

1 outside.

2 Q Okay. And then you said, I seen Shyce stab the
3 guy in the green shirt. Shyce and his girl took off, and got
4 off the site. So that's all your handwriting, correct?

5 A Correct, it is.

6 Q Okay. So you did write, in your statement, that
7 you saw Shyce stab the guy in the green shirt.

8 A That's what I wrote.

9 Q Okay. But you're saying that that's not true
10 today, correct?

11 A What I'm saying, and as I've said in my last
12 statement in the preliminary, I was really, really drunk, and
13 I was relaying what everybody had told me. I've never wrote a
14 statement before. I've never been a witness. I've never been
15 involved in anything like this.

16 And I was trying to be helpful. And every time I
17 would go to write the statement, I was told I can't put what
18 somebody told me, so that's what I wrote. Trying to be
19 helpful, relaying what I heard —

20 Q Okay.

21 A — that happened outside.

22 Q Okay. So this in your handwritten statement,
23 it's all just you trying to be helpful?

24 A Exactly.

25 Q Okay. Let me ask you about the guy in the green

UNCERTIFIED ROUGH DRAFT

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000450

1 shirt. Is that the guy who was stabbed?

2 A I believe so, yes.

3 Q Okay. I'm going to show you —

4 MS. JIMENEZ: This is actually State's Proposed
5 Exhibit 43. I'd move for its admission.

6 MR. GILL: No objection.

7 THE COURT: 43 will be admitted.

8 (State's Exhibit 43 admitted.)

9 BY MS. JIMENEZ:

10 Q Do you recognize this person as the guy in the
11 green shirt?

12 A I do.

13 Q And he's the person who got stabbed that night?

14 A Correct.

15 Q Where in his -- where on his body did you see
16 him bleeding from when you saw him?

17 A You kn -- when I got -- I just want to emphasize
18 how ridiculously drunk I was that night. I thought the stab
19 wound was under here, and I was the one helping him get a
20 towel, and hold the towel. And from what I remembered, I
21 thought it was under his chest. I didn't realize it was on
22 top of his chest.

23 Q Okay. So you saw him bleeding from the right
24 side of his chest?

25 A Just from his chest. I wasn't -- I don't

1 remember what side.

2 Q Okay. And you've said today that you were very
3 intoxicated that night?

4 A Extremely.

5 Q And you said that you don't recall giving a
6 taped statement to police?

7 A I don't.

8 Q But that, if you had given one, you're saying
9 that you would have been intoxicated at that time?

10 A Absolutely.

11 Q Okay. When you spoke to the police, did you try
12 and tell them the truth about what happened?

13 A Yeah, I was trying to tell them everything that
14 I was relayed, that I heard happened, yes.

15 Q So you're denying anything in either your
16 handwritten or your taped statement, that talks about having
17 seen what happened that night?

18 A I did not see what happened outside of the bar
19 that night, no, I didn't.

20 MS. JIMENEZ: And then, Judge, I have — if I may
21 approach, to mark a copy of the audio of her taped statement?

22 THE COURT: Mm-hmm. We mark it as 97; is that right,
23 Ms. [indiscernible]?

24 MS. JIMENEZ: Yes.

25 THE CLERK: Correct.

1 MS. JIMENEZ: Thank you. And, Judge, based on her
2 testimony I'm going to move to admit her statement, and to
3 publish to the jury.

4 MR. GILL: No objection.

5 THE COURT: 97 will be admitted.

6 MS. JIMENEZ: Okay.

7 THE COURT: And you can play it.

8 (State's Exhibit 97 admitted.)

9 MS. JIMENEZ: Thank you, Judge, and you'll have to —
10 if you'll give me just a moment, and then switch over to me.

11 (Audio played.)

12 MS. JIMENEZ: And, I'm sorry, can we go ahead and
13 switch to the screen now, as well? Thanks. Oh, you know why?
14 I unplugged it, that's why. Sorry.

15 THE CLERK: Oh, okay.

16 MS. JIMENEZ: There we go. Thank you.

17 (Audio resumed playing.)

18 MR. GILL: Judge, can we approach, real quick?

19 (Bench conference transcribed as follows.)

20 MR. GILL: It just read, other girl who works for
21 Shyce. I'm going to object, and ask for a mistrial on the
22 grounds of your ruling yesterday that there was no pimp
23 talk —

24 THE COURT: Well, could you hide that statement?

25 MS. JIMENEZ: I emailed the redacted statement to

1 him, and it doesn't look for --

2 THE COURT: What?

3 MS. JIMENEZ: I took it all out myself, it all
4 depend, and I emailed him the redacted statement --

5 THE COURT: And you --

6 MS. JIMENEZ: -- it was late last night, but --

7 THE COURT: -- and you've had an opportunity to
8 review the statement; is that correct?

9 MR. GILL: That's correct.

10 THE COURT: Well, you -- you could preserve something
11 there, if you want to make an argument.

12 MR. GILL: I would just like to preserve it for a
13 few, that --

14 MS. JIMENEZ: I mean, that could be --

15 MR. GILL: -- but I'm objecting to the -- being.

16 THE COURT: Let's do that for now.

17 MS. JIMENEZ: I'll make a record later.

18 (End of bench conference.)

19 (Audio resumed playing.)

20 BY MS. JIMENEZ:

21 Q So, Ms. Kasper, you'd agree with me that's your
22 voice on the recording, correct?

23 A Yes.

24 Q Okay. You mentioned Tia, the defendant's
25 girlfriend, in your statement, correct?

1 A Right.

2 MS. JIMENEZ: And I have State's Proposed 94. I'd

3 move for its admission. I do — I believe it's stipulated to.

4 THE COURT: Any objection?

5 MR. GILL: No.

6 THE COURT: 94 will be admitted.

7 (State's Exhibit 94 admitted.)

8 BY MS. JIMENEZ:

9 Q So showing you State's Exhibit 94. Is that Tia?

10 A Yes.

11 Q Okay. And you said that you are friends with

12 her on Facebook?

13 A Correct.

14 Q And through her, that you've seen Shyce's

15 Facebook, correct?

16 A I've seen it. He had a Facebook, yes.

17 Q Okay. But he had a Facebook?

18 A Mm-hmm.

19 Q And you said that he went by the name Young

20 Shyce, correct?

21 A Yes.

22 Q And we're going to come back to the Facebook in

23 just a second. So you were friends with Tia before all this

24 happened?

25 A I wouldn't say, friends, but, associates, yes.

1 Q Okay. And you've talked with her since this all
2 happened, correct?

3 A Yes.

4 Q Okay. Have you talked with her about this case?

5 A Yes.

6 Q You have not wanted to come to testify, either
7 at the preliminary hearing, when you testified, or this trial,
8 fair to say?

9 A A little bit. I just didn't want to get
10 involved, and I didn't remember half the things, so I was kind
11 of nervous about coming in, yes.

12 Q Okay. And you still work at Seven Seas,
13 correct?

14 A Correct.

15 Q Okay. Same group of people, regulars still come
16 in there, correct?

17 A Correct.

18 Q You --

19 MS. JIMENEZ: Judge, I have State's -- you said --
20 you mentioned the Facebook, and I have State's Proposed
21 Exhibit 89, but I believe there is an objection?

22 MR. GILL: There's an objection on relevance grounds,
23 Judge.

24 MS. JIMENEZ: This is the Facebook that she described
25 and showed to the police.

1 THE COURT: Can I look at it?
2 MS. JIMENEZ: Sure.
3 MR. GILL: Judge, if I can approach?
4 (Bench conference transcribed as follows.)
5 MR. GILL: Hold on. It says [indiscernible], Judge.
6 It shows, you know, hat on backwards, and that trying, if
7 possible to get them [indiscernible], I guess they did open
8 the door to —
9 MS. JIMENEZ: Well, if you want to do just the first
10 and the third pages, we can do that, because the third page is
11 what shows that he's —
12 MR. GILL: And also, what — she's supposed to
13 already have the Facebook page.
14 THE COURT: The first and what?
15 MS. JIMENEZ: I'm sorry, the first and the second
16 matter, we can just do those two, and --
17 THE COURT: First and second, and we're giving these
18 two?
19 MS. JIMENEZ: Yeah.
20 MR. GILL: Well, Judge, I mean, what's wrong with --
21 THE COURT: Well, I --
22 MR. GILL: -- she knows him through the Facebook
23 page. They did --
24 MS. JIMENEZ: She's denying all this information. It
25 goes to his identity, the fact that she tells the patrol

1 officer. The patrol officer, I'm going to call him next, and
2 he's going to say, yeah, we got on the phone, and we looked at
3 the Facebook right there in the parking lot.

4 THE COURT: Listen, if -- his name is important too.
5 I think it's relevant. So just these two pages, and not these
6 two.

7 MS. JIMENEZ: Okay.

8 MR. GILL: Thank you.

9 MS. JIMENEZ: Thank you, Judge.

10 (End of bench conference.)

11 THE COURT: All right. We had a four page -- a
12 Proposed Exhibit 89. Let's just use the first two pages. I
13 don't think the sec -- the -- the last two pages are relevant.
14 So -- so just take the first two, and we'll -- we still have
15 the objection, but I'm going to -- I'm going to overrule your
16 objection, and admit 89, with just the first two pages, and
17 not the last two pages. All right?

18 MR. GILL: Thank you, Your Honor.

19 MS. JIMENEZ: Thank you, Judge. And I've taken those
20 apart, and I --

21 THE COURT: Yeah.

22 MS. JIMENEZ: -- guess what I'll ask the clerk to do
23 is mark the last two pages, just as Proposed 89A. I'm not
24 moving to admit it. Just for the record.

25 THE COURT: All right. We'll mark that as 89A, but

1 it -- that -- that won't be admitted.

2 MS. JIMENEZ: Thank you.

3 (State's Exhibit 89 admitted.)

4 BY MS. JIMENEZ:

5 Q So you mentioned Young Shyce's Facebook,
6 correct?

7 A Mm-hmm.

8 Q And I'm going to show you now what's been
9 admitted as State's Exhibit 89. And that's the Facebook page
10 that you were talking about, correct?

11 A Right.

12 Q And you said that he drives a green vehicle,
13 correct?

14 A Correct.

15 Q And so, turning to the second page of that, is
16 that a green vehicle there in the background?

17 A From what I -- I can't tell what color it is.
18 It looks black to me.

19 Q Let me bring it up there and see if that helps.
20 The screen sometimes doesn't work.

21 A Yes.

22 Q Okay. And would you agree that's green?

23 A Yes.

24 Q Okay. And then he's also wearing a necklace,
25 YS, that would be for Young Shyce?

1 A Mm-hmm.
2 Q Is that a yes?
3 A Yes.
4 Q And you gave that statement about approximately,
5 3:30 in the morning, the early morning hours of the incident,
6 correct?
7 A Correct.
8 Q And then, later that day you were asked to view
9 a photo lineup by the police?
10 A Correct.
11 Q Okay.
12 MS. JIMENEZ: And showing defense counsel State's
13 Proposed Exhibit 85. Any objection?
14 MR. GILL: No.
15 MS. JIMENEZ: I'd move for its admission, Judge.
16 THE COURT: Any objection?
17 MR. GILL: No, Your Honor.
18 THE COURT: 85 will be admitted.
19 (State's Exhibit 85 admitted.)
20 BY MS. JIMENEZ:
21 Q So I'm going to show you the first page of 89.
22 Are those your initials there at the top left of the --
23 THE COURT: You said, 89. Is it 85?
24 MS. JIMENEZ: I apologize, Judge. It's -- it's 85.
25 THE COURT: Right.

1 MS. JIMENEZ: Thank you.
2 BY MS. JIMENEZ:
3 Q Are those your initials there at the top left of
4 the typed paragraph?
5 A Yes.
6 Q And at the end of it?
7 A Yes.
8 Q And here in the middle?
9 A Yes.
10 Q And so, were you read that paragraph, or did you
11 read it to yourself, prior to looking at any pictures?
12 A I believe so. I'm assuming.
13 Q You don't recall, as we sit here?
14 A I don't recall, no.
15 Q I'm going to turn to the second page. Do you
16 recognize this as the group of photos that you were shown?
17 A Yes.
18 Q And there's a circle and a signature by one, is
19 that your handwriting?
20 A Yes.
21 Q So you circled, and you signed that?
22 A Correct.
23 Q And you also -- going back to the first page --
24 wrote out this first page of the -- where it says, statement,
25 correct?

1 A Correct.

2 Q And there's a date that's 4/25 of '11, at 6:14

3 p.m., correct?

4 A Correct.

5 Q Okay. And the statement you wrote is that, I'm

6 100 percent sure that the third photo that I circled is Antwan

7 Shyce. I was present and seen Shyce stab Mike in a lime green

8 shirt. I also seen Shyce try to stab Nella multiple times,

9 but he missed. I am 100 percent positive that it is Shyce

10 that I identified stabbing Mike.

11 A Correct.

12 Q And that's what you wrote, correct?

13 A Yeah, correct.

14 MS. JIMENEZ: Thank you, Judge. I have nothing

15 further.

16 THE COURT: All right. Cross-examination, Mr. Gill?

17 MR. GILL: Thank you, Judge. Judge, briefly, if I

18 can just have the -- the surveillance video marked as next in

19 line for Defense Exhibit.

20 THE COURT: Which -- which surveillance video?

21 MR. GILL: This is -- this is going to be both

22 surveillance videos, Your Honor.

23 THE COURT: So it -- do you have a surveillance

24 video?

25 MS. JIMENEZ: I do, and I have a custodian of records

1 coming in, and a witness here too, to admit it.

2 THE COURT: Is this the same as the State's?

3 MR. GILL: This is the same, Judge. I just want to

4 impeach the witness with the video.

5 THE COURT: Well, I -- I have no objection to you

6 marking it as a --

7 MR. GILL: If -- if it's already been marked --

8 THE COURT: -- H? It --

9 MR. GILL: If -- if the State's already got it

10 marked, I can use that.

11 THE COURT: Okay. Well, then --

12 MR. GILL: That's fine.

13 THE COURT: -- we'll just -- which -- what is the

14 exhibit of the surveillance video?

15 MR. GILL: It looks like 9 -- State's Proposed 95,

16 Judge.

17 THE COURT: Okay. You can certainly -- I mean, do

18 you want to admit it? Any objection we admit that?

19 MS. JIMENEZ: No objection.

20 MR. GILL: Thank you, Judge.

21 THE COURT: So you --

22 MR. GILL: No further submission.

23 THE COURT: -- you don't -- you don't mind admit it?

24 MR. GILL: Absolutely --

25 THE COURT: All right. So maybe you don't need a

1 custodian of records, I guess, if -- if it's stipulated that
2 it's admitted, right?

3 MS. JIMENEZ: Yeah, I mean --

4 THE COURT: But it -- well, in any event --

5 MS. JIMENEZ: -- he's waiting outside at this point,
6 but --

7 THE COURT: I don't care. I mean, you could tell him
8 to go, if you want. I don't -- I'm not going to hear a
9 custodian, if it's stipulated to be admissible.

10 MS. JIMENEZ: That's -- that's fine, Judge.

11 THE COURT: Unless you think it's important, Ms.
12 Jimenez?

13 MS. JIMENEZ: No, Judge, I just wish I'd known before
14 now, but --

15 THE COURT: Sure.

16 MS. JIMENEZ: -- I'll have him go ahead and go.

17 THE COURT: Yeah, and you can -- all right. Maybe
18 you can have Mr. Thunell go. So 95, the CD of the Seven Seas
19 surveillance video will be admitted now.

20 (State's Exhibit 95 admitted.)

21 MR. GILL: Thank you, Your Honor. Okay. And don't
22 move until it's just -- yeah, look --

23 THE CLERK: Okay. Let me know when.

24 MR. GILL: -- we're going to need a second to get
25 that up.

CROSS-EXAMINATION

BY MR. GILL:

Q Ms. Kasper, how are you today?

A Okay.

Q And do you remember the preliminary hearing in this case?

A Yes, I do.

Q And it was with Mr. Whipple as the defense attorney. It wasn't me.

A Correct.

Q Okay.

THE COURT: Now, preliminary hearing, as you've been hearing something about a preliminary hearing, it's just a prior proceeding where a witness is under oath, they swear under oath, and the State questions, and the defense counsel questions, and it is under oath, the preliminary hearing.

All right. Proceed.

MR. GILL: Thank you, Judge.

BY MR. GILL:

Q And Ms. Jimenez was present?

A Correct.

Q And she had an opportunity to ask you some questions?

A Yes.

Q And do you remember her asking you —

1 MR. GILL: Do you have the prelim, it's page 12.

2 MS. JIMENEZ: Thanks.

3 BY MR. GILL:

4 Q So you don't recall telling them he was wearing
5 a black button-up shirt. Do you remember that question?

6 A I don't remember.

7 Q Would it refresh your recollection if I -- if I
8 let you see a copy of that?

9 A Yes, please.

10 Q If you'll just read the question and the answer,
11 where I've got the tab, to yourself, and let me know when
12 you're done.

13 A Where's it at? I'm sorry.

14 Q I'm sorry. Right here.

15 A Okay.

16 Q Just the question, and then your answer.

17 A Okay. (Witness complied.) Okay.

18 Q Are you done reading that?

19 A Yeah.

20 Q Okay. Does that refresh your recollection?

21 A Yes.

22 Q Okay. So what -- what did you tell Ms. Jimenez,
23 did -- did -- excuse me. Did you tell Ms. Jimenez,
24 absolutely, I --

25 THE COURT: What was the question, again?

1 BY MR. GILL:

2 Q The question was, So you don't recall telling
3 them he was wearing a black button-up shirt? And your
4 response was, Absolutely, I can barely remember what happened
5 last week. I have no idea. And, like I said, for drinking
6 since 6 that evening, absolutely not. That was not the first
7 bar we had went to that night, and it was 1 in the morning. I
8 had been drinking since 4 in the afternoon.

9 A Correct.

10 Q That was your response?

11 A Yes.

12 Q And is that, in fact, true, you'd been drinking
13 since 4 in the afternoon?

14 A That is very true.

15 Q And at the prelim you did stand up and take the
16 oath at the --

17 A Yes, I did.

18 Q -- that the Judge was speaking about? You also
19 remember --

20 MR. GILL: Page 25, for counsel.

21 BY MR. GILL:

22 Q -- you remember being --

23 MR. GILL: I guess it's 24 and onto 25.

24 BY MR. GILL:

25 Q Do you remember being asked, at that time you

1 told me you did not want to be present, correct?

2 A Correct.

3 Q And do you remember what you told Ms. Jimenez
4 about not wanting to be present?

5 A I told her I didn't have a problem being
6 present.

7 Q Okay. Was the -- was there possibly more? If I
8 show you your statement, will you remember your --

9 A Yeah, can you show me, please? That was a while
10 ago.

11 Q Okay. And again, it's at the very top of this
12 page. Just read the A section, there's two paragraphs there.

13 A I told you there was a --

14 THE COURT: No, just to yourself.

15 BY MR. GILL:

16 Q No. No. No. To yourself, I'm sorry.

17 A Oh, to myself? Okay. (Witness complied.)

18 Okay.

19 Q Okay. Does that refresh your recall --

20 A Yes.

21 Q -- recollection?

22 A Mm-hmm.

23 Q And your response to Ms. Jimenez asking you if
24 you did not want to be present, you -- you told her, I -- I
25 told you there was no reason for me to be present, but the

1 statement I gave -- that I gave before, I do not remember
2 giving. That I was absolutely 100 percent intoxicated from 5
3 to 6 that afternoon, until 1 in the morning, when this
4 happened, and then I do not feel comfortable going back, now
5 that everything has happened.

6 I don't feel comfortable testifying against somebody
7 that I know, for a fact, I did not see that happen.

8 A Correct.

9 Q And when I gave those statements, it was after
10 talking to everybody, drunk as hell, beyond drunk. I had a
11 family member pass that day, and it was not a good situation
12 for me. That's the reason I had been drinking so heavily, and
13 I did not feel comfortable when I know, for a fact, I was not
14 present when that happened.

15 A Right.

16 Q Do you remember giving those statements?

17 A Yes, I do.

18 Q And, you know -- and I'm sorry to hear that you
19 had a family member pass, but is that, in fact, true?

20 A Yes.

21 Q And when you made this statement, you were under
22 oath?

23 A Yeah.

24 Q And you had been drinking all day?

25 A Very heavily.

1 Q But it was 4, 5, 6 — it's been in the
2 afternoon?

3 A We had been — my kids were out of town, and we
4 went to like three different bars, and that was the last bar.

5 Q Okay. And -- and in this statement you also
6 mention, speaking with you, well, you worked at the Seven
7 Seas. Even today you work at the Seven Seas?

8 A Correct.

9 Q And you have an opportunity to see all the
10 patrons, quite regularly, I would imagine?

11 A Yeah.

12 Q And eve -- even that day, the day after -- the
13 25th -- the day of the 25th, you know, the early morning hours
14 and the afternoon hours, you had an opportunity to see people,
15 didn't you?

16 A Correct.

17 Q So word on the streets got to you?

18 A Absolutely.

19 Q What -- what people were saying, and -- and
20 about what maybe happened, or what they thought happened, or
21 what they had heard happened, that all came -- came to you
22 while you were working at the bar?

23 A Correct. Well, we -- everybody was telling me
24 that as I stepped out the club that night. I guess, after the
25 stabbing happened, that's when three people were like this,

1 you know, pulled me aside and told me someone got stabbed, and
2 get out of here, and I was so worried about who got stabbed --
3 I didn't know if it was a friend of mine that I came up there
4 with, or who it was, and that's when, you know, they told me,
5 this is what happened, this is what happened, and that's the
6 statement that I relayed to the police.

7 And when I tried telling one of the officers that --
8 I had never gave a statement before, I tried telling him, this
9 is what I heard, and he told me, you can't write down hearsay,
10 and that's when I wrote down, you know, as I seen it, and that
11 was the biggest mistake ever.

12 Q Okay. Because -- I mean, obviously you're here
13 in handcuffs.

14 A Yeah.

15 Q And you don't want to be here?

16 A No, I -- I mean, I don't want to be here.

17 Q Are you afraid to be here?

18 A No, I'm not.

19 Q You're not afraid of anyone?

20 A No, I'm not.

21 Q And --

22 A I just don't want to testify to something -- I
23 can testify to the altercation inside, absolutely, but I can't
24 testify to something that I actually did not see with my own
25 two eyes that happened outside.

1 Q And I'm going to show you a video of the
2 altercation that happened inside. Have you had --

3 MR. GILL: If we can pull that up now, please, on my
4 -- my laptop. Is that the first one -- inside. I want the
5 one --

6 THE COURT: So I guess we're playing Exhibit 95; is
7 that correct? So this is --

8 MR. GILL: Yes, Judge.

9 THE COURT: -- 95? All right.

10 MR. MENG: Can you bring it back down for a moment,
11 please?

12 MR. GILL: This is 95. We'll be playing the -- just
13 the inside portion.

14 THE COURT: Fine.

15 MR. MENG: Yeah.

16 MR. GILL: Court's indulgence. Okay. And if you can
17 switch before you start playing?

18 MR. MENG: Yep.

19 THE CLERK: Ready?

20 MR. GILL: Yes.

21 BY MR. GILL:

22 Q And do you recognize what's shown in this
23 picture here? I mean, just generally --

24 A Yes.

25 Q -- do you recognize what this is?

1 A Mm-hmm.
2 Q And what is this?
3 A This is the inside of Seven Seas.
4 Q Okay. So this is the bar area of the Seven
5 Seas?
6 A Yes.
7 MR. GILL: Okay. Go ahead and do it.
8 (Video played.)
9 BY MR. GILL:
10 Q Okay. And do you recognize anybody in this --
11 in this scene, right here?
12 A I'm trying to look, and make sure what side of
13 the bar --
14 Q And I'm going to have him stop it here in a
15 second --
16 A Yes, I --
17 Q -- so just --
18 A -- I do.
19 Q -- just hang tight. Okay. Go ahead and stop
20 it. And who do you recognize? Who's behind bar, first of
21 all?
22 A Larry, the bartender.
23 Q Larry, the bartender. And you don't know his
24 last name?
25 A Oh --

1 Q It's okay. We know him.
2 A I do -- well, I -- I believe it's Harris, but
3 I'm not sure.
4 Q And who else do you notice, or recognize in
5 there?
6 A A guy named Andre that I know, one of the
7 customers.
8 Q Which one is Andre?
9 A In the white T-shirt.
10 Q The big guy, right here?
11 A Mm-hmm.
12 Q Up front?
13 A Mm-hmm.
14 Q Okay. And who else?
15 A Yes.
16 Q Do you see the guy in the lime green shirt?
17 A No.
18 Q Okay. Look to your left -- upper left. Is that
19 the gentleman in the lime green shirt?
20 A Upper left? I don't see a lime green shirt.
21 This video is dark.
22 Q Okay. And that's fine.
23 MR. GILL: Go ahead and play it. So --
24 MS. JIMENEZ: Judge, I'm sorry. Just before we move
25 on, can we just make a record that was paused at 2:28:05, on

1 the --
2 MR. GILL: I'm sorry.
3 MS. JIMENEZ: -- surveillance camera, timestamp --
4 THE COURT: Yes.
5 MS. JIMENEZ: Thanks.
6 THE COURT: The record will reflect --
7 MR. GILL: And I'll -- and I'll make that record as
8 we go, Judge. The next --
9 MS. JIMENEZ: Thanks.
10 MR. GILL: -- segment. Go ahead and pause it one
11 more time. We're still at 2:28:05.
12 BY MR. GILL:
13 Q Where are you at? Where are you sitting?
14 A Back in the corner.
15 Q Okay. And if -- if you can touch, can you --
16 are you able to reach?
17 A Right back in here is where we were.
18 Q Go ahead and touch the screen. It'll make a
19 mark.
20 A Right here.
21 Q Okay. And you're -- you're -- what street is
22 that? Revere? You're basically on the --
23 A Yes.
24 Q -- Revere side of the bar?
25 A Mm-hmm.

1 Q Okay.

2 MR. GILL: And if we can play.

3 (Video resumed playing.)

4 BY MR. GILL:

5 Q Okay. So you're — you're present during this

6 -- this altercation? This is the altercation, correct? Can

7 you see it in the bottom — the bottom part of the screen?

8 A Wait a minute. Hold on.

9 MR. GILL: Go ahead and pause it. And that's

10 2:28:21. It's paused right now.

11 BY MR. GILL:

12 Q Do you — do you see Shyce? Do you see Lamar?

13 Take your time.

14 A At — this isn't — I don't see anything

15 happening on this.

16 Q Everything that's happening is happening in the

17 very bottom where the — where the timestamp is.

18 A Okay.

19 Q So if you can just focus down there, and tell me

20 if you see Lamar down there.

21 MR. MENG: Want me to go back?

22 MR. GILL: That's fine. You can leave it right

23 there.

24 THE WITNESS: No, I don't.

25 MR. GILL: No, leave it right there, please.

1 MR. MENG: Oh, I'm sorry.
2 MR. GILL: And we're paused at 2:28:25, 2:26 —
3 2:28:26.
4 BY MR. GILL:
5 Q Do you see Lamar now?
6 A No.
7 Q Okay. If I told you the gentleman with his hand
8 up over the bar, his right hand up over the bar, was Lamar
9 with the black hat, would you agree with that?
10 A No.
11 Q You wouldn't agree that that's Lamar?
12 A Can you — I can't -- with it —
13 Q Well, where was --
14 A -- paused right there, I can't tell who is who.
15 If you'd --
16 Q Okay. Well, let me just --
17 A -- let the tape play --
18 Q -- ask you, where -- would -- would that have
19 been where Lamar was sitting that night?
20 A No.
21 Q Where was Lamar sitting?
22 A On the other side of the bar. We were all on
23 the other side of the bar.
24 Q Okay. This -- this photograph -- or this --
25 this video was taken from the Lake Mead side, you know, when

1 you're inside the bar.

2 A Okay.

3 Q So does that change where you might have been

4 sitting?

5 A No. I know exactly where we -- everything

6 happened, that I remember, we were on this side of the bar,

7 and I was sitting in this corner. We were heading down this

8 way, and that's when the argument started, that I seen. This

9 corner, right here, is where the beer bottle got thrown, and

10 hit --

11 Q Okay.

12 A -- the ceiling fan.

13 Q Okay. So in this picture, as it's stopped at

14 2:20:26 --

15 A This might be when the ceiling fan -- when the

16 beer -- if the beer bottle --

17 Q Well, let's go ahead --

18 A -- got thr --

19 Q -- and play it. Let's go ahead and play it.

20 (Video resumed playing.)

21 THE WITNESS: Because I was also over here holding

22 Stacy back, over here. Okay. That's Stacy.

23 MR. GILL: Okay. Pause it.

24 THE WITNESS: That --

25 MR. GILL: Pause it --

1 THE WITNESS: -- this is not the first altercation.
2 This is the second, with the beer bottle being thrown.
3 BY MR. GILL:
4 Q Okay. So which one is Stacy? I'm sorry, will
5 you just touch --
6 A Stacy Monroe --
7 Q -- the screen?
8 A Right there.
9 Q Okay. Stacy's still on this side of the -- with
10 the white shirt?
11 A Correct.
12 Q And do you -- do you see Lamar in that photo?
13 A I see a green shirt, but I don't --
14 Q Okay. Where's the green shirt, then? If you'll
15 touch the screen. I know it's difficult.
16 A Over here.
17 Q Maybe a little further, a little --
18 A Yes, I can't reach that far.
19 Q Okay. I got you. And where's the -- where's
20 the -- the DJ? Is there a --
21 A Up in the very front.
22 Q And where's the dance floor?
23 A Up, right in front of the DJ.
24 Q Okay. So on the screen, the top of the screen?
25 A Mm-hmm.

1 Q Okay. And --
2 A Correct.
3 Q So do you see Lamar in this -- in this photo,
4 anywhere?
5 A No.
6 MR. GILL: Go ahead and play it.
7 (Video resumed playing.)
8 MR. GILL: Okay. Go ahead and -- keep playing, I'm
9 sorry.
10 (Video resumed playing.)
11 MR. GILL: Okay. Go ahead and pause it there.
12 BY MR. GILL:
13 Q Do you recognize anybody in this frame, 2:29:05?
14 A No.
15 Q Who's working bar? Larry still?
16 A Yes.
17 Q Larry -- Larry, the only one back there?
18 A Yes. Correct.
19 Q Okay. And -- and you don't recognize anyone
20 new, other than who we've already pointed out; is that
21 correct?
22 A Correct.
23 Q Okay.
24 MR. GILL: Go ahead.
25 (Video resumed playing.)

1 MR. GILL: Okay. Go ahead and pause it. Let's back
2 up a frame or two, 2:29:09 or 10, if you can.

3 BY MR. GILL:

4 Q Okay. Do you recognize anyone there? There's a
5 -- there's a new female in the picture, there, do you
6 recognize her?

7 A No.

8 Q Okay. Do you know which female I'm talking
9 about, bottom right corner?

10 A The dark-skinned one right --

11 Q She's got her arm across her right arm --

12 A Here?

13 Q -- nope, all the way down, on the bottom right.

14 A Bottom right?

15 Q I know it's blurry.

16 A Yeah. No, I don't -- I don't --

17 Q Would you call that a female?

18 A Down at the very bottom right?

19 Q Very bottom right.

20 A No, that looks like a man to me.

21 Q Okay. Okay. What about the -- the -- the
22 person with the -- the right arm extended?

23 A With the right arm extended? Oh, that's a --
24 yeah, that -- I thought you were talking about down here.

25 Q No. No. No.

1 A Okay.
2 Q Right.
3 A Yeah.
4 Q Okay. So do you recognize that girl?
5 A It looks like me.
6 Q It looks like you?
7 A Yeah, a little bit. I mean, it's paused, that
8 face is blurry, I can't tell anything. I see a shirt and a
9 light face and dark hair.
10 Q Okay. Fair enough.
11 MR. GILL: If we'll -- play it again, please, or just
12 continue playing it.
13 (Video resumed playing.)
14 THE WITNESS: Oh, no, that -- I know who that is.
15 MR. GILL: Okay. Pause that, please. 2 -- 2:29:15.
16 BY MR. GILL:
17 Q Who was that?
18 A Tia.
19 Q Okay. So Tia's in the bottom corner?
20 A Correct.
21 Q Who was with Tia that night?
22 A Shyce.
23 Q Okay. So if you look in the bottom, right now,
24 who do you see? Where --
25 A Shyce.

1 Q Okay. So Shyce is down there?
2 A Correct.
3 Q All right.
4 MR. GILL: Go ahead and play.
5 (Video resumed playing.)
6 MR. GILL: Okay. Go ahead and pause it.
7 BY MR. GILL:
8 Q What's Larry doing? Can you see Larry?
9 A I believe he's trying to --
10 Q I'm not --
11 A -- tell me to --
12 Q -- I'm sorry --
13 A -- break up.
14 Q -- not Larry, the gentleman behind the bar. Is
15 that -- is that Larry?
16 A That's Larry.
17 Q Okay. Stacy's -- is Stacy in this photo?
18 A Yes, he is, in the white T-shirt.
19 Q So he's on the left -- far left edge of 2:29:25?
20 A Correct.
21 Q And then, what's Larry doing, does it look like?
22 Or do you know? I mean, you were -- you were on that side of
23 the bar.
24 A I believe he's yelling at them to stop fighting.
25 Q Possibly, get out?

