

IN THE SUPREME COURT OF THE STATE OF NEVADA

QUINZALE MASON

Appellant,

v.

THE STATE OF NEVADA

Respondent.

Electronically Filed
Jun 24 2019 03:05 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

CASE NO. 77623

Appeal from the Denial of a Petition for Writ of Habeas Corpus
Second Judicial District Court, Washoe County
The Honorable Elliott A. Sattler, Department 10

APPELLANT'S APPENDIX

VOL. I

LYN E. BEGGS, ESQ.
LAW OFFICES OF
LYN E. BEGGS, PLLC
Nevada State Bar No. 6248
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Tel. (775) 432-1918
COUNSEL FOR APPELLANT

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QUINZALE MASON

Case No. 77623

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CERTIFICATE OF SERVICE

I certify that I, Lyn E. Beggs, Esq., am counsel for the Appellant in this matter, and that on this date I electronically filed the foregoing Appellant's Appendix with the Clerk of the Court by using the ECF system which will send a notice of filing to all parties pursuant to the master list:

Jennifer P. Noble, Chief Deputy District Attorney
Washoe County District Attorney's Office
P.O. Box 11130
Reno, NV 89520

Aaron Ford
Nevada Attorney General
100 N. Carson Street
Carson City, NV 89701

DATED this 24th day of June, 2019.

/s/ LYN E. BEGGS
LYN E. BEGGS, ESQ.

DA #14-14272

RPD RP14-015205

CODE 1800
Richard A. Gammick
#001510
P.O. Box 11130
Reno, NV 89520
(775) 328-3200
Attorney for State of Nevada

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF WASHOE

* * *

THE STATE OF NEVADA,

Plaintiff,

Case No.: CR14-1830

v.

Dept. No.: D01

QUINZALE MASON,

Defendant.

INFORMATION

RICHARD A. GAMMICK, District Attorney within and for the
County of Washoe, State of Nevada, in the name and by the authority
of the State of Nevada, informs the above entitled Court that
QUINZALE MASON, the defendant above named, has committed the crimes
of:

COUNT I. BATTERY WITH A DEADLY WEAPON, a violation of NRS
200.481(2)(e), a felony, in the manner following:

That the said defendant on the 9th day of August A.D.,
2014, or thereabout, and before the filing of this Information, at
and within the County of Washoe, State of Nevada, did willfully and
unlawfully use force or violence upon the person of DELPHINE MARTIN,

1 at or near 2397 Patton Drive, Reno, Washoe County, Nevada, with a
2 deadly weapon: a handgun, by shooting DELPHINE MARTIN in her back.

3 COUNT II. BATTERY WITH A DEADLY WEAPON, a violation of NRS
4 200.481(2)(e), a felony, in the manner following:

5 That the said defendant on the 9th day of August A.D.,
6 2014, or thereabout, and before the filing of this Information, at
7 and within the County of Washoe, State of Nevada, did willfully and
8 unlawfully use force or violence upon the person of CECILIA M. at or
9 near 2397 Patton Drive, Reno, Washoe County, Nevada, with a deadly
10 weapon: a handgun, by shooting CECILIA M. in her right leg.

11 COUNT III. ASSAULT WITH A DEADLY WEAPON, a violation of
12 NRS 200.471, a felony, in the manner following:

13 That the said defendant on the 9th day of August A.D.,
14 2014, or thereabout, and before the filing of this Information, at
15 and within the County of Washoe, State of Nevada, did willfully and
16 unlawfully attempt to use physical force against another person and/or
17 intentionally place another person in reasonable apprehension of
18 immediate bodily harm, with the use of, or present ability to use, a
19 deadly weapon: a handgun, at or near 2397 Patton Drive, Reno, Washoe
20 County, Nevada, by pointing a handgun at or towards ANTHONY HOLLY and
21 discharging said handgun multiple times.

22 COUNT IV. BEING A FELON IN POSSESSION OF A FIREARM, a
23 violation of NRS 202.360, a felony, (F150) in the manner following:

24 That the said defendant on the 9th day of August A.D.,
25 2014, or thereabout, and before the filing of this Information, at
26 and within the County of Washoe, State of Nevada, did willfully and

1 unlawfully, having been previously convicted on December 9, 2011 in
2 the County of Clark, State of Nevada (by way of a file-stamped Fourth
3 Amended Judgment of Conviction) of the crime of VOLUNTARY
4 MANSLAUGHTER WITH THE USE OF A DEADLY WEAPON, a felony under the laws
5 of the State of Nevada, have in his possession or under his custody
6 or control a firearm: a handgun, at or near 2397 Patton Drive, Reno,
7 Washoe County, Nevada.

8
9
10 All of which is contrary to the form of the Statute in such
11 case made and provided, and against the peace and dignity of the
12 State of Nevada.

13
14 RICHARD A. GAMMICK
15 District Attorney
16 Washoe County, Nevada
17

18 By: /s/ Travis Lucia, for
19 ZACH YOUNG
20 9227
21 Deputy District Attorney
22
23
24
25
26

1 The following are the names and addresses of such witnesses
2 as are known to me at the time of the filing of the within
3 Information:

4
5 RENO POLICE DEPARTMENT:
6 OFFICER KASSEMABUM
7 OFFICER STOCKWELL

8 ANTHONY HOLLY, 2427 PATTON DRIVE, RENO, NEVADA 89512

9 DELPHINE MARTIN, 2393 PATTON DRIVE, RENO, NEVADA 89512

10 PAUL HUEY, 2397 PATTON DRIVE, RENO, NEVADA 89512

11 The party executing this document hereby affirms that this
12 document submitted for recording does not contain the social security
13 number of any person or persons pursuant to NRS 239B.230.

14 RICHARD A. GAMMICK
15 District Attorney
16 Washoe County, Nevada

17
18 By: /s/ Travis Lucia, for
19 ZACH YOUNG
20 9227
21 Deputy District Attorney

22
23
24
25 PCN: RPD1414703C
26

CASE NO CR14-1830 **STATE OF NEVADA V QUINZALE MASON**

DATE, JUDGE

OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONT'D TO

12/9/14	<u>ARRAIGNMENT</u>	1/27/15 @
HONORABLE	Deputy District Attorney Zach Young represented the State. Defendant was	9:00 a.m.
JANET BERRY	present with counsel, Carl Hylin, Esq.	Mtn to
DEPT. 1	Counsel for the defendant addressed the Court and advised defendant was	Confirm
Y. Gentry	bound over from Justice Court; that the defendant will be pleading not guilty	Trial
(Clerk)	to all charges and will be invoking his right to trial within 60 days.	
D. Cecere	Court canvassed defendant regarding pleas and right to trial within 60 days.	2/9/15 @
(Reporter)	Defendant pled not guilty and invoked his right to trial.	9:30 a.m.
N. Nemeth	COURT ORDERED trial to begin February 9, 2015 for 5 days and set a	Trial
(Bailiff)	Motion to Confirm Trial hearing set for January 27, 2015.	
J. Iveson	DEFENDANT was present in custody.	
(Prob. Ofcr)		

1 CODE 2592
2 WASHOE COUNTY PUBLIC DEFENDER
3 CARL HYLIN, BAR# 2726
4 P.O. BOX 11130
5 RENO, NV 89520-0027
6 (775)337-4800
7 ATTORNEY FOR DEFENDANT

8
9 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

10
11 IN AND FOR THE COUNTY OF WASHOE

12 THE STATE OF NEVADA,
13 Plaintiff,

14 vs.

CASE NO. CR14-1830

15 QUINZALE MASON,
16 Defendant.

DEPT. NO. 1

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NOTICE OF ALIBI WITNESS

COMES NOW Defendant, QUINZALE MASON, by and through his counsel of record, the Washoe County Public Defender's Office, and CARL HYLIN, Chief Deputy Public Defender and hereby informs the Washoe County District Attorney's Office pursuant to NRS 174.233 that it intends to call an alibi witness at the trial of this case.

The alibi witness the Defense intends to call is:

1. Cisco (Last name unknown)
AKA "SKO"
Contact Information to follow as soon as received

"SKO" will testify as to the absence of the Defendant at the scene of the alleged crime.

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the

///

1 social security number of any person.

2 DATED this 16th day of January, 2015.

3 JEREMY T. BOSLER
4 Washoe County Public Defender

5
6 By /s/ CARL HYLIN
7 CARL HYLIN
8 Chief Deputy Public Defender

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DISTRICT ATTORNEY
1 SOUTH SIERRA STREET
RENO, NV

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DA #14-14272
RPD RP14-015205

FILED
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2015-02-04 04:22:15 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 4803576 : lbarraga

1 CODE 1800
2 Christopher J. Hicks
3 #7747
4 P.O. Box 11130
5 Reno, NV 89520
6 (775) 328-3200
7 Attorney for State of Nevada

8
9 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
10
11 IN AND FOR THE COUNTY OF WASHOE

12 * * *

13 THE STATE OF NEVADA,

14 Plaintiff,

Case No.: CR14-1830

15 v.

Dept. No.: D01

16 QUINZALE MASON,

17 Defendant.

18
19 AMENDED INFORMATION

20 CHRISTOPHER J. HICKS, District Attorney within and for the
21 County of Washoe, State of Nevada, in the name and by the authority
22 of the State of Nevada, informs the above entitled Court that
23 QUINZALE MASON, the defendant above named, has committed the crimes
24 of:

25 COUNT I. BATTERY WITH A DEADLY WEAPON, a violation of NRS
26 200.481(2)(e), a felony, in the manner following:

That the said defendant on the 9th day of August A.D.,
2014, or thereabout, and before the filing of this Information, at
and within the County of Washoe, State of Nevada, did willfully and
unlawfully use force or violence upon the person of CECILIA M. at or

1 near 2397 Patton Drive, Reno, Washoe County, Nevada, with the use of
2 a deadly weapon, to wit: a handgun, by shooting CECILIA M. in her
3 right leg.

4 COUNT II. ASSAULT WITH A DEADLY WEAPON, a violation of NRS
5 200.471, a felony, in the manner following:

6 That the said defendant on the 9th day of August A.D.,
7 2014, or thereabout, and before the filing of this Information, at
8 and within the County of Washoe, State of Nevada, did willfully and
9 unlawfully attempt to use physical force against another person and/or
10 intentionally place another person in reasonable apprehension of
11 immediate bodily harm, with the use of, or present ability to use, a
12 deadly weapon, to wit: a handgun, at or near 2397 Patton Drive, Reno,
13 Washoe County, Nevada, by pointing a handgun at or towards ANTHONY
14 HOLLY and discharging said handgun multiple times.

15 COUNT III. BEING A FELON IN POSSESSION OF A FIREARM, a
16 violation of NRS 202.360, a felony, (F150) in the manner following:

17 That the said defendant on the 9th day of August A.D.,
18 2014, or thereabout, and before the filing of this Information, at
19 and within the County of Washoe, State of Nevada, did willfully and
20 unlawfully, having been previously convicted on December 9, 2011 in
21 the County of Clark, State of Nevada (by way of a file-stamped Fourth
22 Amended Judgment of Conviction) of the crime of VOLUNTARY
23 MANSLAUGHTER WITH THE USE OF A DEADLY WEAPON, a felony under the laws
24 of the State of Nevada, have in his possession or under his custody
25 or control a firearm, to wit: a handgun, at or near 2397 Patton
26 Drive, Reno, Washoe County, Nevada.

1 All of which is contrary to the form of the Statute in such
2 case made and provided, and against the peace and dignity of the
3 State of Nevada.

4
5 CHRISTOPHER J. HICKS
6 District Attorney
7 Washoe County, Nevada

8
9 By /s/ Zach Young
10 ZACH YOUNG
11 9227
12 DEPUTY District Attorney

1 The following are the names and addresses of such witnesses
2 as are known to me at the time of the filing of the within
3 Information:

4 See Notice of Witnesses Pursuant to NRS 174.234, filed with this
5 Court on January 30, 2015

6 The party executing this document hereby affirms that this
7 document submitted for recording does not contain the social security
8 number of any person or persons pursuant to NRS 239B.230.

9 CHRISTOPHER J. HICKS
10 District Attorney
11 Washoe County, Nevada

12
13 By /s/ Zach Young
14 ZACH YOUNG
15 9227
16 DEPUTY District Attorney
17
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PCN: RPD1414703C-MASON

1 CODE
2 Christopher J. Hicks
3 #7747
4 P.O. Box 30083
5 Reno, NV 89520-3083
6 (775) 328-3200
7 Attorney for Plaintiff

8
9 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
10
11 IN AND FOR THE COUNTY OF WASHOE.

12 * * *

13 THE STATE OF NEVADA,

14 Plaintiff,

Case No. CR14-1830

15 v.

Dept. No. 10

16 QUINZALE MASON,

17 Defendant.

18 _____/

19 MOTION TO EXCLUDE EVIDENCE OF AN ALIBI

20 COMES NOW, the State of Nevada, by and through
21 CHRISTOPHER J. HICKS, District Attorney of Washoe County, and ZACH
22 YOUNG, Deputy District Attorney, and moves this Honorable Court for an
23 Order granting the State's Motion to Exclude Evidence of an Alibi. This
24 Motion is based upon the following Points and Authorities, all papers
25 and pleadings on file herein, and any oral arguments to be presented to
26 this Court.

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1 **POINTS AND AUTHORITIES**

2 **I. STATEMENT OF THE CASE**

3 Quinzale Mason (hereinafter "the Defendant") stands trial
4 before this Court of multiple felony offenses related to his
5 possession and discharge of a firearm on August 9, 2014. The
6 Defendant was arraigned on December 9, 2014, pled not guilty, and
7 invoked his statutory right to trial within 60 days. Accordingly, a
8 jury trial was scheduled to commence on February 9, 2015.¹

9 On January 16, 2015, the Defendant, through his attorney,
10 filed a Notice of Alibi Witness. The Notice identified the witness as
11 "Cisco (Last name unknown), AKA 'SKO'". The Notice further stated,
12 "Contact Information to follow as soon as received". Finally, the
13 Notice declared, "'SKO' will testify as to the absence of the
14 Defendant at the scene of the alleged crime." The Notice provides no
15 further information regarding the witness's identity, contact
16 information, or other factual information beyond that listed above.

17 The State now respectfully seeks to preclude the Defendant
18 from presenting evidence or testimony of an alibi in the instant
19 matter.

20 **II. ARGUMENT**

21 It is within a district court's sound discretion to admit
22 or exclude evidence. Mclellan v. State, 124 Nev. 263, 267 (2008)
23 (citing Thomas v. State, 122 Nev. 1361, 1370 (2006)). NRS 174.233(1)
24 provides:

25 "In addition to the written notice required by
26 NRS 174.234, a defendant in a criminal case who

¹ This matter was initially to be heard in Department 1. However, on February 4, 2015, this case was transferred to Department 10 for all further proceedings.

1 intends to offer evidence of an alibi in his or
2 her defense shall, not less than 10 days before
3 trial or at such other time as the court may
4 direct, file and serve upon the prosecuting
5 attorney a written notice of the defendant's
6 intention to claim the alibi. The notice must
7 contain specific information as to the place at
8 which the defendant claims to have been at the
time of the alleged offense and, as particularly
as are known to defendant or the defendant's
attorney, the names and last known addresses of
the witnesses by whom the defendant proposes to
establish the alibi."

9 This statute thus has two principal notice requirements:

10 (1) specific information as to the place at which the defendant
11 claims to have been at the time of the alleged offense, and (2) the
12 names and last known addresses of those witnesses who will establish
13 the alibi. Here, neither is satisfied by the Defendant's purported
14 Notice. Rather than stating where the Defendant was at the time of
15 the alleged offense, he simply states that he was absent from the
16 alleged crime scene. Moreover, the Defendant only provides a first
17 name and alias, without providing any last name. Finally, the
18 Defendant fails to provide the purported witness's last known
19 address, or any other contact information.

20 NRS 174.233(4) expressly allows for this Court to exclude
21 evidence offered by the defendant to prove an alibi if he fails to
22 comply with the notice requirements set forth in subsection (1). A
23 court may allow evidence of an alibi, even when noticed untimely,
24 where good cause is shown. Founts v. State, 87 Nev. 165, 169 (1971)
25 (noting that while alibi statutes "are usually strictly applied,"
26 trial courts should nonetheless exercise discretion regarding the

1 introduction of alibi testimony despite noncompliance). However, in
2 the instant case, the Defendant has failed to provide adequate notice
3 a mere four days before the commencement of trial, and has not
4 offered any good cause which would excuse noncompliance with NRS
5 174.233. The lack of proper notice precludes the State from
6 investigating the veracity of the purported alibi testimony. Id.

7 Moreover, subsection (2) of NRS 174.233 requires the State
8 to timely notice the names and last known addresses of any witnesses
9 "the State proposes to offer in rebuttal to discredit the defendant's
10 alibi at the trial of the cause." The Defendant's failure to
11 adequately and timely notice his alibi witness prevents the State
12 from likewise adequately and timely noticing any witnesses that may
13 be called in rebuttal.²

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24 ² The State is aware of L.C.R. 7(a), which requires that all pretrial motions be
25 filed and served no later than 20 days prior to trial. However, NRS 174.233 allows
26 for a criminal defendant to file a notice of alibi just 10 days before trial, or at
such other time as the court may direct. This shorter prescribed time period,
alone, delayed the State's filing of the instant Motion. Moreover, the State has
been waiting to see if the Defendant was to supplement his Notice of Alibi Witness
with the statutorily-required information, thereby further delaying the filing of

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AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Dated this 5th day of February, 2015.

undersigned does hereby affirm that the preceding
do not contain the social security number of any person.

By /s/ Zach Young
ZACH YOUNG
Deputy District Attorney

Mason AA 017

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CARL HYLIN
WASHOE COUNTY PUBLIC DEFENDER
350 S CENTER ST
RENO, NEVADA 89520

DATED this 5th day of February, 2015.

WANDA JACKSON

1 CODE: 4185
2 MARIAN S. BROWN PAVA, CCR #169
3 Peggy Hoogs & Associates
4 435 Marsh Avenue
5 Reno, Nevada 89509
6 (775) 327-4460
7 Court Reporter

8 SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

9 IN AND FOR THE COUNTY OF WASHOE

10 THE HONORABLE ELLIOTT A. SATTLER, DISTRICT JUDGE
11 --oOo--

12 STATE OF NEVADA, Case No. CR14-1830

13 Plaintiff, Dept. No. 10
14 vs.

15 QUINZALE MASON,
16 Defendant.
17

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TRANSCRIPT OF PROCEEDINGS
STATUS HEARING
FRIDAY, FEBRUARY 6, 2015

1 APPEARANCES:

2 For the Plaintiff

ZACH YOUNG, ESQ.
Deputy District Attorney
1 South Sierra Street, 4th Floor
Reno, Nevada 89501

4

For the Defendant

CARL HYLIN, ESQ.
Deputy Public Defender
350 South Center Street
Reno, Nevada 89501

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RENO, NEVADA, FRIDAY, FEBRUARY 6, 2015, 9:38 A.M.
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3
4 THE COURT: This is CR14-1830, the State of Nevada
5 versus Quinzale Mason. Mr. Mason is present in court in
6 custody with his attorney, Chief Deputy Public Defender, Carl
7 Hylin.

8 Good morning to both of you gentlemen.

9 MR. HYLIN: Good morning, Your Honor.

10 THE DEFENDANT: Good morning.

11 THE COURT: Mr. Mason, did I pronounce your first name
12 correctly?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: It's "Quin-zail"?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Okay. Deputy District Attorney Zach Young
17 is here on behalf of the State of Nevada.

18 Good morning, Mr. Young.

19 MR. YOUNG: Good morning, Your Honor.

20 THE COURT: We are here because on February 4th, I
21 believe it was, this matter was transferred from Department 1
22 to Department 10 because of court congestion. And the
23 defendant had invoked his right to a trial within 60 days and,
24 therefore, this matter was transferred from Judge Berry's

1 department to my department.

2 There is a jury trial currently scheduled for Monday,
3 February 9th at 8:30 a.m., and so I wanted to meet with counsel
4 prior to trial and resolve any outstanding issues regarding the
5 trial.

6 First and foremost, the Court would note that on
7 February 4th of 2015, the State filed an Amended Information.
8 The defendant has yet to be arraigned on the Amended
9 Information; is that correct?

10 MR. HYLIN: That is correct, your Honor. And I just
11 discussed that with him. On line 12 of the Information his
12 name is correctly spelled. I just went over the contents with
13 him.

14 There is one count that has been eliminated from that
15 and then restructured. So there's Counts 1 through 3, and he
16 will maintain a guilty plea on all three counts -- I mean,
17 excuse me, a not guilty plea.

18 THE COURT: That would be a significant change --

19 MR. HYLIN: That caught his attention, Your Honor.

20 THE COURT: -- in the posture of the case.

21 Mr. Mason, if you could please rise.

22 MR. HYLIN: He is --

23 THE COURT: Oh, I apologize. I didn't see that you
24 were in a wheelchair there, Mr. Mason.

1 So, Mr. Mason, as to Count 1, battery with a deadly
2 weapon, as alleged in the Amended Information, what is your
3 plea?

4 THE DEFENDANT: Not guilty, Your Honor.

5 THE COURT: As to Count 2, assault with a deadly
6 weapon, as alleged in the Amended Information, what is your
7 plea?

8 THE DEFENDANT: Not guilty, sir.

9 THE COURT: And as to Count 3, being a felon in
10 possession of a firemen, a felony, as alleged in the
11 Information, what is your plea?

12 THE DEFENDANT: Not guilty, sir.

13 THE COURT: The defendant's not guilty pleas will be
14 entered on the record. The trial, obviously, is still going to
15 occur on February 9th of 2015.

16 One of the things that I wanted to address with the
17 parties is the State's motion to establish a bifurcation
18 process. The State filed a Motion to Bifurcate Trial related
19 to the charge of being a felon in possession of a firearm on
20 January 20th of 2015.

21 The defense filed a notice of non-opposition to the
22 State's Motion to Bifurcate Trial related to the charge of
23 being a felon in possession of a firearm on January 20th of
24 2015.

1 On January 28th of 2015, Judge Berry entered an order
2 regarding the State's motion and the defendant's
3 non-opposition. Further, the Court would note that the minutes
4 from the motion to confirm, which was conducted on January 27th
5 of 2015, indicate that the issue was raised.

6 The clarification that I want to make regarding this
7 issue is as follows: Mr. Young, in his motion in a footnote,
8 specifically Footnote No. 1, says: "For purposes of the second
9 phase, in addition to this Court instructing the jury on the
10 law related to Count 4" -- and now that would be Count 3 --
11 "the State respectfully requests that both parties be allowed
12 to present an opening statement, evidence and testimony through
13 case in chief and rebuttal cases and closing argument."

14 The Court has reviewed the relevant cases on point.
15 And, actually, I have conducted this type of hearing both as a
16 trial attorney and as a district court judge. The Court has
17 reviewed Brown versus State, which is 114 Nev. 1118. That is
18 the case that really sets the rule that we have to bifurcate
19 these proceedings.

20 But then, as Mr. Young notes, the Nevada Supreme Court
21 announced in Morales versus State, which is 122 Nev. 966, a
22 2006 case, that it is not necessary for courts to have entirely
23 new juries and go through an entire new trial in order to
24 accomplish what is set forth in Brown versus State.

1 In Morales versus State it appears that all that
2 occurred was that the judge -- and if memory serves me
3 correctly it was Judge Barker in Las Vegas -- simply separated
4 the two trials. The same jury was used.

5 The defendant was charged with numerous
6 weapons-related offenses. The jury found the defendant guilty
7 in the first phase of numerous offenses that specifically
8 alleged the possession of a firearm during the commission of
9 the crime.

10 The Judge simply instructed the jury -- the State was
11 allowed to offer the certified copy of the prior felony
12 conviction. The Judge then instructed the jury. The jury went
13 back in and began to deliberate again. There was no opening
14 statement that was made. There was no closing argument that
15 was made. There were no additional witnesses that were
16 proffered.

17 And, therefore, I want the parties to know that for
18 the purposes of this hearing -- or, excuse me, this trial, that
19 is the process that we will go through. There will be no
20 opening statements. There will be no additional witnesses
21 called. There will be no closing arguments. The State will
22 simply have the opportunity to present the Court with a
23 certified copy of the defendant's prior criminal conviction.
24 The Court will instruct the jury.

