

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANDREW ROBERT ALLEN LASTINE,

No. 73239

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Elizabeth A. Brown
Clerk of Supreme Court

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Appeal from a Judgment of Conviction in Case Number CR16-0718
The Second Judicial District Court of the State of Nevada
Honorable Patrick Flanagan, District Judge

JOINT APPENDIX VOLUME TWO

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1 4185
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7 IN THE SECOND JUDICIAL DISTRICT COURT
8 IN AND FOR THE COUNTY OF WASHOE
9 THE HONORABLE PATRICK FLANAGAN, DISTRICT JUDGE

10 --oOo--

11 STATE OF NEVADA,)

12 Plaintiffs,)

13 vs.)

Case No. CR16-0718

14 ANDREW ROBERT ALLEN)
15 LASTINE,)

Department 7

16 Defendant.)
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19 TRANSCRIPT OF PROCEEDINGS

20 TRIAL VOLUME I

21 March 6, 2017

22 9:00 a.m.

23 Reno, Nevada

24 Reported by: STEPHANIE KOETTING, CCR #207, RPR
Computer-Aided Transcription

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1 RENO, NEVADA, March 6, 2017, 9:00 a.m.

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4 THE COURT: We are convened outside the presence
5 of the jury in CR16-0718. The defense has filed a motion in
6 limine on the 2nd. Mr. Bolenbaker, have you had an
7 opportunity to look at that motion?

8 MR. BOLENBAKER: I have, your Honor. I read the
9 motion. I believe she's referring to the fact that the
10 defendant was intoxicated and that we talked about it a
11 little bit last week on the motion. I had no intention of
12 bringing that in in our case in chief. He was a 2.68 blood
13 alcohol approximately two hours after the call comes in for
14 the original accident.

15 My position would be, though, if he does take the
16 stand, that would open the door to me asking the questions of
17 that, because clearly would go to his perception of what
18 occurred that night. That's our position is we have no
19 intention of introducing that in our case in chief, however,
20 I do think it would become relevant and important if he were
21 to take the stand.

22 THE COURT: All right. Ms. Brady.

23 MS. BRADY: Thank you, your Honor. Even if he
24 were to take the stand, I would still object to it coming in

1 without a full hearing to determine whether or not that would
2 be more prejudicial than probative as to whether or not he
3 left the scene of the accident.

4 THE COURT: All right. Well, we'll cross that
5 bridge if we have to get to it. I agree with Ms. Brady that
6 if there's going to be an introduction of prior bad acts,
7 we'll have a Petrocelli hearing outside the presence of the
8 jury.

9 But as it stands now, I'll grant the defense's
10 motion in limine subject to the State's right to introduce
11 such evidence should the defendant take the stand. Anything
12 else, Ms. Brady?

13 MS. BRADY: Just to invoke the rule of exclusion,
14 your Honor.

15 THE COURT: All right.

16 MS. BRADY: The other thing in terms of bench
17 conferences, that we either record them, I know in here
18 usually we'll make a record of what was said at any bench
19 conferences during the break outside the presence of the
20 jury.

21 THE COURT: All right. Mr. Bolenbaker.

22 MR. BOLENBAKER: Thank you, your Honor. The only
23 additional thing I was going to add is understanding the
24 limitations regarding the defendant's alcohol intake, we are

1 both, Ms. Brady and I discussed outside the courtroom, Robert
2 Lastine, as you saw him testify, I warned him or told him not
3 to talk about those things. I'm sure Ms. Brady has as well.
4 But you can see from the stand, he does suffer from his own
5 saying of memory loss issues and we have both discussed being
6 extremely careful with him.

7 I just wanted to put you on notice that we're both
8 making efforts to make sure that he doesn't say anything
9 that, obviously, not any ill will, but just something that --
10 we just want to put you on notice that we're trying to be
11 extremely careful with him.

12 THE COURT: I expect nothing less with good
13 lawyers like you. Things happen in the forensic arena
14 sometimes out of our control, but just to alert the Court and
15 I'll issue a limiting instruction or an advisory instruction
16 to the jury.

17 MS. BRADY: I think that if it is mentioned either
18 by Mr. Lastine or by one of the officers, that that would be
19 a basis for a mistrial.

20 THE COURT: Well, I'll see what impact it has at
21 the time if it occurs. All right.

22 Are there any exhibits here we can admit at this
23 time? I see there's a number that are stipulated to. Do you
24 have any objection, Ms. Brady, to admitting them right now?

1 MS. BRADY: No, your Honor. The ones that are
2 marked stipulated?

3 THE COURT: Correct.

4 MS. BRADY: No, your Honor.

5 THE COURT: All right. Ms. Clerk, Exhibits 1
6 through 8 are admitted. Exhibits 10 through 30 are admitted.

7 THE CLERK: Thank you.

8 THE COURT: Are we prepared to go?

9 THE CLERK: We're waiting on the jury. They're
10 having an issue downstairs with paper work.

11 THE COURT: Okay. Do we have the Elmo ready to go
12 if necessary?

13 MR. BOLENBAKER: Everything is ready, your Honor.

14 MS. BRADY: I did have -- Exhibit 31, your Honor,
15 says photo of defendant's pocket. That was one I'm
16 definitely going to be objecting to.

17 THE COURT: Is this the pocket from which the keys
18 were taken?

19 MS. BRADY: Yes, your Honor.

20 MR. BOLENBAKER: Since we have time, when I spoke
21 to Ms. Brady with regards to the ones that were not
22 stipulated to, there's Exhibit 9, it was an aerial photo, and
23 33 through 36 were photos taken within the last couple of
24 weeks of the intersection.

1 I told Ms. Brady in regards to the 33 through 36,
2 if she had a real issue with them coming in, they were really
3 just more for context, because they're daytime photos, and
4 the photos we had were all nighttime photos. If she had a
5 real issue with that, I wouldn't try to admit those. The
6 aerial photo I think is simply pulled off Google Maps, which
7 I think I've done in most trials in this courtroom.

8 THE COURT: Ms. Brady.

9 MS. BRADY: The aerial photo, I didn't stipulate
10 to it ahead of time, but I'm probably not going to object to
11 that one. I'll see how it's used.

12 The other ones, they were provided to me last
13 week, so that was one of my objections. The other objection,
14 though, is when Mr. Bolenbaker was showing me those pictures
15 last week, he made some commentary about things that had
16 changed with the scene like a rock that was there that wasn't
17 there. And so it sounds like it might be a little bit
18 confusing as to whether or not those daytime photos are --
19 depict how it was on the night in question.

20 MR. BOLENBAKER: What happened, I don't know if it
21 was directly as a result of this incident, but they put up
22 boulders on Sun Valley leading down to this embankment that
23 we've been referring to. They're in the more recent photos.
24 Like I said, I'm not going to fight it. I'm not going to

1 fight Ms. Brady over it if she doesn't want them in.

2 MS. BRADY: I think the boulders are helpful to my
3 case. So if we were to get them in, I would want some
4 foundation to show they weren't there.

