

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSHUA HONEA,

Appellant,

v.

STATE OF NEVADA,

Respondent.

Docket No. 76621

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APPELLANT'S APPENDIX

VOLUME 10

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JONATHAN MACARTHUR

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I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

JOSHUA HONEA

By: /S/MONIQUE MCNEILL
MONIQUE A. MCNEILL
State Bar # 9862

1 would have been.

2 THE WITNESS: Many years ago, between May 2009
3 and 2010.

4 BY MR. MACARTHUR:

5 Q. After you bringing that to someone's attention
6 they were terminated?

7 A. After a lengthy time, yes, they were.

8 Q. After whatever they did next they were
9 rehired?

10 A. I don't know the process. I don't know why
11 they were.

12 Q. I didn't ask you why. I'm asking if they were
13 rehired?

14 A. Yes.

15 Q. The last question. Do you know who attorney
16 Adam Levine is?

17 A. No.

18 Q. That name is meaningless to you?

19 A. The only thing Adam Levine reminds me of is
20 the Maroon 5 singer.

21 Q. It is Maroon 5 singer. I told the same joke.

22 A. I don't know who Adam Levine is.

23 MR. MACARTHUR: No further questions.

24 THE COURT: Ms. Kollins.

25 MS. KOLLINS: First, I'd ask the court to take

1 judicial notice of a conviction in C-306593 of Samantha
2 Chavez in the Eighth Judicial District Court. And her
3 guilty plea was filed on May 26, 2015.

4 THE COURT: Any objection.

5 MR. MACARTHUR: No, objection, Judge.

6 THE COURT: The court will take judicial notice
7 of that judgment of conviction.

8 REDIRECT EXAMINATION

9 BY MS. KOLLINS:

10 Q. Officer, I know you believe you weren't
11 subpoenaed with regard to that case that Mr. MacArthur
12 just asked you a bunch of questions about.

13 A. I don't recall.

14 Q. Did you follow prosecution or approval or
15 denial of either of the Defendants' cases?

16 A. I did not.

17 Q. It is frequent to do a stolen vehicle stop and
18 not arrest every occupant of the vehicle?

19 A. Yes.

20 Q. Why is that?

21 A. It's tough to determine possession of a
22 vehicle and who may or may not have been driving. The
23 stories the subjects tell officers on the scene, it
24 depends, each individual investigation depends.

25 THE COURT: Just as protocol, if either counsel

1 are going to approach during questions, ask if the court
2 for leave to do so. You may proceed.

3 BY MS. KOLLINS:

4 Q. Isn't it, in fact, true that to make an arrest
5 for possession of stolen vehicle you need knowing, actual
6 or constructive, possession?

7 A. Yes.

8 Q. So if the driver of the stolen vehicle has the
9 keys to the car is it difficult for you to make an arrest
10 for a passenger for possession of that vehicle?

11 A. If you have someone that has the keys sitting
12 in the driver's seat, it's a pretty easy arrest.

13 Q. For the driver?

14 A. Yes.

15 Q. I'm talking about the passenger. How does the
16 passenger know?

17 A. Depending on the stories, it's difficult to
18 arrest both subjects.

19 Q. In Mr. MacArthur's questioning of you there
20 was a lot of discussion about burner. You said burner
21 could refer to a gun?

22 A. Yes.

23 Q. Isn't it, in fact, true that burner in the
24 case we're talking about and the CAD we went through,
25 burner is a meth pipe?

1 A. After reading the report, yes.

2 Q. So when the female said she had a 413, that
3 was somebody thinking burner meant gun?

4 A. Yes.

5 Q. In fact there was a meth pipe found in her
6 genitals, correct?

7 A. Yes.

8 Q. Four years you mentored Josh, would that be
9 fair?

10 A. Yes.

11 Q. Watch out for him?

12 A. Yes.

13 Q. Take care of him?

14 A. Yes.

15 Q. Encourage him to be a Metro officer,
16 responsible Metro officer?

17 A. Or at least a good citizen, if he decided not
18 to.

19 Q. Help him out with the Academy?

20 A. Yes.

21 Q. Did you want to be involved in this process
22 with him and Morgan Savage?

23 A. This is unfortunate. I don't wish anybody to
24 go through this.

25 Q. Do you understand by the insinuation in the

1 questions of Mr. MacArthur that it's being alleged that
2 you are the catalyst of this grand conspiracy against
3 Josh. Are you following that?

4 A. Yes.

5 Q. Did you intentionally seek to get Josh in
6 trouble for retaliation for some alleged misperformance of
7 yours on March 22?

8 A. No.

9 Q. Did you write any reports regarding the March
10 22nd pull over?

11 A. No.

12 Q. You were not the lead officer?

13 A. I was not.

14 Q. Mr. MacArthur made -- asked you questions
15 about documenting your counseling sessions with Josh?

16 A. Yes.

17 Q. Is that something that you document?

18 A. No.

19 Q. Is that an investigation, those counseling
20 sessions?

21 A. No.

22 Q. Is that something generally a counseling of a
23 volunteer that culminates in a court case?

24 A. No.

25 Q. You recall counseling Josh at that March 22nd

1 incident that we've gone through ad nauseam about suspect
2 contact?

3 A. Yes.

4 Q. Was he doing something he was supposed to
5 do?

6 A. At the scene, no.

7 Q. So when he's calling radio traffic or he's
8 calling radio calls identifying who is in custody and
9 what's happening how is that an abrogation of his
10 responsibilities?

11 A. If he's calling out step-by-step or
12 play-by-play what's happening at the scene, he's too close
13 to the scene, which I know he was when I arrived he was
14 there. It's -- he is not -- when officers arrive on scene
15 they are in total control. He's not a police officer.
16 Meaning his training is different. I trained him as an
17 Explorer and obviously as a VPSR. He knows what he can
18 and can't say on the radio. Officers on scene they may
19 have to say pertinent information over the radio and by
20 him saying things over the radio, such as taking subjects
21 into custody, clearing a vehicle an officer might not be
22 able to say something over the air because he's on the
23 air.

24 Q. Could an officer, if you know, make a decision
25 based upon what Josh is saying inappropriately into the

1 radio that could be dangerous to other officers or anyone
2 surrounding that scene?

3 A. Sure. Yes.

4 Q. Were there other occasions where you had
5 counseled Joshua for similar activity?

6 A. Yes.

7 Q. One time? More than one time?

8 A. More than once.

9 Q. Did you want Joshua not be a volunteer
10 anymore?

11 A. I wanted him to be a volunteer and help us.

12 Q. Were you anxious for him to get into the
13 Academy and continue his career?

14 A. I supported him just like I do every other
15 Explorer. We would like for them to become police
16 officers, but we don't mandate it from them.

17 Q. I guess kind of the issue is, did you have any
18 vendetta, vindictiveness against Mr. Honea for anything
19 that transpired between you and him at Metro?

20 A. No.

21 Q. Okay.

22 The text messages when you tell him you make me
23 look like an idiot, what are you talking about? I'll let
24 you answer that.

25 A. As I said before, I talked to Sergeant Clark

1 about bringing over one of my volunteer patrol service
2 representatives I trained. I knew he was an Explorer for
3 years. Good kid. He does work hard. I think he'd be an
4 asset to our squad.

5 Not just our squad, as a VPSR you work the area.
6 So he can handle calls and sector beats. There are four
7 sector beats at Enterprise. I wanted him to come over so
8 that he could handle the extremely large amount of report
9 calls Enterprise encounters. It's the largest populated
10 area in Metro valley. The numbers speak for itself.
11 There's way more burglary calls, vehicle reports, property
12 crimes, there's way more of those type of calls at
13 Enterprise then most area commands. Maybe Northwest in
14 consideration size.

15 So I talked to Sergeant Clark, like I said, I
16 thought he be a great asset to come over and help us and
17 he did. And everything that he did do helped us, except
18 for when he almost created more work for us as officers to
19 make sure he's safe because he'd over-step his boundaries
20 and over-step what his role was as a VPSR.

21 I understand he wanted to help, but from an
22 officer's point of view I have to worry about someone else
23 who shouldn't be at a scene.

24 Q. I assume you appreciated his -- what's the
25 word I'm looking for -- gung ho?

1 A. Yes.

2 Q. You appreciated that interest in the job?

3 A. Absolutely.

4 Q. Did you try to keep him there, save and accept
5 these counseling sessions because he's not listening?

6 A. Correct. He's a volunteer. He could go where
7 he wants. If he wanted to give direction to people on the
8 strip, like I know a lot of them do, I told him he could
9 do that if he wanted. I told him his skills he brought to
10 the team would best be utilized if he stayed at Enterprise
11 because it would greatly help us out and better serve the
12 public.

13 Q. Mr. MacArthur asked you yesterday and I don't
14 know if you clarified it. I hadn't noticed that we didn't
15 and I hate to go over this CAD again, but just to make a
16 point. Mr. MacArthur asked you if you were the person
17 that drew their weapon on a person at the scene. Remember
18 that?

19 A. Yes.

20 Q. You said you weren't sure?

21 A. It's possible.

22 Q. You said your call sign was 2P4, correct?

23 A. Yes.

24 Q. Just to have you look at Defense Y.

25 Mr. MacArthur highlighted portions. We're looking at

1 15:05:25, call sign is 2DP39, has subject at gun point.
2 That's not you, right?

3 A. That is not me.

4 Q. Do you believe if you would have had somebody
5 at gun point at the scene that you would have logged in
6 and relayed that information?

7 A. Unfortunately, it's tough to say because
8 numerous officers arrive at various scenes to help you out
9 and unless during the course of your action something
10 pertinent is discovered then it would be documented or
11 talked about.

12 So by me pointing a weapon at a vehicle, if did or
13 not, it's just me assisting other officers with their
14 investigation to make the scene safe then the primary
15 officers take over their scene and we take a back seat.

16 Q. But you don't have any independent
17 recollection whether you did draw a weapon or not?

18 A. I do not.

19 Q. And it's not contained in the CAD you drew a
20 weapon?

21 A. Correct.

22 Q. By the time the final decision is made on who
23 is going to be transported to CCDC or released at the
24 scene, if anyone was, you were already gone to Enterprise,
25 would that be accurate?

1 A. Yes.

2 MS. KOLLINS: Court's indulgence. I'll pass the
3 witness.

4 THE COURT: Any recross related to the State's
5 questions.

6 MR. MACARTHUR: Briefly, Judge. Court's
7 indulgence.

8 RE CROSS-EXAMINATION

9 BY MR. MACARTHUR:

10 Q. Yesterday you testified to questions from me
11 that there are circumstances under which you might release
12 property from a stolen vehicle to some person who had been
13 in it, right?

14 A. Possibly, yes.

15 Q. Depending on the circumstances?

16 A. Yes.

17 Q. Isn't it in fact the case that property from a
18 stolen vehicle is never released to the occupants because
19 the property might have belonged to people that owned the
20 vehicle?

21 MS. KOLLINS: Objection, speculation. Beyond
22 the scope.

23 THE COURT: Rephrase Mr. MacArthur. It is
24 beyond the scope. I think that obviously there was
25 questions about circumstances related to this incident we

1 want to tie up, but it's beyond the scope. The form of
2 the question -- well, rephrased.

3 MR. MACARTHUR: Understood.

4 BY MR. MACARTHUR:

5 Q. Officer, you own a car, right?

6 A. Patrol car.

7 Q. You own a car?

8 A. Yes.

9 Q. There are more things in your car then just
10 you?

11 A. Yes.

12 Q. Anything in the trunk you're taking from one
13 place to another?

14 A. Yes.

15 Q. If someone stole your car, they would also
16 have your stuff in the car, right?

17 A. Unless they took it out.

18 Q. Now, as an officer it can be difficult to tell
19 what property belongs to the car and what property belongs
20 to people driving the stolen car?

21 A. It depends on the circumstances and what the
22 officer's investigation entails.

23 Q. Isn't it true that is why property is not
24 released to people who possess a stolen car?

25 A. Property can be released. It depends on the

1 circumstance of the case and what the officer discovers.

2 Q. Remember in the CAD where it says you're
3 clearing the vehicle?

4 A. Yes.

5 Q. You're checking for weapons, anything that can
6 danger officer safety?

7 A. People, who can use weapons.

8 Q. Or contraband that might be in plain view?

9 A. Correct.

10 Q. Remember whether you checked the trunk?

11 A. I don't know if I cleared the car or not.

12 Q. The CAD says you did, right?

13 A. The CAD says I called out over the air that
14 officers are clearing the vehicle.

15 Q. I'm glad you're bringing that up. Stacey just
16 asked you if you were the person who had people at gun
17 point, right?

18 A. Which I don't remember if I did or not.

19 Q. I understand your answer. So when we're
20 looking at that CAD Stacey said that the entry starts with
21 2DP39, has subjects at gun point northwest corner of
22 McDonalds complying now?

23 THE COURT: That is not what we're discussing.
24 We're discussing clearing the vehicle.

25 MR. MACARTHUR: This is where I say you got me

1 there, so I'll skip the interim and move on.

2 THE COURT: I apologize for the court's
3 confusion.

4 BY MR. MACARTHUR:

5 Q. Looking at 15:05, you see the entry that says
6 2DP39, has subjects at gun point northwest corner of
7 McDonalds, right?

8 A. Yeah.

9 Q. The reason why you don't know if you have
10 subjects at gun point is this is the person who initiated
11 the communication, right?

12 A. That is what DP39 said. That's what dispatch
13 wrote down.

14 Q. So when Stacey said you weren't 2P4 and
15 15:09:04, when Stacey said you weren't the person who had
16 4 people in custody clearing the vehicle that answer
17 wasn't quite correct, right. All we know from what you've
18 told us is that 2P4 is the person initiating the
19 communication, correct?

20 A. I didn't initiate communication. There is
21 radio traffic before me.

22 Q. I get that. But it seems like when it
23 benefits you this code is who is doing, and when it hurts
24 you this code is the person who is initiated
25 communication. Is that the conclusion I should arrive

1 at?

2 MS. KOLLINS: Objection, argumentative.

3 THE COURT: Sustained.

4 MR. MACARTHUR: Withdrawn.

5 For the record, you want to take one position
6 that will be official from now on that 2P4, are you the
7 one clearing the car with 4 in custody or were you just
8 the person who initiated the communication.

9 THE WITNESS: As I said yesterday, officers help
10 each other. It can be me getting on the radio saying
11 there's 4 in custody, clearing the vehicle. It doesn't
12 mean I did it.

13 MR. MACARTHUR: I'm not asking you what it could
14 be. I'm asking you is that you doing it, or is that you
15 saying that it is being done, if you know.

16 THE WITNESS: I don't know. It's impossible to
17 tell.

18 BY MR. MACARTHUR:

19 Q. So your testimony is you don't know whether
20 that's you doing it or saying it, right?

21 A. Correct.

22 Q. That would apply to all the other entries
23 where people's call signs are identified, you wouldn't
24 know on those either right?

25 MS. KOLLINS: Objection, argumentative.

1 Foundation.

2 THE COURT: Overruled.

3 THE WITNESS: Again, sir.

4 BY MR. MACARTHUR:

5 Q. That would go for all of the entries that have
6 call signs and information you wouldn't know whether
7 that's initiating communication or doing the action?

8 A. It would be tough to tell in a CAD report.

9 Q. You think maybe we can answer this question.
10 At the bottom 15:07:13, highlighted in yellow, right?

11 A. Yes.

12 Q. By your own testimony Josh wasn't allowed to
13 take people into custody, right?

14 A. Correct.

15 Q. So it would appear that in 15:07:13, BP27
16 means he's initiating the communication not the taking
17 into custody of a third person, right?

18 A. Correct. He shouldn't be taking anybody into
19 custody.

20 Q. Right. So going back up to 15:05 DP39 is
21 initiating communication, not doing the gun pointing,
22 right?

23 A. He could be saying he's doing it. He could be
24 saying it's happening. I don't know. I'm not DP39.

25 Q. Now, you're not sure.

1 MS. KOLLINS: Objection. Move to strike.

2 THE COURT: Extraneous comments as we know,
3 counsel cannot testify. I'll admonish you not to continue
4 making those.

5 BY MR. MACARTHUR:

6 Q. You knew one or more of those 4 occupants,
7 didn't you?

8 A. Like know them, who they are?

9 Q. Acquainted with them, met them before?

10 A. No.

11 MR. MACARTHUR: No further questions.

12 MR. MACARTHUR: I'm going to ask permission to
13 reopen briefly as to one topic, if I might. I
14 apologize.

15 THE COURT: Certainly.

16 BY MS. KOLLINS:

17 Q. Are you aware who was responsible for the
18 impound of the vehicle at that stop?

19 A. I don't recall.

20 Q. Would it refresh your recollection to review a
21 document who was responsible for that impound?

22 A. Yes.

23 MS. KOLLINS: Approach the witness.

24 THE COURT: You may.

25 MR. MACARTHUR: What document is that.

1 MS. KOLLINS: It's the vehicle recovery impound
2 report.

3 MR. MACARTHUR: May I see it.

4 BY MS. KOLLINS:

5 Q. Does that refresh your recollection?

6 A. Yes.

7 Q. Who is that?

8 A. Joshua Honea.

9 Q. Do you know what items were ultimately listed
10 as recovered and impounded by Joshua?

11 A. I'm sorry. I would have to review the report
12 to be accurate.

13 Q. Do you have an independent recollection?

14 A. I don't.

15 MS. KOLLINS: Reapproach the witness.

16 THE COURT: You may.

17 MS. KOLLINS: Would it refresh your
18 recollection, Officer Zafiris, to review the impound
19 report filled out by BPSR Honea March 22, 2015 as to what
20 items were included in the impound of that stolen
21 vehicle.

22 THE WITNESS: Yes.

23 THE COURT: To be clear. Is this information he
24 knows or refreshes or gleaning from reading the document.
25 If he has knowledge, you could refresh, so be it. If it's

1 information coming from the document that is not
2 refreshing recollection, can you clarify you know this
3 information or it's to refresh recollection or are you
4 just reading it from the document.

5 THE WITNESS: I would be reading it from the
6 document.

7 THE COURT: Retake the document if it's not to
8 refresh recollection.

9 BY MS. KOLLINS:

10 Q. Mr. MacArthur asked you if you had taken
11 duffel bags out of the vehicle and turned them over to
12 someone present?

13 A. He asked me that.

14 Q. Were you aware that duffel bags were impounded
15 with the vehicle, duffel bags and clothing?

16 A. I was not.

17 MS. KOLLINS: Nothing further.

18 THE COURT: Are we complete with this witness.

19 MR. MACARTHUR: Yes.

20 THE COURT: By a show of hands do the jurors have
21 questions for this witness. Yes. Make sure your juror
22 name and number is included on your question.

23 I'm not at liberty to enhance the question.
24 Answer to the best of your ability and counsel will have
25 an opportunity to follow up.

1 THE WITNESS: Okay.

2 THE COURT: is it potentially possible for
3 someone to falsify the CAD report to discredit an
4 officer.

5 THE WITNESS: Can you read it again.

6 THE COURT: Is it potentially possible for
7 someone to falsify the CAD report to discredit an
8 officer.

9 THE WITNESS: Whatever we say over the radio
10 dispatch tries to keep up with it. They'll use -- lack of
11 a better term -- slang words -- just to fit into our
12 screen. But whatever we say dispatch repeats or types out
13 what we say, however, the best they can. Whatever
14 officers types on the computer, once we it send it's gone.
15 We can't do anything with that screen again. Once the
16 information is sent out it's sent out just like words we
17 speak through a microphone, it would be up to
18 interpretation of the dispatcher. They do a good job of
19 repeating what we say. But there is nothing I could do.
20 I can only write what's intended. I could never do
21 anything with that document again.

22 THE COURT: Ms. Kollins, questions related to
23 the juror question.

24 BY MS. KOLLINS:

25 Q. What is going in the information you are

1 relaying to dispatch, that information that dispatch is
2 logging into the system, it's dynamic?

3 A. Yes.

4 Q. It's not a perfect science?

5 A. Unfortunately, it's not. It could take time
6 for he her to catch up to what's going on to see what
7 officers are saying.

8 Q. Ideally it should be a minute by minute
9 recitation of what happened on a scene, but that's not
10 always the case?

11 A. Yes.

12 MS. KOLLINS: Nothing further.

13 THE COURT: Any follow up.

14 BY MR. MACARTHUR:

15 Q. Officers don't maintain the CAD records?

16 A. Correct.

17 Q. That's maintained by Las Vegas Metropolitan
18 Police Department records?

19 A. I'm assuming so.

20 Q. Officers can however draft, edit, modify
21 delete officer's reports, correct?

22 A. Are you talking a report that's already
23 completed.

24 Q. You draft a report?

25 A. Are you talking about a declaration of

1 arrest.

2 Q. Sure.

3 A. Okay.

4 Q. That can be updated with additional
5 information as it's acquired, correct?

6 MS. KOLLINS: I'll object as to foundation.
7 Updated when, because there is multiple places these
8 reports are stored.

9 THE COURT: We need clarification on this
10 questions. It's somewhat outside the scope of the juror's
11 question, but I'll give you leeway. You need to be
12 precise.

13 MR. MACARTHUR: All right.

14 BY MR. MACARTHUR

15 Q. You've drafted a declaration of arrest and
16 arrest reports before, correct?

17 A. Yes.

18 Q. In there it contains the information of the
19 scene, who did what, how you arrived at your conclusions,
20 et cetera?

21 A. Correct.

22 Q. You can include additional information as it
23 becomes known. There may be ongoing reports, correct?

24 A. Usually detectives handle things like that.

25 Q. That's still something an officer can do in an

1 officer's report?

2 A. There are continuation reports. Like I said,
3 usually detectives do.

4 Q. Maybe I'll ask it more directly. We've seen a
5 police report drafted by Officer Blum, right?

6 A. Yes.

7 Q. He controlled the information in that
8 report?

9 A. It's his report, yes.

10 Q. When he is done with it he then gives that to
11 Las Vegas Metropolitan Police Department records,
12 correct?

13 A. Well, in this situation he'd give copies to
14 the jail and eventually sergeants sign off on it. I
15 assume it would eventually go to records, yes.

16 Q. But once it's done being drafted, edited,
17 modified and finalized that's when it goes to records?

18 A. Yes.

19 Q. But the CAD is not under your control at all
20 and always under the control of Metro, right?

21 A. Yes.

22 MR. MACARTHUR: No further questions.

23 THE COURT: Ms. Kollins.

24 MS. KOLLINS: Nothing.

25 THE COURT: Officer Zafiridis, you are excused.

1 Thank you.

2 THE WITNESS: Thank you.

3 MS. KOLLINS: Approach.

4 THE COURT: Scheduling discussion.

5 MS. KOLLINS: Yes.

6 (Discussion held at the bench.)

7 THE COURT: Come forward to the witness stand.

8 My clerk will swear you in.

9 THE CLERK: You do solemnly swear the testimony
10 you are about to give in this action shall be the truth,
11 the whole truth, and nothing but the truth, so help you
12 God.

13 THE WITNESS: I do.

14 THE CLERK: Be seated. State and spell your
15 name for the record.

16 THE WITNESS: Jeffrey Clark, J-e-f-f-r-e-y,
17 C-l-a-r-k.

18 DIRECT EXAMINATION

19 BY MS. KOLLINS:

20 Q. Good afternoon, Sergeant. How are you.

21 Q. Well, thank you.

22 I appreciate your attendance. Tell us how you're
23 employed?

24 A. I'm a sergeant with Las Vegas Metropolitan
25 Police Department.

1 Q. How long have you been a sergeant?

2 A. I've been a sergeant for 5 years.

3 Q. Prior to being a sergeant, what did you work
4 for Metro?

5 A. I was an officer and detective for
6 approximately 7 years, so total of 12 years with Metro.

7 Q. What is your area command?

8 A. Currently I'm assigned to Office of Public
9 Information. I have been there for two years.

10 Q. Prior to moving to public information, where
11 did you perform your sergeant duties?

12 A. I was a day shift field training sergeant at
13 Enterprise Area Command.

14 Q. Did some of your officers include Officer
15 Zafiridis and Officer Wirey?

16 A. Officer Zafiridis was one of my officers. And
17 Officer Wirey was on the squad. We worked 3 days a week
18 together.

19 Q. How about Officer Larry Samples now Detective
20 Samples?

21 A. He never worked under my command.

22 Q. While you were at Enterprise, did you have
23 occasion to meet Joshua Honea?

24 A. I did.

25 Q. Do you see Mr. Honea in court today?

1 A. I do.

2 Q. Where is he seated and what is he wearing
3 today, for the record?

4 A. He's sitting at defendant's table wearing in a
5 gray suit, short hair.

6 MS. KOLLINS: Record reflect identification of
7 the Defendant.

8 THE COURT: The record will so reflect.

9 BY MS. KOLLINS:

10 Q. How is it you first came to know Joshua?

11 A. Officer Zafiridis came to me and said he knew
12 Joshua through volunteer patrol services representative.
13 That he was currently volunteering his time at Northeast
14 Area Command where Officer Zafiridis was previously working.
15 He basically said he wanted him to come over to Enterprise
16 and help us out on our shift. So it was a volunteer
17 position. It was -- I wasn't that familiar with it, but I
18 talked to my lieutenant and it was okay for him to come
19 over and work when he could.

20 Q. Did you welcome that assistance at Enterprise
21 at that time?

22 A. Absolutely. We were the busiest area command
23 at the time. The most calls for service, services to be
24 help.

25 Q. Do you recall when he came over?

1 A. I don't. I really don't.

2 Q. Now, in terms of him being a volunteer patrol
3 services representative, how much interaction, at the day
4 shift, did you have with him on a weekly basis?

5 A. I didn't have a whole lot. I believe a lot
6 of -- at least one of the shifts he worked was one of my
7 regular days off that he'd come in. So I didn't have a
8 whole lot of interaction with him. I would see him in
9 briefing on occasion. I was responsible for the field
10 training officers of which I had 10 and trainees another 7
11 to 8. I would work mostly with them.

