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1 to get out again and, you know, because of our  
 2 conversations in the past he was just -- he was so  
 3 adamant and so angry that, you know, he was going  
 4 to come after me because, you know, the way I see  
 5 it if I had been driving my car that day, he might  
 6 have -- he might have got me so yeah, I was afraid  
 7 and I started, I mean I'm seeing a doctor and, you  
 8 know, I went to therapy. I got on medication.  
 9 Q. Did you miss some work?  
 10 A. Yes, sir, I did.  
 11 Q. How much work did you miss?  
 12 A. All together I'd say about maybe  
 13 seven, eight months all together because there was  
 14 a time when the company was in transition and my  
 15 doctor felt and the company felt that it was better  
 16 if I waited till after we moved into our new  
 17 offices for me to come back to work and have a  
 18 fresh start and everything and then once the trial  
 19 started and it all came back, I just, again I felt  
 20 like I was kind of, you know, I was too afraid.  
 21 Q. And the trial happened about a year  
 22 after the incident.  
 23 A. No, it wasn't that long.  
 24 Q. Okay. But that had a cumulative  
 25 impact.

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1 A. Most definitely, yes.  
 2 Q. Do you feel like you've worked through  
 3 a lot of that now?  
 4 A. I have now I just -- I have anger  
 5 issues.  
 6 Q. What kind of person was Debbie?  
 7 A. She was a lot of things to a lot of  
 8 people. And, you know, to describe her she -- she  
 9 had a different relationship with everybody. You  
 10 know, the relationship she had with me was  
 11 different than the one with Michael. The  
 12 relationship she had with Michelle was different  
 13 than the one she had with me or Michael so I mean  
 14 to everybody she was, you know, -- she was  
 15 somebody -- she was somebody special, but in her  
 16 own way she was, you know, different to call of us.  
 17 Q. What kind of qualities did she have  
 18 that made her special?  
 19 A. She loved to laugh. She just liked to  
 20 go out and cut up and laugh. She liked to dance  
 21 around. She liked to listen to music real loud and  
 22 just, you know, she always -- she always tried to  
 23 stay upbeat and happy. That's just the way she  
 24 was.  
 25 Q. How about as a mother?

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1 A. She was an amazing mother. Her --  
 2 everything revolved around them, everything.  
 3 Q. You've been holding something in your  
 4 hand. What is it?  
 5 A. The a pamphlet from her funeral.  
 6 Q. Why did you have that with you?  
 7 A. As a reminder so that certain people  
 8 wouldn't forget.  
 9 MR. OWENS: Thanks. That's all I  
 10 have, Your Honor.  
 11 (Whereupon Mr. Owens  
 12 completed his direct  
 13 examination at 2:56 p.m.)  
 14 THE COURT: Thank you. Mr. Schieck,  
 15 Mr. Patrick.  
 16 MR. SCHIECK: Thank you, Your Honor.  
 17  
 18 CROSS-EXAMINATION  
 19 BY MR. SCHIECK:  
 20 Q. Ms. Duran, I'm going to ask you just a  
 21 few questions. Okay?  
 22 A. Can you speak up a little bit, please.  
 23 Q. Yes.  
 24 A. Thank you.  
 25 Q. I'm going to ask you a few questions

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1 about your knowledge of the relationship between  
 2 the two of them. You indicated that there was an  
 3 incident in December of 1994 where you saw a slap;  
 4 is that correct?  
 5 A. Yes, sir.  
 6 Q. As you were coming out of work?  
 7 A. Yes, sir.  
 8 Q. And it's your recollection it was the  
 9 end of your workday?  
 10 A. Yes, sir.  
 11 Q. Late in the afternoon?  
 12 A. Yes, sir.  
 13 Q. Okay. It wasn't early in the morning?  
 14 A. No, sir.  
 15 Q. Okay. And the car that they were  
 16 driving, was it the car that you were shown  
 17 photographs of here or was it a different car?  
 18 A. I do not recall. I was not paying  
 19 attention to the car at the time.  
 20 Q. Okay. So you don't recall as you  
 21 testified today whether the car was the one that's  
 22 depicted in the photograph that was shown?  
 23 A. No, sir. I don't recall.  
 24 Q. It could have been the same one. It  
 25 could have been a different one?

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1 A. As I stated before, I was not paying  
 2 attention to the automobile.  
 3 Q. And you really couldn't recognize the  
 4 individual that was in the car with her. Is that  
 5 fair to say?  
 6 A. From what I could see it was a male  
 7 and as I stated before the argument was pretty  
 8 intense.  
 9 Q. Okay. When you say an intense  
 10 argument, both people were arguing.  
 11 A. Yes, sir.  
 12 Q. You couldn't hear what was being  
 13 said.  
 14 A. No, sir. I was too far away.  
 15 Q. Could you hear that there was words  
 16 being spoken back and forth, though?  
 17 A. No, sir. I couldn't hear anything.  
 18 Q. What makes you characterize it as an  
 19 intense argument?  
 20 A. Because the person was in her face.  
 21 Q. Okay. Both of them looked like they  
 22 were going at each other verbally?  
 23 A. Yes. I mean when you see two people  
 24 this close to each other, you know, there's  
 25 something going on and it's not nice.

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1 Q. And so the male individual was in the  
 2 driver's seat.  
 3 A. Yes, sir.  
 4 Q. Okay. And Debbie would have been in  
 5 the passenger seat?  
 6 A. Yes, sir.  
 7 Q. And they were turned toward each other  
 8 going at each other in an intense argument?  
 9 A. Yes, sir.  
 10 Q. And that's when the slap occurred?  
 11 A. Yes, sir.  
 12 Q. Okay. So they were both sort of  
 13 towards the center of the car when you saw the  
 14 slap?  
 15 A. Yes, sir. It's a very small car so  
 16 there wasn't a whole lot of room to be too far away  
 17 if each other.  
 18 Q. But it was certainly your opinion and  
 19 watching the situation that they were going at each  
 20 other at that point?  
 21 A. Yes, sir.  
 22 Q. And then the slap occurred and I take  
 23 it Debbie got out of the car at that point?  
 24 A. Yes, sir.  
 25 Q. Fairly soon after the slap occurred?

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1 A. Yes, sir.  
 2 Q. Did she get out of the car fairly  
 3 quickly?  
 4 A. I think at that point she was probably  
 5 stunned and, you know, didn't do it in a hurry but  
 6 then again she didn't do it very slow.  
 7 Q. Okay. That was the end of the  
 8 argument that you were observing. She got out and  
 9 came inside.  
 10 A. Yes, sir.  
 11 Q. And at that point in time there was no  
 12 mention of calling the police or calling 9-1-1 or  
 13 anything like that?  
 14 A. No, sir.  
 15 Q. Did you -- you were still inside when  
 16 you saw this.  
 17 A. Yes, sir. As I said before, there  
 18 was -- when you came out of the office, there was a  
 19 door that opened then like a little hallway and  
 20 then another door that opened.  
 21 Q. Were you in --  
 22 A. I was in between both doors.  
 23 Q. So you were in the little hallway in  
 24 sort of the --  
 25 A. Yes, sir.

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1 Q. -- coat room type of thing.  
 2 A. Yes, sir.  
 3 Q. And did you see whether the male  
 4 individual drove away or you were talking to Debbie  
 5 and didn't notice?  
 6 A. No. Because I waited for her to come  
 7 in and because I was standing in that little  
 8 hallway I waited for her and at that point I asked  
 9 her if she was okay because I knew nobody else  
 10 could hear us because the other door was behind me  
 11 and I asked her if she was okay and she had  
 12 indicated to me that she was.  
 13 Q. And at that point you left?  
 14 A. Yes, sir.  
 15 Q. Left work. Now, with respect to the  
 16 next incident you told us about had to do with  
 17 Debbie came to work and she had a bandage on her  
 18 face apparently from a broken nose.  
 19 A. Yes, sir.  
 20 Q. And you had asked her what happened.  
 21 She said she had been hit by James.  
 22 A. Yes, sir.  
 23 Q. Did she mention anything about being  
 24 hit with a thermal cup or some kind of a thermos?  
 25 A. No. She didn't indicate to me how it

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1 happened. She had just told me that he had done	1 occasion?
2 it.	2 A. A minute. I left.
3 Q. Was that a fairly short conversation	3 Q. Now, at some point in time you
4 you had with her?	4 indicated that you were -- you received some phone
5 A. Yes, sir, because at that point there	5 calls from James while he was in custody?
6 were a lot of people staring and I didn't want to	6 A. Yes.
7 embarrass her any further so I left it at that.	7 Q. Do you recall when the first call
8 Q. And you're not sure of exactly when it	8 would have been?
9 was that that incident occurred when she came to	9 A. No, sir, I cannot.
10 work on the Band-Aid on?	10 Q. Was it before you met him in May or
11 A. No, sir. As I stated before I didn't	11 after you met him in May?
12 want to embarrass her any further so I didn't ask	12 A. This was after.
13 anymore questions.	13 Q. Okay. So sometime after May.
14 Q. Were you pretty good friends with her	14 A. Yes.
15 at that point or were you still developing your	15 Q. And you said two of the calls came to
16 friendship with her?	16 your house and he was calling there looking for
17 A. We were still in the developmental	17 Debbie; is that correct?
18 stages.	18 A. Yes. The first phone call was before
19 Q. At that point in time had you been	19 I had met him.
20 over to her house or to her trailer home?	20 Q. Okay. At your house?
21 A. Yes, I had.	21 A. Yes.
22 Q. Just visiting?	22 Q. And he was calling from actually their
23 A. Yes.	23 house.
24 Q. And do you recall approximately when	24 A. I do not know where he was calling
25 the first time you would have visited her at her	25 from.
Page 54	Page 56
1 home?	1 Q. But he was looking for Debbie?
2 A. No, sir, I don't.	2 A. Yes, sir.
3 Q. Was it before or after the slapping	3 Q. Is that the occasion where she said
4 incident, do you recall that?	4 she was on her way home or was coming home then?
5 A. I don't recall.	5 A. Yes, sir.
6 Q. And I believe you indicated that first	6 Q. Okay. Now, you had indicated that
7 time that you physically met Mr. Chappell was	7 there was sort of a group of you there at GE that
8 around Memorial Day?	8 were sort of formed a clique or a group of
9 A. It was Memorial Day weekend.	9 friends.
10 Q. And had Debbie taken you over to the	10 A. Yes, sir.
11 house or had you come over to visit?	11 Q. And it was Michelle and yourself?
12 A. I had taken her home.	12 A. Yes.
13 Q. And she invited you into the home?	13 Q. And Mike?
14 A. Yeah.	14 A. And Debbie.
15 Q. And when she invited you in, James was	15 Q. And Debbie. Anybody else was sort of
16 sitting in said in the front room area?	16 in that group or was it just the four of you?
17 A. Yes.	17 A. It was just the four of us.
18 Q. Okay. And she introduced you to him?	18 Q. Okay. Now, at some point in time you
19 A. Yes.	19 actually spent some time staying at Debbie's or at
20 Q. And that's the end of May of 1995 to	20 the trailer house?
21 your best --	21 A. Yes.
22 A. Whatever Memorial Day weekend is.	22 Q. And do you know if Michelle ever spent
23 Q. It's usually toward the end of May.	23 any time where she stayed at that trailer house
24 A. Yes.	24 also?
25 Q. And how long did you stay on that	25 A. Yes, she did on occasion, yes.

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1 Q. Okay. Can you recall when she stayed	1 A. Yes.
2 there?	2 Q. About one step behind the youngest
3 A. No, sir, I do not.	3 sort of housekeeping?
4 Q. Was she ever staying there at the same	4 A. Yes.
5 time you were staying there?	5 Q. Now, we had started talking about the
6 A. There was a couple of times, yes.	6 phone calls and you got the one at your house and
7 Q. So it would be Debbie and her three	7 you're not sure where James was at when he called
8 kids and yourself?	8 in, but there were calls that came from the jail.
9 A. And my daughter and Michelle.	9 A. Yes, sir, when I was at her house.
10 Q. Okay. Did Michelle have any kids at	10 Q. Okay. And Debbie had asked that you
11 that point in time?	11 go ahead and accept those calls?
12 A. She did but her daughter was somewhere	12 A. Yes, sir.
13 else.	13 Q. And when calls come in through the
14 Q. And you kind of described the bedroom,	14 jail there's the operator or the voice lady comes
15 the master bedroom where Debbie stayed at.	15 on and says you have a call from the detention
16 A. Yes.	16 center?
17 Q. And the bedroom where you stayed at.	17 A. Yes, sir.
18 Where was Michelle staying at that time?	18 Q. And gives you directions on whether to
19 A. There were times she would sleep in	19 accept or deny?
20 the front room on the couch.	20 A. Yes, sir.
21 Q. And what about Debbie's kids, where	21 Q. So you would accept those calls from
22 were they?	22 the jail --
23 A. The two boys had the bedroom next to	23 A. Yes, sir.
24 mine because as I stated there was two bedrooms and	24 Q. -- knowing that they were James?
25 there was a bathroom in between us and then the	25 A. Yes, sir, because she asked me to.
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1 baby stayed with her.	1 Q. So she wanted to you take those calls?
2 Q. And if Michelle was there, she would	2 A. I'm sorry.
3 stay in the front room area?	3 Q. She wanted you to take those calls
4 A. Yes, sir.	4 from James?
5 Q. And you said that during the period of	5 A. Yes.
6 time when you lived there or visited there, you saw	6 Q. Were there occasions where you were
7 pictures of James around the trailer home?	7 there when calls would come in and she would
8 A. Yes, I did.	8 accept, herself would accept the calls from the
9 Q. Okay. Where were they located, do you	9 jail?
10 recall?	10 A. Yes.
11 A. In her bedroom.	11 Q. And she would talk to him on the
12 Q. So they were displayed. They were	12 phone?
13 visible photographs that were out?	13 A. Yes.
14 A. No. She just would have pictures in	14 Q. Did you stay in the room and listen to
15 her room, a pile of pictures.	15 those calls?
16 Q. You were able to see them?	16 A. No, sir, I did not.
17 A. Yes, sir.	17 Q. So you gave them the privilege as of
18 Q. And with three kids of those ages,	18 her being able to speak on the phone?
19 it's hard to keep up with all the clutter that kind	19 A. Yes, sir, because it was her house.
20 of gets spread around by kids. Would you agree	20 Q. Thank you. Do you know how many of
21 with that?	21 those calls you would have been around for?
22 A. A three-, a five-, and a seven-year	22 A. No, I do not.
23 old, yes.	23 Q. Would you say there was a lot of calls
24 Q. And that's kind of how you described	24 or a few calls or --
25 Debbie's house.	25 A. When I was there, a few.



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1 Q. Now, you had -- were there times when  
 2 Debbie had asked you not to give information to  
 3 James when he would call like, "Don't tell him  
 4 where I'm at," or anything like that?  
 5 A. No. She just told me to accept his  
 6 calls.  
 7 Q. But she didn't give you any directions  
 8 as if I'm not here and he calls, take the call and  
 9 don't tell him where I'm at or anything like that?  
 10 A. No. She just said to accept the call  
 11 because she didn't want to make him angry.  
 12 Q. And there was at least one call where  
 13 he did become angry because you couldn't tell him  
 14 where she was at. Is that --  
 15 A. Yes, sir.  
 16 Q. Did you know where she was at?  
 17 A. Yes, sir, I did.  
 18 Q. But you weren't telling James where  
 19 she was at because you didn't make him angry?  
 20 A. Well, that was Debbie's business.  
 21 Q. Okay. Now, you had talked about that  
 22 you were sort of part of this discussion that  
 23 Debbie was going to move out of the trailer home --  
 24 A. Yes, sir.  
 25 Q. -- into another location?

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1 A. Yes, sir.  
 2 Q. Did you know where she planned to move  
 3 on?  
 4 A. She planned on moving in with someone  
 5 else.  
 6 Q. Okay. Who was that?  
 7 A. J.R.  
 8 Q. Is a that a male or female?  
 9 A. It's a male.  
 10 Q. Is that someone she had been seeing at  
 11 that point in time?  
 12 A. Yes, sir.  
 13 Q. By seeing I mean sort of in a dating  
 14 relationship?  
 15 A. Yes, sir.  
 16 Q. And this was while James was in  
 17 custody?  
 18 A. Yes, sir.  
 19 Q. During the periods of that he would be  
 20 calling and asking for her, during that period of  
 21 time during that summer?  
 22 A. Yes, sir.  
 23 Q. But you never discussed that with  
 24 James obviously.  
 25 A. No, sir, I did not.

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1 Q. Now, you had also talked about Mike  
 2 Pollard. Do you know where Debbie ever stayed over  
 3 at his house on any occasions?  
 4 A. Sure.  
 5 Q. During that period of time do you  
 6 recall, summertime, before summer or --  
 7 A. There were numerous times.  
 8 Q. And can you describe Mike for us.  
 9 A. He's funny. He's just, he's funny.  
 10 He's warm and he's bright and he was just a happy  
 11 guy.  
 12 Q. And did he have his own apartment or  
 13 his own house?  
 14 A. He had his own apartment.  
 15 Q. Older guy, younger guy? Which is a  
 16 bad question I know.  
 17 A. As I recall we were all about the same  
 18 age, but I think Mike may have even been a couple  
 19 years older than me.  
 20 Q. Now, and Mike worked there at GE also?  
 21 A. Yes, sir.  
 22 Q. Now, I, wanted to talk about the  
 23 August 31st date. When you went over to the  
 24 trailer house, you said as you were coming into the  
 25 mobile home park you saw what you believed was

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1 Debbie's car leaving at the same time you were  
 2 coming in.  
 3 A. It was Debbie's car, yes.  
 4 Q. And there was some distinctive things  
 5 about it that you could recognize like it didn't  
 6 have license plates.  
 7 A. Yes, sir.  
 8 Q. There was no doubt it was Debbie's  
 9 car?  
 10 A. No, sir. It was her car.  
 11 Q. But at that point in time you didn't  
 12 recognize who was driving the car?  
 13 A. No, sir. I really didn't pay  
 14 attention. At one point the sun was in my eyes and  
 15 I put the visor down and I looked and I just kept  
 16 driving. I really didn't think anything of it.  
 17 Q. Did you think it was Debbie?  
 18 A. I knew it wasn't Debbie because when I  
 19 looked, it was a male.  
 20 Q. But nonetheless you went ahead to  
 21 Debbie's house and knocked on the door?  
 22 A. Yes, sir.  
 23 Q. Because you knew it wasn't her in the  
 24 car.  
 25 A. Yes, sir.

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1 Q. Did she have a routine where she would  
 2 let people borrow her car if they needed to go  
 3 somewhere and things of that nature?  
 4 A. Yes, sir.  
 5 Q. So it wouldn't have been out of the  
 6 ordinary to see her car leaving and still believe  
 7 that she would be home when you knocked on the  
 8 door?  
 9 A. Yes.  
 10 Q. That's why you went ahead and  
 11 proceeded in.  
 12 A. Yes, sir.  
 13 Q. And when she didn't answer the door,  
 14 correct me if I'm wrong, your thought process was,  
 15 well, maybe she's already gone over to Mike's.  
 16 A. Yes, sir.  
 17 Q. Now, if you'd seen her car leaving and  
 18 she wasn't in it, how did she get over to Mike's?  
 19 A. She just found another way to go over  
 20 there.  
 21 Q. That wouldn't have -- it's not unusual  
 22 for her to have gone over to Mike's at that point  
 23 in time.  
 24 A. No. Because she was, you know, always  
 25 with Michelle or --

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1 Q. But you had prearranged you were going  
 2 to come by to pick up some stuff so you could go  
 3 out of town for the Labor Day weekend.  
 4 A. Yes, sir.  
 5 Q. But she knew you were coming over but  
 6 you thought she might have gone over to Mike's?  
 7 A. Yes, sir.  
 8 Q. Now, when you said you were going out  
 9 of town for the labor day weekend was that just a  
 10 trip out of town or were you taking all your  
 11 belongings?  
 12 A. It was just a short trip out of town.  
 13 Q. So you were going to pick up some  
 14 clothes and things of that nature?  
 15 A. Yes, sir.  
 16 Q. You weren't moving furniture or  
 17 anything?  
 18 A. No, sir.  
 19 Q. Had you moved furniture into her house  
 20 when you started staying with her?  
 21 A. You mean for that week?  
 22 Q. Yes.  
 23 A. Yes. My bed was there. My dresser  
 24 was there.  
 25 Q. And that was in the back bedroom?

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1 A. Yes, sir.  
 2 Q. And when you knocked on the door on  
 3 the 31st, you said you heard the TV on.  
 4 A. Yes.  
 5 Q. And the air-conditioner running?  
 6 A. Yes. Because I had put my ear to the  
 7 door.  
 8 Q. To see if she was on the way to the  
 9 door to see what was going on?  
 10 A. Yes.  
 11 Q. And the TV was on loud enough you  
 12 could hear that it was on?  
 13 A. Yes, once I put my ear to the door.  
 14 Q. And the air-conditioning unit was loud  
 15 enough on the outside that you could hear that it  
 16 was running?  
 17 A. Yes, sir.  
 18 Q. At that point in time is that when you  
 19 thought that she'd gone over to Mike's house?  
 20 A. The first time?  
 21 Q. Yes.  
 22 A. Yes.  
 23 Q. Even though you heard the TV on and  
 24 the air-conditioning on you thought she might have  
 25 gone to Mike's?

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1 A. Yes because it wasn't that far away.  
 2 Q. How far away was Mike's?  
 3 A. About 15 minutes.  
 4 MR. SCHIECK: Can I have Court's  
 5 indulgence for one minute, Your Honor.  
 6 THE COURT: You may.  
 7 MR. SCHIECK:  
 8 Q. Debbie on occasions had told you that  
 9 she loved James; is that correct?  
 10 A. Yes.  
 11 Q. And you indicated that on the 30th of  
 12 August which is the day before, the 30th is the day  
 13 that she would have been in court.  
 14 A. Yes.  
 15 Q. Did you have a conversation with  
 16 Debbie when she came back to the trailer home.  
 17 A. Yes.  
 18 Q. And that's the point in time that she  
 19 indicated that she had told James that it was over,  
 20 that she wanted to fully and completely separate?  
 21 A. Yes.  
 22 Q. And that was pretty much the extent of  
 23 the conversation about what had happened.  
 24 A. Yes.  
 25 Q. Did she come directly from court back

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1 to the trailer home or do you know if she went to  
 2 work and then home?  
 3 A. I don't recall that. All I remember  
 4 is me going to the trailer and she was already  
 5 there.  
 6 Q. So she'd already been to court and was  
 7 back to court when you arrived?  
 8 A. Yes.  
 9 Q. And that's when you had the  
 10 conversation?  
 11 A. Yes.  
 12 Q. Prior to that time had she ever  
 13 indicated to you that she had told James that it  
 14 was completely over between the two of them?  
 15 A. There was an incident -- there was a  
 16 conversation that I had had with the defendant that  
 17 he expressed to me he was upset because she stopped  
 18 accepting his phone calls. The letters stopped.  
 19 He couldn't see the kids so this was an ongoing. I  
 20 mean it's not like one day she just decided to tell  
 21 him, "I'm done."  
 22 Q. But this phone call was while he was  
 23 in custody?  
 24 A. Yes.  
 25 Q. One of the calls you'd accepted?

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1 A. Yes.  
 2 Q. And he expressed some anger to you  
 3 that Debbie wasn't seeing him?  
 4 A. Yes.  
 5 Q. Or taking his calls or bringing the  
 6 kids by to see him in the jail?  
 7 A. Yes.  
 8 Q. Was that getting close to the  
 9 August 30th-31st time frame?  
 10 A. That I do not recall.  
 11 MR. SCHIECK: Thank you. That's all I  
 12 have, Your Honor.  
 13 (Whereupon Mr. Schieck  
 14 concluded his cross-examination  
 15 at 3:17 p.m.)  
 16 THE COURT: Mr. Owens.  
 17 MR. OWENS: Yes, Your Honor. Thank  
 18 you.  
 19  
 20 REDIRECT EXAMINATION  
 21 BY MR. OWENS:  
 22 Q. At what point in that time frame that  
 23 you've been talking about did it come to your  
 24 attention that Debbie wanted to break things off  
 25 with the defendant?

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1 A. When she had made definite plans to,  
 2 you know, start packing up her things to move in  
 3 with J.R.  
 4 Q. When would that have been?  
 5 A. I guess a few weeks before.  
 6 Q. Was that the time frame when she  
 7 didn't want to really take his calls anymore?  
 8 A. That was before that I think. I'm not  
 9 very sure.  
 10 Q. Okay. You said that one of the  
 11 reasons that she was taking phone calls is because  
 12 she didn't want to make him angry.  
 13 A. Yes.  
 14 Q. What do you mean by that? What did  
 15 she say?  
 16 A. She just -- he got angry very easily  
 17 and she just, she didn't want him to be angry.  
 18 Q. So she told you to go ahead and take  
 19 the call?  
 20 A. Yes, sir.  
 21 Q. When you get a call from the jail it's  
 22 kind of you talked about accepting a call?  
 23 A. Yes.  
 24 Q. That's because there's a little  
 25 process that happens there. A voice comes on and

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1 you're asked if you're willing to accept the call?  
 2 A. Yes.  
 3 Q. So you have an option to take the call  
 4 or not.  
 5 A. Yes.  
 6 Q. This J.R., when did he become involved  
 7 in Debbie's life?  
 8 A. I guess a couple months before.  
 9 Q. What was he like?  
 10 A. He was nice. He was good to her and,  
 11 you know, he had a nice house and he was just, he  
 12 was fun to be around. I'd been to his house a  
 13 couple of times. He was very nice.  
 14 Q. Where had she met him?  
 15 A. That I do not recall. I don't  
 16 remember where they had met.  
 17 Q. Do you think it was about maybe a  
 18 couple months before her death?  
 19 A. Yeah, because as I stated before they  
 20 were together for about two or three months.  
 21 MR. OWENS: Okay. All right. That's  
 22 all I have, Your Honor.  
 23 (Whereupon Mr. Owens  
 24 completed his redirect  
 25 examination at 3:20 p.m.)

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1 THE COURT: Mr. Schieck, anything  
 2 further?  
 3  
 4 RE-CROSS-EXAMINATION  
 5 BY MR. SCHIECK:  
 6 Q. Your best estimate is two or three  
 7 months she'd been dating J.R. --  
 8 A. Yes.  
 9 Q. -- prior to her death.  
 10 And do you know does J.R. Stand for  
 11 junior or is that his initials?  
 12 A. That I do not know, sir.  
 13 Q. Do you know his name?  
 14 A. No, sir. I do not. He went by J.R.  
 15 Q. But you'd been to his house --  
 16 A. Yes.  
 17 Q. -- with Debbie?  
 18 A. Yes.  
 19 MR. SCHIECK: Thank you. That's all I  
 20 have, Your Honor.  
 21 (Whereupon Mr. Schieck concluded  
 22 his recross-examination at  
 23 3:20 p.m.)  
 24 THE COURT: Mr. Owens?  
 25 MR. OWENS: Nothing further.

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1 THE COURT: Mr. Taylor has a question  
 2 I believe. Counsel approach, please.  
 3 (Whereupon, counsel approached  
 4 the bench, and after a  
 5 discussion outside the hearing  
 6 of the court reporter, the  
 7 following proceedings took  
 8 place:)  
 9 THE COURT: Let me just clarify one  
 10 thing. I think this is Juror Ms. Staley. In terms  
 11 of photographs, are you referring to in the house?  
 12 JUROR: Yes.  
 13 THE COURT: Let me ask you a couple  
 14 questions, Ms. Larsen.  
 15 THE WITNESS: Okay.  
 16 THE COURT: In Debbie's home trailer  
 17 were there family and friend photos displayed not  
 18 in piles I guess on the walls or shelves where  
 19 people could see.  
 20 THE WITNESS: Yes. The children --  
 21 from what I remember there were photos of the kids  
 22 displayed.  
 23 THE COURT: Okay. And did Debbie ever  
 24 talk with you about having consensual sex with  
 25 James prior to the murder?

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1 THE WITNESS: No. She never did.  
 2 THE COURT: Okay. Mr. Owens, do you  
 3 have any questions based upon my questions?  
 4 MR. OWENS: No, Your Honor.  
 5 THE COURT: Mr. Schieck.  
 6 MR. PATRICK: No, Your Honor.  
 7 THE COURT: All right. Thank you very  
 8 much, Ms. Larsen. You're excused. Thank you for  
 9 your testimony.  
 10 (Whereupon Lisa Larsen  
 11 was excused from the  
 12 witness stand at 3:23 p.m.)  
 13 THE COURT: How long is the State's  
 14 next witness?  
 15 MS. WECKERLY: Maybe 15 minutes.  
 16 THE COURT: All right. Go ahead and  
 17 call your next witness.  
 18 MS. WECKERLY: It's Officer Lee.  
 19  
 20 RUSSELL LEE,  
 21 having been first duly sworn to testify to the  
 22 truth, the whole truth and nothing but the truth,  
 23 was examined and testified as follows:  
 24  
 25 THE CLERK: If you'll please state

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1 your name and spell your last name for the record.  
 2 THE WITNESS: Russell Lee, L-E-E.  
 3  
 4 DIRECT EXAMINATION  
 5 BY MS. WECKERLY:  
 6 Q. And how are you employed, sir?  
 7 A. I'm a detective with the Las Vegas  
 8 Metropolitan Police Department.  
 9 Q. How long have you worked for Metro?  
 10 A. 20 years.  
 11 Q. And so were you working for Metro back  
 12 on August the 31st of 1995?  
 13 A. Yes, I was.  
 14 Q. Do you recall where your assignment  
 15 was on that date?  
 16 A. I was assigned to the northeast part  
 17 of town in parole at that time. It's kind of  
 18 toward Lake Mead and Nellis area.  
 19 Q. Okay. And when you were working  
 20 patrol, do you just respond generally for any kind  
 21 of calls for service?  
 22 A. Yeah, usually we're dispatched for  
 23 calls for service there.  
 24 Q. Okay. You were working on August the  
 25 31st of 1995?

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1 A. Yes, I was.  
 2 Q. Do you recall if you were dispatched  
 3 to the Ballerina Mobile Home Park on that date?  
 4 A. I wasn't dispatched. Another unit was  
 5 and he asked for an additional unit to go with him,  
 6 and I heard him on the radio and I volunteered to  
 7 go with him.  
 8 Q. Okay. And so I take it you were in a  
 9 separate car and just heard it over the police  
 10 radio?  
 11 A. Yes.  
 12 Q. And why was it that you said that you  
 13 could go to that locations?  
 14 A. I was close to the area.  
 15 Q. And so you just thought you could help  
 16 him out?  
 17 A. Yeah.  
 18 Q. Do you recall who that officer was  
 19 that responded with you?  
 20 A. It was Darren Heiner.  
 21 Q. Okay. So I take it you went to the  
 22 Ballerina Mobile Home Park at that point?  
 23 A. Yes, I did.  
 24 Q. Do you recall what time of day it was  
 25 approximately when you got there?

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1 A. Around 3:00, 3:30-ish.  
 2 Q. Okay. So in the afternoon?  
 3 A. In the afternoon.  
 4 Q. When you got there, had the other  
 5 officer arrived?  
 6 A. He had arrived right before he did. I  
 7 just followed him into the trailer park.  
 8 Q. Okay. And what did you two do first  
 9 once you got to that location?  
 10 A. I spoke with Officer Heiner for a few  
 11 minutes to find out what was going on. I knew it  
 12 was some kind of domestic situation and he had  
 13 requested another unit.  
 14 Q. And did you guys walk around the  
 15 trailer at all that was the subject of the inquiry?  
 16 A. Yeah. We attempted to gain entry into  
 17 the mobile home and we had to walk around the whole  
 18 thing a couple times trying to find away to get  
 19 into it.  
 20 Q. And what did you find as you tried to  
 21 get into this trailer?  
 22 A. All the windows on the whole trailer  
 23 were shut and locked. They all had screens on  
 24 them. The back door which is on the driveway side  
 25 of the trailer was up a little bit but it had like

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1 another latch above that that locked it into  
 2 place.  
 3 On the very front of the trailer on  
 4 the street side of the trailer there was one window  
 5 that had just a little bit of a crack at the bottom  
 6 just raised up just a little bit and we decided to  
 7 make entry that way to go through that window to  
 8 get in the trailer.  
 9 Q. And you and the other officers had  
 10 checked all the other doors and windows around this  
 11 trailer?  
 12 A. Yes, we did.  
 13 Q. And aside from the one that you  
 14 described as being at the front of the trailer all  
 15 of those appeared to be locked or you couldn't move  
 16 them anymore to get access inside the trailer?  
 17 A. Right.  
 18 Q. So was a decision made about how to  
 19 make entry into the trailer at that point?  
 20 A. Well, I had my car keys that have a  
 21 little round metal thing on them I tried to pry the  
 22 window up to see if it would slide up. It did  
 23 start moving up. It started to fall in the trailer  
 24 and I grabbed it and pulled it out, set it outside  
 25 the trailer and then I was boosted through that

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1 window.  
 2 Q. Boosted through by the other officer?  
 3 A. Yes.  
 4 Q. And what was your purpose in going  
 5 inside there?  
 6 A. It was a domestic situation and from  
 7 what I recall the person who called the police said  
 8 that she was going to move into this trailer with  
 9 the other woman who was living there. She knew  
 10 that she had some problems with an old boyfriend or  
 11 with a boyfriend and that when she went to the  
 12 mobile home to begin moving in, she saw the girls,  
 13 the other roommate's car driving out with her old  
 14 boyfriend driving the car or boyfriend.  
 15 Q. And so this person was concerned about  
 16 the welfare of the girlfriend?  
 17 A. It was a welfare check. She was  
 18 concerned about the girlfriend.  
 19 Q. So I take it you went inside the  
 20 trailer to check to see if anybody was hurt?  
 21 A. That's why I went inside. We normally  
 22 wouldn't go in but they felt something was wrong.  
 23 Q. The first room that you went into was  
 24 it a bedroom or livingroom?  
 25 A. On the street side of the trailer on

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1 the front it's a bedroom.  
 2 Q. And did you walk through other rooms  
 3 in the trailer or, I mean how did you proceed?  
 4 A. I went through the window and there  
 5 was a nightstand against the bed. I climbed over  
 6 that and went into the bedroom. There was a  
 7 bathroom to the left-hand side. I just kind of  
 8 checked in there to make sure nobody was in there  
 9 then I opened the door to the livingroom and walked  
 10 in.  
 11 Q. What did you see when you got to the  
 12 livingroom?  
 13 A. There was a white female laying on the  
 14 ground on the floor of the trailer on her back with  
 15 her feet kind of, her body was parallel to the side  
 16 of the trailer and her feet were closest to the  
 17 door.  
 18 Q. And did you go up close to this woman  
 19 and try to make an assessment about whether she was  
 20 alive or not?  
 21 A. Yes, I did. Yes. When I saw her she  
 22 was laying on her back. Her arms were kind of  
 23 spread out to the side. Her head was turned a  
 24 little bit to one side. There was a lot of blood  
 25 on her face and on her hair. It had kind of

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1 dried. I noticed she was wearing some stretch  
 2 nylon slacks and there was like a brown spot, dried  
 3 blood, that had a puncture in it. I thought it was  
 4 a bullet hole at first. Her eyes were cloudy and  
 5 partially open and cloudy and she wasn't breathing.  
 6 Q. Okay. So obviously she looked very  
 7 injured to you. There was a lot of blood and she  
 8 didn't appear to be alive.  
 9 A. Correct.  
 10 Q. After you made that assessment as to  
 11 her condition, what did you do next?  
 12 A. I knew that Officer Heiner and my  
 13 Sgt. Yada had arrived also. They were standing on  
 14 the porch waiting for me to come out. I opened  
 15 that door and stepped out and closed the door  
 16 behind him and told them what I saw inside.  
 17 Q. So that would be the front door of the  
 18 trailer?  
 19 A. The front door of the trailer.  
 20 Q. Once you advised them as to what you  
 21 found on the inside of the trailer, what did you  
 22 three decide to do next?  
 23 A. Well, I went back inside just to make  
 24 sure she wasn't alive. I got a little closer and  
 25 looked a little closer then when I went back

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1 outside, we secured the trailer and called for a  
 2 homicide unit.  
 3 Q. Okay. When you said you went back  
 4 inside to make sure that she wasn't alive, how did  
 5 you do that? Did you touch her or did you watch  
 6 her?  
 7 A. I never pushed her but her shirt was  
 8 pulled up to about the bottom of her rib cage. I  
 9 was watching for any heart beat or if her abdomen  
 10 was moving up and down like she was breathing.  
 11 Q. Okay. You said you saw blood on her.  
 12 You initially thought she had been shot. You were  
 13 making just a quick assessment?  
 14 A. Yes.  
 15 Q. He just saw blood. You didn't know  
 16 how she had been injured?  
 17 A. Correct.  
 18 Q. After you determined sort of for the  
 19 second time for sure that this lady wasn't alive,  
 20 what did you do next?  
 21 A. I walked out, closed the door behind  
 22 me and we called for homicide to arrive. We waited  
 23 there until they arrived.  
 24 Q. Okay. Made sure, of course, no one  
 25 went inside the trailer?

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1 A. Yes.  
 2 Q. Once the homicide detectives responded  
 3 to that scene, would it be fair to say that they'd  
 4 be in charge of the investigation at that point?  
 5 A. Yes, it would.  
 6 Q. Sir, I'm putting on that monitor in  
 7 front of you at State's 1, State's Exhibit 1 and  
 8 there's some markings on the picture done by a  
 9 prior witness. The circled window on that exhibit,  
 10 is that the one that you climbed in as well?  
 11 A. Yes.  
 12 Q. And just below the window to the left  
 13 there appears to be like a window pane.  
 14 A. Yes. That's the one that once I  
 15 started raising it, it fell inside and I had to  
 16 pull it out. It's on the ground.  
 17 Q. Okay. So you actually removed that?  
 18 A. Yes.  
 19 Q. And this was the window that you were  
 20 boosted through?  
 21 A. Yes.  
 22 Q. Sir, now I'm putting on the monitor  
 23 State's Exhibit 5. Can you describe for the  
 24 members of the jury what we're looking at in that  
 25 photograph.



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1 A. That's looking out the window that I  
 2 was boosted through. That's the nightstand that  
 3 was right below the window and there's a screen  
 4 there. When I initially tried to go through, I  
 5 tried to move the screen away but it was underneath  
 6 the nightstand.  
 7 Q. Okay. And was the screen, was that  
 8 bent by you or was that in that condition?  
 9 A. No, it was in that condition.  
 10 Q. And once you kind of boosted there i--  
 11 and I guess you were on top of that nightstand?  
 12 A. Yes.  
 13 Q. Then you proceeded into the residence  
 14 to do the welfare check?  
 15 A. Yes.  
 16 Q. Now, I'm showing you State's 19. Does  
 17 that look familiar to you?  
 18 A. Yes.  
 19 Q. And is this the lady that you saw when  
 20 you were doing the welfare check?  
 21 A. Yes.  
 22 Q. Now, you mentioned on your first entry  
 23 through before you opened the front door you made  
 24 an assessment as to whether or not she had any  
 25 vital signs?

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1 A. Yes. Without touching her.  
 2 Q. Okay. How did you get to her?  
 3 A. I was standing probably under her arm  
 4 that's out and looked down towards her face, and  
 5 that's about as close as I got.  
 6 Q. That's when you noticed her eyes were  
 7 cloudy?  
 8 A. Yes.  
 9 Q. And there was a substantial amount of  
 10 blood?  
 11 A. Yes.  
 12 Q. And you mentioned you went out the  
 13 door to go out and discuss what you had seen with  
 14 your sergeant and the other officer?  
 15 A. Yes.  
 16 Q. Is that the door we see depicted in  
 17 the photograph?  
 18 A. Yes.  
 19 Q. Putting back on the monitor State's 1,  
 20 that is the door also that we see.  
 21 A. That's the porch. The door's right  
 22 where that porch is at.  
 23 Q. Okay. When you went inside and saw  
 24 this woman and went out to inform your sergeant and  
 25 the other officer as to what you'd found, nothing

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1 was moved or altered inside the trailer accept for  
 2 that one window pane. Would that be correct?  
 3 A. That would be correct, yes.  
 4 MS. WECKERLY: Okay. Thank you.  
 5 (Whereupon Ms. Weckerly  
 6 concluded her direct examination  
 7 at 3:34 p.m.)  
 8 THE COURT: Mr. Schieck.  
 9 MR. SCHIECK: Thank you.  
 10  
 11 CROSS-EXAMINATION  
 12 BY MR. SCHIECK:  
 13 Q. Detective Lee, when the window that  
 14 you went through, that's a window that's right on  
 15 the street there in the mobile home park?  
 16 A. Yes. The road is right in front of  
 17 that window.  
 18 Q. Anybody coming in and out of that  
 19 window would be clearly visible from that street?  
 20 A. Yeah, I would imagine.  
 21 Q. I mean there's no trees or bushes or  
 22 anything blocking anything?  
 23 A. No.  
 24 Q. And when you made your first look  
 25 around the houses, was -- we see that the screen is

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1 inside the window now. Correct?  
 2 A. Yes.  
 3 Q. Was it in that position when you first  
 4 looked in?  
 5 A. Yes.  
 6 Q. Okay. So you didn't move that at all?  
 7 A. No.  
 8 Q. Okay. All you moved was what's been  
 9 circled here which was the actual glass frame  
 10 inside the frame?  
 11 A. Yes. I tried to push it away but it  
 12 was behind the night stand.  
 13 Q. Kind of behind the nightstand?  
 14 A. Kind of underneath it. It was like  
 15 stuck.  
 16 Q. Did you have to sort of shimmy around  
 17 it. Tell me how you went around it?  
 18 A. I went around the screen.  
 19 Q. Okay. Stepped on the nightstand?  
 20 A. Kind of stepped on my knees.  
 21 Q. And you were careful to not disturb  
 22 anything?  
 23 A. Yeah, the bedroom was kind of  
 24 dishevelled.  
 25 Q. There was nothing on the nightstand

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1 that you had to move or put on the side in order to  
 2 step in?  
 3 A. No.  
 4 Q. And there appears to be a roll top  
 5 desk over here. That's the way it appeared when  
 6 you came in.  
 7 A. Yes.  
 8 Q. It appears that the roll portion of  
 9 the roll top is in the down position.  
 10 A. Yes.  
 11 Q. Is that a fair statement? Do you know  
 12 what that's called?  
 13 A. Roll top desk with the roll portion  
 14 down.  
 15 Q. And then there appears to be some  
 16 items on top of the roll top desk?  
 17 A. Yes, I didn't notice them then.  
 18 Q. Some type of little box with drawers  
 19 on it.  
 20 A. That's what it looks like, yes.  
 21 Q. It appears those drawers are closed?  
 22 A. Yes.  
 23 Q. It doesn't appear -- well, they're not  
 24 open, correct?  
 25 A. Yes.

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1 Q. And there appears to be something even  
 2 on top of that. Did you notice what that was when  
 3 you came in?  
 4 A. No, I didn't.  
 5 Q. That really wasn't your job. Your job  
 6 was just to go in and do a safety check and then  
 7 once you had found the individual to call in  
 8 homicide?  
 9 A. Then my job was to just secure the  
 10 scene and to make sure no one else goes inside and  
 11 then I called homicide.  
 12 Q. How long did you remain there on the  
 13 scene?  
 14 A. A few hours. I don't recall exactly  
 15 how long we were there.  
 16 Q. And other than the appropriate police  
 17 personnel, no one else was allowed into the she  
 18 know while you were there?  
 19 A. Correct.  
 20 MR. SCHIECK: Nothing further. Thank  
 21 you, detective.  
 22 (Whereupon Mr. Schieck  
 23 concluded his cross-examination  
 24 at 3:38 p.m.)  
 25 THE COURT: Ms. Weckerly.

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1 MS. WECKERLY: Nothing else.  
 2 THE COURT: Thank you for your time,  
 3 sir. You may step down.  
 4 (Whereupon Russell Lee  
 5 was excused from the  
 6 witness stand at 3:39 p.m.)  
 7 THE COURT: All right. Let's take a  
 8 quick afternoon recess for about ten minutes.  
 9 Ladies and gentlemen, we are going to  
 10 take a recess. During this recess, it is your duty  
 11 not to converse among yourselves or with anyone  
 12 else on any subject connected with the trial or to  
 13 read, watch or listen to any report of or  
 14 commentary on the trial by any person connected  
 15 with the trial or by any medium of information,  
 16 including, without limitation, newspaper,  
 17 television, radio, and the internet, and you are  
 18 not to form or express an opinion on any subject  
 19 connected with this case until it is finally  
 20 submitted to you, under instructions by me.  
 21 (Whereupon the jurors exited  
 22 the courtroom at 3:38 p.m.)  
 23 THE COURT: Anything outside the  
 24 presence? No? We'll be in recess. Thank you.  
 25 (Whereupon a recess was

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1 taken at 3:39 p.m. and  
 2 the proceedings resumed  
 3 at 3:56 p.m.)  
 4 THE COURT: Let me do something  
 5 outside the presence. Let me go on the record in  
 6 C131341, State of Nevada versus James Chappell.  
 7 The record will reflect the presence of  
 8 Mr. Chappell with his attorneys, Ms. Weckerly.  
 9 We're outside the presence of the jury.  
 10 Mr. Patrick, Mr. Schieck, I would like one of you  
 11 when we get the next break to talk to the lady that  
 12 is wearing pink.  
 13 I assume it's one of Mr. Chappell's  
 14 relatives let her know if she continues to make  
 15 facial gestures or make remarks under her breath,  
 16 the next time it happens she's going to be  
 17 removed. My bailiff has already talked to her.  
 18 She's pretty much ignored her. I've instructed  
 19 Leslie to take her out.  
 20 MR. SCHIECK: I have not seen that,  
 21 Your Honor. I apologize and we'll take care of  
 22 that.  
 23 THE COURT: You don't have to  
 24 apologize. I don't feel the need to bring her in  
 25 and lash out. Even if you guys prefer to do it

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1 right now --

2 MR. SCHIECK: We'll do it right now.

3 (Whereupon a recess was

4 taken at 3:57 p.m. and

5 the proceedings resumed

6 at 4:01 p.m. in the presence

7 of the jury.)

8 THE COURT: All right. We're back on

9 the record on C131341, State of Nevada versus James

10 Chappell. Let the record reflect the presence of

11 Mr. Chappell with his attorneys, the State's

12 attorneys. We are in the presence of jury. You

13 may call your next witness.

14 MS. WECKERLY: Thank you, Your Honor.

15 The State calls Sherry Smith.

16

17 LATRONA SMITH,

18 having been first duly sworn to testify to the

19 truth, the whole truth and nothing but the truth,

20 was examined and testified as follows:

21

22 THE CLERK: Please state your name and

23 spell your last name.

24 THE WITNESS: Latrona Smith.

25 THE COURT: Spell your name for us.

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1 THE WITNESS: L-A-T-R-O-N-A.

2 THE COURT: And spell your last name

3 for the record.

4 THE WITNESS: S-M-I-T-H.

5

6 DIRECT EXAMINATION

7 BY MS. WECKERLY:

8 Q. Ma'am, do some people call you Sherry?

9 A. Yes.

10 Q. Back on August 31st of 1995, where

11 were you employed?

12 A. At Angel Care.

13 Q. Angel Care?

14 A. Uh-huh.

15 Q. And what type of business is that?

16 A. It's a day care facility.

17 Q. And how long had you worked there as

18 of '95, August of '95?

19 A. It was like four or five years.

20 Q. Four or five years?

21 A. Uh-huh.

22 Q. What were your job duties there?

23 A. I was a supervisor, I answered the

24 phone, helped the employees as far as to make sure

25 they did their duty, take payment.

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1 Q. As the supervisor or one of the

2 supervisors at Angel Day Care and you said you

3 answered the phone, were you at a front desk type

4 area at the day care?

5 A. Yes.

6 Q. Did you work with the children as well

7 or were you primarily managing other employees?

8 A. As far as a supervisor I was mainly

9 managing employees.

10 Q. Okay. And then sometimes answering

11 the phone?

12 A. Yes.

13 Q. Did you have contact in that capacity

14 to interact with the children's parents who were

15 using the day care center?

16 A. Yes.

17 Q. Did you recall back in 1995 knowing a

18 lady by the name of Deborah Panos?

19 A. Yes.

20 Q. Does she have children enrolled at

21 Angel Care?

22 A. Uh-huh. She had three.

23 Q. Okay. Do you recall -- you probably

24 don't recall their names ten years later, but do

25 you recall if they were boys, girls?

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1 A. Two boys and a girl.

2 Q. Okay. As far as your knowledge when

3 you were working at Angel Care, was Debbie Panos

4 the person who dropped off and picked up those

5 children?

6 A. Yes.

7 Q. Did you ever see anybody else do that?

8 A. No.

9 Q. On August the 31st of 1995 did you

10 receive a phone call from Debbie Panos?

11 A. Yes.

12 Q. In that phone call did she identify

13 herself or did you somehow recognize her voice from

14 your prior interactions with her?

15 A. I recognize her voice from prior

16 interactions.

17 Q. Okay. What time was it do you think

18 that she made that call?

19 A. Roughly 12:30, 1:00 o'clock.

20 Q. Okay. Did you fill out a voluntary

21 statement on the day this incident occurred?

22 A. Yes.

23 Q. And it's been ten years. Would

24 looking at that statement refresh your recollection

25 as to the time of the call?

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1 A. Yes.  
 2 Q. Ma'am, having looked at that voluntary  
 3 statement, do you recall what time it was  
 4 approximately that she called?  
 5 A. 12:30.  
 6 Q. Okay. When you answered the phone,  
 7 what did she first say to you if you recall?  
 8 A. She asked me what time did she need to  
 9 pick her children up.  
 10 Q. Okay. On that date did you have one  
 11 conversation with her or more than one  
 12 conversation?  
 13 A. On that day I had two conversations  
 14 with her.  
 15 Q. Okay. And the first call you had was  
 16 at 12:30?  
 17 A. Uh-huh.  
 18 Q. Is that yes?  
 19 A. Yes.  
 20 Q. This lady in front of you is taking  
 21 down what we say.  
 22 And when she called you initially in  
 23 the first call she asked you what time she needed  
 24 to pick up her children?  
 25 A. Yes.

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1 Q. Did she say anything else?  
 2 A. She asked me to call her back and that  
 3 she was scared.  
 4 Q. Okay. You had talked to her before on  
 5 days prior to this day I assume when she was  
 6 picking up her kids?  
 7 A. Yes.  
 8 Q. Was there anything about her voice  
 9 that you noticed that made you think that she was  
 10 scared?  
 11 A. She was crying at this point on the  
 12 phone she was talking to me.  
 13 Q. She was crying so you knew she was  
 14 upset obviously?  
 15 A. Yes.  
 16 Q. And you said that she asked you to  
 17 make another call for her. Can you explain that?  
 18 A. She had told me that she was scared  
 19 and she had asked me to call her back to make up  
 20 some kind of excuse as far as for her to be able to  
 21 leave the house.  
 22 Q. Okay. Was there ever a point during  
 23 the conversation where she was whispering to you?  
 24 A. Yes. She did state that she was  
 25 scared to me on the phone.

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1 Q. Okay. But there was a point where she  
 2 would lower her voice a little bit and whisper?  
 3 A. Yes.  
 4 Q. As you were talking to her on the  
 5 phone, could you hear anything in the background of  
 6 where Debbie was, where she was calling?  
 7 A. I heard a television and I did hear a  
 8 gentleman talking in the background.  
 9 Q. Okay. Were you able to make out what  
 10 the man you were hearing, what he was saying?  
 11 A. No, but she made the comment on the  
 12 phone while we were on there that she didn't have  
 13 any money.  
 14 Q. And she wasn't saying that to you?  
 15 A. No, she wasn't.  
 16 Q. Did it seem like she was trying to  
 17 pacify or kind of placate this individual when she  
 18 was saying she didn't have any money?  
 19 A. Yes.  
 20 Q. And when you were everything that  
 21 conversation with her, you said that you guys sort  
 22 of were making up a reason for her to leave the  
 23 house.  
 24 A. Yes.  
 25 Q. Can you explain why it was that you,

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1 you know, from your conversation with her, why that  
 2 seemed necessary.  
 3 A. From the tone of her voice I knew that  
 4 she was scared so I was trying to think of some  
 5 kind of reason for some kind of way for her to be  
 6 able to get out of the house by herself.  
 7 Q. Okay. Did she indicate to you in that  
 8 first call when she thought she would be able to  
 9 get out of the house by herself?  
 10 A. She stated that she wouldn't be able  
 11 to get out of the house by herself, that he would  
 12 come with her to pick the children up.  
 13 Q. So what was kind of decided between  
 14 you two to kind of go about getting her out of the  
 15 house by herself?  
 16 A. She asked me to call her back in five  
 17 minutes. When I did call her back in five minutes,  
 18 I told her it was time for her to pick the kids up  
 19 and she needed to come pick them up.  
 20 Q. Was that technically the case, did she  
 21 need to?  
 22 A. No. She still had plenty of time for  
 23 them to be there.  
 24 Q. So that was the made up story?  
 25 A. Yes.

1 Q. And the second phone call, did she  
2 answer to you and say okay, she was coming?

3 A. Yes, she did. She said she was on her  
4 way.

5 Q. After she said that she was on her  
6 way, I assume she never arrived at the day care?

7 A. No, she didn't.

8 Q. Okay. At some point you became aware  
9 that something had happened to Debbie.

10 A. Yes.

11 Q. Was it first through police officers  
12 or did another individual come to the day care and  
13 ask about the kids?

14 A. No, the police officer came.

15 Q. Okay.

16 A. Picked me up.

17 Q. Do you remember whether or not one of  
18 Debbie's friends came and asked you about the Panos  
19 children on that day?

20 A. Yes.

21 Q. Okay. Was that prior to the police  
22 officer coming?

23 A. Yes, it was.

24 Q. And she was just asking if the kid  
25 were there and if they were okay?

1 A. Correct.

2 Q. Do you recall if the children were  
3 there or if they were in school or where they were?

4 A. The two older boys were at school but  
5 the youngest daughter she was still at day care.

6 Q. And they were fine in your care or in  
7 your center's care?

8 A. Yes.

9 Q. Prior to this date, was Debbie Panos  
10 the type of parent who was pretty responsible about  
11 dropping off and picking up the kids on time?

12 A. Yes, she was.

13 Q. Okay. And did they seem to be in good  
14 care when they were dropped off at the center?

15 A. All the time, yes.

16 Q. You didn't have any problems with her  
17 or her children?

18 A. No.

19 Q. Prior to this day when she called  
20 asking you for help, had you ever observed injuries  
21 on Debbie Panos?

22 A. Yes. She wore sunglasses and she did  
23 state to her me that her nose was broken.

24 Q. And were you able to observe that when  
25 she had her nose broken?

1 A. Yes, her nose was swollen because I

2 had asked her what had happened and she had she had  
3 been hit.

4 Q. And did she tell you who hit her or  
5 did you have any sense of that?

6 A. She didn't say his name but I assumed  
7 that it was the children's father.

8 Q. Okay. Did you ever see him come pick  
9 up the kids?

10 A. No.

11 MS. WECKERLY: Thank you, ma'am. I  
12 pass the witness, Your Honor.

13 (Whereupon Ms. Weckerly  
14 concluded her direct examination  
15 at 4:11 p.m.)

16 THE COURT: Mr. Schieck or  
17 Mr. Patrick.

18 MR. SCHIECK: Thank you, Your Honor.

19

20 CROSS-EXAMINATION

21 BY MR. SCHIECK:

22 Q. Ms. Smith, when if you can recall did  
23 the Panos children start coming to the Angel Care  
24 Day Center?

25 A. They'd been there for several years

1 but I can't recall exactly.

2 Q. So it's your testimony that prior to  
3 August 31st of '95 they'd been coming there for  
4 several years?

5 A. Yes.

6 Q. And had you been employed there for  
7 several years?

8 A. Yes.

9 Q. And so you would have had dealings  
10 with those three kids for several years as of  
11 August 1995?

12 A. Yes.

13 Q. And were you always in that capacity  
14 during that several year period as being I think  
15 you said a supervisor?

16 A. Before I started off as a regular  
17 attendant where I watched the children as well as I  
18 had been the cook for the center and I got promoted  
19 to the supervisor.

20 Q. And when someone that has their  
21 children there at Angel Care Day Care comes in, do  
22 they sign their children in? Is there a book or a  
23 procedure that you follow?

24 A. There is a book where they have to  
25 sign their children in and out every day.

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1 Q. And if they have more than one child,  
 2 they would list each child that they brought and  
 3 the time they were dropping them off?  
 4 A. Yes.  
 5 Q. Was there a rule in place there at the  
 6 day care on how long your children could be at the  
 7 day care?  
 8 A. There was an eight-hour limit as far  
 9 as if they went over the eight hours they were  
 10 charged a late fee.  
 11 Q. But they could leave them over the  
 12 eight hours but they would get charged a late fee?  
 13 A. Yes, if not another daily rate for the  
 14 extra time.  
 15 Q. Okay. And was, would Ms. Panos always  
 16 pick them up within that eight hours or would she  
 17 go over do you recall?  
 18 A. No. She would always pick them up  
 19 within the eight hours.  
 20 Q. Okay. And when she called that first  
 21 phone call you had with her, did she ask you what  
 22 time she needed to pick the kids up?  
 23 A. Yes, she did.  
 24 Q. Okay. Was that the first thing that  
 25 she had asked you?

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1 A. Yes.  
 2 Q. So did you pick up the phone or was it  
 3 transferred back to you or how did that work?  
 4 A. No. I answered the phone.  
 5 Q. So you answered the phone. She  
 6 identified herself and said, "What time do I need  
 7 to pick up my kids today?"  
 8 A. Yes.  
 9 Q. Okay. You checked the sign-in book?  
 10 A. Correct.  
 11 Q. And what time, do you recall?  
 12 A. I think it was around 7:30 when she  
 13 had signed them in.  
 14 Q. So she had brought them by about 7:30  
 15 which means she would have had to pick them up what  
 16 is that 4:30 in the afternoon would be their pick  
 17 up time then?  
 18 A. Roughly 5:30, yes.  
 19 Q. Did you tell her that?  
 20 A. Yes.  
 21 Q. Okay. And is it then that the  
 22 conversation went on and she talked about started  
 23 whispering to you?  
 24 A. Yes.  
 25 Q. Okay. You said you heard a television

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1 set in the background?  
 2 A. Uh-huh, yes.  
 3 Q. And could you tell what was on TV or  
 4 just you could hear the noises of the TV?  
 5 A. I could hear the noise.  
 6 Q. And you said you heard a male voice  
 7 also?  
 8 A. Yes.  
 9 Q. The voice wasn't yelling but you could  
 10 tell it was a male voice?  
 11 A. Yes.  
 12 Q. Could you tell what the male voice was  
 13 saying at all?  
 14 A. No.  
 15 Q. You could just hear that there was  
 16 some talking going on?  
 17 A. Yes.  
 18 Q. About the same as the television or  
 19 louder or not as loud?  
 20 A. He was a little bit louder than the  
 21 television.  
 22 Q. How long did this first conversation  
 23 you had with Ms. Panos last, do you recall?  
 24 A. Maybe approximately ten minutes.  
 25 Q. So you're on the phone with her ten

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1 minutes talking back and forth; is that correct?  
 2 A. Yes.  
 3 Q. And then you complied with her request  
 4 and called her back about five minutes later?  
 5 A. Yes.  
 6 Q. And she was able to answer the phone  
 7 at that time?  
 8 A. Yes.  
 9 Q. Okay. Did you hear the TV during that  
 10 second call?  
 11 A. I'm sorry. I don't recall.  
 12 Q. Did you hear any other voice during  
 13 that second call?  
 14 A. No.  
 15 Q. And all she said was that she was on  
 16 her way?  
 17 A. Yes.  
 18 MR. SCHIECK: Thank you. That's all I  
 19 have, Your Honor. Oh, excuse me. No further  
 20 questions.  
 21 (Whereupon Mr. Schieck  
 22 concluded his cross-examination  
 23 at 4:15 p.m.)  
 24 THE COURT: Ms. Weckerly.  
 25 MS. WECKERLY: Just one question.



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1 REDIRECT EXAMINATION  
 2 BY MS. WECKERLY:  
 3 Q. Ma'am, when you heard the male voice,  
 4 can you describe the demeanor of that voice that  
 5 you heard.  
 6 A. It didn't sound like he was mad or  
 7 upset but he was talking a little loud.  
 8 Q. Talking loud?  
 9 A. Yes.  
 10 Q. Do you recall testifying over ten  
 11 years ago about this incident?  
 12 A. Yes.  
 13 Q. Would looking at your testimony maybe  
 14 refresh your recollection about what you said about  
 15 the voice at that time?  
 16 A. Yes.  
 17 Q. Ma'am, having looked at some prior  
 18 testimony that you gave about this matter, does  
 19 that refresh your recollection as to whether or not  
 20 that male voice sounded upset?  
 21 A. Yes.  
 22 Q. And what did you say then?  
 23 A. That it sounded like he was yelling  
 24 and he was upset.  
 25 Q. And he was upset but not yelling?

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1 A. Yes.  
 2 Q. And I assume ten years ago was a lot  
 3 maybe fresher in your mind than now?  
 4 A. Yes.  
 5 MS. WECKERLY: Thank you.  
 6 (Whereupon Ms. Weckerly  
 7 concluded her redirect  
 8 examination at 4:17 p.m.)  
 9 THE COURT: Mr. Schieck.  
 10  
 11 RECROSS EXAMINATION  
 12 BY MR. SCHIECK:  
 13 Q. Was the point that caused you to  
 14 believe that he might be upset because his voice  
 15 was raised a little bit?  
 16 A. Yes.  
 17 Q. That's the only thing about his voice  
 18 that would cause you to believe he was upset?  
 19 A. Yes.  
 20 MR. SCHIECK: Okay. Nothing further,  
 21 Your Honor.  
 22 MS. WECKERLY: Nothing else.  
 23 THE COURT: Anything from the jurors?  
 24 Ms. Smith, thank you for your time.  
 25 (Whereupon Latrona Smith

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1 was excused from the  
 2 witness stand at 4:15 p.m.)  
 3 THE COURT: The State may call their  
 4 next witness.  
 5 MR. OWENS: The next two are going to  
 6 be readers from prior testimony. I think we've  
 7 supplied transcripts to the Court. The first one  
 8 will be Deborah Turner.  
 9  
 10 Whereupon an unidentified female,  
 11 having been first duly sworn to faithfully and  
 12 accurately read the responses set forth in the  
 13 transcript read as follows:  
 14 MR. OWENS: Your Honor, I'm going to  
 15 start on the top of page 14 if that's all right.  
 16 THE COURT: That's fine.  
 17 MR. OWENS:  
 18 Q. Would you state your name for the  
 19 record.  
 20 A. "Deborah Turner, D-E-B-O-R-A-H,  
 21 T-U-R-N-E-R."  
 22 Q. "And, Deborah, how old are you?"  
 23 A. "19."  
 24 Q. "And on August 31st of 1995, did you  
 25 know someone by the name of James?"

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1 A. "Yes."  
 2 Q. "Do you see him here in court today?"  
 3 A. "Yes, I do."  
 4 Q. "Can you please point to him and tell  
 5 us what he is wearing."  
 6 A. "He's wearing a suit with a yellow  
 7 shirt, with a tie, gray suit."  
 8 MR. OWENS: "Your Honor, may the  
 9 record reflect that the witness has  
 10 identified the defendant."  
 11 THE COURT: "Yes."  
 12 MR. OWENS:  
 13 Q. "Did you also call him Hip Hop?"  
 14 A. "Yes."  
 15 Q. "Why did you call him that?"  
 16 A. "Because he danced around with his  
 17 radio."  
 18 Q. "Where would you generally see the  
 19 defendant?"  
 20 A. "In the apartments on Las Vegas -- I  
 21 mean on Lamb and Bonanza."  
 22 Q. "What's that area known as?"  
 23 A. "The Rayson --"  
 24 Q. "Is that a series of projects?"  
 25 A. "It's a project housing."

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1 Q. "And how long before August 31st of  
2 1995 had you known him? How long before  
3 that?"  
4 A. "Approximately six to eight months."  
5 Q. "And during that time period, how  
6 often would you see him around the complex?"  
7 A. "All the time. He was there hanging  
8 out most of the time."  
9 Q. "Would it be fair to say almost every  
10 day if not every day?"  
11 A. "I seen him every day that I was out  
12 hanging out. He was there."  
13 MR. OWENS: Hold on a second. I think  
14 we have some parts there.  
15 THE COURT: Do you want the objection  
16 for the record?  
17 MR. SCHIECK: It was overruled.  
18 MR. OWENS: Okay. We'll just do the  
19 ones that weren't. That's fine.  
20 Q. "Did you live in that complex?"  
21 A. "At that time, yes."  
22 Q. "Now, during that time, to your  
23 knowledge did he have a job?"  
24 MR. SCHIECK: "Objection,  
25 irrelevant."

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1 THE COURT: "Overruled."  
2 THE WITNESS: "Not to my knowledge,  
3 no."  
4 MR. OWENS:  
5 Q. "To your knowledge, did he have a  
6 vehicle?"  
7 A. "No, he didn't have one personally,  
8 but he was driving his girlfriend's car."  
9 Q. "Did you ever see that girlfriend?"  
10 A. "No."  
11 Q. "I'd like to show you what's been  
12 marked for identification purposes as State's  
13 Proposed Exhibit 56 and ask you if this is  
14 the car you recall the defendant in  
15 possession of?"  
16 A. "Yes, ma'am."  
17 Q. "Had you ever seen his children  
18 before?"  
19 A. "Yes, on several times."  
20 Q. "Now, on August 31st of 1995, do you  
21 recall seeing the defendant?"  
22 A. "On that day?"  
23 Q. "Let me ask you this. You recall one  
24 day speaking to homicide detectives,  
25 correct?"