1 A Yeah, probably.
2 Q Time to — time to leave?
3 A Prob —
4 Q Did you ever hear the DJ say anything?
5 A I don't remember.
6 Q Okay.
7 MR. GILL: Go ahead and play it.
8 (Video resumed playing.)
9 MR. GILL: And pause it, right there.
10 BY MR. GILL:
11 Q There's a girl at 2:29:35, there's a girl in the
12 bottom right corner, again. Different girl. Do you recognize
13 her? Next to the black person.
14 A I can't see.
15 Q Okay.
16 MR. GILL: Go ahead and play.
17 (Video resumed playing.)
18 MR. GILL: And stop it there.
19 BY MR. GILL:
20 Q Bottom right, again?
21 A Tia.
22 Q Okay.
23 MR. GILL: Go ahead. That's 2:29:42, Tia was
24 identified.
25 (Video resumed playing.)

1 MR. GILL: And stop it, right there. 2:29:53.
2 BY MR. GILL:
3 Q What was going on, right here?
4 A I -- I want to say that's when the Heineken
5 bottle, but I really don't remember.
6 Q Okay. Is security -- do you see security in
7 that picture?
8 A Yes.
9 Q Is this when they're shoving everybody out
10 the --
11 A Yes.
12 Q -- front entrance?
13 A Mm-hmm.
14 Q And if you -- if -- on this vantage point, if
15 you're going to the left part of the screen, which exit or
16 entrance are you going out of?
17 A The front.
18 Q On Lake Mead?
19 A Onto Lake Mead, yes.
20 Q Okay.
21 A Right on --
22 Q And --
23 A -- it's on the --
24 Q -- in -- and --
25 A -- corner, right there.

1 Q -- and where is the -- the other exit? People
2 have been calling it an entrance, can you get in?
3 A No, it's an exit --
4 Q Exit only --
5 A -- only.
6 Q -- correct?
7 A Mm-hmm.
8 Q And where is that?
9 A It is across the bar, on the other side.
10 Q Can you see it in this picture?
11 A Yes.
12 Q Okay. If you --
13 A Do you want me to --
14 Q -- can try?
15 A -- point it?
16 Q If -- I know it's difficult.
17 A It's right over in here.
18 Q Okay. So way back there?
19 MR. GILL: Okay. Go ahead and play it.
20 (Video resumed playing.)
21 THE WITNESS: Oh, you know what? It's not that far
22 back. It's right on the corner. I'm having a hard time
23 seeing where the bar ends and picks up.
24 BY MR. GILL:
25 Q That's okay.

1 A Oh, no — yeah, I'm right. It is over there.
2 Q Okay. Where —
3 A It looks like the bar is cut off, and this video
4 is really poor image.
5 MR. GILL: We are at 2 — is that 2:30:11? I believe
6 that's 2:30:11. Okay. Go ahead and play it again.
7 (Video resumed playing.)
8 MR. GILL: And — okay, go ahead and stop it.
9 BY MR. GILL:
10 Q Do you see Mike Thomas in this picture?
11 2:30:21.
12 A Who is that?
13 Q The gentleman in the green shirt.
14 A Then, no, I don't.
15 MR. GILL: Okay. Go ahead and play.
16 (Video resumed playing.)
17 THE WITNESS: Okay. I do now.
18 MR. GILL: Okay. Stop.
19 BY MR. GILL:
20 Q 2:30:29, where is Mike?
21 A Right by the door.
22 Q Far left?
23 A Yes.
24 Q By the Lake Mead door?
25 A Mm-hmm.

1 Q Okay.
2 MR. GILL: Play.
3 (Video resumed playing.)
4 MR. GILL: Go ahead and pause it.
5 BY MR. GILL:
6 Q Who is that that just came in?
7 A My manager.
8 Q And what's his name?
9 A Will.
10 Q Will?
11 A Mm-hmm.
12 Q And he's -- looks like he's going to clean up
13 some chairs?
14 A Mm-hmm.
15 MR. GILL: Okay. Let's play --
16 THE WITNESS: Possibly.
17 MR. GILL: -- it though -- play it.
18 (Video resumed playing.)
19 MR. GILL: Go ahead and stop it.
20 BY MR. GILL:
21 Q Do you see -- that's Lamar and Tia up there
22 exiting the bar, correct?
23 A Correct.
24 Q And that's just below the right TV monitor --
25 A Correct.

1 Q -- I know it's very difficult for everybody to
2 see, but if you'll indicate where Tia and Lamar are.
3 A Right here.
4 Q Okay.
5 MR. GILL: Then that's the -- I believe that's mostly
6 the rest of it. We'll just play it to the end. And that was
7 2:30:52.
8 (Video resumed playing.)
9 BY MR. GILL:
10 Q Okay. So in -- in that video, you actually see
11 Tia and Lamar leaving, in what we just saw?
12 A Out the door? No.
13 Q Out the door.
14 A No.
15 Q Can we see you anywhere in that video?
16 A No.
17 Q Did we see you go to any exit in that video?
18 A No.
19 Q Okay.
20 MR. GILL: If we can play the other one, please.
21 MR. MENG: Can you shut it down for a moment?
22 THE COURT: Now, what other one is this?
23 MR. GILL: Judge, it's the outside. It's the --
24 THE COURT: I thought you said you just were going to
25 show the inside? But you want to show the outside? Is it the

1 same exhibit?

2 MR. GILL: They're -- they're both on the -- yes,
3 they're both on 95.

4 THE COURT: Well, let's make it clear. Was she on
5 the outside? I mean, I don't know what the testimony --

6 MR. GILL: I -- I did think we made it clear.

7 BY MR. GILL:

8 Q You were still inside at this point?

9 A I never went outside.

10 Q You just never made it -- you just never
11 appeared on the video?

12 A I was never outside until after everything had
13 happened.

14 Q Okay. Well, we'll get to that, but on the video
15 we just saw, the video of --

16 A I was on --

17 Q -- the inside of the --

18 A -- the inside.

19 Q -- inside of the bar -- you were in there --

20 A Mm-hmm.

21 Q -- but we couldn't see you on the video?

22 A Correct.

23 Q Okay.

24 THE COURT: But if she was never on the outside, what
25 are you going to do -- what's the point, if she said that?

1 MR. GILL: Well, Judge, there comes a point where --
2 THE COURT: Or how do you -- what are you going to
3 ask her?
4 MR. GILL: There comes a point when -- where we see
5 on the video [indiscernible].
6 THE COURT: Outside?
7 MR. GILL: Outside. Go ahead. Go ahead, and if
8 you'll flip to us, and don't push play yet.
9 THE CLERK: You ready?
10 MR. GILL: Yes.
11 (Video played.)
12 BY MR. GILL:
13 Q How long have you worked at the Seven Seas?
14 A A year.
15 Q Okay. Do you recognize what's depicted in
16 this --
17 A I do.
18 Q -- video still? And what's that?
19 A The side of the bid -- building. That's the
20 side exit door.
21 Q On which side? Which -- what street? What
22 street is here on the left?
23 A Revere.
24 Q Revere?
25 A Mm-hmm.

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1 Q Okay.

2 MR. GILL: Go ahead and --

3 (Video resumed playing.)

4 BY MR. GILL:

5 Q So you -- were you outside at this point?

6 A No.

7 Q Were you ever outside that night? Did you, at

8 some point go outside?

9 A Eventually, yes.

10 MR. GILL: Go ahead.

11 (Video resumed playing.)

12 BY MR. GILL:

13 Q And do you recognize who is depicted there?

14 A No.

15 Q Do you recognize anyone in the -- in the video

16 as we're playing?

17 A No.

18 Q Okay.

19 MR. GILL: And stop it there.

20 BY MR. GILL:

21 Q Do you see a lime green shirt?

22 A I do.

23 Q And where is the lime green shirt?

24 A Right here.

25 Q Okay. And -- and you know who was wearing a

1 lime green shirt that day.

2 A I do.

3 Q It was Mike Thomas?

4 A Mm-hmm.

5 Q Okay.

6 MR. GILL: Go ahead. And that was —

7 THE COURT: Will you please stop saying, mm-hmm --

8 THE WITNESS: Yes.

9 THE COURT: -- and start saying yes and no because

10 the record has to be clear, all right?

11 MR. GILL: And, Judge, I'm having trouble reading the

12 -- the timestamp. I'll make a --

13 MS. JIMENEZ: 2:31:30.

14 MR. GILL: What is it?

15 MS. JIMENEZ: 2:31:30, for the record. Go ahead and

16 play it, please, and we'll just —

17 (Video resumed playing.)

18 MR. GILL: And stop it there.

19 BY MR. GILL:

20 Q Do you recognize who just came out the east

21 door?

22 A No.

23 Q Okay.

24 MR. GILL: Go ahead and play.

25 (Video resumed playing.)

1 MR. GILL: Go ahead and stop it, right there.
2 BY MR. GILL:
3 Q What were you wearing that night? Do you
4 remember?
5 A I don't. I could speculate, but I'm -- I'm not
6 for certain.
7 Q I don't want you to speculate.
8 MR. GILL: Go ahead.
9 (Video resumed playing.)
10 MR. GILL: And if you'll just stop it there. 2 -- I
11 can't -- I'm not even going to try and guess.
12 MS. JIMENEZ: 2:32:25.
13 MR. GILL: 2:32:25.
14 BY MR. GILL:
15 Q Do you recognize who's coming out there?
16 A No.
17 Q Coming out the east door? You don't recognize
18 that?
19 A I -- I can't tell yet.
20 Q Okay.
21 MR. GILL: Go ahead, play it.
22 (Video resumed playing.)
23 MR. GILL: Stop, right there.
24 BY MR. GILL:
25 Q Do you recogni -- do you recognize who's --

1 who's there?
2 A No.
3 Q Is that you on the left, with the white pants,
4 coming out the door?
5 A I don't think I had on white pants that night.
6 I don't remember.
7 Q Okay. What about behind Mr. Monroe, do you
8 recognize who that is?
9 A Behind him?
10 Q Behind the gentleman in the white shirt, I
11 apologize.
12 A I don't know. I don't --
13 Q You don't?
14 A -- I can't -- I can't tell.
15 Q Okay.
16 MR. GILL: Go ahead and -- that's all the video I'm
17 going to show now.
18 THE COURT: All right. You certain?
19 MR. GILL: Go ahead and pass the witness, Judge.
20 Thank you.
21 THE COURT: All right. Anything else?
22 MS. JIMENEZ: No, Judge.
23 THE COURT: Thank you. Would --
24 MS. JIMENEZ: And, Judge, I'd ask that she be
25 released from --

1 THE COURT: Yes.
2 MS. JIMENEZ: -- custody at this time, please.
3 THE COURT: She'll be released forthwith, all right.
4 Thank you very much.
5 MS. JIMENEZ: Thank you.
6 THE COURT: Don't converse among yourselves, or
7 anyone else on any subject connected to the trial, or read,
8 watch, or listen, to any report, or commentary on the trial,
9 don't form or express any opinion on the trial, until the
10 close is finally submitted to you.
11 We'll take a 10-minute recess, all right?
12 (Court recessed at 2:25 p.m. until 2:39 p.m.)
13 (In the presence of the jury.)
14 THE COURT: All right. Counsel, stipulate to the
15 presence of the jury?
16 MR. GILL: Yes, Judge.
17 MS. JIMENEZ: Yes, Judge.
18 THE COURT: Want to put this down?
19 (Bench conference transcribed as follows.)
20 THE MARSHAL: One of the jury members just told me
21 that she may be -- we found, and first made notice
22 [indiscernible] and I told her to write it down, put her name
23 on a piece of paper, and give it to you.
24 THE COURT: Just give it to me when they go for --
25 what's the bartender's name?

1 MS. JIMENEZ: Tammy Kasper.
2 THE COURT: That's the bartender's name?
3 MS. JIMENEZ: Yeah, that just testified.
4 MR. GILL: That was this gal.
5 MS. JIMENEZ: That's who she's talking about, right?
6 THE COURT: That she says she might know her.
7 MR. GILL: That's --
8 THE COURT: All right. Well, we'll check it out, all
9 right, next -- next recess.
10 MS. JIMENEZ: Sure.
11 (End of bench conference.)
12 THE COURT: All right. Call your next witness, on
13 behalf of the State, please.
14 MS. JIMENEZ: Officer Jason Vallad.
15 THE COURT: All right. Over here to testify, and
16 remain standing up over here. Remain standing, raise your
17 right hand, and be sworn by the clerk, right here.
18 JASON VALLAD, STATE'S WITNESS, SWORN
19 THE COURT: Have a seat. State your name, and spell
20 your first name and your last name.
21 THE WITNESS: Officer Jason Vallad, spelling is
22 J-A-S-O-N, last name, V-A-L-L-A-D.
23 DIRECT EXAMINATION
24 BY MS. JIMENEZ:
25 Q And, sir, how are you employed?

1 A I'm a PO2 for Las Vegas Metro.
2 Q Okay. And does that mean you're a patrol
3 officer?
4 A Yes.
5 Q And how long have you been working as a patrol
6 officer for Metro?
7 A Three and a half years.
8 Q Okay. Were you working in the early morning
9 hours of April 25th of this year?
10 A Yes.
11 Q And is that -- you work graveyard shift?
12 A Correct.
13 Q Okay. And as part of your duties that night,
14 did you respond to a call that came in at about 1:54 in the
15 morning, at the Seven Seas?
16 A Yes.
17 Q Are you familiar with the Seven Seas
18 establishment?
19 A Yes, I am.
20 Q And where is that located?
21 A It's at the corner of -- it's at the northwest
22 corner of H and Revere -- or H and -- I'm sorry, H -- H and
23 Lake Mead.
24 Q Okay. And that's here in Las Vegas, Clark
25 County, Nevada, correct?

1 A Correct.

2 Q What was the nature of the call that you were
3 responding to?

4 A Responded to a -- I think it started out as a --
5 a fight call, and then it got updated to a subject had been
6 stabbed in the parking lot.

7 Q Okay. And so when you arrived, are you one of
8 the first patrol officers to arrive on scene?

9 A Yes.

10 Q And what do you do -- are you the first patrol
11 officer?

12 A I think two of us arrived at almost the same
13 time. I can't recall, exactly, but we were pretty much there
14 at the same time.

15 Q Okay. And so when you arrived on scene, what
16 did you observe?

17 A I observed approximately five to six people out
18 in the parking lot, a couple security guards at the front
19 door, and a subject that was sitting down in the -- in the
20 front of the building, facing Lake Mead, and he had blood on
21 him.

22 Q Okay. And so what did you do when you observed
23 all of that?

24 A Went there, and immediately tended to the
25 victim, got his status, requested medical, separated

1 BY MS. JIMENEZ:

2 Q Okay. And you're asked again about the knife.

3 MS. JIMENEZ: For counsel, this is going to be page
4 24.

5 (Audio played.)

6 MS. JIMENEZ: And then for counsel, going next to
7 pages 28 to 29.

8 (Audio played.)

9 BY MS. JIMENEZ:

10 Q And then lastly, the last time you're asked
11 about the knife --

12 MS. JIMENEZ: -- for counsel, this is going to be
13 pages 30 to 31.

14 (Audio played.)

15 BY MS. JIMENEZ:

16 Q Okay. So you also testified that you didn't
17 recall what Mike said when he first came up to you, correct?
18 When -- I'm sorry. Well, you said that you didn't see Mike
19 come up during the fight that happened outside, correct?

20 A Right.

21 Q And so therefore, you didn't recall him, or
22 you're saying today that you didn't hear him say anything at
23 that time?

24 A I don't remember.

25 Q Okay.

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1 MS. JIMENEZ: And this is going to be for counsel,
2 page 23.

3 (Audio played.)

4 BY MS. JIMENEZ:

5 Q Okay. And then you're asked about that again,
6 about what Mike says to -- to Shyco --

7 MS. JIMENEZ: -- and this is for counsel, is the
8 bottom of pages 23 to 24.

9 (Audio played.)

10 BY MS. JIMENEZ:

11 Q Okay. So you did see Mike again by the front
12 entrance, correct?

13 A Yes.

14 Q Okay. And you've listened to all of those
15 snippets from your taped statement, and you recognize your
16 voice on all of those, correct?

17 A Yes.

18 Q Okay. You -- what did the person that -- the
19 man that you got into the fight with in the bar, give us a
20 description of him.

21 A I don't remember his face. I just remember what
22 he was wearing.

23 Q Okay. And what was he wearing?

24 A A black hat and a black shirt.

25 Q Okay. And that person was also outside when you

1 fought, correct?

2 A Yes.

3 Q And that's the person who was the boyfriend of

4 the woman that you were going to fight outside?

5 A Yes.

6 Q Okay. Why did you -- well, let me ask you this.

7 After you saw Mike, and he had been stabbed, what did you do

8 at that point?

9 A I left.

10 Q And why did you leave?

11 A Because I was just in an altercation at a bar.

12 Q Okay. Was there any other reasons that you

13 left?

14 A No.

15 Q Okay.

16 MS. JIMENEZ: We're going to go, Counsel, to page --

17 this is going to be page 28.

18 (Audio played.)

19 BY MS. JIMENEZ:

20 Q Okay. So you had told the police there were

21 several reasons that you left, correct?

22 A Yes.

23 Q Okay. You were asked to look at a photo lineup

24 by the police, correct?

25 A Yes.

1 Q Okay. I'm going to show you --

2 MS. JIMENEZ: If I could have the Court's indulgence,
3 just for a moment. Judge, I have State's Proposed Exhibit 83,
4 a photo lineup of Darnella Lay. I believe the defense has no
5 objection to its admission.

6 MR. GILL: That's correct, Judge.

7 THE COURT: 83 will be admitted into evidence.

8 (State's Exhibit 83 admitted.)

9 MS. JIMENEZ: Thank you. And if we could go ahead
10 and switch back to the photo of the door.

11 BY MS. JIMENEZ:

12 Q So I'm going to go ahead and show you then,
13 State's Exhibit 83. This is your name at the top, correct?

14 A Yes.

15 Q You didn't fill that top part out though, did
16 you?

17 A No.

18 Q Are those your initials there at the left-hand
19 side of that typewritten paragraph?

20 A Yes.

21 Q Was that typewritten paragraph read to you
22 before you looked at the pictures, or did you read it to
23 yourself?

24 A I read it myself.

25 Q Okay. And then you initialed again at the end,

1 correct?

2 A Yes.

3 Q And you also signed your name on the photo

4 lineup, correct?

5 A Yes.

6 Q With the date. I'm going to go to the second

7 page of that exhibit now. There's a person here that you

8 circled, correct?

9 A Yes.

10 Q And you also wrote your name in there?

11 A Signed my name.

12 Q Signed your name?

13 A Yes.

14 Q And that's your handwriting, correct?

15 A Yes.

16 Q Okay. And you were also asked to write a

17 statement on the front about the person whose picture you

18 circled, correct?

19 A Yes.

20 Q Okay. And I'm going to go ahead and bring this

21 up to you, and ask you to read what you wrote.

22 A I identified the No. 3 in a picture lineup.

23 It's Shyce. He is the one that was holding the knife --

24 pointed knife, and at the -- at me. I'm 100 percent sure that

25 this picture identifies Shyce.

1 Q Okay. And you wrote that in your own
2 handwriting, correct?

3 A Yes.

4 Q Okay. Now, when you got into the fight outside,
5 did you lose some articles of jewelry, I guess, during the
6 fight?

7 A Yes.

8 Q Okay. Do you remember what got left behind
9 after the fight?

10 A Earrings, a bracelet, necklace.

11 Q Okay. Did you also break a nail?

12 A A few.

13 Q A few? So I'm going to show you State's
14 Exhibits --

15 MR. GILL: Judge, I'll stipulate that -- that jewelry
16 was lost, and that a nail was broken.

17 THE COURT: Well, that's fine, as long --

18 MS. JIMENEZ: This will just take a moment. I'd like
19 to show the pictures.

20 THE COURT: Yeah, absolutely. If -- you -- you can
21 still present your case, but we appreciate any stipulation,
22 but if they want to proceed the -- they're welcome.

23 MS. JIMENEZ: Thank you, Judge. It's going to be
24 State's Proposed Exhibits 28 through 31.

25 THE COURT: 28 through what?

1 MS. JIMENEZ: Through 31.
2 THE COURT: Any objections?
3 MR. GILL: No, Your Honor.
4 THE COURT: Thank you so much, Mr. Gill. 28 through
5 31 will be admitted into evidence.
6 (State's Exhibit 28 through 31 admitted.)
7 BY MS. JIMENEZ:
8 Q Okay. I'm going to show you first, State's
9 Exhibit 29. Do you recognize those two items?
10 A Yes.
11 Q And what are those?
12 A My nail, and a piece from my necklace.
13 Q And I'm showing you State's Exhibit 30. Do you
14 see something else of yours there in that picture?
15 A My necklace.
16 Q Okay. And showing you State's Exhibit 31. Is
17 that that same necklace?
18 A Yes.
19 Q Okay. And so that was lost during that
20 altercation, or the fight that occurred?
21 A Yes.
22 Q And that was outside on that Revere side,
23 correct?
24 A Yes.
25 Q Okay. You identified in a photo lineup the

1 person that you identified as Shyce to the police, correct?
2 A Yes.
3 Q Okay. And do you see that person here in the
4 courtroom today?
5 A Now, that I know who he is, yes.
6 Q Okay. Why don't you go ahead and point to him.
7 A (Witness complied.)
8 Q And what color of shirt is he wearing?
9 A Light.
10 Q Is he sitting in the middle at the table to my
11 left?
12 A Yes.
13 MS. JIMENEZ: May the record reflect identification
14 of the defendant?
15 THE COURT: The record will so reflect.
16 BY MS. JIMENEZ:
17 Q So why didn't you identify him at the
18 preliminary hearing?
19 A Because I wasn't sure.
20 Q Okay.
21 A I was shown pictures of him before the lineup,
22 and that's why I was able to pick him up out the lineup.
23 Q Okay. So basically, your testimony today, then,
24 is that you don't — you're not sure if the man who you fought
25 with and had the knife was Shyce, correct?

1 A Correct.

2 Q You don't know if you even saw a knife?

3 A Correct?

4 Q And you only identified the person in the photo

5 lineup because other people told you what to look at?

6 A Yes.

7 Q Okay. And also, that you're afraid of what

8 might happen to you after you testify here in court?

9 A Yes.

10 Q Okay.

11 MS. JIMENEZ: Nothing further. I'll pass the

12 witness.

13 THE COURT: All right. Thank you.

14 Cross-examination, please, Mr. Gill.

15 MR. GILL: Yes, Judge.

16 CROSS-EXAMINATION

17 BY MR. GILL:

18 Q Good morning, Ms. Lay.

19 A Good morning.

20 Q I just want to go through a few of the — the

21 things that Ms. Jimenez had touched on. When you guys were

22 inside the Seven Seas that night, is that someplace that

23 you're — you're supposed to be in?

24 A No.

25 Q And why is that?

1 A Because I'm not 25 years old.
2 Q Okay. And how old are you, if you don't mind me
3 asking?
4 A 22.
5 Q 22? And you were 22 in April?
6 A Yes.
7 Q Okay.
8 A No, I was 21.
9 Q 21 in April?
10 A Yeah.
11 Q So you were legally able to drink?
12 A Yes.
13 Q Okay. But the rule at that bar is -- is that
14 you can't be there unless you're 25?
15 A Yes.
16 Q And -- and that's the owner's rule?
17 A Yes.
18 Q Okay. Did he ask you to leave earlier that
19 night?
20 A No.
21 Q So you were there --
22 A No, he didn't -- the owner didn't.
23 Q Okay.
24 A Another officer asked the other girls --
25 Q Okay.

1 A — I was with.
2 Q Okay. And how long had you been there before
3 you saw Tia?
4 A Maybe two hours.
5 Q And had you seen Tia before that night?
6 A No.
7 Q So this was the first time that you had ever
8 encountered Tia?
9 A Yes.
10 Q Okay. When you approached Tia and Lamar to get
11 your purse, you had said that — that he said, you know,
12 excuse me, I'm talking to somebody?
13 A Yes.
14 Q Okay. What did you do right after that?
15 A I tried to get past him.
16 Q And you didn't push him?
17 A I kind of bumped him, yes.
18 Q You kind of bumped him?
19 A Yes.
20 Q With your hands or with your shoulder?
21 A With my body. Like my whole right side of my
22 body.
23 Q Okay. And did Tia say anything to you at this
24 time?
25 A She -- she wasn't right there.

1 Q Oh, where was Tia?
2 A She was talking to another lady. I don't know.
3 Q Her -- okay. You know she was talking to
4 another lady, but you don't know where she was?
5 A I don't know where she was, no.
6 Q Okay. And you say you -- you saw Tammy there?
7 A Yes.
8 Q And where was Tammy?
9 A At that time I don't remember.
10 Q Was she in front, behind --
11 A I don't remember.
12 Q Okay. You went back out and danced?
13 A Yes.
14 Q And this was when you came back for your purse?
15 A Yes.
16 Q Okay. So you politely said to Lamar, excuse me,
17 can I get my purse?
18 A Yes.
19 Q Okay. It -- it was -- and I don't want to put
20 words in your mouth. It was those words, you know?
21 A I said, excuse me, I need to get over here to my
22 purse.
23 Q Okay. And -- and your testimony was that you
24 bumped him, you didn't push him?
25 A Yes.

1 Q Okay. Did -- did you drink that night?
2 A Yes.
3 Q How much had you had to drink?
4 A A lot.
5 Q Well, what -- how much is a lot?
6 A I was drinking prior to coming to Seven Seas, so
7 I had maybe five, six drinks at the other bar, and I had two
8 at Seven Seas.
9 Q Okay. Did -- would you consider yourself able
10 to drive home?
11 A No.
12 Q Okay. Did you have a ride lined up?
13 A No.
14 Q I mean, you're not going to get in trouble if
15 you didn't.
16 A No, I didn't.
17 Q Okay. So you -- you were pretty drunk?
18 A Yes.
19 Q Okay. And would that -- would you say that that
20 clouded your judgment, or clouded your ability to recollect
21 things?
22 A I don't understand.
23 Q That was a poorly worded question. Because you
24 had the eight total drinks, I think is what you testified to.
25 A Yes.

1 Q Did that affect your ability to remember what
2 happened that night?
3 A Yes.
4 Q Whether it be when you were talking to the
5 police, or at the prelim, or even today?
6 A Yes.
7 Q Okay. Were -- your shoe -- your shoe came off,
8 when did the shoe come off?
9 A I'm not sure.
10 Q It could have been when you were -- you pushed
11 back?
12 A Yes.
13 Q Okay. And at what point does Tia say anything
14 to you? And the -- the girl you identified as Tia?
15 A After I left and came back in, but she --
16 Q To get your purse?
17 A Yes.
18 Q Okay. And do you remember what she said?
19 A No.
20 Q So were -- were you, initially -- initially you
21 were more upset with Tia, weren't you? More so than Lamar?
22 A After she threw the glass, but I didn't know who
23 she was prior to the incident.
24 Q Prior to throwing a glass bottle?
25 A Right.

1 Q Okay. And during your testimony with Ms.
2 Jimenez, you mentioned you blacked out, and that was inside
3 the bar?
4 A Outside.
5 Q Outside you blacked out?
6 A Yes.
7 Q Okay. And you weren't able to -- to pick my
8 client out, Mr. Harris out, outside?
9 A No.
10 Q She showed you the picture?
11 A Yes.
12 Q Okay. And -- and -- and you'll admit that those
13 pictures are very -- very poor, the video quality is very
14 poor?
15 A Yes.
16 Q Okay. So as you sit here today, you're unable
17 to identify if Lamar was out there, or what Lamar was doing
18 while he was out there; is that correct?
19 A Correct.
20 Q And you never saw a knife?
21 A No.
22 Q You never saw my -- Lamar stab anybody?
23 A No.
24 Q You -- you only know Mike was stabbed because of
25 the blood that you saw later?

1 A Correct.

2 Q There was -- there was one thing that you did
3 mention about the photo lineup when you were first shown.
4 What happened when you were first shown the photo lineup?
5 What -- what -- what were you asked to do when you were first
6 shown the photo lineup?

7 A To pick out the guy that I got in an altercation
8 with.

9 Q Inside the bar?

10 A Yes.

11 Q Okay. So you had mentioned that, now, I know
12 who he is, and that's -- that's why, did you -- you've talked
13 with people about who Lamar is, haven't you?

14 A Yes.

15 Q And you were able to identify him later, and
16 even now, because you've talked to other people?

17 A Correct.

18 Q Who were either inside or outside of the bar
19 that night?

20 A Correct.

21 Q So you don't have any personal knowledge
22 yourself --

23 A No.

24 Q -- about who Lamar is, or was, that night?

25 A No.

1 Q And whether or not he stabbed anybody, correct?

2 A Right.

3 Q Or whether or not he had a knife?

4 A Right.

5 Q You -- you mentioned these -- these phone calls
6 that you've received?

7 A Yes.

8 Q And they were from a -- a blocked number?

9 A Correct.

10 Q So that -- that could have been anybody that
11 called you?

12 A Correct.

13 Q Could have been somebody on the streets that --
14 that my client isn't related to, or has even talked to?

15 A Correct.

16 Q And the female, as well?

17 A Correct.

18 Q So what -- what did others -- strike that.

19 MR. GILL: I'll pass the witness, Judge.

20 THE COURT: All right. Anything else, Ms. Jimenez,
21 briefly?

22 MS. JIMENEZ: Yes, Judge.

23 REDIRECT EXAMINATION

24 BY MS. JIMENEZ:

25 Q You said on cross-examination that you'd had a

1 lot to drink, and that you were very drunk that night,
2 correct?

3 A Yes.

4 Q Okay.

5 MS. JIMENEZ: And for counsel, this is page 4 of her
6 statement.

7 BY MS. JIMENEZ:

8 Q You were asked by the police, when you gave your
9 taped statement, if you had been drinking, at all, and you
10 responded, quote, We start -- we had one drink, we ordered the
11 drink, but I didn't really drink too much of it. I did sip it
12 a couple times. The detective then asked you, Would you
13 consider yourself intoxicated or drunk? And you answered, Not
14 at all. Do you recall having that conversation with the
15 detective?

16 A Yes.

17 Q Okay. And so today you're saying you were
18 intoxicated --

19 A Yes.

20 Q -- but you told the detective, you were not.

21 A I was scared.

22 Q Okay. And today you're saying that you don't
23 know who had the knife outside, but you told the police that
24 Shyce had the knife, correct?

25 A Right.

1 Q And you -- I -- today you're saying you don't
2 know if the defendant is the person who was in the bar, and
3 who had the knife, but when you talked to police you
4 identified him in a photo lineup, the person that you knew as
5 Shyca?

6 A Right.

7 Q Thank you.

8 MS. JIMENEZ: Nothing further.

9 THE COURT: That completes the testimony?

10 MR. GILL: Briefly, Judge.

11 RECROSS-EXAMINATION

12 BY MR. GILL:

13 Q You weren't supposed to be in the bar that
14 night?

15 A No.

16 Q Okay. So to order drinks, you're not even
17 supposed to be present, correct?

18 A Correct.

19 Q And I know you're here under subpoena.

20 A Correct.

21 Q Have -- have you talked to any detectives in
22 this case?

23 A Not since the last time I testified.

24 Q And you talked to the State?

25 A Correct.

1 Q Did the State tell you what would happen, if you
2 -- if you didn't show up today?

3 A Yes.

4 Q And what was that?

5 A Contempt of court, and I would be arrested until
6 I testified.

7 Q Okay. And how did you feel about that?

8 A I was scared.

9 Q Okay. Are -- are you scared of Lamar?

10 A No.

11 MR. GILL: No further questions.

12 THE COURT: All right. That -- thank you very much
13 for testifying. You're excused.

14 Don't converse among yourselves, or with anyone
15 else on any subject connected to the trial, or read, watch, or
16 listen, to any report, or commentary on the trial, by any
17 person connected with the trial, or by any medium of
18 information, including without limitation, newspapers,
19 television, or radio, don't form or express any opinion on any
20 subject connected with the trial until the close is finally
21 submitted to you.

22 We're going to -- rather -- rather than taking a 10,
23 15 minute break, we're going to take a lunch break. Be back
24 about 10 minutes to, you know, less than an hour. About 10
25 minutes to 1. I want you to be back outside -- just stay

1 outside, 10 minutes to 1, and then we're going to resume.
2 We're going to work until about 6:00 tonight. So make
3 arrangements, because — so we got to get going on this, all
4 right? And I want witnesses until 6:00, all right?

5 MS. JIMENEZ: Yes, Judge.

6 THE COURT: I don't want to hear you tell me you run
7 out of witnesses. I'll see you back at 10 to 1.

8 (Court recessed at 11:54 a.m. until 1:02 p.m.)

9 (In the presence of the jury.)

10 THE COURT: Counsel, stipulate to the presence of the
11 jury?

12 MR. GILL: Yes, Your Honor.

13 THE COURT: All right. Good afternoon, ladies and
14 gentlemen. Again, I'm sorry for the little delay. Change of
15 plans. I'm not going to be able to work until 6:00 because
16 even the courts have budget problems, and they don't want to
17 pay overtime. So scratch that idea, right? We'll just do the
18 best we can, and see if we can resolve this by Friday, all
19 right? If not, we'll have to make other arrangements.

