

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

DAVID BURNS,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

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Elizabeth A. Brown  
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Supreme Court Case No. 77424

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1           During the recess, again, it's your duty not to  
2 converse among yourselves or with anyone else on any subject  
3 connected with this trial. You may not read, watch or listen  
4 to any report of or commentary on the trial from any medium of  
5 information including without limitation newspapers,  
6 television and radio, and you may not form or express an  
7 opinion on any subject connected with this case until it is  
8 finally submitted to you.

9           We'll be in recess for about 10 minutes. The Court  
10 will be at ease while the jury leaves.

11                       (Jury recessed 2:24 p.m.)

12           MR. SGRO: Your Honor, may we be excused?

13           THE COURT: The record will reflect that the jury is  
14 out of the courtroom. 10 minutes.

15           MR. DIGIACOMO: Thank you Judge.

16                       (Court recessed at 2:24 p.m. until 2:39 p.m.)

17                       (Outside the presence of the jury.)

18           THE COURT: All right. We're on the record, Mr.  
19 Oram.

20           MR. ORAM: Your Honor, the -- the State has indicted  
21 to me that based upon Mr. Sgro's opening argument, and maybe  
22 their own tactics, there is a chance that during Monica  
23 Martinez's testimony that they will play her entire statement.  
24 It's lengthy.

25           I do understand why the State may desire to do that,

1 but there's a portion of it that causes me concern. It's very  
2 small and I've addressed it with Mr. DiGiacomo. She refers to  
3 the individuals in this case, including what I would say is  
4 lumping in Mr. Burns together as in a gang. And so I wanted  
5 to address that with the Court so we're not doing it, you  
6 know, and Mr. DiGiacomo wouldn't have time to -- wouldn't have  
7 time to redact it if you ruled in our favor. If we didn't,  
8 we're not jumping up in front of the jury.

9 I don't see the relevance of -- in her -- it's a  
10 12-hour statement, actually. They're going to reduce it down  
11 to five and a half hours. Why it's relevant to -- why it's  
12 relevant to the case. I guess they're arguing there's some  
13 kind of fear factor here.

14 I would imagine if Ms. Martinez had seen somebody or  
15 saw people coming out of an apartment and they've shot and  
16 killed somebody that could cause her fear and we don't need to  
17 get into gang information. So for that reason I would ask  
18 that the Court preclude that portion of the video and the  
19 audio.

20 MR. DiGIACOMO: Thank you, Judge. It is, actually,  
21 I think 15 hours that she's in the room, but she's actually  
22 speaking as it relates to this case for 5 hours and 26 minutes  
23 and a few seconds.

24 During the course of that conversation, the -- the  
25 police are trying to identify the suspects. And in the course

1 of that conversation, she ultimately acknowledges, you heard  
2 from Mr. Sgro's opening, that it takes her some time. That  
3 not Mr. Burns, but Mr. Mason comes from the same neighborhood  
4 as Job-Loc and it's -- they just say PPHG or DPHG. They don't  
5 -- I think it's players, pimps, hustlers, and gangsters, which  
6 is a gang out of San Bernardino. They don't actually  
7 specifically address they're gangsters or they're gangbanging  
8 or anything else like that that --

9 THE COURT: She didn't use --

10 MR. DiGIACOMO: -- I recall.

11 THE COURT: -- the word gang?

12 MR. DiGIACOMO: I do not believe she uses the word  
13 gang. I don't know if maybe I -- it's 5 hours and 26 minutes.  
14 We'll have to go back and confirm that. But she clearly has a  
15 concern and a fear as it relates to them and she's providing  
16 identifying information as it relates to them. And, in fact,  
17 that's how they wind up locating Job-Loc and Willie and then  
18 tie in Mr. Burns.

19 I believe that every witness in this case will say  
20 that Mr. Burns is not a PPHG. So I think it would be more of  
21 an objection by Mr. Langford than it was necessarily by Mr.  
22 Burns. I believe that everybody is going to say he did not  
23 come -- grow up in that neighborhood. And most of these  
24 people use those type of terms like neighborhood, those type  
25 of things.

1 I don't think they specifically reference the term  
2 gang, but Mr. Oram and I were just having this conversation.  
3 We'll confirm that up as to exactly what it is. But if I'm  
4 going to redact that, I'm going to need some time to redact  
5 it, and she's probably going to hit the stand tomorrow.

6 THE COURT: I know the Supreme Court has had some  
7 concern about the use of gang terms or gangs unless there's a  
8 real good reason to do it. If there's no real good reason to  
9 do it, let's -- let's redact it.

10 MR. DiGIACOMO: Well, there's a very good reason to  
11 do it. One is it relates to their opening as it relates to  
12 why Monica would lie, why is she saying these things. She's  
13 scared to death of these individuals.

14 THE COURT: If she's scared of them because of a  
15 gang relationship.

16 MR. DiGIACOMO: Well, I believe that will be her  
17 testimony. Absolutely.

18 THE COURT: Well, then it becomes more relevant. I  
19 mean, I don't know. If that's why she's scared of them  
20 because she's scared of that gang, I can see her -- I can see  
21 the -- the relevancy of it and it's probably admissible.

22 MR. ORAM: Your Honor, could I just put on the  
23 record exactly what she says? I have her statement and it's  
24 located at page 224. And she -- they say by the --

25 MR. DiGIACOMO: It's only the one at 224 that you're

1 concerned about?

2 MR. ORAM: No, I'd be concerned about every  
3 reference to it, but let me go through this.

4 MR. DiGIACOMO: Oh, okay. Yeah.

5 MR. ORAM: Who do they run with? Question by the  
6 detective. What gang are they in? Marty Wildemann. Answer,  
7 I think the DPHD. Detective, thank you. Question, DBHG? And  
8 so they do specifically say what gang.

9 THE COURT: Is that the only reference to gang?

10 MR. ORAM: It is the only one that I --

11 THE COURT: That doesn't sound like -- in other  
12 words, is there a question why are you afraid of them and it's  
13 because of the gang?

14 MR. ORAM: No, there's nothing like that.

15 THE COURT: Then let's redact it. It seems like if  
16 he --

17 MR. DiGIACOMO: If that's the only one that he's  
18 talking about, I don't have a problem with that.

19 THE COURT: All right. Let's redact it.

20 MR. DiGIACOMO: Yeah. We can take out -- and I  
21 believe it starts at --

22 THE COURT: Can you do that electronically? I know  
23 anything can be done, the question is can you do it or can you  
24 have somebody do it?

25 MR. DiGIACOMO: Oh, I --



1 MS. WECKERLY: He can do it.

2 MR. DiGIACOMO: I can have it done tonight.

3 THE COURT: Do you have technicians that do those  
4 things?

5 MR. DiGIACOMO: No, no.

6 MS. WECKERLY: He can do it. He's a magician.

7 MR. DiGIACOMO: No, there's 11 seconds, so I cut the  
8 tape out on it.

9 MR. ORAM: Do you see any other portion? I don't --

10 MR. DiGIACOMO: I put in DPHG and that's the only --

11 MR. ORAM: That's the only time --

12 MR. DiGIACOMO: -- DPHG that comes up --

13 MR. ORAM: -- I found it.

14 MR. DiGIACOMO: -- in the entire thing. But I know  
15 that their own gang name is PPHG. She doesn't even know the  
16 real name.

17 MR. SGRO: Which how -- if she's afraid of them, she  
18 doesn't even know their real name.

19 MS. WECKERLY: She just knows --

20 MR. SGRO: So afraid.

21 MS. WECKERLY: -- what they do.

22 MR. DiGIACOMO: Yeah, she just knows -- she knows  
23 them by reputation.

24 THE COURT: She just knows they're a gang. That's  
25 all right.

1 MR. SGRO: Yeah.

2 THE COURT: But it sounds more prejudicial that  
3 probative, so I think we ought to redact it.

4 MR. DiGIACOMO: I can remove that. And, in fact --

5 THE COURT: All right. I mean, if we can --

6 MR. DiGIACOMO: -- it's four hours and --

7 THE COURT: -- avoid the gang references, I would  
8 just as soon do it.

9 MR. DiGIACOMO: It's four --

10 THE COURT: All right. Are we ready to bring the  
11 jury in?

12 MR. DiGIACOMO: Absolutely, Your Honor.

13 MR. LANGFORD: Mr. Mason is, Your Honor.

14 THE COURT: All right. You can bring the jury in.

15 (Pause in the proceedings.)

16 (In the presence of the jury.)

17 THE COURT: All right. State versus Mason and  
18 Burns. The record will reflect the presence of the  
19 defendants, their counsel, the district attorneys, all members  
20 of the jury.

21 It did take us a few more than ten minutes, ladies  
22 and gentlemen. But the good news is in the interim that  
23 counsel has marked some of the evidence bags, opened them. We  
24 saved us some time in going through the evidence because  
25 they've agreed to let them -- let the clerk mark them and so

1 we'll get right into some of the evidence.

2 All right. You can call your next witness.

3 MR. DiGIACOMO: Barry Jensen.

4 BARRY JENSEN, STATE'S WITNESS, SWORN

5 THE CLERK: Please be seated.

6 THE WITNESS: Thank you.

7 THE CLERK: Please state your name and spell your  
8 first and last name for the record.

9 THE WITNESS: My name is Barry Jensen. It's  
10 B-A-R-R-Y J-E-N-S-E-N.

11 MR. DiGIACOMO: May I inquire?

12 THE COURT: Yes.

13 DIRECT EXAMINATION

14 BY MR. DIGIACOMO:

15 Q Sir, how are you employed?

16 A I'm employed with the Las Vegas Metropolitan  
17 Police Department.

18 Q In what capacity?

19 A I'm currently assigned to the homicide detail.

20 Q And how long have you been with Metro?

21 A I've been with Metro for 26 years.

22 Q And how long have you been with homicide?

23 A 14 years.

24 Q I'm going to direct your attention to the  
25 early morning hours into the morning hours of August 7th of

1 2010. Did you respond to a homicide with a number of other  
2 law enforcement personnel at a homicide located at 5662 Meikle  
3 Lane here in Clark County, Las Vegas, Nevada?

4 A Yes, I did.

5 Q If you could just briefly explain to the  
6 ladies and gentlemen of the jury as it relates to homicide,  
7 how many individuals went out to this particular scene?

8 A For the -- we have -- I believe at that time  
9 in 2010 we had three homicide squads, six detectives on a  
10 squad, on sergeant per squad, and we work in two-man teams.  
11 And usually for a homicide we would call out the -- the team  
12 that's on call, and usually two more detectives to -- to help  
13 them. I believe on this case that we called out a few extra  
14 detectives for whatever reason. I wasn't the homicide  
15 detective on call. It was another team.

16 Q And that was going to be my next question.  
17 Were you the homicide detective that's ultimately responsible  
18 for the underlying investigation of Derecia Newman's homicide?

19 A No, I was -- I was what we refer to as a  
20 third wheel. We generally do outlying witnesses and other odd  
21 tasks.

22 Q You were assisting other detectives?

23 A Yes.

24 Q And who were those detectives?

25 A I was assisting Detective Chris Bunting and

1 Marty Wildemann.

2 Q In the process of assisting them, did you seek  
3 consent in order to conduct a search of the interior of  
4 Apartment A at 5662 Meikle?

5 A Yes, I did.

6 Q And who did you seek that consent from?

7 A I -- I spoke with Cornelius Mayo who was -- he  
8 resided inside that apartment. I explained the consent to  
9 search form, which is him allowing us to go in without a  
10 search warrant. He signed it and that was the end of my --  
11 our contact with him at that point.

12 Q I imagine that an investigation and a homicide  
13 scene is not something that gets wrapped up very quickly?

14 A No, they -- the -- I believe it was several  
15 hours that we were at the scene.

16 Q During this time period do you learn that Mr.  
17 Mayo wants to leave the -- the scene and either report to the  
18 hospital or some other place?

19 A Yes.

20 Q Did you agree to help him in some manner so  
21 that he could eventually now leave the scene?

22 A Yes, I did. He -- for him -- he didn't have  
23 shoes on, he needed a shirt, and I -- I think he wanted  
24 cigarettes from his -- inside of the -- the apartment. I went  
25 into the master bedroom where he told me those things would

1 be. I picked up a pair of shoes, I grabbed his shirt, I think  
2 it was on the back of a door, and a pack of cigarettes from  
3 the bedroom. And I too them out to the parking lot where Mr.  
4 Mayo was and handed those items to him.

5 Q Why didn't you let Mr. Mayo go inside the  
6 master bedroom and collect his items?

7 A Well, we try to keep the people in and out of  
8 the crime scene limited, and letting him come back into the  
9 crime scene to get those things just isn't what we do.

10 Q Once you provide him his shoes, his shirt, and  
11 some cigarettes, do you ever get notified that there is an  
12 issue?

13 A Yes, I do. It's not my finest hour in law  
14 enforcement, but a little while later I was contacted by a  
15 patrol officer who was standing by Mr. Mayo and he was putting  
16 his shoes on, and a clear plastic of what appears to be a rock  
17 of cocaine fell out of the shoes that I had provided him.

18 Q Did you recover that item of rock cocaine?

19 A I did.

20 Q And did you allow Mr. Mayo to go on his way?

21 A I did, yes.

22 Q Thank you, Detective.

23 A Thank you.

24 MR. DiGIACOMO: Pass the witness.

25 THE COURT: Any cross?

1 CROSS-EXAMINATION

2 BY MR. SGRO:

3 Q How are you doing, sir?

4 A Good, sir. How are you?

5 Q Excellent. You have been in Metro 25, 26  
6 years?

7 A 26 years.

8 Q You have taken a number of witness statements?

9 A I have.

10 Q And over the years you feel like you've gotten  
11 pretty good at it?

12 A Yes.

13 Q And do you feel as that now -- at the time you  
14 would have been a homicide detective 10 years, you've taken a  
15 lot of statements related to homicide cases; right?

16 A Yes, I have.

17 Q And one of the things that you do is -- is you  
18 ask the right question so that you can get the right  
19 information; right?

20 A We try to ask pertinent questions to get  
21 correct information.

22 Q And in the big picture, did you see anything  
23 or did you see anybody, those are the questions that come  
24 right off the top.

25 A Correct.

1 Q You interviewed Erica Newman; correct?

2 A I believe so.

3 Q Okay. Can you remember any memorialization of  
4 your interview with Erica Newman? Now, she would have been,  
5 just so I can give you some context, she would have been 12 at  
6 the time. She's around 16 now. She testified earlier today.  
7 You may have seen her in the hallway. Does that sort of jog  
8 your memory?

9 A Yeah, I didn't see her in the hallway. Was  
10 she sleeping in the -- in the bunk bed room?

11 Q Yes, sir. She was sleeping. It was her  
12 sister, actually, that was shot and killed.

13 A That's correct.

14 Q All right. Does that ring a bell now?

15 A Yes.

16 Q All right. So you are tasked with the job of  
17 interviewing her and finding out what she knows?

18 A Yes, sir.

19 Q Okay. And do you remember reporting your  
20 findings to homicide detectives Bunting and Wildemann because  
21 it was their case? Did you tell them what was happening?

22 A Usually when we get done doing an interview or  
23 through the course of the investigation, we would get together  
24 and kind of update the other detectives of -- of what we have  
25 and what we've discovered.



1           Q     And do you remember telling the detectives  
2 that you had interviewed Erica Newman?

3           A     Uh-huh.

4           Q     Yes?

5           A     Yes.

6           Q     And do you remember telling the detectives  
7 that Erica had woken up to the sound of gunshots, saw a man  
8 with a gun walk into the master bedroom, but could not  
9 identify him?

10          A     That's correct.

11          Q     All right. And if someone tells you during a  
12 tape recorded statement I didn't -- I can't identify the  
13 person, that, as an experienced and seasoned homicide  
14 detective, means, okay, well, they've already answered whether  
15 or not they could see him; right?

16          A     Right.

17          Q     Okay. And did you feel comfortable relative  
18 -- well, let me strike that. In 2010 in August, and I don't  
19 mean to be flippant or facetious, but you considered yourself  
20 to be a competent homicide detective capable of extracting  
21 important information from witnesses?

22          A     Yes.

23          Q     Okay. And the last thing is the time. Did  
24 you have Mr. Mayo sign a consent to search?

25          A     Yes, I did.

1 Q And I missed if you told us the time.

2 A I believe it was around -- it was early  
3 morning when we were out there, so I would say around 6:00 in  
4 the morning.

5 Q Okay. And just for context, are you aware  
6 that the events related to the homicide occurred around 3:45  
7 a.m.

8 A Yes.

9 Q And so just best estimate would be your  
10 obtaining of the search warrant to look for things inside the  
11 residence would have come two hours to two and a half hours  
12 after the homicide roughly?

13 A Roughly, yes.

14 Q Okay. That's all.

15 MR. SGRO: Thank you, Your Honor.

16 MR. LANGFORD: I have no questions, Your Honor.

17 THE COURT: Any redirect?

18 REDIRECT EXAMINATION

19 BY MR. DIGIACOMO:

20 Q Is it unusual for it to take two, two and a  
21 half hours for you to get the consent, or if you need to go  
22 get a search warrant to enter an apartment?

23 A No, it's not usual at all.

24 Q Why not?

25 A Well, usually when the -- when the 911 call or

1 however patrol gets notified of a situation like this, patrol  
2 responds and they will -- they'll say, oh, you know, it's a  
3 shooting, somebody is dead, and they will call another  
4 detective bureau or another bureau. At that time I believe it  
5 was called violent crimes. Those detective arrive. They  
6 determine that further investigation is needed by the homicide  
7 detail. They will call dispatch or they will call the on-call  
8 sergeant at home themselves. The on-call sergeant has to call  
9 the up team, and this is early in the morning, 2:30 in the  
10 morning. We have to get up, get dressed, you know, get your  
11 bearings, and then drive to the crime scene. You know, we try  
12 to be to the scene within an hour of the time we get called at  
13 home.

14 Q And patrol officers, when they arrive on  
15 scene, their responsibility is what?

16 A Well, their responsibility in something like  
17 this, they're a first responder. You know, they're going to  
18 go in the apartment and make sure there's not other victims or  
19 -- or suspects hiding in the apartment. They're going to  
20 secure the -- the scene and they're going to try to locate  
21 items of evidence so that the evidence does not get destroyed  
22 by other officers stepping on it, ambulances driving over it,  
23 things like that.

24 Q And then that scene remains secure until  
25 homicide arrives, takes over the investigation, and you get

1 the consent to search from Mr. Mayo?

2 A That's correct.

3 Q There were some questions asked of you about  
4 your interview with Erica Newman --

5 A Yeah.

6 Q -- and some questions back and forth about  
7 what you reported to your fellow detectives as to what Ms.  
8 Newman told you. You remember those questions?

9 A Yes, I do.

10 Q Did the information you gleaned from Ms.  
11 Newman come from a taped interview that you took from Ms.  
12 Newman?

13 A I don't recall if I taped it, but I did  
14 interview her and that's where that information came from.

15 MR. DiGIACOMO: May I approach, Judge?

16 THE COURT: Yes.

17 BY MR. DiGIACOMO:

18 Q I'm going to show you what's been marked as --  
19 well, it's now been admitted as State's Exhibit 262, and ask  
20 you --

21 A Oh, yeah.

22 Q Does that appear to be -- well, does this  
23 appear to be a transcript of Ms. Newman's statement and are  
24 you the detective that's referenced as the interviewing  
25 detective?

1           A       Yes, it is. And this would indicate that I  
2 did take a taped statement from her.

3           Q       And that would have been the information or  
4 where you got the information to relay to your fellow homicide  
5 detectives for information included in the report?

6           A       Yes.

7           MR. DiGIACOMO: Nothing further, Judge.

8           MR. SGRO: Nothing Your Honor.

9           MR. LANGFORD: Nothing, Your Honor.

10          THE COURT: Okay. Thank you, Detective, for being a  
11 witness.

12          THE WITNESS: Thank you, Your Honor.

13          THE COURT: You'll be excused. Have a good day.

14          THE WITNESS: Thank you.

15          THE COURT: Good to see you again.

16          MR. DiGIACOMO: Moretta McIntyre.

17                 MORETTA MCINTRYE, STATE'S WITNESS, SWORN

18          THE CLERK: Please be seated. Please state your  
19 name and spell your first and last name for the record.

20          THE WITNESS: Moretta McIntyre; M-O-R-E-T-T-A  
21 M-C-I-N-T-Y-R-E.

22          MR. DiGIACOMO: May I inquire, Judge?

23          THE COURT: Yes.

24                         DIRECT EXAMINATION

25 BY MR. DIGIACOMO:

1 Q Ma'am, how are you employed?

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

4 Q How long have you been with Metro?

5 A Approximately seven years.

6 Q And how long have you been a crime scene  
7 analyst?

8 A Approximately seven years.

9 Q Okay. In order -- well, let me ask you this.  
10 What do you do? What do you do for a living for Metro?

11 A I am employed as a crime scene analyst.

12 Q I mean, like what physically does that mean a  
13 crime scene analyst does?

14 A A crime scene analyst responds to crime  
15 scenes, documents those crime scenes through the use of notes,  
16 reports, photographs, sometimes diagrams, collects evidence,  
17 and recovers and develops latent prints.

18 Q Do you have any specialized training,  
19 experience, on the job training, anything like that that  
20 allows you to hold the job that you do?

21 A I do. I have an Associate's Degree in  
22 Forensic Technology from Grossmont College. I have attended a  
23 crime scene analyst academy through Las Vegas Metropolitan  
24 Police Department that's approximately 10 weeks long. I  
25 completed 12 weeks of field training and have hundreds of

1 hours in crime scene documentation and crime scene processing.

2 Q Were you one of the crime scene analysts that  
3 was directed to respond to a homicide on the early morning  
4 hours of August 7, 2010, at 5662 Meikle Lane here in Clark  
5 County, Las Vegas, Nevada?

6 A Yes, I was.

7 Q When there is a homicide scene, is there a  
8 particular number of crime scene analysts that respond to a  
9 scene?

10 A There is a crime scene supervisor, and at  
11 least two crime scene analysts that respond to the scene.

12 Q And do you work with other units in order to  
13 process a scene?

14 A Yes.

15 Q Who else do you work with?

16 A Usually homicide.

17 Q When you, as part of your processing of a  
18 scene, are the duties split up between the two separate crime  
19 scene analysts, at least two separate crime scene analysts  
20 that show up at a homicide?

21 A Yes.

22 Q Can you explain that to the members of the  
23 jury?

24 A The crime scene supervisor divides the duties  
25 such as reports, notes, and photographs to one crime scene

1 analyst, and the other crime scene analyst is responsible for  
2 collection of evidence and for the diagram.

3 Q All right. In this particular case, what were  
4 your responsibilities?

5 A I was assigned the collection of evidence and  
6 the diagram.

7 Q And who else did you respond with?

8 A I responded with Crime Scene Analyst Robbie  
9 Dahn, Crime Scene Analyst Danielle Carvounaiaris, and my  
10 supervisor Al Cabrales.

11 Q So in this situation there's actually three  
12 crime scene analysts that wound up at this homicide?

13 A That is correct.

14 Q Okay. Do you work as a team in order to  
15 document, process, and ultimately collect evidence from inside  
16 the residence?

17 A Yes.

18 Q And have you had an opportunity to review not  
19 only the photographs, but as well as look at your reports to  
20 -- to make sure that you're familiar with this particular  
21 scene?

22 A Yes.

23 MR. DiGIACOMO: May I approach, Judge?

24 THE COURT: Yes.

25 BY MR. DiGIACOMO:



1           Q     Ma'am, I'm going to start with -- well, I  
2 guess before I approach, I'm going to put up for you what's  
3 been admitted as State's Exhibit No. 13. Maybe I'm going to  
4 put up State's Exhibit No. 13. There we go. Since this has  
5 been previously admitted, do you -- well, what is State's  
6 Exhibit 13?

7           A     This is a diagram.

8           Q     Of what?

9           A     Of the scene.

10          Q     And who created it?

11          A     I did.

12          Q     And what information can we glean from State's  
13 Exhibit 13?

14          A     This is a bird's eye view of the scene. It  
15 also lists all of the evidence that was collected and all of  
16 the pertinent information connected with the scene.

17          Q     So if you touch the actual screen over there  
18 that's in front of you, you can make little marks on the  
19 screen. So you said it lists all the evidence. Do you have a  
20 legend that lists the items of evidence that were collected  
21 from inside the home?

22          A     Yes, it is right here.

23          Q     And then I see that that list includes numbers  
24 next to them. Are there numbers on the diagram to correlate  
25 to the physical pieces of evidence that you collected?

1           A       Yes.

2           Q       So let me clear this for just a second. I'm  
3 going to jump in for a second here. I'm going to focus in on  
4 this area of the crime scene diagram. So the little numbers,  
5 the green numbers we see here, 6, 7, 25, 5, 8 are references  
6 to what?

7           A       They are the locations of where evidence was  
8 collected from.

9           Q       I'm going to show you first two that have been  
10 previously admitted, so 66 and 67. Looking at that, do those  
11 appear to be photographs of inside the scene?

12          A       Yes.

13          Q       And are they of the bunk bed or the -- the one  
14 bedroom that has the bunk beds in it?

15          A       That is correct.

16          Q       Let me just stick this aside for a second.  
17 And now I'm going to ask you to look at State's Proposed 14  
18 through 125, with the exception of 66 and 67 and just briefly  
19 flip through those and see if those appear to be photographs  
20 that you took at the scene.

21               MR. SGRO: May we approach briefly while she's doing  
22 that, Your Honor.

23               THE COURT: Certainly.

24                               (Bench conference.)

25               MR. SGRO: So we did a pretrial motion to limit the

1 photographs of the victim in the case. It was deferred until  
2 trial. Just flipping through what Mr. DiGiacomo has offered,  
3 there is a number that show the victim in the case from a  
4 bunch of different angles. So I don't want to interrupt the  
5 proceedings. I don't have a problem with any of the other  
6 photographs subject to at a break you can look at all of them  
7 and decide if all of them are necessary, or if we can limit  
8 the amount of those photos.

9 THE COURT: You're talking about the photos of the  
10 victim?

11 MR. SGRO: Yes, sir.

12 THE COURT: Her head of something?

13 MR. SGRO: Exactly. She's -- in the crime scene  
14 she's depicted from a number of different vantages.

15 THE COURT: Well, the crime scene is probably  
16 relevant.

17 MR. SGRO: I'm not suggesting that none of them are  
18 relevant. I'm suggesting I quickly thumbed through them and I  
19 think there were four.

20 MR. DiGIACOMO: From different -- basically from  
21 different angles.

22 MR. SGRO: Right. What I'm saying this thing is for  
23 is probably not relevant. One or two might give --

24 MR. DiGIACOMO: It's from different angles. It's  
25 very hard to see this --

1 THE COURT: Well, let me look at them.

2 MR. SGRO: Yes, sir. That's all I wanted. I didn't  
3 want to interrupt.

4 THE COURT: We'll do it later.

5 MR. SGRO: Okay.

6 THE COURT: We'll do it later. We'll take a look at  
7 it. Do we need it? She's just doing foundation?

8 MR. DiGIACOMO: No, she's going through the whole  
9 exhibit, so --

10 THE COURT: And she's going to --

11 MR. SGRO: Yeah, so -- well, we --

12 MS. WECKERLY: She can start.

13 MR. SGRO: Yeah, she can do everything other than --

14 MR. DiGIACOMO: She's not -- I mean, like you walk  
15 through the front door, there's a dead lady. That's -- like  
16 I'm about six questions in at that point.

17 MR. SGRO: Right. No, I get it. What I'm  
18 suggesting is maybe the State can pick one. We could defer --

19 MR. DiGIACOMO: Well, I'm not going to [inaudible].

20 THE COURT: Let me see the four.

21 MR. SGRO: Well, then --

22 THE COURT: Pull them out and let me see them.

23 MR. DiGIACOMO: We're going to have to wait for her  
24 to -- well, she's probably passed them.

25 MR. SGRO: Thank you.

1 MR. DiGIACOMO: I don't know that these are all of  
2 them, the ones you're talking about.

3 THE COURT: That's not offensive.

4 MR. DiGIACOMO: For example [inaudible].

5 MR. SGRO: Is that all of them?

6 MR. DiGIACOMO: No, there is one [inaudible].

7 THE COURT: There's nothing wrong with these here.

8 MR. SGRO: So I said four. It looks like there's  
9 more like eight, and two of them appear to be the same exactly  
10 shot.

11 THE COURT: Well, you don't need both of these.

12 MR. DiGIACOMO: Well, you're right. You can take  
13 that one out. I actually that that -- I need that one from  
14 that side, and that one from that side. I had these for  
15 distance.

16 THE COURT: You don't need this, do you?

17 MR. SGRO: No, it's the same as this one.

18 THE COURT: You don't need this.

19 MR. DiGIACOMO: Well, it's not the same as that one.

20 THE COURT: Well, it's not the same, but it's --

21 MR. DiGIACOMO: [Inaudible].

22 THE COURT: Why don't I exclude these two and you  
23 keep these?

24 MR. DiGIACOMO: That's fine. I just --

25 THE COURT: Okay.

1 MR. SGRO: Thank you, Judge.

2 MR. DiGIACOMO: I can't get -- I can't get to around  
3 the whole room because the rooms were too small. That photo  
4 is the deal lady in the middle of the room, Judge.

5 THE COURT: Do you need this? We don't need this  
6 one.

7 MR. DiGIACOMO: I don't need that one.

8 THE COURT: Okay.

9 MR. DiGIACOMO: But I can't circle the room without  
10 a dead lady in the middle of it. It's not my fault.

11 THE COURT: All right. I'll let you have this one.  
12 Okay. We'll exclude 41.

13 MR. DiGIACOMO: Are we good?

14 THE COURT: Thank you. Hold on. I've got to push  
15 the right button here.

16 (End of bench conference.)