1 The State has already provided the Court with the jury
2 instructions regarding Count No. 3. And so I'll just instruct
3 the jury. They'll go back in and they'll deliberate again.

4 I don't think that's the process that you would always
5 go through with an ex-felon in possession of a firearm charge.
6 I don't think that's what Morales stands for. It may be that
7 there are circumstances where you would need to call additional
8 witnesses.

9 Hypothetically, if the defendant was simply charged
10 with embezzlement and being an ex-felon in possession of a
11 firearm, there would be no reason to have any discussion in
12 front of the jury in the first phase about the possession of
13 the weapon; therefore, we may need to call some witnesses to
14 lay that foundation.

15 But the Court in this case is assuming that there will
16 be testimony during the trial about the defendant possessing a
17 firearm. And that is based on the fact that the two charges
18 are directly related to his possession of a firearm during the
19 commission of the offense. They are elements of Count 1 and
20 Count 2. And, therefore, there would be no reason under these
21 specific facts to have any additional discussion with the jury
22 or any additional argument beyond the Court instructing the
23 jury.

24 Now, if the jury finds the defendant not guilty of

1 Count 1 and Count 2, the Court will not give any instructions
2 regarding being an ex-felon in possession of a firearm, because
3 I believe that those -- if the jury came back and found him
4 guilty of that, it may be internally inconsistent if they find
5 him not guilty of being an ex-felon -- or, excuse me, assault
6 with a deadly weapon or battery with a deadly weapon, but then
7 guilty of being an ex-felon in possession of a firearm.

8 I'm not quite sure how that would work. So I'm not
9 saying -- let me correct what I just said.

10 We will have a discussion about that if we get to that
11 point. If the jury finds the defendant not guilty of Count 1
12 and Count 2, we will discuss whether or not we are even going
13 to go forward with Count 3 based on the Court's concern that
14 there may be some internal inconsistencies in those things.

15 So, Mr. Young and Mr. Hylin, I think you will just
16 need to be prepared for that. And I certainly would entertain
17 some argument on behalf of Mr. Mason if that eventuality
18 occurs, Mr. Hylin. So just be ready for that issue.

19 Is there anything else that we need to take up
20 regarding the ex-felon in possession of a firearm, Mr. Young?

21 MR. YOUNG: No. Your Honor, the reason I put that
22 footnote -- and I'm certainly fine. I do have a certified
23 prior that is long ago, that has been discovered to the
24 defense. I'm fine doing that.

1 The only other case I ever did with this structure, we
2 were given the opportunity of opening and closing. Frankly,
3 both parties waived opening and closing, but we were -- so I
4 don't know if it would be necessary as far as the -- if the
5 defendant is found not guilty on Counts 1 and 2, I do have some
6 ideas of why we would still go forward with Count 3, but I'll
7 broach that at the appropriate time.

8 THE COURT: And that's why when I said that,
9 Mr. Young -- right after I said it, I thought, "Well, wait a
10 minute. There might be some reasons that a jury could find him
11 not guilty of Count 1 and Count 2 but guilty of Count 3."

12 So we'll talk about it when we get there, but it
13 certainly will pose a problem for the State. Let's put it that
14 way.

15 MR. YOUNG: I understand.

16 THE COURT: Mr. Hylin, anything else on behalf of the
17 defendant regarding that specific issue?

18 MR. HYLIN: Not on that issue, Your Honor.

19 THE COURT: Okay. The Court has been provided a
20 courtesy copy of a Motion to Exclude Evidence of an Alibi. It
21 is my understanding that the motion will be filed or has been
22 filed today by Mr. Young. My copy, as I said, is a courtesy
23 copy and it has not been file-stamped.

24 Mr. Young in his motion requests that the Court

1 exclude evidence of a supposed alibi. Specifically, the
2 defendant has provided in a very general sense a notice of
3 alibi. The defendant filed on January 16th of 2015 that notice
4 of alibi. And all that the notice of alibi indicates is that
5 the defendant will call someone by the name of Cisco,
6 C-i-s-c-o, with the last name unknown, who also goes by the
7 name of SKO, all capital letters. The notice of alibi did not
8 provide any information on how to contact Cisco. It simply
9 says, "Contact information to follow as soon as received."

10 Finally, the Notice of Alibi states that Cisco will
11 testify as to "the absence of the defendant at the scene of the
12 alleged crime," close quote, and nothing more.

13 Mr. Young indicates to the Court that the notice
14 itself does not comply with NRS 174.233 in any way. That
15 statute requires very specific information be provided by the
16 defendant in order to claim an alibi.

17 The defendant certainly has complied with the timing
18 requirement, because the Notice of Alibi must be filed not less
19 than ten days before the trial, but there is no compliance, as
20 the Court reads the notice, with any of the additional criteria
21 that NRS 174.233, Subsection 1 requires.

22 When the case was transferred to me from Judge Berry
23 I did review the file immediately and noticed the Notice of
24 Alibi issue, but I was curious, possibly, that maybe Mr. Hylin

1 or the defendant had developed this information or provided it
2 to the State. As I read the Notice of Alibi it's really not a
3 notice of anything, other than the fact that there may be some
4 person out there that will be called.

5 Because the defendant has failed to comply with
6 NRS 174.233, Subsection 1, Mr. Young requests that the Court
7 exercise its sound discretion under -- or the sound discretion
8 granted to it under NRS 174.233, Subsection 4, and exclude any
9 evidence of an alibi at the trial on Monday.

10 The defense clearly hasn't had an opportunity to
11 respond to the motion, because it's just been filed this
12 morning.

13 The Court finds that there is good cause to waive the
14 filing requirements found under the local rules of criminal
15 practice, because given the timing for the filing and the fact
16 that, in essence, the defense can update the information up and
17 to trial arguably, the State was reasonable in waiting on
18 deciding to file the motion.

19 So, Mr. Hylin, I turn to you and I need some
20 information about Cisco.

21 MR. HYLIN: Well, I would give it to you if I could,
22 Your Honor. That's why the notice is crafted the way it is. I
23 wanted to preserve the issue, but we have not been able to
24 garner any more information than you see there, and I did not

1 want to speculate in that document about what would be
2 testified to by this witness, not having spoken to him or
3 having, you know, any other information.

4 So all I would ask is that there -- that the Court
5 keep an open mind so that if we do get some more information
6 and we can produce this witness -- which I'll admit right now
7 doesn't appear very likely, but in the event it does, I would
8 at least like leave to argue to put this matter on, since it
9 would probably constitute the core of the defense argument.

10 THE COURT: Thank you, Mr. Hylin.

11 The Court has reviewed a number of cases regarding the
12 issue of a late notice of alibi or no notice of alibi at all.
13 As the parties are aware, the primary case that the Court looks
14 to is Founts, F-o-u-n-t-s, versus the State of Nevada,
15 87 Nev. 165, 483 P.2d 654.

16 And Founts actually gives the Court a number of
17 factors to consider in deciding whether or not to preclude
18 alibi testimony. The Court has to decide if there's good cause
19 for the late notice. So even up to the time of trial it's
20 theoretically possible that an alibi witness would be allowed
21 to be called.

22 The Court in Founts, at page 169, directs district
23 courts to consider the following factors in deciding whether or
24 not good cause exists, such that the alibi would be allowed to

1 be testified -- or allowed to testify.

2 Specifically the court says that I should consider
3 whether the testimony is sought to be introduced at such a late
4 time in the course of the trial that even an adjournment of the
5 investigation would not cure the prejudice to the State;
6 whether an excuse was shown for the omission; whether the
7 information failed to describe the occurrence of the crime with
8 sufficient specificity to enable the accused to prepare an
9 alibi defense; and whether the alibi had such absence as to
10 have prohibitive value to the defense.

11 The Court also should consider whether the value of
12 the offered testimony -- or, excuse me, consider the value of
13 the offered testimony and the prejudicial effect upon either
14 side by the admission or nonadmission of the testimony and the
15 feasibility of a postponement.

16 In Reese versus State, the Nevada Supreme Court
17 actually gives us a good indication of why this type of
18 information should be considered and the factors should be
19 weighed. Reese versus State, by the way, is 95 Nev. 419,
20 596 P.2d 212, a 1979 case.

21 Reese cites to the United States Supreme Court on
22 page 424, where it says: "As the United States Supreme Court
23 has observed in upholding statutes allowing courts to prohibit
24 such last-minute alibi testimony by witnesses," and then it

1 goes to, quote, "given the ease with which an alibi can be
2 fabricated, the State's interest in protecting itself against
3 an eleventh-hour defense is both obvious and legitimate."

4 And the Nevada Supreme Court is citing to Williams v.
5 Florida, 399 U.S. 78, at page 81, 90 S.Ct. 1893,
6 26 L.Ed.2d 446, 1970.

7 Under the circumstances of this case, given the fact
8 that we're on the eve of trial and the defense still does not
9 know who Cisco is or what Cisco would testify to and, further,
10 given the fact the State would be significantly prejudiced if
11 Cisco were to miraculously appear at some point in the trial
12 scheduled to begin on Monday, and they would not have the
13 opportunity to investigate anything that Cisco has said, and
14 also given the fact that the notice doesn't comply with
15 NRS 174.233, Subsection 1 -- because the notice doesn't even
16 say where Mr. Mason was -- the Court will preclude and instruct
17 counsel for the defense that they are not to argue at any
18 portion during the opening statement, during voir dire or at
19 any other time, the issue of an alibi defense, beyond the fact
20 that, as the Nevada Supreme Court notes in Subsection -- I
21 believe it's one -- one moment.

22 NRS 174.233, there is a caveat that the defendant
23 himself is allowed to explain or give information and testimony
24 about where he was. So the Notice of Alibi requirements only

1 apply to other witnesses.

2 Certainly Mr. Mason, should he choose to testify, can
3 testify that he was at some other location, but the defense
4 will offer at no time in front of the jury any testimony
5 regarding the possibility of some other witness coming in and
6 offering -- or a notice of alibi.

7 The point that I was making a moment ago before I
8 shifted was that the notice itself could have said where
9 Mr. Mason was, and it didn't. It simply says in a very general
10 sense that Mr. Mason wasn't present. So hypothetically, if
11 Cisco was going to offer testimony that Mr. Mason was with him
12 in Carson City at the time that this offense occurred,
13 certainly that piece of the puzzle would be known by Mr. Mason
14 and could have been given to the State so the State could have
15 begun the process of investigating that alibi defense. And as
16 the Nevada Supreme Court has clearly said, it's that
17 investigation that the State should be allowed to have in order
18 to rebut an alleged alibi.

19 But the notice that the Court has reviewed doesn't
20 even say that basic information about where Mr. Mason actually
21 was at the time of this occurring and, therefore, for the
22 reasons that the Court has stated, no discussion of alibi
23 testimony will be made beyond the limits that the Court has
24 indicated and beyond the limits of NRS 174.233. One moment.

1 I apologize, it is under NRS 174.233, Subsection 4
2 that the Nevada Supreme -- or, excuse me, the Nevada
3 Legislative specifically says that the defendant may offer his
4 own alibi testimony. That statute says:

5 "If a defendant fails to file and serve a copy of the
6 notice required by this section the Court may exclude evidence
7 offered by the defendant to prove an alibi, except the
8 testimony of the defendant."

9 So he can testify, it's just they can't talk about
10 anyone else.

11 Anything else regarding that issue, Mr. Young?

12 MR. YOUNG: No, thank you, Your Honor.

13 THE COURT: Mr. Hylin?

14 MR. HYLIN: No, Your Honor. Just to clarify, you
15 don't want me talking about any alibi information in opening?

16 THE COURT: Well, an opening statement, as we know, is
17 the opportunity for you to explain to the jury what you in good
18 faith believe the evidence will be. If you have a good-faith
19 belief that Mr. Mason is going to be testifying that he wasn't
20 there, I think that you're allowed to argue that under
21 NRS 174.233 --

22 MR. HYLIN: Okay.

23 THE COURT: -- Subsection 4, but you would not be
24 allowed to say anything about other people coming in to

1 corroborate or to support that type of statement.

2 MR. HYLIN: Okay. That's fine, your Honor. I just
3 wanted to clarify that.

4 THE COURT: And I know you, Mr. Hylin. You're not
5 going to over-promise and under-sell on what happens during the
6 trial.

7 MR. HYLIN: No, and that's what I'm trying to avoid.

8 THE COURT: Right.

9 MR. HYLIN: And the decision hasn't been made yet,
10 so --

11 THE COURT: I understand. Okay. So that is the
12 Court's ruling on that issue.

13 The next issue is regarding the defendant himself. My
14 bailiff has informed me that Mr. Mason needs to have dialysis
15 on a regular basis, on Monday, Wednesday and Friday, and then
16 he has it once during the weekend.

17 Is that correct, Mr. Hylin?

18 MR. HYLIN: That's correct. It's up to four days a
19 week now. He has a very severe kidney malfunction. So when we
20 first started this, it was Monday, Wednesday and Friday. Now
21 they're doing it four days a week.

22 He also has severe diabetic problems. For instance,
23 the reason he's here in a wheelchair now is because his blood
24 sugar shot up over 400. I don't know if you're familiar with

1 blood sugar counts.

2 THE COURT: I am. I have family members who are
3 diabetics, so I know how difficult that can be.

4 MR. HYLIN: Right. And the 400 is outrageously high.
5 And what they do when it shoots up that high is they give him
6 some insulin. But I don't know -- I'm not trying to cast
7 dispersions about the medical unit. But any at any rate his
8 blood sugar plummets because of the injection of the insulin
9 and he was in his cell and started to lose consciousness
10 because of the lack of blood sugar in his system and fell. Now
11 he's got to get some X-rays this morning on his foot. So
12 it's -- it's problematic.

13 And I was going to put the Court on notice, however --
14 and I will check with him during the conduct of the trial -- if
15 he becomes medically incapable of paying attention to what's
16 going on here I will alert the court.

17 THE COURT: I appreciate that, Mr. Hylin. And the
18 Court will certainly allow Mr. Mason a little bit more
19 latitude. If he needs, you know, something to eat while he is
20 at counsel table or something to drink, the Court will permit
21 that to happen.

22 You know, obviously it's not a picnic. I don't want
23 Mr. Mason over there eating if it's unnecessary, during the
24 course of the trial, but at the same time I want him to be able

1 to be present and actively participate in his own defense. And
2 so we'll just try to --

3 MR. HYLIN: Right.

4 THE COURT: -- acknowledge those things as we go
5 forward.

6 MR. HYLIN: As far as the dialysis is concerned, they
7 usually take him out around 3:00 p.m. for that and they bring
8 him back somewhere between 5:00 and 6:00.

9 THE COURT: Deputy Gray had informed me yesterday when
10 we were talking about this issue that the Washoe County
11 Sheriff's office now will be able to conduct the defendant's
12 dialysis at the Washoe County Jail. Before he was being --

13 MR. HYLIN: Oh.

14 THE COURT: -- transported off site, but now they're
15 going to be able to conduct his dialysis at the jail. And so
16 that will eliminate a little bit of the difficulty in moving
17 the defendant from place to place and having to take him from
18 here at the courthouse up to the jail and then from the jail
19 over to Renown. At least we're going to be cutting out one of
20 the steps in that process.

21 Deputy Gray and I discussed the issues yesterday and
22 he's been very helpful in my understanding of what's going on
23 with the defendant's medical treatment.

24 The trial in this case, as I've reviewed it, looks

1 like it should last about three days, especially given the fact
2 that now we only have two cases in the first -- or, excuse me,
3 two counts in the first phase of the trial, and I can't see it
4 really going much farther than that.

5 But Monday is one of the days that the defendant has
6 to have his dialysis. So I've spoken to Deputy Gray. He's
7 going to be able to transport the defendant here, not with the
8 regular transport, but he'll transport him here himself in the
9 morning on Monday.

10 Trial will begin at 8:15 a.m., not at 8:30. And we
11 will go through and take up -- use as much time as I believe is
12 reasonable during the day. And we will break sometime in the
13 midafternoon for the day in order for Mr. Mason to be able to
14 get up to the Washoe County Jail and begin his dialysis.

15 But what that will mean is, is that I am going to
16 modify, slightly, my standard practice as far as how the Court
17 uses the jury's time. Normally what I do is I start at 8:30
18 and I go until about 10:15 in the morning on trial days, and
19 then we take a 15-minute break. We come back precisely at
20 10:30 and we go until noon. I also only take a
21 one-hour-15-minute break instead of an hour-and-a-half. So we
22 try and get back early. And unlike some other departments,
23 15-minute breaks last 15 minutes long in Department 10.

24 So what I am anticipating doing is starting at 8:15

1 promptly with jury selection. Mr. Mason will be present, he
2 will be dressed, he will be ready to go at 8:15. Deputy Gray
3 has assured me that he will be able to take care of that.

4 So we're going to get you here on time, Mr. Mason.
5 You are going to be dressed in your -- in your civilian
6 clothing, and you will be ready to go at 8:15. The jury will
7 be brought up and we will start promptly at 8:15.

8 And then I am just going to go and just judge the
9 jury. I'll inquire of the jury both during jury selection and
10 during the trial if they need any additional time.

11 The lunch break on days where Mr. Mason has dialysis
12 probably will be only a half-an-hour long. We will take
13 breaks, but the breaks may be only for the jury just to stand
14 and stretch their legs during the times when witnesses are
15 coming and going, or possibly in between direct and
16 cross-examination. But we're going to try and get as much
17 testimony in on Monday and on Wednesday -- I don't know,
18 Tuesday, as well -- as possible.

19 Court will begin at 8:30 on Tuesday. So we don't need
20 to have that additional 15 minutes, because Tuesday it sounds
21 to me like we'll have a full trial day. So on Tuesday the
22 schedule will be 8:30 until 10:15, 10:30 until noon, noon until
23 1:00 -- I said 1:15, but we'll come back at 1:00. And then
24 we'll see how the afternoon goes. We'll take a break and

1 normally I break for the day about 4:45. And, you know, that's
2 always just depending on where we are with the witness, if
3 there's just a couple minutes left or a few more legitimate
4 questions, not, "I just have one more question," and then 25
5 minutes later we're still talking to the witness. So that's
6 what I anticipate the trial schedule will be.

7 I actually have a previously scheduled appointment
8 that I have to do on Wednesday. I have -- it's not something
9 that I can miss. I'm actually scheduled to preside over the
10 lunch meeting of the Washoe County Bar Association on
11 Wednesday. So I have to do that, and I can't get out of it or
12 I would.

13 So that is one little hiccup on Wednesday. I'll just
14 let you know as we're going forward what's going on there. I
15 just have to probably break around 11:15, I would guess, on
16 that day. And so, again, we'll just kind of try and play it by
17 ear on how we schedule our time.

18 But that will require that the State has witnesses
19 ready to go all the time. We just -- I'm not going to really
20 be particularly tolerant of the State's not having witnesses.
21 But I know Mr. Young and the investigators on this case well,
22 and I'm sure that they'll have people ready to go.

23 We do have some doctor testimony, I think, is usually
24 the only hiccup, getting doctors here and then having to wait

1 for a little while is sometimes difficult.

2 MR. YOUNG: I've spoken with Dr. Cinelli -- that's
3 C-i-n-e-l-l-i -- he's pretty flexible. So we'll get that
4 squared away.

5 For timing purposes with the dialysis requirement, is
6 the Court intending -- just so I know how many witnesses I
7 roughly need -- are we breaking on Monday at a certain time,
8 say 3 o'clock, because of that? Or are we going to potentially
9 go until 4:45 if possible?

10 THE COURT: No, we're not going to go to 4:45 on the
11 days that Mr. Mason has dialysis. I'll probably be breaking
12 sometime around 3 o'clock.

13 MR. YOUNG: Okay.

14 THE COURT: And the reason I am going to break then is
15 that Deputy Gray will be able to transport the defendant back
16 up to the Washoe County Jail. We won't have to be waiting for
17 him. So Deputy Gray has readily agreed -- and the Court thanks
18 him -- to go above and beyond and get the defendant moved
19 around so he's getting his medical needs taken care of, and at
20 the same time we're respecting his Constitutional right to a
21 speedy trial and statutory right to a trial within 60 days.

22 So we're kind of juggling a lot of things, Mr. Mason,
23 to make sure that this happens for you in the time frame that
24 you've requested.

1 So, Mr. Young, I guess what I would say is, if you've
2 got a witness on the stand and it's, you know, ten minutes to
3 3:00, it's a pretty safe bet that, you know, if we're coming to
4 the end of that witness's testimony, you don't have to call
5 somebody else just for the court to take a break. So we'll
6 make sure that we just keep an eye on that as far as the
7 witnesses go.

8 Recently -- and by recently, I mean in February of
9 last year, the Nevada Supreme Court in the case of the
10 State vs. Preciado, which is 130 Nev., Advance Opinion 6,
11 changed the way that district courts have to handle bench
12 conferences, conferences outside the presence of the jury, and
13 just the casual conversations that we have regarding cases.

14 Justice Douglas in Preciado indicated to the trial
15 courts that we now must follow in noncapital cases the way that
16 capital cases are handled for bench conferences. That is, that
17 the bench conferences need to be memorialized either as the
18 conference is taking place -- and I do have a microphone on my
19 bench that we can use -- or in the alternative, at the next
20 available opportunity.

21 I don't like bench conferences. I think they just
22 cause confusion. They're difficult for the Court to
23 memorialize, and so I am not -- I don't have bench conferences.
24 That's not true. I have bench conferences on very, very rare

1 occasions, and then we immediately memorialize what was said at
2 the bench conference at the next opportunity when the jury is
3 not in our presence. So I just want the parties to be aware of
4 that, that I really do follow what Justice Douglas told us to
5 do.

6 And the reason we do that, Mr. Mason, is that in the
7 past the attorneys would come up to the bench and we would
8 discuss things, and then if the defendant is found guilty and
9 there's an appeal, sometimes the defendant says one thing was
10 discussed with the Judge and the State says something else was
11 discussed with the Judge, and the Judge doesn't get in the
12 middle of it, and so it makes it difficult for the Supreme
13 Court to review what we've done.

14 And so to alleviate that, as it happens or as close
15 thereafter, we will put on the record what the understanding of
16 the parties was at the bench conference. So that's the process
17 that I use. And I know I haven't done a trial with Mr. Hylin
18 or Mr. Young as a judge, and so I just wanted to make them
19 aware that's the process that we go through.

20 During jury selection, just so you know, I am -- I do
21 the initial jury voir dire. I don't limit what attorneys ask
22 jurors beyond what the Nevada Supreme Court says. I give you
23 wide latitude to question the jurors.

24 If there are any issues that you would like me to

1 touch on, rather than your touching on them, I would happy to
2 do so, just let me know what those issues are; but I don't
3 expect you to give me your jury questions. I'll let you guys
4 do your jobs, let's put it that way.

5 So with that, are there any additional trial issues
6 that we need to discuss, Mr. Hylin?

7 MR. HYLIN: Well, Your Honor, the only -- there was --
8 yeah, this is referenced in the reports. There was a hearsay
9 conversation between a woman that is actually unidentified in
10 there, where somebody, I think in the -- somewhere in the same
11 neighborhood overheard somebody saying what they thought was
12 talking about this case, but, you know, it's unknown whether
13 there was -- it's unknown who this person was talking to. It's
14 unknown who this person is. You can speculate as to who it is,
15 and maybe even speculate accurately, but that's not, of course,
16 allowed.

17 And I believe under the NRS it still requires that
18 there be some sort of verification of a conversation with
19 somebody that's relevant on the other end of the line. Here
20 they really have nobody and this witness has been named on the
21 witness list, on the State's witness list. I just want to put
22 everyone on notice that I will be objecting on those grounds.

23 THE COURT: Well, obviously hearsay within hearsay, or
24 nested hearsay, is inappropriate under NRS 51.0 -- like, 065 or

1 something like that. Hold on a second.

2 It's 067. "Hearsay included within hearsay is not
3 excluded under the hearsay rule if each part of the combined
4 statements conform to the exception to the hearsay rule
5 provided in this chapter."

6 The converse of that, of course, would be that if you
7 can't do that, then it is prohibited.

8 So, Mr. Young, on that issue?

9 MR. YOUNG: I'm not entirely sure, based on the
10 description, which phone call he is speaking of. The only
11 phone call I'm aware of is a phone call that Ebony Spurlock --
12 am I getting the right call?

13 MR. HYLIN: Well, I'm suspecting it may be
14 Ms. Spurlock, Your Honor, but the person who heard her talking
15 on the -- this woman talking on the phone doesn't know who she
16 is.

