

In the Supreme Court of the State of Nevada

Jemar Demon Matthews,

Appellant,

v.

The State of Nevada,

Respondent.

Electronically Filed
Supreme Court Case No.: 77751
Jul 29 2019 01:51 p.m.
Elizabeth A. Brown
Clerk of Supreme Court
Appeal from Judgment of Conviction
of Eighth Judicial District Court, Clark
County, in Case No.: 06C288460-2

**Appellant's Appendix
Volume 1**

/s/ Todd M. Leventhal

Leventhal and Associates, PLLC

Todd M. Leventhal, Esq.

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Attorney for Appellant

Appellant's Appendix
Volume 1 of 4, PP.0001 to 0250

Bates No. Appx.

1. Docket.....	1 AA 0001
2. Amended Information, 09/15/2017	1 AA 0014
3. Notice of Witnesses and/or Expert Witnesses, 07/19/2018.....	1 AA 0020
4. State's Supp. Amended Ntc. of Witnesses, 08/06/2018.....	1 AA 0026
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6. Transcript of Trial Day 2, (relevant portions) 09/25/2018.....	1 AA 0054
7. Transcript of Trial Day 3, 09/26/2018.....	1 AA 0063
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10. Transcript of Trial Day 6, 10/01/2018.....	3 AA 0617
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12. Instructions to the Jury, 10/02/2018.....	4 AA 0841
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CERTIFICATE OF SERVICE

The undersigned, an employee of Leventhal and Associates, hereby certifies that she served the foregoing on the State by delivering a true and correct copy of it on July 29, 2019, to the following persons via electronic service through the Nevada Supreme Court electronic filing system.

Steven S. Owens
Chief Deputy District Attorney


Adam Paul Laxalt
Attorney General / Carson City

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

Jemar Matthews
Reg. No.:1014654
PO Box 650
Indian Springs NV 89070-0650

/s/ Maribel Godinez
An Employee of Leventhal and Associates

The State of Nevada vs Jemar D Matthews



Case Type:	Felony/Gross Misdemeanor
Date Filed:	12/04/2006
Location:	Department 12
Cross-Reference Case Number:	C228460
Defendant's Scope ID #:	1956579
ITAG Booking Number:	7
ITAG Case ID:	2024735
Lower Court Case # Root:	06F19196
Lower Court Case Number:	06F19196B
Supreme Court No.:	62241
	66844
	77751

Related Cases
06C228460-1 (Multi-Defendant Case)

Defendant	Matthews, Jemar <i>Also Known As</i> Matthews, Jemar Demon	Lead Attorneys Todd M. Leventhal <i>Court Appointed</i> 702-472-8686(W)
Plaintiff	State of Nevada	Steven B Wolfson 702-671-2700(W)

Charges: Matthews, Jemar	Statute	Level	Date
1. CONSPIRACY TO COMMIT MURDER	200.010	Felony	01/01/1900
2. 1ST DEGREE MURDER WITH USE OF A DEADLY WEAPON	200.030.1	Felony	01/01/1900
3. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON	200.010	Felony	01/01/1900
4. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON	200.010	Felony	01/01/1900
5. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON	200.010	Felony	01/01/1900
6. POSSESSION OF SHORT BARRELED RIFLE	202.275	Felony	01/01/1900
7. CONSPIRACY TO COMMIT ROBBERY	200.380	Felony	01/01/1900
8. ROBBERY WITH USE OF A DEADLY WEAPON	200.380	Felony	01/01/1900
9. ROBBERY WITH USE OF A DEADLY WEAPON	200.380	Felony	01/01/1900
10. ASSAULT WITH A DEADLY WEAPON	200.471.2b	Felony	01/01/1900
11. ASSAULT WITH A DEADLY WEAPON	200.471.2b	Felony	01/01/1900

	DISPOSITIONS
01/01/1900	Plea (Judicial Officer: User, Conversion) 1. CONSPIRACY TO COMMIT MURDER Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 2. 1ST DEGREE MURDER WITH USE OF A DEADLY WEAPON Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 3. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 4. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 5. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 6. POSSESSION OF SHORT BARRELED RIFLE Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 7. CONSPIRACY TO COMMIT ROBBERY Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 8. ROBBERY WITH USE OF A DEADLY WEAPON Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 9. ROBBERY WITH USE OF A DEADLY WEAPON Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 10. ASSAULT WITH A DEADLY WEAPON Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 11. ASSAULT WITH A DEADLY WEAPON Guilty
07/09/2007	Disposition (Judicial Officer: User, Conversion) 1. CONSPIRACY TO COMMIT MURDER Guilty
07/09/2007	Disposition (Judicial Officer: User, Conversion) 2. 1ST DEGREE MURDER WITH USE OF A DEADLY WEAPON Guilty

Bates No.:0001

07/09/2007	Disposition (Judicial Officer: User, Conversion) 3. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON Guilty
07/09/2007	Disposition (Judicial Officer: User, Conversion) 4. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON Guilty
07/09/2007	Disposition (Judicial Officer: User, Conversion) 5. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON Guilty
07/09/2007	Disposition (Judicial Officer: User, Conversion) 6. POSSESSION OF SHORT BARRELED RIFLE Guilty
07/09/2007	Disposition (Judicial Officer: User, Conversion) 7. CONSPIRACY TO COMMIT ROBBERY Guilty
07/09/2007	Disposition (Judicial Officer: User, Conversion) 8. ROBBERY WITH USE OF A DEADLY WEAPON Guilty
07/09/2007	Disposition (Judicial Officer: User, Conversion) 9. ROBBERY WITH USE OF A DEADLY WEAPON Guilty
07/09/2007	Disposition (Judicial Officer: User, Conversion) 10. ASSAULT WITH A DEADLY WEAPON Guilty
07/09/2007	Disposition (Judicial Officer: User, Conversion) 11. ASSAULT WITH A DEADLY WEAPON Guilty
07/09/2007	Sentence (Judicial Officer: User, Conversion) 1. CONSPIRACY TO COMMIT MURDER Converted Disposition: Sentence# 0001: Minimum 26 Months to Maximum 120 Months Placement: NSP Converted Disposition: Sentence# 0002: CREDIT FOR TIME SERVED Minimum 300 Days to Maximum 300 Days Converted Disposition: Sentence# 0003: DNA FEE/GENETIC MARKERS ANALYSIS Amount: \$150.00 Converted Disposition: Sentence# 0004: ADMINISTRATION FEE Amount: \$25.00
07/09/2007	Sentence (Judicial Officer: User, Conversion) 2. 1ST DEGREE MURDER WITH USE OF A DEADLY WEAPON Converted Disposition: Sentence# 0001: LIFE WITH POSSIBILITY OF PAROLE Placement: NSP Cons/Conc: Concurrent w/Charge Item: 0001 and Sentence#: 0001 Converted Disposition: Sentence# 0002: LIFE WITH POSSIBILITY OF PAROLE Cons/Conc: Consecutive w/Charge Item: 0001 and Sentence#: 0001
07/09/2007	Sentence (Judicial Officer: User, Conversion) 3. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON Converted Disposition: Sentence# 0001: Minimum 48 Months to Maximum 240 Months Placement: NSP Cons/Conc: Concurrent w/Charge Item: 0005 and Sentence#: 0001 Converted Disposition: Sentence# 0002: Minimum 48 Months to Maximum 240 Months Placement: NSP Cons/Conc: Consecutive w/Charge Item: 0007 and Sentence#: 0001
07/09/2007	Sentence (Judicial Officer: User, Conversion) 4. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON Converted Disposition: Sentence# 0001: Minimum 48 Months to Maximum 240 Months Placement: NSP Cons/Conc: Concurrent w/Charge Item: 0007 and Sentence#: 0001 Converted Disposition: Sentence# 0002: Minimum 48 Months to Maximum 240 Months Placement: NSP Cons/Conc: Consecutive w/Charge Item: 0011 and Sentence#: 0001
07/09/2007	Sentence (Judicial Officer: User, Conversion) 5. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON Converted Disposition: Sentence# 0001: Minimum 48 Months to Maximum 240 Months Placement: NSP Cons/Conc: Concurrent w/Charge Item: 0011 and Sentence#: 0001 Converted Disposition: Sentence# 0002: Minimum 48 Months to Maximum 240 Months Placement: NSP Cons/Conc: Consecutive w/Charge Item: 0015 and Sentence#: 0001
07/09/2007	Sentence (Judicial Officer: User, Conversion) 6. POSSESSION OF SHORT BARRELED RIFLE Converted Disposition: Sentence# 0001: Minimum 12 Months to Maximum 48 Months Placement: NSP Cons/Conc: Concurrent w/Charge Item: 0015 and Sentence#: 0001
07/09/2007	Sentence (Judicial Officer: User, Conversion) 7. CONSPIRACY TO COMMIT ROBBERY Converted Disposition: Sentence# 0001: Minimum 12 Months to Maximum 72 Months Placement: NSP Cons/Conc: Concurrent w/Charge Item: 0019 and Sentence#: 0001 Converted Disposition: Sentence# 0002: Minimum 12 Months to Maximum 72 Months Placement: NSP Cons/Conc: Consecutive w/Charge Item: 0020 and Sentence#: 0001
07/09/2007	Sentence (Judicial Officer: User, Conversion) 8. ROBBERY WITH USE OF A DEADLY WEAPON Converted Disposition: Sentence# 0001: Minimum 40 Months to Maximum 180 Months Placement: NSP Cons/Conc: Concurrent w/Charge Item: 0020 and Sentence#: 0001 Converted Disposition: Sentence# 0002: Minimum 40 Months to Maximum 180 Months Placement: NSP Cons/Conc: Consecutive w/Charge Item: 0022 and Sentence#: 0001
07/09/2007	Sentence (Judicial Officer: User, Conversion) 9. ROBBERY WITH USE OF A DEADLY WEAPON Converted Disposition: Sentence# 0001: Minimum 40 Months to Maximum 180 Months Placement: NSP Cons/Conc: Concurrent w/Charge Item: 0022 and Sentence#: 0001

	Converted Disposition: Sentence# 0002: Minimum 40 Months to Maximum 180 Months Placement: NSP Cons/Conc: Consecutive w/Charge Item: 0024 and Sentence#: 0001
07/09/2007	Sentence (Judicial Officer: User, Conversion) 10. ASSAULT WITH A DEADLY WEAPON Converted Disposition: Sentence# 0001: Minimum 16 Months to Maximum 72 Months Placement: NSP Cons/Conc: Concurrent w/Charge Item: 0024 and Sentence#: 0001
07/09/2007	Sentence (Judicial Officer: User, Conversion) 11. ASSAULT WITH A DEADLY WEAPON Converted Disposition: Sentence# 0001: Minimum 16 Months to Maximum 72 Months Placement: NSP Cons/Conc: Concurrent w/Charge Item: 0026 and Sentence#: 0001
03/31/2017	Amended Disposition (Judicial Officer: User, Conversion) Reason: Appeal Reversed/Remanded 1. CONSPIRACY TO COMMIT MURDER Appeal Reversed/Remanded
03/31/2017	Amended Disposition (Judicial Officer: User, Conversion) Reason: Appeal Reversed/Remanded 2. 1ST DEGREE MURDER WITH USE OF A DEADLY WEAPON Appeal Reversed/Remanded
03/31/2017	Amended Disposition (Judicial Officer: User, Conversion) Reason: Appeal Reversed/Remanded 3. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON Appeal Reversed/Remanded
03/31/2017	Amended Disposition (Judicial Officer: User, Conversion) Reason: Appeal Reversed/Remanded 4. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON Appeal Reversed/Remanded
03/31/2017	Amended Disposition (Judicial Officer: User, Conversion) Reason: Appeal Reversed/Remanded 5. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON Appeal Reversed/Remanded
03/31/2017	Amended Disposition (Judicial Officer: User, Conversion) Reason: Appeal Reversed/Remanded 6. POSSESSION OF SHORT BARRELED RIFLE Appeal Reversed/Remanded
03/31/2017	Amended Disposition (Judicial Officer: User, Conversion) Reason: Appeal Reversed/Remanded 7. CONSPIRACY TO COMMIT ROBBERY Appeal Reversed/Remanded
03/31/2017	Amended Disposition (Judicial Officer: User, Conversion) Reason: Appeal Reversed/Remanded 8. ROBBERY WITH USE OF A DEADLY WEAPON Appeal Reversed/Remanded
03/31/2017	Amended Disposition (Judicial Officer: User, Conversion) Reason: Appeal Reversed/Remanded 9. ROBBERY WITH USE OF A DEADLY WEAPON Appeal Reversed/Remanded
03/31/2017	Amended Disposition (Judicial Officer: User, Conversion) Reason: Appeal Reversed/Remanded 10. ASSAULT WITH A DEADLY WEAPON Appeal Reversed/Remanded
03/31/2017	Amended Disposition (Judicial Officer: User, Conversion) Reason: Appeal Reversed/Remanded 11. ASSAULT WITH A DEADLY WEAPON Appeal Reversed/Remanded
03/31/2017	Amended Sentence (Judicial Officer: User, Conversion) Reason: Appeal Reversed/Remanded 1. CONSPIRACY TO COMMIT MURDER
03/31/2017	Amended Sentence (Judicial Officer: User, Conversion) Reason: Appeal Reversed/Remanded 2. 1ST DEGREE MURDER WITH USE OF A DEADLY WEAPON
03/31/2017	Amended Sentence (Judicial Officer: User, Conversion) Reason: Appeal Reversed/Remanded 3. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON
03/31/2017	Amended Sentence (Judicial Officer: User, Conversion) Reason: Appeal Reversed/Remanded 4. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON
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03/31/2017	Amended Sentence (Judicial Officer: User, Conversion) Reason: Appeal Reversed/Remanded 6. POSSESSION OF SHORT BARRELED RIFLE
03/31/2017	Amended Sentence (Judicial Officer: User, Conversion) Reason: Appeal Reversed/Remanded 7. CONSPIRACY TO COMMIT ROBBERY
03/31/2017	Amended Sentence (Judicial Officer: User, Conversion) Reason: Appeal Reversed/Remanded 8. ROBBERY WITH USE OF A DEADLY WEAPON
03/31/2017	Amended Sentence (Judicial Officer: User, Conversion) Reason: Appeal Reversed/Remanded 9. ROBBERY WITH USE OF A DEADLY WEAPON
03/31/2017	Amended Sentence (Judicial Officer: User, Conversion) Reason: Appeal Reversed/Remanded 10. ASSAULT WITH A DEADLY WEAPON
03/31/2017	Amended Sentence (Judicial Officer: User, Conversion) Reason: Appeal Reversed/Remanded 11. ASSAULT WITH A DEADLY WEAPON
09/15/2017	Amended Disposition (Judicial Officer: User, Conversion) Reason: Charge(s) Reinstated 1. CONSPIRACY TO COMMIT MURDER Charge Reinstated
09/15/2017	Amended Disposition (Judicial Officer: User, Conversion) Reason: Charge(s) Reinstated 2. 1ST DEGREE MURDER WITH USE OF A DEADLY WEAPON Charge Reinstated
09/15/2017	Amended Disposition (Judicial Officer: User, Conversion) Reason: Charge(s) Reinstated 3. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON Charge Reinstated
09/15/2017	Amended Disposition (Judicial Officer: User, Conversion) Reason: Charge(s) Reinstated 4. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON Charge Reinstated
09/15/2017	Amended Disposition (Judicial Officer: User, Conversion) Reason: Charge(s) Reinstated 5. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON Charge Reinstated
09/15/2017	Amended Disposition (Judicial Officer: User, Conversion) Reason: Charge(s) Reinstated 6. POSSESSION OF SHORT BARRELED RIFLE