5 THE COURT: Well, you run into subsequent remedial
6 measures and issues that arise from that, the unfair
7 inferences that are drawn. I'll wait until it comes in. I'm
8 not in the habit of giving advisory opinions. Let's just see
9 if the State even offers it and we can talk about it then.

10 MS. BRADY: Thank you, your Honor.

11 THE COURT: We'll reconvene until call of the
12 jury.

13 (A short break was taken.)

14 THE CLERK: Case number CR16-0718, State versus
15 Andrew Robert Allen Lastine. Matter set for jury trial.

16 THE COURT: Thank you very much. Thank you very
17 much for your responding to your summons for jury duty.

18 (Jury voir dire conducted at this time.)

19 THE COURT: We are on the record outside the
20 presence of the jury in CR16-0718. Ms. Brady, you wanted to
21 go on the record before we exercised peremptory challenges?

22 MS. BRADY: I would like my client here. I would
23 like to object to him not being here. I think he's
24 downstairs smoking.

1 THE COURT: No, he's not, according to the
2 deputies. He's nowhere to be seen smoking a cigarette. Go
3 ahead.

4 MS. BRADY: Okay. My objection, the record is
5 noted, I guess.

6 THE COURT: Yes.

7 MS. BRADY: So in terms of whether or not we
8 proceed, I was just thinking about -- I mean, I'm not
9 familiar with the alcohol and what it does in terms of other
10 than DUIs and alcohol rates and that sort of thing.

11 But I'm not 100 percent comfortable knowing that
12 he has some alcohol and me not knowing what impact it has. I
13 spoke with him. He indicated to me that he wants to proceed,
14 that he wants to move forward with the trial. That's what he
15 indicated to me. I thought maybe I would -- I would like to
16 ask that you canvass him, but I don't know that I'm
17 comfortable.

18 THE COURT: Okay. Let me hear from the State.

19 MR. BOLENBAKER: Well, comfortable with what, I
20 guess? Are you asking for a mistrial or are you asking just
21 to take a break for the rest of the day?

22 MS. BRADY:- I'm asking for a mistrial.

23 MR. BOLENBAKER: I would oppose that. We don't
24 have any indication that the jury or anybody in the jury

1 panel is aware of what's going on. I think, you know, if we
2 had that, perhaps there would be a larger concern.

3 If she's not comfortable moving forward, my
4 suggestion would still stand that we finish selecting the
5 jury, let them go home for the day, and, frankly, remand him
6 into custody is the only way we know that he will not drink
7 tonight and the risks are too great for him to merely not
8 come back again.

9 Like I said, I don't think he has any ill intent.
10 He was drinking and coming to court and I think he's an
11 alcoholic and he can't help himself. We should be more
12 concerned if he's left to his own devices tonight.

13 MS. BRADY: Again, I just object. I was expecting
14 him. Someone said he's on his own. If you would canvass
15 him, your Honor. In terms of taking him into custody, if
16 your Honor was inclined to do that, I would ask instead for a
17 SCRAM unit to be installed.

18 THE COURT: All right. At this point at .026,
19 he's competent to drive. And if he's competent to drive,
20 then he's competent to continue with jury selection. I'll
21 canvass him. I haven't noticed any behaviors that raise any
22 concerns that I have as to whether or not he's incompetent to
23 understand the nature of these proceedings.

24 So, Ms. Brady, you've indicated there doesn't seem

1 to be any impairment in your ability to communicate with him.
2 He indicates his desire to move forward. We have convened
3 this jury. The State, the defense, and the Court has
4 invested a lot of their efforts in providing the defendant
5 with this opportunity to contest the charges against him and
6 a continuance would constitute a burden on the Court's
7 calendar, as well as counsel's calendar and the jurors. So
8 in terms of a motion for mistrial, that's denied.

9 I will canvass the defendant after we conduct at
10 least the peremptory challenges and before we swear in the
11 jury. If I feel that there's any concern, then I'll address
12 it at that time. If I don't, then I expect to go ahead with
13 opening statements and do the witnesses this afternoon.
14 Okay.

15 MS. BRADY: Okay. Thank you, your Honor. Did he
16 come up yet?

17 THE COURT: Have him come in. He can stand over
18 there.

19 MS. BRADY: Thank you, your Honor.

20 THE COURT: Stand over there, Mr. Lastine.

21 (Peremptory challenges were made at this time.)

22 THE COURT: Let's go back on the record and select
23 the jury. I'll dismiss them. It's 1:00 now. 2:15, Mr.
24 Bolenbaker, Ms. Brady, would that be okay for opening

1 statements?

2 MR. BOLENBAKER: That works, your Honor.

3 THE COURT: Let's go on the record, I'll canvass
4 Mr. Lastine before we swear in the jury. Okay.

5 THE CLERK: Your Honor, we have to stop at 4:00
6 today.

7 THE COURT: That's right. We have a hearing on
8 pretrial motions in the next trial next week.

9 MR. BOLENBAKER: We'll just move right through,
10 then, from opening to 4:00, no break?

11 THE COURT: Correct.

12 MR. BOLENBAKER: Thank you.

13 THE COURT: Thank you.

14 (A short break was taken.)

15 THE COURT: We are convened outside the presence
16 of the jury in CR16-0718. Mr. Lastine, please rise, raise
17 your right hand and be sworn by the clerk.

18 (Mr. Andrew Lastine sworn at this time.)

19 THE DEFENDANT: Yes.

20 THE COURT: Please be seated. Sir, what is your
21 age?

22 THE DEFENDANT: I'm 28.

23 THE COURT: What is the extent of your education?

24 THE DEFENDANT: Started some business classes,

1 never finished.

2 THE COURT: High school degree?

3 THE DEFENDANT: Got my GED when I was 16.

4 THE COURT: Read and write the English language?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Are you under the care of a physician
7 or psychiatrist today?

8 THE DEFENDANT: No, your Honor.

9 THE COURT: Taken any pill, drug or medicine
10 today?

11 THE DEFENDANT: No, your Honor.

12 THE COURT: Have you spoken with Ms. Brady here
13 today about what we're doing here today?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: You understand that this is a jury
16 trial convened to contest the charges, criminal charges filed
17 against you? Do you understand that?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: What did you have to drink? What
20 alcoholic beverage did you have to drink today?

21 THE DEFENDANT: None, your Honor. I drank
22 yesterday.

23 THE COURT: When was the last time you drank?

24 THE DEFENDANT: It was probably 9:00 p.m..

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THE COURT: How much did you drink?

THE DEFENDANT: At least a half pint of vodka.

THE COURT: Do you understand what we did today?

THE DEFENDANT: Yes, your Honor.

THE COURT: Do you have any questions about what we did here today?

THE DEFENDANT: No, your Honor.

THE COURT: Have you been able to speak to either Ms. Maher or Ms. Brady today?

THE DEFENDANT: Yes, your Honor.

THE COURT: Ms. Brady, turning to you, have you had an opportunity to speak with Mr. Lastine today?

MS. BRADY: I have, your Honor.