20 The State will call its next witness.

21 MR. THUNELL: Your Honor, the State would call Se --
22 Shelly Shrum.

23 THE COURT: Ms. Shrum, will you remain standing up
24 over there, please? Remain standing, raise your right hand,
25 and be sworn by the clerk, right here.

1 SHELLY SHRUM, STATE'S WITNESS, SWORN

2 THE COURT: Have a seat. State your name, and spell
3 your first name, and your last name.

4 THE WITNESS: Shelly Shrum, S-H-E-L-L-Y --

5 THE COURT: Move in a little, make sure you look at
6 that microphone, and we'll go from there. All right. Ms.
7 Shrum?

8 THE WITNESS: S-H-R-U-M.

9 DIRECT EXAMINATION

10 BY MR. THUNELL:

11 Q Ms. Shrum, what is your occupation?

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

14 Q And how long have you been doing that?

15 A Just about eight and a half years.

16 Q Now, as a -- a crime scene analyst, what -- what
17 kind of wor -- what do you do as a crime scene analyst?

18 A Mainly, we respond to a crime scene for the
19 purposes of documenting the scene, as it is found by officers,
20 and -- and the people who are there for the purposes of
21 documentation through photography, notes, sometimes sketches,
22 identifying items of evidence, and collecting them, preserving
23 them, and impounding them.

24 Q And, Ms. Shrum, on April 25th of 2011, at
25 approximately 2:25 a.m., were you called to the area of 808

1 Lake Mead Boulevard?

2 A I was.

3 Q Is this the Seven Seas?

4 A Yes.

5 Q And why were you called there?

6 A The -- my only information on the call was that
7 it was a stabbing investigation.

8 Q So what did you do when you arrived?

9 A I met up with the first responding officers, the
10 -- and -- who usually have the majority of the information,
11 unless it's assigned to a detective at the time. At this time
12 it was still with the officers. Basically, got the -- the
13 general story of what had happened, beginning in the bar,
14 leading to the outside of -- of the parking lot, and the north
15 side of Lake Mead Boulevard.

16 We walked the scene, and I just took some notes,
17 based on the information that was given to me.

18 Q What did you do next?

19 A Most of it was photography, and then identifying
20 items that could be related to the incident. It was very
21 apparent from the -- from the beginning that there was a blood
22 trail that led down south on the sidewalk, and then along the
23 -- the south side of the -- the restaurant, bar area, and then
24 onto the main public sidewalk of Lake Mead Boulevard.

25 MR. THUNELL: Your Honor, if I might approach?

1 THE COURT: Yeah, you don't have to ask me. Just
2 approach when you need to, all -- all attorneys.

3 MR. THUNELL: Thank you, Your Honor.

4 BY MR. THUNELL:

5 Q I have your -- State's, what's been, through
6 prior stipulation, State's Exhibits Nos. 2 through 41. If I
7 could just have you, you know, just kind of flip through,
8 generally.

9 THE COURT: You have no objection to 2 through 41?

10 MR. GILL: I've stipulated to them, Judge.

11 THE COURT: All right. So, Ms. Clerk, 2 through 41
12 will be admitted into evidence, but 2 through -- already are
13 admitted, so the rest will be admitted.

14 BY MR. THUNELL:

15 Q And do you recognize these?

16 A Yes.

17 Q And what are these?

18 A These are the pictures that I took of the scene.

19 Q All right. Thank you. Now, I'd just like to
20 maybe just walk you through just the pictures, quickly, if
21 that's all right, Ms. Shrum.

22 Right here is State's Exhibit No. 2. And when I
23 show you the picture, if you could maybe just tell us
24 generally what we're seeing here?

25 A This is basically standing on what it -- if you

1 were really zoomed out, it is the northwest corner of Revere
2 and Lake Mead, looking at the -- at the bar.

3 Q All right. Exhibit No. 3?

4 A This is a view, facing north, showing what would
5 be the east entrance, east side parking lot.

6 Q And No. 4?

7 A This is the east facing side of the bar, with
8 the east entrance, here.

9 Q And so east side once again -- and what
10 street -- what street would that be up against?

11 A Along Revere.

12 Q Along Revere? And No. 5?

13 A This is actually standing toward the -- the far
14 north end of the parking lot, still on the east side of the
15 building, just showing that -- there were some vehicles still
16 in the parking lot, so it was just an identification shot of
17 that side of the building.

18 Q And No. 6?

19 A Just off of the same picture that I --

20 Q That sometimes --

21 A -- there, sorry.

22 Q Okay.

23 A The other shot was looking at this vehicle.
24 This is just if you were to turn your head to the left, and
25 look toward the -- the remaining aspect of the bar. So

1 looking to the south.

2 Q And No. 7?

3 A Stepping closer, leaving the vehicles more
4 behind me, still looking south.

5 Q And No. 8?

6 A This is the sidewalk immediately outside the
7 east entrance, and this is just to show where it appears to be
8 the beginning of the blood trail.

9 Q So as you said, so that's the — the beginning
10 of the blood trail, from right there?

11 A It may have started just slightly before this,
12 but that's the main — the main portion of it.

13 Q Was there a fair amount of blood?

14 A Sure.

15 Q Going to No. 9?

16 A This is just leading further -- further south,
17 closer to the, what would be the southeast corner of the
18 building. This is southeast corner, and the sidewalk goes
19 around to the west, and following the blood trail.

20 Q And No. 10?

21 A At some point we realized there is a little bit
22 of blood that leads off of the sidewalk, so if the sidewalk is
23 here, it kind of goes out and around, and then comes back
24 toward the sidewalk again. So this is just to kind of pan out
25 toward the — the parking lot, in general, because some of the

1 blood leads kind of in a -- an arc, into the parking lot, and
2 then back to the sidewalk.

3 Q No. 11?

4 A This is a -- a west-facing view alongside the
5 south end of the bar, still following the -- the blood trail.

6 Q So we're just kind of -- I should say, so we're
7 kind of following the blood trail as it goes --

8 A Exactly.

9 Q -- it ventures? No. 12?

10 A This is another area where concentrated blood is
11 located, it -- you know, where as the trail was kind of spot,
12 spot, spot, and this would be where, you know, obviously
13 someone had stood for a period of time because there's more
14 clumps of blood in the same -- same general area.

15 Q No. 13?

16 A This is actually looking east, so I came to the,
17 kind of where -- where the -- the south-facing bar door, which
18 is here, is looking toward the east, and it just kind of shows
19 the blood trail along the sidewalk, that is also along the
20 south side of the bar. There is a shoe here, a lighter here,
21 and a bag of ice on the sidewalk here.

22 Q No. 14?

23 A This is just another view, also, of the south --
24 south entrance to the bar, but to orient with the shoe -- the
25 bag of ice is behind the trash can here, and the lighter,

1 also.

2 Q And when you say, south side, is this the Lake
3 Mead --

4 A Correct.

5 Q -- facing? Okay. No. 15?

6 A This is the -- the south entrance. I just took
7 this to show that somebody had blood on their hands, touching
8 the door.

9 Q No. 16?

10 A Inside -- inside -- this would also, again, be
11 the -- the east entrance to the bar, looking toward where the
12 actual bar service area is. This would be a seating area,
13 with a dance floor to the -- to the west.

14 Q No. 17?

15 A This is just showing where I was standing,
16 taking the other pictures. So this shows the actual east
17 entrance to the bar, facing Revere.

18 Q No. 18?

19 A Another -- another aspect of the -- of the south
20 end of the -- the bar, including the -- the seating area,
21 dance floor down here. East entrance over to the side.

22 Q No. 19?

23 A This includes south entrance to the bar, and
24 then there was just the beginning of a disturbed area, right
25 in there.

1 Q No. 20?

2 A Stepping away from the south entrance on this
3 side, looking straight into the -- the corner of the bar.
4 There's a video camera up here that's very difficult to see.
5 Anyway, just -- basically, where you couldn't -- a slight
6 walkway that goes along the side, and along the back side of
7 the bar there.

8 Q So there's a back corner area of the bar?

9 A Yeah, it would be the southwest corner of the
10 bar.

11 Q No. 21?

12 A Same -- same corner of the bar, just looking at
13 it face -- from the east side, looking to the west.

14 Q No. 22?

15 A Same position, only looking up. So the other
16 one was showing the floor area, over here, this is just if you
17 were to turn your head, and basically look over the bar top.
18 The other view we were looking at, basically, the walkway and
19 the floor.

20 Q No. 23?

21 A Same position, now looking directly to the
22 north, east entrance over here.

23 Q No. 24?

24 A This is east entrance, here, the cone would be
25 the beginning of the blood trail. There's a white hat on the

1 sidewalk, and then basically, this sidewalk parallels the east
2 side of the building. It's a north-south sidewalk.

3 Q No. 25?

4 A Just a closer view of the hat on the sidewalk,
5 the cone basically marking the beginning of — of the blood
6 trail.

7 Q No. 26?

8 A A closer view, just to give an identification of
9 the — of the hat.

10 Q No. 27?

11 A This is a — a clothing strap from — it's a
12 brand name, bebe is a brand name, and it looks to be torn on
13 one end, and kind of ragged on the other end. I'm not sure
14 what the involvement was, but it was really close to the — to
15 the blood trail, so I identified it as a possible piece of
16 evidence.

17 Q And is that part of what you do as a CSA, going
18 out there, just kind of to identify possible pieces of
19 evidence?

20 A It — it — you know, you're given a story, and
21 the story is there's a struggle, there's a fight that has
22 taken place. Several people were involved in it, men and
23 women, so it's possible in — in a fight to expect that
24 clothing items, or parts of, you know, hair, things like that,
25 would come off of someone during a struggle.

1 Given that there was really nothing else out here
2 besides maybe dirt and dry grass that had blown into the
3 parking lot, this was something that I observed as unusual for
4 the area, but, you know, you wouldn't expect to find a piece
5 of clothing strap in a parking lot.

6 Q And we're onto No. 28?

7 A I'm just using fluorescent arrows, just to mark
8 items that also are very near or among the blood trail, so
9 that I don't lose sight of it during, you know, walking
10 through and documenting the scene.

11 Q No. 29?

12 A Close — just basically, a close-up view. The
13 first one is just to show you where I'm seeing things along
14 the sidewalk. This is a closer view. This is a fingernail,
15 and pieces of broken jewelry.

16 Q Are these things that you collect as part of the
17 job, as well?

18 A Yes.

19 Q Okay. No. 30?

20 A This is just stepping back to kind of orient.
21 What you're looking at is still the sidewalk with the -- the
22 blood along here, and jewelry pieces here, a fingernail here.

23 Q No. 31?

24 A A close-up view of the — it appears to be a
25 necklace.

1 Q No. 32?

2 A Stepping back again, from the sidewalk, just to
3 orient the items that I'm identifying along the blood trail,
4 and along the east side of the bar. Another piece of jewelry
5 that's kind of away from the sidewalk, but, you know,
6 relatively close, within two to three feet.

7 Q No. 33?

8 A Just another closer view of that -- it's a
9 bracelet.

10 Q No. 34?

11 A The -- it's kind of hard to see because they're
12 black, but these are flip-flops, laying kind of -- actually,
13 they're upended on the -- the pavement in the parking area.
14 Let's see, south -- south entrance to the bar. Here's the bag
15 of ice. There's a shoe and a lighter on the -- on the
16 sidewalk here.

17 Q No. 35?

18 A Same view that we looked at earlier, with a
19 concentrated blood area, here, just marking items that --
20 unusual for being on a sidewalk. A bag of ice. A lighter.
21 Concentrated blood, you know, pooling in an area.

22 Q No. 36?

23 A Another view, standing on the other side of the
24 evidence, showing the -- the lighter. This is the curb of the
25 sidewalk. A bag of ice that's melting. And that's really --

1 it's harder to see that the blood is -- because the asphalt
2 is -- is also dark, there's a -- a pool of blood in this area,
3 here.

4 Q No. 37?

5 A Another closer view. Just orienting blood trail
6 with a Bic lighter.

7 Q No. 38?

8 A Just another view of the concentrated area of
9 blood.

10 Q No. 39?

11 A The shoe, it's almost -- sorry -- directly
12 behind the -- the blood would be up front, here, the pool that
13 we just looked at, this shoe is behind that area, up against
14 the building.

15 Q No. 40?

16 A With the bar being in this area here, this is
17 Lake Mead, and this would be the sidewalk that parallels to
18 the north side of Lake Mead. The blood trail extended down to
19 where this cone is, and that is kind of the last place we
20 really see any extended blood drops.

21 Q And finally, No. 41?

22 A Standing -- standing west of the end of the
23 blood trail, looking back toward the bar, which is here, and
24 the parking lot where the blood trail kind of comes out and
25 back onto the sidewalk.

1 Q So, Ms. Shrum, what did you do after taking all
2 of these pictures?

3 A Went back through -- I took swabs of blood from
4 various areas along the blood trail, given that they started
5 in one place, trailed into the parking lot, came back, there's
6 a pooled area, and then it kind of extends out to Lake Mead.
7 We take varied samples along the blood trail, in the event
8 that it's not just victim blood. It could also be perpetrator
9 blood. So I have four -- four samples from that.

10 And all the items that were specifically
11 photographed, namely the -- the strap, broken jewelry, shoe,
12 Bic lighter, those things were collected individually, and
13 packaged for evidence.

14 Q Now, were you the CSA who went over to the
15 hospital to document the victim, and all that?

16 A No.

17 MR. THUNELL: Court's indulgence. We'll go ahead and
18 pass the witness.

19 THE COURT: Do you have anything, Mr. Gill?

20 MR. GILL: Yes, Judge. Thank you.

21 CROSS-EXAMINATION

22 BY MR. GILL:

23 Q Good afternoon, Ms. Shrum. So what you did out
24 there was -- was basically, take photographs of what you saw?

25 A The majority of it, yes.

1 Q And collect some evidence?
2 A Yes.
3 Q And some swabs?
4 A Yes.
5 Q Did you ever test those swabs?
6 A We don't test any of the swabs. We test them
7 for -- as a confirmatory, whether it's blood, or if -- if we
8 don't get a confirmatory, we would note that. All the swabs
9 that I collected did test positive for the presence of blood.
10 So that's the only, as far as testing that we do, otherwise,
11 it would get shifted over to the forensic side.
12 Q And when you showed up at 2:25 a.m.?
13 A Correct.
14 Q How many people were present, or who was
15 present?
16 A Not very many just civilians. Mostly uniformed
17 officers, and the -- and detectives were there.
18 Q And you kept saying the blood trail started, or,
19 you know, ended up here.
20 A Correct.
21 Q At -- when you show up, you can't tell whose
22 blood it is, first of all?
23 A Correct.
24 Q And how are you determining a starting point?
25 Is that just where you picked it up, when -- when you're

1 viewing it, when you're walking along and viewing the blood?

2 A You can tell from the way a blood -- a blood
3 drop hits a surface if it has directionality. So you can tell
4 the movement of the blood. All the drops, like as far as the
5 ones that go out into the parking lot, tend to -- as I drew an
6 arc, that kind of looked horseshoe shaped, those drops, as
7 they land on the ground, get what we call, satellite spatter.
8 So a little spot will jump off of the main spot, and it gives
9 it a directionality.

10 So that's how you can tell --

11 Q I didn't see any pictures of those. But I -- do
12 you have any pictures of -- of those?

13 A No. Well, I don't have them, but they may
14 possibly be in the photographs somewhere. They're just not
15 the ones that I have looked at here.

16 Q Okay. So -- so from the photos that we have
17 here, State's Proposed 2 through -- or State's Admitted 2
18 through 41, are you able to tell from these photographs which
19 direction the blood is coming from?

20 A I would have to look at them closer.

21 Q Well, I mean, let's -- let's find a good one for
22 you.

23 A Can I actually see the photograph because --

24 Q Oh --

25 A -- on here it's very --

1 Q Yeah, and just --

2 A -- spotty.

3 Q -- let me see what I can find. And this one is
4 35. Let me show the jury this one.

5 A This one, I can tell you without really looking
6 at it much, it's not a straight down shot, so you can't really
7 see whether -- you have to --

8 Q Okay.

9 A -- really actually be kind of close to it --

10 Q Okay.

11 A -- to be able to tell.

12 Q Okay.

13 A And it needs to be on a 90 degree.

14 Q Okay. But again, you -- after documenting --
15 documenting the scene, you don't know whose blood -- you said
16 earlier, perpetrator, victim, could have been anybody's blood?

17 A Correct.

18 Q And as far as the -- the items, you weren't sure
19 what the significance was, if any?

20 A You -- we're relayed some of the witness
21 accounts, saying, there was a fight out here. This is
22 where -- this is where it started, which was in the bar, and
23 it led out this direction. So you're given an idea of where
24 you need to look. I mean, usually we don't respond to just a
25 random location, and --

1 Q Right.

2 A -- guess at what we're trying to find.

3 Q Of course. And I'm not -- I'm not trying to
4 insinuate that you're guessing, but -- but you really don't
5 know if it fell out of somebody's car, or if it was involved
6 in a -- in a fight with 20 people, you can -- from showing up
7 at 2:25, you -- you can't tell that?

8 A Well, the things on the sidewalk, it's highly
9 likely that it's not falling out of someone's car, so those
10 items, I would -- I would say --

11 Q A bag of ice?

12 A -- probably not.

13 Q Okay.

14 MR. GILL: I'll -- I'll pass, Judge.

15 THE COURT: Anything else?

16 MR. THUNELL: Just quickly, Your Honor.

17 REDIRECT EXAMINATION

18 BY MR. THUNELL:

19 Q And just for clarification, Ms. Shrum, when you
20 went there did you do this investigation for the directional,
21 like basically, the movement of the blood, so to speak? Did
22 you personally look -- look into that so you could follow,
23 kind of, the path of the blood that you're telling us about?

24 A Well, you've -- through observation of an actual
25 blood drop, you can get an idea. Somebody can tell you a

1 story, and what you're looking at may refute what you've been
2 told. The blood drops, as far as the ones that I viewed along
3 the trail, were consistent with the -- the direction that I
4 took my photographs in, which was starting at the east door,
5 leading south, into the parking lot, and then west along that
6 south sidewalk, out onto Lake Mead. Based on satellite
7 spatter, and the movement of the trail.

8 MR. THUNELL: I'll pass the witness.

9 THE COURT: Thank you. Is this then -- do you have
10 anything else?

11 MR. GILL: Just one quick one, Judge.

12 RE-CROSS-EXAMINATION

13 BY MR. GILL:

14 Q In the -- and again, there's no way to tell
15 whose blood that is?

16 A No.

17 Q Or if -- or where they went during the fight?

18 A What do you mean, where they went during the
19 fight?

20 Q Assuming there was -- there's a fight outside,
21 and there's multiple people involved in this fight, were you
22 able to follow a trail of -- of say, one individual, with the
23 blood that you observed?

24 A If you were assuming one individual was
25 bleeding, you could follow it along that trail, yes.

1 Q But we're not assuming because we don't know if
2 one individual was bleeding. It could have been multiple
3 individuals?

4 A It could have been.

5 MR. GILL: Thank you, Judge.

6 THE COURT: Okay. Thank you very much. You're
7 excused. Next witness.

8 MS. JIMENEZ: Tammy Kasper.

9 THE COURT: Ms. Kasper, please remain standing up
10 over there, raise your right hand, and be sworn by the clerk,
11 right here.

12 TAMARA KASPER, STATE'S WITNESS, SWORN

13 THE COURT: Have a seat. State your name, and spell
14 your first name and your last name.

15 THE WITNESS: Tamara Kasper, Tamara, T-A-M-A-R-A,
16 Kasper, K-A-S-P-E-R.

17 THE COURT: Ms. Jimenez.

18 MS. JIMENEZ: Thank you, Judge.

19 DIRECT EXAMINATION

20 BY MS. JIMENEZ:

21 Q And, ma'am, are you currently employed?

22 A Yes, I am.

23 Q Where do you work?

24 A Seven Seas Bar and Grill.

25 Q And -- and what's your job there?

1 A Bartender.

2 Q How long have you been working at the Seven

3 Seas?

4 A A year.

5 Q Okay. So were you working there on April -- on

6 the -- well, were you employed there in April of 2011?

7 A I was.

8 Q Okay. Did you also go there in your off time,

9 occasionally, to socialize?

10 A Yes.

11 Q Okay. Before we get to talking about April 25,

12 I want to ask you -- I see that you're here in custody,

13 correct?

14 A Correct.

15 Q And is that because you were arrested on a

16 material witness warrant?

17 A Yes.

18 Q Okay. You had been subpoenaed, and we were

19 having some difficulty getting you to respond to the subpoena,

20 correct?

21 A No, I never was subpoenaed.

22 Q Okay. So you're disagreeing that you're

23 subpoenaed, but in any event, a court --

24 A Correct.

25 Q -- a Judge issued a warrant, and you were

1 arrested, I think yesterday?

2 A Yes.

3 Q Okay.

4 A Monday.

5 Q Monday. Okay. And so let's go ahead, then, and

6 talk about April 25th. In the early morning hours of that

7 day, were you at the Seven Seas?

8 A Yes, I was.

9 Q Okay. And what were you doing there?

10 A Drinking.

11 Q Okay. Were you -- so you weren't working that

12 night, correct?

13 A No, I was off that night.

14 Q Okay. Did you run into some people that you

15 knew, while there?

16 A Yes, I did.

17 Q Is the Seven Seas a place that locals go? Is it

18 kind of a local establishment?

19 A It is.

20 Q And so do you have customers there who are

21 regulars?

22 A Yes.

23 Q And in your job as bartender, do you get to know

24 a lot of the customers?

25 A Yes.

1 Q Okay. So when you go in on your off time, you
2 see a lot of people that you know?

3 A Yes.

4 Q Okay. Did there come a point when an
5 altercation started?

6 A Yes.

7 Q Okay. Can you describe what you remember about
8 the altercation?

9 A What I remember is I was at one corner of the
10 bar having a drink with a girlfriend of mine, and we were
11 getting ready to go walk past the -- to the dance floor, and
12 when we were going by she was stopped because she couldn't get
13 through, and somebody had grabbed me, to talk to me, and she
14 kept trying to go, and she was stopped and couldn't get
15 through, and asked Antwan to, you know, excuse her, and he
16 told her, wait a minute. And when he told her, wait a minute,
17 she said that he called her a bitch. I didn't hear that, but
18 that's what I was told.

19 And so that's what started the altercation. And so
20 after they started yelling back and forth, I got in the middle
21 of it to break it up because I know, you know, I didn't want
22 anything to happen in there. And after that, another girl got
23 involved, and it was just like a yelling match, and before any
24 fists were flown, or anything like that had happened, I was in
25 the middle, pushing both parties aside, then security came,

1 and one started going to the left exit, one started going to
2 the right exit, to the door on the side exit.

3 When that happened, somebody threw -- we were
4 towards the door exit -- somebody threw a Heineken bottle, and
5 it broke and another gentleman in there that I was standing
6 next to, it shattered all over him. And so he started to go
7 for the side exit, while that happened, I was trying to hold
8 him back before he went out the side, and more drama occurred.

9 And that was the altercation inside.

10 Q So let me show you what's been admitted as
11 State's Exhibit 18. I'm going to zoom in. Do you recognize
12 this as the Seven Seas?

13 A Of course.

14 Q Okay. And this back corner, here, that's by
15 that Lake Mead entrance and exit, is that the area that you're
16 describing, where this all took place?

17 A No, it's the other exit. I mean, it's the other
18 corner, but that's where everybody was trying to go out, that
19 door and the side exit.

20 Q Okay. So let me show you Grand Jury Exhibit 9
21 -- or, I'm sorry, State's Exhibit 19. Okay. So you're
22 talking about the corner that's to the left here?

23 A Correct. Where the fan is.

24 Q Okay. And so you talked about somebody that you
25 said -- that you called Antwan?

1 A Mm-hmm.
2 Q How -- is that yes?
3 A Yes.
4 Q Only because they're recording everything --
5 A Yes.
6 Q -- we have to have yes or no. Okay. And how do
7 you know Antwan?
8 A Just from the bar.
9 Q Okay. And do you see Antwan here in court?
10 A Yes, I do.
11 Q Could you please tell me where he's sitting, and
12 what color shirt he's wearing?
13 A A brown suit, and right at that table.
14 Q Is he in the middle of -- or, I'm sorry, at the
15 end at the table to my left?
16 A Yes, he is.
17 Q Okay.
18 MS. JIMENEZ: May the record reflect the witness has
19 identified the defendant?
20 THE COURT: The record will so reflect.
21 BY MS. JIMENEZ:
22 Q Okay. Did you know him by another name, in
23 addition to Antwan?
24 A Yes, I did.
25 Q And what was that name?

1 A Shyce.

2 Q Okay. So you said that this -- you've described
3 the altercation that happened in the bar, and what happened
4 then, as the bottles were being thrown, what happened after
5 that point?

6 A Everybody ran out the bar. After that bottle
7 was thrown, that's when I was trying to hold the -- another
8 guy that works with me that was in there drinking -- back from
9 exiting because the bottle had got him, and got him wet, and
10 he was pissed off.

11 Q And who was that?

12 A His name is Stacy.

13 Q Stacy Monroe?

14 A Mm-hmm.

15 Q Is that yes?

16 A Yes.

17 Q Okay. And he -- he was also not working that
18 night, but he was employed, at the time, by Seven Seas?

19 A Correct.

20 Q Okay. Sorry, go ahead.

21 A And that was the end of it. Everybody had
22 exited, and I was trying to calm him down, and the next thing
23 I know, everybody is out the side exit, and out the front. I
24 don't know how much time had passed, but that's when I turned
25 around and looked for my girlfriend that I was in there with,

1 and talked to her for a minute, and then everybody kept
2 saying, you know, they're fighting out side, they're fighting
3 outside.

4 And by the time we got outside, the fight was over.
5 Whatever was happening outside was over.

6 Q Okay. So your testimony today is that you did
7 not see the fight outside, correct?

8 A No, I did not.

9 Q Okay. After the police arrived, you were still
10 there on scene when the police got there, correct?

11 A Correct.

12 Q Okay. And when the police first arrived, you
13 spoke to a patrol officer; is that correct?

14 A Correct.

15 Q And you gave a handwritten statement that you
16 wrote out to the patrol officer?

17 A Correct.

18 Q Okay. And after a little while, that's still,
19 you know, within an hour or two of the incident happening, a
20 detective came, as well, correct?

21 A Yeah, I believe so. I don't really remember. I
22 think so.

23 Q Do you recall doing a tape recorded statement,
24 as well?

25 A No, I don't.

1 Q Okay. So you do not remember doing a tape
2 recorded statement, at all?

3 A I don't remember that that night.

4 Q Okay. Well, let's start with the handwritten
5 statement, and we'll go back to the tape recorded statement.
6 In your handwritten statement -- well, and let me --

7 MS. JIMENEZ: Actually, Judge, if I can approach to
8 have this marked for identification, next in order.

9 MR. GILL: And, Judge, I am going to object. She
10 does -- she -- she's testified that she doesn't remember
11 giving a handwritten statement.

12 THE COURT: All right. Well, she can mark it. I --
13 I'm -- she didn't move to admit it or anything, just to --

14 MS. JIMENEZ: Right. I haven't moved to admit it.

15 BY MS. JIMENEZ:

16 Q And, I guess, let me clarify that. You said
17 that you did remember giving a handwritten statement. It's
18 the taped statement you don't remember. Am I understanding
19 you correctly?

20 A Correct.

21 Q Okay.

22 MR. GILL: I apologize, Counsel. I withdraw the
23 objection.

24 THE COURT: Okay. All right.

25 BY MS. JIMENEZ:

1 Q So I'm going to show you what I marked for
2 identification as State's Exhibit 96. And ask you if you
3 recognize that as that handwritten statement that you gave to
4 the police?

5 A Yes, I do.

6 Q Okay.

7 A It's my handwriting.

8 Q So that is your handwriting in the section that
9 says, details?

10 A Yes.

11 Q And did you also sign it down here at the
12 bottom?

13 A I did.

14 Q Or, I guess, over there at the bottom?

15 A I did.

16 Q Okay. Now, you've testified today that you
17 didn't see what happened outside, correct?

18 A Correct.

19 Q In your handwritten statement though, you
20 wrote --

21 THE COURT: Well, did you want to admit it? I --
22 because if you're going to go into it, do you want to admit
23 it?

24 MS. JIMENEZ: Yes, Judge, I'd move for its admission.

25 THE COURT: Okay.

1 MR. GILL: No objection.

2 THE COURT: The 96 will be admitted. Now you could
3 go into the statement, all right?

4 MS. JIMENEZ: Sure.

5 (State's Exhibit 96 admitted.)

6 BY MS. JIMENEZ:

7 Q We'll go ahead and put it up here so you can
8 follow along. This is the section that you said that you
9 wrote, correct?

10 A Mm-hmm.

11 Q It's in your handwriting.

12 A Mm-hmm.

13 Q And -- is that yes?

14 A Yes.

15 Q Okay. Thank you. And you wrote that, I was
16 having a drink, and seen a girl throw a beer and it hit the
17 ceiling fan, correct?

18 A Yes.

19 Q And then I seen Shyce try to hit Nella Lay,
20 correct?

21 A Correct.

22 Q And then security grabbed him, it escalated -- I
23 -- can you read -- what's your handwriting say after,
24 escalated?


25 A I can barely read it myself. I think it says,

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ACKNOWLEDGMENT:

Pursuant to Rule 3C(d) of Nevada Rules of Appellate Procedure, this is a rough draft transcript expeditiously prepared, not proofread, corrected or certified to be an accurate transcript.



KIMBERLY LAWSON
TRANSCRIBER

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DISTRICT COURT
CLARK COUNTY, NEVADA

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[Signature]
CLERK OF THE COURT

STATE OF NEVADA,

Plaintiff,

vs.

LAMAR ANTIWAN HARRIS,

Defendant.

CASE NO. C274370
DEPT NO. V

TRANSCRIPT OF
PROCEEDINGS

BEFORE THE HONORABLE JOSEPH BONAVENTURE, SENIOR JUDGE

JURY TRIAL - DAY 2

WEDNESDAY, AUGUST 31, 2011

APPEARANCES:

For the State: SONIA V. JIMENEZ, ESQ.
Chief Deputy District Attorney
PETER THUNELL, ESQ.
Deputy District Attorney

For the Defendant: ADAM L. GILL, ESQ.

RECORDED BY RACHELLE HAMILTON, COURT RECORDER
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1 LAS VEGAS, NEVADA, WEDNESDAY, AUGUST 31, 2011, 10:44 A.M.

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

3 (Outside the presence of the jury.)

4 THE MARSHAL: All rise. District Court, Department 5
5 is now in session. Judge Joseph Bonaventure, presiding.

6 THE COURT: All right. Do you want to get the jury?

7 THE MARSHAL: Yes, sir.

8 THE COURT: Should we get the jury in?

9 MR. GILL: Well, just -- I mean, can we at least --

10 THE COURT: Oh, okay.

11 MR. GILL: -- try to tie the tie? And, Judge, just
12 as part of your ruling yesterday, with the -- with the gangs,
13 I know there's some gang detectives. I just wanted to make
14 sure when they introduce themselves, they're not introduced
15 as -- as from the gang unit.

16 MS. JIMENEZ: Yeah, I understood the Court's ruling,
17 and I've advised them accordingly.

18 THE COURT: Okay.

19 MR. GILL: Thank you.

20 MS. JIMENEZ: And I'd also invoke the exclusionary
21 rule.

22 THE COURT: Well, we're not having too much luck with
23 these departments.

24 MS. JIMENEZ: Yeah, courtroom sharing doesn't work
25 very well.

UNCERTIFIED ROUGH DRAFT

1 THE COURT: You shorten a trial up.
2 THE MARSHAL: Are you guys ready?
3 MS. JIMENEZ: Yes.
4 MR. GILL: Yes.
5 THE MARSHAL: Want me to get the jury?
6 THE COURT: Yeah, bring the jury in. I'm sorry.
7 Bring the jury in. I'm sure you're going to stipulate to a
8 lot of these photo reels, right?
9 MR. GILL: I -- yeah, I'm sure, Judge. I have -- I
10 haven't reviewed all of them -- I -- I mean, I have, my own
11 disc of them, so...
12 THE MARSHAL: Jury's coming in.
13 THE COURT: Yes, please.
14 (Jury entering at 10:46 a.m.)
15 THE COURT: All right. Counsel, stipulate to the
16 presence of the jury?
17 MS. JIMENEZ: Yes, Judge.
18 MR. GILL: Yes, Your Honor.
19 THE COURT: All right. Ladies and gentlemen, good
20 morning. I'm sorry for the delay. I -- this is a new system,
21 and busy courtroom, and now we've got a court sh -- courtroom
22 sharing, and I was done with my calendar at 10, but
23 unfortunately, the Judge that has this was delayed because she
24 had a lot of cases. Things happen. And we were all waiting,
25 and I'm sorry to keep you waiting.

1 I think the next day or two, I think I pretty well
2 got it resolved that we'll have the court without delay, but
3 we just got to bear with it. And thank you very much.

4 So now what we -- of course -- let me read a few
5 things to you. You were read the Information yesterday, and
6 as -- as you know, the Information is simply a charge, and it
7 is not, in any sense, evidence of the allegation it contains.

8 The defendant has pled not guilty to the
9 Information. The State, therefore, has the burden of proving
10 each of the essential elements of the Information beyond a
11 reasonable doubt.

