

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 FIVE

JOHN L. ARRASCADA
Washoe County Public Defender

JOHN REESE PETTY
Chief Deputy
350 South Center Street,
5th Floor
Reno, Nevada 89501

Attorneys for Appellant

CHRISTOPHER J. HICKS
Washoe County District Attorney

JENNIFER P. NOBLE
Chief Appellate Deputy
One South Sierra Street,
7th Floor
Reno, Nevada 89501

Attorneys for Respondent

Electronically Filed
Jul 05 2019 08:19 a.m.
No. 77587 Elizabeth A. Brown
Clerk of Supreme Court

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JUDITH ANN SCHONLAU
CCR #18
75 COURT STREET
RENO, NEVADA

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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

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

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CASE NO. CR16-1290
DEPARTMENT NO. 4

TRANSCRIPT OF PROCEEDINGS
TRIAL
THURSDAY, JULY 19, 2018, 12:30 P.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

 WASHOE COUNTY COURTHOUSE

 RENO, NEVADA

FOR THE DEFENDANT: OFFICE OF THE PUBLIC DEFENDER

 BY: LINDA NORDVIG, ESQ.

 JENNIFER RAINS, ESQ.

 DEPUTY PUBLIC DEFENDERS

 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>
PATRICK BLAS	4	26		

1 RENO, NEVADA; THURSDAY, JULY 19, 2018; 12:30 P.M.

2 -oOo-

3
4 THE COURT: Will you stipulate to the presence of the
5 jury?

6 MR. STEGE: Yes.

7 MS. NORDVIG: Yes, Your Honor.

8 THE COURT: Sir, you are still under oath. You may
9 retake the stand. Mr. Stege, you may proceed.

10
11 PATRICK BLAS

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

14
15 DIRECT EXAMINATION CONTINUED

16 BY MR. STEGE:

17 Q Thank you. Let's continue detective at 2:29:04. What
18 we see here is the defendant sitting there?

19 A Yes.

20 Q Let's move to 2:29:55. Let's do 2:33:49. Let's move
21 from 2:34:39 to 2:57:50. What is this --

22 A In this time we are --

23 Q Let's do 2:57:33. In the time we just skipped, the
24 defendant is still just sitting there?

1 A Yes.

2 Q Let's stop at 3:03:55 seconds. I want to skip to a
3 portion where it goes from sitting to standing. But in that
4 intervening time, what do we see over this portion that we can
5 go back we can look at?

6 A I am sorry?

7 Q I am going to skip from sitting here to the point
8 he's standing up. Is there more of this same or similar
9 behavior that we see here in this about five minutes?

10 A Yes. It continues.

11 Q So going from 3:03:55 to 3:09:00. Let's go to
12 3:17:01, and detective Nevills is entering the room. What
13 were you doing during this portion where the defendant was
14 alone in the room?

15 A I was trying to meet with other detectives who had
16 conducted interviews of other witnesses or neighbors trying to
17 or communicating with detectives that were on scene as to what
18 evidence they were finding, because this was all going on at
19 the same time, as well as sitting down and talking with the
20 sergeants and everyone and discussing what we had so far, what
21 we knew so far, and formulating any other questions that I
22 needed to ask or other information or questions I needed to
23 ask him when we returned into the interview to possibly help
24 explain some of the evidence we had on scene as well as some

1 of the information we were receiving from other witnesses.

2 Q Let's continue. Pause it here at 3:22:24. Who are
3 these people? What are you having them do?

4 A The two females are investigators with the Washoe
5 County Forensic Investigation section. We asked that they take
6 overall photographs of Mr. Pundyk to document his condition
7 during the interview as well as right after the incident and
8 document, photograph any possible injuries or lack of injuries
9 that he may have had.

10 Q Those movements we saw the defendant making when you
11 were out of the room?

12 A Yes.

13 Q Did you ever see him doing that when you were
14 talking to him?

15 A No. So during, as we watched during the interview
16 he's one way. While he was by himself, he was making all --
17 he was making all those movements and actions. During the
18 interview, he would move, sit down, stand up, but nothing like
19 what he was doing when he was by himself.

20 Q Or when other people were talking to him? Did you
21 see him make those movements when a person was talking to him?

22 A No. Any interaction with myself, detective Nevills,
23 anyone else, none of those movements or those actions. He
24 wouldn't do any of those while he was talking or interacting

1 with anyone.

2 Q Thank you. Let's continue. Let's move from 3:24:59
3 to, move to 3:25:39. So the forensic people continued to take
4 pictures and collect evidence from Pundyk?

5 A Yes.

6 Q I will skip here from 3:26:41. Let's try 3:31:06.
7 What are these folks doing here?

8 A The FIS investigators had just completed obtaining
9 samples, GSR. It is a small box, and the dauber that she used
10 is a kit that we use to daub their hands for any trace
11 evidence of gunshot residue which we can test or can be tested
12 and then determine that that person was in the area or fired a
13 weapon or in the area when a weapon was fired, when a firearm
14 was fired.

15 Q Let's move from the GSR kit from 3:33:16 to 3:37:06.
16 Additional evidence is collected here including the
17 defendant's pants; is that correct?

18 A Yes, I believe so.

19 Q He's photographed. We see him without his pants on?

20 A Yes.

21 Q That is because for evidentiary purposes?

22 A Yes. Part of the evidence collection was obtaining
23 all the swabs, the DNA swabs, gunshot residue swabs, overall
24 photos and also his clothing which could contain gunshot

1 residue or even biological blood if there was any. He was
2 given a suit or consumer garment to wear from thereon.

3 Q We'll skip from 3:38:46 to 3:45. 3:45:33. This is
4 the part where he takes his pants off?

5 A Yes.

6 Q All right. Let's skip over that, please. Let's go
7 to from 3:50:06 to 3:59:12. Let's pause at 4:04:53. After the
8 break, you come back in and you seem to be asking more pointed
9 questions. Why is that?

10 A So during the break, we discussed the evidence that
11 we had, what information we had and how the interview was
12 going. It was apparent that, that it was just a constant back
13 and forth, and when he did not want to answer questions or he
14 would lie or be deceptive, he would go into his "Let me think
15 about that," try to sidetrack and get off topic. So detective
16 Nevills and I talked about it. I decided let's be a little
17 more direct when we go in after the break, ask him more
18 pointed, more direct questions and narrow his focus to keep
19 him from trying to, you know, trying from being deceptive,
20 lying, trying to change the subject and go off topic. That
21 was more the point to come back and be a little more direct or
22 be more direct with him and be more specific so we could try
23 to get down to the information or to the nuts and bolts and
24 basically get to the information as to what truly happened or

1 happened that day.

2 Q Is that a technique you have used before when you
3 suspect somebody is deflecting or not wanting to get to the
4 point of the interview?