THE COURT: Don't tell me what the subject of the conversation was, but after having spoken to him, do you have any concerns about his competency to understand the nature of these proceedings?

MS. BRADY: In terms of specific competency questions, no.

THE COURT: Ms. Maher, same question, have you had a chance to talk to Mr. Lastine?

MS. MAHER: Yes, your Honor.

THE COURT: Any question in your mind about Mr. Lastine's ability to understand what we're doing here

1 today?

2 MS. MAHER: No, your Honor.

3 THE COURT: All right. Mr. Bolenbaker, do you
4 have any questions you believe the Court should ask?

5 MR. BOLENBAKER: No, your Honor. I believe that's
6 sufficient. I guess the only thing I'd put on the record is
7 that I don't know if we'd know on the record that it was the
8 deputies that initiated the testing of the alcohol.

9 THE COURT: That's a good point. We'll put on the
10 record, no matter what the source, that the Court ordered
11 that Mr. Lastine be tested for the presence of alcohol. That
12 Mr. Lastine was accompanied by his attorney down to the
13 pretrial services office for the purpose of conducting a PBT.
14 That the Court Services reported the result of that PBT to
15 the Court and that result was that the defendant had a blood
16 alcohol content of .026 as of about 11:00 this morning.

17 All right. The Court finds that the defendant is
18 competent, the defendant understands the nature of these
19 proceedings, that there's not an impairment to the extent
20 that Mr. Lastine cannot continue as a defendant in this case.
21 The Court feels comfortable with the assurances of counsel
22 that he is able to understand the nature of the proceedings,
23 assist counsel in his defense and comprehend the nature of
24 this stage of the proceedings. Ms. Brady.

1 MS. BRADY: It was also my understanding, unless
2 he's changed his mind, that he wishes to proceed forward
3 today.

4 THE COURT: Thank you. Is that true, Mr. Lastine,
5 you wish to go forward?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: All right. You realize you may be
8 waiving an issue on appeal? I don't know what that would be,
9 but, clearly, you're certainly not going to be able to claim
10 that you were so stumbling down drunk that you couldn't
11 proceed here. Do you understand that?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: Let's bring the jury back in.

14 Let's call the names of the jurors who have been
15 selected to hear this matter.

16 THE CLERK: Yes, your Honor. Heidi Foster, Tonya
17 Wade, Joseph Budiya, Steven Giardina, John McCarty, Heidi
18 Schreiber, James Reuter, Katherine Dugan, Thomas Bagan,
19 Thomas Salsig, Rebecca Block, Sharon Hamilton, Torben
20 Schroder.

21 THE COURT: Will counsel stipulate this is the
22 panel selected to hear this matter? Mr. Bolenbaker.

23 MR. BOLENBAKER: Yes, your Honor. Thank you.

24 THE COURT: Ms. Brady.

1 MS. BRADY: Yes, your Honor.

2 THE COURT: Thank you very much. Ladies and
3 gentlemen, would you please rise raise your right hand and be
4 sworn as jurors in this matter.

5 (Jury panel sworn at this time.)

6 THE COURT: Ladies and gentlemen, for those who
7 were not selected, thank you. Thank you for participating
8 here. We could not have done this without you. You might be
9 interested to know that responding to a summons for jury duty
10 is the only mandatory requirement of your American
11 citizenship. We don't have mandatory military service like
12 they have in many countries, and there's no mandatory Civil
13 Service. Even the payment of our taxes is voluntary. Well,
14 maybe not so voluntary. But responding to a summons for jury
15 duty is a requirement.

16 I often have the opportunity to meet with jurors
17 after the trial is completed and we don't talk about their
18 deliberations, but it's interesting to hear the metamorphosis
19 that they go through throughout this whole process.

20 It all starts when they get the summons for jury
21 duty. It's like, I've got so many other things to do, I
22 can't. And then they get downstairs and it's, I don't
23 understand this. And then you come up to a room and they
24 say, I hope, I just hope, I hope. And then the name is

1 called. And then there's a big sigh and you're in there and
2 they get sworn.

3 Then when the case begins, I see a change, and
4 they get engaged. And at the end, they deliberate, they come
5 back, and almost uniformly, they say this has been a great
6 experience and I'll do it again.

7 Years ago, we were trying a case, and in about the
8 middle of the case, juror number one started to cry. I was
9 rather concerned and so the bailiff went over and checked on
10 her and she said she could continue. And at the conclusion,
11 afterwards, in chambers, I'd asked her, I said, was there
12 something that upset you? And she said, no. No, there
13 wasn't.

14 And then she said, I was born in Iran, and my
15 father was a college professor, who taught political science
16 at the University of Tehran. And one night he didn't come
17 home. And we didn't know where he was. We later found out
18 that the Shah's secret police had taken him out. He was
19 teaching about democracy in his political science class. And
20 he was scheduled to be executed in two weeks.

21 Somehow the family was able to secure his release,
22 and shortly thereafter, they fled the country and made it to
23 the United States. She became an American citizen, as well
24 as the rest of her family. And she said, I sat up there, and

1 I looked out, and I saw that both sides were represented by
2 an attorney, there were no bars on the windows or the doors,
3 the public could come and go, and that 12 people that didn't
4 know either side were listening to the evidence before they
5 made their judgment. And she says, this never would have
6 happened in Iran. And she said, America is the greatest
7 country in the world. And she's right. And it's because of
8 you, every one of you here, and it's because of everybody
9 here.

10 So, thank you, ladies and gentlemen, I certainly
11 hope you get the opportunity to serve. And before I let you
12 go, I just want to know if there's anybody here who wants to
13 know what the Third Amendment to the Constitution is?

14 The Third Amendment reads that no soldier shall be
15 quartered in any home in time of peace, except by consent of
16 the owner, nor in time of war, except in a manner prescribed
17 by law.

18 Ladies and gentlemen, thank you very much for your
19 time. You may be excused. Go down to the jury
20 commissioner's office. Hope to see you again.

21 Ladies and gentlemen, we're going to convene in
22 about an hour and you'll hear opening statements. This is
23 the order in which the trial will proceed. You'll hear
24 opening statements of counsel. The opening statement is like

1 a road map. It's not an argument. It's simply a statement
2 by both sides to give you context as to what they expect the
3 witnesses to testify to and the evidence to show.

4 After that, then the State, because it has the
5 burden of proof, goes first. The State will probably call
6 one witness today. It's been a long day for you and I
7 appreciate that. I have a matter at 4:00, so I'll release
8 you at 4:00 today, have you come back at 9:00 tomorrow
9 morning.

10 The deputies will introduce you to the jury room.
11 We've got a refrigerator, a little oven. If you want to
12 bring your lunch in tomorrow, that's fine. If you don't,
13 there's plenty of nice little restaurants and places along
14 the river. We'll convene tomorrow at 9:00.