17 THE COURT: All right. I've pushed the right  
18 button. I'm excluding Exhibit 41.

19 MR. DiGIACOMO: And so I guess then I'll offer 14  
20 through, I think it was 125.

21 MR. SGRO: Other than what was discussed at the  
22 bench, no objection.

23 THE COURT: Okay.

24 (State's Exhibit 14 through 40, 42 through 65 and 68 through  
25 125 admitted.)

1 BY MR. DiGIACOMO:

2 Q Now, I'm going to try and start sort of at the  
3 beginning and I'm just going to ask you -- I kind of have the  
4 crime scene diagram up on the left side. So as I go through  
5 the photographs, I'm going to put the photographs up -- sorry,  
6 the diagram is on the right side. I'm going to put the  
7 photographs up on the left side and ask you not only what  
8 we're looking at, but to orient us in relationship to that  
9 crime scene diagram so the jury understands inside the  
10 apartment. Okay?

11 A Okay.

12 Q I'm going to start with Exhibit No. 14.  
13 Obviously this is not inside the apartment, but what are we  
14 generally looking at?

15 A This is the front of the building where the  
16 apartment was located.

17 Q And the front door to this particular  
18 apartment, where would it be on the building that we're  
19 looking at?

20 A It was behind the stairwell right here.

21 Q So is it first floor?

22 A Yes.

23 Q And so you would go in if you were to walk  
24 past the stairwells on your left and you'd have to turn left  
25 to go into the doorway?

1           A       That is correct.

2           Q       On the diagram, is there -- the front door, is  
3 that referenced on State's Exhibit 13?

4           A       Yes. It is located right here.

5           Q       So as you come through the front door of the  
6 residence, what room do you wind up in?

7           A       You wind up into the living room.

8           Q       And now I'm going to move on to State's  
9 Exhibit No. 25. Can you see the front door area anyway on 25?

10          A       Yes, you can.

11          Q       And then I'm just going to slowly, attempt to  
12 anyways, walk inside the apartment. So State's Exhibit 26, is  
13 that the front door?

14          A       That is.

15          Q       And then 27. Describe what we're looking at  
16 for the record.

17          A       This is standing at the entryway of the front  
18 door looking into the living room.

19          Q       And 28. What are we looking at in 28?

20          A       This is a view from a corner of the living  
21 room or the south portion of the living room looking toward  
22 the front door.

23          Q       So the first shot that we had was looking into  
24 the door, and the second shot is now looking outside of the  
25 door. Would that be fair?



1           A       The first shot was looking into the living  
2 room, and this shot is looking at the front door from the  
3 living room.

4           Q       And then if we were to turn, where that person  
5 who's standing is, if we were to turn right -- I'm going to  
6 put up State's Exhibit 29, would that be as if you were  
7 panning right around that room?

8           A       That is correct.

9           Q       State's Exhibit 30.

10          A       This is another view going to the right of the  
11 last shot.

12          Q       And then State's Exhibit 31. What are we  
13 looking at?

14          A       This is a view from, actually, it looks --  
15 appears to be the front door area, the entryway area into the  
16 living room.

17          Q       So we came through the door, we took a shot  
18 out the door, turned right, turned right, and now someone is  
19 back by the door shooting into the living room.

20          A       That is correct.

21          Q       And the angle of the picture is in this  
22 general direction?

23          A       That is correct.

24          Q       I'm going to focus in on the woman that you  
25 see there on the couch, State's Exhibit No. 34, and ask you --

1 first of all, for the record, what are we looking at?

2 A This is a photograph of a deceased woman that  
3 is on the sofa in the living room.

4 Q Now, when someone -- when you first arrive on  
5 scene as a crime scene analyst, is there a particular  
6 procedure that you go through in order of sort of processing a  
7 scene?

8 A Yes, there is.

9 Q Can you explain that to the ladies and  
10 gentlemen of the jury?

11 A Sure. We usually arrive on scene and make  
12 contact with the first responding officers, and in this case  
13 also with homicide detectives. We get -- we have a briefing  
14 where we find out information about the case and information  
15 about the victim. Then we then walk in through -- do a  
16 walkthrough of the scene observing anything that might be  
17 important such as evidence, or in this case the deceased woman  
18 on the sofa. And then after that we take photographs of the  
19 scene as it is upon our arrival, and then we collect evidence  
20 and process for prints.

21 Q Now, during the course of the collection or  
22 prior to the collection of evidence, when you first arrive,  
23 does a crime scene analyst, one of the crime scene analysts  
24 supposed to document in photography the way the scene looks at  
25 the time you arrived?

1           A       That is correct.

2           Q       And then during the course of the processing  
3 as items of evidence are located, are there times when things  
4 are put to identify various pieces of evidence?

5           A       Yes.

6           Q       Okay. Like in some of these photographs  
7 you'll see little orange cones.

8           A       That --

9           Q       Those orange cones would have been placed  
10 there by law enforcement personnel as they identified evidence  
11 after the initial documentation of the scene occurred?

12          A       It would be placed there by a crime scene analyst.

13          Q       Okay. Now, as you look at the woman who is  
14 sitting -- or Ms. Newman who is obviously deceased on the  
15 couch, in her right hand, and this is State's Exhibit No. 36,  
16 did she have a piece of evidence or did she have an item for  
17 lack of a better term?

18          A       Yes, she did.

19          Q       And what was that?

20          A       It was a \$20 bill.

21          Q       And then between her legs, this is Exhibit No.  
22 40, were there also some items of evidentiary value?

23          A       Yes, there was.

24          Q       What was it?

25          A       There was two pieces of fabric and several

1 pieces of bullet fragments.

2 Q Can you see both the pieces of fabric, as well  
3 as the bullet fragments?

4 A Yes.

5 Q And can you circle that for the ladies and  
6 gentlemen of the jury?

7 A It's difficult to see if there are more on the  
8 floor.

9 Q Okay. Your screen is actually smaller than  
10 theirs, so --

11 A Okay.

12 Q But generally those are pieces that you  
13 collect, you collect the metal fragments suggestive of  
14 firearms evidence, as well as two pieces of cloth?

15 A That is correct.

16 Q Why did you collect those two pieces of cloth?

17 A They appeared to be consistent with the  
18 bandanna that the victim was wearing on her head.

19 Q There is processing that occurs, obviously,  
20 from these pictures while the victim is still present at the  
21 scene. Does there come a point in time where there is  
22 documentation when she is removed from the scene, as well?

23 A Yes, there is.

24 Q Okay. I'm going to put up State's Exhibit No.  
25 44 and ask you what's being documented there.

1           A       This is the sofa after the victim has been  
2 removed from the scene.

3           Q       Now, obviously on the sofa there is a large  
4 amount of blood. Inside the residence was there other blood  
5 or some sort of matter located?

6           A       Yes, there was.

7           Q       And can you explain that to the ladies and  
8 gentlemen of the jury.

9           A       Sure. There were several pieces of what  
10 appeared to be tissue and bone located around the living room.

11          Q       With the exception of the tissue and bone  
12 that's located around the living room, which -- well, let me  
13 ask you this. Do you have an opinion as to whether or not it  
14 was consistent with the wound that Derecia Newman had at that  
15 scene?

16          A       Yes.

17          Q       Okay. With the exception of the area that's  
18 associated with Ms. Newman, did you find any other blood  
19 inside the residence?

20          A       No.

21          Q       So now I'm going to, from the living room,  
22 sort of move through the rest of the house, State's Exhibit  
23 No. 48, and ask you what we're looking at.

24          A       This is a view of the kitchen from the living  
25 room.

1           Q     And as you -- I'm guessing that once again  
2 this is sort of in this area kind of facing into that kitchen  
3 area there.

4           A     That is correct.

5           Q     And as we move around, State's Exhibit No. 49,  
6 what are we looking at?

7           A     This is a view of the hallway from the corner  
8 of the living room looking south to north.

9           Q     So can you just draw an arrow which direction  
10 that this -- that we're looking with that camera?

11          A     Sure.

12          Q     Is the vacuum cleaner we see in State's  
13 Exhibit 48, is that also identified on the crime scene  
14 diagram?

15          A     That is correct. It is right here.

16          Q     So as you travel down that hall, what's the  
17 first room, for lack of a better word, that's on your right  
18 side?

19          A     That would be the laundry room located here.

20          Q     And then after you pass the laundry room, as  
21 you head down that hall what's the next room that you would  
22 hit?

23          A     That would be the bathroom in the west area.

24          Q     So there's a door on your right that leads to  
25 the laundry room. Then as you keep walking down there's a

1 door on the left that has a bathroom?

2 A That is correct.

3 Q Inside that bathroom did you find anything of  
4 relevance that you were aware of?

5 A No.

6 Q As you come out of that bathroom, this is  
7 State's Exhibit No. 58, is that the vacuum cleaner we were  
8 talking about earlier?

9 A Yes, it is.

10 Q And does it appear to have a defect on it?

11 A Yes, it does.

12 Q Can you explain that to the ladies and  
13 gentlemen of the jury?

14 A The vacuum appears to have holes in the handle  
15 area. And it is sitting in the middle -- or, I'm sorry, in  
16 the east portion of the hallway.

17 Q And I want to put a picture up, State's  
18 Exhibit No. 64. Now we're on the other side of that vacuum,  
19 but this item back here, that my screen is now not drawing on,  
20 what is the -- what's the shelf back there? What is that?

21 A It appears to be a hutch or an armoire of some  
22 sort.

23 Q And that item is between -- that hutch or  
24 armoire is between that -- well, it's on the outside of that  
25 wall, obviously, that backs up against the end of the hallway?

1           A       Yes.

2           MR. SGRO:   What exhibit number, Counsel?   Sorry.

3           MR. DiGIACOMO:   64.

4 BY MR. DiGIACOMO:

5           Q       As you continue down that hallway, State's  
6 Exhibit 65 -- well, describe for the ladies and gentlemen of  
7 the jury.   If I'm standing here as the camera man, what's on  
8 my left side?

9           A       The bathroom door is on your left side.

10          Q       And directly in front of the bathroom door,  
11 what is that?

12          A       There is a box and several piles of -- appears  
13 to be bedding or clothing, and also the hutch that we  
14 mentioned earlier.

15          Q       And if you were to continue down this hall and  
16 turn left, where would you go to?

17          A       You would be heading into the northeast  
18 bedroom.

19          Q       Is that the bedroom with the bunk beds that we  
20 talked about earlier?

21          A       Yes, it is.

22          Q       State's Exhibit, for identification, 68.   Did  
23 you photograph the interior of this room, as well?

24          A       I did not photograph.   Robbie Dahn  
25 photographed the interior of this room.



1           Q     And State's Exhibit 69, her photographs from  
2 the interior of this room?

3           A     Yes.

4           Q     Inside that closet, State's Exhibit 72, was  
5 there a piece of furniture inside the closet of that back  
6 bedroom?

7           A     Yes, there was. There was a dresser.

8           Q     Then if you walk directly out of that back  
9 bedroom and cross the hall, where are you going in the house?

10          A     You are heading into the master bedroom in the  
11 northeast area of the apartment.

12          Q     State's Exhibit 75. Just orient the ladies  
13 and gentlemen of the jury what we're looking at.

14          A     We are looking at a view of the master bedroom  
15 door from inside the master bedroom.

16          Q     And just to the right of the cameraman  
17 anyways, or to the right side of this picture, what's that  
18 dark item that's depicted in the photograph, can you tell?

19          A     It's a television.

20          Q     And does that television back up the wall  
21 that's on the -- or back against the wall, but on the opposite  
22 side as where that shelf is that we were talking about  
23 earlier?

24          A     That is correct.

25          Q     So that hutch that leans up at the end of the

1 hall backs up to a wall that then backs up to the big TV  
2 that's inside the master bedroom?

3 A Yes.

4 Q State's Exhibit 79. Now where is the person  
5 who's taking the photograph standing?

6 A This is a view looking into the master bedroom  
7 from the master bedroom doorway.

8 Q So as before, we were -- or the cameraman was  
9 shooting outside the door, now this is standing at the door  
10 shooting into the room; is that correct?

11 A That is correct.

12 Q Now, generally speaking, what kind of a size  
13 of an apartment are we talking about here?

14 A An average size apartment. I don't know the  
15 square footage.

16 Q Let me ask you this, when you were -- I know  
17 you didn't take the photographs, but I'm assuming you  
18 photographed in apartments this size before.

19 A Yes.

20 Q Can you explain to the ladies and gentlemen of  
21 the jury the -- if there is a difficulty as it relates to  
22 being able to take orienting shots inside the crime scene?

23 A Yes, there is difficulty in photographing  
24 small areas. You try to get overalls depicting the entire  
25 room, but sometimes space dictates that you have to take

1 multiple photos and you may not be able to get everything in  
2 all -- just one shot. It may take multiple views to get the  
3 whole entire room.

4 Q And so that's why we're getting small little  
5 sections as we go along in order to -- to kind of show the  
6 entire house?

7 A Yes.

8 Q State's Exhibit No. 83. What are we looking  
9 at?

10 A This is a view looking from what would be the  
11 northwest corner of the room looking into the northeast corner  
12 of the room of the master bedroom.

13 Q Thank you. Is it this side of the bed, then,  
14 that we're looking at?

15 A That is correct.

16 Q Okay. The photograph in 83, there was a  
17 drawer that I just put my finger over there. That drawer  
18 appears to be open; is that correct?

19 A That is correct.

20 Q Was it in that condition when you arrived on  
21 scene?

22 A Yes.

23 Q And now I'm going to show you State's Exhibit  
24 No. 85 and ask you what we're looking at.

25 A This is a view from the -- it appears to be

1 the northwest corner looking in toward the southeast area of  
2 the room.

3 Q And there's kind of a Culligan water bottle.  
4 To kind of orient ourselves, what is on the other side of that  
5 Culligan water bottle?

6 A That is the bathroom, the master bathroom.

7 Q And this would have been an overall shot taken  
8 -- well, is it an overall shot taken before any of the  
9 processing that occurred in the room?

10 A Yes.

11 Q I'm going to go back to the -- that side of  
12 the bed that's depicted in the photograph, State's Exhibit 86.  
13 What are we looking at?

14 A This is a view from looking from the -- it  
15 would be the bottom south corner of the bed looking towards  
16 the southeast corner of the room.

17 Q And I'm going to start zooming in on that  
18 plate. State's Exhibit 87. Was there -- in this photograph  
19 there's a lot of white dots on that carpet. Can you tell the  
20 ladies and gentlemen of the jury what that was?

21 A It appeared to be a rock-like, white unknown  
22 substance.

23 Q And while -- well, let me ask you this. I'm  
24 assuming you didn't do any presumptive tests on this item when  
25 you took it; is that correct?

1           A       I did not.

2           Q       In your training and your experience, was it  
3 consistent with some sort of illegal narcotic?

4           A       Yes.

5           Q       And what narcotic was it consistent with?

6           A       Possibly cocaine.

7           Q       Have you ever heard the term crack before?

8           A       Yes.

9           Q       Is it consistent with crack cocaine?

10          A       Yes.

11          Q       Okay. And then State's Exhibit No. 88. And  
12 for the ladies and gentlemen of the jury, I'm just going to  
13 zoom in on one portion of the white stuff so they can see it  
14 maybe a little better. The little rock-like substance that  
15 was found on the -- the floor, describe for the ladies and  
16 gentlemen of the jury -- well, how was it -- was it scattered  
17 across that portion of the bedroom?

18          A       Yes, it was.

19          Q       And State's Exhibit No. 91. What are we  
20 looking at?

21          A       This is a view of the southeast corner of the  
22 bedroom looking at the nightstand and the Culligan water  
23 bottle.

24          Q       Now, this draw, as well, on the right side is  
25 open. Was that in that condition when the crime scene analyst

1 began processing the scene?

2 A Yes.

3 Q State's Exhibit No. 92, just orient the jury.  
4 The water bottle is right next to that bathroom door, is that  
5 fair?

6 A Yes.

7 Q And then if you were to stand inside the  
8 bathroom, State's Exhibit No. 93. What are we looking at?

9 A This is a view looking out into the bedroom  
10 from the bathroom doorway.

11 Q Now, in this area kind of where the plate is,  
12 where the bathroom is in there, was there any evidence that  
13 you saw of an item that in your training and experience you  
14 would expect to be blood?

15 A No.

16 Q All of the blood and that type of material was  
17 found out by Derecia's body?

18 A That is correct.

19 Q I'm going to go to State's Exhibit No. 94.  
20 What are we looking at?

21 A This is a view of the bathroom door. And I  
22 can't tell if it's in or out, though.

23 Q Okay. Let me ask you this. Is the top of  
24 this photograph the top of the bathroom door?

25 A Yes.

1                   Q     And these items up here, what does that appear  
2 to be?

3                   A     Clothing and possibly a towel.

4                   Q     Okay. And then right here is there something  
5 in the door?

6                   A     Yes, there is a defect in the door.

7                   Q     And what was that defect consistent with?

8                   A     It was consistent with a bullet hole.

9                   Q     State's Exhibit No. 95, do you give it to us  
10 from a different angle? Do you see the bullet hole in -- let  
11 me ask you this. On both sides of this door was there a  
12 defect similar to a bullet going through the door?

13                  A     Yes.

14                  Q     Was there only one defect in the door as it  
15 relates to a bullet? I mean, one bullet, but through and  
16 through?

17                  A     Yes.

18                  Q     And then obviously inside the bathroom of  
19 State's Exhibit No. 98. Did that -- did it appear that that  
20 bullet that went through the door wound up lodging somewhere?

21                  A     It appeared that it actually entered the wall  
22 in the east area of the bathroom.

23                  Q     Now, during the course after you've kind of  
24 processed the scene, do you go back through and look for  
25 evidence other than just the physical evidence at a scene? Do

1 you try and determine if there's bullet strikes or anything  
2 else like that inside the residence?

3 A Yes.

4 Q Were you aware at the time you arrived that  
5 Devonia Newman had been transported to the hospital?

6 A Yes.

7 Q Okay. And I'm assuming because Devonia is  
8 transported you would have no way of knowing whether or not  
9 she has a bullet inside of her or not while you're processing  
10 the scene, is that fair?

11 A That is correct.

12 Q First I'm going to put up State's Exhibit No.  
13 42. That's Ms. Newman as you found her at the scene?

14 A That is correct.

15 Q And there is a substantial portion of the left  
16 side of her face that's missing.

17 A That is correct.

18 Q As it relates to the injury to Ms. Newman,  
19 other than the fragments that you've kind of discussed that  
20 you found around her legs and -- and in the area of the living  
21 room, did you ever find a large bullet core anywhere inside  
22 the scene in the living room?

23 A No.

24 Q So now I want to move onto the next evidence  
25 of firing of bullets in State's Exhibit No. 102. Did you



1 identify a path of a bullet that you labeled A?

2 A Yes.

3 Q And can you describe for the ladies and  
4 gentlemen of the jury first your labeling process? How does  
5 that work?

6 A Sure. Usually when we have trajectory of a  
7 bullet or the path of the bullet, we label each hole  
8 consistently and consecutively. So our first bullet hole  
9 would be A, our second would be A-1, our third one would be  
10 A-2, until they -- until it appears to have either terminated  
11 in lodging in something or terminated and fallen to the  
12 ground.

13 Q So as I talked with -- first you have --  
14 there's a shot to Derecia, but then you have a bullet path  
15 that's marked A, is that -- is that fair?

16 A Yes.

17 Q Can you describe for the ladies and gentlemen  
18 of the jury -- first describe for them the path of bullet A,  
19 and then if you could trace for the ladies and gentlemen of  
20 the jury A on Exhibit No. 13.

21 A The path of bullet A appeared to be going from  
22 a south to north direction, entering -- the first strike  
23 entering the side of the refrigerator, exiting out the back of  
24 the refrigerator, and in this picture A-3 would be creasing  
25 along that west wall. And then the path continues into the

1 wall, the north wall of the hallway, going through that wall  
2 and impacting the dresser that's inside the closet.

3 Q So A hits refrigerator, comes out back of  
4 refrigerator, hits that left wall, goes down the left side,  
5 hits the wall, and winds up hitting the dresser that we talked  
6 about was inside the closet inside the room with the double  
7 bunk beds?

8 A Yes.

9 Q Do you recover an item with evidence between  
10 the dresser with the TV on it and the -- and the wall of the  
11 closet that's inside that double bunk bed room?

12 A Yes, we recovered bullet fragments on the  
13 floor between the dresser and the wall.

14 Q So now let's go to the path of what you  
15 described as B. And I want to start with Exhibit No. 109.  
16 Can you describe for the ladies and gentlemen of the jury sort  
17 of the path? And I know that we have to get into another  
18 room, but before I go off 9 can you start with B where you  
19 first see a strike and then ultimately where it winds up?

20 A This is the defect that was mentioned prior in  
21 the vacuum, in the handle of the vacuum. We labeled this one  
22 B-1. There's actually two holes. You can't see the other  
23 side of the handle, but it appears to have gone through the  
24 handle of the vacuum, and it ultimately -- the bullet  
25 ultimately ends up in the master bedroom on a crate.

1           Q       So it goes through that handle. Then 111. Is  
2 there a green tag on the bed there?

3           A       Yes, there is.

4           Q       Okay. And what does that represent?

5           A       That represents either a bullet strike or a  
6 bullet hole that we found.

7           Q       And then State's Exhibit No. 113. What are we  
8 looking at there?

9           A       This is a view of the curtain covering the  
10 north window. There is a defect in the curtain. And then on  
11 the crate, there is the bullet underneath it.

12          Q       For the jury 114, this is a picture of a -- of  
13 a bullet lying on that red crate?

14          A       That is correct.

15          Q       So it goes south to north through the vacuum  
16 cleaner, bounces off the bed, hits the window, and then lays  
17 down at the base of the window?

18          A       That is correct.

19          Q       Let's talk about bullet number or -- bullet  
20 letter C, I guess, it is. And I will just do State's Exhibit  
21 No. 116. What do we have?

22          A       This is a view of the bathroom door looking  
23 into the bathroom. And the first -- the defect that we talked  
24 about prior is labeled C-1 on the exterior side of the door.

25          Q       So C-1 is the exterior side. C-2 would be

1 what?

2 A The interior side.

3 Q And then C-3?

4 MR. DiGIACOMO: And that's Exhibit 119, Counsel.

5 BY MR. DiGIACOMO:

6 Q And 119, C-3.

7 A This would be where the bullet impacted into  
8 the wall.

9 Q So -- and can you put on the diagram, it's  
10 hard to tell from some of the pictures, kind of where in the  
11 bathroom C-3 winds up?

12 A Sure. In this area right here.

13 Q Now, in addition to looking for firearms  
14 related evidence -- well, let me ask you this. Do you guy  
15 search the house to see how -- if you can find all the  
16 firearms related evidence that you possibly can?

17 A Yes, we do.

18 Q Okay. When you were inside this scene, did  
19 you find any shell casings?

20 A No, we did not.

21 Q Was that suggestive to you in your training  
22 and experience?

23 A That is indicative of a possible revolver.

24 Q Do you know as you're standing at the scene  
25 how many shots had been fired?

1           A       No.

2           Q       And so do you have to search everywhere --  
3 well, let me ask you this. What do you do in order to see if  
4 you can gather as much of the firearms evidence as possible?

5           A       A thorough search is conducted of the crime  
6 scene.

7           Q       So that means, what?

8           A       That means you're removing items, we're  
9 looking in every place that there may be more evidence that is  
10 consistent with evidence that we've already found.

11          Q       And as you're taking these scene apart looking  
12 for firearms related evidence, did you ever come across a  
13 firearm?

14          A       No, we did not.

15          Q       Do you, in fact, collect as much of the  
16 firearms evidence as you possibly can?

17          A       Yes.

18          Q       I'm going to show you now State's Exhibit No.  
19 126 to 134. Is there a process after the evidence is  
20 physically collected where it is documented in photographs  
21 before you impound it into evidence?

22          A       That is correct.

23          Q       And I apologize as I walk back here and it's  
24 getting late in the day, what numbers are those exhibits in  
25 front of you?

1           A       126 to 134.

2           Q       Looking at 126 to 134, do those appear to be  
3 photographs of the -- of some of the physical evidence that  
4 was taken out of the crime scene?

5           A       Yes.

6           MR. DiGIACOMO: I would move to admit --

7           MR. SGRO: I have no objection, Your Honor.

8           MR. DiGIACOMO: -- 126 to 134.

9           MR. SGRO: Have you shown these to me already?

10          MR. DiGIACOMO: Yeah.

11          MR. SGRO: No objection, Your Honor.

12          THE COURT: They'll be received.

13          (State's Exhibit 126 through 134 admitted.)

14 BY MR. DiGIACOMO:

15          Q       I'm going to show you what's been marked as  
16 State's Proposed Exhibit No. 263 and ask you if you recognize  
17 that.

18          A       Yes, I do.

19          Q       What is it?

20          A       It is a package containing a label and  
21 evidence seal tape across the top and the bottom.

22          Q       Why don't you take me through the process of  
23 how it is you wind up impounding evidence.

24          A       I'm not sure --

25          Q       What -- what do you physically do?

1           A       The evidence is collected. It is placed in an  
2 envelope or some box or a certain type of a package that would  
3 cover it that would keep it secure. It is sealed with red  
4 evidence tape and a label is attached to the front, which is  
5 showing all the pertinent information regarding the case and  
6 the items that are actually in that package.

7           Q       And then when you seal the package with red  
8 tape, do you write anything on it so that you know that it's  
9 never -- that is hasn't been touched?

10          A       Yes, I do.

11          Q       What do you do?

12          A       I put my initials and my P-number and the date  
13 that it was actually sealed.

14          Q       And you do that over the tape itself so  
15 someone knows if it's ever been tampered with?

16          A       Yes.

17          Q       You said there's a label on the outside. One  
18 of the things on this label is an event number. What is an  
19 event number?

20          A       An event number is a number that Metro uses.  
21 It is consistent of the year, the month date, and whatever --  
22 or, I'm sorry, whatever sequence that call came in that day.

23          Q       So in this particular case, our crime occurred  
24 or our even occurred on October -- or, sorry, August 7th of  
25 2010, so our first six numbers are what?

1           A       It's going to be 100807.

2           Q       And then this is the 732nd call or even  
3 generated by Metro, so what's our last four number?

4           A       It would be 0732.

5           Q       So that's a -- is that a unique identifying  
6 number for physical evidence that are associated with the case  
7 so that later on you can match up evidence with reports to  
8 forensic analysis, those type of things?

9           A       That is correct.

10          Q       Okay. Now, I want you to ignore, because I  
11 can represent to you that the clerk and the attorneys and I  
12 cut these in open court on top, so I want you to ignore the  
13 fact that these things are open --

14          A       Okay.

15          Q       -- for my next series of questions. With the  
16 exception of your red tape, is there anything else done to  
17 this package after you've placed it into evidence?

18          A       Yes, there is blue tape located at the bottom  
19 of the package.

20          Q       And does that blue tape suggest anything to  
21 you?

22          A       It suggests that someone from our forensic lab  
23 opened this package?

24          Q       And conducted some sort of analysis?

25          A       That is correct.



1           Q       With the exception of the cut to the top and  
2 the blue tape at the bottom, is this in substantially the same  
3 or similar condition as when you impounded it into evidence?

4           A       Yes, it is.

5           Q       Okay. And if you were to open this package,  
6 what would you expect to find in there?

7           A       According to the label there would be one  
8 copper jacket fragment, one bullet fragment, and four bullet  
9 fragments.

10          Q       And that -- would those correlate to your  
11 Items 4, 5, and 6, and also correlate to 4, 5, and 6 on the  
12 crime scene diagram?

13          A       That is correct.

14          MR. DiGIACOMO: I move to admit 263.

15          MR. SGRO: No objection. Sorry, Judge.

16          MR. LANGFORD: No objection, Your Honor.

17          THE COURT: It will be received.

18                   (State's Exhibit 263 admitted.)

19 BY MR. DiGIACOMO:

20          Q       Let's move on to 264. I'm not going to ask  
21 you all of those foundational questions again, but once again,  
22 is that package similarly packaged as 263 with the exception  
23 that the clerk has cut it and the forensic lab has opened it  
24 and done some sort of testing?

25          A       It is in the original condition except for

1 those areas.

2 Q And if you were to open that package, would  
3 you expect to find -- well, what would you expect to find?

4 A I would expect to find three bullet fragments  
5 and one bullet.

6 Q And those would have correlated to Items 14  
7 and 15 from the scene, as well as the diagram?

8 A That is correct.

9 MR. DiGIACOMO: Move to admit 264.

10 MR. SGRO: No objection, Your Honor.

11 MR. LANGFORD: No objection.

12 THE COURT: It will be received.

13 (State's Exhibit 264 admitted.)

14 BY MR. DiGIACOMO:

15 Q Showing you what's been marked as State's  
16 Proposed Exhibit No. 265. What is that?

17 A This is a package containing two small  
18 shredded pieces of fabric.

19 Q And are those the two small pieces of fabric  
20 that were found between Ms. Newman's legs that appeared to be  
21 consistent with the bandanna that was on her head?

22 A That is correct.

23 MR. DiGIACOMO: Move to admit 265.

24 MR. LANGFORD: No objection.

25 MR. SGRO: No objection, Your Honor.

1 THE COURT: They'll be received.

2 (State's Exhibit 265 admitted.)

3 BY MR. DiGIACOMO:

4 Q And lastly, inside the house as you were  
5 collecting items, did you collect what's been marked as  
6 State's Proposed Exhibit No. 266?

7 A Yes, I did.

8 Q And what is 266?

9 A 266 contains two pieces of paper bearing  
10 apparent footwear impressions. They would correlate with  
11 Items 12 and 13 in the diagram, and also in the impounding  
12 report.