17 THE COURT: Well, I'm obviously not sure about any of
18 the facts in the case, but how would this telephone call be
19 presented to the jury unless it's a statement that the
20 defendant is making from the jail, a recorded telephone call,
21 where he's speaking with some other person?

22 MR. YOUNG: The evidence is that Ms. Spurlock makes a
23 phone call to the defendant and is talking to the defendant --
24 not while in custody, this is immediately after the shooting

1 takes place. And there's somebody who overhears that. But
2 it's Ebony Spurlock talking to the defendant himself. So that
3 wouldn't be a hearsay issue, because it would be -- anything
4 she said that the defendant tells her on the phone would be
5 excluded from the hearsay rule as a defendant's statement.

6 So maybe I'm not following Mr. Hylin's inquiry, but it
7 doesn't seem to trigger hearsay concerns.

8 MR. HYLIN: Well, I just --

9 THE COURT: Let me just say something. Before we
10 continue anymore, I just want to make sure I understand how the
11 issue is occurring.

12 There is a telephone call between the defendant and
13 Ebony Spurlock.

14 MR. HYLIN: Well, we don't know it's between the
15 defendant. That's the problem.

16 THE COURT: Okay.

17 MR. HYLIN: We don't know who she is talking to. And
18 the person who heard her is near the neighborhood that this
19 event took place, but not that near, and he had called 911 and
20 explained that he heard a woman talking on the phone, chewing
21 somebody out, telling him not to come home -- or telling him or
22 her, somebody on the phone, not to come home. But this person
23 who is overhearing her talking on the phone could not hear what
24 the other person is saying and has no idea who the other person

1 on the other end of the line is and, in addition, has no idea
2 who the woman is that he's overhearing. He just thought,
3 "Well, maybe it's related to the case." So it was recorded in
4 a 911 call.

5 THE COURT: Okay. But just so I'm clear. Is Ebony --
6 Ebony Spurlock is holding a telephone --

7 MR. HYLIN: Well, we don't know it's Ebony Spurlock.
8 That's the problem.

9 THE COURT: I understand.

10 MR. HYLIN: It's speculated that it's Ebony Spurlock,
11 who is the significant other of my client. But that's what the
12 State, I think, wants to portray. But, I mean, this is far,
13 far removed from where the evidence code would allow it in,
14 either on hearsay grounds or on the telephonic conversation
15 grounds.

16 THE COURT: Well, Mr. Young, I tend to agree with
17 Mr. Hylin. I'm not quite sure, as the issue has been framed,
18 how you are going to get that evidence in front of the jury.
19 The only person who could come in and testify, as I understand
20 it -- and I don't know the names of any of the parties. The
21 only person who could come in and testify is the person holding
22 the telephone, who would be able to say, "I know Mr. Mason and
23 I was speaking to Mr. Mason, and Mr. Mason said, A, B and C to
24 me."

1 MR. YOUNG: I agree.

2 THE COURT: But if somebody overhears that person --
3 who would offer that testimony -- chewing somebody out on the
4 phone, and that person, the second person, the removed person,
5 comes in and testifies, "I was present when the person on the
6 phone was talking to Mr. Mason and that person was chewing him
7 out and saying, A, B and C," that would clearly be
8 inadmissible, because we don't know that Mr. Mason is the
9 person on the other end of the phone.

10 MR. YOUNG: Under the circumstances you just laid out,
11 I do not disagree.

12 THE COURT: You're suggesting those aren't the
13 circumstances in this case.

14 MR. YOUNG: Ebony Spurlock, who has been noticed as a
15 witness, identified the defendant as the person she was
16 speaking to on the phone.

17 THE COURT: Okay. So Ms. Spurlock can testify to what
18 she said or the conversation she had with the defendant.

19 MR. YOUNG: That's right.

20 THE COURT: I agree.

21 MR. YOUNG: Should she testify in a way that is
22 impeachable by somebody else, based on what she said, that
23 would be allowed as a prior inconsistent statement.

24 THE COURT: That also would be true. And so we'll

1 cross that bridge when we come to it. But if she takes -- if
2 she takes the stand and testifies, in essence, that, "I was
3 talking on the phone, but I was not speaking to Mr. Mason, I
4 was speaking to Mr. Smith," then some other person would be
5 able to come in, under NRS 51.035 -- because it's a prior
6 inconsistent statement of Ms. Spurlock -- if that person comes
7 in and says, "No, Ms. Spurlock told me that she was speaking to
8 Mr. Mason and not to Mr. Smith," I agree with that, as well.
9 So I guess we'll cross that bridge when we get there.

10 MR. HYLIN: Well, I think we need to define the
11 parameters of this. I just want to -- I don't want -- I don't
12 do trial by bushwhack or anything, and I just noticed that he
13 was on the witness list, and I thought, "Oh."

14 THE COURT: She.

15 MR. HYLIN: He.

16 THE COURT: Oh, he, the person who overheard --

17 MR. HYLIN: He, the person who overheard the woman --

18 THE COURT: Got it.

19 MR. HYLIN: -- speaking on the phone.

20 THE COURT: Got it. Okay.

21 MR. HYLIN: And, I don't know, maybe he has something
22 else to do with the case, but that's the only thing I know of.

23 THE COURT: Well, I think Mr. Young has made it pretty
24 clear that that person would only be testifying as an

1 impeachment witness or a prior-inconsistent-statement witness.
2 I don't know. I don't know Mr. Young's case, but unless there
3 is some other reason that that person would testify, he's
4 providing notice of who that witness may be. And I think he
5 had an obligation to do so under NRS 174.230 -- I don't know
6 what section.

7 Go ahead. Anything else on that?

8 MR. YOUNG: The only thing -- and to be fully upfront,
9 I don't know if I will even get into the content of the phone
10 call. But, again, if I get there I agree that the only way I
11 put this gentleman who overheard a conversation on is if I lay
12 the proper foundation on the front end. And if it gets to that
13 point I'll just make sure I lay the proper foundation. If I
14 don't lay an adequate foundation then I would agree it doesn't
15 come in, so --

16 THE COURT: Okay. Anything else, Mr. Hylin?

17 MR. HYLIN: That's all I have for now, Your Honor.

18 THE COURT: Mr. Hylin -- oh, go ahead, Mr. Young.

19 MR. YOUNG: Just one issue, based on the amended
20 Information. I know he was arraigned, but just for purposes of
21 the record, if I could put on -- because it was filed so late
22 and did not -- was not accompanied with a motion for leave,
23 which typically I would do, it's because simply, based on my
24 discussions with Dr. Cinelli as to what was Count 1, related to

1 Delphine Martin, the named victim, the State felt it was not
2 able to go forward on the charge related solely to Delphine
3 Martin.

4 Based on that, I shared the conversation with
5 Dr. Cinelli -- or that I had with Dr. Cinelli with Mr. Hylin,
6 and he agreed that rather than me filing a motion for leave to
7 essentially strike that count, I could just file an amended
8 Information. That's the reason it's filed so late without an
9 accompanying motion for leave.

10 And obviously there is no prejudice for the defendant,
11 because it actually eliminates one of the charges that he was
12 initially charged with.

13 THE COURT: I've never seen a defendant or a defense
14 attorney object when the State removes charges.

15 MR. HYLIN: And you're not going to see it now, Your
16 Honor.

17 THE COURT: I didn't think so.

18 MR. HYLIN: And that's an accurate rendition of the
19 series of events. I do not think it was necessary to do a
20 motion for leave.

21 THE COURT: Thank you for making the record on that
22 issue.

23 Anything else, Mr. Young?

24 MR. YOUNG: No, thank you, Your Honor.

1 THE COURT: Mr. Hylin?

2 MR. HYLIN: Nothing, Your Honor.

3 THE COURT: Mr. Hylin, do you have any proposed jury
4 instructions that you are going to be proffering?

5 MR. HYLIN: Not yet, Your Honor. I'm still searching.

6 THE COURT: Okay. Then Court will be in recess, and
7 I'll see everybody ready to go, the jury will be here at 8:15
8 in the morning on Monday. Thank you.

9 (Proceedings concluded.)

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

3

4 I, MARIAN S. BROWN PAVA, Certified Court Reporter in
5 and for the State of Nevada, do hereby certify:

6 That the foregoing proceedings were taken by me at the
7 time and place therein set forth; that the proceedings were
8 recorded stenographically by me and thereafter transcribed via
9 computer under my supervision; that the foregoing is a full,
10 true and correct transcription of the proceedings to the best
11 of my knowledge, skill and ability.

12 I further certify that I am not a relative nor an
13 employee of any attorney or any of the parties, nor am I
14 financially or otherwise interested in this action.

15 I declare under penalty of perjury under the laws of
16 the State of Nevada that the foregoing statements are true and
17 correct.

18 Dated this 19th day of February, 2015.

19

 /s/ Marian S. Brown Pava

20

Marian S. Brown Pava, CCR #169

21

22

23

24

CASE NO. CR14-1830

STATE OF NEVADA VS. QUINZALE MASON

**DATE, JUDGE
OFFICERS OF**

PAGE 1

COURT PRESENT

APPEARANCES-HEARING

CONT'D TO

2/6/15

STATUS HEARING

HONORABLE

Deputy District Attorney Zach Young was present on behalf of the State.

2/9/15

ELLIOTT A.

Defendant was present with counsel, Chief Deputy Public Defender Carl Hylin.

8:30 a.m.

SATTTLER

COURT reviewed the procedural history of the case; and he further noted that

Jury Trial

DEPT. NO.10

an Amended Information was filed on February 4, 2014.

M. White

Defendant acknowledged receipt of the Amended Information; waived reading,

(Clerk)

and entered pleas of Not Guilty to Battery With a Deadly Weapon, as charged

M. Pava

in Count I; Assault With a Deadly Weapon as charged in Count II; and Being a

(Reporter)

Felon in Possession of a Firearm, as charged in Count III.

COURT advised respective counsel how Count III will be handled during the trial.

COURT noted that he received an unfiled courtesy copy this morning of the State's Motion to Exclude Evidence of an Alibi (filed 2/5/15 at 5:11 p.m.).

Defense counsel advised the Court that he has not been able to obtain any additional information regarding the alibi witness; and he requested that the Court grant him leave to call this witness if any additional information is garnered.

COURT ORDERED: State's Motion to Exclude Evidence of an Alibi is GRANTED.

Defense counsel clarified the Court's ruling.

COURT noted that the Defendant requires dialysis up to four times per week, and he will need to leave next Monday and Wednesday at approximately 3:00 p.m. to go back to the Washoe County Jail and receive his dialysis treatment.

Defense counsel gave the Court information regarding the Defendant's medical issues.

COURT advised respective counsel that the trial will start at 8:15 a.m. next Monday and Wednesday, with the lunch break being only 30 minutes, and breaking for the day at approximately 3:00 p.m.; and he further advised that the normal D10 trial schedule will apply to next Tuesday since the Defendant does not require dialysis that day.

COURT noted that Deputy Gray is going above and beyond his job duties to ensure the Defendant's medical issues are taken care of next week.

DATE, JUDGE

PAGE 2

OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONT'D TO

2/6/15

STATUS HEARING

HONORABLE

COURT advised respective counsel regarding his rules for bench conferences.

ELLIOTT A.

Discussion ensued between the Court and respective counsel regarding hearsay

SATTLER

evidence the State may present at trial, which Defense counsel will be objecting

DEPT. NO.10

to.

M. White

COURT indicated that he will rule on this issue if it comes up during trial.

(Clerk)

State's counsel gave the Court information regarding why he did not request

M. Pava

leave to file the Amended Information.

(Reporter)

9:15 a.m. – Court adjourned.

1 CODE: 4190
2 DAWN BRATCHER GUSTIN, CCR #253
3 Hoogs Reporting Group
4 435 Marsh Avenue
5 Reno, Nevada 89509
6 (775) 327-4460
7 COURT REPORTER

8 SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
9 IN AND FOR THE COUNTY OF WASHOE
10 THE HONORABLE ELLIOTT A. SATTLER, DISTRICT JUDGE

11 --ooOoo--

12 THE STATE OF NEVADA,) Case No. CR14-1830
13)
14 Plaintiff,) Dept. No. 10
15)
16 vs.)
17)
18 QUINZALE MASON,)
19)
20 Defendant.)
21 =====

22 -**- ROUGH DRAFT TRANSCRIPT -**-

23 PARTIAL TRANSCRIPT OF PROCEEDINGS

24 JURY TRIAL

DAY 1

MONDAY, FEBRUARY 9, 2015

Reported by: DAWN BRATCHER GUSTIN, CCR 253, RPR, CRR
California CSR 7124

1 APPEARANCES:

2 FOR THE PLAINTIFF:

ZACH YOUNG, ESQ.
Deputy District Attorney
1 S. Sierra St., 4th Floor
Reno, Nevada 89501

5 FOR THE DEFENDANT:

CARL F. HYLIN, ESQ.
Chief Deputy Public Defender
350 S. Center Street, 5th
Floor
Reno, Nevada 89501

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RENO, NEVADA, MONDAY, FEBRUARY 9, 2015, 12:10 P.M.

--oOo--

(Jury voir dire was reported but not
transcribed.)

THE COURT: Go ahead and have a seat, ladies
and gentlemen.

A couple of things. The first one is we're
going to try to get the clock on the wall fixed so at
least you'll have an accurate idea of what time it is.
This is not like a casino where there are no clocks and
we don't want you to know what time it is. I want you to
actually be aware of your surroundings and so we will try
and get the clock fixed.

But what I'd like to do right now is just
give you an idea of the process that we're going to go
through as we conduct this trial so you have an idea of
where you stand and what to expect.

First what will happen, after we talk for
these few minutes, is I'm going to excuse you, I'm going
to let you go have lunch, but I'm only going to let you
go for half an hour. Normally I let people go for about
an hour and 15 minutes, or so, but because today we're
going to be breaking early, we're going to be breaking at

1 3:00, I'm only going to give you a half an hour for lunch
2 because we're just going to come back and then once we
3 come back, we're going to just use as much of that time
4 that we have left as possible.

5 When you go back into the jury room, you'll
6 see that there are little stickers that Deputy Gray will
7 give you. Those say "Juror" on them. They're just, you
8 know, little discs that say "Juror." Oh, you've already
9 got them. Mr. Ferguson, everyone is showing them to me.
10 Good. When you're not here in the courtroom, I would ask
11 that you put that on and wear it whenever you're walking
12 around in the courthouse or whenever you're outside the
13 courthouse.

14 The reason that I ask that you do that is we
15 all share the same hallways and the same elevators and
16 the same stairwells. We also share a lot of the
17 facilities around here. When you break for lunch, you're
18 going to be able to go about your business, so you can go
19 down to Subway or one of the other restaurants in the
20 area that would be happy to take your money and serve you
21 lunch. But if -- I need you to make sure that you're
22 wearing that name badge -- or, excuse me -- that juror
23 identification badge at all times, because I don't want
24 possibly one of the witnesses or one of the attorneys or

1 somebody else to be around you and start talking about
2 the case and you're hearing something that you're not
3 supposed to hear.

4 Likewise, when you're in the building, I
5 don't want you wandering around the building. So you
6 need to wear that juror badge so that way anybody who
7 sees you knows that you're a juror and they should not
8 talk about the case in your presence.

9 The jury room, which is right through that
10 door, is where you're basically going to be able to come
11 in in the mornings, wait for a couple minutes while you
12 all arrive, and then that's also where you're going to
13 wait and where you'll deliberate. It is locked at all
14 times. And so for that reason feel free to leave your
15 jackets, your purses, or anything else that you may bring
16 with you here to court in the jury room. Nobody can get
17 in there while you're in here, I promise you that.

18 There are restrooms in the jury room, both
19 for men and for women. I'd ask that you use those
20 restrooms while you're here. We had a juror last year
21 who refused to use that restroom and it just became a
22 gigantic problem because this person was wandering all
23 over the place, Deputy Gray had to go look for them,
24 there were times when we didn't know where they were.

1 So, if you can, please use the facilities that we provide
2 for you.

3 There will be coffee in the morning for you
4 and sometimes we either have cookies or doughnuts and
5 things like that just to try and make you feel as
6 comfortable as possible. If you have some special needs,
7 if you have something you want to bring, go ahead and
8 bring it. You're not allowed to eat in the courtroom or,
9 you know, drink any -- well, you can drink stuff, just,
10 you know, be reasonable. You're all adults. You know
11 what you're supposed to do. But you're not allowed to
12 eat here. You will be allowed to eat back in the jury
13 room if you want to have your lunch there.

14 On the breaks that we have, the morning and
15 the afternoon break, as I told you, are only 15 minutes
16 long. And so there really is no opportunity for you to
17 leave the building and go do anything. It takes you more
18 than 15 minutes just to get outside and turn around and
19 come back in probably and go through the magnetometer.
20 So on those two brief breaks in the morning and in the
21 afternoon, I'd request that you just remain in the jury
22 room.

23 The lunch hour is going to be yours, so feel
24 free to go and do whatever you want to do. But keep in

1 mind, I need you back here when I ask for you to be here,
2 and it takes about ten minutes to park your car, get
3 through the magnetometer and then get back up here. So
4 that's why I suggest to people, you know, if you need to
5 run a quick errand, that's fine. If you need to go out
6 to, you know, Scheels out in Sparks or you need to go
7 someplace on South Meadows Parkway, that's not going to
8 work, so please don't do that. If you just want to go
9 out and walk around the area, that's fine. You want to
10 go have lunch here in the local area, there's actually a
11 list of restaurants downtown and they would all be happy
12 to have your business. So please keep that in mind.

13 During the trial itself, you're not allowed,
14 as I said, to just get up and walk out as a juror. If
15 you do have some sort of special needs, if you need to
16 use the restroom, if for some reason you can't hear
17 something or can't see something, just raise your hand
18 and let me know. Deputy Gray and I will be able to help
19 you and make sure that you're as comfortable as possible.

20 You do have notepads. You all have one
21 there. You're allowed to take notes during the trial.
22 However, I will tell you this, you are not supposed to be
23 stenographers. That's the court reporter's job. So
24 don't sit there and try and write down every single thing

1 that somebody says while they're testifying. One of the
2 most important things that you need to do as a juror is
3 judge the credibility of the witnesses. And I'll tell
4 you how to do that at the conclusion of the trial. But
5 one of the things I'm going to tell you is you need to
6 judge the person's manner on the stand, how they're
7 testifying.

8 Well, if you're constantly trying to write
9 down every single thing that be somebody says, you're not
10 watching them, you're not observing how they testify. So
11 the notepads are for you to make notes of things that you
12 think are important or that you think are particularly
13 relevant and you want to remember at a later time. But
14 also keep in mind, they are not the record of the trial.
15 So when you go back to the jury room, it's not a battle
16 of who takes better notes. One juror saying "I took this
17 down and that's what controls," and the other person says
18 "No, I took this down and that's what controls." Your
19 collective memory is what's important. So use the
20 notepads and use them wisely, but don't try and just
21 write everything down. You're just -- you'll quickly bog
22 down in the minutia of what people say.

23 When we do come back from lunch, the first
24 thing that will happen is, is that the attorneys will

1 make what is called an opening statement. An opening
2 statement is just that, it is a statement. It is the
3 lawyers' opportunity to tell you what they believe the
4 evidence in the case will be. It is not their
5 opportunity to argue the case or to argue any inferences
6 that you should draw from the case. It is simply when
7 they get to say this is what I think you're going to see
8 over the course of the next couple of days. So it's an
9 opening statement.

10 Then the State will call its witnesses. The
11 State has a burden of proof and so they go first and they
12 have to establish, through their witnesses and through
13 their evidence, what they believe the crimes in the case
14 were.

15 The defendant also has the opportunity,
16 should he choose to do so, to call witnesses. That's
17 completely up to the defendant.

18 At the end of all of the evidence, that is
19 when the attorneys get to do what is called closing
20 argument. It is entirely different than an opening
21 statement. A closing argument is the opportunity for the
22 lawyers to argue what the facts in the case were and to
23 argue any reasonable inferences you may draw from those
24 facts. And so it is an entirely different process.

1 After the close of the evidence but before we
2 do closing argument, I will instruct you on the law.
3 What that is, is a packet of jury instructions. It's
4 probably -- probably be about 35 or 40 instructions that
5 tells you on how you're supposed to conduct your
6 deliberations, it gives you the burdens of proof, I tell
7 you what the evidence -- how to judge the evidence and
8 also the elements of the offenses.

9 So I'll give you all of that information of
10 the law at the conclusion of the case, because I don't
11 want you sitting there and thinking about what the law is
12 while the case is going on. I just want you focusing on
13 the witnesses and on their testimony.

14 As Mr. Young suggested to you during his voir
15 dire, the attorneys will not speak to you at any time
16 during this process. Neither will I. I don't talk to
17 you, Mr. Young won't talk to you, Mr. Hylin won't talk to
18 you. They will say absolutely nothing to you. I don't
19 want you to draw anything from that. As I stated a few
20 moments ago, both men are extremely nice. I've known
21 both of them for many, many years. They are both very
22 polite gentlemen as well. But I have told them they're
23 not allowed to say anything to you. And so if they see
24 you in the elevator, they will not get on the elevator

1 with you, they will not say hello to you, they will have
2 no conversation with you at all.

3 This is a very small building and, as I just
4 stated a moment ago, we only have two elevators and we
5 have one hallway, and so there is the chance that you'll
6 bump into them, but they're not allowed to talk to you at
7 all. The concern is, is that if somebody sees Mr. Young,
8 for example, simply having an innocuous conversation with
9 Mr. Corral about the weather, nobody else knows what that
10 conversation is about and so we avoid that by saying
11 don't talk to anybody at any time, period.

12 When I allow you to leave the courthouse, you
13 will be basically on our own. I read that admonition to
14 you every single time and I want you to take it very,
15 very seriously. You are not allowed to discuss anything
16 that you hear in this courtroom with anyone that you know
17 until the case is completely over and submitted to you
18 and you've rendered a verdict.

19 So the most difficult part of that is that
20 when you go home, either tonight or tomorrow or
21 Wednesday, and your kids want to talk to you about what
22 you're doing, or your spouse or your significant other
23 wants to talk to you about what you've heard, all you can
24 tell them is, "I'm in jury service and I am not allowed

1 to discuss it at all." And you can put the blame on me
2 and say, "Judge Sattler tells me I'm not allowed to talk
3 about it," and if they push you, just keep saying, "I'm
4 can't talk about it," and then eventually have them call
5 me and I'll take care of it for you, so I'll pick the
6 fight with your husband or your wife for you. So just
7 keep that in mind.

8 I'm trying to think if there's anything else
9 that I need to tell you before I let you go to lunch.

10 I don't think that there is. I think that
11 I'd rather just let you go because it's been a long
12 morning already.

13 Now, as I told you, we're only going to be
14 taking about a half an hour lunch, so if you brought
15 something with you, you'll be allowed to eat it in the
16 jury room. If you want to go out and go grab a quick
17 sandwich somewhere in one of the places around here,
18 please feel free to do so, but given the fact that you've
19 only got 30 minutes, don't get in your car and go
20 anywhere.

21 The last thing I will tell you is this.
22 Judge Brent Adams was a mentor of mine and somebody I
23 thought very highly of. He was the longest-serving
24 district court judge in the State of Nevada when he

1 retired in August of last year. Judge Adams had a great
2 analogy about jury service. Judge Adams said, on any
3 number of occasions that I heard, juries are like
4 orchestras. If you have an orchestra and everybody is
5 not back and ready to go, then the orchestra cannot
6 start. And so if the oboe player is not present or the
7 flute player is not present or the trumpet player is not
8 present, then nothing happens. We all sit around and
9 wait for the orchestra to all be ready to go.

10 Well, juries are the same way. Unless you
11 are all here and all present, we cannot start. And so
12 until everyone is here, we will all wait for you. I just
13 simply ask that you keep that in mind. And when I tell
14 you I need you back here at a specific time, then you
15 need to be back here at that time. And I commit to you
16 that I will make sure that we use your time as wisely as
17 possible and we will do all that we can to make sure that
18 your time here is spent in the jury -- or, excuse me --
19 in the courtroom listening to the testimony of the
20 witnesses to the best of our ability.