15 We will break at lunch. We'll come back probably
16 about 1:30 and we'll go until probably 4:30. As I said, we
17 like to release you early, because we don't want to incur
18 overtime for the county. That was the Court's agreement with
19 Washoe County during the financial crisis they had back then
20 in 2009. One of the ways we lifted the burden was that we
21 promised that we would not incur some overtime. So you'll be
22 released tomorrow.

23 The attorneys advise me that we will probably be
24 finished by tomorrow afternoon. So Wednesday morning, come

1 back at 9:00, you'll hear closing arguments, and then I'll
2 instruct you on the law and the case is yours.

3 So, please, you'll hear this admonition until the
4 case is submitted to you, please don't talk about this case
5 amongst yourselves or with anybody else. Don't allow anybody
6 else to talk to you about the case. If you go home and your
7 spouse asks you, you know, what happened today? Say, I was
8 selected for a jury and the judge says I can't talk about it.
9 Blame me. Blame the judge.

10 Please don't read any newspaper account, listen to
11 any radio or television account. Don't conduct any
12 independent investigations or any independent experiments.
13 Everything you need to know to reach a verdict will be
14 presented right here through the sworn testimony of the
15 witnesses and the exhibits that will be admitted into
16 evidence.

17 With that, the deputies will acquaint you with the
18 jury room and then why don't you come back here at 2:30 and
19 we'll start with the opening statements. Thank you very
20 much, ladies and gentlemen. The jury may retire.

21 (The following proceedings were had outside the
22 presence of the jury.)

23 THE COURT: Mr. Bolenbaker, do we need to take up
24 anything?

1 MR. BOLENBAKER: No, your Honor.

2 THE COURT: Ms. Brady, anything before we take our
3 break?

4 MS. BRADY: No, I don't think so.

5 THE COURT: Thank you very much. Court's in
6 recess.

7 (A lunch break was taken.)

8 (The following proceedings were had in the
9 presence of the jury.)

10 THE COURT: Will counsel stipulate to the presence
11 of the jury?

12 MR. BOLENBAKER: Yes, your Honor.

13 MS. BRADY: Yes, your Honor.

14 THE COURT: Thank you very much. This is the time
15 for opening statements. Like I said, opening statements are
16 like a road map. The attorneys will sketch out what they
17 expect the witnesses to testify to, what they hope the
18 exhibits and the evidence will demonstrate. This is not a
19 time for argument. The statements of counsel are not
20 evidence, but they're here to assist you. Since the State
21 has the burden of proof, the State goes first. Mr.
22 Bolenbaker.

23 MR. BOLENBAKER: Thank you, your Honor. Ladies
24 and gentlemen, driving is a privilege, not a right. It's a

1 privilege. And one of those things that you respect when you
2 get your driver's license is you get on the road is to follow
3 the rules, stop at the stoplights, stop signs, you yield to
4 other people. You don't drive recklessly.

5 And one of the main rules is, when you get in an
6 accident, you stay. You stay to not only to exchange
7 information, but to make sure that the person in that other
8 vehicle is okay and they're not hurt. It's a privilege the
9 defendant did not respect on January 7th, 2016, a little over
10 a year ago.

11 You see, Gertrude Green is driving her Kia Sorento
12 on her way home traveling northbound on Sun Valley Boulevard.
13 She was going to turn east or turn right on Fifth Avenue. In
14 that area of town, she stopped at the stoplight. She's the
15 third one in line. She wants to go right, but there's no
16 leeway, there's no way to get right. So she's stuck. She's
17 third in line. She's got to wait for the light to turn green
18 before she can turn right.

19 Jason Beck is also getting off work. It's about
20 the 5:00 hour, January 7th, 2016. Now, it's dark. As
21 everybody knows, at that time of year, it's dark by 5:00.
22 He's leaving work. He's going to pick up his daughter at
23 daycare and he's traveling northbound. He's right about
24 first in Sun Valley, First Avenue, when a truck cuts him off.

1 The defendant in his truck cuts him off and he's driving
2 erratically on Sun Valley Boulevard.

3 Jason Beck is behind him. The one thing that
4 really sticks out to him as he's driving is he's got a
5 license plate, one of those Nevada classic license plates
6 that you see at Hot August Nights.

7 You can see photos of this truck. I imagine you
8 will be as amused as I am to see that this truck is not what
9 would normally be considered a classic vehicle. It's an
10 older model Ford pickup. The back of the truck is a tannish
11 rust color. One of the panelings is white with wood
12 paneling. The hood is red. One door is green and one door
13 is blue. It's multi-colored. It's got different parts from
14 different vehicles making up this truck.

15 Jason Beck notices this truck. He's basically
16 following him now, because he was cut off on Sun Valley
17 Boulevard. He was in the left lane and then veers over into
18 the right lane where Gertrude Green is the third car in line
19 about to turn right. Never brakes and then rear-ends her,
20 just right in the back. She didn't see it coming.

21 Her neck snaps. She's injured. REMSA has to come
22 out. She goes to the hospital. Six months of physical
23 therapy, migraines, and guess who stops? Jason Beck. Jason
24 Beck stops. The truck goes down a little embankment between

1 Sun Valley and Fifth and heads east on Fifth Avenue, never
2 stops, never slows down.

3 Now, this area of town is kind of a concurrent
4 jurisdiction area. You have the Nevada Highway Patrol and
5 the Washoe County Sheriff's Office. Both are responsible for
6 this area of town. So both agencies respond, so you'll hear
7 from both agencies. Troopers Bowers and Howald respond from
8 the Nevada Highway Patrol and they go to the scene. And what
9 do you know? A license plate fell off the front of that
10 truck and it was right there in the road, that classic
11 license plate that Jason Beck saw.

12 Run the registration, find the address. The
13 address is 290 Bent Pine Circle, about a half a mile from Sun
14 Valley and Fifth. Information is given to a Deputy Frank
15 Gamboa from the Washoe County Sheriff's Office and he goes to
16 290 Bent Pine Circle.

17 And what do you think he sees when he gets there?
18 He sees a tan rust colored truck with front end damage. The
19 radiator hose busted, steam is coming up from the engine.
20 And it's January 7th, 2016, and it had snowed and there's
21 footprints leading from the driver's door to a side entrance
22 of the home.

23 Deputy Gamboa gets out, looks at the car, tries to
24 knock on the door, and Robert Lastine answers the door. And

1 Robert is the defendant's uncle and the owner of 290 Bent
2 Pine Circle. You'll hear he also used to be the owner of the
3 truck, the Ford in question.

4 Deputy Gamboa asks him, tell us, this truck
5 sitting right out here was just involved in a hit and run.
6 We're looking for the owner, the driver of the vehicle. He
7 says the owner is my nephew Andrew. We'd like to talk to
8 him. He says, come on in, go get him. And this is within
9 minutes of the accident taking place.

10 They go in, Deputy Gamboa, backup arrives,
11 Deputy Martin Obos of the Washoe County Sheriff's Office,
12 they go into the house and they go to the back bedroom, which
13 has an entrance from the side, the same entrance I just
14 referred to.