12 As the defendant sits there now, he's -- he's not
13 guilty. The purpose of this trial is to determine whether the
14 State will meet its burden. It is your primary responsibility
15 as jurors to find and determine the facts.

16 Under our system of criminal procedure, you are the
17 sole judge of the facts. You are to determine the facts from
18 the testimony you hear, and other evidence, including exhibits
19 introduced in court. It is up to you to determine the
20 inferences which you feel may be properly drawn from the
21 evidence.

22 The parties may sometimes present objections to some
23 of the testimony or other evidence. It is the duty of a
24 lawyer to object to evidence, which he or she believes may not
25 be properly be offered, and you should not be prejudice in any

1 way against a lawyer who makes objections on behalf of the
2 party he or she represents.

3 At times I may sustain objections or direct that you
4 disregard certain testimony or exhibits. You must not
5 consider any evidence to which an objection has been
6 sustained, or which I've instructed you to disregard.

7 When considering the weight and value of the
8 testimony of any witness you may take into consideration the
9 appearance, attitude, and behavior of the witness, the
10 interest of the witness in the outcome of the case, if any,
11 the relationship of the witness and the defendant -- to the
12 defendant or the State, the inclination of the witness to
13 speak truthfully, or not, and the probability or improbability
14 of the witness's statement, and all the facts and
15 circumstances in the evidence.

16 Thus, you may give the testimony of any witness such
17 weight and value as you believe the testimony of the witness
18 is entitled to receive. It is for you to decide how much
19 weight to give any evidence.

20 After jury selection, which we have, we're going to
21 hear opening statements by the State, maybe opening statement
22 by the defense, State -- State's evidence, and possibly,
23 defense evidence, jury instructions, and closing arguments.

24 Until this case is submitted to you, you must not
25 discuss it with anyone, even with your fellow jurors. After

1 it is submitted to you, you must discuss it only in the jury
2 room with your fellow jurors. It is important to keep an open
3 mind, and not decide any issue in the case until the entire
4 case has been submitted to you.

5 If you cannot hear a witness, please raise your hand
6 as an indication, also, you know, if you -- you need to --
7 something -- something happens, raise your hand and I'll --
8 I'll address you.

9 And as I said previously, jurors are allowed to ask
10 questions, but don't -- don't ask too many. The procedures
11 require that you write your juror number and question on a
12 sheet of paper, give it to the marshal while the witness is
13 still on the stand, in the courtroom. If it is a proper
14 question under court rules, I'll ask it. If not, I'll keep it
15 and explain after the trial the purpose of the rule that
16 precluded me asking the question.

17 So that's bre -- basically, a summary, and now we're
18 going to hear brief opening statements. And I'll hear from
19 the State.

20 MS. JIMENEZ: Thank you, Judge. And, Judge, if I
21 could have it switched. And is the TV on, as well? That's
22 great. Thank you.

23 STATE'S OPENING STATEMENT

24 MS. JIMENEZ: On April 25th of 2011, Michael Thomas
25 was having a good time hanging out at the Seven Seas Bar and

UNCERTIFIED ROUGH DRAFT

1 Restaurant. It was while he was there that he noticed an
2 altercation going on in the bar that involved the daughter of
3 a family friend of his. Someone that he'd known, pretty much
4 her whole life, the daughter, through being friends with her
5 father.

6 Michael Thomas decided to help out with the
7 situation that was going on, and instead, he ended up in the
8 hospital with a stab wound to the chest, and a stab wound to
9 the cheek.

10 The Seven Seas is a restaurant -- a bar and a
11 restaurant -- located on the corner of West Lake Mead and
12 Revere Street. And you can see it circled there, that corner
13 building there off of Lake Mead and Revere. The main entrance
14 is on the Lake Mead side of the street. In looking at it from
15 the outside, that's the main entrance going inside and outside
16 of the general bar area. There's also a dance area inside.

17 If you're looking from the inside of the
18 establishment, the bar is on the left, the exit and entrance
19 we just saw in Lake Mead is what's circled there on the right,
20 and there's a seating area, and right where the person taking
21 the picture would be standing, is a dance floor area.

22 There's also another doorway on the Revere side of
23 the establishment. It's not a main entrance and exit;
24 however, it can be used as an exit, and you'll hear that a lot
25 of people went out that door on the night that this happened.

1 and in fact, the altercation and stabbing occurred on that
2 side of the building, outside that doorway.

3 And looking from the inside, that's that same
4 doorway that leads out onto Revere, just to the side of the
5 seating area, and the bar, again, is at the right-hand side of
6 the picture.

7 In this corner, right by the Lake Mead exit, is
8 where the altercation first starts. It's in this corner area,
9 there's a fan, right there, back behind the corner, that you
10 can't see, to cool things off. And there's also a
11 surveillance camera that's up in the corner. And it points
12 down and shows some of the bar area, although, some parts are
13 cut off that's behind the surveillance camera. But you're
14 going to see the surveillance video from that camera, it's
15 going to be played for you during the trial, and you'll be
16 able to watch what happens, and what you can see from the
17 surveillance camera.

18 The altercation starts when Darnella Lay, that's the
19 daughter of Michael Thomas's family friend, she comes over
20 from the dance floor, and she tells police that she's going to
21 get her purse. She's left her purse on the corner. And as
22 she goes to get her purse, she walks between a man, who
23 witnesses identify by going by the moniker, the nickname, of
24 Shyce, S-H-Y-C-E, and a woman that he's talking to. She says
25 that the man gets upset with her, and basically, an

1 altercation starts.

2 This is the man that she's talking about, wearing a
3 black hat and you'll see a black shirt, and he's just in the
4 corner, almost out of view of the camera. She gets pushed
5 over and falls over a barstool by this man in the black hat
6 that's known by Shyce, and she gets back up and she punches
7 him. She's not going to stand for that. So she gets in --
8 involved in the altercation.

9 And so security takes her, and they put her out that
10 Lake Mead entrance. They're trying to calm the altercation
11 down. You'll see that after she's outside, an individual
12 wearing a very distinctive lime green or bright green top,
13 comes out to talk to her. And that's going to be Michael
14 Thomas. And he's pretty easy to identify on the video because
15 of the bright colors that he's wearing, and a lot of people
16 remember him, even if they don't know who he is, because the
17 colors of his shirt are so distinctive and easy to spot, and
18 he's got that white hat on.

19 So he kind of sees what's going on, and he comes out
20 to talk to Darnella Lay and find out what's going on. He's
21 seen that this man inside in the black hat and the shirt,
22 Shyce, is -- is involved in this altercation, and is hitting
23 females.

24 So he goes back inside and you can see that while
25 Darnella's outside, whatever's going on inside the bar is

1 still going on. She's not even inside there, but this
2 altercation has grown, and there's still argument and fighting
3 going on inside the bar. And again, Shyce, still involved in
4 that argument.

5 Michael Thomas comes back in, and he goes over and
6 he has a few words with Shyce. Before he goes back out again,
7 security is trying to get everyone out of the way, as he goes
8 back out, Shyce is still there in that bar area.

9 But even after Michael Thomas leaves, Darnella
10 actually comes back in. Now, you won't be able to see her on
11 the camera, but she tells you that she's standing just inside
12 the entrance to Lake Mead, and what she's doing is she's
13 looking for her purse. Now, she still doesn't have her purse.

14 And while she's doing that, a female that witnesses
15 say goes by the name of Tia, who is the girlfriend of Shyce,
16 starts yelling at Darnella. They start getting into it, and
17 in fact, this woman, Tia, is starting to throw bottles, and
18 you can see one of the bottles hits one of the ceiling fans,
19 and the beer and glass go everywhere.

20 So she's yelling across to Darnella, and Darnella
21 says, fine, let's take this outside. Let's -- let's handle
22 this outside. So Darnella goes back out that Lake Mead
23 entrance, and she heads right around the corner to the Revere
24 side. Back where that side exit is that people are about to
25 come out of.

1 Michael Thomas also goes out the front door. You
2 can see him in the right-hand corner of the ski -- screen.
3 He's looking for Darnella Lay, trying to find out where she
4 is, is she okay, what's going on.

5 Back inside, Shyce, in the black hat and shirt, and
6 his girlfriend, Tia, are going out, headed toward that side
7 exit, towards Revere.

8 When you get to the back, the cameras from outside
9 show Darnella, and she's standing there at that exit, and
10 she's waiting for the defendant's girlfriend to come outside.
11 So she's waiting, and as she's waiting, sure enough, out come
12 again, Shyce, in the black shirt and the hat, as well as his
13 girlfriend.

14 They come outside, and immediately the fight is on.
15 Darnella's involved. The defendant's girlfriend is a -- is
16 involved. Shyce is involved. And there's a fight happening.
17 You can see that at this point, Michael Thomas isn't involved.
18 He's just made it around the corner. The fight has already
19 started. He comes around and starts seeing what happens, and
20 he sees that Shyce is hitting Darnella.

21 So he gets involved to help out Darnella. And he
22 and Shyce, in the black shirt and hat, start fighting. And
23 it's during this fight that Shyce, again, black shirt, black
24 hat, ultimately stabs Michael Thomas in the chest and in -- in
25 the cheek. And you can see a little bit in this video, in the

1 back, you can see Michael Thomas there, he's got some red on
2 his shirt, and you can see even better here, that after he's
3 stabbed, Michael Thomas comes around to the front side, and
4 he's got that stab wound, he's bleeding very profusely,
5 there's a blood trail that shows where he went, and he's
6 injured. Paramedics come, police come, and he's taken to the
7 hospital.

8 Now, one thing you'll learn about, not just Michael
9 Thomas, but several of the witnesses in the case, is that in
10 this particular area of town, not everyone is particularly
11 cooperative with the police. In fact, you will find that
12 Michael Thomas, himself, has some felony convictions, so he
13 doesn't necessarily have the best relationship with police.
14 But when they come and talk to him, he does give a statement
15 about what happens. They go see him in the hospital, he gives
16 a tape-recorded statement to the police.

17 But he doesn't want to be involved. He doesn't want
18 to come testify in the courtroom. And you'll see that with
19 some of the other witnesses, as well. They don't want to have
20 to come to court, and be dragged to court, and in some cases,
21 even had to be ordered, and arrested, by a court order, in
22 order to come to court.

23 But when the police first get there that night -- a
24 lot of individuals have left by the time the police get there,
25 but a few have stayed, and one of those is a woman by the name

1 of Tammy Kasper. She works as a bartender at the Seven Seas,
2 but she wasn't working that night. She was just there hanging
3 out on her night off. And she's actually in that back corner
4 area when the fight happens.

5 So she sees the fight taking place, and she also
6 sees the fight that happens outside. She's the one who tells
7 the police when they arrive that the person who did the
8 stabbing is a person by the name of Shyce. And she tells them
9 that she knows Shyce because she is Facebook friends with his
10 girlfriend, and they -- even while out there with patrol
11 officers, they get Facebook up on the phone, and she points
12 out his -- his Facebook page.

13 And so you will find that Shyce is the defendant,
14 Lamar Antwan Harris. And you'll even see a photo that's on
15 his Facebook, showing that he's Young Shyce, in fact, the name
16 of his page isn't under his name, it's under the name Young
17 Shyce, and in one of the pictures he has a necklace that has
18 YS, for Young Shyce, and he's sitting on a green car. And
19 you'll hear from the witnesses that that's something that they
20 identify with -- him with -- he drives a green Dodge Charger.

21 So the police are able to identify a suspect in the
22 matter, and they identify him through Tammy Kasper, who gives
23 a taped statement, and a handwritten statement to police the
24 night that the incident happens.

25 Darnella Lay, also, she leaves after the stabbing,

1 but she's later located by police. She also gives a statement
2 to police. But again, as I said, not all of the witnesses
3 want to be in a courtroom, testifying, you know, giving
4 testimony in an open courtroom.

5 However, at the time that the incident happened, the
6 police put together a photo lineup to identify who the person
7 is who's done this stabbing. They first show Darnella Lay a
8 photo lineup. She says that she didn't see the actual
9 stabbing, but that she did see Shyce with a knife in his hand.
10 He's pointing the knife at her, and he's got the knife in his
11 hand when Michael Thomas comes over, and gets involved in the
12 altercation. That at that point she's pulled out by another
13 gentleman, and she doesn't actually see the stabbing.

14 But she identifies the defendant. He's in position
15 No. 3. She circles and signs her name, and she fills out a
16 witness form where she writes the statement, identified at No.
17 3, is Shyce, in the picture lineup, is Shyce. He is the one
18 that was holding, and point the knife parallel to the ground
19 at me. I am 100 percent sure that this picture identifies
20 Shyce.

21 The police, after they speak with Tammy Kasper in
22 the early morning hours of April 25th, they put a photo lineup
23 together, and they come back to her later that same day with
24 the photo lineup. She's actually seen the stabbing, and she
25 looks at the photo lineup, and she also circles the

1 defendant's picture in the photo lineup in Position No. 3.

2 She initials it, and she fills out a written statement.

3 She also says, I am 100 percent sure that the third
4 photo that I circled is Antwan, Shyce -- she spells it with a
5 T. I was present and seen Shyce stab Mike in a lime green
6 shirt, remember we talked about that lime green shirt. I also
7 seen Shyce try to stab Nella -- that's how a lot of the
8 witnesses know Darnella Lay -- multiple times, but he missed.
9 I am 100 percent positive that it is Shyce that I identify
10 stabbing Mike. So she makes a conclusive identification of
11 the defendant in the photo lineup.

12 Michael Thomas is also shown a photo lineup, and
13 while he can't identify the defendant, he does tell the police
14 that the person in the bar, in the black hat and shirt that he
15 got into a fight with, is the same person he fought with
16 outside, the same person who had done the stabbing of him.

17 And so, with these witnesses, the defendant is
18 positively identified. And you'll see from the video that
19 he's really the only person inside the bar that's involved in
20 the altercation, and outside the bar you'll see him fighting
21 with Michael Thomas.

22 So Michael Thomas got a little more than he
23 bargained for when he went to the Seven Seas that night. He
24 was just trying to help out Darnella Lay, who is young and
25 impetuous, and instead, he ended up stabbed in the chest and

1 in the cheek, with serious injuries.

2 At the result -- at the end of this case we're going
3 to come back, and we're going to ask you, after you've
4 listened to all the evidence and the testimony, to find the
5 defendant guilty of attempt murder with use of a deadly
6 weapon.

7 Thank you.

8 THE COURT: Thank you. Mr. Gill, do you want to make
9 a brief statement?

10 MR. GILL: Thank you, Your Honor. If we could get it
11 just switched over, please.

12 DEFENSE'S OPENING STATEMENT

13 MR. GILL: Good morning, ladies and gentlemen. I
14 again, want to thank you for your time, and your service to
15 this community. Lamar would like to thank you, as well as my
16 assistant, Shawn.

17 I wish it were as easy as what Ms. Jimenez pointed
18 out, but -- but of course, it's not going to be that easy.
19 Yes, on April 25, 2011, at the early morning hours,
20 approximately 1:50, the -- there was, in fact, an altercation
21 that occurred at the Seven Seas. That's a picture of the
22 Seven Seas during the day, and here's -- here's that night
23 after -- after the tragedy where Mr. Thomas was stabbed.

24 It's a restaurant bar and grill. It's in a very
25 populate -- populated area. It's off the corner of Lake Mead

1 and Revere. Very popular for breakfast, lunch, and dinner.
2 They've got a kitchen that -- that that's open quite a bit.
3 It's a very very popular hang out in this area of town.

4 And as Ms. Jimenez pointed out, there was an
5 altercation inside there that morning -- morning, early
6 morning, midnight to 1:00 where -- where, yes, you'll see my
7 client. But what do you see my client doing in this picture?
8 The evidence is going to show that my client was trying to
9 diffuse the situation, break up a fight that -- that began
10 between females.

11 He's got this wife -- not his girlfriend -- his wife
12 with him, and the mother of his child. She's -- you can't see
13 her in the picture there, but she's behind him, and yes, she's
14 getting into it with Ms. Darnella Lay.

15 But my client -- the State's going to try and make
16 my client the instigator in this matter, and it's simply not
17 true. As he -- the evidence and the testimony is going to
18 show that he was trying to diffuse this situation, and -- and
19 separate the two parties, and get the girls out of the way --
20 out of harm's way.

21 After they do get out of harm's way, they do exit
22 that Revere side, they're confronted with a mob in the parking
23 lot. And in -- the pictures and the video quality is poor,
24 but I want you guys to watch the entire video. It's going to
25 be presented to you. You're going to probably watch it more

1 times than you care to, but you -- you can see the mob that --
2 that is forming. Almost everybody in that -- that populated
3 bar -- goes out that front exit. The exit on -- on Lake Mead.

4 My client is going to come out this door here. And
5 then he's going to get lost in the fray. Not many people come
6 out that door, so when he does come out, he -- he confronts
7 that. He's with his -- with his wife, the mother of his
8 child, and he's going to confront that mob.

9 There are a few things that I agree with the State
10 on. Michael Thomas was stabbed. He absolutely was stabbed in
11 his face, and -- and in his chest. The evidence is going to
12 show that, and you're going to see some -- some more graphic
13 pics of that. He's going to take the stand, you're going to
14 see his cheek, and I'm sure there -- there's a scar remaining.
15 He was stabbed.

16 But he doesn't know who stabbed him. He's going
17 to -- he's going to testify. He alre -- he's given a
18 statement to the police, he does not know who stabbed him.
19 There was a fight -- he doesn't know when he gets stabbed. He
20 just knows, after he turns back around, he -- he -- people
21 start yelling about blood. He looks down, and he's -- and
22 he's bleeding profusely from the chest. That we agree upon,
23 that he was stabbed.

24 We -- we also -- well, I -- I think that's -- that's
25 about all we're going to agree upon.

1 Next slide, please.

2 The evidence is not going to show that Lamar Harris
3 ever had a weapon. They -- they're going to have witnesses up
4 here who -- who were intoxicated, or who -- who didn't
5 actually see what happened.

6 So I -- the State is not going to be able to show
7 you that my client ever had a knife. No knife was ever
8 recovered. There's no video that shows -- shows him with a
9 knife. They're simply not going to be able to show that Lamar
10 Harris had the knife.

11 They're also not going to be able to show that Lamar
12 Harris was the one who stabbed Mr. Thomas. They -- they get
13 lost in that fray, and I want you to watch the video very
14 closely. He goes -- you know, Lamar, as well as Mr. Thomas
15 are -- are in this fray. Lamar steps back at one point, and
16 there's this group of people around Mr. Thomas. The State
17 cannot show you beyond a reasonable doubt that Lamar Harris
18 stabbed Mr. Thomas.

19 Ms. Jimenez briefly mentioned the witnesses in this
20 case, and the -- the trouble that -- that we all find on
21 having with them. They don't want to be here. They --
22 they -- some of them have been arrested, but I want you to
23 listen to what they say, what they tell you, under oath, I
24 want you to listen carefully to everything that they tell you.
25 It's very important what they say here in the next couple

1 days.

2 Police officers will take the stand, and I kind of
3 harbored this in voir dire, just — you are to give them the
4 same weight that you would give anybody else, or any weight
5 that you deem appropriate. They simply investigated. They
6 showed up after the fact to the Seven Seas, and they
7 investigated the scene.

8 Ms. Kasper is going to testify. She's the bartender
9 who was off duty, that Ms. Jimenez spoke of. She's also going
10 to testify the amount of alcohol she consumed that night. And
11 it -- and it -- it is an exorbitant amount of alcohol.

12 Ms. Lay will testify to -- today or tomorrow, and in
13 earlier proceedings she could not identify my client. She —
14 she had an opportunity to -- to point him out, and she
15 couldn't do it.

16 There's also going to be some issues about the six
17 packs and what these two ladies were asked to do — the six
18 packs — the photo lineups. I want you to listen to what they
19 were told, or asked, when they were presented with those photo
20 lineups.

21 There's going to be very little physical evidence.
22 Like I said, there's no weapon. There -- there's some
23 pictures, lots of pictures of the scene, of Mr. Thomas, but
24 you're going to rely on these witnesses, and — and what they
25 tell you, and the video. The video is going to be — going to

1 be the show.

2 But I want you to consider all of the evidence as a
3 whole. The -- the testimony, the video, and the lack of
4 evidence.

5 And as Lamar sits here today, it's your duty to
6 assume that he is innocent. He's presumed innocent until they
7 can prove otherwise. And that -- that presumption stays with
8 him throughout the trial, until we give that to you to go back
9 into the jury room and deliberate.

10 And the Judge will instruct you on the law, he'll
11 instruct you on reasonable doubt. It is the highest burden
12 allowed by law, and it's -- it is the burden --

13 MS. JIMENEZ: Judge, I'm going to object to argument.

14 THE COURT: Yeah, we don't want the highest --

15 MS. JIMENEZ: This is argument.

16 THE COURT: -- burden. It is what it is. It's
17 beyond a reasonable doubt. I'll instruct the jury. We're not
18 to quantify it --

19 MR. GILL: I was --

20 THE COURT: -- at all, right?

21 MR. GILL: I wasn't trying --

22 THE COURT: That's what the Supreme Court --

23 MR. GILL: -- to quantify it, Judge.

24 THE COURT: -- says. All right.

25 MR. GILL: But I don't want you to guess. I don't

1 want you to guess on the evidence. I don't want you to guess
2 on the testimony. I want you to hold the State to their
3 burden, and — and if you do that, I'm confident you'll come
4 back with a verdict of not guilty.

5 Thank you.

6 THE COURT: All right. Thank you.

7 The State will call its first witness.

8 MS. JIMENEZ: The State calls Darnella Lay.

9 THE COURT: Any and all witnesses are hereby excluded
10 from the courtroom, and admonished not to discuss your witness
11 — your testimony with any other witness. So, Counsel, make
12 sure you don't have any witnesses in the courtroom, because
13 they're excluded.

14 So remain standing up over here. Come here. Remain
15 standing over there. Raise your right hand, and be sworn by
16 the clerk, right here.

17 DARNELLA LAY, STATE'S WITNESS, SWORN

18 THE COURT: Have a seat.

19 THE CLERK: And please, state and spell your name for
20 the record.

21 THE COURT: All right. Please state your name, and
22 spell your first name and your last name.

23 THE WITNESS: Darnella Lay, D-A-R-N-E-L-L-A, L-A-Y.

24 THE COURT: Jimenez.

25 MS. JIMENEZ: Thank you, Judge.

1 DIRECT EXAMINATION

2 BY MS. JIMENEZ:

3 Q Ms. Lay, do you live here in Las Vegas?

4 A Yes.

5 Q Have you lived here in Las Vegas your whole
6 life?

7 A Yes.

8 Q And were you living here in Las Vegas, then, on
9 April the 25th of 2011?

10 A Yes.

11 Q Do you know a man by the name of Michael Thomas?

12 A No.

13 Q Do you know a man by the -- that you know by
14 Mike?

15 A Yes.

16 Q And did you see him at the Seven Seas on the
17 night of April 25?

18 A Yes.

19 Q I'm going to show you what's been marked as
20 State's Proposed Exhibit 42.

21 THE COURT: Any objection to it being admitted?

22 MR. GILL: No objection, Judge.

23 THE COURT: All right. 42 will be admitted.

24 (State's Exhibit 42 admitted.)

25 MS. JIMENEZ: Thank you, Judge. May I publish.

1 MR. GILL: And, Judge, just to speed this along, if I
2 could just see the packet, I don't think there will be --

3 THE COURT: Yeah, please. I'd like to do, rather
4 than stop and -- see what you -- just take a quick look at it.

5 MR. GILL: I'll take a quick look at all of them.

6 THE COURT: Take a quick look at it, and then we'll
7 admit them, if you have no objection.

8 BY MS. JIMENEZ:

9 Q Okay. So you know Mike, correct?

10 A Yes.

11 Q And how do you know Mike?

12 A He's my dad's friend.

13 Q So a friend of the family?

14 A Yes.

15 Q Okay. Someone that you've known pretty much
16 your whole life?

17 A No.

18 Q Okay. And when did you meet him?

19 A Maybe a year ago.

20 Q And so, did you see him at the Seven Seas on
21 April 25?

22 A Yes.

23 Q Okay. Where had you started out your evening,
24 that -- that day?

25 A At the Elk's Lodge on -- another bar prior to

1 that.

2 Q Okay. And did you go from there over to the

3 Seven Seas?

4 A Yes.

5 Q Do you remember about what time you got there?

6 To the Seven Seas?

7 A About 12.

8 Q Okay. Were you there with some other friends?

9 A No.

10 Q Okay. Did you have some friends with you

11 earlier in the night, but then you ended up going by yourself

12 to the Seven Seas?

13 A Yes.

14 Q Okay. When you got to the Seven Seas, did you

15 see a woman who you know, by the name of Tammy Kasper?

16 A Yes.

17 Q Okay. And how do you know Tammy?

18 A I used to do her hair.

19 Q Does she also work at the Seven Seas?

20 A Yes.

21 Q And do you know her from having been there

22 before, and her working there?

23 A Yes.

24 Q Okay. Did she -- was she working that night, or

25 was she just there on her own time?

1 A No, she was there on her own time.
2 Q Okay. So were you visiting with her for a
3 while?
4 A Yes.
5 Q Okay. At some point did you go out to the dance
6 floor?
7 A Yes.
8 Q And what happened when you were out on the dance
9 floor?
10 A Nothing.
11 Q Who were you out there with?
12 A A friend from my neighborhood.
13 Q Okay. And what had you done with your purse
14 when you went out to the dance floor?
15 A I left it on the bar.
16 Q Okay.
17 A With Tammy.
18 Q What's that?
19 A With Tammy.
20 Q With Tammy?
21 A Mm-hmm.
22 Q Okay. So it's at the bar, and what -- what did
23 you do after you finished dancing?
24 A I went to go get my purse.
25 Q Okay. And what happened as you were going to go

1 get your purse?

2 A I got into an altercation with a man, and --

3 Q Okay. How did that happen? Describe how the
4 altercation ended up taking place.

5 A I tried to go get my purse, and he was talking
6 to someone, and he told me I was interrupting him, and he
7 pushed me over the barstool, and we started fighting.

8 MS. JIMENEZ: And, Judge, I have State's Proposed
9 Exhibits 1 through 4, and 19, which are all photos of the bar.
10 I believe defense is willing to stipulate to their admission?

11 MR. GILL: Yes, Judge.

12 THE COURT: Okay. So 42 is admitted because we
13 already did that, and 1 through 4 is admitted, and 19 is
14 admitted. Proceed.

15 MS. JIMENEZ: Thank you, Judge.

16 (State's Exhibit 1 through 4 and 19 admitted.)

17 MS. JIMENEZ: And then also -- I also have still
18 photographs from the surveillance video that is marked -- are
19 marked as State's Proposed Exhibits 50 through 82, and it's my
20 understanding the defense is also willing to stipulate to
21 those.

22 MR. GILL: That is correct, Judge.

23 THE COURT: 50 through 82 is hereby admitted.

24 MS. JIMENEZ: Thank you, Judge.

25 (State's Exhibit 50 through 82 admitted.)

1 BY MS. JIMENEZ:
2 Q So, Ms. Lay, I'm going to show you what's been
3 admitted now as State's Exhibit 19. Do you recognize this as
4 the bar area at the Seven Seas?
5 A Yes.
6 Q Okay. And where was your purse? If you touch
7 the screen you can make a mark on it, to show us where you had
8 left your purse.
9 A It's in the corner, on the bar. The corner of
10 the bar, over there.
11 Q Is it not making a mark?
12 A No.
13 MS. JIMENEZ: It's not working?
14 THE CLERK: I -- I don't know how to make it work.
15 MS. JIMENEZ: Okay.
16 BY MS. JIMENEZ:
17 Q Okay. So on the bar that you can see in the
18 back, by the corner area?
19 A Mm-hmm.
20 Q Is that yes?
21 A Yes.
22 Q Okay. And to get through there, to get to your
23 purse, did you have to walk by some people?
24 A Yes.
25 Q And you said that one of those was a man,

1 correct?

2 A Yes.

3 Q And who else?

4 A A few more people. I don't know.

5 Q Okay. And so did you say something as you tried

6 to get past the man to your purse?

7 A Yes.

8 Q What did you say?

9 A Excuse me, I need to get over here to my purse.

10 Q Okay. Did the man say something back to you?

11 A Yes.

12 Q And what did he say back to you?

13 A He said, don't you see I'm talking right now.

14 Q Okay. And what did he do when he said that to

15 you?

16 A I tried to get by him, and he pushed me.

17 Q You said that you fell over a barstool, correct?

18 A Yes.

19 Q So I'm going to show you what's been admitted as

20 State's Exhibit 51. Do you see yourself there in that

21 picture?

22 A Yes.

23 Q And is that you, right there?

24 A Yes.

25 Q And is that you as you're falling over that

1 barstool?

2 A I believe so, yes.

3 Q Okay. What happens when you fall over the

4 barstool?

5 A I get back up and I swing.

6 Q Okay. And are you swinging at the man who

7 pushed you?

8 A Yes.

9 Q Okay. Do you make contact?

10 A Yes.

11 Q And where do you hit him on his body?

12 A In his face.

13 Q Okay. What happens then, after you hit him?

14 A I was escorted outside.

15 Q Okay. By security?

16 A Yes.

17 Q And do you go outside that front entrance, the

18 Lake Mead entrance?

19 A Yes.

20 Q I'm showing you State's Exhibit 75. Is this you

21 as security is putting you out that front entrance?

22 A Yes.

23 Q Now, are you missing something out there?

24 A My shoe.

25 Q What happened to your shoe?

1 A It came off.
2 Q Okay.
3 A Inside the bar.
4 Q Is that when you were being pushed over the
5 chair?
6 A Yes.
7 Q The barstool?
8 A Yes.
9 Q Okay. And do you -- do you have your purse yet?
10 A No.
11 Q Okay. While you're waiting out there, what do
12 you do about your other shoe?
13 A I take it off.
14 Q Okay. Are you upset at this point?
15 A Yes.
16 Q Okay. Does someone come out to speak to you
17 while you're outside?
18 A I'm not --
19 Q And I'm going to show you State's Exhibit 76.
20 Do you see Mike in that picture?
21 A Yes.
22 Q And do you recall what he was wearing that
23 night?
24 A I remember that shirt.
25 Q Okay.

1 A The lime green shirt.
2 Q Pretty distinctive, right?
3 A Yes. Yes.
4 Q Okay. So that's in there, and the lime green
5 shirt with the white hat?
6 A Yes.
7 Q And do you tell him what's happened inside?
8 A No, I just tell him I'm trying to get my purse.
9 Q Okay. And so does he go back inside?
10 A Yes.
11 Q And do you eventually, also go back inside?
12 A Yes.
13 Q Now, why do you go back inside?
14 A To get my purse.
15 Q Okay. And I'm going to show you State's Exhibit
16 53. Now, when you go back inside, where do you stand?
17 A You can't see it, but it's off to the side.
18 Q So right here on the very left of the picture,
19 is this the wall that backs onto that exit that you go in and
20 out?
21 A Yes.
22 Q And so if you come right through the door, and
23 you're just behind this wall where the camera does not cap —
24 capture?
25 A Yes.

1 Q Okay. Are you saying anything while you're
2 standing there by that wall?

3 A No.

4 Q Okay. What's happening? What do you see
5 happening while you're standing there?

6 A I just remember a commotion. I don't really
7 remember what's happening.

8 Q Okay. Was there a female that you got into it
9 with?

10 A Yes.

11 Q And tell us about that.

12 A I just basically got into it with her because
13 she threw a glass, and it almost hit me.

14 Q Okay. And so while you're -- is that while
15 you're standing there by that doorway --

16 A Yes.

17 Q -- that she throws a gra -- glass at you? And
18 what's the relationship between her, and the man that you
19 originally had the fight with?

20 A I believe it's his girlfriend.

21 Q I'm going to show you State's Exhibit 57. Do
22 you see the woman you're talking about in that picture?

23 A Yes.

24 Q And since you can't draw on it, can you kind of
25 tell us where she's located?

1 A She's off to the side.
2 Q This woman here on the bottom corner?
3 A Yes.
4 Q Okay. And that's the woman who threw the bottle
5 at you?
6 A Yes.
7 Q And so when she throws the bottle at you, what
8 happens at that point?
9 A I go outside.
10 Q Okay. Did you say something to her before you
11 went outside?
12 A Yes.
13 Q And what did you say to her?
14 A Meet me outside.
15 Q Okay. So you were now upset with her because
16 she'd thrown the bottle at you?
17 A Yes.
18 Q Okay. When you go outside, where do you go from
19 there?
20 A I go on the side of the bar.
21 Q Okay.
22 A Around the corner.
23 Q Do you have your purse yet?
24 A No.
25 Q Okay. Are you, at this point, barefoot because

1 both your shoes are off?

2 A Yes.

3 Q Okay. So when you go around to the side, what

4 do you do at that point?

5 A I wait.

6 Q I'm going to show you State's Exhibit 64. Do

7 you see yourself in that picture?

8 A Yes.

9 Q And is that you, right here?

10 A Yes.

11 Q And what are you waiting for?

12 A The girl to come outside.

13 Q How do you know she's going to go out that side

14 exit?

15 A Because I was standing by the front exit, and I

16 didn't see her come out that side, so I figured she'd come out

17 the other side.

18 Q I'm showing you now State's Exhibit 65. Do you

19 see the female who you were waiting for come out that exit?

20 Let me zoom in.

21 A I'm not sure — sure, but I believe that's her.

22 Q This woman here that we see the back of her

23 shirt and her hair?

