

IN THE SUPREME COURT OF THE STATE OF NEVADA

EDWARD SAMUEL PUNDYK,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Appeal from a Judgment of Conviction in Case Number CR16-1290
The Second Judicial District Court of the State of Nevada
The Honorable Connie J. Steinheimer, District Judge

JOINT APPENDIX VOLUME FOUR

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JUDITH ANN SCHONLAU

CCR #18

75 COURT STREET

RENO, NEVADA

COPY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

BEFORE THE HONORABLE CONNIE J. STEINHEIMER, DISTRICT JUDGE

-o0o-

THE STATE OF NEVADA,)
)
Plaintiff,)
)
vs.)
)
EDWARD SAMUEL PUNDYK,)
)
Defendant.)
)
_____)

CASE NO. CR16-1290
DEPARTMENT NO. 4

TRANSCRIPT OF PROCEEDINGS

TRIAL

WEDNESDAY, JULY 18, 2018, 9:00 A.M.

Reno, Nevada

Reported By: JUDITH ANN SCHONLAU, CCR #18
NEVADA-CALIFORNIA CERTIFIED; REGISTERED PROFESSIONAL REPORTER
Computer-aided Transcription

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A P P E A R A N C E S

FOR THE PLAINTIFF: OFFICE OF THE DISTRICT ATTORNEY

 BY: AMOS STEGE, ESQ.

 DEPUTY DISTRICT ATTORNEY

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 BY: LINDA NORDVIG, ESQ.

 JENNIFER RAINS, ESQ.

 DEPUTY PUBLIC DEFENDER

 350 S. CENTER STREET

 RENO, NEVADA

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I N D E X

<u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
DAVID MILLSAP	5	27	53	61
MONICA SIEWERTSEN	64			
RICHARD G. BELL	69	71		
PATRICK BLAS	76			

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EXHIBITS:

<u>Marked for</u> <u>Identification</u>	<u>Admitted</u> <u>into</u> <u>Evidence</u>
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21	6
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RENO, NEVADA; JULY 18, 2018; 9:00 A.M.

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THE COURT: Counsel, do you stipulate to the presence of the jury?

MR. STEGE: Yes, Your Honor.

MS. NORDVIG: Yes, Your Honor.

THE COURT: Counsel.

MR. STEGE: Detective Millsap should take the stand.

THE COURT: Sir, you are still under oath. Please retake the stand. Counsel, you may inquire.

MR. STEGE: Thank you.

DAVID MILLSAP

called as a witness, having been previously sworn, took the witness stand and testified as follows:

DIRECT EXAMINATION CONTINUED

BY MR. STEGE:

Q Detective, let's go back to the issue of the phone analyses of both the defendant and the victim.

MR. STEGE: May I approach the witness?

THE COURT: You may.

///

1 BY MR. STEGE:

2 Q Sir, I am handing you proposed Exhibit 20 which is
3 pages 2, 2 and 3. Please review that as well as 21 pages 1
4 through 4. Please review that as well.

5 A Yes, I recognize both exhibits.

6 Q Do you recognize them to be true and accurate copies
7 of the original reports you generated?

8 A Portions of the original report.

9 Q Yes. They have been redacted for purposes of this
10 trial?

11 A That's correct.

12 MR. STEGE: Move to introduce those two exhibits.

13 MS. NORDVIG: No objection.

14 THE COURT: Exhibit 20 and 21 are admitted.

15 (Exhibit 20 and 21 admitted into evidence.)

16 BY MR. STEGE:

17 Q Let's first look at Exhibit 20 which is, let's go
18 right to page 3 which is the victim's cellphone. Can you tell
19 us -- this is titled call log -- tell us what a call log is?

20 A A call log is basically the chronological order of
21 incoming calls, outgoing calls, missed calls that the product
22 they use produces. Typically, they are either ascending order
23 or descending order depending on the makeup of the phone. I
24 believe this one was, it looks like descending, earliest at

1 the top on the call log and latest on the bottom.

2 Q At the top of this call list is at 6:48 p.m on the
3 9th, no duration. Why is that?

4 A That was a missed phone call. There is no
5 connection between the two callers.

6 Q Is 10-9 about when, that is two days later when it
7 was recovered and turned off by you?

8 A Yes.

9 Q Let's go down to the bottom here. Can you tell us
10 about call 28?

11 A 28 was an ongoing call from the person that she
12 lists as Eddy under her contacts. It occurred on October 7,
13 2015 at approximately 3:22:13 p.m.

14 Q What is the 01:36?

15 A That is the duration of the phone call.

16 Q I would like to turn now to Exhibit 21 which is the
17 cellphone analysis of the defendant's phone. Let's go to page
18 4. Is this the same format as the other would be, the call log
19 on top?

20 A Yes, a portion of his call log. Again, the same
21 type of layout as the other phone.

22 Q Let's look at the bottom here of this series of
23 calls. Can you tell us about call 23?

24 A 23 is an incoming call who is listed as mom in the

1 address book. Again, that phone call is incoming to his phone
2 at October 7, 2015 at 3:22:21 p.m.

3 Q The duration of the call?

4 A One minute 35 seconds.

5 Q Going up from there, would you tell us about line
6 22?

7 A So line 22 is a blocked call, likely a refused
8 answer call where you hit ignore from who he lists as Ken the
9 neighbor. That happens on the 7th at 4:00 p.m. and no
10 duration of time.

11 Q Because it wasn't answered?

12 A There was no answer.

13 Q Tell us about 21?

14 A 21 is an outgoing call, so that person that has the
15 phone is making the call out again to the neighbor at 4:05
16 p.m. on the 7th. That duration is 22 seconds.

17 Q This would be from the defendant's phone to Ken, the
18 neighbor?

19 A Yes.

20 Q And line 20 please?

21 A Line 20 is an incoming call. There is no name
22 associated with the phone number. It occurs on the 7th at 4:33
23 p.m. and it is a 27 minute and 14 second call.

24 Q Do you recognize what that 645 prefix to be?

1 A I do. That is a standard prefix for the Reno Police
2 Department mobile phones.

3 Q Let's move to the video, please. You previously
4 testified you admitted the hard drive of the contents of the
5 DVR system?

6 A That is correct.

7 Q Subsequent to that, a compilation disk was made; is
8 that right?

9 A Yes.

10 Q That shows -- What does that show?

11 A It shows portions of the DVR surveillance that was
12 saved on the DVR, specifically the day of this incident.

13 Q Do you recognize --

14 MR. STEGE: If I may approach the witness please?

15 THE COURT: You may. Did you show Ms. Nordvig what
16 you're approaching with?

17 MS. NORDVIG: Thank you.

18 BY MR. STEGE:

19 Q Do you recognize proposed Exhibit 23?

20 A It is a DVD disk titled Pundyk surveillance with my
21 initials and badge number on it so, yes, I do.

22 Q Why does it have your initials and badge number on
23 it?

24 A Because I viewed it and signed it.

1 Q Before you signed it, you viewed it and recognized
2 it to be a fair compilation of what is on that external hard
3 drive?

4 A Yes.

5 MR. STEGE: Move to introduce 23.

6 THE COURT: Any objection?

7 MS. NORDVIG: No, Your Honor.

8 THE COURT: Exhibit 23 is admitted.

9 (Exhibit 23 admitted in evidence.)

10 BY MR. STEGE:

11 Q Let's start with number one. Before we do that,
12 while we are on scene, did you notice the video cameras
13 throughout the residence?

14 A Yes, I did. There were multiple cameras, exterior
15 and one that I noticed inside the residence.

16 Q And when you took that picture, you showed the
17 picture earlier where you photographed the screen that showed
18 the number of cameras that were active?

19 A It showed 13 cameras that were visible at the time.

20 Q And you did note that the time stamp on the DVR
21 system was slow; is that correct?

22 A That is correct.

23 Q How slow was it?

24 A It was approximately four minutes twenty-five

1 seconds slow to actual time.

2 Q Okay. Now let's begin. What area are we looking at
3 at 1:43?

4 A So as we discussed yesterday, this is the south side
5 yard. In the foreground in the corner of the right side is
6 the hot tub with the hot tub cover. The doorway into the
7 residence would be on the wall you can see on your left,
8 looking towards the back of the residence, the back yard of
9 residence.

10 Q Now these cameras, are they always running? How are
11 they set up?

12 A No. They run on motion, so without any motion on the
13 cameras, there will be a time lapse depending on the set up of
14 the cameras, how much motion turns them on. But they are not
15 continuously running.

16 Q So sometimes for example a person won't trip off the
17 motion detector when they walk by or are too far away?

18 A Depending, yeah, how far away, how much movement
19 there is. It all depends on each company, each camera, each
20 setting.

21 Q We'll just keep playing here. So this would be just
22 over that door, that back or side door?

23 A Yeah, same general area, however, the perspective of
24 the camera, it was pointing south towards the garage door, and

1 then the hot tub again is on your right to the side.

2 Q We are just waiting for Mr. Pundyk to come back from
3 the back of the house here. Let's go to two. It starts at
4 7:57 a.m. Now here we are. I will pause it here 40 seconds
5 into this. What are we seeing here as opposed to that previous
6 clip?

7 A So this has now switched to color. Most cameras
8 have infrared night vision type cameras where it looks gray
9 scale, blacks. This has now turned to the time the camera has
10 recognized there is enough light to produce a color image.

11 Q The previous clip, we are going to see the thing in
12 this clip just from a different perspective?

13 A Yes, sorry, from the previous clip.

14 Q Do you see where Mr. Pundyk went in this clip?

15 A He's towards the back of the residence kind of near
16 the cat enclosure.

17 Q Do you think -- What is that in his hand?

18 A I believe it to be a kitten.

19 Q So this compilation has moved to camera 13 but we
20 advanced in time from the previous portion?

21 A No. It is just a different angle from this camera
22 perspective.

23 Q The area where Pundyk is standing right now you can
24 sort of see, was any evidence found there?

1 A There was one dead cat, some casings. That is kind
2 of right where the cat enclosure is at.

3 Q Where in relation to where he was standing was the
4 SKS rifle?

5 A Just beyond out of camera view kind of behind,
6 obscured by that tree area. I'm not sure if I can draw on it.

7 Q If you want to?

8 A Okay. Sorry. Generally in this area the background.

9 Q Are we now back to the portion we saw before with
10 the kitten?

11 A That's correct.

12 Q Let's move to 3. The first clip starts at 8:59.
13 What part of the house are we seeing?

14 A You are looking at the front yard. This camera is
15 generally placed above the front door to the north directed
16 towards the front stoop area and walkway.

17 Q Is the area -- What is in this area here?

18 A So that would be you can see the walkway that leads
19 kind of to the south side of the front yard. It is not
20 depicted in the video, but that fence we have been discussing
21 is basically along this line here. The trailer that we have
22 been using as a reference point would be back in here.

23 Q It switches to camera one. Where is this?

24 A This is if you are near south pointing toward the

1 driveway, the south driveway. Just out of the camera view to
2 the north would be that trailer that we discussed. This is
3 pointing street side of this residence.

4 Q Would you use Exhibit 1 to show us that?

5 A So the camera is generally placed on the garage here
6 kind of looking out generally in that direction.

7 Q Thank you. It switches to camera two. We are still
8 just after 9:00 o'clock. What area is this?

9 A Same general area. How this camera is position is a
10 little more west capturing more of the street and more of the
11 driveway.

12 Q What is this right here?

13 A That would be the trailer that we talked about.

14 Q Do you have any idea what that was in his hand?

15 A Like a plant.

16 Q About 9:23, do you know what that is in Mr. Pundyk's
17 hand?

18 A Some type of bottle cutter, cutting device.

19 Q What is in that area he's using the bottle cutters?

20 A That would be the metered power source for the
21 residence.

22 Q So let's move to clip four. Is there a gap? That
23 was about 9:28 something. The next clip we have is 12:37?

24 A On the raw data, the entirety of the video, I know

1 this is a compilation so there is no video stored during that
2 time frame.