12 Q. When -- just so everyone understands, as a
13 VPSR, that's not a commissioned officer?

14 A. No, not at all.

15 Q. It's not a position for suspect contact, make
16 arrests, carry a firearm like a commissioned Metro officer
17 would do?

18 A. No. A VPSR would do things like impound
19 property for us, impound stolen vehicles, take stolen
20 vehicle reports, take burglary reports, take pictures for
21 us, but only when there was no suspect contact.

22 Q. So you said you didn't have that much contact
23 with Mr. Honea. Did you have any kind of real personal
24 relationship with him?

25 A. No. I didn't know him that well. I welcome

1 him there. I he was thankful he was there, but on a day
2 to day basis my interaction was minimal.

3 Q. I want to turn your attention to spring of
4 2015, right around the end have of March.

5 A. Okay.

6 Q. Do you know what period of time I'm talking
7 about?

8 A. Yes.

9 Q. Did it come to your attention through Officer
10 Wirey and Officer Zafiris that there were some concerns
11 about some of Mr. Honea's performance regarding his VPSR
12 activities?

13 A. They said it had to do with some Explorer
14 stuff, but not his performance duties.

15 Q. Were you -- did there come a time where you as
16 the sergeant decided to have a counseling session with
17 Mr. Honea regarding some of Officer Wirey's concern,
18 Officer Zafiris' concern and your own concerns?

19 A. I was in the parking lot and Officer Zafiris
20 and Officer Wirey approached me. They said they wanted to
21 have a counseling session with Mr. Honea. They asked me,
22 as a sergeant, to come in be a witness. I didn't know
23 what was going on. They just said they wanted me there
24 because they had talked to him before and wasn't getting
25 through. I said that's fine. I'll go sit down and let

1 you guys do your thing.

2 Q. That may have been my understanding of how
3 that developed. So you didn't know the subject matter of
4 that session prior to going in?

5 A. No.

6 Q. Who was present for that counseling session?

7 A. Myself, Officer Zafiris, Officer Wirey, and
8 Josh Honea.

9 Q. Where did that take place?

10 A. Enterprise Area Command conference room,
11 adjacent to the captain's office.

12 Q. This counseling session, formal, informal,
13 what is it?

14 A. It's informal. When we do these kind of
15 things it's closed door, we need to have a talk. I do it
16 with my officers all the time. I'm not one that's quick
17 to formal intervention, just have a conversation. That's
18 what my conversation and understanding of what this was
19 going to be.

20 Q. Given that it's informal, is it recorded,
21 video taped, audio taped, anything like that?

22 A. No.

23 Q. When you have those counseling sessions is
24 there any intent to use that information later against an
25 officer or in this case a VPSR? Are you there to assist

1 them or are you there to document something?

2 A. Generally to assist, but if there's a
3 performance issue we can document the conversation after
4 the fact on something we call a contact report, which is
5 basically just documenting what happened. However, in
6 this case it was Officer Wirey and Officer Zafiridis that
7 was conducting and I was there to witness. I wasn't
8 taking notes. I had no intention of doing any contact
9 report or anything like that.

10 But when we have those sessions, just like having a
11 conversation with employees on the street, something of
12 concern at work has come up, we have a duty to investigate
13 or report if anything comes up out of the ordinary.

14 Q. So what came up in this counseling session
15 with Joshua?

16 A. I really was sitting at the head of the table
17 just kind of taking it in and Officers Wirey and Zafiridis
18 were talking to him. They were talking about different --
19 I don't remember the exact things they were saying, but
20 different issues with Josh and a young female. I didn't
21 know -- I can't remember her name, but he said something
22 to the effect we told you to stay away from her. She's
23 trouble. There is problems. Those kind of things.

24 It just didn't seem like it was really getting
25 through. I didn't think Officer Wirey or Zafiridis had had

1 these kind of -- they weren't sergeants, something they'd
2 normally do. I let them continue telling him these
3 things, but it didn't seem it was getting anywhere.

4 Q. When they are telling him about this young
5 lady and to stay away from her and that general message
6 this wasn't helpful to him in his career, what was Mr.
7 Honea's reaction to that -- to what they were saying to
8 him?

9 A. He sat there and listened, you know. He
10 wasn't being defiant or anything just listening, okay,
11 okay. Yes, sir. No, sir. Being respectful in that
12 manner.

13 Q. Now, at some point did something in the
14 conversation cause you concern regarding Josh Honea and
15 his interaction with this then 15-year-old girl?

16 A. As I'm listening they start saying more and
17 more than one occasion we told you to stay away from her,
18 she's trouble, too young, I finally just had to call time
19 out. It was not sounding right to me. I looked Mr. Honea
20 in the eye and I said are you -- pardon my language -- are
21 you fucking this girl. That's straight up what I said.

22 He got kind of -- I have interviewed hundreds of
23 people in my career, he kind of got sheepish, turned away,
24 no. So I immediately thought he was being evasive about
25 that.

1 Q. Did he express what his intentions were when
2 this girl turned what he believed to be of age?

3 A. Yes. He said we are waiting until she's 16.
4 We wouldn't do anything until she's legal. We talked
5 about it, but, no, nothing like that has happened yet.

6 Q. Now, as a sergeant does that cause you concern
7 whether there is some criminal activity afoot?

8 A. Absolutely.

9 Q. Did you know Mr. Honea was an adult at the
10 time?

11 A. Yes.

12 Q. You were -- you knew the age of this
13 juvenile?

14 A. I didn't know directly. I had never seen her
15 or identified her, but based on the context of the
16 conversation, yes.

17 Q. What is your responsibility to do at that
18 point once you have that information? What do you need to
19 do?

20 A. Notify my chain of command, which I did. I
21 called my lieutenant at the time who was Lafreniere. I
22 talked to him. I talked to my captain, who was Jim
23 Seabach (ph) at the time I believe. Their direction to me
24 was call sexual assault detail, also let internal affairs
25 know. So I did.

1 I called over to the detail. I knew Detective
2 Dicaro and Detective MacAfrey from previously working at
3 downtown together years ago. I called them. They put me
4 in touch with their sergeant. After I talked to him -- I
5 can't remember who I talked to at internal affairs, but
6 they asked me to write an e-mail of what our interaction
7 was. I did. I sent that to them. That was the end of my
8 involvement in it.

9 Q. As part of your e-mail you also attached an
10 e-mail from Officer Zafiris?

11 A. Yes.

12 Q. You asked him to draft that?

13 A. Yes.

14 MS. KOLLINS: May I approach the witness.

15 THE COURT: You may.

16 MS. KOLLINS: I have previously shown Mr.
17 MacArthur Exhibit 118.

18 BY MS. KOLLINS:

19 Q. Sergeant, take a look at 118. Tell me if you
20 recognize that document?

21 A. Yes.

22 Q. How do you recognize State's Proposed 118?

23 A. It's from me and my signature line is there as
24 well.

25 Q. Is this the e-mail that your chain of command

1 requested you send regarding Joshua Honea back on, I
2 believe, March 29th, 2015?

3 A. Yes.

4 Q. Fairly and accurately depicts that e-mail,
5 save and except, the attachment from Officer Zafiris?

6 A. Yes.

7 MS. KOLLINS: State would move for admission of
8 118.

9 MR. MACARTHUR: No objection to 118.

10 THE COURT: State's 118 is admitted. You may
11 publish.

12 BY MS. KOLLINS:

13 Q. Keeping in mind anything that you did in your
14 conversation with Mr. Honea that with not investigative in
15 nature, correct?

16 A. No. It was very preliminary, trying to figure
17 out what was going on. It's easy as a VPSR to say hey,
18 your services are no longer required here. We are going
19 up the chain with it.

20 Q. You contact sexual assault and contact
21 internal affairs. Are you steering the boat in any
22 investigation that follows?

23 A. No.

24 Q. Do you have any vested interest in any outcome
25 that follows?

1 A. No.

2 Q. Do you have any vested interest in what
3 ultimately does or doesn't happen to Joshua Honea?

4 A. No.

5 Q. Are you requested ever by Officer Zafiris or
6 anyone else in Metro to ensure that some kind of
7 investigation regarding sexual abuse of this juvenile is
8 commenced against Joshua?

9 A. No.

10 Q. Do you have any subsequent -- when I say
11 subsequent, just prior to Mr. Honea's arrest -- a
12 conversation was internal affairs regarding this case?

13 A. No.

14 Q. Are you involved after this e-mail that
15 Officer Dicaro -- Detective Dicaro, Detective Marsh,
16 Detective Calderon, Lieutenant McGraff, Sergeant Comiskey
17 any of those people in sexual assault or internal affairs
18 to follow up on that?

19 A. No. I sent the e-mail. I was done at that
20 point. I didn't know anything progressed until I found
21 out he was arrested. How long later.

22 Q. You received a subpoena from my office?

23 A. Yes.

24 Q. To come in testify?

25 A. Yes.

1 MS. KOLLINS: I'll pass the witness.

2 THE COURT: Mr. MacArthur.

3 MR. MACARTHUR: Thank you, Judge.

4 CROSS-EXAMINATION

5 BY MR. MACARTHUR:

6 Q. Good afternoon.

7 A. Good afternoon, sir.

8 Q. I'll be brief?

9 A. Good for me.

10 Q. I apologize for your loss.

11 A. Thank you so much.

12 Q. We have testimony about people's handles, how
13 they can identify themselves in communications. You know
14 what I'm talking about?

15 A. Call signs?

16 Q. Sure.

17 A. Yes.

18 Q. Spring of 2015, was there a point in which you
19 were 710LD?

20 A. Yes.

21 Q. Now, for the jurors consumption was that LD
22 because you were on light duty at the time?

23 A. Yes, light duty.

24 Q. So 710 light duty an officer under your
25 command would know that was from you?

1 A. Yes, sir.

2 Q. Do you also have the ability to send
3 individualized messages to certain officers that are not
4 publicly broadcast through dispatch?

5 A. Yes, administrative messages.

6 Q. AMs?

7 A. Yes, sir.

8 Q. Thinking about the stolen vehicle stop at
9 issue on March 22, 2015, you know what I'm talking
10 about?

11 A. I do. I wasn't on that call.

12 Q. Understand. You are aware that Sergeant
13 Erickson was on scene for that call?

14 A. Yes.

15 Q. You're aware that Officer Zafiris was present
16 there as well?

17 A. I don't know who the officers were, but if you
18 say so, I would say he was.

19 Q. Officer Blum was there?

20 A. I don't remember the officers there.

21 Q. Fair enough.

22 Isn't it in fact true that after that incident that
23 you sent AM, administrative message?

24 A. Yes.

25 Q. An AM to Josh Honea who was I believe VP27,

1 would that be voluntary -- volunteer patrol?

2 A. Sounds about right.

3 Q. You sent him an AM, that said great job on the
4 comps (ph)?

5 A. If I sent it -- nobody else would have sent it
6 from my computer.

7 Q. Thinking about that counseling session you
8 described where it was Officer Zafirris, Officer Wirey and
9 Mr. Honea?

10 A. Yes.

11 Q. You said you took a seat at the head of the
12 table, you were a supervisor?

13 A. Yes, sir.

14 Q. You didn't initiate that counseling session?

15 A. No, sir.

16 Q. You weren't controlling the subject matter?

17 A. No, sir.

18 Q. Based on what it is you heard being described
19 by Officers Zafirris and Wirey it caused you great
20 concern?

21 A. Yes.

22 Q. This started the ball rolling on the e-mails
23 we've seen and other people being contacted?

24 A. Yes, sir.

25 Q. Now, if you recall -- let me back up a step.

1 You said that what you heard was very concerning
2 and that's what caused you to act?

3 A. Yes.

4 Q. Did you immediately begin to act or did you
5 wait a few days?

6 A. I immediately -- I made phone calls as soon as
7 we walked out of there.

8 Q. That day?

9 A. Yes, sir.

10 Q. You instructed Officer Zafiridis to document his
11 concerns in a letter?

12 A. I did.

13 Q. He did that, did he not?

14 A. He did.

15 Q. He, in fact, sent that you that letter in
16 attachment that you then forwarded to other people that
17 same day, correct?

18 A. Yes, sir.

19 Q. As you sit there now you recall these events
20 and that they happened like that, same day?

21 A. That is how I recall it.

22 Q. Excellent. So can we reason with confidence
23 that the letter given to you at your request by Officer
24 Zafiridis would have been drafted early on the 29th?

25 A. I would believe so. I don't remember.

1 Q. Thank you, sir.

2 Now, you said that while you were sitting there
3 listening to Officer Zafiris and Wirey talk to Josh about
4 potentially an improper relationship with Morgan Savage
5 that was the subject matter of the conversation,
6 correct.

7 A. It was.

8 Q. Do you remember him being counseled or
9 disciplined or advised on any other kind of misconduct or
10 dereliction in that conference?

11 A. In that conversation, no.

12 Q. Reasonably certain of that, are you not?

13 A. That is what I remember taking away from
14 that.

15 MR. MACARTHUR: Thank you, Sergeant.

16 THE WITNESS: All right.

17 THE COURT: Ms. Kollins.

18 REDIRECT EXAMINATION

19 BY MS. KOLLINS:

20 Q. Inappropriate suspect contact by Mr. Honea is
21 not criminal conduct, would that be correct?

22 A. Inappropriate.

23 Q. If he was contacting suspects in the course of
24 being a VPSR that is not something that needs to be
25 criminally investigated?

1 A. No. It's administrative. It's not in their
2 outline of their duties.

3 Q. The AM I think Mr. MacArthur referred to, I
4 don't -- I've never seen that documentation. Do you know
5 what I'm talking about, the AM you sent Mr. Honea?

6 A. On our computers it's like any computer you
7 might have where you send messages back and forth. I can
8 send messages to area commands in the entire valley to
9 individual officers, groups of officers. It's just like
10 sending a text message, almost, on our computers.

11 So it was not out of the ordinary, I would keep in
12 contact with people. If I heard I needed to meet them,
13 I'd send a message meet me on the corner we gotta talk or,
14 hey, take that call for me. As a sergeant that's my job
15 to make sure that their performing and doing what they are
16 suppose to do.

17 Q. You're running the show so you need to
18 communicate with everyone. I guess my question is do you
19 have specific memory of the AM that Mr. MacArthur talked
20 about.

21 A. I don't. I don'ts have memory of it. If it's
22 in the, then it happened.

23 MS. KOLLINS: Thank you.

24 BY MR. MACARTHUR:

25 Q. Ms. Kollins asked something about contact with

1 subjects?

2 A. Suspect contact.

3 Q. It's an administrative issue?

4 A. Yes, sir.

5 Q. But she didn't ask you if that was a problem,
6 so let me ask you that. Were you aware of some other
7 deviations in policy or disciplinary problems with Joshua
8 Honea?

9 A. I was. Before that meeting I was, but not at
10 that meeting.

11 Q. So this meeting was about any potential
12 inappropriate relationship between Joshua Honea and Morgan
13 Savage and that's it.

14 A. Yes.

15 MR. MACARTHUR: Thank you, sir.

16 THE COURT: Let me see by a show of hands if the
17 jurors have any questions for this witness. Seeing none,
18 you are excused.

19 THE WITNESS: Thank you, your Honor.

20 THE CLERK: You do solemnly swear the testimony
21 you are about to give in this action shall be the truth,
22 the whole truth, and nothing but the truth, so help you
23 God.

24 THE WITNESS: I do.

25 THE CLERK: Be seated. State and spell your

1 name for the record.

2 THE WITNESS: Rachel Calderon, R-a-c-h-e-l,
3 C-a-l-d-e-r-o-n.

4 THE COURT: Ms. Rhoades, when you're ready.

5 DIRECT EXAMINATION

6 BY MS. RHOADES:

7 Q. How are you employed?

8 A. I'm employed with Las Vegas Metropolitan
9 Police Department.

10 Q. In what department?

11 A. I currently work with the sex assault unit,
12 juvenile section.

13 Q. How long been with the sex assault unit?

14 A. A little over a year.

15 Q. How long have you been with Metro?

16 A. 13 years.

17 Q. In March of 2015 what was your assignment with
18 Metro?

19 A. I was a detective in internal affairs.

20 Q. How long had you been in internal affairs?

21 A. In March 2015, a couple months.

22 Q. When did you leave internal affairs?

23 A. September of 2016.

24 Q. Was that to go to sex assault?

25 A. Correct.

1 Q. What are your job duties as a detective in
2 internal affairs?

3 A. Our job duties were to conduct investigations,
4 an unbiased investigation on any kind of statement of
5 complaint with officers, officer/citizens or anybody
6 employed or working with Las Vegas Police Department,
7 whether it's a citizen complaint or complaint that comes
8 from supervisors.

9 Q. Any employee of Metro, is that fair to say?

10 A. Correct.

11 Q. Even someone working in a clerical position?

12 A. I had to learn the duties of any time I had an
13 investigation, the duty of what a CO did, dispatcher does,
14 so civilian all the way to commissioned officers as
15 well.

16 Q. What is a statement of complaint?

17 A. A statement of complaint is a complaint that
18 the is typically done by a supervisor or above. And it is
19 when they see a policy violation they gather that, state
20 what the violation is, and at that point we proceed in the
21 investigation on whether or not it is true or if there is
22 any merit to it.

23 Q. Did you investigate Joshua Honea?

24 A. I assisted with the investigation, yes.

25 Q. Do you remember when you were assigned to

1 assist with that investigation?

2 A. I want to say around June of 2015. I assisted
3 my sergeant Zack Marsh with that case.

4 Q. How was it you got assigned or got that
5 case?

6 A. When we work cases in IAB we work a lot of
7 cases together. We do interviews, we partner up. It's
8 never just one person, it's usually two. So my sergeant,
9 Zack Marsh asked me to assist him with that case, so I
10 helped him with that case.

11 Q. What did you specifically do with regard to
12 that case?

13 A. That case I assisted him with the interview
14 with Pamela Savage. We conducted that interview. He led
15 the interview, I was present during the interview with
16 Pamela Savage. As well as I had given my card to Pamela
17 Savage to give to her daughter, Morgan, because she was
18 someone we also wanted to speak to. And I received a
19 phone call later, I want to say July, Morgan calling
20 stating she wanted to come in and speak with us as well.

21 Q. Do you remember if it was early, mid, late
22 July?

23 A. Early in July, early in the month. It was an
24 early morning phone call. When she called she stated who
25 she was on the phone. She said that she wanted to come in

1 and talk to us, but she was out of town at the moment.
2 And she thought it was important for us to know the truth
3 and wanted us to know everything.

4 Q. What did you do after you received that phone
5 call from Morgan?

6 A. After I received that phone call, just knowing
7 a little about the statement of complaint, knowing that it
8 was referenced an alleged sex abuse case, I knew just from
9 my training and working patrol you never want a victim to
10 have to tell a story more than once. So at that point I
11 felt with that phone call initially I knew that we should
12 not take the lead in her interview, so I spoke to my
13 sergeant and told him this was what she just said on the
14 phone call and we determined that we wouldn't make contact
15 with the lead detective, which was Detective Dicaro and
16 leave it to them to -- for them to handle that interview
17 face-to-face to see what it was she was going to say.

18 Q. You say we, wouldn't take the lead, that's
19 internal affairs?

20 A. Correct.

21 Q. Explain for us how internal affairs and sex
22 assault in this instance interacted with the same
23 investigation. Who goes first and things of that nature.

24 A. With sex assault versus internal affairs
25 anything criminal will always take precedent so they

1 always go first. Once a criminal case is -- they feel
2 it's complete, then it gets handed over to us.

3 We had already been closed and it was sent over to
4 us, obviously, with that statement with Morgan calling in
5 I felt it was not necessary for us to lead the
6 investigation. I didn't want to have to stop her
7 mid-sentence if she starting talking about a criminal act,
8 because that's what we would have had to have done, and
9 have her restart all over with a detective from sex
10 assault.

11 Q. Your understanding was that more was 15 years
12 old?

13 A. Yes. She was 15 at that time.

14 Q. Did you, in your capacity as detective with
15 internal affairs, ever call Morgan?

16 A. Not that I can recall. Not that I remember.

17 Q. Do you remember when you and Sergeant Marsh
18 spoke with Pamela Savage?

19 A. That was I want to say June 25th. We went to
20 her place of employment to do the interview.

21 Q. Where was that -- does Wells Fargo sound
22 familiar?

23 A. Yes. I know she works for a bank.

24 Q. June 25, 2015?

25 A. Yes.

1 Q. Did you give Pam Savage your card?

2 A. I believe I did. I gave her my contact
3 information.

4 Q. Why did you do that?

5 A. Because I explained to her -- she told us that
6 Morgan was out of state. I explained and I asked her if
7 she could give Morgan our information so she could contact
8 us.

9 Q. After you contacted Detective Dicaro what did
10 you do with regard to the internal affairs case?

11 A. When we did our end, I didn't finish the
12 report. That's something my sergeants did. We do it at
13 the end of it, we do what's called an investigated report,
14 so that's what he did at the end of it. But we did go
15 observe the beginning of her interview to see if she did
16 make any criminal allegations. Then obviously we'd then
17 take over. So we could witness that interview.

18 Once she started talking about criminal acts, at
19 that point we knew that it was not going to be our
20 investigation at that point and we'd have to cease ours.

21 Q. Before that interview at any point do you
22 recall going to Mr. Honea's supervisor in the gang
23 bureau?

24 A. We did go talk to a supervisor, yes.

25 Q. Do you remember when that was?

1 A. It would -- I want to say it would have been
2 before we talked to Pamela Savage.

3 Q. Would that have been you and Sergeant Marsh?

4 A. Correct.

5 Q. Do you remember the supervisor's name?

6 A. I do not.

7 Q. What was the purpose of you and Sergeant Marsh
8 going and meeting with Mr. Honea's supervisor?

9 A. I believe we were trying to figure out what
10 his was job duties were, and also just find out what it
11 was -- if there were any rules set in place for
12 volunteers. Those were things we were trying to gather,
13 was, you know, for officers we have policies and
14 procedures, with civilians they have -- they also have the
15 same thing, like a manual. So what we were trying to look
16 for is there a manual specific to volunteers that work for
17 our department. That's what we were trying to obtain as
18 well. Then also kind of background information as well.

19 Q. Was it also your understanding he was in a
20 clerical position under that supervisor at gang?

21 A. Correct. From my understanding he did like P1
22 entry for FI cards, field interview cards.

23 Q. Is that something that the gang unit relies
24 on?

25 A. Correct. It's a data base they use to

1 identify gang members.

2 Q. Before that had you ever seen Josh Honea?

3 A. No.

4 Q. Have you ever seen Josh Honea?

5 A. Not until today.

6 Q. When you went to meet with his supervisor do
7 you recall whether you or Sergeant Marsh told the
8 supervisor she should get rid of Mr. Honea?

9 A. No.

10 THE COURT: You don't recall or--

11 MS. RHOADES: That was a bad question.

12 BY MS. RHOADES:

13 Q. Did you ever say that to his supervisor?

14 A. No. No.

15 Q. You said Sergeant Marsh concluded the
16 investigation. Did you talk to Pam Savage again after
17 Morgan was interviewed?

18 A. I believe we talked to each other -- we did --
19 I know she emailed me just so I can get her address. A
20 couple of times we tried to get a date to interview her.
21 Then just in reference -- that's the only other
22 communication we had was an e-mail.

23 Q. Any other communication with Morgan?

24 A. No.

25 Q. How long was the conversation with Morgan when

1 she called you in early July?

2 A. Very quick. It was -- she pretty much told me
3 she wanted to come in. She was out of town. It was
4 important for us to know everything. That was pretty much
5 it. I didn't ask her questions. I didn't inquire what
6 she was talking about. I just told her when she got into
7 town to figure out when she can come in. That was pretty
8 much it.

9 Q. While you were in the investigation do you
10 recall whether you and Sergeant Clark had contact with
11 Kevin Zafiris?

12 A. Me and Sergeant Clark?

13 Q. Yes.

14 A. No.

15 Q. He or you ever?

16 A. No.

17 Q. How about James Wirey?

18 A. I don't even know who that is.

19 Q. Jeff Clark?

20 A. I know who Jeff Clark is, but I never made
21 contact with him about this case.

22 Q. Okay.

23 MS. RHOADES: I'll pass the witness.

24 THE COURT: Ms. McNeill.

25 CROSS-EXAMINATION

1 BY MS. MCNEILL:

2 Q. You indicated that you started investigating
3 this case in June 2015, correct?

4 A. The case wasn't assigned to me. I remember
5 doing the interview with Pam in June of 2015.

6 Q. That wasn't my question. You indicated that
7 you started investigating the case in June of 2015,
8 correct? That is what you said?

9 A. Yes.

10 Q. Do you remember -- you said you remember
11 talking to somebody to get information about what the
12 volunteers' duties were. Would it refresh your
13 recollection to look at an e-mail you sent so that you
14 would have a better understanding of when you started,
15 about the time period when you were investigating Mr.
16 Honea?

17 A. That would help, yes.

18 MS. MCNEILL: May I approach.

19 THE COURT: Did you see it, Ms. Kollins.

20 MS. KOLLINS: No.

21 BY MS. MCNEILL:

22 Q. Direct your attention to the bottom. Does
23 that look like an e-mail you sent to someone -- Sharon?

24 A. Yes, correct.

25 Q. Does that refresh your recollection?

1 A. It says May -- I sent it May 14, 2015.

2 Q. Fair to say in May 14, 2015 you were
3 investigating Mr. Honea for various activities?

4 A. Correct.

5 Q. Internal affairs investigates employees,
6 correct?

7 A. Correct.

8 Q. Of Las Vegas Metropolitan Police Department?

9 A. Yes.

10 Q. Your job is to investigate allegations into
11 behavior of employees, correct?

12 A. Yes.

13 Q. When you were working in internal affairs was
14 your boss Karen Hughes?

15 A. Lieutenant, yes.

16 Q. Are aware that Ms. Hughes is no longer working
17 for Metro?

18 A. She retired.

19 Q. Do you know why she retired?

20 A. I do not.

21 Q. Are you aware that the FBI is investigating
22 her?

23 MS. RHOADES: Objection, relevance.

24 THE COURT: Can I see counsel at the bench.

25 (Discussion held at the bench.)