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1 A. "Oh, yes."  
2 Q. "The evening before do you recall  
3 seeing the defendant?"  
4 A. "Oh, yes."  
5 Q. "Was that approximately August 31st of  
6 1995?"  
7 A. "It was that night."  
8 MR. OWENS: If we could go outside the  
9 transcript for a minute, Your Honor, we've got a  
10 copy of Exhibit 56 if I can put that on the  
11 screen. We had a reference to it a moment ago.  
12 THE COURT: All right.  
13 MR. OWENS:  
14 Q. "Okay. And was it dark out?"  
15 A. "It was --"  
16 Q. "When you saw the defendant -- or was  
17 it light?"  
18 A. "It was dark outside."  
19 Q. "Do you know the exact time when you  
20 first saw him?"  
21 A. "No, it was just -- I just know it was  
22 dark."  
23 Q. "And did you see the vehicle that you  
24 just identified in State's Proposed Exhibit  
25 No. 56. Did you see it?"

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1 A. "Yeah, it was in the projects."  
2 Q. "And where was he next to where the  
3 car was?"  
4 A. "He was in the area the last spot I  
5 seen him."  
6 Q. "And what was he doing when you saw  
7 him?"  
8 A. "He had shrimp and pie and he was  
9 going door to door trying to sell it."  
10 Q. "Did he approach you as well?"  
11 A. "Yes."  
12 Q. "And did you buy something from him?"  
13 A. "I bought the shrimp and the pie and  
14 rented the car."  
15 Q. "And how much did you rent the car and  
16 buy the shrimp and the pie for?"  
17 A. "\$15."  
18 Q. "What did he say to you before he sold  
19 these items to you?"  
20 A. "Well, when he approached me, he just  
21 said -- he called me -- he called me over.  
22 He know my name. 'He was like, Dee Dee, come  
23 here. You want this?' I looked in the bag  
24 and told him, 'Yes,' but after he left and  
25 came back, he asked me about the car and I

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1 told him, 'Yeah. I wanted to rent it.'

2 That's when I added on the additional \$10."

3 Q. "Did you have to negotiate with him on

4 a price for all of those three items?"

5 A. "To a certain extent, but he was

6 freely to let me drive the car, like no limit

7 really. He just told me --"

8 Q. "Did he give you the keys to the

9 car?"

10 A. "Yes."

11 Q. "And did he tell you what to do with

12 the vehicle when you were done?"

13 A. "To park it in the back by my house,

14 like in the back of the apartments."

15 Q. "Did he hand over the shrimp to you?"

16 A. "Did he hand --"

17 Q. "Did he give you the bag of shrimp?"

18 A. "And the pie together."

19 Q. "With the keys?"

20 A. "Not at the same time. When he came

21 back, he did."

22 Q. "And what did you give him after he

23 gave you these items, the keys, and the

24 shrimp, and the pie?"

25 A. "Gave him the money."

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1 Q. "And how much again was that?"

2 A. "\$15."

3 Q. "And let me ask you this. Did the

4 defendant -- how was he acting at that time?"

5 A. "Just like he always be. Just Hip

6 Hop. He just -- like everyday, hip hop which

7 is dancing and just doing his thing."

8 Q. "Did he seem sad?"

9 A. "He didn't seem nothing. He was just

10 the normal way. He always be happy and

11 goofing around."

12 Q. "So he was not sad."

13 THE COURT: "Witness shook her head

14 negatively."

15 MR. OWENS:

16 Q. "Is that answer no? You have to say

17 yes or no."

18 A. "No. It wasn't no sadness. I

19 wouldn't think there was anything wrong."

20 Q. "He didn't seem upset?"

21 A. "No."

22 Q. "You said you generally saw him

23 dancing around. Did you see him dancing

24 around that evening, do you recall?"

25 A. "For just a little bit after he got

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1 the radio out of the car. You know, his

2 little radio. After a while I sat out there

3 for a little bit and he was goofing around

4 dancing, and then we joked for a little bit

5 and we got in the car and I picked up my

6 friend and we left."

7 Q. "What kind of dancing was he doing?"

8 A. "Just break dancing, just dancing. No

9 particular dancing, just dancing."

10 Q. "Was anyone dancing with him?"

11 A. "No."

12 Q. "And as he was dancing, did he seem

13 sad?"

14 A. "No."

15 Q. "What did you do with the vehicle?

16 What did you do with the car?"

17 A. "I picked up my friend and drove."

18 Q. "Who was your friend?"

19 A. "Ladonna Jackson. I picked her up and

20 we went driving around."

21 Q. "Were you driving the car?"

22 A. "Yes."

23 Q. "Where was she sitting?"

24 A. "In the passenger seat."

25 Q. "Where all did you go?"

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1 A. "I went over to my God mama's house.

2 Man, we just drove round the streets and took

3 off kind of late and we came back home."

4 Q. "Where did you park the car?"

5 A. "On the side in back of my house."

6 Q. "And was that in a parking lot area?"

7 A. "It was on top of grass behind the

8 building."

9 Q. "If you were on the street, could you

10 have seen where that car was?"

11 A. "No."

12 Q. "And did you park it at the same

13 location that the defendant told you to park

14 it in?"

15 A. "Yes."

16 Q. "What did you do with the keys?"

17 A. "Put them underneath the seat,

18 underneath the seat back or whatever that

19 thing is."

20 Q. "And then you left the car?"

21 A. "Went into my house."

22 Q. "Do you recall about what time this

23 was?"

24 A. "It was like approximately like about

25 3:00 and 5:00 in the morning, but it was

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1 before the sun came up."  
 2 Q. "So that would have been 3:00 to 5:00  
 3 in the morning on September 1st of 1995?"  
 4 A. "Right, the next day."  
 5 Q. "Going in from the time that you --"  
 6 A. "That night."  
 7 Q. "-- rented this vehicle into the  
 8 early morning hours?"  
 9 A. "Right."  
 10 Q. "Did you ever see the defendant again  
 11 after that?"  
 12 A. "No."  
 13 Q. "Did there come a time the next day  
 14 that you saw some people around that  
 15 vehicle?"  
 16 A. "Yeah, I was in my bed and my friend  
 17 told me that the police was at the car. So I  
 18 came out and they were fingerprinting the  
 19 stuff and the car and he was asking people  
 20 and I didn't really want to say nothing until  
 21 I found out who it was. I thought I was in  
 22 trouble but --"  
 23 Q. "Who was asking people things?"  
 24 A. "The detectives and they told me --  
 25 after they told me, I mean, what he did --"

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1 Q. "Let me ask you this. Were you giving  
 2 the police information initially about what  
 3 was going on?"  
 4 A. "As far as I knew, I just told them I  
 5 drove the car and it was me and --"  
 6 Q. "Why did you tell the police -- why  
 7 did you give the police information?"  
 8 A. "I'm not no snitch or nothing, but I  
 9 mean I don't know what I'm suppose to say,  
 10 but I know them kids, I feel for them kids.  
 11 I seen them kids in the apartments and I just  
 12 feel that it was wrong what he did and I  
 13 don't really like to snitch on nobody or  
 14 nothing like that, but I just feel it was  
 15 wrong. Them kids -- I just -- I just don't  
 16 know."  
 17 Q. "Okay."  
 18 A. "I work way too hard for my mom and I  
 19 have been in the states and stuff."  
 20 Q. "Okay. Let me ask you the next  
 21 question. Did you take -- do you recall  
 22 taking a taped statement from the police or  
 23 handwritten statement or did they just talk  
 24 to you?"  
 25 A. "They -- they did -- they talked to me

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1 and did a written. Wrote some of the stuff  
 2 down on his pad or whatever."  
 3 MR. OWENS: "Court's indulgence."  
 4 Thank you. That concludes direct examination."  
 5 THE COURT: "Cross."  
 6 MR. SCHIECK:  
 7 Q. "Ms. Turner, you just testified that  
 8 James was dancing around that evening,  
 9 correct?"  
 10 A. "Yes."  
 11 Q. "He was dancing around because he was  
 12 high on cocaine; isn't that correct?"  
 13 A. "I didn't see him do any cocaine."  
 14 Q. "Did he do cocaine in the projects?"  
 15 A. "From what I have known, he was -- he  
 16 was a crack head from what I know."  
 17 Q. "He was a crack head. And that's why  
 18 he was selling the shrimp and the car to get  
 19 money for drugs?"  
 20 A. "I don't know what he was doing it  
 21 for."  
 22 Q. "Does that make sense, though?"  
 23 MR. OWENS: "I'm going to object as to  
 24 speculation."  
 25 THE COURT: "Overruled."

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1 MR. SCHIECK:  
 2 Q. "You may answer the question."  
 3 A. "Oh. It makes sense, but I wouldn't  
 4 just pinpoint it."  
 5 Q. "But you didn't see him using drugs  
 6 that night?"  
 7 A. "I didn't see him do drugs at all that  
 8  
 9 night."  
 10 Q. "But you have seen him doing drugs on  
 11 other occasions?"  
 12 A. "Have I seen him personally?"  
 13 Q. "Yeah."  
 14 A. "I don't know what he done behind  
 15 closed doors. I have been in the same house  
 16 with him, but I never saw him do it."  
 17 Q. "You say he hangs out there quite  
 18 often?"  
 19 A. "Yes."  
 20 Q. "Did he hang out with you?"  
 21 A. "No."  
 22 Q. "Who did he hang out with?"  
 23 A. "His friends."  
 24 Q. "Who were his friends there?"  
 25 A. "He had a friend named Bridget, CC,

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1	just some other people that hang out in the projects."	1	may step down."
2	Q. "Did you ever get high with him?"	2	(Whereupon the unidentified
3	A. "No."	3	female was excused from the
4	Q. "Was that the only time you ever used	4	witness stand at 4:30 p.m.)
5	his girlfriend's car?"	5	MR. OWENS: Once again we'd ask that
6	A. No, I have used it once before.	6	these be marked for the record.
7	Q. "Have you seen him with that car over	7	THE COURT: They will.
8	there many times before?"	8	MR. OWENS: The next one is going to
9	A. "I wouldn't say many times, but every	9	be LaDonna Jackson.
10	so often."	10	THE COURT: Ms. Digiacomo, raise your
11	Q. "So he would use the car occasionally	11	right hand for me, please.
12	and bring it over to those apartments?"	12	
13	A. "Yes."	13	SANDRA K. DIGIACOMO,
14	MR. SCHIECK: "Thank you. No further	14	having been first duly sworn to faithfully and
15	questions."	15	accurately read the responses set forth in the
16	THE COURT: "Redirect?"	16	transcript read as follows:
17	MR. OWENS: "Yes."	17	
18	Q. "Did the defendant spend the night	18	THE COURT: "LaDonna Jackson, having
19	over there in the complex?"	19	been first duly sworn to tell the truth, the
20	A. "Yes."	20	whole truth, and nothing but the truth
21	Q. "And whose apartment would he spend	21	testified and said as follows:" Mr. Owens.
22	the night at?"	22	MR. OWENS:
23	A. "Bridget's."	23	Q. "Can you please state your name and
24	Q. "That's a female?"	24	spell it for the record."
25	A. "Yes."	25	A. "Ladonna Jackson, L-A-D-O-N-N-A,
Page 126		Page 128	
1	Q. "Did he rent the car out to other	1	J-A-C-K-S-O-N."
2	people as well as yourself, for money?"	2	Q. "Ms. Jackson, how old are you? "
3	A. "Yes. He rented it out to several	3	A. "I'm 27."
4	people in the projects."	4	Q. "Do you have any children?"
5	Q. "For what does he rent it out for?"	5	A. "Yes, I have a ten year old."
6	A. "For money for like an hour or two	6	Q. "Where do you live?"
7	hours."	7	A. "I live at 507 North Lamb, apartment
8	Q. "Does he rent it out for other	8	6."
9	things?"	9	Q. "Is that also known as the Vera
10	A. "Like --"	10	Johnson Housing --"
11	Q. "For rock cocaine?"	11	MS. DIGIACOMO: Yes.
12	A. "Yeah, he does it for that too, but I	12	Q. "-- Complex?"
13	mean never to another person's knowledge	13	A. "Yes, it is."
14	because everybody doesn't do everything in	14	Q. "That's here in Las Vegas, Clark
15	the open, I guess, but I have dealt with him	15	County, Nevada?"
16	on a different level."	16	A. "Yes, it is."
17	MR. OWENS: "Court's indulgence.	17	Q. "On August 31st of 1995, did you know
18	Thank you. That would conclude my	18	someone by the name of James?"
19	redirect."	19	A. "Yes."
20	MR. SCHIECK: "No questions, Your	20	Q. "Do you see him here in court?"
21	Honor."	21	A. "Yes, I do."
22	THE COURT: "May this witness be	22	Q. "Can you please point to him and
23	discharged?"	23	describe what he is wearing."
24	MR. OWENS: "Yes."	24	A. "The man in the gray suit with the
25	THE COURT: "Thank you, ma'am. You	25	glasses."

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1 MR. OWENS: "Your Honor, may the  
 2 record reflect that the witness has  
 3 identified the defendant?"  
 4 THE COURT: "Yes."  
 5 MR. OWENS: "Thank you, Your Honor."  
 6 Q. "Does he also go by the name of Hip  
 7 Hop?"  
 8 A. "Yes."  
 9 Q. "And why is that?"  
 10 A. "He listens to a lot of music and he  
 11 use to dance around all the time, so we gave  
 12 him the name Hip Hop."  
 13 Q. "When you say we gave him the name,  
 14 would that be fair to say the people in the  
 15 complex?"  
 16 A. "Everybody over in the complex."  
 17 Q. "Is he well known over there?"  
 18 A. "Yes."  
 19 Q. "About when was it that you met him  
 20 prior to August 31st of 1996."  
 21 A. "About five or six months ahead of  
 22 time."  
 23 Q. "And would it be fair to say he  
 24 generally hung out there at the complex?"  
 25 A. "Yeah. He was there day in, day out.

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1 He was there."  
 2 Q. "Do you know whether or not he had a  
 3 job?"  
 4 MR. SCHIECK: "Objection."  
 5 THE COURT: "The objection is  
 6 overruled."  
 7 THE WITNESS: "No."  
 8 MR. OWENS:  
 9 Q. "He did not have a job --"  
 10 A. "No."  
 11 Q. "-- to your knowledge. How many  
 12 hours a day would you see him hanging around  
 13 over there?"  
 14 A. "All day, just all day."  
 15 Q. "To your knowledge, did he have a  
 16 car?"  
 17 A. " Yes."  
 18 Q. "To your knowledge, do you know whose  
 19 car it was?"  
 20 A. "It was his, well, I thought she was  
 21 his wife. It was his girlfriend's car."  
 22 Q. "And had you ever seen this girlfriend  
 23 before?"  
 24 A. "Yes."  
 25 Q. "I'd like to show you what's been

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1 marked for purposes of identification as  
 2 State's Proposed Exhibit 56. What is this a  
 3 picture of?"  
 4 A. "Our apartment complex and the car  
 5 parked on the side of the apartment."  
 6 Q. "And, in fact, it says 507 right there  
 7 on the building?"  
 8 A. "Right. I live in apartment 6."  
 9 Q. "And showing you what's been  
 10 marked for identification purposes as State's  
 11 Proposed Exhibit No. 66, is this the woman  
 12 you knew as his wife or girlfriend?"  
 13 A. "Yes."  
 14 Q. "That you've just described?"  
 15 A. "Yes."  
 16 Q. "About how many times prior to  
 17 August 31st of 1995 did you see this  
 18 girlfriend?"  
 19 A. "It wasn't often. I seen her twice;  
 20 like two or three times. I never seen her as  
 21 much as I did him."  
 22 Q. "What was she doing when she came to  
 23 the complex?"  
 24 A. "Once, when I was coming -- walking  
 25 down the sidewalk, she was telling him

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1 something about the car, she was coming to  
 2 get the car and I overheard them arguing  
 3 about the car and I kept walking. So."  
 4 Q. "And what about the other time?"  
 5 A. "Another time, she was just sitting in  
 6 the car, her and the kids. I seen the kids  
 7 in the car too. They were just in the car."  
 8 Q. "About how many times had you seen his  
 9 children?"  
 10 A. "Just twice. Once when she was with  
 11 them in the car and once he came through  
 12 there with the kids in the car. It was the  
 13 first time I had seen his kids."  
 14 Q. "Do you know how many kids he had?"  
 15 A. "He had two toddlers -- well, not  
 16 even -- like maybe four, five year old, a  
 17 toddler, and a newborn I believe it was or  
 18 they might not have been that young, but  
 19 there were three kids."  
 20 Q. "You stated that the defendant was at  
 21 the complex all the time. Would he often  
 22 spend the night in the area?"  
 23 A. "Yes, he spent the night over there,  
 24 yes."  
 25 Q. "And whose apartment did he spend the



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1 night at?"

2 A. "Bridget. This girl named Bridget."

3 Q. "On August 31st of 1995, did you see

4 the defendant?"

5 A. "Yes."

6 Q. "And where -- what was the defendant

7 doing when you first saw him?"

8 A. "When we first seen him, he was just

9 pulling into the complex and my sisters and I

10 were on our way from the store because

11 there's a Lucky's right across the street and

12 we seen him pulling in and we went on to the

13 house. We spoke. He spoke and we went on to

14 the house."

15 Q. "So you actually saw him pulling up

16 into the complex?"

17 A. "Yes."

18 Q. "Was he -- what kind of -- what

19 vehicle was he driving?"

20 A. "The little bluish gray Toyota."

21 Q. "The same vehicle that you just

22 described in State's Exhibit No. 56?"

23 A. "Yes."

24 Q. "And when he pulled up into the

25 complex in that car and you spoke with him,

1 when you first saw him pulling up?"

2 A. "During the evening time."

3 Q. "Let me ask you this."

4 A. "The sun was almost going down at that

5 time."

6 Q. "But you can't give an exact time?"

7 A. "I don't have an exact time. I can't

8 remember now."

9 Q. "Did there come a time when you met

10 with Deborah Turner?"

11 A. "Yes."

12 Q. "And how did that come about?"

13 A. "About an hour after we had saw him

14 come into the complex, about an hour later,

15 Deborah came to the back and she was like, 'I

16 got the car, come on, let's go,' you know, to

17 talk about whatever and I was like -- you

18 know, I didn't want to go and she was like,

19 'Come on,' but he had given her the car to

20 go."

21 Q. "And did you get into the car?"

22 A. "Yes, I did."

23 Q. "And were you the driver?"

24 A. "No."

25 Q. "Or passenger?"

1 how was he acting?"

2 A. "Like James."

3 Q. "What do you mean like James?"

4 A. "Hip Hop, James. Just hi, hi or

5 what's up. That's it. Just James."

6 Q. "Did he seem sad at all?"

7 A. "No."

8 Q. "Did he seem like he had been upset

9 about anything?"

10 A. "No, he wasn't nervous or anything.

11 He was just James like we usually see him."

12 Q. "Would you have ever suspected that

13 anything was wrong?"

14 A. "Absolutely not, no."

15 Q. "How long would you say you talked

16 with him while you were with your sisters?"

17 A. "We just spoke. It was not even --

18 you know, just hi and hi and we went on to

19 the back. Hey, James. Hey. That was it."

20 Q. "Were there other people in the area

21 as well?"

22 A. "No, it was me and my sisters. Like I

23 said, he had just pulled up and gotten out of

24 the car and we were walking through there."

25 Q. "Do you recall about what time it was

1 A. "I was the passenger."

2 Q. "Do you recall where you went that

3 evening in the vehicle?"

4 A. "We went to Taco Bell and we just rode

5 around for a minute and then we came back to

6 the house."

7 Q. "Do you remember about what time it

8 was when you came home?"

9 A. "It was late. Maybe between 12:00 or

10 1:00. It was late."

11 Q. "The early morning hours?"

12 A. "Early morning hours, yes."

13 Q. "You were sitting there looking at the

14 time when you got home?"

15 A. "No."

16 Q. "And when you came home to the

17 complex, did you or did Deborah park the

18 vehicle?"

19 A. "Deborah parked it. She let me out

20 in front of the door, which is right beside

21 that window there, and she told me she had to

22 park it on the side of the building and I

23 asked her why and she said because he asked

24 her to park it, you know, I guess where

25 nobody could see it. So she parked it on the

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1 side of the building."  
 2 Q. "Did you watch her park it there?"  
 3 A. "I stood outside while she parked the  
 4 car. I mean that building and where is the  
 5 car is parked, there's my apartment door  
 6 right there."  
 7 Q. "I've shown you this exhibit, State's  
 8 Exhibit No. 56. Do you recall is that about  
 9 where she parked the vehicle?"  
 10 A. "Yep. This is where she parked it.  
 11 The night we were done, this is where she  
 12 parked it."  
 13 Q. "What did you do after you watched her  
 14 park the vehicle?"  
 15 A. "We went into the house and went to  
 16 bed."  
 17 Q. "When you got up the next day, do you  
 18 recall the vehicle still being there like  
 19 this?"  
 20 A. "It was still there. Yes, it was  
 21 still there."  
 22 Q. "Would this be a fair and accurate  
 23 depiction of the way the vehicle looked on  
 24 the date of September 1st of 1995?"  
 25 A. "Yes, yes. That's exactly how she

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1 parked it."  
 2 MR. OWENS: "Your Honor, at this time  
 3 I would move to admit State's Proposed  
 4 Exhibit 56."  
 5 MR. SCHIECK: "No objection."  
 6 THE COURT: "All right, same will be  
 7 received in evidence."  
 8 MR. OWENS:  
 9 Q. "Now, the next morning, September 1st  
 10 of 1995, did you have an occasion to see the  
 11 defendant again?"  
 12 A. "Yeah. He was on his way to Lucky's,  
 13 but we had seen him before he was on his  
 14 way. I seen him twice. Earlier I had seen  
 15 him and we were all standing out and standing  
 16 around. Then we seen him like about 30  
 17 minutes later crossing the street on his way  
 18 to Lucky's. We knew where he was going."  
 19 Q. "Now, let me ask you this. When you  
 20 say you saw him earlier that morning, how  
 21 long did you talk with him?"  
 22 A. "We never talked to James that long.  
 23 Like maybe five minutes. Hey, James. Hi.  
 24 That's all we ever did is say hi, you know."  
 25 Q. "And when you talked with him and said

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1 hello, did he seem upset at all?"  
 2 A. "No."  
 3 Q. "Did he seem sad?"  
 4 A. "No."  
 5 Q. "Could you tell whether or not  
 6 anything was wrong?"  
 7 A. "No. No."  
 8 Q. "After you saw him go towards the  
 9 Lucky store, did you ever see him again after  
 10 that?"  
 11 A. "No."  
 12 Q. "Did there come a time, after you saw  
 13 him going towards Lucky's, that the police  
 14 came to the complex?"  
 15 A. "About I'll say like prior to an hour  
 16 afterwards, a detective came and he was  
 17 looking for the car. So we were all standing  
 18 out there; nonchalantly, we don't know. We  
 19 knew where the car was, but we weren't saying  
 20 anything."  
 21 Q. "Why weren't you saying anything when  
 22 the police were looking for the car?"  
 23 A. "Because that's just how it is over  
 24 there where we live. Nobody opens their  
 25 mouth about anything. We said we don't

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1 know. We thought maybe something was wrong  
 2 or something -- maybe she had reported the  
 3 car stolen or something. So we were like we  
 4 don't know."  
 5 Q. "So you were protecting him?"  
 6 A. "Protecting who?"  
 7 Q. "Protecting James at the time?"  
 8 A. "No. We were looking out for  
 9 ourselves. We weren't protecting James."  
 10 Q. "You just didn't want to get  
 11 involved?"  
 12 A. "No. You don't get involved with  
 13 things like that over there. You just don't get  
 14 involved, you know. We don't know where the car is  
 15 and that's when he told us, 'Here's my card. In  
 16 case someone sees the car, give me a call.'"  
 17 Q. What was his name?  
 18 A. "I think it was kind of like an  
 19 Italian name."  
 20 Q. "Was it Detective James Vaccaro?"  
 21 A. "That's his name, with the mustache."  
 22 Q. "After he gave you the card, what  
 23 happened?"  
 24 A. "He told us that he was looking for  
 25 the car because the guy that drives the car

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1 had just stabbed his girlfriend to death and  
 2 we were all like panicked. We were like --  
 3 and I told him, well -- I said, 'The car is  
 4 around the corner.' I told him exactly where  
 5 it was at that time because that scared me  
 6 and then he told us what he had done and we  
 7 took him straight to the car. That's how he  
 8 got the car."  
 9 MR. OWENS: "Thank you. That would  
 10 conclude my direct examination."  
 11 MR. SCHIECK:  
 12 Q. "Ms. Jackson, I'm curious. James hung  
 13 around there a lot, didn't he?"  
 14 A. "A lot."  
 15 Q. "And he had the car a lot there as  
 16 well."  
 17 A. "Pretty much. Yeah, he -- well, not  
 18 all the time, but the majority of the time,  
 19 yes, he did have the car."  
 20 Q. "Had you ever used the car before  
 21 yourself?"  
 22 A. "Yes."  
 23 Q. "And he had rented the car out to  
 24 other people, didn't he?"  
 25 A. "Yes."

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1 Q. "He used it as sort of a way to make a  
 2 little money on the side there."  
 3 A. "Yeah, that's what he was doing."  
 4 Q. "Is it fair to say there are a lot of  
 5 people who hang around that place and do  
 6 drugs?"  
 7 A. "Yeah, it is."  
 8 Q. "Is it fair to say that there are some  
 9 apartments that are known as crack houses?"  
 10 A. "Yes."  
 11 Q. "Is it fair to say Bridget's place was  
 12 a crack house?"  
 13 A. "Yes."  
 14 Q. "And James used to hang out at  
 15 Bridget's crack house, didn't he?"  
 16 A. "Yes."  
 17 Q. "James was a crack head, wasn't he?"  
 18 A. "I have seen worse. I mean he's  
 19 not -- he wasn't just totally cracked out to  
 20 where he just lost it, but, yeah, he was  
 21 doing crack pretty bad."  
 22 Q. "He did crack there a lot, didn't  
 23 he?"  
 24 A. "Well, yeah, he did, but like I have  
 25 said, I have seen worse."

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1 Q. "On August 31st, I may have missed  
 2 this, did you say you saw him actually pull  
 3 up and an arrive or not?"  
 4 A. "We seen him pull into the complex."  
 5 Q. "You saw him. What time did he pull  
 6 in?"  
 7 A. "This is like -- I'm not sure; during  
 8 the early morning time. May have been the  
 9 afternoon time."  
 10 Q. "You are not sure of the time?"  
 11 A. "I'm not sure."  
 12 Q. "How far are you, at the Vera Johnson  
 13 Projects --"  
 14 A. "Uh-huh."  
 15 Q. "-- Vera Johnson Projects, how far  
 16 are you from Lucky's?"  
 17 A. "It's like a two, three minute walk.  
 18 We are right across the street."  
 19 Q. "Okay."  
 20 A. "Right across the street."  
 21 MR. SCHIECK: "No further questions.  
 22 Pass the witness."  
 23 THE COURT: Redirect?  
 24 MR. OWENS: "Yes."  
 25 Q. "Defense counsel asked you whether or

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1 not the defendant would rent out this car for  
 2 money?"  
 3 A. "Right?"  
 4 Q. "A way to make a little money?"  
 5 A. "Right."  
 6 Q. "What did he do with that money?"  
 7 A. "Buy crack with it."  
 8 Q. "He didn't -- you never saw him buy  
 9 anything for his family, did you?"  
 10 A. "No, no. We all knew that he wanted  
 11 the money for and that's the reason why he  
 12 was one of the main sources of getting a car  
 13 when you needed a car to do anything."  
 14 Q. "What were the other ways HE MADE HIS  
 15 money?"  
 16 A. "Stealing."  
 17 MR. SCHIECK: "Objection. Move to  
 18 strike."  
 19 THE COURT: "Overruled."  
 20 MR. OWENS:  
 21 Q. "And what do you mean by that? What  
 22 was his other name in the complex?"  
 23 A. "Regulator."  
 24 Q. "What does that mean, The  
 25 Regulator?"

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1 A. "That when you call on the regulators  
2 around there, that means they can go to the  
3 store and get anything you want. Anything."  
4 MR. SCHIECK: "Object, move to strike,  
5 Your Honor."  
6 THE COURT: "Overruled."  
7 MR. OWENS:  
8 Q. "Once they get something from that  
9 store , what store are you talking about?"  
10 A. "It doesn't matter, Lucky's,  
11 wherever. He had transportation. He can go  
12 to different stores."  
13 Q. "And once he got the items, what would  
14 he do with them over there at the complex?"  
15 A. "Sell them. He'd sell them."  
16 Q. "For the money for the drugs?"  
17 A. "For the money or the drugs. Both.  
18 Didn't make any difference. He was trying to  
19 do both. If they gave him money, he would  
20 use the money for crack. If not, he would  
21 sell it to the people for crack."  
22 Q. "And when you saw his girlfriend a  
23 couple of times over there in the complex,  
24 did she seem happy about the fact that he had  
25 her car?"

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1 A. "No. I mean who would be happy.  
2 No."  
3 Q. "Why do you say that?"  
4 A. "Well, because she knew what he was  
5 doing, you know. I mean everybody --"  
6 Q. "Did she need to go somewhere?"  
7 MR. SCHIECK: "Objection,  
8 speculation."  
9 THE WITNESS: "She had to go to  
10 work."  
11 THE COURT: "Overruled. You have got  
12 to wait until I rule on the objection."  
13 THE WITNESS: "Oh, I'm sorry."  
14 THE COURT: "That's okay."  
15 THE WITNESS: "Yeah."  
16 MR. OWENS:  
17 Q. "Did you hear her say that?"  
18 A. "I heard her yell, like I said, when I  
19 heard the earlier statement, when I saw those  
20 two there, I saw her coming and retrieving  
21 the car and I heard her say something about  
22 work and day care."  
23 Q. "Taking her children to the day  
24 care?"  
25 A. "Taking her kids to the day care."

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1 Q. "He didn't watch the children during  
2 the day?"  
3 A. "He couldn't watch them over there at  
4 Vera Johnson's."  
5 Q. "This crack house of Bridget's, did  
6 you ever actually see the defendant sleeping  
7 there as well?"  
8 A. "Yes."  
9 Q. "So he didn't actually do drugs there,  
10 you saw him sleep there?"  
11 A. "I saw him sleep there. I came there  
12 a couple of times because she also does nails  
13 and I get my nails done there and he was  
14 passed out on the couch."  
15 Q. "Did you ever see him selling any of  
16 his children's things?"  
17 MR. SCHIECK: "Objection.  
18 Irrelevant."  
19 THE COURT: "Overruled."  
20 THE WITNESS: "Diapers."  
21 MR. OWENS:  
22 Q. "How do you know he was selling his  
23 children's diapers?"  
24 A. "Well, I'm not exactly sure, but I do  
25 know he went to the car and got them. When

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1 he would steal from Lucky's, he would be  
2 stealing stuff out of his clothes. He got  
3 those diapers out of the car. So I assumed  
4 those are probably one of his kid's diapers."  
5 Q. "And he would sell those diapers?"  
6 A. "Yeah, he would sell them."  
7 MR. OWENS: "Thank you. I don't have  
8 anything further."  
9 MR. SCHIECK:  
10 Q. "He would sell these diapers as"  
11 Mr. Owens "said because he wanted drugs?"  
12 A. "Yes."  
13 Q. "He would do all the stuff apparently  
14 to get drugs?"  
15 A. "Yes."  
16 Q. "And, as far as you can tell, his  
17 girlfriend, the mother was children, knew  
18 what was going on?"  
19 A. "I'm sure she had a pretty good idea  
20 about what was going on. I mean that's her  
21 kids' father. Any woman who know what's  
22 going on."  
23 Q. "And she would come over there to get  
24 her car back?"  
25 A. "She would have no choice if she

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1 wanted to go to work."  
 2 Q. "How long had she been coming over  
 3 there" to "get her car back?"  
 4 A. "She never came over there that much.  
 5 Like I said, I seen her two, maybe three  
 6 times like I said. She never came over there  
 7 that often, but he had the car the majority  
 8 of the time."  
 9 Q. "Okay. Thank you very much."  
 10 A. "Thank you."  
 11 THE COURT: "May this witness be  
 12 discharged?"  
 13 MR. OWENS: "Yes, Your Honor."  
 14 THE COURT: "Thank you, ma'am. You  
 15 may step down."  
 16 (Whereupon Sandra Digiacomio,  
 17 Esq., was excused from the  
 18 witness stand at 4:47 p.m.)  
 19 THE COURT: Good place to break for  
 20 the night?  
 21 MR. OWENS: I don't know if the Court  
 22 can accommodate us. We have one witness that we'd  
 23 say is probably about a ten-minute witness.  
 24 THE COURT: Does the defense know  
 25 which witness it is?

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1 MR. SCHIECK: We're not going to be  
 2 too long with her.  
 3 THE COURT: Okay. Let's go ahead and  
 4 try to get her.  
 5 MS. WECKERLY: Thank you, Judge. The  
 6 witness is Kimberly Sempson.  
 7  
 8 KIMBERLY SEMPSON,  
 9 having been first duly sworn to testify to the  
 10 truth, the whole truth and nothing but the truth,  
 11 was examined and testified as follows:  
 12  
 13 THE CLERK: If you'll please state  
 14 your name and spell your last name for the record.  
 15 THE WITNESS: Kimberly Sempson,  
 16 S-E-M-P-S-O-N.  
 17  
 18 DIRECT EXAMINATION  
 19 BY MS. WECKERLY:  
 20 Q. And, ma'am, how were you employed back  
 21 on September the 1st of 1995?  
 22 A. I was employed by Lucky Stores as loss  
 23 prevention agent.  
 24 Q. And how long had you worked in that  
 25 capacity?

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1 A. About six years.  
 2 Q. Were you working at a particular  
 3 store?  
 4 A. Yes.  
 5 Q. And where was it located  
 6 approximately?  
 7 A. Bonanza, East Bonanza.  
 8 Q. Okay. And as a loss prevention  
 9 officer I assume you are making sure people didn't  
 10 shoplift out of the store?  
 11 A. Yes.  
 12 Q. Were you actually in charge of  
 13 watching people as they moved throughout the store  
 14 or did you have another job?  
 15 A. Yeah. We were watching, we were  
 16 undercover shoppers looking for shoplifters.  
 17 Q. Okay. At that time did you work a  
 18 particular shift, a dayshift or a nightshift?  
 19 A. It was a dayshift.  
 20 Q. And do you recall becoming involved in  
 21 a shoplifting investigation on that date?  
 22 A. Yes.  
 23 Q. When you and your other loss  
 24 prevention officers find someone who has been  
 25 shoplifting, what steps do you take after you

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1 notice that?  
 2 A. We stop the person and bring them back  
 3 to whatever office we're going to use in the back,  
 4 usually in the back somewhere of the store.  
 5 Q. Okay. And that's what you did on this  
 6 day?  
 7 A. My partner did that, yes.  
 8 Q. Who was your partner on that day?  
 9 A. Larry Martinez.  
 10 Q. So you actually detained an individual  
 11 he suspected of shoplifting?  
 12 A. Yes.  
 13 Q. And he would have brought that  
 14 individual to the back part of the store?  
 15 A. Yes.  
 16 Q. And that's where you were?  
 17 A. Yes.  
 18 Q. Do you recall what the individual  
 19 looked like that he brought back?  
 20 A. African-American male and he was  
 21 wearing I believe a white tee-shirt and jeans or  
 22 something similar.  
 23 Q. And after Officer Martinez brought  
 24 this individual back to that back room, did you or  
 25 the other officer call a police officer?



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1 A. Yes.  
 2 Q. And did an officer respond?  
 3 A. Yes.  
 4 Q. From between the time you have the  
 5 individual at the back of the store and this  
 6 officer responded, what do you and the other  
 7 security officer do while you're waiting for the  
 8 cops?  
 9 A. We're back there with the person that  
 10 we stopped. My partner whoever stopped the person  
 11 or observed and detained them would write the  
 12 report. My partner was writing his report, and I  
 13 was back there with him and the suspect.  
 14 Q. Back with the suspected shoplifter?  
 15 A. Yeah.  
 16 Q. At that time or sometime soon  
 17 thereafter did a Metro officer arrive to assist you  
 18 two?  
 19 A. Yes.  
 20 Q. And when the Metro officer arrived,  
 21 what did he do in terms of this investigation?  
 22 A. He then asked the suspect for his  
 23 information. The suspect really wasn't talking  
 24 very much. The officer then was interested in the  
 25 information we had in the report.

1 A. They didn't leave the room. It was  
 2 like the whole big back room and within that back  
 3 room there was a little, another little room like  
 4 glass windowed room where the receiver's desk was.  
 5 That's where the suspect was sitting.  
 6 I was standing kind of in the doorway  
 7 of that little room and they were just outside from  
 8 where I was still in the back room area where they  
 9 could see me and I could see them.  
 10 Q. Okay. And who were you watching?  
 11 A. I was watching the suspect.  
 12 Q. And what did you see him do at that  
 13 point?  
 14 A. He started to fidget while sitting in  
 15 the chair.  
 16 Q. And when you say fidget, can you  
 17 describe for us what you mean by that.  
 18 A. Well, instead of sitting here like I  
 19 am right now, he started kind of moving around like  
 20 this and he had his hands handcuffed behind his  
 21 back and he started kind of moving his hand like  
 22 this.  
 23 Q. Okay. And just for the record you're  
 24 sort of moving or shifting your weight from side to  
 25 side.

1 Q. Okay.  
 2 A. And then walked over to where my  
 3 partner was writing the report.  
 4 Q. Okay. The officer who arrived at the  
 5 store, do you recall if he patted the suspected  
 6 shoplifter down for weapons?  
 7 A. Yes, he did.  
 8 Q. And did you visually observe that on  
 9 that date?  
 10 A. Yes, I did.  
 11 Q. And you said that the officer got some  
 12 information from the shoplifter.  
 13 A. I believe he asked him his name.  
 14 Q. Okay. And do you recall ten years  
 15 later what the name was?  
 16 A. It was I think Ivory Morrell.  
 17 Q. Okay. It wasn't James Chappell?  
 18 A. No, it was not.  
 19 Q. And once the officer got the name, you  
 20 said he spoke to Security Officer Martinez and  
 21 asked him some information?  
 22 A. Yes.  
 23 Q. Was there ever a point when Security  
 24 Officer Martinez and the police officer left the  
 25 room that you and the suspect were in?

1 A. Yes.  
 2 Q. And you gestured with your hand behind  
 3 you?  
 4 A. Yes.  
 5 Q. And you observed all this?  
 6 A. Yes.  
 7 Q. Did you see him do anything or what  
 8 happened as you were watching this?  
 9 A. I continued to watch him. At one  
 10 point his hands appeared from behind him kind of  
 11 like this.  
 12 Q. You mean from the side?  
 13 A. Yeah, from the side.  
 14 Q. Okay.  
 15 A. And it appeared he had a clear plastic  
 16 item that had some cards or something in it and he  
 17 was attempting to place that card into a box that  
 18 was sitting on a flat cart next to him. The box  
 19 was taped shut with clear tape and so it appeared  
 20 to have a gap where the two flaps met and I, it  
 21 appeared that he didn't realize that it was taped  
 22 'cause it was clear and he tried to put it in  
 23 there and it didn't and I asked him at that time I  
 24 said, "What are you doing?" And it startled him,  
 25 and he dropped the little plastic cardholder.

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1 Q. Okay.

2 A. And when I bent down to pick it up, he

3 put his foot on it.

4 Q. To cover it?

5 A. Yes.

6 Q. And if I'm understanding you, you sort

7 of gestured and removed that plastic cardholder

8 from somewhere on his person?

9 A. Somewhere from behind his person, yes.

10 Q. Okay. And there was apparently a box

11 or something, some kind of container next to him

12 that he seemed to kind of like to put the

13 cardholder in?

14 A. Yes.

15 Q. But instead it fell to the floor?

16 A. Yes, as I said, I asked him what he

17 was doing.

18 Q. Okay. And that's when he put his foot

19 on it?

20 A. Yes.

21 Q. Did he ever lift up his foot so you

22 could see what was there?

23 A. I asked him to move away and he moved

24 away removing his foot and I picked up the little

25 cardholder.

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1 to see that there was more than one card in there?

2 A. Yeah, you could tell when you were

3 holding it that there was a Social Security card

4 and then several other items in there appearing to

5 be the same, about the same size as the Social

6 Security card.

7 MS. WECKERLY: Thank you. I'll pass

8 the witness, Your Honor.

9 (Whereupon Ms. Weckerly

10 concluded her direct examination

11 at 4:56 p.m.)

12 THE COURT: Okay. Mr. Schieck or

13 Mr. Patrick.

14 MR. PATRICK: Thank you, Your Honor,

15 Court's indulgence.

16

17 CROSS-EXAMINATION

18 BY MR. PATRICK:

19 Q. Good afternoon, ma'am.

20 A. Good afternoon.

21 Q. I believe you stated that you were

22 working with Mr. Martinez.

23 A. Yes.

24 Q. And Mr. -- did you or Mr. Martinez do

25 a search of James?

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1 Q. And when you picked up the cardholder,

2 could you see what was inside of it?

3 A. Yes.

4 Q. What was that?

5 A. What I saw was a Social Security card.

6 Q. And could you tell if it was just one

7 card or more than one card?

8 A. There was more things underneath that,

9 yes.

10 Q. What did you do with that object once

11 you got it out from under the defendant's foot?

12 A. At that time the officer had walked

13 back over to where I was. He heard me ask the guy

14 what he was doing and at that point I handed it to

15 the officer.

16 Q. Ma'am, I'm showing you State's

17 Exhibit 55. It's on the screen in front of you.

18 At the top of that exhibit there appears to be a

19 plastic holder containing a security, Social

20 Security card.

21 Does that appear to be the object that

22 you saw that suspect manipulating?

23 A. Yes.

24 Q. And were you able to see -- I think I

25 asked you this but just to make sure, you were able

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1 A. I believe Mr. Martinez did do a

2 patdown cursory thing on him, make sure he didn't

3 have any weapons on him.

4 Q. And in the I think Mr. Martinez had

5 him empty out his pockets; is that correct?

6 A. Yes.

7 Q. And are the rest of these items in

8 this picture the items that were in Mr. Chappell's

9 pockets?

10 A. Yes.

11 Q. And I know this is a very terrible

12 picture but this, that thing right there, do you

13 know what that is?

14 A. It appears to be like a small metal

15 pipe or type of tube.

16 Q. Okay. And would you be familiar as to

17 what that might be used for?

18 A. I kind of think it's probably used to

19 smoke some type of drug.

20 Q. Possibly crack?

21 A. Yes.

22 Q. But you have no experience with that

23 yourself, correct?

24 A. No.

25 Q. Ma'am, if I may ask you, are you

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1 married?  
 2 A. No, I'm not.  
 3 Q. Do you have any children?  
 4 A. No, I do not.  
 5 Q. While James was in the room with you,  
 6 did you or Mr. Martinez ever ask him if he was  
 7 either under the influence of alcohol or drugs at  
 8 the time?  
 9 A. No, I did not.  
 10 Q. Do you know if Mr. Martinez did?  
 11 A. I don't recall if he did or not. I  
 12 don't believe he did.  
 13 Q. Okay. Did the police officer that  
 14 came, do you know if he did?  
 15 A. I don't recall if he did or not.  
 16 Q. Now, you said that when James was in  
 17 there, he gave you a name that was not James  
 18 Chappell?  
 19 A. Right.  
 20 Q. Is that correct?  
 21 And do you -- and I believe you said  
 22 the name was --  
 23 A. Ivory Morrell.  
 24 Q. At any time did you ever make a  
 25 connection with who that name may have belonged to?

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1 A. No.  
 2 Q. So as far as you knew it was just a  
 3 name that James either pulled out of the air or  
 4 somebody he knew?  
 5 A. Yeah. I don't know where -- I don't  
 6 know why he stated that. We asked -- he didn't  
 7 appear to have I.D. We asked him what his name and  
 8 that's what he told us. I don't know how he came  
 9 up with it.  
 10 Q. Do you know how the whoever determined  
 11 what his real name was?  
 12 A. I believe the officers did.  
 13 Q. And do you have any idea how they did  
 14 that?  
 15 A. I believe I think that the officer  
 16 recognized the Social Security card in the thing  
 17 and kind of suspected who he was at that point.  
 18 MR. PATRICK: All right. Thank you,  
 19 ma'am. We have nothing further.  
 20 (Whereupon Mr. Patrick  
 21 concluded his cross-examination  
 22 at 4:58 p.m.)  
 23 THE COURT: Thank you. Ms. Weckerly?  
 24 MS. WECKERLY: No redirect.  
 25 THE COURT: Thank you. Ms. Sempson,

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1 thank you very much, ma'am. You may step down.  
 2 (Whereupon Kimberly Sempson  
 3 was excused from the  
 4 witness stand at 4:59 p.m.)  
 5 THE COURT: All right. Ladies and  
 6 gentlemen, we'll go ahead and take our evening  
 7 recess. During this recess, it is your duty not to  
 8 converse among yourselves or with anyone else on  
 9 any subject connected with the trial or to read,  
 10 watch or listen to any report of or commentary on  
 11 the trial by any person connected with the trial or  
 12 by any medium of information, including, without  
 13 limitation, newspaper, television, radio, and the  
 14 internet, and you are not to form or express an  
 15 opinion on any subject connected with this case  
 16 until it is finally submitted to you, under  
 17 instructions by me.  
 18 We'll be in recess. We'll probably  
 19 start tomorrow morning at 10:30. Hopefully we  
 20 won't have any technical problems in the morning  
 21 and can get started on time. Thank you very much.  
 22 (Whereupon, the jury  
 23 retired from the courtroom  
 24 and the following proceedings  
 25 took place outside their

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1 presence:)  
 2 THE COURT: Does anybody have anything  
 3 outside the presence?  
 4 MR. SCHIECK: No, Your Honor.  
 5 MR. OWENS: No, Your Honor.  
 6 THE COURT: Okay.  
 7 (Whereupon the proceedings  
 8 concluded at 5:01 p.m.)  
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AFFIRMATION

PURSUANT TO NRS 239B.030

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The undersigned does hereby affirm that the proceeding

Stater v Chappell,  
filed in District Court Case No. C 13134,

Does not contain the social security number of any person.

Contains the social security number of a person as required by:

(A) NAC 656.350

-or-

(B) For the administration of a public program or for an application for a federal or state grant.

Sharon Howard

Sharon Howard, CCR #745

3/25/07

Date



# EXHIBIT 170

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TRAN  
CASE NO. C-131341  
DEPT. NO. 3

FILED IN DISTRICT COURT  
MAR 15 2007  
..20..

**ORIGINAL**

*Carol Donahoo*  
CAROL DONAHO DEPUTY

DISTRICT COURT  
CLARK COUNTY, NEVADA

\* \* \* \* \*

STATE OF NEVADA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
JAMES M. CHAPPELL, )  
 )  
Defendant. )  
\_\_\_\_\_ )

REPORTER'S TRANSCRIPT  
OF  
PENALTY HEARING

BEFORE THE HONORABLE DOUGLAS HERNDON  
DISTRICT COURT JUDGE

MORNING SESSION

DATED: WEDNESDAY, MARCH 14, 2007

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

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APPEARANCES:

For the State: CHRISTOPHER OWENS, ESQ.

PAM WECKERLY, ESQ.

For the Defendant: DAVID M. SCHIECK, ESQ.

CLARK W. PATRICK, ESQ.

\* \* \* \* \*

I N D E X  
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1 LAS VEGAS, NEVADA; WEDNESDAY, MARCH 14, 2007

2 10:30 A.M.

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

4 \* \* \* \* \*

5  
6 THE COURT: On the record in C-131341,  
7 outside the presence of the jury. The record will reflect  
8 the presence of Mr. Cappell with his attorneys,  
9 Mr. Schieck and Clark Patrick.

10 You had an issue you wanted to bring up.

11 MR. SCHIECK: Yes, your Honor. For the  
12 record, rather than objecting to various pieces of  
13 evidence as they come in on the basis of the Sixth  
14 Amendment confrontation clause issue, which was decided by  
15 our Supreme Court in Marlo Thomas and Dante Johnson case  
16 on December 28th, the court ruled that hearsay is  
17 admissible at penalty hearing in a capital case, and the  
18 Sixth Amendment protections of confrontation don't apply  
19 at that proceeding.

20 However, for the record, we want to  
21 preserve that we are objecting on those bases to any  
22 hearsay or similar testimony by way of documentary  
23 evidence coming in in this case.

24 THE COURT: I'll note that objection and  
25 preserve it for the record.

1 MR. OWENS: If I can make a comment  
2 also.

3 The facts underlying the aggravator that's  
4 remaining in this case were approved of by direct evidence  
5 and non-proffered evidence at the original trial of this  
6 matter. It's true that we may be reading some transcripts  
7 from prior testimony, but it's testimony that they had a  
8 full right of confrontation on during the original trial  
9 on this matter.

10 So I don't anticipate anything that's  
11 going to be a problem with Crawford, even if it's coming  
12 in in this hearing in a hearsay form. It was presented in  
13 the prior proceedings. But I recognize their continuing  
14 objection.

15 THE COURT: All right.

16 Back on the record in C-131341, State of  
17 Nevada versus James Cappell. The record will reflect the  
18 presence of Mr. Chappell and his attorneys. The State's  
19 attorneys are present. We're in the presence of our jury.

20 Ladies and gentlemen, welcome back this  
21 morning. Let me apologize to you. Technology is a great  
22 thing, as we all know. Sometimes it doesn't work as we  
23 would like it to, so the delays this morning aren't  
24 occasioned by any of the attorneys. I'd ask you not to  
25 hold it against them. We had some electronic glitches, so

1 to speak, in terms of how things get displayed on the  
2 monitors and wiring and that took us time to work it out.  
3 I think that's all resolved now.

4 We're going to proceed, as I said  
5 yesterday, to the opening statements of the attorneys, so  
6 Mr. Owens or Ms. Weckerly.

7 MS. WECKERLY: Thank you, your Honor.

8 OPENING STATEMENT

9 BY MS. WECKERLY:

10 In July and August of 1995, the Defendant,  
11 James Cappell was in custody. And while he was in custody  
12 he would write letters to his ex-girlfriend, Debra  
13 Panos.

14 "Hello, greetings, Sweetheart, can you  
15 come and visit some day. Still waiting. James Cappell."

16 "Hello Debra Ann, so what's up, slut.  
17 You're going lower and lower. Are you easy, Debbie. How  
18 many sweet talked you, used lines on you. How many have  
19 dropped your panties. Is your representation good now."

20 "Hello once again Debbie. You have become  
21 such a liar. Your friends are teaching you how to lie  
22 better. Who you been kissing. Who you been holding. Do  
23 you have HIV or AIDS yet."

24 And on July 30th of 1995, he gave he a  
25 sort of warning. "Hi Sweetie. You must be terrified to



1 visit me, uh. One day soon, I'll be out that door and  
2 what in God's name will you do then."

3 Debra Panos took this warning very  
4 seriously, but this is a case, tragically, where the  
5 criminal justice system let her down.

6 Slightly over a month later after he wrote  
7 those words about appearing on her doorstep, he did just  
8 that. He appeared on her doorstep and within an hour of  
9 her arrival, she was dead. He has stabbed her to death.

10 Back in 1996, members of the community,  
11 like yourself, twelve members, heard the trial of State of  
12 Nevada versus James Cappell, and they all agreed, after  
13 hearing the evidence and deliberating that that man over  
14 there was guilty of murder of the first degree with use of  
15 a deadly weapon against Debra Panos.

16 Actually, by the time James Cappell  
17 murdered Debbie, he had already committed several crimes  
18 against her. In fact, he had terrorize her for years.  
19 You will hear that James Cappell met Debra Panos when the  
20 two were 16 years old and in high school. They lived in  
21 Lansing, Michigan. Debbie lived with her parents when she  
22 met James. He was doing drugs at the time. She wasn't.  
23 And her parents weren't exactly thrilled with this  
24 relationship.

25 Debra soon became pregnant with their

1 first child. It was a son. His name is James. He's  
2 called J P. Eventually Debra's parents move to Tucson,  
3 Arizona and Debra eventually followed after them.

4 While she was living in Arizona the  
5 Defendant was still back in Michigan. There was some  
6 contact between the two, and Debbie became pregnant again  
7 and had another son, whose named Anthony.

8 Eventually the Defendant followed Debbie  
9 out to Tucson, Arizona, and while they are living there  
10 Debbie had a third child, a daughter named Chantelle.

11 The two were living in Tucson for the  
12 years of 1990 to 1994. And once they were living in the  
13 same city with three small children, the Defendant was  
14 repeatedly abusive to Debbie.

15 While in Tucson Debbie work several jobs  
16 to support her family. She worked as a 911 call operator.  
17 She worked at a pizza restaurant at one time. She worked  
18 for the census. She paid for their food. She paid for  
19 their rent on the trailer that they lived in. And she  
20 paid for items that the Defendant and the children  
21 needed.

22 During this time period, the Defendant was  
23 working intermittently, at best, and he wasn't bringing in  
24 regular paychecks to support the family. Instead, what he  
25 was spending his money on was drugs.

1                   While Debbie was working as a 911 operator  
2 she became friends with a co-worker of hers. A lady by  
3 the name of Dina Freeman. And Dina would observe the  
4 interaction between James Cappell and Debbie Panos. And  
5 she observed that Debbie was afraid of the Defendant. The  
6 Defendant was in charge of this relationship, and it was  
7 basically what he said was the way things were going to  
8 be.

9                   Sometimes Dina would see Debbie come to  
10 work, she saw bruises on her, and she saw her wearing  
11 heavy makeup to cover marks on her. That didn't always  
12 work. She could see through it.

13                   Eventually Debbie Panos confided in her  
14 friend Dina that the relationship that she had with James  
15 Cappell was abusive. Dina learned that the Defendant  
16 would call Debbie Panos names, such as, slut, whore, or  
17 bitch. He was always insinuating that Debbie Panos was  
18 cheating on him, or that she was being unfaithful.

19                   Sometimes Debbie would actually call her  
20 friend Dina during an altercation with the Defendant.  
21 There was one time that Dina Freeman recalled where the  
22 Defendant had returned home from a trip to Michigan and  
23 Debbie called her on the phone because the Defencant was  
24 angry and Debbie was afraid. She was calling a friend for  
25 support.

1                   And Dina could actually hear the words  
2 this defendant was saying in the background. She could  
3 hear him calling Debbie names. And she could hear him  
4 saying that if Debbie fucked around on him in front of his  
5 kids, he'd kill her.

6                   Dina was also aware that the Defendant was  
7 prone to taking stuff out of the house and selling it so  
8 she could use money for drugs. And so when Debra Panos  
9 got anything new or anything that was important to her,  
10 she would keep it at her friend Dina's house.

11                   An incident, similar to this, took place  
12 on February 23rd, of 1994. At that time Debbie had just  
13 purchased a dresser for holding clothing for her  
14 daughter -- her baby daughter Chantelle. On the 23rd of  
15 1994, Debra Panos went to the supermarket and contacted an  
16 off-duty police officer. Because she was working as a 911  
17 operator, she had knowledge of where some of them worked  
18 off duty.

19                   That off-duty contacted an on-duty officer  
20 who interviewed Debbie about what had happen that evening.  
21 And Debbie explained to the officer that she had purchased  
22 this dresser for her daughter and that she came home and  
23 found it missing. And what had happened was the Defendant  
24 had taken it back and taken the money.

25                   Debbie confronted the Defendant with this.

1 She was upset with this dresser that she had bought for  
2 her daughter had been taken back. And he got angry at  
3 her, and the anger turned to violence, and he knocked her  
4 to the floor and he kicked her. After the police spoke to  
5 Debbie Panos, they went to the residence where the  
6 Defendant was.

7 From outside, as they were knocking on the  
8 door they could see the defendant inside. But he wouldn't  
9 get up to answer the door. He was sitting there watching  
10 television. So eventually they made entry and placed him  
11 under arrest.

12 After this incident another similar  
13 incident took place around Memorial Day of 1994. During  
14 that time period Debbie and her friend Dina went to San  
15 Diego for a girl's weekend. While there Debbie bought  
16 some souvenir T-shirts for her children. She brought them  
17 back to them in Arizona. And the Defendant took them and  
18 sold them.

19 By August and September of 1994, Debbie  
20 and the Defendant and the three kids were still living in  
21 Tucson but things were getting worse and worse for Debbie.  
22 During that time period, Debbie would spend a considerable  
23 amount of time at her friend Dina in order to avoid being  
24 in the same trailer as the Defendant.

25 During one of the times when she was

1 actually home, she made another call to Dina during the  
2 fight she was having with the Defendant. And, of course,  
3 Dina, again, could hear what the Defendant was saying to  
4 Debbie, because she was on the open phone line. And what  
5 the Defendant told Debbie was, Debbie, you either give me  
6 the car or give me some money because I know you are  
7 fucking around on me. You're not going to Dina's house  
8 every day for nothing. I'm going to do an O.J. Simpson on  
9 you.

10 By September, October of 1994, Debra Panos  
11 decided that she needed something of a fresh start and she  
12 decided that she and her children would move to Las Vegas.  
13 Things had gotten a little tense for her working as a 911  
14 operator, because of the Defendant's contact with law  
15 enforcement, and she thought she needed to leave and start  
16 over.

17 The Defendant followed her, and for a time  
18 Debbie thought that it would be sort of a fresh start for  
19 all of them. She thought things would get better. She  
20 thought things would change. They didn't.

21 Once she got to Las Vegas, Debbie  
22 immediately started working. During some points in time  
23 she didn't have a car, so she would take the bus to work.  
24 Eventually she got a car and was able to work a couple  
25 different jobs to support her family.

1           As I said, the Defendant treated her no  
2 better in Las Vegas than he had in Arizona. In fact,  
3 during Thanksgiving of 1994, Debbie Panos was in Las Vegas  
4 and she made a call to her friend Dina again, and Dina  
5 again heard the Defendant threaten Debbie that he was  
6 going to do an O.J. Simpson on her.

7           One of the jobs that Debbie Panos had when  
8 she was living in Las Vegas was working at a collection  
9 agency called G.E. Capital. She worked at that job to  
10 support her children. And she got somewhat close to her  
11 co-workers there and became close friends with about three  
12 or four of them. Those co-workers observed an incident of  
13 abuse between the Defendant and Debbie pan in December of  
14 1994.

15           On that date, the Defendant and Debbie  
16 arrived at the parking lot of G.E. Capital. Debbie was in  
17 the passenger side of the car. The Defendant was driving.  
18 And the co-workers couldn't hear what was said, but they  
19 saw the Defendant slap Debbie across the face. She was  
20 sort of shaken and got out of the car. But she pulled  
21 herself together and went into work. The Defendant drove  
22 off.

23           In January of 1995, things got worse.  
24 Around midnight of January the 9th of 1995, an ambulance  
25 was summoned to the trailer that Debbie was living in on



1 North Lamb here in Las Vegas. When the police got there,  
2 as well as the ambulance, they found Debbie Panos. She  
3 was laying on a gurney in the back of the ambulance. Her  
4 nose was swollen up to the size of a fist. She was  
5 bleeding profusely. She had a laceration to her eye.  
6 There was blood in her hair. And she was having trouble  
7 speaking because of the blood and the swelling on her  
8 face.

9 On that occasion she explained to an  
10 officer that the Defendant had hit her with an object in  
11 the face, but she didn't know what it was. The officers  
12 approach the Defendant, who was sitting inside the  
13 trailer. He was not out with Debbie. And he explained to  
14 them that he had thrown a cup at her, or maybe just hit  
15 her one time in the face. He was arrest for battery,  
16 domestic violence on that occasion.

17 Of course, Debra Panos went to the  
18 hospital after this incident, and she was left with  
19 basically a scar on her face. There was a mark that  
20 didn't go away. After this incident Debbie contacted an  
21 assistant center for battered women. She got what's  
22 called a temporary restraining order against the  
23 Defendant, where he was ordered to stay away from the  
24 residence -- the trailer park, where she was working, and  
25 the day care where the children were.

1                   But for whatever reason Debbie let that  
2 temporary restraining order lapse. She didn't follow  
3 through, and so the order wasn't in affect after a short  
4 period of time.

5                   Things with the Defendant still did not  
6 improve. A significant event occurred on February 18th of  
7 1995. On that date the Defendant was arrested at a K-Mart  
8 store for petty larceny and burglary. As a result of his  
9 conduct, he was facing a felony charge of burglary But he  
10 got a break from the State of Nevada and his case was  
11 negotiated down or plea bargained, and the felony charges  
12 were dropped and he was just required to plead guilty to  
13 what's called a gross misdemeanor. He pled to that.

14                   When you plead guilty to a gross  
15 misdemeanor, the court has a sentencing option of giving  
16 you up to a year in the Clark County Detention Center or  
17 placing a person on probation. And the Defendant got  
18 another break in sentencing. He wasn't sentenced to jail  
19 time. He was given the privilege of being on probation.

20                   The Defendant made a statement when he was  
21 sentenced on that gross misdemeanor charge. He said that  
22 he would do better, and he wouldn't commit a felony in the  
23 State of Nevada or the City of Las Vegas. This turned out  
24 to not be true.

25                   On June 1st of 1995, while the Defendant

1 was on probation there was another incident of domestic  
2 violence that he committed. As you might expect, when  
3 you're on probation one of the conditions of being on  
4 probation is that you not commit new crimes and you stay  
5 out of trouble. The Defendant didn't abide by those rule.  
6 He chose to continue his abuse with Debbie.

7 By this time period Debbie would sometimes  
8 have adult women friends live with her inside the trailer  
9 from time to time. It gave her a sense of security to  
10 have someone else there. One of the friends she had  
11 living with her is a lady by the name of Clairia McGuirre.  
12 Claire was staying there on June 1st of 1995. And Claire  
13 was the one who had to call the police on June 1st.

14 On this date the problem the Defendant had  
15 was that Debbie was gone for a substantial portion of the  
16 day and he wanted to know where she'd been and who she'd  
17 been with, and she was a little afraid to discuss it with  
18 him. He made her go into a bedroom. He threw her on the  
19 bed and he got on top of her and straddled her and put his  
20 knees on her arms to hold her down, and then he took out a  
21 knife and questioned -- or threatened her about where  
22 she'd been.

23 Claire knocked on the door while this was  
24 going on and said the police had arrived, and the  
25 Defendant was arrested on that night for another act of

1 battery domestic violence.

2 Since that incident occur the Defendant  
3 has commented about it, and he said that he wasn't really  
4 threatening her with a knife at all. He was just talking  
5 to her, trying to find out where she'd been. From June  
6 1995 through August 30th of 1995, the Defendant was in  
7 custody, and he would write letters from the jail to  
8 Debbie, and the content of those letters was generally his  
9 anger that she wasn't visiting him, that she wasn't  
10 putting money on his books, that she wasn't calling him,  
11 that basically she was ignoring him, and this upset him.  
12 He didn't like the prospect of the relationship ending.

13 In July of 1995, the Defendant made some  
14 contact to some of Debbie's friends. One of them is a  
15 lady by the name of Lisa Duran. And he would have  
16 conversations with Lisa about where Debbie is and what is  
17 Debbie doing. In one of those conversations he asked  
18 Lisa, well just who is Debbie laying underneath. He also  
19 had Lisa convey a message or asked her to convey a message  
20 to Debbie, and that message was, you tell Debbie when I  
21 get out I'm going to make sure she doesn't have any  
22 friends. When I get out she won't be able to go out  
23 anymore. I'll make sure of that.

24 And in another conversation with Lisa, he  
25 told her if I can't have her no one can.

1                    Obviously, these experiences were  
2                    extremely frightening for Debra Panos at the time, and she  
3                    became constantly vigilant about monitoring the  
4                    Defendant's custody status. She would call the jail from  
5                    work and ask how many days he had left to serve, and she  
6                    was keeping track of how long he would be in custody. And  
7                    she could discuss this with her friends about how many  
8                    days he had left to serve.

9                    On August 30th of 1995, there was another  
10                   significant incident. On that date that was the  
11                   misdemeanor trial date of the June 1st incident. The one  
12                   where he held a knife on her. That went to misdemeanor  
13                   trial on August 30th. And Debra Panos left work early  
14                   that day, showed up on her subpoena, like she was supposed  
15                   to, and sat in court ready to testify against the  
16                   Defendant on that domestic violence incident.

17                   After she returned from court, she told  
18                   her friend, Michele Mancha about her experience there.  
19                   She said that she saw the Defendant, and he told her that  
20                   he was going to kill her. Debbie was scared, but she knew  
21                   or believed at the time that the Defendant was still going  
22                   to be in custody. Because he had been on probation for  
23                   that gross misdemeanor charge, he had committed some new  
24                   offenses. And because he committed those new offenses, he  
25                   faced potential revocation of probation.

1                   And the judge who sentenced him on that  
2 gross misdemeanor charge had the Defendant in front of him  
3 and ordered the defendant to attend an in-patient drug  
4 counseling program, which would last 90 days. So Debra  
5 Panos believed he was going to be in custody for 90 days.

6                   During that time period, around August  
7 30th when Debra Panos believed that she had 90 days to  
8 reassess her life, she made some different decision about  
9 things.

10                   Originally she wanted to stay in her  
11 trailer because she had invested time and money into her  
12 residence. But by August 30th, 1995 she decide that she  
13 needed to move for her own safety. And she believed, with  
14 the Defendant being in custody for 90 days, she had a 90  
15 day window to get herself located to another place where  
16 he couldn't find her.

17                   She didn't count, unfortunately, on the  
18 Defendant being able to manipulate other people. And she  
19 didn't count on the fact that a mistake was made. August  
20 31st, was the last day of Debra Panos' life. On that day  
21 she got up early and dropped her children off at Angel Day  
22 care. She dropped them off at 7:30 in the morning. She  
23 went to her friend's house and pick him up for work, and  
24 they went to G.E. Capital.