3 Q Does that jive or match up with the information that
4 was learned during the investigation?

5 A Yes. We learned the power was turned off for both
6 Mr. Pundyk's residence, and the attached duplex to the north
7 lost power for sometime.

8 Q This, obviously the power would have to be back on
9 sometime before 12:37?

10 A That's right.

11 Q Let's begin. Let's go to clip five. We have listed
12 here two clip five's. Let's play the first one. That area
13 where Mr. Pundyk just walked to, what is back there?

14 A That is behind the garage area. There is
15 miscellaneous junk. There is a small shed further leading to
16 the, it would be the south side of his property.

17 Q That bin or kitty litter container did you see where
18 that was on the scene or do you know what became of it?

19 A I do not.

20 Q What we are looking at here is the alternate view of
21 that previous section?

22 A Correct.

23 Q Let's skip the nudity here if we can. Here we have
24 3:05 the defendant entering the home?

1 A That's correct.

2 Q What room is this?

3 A This is that spare bedroom that has the safe inside
4 of it along with all the cat structures.

5 Q Which firearm is that?

6 A That is the Colt AR-15 style Sportster model. It
7 shoots the 223.

8 Q We are at 3:19. Where is the defendant?

9 A In the south inside yard.

10 Q What did we just see the defendant do there?

11 A A few minutes ago?

12 Q Yeah?

13 A Fire the weapon.

14 Q Is that consistent with finding a 223 shell and some
15 casings in that area?

16 A Yeah. We found an expended shell.

17 Q Is there any evidence there that weapon was actually
18 fired in that area?

19 A Nothing that I located.

20 Q Here we have the camera 11 portion of what we just
21 saw; is that right?

22 A Yes. Different perspective, same time frame.

23 Q Camera 12?

24 A Same time frame different perspective showing a

1 different angle in the hot tub area.

2 Q Let's roll that back. We saw him on the clip before
3 this going back into the house about 3:21?

4 A Correct.

5 Q We are now at 3:41?

6 A Yes.

7 Q So that phone call that we pointed out in Exhibit 21
8 at 3:22 p.m. has that happened? That has happened already.

9 A Correct.

10 Q Even with the four minutes?

11 A Twenty-five seconds.

12 Q Twenty-five seconds. Do you recognize that weapon on
13 the table?

14 A Yes. That is the Sega 7.62 X 39 SKS.

15 Q That item there we just saw the defendant handle, do
16 you know what that is?

17 A Sorry.

18 Q I will pause it when we get there.

19 A I do not. It is some type of paperwork or book.

20 Q But you don't recognize it?

21 A No. What.

22 Q Did we just see the defendant?

23 A Place on ear protection. I believe it is the same
24 ear protection we saw yesterday in the photos near the hot

1 tub.

2 Q Which weapon is that in his hand?

3 A That is the AR-15 that fires the 223 rounds.

4 Q What does he appear to be doing now?

5 A Just a moment ago he was manipulating the magazine
6 for the SKS. Appears he's loading ammunition into the magazine
7 at this point.

8 Q That rifle he's carrying, which one is that?

9 A The SKS that fires the 7/62 X 39.

10 Q What are we seeing there in the upper left.

11 A Upper left-hand corner you can see a disturbance,
12 appears to be high velocity. It is my belief that is when he
13 fires into the cat enclosure which corresponds to the casings
14 we found in that area.

15 Q Does it correspond to a deceased cat?

16 A Yes, it does.

17 Q Now this portion here, do you what is going on, what
18 the other cameras are picking up at this time?

19 A The other camera shows movement into the front yard,
20 Mr. PUndyk's mother's arrival.

21 Q You see him go off the camera, but he comes back
22 towards the door at what time?

23 A 3:58:07.

24 Q That same time frame?

1 A 3:57:24.

2 Q Would you point out for us when you believe the
3 shots were fired? Describe this area here?

4 A So this is again the south side yard with the hot
5 tub on the right of the screen pointing down toward the
6 ground.

7 Q Where Mr. Pundyk is standing, is that the area where
8 we went over the exhibits those photos were taken?

9 A Yes. The perspective photo tells if someone would
10 be standing or kneeling on the hot tub. At the time, we were
11 unsure. We didn't have the luxury of having this video until
12 days later.

13 Q What did we see fall off the tub there?

14 A His ear protection.

15 Q So camera 13. So we are going back a little bit.
16 Let's watch this from camera 12. Is there a particular area of
17 this video we should be looking at here?

18 A The hot tub area. Specifically, some of this
19 lighted area will show a reflection and the pool of liquid
20 here. You will see some Mr. Pundyk's feet are in this general
21 area.

22 Q What about in this area, what should we be looking
23 for?

24 A The fence that separates the front yard from the

1 south side yard. You can see some debris or distortion as the
2 shots are being fired through the fence.

3 Q Would you point out those shots?

4 A There is one. There appears to be another one, maybe
5 two.

6 Q What is going on here at 3:58:50.

7 A Appears he's manipulating the firearm. There is a
8 jam. A shot there.

9 Q Is that the disturbance in the fence you were
10 talking about?

11 A Along with the shadow you can see a recoil of the
12 weapon.

13 Q Let's move to camera six.

14 A This is a front yard view. It is generally above
15 the front door onto the north of the front door facing south
16 towards the south side of the front yard.

17 Q What are we going to see coming this way?

18 A So coming into the sidewalk you will see an
19 individual walk in. This is that hitch carrier we discussed
20 yesterday. You will see that individual enter the yard. That
21 individual has been identified as the victim.

22 Q Is she in view or out of your view?

23 A She's out of view.

24 Q Camera four?

1 A Same general area just further, the camera position
2 further facing the street.

3 Q I will pause it. 3:57:21, what are we seeing here?

4 A You see some slight movement off to the left of
5 camera view. I believe it is the victim moving around about.

6 Q However, the clip as recorded on the DVR doesn't
7 last much longer than there, does it?

8 A No, it does not.

9 Q Now, the clip we saw was a corner portion of her
10 entering the front yard?

11 A That's correct.

12 Q Here 4:02, is that before or after the killing?

13 A That would have been after.

14 Q So we have him returning. This is that portion where
15 he's, Pundyk, has gone over to the body?

16 A That is correct.

17 Q And how does that relate to the door, the
18 bloodstaining on the door?

19 A It corresponds with the evidence or explains how the
20 victim's blood ended up on the front door. It is believed
21 Mr. Pundyk had some blood transfer onto a portion of his bed,
22 and when he went to the door it transferred to the doorway.

23 Q We are now at 4:07. What does Mr. Pundyk have in his
24 hand now?

1 A Some type of magazine or paperwork.

2 Q Did you see where it came from?

3 A It goes off camera to the north towards his

4 neighbor's house. I do not know where he got it from

5 specifically.

6 Q This is another time after the magazine, this is

7 another trip outside?

8 A It is.

9 Q We switch back to this camera one. What are we

10 going to see here there?

11 A Actually this is on the south garage facing the

12 roadway. At this point you will start seeing officers arrive.

13 Q Does this person appear to be an officer?

14 A I believe it to be.

15 Q Let's go to clip six here. Now were at 4:20?

16 A This would have been after the shooting in the side

17 yard again in the second bedroom where the safe is located.

18 Q That officer we saw, that was around 4:11?

19 A That's correct.

20 Q What did we just see?

21 A You saw Mr. Pundyk removing the camera and disabling

22 it.

23 Q Which weapons are those?

24 A He's currently carrying two weapons, one being the

1 SKS that fires the 7.62 X 39. The other one being the camo
2 colored Beretta semi-automatic 12-gauge shotgun.

3 Q He appears to have something in his mouth. Do you
4 know what that is?

5 A We determined was a shotgun shell we located on the
6 patio table.

7 Q We are at camera 12 at 4:32 p.m. What does this
8 portion of this depict?

9 A This depicts the firing of the shotgun through the
10 trees and toward the officers into the house.

11 Q How does he accomplish that?

12 A I believe he stands on that milk carton over the
13 fence.

14 Q We are now at camera 13, this same sequence of the
15 two firearms and shooting over the fence. I am going to try
16 to move ahead a little bit.

17 A Right.

18 Q What did you see there?

19 A He sets down an item which again was the shotgun
20 shell.

21 Q 4:35 here by this time stamp. What are we seeing
22 the defendant do?

23 A He's on his phone.

24 Q Does this correspond with any phone calls on the call

1 log from the phone analysis?

2 A It is a call placed in to him by the Police
3 Department.

4 Q We have gone back a little bit. Camera 11. What was
5 that?

6 A Something came flying through the air.

7 Q Let's see what it is.

8 A Appears to be his mobile phone.

9 Q What did we just see there?

10 A Him tossing that phone.

11 Q Camera 13, the same phone series. I am going to try
12 to move in a little bit if you don't mind, detective. Let's
13 go to 4:39. Do you know what is going on on the police
14 presence at this time about 4:40?

15 A Based on me hearing what was occurring on the radio
16 before I responded, our helicopter unit, Washoe County
17 helicopter unit Raven was up in the air assisting us with
18 aerial views of the backyard that we could not see.

19 Q Let's go ahead a little bit detective. Past about
20 5:20. What are we go to go see starting with camera four?

21 A You are going see the SWAT officers and tech medics
22 enter the front yard. Enter into the front yard.

23 Q 5:44. What did we just see there?

24 A It was a distractionary stun device that was

1 employed by the SWAT officers.

2 Q Is that Mr. Pundyk there?

3 A It is.

4 THE COURT: How much longer do you have?

5 MR. STEGE: Thirty minutes.

6 THE COURT: Thirty minutes? We need to take a
7 recess. I wasn't sure how much longer you had. We should take
8 a recess. Would you turn the lights on? We need to take a
9 morning recess.

10 During this recess, ladies and gentlemen of the
11 jury, I want you to remember the admonition I have given you
12 at the other breaks.

13 Do not discuss the case among yourselves or with any
14 other person. Do not allow anyone to speak of the case to you
15 nor any manner attempt to influence you in regard to it.

16 Do not make any independent investigation or inquiry
17 into any facts and circumstances surrounding this case.
18 Should any person make an attempt to discuss it with you or
19 any manner attempt to influence you, report it to the bailiff
20 immediately. Go ahead and step into the jury room for our
21 morning recess.

22 Counsel, we will by in recess. It will 10:00
23 o'clock. We have to be back at 10:00, I mean 11:00.

24 (Short recess taken.)

1 THE COURT: Counsel, will you stipulate to the
2 presence of the jury?

3 MR. STEGE: Yes.

4 MS. NORDVIG: Yes, Your Honor.

5 THE COURT: You may continue, Mr. Stege.

6 BY MR. STEGE:

7 Q Let's continue detective. What are we seeing?

8 A Different angle being escorted out in police
9 presence.

10 Q What is this thing here?

11 A That is the armored vehicle for SWAT commonly
12 referred to as bear. That completes this clip unless you want
13 to see it on camera two.

14 A I am okay.

15 Q Okay. Let's go to this clip called clip five. The
16 time name ends in clip five short. What is clip five short?

17 A Shortened version of clip five. This camera
18 overlays.

19 Q I will go through the portion with the overlays
20 starting with it is picking up at 3:54. What is this overlay
21 in the bottom left?

22 A That shows the front yard, one of the cameras in the
23 front years kind of showing the south side of that front yard.

24 Q Let's pause here. The date and time stamp both say

1 3:56:47 p.m.?