13 Q Why did you collect those?

14 A I collected those because they appeared to  
15 have footwear impressions on them.

16 Q When you are at a crime scene -- well, I guess  
17 I should finish. With the exception of the blue seal, is that  
18 in substantially the same or similar condition as when you  
19 impounded it?

20 A Yes, it is.

21 MR. DiGIACOMO: Move to admit 266.

22 MR. SGRO: No objection.

23 MR. LANGFORD: No objection.

24 THE COURT: It will be received.

25 (State's Exhibit 266 admitted.)

1 BY MR. DiGIACOMO:

2 Q When you are at a crime scene -- well, let me  
3 ask you. What's your philosophy on -- on collecting evidence?

4 MR. SGRO: Objection to her philosophy. Relevance.

5 THE COURT: What's --

6 MR. DiGIACOMO: I'll rephrase.

7 THE COURT: What's her procedure.

8 BY MR. DiGIACOMO:

9 Q What's your procedure for collecting evidence?

10 A Our procedure for collecting evidence is  
11 obviously doing a crime scene search to gather as much of the  
12 evidences that we can, to find as much evidence as we can. We  
13 collect it wearing gloves. We don't want to contaminate the  
14 evidence. We put in packages and keep them separated from  
15 other items that are not either touching it or in the same  
16 vicinity. So they are kept so that there is no contamination.

17 Q Okay. When you're at a scene, do you always  
18 know whether or not a piece of evidence is going to be  
19 relevant or not to your investigation?

20 A No.

21 Q Well, then, what do you do as it relates to  
22 being under inclusive or over inclusive in taking evidence?

23 A You take evidence that is important to the  
24 information that you have at that the time.

25 Q At the time that you took those two pieces of

1 paper, did you know whether or not those two pieces of paper  
2 would or would not ultimately be relevant in the  
3 investigation?

4 A No, I did not.

5 Q Well, then, why did you take them?

6 A Because we don't know where -- what role that  
7 they played in this scene in the incident. We don't know if  
8 they were there before the scene -- before the incident  
9 happened. We don't know if they were there during the  
10 incident. So it was relevant at that time. They are physical  
11 evidence. They are containing footwear impressions.

12 Q So that might be something that would help  
13 identify somebody at some point in time, so you took it?

14 A Yes.

15 Q Did you do anything else to process the scene  
16 in the homes that at some point it may be helpful in making  
17 some sort of identification?

18 A Yes, we processed the scene for latent prints.

19 Q Okay. And when you say process the scene for  
20 latent prints, what does that mean you do?

21 A We look at all areas that might have possibly  
22 been handled or possibly touched during an incident. We  
23 obviously don't know where that would be, but we look at any  
24 areas that logic would say is possible. We throw powder onto  
25 a surface and we brush it with a special brush and look for

1 any fingerprints that might develop up from that.

2 Q At the time that you're putting powder on, do  
3 you know whether or not somebody has or hasn't touched a  
4 particular item as it relates to the crime itself?

5 A No.

6 Q So you're placing it on there because you have  
7 one shot at a crime scene?

8 A That is correct.

9 Q Is there anything else that you did in order  
10 to gather evidence while you were there processing the crime  
11 scene?

12 A Yes. We swabbed the handles of the two  
13 nightstands in the master bedroom, and there was several  
14 drawers that were open in the kitchen. We also swabbed those  
15 for possible DNA, as well.

16 Q Thank you very much, ma'am.

17 MR. DiGIACOMO: Judge, I pass the witness.

18 MR. SGRO: Actually, can I have you put that crime  
19 scene, just the --

20 MR. DiGIACOMO: Just the crime scene?

21 MR. SGRO: Just the crime scene diagram. Thank you.  
22 May I proceed, Your Honor?

23 THE COURT: Yes.

24 CROSS-EXAMINATION

25 BY MR. SGRO:

1 Q Good afternoon.

2 A Good afternoon.

3 Q I want to talk to you a little bit about your  
4 background before we get rolling. You have had to have a  
5 significant amount of training to have the job that you have  
6 today, would that be fair?

7 A That is fair.

8 Q And you studied -- we've got a copy of your  
9 resume. You studied blood pattern analysis; right?

10 A That is correct.

11 Q How to process crime scenes?

12 A That is correct.

13 Q You have familiarity with DNA?

14 A That is correct.

15 Q You also spent about ten times more credit  
16 hours on something called forensic science than anything else;  
17 right?

18 A That is correct.

19 Q A lot of time is invested in your education to  
20 be able to ascertain what is and is not important; right?

21 A That is correct.

22 Q And science has a place in criminal cases;  
23 right?

24 A Yes, it does.

25 Q Science -- would you agree with me that

1 science does not have a motive or an agenda to fabricate like  
2 maybe a witness would?

3 A That is correct.

4 Q And you took this case serious, it's a  
5 homicide case; right?

6 A Of course.

7 Q Now, you also in your studies studied a lot  
8 about drugs and drug trafficking, so you are alerted to what  
9 items to look for in that kind of a scene?

10 A That is correct.

11 Q All right. And so when -- when Mr. DiGiacomo  
12 asked you about your experience relative to the crack cocaine,  
13 you fully understood that that substance that you saw was  
14 consistent with crack cocaine the night you were at that  
15 scene?

16 A That is correct.

17 Q And in addition to that you also found a razor  
18 blade with some white powdery substance; correct?

19 A I know there was a razor blade. I don't  
20 recall if there was any white powdery substance on it or not.

21 Q Okay.

22 MR. SGRO: May I approach briefly, Your Honor?

23 THE COURT: Certainly.

24 BY MR. SGRO:

25 Q I'm just showing you a copy of the report.



1           A     Okay.

2           Q     If that refreshes your recollection. Do you  
3 see where it says a razor blade with a white powdery  
4 substance?

5           A     Yes, I do.

6           Q     Does that refresh your recollection?

7           A     Yes.

8           Q     Okay. And are you also familiar with the  
9 location of something called a blade scale digital scale?

10          A     I am not.

11          Q     I'm sorry.

12          MR. SGRO: May I approach, Judge?

13          THE COURT: Yes.

14 BY MR. SGRO:

15          Q     Does it say here that --

16          A     Oh, yes.

17          Q     Did I pronounce it wrong?

18          A     No, you're fine.

19          Q     Okay. It's a blade scale digital scale;  
20 right?

21          A     Yes.

22          Q     Okay. And -- and scales are items used, as  
23 you know, from your education, they're used by persons in the  
24 drug trafficking business to weight things; correct?

25          A     That is correct.

1           Q     All right. And that would be a reason why  
2 that particular item of evidence was impounded, fair?

3           A     Yes.

4           Q     Now, you were asked some questions generally  
5 about the items that you recovered and how to go through the  
6 scene; right? Yes?

7           A     Yes.

8           Q     Okay. You would agree with me that the more  
9 pristine the location you are examining, the cleaner it is,  
10 the more things are put away, the easier your job is?

11          A     Yes.

12          Q     Now, you were not shown all the pictures of  
13 the inside of the residence that were taken that day; right?  
14 You were shown a representative example.

15          A     That is correct.

16          Q     Would you agree with me -- well, would you  
17 tell the jurors that the residence itself was -- and I don't  
18 want to get caught up in adjectives, but it was not clean, it  
19 was kind of dirty?

20          A     That is correct.

21          Q     There were multiple pieces of garbage on the  
22 ground?

23          A     There were multiple items on the ground.

24          Q     Okay. Some that look like refuse or garbage?

25          A     That is correct.

1           Q     And the -- the residence itself was small,  
2 yes?

3           A     Yes.

4           Q     And there were, in addition to debris, there  
5 were large piles of clothing around the apartment; right?

6           A     Yes.

7           Q     The kitchen had a lot of items like used  
8 cookware, used cups, that sort of thing?

9           A     That is correct.

10          Q     So those sorts of things can tend to make your  
11 job more difficult; correct?

12          A     That is correct.

13          Q     It is easier to miss something if it's hidden  
14 in a pile of clothing or behind some trash, that sort of  
15 thing, fair?

16          A     That is fair.

17          Q     All right. Now I want to talk to you for a  
18 second about the master bedroom, okay. And if you could do me  
19 the favor just to orientate everyone again. It's -- it's on  
20 the top right of this diagram as we look at it; is that right?

21          A     That is correct.

22          Q     Now, can you circle just the master bathroom?

23          A     The closet is also included in there.

24          Q     Okay. Right. And so what -- what you would  
25 agree with is that the master bathroom itself starts where the

1 toilet is; right?

2 A Yeah.

3 Q Okay. So next to the toilet is -- is a  
4 closet; is that right?

5 A I'm sorry. The closet -- it's a tub next to  
6 the toilet, and the closet is actually right here.

7 Q Okay. It's in front of the toilet.

8 A Right.

9 Q All right. Now, the door -- and just to  
10 orientate everyone, if I'm walking through, and the record  
11 will reflect I'm facing the back wall of the courtroom, I'm  
12 walking through the bathroom, which way is the door going to  
13 swing?

14 A It's --

15 Q To my right or to my left?

16 A It's going to swing to your left.

17 Q So the door is going to open to my left.

18 Which means if, hypothetically, I was sitting on the toilet,  
19 right --

20 A Yes.

21 Q -- using the toilet as the door opened, the  
22 door is going to open to allow my view straight into that  
23 space; right?

24 A Yes.

25 Q Okay. Now, we have heard testimony about the

1 overall residence being relatively small. Would you agree  
2 with that?

3 A That is correct.

4 Q And I think you said you weren't sure on  
5 square footage, but it's a reasonably small place.

6 A Yes.

7 Q Now, the bathroom, you would agree, literally  
8 if you stood in the middle of the bathroom, you can touch  
9 every part of the bathroom. It's pretty small, isn't it?

10 A Yes, it is.

11 Q Okay. There's nothing in the bathroom that  
12 creates an obstruction in terms of sight or vision; right?  
13 You can see the bathroom. In other words, the toilet below,  
14 the sink is waist level, and the shower, as you pointed out  
15 earlier, is a low tub; right?

16 A Yes.

17 Q Okay. Do you know what the dimensions are?  
18 So if I asked you how many feet from the edge of the toilet to  
19 the entry there of the door, do you know what that number is,  
20 ma'am?

21 A I don't know off the top of my head, but  
22 according to the scale, approximate scale right here, it could  
23 possibly be a little more than four feet.

24 Q One -- one stride?

25 A Sure.

1           Q     Right? And what happened -- I'm trying to get  
2 you to articulate. It's one step from the door to the toilet;  
3 right?

4           A     Approximately, yes.

5           Q     Okay. And, again, it's -- it's less than one  
6 full stride from where the opening of the door is to the sink;  
7 right?

8           A     Yes.

9           Q     Okay. Now, you were asked some questions  
10 about the nightstand drawers being open and you just  
11 photographed them as they were; right?

12          A     That is correct.

13          Q     And sometimes that can be evidence of  
14 something. Sometimes it's evidence of nothing other than the  
15 doors happen to be open; right?

16          A     That is correct.

17          Q     Okay. And you aren't going to tell us  
18 factually how those doors came to be open. All you can tell  
19 us is that's how it was when I got there?

20          A     That is correct.

21          Q     You were asked some questions -- do you mind,  
22 if you touch that again off to the side it will erase the mark  
23 you just made.

24               MR. DiGIACOMO: I'll do it. There you go.

25               MR. SGRO: Thank you.

1 BY MR. SGRO:

2 Q Now, by the bathroom door, you were asked some  
3 questions about whether you could see blood; right?

4 A That is correct.

5 Q And I'm going to take it by your answer that  
6 you were responding relative to what you could see with the  
7 naked eye; correct?

8 A That is correct.

9 Q And you know based on your education that  
10 sometimes I could look at this carpet with my vision and not  
11 see anything, right, but that doesn't mean there's no blood  
12 there; correct?

13 A That is correct.

14 Q Do you know what luminol is?

15 A Yes, I do.

16 Q Can you explain to the jury what luminol is?

17 A Luminol is a chemical that reacts with certain  
18 components of blood. It is a fluorescent chemical, so it has  
19 to be administered in the dark. And if there would be any  
20 presence of blood, it would illuminate.

21 Q And that will even work through a cleaning  
22 agent, won't it?

23 A It will react with cleaning agents, yes.

24 Q Right. It will react not only to blood, but  
25 also to a cleaning agent?

1           A       That is correct.

2           Q       So not only could we tell if there was blood  
3 there, we could tell if someone tried to clean it up?

4           A       That is correct.

5           Q       Okay. Do you have a report you can show me  
6 where luminol was used to determine whether or not there was  
7 any blood by the door?

8           A       No.

9           Q       All right. Is that because luminol was not  
10 used in this case?

11          A       That is correct.

12          Q       What -- as you are processing the scene, are  
13 you aware that a 12 year old girl had been shot in the  
14 stomach? Did you know that?

15          A       I was aware that a 12 year old girl was shot.

16          Q       Okay. But -- well, let me ask a better  
17 question. Were you aware of the location of where the 12 year  
18 old girl was supposed to have been shot?

19          A       Vaguely.

20          Q       All right. So there would have been no  
21 reason, then, for you to single out a particular area to  
22 administer luminol, fair?

23          A       That is correct.

24          Q       All right. Were you present, ma'am, when a --  
25 when a big screen television was taken apart in order to



1 search for a fragment?

2 A No, I was not.

3 Q You understand part of your job would be to do  
4 things like that; right? Remember you said to Mr. DiGiacomo  
5 we move things around, we look the best we can; right?

6 A That is correct.

7 Q We try to be thorough?

8 A Yes.

9 Q And in -- have you ever had the opportunity  
10 where you've taken apart an appliance to look for evidence?

11 A Yes.

12 Q When you take apart an appliance, you examine  
13 with the same scrutiny and thoroughness you do any scene,  
14 fair?

15 A That is correct.

16 Q It's not going to be something where you  
17 cursory look at it and then maybe you learn later you missed  
18 something; right?

19 A That is fair.

20 Q You were asked questions about whether or not  
21 you had ever seen or recovered a firearm; right? This day at  
22 this residence, do you remember being asked if you had seen or  
23 recovered a firearm that day?

24 A That is correct.

25 Q Now, what time did you go through this

1 residence?

2 A We arrived approximately at 7:00 in the  
3 morning.

4 Q Okay. So in terms of context, are you aware  
5 that the homicide was to have taken place approximately 3:45  
6 a.m.?

7 A That is correct. I was aware.

8 Q Okay. So you arrived to do the thorough  
9 investigation relative to the crime scene about three hours  
10 and 15 minutes after roughly?

11 A Yes.

12 Q All right. Did you ever ask anyone if the  
13 owner or the tenant of this residence owned a firearm?

14 A I did not personally.

15 Q Okay. You were asked to comment on some  
16 footwear impressions that were obtained; right?

17 A Correct.

18 Q Sometimes footwear impressions can be compared  
19 to other shoes, right, to make matches. Is that fair?

20 A That is fair.

21 Q So you take a footwear impression which is an  
22 imprint of the bottom of a Nike tennis shoe, for example,  
23 right, and you can say, hey, this was a size 8 or this was a  
24 size 14; right?

25 A Yes.

1           Q     And you can look at the bottom of the shoe and  
2 talk about how much of the shoe is worn out and then compare  
3 it to another shoe and see if the wear is the same; right?

4           A     A forensic analyst can do that, yes.

5           Q     Right. And when I say you, I'm speaking  
6 generally law enforcement. That's the reason why you would  
7 collect a footwear impression off of a piece of paper; right?

8           A     Yes.

9           Q     It could very well be the footprint of the  
10 person that was involved in a homicide?

11          A     That is correct.

12          Q     All right. Now, you were asked about travel  
13 paths of bullets. Do you remember that?

14          A     Yes.

15          Q     Now, if we look at this crime scene again, we  
16 see the directional arrow on the bottom left with north  
17 pointing up; right?

18          A     That is correct.

19          Q     And I'm going to apologize in advance. I'm  
20 directionally challenged, so please bear with me. As someone  
21 would enter into the door, okay, if they turned to their left  
22 -- you see where the person that was shot is on the couch?

23          A     Yes.

24          Q     Okay. You're going to agree that that's one  
25 travel path; right? You didn't collect the bullet. There was

1 some fragments. That's one travel path, whatever bullet was  
2 used to inflict a fatal wound into that person?

3 A That is correct.

4 Q All right. So we have that as one. And then  
5 did I hear you describe for the jury three distinct travel  
6 paths independent of the one that struck and killed Ms.  
7 Newman?

8 A That is correct.

9 Q All right. So at least insofar as you saw the  
10 scene that day, you left that scene understanding that you had  
11 four specific shots.

12 A Five.

13 Q Five. The fifth being?

14 A The 12 year old girl who was shot.

15 Q Okay. Five. Fair enough.

16 MR. SGRO: Now, Ms. Clerk, could I have -- does the  
17 Elmo work?

18 THE MARSHAL: Yes, she's just got to switch it over  
19 for you. There you go.

20 MR. SGRO: Do I need to do anything?

21 THE MARSHAL: Nope.

22 MR. SGRO: Thanks.

23 THE COURT: How did you do that?

24 THE MARSHAL: You can zoom in and out on there.

25 MR. SGRO: Oh, okay.

1 BY MR. SGRO:

2 Q Now, can you see this on your screen, as well?

3 A Yes, I can.

4 Q I want to talk to you about the travel path --  
5 the one in the vacuum cleaner is the B like boy travel path;  
6 right?

7 A That is correct.

8 Q All right. I want to just walk through an  
9 example of one of the flight paths of a bullet that you did  
10 that day. Now, this vacuum cleaner, is that tagged B-1?

11 A That is correct.

12 Q So what that means is this is the first impact  
13 of a bullet that was fired along a particular travel path, it  
14 hit the vacuum cleaner handle?

15 A That is correct.

16 Q All right. B-2 is that same vacuum cleaner  
17 handle, but now we see an exit; is that correct?

18 A This is still labeled B-1, I believe.

19 Q Oh, okay. My mistake. So B-1 is a through  
20 and through?

21 A That is correct.

22 Q Now --

23 MR. DiGIACOMO: I'm sorry, Counsel. For the record,  
24 can you just put the exhibit numbers on them for the record.

25 MR. SGRO: You know, I didn't match them up which

1 ones these are. Actually, may I approach the clerk, Your  
2 Honor, just to expedite it? I'll just mark these A through --

3 THE COURT: Oh, these aren't marked?

4 MR. DiGIACOMO: That's what I was wondering.

5 MR. SGRO: They are, but I did not take note to --

6 MR. DiGIACOMO: I believe he's using the ones that  
7 I'm using.

8 Mr. Sgro, I have them here for you.

9 THE COURT: You're not using his, you're using your  
10 own? That's okay. You can use --

11 MR. SGRO: I'll just --

12 THE COURT: -- anything you want.

13 MR. SGRO: -- mark these because some --

14 THE COURT: Okay.

15 MR. SGRO: I think I have one that's different.

16 Thank you, Judge.

17 You've got to keep your eye on my Judge.

18 THE COURT: You're right. I do. I just assumed you  
19 -- I just assumed you were using his.

20 MR. SGRO: I'm using the same photographs, but I  
21 don't know that each number is his.

22 THE COURT: But -- but they're not using his. Okay.

23 MR. DiGIACOMO: I -- I make the same assumption,  
24 Judge.

25 THE CLERK: A through G.

1 MR. SGRO: Thank you.

2 MR. DiGIACOMO: Yeah, those are all in evidence. I  
3 have no objection, Judge. We'd stipulate to their admission.  
4 Just --

5 THE COURT: All right.

6 MR. DiGIACOMO: -- to keep --

7 THE COURT: They'll be received.

8 MR. DiGIACOMO: -- the record clean, he's going to  
9 use his letters.

10 THE COURT: They'll be received.

11 (Defendants' Exhibit A through G admitted.)

12 MR. SGRO: Thank you.

13 BY MR. SGRO:

14 Q Okay. So the through and through, just for  
15 purposes of the record, this is Defense Exhibit A. And that's  
16 the through and through B-1; right?

17 A That is correct.

18 Q Okay. Now, when a bullet travels through  
19 metal, the velocity of that bullet will slow down  
20 considerably, fair?

21 A That is fair.

22 Q And this particular bullet not only went in  
23 one sheet of metal -- that handle, by the way, is metal;  
24 right?

25 A I don't recall what surface it is, but --

1 Q Okay. It was something solid?

2 A Yes.

3 Q All right. And -- and so the bullet that struck  
4 this vacuum cleaner not only went in one side, it came out  
5 another?

6 A That is correct.

7 Q Which going -- is going to further slow down the  
8 velocity of that bullet?

9 A That is correct.

10 Q Then I believe you said -- and this is Defense  
11 Exhibit C -- is that upside down?

12 A It's the foot of the bed, so --

13 Q Okay. It's the foot of the bed?

14 A -- it doesn't really matter.

15 Q Now, it's hard to see, but I think you testified  
16 that B2 was where there was an imperfection in the fabric; is  
17 that right?

18 A That is correct. It was an imperfection in the  
19 sheet as well as in the mattress.

20 Q Right. Okay. Now, can you do me a favor,  
21 please, and circle the sheet? And did you circle the  
22 imperfection?

23 A Yes.

24 Q All right. Now, I want to examine this just for  
25 a moment longer. The bullet, in your view, as you did these



1 travel paths, went through one part of the vacuum handle, went  
2 through the second part of the vacuum cleaner handle, had lost  
3 velocity such that it didn't go through the sheet, right?

4 A It did go through the sheet, but it did not go  
5 through the mattress.

6 Q Okay. Went through the sheet but not through  
7 the mattress. Did it leave a burn mark?

8 A No, I do not believe it did.

9 Q Would you agree with me that at this point the  
10 bullet that has taken this travel path, that's gone through  
11 both sides of the vacuum cleaner handle, the speed of that  
12 bullet has dropped dramatically?

13 A That is correct.

14 Q Okay. Even to where it couldn't penetrate a  
15 thin sheet, right?

16 A It penetrated the sheet but not the mattress.

17 Q You keep saying that and I apologize, even to  
18 the point where it didn't penetrate the mattress, correct?

19 A That is correct.

20 Q All right. Now, there is a brown -- and I'm  
21 saying "brown," maybe I should ask you: How would you  
22 describe the color of the top part of these drapes?

23 A It was a dark color. It's hard to see in this  
24 photograph, but it's -- it's a dark color, either brown or  
25 burgundy or black.

1           Q     Okay. Now, your testimony is -- your testimony  
2 is that the bullet had slowed down such that it left an  
3 impression on the sheet; it did not have enough velocity to  
4 impact the mattress, right?

5           A     To -- yes.

6           Q     Right?

7           A     To penetrate the mattress, yes.

8           Q     Right. And then your testimony is that the same  
9 bullet -- the same bullet left a fabric imperfection on, let's  
10 just call it dark brown so -- there's a lighter piece of  
11 fabric on the bottom, right?

12          A     That is correct.

13          Q     Okay. If I say "dark brown," even though maybe  
14 some different shade, can we agree that we're talking about  
15 the darker piece on top?

16          A     That is correct.

17          Q     All right. The dark brown piece on top is  
18 impacted by a bullet strike, correct?

19          A     That is correct.

20          Q     Now, from this particular picture we see the  
21 dark brown fabric is higher than, taller than, the mattress,  
22 correct?

23          A     That is correct.

24          Q     All right. Now, how far off the ground is the  
25 mattress?

1           A     I don't recall.

2           Q     Do you remember some milk crates supporting a  
3 box spring?

4           A     Yes.

5           Q     Okay. And milk crates, those -- the old school  
6 milk crates, you know what I'm talking about, right, the  
7 plastic things?

8           A     Yes, I do.

9           Q     Okay. Are they about a foot off the ground?

10          A     Approximately.

11          Q     And the box springs and mattress in this case,  
12 is that about another 12 to 18 inches off the ground?

13          A     It could be.

14          Q     Okay. Do you know how much higher off the  
15 ground B -- and is that B3 that's marked on that brown piece  
16 of fabric?

17          A     That is correct.

18          Q     All right. How much higher off the ground is B3  
19 than the mattress?

20          A     It's higher.

21          Q     I understand. Is it -- it's a couple feet  
22 higher, isn't it?

23          A     It could be. It's hard to tell from this photo,  
24 but it could be.

25          Q     Now, you are always seeking to do your best when

1 you go through these seams, correct?

2 A That is correct.

3 Q And you are always seeking to do your best to  
4 count for as many bullets as you can any given crime scene if  
5 guns are involved, correct?

6 A That is correct.

7 Q All right. Now, if I understand correctly, a  
8 single bullet traveled through two pieces of metal or a hard  
9 substance to the vacuum cleaner, lost sufficient velocity such  
10 that it impacted the sheet but didn't touch the mattress,  
11 right? Then -- then traveled upwards about 3 feet to strike  
12 the curtain; is that what your testimony is?

13 A That is correct.

14 Q And the curtain -- was that a hole in the  
15 curtain where it went through?

16 A There was a divot, yes. I can't remember if it  
17 actually went through or not, but yes, there was a defect.

18 Q So your testimony is that the bullet was not  
19 enough to leave an impression on the mattress, but it was  
20 sufficient enough to go through the fabric on the curtain?

21 A It left an impression on the mattress.

22 Q Okay. It didn't go through --

23 A It didn't go through. It did not penetrate the  
24 mattress.

25 Q Okay. Okay. And just -- I don't want to put

1 words in your mouth, I just want to make sure I understand the  
2 testimony 100 percent, it -- it caused an imperfection in the  
3 sheet, it left a mark on the mattress, right?

4 A That is correct.

5 Q Did not have sufficient velocity to go through  
6 the mattress, but was able to rise up and strike that curtain?

7 A That is correct.

8 Q All right. Was the bullet that was the C travel  
9 path -- the one that went through the bathroom, was that  
10 bullet recovered?

11 A No, it was not.

12 MR. SGRO: May I reapproach, Your Honor?

13 THE COURT: Yeah.

14 MR. SGRO: Okay.

15 BY MR. SGRO:

16 Q Do you know -- well, strike that.

17 The -- the landing spot of the travel path of the B  
18 bullet was on top of a crate; is that right?

19 A That is correct.

20 Q All right. Now, do you know how many people  
21 entered the scene before you were able to do the thorough  
22 canvass that you just testified about?

23 A I do not know.

24 Q Are you advised as a matter of policy as you  
25 approach this scene, hey, you know, six kids were taken out of

1 here before you got here. Do you know things like that as  
2 you're walking in to do the scene?

3 A Yes. We get that kind of information in our  
4 briefing.

5 Q Okay. And so you would have been aware that  
6 several paramedics had gone through the scene?

7 A That is correct.

8 Q And -- and put Devonia. Do you know -- we talk  
9 about Devonia, right? The -- the little girl who was shot.

10 A Yes.

11 Q And taken out on a gurney. Were you aware of  
12 that?

13 A I was aware she was transported.

14 Q Transported? So --

15 A Yeah.

16 Q -- a gurney is a mechanism that is, like, a bed  
17 on wheels, right? It's sturdy, it's metal, people push it  
18 down, right, when someone is on it?

19 A That is correct.

20 Q And those people in and out -- the gurney in and  
21 out, children being removed from the scene. The tenant -- the  
22 adult male in the scene, those are all things that potentially  
23 can alter the things that you're there to go look at, right?

24 A That is correct.

25 MR. SGRO: Court's indulgence, Your Honor.

1 Pass the witness, Your Honor.

2 MR. LANGFORD: No questions.

3 THE COURT: Okay. Redirect?

4 MR. DIGIACOMO: Just very briefly.

5 REDIRECT EXAMINATION

6 BY MR. DIGIACOMO:

7 Q Mr. Sgro asked you a number of questions about  
8 B, the bullet B threw the vacuum cleaner into the bed, hitting  
9 the -- the window, kind of bringing the -- wound up on that  
10 right crate. It seemed to have a tone that suggested it was  
11 unusual. In your experience was the path of this bullet  
12 necessarily that unusual for the number of crime scenes you've  
13 seen?

14 A No, it was not.

15 Q That's consistent with other stuff you've seen  
16 before?

17 A Yes.

18 Q Second question I have for you is there are  
19 times -- well, let me ask you this: Are there times in your  
20 experience when bullets hit something hard that they separate?

21 A That is correct.

22 Q And that's -- you -- we've kind of seen some  
23 pieces that you saw around Ms. Newman; is that fair?

24 A Yes.

25 Q And you said you collected pieces from inside

1 the closet in the double bunk bed room; is that correct?

2 A That is correct.

3 Q Mr. Sgro brought up a good point. You -- did  
4 you do anything to try and find that bullet that was in C3?

5 A Yes, we did.

6 Q What did you do?

7 A We cut a hole in the wall to see if it had  
8 lodged into a wall -- into the actual wall or a stud behind  
9 the wall, and we cut into the wall and it was an empty wall  
10 behind it and we could not find the bullet. We did not  
11 recover it.

12 Q You looked for it, but you ultimately couldn't  
13 find a small piece of metal inside a wall somewhere?

14 A That is correct.

15 Q As you were preparing for your testimony in this  
16 case, did you go back and look at all the photographs involved  
17 in this case?

18 A Yes, I did.

19 Q And during the course of that, did you  
20 ultimately learn that you missed at least one bullet hole in  
21 this house?

22 A Yes.

23 Q Let me ask you this: Did you guys, when you  
24 were doing this whole search, pull that shelf or armoire --  
25 what terms did you -- hutch -- away from the wall and pull the



1 T.V. in the master bedroom away and look to see if there was a  
2 defect?

3 A I personally did not.

4 Q At the time that you were processing in the  
5 scene did you know that there might be a defect behind that  
6 armoire?