25                   On the last day of her life, Debra Panos'

1 oldest son was 7. Her middle child, Anthony, was 5. And  
2 her daughter, Chantelle was 3. This was a normal day for  
3 Debra Panos, except that she and her friends had planned  
4 on leaving work early and doing a barbecue in the  
5 afternoon at Lorency (ph) Park.

6 Debra Panos also had plans to meet her  
7 friend Lisa Duran at the trailer at about 1:30, because  
8 Lisa was going to be moving some property out of the  
9 trailer. So Debbie Panos goes to work with her friend  
10 Mike Pollard. She works there for a couple hours that  
11 morning. And then they leave, and she drives back to Mike  
12 Pollard's house to drop him off after work. And the plan  
13 is they're going to meet up later and have this  
14 barbecue.

15 Mike Pollard gets in the shower and Debra  
16 Panos leaves, and she returns 20 minutes later and she is  
17 in a panic. She's frightened. She tell her friend Mike  
18 that James is out have of custody. And she doesn't know  
19 how this occurred. And she sat on Mike's couch and  
20 cowered and had her body in a ball because she was so  
21 afraid of the prospect of him getting out of custody.

22 Debra Panos wanted to go back to the  
23 trailer to get some items quickly for herself and her  
24 children, and then just get out of there.

25 Her friend Mike told her, let me finish

1 getting out of the shower then I'll go with you to the  
2 trailer. So he gets back in the shower and Debra Panos  
3 made a bad decision at that point. She left by herself.

4 What happened with the Defendant. Well,  
5 on the day of -- the morning of August 31st of 1995, he  
6 met with his probation officer at about 9:30 in the  
7 morning. This officer was supposed to take the Defendant  
8 from jail into an in-patient drug treatment program. The  
9 officer talked to the Defendant for about an hour. They  
10 have discussions about how the Defendant has changed. How  
11 he wants to make his life better. How he's going to do  
12 better. How he can be responsible. And that he can get  
13 himself to this drug treatment program.

14 So the officer, after about an hour,  
15 decides to give the Defendant a little bit of a break and  
16 let him walk himself to the drug treatment program.

17 The officer let's him leave the office at  
18 about 10:45 in the morning, and the Defendant walked out  
19 the door, turned the opposite direction of the drug  
20 treatment program, and didn't look back.

21 He arrived at Debra Panos trailer at 839  
22 North Lamb, and he climbed through a window and he waited  
23 for her. The next person to hear from Debra Panos was a  
24 lady who worked at Angel Day Care. She's a supervisor  
25 there. And at about 12:30 in the afternoon she gets a



1 call from Debra Panos and Debbie is scared. She's  
2 whispering, please, help me. The lady at the day care  
3 could hear that there was a man in the background as Debra  
4 Panos was on the phone with her, and she hear Debra answer  
5 to this man, I don't have any money. She could hear Debra  
6 trying to appease this person.

7           The lady at the day care asked her is  
8 there a way you can get away, get out of that trailer by  
9 yourself and Debbie says, no, there's no way I can get  
10 away. So what Debbie asked her to do was sort of concoct  
11 a reason for her to leave, and she asked the lady at the  
12 day care will you call me back in five minutes and tell me  
13 that I have to come pick up the children. The lady at the  
14 dare care, says, okay, that's what I'll do. And she does  
15 that. She hangs up the phone. She waits five minutes.  
16 And she calls back and she tells Debbie, you need to come  
17 pick up your kids now. And Debbie says, okay, and sounds  
18 fine. I'll be there.

19           But the lady at the day care knew there  
20 was a problem. She was expecting Debbie to arrive at the  
21 day care and pick up those kids, but she never did.

22           By 1:30 in the afternoon Debbie's friend,  
23 Lisa Duran had arrived at the trailer complex. She is the  
24 lady who was getting some property out of the trailer and  
25 she was supposed to meet Debbie there at 1:30. And as

1 she's driving in, she sees someone else driving Debbie's  
2 car out the outside. It doesn't immediately register to  
3 her who it is, except she knows it's not Debbie.

4 She goes over to the trailer, knocks on  
5 the door, calls out Debbie's name, no answer. She notices  
6 that the air-conditioning on the trailer is running. And  
7 she thinks that's strange because Debbie wasn't -- she had  
8 to be careful with her money, so she wouldn't have the  
9 air-conditioning going if she wasn't home.

10 So this lady, Lisa, goes over to Mike's  
11 house -- the friend that Debbie had driven to work -- and  
12 she asked him, you know, where's Debbie, where has she  
13 been. And Mike tells her, well, Debbie she left. And  
14 then Mike also tells her something more alarming. Did you  
15 know James got out. This sets off an alarm in Lisa  
16 Duran.

17 She goes over to the day care to check on  
18 Debbie's children, and she's convinced that something bad  
19 has happened. And she was right. She goes home and tries  
20 to get someone to come with her back to the trailer. And  
21 as she does that, she finds an officer who is on duty and  
22 talks him into coming back to the trailer with her to  
23 check on her Friend Debbie.

24 When the patrol officers arrive at the  
25 trailer with Lisa Duran, they too knock on the doors. No

1 one answers. They check all the windows of the trailer,  
2 and they discover that the only window that has any damage  
3 to it or that appears to be unlocked is one of the front  
4 windows to the trailer.

5 One of the patrol officers climbs in that  
6 window -- just like the Defendant did -- to see or check  
7 on the welfare of Debra Panos.

8 As he goes through the trailer, he gets  
9 into the living room area and he discovers Debra Panos  
10 lying on the floor, and she's obviously been stabbed.

11 The patrol officer then notifies homicide  
12 detectives and when they get there they notice a couple of  
13 things immediately about the scene. Right next to, or  
14 very close to where Debra Panos was laying was a knife  
15 that had blood and hair on it. Also in that room they see  
16 a telephone that was off the hook. In the master bedroom  
17 of the residence, where that open window was, they find  
18 some letters written by the Defendant, and the room  
19 appeared to be ransacked, like there were papers all over  
20 the place. And, of course, Debra Panos' car was gone.

21 Debbie's body, they noticed, had several  
22 injuries in addition to the stab wounds. Se had an injury  
23 to her face, to her arms. She had injuries on her neck  
24 from stab wounds, and at autopsy they learned that she had  
25 injuries -- a stab wound to her stomach area, and also a

1 stab wound to her groin or vaginal area. Just off to the  
2 side.

3 During the autopsy samples -- DNA samples  
4 were taken from Debra Panos' body, and one of those  
5 samples includes a vaginal swab which collects DNA  
6 evidence inside of Debra Panos. And later testing  
7 revealed that the Defendant's DNA was inside of her  
8 vagina.

9 After murdering, or stabbing to death  
10 Debra Panos, the Defendant took her car and he drove to a  
11 nearby apartment complex. And after a little while -- he  
12 hung out with some friends. He did some drugs that night,  
13 and he basically hung out for the evening.

14 The next day he was arrested on a petty  
15 larceny charge. When he was arrested he gave a fake name,  
16 and the patrol officer who responded to the petty larceny  
17 searched him and when they searched him they discovered  
18 that he had these social security cards with him. And  
19 they were in the name of Debra Panos and her three  
20 children.

21 And the officer, of course, had been  
22 briefed about a homicide that had recently occur, and he  
23 recognized the victim's name as being the victim of the  
24 homicide that had recently occurred. That officer  
25 notified the homicide detectives, who responded again to

1 the Defendant's location, and when they encountered him,  
2 they check him for injuries and notice that he had cuts on  
3 his hands, consistent with someone who had stabbed  
4 somebody else.

5 Those officers also locate Debra Panos'  
6 car. It was at the apartment complex where the Defendant  
7 had been getting high the night before.

8 Since these events, this defendant, James  
9 Cappell, has given his own version of events of what  
10 happen that afternoon. And he says that this whole thing  
11 was sort of a couple's reunion. It wasn't a crime at all.  
12 Debra Panos wasn't afraid or scared when he crawled  
13 through her bedroom window. In fact, she was happy to see  
14 him.

15 In fact, she was so happy to see him, the  
16 two had discussed and reminisced about old times, their  
17 children, and then they had consensual sexual encounter.  
18 And that during that sexual encounter, it occurred to him,  
19 or he became aware that Debra Panos had been with somebody  
20 else, besides him. Although this upset him, according to  
21 the Defendant, he didn't kill her then. Instead they  
22 engaged in what the Defendant described as another  
23 consensual sexual act. And then they decided that the two  
24 of them were going to go pick up their children from the  
25 day care together, and at that point, according to the

1 Defendant, they went out to Debbie's car and he found a  
2 note that he believed to be from another man and this  
3 upset him so much that he forced Debbie out of the car,  
4 somehow got her back in the trailer and kill her.  
5 Although he really don't remember how.

6 You will learn when you are instructed at  
7 the end of this case that some murders are more aggravated  
8 than others. Murders which are committed in conjunction  
9 with an act of sexual assault, that's a factor that makes  
10 some murders more aggravated or worse than other  
11 murders.

12 By August 31st of 1995, this defendant had  
13 literally taken everything there was to take from Debra  
14 Panos. He called her names. He took her dignity with  
15 that degrading name calling. He left a scar on her face  
16 from breaking her nose, altering her identity. He  
17 constantly took her money, her property. He took away any  
18 sense of security she had in a home that she was paying  
19 for. He took away her ability to refuse him, and then he  
20 took away her life. Then he drove off in her car and left  
21 her bleeding to death on the floor of her residence.

22 She was only 26 by the time all this had  
23 happened to her. And at the end of this proceeding, it  
24 will be the State's possession that for all of his conduct  
25 he deserves the most extreme punishment.

1 THE COURT: Thank you, Ms. Weckerly.  
2 Mr. Schieck or Mr. Patrick.

3 MR. SCHIECK: Thank you, your Honor.

4 OPENING STATEMENT

5 BY MR. SCHIECK:

6 Good morning, ladies and gentlemen. This  
7 is what is known as an opening statements, both from  
8 Ms. Weckerly and myself. And I always remind my jurors of  
9 one fact, and that is what the attorneys stand up here and  
10 say to you is not evidence in this case.

11 The evidence in this case you are going to  
12 hear from the witness stand and not from the recollections  
13 and positions of the various attorneys as they stand up  
14 here and argue to you. So take what -- everything that I  
15 say and everything that the prosecutor said, as sort of a  
16 map of where the proceedings are going, and what you can  
17 expect to see during the proceedings. But understand,  
18 that the State has the burden of presenting the evidence  
19 here in court in order to convince you of any fact that is  
20 relevant to your decision in this case.

21 There are certainly a lot of facts in this  
22 case that aren't going to be contested. You have already  
23 been told during the voir dire process that James Cappell  
24 has been convicted by a jury of first degree murder. He  
25 has been convicted of burglary for entering that mobile

1 home in the Ballerina Mobile Home Park. And he has been  
2 convicted of robbery with use of a deadly weapon.  
3 Specifically, the allegations were read to you, he was  
4 convicted of robbery, based on the social security cards,  
5 the car keys, and the car of Debra Panos.

6 Those facts are not going to be contested  
7 in this case. You can accept those based on the previous  
8 fining of the other jurors.

9 However, you will notice that when the  
10 information was read to you by the court clerk that James  
11 Chappell was not charged with sexual assault in the  
12 criminal proceedings at the previous trial. He is not  
13 convicted of sexual assault. In fact, there are no  
14 allegations at all in that criminal information concerning  
15 sexual assault. Two of the bases for seeking first degree  
16 murder was that the murder was committed during the  
17 perpetration of a kidnapping or during the perpetration of  
18 a robbery. You heard that when the court clerk read you  
19 the charging document. Sexual assault was not alleged as  
20 a basis for a finding of first degree murder in this case  
21 by the State.

22 So there has been no conviction of sexual  
23 assault for you to follow in this case.

24 During the course of the penalty hearing,  
25 at the end of the penalty hearing, the judge is going to



1 give you instructions on the law. But basically what you  
2 will learn is that in order to be eligible to receive the  
3 death penalty in the State of Nevada, the jury has to find  
4 the existence of one or more aggravating circumstances  
5 beyond a reasonable doubt, and that that finding has to be  
6 unanimous by all twelve members of the jury.

7           If there are no aggravating circumstances  
8 found beyond a reasonable doubt by unanimous verdict,  
9 there are no aggravating circumstances, and the death  
10 penalty is not an option for a first degree murder  
11 conviction. That's what Md. Weckerly was referring to  
12 when she talked about certain murders carry aggravating  
13 circumstances with them.

14           In this case, the State has alleged one  
15 aggravating circumstance, and that being that the murder  
16 occurred during the attempt or perpetration of a sexual  
17 assault.

18           The State has the burden during this  
19 penalty hearing to prove that there was a sexual assault,  
20 and you'll be instructed as to the definition of sexual  
21 assault. They must prove that beyond a reasonable doubt,  
22 and they must prove it unanimously. That is the first  
23 decision that you're going to have to reach in this case  
24 before you can consider what forms of punishment are  
25 available. Even though we talked to all of you about

1 there being four forms of punishment for first degree  
2 murder in the State of Nevada, it is possible that a jury  
3 can find there are no aggravators, or there can be a  
4 murder where there are no aggravators in which case  
5 there's only three options.

6 It will be our position at the end of the  
7 penalty hearing that the State has not proven any  
8 aggravating circumstances, and we'll have three choices to  
9 make, whether it's life without parole, life with parole  
10 after 40 years, or a term of 40 to 100 years, with parole  
11 eligibility at 40 years. That's what we will stand before  
12 you and argue at the end of the penalty hearing.

13 That's sort of the factual/legal decision  
14 you have to make in this case before you reach the  
15 question of penalty -- of which penalty you can choose  
16 from and which penalty to choose.

17 As I said, we're not going to be  
18 contesting a lot of the information that you are going to  
19 hear in this case. We are not going to be contesting that  
20 James Cappell did not commit various acts of domestic  
21 violence against Debra Panos. In fact, the State has  
22 referred to Mr. Chappell making a statement about what  
23 occurred, and you will find that he admitted to two acts  
24 of domestic violence. He admitted to the incidents.

25 You will find that when he went to court,

1 for the most part, he pled guilty to those acts of  
2 domestic violence and was punished for those acts with  
3 incarceration. We're not going to contest that those took  
4 place.

5 What we are going to be trying to do is  
6 explain to you the entire dynamics of the relationship  
7 that existed between James Cappell, Debra Panos from the  
8 time they met in Michigan in the 80s, up to the time of  
9 Debbie's death, obviously, in 1995.

10 It is that information that we feel you  
11 need to have in order to make the decision as to which  
12 sentence to choose in this case. That's really what this  
13 penalty hearing is about.

14 You will also learn that James Cappell had  
15 an addiction to controlled substances and that addiction  
16 went back, or at least the usage of those substances, went  
17 back to while he was still in Michigan. Debbie was aware  
18 that he used drugs, was aware in Michigan that he used  
19 drugs. She was aware when he lived in Tucson that he used  
20 drugs. And she was aware when they were in Las Vegas that  
21 he used drugs. And that he, in fact, developed an  
22 addiction to crack cocaine. You will hear that evidence  
23 through the various witnesses in the case.

24 You will hear that as an addict, a person  
25 addicted to the high of crack cocaine that he did some

1 very unpleasant things and improper things including  
2 taking furniture and returning it to the store in order to  
3 get money so that he could buy drugs. He doesn't deny  
4 that. We're not going to try and present evidence that  
5 says that that didn't take place.

6 We're not going to be presenting any  
7 evidence that shows he did not go into a variety of stores  
8 and commit the act of shoplifting in order to sell the  
9 items he stole in order to buy drugs. He was addicted to  
10 crack cocaine.

11 And that was the huge portion of the  
12 problem that went into this relationship that created the  
13 dynamic that ended up where we are now, where they were on  
14 August 31, 1995.

15 We're not going to try to soft-sell that  
16 information to you during the presentation of the case.  
17 But we are going to try and present to a variety of  
18 factors concerning both James and Debra.

19 Ms. Weckerly referred to the children in  
20 this case. There are three children. And she referred to  
21 them as Debbie's children on a number of occasions. But,  
22 in fact, they are James' children also. Three children  
23 are the children of this relationship. As bad as the  
24 relationship turn out to be by the end of -- by August of  
25 1995, was a relationship that fostered the birth of three

1 children that had these two individuals struggling to  
2 raise those three children, dealing with the problems  
3 you're going to hear about. And those problems certainly  
4 are going to include anger management, drug addiction, and  
5 violence toward a significant-other in a relationship.  
6 Not an uncommon factor that comes in when you have a  
7 situation of low income, of drug addiction, of criminal  
8 conduct, those things can take place.

9 But it's our position, and will be our  
10 position at the end of the case, that you, in considering  
11 those factors, will decide for a sentence less than the  
12 most hash in this case.

13 The evidence that you will hear, and  
14 you've seen some of the photographs, and it's regrettable  
15 as it is it's necessary for the State to show photographs  
16 of Debra after she's been stabbed, because they have a  
17 burden of proving certain information to you in this  
18 case.

19 And they have the necessity to show those  
20 photographs in order to present their arguments as to what  
21 the sentence should be in order to show the severity of  
22 the injuries and the nature of the assault, the  
23 aggravation that clearly you see the anger in the assault.

24 You are going to have to look at those,  
25 but in looking at those you're going to see a number of

1 factors that we will argue to you and submit to the you  
2 the evidence will show that there was no evidence to  
3 support anything other than James' statement that this was  
4 a consensual sexual act that took place. You're already  
5 seen the photographs at the time of her death, Debra Panos  
6 was fully dressed. She had her clothes completely on.  
7 You will see that the clothes do not appear to be  
8 disheveled, or put on to her afterwards.

9 You will see some of the stab wounds  
10 actually go through the clothing into the wounds showing  
11 that the clothing was on at the time of the attack that  
12 caused her death. That there was no sexual assault during  
13 the perpetration of the acts that caused the death that  
14 constitutes first degree murder in the case.

15 Now you are going to hear testimony from a  
16 doctor who is Dr. Etcough (ph) who is a neuropsychologist  
17 that has completed some testing on James and will talk to  
18 you about some of James' background and results of his  
19 tests. His testing of James, you'll learn that his verbal  
20 IQ is 77. His full performance IQ is 91. His scale range  
21 is 80, which is in the 91 percentile, meaning that his IQ  
22 is lower than 91 percent of the population.

23 The doctor, I believe, characterizes it or  
24 will characterize it as falling in the very low average  
25 range for IQ. So you see that that testing indicates that

1 James is not overly bright and certain that's going to  
2 factor into some of the arguments that the State, we  
3 expect, will be making to you and some of the evidence  
4 they will present concerning James' release on August 31,  
5 that he went and met with P&P because he's supposed to be  
6 going to an in-patient program, that somehow he was able  
7 to talk his way around being admitted into this in-patient  
8 program, when, in fact, his IQ and verbal skills means he  
9 wasn't able to talk anyone into anything, that there are  
10 other factors that went into him not being immediately  
11 placed into that program.

12 The fact that he can't escape the fact  
13 that had he been placed into that in-patient program as  
14 required certainly the rest of the events that transpire  
15 on August 31st, wouldn't have happened. But he was  
16 released and the events did happen, and we will deal with  
17 them as they come up.

18 In addition to Dr. Etchough (ph) you'll  
19 hear from a couple of doctors. One from the State, a  
20 pathologist, Dr. Green, who will talk about the autopsy  
21 and some of his findings, which again are relevant for  
22 proving the States case. Some information that they have  
23 to present in order to give you all the circumstances of  
24 the death, we will be calling Dr. Grey, who is a  
25 pathologist who will talk concerning his review of the

1 findings and photographs of the case.

2 You will hear from a Dr. Danton (ph), who  
3 will discuss some general principles concerning domestic  
4 violence and domestic violence relationships, why these  
5 relationships occur, why they continue, why things just  
6 don't ends before we get to the point where we are at  
7 now.

8 You will hear from a number of witnesses  
9 that we will call from Lansing, Michigan that know or are  
10 related to James to talk about James and Debbie and their  
11 time there in Michigan. Debbie knew all of these people.  
12 They knew Debbie. They knew the relationship between  
13 James and Debbie. They knew the difficulty with the  
14 relationship in Lansing. They know and can testify  
15 concerning the circumstances of Debra moving to Tucson.

16 You'll hear evidence that she moved -- her  
17 parents actually moved to Tucson and she moved with or  
18 shortly after her parents to Tucson. Then there was some  
19 back and forth with James in Tucson.

20 Debra would go to Lansing and the  
21 relationship continued, even though at some points it was  
22 a long distance relationship. Eventually James moved to  
23 Tucson, lived in an apartment with Debra in Tucson up  
24 until 1994, when they both came here to Las Vegas and  
25 lived in Las Vegas for a short period of time. From about



1       October 1994 until the end of August 1995. So less than a  
2       full year.

3                     You'll hear that James was in a great deal  
4       of difficulty with the law because of his shoplifting and  
5       domestic violence during those periods of time. In fact,  
6       you'll learn that he was in custody for a great portion of  
7       the 1995 year on a couple of the arrests.

8                     You'll hear about these phone calls and  
9       conversations with witnesses the State has referred to,  
10      and those calls actually are coming from the jail to James  
11      trying to call Debbie and talk to Debbie. And you'll see  
12      in the letters and hear about the phone calls that there  
13      was a degree of anger that built into the progression of  
14      the phone calls as he is unable to get ahold of Debbie,  
15      wonders what she is doing, wonders if she's in fact seeing  
16      someone else, if she's going to leave him. This jealousy  
17      factors in to really build into the relationship during  
18      that period of time, which again builds into the anger  
19      that we see on August 31, when he's released from  
20      custody.

21                    You'll hear about all of those. We're  
22      certainly not trying to hide any of those from you. You  
23      will hear, however, it goes from friends of Debbie because  
24      Debbie, out in Tucson and in Las Vegas was working. She  
25      was the primary income earner for the family. She

1 developed a number of friends.

2 You'll hear that James didn't have any  
3 friends. He really only had one person to turn to in  
4 Tucson where he was isolated from his family and friends  
5 back in Lansing and in Las Vegas. He didn't have anyone  
6 else.

7 Well, sure you're going to hear that he  
8 had people that he knew that he sold things that he stole  
9 in order to buy drugs and stayed at their house and smoked  
10 crack cocaine, but not friends he can turn to when he's in  
11 a crisis moment, as obviously he was with Debbie and their  
12 relationship. But he had no friends.

13 And so out here you're going to hear from  
14 her friends and their perspectives on the relationship.  
15 And we're presenting witnesses from Michigan that can  
16 present sort of the prospective from James' side as to  
17 this relationship and the dynamics of this relationship.

18 And from that you will have what we  
19 discussed during voir dire, as much information as we can  
20 give to you in order that you make the right decision as  
21 to the penalty in this case. And at the conclusion of the  
22 penalty hearing Mr. Patrick and I will stand before you  
23 and ask you on one of two bases not to impose a sentence  
24 of death.

25 The first being that there is not an

1       aggravating circumstance proven, and therefore, death is  
2       not an option.

3                   And the second being, even if you find  
4       that death may be an option in this case, that death is  
5       not the appropriate punishment in this case.

6                   Thank you very much for your attention.

7                   THE COURT: Thank you, Mr. Schieck.

8                   The State may call their first witness.

9                   MR. OWENS: The State calls Michelle  
10       Mancha, your Honor.

11                   THE COURT: All right.

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

16                   THE WITNESS: I do.

17                   THE CLERK: Please be seated. State and  
18       spell your name for the record.

19                   THE WITNESS: Michele Mancha,  
20       M-A-N-C-H-A.

21                   DIRECT EXAMINATION

22       BY MR. OWENS:

23                   Q.       You live here in Las Vegas?

24                   A.       Yes.

25                   Q.       How long have you lived in the Las Vegas

1 area?

2 A. Now almost 20 years.

3 Q. 20 years?

4 A. Almost now, yes. 1988.

5 Q. So you've been here about 6 years when you  
6 met Debra Panos?

7 A. Yes.

8 Q. How did you meet Debbie?

9 A. We worked at the same place at G.E.

10 Capital.

11 Q. What's G.E. Capital?

12 A. It was a collection agency.

13 Q. What kind of work did you do there?

14 A. We called on delinquent credit cards.

15 Q. Was that a 40-hour work week?

16 A. Yes.

17 Q. Was it an 8:00 to 5:00 type of workday?

18 A. They had two shifts, 8:00 to 5:00 and 12:00  
19 to 9:00.

20 Q. What shift were you working back around 1994  
21 when you met Debbie?

22 A. Days.

23 Q. Day shift. How about Debbie?

24 A. She was on a schedule I believe where she  
25 worked two nights and three days, 12:00 to 8:00, then

1 12:00 to 9:00, two a days a week, then 8:00 to 5:00. They  
2 started varying schedules on us.

3 Q. So she had kind of a half and half?

4 A. Uh-huh.

5 Q. Make sure you answer "yes" or "no" so she  
6 can get it.

7 A. Yes.

8 Q. How did you happen to meet Debbie?

9 A. At work.

10 Q. Was that just like her first day on the job  
11 you saw her?

12 A. Yeah, we all started talking.

13 Q. When you say we all started talking, who you  
14 do mean?

15 A. Me, Debbie, Lisa, Mike. A bunch of us all  
16 used to talk to her.

17 Q. Mike would be?

18 A. Mike Pollard.

19 Q. And when you say you were sort of a group,  
20 did you guys hang out together, was there things you did  
21 after work also?

22 A. Yes.

23 Q. Tell us about that?

24 A. We used to go to the park, throw barbecues.  
25 We used to hang out, go to the movies. Me and Debbie went

1 to California a couple of times to get away, go to the  
2 beach -- experience the ocean.

3 Q. How much time do you think you spent with  
4 Debbie over that time, do you remember?

5 A. That I knew her?

6 Q. Yeah.

7 A. I saw her every day. We were together at  
8 least once a week and weekends.

9 Q. When you first met her what was your  
10 impression of her?

11 A. She was a nice person, giving person, funny,  
12 sweet. She was a good person.

13 Q. Was there some point where you become  
14 familiar with an individual named James Cappell?

15 A. Yes.

16 Q. And how did you get to know him?

17 A. Through Debbie.

18 Q. Tell us about that.

19 A. She would tell us things in reference to  
20 him. I witnessed him coming up to my job a couple of  
21 times, conversations over the phone, a lot of different  
22 --different things that I heard from Debbie I saw  
23 myself.

24 Q. What is the first thing you remember hearing  
25 from her or seeing about Mr. Cappell?

1           A.       She came to work one day and she was fine,  
2           and the next day she came to work and she had a huge  
3           things over her nose where she had told me that he busted  
4           her in the face with a plastic cup and it broke her nose.  
5           Her eyes were all black and blue.

6           Q.       This would have been after you'd known her  
7           maybe three months?

8           A.       Yeah, maybe a little before then.  But,  
9           yeah, she started confiding in us -- in me and Lisa.

10          Q.       Lisa being Lisa Duran?

11          A.       Yes.

12          Q.       What sorts of things would she tell you  
13          then?

14          A.       Things being missing out of the trailer.  
15          We'd go see it and they would be gone.  Threats, hitting,  
16          fighting.

17          Q.       Let's take those one at a time.  You say  
18          things would be missing out of the trailer.  What would  
19          she tell you about that?

20          A.       All the TVs were gone, the microwave,  
21          stereos, everything that was of value, with the exception  
22          of the sofas was gone, was being stolen.  Food.  She would  
23          go get food for the kids and all the meat would be gone  
24          out of the freezer.  There was nothing there but their  
25          clothes.

1 Q. How many times did this happen?

2 A. Several. I mean every time she replaced a  
3 TV it was gone.

4 Q. So she would earn money in her job there at  
5 G.E. Capital? Yes?

6 A. Yes.

7 Q. She doesn't know what uh-huh means.

8 A. Sorry.

9 Q. You'd go and she would get a new TV or  
10 something and it would be gone?

11 A. Yes.

12 Q. So she would buy food and go to fix dinner  
13 and it would be gone?

14 A. Yes. We would go over there and it would be  
15 gone.

16 Q. What would she tell you about what was  
17 happening to these things?

18 A. That James was taking them. She said he was  
19 coming through the windows and he was taking the items  
20 from the house.

21 Q. What was -- what was the significance of him  
22 coming through the windows?

23 A. He didn't have a key.

24 Q. Why was that?

25 A. She didn't want him too.



1 Q. Base upon things Debbie is telling you at  
2 that point, what sort of sense did you get about the  
3 relationship she had with James Chappell?

4 A. It was violent. It wasn't really a  
5 relationship. She tried to completely distance herself and  
6 get away from the whole situation.

7 Q. How do you know that she tried to do that,  
8 what did you see or hear?

9 A. I know that she moved up here and he wasn't  
10 supposed to know that she was up here in Las Vegas.

11 Q. Is that something she told you?

12 A. Yes.

13 Q. What else?

14 A. She would never go outside, like confront  
15 him when he came to our job. She was basically afraid of  
16 him. We kept her away from him as much as possible.

17 Q. Was there an incident that you became  
18 familiar with where he had hit her or slapped her in the  
19 face?

20 A. In the parking lot of G.E. Capital, yes.

21 Q. About when was that?

22 A. I want to say December, but I'm not sure.

23 Q. Would it have been December '94?

24 A. I think so, yes.

25 Q. When did that happen in relation to the

1 incident where he broke her nose with the cup? Before  
2 that or after that?

3 A. I don't remember if it was before or after.  
4 I do remember the consequences of that because she came to  
5 work, she had no choice. But she came to work with that  
6 thing on her face.

7 Q. You are talking about the cup incident?

8 A. Yes. She had to wear it on her nose, and  
9 her eye was black and blue.

10 Q. Was that some kind of a bandage or  
11 something?

12 A. Like a half cast or a thing across her nose  
13 with tape. It was white.

14 Q. The incident with the slap, where were you  
15 when that happened?

16 A. Right outside the door of G.E.

17 Q. What were you doing out there at the time?

18 A. Waiting for Debbie and Lisa so we could all  
19 go into work.

20 Q. Was anyone else out with you that you  
21 remember?

22 A. Not that I recall. There was people coming  
23 and going.

24 Q. What happen?

25 A. I just saw him hit her in the face, and she

1 was all upset and crying. We all went in and we didn't go  
2 back out.

3 Q. Where were they, James and Debbie, when you  
4 saw them?

5 A. In the vehicle I believe.

6 Q. Did you see anything happening right before  
7 he struck her?

8 A. No, just talking. I couldn't hear it, you  
9 know. You can't hear from that far away. Their lips were  
10 moving. They were talking.

11 Q. And then what happen next?

12 A. After he hit her, she got out of the car and  
13 we went in because we had a security guard there who never  
14 allowed him in the courtroom -- I mean, in the building,  
15 ever. They knew what was going on.

16 Q. When you say they knew, the security  
17 people?

18 A. Yeah, because he came up there several  
19 times.

20 Q. What car were they in when he struck Debbie  
21 in the face?

22 A. Hers.

23 Q. What happen after she got out of the car?

24 A. He left. She came in the building. We went  
25 to work. We discussed it for a minute, then we went to

1 work.

2 Q. And what did he do?

3 A. I imagine he left. We didn't go back out  
4 side after that.

5 Q. He was in her car at the time?

6 A. Yes.

7 Q. How did she normally get to work, was he  
8 driving her to work? Is that a normal thing?

9 A. No. When she first got here she didn't have  
10 a vehicle. She would walk her kids to day care and get on  
11 a bus that took a couple hours to get to work and a couple  
12 hours to get home every day.

13 Q. How long until she was able to save up  
14 enough to get a car?

15 A. It was a couple of months that she did that.  
16 I didn't live on the same side of town as her, but I knew  
17 the bus took a long time for her to get to and from.

18 Q. You say after he slapped her she got out and  
19 she came and discussed that with you. What did she tell  
20 you about that?

21 A. Just that they had been arguing.

22 Q. Did you see any bruising or swelling later  
23 on?

24 A. Not on that occasion.

25 Q. So the normal thing would be she would drive

1 herself to work?

2 A. Yes. That was her transportation for her  
3 and the kids.

4 Q. Did she say anything to you about why he was  
5 driving the car?

6 A. No.

7 Q. Let's go now to June of 1995, a few months  
8 later. You noticed some signs of abuse you mentioned just  
9 a moment ago?

10 A. Yes.

11 Q. Tell us about those?

12 A. She'd call me crying about 9:00, 10:00  
13 o'clock at night saying that James choked her. She was  
14 real upset. She was scared. And I talked to her and I  
15 tried to calm her down as much as possible, and the next  
16 day I saw the marks on her neck.

17 Q. You say she was really upset. What was she  
18 doing?

19 A. Crying, talking to me on the phone, telling  
20 me that they had a disagreement and once again it turned  
21 violent and she was real upset. She was scared. But I  
22 tried to calm her down as much as I could and told her I  
23 would see her at work the next day. It was 10:00 o'clock  
24 at night, my little one was asleep.

25 Q. How long did that conversation last?

1 A. About 20, 25, 30 minutes.

2 Q. What did she tell you he had done to her?

3 A. He choked her. Pushed her and choked her.  
4 Grabbed her neck.

5 Q. Did she tell you what had happened after  
6 that?

7 A. He left and she was upset and she was on the  
8 phone.

9 Q. You know if she called the police?

10 A. No.

11 Q. She hadn't call, or you don't know?

12 A. I don't know. There were times when she  
13 wouldn't out of fear.

14 Q. The next day you said you noticed some  
15 injury to her?

16 A. Yes, she had marks on her neck.

17 Q. When you say marks, can you describe this to  
18 us?

19 A. She had marks on her neck here. A thumb  
20 print here. Two scratched down the side of her face.

21 Q. You're indicating a couple of scratches --  
22 for the record -- down the left side of her face?

23 A. I don't remember if it was the left or  
24 right, but she had four fingerprints, thumb print on one  
25 side and two scratches on her face.

1 Q. A moment ago you put your hands up to your  
2 throat, so he would have left the thumb print on one side  
3 and four fingerprints on the other?

4 A. Yes.

5 Q. You could see those the next day?

6 A. Yes.

7 Q. Did she say anything about a knife at that  
8 time when you were talking to her?

9 A. There was one incident.

10 Q. There are some Kleenexes there, if you need  
11 that. If it would help there's some water.

12 A. I'm fine.

13 Q. Take a moment.

14 A. Okay.

15 Q. I know this isn't an easy thing to come talk  
16 about. These things -- take your time. Collect your  
17 thoughts on this. She said something about a knife?

18 A. Yes, she did. At that time she told me  
19 about a situation with a knife.

20 Q. When was that? Was that at that same  
21 time?

22 A. That was in June. I think it was in June.

23 Q. What did she tell you?

24 A. That he sat on her and put his knees on her  
25 shoulders and put the knife to her throat. And she was

1 deathly afraid of him.

2 Q. Let's talk about those summer months, June,  
3 July, and August. It's been about ten years now.

4 A. Yeah, a little over.

5 Q. Notwithstanding that, it has been that  
6 period of time in between, you obviously still have a lot  
7 of emotion attached to your memories about this.

8 A. We tried everything in our power to help her  
9 get away from him, and we had all these plans and the last  
10 plan was we were going to vacate the trailer completely  
11 and get her to a safe haven. We thought we had time  
12 because of what had transpired at the court date on August  
13 30th.

14 On August 30th when she went to court he was  
15 supposed to go away for 90 days, so we were moving her out  
16 of the trailer, and less than 24 hours later he got to  
17 her.

18 We even offered him money. We were going to send  
19 him back to Michigan to get better. He refused to go  
20 unless he took his little girl. How can you take your  
21 little girl when you're on drugs. We weren't going to  
22 fess-up (ph) a two-year-old child, but we offered to help  
23 her with the finances to get him there. We did everything  
24 in our power to save her life, and it wasn't enough.

25 Q. Was there a time in the summer when you



1 began living with Debbie at the trailer home there?

2 A. Yeah. I lived there for approximately two  
3 months.

4 Q. Was that that time period right before her  
5 death?

6 A. Yes.

7 Q. You mentioned the children, can you tell us  
8 about the children?

9 A. Chantelle was just a baby. I think James  
10 was 7 or 8, and Anthony was 5.

11 Did they witness some violence, yes. Do they  
12 remember it, yes. We had just had a little birthday get  
13 together for Chantelle a week before Debbie died at the  
14 park. We all got together at the park and that following  
15 weekend when she died, we were all supposed to get  
16 together again for another barbecue, because it was so  
17 nice outside. The kids were scared. JP was only 7 or 8.  
18 He thought he was a protector. How can you protect your  
19 mom against someone that's twice her size.

20 Q. During that summer period when you were  
21 trying to come up with a plan and you thought you had  
22 time, that was because the Defendant was in custody at  
23 that point?

24 A. Yes.

25 Q. So Debbie had a little bit of a break from

1 this daily --

2 A. Yes. She called every day to make sure he  
3 was still in custody, because there was three kids and  
4 her. There was a lot of clothes. We were trying to pack  
5 up everything.

6 Q. So she was trying to get things washed and  
7 packed up to move?

8 A. Yes. We were never going to go back to the  
9 trailer.

10 Q. Now the situation with the trailer, that was  
11 something she was trying to buy?

12 A. Yes, at first.

13 Q. Was it different to get her to leave the  
14 trailer and leave that situation? What were her feelings  
15 about that?

16 A. No, because she knew that it was in the best  
17 interest of her and the kids. You could always sell the  
18 trailer. That wasn't an issue. She could always rebuy  
19 somewhere else.

20 Q. Did she express to you any concerns about  
21 leaving him, about retaliation or him following her again  
22 or --

23 A. We weren't too that degree because where we  
24 were going to put her he had no idea. He had no clue, and  
25 he would have never, never have found her here.

1 Q. Let's go to the day before Debbie was  
2 killed. When you were at work or after work you had an  
3 opportunity to talk to her about a court appearance she  
4 had gone to. Remember that?

5 A. Yes, because she left work to go to it.

6 Q. She left work to go to court. What was the  
7 purpose of that?

8 A. It was to testify about him -- about James.  
9 I believe that was the incident when he choked her. And  
10 the D.A. picked up the charges because she didn't want to  
11 file charges. She did everything she was posed to do. By  
12 that point we had a restraining order. She followed the  
13 law.

14 Q. So the D.A. went forward with the charges?

15 A. Yes.

16 Q. She was subpoenaed to come to court?

17 A. Yes.

18 Q. Had that been a problem in the past where  
19 she didn't want to prosecute?

20 A. Because the restraining order wasn't  
21 working, obviously, he was never there by the time the  
22 cops got there. Nothing seemed to be working. That was  
23 done by law, so to what degree do you keep putting  
24 yourself through that.

25 Q. So there were times when she didn't want to

1 go against him. Would it make him madder?

2 A. Mad, what else would happen, you know.

3 Q. Just keep getting back out?

4 A. That and harassment at the job. I mean  
5 thank God we worked at a job where he couldn't get in the  
6 building. I mean, how embarrassing is it when --

7 MR. SCHIECK: Objection, your Honor. This  
8 is non-responsive.

9 THE COURT: I'll sustain it. Ask another  
10 question, please.

11 BY MR. OWENS:

12 Q. She went to court that day. She got  
13 subpoenaed?

14 A. Yes.

15 Q. Did she call you from court? Did she come  
16 back to work?

17 A. No, we talked on the phone.

18 Q. What did she tell you?

19 A. That he threatened to kill her, that he was  
20 supposed to go to a 90-day drug rehab thing and we had  
21 time to get the rest of the stuff out of the trailer and  
22 get I done and she would be safe. And she was tired of  
23 running. She was tired of being scared. And that for  
24 once it was going to be over.

25 Q. When she went to court he was in custody?

1 A. I believe so, yes.

2 Q. How did it happen that she could be  
3 threatened by him?

4 MR. SCHIECK: Calls for speculation.

5 MR. OWENS: What did he say?

6 THE COURT: I'll overrule the objection.  
7 You may answer the question.

8 BY MR. OWENS:

9 Q. Take us through that detail by detail, how  
10 that happened.

11 A. How what happened?

12 Q. The threat in court?

13 A. All she told me was there were people there  
14 and that he threatened to kill her. At that point in time  
15 she was tired of running. She was tired of being scared,  
16 and that it was over. We thought we had 90 days.

17 Q. Did she tell you that she told him it was  
18 over?

19 A. Yes.

20 Q. And his response was?

21 A. I'm going to kill you.

22 Q. I'm going to kill you.

23 A. Yes.

24 Q. When she was telling you this, how did she  
25 seem?

1           A.       Upset, because once again her fear was  
2           there. We were all upset. When I got off the phone with  
3           her we were upset. We called, I did. I tried to call his  
4           probation officer and tell her because -- Charlene  
5           Summner, if I recall her name correctly -- because we were  
6           scared.

7           Q.       You wanted to tell her about the threat?

8           A.       That and to test him again to see if we  
9           could get him put back, because at that point in time we  
10          knew -- we were all scared again.

11          Q.       But you still thought you had this 90-day  
12          period?

13          A.       To finish getting everything out and get her  
14          to a safe haven that we had establish for her.

15          Q.       What was your understanding of how this 90  
16          day thing was supposed to work?

17          A.       My understanding was he was supposed to be  
18          in-house for 90 days without being let out for rehab.

19          Q.       So he would be doing rehab, but still be in  
20          the facility?

21          A.       In a facility for 90 days.

22          Q.       Now, the next morning, August 31st, you saw  
23          Debbie again. That was at work, briefly?

24          A.       Briefly.

25          Q.       What happen between you and Debbie at that

1 time?

2 A. We made plans to meet up for a barbecue to  
3 be seen later. I told her I would page her later, call  
4 her later. And we parted ways and I was supposed to see  
5 her later.

6 Q. Did you see her again?

7 A. No.

8 Q. Did you hear from her again?

9 A. No.

10 Q. When you last saw Debbie, did she seem or  
11 felt she was going to be safe because of this in-patient  
12 thing?

13 A. Yes. We felt that we had enough time to  
14 make her be safe and to stay away from that side of town  
15 and never return to the trailer.

16 Q. Now, we've been referring to this person,  
17 James Cappell. You keep looking over to that side of the  
18 courtroom. Who are we talking about?

19 A. That gentleman in the blue vest --

20 MR. OWENS: May the record reflect the  
21 identification of the Defendant.

22 THE WITNESS: -- and blue shirt.

23 THE COURT: It will.

24 MR. OWENS: Thank you.

25 BY MR. OWENS:

1 Q. I would like you to pause a minute and  
2 collect your thoughts on how the death of Debbie has  
3 affected you and impacted you in your life. Have you  
4 thought about that?

5 A. Every day.

6 MR. SCHIECK: Objection, relevance  
7 grounds.

8 THE COURT: Overruled. You may answer the  
9 question.

10 THE WITNESS: Thank you.

11 BY MR. OWENS:

12 Q. Let me ask you this, how did you find out  
13 about Debbie and what happen?

14 A. I was sitting with a friend and the news  
15 came on and I had my back to the TV, and it said mother of  
16 three found dead, suspect James Cappell. I turned around  
17 and his face was on TV. That is how I found out. I  
18 started calling her home number, with no response but the  
19 voice mail, because I didn't want to believe it was true.  
20 Then I called the police and confirmed that that's what  
21 happened.

22 Q. What sort of feelings did you have at that  
23 time?

24 A. I went into hysterics because I was on the  
25 other side of town and we were all supposed to have met



1 back over there. I didn't know what to do. I was in  
2 hysterics. I tried to get ahold of Lisa and Mike to see  
3 if they knew or to let them know what I had just found  
4 out.

5 Q. In the days following this incident, how did  
6 it affect you physically and emotionally?

7 MR. SCHIECK: Same objection, your  
8 Honor.

9 THE COURT: Overruled.

10 THE WITNESS: I was a wreck. I couldn't  
11 go to work for a couple of days after that because you  
12 have to walk by where she sat to get there. My stuff was  
13 still in the trailer. You call her voice mail because you  
14 didn't want to believe it was true. It was awful.

15 It was -- here it's ten years later, it's  
16 still awful. You can't forget something like that. With  
17 time, pain heals, but you don't forget the type of person  
18 she was. She'd give you the shirt off her back if you  
19 asked her for it, even raising three kids by herself.

20 We miss her every day. I have her picture  
21 still on my dresser, at work. You don't put her pictures  
22 away because she's not here. It was awful.

23 BY MR. OWENS:

24 Q. You testified before in this case?

25 A. Yes, I did.

1 Q. I apologize you have to go through this  
2 again at this point, but we appreciate it. Thank you.

3 MR. OWENS: I don't have anything  
4 further.

5 THE COURT: Mr. Schieck, Mr. Patrick.

6 MR. PATRICK: Yes.

7 CROSS-EXAMINATION

8 BY MR. PATRICK:

9 Q. Would you like to take a minute to compose  
10 yourself before we start?

11 A. No.

12 Q. Did Debbie discuss with you James' drug  
13 problem?

14 A. Yes.

15 Q. And did she ever mention anything about  
16 James was usually high when she saw him?

17 A. Yes.

18 Q. And did she ever indicate to you that maybe  
19 the reason why he was stealing stuff out of the trailer  
20 was to buy drugs?

21 A. Yes. But that goes to common sense.

22 Q. That's fine. Now, you said that James  
23 usually entered the trailer through that window; is that  
24 correct?

25 A. Yes.

1 Q. And you and Debbie talked about that?

2 A. Yes.

3 Q. Now, you kind of mentioned the group of  
4 people you work with at G.E. Capital, Lisa Duran, Mike  
5 Pollard.

6 A. Yes.

7 Q. And as a group you are all very close?

8 A. Yes.

9 Q. And Debbie was -- Debbie and Mike got along  
10 real well?

11 A. Yes. They were good friends. We all  
12 were.

13 Q. Did you ever get introduced formally to  
14 Mr. Cappell?

15 A. No.

16 Q. Never met him face-to-face?

17 A. I seen him. I never met him.

18 Q. So you never talked to him?

19 A. Yeah, I talk to him on the phone.

20 Q. Talk to him on the phone?

21 A. Yes.

22 Q. You were talking about an incident outside  
23 in front of G.E. Capital there where you said that James  
24 slapped Debbie?

25 A. Yes.

1 Q. And at that time the two of them were in the  
2 car?

3 A. Yes.

4 Q. And they were talking, but you could not  
5 hear what they were saying?

6 A. I was by the front door. No. I didn't  
7 approach the vehicle.

8 Q. So you had no idea what the conversation was  
9 about?

10 A. No.

11 Q. What -- do you know how many times Debbie  
12 filed for a restraining order or TPO against James?

13 A. No idea. I just know that she had one.

14 Q. Do you know how long that was in affect  
15 for?

16 A. No.

17 Q. You met Debbie after she moved to Las Vegas,  
18 so you did not know her when she was in Tucson?

19 A. No.

20 Q. You did not know her when she was in  
21 Lansing?

22 A. No.

23 Q. Were you close to Debbie and James' kids?

24 A. Yes. I saw them all the time.

25 Q. When was the last time you saw them?

1           A.       After the last court.

2                   MR. PATRICK: Court's indulgence. That's  
3 all I have, your Honor.

4                   THE COURT: Thank you. Mr. Owens,  
5 anything further.

6                   MR. OWENS: No, thank you.

7                   THE COURT: All right. Ma'am, thank you  
8 for your time. You are excused.

9                   We have -- hold on. Have a seat. We have  
10 a question for you.

11                   Counsel approach.

12                   (Discussion held at the bench.)

13                   THE COURT: Let me ask you a couple of  
14 questions, if I could, please.

15                   Do you recall about how far away you were  
16 from the car when the slapping incident happened?

17                   THE WITNESS: Not far. I was at the front  
18 door. The car was here. I could see perfectly clear  
19 through the window.

20                   THE COURT: Can you look around the court  
21 and say it is here to the table or the wall.

22                   THE WITNESS: I was probably from here to  
23 that lady in the -- with dark hair. I wasn't that far  
24 from the car.

25                   THE COURT: In the black jacket?

1 THE WITNESS: I was standing outside of  
2 the door.

3 THE COURT: Okay.

4 MR. SCHIECK: For the record, she's  
5 referring to someone in the front row of the courtroom.

6 THE COURT: That's correct.

7 Secondly, do you know, did Ms. Panos tell  
8 you anything about whether or not Mr. Cappell accepted any  
9 money for the return to Michigan?

10 THE WITNESS: He refused. Because he  
11 would go on one condition, and that was if she gave him  
12 her baby girl.

13 THE COURT: So as far as you know he did  
14 not accept money to go back there?

15 THE WITNESS: He would not.

16 THE COURT: Mr. Owens, any questions based  
17 upon mine?

18 MR. OWENS: No, your Honor.

19 THE COURT: Mr. Patrick?

20 MR. PATRICK: No, your Honor.

21 THE COURT: Thank you, ma'am. You may  
22 step down.

23 The State may call its next witness.

24 MR. OWENS: The next witness -- there's  
25 several witnesses that we're not unable to locate for this

1 proceeding, and this is one of them. What we are  
2 proposing is to read his testimony from the prior  
3 proceeding, if that's acceptable to the court.

4 We've furnished a copy to the defense. We  
5 have an individual to read for Mr. Pollard.

6 So the next testimony would be that of  
7 Mike Pollard.

8 THE COURT: Okay. Do you want the reading  
9 of the transcript reported or mark as an exhibit?

10 MR. OWENS: Whatever is more convenient.

11 THE COURT: It's normally report, unless  
12 you stipulate to just the reading.

13 MR. SCHIECK: It's easier if it's reported  
14 so that it flows in the sequence of things as opposed to  
15 having it as an exhibit, if that's okay.

16 THE COURT: Okay.

17 THE CLERK: Do you solemnly swear you  
18 will faithfully and accurately read the response set forth  
19 in the transcript so help you God.

20 MR. DIGIACOMO: I do.

21 MR. OWENS: Your Honor we can also have it  
22 marked as an exhibit.

23 THE COURT: Mike Pollard, having been  
24 first duly sworn to tell the truth and nothing but the  
25 truth was examined and testify as follows.

1 Direct examination by the State.

2 Q. Can you please state your name and spell it  
3 for the record.

4 A. My name is Mike pollard, P-O-L-L-A-R-D.

5 Q. And, sir, where are you employed?

6 A. General Electric.

7 Q. G.E. Capital?

8 A. G.E. Capital, yes.

9 Q. How long have you been employed there?

10 A. Two years, November 14th.

11 Q. Are you a resident of the Las Vegas  
12 community?

13 A. Yes, ma'am, I am.

14 Q. How long have you lived here?

15 A. Just about two-and-a-half years.

16 Q. Where are you originally from?

17 A. I'm originally from Louisiana.

18 Q. Did you know a person by the name of Debra  
19 Panos?

20 A. Yes, ma'am, I did.

21 Q. How was it that you knew her?

22 A. I first met Debra Panos in a training class  
23 for G.E. Capital, approximately a year and seven, eight  
24 months ago.

25 Q. Is that also around November of 1994?



1 A. Yes, ma'am, it was.

2 Q. Did you both start together?

3 A. Yes, we did.

4 Q. And how was it that you became friends?

5 A. Well, we had -- well, we were both coming  
6 from Arizona for one thing. We started talking about  
7 different places we had been, and when we came up with  
8 Arizona she had just come from there and so had I. So  
9 that started, sort of, the conversation off and as time  
10 went on we just started to, you know, we became friends.  
11 Close friends, I myself --

12 Q. Did you know her in Arizona?

13 A. No, I didn't.

14 Q. As you became co-workers together did you  
15 share rides to work?

16 A. Yes, we did.

17 Q. How did that happen?

18 A. When we first started off neither one of us  
19 had cars, so we start to carpool, myself. She got a car  
20 first and she would pick me up, and we'd go to work, drop  
21 the kids off, pick them up on the way back, and she would  
22 drop me off at home.

23 Q. Where was it she would take the kids to and  
24 from during work?

25 A. The kids go to day care, which was about two

1 or three block from the house.

2 Q. How would you describe your relationship  
3 with Debbie throughout the months?

4 A. We were like inseparable. When you saw her,  
5 you saw me. If you didn't see me, you didn't see her. As  
6 a matter of fact people thought there was a relationship  
7 there because of the fact that we were so close.

8 Q. You mean more than just friends?

9 A. Yes.

10 Q. Were you ever more than just friends?

11 A. No.

12 Q. During your friendship with Debra, did you  
13 come to learn about a person by the name of James  
14 Cappell?

15 A. Yes, I did.

16 Q. Did you ever formally meet him?

17 A. No, I didn't.

18 Q. Did you, however, see him?

19 A. Yes, I saw him on a couple of occasions.

20 Q. Do you recall how it was that you saw him?

21 A. Yes.

22 Q. Tell us about the first time you saw him?

23 A. The first time I saw him Debbie had drove  
24 up. She drove you up to work and we were, like, standing  
25 outside.

1 Q. Who is we?

2 A. Me and a couple of our other friends.

3 Because you couldn't smoke in the building so we had to  
4 smoke outside, so usually we smoked in the front before  
5 going in. And the first occasion I saw him was -- that  
6 was the time he slapped her and took off in the car with  
7 her purse.

8 Q. You stated that you actually saw her drive  
9 up to work?

10 A. Well, he was driving. She was on the  
11 passenger side. And the next thing you know he slapped  
12 her and she jumps out of the car and he takes off.

13 Q. When you say he slapped her, did you see  
14 this?

15 A. Yes, ma'am.

16 Q. Did he slap her with an open hand or closed  
17 fist?

18 A. That I couldn't tell, you know. You could  
19 just see the -- then the head jerk, and she jumps out of  
20 the car and the car just speeds off real fast.

21 Q. Tell us what was your demeanor like when she  
22 came up to all of you?

23 A. She was on the brink of tears. She was  
24 about to cry. She was trying to hold it as best as she  
25 could.

1 Q. What did she tell you the Defendant did to  
2 her?

3 A. She said he took my purse. My purse is in  
4 the car and he took my purse.

5 Q. Did she tell you problems she had had with  
6 the Defendant? Let me ask you this when was this that he  
7 slapped her on that you observed him slap her?

8 A. Okay. This was about, perhaps,  
9 two-and-a-half months after he had broken her nose.

10 Q. So it was sometime after he'd broken her  
11 nose?

12 A. Yes.

13 Q. If I were to tell you there were -- there  
14 was testimony that he broke the nose somewhere around  
15 January 9th of 1995, is it your testimony that it was  
16 sometime after this?

17 A. Yes, it was.

18 Q. Had you ever gone over to where she lived?

19 A. Yes.

20 Q. When was it that you first went over where  
21 she lived?

22 A. I would say about three -- about two or  
23 three months, you know, after we started training.

24 Q. Who -- where was it that you went?

25 A. She lived in a trailer park.

1 Q. Is that Ballerina Mobile Home --

2 A. Yes, it is.

3 Q. Who lived there with her?

4 A. At that time it was Debra, she had the three  
5 kids. And I think Lisa moved in with her.

6 Q. Now did you ever -- how often would you  
7 visit Debbie at the trailer home?

8 A. I would say maybe sometimes twice a month.  
9 Maybe, you know -- sometime we would -- since we were  
10 closer to work to her house, a lot of times we'd stop in  
11 there and, you know, pick up something for the kids or  
12 something like that before she would take me home.

13 Q. Did you ever see the Defendant around when  
14 you would go over?

15 A. Never.

16 Q. Did she -- do you recall a time at work when  
17 Debra became upset regarding the Defendant?

18 A. Yes.

19 Q. Do you recall certain instances?

20 A. Well, I remember one instance when he was  
21 like waiting in the lobby because there's a lobby where  
22 you have to go past security in order to, you know, to get  
23 into the actual work space. And she was showing us him  
24 standing in the lobby talking about, he was going to get  
25 her fired if she didn't give him the money, or something

1 like that. So she was in there trying to borrow money  
2 from people to get him away from the property.

3 Q. So he was going to get her fired if he  
4 didn't get money?

5 A. That's what she said. She said he's  
6 standing out there, he says he's going to get me fire if I  
7 don't give him money.

8 Q. How was she acting when she was asking  
9 people for money?

10 A. She was all, like, you know, jittery,  
11 nervous. Whenever it came to something like that, she was  
12 always on the brink of crying, okay She was, like, always  
13 upset, you know, at the demand for money.

14 Q. Did you actually see him there in the lobby  
15 as well?

16 A. Yes, I did.

17 Q. When about was this?

18 A. I would say this was about six to seven  
19 months after we started training.

20 Q. You're not sure of exact time periods when  
21 I'm asking you these questions?

22 A. Yes, I'm not.

23 Q. You didn't sit and write these things down  
24 as they were happening?

25 A. No, ma'am, I didn't.

1 Q. Do you recall another time when Debra got a  
2 phone call at work regarding the children?

3 A. Yes.

4 Q. What was her demeanor like after receiving  
5 this phone call?

6 A. I think she just lost it. She was so upset.  
7 She -- she didn't even know where she was. She was just  
8 really, really upset. She was trying to figure out what  
9 to do.

10 Q. Was she crying?

11 A. Yes, she was. Part of the time she was  
12 crying, part of the time she was trying to compose herself  
13 to actually talk to whoever it was on the phone that she  
14 needed to talk to.

15 Q. What did she tell you was happening, based  
16 on the phone call?

17 A. It was something about her kids, they got  
18 picked up, or her kids were in someplace where they  
19 were.

20 Q. Is that Child Haven?

21 A. Yeah. There you go. It was a place --  
22 well, it wasn't a day care, and it wasn't at home. It was  
23 someplace where the protective services or something had  
24 called.

25 Q. Child protective services had removed the

1 children?

2 A. They were letting her know that they had the  
3 children.

4 Q. Why is it that Child Haven had her  
5 children?

6 A. From what I understood, their father had  
7 abandoned the kids or left the kids, whatever,  
8 unattended.

9 Q. You're talking about the Defendant?

10 A. Yes.

11 Q. He left the children unattended?

12 A. Yes.

13 Q. Do you know where he had taken the kids from  
14 before he left them unattended?

15 A. No, I don't.

16 Q. Based on this do you recall whether or not  
17 Debra had to pick up the children from Child Haven?

18 A. Yes, she did.

19 Q. And base on her having to pick up the  
20 children from Child Haven, did she do something at the day  
21 care center?

22 A. What I remember is she had to leave work in  
23 order to do that, and naturally I wasn't able to leave at  
24 that time so she went without me. And I think I spoke to  
25 her later that night and she told me that she had picked



1 the kids up, and, you know, everything was okay, and it  
2 wouldn't happen again. That was basically that  
3 conversation.

4 Q. Do you remember her going to day care  
5 regarding the defendant?

6 A. Yes.

7 Q. What happen?

8 A. I remember her going there and having his  
9 name removed from the pick-up list so far as being able  
10 to, you know, receiving the kids from the day care.

11 Q. And why was that?

12 A. For some reason she was afraid of, you know,  
13 what might happen. After all, he had already abandoned  
14 them one time and she was afraid of that. And she didn't  
15 know, you know, what sort of frame of mind this guy was in  
16 or whatever. She just wanted her kids protected.

17 Q. When you say he abandoned the children, did  
18 the police actually take custody of the children to book  
19 them into Child Haven?

20 A. My understanding, yes.

21 Q. Did Debbie want to stay with this  
22 defendant?

23 A. No, she didn't.

24 Q. How do you know this?

25 A. Because she kept -- she tried to stay aware

1 of where he was and how long he would be there, because we  
2 had planned to move Debra, you know, before this guy got  
3 out. That's why she kept abreast on, you know, how long  
4 he was going to be in and when he would be released so she  
5 could be gone from than. Because we'd already made other  
6 attempts to, you know, remedy the situation, but they  
7 didn't work.

8 Q. During the time period you started there at  
9 G.E. Capital, would she cry to you often regarding things  
10 the Defendant did to her and the children?

11 A. Yes.

12 Q. What types of things would she cry about?

13 A. Well, I remember once she had went to  
14 Payless Shoe store and she brought the kids -- she bought  
15 all the kids pairs of shoes and somehow that night the guy  
16 came and he took the shoes back to the Payless to get the  
17 money.

18 Q. Are you talking about the Defendant?

19 A. Yes.

20 Q. You're talking about James Cappell?

21 A. Yes.

22 Q. You see him in court today?

23 A. Yes.

24 Q. Can you point to him and describe an article  
25 of clothing.

1 A. The gray jacket, striped shirt.

2 Q. May the record reflect the witness has  
3 identified the Defendant, your Honor?

4 THE COURT: Yes.

5 Q. What would happen when she would get her  
6 food stamps from the government to feed her children?

7 A. She would go -- usually she would go -- I  
8 would take her to the store and she would buy groceries  
9 for about a month. She would fill her refrigerator up and  
10 everything, which should have lasted her quite awhile.  
11 But in a day or two, he'd show up and all of the meats  
12 would be gone. The whole freezer would be empty.

13 Q. Did she tell you what he would do with the  
14 meats?

15 A. She said, he's probably going to sell them  
16 and buy drugs.

17 Q. Do you recall this occurring at a certain  
18 barbecue?

19 A. Yes.

20 Q. What happened?

21 A. Well, we came home from work and we were all  
22 set to, you know, barbecue. I'm out on the front. I got  
23 the grille going and everything, and they go to look in  
24 the icebox and there's nothing in there.

25 Q. Who is they?

1           A.       Debra, and I think it was Lisa at the  
2       time.

3           Q.       So people from work?

4           A.       People from work, yes.

5           Q.       You were having like a get together and  
6       barbecue?

7           A.       Yes, uh-huh.

8           Q.       That was over at Debbie's?

9           A.       That was going to be at Debbie's.

10          Q.       She had bought meat for this barbecue?

11          A.       Yes.

12          Q.       There was nothing in the freezer?

13          A.       There was nothing.

14          Q.       How did Debbie react?

15          A.       She was really angry at first, you know.

16       Then she started telling us, you know, probably this or  
17       probably that happened, and -- which we couldn't figure  
18       out anything else because no one else could, you know, get  
19       into her place. So we figured that he had been there.

20               And then this had happen before, so we practically  
21       knew what had happen.

22          Q.       So did you ever see Debbie calling the jail  
23       to see or make sure he was not going to be released?

24          A.       Yes.

25          Q.       About when was this prior to her death?

1           A.       I'd say from the time -- about thirty days  
2           on. From thirty days on. Because he was supposed to be  
3           there for at least 90 or something like that. So for  
4           thirty days on, towards the end of the 90, the last thirty  
5           days, she started calling just about every day to make  
6           sure he wasn't out or he was about to get out.

7           Q.       Prior to his going to jail had Debra tried  
8           to actually get the Defendant to leave the state?

9           A.       Yes, ma'am.

10          Q.       How did she do that?

11          A.       Well, at one point she bought a ticket --  
12          she bought a ticket one time and, you know, for him to go  
13          back, and I think he cashed that one in. So that's how he  
14          figured out that that wasn't going to work, you know, in  
15          order to get him to go home, because he wasn't going to  
16          go.

17          Q.       Where was that ticket to, do you recall?

18          A.       I think it was to Michigan.

19          Q.       How was it that you convinced Debbie to  
20          leave the residence as the Defendant was still in jail?

21          A.       Well, we -- me and Debra would talk about it  
22          a lot, you know, so far as how, you know, to make this  
23          break. And she realized that buying him a ticket or  
24          giving him money for a ticket was not going to work. So I  
25          sort of, you know, convinced her to move. I said, well,

1 that would be best because the same time our job was about  
2 to move too, so we wouldn't have been in the same building  
3 and he wouldn't have known where to find her. And that's  
4 the reason why she was checking on him so much.

5 Q. Was she reluctant to actually leave that  
6 trailer?

7 A. She was at one time.

8 Q. Why was that?

9 A. Because she had so much money invested in  
10 this trailer. She was buying it. And to just leave it,  
11 you know, she would be leaving an investment. So she  
12 wanted to really hang on to it if possible, but she was  
13 convinced that she wouldn't be able to do both.

14 Q. I want to direct your attention to the date  
15 of August 31st, of 1995. Do you recall that date?

16 A. Yes, I do.

17 Q. Do you recall seeing Debbie on that date?

18 A. Yes.

19 Q. What did you first -- when did you first see  
20 Debbie?

21 A. She picked me up from work that morning.

22 Q. Where -- about what part of town do you  
23 live, what are your cross streets?

24 A. Decatur and Vegas Drive.

25 Q. In the Northwest area of town?

1 A. Yes.

2 Q. How long would it take you generally to  
3 drive from your house to Debbie's?

4 A. Approximately 15 to 20 minutes.

5 Q. It's not something that you would make a  
6 trip walking?

7 A. No.

8 Q. Necessarily?

9 A. No.

10 Q. About -- I'm sorry. What time did she pick  
11 you up?

12 A. She picked me up about 6:30.

13 Q. Did she have someone with her?

14 A. No, it was just her.

15 Q. Had she dropped the children off at day  
16 care?

17 A. Yes.

18 Q. Where did you two go?

19 A. From there we went to work.

20 Q. G.E. Capital?

21 A. At G.E. Capital, yes.

22 Q. What happened once you were at work?

23 A. Once at work we went through the shift,  
24 which the shift on that day happen to be a half-day shift.  
25 So we were off about noon So since we got off early we

1 had decided to, you know, try another one of these  
2 barbecues. So we got off around noon and we left around  
3 12:10, 12:15. She brought me home and she said she was  
4 going to go home, do a few things, we were all going to  
5 meet up and go to the park.

6 Q. Is that Larency Park?

7 A. Yes, I think so. That's the closest to my  
8 house.

9 Q. What happened?

10 A. Well, she left and all of a sudden, about  
11 20, 25 minutes later she was back.

12 Q. To your home?

13 A. Yes.

14 Q. What happened?

15 A. She was all scary. She was all real, real  
16 nervous. At that time I was just like coming out of the  
17 shower, I was wondering why she was back so fast.