5 A Yes. I try to be very patient, try to allow them or
6 give them the opportunity to answer any question in their own
7 words. I don't want to put words in their mouth or direct
8 them. I try to be as patient as possible. When they start
9 answering questions, I try to gauge what the responses are
10 like or what the responses are and whether they are
11 appropriate to the question. If I ask a simple yes and no or
12 simple question, where did you work before or how old are you,
13 something that could be answered specifically and the response
14 is inappropriate where they are thinking and not give a
15 specific answer, it keys me up they are once again trying to
16 be deceptive. They don't want to tell the truth. They are
17 possibly lying to me. So I have to try to -- I have to keep
18 them focused and and keep asking them, try to get them to be
19 honest and finally possibly answer truthfully and just tell me
20 the truth what the answer may be or whatever the answer to the
21 question is.

22 Q We heard a number of times after the break right
23 when you come back in, "Let me think about that." As you're
24 sitting there across from him, does it seem like he's

1 searching his memory or something else?

2 A By this point, I had noticed that was kind of his
3 trigger for him. Whenever it was a tell -- Basically whenever
4 he would try to be deceptive or lie or not want to answer the
5 question, that I noticed every time it would become his go to,
6 "Well, let me think about that." He would start to wander off
7 and talk about something else and avoid the question.

8 Q Let's continue. Let's pause it at 4:13:23. Was the
9 defendant just crying? He asked for a moment. Was he in fact
10 crying as you were in the room?

11 A Yes, he was.

12 Q After the mention of his mom, started talking about
13 his mom?

14 A Yes. The question once again started to focus back
15 to mom, his family and his brother.

16 Q Now, detective, this discussion of the Clorazopate
17 that you are having, is that consistent with anything you
18 found on the scene?

19 A Yes. There was some medication found on scene in
20 his mother's name that were I believe in a safe and within the
21 residence.

22 Q Let's skip here from 4:20:53. Let's go to 4:23:44
23 where you kind of get back to the heart of the issue. Pausing
24 at 4:26:52. Are you thinking he's about to tell you what

1 happened?

2 A Yes, we are. By this time, we started to really,
3 really start to hammer or focus in on the issue, and I decided
4 we needed to start to be really direct with him, not give him
5 the time, just keep asking him the same question and keep him
6 focused and on task with dealing with what the question was
7 and not trying to find a way to skirt around the issue or, you
8 know, sidetrack the interview. So basically taking more
9 control and just directing it right at him and get to the
10 heart of the issue.

11 Q Continuing. Let's pause it at 4:34:58. We have
12 heard the defendant admit that he shot her or state that he
13 shot her?

14 A Yes.

15 Q Up to that point, had you been careful not to tell
16 him what you knew or knew that he had shot her?

17 A Yes. So one of the things we did not want to do was
18 lead him. Obviously, his mother had been killed, but I prefer
19 that they explain in their own words how the person died.
20 Certain details, specific details only the person who
21 committed the crime would know, so we ask the question, I
22 would ask the question and see if there was a response and is
23 that information consistent with the evidence we had on scene
24 which was in fact he did admit he shot his mother. He didn't

1 count how many times he shot her. He couldn't remember. The
2 evidence on scene was consistent she had been shot multiple
3 times. I asked him what type of weapon. He said the AR which
4 is a high caliber military style rifle. However, we also had
5 the SKS which is a 7.62 X 39 caliber which is a high powered
6 military style rifle. So he says an AR which is one of the
7 rifles that was on scene, however, I believe the evidence that
8 was on scene was more consistent with the other rifle which
9 would be the SKS.

10 Q You also asked him if anyone else was with her and
11 his answer was no?

12 A No.

13 Q But then he goes into the person across the street
14 following?

15 A Yes. So just to narrow it down once again, it was
16 only Mr. Pundyk and his mother that were present during the
17 incident. I asked if anyone else was there, and he said no.
18 But then he started talking about a male subject across the
19 street.

20 Q Continuing. Let's pause at 4:41:19. We heard the
21 defendant say he shot his mom because she was evil. You're
22 next going to this line of questioning about her height,
23 weight, age, stuff like that. Why? What was the purpose of
24 those questions?

1 A When, in considering whether someone, whether there
2 is enough evidence or information to substantiate someone's
3 fear, those are some of the things, some of the information
4 that we need to know is if it was a fight between two people,
5 one was one six foot, 300 pounds and the other one, five foot
6 four, 110 pounds. The disparity of size. The ability of the
7 one side or the other to conduct or to act in a way or engage
8 in any type of action that would be threatening or that would
9 be dangerous to the other. So we consider the environment.
10 We consider their size, their age, their ability to carry out
11 any type of action that could be considered something that
12 they would be fearful of imminent bodily harm or death. That
13 is why we ask those questions.

14 Q Let's continue. Let's pause at 4:50:31.

15 THE COURT: We're okay. We can go another fifteen
16 minutes. I don't know how much longer you have. How is
17 everyone? We'll go fifteen more minutes.

18 BY MR. STEGE:

19 Q We'll pause, move from 4:56:35. Detective Nevills
20 does take him to the bathroom, correct?

21 A Yes.

22 Q We'll move to 5:03:17: 5:03:01. Let's move to the
23 point where he's left in the room 5:04:02. Let's go to
24 5:07:39. Let's move from 5:09:48 see if I can go about a

1 minute and a half ahead detective, 5:11:12. Let's move from
2 4:14:13 to 5:18:50. Pausing at 5:25:32. Were you-- Were you
3 trying the theory, you are asking on the theory maybe he had
4 gone out the front of the gate to the street? What were you
5 asking?

6 MS. NORDVIG: Objection. Leading.

7 THE COURT: Sustained.

8 BY MR. STEGE:

9 Q Why were you asking about the gate?

10 A Just trying to ascertain if he had gone out to the
11 front of the yard on the other side of his fence, or if he in
12 fact had gone out to the front gate by the sidewalk, based on
13 like I said with the investigation of the scene and trying to
14 piece things together. I wanted to know if he stayed in the
15 yard behind the fence the entire time or if at any time during
16 the incident he had made his way to the front of the house out
17 to the front yard or out to the street, so that is why I was
18 asking.

19 Q Continuing. Pause here at 5:31:20.

20 THE COURT: We better take a break. Ladies and
21 gentlemen, while you're in the jury room, remember the
22 admonition I have given you at all the other breaks. Do not
23 discuss the case among yourselves or with any other person.
24

1 Do not make any independent investigation concerning
2 the facts or circumstances surrounding this case.

3 Do not allow anyone to speak of case to you in any
4 manner. Should any person attempt to do influence you notify
5 the bailiff.

6 And do not look at listen to or view any new media
7 accounts or other accounts regarding the subject matter of the
8 case or the parties.