2 A That's correct.

3 Q Do you see that? Have we seen Delphina Medieros?

4 A Yes, in the smaller camera you will see her walking
5 across towards the south side of the yard.

6 Q Now here just before 57:24, it is no longer there.
7 Why is that?

8 A It is because the cameras haven't detected any
9 motion so they stopped recording.

10 Q That climb ended on the DVR?

11 A Yes.

12 MR. STEGE: Pass the witness.

13 THE COURT: Okay. We can turn the lights on or off
14 whatever you like. You want them to start?

15 MS. NORDVIG: On to start. Once we get going.

16

17 CROSS-EXAMINATION

18 BY MS. NORDVIG:

19 Q Good morning, detective?

20 A Good morning.

21 MS. NORDVIG: May I approach the witness, Your Honor?

22 THE COURT: You may.

23 MS. NORDVIG: Thank you.

24 ///

1 BY MS. NORDVIG:

2 Q Detective, I am showing you what has been marked and
3 admitted as Exhibit 2. You saw that yesterday, correct?

4 A Yes, I did.

5 Q And on the bottom, it is the left-hand corner there
6 is a series of letters and numbers?

7 A That's correct.

8 Q What do those signify?

9 A Those are the Washoe County lab report case numbers.

10 Q So you did not compile this list; is that correct?

11 A I did not compile this document, no.

12 Q B and just under that it says two out of the six; is
13 that correct?

14 A Yes, it does.

15 Q What does that signify to you?

16 A This is page 2 of 6.

17 Q So that lab document contains more pages?

18 A From what you handed me, yes. I only have one page
19 of that.

20 Q Correct. We have only admitted one page. Is that
21 correct, to your knowledge?

22 A The following pages are diagrams.

23 Q Okay. Would they have been made by the Washoe County
24 lab?

1 A Yes.

2 MS. NORDVIG: May I approach?

3 THE COURT: You may.

4 BY MS. NORDVIG:

5 Q We talked a lot about a series of photographs
6 yesterday. Were you present when all of those were taken?

7 A Yes.

8 Q And some of them were considered defects or
9 photographs of defects?

10 A Yes.

11 Q Most of which in this case were made by projectiles
12 from a weapon?

13 A That's my belief.

14 Q And some of them were pass-through defects and
15 others were just surface defects?

16 A Yes.

17 Q To explain the difference between; is that fair?

18 A Yes. Would you like me to explain the difference? I
19 am sorry.

20 Q You can if you would like, sure.

21 A Passing through would be something that is not
22 embedded into the structure or into the item. The other one,
23 the other kind could be a ricochet where it doesn't have quite
24 enough velocity to go through or strikes something and bounces

1 backward.

2 Q Okay. Thank you. And did you have any way of
3 determining when all of these defects were made?

4 A Not at the time. With the assistance of the video
5 surveillance I could get a rough sequence.

6 Q Before the photos were taken, you could not?

7 A No.

8 Q There were a series of photographs in Exhibit 5 in
9 the side yard, I believe it was page 16, pushing the net up
10 with the head, someone's head?

11 A It would have been the photographers.

12 Q Do you know who the photographer was?

13 A I believe it was FIS investigator Asklyn Ziarnowski.

14 Q Common spelling? Do you know how tall Ashton is?

15 A Based on just my belief, I would say she's
16 approximately 5'7".

17 Q Give or take?

18 A Yes, ma'am.

19 Q And some of the photographs that were taken that
20 were included specifically Exhibit 15 page 4 --

21 MS. NORDVIG: May I approach?

22 THE COURT: You may.

23 MS. NORDVIG: Thank you.

24 ///

1 BY MS. NORDVIG:

2 Q This doesn't have a sticker on it, but you can tell
3 by the stamp in the lower right-hand corner. Can you remind
4 the jury what that is?

5 A This is a photo that I took of the insulated piping
6 insulation.

7 Q And does that have any relevance to this case at
8 all?

9 A No. Not that I'm aware of.

10 Q So it is better safe than sorry?

11 A I try to.

12 Q Thank you. And you said that evidence was collected
13 over a three-day period; is correct?

14 A Three calendar days. That first night we worked into
15 the early morning of the next day, got a few hours rest and
16 came back, worked till I believe it was maybe midnight, 1:00
17 o'clock the next day, and then the day after was the final
18 day. So it wasn't a full 24 hour days.

19 Q Okay. Did that include all the work at 11903 Rocky
20 Mountain as well?

21 A The neighbor's, yes it did.

22 Q The Exhibit 20 which is the cellphone data from
23 mom's cellphone. That is a small portion of your total report,
24 correct?

1 A Yes, it is.

2 Q How big was the total report?

3 A I can't recall the page length. Most reports are 800
4 to 1500 pages long.

5 Q Would this fall within that category?

6 A This phone was a smart phone, so it tends to carry
7 more data or hold more data, so I would put it within that
8 range, yes.

9 Q Is it fair to say that your report was voluminous?

10 A Yes.

11 Q Several inches thick?

12 A I don't know about several.

13 Q More than two, less than six?

14 A We don't print them out because they are so large,
15 so I'd say digital document.

16 Q Thank you. Same question for Exhibit 21, that would
17 be Mr. Pundyk's phone?

18 A Similar type phone being a Smart phone with multiple
19 capabilities, so I would put that document in that page range.

20 Q So the three or four pages that have been admitted
21 in Exhibits 20 and/or 21 are three or four of hundreds,
22 correct, if not over a thousand?

23 A Potentially yes.

24 Q Thank you.

1 MS. NORDVIG: Court's indulgence, Your Honor.
2 THE COURT: Yes.
3 MS. NORDVIG: May I approach?
4 THE COURT: You may.
5 MR. STEGE: Your Honor may I approach the bench?
6 THE COURT: Yes, both of you
7 MR. STEGE: This is hearsay.
8 THE COURT: I don't even though what you are doing.
9 MS. NORDVIG: That's text messages between Ms.
10 Medieros and her neighbor Joanne.
11 THE COURT: Why is it not hearsay?
12 MS. NORDVIG: Joanne will be testifying at this point.
13 MR. STEGE: I believe it will be hearsay.
14 THE COURT: Do you have any statements not hearsay?
15 But Ms. Medieros' statement may still be hearsay.
16 MS. NORDVIG: I am not going to ask for them to be
17 admitted, just identify.
18 THE COURT: Okay.
19 MS. NORDVIG: May I approach?
20 THE COURT: You may.
21 MS. NORDVIG: Thank you.
22 BY MS. NORDVIG:
23 Q Detective take a look at that. Do you know what it
24 is? Do you need it to be opened?

1 A They are photographs of text messages placed into
2 RPD evidence by detective Nevills of the Reno Police
3 Department.

4 Q And are they part of this investigation?

5 A Yes.

6 Q Would you recognize them if you saw the entries?

7 A I do not believe so. I did not author those photos
8 or take them.

9 MS. NORDVIG: Okay. May I approach?

10 THE COURT: You may.

11 MS. NORDVIG: We'll call detective Nevilles.

12 --There was a call -- May I approach Your Honor?

13 THE COURT: You may. With what?

14 MS. NORDVIG: Exhibit 20. Three pages.

15 THE COURT: Exhibit 20 is admitted.

16 MS. NORDVIG: It is already admitted.

17 BY MS. NORDVIG:

18 Q Showing you what has been marked and admitted as
19 Exhibit 20, would you turn to the back page, please? Are you
20 familiar with that?

21 A Yes. This is the portion of the victim's cellphone
22 data report.

23 Q And the bottom entry, call 28?

24 A Yes.

1 Q The duration is 1:36, correct?

2 A That is correct.

3 Q From this report, can you tell if the call was
4 answered or if it was answered by voicemail?

5 A On this one it is a outgoing call, so it is that
6 person making that phone call. It would not be on her report.

7 Q But you can't tell from that report?

8 A No.

9 Q Correct?

10 A No.

11 Q Thank you. The first clip, excuse me, the second
12 clip, clip number two is the clip where Mr. Pundyk has

13 something in his hand while he's meeting the other cat?

14 A Yes.

15 Q And you believe that to be a kitten; is that
16 correct?

17 A It appears to me to be a kitten.

18 Q Do you know the condition of that kitten?

19 A I do not.

20 Q But there was a kitten found at the scene, correct?

21 A There actually was not.

22 Q There was not?

23 A I am trying to go off memory. I do not believe we
24 captured any small kittens.

1 Q In clip three at the very end we see Mr. Pundyk with
2 what you describe to be bold cutter type tool, a bottle cutter
3 type tool; is that correct?

4 A That's correct.

5 Q Do you recall that?

6 A I recall that portion of the video.

7 Q Did you inspect the meter?

8 A I did not.

9 Q And it is your belief that they were able to recover
10 power a few hours later?

11 A I received information from other detectives that
12 were conducting interviews who said the power was restored by
13 I believe the neighbor.

14 Q So there was no service call to restore it?

15 A Not that I am aware of.

16 Q Okay. Clip 5, is clip 5-1 from the beginning
17 Mr. Pundyk walks out into the backyard. He has something in
18 his mouth. Do you know what that was?

19 A It appears to be a lint roller.

20 Q The kind with the adhesive on the roll, correct?

21 A Multiple layers.

22 Q Did you find that at the scene?

23 A I do not believe it was there. I did not note it.

24 Q We'll skip forward a little bit. Mr. Pundyk's

1 demonstrating some behavior. Do you know what it was?

2 A He's animated. It should be noted there is no audio
3 in this surveillance system, but it does appear he may be
4 verbalizing something.

5 Q He may be what?

6 A Verbalizing something just based on his movements.

7 Q Based upon his body actions we are seeing him kind
8 of punch at nothing right now; is that correct?

9 A At the shrubbery.

10 Q He just throws something. Did you see what that
11 was?

12 A It is a small tin container.

13 Q Tin container?

14 A Tin, metallic. I can't recall exactly what the
15 writing was on it. It was a tin container though.

16 Q We continue to see strange movements. He could be
17 picking up an imaginary cat or screaming like Tarzan or the
18 Hulk I guess?

19 A Yeah. The video kind of speaks for itself. I
20 couldn't comment as to what he's screaming at or what not.

21 Q But he's not standing there?

22 A No.

23 Q And there is no one else in at least the vicinity
24 that we can see at this point?

1 A That's correct.

2 Q He's not facing towards the street, front yard area.
3 He's facing towards the patio table, and it would be the east
4 side?

5 A Yes. It would be the far end east side of the
6 backyard.

7 Q This is just a different camera angle of about the
8 same time. I will go forward a little. Here he appears to be
9 talking to the cat; is that correct?

10 A The little cat. It's tough to see from this angle.

11 Q So this is yet a different angle, correct, at
12 approximately 3:05:31?

13 A Yes.

14 Q He's just gone inside and into the safe room,
15 correct?

16 A Yes, the spare bedroom.

17 Q It appears that he is dancing, for lack of a better
18 term, in the corner there?

19 A I would agree with that description.

20 Q So now we see him opening the safe. So it hadn't
21 been opened before that, correct?

22 A Not on the clips we have seen.

23 Q And so at this point he's has one of the weapons in
24 his hand?

1 A Correct.

2 Q He's gesturing with the other hand, correct?

3 A Yes.

4 Q At something we don't know. Would it be fair to say
5 that he is doing poses, military type poses with the firearm?

6 A Yes, it would be fair to say. I was not in the
7 military, so --

8 Q Neither was I. We see him doing a 180 degree turn
9 with the gun straight up and down in front of him, correct?

10 A Yes, we do.

11 Q We jump to camera 9 at 3:19 started about 12. It
12 would appear at 19 seconds he's at attention or some kind of
13 formal position; is that correct?

14 A That's correct.

15 Q He's just picked up that empty tin and threw it
16 somewhere; is that correct?

17 A Placed it in front of him at this point.

18 Q At 3:20:57 we see him walk towards the area that has
19 been described as behind the garage?

20 A That is correct.

21 Q And he's gone out of sight lines for the time being?

22 A Yes, he has.

23 Q Now we see him enter back in approximately 17
24 seconds. It looks like he's looking at the gun, holding it

1 up?

2 A That's correct.

3 Q Back at an attention-type position; is that correct?

4 A Yes.

5 Q Another attention type position doing some kind of
6 arm movements we would see a drill team do with the gun; is
7 that a fair description?

8 A That's a fair description, yes.

9 Q At this point, 56 seconds, it would appear his face
10 is moving like he's talking or yelling?

11 A It appears the shadow is changing at his jaw line
12 which would indicate his mouth is opening.

13 Q I believe you testified on direct there was no
14 evidence found in that area as far as shell casings or defects
15 of any kind?

