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IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN TURNER,)	No. 76465
)	
Appellant,)	Electronically Filed
)	Feb 04 2019 12:33 p.m.
v.)	Elizabeth A. Brown
)	Clerk of Supreme Court
THE STATE OF NEVADA,)	
)	
Respondent.)	
)	

APPELLANT’S APPENDIX VOLUME VIII PAGES 1493-1685

DARIN F. IMLAY Clark County Public Defender 309 South Third Street Las Vegas, Nevada 89155-2610 Attorney for Appellant	STEVE WOLFSON Clark County District Attorney 200 Lewis Avenue, 3 rd Floor Las Vegas, Nevada 89155 AARON FORD Attorney General 100 North Carson Street Carson City, Nevada 89701-4717 (702) 687-3538 Counsel for Respondent
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INDEX
STEVEN TURNER
Case No. 76465

	<u>PAGE NO.</u>
Amended Indictment filed 04/15/18.....	558-562
Amended Jury List filed 04/27/18.....	564
Defendant's Exhibit A dated 04/18/18	2359-2360
Defendant's Exhibit B dated 04/18/18	2361-2362
Defendant's Motion for Additional Discovery (Hudson) Date of Hrg: 04/05/18.....	2263-2265
Defendant's Motion to Suppress Statements and Request for Jackson v. Denno Hearing Date of Hrg: 03/06/18.....	478-520
Defendant's Notice of Witnesses filed 04/09/18.....	556-557
District Court Minutes from 09/23/15 through 06/21/18	709-742
District Court Minutes (Hudson) from 05/17/16 through 04/05/18	2301-2312
Exhibits in Support of Sentencing Memorandum (Hudson) filed 06/20/18.....	2280-2300
Ex Parte Motion for Release of Medical Records filed 04/15/16.....	216-217
Ex Parte Motion and Order for Release of Medical Records filed 03/23/18	543-544
Indictment filed 09/23/15	1-6
Indictment Warrant filed 09/23/15	7-8
Indictment Warrant Return filed 09/24/15	9-10
Instructions to the Jury filed 04/27/18.....	565-617
Judgment of Conviction (Jury Trial) filed 07/02/18.....	701-703
Joinder to Co-Defendant Clemon Hudson's Motion to Sever Date of Hrg: 10/12/17.....	276-472
Jury List filed 04/17/18.....	563
Letters in Support of Sentencing Date of Hrg: 06/21/18.....	681-700
Media Request and Order Allowing Camera Access to Court Proceedings filed 10/01/15.....	181-184
Motion for Bail Reduction Date of Hrg: 11/10/15.....	185-187

1	Motion for Bail Reduction (Hudson)	
2	Date of Hrg: 05/17/16.....	2193-2195
3	Motion for Bail Reduction (Hudson)	
4	Date of Hrg: 06/14/16.....	2203-2214
5	Motion for Bail Reduction (Hudson)	
6	Date of Hrg: 01/24/17.....	2223-2229
7	Motion for New Trial	
8	Date of Hrg: 05/15/18.....	620-647
9	Motion for Production of Discovery	
10	Date of Hrg: 06/12/16.....	227-254
11	Motion in Limine	
12	Date of Hrg: 03/06/18.....	530-538
13	Motion to Continue Trial Date	
14	Date of Hrg: 11/02/17.....	474-477
15	Motion to Sever (Hudson)	
16	Date of Hrg: 09/07/17.....	2247-2252
17	Notice of Appeal filed 07/18/18.....	704-707
18	Notice of Appearance of Counsel (Hudson) filed 05/30/18.....	2274-2275
19	Notice of Motion and Motion for Discovery (Hudson)	
20	Date of Hrg: 05/16/17.....	2241-2246
21	Notice of Witnesses and/or Expert Witnesses filed 04/14/16.....	192-213
22	Order filed 09/05/18.....	709
23	Order Releasing Medical Records filed 04/15/16.....	214-215
24	Receipt of Copy filed 10/18/17.....	473
25	Second Supplemental Notice of Witnesses and/or	
26	Expert Witnesses filed 11/08/16.....	261-275
27	Sentencing Memorandum (Hudson) filed 06/20/18.....	2276-2279
28	State's Exhibit 6 dated 04/19/18.....	2313-2314
	State's Exhibit 90 dated 04/23/18.....	2317-2358
	State's Exhibit 400.....	2315-2316
	State's Opposition to Defendant's Motion for Bail Reduction	
	Date of Hrg: 11/10/15.....	188-191
	State's Opposition to Defendant's Motion for Bail Reduction (Hudson)	
	Date of Hrg: 05/17/16.....	2196-2202

1	Recorder's Transcript JURY TRIAL DAY 3	
2	Date of Hrg: 04/18/18.....	1244-1371
3	Recorder's Transcript JURY TRIAL DAY 4	
4	Date of Hrg: 04/19/18.....	1372-1536
5	Recorder's Transcript JURY TRIAL DAY 5	
6	Date of Hrg: 04/20/18.....	1537-1672
7	Recorder's Transcript JURY TRIAL DAY 6	
8	Date of Hrg: 04/23/18.....	1673-1800
9	Recorder's Transcript JURY TRIAL DAY 7	
10	Date of Hrg: 04/24/18.....	1801-1952
11	Recorder's Transcript JURY TRIAL DAY 8	
12	Date of Hrg: 04/25/18.....	1953-1976
13	Recorder's Transcript JURY TRIAL DAY 9	
14	Date of Hrg: 04/26/18.....	1977-2108
15	Recorder's Transcript JURY TRIAL DAY 10	
16	Date of Hrg: 04/27/18.....	2109-2122
17	Recorder's Transcript Calendar Call	
18	Date of Hrg: 05/03/16.....	756-760
19	Recorder's Transcript Calendar Call	
20	Date of Hrg: 11/29/16.....	769-772
21	Recorder's Transcript Calendar Call	
22	Date of Hrg: 07/06/17.....	773-779
23	Recorder's Transcript Calendar Call	
24	Date of Hrg 04/10/18.....	863-867
25	Recorder's Transcript Defendant's Motion for Bail Reduction	
26	Date of Hrg: 11/10/15.....	753-755
27	Recorder's Transcript Defendant's Motion for New Trial	
28	Date of Hrg: 05/31/18.....	2123-2139=

1	Recorder's Transcript	
2	Defendant's Motion for New Trial	
	Date of Hrg: 06/19/18.....	2140-2148
3	Recorder's Transcript	
4	Defendant's Motion for Production of Discovery	
	Date of Hrg: 07/12/16.....	761-762
5	Recorder's Transcript	
6	Defendant's Motion for Production of Discovery	
	Date of Hrg: 07/26/16.....	763-765
7	Recorder's Transcript	
8	Defendant's Motion for Production of Discovery	
	Date of Hrg: 08/04/16.....	766-768
9	Recorder's Transcript	
10	Defendant's Motion to Continue Trial Date:	
	Status Check: Negotiations/Trial Setting	
	Date of Hrg: 11/02/17.....	817-825
11	Recorder's Transcript	
12	Grand Jury Indictment Returns	
	Date of Hrg: 09/23/15.....	743-745
13	Recorder's Transcript	
14	Initial Arraignment; Indictment Warrant Return	
	Date of Hrg: 10/01/15.....	746-752
15	Recorder's Transcript	
16	Pretrial Conference and Decision: Defendant's Motion to	
	Suppress Statements and Request for Jackson v. Denno Hearing	
	Date of Hrg: 03/29/18.....	860-862
18	Recorder's Transcript	
19	Pretrial Conference; Defendant's Joinder to Co-Defendant	
	Clemon Hudson's Motion to Sever	
	Date of Hrg: 10/12/17.....	780-807
20	Recorder's Transcript	
21	Pretrial Conference; Defendant's Motion in Limine; Defendant's	
	Motion to Suppress Statements and Request Jackson v. Denno Hearing	
	Date of Hrg: 03/06/18.....	841-846
23	Recorder's Transcript	
24	Pretrial Conference; Defendant's Motion in Limine; Defendant's	
	Motion to Suppress Statements and Request Jackson v. Denno Hearing	
	Date of Hrg: 03/22/18.....	847-859
25	Recorder's Transcript	
26	Sentencing	
	Date of Hrg: 06/21/18.....	2149-2192

1	Recorder's Transcript	
2	State's Request: Status Check to Address Bruton	
3	Issues with the Defendant's Statements	
4	Date of Hrg: 10/31/17	808-816
5	Recorder's Transcript	
6	Status Check: Status of Case-Redactions	
7	Date of Hrg: 11/16/17	826-831
8	Recorder's Transcript	
9	Status Check: Status of Case-Redactions	
10	Date of Hrg: 11/30/17	832-836
11	Recorder's Transcript	
12	Status Conference-Redactions	
13	Date of Hrg: 12/14/17	837-840
14	Reporter's Transcript	
15	Grand Jury	
16	Date of Hrg: 09/22/15	11-180
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
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1 Q Okay. And -- and those are depicted in this evidence key up
2 at the top as well, correct?

3 A Yes, they are.

4 Q And additionally, with respect to this backyard area, there was
5 one bullet located, and that's number -- Evidence Item 24, correct?

6 A Yes.

7 Q And that's this evidence item just west of the apparent door
8 here?

9 A Yes.

10 Q Okay. Other than those that we've just discussed, the
11 fragments, and that one bullet, you did not process or identify any other
12 bullets in these outside area?

13 A Not -- no. We did not, not that I know of.

14 Q Okay.

15 MS. MACHNICH: Court's brief indulgence.

16 Thank you, ma'am.

17 THE WITNESS: Thank you.

18 THE COURT: Mr. Plummer?

19 MR. PLUMMER: Thank you, Your Honor.

20 **CROSS-EXAMINATION**

21 BY MR. PLUMMER:

22 Q Good afternoon, ma'am.

23 A Good afternoon, sir.

24 Q You arrived at the house hours after the incident?

25 A No, I did not. Well, I don't know. I -- I showed up at 7:40. So

1 it was still, you know -- it was a static scene. There was nobody that
2 was involved with the shooting itself. They were all gone. But the
3 walkthrough hadn't occurred or none of that stuff had happened when I
4 arrived.

5 Q Okay. But at 7:00 something, if it -- if the incident happened
6 around 3:30 in the morning and you arrived at 7:40, that would be a few
7 hours after the incident?

8 A Yes, it would be.

9 Q And so when you -- you're not -- you don't know what
10 happened at the scene between the time of the incident and the time
11 you arrived?

12 A No, I do not.

13 Q You don't know if officers kicked bullet -- or shell casings in
14 different directions?

15 A No, I don't know that.

16 Q You don't know if the guns were picked up and moved or
17 stood up; you just know what it looked like when you arrived?

18 A Yes.

19 Q Now, you've been doing this for 19 years, ma'am?

20 A Yes.

21 Q And I believe you're familiar with different shell casings that
22 you've testified to already?

23 A Yes.

24 Q And, now, the holes in the blinds that appear -- or at least
25 alleged to have come from a shotgun, based on the size of those pellet

1 holes, are you able to determine the size of the cartridge?

2 A I -- there was no shotgun cartridge found, but I'm very familiar
3 with shot from inside a shot shell. And we did -- Kristen -- I was
4 present -- but recovered pieces of that, you know, the shot shell. So it
5 was -- I was under the impression, that yes, a shotgun was used to
6 make those defects.

7 Q Right. But the -- the size of the little holes, you know, those
8 dozens of little tiny holes?

9 A Yes. We didn't measure each little hole to get the size.

10 Q Are you familiar with the size of holes that different shotgun as
11 far as the types --

12 A I am, but I don't have it memorized. I'm not a firearms expert,
13 so I don't know the diameters of each, you know, bird shot or of different
14 sizes.

15 Q So you're not aware of how many pellets are in a buck shot
16 shell casing?

17 A I'm not aware of that, but the one -- the ones that were there,
18 there were hundreds.

19 Q Of little tiny holes?

20 A Yeah. Little tiny shell -- little tiny shot pellets.

21 MR. PLUMMER: Thank you.

22 THE COURT: Any redirect?

23 MR. GIORDANI: No, Your Honor.

24 THE COURT: May this witness be excused?

25 MR. GIORDANI: Yes.

1 THE COURT: Ma'am, thank you.

2 THE WITNESS: Thank you, sir.

3 THE COURT: You are excused.

4 I was going to take our afternoon break.

5 Ladies and gentlemen, we're going to take a 15-minute
6 recess. During this recess, your duty not to converse among yourselves
7 or with anyone else on any subject connected with the trial or to read,
8 watch, or listen to any report of or commentary on the trial by any person
9 connected with the trial, or by any medium of information, including
10 without limitation, newspaper, television, and radio. And you are not to
11 form or express an opinion on any subject connected with the case until
12 it is finally submitted.

13 [Court recessed from 3:22 p.m., until 3:42 p.m.]

14 [Outside the presence of the jury.]

15 THE COURT: Please be seated. This is continuation of the
16 trial in Case No. C-15-309578-1 and -2, *State of Nevada vs. Steven*
17 *Turner and Clemon Hudson*. Let the record reflect the presence of
18 counsel for the State, counsel for the defendants, and the presence of
19 the defendants.

20 Is there any matters we need to hear outside the presence of
21 the jury? Otherwise, I'm going to bring the jury in.

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

23 MS. MACHNICH: Nothing on behalf of Mr. Turner.

24 MR. PLUMMER: No, Your Honor.

25 THE COURT: Thank you.

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Bring the jury in, please.

[Jury reconvened at 3:43 p.m.]

THE COURT: Will the parties stipulate to the presence of the jury?

MR. GIORDANI: Yes.

MS. SISOLAK: We would, Your Honor.

MR. PLUMMER: Yes, Your Honor.

THE COURT: Please be seated.

Ladies and gentlemen, my anticipated schedule is we're going to going from 11:00 to 12:30 on Friday and then take our lunch break and resume at 2:00 to 5:00. That will be true as to Monday also. Monday, I anticipate going from 11:00 to 12:30, taking a lunch break, and resuming at 2:00 and going to 5:00.

MS. BEVERLY: May I proceed, Your Honor?

THE COURT: You may.

MS. BEVERLY: The next witness is going to be Sergeant Bitsko.

JOSHUA BITSKO,

[having been called as a witness and first duly sworn, testified as follows:]

THE CLERK: Please be seated. Would you please state and spell your name for the record.

THE WITNESS: It's Sergeant Joshua, J-O-S-H-U-A, Bitsko, B-I-T-S-K-O.

1 **DIRECT EXAMINATION**

2 BY MS. BEVERLY:

3 Q Sir, how are you currently employed?

4 A I'm currently a K-9 sergeant with the LVMPD.

5 Q Okay. And what does it mean to be a K-9 sergeant?

6 A Well, right now I supervise a team of police K-9s and their
7 handlers. And I also run our training for all of our new dogs and new
8 handlers as well. I also work a police dog. So I have a K-9 partner with
9 me 10 hours a day, every day.

10 Q Okay. And what's your K-9 partner's name?

11 A Loki.

12 Q Can you tell the jury --

13 A Yes.

14 THE COURT: Are --

15 THE WITNESS: Oh, sorry, yes.

16 THE COURT: Yes?

17 UNIDENTIFIED JUROR: It's not a question. It's something I
18 need to --

19 THE COURT: Okay. I'm going to have you approach.

20 [Bench conference transcribed as follows.]

21 THE COURT: Why don't you stand by the microphone right
22 here.

23 UNIDENTIFIED JUROR: I realized he did a presentation at
24 my son's Cub Scout meeting.

25 THE COURT: Okay. Do you -- the fact that --

1 UNIDENTIFIED JUROR: At a Cub Scout meeting for my son.
2 THE COURT: Okay. Did you speak to him personally, or was
3 it just a presentation --
4 UNIDENTIFIED JUROR: No, just a presentation.
5 THE COURT: -- and you were present? And when did this
6 occur?
7 UNIDENTIFIED JUROR: Beginning of this school year, I
8 think, so August.
9 THE COURT: Okay. And when the names were read, you
10 didn't recognize his name. You --
11 UNIDENTIFIED JUROR: I didn't --
12 THE COURT: -- only recognized him as soon as you saw him
13 come into the courtroom?
14 UNIDENTIFIED JUROR: The -- the dog's name sounded
15 familiar. And then when I saw him walk in, I realized why the dog's
16 name sounded familiar.
17 THE COURT: Okay. But you didn't have any personal --
18 UNIDENTIFIED JUROR: No.
19 THE COURT: -- interaction with him? And the fact that he did
20 a presentation that you were present at, is that in any way going to affect
21 your ability to be fair and impartial to both sides --
22 UNIDENTIFIED JUROR: No. I just wanted to tell you.
23 THE COURT: -- in this matter?
24 UNIDENTIFIED JUROR: No. I just wanted to tell you.
25 THE COURT: Okay.

1 MS. MACHNICH: Don't be nervous.
2 UNIDENTIFIED JUROR: Okay.
3 THE COURT: Does anybody -- let me talk for a second.
4 Does anybody have any questions?
5 MR. GIORDANI: No, Your Honor.
6 MS. BEVERLY: No.
7 MS. MACHNICH: No, Your Honor.
8 MR. PLUMMER: Not at all, Your Honor.
9 THE COURT: Thank you. Would you please have a seat --
10 I'm sorry -- would you please be seated.
11 UNIDENTIFIED JUROR: Okay.
12 THE COURT: Thank you.
13 Counsel, is there any challenges for -- to this juror?
14 MS. BEVERLY: Not from the State.
15 MS. SISOLAK: Not from Mr. Turner.
16 MR. PLUMMER: No, Your Honor.
17 THE COURT: Okay. Then I'm going to have him remain
18 seated as a juror.
19 MS. SISOLAK: Thank you, Your Honor.
20 THE COURT: Thank you.
21 [End of bench conference.]
22 BY MS. BEVERLY:
23 Q Sergeant, we were talking about K-9, and you said you have a
24 dog named Loki?
25 A Correct.

1 Q Tell us how being on K-9 is different from, say, being --
2 THE COURT: Randy.

3 Go ahead, counsel.

4 BY MS. BEVERLY:

5 Q -- from being either on patrol as a patrol officer or even a
6 detective.

7 A Well, basically, I'm a patrol officer with a dog. And the dog is
8 a tool that I use. And he lives at home with me, I take him to work with
9 me. But we're not beholden to an area of Las Vegas. We're all of Clark
10 County. And when anybody needs a police dog to help them with a
11 situation, they call us, and me or part of my team responds.

12 Q Now, I'm sure we kind of all seen on TV maybe K-9s and what
13 they do and what they can't do. But can you explain for us what
14 members of the Las Vegas Metropolitan Police Department K-9 dogs
15 can and can't do?

16 A Well, there's a couple things that we can do. The first thing is
17 a police dog is a search tool. You see they have big, long noses and
18 they can smell a lot better than we can. So the -- what we do most of
19 the time is we search for a suspect that runs from a patrol officer, hides
20 from a patrol officer, is breaking into a building, something along those
21 lines. So we'll go. And then we use the dog as a tool to search for
22 people.

23 It's also an alternative use-of-force tool, method of
24 deescalating a situation. It's an alternative to using deadly force on
25 somebody because a police dog is -- it's just an inherently, you know,

1 human nature is to be afraid of a police dog. So we can couple, say,
2 warnings with a barking dog usually to deescalate a situation and get
3 somebody to give up.

4 Q Okay. So when we're talking about using the dog as a search
5 tool, what exactly are the dogs trained to search for? Like, what is it that
6 allows them to find someone better than, say, you or I?

7 A So a lot of times, you know, when you look on TV you see a
8 dog that, you know, they sniff an article of clothing for the suspect and
9 then they start searching, tracking on the ground. Our dogs don't do
10 that. So there are tracking dogs, a lot back East, because it's a little
11 wetter on the ground. Our dogs are what's called air-scenting dogs. So
12 they -- they smell in the air.

13 And what -- we train them over the course of 12 weeks. When
14 I -- we buy a dog, I say I, but I run our training program. I do all our dog
15 selection. When we buy a dog, they don't even -- all they know is their
16 name and to bite a big bite suit. So throughout the course of that 12
17 weeks, I teach them to search for somebody.

18 And they -- they learn to search for somebody that has that
19 flight-or-flight response. So when you have a flight-or-flight response,
20 your body releases a hormone called apocrine. And that's what we
21 believe the dog uses to discriminate between a suspect who recently ran
22 and hid from the police, and a -- a normal person that's just out walking
23 around.

24 Q And would that be because maybe a suspect fleeing from
25 police might give off that hormone fight-or-flight?

1 A Correct.

2 Q Okay. Now, you indicated that you were actually the training
3 officer for all of K-9 in Metro?

4 A I am now. I wasn't at the time of this incident, but I -- I am the
5 training sergeant. So I oversee trainers that train all of our new dogs.

6 Q Okay.

7 A And I also train new handlers as well. I teach use of force.
8 I'm a defensive tactics instructor and I teach, you know, deescalation
9 and advanced officer skills to K-9 handlers and outside of the K-9
10 section as well.

11 Q And you also indicated that K-9 is used as an alternative to
12 deadly force; is that correct?

13 A Yes.

14 Q Okay. How does that play out?

15 A Well, when it comes to uses of force, you have deadly force,
16 which is likely to cause death or significant injury. And you have
17 intermediate force, which is where K-9 falls. And that's a -- K-9 is the
18 same as a TASER, is the same as a baton. However, it is the one use
19 of force that I can call and I can rescind. And also is, you know, human
20 beings don't have an innate fear of, say, a baton or a TASER. But you
21 take a police dog and they look -- you know, they have the look of, say,
22 a predator. People are initially afraid of it. And I use that to, hey, this
23 is -- this is what I need you to do. And if you don't do that, I'm going to
24 deploy a dog and he will bite you. Usually, that's a tool to deescalate.

25 But on top of it, my dog is also trained to bite and hold. So

1 when he comes across a suspect, he's going to bite him and hold on to
2 him. And that way, we can make our approach safely and take
3 somebody into custody as well.

4 Q And that's what I was going to ask you: Is the dog also a way
5 for officer safety?

6 A Correct.

7 Q Okay. So rather than maybe an officer putting himself out
8 looking for a suspect, would be the dog could search -- search for
9 someone, find them, and then you can safely get someone in custody?

10 A Yes.

11 Q How long have you been with Metro in general?

12 A This is my 18th year. I hired on in 2000.

13 Q I want to direct your attention now to September the 4th
14 of 2015 in the early morning hours. You indicated that as K-9, you kind
15 of work the whole valley of Las Vegas; is that right?

16 A Correct.

17 Q Do you work a particular shift though on a normal day-to-day
18 basis?

19 A Yeah. At that time, I was working 7:00 p.m. to 5:00 a.m., like,
20 a modified graveyard shift.

21 Q Okay. So are you kind of connected to all the radio channels
22 of Metro, seeing if they need maybe K-9 to come out?

23 A Yes. Actually, my radio is on scan. We have seven channels,
24 primary channels. We have a bunch of other ones, like SWAT and other
25 channels like that, but seven primary channels. There's obviously a lot

1 of radio traffic on it. I keep my radio on scan, meaning I hear all of the
2 radio traffic. Because, generally, I'm listening for Code Red, somebody
3 yelling or screaming into the radio, just a -- any kind of critical incident,
4 because that's when K-9 is needed.

5 Q Okay. So going back to September 4th, specifically, 2015,
6 were you working on that day?

7 A I was.

8 Q And around 3:40, 3:45 in the morning, did you hear something
9 on the radio that alerted your attention?

10 A I did. I was actually searching another business for a burglary
11 in progress and I heard dispatch say there was an officer down on our
12 Northwest channel. So I switched down on my radio to listen to that to
13 obviously know if there's something that we as K-9 could go assist with.

14 Q Okay. When a K-9 officer decides to respond to a scene, is it
15 typically just one K-9 officer, or do you go in teams?

16 A It depends on the scene. Something like this, where you have
17 a -- a officer shot and down, multiple suspects, a large scene, all of us
18 went.

19 Q Okay. So everybody who was on duty that evening who was
20 a K-9 officer responded to this particular call?

21 A Yes. It was me and my entire squad.

22 Q On this particular day, how many members of your squad
23 responded to the call?

24 A You had myself, you had Officer Overson, Officer Hemsey,
25 Officer Carrillo. Those were the K-9 officers that were on duty, but I also

1 called others out eventually to help with the search.

2 Q Okay. So initially, though, we have four K-9 officers who
3 respond to the scene?

4 A Correct.

5 Q And that scene, that would be 6729 Oveja Circle; is that
6 correct?

7 A Yes.

8 Q Okay. I'm going to put up on the screen -- you can actually
9 see it, State's Exhibit No. 117. Can you see where my pen -- let's see,
10 can you see where my pen is pointed over here on Oveja Circle?

11 A Yes, I can.

12 Q Okay. Is this the street that you responded to?

13 A That is.

14 Q Okay. And right where my pen tip is, is that 6729 Oveja?

15 A Yes.

16 Q All right. So tell us how -- well, actually, you indicated earlier
17 that this was a scene that had potentially multiple suspects; is that
18 correct?

19 A Correct.

20 Q Did you -- were you aware that there was one suspect in the
21 backyard of the house?

22 A [No audible response.]

23 Q Did you become aware that there was one suspect in the
24 backyard of the house?

25 A Yeah. There was radio traffic given. An officer said he'd been

1 shot. And that they -- they had one suspect in the backyard and then
2 another suspect had ran from the backyard and they were establishing a
3 perimeter around the area.

4 Q Okay. So two suspects, one in the backyard and one had
5 taken off?

6 A Yes.

7 Q Okay. Now, did you respond to Oveja initially to help take the
8 suspects in the backyard into custody?

9 A Yeah. Well, to begin searching for the suspect that ran from
10 the backyard, I -- we had to deal with the suspect that was still in the
11 backyard first. You know, this is a neighborhood, an occupied
12 neighborhood. People were going to start getting up and going to work,
13 so we had to -- we had to deal with both, somebody that ran and then
14 somebody that was still in the backyard.

15 Q And are you aware from the radio traffic that there are
16 high-powered weapons involved in this?

17 A Yeah. The officer that was shot said he was shot with an
18 assault rifle.

19 Q Okay. All right. So what happens when you and your team
20 get over to Oveja?

21 A Well, we -- we all arrived at the same time, which is
22 interesting, because we were coming from different parts of the valley.
23 We arrived at the same time. We parked at the end, I believe it was east
24 end of Oveja, the -- the street that teed -- teed off with it. As we got out,
25 you know, as the sergeant, I developed a plan. This is -- this is how

1 we're going to solve this first problem.

2 We have ballistic shields in our vehicles that can, you know,
3 help give us mobile cover. So Officer Overson, I said, grab your shield
4 and you're going to be verbal communication with the suspect that was
5 in the backyard. Because we had to deal with that one first.

6 I had Officer Hemsey, and I advised Officer Hemsey to deploy
7 his rifle, due to the fact the suspect had an assault rifle, told him to grab
8 his rifle. He grabbed a heavy vest that had plates that was bullet
9 resistant towards an assault rifle. And he was going to be our deadly
10 force coverage.

11 And then we had -- I had Officer Carrillo set up his
12 containment in case the suspect that was in the backyard began to run.

13 Q Okay. So we have somebody in the front yard making sure no
14 one runs out, and then we have three other officers who are going to go
15 in, one's going to be your backup, one's going to be the shield, and then
16 you have the dog?

17 A Correct. And then with -- because of my position with the dog,
18 I was in the back of the team and I could also, as the sergeant, lead the
19 team and see everything that's going on at the time.

20 Q How quickly from the time you arrived at the actual location to
21 the time you developed this plan to the time you went in the house?

22 A I can't give you an exact -- I mean, it -- probably 5 to 10
23 minutes. It's enough to -- you know, we -- I had to communicate with
24 plan with everybody. Because when you don't communicate a plan,
25 that's when things go south. That's part of deescalating the situation is us

1 having a plan and not just running into the backyard to take somebody in
2 custody. That's how force actually begins -- gets escalated.

3 So I had to take time so everybody on our team knew the
4 plan. Also, the officers that were already inside the house knew the
5 plan. So, you know, we had to communicate that, so we had to take the
6 time to do that.

7 Q Okay. But still relatively quickly, because you have someone
8 in the backyard with some guns?

9 A Yeah. We had somebody -- somebody in the backyard that
10 we knew was armed. And there was somebody in the neighborhood
11 where people live that was also armed. And we -- you know, I have
12 concern for that neighborhood and their well being as well.

13 Q So tell us -- actually, I'm going to publish State's
14 Exhibit No. 88; are you familiar with what's depicted in this photo?

15 A Yes. It's the interior of the residence on Oveja.

16 Q And would this be from the front door looking towards the back
17 door and the back patio?

18 A Yes. It's from the front door, from that perspective.

19 Q So tell us what happened when you and your team, after you
20 formulate this plan, decide to execute the plan.

21 A So it was really dark inside. This picture is light, but all the
22 lights off -- were off on the inside. I make my way with my team through.
23 I communicate with the patrol officers inside to move to the right,
24 because my police dog was on the left.

25 As I mentioned before, the dogs key in on somebody with that

1 flight-or-fight response and somebody that might be a little scared. But I
2 had patrol officers that were also -- had that adrenaline dump as well.
3 So we had to control them, move them out of the way.

4 Officer Overson approached the read door, but from behind
5 the shield. And he began to give verbal communication with the suspect
6 in the backyard.

7 Q I am going to show you now Exhibit No. 126; would this be
8 that back door?

9 A Yes.

10 Q So you indicated that you told other multiple patrol officers to
11 move to the side; is that right?

12 A Yes.

13 Q So you and your dog and your team could come through?

14 A Correct.

15 Q Okay. When you get to this door, what, if anything, can you
16 see just looking out the door?

17 A I can't see a lot. I could see the -- as you can see here,
18 there's obstructions between us and the back -- rest of the backyard,
19 being the patio furniture, stuff in between us. There's, like, a small
20 jumper wall, which I can't say what it was made out of, but there was
21 just, like, a short wall and then a screen over into the rest of the
22 backyard. So our view was fairly obstructed from the back.

23 Q Are there -- is it dark on the patio?

24 A Yes.

25 Q Can you see anybody, any suspect from your perspective at

1 the front door -- or at the back door when you look onto the patio?

2 A No, I could not see anybody.

3 Q So tell us what you decide to do.

4 A So Officer Overson, as the communications officer, the one
5 that was making communications with the suspect, gave two verbal
6 commands to the suspect to -- and, basically, who we are, put your
7 hands up -- the initial one was put your hands up or we're going to send
8 a police dog, when he finds you, he'll bite you. The second one --
9 because they -- the suspect yelled back to us, but we couldn't make out
10 what he was saying.

11 The second one, okay, crawl to us, crawl out so we can see
12 you or we're going to send a police dog. After giving him time to follow
13 our commands, I made the decision to deploy my police dog into the
14 backyard.

15 Q Let's talk about some information that you had about this
16 suspect in the backyard. Were you getting any information from the air
17 unit?

18 A Yeah. The air unit was overhead and could see the suspect in
19 the backyard. They could see him lying down. And next to him, what
20 they described as a long gun, which I know is either a rifle or a shotgun.
21 At the time, we didn't know which one it was.

22 Q Fair to say, you couldn't see it; you're getting this information
23 from the air unit?

24 A Correct.

25 Q Okay. Were you concerned about trying to go into a dark

1 backyard and arrest someone that you know is surrounded by a gun?

2 A Yes.

3 Q Tell me why you're concerned about that.

4 A Well, knowing the suspect's armed and knowing that an officer
5 was just shot from that same backyard, I didn't want to just walk into that
6 backyard to take him into custody for a couple of reasons. The first off
7 is, our own safety, our officer safety, especially when -- when dealing
8 with any type of rifle or long gun, it can defeat our body armor, the body
9 armor that I was wearing at the time.

10 But also for the suspect's safety. As I said before, part of
11 deescalating is -- is having a plan and not just rushing into the backyard.
12 If I know I'm going into an armed confrontation, I would rather use every
13 resource that I have available, which includes K-9, includes the air unit,
14 includes communicating with the suspect to -- to get him to surrender
15 prior to taking him into -- or going into that backyard.

16 Q Are you at all worried that you might potentially be ambushed
17 if you just went out there?

18 A Yes.

19 Q So you -- the suspect has been given commands; is that
20 correct?

21 A Correct.

22 Q But you can't hear what he's saying; is that correct?

23 A No.

24 Q And then the command is given to crawl out, and he doesn't
25 crawl out; is that fair to say?

1 A Yes.

2 Q Okay. All right. So then you indicated that you decided to
3 deploy Loki?

4 A Yes.

5 Q All right. Tell us about that.

6 A So Loki runs into the backyard. I can see him. I gave him
7 very little direction. I believe at one time I told him to go out, which
8 means search away from me. And I then see him start to work his way
9 back, consistent with working the odor of a suspect. And I -- then I hear
10 a suspect screaming. And I can see now where my dog's at and him
11 biting the suspect on the wrist and begin to pull him away from where he
12 was at.

13 So at that point, I can see the suspect's hands. I can see that
14 he doesn't have a gun in his hands at that time, so I make the decision
15 to move forward with my arrest team to then take him into custody.

16 Q So when you decide to move forward after Loki has located
17 the suspect -- I'm going to show you Exhibit No. 358; what are we
18 looking at here?

19 A So we're looking now from the backyard back towards the
20 back door where we were -- where I deployed my dog from where we --
21 our arrest team was at.

22 Q Okay. So you go through the back door of the house; is that
23 correct?

24 A Yes.

25 Q And can you kind of draw for the jury your path once you

1 exited onto the patio?

2 A Yes. So initially, we walk -- and we walk out from the back
3 door, but I stop here to look at the suspect. And from that vantage point
4 where I'm at, I can see the suspect on the ground. I can see my dog is
5 biting him. But I also see a shotgun between his legs and it's flopping
6 around back and forth and it's aimed directly at our arrest team.

7 So I stop the arrest team. I then reach down and I -- I push
8 the shotgun away so it's not aimed at me. At that -- that point, I'm either
9 concerned the suspect is going to grab it or it's just going to discharge
10 into us because of all the commotion. So I then remove the shotgun
11 from him. I move it to the side. I lean it up against the wall. And then
12 we make our way around and I take physical control of my police dog.

13 Q Okay. So, actually, even though you stop on the patio, is the
14 suspect in front on the actual patio, or behind this orange, I guess, metal
15 thing?