24 A Yes.

25 Q I'm going to show you State's Exhibit 66. And

1 see if that helps a little.

2 A I'm still not sure.

3 Q Okay. And is this man that's with her, is that
4 the man that you got into the altercation with in the bar?

5 A I'm not sure.

6 Q I'm going to show you State's Exhibit 67. And
7 at this point, has a fight started?

8 A I don't remember. I kind of like blacked out
9 when this started.

10 Q Do you remember a fight happening out on the
11 Revere side of the street?

12 A Yes.

13 Q Okay. Tell us about what you remember about the
14 fight.

15 A I just remember fighting, and in the process of
16 fighting I remember getting hit in the face.

17 Q Okay. Were you fighting with a female and a
18 male?

19 A A female, first.

20 Q Okay. And then did a male join the altercation,
21 as well?

22 A Yes.

23 Q And did you get hit by that male?

24 A Yes.

25 Q Is that the same male that was inside the bar

1 that you had the argument with?

2 A I'm not sure.

3 Q What happened after you get hit by the male?

4 A I fall on the ground.

5 Q Okay. And do you see Mike at some point, after

6 you fall on the ground?

7 A I see him -- af -- before I left.

8 Q Okay. Did you see him, though, when the

9 altercation was going on?

10 A No.

11 Q Okay. Do you remember him walking -- so you

12 don't remember him walking up and saying anything to the man

13 who was hitting you?

14 A No.

15 Q Okay. You gave a statement to police after this

16 incident occurred, correct?

17 A Yes.

18 Q Okay. And do you recall doing that?

19 A Yes.

20 Q And do you recall that that tape -- that --

21 excuse me, that statement was tape recorded?

22 A Yes.

23 Q Okay. And you were asked questions about what

24 happened by the police, correct?

25 A Yes.

1 Q Okay. And at that time you told them the name
2 of a person who had done that; do you recall that?
3 A Yes.
4 Q And what was the name that you told the police?
5 A Shyce.
6 Q Okay. And that's who you identified as the man
7 that you got into the altercation with in the bar?
8 A With help, yes.
9 Q With -- I'm sorry?
10 A With help, yes.
11 Q Okay. So you're saying now that you got -- you
12 got help to give that information?
13 A Yes.
14 Q And so where did you get that information from?
15 A From other people that were in the bar.
16 Q Okay. And what about the person outside -- the
17 man outside that you were fighting with? Did you tell the
18 police that that was Shyce, as well?
19 A I don't remember.
20 Q Okay. And did you tell the police -- well, let
21 me ask you this. Did you ever see any weapons during the
22 altercation?
23 A No.
24 Q Okay. So your testimony today is that you don't
25 know a person named Shyce, correct?

1 A Correct.

2 Q You don't know if that's the man that you had
3 the fight with inside the bar, correct?

4 A Correct.

5 Q Okay. You don't know if that's the man that you
6 had a fight with outside the bar?

7 A Correct.

8 Q And you don't recall seeing any weapons?

9 A Correct.

10 Q Okay. Did you also look at a photo lineup?

11 A Yes.

12 Q And did you identify someone in that photo
13 lineup?

14 A Yes.

15 Q Okay. Let me ask you this. Do you want to be
16 here testifying today?

17 A No.

18 Q Okay. Did -- why is it that you are here?

19 A Because I have to be here.

20 Q Okay. You got a subpoena, correct?

21 A Yes.

22 Q And that's a court order, basically, to come to
23 court?

24 A Yes.

25 Q Okay. Did you and I have some conversations and

1 you tried to not have to come down?

2 A Yes.

3 Q And did I explain to you that it's a court
4 order, and you do have to come?

5 A Yes.

6 Q Okay. Why is it that you don't want to testify?

7 A I feel outside of this courtroom, there is no
8 protection for me.

9 Q Okay. So you have some concerns about what's
10 going to happen to you after you leave court?

11 MR. GILL: Judge, I'm going to object. I don't think
12 there's been a proper foundation for that question.

13 MS. JIMENEZ: Judge, it goes directly to her bias.

14 THE COURT: Overruled.

15 BY MS. JIMENEZ:

16 Q So you're concerned about what may happen to you
17 after you leave this courtroom?

18 A Yes.

19 Q Did you have to come and testify at a previous
20 hearing, I believe, at the end of June?

21 A Yes.

22 Q If I told you, June 22, would that sound
23 correct?

24 A Around that time, yes.

25 Q Okay. And when you came down that previous

1 time, did you have to wait outside court for a while before
2 you went in to testify?

3 A Yes.

4 Q And what was happening while you were waiting
5 outside court?

6 A Nothing.

7 Q Okay. Do you remember there being some other
8 people who were outside court?

9 A Yes.

10 Q And did you recognize some of them?

11 A One.

12 Q And who did you recognize?

13 A Just the female I had the fight with.

14 Q Okay. The female that you got into the
15 altercation with?

16 A Right.

17 MR. GILL: Judge, objection. How is -- how is this
18 relevant?

19 THE COURT: Pardon?

20 MR. GILL: Relevance? Objection.

21 THE COURT: Well, I'm sure she'll get to it. I -- is
22 that -- there is relevancy here, isn't there?

23 MS. JIMENEZ: That's correct. The people who were
24 present when she testified.

25 THE COURT: All right.

1 MS. JIMENEZ: Okay.

2 THE COURT: Overruled.

3 BY MS. JIMENEZ:

4 Q And so you had to wait for a while outside the
5 courtroom, and then you went in the courtroom to testify,
6 correct?

7 A Yes.

8 Q Okay. Did some things happen after you
9 testified that caused you even greater concern about having --
10 well, actually, let me back up before I ask that. You didn't
11 want to testify at the preliminary hearing either, did you?

12 A No.

13 Q Okay. But same thing, you had a subpoena?

14 A Yes.

15 Q And so you came to court?

16 A Yes.

17 Q Okay. Did some things happen after the
18 preliminary hearing that caused you even more concern about
19 what was going to happen to you?

20 A I had a couple of phone calls.

21 Q Okay. And what did the people say when they
22 called you?

23 A That I don't need to testify, and that I'm a
24 snitch.

25 Q Okay. Did they tell you that they knew where

1 you lived?

2 A Yes.

3 Q Okay. Did they tell you what would happen to
4 you, if you came to court and testified?

5 A Yes.

6 Q And what did they say?

7 A That something would be done to me.

8 Q Okay. Do you remember when we met last week,
9 telling me that they said that you would be killed if you came
10 to court?

11 A Yes.

12 Q Okay. Did that cause you concerns about coming
13 to court?

14 A Yes.

15 Q Okay. About how many phone calls of that nature
16 did you receive?

17 A Two.

18 Q Okay. Was it from a male or a female?

19 A A male and a female.

20 Q Okay. Did they identify themselves to you?

21 A No.

22 Q Okay. Did they call from blocked numbers?

23 A Yes.

24 Q Okay. After you got those phone calls, did you
25 do something about your cell phone number?

1 A Yes.

2 Q And what did you do?

3 A I changed it.

4 Q Okay. And what about where you were living, did
5 you change where you lived?

6 A No.

7 Q Okay. Did you have concerns that people in that
8 neighborhood would know where you lived?

9 A Yes.

10 Q Okay. You said that Michael Thomas is a friend
11 of your dad, correct? Mike —

12 A Yes.

13 Q — is a friend of your dad? Okay.

14 A Yeah.

15 Q And what's your dad's name?

16 A Kevin Lay.

17 Q Okay. And is he pretty well known in the
18 community there?

19 A Yes.

20 Q Okay. A lot of people know where he stays?

21 A I'm not sure.

22 Q Okay. So because of all those things, you had
23 concerns about testifying, correct?

24 A Yes.

25 Q Okay. And when you were asked in court if you

1 saw the person that you knew as Shyce, you said — you
2 hesitated for a long time; do you remember that?

3 A Sort of, yeah.

4 Q Okay. Do you remember crying when you were
5 testifying?

6 A Yes.

7 Q Okay. And did you end up identifying anybody in
8 court?

9 A No.

10 Q Okay. And then you're here today, and you've
11 said you don't want to be here, and you've said, basically,
12 you didn't see a knife, don't know that Shyce is the person
13 you got in the fight with?

14 A Correct.

15 Q Okay. And so I'm going to go through — in your
16 tape recorded statement with police, you talked about seeing a
17 knife, correct?

18 A Correct.

19 Q And you also talked about the person who was
20 involved in the altercation, being Shyce; do you remember
21 that? Okay. So let's go first through the statements that
22 you made to police about the knife.

23 MS. JIMENEZ: And, Judge, I'm going to ask at this
24 time, if we can switch to the computer I have the audio —

25 THE COURT: That's fine.

1 MS. JIMENEZ: -- of her comments about the knife?

2 BY MS. JIMENEZ:

3 Q And there were several different points that you
4 described the knife; do you recall that? To the police?

5 A I don't remember.

6 Q Okay. Well, let's start with the first comment
7 you make.

8 MS. JIMENEZ: And for counsel, if you're looking at
9 the transcript, this is going to be on page 2. Actually,
10 before we do that, I need to plug in the audio, Judge, so we
11 can hear.

12 (Audio played.)

13 BY MS. JIMENEZ:

14 Q Okay. So do you recognize your voice there?

15 A Yes.

16 Q And do you recognize that as being part of the
17 statement tat you gave to police?

18 A I kind of don't remember.

19 Q Okay. Well, you recognize that as being your
20 voice on the --

21 A Yes.

22 Q -- recording, correct?

23 A Yes.

24 Q Okay. And you're talking about what happened at
25 the Seven Seas, correct?

1 A Yes.

2 Q Okay.

3 MS. JIMENEZ: So let's go on, for counsel, this is
4 going to be page 20 from the transcript, where you discuss the
5 knife again.

6 (Audio played.)

7 BY MS. JIMENEZ:

8 Q And you had further conversations with the
9 police about the knife, correct?

10 A Yes.

11 MS. JIMENEZ: And for counsel, this is going to be
12 pages 20 to 21.

13 (Audio played.)

14 BY MS. JIMENEZ:

15 Q So Hart Street borders the back side of the
16 Seven Seas, correct?

17 A Yes.

18 Q Okay. And so you're asked again, by the
19 detective, about the knife --

20 MS. JIMENEZ: -- and for counsel, this is going to be
21 pages 21 to 22.

22 (Audio played.)

23 MS. JIMENEZ: And then for counsel, this is going to
24 be pages 22 to 23.

25 (Audio played.)

1 my life. I've come down here and sat in that room for quite a
2 while, a couple, three times, but I've never been picked.

3 THE COURT: All right. Let's see what happens. Ms.
4 Jimenez?

5 MS. JIMENEZ: Thank you, Judge. By vote of the other
6 jurors, you're on. No, just kidding. Let me ask you a few
7 things. You mentioned earlier that you believe that you know
8 one of the witnesses that were named Louis Conner?

9 PROSPECTIVE JUROR NO. 563: Yes.

10 MS. JIMENEZ: Would that be in a social setting, a
11 business setting?

12 PROSPECTIVE JUROR NO. 563: I investigated a case 10
13 or — 10 years ago, or so, that led to criminal prosecution of
14 a councilman here in Las Vegas, and I believe, Mr. Conner, if
15 it's the same one, was a witness on his behalf.

16 MS. JIMENEZ: Okay. And do you know whether or not
17 — I mean, you're not sure, I guess, if it's the same person,
18 or not, correct?

19 PROSPECTIVE JUROR NO. 563: I am — I'm not, but I'm
20 kind of guessing it might be.

21 MS. JIMENEZ: Would you recognize him if you saw him
22 when he came in to testify?

23 PROSPECTIVE JUROR NO. 563: No.

24 MS. JIMENEZ: Okay. Let me ask you this. Is there
25 anything about that that would affect how you might consider

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1 his testimony in this case?

2 PROSPECTIVE JUROR NO. 563: No.

3 MS. JIMENEZ: So you think that you could judge his
4 testimony, based on what he says from the stand?

5 PROSPECTIVE JUROR NO. 563: Correct.

6 MS. JIMENEZ: Okay. And you wouldn't take into
7 account whatever other information you may have regarding that
8 case, in making a determination about what he has to say?

9 PROSPECTIVE JUROR NO. 563: No, I wouldn't.

10 MS. JIMENEZ: Okay. I know it's a little difficult,
11 I do want to touch, just briefly, on what you mentioned about
12 your brother. It's always difficult to have a family member
13 going through something like that, and I understand that. You
14 said that you didn't feel he was treated fairly, correct?

15 PROSPECTIVE JUROR NO. 563: He -- I don't think he
16 was treated fairly by the School Board --

17 MS. JIMENEZ: Okay.

18 PROSPECTIVE JUROR NO. 563: -- more so, but, you
19 know, I can't -- I can't address the criminal charges. I
20 mean, it is what it is, and -- but I stood in 100 percent
21 support of him.

22 MS. JIMENEZ: Sure. And when it's family, that's
23 certainly understandable.

24 PROSPECTIVE JUROR NO. 563: Sure.

25 MS. JIMENEZ: You said that you would not hold that

1 experience against the police, for example, in this case?

2 PROSPECTIVE JUROR NO. 563: No, I wouldn't.

3 MS. JIMENEZ: Okay. Would you hold it against us as
4 the -- as the State of Nevada, in this case?

5 PROSPECTIVE JUROR NO. 563: No, not at all.

6 MS. JIMENEZ: You've heard about -- and probably from
7 your law enforcement related job, you understand, of course,
8 that the State has the burden of proving the case beyond a
9 reasonable doubt?

10 PROSPECTIVE JUROR NO. 563: Correct.

11 MS. JIMENEZ: And do you feel that you would hold us
12 to that burden?

13 PROSPECTIVE JUROR NO. 563: I would hold you to
14 that.

15 MS. JIMENEZ: Okay. Do you think you would hold us
16 to something higher than that burden?

17 PROSPECTIVE JUROR NO. 563: No.

18 MS. JIMENEZ: Do you feel that you could be fair to
19 the State in this case?

20 PROSPECTIVE JUROR NO. 563: Yes, I could.

21 MS. JIMENEZ: And do you feel that you could be fair
22 to the defendant in this case?

23 PROSPECTIVE JUROR NO. 563: Yes, I could.

24 MS. JIMENEZ: And do you feel that you could hear the
25 evidence, and make some decisions in this case about what

1 happened, and how the law applies to those?

2 PROSPECTIVE JUROR NO. 563: Yes.

3 MS. JIMENEZ: Thank you very much. I appreciate your
4 time. Pass for cause.

5 THE COURT: Gill?

6 MR. GILL: With your employment, you wouldn't get
7 free golf as a benefit? I mean, you -- you said minimum wage.

8 PROSPECTIVE JUROR NO. 563: No, free golf goes along
9 with it, which is where I would be at right now, but this is
10 more important.

11 MR. GILL: Just one question, and I hate to keep
12 harping on it and on your brother and that situation, but you
13 mentioned the School Board. Was there anything else, the
14 defense attorney, anybody else you felt didn't treat him
15 fairly, or forced him into a plea, or anything? Was there
16 anything like that that -- in that situation?

17 PROSPECTIVE JUROR NO. 563: No, it was a smoking
18 deal he got, so I -- he had a great defense attorney, so no.

19 MR. GILL: Pass for cause, Judge.

20 THE COURT: All right. The State could exercise its
21 third preemptory challenge, if it sees fit?

22 MS. JIMENEZ: Thank you, Judge. At this time the
23 State would like to thank and excuse, Juror No. 513, Ms.
24 Nothaker, I believe it is.

25 THE COURT: All right. Please, report back to the

1 jury commissioner. Clerk, call another prospective juror.

2 THE CLERK: Amanda Gentile, Badge No. 566.

3 THE COURT: Amanda? How long you been -- how long
4 you been in Las Vegas?

5 PROSPECTIVE JUROR NO. 566: I was born here. So 21
6 years.

7 THE COURT: Okay. What do you got in that suitcase?

8 PROSPECTIVE JUROR NO. 566: A violin.

9 THE COURT: A violin?

10 PROSPECTIVE JUROR NO. 566: Yes.

11 THE COURT: All right. What do you do for a living?

12 PROSPECTIVE JUROR NO. 566: I go to school full
13 time, and I work part time.

14 THE COURT: Are you all right sitting here for a
15 couple days, or you miss school?

16 PROSPECTIVE JUROR NO. 566: Well, school just
17 started like yesterday.

18 THE COURT: What does that mean? Are you all right
19 sitting here, or not? You can tell me.

20 PROSPECTIVE JUROR NO. 566: If, you know, I could be
21 excused for school, that would be.

22 THE COURT: What school do you go to?

23 PROSPECTIVE JUROR NO. 566: UNLV.

24 THE COURT: All right. Any objection?

25 MS. JIMENEZ: No, Judge.

1 THE COURT: All right. Go ahead, take your violin,
2 and get out of here. Clerk, call another prospective juror.
3 THE CLERK: Ilene Pendleton, Badge No. 598.
4 THE COURT: Ms. Pendleton, how long you been in Las
5 Vegas?
6 PROSPECTIVE JUROR NO. 598: Over 50 years.
7 THE COURT: Oh, I lost her. What do you do for a
8 living?
9 PROSPECTIVE JUROR NO. 598: I'm retired.
10 THE COURT: What did you do when you worked?
11 PROSPECTIVE JUROR NO. 598: I had a business, a
12 yogurt business, and I sold real estate.
13 THE COURT: Are you married?
14 PROSPECTIVE JUROR NO. 598: I am.
15 THE COURT: Is your -- is your husband retired, also?
16 PROSPECTIVE JUROR NO. 598: He sells real estate,
17 but he is retired from the school district.
18 THE COURT: All right. Children?
19 PROSPECTIVE JUROR NO. 598: I have four.
20 THE COURT: What do they do for a living?
21 PROSPECTIVE JUROR NO. 498: One's a doctor, one's in
22 law enforcement, and two are stay at home mothers.
23 THE COURT: The one in law enforcement, is this in
24 town here, or?
25 PROSPECTIVE JUROR NO. 598: Yes.

1 THE COURT: What does he do in law enforcement?
2 PROSPECTIVE JUROR NO. 598: DPS.
3 THE COURT: What is that?
4 PROSPECTIVE JUROR NO. 598: Parole and Probation.
5 THE COURT: Oh, he works for the Department of Parole
6 and Probation?
7 PROSPECTIVE JUROR NO. 598: Mm-hmm.
8 THE COURT: All right. Have you ever been in the
9 military?
10 PROSPECTIVE JUROR NO. 598: No.
11 THE COURT: Are you acquainted with anybody in law
12 enforcement, other than, I guess, your son?
13 PROSPECTIVE JUROR NO. 598: Yes.
14 THE COURT: Who is it? Who else?
15 PROSPECTIVE JUROR NO. 598: Friends that are Judges
16 and in law enforcement.
17 THE COURT: We're not -- we're not law enforcement,
18 Judges.
19 PROSPECTIVE JUROR NO. 598: Well, I have other --
20 THE COURT: We're very impartial, that's why we wear
21 the black robe.
22 PROSPECTIVE JUROR NO. 598: You're impartial, yes.
23 THE COURT: No law enforcement. Listen, whoever you
24 know in law enforcement, you understand the follow-up
25 question, that you're not to give greater weight or lesser

1 weight to a police officer's testimony, simply because they're
2 a police officer. You give it the way you deem appropriate;
3 do you understand that?

4 PROSPECTIVE JUROR NO. 598: I understand.

5 THE COURT: Could you abide by that?

6 PROSPECTIVE JUROR NO. 598: Yes.

7 THE COURT: Have you or anyone closely associated
8 ever been a victim of a crime?

9 PROSPECTIVE JUROR NO. 598: Yes.

10 THE COURT: What was that?

11 PROSPECTIVE JUROR NO. 598: Burglary.

12 THE COURT: Somebody broke into your house --

13 PROSPECTIVE JUROR NO. 598: Yes.

14 THE COURT: -- or cars? When was that?

15 PROSPECTIVE JUROR NO. 598: Probably 25 years ago.

16 THE COURT: Did they catch the individual?

17 PROSPECTIVE JUROR NO. 598: I came while they were
18 there.

19 THE COURT: And they ran or something?

20 PROSPECTIVE JUROR NO. 598: They left, yes.

21 THE COURT: Good. Did they catch -- did the poli --
22 you reported it to the police?

23 PROSPECTIVE JUROR NO. 598: Yes.

24 THE COURT: And did they have -- apprehend them?

25 PROSPECTIVE JUROR NO. 598: Yes.

1 THE COURT: All right. And it was a -- so were you a
2 witness in the trial, or?

3 PROSPECTIVE JUROR NO. 598: There was a plea
4 agreement.

5 THE COURT: Okay. All right. Well, that was 25
6 years ago. I'm sure that's not going to affect your
7 deliberation in this case, is it?

8 PROSPECTIVE JUROR NO. 598: No.

9 THE COURT: Have you or anyone closely associated
10 with you ever been arrested for a crime?

11 PROSPECTIVE JUROR NO. 598: No.

12 THE COURT: You ever served on a jury before?

13 PROSPECTIVE JUROR NO. 598: No.

14 THE COURT: Could you be fair in this case, if you're
15 selected as a juror?

16 PROSPECTIVE JUROR NO. 598: Yes.

17 THE COURT: All right. Thank you. Questions? Pass
18 for cause?

19 MR. THUNELL: Ms. Pendleton, I guess, just kind of
20 conversely, with the son that works in law enforcement, and
21 Parole and Probation, is there anything about your friends
22 that are in law enforcement, or son being in law enforcement,
23 anything along those lines that you think would sway you
24 against law enforcement? Something that would make you, kind
25 of, see police officers, or anything like that in a negative

1 light?

2 PROSPECTIVE JUROR NO. 598: No.

3 MR. THUNELL: And would you be able to just take the
4 testimony for what it is, and just weigh it out on that?

5 PROSPECTIVE JUROR NO. 598: Yes, I would hope so.

6 MR. THUNELL: Would you give any special -- special
7 treatment to any certain witnesses, if they were law
8 enforcement, or anything along those lines?

9 PROSPECTIVE JUROR NO. 598: I would try not to.

10 MR. THUNELL: And would you be able to just take the
11 information, and -- that's given to you -- and make a judgment
12 on the evidence that's given to you?

13 PROSPECTIVE JUROR NO. 598: I would try to do that,
14 yes.

15 MR. THUNELL: Now, as far as from the State's
16 perspective, if the State proves beyond a reasonable doubt,
17 the case, would you be able to come back with a guilty
18 verdict?

19 PROSPECTIVE JUROR NO. 598: Yes.

20 MR. THUNELL: We'll go ahead and pass for cause, Your
21 Honor.

22 THE COURT: Mr. Gill?

23 MR. GILL: Ms. Pendleton, you said you'd try to put
24 aside, you know, your -- your relationships and your feelings
25 with -- with law enforcement, and not hold that against my

1 defendant?

2 PROSPECTIVE JUROR NO. 598: Yes.

3 MR. GILL: Is that the best you can do, is, try to?

4 PROSPECTIVE JUROR NO. 598: If I -- honestly, I
5 would say, yes.

6 MR. GILL: Judge, I -- I'll move for cause.

7 THE COURT: Well, I don't understand that. Tell me
8 what's the problem? So you -- you -- you got a job to do, if
9 you're picked as a juror. You listen to the evidence.

10 PROSPECTIVE JUROR NO. 598: That's correct. I would
11 do that.

12 THE COURT: You would -- are you -- you follow my
13 instructions, you apply the evidence to the law, you go in and
14 deliberate, you come with a decision, if you can. That's --

15 PROSPECTIVE JUROR NO. 598: Yes.

16 THE COURT: -- what your job is. Could you do that
17 job?

18 PROSPECTIVE JUROR NO. 598: Yes, I would try to do
19 that to the best of my ability.

20 THE COURT: That -- that -- that word again, try, I
21 -- you either could or you couldn't? I -- that's what I feel.
22 You either --

23 PROSPECTIVE JUROR NO. 598: I have feelings when I
24 see the way law enforcement is treated sometimes, and I would
25 try to be, you know, fair to, you know, whatever evidence was

1 presented, yes.

2 THE COURT: You had feelings how law enforcement is
3 treated?

4 PROSPECTIVE JUROR NO. 598: I think sometimes the
5 media does not present law enforcement in a very good light.

6 THE COURT: That might be true, and it all might be
7 true, but it has nothing to do with this case.

8 PROSPECTIVE JUROR NO. 598: That's true.

9 THE COURT: Okay. So you could -- you could be fair
10 to the State and the defense in this case?

11 PROSPECTIVE JUROR NO. 598: Yes.

12 THE COURT: I -- everybody has different feelings,
13 the -- the Republicans are not fair, congress is not fair, the
14 media is not fair, the lame stream media, but that's fine.
15 Everybody has a right to their opinion, but that shouldn't
16 have anything to do with this case. Does it?

17 PROSPECTIVE JUROR NO. 598: No.

18 THE COURT: Okay. So, I mean, we all respect law
19 enforcement, and we're certainly not going to disparage law
20 enforcement in this case. I'm not, I mean, I -- but again, I
21 would ask you, could you be fair in this case?

22 PROSPECTIVE JUROR NO. 598: Yes, I believe, yeah.

23 THE COURT: Well, Mr. Gill, you have another
24 question?

25 MR. GILL: Judge, I would just -- I would just move

1 again, on behalf -- I mean, this case is heavily involved with
2 law enforcement, there's going to be quite a few officers in
3 here. I would just move once again, for cause.

4 THE COURT: Ms. Jimenez?

5 MS. JIMENEZ: Judge, may I ask a few questions --

6 THE COURT: Sure. Sure.

7 MS. JIMENEZ: -- just briefly. I wanted to ask you,
8 Ms. Pendleton, when we talk about a law enforcement person as
9 a witness, and whether or not you'd give them greater or less
10 weight, I guess what we're getting at is, if a particular
11 witness testifies, you might take into account, for example,
12 their demeanor, or how they're acting on the stand. Would you
13 agree with me about that?

14 PROSPECTIVE JUROR NO. 598: Sure.

15 MS. JIMENEZ: And would you agree with me that you
16 would take into account maybe, if they're a witness, where
17 they were standing, how close they were able to observe what
18 was going on, you know, what kind of lighting was there,
19 correct?

20 PROSPECTIVE JUROR NO. 598: Yes.

21 MS. JIMENEZ: And if it was, you know, for example, a
22 police officer, you would take those same things into
23 consideration, correct?

24 PROSPECTIVE JUROR NO. 598: Yes.

25 MS. JIMENEZ: How they acted on the stand. Maybe if

1 they're testifying about something they saw. Their ability to
2 have seen it. How close or far away they are. Things of that
3 nature?

4 PROSPECTIVE JUROR NO. 598: Right.

5 MS. JIMENEZ: And so, I guess what we're asking you
6 is, you would take into account -- the same type of things
7 that you would take into account for any witness that might
8 testify in the case?

9 PROSPECTIVE JUROR NO. 598: Yes.

10 MS. JIMENEZ: And so do you feel that that's
11 something you can do in this case, you would listen and see
12 what they have to say, and make a determination based on the
13 facts, their ability to perceive things, or how they present
14 their testimony?

15 PROSPECTIVE JUROR NO. 598: Yes.

16 MS. JIMENEZ: And you'd do that for every witness?

17 PROSPECTIVE JUROR NO. 598: Yes.

18 MS. JIMENEZ: Okay. Thank you. Judge, I --

19 THE COURT: Anything else, Mr. Gill?

20 MR. GILL: Would you be more or less likely to
21 believe a police officer's testimony? More or less or -- or
22 the same?

23 PROSPECTIVE JUROR NO. 598: I possible would be more
24 likely to believe a police officer because of training.

25 MR. GILL: Okay.

1 THE COURT: Because of what? I didn't hear.

2 MR. GILL: Training, Judge, and -- and I -- my
3 objection stands.

4 THE COURT: Anything else?

5 MS. JIMENEZ: Judge, I don't think that's an
6 inappropriate thing to take into consideration.

7 THE COURT: Given the totality of the circumstances,
8 she's just -- I don't know what this with law enforcement, the
9 disparity, I have no idea what that means, but I want to be
10 fair to the defense, as well as the State. So as a
11 precautionary thing, although it's late, and I want to get
12 this jury in, we're not having a good time at this here,
13 you'll go -- you'll go on a civil trial, right? Report to the
14 jury commissioner.

15 Clerk, call another prospective juror.

16 THE CLERK: Clint Small.

17 THE COURT: Ed Small.

18 THE CLERK: Badge No. 602.

19 THE COURT: How long you been in this area, sir?

20 PROSPECTIVE JUROR NO. 602: I was born here.

21 THE COURT: And what do you do for a living?

22 PROSPECTIVE JUROR NO. 602: I work for an air
23 conditioning company?

24 THE COURT: All right. Are you married?

25 PROSPECTIVE JUROR NO. 602: Divorced.

1 THE COURT: Children?
2 PROSPECTIVE JUROR NO. 602: One daughter.
3 THE COURT: Young, young daughter?
4 PROSPECTIVE JUROR NO. 602: She's in school.
5 THE COURT: Yeah. Have you ever been in the
6 military?
7 PROSPECTIVE JUROR NO. 602: No, I haven't.
8 THE COURT: Are you acquainted with anybody in law
9 enforcement?
10 PROSPECTIVE JUROR NO. 602: No, I'm not.
11 THE COURT: Have you or anyone closely associated
12 with you ever been a victim of a crime?
13 PROSPECTIVE JUROR NO. 602: No.
14 THE COURT: Or arrested for a crime?
15 PROSPECTIVE JUROR NO. 602: No.
16 THE COURT: You ever serve on a jury?
17 PROSPECTIVE JUROR NO. 602: No, I haven't.
18 THE COURT: If picked as a juror, will you follow my
19 instructions?
20 PROSPECTIVE JUROR NO. 602: Most definitely.
21 THE COURT: And you can be fair in this case?
22 PROSPECTIVE JUROR NO. 602: For sure.
23 THE COURT: Thank you. Questions? Pass for cause?
24 MS. JIMENEZ: Thank you, Judge. Sir, you had
25 mentioned previously that you thought you might know one of

1 the witnesses in the case, Stacy Monroe?

2 PROSPECTIVE JUROR NO. 602: Yes, ma'am.

3 MS. JIMENEZ: And that's -- could be a fairly common
4 name, so I just want to kind of get an idea, maybe if it's the
5 same person. Is the Stacy Monroe you think -- you're thinking
6 of a male, or a --

7 PROSPECTIVE JUROR NO. 602: Yes.

8 MS. JIMENEZ: Okay. It is a male. Okay. And do you
9 know what -- is he someone that you're still in contact with,
10 or you just knew kind of back in the --

11 PROSPECTIVE JUROR NO. 602: We went to high school
12 together. He was a year ahead of me. I doubt he'd even
13 remember my name. He was a pretty prominent football star at
14 Western High School, and a acquaintance, at best. I haven't
15 seen him in over 20 years.

16 MS. JIMENEZ: Okay. Is there anything about the fact
17 that you -- he was someone that you knew in high school that
18 would affect your ability to listen to his testimony in this
19 case?

20 PROSPECTIVE JUROR NO. 602: Not at all.

21 MS. JIMENEZ: And would you take his testimony, you
22 know, for what it's -- what it's worth, the same way you would
23 take any other witness, how, you know, his ability to
24 perceive, how he acts on the stand, things of that nature?

25 PROSPECTIVE JUROR NO. 602: Absolutely.

1 MS. JIMENEZ: And nothing about your prior history of
2 him that wouldn't affect whatever determination you make about
3 what weight or value you're going to give to his testimony?

4 PROSPECTIVE JUROR NO. 602: No, like I said, he
5 probably wouldn't even remember my name. I haven't seen him
6 in two decades. It would make no difference whatsoever.

7 MS. JIMENEZ: Okay. Thanks. I appreciate that. You
8 said that -- or actually, let me ask you this. If you were in
9 our shoes, is there anything that you would want to know about
10 yourself that might affect your ability to be a fair juror
11 here?

12 PROSPECTIVE JUROR NO. 602: No, I don't believe so.

13 MS. JIMENEZ: Okay. And same for the defense?

14 PROSPECTIVE JUROR NO. 602: That's correct.

15 MS. JIMENEZ: Okay. And you think you could be fair
16 to both sides?

17 PROSPECTIVE JUROR NO. 602: For sure.

18 MS. JIMENEZ: Okay. Thank you so much. We'll pass
19 for cause.

20 THE COURT: Mr. Gill?

21 MR. GILL: Pass for cause.

22 THE COURT: Thank you. What is it the defense third,
23 is the —

24 MS. JIMENEZ: It is, Judge.

25 MR. GILL: It is the defense third. If you'll give

1 me one brief second.