	Charge Reinstated
09/15/2017	Amended Disposition (Judicial Officer: User, Conversion) Reason: Charge(s) Reinstated 7. CONSPIRACY TO COMMIT ROBBERY Charge Reinstated
09/15/2017	Amended Disposition (Judicial Officer: User, Conversion) Reason: Charge(s) Reinstated 8. ROBBERY WITH USE OF A DEADLY WEAPON Charge Reinstated
09/15/2017	Amended Disposition (Judicial Officer: User, Conversion) Reason: Charge(s) Reinstated 9. ROBBERY WITH USE OF A DEADLY WEAPON Charge Reinstated
09/15/2017	Amended Disposition (Judicial Officer: User, Conversion) Reason: Charge(s) Reinstated 10. ASSAULT WITH A DEADLY WEAPON Charge Reinstated
09/15/2017	Amended Disposition (Judicial Officer: User, Conversion) Reason: Charge(s) Reinstated 11. ASSAULT WITH A DEADLY WEAPON Charge Reinstated
09/15/2017	Amended Sentence (Judicial Officer: User, Conversion) Reason: Charge(s) Reinstated 1. CONSPIRACY TO COMMIT MURDER
09/15/2017	Amended Sentence (Judicial Officer: User, Conversion) Reason: Charge(s) Reinstated 2. 1ST DEGREE MURDER WITH USE OF A DEADLY WEAPON
09/15/2017	Amended Sentence (Judicial Officer: User, Conversion) Reason: Charge(s) Reinstated 3. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON
09/15/2017	Amended Sentence (Judicial Officer: User, Conversion) Reason: Charge(s) Reinstated 4. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON
09/15/2017	Amended Sentence (Judicial Officer: User, Conversion) Reason: Charge(s) Reinstated 5. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON
09/15/2017	Amended Sentence (Judicial Officer: User, Conversion) Reason: Charge(s) Reinstated 6. POSSESSION OF SHORT BARRELED RIFLE
09/15/2017	Amended Sentence (Judicial Officer: User, Conversion) Reason: Charge(s) Reinstated 7. CONSPIRACY TO COMMIT ROBBERY
09/15/2017	Amended Sentence (Judicial Officer: User, Conversion) Reason: Charge(s) Reinstated 8. ROBBERY WITH USE OF A DEADLY WEAPON
09/15/2017	Amended Sentence (Judicial Officer: User, Conversion) Reason: Charge(s) Reinstated 9. ROBBERY WITH USE OF A DEADLY WEAPON
09/15/2017	Amended Sentence (Judicial Officer: User, Conversion) Reason: Charge(s) Reinstated 10. ASSAULT WITH A DEADLY WEAPON
09/15/2017	Amended Sentence (Judicial Officer: User, Conversion) Reason: Charge(s) Reinstated 11. ASSAULT WITH A DEADLY WEAPON
10/03/2018	Amended Disposition (Judicial Officer: User, Conversion) Reason: Amended 1. CONSPIRACY TO COMMIT MURDER Guilty
10/03/2018	Amended Disposition (Judicial Officer: User, Conversion) Reason: Amended 2. 1ST DEGREE MURDER WITH USE OF A DEADLY WEAPON Guilty
10/03/2018	Amended Disposition (Judicial Officer: User, Conversion) Reason: Amended 3. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON Guilty
10/03/2018	Amended Disposition (Judicial Officer: User, Conversion) Reason: Amended 4. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON Guilty
10/03/2018	Amended Disposition (Judicial Officer: User, Conversion) Reason: Amended 5. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON Guilty
10/03/2018	Amended Disposition (Judicial Officer: User, Conversion) Reason: Amended 6. POSSESSION OF SHORT BARRELED RIFLE Guilty
10/03/2018	Amended Disposition (Judicial Officer: User, Conversion) Reason: Amended 7. CONSPIRACY TO COMMIT ROBBERY Guilty
10/03/2018	Amended Disposition (Judicial Officer: User, Conversion) Reason: Amended 8. ROBBERY WITH USE OF A DEADLY WEAPON Guilty
10/03/2018	Amended Disposition (Judicial Officer: User, Conversion) Reason: Amended 9. ROBBERY WITH USE OF A DEADLY WEAPON Guilty
10/03/2018	Amended Disposition (Judicial Officer: User, Conversion) Reason: Amended 10. ASSAULT WITH A DEADLY WEAPON Guilty
10/03/2018	Amended Disposition (Judicial Officer: User, Conversion) Reason: Amended 11. ASSAULT WITH A DEADLY WEAPON Guilty
12/05/2018	Amended Sentence (Judicial Officer: User, Conversion) Reason: Amended 1. CONSPIRACY TO COMMIT MURDER Sentenced to Nevada Dept. of Corrections Term: Minimum:26 Months, Maximum:120 Months
12/05/2018	Amended Sentence (Judicial Officer: User, Conversion) Reason: Charge(s) Reinstated 2. 1ST DEGREE MURDER WITH USE OF A DEADLY WEAPON Sentenced to Nevada Dept. of Corrections Term: Life with the possibility of parole after:20 Years Consecutive Enhancement:for use of the deadly weapon, Life with the possibility of parole after:20 Years Concurrent: Charge 1
12/05/2018	Amended Sentence (Judicial Officer: User, Conversion) Reason: Charge(s) Reinstated 3. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON Sentenced to Nevada Dept. of Corrections Term: Minimum:48 Months, Maximum:240 Months

Consecutive Enhancement:for use of the deadly weapon, Minimum:48 Months, Maximum:240 Months
Concurrent: Charge 2

12/05/2018 **Amended Sentence** (Judicial Officer: User, Conversion) Reason: Charge(s) Reinstated
4. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON
Sentenced to Nevada Dept. of Corrections
Term: Minimum:48 Months, Maximum:240 Months
Consecutive Enhancement:for use of the deadly weapon, Minimum:48 Months, Maximum:240 Months
Concurrent: Charge 3

12/05/2018 **Amended Sentence** (Judicial Officer: User, Conversion) Reason: Charge(s) Reinstated
5. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON
Sentenced to Nevada Dept. of Corrections
Term: Minimum:48 Months, Maximum:240 Months
Consecutive Enhancement:for use of the deadly weapon, Minimum:48 Months, Maximum:240 Months
Concurrent: Charge 4

12/05/2018 **Amended Sentence** (Judicial Officer: User, Conversion) Reason: Charge(s) Reinstated
6. POSSESSION OF SHORT BARRELED RIFLE
Sentenced to Nevada Dept. of Corrections
Term: Minimum:12 Months, Maximum:48 Months
Concurrent: Charge 5

12/05/2018 **Amended Sentence** (Judicial Officer: User, Conversion) Reason: Charge(s) Reinstated
7. CONSPIRACY TO COMMIT ROBBERY
Sentenced to Nevada Dept. of Corrections
Term: Minimum:12 Months, Maximum:72 Months
Concurrent: Charge 6

12/05/2018 **Amended Sentence** (Judicial Officer: User, Conversion) Reason: Charge(s) Reinstated
8. ROBBERY WITH USE OF A DEADLY WEAPON
Sentenced to Nevada Dept. of Corrections
Term: Minimum:40 Months, Maximum:180 Months
Consecutive Enhancement:for use of the deadly weapon, Minimum:40 Months, Maximum:180 Months
Concurrent: Charge 7

12/05/2018 **Amended Sentence** (Judicial Officer: User, Conversion) Reason: Charge(s) Reinstated
9. ROBBERY WITH USE OF A DEADLY WEAPON
Sentenced to Nevada Dept. of Corrections
Term: Minimum:40 Months, Maximum:180 Months
Consecutive Enhancement:for use of the deadly weapon, Minimum:40 Months, Maximum:180 Months
Concurrent: Charge 8

12/05/2018 **Amended Sentence** (Judicial Officer: User, Conversion) Reason: Charge(s) Reinstated
10. ASSAULT WITH A DEADLY WEAPON
Sentenced to Nevada Dept. of Corrections
Term: Minimum:16 Months, Maximum:72 Months
Concurrent: Charge 9

12/05/2018 **Amended Sentence** (Judicial Officer: User, Conversion) Reason: Charge(s) Reinstated
11. ASSAULT WITH A DEADLY WEAPON
Sentenced to Nevada Dept. of Corrections
Term: Minimum:16 Months, Maximum:72 Months
Concurrent: Charge 10
Credit for Time Served: 4450 Days
Comments: All Counts to run CONCURRENT to COUNT 2

Fee Totals:	
Administrative	
Assessment Fee \$25	\$25.00
DNA Analysis Fee \$150	\$150.00
Genetic Marker	\$3.00
Analysis AA Fee \$3	
Fee Totals \$	\$178.00

OTHER EVENTS AND HEARINGS

12/04/2006 **Criminal Bindover**
CRIMINAL BINDOVER Fee \$0.00
06C228460-20001.tif pages

12/04/2006 **Hearing**
INITIAL ARRAIGNMENT
06C228460-20002.tif pages

12/07/2006 **Information**
INFORMATION
06C228460-20005.tif pages

12/07/2006 **Conversion Case Event Type**
INFORMATION CORRECTED IN OPEN COURT
06C228460-20032.tif pages

12/11/2006 **Initial Arraignment** (10:30 AM) ()
INITIAL ARRAIGNMENT Court Clerk: Sandra Anderson Relief Clerk: Phyllis Irby/pi Reporter/Recorder: Kiara Schmidt Heard By: Kevin Williams
[Parties Present](#)
[Minutes](#)

Result: Matter Heard

01/03/2007 **Media Request and Order**
MEDIA REQUEST AND ORDER
06C228460-20009.tif pages

01/26/2007 **Expert Witness List**
NOTICE OF EXPERT WITNESSES
06C228460-20010.tif pages

02/02/2007 **Order**
ORDER - RELATED PARTYID: 06C228460_0002
06C228460-20011.tif pages

02/02/2007 **Application**
EX PARTE APPLICATION TO APPOINT INVESTIGATOR - RELATED PARTYID: 06C228460_0002
06C228460-20012.tif pages

02/07/2007 **Calendar Call** (9:00 AM) ()
CALENDAR CALL Court Clerk: Katherine Streuber Reporter/Recorder: Richard Kangas Heard By: Elizabeth Halverson
[Parties Present](#)
[Minutes](#)

Result: Matter Heard

02/12/2007 **CANCELED Jury Trial** (1:30 PM) ()
Vacated

Result: Vacate

03/23/2007 **Application**
EX PARTE APPLICATION FOR COURT APPROVAL OF PAYMENT OF SPECIFIC CATEGORIES OF ANCILLARY DEFENSE COSTS
ANCILLARY DEFENSE COSTS- RELATED PARTYID: 06C228460_0002
06C228460-20015.tif pages