9 You may go into the jury room for our afternoon
10 recess. Court's in recess.

11 (Short recess taken.)

12 THE COURT: Thank you. Counsel, will you stipulate
13 to the presence of the jury?

14 MR. STEGE: Yes.

15 MS. NORDVIG: Yes, Your Honor.

16 BY MR. STEGE:

17 Q Detective, let's pick up at 5:31:20. 5:32:58. Let's
18 pause. We just heard the defendant say he went up to the
19 fence and he looked at her. Was that important -- How was that
20 important in your investigation or how you formulated the
21 interview?

22 A He acknowledged that he knew exactly who was on the
23 other side of the fence, and he knew who he was talking about,
24 and it was his mother that had showed up to the house, had

1 walked up to the fence and wanted him to open up the front
2 door. And that was the primary point was he answered exactly
3 who he was talking to and he was aware of who it was.

4 Q Let's continue. Let's pause at 5:35:02. As you are
5 sitting there across from him, what is your impression when he
6 says let me come up with something?

7 A He basically just verbalized what he had been doing
8 for the last four or five hours during the interview which was
9 fabricating things and trying to think of the ways to answer
10 the questions.

11 MS. NORDVIG: Objection speculation.

12 THE COURT: Sustained.

13 BY MR. STEGE:

14 Q What was his demeanor in this moment when he's
15 making this statement, "Let me come up with something?"

16 A He's sitting up, his demeanor at the time, I keep
17 asking him the same question over and over, and it is
18 frustrating him. That is the appearance he's giving to me,
19 and he makes the statement, "Let me come up with something."

20 Q This series of questions where you start with Stop
21 BSing me," why are you using that particular phrasing? What
22 demeanor is causing you to ask that particular question?

23 A Throughout the interview, I tried to ask him as nice
24 as possible. I tried to ask him, being very polite, being

1 very professional. Sometimes in interviews I have to talk in
2 a language where I have to ask them in a way that will get
3 their attention, get them to understand that I am done with
4 the game, they need to just tell me the truth. I try not to
5 cuss in interviews, however, there are times in my experience
6 doing interviews with witnesses and suspects that sometimes
7 you have to just talk to them in a language that gets their
8 attention and they will understand you want them to just
9 answer the question and answer it truthfully.

10 Q Is your phrasing, "Stop playing games" or "playing
11 games," is that a similar tactic or technique?

12 A Yes. When people are -- In several interviews I
13 have had in the past, it becomes a cat and mouse game for them
14 almost. They treat the interview and the whole process as a
15 game. It is almost as if they don't want to be honest, and it
16 is more of attrition whether they can convince me, lie to me
17 get me to buy into their truth or to their story or whether I
18 will just stop and give up, give up trying to get the truth
19 out of them.

20 Q And so what demeanor are you seeing with the
21 defendant when you're imploring him to stop playing games?

22 A Basically, he turned the interview, from my
23 perception, to now it is just a game. He's going along with
24 the questions and he's having fun. At one point there he

1 starts to mimic detective Nevills. And during the interview
2 as we go on, he'll start to kind of mimic almost like a
3 ventriloquist, start to mimic, basically play games with the
4 whole process.

5 Q Thank you. Let's continue. Let's pause at 5:41:24.
6 The defendant just told you, "I couldn't really see the the
7 face. It sounded like the lady." Why are you going into this,
8 "I don't believe you. Aren't you a man, or be a man?" Why are
9 you asking that?

10 A Because he had just told me he knew it was his
11 mother and now he's lying again. He's making up a story that
12 he didn't know who it was, he didn't really see the face. So I
13 want to confront him on that, on that lie.

14 Q Continuing. What happened there just before he is
15 about to say something when detective Nevills is moving in?

16 A He starts basically kind of mimicing and smiling. He
17 had made the inappropriate laugh and started to chuckle at the
18 whole interview.

19 MS. NORDVIG: Objection. Speculation.

20 THE COURT: The witness can describe why he did
21 something, but he can't describe what we see on the video.
22 That is for the jury to decide what he was doing. He can say
23 based on something.

24 MR. STEGE: He can say, I am understanding the

1 unobjectionable part. He did laugh.

2 THE COURT: He did laugh. The commentary.

3 BY MR. STEGE:

4 Q Okay. Let's just go back a little bit here to
5 5:50:29. Why did you and detective Nevills stand up? Why did
6 you stand up?

7 A At that point, it was apparent he wasn't going to
8 answer. He wasn't going to answer the question, so we were
9 standing up to get out, and then he stopped us, and I just
10 continued with that opportunity if possibly he was going to
11 tell us, then I would ask the question again. Then I decided
12 to be even more direct and make it a simple yes or no answer
13 for him instead of the open ended questions that I had been
14 asking him to allow him to answer in his own words. I went
15 even more direct and said -- I went down to basic yes or no,
16 did you shoot her through the gate, and he still wouldn't
17 answer.

18 Q Let's continue. Let's pause at 5:54:42. You're at
19 the door. What is your read on the defendant's demeanor right
20 now or attitude?

21 A He just wants to continue to play this game in the
22 interview room. When we are engaging with him, we are talking
23 to him, he's playing the game, starts to mimic my actions or
24 detectives Nevills'. He chuckles or he laughs. We get up to

1 leave. He says wait. He wants to play the game. Again, I ask
2 the same question over and over, make it even simpler, go to
3 yes or no or did you or did you not and he still does the
4 blank stare or he still refused to answer. Then we go to walk
5 out the door. He stops us again. So I am just trying to take
6 every opportunity I can to get the truth out of him or get him
7 to answer the question. So I am standing there at the door in
8 the doorway. We continue again with the conversation, and we
9 continue with the interview and to see if he will finally
10 answer the questions.

11 Q Let's continue. So from here, the defendant was
12 taken to the jail; is that right?

13 A Yes. Up at the Washoe County Sheriff's Office just
14 outside of the booking area is the DUI room where there is the
15 breathalyzer and there is an area there so the Washoe County
16 Jail phlebotomist can come out and we can do a blood draw.

17 Q I will ask, throughout that interview we saw sort of
18 these pauses where you ask the defendant a question and he
19 would just be sitting there not answering. Did you get a read
20 on his demeanor at that point?

21 A Initially, in the beginning?

22 Q Let me back up a little bit. Did you see -- What
23 sorts of demeanors did you see from the defendant throughout
24 this interview?

1 A In the beginning it was more just kind of curiosity
2 on his part as to what we knew and what we were asking.

3 MS. NORDVIG: Objection. Speculation.

4 MR. STEGE: It is his impression of the defendant's
5 demeanor.

6 THE COURT: I don't think he's talking about the
7 mental state. I am going to sustain the objection.

8 BY MR. STEGE:

9 Q What about the, for example, when he was making --
10 he made the statement him and his brother were raised by NASA
11 or their dad was in NASA, something like that. What was your
12 impression of his mental state at that point?