2 THE COURT: Sure.

3 MR. GILL: Judge, we'll waive our third.

4 THE COURT: Thank you, Mr. Gill. The State's fourth
5 and final peremptory challenge.

6 MS. JIMENEZ: Judge, we'll waive.

7 THE COURT: Thank you, Ms. Jimenez. The defense
8 fourth and final?

9 MR. GILL: One quick second.

10 THE COURT: Sure.

11 MR. GILL: Judge, the defense would like to thank and
12 excuse Juror 527, Elizabeth Strother.

13 THE COURT: All right. Elizabeth, report back to the
14 jury commissioner.

15 Clerk, call another prospective juror.

16 THE CLERK: Linda Bitters, Badge No. 604.

17 THE COURT: Linda, take that same seat. How long you
18 been in this area?

19 PROSPECTIVE JUROR NO. 604: 26 years.

20 THE COURT: And what do you do for a living?

21 PROSPECTIVE JUROR NO. 604: I'm accounts payable
22 manager.

23 THE COURT: Are you married?

24 PROSPECTIVE JUROR NO. 604: Yes.

25 THE COURT: What does your husband do?

1 PROSPECTIVE JUROR NO. 604: He's unemployed.
2 THE COURT: Children?
3 PROSPECTIVE JUROR NO. 604: Two, married.
4 THE COURT: They don't — they don't work?
5 PROSPECTIVE JUROR NO. 604: One works for a printing
6 company, and the other one is unemployed.
7 THE COURT: Have you ever been in the military?
8 PROSPECTIVE JUROR NO. 604: No.
9 THE COURT: Are you acquainted with anybody in law
10 enforcement?
11 PROSPECTIVE JUROR NO. 604: No.
12 THE COURT: You or anyone closely associated with you
13 ever been a victim of a crime?
14 PROSPECTIVE JUROR NO. 604: Burglary, 27 years ago.
15 THE COURT: Again, that's not going to affect your
16 deliberation?
17 PROSPECTIVE JUROR NO. 604: No.
18 THE COURT: Have you or anyone closely associated
19 with you ever been arrested for a crime?
20 PROSPECTIVE JUROR NO. 604: No.
21 THE COURT: You ever served on a jury before?
22 PROSPECTIVE JUROR NO. 604: Nope, never made it this
23 far.
24 THE COURT: Could you be fair in this case?
25 PROSPECTIVE JUROR NO. 604: Yes.

1 THE COURT: Questions? Pass for cause?

2 MR. THUNELL: Just quickly, Your Honor. Thank you.

3 Ms. Bitters, is there anything about yourself that you think
4 would cloud your judgment either for one side or the other for
5 the State or for the defense?

6 PROSPECTIVE JUROR NO. 604: No.

7 MR. THUNELL: Do you think that you'd be able to sit
8 here for a few days, receive the testimony in evidence that's
9 given to you, and weigh it out?

10 PROSPECTIVE JUROR NO. 604: Yes.

11 MR. THUNELL: And looking at that, if the State
12 proved beyond a reasonable doubt, the case, would you feel
13 comfortable coming back with a guilty verdict?

14 PROSPECTIVE JUROR NO. 604: If you proved your case,
15 yes.

16 MR. THUNELL: And obviously, that — that is the
17 thing, but if we did prove our case, is there anything that
18 would impede you with coming back with a guilty verdict?

19 PROSPECTIVE JUROR NO. 604: No.

20 MR. THUNELL: Okay. We'll go ahead and pass for
21 cause.

22 THE COURT: Mr. Gill?

23 MR. GILL: Pass for cause.

24 THE COURT: All right. We're going to have one,
25 perhaps, alternate juror. So we'll pick an alternate juror,

1 Ms. Clerk.

2 THE CLERK: [Indiscernible]?

3 THE COURT: Yes.

4 THE CLERK: Okay. Polaris Delrosario, Badge No. 607.

5 THE COURT: All right. Have that seat up there, all
6 right. How long you been in this area?

7 PROSPECTIVE JUROR NO. 607: About eight years.

8 THE COURT: What do you do for a living?

9 PROSPECTIVE JUROR NO. 607: I used to be an
10 electrostatic load speaker engineer.

11 THE COURT: All right. You're unemployed, now?

12 PROSPECTIVE JUROR NO. 607: Currently, yes.

13 THE COURT: Apparently?

14 PROSPECTIVE JUROR NO. 607: Yeah, right now I'm
15 unemployed. I'm -- I stay home, and I watch my youngest baby,
16 and my seven year old has recently gone to school, so, yeah,
17 that's kind of --

18 THE COURT: Is there a point to this story you're
19 telling me?

20 PROSPECTIVE JUROR NO. 607: Oh, no, no. No, no.

21 THE COURT: What, you want to be excused or
22 something? Is that why you --

23 PROSPECTIVE JUROR NO. 607: If I may ask to be -- I
24 mean, I don't want to be, but the circumstance, I don't have
25 anyone to pick my kids up from school, and a younger kid, I --

1 I'm a full-time father at home, right now.

2 THE COURT: You know, I'm worn out, I'm worn out.

3 PROSPECTIVE JUROR NO. 607: Oh, I understand, sir.

4 THE COURT: I'm getting old. I'm worn out. Any
5 objection if we excuse him?

6 MS. JIMENEZ: No, Judge.

7 MR. GILL: No.

8 THE COURT: Any objection? Go ahead.

9 PROSPECTIVE JUROR NO. 607: Oh, I really appreciate
10 it.

11 THE COURT: Go ahead. Clerk, call another
12 prospective juror.

13 THE CLERK: Philip Bradt, Badge No. 611.

14 THE COURT: Are you all right, Philip?

15 PROSPECTIVE JUROR NO. 611: I'm in pretty good
16 shape.

17 THE COURT: Great. Good. How long you been in Las
18 Vegas?

19 PROSPECTIVE JUROR NO. 611: Thirty some years.

20 THE COURT: What do you do for a living?

21 PROSPECTIVE JUROR NO. 611: I'm showroom captain
22 over at the Plaza Hotel right down the street?

23 THE COURT: All right. You're able to sit here for a
24 while, a couple days?

25 PROSPECTIVE JUROR NO. 611: Yeah, I don't see why

1 not.
2 THE COURT: All right. And you married?
3 PROSPECTIVE JUROR NO. 611: Yeah.
4 THE COURT: What's your wife do?
5 PROSPECTIVE JUROR NO. 611: She's unemployed right
6 now. She was a waitress.
7 THE COURT: Children?
8 PROSPECTIVE JUROR NO. 611: A step son.
9 THE COURT: And what does he do?
10 PROSPECTIVE JUROR NO. 611: Restaurant business.
11 THE COURT: You ever been in the military?
12 PROSPECTIVE JUROR NO. 611: No.
13 THE COURT: You acquainted with anybody in law
14 enforcement?
15 PROSPECTIVE JUROR NO. 611: No.
16 THE COURT: You or anyone closely associated with you
17 ever been a victim of a crime?
18 PROSPECTIVE JUROR NO. 611: No.
19 THE COURT: Arrested for a crime?
20 PROSPECTIVE JUROR NO. 611: Yeah.
21 THE COURT: Who was that?
22 PROSPECTIVE JUROR NO. 611: I'm sorry?
23 THE COURT: Who was that that was arrested for a
24 crime?
25 PROSPECTIVE JUROR NO. 611: Myself.

UNCERTIFIED ROUGH DRAFT

1 THE COURT: How long ago?

2 PROSPECTIVE JUROR NO. 611: 40 years ago.

3 THE COURT: What was it? DUI or something?

4 PROSPECTIVE JUROR NO. 611: No, no, it wasn't in
5 this country.

6 THE COURT: Some other country you was at?

7 PROSPECTIVE JUROR NO. 611: Yeah, I was in -- it was
8 when I was -- one was in Kenya and the other one was in
9 Mexico.

10 THE COURT: What were you arrested for in Kenya?

11 PROSPECTIVE JUROR NO. 611: In Kenya, we were in the
12 wrong spot at the wrong time, we were just -- we were just
13 held for like a couple weeks because we were --

14 THE COURT: What was the alleged charge?

15 PROSPECTIVE JUROR NO. 611: We were like -- for
16 mercenaries.

17 THE COURT: Okay. And what about -- what was the
18 other one?

19 PROSPECTIVE JUROR NO. 611: In Mexico City, I got my
20 car stolen right in front of -- I got a car stolen -- my
21 friend and I got a car stolen, and they hold you down there,
22 and they arrest you down there until you come up for the cash
23 for the car.

24 THE COURT: All right. But never convicted of
25 anything?

1 PROSPECTIVE JUROR NO. 611: Yeah, no.

2 THE COURT: All right. All right. You ever serve on
3 a jury before?

4 PROSPECTIVE JUROR NO. 611: No.

5 THE COURT: You'd be fair in this case?

6 PROSPECTIVE JUROR NO. 611: Yeah.

7 THE COURT: Thank you. Questions? Pass for cause?

8 MS. JIMENEZ: Just briefly. I think this is a first
9 for me. You had some charges, or -- or some arrests, I guess,
10 in some other countries, correct?

11 PROSPECTIVE JUROR NO. 611: Yeah.

12 MS. JIMENEZ: Given that they have different law
13 enforcement processes, different judicial systems, is that
14 anything that you'd hold against police officers that might
15 testify?

16 PROSPECTIVE JUROR NO. 611: No, I -- I love this
17 country.

18 MS. JIMENEZ: Okay. Anything you would hold against
19 the State?

20 PROSPECTIVE JUROR NO. 611: No.

21 MS. JIMENEZ: Anything you'd hold against the
22 defendant?

23 PROSPECTIVE JUROR NO. 611: No.

24 MS. JIMENEZ: Okay. You said that you love this
25 country. Do you believe that we have a fair justice system?

1 PROSPECTIVE JUROR NO. 611: Yeah, we got the best --
2 the best in the world. When you go into other countries, you
3 come home, you have the right to a lawyer, which you don't
4 have in many other countries, so you have somebody that
5 protects you, and -- so that's how I feel about it.

6 MS. JIMENEZ: Okay. Would you agree that the justice
7 system is for -- for everybody, whatever their background or
8 their history might be?

9 PROSPECTIVE JUROR NO. 611: Yeah, that's what it's
10 supposed to be, yeah.

11 MS. JIMENEZ: Okay. And do you feel that, in this
12 case, if the State proved its case beyond a reasonable doubt,
13 that you could return a verdict of guilty?

14 PROSPECTIVE JUROR NO. 611: Yeah.

15 MS. JIMENEZ: And the same, if the State didn't
16 return -- prove its case beyond a reasonable doubt, that you
17 could return a verdict of not guilty?

18 PROSPECTIVE JUROR NO. 611: Yes.

19 MS. JIMENEZ: Okay. So you could make your decision
20 based on the evidence here, make some maybe difficult
21 decisions about what happened and how the law applies?

22 PROSPECTIVE JUROR NO. 611: Yes.

23 MS. JIMENEZ: Okay. Thank you very much. We'll pass
24 for cause.

25 THE COURT: Mr. Gill?

1 MR. GILL: Pass, Your Honor.
2 THE COURT: All right. Any perempt?
3 MS. JIMENEZ: No, Judge. We'll waive.
4 MR. GILL: We get one last one, correct, Your Honor?
5 THE COURT: Yeah, you do. That's why I'm asking you.
6 MR. GILL: Just --
7 MS. JIMENEZ: Well, it's -- Judge?
8 THE COURT: I'm sorry. What?
9 MR. GILL: No, Judge.
10 THE COURT: Do you waive any perempt?
11 MS. JIMENEZ: Can -- can we approach? I'm -- think
12 we're just a little confused about the last --
13 THE COURT: Well, I'm just talking about the
14 alternate juror.
15 MR. THUNELL: Oh, I'm sorry.
16 MR. GILL: That's --
17 MS. JIMENEZ: That's what --
18 THE COURT: Yeah, that's all I'm talking about.
19 MR. GILL: -- no, Your Honor.
20 MS. JIMENEZ: -- that's what the question was.
21 THE COURT: We're done with the regular jury. This
22 is just a -- a peremptory challenge on the alternate juror.
23 MR. GILL: Waive.
24 THE COURT: And you waive that?
25 MR. GILL: Absolutely.

1 THE COURT: All right. Thank you, Mr. Gill. We got
2 that straightened out. All right. Thank you. Appreciate it.

3 Well, that completes the selection of the jury. We
4 all set then? Everybody all right? The rest of the jury,
5 please, report back to the jury commissioner. Thank you so
6 much.

7 (Prospective jury panel released at 4:07 p.m.)

8 THE COURT: I'd like the clerk to swear the jury to
9 try the case. Please, everybody stand up, raise your right
10 hand to be sworn.

11 THE CLERK: You and --

12 THE COURT: Just a minute.

13 (Clerk swears in jury panel.)

14 THE COURT: Thank you. Please be seated. I got to
15 say -- I'd like to say a few words to you, as jurors,
16 regarding your job here, ladies and gentlemen.

17 You're admonished that no juror may declare to a
18 fellow juror any fact relating to this case as of his own
19 knowledge, and if any juror discovers during the trial, or
20 after the jury has retired that he or any other juror has
21 personal knowledge of any fact in controversy in this case,
22 please disclose the situation to me in the absence of the
23 other jurors.

24 This admonition means that if you learn during the
25 course of the trial that you are acquainted with the facts of

1 this case, or witnesses, and you have not previously told me
2 this relationship, you must disclose that fact to me, and you
3 communicate to the Court by way of our marshal.

4 I'd like to say -- say a few words about your
5 conduct as jurors. First, don't talk to each other about the
6 case, or about anyone who has anything to do with it, until
7 the end of the case, when you go to the jury room to decide on
8 your verdict. Do not talk to anyone else about this case, or
9 about anyone who has anything to do with it until the trial
10 has ended, and you have been discharged as jurors.

11 Anyone else includes members of your family and
12 friends. You may tell them that you are a juror, but don't
13 tell them anything about the case until after you have been
14 discharged by me.

15 Don't let anybody talk to you about the case, or
16 about anyone who has anything to do with it. If someone
17 should try to talk to you, report it immediately by way of our
18 marshal here.

19 And during the course of the trial attorneys for
20 both sides and all court personnel, other than our marshal,
21 are not permitted to converse with members of the the jury.
22 So these individuals are not being antisocial if they don't
23 say good morning or good afternoon to you. Don't take that as
24 an offense. They just -- they're bound by ethics, and the law
25 does not permit them to talk to you because that might

1 contaminate your verdict.

2 Don't read any news stories or articles, or listen
3 to any radio reports about the case, or about anything --
4 anyone who has anything to do with it. Don't do any research,
5 just such as consulting dictionaries, computers, Internet, or
6 other reference materials. And do not make any investigation
7 about the case on your own. You could individually take
8 notes, but don't let that distract you from what you hear on
9 the witness stand.

10 If you need to communicate with me, simply give a
11 signed note to our marshal, and he'll give it to me. Under
12 this fairly new rule, at times you'll be given opportunities
13 to ask written questions of any witness called to testify in
14 the case. You are not encouraged to ask excessive number of
15 case -- of questions because that is the primary
16 responsibility of counsel.

17 Questions may be asked only in the following manner.
18 After all the lawyers have finished questioning the witness,
19 and only at that time when the witness is on the witness stand
20 still, if there are -- if there's an additional question you
21 would like to -- like to ask a witness, you may seek
22 permission from me to ask a witness a written question.

23 Should you desire to ask a question, write your
24 question down with your juror number on a full sheet of paper,
25 raise your hand. All questions from jurors must be factual in

1 nature, and designed to clarify information already presented.

2 In addition, jurors must not place undue weight on
3 the responses to their questions. The marshal will pick up
4 your question and give it to me. All questions must be
5 directed to the witness, and not to the lawyers or myself.
6 After looking at the question, privately consulting with
7 counsel, I'll determine if the question is legally proper
8 under the Nevada laws of evidence.

9 If I determine your question may properly be asked,
10 I'll ask it. No adverse inference should be drawn if I do not
11 allow a particular question.

12 And finally, do not make up your mind about what the
13 verdict should be until after you have gone to the jury room
14 to decide this case, and you and your fellow jurors have
15 discussed the evidence, and keep an open mind until then.

16 I'm going to ask the clerk to read aloud the in --
17 the Information, and the plea that was made thereto, by the
18 defendant.

19 (Clerk reads the Information.)

20 THE COURT: Thank you, Ms. Clerk. That completes the
21 reading of the Information. And again, it's a mere charging
22 document. It's not evidence, but that's a charging document.

23 And, I guess at this time, ladies and gentlemen, I'm
24 going to thank you very much for your indulgence. What we're
25 going to do is I'm going to -- every -- before -- every

1 recess, I have to give you an admonishment, then what I'm
2 going to ask you to do is, you know, go about your business,
3 and come back tomorrow at 10:00 -- well, about 5 to 10. Be
4 out there, just be -- be out in the hallway. Don't come in
5 one at a time. The marshal will bring you all in at the same
6 time, when we're ready, and then we'll -- we'll hear brief
7 opening statements, and then get a -- get started on the
8 witnesses tomorrow. All right? We'll have a long day
9 tomorrow.

10 So I want to thank you very much. And during this
11 recess it is your duty not to converse among yourselves, or
12 with anyone else on any subject connected to the trial, or to
13 read, watch, or listen, to any report, or commentary on the
14 trial, by any person connected with the trial, or by any
15 medium of information, including without limitation,
16 newspapers, television, or radio, and you are not to form or
17 express any opinion on any subject connected with the trial
18 until the close is finally submitted to you.

19 I want to thank you very much, and be prompt
20 tomorrow, at about 5 minutes to 10. All right. Again, I'll
21 be working on a calendar. I'll try to get done quick. If I'm
22 a little delayed it's because I'm working. But big back, big
23 eye.

24 Thank you. We'll be at ease until the jury leaves.

25 (Jury recessed at 4:16 p.m.)

UNCERTIFIED ROUGH DRAFT

1 THE COURT: Could you do that outside, Mr. --
2 Marshal? I don't know what you're doing, and I'd like to --
3 there's a few things --
4 THE MARSHAL: Sure.
5 THE COURT: -- I have to get done. All right.
6 THE MARSHAL: Sure.
7 THE COURT: Just follow the marshal. He'll give you
8 any information you need.
9 All right. It's outside the presence of the jury.
10 I just -- my notes, I -- the last time we talked is that the
11 -- the statement, I think, a very good offer, 30 months
12 maximum, 12 months minimum, stipulated; is that correct?
13 MS. JIMENEZ: Yes, Judge.
14 MR. GILL: Yeah.
15 THE COURT: Stipulated, so I couldn't give him any
16 more -- well, I could, but it was stipulated?
17 MR. GILL: Correct.
18 MS. JIMENEZ: Yes.
19 THE COURT: And you mentioned something about
20 habitual, and he's worried about being a habitual that -- and
21 on any other ca -- or the case that the -- the jewelers --
22 MS. JIMENEZ: There's a robbery series, and we did
23 agree that we would agree, as part of this plea negotiation,
24 not to seek habitual treatment in the robbery case.
25 THE COURT: All right. So that was -- that offer was

1 on the table, and you did discuss that with your client; is
2 that right?

3 MR. GILL: I did, Your Honor.

4 THE COURT: And he just rejected that. Is that
5 correct, Mr. --

6 MR. GILL: Yes, he did.

7 THE DEFENDANT: Yes, sir.

8 THE COURT: All right. Well, that's your right. I
9 just want to put that on the record that he was offered that
10 tremendous deal.

11 All right. So that being said, there was an -- also
12 a calendar motion, the State -- you could sit down -- the
13 State's motion to admit prior testimony of Detective Mike
14 Fletcher, Darnella Lay, and Tamara Kasper. Is that my
15 understanding, it's moot now?

16 MS. JIMENEZ: That's correct, Judge. I believe that
17 --

18 THE COURT: At least at this point it's moot?

19 MS. JIMENEZ: That's correct, Judge. It is moot at
20 this point. We have service on both of those witnesses.

21 THE COURT: Well, so you got three -- you got three,
22 on three --

23 MS. JIMENEZ: I'm sorry, on three. I -- the
24 detective, as well. I was thinking lay witnesses, but, yes --

25 THE COURT: All right.

1 MS. JIMENEZ: -- we have service on all three
2 witnesses.

3 THE COURT: So I guess we consider right now that
4 it's moot, and if it comes up we'll handle another. So
5 that -- this Court --

6 MS. JIMENEZ: Thank you.

7 THE COURT: -- that it's moot, and it's off the
8 calendar.

9 MR. GILL: Thank you, Judge.

10 THE COURT: And it was -- so -- I real -- and then I
11 -- I realize there's a Michael Thomas, and he's a material
12 witness? He's on -- on calendar in front of me tomorrow --
13 now, you'll be present at that time?

14 MS. JIMENEZ: I will, Judge.

15 THE COURT: All right. And then you'll tell me what
16 you want to do on that?

17 MS. JIMENEZ: Correct.

18 THE COURT: And you could -- you're welcome to be
19 present too, it's a --

20 MR. GILL: I may, Judge, I --

21 THE COURT: Yeah, it's -- you don't have to because
22 it's a material witness, but --

23 MR. GILL: Un -- understood.

24 THE COURT: That -- then as far as -- there's a few
25 issues that we discussed about his moniker, Shay, what was it?

1 MS. JIMENEZ: His moniker is Shyce, Judge, that's --
2 THE COURT: Shi -- Shyce?
3 MS. JIMENEZ: It's S-H-Y-C-E.
4 THE COURT: Okay.
5 MS. JIMENEZ: And that is how all of the witnesses
6 know the defendant. That's how they describe him in the
7 police statements, and that's ultimately how the police are
8 able to identify the --
9 THE COURT: Yeah.
10 MS. JIMENEZ: -- defendant, is by --
11 THE COURT: You just want to be able --
12 MS. JIMENEZ: -- his moniker.
13 THE COURT: -- to use that expression, the moniker
14 --
15 MS. JIMENEZ: Correct.
16 THE COURT: -- when we go -- any objection?
17 MR. GILL: No objection, Judge, as long as it's not
18 conside -- called a gang moniker --
19 THE COURT: Right.
20 MR. GILL: -- or anything associated -- if it's
21 called a moniker, we're not going to dispute the fact that
22 it --
23 THE COURT: Huh?
24 MR. GILL: -- it is Shyce.
25 THE COURT: With that understanding, we -- tell your

1 witness we don't want to say that's his gang moniker. All
2 right. You know, just say that's his moniker, all right?

3 MS. JIMENEZ: I've already had that discussion --

4 THE COURT: Good.

5 MS. JIMENEZ: -- with the detective and patrol --

6 THE COURT: Good. So with --

7 MS. JIMENEZ: -- officer --

8 THE COURT: -- that understanding that will be

9 allowed, the monik -- the moniker --

10 MR. GILL: Thank you, Judge.

11 THE COURT: -- Shyce. Anything else to come before
12 the Court before we take a recess?

13 MS. JIMENEZ: Just briefly, Judge. There were a
14 couple of things that the witnesses mentioned in their
15 statements I just wanted to make a record about.

16 The first is, at least one of the witnesses, I
17 believe it's Tammy Kasper, mentions in her statement, when
18 she's telling the police who did the crime that it's Shyce,
19 it's the guy who was arrested a few months ago for the
20 robberies. She mentions the jewelers robbery, specifically.
21 That is one of the defendant's pending cases; however, the
22 State is not intending on bringing in that information.

23 I just wanted to make that record that that did
24 occur. We're not intending on bringing that in.

25 THE COURT: And you'll certainly tell Tamara Kasper

1 that -- don't even mention that, okay?

2 MS. JIMENEZ: I will tell her that. She's not
3 necessarily cooperative with the State, but I will give her
4 that admonishment. I don't believe that that's going to be an
5 issue.

6 THE COURT: Okay.

7 MS. JIMENEZ: But I will give her the admonishment.

8 Additi --

9 THE COURT: Wait. Wait, just a minute. That's --

10 MS. JIMENEZ: Oh, I'm sorry.

11 THE COURT: -- okay? That's -- that's
12 understandable.

13 MR. GILL: Yeah, as long as the admonishment is
14 given, Judge --

15 THE COURT: Okay.

16 MR. GILL: -- there's nothing more I can ask.

17 THE COURT: All right.

18 MS. JIMENEZ: There were two other things that I felt
19 were relevant in this case. One is, that in this case, as the
20 defense knows, and we've brought to the Court's attention,
21 that the witnesses -- most of the witnesses, or many of them,
22 including the victim, are afraid of testifying. They do not
23 want to come to court and participate in this case.

24 Although this is not a gang enhancement case, the
25 defendant is documented as a Gerson Park Kingsman, and he is

1 known, you know, to be a Gerson Park Kingsman in the
2 neighborhood. In fact, the color of GPK is green, and he even
3 drives green vehicles, for example.

4 Because the witnesses are not cooperative, I think
5 why they do not want to be here testifying is certainly
6 relating — reluct — relative to their bias in the case.

7 THE COURT: And what witness —

8 MS. JIMENEZ: I think —

9 THE COURT: — are you talking about, specifically?
10 All of them?

11 MS. JIMENEZ: What we're talking about most
12 specifically would be Darnella Lay, Michael Thomas, and Tammy
13 Kasper. Those would be the three witnesses, specifically.
14 Judge, I'm not intending on saying to them, well, are you
15 afraid to testify because the defendant's a gang member. I
16 don't think that would be appropriate. However, I do think
17 it's absolutely appropriate and relevant for me to ask them
18 about why they don't want to testify in court.

19 I think the fact that the particular neighborhood
20 that this occurred in, where they live, is a gang
21 neighborhood. I think that the fact that the defendant is a
22 gang member is all relevant. If the jury doesn't hear that
23 information, then they're kind of left with a different
24 assumption about why the witnesses aren't cooperative, and
25 that's going to be -- basically, the — the whole thing in

1 this case is for them to determine the victim and the
2 witnesses' credibility.

3 Those are the -- the three key witnesses in this
4 case. So their testimony is certainly important, and the fact
5 that they don't --

6 THE COURT: Is there a --

7 MS. JIMENEZ: -- want to be here -- I think that's
8 relevant.

9 THE COURT: Is there a Nevada case that says
10 something about it? I mean, you know, you throw this out at a
11 Judge, and, you know, I like motions in limine, and, you know,
12 your side of it briefed and everything. Is there a case in
13 Nevada that's that that happened before, and the fact that the
14 reluctant witness has stated -- the Supreme Court of the State
15 of Nevada said in a particular case, that's an exception?

16 MS. JIMENEZ: Well, Judge, there is a --

17 THE COURT: Is there? I just want to know.

18 MS. JIMENEZ: There's not a case, specifically, what
19 the Court said, but there are a few different things I would
20 argue for the legal proposition.

21 No. 1, is in Butler v. State, the Court did
22 recognize that even where a gang enhancement is not charged,
23 that gang evidence may be relative -- relevant and admissible,
24 including for -- I think in that particular case they
25 discussed motive, and that it was relevant to motive.

1 In this case, I'm suggesting that it is relevant to
2 the bias of the witnesses. And secondly, I would say to the
3 Court, that a witness's bias is always relevant when they
4 testify, and, you know, we're -- we're not trying to get in,
5 you know, every bad thing the defendant has done. We've
6 agreed and are not seeking to bring in, for example, the prior
7 robbery he was involve in.

8 And, you know, they may not, you know -- I -- I'm
9 not sure, exactly, what they're going to say because they
10 haven't, you know, they've said that they're afraid to
11 testify, but they haven't necessarily been cooperative with
12 the State, and so I think that that's -- that's relevant,
13 otherwise it gives the jury a different impression than what
14 the case is.

15 THE COURT: Well, I understand that, but that's why
16 you file -- we have this evidence, you know, of bad acts --
17 the bad acts is not to be, you know --

18 MR. GILL: Judge, if I can --

19 THE COURT: -- considered here because it's a bad
20 act. Being a gang member is a bad act, and they might -- the
21 jury might say he's guilty because he's a gang member, rather
22 than what they here on the -- well, I'm just concerned about
23 that. Usually, it's briefed.

24 Yes, Counsel?

25 MR. GILL: Judge, if I can respond. First of all, I

1 think it's irrelevant testimony. I do have a case that that
2 is on point. It's Evans v. State. The cite for that is 117
3 Nevada 609. In that case there's five witnesses that
4 testified. The first witness was directly threatened by the
5 defendant. The Court found that to be relevant because the
6 defendant, himself, made the threats. The other four, there
7 was all speculation that they were fearful because of the
8 neighborhood, or fearful because of other family members.
9 There was all this speculation in that case.

10 The Judge found every one of those to be irrel -- or
11 the Supreme Court found every one of those to be irrelevant.
12 So I think it's -- it's an attempt by the State to get this
13 gang stuff in through the back door and -- and -- through
14 witnesses.

15 THE COURT: And nobody was directly threatened; is
16 that correct? I don't know.

17 MS. JIMENEZ: Well, actually, the wit -- one, in
18 particular, witness was threatened. I don't know that it
19 was -- we have --

20 THE COURT: Evidence.

21 MS. JIMENEZ: -- evidence that the defendant has had
22 conversations with Tiffany Thomson [phonetic], also known as
23 Tia, where he talks about calling the witnesses in the case,
24 and then Darnella Lay has received several phone calls from
25 blocked numbers, where they have told her that if she comes to

1 court that she -- she's going to be killed, that they've told
2 her not to come to court and testify. These are numerous
3 phone calls that she received, mostly right after she
4 testified at preliminary hearing.

5 Tiffany Thomson, aka, Tia, was present at the
6 preliminary hearing, as were various other individuals present
7 for the defendant and in court when Darnella Lay testified.
8 And there's a lot of conversation about her testimony in the
9 phone calls, as well as one phone call where they mention --
10 you know, they don't say specifically who, but just the
11 defendant saying to her, you know, you got to call those
12 witnesses. I -- you know, what witnesses he's referring to,
13 he doesn't specifically name a name.

14 MR. GILL: Judge, they -- they're grasping. For them
15 to even attribute threats that -- that my client has made to
16 -- to kill somebody, it is absolutely in -- insane, at this
17 point.

18 THE COURT: Well, not --

19 MS. JIMENEZ: Well, Judge, to say that --

20 MR. GILL: I mean --

21 MS. JIMENEZ: -- I mean, the gang thing is one thing,
22 but to say that the jury can't hear that a witness has
23 received phone calls, threatening her --

24 THE COURT: No, I didn't say that.

25 MS. JIMENEZ: -- if she came to court --

1 THE COURT: I'm just -- I'm focusing on the gang
2 aspect. That's what I'm focusing on. Now, if --

3 MS. JIMENEZ: No, I understand.

4 THE COURT: -- if they're threatening, making a phone
5 call, that's relevant. I don't see anything --

6 MS. JIMENEZ: Okay. Thank you.

7 THE COURT: -- relevant -- not relevant on that. I
8 just don't want to say, because -- oh, he's a gang member,
9 he's got this -- this tough gang of -- for -- and I'm afraid
10 because he's a gang member.

11 That shows that he's committed -- or he's a bad
12 person of bad character, to prove his disposition, and that's
13 not going to be here in this court.

14 You should have got a -- a motion in limine, but if
15 there are any phone calls made, rather than using the -- the
16 word, gang, that's relevant. That's -- that shows --

17 MS. JIMENEZ: Thank you, Judge.

18 THE COURT: -- so --

19 MS. JIMENEZ: I will admonish the --

20 THE COURT: -- you understand that, Mr. Gill?

21 MR. GILL: Even if those phone calls are not traced
22 back to my client?

23 THE COURT: Well, these ex -- your cross-examination
24 could handle that, right?

25 MR. GILL: Thank you.

1 THE COURT: So I'm going to allow that.
2 MS. JIMENEZ: And I will admonish the witnesses.
3 I've --
4 THE COURT: But don't say --
5 MS. JIMENEZ: -- already talked to the detectives and
6 patrol officers, and --
7 THE COURT: All right.
8 MS. JIMENEZ: -- I'll make sure the lay witnesses
9 know --
10 THE COURT: I just don't want to hear the word, gang.
11 It's not -- it's prejudicial to him. They might convict him
12 just because he's a gang member because a lot of people don't
13 like these gang members, and they'll just say, well, he's a
14 gang member, he must be guilty.
15 So you understand my ruling on that.
16 MR. GILL: Thank you, Your Honor.
17 MS. JIMENEZ: Yes.
18 THE COURT: All right. What else?
19 MS. JIMENEZ: Judge, also, the defense had filed an
20 expert witness notice. I had informed them that it was
21 untimely, that we would be objecting to those experts. It's
22 my understanding that they're not intending on calling them in
23 this case, but in case that changes down the road, I wanted to
24 make sure I --
25 THE COURT: All right.

1 MS. JIMENEZ: -- made a record about it upfront.
2 MR. GILL: Not calling any of them.
3 THE COURT: Okay.
4 MR. GILL: Don't plan on it.
5 THE COURT: All right. Then that's part of the
6 record. Then what else? Anything?
7 MR. GILL: Pimps, Judge --
8 MS. JIMENEZ: Oh, that's correct, Judge. There is
9 -- Tammy Kasper, in her statement, talks about the fact that
10 the defendant is a pimp, that his -- one of the women who
11 works for him, who is also his girlfriend, is Tiffany Thomson,
12 aka, Tia, and I think she has a -- Chartia Harris [phonetic],
13 is the other name she goes by.
14 She talks about the fact that the altercation that
15 occurs inside the bar that eventually leads to the stabbing,
16 which happens outside the bar, was related to business,
17 essentially, that the defendant was talking to another female
18 about business, that she tried to break them up because it
19 was, you know, she said, look, that's business, do that behind
20 closed doors.
21 And so, based on that, I think that is relevant to
22 the testimony in the case, as far as why the altercation took
23 place. I'll submit, based on that.
24 MR. GILL: And, Judge, I'd have the same objection,
25 based on relevancy and overly prejudicial.

