, I do.

5 THE COURT: Well, whether they're  
6 individualized or group, but if they're questions --

7 MR. EVENSON: Thank you.

8 THE COURT: -- that actually will go to  
9 questions relevant to their service as opposed to  
10 sort of how they might carry out their duties at the  
11 end of the trial.

12 MR. EVENSON: Understood. Just one moment,  
13 Judge.

14 THE COURT: Take your time.

15 MR. EVENSON: It is funny how you come up  
16 with so many questions and you get up here and get  
17 nervous and kind of forget.

18 I want to go back to the law enforcement  
19 questions. There were a number of folks that had --  
20 somebody has a wife that's a time --

21 That's you, sir; right? Correct?

22 MR. BEACH: (No audible response.)

23 MR. EVENSON: You may have to come out here  
24 at the end of this and issue a not guilty verdict  
25 against the State. Is that something you'd be

1       afraid to go home and tell the missus?

2               THE COURT:   And I just need, for the  
3       record, before Mr. Beach answers, that if you can  
4       assist us, Mr. Evenson, or if you can understand --

5               MR. EVENSON:   I'm sorry.

6               THE COURT:   -- we need the name of the  
7       witness, the juror, juror badge number. This is  
8       Mr. Beach, 119.

9               MR. EVENSON:   119.

10              THE COURT:   Mr. Beach, you can answer the  
11      question.

12              MR. EVENSON:   Sorry. Thank you. That is  
13      something that I haven't had to do in a jury trial  
14      before. So it's my mistake. Sorry.

15              MR. BEACH:    No, I wouldn't have issues with  
16      the wife. I wouldn't have a problem if she wouldn't  
17      have a problem.

18              MR. EVENSON:   As long as you do your best  
19      and --

20              MR. BEACH:    Correct. Do it right.

21              MR. EVENSON:   Okay. We had some people,  
22      best friends. Anybody like that?

23              I saw some family members, close family  
24      friends, those kinds of things. Is there anybody  
25      else who would say, "Hey, I'd be afraid to face

1       them. I don't want to do that because of that"?

2       Anybody?

3               Ms. Valdez, I just wanted to explore one  
4       thing with you because -- and I know that you were  
5       kind of on the hot seat a lot, and I'm not trying to  
6       put you on there again -- but you had a very  
7       relevant experience for everybody here, and that was  
8       discomfort that you had being under the gun.

9               I didn't quite understand what proceeding  
10       you were in. You said it was somebody suing  
11       somebody for damages. But you then said it was kind  
12       of maybe a criminal case. Was it a Temporary  
13       Protective Order?

14              Do you recall exactly what the --

15              MS. DIOKNO-VALDEZ: I'm not sure if it was  
16       a criminal or a civil case. I was in room similar  
17       to this with no jury. There was a judge.

18              MR. EVENSON: Was it in this building?

19              MS. DIOKNO-VALDEZ: Yes.

20              MR. EVENSON: Okay. And was the person  
21       being prosecuted by the county District Attorneys  
22       Office or by the city of Las Vegas attorney?

23              MS. DIOKNO-VALDEZ: I'm not entirely sure.  
24       I was a witness for a domestic battery case.

25              MR. EVENSON: Okay, okay. So that sounds

1 like it was a criminal case. Okay. Very good.

2 Is there anything about that proceeding  
3 that makes you not want to be here today more than,  
4 you know, the normal thing of "I'm in a courtroom  
5 and that's not necessarily what I wanted"?

6 MS. DI OKNO-VALDEZ: Not necessarily. It's  
7 just the questions or the question that we got from  
8 the plaintiff or the discussions that we had here  
9 brought up emotions. So when the judge had asked if  
10 there was anyone who has been a part of this  
11 procedure, then that kind of came up.

12 MR. EVENSON: Understood, understood.

13 Do each one of you recognize that -- and do  
14 you recognize, Ms. Valdez, that any verdict you  
15 enter is not necessarily based on questions that  
16 they ask or that I ask but what evidence is given?

17 MS. DI OKNO-VALDEZ: (No audible response.)

18 MR. EVENSON: Do you promise to go by that?

19 MS. DI OKNO-VALDEZ: Yes.

20 MR. EVENSON: Mr. Powell, if I can, you  
21 seem to have a lot of law enforcement connections.  
22 You're a security supervisor, I think?

23 MR. POWELL: Surveillance.

24 MR. EVENSON: Surveillance supervisors.  
25 Your job, I'm gathering, is to catch the cheaters?

1 MR. POWELL: Yes.

2 MR. EVENSON: Right? And then I imagine  
3 when you catch them, you turn them in?

4 MR. POWELL: Yes.

5 MR. EVENSON: And then that means you work  
6 really closely with law enforcement.

7 MR. POWELL: Yes.

8 MR. EVENSON: So it's possible that, at  
9 some point, you may have worked with a few of these  
10 officers that are going to come in today. You may  
11 not remember them by face, but you might remember  
12 them -- just by name I mean, but you might remember  
13 them by face or by build or voice or any number of  
14 things; right?

15 MR. POWELL: Yes.

16 MR. EVENSON: Okay. Are you able to do  
17 what I was inquiring of -- and to be clear, this is  
18 Eric Powell, and I've got to get the --

19 THE COURT: 090.

20 MR. EVENSON: 090. Thank you.

21 Are you going to be able, if necessary, to  
22 come back and return that not guilty verdict if  
23 that's what the evidence and the law indicates?

24 MR. POWELL: Yeah. It's my job.

25 Everything I do is based on facts. I can't have an

1 opinion of what I think should happen. It has to be  
2 based off the evidence.

3 MR. EVENSON: And you all -- do you  
4 understand the concept that merely because she's  
5 here today, she's not guilty; right?

6 MR. POWELL: Yes.

7 MR. EVENSON: And that's the same when you  
8 call them and they have somebody picked up, they're  
9 not guilty until they're in a courtroom like this or  
10 a courtroom where your next-door neighbor was, so to  
11 speak.