16 A Behind. I actually reached through this hole and I grabbed --
17 that's where I grabbed the shotgun. I reached over and through.

18 Q So I'm going to now show you Exhibit No. 95; do you see that
19 shotgun depicted in this photo?

20 A Yes. It's the one that's leaned up against the -- the wall right
21 here. And then as I also looked over and I looked down, I was able to
22 see this rifle immediately where the suspect was lying.

23 Q Okay. So the -- the way the shotgun is right here, that's not
24 how you initially saw this, right?

25 A No. I placed it there.

1 Q And that was for -- because it was kind of pointed towards you
2 all; is that correct?

3 A Yes. I wanted to -- once again, it comes down to mitigating
4 threats. And I wanted to mitigate that threat before we continued moving
5 forward.

6 Q So once you remove -- obviously this happened pretty quickly;
7 fair to say?

8 A Yeah.

9 Q Okay. Once you were now come around the back of this
10 orange metal contraption, is your dog still on the suspect?

11 A Yes.

12 Q Okay. And do you -- how do you go about getting your dog off
13 of the suspect?

14 A So at this point, when I had multiple officers around me, I can
15 verbally yell at my dog and tell him to release and he will. The problem
16 is, is I have to get physical control of him first when I have this many
17 officers around me. Because you know, in the fray, just like when a
18 human -- when you have that flight-or-fight and you're -- you're in a fight,
19 dogs are the same way. And they may not realize as soon as they let go
20 there's a -- a person standing there that might be a cop. It's just all of a
21 sudden a hand next to them.

22 So I come up and I grab my dog. And then I -- I tell him to
23 release. I give him our release command. He releases. And I step
24 back holding him while officers handcuffed the suspect.

25 Q So is it fair to say that you try to get the dog off as safely, but

1 as quickly as possible?

2 A Yes.

3 Q You don't let the dog just stay on there for, like, 20 minutes, do
4 you?

5 A No.

6 Q Okay. Now, once you get control of the dog, you said your
7 team comes in and actually puts handcuffs on the suspect?

8 A Yes.

9 Q Okay. And did you see who was actually arrested?

10 A I did.

11 Q Do you see that person in court today?

12 A I do.

13 Q Can you please point to that person and tell me an article of
14 clothing that they're wearing today?

15 A He's wearing a light blue dress shirt with a dark tie.

16 MS. BEVERLY: Let the record reflect the identification of
17 Mr. Hudson.

18 THE COURT: The record will so reflect.

19 BY MS. BEVERLY:

20 Q Now, you indicated that once you get your dog off, the team
21 comes in and arrests Mr. Hudson; what do you do after that?

22 A So I search the side of the house. I redeploy my dog down
23 the side. Because at this point now, this suspect's in custody. That
24 situation is safe. But I have an entire neighborhood to worry about and
25 we have to bring our search. But I had to finish searching this backyard

1 with my dog. So I deploy him down the side of the house. Officers
2 cleared by the pool, the other side of the house, after we handcuffed this
3 suspect.

4 I then go and I put my dog away. I give him some water, I
5 check him for injuries. And then I begin to coordinate a search of the
6 rest of the neighborhood.

7 Q Do you recall, when Mr. Hudson was taken into custody, what
8 he was wearing?

9 A I don't believe he was wearing a shirt. There was, like, a -- a
10 knit next to him.

11 Q Now, how is it that you and your fellow officers then go about
12 searching other areas of the neighborhood?

13 A So I put my police dog away. I drive around the corner across
14 Rainbow on the west side of Rainbow to the command post. Now, I -- I
15 understand that we have a large neighborhood, a couple actual
16 neighborhoods, to search. So I then pull out a map and I begin to divvy
17 up the search between my dogs that were there, my dog teams, my
18 officers and dogs, and I also call out other -- other handlers. I think I
19 ended up calling four more handlers out to search this neighborhood.

20 Q And I forgot to ask you this, but we talked about the two guns
21 that were found kind of behind the orange awning; right?

22 A Uh-huh.

23 Q Was there any other weapons that you observed?

24 A Yeah. Actually, after we took the suspect in the backyard to
25 custody -- into custody and I finished searching the backyard, I then -- as

1 I went back through the house, I could see a small semiautomatic
2 handgun on the patio, a -- a small caliber semi-auto.

3 Q Would that be still close to the area where these other guns
4 are?

5 A Yes, it was.

6 Q Would it be fair to say that the perimeter in this case, *i.e.*, the
7 area that -- where you're searching for the other suspect, is very large?

8 A It was a very large perimeter.

9 Q And did you ever come in contact with the second suspect?

10 A I never did.

11 MS. BEVERLY: I pass the witness, Your Honor.

12 THE COURT: Any cross-examination by the defense?

13 MS. MACHNICH: Very briefly.

14 THE COURT: Proceed.

15 **CROSS-EXAMINATION**

16 BY MS. MACHNICH:

17 Q Sergeant.

18 A Yes.

19 Q I think I may only have one question. You never came into
20 contact with Mr. Turner in the backyard of the house that day?

21 A No, I did not.

22 Q Thank you.

23 MS. MACHNICH: No questions.

24 THE COURT: Any questions, Mr. Plummer?

25 MR. PLUMMER: Yes, Your Honor.

1 THE COURT: You may proceed.

2 MR. PLUMMER: Thank you.

3 **CROSS-EXAMINATION**

4 BY MR. PLUMMER:

5 Q Good afternoon, Officer.

6 A Good afternoon.

7 Q I'd like to just talk to you a little bit about when you deployed
8 into the backyard. You indicated there was a whole team of you --
9 representatives from K-9?

10 A Yes.

11 Q Plus you had additional officers from the patrol units?

12 A Yes.

13 Q And utilized patrol unit officers to actually do the grabbing of
14 Mr. Hudson?

15 A Yes.

16 Q Now, when you first went outside -- let me put the -- backtrack.
17 When you first arrived, you were given information that they
18 were in communication with Mr. Hudson?

19 A Yes.

20 Q Air had eyes on Mr. Hudson?

21 A Correct.

22 Q That he was lying down in the prone position with his hands
23 on his hand?

24 A Well, his -- his hands were up at some point, but also the air
25 unit said his hands would drop down to his side near the gun as well.

1 Q And the information coming from the sky was that the gun was
2 at the base of his feet?

3 A It was next to him.

4 Q That was the information you were receiving?

5 A That's the way I remember it.

6 Q Okay. The -- now, let's go back to when you were stacking
7 up, you had an officer with a shield?

8 A Correct.

9 Q And he was the first one out?

10 A Yes.

11 Q And he was in verbal communication with Mr. Hudson?

12 A Yes.

13 Q And that verbal communication, you indicated you were not
14 able to hear Mr. Hudson communicate back?

15 A I was not.

16 Q Right. You could hear him speaking, but you just couldn't
17 hear what it was he was saying?

18 A Correct.

19 Q And at -- at the time, Loki was barking?

20 A Yes.

21 Q And that would have an effect on your ability to hear
22 Mr. Hudson?

23 A Yes.

24 Q And so at that moment in time, you decided to deploy Loki?

25 A After Officer Overson gave him commands, correct.

1 Q Correct. That you -- you could hear him responding, but you
2 couldn't hear what he was saying?

3 A Yes.

4 Q The -- so you deployed Loki?

5 A Yes.

6 Q And you saw Loki had a hold of his arm?

7 A Correct.

8 Q And that's when everybody moved forward?

9 A Yes.

10 Q And there was six, seven of you that moved forward outside
11 the door at the same time?

12 A Yes.

13 Q Through the patio?

14 A Yes.

15 Q And out into the yard?

16 A Yes.

17 Q And before you went on the patio, the -- when you first arrived,
18 there was five or six officers in the kitchen?

19 A I can't tell you a number, but there were officers in kitchen,
20 correct.

21 Q And then your team arrived, which made it even more officers
22 in the kitchen?

23 A Yes.

24 Q And so at some point, there was close to 9 or 10 officers
25 standing in the kitchen?

1 A Yes.

2 Q Now, you indicated that you saw Mr. Hudson with his shirt off?

3 A Yes.

4 Q Now, would that have been after it was cut off from the injuries

5 received from your -- from Loki?

6 A I can't say.

7 Q So you can't recall if it was medical that cut his shirt off?

8 A I -- I don't recall.

9 Q Thank you, Officer.

10 A Thank you.

11 THE COURT: Thank you.

12 Any redirect by the State?

13 MS. BEVERLY: I have nothing further.

14 THE COURT: May this witness be excused?

15 MS. BEVERLY: Yes, Your Honor.

16 THE COURT: Thank you.

17 THE WITNESS: Thank you.

18 THE COURT: You may be excused.

19 I'm sorry, any -- no hands?

20 You may be excused.

21 THE WITNESS: Okay.

22 THE COURT: Please call your next witness, please.

23 MR. GIORDANI: Jeremy Vance.

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JEREMY VANCE,

[having been called as a witness and first duly sworn, testified as follows:]

THE CLERK: Please be seated. Would you please state and spell your name for the record.

THE WITNESS: My name is Jeremy Vance. J-E-R-E-M-Y, last name Vance, V-A-N-C-E.

MR. GIORDANI: May I proceed?

THE COURT: You may.

MR. GIORDANI: Thank you.

DIRECT EXAMINATION

BY MR. GIORDANI:

Q What do you do for a living, sir?

A I'm a detective with Las Vegas Metropolitan Police Department.

Q And how long have you been a detective with Metro?

A About a year and a half now --

Q Did you --

A -- as a detective.

Q Did you respond on September 5th of 2015 to an officer shot?

A Yes, sir.

Q Back then in 2015, were you working as a detective or a patrol officer?

A I was still assigned to patrol division in Northeast Area Command.

1 Q And when you responded to this officer down call, where
2 exactly did you respond to initially?

3 A I responded to the -- the control, or the CP area. The CP was
4 set up at Westcliff and Rainbow in the parking lot there.

5 Q What is CP?

6 A CP is a command post.

7 Q Okay. So you responded to command post. And is it there
8 that you get direction on what to do next?

9 A Yes, sir. I -- I contacted the lieutenant there.

10 Q Okay. And what was your assignment after you responded to
11 the command post?

12 A It was to rove within the interior of the perimeter in an attempt
13 to find the outstanding suspect.

14 Q Okay. So you're assigned to rove throughout this perimeter
15 area; is that right?

16 A Yes, sir.

17 Q How large, if you could estimate, is the perimeter that's set up
18 for this particular call?

19 A I -- it was the largest -- still is the largest perimeter I've seen
20 with Metro so far. It was probably about a mile east to west -- probably
21 actually about a mile and a half east to west, and then probably about a
22 mile north to south. It was huge.

23 Q Okay.

24 A Huge perimeter.

25 Q Did -- so how long did you rove around this perimeter for?

1 A Probably about three, three-and-a-half hours. Quite a while.

2 Q Okay. Did there come a point in time where your attention
3 was drawn to a particular area near Westcliff?

4 A Yes, sir. Yeah. There was a -- what would be called a 425A
5 call, which is a suspicious person call was received, reference a person
6 that was going through a backyard. And they dispatched a marked unit,
7 because I was actually in an unmarked car that evening. And that
8 marked unit and I proceeded up Westcliff westbound --

9 Q Okay.

10 A -- to that suspicious person call.

11 Q Okay.

12 MR. GIORDANI: I believe, by stipulation, 397 is going to be
13 admitted.

14 THE COURT: Is that correct, Defense?

15 MS. SISOLAK: That's correct, Your Honor.

16 MR. PLUMMER: Yes, Your Honor.

17 THE COURT: It will be admitted.

18 [State's Exhibit No. 397 admitted.]

19 MR. GIORDANI: Thank you.

20 BY MR. GIORDANI:

21 Q Sir, if you can see on your screen there, putting up 397.

22 A Sorry.

23 Q Can you see on your little screen?

24 A Yep. I see it now. Yes, sir.

25 Q Okay. Describe generally the area that we're seeing in this

1 photo.

2 A That's going to be the intersection of Westcliff and Rainbow.
3 You can see in that business complex the large white buildings in that
4 picture. The CP would have -- the control -- command post would have
5 been in that center parking lot. And then Westcliff, where that red arrow
6 is, is approximately where I came into contact with a -- the suspect.

7 Q Okay. Make a little circle where you came into contact with
8 the suspect.

9 A Okay. Right --

10 Q That -- that works.

11 A Okay.

12 Q A little arrow?

13 A Yeah. I guess that's what it made.

14 Q And are you familiar --

15 A It's a little --

16 Q -- with where the location of the officer down shooting was?

17 A Yes, sir.

18 Q And do you see that here as well?

19 A Yes, sir.

20 Q Where is that?

21 A It's -- the screen is off a little bit apparently. I'm trying to get
22 it -- inch it there. It's by that big, red dot.

23 Q All right.

24 A So.

25 Q Do you know the approximate distance from the area where

1 the officer is down to the area where you came into contact with the
2 subject?

3 A These are larger lots. I'd have to guess it right around a half
4 mile perhaps, taking that -- that path. It -- you know, it's under a half.
5 It's right in that little range, so.

6 Q Okay. So you were describing that you responded to that
7 area with a marked patrol unit, and you were unmarked, correct?

8 A Yes, sir.

9 Q Tell us what happened when you arrived in that area.

10 A When I arrived in that area, the -- the marked unit I was
11 following was actually a K-9 unit. It was a big SUV, had its lights and
12 sirens going, and it was proceeding westbound on Westcliff. And I was
13 behind it. I was trailing behind it by quite a distance. And the reason
14 being is often when we have people outstanding, they'll see the marked
15 unit. The attention gravitates towards the marked unit and they don't
16 see the unmarked unit trailing behind it, which is what I was doing.

17 When that marked unit passed, I saw the suspect pop out and
18 he looked right at that marked unit as it was going by. And I saw him
19 and I wasn't quite sure. I wanted -- I wanted to see what this person
20 was going to do, if they were going to run, do something like that. And I
21 watched that person watch it and then step off the sidewalk into the
22 roadway.

23 And once he was in the roadway, I told my partner, I said,
24 Hey, that's probably our guy. We spun around and we -- my car, despite
25 being a plain car, it had lights and sirens on it. We just kicked them on

1 real quick and pulled right up to the suspect.

2 Q Okay. And can you describe that person?

3 A Yes, sir. Yeah. He was a black male adult, wearing a purple
4 shirt and, like, orange pajama bottoms is what they looked like and --
5 and white -- want to say they were white tennis shoes, white Converse,
6 something like that.

7 Q Showing you State's 28, already admitted; is that the person
8 you came into contact with?

9 A Yes, sir.

10 Q When you got out of your vehicle, what did you do?

11 A Again, not knowing if this person was still armed or not and if
12 he was going to run or what was going to happen -- I was the driver, told
13 my partner to kind of blade out wide to the right. I came out quick and
14 we -- we approached him and we handled it like a normal person stop.
15 We identified ourselves. I said, Hey, I'm Officer Vance, we're stopping
16 you for being in the roadway, despite our other suspicions of what was
17 really going on. And we start to talk to the person and -- and ask him
18 Hey, what's your name, and just kind of the basic questions you would
19 do in a normal car stop -- or person stop, pardon me.

20 Q Did you -- did he respond when you asked what his name
21 was?

22 A Yes, he did.

23 Q What did he say?

24 A I -- I don't recall the exact name, but it was a -- it was pretty
25 clear it was a fictitious name. Because when we ran it, the physical

1 descriptions, while it came back to another black male, the physical
2 descriptors didn't match the person who was standing in front of me.
3 Height and weight were quite -- quite a bit off. And you could tell he was
4 very nervous. And while I was talking to him, you could see he had an
5 injury. And we started -- I started asking about that injury.

6 Q Okay. Where did you observe or how did you see he could --
7 he had an injury?

8 A Well, he -- he was only wearing -- the picture's gone, but he
9 was only wearing those very light pants, those orange pants. And you
10 could actually see blood on those pants. And -- and then trickling down
11 his leg into his shoe area. Yeah, actually the picture does -- oh, yeah.
12 There you go. You can actually see a little bit of that blood. Want me to
13 touch it or --

14 Q No. That's okay.

15 A Okay. It's -- it's there.

16 Q Describe which leg.

17 A It was on -- it was on the rear left side of his leg is where the
18 injury was. And you know, I asked him, I said, Hey, you look hurt. He
19 says, Yeah, I -- I -- my leg's hurt. I said, Can I see it? And he said,
20 Yeah.

21 He pulls up his pant leg and I ask him, How did you hurt your
22 leg? He said, I jumped over a wall at my friend's house and caught my
23 leg on the fence. And looking at the injury, I -- it was pretty clear it
24 wasn't, like, a tear from -- like you might get going over a fence. It
25 looked more to me like a -- what we call a GSW, a gunshot wound.

1 Q How many gunshot wounds have you observed in your years
2 as an officer?

3 A Hundreds. I -- I actually worked the northeast side of town.
4 And I -- I -- on any given week, I'd easily respond to five to six shootings
5 a week and --

6 Q So you --

7 A -- and homicides, things of that --

8 Q So you indicated --

9 A It's bad.

10 Q -- that you asked him to lift his pant leg up. And I'm showing
11 you --

12 MR. GIORDANI: I believe by stipulation we're admitting
13 State's 33, Your Honor, if it's not already --

14 MS. SISOLAK: No objection, Your Honor.

15 MR. PLUMMER: No objection.

16 THE COURT: Mr. Plummer? It will be admitted.

17 MR. GIORDANI: Thank you.

18 THE COURT: Oh, it's already in. They advised me --

19 MR. GIORDANI: It is?

20 THE COURT: -- it's already in.

21 MR. GIORDANI: Okay. Thank you.

22 THE COURT: Thank you.

23 BY MR. GIORDANI:

24 Q All right, sir. I'm showing you State's 33.

25 A Uh-huh.

1 Q It appears to be the left leg of the person you've described?

2 A Correct.

3 Q Up here is what appears to be an injury, correct?

4 A Uh-huh. Yes, sir.

5 Q Then you described trickling blood, and you can see that in
6 the photograph?

7 A Correct.

8 Q Did you ask him about that injury?

9 A I did. I did. I said, man, that looks like a pretty bad injury, can
10 I get medical assistance for you? And I asked several times. And he's
11 like, no, no, I'm fine, I just want to get home. And you know, he's -- we
12 still don't have this individual identified in front of us and he's very
13 suspicious, obviously, and the story, the way it's coming out.

14 And just -- this picture doesn't quite do it justice of the actual
15 swelling and trauma to that soft tissue right there. But it looked he taped
16 half a baseball to the back of the leg. There was a lot of trauma to that
17 leg.

18 Q Okay. And describe that a little bit better, up or down?

19 A The -- from where you could see that -- it's hard to see in the
20 photo even, but there's a -- there's a very clean, little round hole. I don't
21 know if I can touch that screen or not. But it would be to the left of
22 where I just touched, I guess. But you could see that round hole. It's
23 clean. It's -- it's not a tear. It's a straight bullet wound. And below that,
24 you have an area that -- that looks like the calf muscle, but it -- this -- the
25 way that picture angle is, you don't see the -- the swelling.

1 And it -- when a round strikes a soft body, a bullet, it will cause
2 that trauma, obviously, not just the hole, but it causes trauma to the
3 tissue and swelling. And that's what I was seeing, along with the blood
4 that was still trickling down his leg.

5 Q All right. I'm sorry.

6 A Oh, go ahead. Sorry, sir.

7 Q Did you -- do you recall having found anything on this person's
8 pockets or in his hands or anything like that?

9 A I -- I truly don't recall.

10 Q Okay.

11 A If -- if there was some miscellaneous paperwork, I don't recall
12 anything of note that we pulled off of him. It was pretty quick. My
13 partner actually conducted the pat-down on him as I kind of stood over,
14 watched to make sure there wasn't going to be a fight or a sudden
15 push-away or fight or something of that nature, so.

16 Q Okay. Now, you indicated he gave you fictitious name --

17 A Yes, sir.

18 Q -- previously; did you ultimately identify that person by name?

19 A Eventually.

20 Q And --

21 A Eventually. It took a while, and he finally gave a name.

22 Q And who is that?

23 A Steven Turner.

24 Q Do you see that person in court today?

25 A Yes, sir.

1 Q Can you please point to that person and describe an article of
2 clothing he's wearing today?

3 A He has longer hair now. He's wearing a -- a gray shirt, seated
4 next to the two ladies.

5 MR. GIORDANI: Would the record reflect identification of
6 Mr. Turner.

7 THE COURT: It will so reflect.

8 MR. GIORDANI: Thank you, Your Honor. I'll pass the
9 witness.

10 MS. SISOLAK: Court's indulgence just one moment.

11 **CROSS-EXAMINATION**

12 BY MS. SISOLAK:

13 Q All right. Officer Vance, very briefly. This is the outfit that
14 Mr. Turner was wearing when you stopped him, correct?

15 A Yes -- yes, ma'am.

16 Q And I'm going to show you State's Exhibit 32; this is --

17 A Pardon me.

18 Q -- the way that the CSA measured this hole, correct?

19 A I -- I assume. The CSA -- after he was taken into custody, I
20 wasn't there when the CSA arrived.

21 Q But this is the hole that you saw in the pants, correct?

22 A Yes, ma'am.

23 Q Okay. I assume that blood came from [indiscernible].

24 A Yeah.

25 Q Perfect.

1 A Correct. Yes, ma'am.

2 Q And State's 29, this is just a larger view; this is the hole here,
3 correct?

4 A It appears to be, yes, ma'am.

5 Q Thank you. Now, when we talk about the hole in the pants,
6 going back to this photo here --

7 A Uh-huh.

8 Q -- there was no hole in the front of the pants, correct? Just
9 that one hole?

10 A Correct. As far as I remember, yes, ma'am.

11 Q Perfect.

12 A I think when these photos were taken, it was a little more
13 daylight than when I first encountered him.

14 Q Probably.

15 A I forget the exact time that the stop occurred.

16 Q And you talked about being present for a pat-down?

17 A Yes, ma'am.

18 Q Mr. Turner was unarmed at that time, correct?

19 A Yes, ma'am. Correct.

20 Q So there were no weapons found on or near Mr. Turner?

21 A Correct.

22 Q And this is State's 33; this depicts the actual -- we'll call it a
23 wound --

24 A Yes.

25 Q -- is that fair? Was that wound -- this is fair and accurate,

1 correct? This is what it looked like?

2 A Yeah. I mean, it had been better if they'd taken surround
3 photos, because you really don't see the -- the trauma as much in that.

4 Q So --

5 A Looks flat almost.

6 Q -- was the entry the size of a quarter or smaller?

7 A I'd say, like, size of your pinkie finger, like the tip of your
8 pinkie --

9 Q So smaller than a dime?

10 A Yeah. Smaller, like -- yeah, like a dime size would be fair.

11 MS. SISOLAK: Court's indulgence.

12 Nothing further. Thank you.

13 THE COURT: Mr. Plummer?

14 MR. PLUMMER: Your Honor, I don't have any questions for
15 Officer Vance.

16 THE COURT: Thank you. Any redirect?

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

18 THE COURT: May this witness be excused?

19 MR. GIORDANI: Yes.

20 THE COURT: Seeing no hands.

21 Thank you.

22 THE WITNESS: Thanks.

23 THE COURT: You may be excused.

24 THE WITNESS: Thank you, sir.

25 THE COURT: State, call your next witness.

1 MR. GIORDANI: That is the last witness we have set up for
2 today.

3 THE COURT: Ladies and gentlemen, it appears we're going
4 to take our evening break at this time. We're going to take our evening
5 recess. During this recess, your duty not to converse among yourselves
6 or with anyone else on any subject connected with the trial or to read,
7 watch, or listen to any report of or commentary on the trial by any person
8 connected with the trial or by any medium of information, including
9 without limitation, newspaper, television, and radio. And you are not to
10 form or express an opinion on any subject connected with this case until
11 it is finally submitted to you.

12 We'll be in recess until 11:00 tomorrow.

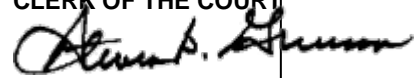
13 [Court recessed at 4:30 p.m., until April 20, 2018, at 11:00 a.m.]

14 ///

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18
19 ATTEST: I do hereby certify that I have truly and correctly transcribed the
20 audio/video proceedings in the above-entitled case to the best of my
21 ability.

22 

23 _____
24 Shawna Ortega, CET*562
25



1 **RTRAN**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA
5

6
7 THE STATE OF NEVADA,)

8 Plaintiff(s),)

9 vs.)

10 STEVEN TURNER AND CLEMON
HUDSON,)

11 Defendant(s).)
12

Case No. C-15-309578-1 and
Case No. C-15-309578-2

DEPT. XVIII

13
14 BEFORE THE HONORABLE MARK B. BAILUS,
15 DISTRICT COURT JUDGE
16

17 FRIDAY, APRIL 20, 2018

18 **TRANSCRIPT OF PROCEEDINGS RE:**
19 **JURY TRIAL - DAY 5**
20

21
22 (Appearances on page 2.)
23
24

25 RECORDED BY: ROBIN PAGE, COURT RECORDER

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APPEARANCES:

For the Plaintiff(s):

LEAH C. BEVERLY, ESQ.
(Deputy District Attorney)
JOHN L. GIORDANI III, ESQ.
(Deputy District Attorney)

For the Defendant
Steven Turner:

TEGAN C. MACHNICH, ESQ.
(Deputy Public Defender)
ASHLEY L. SISOLAK, ESQ.
(Deputy Public Defender)

For the Defendant
Clemon Hudson:

CLAY PLUMMER, ESQ.

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INDEX

Page #

WITNESSES

FOR THE STATE:

STEPHANIE FLETCHER

Direct Examination	5
Cross-Examination by Ms. Machnich	39
Cross-Examination by Mr. Plummer	45
Juror Question	47
Further Examination by Mr. Giordani	47
Further Examination by Ms. Machnich	49
Further Examination by Mr. Plummer	50
Additional Examination	51

MALIK GREGO-SMITH

Direct Examination	56
Cross-Examination by Ms. Sisolak	86
Cross-Examination by Mr. Plummer	87
Redirect Examination	94
Recross-Examination by Mr. Plummer	99

JEREMY ROBERTSON

Direct Examination	101
Cross-Examination by Mr. Plummer	133

EXHIBITS

Page #

For the State

No. 11B	124
No. 398	132

For the Defendants

None offered.

1 **LAS VEGAS, NEVADA, FRIDAY, APRIL 20, 2018**

2 [Proceedings commenced at 11:10 a.m.]

3
4 [Outside the presence of the jury.]

5 THE COURT: Good morning, ladies and gentlemen. Please
6 be seated.

7 MS. SISOLAK: Morning, Your Honor.

8 THE COURT: This is the continuation of the trial in Case No.
9 C-15-309578-1 and -2, *Plaintiff, State of Nevada vs. Defendants, Steven*
10 *Turner and Clemon Hudson*. The record will reflect the presence of
11 counsel for the State, counsel for the defendants, and the presence of
12 the defendants.

13 Counsel, are you prepared to go forward?

14 MR. GIORDANI: Yes.

15 MS. MACHNICH: Yes, Your Honor.

16 MR. PLUMMER: Yes, Your Honor.

17 THE COURT: At this time I'm going to bring the jury in.

18 [Jury reconvened at 11:11 a.m.]

19 THE COURT: You may be seated. Will the parties stipulate
20 to the presence of the jury?

21 MR. GIORDANI: Yes, Your Honor.

22 MS. MACHNICH: Yes, Your Honor.

23 MR. PLUMMER: Yes, Your Honor.

24 THE COURT: State, call your next witness.

25 MR. GIORDANI: State would call Stephanie Fletcher.

STEPHANIE FLETCHER,

[having been called as a witness and first duly sworn, testified as follows:]

THE CLERK: Please be seated. Would you please state and spell your name for the record?

THE WITNESS: Stephanie Fletcher, S-T-E-P-H-A-N-I-E
F-L-E-T-C-H-E-R.

MR. GIORDANI: May I?

THE COURT: You may.

MR. GIORDANI: Thank you.

DIRECT EXAMINATION

BY MR. GIORDANI:

Q Good morning, ma'am.

A Good morning.

Q What do you do for a living?

A I am employed as a senior crime scene analyst with the Las Vegas Metropolitan Police Department.

Q How long have you been a crime scene analyst with Metro?

A Approximately 17 and a half years.

Q And as a senior crime scene analyst, is it your duty and responsibility to respond and process crime scenes?

A Yes.

Q During the course of your years on the Metro Police Department, can you estimate generally how many scenes that you've responded to and processed?

1 A At last count, approximately 4,500 crime scenes.

2 Q Okay. Are you a statistical type of person?

3 A I am.

4 Q Okay. So you keep track of the scenes that you have
5 responded to?

6 A I do, yes.

7 Q I want to talk to you about a specific scene, an officer-involved
8 shooting that occurred on Oveja Circle back in September of 2015.

9 A Okay.

10 Q Do you know what I'm talking about?

11 A I do.

12 Q When was it that you responded to that scene, if you recall?

13 A I responded that morning approximately 7:00 in the morning.
14 And I responded to the command post, which was set away from the
15 scene.

16 Q And the command post, was that on the cul-de-sac or --

17 A At the time of my response, it was located near the
18 intersection of Rainbow and Westcliff.

19 Q All right. When you respond to that command center -- center,
20 what goes on?

21 A At that point I meet with the supervisor that's handling the
22 scene from my section, from the crime scene investigation section. And
23 then I am told, assigned a specific duty as to what they need me to
24 complete.

25 Q Okay. What was your specific duty on this particular scene?

1 A I had two duties. The first one was to respond to a scene a
2 little bit away from the command post where they had a subject in
3 custody that needed to be photographed. And then I responded to the
4 main scene where the shooting had taken place and I was tasked with
5 doing the shooting trajectory documentation.

6 MS. MACHNICH: Your Honor, at this point, can we please
7 approach?

8 THE COURT: I'm sorry?

9 MS. MACHNICH: May we please approach?

10 THE COURT: Yes.

11 MS. MACHNICH: Thank you.

12 [Bench conference transcribed as follows.]

13 MS. MACHNICH: I'm sorry. Your Honor, we have no
14 objection to the first area, the first photography of the subject. However,
15 with regard to the second area that she just mentioned that she'd be
16 testifying to with regard to trajectory, we would be objecting to her
17 testifying as to trajectory in this case, given the fact that she was
18 disclosed as an expert witness, and trajectory is not within the area of
19 lay testimony pursuant to NRS 50.265. I can make a further record as
20 well. I have a case.

21 THE COURT: I'm sorry?

22 MS. MACHNICH: Also pursuant to *Burnside v. State*, I would
23 like to make a record both of what we would have done had she been
24 disclosed as an expert in this case, and also to clarify why we believe
25 that she would be testifying to an expert -- an area of expert testimony if

1 she testified to trajectory.

2 THE COURT: State?

3 MR. GIORDANI: She's not being presented as an expert
4 witness and will not be asked to render any expert testimony
5 whatsoever. She is going to render her testimony on her observations
6 on the day, measurements made on the scene. And any opinion, if an
7 opinion is asked, is going to be a lay opinion, simply rationally based on
8 the perception of the witness pursuant to 50.265. We're not going to ask
9 her --

10 THE COURT: Counsel, also be -- has to be helpful to the trier
11 of fact.

12 MR. GIORDANI: Right.

13 THE COURT: How is it going to be helpful to the trier of fact if
14 all she's -- aren't the photographs going to depict what she's going to
15 testify to?

16 MR. GIORDANI: Right. But she's also going to add -- the
17 photographs don't say this bullet was 6 feet off the ground, or 1 foot off
18 the ground. She took a tape measure and measured it.

19 THE COURT: Okay. I'll let her -- I'll let her testify as to what
20 she did and the measurements and --

21 MR. GIORDANI: That's all --

22 THE COURT: -- things of that nature. If she can say, I
23 measured it and it was 6 feet from the ground, but I'm not convinced at
24 this point she needs to give an opinion --

25 MR. GIORDANI: She's not going to.

1 THE COURT: -- as to what -- you know, I'll let her -- I'll let her
2 testify as to perception, her observations. Okay. But I'm not going to let
3 her give an opinion --

4 MS. MACHNICH: Thank you.

5 THE COURT: -- as to what the --

6 MR. GIORDANI: We're not going to ask her to give an
7 opinion.

8 THE COURT: Okay.

9 MR. GIORDANI: I'm just going to ask her --

10 THE COURT: I think counsel, it's more in a in limines type of
11 situation, where she wants to -- rather than wait to hear the objection,
12 she wants to bring it in as --

13 MR. GIORDANI: Sure.

14 THE COURT: -- an oral in limine type of motion, I assume.

15 MS. MACHNICH: Yes, Your Honor. Only because at this
16 point she had stated that she did work on the trajectory. And at that
17 point, I believe that my objection would be ripe for consideration.

18 THE COURT: Okay.

19 MR. GIORDANI: Yeah. And anything with regard to
20 trajectory, Your Honor, I'm not asking her any opinion whatsoever.

21 THE COURT: Okay. She can -- she can give her
22 measurements and testify as to the --

23 MR. GIORDANI: The things she did and --

24 THE COURT: -- photographs. Right.

25 MS. MACHNICH: Yeah. No objection to that.

1 THE COURT: Okay.

2 MS. MACHNICH: Thank you.

3 MR. PLUMMER: Thank you.

4 THE COURT: Okay.

5 [End of bench conference.]

6 MR. GIORDANI: Thank you.

7 BY MR. GIORDANI:

8 Q All right, ma'am. So you were -- you indicated that you were
9 assigned various limited responsibility, and that was for the firearms
10 evidence that was located all over the scene, correct?

11 A Correct.

12 Q You also indicated that you responded to photograph a
13 suspect that was in custody?

14 A Correct.

15 Q And do you know that suspect's name?

16 A I believe his last name was Turner.

17 Q Okay. Where did you respond to do that?

18 A I responded to Westcliff Drive. I was just east of Antelope,
19 right there on the side of the street.

20 Q Okay. So actually on the side of the road?

21 A Yes.

22 Q And when you arrived, what did you observe?

23 A I made contact with the officers that were out there with the
24 subject. They had a black male in custody. He was in handcuffs at the
25 time of my arrival. And I was asked to document his overall appearance,

1 as well as any injuries that were present.