15 And sure enough, there's the defendant hiding
16 under blankets in his bedroom. They say, Washoe County
17 Sheriff's Office, show us your hands. No response. Washoe
18 County Sheriff's Office, please stand up and show us your
19 hands, officer safety. No response. Washoe County Sheriff's
20 Office, please, show us your hands. No response. Washoe
21 County Sheriff's Office, please show us your hands. No, he
22 says.

23 So they make the decision, they go in for officer
24 safety reasons and detain him for the accident and to check

1 him to see if he's okay. He's just been in an accident.
2 They put him in handcuffs. And sure enough, there right next
3 to the bed are a pair of shoes and they're wet and they're
4 muddy. They look at the shoe prints, matched shoe prints
5 going from the driver's door into the side entrance.

6 Trooper Howald comes to the location. They
7 confer. NHP, Washoe County make the decision to arrest the
8 defendant for leaving the scene of an accident causing
9 injury. And a search incident to arrest reveals the keys to
10 the truck in his pocket.

11 He's arrested, and as part of the procedure, he
12 makes statements to himself. Trooper Howald is with him.
13 She's not asking him questions. He just says to himself, I
14 am a fucking idiot and that's all that matters. He says,
15 one, you're an idiot, two, you're an idiot, three, this guy
16 is an idiot to himself with Trooper Howald right there.

17 Ladies and gentlemen, on January 7th, 2016, the
18 defendant did not respect the privilege of driving. And
19 after the presentation of the evidence in this case, you will
20 find beyond a reasonable doubt that the defendant is guilty.
21 Thank you very much.

22 Ms. Brady, Ms. Maher for the defense.

23 MS. MAHER: Good afternoon, ladies and gentlemen.
24 This is my first time, so forgive me if I'm a little more

1 nervous than the seasoned Mr. Bolenbaker over here.

2 The judge went over this a little bit earlier on,
3 but I think we were all hungry right before lunch. What the
4 State has done is they've painted a picture for you. And
5 prior to giving you all the puzzle pieces that they -- that
6 they'll give you, they've indicated to you exactly where they
7 want you to put each of those puzzle pieces.

8 But you're the jurors and it's going to be up to
9 you at the end of this trial to put the puzzle pieces where
10 you think they belong. And if you've ever done a puzzle, you
11 know that sometimes you come across a piece that just doesn't
12 quite fit. At first the colors kind of look right, the shape
13 kind of looks right, but when you put it down in that spot
14 and you bend it and you push it, you see there's gaps between
15 that piece and all the other pieces and you realize it's not
16 the right piece and you move on.

17 Now, ladies and gentlemen, we're here today
18 because Mr. Andrew Lastine is the wrong puzzle piece and the
19 State is trying to jam him into their puzzle. They're
20 ignoring the little gaps, the reasonable doubt. And they're
21 doing this because Ms. Green was involved in a fender-bender
22 and they need somebody to blame it on.

23 So you're going to hear a lot of things over the
24 next few days and it's important to listen not only to what

1 they do show you, what they do tell you, but also what the
2 State doesn't show you and what the State doesn't tell you.

3 You're going to hear testimony about how Ms. Green
4 was involved in a minor accident. You're not going to see
5 photos of blood or maimed limbs, not even going to see an
6 x-ray. You're just going to see photos of a fender-bender.

7 Now, you're going to hear testimony that a truck
8 hit Ms. Green from behind and drove away from the scene. But
9 you're not going to hear any testimony where anyone at the
10 scene identifies Andrew Lastine as the driver. And you're
11 not going to hear that, because it doesn't exist.

12 You're not going to hear about police reports that
13 describe it was a red-headed driver, it was a white male.
14 You're not going to hear even police reports that indicate
15 exactly how many people were in the vehicle that hit Ms.
16 Green.

17 And although Mr. Bolenbaker has so colorfully
18 described the truck, you're not going to hear about police
19 reports that include that description. That's the first gap
20 I'd like you to think about throughout the next couple of
21 days.

22 What you are going to hear is that less than
23 20 minutes after the accident, officers barged into
24 Mr. Lastine's bedroom without a search warrant, without an

1 arrest warrant, and they put handcuffs on him while he was
2 lying in bed asleep. You are going to hear that part.

3 So why did they go in? Why did they barge in?
4 The officers based their decision on three things. You heard
5 about them in Mr. Bolenbaker's opening. There were
6 footprints, you're going to hear a lot about those, there was
7 a license plate, and there was a steaming truck. Those are
8 the three things.

9 And at first maybe the puzzle pieces look like
10 they're going to fit together, but as you hear more, you're
11 going to start to see the gaps.

12 First the footprints, these were very important to
13 the officers. So important they took many photos of these
14 photographs and you're going to have the honor of looking at
15 all of these photographs. And you're going to see that
16 there's footprints pretty much everywhere, going in every
17 direction. And it's going to be up to you as the jury to
18 decide if these footprints lead to anything more than
19 confusion.

20 Then there's the license plate. Mr. Bolenbaker
21 stated it was in the middle of the road. You'll see a
22 photograph that indicates it was not in the middle of the
23 road. It was to the side of the road. And although Mr.
24 Bolenbaker did describe the truck, you'll see pictures of it

1 and you'll see that it basically looks like Frankenstein's
2 monster. It's been patched together.

3 And this isn't the only truck that Mr. Lastine and
4 his uncle Robert have that looks like this. Their entire
5 yard is a cross between a junkyard and a used car lot.
6 There's many cars that are damaged and ugly and junkie, and
7 like the truck in question, look like they could drop a
8 license plate or any part at any moment.

9 The third thing is that steaming truck. Now,
10 officers go to the door. They tell Uncle Robert, the truck
11 is steaming, we need to go in and see the driver, it's been
12 in an accident. Uncle Robert, it's funny, he looks out the
13 door and he never saw the truck steaming. And Uncle Robert
14 knows cars. He's a car guy. He's got tons of cars in his
15 yard. He's an electrical engineer. He used to own the truck
16 in question.

17 And when he looks out the door, he doesn't see the
18 truck steaming and that bothers him. And you're going to
19 hear from Uncle Robert, you're going to hear that he's not
20 here to do Mr. Lastine any favors. They've had their issues.
21 That steaming truck thing really bothered him.

22 So based on those three things, the officers barge
23 into Andrew Lastine's bedroom, and they handcuff him, not
24 while he's hiding, but while he's sleeping. And they pull

1 him up, find a pair of shoes, find some keys, they call it a
2 day, puzzle piece jammed in.

3 Now, I'm going to talk to you a little bit about
4 your powers as a jury and it's something that Christine
5 mentioned before lunch -- Ms. Brady, I'm sorry -- mentioned
6 before lunch. It's the power that you guys have to hold the
7 State to their burden. Mr. Bolenbaker must show beyond a
8 reasonable doubt for each and every element of this charge
9 for him to succeed. That's the burden you have to hold him
10 to.