21 So with that, I'm going to let you go to
22 lunch. The last thing I'll tell you is this. Whenever
23 you leave the courtroom, we will all stand and rise for
24 you. As you've noticed, when I come into the courtroom,

1 everybody stands up. It's not because I'm particularly
2 special, it's simply out of respect for the job that I
3 hold as a judge. You are also judges. As I told you,
4 you are the judges of the law -- or the facts in the
5 case. I'm the judge of the law, you're the judge of the
6 facts. And so we will all rise every time my fellow
7 judges enter or exit the room. So with that I'm going to
8 read you the jury admonition.

9 Ladies and gentlemen, you're instructed not
10 to discuss this case among yourselves or with anyone else
11 or to form any conclusions concerning the case until it
12 is submitted to you. You are not to read, look at or
13 listen to any news media accounts relating to this case,
14 should there be any. You are not to form any opinion
15 about the case until it is finally submitted to you. Do
16 not experiment or investigate. Do not visit the scene.
17 Do not refer to any outside sources for instructions on
18 the law. Rely only on the Court for legal instructions.

19 All rise for the jury.

20 Counsel, it's 12:25. We'll be in recess
21 until 1:00 o'clock. Court's in recess.

22 (Midday recess was taken at 12:24 p.m.)

23 --oOo--

--oOo--

RENO, NEVADA, MONDAY, FEBRUARY 9, 2015 1:04 P.M.

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(The following proceedings were had in open court, defendant present, outside the presence of the jury.)

THE COURT: Please be seated.

Go back on the record in CR14-1830, The State of Nevada vs. Quinzale Mason. Mr. Mason is present in court with his attorney, Mr. Hylin. Mr. Young is here on behalf of the State of Nevada. We are meeting outside the presence of the jury.

Counsel, the Court was -- specifically my bailiff was informed by Juror No. 11, Ana Torres, that she actually does know one of the other jurors. Specifically, Dr. Dufur -- or Dufur is Ms. Torres's eye doctor, and she did not realize that until they were seated. And so we have asked the jurors whether or not they know anyone else. Ms. Torres informed Deputy Gray that now having spoken to the doctor, at least seeing him, I would assume, she realizes that he is her doctor. So she wanted to bring at that to our attention.

Does anyone want to bring it up with either or both of them? I don't think -- well, it did not

1 appear to me she was being intentionally deceptive when
2 she said she didn't know anyone else. She said she just
3 sees him every couple of years and it didn't dawn on her
4 that that's her eye doctor.

5 Mr. Hylin.

6 MR. HYLIN: Well, not to crack wise, your
7 Honor, but maybe his services aren't as good as he thinks
8 they are.

9 But at any rate, I don't have a problem with
10 that, you know. He probably doesn't -- if it's only a
11 couple of years out, he probably doesn't remember seeing
12 her either.

13 THE COURT: Well, she brought it to our
14 attention, not him, so it's not surprising that the
15 doctor doesn't remember everyone. Mr. Young, I know your
16 dad's a doctor, so I would assume he remembers every
17 single patient that he has ever had.

18 Do you have anything you'd like to add,
19 Mr. Young?

20 MR. YOUNG: Your Honor, no, so long as that's
21 not going to affect her sitting as a juror, which it
22 doesn't sound like it will, I have no problem with it.

23 THE COURT: Well, we can call the jurors,
24 both of them in and ask them both if they have any issues

1 or if they think that it's something that we need to
2 address. If we want to do that, I give you the
3 opportunity to do it right now before we do opening
4 statement. But I would leave it up to the attorneys. I
5 don't -- certainly don't think it rises to the level of
6 the need to exclude either one of them or a challenge for
7 cause, but I'd leave it up to you if you want to address
8 it.

9 MR. HYLIN: No, I don't have a challenge for
10 cause, your Honor, and I don't think it's that big a
11 deal. Looks like, you know, a professional relationship
12 and there's nothing personal there.

13 THE COURT: Mr. Young, anything else?

14 MR. YOUNG: No. Thank you.

15 THE COURT: All rise for the jury.

16 (The following proceedings were had in open
17 court, defendant present, in the presence of
the jury.)

18 THE BAILIFF: All rise for the jury.

19 THE COURT: Please be seated.

20 Will counsel stipulate to the presence of the
21 jury?

22 Mr. Young.

23 MR. YOUNG: State will, your Honor.

24 THE COURT: Mr. Hylin.

1 MR. HYLIN: So stipulated.

2 THE COURT: Thank you.

3 Ladies and gentlemen, thank you for being
4 back on time. I certainly do appreciate that.

5 As I stated, the first thing that we'll do
6 this afternoon is opening statements. And the State
7 always goes first because the State has the burden of
8 proof.

9 Mr. Young, if you'd like to make your opening
10 statement.

11 MR. YOUNG: Thank you.

12 On August 9th of 2014, Cecilia, a 4-year-old
13 girl, was out in front of her apartment with her mother,
14 Delphine playing. Anthony Holly, who lived in -- right
15 across the parking lot in another apartment unit -- who
16 knew Delphine and Cecelia, was over playing with one of
17 Delphine's dogs and walking the dog on a leash. It was
18 an afternoon around noon hour, summertime day. There
19 were people out. And everything was fine. Until
20 Quinzale Mason, who was upset over a gambling debt with
21 regard to some dice that was being played just that
22 morning and had lost money to Mr. Holly, got in his gold,
23 four-door vehicle, drove up Patton Street northbound
24 heading towards Hug High School, pulled into the parking

1 lot where Anthony Holly was, got out of his vehicle,
2 pulled a gun and started shooting.

3 You will hear evidence that there was two
4 shots fired, and, while Anthony Holly was able to escape
5 unharmed and ran around the building hopping fences and
6 running away, Cecelia was struck in her lower right leg
7 and was transported to the hospital for treatment.

8 Now, as the judge mentioned, what is an
9 opening statement. It's very simply what you can expect
10 to hear from the witness stand and see in the form of
11 exhibits. It's not argument. I won't be making argument
12 to you now. That will be for closing. But it's a road
13 map, effectively, of what you might hear.

14 And so here's what I'll suggest you will hear
15 during the course of this trial. Is that on the morning
16 of August 9th, there were some individuals on Patton Drive
17 playing dice in the street, and one of the individuals
18 was the defendant, Quinzale Mason. And Mr. Holly, who
19 lives in the area -- they all live in the same square
20 block -- is asked, "Hey, come play with us," and comes
21 over and starts throwing some dice as well. And
22 Mr. Holly starts winning and Mr. Mason starts losing and
23 gets upset by that and words are exchanged and they start
24 getting into a verbal argument and Mr. Holly learns of

1 some medical conditions that the defendant has, backs
2 off, goes a separate way and actually goes back to his
3 place which is across the street and one unit up from
4 where they were playing dice and where the defendant
5 lived.

6 Some time goes by, he's back over in the
7 parking lot where Delphine and Cecelia live and he's
8 walking the dog, and at that point is when the defendant,
9 looking for Anthony Holly, drives up and starts shooting
10 as was discussed.

11 Now, Cecelia receives a penetrating wound to
12 her lower leg, is taken to the hospital. You will hear
13 evidence from Dr. Cinelli, who was the treating doctor,
14 that it didn't, fortunately, strike any bone and some
15 metallic fragments are actually lodged in her lower leg
16 and, because of the risk of a procedure to get those out,
17 he actually just leaves those in. There's X-rays taken.
18 You will see the X-rays of Cecelia's leg.

19 Now, Delphine Martin, who is sitting in a
20 chair in front of her unit, right by Cecelia, actually
21 feels kind of a hot grazing injury to herself during the
22 shooting. She -- there's some discussion whether she, in
23 fact, was shot. You will hear from Dr. Cinelli that,
24 while it's clear that Cecelia was shot, it's unclear what

1 type of injury or what caused the injury to Delphine's
2 back. But she'll say that she's sitting there with her
3 daughter, she sees the defendant, who she doesn't really
4 know by name or doesn't socialize, but from being in the
5 area and knowing his children knows who he is, sees him
6 drive up in his gold, four-door vehicle, get out and
7 start firing at Mr. Holly. She ducks down to try and
8 cover up her daughter Cecelia and, obviously, you'll hear
9 evidence that Cecelia was struck. She'll identify the
10 defendant as the shooter.

11 You will hear from Anthony Holly. You will
12 hear from Mr. Holly about the dice game. You will hear
13 about Mr. -- from Mr. Holly about the events in that
14 parking lot and how he sees the defendant driving down
15 Patton and the thoughts that were going on through his
16 head as he's walking to the rear of the residence. And
17 you'll hear how he sees the defendant pull in, he starts
18 running away, hears a shot, falls to the ground, and is
19 running and jumping over gates to get away. He
20 identifies the defendant as the person coming up in that
21 car.

22 You will also hear from an individual by the
23 name of Huey Stanley. Now, Mr. Stanley will, in fact, be
24 the first witness you hear from, and he is a gentleman

1 that lives on the second floor of the same apartment
2 complex we're talking about. So Delphine and Cecelia
3 live -- if you're coming northbound on Patton, you would
4 turn left into a parking lot where their unit is.
5 Cecelia and Delphine live on the ground floor.
6 Mr. Stanley lives directly above that unit.

7 And he's sitting outside. It's a nice day,
8 it's August. He's sitting outside on a chair as he
9 typically does just hanging out. He sees all these
10 events that I've just explained. He sees the defendant
11 pull in. He knows the defendant, who he is. Again
12 not -- not maybe on a name basis or personally, he
13 doesn't socialize, but from the area he knows what car he
14 drives, he knows who Mr. Mason is. Doesn't even think
15 anything of it because of his familiarity with the area.
16 But again, he identifies the defendant as getting out of
17 the car and, moments later, shots being fired.

18 In fact, he knows the defendant so well, at
19 least from location, is that when the police arrive, he
20 tells them specifically, "The person you're looking for
21 lives in 2366." And he doesn't give the actual number,
22 he doesn't give the apartment number, but he points out
23 the very specific unit almost directly across the street
24 from where Mr. Mason lives. And Officer Lancaster then

1 goes and checks and confirms that's 2366 Patton and
2 that's what starts the investigation of looking for
3 Mr. Mason.

4 Now, after Mr. Mason, the evidence you heard
5 of him shooting the firearm, you'll hear evidence that he
6 drives southbound on Patton, which is the only way to get
7 out. Because if you keep going northbound, you come to a
8 dead-end street that butts up to Hug High School, so the
9 only way to leave that area is to head southbound.
10 You'll hear evidence that the defendant drives southbound
11 down Patton. And you will hear that the police are
12 looking for Mr. Mason because they now have an identity
13 of the shooter. And several hours later into the evening
14 hours, police locate a gold, four-door sedan up in the
15 Sun Valley area that has pulled off of the -- the closest
16 intersection you'll hear is 5th Avenue and Tornado. And
17 there's kind of a curve in the road, but there's a dirt
18 access road that comes off that intersection, and up that
19 dirt access road and then to the left is this gold sedan
20 that's parked there. They run registration. The
21 registration comes back to Eboni Spurlock, who you will
22 learn is the defendant's on-again-off-again girlfriend
23 for the last eight years. Ms. Spurlock will explain how
24 the defendant had the vehicle that day.

1 And when police find this vehicle that
2 appears abandoned, at least two, I think three of the
3 windows are rolled down or partially rolled down and
4 police sit on this vehicle for a number of hours to see
5 if anybody comes back. Nobody does, so they end up
6 sealing up the vehicle and towing it back. And you'll
7 hear about some evidentiary items that are located in the
8 vehicle which are tied to some DNA analysis again which
9 comes back to the defendant.

10 Now, the Reno Police Department is still
11 looking for Mr. Mason. They don't know where he is. The
12 police learn through their investigation that the
13 defendant's mother is flying in to Reno the very next
14 morning. She had booked a flight from Phoenix to Reno on
15 the morning of August -- now would be August 10th, next
16 morning after the shooting. So the police go to the
17 Reno/Tahoe International Airport, set up a surveillance
18 team, identify the mother as she gets off the plane,
19 follow her in an undercover capacity through the airport,
20 identify her getting into a separate vehicle and driving
21 to a residence in the Sun Valley area. They conduct
22 surveillance, they sit on the house for a while, and
23 there is multiple occupants in the vehicle when it picked
24 Valerie Stewart, who's the defendant's mother, up from

1 the airport, none of which was the defendant.

2 Later, after the car arrives at the Sun
3 Valley residence, three women and Mr. Mason now exit that
4 residence. And the police have been conducting
5 surveillance, make an identification of him. And as the
6 vehicle is driving eastbound on North McCarran, kind of
7 the area near the university where it comes over 395,
8 that overpass, a traffic stop is conducted and at that
9 point because of the nature of the investigation, because
10 of the use of a firearm and the outstanding firearm that
11 had not been recovered, located, a felony stop is
12 conducted. And you'll hear what that means. And
13 everyone is pulled out, everyone is put in separate
14 vehicles and the like.

15 And when Mr. Mason is contacted, he ends up
16 being sacked into the back seat of Officer Koger's car,
17 and without any prompting or anything like that, the
18 defendant tells Officer Koger, "Thanks for not shooting
19 me." And Officer Koger responds, "Well, we don't shoot
20 people unless there's a reason to do so." And the
21 defendant's response is, "Well, what I did was violent,
22 so I thought you might think I'd be violent with you as
23 well."

24 So, folks, in a very brief nutshell that's

1 what you are going to hear in this case. You'll hear
2 about three different people who actually observed the
3 shooting and identify Mr. Mason as the shooter, you'll
4 hear about the DNA evidence which connects Mr. Mason to
5 the car, and the fact that he does, in fact, live at 2366
6 where Huey Stanley points out to officers. You'll hear
7 about the comments the defendant makes and everything
8 else that was just discussed.

9 Now, based on that, the defendant was charged
10 with assault with a deadly weapon on Anthony Holly for
11 trying to shoot at him and actually taking steps to do
12 so, and the defendant was charged with battery with a
13 deadly weapon for in the occurrence of those acts
14 actually striking 4-year-old Cecelia. Based on that
15 evidence, at the conclusion of the case the State's going
16 to ask that you return a guilty verdict as to both
17 counts, battery with a deadly weapon and assault with a
18 deadly weapon.

19 Thank you.

20 THE COURT: Thank you, Mr. Young.

21 Mr. Hylin, prior to making your opening
22 statement, the Court would note that pursuant to NRS
23 175.141, the technical procedure is that prior to
24 Mr. Young's opening statement, I should have had the

1 clerk read the Information or the Amended Information to
2 the jury. However, the Court would note that we actually
3 did that during the voir dire process. Technically we --
4 we may do it again if you want me to read it -- have it
5 read to the jury again.

6 MR. HYLIN: No. That's fine, your Honor. I
7 assumed that's what we were doing when you read it at
8 that time.

9 THE COURT: Well, I just -- I mean, it's a
10 hyper-technicality, but the way the statute is written,
11 it says after impanelment of the jury but before opening
12 statement, and so we -- there's some case law directly on
13 point that says there has to be some prejudice associated
14 with it. So I can read it right now if you want me to.

15 MR. HYLIN: No, I don't think there's any
16 prejudice --

17 THE COURT: All right.

18 MR. HYLIN: -- going on, your Honor.

19 THE COURT: Thank you.

20 MR. HYLIN: That's fine.

21 THE COURT: And would you like to make your
22 opening statement now, Mr. Hylin, or would you like to
23 reserve it?

24 MR. HYLIN: I'll make my opening statement,

1 your Honor.

2 THE COURT: Okay. Thank you.

3 MR. HYLIN: Ladies and gentlemen, I'm not
4 going to go through a whole litany of facts and whatnot,
5 but, you know, when you're going through a trial, the
6 important thing is, is when witnesses are on the stand,
7 you need to focus very closely on what they say and, more
8 importantly, what they don't say.

9 Now, on cross-examination I'll be bringing
10 out some other inconsistencies in -- in their testimony,
11 but the important part is for you to take notes when you
12 see a discrepancy or an inconsistency in the testimony
13 that you're going to hear today, today and tomorrow. So
14 at any rate, I'm just encouraging to you keep an open
15 mind. There are certain things that are described like
16 the -- for instance, note some of the details when this
17 car pulls in the parking lot. Actually nobody saw who --
18 who was pulling in as the car was pulling in, okay.
19 There's -- there's little small differences like that.
20 Nobody got the license number on the car. Nobody knew
21 for sure who that car belonged to. It was described by
22 Mr. Stanley as either gold or brown. Well, you know,
23 maybe that's splitting hairs, but a lot of times things
24 that are done during the course of a trial take on larger

1 meaning than when you initially hear them. So it's
2 important to note things like this when we're going
3 through the trial.

4 Oftentimes things are said in police reports
5 that are erroneous, and that will be brought out on
6 cross-examination also. You'll see discrepancies
7 while -- whoever was doing the shooting, how many shots
8 were fired. Well, I'll tell you right now there's
9 different -- differing testimony to that, but they only
10 found two shell casings ever in this whole case that were
11 there, and the shell casings themselves certainly don't
12 tell you who fired them. So there's a lot of things as
13 you're going along, ask yourselves these questions, give
14 it a lot of thought about what that testimony means and,
15 as the trial proceeds, you start to see the bigger
16 picture, all the pieces of the puzzle will fit in and,
17 more often than not, there's a lot of pieces of the
18 puzzle that will be missing and that's called reasonable
19 doubt.

20 So at any rate, please pay close attention,
21 take notes. I -- I understand what the judge said, don't
22 try to take the place of the stenographer. It's
23 impossible. You can't go that fast. But you can
24 certainly make a note of a fact or an instance or a

1 circumstance that draws some question into your mind as
2 to what's going on, and this will be more tied up in the
3 closing arguments.

4 Thank you.

5 THE COURT: Thank you, Mr. Hylin.

6 Mr. Young, you may call your first witness.

7 MR. YOUNG: Thank you.

8 State calls Mr. Stanley.

9 THE BAILIFF: Stand here and face the clerk.

10 THE CLERK: Please raise your right hand.

11

12 HUEY PAUL STANLEY, JR.

13 having been first duly sworn by the court clerk,

14 was examined and testified as follows:

15

16 THE CLERK: Thank you. Just have a seat.

17 THE COURT: Mr. Stanley, is the little -- you
18 see there's a little red light there on the microphone?
19 Does it look like it's on?

20 THE WITNESS: Yes, sir.

21 THE COURT: Okay. Go ahead. Thank you.

22 MR. YOUNG: Thank you, your Honor.

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DIRECT EXAMINATION

BY MR. YOUNG:

Q Sir, good afternoon. Could you state your first and last name and spell both for the reporter, please.

A Huey Stanley, H-u-e-y, S-t-a-n-l-e-y.

Q Sir, where do you currently live?

A 2397 Patton Drive.

Q Okay. Is that in Reno here?

A Reno.

Q Washoe County, Nevada?

A Yes, sir.

Q All right. How long have you lived at that residence for?

A About two and a half years. Well, wait. One and a half years.

Q Okay. Who do you live at that residence with, sir?

A My wife Glorietta and three of my sons.

Q Okay. Now, is it an apartment unit that you live in?

A Yes, sir.

Q And I heard you didn't say No. 1, letter A, anything like that?

1 A No. I guess they are original, because they
2 used to be HUDs.

3 Q So all the units are individually numbered?

4 A Right.

5 Q Now, based on your year and a half of living
6 at that residence, do you know either personally or at
7 least recognize a lot of the people that live in that
8 area?

9 A Yes. I'm up and down, I'm always leaving,
10 going to the store and stuff, walking up and down the
11 street for exercise. Yeah, I see a lot of them. They
12 are always outside, and summertime everybody outside.

13 Q And are you yourself outside quite a bit?

14 A Oh, yeah. I got COPD so I go outside for
15 air, get more air.

16 Q You have COPD?

17 A Yeah, chronic bronchitis.

18 Q And being outside helps you with that?

19 A Oh, yeah.

20 Q Now, are you currently working, sir?

21 A No, I'm on SSD.

22 Q Okay. Based on?

23 A My chronic bronchitis, heart -- CHF and heart
24 disease.

1 Q Well, what did you use to do?

2 A Truck driver.

3 Q Okay. And how long were you a driver for?

4 A Twenty years.

5 Q Now, could you explain -- let me show you a
6 couple pictures, sir.

7 MR. YOUNG: If I could approach, your Honor.

8 THE COURT: You may.

9 BY MR. YOUNG:

10 Q I'm going to show you Exhibits 1 and 2, sir.
11 Do you recognize what those are?

12 A Yes, my neighborhood.

13 Q Okay. And then Number 2, is that effectively
14 a close-up of your unit?

15 A That is my unit.

16 MR. YOUNG: Okay. I'd move for 1 and 2, your
17 Honor.

18 THE COURT: Any objection?

19 MR. HYLIN: No objection, your Honor.

20 THE COURT: Exhibits 1 and 2 will be
21 admitted.

22 MR. YOUNG: Thank you, sir.

23 (State's Exhibits 1 and 2 were admitted.)

24 /////

1 BY MR. YOUNG:

2 Q I'm going to explain this a little bit now
3 that the jury can see it as well.

4 MR. YOUNG: Could you --

5 THE COURT: Mr. Young, do you want to pull
6 the monitor over so the jury can see it?

7 MR. YOUNG: Yeah. That will help. Thank
8 you, your Honor.

9 THE COURT: Mr. Stanley, you'll be able to
10 see what's on the monitor on that small screen in front
11 of you. The big monitor is for the jury. You can
12 actually --

13 THE WITNESS: This one here, sir, is blurry.

14 THE COURT: Well, Mr. Young's going to fix
15 that in a second.

16 Can everybody on the jury see this all right?
17 We can pull it closer if you want it closer.

18 Can we move a little bit closer, Deputy Gray?

19 How's that? Everybody can see that?

20 Okay. Go ahead, Mr. Young.

21 MR. YOUNG: Thank you, your Honor.

22 BY MR. YOUNG:

23 Q All right, sir. In fact, if you -- if need
24 be, you can actually touch your screen or draw on it and

1 there will be some marks.

2 There's a couple of highlighted areas, but
3 could you point out what unit your apartment is in?

4 A It's in the -- from where I'm sitting the far
5 left upstairs.

6 Q Okay. And there's a -- kind of a bubble on
7 this one up here, 2397 Patton Drive. Is this -- the
8 building it's pointing to, is that your building?

9 A That's my building.

10 Q Okay. Now, how many individual units or
11 apartments are in that building?

12 A Four.

13 Q Okay. Two on the top floor and two on the
14 bottom?

15 A Right.

16 Q Coming into the parking lot from Patton, is
17 yours on the top or bottom floor?

18 A Oh, coming in? It's going to be on the
19 bottom floor.

20 Q Okay. In other words, your unit is on the
21 top or the bottom?

22 A Oh. My unit's on the top. Yeah.

23 Q Okay. And there's a unit closest to the
24 street on Patton here and then further away from Patton.

1 Is that fair?

2 A Yeah.

3 Q Which one of those is yours?

4 A Further away.

5 Q Okay. Now, do you know an individual by the
6 name of Delphine Martin?

7 A Yes, I do.

8 Q Okay. Do you know her child's name?

9 A I call her Cece.

10 Q Okay. You call her Cece?

11 A Yeah.

12 Q How old is Cece?

13 A About 3 -- 2 -- 3. Something like that.
14 She's not very old.

15 Q Okay.

16 A She just started -- I think it's a special
17 kindergarten or Head Start or something.

18 Q Okay. So she -- Cece is young?

19 A Yes.

20 Q All right. Back in August of 2014, did
21 Delphine and Cece live in that building?

22 A Yes, in that --

23 Q And where in relation to your units?

24 A Right downstairs.

1 Q Below you?

2 A Right below me.

3 Q Okay. Now, just to give some kind of
4 guidance, this is Patton Drive coming up here, correct?

5 A Yes, sir.

6 Q This area that's kind of cut off, we see a
7 lot of grassy area, what's that?

8 A Hug.

9 Q High school?

10 A Yeah, Hug High School.

11 Q Okay. Now, I'm going to show you Exhibit 2,
12 which is effectively just a close-up of 2397 Patton
13 Drive, okay?

14 A All right.

15 Q Is that correct, sir?

16 A Yeah.

17 Q All right. And that's the unit or the
18 building that your unit that Delphine and Cece's in as
19 well?

20 A Right.

21 Q But from your unit to this parking lot,
22 appears to be another unit over here; is that correct?

23 A Yes, sir.

24 Q Is that other apartment building?

1 A Yeah. There's six. They got six apartments
2 over there.

3 Q Do you know, going back to August of 2014,
4 if -- did you know any of the individuals that lived in
5 that unit to the north of your building?