03/23/2007 **Order**
ORDER - RELATED PARTYID: 06C228460_0002

04/11/2007	<p>06C228460-20016.tif pages</p> <p>Motion STATE'S MTN TO COMPEL BUCCAL SWABS /6 06C228460-20017.tif pages</p>
04/11/2007	<p>Calendar Call (8:30 AM) () CALENDAR CALL Heard By: Elizabeth Halverson Result: Matter Continued</p>
04/11/2007	<p>Motion to Compel (8:30 AM) () STATE'S MTN TO COMPEL BUCCAL SWABS /6 Heard By: Elizabeth Halverson Result: Matter Continued</p>
04/13/2007	<p>Certificate CERTIFICATE OF FACSIMILE TRANSMISSION 06C228460-20018.tif pages</p>
04/16/2007	<p>Motion to Compel (8:30 AM) () STATE'S MTN TO COMPEL BUCCAL SWABS /6 Court Clerk: Pamela Humphrey Reporter/Recorder: Richard Kangas Heard By: Halverson, Elizabeth Parties Present Minutes Result: Matter Continued</p>
04/18/2007	<p>Motion to Compel (8:30 AM) () STATE'S MTN TO COMPEL BUCCAL SWABS /6 Court Clerk: Pamela Humphrey Reporter/Recorder: Denise Lopez Heard By: Halverson, Elizabeth Parties Present Minutes Result: Matter Continued</p>
04/20/2007	<p>Order ORDER TO COMPEL IMMEDIATE PRODUCTION OF PRELIMINARY HEARING TRANSCRIPTS - RELATED PARTYID: 06C228460_0002 06C228460-20019.tif pages</p>
04/20/2007	<p>Motion to Compel (8:30 AM) () STATE'S MTN TO COMPEL BUCCAL SWABS /6 Court Clerk: Pamela Humphrey Reporter/Recorder: Pamela Humphrey Heard By: Elizabeth Halverson Parties Present Minutes Result: Matter Continued</p>
04/24/2007	<p>Reporters Transcript REPORTER'S TRANSCRIPT PRELIMINARY HEARING 06C228460-20020.tif pages</p>
04/25/2007	<p>Expert Witness List NOTICE OF EXPERT WITNESS 06C228460-20021.tif pages</p>
04/25/2007	<p>Expert Witness List NOTICE OF WITNESSES 06C228460-20022.tif pages</p>
04/25/2007	<p>Expert Witness List SUPPLEMENTAL NOTICE OF EXPERT WITNESS 06C228460-20023.tif pages</p>
05/02/2007	<p>Order ORDER 06C228460-20026.tif pages</p>
05/02/2007	<p>Expert Witness List SUPPLEMENTAL NOTICE OF WITNESSES 06C228460-20027.tif pages</p>
05/02/2007	<p>Calendar Call (8:30 AM) () CALENDAR CALL Heard By: David Barker Result: Matter Continued</p>
05/02/2007	<p>Calendar Call (8:30 AM) () CALENDAR CALL Heard By: David Barker Result: Matter Continued</p>
05/02/2007	<p>Calendar Call (8:30 AM) () CALENDAR CALL CONTINUED Court Clerk: Sharon Chun Reporter/Recorder: Richard Kangas Heard By: Barker, David Parties Present Minutes Result: Matter Continued</p>
05/04/2007	<p>Calendar Call (8:30 AM) () CALENDAR CALL CONTINUED Court Clerk: Sharon Chun Reporter/Recorder: Richard Kangas Heard By: David Barker Parties Present Minutes Result: Matter Heard</p>
05/07/2007	<p>Supplement SUPPLEMENTAL NOTICE OF WITNESS 06C228460-20028.tif pages</p>
05/07/2007	<p>Order STIPULATION AND ORDER 06C228460-20035.tif pages</p>
05/07/2007	<p>Jury Trial (1:00 PM) () TRIAL BY JURY Court Clerk: Sharon Chun Reporter/Recorder: Richard Kangas Heard By: Barker, David Parties Present Minutes Result: Matter Continued</p>
05/08/2007	<p>Media Request and Order MEDIA REQUEST AND ORDER 06C228460-20030.tif pages</p>
05/08/2007	<p>Order ORDER 06C228460-20031.tif pages</p>
05/08/2007	<p>Media Request and Order MEDIA REQUEST TO COURT PROCEEDINGS 06C228460-20033.tif pages</p>
05/08/2007	<p>Jury List DISTRICT COURT JURY LIST 06C228460-20034.tif pages</p>
05/08/2007	<p>Brief BENCH BRIEF - RELATED PARTYID: 06C228460_0002 06C228460-20041.tif pages</p>
05/08/2007	<p>Jury Trial (10:00 AM) () TRIAL BY JURY Court Clerk: Sharon Chun Reporter/Recorder: Richard Kangas Heard By: Barker, David Parties Present Minutes Result: Matter Continued</p>
05/09/2007	<p>Opposition STATES CONSOLIDATED OPPOSITION TO DEFENDANTS MOTIONS IN LIMINE 06C228460-20042.tif pages</p>
05/09/2007	<p>Proposed Jury Instructions Not Used At Trial</p>

PROPOSED JURY INSTRUCTIONS NOT USED AT TRIAL
06C228460-20043.tif pages

05/09/2007 **Jury Trial** (9:30 AM) ()
TRIAL BY JURY Relief Clerk: Chanel West (1:05PM -2:05PM) Reporter/Recorder: Richard Kangas/Francesca Haak Heard By: Barker, David
[Parties Present](#)
[Minutes](#)
Result: Matter Continued

05/10/2007 **Subpoena Duces Tecum**
SUBPOENA DUCES TECUM - RELATED PARTYID: 06C228460_0002
06C228460-20036.tif pages

05/10/2007 **Subpoena Duces Tecum**
SUBPOENA DUCES TECUM - RELATED PARTYID: 06C228460_0002
06C228460-20037.tif pages

05/10/2007 **Subpoena Duces Tecum**
SUBPOENA DUCES TECUM
06C228460-20038.tif pages

05/10/2007 **Subpoena Duces Tecum**
SUBPOENA DUCES TECUM - RELATED PARTYID: 06C228460_0002
06C228460-20039.tif pages

05/10/2007 **Subpoena Duces Tecum**
SUBPOENA DUCES TECUM - RELATED PARTYID: 06C228460_0002
06C228460-20040.tif pages

05/10/2007 **Jury Trial** (9:30 AM) ()
TRIAL BY JURY Court Clerk: Sharon Chun Reporter/Recorder: Richard Kangas Heard By: Barker, David
[Parties Present](#)
[Minutes](#)
Result: Matter Continued

05/11/2007 **Instructions to the Jury**
INSTRUCTIONS TO THE JURY
06C228460-20044.tif pages

05/11/2007 **Conversion Case Event Type**
SENTENCING (VL 6/25/07)
06C228460-20047.tif pages

05/11/2007 **Judgment**
VERDICT
06C228460-20048.tif pages

05/11/2007 **Judgment**
VERDICT
06C228460-20049.tif pages

05/11/2007 **Proposed Jury Instructions Not Used At Trial**
DEFENDANTS PROPOSED JURY INSTRUCTIONS NOT USED AT TRIAL
06C228460-20051.tif pages

05/11/2007 **Jury Trial** (9:30 AM) ()
TRIAL BY JURY Court Clerk: Sharon Chun Reporter/Recorder: Richard Kangas Heard By: David Barker
[Parties Present](#)
[Minutes](#)
Result: Matter Heard

05/14/2007 **Order**
ORDER APPOINTMENT COUNSEL - RELATED PARTYID: 06C228460_0001
06C228460-20045.tif pages

05/14/2007 **Amended Jury List**
AMENDED CRIMINAL JURY LIST
06C228460-20050.tif pages

05/21/2007 **Motion**
DEFT'S MTN FOR NEW TRIAL /9
06C228460-20052.tif pages

05/23/2007 **Certificate**
CERTIFICATE OF MAILING - RELATED PARTYID: 06C228460_0002
06C228460-20053.tif pages

06/01/2007 **Opposition**
STATES OPPOSITION TO DEFENDANTS MOTION FOR A NEW TRIAL
06C228460-20054.tif pages

06/04/2007 **Motion for New Trial** (8:30 AM) ()
DEFT'S MTN FOR NEW TRIAL /9 Court Clerk: Sharon Chun Reporter/Recorder: Richard Kangas Heard By: Barker, David
[Parties Present](#)
[Minutes](#)
Result: Matter Continued

06/07/2007 **Application**
EX PARTE APPLICATION FOR ADDITIONAL INVESTIGATIVE FEES - RELATED PARTYID: 06C228460_0002
06C228460-20055.tif pages

06/07/2007 **Order**
ORDER - RELATED PARTYID: 06C228460_0002
06C228460-20056.tif pages

06/08/2007 **Motion for New Trial** (8:15 AM) ()
DEFT'S MTN FOR NEW TRIAL /9 Court Clerk: Sharon Chun Reporter/Recorder: Richard Kangas Heard By: Barker, David
[Parties Present](#)
[Minutes](#)
Result: Matter Continued

06/12/2007 **Reporters Transcript**
REPORTER'S TRANSCRIPT PORTION OF JURY TRIAL DAY 5
06C228460-20057.tif pages

06/18/2007 **Sentencing** (8:30 AM) ()
SENTENCING (VL 6/25/07)

06/25/2007 Result: Matter Continued

06/25/2007 **Conversion Case Event Type**
SENTENCING
06C228460-20059.tif pages

06/25/2007 **Conversion Case Event Type**
SENTENCING
06C228460-20060.tif pages

07/02/2007 **Sentencing** (8:15 AM) ()
SENTENCING (VL 6/25/07)

07/02/2007 Result: Vacate

07/02/2007 **Motion for New Trial** (8:15 AM) ()
DEFT'S MTN FOR NEW TRIAL /9 Heard By: David Barker

07/09/2007 Result: Matter Continued

07/09/2007 **Reply**
REPLY TO STATES OPPOSITION TO MOTION FOR NEW TRIAL - RELATED PARTYID: 06C228460_0002
06C228460-20062.tif pages

07/09/2007 **Motion for New Trial** (8:15 AM) ()
DEFT'S MTN FOR NEW TRIAL /9 Heard By: David Barker

07/09/2007 Result: Denied

07/09/2007 **Sentencing** (8:15 AM) ()
SENTENCING Heard By: David Barker
Result: Granted

07/09/2007 **Sentencing** (8:15 AM) ()
SENTENCING Heard By: David Barker
Result: Granted

07/09/2007 **All Pending Motions** (8:15 AM) ()
ALL PENDING MOTIONS (07-09-07) Relief Clerk: Carol Donahoo Reporter/Recorder: Richard Kangas Heard By: David Barker
[Parties Present](#)
[Minutes](#)
Result: Matter Heard

07/11/2007 **Motion**
ALL PENDING MOTIONS (07-09-07)
06C228460-20061.tif pages

07/17/2007 **Judgment**
JUDGMENT OF CONVICTION/ADMIN ASSESSMENT
06C228460-20064.tif pages

07/17/2007 **Judgment**
JUDGMENT OF CONVICTION/RESTITUTION
06C228460-20065.tif pages

07/17/2007 **Judgment**
JUDGMENT OF CONVICTION/GENETIC TESTING
06C228460-20066.tif pages

07/17/2007 **Judgment**
JUDGMENT OF CONVICTION/ADMIN ASSESSMENT
06C228460-20067.tif pages

07/17/2007 **Judgment**
JUDGMENT OF CONVICTION/GENETIC TESTING
06C228460-20068.tif pages

07/30/2007 **Notice of Appeal**
NOTICE OF APPEAL (SC 49947) - RELATED PARTYID: 06C228460_0001
06C228460-20069.tif pages

08/06/2007 **Statement**
CASE APPEAL STATEMENT - RELATED PARTYID: 06C228460_0001
06C228460-20070.tif pages

08/17/2007 **Notice of Appeal**
NOTICE OF APPEAL (SC 50052) - RELATED PARTYID: 06C228460_0002
06C228460-20071.tif pages

08/17/2007 **Statement**
CASE APPEAL STATEMENT - RELATED PARTYID: 06C228460_0002
06C228460-20072.tif pages

09/17/2007 **Order**
ORDER - RELATED PARTYID: 06C228460_0002
06C228460-20073.tif pages

10/08/2007 **Order**
NUNC PRO TUNC ORDER OF APPOINTMENT - RELATED PARTYID: 06C228460_0002
06C228460-20074.tif pages

01/24/2008 **Hearing**
DEFT'S REQUEST STATUS CHECK: CUSTODY
06C228460-20075.tif pages

01/28/2008 **Request** (8:15 AM) ()
DEFT'S REQUEST STATUS CHECK: CUSTODY Relief Clerk: Tia Everett/te Reporter/Recorder: Richard Kangas Heard By: Barker, David
[Parties Present](#)
[Minutes](#)
Result: Matter Continued

02/01/2008 **Request** (8:15 AM) ()
DEFT'S REQUEST STATUS CHECK: CUSTODY Relief Clerk: Tia Everett/te Reporter/Recorder: Richard Kangas Heard By: David Barker
[Parties Present](#)
[Minutes](#)
Result: Off Calendar

03/10/2008 **Hearing**
AT REQ OF SUPREME COURT: APPOINTMENT OF COUNSEL/14
06C228460-20076.tif pages

03/12/2008 **Order**
ORDER FOR PRODUCTION OF INMATE
06C228460-20077.tif pages

03/26/2008 **Hearing**
STATUS CHECK: CONFIRMATION OF COUNSEL (J. PARRIS)
06C228460-20078.tif pages

03/26/2008 **Hearing**
STATUS CHECK: FURTHER PROCEEDINGS
06C228460-20079.tif pages

03/26/2008 **Request of Court** (8:15 AM) ()
AT REQ OF SUPREME COURT: APPOINTMENT OF COUNSEL/14 Court Clerk: Sharon Chun Reporter/Recorder: Richard Kangas Heard By: David Barker
[Parties Present](#)
[Minutes](#)
Result: Matter Heard

03/28/2008 **Motion**
ALL PENDING MOTIONS 03-28-08
06C228460-20080.tif pages

03/28/2008 **Status Check** (8:15 AM) ()
STATUS CHECK: CONFIRMATION OF COUNSEL (J. PARRIS) Heard By: David Barker
Result: Granted

03/28/2008 **Status Check** (8:15 AM) ()
STATUS CHECK: FURTHER PROCEEDINGS

03/28/2008 **All Pending Motions** (8:00 AM) ()
ALL PENDING MOTIONS 03-28-08 Court Clerk: Sandra Anderson Reporter/Recorder: Richard Kangas Heard By: David Barker
[Parties Present](#)
[Minutes](#)
Result: Matter Heard

04/07/2008 **Order**
ORDER APPOINTING COUNSEL - RELATED PARTYID: 06C228460_0001
06C228460-20083.tif pages

06/13/2008 **Reporters Transcript**
REPORTER'S TRANSCRIPT STATES MOTION TO COMPEL BUCCAL SWABS
06C228460-20084.tif pages

07/11/2008 **Reporters Transcript**
REPORTER'S TRANSCRIPT JURY TRIAL DAY 1
06C228460-20085.tif pages

07/11/2008 **Reporters Transcript**
REPORTER'S TRANSCRIPT JURY TRIAL DAY 3
06C228460-20086.tif pages

07/11/2008 **Reporters Transcript**
REPORTER'S TRANSCRIPT JURY TRIAL DAY 5
06C228460-20087.tif pages