12 MR. POWELL: Correct.

13 MR. EVENSON: Okay. And you agree with all  
14 that?

15 MR. POWELL: Yes.

16 MR. EVENSON: You can go through and do  
17 that today?

18 MR. POWELL: I can.

19 MR. EVENSON: Just one second, Judge.

20 THE COURT: Sure.

21 MR. EVENSON: I had a Motocross guy. Is  
22 that you, sir?

23 MR. FERNANDEZ: BMX?

24 MR. EVENSON: BMX, bicycle Motocross;  
25 right?

1 MR. FERNANDEZ: Well, I do Motocross  
2 mostly.

3 MR. EVENSON: You do the actual motorbikes?  
4 Is that what that is?

5 MR. FERNANDEZ: Yeah.

6 MR. EVENSON: Okay. Is there any -- I  
7 guess the best question to ask is how old is your  
8 son that does this?

9 MR. FERNANDEZ: 16.

10 MR. EVENSON: 16. So he is an older kid;  
11 right?

12 MR. FERNANDEZ: Yeah.

13 MR. EVENSON: Is it fair to say that you  
14 handle your son differently at 16 than you did when  
15 he was five?

16 MR. FERNANDEZ: Absolutely, yeah.

17 MR. EVENSON: And if he does things  
18 repeatedly or he doesn't listen -- oh, wait a  
19 second. He's a teenager. So we can presume he  
20 doesn't listen. Is that approach different?

21 How do you handle that different?

22 MR. FERNANDEZ: That's just part of growing  
23 up. All the kids are growing up, and I definitely  
24 speak to him differently.

25 MR. EVENSON: Might he give you some harsh



1 language?

2 MR. FERNANDEZ: Yeah, at this point, a  
3 little differently.

4 MR. EVENSON: Might be a little louder?

5 MR. FERNANDEZ: Oh, yeah.

6 MR. EVENSON: Might be saying some words  
7 that aren't too --

8 MR. FERNANDEZ: They've heard a lot of  
9 language that's not supposed to be heard.

10 MR. EVENSON: I raised modified versions of  
11 that. I understand. But you used different  
12 language, and you might even cuss at the boy now and  
13 then; right?

14 MR. FERNANDEZ: It comes out occasionally,  
15 yes.

16 MR. EVENSON: Okay. Is there anything  
17 about your experience with your own son or anything  
18 else that makes you not want to be here today?

19 You think you can be fair?

20 MR. FERNANDEZ: To a point, yes. I can be  
21 fair, but --

22 MR. EVENSON: What's that point?

23 What is it that you've heard so far that's  
24 makes you answer that way?

25 That's a great one. That's a great answer.

1 It's an honest answer.

2 MR. FERNANDEZ: Because we're here, there's  
3 got to be a little bit of truth in what you're  
4 accused of.

5 MR. EVENSON: Okay. That's a fair honest  
6 answer, and that is exactly why we go through this  
7 process. So let me ask it this way: When you say  
8 that there's a little here, do you understand -- and  
9 you'll get a jury instruction from the judge --  
10 about what the definition of "reasonable doubt" is;  
11 right?

12 MR. FERNANDEZ: Yeah.

13 MR. EVENSON: And do you promise to apply  
14 that definition rather than your "little bit"?

15 Do you follow what I'm saying?

16 MR. FERNANDEZ: I do, I do.

17 Yeah, I still feel there's always some  
18 truth. If you're accused or, you know, accused of  
19 anything, of a crime, of something, maybe you're  
20 inadvertently not 100 percent, but if you were there  
21 or maybe you had some kind of part in that action.

22 MR. EVENSON: Well, let me --

23 THE COURT: Let me do this, Mr. Evenson,  
24 before we proceed.

25 MR. EVENSON: Go ahead.

1           THE COURT: And then you can it pick up, as  
2 needed --

3           MR. EVENSON: Sure.

4           THE COURT: -- where we left off.

5           So we've already indicated that there's a  
6 charging document. Somebody is here because they've  
7 been charged, and they've been charged because the  
8 State has met a probable cause finding to do the  
9 charge. There's nobody that's disputing that.

10          That's not the same standard that needs to  
11 be employed to find a person guilty beyond a  
12 reasonable doubt. That's why there's a trial. So,  
13 you know, you're not necessarily describing  
14 something that's not appropriate to be thinking in  
15 terms of somebody's here; they've been charged.  
16 There's been a probable cause finding to get to this  
17 point.

18          The question is when the instructions come  
19 to tell you what "beyond a reasonable doubt" is,  
20 will you receive the evidence and sit down with your  
21 fellow jurors and deliberate fairly and hold the  
22 State to their burden, which is to prove the guilt  
23 of the charge beyond a reasonable doubt?

24          It's the State's burden to prove the  
25 elements of the charge and to show that the

1 individual is guilty of the charge, and that's what  
2 the jury is to do.

3 So will you be able to do that?

4 MR. FERNANDEZ: I think I can, yes.

5 THE COURT: Mr. Evenson, do you have any  
6 other followup questions in that regard?

7 MR. EVENSON: Just -- just -- just along  
8 those lines, Judge, I want to ask you, before I ask  
9 this question.

10 THE COURT: Okay.

11 MR. EVENSON: If that's okay, Counsel?

12 (Bench conference.)

13 THE COURT: Appreciate the opportunity,  
14 Mr. Evenson, to clarify, and you may proceed.

15 MR. EVENSON: Thank you, Your Honor.

16 If you were sitting where Ms. Nash was,  
17 would you want you sitting where you are?

18 MR. FERNANDEZ: Pretty difficult question.  
19 I wouldn't want to be in her position, no.

20 MR. EVENSON: Okay. That is a fair, very  
21 fair answer. I am sure that Mrs. Valdez's friend  
22 didn't want to be in the position she was in when  
23 she had to take the stand and testify on her behalf.

24 Do you follow where that goes? Just  
25 because you're sitting there doesn't mean you're

1 guilty. That's the point of the question. So, you  
2 know, you didn't -- and by the way, by saying you  
3 didn't want to be there doesn't answer the question.  
4 Whether or not she would want you there either.

5 MR. FERNANDEZ: No.

6 MR. EVENSON: You wouldn't want you sitting  
7 in that chair?

8 MR. FERNANDEZ: No.

9 MR. EVENSON: Is there anybody else that  
10 wants to raise their hand and say they agree with  
11 this man?

12 It's okay if you do. We need honest  
13 answers because we have to make sure that, at the  
14 end, the results are going to be based on the law  
15 and the facts.

16 Your Honor, I have no further questions for  
17 the panel at this time.

18 THE COURT: All right.

19 MR. EVENSON: And I know that we want to  
20 (indicating).

21 THE COURT: You need to approach?

22 MR. EVENSON: Yes.

23 (Bench conference.)

24 THE COURT: Go ahead, Mr. Evenson, review  
25 your notes to see if you have any other further

1 questions.

2 MR. EVENSON: Is there anybody on this  
3 panel -- and sorry for the generalities again, but I  
4 want to be clear before I sit down -- is there  
5 anybody on the panel that thinks any witness should  
6 behave in a certain way?

7 I mean, we heard about a child behaving a  
8 certain way. Is there anybody who believes that any  
9 witness should behave in a certain way; or can they  
10 all be, anybody, you all agree that they can all be  
11 motivated by whatever it is and do whatever they do  
12 and say whatever they say and be reasonable in that?