6 A I know Anthony lived east of me upstairs.

7 Q Okay.

8 A Who lived there at the time?

9 Q Let me ask you this.

10 A Anthony, Al and Donny. And downstairs I
11 never knew that guy, an old guy. Then next door Lupe
12 lived there.

13 Q You mentioned Anthony to the east of you. Is
14 it -- what do you mean when you say the "east of you"?

15 A He was upstairs. I'm over here in the corner
16 and he's over here upstairs on the corner.

17 Q All right. So if he's right here by -- right
18 here by the grass.

19 A Okay.

20 Q So your unit is upstairs in that area?

21 A Yeah.

22 Q And his -- Anthony lives in this building
23 right in here?

24 A Right.

1 Q On the upstairs as well, you said?

2 A Upstairs. First apartment walking up the
3 stairs.

4 Q All right. Closest to the street?

5 A Closest to the street.

6 Q Do you know Anthony's last name, by chance?

7 A I always call him Ant.

8 Q Ant?

9 A Yeah.

10 Q Okay. Now, sir, I'm going to direct your
11 attention to August 9th of 2014, okay? Were you sitting
12 outside of your house as you testified you commonly do?

13 A Yeah, me and my wife.

14 Q Okay. What -- and you said your -- I believe
15 you said your wife's name, but what is that?

16 A Glorietta.

17 Q Okay. And was there something that occurred
18 on that date which brings you here to court?

19 A Yes. Well, my wife had just went in the
20 house to go to the bathroom. And Delphine, Anthony, and
21 this other guy -- I don't -- I see him, but I don't know
22 his name -- and I don't know who was all down there
23 because I couldn't see them, but I heard the voices. But
24 Anthony and his friend I could see.

1 Q Okay. I'm going to stop you there. Where
2 was Anthony when you saw him?

3 A He was right down below, directly by Delphine
4 but by my Blazer. So I got the last parking place right
5 there.

6 Q And again, sir, you can -- again, what I'm
7 going to have you do is actually touch that screen.
8 Where was your Blazer parked?

9 A Right there.

10 Q Okay. In that parking space?

11 A Yeah.

12 Q All right. So everyone that you just
13 described was down in that parking lot area?

14 A Yeah. Anthony and my -- like I say, Anthony
15 and his friend, you could see them, but Delphine and them
16 was up on their porch.

17 Q And do you know what they were doing?

18 A Talking about -- well, see Anthony -- Anthony
19 had a dog. His name is Shout. So he didn't want the dog
20 no more because the dog is messing in his house and he
21 couldn't train the dog. So Anthony got rid of the dog
22 and Delphine and my son took the dog, so every time the
23 dog seen him, the dog ran up to him, could nobody stop
24 him because he remember him being his old master. This

1 day Anthony walked up to the dog, was petting the dog and
2 playing the dog right there.

3 Q When you say "right there," in the parking
4 lot there?

5 A Right where the arrow's at right by my
6 Blazer.

7 Q All right. And what happened?

8 A Well, about then this -- this gold -- gold or
9 brown car pulled in to right there (indicating).

10 Q Okay. And just for the record, the area you
11 pointed to the now the first parking lot?

12 A Yeah, that's Will's. That's Will's spot.

13 Q Will, is that the person --

14 A That lives right in front of that parking
15 spot.

16 Q Okay. Go ahead, sir.

17 A Oh. Well, pulled in there, guy got out the
18 driver's side.

19 MR. HYLIN: Your Honor, I think we're getting
20 into a narrative here.

21 THE COURT: Sustained.

22 You can ask your next question that doesn't
23 call for a narrative answer.

24 MR. YOUNG: All right.

1 BY MR. YOUNG:

2 Q You stated that somebody pulled in?

3 A Yes. Mike pulled in, got out of the car.

4 Q Did you see who it was that pulled in?

5 A Yes, I did.

6 Q Who was that?

7 A The defendant.

8 Q Okay. And I know the screen is kind of in
9 front of you. You can see him right now?

10 A Yeah.

11 Q What's he wearing?

12 A A tie, striped shirt, black pants, black
13 shoes.

14 MR. YOUNG: Your Honor, if the record could
15 reflect identification, please?

16 THE COURT: It will.

17 MR. YOUNG: Thank you.

18 BY MR. YOUNG:

19 Q Did you see anybody else in that vehicle
20 other than the defendant?

21 A Well, I just seen him.

22 Q Okay.

23 A Because he's the one that got out. So my
24 attention was on him.

1 Q All right. Then what did you see?

2 A Seen him put his hands on -- one hand on the
3 roof, one hand there for about a second, then he walked
4 around to the front and disappeared.

5 Q Okay. When you say "walked around to the
6 front" --

7 A Of his car onto the porch.

8 Q And you described it as a brown-gold vehicle?

9 A Brown or gold.

10 Q Okay. Is that one and the same to you?

11 A I'm kind of color-blind a little bit, but a
12 little brown, little gold.

13 Q Can you describe the car for the jury,
14 please?

15 A It was a little one. I don't know if it was
16 a Honda or a Toyota. I really don't know.

17 Q Do you know cars very well? I mean, is that
18 an interest or hobby?

19 A No. No, I got hobby, but they're all old
20 cars.

21 Q Okay. Do you recall how many doors are on
22 this vehicle?

23 A Four.

24 Q Okay. And your testimony is that the

1 defendant exited his car, walked towards the front. What
2 happened or what did you see at that point?

3 A I didn't see nothing, but I heard him say,
4 "Ah-hah, I got you now," and then a few seconds later
5 pow, pow, pow.

6 Q When you say "pow, pow, pow," do you know
7 what that was?

8 A It was a gun.

9 Q Okay. How do you know that?

10 A I know it from listening to the neighborhood.
11 I was in ROTC. We used to go up before Spanish Springs
12 got built and go up there to shoot with my father years
13 ago, back in the '60s and '70s.

14 Q Okay. Now, you say that you were not able to
15 see the defendant once he came to the front of the car?

16 A Well -- yeah. Once he went to the front of
17 the car, I wasn't able to see him no more.

18 Q Why were you not able to see him at that
19 point?

20 A Well, when you go to the front of the car,
21 the porch had all that covered.

22 Q So it's hard to see from this picture, but
23 does this roof line overhang not only the door to your
24 place but a porch as well?

1 A Yeah. Just a little bit.

2 Q Okay.

3 A Not very much.

4 Q And that's where your chair was where you
5 were sitting on that day?

6 A Right by my door.

7 Q Okay. Prior to the defendant walking kind of
8 in front of the car and the porch obstructing your view,
9 were you able to fully see the defendant as he drove in?

10 A I could fully see him drive in and get out,
11 but once he walked out of -- on the porch, I couldn't see
12 him no more.

13 Q Okay. Do you know where the gunshots that
14 you heard were coming from?

15 A Downstairs.

16 Q Okay. From the area where the defendant was?

17 A Yeah.

18 Q Okay. Now, did you see what Ant, as you know
19 him as Ant, what was he doing during all this?

20 A Well, when the car pulled up, because he's
21 playing with the dog, kind of bent down. When the car
22 pulled up, he stood up and looked, and when he looked, he
23 kind of went from laughing to like a frown, then started
24 kind of moving. Then when the shots started, he started

1 ducking, going back and forth trying to figure out which
2 way to get out. To me, seemed like to me he was trying
3 to figure a way to get away.

4 Q You said that he went from laughing to a
5 frown. Was Ant laughing prior to the defendant pulling
6 in the parking lot?

7 A He was playing with the dog and laughing and
8 talking about how big the dog was getting and -- they
9 were just talking.

10 Q And you said he was -- and you're moving your
11 hands kind of side -- side to side. Is that the way that
12 Ant was moving?

13 A Well, he's moving like he was -- to me looked
14 like he was, like, playing dodgeball, he was trying to
15 dodge something.

16 Q Okay. Did you see where Ant went?

17 A Yeah, first he tried to go around the front
18 of my truck. We got a barbecue up there so he went
19 around the back of my truck through our side gate, we got
20 a side yard, and disappeared from there.

21 Q All right. And again, I'm going to clear
22 these arrows that you have up there. You mentioned the
23 side yard. Can you show the direction that you saw Ant
24 go?

1 A Well, he went around the -- went around the
2 back of my car and right back from there I guess he just
3 got going from what I -- the neighbors back in the back
4 said.

5 Q Okay. Well, this area right here on this,
6 what is this area that we're looking at right here?

7 A Right there? That's just dirt. All that's
8 dirt and garbage can, apartment next door, across the
9 street, then they got their gate and this is our side
10 with the gate.

11 Q All right. And you've mentioned a gate. You
12 see this, what appears to just kind of be a line from
13 this angle running from the building back up to this back
14 fence line. Is that the gate you're talking about?

15 A That's the gate, yeah. With that opening.

16 Q Okay. From where you just left off, what did
17 you see or do at that point?

18 A At that point -- well, at that point I fell
19 sideways out of my chair, because I didn't want to stand
20 up, crawled in the house and called 911, but I had the
21 wife call 911 and she talked to him and then I talked to
22 them.

23 Q All right. So you had Glorietta call 911?

24 A Yeah.

1 Q And was there a time that Glorietta handed
2 you the phone and you spoke with the 911 dispatcher?

3 A Yeah, because she didn't see anything. All
4 she did -- because she came out of the bathroom by the
5 time I got out of the chair.

6 Q So when the shootings happened, Glorietta was
7 not outside with you?

8 A No. She had just went in the house.

9 Q All right. Were you able to -- when speaking
10 with the dispatcher, were you able to identify that you
11 knew who the person was?

12 A I think pretty much, yeah. Yeah, because by
13 then Del was screaming that her baby got shot, and then
14 after that it was pandemonium just thinking about --
15 because I know Cece so it was just like, wow, you know,
16 my wife heard her screaming and that's why on the 911 you
17 hear pandemonium.

18 Q And when you say "Del," is that Delphine?

19 A Delphine, yeah.

20 Q You mentioned that you kind of know a lot of
21 people in -- in that area. I'm going to go back now to
22 Exhibit 1, sir. You know a lot of the people -- if I
23 could zoom in -- on this top part of your neighborhood.
24 You know a lot of people in that area was your testimony,

1 correct?

2 A Yeah.

3 Q Had you seen the defendant prior to August
4 9th, 2014?

5 A Oh, yeah. He used to come over Anthony's
6 house. They used to talk out there on the grass, whole
7 bunch of them, they would talk, like a meeting place.

8 Q Did you know what type of vehicle that the
9 defendant had?

10 A He had that gold one because he lives across
11 behind me upstairs --

12 Q Okay.

13 A -- in that same part there.

14 Q All right. When the police arrived, did you
15 point out where the defendant lived?

16 A Sure did.

17 Q How confident were you that is where the
18 defendant lived?

19 A Because I seen him over there, I seen him
20 walk in the house, seen him sitting on the porch there
21 plenty of times.

22 Q All right. And you descri- -- you kind of
23 described a little bit. Where exactly on this map did
24 the defendant live?

1 A If that's mine, that's next door, would be
2 about right there. There.

3 Q Okay. All right. Did you know the
4 defendant's name on August 9th?

5 A Yeah, but do -- I don't know what half the
6 kids' names because I don't -- you know, I'm a
7 57-year-old man. I'm just on the porch. I watch them
8 and when I go to my mailbox which is below where he
9 lives, so I talk to him, "How you doin'," you know.

10 Q Prior to the shooting, did you see anything
11 going on in the street area earlier that morning?

12 A Well, that morning, because my wife gets up
13 early, we go outside have our coffee, we heard a bunch of
14 noise.

15 Q Okay.

16 A And from my experience I know they was
17 playing dice, they was gambling.

18 Q Okay.

19 A Now, where, I don't know because I didn't go
20 investigate that, but I do know they was playing dice
21 because they was talking about it, what numbers they was
22 hitting and who was throwing what and, you know, vulgar
23 language that comes with, you know, playing dice.

24 Q Was the conversation among the dice players,

1 was it calm?

2 A No, they was screaming and yelling,
3 hollering. Then I heard Anthony's voice because I know
4 his voice because I do talk to him. I have seen him go
5 into his little rages with his little dog. And they was
6 talking about somebody was cheatin' and they wasn't
7 throwin' the dice right.

8 Q And when you said you heard Anthony, he was
9 part of that conversation?

10 A Yeah. Well, like I said, I know his voice.
11 He's the biggest part of the conversation. He's got a
12 big mouth. You hear him all over the neighborhood when
13 he gets mad.

14 Q All right. Other than Anthony playing with
15 the dog, was Anthony doing anything in that parking lot
16 right before the defendant drove in?

17 A No. No. Matter of fact, he was fitting --
18 came from over there. He was fitting to go up the stairs
19 and then he seen the dog, so he came back and the dog ran
20 to him and he started petting the dog, talking to Del --
21 Delphine and everybody was talking.

22 Q Did you end up completing a written witness
23 statement for the police once they made contact with you
24 in this case?

1 A Yes, I did.

2 Q Okay. From the time that you saw the vehicle
3 pull in as you described into this first parking lot or
4 parking space, Will's, until you heard the shots being
5 fired, how long are we talking about?

6 A Seconds. After he said what he said, then
7 fired few times, and it was like a pause and then fired
8 again. And then the gals started screaming and then
9 there was like (indicating).

10 Q I see. Now, you mentioned that you had your
11 wife call 911 and then you ended up speaking to 911 as
12 well, correct?

13 A Right, because they wanted more information
14 and she couldn't give it to them because she wasn't
15 outside.

16 MR. YOUNG: Your Honor, I have a copy of the
17 call as Exhibit 25. I'd move for the admission of that.

18 THE COURT: Any objection, Mr. Hylin?

19 MR. HYLIN: No objection, your Honor.

20 THE COURT: Exhibit Number 25 will be
21 admitted.

22 (State's Exhibit 25 was admitted.)

23 BY MR. YOUNG:

24 Q Sir, I'm going to play this. And is the

1 first voice we hear on there, is that Glorietta?

2 A Yes.

3 Q And then followed up by you, correct?

4 A Right.

5 (A 911 recording was played.)

6 BY MR. YOUNG:

7 Q Sir, just a couple additional questions for
8 you.

9 When we were hearing Glorietta first talking
10 to the dispatcher you heard her start saying, "Paul.
11 Paul. Paul." Who was she referring to?

12 A Me.

13 Q Is that your middle name?

14 A Yeah, Huey Paul Stanley, Jr.

15 Q When -- when the defendant first pulled into
16 the parking lot and got out of his car, anything unusual
17 about that in itself to you?

18 A Well, to be truthful, that morning they
19 was -- like I say, they was playing dice, and from my
20 understanding is that Anthony and him had a
21 confrontation.

22 MR. HYLIN: I'm going to object on grounds of
23 hearsay, your Honor.

24 THE COURT: Sustained. Sustained.

1 Sir, you can only testify to things that you
2 know, not what somebody else said.

3 THE WITNESS: All right.

4 THE COURT: Next question.

5 BY MR. YOUNG:

6 Q Let me rephrase my question.

7 Going back specifically to -- if we go back
8 to this picture that you describe the vehicle pulling in
9 from Patton into that -- into Will's spot, that first
10 spot.

11 A Right.

12 Q Was there anything about just that
13 abbreviated period of time which caused you any concern
14 when he pulled into the parking lot?

15 A Well, if I say that, it would be going back
16 to hearsay.

17 Q Then let's not go there.

18 How did the vehicle pull into the parking
19 lot?

20 A Well, he didn't pull in fast, he pulled in
21 like -- he actually pulled in like he was going to
22 Anthony's house, but Anthony was standing outside so he
23 made a quick turn in that parking place.

24 Q And Anthony's house would have been this

1 building to the north of yours?

2 A Yes.

3 Q Okay. And there's parking spaces in front of
4 Anthony's building as well?

5 A Right, six of them.

6 Q Okay. Sir, based on your view from your
7 porch area down to the parking lot, any doubt in your
8 mind that it was the defendant who you saw exit the
9 driver's side of that car?

10 A Well, to me it couldn't be nobody else
11 because there wasn't nobody else but us and him that
12 pulled in.

13 Q How confident are you that it was this
14 gentleman here that got out of the car?

15 A I'm a hundred percent. I mean, he covered --
16 well, he got -- he had a pony tail on, he got his beard,
17 but, you know -- since the last time I seen him he grow
18 it -- grewed it back, but first time I seen him, you
19 know, before he had cut it down, but I still recognize
20 him.

21 Q His hair, you mean?

22 A Yeah.

23 MR. YOUNG: Your Honor, that's all the
24 questions I have.

1 Thank you. Thank you, sir.

2 THE COURT: Thank you.

3 Cross-examination, Mr. Hylin?

4 MR. HYLIN: Thank you, your Honor.

5

6 CROSS-EXAMINATION

7 BY MR. HYLIN:

8 Q Mr. Stanley, when the car pulled in and
9 parked in that first parking space there in front of the
10 building, you didn't know who it was?

11 A I didn't know his name, but I know who he --
12 who he was by eye. I seen him around the neighborhood.

13 Q No, I understand that you've seen him.

14 A But I didn't know --

15 Q You've seen him in --

16 A -- his name or nothing.

17 Q -- and around the neighborhood --

18 A Yeah.

19 Q -- so when he pulls in you didn't see him.
20 As a matter of fact, when the car pulled in there, you
21 didn't really think much of it?

22 A Actually, no.

23 Q No.

24 A Because like I said, he goes over to

1 Anthony's house and he hangs in the hood with everybody
2 else.

3 Q And actually when the car pulled in you
4 couldn't see who was driving?

5 A Not till he got out. Not till he got out.

6 Q Not till he got out you couldn't see who was
7 driving it, right?

8 A Um-hum.

9 Q And that car parked in the first spot which
10 is closest to Patton Drive, correct?

11 A Um-hum.

12 THE COURT: Sir, you need to say "Yes" or
13 "No," please.

14 THE WITNESS: Yes.

15 THE COURT: Thank you.

16 BY MR. HYLIN:

17 Q And your Blazer was packed -- parked on the
18 other end of the building on the last spot?

19 A Right, sir.

20 Q All right. So when -- when he pulled in, you
21 saw him get out?

22 A Yes, sir.

23 Q All right. And you probably saw him for,
24 what, maybe a second or less?

1 A About a second or less, but I still knew who
2 he was.

3 Q Right. And you couldn't actually see what
4 was going on from there because you were sitting up on
5 the second story landing?

6 A Yeah, couldn't actually see what was going
7 on.

8 Q And on that apartment building on the
9 second-story landing -- what I'm doing is pointing right
10 here with my pen -- you can't really see the landing
11 there, can you?

12 A No. That's overhang.

13 Q Yes. And that's the walkway, right?

14 A That's the walkway.

15 Q And so the stairs go up from either end?

16 A Yes, sir.

17 Q And then you have the walkway and you're
18 sitting in your chair by your own door?

19 A In the one in front of the window which are
20 not really big. I mean, they are --

21 Q Right. But that's all you saw, you saw the
22 car pull in?

23 A Um-hum.

24 Q Saw a man get out of it?

1 A Yeah.

2 Q And then he disappeared underneath the --

3 A Yes, sir.

4 Q -- underneath the walkway?

5 A Yes, sir.

6 Q So you didn't see anything after that?

7 A Not after that.

8 Q All you -- all you did was hear things?

9 A Yes, sir.

10 Q All right. And when he got out of the car,
11 you said he had one -- you testified at the preliminary
12 hearing that he had one hand on the roof and one hand on
13 the door, correct?

14 A Yeah, when he got out he kind of stood for a
15 wait a minute and then walked and disappeared.

16 Q All right. So that -- so that's all you
17 saw and then he disappeared --

18 A Yeah.

19 Q -- underneath the walkway?

20 A Yeah.

21 Q And he didn't have anything in his hand?

22 A I don't know if he had something in his hand.
23 It looked like he had something in his right, but I can't
24 tell what it was because I wasn't paying that much

1 attention --

2 Q Right.

3 A -- to what it was in his hands.

4 Q So it was actually a nonevent. You don't --
5 you don't -- there was nothing remarkable about this
6 event until you heard what you think is gunshots?

7 A Well, like I said before, I kind of have to
8 go back to saying what was told from the dice game, so...

9 THE COURT: Yeah, don't tell me what other
10 people said.

11 THE WITNESS: So that's all I -- all I can
12 tell you. I knew what was going on and what had happened
13 so I was already --

14 BY MR. HYLIN:

15 Q Well, you didn't know that at that time?

16 A I knew that at that time because it happened
17 earlier.

18 Q All right. Well, you said you heard a dice
19 game?

20 A Yeah.

21 Q But you didn't see the dice game?

22 A Nah, I didn't see -- I didn't see a dice
23 game.

24 Q And you didn't see who all was there?

1 A No.

2 Q So you don't even know who was playing dice?

3 A No. We go back to the hearsay part.

4 Q Okay. So he pulls in, he gets out of the car
5 and he's got one hand on the roof. Is it like I'm
6 showing you here, he's got one hand up on the roof?

7 A Yeah.

8 Q Now, if there was something in that hand, you
9 would have seen it?

10 A I did see something. I don't know what it
11 was. That's what I said before, I didn't know what it
12 was, but --

13 Q All right.

14 A -- it's like he had something.

15 Q Well, a gun's a pretty distinctive looking
16 thing, isn't it?

17 A Yeah.

18 Q Yeah.

19 A It's a pretty distinctive if you're paying
20 really close attention.

21 Q Right. And at the preliminary hearing I
22 think you testified that he said, "Now, I got you," but
23 you left out the expletive?

24 A Yeah, I didn't want to be...

1 Q Okay. Is that just because you were -- you
2 don't like that word?

3 A No. I don't.

4 Q Okay. But you did testify -- you didn't
5 testify to that at the --

6 A No, I --

7 Q -- at the preliminary hearing?

8 A No. Right.

9 Q Now, you heard the dice game. So you don't
10 even know where it was?

11 A It was up against the building. Probably his
12 building because my son --

13 Q Well --

14 THE COURT: Well, hold on. Hold -- both of
15 you stop, please. Both Mr. Hylin and Mr. Stanley, he
16 needs to ask you the question. Let him finish asking you
17 the question before you start to answer it.

18 THE WITNESS: Okay.

19 THE COURT: And then I'll give you the
20 opportunity to answer without having Mr. Hylin interrupt
21 you. Okay? But we --

22 THE WITNESS: Okay. Gotcha.

23 THE COURT: We only got to go one at a time
24 that way.

1 Okay. So the next question, Mr. Hylin. Go
2 ahead.

3 MR. HYLIN: Thank you, your Honor.

4 BY MR. HYLIN:

5 Q So you heard the crap game, didn't see
6 anything. So if you can hear it, it's probably within
7 earshot, but you don't know exactly where?

8 A Right.

9 Q All right. So when you just testified it was
10 probably, that's just you guessing?

11 A Yeah.

12 Q All right. You don't know if Mr. Mason was
13 there or not, do you?

14 A Hearsay, yeah.

15 Q Well, not hearsay.

16 A But I didn't know, no.

17 Q You said you heard Anthony?

18 A Yeah, I heard Anthony's -- now, that I did.

19 Q Okay. But you don't -- you don't know if
20 Anthony was actually playing because you didn't see him?

21 A I didn't see it, no.

22 Q All right. So -- now, when -- when you --
23 when the 911 call was made, someone's saying, "He shot
24 the baby."

1 Do you recall hearing that?

2 A Yeah.

3 Q All right. Well, "shot the baby" means like
4 somebody took aim and shot at him; fair to say?

5 A That's not what I was saying. I was saying
6 by a person shooting a gun, the baby got shot.

7 Q Okay. You're not saying, then, that anybody
8 who might have been shooting was actually aiming at that
9 baby?

10 A No, I think it was mostly based towards
11 Anthony.

12 Q Well, but you don't know that because you
13 couldn't see it, correct?

14 A I couldn't see it.

15 Q All right. So you're sitting up on the
16 balcony. And I know the gunshots are pretty loud?

17 A Oh, yeah.

18 Q And your adrenaline starts rushing?

19 A Oh, yeah.

20 Q And everything starts going fast?

21 A Right.

22 Q So when you -- when you're-- you fell out of
23 your chair immediately?

24 A Yes.

1 Q All right.

2 A After -- after I heard the gunshots.

3 Q Okay.

4 A I fell out of the chair because I wasn't
5 going to stand up and get shot myself.

6 Q No, no. You don't have to offer any excuses.

7 A I was going into the house, my wife came out
8 of the bathroom, I said, "Call 911."

9 Q That's fine.

10 A Because they were all screaming, "My baby got
11 shot."

12 Q So as soon as you heard the shots, you fell
13 down?

14 A Yeah.

15 Q And so you're actually laying on the --

16 A And crawling into the house, yeah.

17 Q Okay. So you couldn't actually see Anthony
18 at that point in time?

19 A By that time Anthony was gone.

20 Q And you described Anthony as being --
21 standing by your -- I think it's a Blazer? Bronco?
22 Blazer?

23 A Blazer.

24 Q Blazer. And the Blazer is essentially parked

1 right here where I have my pen?