16 A No. Again we didn't have the detailed view of the
17 cameras at the time of the search. If I would have had access
18 to that, I probably would have gone through these bushes a
19 little bit better, maybe cut them down to see if there was in
20 fact a casing.

21 Q But you didn't find anything, correct?

22 A No.

23 Q We'll move a little forward. So we see him on camera
24 14 at 3:43 starting with 06 at 9 seconds. He appears to put

1 something up to his face at 14 seconds. He puts on ear
2 protection, correct?

3 A That's correct.

4 Q And that would be consistent with ear protection you
5 would buy when you are at a target -- go to to a target range
6 or out target shooting?

7 A Just go shooting in general I would say. Those
8 appear to be that type of device.

9 Q Standard ear protection you can buy at Sheels or
10 Cabelas?

11 A Any supporting goods store.

12 Q Those were collected as well, correct?

13 A I believe so.

14 Q And we just skipped forward a little bit to a
15 different place 4:40:25. He's come back into the second
16 bedroom, still has the ear protection on his head, correct?

17 A That is correct.

18 Q And he still has, now he's at attention or doing
19 some other arm and leg movements; is that correct?

20 A Yes.

21 Q And acting, dancing, talking?

22 A Animated dancing.

23 Q And he continues that type behavior?

24 A In this clip, yes.

1 Q Yes. It would appear from the facial movements in
2 this clip that he is making some kind of verbal, besides the
3 dancing we are currently seeing at 50:28:29 it looks like he's
4 either making some kind of verbal statement, signing, yelling?

5 A That is a fair representation.

6 Q We are now at camera 9 I believe. So that is
7 outside in the backyard?

8 A That is correct.

9 Q It looks like he's bent over and doing some kind of
10 hand motion similar to what you would use to pet something?

11 A Yes, I would agree with that.

12 MR. STEGE: Argumentative...

13 THE COURT: Sustained.

14 BY MS. NORDVIG:

15 Q But nothing else is there?

16 A Not that you can see on the video.

17 Q Would it be fair to describe his movements at this
18 point as continuing can the behavior we saw earlier, the
19 dancing, the stopping and starting, strange arm movements?

20 A Similar behavior that we have seen.

21 Q And it appears he still has his ear protection one?

22 A Yes, it does.

23 Q And going forward again. Trying to go forward
24 again. We are at 56:20. He's not in range of this camera at

1 this point. Now we see him coming back in, but he's still
2 exhibiting behavior that he had before?

3 A Similar behavior as before.

4 Q With the waiving arms?

5 A That's correct.

6 Q It would appear he still has his ear protection on
7 correct?

8 A Appears they are on his head.

9 Q It is now 3:57, correct, and he's pointing the gun?

10 A That's correct.

11 Q Now were at 3:58:04 on camera 13 and you can see him
12 take his ear protection off?

13 A Yes.

14 Q Skipping over we see him at the front door, correct,
15 reading a magazine?

16 A Yes.

17 Q In all the shots, he gets outside to the street,
18 comes back with the magazine, correct?

19 A Yes. He goes out towards the street.

20 Q The front. We don't know exactly where he gets the
21 magazine, but we never see him touch the victim, correct?

22 A No.

23 Q When he's up on the hot tub and we can see his right
24 foot?

1 A I believe it is his right foot.

2 Q Would it be fair to say that he appears to be
3 kneeling?

4 A Kneeling or crouching.

5 Q But he's not standing up?

6 A Maybe not on his knees, but crouched position.

7 Q It would be fair to say he's not standing on two
8 feet like now?

9 A It does not appear that way.

10 Q So he would have to be lower than his normal height,
11 correct ?

12 A It appears that he is.

13 Q So page 16 of Exhibit 5 where you are holding up the
14 tarp?

15 A Uh-huh.

16 Q Is another photograph that probably is not relevant
17 in this case?

18 A We did a series of them both in a crouched
19 position --

20 Q Various positions?

21 A Yes.

22 Q The milk can, you didn't take a picture of the top
23 of it that I am aware of from looking down at it; is that
24 correct?

1 A I believe there is a photo that shows the top. It
2 is probably not direct, but you can see.

3 Q Were there any footprints on it?

4 A Not that I noted.

5 Q But you would have had it been important?

6 A If I would have seen them.

7 Q Okay. And later after the negotiation team comes in
8 and sets up at approximately 4:34:16, we see a phone fly over
9 the fence, correct?

10 A I don't believe it flies over the fence. It comes
11 from Mr. Pundyk.

12 Q Okay. Was that -- Do we know what phone that was?

13 A My belief is it was his phone.

14 Q So we don't know?

15 A In later videos he picks it up, his own phone, and
16 places it where I later locate his phone.

17 Q So is the other phone tossed over shortly
18 thereafter, the negotiating phone?

19 A To my knowledge, we did not toss a phone to him.

20 THE COURT: Is this a good place to stop?

21 MS. NORDVIG: Probably.

22 THE COURT: Okay. We will stop for the lunch hour.

23 Ladies and gentlemen of the jury, I am going to let
24 you go to lunch. You will be back at 1:30 today. Try to get

1 back a few minutes before 1:30 because we don't always start
2 doing the things we need to do until you are all hear. If you
3 are here a little bit early, we can probably get in the
4 courtroom by 1:30. Otherwise, we'll be a few minutes after
5 that. But have your lunch hour and come back here.

6 During this break, it is your duty not to discuss
7 among yourselves or with anyone else including members of your
8 family, friends co-workers or people involved in the trial any
9 matter having to do with this case. This includes discussing
10 the case or anything to do with parties, attorneys, verbally,
11 in person, by phone, in writing or on the Internet, through
12 any Internet features such as chat rooms, blogs, bulletin
13 board, text messaging, websites or any other electronic method
14 of communicating with others.

15 It is your further duty not to form or express any
16 opinion concerning the guilt or innocence of this defendant
17 until this case is finally submitted to you for decision.

18 You are not to read, look at or listen to any news
19 media account or any other account or commentary including any
20 Online information about the trial or anyone or thing
21 associated with it. You will be required to decide all
22 questions of fact in this case from the evidence received in
23 the trial and not from any other source.

24 Do not make any independent investigation into or

1 about the case or the subject matter of the case. This means
2 for example that you must not do any research such as
3 consulting dictionaries, searching the Internet, other
4 reference material.

5 You may not visit the scene or conduct experiments.
6 Should any person attempt to discuss it with you or in any
7 manner influence you, report it to the bailiff immediately.

8 Go ahead, go out and enjoy your lunch. I will see
9 you back at 1:30.

10 Please be seated. Counsel, do you have anything for
11 the Court?

12 MR. STEGE: Loosely we have a witness issue.
13 Detective Millsap and detective Blas were up all night, so I
14 am going to try to maybe push through the end of the day, get
15 detective Millsap off the stand and then I might get to a
16 point I am going to ask to break early so detective Blas can
17 be called tomorrow. I am not certain I can do that. I
18 want the court to be aware of that.

19 THE COURT: Have you told me who is going to be
20 called today?

21 MR. SEGE: I don't think so.

22 THE COURT: You just told me detective Millsap. What
23 about Mr. Johnson? Have decided you are not going to use
24 Mr. Johnson? That was on your list for Tuesday.

1 MR. STEGE: It is Ms. Johnson.

2 THE COURT: Oh, Ms. Johnson.

3 MR. STEGE: Yes.

4 THE COURT: So you have detective Millsap. Who is
5 the other detective?

6 MR. STEGE: Blas. He's going to take some time.

7 THE COURT: Do you have anybody else?

8 MR. STEGE: Yeah. My plan this afternoon would be
9 finish up Millsap, Monica Siewertsen from the lab, Mr. Bell
10 from the Crime Lab. I am going to try to get to Steve Shinmei
11 from the lab. Then from there we'll see. Either Toni Olsen or
12 it will be to the point of Pat Blas.

13 THE COURT: Okay. All right. We'll see what we can
14 do. Remember tomorrow morning. We'll see you at 1:30.
15 Court's in recess?

16 (Whereupon the Court adjourned for the noon recess.)

17 THE COURT: Counsel, will you stipulate to the
18 presence of the jury?

19 MR. STEGE: Yes:

20 MS. NORDVIG: Yes, Your Honor.

21 THE COURT: You may continue your inquiry.

22 MS. NORDVIG: Thank you, Your Honor.

23 BY MS. NORDVIG:

24 Q Officer, when we left off at this time was when you

1 were discussing Raven flying overhead.

2 A When I left off with Mr. Stege, yes. I don't believe
3 we had gotten to that point.

4 Q We were just getting to Raven. We were talking
5 about the telephones?

6 A Yes, ma'am.

7 Q And though that would have been approximately 4:20,
8 4:35?

9 A I believe it was somewhere around that time.

10 MS. NORDVIG: Court's indulgence.

11 THE COURT: Yes.

12 MS. NORDVIG: Thank you.

13 BY MS. NORDVIG:

14 Q And you testified on direct that the Reno Police
15 Department started responding or the first car started
16 responding at 4:11?

17 A I believe that's generally --

18 Q Close?

19 A -- where we first started responding.

20 Q I have skipped forward we see Mr. Pundyk on the
21 telephone. This is clip six at approximately 4:35:39,40; is
22 that correct?

23 A That is correct.

24 Q And at that point that matches up with his telephone

1 call to the hostage negotiator?

2 A The incoming call to his phone number, yes.

3 Q We see him walking, correct, or standing?

4 A Yes. He is moving about the yard.

5 Q Okay. Do you recall if you ever see him running

6 during this part of the tape?

7 A I don't believe so.

8 Q Or during the phone conversation?

9 A I do not believe so.

10 Q Do we ever see him running on this tape?

11 A Not from my recollection.

12 Q You have been present at negotiation calls prior to

13 this one, haven't you?

14 A Yes, I have.

15 Q Is it standard protocol for the negotiator to

16 request the person that you are trying to get out to have them

17 raise their arms in the air?

18 A Each situation is different, but that is a likely

19 request we would ask for.

20 Q Were you present for this one?

21 A No, I was not.

22 Q Did you hear anything over the radio regarding that?

23 A Not that I recall. I remember hearing they had made

24 contact with Mr. Pundyk via cellphone and that he had had a

1 short conversation, set the phone down and left the line open.

2 Q Okay. And so this is camera 9 at 4:40:15 and we see
3 him with his hands up, correct?

4 A That's correct.

5 Q And he's looking up towards the sky?

6 A Yes, he is.

7 Q And he stays in that position how long, do you know?

8 A I don't know off the top of my memory. I believe it
9 is several minutes.

10 Q So his arms went up about 4:40 and they are still up
11 in the air at 4:52:30?

12 A Yes.

13 Q And he finally dropped them?

14 A Yes.

15 Q And then they go back up again, correct?

16 A I believe at some point he does.

17 Q So there he walks back to the same place he was and
18 goes back into arms up?

19 A That's correct.

20 Q Now he's down on his knees, correct?

21 A Yes.

22 Q Or one knee I guess and up and now back down, I
23 believe camera 9, 4:54. And he continues in this position for
24 another few minutes, correct?

1 A Yes.

2 Q Then he's out of camera range for a while and the
3 tape skips ahead 20 minutes or so. So he's still standing?

4 A The time has gone backwards. Now it is just a
5 different angle.

6 Q Now we see the SWAT team coming in and doing their
7 initial assessment. And we eventually see Mr. Pundyk on the
8 ground in the backyard? There he is?