18 Q. Can you describe what she was doing when she  
19 was all scared and nervous?

20 A. She was sitting on my couch in a ball, like  
21 holding her knees.

22 Q. In a ball?

23 A. Yes.

24 Q. What was she doing?

25 A. Just shivering, like -- just like shaking.



1 Q. What did she tell you?

2 A. Said he's out. I said who's out. She said  
3 James is out. And I said how do you know. She said  
4 because he left a message on my voice mail.

5 So we started thinking about, well, the plan to  
6 move was out, so what are we going to do next. So I told  
7 her to wait a few minutes, let me get out of the shower  
8 and I'll go home with her, because she got concerned about  
9 the kids. She wanted to go home, pick up some clothes for  
10 the kids, pick them up at day care, and then they were  
11 going to come back to my house and stay, like, they  
12 usually did, two or three days, sometimes, when he was  
13 out.

14 Q. When he was out of jail, sometimes they  
15 would stay with you?

16 A. Yes, ma'am.

17 Q. Why would she and her -- she and her stay  
18 with you when he was out?

19 A. Because she was afraid.

20 Q. Why would she and her children stay with you  
21 when he was out?

22 A. Because she was afraid.

23 Q. Had she told you he had been violent with  
24 her in the past?

25 A. Yes.

1 Q. So her plan was to get the children's  
2 clothes and the children and return to your house?

3 A. Yes.

4 Q. Did you tell her to wait?

5 A. Yes.

6 Q. And what did you do?

7 A. I went back in the shower to finish off and  
8 when I came back out she was gone.

9 Q. Did you know where she went?

10 A. No, I didn't.

11 Q. Did you have any transportation to follow  
12 her?

13 A. No, I didn't.

14 Q. What did you do?

15 A. I got on the phone. I tried calling  
16 different places to see if she had perhaps went like to  
17 Lisa's, or I called her house three or four times and  
18 didn't get a response.

19 Q. When she was rolled up in a ball shivering,  
20 was she crying?

21 A. Yes.

22 Q. Was she scared?

23 A. Yes.

24 Q. Was that the last time you had seen  
25 Debbie?

1 A. That's the last time I saw Debra.

2 Q. Can you describe what type of person Debbie  
3 was?

4 A. Debbie was a very friendly person. She was  
5 very Friendly, very kindhearted. If she could do  
6 something for you within her power, she would. She was  
7 sort of happy-go-lucky, you know, never got into no  
8 trouble, never, you know, messed with anybody. She was  
9 just a nice girl. Just a very nice girl.

10 Q. What type of worker was she?

11 A. She was an excellent worker. As a matter of  
12 fact, we -- at work she would just -- excuse me -- at work  
13 she would just go along, do the job, you know, just like  
14 everybody else. Couldn't wait for it to be over, you  
15 know, but --

16 Q. What kind of mother was she to her three  
17 children?

18 A. She loved her children. She loved her  
19 children very much.

20 Q. What type of friend was she to you?

21 A. Well, as we went along we were real close,  
22 you know. There were a lot of things in her life that we  
23 would talk, you know. We just talked about different  
24 things all the time. Especially things that distressed  
25 her, you know.

1 Q. What distress her the most?

2 A. Well she regretted bringing this guy out  
3 here anyways, because, you know, he came after she was  
4 already here. She regretted that, but it was too late,  
5 couldn't do nothing about that. So, you know, we were  
6 always trying to convince her to just keep on going, keep  
7 going with her life. And, you know, there were a lot of  
8 problems in between times, you know, like whenever this  
9 guy was out. That's one of the reasons I never met him,  
10 because every time the chance would come for me to meet  
11 him she would set up a meeting for me to meet this guy, he  
12 was always back in jail or gone for two weeks and took  
13 whatever he could, you know, and you would see him no  
14 more, you know.

15 Q. When you say he would take whatever he  
16 could, what are you talking about?

17 A. Well, I remember when I first met Debra she  
18 had furniture and all kinds of nice stuff in her house.  
19 And towards the end all of her TVs, VCRs, you know, just  
20 about all of her furniture was gone. As a matter of fact,  
21 I gave he a small black and white TV for the kids to watch  
22 TV, because her color TV had been taken.

23 Q. Taken by who?

24 A. By James.

25 Q. Thank you. I will pass this witness.

1 THE COURT: Cross.

2 Q. You testified you knew Debbie for about two  
3 years?

4 A. About a year and eight months.

5 Q. That's correct. You said two years from  
6 November of this year is when you met her?

7 A. I'm sorry.

8 Q. You met her two years ago, November of this  
9 year?

10 A. Right, uh-huh.

11 Q. And during that time you'd go to the trailer  
12 a couple times a month?

13 A. Yes.

14 Q. But you never saw James?

15 A. Never saw him.

16 Q. This instance where you say you saw Debra  
17 get slapped in the parking lot at work --

18 A. Right.

19 Q. -- would it be safe to say that was around  
20 March of '95?

21 A. Yeah, that would be safe to say.

22 Q. Is there any chance that that slapping  
23 incident could have occur before January of '95?

24 A. If I could take the incidence in order, sir,  
25 I would probably say -- let's see. The nose breaking, the

1 slap was after that. I would say somewhere around March,  
2 I would think.

3 Q. Do you recall what month it was when the  
4 children were taken into protective custody by whomever  
5 did it?

6 A. No, I don't.

7 Q. Was this before or after the slapping  
8 incident in the parking lot?

9 A. I think that was after.

10 Q. Did you ever hear Debra having conversations  
11 with James on the telephone?

12 A. I usually walked away on those occasions.

13 Q. So you never heard her have a conversation  
14 with him on the telephone?

15 A. No.

16 Q. I don't have any other questions?

17 MR. OWENS: Nothing more.

18 THE COURT: May this witness be  
19 discharged?

20 MR. OWENS: Yes.

21 THE COURT: Thank you, sir.

22 You may step down. Thank you, Mr.

23 DiGiacomo.

24 THE COURT: We'll go ahead and take the  
25 lunch time recess.

## 1 JURY ADMONITION

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

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

15 You can leave your note pads and pencils  
16 on your chairs, make sure you keep your badges on so you  
17 can be easily identified as jurors.

18 We'll be back at, say, 2:00 o'clock. All  
19 right. Thank you very much.

20 Anything outside the presence?

21 MR. OWENS: No, your Honor.

22 MR. SCHIECK: No, your Honor.

23 THE COURT: Thank you, folks. See you  
24 back at 2:00 o'clock.

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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.



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1 CASE NO. C131341  
DEPT. NO. 111

2

3 STATE OF NEVADA  
CLARK COUNTY, NEVADA

4

5 STATE OF NEVADA,  
Plaintiff,  
6  
7 vs. CASE NO. C131341  
8 JAMES M. CHAPPELL, AFTERNOON  
Defendant. SESSION

9

10 FILED IN OPEN COURT  
11 MAR 15 2007 20  
12 CHARLES J. SHOOT  
13 CLERK OF THE COURT  
14 BY CAROL DONAHOO  
15 BEFORE THE HON. DOUGLAS W. HEARDON, DISTRICT JUDGE  
16 NEVADA, MARCH 14, 2007  
17 2:02 p.m.

18 APPEARANCES:  
19 For the State: CHRIS J. OWENS, Esq.,  
Chief Deputy District  
20 Attorney  
TAM WICKERLY, Esq.,  
21 Deputy District Attorney  
22 For the Defendant: DAVID M. SCHIECK, Esq.,  
CLARK W. PATRICK, Esq.,  
23 Special Public Defenders  
24 Reported by: CHERYL GARDNER, RPR-RMR  
25 CCR No. 230

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1 LAS VEGAS, CLARK COUNTY, NEVADA, WED., MAR 14, 2007  
2 2:02 p.m.  
3 -oOo-  
4 MR. OWENS: When we got back from  
5 lunch, my secretary --  
6 THE COURT: Hold on one second.  
7 Officers, will one of you tell Leslie to hold on  
8 one second, please. Thank you very much. All  
9 right. We'll be on the record in C131341 outside  
10 the presence of the jury. The record will reflect  
11 Mr. Chappell is present with his attorneys, and the  
12 State's attorneys. Mr. Owens.  
13 MR. OWENS: Yeah. When we got  
14 upstairs a little while ago, my secretary said Mike  
15 Pollard --  
16 (Remarks off the record.)  
17 MR. OWENS: That Mike Pollard called.  
18 We've been trying to contact him through his mother  
19 and he hadn't been responding. I guess he just  
20 climbed in a car and drove here so he's in town so  
21 I offer that to the defense if they want to call  
22 him for additional cross on any of the subjects  
23 that we covered.  
24 Other than that, there's a possibility  
25 we may call him to make a statement about victim

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1 impact because I don't think they went into that  
2 too much.  
3 MR. SCHIECK: If I might, the need to  
4 call him from victim impact ties into my objection  
5 to the testimony of Ms. Mancho as to the victim  
6 impact on her. It's our position that victim  
7 impact is limited to actually the families of the  
8 victim, not to everybody that knew the victim, and  
9 that's why we object to the relevance. We would  
10 object if they wanted to offer that through  
11 Mr. Pollard also.  
12 THE COURT: All right. What about as  
13 to that issue, Mr. Owens?  
14 MR. OWENS: Well, you know, in the  
15 cases that I've read about victim impact it doesn't  
16 seem to be limited to that at all. If a person  
17 dies, it could have an impact on any number of  
18 people not just close family members. At some  
19 point the Court could restrict that but I mean I've  
20 called coaches, friends, work, you know, people  
21 from the workplace and even people in the community  
22 if they had a larger community impact.  
23 THE COURT: Well, I agree that it's  
24 primarily something that pertains to the family. A  
25 lot of times the victim impact is kind of crossing

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Page 5

1 over between the affect on the person testifying as  
 2 well as to explain the person whose life was lost,  
 3 their impact on other people and the kind of person  
 4 they were but still I think it's primarily a family  
 5 thing and in terms of any further testimony from  
 6 Mr. Pollard along that line, we'll just kind of see  
 7 where we are.  
 8 If we've had a lot of other testimony  
 9 along victim impact lines, we can kind of address  
 10 it then.  
 11 MR. OWENS: If I can say one thing.  
 12 The Court is absolutely correct according to our  
 13 state statute as far as testimony that this Court  
 14 would normally hear on any sentencing, family is  
 15 fairly narrowly defined. I think there's even a  
 16 case on this where the defense tried to hold the  
 17 State to that and the supreme court said it's a  
 18 different standard and there is no statute on  
 19 that. If there is a law, I'd like to see it.  
 20 Maybe Mr. Schieck is aware of a case.  
 21 MR. SCHIECK: Perhaps we need to brief  
 22 it before we decide it any further. I mean the  
 23 closest I'm aware of is a case where there was a  
 24 previous homicide and they brought in victim impact  
 25 from the previous homicide in the capital case, and

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1 (Whereupon, the jury  
 2 entered the courtroom and the  
 3 following proceedings took  
 4 place commencing at 2:08 p.m.)  
 5 THE COURT: All right. We're on the  
 6 record in C131341, State of Nevada versus James  
 7 Chappell. The record will reflect the presence of  
 8 Mr. Chappell with his attorneys, the State's  
 9 attorneys. We're in the presence of our jury.  
 10 Welcome back, ladies and gentlemen. We're going to  
 11 continue back with the State's case in chief. The  
 12 State may call their next witness.  
 13 MR. OWENS: The State calls Lisa  
 14 Duran.  
 15  
 16 LISA LARSEN,  
 17 having been first duly sworn to testify to the  
 18 truth, the whole truth and nothing but the truth,  
 19 was examined and testified as follows:  
 20 THE CLERK: If you'll please state  
 21 your name and spell your last name for the record.  
 22 THE WITNESS: Lisa Larsen,  
 23 L-A-R-S-E-N.  
 24 ///  
 25 ///

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1 the supreme court said that was improper.  
 2 It should focus specifically on the  
 3 defendant in a capital sentencing and the victim,  
 4 not society at large otherwise we'll get in the  
 5 position --  
 6 THE COURT: All right. We're not  
 7 going to be calling Mr. Pollard today I take it.  
 8 MR. OWENS: No.  
 9 THE COURT: I'll ask my law clerk if  
 10 he'd go look and see if he can run up any cases on  
 11 victim impact testimony in capital cases.  
 12 MR. SCHIECK: The case I was referring  
 13 to was Sherman versus State where there was a  
 14 previous homicide and they brought in victim impact  
 15 from the previous homicide.  
 16 THE COURT: Do you know about when  
 17 that one was decided?  
 18 MR. SCHIECK: What year?  
 19 THE COURT: I know Sherman but I don't  
 20 recall when it was --  
 21 MR. SCHIECK: When did they start the  
 22 state public defender? I would guess '98, '97,  
 23 '98, somewhere in there.  
 24 THE COURT: All right. Thank you.  
 25 All right.

Page 8

1 DIRECT EXAMINATION  
 2 BY MR. OWENS:  
 3 Q. Are you formerly Lisa Duran?  
 4 A. Yes, sir.  
 5 Q. All right. Back in 1994/1995 you were  
 6 living in the Las Vegas community?  
 7 A. Yes, sir.  
 8 Q. You were working over at the GE  
 9 Capital?  
 10 A. Yes, sir.  
 11 Q. How long had you worked there at that  
 12 point?  
 13 A. I started in November of '94 and I  
 14 left in September -- I was there about three years.  
 15 Q. And is that where you met Debbie  
 16 Panos?  
 17 A. Yes, sir.  
 18 Q. What were the circumstances of meeting  
 19 her?  
 20 A. She and I were in the same training  
 21 class together.  
 22 Q. And what sort of relationship did you  
 23 have with her?  
 24 A. At first it was just, you know, your  
 25 basic coworker relationship, and then it pretty

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1 much progressed after that. We started hanging out  
 2 together. Our kids would play together, things  
 3 like that.  
 4 Q. Did you become a little bit familiar  
 5 with her situation, her family life?  
 6 A. Yes, sir, I did.  
 7 Q. And you became aware that she had  
 8 moved to Las Vegas about the time that you met her?  
 9 A. I believe she had moved there sometime  
 10 before I met her.  
 11 Q. Okay. It was a little bit before you  
 12 met her?  
 13 A. Uh-huh, yes, sir.  
 14 Q. Were there some other people that  
 15 worked there that were also friends eventually of  
 16 Debbie?  
 17 A. Yes, sir.  
 18 Q. Who was in your group?  
 19 A. There was Michelle Mancho and Mike  
 20 Pollard.  
 21 Q. What sort of things would the four of  
 22 you do together?  
 23 A. We'd go to Michael's house. We'd take  
 24 the kids to the park. We'd have barbecues over at  
 25 the house, over at Debbie's house.

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1 Q. How often would you see each other?  
 2 A. Every day. I mean we all worked  
 3 together and we all had different days off so we  
 4 saw each other almost every day.  
 5 Q. When you say take the kids to the  
 6 park, who are you referring to?  
 7 A. I'm referring to her three children  
 8 and my daughter.  
 9 Q. And the relationship that you had with  
 10 each other was just a friendship relationship?  
 11 A. I think it was a little bit more than  
 12 that. I mean it was just the four of us. I mean  
 13 there wasn't really anybody on the outside that,  
 14 you know --  
 15 Q. You would say close friends then?  
 16 A. Yes.  
 17 Q. There was a time at some point in the  
 18 summer of 1995 when you actually moved into the  
 19 trailer home of Debbie's?  
 20 A. Yes, sir.  
 21 Q. What was that situation? What was  
 22 that about?  
 23 A. Basically just, you know, I needed a  
 24 place to be and she needed a roommate and we'd  
 25 spent so much time together it just seemed like the

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1 logical thing to do.  
 2 Q. Can you describe the trailer park area  
 3 there where she lived and her home.  
 4 A. There was only one way to go in and  
 5 only one way to come out. It was fairly large and  
 6 the houses were pretty much close together. I mean  
 7 it wasn't spread out or anything, but it was large.  
 8 Q. Can you describe the -- how you first  
 9 learned about the abusive relationship that was  
 10 going on with Debbie?  
 11 A. It was a couple weeks before Christmas  
 12 when I was getting ready to leave work and I was  
 13 walking, proceeded to walk out of the office and I  
 14 was standing between two double doors and I had  
 15 seen her in an automobile arguing with a man and  
 16 the argument got pretty intense and at one point  
 17 she was hit in the face.  
 18 Q. What did you see?  
 19 A. I saw them arguing. I didn't, you  
 20 know, I didn't hear anything and I really couldn't  
 21 see but from what, you know, I could see, they were  
 22 arguing and it was pretty intense and he hit her.  
 23 Q. What happened next?  
 24 A. The next thing she came in. I asked  
 25 her if she was okay and she said yes, and I left.

Page 12

1 Q. Who was it that she was arguing with?  
 2 A. Like I said, I couldn't see. I know  
 3 it was another male. It was a male but I never  
 4 asked her who it was. I never questioned her about  
 5 it.  
 6 Q. So you didn't have a conversation  
 7 about that?  
 8 A. No, sir.  
 9 Q. And when is the next time you learned  
 10 that there was an abuse situation going on?  
 11 A. When she came to work and she had a  
 12 broken nose.  
 13 Q. How much later was that?  
 14 A. I don't remember.  
 15 Q. Was it months later, a few weeks  
 16 later?  
 17 A. I don't remember.  
 18 Q. Okay. What happened when she came  
 19 work and you noticed that? Was there something  
 20 said?  
 21 A. She came to work and I noticed her  
 22 nose, and her eyes underneath were bruised. I  
 23 asked her if she was okay, and she said to me yes  
 24 and I said, "Well, what happened? Were you in an  
 25 accident or what happened?" She said that James

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1 had hit her.  
 2 Q. What else did she say?  
 3 A. Just that she had gotten in an  
 4 argument and he hit her.  
 5 Q. Did you have a response to that?  
 6 A. No.  
 7 Q. What's the next thing that you became  
 8 aware of?  
 9 A. Just that things just got worse. They  
 10 just started getting worse.  
 11 Q. In what way?  
 12 A. She'd come to work upset. She'd come  
 13 to work crying, things of that nature.  
 14 Q. Were there other injuries that you  
 15 noticed on her?  
 16 A. There were times she would come to  
 17 work and she would try to wear shirts that went  
 18 down to her elbow 'cause there sometimes was  
 19 bruising where she had been grabbed.  
 20 Q. You're indicating the upper arm area?  
 21 A. Yes, sir. She was thin so you could  
 22 see the bruises.  
 23 Q. Okay. Did you have a discussion with  
 24 her about what was going on at some point?  
 25 A. I did.

1 watching TV, didn't say anything.  
 2 Q. And had you seen him prior to that  
 3 time?  
 4 A. No, sir.  
 5 Q. Did you see him after that time?  
 6 A. Yes, sir.  
 7 Q. And we're talking about the 31st of  
 8 August.  
 9 A. Yes, sir.  
 10 Q. We'll come up to that in a minute.  
 11 Prior to that time other than that time you met  
 12 him, you hadn't really seen him involved in her  
 13 life.  
 14 A. No, sir. I mean I had just seen  
 15 pictures around the house, but I mean face-to-face,  
 16 no.  
 17 Q. Over the summer of 1995 after you'd  
 18 actually met the defendant, there was a period of  
 19 time when he was incarcerated for most of that  
 20 summer.  
 21 A. Yes, sir.  
 22 Q. And what sort of relationship was  
 23 going on that you observed between him and Debbie  
 24 at that time?  
 25 A. Just that she was trying not to make

1 Q. Okay. What was said?  
 2 A. I just asked her, I said, "Well, if  
 3 things are so bad, just --" you know, "How come you  
 4 just don't," you know, "you won't get out," and at  
 5 that time I really didn't understand the dynamics  
 6 of domestic violence and domestic abuse so I just  
 7 told her, I said, you know, "Why not just get out,"  
 8 and she said, "No, I can't do that. My kids need  
 9 their father. He's their father. They need him."  
 10 And I didn't pursue it anymore after that.  
 11 Q. Around Memorial Day, was that the  
 12 first time that you actually met this other  
 13 individual?  
 14 A. Yes, sir.  
 15 Q. Okay. What happened?  
 16 A. I had brought Debbie home. He was  
 17 sitting in the livingroom, and she introduced the  
 18 two of us and that was it, and I left.  
 19 Q. Was that the first time you actually  
 20 met James Chappell?  
 21 A. Yes, sir.  
 22 Q. Did he say anything?  
 23 A. No, sir.  
 24 Q. What did he do?  
 25 A. He was just sitting on the couch

1 him angry. She had just told me that if he called  
 2 the house, to answer the phone, accept his phone  
 3 calls so that he wouldn't be mad, and that's what I  
 4 did.  
 5 Q. And was she trying to keep track of  
 6 whether he was still in custody or not?  
 7 A. Yes, sir.  
 8 Q. And what was she doing with regard to  
 9 the relationship as far as trying to maintain it or  
 10 not?  
 11 A. In the beginning she was just trying  
 12 to, you know, make sure that he wouldn't get angry,  
 13 that he wouldn't be angry.  
 14 Q. Were you ever aware of him being  
 15 employed anywhere while he was in Las Vegas?  
 16 A. No, sir.  
 17 Q. And as far as you knew Debbie, she was  
 18 working for GE Capital?  
 19 A. Yes, sir.  
 20 Q. Anyplace else?  
 21 A. When I had first met Debbie, she was  
 22 working three jobs.  
 23 Q. She was working three different  
 24 locations at the same time?  
 25 A. Yes, sir. That's what she had told

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1 me.  
 2 Q. How long did that go on for?  
 3 A. I'm not sure, not long.  
 4 Q. And you mentioned some phone calls  
 5 during the months of June and July and August,  
 6 those summer months of 1995. There were some times  
 7 when you would answer the phone and James Chappell  
 8 would be on it?  
 9 A. Yes, sir.  
 10 Q. Okay. About how many phone calls  
 11 would you get?  
 12 A. I think total there was about seven  
 13 phone calls between her house and an apartment I  
 14 had at the time but of all the seven, I talked to  
 15 him maybe five times. There was two occasions when  
 16 he had left messages.  
 17 Q. Okay. So was he calling your place or  
 18 her place?  
 19 A. He had called my place twice. One  
 20 instance I spoke to him. Another instance I hadn't  
 21 been home.  
 22 Q. Were you aware if Debbie was talking  
 23 to him or not or do you recall?  
 24 A. At that time I just conveyed to her  
 25 that he had called and we pretty much left it at

1 you had with him?  
 2 A. There was a phone call when I was at  
 3 her house and he had called. I answered the phone  
 4 and as she had stated to me before to accept the  
 5 charges from him if he had called so I accepted the  
 6 charges and he asked me where she was and I said  
 7 she's not here right now and he said, "Well, where  
 8 is she?" And I said, "Well, she asked me to keep  
 9 an eye on the kids. She used my car and she went  
 10 out."  
 11 Q. What did he say?  
 12 A. Can I repeat what he said?  
 13 THE COURT: Yes ma'am.  
 14 THE WITNESS: Okay. He then asked me  
 15 what other nigger she was laying up with  
 16 underneath.  
 17 MR. OWENS:  
 18 Q. What did you say?  
 19 A. And I just told him, I said, "Well,  
 20 I'm not going to tell you anything like that," and  
 21 he said, "Well, what kind of friend are you?" And  
 22 I said, "The kind that minds her own business."  
 23 Q. What did he say?  
 24 A. And then he just told me that I should  
 25 tell her that he called and that when he got out,

1 that.  
 2 Q. Okay. All right. Let's go on the  
 3 first phone call that you remember getting from  
 4 him. Do you remember that? It would have been  
 5 sometime in about July of '95 or was it sooner?  
 6 A. There was an incident when he called  
 7 my house looking for her and she had indicated to  
 8 him that, you know, she was on her way home, that  
 9 she was coming and she would be there 'cause we had  
 10 gone out the night before.  
 11 Q. And he was at her house?  
 12 A. Uh-huh, yes.  
 13 Q. Okay. And this would have been after  
 14 you formally met him or before?  
 15 A. This was before.  
 16 Q. How much before do you think?  
 17 A. Because like I said he -- well,  
 18 actually it was that same day because we had gone  
 19 out the day before and it was Saturday when I  
 20 brought her home.  
 21 Q. Okay. What happened in that phone  
 22 call?  
 23 A. She ended up speaking with him and  
 24 informed him she would be home.  
 25 Q. Okay. What's the next phone call that

1 that she wasn't going to have any kind of life or  
 2 anything, and that was it.  
 3 Q. Did he say anything about you or her  
 4 friends?  
 5 A. Not at that phone call, no.  
 6 Q. Was there a later phone call where you  
 7 had what you thought was a more direct threat.  
 8 A. Yes, sir. There was another phone  
 9 call where he indicated to me that once he got out,  
 10 that, you know, she wouldn't have any friends and  
 11 that included me. During that particular  
 12 conversation he had stated to me that he was very  
 13 upset because she had stopped accepting his calls.  
 14 She had stopped writing. He didn't get to see the  
 15 kids, and at that point he told me that when he got  
 16 out, she wouldn't have any friends and that  
 17 included me too.  
 18 Q. About when did that phone call occur?  
 19 A. I don't remember.  
 20 Q. In relation to her death, the date of  
 21 her death, would it have been a few weeks before  
 22 that?  
 23 A. It might have been. Again, I don't  
 24 remember.  
 25 Q. Was it that summer when he was in



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1 custody?  
 2 A. Yes, sir.  
 3 Q. Okay. Now, there was some kind of a  
 4 plan about moving?  
 5 A. Yes, sir.  
 6 Q. Were you involved in that?  
 7 A. To some extent, yes.  
 8 Q. All right. What did you know about  
 9 that?  
 10 A. I knew that she was in the process of  
 11 packing up things at the house, getting things  
 12 organized so that she could leave.  
 13 Q. And the idea was for her to leave  
 14 before he got out of custody?  
 15 A. Yes, sir.  
 16 Q. Did you have any part in that plan?  
 17 A. No. Again, we had just discussed her  
 18 moving out because at that time we were all under  
 19 the assumption that he was waiting for a bed in  
 20 rehabilitation to become available.  
 21 Q. So you were thinking he wouldn't be  
 22 getting out for a while?  
 23 A. Yes, sir.  
 24 Q. All right. Let's go to the evening  
 25 before her death which would have been the 30th of

1 Q. What was the conversation you had with  
 2 Debbie on the evening of the 30th?  
 3 A. She had told me that she had gone to  
 4 court that day appear she had told me they had a  
 5 conversation. She told him it was done, it was  
 6 over with. She just wanted to get on with her  
 7 life.  
 8 Q. And what happened?  
 9 A. And we didn't discuss it anymore. I  
 10 didn't ask her any questions.  
 11 Q. Did you go to work on the 31st?  
 12 A. Yes, sir.  
 13 Q. And about what time did you get to  
 14 work?  
 15 A. About 8:00 okay in the morning.  
 16 Q. Is this a shorter workday on the 31st?  
 17 A. Yes, sir.  
 18 Q. At that time as far as you knew the  
 19 defendant was still in jail?  
 20 A. Yes, sir.  
 21 Q. And as far as Debbie knew to your  
 22 knowledge he was still in jail?  
 23 A. Yes, sir.  
 24 Q. Did you have some plan since it was a  
 25 shorter day of meeting up later?

1 August of 1995. Do you remember getting together  
 2 with her and talking about his situation there and  
 3 his being in custody?  
 4 A. Yes, sir.  
 5 Q. She had been at court that day. She  
 6 had made a court appearance.  
 7 A. Yes, sir. That's what she told me.  
 8 Q. Where did that conversation take  
 9 place?  
 10 A. In her home.  
 11 Q. Was anyone else there at the time?  
 12 A. No.  
 13 Q. Just you and Debbie?  
 14 A. Yes, and our children.  
 15 Q. Okay. And you said you had the one  
 16 child?  
 17 A. I do.  
 18 Q. Were you living there at the time?  
 19 A. Yes.  
 20 Q. A bedroom?  
 21 A. Yes, sir.  
 22 Q. And how long had you been staying at  
 23 the trailer home there?  
 24 A. It was a very short time. It was  
 25 about a week.

1 A. Yes, we did.  
 2 Q. What was that about?  
 3 A. The night before we had discussed her  
 4 meeting me at the house so that I could go get some  
 5 of my things because I was leaving. It was Labor  
 6 Day weekend, and I was leaving. I planned on  
 7 leaving town so I wanted to come to the house and  
 8 get some of my things and she agreed to meet me  
 9 there.  
 10 Q. What time did you leave work?  
 11 A. 1:00 o'clock.  
 12 Q. Where did you go?  
 13 A. I went to my mother's house first.  
 14 Q. And how long were you at your mother's  
 15 house?  
 16 A. About 10, 15 minutes.  
 17 Q. What happened next?  
 18 A. I had asked my mom if I could take her  
 19 car over, back over to the trailer and she said  
 20 yes, and I took my mom's car and drove over to the  
 21 trailer.  
 22 Q. I assume Debbie's trailer.  
 23 A. Yes, sir.  
 24 Q. And when you got there, what did you  
 25 see?

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1 A. As I was pulling into the trailer  
 2 park, again, there's only one way in and one way  
 3 out so as I was coming in, her car was coming out  
 4 and I just proceeded to, into the park to go to the  
 5 trailer.  
 6 Q. What did you notice about her car?  
 7 A. Well, for one thing that I noticed  
 8 that it was her car and in the back the trunk was  
 9 open and there was a bicycle in the trunk.  
 10 Q. Who was driving her car?  
 11 A. At that time I wasn't sure who was  
 12 driving it and it wasn't until a few minutes later  
 13 that I had gone to Mike's house and when I had gone  
 14 there and I asked him where Debbie was, he said  
 15 that she had just left and then he proceeded to  
 16 tell me, "Well, did you know that James was out?"  
 17 And then I just kind of sat there and  
 18 I thought back in my head I saw me driving in and  
 19 driving the car, her car coming out and when I  
 20 looked again I thought to myself, oh my God, that's  
 21 him. So I then went to the nearest store by Mike's  
 22 house. I had made a phone call from the phone  
 23 booth and I got no answer. All I got was voice  
 24 mail.  
 25 Q. What did you do next?

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1 A. After that I went back to the trailer  
 2 again.  
 3 Q. What did you do there?  
 4 A. Again, I knocked on the door. I  
 5 called her name. I just tried anything to get her  
 6 to answer the door but nobody would. So then I  
 7 went to the day care center not too far down the  
 8 street where the kids were and I had a conversation  
 9 with the lady at the desk.  
 10 Q. Do you remember who was there?  
 11 A. At the day care center?  
 12 Q. Yeah.  
 13 A. There was one lady that I spoke to at  
 14 the desk.  
 15 Q. You don't remember her name?  
 16 A. Her name was Sharon I believe.  
 17 Q. And what did you do next?  
 18 A. After our brief conversation I became  
 19 more afraid of what I thought was, what might have  
 20 happen so then I went back to my mom's house and I  
 21 got my mother, I got my mom, and I said, "I can't  
 22 go back there," so we all jumped in the car and on  
 23 the way back to the trailer I saw a police officer  
 24 and I approached him and I said, "Can you please go  
 25 with me. I think something happened to my friend,"

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1 and without hesitation the officer said, "Fine.  
 2 I'll follow you."  
 3 Q. Why were you becoming afraid at this  
 4 point?  
 5 A. Because of things that he had said in  
 6 the past to me, just all the abuse and I had just  
 7 figured, you know, maybe she was right.  
 8 Q. What do you mean?  
 9 A. Well, about, I'd say about a month  
 10 before it happened she and I were sitting around  
 11 and we were just talking. She said, "You know,  
 12 Lisa," she said, "he's going to get me. He's going  
 13 to come for me. He's mad," and I said, "No.  
 14 He's --" you know, "He's not going to do  
 15 anything," but she said, you know, "When he does,"  
 16 she said, "you'll be the one to find me and you'll  
 17 have to tell. You'll have to say what he did," and  
 18 it wasn't until I went through counseling and  
 19 things that I understood, I understood what she was  
 20 telling me about.  
 21 Q. Is that something that you kind of  
 22 suppressed up to that point?  
 23 A. Yes, sir.  
 24 Q. Was your concern also based partly on  
 25 what you heard from the day care worker --

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1 A. Yes, sir.  
 2 Q. -- Sharon. All right. Let's go back  
 3 to the second time you went to the trailer home  
 4 there. You had an officer with you?  
 5 A. That was the third time.  
 6 Q. Third time. The first time is when  
 7 you were passing the car.  
 8 A. Yes, sir.  
 9 Q. And the second time was?  
 10 A. When I had just gotten back from  
 11 Mike's and I tried to call and I didn't get any  
 12 answer.  
 13 Q. Okay.  
 14 A. And I went back the second time.  
 15 Q. So this would have been the third time  
 16 with the police officer?  
 17 A. Yes, sir.  
 18 Q. What did you notice about the trailer  
 19 home when you were there?  
 20 A. From the outside when I was trying to  
 21 knock on the door and it was locked obviously and I  
 22 heard the TV and I heard the air-conditioner  
 23 inside, and it wasn't like her to do that, to leave  
 24 things on when nobody was there so in the past if  
 25 somebody was in the far back part of the house, you

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1 couldn't hear anybody knock on the front door so I  
 2 went around to the other side and the side door was  
 3 locked so then I left the side door and I went back  
 4 around the front and in the front of her house were  
 5 the windows to her master bedroom so at one point I  
 6 thought, well, because I didn't have a key that  
 7 maybe I would try to get in through a window but  
 8 then I noticed that something, something wasn't  
 9 right with the window and when I had gone back the  
 10 third time I pointed it out to the police officer  
 11 and that's how he got into the house is through the  
 12 window that I showed him.

13 Q. Okay. Did you take your brother with  
 14 you too when you went back over there?  
 15 A. Yes, sir.  
 16 Q. What's his name?  
 17 A. John.  
 18 Q. When you got there with the police  
 19 officer, what happened?  
 20 A. I showed him the window and, you know,  
 21 expressed my concern, and that's when he proceeded  
 22 to open the window, get the window open and before  
 23 he actually went inside, he had called for backup  
 24 and when the other police officer arrived, he  
 25 opened the window and he went inside and at this

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1 point I'm standing out.  
 2 I was on the street part but it was  
 3 very close to the porch and the officer had gone  
 4 inside and he opened the door and he told the other  
 5 officer -- I don't recall what he told him. He  
 6 just told him something. And at that point I  
 7 learned that she was gone.

8 Q. What did you see?  
 9 A. When he opened the door? I saw part  
 10 of her on the floor.

11 Q. What did you do next?  
 12 A. I just stood there and just, I started  
 13 crying. I started freaking out like anybody else  
 14 would.

15 Q. Did you go back over to the day care?  
 16 A. At that point no. I had only been to  
 17 the day care that one time.

18 Q. Were the children at the day care when  
 19 you went there?  
 20 A. Yes, sir. Later when I tried to go  
 21 back and get the kids, I was told that I could not  
 22 have them because they were already in the custody  
 23 of the state, that they were going to Child Haven.

24 MR. OWENS: Your Honor, I'm going to  
 25 refer to some photographs that were previously

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1 marked. I was wondering if the Court wanted to  
 2 explain to the jury about these were marked in a  
 3 prior proceeding. We'll be referring to them.

4 THE COURT: All right. Ladies and  
 5 gentlemen, there is evidence that obviously was  
 6 admitted in the trial in this matter. Those  
 7 matters already having evidence stinkers on them  
 8 will be referred to by what they were referred to  
 9 in that proceeding.

10 We will talk about things introduced  
 11 here and introduced in the prior proceeding, but  
 12 obviously you're allowed in terms of the evidence  
 13 to take things from the trial as well as whatever  
 14 evidence is introduced during the sentencing.

15 You can go ahead, Mr. Owens.

16 MR. OWENS: For the record I'm  
 17 referring to State's exhibit numbers 56 through 60  
 18 and I'm going to place Exhibit No. 56 on the  
 19 screen.

20 Q. Are you able to see that there?  
 21 A. Yes, sir.  
 22 Q. Okay. What are we looking at there?  
 23 A. What looks like an apartment building  
 24 and to the right of the picture is her automobile.  
 25 Q. Okay. Is that the car you were

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1 describing that she would drive?  
 2 A. Yes, sir.  
 3 Q. And showing you No. 57 now. This is a  
 4 closer version of the same.  
 5 A. Yes, sir.  
 6 Q. And No. 58.  
 7 A. Yes, sir.  
 8 Q. Just a different angle. When you saw  
 9 that on the 31st coming out of the, is it the  
 10 Ballerina Trailer Court?  
 11 A. Yes, sir.  
 12 Q. You said that there was something in  
 13 the trunk?  
 14 A. Yes, sir.  
 15 Q. And what was that?  
 16 A. It was a bicycle.  
 17 Q. And that sort of caught your  
 18 attention?  
 19 A. Yes, sir.  
 20 Q. Why?  
 21 A. Because in the past Debbie had told me  
 22 that that's how James got around was on a bicycle.  
 23 Q. And Exhibit No. 60 on the screen?  
 24 THE COURT: Folks over there at the  
 25 end, you can look up at the gallery monitor as

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1 well. That's a little better. I just turned that  
 2 on.  
 3 MR. OWENS:  
 4 Q. That's the same vehicle?  
 5 A. Yes, sir.  
 6 Q. Who was driving the vehicle when you  
 7 saw it leaving the Ballerina --  
 8 A. Mr. Chappell.  
 9 Q. By "Mr. Chappell," who are you  
 10 referring to?  
 11 A. The gentleman sitting right there in  
 12 the middle with the blue vest.  
 13 MR. OWENS: Thank you. Let the record  
 14 reflect she's identified the defendant, Your Honor.  
 15 THE COURT: The record will so  
 16 reflect.  
 17 MR. OWENS:  
 18 Q. When you first saw that car with  
 19 Mr. Chappell in it, you thought he was still in  
 20 custody?  
 21 A. Yes, sir.  
 22 Q. It was only later you kind of made  
 23 that connection?  
 24 A. Yes, sir.  
 25 Q. And then you knew that that was

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1 Mr. Chappell.  
 2 A. Yes, sir. Also when I was interviewed  
 3 at the scene, one of the detectives had come out of  
 4 the house and he showed me a picture of  
 5 Mr. Chappell.  
 6 Q. Is that one of the pictures that you'd  
 7 seen before in the house there?  
 8 A. Yes, sir.  
 9 Q. And was that the same person?  
 10 A. Yes, sir.  
 11 Q. I'm going to show you what's been  
 12 marked as Exhibit No. 1 now and if you can kind of  
 13 describe for us what we're looking at here.  
 14 A. The left window that's circled is the  
 15 window that I indicated to the officers that I  
 16 noticed there was something wrong with it. Both  
 17 windows were to her master bedroom but the window  
 18 on the left that's circled was the window that had  
 19 the problem.  
 20 Q. Okay. There's a couple things that  
 21 are circled on here. Did you make those circles?  
 22 A. Yes, I did.  
 23 Q. Was that in a prior proceeding?  
 24 A. Yes, sir.  
 25 Q. Do you remember doing that?

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1 A. Yes, sir. There's my initials on the  
 2 right-hand side.  
 3 Q. Okay. The right-hand corner of the  
 4 zoom in there. And so this is the window you were  
 5 saying seemed somewhat ajar?  
 6 A. Yes, sir.  
 7 Q. It doesn't look in this picture like  
 8 it did when you first saw it.  
 9 A. No, sir.  
 10 Q. Okay. What's different about it?  
 11 A. Well, when I first saw it.  
 12 Q. You can write right on the screen.  
 13 THE COURT: You can touch the screen.  
 14 THE WITNESS: This piece of the window  
 15 was up here but then when I looked at it, I noticed  
 16 that the screen was kind of, the screen was kind of  
 17 tilted a certain way and the window was a certain  
 18 way and that's when I pointed out, I pointed that  
 19 out to the police officer and like I said, that's  
 20 the window he used to again access into the house.  
 21 MR. OWENS: Okay.  
 22 Q. I'm going to show you Exhibit No. 4  
 23 now. It's a little bit closer to you. Is that the  
 24 way the window appeared after the officer had gone  
 25 in there?

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1 A. Yes, sir.  
 2 Q. Okay. Go back to the other general  
 3 view there, No. 1 -- I'm sorry, yeah, Exhibit No. 1  
 4 and I'm going to zoom out this time so we can get  
 5 the full sides of the trailer visible there. Would  
 6 you kind of tell us which side was the driveway,  
 7 where were the doors and which sides were being  
 8 used.  
 9 A. Off to the left here where you see the  
 10 stairs, the front door is right here and when you  
 11 go around to the right side, this is where the  
 12 driveway is. There is a carport, a covered carport  
 13 and to the side of that the left side of the  
 14 trailer there's another door that opened up into a  
 15 laundry room.  
 16 Q. Okay. Which doors were used?  
 17 A. Both of them.  
 18 Q. Okay. Is there one that was used more  
 19 than the other one?  
 20 A. No. I wouldn't say there was. They  
 21 were both used all the time.  
 22 Q. So you could go in or out either door?  
 23 A. Oh, sure.  
 24 Q. Okay. So the one on the right side  
 25 there, there was a laundry room right inside that

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1 door?  
 2 A. Yeah, the one right here on the right.  
 3 Q. And the other one kind of had a porch  
 4 attached to it?  
 5 A. It was a covered porch right here and  
 6 then when you walked into the front door, there was  
 7 a livingroom.  
 8 Q. Okay.  
 9 A. And then off to the right was her  
 10 master bedroom.  
 11 Q. When we're looking straight on in this  
 12 picture as we are, the window that you saw and  
 13 noticed was a little bit open you told the police  
 14 about that, what is that room in the trailer? What  
 15 kind of a room is that?  
 16 A. That's the master bedroom. That was  
 17 Debbie's room.  
 18 Q. And how about that window to the right  
 19 on the photograph here?  
 20 A. That also was a window in her room.  
 21 Q. Okay. So that was all master bedroom  
 22 then?  
 23 A. Yes, sir.  
 24 Q. Where was your room located?  
 25 A. When you walked in through the front

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1 something had happened and there was papers on the  
 2 floor, I mean was the trailer kept really clean or  
 3 really picked up all the time. Was it sometimes --  
 4 A. It was in disarray for the most part  
 5 because, you know, she had three kids.  
 6 Q. How had it been affected by her  
 7 decision to try to move out?  
 8 A. As far as?  
 9 Q. Was she in the process of packing  
 10 things or washing things?  
 11 A. Yes. There was boxes and things of  
 12 that nature in the house but, you know, it wasn't  
 13 like her to keep letters and papers all over the  
 14 place.  
 15 Q. So that was unusual?  
 16 A. Yes, sir. She tried very hard to keep  
 17 all of her personal papers and things together.  
 18 She never carried around a purse so she had kind of  
 19 like, like one of those organ thingies, those  
 20 folders.  
 21 Q. Okay. And so she would use that to  
 22 keep her paperwork?  
 23 A. Yes, sir.  
 24 Q. So what you saw in the house with  
 25 regard to paperwork and some of the other items was

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1 door, like I said, there was like a livingroom and  
 2 then there was the kitchen and then you walked in  
 3 the back. On the right there was a family room and  
 4 off to the left there were two small bedrooms and a  
 5 bathroom in the middle.  
 6 Q. Was there a time later when you went  
 7 in there and were able to take a look at the inside  
 8 of the trailer?  
 9 A. Yes, sir. After they had taken  
 10 Debbie's body out of the house, the officer told me  
 11 that I could go inside and I could get some of my  
 12 and my daughter's things because I wasn't allowed  
 13 to stay there that night because it was a crime  
 14 scene.  
 15 Q. So you went in to get your things?  
 16 A. Yes, sir.  
 17 Q. What did you notice about the  
 18 interior?  
 19 A. It just looked like somebody had been  
 20 through it.  
 21 Q. What do you mean?  
 22 A. Well, there were papers on the floor  
 23 and, you know, you could tell something happened.  
 24 There was blood. I saw blood on the rug.  
 25 Q. When you say you could tell that

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1 out of character for the way that the home appeared  
 2 before?  
 3 A. Yes, sir.  
 4 Q. And you said your feeling it looked  
 5 like somebody had kind of gone through it?  
 6 A. Yes, sir.  
 7 Q. Now, this thing that she kept personal  
 8 things in, is this something that would have been  
 9 kind of like a purse?  
 10 A. Yes, sir.  
 11 Q. She kept important paperwork in there?  
 12 A. Yes, sir.  
 13 Q. Were you familiar with the Social  
 14 Security cards for her, for the children?  
 15 A. Yes. She would hang on to them  
 16 regularly. She was getting different funding and  
 17 food stamps and help with day care. She always  
 18 made sure that she had those things so when she  
 19 went to, you know, reapply for something, she  
 20 always had them.  
 21 Q. So these were important to her?  
 22 A. Yes, sir.  
 23 Q. All right. I'm going to show you  
 24 what's been marked as Exhibit No. 64, photocopies a  
 25 series of Social Security cards. Can you see that

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1 up there the names on those?  
 2 A. The top one is Debbie's, the middle  
 3 one belongs to her oldest son, the next one belongs  
 4 to her daughter, and the other one belongs to her  
 5 youngest son.  
 6 Q. Okay. How would she keep these  
 7 cards? Where would she keep them?  
 8 A. She would try to keep them in that  
 9 folder that she carried around with her.  
 10 Q. Okay. Can you describe that for us.  
 11 A. Like I said, it was one of those  
 12 accordion type things. It was small. I mean it  
 13 wasn't really big like that, but it was small.  
 14 Something she could carry round, you know, all the  
 15 time.  
 16 Q. And every time that you saw her with  
 17 these cards, they would be in her possession in  
 18 that little folder kind of thing?  
 19 A. Yes, sir.  
 20 Q. That's just where she always had  
 21 them. All right. I wanted to show you what's been  
 22 marked as Exhibit No. 66 and tell us what we're  
 23 looking at here.  
 24 A. This is Debbie's senior picture.  
 25 Q. And did she look a little different

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1 from this when you knew her?  
 2 A. She looked the same.  
 3 Q. You don't have any problem recognizing  
 4 her from this?  
 5 A. No.  
 6 Q. You had become aware at some point in  
 7 these proceedings that there was a knife that had  
 8 been used.  
 9 A. Yes, sir.  
 10 Q. You had an opportunity to look at the  
 11 knife at some point?  
 12 A. Yes, sir.  
 13 Q. I'm going to show you what's been  
 14 marked as Exhibit No. 21 and have you take a look  
 15 at that. You were able to see this in a prior  
 16 proceeding. You were shown that photograph.  
 17 A. Yes, sir.  
 18 Q. And when you last testified, I think  
 19 it was probably about ten years ago.  
 20 A. Yes, sir.  
 21 Q. You were able to recognize that.  
 22 A. Yes, sir, because there was a worn  
 23 mark right up here on the top.  
 24 Q. And that made it an individual item  
 25 something you could identify?

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1 A. Yes, sir.  
 2 Q. Where was this knife kept?  
 3 A. The knives were kept -- there was the  
 4 refrigerator and the stove and there was a small  
 5 drawer between the refrigerator and the stove.  
 6 Q. A little while ago you were telling us  
 7 that you were in therapy at some point.  
 8 A. Yes, sir, I was.  
 9 Q. What was that about?  
 10 MR. SCHIECK: I have an objection to  
 11 that, Your Honor, on relevance.  
 12 THE COURT: Mr. Owens.  
 13 MR. OWENS: This is the matter we  
 14 talked about before court today.  
 15 THE COURT: I'll overruled the  
 16 objection.  
 17 THE WITNESS: I can answer your  
 18 question?  
 19 THE COURT: Yes.  
 20 THE WITNESS: Okay. I had never had  
 21 anything like this happen to me before so after it  
 22 happened, basically I just shut down for a little  
 23 bit and I went to therapy and I had gone to some  
 24 domestic violence things so I could learn more  
 25 about, because I mean at that point I myself kind

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1 of felt guilty because I didn't listen to her when  
 2 she told me, you know, "He's going to get me," you  
 3 know.  
 4 I kind of felt guilty so I took it  
 5 upon myself to go to therapy and learn about the  
 6 domestic violence process and some of the issues  
 7 relating to it.  
 8 MR. OWENS:  
 9 Q. How long were you in therapy?  
 10 A. About a year.  
 11 Q. How did it the sense of what happened  
 12 to Debbie your friend affect you and your ability  
 13 to function?  
 14 A. When we -- at work we sat next to each  
 15 other like right next to each other so at that  
 16 point I just, you know, felt like I really  
 17 couldn't -- I couldn't be in the house anymore. I  
 18 couldn't be at work anymore because everywhere I  
 19 went was a reminder of her, you know, work and my  
 20 apartment and her trailer, everything was a  
 21 reminder of her and I just -- I just broke down.  
 22 Q. Did you have a fear?  
 23 A. I did.  
 24 Q. What was that about?  
 25 A. The fear that, you know, he was going

IN THE SUPREME COURT OF THE STATE OF NEVADA

\*\*\*\*\*

JAMES MONTELL CHAPPELL,

Appellant,

v.

WILLIAM GITTERE, et al.,

Respondents.

No. 77002

District Court Case No.

(Death Penalty Case)

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APPELLANT'S APPENDIX

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Appeal From  
Eighth Judicial District Court, Clark County  
The Honorable Valerie Adair, District Judge

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**CERTIFICATE OF SERVICE**

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 2nd day of May, 2019. Electronic Service of the foregoing Appellant's Appendix shall be made in accordance with the Master Service List as follows:

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District of Nevada

1 in the master bedroom. She came up behind me, she grabbed  
2 me around my waist and she asked me could she get on top  
3 of me.

4 Q. You mean get on top of you sexually?

5 A. Yeah. She know I used to love her on top of  
6 me and she ask to get on top of me and I told her no.

7 Q. What happened next?

8 A. She performed oral sex on me.

9 Q. Had you hit her at all at of this point?

10 A. No, sir.

11 Q. This was consensual oral sex she performed  
12 on you?

13 A. Of course. Yes, sir. I never pressured her  
14 in having sex with me. Never. Never had to.

15 Q. What happened next?

16 A. She was done, got up and went into the  
17 bathroom. I put my clothes back on. She went and got on  
18 the phone. She said I'm going to call the day care and  
19 see what time I have to pick up the children. I said,  
20 okay, I want to see them anyway.

21 Q. Were you right by her when she was talking  
22 to day care?

23 A. No, not at the beginning, sir. No.

24 Q. Where were you?

25 A. I was in the bathroom.

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1 Q. Now, did she put her clothes back on after  
2 the sex?

3 A. Yes, she did.

4 Q. You put your clothes back on?

5 A. Yes, sir.

6 Q. So you can't say exactly what she said to  
7 the day care people?

8 A. No. She wasn't talking that loud so I  
9 couldn't hear what she was saying. I knew she was talking  
10 to the day care though.

11 Q. At that time when she called day care the  
12 first time would you be surprised to hear that he said --  
13 excuse me -- to hear that she was scared?

14 A. Yeah. When I read that I couldn't believe  
15 that because I didn't hear her say none of that. When I  
16 walked in there I heard her say 5:30. That -- did you  
17 have to pick them up at 5:30, and she said okay. I told  
18 her tell them that we're going to be there. And that's  
19 when she told the lady.

20 Q. Now, the lady called back didn't she?

21 A. Yes.

22 Q. Were you there when she talked to the lady  
23 at that time?

24 A. Yes, sir.

25 Q. How was Debra by then?

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1 A. She didn't seem to me scared.

2 Q. Do you think she was scared the first time  
3 she called them?

4 A. When I came in there, she did look like she  
5 was scared the first time.

6 Q. You think she was scared of you?

7 A. I think that she knew she had got caught.

8 Q. When you say, got caught, got caught doing  
9 what?

10 A. She knew I knew she had been messing around.  
11 I know Debbie. I know Debbie better than probably  
12 anybody.

13 Q. Now, when she called the day care center had  
14 you done anything violent towards her that day?

15 A. No, sir.

16 Q. Had you threatened her with violence?

17 A. No, sir.

18 Q. Okay. They called. She talks to them. And  
19 then what happened?

20 A. She said we're on our way. We're coming to  
21 pick up the kids.

22 Q. So what happen next?

23 A. We got ready to leave. We walked out the  
24 door. The bike I road over there, she grabbed the bike  
25 and placed it in the front porch for me. We started

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1 walking towards the car.

2 Q. Was this the Toyota that you've seen in  
3 pictures here in court?

4 A. Yes, sir.

5 Q. Go on.

6 A. She asked me did I want to drive. I told  
7 her, yes. We walked along to the car. I looked on the  
8 side of the house, there was a whole box full of beer cans  
9 and I asked her who was drinking all that beer.

10 Q. Now, did she drink?

11 A. No, she did not.

12 Q. So what did you think when you saw the beer  
13 cans?

14 A. That there had to be some kind of little  
15 parties going on there. There was lots of them. Lots of  
16 them.

17 Q. Go on.

18 A. We got in the car and when I got in the car  
19 I looked around and the car was all trashy, papers  
20 everywhere, beer cans on the floor. I tried to turn the  
21 air-conditioner on but it was broke. The gear shift was  
22 cracked. The ceiling to the car was ripped all off. The  
23 light in the back window was broke, busted. I asked her  
24 who did all that. She said the kids did it. I started up  
25 the car, backed out.

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1 Q. Where were you going?  
 2 A. We were going to pick up the kids.  
 3 Q. Did you start to leave?  
 4 A. Yes, I did. I pull out the driveway, put  
 5 the car in drive, started moving. I asked her, I said  
 6 look for my Michael Jackson, Off The Wall tape. She was  
 7 looking up under the seat, going through all the mess that  
 8 was on the floor and before I went to jail I had lots of  
 9 tapes in the car and I would keep them in the middle of  
 10 the seats.  
 11 Q. Is that a console?  
 12 A. Yes, sir.  
 13 Q. Okay.  
 14 A. I opened it up and there was a little note  
 15 in there.  
 16 Q. When you say a note, do you mean a note or a  
 17 letter?  
 18 A. A letter, sir. I grabbed the letter, opened  
 19 it.  
 20 Q. Did you read part of the letter?  
 21 A. Yes, sir. I opened it up. I even let go of  
 22 the steering wheel, almost crashed into a car that was  
 23 parked. I was going through the letter as quickly as I  
 24 could. When she noticed me reading the letter she tried  
 25 to grab the note. She was fighting over the note -- we

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1 was fighting over the note.  
 2 Q. Could you read some of the words in the  
 3 letter?  
 4 A. Yes, sir.  
 5 Q. What was it saying?  
 6 A. Some guy talking about having sex with her.  
 7 He said he had been with her and she was teasing him.  
 8 Q. How did you react to that?  
 9 A. I was shocked. I was devastated.  
 10 Q. What did you do?  
 11 A. I stopped the car, put it in reverse, backed  
 12 it up and parked it in front of the house.  
 13 Q. Go on.  
 14 A. We got out of the car I went out on her  
 15 side. I stepped over her lap, went out the passenger  
 16 door. I grabbed her out of there, took her back in the  
 17 house.  
 18 Q. What did you do inside the house?  
 19 A. I don't recall everything I did now.  
 20 Q. Did you stab her?  
 21 A. I didn't know until I had cut my finger.  
 22 Q. Do you know how many times you stabbed  
 23 her?  
 24 A. No, I did not.  
 25 Q. Do you know how many times you hit her?

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1 A. No, I do not.  
 2 Q. Do you know where you got the knife?  
 3 A. No, I do not.  
 4 Q. Why were you doing this?  
 5 A. I don't know.  
 6 Q. Did she run away from you?  
 7 A. No.  
 8 Q. What did she do?  
 9 A. She didn't make no noise. She didn't try to  
 10 run. She didn't do nothing.  
 11 Q. Did she fall to the ground right there?  
 12 A. She went in the door -- yes. She just fell  
 13 on the floor and stayed there.  
 14 Q. James, when you got out of the car, did you  
 15 have any thought of killing her or hurting her?  
 16 A. Absolutely not, sir.  
 17 Q. What did you think you were going to do when  
 18 you took her back inside the house?  
 19 A. At the time I don't know. My mind just  
 20 clicked and it was stuck. I couldn't think beyond that  
 21 letter. I was stuck at this letter.  
 22 Q. What were you thinking about? What was  
 23 going on in your mind?  
 24 A. Her doing what she done to me to somebody  
 25 else.

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1 Q. You mean having sex with somebody else?  
 2 A. Yes, sir.  
 3 Q. That's what was going on in your head?  
 4 A. Exactly.  
 5 Q. Were you upset?  
 6 A. Very.  
 7 Q. Did you realize you'd killed her?  
 8 A. No, I did not. I couldn't look at her. I  
 9 just hurried up and took off out the door and left.  
 10 Q. From the time you got out of the car the  
 11 time that this stuff happened inside, how much time  
 12 passed, if you know?  
 13 A. I don't know. It happened like that, sir.  
 14 It happened real quick.  
 15 Q. James, I'm going to show you a photograph,  
 16 State's Exhibit 26, that shows part of Debra lying on the  
 17 floor and right beside her head is a letter with blood on  
 18 the letter. Do you recognize that letter?  
 19 MR. SCHIECK: For the record, we're going  
 20 to display 26, at this time.  
 21 THE COURT: Thank you.  
 22 THE READER: Yes, sir.  
 23 BY MR. SCHIECK:  
 24 Q. Why do you recognize that letter?  
 25 A. It was the letter I found in the car.

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1 Q. Was that the letter from what you think is  
2 another man?

3 A. Of course. Yes, it is.

4 Q. Did you two fight over the letter in the  
5 car?

6 A. Yes. She tried her best to get it from me.

7 Q. Was the letter torn up into many different  
8 pieces?

9 A. Yes, sir.

10 Q. Who tore it up into many different pieces?

11 A. She tried to rip it, I know that.

12 Q. Did you rip some of it too?

13 A. I was trying to hold onto it. She was  
14 trying to get it from me and it ripped.

15 Q. I'm going to show you Exhibit 31, a  
16 photograph of a piece of a letter. Is that the piece of  
17 that letter, do you think?

18 MR. SCHIECK: For the record I'm showing  
19 31.

20 THE COURT: Yes, sir.

21 THE READER: Yes, sir.

22 BY MR. SCHIECK:

23 Q. I'm going to show you State's Exhibit 32,  
24 another piece of the letter. Is that the letter as far as  
25 you know?

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1 MR. SCHIECK: For the record I'm showing  
2 32.

3 THE COURT: Okay.

4 THE READER: Yes, sir.

5 BY MR. SCHIECK:

6 Q. When Officer Perkins testified, he testified  
7 one letter was found right beside her, that's this letter  
8 we're talking about?

9 A. Exactly, sir.

10 Q. He also testified that there were letters  
11 found strewn about on the floor in the master bedroom.  
12 How did they get there?

13 A. When me and Debbie was in the room when she  
14 came in there and she had grabbed me by my waist, we was  
15 in the room. Some of the letters that I wrote her was  
16 beside the bed on the table. Some of the letters was up  
17 on the entertainment center. The ones that was on the  
18 side of the table, I took them, and I threw them at her  
19 and I asked her, I said, these don't mean nothing to you,  
20 none of this meant nothing to you, did it. That's exactly  
21 what I said to her.

22 MR. SCHIECK: I'm going to show you  
23 State's Exhibit 8, which is a photograph of that room and  
24 there are letters on the floor. Are these the letters  
25 that you threw at her.

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1 MR. SCHIECK: For the record, I'm showing  
2 Exhibit A.

3 THE READER: Exactly, sir, yes.

4 BY MR. SCHIECK:

5 Q. I'm going to show you State's Exhibit 10,  
6 which includes -- you can see some of the writing on the  
7 letters on the floor. Is that your writing on that  
8 letter?

9 A. Yes, sir.

10 MR. SCHIECK: For the record, I'm showing  
11 Exhibit 10, your Honor.

12 THE COURT: Thank you.

13 BY MR. SCHIECK:

14 Q. James, the State has tried to say in this  
15 case that you ransacked the master bedroom. Did you  
16 ransack that master bedroom?

17 A. I didn't touch nothing in that room, sir,  
18 nothing.

19 Q. You didn't try to steal anything from that  
20 room?

21 A. Of course not, sir. No. Absolutely not.

22 Q. After you killed Debra, did you steal  
23 anything from inside the trailer?

24 A. I looked a Debbie on the floor and I ran out  
25 the door, sir. I did not touch nothing in that house,

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1 nothing.

2 Q. Where did you get the social security cards  
3 from?

4 A. They were in the car up under the driver's  
5 seat, sir.

6 Q. Were they there in this black folder that  
7 one of the witnesses talked about?

8 A. No, they were not.

9 Q. Where were they?

10 A. They were in the plastic thing they were in,  
11 and they were on the floor. There was so much stuff in  
12 the car on the floor. There was trash everywhere, sir.

13 Q. Why did you get in the car and leave?

14 A. When I seen her like that, sir, I panicked.  
15 I just had to get out of there as quick as possible.

16 Q. You obviously didn't think about calling the  
17 police or trying to get attention for her, no?

18 A. No, sir.

19 Q. How did you feel about what you did?

20 A. Extremely bad, lower than dirt. If I could  
21 give up my life for hers, I would, in a heartbeat.

22 Q. Where did you go, James, in the car?

23 A. I went to the Vera Johnson Apartments.

24 Q. That's how far away is that from the  
25 trailer?

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1 A. About fifteen minutes.  
 2 Q. What did you do when you got down there?  
 3 A. I parked the car and sat there with my head  
 4 in my hands on the steering wheel. There was blood on my  
 5 hands, and my finger was cut.  
 6 Q. Did you get high?  
 7 A. Not for awhile, sir.  
 8 Q. You eventually got high, though?  
 9 A. Later on, yes, I did.  
 10 Q. Did you get high on cocaine?  
 11 A. Yes, sir.  
 12 Q. Why did you get high on cocaine?  
 13 A. Because I felt bad. And when you are on  
 14 cocaine it makes your mind go somewhere else, sir.  
 15 Q. When you killed her were you high on  
 16 cocaine?  
 17 A. Absolutely not. No, I was not. No.  
 18 Q. There's been some testimony that while you  
 19 were at the Vera Johnson project somebody saw you dancing  
 20 around. Is that possible?  
 21 A. No. I don't recall doing that at all, sir.  
 22 No.  
 23 Q. But you did get high?  
 24 A. Yes, I did.  
 25 Q. There's been testimony that the next day you

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1 went shoplifted (sic) at Lucky's; is that right?  
 2 A. Yes, sir.  
 3 Q. Why were you stealing there the next day?  
 4 A. Actually I went over there to get a  
 5 newspaper.  
 6 Q. Let me go back for a second. That night  
 7 after this had happened, did you ever go back to the  
 8 trailer where Debra was?  
 9 A. Yes, I did go back.  
 10 Q. What time did you go back, if you know?  
 11 A. It was between 11:00 -- it was after I had  
 12 watched the news, sir, over at Bridgett's house over at  
 13 the Vera Johnson.  
 14 Q. Did you see they were looking for you?  
 15 A. They showed my picture and gave a  
 16 description of the car and everything.  
 17 Q. So how did you get back over there to the  
 18 trailer?  
 19 A. I walked.  
 20 Q. Did you go inside the trailer again?  
 21 A. No. I just stood on the other side of the  
 22 wall and looked at the house.  
 23 Q. Were the police still there?  
 24 A. There was detectives there.  
 25 Q. You knew that taking her car was wrong,

90

1 didn't you?  
 2 A. Yes.  
 3 Q. You know that you're responsible for that?  
 4 A. Yes, sir.  
 5 Q. You know you're responsible for killing  
 6 her?  
 7 A. Yes, sir.  
 8 MR. SCHIECK: We'll pass the witness, your  
 9 Honor.  
 10 THE COURT: Ladies and gentlemen, before  
 11 we keep going, we're about half way through the  
 12 transcript. I think I know when we're reading the  
 13 transcripts it's a little hard sometimes.  
 14 We'll take a recess now for 10, 15  
 15 minutes, and we'll continue with the rest of the  
 16 transcript.  
 17 JURY ADMONITION  
 18 During the recess, ladies and gentlemen,  
 19 you are admonished not to converse among yourselves or  
 20 with anyone else, including, without limitation, the  
 21 lawyers, parties and witnesses, on any subject connected  
 22 with this trial, or any other case referred to during it,  
 23 or read, watch, or listen to any report of or commentary  
 24 on the trial, or any person connected with this trial, or  
 25 any such other case by any medium of information

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1 including, without limitation, newspapers, television,  
 2 internet or radio.  
 3 You are further admonished not to form or  
 4 express any opinion on any subject connected with this  
 5 trial until the case is finally submitted to you.  
 6 Thank you, very much.  
 7 Anything the outside the presence?  
 8 MR. OWENS: No.  
 9 MR. SCHIECK: No, your Honor.  
 10 THE COURT: We'll be in recess. Thank  
 11 you.  
 12 (Brief recess taken.)  
 13 THE COURT: Back on the record in  
 14 C-131341, State of Nevada versus Chappell.  
 15 The record will reflect the presence of  
 16 Mr. Chappell with his attorneys, the State's attorneys, in  
 17 the presence of our jury.  
 18 We'll continue reading the transcript of  
 19 Mr. Chappell's trial testimony.  
 20 Mr. Stanton, I'll remind you you are still  
 21 under oath to accurately read the transcript.  
 22 THE READER: Yes, sir, your Honor.  
 23 MR. OWENS: Cross-examination is  
 24 beginning.  
 25 Mr. Owens.

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1 BY MR. OWENS:  
 2 Q. How old are you, Mr. Chappell?  
 3 A. 26, now, sir.  
 4 Q. What is your date of birth?  
 5 A. 12/27/69.  
 6 Q. How tall are you?  
 7 A. About six foot, sir.  
 8 Q. On August 31, '95, about how much did you  
 9 weigh?  
 10 A. About a 180 pounds, sir.  
 11 Q. Do you know how tall Debbie Panos was?  
 12 A. Not exactly. I would say 5'4", 5'5".  
 13 Q. Do you know how much she weighed on the date  
 14 she was killed?  
 15 A. I read in the papers. They say she weighed  
 16 130 pounds, sir.  
 17 Q. So you are substantially larger than her,  
 18 weren't you?  
 19 A. Yes, sir.  
 20 Q. You told us you were in jail from February  
 21 25th until May 10, '95?  
 22 A. February 28th until May 10, 1995, sir.  
 23 Q. You said you were arrested on June the 1st,  
 24 and released on June the 7th?  
 25 A. Yes, sir.