13 A Oh, he understood the question I asked, but the
14 answer wasn't appropriate.

15 MS. NORDVIG: Objection.

16 THE COURT: Sustained.

17 BY MR. STEGE:

18 Q What was your impression of his demeanor at that
19 point?

20 A That he understood the question.

21 THE COURT: Counsel approach. Okay. So you can't
22 ask him whether or not he understood the question. That goes
23 to his mental state.

24 MR. STEGE: Right. Lay opinion as to mental state

1 is appropriate.

2 THE COURT: Not in terms of did he understand the
3 question. How does he know that? He can't base it on
4 anything.

5 MR. STEGE: Did he react?

6 THE COURT: You can't do the conclusory.

7 MR. STEGE: Part of this is --

8 THE COURT: If you need to come back for rebuttal
9 you certainly can do that.

10 MR. STEGE: The cross, the last time when they
11 opened the door, the Court didn't let me go back.

12 THE COURT: I will try to make sure if they open the
13 door I will watch carefully.

14 MR. STEGE: Okay.

15 MS. NORDVIG: I will just go underneath it. I have
16 lost some weight.

17 THE COURT: I am going to sustain the objection, so
18 go ahead and rephrase your question.

19 MR. STEGE: Very good.

20 THE COURT: Thank you.

21 MR. STEGE: Thank you.

22 MS. NORDVIG: Thank you.

23 BY MR. STEGE:

24 Q As you're sitting there, is the defendant responding

1 or acting as if he's responding to the question you actually
2 asked?

3 A Yes, he is.

4 Q Do you see that throughout the interview?

5 A Yes.

6 Q And so let me ask it this way: At the end, there
7 was sort of this bantering of this back and forth playfulness
8 with the defendant about the spelling of murder. Did you see
9 that particular demeanor before in the interview?

10 A Not early on. And then as the interview progressed
11 and as we got to the point where he finally admitted to
12 shooting his mother, admitted to grabbing a gun, admitted to
13 acknowledging it was his mother, as more and more of the truth
14 came out, he started to act in that manner, kind of that game
15 he was playing with the interview.

16 MS. NORDVIG: Objection. Speculative.

17 THE COURT: As to the word "game," sustained.

18 BY MR. STEGE:

19 Q I am sorry. So throughout this interview, did you
20 see any fear in the defendant from either you or Nevills or
21 what you and Nevills were doing?

22 MS. NORDVIG: Objection. That also calls for
23 speculation.

24 THE COURT: Maybe. I don't know. You are asking if

1 he saw manifestations of fear?

2 MR. STEGE: Right.

3 THE COURT: You can ask that question for
4 manifestations of fear.

5 BY MR. STEGE:

6 Q Did you see any manifestation of fear from the
7 defendant in the interview room?

8 A No, I did not. When I asked -- When we asked him the
9 questions specifically, why we would give him time to answer
10 that question, and one of the reasons why I do that and I
11 leave it open and let him, allow him all the time possible or
12 whatever time possible is because I want to hear from his own
13 words, from their own words and in their own explanation what
14 they are feeling at the time or the reason for why they did
15 what they did. And at no time did he mention that he was
16 afraid. But that is all he would -- meaning he wouldn't
17 expand on it. And I gave him the opportunity to expand. We
18 asked him numerous times did he have a weapon.

19 MS. NORDVIG: Objection. Nonresponsive.

20 THE COURT: Sustained.

21 BY MR. STEGE:

22 Q Is it fair to say as the interview sort of wraps up
23 you get more pointed or focussed with questions?

24 A Yes.

1 Q That process, as you are ramping that pressure up on
2 the defendant, do you see any physical manifestations of fear
3 from him?

4 A No, I do not.

5 Q Do you see any other type of manifestations of fear
6 from the defendant?

7 A No, I do not.

8 Q Once the defendant was at the jail, were you part of
9 that transport?

10 A Yes, I was.

11 Q And witnessed the blood draw?

12 A Yes, I did.

13 Q Same question there, do you see any physical
14 manifestations of fear there?

15 A No, I did not.

16 Q Or any other type of indications that he was
17 fearful?

18 A No, I did not.

19 Q What was his demeanor during that blood draw as
20 opposed to this interview, if there was a difference?

21 MS. NORDVIG: Objection. Calls for speculating.

22 THE COURT: Overruled.

23 THE WITNESS: From what I can recall, it was like a
24 normal conversation. As we drove up to the jail, we did not

1 ask him any questions or any further questions. We ceased the
2 interview at that point, and we were just having regular
3 conversation about different various things that we saw, just
4 making small talk as we transported him up to the jail and
5 when we went into the interview-- excuse me -- the DUI room.
6 So we could call for the phlebotomist that we were there. It
7 was just like any normal conversation.

8 Q Did this sort of this playfulness at the end that we
9 saw at the interview, did that continue during the blood draw
10 at the jail, if you recall?

11 A I can't recall. I can't remember if it did or not.

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

13 THE COURT: I am going to allow you to
14 cross-examine. I am going to ask the jury to stand and stretch
15 for a minute hopefully before cross-examination starts, get
16 oxygen in your lungs. You may be seated. Thank you.
17 Ms. Nordvig.

18 MS. NORDVIG: Thank you, Your Honor.

19
20 CROSS-EXAMINATION

21 BY MS. NORDVIG:

22 Q Good afternoon.

23 A Good afternoon.

24 Q You testified yesterday sometime that you were

1 assigned as the lead investigator?

2 A Yes.

3 Q You were part of the robbery-homicide team for how
4 long?

5 A Little over five years now.

6 Q Five years now. This happened give or take two and
7 a half years ago?

8 A Yes.

9 Q So about two and a half years then?

10 A Yes.

11 Q What kind of training do you get when you go from a
12 --patrol officer to a detective?

13 A We receive training --

14 Q Let me stop you. I am sorry. That was a bad
15 question. Is this the first time you have been a detective?

16 A No, it's not.

17 Q Were you a detective prior to your assignment to
18 robbery-homicide unit?

19 A Yes, I was.

20 Q Where was that?

21 A Family Crimes Unit.

22 Q Anywhere else?

23 A I was also, it is not entitled -- not titled as a
24 detective, I was assigned as an officer assigned to the

1 Regional Gang Unit, and we conduct gang related investigations
2 in that unit as well.

3 Q Okay. Each of those has a certain period of time
4 that you are assigned to that unit, correct?

5 A Yes.

6 Q So once you get to robbery-homicide, do you get
7 specialized training?

8 A Yes, we do.

9 Q And how often does that happen?

10 A Initially, when a detective comes into the unit,
11 there is at least two trainings that we send them to which is
12 a homicide investigators training for a week long, as well as
13 possibly an interview, an interrogation school if they haven't
14 already attended one, and a variety of other training that may
15 be related to the field of homicide investigation.