2 Q Okay. Showing you now already admitted 28; is that the
3 subject that you photographed?

4 A It is, yes.

5 Q Did you -- before looking at any injury, did you do observations
6 of his external appearance and clothes?

7 A I did. I took note of the clothing that he was wearing, as well
8 as the bloodstains that were present, apparent bloodstains that were
9 present on the pant legs, and also the defects that were present on the
10 pant legs.

11 Q You reference defects. I'm showing you 29; were there
12 defects on the left pant leg?

13 A Yes. I observed three small defects on the inner portion of the
14 pant leg.

15 Q Showing you State's 30; are those three defects you observed
16 visible in this photograph?

17 A They are.

18 Q Can you point those out to the jury?

19 A Sure. One here -- oops, here and here.

20 Q Thank you, ma'am. Did you observe any defects to the right
21 pant leg?

22 A I did.

23 Q Showing you now 32. Let me flip that upside down. Is that
24 visible in this photograph?

25 A Yes, it is.

1 Q Can you circle that --

2 A Sure.

3 Q -- or point to it?

4 A There's one.

5 Q Thank you.

6 MR. GIORDANI: I forgot to ask, can the jury see this now?

7 There's one saying no.

8 Can I move this, Your Honor?

9 THE COURT: You may.

10 MR. GIORDANI: Thanks. Everybody good? Okay.

11 BY MR. GIORDANI:

12 Q You indicated that you also photographed his injury?

13 A Yes, I did.

14 Q Showing you now State's 35; is that the injury you're
15 describing?

16 A Yes, it is.

17 Q Zoom back out. Okay. Right or left leg?

18 A That would be the inner left leg.

19 Q What was the location of the injury?

20 A It was right along where the calf muscle sits, right towards -- a
21 little bit forward of center a little bit, right whether the calf muscle is.

22 Q What you say forward of center, do you mean the center line
23 running down the inside of the leg?

24 A Correct.

25 Q It was just forward of that?

1 A Just forward of that, yes.

2 Q Did you, if you recall, document anything that was taken from
3 this man's pockets or anything like that?

4 A I did not, no.

5 Q Okay. So your secondary assignment was going to the home
6 on Oveja Circle?

7 A Yes.

8 Q When you arrived, what personnel was already there?

9 A When I arrived there were several police officers and
10 detectives, detectives from our Force Investigation Team, uniform police
11 officers on scene. There were supervisors from my section, Kristen
12 Gramas [phonetic] was there. Jeff Smink was there. They're both
13 supervisors, as well as Robbie Dahn, another senior crime scene
14 analyst, and Jeff Smith, another crime scene analyst as well as. And
15 Kristen Meckler was there as well.

16 Q So several crime scene analyst personnel in addition to the
17 detectives and officers that are all on scene?

18 A Yes.

19 Q With regard to the crime scene personnel, did each of you
20 have kind of individual assignments or responsibilities that you focused
21 on?

22 A Yes, we did.

23 Q Who did the general overall photographs of the scene?

24 A That would be Robbie Dahn.

25 Q Okay. And Ms. Dahn testified for what felt like 10 hours

1 yesterday, so I'm not going to go through all her photographs. I want to
2 go specifically to what you observed --

3 A Okay.

4 Q -- on the scene and what you documented, and how you
5 documented. Okay?

6 A Okay.

7 Q I'm going to start with already admitted 7; it's a crime scene
8 diagram, right?

9 A Yes.

10 Q And would you agree with me, this depicts the general area of
11 where it was believed the shooting had occurred?

12 A That is correct, yes.

13 Q Okay. In the dining room area, do you know how many
14 casings were found?

15 A We recovered 12 cartridge cases.

16 Q And what type of cases were those?

17 A Those were Speer .9mm cartridge cases.

18 Q Speer .9mm, is that the brand that's used across the board
19 with Metro?

20 A It is.

21 Q Okay. So when you see a Speer .9mm, you're -- you're
22 making a presumption, you don't know for sure, but that's a Metro
23 round?

24 A Correct.

25 Q Okay. So there's 12 cartridge cases from a Speer in the living

1 room area?

2 A In the dining room area, yes.

3 Q I mean, dining room area.

4 A Yes.

5 Q Right?

6 A That's correct.

7 Q Any cartridge cases, Speer .9mm cartridge cases found
8 anywhere else, either outside or anywhere else, other than that kitchen
9 area?

10 A No.

11 Q And I mean -- when I say kitchen, I -- I mean the dining room.
12 So they're all focused in one general area, correct?

13 A They are, yes.

14 Q With regard to this little covered patio area in the backyard,
15 were there cartridge cases found out there?

16 A Yes, there were.

17 Q What types?

18 A There were rifle cartridge cases that were consistent with rifle
19 rounds, and there were three of those.

20 Q Okay. Are those the 7.62 that we -- we've heard referred to
21 as 7.6-something?

22 A Correct.

23 Q Okay. And you said those appeared consistent with rifle
24 rounds; and were those all located in one general area?

25 A They were.

1 Q Where was that?

2 A They were located at the south end of the covered patio area.

3 Q Okay. So this is a compass at the bottom of this diagram.

4 North is up, south is down. Do you, on this diagram, see those three
5 cartridge cases documented?

6 A I do.

7 Q And can you just tell us the numbers? I don't think you're
8 going to be able to do it --

9 A Yeah. I won't be able -- it's -- the items numbers that were
10 designated as the rounds on the patio, or the cartridge cases on the
11 patio, would be Items 25, 26, and 27.

12 Q Okay. So three rifle cartridges cases on the patio. Are there
13 any -- I don't mean to be repetitive. Any .9mm's found anywhere on the
14 patio?

15 A There are not.

16 Q Okay. Is there any 25 small-caliber cases -- cases found
17 anywhere?

18 A No.

19 Q Is there -- are there any shotgun -- expended shotgun shells
20 found anywhere?

21 A No.

22 Q Okay. So we're dealing with a total of 12 cases in the dining
23 room, three cases on the patio, and that's the extent of the cases on the
24 scene?

25 A Correct.

1 Q And if the jury hasn't heard this already, cases are expended
2 rounds, correct?

3 A That's correct.

4 Q Okay. I want to move out on to the patio. Did you document
5 apparent defects in several different areas of the backyard?

6 A I did, yes.

7 Q I'm going to start with State's 294; is this your documentation
8 of the crime scene?

9 A It is.

10 Q See if I can zoom in. How many defects did you find in this
11 screen-type area?

12 A There were total of 12 defects through the metal sheeting, as
13 well as the screen.

14 Q Okay. So does this photograph encompass the 12 defects in
15 that area?

16 A It does, yes.

17 Q Okay. And what are those marked as with your little evidence
18 markers there?

19 A A through, I believe, L.

20 Q Okay. So on the -- on the side of the screen closest to the
21 house, those would be A through L. Did you document on the other side
22 of that screen?

23 A Yes, I did.

24 Q Showing you 267; does that appear to be the other side of the
25 screen?

1 A It is, yes.

2 Q And did you document 12 corresponding defects on the other
3 side of that screen?

4 A I did.

5 Q What are those documented as?

6 A Those are documented as A1 through L1.

7 Q Did you go further -- oh, I'm sorry, and let me stop there with
8 that and ask you: Did you measure the heights of those various 12
9 defects?

10 A I did. I measured the height of each individual defect as well
11 as its distance away from the -- one of the poles that's holding up the
12 screen.

13 Q Okay. Would you have measured from this side or from the
14 other side?

15 A I believe I measured from the side facing the house.

16 Q Facing the house?

17 A Yes.

18 Q We'll go back to 294. Can you tell us the range of heights off
19 of the ground that these encompass?

20 A For that I would be more comfortable referring to my report --

21 Q Would that --

22 A -- if I could.

23 Q -- refresh your memory, ma'am?

24 A It would, yes. Thank you.

25 Q And let me lay a little foundation. Robbie Dahn, Crime Scene

1 Analyst Dahn, created a -- a very lengthy crime scene report; is that
2 right?

3 A Correct.

4 Q You've had an opportunity to review that before today?

5 A I have, yes.

6 Q Does part of that report encompass something you wrote
7 yourself and then sent to her to add to her general report?

8 A Yes, it does.

9 Q Okay. And just to remind you, the question: I don't need the
10 heights of each one, I just need the range from the lowest one to the
11 highest one.

12 A Sure.

13 MR. GIORDANI: And, counsel, I'm showing page 5 of
14 Ms. Dahn's report.

15 MS. SISOLAK: Thank you.

16 THE WITNESS: So the shot that was lowest to the ground --

17 THE COURT: Ma'am, I --

18 THE WITNESS: I'm sorry, the -- the defect. I apologize. The
19 defect that was lowest from the ground --

20 MR. GIORDANI: Hold -- hold on. Hold on a second.

21 THE COURT: Ma'am, I don't want you to read the report to
22 the jury. What I'd like you to do is refresh your recollection --

23 THE WITNESS: Okay.

24 THE COURT: -- by reviewing the report. And then with your
25 refreshed recollection, testify to the jury.

1 THE WITNESS: Testify, okay. Sorry about that, Judge.

2 THE COURT: That's fine.

3 BY MR. GIORDANI:

4 Q Just with what you remember --

5 A So the range was between 3'3" inches, and 6' high. So the
6 lowest was at 3' -- 3', and the highest measured at about 6' high.

7 Q Okay. So 3'3" would be the lowest on the screen, and the
8 highest would be up on the corrugated plastic or metal?

9 A Correct.

10 Q Did you then proceed further into the yard, past that screen?

11 A I did, yes.

12 Q Did you observe apparent defects in anything out -- further out
13 in the yard?

14 A Yes, I did.

15 Q Showing you 271; what are we looking at here?

16 A This is a wicker patio set that was positioned near the center
17 of the yard west of that covered patio. So it was between the covered
18 patio and the perimeter wall.

19 Q Thank you. I'm going to briefly go back to 294; is that the
20 patio set we see here in the background?

21 A It is, yes.

22 Q How many apparent defects did you observe to the patio
23 furniture?

24 A To the patio furniture we observed four.

25 Q Were those labeled with a particular letter or number?

1 A Yes, they were.

2 Q What were those?

3 A The letter N -- or M, I'm sorry. Correction, M.

4 Q Okay. M, as in Michael?

5 A M as in Michael. Yes.

6 Q Showing you State's 275; are those two of the four that you
7 just referenced?

8 A They are, yes.

9 Q Can you kind of describe your -- your observation? Just what
10 are we looking at?

11 A This is just a little bit closer view of the cushions that are
12 positioned on that love seat pad -- piece of furniture. The defect labeled
13 M is the pillow that's set up in -- the loose pillow that's set up in front on
14 the love seat. And the defect labeled M2 would be the stationary
15 cushion that is along the back edge of the love seat.

16 Q Did you find what appeared to be a corresponding defect on
17 the back side of the love seat?

18 A Yes.

19 Q What was that labeled?

20 A That would be labeled M1.

21 Q On the back side?

22 A On the back -- are you talking about on the back of the love
23 seat?

24 Q Let me show you 277, and see if that's what we're -- we're
25 talking about the same thing.

1 A Oh, I'm sorry. M3 would be the backside of the stationary
2 cushion.

3 Q Okay. And to be clear, is that the only defect that was found
4 on the backside of the cushion?

5 A Yes.

6 Q Okay. You said there was an M4; where is that located?

7 A M4 was located on the perimeter wall, along the backside of
8 the property.

9 Q Okay. I want to move on to, were there any other items in the
10 central area of that backyard that were -- were -- had apparent defects to
11 them?

12 A Yes. We located a trash can, a plastic trash can that was
13 positioned just behind with couch with two additional defects.

14 Q Okay. Showing you State's 298; is that the trash can there
15 behind that love seat?

16 A Yes.

17 Q And what were those -- did you label those defects?

18 A Yes, we did.

19 Q What did you label those with?

20 A Those were labeled using the letter N.

21 Q N, as in Nancy?

22 A Yes.

23 Q Okay. Showing you 272; is that the defect on the front side of
24 the closest side of the trash can?

25 A Yes.

1 Q That's the N. Was there an N1 and N2?

2 A There would have been an N, an N1, and then an N2.

3 Q Where was --

4 A But N and N1 were on the trash can.

5 Q Okay. So N1 would be a corresponding defect on the other

6 side of the trash can?

7 A Correct.

8 Q And then N2, where was that located?

9 A That was located adjacent to the M defect on the wall along

10 the backside of the property.

11 Q Okay. Now, you referenced earlier trajectory. I don't want to

12 ask any opinion whatsoever on trajectories. I want to ask you very

13 specifically, what is a trajectory?

14 A A trajectory, in simplest terms, is just the flight path of a bullet.

15 Q Okay. And no disrespect meant by this, but when you use

16 trajectory rods, do you just stick a stick through a hole, basically?

17 A Basically, yes.

18 Q Okay. I want to start with 284. What are we looking at here?

19 MS. MACHNICH: Your Honor, I'm going to renew my

20 objection. This is not an expert witness.

21 MR. GIORDANI: And again, I'm not asking for an expert

22 opinion in any way. It's just the observations that she made.

23 THE COURT: She can testify as to her observations.

24 MR. GIORDANI: Thank you, Your Honor.

25 BY MR. GIORDANI:

1 Q What are we looking at here, ma'am?

2 A This was -- this is a photograph of a rod that was placed
3 through the defects in the couch.

4 Q Okay. And that -- that rod doesn't have a label to it. The M is
5 pointing to the defect, right?

6 A Correct.

7 Q Okay. Showing you 287; what are we looking at here?

8 A This is a view of the rod in place from the backside of the
9 couch.

10 Q Okay. Same rod we saw previously?

11 A It is, yes.

12 Q All right. You mentioned several defects to the back wall of
13 the property; is that right?

14 A Correct.

15 Q How many defects did you observe and then label to the wall?

16 A Just counting, I want to give an accurate counting.

17 Q Okay. Thank you.

18 A There were seven defects to the back wall.

19 Q Okay. I'm showing you now 348; what are we looking at
20 here?

21 A This is a view of the marked defects along the back wall.

22 Q Okay. Do you recall the letters that those would have been
23 marked with?

24 A I do. We started with M, and I believe we ended with S.

25 Q S, okay. So -- okay. Showing you 302; is that just a closer-up

1 shot of a couple of those defects in the wall?

2 A It is, yes.

3 Q Without opining in any way, can you describe the defect that
4 you observed?

5 A There was a few that appeared to be holes.

6 Q Okay. And I -- just, are you referring to P and O at least?

7 A P and O appeared to be holes. And then they were a few that
8 appeared to not fully perforate the wall.

9 Q Okay. At the very top of this photograph, what are we looking
10 at?

11 A That is a set of barbed wire.

12 Q Okay. So there was barbed wire on the top of this back wall?

13 A There was.

14 Q Did that run the length of the back wall?

15 A It did.

16 Q Okay. Showing you 301; is that that same back wall?

17 A It is.

18 Q You can barely see that barbed wire running the length, right?

19 A Yes.

20 Q There's a lot of vegetation and stuff at the bottom of this wall,
21 correct?

22 A Correct.

23 Q All right. Before I move on, real quickly, I want to go to
24 State's 6, already admitted. This is a different diagram, correct?

25 A Correct.

1 Q And that has some labels along the back wall, right?

2 A Yes.

3 Q Did those correspond with what you just testified to, M through

4 S, on the back wall?

5 A It does, yes.

6 Q Okay. And then up here, so I don't have to go back to it, there

7 are several letters where it appears that screen is on the patio?

8 A Correct.

9 Q Same thing, do those correspond with what you just testified

10 to, the defects that you saw there?

11 A They do, yes.

12 Q Okay. And this is diagram six of seven, correct?

13 A Correct.

14 Q Okay. Did you then turn around, turn your attention back

15 towards the home?

16 A Yes.

17 Q Okay. Want to start with 318; did you observe any defects in

18 any of the items on the patio?

19 A Yes.

20 Q What are we looking at in this exhibit?

21 A This is a chair that is positioned just along the south end of the

22 patio in front of the entry door into the dining room.

23 Q And showing you now 317; is that just a different angle or

24 close-up of that same chair?

25 A It is, yes.

1 Q And what were your observations of this chair and the labels
2 that you added?

3 A In this chair, we observed four defects. There were two
4 present in the cushion and there were two present in the metal side arm
5 of the chair adjacent to the cushion.

6 Q And what were those four labeled?

7 A We have T, T1, and then in -- those were in the cushion. And
8 then T Frag 1, and T Frag 2 are going to be into the arm portion,
9 armrest.

10 Q Okay. So for the record, the two that you referenced to the
11 cushion are T and T1?

12 A T1, yes.

13 Q Okay. And again, for the record, what is this material here on
14 T1?

15 A That would be the cotton stuffing that's inside the cushion.

16 Q Okay. And then you indicated two separate little defects to the
17 metal part?

18 A Yes.

19 Q The arm of the chair? What is this right here?

20 A That appears to be a fifth defect that we did not label on the
21 scene.

22 Q Okay. Let me give you a very close-up shot of T in State's
23 already admitted 316. So T was the very large one on the backside of
24 the cushion, correct?

25 A Correct.

1 Q What's -- what are we looking at in this photograph?

2 A It appears to be part of the metal construction of the chair, the

3 inner workings of the chair.

4 Q Okay. So --

5 A Inside the cushion.

6 Q Metal within the cushion?

7 A Yes.

8 Q Okay. And then real quickly, 323; is that T1, which was the

9 corresponding defect on the other side of the chair?

10 A It is, yes.

11 Q Did you take one of your yellow sticks and put it through that

12 chair?

13 A We did not.

14 Q I want to show you now 188; what are we looking at here?

15 A This is a metal fragment that was on top of the patio table that

16 appears to have some sort of cotton material stuck to it.

17 Q Okay. And 324, that's the T1 defect. Was that T1 portion or

18 side of the chair close to the table that we just saw?

19 A It was nearby, yes.

20 Q Okay. And then 187; what is that?

21 A That's a view of that metal fragment on the -- on the table.

22 Q Okay. Did you observe other defects to different furniture on

23 that patio?

24 A Yes.

25 Q Showing you now 357; what is this piece of furniture here?

1 A That was a wooden entertainment unit that was along the
2 south end of the patio just in front of the entry door into the dining room.
3 It contained a television.

4 Q Okay. 165, were there any apparent defects to the television?

5 A They were, yes.

6 Q And were there any apparent defects to the entertainment
7 center that housed the television?

8 A Yes, they were.

9 Q Have your indulgence for a moment. Do you recall labeling
10 the various defects in that TV and entertainment center?

11 A Yes.

12 Q What were your labels for that?

13 A We utilized the letter U.

14 Q U. Showing you 337; what are we looking at here?

15 A Here you can see a defect to the front top edge of that
16 television.

17 Q Okay.

18 A There is a second defect that is labeled U1 along the -- the
19 top -- U is on the front-facing side, and U1 is on the top edge. There's
20 another --

21 Q Okay. For the record -- I'm sorry to cut you off.

22 A Yes.

23 Q The one that's just out of frame here, is that the U?

24 A That's U, yes. Correct.

25 Q Okay. And that would correspond with the hole?

1 A Yes.

2 Q Then U1 would be -- is that more on the top of the television?

3 A That is, yes.

4 Q Okay. Then up underneath this shelf that abuts the television,
5 is there a label or tag there?

6 A There is, yes.

7 Q What would that be?

8 A That would be U2.

9 Q Do you like them?

10 A U2.

11 Q Up on top of that shelf --

12 A Uh-huh.

13 Q -- is there then another label on top?

14 A There is.

15 Q What would that be?

16 A That one was labeled U3.

17 Q Okay. So showing you now -- oh, here we go. 338, let me
18 zoom in. Describe what we're -- you observed here.

19 A So this is the shelf that's positioned just along the topside of
20 the television, or above the television.

21 Q Okay. And just real briefly, circle U2 and then U3.

22 A Okay. U2 is right here. U3 is here.

23 Q Okay. And then there's a U4 obviously up at the top there?

24 A That's correct.

25 Q There also is, like, a metal can there?

1 A Yes.

2 Q Whatever that is, aerosol or something?

3 A I believe it's a can of sunscreen.

4 Q Did there appear to be any defects or issues with that?

5 A There were. There was damage to that can, yes.

6 Q Okay. When you did this documentation, was the can as is,
7 as it is in this photo, standing right there?

8 A I don't recall specifically where it was.

9 Q Okay. Did you then take one of your sticks and put it through
10 the TV?

11 A I did, yes.

12 Q Showing you now 307; is that the stick you placed through the
13 TV?

14 A It is, yes.

15 Q Did it go up through the wood that -- shelf that's on top of that?

16 A It did, yes.

17 Q And then did it come to rest on this side wall of the wood?

18 A It did, yes.

19 Q Showing you State's 239, zoom back out. The left entry door
20 is in this photo, correct?

21 A Correct.

22 Q That would go into the home?

23 A Yes, it does.

24 Q And then this is that same stick you placed through the TV,
25 correct?

1 A Yes.

2 Q All right. It looks like there's sunscreen, as well as a -- the
3 aerosol can or a aerosol can. Does that appear to be consistent with
4 how it was originally?

5 A It does appear that way, yes.

6 Q Okay. And then showing you 310. In this one, you can see
7 those -- those items had been moved where they were laying; is that
8 right?

9 A That's correct, yes.

10 Q Okay. Does that make sense to you?

11 A Yes.

12 Q Is that something you would typically do?

13 A Yes.

14 Q Okay. I want to move back into the home briefly. Show you
15 State's already admitted 5. Okay. This is yet another diagram, correct?

16 A Correct.

17 Q And this one I've zoomed in enough that it's showing the
18 totality of the home, correct?

19 A Correct.

20 Q Did you make observations through this dining room and back
21 into the living room?

22 A I did, yes.

23 Q And there's a big -- or a small number 20 in the center of the
24 living room, correct?

25 A Correct.

1 Q What did that correspond with?

2 A 20 corresponded with shotgun pellets, or shot.

3 Q Okay. Showing you now already admitted 83; what are all
4 these little specks all around this rug?

5 A Those are the shotgun pellets, or the shotgun shot.

6 Q Okay. I'm going to go to State's 84 just real quick to get
7 perspective. This is Evidence Marker 20, right?

8 A Correct.

9 Q Those -- those pellets are real tiny, correct?

10 A They're -- they're very small. Yes.

11 Q Okay. Did you count all the pellets, or no?

12 A No.

13 Q Okay. Can you estimate how many there were in that living
14 room area?

15 A There were numerous.

16 Q Okay.

17 A Several dozen.

18 Q Did you find some shotgun pellets in a different location?

19 A Yes.

20 Q Showing you now 263; what are we looking at here?

21 A This is the living room window.

22 Q Okay. What are we -- what are the yellow things across the
23 window?

24 A The yellow tape is just adhesive measuring tape that we utilize
25 to give a photographic representation of the measurements.

1 Q Okay. Within that -- let me go to 264. Within that square that
2 you've made with the tapes, are there several more what appear to be
3 defects?

4 A Yes, they are.

5 Q In the blinds?

6 A Yes.

7 Q Showing you now 344; what are we looking at here?

8 A This is the window sill -- sill of the living room window after
9 we've pulled the blinds up. And there are pieces of a shotgun round
10 located on top of the window sill.

11 Q Okay. I'm showing you now 345; that's Evidence Marker 22,
12 right?

13 A Yes.

14 Q What is that documenting?

15 A That is a piece of wadding from inside the shotgun shell.

16 Q Showing you State's 347. That's Evidence Marker 23; what is
17 that documenting?

18 A That is also a piece of the wadding from inside the shotgun
19 shell.

20 Q Okay. How high off the ground was that bulk of defects in the
21 drapes or the --

22 A I'd have to refer to my report to refresh my memory, if that's
23 okay.

24 Q Okay. If that would refresh your memory --

25 A Yes.

1 Q -- go ahead and do so.

2 A Yes, please.

3 Q Oh, you don't have it.

4 A I do -- you took it.

5 Q Sorry.

6 A Yeah.

7 Q Page, I believe, 6.

8 A Yes.

9 Q There you go. Does that refresh your memory?

10 A Yes, it did.

11 Q Go ahead. How high?

12 A It was approximately 3'10" up from the ground.

13 Q Before I move on to my last little area of inquiry, I want to go
14 back to State's 7. Between that front area of the home, which is
15 actually -- I apologize. Let me give you a different diagram.

16 State's 3. All -- all the testimony you just gave about apparent
17 defects in the drapes and the broken window and the shotgun wadding,
18 those would be documented on this as well, correct?

19 A Correct.

20 Q And is that 21, 22, 23?

21 A It is.

22 Q And then 20 was all the pellets we saw earlier?

23 A Yes.

24 Q Okay. Now, from that patio area to that area where you find
25 the shotgun wadding in the window, are there any holes in the wall

1 between the patio and the kitchen?

2 A No.

3 Q Are there any holes in the door that goes from the patio area?

4 A No.

5 Q Okay. And there's obviously an open door when you're there,

6 correct?

7 A Correct.

8 Q An open door leading from the patio to the dining room and

9 vice versa?

10 A That's correct, yes.

11 Q Did you observe any apparent defects to the front door of the

12 home?

13 A Yes.

14 Q Still have that Exhibit 3 up. The door to the front of the home,

15 did that have a -- a security gate as well?

16 A Yes, it did.

17 Q Showing you State's 304; what are we looking at there?

18 A This is a view of the security, the metal security door that's on

19 the exterior side of the front entrance to the house.

20 Q Okay. And it appears that security door is closed, correct?

21 A Correct.

22 Q Did you document any apparent defects in that?

23 A I did, yes.

24 Q Is that your little evidence tag at the very top there?

25 A It is.

1 Q Well, not at the very top, but three-quarters of the way up?

2 A Yes.

3 Q Showing you 303; what are we looking at there?

4 A This is a closer-up view of that defect that was located into
5 the -- through the door.

6 Q Okay. That's a -- what size was that defect? It looks a little
7 larger than the others.

8 A Based on the scale that's in the photograph, I'd say it's a little
9 bit larger than two centimeters.

10 Q Okay. And that's on which side of the door? Would it be the
11 inside of the home or the outside of the home?

12 A That was on the in -- interior side of the home.

13 Q Okay.

14 A So inside.

15 Q And the interior defect is marked with a V?

16 A Correct.

17 Q Did you also mark and observe the other side of the door,
18 being the outside?

19 A I did, yes.

20 Q State's 305; what are we looking at there?

21 A That's the exterior side. And that was marked as V1.

22 Q V1?

23 A Yes.

24 Q Okay. What is this here?

25 A The -- that's a piece of metal at the bottom of the defect that's

1 bent downward and out.

2 Q Okay. Downward and out, from the inside of the home?

3 A Correct.

4 Q Meaning if you're inside, that hanging piece of metal would be
5 outside?

6 A Correct.

7 Q Okay. Did you do any forensic testing on 303 V1 -- or V?

8 A Yes, we did.

9 Q What type of testing was that?

10 A We utilized a presumptive test for lead and for copper using
11 two different chemicals for each, resulting in positive results on -- for
12 both lead and copper on that hole.

13 Q What is the purpose of that test?

14 A We utilize this test to try to determine if a defect is, in fact,
15 related to a bullet, since a bullet is primarily composed of lead and
16 sometimes copper, depending on how it is made up. So if we are able
17 to test for that and get a positive result, we can presume that it is
18 possibly going to be related to a bullet. However, if we get a negative
19 result, doesn't preclude it from being involved with a bullet, but that will --
20 that helps us determine if something is possibly related to the shooting.

21 Q Thank you, ma'am.

22 MR. GIORDANI: Can I have the Court's brief indulgence?

23 Q Real briefly, ma'am, do you know the distance from the -- the
24 patio door to the front door?

25 A I could only approximate it. I don't have that distance. I did

1 not measure that or complete the diagram so I --

2 Q Okay.

3 A -- don't know that for a fact.

4 Q Understood. Up at the top here along with the compass
5 needle, there's a little scale underneath and it says, Approximate scale?

6 A Correct.

7 Q So that's not to the inch, correct?

8 A Correct.

9 Q Okay. So that would apply though -- that scale would apply
10 both across the doors and back through the backyard, correct?

11 A Correct.

12 Q Okay. All right. Thank you, ma'am.

13 MR. GIORDANI: I'll pass the witness, Your Honor.

14 THE WITNESS: Thank you.

15 THE COURT: Defense?

16 MS. MACHNICH: I do need to go through some of the
17 exhibits just quickly to prepare, so Court's brief indulgence.

18 [Pause in proceedings.]

19 MS. MACHNICH: Your Honor, may I proceed?

20 THE COURT: You may.

21 MS. MACHNICH: Thank you.

22 **CROSS-EXAMINATION**

23 BY MS. MACHNICH:

24 Q All right. Ma'am, let's discuss just a few things. So you noted
25 that at the top of the rear wall -- and I'm referencing now State's 349 --

1 there was some barbed wire along the top?

2 A Yes.

3 Q And you also took some photographs of a subject in this
4 case?

5 A Yes, I did.

6 Q Okay. And that was a subject wearing orange pants, correct?

7 A Correct.

8 Q Okay. And I am now referencing State's Exhibit 30; recall on
9 direct, you noted that there were several defects to the material of the
10 pants?

11 A Correct.

12 Q All right. And now referencing State's 29; the defects are also
13 depicted in this, just zoomed out further?

14 A Yes.

15 Q All right. And you do not know exactly what caused those
16 defects, correct?

17 A I do not.

18 Q Okay. But there were several of them in the fabric?

19 A Four total, yes.

20 Q Now, with regard to the screen discussed, that's right-side up.
21 Referring to State's 267, you testified on direct that there were 12
22 defects in the screen or surrounding metal area?

23 A Correct.

24 Q You also testified -- and I'm now referencing State's 349 -- you
25 recognize this as part of the rear wall, correct?

1 A Correct.

2 Q Okay. You noted that there were -- let me see, M, N, O, P, Q,
3 R, and S defects in the wall?

4 A Yes.

5 Q So that would be seven defects in the wall?

6 A Correct.

7 Q All right. Additionally, with regard to the defects in the rear
8 wall, some of the them you noticed were full holes into the wall, correct?

9 A Yes.

10 Q Okay. And several of them were more of -- more of, like, an
11 impact or different type of defect in the wall?

12 A They -- they didn't fully perforate the wall, so they didn't go all
13 the way through.

14 Q Okay. And specifically, M4 was one of these perforated
15 impacts?

16 A I believe so, yes.

17 Q Okay. M2 was one of these perforated impacts?

18 A So perforating meaning going all the way through?

19 Q Oh --

20 A Or are you in -- in referring to, like, a penetrating one where it
21 just goes in and bounces off? Or goes all the way through?

22 Q So we have the type -- the two types of holes. We have the
23 hole and will we call the other one an impact?

24 A Okay. That's fine.

25 Q All right. So we're using the two different terminologies.

1 A Okay.

2 Q So M4 was an impact?

3 A Okay. Yes.

4 Q And that's one that did not go through?

5 A Correct.

6 Q Okay. N2 was an impact?

7 A Correct.

8 Q O was a hole?

9 A Hole, yes.

10 Q All right. P was a hole?

11 A Yes.

12 Q And Q, R, and S were impacts?

13 A Correct.

14 Q Okay. Making sure I had that clear. Were you in charge of

15 impounding or retrieving any bullets from the backyard area?

16 A No. I did not recover any evidence from the scene.

17 Q Okay. Obviously I don't want to ask you about it if it wasn't

18 your job, so I appreciate that.

19 Okay. So now turning our attention inside to talk about the

20 house just very briefly. You identified -- and I'm referring to State's 84 --

21 that you found several of these metal pellets inside the interior living

22 room area?

23 A Yes.

24 Q Okay. And again, State's Exhibit 82, you recognize this as

25 part of that interior area, a zoom-out on the Evidence Marker 20?

1 A Yes.

2 Q Are all of -- are some of these other specks on the floor, are
3 those also some of the pellets, or are they other things?

4 A They could be other things. I don't know specifically, but I do
5 know there were several dozen of the pellets in -- in the living room
6 throughout.

7 Q Okay. And, ultimately, your testimony is the -- there were also
8 pellets up through the front window of the house?

9 A We had some that were on the sill of the window. Yes.

10 Q Okay. Was the window broken?

11 A Yes.

12 Q Okay. And were there any defects in the blinds prior to you
13 pulling the blinds up?

14 A Yes.

15 Q Okay. Now, so we can use one of diagrams. Referring to
16 State's 3. Let me just zoom this in a little bit. See, if we can make sure
17 we identify the -- okay. So and Mr. Giordani went through a few of these
18 areas with you already, but I -- I just want to make sure we have a
19 complete record on it.

20 Referring to an apparent wall area between -- it looks like the
21 numbers that you'll see on here are 19 and 11. There were no impacts
22 of the -- there -- there were no defects in -- located in that wall area,
23 correct?

24 A No. There were not.

25 Q And there were no defects in this wall area between the edge

1 of the master bedroom wall and the door?

2 A No, there were not.

3 Q Fair to say there were no -- there were no defects in the door
4 itself?

5 A There were none.

6 Q Now, specifically to the type of defect that you noted with
7 regard to the pellets that were located, there were none of those defects
8 in, say, the table outside?

9 A Outside or inside? You're pointing to the inside.

10 Q Oh, out -- outside?

11 A No.

12 Q I'll get inside in a second as well.

13 A Okay. There were none outside, no.

14 Q Okay. And this would include anywhere in the patio area?

15 A That you're asking specifically related to what's matches into
16 the living room, those type of defects?

17 Q Correct.

18 A Correct.

19 Q Okay. And also, moving -- well, also with the exterior area,
20 there were no pellets located in that exterior area?

21 A No, there were not.

22 Q Now moving into the interior area, were there any defects
23 relating to the pellets in the dining room area?

24 A No.

25 Q So that would include the dining room table?

1 A Correct.

2 Q Okay. And then moving further along, you started finding the
3 actual pellets themselves in the eastern half of the living room, would
4 you say?

5 A Yes.

6 Q All right. So we see what is apparently a table in the middle of
7 the living room in the diagram. Would you say that the pellets were
8 located to the right or to the left of that table?

9 A I'd say roughly most of them were located to the right. I don't
10 remember, specifically, if we had any to the left or underneath, but the
11 majority were to the right side.

12 Q Okay. And then moving back, so we have a full record on it,
13 referring to what is apparently a couch, were there any pellets located to
14 the left of the couch at all?