2 A Yeah. Right there.

3 Q So over here is dirt?

4 A Dirt. Then the fence and then --

5 Q Then the fence is --

6 A -- the entry into the backyard.

7 Q -- right here?

8 A Yeah.

9 Q So nothing hit the Blazer?

10 A No.

11 Q Nothing hit Anthony, to your knowledge,
12 correct?

13 A No.

14 Q Matter of fact, whoever was doing the
15 shooting, you couldn't even see which direction they were
16 shooting?

17 A No.

18 Q Might have been shooting up in the air?

19 A Probably was, but I doubt it.

20 Q Okay. Well, you don't know?

21 A I don't know.

22 Q All right. When the car pulled out, you
23 called it a light brown car?

24 A Yeah, but it's -- it's gold.

1 Q All right. But you don't know the make?

2 A I don't know the car -- is a Honda, Toyota,
3 the year, the stuff like that, because I don't drive
4 them.

5 Q Right. Didn't know the license number?

6 A Nah.

7 Q Now, you had seen that car a lot in the
8 neighborhood, correct?

9 A Yeah.

10 Q And never noticed the license plate on it?

11 A Nah. I couldn't even tell you my license
12 plate number because I don't think of them and I don't --
13 it's not a big priority to me. They're license plates.

14 Q Well, you -- actually the car that pulled in
15 there, you didn't see the -- you never saw the license
16 plate --

17 A No.

18 Q -- on that?

19 A No.

20 Q Never did get it or learn it?

21 A Didn't even try to.

22 Q All right. And the person that got out of
23 the car, you looked at him, but you couldn't describe any
24 clothing that he was wearing, could you?

1 A Well, when he got out of the car, I could see
2 the top of his head because the car was blocking.

3 Q All right. So you had the top of the head,
4 but there was no hat on the head?

5 A Can't remember if he had a hat or not because
6 I was looking in his face. My direction of site was
7 looking at him.

8 Q Well, is it fair to say -- let's say he -- he
9 had a baseball hat on, being up, right up above him, you
10 probably wouldn't be able to see his face, would you?

11 A If he had a baseball cap on, then it all
12 depends on how he -- how he was looking, you know.

13 Q Well, he didn't look up at you? You
14 didn't -- you never --

15 A No.

16 Q -- testified to that.

17 A When he got out he was looking toward them
18 guys sitting under there.

19 Q All right.

20 A Yeah.

21 Q And you're saying now that you think it was
22 four shots were fired?

23 A No. I know I heard three, and about that
24 time, like I said, Del started screaming about her baby

1 and everything went into pandemonium.

2 Q Okay. Well, at the time when you're sitting
3 up there, did you know Delphine was down there, or no?

4 A Oh, yeah. She lived there, so I knew she was
5 down there. Everybody know Delphine because she's been
6 there for years.

7 Q Let me rephrase that. That's probably not
8 fair.

9 You didn't know she was sitting in the chair
10 out on the sidewalk?

11 A Oh, yeah. Because I heard her, heard her
12 talking so I -- yeah. They did like us, they had chairs
13 and they sit -- they sat outside.

14 Q All right.

15 MR. HYLIN: Court's indulgence one moment.

16 THE COURT: Sure.

17 MR. HYLIN: I don't have any further
18 questions, your Honor.

19 THE COURT: Redirect based on the
20 cross-examination, Mr. Young?

21 MR. YOUNG: Thank you.

22 REDIRECT EXAMINATION

23 BY MR. YOUNG:

24 Q Mr. Hylin asked you about not being able to

1 see the driver of the car, and, I believe your testimony,
2 you couldn't see him until he got out?

3 A Right.

4 Q Okay. Who got out of the car?

5 A The defendant.

6 Q And then you stated that -- again, your
7 response to Mr. Hylin's questions -- that it looked like
8 the defendant had something in his right hand?

9 A It looked like it.

10 Q Okay. And just one other question. You --
11 Mr. Hylin was asking you questions about at the
12 preliminary hearing you didn't use or attribute that the
13 defendant used that expletive, right?

14 A Well, no, because I'm religious and I didn't
15 want to even say it.

16 Q I understand. And you're saying it today
17 because I'm asking you in a court of law, right?

18 A That's right.

19 Q At the prelim when testifying to what the
20 defendant said, do you recall, instead of using the "N"
21 word saying, "Um-hum?"

22 A Yeah. Said, "Um-hum, now I got you."

23 Q And you just didn't want to say that at the
24 prelim?

1 A Right.

2 MR. YOUNG: Okay. That's all I got. Thank
3 you.

4 THE COURT: Recross based on the redirect
5 examination, Mr. Hylin?

6 MR. HYLIN: Nothing, your Honor.

7 THE COURT: Thank you for being here today.
8 You're free to go.

9 Is the witness excused from his subpoena,
10 Mr. Young?

11 MR. YOUNG: Thank you, your Honor.

12 THE COURT: Mr. Hylin, is he excused from his
13 subpoena?

14 MR. HYLIN: I think so, your Honor.

15 THE COURT: Thank you. You're free to go.
16 Your next witness, Mr. --

17 MR. YOUNG: Officer Lancaster, your Honor.

18 THE COURT: Okay.

19

20 BENJAMIN LANCASTER,

21 having been first duly sworn by the court clerk,

22 was examined and testified as follows:

23

24 THE CLERK: Have a seat.

1 THE WITNESS: Thank you.

2 MR. YOUNG: Thank you, your Honor.

3

4 DIRECT EXAMINATION

5 BY MR. YOUNG:

6 Q Good afternoon, sir. Would you state your
7 first and last name and spell them both for the reporter,
8 please.

9 A It's Benjamin Lancaster. First is
10 B-e-n-j-a-m-i-n, and Lancaster is L-a-n-c-a-s-t-e-r.

11 Q Sir, with whom are you currently employed?

12 A The Reno Police Department.

13 Q And how long have you been so employed?

14 A It's about eleven years.

15 Q Okay. And without going into too great of
16 detail, was there certain trainings that you had to go
17 through to even becoming employed as an officer with the
18 Reno Police Department?

19 A Yes, sir.

20 Q What was that?

21 A The initial academy I think is -- you have to
22 have 420 hours of training which would include like
23 tactics, firearms, driving, basic investigation skills,
24 Nevada law and Reno Municipal Code.

1 Q And is that commonly referred to as POST?

2 A Yes.

3 Q The POST Academy?

4 A Yes.

5 Q Did you graduate from POST?

6 A I did.

7 Q And over the balance of the 11 years since
8 then, do you continue to take trainings with respect to
9 your occupation as a law enforcement officer?

10 A Yes, sir. We're required to -- I'm not
11 exactly sure on the number, but -- get a certain amount
12 of hours yearly to maintain our POST certificate.

13 Q Okay. And have you been current on all
14 those?

15 A Yes, sir.

16 Q All right. Sir, directing your attention to
17 August 9th of 2014, did you respond to the area of 2397
18 Patton Drive?

19 A I did.

20 Q And do you recall the approximate time that
21 you responded?

22 A I believe it was early afternoon, noonish.

23 Q Okay. Did you put the specific time in
24 your -- in your reports?

1 A Yes, I did.

2 Q Okay. And, in fact, did you do a report
3 related to this case?

4 A Yes, sir.

5 MR. YOUNG: If I could approach, your Honor?

6 THE COURT: You may.

7 BY MR. YOUNG:

8 Q Just, again, let me know if, reviewing that
9 report, that is yours, refreshes your recollection as to
10 the specific time of your response.

11 A It is, sir, and it was 12:15.

12 Q Thank you. In the afternoon?

13 A Yes.

14 Q All right. Were you the first law
15 enforcement officer to arrive on scene?

16 A I was.

17 Q All right. And when you -- without getting
18 into too great of detail, is there a dispatch system
19 which alerts you over the radio of where to respond to
20 and the nature of the call?

21 A Yeah. Yes, sir. It's over the radio.
22 They'll give address, details of the call.

23 Q Okay. And did you receive just a very brief
24 description of were you responding to a shooting?

1 A I did.

2 Q Okay. When you arrived on the scene, what
3 did you do?

4 A As I arrived, several people were screaming
5 that a girl had been shot, a little girl. They started
6 pointing me to the direction, so when they said that I
7 have -- we carry a first-aid kit with basic -- like
8 tourniquets, gauze and stuff, so I grabbed that out of my
9 car and proceeded over to where they were pointing to.
10 There was a little girl sitting in a chair, there was --
11 another female had a towel wrapped around her leg and you
12 could see a -- like there was some blood on the towel.
13 When I got there she removed it. I could see what --
14 from my experience what looked like a gunshot wound to
15 her -- it was in her lower, like, calf area of her right
16 leg. So then I began to wrap it with gauze and apply
17 pressure until the paramedics or the fire department
18 could get there.

19 Q Okay. And once the paramedics or fire
20 department arrived, did they take over --

21 A Yes.

22 Q -- medical treatment of the girl?

23 A Yes, sir.

24 Q Now, upon your arrival, was there a male

1 gentleman who tried to contact you?

2 A Yes, sir. While I was treating the little
3 girl, a male came up to me and told me that he had -- he
4 knew who did it and he could give me some details on
5 that. I asked him to -- where he -- where his apartment
6 was and if he could go back up there and, when I was done
7 with the girl -- or I could send another offer up there
8 to get a statement from him.

9 Q When you first made contact with this
10 individual, do you know who that man was?

11 A I didn't at the time.

12 Q Okay. Did you through your investigation
13 learn who that individual was?

14 A Yes, later I did.

15 Q Who was that?

16 A It was Huey Stanley.

17 Q Okay. Did you see what unit Mr. Stanley went
18 to?

19 A I did.

20 Q Okay. Which was that?

21 A I can't remember off the top of my head. I'm
22 sorry.

23 Q I don't need the number. Location, if you
24 will?

1 A It was the same apartment above the -- where
2 I was treating the little girl.

3 Q Okay. Did you end up going, then, up to
4 Mr. Stanley's apartment?

5 A I did, sir.

6 Q Okay. And did he point out a unit to you as
7 part of your investigation?

8 A He did.

9 Q Okay. How specific was he in pointing out
10 that unit to you?

11 A He pointed out the apartment building and
12 then he explained to me that it was the top apartment
13 closest to the street.

14 Q Okay. Related to where the shooter was?

15 A Exactly.

16 Q Or at least resided?

17 A Yes.

18 Q All right. Did you take steps then to
19 identify the exact number of the unit Mr. Stanley was
20 identifying to you?

21 A I did. I walked over, got the address and
22 passed it on to the other officers on scene.

23 Q What was the address as described by
24 Mr. Stanley?

1 A 2366, I believe.

2 Q Okay. And we're looking at Exhibit 1, I
3 believe. 1. It's dog-tagged for you, but do you see
4 that on there?

5 A I do, sir.

6 Q And can you point that out to the jury? You
7 can actually touch your screen and --

8 A Yes.

9 Q -- it will mark.

10 Okay. And you testified that's the top unit
11 closest to the street?

12 A It is.

13 Q I'm going to show you a few pictures, sir.

14 Was it easy for you when Mr. Stanley pointed
15 out the unit, I mean, did you have to -- was it easy for
16 you to identify the specific unit?

17 A It was from his description he gave me.

18 Q All right.

19 MR. YOUNG: If I may approach, your Honor?

20 THE COURT: You may.

21 BY MR. YOUNG:

22 Q Show you Exhibits 5 through 10. Take a look
23 at those and just tell me know if you recognize those,
24 please.

1 A Yes, I recognize them, sir.

2 Q And did you yourself take those photographs?

3 A No, I did not.

4 Q Okay. But you recognize those as what?

5 A As the crime scene where -- the chair --

6 Q I'm not going to have you describe them quite

7 yet.

8 A Oh, all right.

9 Q But you recognize those, though --

10 A Yes.

11 Q -- as the crime scene?

12 A Yes, I do.

13 Q And do they fairly and accurately depict the
14 scene that you saw --

15 A Yes, sir.

16 MR. YOUNG: I'd move for 5 through 10, your
17 Honor.

18 MR. HYLIN: Just a couple of questions on
19 voir dire.

20 THE COURT: Okay.

21

22 VOIR DIRE EXAMINATION

23 BY MR. HYLIN:

24 Q Were you familiar with the investigation to

1 see what was on the ground in those photos?

2 A I'm sorry, I didn't hear you.

3 Q The two photos that showed something on the
4 ground, were you familiar with those?

5 A Yes.

6 Q Okay.

7 MR. HYLIN: No objection.

8 THE COURT: 5 through 10 will be admitted.

9 MR. YOUNG: Thank you.

10 (State's Exhibits 5 through 10 were
admitted.)

11 THE COURT: And you may publish them to the
12 jury.

13 MR. YOUNG: Thank you, your Honor.

14

15 DIRECT EXAMINATION (Resumed)

16 BY MR. YOUNG:

17 Q What is this, sir? We're looking at 5.

18 A That -- the blue chair is where the little
19 girl was sitting when I first arrived.

20 THE COURT: I think they're both blue chairs,
21 Officer. Which blue one are you talking about?

22 THE WITNESS: The lighter blue on the
23 left-hand side --

24 THE COURT: Thank you.

1 Go ahead.

2 THE WITNESS: -- of the door.

3 BY MR. YOUNG:

4 Q Again, just for clarification, you can touch
5 the screen and it will --

6 A Oh. I'm sorry.

7 Q That's okay.

8 A Right there.

9 Q And there's kind of a white object just in
10 front of that chair. What is that?

11 A That is the towel that the lady had wrapped
12 around the girl's leg prior to my -- or as I arrived.

13 Q Okay. Now, I'm going to jump around on you
14 here a little bit. Let me show you Exhibit 2, sir. You
15 haven't seen this exhibit yet. It has been admitted.

16 Do you recognize this as the unit that you
17 responded to?

18 A Yes, sir.

19 Q Now, do you recall, there's multiple units in
20 this building; is that fair?

21 A Yes, that's fair to say.

22 Q It's a little awkward since we're looking
23 directly down at this unit. But that door that we saw
24 with the blue chair, where was that in relation to that

1 building? Do you recall?

2 A It should be in the middle, I believe, like
3 somewhere around this area.

4 Q Okay. And that's what we see with the -- the
5 blue chair right there?

6 A Yes.

7 Q Okay. Let me show you Exhibit 6, sir. Could
8 you describe to the jury what that is, please?

9 A It's the blood droplets that were around
10 there.

11 Q Okay. Let me show you now Exhibit 7. And
12 all these pictures list VeriPic in the lower right
13 corner. What is VeriPic?

14 A VeriPic is a -- like a digital system that we
15 use to download like crime scene photos.

16 Q That's something through the Reno Police
17 Department?

18 A Yes.

19 Q Okay. What does Exhibit 7 depict, sir?

20 A This would be the driveway to the apartment
21 complex where the victim was.

22 Q Okay. Looking into --

23 A Yes.

24 Q -- the parking lot and the unit?

1 A Yes, sir.

2 Q There's an item kind of down there that I
3 just circled for you. What is that?

4 A That was -- it's a -- it's a shell casing
5 underneath or close to that, but that's a way that we use
6 sometimes -- we don't have the placards, we'll fold a
7 card over or some other -- to mark casings so they are
8 not disturbed.

9 Q What's a shell casing?

10 A A shell casing is the expended cartridge, the
11 part that's ejected from a round -- from a fire -- from a
12 gun.

13 Q Okay. I'm going to show you a close-up of
14 there. This is Exhibit 8.

15 Do you recognize that?

16 A Yes. That is a shell casing.

17 Q That we just saw in relation to Exhibit 7?

18 A Correct, sir.

19 Q Was there another shell casing located at the
20 scene?

21 A There was.

22 Q I'm going to show you Exhibit 9. And again,
23 can you describe to the jury what you see there?

24 A This is the same thing. We had, like, a

1 folded up piece of paper or card that we would use to
2 mark where we found an item of interest. In this case it
3 was a shell casing.

4 Q And again, if you could, just so we're all
5 clear, go ahead and point on that screen what you are
6 talking about.

7 A (The witness complied.)

8 Q Okay. And lastly Exhibit 10, is that -- what
9 is that?

10 A That is also a shell casing.

11 Q So 10 is a close-up of Exhibit 9?

12 A Yes.

13 Q To your knowledge was there any shell casings
14 beyond those two located by police?

15 A Not that I know of.

16 Q Okay. You've testified that Mr. Stanley --
17 who you didn't know at the time, now know as
18 Mr. Stanley -- was trying to talk to you while you were
19 treating the little girl?

20 A Yes, sir.

21 Q Did you know what the little girl's name is
22 by chance?

23 A I can't remember off the top of my head.

24 Q That's okay.

1 And then you had him return to his apartment
2 and then you later went and spoke with him?

3 A Correct, sir.

4 Q Approximately how long -- how much time
5 elapsed between when you told him, "Wait, I'll get to you
6 later," and then you actually spoke with Mr. Stanley?

7 A Five, ten minutes at most.

8 Q Okay. And upon your arrival on scene, you
9 say you were the first officer, correct?

10 A Correct.

11 Q How -- was Mr. Stanley right there or did --
12 how long until you made contact with him initially; do
13 you know?

14 A It was pretty immediate. I'd say within a
15 minute.

16 Q Do you see the individual that I'm pointing
17 to kind of in front of you to my right wearing a striped
18 shirt and a tie?

19 A Yes, sir.

20 Q Okay. Was that individual on scene at Patton
21 Drive when you arrived?

22 A No, sir.

23 Q Okay. At any time on August 9th of 2014, did
24 you see the individual I was just referring to?

1 A I didn't see him on those days.

2 MR. YOUNG: And your Honor, for the record I
3 was referring to the defendant.

4 THE COURT: So noted.

5 MR. YOUNG: I have no further questions.
6 Thank you, Officer.

7 THE COURT: Cross-examination, Mr. Hylin?

8 MR. HYLIN: Thank you, your Honor.

9

10 CROSS-EXAMINATION

11 BY MR. HYLIN:

12 Q Were you the one that put the tent by the
13 brown casing?

14 A No, it was not me, sir.

15 Q All right. Were you in charge of, at least
16 initially, of organizing the crime scene?

17 A No. I was mainly -- since I was first there
18 I was treating the girl and another officer took over.

19 Q Who was that?

20 A I -- I'm not sure, sir.

21 Q All right. So you got a good view of the
22 scene, but you didn't really perform any of the rest of
23 the investigation?

24 A After the fact I got a good view of the

1 scene.

2 Q Yeah, after you took care of -- wrapped the
3 child's leg?

4 A Yes, sir.

5 Q All right. And that -- and that wound was
6 kind of a puncture wound?

7 A Correct, sir.

8 Q Couldn't really tell what -- anything else
9 about it, correct?

10 A No.

11 Q Not bleeding profusely, just bleeding?

12 A Not a --

13 Q A little bit?

14 A Yeah, it was bleeding a little bit.

15 Q Okay. Didn't see a gun?

16 A No.

17 Q Only saw two casings?

18 A Correct.

19 Q And really no other -- you didn't view any
20 other items in that whole area that would be collected as
21 evidence?

22 A No, I did not, sir.

23 Q Okay. Did you look -- where else did you
24 look besides the immediate front of that building for any

1 casings or other evidence?

2 A I did not look anywhere else.

3 Q Okay. So you treated the girl and then
4 backed off and other people handled the investigation?

5 A Pretty much. I went and talked to
6 Mr. Stanley.

7 Q All right. Talked to Mr. Stanley?

8 A Um-hum.

9 Q And took notes on that?

10 A Correct.

11 Q All right.

12 MR. HYLIN: No further questions, your Honor.

13 THE COURT: Redirect based on the
14 cross-examination?

15 MR. YOUNG: No questions.

16 THE COURT: Is Officer Lancaster free to go?

17 MR. YOUNG: Yes, he is.

18 THE COURT: Mr. Hylin?

19 MR. HYLIN: Yes, your Honor.

20 THE COURT: You're excused, sir. Thank you
21 for being here today.

22 THE WITNESS: Thank you, sir.

23 THE COURT: Mr. Young, you may call your next
24 witness.

1 Ladies and gentlemen, while the next witness
2 is coming in, if you'd just like to stand up and stretch
3 your legs, go ahead and do so.

4 MR. YOUNG: State calls Mr. Holly, your
5 Honor.

6 THE COURT: And just so everybody is aware,
7 we have about a half an hour left today and then we'll
8 break for the afternoon.

9 THE CLERK: Please raise your right hand.

10

11 ANTHONY HOLLY,
12 having been first duly sworn by the court clerk,
13 was examined and testified as follows:

14

15 THE CLERK: You can have a seat.

16 MR. YOUNG: One moment, your Honor. Court's
17 indulgence.

18 Thank you.

19

20 DIRECT EXAMINATION

21 BY MR. YOUNG

22 Q Sir, good afternoon.

23 A Good afternoon.

24 Q Could you go ahead and please state your

1 first and last name.

2 A Anthony Holly.

3 Q Would you spell both for the reporter,
4 please?

5 A Anthony, A-n-t-h-o-n-y, Holly, H-o-l-l-y.

6 Q Sir, going back to August of 2014, did you
7 live over on Patton Drive?

8 A Yes, sir.

9 Q Do you recall what unit you lived in?

10 A 2427 Patton.

11 Q Okay. I'm going to show you Exhibit 1 which
12 has been admitted, sir. And there's a screen right in
13 front of you you can take a look at. Do you see -- if I
14 were to tell you that up at the top of this screen is
15 Hug, what building and unit were you living in?

16 A This last one. The last one. That one,
17 yeah.

18 Q And is there two floors to that --

19 A Yes, sir.

20 Q -- building? Were you on top or the bottom
21 floor?

22 A Top floor.

23 Q And there's a number of units from the street
24 that goes away from Patton; is that correct?

1 A Yes.

2 Q On that top floor, were you closest to the
3 street, furthest, or where?

4 A Closest to the street.

5 Q All right. Now, sir, I need to ask you,
6 without trying to embarrass you, are you a convicted
7 felon?

8 A Yes, sir.

9 Q Okay. And specifically do you have a 2006
10 felony conviction for possession with intent to sell?

11 A Yes, sir.

12 Q Do you have a separate felony conviction in
13 2009 for a possession with the intent to sell?

14 A Yes, sir.

15 Q And then in 2010 do you have a third felony
16 conviction for burglary?

17 A Yes, sir.

18 Q Okay. And were any of those in Nevada?

19 A No, sir.

20 Q Okay. Were all those in California?

21 A Yes, sir.

22 Q All right. Now, I'm going to direct your
23 attention, sir, to August 9th of 2014, okay?

24 A Okay.

1 Q And something occurred that day which brings
2 you here to court?

3 A Yes, sir.

4 Q Okay. Could you start at the beginning of
5 that day of any interactions you had which ultimately
6 brings you here?

7 A Yes, sir. I woke up -- I think it was a
8 Saturday, if I'm not mistaken. Woke up, went outside,
9 regular day. I didn't have to work that day so went
10 outside, shorts, house shoes, just being comfortable.
11 And couple of guys I knew were outside gambling and a
12 couple of them kept asking me to join the game, join the
13 game. So I did. When I got into the game, we were
14 playing for a while, playing for a while. Then I got
15 into an argument with someone and --

16 MR. HYLIN: Well, your Honor, I think we're
17 into a narrative again here.

18 MR. YOUNG: It's just foundational, your
19 Honor.

20 THE COURT: That's all right. I'll sustain
21 the objection.

22 Ask your next question.

23 BY MR. YOUNG:

24 Q What happened next?

1 A We got into a short, brief argument and that
2 was that and I went on, we went on about our day. And
3 couple hours later I was outside playing with the
4 neighbor's dog and next thing you know it's just someone
5 was shooting at me.