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1 Q. Rearrested on June 26th?  
 2 A. Yes, sir.  
 3 Q. And remained in custody until the day you  
 4 were released and you killed Debra Panos, correct?  
 5 A. Yes, sir.  
 6 Q. Why were you arrested on Chantelle's  
 7 birthday?  
 8 A. I was trying to shoplift Chantelle a couple  
 9 of outfits for her birthday.  
 10 THE COURT: Let me stop you real quick,  
 11 Mr. Owens. Ladies and gentlemen, I forgot to mention to  
 12 you, there are portions of the transcript where there's  
 13 things underlined. Court reporters, attorneys, the court,  
 14 a lot of times there's reasons that people might go  
 15 through and underlined things.  
 16 It's of no relevance to anything for you  
 17 all to pay any more attention to something that's  
 18 underlined or not.  
 19 Mr. Owens.  
 20 MR. OWENS: Thank you, your Honor.  
 21 BY MR. OWENS:  
 22 Q. Do you like being in custody?  
 23 A. Absolutely not, sir.  
 24 Q. It's not much of a life to be incarcerated,  
 25 is it?

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1 A. No, sir.  
 2 Q. You've had a substantial period of time to  
 3 think about today, haven't you?  
 4 A. Yes, sir.  
 5 Q. You've known for quite awhile, haven't you,  
 6 that at some point you would take the witness stand and  
 7 give the jury your version of what happened?  
 8 A. Yes, sir.  
 9 Q. Once you had made that decision, whenever it  
 10 was, you've given a lot of attention to what you would  
 11 tell the jury?  
 12 A. I didn't make up anything, sir.  
 13 Q. I didn't say you made up anything,  
 14 Mr. Chappell. Have you thought a lot about what you would  
 15 tell the jury?  
 16 A. No.  
 17 Q. Have you thought a lot about how you would  
 18 act on the witness stand?  
 19 A. No, sir.  
 20 Q. As you sit here this afternoon, are you  
 21 concerned about punishment?  
 22 A. No, sir. Whatever I get, I'll accept it.  
 23 Q. It doesn't matter to you whether you are  
 24 convicted of voluntary manslaughter, or murder of the  
 25 second degree, or murder of the first degree?

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1 A. Does it matter? Is that what you said?  
 2 Q. I'm asking you if it matters which you are  
 3 convicted of?  
 4 A. No, it doesn't matter, sir. Whatever I'm  
 5 convicted of, I'll accept it.  
 6 Q. You are not concerned if it's murder of the  
 7 first degree that the punishment be minimized to some  
 8 extent?  
 9 A. Could you please repeat that, sir.  
 10 Q. You said it really doesn't matter to you  
 11 what you're convicted of. If it's first degree murder,  
 12 you will except that. Is that what you said, basically?  
 13 A. Yes. Whatever I'm convicted of, I'll accept  
 14 it, sir.  
 15 Q. My question therefore, was so there isn't  
 16 some effort on the witness stand to present yourself in  
 17 such a way that you will minimize your punishment?  
 18 A. No, sir.  
 19 Q. You don't care if you get a death  
 20 sentence?  
 21 A. Yes, I do care if I get the death  
 22 sentence.  
 23 Q. So you don't want to get a death sentence?  
 24 A. I have three children, sir. I want to see  
 25 them and be able to do something with them sometime in my

96

1 life.

2 Q. So we have established that it is a  
3 punishment that you want to avoid; is that true?

4 A. Yes, sir. I'm pretty sure any man or woman  
5 would want to avoid the death penalty.

6 Q. Are you telling us it doesn't matter that  
7 it's life with the possibility of parole, or life without  
8 parole, you don't care?

9 A. I do care, but --

10 Q. What do you mean, you do care?

11 A. Of course, I'm going to care, you know.

12 Q. The bottom line is you don't want to get  
13 life without parole either, do you, Mr. Chappell?

14 A. If I get it, I will accept it, sir.

15 Q. Is that what you want?

16 A. No. I have three children, and I want to see  
17 my three children and be able to do something with them in  
18 their life. I never had no father, sir.

19 Q. So you certainly prefer life with a parole  
20 sentence?

21 A. I would be honored to have life with.

22 Q. Honored, is that your answer?

23 A. I would be honored to be able to get out at  
24 sometime in my life and be able to reconcile with my  
25 children.

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1 Q. So you do have an interest in how this case  
2 turns out?

3 A. Of course. Yes.

4 Q. You were asked about jobs that you held. I  
5 don't want to go back to Lansing, Michigan or Tucson,  
6 Arizona, I want to limit the question about employment,  
7 gainful employment, to Las Vegas. You said you had a job  
8 at Ethel M. Chocolate?

9 A. Yes, sir.

10 Q. You worked there a month-and-a-half?

11 A. Yes, sir.

12 Q. Then you said because Debra worked that you  
13 needed to watch the children?

14 A. No, I didn't say it that way.

15 Q. How did you say it?

16 A. We couldn't afford day care at that time,  
17 sir. We didn't know nobody in Las Vegas, yet, so we  
18 couldn't find no babysitter and me staying home with the  
19 children, watching the kids wasn't nothing new, so I went  
20 ahead and did it again and I lost my job.

21 Q. After a month-and-a-half?

22 A. Yes. I called them three times, sir, and  
23 lost my job.

24 Q. How quickly after you had moved to Las  
25 Vegas, which as I remember you said it was around October

98

1 the 1st, 1994, was it that you got the job at Ethel M?

2 A. When was it when I got the job at Ethel M?

3 Q. How quickly after you arrived in Las  
4 Vegas?

5 A. Very quick. Because Debbie was going to  
6 work there too. We both went there and took the test.  
7 Probably about two weeks after we arrived here, sir, to  
8 live here.

9 Q. So perhaps the middle of October?

10 A. Yes, sir.

11 Q. Of 1994?

12 A. Yes, sir.

13 Q. About 2 years ago?

14 A. Yes, sir.

15 Q. And as you just explained, you worked for  
16 approximately a month-and-a-half?

17 A. Yes, sir.

18 Q. Now, where is it that you next had gainful  
19 employment in Las Vegas?

20 A. Me and Debbie went out together and I turned  
21 in applications, but I didn't get no response. And I went  
22 to a temporary service to get a job at a Price Rite at  
23 Bonanza -- and I forgot the other name of the street --  
24 but Price Rite on Bonanza. And I was supposed to take my  
25 drug test, you know, and I didn't make it there.

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1 Q. Is the answer you didn't ever have gainful  
2 employment after you lost your job at Ethel M?

3 A. No, sir.

4 Q. So after perhaps the middle of October --  
5 perhaps after what, the first of November 1994, you didn't  
6 ever contribute financially to the support of Debra Panos  
7 and your children?

8 A. I got some things for my children. I also  
9 got some things for Debbie, but I didn't -- but I did  
10 not --

11 Q. How sir?

12 A. How?

13 Q. How.

14 A. As you know I shoplifted a couple of times,  
15 sir.

16 Q. Were you asked earlier if your drug problem  
17 had hindered your ability to be a good father, in this  
18 case, a good boyfriend to Debra. Are you still saying  
19 while you lived in Las Vegas that your drug problem didn't  
20 affect your ability to provide for your family?

21 A. No. I was doing drugs, sir, and I did bring  
22 things home for my children and Debbie.

23 Q. What things?

24 A. I brought Debra an outfit home. Valentine's  
25 Day I got her a card, stuffed animal. I got my kids some

100

1 video games, hand-held video games. And Debbie and I had  
2 accidentally -- when Debbie and I had accidentally broke  
3 her nose with the cup I went and stole her some bandages  
4 and Band-Aids and stuff and Neosporin for her nose. Got  
5 cough medicine for the children.

6 Q. Did you ever help pay for the rent?

7 A. Around that time, no, sir.

8 Q. Around what time?

9 A. After I lost my job at Ethel M.

10 Q. Any time after that, did you pay for the  
11 rent?

12 A. No.

13 Q. Did you regularly put food on the table to  
14 feed your children?

15 A. I brought food home a couple of times,  
16 sir.

17 Q. You consider a couple of times providing for  
18 your kids?

19 A. Not hundred percent, but I was doing  
20 something. I just didn't --

21 Q. What drugs were you using in Las Vegas?

22 A. Marijuana and cocaine, sir.

23 Q. How regularly did you use marijuana and  
24 cocaine?

25 A. When we first moved here I didn't mess

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1 around for like about two months. Then after that, a  
2 couple of time a week. Then around -- between May 10th  
3 and around June 26th, I did it a lot, probably every day,  
4 sir.

5 Q. Are we talking about marijuana or cocaine or  
6 both?

7 A. Both.

8 Q. How much marijuana, if as you said from  
9 perhaps May the 10th until June 26th, you were using  
10 daily, how much on a daily basis?

11 A. Probably about two joints a day.

12 Q. How much cocaine?

13 A. I'm not exactly sure. There was different  
14 amounts on different days, sir.

15 Q. How would you ingest the cocaine?

16 A. Smoke it. Free base it, sir.

17 Q. Where would you get it?

18 A. From people who lived over at Vera Johnson  
19 Apartments, sir.

20 Q. Is Vera Johnson projects at 507 North  
21 Lamb?

22 A. Yes, sir.

23 Q. You spent a lot of time over there?

24 A. I spent some time over there.

25 Q. What does that mean, I spent some time?

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1 A. At the beginning, no, I wasn't staying over  
2 there a lot. Towards the end, around -- between like June  
3 1st and June 26th, I was over there a lot.

4 Q. Every day?

5 A. Yes.

6 Q. For hours every day?

7 A. Yes.

8 Q. Stayed over night at crack houses?

9 A. No. I remember LaDonna Jackson saying she'd  
10 seen me sleeping over there, I don't recall.

11 Q. Bridgett's place? Who is Bridgett?

12 A. Bridgett, a girl that lives over there.

13 Some lady that lives over there.

14 Q. Did you stay over night at Bridgett's  
15 place?

16 A. No. I'd be there late at night, but I never  
17 went there and slept there all night and stayed there all  
18 night and got up the next day and went home or nothing  
19 like that. It wasn't like that.

20 Q. How late is late at night?

21 A. I'd be there sometimes 3:00 in the morning.  
22 4:00 in the morning. Something like that.

23 Q. Did that happen regularly during the month  
24 of June?

25 A. No. I didn't hang out at Bridgett's house

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1 all the time. No.

2 Q. Well, were you concerned that you would stay  
3 out very late about Debra's welfare, those of your  
4 children?

5 A. I would talk to her. I would call her and  
6 talk to her, or I would go home in the middle of the day  
7 and let her know what I was doing or where I was.

8 Q. How were you getting the crack that you were  
9 smoking?

10 A. Sometimes it was people over there that had  
11 it and would share. Sometime I would shoplift to get it.  
12 Both ways. Sometimes people had it. They shared.  
13 Sometimes I would shoplift and I'd get some.

14 Q. The defense asked you about this incident  
15 which occurred in Tucson on February 23rd, 1994 when the  
16 police came.

17 A. Yes.

18 Q. You may remember that the lady officer from  
19 Tucson, Jeri Earnst, testified.

20 A. Yes, I remember her testifying.

21 Q. Now as I remember you said on direct  
22 examination that you had taken a dresser that Debra had  
23 purchased, and you took it back to the store and got  
24 refund money?

25 A. Yes, sir.

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1 Q. And it was for that reason that the two of  
2 you were arguing?  
3 A. That's how the argument started out then  
4 it --  
5 Q. Whose dresser was it?  
6 A. I know she bought it.  
7 Q. But didn't she buy it for Chantelle, your  
8 little daughter?  
9 A. I'm not sure she bought it for Chantelle. I  
10 don't think that's true. I don't think -- I don't think  
11 it was for Chantelle. I don't think so. I don't recall  
12 her buying no dresser for Chantelle. We had plenty of  
13 dressers in the house. We had lots of them.  
14 Q. But she bought it for some reason?  
15 A. Right. She bought it for some reason.  
16 Q. With her money?  
17 A. Right.  
18 Q. Did you get her permission to take it back  
19 to the store and get a refund?  
20 A. No, sir. No, I did not.  
21 Q. What did you do with the money? Did you get  
22 Debra an outfit or bandages?  
23 A. I don't recall exactly what I did do with  
24 the money, sir. I know that I had to make up for it,  
25 because there would be times that --

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1 Q. We've had testimony from Officer Earnst that  
2 this argument, according to Debra, concluded with you  
3 engaging in acts of domestic violence. What did you do?  
4 A. I don't recall everything I did.  
5 Q. Did you knock her to the floor?  
6 A. I don't remember doing that.  
7 Q. Did you kick her?  
8 A. I did not kick her, sir.  
9 Q. So if that's what she related tearfully and  
10 emotionally to the officer, that would be inaccurate?  
11 A. I did not kick her, sir. I do not recall  
12 kicking her, so I know I did not kick her. If I kicked  
13 her, I would know. I did not kick her that day, sir. I  
14 did not kick her at all.  
15 Q. Well, if you kicked her when she was down,  
16 would you admit it?  
17 A. Of course. I'm not going to lie about  
18 nothing. I'm not going to lie about nothing.  
19 Q. You wouldn't lie about anything here on the  
20 witness stand, would you?  
21 A. No, sir.  
22 Q. You were asked on direct examination about  
23 the situation where Debra's nose was broken January 9,  
24 1995 here in Las Vegas?  
25 A. Yes.

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1 Q. You said you threw a plastic thermal cup?  
2 A. Yes, sir.  
3 Q. You didn't hold it and strike her with it?  
4 A. No.  
5 Q. You just threw it?  
6 A. I threw it.  
7 Q. And you said it hit her on the nose?  
8 A. Yes, sir.  
9 Q. You didn't strike her in any other way?  
10 A. No, I did not.  
11 Q. You didn't hit her in the forehead?  
12 A. No, sir. The cup came across this way, so  
13 it could have hit her forehead and landed right here.  
14 Q. It could have been a cup, thermal container  
15 that caused the laceration on the forehead and also on the  
16 side of her nose?  
17 A. The cup caused the damage to her face, sir.  
18 Yes, it did.  
19 Q. Well, during your direct you talked about  
20 the injury to the nose. The nose was broken, correct?  
21 A. Yes, sir. That's what the doctor said.  
22 Yes.  
23 Q. And the medical report in evidence indicates  
24 stitches were taken on the bridge of her nose?  
25 A. Yes, sir.

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1 Q. There was also a running stitch taken in the  
2 right eyebrow area?  
3 A. Yes. I remember seeing that, sir.  
4 Q. But you're saying it was all from throwing  
5 the cup. You didn't strike her there?  
6 A. She got hit with the cup, and that was it,  
7 sir.  
8 THE COURT: Ladies and gentlemen, there's  
9 another recess and admonishment.  
10 We're up to page 79, line 4.  
11 BY MR. OWENS:  
12 Q. Mr. Chappell, was it your testimony during  
13 direct examination that after you hurt your wife's nose  
14 you called 911?  
15 A. Yes, sir.  
16 Q. Do you recall the testimony that was offered  
17 by Daniel Diersdorf of the police department that the call  
18 came from Debra?  
19 A. No. I heard him say that, but he was false.  
20 He was wrong.  
21 Q. She was taken to the hospital, wasn't she?  
22 A. Yes, she was.  
23 Q. Did you go along?  
24 A. No, I did not. I walked with her to put her  
25 inside the back. The three kids were alone inside, and I

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1 went back inside. And they said she was going to go to  
 2 UMC.  
 3 Q. The testimony by Giersdorf suggested when  
 4 they got there and made contact with you, you were sitting  
 5 calmly and watching television?  
 6 A. That was false also, sir. The TV was in the  
 7 bedroom at that time. The three children were sitting in  
 8 the front of the TV. I was outside in the living room  
 9 sitting in the chair. The TV wasn't even in the room at  
 10 that time, sir. They came in and they slammed me all  
 11 around like I just testified, told my attorney about.  
 12 Q. They said they came up and announced their  
 13 presence. They could see inside. And you didn't even get  
 14 up?  
 15 A. That's not true. I let them in. He did  
 16 just come --  
 17 Q. Ultimately?  
 18 A. He didn't just come in and open the door. I  
 19 got up and opened the door for him, sir.  
 20 Q. On June the 1st, 1995, we've had testimony  
 21 that there was another argument between you and Debra  
 22 Panos?  
 23 A. Yes, sir.  
 24 Q. You indicated that you hadn't seen her for  
 25 quite awhile?

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1 A. Exactly.  
 2 Q. How did it happen that you hadn't seen  
 3 her?  
 4 A. I don't remember why, but I know she was  
 5 gone.  
 6 Q. Had she been gone for a number of days?  
 7 A. She was gone all day the day before that  
 8 day, sir.  
 9 Q. Did you become concerned about where she was  
 10 and what she was doing, and who she was doing it with?  
 11 A. Yes, sir.  
 12 Q. So when she came home you started to ask a  
 13 lot of questions; is that correct?  
 14 A. I asked her a number of questions, yes.  
 15 Q. What types of questions?  
 16 A. I don't remember. I remember asking her  
 17 where she had been.  
 18 Q. Does she tell you where she's been?  
 19 A. He gave me many excuses, different excuses.  
 20 They all didn't add up together.  
 21 Q. They were not excuses you accepted; is that  
 22 correct?  
 23 A. No.  
 24 Q. So you got rough with her; is that true?  
 25 A. Not immediately, sir.

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1 Q. Well, if not immediately, at a certain point  
 2 did you take her into the bedroom?  
 3 A. I didn't take her in there. We both walked  
 4 in the bedroom.  
 5 Q. After you walked into the bedroom, did you  
 6 become physical with her?  
 7 A. Yes. I put her on the bed.  
 8 Q. Does that mean, yes, I put her on the bed?  
 9 A. That's what I did.  
 10 Q. Did you grab her?  
 11 A. I don't remember exactly.  
 12 Q. I'm trying to figure out how she got from a  
 13 standing position to on the bed?  
 14 A. I don't remember, sir.  
 15 Q. So after you put her on the bed, did you get  
 16 up and straddle her and pin her arms down with your  
 17 knees?  
 18 A. I got on top of her, yes, sir.  
 19 Q. Did you pin her arms down with your knees?  
 20 A. I'm not sure about pin her arms down. I was  
 21 on top of her, sir. I know that.  
 22 Q. So while you were on top of her, according  
 23 to your testimony on direct examination, you said I showed  
 24 her a knife?  
 25 A. Yes, I did.

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1 Q. Now, Mr. Chappell what does that mean, I  
 2 showed her a knife?  
 3 A. That means I held it up like this and I  
 4 asked her where she had been.  
 5 Q. Describe the knife you held up like that?  
 6 A. I don't remember, sir.  
 7 Q. Where did you get the knife?  
 8 A. The knife was on the dresser.  
 9 Q. On the dresser in the bedroom?  
 10 A. Yes, sir.  
 11 Q. Whose knife was it?  
 12 A. It belonged to the household.  
 13 Q. It was Debra's knife.  
 14 A. If you want to say that, yes.  
 15 Q. I'm asking you. Whose knife was it?  
 16 A. It belonged to both of us, sir.  
 17 Q. Was it a kitchen knife?  
 18 A. Yes, sir.  
 19 Q. Steak knife?  
 20 A. I'm not sure if it was a steak knife, sir.  
 21 Q. You've seen the knife in court, 68 A-1, that  
 22 you used to kill her. Did it look like that knife?  
 23 A. No, it did not.  
 24 Q. Was it the same type of knife?  
 25 A. No, it was not.

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1 Q. So when you're on top of her, you say you  
2 showed her this knife?

3 A. Yes.

4 Q. What did you do, reach over and take it off  
5 the table?

6 A. Yeah.

7 Q. What was your purpose in showing her the  
8 knife?

9 A. I was trying to get information out of her.  
10 That's it.

11 Q. You were trying to use the knife to coerce  
12 information out of her, is that true, Mr. Chappell?

13 A. Yes. I guess so, sir.

14 Q. You were trying to find out if she had a  
15 boyfriend?

16 A. I didn't ask her that.

17 Q. What type of information were you trying to  
18 get out?

19 A. I don't remember what questions I asked her.  
20 I know I asked her where she had been.

21 Q. You were jealous?

22 A. No. Not at that point, no. I was just  
23 concerned and she had me worried. And when we argued  
24 about it she said a couple of things that I got upset  
25 about.

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1 Q. You weren't concerned about the baseball  
2 scores were you, or the weather forecast. What type of  
3 information were you trying to get her to divulge by  
4 showing her a knife?

5 A. I just wanted to know where she had been.  
6 That's it.

7 Q. Did you feel you were entitled to know where  
8 she had been?

9 A. She asked me every time when I was gone  
10 where I had been.

11 Q. Well, obviously, if you had to put her down  
12 on the bed and get on top of her and show her a knife, she  
13 didn't want to tell you what you wanted to know. Is that  
14 safe assumption?

15 A. That could be.

16 Q. Do you feel like you are entitled to get  
17 answers from her?

18 A. I answered her when she asked me, so I  
19 expected the same thing.

20 Q. You weren't married, were you?

21 A. No. We didn't make it, sir.

22 Q. She hadn't made any marital commit to you,  
23 had she?

24 A. She told me, you get me a ring, I'll marry  
25 you. That's what she told me.

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1 Q. Did you ever get her a ring, Mr. Chappell?

2 A. No, I did not, sir.

3 Q. You say you showed her the knife. Did you  
4 threaten her with the knife?

5 A. No. I just was asking questions and just  
6 showed her the knife. I didn't threaten her. I didn't do  
7 nothing with the knife. No, sir.

8 Q. Officer Allen Williams testified about this  
9 incident and said it was related to him by Debra that she  
10 had been threatened?

11 A. No.

12 Q. With the knife.

13 A. He was false also, sir.

14 Q. Dina Freeman the employee with the Tucson  
15 Police Department is a liar. Is that what you're telling  
16 us?

17 A. What she said in her testimony in this  
18 courtroom was false.

19 Q. Daniel Diersdorf from the Metropolitan  
20 Police Department is a liar?

21 A. I don't remember everything he said. I  
22 remember exactly everything she said.

23 Q. Well, you said he lied about how you were  
24 acting when they came to the mobile home on January the  
25 9th. He's a liar?

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1 A. Are you talking about the cup incident.

2 Q. I'm talking about the day that Debra's nose  
3 was broken by you.

4 A. Yeah. He said I was sitting there watching  
5 TV. That's not true. The TV was not in the living  
6 room.

7 Q. So Diersdorf also is a liar?

8 A. I can't call him no liar. But when he said  
9 I was sitting there watching TV, that was false.

10 Q. So you were standing watching TV?

11 A. No. When they opened the door, I sat down.  
12 He came inside -- two of them came inside and they grabbed  
13 me. My son James Panos seen the entire incident and was  
14 crying and screaming, and they were telling him to go sit  
15 down. Everything would be okay. They slammed me all over  
16 the place and took me to jail in my boxers, sir, and my  
17 socks. That's it. I didn't even get a chance to talk.

18 They came in. They roughed me up and move me  
19 quickly to the vehicle and slapped me on the hood and put  
20 me in the car.

21 Q. You thought that was inappropriate police  
22 conduct regarding someone battering his girlfriend?

23 A. In that situation, yes. They were out of  
24 control. Yes, they were.

25 Q. You hadn't been out of control?

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1 A. They were out of control that day.  
 2 Q. And furthermore, is your allegation that on  
 3 June 1st, 1995 Officer Williams got information which was  
 4 false. You did not threaten Debra Panos with a knife?  
 5 A. No. I didn't say no threats to her. She  
 6 might have considered my actions as threatening, but I  
 7 didn't say no threats towards her. No, I did not.  
 8 Q. Why in the world would she think that, just  
 9 because you put her down on the bed and got on top of her  
 10 and showed her a knife?  
 11 A. I'm pretty sure any woman would be scared in  
 12 that position, sir.  
 13 Q. You wanted her to be scared, didn't you?  
 14 A. I just wanted to get information from her.  
 15 I admit I seen that it wasn't working so I got rid of the  
 16 knife, sir. And I let her up.  
 17 Q. After her roommate knocked on the bedroom  
 18 door; isn't that true?  
 19 A. No, no. No, because I had -- I remember  
 20 putting the knife on the dresser. I was not even on the  
 21 bed when she knocked on the door. No, that's not true.  
 22 Q. Didn't Claire interrupt what was  
 23 happening?  
 24 A. No. Claire did not open the door and come  
 25 inside or nothing. That did not happen, sir.

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1 Q. While you were asked on direct examination  
 2 if you had said some degrading things to Debbie Panos in  
 3 letters you sent from jail, do you remember that  
 4 question?  
 5 A. Yes, sir.  
 6 Q. Do you remember stating that in the last two  
 7 letters you said some degrading things?  
 8 A. Yes.  
 9 Q. When were the last two letters written?  
 10 A. I stayed in the city nine days, so it was  
 11 before that. Between August 5th and August 15th.  
 12 Q. So we're talking about letters written  
 13 within a few weeks before you kill her; is that correct?  
 14 A. That was the last letters I written, sir. I  
 15 am not sure of the exact dates, but they were the last  
 16 ones I written.  
 17 Q. And you told your counsel that you wrote the  
 18 letters because you were feeling lonely, and you were very  
 19 depressed, and you were hurt, and you were devastated.  
 20 A. Right. Exactly.  
 21 Q. Why, Mr. Chappell, why did you have those  
 22 feelings?  
 23 A. Because the things she was telling me on the  
 24 phone.  
 25 Q. You already suspected her of being

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1 unfaithful, didn't you?  
 2 A. I asked her and she told me no. So I didn't  
 3 pressure her about that.  
 4 Q. Well, you had some pretty strong suspicions.  
 5 Didn't you call her a slut?  
 6 A. I did write that, yes, sir.  
 7 Q. Didn't you call her a bitch?  
 8 A. I did write that, yes, sir.  
 9 Q. Did you call her a whore?  
 10 A. I did write that, yes, sir.  
 11 Q. You called her stupid?  
 12 A. I don't remember writing that. If I wrote  
 13 it -- if I wrote it --  
 14 Q. You even made a religious judgment. You  
 15 said she was going to hell; is that correct?  
 16 A. I don't recall writing that, sir.  
 17 Q. You don't recall writing that?  
 18 A. No.  
 19 Q. Did you ask her at any time in your  
 20 correspondence if she had AIDS yet from sleeping around  
 21 with other men?  
 22 A. All through our relationship, you know, we  
 23 would talk about that situation. Talking about people  
 24 being unfaithful and we would just -- we just would  
 25 conversate (sic) about what was going on around the world

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1 and with other people and how everybody around in our  
 2 community and stuff was getting that disease. I just  
 3 wanted to put AIDS in her mind, and let her know that  
 4 sleeping around wasn't good, if she was doing it, sir.  
 5 Q. Did you ask her if she had AIDS yet?  
 6 A. I remember writing something like that,  
 7 yes.  
 8 Q. Now, why would you ask that type of  
 9 question, and why would you call this woman that you're  
 10 representing to us here today in this courtroom as being  
 11 someone you loved, why would you call her a whore, and a  
 12 slut, and a bitch?  
 13 A. I was upset at that time, sir.  
 14 Q. Obviously very upset?  
 15 A. I was upset.  
 16 Q. What made you so upset that you would  
 17 characterize her in very hateful, degrading language?  
 18 A. I was upset about numerous things. I wrote  
 19 those things, and I'm sorry. I told her I was sorry. We  
 20 talked about them letters before I got out of jail, sir.  
 21 And I apologized to her over the phone.  
 22 Q. You said you talked to Debra Panos the day  
 23 before you killed her, August 30th?  
 24 A. I seen her at court, yes, sir.  
 25 Q. So you didn't talk with her, you simply saw

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1 her?

2 A. I did to talk to her. I seen her and talked  
3 to her, sir.

4 Q. That was the day you entered a plea of  
5 guilty to the domestic battery charge?

6 A. Numerous charges that day.

7 Q. The domestic battery to which you plead  
8 guilty was the June 1st, 1995, crime?

9 A. Yes, sir.

10 Q. Did Debra Panos offer testimony at any type  
11 of hearing on August the 30th against you?

12 A. No, sir. No, she did not.

13 Q. Explain what enabled you to speak with  
14 her?

15 A. I was sitting outside the courtroom. I was  
16 sitting right here. The officer was sitting right here,  
17 and she came up walking through the door. She was talking  
18 to me right here and she was like right in my face right  
19 here.

20 Q. What did you say to her?

21 A. I asked her how she'd been. I was crying.  
22 She told me to stop crying. She told me she missed me.  
23 She told me he loved me. She said the kids had been  
24 asking about you. She said -- she asked me was I getting  
25 out. She asked me that numerous times.

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1 Q. What did you tell her?

2 A. I said I'm pretty sure I'm getting out, but  
3 I said, you know, I'm supposed to go to the rehab place.  
4 But I told her, yes, I should be getting out tomorrow.  
5 She said okay.

6 Q. You're telling us that you knew on August  
7 30th, that you were going to get out the following day?

8 A. They wasn't supposed to let me go, sir. So I  
9 didn't know I was leaving that day, sir.

10 Q. Well, that must be true, because explained  
11 earlier to your counsel that you didn't know when you were  
12 going to get out?

13 A. No. I just hold her what happened in court,  
14 and she asked me, was I getting out tomorrow.

15 Q. And you certainly weren't in the position to  
16 tell her, yes, I'm going to see you out at 839 North  
17 Lamb?

18 A. I told her, I said, I should be seeing you  
19 and the children tomorrow. I told her that. Those are my  
20 exact words to her, sir.

21 Q. Who had told you there was any possibility  
22 you would get out on August 31?

23 A. EOB came and seen me in jail, and they  
24 said.

25 Q. When did they come and see you?

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1 A. I don't know the exact date, but when I was  
2 incarcerated between June 26th and August, before I went  
3 to the city, August 20 or 21, between that time, they came  
4 and had a little session with me. I took a little test  
5 and they talked to me and told me that when I do get out  
6 that they said you're not going to be forced to stay  
7 there. They said you want to come there and take care of  
8 your business and you can do that. But they said if I  
9 wanted to leave and go home, or whatever, I can also do  
10 that.

11 Q. The representative of EOB said when you get  
12 out?

13 A. That wasn't the lady's exact words.

14 Q. That's what you just said, that they didn't  
15 tell you when that was be, did they?

16 A. No. They didn't give me no exact date. I  
17 was shocked when the city came and got me.

18 Q. You were sentenced after you plead guilty to  
19 domestic battery, weren't you?

20 A. Right.

21 Q. Didn't EOB come by to see you even before  
22 you were sentenced?

23 A. They came by, come to the county before I  
24 was sentenced in the county, not in the city. No.

25 Q. They came to see you before you plead guilty

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1 and that was, obviously, before you were sentenced. So  
2 they certainty didn't tell you when?

3 A. I had two different case, sir. I had a case  
4 in county and several cases in the city.

5 Q. I'm asking you if EOB told you when you were  
6 going to get out?

7 A. No, they didn't know the exact date I was  
8 getting out. No.

9 Q. Furthermore, you didn't tell Debra Panos  
10 when you were going to get out when you saw her August  
11 30th, because you didn't know?

12 A. I told her I should get out tomorrow. That  
13 was my exact words to her, sir.

14 Q. Upon what did you base that statement to  
15 her?

16 A. Pardon me?

17 Q. Why did you think you were going to get out  
18 on the 31st?

19 A. Because EOB told me when I do get out, they  
20 said that I would be able to leave some time from that  
21 facility and go home.

22 Q. You said that Debra told you on the 30th she  
23 loved you?

24 A. Yes, sir.

25 Q. She didn't tell you it was over between the

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1 two of you?  
 2 A. She never said them words to me, sir. No.  
 3 Q. So you're telling us that, in fact, your  
 4 guess came true the following day August 31st, you were  
 5 released?  
 6 A. I was released, yes, sir.  
 7 Q. And you talked with a representative of law  
 8 enforcement at about 10:45 a.m?  
 9 A. Not from about 9:30 till 10:00 something.  
 10 Q. From perhaps 9:30 in the morning until 10:00  
 11 o'clock something on August 31st?  
 12 A. They let me out at 9:00 o'clock. Went to  
 13 the county jail and then we went to his office. So it had  
 14 to be around 9:30, 9:45. I stayed there until about  
 15 10:45. I was there about an hour.  
 16 Q. After about 10:45 a.m., you were released.  
 17 And that's when you said you walked back out to the area  
 18 of Debra's mobile home?  
 19 A. I didn't go home first, sir.  
 20 Q. I said to the area?  
 21 A. Yes.  
 22 Q. You told us that the Vera Johnson projects  
 23 area is just a couple blocks away?  
 24 A. Yes.  
 25 Q. Also on North Lamb?

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1 A. Yes, sir.  
 2 Q. You were by yourself?  
 3 A. Yes, sir.  
 4 Q. Did you have any money in your pocket?  
 5 A. No.  
 6 Q. You were broke, weren't you?  
 7 A. Yes, sir.  
 8 Q. How long did you stay at the Vera Johnson  
 9 projects area?  
 10 A. About 30, 40 minutes.  
 11 Q. Where -- why did you go there first?  
 12 A. I had some belongings over there. I was  
 13 going over there to get them. But the person wasn't home,  
 14 so I couldn't get them.  
 15 Q. What belongings?  
 16 A. I had a pair of shoes over at somebody's  
 17 house.  
 18 Q. At whose house?  
 19 A. It as this lady by the name of Sue.  
 20 Q. Who is Sue?  
 21 A. A resident over in them apartment.  
 22 Q. A girlfriend of yours?  
 23 A. I wasn't messing with any other woman, no,  
 24 sir. She was just a friend.  
 25 Q. How did your shoes happen to be at Sue's

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1 place?  
 2 A. I got some new shoes one day, and I left my  
 3 old ones over at her house. That was before I went to  
 4 jail. And they were at her house the entire time I was in  
 5 jail.  
 6 Q. You consume any drugs while you were at the  
 7 Vera Johnson area?  
 8 A. Absolutely not, sir.  
 9 Q. Have anything to drink?  
 10 A. No.  
 11 Q. Haven't you said before you had a couple of  
 12 beers?  
 13 A. There was a guy over there that had some  
 14 beer and he asked me, did I want some, and I told him not  
 15 right now. I told him that I had to go back downtown at  
 16 1:00 o'clock -- be back downtown at 1:00 o'clock.  
 17 Q. So you didn't drink any beers?  
 18 A. No, I did not.  
 19 Q. Didn't use any dope?  
 20 A. No, sir. I did not.  
 21 Q. You were certainly of sound mind, that is,  
 22 you knew what you were doing?  
 23 A. I was sober, sir.  
 24 Q. Then you borrowed the bicycle and you went  
 25 on over to 839 North Lamb, space 125, is that correct?

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1 A. I was sober, and I went home. Yes, sir.  
 2 Q. Were you aware of who you were?  
 3 A. Yes.  
 4 Q. Did you know where you were going?  
 5 A. Yes, sir.  
 6 Q. Did you know why you were going there?  
 7 A. Yes, sir.  
 8 Q. You said you borrowed the bicycle and went  
 9 home?  
 10 A. Yes, sir.  
 11 Q. I want to get something straight. By home  
 12 you're referring to 839 North Lamb, space 125?  
 13 A. Yes, sir.  
 14 Q. Was the mobile home rented in your name?  
 15 A. No, it was not.  
 16 Q. Had you paid any of the rent at that  
 17 residence?  
 18 A. No, I did not.  
 19 Q. Did you have a key in your pocket that was  
 20 going to enable you to get into your home?  
 21 A. I lost my key, sir.  
 22 Q. Did you get another one from Debra?  
 23 A. No, I did not.  
 24 Q. When did you lose your key?  
 25 A. Right before I went to jail, sir.

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1 Q. Which time?  
 2 A. Before June 26, 1995, sir.  
 3 Q. Did you have a marriage certificate on your  
 4 person that gave you entitlement to go into 839 North  
 5 Lamb, space 125?  
 6 A. No, I did not have no marriage  
 7 certificate.  
 8 Q. When you got there, did you knock on the  
 9 door?  
 10 A. No, I did not.  
 11 Q. Is there a door bell?  
 12 A. No, there is not.  
 13 Q. You didn't knock?  
 14 A. No, sir.  
 15 Q. You elected to go through a bedroom  
 16 window?  
 17 A. I went through that window many times, sir.  
 18 That wasn't the first time.  
 19 Q. I didn't ask you how many times it has been.  
 20 Your decision was to get in by going in through a window,  
 21 is that your testimony?  
 22 A. Yes. I went through the window, sir.  
 23 Q. And you're saying she was in there and met  
 24 you as you were coming in?  
 25 A. Yes, sir.

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1 Q. You said she was happy to see you?  
 2 A. I told you her exact words when I went  
 3 inside the window, sir.  
 4 Q. I've forgotten her exact words.  
 5 A. She asked me why didn't I knock at the door.  
 6 I told her I did not know you was home. I just called two  
 7 times and nobody answered the phone. She came over and  
 8 actually moved the nightstand, moved it a little ways away  
 9 from the window for me, sir, and I claimed in the  
 10 window.  
 11 Q. When did the screen get pushed down and  
 12 bent?  
 13 A. I put the screen inside so when she moved  
 14 the nightstand, I guess I must have went -- some of it got  
 15 on the top of the screen, because I didn't take the screen  
 16 and put it up under there, you know.  
 17 Q. The testimony is been that the print of a  
 18 shoe was on the screen. You had to walk on the screen you  
 19 put inside to get in?  
 20 A. Well, if I stepped on it, I don't remember  
 21 doing that. But if there -- but if there was a foot print  
 22 on it, my foot print must have been on it.  
 23 Q. The screen is damaged?  
 24 A. No, it he wasn't damaged the last time I  
 25 seen it.

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1 Q. It's bent, sir, according to the photographs  
 2 taken by the officers. You didn't damage the screen?  
 3 A. No, I did not damage the screen, sir.  
 4 Q. So according to you you met at the window  
 5 and she asked why you hadn't knocked. That was a good  
 6 question, wasn't it?  
 7 A. I didn't knock because nobody answered the  
 8 phone when I called her.  
 9 Q. Did you have the money to pay for any damage  
 10 to the window or the screen as a result of entering  
 11 through a window?  
 12 A. I didn't damage the window. And I didn't  
 13 damage the screen. So there wouldn't be no need for no  
 14 financial assistance.  
 15 Q. You said the two of you talked for about  
 16 twenty minutes, you began to kiss, and you started taking  
 17 each other's clothes off?  
 18 A. Exactly.  
 19 Q. And you began to have sex?  
 20 A. Yes, sir.  
 21 Q. You said you began to have sex?  
 22 A. Yes, sir.  
 23 Q. As a remember you said when you entered her  
 24 her vagina was all loose and wet and smelly?  
 25 A. Exactly.

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1 Q. You said it was nothing like it used to  
 2 be?  
 3 A. Nothing. Never like that, never.  
 4 Q. That made you angry?  
 5 A. Of course I would be upset.  
 6 Q. What do you mean, of course, I would be  
 7 upset?  
 8 A. Any man would be upset if they came home to  
 9 their lady and she wasn't the way -- her vagina was the  
 10 way Debbie's was that day.  
 11 Q. Mr. Chappell, you're calling her your lady,  
 12 was she wearing a little gold band you had bought for her  
 13 on her left ring finger?  
 14 A. She told me that she was my girl, and I'm  
 15 going to go by that, sir.  
 16 Q. Did you think you owned her, sir?  
 17 A. No, I did not.  
 18 Q. You told us when you detected that something  
 19 was different, you got up and grabbed her?  
 20 A. Yes, I did.  
 21 Q. Grabbed her how?  
 22 A. I put my hand in this area right here.  
 23 Q. This area meaning the area of her neck?  
 24 A. Yeah.  
 25 Q. Did you begin to choke her, Mr. Chappell?

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1 A. I didn't choke her that she couldn't say  
 2 nothing or nothing like that, she couldn't breathe. It  
 3 wasn't nothing like that.  
 4 Q. With both hands you begin to choke her,  
 5 sir?  
 6 A. No, no.  
 7 Q. With only one hand?  
 8 A. One hand, sir.  
 9 Q. Which hand?  
 10 A. My right hand, sir.  
 11 Q. Did you grasp her neck with your right hand?  
 12 Did you take ahold of her neck with your right hand?  
 13 A. She was laying down. I was on top of her  
 14 holding her like -- onto her neck. I wasn't squeezing it.  
 15 Nothing like that.  
 16 Q. She was laying on the sofa?  
 17 A. Yes, sir.  
 18 Q. But you were standing at that time?  
 19 A. I was like on my knees on top of her. I  
 20 wasn't standing up.  
 21 Q. Pinning her down?  
 22 A. If you call just holding onto the front of  
 23 her neck pinning her down, then, yes, sir.  
 24 Q. Mr. Chappell, I'm not calling it anything.  
 25 I'm asking you what you were doing?

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1 A. I don't call it pinning her down. No, sir,  
 2 I was not pinning her down.  
 3 Q. You said you grabbed her with your right  
 4 hand. What were you doing with your left hand?  
 5 A. My left hand was at the side of the couch,  
 6 like that.  
 7 Q. Did you have the knife at the time.  
 8 A. Absolutely not, sir.  
 9 Q. Had you ejaculated at that point?  
 10 A. No, sir.  
 11 Q. You said she wanted to know if she could get  
 12 on top of you after you had begun to accuse her of being  
 13 with somebody else?  
 14 A. Yes. She asked me that about three times.  
 15 Q. And you rejected that because at that point  
 16 you were very angry with her?  
 17 A. Yes, I rejected that.  
 18 Q. Were you now convinced that she was being  
 19 unfaithful?  
 20 A. No, not totally, no.  
 21 Q. You said she performed oral sex on you?  
 22 A. Yes, sir.  
 23 Q. And it was at some point after this that you  
 24 finished and went into the bathroom?  
 25 A. Exactly.

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1 Q. Then she called the day care center?  
 2 A. Yes, sir.  
 3 Q. About what time is it that she called the  
 4 day care center?  
 5 A. I wasn't watching the clock, so I don't know  
 6 what time it was.  
 7 Q. What time would you say you arrived at the  
 8 mobile home and went into the window and through the  
 9 window and you were greeted by Debra?  
 10 A. I don't know the exact time, sir. I didn't  
 11 look at the clock at all when I was there.  
 12 Q. Well, how far did you have to walk to get  
 13 from the office where you met with the law enforcement man  
 14 to get out to the projects area in the 500 block of North  
 15 Lamb?  
 16 A. Las Vegas Boulevard and Bonanza to Lamb and  
 17 Bonanza took about 45, 50 minutes.  
 18 Q. So if you left the police at 10:45, and it  
 19 was, what, 10:30 or 10:35 when you arrived at the Vera  
 20 Johnson area?  
 21 THE COURT: 11:30, 11:35.  
 22 MR. OWENS: Sorry.  
 23 Q. Sorry. 11:30 or 11:35, when you arrived at  
 24 the Vera Johnson area?  
 25 A. I didn't see no clock over there, but I

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1 guess so, sir.  
 2 Q. You said you were there for about half an  
 3 hour?  
 4 A. Yeah -- yes.  
 5 Q. So that's somewhere around noon or perhaps  
 6 shortly after 12:00 o'clock noon?  
 7 A. Yes.  
 8 Q. You borrowed a bicycle?  
 9 A. Yes.  
 10 Q. How long did it take you to ride the bicycle  
 11 from Vera Johnson to the Ballerina Mobile Home Park?  
 12 A. No longer than ten minutes, sir.  
 13 Q. Now, you said you called from downtown to  
 14 try to talk to her and you didn't get her on the  
 15 telephone?  
 16 A. I called from Mr. Duffy's office, sir. He  
 17 dialed and I left a message on the answering machine.  
 18 Q. And you said you call from the projects  
 19 also?  
 20 A. Yes, sir.  
 21 Q. Did you leave a second message on the  
 22 answering machine?  
 23 A. Yes, I did, sir.  
 24 Q. And you're telling us you thought she wasn't  
 25 home?

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1 A. Exactly. She would have picked up the phone  
2 if she was home.

3 Q. So approximately what time is it that she is  
4 supposedly calling the day care center about the  
5 children?

6 A. I didn't see no clock, sir, so I don't  
7 know.

8 Q. You don't know why she had called the day  
9 care center?

10 A. She said let's go pick up the kids. We was  
11 going to get the kids.

12 Q. I thought you mentioned she was talking with  
13 someone and you heard her mention 5:35?

14 A. The lady told her that she had to pick up  
15 the children by 5:30. She said that in her testimony.

16 Q. It certainly wasn't close to 5:30, was it?

17 A. No. That's what I asked her. I knew right  
18 away that she said she had to take the kids at 7:30, drop  
19 them off at 7:30. I knew right then that she didn't have  
20 to pick them up until later in the afternoon, but I told  
21 her I wanted to see them anyway. I wanted to see them.

22 Q. But you said she was acting scared when she  
23 was on the telephone?

24 A. She looked nervous to me. If she was  
25 scared, then -- I think if she was scared she probably

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1 would have ran or left the mobile home while I was in the  
2 bathroom. So I don't think she was scared. She was just  
3 nervous.

4 Q. Nervous at you.

5 A. Nervous of the condition of her vagina, and  
6 she knew that I was upset about it.

7 Q. That you had accused her of unfaithful?

8 A. I asked her who she had been with, and she  
9 said nobody.

10 Q. Had you threatened her?

11 A. No, I did not.

12 Q. Sheri Smith has testified earlier in your  
13 trial. Do you remember her, the young lady from Angel day  
14 care Center?

15 A. Yes.

16 Q. She testified that she asked Debra Panos if  
17 she could get away from you and come by herself to the day  
18 care center and Debra said, no.

19 A. I also read that in her statement. I didn't  
20 hear none of that, so I don't know.

21 Q. At this point was Debra Panos free to go  
22 somewhere by herself?

23 A. We had both agreed to both going to get the  
24 children, so I don't know why that was said over the  
25 phone.

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1 Q. If she had not agreed to let you go with  
2 her, would you have gone along with her?

3 A. Yeah, I would have gone along with her  
4 because I wanted to shower and change and all that anyway,  
5 sir.

6 Q. Sheri Smith also said that twice during the  
7 telephone conversation Debra asked her for help?

8 A. I heard that, sir.

9 Q. Why would Debbie be asking this employee of  
10 the day care center for help?

11 A. I don't know, sir. She had a chance to call  
12 911, if she was really scared. If she didn't do it -- so  
13 she couldn't have been really scared, sir. She was  
14 nervous, but she wasn't scared.

15 Q. Well, you told us a little earlier she was  
16 more than nervous. You said she was scared, and you  
17 figured that was because she knew -- she knew I knew she  
18 had been messing around. Isn't that what you told us  
19 earlier?

20 A. She was probably thinking that in her mind,  
21 yeah. I don't know what she was thinking about.

22 Q. Were you also asking Debra for money.

23 A. No. I asked Debra when we pick up the kids  
24 could we all go out and eat together and she said she  
25 didn't have no money. We used to go out and eat together

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1 a lot.

2 Q. Well, you told us that the two of you left  
3 together, and you went out to the car and she was going to  
4 let you drive?

5 A. Yes. We left together. She asked me, do  
6 you want to drive and I said, yes. She handed me the keys  
7 and we went to get -- to go get in the car.

8 Q. You've seen the car depicted in Exhibit 56  
9 through 60, the photographs?

10 A. Yes, sir.

11 Q. Is that Debra's car?

12 A. Yes, sir.

13 Q. It wasn't your car, was it?

14 A. No, it wasn't.

15 Q. Did you have a key to the car?

16 A. No, I did not.

17 Q. Did she let you have your own key to her  
18 car?

19 A. No.

20 Q. You hadn't made any of the payments on the  
21 car?

22 A. When she got the car, she only paid a  
23 thousand bucks for it. It didn't need a payment.

24 Q. Well, that was a thousand dollars more than  
25 you had, wasn't it?

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1 A. Yeah, you're right. But when she got the  
2 car she told me she had a big surprise for me. She came  
3 and picked me up May 10th, at the Clark County Detention  
4 Center in that car, sir.

5 Q. You told us that the two of you walked  
6 out -- as the two of you walked out, you saw beer cans  
7 over next to the house?

8 A. Yes, sir.

9 Q. And you didn't like the condition of the  
10 Toyota when you got in it?

11 A. The Toyota was trashed and messed up, sir.  
12 Of course, I didn't like it. She didn't like it either.  
13 She said a couple of comments, I know the air-conditioning  
14 is broke, this and that, this and that.

15 Q. Then you said you found a letter in it.  
16 Where, the console area?

17 A. Yes, sir, right here. Right in between the  
18 two seats, sir.

19 Q. And you found it as you were backing out in  
20 the process of driving the vehicle?

21 A. No, I didn't find it while I was backing  
22 out. I was like two houses down, then I looked, sir.

23 Q. Two houses down driving the vehicle?

24 A. Yes.

25 Q. It was moved?

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1 A. Yes.

2 Q. Then as you went along you began to read  
3 it?

4 A. Pardon me?

5 Q. As you were driving down the street, you  
6 were reading what was on the note or letter?

7 A. Yes. I let go of the steering wheel, like I  
8 said, and read the letter as quickly as I could.

9 Q. Did you stop it when you let go of the  
10 steering wheel?

11 A. Stop what.

12 Q. The car?

13 A. No. Like I said, I almost ran into another  
14 car that was parked.

15 Q. And what you read was that some guy had  
16 written her and he was talking about having sex with  
17 her?

18 A. He said numerous things about sex, yes.

19 Q. And you told us that you were shocked and  
20 devastated?

21 A. Very.

22 Q. And you backed up, and you pulled into the  
23 driveway and you said you climbed out on her side of the  
24 car?

25 A. Yes, sir.

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1 Q. Did you grab her at that time?

2 A. I pulled her out of the car, yes, sir.

3 Q. Why did you climb out on her side? Were you  
4 afraid she was going to run?

5 A. She didn't attempt to do it, so I don't  
6 know.

7 Q. So you don't know why you got out on her  
8 side of the car?

9 A. No.

10 Q. You had to step across her to get out,  
11 didn't you?

12 A. Exactly. Yes, sir.

13 Q. You said she was trying to get the note or  
14 letter from you?

15 A. She was trying to take it from me, sir.

16 Q. And it was being torn into pieces as you  
17 struggled over it?

18 A. Right.

19 Q. And you remember all of these details, is  
20 that true, Mr. Chappell?

21 A. I remember --

22 Q. You remember dragging her back into the  
23 mobile home?

24 A. I remember removing her from the vehicle and  
25 going towards the house, sir.

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1 Q. When you got her into the house, you  
2 remember throwing her on the floor?

3 A. I remember her falling on the floor, yes.

4 Q. Did she have a little help in falling on the  
5 floor?

6 A. Yes, she did.

7 Q. When you helped her fall on the floor, what  
8 did she do?

9 A. She laid there like a said, sir. She didn't  
10 move.

11 Q. She just laid there and covered up her face,  
12 didn't she?

13 A. Yes, sir.

14 Q. And tried to protect herself, is that true,  
15 Mr. Chappell?

16 A. Yes.

17 Q. Had she tried to attack you?

18 A. No, she did not.

19 Q. Had she got a knife or some type of weapon  
20 and try to injure you or hurt you?

21 A. No, sir.

22 Q. Did you suffer any type of serious injuries  
23 as a result of the struggle between the two of you?

24 A. No, sir.

25 Q. So what happened after you had her on the

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1 floor as she just laid there and tried to cover herself  
2 up, what did you do, sir?

3 A. I can't picture it, sir. I don't  
4 remember.

5 Q. You can't picture it, our you don't want to  
6 tell us what you picture now in this courtroom in your  
7 mind?

8 A. I can't see myself hitting her, sir. I'm  
9 telling you I blacked out, sir. Quick, just like that.

10 Q. You're saying you blacked out?

11 A. Right. I don't remember seeing myself  
12 strike this woman or do nothing.

13 Q. And you remember precisely what happened  
14 right up to the moment you killed her, but you don't  
15 remember that part of it, and then afterwards you remember  
16 again?

17 A. I remember moving her toward the house, sir.  
18 I remember seeing her on the floor. That's it.

19 Q. Are you just telling us what you want to  
20 tell us?

21 A. No, sir.

22 Q. Aren't you just remembering what you want to  
23 remember?

24 A. No, sir. That's not true.

25 Q. Where did the knife come from?

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1 A. I don't know, sir.

2 Q. Is 68 A-1 your knife?

3 A. No, it is not.

4 Q. Then it was Debra's knife; is that  
5 correct?

6 A. It belonged to the household, sir.

7 Q. Didn't it stay in a drawer in the kitchen?

8 A. I don't know.

9 Q. You killed her in the living room, didn't  
10 you?

11 A. I don't know if it was in no drawer. I  
12 don't remember opening no drawer, sir.

13 Q. At some point after you had beat her into  
14 submission, you had to walk somewhere to get the steak  
15 knife; isn't that correct?

16 A. I don't remember where I got the knife from,  
17 sir. If I did, I would tell you, but I don't.

18 Q. The medical examiner said you stabbed her at  
19 least thirteen times in the neck, and the chest ten times.  
20 You're telling us you don't remember any of that?

21 A. No, I do not.

22 Q. You don't remember stabbing her even once  
23 with the knife?

24 A. No, no I do not.

25 Q. Now when is it that you went into the

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1 bedroom and you through these letters you had written to  
2 her around the room?

3 A. The letters were tossed at her before she  
4 had performed oral sex on me, sir. Right when we went in  
5 the room.

6 Q. While you were accusing her; is that true?

7 A. I had accused her when I was laying on top  
8 of her, sir. When you got off of her, I didn't repeat  
9 what I had said to her. I just walked away from her.

10 Q. How did the two of you get in the bedroom?  
11 How did the two of you get in the bedroom?

12 A. I walked in there. She followed me. She  
13 hugged me around the waist, like I said, sir.

14 Q. But you didn't want her affection at that  
15 point, is that what you're telling us?

16 A. No, I did not.

17 Q. Because you were angry; is that true?

18 A. I was upset.

19 Q. You were jealous?

20 A. Upset.

21 Q. Suspicious?

22 A. Upset.

23 Q. Did you call her a bitch, or a whore, or a  
24 slut?

25 A. No.

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1 Q. That afternoon?

2 A. No, sir, I did not.

3 Q. But you told us at some point you picked up  
4 a stack of your letters and suggested that these hadn't  
5 meant anything to you?

6 A. My exact words. Yes.

7 Q. You testified that after this happened you  
8 didn't know that you had killed her?

9 A. I seen her on the floor, sir. I left. I  
10 couldn't sit there.

11 Q. Did you check for a pulse?

12 A. No. No.

13 Q. There is a telephone inside the mobile home,  
14 isn't there?

15 A. Yes, there was.

16 Q. Did you go to the telephone, since you  
17 didn't know that she was dead and call 911?

18 A. If you see somebody like that laying in  
19 front of you, sir, you're not going to sit there and look  
20 at that, sir.

21 Q. Did you try to help her?

22 A. I couldn't look at that, sir.

23 Q. So you chose to ignore her situation, is  
24 that what you're telling us? Is that your testimony?

25 A. I couldn't sit there and look at that, sir.

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1 I had to get out of there, sir. I couldn't look at her.  
 2 Q. You didn't climb on your bicycle, you stole  
 3 her car; isn't that true?  
 4 A. If you want to call it stealing it. I don't  
 5 consider myself stealing it, sir.  
 6 Q. Were the keys still in the car?  
 7 A. I don't remember, sir.  
 8 Q. And you drove to the Vera Johnson projects  
 9 in the car and you got high?  
 10 A. No, I did not get high. I parked the car.  
 11 I went inside an abandoned apartment and stayed there  
 12 about three hours, sir.  
 13 Q. Is that where you got the shrimp and the  
 14 pie?  
 15 A. I didn't get that till like 10:00 o'clock at  
 16 night, sir.  
 17 Q. May I approach the witness, your Honor?  
 18 THE COURT: Yes.  
 19 BY MR. OWENS:  
 20 Q. Mr. Chappell, this is a couple of pages. It  
 21 looks like they're numbered 7 and 8, which have been  
 22 removed from letters taken from the bag, Exhibit 75. Is  
 23 that your handwriting?  
 24 A. Yes, sir.  
 25 Q. So both on the front, which is identified as

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1 page 7, and on the back, page 8, this a letter written by  
 2 you?  
 3 A. Yes, sir.  
 4 Q. You wrote this from the jail?  
 5 A. Yes, sir.  
 6 Q. And you wrote this a few weeks before you  
 7 killed her?  
 8 A. I don't know the exact date I wrote the  
 9 letter, sir.  
 10 Q. You began this page of the letter by saying,  
 11 "hello sweetie, found some more paper, Sunday, July 30th,  
 12 1995." Is that date in your handwriting?  
 13 A. Yes, sir.  
 14 Q. So is that apparently the date you wrote  
 15 this?  
 16 A. Yes, sir.  
 17 Q. You say, "been here 35 days, where are you."  
 18 And you have four question marks.  
 19 A. Yes.  
 20 Q. You go on to write, "you" must be terrified  
 21 to visit me, huh?  
 22 A. Yes, I wrote that.  
 23 Q. Did you further write, "you know I'll put  
 24 you on the witness stand, huh." Did you write that?  
 25 A. Yes. She knows she can't lie to my face,

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1 sir. That's why I wrote that. I'd know if she was  
 2 telling the truth.  
 3 Q. You meant when you saw her you were going to  
 4 give her the third-degree, didn't you?  
 5 A. I was going to question her, yes.  
 6 Q. About where she'd been, and who she'd been  
 7 with?  
 8 A. I already knew who she was hanging with.  
 9 Q. Who?  
 10 A. Lisa Duran and Claire and Jennifer. The  
 11 lady that was sitting in the back of the court room.  
 12 Q. And now after you talked about putting her  
 13 on the witness stand, did you say, and you can't face it  
 14 or me, huh. Is that what you write. And you can't face  
 15 it or me, huh.  
 16 A. I wrote that, yes, sir.  
 17 Q. You didn't get out of custody between July  
 18 the 30th, 1995 and August 31st, did you?  
 19 A. No.  
 20 Q. You then write, "One day soon I'll be at  
 21 that front door, and what in God's name will you do then."  
 22 Did you write that, sir?  
 23 A. Yeah, I wrote that.  
 24 MR. OWENS: That's all we have, your  
 25 Honor.

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1 THE COURT: Redirect.  
 2 MR. SCHIECK: Court's indulgence, your  
 3 Honor.  
 4 We have no questions, Judge.  
 5 All right.  
 6 THE COURT: Thank you, very much.  
 7 The State may — you all can set those  
 8 down by your chairs right now, if you would, please.  
 9 The State may call their next witness.  
 10 MR. OWENS: I think we have exhausted our  
 11 supply of witnesses now.  
 12 THE COURT: We'll take our lunch recess.  
 13 JURY ADMONITION  
 14 During the recess, ladies and gentlemen,  
 15 you are admonished not to converse among yourselves or  
 16 with anyone else, including, without limitation, the  
 17 lawyers, parties and witnesses, on any subject connected  
 18 with this trial, or any other case referred to during it,  
 19 or read, watch, or listen to any report of or commentary  
 20 on the trial, or any person connected with this trial, or  
 21 any such other case by any medium of information  
 22 including, without limitation, newspapers, television,  
 23 internet or radio.  
 24 You are further admonished not to form or  
 25 express any opinion on any subject connected with this

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1 trial until the case is finally submitted to you.  
2 We'll be in recess. Let's try and be back  
3 so we can get started no later than 1:30.

4 Okay.  
5 Thank you, very much.

6 THE COURT: Back on the record in  
7 C-131341, State of Nevada versus James Chappell.

8 The record will reflect the presence of  
9 Mr. Chappell, with his attorneys, the State's attorneys,  
10 outside the presence of the jury.

11 SCHIECK: Your Honor, we had seven  
12 witnesses here from Lansing, Michigan that were results of  
13 some pretty extensive investigation we had done both on  
14 post-conviction and getting preparation for this trial.

15 Two of the witnesses Ivory Morrell, whose  
16 name we actually heard in here because James gave his name  
17 when he was arrested at the Lucky's shoplifting. And the  
18 other is James Ford, who lived up the block from where Mr.  
19 Chappell grew up in Lansing.

20 Both of those individuals had been here  
21 since Tuesday night. We expected the trial -- the hearing  
22 was going to last one week, and come Friday they were both  
23 in a situation that they would lose their employment if  
24 they did not return to work. They had been -- in fact, we  
25 had talked to Mr. Ford's district supervisor on Friday

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1 evening to try to convince him to allow Mr. Ford to  
2 remain, and basically was told, be here or be fired.

3 When we were back in Lansing, I was  
4 impressed with the employment depression in the area.  
5 There are huge parking areas surrounding shut down  
6 factories in Lansing due to the state of the automobile  
7 industry. Lansing is basically an automobile town. The  
8 unemployment rate is extremely high there.

9 Both Mr. Ford and Mr. Morrell could not  
10 afford to lose their jobs. In fact, Mr. Ford indicated  
11 that he would likely be going to jail for non-payment of  
12 child support if he did not get back and start working  
13 immediately, because there's a date he's due in URESA (ph)  
14 court -- whatever they call that -- the court for child  
15 support. He's on a monthly thing, if you don't pay when  
16 you come to court, you go to jail. So he was not only  
17 facing lose of employment, he was facing incarceration.

18 It was our decision to allow them -- we  
19 had them here and we could have enforced the subpoena on  
20 them, causing them to lose their work and causing  
21 difficulty with our client, and causing them to lose their  
22 work, and we made the decision to allow them to return to  
23 Michigan, so they will not be testifying.

24 We will be, because it is a penalty  
25 hearing, be offering information that they would have

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1 provided through other witnesses because hearsay is  
2 admissible. We do have still here three other individuals  
3 that grew up along with Mr. Chappell, along with Mr. Ford,  
4 and along with Mr. Morrell. They were sort of a group of  
5 individuals. So all of the same testimony is still  
6 available.

7 The reason I wanted to make a clear record  
8 on this is because Mr. Morrell and Mr. Dean were two of  
9 the witnesses that were not called at the first penalty  
10 hearing and formed part of the basis of our claim of  
11 ineffective assistance of counsel.

12 I don't want the record to appear that I'm  
13 building an ineffective assistance in this record by not  
14 calling those two witnesses. We are confident that our  
15 other witnesses will provide the necessary testimony that  
16 Mr. Morrell and Mr. Ford talked about on  
17 post-conviction.

18 Specifically we now have Mira available to  
19 testify. That's a younger sister of Mr. Chappell, who was  
20 also a witness that was not available, or was not called  
21 in the first penalty hearing and was not available at the  
22 post-conviction investigation because of her circumstances  
23 back in Lansing at that time.

24 We also have available here to testify,  
25 Mr. Chappell's older brother who can relate a lot of the

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1 family background that Mr. Morrell and Mr. Ford knew, will  
2 be Rick Chappell, who was in prison at the time of the  
3 previous penalty hearing.

4 In fact, has just gotten out on parole  
5 very recently. In fact, we've been constantly in contact  
6 and negotiation with his parole officer that he is here  
7 outside his parole jurisdiction in Michigan for the sole  
8 purpose of testifying in this penalty hearing.

9 So those additional witnesses -- in  
10 addition to that, we also have Fred Dean, who is the  
11 closest contemporary in age to Mr. Chappell, from the  
12 group of individuals that resided in the Lansing area  
13 where Mr. Chappell grew up that has a lot of the same  
14 knowledge of Mr. Chappell and Ms. Panos, which we thought  
15 was important to be presented, because Mr. Dean was the  
16 same age group -- was closest in age to Mr. Chappell.

17 In fact, at times provided rides to  
18 Ms. Panos, returning her to her parent's house, picking  
19 her up, providing rides for her and Mr. Chappell.

20 So I just want to make it clear the fact  
21 the Mr. Morrell and Mr. Ford are not going to testify, in  
22 no way, in my opinion, effects the testimony in evicence  
23 that we can present at this penalty hearing, that wasn't  
24 presented at the first penalty hearing.

25 THE COURT: Okay. Does the State have

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1 anything you want to put on the record regarding that.

2 MR. OWENS: I appreciate the record.

3 THE COURT: Okay.

4 MR. SCHIECK: In fact, we are planning on  
5 calling our investigator who is listed as a witness,  
6 Marabel Rosales, who was back doing some mitigation  
7 investigation in Lansing and has a photograph of  
8 Mr. Morrell and Mr. Ford that we're going to move into  
9 evidence.

10 They've been here, been around, the jury  
11 has seen them. So -- and explain the circumstances why  
12 they're not here to testify, so the jury understands  
13 that.

14 THE COURT: All right. We'll be in recess  
15 folks.

16 MR. SCHIECK: Thank you, your Honor.  
17 (Lunch recess taken.)

18 THE COURT: We'll be back on the record in  
19 A-131341, State of Nevada versus James Chappell.

20 The record will reflect the presence of  
21 Mr. Chappell, with his attorneys, State's attorneys, and  
22 our jury.

23 The State's next witness is going to be  
24 Dr. Green, correct?

25 MR. OWENS: Correct.

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1 THE CLERK: You do solemnly swear the  
2 testimony you are about to give in this action, shall be  
3 the truth, the whole truth, and nothing but the truth, so  
4 help you God.

5 THE WITNESS: I do.

6 THE CLERK: State and spell your last name  
7 for the record.

8 THE WITNESS: My name is Giles Sheldon  
9 Green, G-R-E-E-N.

10 DIRECT EXAMINATION

11 BY MR. OWENS:

12 Q. You're retired now?

13 A. That is correct.

14 Q. Back in 1995, you were employed with the  
15 Clark County Coroner's office?

16 A. Correct.

17 Q. And you worked as a pathologist?

18 A. Yes.

19 Q. Would you take a moment and explain your  
20 qualifications for that position?

21 A. Okay. I received my degree of doctor of  
22 medicine from the University of Oregon School of Medicine  
23 in Portland in 1959.