13 All right. Folks, I appreciate your time.  
14 Thank you very much.

15 THE COURT: Thank you.

16 All right. Ladies and gentlemen who are  
17 seated here in the box, we have now qualified the  
18 24 jurors who may potentially serve in this panel.

19 That means for those of you seated in the  
20 back of the room, we no longer need your services.  
21 You are excused. Just give us one second to let the  
22 marshal make his way over there so you turn your  
23 badges in to him. But thank you for your service.  
24 You are excused. Have a nice afternoon or evening,  
25 what's left of it.

1           You are excused.

2           And, Mr. Evenson, since you're standing,  
3 can you come on up and get the list to pass between  
4 counsel, and we'll get you started for the final  
5 selection process.

6           MR. EVENSON: Okay.

7           THE COURT: It's ready to go. Give it to  
8 Ms. Rinetti and Mr. Villani, and I've got some  
9 instructions I'll go over with the --

10          Counsel, can you give it to the State,  
11 please.

12          MR. EVENSON: Oh. They start?

13          THE COURT: Correct. Thank you. Ask you  
14 to give it to Mr. Villani and Ms. Rinetti.

15          MR. EVENSON: Sorry.

16          THE COURT: Thank you. And then they'll  
17 pass it back to you when they're ready.

18          MR. EVENSON: Okay.

19          THE COURT: We're now in the final  
20 selection process to determine, of the 24 of you,  
21 which 14 will serve. And before we get to that  
22 process, the counsel will make their final  
23 selections, and I just have some instructions I want  
24 to go over with you.

25          Now, if you're going to serve on the panel,

1 these instructions obviously will be relevant. If  
2 you're not, then they won't. But hopefully it  
3 makes -- helps the time pass a little bit more  
4 quickly while we're waiting for that final process.

5 We touched upon the issue of the fact that  
6 the person that you can communicate amongst the  
7 court staff, there is only one person, and that is  
8 the marshal, Elvis Easley. So I want to keep that  
9 in mind. There is, again, during the course of the  
10 trial, you've got the attorneys; you've got parties;  
11 you've got witnesses; you've got court personnel.  
12 Other than the marshal, none of these folks are able  
13 to engage in any conversation with you.

14 And we ask that you do us a favor and not  
15 engage in conversation with us because that will not  
16 put us in the awkward spot of having to avert our  
17 eyes and walk away and ignore you and seem to be  
18 unfriendly, and we will do our best not to engage  
19 with you. These are just ethical obligations that  
20 we all have, to avoid any appearance of potential  
21 impropriety.

22 And of course, if you can imagine, let me  
23 give you example: So you're coming in tomorrow from  
24 the garage. I'm on my way to lunch. We see each  
25 other. We have a very innocuous conversation about



1 the weather: "It's final cooling down, isn't that  
2 great?" That may mean nothing about this trial, but  
3 somebody across the street who has no idea what  
4 we're talking about but sees a judge talking to a  
5 juror, could have a belief that something was not  
6 appropriate.

7 That's why we cannot have any  
8 communications. We don't want to accidentally do  
9 anything to influence your verdict. We don't want  
10 to certainly intentionally do anything that would  
11 influence your verdict. So we can't have any  
12 communications. The only person you can talk to is  
13 the marshal. And just to be safe, because you don't  
14 know who might be out there in terms of their  
15 witnesses or otherwise. So the safest --

16 MS. RINETTI: Judge, can we approach really  
17 quickly?

18 THE COURT: Okay. Sure.

19 MS. RINETTI: Just to speed things up a  
20 bit.

21 THE COURT: No, that's fine.

22 (Bench conference.)

23 THE COURT: I think we are ready to  
24 proceed. Mr. Evenson, as he mentioned at the  
25 beginning of the process, he does not regularly

1 practice in the Eighth Judicial District Court. So  
2 some of the process that we are going through now is  
3 somewhat unfamiliar to him. I have explained to him  
4 the process, and we will proceed, but in the  
5 meantime all is well, and we will get to the final  
6 selection and be able to announce who is going to be  
7 remaining with us and who is not.

8 But, again, the last piece of the puzzle I  
9 was about to tell you, the safest people to talk to  
10 when you are here at the courthouse are people who  
11 are wearing juror badges just like yours because, as  
12 you know, they're under the same admonishment not to  
13 talk about the case or with anybody else related to  
14 the case that you are.

15 The badges that you have on now, if you're  
16 not staying with us for the rest of the trial,  
17 you'll turn those in to the marshal. If you are,  
18 you're going to get replacement badges that will  
19 identify you as a juror in this department. It will  
20 give you a seat number so that you will know exactly  
21 who you are and where you belong, and that will help  
22 you understand that.

23 We also indicated to you that there is a  
24 charging document in this case, and it is just that.  
25 It is a charging document. In this particular case,

1 the defendant was charged by way of Information.  
2 And, again, you should distinctly understand that  
3 that is simply the charge, that it is not, in any  
4 sense, evidence of the allegations it contains.

5 The defendant, of course, has pled not  
6 guilty to the charges. The State has the burden of  
7 proving each of the elements of each of the charges  
8 beyond a reasonable doubt. And as the defendant  
9 sits there now, she is, in fact, not guilty because  
10 she has not yet been proven or may not be proven to  
11 be guilty beyond a reasonable doubt. So that is  
12 very important to keep in mind that burden.

13 The purpose of this trial, of course, is to  
14 determine whether the State will meet their burden,  
15 and it is your primary responsibility as jurors to  
16 find and determine the facts. Under our system of  
17 criminal procedure, you are the sole judge of the  
18 facts. You are to determine the facts from the  
19 testimony you hear and the other evidence, including  
20 the exhibits introduced in court. It is up to you  
21 to determine the inferences which you feel may be  
22 properly drawn from the evidence.

23 At times, there may be objections made to  
24 the evidence, and if those objections are made, I  
25 will direct that you either -- I may sustain them or

1 I may overrule them. Anybody who's watched any law  
2 shows knows typically what that means.

3 If I sustain an objection or direct you to  
4 disregard evidence, then you are bound by that order  
5 from the Court to not consider that evidence. If I  
6 overrule the objection, the witness will answer  
7 and/or the evidence will come in, and you are  
8 entitled to give that just such weight as you think  
9 it is entitled.

10 Anything you may see or hear outside the  
11 courtroom is not evidence and must also be  
12 disregarded. That's regardless of what you see or  
13 hear or who says or does it. Whether it's a party,  
14 whether it's a counsel, whether it's a witness.  
15 Anything outside the courtroom is not evidence in  
16 this case, only what comes in through the witnesses  
17 in the witness stand and the evidence that gets  
18 admitted by counsel. So to be clear.