7 A No.

8 MR. DIGIACOMO: Nothing further.

9 RECROSS-EXAMINATION

10 BY MR. SGRO:

11 Q Do you have pictures of the armoire that are  
12 close up that would show entry that we can show the jury?

13 A No, we do not.

14 Q Do you have a single photograph that shows those  
15 shelves -- those shelves, by the way, when Mr. DiGiacomo and  
16 -- when you described them for him earlier, you said that the  
17 doors were closed?

18 A Yes.

19 Q Do you have a photograph we can show the jury  
20 that shows holes through those doors that would enlighten them  
21 as to what was missed that day?

22 A We have photographs of the hutch showing the  
23 doors closed, but I do not believe there are any closeups. We  
24 did not know at that time.

25 Q I understand you did not know. What I'm asking

1 is: Can you -- when I saw -- when I looked at those pictures,  
2 I can't see anything close enough to see if there is a hole.  
3 Do you have a photo that the jury can see so that they can see  
4 the hole that you guys missed?

5 A No.

6 Q All right. And this is a hutch and as you go  
7 down the hallway this is smack in the middle of the hallway.  
8 One bedroom is on the left, one bedroom is on the right,  
9 correct?

10 A That is correct.

11 Q Okay. And so even you, with the resume we  
12 talked about with your training -- and incidentally, since  
13 this event you have been promoted to senior crime scene  
14 analyst, right?

15 A That is correct.

16 Q Your testimony is that you left with the  
17 knowledge and your training and experience that five rounds  
18 had been expended, right?

19 A That is correct.

20 Q And you missed -- you missed the bullet holes  
21 that are attendant to that armoire?

22 A That is correct.

23 MR. SGRO: Nothing else.

24 MR. DIGIACOMO: Nothing.

25 THE COURT: All right. Ms. McIntyre, thank you very

1 much.

2 We'll take our evening recess now, ladies and  
3 gentlemen. You know, I have three really brief matters at  
4 9:00 tomorrow on my civil calendar. Do you want to start at  
5 9:30?

6 MR. DIGIACOMO: Court's pleasure.

7 MR. SGRO: Yes, Your Honor.

8 THE COURT: All right. 9:30 tomorrow morning.

9 During the recess, it's again -- it's again your  
10 duty not to converse among yourselves or with anyone else on  
11 any subject connected with this trial or to read, watch, or  
12 listen to any report of or commentary on the trial, or any  
13 medium of information, including newspapers, television, and  
14 radio and you're not to form or express an opinion on any  
15 subject connected with this case until it's finally submitted  
16 to you.

17 We'll see you tomorrow morning at 9:30.

18 THE MARSHAL: Jurors, please leave your pens and your  
19 notepads on your chairs.

20 (Jury recessed at 4:27 p.m.)

21 THE COURT: The record will reflect that the jury has  
22 exited the courtroom.

23 Anything further on the record tonight?

24 MR. DIGIACOMO: We do. One thing, Judge.

25 Mr. Oram found it -- what he was talking about

1 because this is what I initially thought he was talking about.

2 At page 213 of Monica's statement -- this is in a different

3 section than the -- what Mr. Oram and I discussed earlier.

4 The detectives say to Monica, "Okay, and what's he go by?"

5 Answer: Either G-Shock or D-Shock, which I'll

6 represent to you is the Defendant -- is her term for him.

7 Question: Is he in the same gang with all these

8 guys? If that's what's going on here, Monica, please don't

9 wreck it now, okay? Come clean. And her response -- Ms.

10 Martinez's responses, Can I -- can you please put me in

11 protective custody.

12 And Mr. Oram wants us to redact out, "is he in the

13 same gang with these guys," when her response to that question

14 is, "Please put me in protective custody before I answer the

15 question." They don't ever talk about the gangs. I'm more

16 than willing to redact the one we've talked about, but I

17 believe the detective's question to her or her responses, "I'm

18 in fear," and I don't want to relay this information is highly

19 relevant.

20 THE COURT: Okay. The response doesn't indicate that

21 he's in a gang.

22 MR. DIGIACOMO: Correct.

23 MR. SGRO: So there's no bad act of --

24 THE COURT: You don't need to redact that.

25 MR. DIGIACOMO: Thank you.

1 THE COURT: Okay. We'll see you tomorrow morning at  
2 9:30.

3 (Court recessed for the evening at 4:29 p.m.)  
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**CERTIFICATION**

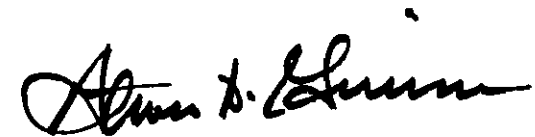
I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

**AFFIRMATION**

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

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CLERK OF THE COURT

TRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA  
\* \* \* \* \*

THE STATE OF NEVADA,	)	
	)	
Plaintiff,	)	CASE NO. C-10-267882-1
	)	C-10-267882-2
vs.	)	DEPT NO. XX
	)	
WILLIE DARNELL MASON, AKA	)	
WILLIE DARNELL MASON, JR.,	)	<b>TRANSCRIPT OF</b>
AKA G-DOGG,	)	<b>PROCEEDING</b>
DAVID JAMES BURNS, AKA	)	
D-SHOT,	)	
	)	
Defendants.	)	

BEFORE THE HONORABLE CHARLES THOMPSON, SENIOR DISTRICT JUDGE

**JURY TRIAL - DAY 7**

WEDNESDAY, JANUARY 28, 2015

APPEARANCES:

For the State:	MARC P. DIGIACOMO, ESQ. PAMELA C. WECKERLY, ESQ. Chief Deputy District Attorneys
For Defendant Mason:	ROBERT L. LANGFORD, ESQ.
For Defendant Burns:	CHRISTOPHER R. ORAM, ESQ. ANTHONY P. SGRO, ESQ.

RECORDED BY SUSAN DOLORFINO, COURT RECORDER  
TRANSCRIBED BY: KARR Reporting, Inc.

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## **I N D E X**

### **WITNESSES FOR THE STATE:**

ALANE OLSON

Direct Examination By Ms. Weckerly 9

Cross-Examination By Mr. Oram 23

MONICA MARTINEZ

Direct Examination By Mr. DiGiacomo 26

## **E X H I B I T S**

### **STATE'S EXHIBITS ADMITTED:**

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1 and 2      Map/Photograph      77

274      CD - Interview of Monica Martinez      110



1           **LAS VEGAS, NEVADA, WEDNESDAY, JANUARY 28, 2015, 9:27 A.M.**

2                           **\* \* \* \* \***

3                           (Outside the presence of the jury.)

4           THE COURT: On the record. State of Nevada vs. Mason  
5 and Burns. The record will reflect the presence of the  
6 defendants and their respective counsel. Mr. -- Counsel.

7           MR. SGRO: Thank you, Judge. Just very briefly, we  
8 wanted to make a record that Ms. Martinez's attorneys have  
9 been present through much of the court proceedings. I saw --  
10 I saw them during jury selection. I made a point of telling  
11 the jury that they were here for the opening statements, and  
12 they were here for Ms. Weckerly's presentation as well as  
13 mine.

14           I don't recall how much they stayed in the afternoon,  
15 and they're in the back right now. When I say in the back,  
16 behind the hallway where chambers is there's a room where they  
17 are visiting with their client as we speak. And I just don't  
18 want there to be an argument.

19           I'm going to predict some modification from testimony  
20 right from her police statement where she said no one had  
21 nothing to do with anything, and I'm obviously being  
22 over-general. I don't want her modifications -- let me strike  
23 that.

24           I don't want to be precluded from arguing that her  
25 lawyers were here, they had conversations, and that could be a

1 basis of modification.

2 In other words, if the lawyers heard my opening or  
3 Ms. Weckerly's opening, they can now go back there and say,  
4 hey, this is what they said, and prepare her for how to best  
5 deal with either what I said or what Ms. Weckerly said. So  
6 I'm making a record of it because I want judicial notice to be  
7 taken that they have been here, they were here for openings,  
8 and they're in the back room right now.

9 I can't get into what conversations were had, but  
10 just the presence and the opportunity to instruct Ms. Martinez  
11 on what occurred, and I don't want the State to say she wasn't  
12 here, you know, that sort of thing. So I wanted to make that  
13 record and not have the State argue anything different than  
14 what the actual facts are.

15 MR. DiGIACOMO: Well, I mean, I don't know. I know  
16 that at some periods of time they were present in the  
17 courtroom. You know, if Mr. Sgro wants to allege you have  
18 lawyers that -- and because you have a lawyer you might be  
19 able to change your story, that seems like a dangerous  
20 argument from a defense attorney to me.

21 But ultimately, if he can establish their presence in  
22 the courtroom -- I mean, if he asks the witness, are you aware  
23 whether or not they're there, she would have no way of knowing  
24 unless she was told --

25 THE COURT: Gentlemen, I don't even know who her

1 lawyers are.

2 MR. SGRO: Then if that's the position, then I want  
3 to get them out of the back room and ask them, and let's make  
4 a quick record that they were here. Because --

5 THE COURT: We're not calling them as witnesses.

6 MR. SGRO: Exactly. Exactly. I don't --

7 THE COURT: And besides, I'm not going to -- you  
8 would be asking them to reveal confidential communications --

9 MR. SGRO: No, no. No, sir.

10 THE COURT: -- and I'm not going to let you do that.

11 MR. SGRO: Sir, I'm not. I'm asking them were you  
12 here during opening statements. If Mr. DiGiacomo is not  
13 prepared to stipulate to that, then I want to ask them.

14 THE COURT: Well, we can do it later, but I --

15 MR. SGRO: Well, they're here right now, Your Honor,  
16 is why I bring it up. They're literally 5 feet away in the  
17 back room.

18 THE COURT: I don't even know who their lawyers are.

19 MR. SGRO: Andi Luem and Julia Murray.

20 THE COURT: Andi --

21 MR. SGRO: Luem. I think she spells it L-e-u-m  
22 [sic], if I -- I think I got that --

23 THE COURT: L-e-u --

24 MR. SGRO: M.

25 THE COURT: M.

1 MR. SGRO: And Julia --

2 THE COURT: That's a female?

3 MR. SGRO: Yes, sir.

4 THE COURT: I don't know her.

5 MR. SGRO: And Julia Murray.

6 THE COURT: They're Nevada counsel?

7 MR. SGRO: Pardon me?

8 THE COURT: They're Nevada counsel?

9 MR. SGRO: Yes, sir. Ms. Luem was at the public  
10 defender's office. Ms. Murray still is at the public  
11 defender's office and Ms. Luem recently left, but apparently  
12 she still has this particular case. And Ms. Murray I've seen.  
13 Ms. Luem I saw -- specifically I saw Ms. Luem during jury  
14 selection. I specifically saw her during my opening.

15 THE COURT: I'll accept your representations that  
16 they were here. That's okay.

17 MR. SGRO: Okay.

18 THE COURT: I'm sure you're not lying to me. I mean,  
19 if they were here, they were here.

20 MR. SGRO: The only reason I say it is because of the  
21 equivocated response we got; well, if -- we can't ask Monica  
22 Martinez are you aware your lawyers were here, because how is  
23 she going to know. She was in custody. Her lawyers were  
24 here.

25 THE COURT: If you tell me that her lawyers were

1 here, that's fine. I don't know what difference it makes,  
2 but --

3 MR. SGRO: Okay.

4 MR. LANGFORD: For the record, it's L-u-e-m.

5 MR. ORAM: Judge, one other fact. I'm sure that the  
6 State would have turned it over. I just want to make  
7 abundantly clear, I presume that Ms. Martinez went over to the  
8 district attorney's office and probably provided them  
9 information, conversation, a proffer. And we have not been  
10 provided any reports or any video or any audio from that. I  
11 presume that there is none. And so I just want them to state  
12 on the record that there is none.

13 THE COURT: If they have made an arrangement with the  
14 district attorney's office for their testimony as part of a  
15 plea bargain, certainly anything that's in writing has to be  
16 provided to you that would be Brady material. Is there  
17 anything in writing?

18 MR. DiGIACOMO: Well, we've turned over the guilty  
19 plea agreement -- with the agreement to testify.

20 THE COURT: Oh, okay.

21 MR. DiGIACOMO: What he's requesting is an audio, a  
22 video recording of the interview. There isn't one.

23 MR. ORAM: And there --

24 THE COURT: If there isn't one, then --

25 MR. ORAM: And that's what I wanted to do. Here's

1 what we didn't want. We didn't want questions to Ms. Martinez  
2 and then the State say, well, we have video. And so that's  
3 all I'm doing. And another --

4 THE COURT: Obviously if they haven't turned it over  
5 to you they can't use it.

6 MR. ORAM: And also there's no notes, there's nothing  
7 along those lines; is that fair, Mr. DiGiacomo?

8 THE COURT: Well, there may be attorney-client --  
9 there may be some work product stuff.

10 MR. DiGIACOMO: Yeah. I don't want to speak for her  
11 attorneys, whether or not they have something that --

12 THE COURT: Well, you can't ask her attorney for  
13 anything.

14 MR. ORAM: No, I don't -- I'm more talking about I  
15 imagine homicide detectives were there or --

16 MR. DiGIACOMO: It's my understanding that there is  
17 no notes from any investigator who was present at the meeting.

18 MR. ORAM: And so there's nothing -- there's nothing  
19 discoverable, and that's what I wanted to make sure --

20 THE COURT: Okay.

21 MR. ORAM: -- so we're not doing it when she's on the  
22 witness stand. There's nothing discoverable; is that right?

23 MR. DiGIACOMO: Correct. There is nothing -- we have  
24 turned over everything that's discoverable and there is  
25 nothing else discoverable to provide.

1 THE COURT: All right. Well, we're waiting for the  
2 marshal to come in and tell me that we've got enough jurors.

3 (Pause in proceeding.)

4 (Jurors enter at 9:37 a.m.)

5 THE COURT: State of Nevada vs. Burns and Mason. The  
6 record will reflect the presence of the defendants, their  
7 counsel, the district attorneys and all members of the jury.

8 Good morning, ladies and gentlemen. We're still on  
9 the State's case in chief. Mr. DiGiacomo or Ms. Weckerly.

10 MS. WECKERLY: Your Honor, the State calls Dr. Alane  
11 Olson.

12 ALANE OLSON, STATE'S WITNESS, SWORN

13 THE CLERK: Please state your name and spell your  
14 first and last name for the record.

15 THE WITNESS: My name is Alane Olson. My first name  
16 is spelled A-l-a-n-e. My last name is spelled O-l-s-o-n.

17 DIRECT EXAMINATION

18 BY MS. WECKERLY:

19 Q How are you employed?

20 A I'm employed as a medical examiner at the Clark  
21 County Coroner's Office.

22 Q How long have you worked at the coroner's  
23 office?

24 A I've worked in Las Vegas since September of  
25 2005.

1           Q     And what is your position at the coroner's  
2 office?

3           A     I'm a medical examiner.

4           Q     Can you describe your educational background  
5 that allows you to work as a medical examiner?

6           A     Sure. I have a bachelor's degree in  
7 microbiology from the University of Idaho. I spent one year  
8 at the University of Chicago in a PhD program and decided I  
9 didn't want to spend the rest of my life in a research lab, so  
10 I applied to medical school. I was accepted at the University  
11 of Nevada school of medicine, which is based in Reno, and  
12 that's where I did my MD degree.

13                Once I graduated from medical school, I moved to  
14 Portland, Oregon and spent five years at Oregon Health  
15 Sciences University in a residency program for anatomic and  
16 clinical pathology. In essence, pathology is the study of  
17 disease, and pathologists are the doctors who do autopsies.

18                We also look at the specimens, organs and tissues  
19 that are removed during surgery so we can make diagnoses that  
20 help clinicians, doctors who see living patients, decide about  
21 therapy and treatment. We also generally run the clinical  
22 laboratory. So if you've ever had a blood test done, a  
23 pathologist was probably involved in validating the results.

24                Once I finished my residency at Oregon Health  
25 Sciences University, I moved to Milwaukee, Wisconsin and spent



1 one year at the Milwaukee County Medical Examiner's Office.  
2 That's where I specialized in forensic pathology.

3 Forensic pathology is essentially investigations of  
4 deaths, and every jurisdiction has different rules about the  
5 types of death that must be reported. But oftentimes there  
6 are deaths that are the result of violence, and we do  
7 autopsies and other types of examinations with the goal of  
8 determining cause and manner of death.

9 I have a license to practice medicine in the state of  
10 Nevada. I'm also board certified by the American Board of  
11 Pathology in anatomic, clinical and forensic pathology, and  
12 I've been in practice for almost 15 years.

13 Q Do you have any estimate of how many autopsies  
14 you've personally performed or participated in?

15 A Somewhere between 2 and 3,000.

16 Q And you've testified obviously in the area of  
17 forensic pathology?

18 A Yes, I have.

19 Q Were you working as a pathologist on August 8,  
20 2010?

21 A Yes, I was.

22 Q And did you conduct an autopsy of an individual  
23 identified to you as Derecia Newman?

24 A I did.

25 Q How is it that you were the doctor that got

1 assigned this autopsy? How does it work?

2 A On any particular day we have a doctor who is on  
3 call, and that doctor has the responsibility of assigning who  
4 does which case. Since Ms. Newman's death was the result of  
5 violence, I was likely on call that day and so I decided that  
6 I would do the case.

7 Q And when you conduct an autopsy or when you did  
8 this particular autopsy, is there a procedure that you go  
9 through in the process of doing the autopsy?

10 A Yes, there is.

11 Q And can you describe that for the jury, please.

12 A Sure. In general, an autopsy consists of two  
13 parts. There's an external examination and an internal  
14 examination. And the external part consists of everything  
15 from how much does the person weigh, how long they are. We  
16 don't call it height because they're not standing up. Hair  
17 color, eye color, marks, scars, tattoos, whether there's been  
18 attempts to resuscitate them, and we also look at evidence of  
19 injury.

20 Prior to an autopsy, in some cases we also do what we  
21 call process on the body. And that means we take photographs  
22 from when they're in the body bag to get an idea of what they  
23 look like when they arrived at the coroner's office. The body  
24 is then sequentially photographed as it is undressed, and any  
25 evidence is collected usually with the help of crime scene

1 analysts from Metro or whichever jurisdiction is involved. We  
2 do x-rays, particularly in cases where someone has been shot,  
3 so that we have an idea of where the bullets are, and then I  
4 do my examination.

5         Once I've done the external examination, then we do  
6 an internal examination. That starts with a Y-shaped incision  
7 on the front of the body going from shoulder to shoulder down  
8 to the bottom of the chest, and then down to the bottom of the  
9 abdomen.

10         We use a saw to take off the front of the rib cage,  
11 and that allows me to look at the body as all of the organs  
12 lie. And again, I'm looking for evidence of injury as well as  
13 natural disease. Once we've opened the body, all of the  
14 organs are removed one by one and I weigh them and I examine  
15 them individually.

16         We also look at the contents of the head. We make a  
17 cut in the scalp across the top of the head from ear to ear.  
18 We move the scalp to the side. We use a saw to take off the  
19 top of the skull and remove that. And again, I have the  
20 opportunity to look at the brain, see if there are any  
21 injuries or evidence of natural disease. The brain's then  
22 removed from the head and weighed and again, individually  
23 examined. We also look at the neck to see if there are any  
24 evidence of injury or natural disease there.

25         During the course of an autopsy we collect samples

1 for toxicology testing and other types of testing depending on  
2 the nature of the case, and in cases where someone has been  
3 shot, we attempt to recover the bullets if we can.

4 MS. WECKERLY: Your Honor, may I approach the  
5 witness?

6 THE COURT: Yes.

7 BY MS. WECKERLY:

8 Q Doctor, I'm showing you what's been previously  
9 shown to defense counsel. These are photographs marked 157 to  
10 162. Can you look through all those and just let me know when  
11 you're done, please.

12 A Yes. I'm done.

13 Q Were those photographs taken in the course of  
14 the autopsy of Derecia Newman?

15 A Yes, they were.

16 Q And are they a fair and accurate depiction?

17 A Yes, they are.

18 MS. WECKERLY: State moves to admit 157 to 162.

19 MR. SGRO: No objection.

20 MR. LANGFORD: No objection, Your Honor.

21 THE COURT: They'll be received.

22 (State's Exhibit 157 through 162 admitted.)

23 BY MS. WECKERLY:

24 Q Dr. Olson, in the process of the autopsy, are  
25 there ever x-rays taken of the decedent?

1           A     Yes, there are.

2           Q     And could I ask you to put on State's 157,  
3 please.

4           And looking at -- do you want that turned?

5           A     Yes, please.

6           Q     Okay.

7           A     It's a little bit easier for the jury to figure  
8 out what they're looking at.

9           Q     Does that work?

10          A     Yes.

11          Q     Okay. Looking at what now is on our monitor as  
12 State's 157, obviously that's an x-ray, but can you describe  
13 how you would use this image in your work.

14          A     Sure. So what you're looking at is an x-ray,  
15 and it was taken not from front to back, but it was taken from  
16 side to side. So you can see her jaw down here and the back  
17 of her head is back here, just so you know where things are.  
18 When I look at x-rays, particularly when someone has been  
19 shot, what I'm looking for is where the bullet is or where the  
20 fragments are, so that I can go in and recover them.

21                In this particular instance she has fillings in her  
22 teeth, and she has a tongue piercing which you can see here.  
23 But she also has some metal fragments that basically ended up  
24 not quite in the roof of her mouth, but just above that. So  
25 those are the bullet fragments that I went in and recovered

1 during the course of the autopsy.

2 Q And I'm just putting on the monitor now State's  
3 158. What are we looking at in this photograph?

4 A This photograph is a picture of the tag,  
5 identification tag. So it lists Ms. Newman's name here as  
6 well as the case number that she was assigned at the coroner's  
7 office. Every death that's reported to the coroner's office  
8 is assigned a specific and unique case number. So in this  
9 case it was 10, which represents 2010, and then 6545.

10 This is -- this photograph also contains some  
11 portions of the bag in which her body was received at the  
12 coroner's office, and there's a little blue tag which is a  
13 seal. So that closes the body bag so that no one can tamper  
14 with it until it's time for us to officially open it and start  
15 our examination.

16 Q And that placard with the -- the gray placard  
17 with the Number 106545, would that be a unique number assigned  
18 to every autopsy?

19 A Well, that was the unique number assigned to  
20 Derecia Newman's case and her autopsy. So that photo tag is  
21 in most of the photographs that were taken of her during the  
22 course of the autopsy.

23 Q And in that way you're able to make sure that  
24 the photographs are -- belong to this particular autopsy?

25 A Yes. That's correct.

1           Q     Now we're going to put on the overhead State's  
2 159.

3           And because obviously the injury's to the right side  
4 and part of that was cut off in the larger view, we're going  
5 to work with it, if it's okay with you, Doctor, in this  
6 smaller format.

7           A     Sure.

8           Q     Okay. And describe what we're looking at in  
9 this exhibit.

10          A     This particular photograph was taken before I  
11 started my examination during the course of processing. So  
12 she's still wearing the clothing that she wore when she died.  
13 And in this particular case, in this photograph it's taken  
14 from the left side of her body, so you can see the left side  
15 of her face, the left side of her chest.

16          You can see her left arm. You can see her abdomen,  
17 and you can see part of her pelvis. And in this particular  
18 photograph you can see that she has a very large injury that  
19 involves the majority of her left forehead and upper face.

20          Q     Now, when you conduct an autopsy, do you take  
21 note of how the decedent presents before you conduct the  
22 autopsy?

23          A     Sometimes it's important, sometimes it's not.  
24 I -- if I have the opportunity, I usually try and describe the  
25 clothing. Sometimes that's key, because if an article of

1 clothing is present over the skin where someone was shot, that  
2 can represent a barrier to certain parts of a gunshot wound  
3 that help determine what the range was.

4 In this particular case she didn't have any clothing  
5 that was present, that I knew to be present on her face, so it  
6 wasn't of prime importance for me to look at her clothing and  
7 look at her as she was received.

8 Q And obviously in this particular case the injury  
9 that she suffered is -- it's obvious.

10 A Yes, it is obvious.

11 Q Okay. We'll put on the overhead now 160,  
12 please.

13 And then in State's 160, what do you take note of in  
14 that photograph as a forensic pathologist?

15 A I take note of the appearance of the gunshot  
16 wound. And in this particular instance the appearance of the  
17 gunshot wound tells me that the end of the barrel was in  
18 contact with her forehead when the shot was fired.

19 Q How are you able to tell that the barrel of the  
20 gun was in contact with her forehead at the time the gun was  
21 fired?

22 A Because of the characteristics of the wound.  
23 When a gun is fired, a bullet isn't the only thing that comes  
24 out the end of the barrel. There is hot gas which comes from  
25 the gunpowder burning. There is soot from the burned



1 gunpowder, and sometimes there are particles of unburned  
2 gunpowder. And what you see on the skin's surface can tell  
3 you a lot about how much distance there was between the end of  
4 the barrel and the skin surface when the gun was fired.

5 In this particular instance the wound tells me that  
6 the barrel was pressed against her skin. And the reason I say  
7 that is because when the barrel is pressed against the skin,  
8 particularly on gunshot wounds of the head, when that gas  
9 comes out of the end of the barrel, it basically -- it can't  
10 escape out into the air. It goes into and around and under  
11 the skin. And it basically balloons the skin out and it tears  
12 it.

13 Another reason that I can say it was a contact wound  
14 is because if you were to see a photograph of the -- a  
15 close-up photograph of the wound, the entry wound, there's  
16 actually black soot that's deposited in the wound and also on  
17 the skull underlying this injury. That tells me that again,  
18 the barrel was in contact with her skin when the gun was  
19 fired.

20 Q And when you were explaining your last answer,  
21 you actually pointed to your forehead, and her injury goes  
22 below her eye. Were you able to tell from looking at her  
23 injury where the barrel was in contact with on her face as  
24 well --

25 A Yes.

1           Q     -- because of the soot?

2           A     It was basically in the mid portion of the left  
3 side of her forehead.

4           Q     And I think you explained because of the energy  
5 that escapes from the barrel of the gun, that that makes  
6 the -- sort of the skin expand. When she presented or when  
7 you examined her at autopsy, how, I guess, deep did that type  
8 of injury go into her head? I mean, all the structures appear  
9 to be damaged; would that be fair?

10          A     She had extensive injuries. She had skull  
11 fractures which went down into the -- there's a bony roof over  
12 the top of the eyes. Those areas were fractured. The base of  
13 her skull was fractured. The front of her brain was  
14 extensively torn. Her left eye globe had been damaged, so it  
15 was deflated.

16                She had fractures in the bones of her face, and I  
17 actually recovered two fragments of the missile from deep in  
18 her face, basically at the junction of her nose and her -- the  
19 roof of her mouth.

20          Q     And this may be a silly question. If you suffer  
21 an injury like that, are you immediately -- are you  
22 immediately dead?

23          A     Someone with this type of injury, they might  
24 take a few breaths, they might have a heartbeat for maybe a  
25 few minutes, but it would be rapidly fatal.

1           Q     And Doctor, I'm now putting on the overhead  
2 State's 161. And obviously that's her hand. What's the  
3 purpose of documenting how a decedent's hands appear at  
4 autopsy?

5           A     Well, we take photographs of their entire body,  
6 but we do take specific photographs of their hands because  
7 we're interested in whether they tried to fend someone off or  
8 whether there was a fight before this person died. And in her  
9 particular instance there's a little bit of blood. You can  
10 see it on her thumb. But she didn't have any injuries on her  
11 hands.

12          Q     And I'm going to just put on the photograph of  
13 her other hand, which is 162. And neither of her hands had  
14 any what we would call defensive injuries?

15          A     That's correct.

16          Q     Is a toxicology performed in the course of an  
17 autopsy?

18          A     Yes.

19          Q     And was that done in this case?

20          A     It was.

21          Q     Do you recall what your findings were, what the  
22 findings were?

23          A     Sure. The toxicology report indicated that she  
24 had marijuana and one of its metabolites present in her blood  
25 at the time that she died.

1           Q     And did the toxicology, in your opinion, have  
2 any bearing at all as to the cause or manner of death in this  
3 case?

4           A     No.

5           Q     Besides the big injury on her head, were there  
6 any other notable findings on the rest of her body showing  
7 evidence of injury, or was it unremarkable?

8           A     It was basically unremarkable. She didn't have  
9 any other significant injuries.

10          Q     Based on your -- the totality of your  
11 examination of her, did you reach an opinion regarding the  
12 cause of death?

13          A     I did.

14          Q     And what was that?

15          A     She died as the result of a gunshot wound at the  
16 head.

17          Q     And did you reach a conclusion regarding the  
18 manner?

19          A     I did.

20          Q     And what was that?

21          A     The manner of death is listed as homicide.

22          Q     Thank you.

23          MS. WECKERLY: I'll pass the witness, Your Honor.

24          THE COURT: Mr. Oram.

25          MR. ORAM: Thank you.

1 CROSS-EXAMINATION

2 BY MR. ORAM:

3 Q Good morning, Dr. Olson.

4 A Good morning.

5 Q Just a couple questions for you. You talked  
6 briefly about bullet fragments. Do you recall that?

7 A I do.

8 Q And were there multiple bullet fragments that  
9 you found, or was this mostly an entire bullet?

10 A I recovered two fragments.

11 Q Do you recall how large they were, or is that  
12 something you didn't pay much attention to?

13 A I didn't record it in my report and I don't  
14 recall at this point.

15 Q But you noted it just because you saw it as this  
16 is the bullet that killed her; is that right?

17 A Yes. We make a habit of recovering bullets and  
18 we turn them over to the crime scene analyst.

19 Q Also, there appears to be quite a lot of blood  
20 at the scene connected with the victim in this case. That  
21 doesn't seem unusual to you at all, does it?