07/11/2008 **Reporters Transcript**
REPORTER'S TRANSCRIPT JURY TRIAL DAY 2

07/11/2008	06C228460-20088.tif pages Reporters Transcript REPORTER'S TRANSCRIPT JURY TRIAL DAY 4 06C228460-20089.tif pages
07/11/2008	Reporters Transcript REPORTER'S TRANSCRIPT DEFTS MTN FOR NEW TRIAL JEMAR MATTHEWS SENTENCING JEMAR MATTHEWS SENTENCING PIERRE JOSH LIN MATTHEWS SENTENCING PIERRE JOSH LIN 06C228460-20090.tif pages
07/11/2008	Reporters Transcript REPORTER'S TRANSCRIPT CALENDAR CALL 06C228460-20091.tif pages
07/11/2008	Reporters Transcript REPORTER'S TRANSCRIPT DEFENDANTS MOTION FOR A NEW TRIAL 06C228460-20092.tif pages
07/14/2008	Certificate CERTIFICATE OF MAILING 06C228460-20093.tif pages
08/30/2008	Petition PETITION FOR WRIT OF HABEAS CORPUS - RELATED PARTYID: 06C228460_0001 06C228460-20094.tif pages
09/11/2008	Hearing SUPREME COURT REMAND: APPOINT NEW APPELLET COUNSEL/18 06C228460-20095.tif pages
09/24/2008	Request of Court (8:15 AM) () SUPREME COURT REMAND: APPOINT NEW APPELLET COUNSEL/18 Court Clerk: Sharon Chun Relief Clerk: Carol Donahoo/cd Reporter/Recorder: Richard Kangas Heard By: David Barker Parties Present Minutes
10/09/2008	Result: Granted Order ORDER FOR CONFIRMATION OF APPOINTMENT OF COUNSEL - RELATED PARTYID: 06C228460_0001 06C228460-20096.tif pages
07/14/2009	Hearing DEFT'S PRO PER REQUEST FOR RECORDS/COURT CASE/19 06C228460-20099.tif pages
07/23/2009	Opposition STATES OPPOSITION TO DEFTS PRO PER REQUEST FOR RECORDS - COURT CASE DOCUMENTS DOCUMENTS 06C228460-20100.tif pages
07/27/2009	Request (8:15 AM) () DEFT'S PRO PER REQUEST FOR RECORDS/COURTCASE/19 Relief Clerk: Tia Everett/te Reporter/Recorder: Richard Kangas Heard By: Barker, David Parties Present Minutes
11/30/2009	Result: Matter Continued Request (8:15 AM) () DEFT'S PRO PER REQUEST FOR RECORDS/COURTCASE/19 Court Clerk: Sharon Chun Reporter/Recorder: Richard Kangas Heard By: David Barker Parties Present Minutes
12/09/2009	Result: Moot Conversion Case Event Type INACTIVE CASE 06C228460-20101.tif pages
12/18/2009	Motion DEFT'S PRO PER MTN FOR THE APPT OF CNSL & REQ FOR EVID HRG /20 06C228460-20103.tif pages
12/18/2009	Motion DEFT'S PRO PER MTN FOR LEAVE TO PROCEED IN FORMA PAUPERIS /21 06C228460-20104.tif pages
12/18/2009	Affidavit in Support AFFIDAVIT IN SUPPORT OF MTN TO PROCEED IN FORMA PAUPERIS - RELATED PARTYID: 06C228460_0002 06C228460-20108.tif pages
12/21/2009	Judgment CLERK'S CERTIFICATE/JUDGMENT AFFIRMED 06C228460-20105.tif pages
12/21/2009	Judgment CLERK'S CERTIFICATE/REHEARING DENIED 06C228460-20106.tif pages
12/21/2009	Judgment CLERK'S CERTIFICATE/PETITION DENIED 06C228460-20107.tif pages
12/29/2009	Response STATES RESPONSE TO DEFTS MTN FOR THE APPOINTMENT OF COUNSEL 06C228460-20109.tif pages
01/04/2010	Motion (8:15 AM) () DEFT'S PRO PER MTN FOR THE APPT OF CNSL & REQ FOR EVID HRG /20 Result: Matter Continued
01/04/2010	Motion (8:15 AM) () DEFT'S PRO PER MTN FOR LEAVE TO PROCEED IN FORMA PAUPERIS /21 Result: Matter Continued
01/06/2010	Hearing STATUS CHECK: CONFIRMATION OF APPOINTED COUNSEL 06C228460-20110.tif pages
01/06/2010	Motion ALL PENDING MOTIONS OF 1/6/10 06C228460-20111.tif pages
01/06/2010	Motion (8:15 AM) () DEFT'S PRO PER MTN FOR THE APPT OF CNSL & REQ FOR EVID HRG /20 Result: Matter Continued
01/06/2010	Motion (8:15 AM) () DEFT'S PRO PER MTN FOR LEAVE TO PROCEED IN FORMA PAUPERIS /21 Result: Matter Continued
01/06/2010	All Pending Motions (8:15 AM) () ALL PENDING MOTIONS OF 1/6/10 Court Clerk: Sharon Chun Reporter/Recorder: Richard Kangas Heard By: David Barker Parties Present Minutes
01/15/2010	Result: Matter Heard Motion ALL PENDING MOTIONS 06C228460-20112.tif pages
01/15/2010	Motion (8:15 AM) () DEFT'S PRO PER MTN FOR THE APPT OF CNSL & REQ FOR EVID HRG /20
01/15/2010	Motion (8:15 AM) () DEFT'S PRO PER MTN FOR LEAVE TO PROCEED IN FORMA PAUPERIS /21
01/15/2010	Status Check (8:15 AM) () STATUS CHECK: CONFIRMATION OF APPOINTEDCOUNSEL

01/15/2010 **All Pending Motions** (8:15 AM) ()
ALL PENDING MOTIONS Relief Clerk: Shelly Landwehr/sl Reporter/Recorder: Richard Kangas Heard By: David Barker
[Parties Present](#)
[Minutes](#)

04/09/2010 Result: Matter Heard
Judgment
 CLERK'S CERTIFICATE JUDGMENT AFFIRMED
 06C228460-20113.tif pages

04/28/2010 **Request**
 MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS - RELATED PARTYID: 06C228460_0001
 06C228460-20114.tif pages

04/28/2010 **Motion**
 DEFT'S PRO PER MTN FOR APPOINTMENT OF COUNSEL AND REQUEST FOR EVIDENTIARY HRG
 06C228460-20116.tif pages

05/12/2010 **Hearing**
 STATUS CHECK: CONFIRMATION OF COUNSEL (THRU D.CHRISTENSEN)
 06C228460-20117.tif pages

05/12/2010 **Hearing**
 STATUS CK: SET EVIDENTIARY HEARING RE INEFFECTIVE ASSISTANCE OF COUNSEL
 06C228460-20118.tif pages

05/12/2010 **Motion** (8:15 AM) ()
 DEFT'S PRO PER MTN FOR APPOINTMENT OF COUNSEL AND REQUEST FOR EVIDENTIARY HRG Court Clerk: Sharon Chun
 Reporter/Recorder: Richard Kangas Heard By: David Barker
[Parties Present](#)
[Minutes](#)

05/28/2010 Result: Matter Heard
Hearing
 STATUS CK: SET EVID HRG RE DEFT'S POST- CONV CLAIM OF INEFFECTIVE ASSIS COUNSEL
 06C228460-20119.tif pages

05/28/2010 **Motion**
 ALL PENDING MOTIONS 5/28/10
 06C228460-20120.tif pages

05/28/2010 **Status Check** (8:15 AM) ()
 STATUS CHECK: CONFIRMATION OF COUNSEL (THRU D.CHRISTENSEN)

05/28/2010 **Status Check** (8:15 AM) ()
 STATUS CK: SET EVIDENTIARY HEARING RE INEFFECTIVE ASSISTANCE OF COUNSEL Heard By: David Barker
 Result: Matter Continued

05/28/2010 **All Pending Motions** (8:15 AM) ()
 ALL PENDING MOTIONS 5/28/10 Court Clerk: Sharon Chun Reporter/Recorder: Richard Kangas Heard By: David Barker
[Parties Present](#)
[Minutes](#)

06/08/2010 Result: Matter Heard
Order
 ORDER FOR PRODUCTION OF INMATE
 06C228460-20121.tif pages

07/16/2010 **Hearing**
 STATUS CHECK: SET EVID HRG RE DEFT'S POST-CONV CLAIM (FROM 7/16/10)
 06C228460-20122.tif pages

07/16/2010 **Status Check** (8:15 AM) ()
 STATUS CK: SET EVID HRG RE DEFT'S POST- CONV CLAIM OF INEFFECTIVE ASSIS COUNSEL Relief Clerk: Billie Jo Craig
 Reporter/Recorder: Richard Kangas Heard By: David Barker
[Parties Present](#)
[Minutes](#)

07/21/2010 Result: Matter Heard
Hearing
 EVIDENTIARY HEARING
 06C228460-20123.tif pages

07/21/2010 **Status Check** (8:15 AM) ()
 STATUS CHECK: SET EVID HRG RE DEFT'S POST-CONV CLAIM (FROM 7/16/10) Court Clerk: Sharon Chun Relief Clerk: Billie Jo Craig/bjc
 Reporter/Recorder: Richard Kangas Heard By: David Barker
[Parties Present](#)
[Minutes](#)

12/08/2010 Result: Matter Heard
Criminal Order to Statistically Close Case
 Criminal Order to Statistically Close Case

12/14/2010 **Petition for Writ of Habeas Corpus**

12/16/2010 **Order for Petition for Writ of Habeas Corpus**

03/23/2011 **CANCELED Evidentiary Hearing** (10:00 AM) (Judicial Officer Barker, David)
 Vacated - Case Closed
 hearing as to co-defendant

01/13/2012 **Motion**
 Motion for Appointment of Counsel Pursuant to NRS 34.750

01/19/2012 **Opposition to Motion**
 State's Opposition to Defendant's Motion for Appointment of Counsel

01/23/2012 **Motion** (8:15 AM) (Judicial Officer Barker, David)
 01/23/2012, 02/06/2012
 Deft's Pro Per Motion for Appointment of Counsel Pursuant to NRS 34.750
[Parties Present](#)
[Minutes](#)

06/11/2012 Result: Matter Continued
Status Check (8:15 AM) (Judicial Officer Barker, David)
 Status Check: Briefing Schedule
[Parties Present](#)
[Minutes](#)

07/09/2012 Result: Briefing Schedule Set
Supplemental
 Supplemental Points and Authorities in Support of Petition for Writ of Habeas Corpus (Post-Conviction)

07/10/2012 **Supplemental**
 Amended Supplemental Points and Authorities In Support of Petition for Writ of Habeas Corpus (Post-Conviction) Amended Only to Repaginate
 and Add Missing Test to Page 5

08/28/2012 **Order for Production of Inmate**
 Order for Production of Inmate, Jemar Matthews, aka Jemar Demon Matthews, BAC #1014654

08/31/2012 **Order for Production of Inmate**
 Order for Production of Inmate Jemar Matthews, Bac # 1014654

09/10/2012 **Response**
 State's Response To Defendant's Supplemental Points And Authorities In Support Of Petition For Writ Of Habeas Corpus

09/24/2012 **Reply**
 Reply to State's Response to Defendant's Supplemental Points and Authorities in Support of Petition for Writ of Habeas Corpus (Post-Conviction)

10/12/2012 **Hearing** (9:00 AM) (Judicial Officer Barker, David)
[Parties Present](#)
[Minutes](#)

Result: Matter Heard

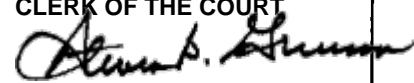
11/05/2012 **Motion**
Motion to Place on Calendar
 11/06/2012 **Certificate of Service by Facsimile**
Certificate of Facsimile Transmission
 11/13/2012 **Finding of Fact and Conclusions of Law**
Findings of Fact, Conclusions of Law and Order
 11/19/2012 **Motion** (8:15 AM) (Judicial Officer Barker, David)
Deft's Motion to Place on Calendar Re: Appointment of Appellant Counsel
[Parties Present](#)
[Minutes](#)
 Result: Motion Denied
 11/20/2012 **Notice of Entry**
Notice of Entry of Findings of Fact, Conclusions of Law and Order
 12/04/2012 **Notice of Appeal (criminal)**
 12/05/2012 **Case Appeal Statement**
Case Appeal Statement
 12/07/2012 **Order Denying Motion**
Order Denying Defendant's Motion For Appointment Of Appellant Counsel
 01/15/2013 **Opposition**
State's Opposition To Defendant's Pro Per Motion To Appoint Counsel
 01/16/2013 **Appointment of Counsel** (8:15 AM) (Judicial Officer Barker, David)
Appointment of Counsel per Supreme Court Remand
[Parties Present](#)
[Minutes](#)
 Result: Matter Heard
 01/17/2013 **Notice**
Notice Of Confirmation Of Counsel
 02/12/2013 **Ex Parte Motion**
Ex Parte Motion for Investigative Fees
 02/13/2013 **Status Check** (8:15 AM) (Judicial Officer Barker, David)
Status Check: Set Briefing Schedule
[Parties Present](#)
[Minutes](#)
 Result: Matter Continued
 02/12/2014 **NV Supreme Court Clerks Certificate/Judgment - Affirmed**
Nevada Supreme Court Clerk's Certificate Judgment - Affirmed
 06/23/2014 **Petition for Writ of Habeas Corpus**
Petition for Writ of Habeas Corpus (Post Conviction)
 06/23/2014 **Memorandum**
Memorandum In Support for (Post Conviction Habeas Corpus)
 06/26/2014 **Order for Petition for Writ of Habeas Corpus**
 08/04/2014 **Response**
State's Response And Motion To Dismiss Defendant's Pro Per Petition For Writ Of Habeas Corpus (Post-Conviction)
 08/25/2014 **Petition for Writ of Habeas Corpus** (8:15 AM) (Judicial Officer Barker, David)
Deft's Pro Per Petition for Writ of Habeas Corpus (Post Conviction)
 Result: Denied
 08/25/2014 **Response and Countermotion** (8:15 AM) (Judicial Officer Barker, David)
State's Response And Motion To Dismiss Defendant's Pro Per Petition For Writ Of Habeas Corpus (Post-Conviction)
 Result: Granted
 08/25/2014 **All Pending Motions** (8:15 AM) (Judicial Officer Barker, David)
[Parties Present](#)
[Minutes](#)
 Result: Matter Heard
 10/02/2014 **Findings of Fact, Conclusions of Law and Order**
 10/06/2014 **Notice of Entry**
Notice of Entry of Findings of Fact, Conclusions of Law and Order
 11/06/2014 **Notice of Appeal (criminal)**
Notice of Appeal
 01/05/2015 **Case Reassigned to Department 19**
District Court Case Reassignment 2015
 05/30/2017 **Notice**
Notice to Place on Calendar
 06/02/2017 **Order for Production of Inmate**
Order for Production of Inmate - Jemar Matthews, aka Jemar Demon Matthews, BAC #1014654
 06/12/2017 **Motion** (8:30 AM) (Judicial Officer Kephart, William D.)
State's Motion to Place on Calendar for the Purpose of State's Notice of Intent to Proceed to Retrial
[Parties Present](#)
[Minutes](#)
 Result: Trial Date Set
 06/19/2017 **Notice of Appearance**
NOTICE OF APPEARANCE
 07/01/2017 **Case Reassigned to Department 3**
Homicide Case Reassignment to Judge Douglas W. Herndon
 07/21/2017 **Status Check** (9:00 AM) (Judicial Officer Herndon, Douglas W.)
STATUS CHECK: MURDER TEAM ASSIGNMENT
[Parties Present](#)
[Minutes](#)
 07/24/2017 *Reset by Court to 07/21/2017*
 Result: Continued
 08/02/2017 **CANCELED Pre Trial Conference** (8:30 AM) (Judicial Officer Herndon, Douglas W.)
Vacated - per Judge
 08/02/2017 *08/02/2017 Reset by Court to 08/02/2017*
 08/22/2017 **Status Check** (9:00 AM) (Judicial Officer Herndon, Douglas W.)
Status Check: Trial Setting/Case Reassignment
[Parties Present](#)
[Minutes](#)
 Result: Matter Heard
 08/22/2017 **Media Request and Order**
Media Request And Order Allowing Camera Access To Court Proceedings
 08/30/2017 **CANCELED Calendar Call** (8:30 AM) (Judicial Officer Herndon, Douglas W.)
Vacated - per Judge
 08/30/2017 *Reset by Court to 08/30/2017*
 09/05/2017 **CANCELED Jury Trial** (10:00 AM) (Judicial Officer Herndon, Douglas W.)
Vacated - per Judge
 09/05/2017 *09/05/2017 Reset by Court to 09/05/2017*
 09/05/2017 **Status Check: Trial Setting** (8:30 AM) (Judicial Officer Johnson, Eric)
[Parties Present](#)
[Minutes](#)
 Result: Trial Date Set
 09/15/2017 **Amended Information**