19 You must not be influenced, in any degree,  
20 by any personal feeling of sympathy for or prejudice  
21 against the State or the defendant. Both sides are  
22 entitled to the same fair and impartial  
23 consideration.

24 And in considering the weight and value of  
25 the testimony of any witness, you may take into

1 consideration the appearance, attitude, and behavior  
2 of the witness; the interest of the witness and the  
3 outcome of the case, if any; the relation of the  
4 witness or the defendant or the State; the  
5 inclination of the witness to speak truthfully or  
6 not; and the probability or improbability of the  
7 witness's statements and all of the facts and  
8 circumstances in evidence. Thus you may give the  
9 testimony of any witness just such weight and value  
10 as you believe the testimony of the witness is  
11 entitled to receive.

12           As far as evidence is concerned, there are  
13 two kinds of evidence: Direct and circumstantial.  
14 Direct evidence is, of course, testimony by a  
15 witness about what that witness personally saw or  
16 heard or did.

17           Circumstantial evidence is testimony or  
18 exhibits which are proof of a particular fact from  
19 which, if that fact is proven, you can infer the  
20 evidence or existence of a second fact.

21           You may consider both direct and  
22 circumstantial evidence in determining this case.  
23 The law permits you to give equal weight to both.  
24 But, again, it is for you, as the factfinders, to  
25 decide how much weight to give to any of the

1     evidence.

2             You will be given the opportunity to ask  
3     written questions of any of the witnesses. This is  
4     somewhat new process, but if you've ever served as  
5     jurors before recently, you would have engaged in  
6     it. But the way it works -- and it was based on a  
7     survey that was done some years ago as to what might  
8     enhance the juror's experience.

9             And so what will happen is after each  
10    witness has completed their questioning by the  
11    counsel, I will inquire of the jurors if they have a  
12    question for the witness. You will all have  
13    notepads and pens. That's to aid and assist you in  
14    taking whatever notes you need during the course of  
15    trial. It's also the piece of paper that you would  
16    use and tear it out, provide to the Court if you  
17    have a question or multiple questions to ask.

18            You are bound by the same requirements as  
19    the attorneys, and we appreciate you are not, I  
20    don't think any of you, are actually attorneys  
21    yourselves, but that's okay. We'll decide if the  
22    question is appropriate to be asked or whether or  
23    not it will be asked.

24            If it is asked, you're not to give it any  
25    greater weight just because the question or the

1 answer came from a juror; and if it is not asked,  
2 you are not to concern yourself with why it's not  
3 asked. It could be something as simple as you're  
4 asking a question that's going to come in through  
5 another witness later in the trial and this just  
6 isn't the right witness; or you may be asking a  
7 question that's inappropriate. We don't know, and  
8 you're not to concern yourselves with that.

9 But you will have that opportunity. I will  
10 ask you to be prepared for that. As you are  
11 listening to the testimony, if a question comes to  
12 mind and you think it's one that you want to ask,  
13 flip over to a blank piece of paper, write out the  
14 question so that you are ready to go when the Court  
15 calls on you, if you have that question.

16 Always include on any question your name  
17 and your badge number, and of course that will be  
18 the badge numbers 1 through 14 that you are assigned  
19 as jurors in the trial.

20 Again, to be reminded that the questions  
21 from the jurors are factual in nature, just like  
22 what the questions coming from the counsel will be,  
23 and they're designed to clarify information that has  
24 already been presented. We are not at liberty to  
25 enhance or add to any of the evidence. And as I

1     said, don't place any undue weight just because it's  
2     your question versus another question.

3             We will begin this trial with opening  
4     statements and testimony of witnesses tomorrow.  
5     When we return, those opening statements and the  
6     closing arguments that you will hear from counsel at  
7     the end of the case are intended to help you  
8     understand the evidence and apply the law to that  
9     evidence. But those opening statements are not  
10    evidence themselves. Again, the evidence is what  
11    will come in through the witnesses on the stand and  
12    the exhibits that are admitted.

13            Until this case is submitted to you, you  
14    are not to discuss it with anyone. And "anyone"  
15    means family members, friends, even your fellow and  
16    especially your fellow jurors because you are not  
17    supposed to discuss this until you fully have  
18    received the evidence and you can deliberate. And I  
19    hope that that would make sense.

20            We don't want you making up your mind  
21    because you heard some evidence. The State gets to  
22    go first because they carry the burden. The defense  
23    will then go second in their presentation. The  
24    State can have the final word. That's true in the  
25    closing arguments; that's true in the presentation



1 of the evidence.

2 And as was pointed out in the questioning  
3 of the counsel, the defense has zero burden. The  
4 entire burden of whether or not there's going to be  
5 a finding of guilty or not guilty is on the State  
6 and the presentation of their evidence. The defense  
7 has no evidence it needs to present. However, they  
8 may choose to do so, and if they do, then you'll  
9 receive that evidence.

10 But you have to wait and keep an open mind  
11 until all the evidence is in before you begin  
12 discussing and determining the facts of the case.  
13 As I've already read to you that admonishment a  
14 couple of times, you're going to get to the point  
15 where you'll probably be able to recite it  
16 yourselves, but it's that important that understand  
17 that you are to keep an open mind and receive the  
18 evidence.

19 The fact that you cannot discuss the case  
20 with anyone, there is some slight limitations to  
21 that. You are, of course, able to tell your  
22 employer, family members that you are serving on a  
23 jury; and you can tell them that it's a criminal  
24 trial, if you wish, but that's it. No other  
25 specifics. No other names or details. No nothing.

1           And, again, I've read you sort of the  
2 smaller admonishment. There is a more lengthy  
3 admonishment that talks about how important it is --  
4 and, again, this ties into you only get your  
5 evidence from what is presented in the court -- that  
6 you are not to do any Internet searches; you're not  
7 to visit the scene of any of the events that may be  
8 mentioned in the trial.

9           You're not to undertake any of your own  
10 investigation. That means no independent research,  
11 no trying to prove the theory of the case, no  
12 Internet searches on any subjects that you may be  
13 curious about. Again, you will get the evidence  
14 that you need. You will get the instructions on the  
15 law, and that is what your deliberation is going to  
16 entail.

17           If for whatever reason during the course of  
18 the trial, you cannot hear a witness or you need to  
19 take a restroom break or there's anything else going  
20 on, you raise your hand to get the attention of the  
21 Court. Please do not speak out. Just raise your  
22 hand. The Court will call on you.

23           And, of course, if you have something to  
24 bring to the attention of the Court and it can  
25 weight till a break, you will do that through the

1 marshal. And if you want to do something in  
2 writing, you can put it on the notepad and hand it  
3 to the marshal, and then we will address it.