15 A I don't believe so.

16 Q Thank you.

17 MS. MACHNICH: Court's very brief indulgence.

18 Thank you, ma'am. I very much appreciate your time.

19 THE WITNESS: Thank you.

20 **CROSS-EXAMINATION**

21 BY MR. PLUMMER:

22 Q Good morning.

23 A Morning.

24 Q So the pellets were, basically, everywhere?

25 A Spread throughout the living room, yes.

1 Q In the living room?

2 A Yes.

3 Q All over the floor?

4 A Yes.

5 Q In little markings in the wall at around the 3'10" mark?

6 A Right. The 3'10" mark is measuring the hole in the window.

7 Q Perfect. Thank you.

8 A You're welcome.

9 THE COURT: State, any redirect?

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

11 THE COURT: Can this witness be excused?

12 MR. GIORDANI: Yes.

13 THE COURT: I'm sorry, there is a question.

14 Counsel approach.

15 [Bench conference transcribed as follows.]

16 THE COURT: The first question is from Juror No. 1 and the
17 question is: Is there any blood evidence on back wall or barbed wire?

18 MS. BEVERLY: Okay.

19 THE COURT: Does anybody have any objection to me asking
20 that question?

21 MS. MACHNICH: No.

22 MR. GIORDANI: No.

23 THE COURT: Then the second question is from Juror No. 3,
24 and the question is: By using trajectory, are you able to identify what
25 kind of weapon was used?

1 MS. BEVERLY: She couldn't use trajectory regardless.

2 MR. GIORDANI: She's going to -- I think the answer to that is
3 no. So we don't have a -- I don't really have an objection to the
4 question, but --

5 MS. MACHNICH: No.

6 THE COURT: No? There's no -- there's no objection being
7 heard by either party. I'm going to ask those -- both questions.

8 MS. MACHNICH: Okay.

9 MS. SISOLAK: Thank you, Your Honor.

10 THE COURT: Thank you.

11 [End of bench conference.]

12 THE COURT: Ma'am, I should say Officer, is there any blood
13 evidence on brick wall or barbed wire?

14 THE WITNESS: No.

15 THE COURT: By using trajectory, are you able to identify
16 what kind of weapon was used?

17 THE WITNESS: No.

18 THE COURT: Any follow-up questions by either the State or
19 the defense?

20 MR. GIORDANI: Just briefly, Your Honor.

21 **FURTHER EXAMINATION**

22 BY MR. GIORDANI:

23 Q Very briefly, you were asked by a juror whether there was any
24 blood found on the wall, right?

25 A Yes.

1 Q Let me just grab my diagrams here. Showing you State's 3;
2 this is one of the overall diagrams, right?

3 A Yes.

4 Q This one doesn't depict the bullet impacts that you were
5 primarily -- or the defects that you were primarily responsible for, but it
6 does depict all the evidence that we went through earlier, correct?

7 A Correct.

8 Q You -- there's no blood on the back wall where the barbed
9 wire is or anything like that, correct?

10 A That's correct.

11 Q And then there was a couple of areas that were swabbed for
12 blood in the home and on the patio, correct?

13 A Correct.

14 Q Those are represented by AB2 and AB3?

15 A That's correct. Yes.

16 Q And they say Swab next to them?

17 A Yes.

18 Q AB2 is on the patio?

19 A Yes, it is.

20 Q AB3 is on the other side of the screen in that little walkway?

21 A Yes, it is.

22 Q And then no other areas of blood that were depicted in any of
23 the crime scene analyst diagrams, correct?

24 A Correct.

25 Q Did you yourself observe any -- any other blood throughout

1 this area?

2 A The only other area that I recall is where the officer was found
3 injured.

4 Q Okay. And that would have been within the dining room,
5 correct?

6 A Yes. That's correct.

7 Q But any other area where you depict -- or observed blood in
8 any way?

9 A No.

10 Q And any other area in the backyard where you observed
11 blood?

12 A No.

13 Q Okay. All right. Thank you, ma'am.

14 A Thank you.

15 MR. GIORDANI: Pass the witness.

16 MS. MACHNICH: Yes. Just to follow up.

17 **FURTHER EXAMINATION**

18 BY MS. MACHNICH:

19 Q Ma'am, was it your -- one of your jobs on this scene to swab
20 for blood?

21 A No.

22 Q So that was somebody else who was tasked with locating and
23 swabbing apparent blood?

24 A Correct.

25 Q And when we talk about apparent blood, what are we talking

1 about?

2 A We're talking about a substance that has the appearance of
3 blood. We are not saying that it is most definitely blood. That's up to the
4 scientists in the forensic lab to determine that.

5 Q And it would need to be enough to be visual to the eye?

6 A Yes.

7 Q Additionally, are you aware if the back wall was swabbed for
8 blood or tested for blood in any way?

9 A It was examined, but it was not swabbed or tested in any way.

10 Q Okay. And, additionally, the barbed wire?

11 A We did look -- yeah, we looked at the -- the wall and the top of
12 the wall as well, the barbed wire very carefully. Yes.

13 Q Okay. Did you personally do that?

14 A Yes, I did.

15 Q Okay. Thank you.

16 A Thank you.

17 THE COURT: Any questions? Mr. Plummer?

18 MR. PLUMMER: Yes, Your Honor.

19 **FURTHER EXAMINATION**

20 BY MR. PLUMMER:

21 Q Officer, just so we're clear, when you call something an
22 apparent defect, you're not saying that that's a bullet hole, you're just
23 calling it a defect; you don't know what it is, correct?

24 THE COURT: Any redirect?

25 MR. GIORDANI: Briefly.

1 **ADDITIONAL EXAMINATION**

2 BY MR. GIORDANI:

3 Q When you're calling something a defect, you can't say what it
4 is exactly because you weren't there when it happened, right?

5 A Correct.

6 Q Are there traits and characteristics that can be consistent with
7 bullet holes?

8 A Yes.

9 MR. PLUMMER: Objection, Your Honor.

10 MR. GIORDANI: I don't hear a basis for the objection.

11 THE COURT: Well, that's a -- what's the basis of the
12 objection?

13 MR. PLUMMER: Basis is on what I believe the follow-up
14 question will be, and this witness is not a qualified expert.

15 MR. GIORDANI: You don't need to be an expert to testify to
16 observations and characteristics consistent with 4000-some-odd scenes
17 that you have.

18 THE COURT: She can -- she can testify as -- based on her
19 experience as to observations and characteristics.

20 MR. GIORDANI: Thank you, Your Honor.

21 BY MR. GIORDANI:

22 Q Just based on your observations --

23 THE COURT: Your objection is overruled.

24 MR. GIORDANI: Thank you, Your Honor.

25 BY MR. GIORDANI:

1 Q Based upon your observations, did several, if not all, of those
2 things I've been referring to as defects have characteristics similar to
3 bullet holes you've seen previously?

4 A Yes, they have.

5 Q Thanks.

6 MR. GIORDANI: Pass the witness.

7 MS. MACHNICH: Nothing further, Your Honor.

8 MR. PLUMMER: Nothing further, Your Honor.

9 THE COURT: Thank you. Can this witness be excused?

10 MR. GIORDANI: Yes, Your Honor.

11 THE COURT: Thank you --

12 THE WITNESS: Thank you.

13 THE COURT: -- for coming here today. And you are
14 excused.

15 Ladies and gentlemen, I have a matter that I have -- another
16 matter I have to take care of at 12:30, so we're going to take our lunch
17 break a little earlier than I previously planned. And then we'll resume at
18 approximately 1:45. So initially, I was going to take our lunch break
19 at 12:30 and resume at 2:00, and we're going to take our lunch break
20 now and resume at 1:45.

21 Ladies and gentlemen, we're going to take a lunch recess.
22 During this recess, your duty not to converse among yourselves or with
23 anyone else on any subject connected with the trial, or to read, watch, or
24 listen to any report of or commentary on the trial by any person
25 connected with the trial or by any medium of information, including

1 without limitation, newspaper, television, and radio. And you are not to
2 form or express an opinion on any subject connected with this case until
3 it is finally submitted to you.

4 We'll be in our lunch recess.

5 [Jury recessed at 12:16 p.m.]

6 THE COURT: Counsel, I intend to go to 5:00 today and start
7 at 11:00 on Monday.

8 MS. MACHNICH: Okay.

9 THE COURT: I took a little bit earlier -- I do have to take care
10 of another matter at 12:30. I was going to go right until 12:30, but I
11 thought this would be a natural break, rather than have somebody on
12 for 5 or 10 minutes and then -- so --

13 MR. GIORDANI: No problem.

14 THE COURT: -- so we'll resume -- go ahead.

15 MR. GIORDANI: So the Court is aware, we have the two
16 officers planned. We expect them to be very long, obviously. So those
17 are the only two we have scheduled for the afternoon and they'll be here
18 at 1:45 sharp.

19 THE COURT: Right. It -- it can be 1:45. I mean, we're not
20 getting done sharp.

21 MR. GIORDANI: Okay.

22 THE COURT: I mean, we're -- you know, because of
23 sometimes having to bring them in. So try to be back by 1:45. We'll
24 start as soon thereafter as we can. We'll go to 5:00. We'll take one
25 break, one afternoon break. And then it's my -- anticipating starting

1 at 11:00 on Monday.

2 MR. GIORDANI: Thank you.

3 MS. SISOLAK: Your Honor, just to clarify, will we be in this
4 courtroom next week as well?

5 THE COURT: Probably not.

6 MS. SISOLAK: Okay.

7 THE COURT: I -- I -- if they have finished with the other
8 courtroom, I intend to move down to Judge Scotti's courtroom, unless
9 there's an objection. Unless you --

10 MS. SISOLAK: No, no.

11 THE COURT: -- you know, have any problem. They are
12 doing something with JAVS and that's why his courtroom was
13 unavailable. It's my understanding they're going to be finished this
14 week, and it will be available next week.

15 MS. MACHNICH: Our only concern, Your Honor, would be
16 that there's a separate defense table for each codefendant as we can --

17 THE COURT: And I'm discussing that. I believe that's not
18 going to be an issue.

19 MS. MACHNICH: Okay.

20 MS. SISOLAK: Wonderful. Thank you.

21 MS. MACHNICH: Thank you.

22 THE COURT: Thank you, counsel. We'll be in recess
23 until 1:45.

24 MR. GIORDANI: Thank you.

25 [Court recessed at 12:19 p.m., until 2:03 p.m.]

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[Outside the presence of the jury.]

MR. GIORDANI: This is the continuation of the trial in Case No. C-15-309578-1 and -2, *State of Nevada vs. Steven Turner and Clemon Hudson*. Let me the record reflect the presence of counsel for the State, counsel for the defendants, and the presence of the defendants. I with -- I am going to bring the jury in and let the jury -- all right. I'll -- let's bring the jury in.

MS. MACHNICH: Thank you, Your Honor.

[Jury reconvened at 2:03 p.m.]

THE COURT: You may be seated. Will the parties stipulate to the presence of the jury?

MS. MACHNICH: Yes, Your Honor.

MS. BEVERLY: Yes.

MR. PLUMMER: Yes, Your Honor.

THE COURT: State, call your next witness.

MS. BEVERLY: State calls Officer Grego-Smith.

MALIK GREGO-SMITH,

[having been called as a witness and first duly sworn, testified as follows:]

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

THE WITNESS: First name is Malik, M-A-L-I-K. Last name, Grego-Smith, G-R-E-G-O, hyphen, S-M-I-T-H.

MS. BEVERLY: May I proceed, Your Honor?

THE COURT: You may.

DIRECT EXAMINATION

BY MS. BEVERLY:

Q Sir, how are you currently employed?

A Employed with the Las Vegas Metropolitan Police Department.

Q How long have you been with Metro?

A Approximately 10 years.

Q And what is your current assignment with Metro?

A Patrol.

Q Okay. Can you explain for the members of the jury what a patrol officer at Metro does?

A Patrol officer responds to calls for service, as well as investigative work.

Q Do you drive a typical black-and-white vehicle?

A Yes.

Q And are you assigned a certain P number?

A Yes.

Q What's a P number?

A P number is your identification number, basically, to let people know that you're an officer.

Q Do you currently work a particular shift?

A Yes.

Q What shift do you work?

A Graveyard.

Q What time is graveyard shift at Metro?

1 A Graveyard starts at 2200, which is 10:00 p.m.
2 Q And goes to what time?
3 A To 08, which is 8:00 in the morning.
4 Q Now, is Metro broken up into area commands?
5 A Yes.
6 Q What, can you explain to the jury, is an area command?
7 A Area command is certain area with -- that borders -- basically
8 just breaks the city into different areas.
9 Q And do you -- are officers assigned to a particular area
10 command as they're employed with Metro?
11 A Yes.
12 Q Okay. What area command are you currently assigned to?
13 A Northwest Area Command.
14 Q What's kind of the border of the Northwest Area Command?
15 A Northwest Area Command is everything north of Charleston,
16 and everything west of Decatur.
17 Q Okay. I want to direct your attention back to September
18 the 4th of 2015. Okay. Were you working on that day?
19 A Yes.
20 Q What shift were you working at that time?
21 A Graveyard.
22 Q Can you explain for the jury what a typical night is like for you
23 on graveyard?
24 A Graveyard is long. It consists of certain -- numerous calls,
25 domestic violence calls, burglary calls, stolen vehicle.

1 Q So those are the types of calls that is frequent on a -- a
2 graveyard shift?

3 A Yes.

4 Q Is that fair to say?

5 A Yes.

6 Q Okay. What about prowler calls?

7 A Those calls, every so often.

8 Q What -- what is a prowler call, based on your experience on
9 graveyard?

10 A Prowler call, when a homeowner calls and says there's
11 somebody that they don't recognize on their property.

12 Q Is there a certain number or numbers that are associated with
13 various crimes when they come across dispatch?

14 A Yes.

15 Q Okay. What is the number for a prowler call?

16 A 403.

17 Q Okay. And each crime has its own kind of numbering --

18 A Yes.

19 Q -- correct? So tell us how it is that you get assigned calls as a
20 patrol officer.

21 A If you're clear, meaning you're not on any calls, not doing
22 anything, if a call pops up, then dispatch will assign you. Or you can
23 self-assign, basically, just get on the radio and tell dispatch, Hey, assign
24 me to whatever call.

25 Q Would it be fair to say as a patrol officer, you're kind of the first

1 response of Metro? And if something further needs to be done, then
2 maybe detectives show up?

3 A Yes.

4 Q Okay. So we were talking a little bit about prowler calls, and
5 you were saying that's when someone calls and says there's someone
6 around that they don't know; is that fair to say?

7 A Yes.

8 Q Okay. In your experience on graveyard, what's typically the
9 result of a prowler call?

10 A Normally it will be somebody that's drunk at the wrong house.

11 Q Okay. So do you treat prowler calls different than, say, a
12 active burglary call?

13 A Yes.

14 Q Okay. What's your typical response when there's a prowler
15 call? What do you typically do?

16 A Usually park down the street, which is how we tactically
17 approach the house, try and find the address. And if anybody's outside,
18 then just talk to them and figure out where they're trying to go, if they're
19 supposed to be at that house.

20 Q Okay. Why is it that you choose to park several houses down
21 from an address where a prowler call is coming out?

22 A It's a tactical advantage to us; don't want to give our position
23 away.

24 Q Okay. So typically you go up there, ends up really not being
25 anything; is that fair to say?

1 A Yes.

2 Q Okay. If you go up to a prowler call and there's nobody out
3 front, do you continue to look around the area or do you just leave?

4 A No. We'll talk to the homeowner, get further information, the
5 last time they saw the person. If they saw them leave, last direction of
6 travel. And if they want us to check the backyard, we'll check the
7 backyard, check surrounding areas, check the surrounding
8 neighborhoods.

9 Q Okay. Is a prowler call different than prowler with a gun call?

10 A Yes.

11 Q Okay. How are those going to be different?

12 A The severity -- the severity of the call.

13 Q Is it going to change how you approach a situation?

14 A Yes.

15 Q Okay. Tell us -- well, let's start with this: If you hear that that
16 is prowler with a possible weapon versus prowler with a definite weapon,
17 is there a difference in that?

18 A Yes.

19 Q Tell us about what the difference is for -- in your approach.

20 A Possible firearm, still approach it tactically. Try not to give our
21 position away. If it's a hundred percent that they have a firearm, we'll
22 get more units, get the area -- get the air unit, and tactically approach
23 that way.

24 Q Okay. So definitely a difference between somebody might
25 possibly have a gun, versus they have a gun; is that correct?

1 A Yes.

2 Q Okay. Is it fair to say that sometimes a homeowner or
3 somebody calling out a prowler call might say there's a gun, but really
4 it's, like, a stick or something?

5 A Yes.

6 Q Okay. Does dispatch, Metro dispatch, if somebody says
7 there's a gun, try to get more information about the weapon?

8 A Yes.

9 Q Okay. Is that because dispatch needs to relay that to you or
10 fellow officers so you can know how to approach a situation?

11 A Yes.

12 Q Okay. All right. So going back to September the 4th of 2015,
13 you indicated that you were on call that day -- or you were working that
14 day?

15 A Yes.

16 Q And working a graveyard shift, right?

17 A Yes.

18 Q Okay. Were you still at that time, or were you then at that
19 time, working in the Northwest Area Command?

20 A Yes.

21 Q Okay. I am going to publish up here, grand jury -- I keep
22 saying grand jury, I'm sorry. State's Exhibit No. 117, can you see that on
23 your screen, Officer?

24 A Yes.

25 Q Does this look like the area of Rainbow, and on the top,

1 Westcliff?

2 A Yes.

3 Q Okay. Back around three -- approximately 3:30 in the morning
4 on September the 4th, did you receive a dispatch call regarding a
5 prowler at 6729 Oveja Circle?

6 A Yes.

7 Q Okay. Where were you when you received that dispatch?

8 A I was at the Northwest Area Command.

9 Q Like, the -- the station or something?

10 A At the station, yes.

11 Q Okay. How far is the station from Oveja Circle approximately?

12 A Approximately six miles maybe.

13 Q Okay. So you're at the station. And tell us what you hear over
14 the radio.

15 A There was -- there was an alert call for a prowler and Officer
16 Robertson was clear, so dispatch assigned him. And he was at the
17 station. I was at the station doing a report. And everybody -- all the
18 other officers were occupied doing other things. So I self-dispatched
19 myself to back Officer Robertson.

20 Q When you do that, do you and Officer Robertson get in the
21 same car or you guys in different cars?

22 A Separate cars.

23 Q Okay. Both black-and-white vehicles --

24 A Yes.

25 Q -- though; is that right? Okay. And then do you start heading

1 over to Oveja Circle?

2 A Yes.

3 Q As you're heading over in your vehicle, are you getting
4 updates about -- from dispatch from -- I guess from dispatch getting that
5 from the homeowners?

6 A Yes.

7 Q Okay. So the homeowner is telling dispatch something, and
8 dispatch is relaying that you and Officer Robertson; is that correct?

9 A Correct.

10 Q Okay. Approximately how long does it take you to get over to
11 Oveja?

12 A Approximately eight, nine minutes.

13 Q Okay. Do you recall what you were hearing over the radio
14 traffic or the dispatcher was telling you as you're driving over to Oveja?

15 A The subject's location at the house was changing from the
16 backyard to the front door to the backyard, and that the homeowner said
17 the subject possibly had a gun.

18 Q Okay. So when you hear that word or you hear from
19 dispatch -- I guess let me ask you this: You're not hearing directly from
20 the homeowner, are you, as you're driving over?

21 A No.

22 Q You're hearing from dispatch; is that correct?

23 A Yes.

24 Q So are you relying on what dispatch is telling you about the
25 call?

1 A Yes.

2 Q Okay. So over dispatch, you hear that there's possibly a gun;
3 is that correct?

4 A Yes.

5 Q And we talked about possibly versus definitely there's a gun,
6 correct?

7 A Yes.

8 Q You never heard that there was definitely a gun there, did
9 you?

10 A No.

11 Q If you had heard that, would there have been more officers
12 who would have actually responded to Oveja?

13 A Yes.

14 Q Do you and -- what time -- well, do you an Officer Robertson
15 get there approximately the same time?

16 A Yes. We left the station at the same time, arrived at the same
17 time.

18 Q I'm going to publish what's been admitted as State's
19 Exhibit No. 247; can you see that on your screen?

20 A Yes.

21 Q Okay. Does this area look familiar to you as the area of Oveja
22 Circle?

23 A Yes.

24 Q You can actually draw on that screen. Can you draw for us on
25 the screen where you parked your vehicle upon arriving at the area?

1 A No. That's not it.

2 Q Clear that.

3 A There.

4 Q Okay. Okay. So kind of farther back -- well, from the target
5 residence; is that correct?

6 A Yes.

7 Q The target residence being the 6729 Oveja?

8 A Yes.

9 Q Why is it that you parked back towards the bottom of the
10 street?

11 A So we could have a tactical advantage, tactical approach.

12 Q Fair to say you don't want to pull up right on the house; is that
13 correct?

14 A Correct.

15 Q And is it pretty dark outside?

16 A Yes.

17 Q Now, do you know where Officer Robertson parked his
18 vehicle?

19 A Directly in front of me.

20 Q Okay. Kind of see -- let me -- do you see where my pen is
21 pointed with these two vehicles?

22 A Yes.

23 Q Would that be you and Officer Robertson's vehicles?

24 A Yes.

25 Q Okay. So tell us what happens after you arrive in your vehicle.

1 A We start walking on the sidewalk towards the end of the
2 cul-de-sac. It's an older neighborhood, so the address isn't lit up on the
3 house like normal. So we were trying to find the address.

4 Q Okay. And I forgot to ask you this, I'm sorry, but when you
5 guys -- you and Officer Robertson were coming from the station house,
6 did you put on lights and sirens to come to Oveja?

7 A No.

8 Q Okay. Why not?

9 A Because it -- the 403 call doesn't warrant Code 3 driving.

10 Q Okay. So it's not like every time Metro gets a call, they're
11 putting on lights and sirens; is that correct?

12 A Correct.

13 Q Is it certain calls that require lights and sirens?

14 A Yes.

15 Q And there are other calls that don't require lights and sirens?

16 A Yes.

17 Q Okay. And a prowler call, a 403, doesn't necessarily require
18 lights and sirens; is that correct?

19 A Correct.

20 Q Okay. So you start walking on the sidewalk. Can you actually
21 maybe on the photo draw for the jury your path where you went after you
22 exited your vehicle?

23 A It's not -- it's -- yeah, it's --

24 Q It's not working? Okay. How about you --

25 A It's a little off.

1 Q -- actually step down for me for a second? On this larger
2 screen, can you kind of, just with your finger, it's not going to show up,
3 but show the jury.

4 A Other here, walked on the sidewalk, all the way down. So we
5 walked from the cars, south side on the sidewalk, follow the sidewalk all
6 the way down until we got to the driveway.

7 Q Okay. Thank you. As you are -- as you and Officer Robertson
8 are walking up that path, are you looking for anything, or are you just
9 straight walking to the house?

10 A I'm looking to see if there's anybody on foot anywhere in the
11 immediate area, looking for cars that might be running with lights off, as
12 well as looking for the address.

13 Q Okay. From dispatch, did you kind of have a generic
14 description of some suspects?

15 A Yes.

16 Q Nothing very specific; is that fair to say?

17 A Correct.

18 Q Now, what do you do when you actually get up to the target
19 house?

20 A I get to the driveway. Jeremy walks up the driveway. I pretty
21 much stay on the sidewalk in front of the house. Jeremy walks up the
22 driveway to the left, I guess to see if there was a way into the backyard.
23 I noticed there was a gate in front of me to the right of the house. And I
24 heard something in the backyard and I tried to relay that to Officer
25 Robertson.

1 Q Okay. So let's publish Exhibit No. 253. This is going to be the
2 target house, is that correct, where my pen is?

3 A Yes.

4 Q Okay. And so you're saying Officer Robertson walked up the
5 driveway and to the left of the house; is that correct?

6 A Correct.

7 Q And then you stayed on the sidewalk by the driveway?

8 A Correct.

9 Q And then I believe you said that you went over to the right side
10 to see that there was a gate over there?

11 A Yes.

12 Q Okay. Showing you grand jury exhibit -- I keep saying grand
13 jury; I'm sorry, Your Honor -- 367. Do you see this white vehicle in this
14 photo?

15 A Yes.

16 Q Was that vehicle in the driveway when you walked up to
17 Oveja?

18 A Yes.

19 Q State's Exhibit No. 59. You were indicating that there was
20 an -- a gate that you were possibly trying to get through; is that correct?

21 A Yes.

22 Q Okay. And this is the gate that we're talking about?

23 A Yes.

24 Q Could you get through this gate?

25 A No.

1 Q All right. Did you try to enter and it was just locked or what?

2 A The first thing I saw was the glass on the top. And when I
3 heard the noise in the back, I didn't walk any further.

4 Q Okay. Do you -- you indicated that you tried to communicate
5 with Officer Robertson that you heard someone in the back?

6 A Yes.

7 Q Okay. How did you try to communicate with him?

8 A Nonverbally, with hand signals.

9 Q Okay. What's the next thing after that that happened?

10 A Jeremy got on the radio, asked dispatch to ask the
11 homeowner to open the front door so that we could enter the house to
12 get to the backyard.

13 Q We were talking -- well, let me ask you this: From what you
14 were hearing over the radio prior to getting to the residence, did this
15 prowler call sound like anything unusual or different than typical prowler
16 calls you hear on the graveyard shift?

17 A No.

18 Q Okay. Was there any mention about maybe someone
19 knocking on the door or something?

20 A Yes.

21 Q Other than that, nothing else was unusual?

22 A No.

23 Q Okay. The fact that somebody was knocking on the door, did
24 that make you think that maybe somebody might still be out there?

25 A Yes.

1 Q And then you indicated you heard noise in the backyard when
2 you actually got there?

3 A Yes.

4 Q So Officer Robertson gets on the radio and says -- asks them
5 to tell the homeowner to open the door; is that right?

6 A Yes.

7 Q And showing you grand jury Exhibit No. 374; is this the front,
8 kind of, patio area of that residence?

9 A Yes.

10 Q And then Exhibit No. 372; is this more towards the left of the
11 house, front of the house?

12 A Yes.

13 Q Okay. And was there a gate or anything for you to try to get
14 through on this side of the house?

15 A No.

16 Q All right. Do the homeowners come and open the door?

17 A Yes.

18 Q Okay. What do you do once they open the door?

19 A Jeremy goes through the front door. The homeowner is still
20 standing at the front door. As I walk through, quickly ask the
21 homeowner where is the last place he saw the person. And he said in
22 the backyard. And I told the homeowner to stay at the front door and I
23 continued through the house.

24 Q Were there any lights on in the house?

25 A No.

1 Q So, I'm sorry, maybe I missed this: Do you go in first or does
2 Jeremy go in first?

3 A Jeremy goes in first.

4 Q Okay. And then you follow behind him?

5 A Yes.

6 Q And where is it that you go once you get in the house?

7 A Enter the house. There's a living room to the right. Continue
8 through the house. There's a dining room area, and then the kitchen.

9 Q I'm going to now put on the screen Exhibit No. 88; would this
10 be a view from the front door of the house looking towards the back of
11 the house?

12 A Yes.

13 Q Okay. And actually going to show you Exhibit No. 134; is this
14 a closer-up view, now going through the living room, looking out the
15 back?

16 A Yes.

17 Q So if you can, hopefully you can mark it on here, where do you
18 go when you first get to the back portion of the home?

19 A It's going to be -- I'm going to talk it through first. It's going to
20 be the corner of the table. It's going to be pretty much right here.

21 Q And do you know where Officer Robertson went?

22 A Officer Robertson continued through -- I can't see it here
23 really, but he goes that way.

24 Q Let me see if there's a better photo of that. Let's show
25 Exhibit No. 127. Can you see better in this photo where you were and

1 where Officer Robertson was?

2 A Yes.

3 Q Okay. How about you put up a mark for us there?

4 A So I was standing here. Officer Robertson was in this area.

5 Q So that would have been the original location of the TV -- I
6 mean of the -- excuse me, of the table?

7 A Yes.

8 Q What happens next, once you get to those -- those locations?

9 A Jeremy looks through the window to see if any -- if he can see
10 anybody in the backyard. And I asked him if he could see anybody, and
11 he said no.

12 Q Okay. Any indication that there's somebody out there with a
13 gun?

14 A Absolutely not.

15 Q If there was, would that have changed your approach or
16 anything like that?

17 A Definitely.

18 Q Okay. What do you and Officer Robertson decide to do?

19 A Decided to clear the backyard.

20 Q Can you explain for the jury what it means to clear a
21 backyard?

22 A Basically, do a search, see if anybody is back there that's not
23 supposed to be back there.

24 Q Is it similar to you looking in the front yard to see if anybody's
25 there?

1 A Yes.

2 Q As well as looking in the surrounding area as you're walking
3 up to the house?

4 A Yes.

5 Q Did you turn on any lights when you went into the house
6 originally?

7 A No.

8 Q And why not?

9 A Working graveyard, you learn about light discipline.

10 Q What's light discipline?

11 A If it's dark outside or dark inside of a room, you turn the light
12 on, your pupils constrict and if you turn the lights off, it makes it harder to
13 see in the dark. Also light discipline, don't want to give away where you
14 are.

15 Q Okay. So you and Officer Robertson decide that you're going
16 to clear the backyard; is that right?

17 A Yes.

18 Q What is the plan? Who is going to do what?

19 A Officer Robertson was going to open the door. As he opened
20 the door, I was going to go through and he was going to follow me.

21 Q Now, do you carry a -- a duty weapon?

22 A Yes.

23 Q What kind of weapon is that?

24 A It's a Glock 17.

25 Q What kind of bullets does a Glock 17 have for those of us who

1 don't --

2 A I shoot a .9mm.

3 Q .9mm. Okay. And do you carry any extra magazines on you
4 or anything?

5 A Yes.

6 Q How many bullets does a magazine in the Glock hold, yours
7 personally?

8 A My magazine holds 17.

9 Q And is this one in the, I guess, the chamber?

10 A Yes.

11 Q Okay. So total of, like, 18?

12 A 18, yes.

13 Q How many extra magazines do you typically carry on you?

14 A Three.

15 Q Okay. So one in the gun and then three extra ones on your
16 duty belt?

17 A Yes.

18 Q All right. When the decision is made that you're going to go
19 through first to start clearing the backyard, do you take your weapon
20 out?

21 A Yes.

22 Q Why is that?

23 A Because you don't want to be caught off guard. You want to
24 try and stay -- stay one step ahead.

25 Q Let me ask you -- so I'm going to put up Exhibit No. 89. Is this

1 the door to -- where my pen is, the back patio?

2 A Yes.

3 Q Okay. And when you were there though, was this door
4 closed?

5 A Yes.

6 Q Could you see through either of the two, kind of, French-type
7 doors?

8 A No.

9 Q All right. Do you know if any lights were on, on that back
10 portion outside of the house?

11 A There was not.

12 Q Okay. So why don't you -- let's do this. Can you point for us
13 on, let's see, grand jury -- trial Exhibit No. 134 where you're standing and
14 where Officer Robertson is standing when the decision is made you're
15 going to clear the backyard, or you're getting ready to clear the
16 backyard?

17 A Door was closed. Robertson was standing here. It's -- it's not
18 going to let me, because I was a little bit more to the left here.

19 Q Okay. Let's see, let's try this with Exhibit No. 133. Does that
20 show --

21 A Yeah.

22 Q -- better where your position would be?

23 A Yeah. So my position was pretty much right here.

24 Q Okay. Prior to actually clearing the backyard, do you get on
25 the radio and ask for a Code Red?

1 A Yes.

2 Q What's a Code Red?

3 A Code Red is for emergency radio traffic only.

4 Q Okay. Why would you be asking for a Code Red when you're
5 about to clear the backyard?

6 A Because I knew there was still somebody in the backyard.
7 And if we came in contact with them, in case anything happened, we
8 needed clear air.

9 Q Just for -- just as a precaution; is that fair to say?

10 A Yes.

11 Q So why don't you walk us through what happens when -- well,
12 why don't you walk us through from the time the decision is made to
13 clear the backyard to what ends up happening.

14 A So Jeremy had to unlock the door. And as soon as he
15 unlocked it, he swung the door open. And I started taking one step to
16 walk outside the door and heard two shots.

17 Q Okay. Where were those shots coming from?

18 A From the outside.

19 Q What are you -- what happens when you hear those shots?

20 A I take one step back behind cover and drop to one knee and
21 return fire.

22 Q Where is Officer Robertson when this happens?

23 A He's behind me. And I heard him fall, so he's on the ground
24 behind me.

25 Q Okay. The shots that came from the patio, did they come into

1 the home?

2 A Yes.

3 Q Okay. Could you hear anything -- well, let me ask you this:

4 Are you familiar with firearms?

5 A Yes.

6 Q Have you ever shot a rifle before?

7 A Yes.

8 Q Describe the sound for the jury of what you heard coming from
9 that patio.

10 A Just a loud -- a loud boom. It's -- I mean, I could -- I knew it
11 was a high-powered rifle.

12 Q Okay. From the time you -- the door opens, to the shots
13 coming in, to you taking a knee, to returning fire, how long are we talking
14 about?

15 A Seconds.

16 Q When you heard the shots coming from the patio, you said
17 you heard two shots; is that correct?

18 A Yes.

19 Q Do you hear any more shots coming from the patio?

20 A I don't. All I hear is my firearm going off.

21 Q Okay. So this is all happening, like, kind of back to back to
22 back; is that fair to say?

23 A Yes.

24 Q Okay. When you heard the shots coming from the patio and
25 you returned fire, are you shooting back towards the patio?

1 A Yes.

2 Q Okay. Through an open door; is that right?

3 A Yes.

4 Q Okay. Do you see -- when you're looking at the patio, do you

5 see anyone with a weapon?

6 A No.

7 Q Okay. Do you see anyone in front of you?

8 A I saw a blurred vision of somebody in front of me, yes.

9 Q Okay. Any description about the person that you saw?

10 A What I recall is it looked like a light-skinned black male with no

11 shirt and purple basketball shorts.

12 Q How long of a period of time did you observe this person in

13 front of you?

14 A A half a second, if that.

15 Q Okay. So no other facial descriptions, anything like that?

16 A No.

17 Q In fact, you couldn't even see a gun anywhere --

18 A No.

19 Q -- is that correct? Okay. But you heard shots being fired; is

20 that right?