16 Q And how long is that?

17 A Excuse me?

18 Q How long is the interview and interrogation
19 training?

20 A Could be a three-day class. Could be a one-week
21 class. Three hours, twenty hours. Depends on the training.

22 Q And did you do both those trainings?

23 A Yes, I have.

24 Q So you did a 40 hour homicide; is that correct?

1 A Yes.

2 Q And a 20 or 40 hour interrogation?

3 A The first training I did was a 20 hour. The second
4 training that I did with the interview and interrogation
5 school was 40 hours for the basic interrogation school and 20
6 hours for the advanced. So in total almost 40 hours, 50
7 hours.

8 Q When did you do all that?

9 A This has been throughout my career. Being assigned
10 to the Regional Gang Unit they sent us to training as well and
11 investigations and conducted interviews. Being assigned even
12 to patrol, you can get the training. You can either sign up
13 for it on your own or can be sent by the department.
14 Throughout my career, from the time I started with the Reno
15 Police Department almost 15 years ago, I have attended various
16 different stages, different phases, whether patrol, with the
17 Gang Unit, with the Crime Suppression Unit, with Family
18 Domestic Crimes and with Robbery-Homicide unit.

19 Q When was the last time you went to a training?

20 A The last training I went to was two years ago. Yes,
21 two years. It was advanced bloodstain pattern analysis.

22 Q But this happened prior to that?

23 A Yes, it did.

24 Q The training you get in interrogation is the Reid

1 method?

2 A It is one of them. We don't just only go to one.
3 One of the things we try to do with the training with our
4 department, we attend various different types of training
5 being put on by different instructors from the FBI to Homeland
6 Security to private instructions such as Reid. Whenever there
7 is any type of training, we send people to it. We don't
8 subscribe to any one type of training.

9 Q What is the last one you attended?

10 A The last was called Between the Lines with Skip
11 Rogers who is a retired lieutenant and homicide investigator
12 out of Folsom, California.

13 Q When was that?

14 A I can't recall. I can't recall when exactly it was.

15 Q So your first contact with Mr. Pundyk was just
16 outside his home; is that correct?

17 A Yes, it was.

18 Q And how long had you been in the vicinity prior to
19 your first contact?

20 A Approximately an hour. I was actually on the
21 outskirts. I had responded up to, when the call came out, we
22 had responded up there, and I recall assisting with keeping --
23 trying to evacuate homes from the immediate area, trying to
24 get them back into their home or setting up? We had a

1 perimeter even outside of that just for the safety of the
2 neighborhood. I remember assisting trying to tell people to
3 stay inside or get back and shutting off the roadway.

4 Q So when you testified on direct that you didn't have
5 a role at the scene, that wasn't correct. You were assisting
6 other people in keeping shall we say civilians out of the way?

7 A Well, that wasn't the scene. I was down at the
8 intersection. The scene was contained within the residence,
9 so I was out at the perimeter.

10 Q Do you know approximately what time you spoke with
11 Mr. Pundyk the first time?

12 A I don't recall.

13 Q Do you recall where he was?

14 A Yes, he was out in front of the house, and they were
15 escorting him from the house and out to one of the patrol
16 vehicles.

17 Q You just stopped the officers that were escorting
18 him and everybody just stood in the street or did you walk
19 with them?

20 A No. When we -- Once the scene had been secured and
21 we had briefed, the detectives had met up to brief on what the
22 assignments would be, because we were conducting the
23 investigation. As the lead investigator, once I got my
24 assignment, that is when I asked where he was located at. I

1 went and made contact with him at one of the patrol cars, and
2 I introduced myself.

3 Q So your first contact wasn't in front of the
4 house --

5 A Yes, the car was in front of the house.

6 Q Let me finish?

7 A I am sorry.

8 Q You said a couple minutes ago as he was being
9 escorted out you made contact with him?

10 A No, I did not.

11 Q Okay. You made contact with him when he was in the
12 patrol car?

13 A Yes.

14 Q That was one of the SUV's, correct?

15 A Yes.

16 Q What did you ask him at that point?

17 A I introduced myself to him and who I was and asked
18 him his name, asked him if-- asked him if he would willing to
19 talk to me down at the RPD main station.

20 Q Anything else?

21 A That's it.

22 Q Okay. You followed the transport car?

23 A I believe I did. I didn't follow exactly behind it,
24 however. They had left, and I had made my way. I may have

1 been behind it at times or maybe a couple cars away. We
2 arrived pretty much at the station around the same time.

3 Q Did you talk to him as he was being removed from the
4 car before he was placed into the interview room?

5 A No, I did not.

6 Q And as he was placed in the interview room, who
7 turned the audio and video on?

8 A I can't recall who activated the room.

9 Q Did you?

10 A I can't recall if I did or I didn't.

11 Q Okay. When you do an interview, that is being
12 recorded?

13 A Yes.

14 Q Is there a location where you can watch in realtime
15 what is happening in the interview room?

16 A Yes.

17 Q How far away from the interview room is that
18 location?

19 A Around the corner approximately 20, 25 feet.

20 Q Were you able to do that during the entire period of
21 this interview?

22 MR. STEGE: Objection. Relevance.

23 THE COURT: Sustained.

24 ///

1 BY MS. NORDVIG:

2 Q Prior to your entering the interview room we see I
3 believe it was officer Tyler Clark, officer Kyle Meseberg and
4 officer Dan Knight; is that correct?

5 A Yes.

6 Q Doing a preliminary search?

7 A Yes.

8 Q Pocket search? Were you able to view that?

9 A No, I was not.

10 Q Were you aware that I believe it was officer Clark
11 that told the defendant that he had been cooperative and would
12- probably have his handcuffs removed?

13 A No, I was not.

14 Q Were you aware that he had gotten water?

15 A No, I wasn't.

16 Q Did you watch any of the defendant, the defendant's
17 behavior, prior to going into the interview room?

18 A No. Prior to going into the interview room? No, I
19 did not.

20 Q You entered about 14 minutes after he was placed in
21 the room?

22 A I believe so.

23 Q Are you the one that took his handcuffs off?

24 A No, I was not. It was I believe detective Nevills

1 and we removed them.

2 Q Did you notice anything about his behavior at that
3 time?

4 A No, I did not.

5 Q Was he making eye contact with you?

6 A Yes, he was.

7 Q Did you notice him looking at the ceiling or where
8 the wall meets the ceiling?

9 A Yes, I did.

10 Q Do you know what he was looking at?

11 A I believe he was looking at the vent that is above
12 the room and possibly maybe even looking at the camera that
13 was in the corner.