6 Q Okay. I'm going to break that down a little
7 bit for you, sir.

8 You said that there was some people that you
9 were gambling with. What type of gambling were you
10 doing?

11 A Shooting craps.

12 Q Okay. With dice?

13 A Yes.

14 Q All right. And, again, by pointing to that
15 screen, if you will -- I'll erase this arrow -- is where
16 you were playing craps seen on this photograph?

17 A Yes.

18 Q Okay. Go ahead and point on there and tell
19 us where we're at.

20 A Right in there.

21 Q Okay. Kind of underneath that tree?

22 A Yeah.

23 Q And just for the record -- you, correct me if
24 I'm wrong, but that's a tree immediately abutting that

1 arrow identifying 2366 Patton?

2 A Yes.

3 Q Okay. Now, you said there was a couple
4 people you were playing with?

5 A Um-hum.

6 Q Do you know who those people are?

7 A I don't remember their names, but there was
8 about five or six of us out there.

9 Q Okay. Is one of the people that you were
10 playing dice with in the courtroom?

11 A Yes.

12 Q Okay. And can you point that person out to
13 the judge?

14 A (Indicating).

15 Q And what's that person wearing today?

16 A White shirt, black pants.

17 Q Wearing a tie?

18 A Yes.

19 Q All right. And does the shirt have any
20 pattern or design to it?

21 A Yes.

22 Q What's the design?

23 A Looks like black lines.

24 Q Lines?

1 MR. YOUNG: Your Honor, let the reflect --

2 MR. HYLIN: Your Honor, I'm going to object
3 to that. I think it's the province of the jury to decide
4 whether or not he's accurate -- testimony is accurate. I
5 don't think it's proper for the Court to point out
6 identification.

7 MR. YOUNG: Do it every single time in every
8 single case, your Honor.

9 THE COURT: Well, whether or not it's done in
10 every single time and every single case isn't a response
11 to an evidentiary objection, Mr. Young, but the Court
12 would note that the witness has identified a person
13 consistent with the defendant. It's up to the jury to
14 weigh the credibility of the witness's identification
15 that the witness has identified what the defendant is
16 wearing in the courtroom and that there's no one else
17 wearing similar clothing seated in the area where the
18 defendant -- or, excuse me -- where the witness
19 identified.

20 Next question.

21 BY MR. YOUNG

22 Q Sir, what happened during that dice game?

23 A We were shooting craps and we got into an
24 argument and couple hours later he came back shooting at

1 me.

2 Q What was the argument about?

3 A Once I crapped off the dice, I asked him to
4 school the dice. It's like a -- like a street term for
5 just picking them up, dropping them one by one and
6 picking them back up and doing whatever you want to do.

7 Q And is that what began this argument?

8 A Yes.

9 Q Did it result in a physical altercation?

10 A No.

11 Q Okay. Why was there no physical altercation?

12 A A friend of mine told -- well, yeah, a friend
13 of mine's told me, like, "Don't do that, don't" -- he's
14 just going on, like, "Just don't hit him." So I left it
15 alone.

16 Q Okay. Did you at any time or make contact
17 with the defendant?

18 A After the argument? No.

19 Q Okay. And while at the dice game, did he
20 make any physical contact with you?

21 A No. He just kept staring at me.

22 Q Okay. Do you know the defendant's name?

23 A Yes.

24 Q Okay. What was that?

1 A Quinzale.

2 Q Okay. And what did you call him or what do
3 you know him as?

4 A Q.

5 Q Okay. You said that you went about your way.
6 Did you leave the craps game?

7 A Yes.

8 Q And where'd you go?

9 A Walked over to a friend's house, said a few
10 words to him and then went back to my parking lot here.

11 Q Okay. And what did you do?

12 A I was talking to some neighbors. I went in
13 the house, got a little snack, something to drink, came
14 back outside, talking to my neighbors that live
15 downstairs across the parking lot, and I started to play
16 with their dog for a while.

17 Q So you actually went into -- when you said
18 you got a snack, was that into your --

19 A Yes.

20 Q -- place? Okay.

21 Who's -- who's dog was it? Who were you
22 talking with?

23 A I don't know their last name, but the lady
24 named Delphine.

1 Q Okay. And does she live in that building
2 directly across from you?

3 A Yeah, she did.

4 Q She did?

5 A (Witness moves head up and down.)

6 Q Does she live there anymore?

7 A No.

8 Q Now, you said a couple hours later you said
9 he started shooting at you. When you said "he started
10 shooting," who's he?

11 A Quinzale.

12 Q Okay. Could you explain what happened
13 immediately leading up to the shooting?

14 A I was playing with the neighbor's dog at the
15 edge of the parking lot, which is here (indicating), and
16 I could see his car coming up the street. When I noticed
17 his car coming up the street, he kind of stopped in the
18 middle of the street, and I was -- I'm assuming he had to
19 see me, and he just sped up and pulled into my parking
20 lot, and as he pulled into my parking lot, maybe about
21 that much (indicating), window cracked about that much,
22 but it's a smaller, like, compact car and he said
23 something like, "I got you now," or, "I got yo ass," or
24 something, excuse my language, but -- and as I looked

1 back all I heard was a click and I just took off running.

2 Q Okay. Now, I'm going to clear those arrows.

3 Could you describe the car that he was
4 driving?

5 A Small four-door car, gold, black tinted
6 windows.

7 Q Okay. Had you seen him with that car before?

8 A Yes.

9 Q Do you know where he lived?

10 A He had lived in this building here.

11 Q Okay. And you're pointing to that building
12 that -- that goes up next to the tree that you were
13 talking about the dice game earlier?

14 A Yes.

15 Q Now, where did -- when he pulled into the
16 parking lot, where did he go?

17 A He pulled into my parking lot and basically
18 pulled into, like, the first parking stall.

19 Q And what happened?

20 A He said, "Got your ass now," or, "I got you
21 now," and I just took off running. When I seen -- I
22 looked back like this here and I seen something black in
23 the car and I heard a click, like click-clack, and I just
24 took off running, and within a matter of seconds just,

1 pow pow, pow pow pow.

2 Q Okay. Did you know what that pow pow pow
3 was?

4 A A gun.

5 Q Did you actually see who was shooting that
6 gun?

7 A No.

8 Q Okay.

9 A I was too busy trying to get away.

10 Q I understand. Did you see the area that
11 those gunshots were coming from?

12 A Yeah.

13 Q Or did you hear rather --

14 A (Moves head up and down.)

15 Q -- where were they were coming from? Where
16 were they coming from?

17 A Right where he pulled up and parked.

18 Q And you said that you started running?

19 A Yes.

20 Q Where did you run to?

21 A I ran this way and came behind the building
22 like this here.

23 Q Okay. And was there anything -- when you
24 came around the corner of that building, was there

1 anything that was obstructing your path?

2 A The staircase or a stairway. I hit the
3 stairs with my side and I kind of fell to the ground and
4 I just -- once I felt myself falling, I just put my hands
5 all the way down and just kind of crab-crawled around the
6 corner.

7 Q Why did you do that?

8 A Scared.

9 Q Why?

10 A I was getting shot at.

11 Q Okay. Now, what's -- the stairway that
12 you're referring to, is that on kind of the north side of
13 this building? Or that kind of comes down?

14 A Yeah.

15 Q Okay. Once you made your way around here, is
16 there another item that you had to maneuver around to get
17 away?

18 A No, I was -- like the stairs come down like
19 this and there was a pole, like a pole you can hold onto,
20 like a stair rail, I hit that and that's when I started
21 to fall and I just -- like the gate is an opening,
22 there's no gate there, it's just an opening.

23 Q Okay.

24 A I just crawled through there and kind of

1 peeked back and didn't see anyone behind me so I jumped
2 the fence, jumped another fence and then just kept
3 running.

4 Q So you did jump a couple fences?

5 A Yeah.

6 Q Did you sustain any injuries from what you
7 just testified to?

8 A Um-hum. I -- I had a bunch of scratches here
9 over my chest and my side from trying to jump the fences
10 real fast. I kind of just pulled over and kind of
11 flipped over and scratched up my body.

12 Q Okay. Were you wearing a shirt that day?

13 A A little wife beater T-shirt, but that ripped
14 right off.

15 Q Okay. Where'd you go?

16 A I ran down -- I ran down like halfway down
17 the block, and then when I came back out into the street,
18 I seen a friend of mine -- well, a friend of my uncle's.
19 And when I seen him, I asked him to give me a ride, and
20 he's like, "Where do you want to go?" and I was like, "To
21 my wife's job." And I ran back in the house and threw on
22 some clothes and I had him drop me off at the Grand
23 Sierra where my wife was working.

24 Q Now, when you said you went back in and

1 grabbed some clothes, you went back in where?

2 A Into my house.

3 Q Okay. Back -- that top unit there?

4 A Yes.

5 Q And what type of vehicle was your -- I
6 apologize. Was it you said your uncle's friend or --

7 A Yeah.

8 Q What kind of vehicle did you get into?

9 A Like a black VW Volkswagen.

10 Q Was there any damage, noticeable damage to
11 you to that vehicle?

12 A The back window was gone.

13 Q Okay.

14 A Like the back rear window was blown out.

15 Q All right. Were you wearing shoes --

16 A Yeah.

17 Q -- on the day that this happened?

18 A Um-hum.

19 Q Was there something that happened with your
20 shoes or one of your shoes?

21 A I lost one of my shoes running.

22 Q Okay.

23 A About an hour or so when I came back home,
24 the cop had my shoe in a paper bag.

1 Q Okay. Did you get that shoe back from him?

2 A Um-hum.

3 THE COURT: You need to say "Yes" or "No,"

4 sir.

5 THE WITNESS: Oh, sorry.

6 Yes.

7 BY MR. YOUNG:

8 Q And when you say you lost that shoe running,
9 was that at the time the shots were being fired?

10 A Yes.

11 Q Who was around you at the time the shots were
12 being fired?

13 A There was myself, my neighbor lady Delphine
14 and her mom, her mom's husband and Delphine's two kids
15 and their two dogs.

16 Q Okay. Do you know what Delphine's kids'
17 names are?

18 A Actually I don't.

19 Q That's okay.

20 After the shots were fired, did you see where
21 the defendant went, if anywhere?

22 A No. Honestly I wasn't paying attention to
23 where he went.

24 Q How positive or certain are you, sir, that it

1 was the defendant you saw in that gold car?

2 A Hundred percent.

3 Q Hundred percent?

4 A (Witness moves head up and down.)

5 Q Did you see anybody else in that gold car?

6 A No.

7 Q Okay. Can you explain your past, for lack of
8 a better word, relationship with the defendant, how you
9 know him?

10 A Well, I know him from us living in the same
11 neighborhood and his -- the mother of his kids got my
12 wife a job.

13 Q Did you have any major issues with the
14 defendant prior to that argument that morning you were
15 talking about?

16 A No.

17 Q Why did you go to your wife's work at the
18 Grand Sierra?

19 A Honestly, sir, I thought that would be the
20 safest place I could be. Casino, cops, security. I
21 didn't think no one would come up there and try and do
22 nothin' crazy.

23 Q I don't mean this to be a silly question, but
24 you stated that you started running and you ended up

1 run- -- kind of hitting the stairwell?

2 A Yeah.

3 Q Why were you running?

4 A I was scared for my life.

5 Q Why?

6 A I was getting shot at.

7 Q Okay. Do you know anybody who lived with
8 or -- again, to use the word loosely -- was in a
9 relationship with the defendant back in August?

10 A Um-hum.

11 Q Who was that?

12 A A girl named Eboni.

13 Q Do you know Eboni's last name?

14 A No.

15 Q Was that the girl who assisted your wife in
16 getting a job?

17 A Yes.

18 Q Do you know whether Eboni and the defendant
19 lived together?

20 A They did, yes.

21 Q They did live together?

22 MR. YOUNG: Court's indulgence, your Honor.

23 THE COURT: Okay.

24 MR. YOUNG: That's all the questions I have.

1 Thank you, sir.

2 THE COURT: Cross-examination, Mr. Hylin?

3 MR. HYLIN: Thank you, your Honor.

4

5 CROSS-EXAMINATION

6 BY MR. HYLIN:

7 Q When's the last time you talked to the
8 prosecutor?

9 A Thursday.

10 Q Thursday?

11 A Yes.

12 Q And they had you arrested, didn't they?

13 A I was arrested on Wednesday, sir.

14 Q But not for committing a crime. You were
15 arrested on a warrant that they put out for you, right?

16 A Yes.

17 Q Were you -- were you trying to avoid a
18 subpoena --

19 A Yes.

20 Q -- from this Court?

21 Did you tell anybody that?

22 A I told my wife that.

23 Q All right. And that -- do you know if she
24 told anybody?

1 A No, she didn't.

2 Q All right. So they didn't know for a fact
3 that you were trying to hide from them. Is that what you
4 were doing, hiding from them?

5 A No. It was more like I was scared, sir. I
6 wasn't hiding, I was scared.

7 Q Okay.

8 A Like, I didn't know.

9 Q All right. Were you still living on your --
10 at the Patton Drive address?

11 A No. I had left. I went to California, spent
12 some time with my family. I have a nine-year-old
13 daughter lives in California. I was out there spending
14 time with her, and in the midst of all that my
15 grandmother passed away and my mother passed away. Well,
16 my mother got killed in Oakland.

17 Q I'm sorry. Wow.

18 A Thank you. I appreciate that.

19 Q Well, you were -- you were actually out
20 visiting family, you weren't trying to avoid anybody?

21 A Yes, sir.

22 Q So they arrested you anyway?

23 A Yeah. I was in court Wednesday of last week
24 taking care of a traffic ticket that I had, and after my

1 traffic stuff was all done and over with, I got ready to
2 walk out the courtroom and Mr. Stone arrested me. Told
3 me I had a warrant for a subpoena.

4 Q All right. Well, they didn't try to serve a
5 subpoena on you then, did they, just arrested you?

6 A No, they gave me a subpoena in the courtroom.

7 Q All right. And they made it clear you'd be
8 free after you testified here?

9 A No.

10 Q They didn't tell you you are going to be
11 free?

12 A No.

13 Q They didn't tell you anything about
14 testifying and then they'll let you go off the warrant?

15 A No. They told me I had to come to court and
16 testify. No one told nothing about setting me free. I
17 was the one, sort of the one that axed him was I going to
18 be set free because I have a wife six-and-a-half months
19 pregnant and I'm looking to start this job tomorrow.

20 Q Okay. So you got the message, though, that
21 they mean business, they want you to testify, correct?

22 A Yes, sir.

23 Q So that -- that day you said -- how much time
24 elapsed after the crap game? What time was that; do you

1 remember?

2 A No, I don't. I don't remember what time it
3 was. I didn't have a watch or my phone on me. I had on
4 regular gym shorts and some sandals when it all started.

5 Q All right. But it was half an hour later?

6 A No, it was longer than that.

7 Q When you -- I believe -- did you tell
8 *officer castle Baum that -- that -- well, as a matter of
9 fact, let me go back for a moment. Strike that, please.

10 You came back to the apartment, went
11 upstairs, and then you left with your friend?

12 A Yes.

13 Q Who was your friend?

14 A It was my uncle's friend, a guy named Marcus.
15 I don't know him like that. I just seen him in the car
16 and asked him for a ride.

17 Q Okay. Did you arrive with a friend?

18 A Say that again.

19 Q Did you arrive with your friend right before
20 you were talking to Delphine?

21 A No.

22 Q Okay. You were just hanging around the
23 neighborhood?

24 A Yeah. I was hanging around my parking lot

1 where I lived at.

2 Q All right. And you just happened to see
3 the -- your uncle's friend?

4 A Yeah. My uncle lives two buildings down from
5 the building I lived in. Him and his friend were outside
6 talking, and after all this happened I came back up the
7 street and seen him still out there and that's when I
8 axed him. I noticed his car in my uncle's parking lot
9 and that's when I axed him for a ride.

10 Q All right. And that was before the police
11 arrived?

12 A Yes.

13 Q So you knew the police would come?

14 A Yes.

15 Q And you didn't want to stick around and talk
16 to them?

17 A No. I came back to talk to them, sir. I
18 was -- like I told the other guy, I was scared so I went
19 to my wife's job because I thought, like, no one in their
20 right mind would come try to do nothin' crazy at a
21 casino. Cops, security. Like, I didn't think no one
22 would come up there, so I went to my wife's job where I
23 felt I was at least halfway safe there.

24 Q Okay. Well, you said that you saw the car

1 pull in the parking --

2 A Um-hum.

3 Q -- parking spot, correct? And --

4 THE COURT: You need to say "Yes" or "No,"
5 sir.

6 THE WITNESS: Yes, sir.

7 THE COURT: "Yes" or "No"?

8 Thank you.

9 BY MR. HYLIN:

10 Q So parked in the first parking space which
11 would be right about where this arrow is?

12 A Yes. It's kind of like not even a parking
13 space. It's like a parking space, but it has a bunch of
14 yellow lines through it, like -- like, basically saying
15 you can't park here.

16 Q Okay. So there's not formal parking spaces?

17 A No, there's formal parking spaces, but the
18 very first one is like a parking stall with a bunch of,
19 like, lines through it.

20 Q Hash lines?

21 A Like, if it was for, like, say fire or
22 ambulance or something.

23 Q Okay. And that's where the -- the gold car
24 parked?

1 A Yes.

2 Q All right. And did you tell *officer CASA
3 Baum you saw the window rolled down in the car and then
4 heard a clicking noise?

5 A Yes.

6 Q Okay. Is that the way you remember it?

7 A Yes.

8 Q Okay. Because the way you testified on
9 direct, it sounded to me like somebody got out of the car
10 and then you heard the clicking sound.

11 A No, I never said someone got out of the car,
12 sir.

13 Q All right. So you saw the window being
14 rolled down?

15 A No, the window was already down.

16 Q Okay. Which window?

17 A The driver's side window on the driver door.

18 Q All right. And where were you standing at
19 the time this happened?

20 A I was standing right like in front of the
21 driver door like -- like this.

22 Q So what I'm doing is pointing out here, the
23 car is parked basically where this arrow is pointing
24 right at the front of the building; is that where the car

1 was?

2 A Yeah.

3 Q And you were standing --

4 A Yes.

5 Q -- right in front of the car?

6 A I was standing more so like -- a car pulled
7 up like this and I was standing more so like on the side
8 of the car, but in the front of it.

9 Q You are on the left front of the car?

10 A No, I was on the driver's side of the car,
11 yes, the left front.

12 Q Left front of the car. So you are standing
13 right there at the left front corner of the car?

14 A I wasn't all the way at the front corner. I
15 was in between the door -- the hinge and the front tire.

16 Q How far from the car were you?

17 A Two, three feet.

18 Q All right.

19 A Probably not even that far.

20 Q All right. And then you said you heard a
21 click?

22 A Yes.

23 Q And you started running?

24 A Yes.

1 Q And then after that you didn't see anything
2 else perhaps except dirt when you fell down?

3 A Yes.

4 Q So you weren't -- you didn't see anything
5 that was happening once you started running? You heard
6 something, but you didn't see anything, correct?

7 A Yes.

8 Q All right. So you got the impression you
9 were being shot at?

10 A Yes.

11 Q But you didn't see that?

12 A No. I didn't take the time to look back to
13 see who was shooting at me.

14 Q No, I understand. Understand I'm not
15 criticizing you, I'm just trying to clarify things. So
16 you didn't actually see anybody pointing a gun at you?

17 A I heard the click, I know it was him in the
18 car, and I heard gunshots go off.

19 Q Okay. No, I can understand that, but you
20 don't know where he was pointing the gun?

21 A I'm the only person over there. There's
22 elderly people live upstairs and some more elderly people
23 outside with their kids. I was the only one in that area
24 in the crap game.

1 Q I understand that, Mr. Holly, but you didn't
2 see where the gun was aimed, correct?

3 A Yes.

4 Q All right. Gun could have --

5 A I didn't take time to a turn around and see
6 if he was aiming at me or not. Like, if someone's
7 shooting at you, I'm pretty sure you're not going to look
8 back and see if they're aiming directly at you. You're
9 going to try to get away because you're scared for your
10 life.

11 Q That may be true. I'm not -- keep in mind
12 I'm not criticizing you. I'm just emphasizing what you
13 did or didn't see.

14 So as you're running away, you were looking
15 away from where he -- where the person was by the car,
16 correct?

17 A Yes.

18 Q So I know you got the impression that he's
19 shooting at you, but you didn't see where the gun was
20 being aimed, correct?

21 A Yes.

22 Q He could have been shooting it up in the air
23 and you wouldn't have known any different, correct?

24 A Yes.

1 Q The dog that you were petting, apparently
2 that was -- that used to be your dog and you gave it to
3 Delphine?

4 A Yes.

5 Q All right. So when you -- when you come home
6 or you arrive on the scene, the dog's happy to see you?

7 A Yeah. Both of her dogs were like -- it
8 didn't matter what time I walked outside or what time I
9 did anything, if I walked outside and those dogs seen me,
10 they jumped on me. You could walk out -- you could walk
11 through the neighborhood and they seen you, they'd jump
12 on you. They were just super friendly husky dogs --

13 Q Yeah.

14 A -- and they were puppies on top of that.

15 Q All right. So they're just glad to see you?

16 A Yes.

17 Q So you're paying attention to the puppy and
18 you're paying attention to the puppy when the car drove
19 up?

20 A I wasn't playing with the puppy. I was
21 walking -- I had the puppy's leash walking it, just
22 messaging around with the puppy.

23 Q And you were in the -- right near the car
24 when it pulled in?

1 A Yeah.

2 Q Do you know -- are you familiar with seeing
3 Huey's vehicle there?

4 A I don't even know who that is.

5 Q Okay. Huey Stanley is the fellow that
6 lives -- if I told you he lived right upstairs from
7 Delphine, are you familiar with him, he has white hair?

8 A Yes.

9 Q Okay. So you're familiar with seeing him?

10 A Yes.

11 Q Okay. Are you familiar with what his vehicle
12 is?

13 A If I'm not mistaken he drives a black truck
14 like a black old -- like Blazer or something.

15 Q An old Blazer?

16 A Yeah.

17 Q And that was parked on the other end of the
18 building?

19 A Yes.

20 Q Do you recall that?

21 A Yes.

22 Q Okay. Were you standing by that Blazer?

23 A No. No, I was not.

24 Q Okay. You never were standing --

1 A I was on -- I was on this end of the parking
2 lot here.

3 Q Okay. On the Patton side?

4 A I was way up here on this side. I was on the
5 Patton end of the parking lot. I wasn't towards the end
6 of the building. I didn't get towards the end of the
7 building until I started hearing shots and that's when I
8 ran.

9 Q All right. So would it be fair to say that
10 Huey Stanley never saw you by his Blazer?

11 MR. YOUNG: Objection, your Honor.

12 THE COURT: What's the objection?

13 THE WITNESS: I wasn't --

14 THE COURT: Stop. Don't -- stop. Don't
15 answer the question.

16 What's the objection?

17 MR. YOUNG: As to what Huey Stanley calls for
18 speculation.

19 THE COURT: How's that not speculation,
20 Mr. Hylin?

21 MR. HYLIN: I'm asking him an obvious
22 question based on reason, your Honor. He states that he
23 was never by the Blazer, so I asked him the converse
24 question so that nobody could ever see you by the Blazer.

1 THE COURT: I'll sustain the objection. It
2 would be speculation for Mr. Holly to guess what
3 Mr. Stanley could or could not see.

4 Next question.

5 MR. HYLIN: Okay. Thank you, your Honor.

6 BY MR. HYLIN:

7 Q All right. You weren't standing by the
8 Blazer?

9 A No.

10 Q Did you run by the Blazer?

11 A Yes.

12 Q Okay. And that was going in a direction
13 around the building?

14 A Yes.

15 Q On the west side of the building?

16 A Yes. On this side here.

17 Q Okay. Correct. All right.

18 So you started out right by the left front of
19 the car that pulled into the parking lot?

20 A Um-hum.

21 Q And when you heard the clicking, you started
22 to run?

23 A Yes.

24 Q And why did you start to run when you heard

1 the clicking?

2 A Because I knew what it was, sir. I'm from
3 Richmond, California. I've heard a bunch of gunshots.
4 I've heard a bunch of guns clicking. I know the sound of
5 a gun being cocked.

6 Q So you took off running?

7 A Yes. It was either stand there and let him
8 cock that gun and shoot me or run for my life. I have
9 three kids, sir.