1 THE COURT: Objection sustained.

2 BY MS. MCNEILL:

3 Q. Detective, I imagine as an employee of Metro
4 you are probably interested in things that go on with
5 Metro, correct?

6 A. Correct.

7 Q. Do you ever read newspaper articles on
8 Metro?

9 A. I usually read or watch the news.

10 Q. You'll watch the news and sometimes there will
11 be a story about Metro?

12 A. Yes.

13 Q. Are you aware the FBI is currently --

14 MS. RHOADES: Objection, your Honor. We just
15 had this conversation at the bench.

16 MS. MCNEILL: Ask a different question.

17 Objection sustained.

18 BY MS. MCNEILL:

19 Q. Karen Hughes was your lieutenant, right?

20 A. Yes.

21 Q. She is the one who directed you to begin the
22 investigation?

23 A. No.

24 Q. Were you aware that she directed Zack Marsh to
25 begin this investigation?

1 A. Was I aware?

2 Q. Yeah.

3 A. No.

4 Q. Did you know that Karen Hughes had an employee
5 who was married to Officer Zafiris?

6 MS. KOLLINS: Objection, foundation.
7 Relevance.

8 THE COURT: Overruled.

9 THE WITNESS: Can you ask me that question
10 again.

11 BY MS. MCNEILL:

12 Q. Did you know that Officer Kevin Zafiris' wife
13 worked for Karen Hughes?

14 A. Yes.

15 Q. Now, you indicated that in May 15th, 2015, you
16 started looking into interesting activities related to
17 VPSRs?

18 A. May 14th.

19 Q. You indicated you went to the supervisor --
20 Mr. Honea's -- and had a conversation, correct?

21 A. Yes.

22 Q. You testified that you did not tell her to
23 terminate Josh, correct?

24 A. I don't remember ever saying that. No,
25 ma'am.

1 Q. Do you remember who that supervisor was?

2 A. I do not, ma'am.

3 Q. Is it fair to say that after May, when you
4 started looking into the activities of the volunteers of
5 what they're not supposed to do, during that time you were
6 also having continued contact with Pam Savage?

7 A. Yes.

8 Q. You were aware that the criminal case that
9 started with Detective Dicaro closed April 2015?

10 A. I don't remember the date it closed. I just
11 knew it was closed and that's why we had the case.

12 Q. Were you aware of what date Mr. Honea was
13 terminated from Metro?

14 A. I do not, ma'am.

15 MS. RHOADES: Objection, he's not terminated
16 from Metro.

17 MS. MCNEILL: Sorry. Fired.

18 THE COURT: We've used the term loosely here in
19 terms of terminated, fired, resigned, whatever. I think
20 if we can have some clarification on if she knows, how he
21 separated from his employment.

22 MS. MCNEILL: Well, let me do this.

23 BY MS. MCNEILL:

24 Q. You are aware that at some point Mr. Honea
25 didn't work for Metro?

1 A. Correct.

2 Q. Do you know what date that was?

3 A. I do not.

4 Q. If I told you the date was May 18, 2015, can
5 you explain to me why internal affairs was conducting an
6 investigation since he was no longer employed for Metro
7 police department?

8 A. You are saying he was terminated May 18th.

9 Q. If I told you that, can you explain to me why
10 you would be investigating employee activity of someone
11 who is no longer an employee?

12 A. Well, from any understanding I thought he was
13 still an employee of ours. That's why we had the
14 investigation.

15 Q. So your testimony as you sit here is in June
16 no one told you he no longer worked there?

17 A. From my understanding he was on a list to be
18 an officer to go through the Academy, then he was also a
19 volunteer. He was also an Explorer.

20 Q. So your understanding is no one told you he no
21 longer was employed with Metro?

22 A. I know at some point he separated, but we
23 still have to conduct a thorough investigation, regardless
24 of whether a person is still employed with us or not. We
25 still conduct an investigation. We have officers that

1 separate and retire. We still continue the investigation.
2 We've done that several times with officer who retire,
3 they're no longer employed by us, and we still have to
4 continues.

5 Q. Because you don't want them to get into the
6 Academy later, correct?

7 A. No, ma'am. That's just a thorough
8 investigation.

9 MS. MCNEILL: No more questions.

10 THE COURT: Ms. Rhoades.

11 REDIRECT EXAMINATION

12 BY MS. RHOADES:

13 Q. Once internal affairs opens an investigation
14 it has to be closed; is that accurate?

15 A. We have to finish it. It's not -- it doesn't
16 get discarded. We have to complete it.

17 Q. Even if someone no longer works there, you
18 complete it?

19 A. Correct.

20 Q. Why?

21 A. It's a file we have on showing whether or not
22 an employee of ours did conduct themselves in a manner
23 that was inappropriate whether it a criminal violation or
24 violating policies of Metro. That's something we have to
25 do, as well as we represent the sheriff, so we need make

1 sure we investigate everything that comes to us.

2 MS. RHOADES: Nothing further.

3 THE COURT: Ms. McNeill.

4 RE CROSS-EXAMINATION

5 BY MS. MCNEILL:

6 Q. Is internal affairs still investigating Karen
7 Hughes?

8 MS. RHOADES: Objection, relevance. Your Honor,
9 can we approach. That is so inappropriate.

10 THE COURT: Approach.

11 (Discussion held at the bench.)

12 THE COURT: The objection is sustained. The
13 court will instruct the jurors to disregard the last
14 question and response, given there was an objection that
15 was sustained.

16 Are there any questions from the jury.

17 Okay. Thank you. Ms. Calderon, you are excused.
18 Thank you.

19 You may call your next witness.

20 MS. RHOADES: State calls Keith Gross.

21 THE COURT: Come to the witness stand and my
22 clerk will swear you in.

23 THE CLERK: You do solemnly swear the testimony
24 you are about to give in this action shall be the truth,
25 the whole truth, and nothing but the truth, so help you

1 God.

2 THE WITNESS: I do.

3 THE CLERK: Be seated. State and spell your
4 name for the record.

5 THE WITNESS: Keith Gross, K-e-i-t-h, G-r-o-s-s.

6 THE COURT: Ms. Rhoades, when you are ready.

7 DIRECT EXAMINATION

8 BY MS. RHOADES:

9 Q. Sir, how are you employed?

10 A. Clark County District Attorney's officer.

11 Q. In what capacity?

12 A. I'm an investigator.

13 Q. Are you currently assigned to the special
14 victim's unit?

15 A. That's correct.

16 Q. How long have you worked for the Clark County
17 Attorney's office?

18 A. I've been in law enforcement for 20 years, 11
19 of which at the district attorney's office.

20 Q. Are you aware generally how criminal cases get
21 submitted to the district attorney's office then routed to
22 a team?

23 A. Yes.

24 Q. Tell us about that?

25 A. Once there's probable cause, an arrest or

1 warrant for arrest the case is sent to the district
2 attorney's office for screening department to take a look
3 at the case. Then from there it's sent to different
4 teams, general litigation team or specialty teams.

5 Q. What cases does the special victim's unit
6 prosecute?

7 A. Usually children cases, sex assault, child
8 abuse cases.

9 Q. How generally are cases assigned within the
10 special victim's unit at the DA's office.

11 A. Once they get to the special victim's unit,
12 the team chief disseminates the cases. A lot of times
13 it's based on an attorney's experience with particular
14 cases. That is generally how they're disseminated.

15 Q. How many investigators are on the SVU?

16 A. Currently 4.

17 Q. Are you assigned to any particular attorney's
18 on the unit?

19 A. I am.

20 Q. Directing your attention to October, November
21 2017, were you assigned to Stacey Kollins?

22 A. I was.

23 Q. In your capacity as Ms. Kollins' investigator
24 did you work on a case State of Nevada vs. Joshua Honea?

25 A. I did.

1 Q. Are you aware that Morgan Savage was a
2 necessary witness for that case?

3 A. I was.

4 Q. What kind of contact did you have with
5 Ms. Savage during that time period?

6 A. I had actually met with her a couple of
7 different times. Once I met with her at a hamburger
8 place, not In and Out, but --

9 Q. Jack In The Box?

10 A. Jack In The Box, correct.

11 MR. MACARTHUR: Objection, as to providing the
12 answer.

13 THE COURT: We've done it a few times to speed
14 along. It's non-material, but relevant. You may
15 proceed.

16 BY MS. RHOADES:

17 Q. When did you meet with Ms. Savage at Jack In
18 The Box?

19 A. It was on November 11th.

20 Q. Was that a Saturday?

21 A. That was Saturday.

22 Q. Who was with you when you met Ms. Savage?

23 A. Stacey Kollins.

24 Q. Prior to meeting with Morgan on November 11th,
25 how is it that you contacted her?

1 A. I attempted to contact her several times
2 through her father, looking for some possible last known
3 address that she may have stayed at. Also Stacey Kollins
4 attempted to make contact with her prior through the phone
5 numbers we had on file.

6 Q. Did you ultimately get a phone number for
7 Morgan?

8 A. Yes, we did.

9 Q. Did it appear she shared this phone number
10 with someone?

11 A. She did.

12 Q. And when you communicated with her on that
13 phone was that through talk or text or something else?

14 A. Through text.

15 Q. When you text her did you text her from an
16 unblocked number?

17 A. I text her from my work phone.

18 Q. So she had that phone number?

19 A. That's correct.

20 Q. How long was the meeting at Jack In The Box
21 with her on November 11th?

22 A. It was approximately about an hour.

23 Q. Prior to that meeting on Saturday was there a
24 meeting that had been set up with Morgan for her to come
25 to our office?

1 A. There was. I believe that was on November
2 7th.

3 Q. Did you set up that meeting with her?

4 A. I did.

5 Q. Did she tell you she was going to be there?

6 A. She did.

7 Q. Did she show up?

8 A. No, she did not.

9 Q. After November 11th, did she come to our
10 office?

11 A. She did once.

12 Q. When was that?

13 A. November 14th.

14 Q. Who was in the meeting in our office?

15 A. It was me, Stacey Kollins, and yourself.

16 Q. And Morgan Savage?

17 A. And Morgan Savage.

18 Q. How long did the meeting last?

19 MR. MACARTHUR: Same objection.

20 THE COURT: Sorry.

21 MR. MACARTHUR: Providing the answer.

22 THE COURT: Overruled.

23 BY MS. RHOADES:

24 Q. How long did that meeting last?

25 A. It lasted over an hour.

1 Q. During that meeting what generally did Morgan
2 talk about?

3 A. She talked to us about her living
4 arrangements, how she was doing. She talked about this
5 case.

6 Q. Did she ever once say during that meeting that
7 she had lied at the preliminary hearing?

8 A. Never.

9 Q. The meeting at Jack In The Box with Ms.
10 Kollins, did Morgan ever once say she had lied at
11 preliminary hearing?

12 A. No, she did not.

13 Q. Either that or the time in our office, any
14 indication at all, not even saying I lied about it, but
15 any indication at all that that was a lie?

16 A. No.

17 Q. During that meeting on November 14th, was she
18 in fact providing consistent details --

19 MS. MCNEILL: Objection to vouching,
20 inconsistent.

21 THE COURT: Rephrase, Ms. Rhoades.

22 BY MS. RHOADES:

23 Q. Tell us about the details that Morgan was
24 providing during the meeting?

25 MS. MCNEILL: Objection -- same objection.

1 THE COURT: Overruled.

2 THE WITNESS: Explaining what happened with her
3 relationship with Joshua. She was explaining some of the
4 time lines of what happened from her age of 11 until the
5 situation of arrest. She was going over different dates
6 and whatnot that they had actually gone on. She was
7 reviewing that information with us.

8 BY MS. RHOADES:

9 Q. After that November 14th meeting were there
10 additional meetings that you set up with Morgan when she
11 didn't appear?

12 MS. MCNEILL: Observation, leading.

13 MS. RHOADES: That's not lead. It's something
14 suggesting an answer.

15 THE COURT: Overruled. I agree with counsel's
16 response. You may proceed.

17 THE WITNESS: Two additional meetings were set
18 up.

19 BY MS. RHOADES:

20 Q. Remember the dates?

21 A. The first one was November 15th, the day after
22 we met with her on the 14th, and she did not show for that
23 one. So I set up another meeting with her to appear on
24 the 16th, which she did not appear on.

25 Q. Did you become aware that a material witness

1 warrant issued for Ms. Savage's arrest?

2 A. I was aware of that.

3 Q. Do you know when Ms. Savage was arrested?

4 A. I believe she was arrested on November 27th or
5 29th. It was a Monday I believe.

6 Q. Monday, November 27th would have been that
7 day, right?

8 A. Correct.

9 Q. Do you remember what time she was arrested?

10 A. It was early afternoon, I believe.

11 Q. The next day on November 28th, did you go to
12 the Detention Center to speak with Morgan?

13 A. I did.

14 Q. Why did you go there to speak with her on that
15 day?

16 A. Just to touch base with her to find out and
17 discuss why she was taken into custody.

18 Q. Did you go with anyone?

19 A. I did.

20 Q. Who did you go with?

21 A. Sonia Sarro (ph) who is an advocate from our
22 office. And Caroline Cambell who is another investigator
23 for our office.

24 Q. What was Morgan's demeanor when you met her?

25 A. She came into the interview room and she sat

1 in the chair basically on her knees, slouched over,
2 holding her stomach leaning against the wall. Then I
3 asked her at that point in time if she was okay. And she
4 said that she was detoxing from heroin at that time.
5 That's the first time she detoxed, so she was pretty
6 sick.

7 Q. What -- how long did this meeting last for?

8 A. Maybe 15 minutes or so.

9 Q. What if anything did Morgan tell you when you
10 met with her on that day?

11 A. I asked her if she knew why she was taken into
12 custody. She said she did. That it was because she
13 failed to come to meetings with us. She was homeless.
14 And that she was needed for this trial. She was aware of
15 that.

16 Then I asked her what would the scenario be if she
17 would have met with us two other times, and she said that
18 she probably would be in a hotel right now waiting for
19 trial in order to clean up a bit and to get food in her
20 system.

21 Q. Did she seem to know the purpose of the offer
22 regarding the hotel?

23 A. She did.

24 Q. What did she tell you about that?

25 A. She just knew that based on the fact that she

1 is homeless and living on the streets.

2 MS. MCNEILL: Are we offering it for the truth
3 of matter or some other purpose.

4 MS. RHOADES: Truth of the matter.

5 MS. MCNEILL: None of this information was
6 disclosed nor has Morgan testified to these conversations
7 in jail.

8 THE COURT: Anything further Ms. Rhoades in
9 response to the objection. There was testimony from Ms.
10 Savage.

11 MS. RHOADES: Also goes to Ms. Savage's state of
12 mind when she's asked about questions about grooming her
13 and offering a hotel, this is relevant.

14 THE COURT: I believe we have both an exception
15 to hearsay that applies as well as the fact that the
16 information is non-hearsay. But this, for all intents and
17 purposes, is rebuttal testimony given. I'll allow it.
18 Objection overruled.

19 MS. RHOADES: Thank you, your Honor.

20 BY MS. RHOADES:

21 Q. Remember the question?

22 A. So she understood that the reasoning for her
23 getting put up in hotel is basically just to get cleaned
24 up so she was presentable, able to have a place to sleep,
25 to shower, to eat for a couple days in advance. This

1 wasn't a long term thing, just for a couple of days.

2 Q. You said Caroline Cambell was there as well.
3 Who is that?

4 A. She's an investigator for our office.

5 Q. Did you observe interaction between
6 Ms. Cambell and Morgan?

7 A. I did.

8 Q. What did you see?

9 A. Toward the end of our conversation with Morgan
10 Ms. Cambell asked Morgan if when she was released from
11 custody if she wanted assistance getting into some type of
12 rehab program to help her with her heroin addiction. At
13 that time Morgan said, no. As she leaves the Detention
14 Center she'd go back on heroin.

15 Then the conversation ended with Ms. Cambell and I
16 just asking Morgan if she wanted to speak with deputy
17 Stacey Kollins prior to being called in to testify. She
18 said she did.

19 Q. During this meeting with Morgan did she ever
20 tell you that what she told police or what she testified
21 to at preliminary hearing was a lie?

22 A. No.

23 Q. Anything to indicate that at all?

24 A. Nothing.

25 MS. RHOADES: Your Honor, permission to publish

1 117 with stipulation.

2 THE COURT: You may.

3 BY MS. RHOADES:

4 Q. What does this appear to be?

5 A. That is a visitation log that I received from
6 Clark County Detention Center.

7 Q. What is a visitation log?

8 A. Anybody that visits an inmate in custody has
9 to sign in and register with them prior to meeting.

10 Q. So right here, this first entry that is you,
11 Keith Gross. These are visitation logs for Ms. Savage?

12 A. That's correct.

13 Q. The first line Keith Gross, November 27, at
14 2:00 p.m., right?

15 A. Correct.

16 Q. Then the next two entries right here, also
17 Morgan Savage, also on November 28th, 2017, right?

18 A. Correct.

19 Q. But at 7:30 p.m., right?

20 A. That is correct.

21 Q. And those two people that went and saw her at
22 7:30, that's Ms. McNeill and Jonathan MacArthur; is that
23 right?

24 A. That's correct.

25 Q. Now we talked about the meetings in person

1 that you had with Morgan Savage. Did she ever call your
2 work phone or text your work phone number to tell you that
3 what she say previously was a lie?

4 A. Never.

5 Q. You told us what Morgan told you about her
6 understanding of the hotel and what was the purpose of
7 trying to get her into a hotel?

8 A. Just to help get her cleaned up. In my
9 experience in the past with people that are homeless, they
10 tend to roam the streets. They struggle with making time
11 lines and following through. What she was doing is
12 helping her clean up a bit and that helps them out.

13 Q. Is it when someone is homeless, does that make
14 it different to get them in court for a trial?

15 A. Absolutely.

16 MS. RHOADES: I'll pass the witness.

17 THE COURT: Ms. McNeill.

18 CROSS-EXAMINATION

19 BY MS. MCNEILL:

20 Q. You work for Ms. Rhoades?

21 A. Correct.

22 Q. The district attorney's office pays your
23 salary?

24 A. Correct.

25 Q. They are sort of supervisors, but you work at

1 their behest?

2 A. I work directly with them.

3 Q. So they're keeping you updated on the case?

4 A. Correct.

5 Q. So during the course of the last few weeks
6 you've had conversations about what is going on in the
7 courtroom with Ms. Kollins, right?

8 A. That's correct.

9 Q. Are you aware there were problems with
10 Morgan's testimony?

11 A. Correct.

12 Q. Let's talk to about meetings you set up with
13 Ms. Savage. During the meeting at the Jack In The Box Ms.
14 Kollins was present?

15 A. Correct.

16 Q. Did you record that meeting or just take
17 handwritten notes?

18 A. I didn't take any notes.

19 Q. You didn't record it with a recorder?

20 A. No.

21 Q. Did Ms. Kollins take notes?

22 A. Not that I'm aware of.

23 Q. At that meeting Morgan never told you she lied
24 at preliminary hearing?

25 A. Correct.

1 Q. Had you offered her immunity at that point?

2 A. No.

3 Q. You indicated you set up a meeting with Morgan
4 for November 7th for her to be there, correct?

5 A. Correct.

6 Q. She didn't show?

7 A. That's correct.

8 Q. In fact, multiple times she didn't show up for
9 meetings?

10 A. Correct.

11 Q. Is it fair to say it sounds like she didn't
12 really want to talk to you?

13 A. I'm not sure.

14 Q. That could be one interpretation of not
15 showing up for a meeting with someone?

16 A. One interpretation, yes.

17 Q. Ms. Rhoades asked you questions about at no
18 point during a phone call or text from Mr. Savage did she
19 indicate she lied at preliminary hearing. Do you remember
20 those questions?

21 A. I do.

22 Q. At no point prior to those text messages or
23 phone calls had the State offered her immunity and freedom
24 from perjury prosecution, correct?

25 A. Right.

1 Q. Then you indicated that a material witness
2 warrant was issued, remember that?

3 A. Yes.

4 Q. But the material witness warrant was issued,
5 but had Morgan actually told you she wasn't coming to
6 court?

7 A. No.

8 Q. Let's talk a little about this conversation
9 you had with Ms. Savage in the Detention Center. I'll
10 show you State's Exhibit 117.

11 You testified that it shows here two people visited
12 Ms. Savage at 7:30 p.m., correct?

13 A. Correct.

14 Q. Would you agree with me it just shows your
15 visit?

16 A. That it does.

17 Q. Prior you testified you had two other people
18 with you?

19 A. Correct.

20 Q. Why are they not listed here?

21 A. I'm assuming because they were new to getting
22 into CCDC -- Clark County Detention Center -- the
23 correction officer post that does the check in for the
24 facility set them up with their own Itag. An Itag is
25 identification to get them into Clark County Detention

1 Center. Therefore, I think they just put that under my
2 name while they were filing out the Itag on both
3 Ms. Caroline Cambell and Sonia (inaudible).

4 Q. Would you agree the jail probably keeps
5 records of who visits inside the jail for liability
6 reasons?

7 A. I believe so, yes.

8 Q. So it probably stands to reason that they
9 would keep fairly detailed records?

10 A. Correct.

11 Q. When you go in to these visits you go into the
12 jail?

13 A. Correct.

14 Q. When you go to, what we call post 10, which is
15 where you check in to do your visit, they are typing on
16 the computer?

17 A. Correct.

18 Q. You indicated your visit lasted about 10
19 minutes?

20 A. Correct.

21 Q. You'd agree with me this seems to suggest your
22 visit lasted half an hour?

23 A. From the time they checked me in to the time I
24 went upstairs to the 6th floor to meet with her. I waited
25 probably 20 minutes inside the holding interview room

1 before she is brought to me, yes.

2 Q. So what you are saying is the time listed here
3 for the visit could be much less then what's listed
4 there?

5 A. Correct.

6 Q. So this visit you talked about with Ms.
7 Rhoades that looks like it could be half an hour, it could
8 be less then that?

9 A. It could be.

10 Q. All right. Did you record that meeting you
11 had with Ms. Savage on the 20th?

12 A. I did not.

13 Q. You didn't take a recording device?

14 A. Correct.

15 Q. Did you take notes?

16 A. No.

17 MS. MCNEILL: Nothing further.

18 THE COURT: Ms. Rhoades.

19 REDIRECT EXAMINATION

20 BY MS. RHOADES:

21 Q. In your knowledge as law enforcement is it
22 your understanding that the State is the one that grants
23 immunity if it's ever granted?

24 A. Yes.

25 Q. Does the defense grant immunity? Have you

1 ever seen that?

2 A. No, I have not.

3 Q. Did Morgan in any of your conversations or
4 meetings or anything ever ask about punishment that
5 Mr. Honea was facing?

6 A. Never.

7 MS. RHOADES: Nothing further.

8 THE COURT: Ms. McNeill.

9 RECROSS-EXAMINATION

10 BY MS. MCNEILL:

11 Q. You have no way of knowing that for sure
12 because those weren't recorded or written down?

13 A. Correct.

14 MS. MCNEILL: Nothing further.

15 MS. RHOADES: Nothing further.

16 THE COURT: Let me see by a show of hands if the
17 jurors have any question for this witness. Seeing none,
18 Mr. Gross, you are excused.

19 May I see counsel at the bench for scheduling.

20 (Discussion held at the bench.)

21 THE COURT: So I want to confirm with counsel we
22 are going to recess just lightly early today with jurors.
23 We do have a matter we'll be addressing that we don't need
24 your presence for so there's no need to keep you longer
25 then we have to. We are going to return tomorrow at 1:00

1 o'clock, as we had done the last two days to resume the
2 trial. We appreciate your time and patience as we have a
3 little bit of a late start, but we'll be starting on time.

4 JURY ADMONITION

5 During the recess, ladies and gentlemen, you are
6 admonished not to converse among yourselves or with anyone
7 else, including, without limitation, the lawyers, parties
8 and witnesses, on any subject connected with this trial,
9 or any other case referred to during it, or read, watch,
10 or listen to any report of or commentary on the trial, or
11 any person connected with this trial, or any such other
12 case by any medium of information including, without
13 limitation, newspapers, television, internet or radio.

14 You are further admonished not to form or express any
15 opinion on any subject connected with this trial until the
16 case is finally submitted to you.

17 We're going to proceed with a brief hearing. We have
18 a witness. Can you identify his full name again.

19 MS. KOLLINS: Franco Cardejos-Orduno.

20 THE COURT: I have been unable to keep track as
21 well. We'll call Franco Orduno for purposes of this
22 discussion.

23 There has been testimony in this trial that would
24 potentially implicate criminal charges as to the
25 activities of Mr. Cardejos-Orduno related to the facts and

1 circumstances of this case. We previously had a witness
2 who similar situation possible perjury testimony being
3 elicited, or testimony that would implicate possible prior
4 perjury charges and other charges. The other witness we
5 appointed counsel for that witness, then through the
6 course of the trial it came up that it's possible that we
7 need someone to be present to ensure that rights are
8 protected for this other witness.

9 I don't really want to -- I'd rather have counsel, if
10 need be, proffer up what this hearing might entail where
11 concerns are. Suffice it to say, the State has indicated
12 that they do not believe the facts and circumstances will
13 reveal any potential criminal charges. The defense has
14 countered and believes the facts and circumstances would
15 reveal and implicate possible criminal charges in
16 question. So we kind of want you to be here to hear the
17 proffer and to the extent that that could occur we wanted
18 Mr. Cardejos-Orduno to have representation.

19 That's a thumb nail sketch I can give you. Maybe at
20 this time have a seat in the jury box.

21 We'll contact Drew Christiansen's office and
22 advise him you should be compensated hourly for your
23 representations here, since you are not one of our typical
24 track counsel, but we weren't able to can tact
25 Mr. Ruggeroli in a timely fashion.