22 A No, it doesn't.

23 Q In fact, she would have bled quite rapidly and  
24 profusely?

25 A Given the extent of her injuries, yes.

1           Q     And since you said it was a contact wound, you  
2 find that as a result of stippling; is that right?

3           A     No. In fact, she didn't have any stippling, and  
4 that's one of the reasons why I say it was a contact wound.

5           Q     Okay. So she didn't have stippling, so what you  
6 conclude is that the gun was pressed against her head?

7           A     Correct.

8           Q     And I don't know if you've ever seen the gun in  
9 this case, but I think they say it's about 11 inches long.  
10 Okay. It's the size of a large gun. Okay. So my question to  
11 you would be the hand or the arm at the end of that gun could  
12 easily have obtained blood on the --

13          A     Possible.

14          Q     Possible or plausible?

15          A     I'll stick with possible.

16          Q     And in fact, blood could have come out all over  
17 the shooter?

18          A     Possible.

19          Q     But no reason to dispute that? In other words,  
20 it could be, maybe it's true, maybe it's not; is that what  
21 you're saying?

22          A     Yes.

23          Q     And I don't know -- strike that.

24                 There was another victim inside the home, and she was  
25 shot in the stomach. Okay. Would a stomach wound bleed a

1 lot?

2 A Sometimes they do and sometimes they don't.

3 Q If a person -- when you say that, is it more  
4 common or not for a wound like that to bleed profusely, a  
5 stomach wound?

6 A Again, it's depending on where the injury is and  
7 what the bullet hit as to whether someone bleeds a lot from --  
8 well, if someone bleeds a lot outside of their abdomen when  
9 they are shot in the abdomen.

10 Q So fair to say that the perpetrator may have had  
11 blood on him or her, or they may not; is that fair to say?

12 A Yes.

13 Q And no reason to dispute that whatsoever, that  
14 it could happen and maybe it did happen and maybe it didn't?

15 A Correct.

16 Q If a person was shot in the stomach with a large  
17 caliber bullet, and then somebody other than the victim was  
18 going through the pockets of that person, that would perhaps  
19 expose the person to blood?

20 A Possibly.

21 Q And you sound again unsure. Is that because you  
22 just don't know enough facts to make that determination?

23 A Yes. I don't know anything about the other  
24 victim aside from the fact that someone else was shot.

25 MR. ORAM: Nothing further.

1 MR. LANGFORD: Nothing from Mr. Mason.

2 THE COURT: Any redirect?

3 MS. WECKERLY: No, Your Honor. Thank you.

4 THE COURT: Thank you for being a witness, Doctor.  
5 You'll be excused.

6 THE WITNESS: Thank you, Your Honor.

7 THE COURT: Have a good day.

8 MR. DiGIACOMO: Judge, our next witness is in the  
9 back. It's Monica Martinez.

10 (Pause in proceeding.)

11 MONICA MARTINEZ, STATE'S WITNESS, SWORN

12 THE CLERK: Please state your name and spell your  
13 first and last name for the record.

14 THE MARSHAL: You need to speak directly into the  
15 microphone.

16 THE COURT: Move your chair up there a little bit.  
17 Thank you.

18 THE WITNESS: Monica Martinez, M-o-n-i-c-a,  
19 M-a-r-t-i-n-e-z.

20 MR. DiGIACOMO: May I inquire, Judge?

21 THE COURT: Yes.

22 DIRECT EXAMINATION

23 BY MR. DiGIACOMO:

24 Q Ma'am, how old are you?

25 A Forty-three.



1 Q Where do you currently reside?

2 A Clark County.

3 Q Right now. Where'd you wake up this morning?

4 A At Clark County Detention Center.

5 Q The Clark County Detention Center. How long  
6 have you been there?

7 A About 4 1/2 years.

8 Q I'm going to direct your attention to before you  
9 went to the Clark County Detention Center, so early 2010. Did  
10 you meet an individual that ultimately you learned his name  
11 was Jerome Thomas?

12 A Yes.

13 Q What did you call him?

14 A Job-Loc.

15 Q Job-Loc?

16 A Yes.

17 Q Would that be J-o-b, L-o-c?

18 A Yes.

19 Q How do you meet Job-Loc?

20 A I was seeing another guy that knew him.

21 MR. SGRO: Judge, I can't hear her.

22 THE COURT: Can you pick her up all right?

23 THE MARSHAL: I'll raise the microphone up, Judge.

24 MR. DiGIACOMO: Give us just a second. We're going  
25 to move that microphone up in front of you, okay?

1 THE COURT: Can you pick her up all right?

2 BY MR. DiGIACOMO:

3 Q Ms. Martinez, at times you have a soft voice.  
4 Everybody's got to hear you. That's why I'm going to stand  
5 back here, because if I can't hear you, then they can't hear  
6 you, okay?

7 A Okay.

8 Q You said that you met Job through somebody else.  
9 Who is the person that you met him from?

10 A Shawn Clinkscale.

11 Q And did Shawn have a nickname?

12 A S-Loc.

13 Q S-Loc?

14 A Yes.

15 Q And did Shawn and Job know each other?

16 A Yes.

17 Q And were they from a particular state?

18 A Yes.

19 Q What state is that?

20 A California.

21 Q And was there a particular neighborhood in that  
22 state that they were from?

23 A When you mean neighborhood, what are you talking  
24 about?

25 Q Is there a town? Let's go with that.

1 A San Bernardino.

2 Q About when do you meet Job-Loc?

3 A It was either January of 2010 --

4 Q If this incident occurred in August of 2010,  
5 it's seven, eight months, somewhere in that range?

6 A Yes.

7 Q When do you -- do you eventually start a  
8 relationship with Job-Loc?

9 A Yes.

10 Q When do you start the relationship with Job-Loc?

11 A Probably about March or April 2010.

12 Q And how does that come about? How do you wind  
13 up in a relationship with Job?

14 A An argument between me and Shawn and we had  
15 broke up. He had made a pass at my daughter, and then I  
16 went -- I went running, crying to Job-Loc.

17 Q You mentioned you have a daughter. What's her  
18 name?

19 A Tyler.

20 Q Do you have other children as well?

21 A Yes.

22 Q Who are your other children?

23 A Willie and Deangela [phonetic].

24 Q And how old are Willie and Deangela?

25 A Nineteen and 16.

1           Q     Today they're 19 and 16. So we're talking four  
2 or five years ago, 15 and 12, somewhere in that range?

3           A     Yes.

4           Q     Where -- well, when you meet Job, do you have a  
5 job? Do you have a regular job?

6           A     Yes.

7           Q     And how were you employed?

8           A     You mean my title?

9           Q     Who were you working for?

10          A     Novum Pharmaceutical Research Company.

11          Q     And what does that mean you do for a living --  
12 or did for a living?

13          A     I was a recruiter, a receptionist, appointment  
14 setter.

15          Q     And was this a regular 9:00 to 5:00 type job?

16          A     Yes.

17          Q     How long had you been there when you met Job?

18          A     Three and a half years.

19          Q     At some point do you and Job start having a  
20 discussion about needing more money?

21          A     Yes.

22          Q     Describe that for the ladies and gentlemen of  
23 the jury.

24          A     I'm sorry?

25          Q     Describe that for the ladies and gentlemen of

1 the jury, the discussion.

2 A He said that --

3 MR. ORAM: Judge, objection as to what Job-Loc said.  
4 It's hearsay.

5 MR. DiGIACOMO: It goes directly to her state of  
6 mind.

7 THE COURT: If it goes to why she did what she did,  
8 the objection's overruled.

9 MR. DiGIACOMO: Thank you, Judge.

10 THE WITNESS: He said that he needed an attorney,  
11 that he was on the run, that he needed an attorney.

12 BY MR. DiGIACOMO:

13 Q And did he ask you for anything?

14 A He always asked me for money.

15 Q Did Job have a regular employment? I don't want  
16 to say did Job have a job. So did Job have a regular  
17 employer?

18 A No.

19 Q How was Job making his money?

20 A Basically off of me.

21 Q Were you and Job -- you or Job engaged in any  
22 sort of illegal activity in order to acquire money?

23 A Yes.

24 Q Which one, you or Job?

25 A Both.

1 Q Let's start with Job. What was Job doing?

2 A Selling pills or weed.

3 Q When you say pills, you mean prescription  
4 medication?

5 A And also on street. Yes, both.

6 Q Street drugs as well?

7 A Yes.

8 Q Do you remember what street drugs he was into?

9 A Ecstasy.

10 Q Along with selling drugs, Job ever use them?

11 A Yes.

12 Q And let me ask you this. Was he making any  
13 money off of his selling business?

14 A A little bit. He did -- whatever he did make he  
15 would just drink or buy food.

16 Q Well, it wasn't --

17 A I don't know what he did when I wasn't there.

18 Q From your perception, was Job's drug business a  
19 lucrative business?

20 A No.

21 Q At some point does he ask you to do something?

22 A Yes.

23 Q What did he ask you to do?

24 A You mean outside of selling the pills and the  
25 marijuana?

1           Q     Well, does he ask you to sell the pills and  
2 marijuana as well?

3           A     Yes.

4           Q     And do you do so?

5           A     The marijuana.

6           Q     What'd you do with the money that you would make  
7 from selling the marijuana?

8           A     Give it to him.

9           Q     With the exception of your household expenses,  
10 what'd you do with your other extra money?

11          A     It just went to my kids or to what I had to pay.

12          Q     Did Job ever ask you to do anything else?

13          A     Yes.

14          Q     What did he ask you to do?

15          A     Prostitution.

16          Q     When Job asks you to engage in prostitution,  
17 describe for the ladies and gentlemen of the jury the nature  
18 of that conversation.

19          A     He said, Mon, he said, I really need this money  
20 for an attorney. I know I can beat this case, and you don't  
21 have to do it. He just came like real subtle with it. He  
22 didn't just point blank tell me to do it. And he said, But  
23 you know what, I just need this money. So I kind of  
24 volunteered to. I brought it up, about prostituting.

25          Q     And did you in fact turn tricks?

1           A     Yes.

2           Q     When did that start?

3           A     Probably around July of 2010.

4           Q     In July of 2010, does Job also wind up getting  
5 injured somehow?

6           A     Yes.

7           Q     Explain to the ladies and gentlemen of the jury  
8 what you know about that.

9           MR. ORAM: Judge, objection. Foundation.

10          THE COURT: Well, all right. Lay a foundation as to  
11 how she knows of it.

12 BY MR. DiGIACOMO:

13          Q     The day that Job got injured, where were you?

14          A     I was at work.

15          Q     Had you loaned your car to anybody?

16          A     Yes. I loaned it to Job.

17          Q     And at some point do you find out that Job is  
18 injured?

19          A     Yes.

20          Q     And did you go and see Job?

21          A     Yes.

22          Q     Where is he?

23          A     At UMC hospital.

24          Q     At UMC -- well, let me ask you this. Before he  
25 ever goes to UMC, had you done anything to help Job with his



1 identity?

2 A No. Prior to the UMC?

3 Q Yes.

4 A No.

5 Q At some point do you help him with his identity?

6 A Yes.

7 Q What do you do?

8 A I had access at my job, I had access to clients  
9 that do the studies there, and I found somebody that fit his  
10 age and height, weight description, and got the name and  
11 Social Security and gave it to him.

12 Q How many people did you write down?

13 A About three or four.

14 Q What name ultimately does Job take from the  
15 group that you provided him?

16 A Albert Davis.

17 Q After Job's injury where he goes to UMC, do you  
18 ever try and get him additional medical treatment?

19 A Yes.

20 Q What do you do?

21 A I drove him to Utah. I took him to an emergency  
22 room out there.

23 Q Why'd you drive him to Utah?

24 A He was afraid that he would be arrested, like  
25 he -- that they would find out because he was on the run. He

1 wanted to avoid that.

2 Q So you helped him by taking him to Utah?

3 A Yes.

4 Q Did he get much in the way of medical assistance  
5 in Utah?

6 A No.

7 Q So what'd you do?

8 A Took him to -- well, they did the x-rays and  
9 everything in Utah, and they told him that he definitely  
10 needed surgery. There was -- there was no way around it from  
11 the break that he had in his leg. And so they said that it  
12 was best that he --

13 MR. ORAM: Judge, objection as to what doctors said.  
14 It's hearsay.

15 THE COURT: It probably is. Sustained.

16 BY MR. DiGIACOMO:

17 Q Based on what the doctors told you, did you make  
18 a decision as to what you were going to do in order to help  
19 Job get the surgery he needed?

20 A Yes. I took him to Sunrise Hospital and under  
21 the name of Albert Davis.

22 Q Did he actually have the surgery there?

23 A Yes.

24 Q Describe for the ladies and gentlemen of the  
25 jury the nature of that surgery.

1 MR. ORAM: Judge, objection. Foundation.

2 MR. LANGFORD: Relevance, Your Honor.

3 THE COURT: Well, does it make any difference?

4 MR. DiGIACOMO: Well, it's highly relevant that the  
5 injury still exists as of August 7 --

6 THE COURT: Well, if she knows what was done because  
7 she observed his healing, I suppose it's -- she can describe  
8 what she saw, not what she heard, because that would be  
9 hearsay.

10 BY MR. DiGIACOMO:

11 Q Do you in fact -- let me ask you this. Do you  
12 get the medical -- or some of the medical records and x-rays  
13 from both Utah and Sunrise?

14 A I don't remember for Utah. Well, I remember  
15 having the x-rays, but I don't remember from which one. And  
16 the medical, yes.

17 Q And did you have an understanding in your mind  
18 as to what type of injury he had to his leg?

19 MR. ORAM: Same objection. Foundation.

20 THE COURT: That was a yes or no question. All  
21 right. Overruled.

22 BY MR. DiGIACOMO:

23 Q Do you have an understanding of the severity of  
24 his injury?

25 A Yes.

1 Q And did he in fact get surgery on his leg?

2 A Yes.

3 Q After the surgery, who cared for him?

4 A Mostly me. But when I was at work, he had  
5 friends.

6 Q Did he have any sort of devices he had to wear  
7 after the surgery?

8 A It was a -- it wasn't a cast. It was something  
9 that was Velcro that he could adjust. And it had the things  
10 on the side to adjust the angle of his leg.

11 Q Did he have to use anything to help him move  
12 around?

13 A Crutches.

14 Q And was he able to or did you ever see him able  
15 to put weight on the knee that was injured?

16 A Seldom. He was in too much pain to do that. He  
17 couldn't do it.

18 Q Coming up to August 7th and thereafter, did Job  
19 still have the medical brace on his knee?

20 A Yes.

21 Q And was he still in need of crutches?

22 A Yes.

23 Q Now, did you have a residence?

24 A Yes.

25 Q Who lived at that residence?

1                   A     My children and myself.

2                   Q     Do you remember where that residence was  
3 located?

4                   A     Off Cinnabar. I had just moved there.

5                   Q     Where is that in town?

6                   A     The east.

7                   Q     The east part of town?

8                   A     Yes.

9                   Q     Did Job have his own place?

10                  A     He stayed at his -- it was a relative's  
11 apartment that he stayed at.

12                  Q     What -- do you know what relative it was?

13                  A     I think it was his cousin. I don't know the  
14 name.

15                  Q     Male or female?

16                  A     Male.

17                  Q     And what apartment was that? Like where is that  
18 apartment?

19                  A     Off of Torrey Pines and -- I don't remember.

20                  Q     But Torrey Pines?

21                  A     Area.

22                  Q     Was it some distance from your house?

23                  A     Yes.

24                  Q     Do you remember the name of the apartment  
25 complex?

1           A     Brittnae Pines.

2           Q     The Brittnae Pines apartments?

3           A     Yes.

4           MR. SGRO: Your Honor, I'm sorry. May we approach  
5 very briefly?

6           THE COURT: Yes.

7                     (Bench conference.)

8           MR. SGRO: I apologize for the interruption. But  
9 there is a witness in the back, some -- Monica Martinez has  
10 some family here. We noticed Manny Meara [phonetic], who's  
11 her cousin, as a witness in this case. When they walked in I  
12 didn't recognize them, so I had Ms. Weaver go through and  
13 figure out who everyone was. Now there's a gentleman back  
14 there who refused to give us his name.

15           They all are sitting together and came in around the  
16 same time, so I'm assuming they're all associated with  
17 Ms. Martinez. And just so you know, Your Honor, Ms. Martinez,  
18 while she's in custody, communicated and continues to  
19 communicate with family and in some of those cases discusses  
20 the case, which is why they are subpoenaed witnesses, just to  
21 give you some context.

22           Long story short, if they're witnesses, they can't be  
23 here while she's testifying. And I know I have one subpoenaed  
24 and one I just don't know what his name is.

25           THE COURT: Your witness, State. You haven't invoked

1 the exclusionary rule to the best of my knowledge.

2 MR. DiGIACOMO: [Inaudible] for them to be able to  
3 call any witness they need to call. [Inaudible.]

4 MR. SGRO: Yeah. We don't want them sitting here  
5 through all witnesses.

6 MR. DiGIACOMO: They're subpoenaed?

7 MR. SGRO: Yeah.

8 (Inaudible.)

9 THE COURT: Sure. If they're witnesses, they can be  
10 excluded.

11 MR. SGRO: [Inaudible] from this point forward. I  
12 mean --

13 THE COURT: Tell the marshal to exclude them.

14 (Inaudible.)

15 MR. SGRO: He won't give me his name.

16 MR. DiGIACOMO: He doesn't have to give you his name.

17 MR. LANGFORD: It's only in an abundance of caution  
18 we should exclude him.

19 MR. ORAM: If he's going to be --

20 MS. WECKERLY: Well, if he's not subpoenaed --

21 THE COURT: If they're witnesses, they can be  
22 excluded. Now, if he's not a witness, he can sit here.

23 MR. SGRO: Right. But I don't know. I can't -- I  
24 don't know him, Your Honor.

25 MS. WECKERLY: So just say who you subpoenaed and

1 then we'll figure out if that's him.

2 MR. SGRO: So everyone but the man has to go.

3 THE COURT: Yeah.

4 (End bench conference.)

5 THE COURT: All right.

6 (Pause in proceeding.)

7 THE COURT: All right. Mr. DiGiacomo.

8 MR. DiGIACOMO: Thank you.

9 BY MR. DiGIACOMO:

10 Q Ma'am, I apologize. I forgot where I was. So  
11 let me back up. We were talking about Job and Job's injury to  
12 his leg. Oh, no. I'm sorry. Now I'm at the apartments, and  
13 you were at the -- he said you -- he stayed at the Brittnae  
14 Pines apartments.

15 A Correct.

16 Q Is that a multiple story apartment complex?

17 A Yes.

18 Q What floor was he on?

19 A He was upstairs.

20 Q And did anybody else live there with Job on a  
21 permanent basis?

22 A No.

23 Q So that was his apartment?

24 A Pretty much his.

25 Q Did Job ever live with you?



1           A     He didn't live with me, but he was there  
2 frequently. He was there a lot.

3           Q     Had Job met your daughter, Tyler?

4           A     Yes.

5           Q     Had he met your two sons?

6           A     Yes.

7           Q     I want to direct your attention sometime July,  
8 August. Is there any point in time when you take a trip to  
9 California with Job?

10          A     Yes.

11          Q     How many times did you drive Job to California?

12          A     I drove him twice, and another time he went out  
13 there on his own and I picked him up. I drove out there to  
14 pick him up. So I was out there about three times.

15          Q     So let's talk about that. You said twice you  
16 drove him and once you picked him up in California --

17          A     Yes.

18          Q     -- is that what you just said?

19          A     Yes.

20          Q     Let's talk about those times. Can you remember  
21 generally when the first time you went to California was with  
22 him?

23          A     Around -- you mean the time, month?

24          Q     Yes.

25          A     No, I don't remember.

1           Q     When you went to California with Job, did you  
2 ever go with anybody else in the car to California?

3           A     Yes.

4           Q     Who?

5           A     I don't remember both their names. One of them  
6 was Blue, but I don't remember. I don't remember their names.

7           Q     When you picked Job up and came back or you  
8 drove there with Job and came back, did you ever come back  
9 with anybody from California?

10          A     Yes.

11          Q     Let's talk about there's three separate times  
12 you've now driven back from California. The first time, do  
13 you remember anybody being in the car with you and Job?

14          A     The very first time was my daughter. My  
15 daughter drove out there with us. Well, now, actually, when  
16 she -- she drove with me when I went to go pick him up.

17          Q     And then she stayed there?

18          A     No. It was just we went to pick him up and come  
19 back.

20          Q     So the time that you didn't drive him there,  
21 just to go pick him up, you took Tyler with you?

22          A     Yes.

23          Q     Any other time that you drove anybody back?

24          A     Yes. And that was the last -- the last time I  
25 was out there, the last trip.

1 Q The last trip you were out there?

2 A Yes.

3 Q And how many people did you bring back with you?

4 A Two.

5 Q Do you remember either one of those people's  
6 names?

7 A Yes.

8 Q What were their names?

9 A What I -- what I know them as?

10 Q Well, let me ask you this. Do you now know  
11 their names?

12 A Yes.

13 Q Okay. At the time that you're driving them  
14 back, did you know one or both of their names?

15 A Their legal names, no.

16 Q So let's talk about what you called them back  
17 then. You tell me what the -- the two people that were in the  
18 car, what the names that you knew them as.

19 A G-Dogg and D-Shock.

20 Q Did you say Shock, S-h-o-c-k?

21 A I believe so. That's how I say it, yeah.

22 Q Now, this is 4 1/2 years later. Four and a half  
23 years later do you know the true names or the given names of  
24 G-Dogg and D-Shock, as you call him?

25 A Yes.

1 Q So let's start with G-Dogg. Who is G-Dogg?

2 A Willie Mason.

3 Q And then D-Shock, what's his true name?

4 A David Burns.

5 Q Now, up until you get arrested for this case,  
6 did you know their true names?

7 A No.

8 Q So during the time period you knew them, you  
9 knew them just by their nicknames?

10 A Yes.

11 Q Let's talk about Mr. Mason. And I know there's  
12 a lot of monitors in this courtroom, but do you see Mr. Mason  
13 here in court today?

14 A Yes.

15 Q Can you -- I know it's hard to point with your  
16 shackles on, but generally can you point in the direction and  
17 describe some article of clothing he's wearing?

18 A Black shirt with glasses hanging.

19 MR. DiGIACOMO: May the record reflect identification  
20 of Defendant Mason, Judge?

21 THE COURT: The record will so reflect.

22 BY MR. DiGIACOMO:

23 Q And then do you see the person that you knew as  
24 D-Shock here in court?

25 A Yes.

1           Q     Can you point him out and describe some sort of  
2 article of clothing he's wearing?

3           A     It looks like a blue shirt. He has long hair.

4           Q     He's the gentleman with long hair at the table  
5 next to me?

6           A     Yes.

7           MR. DiGIACOMO: May the record reflect identification  
8 of Mr. Burns?

9           THE COURT: The record will so reflect.  
10 BY MR. DiGIACOMO:

11          Q     The time that you were driving, was Job in the  
12 car too?

13          A     Yes.

14          Q     You got Job, you have G-Dogg and you got D-Shock  
15 in the car. Had you ever met G-Dogg or D-Shock before they  
16 got in your vehicle?

17          A     I think I met Willie before, G-Dogg.

18          Q     You think you had met G-Dogg before?

19          A     Yes.

20          Q     And --

21          A     I know him a little bit longer than prior to  
22 when I met --

23          MR. LANGFORD: I can't understand about half of what  
24 she's saying, Your Honor.

25          THE COURT: Can you just lean a little forward so

1 that it picks up your voice, please. Thank you.

2 BY MR. DiGIACOMO:

3 Q When had you met G-Dogg before?

4 A I don't remember. It's probably at -- I  
5 honestly can't say when. I don't remember.

6 Q Was it here in Las Vegas, or was it in  
7 California with one of the times with Job? Do you remember  
8 that?

9 A I don't remember.

10 Q How long prior to the incident we're here to  
11 talk about today, how long before that is this trip where you  
12 drive G-Dogg and D-Shock back to Las Vegas?

13 A Maybe two weeks prior to the incident.

14 Q When you bring them back, where do G-Dogg and  
15 D-Shock stay?

16 A At my house.

17 Q What about Job, does he stay at your house at  
18 that point in time too?

19 A Yes.

20 Q Do G-Dogg and D-Shock meet your family?

21 A Yes.

22 Q Including your daughter, Tyler?

23 A Yes.

24 Q How long did they stay at your house for?

25 A A few days. Maybe three or four days at the

1 most.

2 Q Three or four days at the most, and then where  
3 do they go?

4 A Back to the Brittnae Pines apartments.

5 Q With Job?

6 A Yes.

7 Q Are you continuing to work during this time  
8 period?

9 A At Novum?

10 Q Yes.

11 A Yes.

12 Q Okay. And I apologize. When I use the term  
13 "work," I'm talking legitimate activity. And I'm sorry. Is  
14 that a yes for the record?

15 A Yes.

16 Q Were you also continuing to engage in the  
17 illicit conduct you've described to the jury previously?

18 A Yes.

19 Q During the time period other than the time  
20 period that D-Shock and G-Dogg are at your house, do you see  
21 D-Shock and G-Dogg prior to the evening of August 6 into the  
22 early morning hours of August 7?

23 A No, not that I -- no. I don't remember.

24 Q On the evening of August 6, somehow you wind up  
25 coming into contact with G-Dogg and D-Shock?

1           A     Okay.  You're saying the August 7, because the  
2 after midnight time, right?

3           Q     Yeah.  Let me clarify it for you.

4           A     Okay.

5           Q     The homicide, if I will represent to you,  
6 occurred at shortly before 4:00 a.m. on the 7th.  The 6th  
7 would have been that night into the early morning would have  
8 been the 7th.  So when I'm talking about the 6th, I'm talking  
9 the evening before the homicide.

10          A     The evening of the 6th I did have contact with  
11 Job.

12          Q     And how is it that -- well, let me ask you this.  
13 On the day of the 6th did you work?

14          A     Yes.

15          Q     Did you have a car?

16          A     Yes.

17          Q     What kind of car was it?

18          A     A Ford Crown Victoria.

19          Q     What color was it?

20          A     Silver-ish gray.

21          Q     Was that the same car you had loaned Job on the  
22 day that he winded up getting the injury to his knee?

23          A     Yes.

24          Q     After work, what happens?  Just describe it for  
25 the ladies and gentlemen of the jury.  How is it you wind up



1 coming into contact with G-Dogg and D-Shock?

2 A After I got off of work I stopped and grabbed  
3 some alcohol, and I went home and relaxed and spent time with  
4 the kids and fell asleep. And earlier that day when I was at  
5 work, Job asked if I was going to go out soliciting that night  
6 and I told him yes. It was -- I had fell asleep, and he just  
7 kept --

8 MR. ORAM: Judge, I wouldn't normally object to  
9 hearsay. However, it seems to me that if she is just telling  
10 us that based upon what she did next, that's fine. But I just  
11 want the Court to recognize it sounds like hearsay. But if  
12 that's what it's coming in for, then that --

13 THE COURT: It sounded like he had called her to tell  
14 her something to do, which is not hearsay.

15 MR. ORAM: Fine, as long as it's what she does next  
16 as opposed to anything [inaudible].

17 THE COURT: Yeah.

18 BY MR. DiGIACOMO:

19 Q So Job had asked you earlier in the day whether  
20 or not you were going to go out soliciting that night?

21 A Yes.

22 Q To make money?

23 A Yes.

24 Q And what was your answer to him when he asked  
25 you that?

1           A     I told him yes, I would.

2           Q     When you went home and you picked up the alcohol  
3 and you got home, you said you fell asleep?

4           A     Yes.

5           Q     So how is it that you wind up waking up that  
6 night?

7           A     He kept calling me and calling me. He was upset  
8 because I wasn't out yet. And it was probably around  
9 11:00-ish the last time he called. I told him I was on my way  
10 over there. And that's when he told me that his homies needed  
11 a ride to go meet their people. And I said, Well, what do you  
12 want me to do.

13                I offered to pick them up and I said, I don't know if  
14 they have ID's or anything because, you know, I'm going to be  
15 downtown freelancing. And he told me just to go swing by,  
16 that they had -- that his homie had been trying to get ahold  
17 of his people for the last three days and he needed to go get  
18 ahold of him, so I went over there and I picked them up.

19           Q     I'm sorry. I didn't hear that last part. He  
20 said his homie's been trying to get ahold of his people for  
21 the last three days and what?

22           A     And so I went over there to go -- to go pick up  
23 his homies.

24           Q     So you physically drive your car to the Brittnae  
25 Pines apartments?

1 A Yes.

2 Q And do you go inside the apartment?

3 A Yes.

4 Q And is there any discussion with G-Dogg and  
5 D-Shock, kind of what's going to happen that night?

6 A No.

7 Q What happens? What do you do?

8 A We leave from there and I go to a downtown area,  
9 because I had been to the Golden Nugget before freelancing.

10 Q That's the second time I've heard you use the  
11 term "freelancing." It may be somewhat obvious to some  
12 people, but explain what freelancing is to the ladies and  
13 gentlemen of the jury.

14 A Just sitting in the casino area waiting for  
15 potential trick, a john, I don't know what to say, to approach  
16 you for solicitation, prostitution.

17 Q So your plan was to go downtown and hopefully  
18 make some money?

19 A Yes.

20 Q Who's in the car with you when you leave the  
21 Brittnae Pines apartments?

22 A Willie and David.

23 Q G-Dogg and D-Shock?

24 A Correct.

25 Q And where do you first go? Where do you park?

1           A     I park at the Horseshoe parking garage.

2           Q     And then just describe to the ladies and  
3 gentlemen of the jury once you park your car, what does  
4 everybody do?

5           A     We get out and walk through the casino to get to  
6 the Golden Nugget. It's like right across from the Horseshoe.