1 THE COURT: Yeah, what --
2 MR. GILL: I mean, he --
3 THE COURT: That -- that --
4 MR. GILL: -- to say that --
5 THE COURT: -- that witness's opinion, he's a pimp, I
6 mean, that's -- again, that's evidence of other bad character.
7 I just -- they could talk about what the altercation is, and
8 girls and everything, but that word, pimp, is too prejudicial,
9 and I can't allow it, all right?
10 So that's my order. All right?
11 MR. GILL: Thank you, Judge.
12 MS. JIMENEZ: I will advise her of that. I may ask
13 the Court to reconsider, if she testifies it would be a
14 different circumstance, but I don't know that that's going to
15 happen so --
16 THE COURT: All right.
17 MS. JIMENEZ: -- if it comes up --
18 THE COURT: But that's my order --
19 MS. JIMENEZ: -- I'll bring it --
20 THE COURT: -- right now, and if anything happens,
21 you can bring it back up.
22 MS. JIMENEZ: I will.
23 MR. GILL: And fi --
24 MS. JIMENEZ: Thank you.
25 THE COURT: Anything else?

1 MR. GILL: Finally, Judge, the robbery. Ms. Kasper
2 -- did we -- did we deal with Ms. Kasper --
3 MS. JIMENEZ: I said already that we're not intending
4 --
5 THE COURT: Yeah, they're not going --
6 MS. JIMENEZ: -- on bringing that in.
7 THE COURT: -- to -- they said that, that's the first
8 --
9 MR. GILL: Thank you, Your Honor.
10 THE COURT: -- thing they said, Mr. Gill.
11 MR. GILL: Thank you, Your Honor.
12 THE COURT: Anything else?
13 MS. JIMENEZ: No.
14 THE COURT: Well, thank you so much. Thank you for
15 being professional on us picking a jury, and we'll see
16 everybody back -- I'll see you at 9, and -- but I'll see
17 everybody -- hopefully, this -- going to use this same
18 courtroom tomorrow?
19 THE CLERK: Yes.
20 THE COURT: Because it's available the whole day?
21 THE CLERK: Yes, sir, and I will --
22 THE COURT: Yeah, double check that it's available,
23 and I'll see everybody back here about -- hopefully, it's an
24 18, 19-page calendar, but I should run through it before
25 10:00, all right?

1 MR. GILL: Thank you, Your Honor.
2 MS. JIMENEZ: Thank you.
3 THE COURT: Thank you so much. Have a nice evening.
4 (Court recessed for the evening at 4:29 p.m.)
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1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2
3 **LAMAR HARRIS,**
 Appellant.

4 vs.
5 **THE STATE OF NEVADA**
 Respondent.

Supreme Court No.: 70679

District Court Case No.: C774370-1

Electronically Filed
Aug 19 2016 09:59 a.m.
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Clerk of Supreme Court

6
7 **APPELLANT'S APPENDIX – VOLUME II – PAGES 0250-0499**

8 **MATTHEW D. CARLING**
9 51 East 400 North, Bldg. #1
10 Cedar City, Utah 84720
11 (702) 419-7330 (Office)
 Attorney for Appellant

STEVEN B. WOLFSON
 Clark County District Attorney
 200 Lewis Avenue, 3rd Floor
 Las Vegas, Nevada 89155
 Counsel for Respondent

12 **ADAM PAUL LAXALT**
13 Attorney General
14 100 North Carson Street
15 Carson City, Nevada 89701-4717
16 Counsel for Respondent

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Harris, Lamar

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10	Reply to State's Response to Motion for Reconsideration of Denial of Petition for Writ of Habeas Corpus (Post-Conviction) filed on 10/12/15	0895-0898
11	Request for Rough Draft Transcript filed on 01/19/12	0189
12	Request for Rough draft Transcripts filed on 09/17/15	0875-0877
12	Request for Rough Draft Transcripts filed on 6/22/16	0920-0922
13	State's Response to Defendant's Motion for Reconsideration of Denial of Petition for Writ of Habeas Corpus (Post-Conviction) filed on 10/02/15	0888-0894
14	State's Response to Defendant's Petition for Writ of Habeas Corpus (Post-Conviction) and Motion for Appointment of Counsel and Request for Evidentiary Hearing filed on 05/08/15	0820-0829
16	State's Response to Defendant's Supplemental Petition for Writ of Habeas Corpus (Post-Conviction) filed on 08/12/15	0856-0864
17	Substitution of Attorney filed on 12/08/11	0182
18	Supplemental Notice of Expert Witnesses (NRS 174.234) filed on 08/15/11	0067-0068
19	Supplemental Petition for Writ of Habeas Corpus (Post-Conviction) filed on 07/27/15	0831-0855
20	Verdict filed on 09/02/11	0179
21	Warrant of Arrest filed on 08/26/11	0124
21	Warrant of Arrest filed on 08/29/11	0125-0127
22	Warrant of Arrest filed on 08/29/11	0218
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1 PROSPECTIVE JUROR NO. 523: Okay.

2 THE COURT: What is the family business, if I don't
3 mind --

4 PROSPECTIVE JUROR NO. 523: It was a restaurant.

5 THE COURT: Okay. All right. And now you moved out
6 here about a year and a half ago?

7 PROSPECTIVE JUROR NO. 523: Yes, sir.

8 THE COURT: And what do you do here, sir?

9 PROSPECTIVE JUROR NO. 523: I'm currently
10 unemployed.

11 THE COURT: All right. Are you married?

12 PROSPECTIVE JUROR NO. 523: No.

13 THE COURT: Children?

14 PROSPECTIVE JUROR NO. 523: No.

15 THE COURT: Have you ever been in the military?

16 PROSPECTIVE JUROR NO. 523: No, sir.

17 THE COURT: Are you acquainted with anybody in law
18 enforcement?

19 PROSPECTIVE JUROR NO. 523: No, sir.

20 THE COURT: Have you or anyone closely associated
21 with you have been the victim of a crime?

22 PROSPECTIVE JUROR NO. 523: No, sir.

23 THE COURT: Or arrested for a crime?

24 PROSPECTIVE JUROR NO. 523: Nope.

25 THE COURT: Have you ever served on a jury?

1 PROSPECTIVE JUROR NO. 523: No.
2 THE COURT: Will you follow my instructions of law?
3 PROSPECTIVE JUROR NO. 523: Yes, sir.
4 THE COURT: Listen, you'll listen to the facts of
5 this case, they're the -- the facts that come out on the
6 witness stand, under oath, you'll listen to the facts, you'll
7 apply the law as I give it to you, you'll go into the jury
8 deliberation room, and you'll -- you -- hopefully you'll
9 deliberate the case, and see if you can resolve this. Is
10 that -- you can do that?
11 PROSPECTIVE JUROR NO. 523: Yes, sir. I can do
12 that.
13 THE COURT: And under the law, as I give you,
14 presumption of innocence, burden of proof, what the -- what
15 the actual charges are, the elements of the charge, you could
16 do that?
17 PROSPECTIVE JUROR NO. 523: Yes.
18 THE COURT: And in doing that, you could be
19 completely fair and impartial, both to the State and to the
20 defense?
21 PROSPECTIVE JUROR NO. 523: Yes, sir.
22 THE COURT: All right. Thank you. Questions? Pass
23 for cause?
24 MR. THUNELL: Thank you, Your Honor. Mr. Kang?
25 PROSPECTIVE JUROR NO. 523: Yes.

1 MR. THUNELL: So just out of curiosity what -- what
2 brought you out to Las Vegas?

3 PROSPECTIVE JUROR NO. 523: Try something different.

4 MR. THUNELL: Okay. And as far as, I mean, just
5 going along with what the Judge said, as a prosecutor, is
6 there anything that I would be need -- that you think I would
7 need to be aware of about yourself, concerning you as a juror?

8 PROSPECTIVE JUROR NO. 523: No, I don't think so.

9 MR. THUNELL: Do you think that you can be fair and
10 impartial to both sides?

11 PROSPECTIVE JUROR NO. 523: Yes, sir.

12 MR. THUNELL: Now, as far as -- sitting there, do you
13 have any kind of philosophical, religious, anything like that
14 -- anything that would impede you from sitting in judgment on
15 another person?

16 PROSPECTIVE JUROR NO. 523: No.

17 MR. THUNELL: And if the State, as we talked about,
18 has a certain burden, if the State met that burden and
19 provided the evidence, would you feel comfortable coming back
20 with a guilty verdict?

21 PROSPECTIVE JUROR NO. 523: Yes.

22 MR. THUNELL: We'll go ahead and pass for cause, Your
23 Honor.

24 THE COURT: All right. Mr. Gill, questions? Pass
25 for cause?

1 MR. GILL: I'll pass for cause, Your Honor.
2 THE COURT: Thank you very much. Elizabeth Strother,
3 is it?
4 PROSPECTIVE JUROR NO. 527: Yes.
5 THE COURT: Elizabeth, how long you been in this
6 area?
7 PROSPECTIVE JUROR NO. 527: About eight years.
8 THE COURT: Eight years. Where did you come from?
9 PROSPECTIVE JUROR NO. 527: Michigan.
10 THE COURT: What -- where is it?
11 PROSPECTIVE JUROR NO. 527: Michigan.
12 THE COURT: Michigan?
13 PROSPECTIVE JUROR NO. 527: Yes.
14 THE COURT: Where did you go -- work, as far as
15 Michigan?
16 PROSPECTIVE JUROR NO. 527: I worked as a
17 disabilities examiner.
18 THE COURT: I see.
19 PROSPECTIVE JUROR NO. 527: For the state.
20 THE COURT: Do you work here?
21 PROSPECTIVE JUROR NO. 527: No, I -- I'm retired.
22 THE COURT: So you sort of retired in Las Vegas?
23 PROSPECTIVE JUROR NO. 527: Yes.
24 THE COURT: Sunny, windy, all day.
25 PROSPECTIVE JUROR NO. 527: Yes.

1 THE COURT: Okay. Are you married?
2 PROSPECTIVE JUROR NO. 527: Yes.
3 THE COURT: What does your husband do? Is he
4 retired, also?
5 PROSPECTIVE JUROR NO. 527: He's retired -- well,
6 he's working. He's retired, but he works as a security
7 officer.
8 THE COURT: All right. So it's a part time thing,
9 he's retired. What type of work did he do in the past?
10 PROSPECTIVE JUROR NO. 527: He was a -- he was state
11 police.
12 THE COURT: State police?
13 PROSPECTIVE JUROR NO. 527: Uh-huh.
14 THE COURT: So he's in law enforcement. Now, where
15 does he work, in a casino?
16 PROSPECTIVE JUROR NO. 527: No. He works -- he
17 works at an ACLA Century --
18 THE COURT: I see. So he sits in a booth, makes sure
19 everybody's coming --
20 PROSPECTIVE JUROR NO. 527: That's right.
21 THE COURT: That's good. Children?
22 PROSPECTIVE JUROR NO. 527: Yes.
23 THE COURT: What -- how many, and what do -- what do
24 they do for a living?
25 PROSPECTIVE JUROR NO. 527: Three. One is a OB/GYN.

1 The second one is -- works as a psych -- as a psychologist.
2 And the third one works at a bank.

3 THE COURT: Nice. Have you ever been in the
4 military?

5 PROSPECTIVE JUROR NO. 527: No.

6 THE COURT: Are you acquainted with anybody in law
7 enforcement? I guess, maybe your -- your husband was, you
8 knew some friends in law enforcement?

9 PROSPECTIVE JUROR NO. 527: Through that, yes.

10 THE COURT: Yeah. But again, you're not to give
11 greater weight, or lesser weight to a police officer's
12 testimony simp -- because they're police officers, you give it
13 the weight you deem appropriate.

14 PROSPECTIVE JUROR NO. 527: Right.

15 THE COURT: Do you understand that? Have you or
16 anyone closely associated with you ever been the victim of a
17 crime?

18 PROSPECTIVE JUROR NO. 527: No.

19 THE COURT: You or anyone closely associated with you
20 ever been arrested for a crime?

21 PROSPECTIVE JUROR NO. 527: No.

22 THE COURT: You ever serve on a jury?

23 PROSPECTIVE JUROR NO. 527: No.

24 THE COURT: Could you be fair in this case?

25 PROSPECTIVE JUROR NO. 527: Yes.

1 THE COURT: Thank you. Questions? Pass for cause?

2 MS. JIMENEZ: Thank you. Did you think it would be
3 quite this hot when you moved out here, as it's been the past
4 couple of weeks.

5 PROSPECTIVE JUROR NO. 527: It's about what it was
6 when I first moved out here.

7 MS. JIMENEZ: Yeah. It's a nice place to retire
8 except for a few weeks in the summer. You said that you
9 worked for the State previously, correct?

10 PROSPECTIVE JUROR NO. 527: Yes.

11 MS. JIMENEZ: And your husband was a state police
12 officer?

13 PROSPECTIVE JUROR NO. 527: Yes.

14 MS. JIMENEZ: Okay. Did you talk very much with him
15 about his work when he was in that job?

16 PROSPECTIVE JUROR NO. 527: Some.

17 MS. JIMENEZ: Okay. And as the Judge said, do you
18 think that you could treat a police officer in this case as
19 you would any other witness?

20 PROSPECTIVE JUROR NO. 527: Yes.

21 MS. JIMENEZ: Not give them more weight, not give
22 them less weight than anybody else?

23 PROSPECTIVE JUROR NO. 527: No.

24 MS. JIMENEZ: Okay. And do you feel that you could
25 listen to all the evidence in the case, and -- and make that

1 decision and make a determination about what happened, and how
2 the law fits in with that?

3 PROSPECTIVE JUROR NO. 527: Yes.

4 MS. JIMENEZ: And do you think that you can look at
5 evidence, and maybe make some -- what might be some difficult
6 decisions about what the evidence means in the case?

7 PROSPECTIVE JUROR NO. 527: Yes.

8 MS. JIMENEZ: Okay. Great. And you feel you could
9 be fair to both sides here?

10 PROSPECTIVE JUROR NO. 527: Yes.

11 MS. JIMENEZ: Okay. Thank you so much for your time.
12 We'll pass for cause, Judge.

13 THE COURT: Thank you. Gill.

14 MR. GILL: Briefly, Judge. Your husband was a state
15 trooper?

16 PROSPECTIVE JUROR NO. 527: Mm-hmm.

17 MR. GILL: With which state?

18 PROSPECTIVE JUROR NO. 527: Of Michigan.

19 MR. GILL: Michigan?

20 PROSPECTIVE JUROR NO. 527: Michigan.

21 MR. GILL: And I know she asked it, but -- but you
22 can be fair to my client, even though, you know, your husband
23 may have come home with some stories about defendants or
24 crimes, or -- do you feel like you can be fair --

25 PROSPECTIVE JUROR NO. 527: Yes.

1 MR. GILL: — and hear the evidence in this case?

2 PROSPECTIVE JUROR NO. 527: Yes.

3 MR. GILL: And you understand that he is presumed
4 innocent as we sit here?

5 PROSPECTIVE JUROR NO. 527: Yes.

6 MR. GILL: And if he decides not to take the stand
7 for whatever reason, whether it's, you know, my urging, or —
8 or his — his gut feeling, are you going to be able to not
9 assume that he's hiding something, and — and not hold that
10 against him?

11 PROSPECTIVE JUROR NO. 527: Yes.

12 MR. GILL: Okay. Pass for cause, Judge.

13 THE COURT: Thank you. Is it, Joseph Davis, is it?

14 PROSPECTIVE JUROR NO. 530: Yes.

15 THE COURT: Mr. Davis, how long have you been in this
16 area?

17 PROSPECTIVE JUROR NO. 530: Seven and a half years.

18 THE COURT: Oh, where did you come from?

19 PROSPECTIVE JUROR NO. 530: San Diego.

20 THE COURT: All right. And you — what did you do
21 -- what type of work did you do in San Diego?

22 PROSPECTIVE JUROR NO. 530: I was a tax collector
23 for the county of San Diego.

24 THE COURT: All right. What do you do here? Are you
25 retired, too?

1 PROSPECTIVE JUROR NO. 530: No, I'm a dealer for
2 Station Casinos.

3 THE COURT: Great. Great. Okay. What do you deal?

4 PROSPECTIVE JUROR NO. 530: Any table game.

5 THE COURT: Okay. All right. Are you married, sir?

6 PROSPECTIVE JUROR NO. 530: Yes, sir.

7 THE COURT: Does your wife work?

8 PROSPECTIVE JUROR NO. 530: No.

9 THE COURT: Children?

10 PROSPECTIVE JUROR NO. 530: Four.

11 THE COURT: What do they do for a living?

12 PROSPECTIVE JUROR NO. 530: One's an architect. One
13 works at -- for the State of Arizona in child protective
14 services. The third son is a cook. And the fourth child is a
15 waitress.

16 THE COURT: Have you ever been in the military?

17 PROSPECTIVE JUROR NO. 530: I joined the Navy band
18 in 1955, and retired in 1979.

19 THE COURT: Playing -- playing in a band, is that
20 what you said?

21 PROSPECTIVE JUROR NO. 530: The Navy band,
22 clarinets.

23 THE COURT: The Navy -- wow. Okay. So you did that
24 for all that time?

25 PROSPECTIVE JUROR NO. 530: Yes, sir.

1 THE COURT: Good. Are you acquainted with anybody in
2 law enforcement?

3 PROSPECTIVE JUROR NO. 530: The one friend we did
4 have used to be in law enforcement, but not anymore. He
5 retired.

6 THE COURT: Oh, again, the follow-up question.
7 You're not to give greater weight or lesser weight to a police
8 officer's testimony, simply because they're a police officer.
9 You give it the weight you deem appropriate, like every other
10 witness; do you understand that?

11 PROSPECTIVE JUROR NO. 530: Yes, sir.

12 THE COURT: And you'll abide by that?

13 PROSPECTIVE JUROR NO. 530: Yes, sir.

14 THE COURT: Have you or anyone closely associated
15 with you ever been a victim of a crime?

16 PROSPECTIVE JUROR NO. 530: No, sir.

17 THE COURT: Or arrested for a crime?

18 PROSPECTIVE JUROR NO. 530: No, sir.

19 THE COURT: You ever served on a jury?

20 PROSPECTIVE JUROR NO. 530: Six others.

21 THE COURT: Six times?

22 PROSPECTIVE JUROR NO. 530: Yes, sir.

23 THE COURT: Wow, that's pretty good. How many in
24 town here?

25 PROSPECTIVE JUROR NO. 530: Just one.

1 THE COURT: What was that a criminal or civil?
2 PROSPECTIVE JUROR NO. 530: A civil.
3 THE COURT: And you were picked as a juror?
4 PROSPECTIVE JUROR NO. 530: Yes, sir.
5 THE COURT: And you deliberated?
6 PROSPECTIVE JUROR NO. 530: Yes, sir.
7 THE COURT: And without telling me what the verdict
8 was, you reached a verdict?
9 PROSPECTIVE JUROR NO. 530: Yes, sir.
10 THE COURT: And you had the one before that, criminal
11 or civil?
12 PROSPECTIVE JUROR NO. 530: The last three have been
13 civil --
14 THE COURT: Yeah, last --
15 PROSPECTIVE JUROR NO. 530: -- the three before that
16 were criminal.
17 THE COURT: So last three civil?
18 PROSPECTIVE JUROR NO. 530: Yes, sir.
19 THE COURT: And you were picked a juror.
20 PROSPECTIVE JUROR NO. 530: Yes, sir.
21 THE COURT: Were you a foreman in any of those cases?
22 PROSPECTIVE JUROR NO. 530: No, sir.
23 THE COURT: And you -- without telling me what the
24 verdict, did you reach a verdict?
25 PROSPECTIVE JUROR NO. 530: On all six, yes, sir.

1 THE COURT: And the last two were criminal; is that
2 correct?

3 PROSPECTIVE JUROR NO. 530: No, the first three were
4 criminal.

5 THE COURT: Oh, first three criminal, second --

6 PROSPECTIVE JUROR NO. 530: The last three civil.

7 THE COURT: Civil, all right. Well, that's pretty
8 good. I mean, so did your service here. Lucky seven, though,
9 you're into gambling, right?

10 PROSPECTIVE JUROR NO. 530: I'm on the other side of
11 the table.

12 THE COURT: So this would be a lucky seven.

13 PROSPECTIVE JUROR NO. 530: I'm on the other side of
14 the table. I don't gamble.

15 THE COURT: Okay. All right. All right. You could
16 be fair and impartial to this case, if you're selected as a
17 juror?

18 PROSPECTIVE JUROR NO. 530: Yes, sir.

19 THE COURT: Okay. Questions? Pass for cause?

20 MR. THUNELL: Just quickly, Your Honor, thank you.

21 Mr. Davis, so if I tease you about taking money as a
22 tax collector, and now taking money as a dealer, are you going
23 to hold that against me?

24 PROSPECTIVE JUROR NO. 530: No.

25 MR. THUNELL: Okay. Good. I couldn't resist it.

1 PROSPECTIVE JUROR NO. 530: Because where sheep
2 commands the plant.

3 MR. THUNELL: Now, six times as a juror?

4 PROSPECTIVE JUROR NO. 530: Yes.

5 MR. THUNELL: And, Ms. Nothaker, I think said it
6 well, when she said she felt like she'd done her time, so to
7 speak. Do you -- do you feel that way? I mean, are you
8 willing -- how do you feel about being a juror again?

9 PROSPECTIVE JUROR NO. 530: I don't mind, at all.

10 MR. THUNELL: Do you -- do you want to be a juror?

11 PROSPECTIVE JUROR NO. 530: Sure.

12 MR. THUNELL: And -- as a juror --

13 THE COURT: You know why? It's not his choice, Mr.
14 Thunell. So don't say that. I mean, it's like you're saying,
15 well, you just tell the Judge, he'll excuse you. But I'm just
16 kidding. Go ahead.

17 MR. THUNELL: Okay. No, I appreciate -- he's got a
18 point there. And obviously, just curious because, you know,
19 as he said, seven times a charm. What we're looking for is
20 obviously, so that, you know, you're too sick of it, or
21 anything like that. I mean, do you think you would be able
22 to -- I'm not saying you can forget those prior experiences,
23 but do you think you'd be able to take this case for what it
24 is, and weigh out what the evidence in this case is, as
25 opposed to kind of comparing it to the other cases?

1 PROSPECTIVE JUROR NO. 530: Yes, sir.

2 MR. THUNELL: And same thing with the law. Do you
3 think that you'd be able to take the law that you receive
4 here, and apply to this case, as opposed to maybe what you've
5 heard, you know, the law in other cases, things like that.

6 PROSPECTIVE JUROR NO. 530: Yes, sir. Yes, sir,
7 again.

8 MR. THUNELL: And from your prior experience, and
9 this experience right now, is there anything about yourself,
10 as a juror, that you would think the State would need to know
11 about?

12 PROSPECTIVE JUROR NO. 530: No.

13 MR. THUNELL: And you -- once again, you feel that
14 you can be fair and impartial to both sides?

15 PROSPECTIVE JUROR NO. 530: Yes, sir, I can.

16 MR. THUNELL: And so, from the State's perspective,
17 if we prove our case beyond a reasonable doubt, do you feel --
18 would you feel comfortable coming back with a guilty verdict?

19 PROSPECTIVE JUROR NO. 530: Yes, sir.

20 MR. THUNELL: We'll go ahead and pass for cause, Your
21 Honor.

22 THE COURT: All right. Mr. Gill.

23 MR. GILL: Judge, six other sets of attorneys have
24 passed him for cause.

25 THE COURT: Right.

1 MR. THUNELL: I'm going to do the same.
2 THE COURT: Oh, okay. Thank you. That's a good
3 reason. Ann Hanson?
4 PROSPECTIVE JUROR NO. 532: Yes, sir.
5 THE COURT: How long have you been in this area?
6 PROSPECTIVE JUROR NO. 532: Just about 30 years.
7 THE COURT: Just about? All right. What do you do
8 for a living?
9 PROSPECTIVE JUROR NO. 532: I'm a hair stylist, and
10 a sales director with Mary Kay.
11 THE COURT: I see. Married?
12 PROSPECTIVE JUROR NO. 532: Mary — yes.
13 THE COURT: What does your husband do?
14 PROSPECTIVE JUROR NO. 532: He is a purchasing agent
15 for World Construction Company.
16 THE COURT: Children?
17 PROSPECTIVE JUROR NO. 532: Two teenagers.
18 THE COURT: Oh, teenagers. All right. You ever been
19 in the military?
20 PROSPECTIVE JUROR NO. 532: No.
21 THE COURT: You acquainted with anybody in law
22 enforcement?
23 PROSPECTIVE JUROR NO. 532: Yes.
24 THE COURT: Who is that?
25 PROSPECTIVE JUROR NO. 532: Jeff Roach.

1 THE COURT: Is he a police officer?
2 PROSPECTIVE JUROR NO. 532: Yes, and a risk manager.
3 THE COURT: Yeah, I think — I think I heard his
4 name. All right. How do you know him? Just --
5 PROSPECTIVE JUROR NO. 532: A neighbor, good friend.
6 THE COURT: -- neighbor right. And again, the
7 follow-up question. You understand you're not to give greater
8 weight or lesser weight to a police officer's testimony,
9 simply because they're a police officer. You give it the
10 weight you deem appropriate; do you understand that?
11 PROSPECTIVE JUROR NO. 532: Yes.
12 THE COURT: Have you or anyone -- have you ever been
13 -- did I ask you a military --
14 PROSPECTIVE JUROR NO. 532: No military.
15 THE COURT: Have you or anyone closely associated
16 with you ever been a victim of a crime.
17 PROSPECTIVE JUROR NO. 532: Yes.
18 THE COURT: Who was that?
19 PROSPECTIVE JUROR NO. 532: Myself.
20 THE COURT: What was that.
21 PROSPECTIVE JUROR NO. 532: Molestation.
22 THE COURT: Well, you know, again, sorry, I don't
23 want to pry into your --
24 PROSPECTIVE JUROR NO. 532: No, you're good.
25 THE COURT: -- affairs -- personal affairs, but how

1 long ago was that?

2 PROSPECTIVE JUROR NO. 532: 32 years ago.

3 THE COURT: All right. So that was when you were a
4 kid. Did they ever catch the indi -- probably somebody you
5 knew, I guess, huh?

6 PROSPECTIVE JUROR NO. 532: Yes, and yes, he was
7 caught.

8 THE COURT: They had -- did he -- was he arrested?

9 PROSPECTIVE JUROR NO. 532: Currently going to a
10 jury trial now.

11 THE COURT: After -- after this long?

12 PROSPECTIVE JUROR NO. 532: Yes.

13 THE COURT: Wow, what city -- what state was it?

14 PROSPECTIVE JUROR NO. 532: Wisconsin.

15 THE COURT: So right now it's going through a jury
16 trial. Wow.

17 PROSPECTIVE JUROR NO. 532: Not for my personal.

18 THE COURT: Pardon?

19 PROSPECTIVE JUROR NO. 532: Not for me personally.

20 For --

21 THE COURT: Oh.

22 PROSPECTIVE JUROR NO. 532: -- continuance.

23 THE COURT: So somebody -- somebody else. Oh, okay.

24 PROSPECTIVE JUROR NO. 532: Yes, statute of
25 limitations ended for me.

1 THE COURT: All right. Again, I'm very sorry to
2 bring that up.

3 PROSPECTIVE JUROR NO. 532: No, that's okay.

4 THE COURT: That's not going to affect your
5 deliberation in this case, is it?

6 PROSPECTIVE JUROR NO. 532: Not at all.

7 THE COURT: Something that happened, and very
8 traumatic, but it's not going to affect your deliberation in
9 this case?

10 PROSPECTIVE JUROR NO. 532: Right.

11 THE COURT: Have you or anyone closely associated
12 ever been arrested before?

13 PROSPECTIVE JUROR NO. 532: No.

14 THE COURT: You ever serve on a jury before?

15 PROSPECTIVE JUROR NO. 532: No.

16 THE COURT: Could you be fair?

17 PROSPECTIVE JUROR NO. 532: Absolutely.

18 THE COURT: Both to the State?

19 PROSPECTIVE JUROR NO. 532: Yes.

20 THE COURT: And to the defense?

21 PROSPECTIVE JUROR NO. 532: Yes.

22 THE COURT: All right. Thank you. Questions? Pass
23 for cause?

24 MS. JIMENEZ: Thank you, Judge. You said that you
25 know Mr. Roach, who is in -- does he work for Metro; do you

1 know?

2 PROSPECTIVE JUROR NO. 532: Yes.

3 MS. JIMENEZ: Okay. But in risk --

4 PROSPECTIVE JUROR NO. 532: He's director of risk
5 manager.

6 MS. JIMENEZ: Okay. And so do you talk about him
7 very often about his work, or about, you know, things you
8 maybe read in the paper, anything like that?

9 PROSPECTIVE JUROR NO. 532: Occasionally. Nothing
10 significantly.

11 MS. JIMENEZ: Okay. And so, like you said to the
12 Judge, you can set that aside, and just make your decision
13 based on the evidence here?

14 PROSPECTIVE JUROR NO. 532: Yes.

15 MS. JIMENEZ: Okay. And you wouldn't give more
16 weight or less weight to a police officer than you would to
17 any other witness?

18 PROSPECTIVE JUROR NO. 532: No.

19 MS. JIMENEZ: Okay. Make your decision after hearing
20 everything, listening to the witnesses testify, seeing any
21 physical evidence, and make a decision at that time?

22 PROSPECTIVE JUROR NO. 532: Yes.

23 MS. JIMENEZ: Okay. And do you feel that you could
24 put the time and attention in it to make some difficult
25 decisions perhaps, about what the evidence shows, and how that

1 applies with the law?

2 PROSPECTIVE JUROR NO. 532: Yes.

3 MS. JIMENEZ: And I just want to briefly touch about
4 the incident that you mentioned, you said you wouldn't hold
5 that against the prosecution, correct?

6 PROSPECTIVE JUROR NO. 532: No, correct.

7 MS. JIMENEZ: You wouldn't hold it against the
8 defense attorneys, or the defendant himself?

9 PROSPECTIVE JUROR NO. 532: No.

10 MS. JIMENEZ: That's something you can set aside and
11 make your decision based on what you hear in this courtroom?

12 PROSPECTIVE JUROR NO. 532: Yes.

13 MS. JIMENEZ: Okay. Thank you so much for your time.
14 We'll pass for cause, Judge.

15 THE COURT: Thank you. Mr. Gill?

16 MR. GILL: Thank you, Judge. Do you have any general
17 opinion of -- of our system?

18 PROSPECTIVE JUROR NO. 532: No.

19 MR. GILL: The court system? Do you think it's a
20 fair one?

21 PROSPECTIVE JUROR NO. 532: Yes.

22 MR. GILL: From what you know?

23 PROSPECTIVE JUROR NO. 532: Yes.

24 MR. GILL: And why do you think it's fair? If you
25 can just elaborate, briefly?

1 PROSPECTIVE JUROR NO. 532: How -- I mean, it's
2 just --

3 MR. GILL: Do you think the presumption is fair? The
4 presumption that he's innocent, do you think that's fair?

5 PROSPECTIVE JUROR NO. 532: Yes.

6 MR. GILL: And do you think the burden that the State
7 has to meet is fair?

8 PROSPECTIVE JUROR NO. 532: Yes.

9 MR. GILL: Okay. I'll pass for cause, Your Honor.

10 THE COURT: Oh, thank you, Mr. Gill. And then we
11 have, Daniel --

12 PROSPECTIVE JUROR NO. 535: Yeah.

13 THE COURT: -- is it Guzy?

14 PROSPECTIVE JUROR NO. 535: Guzy.

15 THE COURT: Guzy?

16 PROSPECTIVE JUROR NO. 535: Yes, sir.

17 THE COURT: All right. Guzy. How long have you been
18 in this area?

19 PROSPECTIVE JUROR NO. 535: 30 years.

20 THE COURT: What do you do for a living?

21 PROSPECTIVE JUROR NO. 535: Part-time clerk at Big

22 5.

23 THE COURT: Okay. Are you married?

24 PROSPECTIVE JUROR NO. 535: No.

25 THE COURT: Children?

1 PROSPECTIVE JUROR NO. 535: No.

2 THE COURT: You ever been in the military?

3 PROSPECTIVE JUROR NO. 535: No, sir.

4 THE COURT: Are you acquainted with anybody in law
5 enforcement?

6 PROSPECTIVE JUROR NO. 535: No.

7 THE COURT: Are you or anyone closely associated with
8 you ever been the victim of a crime?

9 PROSPECTIVE JUROR NO. 535: Yeah. I've been robbed
10 at gunpoint three times, and I've had a vehicle stolen from my
11 work's parking lot.

12 THE COURT: Was that in your job, or --

13 PROSPECTIVE JUROR NO. 535: What's that -- two --
14 two times, I was just out late, and went to 7-Eleven to get
15 some food, and, you know.

16 THE COURT: All right. You never were hurt
17 physically?

18 PROSPECTIVE JUROR NO. 535: No.

19 THE COURT: Money was taken from you, perhaps?

20 PROSPECTIVE JUROR NO. 535: Yeah, money was taken
21 from me on the first one, second and third time, it was
22 through work, so it took work's money, and then the vehicle,
23 of course.