24 I served one year of internship in St. Mary's  
25 Hospital in San Francisco. Then one year of post-graduate

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1 training in the field of obstetrics.

2 The end of that year I changed my area of interest  
3 to pathology. I spent the next two years in post-graduate  
4 training in pathology at St. Joseph's Hospital in San  
5 Francisco.

6 In 1963 I moved to Houston, Texas. And had three  
7 year with the United States Public Health Service  
8 fellowship at MD Anderson Hospital in Tumor Institute. So  
9 you may recognize that as one of the largest cancer  
10 research centers in the world.

11 Following completion of that fellowship and  
12 training, I was appointed to the staff of Anderson  
13 Hospital as assist pathologist and assist professor of  
14 pathology in the University of Texas system.

15 I remained on the staff for approximately 2 years.  
16 Then in 1967, I think, I joined the Harris County Medical  
17 Examiner's Department in Houston, and served with that  
18 department for seven years, first as assist medical  
19 examiner and deputy chief medical examiner.

20 In 1975 I moved here to Las Vegas to become chief  
21 medical examiner for Clark County. I remained in that  
22 position with the county for 26 years. I retired in  
23 1901.

24 I was, during that period, professor of activity  
25 and a member of virtually all of the significant

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1 professional organizations in North America, which deal  
2 with the problems of forensic medicine and forensic  
3 science generally.

4 I'm still an active fellow of the American Academy  
5 of Forensic Science. I try to keep my hand in a little  
6 bit, keep the brain stirred up anyway.

7 But I no longer work with the coroner's office, but  
8 am on call for problems.

9 Q. So you were in the coroner's office for  
10 about 26 years?

11 A. Yes.

12 Q. You retired in 2001?

13 A. Correct.

14 Q. Over that period of time about how many  
15 occasions did you testify in courts with regard to cause  
16 of death?

17 A. I don't have a count, but literally  
18 hundreds. There was one year that I decided to keep track  
19 and believe it or not, I still have a hard time with this,  
20 74 times.

21 Q. It was testimony in one year?

22 A. Yes.

23 Q. How many autopsies do you think you  
24 performed?

25 A. Something between 11 and 12 thousand.

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1 Q. On the first day of September 1995, you  
2 performed an autopsy on Debra Panos?

3 A. Correct.

4 Q. And that was done over at the coroner's  
5 office?

6 A. Yes.

7 Q. And your autopsy usually involved a visual  
8 examination, external examination, and internal  
9 examination?

10 A. That's correct.

11 Q. I would like to take those one at a time, if  
12 you would. First, if you would give us the physical  
13 characteristics of the victim in this case?

14 A. The body of this lady, she looked fairly  
15 young, mid 20s perhaps, about 5 feet 5 inches tall, 140  
16 pounds, well-developed, well-nourished.

17 Q. What did you notice in your external  
18 examination of Debbie Panos?

19 A. First it was very obvious she had suffered  
20 injuries to the neck and scattered areas of other parts of  
21 the body. Mainly concentrated in the neck area. There was  
22 a lot of bruising, particularly of the face. Some  
23 bruising around the neck also.

24 Scattered bruises on the right arm, shoulder, right  
25 hand, back of the right wrist. She also had multiple stab

1 wounds, a total of 13.

2 Ten were concentrated in the neck and upper chest  
3 area, over about three-and-a-half inches in diameter,  
4 roughly the size of my palm.

5 One in the abdomen right next to the umbilicus or  
6 naval. Another lower down in the right groin area, and  
7 one -- a small one over here on the left side of the neck,  
8 below and behind the left ear.

9 Q. Did you also find evidence of abrasions?

10 A. Abrasions on the face. I think one on one  
11 of the knees, a very small one.

12 Q. When you say abrasions, what is that  
13 exactly?

14 A. An abrasion is simply a scraping wound.  
15 We've all had them at one time or another. For example,  
16 if we have short sleeves on walked down a hall with rough  
17 plaster and banged the elbow into the rough plaster you're  
18 going to get an abrasion.

19 Q. You mentioned that you saw evidence of 13  
20 stab wounds total, most of them were in the upper chest  
21 and neck area?

22 A. Correct.

23 Q. How about lower on her body, what did you  
24 see?

25 A. One in the abdomen, and one down in the

1 right groin.

2 Q. Did you conduct an internal examination  
3 then?

4 A. Yes.

5 Q. What did you find out when you conducted the  
6 internal exam?

7 A. Let's take care of those two wounds lower  
8 down, one in the abdomen, one in the groin. The one in  
9 the abdomen had penetrated through the abdominal cavity to  
10 the back wall of the abdominal cavity, but it didn't hit  
11 anything significant. No vital organs. There was bleeding  
12 around that area.

13 Q. So it went all the way through to the back  
14 wall?

15 A. To the back wall of the abdomen. That's not  
16 very far, three or four inches.

17 Q. Your're indicating three or four inches.  
18 Okay.

19 A. But that's variable because you can compress  
20 that considerably with not much pressure.

21 Q. Okay.

22 A. So anyway, this one did penetrate to the  
23 back wall of the abdomen, but as I said, didn't hit  
24 anything major, some bleeding. I would not consider it a  
25 really major wound.

1 Q. So a person could survive that injury  
2 alone?

3 A. Yes. I think if you were hospitalized for a  
4 few days, put a drain in it so any fluid can escape,  
5 antibiotics, you'd be able to walk home.

6 Q. What else did you see?

7 A. In the wound in the lower groin, right in  
8 the crease between the abdomen and the thigh, this is  
9 penetrated about two inches. Again, did not strike  
10 anything important, very little bleeding. Another one you  
11 could create very readily and not worry about it.

12 Q. So there was nothing life threatening about  
13 the stab to the groin area?

14 A. No.

15 Q. What else did you see on your internal  
16 exam?

17 A. Internally everything looked normal,  
18 certainly in the abdomen. The right side of the chest,  
19 the heart was normal and healthy. Looking at the left  
20 side of the chest between the lung and the chest wall had  
21 quite a bit of blood, almost a quart. The stab wound had  
22 penetrated just underneath the left collar bone and slid  
23 in between the first and the second rib, went through the  
24 upper part of the left lung, hit a rib in the back of the  
25 chest cavity. Total distance probably not more than

1 three-and-a-half, four inches, perhaps.  
2 Penetration of the lung didn't look very serious,  
3 but it was. It resulted in very considerable bleeding. I  
4 was rather surprised at the amount of bleeding.

5 Q. That's what accounted for the blood you  
6 found in the left side of the chest cavity?

7 A. Yes.

8 Q. Okay. What else?

9 A. Internally, that was about it until you get  
10 to the neck.

11 Q. Tell us about the neck?

12 A. Okay. In examining the internal structures  
13 of the neck, we have these ten stab wounds in here. We  
14 have one that cut the right internal jugular vein, about  
15 half into.

16 One that hit the right internal right common  
17 carotid artery in here. Cut it, but not completely  
18 through.

19 Other one did the same thing on the left on the  
20 left common carotid artery. We had one that hit the  
21 thyroid gland and went in through the airway, went through  
22 the larynx -- the voice box. Again, into the airway. So  
23 we have major damage to several very, very important  
24 structures here.

25 Q. What are the carotid arteries?

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1 A. The carotid is the artery with supplies  
2 blood to the head and most of the brain.

3 Q. So what is the affect of having that cut?

4 A. The brain loses its blood supply because  
5 with a partial or complete severance of the artery, there  
6 is no blood pressure above that point. The heart may keep  
7 pumping for a little bit, but you can't move blood to the  
8 brain.

9 Blood carries the oxygen to all parts of our body,  
10 including the brain. If the brain doesn't get a normal  
11 blood supply, normal oxygen supply it has a very limited  
12 oxygen reserve. On average it's got fourteen seconds  
13 before the person losing consciousness.

14 If that continues for a total four to five minutes,  
15 we begin to get irreversible cellular damage to the brain  
16 and even if we were to resuscitate this individual, there  
17 would be some residual brain impairment.

18 If we go on without establishing circulation of  
19 much longer than that, there is no chance of recovery.

20 Q. What kind of arterial bleeding would be  
21 present with this type of injury?

22 A. It would be very profuse.

23 Q. Can you explain that for us?

24 A. Lots and lots of blood around the neck,  
25 head, floor, carpet whatever she was on.

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1 Q. Would you have that affect of the spurting  
2 of the blood out for a distance?

3 A. This would depend on the location, nature of  
4 the wound, position the head is in, if it's compressing  
5 the tissue around an injury, or it's opening it up. I  
6 wouldn't try to predict.

7 Q. But you could have that kind of bleed?

8 A. Yes.

9 Q. There would be bleeding internally as  
10 well?

11 A. Yes.

12 Q. What about the jugular vein?

13 A. The jugular, this is a major vein returning  
14 blood from one side of the head and upper neck back to the  
15 heart. Lose this, and you're going to lose a lot of blood  
16 too.

17 Q. What would the affect of that be on the  
18 brain?

19 A. It would not be as much of an affect as the  
20 arterial damage. In other words, the brain -- if this was  
21 the only injury we have, one jugular vein cut, the brain  
22 would have a much longer period of survival because the  
23 artery is coming not back to the heart, but pretty soon  
24 you have heart failure and death.

25 Q. You would have bleeding both internally and

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1 externally?

2 A. Externally there would be a little bleeding.  
3 Internally not much pressure in the venous system, very  
4 minimal pressure, so it's not going to force blood out  
5 into the tissues.

6 Q. You mentioned the trachea had been injury as  
7 well?

8 A. Yes.

9 Q. What would be the affect of that injury in  
10 the context of the jugular and carotid arteries?

11 A. The tracheal wound, the trachea being the  
12 windpipe, is a serious thing. And in this case we have a  
13 fair amount of blood in the trachea blocking the airway.  
14 So that's a major problem.

15 Q. So she would have had blood in her air  
16 system?

17 A. In her upper airway, yes.

18 Q. Based upon the examination that you  
19 conducted, external and internal, did you come to a  
20 conclusion about the cause of Debra Panos' death?

21 A. Yes.

22 Q. What is that?

23 A. She died as a result of stab wounds to the  
24 neck.

25 Q. And the manner of death being?

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1 A. In my opinion homicide.  
 2 Q. You also, as a part of your examination,  
 3 would have examined the reproductive organs externally and  
 4 internally?  
 5 A. Yes.  
 6 Q. You didn't see any evidence of damage or  
 7 anything unusual there?  
 8 A. I saw no injury.  
 9 Q. A sexual assault kit was taken by crime  
 10 scene analyst for later testing?  
 11 A. I believe it was. That is their job. I  
 12 will assist or do what I can to help them, but it's  
 13 basically their responsibility.  
 14 Q. Okay.  
 15 MR. OWENS: I ask that the next exhibit be  
 16 135 for identification.  
 17 THE COURT: Sure.  
 18 MR. OWENS: If I could, with the court's  
 19 permission, have the doctor to step down.  
 20 THE COURT: Dr. Green, go ahead and step  
 21 down, please, sir.  
 22 BY MR. OWENS:  
 23 Q. This chart that I'm putting up, you are  
 24 familiar with this. This is a chart you use quite a  
 25 bit?

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1 A. This is an enlargement of the standard  
 2 anatomical chart that we use. Many, many offices use the  
 3 same thing. There's lots of different charts, male body,  
 4 various body parts, and so on. We use these to show  
 5 external changes.  
 6 Q. We have three different colors, I think that  
 7 you have got before court. Pull out the brown one, what  
 8 I'd like to have you do is identify the areas of bruising  
 9 or contusions on the body of the Debra Panos on this  
 10 chart.  
 11 MR. Schieck: Your Honor, could we angle  
 12 it about three inches more and we'd be able to see it.  
 13 MR. OWENS: How's that?  
 14 MR. Schieck: Is it okay from over there?  
 15 THE COURT: Thank you.  
 16 MR. Schieck: Thank you, very much.  
 17 THE WITNESS: Okay, bruises.  
 18 Let's start with the forehead. We had an  
 19 area of bruising here. We have an area of bruising up in  
 20 here a couple of inches or so in diameter.  
 21 A little bit of scraping, not a whole  
 22 lot.  
 23 The larger bruise covering much of the  
 24 right temple area, getting down on the right cheek bone on  
 25 the right cheek, this is about 5 inches across here, 5

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1 inches up and down.  
 2 Bruising over here on the right cheek.  
 3 Something that I recall about an inch-and-a-half in  
 4 diameter. A lot of bruising on the right ear. That's  
 5 really puffy.  
 6 Bruising of the neck, particularly, I  
 7 think something in here. Those are the major areas of  
 8 bruising on the head.  
 9 Now, we also have some bruising on the  
 10 right upper arms, kind of patchy and irregular. Some  
 11 bruising on the back of the right hand and over here on  
 12 the wrist as well. Those are the primary areas of  
 13 bruising.  
 14 BY MR. OWENS:  
 15 Q. There was one bruise or abrasion to the  
 16 knee?  
 17 A. That was a little abrasion on -- I think it  
 18 was on the left knee.  
 19 Q. Hold off on that. You've got the orange  
 20 one. We'll see if that works. Go ahead and identify, if  
 21 the orange one is working, the area of abrasions?  
 22 A. Okay.  
 23 Q. If not I have a back up here.  
 24 A. Let's see here. On the left knee -- and  
 25 this wasn't very big, half an inch whatever.

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1 Abrasions -- let's see. We had some abrasions up  
 2 here in association with a bruise. We had a very  
 3 prominent abrasion at the point of the chin here. That  
 4 would be three quarters of an inch to an inch maximum.  
 5 Yes, we had abrasions over here, about the  
 6 angle of the right jaw.  
 7 Q. If you can take a moment and explain what  
 8 type of a mechanism would cause the type of trauma you've  
 9 indicated here, this bruising and abrasions?  
 10 A. A bruise, obviously, is forceful contact  
 11 between our skin and something either striking the skin or  
 12 we're striking the object. The fact is we break a lot of  
 13 little capillaries underneath. We leak blood. That gives  
 14 us the red color. If they leaked very much, we get  
 15 swelling. The tissue reaction is more fluid pours out of  
 16 the tissue and makes the swelling worse. The amount of  
 17 color change is pretty much a function of how hard you  
 18 were hit, or how hard we hit whatever it is.  
 19 The abrasion I mentioned earlier is a  
 20 skidding, sliding type of injury. The bruises, we've all  
 21 had them. Anybody not have a bruise? You all know what  
 22 I'm talking about.  
 23 Q. The bruising, can be caused by what kinds of  
 24 objections?  
 25 A. Any solid object, you name it. If it's

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1 solid and it hits the skin, it can cause a bruise. We see  
2 tremendous bruising in motor vehicle accidents. I've seen  
3 bruises that took three-and-a-half months to disappear. I  
4 know, my wife had one once -- seat belt injury to her  
5 hip.

6 Q. Bruising from this kind of injury could have  
7 been caused by a fist?

8 A. Possible.

9 Q. Or some other blunt object?

10 A. A fist is a good possibility. But I  
11 couldn't say it's the only possibility.

12 Q. How about the abrasions?

13 A. The abrasions may come in conjunction with  
14 or as a result of the impact. The impact skids a little  
15 bit, it may take some skin off and gets a scraping  
16 affect.

17 Q. So in this case it could be the same type of  
18 mechanism that caused both the abrasions and the  
19 bruising?

20 A. That's possible, certainly.

21 Q. You also identified and talked about certain  
22 areas of cutting -- the stab wounds?

23 A. Yes.

24 Q. And the wounds you have described, were  
25 these all stabbing rather than the slashing type wound?

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1 A. Correct. We don't have any slashing  
2 wounds.

3 Q. Okay. If you could get your red pen out.  
4 I'll have you identify the knife wounds or the cutting  
5 wounds you saw.

6 A. Okay. We have this one in the groin, just  
7 above the crease. That penetrated a couple of inches.

8 We have one by the navel. That's the one that went  
9 into the abdominal cavity.

10 We have a total of ten up here in the neck, from  
11 the neck and the upper chest. But the chest we have one  
12 right about here, right over the top of the breast bone.

13 Another one right here. This is the one that slid  
14 in between the two ribs and got the left lung.

15 We have one over here. A couple up here. Three  
16 there. A couple over in here.

17 And finally, there's a little one in the left side  
18 of the neck, just below the ear.

19 I think we have a total of 13.

20 Q. You've got 13 total on there, doctor?

21 A. I believe we did.

22 Q. If you can kind of stand out to the side and  
23 sort of identify which ones they are that you've drawn in  
24 the red pen.

25 A. Okay. These we have talked about. This is

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1 the one that got the left lung and caused that large  
2 amount of bleeding in the left side of the chest cavity.

3 This one here over the breast bone didn't do any  
4 great harm.

5 These you can't really tell which one did which.

6 They are so close together and overlapping, but one of  
7 these got the right external jugular vein. One got the  
8 right carotid artery. One of these over here got the left  
9 carotid artery. One or two of them bled into the airway,  
10 larynx, trachea. Which one did which, I don't think we  
11 can -- anybody could do it.

12 Q. What do you mean by that?

13 A. When they are crisscrossing in a small  
14 space, you've got damage to multiple structures, which are  
15 pretty mobile. The airway, for example, we can move that  
16 around. It would be pretty hazardous to try and say this  
17 one on the outside did this on the inside, when you've got  
18 a bunch in there.

19 Q. These were fairly concentrated?

20 A. They were, yes.

21 Q. What kind of a weapon would cause these  
22 types of injuries?

23 A. Most likely a knife with a -- probably a  
24 fairly narrow blade.

25 Q. What can you tell us about the intervals of

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1 the wounds that you put up here, the bruising, the  
2 contusions and the knife wounds, time-wise?

3 A. Well, the knife wounds in the neck are the  
4 clear cut cause of death. The bruises take some time to  
5 develop. I would think, to put a minimum time, between  
6 the bruises, say, on the forehead and the face and the  
7 time of death, we're looking probably at 15 to 30 minutes  
8 minimum. Somewhere in that ballpark. It could be a  
9 little more. Probably not much of any less.

10 Q. The bruising -- the bruising trauma would  
11 have preceded the injuries to the neck caused by the  
12 cutting?

13 A. Yes. Because it couldn't come afterwards.  
14 You can't bruise a dead body. You can hit it, it won't  
15 bruise. It won't give you anything you can see.

16 Q. What about the knife wounds themselves. You  
17 mentioned there were a couple down lower on the body, the  
18 abdomen and the groin area that were not life threatening.  
19 Can you tell anything about those, and the other serious  
20 knife wounds up around the neck as far as the progress of  
21 those wounds or pattern of timing?

22 A. The wound to the abdominal cavity may well  
23 have been early in the game here. We have some internal  
24 hemorrhage resulting from this. If this had been  
25 inflicted at or after the time of death you would not have

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1 had any hemorrhage. So I think this one came earlier,  
2 then the ones which killed her.

3 Q. Why wouldn't you have hemorrhaging in the  
4 abdominal one if it was at the same time as the ones on  
5 the neck?

6 A. We're going to lose blood pressure here.

7 Q. Pointing to the neck area?

8 A. The neck area. If you get the carotid  
9 artery, the pressure goes down very, very quickly and  
10 circulation essentially stops.

11 Q. Other than that time difference, is it your  
12 sense that the knife wounds were largely contemporaneous  
13 with each other?

14 A. Those in the neck, yes.

15 Q. Why would you say that?

16 A. The appearance of them. There's certainly  
17 not a long time interval between any two of them. They're  
18 clustered very close together, which argues for rapid  
19 repeated action of the assailant.

20 So I think it's safe to assume that these came at  
21 or about the same time.

22 Q. All right. There a number of photos that  
23 were taken at the autopsy of this case.

24 A. Yes.

25 Q. You have had a chance to review those prior

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1 to your testimony?

2 A. Yes.

3 Q. You reviewed them when you testified ten  
4 years ago, as well?

5 A. Probably did.

6 Q. If I can have you step over here in the  
7 middle between the chart and the screen there, Doctor.

8 A. Okay.

9 Q. I'll pull this chart this way and give you  
10 some room. If I can direct your attention to the screen.

11 MR. SCHIECK: For the record, we have an  
12 objection we'd like to preserve on that.

13 THE COURT: Objection noted for the  
14 record.

15 BY MR. OWENS:

16 Q. For the record, I'm putting Exhibit No. 31,  
17 on the screen. Are you able to see that, Doctor?

18 A. Yes.

19 Q. If you can tell us what we're looking at  
20 here as far as the injuries on your chart?

21 A. Here is a very obvious bruise of her left  
22 cheek. See all this red discoloration, huge patch here,  
23 extends up into the temporal. We have this brownish area,  
24 these are abrasions. They're dry.

25 So we have a combined effort and this suggests some

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1 kind of abrasion or sliding over here. It may have been  
2 due to some fabric she had been lying on?

3 Anyway we have some bruising here, discoloration.  
4 We don't see -- we don't see that little stab wound to the  
5 neck. That's possibly back here?

6 We do see several of the stab wounds in front of  
7 the neck and just barely you can see this abrasion, scrap  
8 of the chin. I think that's pretty much what we have  
9 here.

10 Q. It's your testimony, Doctor, that the same  
11 object, whether it be a fist or some other blunt object  
12 could have caused the abrasions as well as the bruises  
13 that we see here?

14 A. Yes, definitely.

15 Q. Let me put another -- for the record we're  
16 looking in this photo of the left side of victim's face.

17 A. Right.

18 Q. We'll put Exhibit No. 38, on the screen now.  
19 Still the left side but a little further down the neck is  
20 visible?

21 A. It's essentially upside down. Here we have  
22 the left ear. Somebody holding a ruler. And the ruler  
23 here is for photographic purposes. The scale is metric.  
24 You have one centimeter intervals. One centimeter being  
25 almost exactly two inches. And here is the little stab

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1 wound to the neck, half a centimeter long, perhaps.

2 This one went inside and really didn't do  
3 a lot of damage.

4 Q. Showing you what is marked as Exhibit No.  
5 39. This is the left forehead area.

6 A. Yes, yes. Mainly the scraping injuries.  
7 This is the deepest wound that we had. Again there's  
8 scattered scrapes and bruising. You see the bruise -- big  
9 bruise on the forehead in this picture.

10 Q. You say a fist is capable of causing that  
11 type of abrasion?

12 A. It can happen. It's kind of surprising to  
13 see one this deep, but not impossible.

14 Q. Going over to the other side now. The right  
15 side of the face, Exhibit No. 42, on the screen. What are  
16 we seeing in this one, Doctor?

17 A. Here we have the right side of the face.  
18 The right ear. I think I mentioned earlier a lot of  
19 bruising of this right ear. It's red. It's a little  
20 puffy. We have combined scraping, abrasions and bruising  
21 here going around the angle of the jaw.

22 You can see some of the other stab wounds of the  
23 neck. A little bruise down here. Here are the two in the  
24 chest. This is the one that just hit the breastbone and  
25 didn't do anything serious. This is the one that went in

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1 and nicked the left lung.

2 Q. We have a view now in Exhibit 40, looking up  
3 toward the face and chest area.

4 A. Here we are looking upward at the face.  
5 This is a big abrasion of the chin. The other areas of  
6 damage on the skin. And here we have several of these  
7 wounds of the neck. Four here. Two here. One here.

8 I think we have some over here. We don't see the  
9 one -- we've got the one that got the left lung. That's  
10 the best picture we have of the injury to the front of the  
11 neck.

12 Q. The abrasion underneath the chin, that's  
13 something that could be caused by a fist is your  
14 testimony?

15 A. Quite possible. The skin at this point is  
16 fairly thin. There's not a lot of padding under here at  
17 this point of the chin, so that can't get compressed  
18 between striking an object and the bone very well.

19 Q. Then the exhibit marked No. 46, a view of  
20 the abdomen area?

21 A. Yes.

22 Q. What are we seeing in this one, Doctor?

23 A. Here we have the navel. It doesn't show  
24 really well. This is the stab wound right next to it.  
25 This is the one that went into the abdominal cavity I

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1 mentioned earlier, but did not produce any major injury.

2 Q. What sort of pain would be associated with  
3 an injury like that?

4 A. I don't know. A really sharp knife very  
5 rapidly used doesn't produce enormous amounts of pain, not  
6 like if it was slowly applied. But a quick stab, yes,  
7 you'd know it. It would hurt a little bit. You wouldn't  
8 think of it as a monumental life threatening thing. You'd  
9 know it happened, yes.

10 Q. But if you were a medical person -- if you  
11 weren't a medical person, you might think that was more  
12 fatal?

13 A. Sure, you'd worry about it.

14 Q. Exhibit No. 47, on the screen now, the one  
15 of the groin area.

16 A. Yeah. Here's the right groin area here.  
17 Here is the stab wound.

18 Q. That doesn't reflect the shape of the knife,  
19 it's been stretched a little?

20 A. Not necessarily. Because basically the  
21 knife blade produces a slit, like you saw in the neck.  
22 Initially we have the same thing, yet, the body is flat  
23 and the tissue plains have been severed, they're going to  
24 fall apart.

25 Q. Marked now as Exhibit No. 48, looking at the

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1 knee area.

2 A. The left knee, a little scrape here, a scar  
3 here.

4 Q. That's an older scar?

5 A. Pardon me.

6 Q. Older scar?

7 A. For quite awhile. A little discoloration.  
8 I'm not sure what that is. This is, I think, the only  
9 significant thing, that's a very small thing.

10 Q. What would cause a scrap like that?

11 A. Again, bumping into anything. Dropping to  
12 the floor.

13 Q. So if you fell down, your knee could rub  
14 against the surface?

15 A. Yes.

16 Q. Exhibit No. 44, now, looking at, I think,  
17 the right elbow area. See that?

18 A. Yes.

19 Q. What are we seeing there?

20 A. A little abrasion here. A little reaction  
21 around it. Not much color change, small scrap, fairly  
22 deep. Probably close to the time of death.

23 Q. What would cause that kind of a scrap?

24 A. Almost any solid object. You think it might  
25 perhaps have a corner to it, like you have right here. If

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1 you hit that hard enough it can produce a thing like  
2 that.

3 Q. If a person were falling down and their arm  
4 contacted a harder object it could cause that?

5 A. Possibly.

6 Q. I would like to show you Exhibit 43, the  
7 upper right arm area of Debbie Panos. What is visible in  
8 this. What can we see?

9 A. The upper arm, here's a big red bruise and a  
10 smaller one. Little big ones around these. I think this  
11 is very significant. This is a pretty good size bruise  
12 here. We're looking at two-and-a-half, maybe three inches  
13 across.

14 Q. Once again same type of mechanism a fist or  
15 blunt object?

16 A. Some kind of blunt trauma.

17 Q. Number 45 now. We're looking at the right  
18 wrist and arm.

19 A. Okay. Primary thing here is the right hand  
20 has a red, purple bruising. Scattered small bruises.  
21 Pretty good size one here on the right wrist. A little  
22 over here toward the medial aspect of the wrist. This is  
23 the primary thing you're looking at. So you definitely do  
24 have a fair amount of bruising on this right hand and  
25 wrist.

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1 Q. As a pathologist with many years of  
 2 experience, this type of injury holds a special  
 3 significance or interest for you?  
 4 A. In a case like this where there has been an  
 5 assault on a victim we think of these as possible injuries  
 6 incurred in some kind of defensive action. Sometimes they  
 7 obviously are, sometimes they're not so clear. But this  
 8 is the kind of a thing we would expect a person holds up  
 9 an arm and gets struck.  
 10 Q. Trying to protect their body from other  
 11 injuries?  
 12 A. Yes.  
 13 Q. So the bruise ends up on their hand or  
 14 arm?  
 15 A. It's a fairly common pattern. I think the  
 16 chances are very good that this can be classified as a  
 17 defensive injury.  
 18 Q. All right. Now, I'll put the last photo up  
 19 here, Doctor. Exhibit No. 41, which is an over all view  
 20 of the major knife wounds; is that correct?  
 21 A. Yes. We have the right upper body. You can  
 22 see a fair number of these head wounds, at least seven.  
 23 Q. Okay. With the court's permission I want to  
 24 open the contents of Exhibit No. 68.  
 25 THE COURT: Okay.

1 BY MR. OWENS:  
 2 Q. I'm showing you number 68. And, Doctor,  
 3 you're are welcomed to grab that. This being the knife  
 4 recovered from the scene near the victim. If you take a  
 5 look at that item, is that item consistent with the wounds  
 6 that we're seeing in the photographs you testified to?  
 7 A. It could have been caused by this or any  
 8 similar object. We have a very slender blade. It's  
 9 entirely consistent with an instrument like this.  
 10 Q. When you look at this particular knife it  
 11 appears like the blade has been bent a little bit?  
 12 A. It has.  
 13 Q. You know what caused that bending?  
 14 A. No.  
 15 Q. You don't know how that could have  
 16 happened?  
 17 A. No, because we don't know whether it  
 18 happened at the time of death or a year before.  
 19 Q. Okay. In your experience it's not unusual  
 20 to see knife blades being bent sometimes in attacks on  
 21 people?  
 22 A. I'll pass on that. Most of the time we  
 23 don't see the knife at all.  
 24 Q. You don't recover it?  
 25 A. No, that's a police job.

1 Q. All right. You talked about how the victim  
 2 would lose blood rapidly and lose consciousness. I think  
 3 you said within 14 or 15 seconds in your opinion?  
 4 A. Within that time frame, with at least one,  
 5 if not both, carotid arteries being cut, yes.  
 6 Q. You said there would be blood that would get  
 7 into the windpipe and trachea?  
 8 A. Yes. From at least two of the wounds.  
 9 Q. What type of death would that be for the  
 10 victim?  
 11 A. Very quick.  
 12 Q. So you think the death would occur in about  
 13 14 or 15 seconds time or consciousness?  
 14 A. Consciousness would, yes.  
 15 Q. And during that 14 or 15 seconds the person  
 16 would be aware?  
 17 A. Certainly be aware of a very unpleasant  
 18 situation, but whether they're not aware that it's life  
 19 threatening, we don't really know because we don't know  
 20 the sequence of these injuries. I'm sure it would be a  
 21 fearful thing.  
 22 Q. So they would be aware of the nature of the  
 23 injuries?  
 24 A. Yes.  
 25 Q. That it's life threatening?

1 A. Yes.  
 2 Q. How would the be able -- would they be able  
 3 to breathe, what would they be going through in those last  
 4 few seconds?  
 5 A. As the pressure falls off the brain starts  
 6 to lose oxygen, lose the ability to -- lose the ability to  
 7 defend ourselves.  
 8 Q. At that point in time just before that, she  
 9 would have been aspirating some blood?  
 10 A. Yes.  
 11 Q. She would have had difficulty breathing?  
 12 A. Yes.  
 13 Q. She would have lost consciousness a few  
 14 seconds later?  
 15 A. Yes. It would all happen in very, very  
 16 rapid sequence.  
 17 Q. All right.  
 18 MR. OWENS: Thank you, Doctor. Go ahead  
 19 and have a seat again.  
 20 That's all I have, your Honor.  
 21 THE COURT: Mr. Schieck or Mr. Patrick.  
 22 MR. Schieck: Thank you, your Honor.  
 23 CROSS-EXAMINATION  
 24 BY MR. SCHIECK:  
 25 Q. Dr. Green, when you performed this autopsy,

1 did you have the opportunity to observe the clothing that  
2 was on the individual?

3 A. What?

4 Q. Clothing?

5 A. Sorry, I've got a hearing problem.

6 Q. Which side is better. Is over here  
7 better?

8 A. Yes.

9 Q. When you observed the body, were you able to  
10 determine whether or not she was wearing clothes?

11 A. I don't recall. The normal way of handling  
12 a homicide case or one that's potentially a homicide, we  
13 have the people from the crime lab there first. They  
14 recover any and all evidence, including clothing. I don't  
15 often see the body until after everything has been  
16 removed.

17 I talk to the people. They tell me about what they  
18 found. But if it's evidence that's impounded and the  
19 fewer people that touch it the better.

20 Q. It's not your job to impound the clothing?

21 A. No. Not in a case like this.

22 Q. It's not your job to inspect the clothing  
23 for any evidence that may be on the clothing?

24 A. If there is something that the crime lab  
25 people think I ought to see or want to ask something

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1 about, I will, yes. I don't always.

2 Q. Did you do it in this case?

3 A. I have no idea.

4 MR. SCHIECK: Nothing else, your Honor.

5 Thank you.

6 THE COURT: Mr. Owens.

7 MR. OWENS: No further questions.

8 THE COURT: Hold on a second Dr. Green.  
9 Counsel approach.

10 (Discussion held at the bench.)

11 THE COURT: Let me ask a couple of  
12 questions, if I could, please, Dr. Green.

13 Could any of the bruising or abrasions  
14 come from being kicked?

15 THE WITNESS: If the individual doing the  
16 kicking had hard shoes on, I would say no. It's very  
17 unlikely. We don't see anything that looks like a boot  
18 print. If they didn't, if they had moccasins, soft shoes  
19 of some kind that doesn't have a hard sole or heel,  
20 maybe.

21 THE COURT: Thank you. Also, judging by  
22 the injuries to the head and the temple area, would she --  
23 meaning the victim -- most likely be unconscious at the  
24 time of the stabbing or not?

25 THE WITNESS: I don't think we can say yes

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1 or no. Possibility is there. I would think rather  
2 doubtful.

3 THE COURT: Rather doubtful --

4 THE WITNESS: I don't think she would  
5 have, but I can say positively one way or the other.

6 THE COURT: You don't think she would have  
7 been unconscious?

8 THE WITNESS: That's correct, sir.

9 THE COURT: Mr. Owens, do you have any  
10 questions based on mine?

11 MR. OWENS: No, your Honor.

12 We move for the admission of Exhibit  
13 135.

14 THE COURT: Any objection to 135.

15 MR. SCHIECK: No, your Honor.

16 THE COURT: 135 will be admitted. Mr.  
17 Schieck, do you have any questions?

18 MR. SCHIECK: Just on the unconsciousness.  
19 Did you see any subdural or subacnoid bleeding associated  
20 with the trauma.

21 THE WITNESS: No. There was no evidence  
22 of injury to the brain.

23 MR. SCHIECK: And no evidence of skull  
24 fracture or any other injuries to the structure of the  
25 skull.

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1 THE WITNESS: No. None whatever.

2 MR. SCHIECK: No further questions.

3 THE COURT: Mr. Owens.

4 MR. OWENS: Nothing further, your Honor.

5 THE COURT: Dr. Green, thank you for your  
6 time, sir. You're excused.

7 THE WITNESS: Thank you, sir.

8 THE COURT: The State may call its next  
9 witness.

10 MR. OWENS: Your Honor, earlier in the  
11 case we read some testimony. We were unable to locate Mr.  
12 Mike Pollard. Later that day he -- we got a call from him  
13 so he's available.

14 We would like to call him for a few brief  
15 questions with regard to impact.

16 THE COURT: All right.

17 MR. SCHIECK: At this time we need to  
18 preserve our objection to that testimony based on previous  
19 discussions.

20 THE COURT: I'll note that for the  
21 record.

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

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1 THE WITNESS: I do.  
2 THE CLERK: State and spell your name for  
3 the record.

4 THE WITNESS: Mike Pollard,  
5 P-O-L-L-A-R-D.

6 DIRECT EXAMINATION

7 BY MR. OWENS:

8 Q. You don't live in the Las Vegas area  
9 anymore?

10 A. No, sir.

11 Q. You were living here back in 1994, '95?

12 A. Yes, sir.

13 Q. What did you do here?

14 A. I worked for G.E. Capital.

15 Q. You worked with Debra Pollard?

16 A. Yes, I did.

17 THE COURT: Debra Panos.

18 THE WITNESS: Yes.

19 BY MR. OWENS:

20 Q. And some other individuals, you were all  
21 friends together?

22 A. Yes.

23 Q. Who was in your group have of friends  
24 there?

25 A. Me, Debra, Lisa -- quite a few of us.

1 Q. Did you have a chance to review your  
2 testimony in this case from about ten years ago?

3 A. Yes, I went over it.

4 Q. And is that a true and accurate testimony  
5 about what you recall and what happened in this case?

6 A. Yes, it is.

7 Q. We were unable to get ahold of you last  
8 week. You heard about us through Lisa?

9 A. Her mother. Her mother contact my mother.

10 Q. And you just came over?

11 A. Came down for this.

12 Q. What I would like to ask you about is how  
13 you heard about the death of Debra Panos, and its affect  
14 on your life. She had been at your house on the couch?

15 A. Right.

16 Q. And you wanted her to wait?

17 A. Right.

18 Q. When you came back out she had already  
19 gone?

20 A. She left.

21 Q. How did you hear about her death?

22 A. Lisa called me on the phone and told me that  
23 she had found Debra's body.

24 Q. Lisa Duran?

25 A. Yes.

1 Q. How did you feel at that point?

2 A. Well, at first I felt -- I didn't want to  
3 believe it at first. Then I felt saddened. Especially  
4 for Debra and her kids. They had to grow up without a  
5 mother.

6 Then I got angry because I already knew who had  
7 done it, probably. And then I felt like pain, like in my  
8 chest. I kind of felt like my heart hurt, you know what I  
9 mean. Sort of like -- I can't explain it.

10 Q. What kind of person was Debra Panos?

11 A. She was a very sweet person. She was a  
12 person who loved her children. She was outgoing. She was  
13 very, very friendly. Just a good person.

14 Q. How long did your relationship with her  
15 last?

16 A. Well, I met her about a year -- I guess it  
17 was close to two years. Because I met her at a training  
18 course for G.E. and we became friends from then on.

19 Q. What kind of relationship did you have with  
20 her, what kind of friendship was it?

21 A. She would pick me up and we'd go to work  
22 together, like a carpool sort of thing. Like on weekends,  
23 Friday, when we finished work, I'd baby sit the kids for  
24 her. That kind of thing.

25 Q. In the days and weeks following her death,

1 how did you deal with the loss?

2 A. Well, I had -- I wound up quitting my job  
3 because my concentration was gone. I couldn't look over  
4 there and see her computer and desk empty. I couldn't  
5 concentrate. My productivity went down. I was forced to  
6 give that up. I just -- I moved out of Nevada.

7 Q. And you haven't -- you've stayed out of  
8 state since that time?

9 A. Yes.

10 Q. It's been ten years since you testified in  
11 this case?

12 A. Yes.

13 Q. Has her death left an impression or impact  
14 on your life?

15 A. I still -- she creeps back in my mind, you  
16 know, time to time. I still see her in happier moments.  
17 I don't see -- I don't see I don't see, you know, I can't  
18 see anything bad, I mean.

19 Q. You said that you had a lot of anger back  
20 then. Has that gotten better as the years have gone by?

21 A. A little bit. A little bit, yeah. Because I  
22 couldn't help but think if she would have waited for me, I  
23 might have been able to save her. She just didn't wait  
24 for me.

25 MR. OWENS: I don't have anything

1 further.  
 2 THE COURT: Thank you. Mr. Schieck,  
 3 Mr. Patrick.  
 4 MR. PATRICK: Thank you, your Honor.  
 5 CROSS-EXAMINATION  
 6 BY MR. PATRICK:  
 7 Q. Good afternoon, Mr. Pollard.  
 8 A. Good afternoon.  
 9 Q. You met Debra when you both worked at G.E.  
 10 Capital?  
 11 A. Yes.  
 12 Q. You became friends. Had a group of friends.  
 13 A. Yes.  
 14 Q. I believe in some of your previous testimony  
 15 you described your and Debbie's relationship as  
 16 inseparable?  
 17 A. Yeah, we were. We pretty much -- well, ever  
 18 since we started car pooling we pretty much did everything  
 19 together. Go help her grocery stopping. She'd help me.  
 20 She had a car, I didn't at the time.  
 21 Q. And I believe you said that Debra would  
 22 actually spend the night at your house?  
 23 A. Not her, but the children. Yeah, she did  
 24 too on occasion. But that was when it was so late at night  
 25 she didn't want to wake the kids up to take them home.

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1 Q. Now, Mr. Owens asked you about the day  
 2 Debbie died and when she was on the couch?  
 3 A. Right.  
 4 Q. What were you doing when she was on the  
 5 couch?  
 6 A. Well, I got out of the shower. I was in the  
 7 shower. I opened the shower when she knocked on the door.  
 8 When she walked in I told her, let me finish all right.  
 9 She was, like, you got your feet tucked up --  
 10 Q. You were in the shower?  
 11 A. When she first arrived.  
 12 Q. Then you went back in the shower, and when  
 13 you came out she was gone?  
 14 A. She was gone.  
 15 MR. PATRICK: That's all I have, your  
 16 Honor.  
 17 THE COURT: Mr. Owens.  
 18 REDIRECT EXAMINATION  
 19 BY MR. OWENS:  
 20 Q. Your relationship with Debbie was not a  
 21 romantic kind of relationship?  
 22 A. No, sir.  
 23 Q. Just friends?  
 24 A. Yes, sir.  
 25 MR. OWENS: Nothing further.

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1 THE COURT: Nothing from the jurors.  
 2 Thank you for your time. You are excused.  
 3 THE WITNESS: Thank you.  
 4 THE COURT: The State may call their next  
 5 witness.  
 6 MR. OWENS: Could we take a ten minute  
 7 break before we get to our last witness.  
 8 THE COURT: Sure.  
 9 We'll take a short recess.  
 10 JURY ADMONITION  
 11 During the recess, ladies and gentlemen,  
 12 you are admonished not to converse among yourselves or  
 13 with anyone else, including, without limitation, the  
 14 lawyers, parties and witnesses, on any subject connected  
 15 with this trial, or any other case referred to during it,  
 16 or read, watch, or listen to any report of or commentary  
 17 on the trial, or any person connected with this trial, or  
 18 any such other case by any medium of information  
 19 including, without limitation, newspapers, television,  
 20 internet or radio.  
 21 You are further admonished not to form or  
 22 express any opinion on any subject connected with this  
 23 trial until the case is finally submitted to you.  
 24 We'll be in recess for ten minutes.  
 25 (Jury escorted out of the courtroom.)

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1 THE COURT: Let me go ahead and admonish  
 2 M. Chappell before we move to the defense case shortly.  
 3 We'll be on the record in C-131341, State  
 4 of Nevada versus James Chappell.  
 5 The record will reflect the presence of  
 6 Mr. Chappell, with his attorneys, the State's attorneys  
 7 are present. We're outside the presence of the jury.  
 8 Let me just inform you of a couple of  
 9 things, if I could, Mr. Chappell. You understand that  
 10 under the constitution of the United States and the  
 11 constitution of the State of Nevada, you cannot be  
 12 compelled to testify in this case. Do you understand  
 13 that?  
 14 THE DEFENDANT: Yes, sir.  
 15 THE COURT: You may, at your own request,  
 16 give up this right and take the witness stand and testify.  
 17 If you do you will be subject to cross-examination by the  
 18 deputy district attorneys and anything you may say, be it  
 19 on direct or cross-examination, will be the subject of  
 20 fair comment when the deputy district attorneys speak to  
 21 the jury in their final arguments.  
 22 Do you understand that?  
 23 THE DEFENDANT: Yes.  
 24 THE COURT: If you choose not to testify,  
 25 the court will not permit the deputy district attorneys to

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1 make any comments to the jury because you have not  
 2 testified. Do you understand that?  
 3 THE DEFENDANT: Yes.  
 4 THE COURT: If you elect not to testify,  
 5 the court will instruct the jury, but only if your  
 6 attorneys specifically request, that the law does not  
 7 compel a defendant in a criminal case to take the stand  
 8 and testify and no presumption may be raised and no  
 9 inference of any kind may be drawn from the failure of a  
 10 defendant to testify.  
 11 Do you have any question about that?  
 12 THE DEFENDANT: No.  
 13 THE COURT: I also need to tell you that  
 14 if you choose to make a statement of allocution, you have  
 15 that right, which is an unsworn statement that you may  
 16 give to the jury. The State cannot discuss the facts or  
 17 circumstances relating to guilt or any exculpatory  
 18 evidence.  
 19 Do you understand that?  
 20 THE DEFENDANT: Yes.  
 21 THE COURT: You can express your remorse  
 22 or pleas for leniency and your plans or hopes for the  
 23 future in this brief unsworn statement. That statement is  
 24 subject to my supervision, though, do you understand that?  
 25 THE DEFENDANT: Yes.

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1 THE COURT: If you go beyond the  
 2 boundaries of what is permitted in that unsworn statement,  
 3 I can subject you to some type of corrective action, which  
 4 could include limiting your statement or cutting it off,  
 5 or opening up your statement to cross-examination by the  
 6 deputy district attorney.  
 7 Do you understand that?  
 8 THE DEFENDANT: Yes.  
 9 THE COURT: You have discussed these  
 10 issues with your attorneys?  
 11 THE DEFENDANT: Yes.  
 12 THE COURT: The decision as to whether to  
 13 testify and/or give an unsworn statement of allocution,  
 14 I'll leave up to you and your attorneys, based on a  
 15 discussion you all have.  
 16 THE WITNESS: Thank you.  
 17 THE COURT: Thank you for your time.  
 18 Anybody have anything else out the  
 19 presence.  
 20 MS. WECKERLY: No, your Honor.  
 21 THE COURT: Back on the record in  
 22 C-131341, State of Nevada versus James Chappell. The  
 23 record will reflect the presence of Mr. Chappell, with his  
 24 attorneys, the State's attorneys, and the presence of our  
 25 jury.

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1 We'll continue with the State's case in  
 2 chief. The State may call their next witness.  
 3 MR. OWENS: We'll call Carol Monson.  
 4 THE CLERK: You do solemnly swear the  
 5 testimony you about to give in this action, shall be the  
 6 truth, the whole truth, and nothing but the truth, so help  
 7 you God.  
 8 THE WITNESS: I do.  
 9 THE CLERK: Be seated. State and spell  
 10 your name for the record.  
 11 THE WITNESS: Carol Monson, M-O-N-S-O-N.  
 12 DIRECT EXAMINATION  
 13 BY MR. OWENS:  
 14 Q. You live in Arizona?  
 15 A. Yes, I do.  
 16 Q. You have been sitting and listening to large  
 17 part of this trial?  
 18 A. Yes, I have.  
 19 Q. Did you sit through a lot of the trial they  
 20 held ten years ago?  
 21 A. Yes, I did.  
 22 Q. And in fact that you testified in the prior  
 23 trial on one occasion?  
 24 A. Yes, I did.  
 25 Q. How are you related to Debra Panos?

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1 A. I'm her aunt. Her mother is my sister.  
 2 Q. Her mother's name is?  
 3 A. Norma Penfield.  
 4 Q. Norma has been sitting with you throughout  
 5 the proceedings the last few days?  
 6 A. Yes.  
 7 Q. Would you take a moment and describe what  
 8 kind of relationship you had with Debbie?  
 9 A. Debbie was an only child of my sister. And  
 10 we were very family oriented, very close-knit family.  
 11 Debbie was like a sixth child of my other sister  
 12 who had five children of her own. Kids did everything  
 13 together. It was just -- she was like one of anyone elses  
 14 family, no matter what we did, we were altogether. We  
 15 always did everything together.  
 16 So it was, even though she was an only child, it  
 17 was just like growing up with having nine, ten kids in one  
 18 family.  
 19 We had a lot of family get-togethers. Debbie loved  
 20 having family get-togethers. She was just a sweet person  
 21 and a very giving person, just generous. She would think  
 22 of someone else before she would think of herself. She  
 23 was just a kind little gal.  
 24 Q. Can you give us some examples of that, how  
 25 she was giving to other people?

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1 A. Oh, she would -- there was times when she  
2 would, if she knew someone else in the family needed some  
3 help, if there was anything she could do, she was always  
4 there. She would always offer herself in order to help.

5 It didn't matter what it was, she went out of her  
6 way to help someone. And it wasn't just the family, it  
7 was friends at school. She helped in one of the other --  
8 one of her cousins in tutoring and helping them with math  
9 because she was a very gifted gal. Schooling became very  
10 easy for her. And she was very bright. And she shared  
11 that gift with her cousin at times when they needed  
12 help.

13 Q. She was a compassionate person?

14 A. Sorry.

15 Q. A compassionate person?

16 A. Yes, she was, very.

17 Q. How so?

18 A. She had lived with her -- she lived  
19 with -- her grandmother lived with her mom and her step  
20 father, and there was something about Debbie that she had  
21 a love for watching elderly people and someone a lot older  
22 than her. She could see an elderly couple on the street  
23 and maybe they're walking hand in hand, and she would make  
24 a remark and she just thought that was so cute. And she  
25 loved her grandmother. She would go up and pinch her on

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1 the cheek.

2 Q. Take your time.

3 A. She'd say, grandma you're so cute. She just  
4 had a kind heart where she would have no problem putting  
5 someone else before her.

6 Q. What were Debbie's favorite things?

7 A. Sorry.

8 Q. What were Debbie's favorite things?

9 A. Her favorite things. Debbie loved to  
10 collect clowns of all kinds. She had a -- we'd buy her --  
11 we knew that so we would try and buy her, when we were  
12 someplace special, or whatever, if we seen a clown, some  
13 little knickknack, she loved collecting clowns. We tried  
14 to build her a collection of clowns.

15 There were some reason -- for some reason she  
16 didn't have them all when she died, but we were able to  
17 retrieve a few of them, which we kept to pass on to keep  
18 for her children, if they wish to keep them.

19 Q. Some things that are boxed away for the  
20 children?

21 A. Yes. Yes, a long with other things that  
22 were hers. I had bought her a pink -- pink was one of her  
23 favorite colors -- I bought her a pink pearl necklace and  
24 earrings that went with her pink suit that we laid away.  
25 I said I would buy it and put it on her and kept it for

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1 her daughter Chantelle later in life.

2 Q. How did you find out about Debbie's death?

3 A. I was coming home from work one day and we  
4 have a five-foot high fence around our home that's gated.  
5 And you have to get out of your vehicle and open the gate  
6 and manually, it's not automatic, before you can pull into  
7 the garage. And I got out and opened the gate, and I  
8 wondered why my husband was in the garage and he came out  
9 and he just started yelling, don't close the gate, we have  
10 to leave. And he was just as white as a ghost.

11 And he didn't say anything. I said what's the  
12 matter. And he said Norma had called and said Debbie was  
13 dead.

14 I said no. You must have heard her wrong. There  
15 has to be a mistake. He said, no, I don't think so. We  
16 have to go to Normas right away.

17 So we jumped back in the car and went to my sisters  
18 And she was in hysterics. And I tried to get as much  
19 information from her as I could to find out what happened  
20 and she said someone from Las Vegas called, and I believe  
21 at first she said it was a neighbor of Debbie's told her  
22 that Debbie had been shot. I said, no, you must have  
23 misunderstood. That can't be right.

24 So I called Debbie's house number and an officer  
25 answered the phone. And I explained who I was, that we

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1 were trying -- we were at Debbie's mother's house and  
2 about the phone call she had, and said we're trying to --  
3 I'm trying to find out what's going on, what's happened.

4 And he said, well, I'm sorry you had to hear it  
5 that way -- she had to hear it that way from the neighbor,  
6 but he said, no, she wasn't shot, but she has been  
7 murdered.

8 I did not go into any details, because I had -- I  
9 had to give the phone to my husband and he talked to the  
10 officer. And from then it was just like a nightmare, just  
11 something you don't ever expect to happen.

12 Q. What sort of things did you have to do over  
13 the next few days?

14 A. The first thing we had to do was come pick  
15 up the children. Find out where they were at. We did  
16 find out through telephone conversations with the police  
17 department that they were being taken care of in the care  
18 of the state. But at that time they still hadn't  
19 apprehended the person that killed her. So we had fear  
20 that this person would be on their way to Tucson, until  
21 later on when we were notified that they had apprehended  
22 him.

23 So it was just getting our belongings together, at  
24 first, to come and pick up the children. My sister had to  
25 go to court to secure legal guardianship so we could take

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1 them back to Tucson. And from their it was making funeral  
2 arrangements to take Debbie to Michigan to be buried  
3 beside her grandmother, her uncle, and her step father.

4 Q. That was back in Lansing?

5 A. Yes.

6 Q. Did you have a service for her?

7 A. Yes, we did.

8 Q. Where was that held?

9 A. It was very sad, of course, because she's so  
10 young. And it was so hard and still is to believe that we  
11 lost her. It was very, very heart breaking.

12 Q. Who was it that made the arrangements and  
13 made all of these things happen in those days right after  
14 her death?

15 A. I helped my sister make them.

16 Q. How did your sister seem to be dealing with  
17 it?

18 A. Sorry.

19 Q. How did your sister seem to be dealing with  
20 it?

21 A. She didn't at first. And I say that only  
22 because she had just lost her husband two years before  
23 that, and she had just spent those -- almost two whole  
24 years keeping herself closed up in her own home. She  
25 wouldn't even open a drape to let in the light. She was

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1 just so lost without Dale. And she no more -- was  
2 getting -- finally getting over grieving from his loss,  
3 that she lost her child.

4 There's no way you can describe that. There's no  
5 way I can imagine what she felt like inside, as close as  
6 we are. I just cannot imagine.

7 Q. Did you feel that you needed to be the  
8 strong one to help her?

9 A. You bet I did. Yes.

10 Q. What was the impact of Debbie's death on  
11 your husband and other family members?

12 A. Well, a lot of the family lives -- most of  
13 her cousins and our family live in Michigan. We still  
14 have some in Pennsylvania where we were born and raised.  
15 She had an uncle in Virginia. Our impact on my husband  
16 and I was just like we had no -- from that time on, we  
17 couldn't just think of the two of us as a marriage, or as  
18 a couple to do what we wanted to do. Not that we regret  
19 or ever would helping her in any way we could, but it took  
20 a toll on our marriage too, because of the time involved,  
21 that we also had to provide to her and to the children in  
22 order to give them a decent up bringing.

23 She drove very little. She was in a couple of bad  
24 car accidents, and it left her just scared to death to  
25 drive a lot. And her husband, Dale, would just -- he

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1 would do all of the driving, so there was a few years  
2 before his death that she didn't do any driving at all,  
3 because she just become so dependant on him doing the  
4 driving. And she still is that way to this day. She can  
5 drive some, but she's just very, very nervous and will not  
6 do it. So we had to be her wheels.

7 Q. You have been very actively involved in the  
8 raising of the children?

9 A. Yes.

10 Q. Now, when you testified ten years ago, there  
11 were a couple of family members that didn't feel like they  
12 would be able to come here and testify, why was that?

13 A. I'm sorry.

14 Q. Why was that?

15 A. I'm sorry. I didn't hear what you said  
16 before.

17 Q. There were a couple of family members you  
18 talked about that weren't able to come. Why weren't they  
19 able to come?

20 A. They had families of their own. My sister  
21 would have come, but she had her oldest son who was in a  
22 semi-coma since he had been 18 years old in a bad car  
23 incident, which required 24-hour care. And she won't fly.  
24 You would not get her on an airplane.

25 Her daughter also had family obligations and young

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1 children of her own that she was unable to come out. So  
2 we just asked them to make -- if they would just make  
3 statements.

4 Q. Were they close to Debbie?

5 A. Absolutely. That was the family that my  
6 sister had five children of her own and Debbie grow up  
7 with those five children as though she was the sixth.

8 Q. What's the sister's name?

9 A. Doris Weskowski.

10 Q. So you read a couple of letters in last  
11 time?

12 A. Yes.

13 MR. OWENS: Your Honor for the record, I  
14 think those were marked as exhibits 91 and 92. With the  
15 permission of the court, I would like to approach the  
16 witness.

17 THE COURT: Yeah. Counsel approach the  
18 bench real quick, please.

19 (Discussion held at the bench.)

20 MR. OWENS: I put before you exhibits from  
21 the last hearing, Exhibits 91 and 92.

22 BY MR. OWENS:

23 Q. Are these the letters you read into the  
24 proceeding ten years ago?

25 A. Yes, they are.

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1 MR. OWENS: And with the court's  
2 permission, I'd like to have her go ahead and read those  
3 two into the record again.

4 THE COURT: Okay.

5 BY MR. OWENS:

6 Q. Why don't we start with Exhibit 91. This is  
7 Christina Reese?

8 A. Right.

9 Q. Would you like some water?

10 A. Yes, please.

11 Q. Go ahead. Take your time, if you need to.  
12 But read Christina's letter.

13 A. "There's hardly a day that goes by that I  
14 don't think about Deb. It has been just over a year now,  
15 but it seems like yesterday. My name is Christina  
16 Waskowski-Reese, and I'm Debbie's cousin. We lived only  
17 two blocks from each other most of our lives. We were  
18 more like sisters than cousins. We did so many things  
19 together. We went shopping together, movies, I even  
20 remember teaching Deb how to drive. Debbie was my made of  
21 honor at my wedding, and even after my marriage Deb still  
22 did things with me and my children. We went on a lot of  
23 trips together like Cedar Point. Deb just always liked to  
24 do things. She was wonderful with my older girls, and  
25 they loved her very much."

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1 "Debbie enjoined big family get-togethers  
2 and having lots of people around. She was very much a  
3 people person. I don't think I have ever met anyone that  
4 did not like her. She still has good friends from school  
5 and many of the places that she worked. She made friends  
6 easily and kept them. There is so much to say about Deb,  
7 that I can't sum it up in a letter."

8 "I hope that this helps in some way to  
9 let you know how much Deb was loved and will be missed.  
10 It's a shame that her children will never know the  
11 wonderful person I had."

12 "Enclosed are some photos of Deb with our  
13 family. On the back are descriptions and dates. If at all  
14 possible, please return these to me when you're finished,  
15 as these are my memories of Debbie."

16 "Thank you. Christina Reese, 1707 South  
17 Hollie Way, Lansing, Michigan."

18 Q. The next letter is Exhibit No. 92, from the  
19 last hearing, and this is Mrs. Doris Waskowski.

20 A. "My name is Doris Waskowski. Debbie's aunt  
21 from Lansing, Michigan. I have five children of my own  
22 and Debbie was especially close to my daughter Jenna"

23 "Debbie touched everyone's heart when you where  
24 with her. I start to cry when I see a young woman with  
25 her children on the street, or in the mall, because I

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1 think of Debbie being with her children. There is so much  
2 to tell about her, but it's hard to write it down on  
3 paper. She was only 26 years young when her life was  
4 taken from her. She had such a beautiful smile. Debbie  
5 was an active girl, always doing something or wanting to  
6 go somewhere. She would do anything you asked her to do.  
7 She had many, many friends at school and at work. She  
8 loved to talk, which with what she did so well in her 911  
9 job."

10 "She talked many young girls out of committing  
11 suicide. She would come home and tell mom all about, and  
12 her mom would be so proud of her. Debbie loved helping  
13 others. It came natural to her."

14 "Here in Michigan we lived around the corner from  
15 each other. Deb and I were very close. She was a very  
16 good student in school. She loved to bake cookies, and  
17 she could clean house better than I."

18 "Debbie loved birthday parties, dinners, anything  
19 that would bring the family together. Debbie had three  
20 beautiful children. She loved them so much. One time I  
21 remember her holding down three jobs at one time just to  
22 make ends meet. I heard about Debbie's troubles through  
23 her mom. I tried to talk to Deb about James, but deep  
24 down in my heart I know she was just to scared. She is at  
25 peace now, no more beatings from him."

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1 "I miss Debbie very much and treasure my memories  
2 of her. Mrs. Doris Waskowski, 1920 Payton Place, Lansing  
3 Michigan."

4 Q. In preparation for coming to Las Vegas for  
5 this hearing the State asked you to see if you could get  
6 an up dated letter from your sister and your niece?

7 A. Yes.

8 Q. Did you bring that with you?

9 A. Yes, I did.

10 MR. OWENS: Your Honor, for the record  
11 that would probably be marked 136. It's the next --

12 THE COURT: We'll mark it next in order.

13 THE CLERK: 137.

14 MR. OWENS: Okay.

15 THE COURT: All right.

16 MR. OWENS: We'll have her go ahead and  
17 read that. This is the letter from Christina Reese and  
18 Doris Waskowski. The letter is together, and they both  
19 signed it. Go ahead.

20 THE WITNESS: "When we think of Debbie we  
21 smile, then we cry at our loss. The tragedy of her death  
22 remains with us even after ten years. When we visit the  
23 cemetery to place flowers on her grave and see her grave  
24 marker the stark reality of her death comes rushing back."

25 "The loss of a loved one is never easy no

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1 matter what the age, but when it's under such senseless  
2 circumstances, makes it even more difficult."  
3 "When we remember Debbie we remember  
4 loving and caring person. She was someone who embraced  
5 life with such enthusiasm. She had an adventurous spirit.  
6 We will always remember her love of family. Family  
7 get-togethers were one of her favorite things, whether it  
8 was Christmas or birthdays, or just a summer cook out. We  
9 had a large family, five children, Debbie was like the  
10 sixth. She would to church with us, on family camping  
11 trips, et cetera. It just seemed like she was always  
12 there."

13 "Although many things after changed in our  
14 family in the 4,202 days since Debbie's been gone, one  
15 thing that is not, is that we love and miss her very  
16 much."

17 "Christina Reese, cousin; Doris Waskowski,  
18 aunt."

19 BY MR. OWENS:

20 Q. Thank you. Now when you were asked to and  
21 compress your feelings this time about the impact Debbie's  
22 death has had in your life, you thought it might be  
23 helpful if you wrote down some of your ideas. Do you have  
24 a copy of that with you?

25 A. Yes.

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1 Q. Would you like to read that at this time?

2 A. Yes. "My name the Caroline Monson, and I  
3 work and reside in Tucson, Arizona. I'm providing this  
4 statement on behalf of Debra Panos, who was my niece."

5 "Our family was large and consisted of many  
6 close-knit relatives. Debbie was the only child of my  
7 sister Norma. There were always family get-togethers  
8 There were always family gatherings for birthdays,  
9 holidays, or just-because events. Debbie loved to having  
10 family get-togethers, and even though she was an only  
11 child she was never alone in life. In fact, she was like  
12 the sixth child of my sister Doris and her husband John,  
13 whom had five children of their own."

14 "All of the kids grew up together and were very  
15 close to each other. Debbie was a fine young lady who was  
16 very bright and excelled in her school years. Learning  
17 came easy for her. She loved to collect clowns of all  
18 sorts. I think of Debbie any time I see one. We saved  
19 what collection was left to keep for her children."

20 "Debbie had a special feeling for the elderly and  
21 children. Probably her most outstanding virtue was that  
22 she cared about people who were less fortunate then she.  
23 If she could help them in any way she would."

24 "I can recall her seeing an elderly couple walking  
25 along hand in hand, she would say to me, 'look Aunt Carol,

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1 don't they look cute.' 'She would go up to her  
2 grandmother and give her a pinch on the cheek and say,  
3 'grandma, you're so cute'."

4 "She loved her grandmother who lived with  
5 her as she grew up. I truly believe Debbie's care to help  
6 others was why she chose to be a 911 operator."

7 "It has been almost 12 years since  
8 Debbie's death at age 26. Her death was a tragic shock to  
9 our family. My memory gets weak at times growing older,  
10 but I remember the tragedy as though it happened  
11 yesterday. I came home from work at my usual time, but  
12 when I opened our gate to pull in the garage my husband  
13 came out running out of the door, saying not to close the  
14 gate because we had to leave."

15 "I asked him what was wrong, and he was as  
16 white as snow, he said, Norma called crying hysterically  
17 saying Debbie is dead. We have to get over there."

18 "I didn't believe what he said. I kept  
19 saying no, no, Norma made a mistake and misunderstood  
20 someone, just could not believe this was happening to our  
21 family."

22 "Unfortunately, it was not a mistake and  
23 from that moment on it's like a horror story. Our first  
24 thoughts and concerns where of the children, and where  
25 they were, and who was caring for them. We knew we had to

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1 get to Vegas to be with them."

2 "Debbie was so brutally killed I can't  
3 even begin to imagine what her last thoughts were, but I'm  
4 sure they would have been for her children. Her killing  
5 was senseless and I just don't understand what happened."

6 "I still remember when my husband and I  
7 were taken to Debbie's home where it happened to get  
8 clothes and items for the kids. I will never forget  
9 seeing the floor in her living room. The officer was most  
10 kind to quickly pick up some towels and put them over the  
11 stains. I wept the whole time I was there and it was so  
12 hard to believe what was happening. Unfortunately, I  
13 still have many, many nightmares of what I saw that day."

14 "Debbie's death has had such a major  
15 change in our lives. My sister had just gotten over the  
16 loss of her husband when this tragedy happened. She lost  
17 her only child. At 58 years of age she chose to seek  
18 court custody as their legal guardian to provide a home to  
19 raise her three grand children. She had very little time  
20 to grieve in her own way over Debbie's death."

21 "The energy and time all of us previously  
22 contributed to ourselves was no longer ours. All our  
23 priorities had now changed. Accepting the responsibility  
24 to care for Chantelle, JP, and Anthony not only changed my  
25 sister's life completely, but mine as well. My husband

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1 and I have tried to provide whatever support and help we  
2 could over the years. None of us were at the age that we  
3 could keep up easily, and it took every bit of energy and  
4 strength that we could find. And the same goes as of  
5 today."

6 "My husband and I had to be the help my  
7 sister needed and required, as she had to be the role of  
8 mother, father, grandmother, and grandfather, so to speak.  
9 And four roles from one body does take a toll."

10 "Children growing up forget that we are  
11 not at an age that most parents of their years are usually  
12 at. I can remember when my husband tried to keep up with  
13 them, teaching them to play basketball. He was 62 years  
14 old and not able to run, jump as a younger parent could,  
15 but he gave it all he could at the time because he knew it  
16 was all they had in the grandfather role and he knew it  
17 was important to them."

18 "It was hard for them to understand why we  
19 were not physically able to endure things as kids their  
20 ages needed and should have had."