11/02/2017	<p><i>Amended Information</i></p> <p>Status Check (8:30 AM) (Judicial Officer Johnson, Eric) 11/02/2017, 02/01/2018 <i>Status Check: Homicide Trial</i></p> <p>Parties Present</p> <p>Minutes</p> <p>Result: Matter Continued</p>
02/12/2018	<p>Notice of Witnesses and/or Expert Witnesses <i>State's Notice of Witnesses and/or Expert Witnesses</i></p>
03/20/2018	<p>Status Check (8:30 AM) (Judicial Officer Johnson, Eric) <i>Status Check: Homicide Trial</i></p> <p>Parties Present</p> <p>Minutes</p> <p>Result: Matter Continued</p>
03/21/2018	<p>Motion for Order <i>Defendant's Motion for Order to Produce Records from (1) Division of Child and Family Services and (2) Family Courts and Services Center and/or Clark County District Court Family Division</i></p>
03/27/2018	<p>Status Check (8:30 AM) (Judicial Officer Johnson, Eric) <i>Status Check: Homicide Trial</i></p> <p>Parties Present</p> <p>Minutes</p> <p>Result: Matter Continued</p>
04/05/2018	<p>CANCELED Motion (9:00 AM) (Judicial Officer Johnson, Eric) <i>Vacated</i> <i>Defendant's Motion for Order to Produce Records from (1) Division of Child and Family Services and (2) Family Courts and Services Center and/or Clark County District Court Family Division</i></p>
04/10/2018	<p>Order <i>ORDER TO PRODUCE (1) DIVISION OF CHILD AND FAMILY SERVICES AND (2) FAMILY COURTS AND SERVICES CENTER AND/OR CLARK COUNTY DISTRICT COURT FAMILY DIVISION RECORDS</i></p>
04/10/2018	<p>Notice of Entry <i>Notice of Entry of Order</i></p>
04/24/2018	<p>CANCELED Calendar Call (8:30 AM) (Judicial Officer Johnson, Eric) <i>Vacated</i></p>
04/30/2018	<p>CANCELED Jury Trial (9:00 AM) (Judicial Officer Johnson, Eric) <i>Vacated</i></p>
06/07/2018	<p>Status Check (8:30 AM) (Judicial Officer Johnson, Eric) <i>Status Check: Homicide Trial</i></p> <p>Parties Present</p> <p>Minutes</p> <p>Result: Matter Continued</p>
06/28/2018	<p>Status Check (9:00 AM) (Judicial Officer Johnson, Eric) <i>Status Check: Homicide Trial</i></p> <p>Parties Present</p> <p>Minutes</p> <p>Result: Matter Heard</p>
07/02/2018	<p>Case Reassigned to Department 12 <i>Reassigned From Judge Johnson - Dept 20</i></p>
07/13/2018	<p>Notice of Witnesses and/or Expert Witnesses <i>State's Amended Notice of Witnesses and/or Expert Witnesses</i></p>
07/19/2018	<p>Notice of Witnesses and/or Expert Witnesses <i>Notice of Witnesses and/or Expert Witnesses</i></p>
07/25/2018	<p>Receipt of Copy <i>Receipt of Copy</i></p>
08/06/2018	<p>Supplemental Witness List <i>State's Supplemental Amended Notice of Witnesses and/or Expert Witnesses</i></p>
08/08/2018	<p>Receipt of Copy <i>Receipt of Copy</i></p>
08/24/2018	<p>Supplemental Witness List <i>Defense Supplemental Witness List Under [NRS 174.234(1) and 174.234(2)]</i></p>
08/24/2018	<p>Notice of Motion <i>State's Notice of Motion and Motion to Admit Transcript of Prior Jury Trial Testimony of LVMPD Forensic Scientist James Krylo</i></p>
09/04/2018	<p>Motion (8:30 AM) (Judicial Officer Leavitt, Michelle) <i>State's Notice Of Motion And Motion To Admit Transcript Of Prior Jury Trial Testimony Of LVMPD Forensic Scientist James Krylo</i></p> <p>Parties Present</p> <p>Minutes</p> <p><i>10/04/2018 Reset by Court to 09/04/2018</i></p> <p>Result: Granted</p>
09/07/2018	<p>Notice of Motion <i>Notice of Motion and Motion to Admit Transcript of Prior Trial Testimony of Victim Myniece Cook</i></p>
09/18/2018	<p>Calendar Call (8:30 AM) (Judicial Officer Leavitt, Michelle) <i>07/24/2018 Reset by Court to 07/24/2018</i> <i>07/24/2018 Reset by Court to 09/18/2018</i> <i>07/24/2018 Reset by Court to 07/24/2018</i></p> <p>Result: Trial Date Set</p>
09/18/2018	<p>Motion (8:30 AM) (Judicial Officer Leavitt, Michelle) <i>State's Notice of Motion and Motion to Admit Transcript of Prior Jury Trial Testimony of Victim Myniece Cook</i></p> <p>Parties Present</p> <p>Minutes</p> <p><i>10/16/2018 Reset by Court to 09/18/2018</i></p> <p>Result: Granted</p>
09/18/2018	<p>Order <i>Order To Remand Defendant To The Custody Of the Clark County Detention Center</i></p>
09/18/2018	<p>Supplemental Witness List <i>Defense Second Supplemental Witness List Under [NRS 174.234(1) and 174.2341(2)]</i></p>
09/18/2018	<p>All Pending Motions (8:30 AM) (Judicial Officer Leavitt, Michelle)</p> <p>Parties Present</p> <p>Minutes</p> <p>Result: Matter Heard</p>
09/18/2018	<p>CANCELED All Pending Motions (8:30 AM) (Judicial Officer Leavitt, Michelle) <i>Vacated</i></p>
09/24/2018	<p>Jury Trial (10:30 AM) (Judicial Officer Leavitt, Michelle) 09/24/2018, 09/25/2018, 09/26/2018, 09/27/2018, 09/28/2018, 10/01/2018, 10/02/2018, 10/03/2018 <i>Jury Trial</i></p> <p>Parties Present</p> <p>Minutes</p> <p><i>07/31/2018 Reset by Court to 09/25/2018</i> <i>08/06/2018 Reset by Court to 09/04/2018</i></p>

	09/04/2018	Reset by Court to 07/31/2018
	09/25/2018	Reset by Court to 09/24/2018
	10/02/2018	Reset by Court to 10/02/2018
	Result: Trial Continues	
09/25/2018	Jury List	
09/26/2018	Media Request and Order	
	<i>Media Request And Order Allowing Camera Access To Court Proceedings</i>	
09/27/2018	Order for Production of Inmate	
	<i>Order for Production of Inmate</i>	
09/28/2018	Supplemental Witness List	
	<i>Defense Third Supplemental Witness List Under [NRS 174.234(1) and 174.234(2)]</i>	
10/02/2018	Amended Jury List	
10/02/2018	Instructions to the Jury	
10/03/2018	Verdict	
10/03/2018	Stipulation	
	<i>Stipulation and Waiver of Penalty Hearing</i>	
10/10/2018	Order	
	<i>Order for Transcript</i>	
10/29/2018	Recorders Transcript of Hearing	
	<i>Recorder's Partial Transcript of Proceedings: Jury Trial - Day 3, Testimony of Amy Nemick Only, Wednesday, September 26, 2018</i>	
11/16/2018	PSI - Supplemental PSI	
12/04/2018	Memorandum	
	<i>Defendant Jemar Matthews Sentencing Memorandum</i>	
12/05/2018	Sentencing (8:30 AM) (Judicial Officer Leavitt, Michelle)	
	<i>Sentencing (Jury Verdict)</i>	
	Parties Present	
	Minutes	
	Result: Defendant Sentenced	
12/07/2018	Judgment of Conviction	
	<i>Judgment of Conviction (Jury Trial)</i>	
12/07/2018	Criminal Order to Statistically Close Case	
	<i>Criminal Order to Statistically Close Case</i>	
12/19/2018	Notice of Appeal (criminal)	
	<i>Notice of Appeal</i>	
12/19/2018	Case Appeal Statement	
	<i>Case Appeal Statement</i>	
01/18/2019	Recorders Transcript of Hearing	
	<i>Status Check: Homicide Trial, June 07, 2018</i>	
01/18/2019	Recorders Transcript of Hearing	
	<i>Status Check: Homicide Trial, June 28, 2018</i>	
02/08/2019	Recorders Transcript of Hearing	
	<i>Recorder's Transcript of Proceedings: State's Notice of Motion and Motion to Admit Transcript of Prior Jury Trial Testimony of LVMPD Forensic Scientist James Krylo, Tuesday, September 4, 2018</i>	
02/08/2019	Recorders Transcript of Hearing	
	<i>Recorder's Transcript of Proceedings: State's Notice of Motion and Motion to Admit Transcript of Prior Jury Trial Testimony of Victim Myniece Cook; Calendar Call, Tuesday, September 18, 2018</i>	
02/08/2019	Recorders Transcript of Hearing	
	<i>Recorder's Transcript of Proceedings: Sentencing [Jury Verdict], Wednesday, December 5, 2018</i>	
03/12/2019	Recorders Transcript of Hearing	
	<i>Recorder's Transcript of Hearing: Jury Trial - Day 1, Monday, September 24, 2018</i>	
03/12/2019	Recorders Transcript of Hearing	
	<i>Recorder's Transcript of Hearing: Jury Trial - Day 2, Tuesday, September 25, 2018</i>	
03/12/2019	Recorders Transcript of Hearing	
	<i>Recorder's Transcript of Hearing: Jury Trial - Day 3, Wednesday, September 26, 2018</i>	
03/12/2019	Recorders Transcript of Hearing	
	<i>Recorder's Transcript of Hearing: Jury Trial - Day 4, Thursday, September 27, 2018</i>	
03/12/2019	Recorders Transcript of Hearing	
	<i>Recorder's Transcript of Hearing: Jury Trial - Day 5, Friday, September 28, 2018</i>	
03/12/2019	Recorders Transcript of Hearing	
	<i>Recorder's Transcript of Hearing: Jury Trial - Day 6, Monday, October 1, 2018</i>	
03/12/2019	Recorders Transcript of Hearing	
	<i>Recorder's Transcript of Hearing: Jury Trial - Day 7, Tuesday, October 2, 2018</i>	
03/12/2019	Recorders Transcript of Hearing	
	<i>Recorder's Transcript of Day 8: Jury Trial - 8, Wednesday, October 3, 2018</i>	

FINANCIAL INFORMATION

	Defendant Matthews, Jemar	
	Total Financial Assessment	353.00
	Total Payments and Credits	0.00
	Balance Due as of 07/25/2019	353.00
10/19/2007	Transaction Assessment	175.00
12/17/2018	Transaction Assessment	178.00



AINF
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JOHN GIORDANI
Chief Deputy District Attorney
Nevada Bar #012381
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

JEMAR MATTHEWS, aka,
Jemar Demon Matthews, #1956579
Defendant.

CASE NO. 06C228460-2

DEPT NO. III

AMENDED
I N F O R M A T I O N

STATE OF NEVADA }
COUNTY OF CLARK } ss:

STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That JEMAR MATTHEWS, aka, Jemar Demon Matthews, the Defendant(s) above named, having committed the crimes of CONSPIRACY TO COMMIT MURDER (Category B Felony - NRS 200.010, 200.030, 199.480 - NOC 50038); MURDER WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165 - NOC 50001); ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.010, 200.030, 193.330, 193.165 - NOC 50031); POSSESSION OF SHORT BARRELED RIFLE (Category D Felony - NRS 202.275 - NOC 51435); CONSPIRACY TO COMMIT ROBBERY (Category B Felony - NRS 200.380, 199.480 - NOC 50147); ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.380, 193.165 - NOC 50138) and ASSAULT WITH A DEADLY WEAPON (Category B Felony - NRS 200.471 - NOC

1 50201), on or about the 30th day of September, 2006, within the County of Clark, State of
2 Nevada, contrary to the form, force and effect of statutes in such cases made and provided,
3 and against the peace and dignity of the State of Nevada,

4 COUNT 1 - CONSPIRACY TO COMMIT MURDER

5 did then and there meet with each other and between themselves, and each of them with
6 the other, wilfully, unlawfully, and feloniously conspire and agree to commit a crime, to-wit:
7 Murder, and in furtherance of said conspiracy, Defendants did commit the acts as set forth in
8 Counts 2-5, said acts being incorporated by this reference as though fully set forth herein.