9 A Yes.

10 Q And that is with SWAT officer all around him?

11 A Yeah, culmination of SWAT officers.

12 Q And RPD?

13 A Medics and it looks like a K-9 officer.

14 Q And he has been carried to this position by officers
15 earlier?

16 A I believe that is what we saw earlier.

17 Q But he didn't appear to be agitated?

18 A There didn't appear to be a struggle.

19 Q Thank you. Would this be the period of time where he
20 would be checked by the team medic, initial check?

21 A Likely. Again, I was not there so I cannot say for
22 sure.

23 Q Okay. At any time during any of these clips, do you
24 recall seeing Mr. Pundyk on the shed?

1 A Did you say on the shed?

2 Q On the shed?

3 A No.

4 Q Did you have any direct contact with Mr. Pundyk?

5 A I did not.

6 MS. NORDVIG: Thank you. Nothing further.

7 THE COURT: Counsel.

8 MR. STEGE: Yes.

9

10 REDIRECT EXAMINATION

11 BY MR. STEGE:

12 Q As to this issue of the diagram, you were shown the
13 diagram that starts at page 2?

14 A Yes.

15 Q Do you remember that portion of your cross?

16 A Yes.

17 Q Do you know what is on page 1?

18 A It is typically a synopsis of why the Crime Lab was
19 called out and what they are tasked with.

20 Q First page of the report saying I did a diagram
21 which is attached here or continues after page 1?

22 A Yes.

23 Q Let's talk about the phones, the issue of the
24 phones. You have examined phones before this case?

1 A Yes, I have.

2 Q And since this case?

3 A Yes.

4 Q You have special training and experience in that?

5 A Yes, I do.

6 Q And you have attended for examples trainings on how
7 to do it?

8 A Yes. I am a certified technician in the equipment I
9 use.

10 Q And on at least weekly, if not daily basis --

11 MS. NORDVIG: Your Honor, I object. The telephone
12 information has already come in. It is beyond the scope of
13 cross?

14 THE COURT: Where re you going with this?

15 MR. STEGE: The question is about whether this was a
16 voicemail call or actual call.

17 THE COURT: I WILL allow to you ask that question.
18 Overruled.

19 BY MR. STEGE:

20 Q Is it true at least on a weekly basis you are doing
21 forensic phone examinations?

22 A Basically, yes.

23 Q For how many years have you been doing that?

24 A Approximately eight years.

1 MR. NORDVIG: We'll stipulate to his qualifications.
2 We have already done that.

3 THE COURT: Thank you.

4 BY MR. STEGE:

5 Q Based on your expertise and experience in this area,
6 do you have an opinion whether as to the I believe 1:37 or 38
7 second call between the defendant's phone and the victim's is
8 a call or a voice mail?

9 A Based on both extractions, looking at the outgoing
10 calls and incoming calls, I concluded it is a made phone call
11 not a voicemail.

12 Q If it were a voicemail you would see something else?

13 A On Mr. Pundyk's phone it would indicate to be placed
14 in the right folder if you will that it was a voicemail,
15 missed call as opposed to an answered call.

16 Q Incoming. Okay. Very good. Does the certainty of
17 that conclusion increase because you have both phones?

18 A Yes, it does.

19 Q Were you asked if-- Let's talk about the dead cats.
20 You have three dead cats inside the house?

21 A There were three inside the living room portion.

22 Q And did they appear to have been shot?

23 A Yes, they did to me.

24 Q Did they appear to have been shot recently?

1 A Yes.

2 Q Were there also shell cases in the area where you
3 would expect them to be around shot to death cats?

4 A Yes.

5 Q In the backyard sort of the cat structure there was
6 a dead cat?

7 A Yes, there was.

8 Q Was there evidence that they had been shot to death?

9 A Yes. There appeared -- It appeared to have been
10 shot.

11 Q Were there shell casings consistent with that cat
12 having been shot to death?

13 A Yes, in that area.

14 Q And the video appearing to show them having been
15 shot to death?

16 A Yes.

17 Q Th cat on the hot water or on the hot tub appears to
18 be shot to death?

19 A It was shot. It scurries off into the bushes. We
20 never could determine where it ended up. We never found the
21 carcass of that cat.

22 Q Conclusively it was shot based on the video?

23 A Yes.

24 Q All of those shooting from the defendant shooting at

1 actual things, right?

2 A Yes.

3 Q And this area behind the garage where we see him
4 with the AR-15, you did look there?

5 A Yes.

6 Q Was there evidence of a cat having been shot to
7 death?

8 A No.

9 Q In fact, can you even tell on the video if he is
10 shooting?

11 A No you cannot.

12 Q No shell casings on there?

13 A No.

14 Q Is everything he's shooting real stuff?

15 A It appears.

16 Q Now you were asked I guess to infer the military
17 type behavior, sort of infer what is in his mind. You were
18 asked to infer that the movements might be dancing. Remember
19 that portion of your testimony?

20 A Yes.

21 Q As well as the striking or punching out at the
22 trees?

23 A Yes.

24 Q As you viewed it, in addition to that, we also have,

1 would you agree, at least from observation, behavior that
2 seems to be either of those, right? He's not flailing in the
3 air, he's not military type stuff if we accept the military
4 type stuff. There are moments when none of that is being
5 present, right.

6 A Yes.

7 Q As to the portion where he kills his mother, did you
8 see any of those? Which of those did you see?

9 A As it appears his attention is drawn towards that
10 fence. He brings the rifle up in an aiming style and appears
11 to go towards that towards his mother.

12 Q You were asked at some point, like we see him, the
13 back or the top of the video or in the room with the safe
14 moving his mouth?

15 A Yes.

16 Q Would you agree we also see him moving his mouth,
17 appearing to speak just before killing his mother?

18 A Yes.

19 Q Of those things you were asked, do you thin you are
20 the best person to say what is in the defendant's mind?

21 A Absolutely not.

22 Q Did you ever see, along those lines, let's go down
23 it anyway, do you see fear?

24 MS. NORDVIG: Objection. Calls for speculation and

1 conclusion this detective is not qualified to render.

2 MR. STEGE: That's been most of their cross asking
3 him to speculate about his mindset. It goes to the heart of
4 the issue.

5 MS. NORDVIG: We asked him to describe behavior not
6 speculate.

7 THE COURT: I think there was some speculation
8 requested. You didn't object. I am going to sustain the
9 objection.

10 BY MR. STEGE:

11 Q After shooting, do you ever see the defendant take
12 the rifle out front to where the body is of his mother?

13 A No.

14 Q Let's go -- Would you agree with me that at clip
15 five at 3:57:24 is the time stamp, 29 minutes 18 seconds on
16 this clip, agree with me that this is a good portion of the
17 video to determine whether the ear protection was on the
18 defendant's ears?

19 A From this photo, yes, it still appears they are off
20 his ear.

21 Q As well as this portion is a good portion would you
22 agree to determine if he's in fact yelling or speaking?

23 A Yes. It appears that he is opening his mouth
24 possibly saying something.

1 Q Would you agree that forwarding it a few second,
2 3:57:39 is a good portion to determine whether the defendant
3 was standing, kneeling or crouching?

4 A Yes.

5 Q Do you still agree with that, this is a good portion
6 of the video clip to determine if he was kneeling or standing?

7 A Yes, I'd agree.

8 Q Having just seen it, which does it appear?

9 A That he is kneeling in some type of position with I
10 believe it was his left leg that we could see.

11 Q The position does change, would you agree with that?

12 A It does change.

13 Q Is that what you just saw as to the issue of what it
14 is that we see as it relates to the defendant going up to the
15 body of his mother?

16 A You can see him start to bend down towards where I
17 believe the body was at the time before she was moved.

18 Q Is that where -- Is that consistent with the blood
19 on the floor?

20 A It is.

21 Q Let's get to that. So that would be this section
22 here at four. This portion 4:04:50, is that what you are
23 referring to?

24 A That is the one I was referring to.

1 Q Let's play that out. As to this usual of -- Well,
2 you spent some time on the helicopter being overhead and the
3 surrender?

4 A Yes.

5 Q Based on your understanding of the case, there is an
6 actual helicopter and he's actually surrendering to it?

7 A Yes, from what I know from the case.

8 Q Not putting his hands up because he's seeing
9 something else?

10 A No.

11 Q The issue of the guns being out, do whenever see the
12 shotgun being taken out of the safe?

13 A No, I don't believe so.

14 Q And on the scene, where was the case for the
15 shotgun?

16 A It was in the master bedroom.

17 Q So no surveillance in there?

18 A Correct.

19 MR. STEGE: Nothing further from the witness.

20 Thanks.

21 THE COURT: Okay. Anything further?

22 MS. NORDVIG: Briefly, Your Honor. Thank you.

23 ///

24 ///

1 with his hands up staring at the sky, correct?

2 A Yes, it does.

3 Q Raven happened to be up there, correct?

4 MR. STEGE: Argumentative.

5 THE COURT: Where are we going with? I think we
6 established Raven was up there.

7 MS. NORDVIG: Okay.

8 BY MS. NORDVIG:

9 Q But we can't get inside Mr. Pundyk's head, can we?

10 A I cannot.

11 Q Mr. Stege asked you about the shotgun. Do we know
12 that it was ever in the safe?

13 A Not from the surveillance that we've seen.

14 MS. NORDVIG: Thank. Nothing further.

15 THE COURT: Anything further?

16 MR. STEGE: No.

17 THE COURT: May this witness be excused?

18 MR. STEGE: I would like to reserve him, please.

19 THE COURT: You may step down. You are reserved.

20 MS. NORDVIG: Just to make it clear, he can leave
21 the building and just check in later.

22 THE COURT: Absolutely. He knows.

23 Call your next witness.

24 MR. STEGE: Monica Siewertsen, please,

1 THE COURT: You may proceed.

2

3 MONICA SIEWERTSEN

4 called as a witness, having been first duly sworn,

5 took the witness stand and testified as follows:

6

7 DIRECT EXAMINATION

8 BY MR. STEGE:

9 Q Ma'am, please state said spell your name?

10 A Monday Siewertsen. M-O-N-I-C-A.

11 S-I-E-W-E-R-T-S-E-N.

12 Q Are you employed?

13 A I am currently employed as a criminalist with the
14 Washoe County Sheriff's Office Forensic Science Division in
15 the biology and chemistry unit.

16 Q What work is done in the biology and chemistry
17 section?

18 A The purpose of that is to receive items of evidence
19 that have been submitted for examination for a particular
20 investigation to attempt to identify a biological material.
21 When I say biological material, I mean potentially blood,
22 semen, saliva and to take a portion of that material and to
23 performed DNA typing analysis in an attempt to determine who
24 that biological material may have come from.

1 Q And do you have training in this field?

2 A I do.

3 MS. NORDVIG: Your Honor, we will stipulate this
4 witness has credentials.

5 THE COURT: Okay. That stipulation will be
6 accepted.

7 MR. STEGE: Okay.

8 BY MR. STEGE:

9 Q How long have you been doing this type of work?

10 A Molecular biologist work almost thirty years.
11 Forensic work over twenty years.

12 Q In this case were you asked to analyze a blood swab
13 identified as having been taken from the front door in this
14 case?

15 A Yes.

16 Q Walk is through that procedure, please?

17 A Yes. I received the item of evidence and looked at
18 it for staining. There was red-brown staining. I performed a
19 presumptive testing which is a quick test to help determine
20 whether the material indeed would be blood. If I obtain a
21 positive result, then it is something I might want to continue
22 analyzing. If I obtain a negative result, that indicates it is
23 not possibly blood and I wouldn't pursue it. In this instance
24 I also performed a second test to demonstrate it was

1 indicative of human blood as opposed to animal blood. I then
2 took a portion of those swabs and performed DNA type analysis
3 on it.

4 Q It was human blood?

5 A It was human blood, yes.

6 Q What was the next thing?

7 A I received reference samples in this particular
8 instance from two individuals, and I removed a portion of each
9 of those reference samples. I performed DNA type analysis.

10 Q The reference samples were identified having come
11 from Delphina Medieros and Edward Pundyk?

12 A That's correct.

13 Q What were your results of comparing?

14 A Comparing the DNA typing profile obtained from
15 Delphina Medieros, the profile matched the DNA typing profile
16 obtained from the red-brown staining on the swab. The
17 estimated frequency of occurrence of that particular match was
18 approximately one in 320.2 quadrillion individuals. Based on
19 that result, Delphina Medieros can be the source of that
20 biological material.