21 "We have all missed Debbie so much. It's  
22 a very, very hard role to explain to small children why  
23 they no longer have a mother around to watch them grow up.  
24 All the birthday, holidays, school event major things that  
25 happened in their growing years were difficult to handle

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1 without their mom. She loved them so much."

2 "They light a special candle on May 4th,  
3 every year in remembrance of her on her birthday. It's  
4 hard to think of all of the family events that Debbie  
5 missed over the years, which would have made her happy.  
6 There is so much that could be said in this sad and happy  
7 time of our life."

8 BY MR. OWENS:

9 Q. How are the children doing now?

10 A. Sorry.

11 Q. How have the children been doing?

12 A. They are doing great. The oldest graduated  
13 last year with honors, attending college, is a very  
14 bright -- he got his gift of brains from his Mom.

15 Schooling came very easy to him. He is a very gifted  
16 child. But he's a young adult now, no longer a child.  
17 Chantelle, was too young to remember. Maybe it's  
18 just as well. She didn't see some of the horror things  
19 that her brother had. They're doing good.

20 Q. Thank you for being here again.

21 THE WITNESS: You're welcome.

22 THE COURT: Mr. Schieck.

23 MR. SCHIECK: No questions.

24 THE COURT: Ma'am, thank you for your  
25 time. Please, step down.

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1 THE WITNESS: Thank you.

2 THE COURT: The State may call their next  
3 witness.

4 MS. WECKERLY: Thank you, Judge. The next  
5 witness is Norma Penfield.

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

10 THE WITNESS: I do.

11 THE CLERK: Be seated. State your name  
12 and spell if for the record.

13 THE WITNESS: Norma Penfield,  
14 P-E-N-F-I-E-L-D.

15 DIRECT EXAMINATION

16 BY MS. WECKERLY:

17 Q. You reside in Tucson?

18 A. Yes.

19 Q. Before you moved to Tucson where did you  
20 live?

21 A. Lansing, Michigan.

22 Q. Were you married ever?

23 A. Yes.

24 Q. And when was it that your husband died?

25 A. Two years before Debbie died.

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1 Q. What was Debbie like as a young girl?

2 A. She was a good girl. She was a good baby,  
3 never had any problems. She was good in school.

4 Q. You're Debbie's mother and our understanding  
5 is your mother lived in the household as well?

6 A. I took care of my mother.

7 Q. Did Debbie have a close relationship with  
8 her grandmother as well yourself?

9 A. Oh, yes. I always told her she spoiled  
10 Debbie.

11 Q. What kind of things did she enjoy doing as a  
12 young girl?

13 A. She enjoyed sports, competing, lots of  
14 things.

15 Q. Was she close to her cousins?

16 A. Oh, yes. We didn't live very far from each  
17 other. My sister had five children, and there was lot of  
18 get-togethers. And they would play together and compete  
19 in sports together, just had great times.

20 Q. As Debbie grew into being a young woman and  
21 adult, what qualities did she have in her personality?

22 A. She loved older people. We used go walk in  
23 the mall and point out people and how cute they were, you  
24 know. And children, she loved children. And she was a  
25 hard worker.

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1 Q. We've heard testimony that she was also a  
2 generous person or kindhearted?

3 A. Yes. She would do anything for anyone. We  
4 used to talk about things and Debbie would go completely  
5 out of her way to help anyone. But she said a lot with  
6 her friends, she didn't seem to receive the same thing  
7 back that when she was in a tight spot a lot of them let  
8 her down.

9 Q. In about October of 1994, Debbie moved from  
10 Tucson to Las Vegas?

11 A. Yes.

12 Q. You were still living in Tucson at the  
13 time?

14 A. Yes.

15 Q. At that point in time she had three  
16 children?

17 A. Yes.

18 Q. What are their names?

19 A. James -- we call him JP -- Anthony, and  
20 Chantelle.

21 Q. Once Debbie moved to Las Vegas, did you keep  
22 in touch with her or do things that a grandma would do for  
23 the three kids?

24 A. When she told me that the police advised her  
25 she had to get out of state for her own safety, and for

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1 some reason she picked to go to Las Vegas. So I helped  
2 her with the moving expenses and do whatever I could so  
3 that she could move there. And we talked on the phone all  
4 the time, and it was hard to see her go.

5 Q. Did you give her stuff for the grand  
6 children around that time?

7 A. All the time.

8 Q. What sort of things would you give them?

9 A. Clothes and toys, anything -- anything that  
10 they needed or she needed help with. Any time she was  
11 down and needed money for something, I always helped her  
12 out.

13 When she moved to Las Vegas, she'd call and said  
14 she found a place and she needed a down payment so I got  
15 the money together and sent her the down payment for her  
16 home.

17 Q. Did you help her get a car as well?

18 A. Yes, I did. Anytime she -- if she needed  
19 anything, somehow I helped her out.

20 Q. Ma'am, how were you notified that Debbie had  
21 been murdered?

22 A. I was home alone and I got a phone call and  
23 they told me Debbie was dead. I just went down to the  
24 floor. And then I just told him, I kept saying no, no,  
25 no, what happened. And then I started screaming where

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1 were the children, are they safe.

2 Q. The grand children, your grand children?

3 A. Yes. That was it. Then I called my sister.  
4 She and her husband came right over to help me --

5 Q. Did you come to Las Vegas?

6 A. -- to come to Las Vegas. Yes.

7 Q. Were where the kids once you'd come to Las  
8 Vegas?

9 A. I was told that they were in child  
10 protective --

11 Q. Child Haven?

12 A. Yes.

13 Q. Were you able to get them released to you?

14 A. I had to -- eventually I had to go to court  
15 hear to get them released in my custody, so that I could  
16 take them back to Arizona to get legal guardianship of  
17 them.

18 Q. You were able to do that?

19 A. Yes.

20 Q. I'm putting up on the overhead screen

21 State's 93. Are those the three grand children?

22 A. Yes.

23 Q. That would be JP, Anthony, and Chantelle?

24 A. Right.

25 Q. This is, for the record, States 94 This is

227

1 in our home in Tucson?

2 A. Yes.

3 Q. Is that about the ages the children were at  
4 when their mom was killed?

5 A. I think -- I would, yeah. Looks like it,  
6 yeah.

7 Q. When you got the three children out of Child  
8 Haven, how did you get their clothes or what did you do?

9 A. They just had the clothes -- my sister tried  
10 to get what she could, because I didn't go to the house.  
11 My sister and he husband did. They tried to get what was  
12 necessary, but they got very little. So we had to go,  
13 before I even took them back to Michigan, we had to get  
14 shoes and clothes to wear before we drove back.

15 Q. Did they have any toys?

16 A. They did, but there was nothing -- there  
17 wasn't nothing there.

18 Q. You mean nothing in the trailer?

19 A. Yeah.

20 Q. Did they tell you at the time where their  
21 toys went?

22 A. Anytime you ask them where this or that was,  
23 they said Daddy sold them.

24 Q. Where is Debbie buried?

25 A. In the family plot in Michigan.

228

1 Q. Were you responsible for arranging that?  
 2 A. Uh-huh.  
 3 Q. Is that "yes"?  
 4 A. Yes.  
 5 Q. You had to make arrangements to move her  
 6 body from Las Vegas to Michigan?  
 7 A. Right.  
 8 Q. Did you incur all of the expenses for  
 9 that?  
 10 A. Yes.  
 11 Q. I assume you and the three children went  
 12 back for the service?  
 13 A. Yes.  
 14 Q. Did you pay for that?  
 15 A. Yes.  
 16 Q. How did you pay for all of that?  
 17 A. I borrowed on my life insurance, got money  
 18 out of my savings, different places.  
 19 Q. Since Debbie was killed, you've had the  
 20 children with you?  
 21 A. Yes.  
 22 Q. You raised them for the last ten years?  
 23 A. I sure did.  
 24 Q. Let's talk about JP. He's the oldest son?  
 25 A. Yes.

229

1 Q. How did he react initially after his Mom was  
 2 killed by James?  
 3 A. He kept a lot of things in. When we first  
 4 got him he said to me one night, he wanted sleeping pills.  
 5 He said he couldn't sleep.  
 6 Q. He was about 8 years old at the time?  
 7 A. Yes. I said you'll be okay. I says,  
 8 grandma is going to be right here and I won't leave you.  
 9 I said, I check on you all night long -- which I did with  
 10 all the kids, because I couldn't sleep.  
 11 And Anthony, who was 5, he would say things about  
 12 Mom, but he just -- he wasn't registering everything.  
 13 Q. What about Chantelle?  
 14 A. Chantelle, she said she wanted to die so she  
 15 could go to heaven and be with her Mom. And every night I  
 16 used to -- I would rock her, read a story to her, she  
 17 would always want me to sing to her about Mommy, tell her  
 18 about her Mom.  
 19 Q. JP, now is a young man, right?  
 20 A. Yes. He graduated from high school. And he  
 21 got a scholarship to go to community college in Tucson.  
 22 Q. What does he like to do?  
 23 A. JP taught himself to play guitar through the  
 24 internet. He writes his own music. He has his own band.  
 25 He taught Anthony how to play base guitar. And he is into

230

1 music.  
 2 Q. What is Anthony doing now?  
 3 A. Anthony likes video games, and he likes to  
 4 skateboard. Stuff like that.  
 5 Q. He is about 15 now?  
 6 A. Yeah. Chantelle, she's -- Anthony is 17  
 7 now. JP will be 19 next month. Chantelle is 15 now. And  
 8 she does teenage girl things. She likes the fashions and  
 9 talking on the phone with her girlfriends and things like  
 10 that.  
 11 Q. Do they know that -- do they say anything  
 12 about their father, James Chappell?  
 13 A. She don't want -- they don't want any  
 14 mention of him. They get angry. When JP turned 18,  
 15 through an attorney Mr. Chappell tried to contact JP  
 16 through attorney with a letter, saying he wanted to start  
 17 a relationship up with him now that he's an adult. I told  
 18 JP that it was his choice. He just looked at me and said  
 19 he didn't want to talk about it grandma. He signed a  
 20 letter, he wanted no contact and nothing at all, never.  
 21 Q. Since in the time immediately following  
 22 Debbie's death, did you have time as a mother to grieve  
 23 yourself?  
 24 A. No. I had -- I was just getting over my  
 25 husband's death who died suddenly. I just shut myself in

231

1 my home because I missed him so much. We did everything  
 2 together. And then I lost Debbie. And I had very little  
 3 time because I had to concentrate on the kids and getting  
 4 a pediatrician for them and getting them registered in  
 5 school. I had very little time.  
 6 Q. You did all of that?  
 7 A. Yes.  
 8 Q. Now, they seem to be doing well. Onas  
 9 graduated?  
 10 A. They're great kids. They don't get into  
 11 trouble. No trouble at all with them going to school,  
 12 very well-mannered. People tell me that all the time.  
 13 Q. You're proud of them?  
 14 A. Uh-huh.  
 15 Q. Is that "yes"?  
 16 A. Yes.  
 17 Q. Ma'am, I'm putting on the overhead some  
 18 photos that you provided to us of Debbie.  
 19 The first one -- it's a group of photos, for the  
 20 record, that's been marked a 136 -- State's 136, which  
 21 we'd ask to admit.  
 22 THE COURT: Any objection.  
 23 MR. SCHIECK: No, your Honor.  
 24 THE COURT: Those will be admitted.  
 25 BY MS. WECKERLY:

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1 Q. If you can describe the setting?  
 2 A. This is Debbie and her girlfriends -- some  
 3 friends.  
 4 Q. When she was growing up?  
 5 A. Yes.  
 6 Q. What about this photo?  
 7 A. This is Debbie's graduation from high  
 8 school. And that's her cousin Tina.  
 9 This is a picture of Debbie, and myself, and her  
 10 grandmother -- my mother.  
 11 This is a picture of Debbie and myself and my  
 12 husband.  
 13 That's a school photo of Debbie.  
 14 Q. Grade school?  
 15 A. Yes. That's another one.  
 16 Q. These would have been when you she was  
 17 living in Michigan?  
 18 A. Yes. This is when we were -- I can't  
 19 remember if that was in the upper peninsula. This was  
 20 just an outing.  
 21 Q. Family outing?  
 22 A. Yes.  
 23 Q. That's you and Debbie?  
 24 A. Uh-huh.  
 25 Q. Is that "yes"?

233

1 A. Yes, sorry. This is on Halloween. Debbie  
 2 collected clowns. She loved clowns.  
 3 Q. So that's her?  
 4 A. This is Halloween dressed up as a clown.  
 5 This is just a picture taken at home.  
 6 Q. When she was a young girl?  
 7 A. Yes. That's a picture of her and JP, yes.  
 8 This was another outing that we had together.  
 9 Q. That's you and your husband and Debbie?  
 10 A. Yes.  
 11 Q. Ma'am, did you prepare a statement for  
 12 today's testimony?  
 13 A. Yes.  
 14 Q. Could you read that.  
 15 A. "My name is Norma Penfield, and I live in  
 16 Tucson, Arizona with my three grandchildren, Chantelle,  
 17 JP, and Anthony."  
 18 Debra Panos was my only child. We loved her so  
 19 much, and we miss her dearly every day. In August of  
 20 1995, I had just begun the grievance over losing my  
 21 husband Dale, who passed away suddenly in 1993. He was my  
 22 partner and my best friends, and it was devastating when I  
 23 lost him. I closed myself in my home for almost two years  
 24 grieving over his loss."  
 25 "When I was contacted on August 31, 1995, that my

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1 only child had been murdered, I thought someone was  
 2 playing a really, really bad joke. I couldn't stay on the  
 3 line to find out any details they could provide. All I  
 4 knew was that someone said my daughter was dead."  
 5 "My thoughts went to my grandchildren and I prayed  
 6 to God to give me strength and energy I would need to  
 7 endure this great tragedy"  
 8 "But even with all of the energy and strength I  
 9 had, I knew I would have to have a lot of help. I had to  
 10 go to court to be granted legal guardian of the children  
 11 to be able to bring them back to Arizona to reside with  
 12 me. As not a young person at age 58, I only hoped I could  
 13 give them the home and up bringing they deserved to have.  
 14 I knew I had to be a parent, a grandparent, and more  
 15 importantly now, their best friend. A friend they could  
 16 trust and console with and be assured no harm would ever  
 17 come to them."  
 18 "I was fortunate to have my sister and her  
 19 husband living in Tucson also. I don't know what I would  
 20 have done without them. They were my left arm all the way  
 21 through this tragedy. Their support and comfort and still  
 22 is ever so greatly appreciated."  
 23 "Debbie was so young and her death was  
 24 brutal and senseless I remember special instructions from  
 25 the funeral home about appeal they needed so the wounds

235

1 did not show. I just can't imagine how one human being  
 2 could be so harmful to another."  
 3 "My family kept most of the details of her  
 4 death to spare me further grief. Knowing my only child  
 5 was gone was more than I thought I could possibly endure."  
 6 I had some questions that ran through my  
 7 mind daily, what and how can I explain to tell any of this  
 8 to my grandchildren. How do you tell them they won't see  
 9 their Mommy any more because something bad that had  
 10 happened."  
 11 "My granddaughter was only three at the  
 12 time she lost her Mom and never understood where she went  
 13 and why she couldn't see her anymore."  
 14 "When she was told her Mom was dead, she  
 15 believed she could resolve the problem by somehow dying  
 16 herself and that she could go to heaven to see her."  
 17 This isn't in the statement, but her  
 18 brothers tried to tell her why she didn't want to die.  
 19 "Debra was such a caring person about  
 20 others. She loved her job as a 911 operator. She also  
 21 had a special place in her heart for her grandmother who  
 22 lived with her also. She had a feel for older people and  
 23 children that I can't explain. There is so many ways that  
 24 we all miss her so much. From a very young age where she  
 25 was captured on the video along with her cousins and

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1 family, it's hard to believe she is not with us."  
2 "These videos and pictures are memories  
3 saved for her children. The happy times and the sad times  
4 they've had through their young lives. Without her, no  
5 words can ever express."

6 "I am here in this court today on behalf  
7 of myself and my grandchildren, and my family, and  
8 Debbie."

9 MS. WECKERLY: Thank you, ma'am. No other  
10 questions.

11 THE COURT: Mr. Schieck or Mr. Patrick.

12 MR. SCHIECK: No questions, your Honor.

13 THE COURT: Thank you. Questions,  
14 Leslie.

15 Would counsel approach, please.

16 (Discussion held at the bench.)

17 THE COURT: Did Debbie tell you or how did  
18 you know that James was here in Las Vegas with her?

19 THE WITNESS: I really don't -- I can't  
20 remember. I know it wasn't right away that I found out,  
21 but I really can't remember.

22 THE COURT: What conversation did you have  
23 with her about her safety.

24 THE WITNESS: I used to tell her all the  
25 time when she would -- I -- in the back of my mind I knew

1 stuff was happening, and things she would say. I said,  
2 Debbie, you're not going to change him. You have to do  
3 something to get out. She would just say, Mom, his  
4 grandmother kicked him out. There was always some excuse  
5 she had to help him. I tried to tell her, he just had to  
6 get away, get out, but she didn't listen.

7 THE COURT: All right. Thank you.

8 Ms. Weckerly, any questions.

9 MS. WECKERLY: No, your Honor.

10 THE COURT: Mr. Schieck or Mr. Patrick.

11 MR. SCHIECK: No, your Honor.

12 THE COURT: Thank you. You may step  
13 down.

14 The State have any other witnesses?

15 MR. OWENS: No further witnesses, your  
16 Honor. We're resting with some reservation until we have  
17 a chance to look at the evidence chart and make sure we  
18 have everything in. I know 137 needs to be admitted.

19 THE COURT: All right. Any objection to  
20 137, the packets of photographs and letters.

21 MR. OWENS: The letters.

22 MR. SCHIECK: No objection, your Honor.

23 THE COURT: 137 will be admitted.

24 THE COURT: We're back into the defense's  
25 case in chief, ladies and gentlemen.

1 The defense may call a witness.

2 MR. SCHIECK: Thank you, your Honor. We  
3 call Rick Chappell.

4 THE CLERK: You do solemnly swear the  
5 testimony you are about to give in this action shall be  
6 the truth, the whole truth, and nothing but the truth, so  
7 help you God.

8 THE WITNESS: I do.

9 THE CLERK: State and spell your name for  
10 the record.

11 THE WITNESS: Willy Chappell,  
12 C-H-A-P-P-E-L-L.

13 DIRECT EXAMINATION

14 BY MR. SCHIECK:

15 Q. Where do you reside?

16 A. Lansing, Michigan.

17 Q. How long have you lived in Lansing?

18 A. All my life.

19 Q. You're related to James Chappell?

20 A. Yes, he's my brother.

21 Q. Older or younger?

22 A. Young.

23 Q. He's younger than you?

24 A. Yes.

25 Q. How old are you now?

1 A. 39.

2 Q. What year were you born?

3 A. '68 -- 1968.

4 Q. You were born in Lansing?

5 A. Yes.

6 Q. Do you recall when James was born?

7 A. Yes, '69.

8 Q. So he's a year younger than you?

9 A. Yes.

10 Q. And do you recall your mother at all?

11 A. Vaguely.

12 Q. Was there a point in time when your mother  
13 was killed?

14 A. Yes.

15 Q. Do you recall when that was?

16 A. Not exactly, but I know it was in '73 --  
17 1973.

18 Q. How old would you have been?

19 A. Close to three-and-a-half.

20 Q. James would have been a year younger?

21 A. Yes.

22 Q. Were you ever told of the circumstances  
23 under which she was killed?

24 A. That she was hit by a sheriff's department  
25 officer.



1 Q. In an automobile?  
 2 A. Yes.  
 3 Q. Automobile pedestrian conclusion?  
 4 A. Yes.  
 5 Q. Were you young enough to really know any of  
 6 the details?  
 7 A. No. I was kind of separated from those  
 8 types of details.  
 9 Q. Do you have any other bothers and sisters?  
 10 A. Yes. I have an older brother and two older  
 11 sisters, and one younger sister.  
 12 Q. Your last name is Chappell?  
 13 A. Yes.  
 14 Q. Did you know your father?  
 15 A. Yes and no, but --  
 16 Q. When did you first meet your father?  
 17 A. We were young. He just wasn't around  
 18 much.  
 19 Q. Did you reside with him?  
 20 A. No. When I was younger before I could -- as  
 21 far as my memory was concerned, I don't remember staying  
 22 with him. I remember people telling us at one point in  
 23 time I stayed with him.  
 24 Q. Before your mother was killed?  
 25 A. Yes.

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1 Q. What about after your mother was killed, did  
 2 you ever live with your father?  
 3 A. No. I stayed with my grandmother.  
 4 Q. What about James, did he ever live with his  
 5 father?  
 6 A. No.  
 7 Q. Where did he live after your mother was  
 8 killed?  
 9 A. With our grandna.  
 10 Q. You said you had an older sister?  
 11 A. Yes.  
 12 Q. And her name is?  
 13 A. Carla.  
 14 Q. Was she residing there also?  
 15 A. Yes.  
 16 Q. And the younger sister?  
 17 A. Yes.  
 18 Q. And where did she reside?  
 19 A. My grandmother's house also.  
 20 Q. You said you had two other older brothers?  
 21 A. No. One older brother and older sister.  
 22 Q. Were they by Mr. Chappell or different  
 23 fathers?  
 24 A. One was by my father, Mr. Chappell, and one  
 25 was just with another mother (sic).

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1 Q. When your mother was killed, was it the four  
 2 children that went to live with your grandmother?  
 3 A. Yes.  
 4 Q. And do you remember where it was that your  
 5 grandmother resided?  
 6 A. Yes.  
 7 Q. Where was that?  
 8 A. 1527 Neller Court.  
 9 Q. In Lansing?  
 10 A. Lansing, Michigan.  
 11 Q. How long did you continue to live with your  
 12 grandmother?  
 13 A. Up until I was about 14 -- I believe 14.  
 14 Q. James would have been 13 then?  
 15 A. Yes.  
 16 Q. Where did you go when you were 14?  
 17 A. I went to a boys camp.  
 18 Q. Were you getting in trouble as a  
 19 youngster?  
 20 A. Yes.  
 21 Q. What type of trouble did you get into that  
 22 caused you ultimately to end up in a boys camp?  
 23 A. Breaking and entering.  
 24 Q. Boys camp, is that like a juvenile  
 25 facility?

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1 A. State facility.  
 2 Q. What type of discipline was used in your  
 3 grandmother's house growing up before you went to boys  
 4 camp?  
 5 A. Very abusive.  
 6 Q. Give us some examples.  
 7 A. Broom sticks, bed board, extensions cords,  
 8 hands.  
 9 Q. Corporal punishment, you were actually  
 10 stricken with those items?  
 11 A. Yes.  
 12 Q. Were any of the children stricken more than  
 13 other children?  
 14 A. Yeah.  
 15 Q. Who was that?  
 16 A. Me.  
 17 Q. You were acting out, though?  
 18 A. Yes.  
 19 Q. Was there any male figure at all in the  
 20 household where your grandmother lived?  
 21 A. There was no figures, but not real  
 22 examples.  
 23 Q. What adult figures were there?  
 24 A. A couple of uncles.  
 25 Q. How were you doing in school up to the point

244

1 where you went to boys camp?  
 2 A. Fair. Not really good.  
 3 Q. Was your grandmother helpful in your  
 4 schooling?  
 5 A. No.  
 6 Q. How was James doing in school, do you  
 7 know?  
 8 A. He didn't do as well either in school. He  
 9 went to another type of school, special ed school at that  
 10 point.  
 11 Q. Do you recall when he first started going to  
 12 the special ed school?  
 13 A. I think it was late elementary, I believe.  
 14 Q. You recall what elementary school James went  
 15 to?  
 16 A. I don't know the name of the school.  
 17 Q. What Elementary school did you go to?  
 18 A. Morris Park Elementary.  
 19 Q. Did James originally go to Morris Park  
 20 also?  
 21 A. Yes.  
 22 Q. Then you said he went to a different  
 23 school?  
 24 A. Yes.  
 25 Q. That school you don't know the name of?

245

1 A. No.  
 2 Q. Did you ever help him with his school  
 3 work?  
 4 A. No.  
 5 Q. You were his older brother.  
 6 A. Well, I needed too much help with mine for  
 7 me the help someone else. It really wasn't --  
 8 Q. Say that again.  
 9 A. I didn't too much help with mine, so I  
 10 really --  
 11 Q. Was your grandmother trying to help you with  
 12 your homework?  
 13 A. No. I asked her one time and she kind of  
 14 called me niger or get your bad ass over there and sit at  
 15 the table, and you already know how to do it, don't play  
 16 with me, you do your own homework.  
 17 Q. Were all the children treated that way with  
 18 regard to their homework?  
 19 A. Some more than others, but I think my little  
 20 sister probably got more of the help than either one of  
 21 us.  
 22 Q. More of the help?  
 23 A. Yeah.  
 24 Q. What is the little sister's name?  
 25 A. Mia.

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1 Q. I'm showing you what has been marked as  
 2 Defendant's F, and ask if you recognize what is depicted  
 3 in "F"?  
 4 A. Yeah, that's the school.  
 5 Q. Is that the elementary school you and James  
 6 attended?  
 7 A. Yes.  
 8 Q. James attended initially?  
 9 A. Yes.  
 10 Q. Is that the front of the school?  
 11 A. Yes.  
 12 Q. What's directly behind the school?  
 13 A. The Board or Water and Light and a swimming  
 14 pool.  
 15 Q. Board of Water and Light?  
 16 A. It's like an electrical, something to do  
 17 with power in Lansing.  
 18 Q. It's a power generating plant?  
 19 A. Yes.  
 20 Q. Are those pipes for the smoke stacks for the  
 21 generating plant directly behind the elementary school?  
 22 A. Yes.  
 23 Q. This neighborhood on Nellers Court where you  
 24 first lived with your grandmother along with your brothers  
 25 and sisters, what kind of housing is that?

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1 A. It was multi-cultural, but low income.  
 2 Q. Was it well-kept?  
 3 A. Some houses were. A lot of them wasn't.  
 4 Q. Were there any vacant houses?  
 5 A. Eventually it became a lot of vacant  
 6 houses.  
 7 Q. How did that come to pass?  
 8 A. I guess really nobody wanted to live in that  
 9 neighborhood, I suppose.  
 10 Q. Did you guys continue to live in that  
 11 neighborhood?  
 12 A. I left first, because I went to a home.  
 13 Later on my grandmother was forced to kind of move out, so  
 14 to speak, because the state bought the property.  
 15 Q. Was Nellers Court condemned?  
 16 A. Yes, eventually.  
 17 Q. You talked about various items that were  
 18 used as punishment there in the house by your grandmother.  
 19 You said extension cords?  
 20 A. Yes.  
 21 Q. Was James, to your knowledge, ever beaten  
 22 with extension cords?  
 23 A. Not to my knowledge. It's a possibility.  
 24 Q. Were you?  
 25 A. Yes.

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1 Q. What other items?  
 2 A. Bed boards, branches or switches, belts.  
 3 Q. Was James beaten with those items?  
 4 A. Yes, I believe so. Yes.  
 5 Q. What about your sisters?  
 6 A. Sometimes.  
 7 Q. Would you say that was a nurturing  
 8 environment that you were growing up in?  
 9 A. No.  
 10 Q. What about for James?  
 11 A. Not really for the first three, basically.  
 12 More for Mia.  
 13 Q. Anything you attribute that to?  
 14 A. Excuse me?  
 15 Q. Anything you attribute that to?  
 16 A. Just my own behavior really, my rebellious  
 17 behavior.  
 18 Q. Besides his difficulty in school due to his  
 19 learning disability, did James have any other problems you  
 20 were aware of?  
 21 A. Yeah. As a youngster, I mean, dealing with  
 22 his urine and stuff like that.  
 23 Q. He had problems with his development?  
 24 A. Yes.  
 25 Q. After age 14, when you went off to the boys'

249

1 home, did you ever live again with James?  
 2 A. No. I came back for visits, that's it.  
 3 Q. So you had -- did you have any involvement  
 4 in his growing up in his -- from the time you went to the  
 5 boys' home?  
 6 A. No. Just when we were there, you know. We  
 7 just kind of helped each other, kind of grow up, so to  
 8 speak. We had each other. My grandma worked a lot. She  
 9 had a lot of other personal time to herself doing other  
 10 things.  
 11 Q. She paid a lot of attention to raising the  
 12 children?  
 13 A. Just when it came to needing certain things,  
 14 so to speak, as far as like shelter, food, clothing. But  
 15 as far as communication, no.  
 16 Q. He didn't talk with the kids?  
 17 A. No.  
 18 Q. She didn't help with school work?  
 19 A. No.  
 20 Q. She get involved in any of their  
 21 activities?  
 22 A. No.  
 23 Q. Did she get involved with any of their  
 24 friends?  
 25 A. Friends, no.

250

1 Q. Did -- while you were still there at the  
 2 house, did Jim have friends?  
 3 A. Yes.  
 4 Q. Do you recall any of them?  
 5 A. Yeah, Chris Ford, Fred Dean. It was one  
 6 young guy he used to hang with that went to Morris Park.  
 7 I can't remember his name. I used to take him -- James  
 8 over to his house sometimes after school.  
 9 Q. Were there drugs in the neighborhood?  
 10 A. Yes.  
 11 Q. Did you get involved with drugs?  
 12 A. Yes, I did.  
 13 Q. How old were you when you got involved with  
 14 drugs?  
 15 A. Probably 6th grade, 9 years old.  
 16 Q. What about James?  
 17 A. No.  
 18 Q. Did you ever know him to become involved in  
 19 drugs while you were still there?  
 20 A. Not while I was there, no.  
 21 Q. There were drugs in the neighborhood?  
 22 A. Yes.  
 23 Q. How do you know that?  
 24 A. Because I knew pretty much everybody that  
 25 stayed in the neighborhood.

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1 Q. Were drugs sold in that neighborhood?  
 2 A. Yes.  
 3 Q. After you had went to the boys' home, you  
 4 had some other problems in life as you matured?  
 5 A. Yes.  
 6 Q. In fact, you're a convicted felon?  
 7 A. Yes.  
 8 Q. When were you convicted?  
 9 A. As far as the second time or --  
 10 Q. Tell me your felony convictions?  
 11 A. UDA, I drove away in a stolen vehicle. I  
 12 think -- another was armed robbery was my last one.  
 13 Q. You're on parole now?  
 14 A. Yes.  
 15 Q. How long did you serve in prison?  
 16 A. 12 years.  
 17 Q. Did you have much contact with James during  
 18 that period of time?  
 19 A. No. Just authorization through letters.  
 20 Q. So you corresponded with him?  
 21 A. Yes.  
 22 Q. Did you know Debbie Panos?  
 23 A. Yes.  
 24 Q. Do you recall when you first met Debbie  
 25 Panos?

252

1 A. Yes, just vaguely, you know. Jim went to  
2 introduce her to me and that was it really.

3 Q. Did you get to observe the relationship  
4 between James and Debra at all?

5 A. Yeah. They hung out a lot together, pretty  
6 much.

7 Q. Did they get along?

8 A. Yes.

9 Q. Did you ever see problems between James and  
10 Debra there in Lansing?

11 A. I didn't know.

12 Q. Did you ever see him be violent with her  
13 there in Lansing?

14 A. No.

15 MR. SCHIECK: Court's indulgence,  
16 please.

17 THE COURT: All right.

18 BY MR. SCHIECK:

19 Q. When -- while you were still living in the  
20 house there on Nellers Court, or with your grandmother,  
21 was there much supervision around the house, adult  
22 supervision for the children?

23 A. Not really. Sometimes, but not really. Not  
24 really.

25 Q. Can you be more descriptive?

253

1 A. Sometimes my uncles stayed there. They'd  
2 leave and sometime we'd have to sit there and baby sit  
3 ourselves.

4 Q. Which uncles would have been there?

5 A. Rodney something. In the beginning it was  
6 Uncle Rodney, Uncle Anthony, before he got killed, and  
7 Aunt Betty.

8 Q. You said your Uncle Anthony was killed?

9 A. Yes.

10 Q. Do you recall how old you were when he was  
11 killed?

12 A. Not exactly.

13 Q. Was it before you went to boys' home?

14 A. Yes.

15 Q. Had he assumed -- was he performing any of  
16 the adult male roles in the household for the kids?

17 A. To his ability, so to speak.

18 Q. He was trying?

19 A. Yeah.

20 Q. Do you recall how old James was when he was  
21 killed?

22 A. He was young. I don't know exactly as far  
23 as dates, ages.

24 Q. Were you able to tell whether or not the  
25 death of your Uncle Anthony affected James?

254

1 A. It affected all of us really, because he  
2 tried to be close to us the best that he could.

3 Q. So then he was taken away from you also?

4 A. Yes.

5 Q. Did that affect James?

6 A. Yeah, like I said it affected all of us  
7 really.

8 Q. Did James talk about his mother?

9 A. Conversation about our mother wasn't really  
10 a topic around the household, so to speak. I mean, it  
11 just wasn't nothing to really be speaking about.

12 Q. Did your grandmother speak about it?

13 A. No. I would ask questions, but I was told  
14 to shut up sometimes. I didn't remember -- I didn't know  
15 nothing.

16 Q. So she didn't tell you anything about your  
17 mother?

18 A. No.

19 Q. Did you learn things about your mother,  
20 however?

21 A. I had to find out in the streets, so to  
22 speak.

23 Q. What kind of things did you find out about  
24 your mother?

25 A. That she was loving. She did care. She had

255

1 drug problems. She hung out a lot.

2 Q. She had a drug problem?

3 A. Yes.

4 Q. That's something you learned from people on  
5 the street?

6 A. Yes.

7 Q. What about your father, was there any  
8 discussion about your father in your grandmother's  
9 house?

10 A. Yeah, real negative, no good niger. He was  
11 always a liar. He was no good. You're going to be just  
12 like your Dad That type of stuff.

13 Q. Who was saying those types of things about  
14 your father?

15 A. My grandmother. My auntie and my  
16 grandmother.

17 Q. Did you ever hear them saying anything good  
18 about you and James' father?

19 A. No.

20 Q. Did you ever hear them say anything good  
21 about you and James' mother?

22 A. She wasn't really a topic, you know. I  
23 mean, just the past five years that I really got to  
24 understand you know, about my Mom, which I'm not clear on  
25 some of those areas.

256

1 Q. You sister Carla, how is she doing?  
 2 A. She's doing good right now. She's supposed  
 3 to be going into rehab right now.  
 4 Q. Does she have problems during her  
 5 lifetime?  
 6 A. Yes.  
 7 Q. Drug problems?  
 8 A. Yes.  
 9 Q. Any other substance abuse problems?  
 10 A. Just basically, cocaine.  
 11 Q. Did you -- you had a substance abuse problem  
 12 also?  
 13 A. Yes. Marijuana, alcohol, and cocaine.  
 14 Q. What about Mia?  
 15 A. Mia was basically alcohol and marijuana, as  
 16 far as I know. I have heard -- I heard that she did try  
 17 cocaine. I'm not for sure. I haven't had a chance to ask  
 18 if it's true or not. I heard about it.  
 19 Q. The four children that were the children of  
 20 your mother, your mother's name was Shirley, correct?  
 21 A. Yes.  
 22 Q. The four children of Shirley that were  
 23 raised by your grandmother, you all had substance and drug  
 24 and/or alcohol problems?  
 25 A. Yes. To me it was like if you didn't have

257

1 drugs or did drugs you wasn't normal to me.  
 2 Q. That's what came out of that household off  
 3 of Neller Court?  
 4 A. Yes.  
 5 Q. Do you feel you have matured now?  
 6 A. Yes.  
 7 Q. Are you able to recognize the problems that  
 8 you had in your childhood?  
 9 A. Yes.  
 10 Q. Do you feel that those are factored into the  
 11 problems you got into?  
 12 A. Yes. In a lot of ways how I thought about  
 13 myself, about how you thought about society, and my  
 14 upbringing because I was very angry. I was a very lonely  
 15 individual. So a lot of my decisions played off of those  
 16 emotional things that I had been through throughout my  
 17 life.  
 18 Q. Did you see that type of anger in James or  
 19 did he deal with the situation differently?  
 20 A. I think his was more of an internal anger  
 21 that really needed to -- took a lot for him to really get  
 22 angry or express it.  
 23 Q. So he internalized a lot of his feelings?  
 24 A. Yes. He wasn't really a communicative  
 25 individual to express ourselves so, you know, we done it

258

1 in other ways.  
 2 Q. Was he the kind of brother that would come  
 3 to you and talk about his problems or be able to express  
 4 his problems to you?  
 5 A. No.  
 6 Q. He would just hold it in?  
 7 A. That was more like the whole household,  
 8 whether it was grandmother, uncles, there was no  
 9 expression of -- no one to go to, if we did have a  
 10 problem.  
 11 MR. SCHIECK: That's all I have.  
 12 THE COURT: Cross.  
 13 MS. WECKERLY: Thank you, your Honor.  
 14 CROSS-EXAMINATION  
 15 BY MS. WECKERLY:  
 16 Q. Sir, you said you have three adult felony  
 17 convictions?  
 18 A. Yes.  
 19 Q. Do you know the years you got those?  
 20 A. I know like 1987, '86. Then there was 1990  
 21 and 1994.  
 22 Q. The first one in 1986, how old were you  
 23 then, do the think?  
 24 A. I just graduated.  
 25 Q. So 18?

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1 A. Yes.  
 2 Q. James is younger than you, correct?  
 3 A. Yes.  
 4 Q. So about 15, maybe?  
 5 A. 17.  
 6 Q. But you said that you left home when you  
 7 were 14?  
 8 A. Yes.  
 9 Q. Did you have a lot of contact with the  
 10 family once you left home?  
 11 A. Yeah. I mean, I would have like weekend  
 12 visits, so-called furloughs to go to my grandmother's  
 13 house and stay the weekend. But I had to return.  
 14 Q. What about once you were 18, or a little  
 15 older than that?  
 16 A. I stayed with my aunt. And, I mean, I saw  
 17 my brothers and sisters periodically.  
 18 Q. When you say periodically, how often are you  
 19 talking about?  
 20 A. When I'd go over there or when we were out  
 21 gathering we'd see each other.  
 22 Q. Would it be a much as once a month or  
 23 more?  
 24 A. More than that, three or four times a month  
 25 maybe.

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1 Q. Your last conviction was for armed  
 2 robbery?  
 3 A. Yes.  
 4 Q. You went to prison for that?  
 5 A. Yes.  
 6 Q. When did you go into custody?  
 7 A. 1994.  
 8 Q. 1994.  
 9 A. October I believe.  
 10 Q. Were you -- had you ever visited James prior  
 11 to that in Tucson?  
 12 A. No He came to me and stayed with me and my  
 13 wife at that time for a couple of weeks.  
 14 Q. Were you ever in Tucson with him and  
 15 Debbie?  
 16 A. No.  
 17 Q. I assume because of the date of your  
 18 conviction you were never around them in -- when they were  
 19 in Las Vegas?  
 20 A. No.  
 21 Q. Your testimony is that you never saw any  
 22 problems with them -- the two of them?  
 23 A. No. I mean, not really. I talked to Debbie  
 24 a few time. I talked with James a lot. I talked to them  
 25 both. Everybody has disagreements, but as far as I see,

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1 no.  
 2 Q. You weren't aware of problems?  
 3 A. No.  
 4 MS. WECKERLY: Thank you.  
 5 THE COURT: Mr. Schieck.  
 6 MR. SCHIECK: If I could, your Honor.  
 7 REDIRECT EXAMINATION  
 8 BY MR. SCHIECK:  
 9 Q. You had made mention that at one point in  
 10 time James and Debbie were there in Lansing and stayed  
 11 with you and your wife?  
 12 A. No, James did. He stayed for a couple of  
 13 weeks. Debbie would call. She sent him some money down  
 14 to him and asked him to come back to Arizona.  
 15 Q. So James had already been to Tucson and came  
 16 to stay with you, and Debbie was calling him at your  
 17 house?  
 18 A. Yes.  
 19 Q. They were talking?  
 20 A. Yes.  
 21 Q. Then James went back to Tucson?  
 22 A. Yes.  
 23 Q. You said something about Debbie sent him  
 24 money to come back?  
 25 A. Yes.

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1 Q. You're personally aware of that?  
 2 A. Yes.  
 3 Q. Do you have an estimate or recollection of  
 4 approximately what year that was?  
 5 A. My daughter was two, so that was -- she was  
 6 born in '92, so that was probably about -- I mean, she was  
 7 about a year old, about '93.  
 8 Q. JP was already born?  
 9 A. Yes.  
 10 Q. And do you know whether Anthony had been  
 11 born yet?  
 12 A. No, not that I know of. I learn about him  
 13 later.  
 14 MR. SCHIECK: That's all I have.  
 15 THE COURT: Ms. Weckerly.  
 16 MS. WECKERLY: Nothing further.  
 17 THE COURT: Thank you for you time Mr.  
 18 Chappell. You are excused.  
 19 THE WITNESS: Thank you.  
 20 THE COURT: Defense may call their next  
 21 witness.  
 22 MR. SCHIECK: We call Fred Dean.  
 23 THE CLERK: You do solemnly swear the  
 24 testimony you are about to give in this action, shall be  
 25 the truth, the whole truth, and nothing but the truth, so

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1 help you God.  
 2 THE WITNESS: I do.  
 3 THE CLERK: State and spell you name for  
 4 the record.  
 5 THE WITNESS: Fred Scott Dean, D-E-A-N.  
 6 DIRECT EXAMINATION  
 7 BY MR. SCHIECK:  
 8 Q. How old are you?  
 9 A. Currently 37. I'll be 38 next month.  
 10 Q. Where do you reside?  
 11 A. Currently Southfield, Michigan.  
 12 Q. Is that anywhere near Lansing?  
 13 A. An hour away. Basically the suburbs of  
 14 Detroit.  
 15 Q. Where did you grow up?  
 16 A. Lansing, Michigan.  
 17 Q. What was your address?  
 18 A. 147 East Barnes Avenue.  
 19 Q. Barnes Avenue?  
 20 A. Yes.  
 21 Q. B-A-R-N-E-S?  
 22 A. Yes.  
 23 Q. Did you know James Chappell?  
 24 A. Yes, I did.  
 25 Q. Do you see him here in court?

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1 A. Yes, sir.  
 2 Q. Where did James live in relation to you at  
 3 your earliest recollection?  
 4 A. Basically it was over the hill across the  
 5 tracks from me, I would say about a block in walking  
 6 distance. But we always cut through a pathway to get to  
 7 his house.  
 8 Q. So you said it's over a little hill and then  
 9 across the railroad tracks?  
 10 A. There was like homes, but we cut through the  
 11 homes. Go over the top of the hill across the railroad  
 12 tracks onto his street -- Nellers Court.  
 13 Q. When you say a hill, we're not talking by a  
 14 real hill are we?  
 15 A. A hump type.  
 16 Q. Do you recall the name of the street that  
 17 was over that hump across the tracks?  
 18 A. Nellers Court.  
 19 Q. So how old were you in relation to James?  
 20 Was he older, younger, or the same age?  
 21 A. No, actually I was probably about 8 months  
 22 older than James.  
 23 Q. Were you in the same grade in school with  
 24 James?  
 25 A. Yeah. We were like the same grade pretty

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1 much. We weren't in the same class.  
 2 Q. Why weren't you in the same class?  
 3 A. I guess, they pretty much basically  
 4 differentiated between -- some people were able to be in  
 5 certain grades or classes based on education or  
 6 understanding comprehension. I don't know. Sometimes 5th  
 7 and 6th grades together or just 5th grade. So just  
 8 pretty much how they determined who they wanted where.  
 9 Q. Were you ever aware of James being in  
 10 special education classes?  
 11 A. Yes.  
 12 Q. You recall which school that was at?  
 13 A. I think probably I know Morris Park. I  
 14 believe it was Morris Park. And I can't say for sure, I  
 15 think it was Briteless (ph) also. But I can't recall for  
 16 sure. But those are two schools that we attended, Morris  
 17 Park elementary and Briteless Junior High.  
 18 Q. You went to Morris Park?  
 19 A. Yes.  
 20 Q. But you weren't in the same classes as James  
 21 at Morris Park?  
 22 A. No.  
 23 Q. This has been admitted as Defendant's  
 24 Exhibit F. Do you recognize what is depicted in that?  
 25 A. Yes, sir, I do.

266

1 Q. Is that Morris Park Elementary?  
 2 A. Yes, sir.  
 3 Q. Does it appear about the same way it did  
 4 when you went to Morris Park?  
 5 A. Pretty much so.  
 6 Q. Including the snow?  
 7 A. That's Michigan.  
 8 Q. You are familiar with the type of  
 9 photographs they took when you were attending school in  
 10 Michigan?  
 11 A. Yes.  
 12 Q. They took class -- pictures of the class and  
 13 gave them to you every year?  
 14 A. Yes, sir.  
 15 Q. I'll show you what's been marked as  
 16 Defendant's Exhibit G, H, and I. I'll ask if you  
 17 recognize what these items are.  
 18 A. Yes. These are classroom pictures.  
 19 Q. That's G, H -- are you familiar with  
 20 Forestview School?  
 21 A. Yeah. That was a different type of school  
 22 versus Morris Park.  
 23 Q. What type of school was Forestview?  
 24 A. Part of the special ed class, if I recall  
 25 right.

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1 Q. Then Defendant's "I" you're familiar with  
 2 Maple Grove?  
 3 A. I'm familiar with the school, but I don't  
 4 know much about Maple Grove.  
 5 Q. Did you attend that school?  
 6 A. No.  
 7 Q. You stayed at Morris Park?  
 8 A. Yes. Kindergarten through 6th grade.  
 9 Q. You recognize these as standard school  
 10 photographs from the Lansing, Michigan area?  
 11 A. Yes, sir.  
 12 Q. You recognize those three schools?  
 13 A. Yes, sir.  
 14 Q. Did you recognize James in these  
 15 photographs?  
 16 A. Yes.  
 17 MR. SCHIECK: I move for admission of G,  
 18 H, and I.  
 19 THE COURT: Any objection.  
 20 MR. OWENS: No, your Honor.  
 21 THE COURT: Those will be admitted.  
 22 BY MR. SCHIECK:  
 23 Q. I'm going to put "G" up here. Appears to be  
 24 from Morris Park for 1979 to 1980. Do you recognize the  
 25 principal at all?

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1 A. Yeah.  
 2 Q. He was principal when you were there too?  
 3 A. Yes, sir.  
 4 Q. Do you recognize James in these group  
 5 photographs?  
 6 A. And a few other people now that you put it  
 7 up there.  
 8 Q. Let's stay on James, okay. Which is James?  
 9 A. That looks like James.  
 10 Q. Let me focus in a little bit. It will be  
 11 easier to do it this way.  
 12 A. There he is.  
 13 Q. So the lower right-hand corner is James?  
 14 A. Correct.  
 15 Q. Then that was Morris Park which would have  
 16 been the same school you were attending?  
 17 A. Correct.  
 18 Q. For the '79 and '80 school year?  
 19 A. Correct.  
 20 Q. I'll show you Defendant's "H". This refers  
 21 to the Forestview school. You said you thought that was  
 22 the special education school?  
 23 A. Yes.  
 24 Q. Is James also depicted in that?  
 25 A. Yep.

269

1 Q. You never attended Forestview School?  
 2 A. No, sir.  
 3 Q. Is James depicted in that photograph?  
 4 A. Yes, sir.  
 5 Q. Is this him at the bottom?  
 6 A. Right next to Mike Williams.  
 7 Q. Well --  
 8 A. James.  
 9 Q. Okay. Then Maple Grove Elementary School,  
 10 you attended also in the years '81, '82 school year?  
 11 A. Yes, sir.  
 12 Q. You never went to Maple Grove?  
 13 A. No, sir.  
 14 Q. Do you know why James would have attended  
 15 three different elementary schools in three different  
 16 school years if he was still living there in Nellers  
 17 Court, a block away from you?  
 18 A. I can't say specifically why, no. I  
 19 couldn't tell you.  
 20 Q. Do you know if it relates to his special  
 21 education classes?  
 22 A. That is what we assumed because everybody  
 23 else attended Morris Park. So we assumed.  
 24 Q. Did you hang out with James?  
 25 A. Yes, sir.

270

1 Q. How often would you see him during that  
 2 period of time while you were living on Barnes and he was  
 3 on Nellers Court?  
 4 A. Pretty much daily.  
 5 Q. What type of things would you guys do?  
 6 A. At what stage, because as you can see from  
 7 the childhood up to about teenage years, high school we  
 8 were friends and hung out together. So at what stage,  
 9 because different stages we did different things.  
 10 Q. Just during the elementary school years,  
 11 what kind of things did you do?  
 12 A. Typical stuff, hang out, play, have fun,  
 13 just typical kid stuff.  
 14 Q. Were you -- he lived with his grandmother,  
 15 correct?  
 16 A. Yes, sir.  
 17 Q. Were you over at his house -- his  
 18 grandmother's house often?  
 19 A. Just about every day.  
 20 Q. Was his grandmother home when you were over  
 21 there?  
 22 A. No, sir.  
 23 Q. Why not?  
 24 A. That wasn't allowed.  
 25 Q. What do you mean it wasn't allowed?

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1 A. I mean, pretty much they weren't allowed to  
 2 have company until she wasn't there.  
 3 Q. What would you do when you would go over  
 4 there when she wasn't there?  
 5 A. Move the furniture out, break dance, just --  
 6 as we got older, drink, party, teenage growing up  
 7 things.  
 8 Q. Was there any supervision for the kids in  
 9 the neighborhood that would could come over there when  
 10 grandma wasn't present?  
 11 A. No, because we weren't supposed to be there,  
 12 so we were our own supervision.  
 13 Q. Was there anybody there supervising James or  
 14 his sisters for awhile his brother?  
 15 A. I guess Ricky was the supervision, or Willy  
 16 his brother -- older brother.  
 17 Q. Is that the gentleman that just left?  
 18 A. Yes, sir.  
 19 Q. So as far as you could tell Ricky was the  
 20 supervision that was supposed to be watching his younger  
 21 brother and younger sister at the house?  
 22 A. Yeah. They have an older sister Carla, but  
 23 it was pretty much Ricky.  
 24 Q. Was Carla around much during that period of  
 25 time?

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1 A. No. She's a little older, so she was pretty  
2 much doing her own thing.

3 Q. Other than what supervision was being  
4 provided by Rick, was there any other adult supervision  
5 around?

6 A. No, sir.

7 Q. Were there any adult males that were in the  
8 household that were there to make sure things were going  
9 okay?

10 A. No. He had an uncle that come around from  
11 time to time, not on a regular basis.

12 Q. What about his father, ever see his father  
13 over there?

14 A. No, sir.

15 Q. Were you aware that his mother had been  
16 killed when James was young?

17 A. Yes, sir. We didn't talk about that much,  
18 but, yeah, I was aware of it. I tried to stay away from  
19 that.

20 Q. You said the uncles came by occasionally.  
21 Do you recall their names?

22 A. Some of them.

23 Q. Which do you recall?

24 A. Rodney, Phillip. He had an aunt named Bay.  
25 And he had another uncle, but I don't recall much of him

273

1 because I was kind of young when he was killed.

2 Q. Was he killed there in the neighborhood?

3 A. I believe it was one street behind Nellers  
4 Court. Herbert Street, if I recall correctly.

5 Q. To your knowledge was that a natural cause  
6 of death or was that a violent death?

7 A. It was -- if I recall right, he was stabbed  
8 to death.

9 Q. That's when you were how old?

10 A. I was young. I didn't remember much about  
11 it. My older brothers, they knew more about it. I mean  
12 far as me, I didn't remember much about the stabbing.

13 Q. You had talked about you weren't supposed to  
14 be over there when grandma wasn't home?

15 A. Yes.

16 Q. You know what would happen if you got caught  
17 over there?

18 A. I mean, pretty much she'd call my Mom, and  
19 I'd get in trouble, and he'd get in trouble from her.

20 Q. Did you ever see him get in trouble or hear  
21 him get in trouble from his grandmother?

22 A. I heard about it. I didn't see it, but I  
23 mean sometimes we'd even joke about it.

24 Q. About what?

25 A. About him getting whooped. That's what we'd

274

1 call it.

2 Q. Any particular type of item used to whip  
3 him?

4 A. Extension cords, some of the electrical  
5 extension cords, something like that. I said I didn't see  
6 it so I couldn't tell you.

7 Q. You didn't stick around?

8 A. No, sir.

9 Q. Would Jim talk about that?

10 A. I think pretty much we all used to talk  
11 about it -- a little about what was going on in each  
12 household. It was mentioned, but not something like a  
13 favor topic of ours.

14 Q. Was Jim a good talker during that period of  
15 time?

16 A. What do you mean by that.

17 Q. Did he verbalize a lot of thing to you, sit  
18 down and have a detailed conversation with you about what  
19 was going on?

20 A. No, no. Like I said we pretty much didn't  
21 try to -- just pretty much have fun, that was pretty much  
22 our lifestyle.

23 Q. We talked about junior high school, getting  
24 into high school years, what kind of things did you guys  
25 do?

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1 A. Pretty much tried to get some alcohol  
2 illegally and marijuana.

3 Q. Was that going on?

4 A. Yeah.

5 Q. On Nellers court?

6 A. Yep. That was our main task.

7 Q. Even during the school year?

8 A. Yes, sir.

9 Q. Do you know how Jim was doing in school  
10 during that period of time?

11 A. Grades really wasn't discussed. We knew he  
12 was going to school, but we didn't get into, hey, I got an  
13 A, you got a B. We went to school, pretty much just was  
14 trying to graduate.

15 Q. Did Jim actually go to school on a regular  
16 basis?

17 A. I mean, pretty much from what I recall.

18 Q. What about things that would go on during  
19 school, was he doing anything inappropriate at school that  
20 you can recall?

21 A. I can't say I can recall anything off the  
22 top of my head that sticks out. Typically, I can't think  
23 of anything at this point.

24 Q. Did there come a point in time when you  
25 become acquainted with Debra Panos?

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1 A. Yes, sir.  
 2 Q. You recall when approximately?  
 3 A. They moved from Nellers Court to South  
 4 Lansing.  
 5 Q. When you say they, who do you mean?  
 6 A. Him, his sister Mira, and his grandmother,  
 7 Rick is brother didn't move with them. Also I believe his  
 8 uncle Rodney moved in with them at that time in the  
 9 basement.  
 10 Q. Do you know where they moved to?  
 11 A. South side of Lansing, more middle class  
 12 area call Wedgewood I believe was the name of the  
 13 street.  
 14 Q. How far was that from Nellers Court?  
 15 A. It was pretty much considered the other side  
 16 of town. Maybe a 15 minute drive, no more then that.  
 17 Q. Did you still see James on a regular basis  
 18 after he moved there?  
 19 A. Yep.  
 20 Q. How often would you see him?  
 21 A. How much as I can get over there.  
 22 Q. Would he still come over to the old  
 23 neighborhood?  
 24 A. Yes.  
 25 Q. Was there a group of friends that sort of

277

1 hung out that started their in the old neighborhood and  
 2 continued after James moved?  
 3 A. Yes.  
 4 Q. Who are the other guys that you pretty much  
 5 hung out with?  
 6 A. In the beginning just James Chappell, James  
 7 Ford, myself, a couple other people, Terry Wallace, Terry  
 8 Sanston, you know, just name a few.  
 9 Q. What about Ivory Morrell?  
 10 A. Ivory came later. He wasn't initially when  
 11 they first moved over there, but he started hanging  
 12 there.  
 13 Q. He became one of the group also?  
 14 A. Yeah. That was kind of -- Ivory kind of  
 15 came in when I was going out.  
 16 Q. You said that it was after grandna and James  
 17 and Mira moved over to Wedgewood that you first met  
 18 Debra?  
 19 A. Yes.  
 20 Q. Do you recall where you met her at?  
 21 A. I can't say exactly where I met her at. I  
 22 couldn't say for sure exactly where it was.  
 23 Q. Do you know whether she and James were  
 24 seeing each other?  
 25 A. I think that's why I met her. I didn't have

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1 no knowledge of her before James.  
 2 Q. Would you ever socialize with them?  
 3 A. With James and Debbie?  
 4 Q. Yes.  
 5 A. Yeah.  
 6 Q. What type of things were they doing  
 7 together?  
 8 A. Pretty much just hanging out. She was like,  
 9 kind of became, I don't know, just a regular face around  
 10 you know. She was around him so if we were around she was  
 11 around. She would just be apart of the crew, pretty  
 12 much.  
 13 Q. She became like a steady girlfriend to  
 14 James?  
 15 A. Yes, sir.  
 16 Q. Where were you guys hanging out at that  
 17 point in time?  
 18 A. Somewhat his house, then he would come back  
 19 to the old neighborhood with her.  
 20 Q. So she was hanging around with James in the  
 21 old neighborhood also?  
 22 A. Yeah.  
 23 Q. Same group of friends?  
 24 A. Yes, sir.  
 25 Q. Any problems?

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1 A. In what regard?  
 2 Q. With James and Debra that you ever  
 3 observed?  
 4 A. Them together?  
 5 Q. Yes.  
 6 A. No, sir.  
 7 Q. Did they have transportation?  
 8 A. The city bus.  
 9 Q. What about you, did you have  
 10 transportation?  
 11 A. Yes, sir.  
 12 Q. Did you ever provide transportation for  
 13 them?  
 14 A. Well, mostly it would be for Debbie if like  
 15 she stayed over in our old neighborhood with James and  
 16 it's too late for the bus I would -- he'd ask me to give  
 17 her a ride back to her house. And the majority of the  
 18 time either he didn't go back home, he would stay over  
 19 there in the neighborhood, James house -- James Ford's  
 20 house, or I'd give him and Debbie a ride back. But  
 21 sometimes just Debbie. I'd drop her off at home.  
 22 Q. At her parent's house?  
 23 A. Yes, sir.  
 24 Q. Would you ever drop James off there also?  
 25 A. Her parent's house?

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1 Q. Yes.  
 2 A. No, sir.  
 3 Q. Would you ever give them a ride to Wedgewood  
 4 where his grandma was living at?  
 5 A. I think so. I can't, you know, say for  
 6 certain. But I know I would give them rides after the  
 7 city bus would stop running. There may have been one or  
 8 two occasions, I can't say for sure, for definitely.  
 9 Q. Were they still going to high school at this  
 10 point in time when you were giving them rides?  
 11 A. It was either -- I'm thinking it was still  
 12 in high school towards the end of high school year. I  
 13 think pretty much probably where.  
 14 Q. Did James complete high school to your  
 15 knowledge?  
 16 A. Not that I know of.  
 17 Q. Did you know him to have jobs there in  
 18 Lansing?  
 19 A. I can't recall if he did or not.  
 20 Q. Did there come a point in time when you sort  
 21 of drifted away from that group of friends?  
 22 A. Yes, sir.  
 23 Q. When approximately was that?  
 24 A. It was pretty much towards the end of the  
 25 high school years. I graduated in 1987, and I started

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1 getting involved with other people and into different  
 2 things.  
 3 Q. In '97?  
 4 A. '87. I graduated in '87, and before that  
 5 in -- towards and after that, I started getting involved  
 6 with other people, doing some different things, that James  
 7 weren't doing at the time.  
 8 Q. You stopped hanging out with them?  
 9 A. I would still see him, but I was -- wasn't  
 10 as frequent.  
 11 Q. Were you still seeing them at all when their  
 12 first child was born, JP?  
 13 A. Not that I recall.  
 14 Q. You were pretty much out of the picture by  
 15 then?  
 16 A. My recollection, I can't -- I don't recall  
 17 anything with their child or children at all.  
 18 Q. You have been convicted of a felony,  
 19 correct?  
 20 A. Yes, sir.  
 21 Q. What were you convicted of?  
 22 A. Drug possession, and also -- basically it  
 23 was two cases in one. It was state level and federal  
 24 level also. But drug possession and also federal level,  
 25 it was interstate drug trafficking.

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1 Q. You became involved in drugs?  
 2 A. Yes, sir.  
 3 Q. And you have been in prison?  
 4 A. Yes, sir.  
 5 Q. And you are out of prison and employed  
 6 now?  
 7 A. Yes, sir.  
 8 Q. And how are things going along now?  
 9 A. I would call it a success story, in my  
 10 personal opinion. I spent 12 years incarcerated in  
 11 Michigan Department of Correction. I have been out four  
 12 years now. I've been working at a job for a little less  
 13 than three years. I have had three promotions. I am  
 14 currently the supervisor for the Pontiac G-6.  
 15 Q. You've got two brothers here?  
 16 A. Yes, sir.  
 17 Q. What are their names?  
 18 A. Benjamin Dean and Charles Dean.  
 19 Q. Do they still reside in Lansing?  
 20 A. Yes, sir.  
 21 Q. You are here to testify for James?  
 22 A. Yes, sir.  
 23 MR. SCHIECK: Thank you. Nothing  
 24 further.  
 25 THE COURT: Cross.

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1 CROSS-EXAMINATION  
 2 BY MR. OWENS:  
 3 Q. You graduated from high school?  
 4 A. Yes, sir.  
 5 Q. Do you go to college?  
 6 A. Briefly, after I was released from  
 7 incarceration.  
 8 Q. So when did you get incarcerated?  
 9 A. 1991.  
 10 Q. You have been out of high school since  
 11 '87?  
 12 A. Yes, sir.  
 13 Q. What were you doing during that three or  
 14 four year period before you were incarcerated?  
 15 A. Before I was incarcerated?  
 16 Q. Before you were incarcerated?  
 17 A. Pretty much selling drugs, hanging out. I  
 18 also had a job so I worked for Myers Store.  
 19 Q. What kind of story?  
 20 A. Myers grocery story. That's a big grocery  
 21 clothing and different items of that nature. I actually  
 22 worked for that like it was part of a high school co-op  
 23 program so I was in high school and I would work -- go to  
 24 school half the day and work half the day.  
 25 Q. What did you do at the grocery store?

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1 A. I first started as a bag boy, then I ended  
2 up working in the grocery department.  
3 Q. So you kind of moved up in there?  
4 A. Yes, sir.  
5 Q. You were selling drugs at the time you were  
6 doing that?  
7 A. Yes, sir.  
8 Q. Were you able to hold down your and you were  
9 involved in drugs?  
10 A. Well, I wasn't working that much. Probably  
11 basically six hours a week. It was part of a school work  
12 program.  
13 Q. Well, after high school were you still in  
14 the school cooperative program?  
15 A. No, sir.  
16 Q. Were you still working at the grocery  
17 store?  
18 A. Yes, sir.  
19 Q. How long did you work there?  
20 A. I would say right to the time I got in  
21 trouble.  
22 Q. When you got caught?  
23 A. Yes, sir.  
24 Q. So for three or four years you were doing  
25 things at the grocery store. What was your position

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1 there?  
2 A. Just grocery clerk, I guess, is what it was  
3 called.  
4 Q. Checking people through the line?  
5 A. No, sir.  
6 Q. Doing what?  
7 A. Tagging, pricing, stocking -- stocking  
8 clerk.  
9 Q. At one point the defendant testified in this  
10 case and said the reason he got back on drugs is because  
11 of his friends. Are you one of the friends that got him  
12 going on drugs again?  
13 A. No, sir.  
14 Q. That wasn't you?  
15 A. Not to my knowledge. I didn't personally  
16 hand him drugs.  
17 Q. Which friend was it that got him going on  
18 drugs?  
19 A. I have no knowledge of that, sir.  
20 Q. You don't know who he was talking about?  
21 A. No, sir.  
22 Q. How long were you in prison for?  
23 A. 12 years.  
24 Q. That's a long time?  
25 A. Yes, sir.

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1 Q. What kind of charges?  
2 A. Like I said drug possession and the other  
3 one was interstate drug trafficking.  
4 Q. Were there other charges that were dismissed  
5 as part of your deal there?  
6 A. There was no pretty much deal. That was  
7 just -- it was pled to the lesser charge versus the charge  
8 that I was charged with, yes.  
9 Q. So you pled to a lesser charge?  
10 A. Yes.  
11 Q. And the lesser charge was --  
12 A. 12 to 30 -- well, it was 20 to 30, the judge  
13 sentenced me to the 12 to 30.  
14 Q. And that was a drug charge?  
15 A. Yes, sir.  
16 Q. What was the more serious charge that was  
17 reduced?  
18 A. I was trying to think of how they titled it,  
19 possession of drugs over 650 grams.  
20 Q. Was this cocaine?  
21 A. Yes, sir.  
22 Q. 650 grams is a lot of cocaine?  
23 A. Yes, sir.  
24 Q. So this was a trafficking quantity?  
25 A. Yes, sir.

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1 Q. And the minimum sentence would have been a  
2 lot more severe if you adn't done the deal?  
3 A. When you say deal, what do you mean by that?  
4 Q. Taken the lesser plea?  
5 A. I would have been worse, yes sir.  
6 Q. The neighborhood that you grew up in was  
7 Nellers Court?  
8 A. The street he actually lived on was Nellers  
9 Court.  
10 Q. What was the neighborhood call there?  
11 A. I'm not sure what you mean by that.  
12 Q. You didn't have a name for the neighborhood  
13 area where you guys lived?  
14 A. Not in particular that I can think of at  
15 this point. It was just the neighborhood.  
16 Q. What kind of neighborhood was it when you  
17 were growing up?  
18 A. A bunch of families, children. The  
19 neighborhood that James lived in after they moved off of  
20 there was lower income neighborhood.  
21 Q. Sorry?  
22 A. Basically a lower income neighborhood, based  
23 on the neighborhood that he moved to versus the neighbor I  
24 was in. It was considered a lower income neighborhood.  
25 Q. The neighborhood that you were you in,

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1 showing you Exhibit G -- defense exhibit, school photo  
 2 there. He moved into a better neighborhood after this  
 3 one?  
 4 A. After this grade, yes, sir.  
 5 Q. How old was he when he moved into the better  
 6 neighborhood?  
 7 A. I wouldn't know exactly how old he was. He  
 8 was older. He had to be at least high school, if I can  
 9 recall correctly.  
 10 Q. So it was quite a bit later?  
 11 A. Yes, sir.  
 12 Q. He was going to a regular high school when  
 13 he met Debbie?  
 14 A. Yeah, Lansing Sexton.  
 15 Q. Sorry?  
 16 A. Lansing Sexton.  
 17 Q. But it was not special education?  
 18 A. No. You don't have special education for  
 19 high schools.  
 20 Q. And the photo I've got up her, this was the  
 21 class that the Defendant was in back around 1979, 1980?  
 22 A. Yes, sir.  
 23 Q. This came out of the neighborhood that you  
 24 grew up in?  
 25 A. Yes, sir.