4 We will take regular breaks during the  
5 course of the presentation of the evidence in the  
6 trial. So you shouldn't have to worry about that.  
7 I don't allow there to be food in the courtroom, but  
8 if you want to bring in some water or something to  
9 drink, that's fine. And, again, as I said, we'll  
10 take breaks.

11 We are going to plan to start right now,  
12 other than with a slight adjustment, maybe as late  
13 as 1:30, we'll start at 1:00 o'clock. We are  
14 definitely going to start at 1:00 o'clock tomorrow.  
15 So we ask you to please return here and be ready  
16 outside the door to proceed promptly at 1:00 p.m.  
17 But we could adjust that slightly during the week.  
18 As we said, it will just be afternoon sessions  
19 during the course of this week, for this trial.

20 During the trial, I may take notes as the  
21 witnesses are testifying. Please don't make any  
22 inference from that action. I am required obviously  
23 to be prepared for any legal arguments, and for that  
24 reason, I may take notes. I also may have my staff  
25 coming in and out to provide me information. Please

1 do not read anything into that.

2 All I am doing is overseeing this trial and  
3 making sure that I move paperwork that may need to  
4 be moved related to the department. But that has  
5 nothing to do with the case and certainly I'm not  
6 going to evidence, nor would I attend to evidence  
7 any belief about any witnesses or the evidence or  
8 the trial at any time.

9 The trial will proceed in the following  
10 manner: The Deputy District Attorney will make the  
11 opening statement. Again, we're going to start  
12 promptly tomorrow at 1:00 p.m. with that. That is  
13 intended to outline and help you understand what the  
14 State's evidence is, what they expect it to be.

15 The defense attorney may but is not  
16 obligated to make an opening statement. Those  
17 opening statements, again, serve as an introduction  
18 to the evidence. But they, again, are not evidence  
19 themselves.

20 The State will then present their actual  
21 evidence through their witnesses and the exhibits.  
22 The counsel for the defendant may cross-examine  
23 these witnesses. Following the State's case, the  
24 defendant may but is not, again, obligated to  
25 present evidence. After that, the District Attorney

1 may cross-examine those witnesses, if any. However,  
2 as I said, the defendant is not obligated to present  
3 any evidence.

4 After all of the evidence has been  
5 presented, I will instruct you on the law. After  
6 you receive the instructions on the law, then you  
7 will have the opportunity to be given oral arguments  
8 at the close of the case by the State and by the  
9 defense. Each side has the opportunity to present  
10 oral arguments in closing. What is said in closing,  
11 again just like in opening statements, is not  
12 evidence. They are designed to summarize and  
13 interpret the evidence.

14 Because the State has the burden of proving  
15 the defendant guilty beyond a reasonable doubt of  
16 any one or more of the charges, the State does have  
17 the right to open and close the arguments. After  
18 the arguments are completed, then you will retire  
19 with your fellow jurors to deliberate.

20 The two alternates will be identified.  
21 And, obviously, it will not be known amongst the 14  
22 of who the alternates will be, but they will  
23 identified at that time. They will not deliberate,  
24 but they will not be discharged until a verdict has  
25 been reached.

1           And, again, the admonishment that you will  
2 be reminded, as we are going through the course of  
3 the trial is, again, not to talk or converse among  
4 yourselves, or with anyone else, on any subject  
5 connected with the trial or read, watch, or listen  
6 to any report of or commentary on the trial or any  
7 person connected with the trial by any medium of  
8 information, including without limitation,  
9 newspapers, television, radio, or Internet. No  
10 social media communications of any kind. No  
11 independent research, via Internet searches or  
12 otherwise.

13           Please, of course, do not form or express  
14 any opinion on any subject connected with the trial  
15 until the case is finally submitted to you. That  
16 will be the admonish.

17           Let me check in. Looks like we're close to  
18 being completed.

19           There was one question from a juror, and it  
20 did come up in the voir dire about the fact that I  
21 wear a green robe rather than a black robe. Really,  
22 there is no requirement. There are several  
23 judges -- although, people don't necessary connect  
24 to that -- that wear different color robes. The one  
25 that stands out the most, but people don't think of

1 it until I point it out -- and then maybe they  
2 remember or they don't -- but the trial that  
3 OJ Simpson had here in Clark County, the judge that  
4 oversaw that trial, Judge Glass, wore a blue robe.  
5 But nobody seems to connect or remember that.

6 But we don't have a requirement that it has  
7 to be a black robe. So because we don't have that  
8 requirement, I chose something that I thought my  
9 father would enjoy. He passed before I was in this  
10 position, but I thought that he would enjoy it. So  
11 it's a way for me to sort of honor him while I'm in  
12 the courtroom.

13 And if I'm out and about doing other things  
14 related to my judge position, I'd be wearing a black  
15 robe. I'm not trying to stand out in the crowd. I  
16 just like it for myself personally. Nothing more  
17 exciting about the green robe.

18 Although, one time I was talking to a group  
19 of school kids with several other judges about what  
20 we do, and I mentioned my green robe, and one of the  
21 kids raised their hands and said, "Is that because  
22 of the environment?" And I thought, "That's good.  
23 I'm going to use that because that wasn't my  
24 original reason, but I'll add that to the reason why  
25 I have the green robe."

1 I've been handed the list now by the  
2 marshal, indicating to me the selections, and I just  
3 want to read through it here and make sure I see  
4 what we have, and I'm going to hand this now to my  
5 clerk, and what she's going to do is identify the  
6 14 jurors who will remain with us on the panel.

7 So while she's doing that, unlike the prior  
8 times when a juror was excused, for whatever reason,  
9 and we said the name out loud and that meant the  
10 juror could leave, this is just the opposite. If we  
11 say your name this time -- and we're going to number  
12 them 1 through 14, but of course you'll get your  
13 badges tomorrow and be reminded 1 through 14 -- that  
14 means you are staying.

15 If you do not hear your name, that means  
16 you are not going to be serving in this particular  
17 jury. We thank you very much for your time today.  
18 We know it's been a long day, and we appreciate your  
19 service. And you may leave and give your badge to  
20 the marshal.

21 Just do me a favor, as before, let me  
22 finish or let me have the clerk finish reading all  
23 of the names, and then if you did not hear your  
24 name, that's when you can take your belongings and  
25 be excused after everybody's got excused, other than



1 the 14 who remain in their seats. Again, we'll just  
2 remind you.

3 The other thing to keep in mind is that you  
4 won't have to fend for yourself for the parking.  
5 There's going to be a place where you can park as  
6 actual empaneled jurors. It will be free of charge  
7 and a little more convenient. We will not be  
8 providing lunch because you will be coming to us  
9 after the lunch hour. And, again, we will do our  
10 best to conclude each day at or as close to 5:00 p.m.  
11 as we can.