1 Ms. Rhoades, you are the one to speak to the bench
2 conference we had leading into this discussion that you
3 had indicated either you or Ms. Kollins, whoever wishes
4 to, to indicate what the circumstances are with regard to
5 testimony of Franco -- for purposes of this discussion --
6 and why you believe there is not a circumstance. If we
7 need to bring Franco in for this we can do so. I just
8 want to lay the ground work.

9 MS. RHOADES: It's my understanding that the
10 relationship between he an Morgan was when Franco was 17
11 and she was 14. One, that would make him a juvenile as
12 Ms. Kollins said. That's not -- the age difference
13 doesn't work out there. There's a 4 year age difference
14 necessary for statutory sexual sex seduction. So he
15 wouldn't be liability for criminal charges. Especially
16 adult criminal court, because he is a juvenile.

17 THE COURT: Ms. McNeill made the point that
18 their office has represented individuals, or she has in
19 the past represented juveniles who were charged with sex
20 crimes. As more of a general statement. Are you
21 indicating to me the sheer difference in age belies any
22 possibility of charge.

23 MS. RHOADES: That's correct.

24 THE COURT: The other issue was testimony from
25 Ms. Savage about Franco having taken or received -- I

1 don't want to misspeak -- one or more nude pictures of her
2 when she was underage. Then it coming to her attention he
3 disseminated those to members of the football team or
4 other individuals so that he could be implicated to
5 charges similar to what Mr. Honea is facing in this case
6 related to that activity.

7 There was some discussion about his age and
8 understanding the circumstances and time.

9 MS. RHOADES: I believe he was still 17. One,
10 there's no proof he disseminated those. Morgan did say,
11 and I believe he will say as well, she did send naked
12 pictures of herself. Possession of those pictures, but
13 that was when he was 17 years old and a juvenile.

14 THE COURT: The hearing that we could have with
15 Franco could elicit clarification.

16 I want to give defense the opportunity to respond to
17 those two issues as to potential criminal aspects. Then
18 the State has not been asked or offered whether there is
19 any consideration for any immunity for Franco. I know
20 that that came up on the fly in discussion with Ms. Savage
21 when the perjury issue was raised, but -- so I just want
22 to say we have not had that discussion yet.

23 MR. MACARTHUR: Thank you.

24 I'll address the easier issue first. I encourage
25 the State to review Mr. Orduno's voluntarily statement.

1 He indicates his date of birth is October 3, 1996. You'll
2 recall the testimony from Morgan Savage was that this was
3 his senior year and her freshman year. This is fall of
4 20 -- sorry, not -- fall of 2014. She said that the
5 relationship with him would have started sometime around
6 September. That they were sexually active. They broke up
7 in December was her recollection under oath.

8 Now, if his birthday was October 3rd of 1996 the
9 majority of their sexual relationship happened after he
10 turned 18, not 17.

11 THE COURT: What was her age at time, because it
12 appears to be -- well, one of the issues being the age
13 difference. The other issue is being an adult at time.

14 MR. MACARTHUR: Two things. Her date of birth
15 by all discovery and her own testimony is June 30th, 1999.
16 And that she had turned 14 the previous June. So in
17 October of 2014 she was 14, 2 years under the age of
18 consent. He was 18, and an adult. She testified to that
19 specifically.

20 With regard to the State's position on whether or not
21 there is any potential criminal liability, I will --

22 MS. KOLLINS: I guess I'm surprised by this.
23 They are taking this position on behalf of Mr. Franco now
24 but they filed a motion to try to get it in. There was no
25 concern about criminal responsibility when they trying to

1 get it in. My assumption is we are fighting about first
2 he has to get immunity now so they can get up here and
3 say, look, the State gave another witness immunity.

4 They tried to get the evidence in and now we're
5 fighting about the legitimacy of us not prosecuting him
6 when they proffered it.

7 THE COURT: Hold on. I'll give the same sort of
8 admonishment I gave -- the same response I gave before. I
9 don't want to deal with what's in counsel's head. I'm
10 sick of it. I'm done with it. Keep it to yourselves
11 whatever you think.

12 At the end of the day I'm the one who raised the
13 issue that I thought Franco potentially could be exposed
14 to something here and may need counsel. So clarification
15 on the issues is what we're looking for. I appreciate
16 concern about why things might be argued at any given
17 time, but at this point I just want to nail it down.

18 So at this point we do appear to have an age gap that
19 would potentially expose something. The other issue is --
20 you may want to finish that discussion then the other
21 issue against the photos.

22 MR. MACARTHUR: I was making a record. I didn't
23 want to interrupt Ms. Kollins after she --

24 THE COURT: What is your response. What do you
25 have to say.

1 MR. MACARTHUR: What was the other question from
2 the court. There were two issues you wanted me to
3 address.

4 THE COURT: The photos, I just said. And prior
5 to that you were making a final comment when I interrupted
6 to nip that in the bud, and I wanted your response. Do
7 you have anything else to say regarding the age difference
8 or anything to say on the photos.

9 MR. MACARTHUR: Ye.

10 Now, with regard to the age difference, I don't
11 think the State is correct that there is no potential
12 criminal liability there. I don't know if they are
13 describing a policy at their office in deciding who gets
14 prosecuted. I know from previous conversations with
15 Mr. Kollins and other people on the team that consent is
16 not a defense in their minds to a sexual assault because
17 the person being under the age of consent --

18 THE COURT: Are we talking about the photos or
19 the age.

20 MR. MACARTHUR: The age. I haven't moved to
21 photo yet.

22 The State's position has been heretofore that a
23 person under the age of 16 cannot consent. In fact one of
24 the central issues in this case was whether or not that
25 was true. We had a Supreme Court case that said that

1 consent is always relevant and it provides the potential
2 defense of statutory sexual seduction. I won't go too far
3 down that rabbit hole but there's a question as to which
4 it's a lesser included, lesser related.

5 The issue is even in the State's own jury
6 instructions it says that a person under the age of
7 consent cannot consent and therefore it's not a defense.
8 So with that said there was an adult relationship with an
9 underage child.

10 Moving forward to the photos. Even if the court were
11 to accept the rubric of the State that they are not
12 obligated to prosecute him or somehow he's not legally
13 liable, that same prescription does not apply to
14 possession of child pornography.

15 We had testimony from Detective Ramirez, and I went
16 back and forth with him a little bit, and I said is it
17 legal for a minor to take naked photos of themselves and
18 he said it was. I don't believe it is. But regardless of
19 which one of us is right, it's certainly a problem and is
20 regularly prosecuted, even down in juvenile court, that
21 when one child -- I think the one that made the paper was
22 11 years old. She got a dick pic from a boy who liked her
23 that I think was 12.

24 Having seen this dick pic, said I can believe this
25 guy sent this to me and sent it to a friend. Now, the boy

1 was not prosecuted because it is his own penis and took it
2 himself. The girl, she's not responsible for who sends
3 her what she gets. So she says to a friend I can believe
4 this guy did this, sends it to her and they prosecuted the
5 middle girl for possession of child pornography. There
6 was litigation on that and the PDs unsuccessfully argued
7 she was a member of protected class. The purpose of child
8 pornography statutes prevents children from being
9 exploited sexually and he should be prosecuted. It went
10 all the way to the Supreme Court and I was disappointed in
11 the outcome, but the outcome is she should be prosecuted
12 ultimately as a misdemeanor.

13 All of that is to say this. This individual
14 regardless of what age he was, whether he was 18 or 17,
15 which I don't think is really in dispute, within 4 years,
16 was in possession of naked photos of Morgan and Morgan
17 testified under oath the reason why she changed schools is
18 because Franco distributed those photos to other members
19 of the football team. She was embarrassed. And that's
20 why she left.

21 Now that she has testified to that under oath, I
22 heard the State say there is no proof of that. But we all
23 know the testimony in and of itself is proof. If Morgan
24 had been the only witness presented by the State and she
25 said Josh did all of these things, if they believe that

1 beyond a reasonable doubt, that's grounds for a finding of
2 guilt. That is no less true when Morgan says testimony
3 about Franco Orduno. It may not have been her intention
4 to put him in harms way, but he is very much in harms way.
5 And that's the reason why Ms. Kollins called us here.

6 MS. MCNEILL: Can I just -- I was going to add
7 when they say there's no proof other than Morgan's
8 testimony, that same argument can be made as far as Mr.
9 Honea. There's no proof he had these photos. They say
10 her saying that there was photos is enough, so I would --

11 THE COURT: I appreciate you want to make a
12 record, but let's wrap up about the potential exposure to
13 Franco.

14 MS. RHOADES: Thank you.

15 The date is 2013. That's when Morgan went into
16 9th grade. If she said it incorrectly, that's their
17 relationship. That first semester in 9th grade before she
18 transferred to Desert Oasis, which would be 2013 to '17
19 making him not liable for criminal charges -- adult
20 criminal charges.

21 THE COURT: On either case.

22 MS. RHOADES: Right.

23 MR. MACARTHUR: Judge, that is not the
24 testimony. Nor is that true. We have the discovery.

25 MS. MCNEILL: juvenile are prosecuted all the

1 time for sex crimes. I don't understand them saying
2 because he's not of age. There are juveniles -- Mr.
3 MacArthur has represented them.

4 MR. MACARTHUR: Mr. Orduno's own testimony is
5 that she was 14 and I was 17. Both of them agree that he
6 was a senior and that she was a freshman. He testified to
7 that under oath. He said that in his voluntary statement.
8 The reason I know that this is true, is because I can
9 corroborate it by when he graduated. He graduated June of
10 2015. They broke up in December of 2014. And they had
11 the alleged conversation where Josh is playing the radio
12 at about December 2014.

13 The State has a right to believe whatever theory it
14 wants to, but this is something that can be looked into by
15 the court. It's documented. There are school records
16 that have dates of birth. There are voluntary
17 statements.

18 THE COURT: Ms. Kollins.

19 MS. KOLLINS: There is no pending investigation
20 into Franco. There is no submission regarding Franco. We
21 are not prosecuting him. Again, we will if the court
22 feels necessary and Franco feels necessary we will give
23 him immunity. We are not prosecuting him. I know that
24 leaves us, again, with the argument in front of the jury,
25 well, we had to grant two people immunity. There's

1 nothing I can do about that. I disagree with the time
2 line. The best thing to do is get Franco in here and make
3 sure we are not relying on something that's
4 mistranscribed.

5 We have Morgan a freshman going into Desert Oasis and
6 him turning 17 on October 3rd, 2013. So if that's
7 incorrect we'll find out.

8 THE COURT: We have Franco here. Let's nail this
9 down.

10 THE CLERK: You do solemnly swear the testimony
11 you are about to give in this action shall be the truth,
12 the whole truth, and nothing but the truth, so help you
13 God.

14 THE WITNESS: Yes.

15 THE CLERK: State and spell you name for the
16 record.

17 THE WITNESS: Franco Cardrejos, F-r-a-n-c-o,
18 C-a-r-d-e-j-o-s.

19 THE COURT: Can we call you Franco, please.

20 THE WITNESS: Fine.

21 THE COURT: we don't have the jurors present.
22 We are conducting a brief evidentiary hearing in State of
23 Nevada vs. Joshua Honea. We have counsel for the State
24 present and counsel for the defendant and Mr. Honea. We
25 also have present here in jury box to your left an

1 attorney by the name of Ron Colquitt. The court has
2 appointed Mr. Colquitt to be here to represent you in
3 purposes of any foundation in this case to the extent
4 there would be any questions that may come in and indicate
5 information that could potentially subject you to having a
6 concern about your answers and/or possibilities of
7 criminal prosecution for the answers you give.

8 I want to limit the inquiry and nail down time frames
9 as best you can to your recollection.

10 THE WITNESS: Yes, ma'am.

11 THE COURT: You may proceed, Ms. Rhoades.

12 BY MS. RHOADES:

13 Q. How old are you right now?

14 A. 21 years old.

15 Q. When did you turn 21?

16 A. October 3rd.

17 Q. Of?

18 A. 2017.

19 Q. Where did you go to high school?

20 A. First went to high school at Liberty. Then I
21 transferred to Desert Oasis and finished up.

22 Q. How many years did you go to Desert Oasis?

23 A. 3 years. I started my sophomore year.

24 Q. Your sophomore, your junior, and your senior
25 year all at Desert Oasis?

1 A. Yes, ma'am.

2 Q. Do you know Morgan Savage?

3 A. I do.

4 Q. What year in school were you when you met
5 her?

6 A. What year in school?

7 Q. Yes.

8 A. I want to say it was close to my sophomore
9 year, almost to the end of it -- sophomore.

10 Q. How was it you met her?

11 A. In Spanish class.

12 Q. A the end of your sophomore year?

13 A. I believe so, yes. It's been a long time.

14 Q. Do you know what grade she was in?

15 A. She was a freshman.

16 Q. What year were you in your sophomore year?

17 A. I don't remember.

18 Q. What year did you graduate from high school?

19 A. 2015.

20 Q. June 2015 -- June 2015 to June 2013 that's the
21 end of your sophomore year, right?

22 A. Yes.

23 Q. Do you remember what year it was that you met
24 Morgan?

25 A. I don't. I want to say it was like '14 or

1 '13.

2 Q. I know it's been a long time. When you met
3 Morgan was she in 9th grade?

4 A. Yes.

5 Q. Are you aware that she started 9th grade
6 September 2013?

7 A. I wasn't aware of that, no. I just know she
8 was a freshman.

9 Q. I'm going to put this up there. It's an age
10 chart. This is age chart for Morgan Savage. This is her
11 birthday, her age, and what grade she was in. Okay?

12 A. Okay.

13 Q. So 9th grade, that's when you met her. She
14 was 14 years old. She had just turned 14 June 30, 2013.
15 Does that sound right?

16 A. Yes. That sounds correct.

17 Q. So when you met her, she was 14 years old,
18 right?

19 A. Yes.

20 Q. How old were you when you met her?

21 A. I was 17.

22 Q. Did you date her?

23 A. Yep.

24 Q. From what month to what month did you date
25 her?

1 THE COURT: They are asking about dating. We're
2 not getting the time frame to understand the time frame.

3 MR. MACARTHUR: I think these questions are
4 poor. It's not my job, but there's a way to establish
5 dates without getting into facts about his relationship
6 with Morgan.

7 MR. COLQUITT: I haven't had an opportunity to
8 talk to him. There are issues that you everybody has made
9 me aware of here, so the more we go into the relationships
10 that he had and the timing of those, if indeed
11 Mr. MacArthur is right his statements could be opening him
12 up, if we don't already have that offer from the State
13 that was discussed.

14 THE COURT: Would you like a moment to speak
15 with your client.

16 MR. MACARTHUR: I would ask for leave to
17 traverse. The sole purpose of the time line, without any
18 details that would impact the Defendant -- or the witness
19 or --

20 MR. COLQUITT: As long as we stay out of the
21 relationship. We start getting into the relationship and
22 what the nature of that relationship was, again, him and
23 this young lady that's where I have to agree with
24 Mr. MacArthur.

25 THE COURT: Ms. Rhoades, your indulgence to see

1 if Mr. MacArthur's brief questions to traverse on just the
2 time line to clear things up before we go further into
3 that line of inquiry.

4 BY MR. MACARTHUR:

5 Q. You Graduated in 2015?

6 A. Yes.

7 Q. From Desert Oasis?

8 A. Yes.

9 Q. How old were you when you graduated?

10 A. I want to say 18 -- 18-and-a-half, turning
11 19.

12 Q. You turned 19 after you graduated?

13 A. Yes.

14 Q. Would you have graduated in June 2015?

15 A. Yes.

16 Q. So your senior year would have been from 2014,
17 through 2015?

18 A. Yes.

19 Q. And so do you remember giving a voluntary
20 statement to personnel from the Las Vegas Metropolitan
21 Police Department?

22 A. Yep.

23 Q. Did you tell them that same information?

24 A. It's been a very long time. I haven't had an
25 opportunity to look at anything. I've been waiting in that

1 room for about 4-and-a-half hours. So, yeah.

2 MS. KOLLINS: Why don't we show it to him.

3 MR. MACARTHUR: I'm tot trying to get
4 impeachment material.

5 THE COURT: Show him so it refreshes his
6 recollection, since he indicated he hadn't seen it.

7 MR. MACARTHUR: I'm asking the questions the
8 State should have asked.

9 THE COURT: When you are done reading it to
10 yourself put the document down. We appreciate it.

11 Are you able to say this is your voluntary
12 statement.

13 THE WITNESS: This is mine.

14 BY MR. MACARTHUR:

15 Q. You told me your date of birth?

16 A. Yes.

17 Q. It's October 3rd, 1996?

18 A. Yes.

19 Q. So adding 18 to that you turned 18 on October
20 3rd, 2014, correct?

21 A. When I was with Morgan?

22 Q. I'm not asking you when you were with Morgan.
23 I'm asking when you turned 18 that that was your senior
24 year and that you turned 18 on October 3rd of 2014?

25 A. My senior year, yeah.

1 Q. Okay, because 96 plus 18 -- 2014, right?

2 A. Yes.

3 Q. You wouldn't disagree with that?

4 A. No.

5 THE COURT: Can we do this. Franco, can you
6 step out back to the room. I promise we won't leave you
7 in there for 4 hours. Just bear with us. We need to
8 discuss something with counsel while you're not present.

9 THE WITNESS: Thank you.

10 THE COURT: I'll be the first to admit my math
11 is terrible. Now I have written down this information,
12 tell me if I'm wrong.

13 In 2013, when Morgan was 14 and went into the
14 9th grade, Franco started that year at age 16, then turned
15 17 in October of that year. Because he was 16, turned 17
16 in 2013 when he -- whatever contact or communication he
17 had with Morgan is at play.

18 MR. MACARTHUR: That is incorrect because of the
19 shaking the head by the State when they made the first
20 representation to you. I didn't want to interrupt but the
21 problem here is people doing math.

22 THE COURT: I just did it myself. So it's my
23 math. You tell me. In the fall of 2015, he was 18 and
24 turned 19. Appears he graduated when he was 18. So if we
25 go back to 2014, he started that year at 17, and in

1 October he turned 18 to complete that year.

2 If you go back to 2013, he started that year at 16
3 and turned 17.

4 MR. MACARTHUR: That would be true, but the
5 problem is Judge there's no reason to go back to 2013.
6 His relationship with Morgan was in 2014 in his senior
7 year.

8 THE COURT: That's not on the chart. The chart
9 says in 2013 she turned 14, and she went into the 9th
10 grade. I'm just looking at the chart and matching up to
11 my notes. That means she is 14. He was 16, turned 17.
12 That's the end of the information that.

13 MR. MACARTHUR: I'm frustrated because this is a
14 problematic chart since the State introduced it. It's not
15 that it's incorrect. In fact, nobody even knows how to
16 read it. I would encourage the court to abandon it and
17 just use a calculator.

18 Morgan Savage's date of birth is June 30 of '99.
19 What I want the court to do is just add 14 to that.

20 THE COURT: What's wrong with the chart. We
21 already identified it.

22 MR. MACARTHUR: In order to use the chart you
23 have to understand that the number in the middle is the
24 age that a person turned as they went into that grade.

25 THE COURT: That's what I just said.

1 MR. MACARTHUR: She starts 9th grade at 14. And
2 she stays 14 throughout all of the 9th grade, until she
3 graduates at which point she turns 15. So in her 9th
4 grade year she is 14 for the entire year. Whereas Franco
5 is 17 when they start dating, and then he turned 18 --

6 THE COURT: 16 and he turned 17, Mr. MacAuthur.
7 That's his testimony. He just gave it.

8 MR. MACARTHUR: Her testimony was she was a
9 freshman when they dated and that he was a senior. If
10 that is not correct, just set me straight. But if she was
11 14, by her testimony, and that was 9th grade, and he
12 acknowledges she was a freshman and his testimony was I
13 was a senior and he was 17 turning 18, then all signs
14 point to he was 18 she was 14.

15 THE COURT: You just said it yourself, it's not
16 about anything other then let's do the math.

17 We just elicited testimony from Franco that he
18 graduated at the age of -- in 2015, he was 18. He
19 graduated and then turned 19. Maybe I've written it down
20 wrong.

21 MS. KOLLINS: Sometimes if you start with the
22 birthday at zero and go all the way through the year -- I
23 do that all the time with my kids to get the number.

24 So Franco turned 18 the fall of his senior year,
25 which means he would have been 18 when he graduated. He

1 has that short month or two months in the beginning of the
2 year when he is still the prior age.

3 THE COURT: Which makes 2013, Morgan's freshman
4 year he's 16 turning 17. Here's the deal. I got to let
5 Mr. Colquitt go. I'm done with Franco for the day. Let's
6 excuse Franco. I'm done with this discussion for today.
7 I'll go back and do my math. You go back and do your
8 math. We'll come back tomorrow and figure this out. I
9 can't do it now. There is no use of all have us getting
10 frustrated. I'm done with this discussion.

11 Mr. Colquitt, thank you for being here.

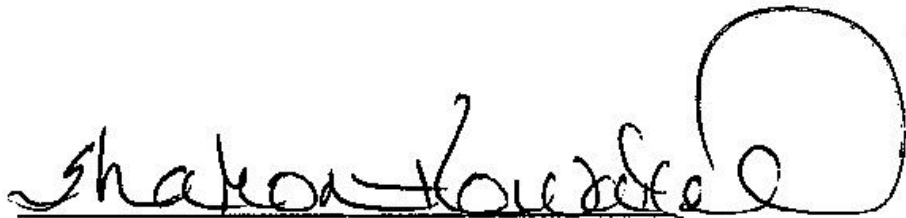
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CERTIFICATE
OF
CERTIFIED COURT REPORTER

* * * * *

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

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

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

Sharon Howard
C.C.R. #745

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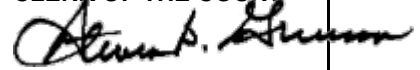
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CASE NO. C-15-309548-1
DEPT. NO. 25

DISTRICT COURT
CLARK COUNTY, NEVADA

* * * * *

THE STATE OF NEVADA,)
)
Plaintiff,)
)
vs.)
)
JOSHUA HONEA,)
)
Defendant.)
_____)

REPORTER'S TRANSCRIPT
OF
JURY TRIAL

BEFORE THE HONORABLE KATHLEEN DELANEY
DISTRICT COURT JUDGE

DATED: WEDNESDAY, DECEMBER 13, 2017

REPORTED BY: SHARON HOWARD, C.C.R. NO. 745

1 APPEARANCES:

2 For the State:

STACEY KOLLINS, ESQ.

3 KRISTINA RHOADES, ESQ.

4
5 For the Defendant:

MONIQUE MCNEILL, ESQ.

6 JONATHAN MACARTHUR, ESQ.

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1 LAS VEGAS, NEVADA; WEDNESDAY, DECEMBER 13, 2017

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

3 * * * * *

4
5 THE COURT: I wanted to start a little early
6 before -- the jurors are not present of course -- start
7 early to see if we could complete a discussion and sort of
8 figure out the playing field for calling Mr. Orduno to the
9 stand.

10 I do want to acknowledge Mr. Mr. MacArthur's
11 communication last night in which he calculated the age
12 difference between Franco and Morgan based on their known
13 dates of birth and then compilation in terms of
14 information about what age they might have been at certain
15 time frames, what testimony has been.

16 The thing I would comment related to the testimony as
17 to when the relationship between them has alleged to have
18 occurred does seem to be consistent from both that it was
19 when Morgan was a freshman. So even though there is some
20 perhaps difference in terms of their testimony as to what
21 year of school Franco was in, there doesn't seem to be any
22 dispute it was when Morgan was a freshman.

23 Anyway, the analysis thereafter that Mr. MacArthur
24 included with regard to his amenability, if you will, to
25 charges not being amendable to the statutory sexual

1 seduction which was the discussion we had yesterday, but
2 arguing he could be amendable to sexual assault with a
3 minor under the age of 16, depending on -- well, maybe not
4 depending on any circumstances. There is no discussion
5 about whether the age of the individuals matter only the
6 difference in age appears to make him amendable there.
7 There's not detailed discussion but some reference to a
8 belied he could also be to the extent the evidence would
9 support that amendable to the charge of possession of
10 child pornography.

11 Do you want-- to you don'ts have to go back over in
12 the document you provided. I intended to make it a court
13 exhibit because it was circulated among counsel and was
14 part of the discussion here today. I'll make that next in
15 line.

16 Is there anything I missed in my cover of that for
17 purposes of the discussion now.

18 MR. MACARTHUR: I don't think so, Judge. I want
19 to say for the record I agree with the court's analysis
20 that there was consistence with the fact that Morgan was a
21 freshman and based on my own calculation and math instead
22 of testimony when Morgan was a freshman Franco would have
23 been a junior not a senior. He would have been 17 at the
24 critical time. I chose November 13 and 14. The reason
25 why is his birthday is in October. And we know the

1 relationship went from sometime before October to sometime
2 after November.

3 So in all the scenarios, both the State and the
4 defense version, November of a given year would be the
5 critical time. I would concede that he was 17 when Morgan
6 was 14. And that he was 18 when Morgan was 15. As such
7 the State was correct that he could not be prosecuted for
8 essentially consensual sexual contact, under the theory of
9 sexual -- statutory sexual seduction because they are
10 within 4 years of each other.

11 However, as the court is aware the State has had
12 discretion to be able to charge someone who's under 15 --
13 should I say charge a perpetrator who has sexual
14 penetration with an individual under the age of 16,
15 because that's the age of legal consent and it can be
16 argued by the evidence that they could not consent or did
17 not really understand, which is the theory that's being
18 prosecuted against Josh, that he could be subject to
19 that.

20 There is a two year limitation there. That is not a
21 problem as Franco is more than 2 years older. However,
22 really the bigger issue is not the age or the nature of
23 consensual sexual contact. Really the issue is that
24 Morgan made clear in her testimony under oath that either
25 she gave or Franco acquired pictures of her naked and then

1 distributed them to other members of the football team at
2 Oasis High School, which compelled her to change
3 schools.