14 Q Okay. We don't see the camera on the video,
15 obviously?

16 A Yes.

17 Q Is it inside the wall in a fisheye or is it obvious
18 to the naked eye, the camera, itself?

19 A It is pretty obvious that it is a camera in the
20 corner.

21 Q You see the body in the lens?

22 A No. No. Excuse me. It is similar to -- It has a
23 bulb over it or a cover.

24 Q It is a camera that is pointing down at an angle

1 more like a fisheye like they use in the casinos. They have
2 circles that come down?

3 A Yes.

4 Q How big is the vent?

5 A I'm not-- I'm not sure.

6 Q Similar to the ones in the courtroom?

7 A I couldn't tell you that.

8 Q At approximately 18 minutes after the defendant,
9 excuse me, Mr. Pundyk is placed in the room?

10 A Yes.

11 Q You talk about his Miranda rights?

12 A Yes.

13 Q On direct, you said you did that twice?

14 A No. I asked him if he understood twice.

15 Q You did not use a Miranda card; is that correct?

16 A No, I did not.

17 Q And you didn't bring out the Miranda, written
18 Miranda warning, did you?

19 A No, I did not.

20 Q Why not?

21 A It was being audio and video recorded.

22 Q And part of the small talk, excuse me, you testified
23 that part of small talk at the beginning of your interview was
24 to see if he could understand or respond appropriately,

1 correct?

2 A That was part of it.

3 Q What was the other part?

4 A Just to talk to him and get to know him and see if

5 we could establish some kind of rapport.

6 Q Was detective Nevills in with you the whole time?

7 A I believe he was.

8 Q But you're not in the camera frame the whole time,

9 correct?

10 A Yes. I am sitting underneath, basically underneath

11 the camera based on where Mr. Pundyk was sitting. I was

12 sitting what would be underneath the camera with detective

13 Nevills right next to me.

14 Q But we couldn't see you the whole time is what you

15 said; is that correct?

16 A Yes.

17 Q Let me go back a hair. When his handcuffs were

18 removed, was the ankle shackle attached at that point?

19 A I can't recall if it was.

20 Q About 22 minutes into the, I am just going to call

21 it the interview even though the interview didn't start until

22 about 15 minutes into the tape, okay, and about 22 minutes of

23 the tape you were talking about fishing. Do you remember that

24 part of the interview?

1 A Yes.

2 Q It was one of the beginning times of the "Let me
3 think about it for a while" response that you got. And I
4 believe you testified on direct that he didn't want to make
5 eye contact with you; is that correct?

6 A During that particular statement?

7 Q During that particular time Mr. Stege stopped the
8 tape and asked you why you were trying to talk to him?

9 A Okay.

10 Q Was he making eye contact with you then?

11 A It was sporadic. He would make eye contact.

12 A Sometimes he would look away.

13 Q Was he looking up to the ceiling?

14 A I can't remember exactly.

15 Q Sorry. It will take a moment. This is just before
16 you enter, correct?

17 A I'm not sure.

18 Q Is his leg iron shackled now?

19 A Yes, it is.

20 Q Yes. Okay. So you're having small talk and trying to
21 see if he's responding appropriately, if you can engage him,
22 develop a rapport. That is your prior testimony, correct?

23 A Yes.

24 Q Okay. Starting again at 20:43. Strike that. Sorry.

1 Starting at 21 you can just see your head, correct?

2 A Yes.

3 Q Okay. Stopping at 21:54. When is the first time he
4 makes eye contact with you?

5 A When we first meet, and I asked him --

6 Q During the interview?

7 A When we walk in and I ask him, I basically talked to
8 him, explained what I would like to do and conduct an
9 interview with him and we take off the handcuffs.

10 Q Is it true for the last minute he hasn't made any
11 eye contact with you?

12 A Yes.

13 Q During your conversation regarding fishing, does he
14 make statements that may not pertain to a fishing
15 conversation?

16 A I don't understand the question.

17 Q Does he say things that don't match with the topic
18 of fishing?

19 A No, not that I can recall.

20 Q Starting again at 21:54. So is that part of the
21 fishing conversation, the last statement we heard, "I just
22 don't have anything. I just have a lot of love?"

23 A Yes, it is part of it.

24 Q Does it relate to fishing?

1 A I don't know. I mean --

2 Q That behavior, I think you testified on direct that
3 behavior continued for a period of time?

4 A It continued through the interview, yes.

5 Q We stopped at 23:51. I am going to try and skip
6 forward to approximately the same place Mr. Stege did, 31:38.
7 31:05. I am going to stop at 31:49. At that point in time,
8 did you know he had been to the park?

9 A No.

10 Q Subsequently or at any time during the interview did
11 you find out that he had been at the park?

12 A No, I did not.

13 Q But as we sit here today, we know he wasn't at the
14 park at 4:00 p.m.?

15 A Today?

16 Q As we sit here today, we know that he could not have
17 been at the park at 4:00, correct?

18 A Correct.

19 Q And you talked about -- strike that. He was given a
20 bottle of water, correct?

21 A Yes.

22 Q We see that?

23 A Yes.

24 Q Is it a 16.9 ounce or one of the short eight ounce?

1 A I couldn't tell you.

2 Q Okay. Skipping forward to about 36 at that point,
3 stopping at 37:04, 37. You said he seemed like a nice guy
4 indicating that you had met Ken. Is that a fair
5 interpretation?

6 A Yes.

7 Q Had you met Ken?

8 A No.

9 Q So you weren't telling Mr. Pundyk the truth,
10 correct?

11 A Yes. I mean I hadn't met Ken. I heard he was the
12 neighbor. I was agreeing with him.

13 Q But at that point you never met Ken?

14 A No.

15 Q You were letting him believe that you had, correct?

16 A No.

17 Q You stated prior to beginning the interview you and
18 some of the other detectives that were working on this case as
19 well as at least one sergeant, I assume, had met for not only
20 assignments but to make sure everybody knew what the other had
21 found out; is that correct?

22 A No.

23 Q No?

24 A No. We met to give out assignments so that they

1 could all conduct -- We were all conducting our tasks or
2 assignment simultaneously.

3 Q Prior to starting this interrogation, did you get
4 any additional information other than what you had heard over
5 the police radio at the scene?

6 A No, I did not.

7 Q Skipping ahead to about 43 minutes. 42:32. So
8 stopping at 43:38. You go into discussing the military. I
9 believe, if I remember correctly, you testified on direct that
10 you were trying to gauge his familiarity with weapons at that
11 point?

12 A That was part of it.

13 Q Because you knew weapons were involved in this case,
14 correct?

15 A Yes.

16 Q You also testified earlier that you were trying to
17 see if he had had any military service, correct?

18 A Yes.

19 Q Did you know at that point whether he had or had
20 not?

21 A No, I did not.

22 Q Did you find out later?

23 A No, I did not.

24 Q Skipping forward to 48:49. This was right after the

1 afternoon break yesterday we reviewed this portion. He's
2 talking about a sandwich, right? She left and he ate the
3 sandwich is what he said on the tape, correct?