12 Do you have the list ready to go?

13 THE CLERK: Seat No. 1, Hayley Richardson;  
14 Seat No. 2, Eric Powell; Seat No. 3, Valene  
15 Diokno-Valdez; Seat No. 4, Kenneth Eliason;  
16 Seat No. 5, Joseph Beach; Seat No. 6, Maria Munoz;  
17 Seat No. 7, Jeremy Long; Seat No. 8, Marc McElrath;  
18 Seat No. 9, Jessica Bivona; Seat No. 10, Baylee  
19 Naples; Seat No. 11, Brad Cartwright; Seat No. 12,  
20 Alba Garay; Seat No. 13, Teresa Kinsey; Seat No. 14,  
21 Alberta Ogawa.

22 THE COURT: If you did not hear your name,  
23 you are excused from the panel. Thank you for your  
24 service. Please turn your badge in to the marshal  
25 on your way out.

1 MS. RINETTI: Judge, can we approach while  
2 they exit?

3 THE COURT: Yes, while they exit. Okay.  
4 All right. Everybody else stay put.

5 Elvis, do you have their parking  
6 instructions ready to go?

7 THE MARSHAL: I do, Your Honor.

8 THE COURT: All right. So, again, thank  
9 you very much in advance for your service that you  
10 are going to give to us with this trial. We will  
11 see you tomorrow 1:00 o'clock. We will start with  
12 you actually being sworn in as jurors to serve on  
13 the panel. It's a little bit different oath than  
14 the one that you took for today.

15 You will then hear the actual full  
16 statement of the Information, the charging document  
17 in the case. The State will then make their  
18 openings remarks. The defense may, again, or may  
19 not make opening remarks. That's up to the defense,  
20 and then we'll begin with witnesses.

21 And we will see you all then and thank you  
22 for very much for your service.

23 Ms. Bivona -- yeah, maybe I'm saying it  
24 wrong -- "Bivona" is raising her hand.

25 So what is your question?

1 MS. BIVONA: I guess it's more of a  
2 concern. I do wear scrubs to work. Would it be  
3 okay to come in uniform after work here in my  
4 scrubs?

5 THE COURT: I've never had a concern -- I  
6 actually never have been asked that question. But  
7 I've never had a concern with what a juror would  
8 wear. I would just hope that each juror would  
9 recognize that you're in a court of law, that this  
10 is a serious proceeding and would, you know, dress  
11 accordingly.

12 MS. BIVONA: I was just wondering.

13 THE COURT: But I wouldn't have an issue  
14 with that especially -- you indicated you're going  
15 to be hauling it over from Henderson pretty tight  
16 time frame. So I'm fine with that.

17 MS. BIVONA: Thank you.

18 THE COURT: And like I said, no food. But  
19 you can bring in some beverages and drinks.

20 And any other questions from this point  
21 forward, if you could, always direct them to the  
22 marshal first, and then if the marshal has a  
23 question, he can always bring it to me, and that  
24 just helps us make sure -- same for counsel, same  
25 for staff -- that we're not violating any of our

1 obligations.

2 All right. Everybody have a good night.  
3 See the marshal on the way out.

4 (Panel exits the courtroom.)

5 THE COURT: All right. Mr. Evenson, you  
6 indicated you wanted to --

7 MR. EVENSON: I do, Judge.

8 THE COURT: Oh, we need to make a record.

9 MR. EVENSON: I did, yes. We need to make  
10 a record.

11 THE COURT: So let's do that real quick  
12 first. That may be what you want to talk about, but  
13 let's do that before we forget.

14 MR. EVENSON: Okay.

15 THE COURT: So the State had raised two  
16 cause excusals, Juror 137, Sheila Johnigan; and  
17 Juror 223, last name is Lauren, first name, Dana.  
18 And there was no objection from the defense to those  
19 State cause excusals. The Court had agreed that  
20 there had been testimony that would require their  
21 removal as cause. But, again, with no objection, we  
22 went ahead and excused them before we proceeded with  
23 the questioning by the defense.

24 But when the defense completed the  
25 questioning, there was a request for a cause

1        excusal with Mr. -- I believe it was the Juror 176,  
2        Doone Fernandez -- indicating a belief that the  
3        basis for cause had been met by his response to the  
4        questions whether or not he would, if he was in  
5        Ms. Nash's position, would he want a juror with his  
6        mindset in the seat.

7                I indicated at the bench conference that I  
8        did not believe that his answers, in their totality,  
9        evidenced the necessary requirements to excuse him  
10       for cause, that he had answered my questions, that  
11       he would understand his duty as far as, even though  
12       he may believe that there is obviously these terms,  
13       he did not -- where there's smoke, there might be  
14       some fire -- but then ultimately explained to him  
15       how we are here, what the process is, what the  
16       beyond a reasonable doubt requirement is and whether  
17       he could deliberate fairly and impartially with his  
18       fellow jurors, and I believe his response there  
19       qualifies him, and then your indication that you  
20       felt that that would be enough to amount to a cause  
21       excusal. We didn't further debate it at the bench  
22       because we were going to make a record now.

23               MR. EVENSON: Right. And, Judge, it was  
24       just the way of his answers and everything else were  
25       very random, and I think he was trying to -- I do

1 think that -- I would never say that anybody was  
2 being dishonest, but I think he was trying to appear  
3 as if he could be fair because everybody wants to  
4 appear to be fair even though they're not being  
5 fair, and I think he was going through some great  
6 labors to do that.

7 That is not, however, why I asked for this  
8 time. But that is the record I want to make.

9 THE COURT: Okay.

10 MR. EVENSON: I did have another peremptory  
11 I wanted to --

12 THE COURT: And you're right. Certainly  
13 the written record is not going to reflect that he  
14 did have some hesitations in his answers and thought  
15 long and hard. He said it was a tough question. He  
16 didn't quite answer the question the first time --

17 MR. EVENSON: And there was a long time --

18 THE COURT: -- and he searched for an  
19 answer. I would agree with all of those  
20 distinctions. I think ultimately, again, I did not  
21 feel that his answers rose to the level of cause  
22 excusal so required you to use your peremptory.

23 But fair enough. Ms. Rinetti, did you want  
24 to add anything to the record with regard to the  
25 cause excusal request of this Juror Fernandez?

1 MS. RINETTI: No. I think the record  
2 speaks for itself.

3 THE COURT: Okay. Mr. Evenson, you said  
4 you had something else?

5 MR. EVENSON: Your Honor, I do. As the  
6 Court may or may not be aware, apparently the minor  
7 victim in this case is no longer a minor. So I  
8 don't know if that makes her a major. But she is an  
9 adult now. It is not known to myself or my client  
10 what her current custodial status is.