4 Because that is now a thing and Mr. Orduno in his
5 involuntary statement -- he hasn't given any sworn
6 testimony -- but in his involuntary statement acknowledged
7 that that was true, it opens him up to legal liability,
8 and that's the reason why Mr. Colquitt is here.

9 I might also add that I believe Mr. Rasmussen just
10 came in. He said he represents Mr. Franco. I don't know
11 if that's the case or not, but certainly after we're done
12 with this analysis I will have one additional question as
13 to whether he has a criminal conviction or preexisting
14 relationship with Mr. Rasmussen. With that I don't think
15 there is anything the defense needs to add.

16 THE COURT: Where is Mr. Rasmussen now.

17 MR. COLQUITT: To the extent there is
18 allegations there's prior criminal stuff, that is not the
19 case. Mr. Rasmussen knows Franco's parents. Has known
20 them for quite some time.

21 THE COURT: Mr. Rasmussen, I didn't realize you
22 were here or I would have had you present for the initial
23 discussion here. We appointed Mr. Colquitt yesterday
24 because we did have Mr. Orduno -- of reference here -- we
25 had Franco present yesterday. There was a little bit of

1 questioning just about trying to nail down his age and his
2 date of graduation and how that related to the alleged
3 victim in this case. We did that. We didn't go into any
4 other discussions. I had Mr. Colquitt come back today
5 because I advised Mr. Orduno we were appointing
6 Mr. Colquitt to represent him at the State's expense to
7 the extent he was going to be a witness here today and the
8 questioning might implicate something as far as any
9 potential criminal liability he might have.

10 So we have gone all over that yesterday and just now,
11 and I had no idea you were here.

12 MR. RASMUSSEN: I can tell you the mother and me
13 grew up in town together. She called me last night
14 crying, her son was there and told -- she felt like he was
15 threatened to be prosecuted and she was very concerned
16 about that. I told her let me find out what's going on.
17 I'm here today pro bono to trying to figure out if there
18 is criminal liability in his fault in this case. He told
19 me some stuff in confidence that could create some
20 criminal liability on his part, so we have concerns about
21 that. It's something I want to talk to the State before
22 he gets up there and says some things that could expose
23 him.

24 THE COURT: As I said, we had counsel here
25 yesterday to protect his interest. Franco knows it

1 because we introduced them. He was sitting right there.
2 I also told Franco that he was being appointed at State's
3 expense to represent him. I'm not having any problem with
4 his mother contacting you. I'm not understanding the
5 hysteria over this in light of the conversation we had
6 yesterday.

7 Inclusive of some discussion, not a final
8 determination, but some discussion up to the extent that
9 the questioning could implicate criminal liability on his
10 part that the State was looking to provide immunity. So
11 we've had all of that discussion already. I don't know
12 that didn't translate from him to his mother to you, but
13 it is what it is.

14 Right now the discussion is that of the -- if the
15 testimony that has been he elicited so far in this trial
16 and if Franco's testimony is consistent with his voluntary
17 statement given previously, that he would potentially be
18 implicated in the possibility of one or more crimes. The
19 State may very well put this to bed depending on what
20 remarks are now, but we had that discussion in terms of
21 things he's not amenable to and things he's potentially
22 amendable to. We'll complete that discussion while you're
23 here.

24 Let's hear from the State.

25 MS. RHOADES: Your Honor, with regard to the

1 child pornography, there is a 3 year statute of
2 limitations on that. There is no possible way he can be
3 prosecuted for that in any way.

4 With regard to sexual assault, the State is not going
5 to ask did you have sex with Morgan, what kind of sex did
6 you have with Morgan and things of that nature. It's --
7 they want to ask that, they've done the motion. I don't
8 know if that's been ruled upon, but that is if the defense
9 is going ask did you have sex with Morgan, when did you
10 have sex with Morgan and backing us into a corner.

11 THE COURT: Regardless of who asks it, my
12 understanding is there would be questioning of Mr. Orduno
13 about a relationship that he is purported to have had with
14 Morgan Savage and the nature of it and the circumstances
15 of it. So assuming that that questioning is going to
16 occur, I don't believe we have ruled on that outstanding
17 issue that came up.

18 MS. MCNEILL: It did. The State conceded that
19 they opened the door to that. They already presented
20 evidence that Morgan admitted they had sex. It come in
21 multiple times. But we said we are not going to use that
22 to argue prior knowledge. But it's a fact that's come in
23 and we get to use that fact.

24 Additionally, we are going to cross-examine him about
25 that. We have the right to. But as officers of the court

1 we can't put a witness on the stand to incriminate them,
2 but we can't be kept from cross-examining him as well. It
3 puts us in a position where we are also duty bound and
4 ethical bounds to protect his rights.

5 THE COURT: Any reason to dispute the State's
6 representation that the possession of child pornography,
7 that the statute of limitations has run on that from
8 everything we understand when and if Mr. Orduno may have
9 shared one or more photos of Morgan with his high school
10 classmates.

11 MR. RASMUSSEN: I would be concerned about
12 federal prosecution. I know it's been years ago but there
13 is potential exposure. I don't want him talking about
14 pictures he took.

15 THE COURT: We need to have a two-fold
16 understanding here. Shall I release Mr. Colquitt because
17 you have been retained by Mr. Orduno.

18 MR. RASMUSSEN: Yes, your Honor.

19 THE COURT: So Mr. Colquitt, we thank you for
20 your service. Make sure you let Mr. Christiansen's office
21 know, if you wish to submit a bill on that. Thank you
22 again for your time.

23 Mr. Rasmussen, as we proceed then, is it the
24 intention of the State to call Mr. Orduno as the first
25 witness this afternoon. I have jurors standing out there

1 waiting. I would like to get started.

2 Ms. Kollins anything further to add.

3 MS. KOLLINS: I guess just this. So they filed
4 a motion to get the sex in with Franco as prior basis of
5 knowledge. Ms. McNeill said we are not using it for that.
6 The State opened the door. We have the right to
7 cross-examine on that. Let's think that through to the
8 logical conclusion and we'll accept that as true. What is
9 the relevant admissibility at this point. What is the
10 relevant admissibility.

11 It's not for prior knowledge. Prior knowledge is
12 what you use to pierce rape shield. So if it's not being
13 offered for prior knowledge what is it being offered for.
14 That Morgan had sex, so he had knowledge of sex.

15 MS. MCNEILL: I can answer that one. I didn't
16 piece the rape shield, they did. They brought it in. Now
17 it's in. The rape shield, we didn't do that.

18 We asked for it for the purpose it went to the
19 defense we had at that time. We no longer have that
20 defense. I can tell you what it's relevant towards.

21 It has nothing to do with Morgan. Everything to do
22 with the fact that the police selectively chose who they
23 were prosecuting for having underage sex or nude pictures
24 of Morgan. It goes to his bias and motive to testify as
25 well as what we've argued as malicious prosecution of

1 Mr. Honea.

2 THE COURT: How does it go to Franco's potential
3 bias to testify.

4 MS. MCNEILL: If he knew that he was possibly
5 looking at charges -- he knew why they were talking to
6 him. They told him it was a sex assault. So what he
7 chose to tell them and what -- I think we can impeach him
8 with the statements made that made it sound like he didn't
9 do anything wrong. That goes to why he'd say those
10 things.

11 It goes to bias and motive of police officers. And
12 it's already come in. They act like we're going to be
13 introducing it. It's come in multiple times. It's
14 through the video they played of Morgan before the trial
15 even began. And it came in from Morgan's own testimony.
16 We didn't pierce rape shield. It's done. So now that
17 that fact has been introduced into evidence, they can't
18 tell us we can't use it. But I think it is relevant to
19 talk to Mr. Orduno about these are things you admitted
20 doing and were you arrested. No, you weren't arrested.

21 THE COURT: Ms. Kollins, anything further before
22 I go back to Mr. Rasmussen.

23 MS. KOLLINS: So under their position that his
24 voluntary statement to Metro is a statement against
25 interest. Is that what I'm hearing. Is that the position

1 we are taking.

2 THE COURT: I'm hearing a couple of different
3 bases upon which they believe they have the right to
4 cross-examination of him on these subjects, without
5 necessarily the need to create a basis. But I've heard
6 the basis being bias, motive to testify. I have heard
7 supposedly that could be a basis and ultimately to their
8 theory of the case. And these are facts that are already
9 in evidence, not in their complete entirety but in
10 evidence already.

11 MS. KOLLINS: Trying to explain to him what
12 perimeters are of what we're discussing. He's not
13 familiar with the facts in the case. That's all.

14 THE COURT: I can do that, too.

15 I am sure he got information from Mr. Orduno.

16 Prior to the start of trial there was a motion
17 brought by defense to bring in -- be able to inquire of
18 the relationship between Mr. Orduno and Morgan Savage for
19 purposes of prior knowledge. And the court declined to
20 rule at that time holding, over for trial and Mr. Orduno
21 to be present for some inquiry.

22 Then, as things evolved in the trial there has been
23 testimony provided and evidence provided that they did in
24 fact have a sexual relationship when Morgan Savage was a
25 9th grader at the school they attended. There was some

1 confusion over whether or not Mr. Orduno was a junior or
2 senior at the time. What we have done is put that issue
3 to bed as far as the age difference. We know them to be 2
4 years 8 months. And that ultimately it appears through
5 the testimony that the relationship, whatever it was,
6 Franco has yet to testify to any details of that but to
7 gave a voluntary statement that it took place when she was
8 14 and he was 16 and 17.

9 However, so that eliminates any possibility of
10 prosecution for statutory sexual seduction. The statute
11 of limitations has run for the State as far as child
12 pornography. There is federal exposure. It doesn't
13 appear there is anybody who has any desire to do anything
14 to report anything here, however, you have to advocate
15 with your client for whatever you think is best for your
16 client, but the sex assault with a minor under the age of
17 16 does appear to be in play.

18 The reason we wanted counsel present, the reason we
19 brought counsel yesterday, the reason we had counsel come
20 back today and we're grateful you are going to sub in now,
21 what other information may benefit you to understand that
22 you're hoping to proceed with today. This would not be
23 the first individual who testified in trial who had to
24 have separate counsel present with them at the stand and
25 advising them how to testify.

1 MR. RASMUSSEN: I'm not sure about the date but
2 in 2015 this is when he first got involved with the police
3 department. They had contacted me then because I
4 represented his father in a civil case. So they told me
5 about the whole scenario with the police officer and the
6 conversation they had when they broke up.

7 I'm pretty familiar with the facts. I have told him
8 and I advise him he should assert the Fifth if there is
9 questions about photographs of sexual images or nudity.
10 I've told him and advise him he should assert the Fifth if
11 there is any questions related to whether he had any
12 sexual acts with the alleged victim in this case.

13 THE COURT: Okay.

14 Does the State have anything further to add in terms
15 of --

16 MS. RHOADES: Well, your Honor. I can't grant
17 anyone immunity for federal prosecution, so I guess
18 then --

19 THE COURT: With that understanding the federal
20 progresses and exposure would be to the photographs.

21 MS. RHOADES: That's my understanding of it. My
22 issue is I don't have a deep understanding of -- I don't
23 think they're going to prosecute for sexual assault. I
24 don't know if they'll prosecute when he was 17.

25 Also I don't know how that works. But if he

1 does come in here and not answer questions, then he is
2 unavailable and his statement is admissible.

3 MS. MCNEILL: We can't cross-examine him. Now
4 Mr. Honea is deprived off his Sixth Amendment right.
5 Putting him on the stand is problematic at this point. If
6 he starts answering questions on direct then invokes on
7 cross, there's case law that says you can't do that,
8 because now we can't cross-examine. If he depends to
9 invoke on cross, he's got to invoke on direct.

10 MS. RHOADES: I'm not saying that at all. If
11 he's invoking and not testifying he's unavailable as a
12 witness. Pursuant to statute his statement is
13 admissible.

14 MS. MCNEILL: It's testimonial. And we haven't
15 had a chance to cross-examine him.

16 THE COURT: Mr. Rasmussen, with the -- so the
17 State -- there was a brief discussion, again, I asked this
18 with no preconceived opinions on outcome. I've got to
19 bring it up because it came up yesterday. What is the
20 State's position today on the State's immunity to any
21 charges.

22 MS. RHOADES: I still don't believe that he is
23 liable for the sexual assault that happened when he was
24 17, if that was a sexual assault. I think consent is
25 still an element. Although under 16 you can't consent, so

1 there is no consent. Mr. Honea's relationship with Morgan
2 is different than Franco's relationship with Morgan.

3 I think those factors would be considered by
4 screening. I don't know how screening would do that.

5 THE COURT: I understand. I don't disagree with
6 anything you said. If there is no offer of immunity from
7 State prosecution at this time, that's fine. I'm not
8 asking for it. I'm just clarifying because there was some
9 discussion yesterday there would be consideration for
10 that. If that isn't available here -- I think that
11 ultimately will help Mr. Rasmussen have an understanding
12 of how to advise his client.

13 If the way the dust settles on this is there is no
14 danger of State prosecution and the only danger that
15 appears to exist in prosecution would be for the photos,
16 then maybe the advice is take the Fifth on the photos, but
17 not the rest of it.

18 I'm not saying that is what's going to happen. I'm
19 just throwing it out as a hypothetical scenario. To the
20 extent there is still exposure to the state prosecution on
21 both the relationship and the photos -- federal on the
22 photos not State -- State on the sex assault, then the
23 recommendation may be to take the Fifth on all of it.

24 MS. RHOADES: We can grant immunity for the
25 sexual assault. That's fine. In regards to anything when

1 he was 17.

2 THE COURT: If it's possible to proceed, where
3 Franco will testify to all the questions asked by the
4 State and the defense, other than photos, then if he wants
5 to take the Fifth on the photos we'll address how that
6 gets addressed, then I think we have less issues possibly
7 then has been raised as concerns here than if he is not
8 testifying to the relationship.

9 Does that change your position potentially.

10 MR. RASMUSSEN. Yes, if they'll grant immunity
11 he'll testify to the sexual aspects.

12 THE COURT: We know you're not going to but the
13 defense is and I'm trying to cover both bases.

14 THE COURT: So for the record, the State would
15 at this time grant immunity to Mr. Orduno as to any State
16 progresses for sexual assault, which is the only thing he
17 is amendable to, at the State level.

18 MS. KOLLINS: If we can have five minutes with
19 Mr. Rasmussen so he can talk to his client about his
20 testimony so he knows our purpose for having him here and
21 explain to his client everything, since he has not been
22 privilege to the trial.

23 5 minutes.

24 THE COURT: Okay. Let's take a brief recess.

25 (Brief recess taken.)

1 MS. KOLLINS: Thank you for the accommodation.
2 Mr. Rasmussen knows what we were doing. I guess the
3 State's only concern at this point is the perimeter of the
4 invocation.

5 Our intent is to ask him you have been given advice
6 by your lawyer not to speak about certain things and you
7 are not going to answer those questions on advice of your
8 attorney without invocation of your Fifth. So that is our
9 intent.

10 THE COURT: I don't have an issue of that. To
11 the extent there are questions that come from defense
12 Mr. Rasmussen advises or he is under advice to take the
13 Fifth Amendment protection, so be it. That will occur.
14 There may be some implication of his voluntary statement
15 and the circumstances therein.

16 I do want to address just let me now Ms. McNeill
17 before I hear from you. I know you stood up because you
18 want to say something. I do believe based on the
19 circumstances we find ourselves in now with regard to both
20 the testimony that is elicited in trial and the purpose of
21 the examination at this time that the Defendant's motion
22 to admit this evidence is moot and the court is not
23 required to rule on that motion.

24 We do understand, however, that based on this
25 additional concern of his invocation that that implicates

1 other aspects of his testimony and the possibility of his
2 voluntary statement being accessed for purposes of
3 testimony to which he does not give.

4 Is that what you wanted to speak to, Ms. McNeill.

5 MS. MCNEILL: I wanted to renew my concern that
6 putting him on and asking some questions then asking
7 questions to which he then I invokes, again, means we
8 can't cross-examine him. It doesn't protect him from us
9 cross-examining him about those questions. If they're
10 wanting to put him on and he's going to invoke to those
11 things he's not protected by that on cross. There is case
12 law to that that says that you cannot put a witness on,
13 have him invoke, and keep us from cross-examining him.
14 This is a quagmire.

15 THE COURT: We are already a half hour past
16 starting with our jurors. I really want to get started
17 and put this to bed.

18 I'm not aware of any case law that would prevent them
19 from putting this witness on. It doesn't appear they
20 intend to ask any questions that would cause him to
21 invoke. They are going to reference the fact that he
22 has -- just like they did with Morgan Savage. He's going
23 to have an attorney sitting there by his side who is here
24 for a purpose. It's possible there may be questions that
25 he declines to answer. If ultimately then on your exam

1 something occurs that he does not exam about, my
2 understanding is that the bulk of what you wanted to get
3 into was the relationship not the circumstances of the
4 pictures and the prosecution thereof. But I understand it
5 overlaps. I understand you are trying to make it tie into
6 your defense theory who they prosecuted and who they
7 didn't. But to the extent you're asking that question and
8 he invokes, your information is there once you've asked
9 the question. What he's invoked on, I'm not understanding
10 the case law that would prevent that scenario.

11 MS. MCNEILL: There is. It's Douglas vs.
12 Alabama and the Supreme Court -- of the United States --
13 talks about the concerns when a witness' Fifth Amendment
14 rights conflict with the Sixth Amendment rights. The
15 pictures are going to be substantial in cross-examination.
16 The position they're putting us in saying, okay, we're
17 putting in this and he's going to invoke about these, oh,
18 and then if he doesn't invoke you can't question about it.
19 We'll introduce the statement and now this is not a
20 problem we've caused. We have to represent Mr. Honea to
21 the best of our abilities, but I just have concerns -- and
22 yeah, he invokes, and I guess we can do that.

23 THE COURT: How do we reconcile that. Your
24 motion is moot. At this point it is I believe. How do we
25 reconcile that with you are the ones asking for this

1 witness to testify to these things. It may not change the
2 tenor of the circumstance, but we were still going to be
3 in this posture regardless. You're saying now had they
4 opened the door and you were to ask those questions we you
5 still couldn't or he wouldn't be allowed to invoke.

6 MS. MCNEILL: No. They're putting him into
7 having him invoke.

8 THE COURT: They had no tension of asking him
9 questions to need him to invoke. The totality of the
10 questioning is resulting in him invoking. You're putting
11 him on the stand for your purposes for the motion you
12 originally brought, which I have now declared moot.

13 MS. MCNEILL: But the difference is he was their
14 witness that they're going to put on who we were asking to
15 bring in certain evidence through that witness that they
16 intended to put on. They are the ones that prosecuted
17 this case. The remedy is not to use him as a witness.
18 I'm trying to make the record clear, so I've made that
19 record. Any issues that come up with cross, we'll deal
20 with him when we get to them. It's a quagmire at this
21 points. Now that our record is made, we can move on.

22 MR. MACARTHUR: I would like to briefly
23 supplement.

24 THE COURT: Why not.

25 MR. MACARTHUR: Thanks.

1 We were always going to cross-examine Franco
2 Orduno because he was the State's witness. We were always
3 aware of what was inside of the voluntary statement. What
4 has not been mentioned is that he not only acknowledges
5 that he was in possession of the nude photos that he had
6 sex with Morgan, but that that was the reason why she
7 changed schools. And as a separate issue the State said
8 in their opening and through other witnesses implied that
9 Joshua Honea was in some way in control of Morgan and
10 influenced her decisions making her move schools. We have
11 had that from several witnesses.

12 We were always going to cross-examine him on the
13 issue of, wait a minute, you know that's not why she
14 changed schools. She changed schools because of the issue
15 with the nude photos and them potentially being shared.

16 THE COURT: He might have taken the Fifth at
17 that time.

18 MR. MACARTHUR: Sure.

19 Because sex assault and child porn were
20 potential issues we know this would be impeachment
21 material. It would go directly to bias, motive to tell
22 the truth. We knew the State would be in a position where
23 they would have to choose one path or another. They'd
24 have to immunize him one way in order to get him to
25 testify or alternatively not use him.

1 THE COURT: They have given immunity. And they
2 don't intend to do that. It's been flagged because of a
3 statute of limitations, which I don't think anybody on
4 this planet thinks it will ever come into play, but it is
5 out there, that he's going to invoke on the pictures. We
6 are where we are.

7 MR. MACARTHUR: All right. As long as that's
8 known.

9 THE COURT: We have a full record made. Does
10 the State have anything else not argued.

11 MS. KOLLINS: Can we have a couple of minutes
12 discussion.

13 THE COURT: I really need to use the restroom.

14 (Brief recess taken.)

15 MS. KOLLINS: Thank you for the brief
16 intermission. We are not going to call Franco. We're not
17 putting that young man in a position. The evidence is
18 strong for us. There is enough things in this record that
19 causes concern already. I don't want an invocation in
20 front of the jury. They will stand up and argue that is
21 going happen. But that being said, my next witness is
22 scheduled at 2:30. I'm making an effort to get him here
23 as quick as I can. I guess I should have foreseen not
24 calling Franco, but I didn't.

25 THE COURT: I have no quibble with the evolution

1 of this witness and the circumstances we find ourselves
2 in. I'll thank Mr. Rasmussen for his time today. It
3 appears that that witness can be excused. We'll break the
4 juror2 until 1:15. Does take make sense.

5 (Brief recess taken.)

6 THE COURT: Thank you, ladies and gentlemen.
7 Resuming in the trial of State of Nevada vs. Joshua Honea.
8 Present is counsel for the State, counsel for defense, Mr.
9 Honea. The jurors are now presents with us. Thank you
10 for your patience while we adjusted the schedule of
11 witnesses today. I think the State has the next witness
12 available.

13 Ms. Kollins.

14 MS. KOLLINS: I do, your Honor. State would
15 call Officer Zach Marsh.

16 THE COURT: Come forward please and my clerk
17 will swear you in.

18 THE CLERK: You do solemnly swear the testimony
19 you are about to give in this action, shall be the truth,
20 the whole truth, and nothing but the truth, so help you
21 God.

22 THE WITNESS: I do.

23 THE CLERK: Be seated. State spell your name
24 for the record.

25 THE WITNESS: Zachary Marsh, Z-a-c-h-a-r-y,

1 M-a-r-s-h.

2 DIRECT EXAMINATION

3 BY MS. KOLLINS:

4 Q. Good afternoon, sir. How are you employed?

5 A. I'm currently a sergeant with Las Vegas
6 Metropolitan Police Department.

7 Q. Where are you a sergeant for Las Vegas
8 Metropolitan Police Department?

9 A. I'm currently assign to traffic section.

10 Q. How long have you been with Metro?

11 A. One month short of 20 years.

12 Q. Prior to your assignment as a sergeant in the
13 traffic division, where were you assigned?

14 A. I was assigned as a sergeant in office of
15 internal affairs.

16 Q. For how long?

17 A. 2 years and 2 months.

18 Q. Prior to that your assignment?

19 A. I had the mobile crime saturation team for 3
20 years. Prior to that I was a sergeant. Prior to that I
21 worked Downtown Area Command, Convention Center Area
22 Command as a sergeant.

23 Q. You've come here in the middle of your shift
24 today by your--

25 A. More toward the end.

1 Q. Were you with internal affairs in the year
2 2015?

3 A. Yes.

4 Q. As a sergeant?

5 A. Yes.

6 Q. Who was your supervisor?

7 A. It changed a few times. It started as Andy
8 Walsh, then lieutenant, now chief.

9 Q. Anyone else?

10 A. I also worked briefly for Lieutenant Karen
11 Hughes, then Lieutenants Eric Lloyd.

12 Q. Okay. I want to turn your attention to an
13 investigation involving a young man by the name of Joshua
14 Honea. Are you familiar with that investigation?

15 A. Yes.

16 Q. How did you -- did you receive that as an
17 assignment while you were in internal affairs?

18 A. No, not initially.

19 Q. Tell me how your involvement came about?

20 A. In internal affairs we conduct investigations
21 of alleged misconduct with employees both civilian and
22 commissioned. There is more than one sergeant there. At
23 the time there were I believe 6 sergeants working in
24 internal affairs. Each sergeant is responsible for a
25 certain part of the department. I had two area commands,

1 records, crime lab, and a bunch of other stuff. One of my
2 area commands was Enterprise. The other was Bolden.

3 As the liaison for those areas we get phone calls
4 from other supervisors that ask questions. That's how --
5 one day, I don't remember what day it was, I received a
6 phone call from Sergeant Jeffrey Clark.

7 Q. What was his inquiry or what was his purpose
8 for calling you?

9 A. He called me and asked me if this was going to
10 be IAB thing, if we're going to do a statement of
11 complaint, which is an SOC, or what his recourse was with
12 this particular volunteer employee who I believe was
13 Joshua Honea.

14 Q. At that time did you know in that phone call
15 whether Josh Honea was a part-time employee at the gang
16 unit?

17 A. I didn't know that at that time.

18 Q. Based on the content of the phone call from
19 Sergeant Clark, what did you do next?

20 A. He advised me there was a performance issue
21 where he was going beyond what his responsibilities --

22 MR. MACARTHUR: I'll object as to hearsay.

23 MS. KOLLINS: Affect on the hearer.

24 MR. MACARTHUR: Sorry.

25 THE COURT: That's fine. Mr. MacArthur,

1 complete your record.

2 MR. MACARTHUR: He already indicated what he did
3 next. We now know where this is headed. There is no
4 reason to get into the hearsay.

5 THE COURT: The issue ultimately is the question
6 going to elicit hearsay or is there an exception. If this
7 is being offered not for the truth of the statement or
8 what the officer did next, it would not be hearsay and the
9 objection is overruled.

10 MR. MACARTHUR: Yes, ma'am.

11 THE COURT: You may proceed.

12 BY MS. KOLLINS:

13 Q. So Sergeant Clark expressed performance
14 concerns, correct?

15 A. Yes.

16 Q. Did he express any other concerns to you
17 regarding Josh Honea?

18 A. Yes.

19 Q. What were those?

20 A. He had a concern that he is possibly involved
21 with an under age girl and had an inappropriate
22 relationship.

23 Q. When you received that information in your
24 capacity as liaison for Enterprise Area Command, what do
25 you do with it, or what did you advise Sergeant Clark to

1 do with it?