21 A Yes.

22 Q Okay. What do you do -- well, how many shots do you believe

23 that you were able to return?

24 A I thought I only shot seven or eight.

25 Q Did you learn later that that was different?

1 A Yes.

2 Q Okay. Tell us what -- what's happening next.

3 A Once I stopped shooting, I stood up in the doorway to assess
4 to see if anybody was outside. I didn't see anybody outside and I wasn't
5 sure if anybody was out there, so I just started calling out. Hopefully
6 somebody was out there, but I just started calling out to whoever was
7 out there to stay down, don't move.

8 Q And when you're actually returning fire, are you returning fire
9 like boom, boom, boom, boom, boom or like is one shot, break, one
10 shot, break?

11 A It's rapid.

12 Q Okay. So all the shots you fired were in rapid succession; is
13 that fair to say?

14 A Yes.

15 Q Okay. I mean, can you just kind of describe for us what is
16 going through your mind? What are you feeling when you hear these
17 shots come through this house?

18 A One is -- the first one was actually anger. Angry that
19 somebody was shooting at us, angry that my partner got hit, and pretty
20 much survival mode after that.

21 Q At the time, did you know, like, immediately know whether or
22 not Officer Robertson had been hit or not?

23 A I knew he was hit because I heard him fall. Shortly after I
24 stopped shooting, Jeremy said out loud he was hit.

25 Q So you indicated that you start calling out to the back patio,

1 seeing if anybody will respond?

2 A Yes.

3 Q Do you remember calling out anything specific or --

4 A Yeah. I said, Don't move, keep your hands up, don't move or
5 I'll fucking shoot you.

6 Q Okay. Is there a point in time when you get on the radio to
7 dispatch?

8 A Yes.

9 Q Okay. What are you telling dispatch?

10 A Shots were fired, officer was down and we needed -- we
11 needed units there.

12 Q Approximately -- did other units begin to arrive?

13 A Yes.

14 Q How long did it take other units to arrive?

15 A Approximately four and a half minutes.

16 Q Okay. So for four and a half minutes, are you and Officer
17 Robertson alone, excluding the homeowners, alone in the house -- or
18 are you alone in the house?

19 A Yes.

20 Q The whole time that you're -- you and Officer Robertson are
21 alone in the house, are you still calling out to someone you think might
22 be in the backyard?

23 A Yes.

24 Q Could you see anybody in the backyard?

25 A No.

1 Q What's the lighting conditions like in the backyard as you're
2 waiting?

3 A There's no light, except my flashlight.

4 Q Had you turned -- when did you turn on your flashlight?

5 A Right when I started shooting.

6 Q Okay. So you can't see anyone? You're waiting for other
7 officers to arrive, correct?

8 A Yes.

9 Q What -- what's Officer Robertson doing, if you know?

10 A He was giving some radio traffic. He was giving radio traffic
11 that he actually saw two suspects.

12 Q So you learned from Officer Robertson that, in fact, he saw
13 two suspects; is that right?

14 A Yeah. Yes.

15 Q Okay. Is there a point in time where you call out to the
16 backyard, Where's your boy at?

17 A Yes.

18 Q Okay. Is that after learning that there were potentially two
19 suspects back there?

20 A Yes.

21 Q Okay. What happens when other officers start to arrive?

22 A They do an officer down rescue. They take Jeremy out front
23 and units start showing up inside the house.

24 Q What do you do once they take -- start to take Officer
25 Robertson out?

1 A I still stay. Well, actually, after they took him out of the house,
2 I moved a little bit behind cover.

3 Q Okay. At -- was it -- is there a point in time shortly after that
4 that K-9 officers arrive?

5 A Yes.

6 Q And do K-9 officers kind of push you guys to the side to be
7 able to get through?

8 A Yes.

9 Q Now, the whole time -- from the time of the shooting until the
10 time K-9 gets there, at any point can you see anything in the backyard?

11 A No.

12 Q Okay. When K-9 arrived, do they end up going into the
13 backyard and finding someone?

14 A Yes.

15 Q Okay. What do you do at that point?

16 A I follow K-9 and the other officers outside. And as the other
17 officers were taking the suspect into custody, I was holding ground,
18 keeping an eye out for anybody else outside.

19 Q I asked you earlier about the first two shots that came through,
20 correct?

21 A Yes.

22 Q And I asked you if you heard any other shots that came
23 through, right?

24 A Yes.

25 Q Is the sound kind of muffled after these two shots?

1 A Yes.

2 Q What do you mean by muffled?

3 A Sounds like you have hearing protection on, just a muffled
4 sound.

5 Q So after the first two shots come through and you begin to
6 return fire, is everything kind of going on at the same time and sounding
7 the same?

8 A Yes.

9 Q Is -- after you finish going through the backyard after K-9 and
10 everything gets there, are you taken away from the scene?

11 A Yes.

12 Q All right. And do you go to what we've heard about is a
13 command post?

14 A Yes.

15 Q Okay. And wait for other, like, FIT detectives to arrive?

16 A Yes.

17 Q Okay. After FIT detectives arrive, do you do what is known as
18 a walkthrough of the scene?

19 A Yes.

20 Q Okay. And you're familiar that a walkthrough is done
21 whenever there's an officer who discharges his weapon; is that fair to
22 say?

23 A Yes.

24 Q All right. And what do we do in a walkthrough?

25 A Basically, tell the detectives where you were standing, what

1 you saw, what you did. That's pretty much it.

2 Q As you're doing the walkthrough, do -- do you place, like,
3 paper bags or cones in locations where you're standing or where you
4 saw somebody else standing?

5 A Yes.

6 Q So let's start with what's been admitted as Exhibit No. 90.
7 Can you see where my finger is? My pen is pointed right here.

8 A Yes.

9 Q Is this your location --

10 A Yes.

11 Q -- from this incident?

12 A Yes.

13 Q Okay. And that would be something that you would have told
14 officers, right?

15 A Yes.

16 Q The detective, I'm sorry.

17 A Detectives, yes.

18 Q Let's do Exhibit No. 91. Again, that's a closer-up of that, and
19 does that have, like, your name on it?

20 A Yes.

21 Q I don't know if you can see that. Okay. And then there's
22 another paper bag on the outside of the patio; do you see that?

23 A Yes.

24 Q Okay. Is that -- did you tell officers that's where you saw this
25 flash of a person?

1 A Yes.

2 Q Okay. Exhibit No. 196, again, this is you; is that right?

3 A Yes.

4 Q And this is where you told detectives was the person you

5 saw?

6 A Yes.

7 Q Okay. This other cone back here, you're not sure who put that

8 there; is that right?

9 A Correct.

10 Q You just put these two?

11 A Yes.

12 Q All right. How far are we talking about from where you are to

13 the person that you put down?

14 A Approximately 3 to 4 feet.

15 Q And even at that distance, you couldn't even see a gun?

16 A No. It was all happening too fast.

17 Q Couldn't see any descriptive facial features or anything like

18 that?

19 A No.

20 Q Okay.

21 MS. BEVERLY: Court's indulgence.

22 I'll pass the witness, Your Honor.

23 THE COURT: Defense, cross-examination?

24 MS. SISOLAK: Briefly, Your Honor.

25

1 **CROSS-EXAMINATION**

2 BY MS. SISOLAK:

3 Q Good afternoon, Officer. I'll be brief, I promise. I -- I just want
4 to clarify: Two shots were fired, correct?

5 A Correct.

6 Q You returned fire?

7 A Yes.

8 Q At that time, did you turn the flashlight on on your handgun?

9 A Right when I started shooting, that's when I turned the
10 flashlight on.

11 Q Perfect. And at that point you saw what -- what's been
12 referred to as a flash of a person, correct?

13 A Yes.

14 Q Black male?

15 A Yes.

16 Q No shirt?

17 A Correct.

18 Q Basketball shorts?

19 A Yes.

20 Q That was not the person who was later taken into custody,
21 correct?

22 A Correct.

23 MS. SISOLAK: Okay. Nothing further. Thank you.

24 THE COURT: Counsel?

25 MR. PLUMMER: Yes, Your Honor.

1 **CROSS-EXAMINATION**

2 BY MR. PLUMMER:

3 Q Officer, 413 is code for a weapon?

4 A Yes.

5 Q Specifically a gun?

6 A Yes.

7 Q And -- and you did receive radio traffic from the homeowner
8 that the people there possibly had a gun?

9 A From dispatch, yes.

10 Q From dispatch. So you knew that was a possibility on the
11 drive over?

12 A Yes.

13 Q Now, when you arrived, said you could hear somebody in the
14 backyard?

15 A Yes.

16 Q You didn't yell to the backyard, hey, the police are here, we're
17 out front, you need to come out with your hands up?

18 A No.

19 Q When you were in the house, first walked in, you talked to one
20 of the homeowners?

21 A Yes.

22 Q And Officer Robertson talked to another homeowner?

23 A I don't believe so.

24 Q One of the homeowners -- you weren't there listening to one of
25 the homeowners tell him how to unlock the door?

1 A To one of the homeowners?

2 Q Yes.

3 A Correct. Yes.

4 Q Officer Robertson --

5 A Yes. Yes.

6 Q And so one of the homeowners tells Officer Robertson how to

7 unlock the door to the backyard?

8 A Yes.

9 Q The other homeowner tells you where the light switch is to the

10 back patio?

11 A I don't recall.

12 Q You don't recall the homeowner telling you where the light

13 switch was?

14 A No.

15 Q When you get to the back of the house where the door --

16 before Officer Robertson opens the door, you're standing to the left of

17 the door?

18 A Yes.

19 Q He's standing at the door?

20 A Just to the right of the door.

21 Q Well, is he -- the door is here. Is he to the right of the door

22 trying to open it? Or is he in front of the door trying to open it?

23 A He's not standing in front of the door.

24 Q All right.

25 A He's standing to the right of the door.

1 Q And reaching over to unlock it?

2 A Yes.

3 Q The -- just so we're clear, he's stretching over, grabbing a key,
4 unlocking the door?

5 A Yes.

6 Q And he opens the door?

7 A Correct.

8 Q Does he do this?

9 A He opens the doors and walks around as he's opening the
10 door.

11 Q So as he opens the door, you see him walk around like this?

12 A Yes.

13 Q And as he's opening the door, you're behind the wall and you
14 step forward?

15 A Yes.

16 Q And as you step forward, that's when you hear a shot?

17 A I hear two shots.

18 Q Two shots. And Officer Robertson, he's behind you when this
19 happens?

20 A Yes.

21 Q Now, at that point -- moment in time that you had stepped
22 forward, did you see a person?

23 A No.

24 Q So then there's a shot, two shots, and you step back and take
25 a knee?

1 A Yes.

2 Q Right? And the edge of the door, so you come out around the
3 edge of the door?

4 A Yes.

5 Q Do you actually look out?

6 A Yes.

7 Q And you start firing?

8 A Yes.

9 Q And it was at that moment in time that you saw a flash of a
10 person when you -- 3 to 4 feet away?

11 A Yes.

12 Q So this flash of a person 3 to 4 feet away, you unload 12 shots
13 in succession, correct?

14 A Yes.

15 Q But you're not seeing the person you're shooting at?

16 A No.

17 Q Now, this type of firing is -- you refer to it as suppressive fire?

18 A Yes.

19 Q And suppressive fire is, in essence, you're not really trying to
20 shoot at a target, you're just trying to blanket an area to make sure they
21 can't shoot at you?

22 A Correct.

23 Q And your firing is in the area where you thought you saw the
24 person?

25 A Yes.

1 Q Now, after you're done firing, you start communicating,
2 throwing out verbal commands to the person in the backyard, or to
3 anybody who might be in the backyard?

4 A Yes.

5 Q And you're getting responses to those verbal commands?

6 A Yes.

7 Q At that point in time, you're just in a holding position, right?

8 A Yes.

9 Q You're not going outside?

10 A No.

11 Q Radio traffic?

12 A Yes.

13 Q Waiting on additional officers to arrive?

14 A Yes.

15 Q At some point, additional officers do arrive?

16 A Yes.

17 Q And when they first arrive, you're still in communication with
18 the person in the backyard?

19 A Yes.

20 Q You're throwing out commands. The person is responding to
21 those commands verbally?

22 A Yes.

23 Q And at some point, air arrives?

24 A I'm sorry?

25 Q Air unit arrives?

1 A Yes.

2 Q And this air unit that arrives, you're in communication with
3 them?

4 A Yes.

5 Q And the -- they're looking at the backyard?

6 A Yes.

7 Q There's no indication that there's a second subject in the
8 backyard?

9 A Not from what they can see.

10 Q They just see the one subject?

11 A Yes. But there was a lot of stuff in the backyard, so I
12 remember him saying he couldn't tell.

13 Q Granted, but the information you're receiving from the air unit
14 is that there -- they see one subject --

15 A Yes.

16 Q -- in the backyard? And the information you have at that
17 moment is that subject is in the prone position with his hands above his
18 head?

19 A Yes.

20 Q And a weapon at his feet?

21 A Yes.

22 Q Now, at that moment in time right there -- and I'm just talking
23 about that moment in time where the air unit is on site, additional officers
24 have arrived, at that moment in time, you had no idea that a shotgun
25 was even involved?

1 A No.

2 Q In your mind, there had been two shots fired?

3 A Yes.

4 Q You didn't have body cam that night, did you?

5 A No.

6 Q When the other units arrived -- when I say other units, I'm
7 talking about other officers and the K-9 units that -- they basically did a --
8 what you would call a stack?

9 A Yes.

10 Q To where the -- one of the K-9 unit person had a shield in
11 front?

12 A Yes.

13 Q There was seven or eight people kind of stacked up going into
14 the dining room area?

15 A Yes.

16 Q And K-9 unit released the dog?

17 A Yes.

18 Q And once the dog had a hold of the subject, the stack moved
19 forward?

20 A Yes.

21 Q You were part of that stack, weren't you?

22 A Yes.

23 Q So you witnessed Mr. Hudson being taken into custody?

24 A Yes.

25 Q Did you also go out front when they brought him out to

1 medical?

2 A No.

3 Q You stayed in the back?

4 A I believe I left before that.

5 Q Okay. But you saw him being taken into custody?

6 A Yes.

7 Q And he had basketball shorts on?

8 A I don't recall.

9 Q You don't recall what he was wearing?

10 A No.

11 Q Do you recall that he had a shirt on?

12 A I honestly don't recall.

13 Q But he didn't meet the description of the person that you had a
14 blurry vision on?

15 A I don't recall.

16 Q And then you left the scene for the CP?

17 A Yes.

18 Q Thank you, Officer.

19 MR. PLUMMER: Pass the witness.

20 THE COURT: Thank you. State, any redirect?

21 **REDIRECT EXAMINATION**

22 BY MS. BEVERLY:

23 Q Officer, this event was about two and a half, almost three
24 years ago, right?

25 A Yes.

1 Q Okay. Is this a pretty significant event in your life?
2 A Very.
3 Q Okay. This something that you still think about frequently?
4 A Yes.
5 MR. PLUMMER: Objection, Your Honor.
6 MS. BEVERLY: What's the -- what's the objection?
7 THE COURT: What's the objection?
8 MR. PLUMMER: Relevance. Bolstering. Improper.
9 THE COURT: Counsel, approach.
10 [Bench conference transcribed as follows.]
11 THE COURT: Whenever there's a relevancy objection, I allow
12 speaking objections. That's why I had you approach.
13 MR. PLUMMER: I'm sorry, Your Honor.
14 THE COURT: Your objection --
15 MS. BEVERLY: Oh. Okay.
16 THE COURT: Your objection is relevance; is that correct?
17 MR. PLUMMER: That is one of the objections.
18 MS. BEVERLY: What's another one?
19 THE COURT: I'm sorry?
20 MR. PLUMMER: One is relevancy. The other is it's
21 bolstering. Another, is they're trying to get into his current feelings of
22 being upset and, you know, causing sympathy in the minds of the jurors.
23 MS. BEVERLY: Judge?
24 THE COURT: What is the relevancy? Has to go to credibility.
25 MS. BEVERLY: Well, he's -- first of all, he's a named victim in

1 this case.

2 MR. PLUMMER: That's in sentencing.

3 MS. BEVERLY: Can -- am I allowed to finish?

4 THE COURT: Stop. Let her make her argument.

5 MS. BEVERLY: Thank you.

6 THE COURT: What's the relevancy, counsel?

7 MS. BEVERLY: The relevance is I'm going down a line of
8 questioning to see things that he remembered, that he still thinks about
9 this, that remembers, that -- there were questions about things that he
10 remembered or not, so --

11 THE COURT: Okay. That has to do with the credibility. In
12 other words, you're questioning -- is this -- is your questioning of the --
13 his memory is somehow affected --

14 MS. BEVERLY: No. I -- I'm going to move on, but I -- I hadn't
15 finished my line of questioning, so -- but it goes --

16 THE COURT: But what is your line of questioning?

17 MS. BEVERLY: Is there anything else you remember about
18 this incident?

19 THE COURT: Okay. That's fine.

20 MS. BEVERLY: Okay.

21 THE COURT: Your objection is overruled.

22 MR. PLUMMER: I don't mind that question. Thank you, Your
23 Honor.

24 MS. SISOLAK: Thank you, Your Honor.

25 THE COURT: Thank you.

1 [End of bench conference.]

2 BY MS. BEVERLY:

3 Q You were asked some questions about the description of the
4 person that you saw for that brief moment in time --

5 A Yeah.

6 Q -- do you recall those questions on cross-examination?

7 A Yes.

8 Q Okay. Is there anything specific that you remember about
9 clothing or color or anything else that comes to mind?

10 A The flash of the person that I saw, light skin, no shirt, purple
11 basketball shorts.

12 Q Okay. You were asked a question about you don't know if a
13 shotgun was involved in this incident or not?

14 A Correct.

15 Q Okay. The two shots that came through the house, could you
16 tell the caliber of those shots?

17 A It sounded like a high-powered rifle, 223 probably.

18 Q Okay. So you just, basically, heard weapons coming at you; is
19 that fair to say?

20 A Yes.

21 Q At -- at -- I mean, how quick is this happening?

22 A It's very quick.

23 Q All right. And then you were asked a question about you
24 weren't wearing body cam?

25 A Correct.

1 Q Okay. This was -- this happened back in 2015?

2 A Yes.

3 Q At the time in 2015, were officers mandated to wear body

4 cams?

5 A No.

6 Q At the time, was it still, like, a developing program?

7 A Correct.

8 Q Okay. You were asked some questions about whether the

9 person in the backyard was responding to commands or not. Is that --

10 do you remember those questions?

11 A Yes.

12 Q Okay. At any point during the whole time you're waiting for

13 other officers, waiting for K-9, can you see any person back there?

14 A No.

15 Q Okay. So you've heard shots come towards you. And now

16 you can't see a person back there; is that correct?

17 A Correct.

18 Q Okay. So whether someone's responding to commands or

19 not, are you going to go back there and put yourself in further danger?

20 A No.

21 MS. BEVERLY: I'll pass the witness.

22 THE COURT: Defense, any recross?

23 MS. SISOLAK: Nothing on behalf of Mr. Turner, Your Honor.

24 MR. PLUMMER: Yes, Your Honor.

25 THE COURT: You may proceed.

1 MR. PLUMMER: Thank you, Your Honor.

2 **RECROSS EXAMINATION**

3 BY MR. PLUMMER:

4 Q Officer, the -- the commands that were sending at were
5 commands like, don't fucking move, correct?

6 A Yes.

7 Q If you move, I will kill you?

8 A Yes.

9 Q Correct? So and in addition to verbal responses, you -- no --
10 you weren't seeing anybody move?

11 A No.

12 MR. PLUMMER: Thank you, Your Honor. Thank you.

13 THE COURT: Thank you. May this witness be excused?

14 MS. BEVERLY: Yes, Your -- oh, I don't know if the jury has
15 any questions.

16 THE COURT: Oveja, I'm sorry. Seeing no hands.

17 May this witness be excused?

18 MS. BEVERLY: Yes, Your Honor.

19 THE COURT: Defense?

20 MR. PLUMMER: Yes, Your Honor.

21 THE COURT: Thank you.

22 Sir, thank you and you are excused.

23 State, call your next witness.

24 MS. BEVERLY: Judge, we only have one more witness this
25 afternoon, so if we're going to take a break, can we take it now and then

1 just finish up with our last witness?

2 THE COURT: Okay.

3 MS. BEVERLY: Thank you.

4 THE COURT: Ladies and gentlemen, we're going to take
5 a 15-minute recess.

6 During this recess, it is your duty not to converse among
7 yourselves or with anyone else on any subject connected with the trial or
8 to read, watch, or listen to any report of or commentary on the trial by
9 any person connected with the trial or by any medium of information,
10 including without limitation, newspaper, television, and radio. And you
11 are not to form or express an opinion on any subject connected with this
12 case until it is finally submitted to you.

13 We will be in recess for 15 minutes.

14 [Court recessed at 3:03 p.m., until 3:19 p.m.]

15 [Outside the presence of the jury.]

16 THE COURT: We're back on the record in C-15-309578-1
17 and -2, *State of Nevada vs. Steven Turner and Clemon Hudson*. Let the
18 record reflect the presence of counsel for the State, counsel for the
19 defendants, and the presence of the defendants.

20 You may bring the jury in at this time. Bring the jury in,
21 please.

22 [Jury reconvened at 3:20 p.m.]

23 THE COURT: You may be seated. Will the parties stipulate
24 to the presence of the jury?

25 MS. BEVERLY: Yes, Your Honor.

1 MS. SISOLAK: On behalf -- on behalf of Mr. Turner, we will,
2 Your Honor.

3 MR. PLUMMER: Yes, Your Honor.

4 THE COURT: Thank you. State, call your next witness.

5 MS. BEVERLY: State calls Officer Jeremy Robertson.

6 **JEREMY ROBERTSON,**

7 [having been called as a witness and first duly sworn, testified as
8 follows:]

9 THE CLERK: Please be seated. Would you please state and
10 spell your name for the record?

11 THE WITNESS: Jeremy Robertson, J-E-R-E-M-Y
12 R-O-B-E-R-T-S-O-N.

13 MS. BEVERLY: May I proceed, Your Honor?

14 THE COURT: You may.

15 **DIRECT EXAMINATION**

16 BY MS. BEVERLY:

17 Q Sir, how are you currently employed?

18 A I'm employed with the Las Vegas Metropolitan Police
19 Department.

20 Q How long have you been with Metro?

21 A 16 years.

22 Q And what is your current assignment today?

23 A Right now, I work in the community oriented policing
24 department.

25 Q What is -- what does that entail?

1 A Basically, I wear plain clothes most the time. I go out and do
2 community events, go to schools, do things for the community, work with
3 the churches, faith-based programs, school programs. We do clean-ups
4 in the neighborhood, some of our rough neighborhoods, and reach out.
5 We work with problem houses, such as squatters. Basically, anything
6 that we get complaints from at our substation, we work on and try to
7 make it -- make it the best we can.

8 Q And when did you start working in that division?

9 A I started working there, it was last May.

10 Q And prior to that, were you on what is known as light duty?

11 A Yes.

12 Q What does light duty entail?

13 A Anytime an officer is injured or hurt on duty or even off duty,
14 they can be placed on light duty until their injury allows them to get back
15 to full duty.

16 Q And prior to that, were you actually off from work for
17 approximately a year?

18 A Yes.

19 Q Okay. I want to direct your attention to September the 4th
20 of 2015. Okay. Were you working on that day?

21 A Yes, I was.

22 Q What shift were you working?

23 A Graveyard.

24 Q Okay. What time is graveyard?

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

1 Q And were you working in a special unit, or were you on patrol?

2 A Patrol.

3 Q What area command were you a part of at that time?

4 A Northwest Area Command.

5 Q Do you know an Officer Grego-Smith?

6 A Yes.

7 Q Was he also working in the Northwest Area Command at the
8 time?

9 A Yes.

10 Q So graveyard, what kind of calls do you get on graveyard in
11 your experience?

12 A It ranges from domestic violence, burglaries, robberies,
13 prowler calls, petty larceny calls from, like, gas stations. It entails a little
14 bit of everything.

15 Q Kind of riffraff of the nighttime?

16 A Yeah.

17 Q Okay. You mentioned prowler call. What does a prowler call
18 mean to you?

19 A Well, prowler calls we get, you know, they range -- it -- a lot of
20 time on windy nights or just on other nights, someone suspects
21 someone's in their yard, that would be a prowler call. So some nights, if
22 someone's, like, jumping someone's wall, they hear them in the
23 backyard, that would be a prowler call.

24 Q Is there a difference between a prowler call and a
25 prowler-with-a-gun call?

1 A They -- they would -- it would be -- for us, I mean, that would
2 be a prowler. And then if they saw a weapon, then they would change
3 the call when -- you know, would no longer be just a prowler call.

4 Q Prior to this incident that we're here to talk about today, how
5 long had you been on graveyard?

6 A I worked graveyard for approximately 12 years.

7 Q Okay. And we're talking about prowler calls, and you
8 responded to multiple prowler calls; is that correct?

9 A Yes.

10 Q Does it typically end up being not that big of a deal?

11 A Majority of the time, it's usually wind, something getting
12 knocked over outside. People hear something, you know, so -- yeah.
13 Most -- majority of the calls are -- end up being nothing.

14 Q What does it mean to you when you hear prowler with a
15 possible gun?

16 A Most of our calls, especially on graveyard, come out with
17 possible weapon, because our dispatchers usually asks if the -- the
18 person saw a weapon. And usually it's so dark, people are usually like,
19 maybe. And then it gets broadcast to us as possible. So we hear that a
20 lot, majority of our calls.

21 Q Okay. And when -- if dispatch hears from, say, someone
22 calling 911 about a gun, do they try to ask follow-up questions about,
23 like, describe the gun or anything like that of the -- the homeowner or
24 anything like --

25 A Usually, yes.

1 Q Okay. So information that you get on your radio is coming
2 from dispatch; is that correct?

3 A Correct.

4 Q You're not directly speaking with the person who is
5 calling 911 --

6 A No.

7 Q -- is that fair to say? Okay. All right. So September the 4th
8 of 2015, you're working and you're working graveyard. And
9 approximately 3:30 in the morning, where are you?

10 A I was up at the Northwest Area Command substation. I had
11 just downloaded camera photos. We called them DIMS photos. And,
12 you know, that was three years ago so we were a little behind, but we
13 used to have to take the computer -- or the -- the memory card from the
14 computer, take it into the substation and plug it into another computer to
15 download photos of -- it was actually a domestic violence call that I was
16 on prior, taking pictures for another unit. And it was a slow night so I
17 ended up going up to the station just to download them right away. And
18 so I just finished that up. I was in my patrol car, getting ready to leave
19 the station when I was dispatched to this call.

20 Q Okay. And did you see Officer Grego-Smith at the station that
21 night too?

22 A Yes. He had -- had a ride-along that night, and it was -- being
23 a slow night the ride-along didn't want to -- to spend the rest of the night
24 and so he asked to be dropped off.

25 Q Okay. Had you worked with Officer Grego-Smith before?

1 A Yes.

2 Q Okay. So you get -- do you get a call over the radio about an
3 incident, or a prowler call, at 6729 Oveja?

4 A Yes.

5 Q And is that here in Clark County?

6 A Yes.

7 Q What are the initial details that you get on the call?

8 A The initial details we get is the PR, which is a person
9 reporting, the person calling in, possibly hear or saw subjects in the
10 backyard or hears a subject in the backyard of their house.

11 Q I'm going to put on the screen Exhibit No. 117. Can you see
12 that on your screen?

13 A Yes.

14 Q Okay. Is this, where my pen is located, be Oveja Circle?

15 A Yes.

16 Q Okay. And does Oveja -- actually, the houses on Oveja in the
17 cul-de-sac back up to Rainbow?

18 A Yes.

19 Q Okay. Are you familiar with this area or were -- at the time,
20 were you pretty familiar with this area?

21 A Yeah. At that time, it was still part of Northwest Area
22 Command, which I've worked in for 12 years. And it's no longer part of
23 that area command anymore. But yes, at that time I was.

24 Q So you hear this information over the dispatch; and what do
25 you decide to do?

1 A So she -- the dispatcher dispatched me to the call. Officer
2 Smith said that he would back me and that he was at the station also.
3 We drive out of the station, and being that it was a low priority call, we
4 drove down Cheyenne. We drove there no lights and siren.

5 Q Let me stop you right there.

6 A Yeah.

7 Q You said it was -- it was a low priority call. Why is a prowler
8 call a low priority call?

9 A It's -- it's low priority in one fact of that it's just a -- a possibility.
10 There's no actual proof at the time when we got the dispatch that there
11 was anything else going on. So that's the reason why we wouldn't roll
12 with our lights and sirens on.

13 Q Okay. Are there certain restrictions or requirements at Metro
14 for you to ride with your lights and sirens on?

15 A Yes.

16 Q So you're not just going to, like, every single call with lights
17 and sirens on --

18 A No.

19 Q -- is that fair to say?

20 A No.

21 Q Okay. Especially on graveyard shift; is that fair to say?

22 A Right.

23 Q Okay. So you start heading towards the address. As you're
24 heading towards the address, are you getting any further information on
25 the -- from the dispatcher?

1 A As we're driving down, we get the -- I believe the radio traffic
2 said that they -- you know, came out with a subject in the backyard,
3 dark, unable to get a description, possibly there's a weapon involved, but
4 we didn't have anything further than that.

5 Q Okay. So you hear possibly had a gun?

6 A Right.

7 Q And that's different for you than hearing definitely has a gun,
8 here's what it looks like?

9 A Right.

10 Q Okay. If you would have heard definitely has a gun, here's a
11 description, would that have changed how many officers responded or
12 anything that you did?

13 A Yes.

14 Q Okay. And how so?

15 A First off, the -- there's a policy, it's called the S.T.A.R.
16 Protocol. Any time there's definite weapon involved, a sergeant, which
17 is a supervisor, has to be acknowledge it over the radio and then has to
18 dispatch himself to the -- himself or herself to the scene. And then you
19 stage up before approaching the house.

20 Q And is it fair to say in -- in this particular incident, you're not
21 hearing directly from the homeowners who have called 911; is that
22 correct?

23 A Correct. They call 911. 911 types information to our
24 dispatcher. Dispatcher types information into our CAD system,
25 computer system, and talks to us on the radio.

1 Q So the information from the homeowner is kind of filtered
2 through the dispatcher prior to it getting to you; is that correct?

3 A Yes.

4 Q And you have to rely on what you're hearing from dispatch,
5 correct?

6 A Right. Correct.

7 Q Okay. So are you and Officer Smith in different vehicles?

8 A Yes.

9 Q All right. Approximately how long does it take you to end up
10 getting to the location of Oveja?

11 A I'm not a hundred percent sure. About five minutes maybe.

12 Q Okay. I'm going to show you Exhibit No. 247 on the screen.
13 You can actually mark on the screen with your finger. Can you point to
14 us where you parked your vehicle when you arrived?

15 A I believe it was -- I'm sorry, down here where these two
16 vehicles are at.

17 Q Kind of where my -- oh, let me --

18 A I would be the first vehicle and Smith -- Officer Smith would be
19 the second vehicle behind it.

20 Q Okay. So right where my pen is? Let me -- let me actually
21 zoom in a little bit so you can see this better. See where my pen is?

22 A Yeah. Those two that are kind of offset off the curb.

23 Q That's not where the house is though; is that right?

24 A Correct.

25 Q Okay. Why is it that you would park a little bit of a distance

1 from the house?

2 A There's a couple reasons why we do that. First reason being
3 it's our tactics not to park right in front of a house, so we can get out of a
4 car without being right in front of somewhere where the threat or a threat
5 might be at.

6 Another reason, dark on graveyard, this is an older
7 neighborhood, they don't have the lit-up addresses. So you can't really
8 see the addresses on these houses. So we decide -- I decided,
9 because Smith followed me, and we just parked down there and decided
10 to walk until we found the house, because we didn't know exactly where
11 it was at at the time when we pulled down the street.

12 Q Okay. So you're familiar with the area, but not with exact
13 houses in the neighborhood?

14 A Correct.

15 Q Okay. When you get out of your vehicle, what do you do?

16 A We get out of the vehicle. We start looking at the addresses
17 as we're moving westbound. I did -- we did notice the first address when
18 we pulled in was a lower number, and the addresses actually gain
19 numbers, bigger numbers, as they move west in that section. So we
20 started looking for the address. And as we approached, we realize it's
21 the house straight ahead of us the whole time, the one at the end of the
22 cul-de-sac.

23 Q Okay. I'm going to show you Exhibit No. 253; do you
24 see 6729 Oveja in this photo?

25 A Yes.

1 Q Can you put a little marking on that? Okay. As you're walking
2 up and -- up the street to get to the target residence, are you kind of
3 generally, for lack of a better term, scoping out the scene?

4 A Yes.

5 Q Okay. What does that kind of entail?

6 A I mean, we're just looking around. As we're walking up, we're
7 looking at the addresses. We're looking to make sure that there's no
8 one running around or hiding as we're moving up towards the front -- or
9 to the house that we're looking for.

10 Q Okay. Had you received any information on the dispatch
11 about maybe someone knocking at the door?

12 A Yes. Prior to us arriving, the dispatcher had updated that
13 there was a knock on their door. I can't remember if it was a just knock
14 or doorbell. I don't remember.

15 Q What did that -- what did that cause you to think, if anything?

16 A You know, it's -- it's very uncommon for someone that's a
17 burglar to -- to spend a lot of time, making a lot of noise, making people
18 aware that they're at a house before they break in. So honestly, it -- it
19 kind of sounded like maybe a friend was at the wrong house. Maybe
20 someone said meet me at my house or something, and it sounded like
21 maybe they were at the wrong house. Like, hey, let me in. Or we do get
22 intoxicated people that walk home or sometimes drive home. And
23 they're at the wrong house, even though it's their house or it's a friend's
24 house, and they -- they're knocking on the door, like, why is no one
25 letting me in. So kind of -- it -- it didn't ring a bell of anything crazy. It

1 sounded more like someone was confused of where they're at or they
2 were intoxicated.

3 Q So any -- prior to actually getting to the house and walking up
4 to the house, anything unusual, out of the ordinary, suspicious about this
5 particular call?