4 A Yes.

5 Q Did you know at that time that statement was not
6 true?

7 A Yes, I did.

8 Q It was not true for October 7th, correct?

9 A What was not true?

10 Q That he had eaten the sandwich?

11 A I couldn't tell you if he ate a sandwich before
12 that, but the sandwich we were talking about or the one he was
13 describing I believe to be the one that was still outside in
14 the front yard.

15 Q And he says later in the interview that my mom
16 always brought a sandwich?

17 A He said it right there, his mom had brought the
18 sandwich.

19 Q That she had always brought sandwiches?

20 A I don't recall that.

21 Q That had he -- She had done it the day before.
22 Could he have been describing that?

23 MR. STEGE: Argumentative question.

24 THE COURT: Sustained.

1 BY MS. NORDVIG:

2 Q And he says several times during the beginning or
3 the next segment of the interview that he loves his mom,
4 correct?

5 A Yes.

6 Q Skipping forward to 59:35. 59:27. It is at 59:56.
7 This is the first time we see him show any kind of emotion; is
8 that fair to say?

9 A I believe so.

10 Q At this point is when you take his hands in yours?

11 A Yes.

12 Q And you move closer to him, correct?

13 A Yes.

14 Q You stay like that for a long period of time?

15 A Yes.

16 Q Why do you do that?

17 A He started to show emotion, and I believed he was
18 trying to deal with the situation and find a way to finally
19 tell us what was going on. I was trying to be there with him
20 and help him to do that. Sometimes I have experienced
21 interviews where the people have become emotional, and they
22 need just some kind of contact with someone so they can get
23 over that hump so they can finally let it out and release it,
24 and that's all I was trying to do.

1 Q Continuing, same place. Pausing again 1 hour and 11
2 seconds. Now you are holding one of his hands in each of
3 yours, correct?

4 A Yes.

5 Q And you have your thumbs on the top of his hand,
6 correct?

7 A I can see at least one thumb.

8 Q At least one of them?

9 A Yes.

10 Q And you're guiding his hand back and forth as you
11 talk, do you notice that? I will continue to play at one hour
12 11 seconds. Stopping at 1:01:05. So you're repeating things
13 you have already discussed. You're feeding him information;
14 is that correct?

15 A Yes.

16 Q And he's answering yes to everything you say,
17 correct?

18 A Yes.

19 Q He's trying to answer correctly or he's trying to
20 answer?

21 MR. STEGE: Speculation.

22 THE COURT: Sustained.

23 BY MS. NORDVIG:

24 Q Is he responding to you at that point?

1 A Yes.

2 Q In the affirmative?

3 A Yes.

4 Q And you continue to feed information while your
5 holding his hands?

6 A Feeding?

7 Q I will play some more. Resuming at 1:01:05. At that
8 point, you're still having to remind him of the conversation
9 from a minute ago; is that accurate?

10 A No. At that point, I am sometimes asking the same
11 question which he hadn't answered.

12 Q So you're still feeding him the same information as
13 before?

14 A Yes, because he hasn't answered it.

15 Q And he says he took the sandwich and it was good,
16 right?

17 A Yes.

18 Q And you are in the process, you're pulling him
19 forward a little bit and letting him go back?

20 A No, actually he's pulling me. We have both our
21 hands, he has one hand in my hand and he's grabbing my left
22 hand. I am not like this. We are actually, he has my left
23 hand and I am holding his right hand.

24 Q Okay. Resuming at 1:04:06. Okay. So stopping the

1 tape at one hour nine minutes is when you let go of his hands,
2 correct?

3 A No. He pulled away, so I let it go.

4 Q Okay. And he looks at detective Nevills, correct?

5 A Yes.

6 Q Do you take a different tact in your questioning
7 when this change happens?

8 A I'd have to listen to it.

9 Q Running at 1:09. So you said you won't lie to him
10 and haven't there. Correct?

11 A Yes.

12 Q And that is not the truth is it?

13 A No, I haven't lied to him.

14 Q Okay. You let him believe that you had talked to
15 Ken; is that a fair statement?

16 A No. I was agreeing that Ken was a good guy.

17 Q Resuming. Stopping at 1:10. Mr. Pundyk asked if he
18 hurt my mom. He hurt his mom. "Did I hurt my mom." You didn't
19 answer him; is that correct?

20 A No, I didn't.

21 Q Is that an interrogation tactic?

22 A No, it's not. I just didn't answer the question.

23 Q Why not?

24 A Because before that, the question I was going down

1 was trying to, I was trying to explain to him I was trying to
2 understand what happened today.

3 Q And he asked you a question and you didn't answer
4 him, correct?

5 A Because I was talking to him. He cut me off. We
6 were talking at the same time. I may have missed it.

7 Q Continuing on. 1:10. First you asked, do you think
8 she came over after the sirens? He answered yeah I think so;
9 is that correct?

10 A He said she came over after. He said that, and that
11 is --

12 Q Then you asked again do you think she came over
13 after the sirens?

14 A Yes.

15 Q He said yeah I think so, correct?

16 A Yes.

17 Q And then immediately thereafter you said okay, so it
18 was about the same time as the sirens?

19 A If that is what I said, yes.

20 Q Why did you change that?

21 A I couldn't tell you. We were talking about when mom
22 was there and the sirens. I don't know if I consciously tried
23 to change it. I just asked was it before the sirens or after
24 the sirens. He said after. We were trying to talk about when

1 she was there, trying to narrow it down.

2 Q But after he said, yeah, it was after, then you said
3 it was about the same time.

4 MR. STEGE: This is arguing?

5 THE COURT: Sustained.

6 BY MS. NORDVIG:

7 Q Skipping forward to 1:26:25ish. 1:24:44. So he's
8 gone from standing up to sitting back down now, correct?

9 A I believe so.

10 Q I want to go back a little. Stopping at 1:27:29.
11 Going back to 1:14:50. 1:14:44. Stopping the tape at 1:16:10?

12 THE COURT: That is probably a good spot to stop.
13 Do you have a question?

14 MS. NORDVIG: Go ahead. That is fine I will pick up
15 tomorrow.

16 THE COURT: Are you going to have to play it again
17 to ask the question? Ask the question.

18 BY MS. NORDVIG:

19 Q You're talking about good people doing the right
20 thing, correct?

21 A Yes.

22 Q Is that an interrogation technique?

23 A No.

24 MS. NORDVIG: Okay.

1 THE COURT: Okay. Thank you. All right, ladies and
2 gentlemen of the jury. Tomorrow morning we'll start again at
3 9:00 o'clock. So if you come back in, I am not sure what the
4 schedule is tomorrow. I will talk to the lawyers, but
5 theoretically you might be here until 5:00 o'clock tomorrow.
6 But I am not positive about the availability of witnesses, so
7 it is possible that we will get done early morning, earlier
8 than 5:00 o'clock. I can't say for sure yet. If we have
9 witnesses here, I want us to continue to go and keep going
10 until 5:00 o'clock. So I want to stay on schedule, but it is
11 possible we may be in a situation where we kind of run out of
12 witnesses towards the end of the day.