2 A. At that point if the allegation were to be
3 proven true it would be a crime. At that point that is
4 out of my hands, because we only conduct administrative
5 investigations. We cannot -- because we compel employees
6 to come in and talk to us, we make them talk to us under
7 threat of termination. So anything they say to us cannot
8 be used in a criminal court setting or against them
9 criminally.

10 If something looks or has a propensity to go
11 criminal, I refer that to -- I referred Sergeant Clark to
12 Crimes Against Youth and Family. I told him to contact
13 them with this information.

14 Q. Because if there were a criminal investigation
15 and internal affairs, the criminal would lead the internal
16 affairs, is that accurate?

17 A. Criminal always goes first.

18 Q. Do you know whether or not Sergeant Clark
19 contacted Crimes Against Youth and Family?

20 A. He did.

21 Q. After he contacted Crimes Against Youth and
22 Family, at that point did you have any more involvement in
23 the case?

24 A. Well, when there is a criminal involvement I
25 briefed my lieutenant in my weekly supervisor meeting and

1 at that point we decided to draft a statement of complaint
2 and suspend him pending the criminal outcome.

3 Q. Was that accomplished, the statement of
4 complaint?

5 A. Yes.

6 Q. When was that started, do you recall?

7 A. March or April of '15.

8 Q. Would it -- did you complete a report in this
9 case?

10 A. I did.

11 MS. KOLLINS: Showing you again, Mr. MacArthur,
12 State's Proposed 68. Approach the witness.

13 THE COURT: You may.

14 BY MS. KOLLINS:

15 Q. Sergeant, I'm going to ask you to take a look
16 at this document and see whether or not it refreshes your
17 recollection as to the dates and times.

18 MR. MACARTHUR: Was there a question referred to
19 on dates and times already.

20 MS. KOLLINS: Yes.

21 MR. MACARTHUR: Okay.

22 THE WITNESS: Yeah -- yes. That does refresh my
23 memory.

24 BY MS. KOLLINS:

25 Q. So what was your date of initiating the

1 statement of complaint?

2 MR. MACARTHUR: I'd ask if he needs to refresh
3 recollection, he do so instead of reading the sheet.

4 THE COURT: Just to remind if you haven't
5 testified before, to understand we do refresh
6 recollection. The idea is to read it, set it aside, and
7 be able to testify. If you cannot, you need to ask
8 permission of the court to read it further. That's fine
9 too. But we don't allow testimony to be made from reading
10 of a document, if that makes sense.

11 Counsel, noted that and I wanted to clarify. If you
12 are able to testify to your recollection, fine. If you
13 need to review it further, set it aside and testify.

14 THE WITNESS: Just looking for a date that it
15 was done. The date that was -- SOC was completed, I don't
16 know. It's not on this report. The time frame would be
17 the end of March beginning of April 2015.

18 MS. KOLLINS: Permission to approach with
19 State's Proposed 57.

20 THE COURT: Is this to try to further refresh
21 recollection.

22 MS. KOLLINS: Yes. Just as to the date the
23 statement of complaint was order to be started.

24 Does that refresh your recollection.

25 THE WITNESS: It does.

1 MS. KOLLINS: What date is that.

2 THE CLERK: March 30, 2015.

3 BY MS. KOLLINS:

4 Q. While I'm up here showing you what's been
5 marked as State's Proposed 57, do recognize that
6 document?

7 A. Yes.

8 Q. Do you recognize it in its entirety?

9 A. Yes.

10 Q. Does it fairly and accurately depict a chain
11 of e-mail communication from Crimes Against Youth and
12 Family, the detectives, to the then acting sergeant of
13 Crimes Against Youth and Family, including internal
14 affairs regarding the Josh Honea investigation?

15 A. Yes.

16 MS. KOLLINS: State would move for admission of
17 57.

18 MR. MACARTHUR: We object to 57 based on the
19 content of people who are not witnesses. So hearsay as to
20 Dan McGrath and Sean Comiskey.

21 THE COURT: Counsel approach the bench briefly.
22 I want to confirm one thing before I make my record on
23 this.

24 (Discussion held at the bench.)

25 THE COURT: The objection is sustained. The

1 exhibit at this time will not be admitted without the
2 State introducing those as witnesses.

3 BY MS. KOLLINS:

4 Q. Sergeant, we agreed that March 30, 2015 was
5 the day that statement of complaint was opened?

6 A. Yes.

7 Q. At that point did you know whether or not
8 things had been attempted to be investigated criminally?

9 A. Yeah. At that point we kind of worked with
10 criminal, We watch the interviews they conduct when they
11 conduct them. We can do that. We can't talk to any
12 employees. We can get information from criminal, that's
13 why criminal goes first, because criminal cannot get
14 information from us. We were with criminal through
15 that.

16 Q. Did you know on March 30, 2015, that Morgan
17 Savage had made no disclosure of sexual conduct with Josh
18 Honea?

19 A. Yes. I believe it was through a phone
20 interview.

21 Q. After that was determined, what is your
22 role?

23 A. I believe they also talked to Mr. Hone as
24 well.

25 Q. They being?

1 A. Detectives with Crimes Against Youth and
2 Family.

3 Q. Did you watch that interview from outside?
4 Did you watch a video, read a transcript?

5 A. I watched a video, but not live.

6 Q. Based on what you reviewed in the video, what
7 did IAB do?

8 A. There was no admission or anything that
9 supported that an inappropriate sexual relationship had
10 occurred at that time. I believe the only thing left was
11 the mother Pamela was contemplating whether or not she
12 wanted to pursue a stocking, harassing type crime report.
13 So at that point we put that on hold awaiting what
14 Ms. Savage, Pamela, the mother decided she wanted to do.
15 I believe at that point I had 3 detectives working for me.
16 We had a heavy case load. I had a few high-profile cases
17 to shift my attention to.

18 Q. That was late March, early April 2015?

19 A. Yes.

20 Q. You had -- when you reviewed Mr. Honea's
21 interview there was no unequivocal statement that he is
22 responsible in any way for having sex with Morgan, fair?

23 A. Yes.

24 Q. So you still have this case and you have Pam
25 Savage deciding whether or not to pursue some kind of

1 harassment charge; is that accurate?

2 A. Yes.

3 Q. If -- those harassment charges, would those
4 still be something that would be subject to internal
5 affairs investigation?

6 A. Yes.

7 Q. Why is that?

8 A. Because he was an employee for the agency.

9 Q. That's the kind of conduct would that be
10 contrary to Metro policy?

11 A. The standards of conduct under civil service
12 rules in the policy manual.

13 Q. You mentioned several detectives under you at
14 that time and you said you were busy. What was going on
15 that you were, if you can talk about it, before you got
16 back to this case?

17 A. Not really. What I can say is we had a couple
18 possible termination cases. Those are very time
19 consuming. Plus the normal -- I think each detective at
20 the time was carrying 8 to 12 cases. That's a lot for
21 that particular assignment, because it's labor
22 intensive.

23 Q. Now, did you in your capacity as sergeant for
24 IAB, did you make an effort to reach out to Pamela
25 Savage?

1 A. Yes.

2 Q. When did you do that?

3 A. I did that later. I believe -- if I can refer
4 to my time line here.

5 THE COURT: What I'll do is you can't refer to
6 the record. What you can do -- it may seem artificial,
7 but to keep the record complete. Explain to the asking
8 person, I don't recall. Then the asking person can offer
9 would something refresh your recollection. What would
10 that be. Then you say yes or no. Then you review it,
11 refresh. Then the question can be asked and answered.

12 Would something refresh your recollection.

13 THE WITNESS: It would, yes.

14 THE COURT: What would that be.

15 THE WITNESS: My investigative report I have
16 sitting in front of me here.

17 MS. KOLLINS: Review that and see if that
18 refreshes your recollection as to the date you made
19 contact with Pam Savage.

20 THE WITNESS: It was June 15, 2015.

21 BY MS. KOLLINS:

22 Q. Where did you make contact at that time with
23 her?

24 A. I made contact with her at her work.

25 Q. Where was that?

1 A. It was a Wells Fargo Bank building on Rainbow
2 and Sunset area.

3 Q. Who -- did you go with anyone else besides
4 yourself?

5 A. I took Detective Rachel Calderon.

6 Q. Did you conduct a taped interview with Pam
7 Savage?

8 A. We did, yes.

9 Q. At that point where does the investigation
10 stand when you take that interview with Pam Savage?

11 A. At that point we had nothing. We are going to
12 complete our interviews. We interviewed Ms. Savage. We
13 requested of her we'd like to interview her daughter,
14 Morgan. Once we interview Morgan, depending on what
15 Morgan says, more then likely the case would be closed.

16 Q. You went to visit Ms. Savage with Rachel
17 Calderon, correct?

18 A. Yes.

19 Q. Did one or both of you, you being you and
20 Detective Calderon, give Pam Savage your business cards?

21 A. Yes. Rachel -- Detective Calderon gave her
22 business card.

23 Q. Do you know whether or not Morgan Savage was
24 in the jurisdiction when you interviewed Pam Savage?

25 A. I believe she was out of state at that time.

1 Q. Now, after that interview did you learn that
2 contact was made with Rachel Calderon by Morgan Savage?

3 A. Yes.

4 Q. When was that? Do you remember?

5 A. I don't remember the exact date.

6 Q. Did -- once Morgan Savage contacted Rachel
7 Calderon based on the information given to Detective
8 Calderon, did the investigation revert back to criminal?

9 A. Yes.

10 Q. Why is that?

11 A. I was sitting in my office. I remember
12 Detective Calderon came in and said Morgan just called me.
13 She says she now wants -- she thinks we need to know
14 everything or something to that affect. I'm paraphrasing.
15 So at that point I have been a cop for awhile. I said
16 let's refer this back to criminal. It sounds like she
17 wants to say something more than he said the last time.

18 Q. Is that unusual in your experience?

19 A. No.

20 Q. Witnesses change their minds?

21 A. No.

22 Q. IAB puts the brakes on?

23 A. Correct. Yes.

24 Q. Do you contact someone in Crimes Against Youth
25 and Family?

1 A. I tasked that to Detective Calderon. She
2 reached out to Crimes Against Youth and Family to advise
3 them of this and they can take it from here.

4 Q. Did you learn eventually of the time and date
5 where the interview was set up with Morgan Savage?

6 A. Yes.

7 Q. Did you watch that interview?

8 A. I did.

9 Q. Did you watch that close circuit?

10 A. I did, yes.

11 Q. Did you have any contact with Morgan Savage on
12 that date?

13 A. No.

14 Q. Up until this point had you had any personal
15 contact with Josh Honea?

16 A. No.

17 Q. When you were assigned to this case, did you
18 know Josh Honea?

19 A. I had no idea who he was.

20 Q. You never had any interaction with him as a
21 VPSR or Metro Explorer or anything like that?

22 A. Not that I know of. I don't believe I ever
23 met the guy before.

24 Q. I asked you previously, you were aware that he
25 was an employee with the gang unit?

1 A. Yeah. Yes.

2 Q. Do you know who his supervisor was in the gang
3 unit?

4 A. I believe he reported to a sport technician
5 or senior law enforcement support technician. I don't
6 know which one it was.

7 Q. Did you make a visit to that supervisor?

8 A. I did.

9 Q. Did you communicate with that supervisor any
10 of your concerns regarding Mr. Honea?

11 A. I don't recall the contents of our
12 conversation.

13 Q. Did you know whether or not Mr. Honea was
14 scheduled to be either terminated or tender his
15 resignation in lei of termination? Did you know about
16 that?

17 A. Yes.

18 MR. MACARTHUR: Objection as to leading.

19 THE COURT: Overruled. You'll need foundation
20 to proceed with this line of questioning and before you
21 answer. You already did.

22 BY MS. KOLLINS:

23 Q. Did you know about that?

24 A. She advised me.

25 Q. His supervisor advised you of that?

1 A. Yes.

2 Q. Did you learn eventually whether Mr. Honea
3 resigned from his position?

4 A. Yes. I was advised that he -- the then
5 lieutenant, slash, Larkin allowed him to resign or
6 separate from the agency.

7 Q. Did you learn whether or not he was permitted
8 to continue as a VPSR?

9 A. We never really knew what the perimeters were
10 of that volunteer VPSR program, what protections we were
11 supposed to give them or how that all worked out. We
12 didn't know if he resigned from the agency, he was allowed
13 to do that, or what that actually entailed.

14 Q. So that wasn't something you got yourself
15 involved in then.

16 A. It was more we had conversations about it,
17 more so as to what a volunteer employee, what protections
18 we'd provide him.

19 Q. Were you ever approached by a Officer Zafiriz
20 regarding your investigation into Josh Honea?

21 A. No.

22 Q. Were you ever approached by Officer Wirey
23 about your investigation into Josh Honea?

24 A. No.

25 Q. Other than the -- let me ask you this. How

1 about a Lawrence Samples?

2 A. No.

3 Q. Other than you being liaison with Enterprise
4 and Sergeant Jeffrey Clark, did Jeffrey Clark stay
5 involved in your internal affairs investigation?

6 A. I don't think we ever got to him when we
7 picked the investigation back up to complete it.

8 Q. So you never went back and reinterviewed
9 Sergeant Clark?

10 A. No.

11 Q. What -- you said Karen Hughes was your
12 lieutenant for a portion of time; is that right?

13 A. Yes.

14 Q. Do you know what her last date in Metro was?

15 A. It was in May. I can't remember the exact
16 date.

17 Q. You know it was May?

18 A. I believe it was in May.

19 Q. May of 2015?

20 A. Yes. Yes.

21 Q. Do you know what Josh Honea's last day with
22 the department was?

23 A. I do not.

24 Q. If Joshua was interviewed by Crimes Against
25 Youth and Family on April 1st of 2015, was he required to

1 disclose that information to his supervisors?

2 A. Yes.

3 Q. So any investigative action he would be
4 required to disclose as part of his employment, even if he
5 is a part-timer?

6 A. Yes.

7 MS. KOLLINS: Court's indulgence.

8 BY MS. KOLLINS:

9 Q. Did you eventually learn that Josh was
10 arrested?

11 A. Yes.

12 Q. Did you close out your internal affairs
13 case?

14 A. Eventually.

15 Q. When do you close it out?

16 A. November 2015.

17 Q. If you know, Sergeant, did Josh Honea make
18 efforts to contact internal affairs while this
19 investigation was pending?

20 A. I believe he called there once when he
21 separated from the agency.

22 Q. So after he resigned he called internal
23 affairs?

24 A. Yes.

25 Q. Did you speak with him?

1 A. No.

2 Q. Do you know who spoke with him?

3 A. He probably spoke with one of the law
4 enforcement support personal.

5 Q. Were you left any information to recontact him
6 or no?

7 A. No.

8 Q. Why did you finish an investigative report in
9 November 2015 if there has been a criminal arrest?

10 A. It's a standard procedure for internal affairs
11 when employees quit or get terminated, we still have to
12 complete the investigative report. We still -- we can't
13 leave it open. And we completed what we had at that time.
14 They are no longer employees, so they're outside of our
15 purview. We can no longer compel them to come in. They
16 don't have to follow the rules of our agency. I don't
17 believe we made efforts to talk to Mr. Honea because he --

18 MS. KOLLINS: That's --

19 THE WITNESS: Sorry.

20 MR. MACARTHUR: Objection. We want the
21 witness -- we allowed him to answer the question.

22 BY MS. KOLLINS:

23 Q. You had an obligation to close this
24 investigation whether criminal proceeds or not?

25 A. Yes.

1 MS. KOLLINS: Thank you, Sergeant. I'll pass
2 the witness.

3 CROSS-EXAMINATION

4 BY MR. MACARTHUR:

5 Q. Good afternoon, Sergeant Marsh?

6 A. Good afternoon.

7 Q. We've never met?

8 A. No, sir.

9 Q. All right. How long were you affiliated with
10 internal affairs?

11 A. 2 years, 2 months.

12 Q. When did that end?

13 A. March of '16.

14 Q. You've already testified that your supervisor
15 at the time or at the point of interest in this narrative
16 was Lieutenant Karen Hughes, correct?

17 A. Correct.

18 Q. She no longer works with Metro?

19 A. Correct.

20 Q. When were you transferred to traffic?

21 A. March 16th.

22 Q. You -- we're talking about your time at
23 internal affairs. You said you had several detectives
24 under you, Calderon being one of them?

25 A. Yes.

1 Q. Were you a detective, sergeant?

2 A. Yes.

3 Q. So you maintained the same rank when you
4 transferred to traffic?

5 A. I'm not a detective sergeant. I'm traffic
6 sergeant.

7 Q. No longer a detective?

8 A. That's correct.

9 Q. During your testimony you said that you spoke
10 with Karen Hughes and the two of you decided to issue or
11 order a statement of complaint on March 30, 2015?

12 MS. KOLLINS: Objection, mischaracterizes the
13 testimony. He didn't decide.

14 THE COURT: The tricky part, let me caution you
15 a second or third time the witness has done this. Please
16 allow the question to be completed, pause a beat in case
17 counsel has an objection to make so that you are not
18 answering before the court has an opportunity to rule on
19 the objection.

20 I believe he answered the question. I'll do this.
21 I'll overrule. He can answer. But if you would like to,
22 why don't you ask the question again.

23 BY MR. MACARTHUR:

24 Q. We've seen an e-mail today that's reflecting
25 that Karen Hughes ordered a statement of complaint on

1 March 30, 2015?

2 A. Yes.

3 Q. But your testimony today under oath was that
4 you met with Karen Hughes and the two of you decided to
5 issue a statement of complaint the same day?

6 A. Yes.

7 Q. Now, State's questioning revealed you develop
8 a report which you closed out November 2015, correct?

9 A. Yes.

10 Q. You were responsible for information you put
11 inside of that report?

12 A. Yes.

13 Q. You have a copy of that report in front of you
14 that you have been able to refer to, correct?

15 A. Not anymore.

16 THE COURT: Ms. Kollins picked them up.

17 BY MR. MACARTHUR:

18 Q. Sergeant, if any point during questioning if
19 you need to refer to that, let me know that you need to do
20 that. And feel free to do so.

21 THE COURT: That being, State's Proposed -- I
22 don't know --

23 MR. MACARTHUR: State's Proposed 60.

24 THE COURT: All right.

25 BY MR. MACARTHUR:

1 Q. Your testimony today was that Sergeant Clark
2 had brought to you some concerns about a potentially
3 inappropriate relationship between Josh Honea and Morgan
4 Savage?

5 A. Yes.

6 Q. You also testified he brought concerns to you
7 about performance issues? You testified to that.

8 A. Yes.

9 Q. We had testimony that Sergeant Clark said we
10 only had issues that were addressed in counseling the
11 session --

12 MS. KOLLINS: Objection. It's inappropriate to
13 ask him to comment on others testimony.

14 THE COURT: Let me have counsel at bench so I
15 understand where we are going with this.

16 (Discussion held at the bench.)

17 BY MR. MACARTHUR:

18 Q. It was brought to your attention there were
19 inappropriate performance issues?

20 A. Yes.

21 Q. That is your recollection of what Sergeant
22 Clark brought to you and you testified to today?

23 A. Yes.

24 Q. Would you be surprised if Sergeant Clark
25 testified yesterday the things he brought to you was the

1 inappropriate relationship and that the counseling session
2 that led to that did not involve any performance issues?

3 A. Would I be surprised?

4 Q. Yes.

5 A. No.

6 Q. Do you recognize that as being inconsistent?

7 MS. KOLLINS: Objection.

8 THE COURT: Overruled.

9 THE WITNESS: Sergeant Clark and I had a fairly
10 long conversation on the phone, that's how I remember
11 it.

12 BY MR. MACARTHUR:

13 Q. Sergeant Clark may have forgotten the
14 details?

15 A. Very possible. He's been through a lot in the
16 past couple of days.

17 Q. Is it your recollection that Pamela Savage was
18 contacted by sex assault and the statement that they
19 received from her she said she was not aware of any
20 inappropriate relationship between Josh and her daughter
21 Morgan?

22 MS. KOLLINS: Objection, hearsay.

23 MR. MACARTHUR: He testified to it on your
24 question.

25 THE COURT: The difficulty we have here,

1 Mr. MacArthur, is when you rephrase the questions if it
2 doesn't match what the prior testimony was, it could be a
3 impermissible question. Let me sustain it based on as I
4 heard the question. It didn't appear to match up. Let me
5 let you rephrase and I can understand it better.

6 BY MR. MACARTHUR:

7 Q. In your report does it reflect that Pam Savage
8 was interviewed by Crimes Against Family and Children on
9 March 30th?

10 A. No. It's Crimes Against Youth and Family.

11 Q. Please forgive me for mislabeling the
12 department. She was contacted by sex assault, right?

13 A. I believe, yeah.

14 Q. March 30, 2015?

15 A. Yes.

16 Q. After that contact she revealed that there was
17 no inappropriate relationship?

18 MS. KOLLINS: Same objection, hearsay. It's
19 hearsay from the report. It's hearsay no him.

20 MR. MACARTHUR: Withdraw the question.

21 THE COURT: All right.

22 BY MR. MACARTHUR:

23 Q. In your report, did you reflect that the
24 result of that interview was that there was not an
25 inappropriate relationship?

1 MS. KOLLINS: Same objection.

2 THE COURT: Sorry for the extra exercise today.
3 Can I have counsel at the bench.

4 THE COURT: Objection to the form of the
5 question. Sustained. You may rephrase.

6 BY MR. MACARTHUR:

7 Q. Pam Savage was contacted by sex assault March
8 30th, correct?

9 A. Yes.

10 Q. Morgan Savage was also contacted by sex
11 assault March 30th, correct?

12 A. Yes.

13 Q. Criminal had to conduct its investigation and
14 close it before you could do anything in internal affairs,
15 correct?

16 A. Yes.

17 Q. And when criminal closed their investigation,
18 there had not been any findings of an inappropriate
19 relationship?

20 A. That's correct.

21 Q. Now, the internal affairs begins with the
22 statement of complaint ordered by yourself or Karen Hughes
23 or both?

24 A. Yes.

25 Q. That happened on March 30, 2015, right?

1 A. Yes.

2 Q. You have already testified you can't start
3 your investigation until the criminal end of it closes?

4 A. Yes.

5 Q. The person handling the criminal end of it was
6 Detective -- do you recognize the name Detective Dicaro?

7 A. Yes.

8 Q. You know him as the person who conducted the
9 investigation?

10 A. Yes.

11 Q. Didn't he, in fact, interview Josh Honea in
12 his investigation in April?

13 A. Yes.

14 Q. So how would you have been able to start your
15 statement of complaint before the criminal closed as
16 policy requires?

17 A. Sorry. What is your question.

18 Q. The internal affairs investigation started
19 March 30th with the statement of complaint, right?

20 A. Yes.

21 Q. Detective Dicaro is that criminal arm that has
22 to be done before you can continue, right?

23 A. Yes.

24 Q. He interviewed Josh in April, right?

25 A. That's correct.

1 Q. April comes after March?

2 A. Usually.

3 Q. How were you able to start your investigation
4 when Detective Dicaro wasn't done yet?

5 A. We suspended it. We don't talk to people. We
6 don't conduct interviews. We just document it.

7 Q. So did you start an investigation with a
8 criminal complaint or did you not?

9 A. We did.

10 MS. KOLLINS: Objection as to the criminal
11 complaint.

12 THE COURT: We need to --

13 MR. MACARTHUR: Statement of criminal
14 complaint.

15 THE COURT: Now there is a distinction between
16 the two. You may proceed with the question. Sustained to
17 that form of the question.

18 MR. MACARTHUR: Sorry. I don't mean to confuse
19 you.

20 BY MR. MACARTHUR:

21 Q. Statement of complaint, that starts the
22 investigation?

23 A. Yes.

24 Q. The criminal was still ongoing?

25 A. Maybe I can provide clarity for you if you

1 like.

2 Q. I'll let the State let you do that. I don't
3 stick my hands in if I don't know what it is. All right.

4 During your testimony you said that first internal
5 affairs policy can't discuss the investigation or findings
6 with other Metro employees, correct.

7 A. Unrelated to the case, yes.

8 Q. Unrelated to the case?

9 A. Yes.

10 Q. So potential witnesses or people that have
11 something to offer the investigation, but not people
12 outside of that?

13 A. If they're involved with the investigation,
14 such as detectives or internal affairs, my chain of
15 command, internal affairs and executive staff of the Las
16 Vegas Metropolitan Police Department.

17 Q. Thank you for defining the scope of that.

18 You identified Joshes' supervisor as Luann
19 Sacchetti?

20 A. I believe that's her name.

21 Q. She doesn't fall into the rubric of anything
22 you described does she?

23 A. No.

24 Q. So you wouldn't have been able to discuss the
25 findings of the investigation or ongoings with her,

1 right?

2 A. No. There was no investigation at that time.
3 All we did was draft a statement of complaint and suspend
4 it until the criminal was done.

5 Q. At some point did you have contact with Luann
6 Sacchetti?

7 A. Yes.

8 Q. When you did have contact with her would you
9 have shared with her the details from the investigation or
10 make recommendations to her?

11 A. No.

12 Q. Would it surprise you that she testified that
13 you did do that?

14 A. That would surprise me.

15 Q. Is she still employed by Metro?

16 A. Yes.

17 Q. Would it surprise you if she retired back in
18 May or June?

19 A. No.

20 Q. So if she said that you told her that Josh was
21 not the kind of person that Metro wanted inside of the
22 Academy, that would be false?

23 A. I don't talk like that.

24 Q. It would be false?

25 A. Yes.

1 Q. If she testified under oath that you had said
2 that Josh was -- that issues were problematic and that if
3 she were to release him from his role in Northeast Area
4 Command that it would solve those problems?