6 A No.

7 Q All right. Showing you Exhibit No. 368. As you get to the
8 house, do you notice this vehicle parked kind of opposite of the house in
9 the cul-de-sac?

10 A I don't remember.

11 Q Was -- didn't register anything to you or anything?

12 A No.

13 Q No movement or anything in the car?

14 A No.

15 Q Okay. So you get up to the home. And what, if anything, do
16 you do?

17 A So as we approached the house, the front of the house once
18 we realize it's the house at the end of the cul-de-sac, things I remember,
19 I remember seeing the front of the house and seeing the -- to the right
20 side of the house there was a, like, a little cutout wash, or maybe used to
21 be a walkway that was fenced off. And then I remember seeing the
22 security gate to the backyard, the side gate to the backyard was on the
23 right side of the house. And Officer Smith went to the right side of the
24 house to take a look over there. I went to the left side of the house. I
25 remember there being, from what I remember, a courtyard near the front

1 of the house or heavy brush.

2 Q Okay. Let's actually look at Exhibit No. 374.

3 A So, yeah, there is a courtyard there.

4 Q Okay.

5 A So as Officer Smith went to the right side of the driveway, I
6 cleared the left side up by the front door where the -- the courtyard is,
7 just making sure there was no one up there. And then I remember
8 looking to the left side of the house to see if there was a gate or anything
9 to get over there. And I just remember -- from what I remember is, it -- it
10 seemed -- it was different than most walls. I -- I think it was tall or there
11 was an obstruction there.

12 Q Let's show Exhibit No. 372. Is this that wall on the left side
13 that you're talking about?

14 A Yes.

15 Q And you said something about you were clearing the front kind
16 of area. What -- what does that mean?

17 A So we're just making sure there's no one up there, because,
18 you know, the -- there's details originally that maybe someone was
19 knocking on the front door or ringing the doorbell. So we just wanted to
20 make sure someone's not just sitting up there by the front door or
21 anything. Even though it's still low priority or nothing's screaming crazy
22 in our minds, we still use tactics to make sure that someone's not going
23 to jump out at us or that we're not missing something. So we're looking
24 all over the front yard before we move.

25 Q I'm going to show you grand -- Exhibit No. 367; do you recall

1 this vehicle being parked in front of the house as you went up the
2 driveway?

3 A I honestly can't remember it.

4 Q No problem. All right. So you end up clearing the front area
5 of the house, and what's the next thing that you do?

6 A So looking at the picture now, I -- I realize that awning is kind
7 of over on that wall, and that's why we didn't decide to try to jump the
8 wall. I remember going back towards the -- the driveway where Smith
9 was, and he had said -- I think he had said that the gate was locked or it
10 was like a security screen, so you can't really see through it. And there
11 was an awning over the -- that gate. I remember seeing that myself, that
12 there was an awning that goes over that security gate, so you can't jump
13 over that gate either.

14 Q Let's show Exhibit No. 59; is this that awning and security gate
15 that you're talking about?

16 A Yes.

17 Q Okay. Okay. Go ahead.

18 A So after we checked the front of the house, I think Officer
19 Smith said he thought he heard something. I can't a hundred percent
20 remember that, but I -- I think he said that to me. But I don't know where
21 he thought he heard it from. And so I got on the radio and asked for -- if
22 we were still on landline with the -- the homeowners. And it's -- the
23 dispatcher said -- you know, I said if we are, have them come to the front
24 door. And then they came to the front door and that's where we met
25 them at.

1 Q Okay. Did the homeowners, in fact, let you into the home?

2 A Yes.

3 Q And what do you do when you get inside the home?

4 A They said that -- I remember going through their -- their --
5 passing them at the front door. And they said the back door was
6 straight -- straight back, and they said you have to open the door. There
7 was a key in the lock. It was one of those -- they have the key side of
8 the -- the lock inside the house, so you had to open -- it wasn't a regular
9 dead bolt. I remember them telling me that.

10 So we -- Officer Smith and I went in. I remember looking out
11 windows. I was in the kitchen. I looked out a -- a small window in the
12 kitchen. And I remember it being really dark. I also looked out another
13 window, I believe it was in the dining room, and we couldn't see
14 anything.

15 Q Okay. So in this dining room/living area, there's a couple of
16 windows; is that right?

17 A Yes.

18 Q Okay. And I'm just going to show up here grand jury --
19 Exhibit No. 88. Would this be a view from the front door of the house
20 looking towards the back of the house?

21 A Yes.

22 Q Okay. And do you see where my pen is?

23 A Yes.

24 Q Is that one of the windows?

25 A Yes.

1 Q Is there also a further -- another window further into the
2 kitchen area?

3 A Yes. I believe it was over the sink.

4 Q Okay. So you look out those windows to see if you can see
5 anything; is that fair to say?

6 A Yes.

7 Q Okay. And you indicate you can't see anything?

8 A Right.

9 Q Had you been able to see anybody with a weapon or anything,
10 would that have changed what happened next?

11 A Yes.

12 Q Okay. What would you have done if you had seen somebody,
13 like, on the backyard or on the patio with a weapon?

14 A If they were in the backyard, we would have immediately
15 backed out to the front of the house. I would have got the homeowners
16 and we would have gone down to the end of the street.

17 Q Okay.

18 A And I would have waited for more officers to arrive.

19 Q And just so we're clear, Exhibit No. 127; here's the first
20 window we were talking about, correct?

21 A Yes.

22 Q And then we can kind of see the second window by the
23 refrigerator?

24 A Yes.

25 Q Do you have any kind of in-depth conversation with the

1 homeowners or anything?

2 A No.

3 Q Okay. What happens when you go towards the back of the
4 home?

5 A So after we looked through the windows, you know, we still
6 used tactics. Officer Smith and I decided that we would clear the
7 backyard of the house.

8 Q Okay. Similar to how you cleared the front yard?

9 A Yes. Kind of like -- even like how we clear a house even.

10 Q Yeah. What do you do when you clear a house?

11 A So, usually, we -- if we're at, like, the front door of a house, we
12 push the door open. We'll announce ourselves and then we make entry
13 to the house. And we -- we clear the house as -- either two-man, or if
14 we get more officers. Usually if it's something that doesn't scream like
15 it's a crazy call, it's usually two officers anyway on calls. You have to
16 have a minimum of two officers to clear, per our policies.

17 Q So do you and Officer Smith develop a plan that you're going
18 to go into the backyard and clear it?

19 A Right.

20 Q Okay. So what's the plan going to be?

21 A So the plan is I'll open the door and Smith stayed on handgun.
22 He was going to be the first one out the door actually. I was going to
23 fling the door open. I had to holster my weapon in order to open the door.
24 Again, we want to use tactics. So our jobs -- we're -- we're not trying to
25 scare people away; as a police officer, we're trying to catch people.

1 So just like if I rolled with lights and sirens to a call, I'm not
2 rolling straight up in front of the house with my sirens blaring, like, I'm
3 here. We'll shut them off, especially on graveyard, I don't need lights
4 and sirens. Even walking up to a house, I use light discipline. I don't
5 want people knowing where I'm at. We're trying to catch people that are
6 up to no good, or in this case, we thought maybe someone that was just
7 in the wrong place.

8 Q Okay.

9 A So we come up with the idea that we're just going to clear the
10 backyard, but we're still taking this serious enough. He has his weapon
11 out.

12 Q Let me stop you right there.

13 A Yep.

14 Q When you go through the house initially, are there any lights
15 on in the living room/dining room area of the house?

16 A No.

17 Q Okay. I'm going to show you Exhibit No. 206. This is the door
18 to the back patio; is that correct?

19 A Yes.

20 Q Obviously, when you got there, the door was closed; is that
21 correct?

22 A Correct.

23 Q Could you see out either of those double, kind of, French
24 doors?

25 A I don't remember looking out those doors.

1 Q And again, we're talking around like 3:30, 3:45 in the morning;
2 is that right?

3 A Yes.

4 Q So the plan is Officer Smith is going to go through the door
5 first, you're going to follow him?

6 A Correct. But I'm going to open the door.

7 Q You're going to open the door. So you, if you can on this --
8 let's see, on this exhibit, which is going to be 206, can you put a little dot
9 for the jury where you were standing to open the door?

10 A In -- in my mind, I think it was to the right of the door.

11 Q Okay.

12 A I'm not a hundred percent sure, but I believe I was standing
13 over here. In -- I would have had to be where the door handle was, so I
14 could have been to the left, but in my mind, I was to the right of it.

15 Q And I believe you indicated you had to unlock the door from
16 the inside in order to --

17 A Uh-huh.

18 Q -- turn the knob and open the door?

19 A Right.

20 Q And did the door swing in or did the door swang out?

21 A It swang in.

22 Q Okay. Tell us what happens.

23 A So we come up with the plan. So again, I was -- Officer Smith
24 was going to be on -- on gun. I was going to open the door and then I
25 would pull my weapon out. But we were going to swing open the door

1 and announce, Metro Police, sound off if you're in the backyard. You --
2 that's typical of what we would say. So my goal was to swing the door
3 open, grab my weapon and then we announce, and then we'd go out in
4 the backyard and clear the backyard.

5 Q Okay. And you indicated that in order to open the door, you
6 actually had to holster your weapon?

7 A Yeah. Again, tactic wise, we don't want to give away our
8 positions. So if I'm making a lot of noise trying to open a door, it's
9 unsafe with a handgun in my hand trying to undo a dead bolt and open
10 the door at the same time. Again, we're trying to make the less noise as
11 possible. You know, that's -- that's what we're doing.

12 Q But prior to you holstering it, did you have it out?

13 A I believe I had it out in the front of the yard while we were
14 clearing. That's typical. And then once we were inside, I holstered it to
15 open the back door.

16 Q All right. So tell us what happens as you go to open the door.

17 A So I remember turning the key and knob and swinging the
18 door open. And I didn't have a -- any time, and I would -- I just
19 remember getting shot, or something happened. I didn't know what
20 happened at -- to me at first. It felt like someone hit me with a
21 sledgehammer in my upper thigh. And I just remember time slowed
22 down for me. In my head, I -- I thought I was standing there for, like, 10
23 or 15 seconds and then fell to the ground and I didn't know why. I
24 couldn't hear anything. I had tunnel vision.

25 And then after I landed on the ground, I was on my stomach

1 on the ground with my feet towards the door and my head was facing
2 the front door. And I remember hearing things as soon as I -- I heard
3 Officer Smith returning fire and I could see his shell casings flying over
4 me, but everything was slowed down. It looked like slow motion to me.

5 Q Prior to this happening, had Officer Smith got on the radio and
6 asked for a Code Red?

7 A Yeah. I'm sorry, yes. Before we did that, he asked for Code
8 Red on the radio, which indicates that we're asking that -- we're going
9 to -- what -- I think -- I believe he said, give us a Code Red. We're going
10 to clear the backyard. And that allows our dispatch -- there's a -- a
11 beep, beeping sound that goes over the radio, meaning radio silence, for
12 us. So we're the only ones supposed to talk on the radio at that time.
13 So he asked for that prior to me opening the door.

14 Q And just to be clear, when you opened the door, you're still on
15 the inside of the residence; is that correct?

16 A Yes.

17 Q Do you hear anything coming from the outside to the inside
18 when you open the door?

19 A I don't remember hearing anything.

20 Q Okay. You -- do you just feel yourself getting hit?

21 A I'm sorry?

22 Q Do you feel yourself getting hit?

23 A Yes.

24 Q Okay. What's -- what's the next thing that happens?

25 A So I remember laying there, and I -- I realize once I started

1 coming to, once the tunnel vision and everything passed, that -- that I
2 was shot. And I started self-evaluating myself. There was another
3 officer that I knew, he had been shot years prior to me and it had hit his
4 femoral artery. So my concern at that time, knowing I was hit in the
5 upper thigh area, was making my femoral artery wasn't hit.

6 So I started checking my -- myself. I was hit very high in the --
7 the upper hip, one where you can't put a tourniquet on. I do carry a
8 tourniquet on my belt, but the -- the injury was so high, it exited -- the
9 actual bullet exited my -- my rear side. I just remember I -- I knew that
10 my femur had broken because the way I fell. And I looked back and my
11 leg was twisted around. I knew that my leg was -- was broken or
12 shattered.

13 So I'm self-evaluating, making sure I don't -- seeing how much
14 blood I can feel. As I'm doing that, I just remember that other officer that
15 I was telling you about. And I -- I wanted to slow down all my breathing
16 and stuff, because I knew if I -- if it was worse, I don't my heart rate and
17 everything going up to where I would bleed out. So I was trying to calm
18 everything down. And I -- I started talking on the radio. That was one of
19 the things that helped keep me -- gave me something to do while we
20 were waiting for other officers.

21 Q Okay. Do you hear Officer Grego-Smith fire into the
22 backyard?

23 A Yes.

24 Q Okay. At some point, do other officers -- do you need some
25 water?

1 MS. BEVERLY: It's okay. He has it up there.

2 Q You let me know when you're ready. Okay?

3 A I'm ready.

4 Q Okay. At some point, do other officers start arriving?

5 A So I remember looking back and Officer Smith had taken a
6 knee. Sorry.

7 Q That's okay.

8 A He had taken a knee in front of me to make sure that he was
9 protecting me. And I remember him yelling on the radio our code for
10 officer needs help, emergency, is 444. And I remember him screaming
11 that out, and officer -- officer down. And I remember him being there,
12 taking a knee in front of me. At that point, any time shots fired, anything
13 like that, everyone's coming.

14 So I remember him screaming that out. And then I remember
15 him getting on the radio and saying -- because dispatch is asking a lot of
16 questions to him. I remember them ask -- I think they asked him, you
17 know, description of the subjects -- suspects and stuff.

18 Q Do you recall any description, number, anything about
19 anybody?

20 A I'm sorry?

21 Q Do you remember any description, any number?

22 A From what I saw?

23 Q Go ahead.

24 A It -- that's all blocked out in my mind.

25 Q You remember talking on the radio traffic?

1 A I -- I did talk on the radio. And Officer Smith had said that he
2 saw one suspect, and I remember telling him no, there's two. And to this
3 day, I can't process it. From the point of me getting shot and falling on
4 the ground, I don't remember what I saw at that door. All of that has
5 been -- is -- my mind blocked it out.

6 Q Would the radio traffic that was taken at the time be accurate
7 as to what you're relaying to the dispatch?

8 A Yes.

9 Q Okay.

10 MS. BEVERLY: Your Honor, by stipulation, I'm going to -- of
11 the parties, move for the admission of 11B, which is on the CD.

12 THE COURT: Defense, is that correct? It's stipulated to?

13 MS. MACHNICH: Yes, Your Honor. No objection from
14 Mr. Turner.

15 MR. PLUMMER: Yes, Your Honor.

16 THE COURT: Okay. It will be admitted.

17 [State's Exhibit No. 11B admitted.]

18 MS. BEVERLY: Permission to publish?

19 THE COURT: You may publish.

20 [Audio played.]

21 BY MS. BEVERLY:

22 Q Sir, did you just hear the beginning of that radio traffic?

23 A Yes.

24 Q Okay. And do you hear the dispatcher saying there's possibly
25 a gun?

1 A Yes.

2 Q No other information though, is that --

3 A Correct.

4 [Audio played.]

5 Q And Officer, on the radio traffic, there's, like, breaks in time, is
6 that right, where there's no talking?

7 A Right.

8 Q Okay. So it's -- it's not like a -- there's updates, then a further
9 update, but there's time period -- that's time that's going on?

10 A Correct.

11 [Audio played.]

12 Q Was that you -- was that you on there telling dispatch to let the
13 homeowners let me in?

14 A Yeah. And I'm 1Victor22 that night.

15 Q And what is 1Victor22? What does that mean?

16 A That was my call sign. One means it's graveyard hours.
17 Victor is the sector beats that the call is in, or I -- I covered Victor area,
18 which this call was in. And then 22 is just a number behind it.

19 Q Okay. So that is how dispatch is assigning officers calls and
20 using those call signs?

21 A Correct.

22 Q Okay.

23 [Audio played.]

24 Q So is that Officer Grego-Smith yelling out shots fired?

25 A Yes.

1 Q And then did you hear yourself on there?

2 A Yes.

3 [Audio played.]

4 Q Did you just hear yourself right there? Earlier, did you hear --

5 A Yes.

6 Q -- Officer Grego-Smith say you told him there was two
7 suspects?

8 A Yes.

9 Q And then you just indicate on here, I was shot with a
10 high-powered rifle?

11 A Yes.

12 Q Okay. So that would have been your memory at the time?

13 A Yes.

14 [Audio played.]

15 Q Officer, did you hear that?

16 A Yes.

17 Q Okay. Fair to say the radio traffic continues on as this
18 incident -- officers begin to arrive; is that correct?

19 A Yes.

20 Q At some point other officers arrive, and do they take you out of
21 the home?

22 A Yes.

23 Q Okay. Now, what happens when you get taken out of the
24 house, if you remember?

25 A I was on my stomach, again, with my head facing the door, so

1 I saw them coming in. I believe I remember seeing a couple officers
2 step over me and go past me and help Smith cover the backyard. And
3 then I just remember Officer O'Neil coming in. I believe he
4 was 1 Victor33 that night. And he -- he came in and he took my gun out
5 of my holster.

6 And the reason for that is if someone were to lose
7 consciousness and then they wake up, it's -- if I was in the fight mode
8 and then I lost consciousness and I woke up again, you're in the fight
9 mode still. And they didn't want me thinking someone, you know,
10 something was wrong and I pull my gun on one of the officers or
11 something. So he took my gun from me that night. And then they --

12 Q Sorry, let me ask you this: Just to be clear, on the radio traffic,
13 there was a bunch of different people talking; is that right?

14 A Uh-huh. Yes.

15 Q There's the air unit. There's maybe some sergeants; is that
16 fair to say?

17 A Yes.

18 Q So everyone's kind of on the same channel talking -- different
19 people are talking though?

20 A Yes.

21 Q Okay. Sorry, I'm sorry. Go ahead. So you get taken out of
22 the house?

23 A Yeah. So Officer O'Neil and then two other officers came in.
24 They rolled me over onto my back and I was telling them that -- that I --
25 my femur was broken and they did what we call a down officer rescue.

1 Officer O'Neil went -- kind of sat me up and kind of bear-hugged me
2 from the back, put his arms under my arms and wrapped them around
3 me. The other officer supported my leg and they lift me up.

4 And, I mean, during the radio traffic, you can hear me
5 screaming in -- in pain when they did that. And then they carried me out
6 of the -- the front door and I was taken to the driveway and -- where they
7 sat me down and then AMR and FD came right up.

8 Q You were taken to the hospital?

9 A Correct.

10 Q All right. How long were you in the hospital for?

11 A 11 days.

12 Q Tell us about your injuries.

13 A So I -- my femur was fractured -- it was basically blown apart.
14 I -- I'm missing the whole upper part of my femur. When I was taken,
15 originally I was taken to trauma. They had to put my leg into traction
16 after I did the MRIs and all that stuff. They stabilized me. They put my
17 leg into traction and then I was taken into surgery shortly -- a short time
18 later.

19 During the surgery, the doctor, the surgeon installed a titanium
20 rods into my leg. I had titanium rod from my ball joint of my femur that
21 connects to the -- to the hip over to where the femur is and then a
22 titanium rod all the way down to my knee.

23 Due to the injury, the way bullets come in -- enter people and
24 exit people, the -- the entrance wound of the -- the gunshot was very
25 small. And it actually sealed itself when it went through, so they didn't

1 even have to stitch that. But when it exited the back end of me, it -- it
2 blew out a lot of -- of flesh with it. So I had a huge hole in the back.

3 My gluteus minimus and medius muscles were detached. My
4 hip flexor muscle was detached. And they -- those -- all those things
5 had to be reattached. And I was told that I would probably have to have
6 surgery again due to the hip flexor muscle, due to not having the top of
7 the -- the femur where it normally attaches.

8 Q Let me ask you this: Do you know how close this shot came
9 to an artery?

10 A Very close. I shouldn't even be here.

11 Q So you were describing -- you were describing for us how the
12 muscles were basically taken apart in your leg?

13 A Yeah.

14 Q You had to put titanium in your leg?

15 A Correct.

16 Q After that surgery, did you have to have ongoing care for
17 your -- your leg and your body as -- as a whole?

18 A So with the wound, being that there's a big, gaping hole, I
19 was -- I had a wound vac attached to me for several months. That's
20 where they -- they pack the wound, they shove foam in there. And,
21 basically, it's like a vacuum and it sucks any moisture out of there, trying
22 to keep to infection away as the -- the wound heals from the inside out. I
23 had to have that changed every three days, which, you know, was the
24 worst part for me. That was painful.

25 Q That affect anything about your personal life?

1 A I had major anxiety from that. So whenever they changed my
2 wound vac, I was thinking three days ahead already to that. It --

3 Q What about your ability to help with your family or kids or
4 anything?

5 A So I wasn't allowed to -- to put any weight on my leg. I
6 couldn't walk for two months. So everything I had to do, I was in a
7 wheelchair, not that I did much. I -- I lived in a hospital bed. I had
8 two-story house, lived downstairs, slept by myself in a hospital bed in the
9 dining room.

10 Q Could you lift anything heavy?

11 A No.

12 Q Did you -- did you have a child at the time?

13 A My son was 18 months old, and my wife was four months
14 pregnant.

15 Q Could you even pick up your son?

16 A No.

17 Q Did you have to go through any rehab, even after this
18 two-month period where you couldn't walk?

19 A So for the -- the first two months, I -- I would -- the only times
20 I'd really go out was to go visit the surgeon for follow-up. They sent
21 home PT to me, but it was more just movement of the leg, just to -- to
22 bend it and stuff. I couldn't do any strengthening or anything. It wasn't
23 until end of October that I was allowed to go -- I think my first day was
24 October 31st on Halloween was my first day of actual going to physical
25 therapy. And going in there, I still had the wound vac attached to me.

1 At that point, I was allowed to walk with a walker, no weight on
2 my leg. But I kind of had to hop with my left leg, move the walker up,
3 hop, and kind of move like that. And that's how I started going to PT.

4 Q How long were you in -- in rehab for?

5 A I did almost a full year, three days a week. And I was there for
6 at least two and a half to three, sometimes longer, hours every time I
7 went. I progressed from, obviously, the wheelchair to the walker, and
8 then walker to the crutches. And then I had to walk with a cane. And I
9 was told by my surgeon that -- to expect that I'd be walking with a cane
10 for the rest of my life.

11 And luckily, my physical therapist didn't want that to be part of
12 my life. And he and I worked together and worked hard to get back to
13 where I was. I still have issues with the rod that was placed in my leg, is
14 an inch short. So my leg is an inch shorter, so --

15 Q Do you actually mind standing up for me and walking down
16 the stairs? On your right side it looks like your shoe is -- is a little bit
17 bigger than the other shoe?

18 A Yes.

19 Q What's -- what's that about?

20 A So --

21 THE COURT: Hold on. Can you hear him?

22 MS. BEVERLY: Maybe if you -- I don't know if the jury can
23 see? Can -- can the jury see what we're talking about?

24 UNIDENTIFIED JUROR: Can we stand?

25 MS. BEVERLY: You can stand up.

1 BY MS. BEVERLY:

2 Q We're talking about your right shoe. Is that --

3 A Right. Correct. Right.

4 Q Why is your right shoe bigger than your left shoe?

5 A Due to the metal rod that they placed in my leg, it's an inch
6 short. So now I have to compensate walking with -- having the -- the
7 soles -- they add lengthening on the soles, so that that way it levels me
8 out.

9 Q Okay. Thank you. You can have a -- a seat.

10 How long were you off work for, sir?

11 A This occurred on September 4th. I was out until June of 2016,
12 at which point where I was able to walk around, I was able to go back to
13 work and work at -- work in a -- in plain clothes, working at, like, the front
14 desk of our substation. And we call that light duty.

15 MS. BEVERLY: Your Honor, by stipulation, I move for the
16 admission of State's Exhibit No. 398, which is Officer Robertson's
17 certified medical records.

18 THE COURT: Defense, is that correct? This is by stipulation?
19 No objection?

20 MS. SISOLAK: No objection on behalf of Mr. Turner.

21 MR. PLUMMER: No objection, Your Honor.

22 THE COURT: It will be admitted.

23 [State's Exhibit No. 398 admitted.]

24 MS. BEVERLY: Pass the witness.

25 THE COURT: Defense, any cross-examination?

1 MS. SISOLAK: Officer Robertson, I'm sorry you had to go
2 through this again today. Nothing further.

3 MR. PLUMMER: Yes, Your Honor.

4 **CROSS-EXAMINATION**

5 BY MR. PLUMMER:

6 Q Good afternoon, Officer Robertson.

7 A Good afternoon.

8 Q I just want to ask you a couple of questions about when you
9 opened up the door. When you opened up the door, you saw two
10 people standing outside?

11 A From what I said on the radio, I must have. But from the
12 trauma of the incident, I -- I can't see it in my mind today.

13 Q This happened on September 4th?

14 A Yes.

15 Q And on September 24th, you talked to a Detective Colon?

16 A Yes.

17 Q Told Detective Colon when you opened up the door you were
18 spooked?

19 A I -- I didn't say I was spooked, I don't believe. I think I said
20 that I think we spooked them, being the suspects, as much as they might
21 have scared us.

22 Q Thank you.

23 MR. PLUMMER: No further questions, Your Honor.

24 THE COURT: Any redirect by the State?

25 MS. BEVERLY: No.

1 THE COURT: Can this witness be excused?
2 MS. BEVERLY: If there's not any questions for the jury.
3 THE COURT: Any questions? No? No questions. No hands.
4 Can this witness be excused.
5 MS. BEVERLY: Yes, Your Honor.
6 THE COURT: Thank you. Sir, thank you. You may be
7 excused.
8 THE WITNESS: Thank you, sir.
9 THE COURT: Counsel approach.
10 [Bench conference transcribed as follows.]
11 THE COURT: It's my understanding you don't have any
12 additional witnesses for today?
13 MS. BEVERLY: Correct. I mean, we're moving very -- much
14 faster than I thought.
15 THE COURT: Okay. Yeah.
16 MS. BEVERLY: Yeah.
17 THE COURT: That's fine. So I'm going to do our evening
18 recess and we'll reconvene at 11:00.
19 MS. BEVERLY: Okay.
20 MS. SISOLAK: Thank you, Your Honor.
21 MR. PLUMMER: Thank you, Your Honor.
22 THE COURT: Thank you.
23 [End of bench conference.]
24 THE COURT: Ladies and gentlemen, at this time we're going
25 to take our evening recess.

1 During this recess, it is your duty not to converse among
2 yourselves or with anyone else on any subject connected with the trial or
3 to read, watch, or listen to any report of or commentary on the trial by
4 any person connected with the trial or by any medium of information,
5 including without limitation, newspaper, television, and radio. And you
6 are not to form or express an opinion on any subject connected with this
7 case until it's finally submitted to you.

8 We're going to be in recess until Monday until 11:00.
9 There's -- this is not normally my courtroom. The courtroom I usually
10 use was being refitted with something. And -- and it's my understanding
11 it's available on Monday. It's actually -- and you can ask my marshal,
12 but it's actually on the same floor, but at the other end of the building.

13 What department is that?

14 THE MARSHAL: 11D.

15 THE COURT: Department 17?

16 THE MARSHAL: No. It's 11D.

17 THE COURT: 11D.

18 THE MARSHAL: Department 2.

19 ///

20 ///

21 ///

1 THE COURT: So it's Courtroom 11D. So we're going to go
2 reconvene in that courtroom. Don't be -- it's a little -- set up a little
3 different than this courtroom. But that's where we're going to reconvene
4 on Monday. So 11:00, Courtroom 11D. It's on the 11th floor. It's at the
5 other end of the building. All right. I will see you then.

6 [Jury recessed at 4:21 p.m.]

7 THE COURT: We'll be in recess.

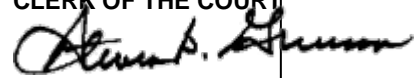
8 [Court recessed at 4:22 p.m., until April 23, 2018, at 11:00 a.m.]

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

21 

22 _____
23 Shawna Ortega, CET*562
24
25



1 **RTRAN**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA
5

6
7 THE STATE OF NEVADA,)

8 Plaintiff(s),)

9 vs.)

10 STEVEN TURNER AND CLEMON
HUDSON,)

11 Defendant(s).)
12

Case No. C-15-309578-1 and
Case No. C-15-309578-2

DEPT. XVIII

13
14 BEFORE THE HONORABLE MARK B. BAILUS,
15 DISTRICT COURT JUDGE
16

17 MONDAY, APRIL 23, 2018

18 **TRANSCRIPT OF PROCEEDINGS RE:**
19 **JURY TRIAL - DAY 6**
20

21
22 (Appearances on page 2.)
23
24

25 RECORDED BY: ROBIN PAGE, COURT RECORDER

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APPEARANCES:

For the Plaintiff(s):

LEAH C. BEVERLY, ESQ.
(Deputy District Attorney)
JOHN L. GIORDANI III, ESQ.
(Deputy District Attorney)

For the Defendant
Steven Turner:

TEGAN C. MACHNICH, ESQ.
(Deputy Public Defender)
ASHLEY L. SISOLAK, ESQ.
(Deputy Public Defender)

For the Defendant
Clemon Hudson:

CLAY PLUMMER, ESQ.

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23
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INDEX

Page #

WITNESSES

FOR THE STATE:

<u>GAYLE JOHNSON</u>	
Direct Examination	10
Cross-Examination by Ms. Machnich	26
Cross-Examination by Mr. Plummer	27
<u>KIMBERLY DANNENBERGER</u>	
Direct Examination	29
Cross-Examination by Ms. Machnich	48
Cross-Examination by Mr. Plummer	51
<u>CRAIG JEX</u>	
Direct Examination	58
Cross-Examination by Ms. Sisolak	84
Cross-Examination by Mr. Plummer	85
<u>EDUARDO PAZOS</u>	
Direct Examination	95
Cross-Examination by Ms. Sisolak	111
Cross-Examination by Mr. Plummer	119
Redirect Examination	123

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
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E X H I B I T S

Page #

For the State

Nos. 236, 239, 240, and 307 through 310 9
Nos. 399 and 400 70

For the Defendants

None offered.

1 **LAS VEGAS, NEVADA, MONDAY, APRIL 23, 2018**

2 [Proceedings commenced at 11:13 a.m.]

3
4 [Outside the presence of the jury.]

5 THE COURT: Please be seated. This is the continuation of
6 the trial in Case No. C-15-305978-1 and -2, *Plaintiff, State of Nevada vs.*
7 *Defendants, Steven Turner and Clemon Hudson.*

8 Before we get started, I have a couple questions. When is,
9 counsel, anticipate -- shucks. I need to -- let the record reflect the
10 presence of counsel for the State, counsel for the defendants, and the
11 defendants are present.

12 When do you anticipate this trial concluding?

13 MS. BEVERLY: Well, that's what I was going to address with
14 Your Honor. We're moving very, very fast from the State's perspective.
15 We have four witnesses today. And then following that, we have two.

16 So what I was going to ask is that we actually go dark
17 tomorrow, because the two witnesses that we have, they could be
18 available, but it's going to be difficult for them to be available, because I
19 thought we would still be --

20 THE COURT: That's fine.

21 MS. BEVERLY: -- going through other witnesses.

22 THE COURT: Counsel for --

23 MS. BEVERLY: So we'll finish --

24 THE COURT: -- the defendants.

25 MS. SISOLAK: Your Honor, the only concern that would

1 present is that we do have a juror who I believe has a flight out Friday
2 night. And depending upon if clients decide to testify or not, I would just
3 be concerned it would push us into a third week. But otherwise, I have
4 no objection if Your Honor has none.

5 THE COURT: And what -- I will tell you right now: Tuesday,
6 Wednesday, and Thursday, we were only going to go half days,
7 from 1:00 to 5:00, because of the Court's calendar.

8 MS. BEVERLY: Right.

9 THE COURT: As a matter of fact, we got a little bit of a late
10 start, because Judge Scotti uses this courtroom on -- on Mondays for his
11 law and motion calendar. Friday, I could go most of the day.

12 MS. SISOLAK: And if the jury's deliberating, they could go the
13 full day, even on Friday.

14 THE COURT: So, again, I'm not committing you to
15 recognizing half days. When do you -- when do you think this matter will
16 go to the jury?

17 MS. BEVERLY: Well, you know, it's -- actually, it's okay,
18 Judge, because if one of them's going to testify and they're going to
19 have witnesses, I do want to make sure we close on Thursday; so it's --
20 we'll make it work with the witnesses.

21 THE COURT: You sure?

22 MS. BEVERLY: If we're starting at 1:00, we should.

23 THE COURT: We're going to -- Tuesday, Wednesday, and
24 Thursday, we will start at 1:00.

25 MS. BEVERLY: Okay. Then, I definitely think we should be

1 able to close Thursday afternoon so the jury can have it all day on
2 Friday.

3 MS. SISOLAK: I would agree.

4 THE COURT: So that resolves that issue.

5 MS. BEVERLY: Yeah.

6 THE COURT: Also, I had counsel submit their jurist
7 instructions on Friday.

8 State, that was prior to you filing the amended complaint.
9 There's three instructions that referenced the discharge count.

10 MS. BEVERLY: Exactly. There's a couple -- and I'm going to
11 do this later today, but there's just a couple things I need to fix because
12 of that amended.

13 THE COURT: Right.

14 MS. BEVERLY: Taking it out of the -- changing the
15 instructions a little bit.

16 THE COURT: Proposed.

17 MS. BEVERLY: But I'm going to do that and e-mail it to your
18 JEA by tomorrow morning at the latest.

19 THE COURT: That's fine. I just wanted to bring that to your
20 attention.

21 MS. BEVERLY: Yeah.

22 THE COURT: There was three instructions that I reviewed.

23 MS. BEVERLY: Right.

24 THE COURT: But still, I think, but I know still a reference to a
25 discharge count.

1 MS. BEVERLY: Right. Otherwise, the instructions, the
2 agreed upon instructions, the correct ones, we have very minimal that
3 we need to discuss with Your Honor.

4 THE COURT: So at this pace, I'll want instructions sometime
5 Wednesday or Thursday --

6 MS. BEVERLY: Yes.

7 THE COURT: -- depending on how fast we're going. I always
8 like to settle instructions the day before --

9 MS. BEVERLY: Okay.

10 THE COURT: -- we're going to actually submit them. And so
11 anticipate setting instructions probably, it looks like, on Wednesday.