7           Q     Do D-Shock and G-Dogg stay with you?

8           A     Yes. At that point, yes.

9           Q     You said at that point yes. At some point do  
10 you guys separate?

11          A     Yes.

12          Q     Where do you separate?

13          A     They -- I was going in to prostitute, to  
14 solicit. I was going into the Golden Nugget, and I gave them  
15 \$10 to go buy drinks or go do whatever. At that point, when I  
16 had picked him up, his -- his people weren't ready to meet up  
17 yet.

18          Q     Whose people weren't ready?

19          A     G-Dogg's.

20          Q     And did that come from G-Dogg, or did that come  
21 from Job-Loc?

22          A     I don't remember.

23          Q     So his people weren't ready yet, you give him  
24 \$10, and then where do you go?

25          A     I go inside the Golden Nugget.

1           Q     And how long do you think -- well, do you do  
2 anything inside the Golden Nugget other than just go sit at  
3 the machines?

4           A     Yeah. I went to the ATM and pulled out some  
5 money so I can gamble, to make it look like I wasn't just  
6 soliciting.

7           Q     Were you able to get a trick?

8           A     No.

9           Q     So what happens at that point, when you don't  
10 get a trick?

11          A     I don't remember if G-Dogg called me or if I  
12 called him. I told him nothing was going on, so we can go  
13 ahead and go to meet his people or do whatever.

14          Q     And do you know approximately what time this is?  
15 Is it before midnight, after midnight, do you remember?

16          A     After midnight.

17          Q     After midnight.

18          A     Yes.

19          Q     So it's late.

20          A     Yes. Early morning, yes.

21          Q     Early morning hours of August 7, 2010.

22          A     Correct.

23          Q     Do you eventually get -- meet up with G-Dogg and  
24 D-Shock again?

25          A     Yes.

1 Q Where do you meet up with them at?

2 A Still in the downtown area where the Fremont  
3 Experience is.

4 Q So outside the Nugget, but on the Fremont  
5 Experience?

6 A Yes.

7 Q And when you meet up with G-Dogg and D-Shock, is  
8 either one of them talking about anything?

9 A Yes. They had mentioned there was a guy in a  
10 green shirt with gold chains that they should have got.

11 Q When you say they, who's doing the talking?

12 A I don't remember.

13 Q Were they both present at the time?

14 A Yes.

15 Q And they said there's a guy in a green shirt  
16 with gold --

17 MR. ORAM: Objection as to they said, Judge.

18 THE COURT: Well, it's okay. Overruled.

19 BY MR. DiGIACOMO:

20 Q There is a guy with a green shirt with gold  
21 chains that they should have got; is that what they said?

22 A Yes.

23 Q Did you know at that point what they were  
24 talking about?

25 A Yes.

1 Q Okay. How is it that you knew?

2 A It's just I've been around street people before.  
3 I know the lingo.

4 Q What does it mean?

5 A Like they should have robbed him.

6 Q They should have robbed him. Is that the first  
7 time that the discussion of robbery comes up in your presence  
8 that night?

9 A Yes.

10 Q Do they actually rob the guy in the green shirt?

11 A No. We leave.

12 Q When you leave, where do you drive to?

13 A Las Vegas Boulevard. I think I stopped at the  
14 7-Eleven there on Bonanza Boulevard for some cigarettes, and  
15 from there we continued down to Jerry's Nugget.

16 Q And what were you guys going to Jerry's Nugget  
17 for?

18 A On the way -- on the way there, D-Shock said  
19 that -- that they were just at that point looking for anybody,  
20 somebody in a bus stop or whatever. So we parked in the  
21 Jerry's Nugget and they seen the security guard, and they had  
22 talked about robbing the security guard for his gun.

23 Q At this point have you seen anybody with a  
24 weapon?

25 A No.

1           Q     Had you had any indication though, that somebody  
2 had a weapon on them?

3           A     Yes.

4           Q     How did -- what indication did you have that  
5 somebody had a weapon on them?

6           A     Initially when we got to the Horseshoe parking  
7 lot and we were coming -- walking towards the casino from the  
8 Horseshoe parking lot, D-Shock had his hands in his overalls  
9 and G-Dogg told him to relax, take one out so it doesn't make  
10 it so obvious.

11          Q     What from that made you draw the conclusion,  
12 hey, one of these people may be armed?

13          A     Because I knew that Job-Loc carried a weapon and  
14 if he didn't have it his friends would have it.

15          Q     Do you remember what kind of gun Job-Loc owned?

16          A     It was a big -- a big gun, a .45 revolver.

17          Q     So it was a big revolver?

18          A     Yes.

19          Q     Do you remember what it looked like at all?

20          A     It had a wood grain handle.

21          Q     Do you remember what the metal part of it looked  
22 like; was it black, was it silver, was it chrome?

23          A     I don't remember.

24          Q     Had you seen Job with that gun before?

25          A     Yes.



1 Q Where did Job normally keep that gun?

2 A When he was at the house or his apartment it  
3 would be right next to him, or if like he was sleeping it  
4 would be under his pillow. If we were out and about it would  
5 be in a -- in a designer bag.

6 Q So now you've driven to Jerry's Nugget and  
7 there's a discussion or at least D-Shock has said we're  
8 looking for somebody, and you're now parked at Jerry's Nugget  
9 and there's a discussion about robbing a security guard for  
10 his gun. Does it happen?

11 A No.

12 Q Does anybody actually get out of the car at  
13 Jerry's Nugget?

14 A We all three stepped out of the car, but we  
15 didn't leave the surrounding the car. We got back in.

16 Q And you drove off?

17 A Yes.

18 Q Where do you go after you go to Jerry's Nugget?

19 A Opera House.

20 Q Did you know the Opera House?

21 A Yes. I used to work there.

22 Q Where generally is the Opera House located?

23 A North Las Vegas Boulevard.

24 Q North Las Vegas Boulevard?

25 A Yes.

1 Q And what kind of establishment is the Opera  
2 House?

3 A It's a very small casino for locals. Very  
4 small.

5 Q Do you enter the Opera House?

6 A Yeah. All three of us did.

7 Q You, G-Dogg and D-Shock?

8 A Yes.

9 Q Why do you stop at the Opera House?

10 A I was looking for to pick up a potential trick  
11 there.

12 Q So you're still looking to make money?

13 A Yes.

14 Q What about G-Dogg's people?

15 A Still weren't ready at that time to meet up.

16 Q So when you enter the Opera House, where do you  
17 go?

18 A I go to the bar and buy a drink.

19 Q Do you buy just one or more?

20 A Just one.

21 Q What about the other two, G-Dogg and D-Shock,  
22 what do they do?

23 A They continued towards the back of the casino  
24 and sit down at the machines.

25 Q Do you ever meet up with them in the casino

1 area?

2 A Yeah. After I bought my drink I went over there  
3 and shared it.

4 Q You shared your drink with them?

5 A Yes.

6 Q Is there any discussion about G-Dogg's people  
7 while you're at the Opera House?

8 A No. We sat there gambling for a little bit.  
9 And G-Dogg stepped up and walked away and I asked D-Shock, you  
10 know, where he went, and he said to answer his phone. And  
11 then when I looked to my left I saw him and he was on the  
12 phone. And then he approached and he said, We can go, go  
13 meet -- go meet my people now.

14 Q So G-Dogg says we can go meet the people now.  
15 Do you -- the three of you leave the Opera House?

16 A Yes.

17 Q Where do you go from the Opera House?

18 A Back to the east part of town on Nellis and  
19 Vegas Valley.

20 Q Did you know who you were going to meet?

21 A No.

22 Q So describe -- well, how do you get there?  
23 Who's directing you?

24 A G-Dogg.

25 Q Where do you -- where do you go? Nellis and

1 Vegas Valley, is there a particular location you go to?

2 A She was at a 7-Eleven. She had an older man  
3 with her, the female that he was meeting. And then --

4 THE COURT: I'm sorry. Repeat that, because I didn't  
5 understand that.

6 THE WITNESS: It was a 7-Eleven on the corner, and  
7 he -- she was with another gentleman. They were -- they were  
8 walking.

9 THE COURT: Who is she?

10 THE WITNESS: The person that we were supposed to  
11 meet.

12 THE COURT: Oh.

13 MR. DiGIACOMO: I was just getting to that.

14 BY MR. DiGIACOMO:

15 Q So the person that you're supposed to meet was a  
16 woman?

17 A Yes.

18 Q Can you describe the woman at all for us?

19 A She's an older black lady.

20 Q At the time do you physically get introduced to  
21 her for name to name?

22 A No.

23 Q Do you now know 4 1/2 years later what her name  
24 is?

25 A Yes.

1 Q What's her name?

2 A Stephanie Cousins.

3 Q You said when you first see Stephanie she's with  
4 an older black male near a 7-Eleven. What happens?

5 A We turn up Vegas Valley towards the apartments  
6 where she resides, and they walk up and meet us at the gate.  
7 And there was some discussion between Stephanie and G-Dogg at  
8 the window, but I wasn't paying attention to what they were  
9 saying. And then the older man went to the keypad to enter  
10 the gate code so that we can go through the gate.

11 Q And then do you drive into the apartment  
12 complex?

13 A Yes.

14 Q Do you park in front of anyone's apartment?

15 A At the time I didn't know, but it was  
16 Stephanie's apartment.

17 Q At the time you didn't know, but you now know  
18 that to be Stephanie's apartment?

19 A Yes.

20 Q Was it upstairs or downstairs?

21 A Downstairs.

22 Q And when you pulled in, do you remember what the  
23 parking was like? Was there covered parking, uncovered  
24 parking, anything like that?

25 A There was both. I parked on the right, and so

1 it was under the awning.

2 Q And when you pulled into the parking space, did  
3 you pull straight in or did you back in?

4 A Straight in.

5 Q Do you get out of the car at this point?

6 A No.

7 Q Who does?

8 A G-Dogg and D-Shock.

9 Q And before they got out of the car, I haven't  
10 asked you this, when you're driving around with them, are they  
11 always sitting in the same seats of your car?

12 A Yes.

13 Q So where is G-Dogg sitting?

14 A Front passenger.

15 Q And where is D-Shock sitting?

16 A Behind me.

17 Q Behind you?

18 A Yes.

19 Q So Willie and -- or sorry. G-Dogg and D-Shock,  
20 they get out of the vehicle and where do they go?

21 A They went inside Stephanie's apartment.

22 Q How long were they gone for?

23 A Maybe ten minutes, five, ten minutes.

24 Q Do they eventually come out?

25 A Yes.

1 Q Does anybody explain to you what's going on?

2 A No.

3 Q Does anybody else come out with them?

4 A Stephanie and her companion.

5 Q They both came out?

6 A Mm-hmm.

7 Q Is that a yes?

8 A Yes.

9 Q So when Stephanie and her companion come out,  
10 and I'm assuming G-Dogg and D-Shock came out as well?

11 A Yes.

12 Q Okay. What's going on?

13 A Can I refer to them as Willie and David?

14 Q Sure.

15 A Okay. They both get in the car, Willie and  
16 David both get in the car and we leave, but I don't  
17 remember -- I don't remember where we went.

18 Q So you leave that apartment complex. And how  
19 long do you think you were gone for?

20 A I don't remember how long. It wasn't that long  
21 that we were gone before we met back up with Stephanie,  
22 because she didn't get in the car. So I want to say it's just  
23 to get rid of the guy, the gentleman that she was with.

24 Q Do you meet back up with Stephanie?

25 A Yes.

1 Q Where do you meet back up with Stephanie?

2 A At her apartment, but not in -- not in front of  
3 her apartment like where we were though.

4 Q Do you have to go back through the gate, or does  
5 she meet you on the street?

6 A On the street.

7 Q Does Stephanie get in the car?

8 A Yes.

9 Q And where does she get in the car?

10 A In the back passenger.

11 Q So behind Willie?

12 A Yes.

13 Q Is there some discussion going on as to what's  
14 happening at this point or what's supposed to be happening at  
15 this point?

16 A Yes. There was --

17 Q Let me stop you first. Who's having this  
18 conversation?

19 A Willie and Stephanie.

20 Q And what are Willie and Stephanie discussing?

21 A Doing robberies.

22 Q And is there a particular robbery that they're  
23 discussing first?

24 A She was telling them about a guy, a white guy  
25 that stayed in the apartment complex, in her apartment



1 complex. She was telling him that -- basically he was a  
2 baller. He had a lot of -- a lot of money. And but she said  
3 she didn't want to -- she didn't want to do that, she knew a  
4 couple other places, because he lived -- he lived in her  
5 apartment complex.

6 Q She says there's a -- there's a discussion about  
7 a white guy and you said a baller, he has a lot of money.  
8 What does a baller mean on the street?

9 A He sells a lot of weight.

10 Q He sells a lot of weight. What does selling a  
11 lot of weight mean?

12 A Well, it's not just like nickel and dime.  
13 It's -- I don't know how to explain it. He's just a -- he's a  
14 big time dope dealer.

15 Q That's what I'm getting to.

16 A Okay.

17 Q He makes his money by selling drugs?

18 A Yes.

19 Q Okay. And he's a baller, meaning that he makes  
20 good money from the drugs that he sells?

21 A Correct.

22 Q What is Willie's reaction to Stephanie saying  
23 not in my apartment complex?

24 A Well, he was still adamant. He wanted to --  
25 that's the one that he wanted to do. But she kept telling him

1 no, so we drove out of the apartment complex and went around  
2 the corner of -- not literally around the corner, but went  
3 towards Nellis and made a right on Nellis and then a left into  
4 another apartment complex. And --

5 Q And do you know why you were going to this  
6 apartment complex?

7 A She said that there was another -- another dope  
8 dealer in there.

9 Q There's another dope dealer in that apartment  
10 complex?

11 A Yes.

12 Q And was this dope dealer on the first floor or  
13 the second floor?

14 A Second.

15 Q And when you pull in, are you directed to park  
16 in any particular place or way or manner or anything like  
17 that?

18 A Yeah. When we pull in, she had me pull up --

19 MR. ORAM: Judge, objection as to what Ms. Cousins is  
20 saying. It's a violation of the confrontation clause. And  
21 they keep introducing information that Ms. Cousins says.  
22 We're not able to cross-examine her.

23 MR. DiGIACOMO: It's a statement by a co-conspirator  
24 in the course or in furtherance of the conspiracy.

25 THE COURT: That's non-hearsay. Objection's

1 overruled.

2 MR. DiGIACOMO: Thank you, Judge.

3 BY MR. DiGIACOMO:

4 Q Let me back up just a second. I think I was at  
5 the point where Stephanie has directed you to another  
6 apartment complex where there's another drug dealer that could  
7 be robbed?

8 A Yes.

9 Q And I was asking you about whether or not you  
10 were instructed to park in a certain manner.

11 A Yes.

12 Q Can you explain that?

13 A His apartment was close to the driveway, so we  
14 pulled up close to where his apartment was at parallel. And  
15 three of them got out so she could show them which apartment  
16 it was, and they told me to go park towards the end of the  
17 buildings and just wait for them there.

18 Q And did you park down by the end of the  
19 buildings?

20 A Yes.

21 Q So could you see the apartment that they were  
22 going up to, to commit this robbery?

23 A No.

24 Q All three of them got out of the vehicle at this  
25 location?

1 A Yes.

2 Q Who do you see first come back to the vehicle?

3 A Stephanie came back.

4 Q And did she have anything with her when she came  
5 back?

6 A Yeah. She had Willie's cellphone. She told me  
7 that he wanted me to have it. I don't know for what reason.

8 Q So Willie wanted you to hold on to his  
9 cellphone?

10 A Yes.

11 Q You -- Stephanie comes back to the vehicle. How  
12 long is she back at the vehicle before you see G-Dogg or  
13 D-Shock again, or Willie and David again?

14 A Five minutes or so.

15 Q And eventually do they return to the vehicle?

16 A Yes.

17 Q Is there a discussion about what happened up at  
18 that apartment?

19 A Yeah. Willie said that they didn't do anything  
20 because they seen a gun through the window, and Stephanie kept  
21 saying no, that he doesn't have a gun.

22 Q So there's a discussion back and forth about why  
23 they didn't commit the robbery and Stephanie is telling them,  
24 no, there's no gun there, and there's an argument?

25 A No. Just discussion.

1 Q So what's the conversation at that point?

2 A We leave from -- we're leaving from there and --  
3 well, it was, I guess, a debate, not so much like a loud  
4 argument, but she just was really persistent in saying that  
5 there wasn't a gun there and they said that they weren't going  
6 back up there.

7 MR. ORAM: Judge, I just want to make sure there's a  
8 continuing objection. I'll stop as long as we understand that  
9 there's a continuing objection to what anything Ms. Cousins  
10 says. If the Court has found that it's not hearsay, then I  
11 just want to make sure that I don't have to keep standing up  
12 and objecting.

13 THE COURT: If you're objecting to non-hearsay  
14 because it's hearsay, your objection is overruled.

15 MR. ORAM: I'm objecting to it being a violation of  
16 the confrontation clause. But I understand the Court's  
17 ruling. I just don't want to continue to stand up and object  
18 each and every time, just so that there's preservation for the  
19 objection for the record. Does that make sense, Judge, what  
20 I'm saying?

21 THE COURT: It makes sense.

22 MR. DiGIACOMO: May I proceed?

23 THE COURT: Yes.

24 MR. DiGIACOMO: Thank you.

25

1 BY MR. DiGIACOMO:

2 Q So there's a discussion as you're leaving  
3 between Willie and Stephanie about the gun and whether or not  
4 there is a gun or not a gun inside this apartment?

5 A Yes. And Willie said that he wanted to go back  
6 and rob the white guy. She kept telling him no, that there  
7 was another place that she can go. There was a -- there  
8 wasn't definitely any weapons there. It was women and  
9 children and one guy, boyfriend to one of the girls.

10 Q So as there's the argument about, or the  
11 discussion about the gun being in that apartment that they  
12 went to, Willie's desire is to go back and now go get the  
13 baller dope boy white guy in Stephanie's apartment, and she  
14 offers up an alternative?

15 A Yes.

16 Q And you said something about she described why  
17 this was a better alternative than going back to the white  
18 boy. And what is it that Stephanie says about why this is a  
19 better place to go?

20 A There aren't any weapons, that there was women  
21 and children and only one guy in there.

22 Q And is there an agreement at some point to go  
23 there?

24 A I guess so. That's where we went. They just  
25 told me to drive down -- Stephanie told me to drive down

1 Nellis towards Lake Mead.

2 Q As you're driving down Nellis to Lake Mead, does  
3 anybody make a statement about what's going to happen inside  
4 this apartment that you're driving to with the women and the  
5 children and no weapons?

6 A Yes. David said he wasn't going empty -- going  
7 home empty-handed, and he was basically going to go in there  
8 shooting.

9 Q Did he use the term "I'm going to go in  
10 shooting"?

11 A Yes.

12 Q Did he use any other term?

13 A He said that he was going to go in there  
14 shooting and just merk whoever was in there, he was going to  
15 kill whoever was in there.

16 Q And you are a 39-year-old woman who has a job.  
17 What are you thinking at this point?

18 A Well, I had just barely met him, so I -- I  
19 wasn't really judging his character. You know, I didn't know  
20 him well enough to believe that he was going to do anything  
21 like that.

22 Q Would you acknowledge that you're aiding these  
23 people at least in a robbery at this point?

24 A Yes.

25 Q Why?

1 A I don't know.

2 Q Where do you go?

3 A On Nellis towards Lake Mead.

4 Q And do you turn before or after you get to Lake  
5 Mead?

6 A Make a right before Lake Mead.

7 Q Describe the condition of that street, the  
8 lighting condition.

9 A It's very dark. It was a very dark street.

10 Q And how far do you drive down there?

11 A Quite a bit a ways from Nellis. It was far off  
12 from Nellis.

13 Q Ma'am, I'm going to show you what has previously  
14 been shown to counsel as State's Proposed Exhibits 1 and 2,  
15 and ask you do you generally recognize the aerial view of the  
16 Valley here in Clark County?

17 A Yes.

18 Q And there's a pin on here that marks the -- on  
19 the Google map 5662 Meikle Lane. Do you see that pin on  
20 there?

21 A Yes.

22 Q Does that generally fit your recollection of the  
23 general location of where that apartment is?

24 A Yes.

25 Q Does it appear to fairly and accurately reflect



1 what Google Earth has for pictures of Clark County?

2 A Yes.

3 MR. DiGIACOMO: Move to admit one and two.

4 MR. ORAM: I have no objection. Can I see it very  
5 quickly?

6 THE COURT: Sure.

7 MR. LANGFORD: I have no objection, Your Honor.

8 THE COURT: While we're looking at photographs, it's  
9 about 11:00 o'clock, ladies and gentlemen. Does anybody like  
10 a recess this mid-morning? Okay. We got a couple of them.  
11 We're going to take a brief recess.

12 Ladies and gentlemen, during the recess, it's again  
13 your duty not to converse among yourselves or with anyone else  
14 on any subject connected with this trial, or read, watch or  
15 listen to any report of or commentary on the trial from any  
16 medium of information, including newspapers, television and  
17 radio, and you're not -- you may not form or express an  
18 opinion on any subject connected with this case until the time  
19 it's submitted to you.

20 Be in recess for about ten minutes. The court will  
21 be at ease while the jury leaves.

22 (Jurors recessed at 10:57 a.m.)

23 THE WITNESS: Your Honor, am I supposed to be  
24 standing?

25 THE COURT: The record will reflect that the jury has

1 exited the courtroom. For the record, Monica indicates she  
2 needs to go to the restroom too, so I don't know which  
3 officers are in charge of Monica.

4 MR. DiGIACOMO: Our investigator.

5 MS. WECKERLY: Our investigator will --

6 THE COURT: Are you in charge of Monica?

7 THE INVESTIGATOR: Yes.

8 THE COURT: Good morning.

9 THE INVESTIGATOR: Good morning. How are you?

10 THE COURT: I'm great. She says she needs to go to  
11 the restroom too.

12 THE INVESTIGATOR: We'll wait until the jurors are  
13 out of the hallway.

14 THE COURT: Yeah. Make sure the jurors are back in  
15 their room. Where are you going to go? Is there a place to  
16 take her?

17 THE INVESTIGATOR: Right back here.

18 THE COURT: Okay.

19 MR. ORAM: Judge, if we -- can I make just a very  
20 brief record so it's clear?

21 THE COURT: Okay.

22 MR. ORAM: What I'm saying is we're going to hear, I  
23 think, a lot about Stephanie Cousins. And I write a lot of  
24 appeals, Judge, and one thing the State does in response to  
25 those appeals is they say, oh, we didn't object. And we get

1 that a lot, then they go to plain error standard.

2 I want to be able to raise this on appeal without --  
3 in the event of an appeal, without the State being able to say  
4 you didn't object. And so every time Stephanie Cousins is  
5 speaking, I don't want to stand up and object and make the  
6 same kind of record when I know what the Court's ruling is.  
7 So that's all I wanted to do is make sure that this was  
8 considered a continuing objection.

9 THE COURT: I have no problem with continuing  
10 objection. Let me talk to counsel in chambers for a moment.  
11 We're off the record.

12 (Court recessed at 10:59 a.m. until 11:10 a.m.)

13 (In the presence of the jury.)

14 THE COURT: All right. State of Nevada vs. Burns and  
15 Mason. The record reflect the presence of the defendants,  
16 their counsel, and the district attorneys. Also all members  
17 of the jury.

18 Ms. Martinez, you're still under oath.

19 And Mr. DiGiacomo, you may proceed.

20 MR. DiGIACOMO: Thank you, Judge. I think I just  
21 moved to admit 1 and 2, and Mr. Oram was going to answer  
22 whether or not he had an objection.

23 MR. ORAM: No objection.

24 THE COURT: Be received.

25 (State's Exhibit 1 and 2 admitted.)

1 MR. DiGIACOMO: Thank you, Judge.

2 BY MR. DiGIACOMO:

3 Q Ma'am, I'm going to put on the screen in front  
4 of you there State's Exhibit No. 2. That's kind of an  
5 overhead of the valley. And can you see the -- the yellow  
6 mark for 5662 Meikle Lane?

7 A Yes.

8 Q Okay.

9 THE COURT: Was that a yes?

10 THE WITNESS: Yes.

11 MR. DiGIACOMO: I don't know that she's going to be  
12 able to reach that screen to draw on.

13 THE COURT: No. She isn't going to be able to.  
14 Don't ask her.

15 MR. DiGIACOMO: So maybe I'll do it from back here.

16 THE COURT: You can do it for her.

17 BY MR. DiGIACOMO:

18 Q You indicated you went up Nellis and then turned  
19 on Meikle before you -- you drove down -- or you drove down a  
20 dark street before Lake Mead; is that fair?

21 A Yes.

22 Q Okay. So let's see if this thing's going to  
23 draw. So up Nellis and then down the dark street?

24 A Yes.

25 Q When you got down to generally the area where

1 the -- well, describe what the location looked like to you;  
2 home, apartment, what is it?

3 A Apartments.

4 Q I'm going to put up Exhibit No. 1 and represent  
5 to you that that yellow tag there is 5662 Meikle Lane.

6 When you get there, where do you park? And can you  
7 see it from here or do you need a different photograph?

8 A If you have a different photograph, something  
9 closer?

10 Q Let me ask you a couple of questions first.

11 A Okay.

12 Q Do you drive -- do you stop before you get to  
13 the apartment? Do you park directly in front of the  
14 apartment, or do you go past the apartment?

15 A I pull into the parking area in front of the  
16 apartments.

17 Q And then, do you -- where -- generally, do you  
18 remember anything you were near when you parked?

19 A The trash bin, a green trash bin.

20 Q A green trash bin? I'm going to put up State's  
21 Exhibit No. -- I'm going to start with 20. I'm going to  
22 represent to you that this is the front entrance to that  
23 apartment complex at 5662. There's kind of a cement dumpster  
24 area here with the green trash bin and then in front of the  
25 next apartment building there's a green trash bin that doesn't

1 have a cement dumpster enclosure around it. Do you recall  
2 where you parked, which one of those green dumpsters we're  
3 talking about?

4 A No.

5 Q Could you see inside the front entrance of the  
6 apartment?

7 A No. I was sitting back a ways, probably between  
8 the two apartments, not close, but, I mean -- because I -- I  
9 could only see at a angle.

10 Q You could only see the angle? Could you see the  
11 -- the front door?

12 A No.

13 Q Did you park pulled in or did you park in a  
14 different way?

15 A I -- I pulled in opposite of what that white  
16 pickup truck is.

17 Q Opposite of this white pickup truck? So you  
18 were facing -- the front would have where the back is?

19 A Correct.

20 Q Okay. So you're facing, in order -- now, back  
21 down Meikle?

22 A Towards Nellis, facing Nellis.

23 Q And does anybody get out of the vehicle?

24 A Stephanie, Willie, and David.

25 Q Why did you back in?

1           A     Stephanie told me to back in.

2           Q     Stephanie told you to back in?

3           A     Yeah.

4           Q     Stephanie, Willie, and David. Now, prior to  
5 them getting out of the vehicle, is there any discussion about  
6 how it is that these individuals are going to get inside the  
7 crime scene?

8           A     Stephanie had mentioned that this was her drug  
9 connect, and Willie asked me for \$20 so that it'd make it look  
10 like a buy.

11          Q     Willie asked you for \$20 so that you can -- so  
12 that --

13          A     They can make it look like a drug buy.

14          Q     So do you get \$20 out of your purse?

15          A     Yes.

16          Q     Did you give it to Willie?

17          A     Yes.

18          Q     What does Willie do with that money?

19          A     He gives it to Stephanie.

20          Q     And you said Stephanie can make it look like a  
21 buy. Was there any discussion about how it was supposed to go  
22 down that you recall?

23          A     Not that I recall. They just all three got out.

24          Q     Prior to you arriving at the apartment complex,  
25 did you see Stephanie on the phone at all?

1           A     Yes.

2           Q     And did you know what she was doing?

3           A     She had called the peoples who -- who resided in  
4 the apartment and told them that she was going to be on her  
5 way over there to go buy some crack. She was going to --  
6 well, she didn't say crack, but she was going over there --  
7 she was on her way over there, that's what she told them.

8           Q     So she called the target's apartment and let  
9 them know that she's on her way over?

10          A     Yes.

11          Q     You said Willie, Stephanie, and David all got  
12 out of the vehicle. Where do you see them go?

13          A     Again, it was dark. Where that stairwell is,  
14 where that person is standing, in -- in that general area.

15          Q     Do you remember who was going -- who was first,  
16 who was second, who's third, anything like that?

17          A     No.

18          Q     What's the next thing that you see or hear?

19          A     Screaming.

20          Q     Describe the screaming, male or female?

21          A     Female.

22          Q     And what kind of screaming are we talking about?

23          A     It was life-threatening screaming.

24          Q     Associated with that screaming, do you hear  
25 anything else?



1           A     Gunshots.

2           Q     How many do you think you heard?

3           A     Four.

4           Q     After the initial screaming, do you hear -- does  
5 that screaming continue throughout the gunshots?

6           A     No. It was dead silent. It -- it was dead  
7 silent. It was eerie, quiet.

8           Q     So, screaming, gunshots, then dead silence?

9           A     Yes.

10          Q     How long after you saw Stephanie, Willie, and  
11 David get out of the car till the time period you hear the  
12 screaming and hear the gunshots?

13          A     I couldn't give a time. It just -- it seemed  
14 like everything happened so fast.

15          Q     After the gunshots, do you see Willie, David, or  
16 Stephanie again?

17          A     Willie and David come running to my car, like in  
18 a duck.

19          Q     Ducked down?

20          A     Yes.

21          Q     And do they get in the vehicle?

22          A     Yes.

23          Q     Where does Willie get in?

24          A     In the front passenger.

25          Q     Where's David get in?

1           A     Again, behind me.

2           Q     Throughout the night has Willie and David always  
3 been in those two positions in your vehicle?

4           A     Yes.

5           Q     What about Stephanie, do you see her at this  
6 point?

7           A     No.

8           Q     What about -- what do you do at this point once  
9 they jump in the vehicle?

10          A     I don't remember who it was, but they were just  
11 saying, Go, go. And so I pulled out and made a left on the  
12 street. And then -- and then a right onto another dark  
13 street. Willie was concerned about where Stephanie was, so he  
14 called her.