9 COUNT 2 - MURDER WITH USE OF A DEADLY WEAPON

10 did then and there wilfully, feloniously, without authority of law, and with
11 premeditation and deliberation, and with malice aforethought, kill MERCY WILLIAMS, a
12 human being, by shooting at and into the body of the said MERCY WILLIAMS, with a deadly
13 weapon, to-wit: firearm, in the following manner, to-wit: Defendants being responsible under
14 the following principles of criminal liability, to-wit: (1) by directly committing said crime;
15 and/or (2) by the Defendants conspiring with each other and unidentified others to kill the said
16 MERCY WILLIAMS, whereby each Defendant is vicariously liable for the acts committed in
17 furtherance of said conspiracy if that Defendant intended that act to occur; and/or (3) the
18 Defendants aiding or abetting in the commission of the crime, by accompanying each other to
19 the crime scene where both of them repeatedly fired guns at the said MERCY WILLIAMS
20 and helped provide a getaway vehicle by assisting in the robbery of an automobile immediately
21 after said shooting; the Defendants encouraging one another throughout by actions or words;
22 the Defendants acting in concert throughout.

23 COUNT 3 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

24 did then and there, without authority of law, and malice aforethought, willfully and
25 feloniously attempt to kill MYNIECE COOK, a human being, by shooting at the said
26 MYNIECE COOK, with a deadly weapon, to-wit: a firearm, in the following manner, to-wit:
27 Defendants being responsible under the following principles of criminal liability, to-wit: (1)
28 by directly committing said crime; and/or (2) by the Defendants conspiring with each other

1 and unidentified others to kill the said MYNIECE COOK, whereby each Defendant is
2 vicariously liable for the acts committed in furtherance of said conspiracy if that Defendant
3 intended that act to occur; and/or (3) the Defendants aiding or abetting in the commission of
4 the crime, by accompanying each other to the crime scene where both of them repeatedly fired
5 guns at the said MYNIECE COOK and helped provide a getaway vehicle by assisting in the
6 robbery of an automobile immediately after said shooting; the Defendants encouraging one
7 another throughout by actions or words; the Defendants acting in concert throughout.

8 COUNT 4 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

9 did then and there, without authority of law, and malice aforethought, willfully and
10 feloniously attempt to kill MICHEL-LE TOLEFREE, a human being, by shooting at the said
11 MICHEL-LE TOLEFREE, with a deadly weapon, to-wit: a firearm, in the following manner,
12 to-wit: Defendants being responsible under the following principles of criminal liability, to-
13 wit: (1) by directly committing said crime; and/or (2) by the Defendants conspiring with each
14 other and unidentified others to kill the said MICHEL-LE TOLEFREE, whereby each
15 Defendant is vicariously liable for the acts committed in furtherance of said conspiracy if that
16 Defendant intended that act to occur; and/or (3) the Defendants aiding or abetting in the
17 commission of the crime, by accompanying each other to the crime scene where both of them
18 repeatedly fired guns at the said MICHEL-LE TOLEFREE and helped provide a getaway
19 vehicle by assisting in the robbery of an automobile immediately after said shooting; the
20 Defendants encouraging one another throughout by actions or words; the Defendants acting
21 in concert throughout.

22 COUNT 5 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

23 did then and there, without authority of law, and malice aforethought, willfully and
24 feloniously attempt to kill MAURICE HICKMAN, a human being, by shooting at the said
25 MAURICE HICKMAN, with a deadly weapon, to-wit: a firearm, in the following manner,
26 to-wit: Defendants being responsible under the following principles of criminal liability, to-
27 wit: (1) by directly committing said crime; and/or (2) by the Defendants conspiring with each
28 other and unidentified others to kill the said MAURICE HICKMAN, whereby each Defendant

1 is vicariously liable for the acts committed in furtherance of said conspiracy if that Defendant
2 intended that act to occur; and/or (3) the Defendants aiding or abetting in the commission of
3 the crime, by accompanying each other to the crime scene where both of them repeatedly fired
4 guns at the said MAURICE HICKMAN and helped provide a getaway vehicle by assisting in
5 the robbery of an automobile immediately after said shooting; the Defendants encouraging
6 one another throughout by actions or words; the Defendants acting in concert throughout.

7 COUNT 6 - POSSESSION OF SHORT BARRELED RIFLE

8 did then and there wilfully, unlawfully, and feloniously possess a short barreled rifle
9 having a barrel less than 16 inches in length, to-wit: a Ruger Model 10/22 .22 caliber, with a
10 barrel approximately 10 3/4 inches long and overall length of 20 inches.

11 COUNT 7 - CONSPIRACY TO COMMIT ROBBERY

12 did then and there meet with each other and between themselves, and each of them with
13 the other, wilfully, unlawfully, and feloniously conspire and agree to commit a crime, to-wit:
14 Robbery, and in furtherance of said conspiracy, Defendants did commit the acts as set forth in
15 Counts 8 and 9, said acts being incorporated by this reference as though fully set forth herein.

16 COUNT 8 - ROBBERY WITH USE OF A DEADLY WEAPON

17 did then and there wilfully, unlawfully, and feloniously take personal property, to-wit:
18 a 1991 Lincoln Town Car, from the person of GEISHE M. ORDUNO, or in her presence, by
19 means of force or violence or fear of injury to, and without the consent and against the will of
20 the said GEISHE M. ORDUNO, said Defendant using a deadly weapon, to-wit: a firearm,
21 during the commission of said crime, in the following manner, to-wit: Defendant JEMAR
22 MATTHEWS, aka, Jemar Demon Matthews, directly committing said crime, PIERRE
23 JOSHLIN aiding and abetting, by pointing said firearm at the said GEISHE M. ORDUNO.

24 COUNT 9 - ROBBERY WITH USE OF A DEADLY WEAPON

25 did then and there wilfully, unlawfully, and feloniously take personal property, to-wit:
26 a 1991 Lincoln Town Car, from the person of MELVIN BOLDEN, or in his presence, by
27 means of force or violence or fear of injury to, and without the consent and against the will of
28 the said MELVIN BOLDEN, said Defendant using a deadly weapon, to-wit: a firearm, during

1 the commission of said crime, in the following manner, to-wit: PIERRE JOSHLIN, directly
2 committing said crime, Defendant JEMAR MATTHEWS aiding and abetting, by pointing said
3 firearm at the said MELVIN BOLDEN.

4 COUNT 10 - ASSAULT WITH A DEADLY WEAPON

5 did then and there wilfully, unlawfully, feloniously and intentionally place another
6 person, to-wit: BRADLEY CUPP, in reasonable apprehension of immediate bodily harm with
7 use of a deadly weapon, to-wit: a firearm, by pointing said firearm at the said BRADLEY
8 CUPP.

9 COUNT 11 - ASSAULT WITH A DEADLY WEAPON

10 did then and there wilfully, unlawfully, feloniously and intentionally place another
11 person, to-wit: BRIAN WALTER, in reasonable apprehension of immediate bodily harm with
12 use of a deadly weapon, to-wit: a firearm, by pointing said firearm at the said BRIAN
13 WALTER.

14
15 STEVEN B. WOLFSON
16 Clark County District Attorney
17 Nevada Bar #001565

18 BY


19 JOHN GIORDANI
20 Chief Deputy District Attorney
21 Nevada Bar #012381

22 Names of witnesses known to the District Attorney's Office at the time of filing this
23 Information are as follows:

24 NAME

ADDRESS

25 BOLDEN, MELVIN

1284 LAWRY AVE., LV, NV

26 COOK, MYNIECE

4823 CAMINO HERMOSO, NLV, NV

27 COR

CCDC

28 COR

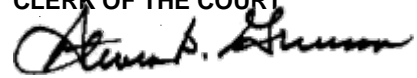
LVMPD – RECORDS

LVMPD – DISPATCH

1	CUPP, BRADLEY K.	LVMPD, P#8104
2	HARDY, KENNETH W.	LVMPD, P#3031
3	KRYLO, JAMES J.	LVMPD, P#5945
4	MOGG, CLIFFORD, H.	LVMPD, P#5096
5	OKELLEY, DEAN F.	LVMPD, P#4209
6	ORDUNO, GEISHE M.	1284 LAWRY AVE., LV, NV
7	Parent of TOLEFREE, MICHELE-LE	3445 GOLDEN SAGE, NLV, NV
8	PETRUCCI, DAVID L.	LVMPD, P#6733
9	RENHARD, LOUISE D.	LVMPD, P#5223
10	SMITH, STEPHANIE T.	LVMPD, P#6650
11	TOLEFREE, MICHEL-LE	3445 GOLDEN SAGE, NLV, NV
12	TREMEL, DONALD J.	LVMPD, P#2038
13	VACCARO, JAMES C.	LVMPD, P#1480
14	WALTER, BRIAN L.	LVMPD, P#8080
15	WILSON, ROBERT T.	LVMPD, P#3836

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27 DA#06F19196B /ed - GCU
28 LVMPD EV#0609303216
(TK7)



1 NWEW
2 TODD M. LEVENTHAL, ESQ.
3 Nevada Bar No. 8543
4 California Bar No. 223577
5 LEVENTHAL & ASSOCIATES, PLLC
6 626 S. 3rd Street
7 Las Vegas, Nevada 89101
8 Telephone: (702) 472-8686
9 Attorney for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,

11 Plaintiff,

12 -vs-

13 JEMAR MATTHEWS, aka,
14 Jemar Demon Matthews, #1956579

15 Defendant.
16
17
18

CASE NO: 06C228460-2

DEPT NO: XII

19 **NOTICE OF WITNESSES AND/OR EXPERT WITNESSES**
20 **[NRS 174.234]**
21

22 TO: STEVEN B. WOLFSON, Clark County District Attorney and

23 JOHN GIORDANI, Chief Deputy District Attorney:

24 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that Defendant JEMAR
25 MATTHEWS, by and through his attorney, TODD LEVENTHAL, of the Law Firm of Leventhal &
26 Associates, reserves the right to call expert witnesses in his case in chief as follows:
27
28

MARK CHAMBERS – Mr. Chambers is a Forensic eyewitness unreliability, memory issues expert (Curriculum Vita attached exhibit A). Mr. Chambers will testify as an expert witness in the areas of crime scene investigation/ examination, homicide scene investigation and eyewitness credibility. Mr. Chambers would testify to his review of the report, transcripts, discovery and photographs in the instant case and his interpretations and opinions regarding same.

LEVENTHAL & ASSOCIATES, PLLC

/s/ Todd M. Leventhal, Esq.

TODD M. LEVENTHAL, ESQ.

Nevada Bar No. 8543

California Bar No. 223577

626 S. 3rd Street

Las Vegas, Nevada 89101

Attorney for Defendant

Exhibit “A”

Curriculum Vitae

MARK J. CHAMBERS, PH.D.

8275 S. Eastern, Suite 200

Las Vegas, NV 89123

(702) 614-4550

LICENSURE NV License No. PY267

EDUCATION

1979	Stanford University	B.A. (Psychology)
1980	Stanford University	M.A. (Education)
1988	Northwestern University	Ph.D. (Clinical Psychology)

ACADEMIC HONORS

Undergraduate:	B.A. with Distinction; Phi Beta Kappa
Graduate:	Northwestern University Presidential Fellowship, 1984-85 Walter Dill Scott Fellowship, 1986

PROFESSIONAL ASSOCIATIONS

American Psychology-Law Society
Diplomate, American Academy of Sleep Medicine

FORENSIC EXPERIENCE

- ☐ 2000+ forensic evaluations for public and private agencies over the past 15 years
- ☐ Qualified as an expert witness in District, Federal and Military Courts for both civil and criminal litigation. Serve as expert for both prosecution and defense.
- ☐ Areas of expertise include, but are not limited to:
 - ▶ counterintuitive victim behavior/tonic immobility/domestic violence
 - ▶ risk of sexual reoffending/rehabilitation potential
 - ▶ false sexual assault allegations
 - ▶ coerced confessions
 - ▶ suggestibility/child interview techniques
 - ▶ eyewitness unreliability/memory issues
 - ▶ competency to stand trial/criminal responsibility;
 - ▶ child custody and parental fitness
 - ▶ sleep disorders/effects of sleeping medications
 - ▶ drug/alcohol effects on judgment, decision making, memory, perception
 - ▶ sentencing mitigation/diminished capacity
 - ▶ fight or flight/behavior under duress

CLINICAL EXPERIENCE

1999-present: Private Practice

- ▶ Evaluation and treatment of childhood behavior disturbances
- ▶ Attention deficit hyperactivity disorder assessment and management
- ▶ Parental skills training/Family therapy
- ▶ Evaluation and treatment of adult mood and anxiety disorders
- ▶ Stress management training
- ▶ Behavioral medicine
- ▶ Psychological testing
- ▶ Educational evaluations
- ▶ Sleep disorders.

2000-2004: American Sleep Diagnostics

Clinical Director

- ▶ Coordination of all clinical activities
- ▶ Assessment of patients
- ▶ Interpretation of test data
- ▶ Supervision of technical staff
- ▶ Consultation to referring physicians
- ▶ Community education/public relations

1993-1999: The Sleep Clinic of Nevada

Clinical Director

- ▶ Coordination of all clinical activities
- ▶ Assessment of patients
- ▶ Interpretation of test data
- ▶ Training and supervision of technical staff
- ▶ Behavioral management of clinic patients
- ▶ Consultation to referring physicians
- ▶ Community education/public relations

1988-92: Stanford University Medical Center

Program Director

- ▶ Coordination of assessment and treatment of patients
- ▶ Clinical research
- ▶ Program budget analysis
- ▶ Psychophysiological testing

CLINICAL EXPERIENCE (cont)

1987-88: Dallas Child Guidance Clinic

APA-Approved Clinical Internship

- ▶ Psychological assessment
- ▶ Psychotherapy (family, group, and individual play therapy)
- ▶ Behavior therapy and parental skills training
- ▶ Forensic assessment
- ▶ Child sexual abuse assessment and treatment

1986-87: Outpatient Psychiatry, Evanston Hospital

Clinical Practicum

- ▶ Clinical assessment
- ▶ Psychotherapy (individual adult and child therapy)

TEACHING EXPERIENCE

1994-2001: University of Nevada-Las Vegas

Instructor

Courses: Introductory Psychology

1990-92: Pacific Graduate School of Psychology

Associate Professor

Courses: Research Methods, Statistics I, Statistics II, Research Group

OTHER PROFESSIONAL EXPERIENCE

1992-1999: Legal Psychology Consulting

Director

- ▶ Independent consultation to attorneys, district attorney's office, government agencies, judges, on cases involving psychological issues.