12 MS. BEVERLY: Okay. That sounds good to the State.

13 MR. GIORDANI: One more thing, Your Honor.

14 THE COURT: Yes.

15 MR. GIORDANI: We have some exhibits your clerk brought to
16 our attention that weren't technically admitted. I thought we got a
17 conditional ruling. And then once foundation was going to be laid, which
18 I believe it has been at this point, they were to be admitted.

19 They're 307, 308, 309, 310, and then 236, 239, and 240. I just
20 got these, so I haven't handed them to the defense. But they've already
21 been -- we already went back and revisited them with testimony on
22 Wednesday.

23 [Pause in proceedings.]

24 THE COURT: Counsel, that was clerk statement by the State.
25 I did make a ruling that they were conditionally admitted subject to the

1 witness testifying. Do you have any objection to their admission at this
2 time?

3 MS. MACHNICH: Nothing beyond prior record.

4 MR. PLUMMER: Same, Your Honor.

5 THE COURT: Okay. It will be admitted.

6 [State's Exhibit Nos. 236, 239, 240, and 307 through 310 admitted.]

7 MR. GIORDANI: Thank you. And I believe we do have some
8 additional proposed the whole records of the [indiscernible].

9 THE COURT: Are the parties ready to proceed?

10 MS. BEVERLY: Yes, Your Honor.

11 MS. MACHNICH: Yes, Your Honor.

12 THE COURT: I'm going to bring in the jury at this time.

13 [Pause in the proceedings.]

14 THE COURT: Counsel, have a seat for a second. Apparently
15 my marshal -- there's a technical difficulty with the headset, so as soon
16 as it's resolved.

17 MS. SISOLAK: Oh, I thought we lost a juror. Sometimes they
18 wander away.

19 [Pause in proceedings.]

20 THE COURT: Bring in the jury, please.

21 [Jury reconvened at 11:20 a.m.]

22 THE COURT: You may be seated.

23 Will the parties stipulate to the presence of the jury?

24 MS. MACHNICH: Yes, Your Honor.

25 MR. PLUMMER: Yes, Your Honor.

1 MR. GIORDANI: Yes, Your Honor.

2 THE COURT: Thank you.

3 State, call your next witness.

4 MR. GIORDANI: State would call Gayle Johnson.

5 **GAYLE JOHNSON,**

6 [having been called as a witness and first duly sworn, testified as

7 follows:]

8 THE COURT: State, you may proceed.

9 MR. GIORDANI: Thank you, Your Honor.

10 THE CLERK: Please state and spell your name for the
11 record.

12 THE WITNESS: Gayle Johnson, G-A-Y-L-E J-O-H-N-S-O-N.

13 MR. GIORDANI: Thank you, Your Honor.

14 **DIRECT EXAMINATION**

15 BY MR. GIORDANI:

16 Q Ma'am, what do you do for a living?

17 A I am a forensic scientist for the Las Vegas Metropolitan Police
18 Department, assigned to the latent print detail.

19 Q How long have you been assigned to the latent print detail
20 with Metro?

21 A In July, it will be seven years.

22 Q And as a forensic scientist with the latent print detail, what
23 exactly is your job?

24 A So my job includes examining evidence, comparing unknown
25 prints to known prints, processing evidence to -- in hopes of recovering

1 latent prints. I also generate reports, and I testify in court.

2 Q In order to do that job, do you have any specialized training?

3 A Yes.

4 Q Please describe it.

5 A I have a Bachelor of Science in natural science with an
6 emphasis in chemistry. I have 20 years' experience working as a
7 chemist. And when I was promoted to the late -- to the latent print detail
8 as a trainee, that involved a two-year intensive program where I learned
9 all of the necessary skills that I would need to be able to complete my
10 duties as a latent print examiner.

11 Q I want to bring you back to September 4th of 2015. Were you
12 the forensic scientist assigned to process prints in that case?

13 A Yes, I was.

14 Q And is there a particular event number that your processing
15 event was done under?

16 A I do not remember it. I know that it starts with 1-5.

17 Q Okay. Does 150904-0516 sound right?

18 A If I could look at my report, I would be able to confirm that
19 number.

20 Q Okay. Would that refresh your memory to look at your report?

21 A Yes, it would.

22 Q Go ahead and do that.

23 A Could you please read the event number again.

24 Q 150904-0516.

25 A Yes.

1 Q Okay. Around what date did you receive items to be
2 processed in this particular case?

3 A It was on September 4th, 2015.

4 Q Okay. So the day of the event number or the incident?

5 A Correct.

6 Q Okay. Was that a scenario in which you went out to a scene,
7 or do you stay in a lab and the evidence comes to you?

8 A I stay in the lab. The evidence is -- I can check out the
9 evidence. There's a vault in our laboratory where I can check out the
10 evidence to myself and take possession. And then I will go ahead and
11 complete -- since, in this particular case, these were evidence items that
12 I processed to recover latent prints from them if they were on the
13 surfaces of the items.

14 Q And before we get into the specifics of this case, ma'am,
15 describe to the ladies and gentlemen of the jury how you go about
16 comparing known prints to prints that are taken from items of evidence.

17 A So what -- the first step that I do is if I do have a print that I
18 have determined to be suitable, which means that there's enough
19 information present that's clear enough that I can know that if I would
20 look at a known print, the way that I'm seeing it would be very similar to
21 how it would be recorded to a known print.

22 So what I will do is I will analyze this unknown print and look at
23 the features that are present and mark them up and look at the flow, look
24 at the pattern, look at all of the information that I have present. So I will
25 do that first.

1 Once I have completed my analysis, then I will go to the
2 known latent -- to the known prints, excuse me, and I will look and do the
3 same type of analysis on those prints.

4 Q Let me stop you for a moment. You referenced known prints
5 and unknown prints.

6 A Correct.

7 Q Just briefly, what is a known print; how do you come about
8 getting that?

9 A A known print is a deliberate recording of a person's record;
10 so it will include all 10 fingers. We know the person's name. We know
11 the time that it was recorded and the date. So we know information
12 about that person. And it is either kept as an inked record, or
13 sometimes, it's electronically stored. So those are two ways that those
14 records are kept.

15 Q How is it that you come about getting unknown prints?

16 A Well, the unknown print in this particular case is on the items
17 of evidence that I process. And through those processing techniques,
18 then I may recover some prints that if they do meet the suitability criteria,
19 I will photograph. And then I will use those photographs to make my
20 comparisons.

21 Q How is it that you go about developing an unknown print with
22 specific regard to this case?

23 A Well, with this specific case, the items that I had were firearms
24 and magazines. And since those items were large items, I first did visual
25 examinations with a light source to see if there's anything that I can see

1 with the naked eye.

2 After that, I will go ahead and process them in the
3 environmental chamber, which is like a superglue chamber. We use
4 cyanoacrylate. It's a chemical. It's an organic chemical that what will
5 happen is if there's any residue on the surfaces of the items of evidence,
6 it will mix with that and it will form these white areas that can be viewed
7 with a light source.

8 So after that the next step and the last step that I did with
9 these particular items was I did use an organic solvent. It was a
10 fluorescent dye. What that dye does is it will soften the glue and
11 sometimes make those images a lot clearer when I'm looking at them
12 with a light source.

13 Q Okay. Fair to say that fingerprints are more likely to be left on
14 some surfaces than other surfaces?

15 A Absolutely. Absolutely.

16 Q Can you describe the differences between surfaces and how
17 much ridge detail or how much of a fingerprint you typically would see?

18 A Well, specifically, let's talk about the firearms. Like on -- on a
19 grip on a gun, it's textured. It's hard to recover any kind of latent print
20 from a surface that has any texture. What you want is a flat, large,
21 smooth surface.

22 There are some areas on a firearm, like the frame, or maybe if
23 it's -- if it's a long gun like a shotgun, there's different pieces of metal that
24 are housed above the trigger. Even the frame itself is a nice, large,
25 smooth surface that is conducive to being able to recover prints.

1 Some other factors that are involved is the person that's
2 handling it, they need to have substance or some sort of material, like
3 sweat or oil on their skin, because if they don't and you touch a surface,
4 there's not a very good chance that you're going to leave any impression
5 behind.

6 THE COURT: Counsel, approach, please. Counsel,
7 approach, please.

8 [Bench conference transcribed as follows:]

9 THE COURT: Is this witness -- is this witness being offered
10 as an expert witness?

11 MR. GIORDANI: Yes.

12 THE COURT: Are you finished with her qualifications?

13 MR. GIORDANI: Yes, sir.

14 THE COURT: When are you going to offer her as an expert
15 witness?

16 MR. GIORDANI: I didn't think we did that anymore --

17 THE COURT: Okay. All right.

18 MR. GIORDANI: -- unless I'm wrong.

19 THE COURT: Can you stipulate -- all of you clear as -- for
20 appellate review --

21 MR. GIORDANI: Sure.

22 THE COURT: -- I need to make a determination that she's an
23 expert witness.

24 MR. GIORDANI: I thought there was a case that came out --

25 THE COURT: There might be. So you're stipulating she's an

1 expert?

2 MS. MACHNICH: [Indiscernible] that case. There's words to
3 that case --

4 MR. GIORDANI: Yeah. There are very -- what is the case
5 that came out --

6 MS. MACHNICH: I think it says we can't qualify --

7 MR. GIORDANI: -- that says we don't qualify them as experts
8 any longer. Actually, not supposed to.

9 THE COURT: That's fine.

10 MS. SISOLAK: I can have my law clerk verify it if you want --

11 THE COURT: No, that's fine. I just procedurally wanted to
12 make sure I didn't have an issue --

13 MR. GIORDANI: Yeah.

14 THE COURT: -- for appellate review.

15 MR. GIORDANI: Before we move on then, until we resolve
16 that issue --

17 THE COURT: No. If there's case law -- no. If there's case
18 law that resolves it, that's fine.

19 MS. MACHNICH: I don't know, guys. I know that there's a
20 case that says we don't put on the record if their experts, because it
21 potentially gives more credence --

22 THE COURT: So I'm going to let her -- I am -- just so you
23 know, I am satisfied she's an expert.

24 MR. GIORDANI: Okay.

25 MS. MACHNICH: Okay. Thank you. And we would not --

1 THE COURT: So we won't come back. So I'm going to let her
2 testify as an expert in her specialized knowledge.

3 MS. MACHNICH: And, Your Honor, Mr. Turner has no
4 challenges to the qualifications.

5 THE COURT: Okay. Thank you.

6 MR. GIORDANI: Thank you, Your Honor.

7 [End of bench conference.]

8 BY MR. GIORDANI:

9 Q Ma'am, you referenced different types of surfaces on firearms
10 that could be -- could potentially yield a print; was that right?

11 A Correct.

12 Q Are there certain surfaces that are more amenable to yielding
13 a print or not?

14 A Yes.

15 Q And describe that.

16 A As I was saying, like, a flat surface, glass. The surface should
17 be smooth. Again, if it's a large flat surface, it's better than, say, a
18 curved surface, things of that nature.

19 Q Thank you. You may have already said that, and I missed
20 that. I apologize.

21 A That's okay.

22 Q So in this particular case, how many items of evidence did you
23 receive for examination?

24 A There was actually five different items that I received.

25 Q And can you describe the first item?

1 A It was a AK-47 firearm.

2 Q Showing you State's 395.

3 MR. GIORDANI: I got it. I think so.

4 Q While that's booting up, showing you State's 395; is that the
5 firearm that you referenced?

6 A Yes.

7 Q There we go. So we have a new fancy system in this
8 courtroom.

9 MR. GIORDANI: May I approach the witness?

10 THE COURT: You may.

11 BY MR. GIORDANI:

12 Q And I believe that you can mark using the mouse on that.

13 Did you process that particular firearm --

14 A Yes, I did.

15 Q -- for fingerprints?

16 A I did.

17 Q What areas did you process?

18 A I processed the whole -- the whole item.

19 Q Okay. When you say the whole item, do you mean all the
20 surfaces we're seeing on that item?

21 A Yes. It was actually placed into a chamber that was large
22 enough to be able to hold that whole item.

23 THE COURT RECORDER: Your Honor, can we just pause
24 for a moment please? Sorry.

25 MR. GIORDANI: It's okay.

1 THE COURT: Apparently there's some issues with the --
2 [Equipment malfunction, pause in proceedings.]

3 BY MR. GIORDANI:

4 Q All right. You see the large, what appears to be green surface
5 here?

6 Well, it looks like we're paused. Should I --

7 [Pause in the proceedings.]

8 BY MR. GIORDANI:

9 Q This large surface here, ma'am --

10 A Yes.

11 Q -- what type of surface is that?

12 A I don't recall, because, I mean, is it metal? It's a metal
13 surface. But I don't understand; is that what you're asking?

14 Q Well, do you know what this portion of the gun is made out of?

15 A I believe it was -- I don't -- I can't recall. I mean, I don't --

16 Q Okay. You don't --

17 A I'm going to have to look at my notes. Because I take --

18 Q Would it refresh your memory --

19 A Yeah.

20 Q -- to look at your notes?

21 A Yes, yes.

22 Q Go ahead and do so.

23 A Okay.

24 Q Anytime you need to be refreshed, just let us know.

25 A Yes. It was black, smooth metal.

1 Q Okay. And then there is a grip, a handle grip, where the
2 trigger is. And then there's another handle grip on the fore-end of the
3 stock; is that right?

4 A Correct.

5 Q Are those -- do you recall what those surfaces are?

6 A I believe the grip was textured plastic material. And the
7 forward hand, more of the barrel style, was probably metal.

8 Q Okay. And then there's -- the components of the gun on the
9 top, are those all metal except for this piece of wood at the top?

10 A Yes. They were black metal.

11 Q Okay. Did you process -- you said you processed the entirety
12 of the gun?

13 A Yes. The only thing that I would say that was different from
14 this photograph is the magazine that you see there in the middle was
15 removed. And I processed that separately and not having it in the gun at
16 the time.

17 Q Understood. We'll get to that in a moment. So with specific
18 regard to the gun, not the magazine, were you able to develop any prints
19 from that item?

20 A I was not able to develop any suitable prints.

21 Q Okay. What is a latent print?

22 A The latent print, again, remember, it's an accidental touching
23 on a surface that might leave behind an impression that reproduced the
24 patterns of the different ridges on your skin.

25 Q I understand.

1 A That is a latent print. It's -- you cannot see it. It's naked -- I
2 mean, excuse me -- it's not visible to the naked eye.

3 Q Understood. What is a suitable latent print?

4 A A suitable latent print has to have at least eight features that
5 are visible that you can use for a comparison.

6 Q Okay. And I believe you said that you got no suitable latent
7 prints from this particular item; is that right?

8 A Correct. It was -- insufficient ridge detail was found on the
9 metal housing above the trigger.

10 Q Okay. The metal housing above the trigger --

11 A Uh-huh.

12 Q -- can you circle that area?

13 A I'll give it a shot.

14 Q I think you might be the first person to ever do this.

15 A Let's see how --

16 Q I think you have to hold the mouse down continually.

17 A Okay.

18 Q Okay. Is that the area where you lifted some ridge detail?

19 A Correct.

20 Q And --

21 A I was able to recover that I saw with the light source that
22 there -- there was ridge detail that I could see. But there wasn't enough
23 to render it suitable for a comparison.

24 Q Okay. Were there any other potential prints, suitable or
25 otherwise, lifted from that particular one?

1 A No.

2 Q How about the magazine that you referenced that goes with
3 this one?

4 A No. There was nothing recovered from the magazine.

5 Q Okay. So there's a difference there, right? There's nothing
6 recovered treat from the magazine, but there's something recovered
7 from the firearm, it's just not enough for you to make a conclusion?

8 A Correct.

9 Q Is that right?

10 A That is correct.

11 Q Okay.

12 MR. GIORDANI: We're paused again.

13 [Equipment malfunction, pause in proceedings.]

14 BY MR. GIORDANI:

15 Q Did you also receive a small frame handgun to test?

16 A Yes, I did.

17 Q Showing you now State's 390; does that appear to be that
18 firearm?

19 A Yes.

20 Q What areas of this firearm did you attempt to process?

21 A Again, the whole firearm was placed into the environmental
22 chamber.

23 Q Okay. And what -- did anything come of that test?

24 A No. There was no suitable -- there was nothing -- there was
25 no latent prints at all recovered from this item.

1 Q Okay. So, again, difference between suitable and nothing at
2 all is you don't find anything that could be ridge detail on this firearm?

3 A Correct.

4 Q Okay. I want to show you now State's 391; did you also
5 process that item of evidence?

6 A I did.

7 Q And did you place that into the chamber as well?

8 A Correct, I did.

9 Q What were the results of that?

10 A I was able to recover two suitable latent prints from this item of
11 evidence.

12 Q Okay. So now we're talking suitable latent prints. Does that
13 mean that there's enough ridge detail that you can compare it to
14 someone's known prints?

15 A Correct.

16 Q How many known prints did you receive in this case?

17 A I had four different people that I was looking at.

18 Q Okay. And who were those four people?

19 A Steven Turner, Clemon Hudson, Anya Saiko [phonetic], and I
20 cannot remember the officer's name. I'd have to look at my report.

21 Q Would that refresh your memory, ma'am?

22 A Yes.

23 Q Go ahead and do so.

24 A Joshua Bitsko.

25 Q Okay. Joshua Bitsko, is that a canine detective or sergeant

1 that may have handled the firearm?

2 A Yes.

3 Q Okay. And then Anya Saiko, is that a forensic scientist within
4 the Firearms and Tool Marks division of your unit?

5 A Yes.

6 Q So are you putting those print -- known prints up against any
7 suitable latent prints that you find in order to determine whether it may
8 be a Metro employee who left that print?

9 A Correct.

10 Q What were your results as to the two latent prints that you
11 lifted from this shotgun?

12 A I was able to identify them.

13 Q As?

14 A The -- the first latent that I recovered, I was able to identify to
15 the right ring finger of Clemon Hudson. And the second print, I was able
16 to identify to the left little finger of Clemon Hudson.

17 Q Okay. The first print that you identified as Clemon Hudson's,
18 where did that come from on the firearm?

19 A Both of the latent prints were recovered from this metal area
20 above the trigger. I'll try to draw this. Sorry. They were from, like, near
21 this ejection port area. I don't know if I would just draw a little spot right
22 there and over here.

23 Q Okay. And the first print that you referenced, would that be
24 the one on the left?

25 A I would have to refer to my photographs to be able to tell you

1 which one was -- I just remember the general area of where they were
2 recovered from.

3 Q Would that refresh your memory?

4 A Yes.

5 Q Go ahead and do so.

6 A [Witness complies.] So the -- the one that was recovered or
7 that I identified to the right ring finger was this one on this side. That
8 was where L-1 was photographed and taken from. And the left little
9 finger was L-2, which was from this side.

10 Q Okay. So for the record, the ejection chamber is in between
11 those two rounds -- I mean, those two prints that you just identified in the
12 exhibit, correct?

13 A Correct.

14 Q The exhibit that comes -- I mean -- sorry, the print that comes
15 from the right ring finger would be to the right of the ejection port?

16 A Correct.

17 Q And the print that comes to the left little finger of Clemon
18 Hudson would be the -- to the left of the ejection port?

19 A That's correct.

20 Q Okay.

21 MR. GIORDANI: I'll pass the witness.

22 Thank you, ma'am.

23 THE COURT: Defense, any questions?

24 MS. MACHNICH: Very briefly, Your Honor.

25

1 **CROSS-EXAMINATION**

2 BY MS. MACHNICH:

3 Q Good morning.

4 A Good morning.

5 Q I just have a few questions for you to make sure that we
6 understand everything that you've done in this case. You were given the
7 five items to examine?

8 A Correct.

9 Q Okay. These included the AK-47 rifle? Yes?

10 A Yes.

11 Q Okay. Also, the magazine to that rifle?

12 A Correct.

13 Q Okay. A shotgun?

14 A Correct.

15 Q All right. A Beretta handgun. Yes?

16 A Yes.

17 Q Oh, sorry. And the magazine to that handgun?

18 A Yes.

19 Q All right. And to your knowledge, these consisted of all of the
20 firearms impounded as belonging to the suspects in this case? Are
21 you -- are you given that information?

22 A No.

23 Q Okay. Fair to say you did not receive any additional
24 magazines that may have been located on the scene?

25 A Correct.

1 Q Okay. And you testified that you were only able to lift latent
2 prints suitable for comparison from the shotgun?

3 A Correct.

4 Q Right? And those prints were identified as belonging to
5 Defendant Hudson?

6 A Correct.

7 Q Okay. And you have fingerprint exemplars from both
8 Mr. Hudson and Mr. Turner?

9 A That is correct.

10 Q And you were unable to find any latent prints belonging to
11 Mr. Turner?

12 A Correct.

13 Q Thank you, ma'am.

14 MS. MACHNICH: Nothing further. Thank you, Your Honor.

15 THE COURT: Thank you.

16 Mr. Plummer.

17 MR. PLUMMER: Thank you, Your Honor.

18 **CROSS-EXAMINATION**

19 BY MR. PLUMMER:

20 Q Good afternoon, ma'am.

21 A Good afternoon.

22 Q So you weren't able to find suitable prints for anybody on any
23 of the weapons except for the shotgun?

24 A Correct. The only prints that I recovered that were suitable to
25 compare to anyone was from the shotgun.

1 Q Is that normal as far as not finding prints?

2 A Yes.

3 Q Thank you.

4 THE COURT: Thank you.

5 Any redirect by the State?

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

7 THE COURT: Can this witness be excused?

8 MR. GIORDANI: Yes, Your Honor.

9 THE COURT: Ma'am, thank you.

10 THE WITNESS: Thank you.

11 THE COURT: You are excused.

12 State, you may call your next witness.

13 MR. GIORDANI: Thanks. The State would call Kimberly
14 Dannenberger.

15 **KIMBERLY DANNENBERGER,**

16 [having been called as a witness and first duly sworn, testified as
17 follows:]

18 THE CLERK: Would you please state and spell your name for
19 the record.

20 THE WITNESS: Kimberly Dannenberger. K-I-M-B-E-R-L-Y
21 D-A-N-N-E-N-B-E-R-G-E-R.

22 MR. GIORDANI: May I?

23 THE COURT: Yes, you may.

24 MR. GIORDANI: Thank you.

25

1 **DIRECT EXAMINATION**

2 BY MR. GIORDANI:

3 Q What do you do for a living, ma'am?

4 A I am employed with the Las Vegas Metropolitan Police
5 Department's Forensic Laboratory as a forensic scientist in the biology
6 DNA detail.

7 Q How long have you been with the Metro lab in the forensic
8 biology detail?

9 A I have been in the biology section for approximately seven
10 years.

11 Q And what type of education and training did you receive in
12 order to become a forensic analyst?

13 A I have a Bachelor of Science degree from the University of
14 Nevada, Las Vegas, in cell molecular biology. As well, I completed an
15 approximate 16-month training program with our forensic lab in the
16 biology section.

17 Q What is DNA, ma'am?

18 A DNA is, basically, our genetic blueprint. It's what makes us
19 who we are. Our unique characteristics such as eye color, hair color,
20 height, skin color, those are all coded by our DNA.

21 Q How is it that someone may leave their DNA behind on a
22 particular item?

23 A DNA can be left behind in multiple ways. It can be from a
24 bodily fluid, such as saliva or blood, or it can be also be left behind from
25 skin cells. So when we're handling everyday items, our skin cells are

1 constantly sloughing off.

2 Q If I were to reach up and touch this podium with my fingers,
3 am I going to leave DNA on there for sure?

4 A It is possible. I can't say whether for sure or not.

5 Q Okay. There are several factors that go into whether DNA is
6 left behind on a particular item?

7 A There are, yes.

8 Q And describe those for us.

9 A It can be dependent upon how often the item is handled, if the
10 item was left out in the elements, such as rain or sun, if it was recently
11 washed. Like I just mentioned, bodily fluids are going to give a better
12 chance of DNA recovery as opposed to just touching something very
13 quickly. So it is dependent upon a lot of factors. The surface of the
14 item, if it's smooth versus rough. So a lot of factors at play as to whether
15 DNA could or could not be left behind.

16 Q You referenced surfaces of items and whether they're smooth
17 or rough; how does that come into play with regard to DNA?

18 A Typically, a rough surface can provide a better opportunity for
19 DNA recovery, just because when it's rough, you have a better chance
20 of your skin cells sloughing off or DNA kind of being stuck in the
21 crevices. But we can also recover DNA -- or, excuse me, obtain DNA
22 profiles from smooth surfaces as well.

23 Q Okay. Did you conduct testing under Las Vegas Metropolitan
24 Police Department Event No. 150904-0516?

25 A I did, yes.

1 Q And do you recall how many items of evidence you received
2 for testing?

3 A I would have to reference my report.

4 Q Would that refresh your memory?

5 A Yes, it would.

6 Q Go ahead and do so.

7 A [Witness complies.] Nine items. And then three reference
8 standards.

9 Q What is a reference standard?

10 A A reference standard is a known standard. So that means we
11 know where that DNA sample came from. It's typically a -- we call a
12 buccal swab. It's a swabbing of the inside of your cheek. They're called
13 buccal cells; we call them a buccal swab.

14 Q Okay. So you received three knowns?

15 A I did, yes.

16 Q Who were those from?

17 A Can I reference my report?

18 Q Sure.

19 A They were from J. Bitsko, Clemon Hudson, and Steven
20 Turner.

21 Q Okay. To your knowledge, is J. Bitsko a canine sergeant?

22 A I believe so, yes.

23 Q Okay. The items that you described having received for
24 testing in addition to the knowns, how is it that you go about comparing a
25 known sample of DNA to an unknown or potential DNA?

1 A Throughout the DNA processing -- so once I establish which
2 samples I'm going to take from those items of evidence, whether it be a
3 stain or if I'm swabbing the entire item for possible touch DNA, so the
4 skin cells, I will ultimately produce a DNA profile. So I'll take the DNA
5 profile from the evidence found at a scene and compare it to those
6 known reference standards, the DNA profile from the known reference
7 standards.

8 Q Okay. So we're talking about an item of evidence that's left at
9 a crime scene. That comes to you. How is it that you go about
10 processing that item for potential DNA?

11 A It is dependent upon the case and what is given to me. So
12 kind of depends on the item of evidence as well.

13 Q Okay. Let's talk generally about firearms.

14 A Okay.

15 Q How is it that you go about processing firearms for DNA
16 generally?

17 A Generally, we will swab the areas that are primarily touched
18 by the person handling the firearm. So, typically, it's going to be the
19 trigger area, the grips, any rough areas on the firearm is where we
20 typically will swab for DNA.

21 Q Okay. Are there times where you're potentially avoiding areas
22 of, say, a firearm where there may be prints left behind and swabbing
23 around those for DNA?

24 A Yes. We do try to preserve evidence for other details as well.

25 Q Okay. And I want to start with one item of evidence. Yugo

1 long rifle; did you receive that for processing?

2 A I did yes.

3 Q Showing you State's 395; does that look like that rifle?

4 A I believe so. I have to reference my case file.

5 Q Okay.

6 A But, yes, I did process a Yugo long rifle.

7 Q Okay. Let's talk about how you processed the Yugo rifle in

8 this case; how did you go about doing that?

9 A So in this case, looking at my report, I swabbed the triggers,

10 the textured surfaces of the bolt-action lever, and then additional areas

11 near the triggers, the grips, the stock, the grip pod, and butt of the rifle.

12 Q Okay. Now, for -- for the members of the jury that may not be

13 familiar with firearms, can you point to those areas using that mouse

14 actually? It's a new system.

15 A The mouse? Okay.

16 MR. GIORDANI: Can I approach, Your Honor?

17 THE COURT: You may.

18 BY MR. GIORDANI:

19 Q You can hold the mouse button down when you find your

20 area.

21 A Okay.

22 Q And then make a mark while holding it down.

23 A Okay.

24 Q Just describe what you're marking.

25 A Sorry. I apologize. It's slow. So -- thank you.

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[Pause in proceedings.]

BY MR. GIORDANI:

Q You referenced several areas you swabbed. Why don't you just go through those and show the jury what you're talking about.

A So this would be the trigger area; the grip would be this area, this area as well; the butt of it is kind of hanging out of the picture, but it'd be the end.

And then I swabbed the rough areas as well, so -- I apologize. It's not moving as fast. So we're going to have the stock area be around in here. It might not be exactly where I swabbed, but these are the general areas.

Q Understood.

A And then here. So sticking more to the textured surfaces, because other details such as latent prints, they are for the smooth areas. And we'll also consult with them as to what areas we can swab to preserve their evidence.

Q Okay. After swabbing all those different areas, what do you do next?

A I put the -- I take the sample and I put it through a series of lab processing steps to ultimately arrive at -- to obtain a DNA profile. So our DNA profile, when I do my comparisons, I'm looking at, basically, a graphical representation of our DNA profile. So I'll compare that graphical representation from, say, the swabbing from this rifle to all the known standards I have in the case.

Q Okay. Now, in this particular case, after swabbing all of those

1 different areas on this gun, you conduct your -- your tests. And then do
2 you automatically compare whatever you get to the knowns, or do you
3 have to have a certain amount of data in order to compare it to the
4 knowns?

5 A We do have to have a certain amount of data. So the first
6 thing I will do is look at all the profiles obtained from the evidence
7 samples and determine if I can even make interpretations from those
8 profiles. Sometimes, there is not enough DNA present for me to say yes
9 or no if someone can or cannot be excluded or included. And sometimes
10 there's just too much DNA present for me to make conclusions. So I do
11 have to determine if the profile's even suitable for interpretation.

12 Q Okay. And with regard to the long rifle, what were your
13 results?

14 A For this rifle -- excuse me -- it was consistent with a mixture of
15 at least four individuals with at least one being male. However, due to
16 the limited data available, no conclusions could be made.

17 Q Okay. There's a couple of buzzwords that are referenced
18 there; what is a mixture profile?

19 A So a mixture profile, I'm determining upfront that there are at
20 least two or more people present on the sample that I obtained.

21 Q Okay. Sometimes, I'm just talking generally here, you'll get a
22 profile and it's clear that it's a single person's profile; is that right?

23 A That is correct, yes.

24 Q Okay. With regard to this particular case, you said that it's at
25 least two people's DNA -- I'm sorry, at least four people's?

1 A Correct.

2 Q With at least one being male?

3 A That is correct.

4 Q Okay. How is it that you determine briefly how with at least
5 one being male?

6 A We have a -- when we're looking at the graphical
7 representation of our DNA, we're looking at 16 different locations. So
8 one of those locations actually lets or determines for us, lets us know if
9 there's going to be a male or female present or sometimes both. So
10 depending on the results at that one location, I can determine if there's
11 at least a male present in that profile.

12 Q Okay. So without -- without sounding too basic, in this
13 particular case with this firearm, you have at least four people, one of
14 them are male?

15 A Correct.

16 Q But there's not enough data to compare to the known
17 standards of Mr. Turner or Mr. Hudson?

18 A Correct. The profile as a whole, I could not make any
19 conclusions.

20 Q Okay. So there's DNA there, we just can't tell whose it is?

21 A Correct.

22 Q It may very well be Turner's and Hudson's, we just don't know
23 that?

24 A Correct. I cannot make any conclusions.

25 Q Understood. Did you also test the magazine that came out of

1 that firearm?

2 A I did, yes.

3 Q What were your results there?

4 A For the magazine, there was a partial DNA profile obtained
5 consistent from originating from at least one contributor. And due to the
6 limited data available, no conclusions could be made.

7 Q Okay. What do you mean by partial -- partial DNA profile?

8 A So as I just mentioned a few minutes ago, I'm looking at 16
9 specific locations on our DNA profile. If we do not get any peaks on that
10 graph, if we don't get any peaks at one of those locations, we consider it
11 a partial. So we don't have data at all locations.

12 Q Okay. So again -- and if I'm saying it to you basically, please
13 correct me. Here, we have potential DNA on the magazine, just not
14 enough data to compare to Turner and Hudson?

15 A Correct. I cannot make any conclusions.

16 Q Okay. Did you also process a shotgun?

17 A I did, yes.

18 Q Showing you 391; does that appear to be that shotgun?

19 Oh, I'm not showing you 391. There we go.

20 Does that appear to be that shotgun?

21 A I believe so. I processed a Mossberg shotgun.

22 Q Understood. These aren't your photos, right?

23 A They are not.

24 Q These are crime scene photos?

25 A It appears so, yes.

1 Q Okay. Do you have your own photos that you keep of an
2 item?

3 A As an analyst, we can choose to take photos. So if I did,
4 they'd be in my case file.

5 Q Okay. And I'm sure if this was not the shotgun, the defense
6 would be jumping up and down. So let's go with this as the shotgun,
7 okay?

8 A Okay.

9 Q What areas on the shotgun did you process?

10 A On this shotgun, I -- I took sampling from staining that was
11 found on the stock as well as I took a separate sample. I swabbed the
12 trigger, the forestock, and the butt of the shotgun.

13 Q Okay. Real briefly, mark those areas so the jury understands
14 what you're talking about.

15 A [Witness complies.] So this would be the trigger area. The
16 forestock would be up here. And then the -- the butt of the gun is going
17 to be down on the end of it.

18 Q Okay. So when you say the butt of the gun, you're talking
19 about the actual back end of it, not the whole butt?

20 A Correct. Where, like, the -- the textured surfaces are going to
21 be typically on the -- on the backside.

22 Q Oh, okay.

23 A Where -- where it would potentially sit in your shoulder area.

24 Q Understood. Did you -- were you able to obtain a profile from
25 the Mossberg 12-gauge shotgun?

1 A Excuse me. For Item 5.1, which was apparent staining on the
2 stock, a DNA profile was not obtained.

3 Q When you say apparent staining on the stock, what does
4 that -- what do you mean there?

5 A When I was analyzing this shotgun, there appeared to be
6 indications of red-brown staining, which can indicate possible blood. So
7 I did a chemical test while I was examining the shotgun to determine if it
8 was possible blood or not, and I took that sample forward.

9 Q Okay. What was the result of the possible blood test?

10 A For the possible blood, so it's a presumptive test only, it was
11 positive.

12 Q Okay. So your presumptive testing indicates it's blood. You
13 go ahead and swab it and then attempt to get a DNA profile from it?