15          Q     Willie called Stephanie?

16          A     Yes, to find out where she was. And David said,  
17 Just leave her. And he said no, he couldn't leave her.

18          Q     Did Willie say why he couldn't leave her?

19          A     He said that was -- he -- I just remember him  
20 saying something about being his homey's mom or something.

21          Q     Saying, That's my homey's mom? Is that a yes?

22          A     Yes. Sorry.

23          Q     Okay. Does Willie ever get a hold of Stephanie  
24 on his phone?

25          A     Yes. And he told me to make the -- I made the

1 U-turn going back towards Lake Mead, and then he told me she  
2 was on Christy. I was familiar with the area.

3 Q Why were you familiar with this area?

4 A Well, I -- I lived all the way from -- anywhere  
5 from Lake Mead to Charleston. So I was -- I knew the streets.

6 Q How far is Cinnabar from this apartment, do you  
7 think?

8 A Probably about two major lights over. Because I  
9 lived right by El Dorado High School.

10 Q So do you drive back to Christy Lane?

11 A Yeah. I made the left on Lake Mead and headed  
12 back towards Nellis. Christy -- she -- she was walking on the  
13 left side and Willie told me just to kind of pull over. So I  
14 pulled to the left in the median. And Stephanie came and got  
15 back in the car.

16 Q Describe her demeanor at this point.

17 A She was breathing heavily and, like, panicked.  
18 Like, hyperventilating, kind of.

19 Q What about Willie's demeanor; had it changed at  
20 all from prior to the robbery to after the robbery?

21 A Not really that I could tell. They -- the --  
22 their demeanor just -- they seemed calm, quiet.

23 Q What about David, did his demeanor change at  
24 all?

25 A He seemed a little irritated. Stephanie kept

1 asking for a cigarette and he -- he told her to shut the fuck  
2 up.

3 Q Does David make any other statements while he's  
4 in the car?

5 A He said that he had blood on him.

6 Q Did he say where on him the blood was?

7 A No.

8 Q What happens -- where are you guys going at this  
9 point?

10 A Towards Nellis. Stephanie wanted to be dropped  
11 off at the -- the Food4Less was near her apartments.

12 Q And do you drop her off at the Food4Less?

13 A No.

14 Q Where do you drop her off?

15 A There's some houses across from her apartment,  
16 dropped her off there.

17 Q So outside of her apartment complex, but near  
18 her apartment?

19 A Yes.

20 Q So Vegas Valley and Nellis, correct?

21 A Correct.

22 Q After you drop her off, where do you go?

23 A Back to the Brittnae Pines.

24 Q On the way to the Brittnae Pines, is there any  
25 discussion by anybody about Stephanie and what should have

1 happened with Stephanie?

2 A David said he -- he should have shot her. David  
3 said he should have killed her. And Willie said no, that  
4 that's the homey's mom.

5 Q David's reaction to Stephanie's behavior was I  
6 should have killed her, too?

7 A Yes.

8 Q At this point do you know exactly what happened  
9 inside that apartment? I'm talking in 2010 at 4:00 in the  
10 morning, do you know exactly what happened inside that  
11 apartment?

12 A No.

13 Q Do you have a general idea?

14 A From the sounds of the screaming and the -- the  
15 quietness, I thought the worst.

16 Q Where do you go -- where do the three of you  
17 drive to?

18 A I'm sorry?

19 Q Where do the three of you drive to at this  
20 point?

21 A Back to Job's apartment.

22 Q Do you go into Job's apartment?

23 A No.

24 Q Who -- does anybody get out of the vehicle?

25 A Willie and David get out at -- at the Rebel.

1           Q     The Rebel gas station that's near Torrey Pines  
2 and whatever the cross-street is with Job's apartment?

3           A     Yes.

4           Q     Do you see how they get into the apartment  
5 complex?

6           A     They jumped the wall.

7           Q     Behind the Rebel?

8           A     Correct.

9           Q     What are you thinking at this point?

10          A     I mean, I was panicked. I -- I really didn't  
11 want to be -- I didn't know what was going on from that point.  
12 So my concern was, you know, for my kids. I -- I knew  
13 something bad happened and I left from there and drove down  
14 Lake Mead towards the Texas, and I went in the Texan. I tried  
15 kept trying to call Job.

16          Q     Was Job answering as you were trying to call  
17 him?

18          A     No, not at first. It took a while for me to get  
19 through.

20          Q     Do you eventually wind up at the Texas Station?

21          A     Yes.

22          Q     What do you do when you get to the Texas  
23 Station?

24          A     Used the bathroom in there and threw up.

25          Q     While you're in the bathroom, did you hear

1 anything else going on inside that bathroom?

2 A Yeah. There was another female in there getting  
3 sick, as well, throwing up, as well.

4 Q And do you do anything about that female that  
5 was getting sick?

6 A Yes. I -- I let a security guard --

7 MR. ORAM: Objection. Relevance.

8 THE COURT: Is that important in this case?

9 MR. DiGIACOMO: Well, it's going to factually match  
10 some of the physical evidence or some of the evidence that's  
11 going to come.

12 THE COURT: It will?

13 MR. ORAM: That -- that a woman's getting sick in the  
14 bathroom? It --

15 THE COURT: I don't know. I --

16 MR. ORAM: -- seems like a completely unrelated  
17 incident.

18 THE COURT: It seems unrelated. I -- I -- if there's  
19 something -- if he represents that it's going to be related,  
20 I'll overrule the objection.

21 MR. DiGIACOMO: Thank you.

22 MR. ORAM: Could I just get a offer of proof as to  
23 how it's relevant?

24 THE COURT: No, let's go on.

25 BY MR. DiGIACOMO:

1           Q     Before leaving the Texas Station, do you contact  
2 anybody?

3           A     Yeah. I got a hold of Job.

4           Q     What about anybody that works at the Texas  
5 Station?

6           A     Oh, well, I was in there, I let a security  
7 officer know that there was a -- a lady in the bathroom  
8 getting sick. Who --

9           Q     While you're at the Texas Station you finally  
10 get a hold of Job by phone?

11          A     Yes.

12          Q     Do you have a conversation with Job?

13          A     Yeah. I -- I told him I didn't want to be  
14 alone, that I didn't want to go home. And he told me to go  
15 ahead and come back.

16          Q     Do you have any concerns about going back to the  
17 apartment considering Willie and David were there?

18          MR. ORAM: Judge, objection. Leading.

19          THE COURT: Sustained.

20 BY MR. DiGIACOMO:

21          Q     Why would you go back to that apartment?

22          A     Because I didn't know what was going on. And --  
23 and I felt safer being there so that I could hear what's going  
24 on. I didn't know -- Job had already made threats to me  
25 before, prior. He pulled his gun out on me before. And I



1 just felt safer being there so I could know what was going on,  
2 and versus me going home with my kids being alone there. A  
3 week before this incident some -- somebody tried to break into  
4 my house. My daughter was home and --

5 MR. ORAM: Judge, this is nonresponsive and seems --

6 THE COURT: Well --

7 MR. ORAM: -- highly irrelevant.

8 THE COURT: -- I think we're getting kind of  
9 rambling.

10 MR. ORAM: Yeah.

11 THE COURT: Sustained.

12 BY MR. DiGIACOMO:

13 Q But you do go back to that apartment?

14 A Yes.

15 Q Do you actually go inside the apartment?

16 A Yes.

17 Q When you get to the apartment door, is there  
18 some sort of security measure in place at the door?

19 A Yes. There was a chair and some boxes up  
20 against the front door.

21 Q And that have to get moved to let you in?

22 A Yes.

23 Q When you get inside the apartment, who's at the  
24 apartment at that point?

25 A Job, Willie, and David.

1           Q     Is there any conversation about what happened at  
2 the apartment or anything?

3           A     Job had told David to take a shower.

4           MR. ORAM: Judge, objection as to what he's --

5           THE COURT: Sustained. It's hearsay.

6           MR. DiGIACOMO: That's a statement of a coconspirator  
7 in the course [indiscernible].

8           THE COURT: I'm not sure Job's a coconspirator.

9           MR. DiGIACOMO: He -- he provided the weapon. She  
10 already testified to that. He provided the weapon to David  
11 Burns to commit the murder.

12          MR. ORAM: And how is it in furtherance of the crime,  
13 Judge?

14          MR. DiGIACOMO: Telling her to take a -- he's telling  
15 David to take a shower.

16          THE COURT: All right.

17          MR. DiGIACOMO: Reference to take the blood off.

18          THE COURT: Okay. Overrule the objection.

19          MR. DiGIACOMO: Thank you.

20 BY MR. DiGIACOMO:

21          Q     Job told David to do what?

22          A     To take a shower and he told him to use bleach.

23          Q     Did he say why to use the bleach?

24          A     To get rid of any blood that was on him.

25          Q     What about the gun; did you see the gun

1 afterwards?

2 A Not until later.

3 Q Where did you see the gun at?

4 A Job was wiping it down.

5 Q What was he wiping it down with?

6 A A blue rag.

7 Q While you were at that apartment, do you ever  
8 see anybody else come over to that apartment?

9 A Yes. A younger guy named Wes, he goes by Wes.  
10 Well, that's what I know him as.

11 Q Wes?

12 A Wes.

13 Q How do you know Wes?

14 A Through Job.

15 Q How many times have you met Wes?

16 A Quite a few during the three and a half, four  
17 months that I was with Job.

18 Q How would you describe your relationship with  
19 Wes?

20 A I didn't like him.

21 Q Why didn't you like him?

22 MR. ORAM: Objection as to relevance.

23 THE COURT: Overruled.

24 THE WITNESS: I just didn't like his personality, his  
25 demeanor. It just -- he -- he would just talk shit a lot

1 about me being Job's ho' or he made -- he was trying to get  
2 with my daughter. I just didn't like him. I mean, I didn't  
3 like his personality at all.

4 BY MR. DiGIACOMO:

5 Q When Wes comes over, is there any discussion  
6 about anything related to the crime that occurred?

7 A You said when Wes comes over?

8 Q Yeah.

9 A I just remember Job telling him to get rid of  
10 the gun, either sell it or do whatever just to get rid of it.

11 Q Does Job give him the gun?

12 A Yeah.

13 Q How does he give him the gun?

14 A In that bag that he would carry with him.

15 Q That who would carry with him? Job or Wes would  
16 carry it with them?

17 A Whoever had the gun, whenever, it was always in  
18 a bag when we were out if it wasn't under his pillow or with  
19 him.

20 Q So Job provides the gun to Wes?

21 A Yes.

22 Q Did you see, other than Job wiping the gun down,  
23 Job do anything else to that gun?

24 A No.

25 Q Did you see anybody else do anything to that

1 gun?

2 A No.

3 Q After Job gives Wes the gun, where do you go?

4 Well, let me ask this: Does Wes leave with the gun?

5 A Yes.

6 Q Where do you go -- or do -- how long do you stay  
7 at that apartment?

8 A Till late afternoon.

9 Q And then where do you go?

10 A I -- I walked down to my cousin's house.

11 Q Where's your car?

12 A I leave it parked across the street in another  
13 apartment complex from the Brittnae Pines.

14 Q Why don't you drive your car over to your  
15 cousin's house?

16 A I was scared.

17 Q Scared of what?

18 A Being pulled over, that the car may have been  
19 being looked out, you know, by the police, if they were  
20 looking for it.

21 Q What do you do at your cousin's house?

22 A I -- I -- my intentions were to go over there  
23 and watch the news to see what -- what had happened, what they  
24 were saying on the news. But I ended up falling asleep there.  
25 And I was charging my phone.

1           Q     Do you have any more contact with Job, Willie,  
2 or David that day?

3           A     Yeah. I -- I had to go back over there and pick  
4 up my car.

5           Q     Are they still in the -- at the apartment?

6           A     Yes.

7           Q     Anything noteworthy while you're at the  
8 apartment when you have to go back to get your car?

9           A     There was just phone conversations. Willie was  
10 getting -- he said that he was getting calls from his family.

11          Q     Willie was getting calls from his family?

12          A     Uh-huh.

13          Q     That a yes?

14          A     Yes.

15          Q     About what?

16          A     I -- I wasn't paying attention to the phone  
17 call. I -- I just remember Job telling him just to turn off  
18 their phones and Job, I don't know who he was talking to, I  
19 think it was Sean, and he had mentioned that something  
20 happened between the three of us. And he said no longer.

21          Q     You said Willie was getting texts from his  
22 family. Were you aware of Willie receiving information from  
23 anybody else? Or phone calls from his family? Were you aware  
24 of Willie receiving information from anybody else?

25          A     No.

1           Q     Did you know whether or not Sean and Willie knew  
2 each other?

3           A     Yes.

4           Q     Do you leave or do you stay the night at the  
5 apartment on Saturday, or on the night of the 7th?

6           A     I left.

7           Q     And where do you go?

8           A     I -- I went back home.

9           Q     Do you drive your car home?

10          A     Yes.

11          Q     After you drive your car home that day, do you  
12 drive your car anymore?

13          A     No.

14          Q     Why not?

15          A     Well, again, because I was scared that, you  
16 know, police were going to be looking for it, but also because  
17 my plates expired.

18          Q     Do you -- do you make any sort of plans on  
19 getting out of town, doing anything else like that?

20          A     No.

21          Q     Well, when's the next time you have to go to  
22 work?

23          A     Tuesday.

24          Q     How do you get to work?

25          A     I had my supervisor pick me up.

1 Q And what's her name?

2 A Samantha Knight.

3 Q And why do you have her pick you up?

4 A My -- my plates are expired. I -- I didn't want  
5 to drive the car anymore at all.

6 Q Prior to Tuesday when Samantha picks you up, do  
7 you have any idea where Job or Willie or David is?

8 A They were at the apartment, but Job had called  
9 and said that they were leaving, I want to say Sunday, Sunday  
10 night.

11 Q So Job had called and said he was leaving on  
12 Sunday sometime?

13 A That -- that they had left, that they were  
14 getting ready to leave, yeah.

15 Q And do you know where -- where they were going?

16 A To California.

17 Q San Bernardino?

18 A Yes.

19 Q Now, at some point in time in this general time  
20 period, does Job change phone numbers?

21 A Yes.

22 Q What kind of phone number did he have  
23 previously?

24 A I think it was Texas.

25 Q So he had a phone number from a different state?



1 A Yes.

2 Q And then what does he change his phone number  
3 to?

4 A I don't remember what the area code was.

5 Q When you were at work on Tuesday, you make some  
6 sort of plan if you get contacted by the police?

7 A Yes. I asked Samantha to call my grandmother  
8 and call Job.

9 Q And did you provide Samantha Job's new phone  
10 number?

11 A Yes.

12 MR. DiGIACOMO: May I approach, Judge?

13 THE COURT: Yes.

14 BY MR. DiGIACOMO:

15 Q Ma'am, I'm showing you what's been marked as  
16 State's Proposed Exhibit No. 281, and ask you if you recognize  
17 that little piece of Post-It?

18 A Yes.

19 Q What is that?

20 A It's a 404-519-3377.

21 Q Is that the number you wrote down for Job's new  
22 phone?

23 A Yes -- I -- don't remember.

24 Q If you don't remember, you don't remember.

25 A I don't remember.

1 Q That's fine.

2 A It was a new phone number, so I don't...

3 Q Now, it's been a number of years. Do you  
4 remember what your phone number was way back when?

5 A No.

6 Q You've seen the discovery in this case, I'm  
7 assuming?

8 A Yes.

9 Q Okay. And if your number was a 702 and started  
10 with 927, does that sound right to you?

11 A I couldn't remember. It's been so long.

12 Q It's been so long? Let's talk about when the  
13 police arrive -- well, how do you come into contact with them?

14 A I was up at the front desk working that day  
15 training a new guy, and the receptionist from the main area, I  
16 guess she had kept calling my line, but we were so busy. And  
17 then Samantha came up and said to call the front desk. So I  
18 called up there and receptionist said that there was some  
19 detectives there that wanted to speak to me.

20 Q Do you go talk to them?

21 A Well, I went to the back. I had Chris cover for  
22 a minute, and I got him caught up. And then I went to the  
23 back and told my manager, Sandy, that there were detectives  
24 were there to speak to me. And she said okay. She was on the  
25 phone. And I said, Well, do you want me to have Samantha go

1 up with Chris, because it's busy? And she said yeah.

2 Q Before the cops had come talked to you, other  
3 than obviously Job, David, and Willie, had you told anybody  
4 about what had happened out there in any manner?

5 A No.

6 Q Did the cops -- when you contact the cops, what  
7 do they ask you?

8 A They -- they -- what did you say? I'm sorry.

9 Q When the cops contact you, what did they ask  
10 you?

11 A They said they wanted to speak to me in regards  
12 to a shooting, and I volunteered to go with them.

13 Q And how many cops were there?

14 A There was two detectives.

15 Q Do you remember either of their names?

16 A Chris and Marty.

17 Q Chris and Marty?

18 A Yes.

19 Q Where do you go?

20 A Off of Oakley in Decatur.

21 Q A police station?

22 A Yeah. It was a building. Didn't look like a  
23 regular police station. But yeah.

24 Q Okay. But it was a -- it was a law enforcement  
25 location?

1           A     Yes. I had been there before.

2           Q     Do they conduct an interview with you?

3           A     Yes. Yes, they do.

4           Q     And how long do you think that you were there at  
5 the detective bureau talking with the detectives?

6           A     There was -- I hadn't had lunch yet when they  
7 came, so it was around noon that Tuesday. And it went well  
8 into the early morning, Wednesday morning that I was there.

9           Q     What took so long to get that information?

10          A     I was lying at the beginning.

11          Q     Why'd you lie?

12          A     I was scared.

13          Q     Scared of what?

14          A     I was scared of the detectives, I'd never been  
15 in a situation like that before. It was -- I was scared of  
16 Job, scared of David and Willie, what was going to happen to  
17 me.

18          Q     Do you -- let me ask you this. At the time were  
19 you still -- well, at the time did you have feelings for  
20 Job-Loc?

21          A     Yes.

22          Q     Did you want to protect anybody?

23          A     To an extent, yes.

24          Q     Okay. Let me ask this, did you want to protect  
25 yourself?

1           A     Yes.

2           Q     Did you want to protect Job to a certain extent?

3           A     Yes.

4           Q     Did you want to protect anybody else?

5           A     Yes.

6           Q     Who?

7           A     Willie and David.

8           Q     At some point during the course of the  
9 interview, do you get told that you're being arrested for  
10 murder?

11          A     Yes.

12          Q     When you find out that you're being arrested for  
13 murder, you get handcuffed; is that fair?

14          A     Yes.

15          Q     Read your rights?  Yes?

16          A     Yes.

17          Q     And on the way to -- on the way to be taken to  
18 jail, do you tell the police anything?

19          A     I told them that I was scared and, I mean, I was  
20 going to jail either way.  So I gave them another attempt of  
21 what happened.

22          Q     And you used the term another attempt of what  
23 happened.  Even after you tell them, Hey, I want to be more  
24 truthful with you, do you still continue to hold certain  
25 things back?

1           A     Yes.

2           Q     And does that go on throughout your interview?

3           A     Yes.

4           Q     Even when the interview is over, are there still  
5 things you haven't told them?

6           MR. ORAM: Judge, he's leading this witness.

7           THE COURT: Yes, it's leading. Sustained.

8 BY MR. DiGIACOMO:

9           Q     Well, let me ask you this. I'm assuming you've  
10 seen at least the portions of the interview where you're  
11 actually speaking; would that be fair?

12          A     Yes, I have.

13          Q     Is there anything in the interview or after  
14 you've watched the whole interview that there's some things  
15 that you didn't fully come clean about or not?

16          A     Yes, I did.

17          Q     At the end of your -- the wee morning hours of  
18 that Wednesday morning, do you get arrested for murder?

19          A     Brought down to booking, is that what you mean?

20          Q     Yeah.

21          A     Yes. I was brought down to booking.

22          Q     You were booked into the Clark County Detention  
23 Center?

24          A     Correct.

25          Q     And have you remained an inmate of the Clark

1 County Detention Center up until this day?

2 A Yes, I have. Yes, I am.

3 MR. DiGIACOMO: Judge, I don't know if this is  
4 probably a pretty good time for a break? I don't know if the  
5 Court wants to take it now or if you want me to go for another  
6 17 minutes?

7 THE COURT: If you want to recess for an hour for  
8 lunch, is that what you want?

9 MR. DiGIACOMO: Yeah. I was going to say 1:00 would  
10 be -- would be perfect.

11 THE COURT: Okay.

12 MR. DiGIACOMO: That'd be good.

13 THE COURT: Ladies and gentlemen, during the recess  
14 it's again your duty not to converse amongst yourselves or  
15 with anyone else on any subject connected with this trial, or  
16 to read, watch, or listen to any report of or commentary on  
17 the trial by any medium of information, including newspapers,  
18 television and radio, and you may not form or express an  
19 opinion on any subject connected with this case till it is  
20 finally submitted to you. We'll be in recess until 1:00.

21 (Jury recessed at 11:46 a.m.)

22 THE COURT: All right. The record will reflect that  
23 the jury has executed the -- exited the courtroom. Anything  
24 further on the record?

25 MR. DiGIACOMO: Yes, you --

1 MR. LANGFORD: Briefly, yes. Go ahead.

2 MR. DiGIACOMO: I intend as the -- the next thing,  
3 and I wanted to make a record before I did it, that's why I  
4 asked to take a break. I was going to offer State's Proposed  
5 Exhibit 274. It's the -- it's the video portion of Ms.  
6 Martinez when she's in the interview room where she's talking  
7 to detectives. So the blank periods where she sits alone in  
8 the room have been removed. I also last night redacted the --  
9 the portion that the Court ordered redacted based upon Mr.  
10 Oram's request.

11 And for the record, to the extent that it's  
12 inconsistent with what Ms. Martinez has testified to here,  
13 it's a prior inconsistent statement, and therefore admissible.  
14 Then to the extent that it occurred prior to the entry of her  
15 plea, which is throughout this case, actually, at this point  
16 has been suggested as a basis for a reason for recent  
17 fabrication as a prior consistent statement. As such it is  
18 completely admissible, and I was going to offer it. I just  
19 wanted to make sure there was a record of that before I did so  
20 in front of the jury.

21 THE COURT: Any objections?

22 MR. LANGFORD: I have no objection.

23 MR. ORAM: We object.

24 THE COURT: On what basis?

25 MR. SGRO: We don't think it's admissible.



1 THE COURT: Excuse me?

2 MR. ORAM: We don't think it's admissible.

3 THE COURT: Why?

4 MR. ORAM: For the reasons that the State said, we're  
5 not sure that it's admissible.

6 THE COURT: Why isn't it admissible? It's either  
7 inconsistent with her statement, right? I -- I haven't seen  
8 it. So are -- is it inconsistent with her statement?

9 MR. ORAM: I'll just -- I just -- that's all I have  
10 at this point, Your Honor. I have nothing more.

11 MR. DiGIACOMO: I believe it's for the record, Judge.

12 THE COURT: Okay. Well, objection's overruled.

13 MR. ORAM: Yes, Your Honor.

14 MR. LANGFORD: I also, Judge, wanted to join in Mr.  
15 Oram's ongoing objection to the confrontation clause quasi  
16 hearsay issue regarding Stephanie Cousins and all of  
17 everything that she continues to say, Stephanie said this and  
18 Stephanie said that. I think it's objectionable --

19 THE COURT: As I understand it, the Crawford case  
20 doesn't exclude the statements of coconspirators made in the  
21 course and in furtherance of the conspiracy. If that is the  
22 case, then the statements that she has related that were said  
23 by these two defendants and Stephanie Cousins are all  
24 statements of coconspirators in the course and scope of the  
25 conspiracy and admissible as non hearsay.

1           MR. DiGIACOMO: That's correct. And just for the  
2 record. Mr. Oram made one objection, or maybe more than one,  
3 I have to remember, as it relates to Job. Certainly by the  
4 time Job is helping as an accessory after the fact, he has  
5 joined the conspiracy. Now, he may not be liable for the  
6 underlying charges because they have occurred, but certainly  
7 at that point he had joined in the conspiracy and --

8           THE COURT: It does sound like he becomes an  
9 accessory after the fact.

10          MR. DiGIACOMO: Correct. And under Crew, that  
11 means --

12          THE COURT: Is he in custody -- is he in custody in  
13 this case?

14          MR. DiGIACOMO: He has an active warrant in Nevada  
15 because he's serving a dozen years in California for the cases  
16 of which they were trying to get money to get a lawyer for.

17          THE COURT: So he's going to be brought eventually  
18 back here for trial --

19          MR. DiGIACOMO: Correct.

20          THE COURT: -- as an accessory?

21          MS. WECKERLY: At least.

22          MR. DiGIACOMO: At the very least, accessory. He may  
23 be more.

24          THE COURT: Okay.

25          MR. SGRO: Your Honor, there's one more housekeeping

1 matter. As we reported at the bench, we have subpoenaed a  
2 number of Ms. Martinez's family members. And I don't  
3 recognize everyone by face as well as I know the names. If we  
4 could just have the gentleman in the back of the courtroom  
5 identify himself just to make sure there's no exclusionary  
6 rule problems. I'd ask --

7 THE COURT: That's up to him.

8 UNIDENTIFIED SPEAKER: It's Ms. Martinez's uncle.  
9 Tell the judge your name.

10 UNIDENTIFIED SPEAKER: [Indiscernible.]

11 MR. SGRO: Thank you, Your Honor.

12 THE COURT: All right. Anything further on the  
13 record before we have lunch?

14 MR. LANGFORD: No.

15 MR. DiGIACOMO: No.

16 MR. ORAM: No, sir.

17 MR. SGRO: No.

18 THE COURT: 1:00.

19 (Court recessed at 11:50 a.m. until 1:08 p.m.)

20 (In the presence of the jury.)

21 THE COURT: All right. State versus Mason and Burns.  
22 The record will reflect the presence of both defendants, their  
23 counsel, the district attorneys and all members of the jury.

24 Please be seated. We're still on examination of Ms.  
25 Martinez.

1           Ms. Martinez, you're still under oath, and you may  
2 proceed.

3           MR. DIGIACOMO: Thank you, Judge. Judge, I've had  
4 marked as State's Proposed Exhibit No. 274, which is a video  
5 recording of the interview of Ms. Martinez. For the record,  
6 it has the portion that when she's not speaking removed, as  
7 well as some other portions upon agreement of counsel. I'd  
8 like to offer it now.

9           THE COURT: Are you okay? When Randy coughs, Randy  
10 coughs. All right. And you want to play it. Has it been  
11 admitted?

12          MR. DIGIACOMO: Well I'm offering it at this point.

13          THE COURT: Oh, okay. Any objection?

14          MR. ORAM: Judge, just --

15          THE COURT: Subject to the objections previously  
16 made, it'll be received.

17                   (State's Exhibit 274 admitted.)

18          MR. DIGIACOMO: Thank you, Your Honor. Judge, may I  
19 publish?

20          THE COURT: Yes.

21                   (State's Exhibit No. 274 played.)

22          MR. DIGIACOMO: Judge, would now be a good time for a  
23 break?

24          THE COURT: All right. Yes, I think it would be a  
25 good time for a break.

1 Ladies and gentlemen, during the recess, you are  
2 again admonished not to converse among yourselves or with  
3 anyone else on any subject connected with this trial or to  
4 read, watch or listen to any report of or commentary on the  
5 trial from any medium of information including newspapers,  
6 television, radio, and you may not form or express an opinion  
7 on any subject connected with this case until it is finally  
8 submitted to you.

9 We'll be in recess for about 10 minutes for break.

10 (Jury recessed 2:43 p.m.)

11 THE COURT: The record will reflect that the jury has  
12 exited the courtroom.

13 MR. SGRO: I have a quick question, Your Honor. Can  
14 we make arrangements over the break or even before the  
15 examination starts, once the tape has concluded, that Ms.  
16 Martinez's hands get unshackled?

17 THE COURT: That's up to the officers.

18 MR. SGRO: So here's -- here's the dilemma, and I  
19 just heard the officer say, Absolutely not. We spent an  
20 inordinate amount of time on tone and demeanor of witnesses,  
21 and unshackled as she appears in the tape is her natural tone  
22 and demeanor, and I have -- I've had lots of witnesses from  
23 the jail come in in multiple cases. The jury is entitled to  
24 see her tone and demeanor, Your Honor.

25 There is a United States Supreme Court case called US

1 versus Riggins, and it's a case that talks about the ability  
2 of the jury to observe tone and demeanor in person's  
3 natural state. The Riggins case was a defendant who was  
4 medicated so that he could be competent to stand trial. Now,  
5 the bottom line is --

6 THE COURT: I'm familiar with Riggins. It has  
7 nothing to do with this case.

8 MR. SGRO: It does -- it does relative to the jury's  
9 ability to observe people in their natural state and their  
10 natural tone and demeanor. So the only case that --

11 THE COURT: Riggins was a case Judge Brennan had,  
12 wasn't it?

13 MR. SGRO: Yes, with Mace Yampolsky.

14 THE COURT: It went to the United States Supreme  
15 Court with Judge Brennan. I think it was.

16 MR. SGRO: It may well have been. It went all the  
17 way through --

18 THE COURT: I'm not running the jail. If they say  
19 she has to remain shackled, she has to remain shackled.

20 We'll be in recess for 10 minutes.

21 MR. DIGIACOMO: Thank you, Judge.

22 MR. SGRO: Thank you.

23 (Court recessed at 2:45 p.m. until 3:01 p.m.)