21 Q The blood on the door is Delphina Medieros' blood?

22 A Yes.

23 MR. STEGE: Thank you, pass the witness.

24 MS. NORDVIG: No questions, Your Honor.

1 THE COURT: Thank you, ma'am. You may step down.
2 You are excused.

3 (Witness excused.)

4 THE COURT: Call your next witness.

5 MR. STEGE: Mr. Bell, please.
6
7

8 RICHARD G. BELL
9 called as a witness, having been first duly sworn,
10 took the witness stand and testified as follows:
11

12 DIRECT EXAMINATION

13 BY MR. STEGE:

14 Q Sir, please state and spell your name?

15 A Richard G. Bell. B-E-L-L.

16 Q How are you employed?

17 A I am a criminalist at the Washoe County Sheriff's
18 Office Forensic Science Division in the toxicology section.

19 Q What does a toxicology section do?

20 A We perform testing for alcohol and drugs, blood and
21 urine, other body fluids and then also provide testimony in
22 relation to the results that are found.

23 Q How long have you been doing this work?

24 MS. NORDVIG: Your Honor, we'll stipulate to

1 Mr. Bell's credentials as well. I have known him for a very
2 long time.

3 THE COURT: Counsel?

4 MR. STEGE: That will make it faster.

5 THE COURT: The Court will accept him as an expert
6 in testing chemical substances. You may proceed.

7 BY MR. STEGE:

8 Q How long have you been doing it?

9 A For almost nine years.

10 Q And in this case, were you asked to analyze a blood
11 sample identified as having been taken from the defendant,
12 Edward Pundyke?

13 A Yes.

14 Q Please describe that testing?

15 A The testing for alcohol is using a technique called
16 head space gas chromatograph. We also did testing for the
17 presence of drugs using a variety of techniques. The screening
18 procedures that are used to determine the presence or absence
19 of many drugs and drug classes.

20 Q Let's talk about the alcohol one first. What was
21 the results of the testing for alcohol?

22 A It was none detected.

23 Q The panel that you ran for drugs, tell us about that
24 panel?

1 A We did a panel that included a class of drugs,
2 benzodiazepines. That class of drugs includes things like
3 Valium if you are familiar with that. We found a positive
4 result for the benzodiazepine screen.

5 Q Was that subject to further analysis to determine
6 the quantity of benzodiazepine?

7 A Yes, it was.

8 Q What was the result of that?

9 A Diazepam -- May I refer to my notes.

10 Q Yes, please.

11 A Nordiazepam consisting of 27 nanograms per
12 milliliter plus or minus five nanograms per milliliter.

13 Q Is that within the therapeutic range?

14 A The therapeutic range varies widely depending on the
15 intended use of the drug and what its purpose would be. But
16 this level is a very low level, below therapeutic ranges.

17 Q You and I know therapeutic range. What is the
18 therapeutic range?

19 A The concentration of the drug that would be desired
20 to achieve a certain effect of that drug. So when a physician
21 writes a prescription, he will specify a dosage of that drug
22 in an attempt to achieve a certain level of that drug in the
23 bloodstream. The therapeutic range is the range of that
24 concentration that would achieve the desired effect.

1 Q As a general rule or general guideline, what are the
2 general effects of benzodiazepine?

3 A It is a central nervous system depressant, kind of
4 like alcohol, so it slows down brain function.

5 Q I asked about a panel. What was in the panel. What
6 is a panel? What do we mean when we say you ran a certain
7 panel?

8 A The panel just includes a series of drugs for
9 different drugs in a class and drug classes, so we screen for
10 a wide variety of compounds using multiple panels.

11 Q As you sit here today, do you know what is on the
12 panel that the lab runs?

13 A I do know them. It would be easier for me to read
14 them from the report so I can be sure to capture all of them.

15 Q Please do so?

16 A Okay. We screen for the benzodiazepines which we
17 already discussed. Also amphetamine. Barbiturates.
18 Carisoprodol, cocaine, fentanyl, Methadone, methamphetamine,
19 opiates oxycodone, marijuana or THC metabolite and sulfadin.

20 Q The result from running screens or testing for all
21 those was what?

22 A Was all negative.

23 Q Had one of those been in the blood sample of
24 Mr. Pundyk, you would expect to find it in forensic testing?

1 A Yes.

2 Q In addition, was this blood sent out to an outside
3 lab?

4 A Yes, it was.

5 Q To run a more expanded panel?

6 A That's correct.

7 Q Because this outside lab has very big panels?

8 A Yes.

9 Q The results reported back was nothing in addition to
10 what you had found, benzodiazepine?

11 A That's correct.

12 MR. STEGE: Thank you. Pass the witness. Thank you.

13 THE COURT: You may inquire.

14 MS. NORDVIG: Thank you.

15

16 CROSS-EXAMINATION

17 BY MS. NORDVIG:

18 Q I just have one or two questions. You said that the
19 initial test came back as a low level for nordiazepam?

20 A The confirmatory test came back as a low level.

21 Q Thank you. Below the therapeutic level?

22 A Yes.

23 Q And do you understand the dissipation rate of that
24 drug?

1 A It has a wide range. It is what is called a half
2 life. That is the time it takes for one-half of the drug to
3 be eliminated from the bloodstream. And for nordiazepam it is
4 31 to 97 hours so it is over several days.

5 Q So would it be fair to say this was late in the life
6 span of this dosage, the half life?

7 A I can't say with certainty because it would depend
8 on how much of the drug the individual took. Are they a
9 frequent user, a one time user. So that can affect what that
10 blood level would be. Typically this would have been several
11 days, most likely, since the drug was used.

12 MS. NORDVIG: Thank you. Nothing further.

13 MR. STEGE: No redirect. Thank you.

14 THE COURT: Thank you. May this witness be excused?

15 MR. STEGE: Yes.

16 MS. NORDVIG: Yes.

17 THE COURT: You may step down.

18 (Witness excused.)

19 THE COURT: Call your next witness.

20 MR. STEGE: Detective Lawson did not get here, Your
21 Honor.

22 THE COURT: All right. Ladies and gentlemen of the
23 jury, go ahead and go into the jury room for a short recess.

24 During this break, do not discuss the case among

1 yourselves or with anyone else. Do not allow anyone to speak
2 of the case with you or in any manner attempt to influence you
3 in regard to it. Should any person attempt to do so, please
4 notify the bailiff immediately before coming back in the
5 courtroom. Go ahead and go into the injury.

6 (Whereupon the jury left the courtroom.)

7 THE COURT: I kind of looked at you funny because I
8 thought you said Toni Olsen was going to be a witness also.

9 MR. STEGE: She is potential, yes.

10 THE COURT: But she's not here?

11 MR. STEGE: She's not here.

12 MR. STEGE: She's was also on this OIS from last
13 night. My preference would be to do Olsen just before Knight
14 which I want to do last. I want to finish with Olsen. If we
15 can get Blas who I was told when Ms. Siewertsen took the stand
16 is on his way. I have we get far enough, it would be Nevills.

17 THE COURT: What is the nature of Blas' testimony?

18 MR. STEGE: He interviewed the defendant.

19 THE COURT: Okay. So you want to do Olsen and Knight
20 after that?

21 MR. STEGE: Yes.

22 THE COURT: And didn't you tell me yesterday the
23 interviews were quite lengthy?

24 MR. STEGE: Yes.

1 THE COURT: Then did you have someone else,
2 Shaddock?

3 MR. STEGE: Shinmei. Steve Shinmei. In my trial memo
4 he's not available until tomorrow or the next day.

5 THE COURT: Which one --

6 MR. STEGE: Jim, Shinmei. Both.

7 THE COURT: He's available or he isn't available.

8 MR. STEGE: His only other availability is tomorrow
9 or the next day.

10 THE COURT: Who do you have on for tomorrow?

11 MR. STEGE: I think the testimony will be the
12 remainder of detective Blas, then I could go to Steve Shinmei.
13 Detective Nevills is also available tomorrow. Then I would go
14 Olsen, Knight if we get that far.

15 THE COURT: They are available tomorrow?

16 MR. STEGE: Yes.

17 THE COURT: Okay. Then who else do you have?

18 MR. STEGE: I will rest my case after Dr. Knight I
19 anticipate.

20 THE COURT: Okay. You have witnesses standing by for
21 Friday afternoon, Ms. Nordvig?

22 MS. NORDVIG: We are working on it. I have one I
23 thought would take a while. They are not able to be here. I
24 was surprised at lunch. So my investigator is working on it

1 right now. I will have some. I will make sure I have some
2 available for Friday afternoon even if we take people out of
3 order.

4 THE COURT: Whatever. Just let me know what is
5 going on. I would like to be able to let the jury know as
6 soon as I can.

7 MS. NORDVIG: I will do my best to have an answer
8 for you as soon as possible.

9 THE COURT: We'll be in recess while we wait.

10 MR. STEGE: He's here.

11 THE COURT: Oh, he's here?

12 I think it is best if we let the jury-- It is 2:15.
13 I can't go to 5:00, but if we took a break now they are
14 already in, if we come back on the record around 2:30, I get
15 closer to 5:00.

16 MR. STEGE: Okay. Go straight through 2:30 to 5:00.

17 THE COURT: Well, if we come back on the record now
18 we can't go through till 5:00. Do you have the ability to
19 break it up?

20 MR. STEGE: Not naturally, but if we are going to
21 have to, I accept that.

22 THE COURT: Well let's bring them back in now if the
23 jury is available. Let's see if the jury has gotten so they
24 can come back in. If they can, we'll have them come back in

1 and go for a while, then take a break. Bring them in.

2 Counsel, will you stipulate to the presence of the
3 jury?

4 MR. STEGE: Yes, I will.

5 MS. NORDVIG: Yes, Your Honor.

6 THE COURT: Thank you. Please be seated. Call your
7 next witness.

8 MR. STEGE: Pat Blas.

9 THE WITNESS: Good afternoon, Your Honor?

10 THE COURT: Good afternoon you may proceed.

11

12 PATRICK BLAS

13 called as a witness, having been first duly sworn,

14 took the witness stand and testified as follows:

15

16 DIRECT EXAMINATION

17 Q Please state and spell your name?

18 A My name is Patrick Blas. First of P-A-T-R-I-C-K.

19 Last of Blas, B-L-A-S.

20 Q You are a detective with the Reno Police Department?

21 A Yes, I am.

22 Q How long have you been a detective?

23 A Approximately six years.

24 Q And what part of RPD do you work in?

1 A Currently assigned as a detective to the Reno Police
2 Department robbery-homicide unit.

3 Q What was your role in this case against Mr. Pundyk?

4 A I was assigned as the lead investigator in the case.

5 Q What did that entail?

6 A From the initial call and conducting the
7 investigation into this case, being assigned as the lead
8 investigator, it is my assignment, my responsibility to
9 conduct the investigation as well as direct any other
10 detectives or seek assistance or resources to help me conduct
11 the investigation.

12 Q When the call came out, did you end up having any
13 role at the scene before Mr. Pundyk was taken into custody?

14 A No, I did not.

15 Q Were you at the scene when Mr. Pundyk was taken into
16 custody?

17 A Yes, I was.

18 Q What happened? Did you have -- Did you talk to him
19 there or anything like that?

20 A Yes. Once the scene had been secured and I had a
21 chance to meet with Mr. Pundyk, I introduced myself to him. I
22 asked him his name, just to talk with him, and I asked him if
23 he would be willing to talk to me and conduct a formal
24 interview.