1989-92: Pacific Graduate School of Psychology

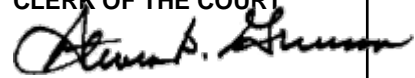
Clinical Supervisor

- ▶ Clinical supervision of graduate students in first-year practicum placements

1986-87: Leo Burnett Company

Research Associate

- ▶ Primary and secondary research concerning the effects of children's advertising and related issues



NWEW
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JOHN GIORDANI
Chief Deputy District Attorney
Nevada Bar #012381
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

JEMAR MATTHEWS, aka,
Jemar Demon Matthews, #1956579
Defendant.

CASE NO: 06C228460-2

DEPT NO: XII

STATE'S SUPPLEMENTAL AMENDED NOTICE OF WITNESSES
AND/OR EXPERT WITNESSES
[NRS 174.234]

TO: JEMAR MATTHEWS, aka, Jemar Demon Matthews, Defendant; and
TO: TODD LEVENTAHL, Counsel of Record:
YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF
NEVADA intends to call the following witnesses and/or expert witnesses in its case in chief:

ADAM, Z. – LVMPD #9028

ALBY, ROCKY – LVMPD #1810

ANKENY, J. – LVMPD #9155

ATKINSON, K. - LVMPD #8542

BAKER, CHAD - LVMPD #6266

BALLEJOS, J. - LVMPD #8406

BANEZ, N. – LVMPD #9030

1 BARNETT, J. - LVMPD #8733
2 BASSLOTT, G. - LVMPD #8447
3 BECK, S. – LVMPD #6275
4 BEITEL, M. - LVMPD #8092
5 BENTLEY, BETTY - c/o CCDA, 200 Lewis Avenue, LV, NV 89101
6 BOLDEN, MELVIN - c/o CCDA, 200 Lewis Avenue, LV, NV 89101
7 BOYD, FRED - LVMPD #5216
8 BRIGGS, D. – LVMPD #6201
9 BROOKS, NIKOLE - c/o CCDA, 200 Lewis Avenue, LV, NV 89101
10 BROWN, C. - LVMPD #4973
11 BRUINS, SANDRA – 4805 PALM TREE COURT, NLV NV
12 BURGESS, D - LVMPD #4004
13 BURKE, A. – LVMPD #8802
14 BURKS, MICHAEL – c/o CCDA, 200 Lewis Avenue, LV, NV 89101
15 CALARCO, MICHAEL - LVMPD
16 CAMPBELL, MARION - c/o CCDA, 200 Lewis Avenue, LV, NV 89101
17 CARTER, A. – LVMPD (or designee): Expert on the identification, activities,
18 monikers, associations between and interactions of criminal street gangs, including, but not
19 limited to: xx gang and will testify thereto, as contemplated by NRS 193.168, as well as to the
20 culture and subculture of those groups, including but not limited to, beliefs, customs, language,
21 lifestyle, codes of conduct, criminal activity including felonious activities, nomenclature,
22 symbols, weapons, attire, image, and rivalries as well as relevant factors related to the conduct,
23 status and customs of criminal street gangs including, but not limited to those listed in NRS
24 193.168(7).
25 CAVARICCI, A. - LVMPD #9024
26 CONN, T. - LVMPD #8101
27 COOK, MYNIECE - c/o CCDA, 200 Lewis Avenue, LV, NV 89101
28 CROCKETT, ELIZABETH, 2909 MULLIGAN, LV NV

1 CULVER, D. – LVMPD
2 CUP, BRADLEY - LVMPD #8104
3 DALE, G. - LVMPD #2731
4 DEPIERRO, M. - LVMPD #9027
5 DONEGAN, C. – LVMPD #5591
6 DUKES, J. - LVMPD #5656
7 DUNN, C. - LVMPD #8253
8 ERICSON, E. – LVMPD #6218
9 EVANS, R. – LVMPD #8372
10 EWING, B. - LVMPD #8412
11 FAIRFAX, STEVE - c/o CCDA, 200 Lewis Avenue, LV, NV 89101
12 FANBELLENA, R. - LVMPD #6834
13 FASULO, T. - LVMPD #4061
14 FENDER, K. - LVMPD #8896
15 FLETCHER (SMITH), STEPHANIE - LVMPD P#6650 (or designee): CRIME
16 SCENE ANALYST: Expert in the identification, documentation, collection and preservation
17 of evidence and is expected to testify as an expert to the identification, documentation,
18 collection and preservation of the evidence in this case.
19 FULLER, P. - LVMPD #8774
20 GARRETT, R. - LVMPD #9408
21 GAUTHIER, KELLIE - LVMPD P#8691 (or designee): Expert in the field of DNA
22 extractions, comparisons, analysis, and the identification of bodily fluids and is expected to
23 testify thereto.
24 GILBERT, L. – LVMPD #6513
25 GUYER, J. - LVMPD #7430
26 HARDWICK, J. - LVMPD #6056
27 HARDY, KENNETH - LVMPD #3031
28 HERNANDEZ, MONICA – 4805 PALM TREE COURT, NLV NV

1 HICKMAN, NAURICE - c/o CCDA, 200 Lewis Avenue, LV, NV 89101
2 HOOKS, GARY – c/o CCDA, 200 Lewis Avenue, LV, NV 89101
3 HOWARD, D. - LVMPD #6824
4 HOWARD, MATTHEW – 1001 W. ADAMS, LV NV
5 HUBBARD, R. - LVMPD #7181
6 HUGHES, P. – LVMPD #9084
7 HUNT, R. - LVMPD #3833
8 IBARRA, NESTOR – 259 N. LAMB BLVD #A, LV NV
9 JENSEN, B. - LVMPD #3662
10 JOHNSON, R. - LVMPD #4395
11 JONES, ANTWON – c/o CCDA, 200 Lewis Avenue, LV, NV 89101
12 KELLY, T. - LVMPD #3807
13 KENT, R. – LVMPD #6179
14 KOPF, M. – LVMPD #8420
15 KRYLO, JAMES - LVMPD P#5945 (or designee): FIREARMS/TOOLMARK
16 EXAMINER with the Las Vegas Metropolitan Police Department. He is an expert in the field
17 of firearm and toolmark comparisons and is expected to testify thereto.
18 KYGER, T. - LVMPD #4191
19 LEON, RUTH - DA INVESTIGATOR
20 LEWIS, A. - LVMPD #8898
21 LEWIS, P. - LVMPD #8559
22 LOEFFLER, M. - LVMPD #9247
23 MARTINEZ, MICHAEL - BEXAR COUNTY LAB
24 MATTISON, DANIELLE - c/o CCDA, 200 Lewis Avenue, LV, NV 89101
25 MCLAUGHLIN, RANDAL - LVMPD P#4170 (or designee): CRIME SCENE
26 ANALYST: Expert in the identification, documentation, collection and preservation of
27 evidence and is expected to testify as an expert to the identification, documentation, collection
28 and preservation of the evidence in this case.

1 MCPHAIL, RANDALL - LVMPD P#3326 (or designee): SENIOR CRIME SCENE
2 ANALYST: Expert in the identification, documentation, collection and preservation of
3 evidence and is expected to testify as an expert to the identification, documentation, collection
4 and preservation of the evidence in this case.

5 MEAD, K. - LVMPD #5831

6 MITCHELL, J. - LVMDP #1829

7 MOGG, CLIFFORD - LVMPD #5096

8 MOON, RIC - DA INVESTIGATOR

9 MOORE, KYLE - 2770 S. MARYLAND PKWY, LV NV

10 MOUTIMER, P. - LVMPD #8572

11 MURRAY, S. - LVMPD #4147

12 NELSON, J. - LVMPD #6825

13 NEMCIK, AMY - LVMPD P#8504 (or designee): CRIME SCENE ANALYST:
14 Expert in the identification, documentation, collection and preservation of evidence and is
15 expected to testify as an expert to the identification, documentation, collection and
16 preservation of the evidence in this case.

17 NEWTON, D. - LVMPD #5278

18 NICOLS - LVMPD #4398

19 O'KELLEY, D. - LVMPD #4209

20 OLSON, DR. ALANE (or designee): A medical doctor, employed by the Clark County
21 Coroner's Office as a Deputy Medical Examiner/Forensic Pathologist. She is an expert in the
22 area of forensic pathology and will give scientific opinions related thereto. She is expected to
23 testify regarding the cause and manner of death of Mercy Williams.

24 ORDUNO, GEISHE - c/o CCDA, 200 Lewis Avenue, LV, NV 89101

25 OVERSON, C. - LVMPD #6035

26 OWENS, NICOLAS - 14 ROYAL CANYON DRIVER, LV NV

27 PEACOCK, J. - LVMPD #8276

1 PERKINS, MIKE – LVMPD #4242 (or designee): CRIME SCENE ANALYST II:
2 Expert in the identification, documentation, collection and preservation of evidence and is
3 expected to testify as an expert to the identification, documentation, collection and
4 preservation of the evidence in this case.

5 PETRUCCI, D. – LVMPD #6733

6 POLLOCK, W. – LVMPD #7203

7 PRICE, R. - LVMPD #7925

8 PUNNUCCI, A. – LVMPD #7063

9 RENHARD, LOUISE - LVMPD P#5223 (or designee): CRIME SCENE ANALYST:
10 Expert in the identification, documentation, collection and preservation of evidence and is
11 expected to testify as an expert to the identification, documentation, collection and
12 preservation of the evidence in this case.

13 RICHTER, J. - LVMPD #5629

14 RIOS, K. - LVMPD #8422

15 RISSO, LEANNA - LVMPD P#8175 (or designee): CRIME SCENE ANALYST:
16 Expert in the identification, documentation, collection and preservation of evidence and is
17 expected to testify as an expert to the identification, documentation, collection and
18 preservation of the evidence in this case.

19 ROBERTS, L. – LVMPD #3379

20 ROBINSON, RICARDO - CITY OF HENDERSON

21 RUFFINO, DAVID - LVMPD P#1502 (or designee): CRIME SCENE ANALYST:
22 Expert in the identification, documentation, collection and preservation of evidence and is
23 expected to testify as an expert to the identification, documentation, collection and
24 preservation of the evidence in this case.

25 RUNDELL, R. 0 LVMPD #8719

26 SABRA, J. – LVMPD #7299

27 SAMS, JESSIE – LVMPD P#4793 (or designee): CRIME SCENE ANALYST: Expert
28 in the identification, documentation, collection and preservation of evidence and is expected

1 to testify as an expert to the identification, documentation, collection and preservation of the
2 evidence in this case.

3 SCHOFIELD, G. - LVMPD #2930

4 SEED, M. – LVMPD #6724

5 SHANE, D. – LVMPD #6727

6 SHOEMAKER, R. - LVMPD #2096

7 SHRUM, SHELLY - LVMPD P#7917 (or designee): CRIME SCENE ANALYST:
8 Expert in the identification, documentation, collection and preservation of evidence and is
9 expected to testify as an expert to the identification, documentation, collection and
10 preservation of the evidence in this case.

11 SINK, J. - LVMPD #8528

12 SMINK, JEFF - LVMPD P#6556 (or designee): CRIME SCENE ANALYST: Expert
13 in the identification, documentation, collection and preservation of evidence and is expected
14 to testify as an expert to the identification, documentation, collection and preservation of the
15 evidence in this case.

16 SPEAS, WILLIAM - LVMPD P#5228 (or designee): CRIME SCENE ANALYST:
17 Expert in the identification, documentation, collection and preservation of evidence and is
18 expected to testify as an expert to the identification, documentation, collection and
19 preservation of the evidence in this case.

20 STEIMETZ, B. - LVMPD #8902

21 THACKER, R. – LVMPD #4440

22 TOLEFREE, JAY - c/o CCDA, 200 Lewis Avenue, LV, NV 89101

23 TOLEFREE, MICHEL-LE - c/o CCDA, 200 Lewis Avenue, LV, NV 89101

24 TOTH, CHERYL – 6099 CARLSBAD AVE, LV NV

25 TOTH, JENNIFER – 900 DOOLITTLE #226, LV NV

26 TRAMMELL, MATTHEW - DA INVESTIGATOR

27 TREMAL, DONALD - LVMPD #2038

28 TREMEL, DON – LVMPD #2038

1 TWIGGER, K. – LVMPD #9060
2 VACCARO, JAMES - LVMPD #1480
3 VACHON, CRYSTINA (or designee): FORENSIC SCIENTIST with Bexar County
4 Criminal Investigation Laboratory, San Antonio, Texas - She is an expert in forensic testing
5 and analysis in the area of Trace Evidence and is expected to testify thereto.

6 WACT, M. – LVMPD #9165
7 WALKER, SHARON – 2930 MOUNTIAIN VISTA, #203, LV NV
8 WALTER, BRIAN - LVMPD #8080
9 WALTON, MARVIS - ME #0011
10 WASHINGTON, DARVEL – 2113 LAWRY, NLV NV
11 WASHINGTON, MARC - LVMPD P#4725 (or designee): CRIME SCENE
12 ANALYST: Expert in the identification, documentation, collection and preservation of
13 evidence and is expected to testify as an expert to the identification, documentation, collection
14 and preservation of the evidence in this case.

15 WIGGINS, R. – LVMPD #9192
16 WILDEMANN, MARTIN - LVMPD #3516
17 WILLIAMS, CORA - c/o CCDA, 200 Lewis Avenue, LV, NV 89101
18 WILLIAMS, JOE – 8185 HUMMING LANE, LV NV
19 WILLIAMS, SHAUNA - c/o CCDA, 200 Lewis Avenue, LV, NV 89101
20 WILLIS, J. - LVMPD #6683
21 WILSON, ROBERT - LVMPD #3836
22 YU, M., - LVMPD #5808

23 These witnesses are in addition to those witnesses endorsed on the Information or
24 Indictment and any other witness for which a separate Notice of Witnesses and/or Expert
25 Witnesses has been filed.

26 //

27 //

28 //

1 The substance of each expert witness' testimony and copy of all reports made by or at
2 the direction of the expert witness has been provided in discovery.