14 A That is correct, yes.

15 Q Okay. And in this particular case, did you say what your
16 results were?

17 A No. A DNA profile was not obtained.

18 Q Okay. What about the areas being the trigger, forestock, and
19 butt?

20 A So for the swabbing I took from those areas, it was -- a partial
21 DNA profile was obtained consistent with originating from at least one
22 male contributor. However, due to limited data, I could not make
23 conclusions.

24 Q Okay. So with regard to this, there was potential DNA on
25 there, just not enough for you to compare it to Mr. Turner or Mr. Hudson;

1 is that right?

2 A Correct. I could not make any conclusions.

3 Q Okay. Showing you now State's 390; did you also test a small
4 Beretta handgun?

5 A I did, yes.

6 Q Got to get used to this. All right.

7 Does this appear to be the Beretta? Or are you sure?

8 A I -- it's the same -- the personnel number on the ruler is the
9 same personnel number that I have in my report as well.

10 Q Understood. Did you process -- what areas did you process
11 on the small Beretta handgun?

12 A So for this, I swabbed -- I took swabbing from the trigger, the
13 safety, the magazine release, the hammer, the grips, and the textured
14 areas on the slide.

15 Q Okay. I believe you've referenced those areas with the other
16 firearms, except for what do you mean by the slide?

17 A Did you want me to use the mouse?

18 Q Please.

19 A So for the slide, it's going to be -- I would -- I swabbed this
20 area, these textured areas below the red line.

21 Q Understood. Did you get enough data to compare that to
22 Mr. Turner or Mr. Hudson or no?

23 A So for this Beretta, my DNA results, a DNA profile was not
24 obtained.

25 Q Okay. Did you also test a magazine that came with the

1 Beretta?

2 A I did yes.

3 Q Okay. And the magazine being the item that holds the
4 cartridges that slides into the bottom of that hand grip; is that right?

5 A That is correct, yes.

6 Q And I presume you swabbed most of that?

7 A For the magazine, I swabbed the base and feed areas.

8 Q Oh, okay.

9 A So looking at a magazine, the base of it, and then where you
10 would put the ammo.

11 Q Understood. Were you able to obtain a DNA profile from
12 those areas?

13 A So for the magazine, the results, I obtained a partial DNA
14 profile consistent with originating from at least one contributor.
15 However, due to the limited data available, I could not make
16 conclusions.

17 Q Okay. Are those the only three firearms that were tested in
18 this case?

19 A They were, yes.

20 Q Do you also test an item of clothing?

21 A I did, yes.

22 Q Showing you State's 195; does that look familiar to you?

23 A Yes.

24 Q Does that appear to be the item of clothing that you tested in
25 this case?

1 A It does. I had an orange-and-black beanie noted on my
2 report.

3 Q Okay. Now, is processing an item of clothing such as this
4 different than how you go about processing a firearm?

5 A It can be, yes.

6 Q How is it done in this case?

7 A In this case, I looked at various staining that was on the item
8 of evidence. As well, I took a swabbing from the inside for potentially
9 who could have worn it or handled the item.

10 Q Okay. So there's areas of staining, and then you take
11 samples from inside the actual beanie where there may not be apparent
12 staining; is that right?

13 A Correct.

14 Q How do you go about taking those samples?

15 A Typically, we take a small cutting, depending on the sample
16 size. Depending on the item of evidence, sometimes we will take a
17 swabbing of the stain.

18 Q Okay. And in this particular case, how many different areas
19 did you test on this item?

20 A For this beanie, I tested -- I took on a total of four different
21 samples.

22 Q Okay. Where did those areas come from?

23 A So Item 15.1's going to be the stain from the front of the
24 beanie; Item 15.2 is the stain from the front brim; Item 15.3 was a
25 swabbing on the inner brim and lower outer black stripe on the brim; and

1 then Item 15.4 was swabbing of white substance on the backside of the
2 beanie.

3 Q Okay. Let's start with the stain from the front of the beanie;
4 can you see that in this photograph?

5 A I would have to reference my notes to determine what stain I
6 actually took on.

7 Q Okay. But when you're referencing the front of the beanie, are
8 we talking about the area where that logo isn't up?

9 A Yes.

10 Q Would that be the front?

11 A Yes.

12 Q Okay. Did you generate a profile from that area?

13 A So for the stain from the front, I did obtain a DNA profile.

14 Q Okay.

15 A The full DNA profile from the front of the beanie is consistent
16 with Clemon Hudson.

17 Q Okay. Is there any type of ratio, probability ratio, or anything
18 associated with that finding?

19 A Yes. Any time you make a conclusion where somebody is
20 included or consistent with a DNA profile, we have to give a statistical
21 weight to that inclusion.

22 Q Okay.

23 A So in this case, that is -- the probability of randomly selecting
24 an unrelated individual from the general population having a DNA profile
25 that is consistent with the DNA profile from the evidence is

1 approximately 1 in 1.55 sextillion.

2 Q What is sextillion? Can you quantify sextillion?

3 A So sextillion is a number with 21 zeroes behind it. A million is
4 going to be a number with six zeroes, just to put it into context for you.

5 Q Okay. So 1 in 1.55 sextillion with regard to that specific area?

6 A That is correct, yes.

7 Q Did you exclude anybody from that same profile?

8 A I did, yes. J. Bitsko and Steven Turner were excluded as
9 possible contributors.

10 Q Okay. You also referenced a swabbing taken from the inner
11 brim and lower outer black stripe on the brim of the beanie?

12 A Yes.

13 Q And did you obtain a profile from those areas?

14 A Yes. So the -- the DNA profile obtained from the swabbing on
15 the inner brim and the lower outer black stripe is consistent with a
16 distinguishable mixture of at least two people, at least one of those being
17 male. And I was able to generate a major DNA profile from that that was
18 consistent with Clemon Hudson.

19 Q Okay. I don't believe you've talked about this yet, correct me if
20 I'm wrong; what is the difference between a major profile and a minor?

21 A So when I'm looking at the DNA profile I mentioned earlier, it's
22 a graphical representation of our DNA. So we do have, basically, peaks
23 on a graph. So as I'm looking at the profile as a whole, there are going
24 to be peaks that are consistently higher than other peaks.

25 So in the instance when I can say through my interpretations, I

1 can pull out a major profile from any minor profiles, from littler peaks,
2 bigger peaks compared to little peaks.

3 Q Okay. And I believe you indicated that the major profile is
4 consistent with Clemon Hudson; is that right?

5 A That is correct, yes.

6 Q What was the statistical number associated with that finding?

7 A So the probability of randomly selecting an unrelated
8 individual from the general population having a profile consistent with a
9 major profile is going to be approximately 1 in 1.55 sextillion.

10 Q Okay. You also swabbed a white substance on the backside
11 of the beanie; is that right?

12 A That is correct, yes.

13 Q Were you able to obtain a profile from that area?

14 A For that one, I was.

15 Q And what were your results there?

16 A So from that white substance, it was consistent with a mixture
17 of at least two individuals, at least one being male. However, due to
18 limited data, I could not make conclusions.

19 Q Okay. So there is potential DNA on there, or there is DNA on
20 there, it's just not enough to compare to Turner and Hudson, correct?

21 A Correct. I can't make any conclusions.

22 Q Were there also some swabs submitted to you for testing?

23 A There was, yes.

24 Q What's the difference between a swab and a swabbing?

25 A So when I'm referencing a swab on my report, typically that

1 was swabbed at the crime scene, typically by a crime scene analyst.
2 Swabbing is something that I do myself in the lab; so I'm actually
3 examining the evidence.

4 Q Okay. So how many swabs did you obtain to test in this case?

5 A In this case, I had three swabs that were submitted to me.

6 Q Okay. Did those -- are those associated with lab item
7 numbers?

8 A Those are going to be Lab Items 16, 17, and 18.

9 Q Okay. Let's start with 16; do you know where that swab came
10 from or a general description where it came from?

11 A A swab was from the north sidewalk of East Nunca Street, and
12 it was referenced as AB1.

13 Q Did you compare that swab -- or did you obtain a profile from
14 that swab?

15 A For Item 16, I did, yes.

16 Q And what were your results there?

17 A The full DNA profile obtained was consistent with Clemon
18 Hudson.

19 Q Okay. What was the number -- I'm sorry -- associated with
20 that?

21 A That statistic is going to be the same as the last one I
22 mentioned, approximately 1 in 1.55 sextillion.

23 Q Okay. Lab Item 17 is another swab, correct?

24 A It is, yes.

25 Q Where was that taken from?

1 A That was from the rear patio north of the table, referenced as
2 AB2.

3 Q And were you able to obtain a profile from that swab?

4 A Number 17, I was, yes.

5 Q What were your results there?

6 A The full DNA profile obtained was consistent with Clemon
7 Hudson.

8 Q And is there a statistic associated with that finding?

9 A There is, yes.

10 Q And what is that?

11 A That is going to be the same as the one I just mentioned,
12 approximately 1 in 1.55 sextillion.

13 Q Okay. Lab Item 18, did you receive a swab there?

14 A I did, yes.

15 Q And where was that from?

16 A That was a swab from the walkway in the rear yard,
17 referenced as AB3.

18 Q Okay. What -- did you obtain a profile from that swab?

19 A I did, yes.

20 Q What were your results?

21 A For that sample, the full DNA profile obtained was consistent
22 with Clemon Hudson.

23 Q Okay. Is there a statistic associated with that finding?

24 A There is, and it's the same as the one I previously mentioned:
25 Approximately 1 in 1.55 sextillion.

1 Q Okay. Were there any other items of evidence that you tested
2 in this case?

3 A From the crime scene, no. The other items are going to be
4 the reference standards I mentioned earlier.

5 Q Okay. Thank you very much.

6 MR. GIORDANI: I'll pass the witness.

7 THE COURT: Counsel, approach.

8 [Bench conference transcribed as follows:]

9 THE COURT: And for the record, I'm making a ruling that I
10 accepted this witness as an expert in forensic science, and there was no
11 objection or challenge by the defense as to the qualifications of this
12 expert.

13 MR. GIORDANI: Thank you, Your Honor.

14 MS. MACHNICH: No challenge by Mr. Turner.

15 THE COURT: Huh?

16 MS. MACHNICH: No challenge by Mr. Turner.

17 MR. PLUMMER: No objection, Your Honor.

18 THE COURT: Thank you.

19 MR. GIORDANI: Thank you.

20 THE COURT: Thank you.

21 [End of bench conference.]

22 **CROSS-EXAMINATION**

23 BY MS. MACHNICH:

24 Q Good afternoon.

25 A Good afternoon.

1 Q All right. I have just a few questions for you, all right?

2 A Okay.

3 Q Okay. So you don't get access to all of the evidence

4 impounded in a case, correct?

5 A That is correct.

6 Q Things are submitted to you for testing?

7 A Correct, yes.

8 Q Okay. So you are aware that many things were impounded in

9 association with this case?

10 A I -- yes. I mean, I'm sure there were more.

11 Q Okay. Of course. And so fair to say you were not asked to

12 test a black metal magazine apparently to a firearm other than what

13 you've tested and what you've talked about today?

14 A Correct.

15 Q So no other errant magazines separate from the firearms that

16 you tested?

17 A Correct. This is all that I -- I did DNA testing on.

18 Q Okay. And so it's also fair to say that you were not given a

19 swab of possible DNA located at the exterior front entry security door

20 handle?

21 A I was not, no.

22 Q Okay. Or a swab of possible DNA from thea exterior front

23 entry door handle?

24 A I was not.

25 Q Okay. Or a swab of possible DNA from the exterior north side

1 garage door handle?

2 A I was not, no.

3 Q All right. Or a swab of possible DNA from the exterior rear
4 patio door handle?

5 A I was not.

6 Q Okay. But you did examine the nine items that you discussed
7 on your direct examination?

8 A That is correct, yes.

9 Q Okay. And those actually ended up being 16 separate lab
10 items?

11 A Yes. Nine, we call them pair items, and then I would take
12 additional samples from those nine main items, yes.

13 Q Perfect. And they -- and they included, as you testified, three
14 firearms that -- and I don't know if you're aware, allegedly belonged to
15 the suspects in this case?

16 A Correct. Three firearms, yes.

17 Q All right. And you were unable to conclusively match anything
18 you tested to Mr. Turner?

19 A On my interpretable -- excuse me. All the samples I could
20 make interpretations on, he was excluded.

21 Q Thank you.

22 MS. MACHNICH: Nothing further.

23 THE COURT: Mr. Plummer?

24 MR. PLUMMER: Thank you, Your Honor.

25

1 **CROSS-EXAMINATION**

2 BY MR. PLUMMER:

3 Q Good morning.

4 A Hi.

5 Q The prosecutor asked you about three items. First, Item 16,
6 which was a swab from the north sidewalk of East Nunca Street.

7 A Yes.

8 Q Now, that swab was submitted to you for testing?

9 A It was, yes.

10 Q And that swab was, basically, a swab of blood?

11 A Based on the presumptive testing I did, there was an
12 indication -- it was possible blood, yes.

13 Q So they swabbed the sidewalk of something that --
14 presumptive positive for blood?

15 A That is correct, yes.

16 Q Item 17, a swab from the rear patio north of the table. Again,
17 that was also a swab that was submitted to you with the presumptive
18 positive for blood?

19 A Correct. It was presumptive for blood.

20 Q And Item 18, a swab from the walkway in the rear yard; again,
21 a presumptive positive for blood?

22 A Yes.

23 Q And I believe it's already been stated: You only test what's
24 actually submitted?

25 A That is correct, yes.

1 Q So if the police don't believe something's of evidentiary value
2 to submit to you, you're not going to test it?

3 A Correct. I don't question what comes through my requests --
4 on my requests.

5 Q Thank you.

6 THE COURT: Any redirect by the State?

7 MR. GIORDANI: No, Your Honor.

8 THE COURT: May this witness be excused?

9 MR. GIORDANI: Yes, Your Honor.

10 THE COURT: Ma'am, thank you.

11 THE WITNESS: Thank you.

12 THE COURT: You're excused.

13 State, call your next witness.

14 MR. GIORDANI: That's it for the morning, Your Honor.

15 THE COURT: We're going to take our -- counsel, approach.

16 [Bench conference transcribed as follows:]

17 THE COURT: How many witnesses do you have? Two
18 witnesses?

19 MS. BEVERLY: Two --

20 MS. MACHNICH: Can you bring anymore?

21 MS. BEVERLY: No.

22 MR. GIORDANI: Yeah, because it's the same ones who have
23 the [indiscernible].

24 MS. MACHNICH: Oh, they're in it today too?

25 MR. GIORDANI: [Indiscernible.]

1 THE COURT: Okay. So I'm going to recess until about 1:45.

2 MS. BEVERLY: Okay.

3 THE COURT: Okay. Are your witnesses going to be
4 available at 1:45?

5 MS. BEVERLY: Yeah, that's fine.

6 THE COURT: Okay. Then, I'll recess until 1:45.

7 MS. MACHNICH: Thank you, Your Honor.

8 MS. SISOLAK: Thanks.

9 MS. BEVERLY: Okay.

10 [End of bench conference.]

11 THE COURT: We're going to take our lunch recess at this
12 time. We're going to be in recess until 1:45.

13 During this recess you are admonished not to talk or converse
14 among yourselves or with anyone else on any subject connected with
15 this trial or read, watch, or listen to any report or any report -- of or
16 commentary on the trial or any person connected with this trial by any
17 medium of information, including, without limitation, to social media, text,
18 newspapers, television, the Internet, and radio.

19 Do not visit the scene of any of the events mentioned during
20 the trial or undertake any investigation. Do not do any posting or
21 communication on any social networking sites or do any independent
22 research including Internet searches or form or express any opinion on
23 any subject connected with the trial until the case is finally submitted to
24 you.

25 We'll be in our lunch recess until 1:45.

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[Court recessed at 12:19 p.m., until 2:00 p.m.]

[Outside the presence of the jury.]

THE COURT: This is the continuation of the trial of Case No. C-15-309578-1 and -2, *Plaintiff, State of Nevada vs. Defendants Steven Turner and Clemon Hudson*. Let the record reflect the presence of counsel for the State, counsel for the defendants, and the presence of the defendants.

Counsel, we're ready to proceed?

MS. BEVERLY: Yes.

MS. MACHNICH: Yes, Your Honor.

MR. PLUMMER: Yes, Your Honor.

THE COURT: Thank you.

MS. BEVERLY: Oh, actually, can we just make a record just of what we talked about in chambers?

It's the State's intention at this point to introduce the statements of both Mr. Hudson and Mr. Turner. There have been extensive records over the prior -- prior months regarding redactions related to the two statements of Mr. Hudson and now the two statements of Mr. Turner.

Just in an abundance of caution, the State's going to ask this Court with permission to not only have the witness take the redacted statements on to the stand so they are well aware of what they can and can't get into, we'd ask for that, and we'd also asked for leeway to lead the witness. That way, we can avoid any type of incidences in this case. The witnesses have been told about what they can and can't get into,

1 but they're still kind of lengthy statements, so.

2 THE COURT: Defense, what's your position?

3 MS. MACHNICH: Your Honor, on behalf of Mr. Turner, we
4 think that is a good idea for them, the witnesses, to have copies of the
5 statements up there with the proper redactions. And I assume that the
6 State has also indicated to their witnesses which statements of
7 Mr. Turner's are out and aren't coming in and the contents thereof.
8 Obviously, we'll see if anything happens, but we are in support of
9 avoiding issues at all costs.

10 We also discussed in chambers about the limiting instruction.
11 I believe Mr. Giordani is almost done with that at this time. And on
12 behalf of Mr. Turner, we would request that be read before the witness
13 who's testifying about Mr. Turner's statement. Obviously, that's the one
14 that we can speak to.

15 And before Mr. Hudson's statement -- I guess specifically
16 before Mr. Hudson's statement, because that's the one that does not
17 come in against Mr. Turner, I would guess that counsel for Mr. Hudson
18 will have the same idea for the statements by Mr. Hudson -- by
19 Mr. Turner. But we'll submit.

20 THE COURT: All right. So what -- Mr. Plummer, what's your
21 position?

22 MR. PLUMMER: Your Honor, I -- I do agree with what the
23 State's trying to do. My concern is the -- the leading in a way that it
24 appears to be more cross-examination, where they get all of the points
25 that they want out without having to ask the witness a particular

1 question.

2 THE COURT: All right. What's your --

3 MR. PLUMMER: I don't mind a little leading to focus the
4 witness to a particular area. But I think the witness needs to give an
5 answer based on an open-ended question.

6 MS. BEVERLY: I guess the problem with that, Judge, though,
7 is that there are certain portions of the statement that use the pronouns.
8 And I want to make sure that the correct pronouns, word for word what's
9 in that statement, is coming out, not something, you know, off the
10 memory.

11 Typically, in a situation like this, I would play a statement. But
12 because of the amount of redactions, it would have just sounded
13 ridiculous. So I want to make sure that there's no confusion that the
14 exact wording is getting out there so there's no objection to the witness,
15 you know, summarizing stuff.

16 THE COURT: Okay. I am going to allow the witnesses to
17 have the redacted statement at the witness stand. I'm going to allow the
18 State to lead the witnesses.

19 Also, are you requesting a limiting instruction, Mr. Plummer?

20 MR. PLUMMER: Yes, Your Honor.

21 THE COURT: Thank you.

22 Counsel for the State, I need you to identify, when you begin
23 your questioning, what defendant the statement is being offered against.

24 MS. BEVERLY: Sure.

25 THE COURT: And then I will give a limiting instruction that it's

1 only to be used against that defendant.

2 MS. BEVERLY: Okay. Thank you.

3 THE COURT: Thank you.

4 Anything further?

5 MR. PLUMMER: No, Your Honor.

6 MR. GIORDANI: No, Your Honor.

7 THE COURT: Can I bring the jury in at this time?

8 MS. MACHNICH: Sure.

9 THE COURT: Counsel, can I bring the jury in?

10 MS. MACHNICH: Yes, Your Honor.

11 THE COURT: Thank you.

12 [Jury reconvened at 2:05 p.m.]

13 THE COURT: You may be seated. Will the parties stipulate
14 to the presence of the jury?

15 MS. BEVERLY: Yes.

16 MS. MACHNICH: Yes, Your Honor.

17 MR. PLUMMER: Yes, Your Honor.

18 THE COURT: State, call your next witness, please.

19 MS. BEVERLY: State calls Craig Jex.

20 **CRAIG JEX,**

21 [having been called as a witness and first duly sworn, testified as
22 follows:]

23 THE CLERK: Would you please state and spell your name for
24 the record.

25 THE WITNESS: Craig Jex. C-R-A-I-G J-E-X.

1 **DIRECT EXAMINATION**

2 BY MS. BEVERLY:

3 Q Sir, how are you currently employed?

4 A I am employed as an assistant principal for a charter high
5 school in Las Vegas.

6 Q Okay. How long have you been doing that for?

7 A Two months.

8 Q Prior to that, what were you doing?

9 A I was a detective for Las Vegas Metro Police for almost 21
10 years.

11 Q Okay. Prior to -- did you actually retire from Metro?

12 A Yes, I did.

13 Q Okay. Prior to retiring from Metro, what was your last
14 assignment?

15 A I was a detective in the Force Investigation Team, which
16 investigates officer-involved shootings.

17 Q Okay. And how long had you been in FIT?

18 A Four years.

19 Q I want to direct your attention to September the 4th of 2015.
20 On that day, were you working as a FIT detective with Metro?

21 A Yes, I was.

22 Q Okay. Can you describe for the jury a little bit about what a
23 FIT detective does with Metro?

24 A Whenever there's an officer-involved shooting or an in-custody
25 death or whatever the sheriff deemed for us to investigate, we took care

1 of those investigations. Particularly with officer-involved shootings, we
2 would respond after the incident took place and then begin our
3 investigation as to what took place.

4 The FIT team investigates the criminal side of the
5 investigation, not the administrative side of the investigation.

6 Q Okay. When a call comes out about specifically an
7 officer-involved shooting, do a group of FIT detectives respond?

8 A Yes, we do.

9 Q And is there, like, a lead detective or a case agent?

10 A Yes, there is.

11 Q For the incident that we're here talking about today on
12 September 4, who was the lead on this case?

13 A Detective Marc Colon.

14 Q Okay. And were you assigned to some task regarding the
15 investigation?

16 A Yes. Yes, I was.

17 Q Okay. Did one of those tasks involve responding to UMC
18 Hospital?

19 A Yes, it did.

20 Q When you responded to UMC Hospital, was that on the
21 morning of September the 4th?

22 A I'm sorry. Say --

23 Q When you responded to UMC, was that on the morning of
24 September the 4th?

25 A Yes, it was. I'm sorry.

1 Q Okay. When you responded to UMC, did you come into
2 contact with an Officer Robertson?

3 A Yes, I did.

4 Q Okay.

5 MS. BEVERLY: Your Honor, permission to publish admitted
6 exhibits.

7 THE COURT: You may.

8 MS. BEVERLY: For the record, I'm publishing Exhibit No. 36.
9 Okay.

10 BY MS. BEVERLY:

11 Q You can see it on your screen, Detective?

12 A Yes, it is.

13 Q Is this Officer Robertson that we're referring to?

14 A Yes, it is.

15 Q And is this the state that you saw him in that day?

16 A Yes, it is.

17 Q Showing you Exhibit No. 37; is that a closer-up portion of him?

18 A Yes, it is.

19 Q Did you observe any injuries to Officer Robertson?

20 A Yes, I did.

21 Q What injuries did you observe?

22 A He had a gunshot wound to his hip.

23 Q Okay. Showing you Exhibit No. 39; is that the wound that
24 we're talking about?

25 A Yes, it is.

1 Q And a closer-up, Exhibit No. 40. That would be the gunshot
2 wound; is that correct?

3 A That's correct.

4 Q Okay. Do you know if Officer Robertson had been to surgery
5 prior to you coming in contact with him?

6 A He had not been to surgery.

7 Q Okay. At the hospital, did you also come in contact with a
8 person by the name of Clemon Hudson?

9 A Yes, I did.

10 Q Okay. Do you see Mr. Hudson in court today?

11 A Yes.

12 Q Can you please point to him and tell me an article of clothing
13 that he's wearing today?

14 A All I can see is just this -- there we go.

15 Q You can stand up if you need to.

16 A I can see him now. He's wearing a blue shirt and blue tie.

17 Q Okay.

18 MS. BEVERLY: Let the record reflect the identification of Mr.
19 Hudson.

20 THE COURT: The record will so reflect.

21 BY MS. BEVERLY:

22 Q Did you also come in contact at the hospital with a person by
23 the name of Steven Turner?

24 A Yes, I did.

25 Q Do you see Mr. Turner in court today?

1 A No.

2 Q Okay. Has it been a while since you've seen Mr. Turner?

3 A Yes, it has.

4 Q Okay. I'm going to show you what's been admitted as

5 Exhibit No. 42; did you come in contact with this person at the hospital?

6 A Yes.

7 Q Okay. And let's just do Exhibit No. 43; is that a closer-up

8 picture?

9 A Yes.

10 Q As part of your -- actually --

11 MS. BEVERLY: Your Honor, at this point, do you want us to

12 approach?

13 THE COURT: Yes.

14 [Bench conference transcribed as follows:]

15 MS. BEVERLY: We're going to now get into Mr. Hudson's

16 statement.

17 THE COURT: Okay. So I'm going to do the limiting

18 instruction, and then she's going to go into the statement.

19 MS. BEVERLY: Okay.

20 MR. PLUMMER: Okay.

21 THE COURT: Against Mr. Hudson, correct?

22 MS. MACHNICH: Hudson, yes.

23 THE COURT: Okay.

24 [End of bench conference.]

25 THE COURT: Ladies and gentlemen, you are about to hear

1 testimony regarding statements made by Clemon -- shucks -- Clemon
2 Hudson to detectives. These statements are to be considered by you as
3 evidence against Clemon Hudson only.

4 MS. BEVERLY: Thank you, Your Honor.

5 BY MS. BEVERLY:

6 Q So, Detective, it was part of your responsibility that night
7 interviewing Mr. Hudson, who you've just identified?

8 A Yes.

9 Q Okay. As a detective for multiple years with -- with Metro,
10 when a person gives a statement, are there portions of the statement
11 that are legally admissible and portions that are not legally admissible?

12 A Yes.

13 Q Okay. So today when we talk about Mr. Hudson's statements,
14 we're talking about the portions that are legally admissible; is that fair to
15 say?

16 A That's correct.

17 Q Okay. And that statement -- actually, did you take two
18 statements with Mr. Hudson?

19 A Yes, I did.

20 Q Okay. And were those statements recorded?

21 A Yes.

22 Q Okay. And do you -- was a transcript made of those
23 statements?

24 A Yes, they were.

25 Q Okay. Do you actually on the stand have a copy of those

1 transcripts?

2 A Yes, I do.

3 Q Okay. So if you can -- at times throughout the questioning, if
4 you need to refer to that, just let me know, okay?

5 A Okay.

6 Q So you indicated that there were two statements. And so we'll
7 talk about the first statement first, okay?

8 Prior to giving -- Mr. Hudson telling you anything, did you read
9 him what is known as Miranda rights?

10 A Yes, I did.

11 Q Okay. What are Miranda rights?

12 A You're asking specifically what it says or what are they for?

13 Q Both.

14 A It's -- it's to give him the right to whether or not he wants to
15 speak to an attorney before any questioning and -- so that he
16 understands what those rights are.

17 If I could refer to my statement, I can tell you exactly what I
18 said to him.

19 Q Sure. Were those Miranda rights actually recorded and
20 transcribed?

21 A Yes.

22 Q Okay. And what were those rights that you read to him?

23 A For my -- for my statement, I said, You have the remain silent.
24 Anything you say can be used against you in a court of law. You have to
25 right to an attorney. If you cannot afford one, one will appointed. You

1 understand these rights, right?

2 Q Okay. And did Mr. Hudson agree to speak with you?

3 A Yes.

4 Q Okay. Initially, in the first part of the interview, did he tell you
5 that he was going to get some weed that night?

6 A Yes.

7 Q After you read Mr. Hudson his Miranda rights, did you -- well,
8 did you ask him whether two people went to that house that night?

9 A Yes, I did.

10 Q Okay. And did he indicate yes?

11 A He indicated that there were two that walked up to the house.

12 Q Okay. Did he indicate to you -- well, are you asking, in
13 general, questions about what he was doing that night in reference to
14 the shooting that occurred over on Oveja Circle?

15 A Yes.

16 Q Okay. Did you ask him about what happened when he got to
17 the house?

18 A Yes.

19 Q Okay. Did he tell you that he was supposed to go through the
20 back of the house to get the weed?

21 A Yes.

22 Q Okay. Actually, specifically, he said, We were supposed to go
23 around the back of the house and get the weed?

24 A Yes, he did.

25 Q Okay. Did you ask him about what happened when -- whether

1 the door was locked or not when he got to the house on Oveja?

2 A Yes, I did.

3 Q Okay. Did he indicate to you that the -- the front door was

4 locked?

5 A Yes.

6 Q Okay. And did he tell you that, We were knocking on the door

7 to see if anybody was there?

8 A Yes, he did.

9 Q And did he indicate that it seemed like nobody was there?

10 A Yes.

11 Q Okay. And did he then tell you that, Our plan was to break the

12 back window -- that was our plan?

13 A Yes, he told me that.

14 Q Were you aware -- even though you weren't the lead detective

15 in this case, were you aware that there were weapons involved in this

16 incident over on Oveja?

17 A Yes, I was.

18 Q Okay. And throughout your initial interview with Mr. Hudson,

19 did the topic of weapons begin to be brought up?

20 A Yes, it was.

21 Q Okay. Specifically, did you ask him if he was carrying a

22 shotgun?

23 A Yes, I did.

24 Q And did he indicate that he was?

25 A Yes, he did.

1 Q Specifically, did Mr. Hudson tell you what he was wearing that
2 evening?

3 A Yes, he did.

4 Q Did he indicate that he had on a long-sleeve camo?

5 A Yes.

6 Q Or camouflage?

7 A Yes.

8 Q Okay. And that he had a beanie on?

9 A Yes.

10 Q And did he specifically say, It was really hard for them to see
11 me?

12 A Yes, he did.

13 Q Did you ask him some questions about how this entire incident
14 kind of started?

15 A Yes, I did.

16 Q Okay. Did you specifically ask him where he and another
17 person met up?

18 A Yes, I did.

19 Q And did he tell you that they met up in an alley off Lake Mead
20 and Jones?

21 A Yes.

22 Q When you were asking him about what was happening prior to
23 this incident and he told you that he met up with someone on Lake Mead
24 and Jones, did he indicate it was just one other person he met up with?

25 A Yes, he indicated just one person.

1 Q Did you ask him about, during the incident, what he did with
2 the shotgun?

3 A Yes.

4 Q Okay. And did he specifically tell you, I didn't have the
5 shotgun at the time when both of us fired?

6 A Yes.

7 Q Throughout this interview, are you continuing to get more and
8 more details, specific details, about what was happening over on Oveja
9 and prior to them going to Oveja?

10 A Yes.

11 Q Okay. Did he specifically tell you that, We were getting
12 blasted?

13 A Yes.

14 Q Okay. And blasted by -- meaning gunfire; is that correct?

15 A That's correct.

16 Q Okay. And that he fell on the ground?

17 A Yes.

18 Q Okay. And then did he specifically tell you, I see him shoot to
19 the right side of me?

20 A Yes.

21 Q Okay. Did he indicate he saw shots on the right side of him
22 and then he hit the back wall?

23 A Yes.

24 Q Did you specifically ask him how he got into the backyard of
25 the home?

1 A Yes, I did.

2 Q All right. And did he indicate to you that he hopped into the
3 backyard on the left side of the house?

4 A Yes.

5 Q Did you ask him when he got into the backyard, if he tried any
6 of the doors in the backyard?

7 A Yes, I did.

8 Q And did he indicate to you he tried the side door?

9 A Yes.

10 Q And did he specifically say, We twisted it, meaning the door?

11 A Yes, he did.

12 Q Did he then indicate that all the doors were locked?

13 A Yes, he did.

14 Q Okay. And then the plan was to break the back window where
15 a fan was spinning?

16 A Yes, it was.

17 Q Prior to you interviewing Mr. Hudson, had you been over to
18 the house on Oveja?

19 A No, I had not.

20 Q Okay. During the interview, did you try to draw a little diagram
21 for Mr. Hudson to point out some certain things?

22 A Yes, I did.

23 Q Okay.

24 MS. BEVERLY: Your Honor, by stipulations, Exhibits 399
25 and 400 are being admitted.

1 THE COURT: Is that correct, Defense?

2 MR. PLUMMER: Yes, Your Honor.

3 MS. MACHNICH: Yes, Your Honor.

4 THE COURT: It will be admitted.

5 [State's Exhibit Nos. 399 and 400 admitted.]

6 MS. BEVERLY: Thank you.

7 [Pause in the proceedings.]

8 BY MS. BEVERLY:

9 Q I am going to -- can you see that, Detective?

10 A Yes, I can.

11 Q All right. So this is the kind of diagram that you were talking
12 about with Mr. Hudson; is that correct?

13 A That's correct.

14 Q Okay. And where my pen is, that would be the front door of
15 the house; is that correct?

16 A Yes.

17 Q Okay. And then over here would be the left side of the house?

18 A Yes.

19 Q And over here would be the right side of the house?

20 A Correct.

21 Q All right. So did Mr. Hudson indicate that when he hopped the
22 wall, it was to the left?

23 A Yes, he did.

24 Q Or when we hopped the wall, it was to the left?

25 A Yes, he did.

1 STEVEN TURNER,) No. 76465
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 4 Appellant,)
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 6 vi.)
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 8 THE STATE OF NEVADA,)
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 10 Respondent.)
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APPELLANT'S APPENDIX VOLUME VIII PAGES 1493-1685

DARIN F. IMLAY
 Clark County Public Defender
 309 South Third Street
 Las Vegas, Nevada 89155-2610

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

Attorney for Appellant

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

Counsel for Respondent

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 4 day of February, 2019. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

AARON FORD
 STEVEN S. OWENS

DEBORAH L. WESTBROOK
 HOWARD S. BROOKS

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

STEVEN TURNER, #1200863
 HIGH DESERT STATE PRISON
 P.O. BOX 650
 INDIAN SPRINGS, NV 89070

BY /s/ Carrie M. Connolly
 Employee, Clark County Public Defender's Office