13 Now during this break we are going to take, you must
14 follow the admonition you have been given at all the other
15 breaks. That is it is your duty not to discuss the case among
16 yourselves or with anyone else including members of your
17 family, friends, co-workers or people involved in the trial,
18 any matter having to do with this case. This includes
19 discussing the case or anything to do with it, the parties or
20 the attorneys, verbally, in person, by phone, in writing or on
21 the Internet, through Internet features such as chat rooms,
22 blogs, bulletins boards, Facebook, Twitter, e-mail, instant
23 messaging, text messaging, websites, any other method of
24 electronic communication.

1 It is further your duty not to form or express any
2 opinion concerning the guilt or innocence of the defendant
3 until the case has been finally submitted to you for decision.

4 You are not to read, look at or listen to any news
5 media accounts or any other account or commentary including
6 any Online information about the trial or anyone or thing
7 associated with it.

8 You will be required to decide all questions of fact
9 in this case from the evidence received in the trial and not
10 from any other source.

11 Do not make any independent investigation into or
12 ~~about the case or the subject matter of the case.~~ This means
13 for example that you must not do research such as consulting
14 dictionaries, searching the Internet or using any reference
15 materials.

16 You may not visit the scene or conduct experiments.

17 Should any person attempt to discuss the case with
18 you or in any manner attempt to influence you, notify the
19 bailiff immediately who in turn will let me know.

20 Thank you for your attention here daily. See you
21 tomorrow morning at 9:00 o'clock. You may step out.

22 (Whereupon the jury left the courtroom.)

23 THE COURT: Deputy, you are excused until 9:00 a.m.
24 tomorrow morning. I will see you then. I am going to talk to

1 the lawyers for a bit so you can step down.

2 THE WITNESS: Thank you, Your Honor.

3 (Witness excused.)

4 THE COURT: All right. Okay. Ms. Nordvig, how much
5 longer do you think you want to go on your cross? You can be
6 seated.

7 MS. NORDVIG: Probably forty-five minutes give or
8 take.

9 THE COURT: Okay.

10 MS. NORDVIG: Is a guess.

11 THE COURT: That is fine. I just want to kind of
12 get a general idea. Mr. Stege, I show that you have Toni
13 Olsen, Steve Shinmei and David Nevills; is that correct?

14 MR. STEGE: And Dr. Knight.

15 THE COURT: And Dr. Knight.

16 MR. STEGE: Yes.

17 THE COURT: Are they all available tomorrow?

18 MR. STEGE: Yes. Yes.

19 THE COURT: Okay. Do you have any other witnesses
20 before you are going to rest?

21 MR. STEGE: That I don't know. My thinking is to get
22 through tomorrow with those four or less and rest. Drive
23 through tomorrow and rest.

24 THE COURT: Can you tell me what you think in terms

1 of your timing tomorrow? I am asking because I want to make
2 sure, if Ms. Norvig needs witnesses, that we give her the
3 information or Ms. Rains the information tonight. If we start
4 at 9:00, we have approximately three hours I guess in the
5 morning and then we have four hours or so in the afternoon
6 with breaks.

7 MR. STEGE: Yes. I realize, Your Honor, I have been
8 terrible in this trial at the estimation, but I think we could
9 get to witnesses from the defense tomorrow. I do think that,
10 sort of mid afternoon.

11 THE COURT: Now yesterday, Ms. Nordvig, you said you
12 were looking into it, you thought you had them, maybe you
13 didn't.

14 MS. NORDVIG: Obviously, logistics are different
15 depending on whether it is morning or afternoon who can be
16 here and when, because of course, we are getting into some of
17 the professional witnesses.

18 When I got back last night I set up everybody for
19 the morning who had been set up for the afternoon.

20 THE COURT: Because we thought we were going today.

21 MS. NORDVIG: That's correct. I will try to set
22 them back up for the afternoon. I know one is an out of town
23 witness but I can kind of work around her. Then we'll see if
24 everybody that was for the afternoon can be switched to Monday

1 morning. We'll do our best.

2 THE COURT: Okay. Well, it gives us some idea.

3 MS. NORDVIG: Yes. Yes. Thank you.

4 THE COURT: So is there anything that needs to be

5 resolved outside the presence of the jury?

6 MS. NORDVIG: Not at this time.

7 THE COURT: You're thinking, Mr. Stege?

8 MR. STEGE: I'm thinking. That same hearsay issue I

9 do want to address at some point, but we'll have time before

10 that happens.

11 MS. NORDVIG: The one about the texts?

12 MR. STEGE: Yes, about the texts.

13 MS. NORDVIG: We may not have to resolve that at all.

14 THE COURT: I am kind of getting the impression you

15 may not try to admit that.

16 MS. NORDVIG: I won't say for sure right now, because

17 I don't know where they are going to go, but I am hoping to

18 not to have to deal with that.

19 MR. STEGE: Okay.

20 THE COURT: Okay. Just make sure we have a hearing

21 outside the presence of the jury before we get close.

22 MS. NORDVIG: Of course.

23 THE COURT: Then if there is nothing else for today,

24 we'll be in recess. I will see you back tomorrow morning at

1 9:00 if that is okay. Court's in recess.

2 (Whereupon the Court adjourned until 9:00 a.m.

3 Friday, July 20, 2018.

4 (Whereupon, the proceedings were concluded.)

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

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

6 That as such reporter I was present in Department
7 No. 4 of the above-entitled court on Thursday, July 18, 2018,
8 at the hour of 12:30 p.m. of said day and that I then and
9 there took verbatim stenotype notes of the proceedings had in
10 the matter of THE STATE OF NEVADA vs. EDWARD SAMUEL PUNDYK,
11 Case Number CR16-1290.

12 That the foregoing transcript, consisting of pages
13 numbered 1-56 inclusive, is a full, true and correct
14 transcription of my said stenotypy notes, so taken as
15 aforesaid, and is a full, true and correct statement of the
16 proceedings had and testimony given upon the trial of the
17 above-entitled action to the best of my knowledge, skill and
18 ability.

19 DATED: At Reno, Nevada this 4th day of September, 2018.
20
21

22 /s/ Judith Ann Schonlau
23 JUDITH ANN SCHONLAU CSR #18
24

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