11 And like Christine, like Ms. Brady said, Andrew
12 Lastine as he sits there is innocent. And he's innocent
13 every single day of this trial unless at the very end you
14 guys go to the back and you decide that Mr. Bolenbaker has
15 met the burden on every single element. Ms. Brady will talk
16 you more about reasonable doubt at the end of this trial, I'm
17 sure, but just keep in mind those gaps around the puzzle
18 piece.

19 Now, it's not up to Andrew to prove that he's
20 innocent. It's up to Mr. Bolenbaker to prove otherwise. And
21 that's the single greatest tenant of our criminal justice
22 system. That's why I'm in law school right now and that's
23 your job to protect it during the course of this trial.

24 I ask that you listen and you see for the next few

1 days, but you don't just listen to what's said, you listen
2 also to what's not said. You don't just look at what is
3 shown, but also what is not shown. Think about the puzzle
4 pieces, but also the gaps between those pieces.

5 At the end of this trial, we're going to ask that
6 you look at all of that and you find Mr. Lastine not guilty.
7 Thank you.

8 THE COURT: Thank you, Ms. Maher. Mr. Bolenbaker,
9 your first witness.

10 MR. BOLENBAKER: Thank you, your Honor. The State
11 would call Gertrude Green. May I approach your clerk, your
12 Honor?

13 THE COURT: You may.

14 (One witness sworn at this time.)

15 THE COURT: Mr. Bolenbaker, your witness.

16 MR. BOLENBAKER: Thank you, your Honor.

17 BY MR. BOLENBAKER:

18 Q. Ms. Green, can you state your name and spell it
19 for the record?

20 A. Gertrude Green, G-e-r-t-r-u-d-e, G-r-e-e-n.

21 Q. And, Ms. Green, how are you feeling today?

22 A. Nervous.

23 Q. Okay. What I want to do, Ms. Green, is talk a
24 little bit about January 7th of 2016. Why don't you give the

1 jury a little rundown of your day up until the point of the
2 accident?

3 A. I was on my way home from work, heading up the
4 boulevard, Sun Valley Boulevard, 395 -- excuse me -- heading
5 north on Sun Valley Boulevard to Fifth Street.

6 Q. And where were you coming from?

7 A. Work.

8 Q. And where is work for you?

9 A. Double R Boulevard.

10 Q. What do you do for a living?

11 A. Operations manager.

12 Q. Operation managers is one of those terms that
13 sounds nice, but what do you do?

14 A. I manage an office.

15 Q. Okay. You were heading home?

16 A. Yes.

17 Q. What area of town do you live at?

18 A. Sun Valley, the Highland Ranch area.

19 Q. And how far is your home from Sun Valley Boulevard
20 and Fifth Avenue?

21 A. It's about half a mile, maybe a mile.

22 Q. You said you were travelling north on Sun Valley
23 Boulevard?

24 A. Yes.

1 Q. And talk about the stoplight at Sun Valley
2 Boulevard and Fifth Avenue.

3 A. I was stopped at the stoplight waiting to turn
4 right on to Fifth Street to head home.

5 Q. Was the light red?

6 A. Yes. The light was red.

7 Q. Were there any cars in front of you?

8 A. Yes. There were two vehicles in front of me.

9 Q. So point that area right there, is there any
10 movement to get to Fifth Avenue if you're not the first car
11 in line?

12 A. No. There is not.

13 Q. So you have to wait for the light?

14 A. So you have to wait, yeah, to be able to turn
15 right.

16 Q. Do you remember what you were doing in the car at
17 the time right before the accident?

18 A. Listening to the radio, just waiting for the light
19 to turn green.

20 Q. What kind of a car do you drive?

21 A. A white Kia Sorento.

22 Q. How long have you had that car?

23 A. Two years.

24 Q. And prior to January 7th of 2016, did you have any

1 issues with your car?

2 A. No.

3 Q. So in as much detail as you remember, tell us what
4 happened at the accident.

5 A. Just sitting at the light waiting to turn right on
6 to Fifth. All of a sudden, I just get a -- I was hit from
7 behind. Actually, I was kind of in shock at first. And my
8 car kind of veered a little to the right. And as I look up,
9 I just see another vehicle bearing down a little embankment
10 and heading down Fifth Street.

11 Q. So you say you were in shock, what do you mean by
12 that?

13 A. I don't know, just the impact. I just sat there.
14 I didn't know what to do, what happened at first.

15 Q. Did you have your seatbelt on?

16 A. Yes, I did.

17 Q. Did anything happen with the seatbelt?

18 A. It, actually, when I got hit from behind, I went
19 forward and my seatbelt yanked me back and my neck snapped.

20 Q. Tell me about the car you saw going down the
21 embankment, as much as you can recall.

22 A. I remember it being a little truck, just a small
23 one, like a rust colored one. Just from the back, it looked
24 like maybe like a little Nissan truck, just a very small

1 truck.

2 Q. What did you see the truck do?

3 A. Just veer off down to the embankment and heading
4 down Fifth. It was just kind of like, I don't know, hit off
5 and took off. It sped away.

6 Q. You were heading north on Sun Valley and this car
7 then went east or right?

8 A. It went right.

9 Q. Were you able to see how many people were in the
10 truck?

11 A. There was only one person in the truck.

12 Q. Now, about what time do you recall this happening?

13 A. It was dusk, getting dark, probably about 6:15,
14 6:00, in between 6:00 and 6:30.

15 Q. Okay. How is your memory on the timing, though?

16 A. Maybe 6:15.

17 Q. So you the see the truck go down the embankment,
18 then what happened?

19 A. Then the gentleman got out of his car and asked me
20 if I was okay. He called 911. And then another lady came up
21 to my car, because she was parked in the parking lot, and she
22 came over to see if I was okay, and she was also on the phone
23 with 911. And they both called it in. And the gentleman
24 that did stop told me not to move, just stay there.

1 MS. BRADY: Objection, hearsay.

2 THE COURT: Overruled.

3 BY MR. BOLENBAKER:

4 Q. You can answer.

5 A. Ask asked me if I was okay and told me not to move
6 until the paramedics showed up.

7 Q. So did you do that? Did you stay in the car then?

8 A. Yes. I stayed in the car.

9 Q. With as much detail as you remember, can you tell
10 us what you saw, remember about the driver of the vehicle,
11 the truck?

12 A. All I remember is just the back of the truck, him
13 going down the embankment. The person in the truck, just
14 when they went down it, he just bounced up, and all I could
15 see was like the back of his head or her head.

16 Q. You're referring to it as a male, though. You
17 through it was a male?

18 A. You can just see the back of his -- I apologize --
19 the back of the person's head.

20 Q. Did it appear to you to be a guy?

21 A. A guy.

22 MR. BOLENBAKER: May I approach, your Honor?

23 THE COURT: You may.

24 BY MR. BOLENBAKER:

1 Q. I'm going to show you what's already been admitted
2 as Exhibits 1 through 6. Why don't you take a minute and
3 look through those. Do those photographs look familiar to
4 you?