24 (Outside the presence of the jury.)

25 THE COURT: Do you have to sit there through this?

1 MR. DiGIACOMO: What?

2 THE COURT: Does she need to sit here through this?

3 MR. DiGIACOMO: Yep.

4 THE COURT: Okay. Sorry. I was going to try.

5 THE WITNESS: Thanks.

6 THE COURT: Are you ready?

7 THE MARSHAL: I'm ready when you are.

8 THE COURT: Let's go.

9 (In the presence of the jury.)

10 THE COURT: All right. State versus Burns and  
11 Mason. The record will reflect the presence of the  
12 defendants, their attorneys, the District Attorneys, all  
13 members of the jury. We're back with direct examination.

14 And you're on a video, as I recall.

15 MR. DiGIACOMO: That's correct, Judge. I'm just  
16 going to back it up a couple of seconds so the jury kind of  
17 gets the same spot we were in.

18 (State's Exhibit No. 274 played.)

19 MR. DiGIACOMO: Judge, that might be a good breaking  
20 point for the day.

21 THE COURT: All right. Ladies and gentlemen, during  
22 the recess it's again your duty not to converse among  
23 yourselves or with anyone else on any subject connected with  
24 this trial, to read, watch, or listen to any report of or  
25 commentary on the trial by any medium of information,

1 including newspapers, television, radio, and you may not form  
2 or express an opinion on any subject connected with this case  
3 until it is finally submitted to you.

4 I've got a very brief criminal motion calendar  
5 tomorrow morning, so we're going to get back at 9:30 tomorrow  
6 morning to resume the trial. We'll see you then. Have a good  
7 evening.

8 Did we lose the marshal? Holly, you want to help us  
9 out? Thanks.

10 (Jury recessed at 4:29 p.m.)

11 THE COURT: Let the record will reflect that the  
12 jury left the courtroom. Anything further on the record?

13 MR. LANGFORD: Judge, I would just like to join in  
14 Mr. Sgro's request that Ms. Martinez be unshackled during her  
15 testimony. I just want to put that on the record.

16 THE COURT: We'll see you tomorrow morning at 9:30.

17 MR. LANGFORD: Thank you, Your Honor.

18 THE COURT: Be here a few minutes early, please.

19 MR. ORAM: Yes, Your Honor.

20 MR. DiGIACOMO: Of course.

21 (Court recessed for the evening at 4:30 p.m.)  
22  
23  
24  
25



**CERTIFICATION**

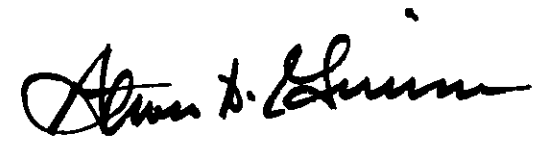
I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

**AFFIRMATION**

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

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Aurora, Colorado**

  
KIMBERLY LAWSON



CLERK OF THE COURT

TRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA  
\* \* \* \* \*

THE STATE OF NEVADA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
WILLIE DARNELL MASON, AKA )  
WILLIE DARNELL MASON, JR., )  
AKA G-DOGG, )  
DAVID JAMES BURNS, AKA )  
D-SHOT, )  
 )  
Defendants. )

CASE NO. C-10-267882-1  
C-10-267882-2  
DEPT NO. XX

**TRANSCRIPT OF  
PROCEEDING**

BEFORE THE HONORABLE CHARLES THOMPSON, SENIOR DISTRICT JUDGE

**JURY TRIAL - DAY 8**

THURSDAY, JANUARY 29, 2015

APPEARANCES:

For the State:	MARC P. DIGIACOMO, ESQ. PAMELA C. WECKERLY, ESQ. Chief Deputy District Attorneys
For Defendant Mason:	ROBERT L. LANGFORD, ESQ.
For Defendant Burns:	CHRISTOPHER R. ORAM, ESQ. ANTHONY P. SGRO, ESQ.

RECORDED BY SUSAN DOLORFINO, COURT RECORDER  
TRANSCRIBED BY: KARR Reporting, Inc.

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1           **LAS VEGAS, NEVADA, THURSDAY, JANUARY 29, 2015, 9:43 A.M.**

2                           **\* \* \* \* \***

3                           (In the presence of the jury.)

4           THE COURT: All right. State vs. Burns and Mason,  
5 the record will reflect the presence of the defendants, their  
6 counsel, the district attorneys, and all members of the jury.

7           Good morning, ladies and gentlemen. We're going to  
8 take a witness out of order. While we're still playing a tape  
9 of Ms. Martinez, the State has asked permission to call a  
10 witness out of order and I have granted that request.

11           So you can call your next witness.

12           MS. WECKERLY: Thank you, Your Honor. The State  
13 calls Dr. Gosche.

14           JOHN ROBERT GOSCHE, STATE'S WITNESS, SWORN

15           THE CLERK: Please be seated.

16           THE COURT: Please be seated.

17           THE CLERK: Please state your name and spell your  
18 first and last name for the record.

19           THE WITNESS: John Robert Gosche, J-O-H-N  
20 G-O-S-C-H-E.

21                           DIRECT EXAMINATION

22 BY MS. WECKERLY:

23           Q     Sir, how are you employed?

24           A     Currently I work for the University of South  
25 Alabama School of Medicine. I'm a professor of surgery in

                          KARR REPORTING, INC.

1     pediatrics.

2                 Q     And --

3                 A     And I work at the Children's Hospital of South  
4     Alabama.

5                 Q     At one time did you work in Las Vegas as a  
6     pediatric surgeon?

7                 A     Right. I was -- I worked here in Las Vegas 2007  
8     to 2012. At that time I was chief of the division of  
9     pediatric surgery, professor of surgery for University of  
10    Nevada School of Medicine.

11                Q     And to have that position and -- at the School  
12    of Medicine and also to conduct those surgeries, can you  
13    describe your educational background?

14                A     So a pediatric surgeon, first of all, you have  
15    to go through medical school. So it's four years of medical  
16    school, University of South Florida. To do pediatric surgery  
17    you have been trained first as a general surgeon. So it's a  
18    -- five years of general surgery. And then on top of that you  
19    do a two -- two additional years specializing in pediatric  
20    surgery. So we do surgery on everything from newborn  
21    premature babies all the way up to most of us will do  
22    18-year-olds, but some of us will even do older ones if they  
23    have pediatric type diseases.

24                Q     Okay. And now you're a professor and do you do  
25    -- still do surgery in Alabama?

1           A     Yes.

2           Q     And do you do surgeries in other states, too,  
3 involving --

4           A     I also work part-time at the Rainbow Baby --  
5 Babies and Children's Hospital in Cleveland one weekend a  
6 month.

7           Q     Okay. And, sir, back in 2010, you said you were  
8 at -- well, associated with UMC?

9           A     Uh-huh.

10          Q     Is that yes? Sorry.

11          A     That is correct.

12          Q     Okay. Did you -- were you involved in the care  
13 of a child by the name of Devonia Newman?

14          A     Yes, I was.

15          Q     Can you explain to the members of the jury how  
16 it was that you would have become involved in her care?

17          A     So she was a trauma patient. The way it works  
18 at UMC is there is a group of surgeons who specialize in  
19 trauma and they are in-house all the time. So what happens is  
20 when they come -- when someone comes in and needs emergency  
21 surgery, they take care of those patients. And what we've  
22 always tried to do is we want to be involved in the care of  
23 those patients. Because there's only two of us, you can't be  
24 there 24 hours a day. So the next day typically they would be  
25 transferred to our service, and then we would help managing at

1 that point.

2 Q So if I understand you correctly, you wouldn't  
3 have done the initial surgery of Devonia?

4 A I did not do the initial surgery.

5 Q But you were involved in her care after that  
6 trauma surgery?

7 A Right. She required multiple surgeries during  
8 her hospitalization, and so I was involved in several of those  
9 surgeries.

10 Q Have you reviewed -- or I'm sure you did at the  
11 time -- what her initial surgery involved?

12 A Yes. I have a copy of that operate report.

13 Q And can you describe for the members of the jury  
14 what her surgery was when she arrived at the trauma center?

15 A So the child had a -- a gunshot wound, looks  
16 like a single-entrance wound in the abdomen to the left side  
17 of the midline, upper part of the abdomen. They did what's  
18 called an exploratory laparotomy. Literally, the meaning is  
19 that you're just looking in the abdomen. At the time they did  
20 that, they found multiple injuries. They -- she had multiple  
21 injuries to the small intestine. She had a  
22 through-and-through injury that pretty much divided the mid  
23 portion of her colon. She also had some other smaller  
24 injuries to the colon that they were able to over-sew.

25 And then it looks like the trajectory of the bullet

1 was it went down into the pelvis. And so there were injuries  
2 also to both of her ovaries. Divided one of her -- the tubes.  
3 And then it also creased -- it went through the back wall of  
4 her uterus and into her vagina.

5 Q And obviously the projectile would have been  
6 removed in that initial trauma surgery?

7 A Not always. Sometimes the risk of actually  
8 chasing the bullet is higher than leaving it alone. If a -- a  
9 bullet is pretty much -- because it -- it's such a high  
10 trajectory, in most cases, if it hasn't crossed through  
11 anything, it actually is sterile. And so we don't always go  
12 after the bullets, because you can actually cause damage to  
13 other structures in the process of retrieving a bullet. So we  
14 don't always pull out the bullets if -- if they're in places  
15 where it's hard to get to.

16 Q Okay. In this case, was it removed, though?

17 A I think there -- if I -- I don't actually have a  
18 picture of the -- or a copy of her x-ray.

19 Q Okay.

20 A But there are comments there are multiple  
21 fragments. So my guess is that there were multiple small  
22 pieces that'll -- oftentimes a bullet will partially fragment  
23 and you'll have multiple pieces within the cavity in this  
24 case.

25 Q Okay.



1           A     So parts may have been removed, I don't know  
2     that. But again, that's not our goal. Our goal was to  
3     control the -- control the problems with the leakage and --  
4     and stool, in this case, was actually leaking out of her  
5     colon.

6           Q     And so in that initial trauma procedure, what  
7     would the trauma surgeon have done to -- to save her life,  
8     essentially?

9           A     Well, the -- first of all -- the first thing you  
10    do is make sure there's nothing actively bleeding. And so it  
11    doesn't really look like there is ongoing active bleeding in  
12    terms of real severe life-threatening bleeding. So what they  
13    did is they had to do -- did a complete exploration.

14                So we pretty much start at the top, start with the  
15    esophagus, the stomach, you go all the way down through the  
16    small intestine, you look at all the parts of the small  
17    intestine, you look at all the colon. You make sure the  
18    liver's not injured, you make sure the spleen's not injured.  
19    If they are, are they bleeding still or not. And then we  
20    basically, all the other structures in this case in her  
21    pelvis, they had to look at those things.

22                So what they found was there were multiple injuries  
23    to the small intestine. So what they did is divided parts of  
24    the small intestine that had multiple injuries. In other  
25    words, it was -- if there's a segment that has multiple

1 injuries, you oftentimes just have to take that segment out  
2 and put it back together. And they did that -- did that in  
3 two locations.

4           There were also several other injuries where there  
5 were just like a hole, and sometimes you can actually just sew  
6 those up. And there are a couple of places where they just  
7 did that. There are one in the colon where they also did  
8 that. And then they also found that the mid-portion of the  
9 colon was completely sort of separated. And so they repaired  
10 that, also.

11           Q     Okay. So to her small intestine, where there  
12 were multiple areas of damage, they would have just kind of  
13 taken that section out and put the other two together?

14           A     Correct.

15           Q     And then --

16           A     That is correct.

17           Q     -- you said also there was, I think, on her  
18 colon there was an actual hole, so that would have been  
19 repaired?

20           A     Right.

21           Q     And --

22           A     And the other part of the colon were separated,  
23 they also just repaired that, too.

24           Q     Okay. Would that have all been done in the  
25 initial trauma surgery?

1           A     Yeah. That was all done as the first -- the  
2 first operation.

3           Q     Okay.

4           A     The other thing is she had blood coming from her  
5 rectum. And given the location of the bullet -- because the  
6 bullet went down into the pelvis behind her uterus and down  
7 towards the rectum. That's a very difficult area to get to.  
8 It's hard to see. And so they also did what -- a  
9 sigmoidoscopy. That's a medical term for looking inside  
10 someone's lower colon.

11           What they saw was a lot of blood. They couldn't see  
12 an obvious hole. So in other words, because it was difficult  
13 to treat that, what you do in that case is you actually just  
14 try to keep stool from going down there. So that's what they  
15 gave her, what's called a diverting loop colostomy. So they  
16 basically brought a part of the colon up -- the -- above where  
17 that injury is, they bring it out to the outside, so there's  
18 no longer stool going down to that area where there's an  
19 injury or presumed injury.

20           Q     So, and then if I understand you correctly about  
21 how you come into her treatment, you would have come in the  
22 next day?

23           A     Right. So after this operation, she was then  
24 admitted to the pediatric intensive care unit.

25           Q     Okay.

1           A     In the pediatric intensive care unit, there are  
2 pediatric critical care specialists who manage the patients on  
3 a day-to-day, minute-to-minute basis. And we get involved in  
4 the surgical aspect of their care.

5           Q     Okay. And the person who's the specialist  
6 managing her care at some point saw some issue that you would  
7 have been asked to assist with?

8           A     So, again, I don't have all the operative  
9 reports or the -- because it's quite an extensive chart. So  
10 at some point she was developing infections. So not an -- a  
11 surprising event, given the fact that she had a lot of stool  
12 in her belly. And she still had a lot of injury to her  
13 tissues. So at some point she needed to have her abdomen  
14 reopened, washed out, and it required multiple operations to  
15 actually to get her -- all the infection cleared out.

16           As part of those operations, we will do is basically,  
17 in most cases we don't close their abdomen in between  
18 operations. If we expect more than one operation, going back  
19 and re-sewing everything up each time, actually causes more  
20 injury to tissues. And so we just -- we just leave their  
21 abdomens open. And then we -- allows it to go back easier.  
22 We just open -- take the dressings off, we wash everything  
23 out. If we find dead tissue, we try to clean that up as much  
24 as possible. And so it's -- usually it's a multiple-stage  
25 thing where you're just trying to get the infection cleared up

1 until you think that it's -- that you have it under control  
2 and then you think about getting her closed again.

3 Q Now, is it -- you said it isn't unusual to  
4 develop infections. Is that because of the organs or  
5 structures that were -- were damaged because they're involved  
6 in, like, digestion or?

7 A That -- that's correct.

8 Q Okay.

9 A Colon has a lot of bacteria. So whenever you  
10 have a colon injury, your risk of developing infection after a  
11 repair of a colon injury goes up a lot. So it's typically in  
12 the 10-to-20 percent range you expect a high incidence of  
13 infection problems.

14 (Audio play interruption.)

15 MR. DiGIACOMO: Apologize, Judge.

16 THE COURT: What are you doing?

17 MS. WECKERLY: What are you doing, Marc?

18 MR. SGRO: Technology.

19 MR. DiGIACOMO: Technology, Judge. I apologize.

20 MS. WECKERLY: Sorry, Doctor.

21 THE WITNESS: That's all right.

22 BY MS. WECKERLY:

23 Q You mentioned that she had a subsequent surgery  
24 to address I think you said, like, kind of dead tissue and  
25 that the infection -- was it just one subsequent or would that

1 have happened over time?

2 A She had multiple operations.

3 Q Okay. And then each one of those operations, is  
4 she sedated and intubated and?

5 A When we know we're going to be taking the  
6 patient back to the operating room frequently, typically what  
7 we do is we will keep them intubated. So each time they go  
8 back downstairs to the operating room, they don't have to be  
9 reintubated again. And during that time while they're  
10 intubated, usually we keep them well sedated and on pain  
11 medicine.

12 Q And in -- in terms of her care, do you know how  
13 long approximately she was actually in the hospital?

14 A Approximately three months, I believe.

15 Q Three months?

16 A Yeah. She was -- she was admitted early in  
17 August and I think she finally was discharged early November,  
18 if I remember right.

19 Q And from your review of her medical records, was  
20 there a parent or guardian assigned to -- well, was there a  
21 parent, I guess, that you -- that was consulted about her  
22 care?

23 A You know, I don't -- I don't see that there was  
24 -- I don't have any of the consents, so I don't know who was  
25 signing her consents for operations. We typically try to get

1 a parent to sign a consent if there's one available. But I do  
2 believe that she was actually under the -- she became a ward  
3 of the State.

4 Q Okay. And --

5 A I believe, but I'm not certain of that. So.

6 Q And does someone have, I guess, a CPS person  
7 assigned to them if there is no parent available?

8 A Typically, yes.

9 Q And you said she would have been there about  
10 three months?

11 A Yeah. She was there about three months. I  
12 think she was discharged on the -- let's see if the operative  
13 -- there's an operative -- or the discharge summary here. It  
14 says, yeah, she was discharged November 1st, 2010. She was  
15 admitted August 7, 2010.

16 Q Thank you, sir. Thank you, sir.

17 MS. WECKERLY: I'll pass the witness, Your Honor.

18 THE COURT: Cross-examination.

19 MR. SGRO: Thank you, sir. May I approach the clerk,  
20 Your Honor?

21 THE COURT: Certainly.

22 MR. SGRO: Your Honor, prior to this morning's  
23 proceedings, the State and I got together and agreed to the  
24 admission of Defense Exhibits H through L. Thank you.

25 So I'd move for their admission at this time.

1 MS. WECKERLY: No objection, Your Honor.

2 THE COURT: They'll be received.

3 (Defendant's Exhibit H through L admitted.)

4 CROSS-EXAMINATION

5 BY MR. SGRO:

6 Q Doctor, did we have an opportunity to chat this  
7 morning --

8 A Yes, we did.

9 Q -- before the proceedings began?

10 A Yes, we did.

11 Q All right.

12 MR. SGRO: May I approach the witness, Your Honor?

13 THE COURT: Yes.

14 BY MR. SGRO:

15 Q I had the opportunity to go over some records  
16 with you with the State of Nevada, correct? With the  
17 prosecutor?

18 A That is correct.

19 Q And are the records I showed you this morning  
20 the ones you have in front of you? Can you just quickly flip  
21 through the --

22 A Yes, they are.

23 Q -- exhibits. Now, I want to start with --

24 MR. SGRO: And if I could -- Your Honor, do you mind  
25 if I ask a few questions from here just to --



1 THE COURT: You've got to be --

2 MR. SGRO: -- be on the same page?

3 THE COURT: -- in front of a microphone, if you can  
4 do it.

5 MR. SGRO: Let's see if the clerk can pick me up.  
6 Maybe we can share this one.

7 THE WITNESS: All right.

8 BY MR. SGRO:

9 Q All right. Doctor, I want to start with Exhibit  
10 H.

11 MR. SGRO: Is that okay, Madam Recorder?

12 THE COURT RECORDER: Yes. Thank you.

13 BY MR. SGRO:

14 Q Exhibit H shows that Devonia Newman, age 12, was  
15 receiving some medications on what date, sir?

16 A This is a medication administration record, and  
17 it's for the dates of August 8th through August 10th --

18 Q Okay.

19 A -- of 2010.

20 Q And does it start at 7:00 a.m. and go until 7:00  
21 p.m.?

22 A It actually starts 7:00 a.m., August 8th, and  
23 goes till 7:00 a.m., August 9th.

24 Q Okay. And --

25 A So it's a 24-hour record.

1           Q     Okay.  And -- and I'm -- I know you don't know  
2 this, but I'm going to represent to you that police officers  
3 interviewed Devonian Newman about 4:00, 4:00 p.m.  On August  
4 8th, okay?  So with that representation, does this record show  
5 us some of the medications she was on starting in the morning  
6 of the day of the interview?

7           A     Yes.  It shows that it was ordered.

8           Q     Okay.  And then there is also a chart that shows  
9 the administration; is that right?

10          A     That is correct.

11          Q     And what -- can you turn it over so we've got  
12 the exhibit, please.

13          A     I?

14          Q     Yes.  So Defense Exhibit I shows the  
15 administration; is that right?

16          A     That's correct.  It's a record of the  
17 administration.

18          Q     Okay.  And just for the record, what's the date  
19 of the administration of Defense Exhibit I?

20          A     August 7th.

21          Q     Okay.  So now -- and -- and if you can do me the  
22 favor of Exhibit -- is that J?

23          A     J, that's correct.

24          Q     And what's the date of that one?

25          A     Also August 7th.

1           Q     Okay. Now, with these exhibits in front of you,  
2 would it be fair to say that starting on August 7th, that  
3 there was a drug that had been administered to Ms. Newman  
4 called fentanyl?

5           A     That is correct.

6           Q     And can you explain for the ladies and gentlemen  
7 of the jury what fentanyl is?

8           A     Fentanyl is a pain medicine. It's a variation  
9 on morphine. A lot of people know morphine. Fentanyl is a  
10 little more -- it's stronger, but we use lower doses, so it  
11 gives the same effect, but we use smaller amounts of it.

12          Q     Now, there's 100 milligrams looks like every  
13 hour that are being administered to Ms. Newman; is that right?

14          A     That is correct, according to this record. Yes.

15          Q     All right. And we are going to need to assume,  
16 because it's administration of medication to a minor child,  
17 that these records are probably accurate?

18          A     That's correct.

19          Q     100 milligrams of fentanyl is a pretty  
20 significant amount, would you agree with that, sir?

21          A     Micro -- micrograms.

22          Q     I'm sorry. Micrograms. I misspoke.

23          A     That's all right.

24          Q     100 micrograms; would you agree that that's a --  
25 that's a significant amount?

1           A     It is -- it is actually not an extreme amount.  
2     So -- but it is -- it would be enough to control her pain, as  
3     really was the goal, I'm sure.

4           Q     And are you aware at the time that these drugs  
5     are being administered, Ms. Newman only weighs 110 pounds?

6           A     All we know, actually, was just looking at her  
7     medication administration record, they have her weight as  
8     being 50 kilos. So it was -- the dosing, I'm sure, was based  
9     upon that estimated weight.

10          Q     Okay.

11          A     Because at that point she was probably too sick  
12     to actually weigh her. So -- so what they do is we estimate a  
13     weight and we use that as a way of dosing. So, based upon  
14     that estimated weight, her dosing was approximately two  
15     micrograms per kilo per hour, and that's -- that's how we  
16     usually figure the doses on things like that.

17          Q     Right. And 50 kilos, and I don't know if you  
18     said this --

19          A     She gets 100 micrograms per hour. So she's --  
20     therefore is getting -- since she's 50 kilos, presumably it  
21     would be two micrograms per kilo per hour.

22          Q     And 50 kilos is about 110 pounds?

23          A     Yes, about that, right.

24          Q     All right. Now, let's talk -- before we go onto  
25     the other medication --

1           A     Uh-huh.

2           Q     -- let's talk about the -- the impact of  
3 fentanyl. Now, this started on August 7th, 2012. And  
4 remember, right now I want to focus on a time of about 4:00  
5 p.m. on August 8th. So from 4:00 p.m. August 8th,  
6 backtracking about 30-some hours, she's receiving fentanyl,  
7 right?

8           A     That is correct.

9           Q     Okay. Fentanyl has some side effects, correct?

10          A     It does.

11          Q     And are you -- and -- and as a practicing  
12 surgeon, you're required to keep up on what's going on  
13 medically, read publications, go to CMEs, etcetera, correct?

14          A     That's correct.

15          Q     CME is an acronym for continuing medical  
16 education, correct?

17          A     That is correct.

18          Q     And I assume you probably subscribe to a bunch  
19 of magazines, New England Journal of Medicine, etcetera?

20          A     That is correct.

21          Q     All right. And you're familiar with the Mayo  
22 Clinic that also publishes a lot of data?

23          A     Yes.

24          Q     And Mayo Clinic's a highly regarded institution  
25 in our country that a lot of physicians like yourself rely on

1 in terms of coming to conclusions?

2 A Not always for pediatric surgery, but yes.

3 Q Okay. Well, let's talk -- fair -- fair point.

4 Let's talk about just relative to fentanyl. All right.

5 Fentanyl has side effects, correct?

6 A Correct.

7 Q Some of those side effects can include a change  
8 of consciousness, right?

9 A Correct.

10 Q Some of those side effects include confusion,  
11 correct?

12 A Yes. Well, yes. I mean, one of the -- all pain  
13 medicine, one of the side effects of most -- of all pain  
14 medicine is it also has a sedative effect, so it makes you  
15 sleepy.

16 Q Okay.

17 A So I guess if you're sleepy enough, you may seem  
18 confused, but yes.

19 Q And -- and are you aware that, at least  
20 according to the Mayo Clinic, one common side effect of  
21 fentanyl is seeing, hearing, or feeling things that are not  
22 there?

23 A I wasn't aware of that, but it's not too  
24 surprising. Many things will have those effects.

25 Q Okay. And fentanyl can also have an impact on

1 the person that's under the influence of fentanyl, on their  
2 suggestibility; would that be fair?

3 A If Mayo says that, it's probably true. Or at  
4 least they've seen it.

5 Q Okay. Let's talk about -- and I butchered this  
6 pronunciation before and I'm going to do it again --  
7 midazolam; is that right?

8 A Midazolam.

9 Q Midazolam. That is the actual drug that has a  
10 brand name called Versed, correct?

11 A That's correct.

12 Q All right. And Versed is what's listed on the  
13 treatment for Ms. Newman, correct?

14 A That is correct.

15 Q Now, Versed is also something that's being  
16 administered to Ms. Newman in the preceding hours prior to --  
17 again, if we assume my 4:00 p.m. on the 8th is -- is accurate,  
18 Ms. Newman's also taking Versed, correct?

19 A She has been receiving, Versed; that's correct.

20 Q All right. Now, the purpose of Versed is to  
21 produce amnesia, right?

22 A That is -- yeah, it's a sedative, but it creates  
23 an amnestic event, too, so you don't recall things as much.

24 Q All right. So the reason a hospital would give  
25 a patient Versed is because they specifically don't want them

1 to remember the pain they're going through, the agony of  
2 presurgery and the surgery itself, fair?

3 A That's probably a good assessment. We do it  
4 also because Versed, because it's a sedative, we actually use  
5 it also because it keeps them from sort of thrashing. So it  
6 keeps them quieter.

7 Q Sure. I'm not -- I'm not suggesting that each  
8 of these medications don't have more than one --

9 A Right.

10 Q -- impact. Fentanyl can be used to control  
11 pain --

12 A Right.

13 Q -- right? And on balance as -- as someone  
14 administering or prescribing this medication, you're willing  
15 to say, Yeah, it might cause confusion or an altered state of  
16 consciousness, but it's more important that we relieve the  
17 pain?

18 A That's the goal, right.

19 Q Right. And similarly, when you prescribe Versed  
20 or midazolam --

21 A Right.

22 Q -- clearly, one of the goals is to have a  
23 sedative effect --

24 A Right.

25 Q -- correct? Keep the patient calm?



1           A     Right.

2           Q     But doctors who administer that know that  
3 they're also going to create amnesia or -- how did you say it?

4           A     Amnestic.

5           Q     Amnestic effect. Okay. Which, obviously, in  
6 lay terms means you just --

7           A     You don't recall.

8           Q     Okay. And the Versed that was being  
9 administered, was it being administered on August 8th?

10          A     So from what I'm seeing is it was on and off a  
11 couple of times, it looks like.

12          Q     Right.

13          A     So on August 7th it started at 8:00 in the  
14 morning, and it looks like it was discontinued at 9:00 p.m.  
15 Then on August 8th, they started a lower dose at 6:00 a.m.  
16 And stopped it at 11:00 -- no, they stopped it at 10:00,  
17 because there's no note of it being given at 11:00. So.

18          Q     Let's go -- I'm sorry, I missed -- missed August  
19 8th. What time --

20          A     August 8th, they gave her a smaller dose from  
21 about 6:00 a.m. until 10:00 a.m.

22          Q     Okay. And these are both drugs that have  
23 half-lives, correct?

24          A     Correct.

25          Q     And is a half-life some -- the -- if I were to

1 put that in lay terms, would that mean as I initially feel a  
2 dramatic impact over the course of sometimes days, weeks,  
3 months, some are measured in years, the impact of what I just  
4 took gets lesser and lesser over time; would you agree with  
5 that lay assessment?

6 A Yes. So a half-life is actually a measurement  
7 pharmacologic of the amount of time it takes to get rid of  
8 half the original dose.

9 Q Okay. And in your opinion, she would -- Ms.  
10 Devonia Newman would have been -- obviously, fentanyl is still  
11 being administered throughout the course of the day, so  
12 clearly she's feeling the impact of fentanyl, correct?

13 A That's correct.

14 Q And according to the amount of Versed she's  
15 being administered, she's still going to be feeling the impact  
16 of Versed even at 4:00 p.m., correct?

17 A Versed has a shorter half-life, and so therefore  
18 it has a shorter effect.

19 Q Correct. It has a short --

20 A So six hours later --

21 Q Five hours later --

22 A -- it would be -- well, it stopped at 10:00.

23 So, yeah, I don't know -- I guess you could say it didn't stop  
24 really till 11:00.

25 Q Exactly.

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

DAVID BURNS,

Appellant,

v.

THE STATE OF NEVADA,

Respondent.

Supreme Court Case No. 77424

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**APPELLANT'S APPENDIX**

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**CERTIFICATE OF SERVICE**

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 28th day of February, 2019. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Steven Wolfson, Clark County District Attorney's Office

Aaron Ford, Nevada Attorney General

Jamie J. Resch, Resch Law, PLLC d/b/a Conviction Solutions

By: 

Employee, Resch Law, PLLC d/b/a Conviction Solutions