1 Q How did that conversation go?

2 A He agreed, and he was transported down to the RPD
3 main station. I was able to follow and meet with him.

4 Q When you asked him his name, did he say his name?

5 A Yes, he did.

6 Q And once at the police station, who conducted the
7 interview of Mr. Pundyk?

8 A I conducted the interview with Mr. Pundyk along with
9 detective Dave Nevills.

10 Q That occurred at the police station?

11 A Yes, it did.

12 Q That room, is that audio and video recorded?

13 A Yes, it is.

14 Q Prior to start of this case, did you review a CD of
15 the recording of Mr. Pundyk's interview?

16 A Yes, I did.

17 MR. STEGE: May I approach the witness?

18 THE COURT: You may.

19 BY MR. STEGE:

20 Q Handing you 24, Exhibit 24-a which is proposed at
21 this point. Do you recognize that?

22 A Yes, I do.

23 Q How do you recognize it?

24 A It is a copy of the disk that contains the full

1 length interview that I conducted with Mr. Pundyk along with
2 detective Nevills.

3 Q And after reviewing that, did you place your
4 initials on it?

5 A Yes, I did.

6 Q To indicate it is a true and accurate depiction of
7 the original?

8 A Yes, I did.

9 MR. STEGE: Move in this exhibit.

10 MS. NORDVIG: No objection.

11 THE COURT: 24-a is admitted.

12 (Exhibit 24-a admitted in evidence.)

13 MR. STEGE: May I publish this Exhibit?

14 THE COURT: You may.

15 BY MR. STEGE:

16 Q Can you see that okay? What are we seeing here?

17 A This is Mr. Pundyk along with officer Tyler Clark.
18 I can see, I believe that is officer now detective Jeff White.

19 Q Who is this gentleman here?

20 A That is officer Dan Knight. Now that I see the
21 face, corrections on the other officer with the black hat
22 appears to be officer Kyle Meseberg.

23 Q So this interview is lengthy isn't it?

24 A Yes, it is.

1 Q And to the extent we can, I may skip over some parts
2 but let's keep going for now?

3 Q If we can, let's go to --

4 THE COURT: If you are going to stop it, Mr. Stege,
5 make sure you note where you are stoping it and where you are
6 going forward to.

7 MR. STEGE: Yes. Yes, Your Honor.

8 BY MR. STEGE:

9 Q Let's attempt to move here from, wait until it is
10 exactly five minutes. Let's try to go to about ten minutes.
11 9:49 we'll start at. I will go from 10:30 to 14:27. What is he
12 referring to there--when he says he likes the way that looks?

13 A There is a vent that allows air to flow from the
14 hallway into the room.

15 Q Why did you take this tactic or this approach to the
16 interviewing asking about his morning or his day?

17 A I wanted him to try and recall his day. Obviously,
18 I was also trying to carry a conversation on with him so I
19 could ascertain if he would be able to answer questions, if he
20 could understand what I was asking him and he would be able to
21 articulate himself. It appeared to me he was able to, was
22 able to answer some questions and indicated to me he
23 understood some of the statements I was making or questions I
24 was asking.

1 Q You gave him his Miranda warnings?

2 A Yes.

3 Q That is something you were looking through the
4 warning to see if he understood?

5 A Yes.

6 Q In fact you asked him if he understood?

7 A Yes. I asked him twice.

8 Q For the record we stopped at 19:14. I am pausing at
9 22:23. What is your thinking up to this point?

10 A I continued with the interview and continued to ask
11 him questions. One of the things that I noticed was he did
12 not want to make eye contact with me which indicated to me
13 that he was having a hard time me asking him questions, and he
14 was uncomfortable, which, in my experience, is common when
15 people are having a hard time discussing an issue or talking
16 about something during an interview. In this particular case,
17 given the circumstances of the violent and traumatic event
18 that had just occurred literally within minutes or almost an
19 hour prior to this, I wanted to just talk to him and kind of
20 give him a chance to decompress and at the same time try to
21 talk with him and get a better understanding of where he was
22 at and what happened up at the incident. So I decided that I
23 would continue just to try to talk to him, establish a rapport
24 with him, try to get a better understanding of where he was at

1 in terms of the interview and in terms of his mood or his
2 willingness to cooperate and to talk with me. And as long as
3 he was willing to talk to me, and he was willing to answer my
4 questions, I would continue the interview.

5 Q Is it fair to state you have been in an interview
6 before with people who don't want to tell you what they know?

7 A Yes.

8 Q That is part of that avoiding eye contact?

9 A Yes.

10 Q Let's continue. Is it fair to say this sort of goes
11 along for a while, this sort of not really answering?

12 A Yes. Yes, it continues. One of the things that I did
13 notice was when I would ask or I would hint towards what his
14 day was or what had happened that specific date, that is when
15 he would kind of look off and not make eye contact. And he
16 used the phrase "Let me think about that for a while," quite
17 often. And it almost, it appeared to me he was trying to
18 search for an answer, figure out how he wanted to answer that
19 question. However, when we talked about certain things that
20 didn't directly relate to the actions of that day or what he
21 had done that day, like when we talked about the boat or
22 talked about fishing spots, certain specific things that he,
23 from what I could interpret, it wasn't directly associated to
24 what happened earlier, he would look at us. He would talk and

1 he would kind of engage in the conversation a little bit more.
2 It was that constant back and forth, back and forth. It is
3 hard to see, however one of the other things I did notice was
4 when I would ask him about his day and to describe what
5 happened that day, there was a point where he kind of looked
6 up and it was apparent to me he was trying to recollect, and
7 he almost started to become emotional like he didn't really
8 want to think about it or talk about it.

9 Q We are at 25:17. We'll try to go near 32. Let's try
10 31:38. Let's pick up there. Pause at 35:24. Up until this
11 point, we have had multiple instances of Pundyk searching for
12 an answer?

13 A Yes.

14 Q Now being in the room with him like sitting across
15 from him, was it your impression that he was really searching
16 for it or--

17 MS. NORDVIG: Objection. Leading?

18 THE COURT: Sustained.

19 BY MR. STEGE:

20 Q What was your impression of why he was searching?

21 A As I mentioned before we was talking to him, we were
22 almost a half hour into the interview. We were still trying
23 to discuss the same topic, what his daily event was, what he
24 had done that day. There would be times when he would not

1 make eye contact. He would look around. He would use the
2 phrase again, "Let me think about that for a while," as if he
3 was trying to search for and/or figure out what he was going
4 to say. By this time, one of the things I noticed is his
5 bottle of water, not all the time, there were several times
6 where he had sipped or he would take a swig but he wasn't
7 drinking. He was just kind of wetting his lips or just
8 pretending he was drinking, then put it down. He would kind
9 of look around, then "Let me think about that for a while."
10 That continued. At one point he said he needed to kind of
11 stretch, so he stood up. He approached detective Nevills, and
12 kind of stood over us, hands on his hips, changed his posture.
13 And while he was trying to answer those questions, he would
14 look down at me, and it became almost as if what I felt he was
15 trying to figure out, you know, whether he was going to be
16 able to outlast me and frustrate me.

17 I continued with the interview and just maintained
18 patience with him to try to get him to understand all I was
19 asking was simply what was his daily events were. So he
20 continues with this and kind of makes movements forward and
21 backwards and drinks and continues again with the, "Let me
22 think about this for a while." But his posture, that is one of
23 the things I noticed was compared to him sitting down and
24 doing it, now he was standing up.

1 Q Thank you. Let's continue. Had you really met Ken?

2 A No.

3 Q Did you know his name was Ken?

4 A Yes, I did.

5 Q Did you know something about the power before
6 beginning this interview, or this information coming from him?

7 A The power I had heard when one of the other
8 detectives had informed me as to who the neighbor was and that
9 they had spoken to, one of the things I recalled them
10 mentioning was earlier in the day the power had gone out and
11 Ken had to go over to Mr. Pundyk's side of the duplex to
12 access the power box so he could turn the power back up.

13 Q Now he's accurately describing Ken and the power was
14 out?

15 A Yes.

16 Q Let's continue. Why did you bring up this issue of
17 the military where he ends up saying "dream on about the
18 military?"

19 A Some of the information I received during the
20 initial call is that he had possibly like a semi-automatic
21 military type rifle like AR-15 and SKS or variation of an
22 AK-47. I wanted to kind of investigate his familiarity with
23 weapons, that type of weapon as well as even just maybe find
24 out if he had any prior military service. That would possibly

1 be a way, something we could talk about as well. So we could
2 continue our conversation. I could continue to get to know
3 him and try to find out from with him what happened that day,
4 what his day, what occurred during the day and what he had
5 done for the whole today.

6 Q Pause at 46:19. Why did you specifically ask about
7 his mom and dad?

8 A Given the fact that the victim on scene was
9 identified as his mother, I wanted to bring up his family
10 situation, talk to him about his mom and dad. That changed his
11 demeanor. You can't really see it here. He bent down to pick
12 up the bottle, kind of stared, gave me a glare when I asked
13 about mom and dad, and then he responded, "Why do you ask?" We
14 continued to go back and forth with whether he had family in
15 Reno. He still had difficulty expressing or telling me, you
16 know, that he -- It was obvious to me he didn't want to talk
17 about family or about his mom.

18 Q Let's continue. Up this point you haven't told him
19 about a sandwich. Did you know anything about a sandwich when
20 you started?

21 A I did know. There was outside on like kind of a
22 tray out in the front yard, that there was a purse and some
23 other items, groceries and a sandwich.

24 Q You didn't mention it. He's the first one to

1 mention it?

2 A No. That is why I asked him open endedly was she
3 bringing you something? And he was the one that actually
4 offered up she was bringing him a sandwich.

5 THE COURT: I am going to stop you there. We'll
6 take a recess now.

7 Ladies and gentlemen of the jury, we'll take a short
8 recess. During this recess do not discuss the case among
9 yourselves or with any other person.

10 Do not form or express any opinion about the
11 ultimate outcome of this matter.

12 Do not allow anyone to speak of the case to you in
13 anyway.

14 Do not make any independent investigation or inquiry
15 into the case or circumstances. Do not consult dictionaries
16 or the Internet. If anyone tries to talk to you about it or
17 influence you, let the bailiff know immediately. Go ahead and
18 go in the jury room for the afternoon recess.

19 (Short recess taken.)

20 THE COURT: Counsel, will you stipulate to the
21 presence of the jury?

22 MR. STEGE: Yes.

23 MS. NORDVIG: Yes.

24 THE COURT: Please be seated. You may continue.

1 BY MR. STEGE:

2 Q Let's continue, detective. We picked up at 48
3 minutes 30 seconds. What was he just doing there when he asked
4 for a minute?

5 A We were talking about his mom. Basically he said his
6 mom had come over, brought him a sandwich. I kept asking if
7 they were talking and if there was some type of an argument
8 between them, and he looked away from me again and paused for,
9 he had a pause there, was just kind of staring off. He became
10 emotional and then once again, "Let me think about that." It
11 was apparent to me it had struck a chord, that we had reached
12 a point where he acknowledged his mom was there. It was him
13 and mom.

14 Q Let's continue. We pick up at 31:34. Pausing here at
15 50:47:18. This transition to that she was upset, where did
16 that conversation start? What was the beginning of that? Who
17 was upset? Who did he say was upset first?

18 A I kept asking what they were talking about or if
19 they had argued, if they had talked. I still had not got a
20 clear answer. I kept asking what were they arguing about or
21 talking about. And he indicated that she was upset. And at
22 one point he said she's always worrying a lot. I asked him
23 directly if he was upset. He said no, she was upset. And I
24 just wanted to continue to try and get out of him or try and

1 have him describe or explain to me what exactly they were
2 talking about or arguing about while they were at the house.
3 It still wasn't clear. He continued with kind of evading it
4 and doing the whole, you know, "Let me think about that." And
5 then, but he did -- he did sit down, and he started to think
6 about it, and he would answer. And then we would continue to
7 talk, but then he would kind of go off topic. And then I
8 would have to ask him again. So it was just a consistent back
9 and forth about what were you talking about or arguing about.

10 Q Let's continue. Let's pause at 1:04:21. Did you ever
11 an idea from the scene maybe something had happened in front
12 of the house?