11 I've been informed that she has a guardian  
12 of a legal nature who has traveled with her. I, of  
13 course, would like to talk to the witness before she  
14 takes the stand. I am very concerned about not  
15 being able to meet with a witness of this nature or  
16 talk to a victim or see a victim.

17 I was not the attorney who waived the  
18 preliminary hearing in this case. I just want to  
19 do, if possible, some -- say hello, introduce myself  
20 before she takes the stand, talk to her for a couple  
21 seconds. If she is under a guardianship, Judge, I  
22 do think that that means that the Court, outside the  
23 presence of the jury, may need to determine whether  
24 or not she's competent to testify.

25 And so I'm not sure where that takes us,

1 but that's information that I have. I did e-mail  
2 Ms. Rinetti yesterday about this issue. She has not  
3 been able to get back with me today because she  
4 hasn't heard back from the guardian, and I don't  
5 know what the deal is with that. It's not my  
6 circus, not my monkeys. But I do think either --  
7 you know, I should have the opportunity to meet with  
8 this person before court.

9 THE COURT: Ms. Rinetti, do you want to  
10 respond before the Court weighs in?

11 MS. RINETTI: The notice says the named  
12 victim in this case is a ward of the State of  
13 Maryland. Obviously, she's a family member of the  
14 defendant. So they're well aware of her custodial  
15 status. I did say, as a professional courtesy, that  
16 I would reach out.

17 We're going to go speak to the guardian  
18 from Maryland as soon as we're done here in court.  
19 If she indicates that either Shaylyn or the guardian  
20 would like to speak to Mr. Evenson, I said I would  
21 give Mr. Evenson her cellular number if, in fact,  
22 she would like to speak to him.

23 MR. EVENSON: And, again, Judge, I have  
24 some grave concerns about a guardian cutting off  
25 contact with defense counsel on this basis. I'm not



1     trying to do anything. I'm not trying to examine  
2     her or do anything. I just want to talk to her for  
3     a few minutes, say, "Hey, how are you doing. I know  
4     you're going to be on the stand tomorrow. I'm going  
5     to be asking you some questions."

6             I want to get some feedback because I've  
7     never seen her or met her before. I'm not -- you  
8     know.

9             THE COURT: Let's do this. Let's, as you  
10    said, you weren't the counsel in the case. So you  
11    are where you are in this case.

12            MR. EVENSON: I am.

13            THE COURT: But let's see what happens  
14    tonight with Ms. Rinetti and Mr. Villani talking to  
15    the guardian, and let's see what the outcome is.  
16    If tomorrow you have not had an opportunity to have  
17    those types of introductions through this process, I  
18    will discuss with you then and discuss with the  
19    State then if it might be possible to have a brief  
20    moment of those interruptions while we're in court.

21            MR. EVENSON: Sure.

22            THE COURT: But and how we might structure  
23    that.

24            MR. EVENSON: Yeah.

25            THE COURT: But we'll go from there to see

1     what happens.

2                 MR. EVENSON:   Right.   And that's -- that's  
3     all that I want to do.   And to that end, Judge, the  
4     other -- and we had -- if I can, Judge, and, again,  
5     I'm not trying to keep you and your staff longer  
6     than I already have, and I apologize for that.

7                 We had some technological difficulties  
8     today because I came down and we tried to file some  
9     papers, and I don't know if they got filed or not.  
10    We -- I had filed a Motion in Limine to exclude any  
11    reference to her being "special needs" from the  
12    trial.   I don't believe it's a relevant issue.

13                The child abuse statute does not state it's  
14    child abuse because the child is special needs or  
15    has whatever learning disabilities that are being  
16    discussed.   That was the focal point of the jury  
17    questionnaires that, as the Court knows, I had a  
18    little bit of heartache with because I think the  
19    State is throwing that out there, and it's going to  
20    be thrown out there every chance they get.

21                THE COURT:   Mr. Evenson, I'm sorry.   At one  
22    point, you said "Jury Questionnaires."   You meant --

23                MR. EVENSON:   I'm sorry.   Jury voir dire.

24                THE COURT:   -- jury voir dire by  
25    Ms. Rinetti.

1                   Well, I would only quibble with your  
2                   indication of the "focal point." I think that there  
3                   was a line of questioning that was related to that.  
4                   But, Mr. Evenson, and with all due respect, motions  
5                   in limine have to be filed and heard long before the  
6                   date of trial for them to be considered by the  
7                   Court. So I'm not sure what --

8                   MR. EVENSON: I've -- okay. I was never  
9                   given a scheduling order that said that, if there  
10                  was one.

11                 MS. RINETTI: The NRS statute.

12                 THE COURT: There's a statute that says  
13                 that.

14                 MR. EVENSON: Not for motions in limine.

15                 MS. RINETTI: Ten days prior to trial.  
16                 Absolutely.

17                 MR. EVENSON: Well, Judge, then I'm going  
18                 to have to jump up in the trial and say that it's  
19                 more prejudicial than probative and make that  
20                 objection at that time. Either way, whether it's  
21                 Motion in Limine or not, it's not relevant to the  
22                 statute. It's not relevant. It has to be shown to  
23                 be relevant, and then it has to be shown to be  
24                 not -- regardless of -- I don't have to make a  
25                 motion on that. I can do it at the time she asks

1 the questions.

2 THE COURT: I'm not saying that you can't  
3 make an objection at the time of trial. All I'm  
4 saying is let's get this straight right now so that  
5 there's just no confusion about that.

6 I do not allow speaking objections in this  
7 courtroom. You may state an objection. You may  
8 state the one, possibly two-word basis for the  
9 objection: "Relevancy," whatever. If I feel that I  
10 need further commentary, I will ask for it. I will  
11 ask for the response; and if I feel that I need to  
12 have a discussion, we will have it at the bench, and  
13 I will make my ruling, if need be, that way.

14 Otherwise, I will just make my ruling  
15 during the course of the trial. And then, of  
16 course, any bench conference that's had will be made  
17 a record at any break thereafter so that it's  
18 contemporaneous in the record with the discussion we  
19 have.

20 But this is not a situation where we're  
21 going to have, from either side, any speaking  
22 objections with arguments in front of the jury.  
23 That's not how we do the objections, but we will  
24 absolutely give full opportunity always to ask to  
25 approach. You've already done that through the

1    voir dire. I think that worked well. You can ask  
2    to approach. We can have a discussion, playing  
3    field whatnot, and then we can make a record of that  
4    at the next opportunity.