24 THE COURT: Well, yeah, it's a traumatic thing,
25 again. Glad you weren't hurt.

1 PROSPECTIVE JUROR NO. 535: Right.
2 THE COURT: Did the police come and investigate?
3 PROSPECTIVE JUROR NO. 535: Yeah, for --
4 THE COURT: Did they ever catch any of the
5 individuals?
6 PROSPECTIVE JUROR NO. 535: Yeah, they caught the --
7 the last three, the first one I never reported because I was
8 just too scared out of my mind.
9 THE COURT: Oh, the police -- they -- they caught the
10 other -- did you have to testify at trial, or anything?
11 PROSPECTIVE JUROR NO. 535: One of them, I did,
12 yeah. The other two, they didn't call me, yeah.
13 THE COURT: They didn't call you, all right.
14 PROSPECTIVE JUROR NO. 535: Yeah.
15 THE COURT: All right. Well, again, I'm glad you
16 weren't hurt, but again, for this particular trial, that's not
17 going to affect the deliberation in this trial, is it?
18 PROSPECTIVE JUROR NO. 535: I hope not. I'd like to
19 say no, but honestly, I -- I couldn't say a hundred percent.
20 THE COURT: This is not a robbery.
21 PROSPECTIVE JUROR NO. 535: Yeah.
22 THE COURT: This is nothing like that.
23 PROSPECTIVE JUROR NO. 535: Right.
24 THE COURT: Do you understand that?
25 PROSPECTIVE JUROR NO. 535: Yeah.

1 THE COURT: So, I mean, could you set that aside,
2 what happened to you personally --

3 PROSPECTIVE JUROR NO. 535: I --

4 THE COURT: -- and just judge this case solely by
5 what you hear on the witness stand?

6 PROSPECTIVE JUROR NO. 535: Like I said, I could
7 try, you know, I --

8 THE COURT: All right. All we can ask you is to try.

9 PROSPECTIVE JUROR NO. 535: You know.

10 THE COURT: Have you ever served on a jury before?

11 PROSPECTIVE JUROR NO. 535: No.

12 THE COURT: Were you or anyone closely associated
13 with you ever been arrested for a crime?

14 PROSPECTIVE JUROR NO. 535: No.

15 THE COURT: All right. Questions? Pass for cause.

16 MR. THUNELL: Just quickly, Your Honor. Mr. -- it
17 was Guzy, right?

18 PROSPECTIVE JUROR NO. 535: Yes, sir.

19 MR. THUNELL: Mr. Guzy, you mentioned that on the
20 first one, that you -- you didn't even report it?

21 PROSPECTIVE JUROR NO. 535: Right.

22 MR. THUNELL: Was that the -- I was trying to keep
23 them -- was that the 7-Eleven one, or the --

24 PROSPECTIVE JUROR NO. 535: Yeah, the 7-Eleven one,
25 yeah.

1 MR. THUNELL: Okay. Was there a reason you didn't
2 report it?

3 PROSPECTIVE JUROR NO. 535: I was just scared to
4 death. The -- when I went to Albertson's where my brother
5 worked because it was right next door, and I was talking to
6 the security officer there, and he pulled up footage, thought
7 it might be a couple guys, and I couldn't guess one way or
8 another, and I just wasn't sure what the cops could do, so I
9 just put it off to the side, and, you know.

10 MR. THUNELL: Was there -- was the -- and I'm just
11 trying to figure out, was part of the reason that you were --
12 you didn't think the cops would be able to do anything, or --

13 PROSPECTIVE JUROR NO. 535: Yeah, like I said, I
14 mean, it was -- well, it was late at night, and I was scared
15 half to death, I wasn't sure who they were, or what the cops
16 could do, or anything. It was the first time I've ever been
17 through anything like that. So I was just kind of like, I
18 don't know.

19 MR. THUNELL: Okay.

20 PROSPECTIVE JUROR NO. 535: So, you know, I don't --

21 MR. THUNELL: Pretty traumatic experience?

22 PROSPECTIVE JUROR NO. 535: Yeah.

23 MR. THUNELL: Now, as far as with -- with the police
24 -- I guess what I was -- what I'm trying to get at is with the
25 police did you -- I -- did -- did you harbor any kind of maybe

1 ill will, or distrust in the police, anything like that?

2 PROSPECTIVE JUROR NO. 535: No, nothing like that.

3 I was just a dumb kid, and I was scared, you know, so...

4 MR. THUNELL: You learned to call after that?

5 PROSPECTIVE JUROR NO. 535: I learned to call, yeah.

6 Yeah.

7 MR. THUNELL: All right. Now, that -- those
8 experiences -- you kind of hesitated a little bit with the
9 Judge, I just want to make sure -- do you think those
10 experiences -- would those cloud your ability to be a fair and
11 impartial juror here?

12 PROSPECTIVE JUROR NO. 535: Like I said, I hope not,
13 but I do still harbor ill feelings towards those people, you
14 know, I -- I watch movies and stuff, I see a gun, I get a
15 little weirded out, you know, so it does bother me still, I
16 know that.

17 MR. THUNELL: Okay.

18 PROSPECTIVE JUROR NO. 535: But I would -- I'd try
19 to be fair, but I just -- I don't know.

20 MR. THUNELL: What I think for both sides, and what
21 -- when you say, you'd try, I guess what we're trying to get
22 at is do you think with that trying, would you be able to just
23 focus on what we're here -- what you're hearing today?

24 PROSPECTIVE JUROR NO. 535: Yeah.

25 MR. THUNELL: What's -- what the evidence is for this

1 case, and -- because obviously those aren't --

2 PROSPECTIVE JUROR NO. 535: Try to put the past
3 things behind, right?

4 MR. THUNELL: Yeah. And could you just focus on
5 that, and make a determination on what you were given?

6 PROSPECTIVE JUROR NO. 535: I -- I think I could,
7 yeah.

8 MR. THUNELL: Okay. And, obviously listen to all the
9 evidence. Do you -- would you find this too upsetting, or
10 something like this? I mean, do -- would it -- would it upset
11 you beyond like a -- what a norm -- something else, like
12 watching a movie or anything?

13 PROSPECTIVE JUROR NO. 535: I don't know. I just --
14 I know I got a little weirded out when I heard it was about,
15 you know, the murder thing, and -- so that bothered me a bit,
16 yeah, right from the get-go, so...

17 MR. THUNELL: And I --

18 PROSPECTIVE JUROR NO. 535: Actually, I don't know.
19 I mean, I'm just -- it -- it weirds me out, but I try not to
20 let it weird me out. I don't know how to explain that.

21 MR. THUNELL: Okay. And obvious --

22 PROSPECTIVE JUROR NO. 535: Okay.

23 MR. THUNELL: -- obviously we're not trying to, you
24 know, push you into therapy after this --

25 PROSPECTIVE JUROR NO. 535: Yeah. Yeah, I got you.

1 MR. THUNELL: — you know what I mean?

2 PROSPECTIVE JUROR NO. 535: I got you.

3 MR. THUNELL: Are you just — are you -- that —
4 we're just concerned because obviously everybody wants
5 somebody who can come in here, unencumbered, and just kind of
6 weigh what's in front of them.

7 PROSPECTIVE JUROR NO. 535: Yeah.

8 MR. THUNELL: So in your heart of hearts, I mean, was
9 — would this be something that would -- I don't want to say
10 — I mean, that would push you too far, that you think? Or —
11 and that's our — I'm just trying to know.

12 PROSPECTIVE JUROR NO. 535: Like I say, I — I have
13 no clue. I — I just don't know.

14 MR. THUNELL: So as you sit here right now, though, I
15 mean, is there not — I'm just trying to figure out, is there
16 a part of you that's screaming, you know, i got to get out of
17 here, this is too much emotionally, or anything like that?

18 PROSPECTIVE JUROR NO. 535: There's a part of me
19 that's --

20 MR. THUNELL: Or is it just kind of general nerves?

21 PROSPECTIVE JUROR NO. 535: — kind of like ticked
22 off. So yeah, it does bother me. I mean, it's -- brought
23 back a few memories —

24 THE COURT: Well, we can go on and on and on --

25 PROSPECTIVE JUROR NO. 535: — but yeah —

1 THE COURT: -- like this --

2 MR. THUNELL: Okay. That's fine.

3 PROSPECTIVE JUROR NO. 535: -- I'm sorry.

4 THE COURT: Mr. Gill, do you want to say anything?

5 MR. GILL: I -- I would move for cause at this time,
6 Judge.

7 THE COURT: Well, again, you know, I can understand.
8 This is not you trying to get off for some reason. I mean, if
9 you -- if you're not up to it, I'll probably excuse you, and
10 there's a civil trial going on too. You're not going to get
11 nervous at a civil trial. But that's up to you. If you're
12 going to be honest with me because of the life experiences
13 you've had --

14 PROSPECTIVE JUROR NO. 535: Yeah.

15 THE COURT: -- in the past, three armed robberies, or
16 whatever it was, four --

17 PROSPECTIVE JUROR NO. 535: Yeah.

18 THE COURT: -- I don't know how many. If you can't
19 do it -- if you're getting nervous, and it's going to be a
20 little on your mind, that's fine. I could understand that.

21 PROSPECTIVE JUROR NO. 535: So okay.

22 THE COURT: Who knows, but you'd be better off at
23 some civil trial --

24 PROSPECTIVE JUROR NO. 535: Yeah.

25 THE COURT: -- where a car accident, and you don't

1 have to worry about anything, you know. So you tell me what
2 you want to do?

3 PROSPECTIVE JUROR NO. 535: Maybe that would be
4 better. I don't -- yeah.

5 THE COURT: I'm going to --

6 PROSPECTIVE JUROR NO. 535: I'm sorry. I don't want
7 to --

8 THE COURT: -- that is a motion of the Court. Any
9 objection?

10 MR. THUNELL: We'll submit to Your Honor's
11 discretion.

12 THE COURT: All right. I'm going to excuse him, and
13 you report back to the jury commissioner, they got a lot of
14 other trials.

15 PROSPECTIVE JUROR NO. 535: Okay.

16 THE COURT: And we'll -- the clerk will call another
17 prospective juror.

18 PROSPECTIVE JUROR NO. 535: All right.

19 THE CLERK: Asnakech Teklu.

20 PROSPECTIVE JUROR NO. 535: What do I -- where do
21 I --

22 THE CLERK: Badge No. 539.

23 THE COURT: Just report back to the jury
24 commissioners, all right?

25 PROSPECTIVE JUROR NO. 535: Okay.

1 THE COURT: Please take that same seat, Ms. Teklu, is
2 it? How long you been in this area?
3 PROSPECTIVE JUROR NO. 539: 17 years.
4 THE COURT: I can't hear you.
5 PROSPECTIVE JUROR NO. 539: 17 years.
6 THE COURT: Seven?
7 PROSPECTIVE JUROR NO. 539: 17.
8 THE COURT: And what do you do for a living?
9 PROSPECTIVE JUROR NO. 539: Dealer.
10 THE COURT: Are you married?
11 PROSPECTIVE JUROR NO. 539: No, single mother.
12 THE COURT: Are your children not old enough to work?
13 PROSPECTIVE JUROR NO. 539: No.
14 THE COURT: Have you ever been in the military?
15 PROSPECTIVE JUROR NO. 539: No.
16 THE COURT: Are you close with anybody in law
17 enforcement?
18 PROSPECTIVE JUROR NO. 539: No.
19 THE COURT: Have you or anyone closely associated
20 with you ever been a victim of a crime?
21 PROSPECTIVE JUROR NO. 539: No.
22 THE COURT: No?
23 PROSPECTIVE JUROR NO. 539: I have a problem. I
24 don't understand too many English.
25 THE COURT: Where do you come from?

1 PROSPECTIVE JUROR NO. 539: Ethiopia.
2 THE COURT: Where is it?
3 PROSPECTIVE JUROR NO. 539: Ethiopia.
4 THE COURT: Ethiopia?
5 PROSPECTIVE JUROR NO. 539: Yeah.
6 THE COURT: All right. If she does have a — I think
7 she does have a language problem. She don't understand me,
8 and I don't understand her, so that's a problem.
9 MR. GILL: I'll submit it, Your Honor.
10 THE COURT: Well, any object --
11 MS. JIMENEZ: With no objection, Judge.
12 MR. GILL: No objection here either.
13 THE COURT: All right. Report back to the jury
14 commissioner. Clerk, call another prospective juror.
15 THE CLERK: Mary Arena, Badge No. 542.
16 THE COURT: How long you been in this area?
17 PROSPECTIVE JUROR NO. 542: I have almost 10 years.
18 THE COURT: 10 years. All right. What do you do for
19 a living?
20 PROSPECTIVE JUROR NO. 542: I have two jobs. I work
21 as a customer service agent from my house during the day, and
22 in the evening I do — I'm a therapist. I work with families
23 and children, high-risk children.
24 THE COURT: All right. Are you married?
25 PROSPECTIVE JUROR NO. 542: No.

1 THE COURT: Children?
2 PROSPECTIVE JUROR NO. 542: I have two. I have a
3 boy and a girl, a 16 and an 18 year old.
4 THE COURT: All right. Two jobs, are you all right
5 to sit here for a couple days?
6 PROSPECTIVE JUROR NO. 542: It -- it'll be -- can
7 you hear me?
8 THE COURT: No.
9 PROSPECTIVE JUROR NO. 542: Oh, I'm sorry, Your
10 Honor. It -- it'll be difficult, you know, but --
11 THE COURT: Do you think you could do it?
12 PROSPECTIVE JUROR NO. 542: I could try.
13 THE COURT: I'll try. I hate that word, I'll try.
14 PROSPECTIVE JUROR NO. 542: Yeah.
15 THE COURT: Have you ever been in the military?
16 PROSPECTIVE JUROR NO. 542: No, I haven't.
17 THE COURT: You acquainted with anybody in law
18 enforcement?
19 PROSPECTIVE JUROR NO. 542: I have a friend who is
20 a -- a police officer.
21 THE COURT: Here in town?
22 PROSPECTIVE JUROR NO. 542: Yes.
23 THE COURT: Again, that follow-up question. You're
24 not to give greater weight or lesser weight to a police
25 offi -- officer's testimony simply because they're a police

1 officer; do you understand that?

2 PROSPECTIVE JUROR NO. 542: Correct.

3 THE COURT: You or anyone closely associated with you
4 ever been a victim of a crime?

5 PROSPECTIVE JUROR NO. 542: No.

6 THE COURT: Or arrested for a crime?

7 PROSPECTIVE JUROR NO. 542: No.

8 THE COURT: You ever serve on a jury?

9 PROSPECTIVE JUROR NO. 542: No.

10 THE COURT: All right. Questions? Pass for cause?

11 MS. JIMENEZ: Thank you, Judge. You said that you
12 have a friend that's a police officer. Do you know, is that
13 with Metro or North Las Vegas, Hender --

14 PROSPECTIVE JUROR NO. 542: It's in Henderson.

15 MS. JIMENEZ: In Henderson? Okay. Do you talk
16 with -- is it a he?

17 PROSPECTIVE JUROR NO. 542: It's a gentleman, yes.

18 MS. JIMENEZ: Okay. Do you talk with him very often
19 about his work or his job?

20 PROSPECTIVE JUROR NO. 542: No.

21 MS. JIMENEZ: Okay. So there's nothing about your
22 friendship with him that would affect your ability to --

23 PROSPECTIVE JUROR NO. 542: No, we're just on a
24 bowling team, that's it.

25 MS. JIMENEZ: Okay. Got you. You said that you work

1 -- your second job is as a therapist, correct?

2 PROSPECTIVE JUROR NO. 542: Can I ask generally, is
3 there a particular area that you work in?

4 PROSPECTIVE JUROR NO. 542: It's mental health.

5 MS. JIMENEZ: Okay. And in this particular case
6 you're going to be asked at the end of the case to make a
7 determination about facts, and how those facts apply to the
8 law. Do you think that's something that you can do?

9 PROSPECTIVE JUROR NO. 542: Yes.

10 MS. JIMENEZ: Okay. And you understand that penalty,
11 for example, is not a -- something that the jury makes a
12 decision about, that's up to the Judge, could you set that
13 aside, and make your decision just based on the facts?

14 PROSPECTIVE JUROR NO. 542: Yes.

15 MS. JIMENEZ: Okay. And, I know you said you have
16 two jobs, but you're willing to, you know, sit and be on this
17 jury, correct?

18 PROSPECTIVE JUROR NO. 542: Yes.

19 MS. JIMENEZ: Okay. And do you feel that -- if you
20 were the State, would you want someone like yourself on the
21 jury?

22 PROSPECTIVE JUROR NO. 542: Yes.

23 MS. JIMENEZ: And if you were the defendant would you
24 want someone like yourself on the jury?

25 PROSPECTIVE JUROR NO. 542: Yes.

1 MS. JIMENEZ: Okay. Thank you very much. We'll pass
2 for cause.

3 THE COURT: Mr. Gill?

4 MR. GILL: Real quick, Judge. Ms. Arena, we've been
5 talking about this presumption, all afternoon. You do
6 understand that -- that just because my client has been
7 charged in this information that that's not evidence?

8 PROSPECTIVE JUROR NO. 542: Right.

9 MR. GILL: And that he does sit here --

10 PROSPECTIVE JUROR NO. 542: Yes.

11 MR. GILL: -- is presumed innocent?

12 PROSPECTIVE JUROR NO. 542: Yes.

13 MR. GILL: So just because someone's charged doesn't
14 mean they --

15 PROSPECTIVE JUROR NO. 542: Exactly.

16 MR. GILL: -- theoretically done anything wrong?

17 PROSPECTIVE JUROR NO. 542: Sure.

18 MR. GILL: I'll pass for cause, Judge.

19 THE COURT: All right. We have a law, ladies and
20 gentlemen, that we call peremptory challenges. Each side has
21 a certain number of peremptory challenges. They can either
22 exercise their peremptory challenge, or waive their peremptory
23 challenge. Now, a waive of one peremptory challenge is not a
24 waive of all of them.

25 So we'll proceed with the peremptory challenge part

1 of the selection. The State could exercise its first
2 peremptory challenge, if it sees fit.

3 MS. JIMENEZ: May I -- Court's indulgence, for a
4 moment?

5 THE COURT: Yes.

6 MS. JIMENEZ: Thank you very much, Judge. At this
7 time the State would like to thank and excuse, Juror 501, Mr.
8 Acevedo.

9 THE COURT: All right. Mr. Acevedo, go back to the
10 jury commissioner, tell her I excuse her, all right?

11 PROSPECTIVE JUROR NO. 501: Okay. Yes.

12 THE COURT: Clerk, call the -- thanks for being
13 honest.

14 PROSPECTIVE JUROR NO. 501: Thank you.

15 THE COURT: I appreciate it. Clerk, call another
16 prospective juror.

17 THE CLERK: Ryan Dudinski, Badge No. 555.

18 THE COURT: Ryan. How long you been in this area,
19 sir?

20 PROSPECTIVE JUROR NO. 555: Approximately 13 years,
21 sir.

22 THE COURT: What do you do for a living?

23 PROSPECTIVE JUROR NO. 555: I'm an auto mechanic.

24 THE COURT: All right. Are you married?

25 PROSPECTIVE JUROR NO. 555: Yes, sir.

1 THE COURT: What is your — does your wife work?

2 PROSPECTIVE JUROR NO. 555: My wife works.

3 THE COURT: What does she do?

4 PROSPECTIVE JUROR NO. 555: She's an RN at the
5 Department of Veteran's Affairs Hospital.

6 THE COURT: Do you have any children?

7 PROSPECTIVE JUROR NO. 555: I have two chep — two
8 step-children. One is in the restaurant business, and the
9 other one is a full-time student.

10 THE COURT: Okay. Have you ever been in the
11 military?

12 PROSPECTIVE JUROR NO. 555: Yes, sir.

13 THE COURT: What branch, what year, and what did you
14 do?

15 PROSPECTIVE JUROR NO. 555: Air Force, '96 to '99, I
16 was an aircraft mechanic.

17 THE COURT: Are you acquainted with anybody in law
18 enforcement?

19 PROSPECTIVE JUROR NO. 555: No, sir.

20 THE COURT: Have you or anyone closely associated
21 with you ever been the victim of a crime?

22 PROSPECTIVE JUROR NO. 555: No, sir.

23 THE COURT: Or arrested for the crime?

24 PROSPECTIVE JUROR NO. 555: No, sir.

25 THE COURT: You ever served on a jury before?

1 PROSPECTIVE JUROR NO. 555: No, sir.
2 THE COURT: Could you be fair in this case?
3 PROSPECTIVE JUROR NO. 555: Absolutely.
4 THE COURT: Thank you.
5 PROSPECTIVE JUROR NO. 555: Thank you.
6 THE COURT: Questions? Pass for cause?
7 MR. THUNELL: Just quickly, Your Honor. Mr.
8 Dudinski?
9 PROSPECTIVE JUROR NO. 555: Yes.
10 MR. THUNELL: Now, as far as where the State's —
11 State's seated over here, is there anything about you, as a
12 juror, that you think that the State should be aware of?
13 PROSPECTIVE JUROR NO. 555: No.
14 MR. THUNELL: Do you think you could be a fair and
15 impartial juror to both sides?
16 PROSPECTIVE JUROR NO. 555: Yes.
17 MR. THUNELL: And as far as the State's presents the
18 evidence, as we've been hearing about that, if the State
19 proves beyond a reasonable doubt, the case, would you feel
20 comfortable coming back with a guilty verdict?
21 PROSPECTIVE JUROR NO. 555: Yes.
22 MR. THUNELL: We'll go ahead and pass for cause, Your
23 Honor.
24 THE COURT: Mr. Gill?
25 MR. GILL: We'll pass for cause, Your Honor.

1 THE COURT: Thank you, Mr. Gill. The defense can
2 exercise its first -- first peremptory challenge, if it sees
3 fit.

4 MR. GILL: Yes, Your Honor. At this time the defense
5 would like to thank and excuse Juror No. 22-0502, Mr. Jesse
6 Adams, Jr.

7 THE COURT: Jesse Adams. All right. Mr. -- that's
8 No. 2. Mr. Adams, report back to the jury commissioner. The
9 clerk will call another prospective juror.

10 THE CLERK: Knick Onkaspol, Badge No. 557.

11 THE COURT: All right. So how long you been in this
12 area?

13 PROSPECTIVE JUROR NO. 557: Five years.

14 THE COURT: Where -- where'd you come from?

15 PROSPECTIVE JUROR NO. 557: New York.

16 THE COURT: What did you do in New York.

17 PROSPECTIVE JUROR NO. 557: Went to school.

18 THE COURT: All right. And what do you do here?

19 PROSPECTIVE JUROR NO. 557: Wait tables.

20 THE COURT: Okay. Are you married?

21 PROSPECTIVE JUROR NO. 557: Nope.

22 THE COURT: Children?

23 PROSPECTIVE JUROR NO. 557: Nope.

24 THE COURT: Have you ever been in the military?

25 PROSPECTIVE JUROR NO. 557: Nope.

1 THE COURT: Are you acquainted with anybody in law
2 enforcement?

3 PROSPECTIVE JUROR NO. 557: Nope.

4 THE COURT: Have you or anyone closely associated
5 with you ever been a victim of a crime?

6 PROSPECTIVE JUROR NO. 557: Nope.

7 THE COURT: Ever been arrested for a crime?

8 PROSPECTIVE JUROR NO. 557: Nope.

9 THE COURT: You ever serve on a jury before?

10 PROSPECTIVE JUROR NO. 557: Nope.

11 THE COURT: I gotta get a -- a yes from him
12 somewhere. Could you be fair and impartial in this case?

13 PROSPECTIVE JUROR NO. 557: Yeah.

14 THE COURT: There we go. Go ahead, questions? Pass
15 for cause?

16 MS. JIMENEZ: Thank you. You said you've never been
17 on a jury before, correct?

18 PROSPECTIVE JUROR NO. 557: Nope.

19 MS. JIMENEZ: Have you ever been part of this process
20 where you've gone through this jury selection process?

21 PROSPECTIVE JUROR NO. 557: Never.

22 MS. JIMENEZ: Okay. Do you think we have a fair
23 system here that we -- that we have -- that we use?

24 PROSPECTIVE JUROR NO. 557: Yeah.

25 MS. JIMENEZ: Any, you know, general thoughts about

1 the criminal justice system?

2 PROSPECTIVE JUROR NO. 557: None whatsoever.

3 MS. JIMENEZ: Okay. Do you think it's something
4 that's for everybody, everybody in the community?

5 PROSPECTIVE JUROR NO. 557: Sure.

6 MS. JIMENEZ: Okay. And do you think that -- if you
7 were the State would you want somebody like yourself as a
8 juror?

9 PROSPECTIVE JUROR NO. 557: Sure.

10 MS. JIMENEZ: Okay. And same if you were the
11 defendant?

12 PROSPECTIVE JUROR NO. 557: Mm-hmm.

13 MS. JIMENEZ: Is there anything that, if you were us,
14 we should know about you in regards to being a juror in this
15 case?

16 PROSPECTIVE JUROR NO. 557: No.

17 MS. JIMENEZ: Okay. You've heard some of the other
18 questions we've asked the other people, anything that you were
19 thinking in your head, oh, I would, you know, answer
20 differently, or feel differently?

21 PROSPECTIVE JUROR NO. 557: Everyone had like great
22 answers, I have like nothing, so...

23 MS. JIMENEZ: Okay. Great. Well, thank you so much
24 for your time. We'll pass for cause.

25 THE COURT: All right. Mr. Gill.

1 MR. GILL: We've kind of been harping on this -- this
2 fairness aspect. Do you feel everybody is entitled to a fair
3 trial?

4 PROSPECTIVE JUROR NO. 557: Yeah.

5 MR. GILL: And you can wait and listen to all the
6 evidence that the State presents before -- and the
7 instructions that the Judge gives you before making a
8 decision?

9 PROSPECTIVE JUROR NO. 557: Yes.

10 MR. GILL: Pass for cause.

11 THE COURT: All right. The State's next peremptory
12 challenge?

13 MS. JIMENEZ: May I have the Court's indulgence?

14 THE COURT: Yes.

15 MS. JIMENEZ: Okay. Thank you. Judge, at this time,
16 the State's going to waive its next peremptory challenge.

17 THE COURT: Thank you, Ms. Jimenez. Appreciate it.
18 The defense next peremptory challenge.

19 MR. GILL: Court's indulgence, just briefly, Judge.

20 THE COURT: Sure.

21 MR. GILL: Judge, at this time the defense would like
22 to thank and excuse Juror 530, Joseph Davis.

23 THE COURT: Davis. Joseph Davis, all right. Report
24 back to the jury commissioner. The clerk will call another
25 prospective juror.

1 THE CLERK: Eddaize Engada, Badge No. 561.
2 THE COURT: All right. Ms. Engada, how long you been
3 in Las Vegas?
4 PROSPECTIVE JUROR NO. 561: Six years.
5 THE COURT: What do you do for a living?
6 PROSPECTIVE JUROR NO. 561: I'm a — I'm a graduate
7 student.
8 THE COURT: Okay.
9 PROSPECTIVE JUROR NO. 561: Full time. Graduate day
10 supposedly.
11 THE COURT: What are you making faces at me for? I
12 don't like being -- no. Are you trying to tell me something
13 through facial expressions?
14 PROSPECTIVE JUROR NO. 561: Oh, no, I'm --
15 THE COURT: Are you --
16 PROSPECTIVE JUROR NO. 561: I'm full-time student.
17 THE COURT: Are you in -- I'm very sympathetic to
18 students and graduate students, I mean, are you in school
19 right now?
20 PROSPECTIVE JUROR NO. 561: Yes.
21 THE COURT: And you got tests coming up and all of
22 that?
23 PROSPECTIVE JUROR NO. 561: Yes, Board exam next. --
24 THE COURT: How many?
25 PROSPECTIVE JUROR NO. 561: I have a Board exam the

1 next two weeks.

2 THE COURT: Yeah. Well, I don't want to interfere
3 with somebody's education. A lot of times students come in,
4 in here, and so I would -- any objection that we excuse her?
5 We'll get her next time when she's finished with her Board
6 examination? We'll get her good.

7 MS. JIMENEZ: No objection, Judge.

8 THE COURT: Six, seven times, all right?

9 MS. JIMENEZ: That sounds good. No objection.

10 THE COURT: Any objection, Mr. Gill?

11 MR. GILL: No.

12 THE COURT: All right. Go back, tell the jury
13 commissioner I excuse you.

14 PROSPECTIVE JUROR NO. 561: Thank you.

15 THE COURT: Clerk, call up another prospective juror,
16 please.

17 THE CLERK: Scott Chadick.

18 THE COURT: Scott Chadwick?

19 THE CLERK: Badge No. 563.

20 THE COURT: Mr. Chadwick, how long you been in this
21 area?

22 PROSPECTIVE JUROR NO. 563: 34 years.

23 THE COURT: What do you do for a living?

24 PROSPECTIVE JUROR NO. 563: Retired.

25 THE COURT: All right. What did you do when you

1 worked?

2 PROSPECTIVE JUROR NO. 563: I worked 37 years with
3 State Farm in special investigations.

4 THE COURT: Okay. Insurance type things?

5 PROSPECTIVE JUROR NO. 563: Right.

6 THE COURT: Are you married?

7 PROSPECTIVE JUROR NO. 563: Yes.

8 THE COURT: What does — does your wife work, or she

9 —

10 PROSPECTIVE JUROR NO. 563: She's also retired. I
11 do work part time at a golf course.

12 THE COURT: At a golf — oh, you actually work? What
13 do you --

14 PROSPECTIVE JUROR NO. 563: I supervise outside
15 services, right?

16 THE COURT: All right. If that's a joke, I don't
17 know, but that's fine. But you actually do — you're
18 employed?

19 PROSPECTIVE JUROR NO. 563: No, I — I'm --

20 THE COURT: You don't just golf, you say?

21 PROSPECTIVE JUROR NO. 563: — I'm a minimum wage
22 employee, and I get —

23 THE COURT: All right. You probably enjoy it, right?

24 PROSPECTIVE JUROR NO. 563: Oh, I love it. It's
25 great. It's great.

1 THE COURT: What did your wife do when she worked?
2 PROSPECTIVE JUROR NO. 563: Flight attendant.
3 THE COURT: Any children?
4 PROSPECTIVE JUROR NO. 563: None.
5 THE COURT: You ever been in the military?
6 PROSPECTIVE JUROR NO. 563: No, sir.
7 THE COURT: Are you acquainted with anybody in law
8 enforcement?
9 PROSPECTIVE JUROR NO. 563: Yes.
10 THE COURT: Who's that?
11 PROSPECTIVE JUROR NO. 563: I would work, as my job
12 in special investigations, with attorney general's office
13 quite often.
14 THE COURT: Yeah, accident reports, that type of
15 thing, police, but that's not going to affect your
16 deliberation?
17 PROSPECTIVE JUROR NO. 563: I investigated arson and
18 fraud, and that would lead to criminal charges being --
19 THE COURT: Right.
20 PROSPECTIVE JUROR NO. 563: -- filed against a
21 policy holder.
22 THE COURT: All right. My follow-up question. You
23 understand you're not to give greater weight or lesser weight
24 to a police officer's testimony, just -- just because they're
25 a police officer, you give it the weight you deem appropriate;

1 you understand that?

2 PROSPECTIVE JUROR NO. 563: I understand that.

3 THE COURT: Have you or anyone closely associated
4 with you ever been a victim of a crime?

5 PROSPECTIVE JUROR NO. 563: Yes.

6 THE COURT: What was that?

7 PROSPECTIVE JUROR NO. 563: We were burglarized,
8 probably 25 years ago.

9 THE COURT: Yeah, did they catch the individual?

10 PROSPECTIVE JUROR NO. 563: No.

11 THE COURT: You reported it to the police?

12 PROSPECTIVE JUROR NO. 563: I reported it to the
13 police.

14 THE COURT: But that's not going to affect your
15 deliberation?

16 PROSPECTIVE JUROR NO. 563: No.

17 THE COURT: Have you or anyone closely associated
18 ever been arrested for a crime?

19 PROSPECTIVE JUROR NO. 563: Yes.

20 THE COURT: Who is that?

21 PROSPECTIVE JUROR NO. 563: My older brother.

22 THE COURT: What was he arrested for?

23 PROSPECTIVE JUROR NO. 563: In Arizona, he was
24 charged with inappropriate conduct with a minor.

25 THE COURT: And what were the results of that?

1 PROSPECTIVE JUROR NO. 563: He took a plea bargain.

2 THE COURT: How long ago was that?

3 PROSPECTIVE JUROR NO. 563: 10, 12 years ago.

4 THE COURT: All right. That's not going to affect
5 your deliberation. Do you think he was treated fairly by the
6 policemen?

7 PROSPECTIVE JUROR NO. 563: Did I believe he was?

8 THE COURT: Yes.

9 PROSPECTIVE JUROR NO. 563: No, I don't. But I
10 think it puts me in a unique perspective from my job, and what
11 he went through that I feel I can be very fair in analyzing
12 and evaluating the -- the facts that would be presented.

13 THE COURT: You don't harbor any animosity towards
14 the police or the prosecuting officers that prosecuted your --

15 PROSPECTIVE JUROR NO. 563: Oh, no. No, none --
16 none whatsoever.

17 THE COURT: So it's really not going to affect your
18 deliberation, other than you think you can be more fair; is
19 that correct?

20 PROSPECTIVE JUROR NO. 563: Correct.

21 THE COURT: All right. You ever serve on a jury
22 before?

23 PROSPECTIVE JUROR NO. 563: I never have. I, you
24 know, it probably sounds weird, but I'm hoping I can get
25 picked for a jury because I feel I need to experience that in