5 MS. KOLLINS: Objection. That mischaracterizes
6 the testimony.

7 THE COURT: It's the summary of the testimony
8 that I think is problematic. I will sustain it based on
9 that.

10 BY MR. MACARTHUR:

11 Q. Because I don't have a transcript, I'll be
12 general. You wouldn't have encouraged Luann Secchetti to
13 terminate his employment to satisfy a problem at Metro,
14 would you?

15 A. No.

16 Q. You have no idea why she would say that, do
17 you?

18 A. No.

19 Q. Thinking about your report that you concluded
20 in November of 2015, do you recall whether you indicated
21 that your investigation revealed that if there was a
22 sexual relationship between Josh and Morgan it started
23 when she was 13?

24 MS. KOLLINS: Objection, hearsay.

25 MR. MACARTHUR: I'm not asking for the truth.

1 I'm asking if that's something he said.

2 MS. KOLLINS: Why.

3 THE COURT: The question was actually difficult
4 to follow, Mr. MacArthur. Can I have you rephrase it.
5 I'll ask their witness to refrain from answering, so I can
6 understand. It was compound because it was difficult to
7 follow.

8 BY MR. MACARTHUR:

9 Q. Does your report indicate that Morgan and Josh
10 had a sexual relationship that began when she was 13 years
11 old?

12 THE COURT: Is there still an objection to the
13 form of the question, Ms. Kollins.

14 MS. KOLLINS: It's still hearsay.

15 MR. MACARTHUR: Not for the truth.

16 MS. KOLLINS: Well, what is the relevant purpose
17 for admissibility if it's not offered for the truth.

18 MS. KOLLINS: Inconsistent statement, Judge.

19 MS. KOLLINS: Not as to this witness.

20 THE COURT: Based on the bench conference I
21 believe the question is going to be withdrawn so the
22 objection does not need to be ruled on for the record.
23 Mr. MacArthur, please proceed.

24 BY MR. MACARTHUR:

25 Q. In your testimony you made it clear that you

1 had had multiple contacts with Pam Savage; is that
2 correct?

3 A. Yes.

4 Q. At times those contacts were in the company of
5 Detective Calderon?

6 A. Personal contacts, yes.

7 Q. There were times when the two of you acted
8 individually; is that fair?

9 A. No.

10 Q. How many times do you recall having had
11 contact with Pam Savage?

12 A. Twice.

13 Q. Do you know the dates?

14 A. I know the one we interviewed her.

15 Q. June 25th?

16 A. Yes.

17 Q. When was the other one?

18 A. We went to interview her at her work again. I
19 don't know what that date was. She couldn't because she
20 had a meeting.

21 Q. Okay. Would that have been before or after
22 June 25th?

23 A. That would have been before.

24 Q. You were aware she also was contacted by
25 Detective Dicaro?

1 A. Yes.

2 Q. We know there is at least 3 contacts from
3 Metro at this point, right?

4 A. Yes.

5 Q. Isn't it, in fact, true that Detective
6 Calderon also had other contact with her, not the 3 you
7 just identified?

8 A. On the phone, I believe.

9 Q. You know approximately what that date would
10 have been?

11 A. No. It would have been after the criminal and
12 before June 25th.

13 Q. There was also communication, not just by
14 telephone, but by e-mail; is that fair?

15 A. I believe so.

16 Q. Would it refresh your recollection to see the
17 e-mail chain?

18 A. Sure.

19 Q. Do you recognize the e-mail chain?

20 A. Yes.

21 Q. One you were a part of with Detective
22 Calderon?

23 MS. KOLLINS: Objection, foundation.

24 THE COURT: Do we have more specifics for the
25 record.

1 MR. MACARTHUR: I'm using the same exhibit the
2 State did. I don't know if there is a number to it.

3 THE COURT: There was a proposed number to each
4 exhibit.

5 MS. KOLLINS: I was not using these for the
6 record. I was using the e-mail from Karen Hughes.

7 THE COURT: Can we have additional foundation
8 for the record what this is.

9 MR. MACARTHUR: Does this document appear to
10 reflect e-mail communications involving yourself,
11 Detective Calderon, and Pamela Savage.

12 THE WITNESS: More so with me. Between Pamela
13 Savage and Calderon, I was copied on it.

14 BY MR. MACARTHUR:

15 Q. Detective Calderon also had contact with
16 Pamela Savage where you were not present, been made aware,
17 but you were not present or participated?

18 A. Not personally, but the email type of
19 correspondence.

20 Q. You were cc'ed?

21 A. Yes, copied.

22 Q. Was one of those contacts based on her ability
23 to refresh your recollection on June 16th?

24 A. Yes.

25 Q. All right. Based on your testimony, tell me

1 if I'm right. There were concerns brought to you by
2 Sergeant Clark, right?

3 A. Yes.

4 Q. He was referred to sex assault?

5 A. Yes.

6 Q. Sex assault did an investigation?

7 A. Yes.

8 Q. Did not come back with anything criminal?

9 A. That's correct.

10 Q. IAB starts an investigation?

11 A. Ye.

12 Q. You have contact with Pam Savage 3 times?

13 A. Yes.

14 Q. Detective Calderon also has contact with her
15 that you'r3e aware of, but not participating in on other
16 dates?

17 A. Yes.

18 Q. And when you speak with her on the 25th, you
19 now have information from her that leads you to believe
20 that it's appropriate to send her back to criminal?

21 A. No.

22 Q. Which part am I getting wrong?

23 A. At that point when we completed our interview
24 with Ms. Savage I made a request of her that her daughter,
25 under the age of 18 at the time, we'd really like to speak

1 to her. It is up to her. But we'd really like to talk to
2 her in person and get her side of the story.

3 Q. Sure.

4 A. It wasn't until Morgan Savage called Detective
5 Calderon, when she did that and when Morgan told Detective
6 Calderon what she did that's when we decided to get
7 criminal back involved again.

8 Q. Which part did I get wrong?

9 A. You said after we talked to Pam Savage we made
10 a decision to do that.

11 Q. So to correct myself, after having been
12 contacted by Morgan that's when you decided it should go
13 back to criminal division or criminal investigation?

14 A. Yes.

15 Q. So there's an investigation and nothing comes
16 of it. You have numerous contact with Morgan's mom, not
17 once with Morgan, and now back to criminal
18 investigation?

19 A. Pretty much, yes.

20 Q. Do you recall informing -- withdrawn.

21 Didn't you, in fact, inform Pamela Savage of things
22 Josh said about her parenting that could potentially get
23 her in trouble?

24 MS. KOLLINS: Objection, hearsay.

25 MR. MACARTHUR: I'm asking if he said it.

1 THE COURT: That's not how I heard the question.
2 Rephrase it. Sustained.

3 BY MR. MACARTHUR:

4 Q. Didn't you in fact tell Pam Savage that Josh
5 Honea had given you information that she could potentially
6 be in trouble over?

7 MS. KOLLINS: Objection, hearsay.

8 THE COURT: What is the statement being offered
9 for, Mr. MacArthur.

10 MR. MACARTHUR: It goes to Pam Savage's motive
11 not for the truth of the matter asserted. The defense is
12 not claiming that the allegations are true, we're asking
13 whether it was said.

14 THE COURT: Overruled. You may answer.

15 MR. MACARTHUR: Did you understand the
16 question.

17 THE WITNESS: Not really.

18 BY MR. MACARTHUR:

19 Q. Did you tell Pam Savage that Josh had said
20 things about her parenting that were potentially illegal
21 or problematic?

22 A. No.

23 Q. So if anyone testified to that that would be
24 false?

25 A. Yes. I never talked to Josh Honea a day in my

1 life.

2 Q. You had access to information generated by
3 Detective Dicaro?

4 A. Yes.

5 Q. So we understand that you never spoke with
6 Josh but you were aware of the voluntary statements taken
7 by Dicaro from Pam Savage?

8 A. Yes.

9 Q. Morgan Savage?

10 A. Yes.

11 Q. Josh Honea?

12 A. Yes.

13 Q. I think I'm about done, Sergeant Marsh. One
14 more issue.

15 The State asked you whether you had any contact
16 with Officer Zafiridis during your investigation and you
17 said you had not?

18 A. That is correct.

19 Q. You said you had not had any contact with
20 Officer Wirey, correct?

21 A. They may have been involved in an e-mail
22 chain. I don't recall. I didn't know Kevin Savage at the
23 time. Now I know him because of where he's assigned.

24 Q. Isn't it in fact true you knew his wife?

25 A. I did.

1 Q. The reason you knew Officer Zafiridis and
2 Officer Wirey is you worked in internal affairs?

3 A. Correct.

4 Q. You're in the same unit, same building, same
5 address?

6 A. Yes.

7 Q. Same shift?

8 A. I can't speak to shift. She and I have
9 different days off.

10 Q. You knew she worked with you?

11 A. Yes.

12 Q. Was Lieutenant Karen Hughes also her boss?

13 A. I don't know. We had two lieutenants. I
14 don't know who she had to report to.

15 Q. Who would the other lieutenant have been?

16 A. That changed a lot, too. It started as Chris
17 Little. Then it went to Yacina Yotoma (ph).

18 Q. Chris Little is easier to spell.

19 A. Yes. I don't know how to spell Yotoma (ph)

20 Q. If you could, give the jury and I some sense
21 of how many people work in IAB?

22 A. I believe there's 5 sergeants. Each have 2 to
23 3 detectives. There is two lieutenants, a captain. Then
24 we have a civilian staff. We have -- it changed after
25 2015, so I don't remember the exact numbers in 2015, but

1 we had an investigative specialist, which is a civilian.
2 Then we had support staff of law enforcement, support
3 technicians about 4 or 5. We had to senior LESS (ph).

4 Q. So about 25 people?

5 A. Ish -- yes.

6 Q. You were all in the same building?

7 A. Yes.

8 Q. Are you on the same floor?

9 A. One time we weren't. There was --

10 Q. So I'm not confusing the issue, in March or
11 May, June 2015 you were on the same floor at that time?

12 A. I don't remember.

13 MS. KOLLINS: Court's indulgence.

14 THE COURT: Yes.

15 MS. KOLLINS: No further questions, Judge.

16 THE COURT: Mr. Kollins.

17 REDIRECT EXAMINATION

18 BY MS. KOLLINS:

19 Q. Thank you.

20 Just a couple of questions. There was some
21 discussions between Mr. MacArthur regarding differences
22 between your and Sergeant Clark's memory of what Josh
23 Honea was being counseled about. Remember those
24 questions?

25 A. Yes.

1 Q. Your response to Mr. MacArthur was Sergeant
2 Clark's had a rough few days?

3 A. Yes.

4 Q. What were you referring to?

5 A. His father just passed away.

6 Q. Within days of -- the last week, correct?

7 A. Within the last 3 days.

8 Q. When Mr. MacArthur, was asking you why a
9 statement of complaint was opened prior to Josh Honea's
10 statement being taken -- CYAF -- you said you wanted me to
11 clarify.

12 Can you clarify it for me now?

13 A. Yes. Whenever we get an allegation of
14 misconduct, criminal or procedural, we always do a
15 statement of complaint. We did it. Boom. It goes in the
16 system. We populate it with the people that are
17 involved.

18 If there's a criminal allegation, which in this
19 case there was, we suspend that SOC, we do not do any
20 investigation. So all we did was create a document in the
21 computer that we can go to once the criminal portion is
22 complete and it just sits there. Then we liaison with the
23 criminal as their investigation goes.

24 Q. So just the opening of a statement of
25 complaint doesn't necessarily mean that that's when you

1 start running around and investigating everything that
2 second?

3 A. That's correct.

4 Q. Is it similar, if you will, to when you get
5 called out and an event number is assigned to a situation
6 and that event number is married to that crime or that
7 thing for all times, right. So kind of similar to that,
8 it gets assigned a number.

9 That was a question. All that was a question.

10 A. I'm trying to pause.

11 Q. Is it similar when you create a statement of
12 complaint and it gets assigned a number and you are
13 opening a document, is that similar to the way Metro
14 creates event numbers, just attach a number to that
15 investigation?

16 A. Yes.

17 Q. Thinking back in any conversation that you
18 might have had with Ms. Sacchetti is there anything you
19 can think of that you would have said to her that she
20 could have perceived as you telling her to get rid of
21 Josh?

22 A. I do not. I recall our interaction is her
23 telling me she was having issues with him and that she was
24 getting ready to terminate him. And to terminate a
25 temporary employee is a memo with two sentences.

1 Q. You don't remember that conversation?

2 A. I do not.

3 Q. All right.

4 MS. KOLLINS: Notion further.

5 THE COURT: Any follow up to the State
6 redirect.

7 RECROSS-EXAMINATION

8 BY MR. MACARTHUR:

9 Q. Detective Marsh -- Sergeant Marsh, if the
10 investigation did not begin as you previously testified
11 with the statement of complaint on March 30th, when did it
12 begin?

13 A. Technically, it does begin the second we do --
14 when we create that statement of complaint, we just don't
15 do anything. That just marks the start of it.

16 Q. You agree with me you began it, the statement
17 of complaint, before Dicaro finished his investigation?

18 A. Just by solely creating a statement of
19 complaint. We do run out and do interviews.

20 Q. When did you run out and do interviews?

21 A. It would have been in June.

22 Q. You said you believe it started some time in
23 June?

24 A. Yes.

25 Q. Would it surprise you if Detective Calderon

1 testified yesterday and showed us an e-mail that showed
2 activity middle of May, May 15th, would that surprise
3 you?

4 A. No. I was within a month. I didn't know what
5 day it was. May is -- May is before June, it could
6 totality have happened then, yes.

7 Q. Sergeant Marsh, if you are aware, is there
8 currently an FBI investigation into --

9 MS. KOLLINS: Objection.

10 THE COURT: Counsel at the bench.

11 (Discussion held at the bench.)

12 THE COURT: Objection sustained.

13 Any additional questions, Mr. MacArthur.

14 BY MR. MACARTHUR:

15 Q. You testified that Lieutenant Karen Hughes was
16 let go from Metro in May 2015?

17 A. I don't believe I testified she was let go.

18 Q. Okay. I'll allow you to restate your
19 testimony. Under what circumstances was Lieutenant Karen
20 Hughes separated from Las Vegas Metropolitan Police
21 Department?

22 A. She retired.

23 Q. Okay.

24 MR. MACARTHUR: Court's indulgence.

25 THE COURT: Yes.

1 BY MR. MACARTHUR:

2 Q. Do you know if there was any other reason she
3 left?

4 MS. KOLLINS: Objection. Relevance as to this
5 witness.

6 THE COURT: Overruled. You may answer.

7 MR. MACARTHUR: Thank you, Judge.

8 THE WITNESS: Working in IA I know who is
9 getting fired and who has investigations and she did not
10 have one. She was not under threat of termination when
11 she retired.

12 BY MR. MACARTHUR:

13 Q. Taking apart what you said, you said you were
14 aware of investigations. You are talking about internal
15 affairs investigations, correct?

16 A. Correct.

17 Q. There are more law enforcement agencies than
18 Metro, right?

19 A. Lots.

20 Q. There are city, county, State, and federal
21 level law enforcement?

22 A. Yes.

23 Q. So my question to you is not about whether she
24 was investigated by internal affairs. My question was to
25 you, if you know, did she resign in lieu of termination

1 because of any other investigation?

2 A. No. I'm unaware of any of that.

3 MR. MACARTHUR: No further questions.

4 THE COURT: Ms. Kollins.

5 BY MS. KOLLINS:

6 Q. I apologize, Sergeant. You testified that
7 Ms. Zafiridis worked in internal affairs?

8 A. Yes.

9 Q. Do you know what her job was there?

10 A. It changed. I don't know exactly when it
11 changed. She was a law enforcement support tech when she
12 got there. Then I believe she is an analyst for the
13 employees' Early Intervention Program now working for
14 Sergeant Mizerockin (ph).

15 Q. Did you and Ms. Zafiridis have any communication
16 about the Josh Honea case?

17 A. No.

18 Q. Did you give her any information about the
19 Josh Honea investigation?

20 A. No.

21 MS. KOLLINS: Thank you. Nothing else.

22 THE COURT: Mr. MacArthur.

23 BY MR. MACARTHUR:

24 Q. Sergeant, do you have any idea whether
25 Ms. Zafiridis discussed matters with Karen Hughes?

1 MS. KOLLINS: Objection. Speculation.

2 THE COURT: If he knows.

3 THE WITNESS: I don't know of any interaction of
4 those two in reference to that case, no.

5 MR. MACARTHUR: No further questions.

6 THE COURT: Let me see by a show of hands if our
7 jurors have questions for this witness.

8 THE COURT: Seeing no hands, you are excused.

9 THE WITNESS: Thank you.

10 THE COURT: Let's take a brief recess.

11 JURY ADMONITION

12 During the recess, ladies and gentlemen, you are
13 admonished not to converse among yourselves or with anyone
14 else, including, without limitation, the lawyers, parties
15 and witnesses, on any subject connected with this trial,
16 or any other case referred to during it, or read, watch,
17 or listen to any report of or commentary on the trial, or
18 any person connected with this trial, or any such other
19 case by any medium of information including, without
20 limitation, newspapers, television, internet or radio.

21 You are further admonished not to form or express any
22 opinion on any subject connected with this trial until the
23 case is finally submitted to you.

24 See you back in 10 minutes. I do think we need a
25 bench record made.

1 There were multiple bench conferences throughout the
2 exam of Sergeant Marsh. They all related to, in one form
3 or another, to hearsay objections and responses to those
4 objections and sort of figuring out where the line of
5 questioning was going and what the circumstances were.

6 I think the record is clear over all as to what the
7 objections were and what the court's ultimate ruling was,
8 so I don't think we need a record of that.

9 The last bench conference was more involved with
10 regard to the inquiry of Sergeant Marsh with regard to his
11 knowledge, if any, of an FBI investigation. I suggest
12 that the overall questioning as completed by Mr. MacArthur
13 did elicit whether or not this witness -- his answers as
14 to whether or not he was aware of why Lieutenant Hughes
15 separated from employment and whether she was under
16 investigation of any agency, Metro or otherwise. But
17 ultimately the court sustained the objection when the
18 question was being posed about an FBI investigation and
19 his knowledge thereto.

20 The court sustained that objection on the same basis
21 it sustained the objection yesterday as to Rachel
22 Calderon, which was the circumstances being that there is
23 anticipated testimony from Lieutenant Karen Hughes. That
24 Lieutenant Karen Hughes is the one whose name is on the
25 e-mail opening the SOC.

1 There was testimony here today that subsequent to the
2 opening of the SOC that Sergeant Marsh and Ms. Calderon
3 were the ones who did the follow up on this matter.
4 However, the court had allowed the discussion with regard
5 to Karen Hughes and her involvement in the FBI
6 investigation and allowed questioning to be elicited of
7 Karen Hughes in that regard because of her potential
8 motive or bias in providing her testimony truthfully in
9 this matter. And based on two things, her being the one
10 ordering the SOC and -- statement of complaint -- and her
11 being subject to current investigation.

12 I asked the question at the bench whether or not
13 Sergeant Marsh was involved in any, way, or shape form in
14 that investigation. The response at the bench was he is
15 not. And there was no contradictory information provided
16 in that regard. And ultimately I sustained the objection
17 on the same basis I sustained the objection as to Rachel
18 Calderon.

19 I anticipate counsel will want to make record. There
20 was significant record made then by both Mr. MacArthur and
21 Ms. McNeill in terms of whether or not Lieutenant Karen
22 Hughes may be testifying. I think you said Mr. MacArthur,
23 correct my wrong, that Lieutenant Hughes was -- you
24 mentioned a drop service previously in our record. I
25 don't know if there was further service. I didn't connect

1 to what you said about her being served and/or her
2 anticipation of testimony. I want to clarify that for the
3 record then come back and make a further record as to the
4 totality of the bench conference.

5 MS. MCNEILL: Your Honor, we have reason to
6 believe that Ms. Hughes has fled to South America.

7 THE COURT: Well, I suppose we'll know whether
8 she's here tomorrow or not. The service was just the drop
9 service.

10 MR. MACARTHUR: Our investigator informed us
11 that she established surveillance of the house because
12 nobody responded at the door. She could tell by the
13 lights or sounds that the house was occupied. She
14 believed that the occupants with Lieutenant Karen Hughes'
15 son, who is an adult. She then drop served him because
16 that satisfies service. But we know that if Lieutenant
17 Karen Hughes is not somewhere nearby it's so much harder
18 to enforce. So at any rate, having served it, having kept
19 our affidavit it was our expectation that she may not
20 appear as expected. We'll only know by calling her.

21 The reason -- did you want me to --

22 THE COURT: Hang on a second.

23 I want to clarify that so that there was some
24 argument made that she may not testify or may not be
25 present to testify so perhaps -- I'll use the word not

1 that it was used at the bench -- in fairness that that
2 inquiry could be made in this witness.

3 Then Ms. McNeill, you offered up the issues with
4 regard to perhaps Sergeant Marshes' motive and bias to
5 testify and even so much as possible Ms. Calderon's motive
6 and bias because the NIA that there might have been
7 arguably some effort to distance from Lieutenant Karen
8 Hughes and/or collude testimony to not be involved in any
9 wrongdoing that occurred.

10 There was some dialogue happening. I ultimately
11 sustained on the same basis I sustained yesterday on
12 Ms. Calderon, but I wanted to give the opportunity for a
13 record to be made here of what is believed to be the basis
14 that that witness can and should be able to inquired
15 about, that would be Sergeant Marsh. And to the extent
16 you want to touch up and wrap up, as far as, yesterday's
17 inquiry of Rachel Calderon and how that somehow they are
18 elevated to the same status as Lieutenant Karen Hughes, as
19 far as how the court determined what inquiry.

20 MS. MCNEILL: Your Honor, Mr. MacArthur wants to
21 talk briefly. I think your Honor summed it up. I got
22 wordy, but that was basically what I was saying was they
23 were -- had since we learned that perhaps she was doing
24 things that weren't untoward and come in here and have
25 motive to conform testimony despite what may have happened

1 and what we may have learned about the validity of the
2 investigation because they don't want to be involved in
3 anything she would be involved in. But I think your Honor
4 listened to that ultimately.

5 THE COURT: Fine. I wanted you to make your
6 record, Mr. MacArthur.

7 MR. MACARTHUR: Thank you, Judge.

8 I have been present for the entire trial and I
9 know that questions have been asked of previous witnesses
10 with regard to IAB and FBI and the writing on the wall was
11 that before trial started we were not going be able to
12 bring in collateral information in order to impeach. The
13 State has successfully once brought a relevance objection,
14 and so my intention was to bring up this topic within
15 those perimeters. The reason why I felt Sergeant Marsh
16 was different from the previous two witnesses were that my
17 understanding is that Metro is in full cooperation with
18 the current FBI investigation. The court knows only what,
19 essentially, I know, maybe a little less because I'm on
20 the Sharp matter, but that there has been a publication by
21 Channel 8, and MPR Las Vegas Review Journal about an
22 ongoing Metro investigation. Lieutenant Karen Hughes was
23 mentioned by name and another detective by name, Bauman,
24 and I think another Detective Gray.

25 The point being as a result of this

1 investigation Sheriff Lombardo publicly realigned several
2 divisions at Metro, including gang, vice, and IAB. And
3 that when he did this Karen Hughes also left Metro. It is
4 my understanding that she resigned in lieu of termination
5 and that because Sergeant Marsh described the way IAB was
6 organized, I believe he said there were 3 sergeants and
7 each of them had approximately 2 or 3 detectives beneath
8 them, support staff, et cetera it's -- there is no way for
9 me to know which team he was on and what role, if any, he
10 played.

11 It's entirely possible that the man never did
12 anything wrong at IAB. But the only way for me to know is
13 by being given latitude to question him and being stuck
14 with his answer.

15 THE COURT: Can I get one clarification. I
16 really don't want to reopen this dialogue too much because
17 the court has ruled, and I don't want to jeopardize our
18 record by a whole other discussion and having a change in
19 the ruling or change in circumstances I believe there is
20 or nor should there be.

21 My understanding of the issue with Lieutenant Karen
22 Hughes and where there is belief of wrongdoing and where
23 there the belief of circumstances was when she was over
24 vice. She may have retired from IAB, but that it's her
25 tenure at vice that is in question. So this is where I

1 start to struggle and this is where I'm trying my best to
2 draw the line appropriately where, yes, you can have
3 certainly inquiry that is appropriate with certain
4 witnesses that are directly involved in this investigation
5 and are under this other investigation, as we know it, but
6 not further beyond that. And this is where the other
7 individuals being in IAB are now being imputed they did
8 something. I'm not getting that connection.

9 MR. MACARTHUR: Okay. What I would have wanted
10 to do, but I think as far as I could have gone, unless he
11 gave me a fertile answer, was I could have asked him have
12 you been interviewed by FBI agents. But based on
13 perimeters as I understood them I didn't want to ask a
14 question just to get shut down. If he had answered that,
15 yes, I think that provides all of relevancy I need to
16 survive any other objections. If he had said, no, I don't
17 think the prejudice that comes from that question goes
18 outside of the lines.

19 My position would be that even though the issue that
20 began the federal investigation of Karen Hughes was while
21 she was at vice, it became a greater investigation of
22 multiple divisions at Metro, including gangs, vice, and
23 IAB. The only way for me to know if this man was touched
24 by it was to asked if he was interviewed. My good faith
25 basis on that comes from my work in the Sharp matter.

1 Even though nothing in the Sharp can come into this case,
2 I am informed who has been investigated and interviewed by
3 FBI. I know who the DAs are. I know who's been
4 interviewed. I know who the detectives are who have been
5 interviewed. And I do not know whether this man was part
6 of that investigation. Ultimately what I wanted to ask
7 was whether he had been interviewed by the FBI in relation
8 to the Karen Hughes investigation. And seeing I didn't
9 think I was going to be able to get there without be shut
10 down, I didn't ask it.

11 THE COURT: That aspect of the inquiry was not a
12 part of the bench conference. This is the conclusion
13 you're making on points of concern with this witness.