13 A I wasn't sure if anything had occurred in front of
14 the house. I was trying to talk to him about it and ask him if
15 any type of interaction or incident occurred, whether it was
16 in front of the house, out by the street. I wanted to try and
17 get information from him to kind of get an idea of how it
18 started, where did they first meet up, where were they talking
19 or arguing, and pinpoint where they were when this was going
20 on.

21 At this point right here, he said the front door.
22 So I went with, okay, the front door. But it was throughout
23 the interview, it is a constant back and forth, back and
24 forth. I would have to ask him a more specific question, give

1 him a little more detail and help deal with it a little if
2 he's not comfortable.

3 Q Can I interrupt you there? At the time of the
4 interview, you did not know it was through the fence?

5 A No, I did not.

6 Q Are we going to see a series here where, I think
7 both you and detective Nevills think he was out front when the
8 shootings happened?

9 A Yes.

10 Q Even though he had just said I said hand it over,
11 hand the sandwich over?

12 A Yes.

13 Q Let's continue. Let's pause here at 1:12:10. We
14 have seen a change in body language from the defendant. How is
15 that affecting the way you're questioning him?

16 A As you saw earlier where he started to breakdown, it
17 appeared to me that he was close to finding, accepting what
18 was going on and possibly going to tell me what happened. I
19 tried to -- I tried to take an approach of being like a friend
20 and telling him that I would be there to help him get it off
21 his chest and help him come to terms with it and discuss it.
22 But he was able to gather himself as we were sitting there
23 holding hands. He kind of, he kept stalling and kind of
24 gathered himself and realized --

1 MS. NORDVIG: Objection, speculation.

2 THE COURT: Sustained.

3 BY MR. STEGE:

4 Q Was there some interaction with detective Nevills
5 you saw that sort of changed from leaning towards holding your
6 hands to sitting back?

7 A Yes, he became uncomfortable with me at that point
8 and diverted his attention now to detective Nevills. That is
9 when he turned and asked "Who are you?" He never asked that
10 before. We introduced ourselves. Now he shifted his focus
11 from me, and I felt he didn't want to continue with talking to
12 me and trying or listening to me ask my questions and try to
13 get him to get whatever it was he was holding back off his
14 chest. He turned to detective Nevills. That is when we broke
15 contact, and he sat back. And we were right back into going
16 back and forth and trying to get him to answer questions about
17 why this happened and what exactly happened.

18 Q Okay. Continuing. Let's skip from 1:32:51 to
19 1:49:03. Let's settle for 1:49:06. 152:03. Have you made any
20 progress so far in getting anymore detail from Mr. Pundyk?

21 A No.

22 Q Let's continue to skip from 1:52, 1:52:03. Let's
23 try to go to 1:58:06.

24 Q You just told him he wasn't being honest. Based on

1 your understanding of the evidence, was what you said true,
2 that just handing the sandwich over the fence, she wanted to
3 come in, he didn't want her to?

4 A No, it was not.

5 Q He said, now we are paused at 2:08 and no seconds.
6 He said a few times now about the sandwich being over the
7 fence?

8 A Yes.

9 Q As you're interviewing him, did you know that or
10 were you thinking maybe it happened out in the front yard?

11 A I still wasn't clear whether he was -- whether
12 everything had happened out in the front yard by a small gate
13 and a fence that lines the sidewalk just as you walk through
14 the entry, like a walkup going up to the front door, or if he
15 was talking about the wooden fence along the north side of the
16 residence.

17 Q Let's continue. Let's pause at 2:13:58 detective,
18 shortly in this interview, you and detective Nevills leave the
19 room; is that right?

20 A Yes.

21 Q Up until that point, do you make any progress in
22 getting Mr. Pundyk to tell you details, anymore details than
23 you already know at this point?

24 A No. It took that amount of time just to get

1 whatever information we had at that time up until that point.
2 It was a slow process and required a lot of patience. So we
3 continued with it and continued with the interview to get as
4 much as we can.

5 MR. STEGE: Your Honor, perhaps if we could approach
6 the bench?

7 THE COURT: Yes.

8 MR. STEGE: This is a good place to stop. I can
9 skip to the break in the video. Starting tomorrow I can skip
10 20 minutes.

11 THE COURT: So do you want to skip to the beginning
12 and then we'll let the jury go? Because if you just skip that
13 that, they won't figure where you're at. How much more do you
14 have?

15 MR. STEGE: This goes on forever.

16 THE COURT: How much are you going to play.

17 MR. STEGE: I am trying to --

18 THE COURT: What do you think?

19 MR. STEGE: I think he will be here most of
20 tomorrow.

21 THE COURT: Tomorrow is Thursday.

22 MS. NORDVIG: If we start at 1:00, he will probably
23 be here the rest of afternoon.

24 MR. STEGE: There is more breaks coming up or more

1 jumps coming up.

2 THE COURT: You're at -- Are we at 16 tomorrow
3 morning or 15? This is tomorrow, so I am trying to figure out
4 what time.

5 THE CLERK: 14.

6 THE COURT: 14. Two hours. Bring them book at
7 11:30?

8 MR. STEGE: You are probably good. Most of them are
9 sentencings.

10 THE COURT: Maybe not. I am worried about the four
11 probation revocations.

12 MS. NORDVIG: That and this one might go a little
13 while. I don't remember this one. Don't know anything about
14 that. We can all figure that one out.

15 THE COURT: Yeah.

16 MS. NORDVIG: This one won't be long, I know that.

17 THE COURT: Oh.

18 MS. NORDVIG: We only have one report on that one.

19 THE COURT: You don't have two?

20 MS. NORDVIG: It will be even shorter.

21 THE COURT: I have nothing else really scheduled, so
22 we can start this at 11:30, but I have got to give the court
23 reporter a break.

24 MS. NORDVIG: What if we play it safe and start at

1 12:30, then everybody can have lunch before they come in.

2 THE COURT: Okay.

3 MR. STEGE: Whatever we need to do.

4 MS. NORDVIG: So Judy, whoever is here, has a break.

5 THE COURT: Will you be able to get done tomorrow if
6 we start at 12:30? That is what I am worried about.

7 MR. STEGE: It will be close.

8 MS. NORDVIG: We have to get done with him.

9 MR. STEGE: I think I might be able to finish the
10 case, is that what you are asking about?

11 THE COURT: Or close.

12 MR. STEGE: It will be short.

13 THE COURT: Okay. Thank you.

14 Okay. We are going to go ahead. You are going to
15 go a little bit further.

16 BY MR. STEGE:

17 Q Detective, let's note here we are going to skip from
18 2:13:58 and aim for 2:28:38: Let's pause at 2:29:04. We'll
19 pickup with this tomorrow.

20 THE COURT: Okay. Okay, ladies and gentlemen of the
21 jury, we are going to take our evening recess, and I have been
22 communicating with the clerk. We are trying to figure out
23 what time to bring you back. I know I told you 1:00. There
24 is quite a bit more video. I want to make sure we can get

1 through it all. So we are thinking well have you come back at
2 12:30 instead of 1:00 o'clock. Does that mess anybody up?
3 Tell me, otherwise that way we can have a few more, a little
4 bit more time. So if you will try to get back before 12:30 so
5 we can actually start at 12:30, I would appreciate that. And
6 we will go tomorrow until around 5:00 again. And then Friday
7 it looks like we'll start at 9:00 in the morning. So that
8 could change tomorrow. I may give a change up on that. Right
9 now that is what it looks like.

10 Now this recess we are going to go to, you must
11 remember the admonition I have been giving you all at breaks.
12 You are not to discuss among yourselves or with anyone else
13 including members of your family, friends, co-workers or
14 people involved in the trial any matter having to do with this
15 case. This includes discussing the case or anything to do
16 with it, the parties, the attorneys, verbally, in person, by
17 phone, in writing or on the Internet, through Internet
18 features such as chat rooms, blogs, bulletin boards, Facebook,
19 Twitter, e-mail, instant messaging, text messaging or other
20 forms of electronic communication.

21 It is further your duty not to form or express any
22 opinion concerning the guilt or innocence of the defendant
23 until this matter is finally submitted to you for decision.

24 You are not to read, look at, listen to any news

1 media account or any other account or commentary including any
2 Online information about the trial or anyone or things
3 associated with it. You will be required to decide all
4 questions of fact in this case from the evidence received in
5 this trial and not from any other source.

6 Do not make any independent investigation or inquiry
7 into the facts of the case or the subject matter of it. This
8 means for example you must not do any research, consult
9 dictionaries, search the Internet or use any other reference
10 materials, visit the scene or conduct experiments. Should any
11 person attempt to discuss the case with you or in any manner
12 attempt to influence you, report it to the bailiff
13 immediately.

14 Go ahead and leave now, and I will see you back
15 tomorrow at 12:30 in the afternoon thank you.

16 (Whereupon the jury left the courtroom.)

17 THE COURT: Sir, I will have you come back tomorrow
18 ready to be on the stand by 12:30.

19 THE WITNESS: Yes, Your Honor.

20 THE COURT: Thank you. You may step down. Counsel,
21 while you were at the bench there was a discussion about
22 Michael Spaulding's case. We have received the second
23 evaluation. I just wanted to give you that head up. You don't
24 plan to be here?

1 MS. NORDVIG: No. I will try to make sure whoever
2 is covering it gets it, at least knows about it. I will be in
3 the office so I can run over if I need to do deliver it.

4 THE CLERK: It was filed about 3:30, approved
5 shortly after that.

6 THE COURT: Okay.

7 MS. NORDVIG: Perfect. Thank you very much.

8 THE COURT: You give to whoever is going to be here.

9 MS. NORDVIG: They probably won't, but I will text
10 her. I will text him with what the findings are. Thank you.

11 THE COURT: So tomorrow 12:30. Is there anything
12 that needs to be resolved outside the presence of the jury?

13 MR. STEGE: No. I think at some point we are going
14 to have to pick up the text message photos.

15 MS. NORDVIG: Maybe not. Maybe not. We are talking
16 about it.

17 THE COURT: You all talk about it. It hasn't come
18 before me yet.

19 MR. STEGE: Right.

20 THE COURT: In its totality. So you all continue to
21 discuss whatever you need to discuss. But I would like, if we
22 were to do something else out of the presence of the jury, I
23 would like to do it make Friday morning before I call the jury
24 back. So let me know if you need to have a little extra time

1 built in. Rather than them waiting on us, I would rather they
2 didn't come to the courthouse as soon as we normally would
3 have them come, otherwise, we'll see you back tomorrow
4 afternoon by 12:30.

5 That concludes today's hearing. Court's in recess.
6 (Whereupon the Court adjourned until 12:30 p.m. Thursday, July
7 19, 2018.

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1 STATE OF NEVADA,)
2) ss.
3 COUNTY OF WASHOE.)

4 I, Judith Ann Schonlau, Official Reporter of the
5 Second Judicial District Court of the State of Nevada, in and
6 for the County of Washoe, DO HEREBY CERTIFY:

7 That as such reporter I was present in Department
8 No. 4 of the above-entitled court on July 18, 2018 at the hour
9 of 9:00 a.m. of said day and that I then and there took
10 verbatim stenotype notes of the proceedings had in the matter
11 of THE STATE OF NEVADA vs. EDWARD SAMUEL PUNDYK, Case Number
12 CR16-1290.

13 That the foregoing transcript, consisting of pages
14 numbered 1-100 inclusive, is a full, true and correct
15 transcription of my said stenotypy notes, so taken as
16 aforesaid, and is a full, true and correct statement of the
17 proceedings had and testimony given upon the trial of the
18 above-entitled action to the best of my knowledge, skill and
19 ability.

20 DATED: At Reno, Nevada this 3rd day of September, 2018.

21

22

23

24

/s/ Judith Ann Schonlau
JUDITH ANN SCHONLAU CSR #18

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 5th day of July 2019. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Jennifer P. Noble, Chief Appellate Deputy,
Washoe County District Attorney

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

Edward Samuel Pundyk (#1207257)
Ely State Prison
P.O. Box 1989
Ely, Nevada 89301

John Reese Petty
Washoe County Public Defender's Office