5 A. Uh-huh.

6 Q. Is that a yes?

7 A. Yes.

8 MR. BOLENBAKER: Permission to publish these, your
9 Honor.

10 THE COURT: Granted.

11 MR. BOLENBAKER: Thank you.

12 BY MR. BOLENBAKER:

13 Q. Let me start with number one here. That just
14 looks like a light. Let's see if we can try better. Can you
15 tell us what you see in this photograph? Just so you know,
16 you can actually circle things on the TV screen and it will
17 show up just like on the NFL. You can actually touch the
18 screen with your fingernail.

19 A. My finger.

20 Q. Can you see your car in that photo? I know it's
21 hard, it's dark.

22 A. Yeah. I can see.

23 Q. Go ahead and circle it. Don't be shy. Just give
24 it a good punch with the nail.

1 A. There we go. Kind of. Yeah, right here.

2 Q. I give up. I'll move to number two. Perhaps this
3 is a little better. Can you show us your car in that
4 photograph? It's the white Kia depicted in the middle of the
5 photograph there?

6 A. Yes.

7 Q. Can you show us where this embankment is that
8 you've been referring to?

9 A. It's off to the right here. There's a bus stop
10 right here and right next to the bus stop is an embankment
11 that goes down.

12 Q. I'll show you number three. Is that your vehicle?

13 A. Yes, it is.

14 Q. Can you circle the damage that was done to your
15 vehicle as a result of the accident. So was that damage
16 there prior to January 7th, 2016?

17 A. No.

18 Q. I'll show you number four. Can you circle the
19 damage here on this photograph? Then number five. Now, you
20 had mentioned that your car went a little bit to the right.
21 I notice that the damage was on the driver's side of the rear
22 of the vehicle and you said you were pushed a little bit to
23 the right. Can you explain that a little more?

24 A. Just from the impact, it pushed my car to the

1 right a little bit. Actually, quite a bit.

2 Q. Do you recall is that where your car ended up as a
3 result of the accident?

4 A. Yes. From what I recall.

5 Q. And then number six, another view of your vehicle?

6 A. Yes.

7 Q. So did an ambulance show up to the scene?

8 A. Yes, they did.

9 Q. Tell me about that.

10 A. Actually, the fire department showed up first,
11 because they were close on the scene. The firemen got in,
12 held my neck back until the paramedic showed up. Then they
13 put me on a back board when the ambulance showed up and
14 transported me to Renown.

15 Q. Now, what were you feeling at this time?

16 A. I had some tingling going on on my left arm and my
17 left leg.

18 Q. And are you talking about now or when?

19 A. When it happened.

20 Q. When it happened. Okay. How did your neck feel?

21 A. It was very sore.

22 Q. Tell us about your hospital stay.

23 A. Went in, they did a CT scan, and put me in a
24 brace, because I had a thoracic -- said I had a thoracic

1 whiplash.

2 Q. How long were you in the hospital for?

3 A. Probably about six, seven hours and I was released
4 to go home.

5 Q. Did your daughter come to the scene?

6 A. Yes, she did.

7 Q. Talk to the jury about that.

8 A. They called -- one of -- the lady who got a hold
9 of my phone, called my daughter, told my daughter I was in an
10 accident. She was only like five minutes away. So she
11 arrived at the scene, waited there with me until the
12 paramedics showed up and then took -- then she followed the
13 ambulance to the hospital.

14 Q. What's it like to see your daughter come to an
15 accident scene like this?

16 MS. BRADY: Objection, relevance.

17 THE COURT: Sustained.

18 BY MR. BOLENBAKER:

19 Q. Were you happy to see her?

20 A. Yes. I was very happy to see her.

21 Q. Let's talk about your car. What happened with
22 your car after January 7th of 2016?

23 A. It was taken to the city tow yard and then it was
24 transported from there to Concourse Auto Body Shop to get

1 repaired and they had it for a week.

2 Q. What I want you to do now is describe the injuries
3 that you suffered and have gone through from January 7th,
4 2016 to today.

5 A. I had physical therapy for six months, went to a
6 chiropractor for a year. The chiropractor, I went twice a
7 week for six months, and then it was every week, and then I
8 just go every now -- like once a month.

9 Q. What kind of stuff do you do at physical therapy?

10 A. I did neck pulls, then they would massage like the
11 back of your neck, and then they would rotate it back and
12 forth.

13 Q. How long? You said you did that for six months?

14 A. Six months.

15 Q. Describe the pain in your neck in that six months.

16 A. It was like there was a lot of pressure on my neck
17 to where I don't know if anybody has had like migraine
18 headaches where it's just horrible.

19 Q. So when you have a migraine, what happens to you?

20 A. You can't -- you just have to stay in bed, pretty
21 much. You get to where you can't stand light, you get sick
22 to your stomach, sometimes you can't sleep.

23 Q. Were you prescribed any pain medication?

24 A. Yes.

1 Q. Do you recall what kind?

2 A. Hydrocodone.

3 Q. And do you remember how long you took that for?

4 A. Probably a couple of months, because I don't like
5 the pain pills, but I would only take a half, maybe one a day
6 for about a month.

7 Q. So, Ms. Green, the truck in question that you saw
8 go down the embankment, did it ever come back?

9 A. No.

10 Q. The driver of that truck never checked on you to
11 see how you were doing?

12 A. No.

13 Q. Never came and saw if you were okay?

14 A. No.

15 Q. Have you ever seen that truck since?

16 A. No.

17 MR. BOLENBAKER: I have no further questions, your
18 Honor. Thank you.

19 THE COURT: Thank you, Mr. Bolenbaker. Ms. Brady,
20 cross examination.

21 MS. BRADY: Thank you, your Honor.

22 CROSS EXAMINATION

23 BY MS. BRADY:

24 Q. You met with Mr. Bolenbaker about four or five

1 times leading up to this trial?

2 A. Yes.

3 Q. Okay. And you testified that you saw it go
4 down -- the car, the little truck go down the embankment?

5 A. Correct.

6 Q. When you saw that, did you see that through the
7 window, through your mirror, or both?

8 A. Through my window.

9 Q. You didn't see the truck as it hit you, correct?

10 A. No.

11 Q. And your airbag didn't deploy?

12 A. No.

13 Q. And you testified at the preliminary hearing that
14 you have had migraines in the past?

15 A. Yes. That is correct.

16 Q. I have a question about the pictures. I don't
17 know if I'll have anymore left than Mr. Bolenbaker with the
18 pictures. Could you circle, again, where you saw the vehicle
19 that hit you go down the embankment?

20 A. Right through here.

21 THE COURT: Ms. Brady, can you identify the
22 exhibit number?

23 MS. BRADY: Yes. Sorry, your Honor. Let the
24 record reflect that I am showing the witness what is marked

1 as Exhibit 2.

2 BY MS. BRADY:

3 Q. Did I move that? Is that the same spot that you
4 just circled? Because I picked it up.

5 A. The vehicle went -- there's a little stop here,
6 bus stop here, there's a bench here, and there's an opening
7 here.