14 Your -- sorry -- I'm just trying to connect. Nothing
15 I have seen put forward and essentially all I know beyond
16 all I know is what you have submitted and what we have had
17 discussed at various times the issue has come up has
18 referenced any investigation beyond the vice, the
19 division. So I don't know where the understanding or good
20 faith belief comes that it involves other divisions. I
21 can understand there might have been people in vice at one
22 time who themselves or in other divisions who may be part
23 of the investigation such as Lieutenant Karen Hughes, but
24 I don't know there to be, from what I have been provided
25 by defense, any other division. So I want to leave it at

1 that.

2 Does the State want to add anything to this
3 discussion now before we move on.

4 MS. KOLLINS: To make the record as to Sergeant
5 Marsh, I think this is a tenuous line of inquiry. Not to
6 just reiterate what the court said, but if Mr. MacArthur
7 had information that this witness was interviewed by the
8 FBI and can somehow connect that to his credibility and
9 wrap it all up with a neat bow and attach it to Karen
10 Hughes, maybe. But we don't have that information.

11 My understanding of the court's rule was it was
12 inquiry only as to Karen Hughes, and we would not be
13 proving up anything extrinsic.

14 THE COURT: Yes. That was the basis of my
15 sustaining the objection as to Rachel Calderon, without
16 articulating the details.

17 MS. KOLLINS: Should there be any other officers
18 that are called that were not part of vice where this
19 inquiry should go down that line, then the State is going
20 to object until -- if and until Karen Hughes is a witness,
21 then --

22 THE COURT: All right.

23 I know I told the jurors to be back at 5 till.
24 We haven't had a chance to have a potty break. Let's do
25 that in 5 or 7 minutes or so.

1 (Brief recess taken.)

2 THE COURT: It does not appear by the court's
3 estimation and asking counsel that we will complete this
4 witness today.

5 Does the State believe it will complete its inquiry
6 today.

7 MS. KOLLINS: It will be close.

8 THE COURT: Okay.

9 Resuming in State of Nevada vs. Josh Honea. We
10 have the presence of counsel for the State and counsel for
11 Mr. Honea and Mr. Honea.

12 State may call their next witness.

13 MS. KOLLINS: State calls Pam Savage.

14 THE COURT: Pam Savage, come forward and my
15 clerk will swear you in.

16 THE CLERK: You do solemnly swear the testimony
17 you are about to give in this action shall be the truth,
18 the whole truth, and nothing but the truth, so help you
19 God.

20 THE WITNESS: I do.

21 THE CLERK: Be seated. State spell your name
22 for the record.

23 THE WITNESS: Pam Savage, P-a-m, S-a-v-a-g-e.

24 THE COURT: Ms. Kollins, when you are ready.

25 DIRECT EXAMINATION

1 BY MR. MACARTHUR:

2 Q. Good afternoon, Ms. Savage. Thank you for
3 your patience.

4 How are you today.

5 A. I'm okay.

6 Q. There is a mic in front of you. There is a
7 nice lady writing down everything you say. Scoot your
8 chair in just a little so she can hear you and the ladies
9 and gentlemen of the jury can hear you. And the judge can
10 hear you.

11 Do you have a daughter?

12 A. Yes, I do.

13 Q. What is her name?

14 A. Morgan Savage.

15 Q. How old is Morgan now?

16 A. 18.

17 Q. When did Morgan turn 18?

18 A. June 30th, 2017.

19 Q. When was the last time you had face-to-face
20 contact with Morgan?

21 A. It was late March 2017.

22 Q. Was that at your home?

23 A. Yes.

24 Q. And after that late March 2017 contact, did
25 Morgan, for lack of better term, run away?

1 A. Yes.

2 Q. Did you file a missing person's report?

3 A. Yes, I did.

4 Q. With the Las Vegas Metropolitan Police
5 Department?

6 A. That's correct.

7 Q. When you last saw Morgan in March 2017 was she
8 enrolled in school?

9 A. Yes.

10 Q. When she left your house, do you know if she
11 continued to go to school?

12 A. No, she didn't.

13 Q. Morgan has some substance abuse problems right
14 now, would that be a fair statement?

15 A. Yes.

16 Q. And do you know if that includes heroin use?

17 A. That I don't know for sure.

18 Q. But you are aware that at least back in March
19 '17, she was involved in some kind of drug use, regardless
20 of if you knew what it was?

21 A. Correct.

22 Q. That pattern of behavior, you were aware if it
23 was more then just smoking weed back in March '17?

24 A. No.

25 Q. So you didn't really know what her involvement

1 was?

2 A. No.

3 Q. In the last couple of weeks since we started
4 this trial, did Morgan reach out to you?

5 A. Yes.

6 Q. How did she reach out to you?

7 A. She called me from the Detention Center.

8 Q. And did you speak to her for a long time, a
9 little bit of time?

10 A. 30 seconds.

11 Q. During that course of time when she spoke to
12 you did she call you at work on your cell phone?

13 A. She called me on my work phone.

14 Q. Did you get to see her at any time after that
15 phone call?

16 A. No.

17 Q. Do you remember when you and I first met?

18 A. Yes.

19 Q. Would that have been around September 2015?

20 A. Correct.

21 Q. How did we meet?

22 A. I was asked to bring Morgan to meet with
23 you.

24 Q. To the district attorney's office?

25 A. District attorney's office, yes.

1 Q. Did you bring her?

2 A. Yes.

3 Q. Did she have to testify in court after that
4 meeting?

5 A. Yes, she did.

6 Q. After the time Morgan testified in September
7 2015, did she go live somewhere else for awhile?

8 A. Yes, she did.

9 Q. Where did she go?

10 A. Minnesota.

11 Q. Did she come back to Las Vegas?

12 A. Yes, she did.

13 Q. When did she come back?

14 A. January 2016.

15 Q. When she came back in January 2016, did she go
16 back to school?

17 A. Yes.

18 Q. Where did she go to school?

19 A. Bonanza High School.

20 Q. When she went back to Bonanza how was she
21 doing in school?

22 A. She was doing well.

23 Q. When did thing change between January of '16
24 and March of '17 when she ran away?

25 A. It changed about January, February time period

1 of 2017. She wasn't coming home. She wasn't going to
2 school. I was getting phone calls from the school for no
3 attendance.

4 Q. This was a pretty sudden change from doing
5 well then all of a sudden off the rails?

6 A. She was very excited about being a senior and
7 graduating and going to college.

8 Q. She had a couple of hospitalizations around
9 that period of time?

10 A. Yes.

11 Q. Around the -- after January, February but
12 before March when she ran away?

13 A. Correct.

14 Q. Did you assist her with those
15 hospitalizations?

16 A. Yes, I did.

17 Q. I want to kind of walk through a little bit of
18 Morgan's history. First and foremost, you know Josh
19 Honea?

20 A. Yes.

21 Q. Do you see him in court today?

22 A. Yes.

23 Q. Can you point to him and tell me something
24 he's wearing and where he's seated in the court today?

25 A. He's seated directly in front of me on my

1 right. He's wearing a gray suit and maroon shirt and
2 tie.

3 MS. KOLLINS: Record reflect identification of
4 the Defendant.

5 THE COURT: The record will so reflect.

6 MS. KOLLINS: Thank you, your Honor.

7 BY MS. KOLLINS:

8 Q. When did you first meet Josh Honea?

9 A. It was late fall 2011.

10 Q. In the fall of 2011, do you recall how old
11 Morgan was?

12 A. She would have been 12.

13 Q. Just for the record, when is Morgan's
14 birthday?

15 A. June 30th, 1995.

16 Q. You met him in fall of 2011. What grade was
17 Morgan in?

18 A. She was in 6th grade. Josh was in middle
19 school.

20 Q. Was she 11 years old, going into 6th grade?

21 A. That would be correct.

22 Q. She turned 11 the summer going into 6th
23 grade?

24 A. Then the following year 12.

25 Q. So keep your voice up.

1 She turned 11 before she went into 6th grade and 12
2 before she went into 7th grade. Would that be correct?

3 A. Yes, that would be correct.

4 MS. KOLLINS: Approach the witness, your
5 Honor.

6 THE COURT: You may.

7 BY MS. KOLLINS:

8 Q. Her birthday was June 30th, 1999?

9 A. Right.

10 Q. She always has her birthday in the summer
11 before she goes to a grade?

12 A. Correct.

13 Q. So showing you -- you said that she was 12
14 going into 6th grade. You corrected yourself and said she
15 was 11 going to --

16 A. Right.

17 Q. Was it 11 going into 6th. Would it refresh
18 your recollection to look at a chart of ages and grades?

19 A. Yes.

20 Q. In 2010 she turned 11 years old. That would
21 be 6th grade -- prior to 6th grade?

22 A. Yes.

23 Q. You said you met Mr. Honea that fall of the
24 6th grade?

25 A. Yes. It would have been fall of 6th grade.

1 Q. Under what circumstances did you meet
2 Mr. Honea?

3 A. I met him at Johnson Junior High School.
4 Morgan informed me that he was a volunteer aide at the
5 school and wanted me to meet him. So I met him at the
6 school when I went to pick her up.

7 Q. At Johnson Middle School?

8 A. Correct.

9 Q. So we're talking the fall of 2011 when she was
10 in the 6th grade, right?

11 A. Yeah.

12 Q. So when you met him under the circumstance
13 that he was some kind of volunteer, was it a quick
14 introduction? Was it before some kind of function? I
15 mean, what were the circumstances?

16 A. I was picking her up after school, and he came
17 out to my car and introduced himself.

18 Q. He introduced himself to you?

19 A. Yes.

20 Q. And at the time, other than being a volunteer
21 at the middle school, did you know anything about him
22 other than what Morgan told you?

23 A. No.

24 Q. When you met him as a volunteer at the middle
25 school, did you find out what he did at the middle

1 school?

2 A. I didn't ask the school what he did there,
3 no.

4 Q. Did at some point either in that first
5 conversation or any conversation thereafter, did Mr. Honea
6 tell you what his function was at this middle school with
7 6th graders?

8 A. After -- not at that first introduction, but
9 after that, shortly after that he said he was there to
10 help the kids. That he monitored their Facebook accounts
11 to help keep them out of trouble.

12 Q. Did he volunteer this information to you?

13 A. Yes, he did.

14 Q. Do you remember where and when that
15 conversation took place?

16 A. It would have been still probably close to --
17 I would say November of that same time period, so I had
18 only met him a few times.

19 Q. In the conversation where he tells you that he
20 is there to watch out for kids does he impart to you any
21 information about Morgan and any efforts to watch out for
22 Morgan?

23 A. Yes, he did.

24 Q. What did he tell you?

25 A. He said that I had a good daughter. And that

1 he wanted to keep her away from the bad kids and drugs.

2 Q. He wanted to keep her away from those things
3 at middle school?

4 A. Right.

5 Q. I mean, was it obvious to you the difference
6 in age when you met him?

7 A. Yes.

8 Q. What did you -- what did you think about this
9 young man looking out for your daughter and how did you
10 feel as a parent about that?

11 A. I wasn't sure what to think at first, but I
12 did ask him why he wouldn't hang around with kids his own
13 age because he's an adult.

14 Q. But not in these first conversations?

15 A. No. But at first he was there to watch out
16 for her and that is what I was led to believe.

17 Q. Is it somewhat comforting as a parent that you
18 have somebody you has eyes at a school? There's a lot of
19 things going on in schools today, right. Kids are smoking
20 pot and skipping class.

21 A. Right.

22 Q. Was it kind of nice to think you have some
23 eyes you can trust on your daughter?

24 A. Yes.

25 Q. Now, in that first fall period of time, was

1 Morgan involved in a choir?

2 A. Yes.

3 Q. Tell me about that?

4 A. One of her extra courses in the school year
5 choir, winter production, that took place in December.

6 Q. Did Mr. Honea have any involvement with that
7 winter production?

8 A. Yes.

9 Q. What was his involvement?

10 A. He was there as a monitor.

11 Q. Same capacity?

12 A. Yes.

13 Q. Did he interact with you or Morgan or both of
14 you on the night of the concert?

15 A. Yes, he did. Before the concert.

16 Q. What did he do?

17 A. He met us outside the auditorium.

18 Q. What happened when he met you outside the
19 auditorium?

20 A. It was just casual conversation, Hi, how are
21 you doing.

22 Q. At this time anything curious about his being
23 around your daughter?

24 A. I didn't recognize anything.

25 Q. So by this mid-year of 6th grade, has

1 Mr. Honea been to your home?

2 A. Yes.

3 Q. How was he at your home during that time?

4 A. He appeared to have influence over Morgan,
5 directing her what to do.

6 MS. MCNEILL: Speculation. Lack of personal
7 knowledge.

8 THE COURT: I think the foundation has been set
9 at this time as to the observations. Maybe we just need
10 to orient this in time, Ms. Kollins, to be sure.

11 So I'll sustain it, but I believe the foundation has
12 been laid or can be.

13 BY MS. KOLLINS:

14 Q. Ms. Savage, my question is we're still
15 focusing on the first semester of 6th grade.

16 Did Josh come to your home the first semester of
17 6th grade?

18 A. Yes.

19 Q. What reasons would he have to come to your
20 home? Was he visiting, having dinner, picking up Morgan?
21 What was he doing that first semester of 6th grade?

22 A. He would come over to visit.

23 Q. When he would come to visit would he come
24 alone or with someone?

25 A. He would come alone.

1 Q. When he would visit what kind of activities
2 would take place in your house?

3 A. He and Morgan would sit on the sofa and watch
4 TV shows.

5 Q. While either the first part of 6th grade or
6 that whole 6th grade, did that happen often?

7 A. Yes.

8 Q. Every week?

9 A. Yes.

10 Q. More than once a week?

11 A. Yes.

12 Q. In those occasions where he would come to your
13 house and watch television with Morgan did he ever bring
14 anybody with him?

15 A. No.

16 Q. Did he ever bring any of his Explorer friends
17 over, anybody over to your house to all watch TV as a
18 group?

19 A. No.

20 Q. When Morgan would sit during 6th grade and
21 watch television with Mr. Honea in your home, did he have
22 other friends over to watch TV, like as a group or watch
23 movies as a group?

24 A. No.

25 Q. When Morgan left the 6th grade was Mr. Honea

1 consistently still around?

2 A. Yes.

3 Q. Did you witness anything at this time that
4 made you concerned that there was something sexual going
5 on in 6th grade going on?

6 A. 6th grade, no.

7 Q. At that time, if you know, was -- during
8 Morgan's 6th grade year, was Mr. Honea involved with the
9 Las Vegas Metropolitan Police Department?

10 A. Yes.

11 Q. What did he -- what was his involvement at
12 this time, if you recall?

13 A. He was part of the Explorer Program.

14 Q. Now during Morgan's 6th grade year, did she go
15 to any of those Explorer meetings with Josh?

16 A. Yes.

17 Q. Was that sometimes? Was that 6th grade? Did
18 that continue?

19 A. Yes. It started in 6th grade and continued.

20 Q. When, if you know, did you and Josh, when
21 Morgan was in 6th grade, have any specific discussions
22 about how old Morgan was?

23 A. Yes.

24 Q. As you sit there today you believe he knew in
25 2011 that she was waiting on her 12th birthday?

1 A. Yes.

2 Q. You live in a single parent household?

3 A. Correct.

4 Q. Was it typical for Morgan to take summer
5 vacations?

6 A. Yes.

7 Q. Where did she go?

8 A. San Francisco.

9 Q. Where else?

10 A. Minnesota.

11 Q. Do you have family in both those places?

12 A. Yes.

13 Q. What portion of the summers would Morgan spend
14 in Minnesota or San Francisco?

15 A. After school was out in June, and she would be
16 gone anywhere from 2 weeks to a month.

17 Q. Now, in 6th grade, 2011, did you write Josh
18 Honea notes any time he took Morgan somewhere?

19 A. No.

20 Q. You did write him permission notes to go out
21 to eat or to a movie or anything like that in 6th grade?

22 A. No.

23 Q. When Morgan got out of 6th grade did she take
24 one of those trip?

25 A. Yes.

1 Q. Over that summer 2011 when she was waiting to
2 turn 12 in June, where did she go?

3 A. At 12, it was Minnesota or San Francisco.

4 Q. Were you aware that while Morgan was on
5 vacation she was continuing to communicate with Josh
6 Honea?

7 A. No, I wasn't.

8 Q. Before she left on that vacation were you
9 aware of how she communicated with Josh Honea?

10 A. No.

11 Q. Did you check her cell phone at that time?

12 A. No.

13 Q. When -- who was Morgan's best friends in 6th
14 grade?

15 A. Her best friend in 6th grade would have been
16 Taylor Roberts.

17 Q. When Morgan came back from that trip -- the
18 6th grade trip -- had she turned 12 while she was gone?

19 A. Yes.

20 Q. Do you recall what, if anything, happened
21 after that trip when she came back? Some of the things
22 she did when she came back?

23 A. No.

24 Q. Do you recall whether or not she had a sleep
25 over with Taylor Roberts?

1 MS. MCNEILL: I'd object to this. There's a lot
2 of leading. She testified he didn't know and we're
3 telling her the answer.

4 THE COURT: It's a difficult balance to have, I
5 know, as we get into a new lines of questioning. I will
6 allow you to have some foundational questions, but I want
7 to be careful about that. Ask more open-ended
8 questions.

9 BY MS. KOLLINS:

10 Q. If you recall did Morgan have any plans when
11 she came home from Minnesota regarding friends she wanted
12 to see, if you know?

13 A. When she came back from her trips she always
14 wanted to see Taylor Roberts.

15 Q. Do you recall if she did that in the summer
16 when she turned 12?

17 A. I don't remember. It was her pattern to see
18 Taylor.

19 Q. When she got back from Minnesota that summer
20 did you see Josh again?

21 A. Yes.

22 Q. Thinking about the time she got back in town,
23 did a little time go back or a long time go by before you
24 saw Josh again?

25 A. It was very quick.

1 Q. When you say very quick, give an estimate --
2 week, two weeks, less than that?

3 A. Less than a week.

4 Q. How is it that Josh came to be around Morgan
5 when she came back from Minnesota?

6 A. He contacted her.

7 Q. Did you drop her off somewhere to see him, did
8 he pick her up, something different?

9 A. No. He typically came to the house, so I
10 would say at that time he came to my house.

11 Q. He picked her up?

12 A. Yes.

13 Q. Do you have any recollection what they were
14 going to do when he picked her up?

15 A. No.

16 Q. Did you have any concern about letting her go
17 with him at that time?

18 A. No.

19 Q. When she got back from Minnesota, long time,
20 short period of time, before school started up, if you
21 know?

22 A. I don't know exactly.

23 Q. In 2011 when Morgan turned 12, did she have
24 braces?

25 A. Yes. She -- yes.

1 Q. When did Morgan get braces and when did they
2 come off?

3 A. She got braces in 6th grade. And she wore
4 them for almost 4 years. So it was around 2015 when they
5 came off.

6 Q. She kept them for a long time?

7 A. Yes.

8 Q. I want to talk about Morgan going into the 7th
9 grade. Was she still at Johnson Middle School?

10 A. Yes.

11 Q. If you know, was Mr. Honea still a volunteer,
12 monitor whatever while she was in 7th grade?

13 A. Yes.

14 Q. Were you aware whether or not Mr. Honea's
15 mother or another relative worked at Johnson Middle
16 School?

17 A. I was aware that his mother was a secretary
18 there.

19 Q. Do you know his mom's name?

20 A. I don't remember her name.

21 Q. Dara (ph)?

22 A. Sounds right.

23 Q. Morgan was still going to the Explorer
24 meetings during 7th grade?

25 A. Yes.

1 Q. Do you -- during 7th grade do you have
2 conversations with Josh about his life goals and things
3 like that when you talk to him?

4 A. Yes. I talked to him. He said he wanted to
5 be a Metro police officer.

6 Q. Anything else?

7 A. His career goals?

8 Q. Pardon me?

9 A. His specific goals?

10 Q. Yeah. Anything else that he told you, other
11 then he wanted to be a Metro officer, if you recall?

12 A. I remember the Metro officer. There was a lot
13 of talk about that.

14 Q. Again, during this time frame we're talking
15 about 7th grade was Morgan still going to Explorer
16 meetings?

17 A. Yes.

18 Q. Does Joshua, sometime during Morgan's 7th
19 grade year, talk to about his positions on dating, drugs,
20 anything like that?

21 A. He did. We had conversations about how he
22 never dated girls. That he never took any drugs. That he
23 didn't go to homecoming games or proms while he was in
24 high school.

25 Q. Did he give you a reason for rational why he

1 didn't go to any of those events, proms or things like
2 that?

3 A. Because those were for bad kids.

4 Q. Got you. So when he told you he had not dated
5 girls or would never dated girls, what did you understand
6 from that?

7 A. My understanding is that he must be gay.

8 Q. Was that the, I guess, perception you had
9 based on your conversation with him?

10 A. Right. That was my own perception that he
11 must be gay.

12 Q. During the 7th grade is he picking up
13 Morgan?

14 A. Yes.

15 Q. Where is he picking her up?

16 A. Johnson Middle School.

17 Q. One day a week? Two days a week, more?

18 A. That would be 2 or 3 days a week.

19 Q. What time did Morgan got out of school back
20 then?

21 A. Back then school was out like 2:21, 2:26.

22 Q. And you worked?

23 A. Correct.

24 Q. Did you work back then?

25 A. Yes.

1 Q. What time would you get home from work?

2 A. Generally 4:30, 5:00.

3 Q. Did you extend permission to Mr. Honea to
4 drive your daughter from school to home?

5 A. He volunteered to do it for me.

6 Q. But you told him it was okay?

7 A. Yeah.

8 Q. Did you give him permission at that point to
9 take her anywhere else besides school to home?

10 A. No.

11 Q. Just talking about school?

12 A. School.

13 Q. At that point did you ever -- we're talking
14 about 7th grade -- did you ever give Josh permission to
15 pick Morgan up from CVS up on Charleston?

16 A. No.

17 Q. Never had permission to pick her up and take
18 her anywhere?

19 A. No.

20 Q. Did he ever have permission to pick her up and
21 take her to SunCoast Hotel and Casino?

22 A. No.

23 Q. How about the Rampart Hotel and Casino?

24 A. No.

25 Q. When -- does Morgan continue to go to Explorer

1 meetings throughout 2012 in 7th grade?

2 A. Yes.

3 Q. How many events are there a week that are
4 Explorer meetings?

5 A. I was told once a week.

6 Q. What would be the length of time Morgan was
7 out of the house if there was an Explorer meeting?

8 A. She would be gone about 3 hours.

9 Q. Mr. Honea had your permission to pick Morgan
10 up and take her to the meetings?

11 A. Yes.

12 Q. Prior to meeting Josh Honea was this kind of
13 activity something Morgan ever expressed interest in?

14 A. No.

15 Q. Did she ever, prior to leaving, express
16 interest in participating in law enforcement?

17 A. No.

18 Q. Just so we know, I'm going to show you a
19 picture of your daughter. There's a screen in front of
20 you. Showing you what's been admitted as State's 20, do
21 you recognize the people in that photograph?

22 A. That's Morgan and Josh.

23 Q. This appears to be -- we've had testimony in
24 that regard -- a birthday party. Were you present at that
25 June 20, 2013 party?

1 A. No.

2 Q. When -- in 2012, when we're talking about the
3 7th grade, does Morgan, if you know, do you give her
4 permission to go to activities at Joshes' house, Joshes'
5 parents' house?

6 A. 7th grade, 2012, yes, at Joshes' parents'
7 house.

8 Q. That -- what kinds of things were you giving
9 her permission to do at his parents' house?

10 A. Permission to go over and have dinner with the
11 family.

12 Q. So by this time, like the beginning of 7th
13 grade, Josh has been around for about a year, right?

14 A. Yes.

15 Q. And he told you he never dated girls, right?

16 A. Correct.

17 Q. Is anything on your mom radar causing you
18 concern that this 18 year old is picking up your kid and
19 taking her to family dinners?

20 A. Yes.

21 Q. What? Tell me about that.

22 A. I questioned Josh why he would want to take a
23 child, my child, to his family dinners.

24 Q. Okay. What would be his response?

25 A. His response would be that it was family time

1 and that there wasn't anything more then dinner.

2 Q. Did he describe to you what he thought his
3 relationship was with Morgan during this time frame?

4 A. He thought he was there to watch out over her,
5 a big brother.

6 Q. Is that his word, big brother?

7 A. Yep.

8 Q. Morgan does have siblings, but none of which
9 live in Las Vegas?

10 A. Correct.

11 Q. Now, during this time how often are Morgan and
12 Mr. Honea together?

13 A. Like weekly.

14 Q. One time a week. Three times a week? More?

15 MS. MCNEILL: Objection. How she knows this
16 coming from her, seeing it or hearing about it.

17 THE COURT: Ms. Kollins, can we have foundation
18 and knowledge.

19 BY MS. KOLLINS:

20 Q. During 7th grade do you permit Morgan to have
21 contact with Josh Honea?

22 A. Yes.

23 Q. Every time that Morgan goes somewhere or went
24 somewhere with Mr. Honea, did she back then have to tell
25 you, hey, mom, I'm going to do this?

1 A. Yes.

2 Q. So would it be fair to say the 12 year old
3 didn't have carte blanche to do whatever she wants?

4 A. No.

5 Q. Back then how much time a week, a month were
6 you granting Morgan permission go to go to Explorer
7 meetings, or family dinners, or anything like that?

8 A. No more than 3.

9 Q. 3 per week?

10 A. 3 per week.

11 Q. Is that separate from picking her up from
12 school?

13 A. Yes.

14 Q. So back then they are together from when
15 school gets out -- pick up and drop off?

16 A. Yes.

17 Q. Then no more than 3 times a week they were
18 doing other activities?

19 A. Correct.

20 Q. With your permission?

21 A. Yes.

22 Q. Correct me if I'm wrong. None of your
23 permission encompassed him having any sexual contact with
24 your daughter, would that be accurate?

25 A. That would be accurate.