5               But yes, you're certainly able to object to  
6    the relevancy of a piece of evidence that's being  
7    introduced at the time of trial, and the Court will  
8    make a ruling on that. But I, again, not having a  
9    received a Motion in Limine --

10              MR. EVENSON: Judge, and that's fine. If  
11    that's your ruling, I understand. It does not  
12    change the fact that it's not relevant and it's  
13    not -- it's more prejudicial than probative. It's  
14    strictly designed to inflame the passions of the  
15    jury in this case because there is nothing in the  
16    statute that makes it relevant.

17              MS. RINETTI: Actually, Judge, NRS 432(B)  
18    talks about excessive corporal punishment may  
19    constitute a basis for trial. It says "Corporal  
20    punishment goes beyond what is proper or reasonable  
21    under the circumstances." Both here in Nevada, as  
22    well as many jurisdictions in the Ninth Circuit, it  
23    talks about factors to consider regarding whether or  
24    not corporal punishment is reasonable and proper  
25    under the circumstances, which includes the age and

1 the condition of the child. Therefore, the special  
2 needs or the condition of the child at the time of  
3 that corporal punishment is absolutely relevant.

4 MR. EVENSON: And, Judge, this is not a  
5 corporal punishment case. So if they're alleging  
6 under our statute that we're saying that this is  
7 corporal punishment, that's not what we're  
8 alleging.

9 THE COURT: Well, like I said, you said you  
10 filed --

11 MR. EVENSON: Because corporal punishment  
12 under the statute is not where we're going in this  
13 case.

14 THE COURT: The Court will be prepared to  
15 address any objections that are made during the  
16 course of the trial.

17 MS. RINETTI: Just one last thing. On  
18 calendar call date, you requested that jury  
19 instructions be delivered to you. They were due  
20 today, and so I do have a copy for the Court.

21 THE COURT: Thank you.

22 MR. EVENSON: Judge, I have great heartache  
23 with giving my --

24 I don't have a copy of what the State just  
25 gave you. Do I get a copy of what the State just

1 gave you?

2 MS. RINETTI: It says we can exchange them  
3 at the exact same time, sir.

4 MR. EVENSON: We exchange it at the exact  
5 same time? I wasn't aware that --

6 THE COURT: Mr. Evenson.

7 MR. EVENSON: Okay.

8 THE COURT: Well, here's the thing and,  
9 Mr. Evenson, as you know --

10 MR. EVENSON: I don't want the State to  
11 have my proposed jury instructions before -- before  
12 I -- before the presentation of evidence. I don't  
13 think that that is fair to the defendant. There's  
14 a lot of different ways this case can go, and that  
15 is going to the jury instructions that I'm going to  
16 have you review.

17 THE COURT: Mr. Evenson, if we're going to  
18 continue through this trial where every time I'm  
19 trying to say something, you anticipate what that  
20 might be and you start talking, we're not going to  
21 get along very well.

22 MR. EVENSON: My apologies.

23 THE COURT: Your apology accepted. Please  
24 don't do it again.

25 MR. EVENSON: Do my best.

1           THE COURT: When we talked last week -- and  
2 I don't know where the disconnect keeps happening.  
3 When you were on the phone -- maybe that's problem  
4 because you weren't here for us to see eye to eye --  
5 there was a very specific request that jury  
6 instructions would be exchanged today.

7           I didn't hear any objection, at that time,  
8 saying "I don't want to provide them. I have this  
9 opinion about how I do them," et cetera, et cetera.  
10 I heard none of that. I heard: We would exchange  
11 our instructions today.

12           Here's one of the issues: No, I'm not  
13 going to wait for jury instructions to come in until  
14 all the presentation of the evidence is complete  
15 because then that doesn't give the Court the time to  
16 finish settling the instructions. We are on a  
17 schedule. We have a time frame. It's going to be  
18 all we can do to get these witnesses in.

19           I prepare the final set of instructions  
20 once I have had the receipt of the instructions and  
21 once we have had the opportunity to settle them. I  
22 do not recognize your argument that there is some  
23 great disadvantage to the defense to put on  
24 instructions. I don't know what it is that you have  
25 out there that you think somehow will be revealed by



1 your instructions. But I guess I will give you  
2 this: Provide to us -- I'm trying to think of the  
3 best way to do this.

4 I need to know your input on theirs. The  
5 State has indicated they want to share them at the  
6 same time. I can also say, from the perspective to  
7 the State, that I had many opportunities where the  
8 State has shared them prior to the defense providing  
9 theirs. So if we get there and we have to do that,  
10 but maybe we can come up with a mutually agreeable  
11 time and date in which you will exchange them and  
12 you will comment on them.

13 And then usually what happens is the  
14 defense doesn't want to have a whole set. They want  
15 to use the State's stock, and then both the State --

16 MR. EVENSON: I would love to see the  
17 State's stocks. I don't --

18 THE COURT: -- and then have --

19 MR. EVENSON: I was planning on using your  
20 stocks and the State's stocks, Judge. I don't -- I  
21 have a copy, eight or ten at most, and so it's  
22 not -- but okay. I mean, I --

23 THE COURT: I would like the exchange.  
24 I'll give you till Wednesday.

25 MR. EVENSON: Okay. I --

1 THE COURT: That allows evidence to start  
2 tomorrow.

3 MR. EVENSON: Yes.

4 THE COURT: And some presentation of  
5 evidence. We'll be halfway through the State's  
6 witnesses by tomorrow, from what the State's  
7 indicated. Chances are we'll complete them on  
8 Wednesday.

9 I want the instructions on Wednesday so we  
10 have a reasonable opportunity for me to combine what  
11 I need to do for my primary set that I'm going to  
12 assume that we will be proceeding with and the final  
13 settling of those instructions. Okay?

14 MR. EVENSON: Thank you.

15 MR. VILLANI: Thank you, Your Honor.

16 MS. RINETTI: Thank you, Your Honor.

17 THE COURT: All right. Thank you.

18

19

20 (The proceedings concluded at 5:44 p.m.)

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25

C E R T I F I C A T E

STATE OF NEVADA     )  
                                  )SS:  
COUNTY OF CLARK    )

I, Dana J. Tavaglione, RPR, CCR 841, do  
hereby certify that I reported the foregoing  
proceedings; that the same is true and correct as  
reflected by my original machine shorthand notes  
taken at said time and place before the Kathleen  
Delaney, District Court Judge, presiding.

Dated at Las Vegas, Nevada, this 18th day  
of October 2018.

/S/Dana J. Tavaglione

\_\_\_\_\_  
Dana J. Tavaglione, RPR, CCR NO. 841  
Certified Court Reporter  
Las Vegas, Nevada