10 Q Okay. When -- you were in the craps game?

11 A Yes.

12 Q Were you making a lot noise?

13 A No.

14 Q So you weren't yelling or making any loud
15 comments?

16 A No.

17 MR. HYLIN: All right. I have no further
18 questions. Thank you.

19 Wait a minute. Excuse me, your Honor, if I
20 might.

21 THE COURT: Ladies and gentlemen, we'll just
22 finish up with this witness today and then we'll break
23 for the afternoon.

24 /////

1 BY MR. HYLIN:

2 Q You won some money in the crap game?

3 A Yes.

4 Q How much?

5 A I don't remember how much it was.

6 Q Okay. Was that from everybody there?

7 A It was from a couple of people there.

8 Q All right. Anybody angry at you?

9 A No.

10 Q Okay.

11 MR. HYLIN: I have no further questions, your
12 Honor.

13 THE COURT: Redirect based on the
14 cross-examination, Mr. Young?

15

16 REDIRECT EXAMINATION

17 BY MR. YOUNG:

18 Q Was one of the people that you won money from
19 the defendant, Q?

20 A Yes, sir.

21 Q Now, you said that you and he got into an
22 argument?

23 A Yes.

24 Q Over the craps game?

1 A Yes.

2 Q Did that part of the conversation take on a
3 loud tone?

4 A No.

5 Q It was just you guys talking?

6 A I said maybe two sentences to him and then
7 this other guy that was out there got to telling me about
8 his health conditions.

9 Q Okay.

10 A And the guy says something to me about
11 dialysis. Well, my great aunt who raised me was on
12 dialysis for 16, 17 years before she passed away. So as
13 soon as I heard that, I just backed off and left him
14 alone.

15 Q Prior to hearing that, were you prepared to
16 fight the defendant?

17 A Yes.

18 Q Okay. And was he taking actions to show that
19 he was prepared to fight you?

20 A No.

21 Q Just sat there?

22 A He just sat there and kept saying, like, "You
23 going to hit me in my jaw? You going to break my jaw?
24 You going to break my jaw?"

1 Q Okay. Now, you testified that you went to
2 your -- you had an uncle's friend, if I got that right,
3 take you to your wife's work --

4 A Um-hum.

5 Q -- at Grand Sierra Resort, correct?

6 A Um-hum. Because my wife had my car at her
7 job.

8 Q Okay. Did you return back to the scene over
9 at Patton Drive?

10 A Yes, I did.

11 Q Why did you return?

12 A It's where I lived.

13 Q I understand. But did you --

14 A And I had got in contact -- well, a neighbor
15 of mine had called me on my cell phone and told me
16 that -- I don't know if I'm going to say his name right,
17 but Officer Kassebaum wanted to talk to me. And I asked
18 the neighbor to put him on the phone and I -- I'm used to
19 seeing him. He just patrols through the neighborhood a
20 lot, I see him all the time, and he says, "How ya doin'?"
21 He axed -- he's like, "You're not in trouble. I'm not
22 trying to take you to jail or nothing. I just want to
23 talk to you. Can you come back home so I can talk to
24 you?" And I told him, "The only way I can come home is

1 if you'll give me till 3:30, 4:00 o'clock because my wife
 2 has my car but she's at -- she's working and I'm at her
 3 job and she doesn't want me to leave from here until she
 4 gets off work. And he said, "That's fine with me. I can
 5 sit here and wait. It's only 35, 40 minutes from now."

6 Q And so did you return back to Patton Drive?

7 A Yes, I did.

8 Q And did you actually speak with *Officer
 9 Kassebaum?

10 A Yes, I did.

11 Q About what had happened?

12 A Yes.

13 Q And about some of the things that you
 14 testified to about here today?

15 A Yes, sir.

16 Q Okay. Now, Mr. Hylin asked you that you were
 17 arrested as part of this case, correct?

18 A Yes.

19 Q When I say "part of this case," are you aware
 20 you were arrested on a material witness warrant?

21 A Not until I got to court -- I mean, not
 22 court. Not until I got to the jailhouse and seen my
 23 papers.

24 Q I understand. But you know that's why you

1 were arrested, correct?

2 A Yes.

3 Q All right. Now -- and you said Jerry Stone
4 arrested you. The gentleman sitting in the front here?

5 A Yes.

6 Q Do you know him to be an investigator with my
7 office?

8 A Yes.

9 Q Okay. Did you want to be here today
10 testifying?

11 A No.

12 Q Okay. Are you testifying to what happened on
13 August 9th?

14 A Yes.

15 Q And you said you were at court when you were
16 served with a subpoena for a traffic matter, correct?

17 A Yes, sir.

18 Q And made some comments that "I don't want to
19 cooperate," or words to that effect, right?

20 A Yes, sir.

21 Q And following that was you were arrested
22 pursuant to a warrant, correct?

23 A Yes, sir.

24 Q All right. Were you offered anything by me

1 with respect to your traffic ticket?

2 A No.

3 Q In exchange for testifying here?

4 A No.

5 Q Did I make you any promises whatsoever in
6 exchange for your testimony?

7 A No, sir.

8 MR. YOUNG: That's all.

9 THE COURT: Recross?

10 MR. HYLIN: Nothing, your Honor.

11 THE COURT: Is the witness free to go?

12 MR. YOUNG: Yes, your Honor.

13 MR. HYLIN: Yes, your Honor.

14 THE COURT: May he be excused from his
15 subpoena, Mr. Hylin?

16 MR. HYLIN: Yes, your Honor.

17 MR. YOUNG: Yes, your Honor.

18 THE COURT: Mr. Young-- thank you.

19 Ladies and gentle-- Mr. Holly, you just
20 stay seated for a second.

21 Ladies and gentlemen of the jury, we're going
22 to break now for the afternoon. It's actually just a
23 couple of minutes -- five minutes after 3:00, so we're
24 just a few minutes later than I thought we would, but I

1 wanted to make sure we got through all of Mr. Holly's
2 testimony.

3 Tomorrow we will reconvene at 8:30 a.m., so
4 we'll be hopefully everybody back here about 8:15 or so
5 so you can get in, take your coats off and be ready to go
6 at 8:30 in the morning.

7 Now, this is the night where you go home and
8 everyone's going to ask you about what's going on in
9 court. You cannot discuss in any way, shape, or form
10 what goes on in court. The other thing I tell people the
11 first day when they leave is, I let you know you're not
12 allowed to do any media, Internet stuff, about your
13 experience until it's over with. So what I mean by that
14 is you're not allowed to post on Facebook what's going on
15 in court, you're not allowed to Tweet about it, or any of
16 the other ways that people communicate with each other
17 these days above and beyond just actually talking to one
18 another like normal human beings. So when you go home,
19 you're not allowed to blog about it, don't post anything.
20 I don't know if any of you are inclined in that way, I
21 certainly am not, but all I can tell you is you're not
22 allowed to do any of that while you are serving on the
23 jury.

24 I will let you go with the admonition one

1 final time for today. Ladies and gentlemen, you are
2 instructed not to discuss this case among yourselves or
3 with anyone else, or to form any conclusions concerning
4 the case until it is submitted to you. You're not to
5 read, look at, or listen to any news media accounts
6 related to this case, should there be any. You're not to
7 form any opinion about the case until it is finally
8 submitted to you. Do not experiment or investigate. Do
9 not visit the scene. Do not refer to any outside sources
10 for instructions on the law. Rely only on the Court for
11 legal instructions.

12 All rise for the jury.

13 Mr. Young, would you move the screen, please?

14 MR. YOUNG: Yes.

15 (The following proceedings were had in open
16 court, defendant present, outside the
presence of the jury.)

17 THE COURT: Thank you.

18 Have a seat everybody. The record will
19 reflect that the jury has retired for the evening.
20 Mr. Holly had been the subject of a material witness
21 warrant as was the subject of a brief amount of
22 conversation during his testimony today.

23 Pursuant to NRS 178.494, the Court hereby
24 releases Mr. Holly from his subpoena because the parties

1 have indicated that they no longer need his testimony
2 and, therefore, the reasons to hold him pursuant to that
3 statute no longer apply.

4 Mr. Holly, you will be released from custody
5 today.

6 THE WITNESS: Thank you, sir.

7 THE COURT: Mr. Mason, I do need to let you
8 know something. When witnesses are testifying or when
9 things are going on in the courtroom and the jury is
10 present, you need to be very cautious about the tone of
11 your voice or the tenor of your voice. I can hear you
12 very clearly. Mr. Hylin is your attorney and he's an
13 excellent attorney, but you need to be very cautious
14 about the conversations that you have with him because I
15 won't allow you to disrupt the courtroom, and I don't
16 think you're intentionally trying to disrupt the
17 courtroom, I want you to know that, but if you start
18 talking in a loud tone of voice when the witnesses are
19 trying to testify, then it makes it difficult for the
20 jury to hear what their testimony is. And so I'll simply
21 caution you, so you might want to work on your library
22 voice a little bit. That's usually what we use in the
23 courtroom when you're talking to your attorney.

24 On behalf of the State, is there anything

1 else we need to take up, Mr. Young?

2 MR. YOUNG: Nothing at this time. Thank you.

3 THE COURT: And on behalf of Mr. Mason?

4 MR. HYLIN: Nothing here, your Honor.

5 THE COURT: Court will be in recess until

6 8:30.

7 (Trial adjourned for the day at 3:10 p.m.)

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ACKNOWLEDGEMENT

I, DAWN BRATCHER GUSTIN, Certified Court Reporter in and for the State of Nevada, do hereby acknowledge:

That the foregoing proceedings were taken by me at the time and place therein set forth; that the proceedings were recorded stenographically by me and thereafter transcribed via computer under my supervision; that pursuant to Rule 3C of the Nevada Rules of Appellate Procedure, the foregoing is a true ROUGH DRAFT transcription of requested portions of the proceedings and has not been proofread, corrected, or certified.

I further acknowledge that I am not a relative nor an employee of any attorney or any of the parties, nor am I financially or otherwise interested in this action.

Dated this 6th day of May, 2015.

Dawn Bratcher Gustin

Dawn Bratcher Gustin, CCR #253, RPR

CASE NO. CR14-1830

STATE OF NEVADA VS. QUINZALE MASON

PAGE 1

DATE, JUDGE
OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

2/9/15

JURY TRIAL

HONORABLE
ELLIOTT A.
SATTLER

On February 6, 2015, Exhibits 1-26 were marked by the Clerk, and respective counsel approved the Clerk's redacted version of the Amended Information.

DEPT. NO. 10
M. White

8:27 a.m. – Court convened.

(Clerk)

Deputy District Attorney Zach Young was present on behalf of the State.

D. Gustin

Defendant was present with counsel, Chief Deputy Public Defender Carl Hylin.

(Reporter)

Prospective jurors were welcomed by the Court.

Upon direction of the Court, the Clerk called roll of the prospective jurors, who were subsequently sworn.

Introductions of Court, respective counsel, and court personnel were made to the prospective jurors.

The names of twenty-three (23) prospective jurors were called by the Clerk and seated in the box: (Nakashima, Corral, Mishler, Webbert, Oakes, Shrigley-Lemay, Cortez, Moss, Cornish, Wells, Hill, Lundemo, Johnston, Lang, Galvan, Herzik, Samano-Reyes, Torres, Braido, Magie, Rader, Vasquez and Martin).

The prospective jurors introduced themselves and answered the questions on the juror questionnaire sheet.

General and specific examination was conducted by the Court of the prospective jurors in the box.

Prospective juror Jenna Lundemo was excused by the Court, and Christopher Ercolin was called in her place,

General and specific examination was further conducted by the Court.

Upon direction of the Court, the Clerk read the Amended Information aloud to the prospective jurors.

State's counsel conducted voir dire.

Prospective juror Jill Magie was excused by the Court, and Wayne Ferguson was called in her place.

State's counsel further conducted voir dire.

COURT admonished and excused the prospective jurors.

10:27 a.m. – Court stood in recess.

During this recess, prospective juror Douglas Childs advised Deputy Gray that his wife had just gone into labor; Court excused Mr. Childs.

10:40 a.m. – Court reconvened. Court, respective counsel, Defendant and prospective jurors present.

Clerk called roll.

State's counsel further conducted voir dire.

Prospective juror Salvador Samano-Reyes was excused by the Court, and Jose Martinez was called in his place.

Prospective juror Jose Martinez was excused by the Court, and Albert Dufur was called in his place.

PAGE 2

DATE, JUDGE

OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

2/9/15

JURY TRIAL

HONORABLE

ELLIOTT A.

SATTLER

DEPT. NO. 10

M. White

(Clerk)

D. Gustin

(Reporter)

State's counsel further conducted voir dire; passed the panel for cause.

Defense counsel conducted voir dire; passed the panel for cause.

COURT admonished and excused the jury.

11:45 a.m. – Court stood in recess.

11:50 a.m. – Court reconvened in chambers; Court, respective counsel and Defendant present. Peremptory challenges exercised.

12:00 p.m. – Court stood in recess.

12:05 p.m. – Court reconvened. Court, respective counsel, Defendant and prospective jurors present.

The following twelve (12) jurors and one (1) alternate juror were sworn to try this case:

Michael Nakashima

Jose Corral

Mallory Mishler

Maria Webbert

Alison Moss

Robert Cornish

Christopher Ercolin

Lacee Lang

Samantha Galvan

Albert Dufur

Ana Torres

Wayne Ferguson

Brenda Vasquez – alternate

COURT admonished and excused the jury.

12:25 p.m. – Court stood in recess for lunch.

1:04 p.m. – Court reconvened outside the presence of the jury. Court, respective counsel and Defendant present.

COURT advised the parties that during the lunch recess, Juror #11, Ana Torres, informed Deputy Gray that Juror #10, Albert Dufur, is her eye doctor.

Discussion ensued between the Court and respective counsel; respective counsel advised the Court that they do not believe this is an issue.

Jury brought into the courtroom.

State's counsel presented opening statements.

COURT noted that the Amended Information was read to the prospective jurors earlier this morning, however pursuant to statute, it should be read after the jury is empaneled, and he will have the Clerk read it again if respective counsel would like.

Respective counsel advised the Court that they do not think the Amended Information needs to be read again.

Defense counsel presented opening statements.

State's counsel called **Huey Stanley** who was sworn and direct examined.**State's counsel offered Exhibits 1 & 2; no objection; ordered ADMITTED into evidence.**

Witness further direct examined; identified the Defendant; further direct examined.

State's counsel offered Exhibit 25; no objection; ordered ADMITTED into evidence.

DATE, JUDGE

OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

2/9/15

JURY TRIAL

HONORABLE

State's counsel played Exhibit 25 for the jury.

ELLIOTT A.

Witness further direct examined; cross examined; re-direct examined; and excused.

SATTLER

State's counsel called **Officer Benjamin Lancaster** who was sworn and direct examined.

DEPT. NO. 10

State's counsel offered Exhibit 5 thru 10; no objection; ordered ADMITTED into evidence.

M. White

Witness further direct examined; cross examined; and excused.

(Clerk)

D. Gustin

State's counsel called **Anthony Holly** who was sworn and direct examined; identified the Defendant; further direct examined; cross examined; re-direct examined; and excused.

(Reporter)

COURT admonished and excused the jury.

COURT ORDERED: Material witness Anthony Holly is released from his subpoena, and he shall be released from custody.

COURT admonished the Defendant to watch the volume and tone of his voice when he is speaking to Defense counsel during witness testimony.

3:09 p.m. – Court stood in recess for the day, to reconvene tomorrow, February 10, 2015 at 8:30 a.m.

1 CODE: 4185
2 LORI URMSTON, CCR #51
3 Peggy Hoogs & Associates
4 435 Marsh Avenue
5 Reno, Nevada 89509
6 (775) 327-4460
7 Court Reporter

8 SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

9 IN AND FOR THE COUNTY OF WASHOE

10 HONORABLE ELLIOTT A. SATTLER, DISTRICT JUDGE

11 STATE OF NEVADA,

12 Plaintiff,

Case No. CR14-1830

13 vs.

Dept. No. 10

14 QUINZALE MASON,

15 Defendant.

-----/

16 ROUGH DRAFT TRANSCRIPT OF PROCEEDINGS

17 TRIAL - DAY 2

18 FEBRUARY 10, 2015; TUESDAY

19 RENO, NEVADA

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23
24 Reported by: LORI URMSTON, CCR #51

ROUGH DRAFT TRANSCRIPT

1 APPEARANCES:

2 For the Plaintiff: ZACH YOUNG
3 Deputy District Attorney
4 1 South Sierra Street
5 South Tower, 4th Floor
6 P.O. Box 30083
7 Reno, Nevada 89520

8 For the Defendant: CARL F. HYLIN
9 Deputy Public Defender
10 350 S. Center Street
11 P.O. Box 30083
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ROUGH DRAFT TRANSCRIPT

1 RENO, NEVADA; TUESDAY, FEBRUARY 10, 2015; 8:35 A.M.

2 --o0o--

3 (Outside the presence of the jury:)

4 THE COURT: We'll go on the record in CR14-1830,
5 the State of Nevada versus Quinzale Mason. The record
6 will reflect we're meeting outside the presence of the
7 jury. Mr. Mason is present. Mr. Hylin is here on his
8 behalf. Mr. Young is here on behalf of the State of
9 Nevada.

10 Mr. Hylin, my bailiff informed me that there was
11 something that you would like to take up outside the
12 presence of the jury before we start this morning.

13 MR. HYLIN: Yes, Your Honor. It should be fairly
14 brief. It's an area that I'm not sure where the
15 Court's authority stands but probably encompasses --
16 well, let's me explain first.

17 THE COURT: We always seem to think that judges
18 have more authority than we actually do. Let's put it
19 that way. My authority doesn't often extend outside
20 these four walls.

21 Go ahead, Mr. Hylin.

22 MR. HYLIN: At any rate, when he got back up to the
23 jail, they tested his blood sugar and it was up to 430
24 which is -- you know, that's hospital time, whatnot.

ROUGH DRAFT TRANSCRIPT

1 And the problem is they're not providing any insulin
2 medication prior to his lunch, so essentially it's
3 absorbed into the blood stream. He's got obviously
4 severe type 1 diabetes. And what they have to do is
5 they have to test his blood sugar before he eats, give
6 him an dose of insulin, and then he eats. And the
7 insulin in the system then controls the insulin release
8 so as to take care of the glucose in his bloodstream.

9 Well, they're not -- there's been no arrangements
10 made, which my understanding there would be, to test
11 him and then inject some insulin before he eats lunch
12 here.

13 THE COURT: Well, I'm not quite sure, Mr. Hylin,
14 how the sheriff's staff would be able to provide
15 medical care to the defendant here. And by the
16 "sheriff's staff" I mean my bailiff and the other
17 deputies who are present. The sheriff has an
18 infirmary, but I don't believe that Deputy Gray or any
19 of the other deputies have the training, nor are they
20 qualified, to provide the defendant with insulin or an
21 insulin shot.

22 As I said earlier, I believe it was last Friday, I
23 know how difficult diabetes can be. I have a very
24 close family member who is diabetic. So I understand

ROUGH DRAFT TRANSCRIPT

1 the issues that are associated with it, but I'm not
2 quite sure what we can do to assist the defendant.

3 One of the concerns, I would assume that the
4 sheriff's office has, is providing the defendant with a
5 needle to inject himself with his insulin. Does the
6 defendant do his own insulin injections up at the
7 sheriff's office?

8 MR. HYLIN: Well, he did when he wasn't
9 incarcerated, but he's up there and he essentially
10 lives in the infirmary. He's got several medical
11 problems aside from the diabetes which might be an
12 outside growth of that severe disorder. But what I was
13 requesting -- I wouldn't expect the deputies to involve
14 themselves in medical procedures, but it wouldn't be
15 beyond the can of the medical services to send somebody
16 up here for lunch, test him, inject him and then go
17 back to work.

18 THE COURT: Well, I don't know. I'll ask Deputy
19 Gray to contact the sheriff's office -- I know that he
20 has the ability to do that here in the courtroom -- to
21 contact his supervisors and possibly get us some more
22 information about that. If need be, I know that my
23 authority at least is strong enough that I can direct
24 somebody from the infirmary from the Washoe County

ROUGH DRAFT TRANSCRIPT

1 Sheriff's Office to come down here and at least provide
2 us with an explanation.

3 This trial is only going to last, I would
4 anticipate, through tomorrow, possibly into Thursday at
5 the latest. And so it's not going to be a longterm
6 issue. But at the same time, I want Mr. Mason to be as
7 comfortable as possible and have his medical needs
8 looked after to the best of our ability.

9 I agree with you, Mr. Hylin, it doesn't seem
10 unreasonable for somebody from the sheriff's office,
11 given the fact that the Washoe County Sheriff does have
12 the care, custody and control of the defendant even
13 when he's here, to come down and provide him with that
14 minimal amount of medical treatment here. He can --
15 you know, they can see him in the holding cell, they
16 can provide him with the insulin in the holding cell
17 and inject him with the insulin there and then
18 Mr. Mason can eat his lunch.

19 So, Deputy Gray, if you at least send an e-mail to
20 somebody up at the sheriff's office and let them know
21 that that is my desire and order, that somebody come
22 down here today, because we know Mr. Mason will be here
23 today eating his lunch, at approximately 11:45 in order
24 to provide that required medical treatment to

ROUGH DRAFT TRANSCRIPT

1 Mr. Mason. I would appreciate that.

2 And then on the break, which will be at
3 approximately I'll say 10:15 or so, we can take up any
4 additional issues regarding Mr. Mason's medical care.
5 Hopefully somebody will get back to Deputy Gray while
6 we're doing the trial this morning.

7 Is there anything else, Mr. Hylin?

8 MR. HYLIN: No. That's it, Your Honor.

9 THE COURT: And, Mr. Mason, I did say and I -- if
10 you need something while you're sitting at counsel
11 table, if you need to eat something -- I know different
12 people have different things that they like to eat in
13 order to level their blood sugar -- go ahead and let me
14 know about that and we'll try and do our best to
15 arrange to have that available to you while you're
16 here, because I do want you to be as comfortable as
17 possible during the trial.

18 Is there anything else, Mr. Hylin?

19 MR. HYLIN: That's it, Your Honor.

20 THE COURT: Let's bring in the jury, Deputy Gray.

21 (Within the presence of the jury:)

22 THE COURT: Will counsel stipulate to the presence
23 of the jury? Mr. Young?

24 MR. YOUNG: The State will, Your Honor.

ROUGH DRAFT TRANSCRIPT

1 THE COURT: Mr. Hylin?

2 MR. HYLIN: So stipulated, Your Honor.

3 THE COURT: Ladies and gentlemen, thank you for
4 being here on time this morning. We are starting just
5 a couple of minutes late because there was one issue we
6 needed to take up outside your presence. But I do
7 appreciate everyone getting here on time. We will
8 continue with the trial.

9 Mr. Young, you may call your next witness.

10 MR. YOUNG: The State calls officer Stockwell.

11 (The oath was administered to the witness.)

12 THE WITNESS: I do.

13 THE CLERK: Have a seat.

14 ROBERT STOCKWELL,

15 having been called as a witness herein,
16 being first duly sworn, was examined
and testified as follows:

17 DIRECT EXAMINATION

18 BY MR. YOUNG:

19 Q Good morning, sir. Could you state your first
20 and last name and spell both for the reporter, please.

21 A Robert Stockwell. R-o-b-e-r-t,
22 S-t-o-c-k-w-e-l-l.

23 Q Sir, with whom are you currently employed?

24 A The Reno Police Department.

ROUGH DRAFT TRANSCRIPT

1 Q How long have you been so employed?

2 A With the Reno Police Department, about three
3 years, and prior to that LAPD for seven.

4 Q LAPD?

5 A Yeah.

6 Q So you have going on ten years or about ten
7 years of law enforcement experience in total?

8 A Correct.

9 Q Sir, I'm going to direct your attention to
10 August 9th of 2014. Were you on duty on that day?

11 A Yes.

12 Q And did you respond to a call over on Patton
13 Drive that brings you here to court?

14 A Yes.

15 Q Do you recall approximately what time you were
16 dispatched and responded?

17 A About 12:15 in the afternoon.

18 Q And where did you respond to?

19 A 2397 Patton.

20 Q Okay. That's in Reno?

21 A Yes, it is.

22 Q Now, this was briefly discussed yesterday, but
23 are you -- do you have access to a dispatch system or
24 radio system that gives you information and updates on

ROUGH DRAFT TRANSCRIPT