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1 Q. What kind of neighborhood was that?  
 2 A. You asked me that before. I'm not sure  
 3 what -- I said just a family neighborhood.  
 4 Q. You said the one he moved into was nicer,  
 5 but this was not a bad neighborhood that he lived in?  
 6 A. The houses was low income.  
 7 Q. What were the people like?  
 8 A. Give me some particular, when you say what  
 9 were the people like.  
 10 Q. Well, they all grew up to be criminals?  
 11 A. I couldn't tell that you.  
 12 Q. Most of them grow up to be criminals?  
 13 A. You got to ask me about people I know.  
 14 Q. Was there a lot of drugs and violence and  
 15 things going on in the neighborhood?  
 16 A. On his street there was four drugs houses on  
 17 the street, four weed houses. Yes, sir.  
 18 Q. What about the neighborhood that all these  
 19 kids went to school in, were there drug houses four to a  
 20 neighborhood?  
 21 A. Not in that area where the school is  
 22 located, no, sir.  
 23 Q. Was it just in the neighborhood on the  
 24 street where the Defendant lived that there were four drug  
 25 houses per street?

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1 A. It was the next street over from me. There  
 2 was probably two weed house or marijuana houses.  
 3 Q. How many did you have on your street?  
 4 A. On my street, none.  
 5 Q. You got to admit the kids in the photo look  
 6 fairly happy?  
 7 A. Yes, sir.  
 8 Q. They look like fairly regular kids, don't  
 9 they?  
 10 A. Yes, sir.  
 11 Q. You talked about his grandmother. His  
 12 grandmother raised him?  
 13 A. Yes, sir.  
 14 Q. His sister, is that an older sister, Sheri?  
 15 A. No, sir, not that I know of. His sister --  
 16 he had a younger sister Mia, and an older sister Carla.  
 17 Those are the only two I'm familiar with. If there is  
 18 someone else, it's someone that wasn't around much.  
 19 Q. Well, his grandmother's name -- do you  
 20 remember his grandmothers name?  
 21 A. Clara Axam.  
 22 Q. Clara Axam, A-X-A-M?  
 23 A. Appears to sound right.  
 24 Q. She was pretty strict with him?  
 25 A. Yes, sir.

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1 Q. He had a lot of rules?  
 2 A. Yes, sir.  
 3 Q. When she wasn't there, if there wasn't adult  
 4 supervision you moved the furniture?  
 5 A. Yes, sir.  
 6 Q. You'd have parties?  
 7 A. Yes.  
 8 Q. There would be rugs there?  
 9 A. Yes, sir.  
 10 Q. She didn't want his friends coming over  
 11 unless there was adult supervision?  
 12 A. Well, she didn't want his friends around  
 13 period. When she was there we didn't come over there.  
 14 Q. Okay. And the times you were there it was a  
 15 party, drugs, and things like that?  
 16 A. For the most part yes, sir.  
 17 Q. She didn't seem to think that was a really  
 18 good idea for him?  
 19 A. She didn't know about that.  
 20 Q. So why did she have that rule?  
 21 A. Why did she have what rule?  
 22 Q. About friends being over?  
 23 A. Because she didn't want her house tore up  
 24 apparently. That was just it. I couldn't tell you. I  
 25 couldn't speak for her.

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1 Q. Did you know that she spoke for herself one  
2 time in this case?

3 A. I think I was incarcerated, I think.

4 Q. So you weren't aware she testified  
5 previously?

6 A. I knew she was out here. I don't know the  
7 extent of that. I was incarcerated at that point, sir.

8 Q. And she had some rules that she applied in  
9 her home, you're aware of that?

10 A. I'm aware all homes have rules, for that  
11 matter, like I said.

12 Q. One of the rules is she didn't want his  
13 friends coming over there at the house?

14 A. Obviously, so.

15 Q. Where did she work?

16 A. I want to say she worked in food services at  
17 the Michigan State Police Post.

18 Q. She worked for the State Police Academy in  
19 the State of Michigan?

20 A. It has something to do with the state  
21 police.

22 Q. She was trying to raise her grand children,  
23 right?

24 A. Yeah obviously so, sir.

25 Q. Because of her job she couldn't be home

293

1 during the day, right?

2 A. If you say so, sir. You wanted me to say --  
3 are you telling me to say this or are you --

4 Q. I'm asking do you know this is true?

5 A. I know she had a job. I know that she was  
6 raising her grand children, yes, sir.

7 Q. Did James have an aunt named Sheri?

8 A. Sheri, I mean, I hear the name Sheri, but  
9 she's not one that was familiar with me. Like I said, I  
10 can name other people in her family, Aunt Louise, and all  
11 the other people, but Sheri is not somebody that was  
12 around for the most part or a name that sounds familiar.

13 Q. Well, the Defendant's grandmother was asked  
14 who would care for James while you were at work and it was  
15 her testimony that her daughter Sheri would take care of  
16 James?

17 A. I'm not familiar with Sheri.

18 Q. It's not ringing a bell. The Defendant's  
19 grandmother, Clara Axam called your mother when you would  
20 have these parties.

21 A. Is that so.

22 Q. You said that a few minutes ago?

23 A. I said what?

24 Q. She would call your mother?

25 A. I told you she would call my mother?

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1 Q. When you have these parties sometimes.

2 A. I just told you that?

3 Q. Well, a few minutes ago?

4 A. What was the question?

5 Q. You remember saying that a few minutes  
6 ago?

7 A. What was the questions? How did we lead up  
8 to that?

9 Q. That was questioning for Mr. Schieck,  
10 talking about these parties you would have and she could  
11 come home and she was upset and she would call your  
12 mother?

13 A. Yes. She would say something to my mother.  
14 My mom and her were best friends, for that matter.

15 Q. She would call your mother and that would  
16 get you in trouble?

17 A. I do remember that now.

18 Q. So she didn't just ignore the situation when  
19 she found out about things, she did something about it?

20 A. Or if she found out about us being over,  
21 yeah.

22 Q. She was kind of watching out for you too?

23 A. Yes, sir.

24 Q. Did you get in trouble?

25 A. I got in trouble many a time.

295

1 Q. How would you get in trouble?

2 A. How did I get in trouble. Typical  
3 household, I'd get whooped.

4 Q. You'd get whooped, like the Defendant got  
5 whooped?

6 A. Extension cords, the works.

7 Q. How did your parents do it?

8 A. How did my Mom do it?

9 Q. Yeah.

10 A. My mom raised me. She whooped me. That's  
11 it. I don't understand.

12 Q. She use a hand?

13 A. I just said she used an extension cord,  
14 whatever.

15 Q. Where would she whoop you?

16 A. My legs, my butt.

17 Q. Your backside?

18 A. Pretty much, if you're moving around you  
19 subject to getting your backside hit.

20 Q. Was it doing any good with you?

21 A. Far as what?

22 Q. Her whooping you?

23 A. At the time it did.

24 Q. Did it help you to stay out of trouble, more  
25 than you would have gotten into?

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1 A. I couldn't say, sir. I ended up in prison.  
2 So I can't say that was the case.

3 Q. You blame your mother for that?

4 A. No, sir. I blame myself for that.

5 Q. You think she didn't do a good enough job  
6 with you?

7 A. I did think she did a great job, considering  
8 she's a single parent.

9 Q. She did the best she could?

10 A. Yes, sir.

11 Q. You made some choices that she wasn't happy  
12 about?

13 A. That is what it was.

14 MR. OWENS: I don't have anything  
15 further.

16 THE COURT: Mr. Schieck.

17 REDIRECT EXAMINATION

18 BY MR. SCHIECK:

19 Q. Mr. Owens put up a picture of Morris Park  
20 from 1979 to 1980, how far is Morris Park Elementary  
21 School from Neillers Court?

22 A. Distance, minutes, whatever, blocks?

23 Q. Blocks, if you know?

24 A. I would say roughly ten blocks.

25 Q. Isn't it true that City of Lansing condemned

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1 Neillers Court and tore it down?

2 A. Yes.

3 Q. There's not a single house there right  
4 now?

5 MR. OWENS: Object, foundation.

6 THE COURT: Overruled.

7 MR. SCHIECK: Thank you. That's all I  
8 have, your Honor.

9 THE COURT: Mr. Owens.

10 BY MR. OWENS:

11 Q. When did they condemn in and tear it down?

12 A. I was incarcerated when it occurred. It  
13 started -- they would like slowly but surely there were  
14 houses that was being knocked down and you might have a  
15 house here and there. When it actually was totally  
16 condemned I was incarcerated.

17 Q. How many years ago that was?

18 A. I couldn't tell you. I would have no  
19 knowledge. I was incarcerated.

20 Q. So you don't know when they started to tear  
21 it down?

22 A. I was around when they started tearing it  
23 down. It was like a house here, and there might be like a  
24 house missing here, go down four blocks, a houses is  
25 missing there. So it was like it wasn't all once, but a

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1 little at a time. Then when I left, I guess, that is when  
2 they told me they did away with it.

3 Q. What's there now?

4 A. What's there now?

5 Q. Yes.

6 A. Nothing but like a field like -- just pretty  
7 much a field I think. An empty field. The area that was  
8 behind Neillers Court, they did something with a parking  
9 lot. Neillers is empty at this point, if I recall.

10 MR. OWENS: Nothing further.

11 THE COURT: Mr. Schieck.

12 MR. SCHIECK: No.

13 THE COURT: All right. Hold on a second,  
14 sir.

15 Counsel approach.

16 (Discussion held at the bench.)

17 THE COURT: Let me ask you, are you  
18 referring to back when the witness was growing up there,  
19 grade school age?

20 IMPANELED JUROR: Yes.

21 THE COURT: The question is -- let's see  
22 how much you paid attention in school.

23 Do you know what the population of

24 Lansing, Michigan was?

25 THE WITNESS: When I was growing up?

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1 THE COURT: Grade school age.

2 THE WITNESS: No, sir.

3 THE COURT: Do you have an estimate.

4 THE WITNESS: Population of Lansing, as a  
5 whole, I wouldn't give a guess.

6 THE COURT: Okay. Mr. Schieck, do you  
7 have any questions based upon mine?

8 BY MR. SCHIECK:

9 Q. I guess East Lansing is a separate portion  
10 of Lansing, is that fair?

11 A. Yes.

12 Q. That's where Michigan State is at?

13 A. Yes, sir.

14 Q. Without including East Lansing as part of  
15 that question, would you have an answer to that?

16 A. I mean, it's hard to put a number on that  
17 based on just -- you got -- you got, like four high  
18 schools, a bunch of elementary schools. At the time you  
19 had four junior high schools, that's just children. You  
20 want the population. What, do you want me to throw a  
21 number out.

22 MR. SCHIECK: Don't guess.

23 THE WITNESS: I won't be able to say.

24 THE COURT: Okay. Mr. Owens.

25 MR. OWENS: No.

300

1 THE COURT: Mr. Dean, appreciate your  
2 time. You may step down.  
3 Defense -- actually approach real quick.  
4 Sorry.  
5 I should have asked you when you were up  
6 here a moment ago.  
7 We'll take a quick recess before we have a  
8 couple more witnesses to get through this evening before  
9 we break.

10 But I know we have been going or a couple  
11 hours now. We'll recess and let you stretch and use the  
12 restroom, then we'll finish up.

13 JURY ADMONITION

14 During the recess, ladies and gentlemen,  
15 you are admonished not to converse among yourselves or  
16 with anyone else, including, without limitation, the  
17 lawyers, parties and witnesses, on any subject connected  
18 with this trial, or any other case referred to during it,  
19 or read, watch, or listen to any report of or commentary  
20 on the trial, or any person connected with this trial, or  
21 any such other case by any medium of information  
22 including, without limitation, newspapers, television,  
23 internet or radio.

24 You are further admonished not to form or  
25 express any opinion on any subject connected with this

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1 trial until the case is finally submitted to you.

2 (Brief recess take.)

3 THE COURT: Back on the record in  
4 C-131341, State of Nevada versus James Chappell.

5 The record will reflect the presence of  
6 Mr. Chappell, with his attorneys, the State's attorneys,  
7 and our full jury.

8 We'll continue on with defense case in  
9 chief.

10 Defense may call their next witness.

11 MR. PATRICK: We call Benjamin Dean, your  
12 Honor.

13 THE COURT: Thank you.

14 THE CLERK: You do solemnly swear the  
15 testimony you are about to give in this action, shall be  
16 the truth, the whole truth, and nothing but the truth, so  
17 help you God.

18 THE WITNESS: Yes.

19 THE CLERK: Be seated. State and spell  
20 your name for the record.

21 THE WITNESS: Benjamin Dean, D-E-A-N.

22 DIRECT EXAMINATION

23 BY MR. PATRICK:

24 Q. Good afternoon, Mr. Dean. What -- do you go  
25 by another name besides Benjamin?

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1 A. Benji. That's what they used to call me  
2 growing up.

3 Q. Or Ben?

4 A. Yes.

5 Q. May I call you Ben?

6 A. Yes.

7 Q. Ben, do you know James Chappell?

8 A. Yes.

9 Q. Did you know him by another name growing  
10 up?

11 A. Jimbo.

12 Q. That was his nickname?

13 A. Yes.

14 Q. Your -- are you brothers with Fred that was  
15 just in here?

16 A. Yes.

17 Q. Are you older or younger than Fred?

18 A. Younger -- older than Fred.

19 Q. Do you remember when it was you met Jimbo?

20 A. I met him in elementary school.

21 Q. About the same time your brother did?

22 A. Yep.

23 Q. And you all lived right around the corner?

24 A. Yes.

25 Q. At that time he was living on Nellers

303

1 Court?

2 A. Yes.

3 Q. Could you kind of explain Nellers Court for  
4 us?

5 A. Nellers Court was a dead end street, and  
6 basically it was surrounded by railroad track on both  
7 sides, and also it you used be an old diamond real plant  
8 that was over there that made the diamond real trucks.  
9 But it was out of business, so basically just a big vacant  
10 building and stuff.

11 Q. Do you remember what the houses were like?

12 A. There was a lot of abandoned houses, because  
13 most of the residents there started to move out and stuff  
14 because the houses were in bad condition and stuff so they  
15 started moving out and going to different areas of the  
16 city.

17 Q. Do you know what eventually happened to  
18 Nellers Court?

19 A. They ended up just demolishing the whole  
20 street.

21 Q. Do remember about when that was, what  
22 year?

23 A. I'm not exactly sure what year it was.

24 Q. Now, you were part of group with your  
25 brother and Jimbo and everybody that would hang out at

304



1 Jimbo's house?  
 2 A. Yes.  
 3 Q. Why Jimbo's house?  
 4 A. Basically because there was no adult there,  
 5 so we knew that we could party and hang out there and  
 6 stuff like that and we didn't have to worry about somebody  
 7 coming in and out, somebody grown coming in and out and  
 8 stuff.  
 9 Q. What about James' grandmother?  
 10 A. We basically knew what time she went to work  
 11 or what time she went to play bingo or to the track and  
 12 stuff, we pretty much knew her schedule so we knew what  
 13 time to be over there and what time to get out of there.  
 14 Q. So she would go to work, then would she come  
 15 home after work?  
 16 A. Yeah. She'd come home, then I guess she'd  
 17 do what she had to do, then go to the -- play bingo. She  
 18 played bingo a lot.  
 19 Q. How much nights a week would you think?  
 20 A. Probably maybe four times a week, something  
 21 like that.  
 22 Q. Then you also mentioned the track. Could  
 23 you explain what you mean by that?  
 24 A. The railroad tracks.  
 25 Q. No. You said grandma would play bingo and

305

1 go to the track?  
 2 A. To the horse races. Jackson used to have  
 3 the harness horse races.  
 4 Q. Do you have any idea how many nights a week  
 5 she would be gone for that?  
 6 A. I'm not sure about that horse races --  
 7 MR. OWENS: I'll object at this point.  
 8 THE COURT: Sustained. Get more  
 9 foundation.  
 10 BY MR. PATRICK:  
 11 Q. So you said you'd party at James' house?  
 12 A. Yes.  
 13 Q. And you said that was why, because there was  
 14 no adult supervision?  
 15 A. Yes.  
 16 Q. What time period was this -- what grades  
 17 were you in?  
 18 A. Like around 7th grade, 8th grade, 9th  
 19 grade.  
 20 Q. How old were you all?  
 21 A. 13, 14, 12, we all were like different ages  
 22 and stuff.  
 23 Q. So James was a little younger than you?  
 24 A. Yes.  
 25 Q. Do you know about how much younger?

306

1 A. Well, he's like three years younger, so he  
 2 is probably about maybe -- he would probably been maybe  
 3 12, or something like that.  
 4 Q. You would be 15?  
 5 A. Yes.  
 6 Q. Then during this time that's when James'  
 7 grandmother would spend nights at bingo or the horse  
 8 track?  
 9 A. Yes.  
 10 Q. During this time when she was at bingo or  
 11 the horse track, would there be any adults around the  
 12 house?  
 13 A. No.  
 14 Q. And is that why you guys hang out there and  
 15 party?  
 16 A. Yes.  
 17 Q. Could you give us kind of an idea of what  
 18 the partying would consist of?  
 19 A. We'd basically smoke weed. And, you know, I  
 20 mean we wasn't big drinkers but we drink now and then.  
 21 Basically played the Atari video games, watch MTV, watch  
 22 music videos and stuff, you know, just goof around up in  
 23 there.  
 24 Q. Now, did you go to Morris Park Elementary  
 25 School?

307

1 A. Yes.  
 2 Q. But would not be in the same grade as  
 3 James?  
 4 A. No.  
 5 Q. Showing you what is Defendant's Exhibit G,  
 6 do you recognize James in this picture?  
 7 A. Yes.  
 8 Q. Could you point him out to us in this  
 9 picture?  
 10 A. Right there.  
 11 Q. That is from '79 and '80. He was in third  
 12 grade?  
 13 A. Yes.  
 14 Q. What grade would you have been in that  
 15 year?  
 16 A. 6th.  
 17 Q. So you were about ready to leave Morris  
 18 Park?  
 19 A. Yep.  
 20 Q. Then -- are you familiar with Forestview  
 21 School?  
 22 A. Yeah, I've heard of it.  
 23 Q. Do you know what kind of school it was?  
 24 A. I guess it was like in a better area, but  
 25 it's an elementary school.

308

1 Q. Was there anything special about it being an  
2 elementary school?

3 A. Not that I can think of.

4 Q. Were you ever aware of James being in any  
5 special ed type classes?

6 A. Yes.

7 Q. Would you happen to know what years during  
8 school he was in special ed?

9 A. I know he was in like a special ed class in  
10 like elementary school.

11 Q. Would you know if Forestview would be a  
12 special education type school or anything like that?

13 A. I have no knowledge of that.

14 Q. Now, again, this is Defense Exhibit H. And  
15 this is school pictures from Forestview School. Do you  
16 recognize James in that picture?

17 A. Yes.

18 Q. This is from 1980, '81?

19 A. Yes.

20 Q. So that would be -- he would be in 5th grade  
21 then?

22 A. I believe so.

23 Q. And you had already been in junior high?

24 A. Yes.

25 Q. You didn't go to school with James that year?

309

1 A. No.

2 Q. Do you know either James Ford or Ivory  
3 Morrell?

4 A. Yes.

5 Q. How do you know them?

6 A. James Ford, me and him went to school  
7 together. And he grew up right across the street from me.  
8 I met Ivory Morrell as I got older, like during my high  
9 school years. I met Ivory through James Ford.

10 Q. Now did you and James Ford live on the same  
11 street?

12 A. Yes.

13 Q. How close was that to Nellers Court?

14 A. About a block over.

15 Q. And during the time that you and James Ford  
16 lived on the same street was Jimbo living on Nellers  
17 Court?

18 A. Yes.

19 Q. Were the three of you pretty close

20 friends?

21 A. Yes.

22 Q. Do you know -- did you ever meet Debbie?

23 A. Yes, I did.

24 Q. How did you get to meet and know her?

25 A. I met her over to James Ford's house. That

310

1 is where I would see her the majority of the time would be  
2 over at James Ford's house.

3 Q. Do you know why the majority of time you  
4 would see her over at James Ford's house?

5 A. No. I just -- that's where I would see her  
6 all the time, and, you know, James and Jimbo were really  
7 close, so, you know, she would go over there with him and  
8 stuff.

9 Q. Do you know if Jimbo and Debbie ever lived  
10 at the Ford house?

11 A. I have heard that they did, that they stayed  
12 there for awhile.

13 Q. Would you have any idea about what time  
14 period this would and how old Jimbo was or what years?

15 A. No.

16 Q. Do you know any specifics about that?

17 A. No.

18 Q. Do you know about what age Jimbo was when he  
19 started getting into drugs?

20 A. Probably like about 13, 14, somewhere like  
21 that.

22 Q. At that point were you also doing drugs with  
23 Jimbo?

24 A. Yes.

25 Q. What kind?

311

1 A. Marijuana.

2 Q. Did you guys spend a lot of time around  
3 Jimbo and Debbie?

4 A. Just like I said, he would -- they would be  
5 up at James Ford's house and, you know, I would be around  
6 them then. But as far as like spending time outside that  
7 area, no.

8 I used to work for this law school -- Cooley Law  
9 School and Debbie worked somewhere downtown. I think it  
10 was a utility company someplace like that. And James  
11 would stop down sometimes and talk to me, because he would  
12 be going down to take her -- take her some lunch or  
13 something like that, take her food or whatever, so he  
14 would stop down there and talk to me sometimes?

15 Q. Do you remember what year that would be?

16 A. I don't remember right off hand.

17 Q. Maybe how old you would have been?

18 A. Let me see, probably like around 20, 21, 22,  
19 something like that.

20 Q. So that would have made James -- Jimbo  
21 around 17 to 19?

22 A. Somewhere like that.

23 Q. From what you saw of Jimbo and Debbie  
24 together how would you characterize their relationship?

25 A. I didn't see any problems with them, you

312

1 know, while I seen them together. I didn't see any  
2 problems.

3 Q. Did -- at this time had JP been born, do you  
4 remember?

5 A. Yes, uh-huh.

6 Q. How were they as a family together from what  
7 you remember?

8 A. She -- I know she would be over to James  
9 Fords sometime. She'd have the baby in a stroller and  
10 stuff. I remember that much about it.

11 Q. Now, growing up when you and Jimbo were in  
12 school, even though you didn't go to the same class, do  
13 you know what kind of reputation Jimbo had in grade school  
14 or junior high?

15 A. I know he was always like -- like goofy  
16 like. He, you know, gut kind of like a little slow.

17 Q. When you saw goofy, can you explain?

18 A. I mean, he just, you know he was always  
19 doing like goofy stuff, like he would make up nicknames  
20 and stuff for everybody, for all have of us. We all had  
21 nicknames he would make up, goofy nicknames and stuff.

22 Q. Would you characterize that -- say maybe a  
23 class clown?

24 A. Yeah.

25 Q. How about Jimbo's temperament, did you see

313

1 him angry or violent?

2 A. No. He was always like, I said, real goofy  
3 and just like doing stuff like that, you know. He was  
4 always like doing something to make people laugh and stuff  
5 like that, you know. Even way he used to dance, stuff  
6 like that, we used to watch MTV all the time and he could  
7 emulate Michael Jackson, Prince. He can sit there and do  
8 all their moves to the exact "T". He was just -- that's  
9 just how he was.

10 MR. PATRICK: Court's indulgence.

11 BY MR. PATRICK:

12 Q. Did you know Jimbo to have any jobs?

13 A. I was going to say he was cooking or doing  
14 something somewhere, but I'm sure. I want to say cooking  
15 somewhere.

16 Q. But you don't remember whether -- or what  
17 time period that would have been?

18 A. No.

19 MR. PATRICK: That's all I have, your

20 Honor.

21 THE COURT: Cross.

22 CROSS-EXAMINATION

23 BY MR. OWENS:

24 Q. It was your opinion, wasn't it, that Debbie  
25 was very controlling and demanding of Jim?

314

1 A. No, I never said that.

2 Q. You felt she was very manipulative of him?

3 A. I've never said that.

4 Q. After their first child she didn't like for  
5 him to be around his old friends?

6 A. I've never said that either.

7 Q. Wasn't it your opinion that she wanted to  
8 keep James away from his friends in order to control  
9 him?

10 A. Are you asking me how did I feel about the  
11 situation?

12 Q. No. I'm asking you wasn't that your  
13 opinion?

14 A. I've never said that.

15 Q. Didn't think that she was often verbally  
16 abusive of James?

17 A. I've never said that.

18 Q. May I approach, your Honor?

19 THE COURT: Yes.

20 BY MR. OWENS:

21 Q. Showing you the affidavit you signed in  
22 March 2003. Showing you the last page. You recognize  
23 your name there?

24 A. Yes.

25 Q. And the date?

315

1 A. Yes.

2 Q. You signed that?

3 A. Yes.

4 Q. That was notarized?

5 A. Yes.

6 Q. Correct?

7 A. Yes.

8 Q. In that document you said that Debbie was  
9 controlling and demanding of him; isn't that true?

10 A. That's what it says.

11 Q. You also said in the affidavit that she was  
12 very manipulative of him, especially after the first  
13 child. Isn't that what you said?

14 A. That's what it says.

15 Q. You said that she did not like for him to be  
16 around his old friends. Isn't that what you said?

17 A. Where -- yeah, that's what it said.

18 Q. You said that she would often verbally abuse  
19 him; isn't that right?

20 A. That's what it says.

21 Q. Was that your affidavit?

22 A. That was 2000 and something. I don't  
23 remember that, but --

24 Q. You don't remember doing the affidavit?

25 A. I remember speaking with a gentleman that

316

1 came and asked us questions about the case and stuff,  
2 but --

3 Q. You signed it right?

4 A. Yes, uh-huh.

5 Q. That was your affidavit back in 2003?

6 A. Okay.

7 Q. Well, was it?

8 A. Yeah.

9 Q. It's not a forgery or something, is it?

10 A. No.

11 Q. That's it?

12 A. Yep.

13 MR. OWENS: That's all I have.

14 THE COURT: Thank you. Mr. Patrick.

15 MR. PATRICK: Nothing further, your

16 Honor.

17 THE COURT: Thank you, Mr. Dean. We

18 appreciate your time, sir. You may step down.

19 Defense may call their next witness.

20 MR. PATRICK: We call Mira Chappell your

21 Honor.

22 THE COURT: Thank you.

23 THE CLERK: You do solemnly swear the

24 testimony you are about to give in this action, shall be

25 the truth, the whole truth, and nothing but the truth, so

1 help you God.

2 THE WITNESS: I do.

3 THE CLERK: Be seated. State and spell

4 your name for the record.

5 THE WITNESS: Mira King, K-I-N-G.

6 DIRECT EXAMINATION

7 BY MR. SCHIECK:

8 Q. Mrs. King, where do you reside?

9 A. At 1216 West Otowa Street, Lansing,

10 Michigan.

11 Q. How long have you lived in Lansing?

12 A. All my life.

13 Q. Are you related to James Chappell?

14 A. Yes, sir.

15 Q. How are you related to James?

16 A. He's my brother.

17 Q. Is James her in court today?

18 A. Yes, sir.

19 Q. Are you older or younger than James?

20 A. Younger than James.

21 Q. How much younger?

22 A. I have believe two years.

23 Q. When were you born?

24 A. January 15, 1972.

25 Q. When did your mother die?

1 A. I believe 1973. I was a year old.

2 Q. Would it be fair to say you never met your

3 mother?

4 A. Yes, sir.

5 Q. Not that you can recall?

6 A. Yes, sir.

7 Q. Where were you raised?

8 A. 1527 Neller Court.

9 Q. There in Lansing?

10 A. Yes, sir.

11 Q. Whose house was that?

12 A. My grandmother's.

13 Q. How long did you continue to live with your

14 grandmother on Nellers Court?

15 A. Until I was 12, then we moved.

16 Q. Where did you move to?

17 A. 3821 Wedgewood Drive.

18 Q. While you were living on Nellers Court, who

19 was residing in that household?

20 A. Me, and James, Rick, and I do believe my

21 sister Carla. But as we got older, I do believe she left

22 the house.

23 Q. Do you recall how old she was when she left

24 the house?

25 A. I do believe 16.

1 Q. How much older is she then you are?

2 A. Five years. She's like 39.

3 Q. Anyone else living in the house, besides the

4 four children and grandmother?

5 A. No, sir.

6 Q. Any male figure living in the house?

7 A. No, sir.

8 Q. Did you have an uncle by the name of

9 Rodney?

10 A. Yes. But I do believe that -- I don't

11 recall if my uncle Rodney lived there.

12 Q. What became of uncle Anthony?

13 A. He got killed.

14 Q. Do you recall how old were when he got

15 killed?

16 A. I do believe I was 7 or 8.

17 Q. Can you describe what it was like growing up

18 in your grandmother house on Nellers Court when you and

19 James were growing up?

20 A. We didn't have to worry about clothes or

21 food or lights and heat, but it was not an affectionate or

22 attention house where a mother will kiss a child or say I

23 love you or tuck you in bed or nothing like that. We

24 never had that. She was very rarely there, because she

25 worked a lot and when she didn't work she went to the

1 horse races or bingo, so we were primary there by  
2 ourselves.

3 Q. Who was watching you, who was supposed to be  
4 watching you?

5 A. We had one babysitter by the name of Marge,  
6 but I do believe that my mother fired her so it was like  
7 basically on our own.

8 Q. Is that pretty much the situation the whole  
9 time I lived there on Nellers Court with your  
10 grandmother?

11 A. Yes, sir.

12 Q. Now you said she did provide necessities for  
13 the children?

14 A. Yes, sir.

15 Q. And she worked in order to do that?

16 A. Yes, sir.

17 Q. Did you have clothing?

18 A. Yes. But it was like the only time we did  
19 get clothing was when it was like school or when summer  
20 came around she might take us to get summer clothes, but  
21 never like, I'm going to go out and buy you a shirt today,  
22 because I seen something nice for you, No.

23 Q. What was the neighborhood -- what was the  
24 neighborhood like on Nellers Court while you were growing  
25 up with James?

321

1 A. Primarily kids did basically what they  
2 wanted to do. I mean that was basically we all hung  
3 together. We all did what we wanted to do basically.

4 Q. What were the conditions of the houses on  
5 Nellers Court?

6 A. They were run down.

7 Q. You say run down, can you be more  
8 descriptive?

9 A. I just -- I called it the hood. I mean,  
10 basically every house had roaches. Basically every house  
11 was run down, no good siding, no good paint in side the  
12 homes, nothing.

13 Q. Were any of the homes empty and abandoned?

14 A. Yes, most of them. Yeah.

15 Q. Was this like a dead end or a cul-da-sac  
16 type of --

17 A. Yes, you only get out one way.

18 Q. What was it the other way?

19 A. Like once we left our house you go to the  
20 end of the road, but wasn't nothing there but trees and  
21 brush. Then we can cut to the right and go over the hill  
22 be on the next street.

23 Q. Is that street where the Fords and the Deans  
24 lived?

25 A. Yes, sir.

322

1 Q. Were there railroad tracks in the  
2 neighborhood?

3 A. Sat right behind our house.

4 Q. Right behind your house, how close behind  
5 your house?

6 A. Like right behind the house. If the train  
7 comes by the house, you can feel the house vibrating.  
8 That's how close it was.

9 Q. Were there trains that went by often?

10 A. Yeah. Primarily in the day, but not like  
11 every hour. Maybe 4 to 5 hours, yeah.

12 Q. Was there one set of railroad tracks or more  
13 than one?

14 A. I really can't say. The only thing I would  
15 say is the railroad tracks went around by our house,  
16 around the corner, and down wherever it went. So I say  
17 one way, because they go this way, some come this way. But  
18 not a double track like this, two tracks.

19 Q. You said that your grandmother worked and  
20 provided with heat, clothing, and food for the house, but  
21 the house was in bad shape, is that a fair statement?

22 A. That's a fair statement. But it was  
23 clean.

24 Q. Who kept the house clean?

25 A. We did.

323

1 Q. What would take place while your grandma was  
2 at work or bingo somewhere else?

3 A. We probably be having music blasting  
4 watching MTV. All the kids be at our house. It was like  
5 a hangout house. Smoking weed, drinking, whatever we --  
6 whatever we wanted to do.

7 Q. Did you have ever see James get any  
8 affection or hugs from your grandmother?

9 A. None of us did.

10 Q. What about discipline, how did discipline  
11 take place in the house there on Nellers Court?

12 A. I know James and my sister Carla and brother  
13 Rick would get whooped by extension cords or switches.  
14 She had us go get our own switches, or -- that's basically  
15 it. She never really whooped me with an extension cord,  
16 it was always a switch.

17 Q. When she would whip the others with  
18 extensions cords, would that leave marks?

19 A. Yes, sir.

20 Q. You'd have to go to school with the marks?

21 A. Yes, sir.

22 Q. How often would that happen?

23 A. Whenever she felt like they were being  
24 disciplined. If we got into her stuff, or if they did  
25 something and it got reported to her. Other than that she

324

1 want there to really discipline you. If we got caught  
2 doing something, yeah.

3 Q. What about verbal abuse, verbal discipline,  
4 how would that go?

5 A. I don't think she ever had anything nice to  
6 say, always stupid or idiot, or can't you do something  
7 right. Se was never the type of grandmother where if you  
8 came in and said I have a good job, she would't by like  
9 that's good. She would be like, well, how long do you  
10 think you're going to have it and stuff like that.

11 Q. How did James do in school.

12 A. I believe we all -- I know for a fact we all  
13 did poorly in school.

14 Q. Who was the best in school out of the four  
15 of you?

16 A. I really can't say because I know my brother  
17 Rick did some college. I did some college, but it was  
18 after the fact that I dropped out of 12th grade and went  
19 back and got my GED. I really can't say who's the  
20 smartest.

21 Q. Did Jim have problems in school?

22 A. Yes. I do believe that he was in special  
23 ed.

24 Q. How did he handle that?

25 A. Um, just like a normal kid. I mean, you

325

1 have no other choice to be where you are placed. He  
2 didn't like it because our friends would tease him because  
3 we were all in regular classes.

4 Q. What kind of teasing would he get?

5 A. Called slow, or he just wasn't as smart as  
6 everybody else was.

7 Q. What about your grandmother, how would she  
8 refer to him?

9 A. Sometimes she call him stupid, or when it  
10 was time for a conference to go to see his teachers she  
11 never really had time to go to any of our conferences, so  
12 I guess she just -- I can really say how she felt. But I  
13 know that I don't think she put as much effort into it as  
14 a mother should.

15 Q. Was it hard on her raising four kids at her  
16 age?

17 A. From our point of view, I believe so. But I  
18 don't think that it's that hard. I have six children of  
19 my own and I love each one of my children. I tell them I  
20 love them. I don't want them to be raised like I was  
21 raised. I can't say if it was that hard for her.

22 Q. What about doing homework did she help with  
23 homework?

24 A. No.

25 Q. Do you know where she worked at?

326

1 A. She work at Michigan State Police  
2 Department. She was a cook.

3 Q. And did she continue to work there during  
4 the entire time that you were living at home?

5 A. Yes, sir.

6 Q. What age did you move out of that  
7 household?

8 A. I went to a girl's home at 14. I came home  
9 when I was like 16. And I do believe I moved out when I  
10 was 22. I had two kids and I move out and had my own  
11 place.

12 Q. Did you have plans or hopes to move out  
13 before than?

14 A. I can't really say. I just -- might have  
15 had a thought and wishes that we can have a different type  
16 of environment, or a different type of parent that raised  
17 us with love and affection. I had no other place to go,  
18 so that was the place I went.

19 Q. Did -- while you were growing up with James  
20 there on Nellers Court, did you see him have problems with  
21 being violent?

22 A. No.

23 Q. What kind of things would he be doing?

24 A. The same thing that we all be doing, acting  
25 a fool, smoking, drinking, swimming. We did things that

327

1 regular kids, as far as that goes, but we misbehaved like  
2 all kids do.

3 Q. Was there drug usage going on in the home?

4 A. Yes, sir.

5 Q. Was there anybody around to stop it?

6 A. No, sir.

7 Q. When did you come to realize that your  
8 mother had been killed when you were very young?

9 A. I had to be like 15, because I was -- I  
10 would hear things, but, you know, when you're young you  
11 just hear, you don't -- but I was going through my  
12 grandmother dressers one day, and I found the medical  
13 thing, however it is, and I sat and read it. She never  
14 gave us the details -- well, never gave me the details of  
15 what transpired or how it transpired, whatever so when I  
16 read the paper I knew for myself.

17 Q. She was killed in a -- she was a pedestrian  
18 killed by a highway patrol car?

19 A. Yes, sir.

20 Q. Did your grandmother ever talked about your  
21 mother or tell you about your mother?

22 A. No, sir.

23 Q. Was she ever even mentioned?

24 A. Very rarely. My aunt and uncle would  
25 mention her, or, you know, my sister whatever. There were

328

1 pictures on the wall. I recall one picture because I had  
2 that picture to this day. She never sat us down and said  
3 this is your mom, she did this or done that. No.

4 Q. Is that the only picture you have of your  
5 Mom?

6 A. Yes.

7 Q. Do you have a picture of your grandmother  
8 also?

9 A. Yes, sir.

10 MR. SCHIECK: If I can approach, your  
11 Honor.

12 THE COURT: Yes.

13 BY MR. SCHIECK:

14 Q. I'll hand you what's been marked as Exhibit  
15 L?

16 A. That's my Mother.

17 Q. Is that the only picture you have of your  
18 mother?

19 A. Yes.

20 Q. What about James, do you know if he has got  
21 a picture of your mother?

22 A. No, sir. I'm only one who has this  
23 picture.

24 MR. SCHIECK: I move for admission of L,  
25 your Honor.

329

1 MR. OWENS: No objection.

2 THE COURT: Exhibit L will be admitted.

3 BY MR. SCHIECK:

4 Q. You know anything at all about the picture  
5 other than it's a picture you have?

6 A. Nope. I couldn't tell you where she was,  
7 what she was doing. I just happen to have that picture.  
8 When my grandmother passed away, I took the picture.

9 Q. Do you have pictures of you and your  
10 brothers and sister?

11 A. I have a big picture in the house I also  
12 took when my grandmother passed away of all of us at Cedar  
13 Point. I looked real young then, so I couldn't tell you  
14 when it was taken.

15 MR. SCHIECK: Could I approach with them,  
16 your Honor.

17 THE COURT: You may.

18 BY MR. SCHIECK:

19 Q. What is that?

20 A. Me, Rick, James, and Carla.

21 Q. Where was that picture taken?

22 A. Cedar Point.

23 Q. What is Cedar Point?

24 A. Like an amusement park with rides like Six  
25 Flags. Just a big amusement ark.

330

1 Q. Is that the only picture you have with the  
2 four of you?

3 A. Yes, sir.

4 MR. SCHIECK: I move for admission of M,  
5 your Honor.

6 THE COURT: Any objection to M.

7 MS. WECKERLY: No objection.

8 THE COURT: M is admitted.

9 BY MR. SCHIECK:

10 Q. You are going to have to help me there,  
11 touch the screen. Which one are you?

12 A. Right here.

13 Q. James?

14 A. Here.

15 Q. And Rick?

16 A. Here.

17 Q. And Carla?

18 A. Here.

19 Q. Any idea at all when this was taken?

20 A. No, sir.

21 Q. Was it after your mother's death?

22 A. Yes.

23 Q. Do you have recollection of going to Cedar  
24 Point with your brothers and sisters?

25 A. No, sir.

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1 Q. All you have is the picture?

2 A. Yes.

3 Q. And is this picture behind a glass plate  
4 that you framed?

5 A. Yes.

6 Q. This is a picture of the picture?

7 A. Yes.

8 Q. Did -- you said that you'd gone to a girl's  
9 school when you were how old?

10 A. 14.

11 Q. Where was James living at that time?

12 A. Still at home.

13 Q. Had you moved on to Wedgewood at that  
14 point?

15 A. Yes, sir.

16 Q. Do you know whether or not he'd met Debra  
17 Panos at that time?

18 A. I could not tell you.

19 Q. Do you recall when you met Debra?

20 A. I do believe I had to be 17, because I  
21 didn't have no kids then.

22 Q. So before you had any children?

23 A. Yes, sir.

24 Q. And after you got out of girl's home?

25 A. Yes, sir.

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1 Q. And do you recall where you met her at?  
 2 A. At school.  
 3 Q. What school?  
 4 A. Sexton High School.  
 5 Q. You were going to high school?  
 6 A. Yes. I was a freshman.  
 7 Q. Do you know what year she was?  
 8 A. No.  
 9 Q. She wasn't a freshman, was she?  
 10 A. No, sir.  
 11 Q. What about James, was he going to high  
 12 school then?  
 13 A. Yes, sir.  
 14 Q. You know what grade he was in?  
 15 A. No, sir.  
 16 Q. Did you hang around much with James and  
 17 Debra?  
 18 A. No, sir.  
 19 Q. Did you see them together on occasion?  
 20 A. Yes, sir.  
 21 Q. How often while you were in high school did  
 22 you see them together?  
 23 A. Probably during lunch breaks or something  
 24 like that. But other than that, I had my friends, they  
 25 did what they did.

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1 Q. You didn't hang out much with your older  
 2 brother and his girlfriend?  
 3 A. No.  
 4 Q. What about after high school, did you spend  
 5 much time with them?  
 6 A. I didn't know that -- she lived at our  
 7 grandmothers house for awhile, but I still didn't hang  
 8 with them, you know. I still communicated with them  
 9 because we all lived in the same household, but as far as  
 10 hanging with them, no.  
 11 Q. Your grandmother is deceased; is that  
 12 right?  
 13 A. Yes, sir.  
 14 Q. Do you know when she passed away?  
 15 A. November 5, 2002, I do believe.  
 16 Q. And you indicated there was one point in  
 17 time when Debra and James lived in your grandmothers house  
 18 on Wedgewood?  
 19 A. Yes, sir.  
 20 Q. Were you living there also, or were you  
 21 living somewhere else?  
 22 A. I was living there.  
 23 Q. Did they live with you anyplace else?  
 24 A. No, sir.  
 25 Q. What about your sister Carla, did they ever

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1 live with Carla?  
 2 A. I don't know.  
 3 Q. You know where Carla is at now?  
 4 A. Last I spoken to her she was living in  
 5 Lansing on Baker Street.  
 6 Q. How is she doing?  
 7 A. Last I talked to her she was supposed to be  
 8 going to rehab when we got back. Other than that, she  
 9 is -- I still believe she is on drugs myself.  
 10 Q. Has that been a problem in her life?  
 11 A. Yes, sir.  
 12 Q. To your knowledge was that a problem in  
 13 James' life?  
 14 A. Yes, sir.  
 15 Q. What about Ricks?  
 16 A. Yes, sir.  
 17 Q. What about yours?  
 18 A. Yes, sir.  
 19 Q. There a lot of drugs in the household  
 20 growing up?  
 21 A. Just marijuana and drinking.  
 22 Q. What about the neighborhood there on Nellers  
 23 Court?  
 24 A. Marijuana. We had like two marijuana  
 25 housing on our block.

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1 Q. Now after -- are you aware that James has  
 2 got three children?  
 3 A. Yes, sir.  
 4 Q. Have you ever met JP, the oldest?  
 5 A. Only once.  
 6 Q. Can you recall when you met him?  
 7 A. He had to be like one or two. That's my  
 8 last memories of him.  
 9 Q. And after your grandmother passed, did you  
 10 come into possession of some photographs that she had in  
 11 her possession?  
 12 A. Yes, sir.  
 13 Q. And where did she keep those?  
 14 A. On the wall.  
 15 Q. And did you provide us with some photographs  
 16 of James?  
 17 A. Yes, sir.  
 18 Q. Where did they come from?  
 19 A. Off the wall at my house.  
 20 MR. SCHIECK: May I approach.  
 21 THE COURT: You may.  
 22 BY MR. SCHIECK:  
 23 Q. I'll show you Defendant's Proposed J, and  
 24 ask if you recognize that photograph?  
 25 A. Yes, sir.

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1 Q. Who is it?  
 2 A. James and JP.  
 3 Q. Do you know where that photograph was  
 4 taken?  
 5 A. I don't if it was taken in Arizona, but I do  
 6 believe it was taken in Arizona.  
 7 Q. That's a photograph that your grandmother  
 8 had when she passed?  
 9 A. Yes, sir.  
 10 Q. You now have possession of that?  
 11 A. Yes, sir.  
 12 Q. I'll show you K, do you recognize that?  
 13 A. Yes, sir.  
 14 Q. Who is in K?  
 15 A. James and JP and me.  
 16 Q. That was in your grandmother's possession  
 17 also?  
 18 A. Yes, sir.  
 19 Q. With respect to J, do know when that was  
 20 taken?  
 21 A. No, I don't.  
 22 Q. But you do know it's James and JP?  
 23 A. Yes, sir.  
 24 Q. And K, do you know when that was taken?  
 25 A. No, sir.

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1 MR. SCHIECK: Move or admission of J and  
 2 K, your Honor.  
 3 THE COURT: Any objection.  
 4 MS. WECKERLY: No objection.  
 5 THE COURT: J and K will be admitted.  
 6 Thank you.  
 7 BY MR. SCHIECK:  
 8 Q. That's James and JP?  
 9 A. Yes, sir.  
 10 Q. Is this a photograph you recognize also?  
 11 A. Yes, sir.  
 12 Q. That's James and his boys?  
 13 A. Yes, sir.  
 14 Q. During the you've been around James growing  
 15 up, did you see him violent at all?  
 16 A. No. Argumentative, but not violent.  
 17 Q. You're aware at one point in time James  
 18 moving to Tucson then to Las Vegas?  
 19 A. Yes, sir.  
 20 Q. Did you stay in touch with him while he was  
 21 in Tucson?  
 22 A. When he called if I was there, I would talk  
 23 to him.  
 24 Q. How often would you talk to him out there?  
 25 A. Maybe twice a month. But he would talk to

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1 my grandmother more than me, because I wasn't usually  
 2 there.  
 3 Q. What about half he got to Las Vegas?  
 4 A. Not that often. But I would talk to him,  
 5 but not as often as I did when they were in Arizona.  
 6 Q. Did you ever go out to visit them?  
 7 A. No.  
 8 Q. Did you ever have -- were around them when  
 9 they came back to Lansing at any point after JP was  
 10 born?  
 11 A. I don't remember. I know James came home  
 12 and I do know for sure that it was for the winter, because  
 13 they had new coats out and me and James both got one for  
 14 Christmas from my grandmother. I do know it was winter.  
 15 Q. Did you ever see James around JP?  
 16 A. Yes, sir.  
 17 Q. How was he with his son?  
 18 A. Very loving. He always cooked for them,  
 19 always bathed them, always watched them. Debbie worked a  
 20 lot and when she would come home she'd be tired, so  
 21 basically he had them.  
 22 Q. When was this -- you observed this?  
 23 A. When they lived with us.  
 24 Q. That would have been before Anthony was  
 25 born?

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1 A. Yes, sir.  
 2 MR. SCHIECK: Court's indulgence.  
 3 THE COURT: Okay.  
 4 BY MR. SCHIECK:  
 5 Q. Do you know whether your mother was -- had  
 6 you heard your mother was involved with drugs also?  
 7 A. Yes, sir.  
 8 Q. When did you learn that?  
 9 A. As I got older my Aunt Sharon would always  
 10 talk about it, and she would always say that's probably  
 11 where -- that the road my sister Carla is going down and  
 12 so she'd say things about it.  
 13 Q. There is a similarity between what's  
 14 transpired in Carla's life and your mother's life?  
 15 A. Yes, sir.  
 16 MR. SCHIECK: Thank you. That's all the  
 17 questions I have, your Honor.  
 18 THE COURT: State.  
 19 CROSS-EXAMINATION  
 20 BY MS. WECKERLY:  
 21 Q. Ms. King, you testified a couple minutes ago  
 22 that there was a time period when James and Debbie were  
 23 living with you and your grandma?  
 24 A. Yes, ma'am.  
 25 Q. Do you recall the date of that or

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1 approximately how long that was that they were there?  
 2 A. I don't recall. I know it was not that long  
 3 because it was only JP. I don't know the ages between the  
 4 two, but when Debbie had Anthony she wasn't around.  
 5 Q. Do you think it would have been a couple of  
 6 months or less than a year.  
 7 A. Like four or five months. It wasn't a long  
 8 time. Not to my knowledge.  
 9 Q. So your recollection is it's less than 6  
 10 months?  
 11 A. Yes, to my recollection.  
 12 Q. You also said that when James was living in  
 13 Tucson, he'd call home and sometimes catch you because you  
 14 were there?  
 15 A. Yes.  
 16 Q. But his primary purpose it sounds like was  
 17 to talk to your grandmother?  
 18 A. Yes, ma'am.  
 19 Q. He was letting her know how things were  
 20 going?  
 21 A. Yes.  
 22 Q. So he was still communicating with her?  
 23 A. Yes, ma'am.  
 24 Q. You mentioned when you were talking to Mr.  
 25 Schieck that you were in a girl's home at 14?

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1 A. Yes, sir.  
 2 Q. How were you when you got out?  
 3 A. I was 16.  
 4 Q. 16?  
 5 A. Yes.  
 6 Q. And at that point you moved back in with  
 7 your grandma?  
 8 A. Yes, ma'am.  
 9 Q. I think you said you finally moved out of  
 10 house when you were 22?  
 11 A. Yes, ma'am.  
 12 Q. So from, if I'm understanding correctly,  
 13 from 16 to 22 you were staying with your grandmother?  
 14 A. Yes, ma'am.  
 15 Q. She was working still, providing household  
 16 for you?  
 17 A. Yes, ma'am. I was at that time I had two  
 18 children, so I was getting help from the State to take  
 19 care of them and put food in the house.  
 20 Q. Would she have been helping you to support  
 21 your two kids at that time?  
 22 A. Not financially, no.  
 23 Q. But a place to stay?  
 24 A. Yes, ma'am.  
 25 Q. And you were getting a little assistance?

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1 A. Yes, ma'am.  
 2 Q. I think you said -- I'm trying to understand  
 3 the sequence. After age 22, you went and got your GED or  
 4 was it before that?  
 5 A. It was 1996 that I got my GED.  
 6 Q. So you went back and finished high school?  
 7 A. Huh-uh.  
 8 Q. Is that, yes?  
 9 A. No. I went and got my GED.  
 10 Q. Just so you know the lady in front of you  
 11 can't take down uh-huh or huh-uh?  
 12 A. Okay.  
 13 Q. So you got your GED and you also said you  
 14 took some courses or --  
 15 A. Got my GED in '96, then I went back to LCD  
 16 and got certified in phlebotomy. Then two year after that  
 17 I went to Ross Medical and got my MA certificate.  
 18 Q. So you are able to complete these  
 19 educational programs, and assume I that would have helped  
 20 your employment process?  
 21 A. Yes, ma'am.  
 22 Q. You are able to do that by yourself?  
 23 A. Yes, ma'am.  
 24 Q. You mentioned that your grandma was pretty  
 25 strict?

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1 A. Yes, sir.  
 2 Q. Very strict?  
 3 A. Yes.  
 4 Q. That sometime she would discipline your  
 5 brothers and sisters with an extension cord or by hitting  
 6 them?  
 7 A. With a switch.  
 8 Q. A switch?  
 9 A. Yes, ma'am.  
 10 Q. What would cause her to do that? Was it  
 11 these parties you were talking about?  
 12 A. Yes. I remember one time she caught us --  
 13 it's like we always knew what time she left and we always  
 14 knew what time she came home from work. It's the same  
 15 Monday through Friday. So one time she had a friend take  
 16 her car and she walked around the back so when we seen the  
 17 car pull up we thought it was her so we had everybody run  
 18 out the back and she was standing right there.  
 19 Q. I take it she didn't like these parties and  
 20 everybody hanging out?  
 21 A. No.  
 22 Q. That's a sort of what made her discipline you  
 23 all?  
 24 A. She didn't drink or smoke, She just  
 25 hollered and cursing, but she didn't drink nor smoke.

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1 Q. She didn't believe in any of that?  
 2 A. No.  
 3 Q. You said though that she was pretty good at  
 4 providing shelter, clothes, food that kind of thing?  
 5 A. Yes.  
 6 Q. Was that yes?  
 7 A. Yes. Sorry.  
 8 Q. That's okay. Would you say that she  
 9 provided you a good family life?  
 10 A. To my opinion, no, because I have six  
 11 children and I do things with my kids. We go out to  
 12 restaurants. We eat. We sit around watch movies. We hug  
 13 each other. We love each other. None of that.  
 14 Q. You do things differently?  
 15 A. Yes.  
 16 Q. Would it surprise you that your brother  
 17 James said that your grandmother provided a good family  
 18 life for you?  
 19 A. Maybe that might be his opinion, but it's  
 20 not mine.  
 21 Q. Possibly you have two different opinions?  
 22 A. Yes.  
 23 Q. Did you have an aunt named Sheri?  
 24 A. Sharon.  
 25 Q. Did she ever baby sit you kids?

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1 A. Yes.  
 2 Q. You were probably very young, but do you  
 3 know how old you were when this was going on?  
 4 A. No. I know she used to always tease me  
 5 because when she got ready to leave I would hold onto her  
 6 leg because I wouldn't want her to go, so I had to be  
 7 smaller.  
 8 Q. So if she was watching you she would have  
 9 been watching your brothers and sisters?  
 10 A. I do believe so.  
 11 Q. And if you're holding onto her leg, you  
 12 probably liked her?  
 13 A. Yes. She is my favorite aunt.  
 14 MS. WECKERLY: Thank you.  
 15 THE COURT: Mr. Schieck.  
 16 MR. SCHIECK: Thank you.  
 17 REDIRECT EXAMINATION  
 18 BY MR. SCHIECK:  
 19 Q. To your knowledge, did your Aunt Sharon also  
 20 have some abuse problems?  
 21 A. Yes.  
 22 Q. What substances?  
 23 A. Yes.  
 24 Q. What substances, do you know?  
 25 A. I do believe crack cocaine, marijuana, and I

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1 know she's an alcoholic.  
 2 Q. Did she have those unfortunate problems even  
 3 back when you guys were growing up?  
 4 A. Yes, sir.  
 5 Q. She was around occasionally to help out in  
 6 the household?  
 7 A. Yes, sir.  
 8 Q. Apparently to the point that when she would  
 9 come over you wouldn't want her to leave because of the  
 10 affection you were getting from her?  
 11 A. Yes, sir.  
 12 Q. You have a recollection of that?  
 13 A. No, sir.  
 14 Q. She teases you about that?  
 15 A. Yes.  
 16 Q. That's why you were living with your  
 17 grandmother?  
 18 A. Yes, sir.  
 19 Q. Sharon, was she living there or would  
 20 visit?  
 21 A. Just visit, because to my recollection they  
 22 lived like a mile away. I'm not even going to say a mile,  
 23 if you go to the end of our block that's Baker. You might  
 24 have to walk a couple of three blocks, four blocks and  
 25 you'd be at her house.

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1 Q. Would she do drugs there at the house when  
 2 your grandma was gone too?  
 3 A. I have no recollection, if she did.  
 4 Q. What about your Uncle Rodney?  
 5 A. Yes. We'd smoke with my uncle.  
 6 Q. When he would come over?  
 7 A. Yes, sir.  
 8 Q. That was at your grandmother's house which  
 9 was his mother's house?  
 10 A. Yes, sir.  
 11 MR. SCHIECK: Thank you. That's all I  
 12 have.  
 13 MS. WECKERLY: Nothing else, your Honor.  
 14 THE COURT: Hold on a minute, ma'am.  
 15 Counsel approach.  
 16 (Discussion held at the bench.)  
 17 THE COURT: Ms. King, when you say  
 18 augmentative, how was James argumentative.  
 19 THE WITNESS: Like say, he might -- I  
 20 don't know to everybody else, but to me like he loves to  
 21 eat so he would always fix these big plates of fries and I  
 22 would always take them, or like if he go gets the phone  
 23 I'll take them and we will always argue about me going to  
 24 fix my own fries instead of taking his But never to the  
 25 point where he would call me names or nothing like that.

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1 Just argumentative.  
 2 THE COURT: How long would the arguments  
 3 last.  
 4 THE WITNESS: Not that long, because I  
 5 would just get the flies and leave.  
 6 THE COURT: Mr. Schieck, any questions.  
 7 MR. SCHIECK: No.  
 8 THE COURT: Ms. Weckerly.  
 9 MS. WECKERLY: No, your Honor.  
 10 THE COURT: Ma'am, thank you for your time  
 11 We appreciate it. You may step down.  
 12 Defense may call their next witness.  
 13 MR. SCHIECK: We'll go ahead and break for  
 14 today.  
 15 THE COURT: So you understand, ladies and  
 16 gentlemen, we generally try to get folks done, they have  
 17 to get on planes. If somebody needs to leave --  
 18 MR. SCHIECK: I'll be real quick, your  
 19 Honor, I promise.  
 20 THE CLERK: You do solemnly swear the  
 21 testimony you are about to give in this action, shall be  
 22 the truth, the whole truth, and nothing but the truth, so  
 23 help you God.  
 24 THE WITNESS: Yes.  
 25 THE COURT: State and spell your name for

1 the record.  
 2 THE WITNESS: Charles Bernard Dean,  
 3 D-E-A-N.  
 4 DIRECT EXAMINATION  
 5 BY MR. SCHIECK:  
 6 Q. Mr. Dean, you reside in Lansing, Michigan?  
 7 A. Yes, sir.  
 8 Q. Your two brothers just testified; is that  
 9 correct?  
 10 A. Yeah, Fred and Ben.  
 11 Q. Yes. Are you older than them?  
 12 A. Yes, oldest.  
 13 Q. You are familiar with the area known as  
 14 Nellers Court?  
 15 A. Yes, sir.  
 16 Q. Was it condemned?  
 17 A. Yes, it is.  
 18 Q. Do you recall when it was finally totally  
 19 condemned?  
 20 A. Well, it was a process. They started taking  
 21 houses down. As they went, they ended up selling that  
 22 little area to the company. And I'm not for sure what  
 23 date they did condemn every house on there. There's  
 24 nothing there now at this point in time.  
 25 Q. Do you recall myself and Mr. Patrick coming

1 to Lansing to look for Nellers Court?  
 2 A. Yes, sir.  
 3 Q. Did you show us around?  
 4 A. Yes, sir.  
 5 Q. Did you show us where Nellers Court used to  
 6 be at?  
 7 A. Yes.  
 8 Q. You recall we took photographs?  
 9 A. Yes.  
 10 Q. Would you recognize the area where Nellers  
 11 Court is at if I showed you the photographs?  
 12 A. Yes.  
 13 MR. SCHIECK: May I approach, your Honor,  
 14 with O and P.  
 15 THE COURT: Yes.  
 16 BY MR. SCHIECK:  
 17 Q. Is this -- can you tell us what those are?  
 18 A. This here is wear Nellers Court used to  
 19 be.  
 20 Q. That would be O. Is that you in the  
 21 photograph?  
 22 A. That's me. And here, that's Nellers Court.  
 23 This is the back of Nellers Court and the railroad tracks  
 24 run through -- behind Nellers Court.  
 25 Q. Is that where James Chappell resided at?

1 A. Yes.  
 2 Q. Do you see James in court here today?  
 3 A. Yes.  
 4 Q. Did the tracks run behind his house?  
 5 A. Yes.  
 6 Q. That's the tracks shown on P?  
 7 A. Yes, sir.  
 8 Q. Move the admit O and P, your Honor?  
 9 MR. OWENS: No objection, your Honor.  
 10 THE COURT: O and P will be admitted.  
 11 Thank you.  
 12 BY MR. SCHIECK:  
 13 Q. Can you show us on this photograph, which is  
 14 P, where Nellers Court would sit in the photograph. You  
 15 can touch the screen.  
 16 A. This right here, you had at one point in  
 17 time before it got really run down you could -- Nellers  
 18 Court was more in like in this area -- well, this is the  
 19 track that goes all behind Nellers Court, and there's a  
 20 track that goes right here.  
 21 Where all those trees are right here, those were  
 22 houses on this side and on this side. And James lived  
 23 like back up in here. I have a picture where I'm standing  
 24 where he stayed at.  
 25 Q. The other picture?

1 A. Yes, sir.  
 2 Q. Showing you O?  
 3 A. And right here this is the picture of me and  
 4 right here is where James' house was right here.  
 5 Q. The tracks ran off to your right-hand  
 6 side?  
 7 A. Yes. The railroad tracks ran right off in  
 8 this area.  
 9 Q. There's a lot of snow in Lansing at the time  
 10 of this photograph. What's under the snow?  
 11 A. Right now you can -- it's like a lot of kids  
 12 back there play football and run around now. But it's  
 13 like, you know, grass and you can see -- actually see  
 14 where the street used to be and they had like you can see  
 15 the sewer and all of that where there was a street  
 16 there.  
 17 Q. Nellers Court got pretty bad before they  
 18 tore all the houses down?  
 19 A. Yeah.  
 20 Q. Was it pretty bad when James was living  
 21 there?  
 22 A. Well, it was the neighbor. It was kind of  
 23 one of the worse off neighborhood areas.  
 24 Q. Do you know who Keisha Axom is?  
 25 A. Yes.

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1 Q. Who is that?  
 2 A. That's James' cousin.  
 3 Q. She didn't come here to Las Vegas for this  
 4 hearing?  
 5 A. No. She wasn't able to come because of  
 6 she's off work now because she's --  
 7 MR. SCHIECK: Approach.  
 8 THE WITNESS: That's me and Keisha at his  
 9 grandma's funeral.  
 10 BY MR. SCHIECK:  
 11 Q. You were starting to say why Keshia couldn't  
 12 come to testify?  
 13 A. She's having complications with her  
 14 pregnancy now, and they wouldn't allow her to come. So  
 15 they took her off work and stuff like that. She wasn't --  
 16 she's been having complications with her pregnancy.  
 17 Q. To your knowledge does she want to come?  
 18 A. Yes, she really does. It's just  
 19 unfortunately her doctor wasn't going to allow her to do  
 20 that and took her off work and she's been stressed out  
 21 about this situation as well as the baby. This is her  
 22 first child.  
 23 MR. SCHIECK: Move to admit N, your  
 24 Honor.  
 25 MR. OWENS: No objection.

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1 THE COURT: N will be admitted.  
 2 BY MR. SCHIECK:  
 3 Q. Was she fairly close to James?  
 4 A. Yes. That's James' grandmother's funeral,  
 5 and we all went to the funeral together Like I said the  
 6 whole neighborhood is family.  
 7 Q. Do you know James Ford and Ivory Morrell?  
 8 A. Yes.  
 9 Q. They been here in Las Vegas to testify and  
 10 had to go home?  
 11 A. Right.  
 12 Q. Showing you Q, can you identify who is in  
 13 Q?  
 14 A. This is James Ford. This is Ivory Morrell  
 15 right there.  
 16 Q. To your knowledge, were they close friends  
 17 with James Chappell?  
 18 A. Yeah Well, people thought they were like  
 19 family, you know, because they were real close together.  
 20 I mean, all those guys hung out all the time.  
 21 MR. SCHIECK: Move to admit Q, your  
 22 Honor.  
 23 THE COURT: Any objection.  
 24 MR. OWENS: No objection.  
 25 THE COURT: Q will be admitted. Thank

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1 you.  
 2 BY MR. SCHIECK:  
 3 Q. Which one is James and which is Ivory?  
 4 A. This is James. And this is Ivory.  
 5 Q. That's James Ford and Ivory Morrell?  
 6 A. Yes.  
 7 Q. Where did James Ford live while he and was  
 8 growing up in neighborhood?  
 9 A. In fact, he lived right across the street  
 10 from us. And he moved up the street. His address was  
 11 like 145 Barnes, right up the street from my Mom. They  
 12 all lived right in that area.  
 13 Q. You're aware that James and his grandmother  
 14 and his siblings moved to Wedgewood?  
 15 A. Yes.  
 16 Q. Did you spend much time around them after  
 17 they moved to Wedgewood?  
 18 A. Yes. His grandma and my Mom are best  
 19 friends. They were best friends until she died.  
 20 MR. SCHIECK: That's all I have, your  
 21 Honor.  
 22 THE COURT: State.  
 23 MR. OWENS: Nothing, your Honor.  
 24 THE COURT: All right. No questions.  
 25 Mr. Dean, thank you. You may step down.

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1 Ladies and gentlemen, we'll take our  
2 evening recess.

3 JURY ADMONITION

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

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

17 Try and be back tomorrow morning. I have  
18 a lengthy calendar, we'll be back here at 10:45 and we'll  
19 get started as quick as we can right around there.

20 We will not go late tomorrow tonight.

21 We'll break by 5:00 o'clock.

22 Thank you.

23 \* \* \* \* \*

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1 CERTIFICATE  
2 OF  
3 CERTIFIED COURT REPORTER

4 \* \* \* \* \*

5  
6 I, the undersigned certified court reporter in and for the  
7 State of Nevada, do hereby certify:

8  
9  
10  
11 That the foregoing proceedings were taken before me at the  
12 time and place therein set forth; that the testimony and  
13 all objections made at the time of the proceedings were  
14 recorded stenographically by me and were thereafter  
15 transcribed under my direction; that the foregoing is a  
16 true record of the testimony and of all objections made at  
17 the time of the proceedings.

18  
19  
20  
21  
22  
23   
24 Sharon Howard  
25 C.C.R. #745

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