8 Q. And what's this red thing? Do you see that red
9 thing right here?

10 A. Yeah. That's the taco truck sits right there.

11 Q. Okay. There was a taco truck there?

12 A. Uh-huh. Correct.

13 Q. And point to where the bench is? I'm going to
14 clear this.

15 A. You can see it right here.

16 Q. Let me clear this. Where's the bench?

17 A. Right there.

18 Q. You didn't see the vehicle as it was approaching
19 you?

20 A. No.

21 Q. So you don't know what direction it was coming
22 from?

23 A. No.

24 Q. Which lane it was in? Do you know which lane it

1 was in?

2 A. No. I was in the right lane.

3 Q. It was behind you?

4 A. I said I was in the right lane.

5 Q. You were in the right lane?

6 A. Yeah.

7 Q. Okay. You hired a private attorney as a result of
8 the accident?

9 A. Yes.

10 Q. And in terms of the color, when you say it was
11 rust, was that a color or was it a rusty truck?

12 A. No. It's a color, like a brownish rust color.

13 Q. Okay.

14 MS. BRADY: No further questions.

15 THE COURT: Thank you, Ms. Brady.

16 MS. BRADY: I actually have one.

17 THE COURT: Go ahead.

18 BY MS. BRADY:

19 Q. You said on direct examination you could only see
20 the back of the head and you -- correct?

21 A. Correct.

22 Q. And you went back and forth saying the man or the
23 woman. You don't know as you sit here today, you're not
24 certain what gender the person was?

1 A. You could tell it was a male. I could tell it was
2 a male from the back.

3 Q. Was there something, just a short haircut?

4 A. Yes.

5 Q. That's what, from that you could tell it was a
6 male?

7 A. You could tell.

8 MS. BRADY: Okay. Thank you. No further
9 questions.

10 THE COURT: Thank you, Ms. Brady. Mr. Bolenbaker.

11 REDIRECT EXAMINATION

12 BY MR. BOLENBAKER:

13 Q. Ms. Green, had you had any issues with your neck
14 prior to January 7th, 2016?

15 A. No.

16 Q. And you testified that you had migraines before.
17 How were they changed from the accident?

18 A. They were more intense.

19 Q. What about the frequency?

20 A. More often.

21 MR. BOLENBAKER: No further questions, your Honor.
22 Thank you.

23 THE COURT: Does that raise any questions?

24 MS. BRADY: No, your Honor.

1 THE COURT: All right, Ms. Green, you can step
2 down. Watch your step going down. That will be it for
3 today. Ladies and gentlemen, we've had a long day and I know
4 speaking on behalf of everybody, when I say I appreciate your
5 investment here. We're going to let you go early today.
6 We'll pick it up on at 9:00.

7 Overnight, ladies and gentlemen, don't talk about
8 this case amongst yourselves or with anybody else. Don't
9 allow anybody else to talk to you about the case. Don't form
10 any conclusions until the case has been submitted to you.
11 You haven't heard all the evidence. Don't read any newspaper
12 account, listen to any radio or television. Don't Google or
13 Twitter, whatever, just stay off of social media. There will
14 be plenty of time to Facebook or whatever you want to do
15 after the trial is over. But now just keep an open mind.

16 Don't engage in any independent investigations.
17 It's not uncommon in cases in our court where you'll hear of
18 locations that are very common. I'm not saying go out of
19 your way to avoid it, but just don't go out there and play
20 junior detective. We have plenty of real detectives out here
21 and they'll assist you in your deliberations. No independent
22 research, no independent experiments. Have a good evening.
23 I'll see you at 9:00 tomorrow morning. Jury may retire.

24 (The following proceedings were had outside the

1 presence of the jury.)

2 THE COURT: Can we expect the jury instructions
3 maybe later this evening?

4 MS. BRADY: Yes, your Honor. Sorry.

5 THE COURT: I certainly understand the pressure
6 all counsel are in when they're in trial. So if we get
7 those, we should be able to get a packet to you maybe by our
8 mid morning break and maybe we can work on them Tuesday
9 evening. Okay. Thank you. Mr. Bolenbaker, anything further
10 this evening?

11 MR. BOLENBAKER: No. I don't think so.

12 THE COURT: Ms. Brady.

13 MS. BRADY: No, your Honor.

14 THE COURT: Ms. Maher, anything?

15 MS. MAHER: No.

16 THE COURT: Court's in recess.

17 Excuse me. We're back the on record. I've had
18 some time to think about the issue with Mr. Lastine and his
19 alcohol content. I'm not going to remand him into custody
20 yet.

21 MS. BRADY: Thank you, your Honor.

22 THE COURT: And I'm not going to order a SCRAM.
23 It's a very expensive device. I think it requires a private
24 contract. I don't know if they can do it in a timely manner,

1 but I am going to place him under pretrial supervision. I
2 know that pretrial services closes up at 4:00. So,
3 Ms. Brady, if you just escort your client down there and get
4 him under contract.

5 MS. BRADY: Okay.

6 THE COURT: I'll order that he just comply with
7 whatever the requirements are, whether it's alcohol or drug
8 monitoring. I think everybody has got an interest in making
9 sure that this trial goes as smoothly as possible, including
10 Mr. Lastine. And the fewer hiccups we can avoid, the better
11 it is for everybody.

12 So I appreciate -- well, you should appreciate the
13 hard work your attorney has put into this, and if nothing
14 else, do everything you can in your power to assist both of
15 them. So as I said, I'm not going to put him into custody
16 tonight. But I'm going to place him under pretrial
17 supervision. And just adhere to all of those conditions,
18 Mr. Lastine, you're going to be okay. All right.

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Now the Court is in recess.

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1 STATE OF NEVADA)
) ss.
2 County of Washoe)

3 I, STEPHANIE KOETTING, a Certified Court Reporter of the
4 Second Judicial District Court of the State of Nevada, in and
5 for the County of Washoe, do hereby certify;

6 That I was present in Department No. 7 of the
7 above-entitled Court on March 6, 2017, at the hour of 9:00
8 a.m., and took verbatim stenotype notes of the proceedings
9 had upon the trial in the matter of THE STATE OF NEVADA,
10 Plaintiff, vs. ANDREW ROBERT ALLEN LASTINE, Defendant, Case
11 No. CR16-0718, and thereafter, by means of computer-aided
12 transcription, transcribed them into typewriting as herein
13 appears;

14 That the foregoing transcript, consisting of pages 1
15 through 52, both inclusive, contains a full, true and
16 complete transcript of my said stenotype notes, and is a
17 full, true and correct record of the proceedings had at said
18 time and place.

19
20 DATED: At Reno, Nevada, this 26th day of June 2017.

21
22 S/s Stephanie Koetting
23 STEPHANIE KOETTING, CCR #207
24

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 7th day of December 2017. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Terrence P. McCarthy, Chief Appellate Deputy
Washoe County District Attorney's Office

I further certify that on this date a copy of this document was mailed to:

Mr. Andrew Robert Allen Lastine (#1178211)
Stewart Conservation Camp
P.O. Box 5005
Carson City, Nevada 89702

John Reese Petty
Washoe County Public Defender's Office