3 A copy of each expert witness' curriculum vitae, if available, is attached hereto.
4

5 STEVEN B. WOLFSON
6 Clark County District Attorney
7 Nevada Bar #001565

8 BY /s// JOHN GIRODANI
9 JOHN GIORDANI
10 Chief Deputy District Attorney
11 Nevada Bar #012381

12 CERTIFICATE OF ELECTRONIC TRANSMISSION

13 I hereby certify that service of the above and foregoing was made this 6th day of
14 August, 2018, by electronic transmission to:

15 TODD LEVENTHAL
16 leventhalandassociates@gmail.com

17 BY /s// E. DEL PADRE
18 E. DEL PADRE
19 Secretary for the District Attorney's Office
20
21
22
23
24
25
26
27

28 ed/GCU

1 PROSPECTIVE JUROR NO. 334: Thank you.
2 THE COURT: Thank you for being here.
3 Mr. Whitman, good afternoon. How long have you
4 lived in Clark County?
5 PROSPECTIVE JUROR NO. 338: Since 2000.
6 THE COURT: Okay. Your education background?
7 PROSPECTIVE JUROR NO. 338: High school.
8 THE COURT: Okay. What do you do for a living?
9 PROSPECTIVE JUROR NO. 338: I'm currently
10 unemployed.
11 THE COURT: Okay. What was your last job?
12 PROSPECTIVE JUROR NO. 338: I worked at a call
13 center, customer service.
14 THE COURT: Okay. Your marital status?
15 PROSPECTIVE JUROR NO. 338: Single.
16 THE COURT: Do you have kids?
17 PROSPECTIVE JUROR NO. 338: No.
18 THE COURT: Any reason why you could not be a
19 completely fair and impartial juror?
20 PROSPECTIVE JUROR NO. 338: No.
21 THE COURT: Thank you, Mr. Whitman. Thank you for
22 being here.
23 Ms. Wendy Sandefur.
24 PROSPECTIVE JUROR NO. 342: Yes.
25 THE COURT: Good afternoon. How long have you lived

1 in Clark County?

2 PROSPECTIVE JUROR NO. 342: 2002.

3 THE COURT: What do you do for a living?

4 PROSPECTIVE JUROR NO. 342: Medical

5 transcriptionist.

6 THE COURT: Okay. What's your education background?

7 PROSPECTIVE JUROR NO. 342: A little college. A

8 little general college.

9 THE COURT: Okay. So you just study general

10 education?

11 PROSPECTIVE JUROR NO. 342: Yes.

12 THE COURT: Okay. And your marital status?

13 PROSPECTIVE JUROR NO. 342: Widow.

14 THE COURT: Do you have kids?

15 PROSPECTIVE JUROR NO. 342: Yes.

16 THE COURT: How many?

17 PROSPECTIVE JUROR NO. 342: One.

18 THE COURT: One child. Is that child old enough to

19 be employed?

20 PROSPECTIVE JUROR NO. 342: Yes, she is.

21 THE COURT: What does she do for a living?

22 PROSPECTIVE JUROR NO. 342: She's an entrepreneur.

23 She's in hydro colon therapy.

24 THE COURT: She's in what?

25 PROSPECTIVE JUROR NO. 342: Hydro colon therapy.

1 THE COURT: Okay. Do you know of any reason why you
2 could not be a fair and impartial juror?
3 PROSPECTIVE JUROR NO. 342: No.
4 THE COURT: Okay. Thank you. Thank you for being
5 here.
6 PROSPECTIVE JUROR NO. 342: Okay.
7 THE COURT: Mr. Ashford, good afternoon again. How
8 long have you lived in Clark County?
9 PROSPECTIVE JUROR NO. 348: Since August of 2016.
10 THE COURT: So fairly new to Clark County.
11 PROSPECTIVE JUROR NO. 348: Yes.
12 THE COURT: Where did you move from?
13 PROSPECTIVE JUROR NO. 348: We sold our house in
14 Moreno Valley and moved here.
15 THE COURT: Okay. Your education background?
16 PROSPECTIVE JUROR NO. 348: High school, some
17 college.
18 THE COURT: What did you study?
19 PROSPECTIVE JUROR NO. 348: Business.
20 THE COURT: Okay. What do you do for a living?
21 PROSPECTIVE JUROR NO. 348: I'm retired Air Force,
22 and retired from the Department of Labor.
23 THE COURT: What did you do at the Department of
24 Labor?
25 PROSPECTIVE JUROR NO. 348: I enrolled students for

1 different vocational training programs.

2 THE COURT: Okay. Your marital status?

3 PROSPECTIVE JUROR NO. 348: Married.

4 THE COURT: Is your spouse employed?

5 PROSPECTIVE JUROR NO. 348: She's retired.

6 THE COURT: What did she retire from?

7 PROSPECTIVE JUROR NO. 348: She was working for the

8 Pentagon Federal Credit Union.

9 THE COURT: Do you have children?

10 PROSPECTIVE JUROR NO. 348: One son.

11 THE COURT: Is he old enough to be employed?

12 PROSPECTIVE JUROR NO. 348: Yes, he is.

13 THE COURT: Can you tell me what he does for a

14 living?

15 PROSPECTIVE JUROR NO. 348: He actually is a

16 songwriter. He writes music for different people.

17 THE COURT: Do you know of any reason why you could

18 not be a fair and impartial juror?

19 PROSPECTIVE JUROR NO. 348: None whatsoever.

20 THE COURT: Thank you, Mr. Ashford. Thank you for

21 being here.

22 Mr. Moore.

23 PROSPECTIVE JUROR NO. 354: Yes, ma'am.

24 THE COURT: How long have you lived in Clark County?

25 PROSPECTIVE JUROR NO. 354: 40 years.

1 THE COURT: Okay. How long have you lived in Clark
2 County?
3 PROSPECTIVE JUROR NO. 414: Since 2001.
4 THE COURT: Okay. What do you do for a living?
5 PROSPECTIVE JUROR NO. 414: I'm an automation
6 technician for Cirque Du Soleil.
7 THE COURT: Okay. You're going to have to tell me
8 what that means.
9 PROSPECTIVE JUROR NO. 414: Automation is all the
10 computer controlled large moving pieces in the show.
11 Automation is responsible for maintaining and running during
12 the show.
13 THE COURT: Okay. Do you work for a specific show
14 or for the entire company?
15 PROSPECTIVE JUROR NO. 414: I work for Michael
16 Jackson One as a maintenance, stage maintenance.
17 THE COURT: Okay. Your education background?
18 PROSPECTIVE JUROR NO. 414: Some college, computer
19 science.
20 THE COURT: Okay. Your marital status?
21 PROSPECTIVE JUROR NO. 414: Single.
22 THE COURT: Do you have children?
23 PROSPECTIVE JUROR NO. 414: One son, 13.
24 THE COURT: Okay. Do you know of any reason why you
25 could not be a fair and impartial juror if you were selected

1 THE COURT: Okay. And so you also own a photography
2 business?

3 PROSPECTIVE JUROR NO. 246: Yes, I'm a sole investor
4 in an LLC, so it's a pass-through corporation.

5 THE COURT: Okay. Thank you, sir.

6 Anyone else that's ever served as a juror before??

7 PROSPECTIVE JUROR NO. 342: Wendy Sandefur, 342.

8 THE COURT: Okay. How many times?

9 PROSPECTIVE JUROR NO. 342: Just once.

10 THE COURT: Was that here in Clark County?

11 PROSPECTIVE JUROR NO. 342: No, it was in Los
12 Angeles, California.

13 THE COURT: Was it civil?

14 PROSPECTIVE JUROR NO. 342: Civil.

15 THE COURT: Okay. Were you selected to be the
16 foreperson?

17 PROSPECTIVE JUROR NO. 342: No.

18 THE COURT: Were you able to reach a verdict?

19 PROSPECTIVE JUROR NO. 342: Yes.

20 THE COURT: Anything about that experience that
21 would affect your ability to be fair and impartial in this
22 case?

23 PROSPECTIVE JUROR NO. 342: No.

24 THE COURT: Thank you.

25 PROSPECTIVE JUROR NO. 354: Lewis Moore, Badge No.

1 anymore.

2 THE COURT: All right. Did you testify when you
3 came the first time?

4 PROSPECTIVE JUROR NO. 330: Yes, I did.

5 THE COURT: And did you have to identify anyone?

6 PROSPECTIVE JUROR NO. 330: They didn't ask -- they
7 just asked me if I knew the guy, but not while I was at the
8 stand.

9 THE COURT: Okay. Were you able to identify the
10 person?

11 PROSPECTIVE JUROR NO. 330: He kind of looked
12 familiar. I was not 100 percent sure, so I didn't.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NO. 330: Yeah.

15 THE COURT: Is there -- but you said they didn't get
16 the second person?

17 PROSPECTIVE JUROR NO. 330: No.

18 THE COURT: Okay. Anything about that experience
19 that would interfere with your ability to be fair in this
20 case?

21 PROSPECTIVE JUROR NO. 330: No, ma'am.

22 THE COURT: Okay. Do you think you were treated
23 fairly?

24 PROSPECTIVE JUROR NO. 330: Yeah.

25 THE COURT: Well, you kind of hesitate.

1 PROSPECTIVE JUROR NO. 330: I mean, I don't know, it
2 was so long ago. I just moved on. Like --

3 THE COURT: Okay.

4 PROSPECTIVE JUROR NO. 330: Yeah. I got the money
5 back for my phone, so that's pretty much it.

6 THE COURT: Okay. I didn't mean do you think you
7 were treated fairly by the perpetrators.

8 PROSPECTIVE JUROR NO. 330: Oh.

9 THE COURT: I mean, do you think you were treated --
10 because you clearly weren't.

11 PROSPECTIVE JUROR NO. 330: Right.

12 THE COURT: Were you treated fairly by --

13 PROSPECTIVE JUROR NO. 330: Everything else, yeah.
14 It was fine.

15 THE COURT: -- law enforcement?

16 PROSPECTIVE JUROR NO. 330: Uh-huh. Yeah.

17 THE COURT: Is that a yes?

18 PROSPECTIVE JUROR NO. 330: Yes.

19 THE COURT: Okay. Thank you.

20 PROSPECTIVE JUROR NO. 333: Angela Berens, 333. My
21 disabled uncle was murdered by a friend from his AA group in
22 2014.

23 THE COURT: Was that here in Clark County?

24 PROSPECTIVE JUROR NO. 333: No, it was Norwalk,
25 Ohio, which is just outside of Sandusky, Ohio.

1 manager; right?

2 PROSPECTIVE JUROR NO. 266: Correct.

3 MR. GIORDANI: What is your feeling on the criminal
4 justice system, ma'am?

5 PROSPECTIVE JUROR NO. 266: I'm impartial. I
6 haven't really done much with the law --

7 MR. GIORDANI: Okay.

8 PROSPECTIVE JUROR NO. 266: -- you know, so I just
9 want to hear the facts and make a decision based off of that.

10 MR. GIORDANI: All right. You think our system is
11 fair?

12 PROSPECTIVE JUROR NO. 266: Yeah, for the most part.

13 MR. GIORDANI: All right. Do you have any feelings,
14 strong feelings one way or the other, about law enforcement?

15 PROSPECTIVE JUROR NO. 266: No.

16 MR. GIORDANI: Okay.

17 PROSPECTIVE JUROR NO. 266: They're there to do
18 their job. I call them a lot. I work in retail.

19 MR. GIORDANI: Oh, right.

20 PROSPECTIVE JUROR NO. 266: They respond quickly.

21 MR. GIORDANI: Good point. So have you been a
22 witness in shoplifting cases and that type of thing?

23 PROSPECTIVE JUROR NO. 266: We've had one where one
24 of my assistants had to do it, but recently my store was
25 robbed, which I can't discuss any of the details because we're

1 of prosecuting marijuana. We do murder, so this is not an
2 issue. What could be an issue is you were prosecuted once,
3 and what we don't want is someone who is going to somehow have
4 some prejudice or bias against us in this case. You get why
5 I'm asking you about this?

6 PROSPECTIVE JUROR NO. 271: Yes, sir.

7 MR. GIORDANI: Okay. Any concerns you have about
8 having gone through the system yourself that would cause you
9 to be unfair here that we should know about?

10 PROSPECTIVE JUROR NO. 271: No, I was treated fairly
11 the whole time.

12 MR. GIORDANI: Okay. Do you have an opinion on the
13 system in general, the criminal justice system?

14 PROSPECTIVE JUROR NO. 271: Without law there isn't
15 order, so it's a must. I mean, nobody is perfect, but --

16 MR. GIORDANI: Okay. You think it's fair?

17 PROSPECTIVE JUROR NO. 271: If it's proven, it's
18 fair.

19 MR. GIORDANI: Okay. Can you hold us, Ms. Lexis and
20 I, to our burden of proof that I discussed earlier?

21 PROSPECTIVE JUROR NO. 271: Yes.

22 MR. GIORDANI: Make sure that we have to -- we have
23 to prove our case beyond a reasonable doubt before you find
24 Mr. Matthews guilty?

25 PROSPECTIVE JUROR NO. 271: Yes, sir.

1 this along a little bit, so those questions I've asked all
2 your fellow jurors, do you -- can you give me kind of a
3 summary of how you feel about the system and law enforcement
4 and all that?

5 PROSPECTIVE JUROR NO. 354: The system, I think, is
6 -- is about as good as it can get, you know. It's not 100
7 percent, of course.

8 MR. GIORDANI: Sure.

9 PROSPECTIVE JUROR NO. 354: But you know, overall,
10 it's well. Law enforcement, other than them giving me
11 tickets, you know, I've never had a bad experience.

12 MR. GIORDANI: Okay. And your brother is a
13 corrections officer?

14 PROSPECTIVE JUROR NO. 354: Yes.

15 MR. GIORDANI: At Ely?

16 PROSPECTIVE JUROR NO. 354: Yes.

17 MR. GIORDANI: That's one of our prisons here in
18 Nevada?

19 PROSPECTIVE JUROR NO. 354: Yes.

20 MR. GIORDANI: Anything about that that either side
21 here should be concerned about? Either the defense or -- or
22 us, as the State?

23 PROSPECTIVE JUROR NO. 354: I mean, I would -- I'd
24 feel bad, you know, sending somebody to where my brother is,
25 you know. I worry for his sake.

1 MR. GIORDANI: All right. Thank you, sir. Anything
2 else that I haven't asked you that I've addressed with the
3 other people that you could tell me?
4 PROSPECTIVE JUROR NO. 348: No.
5 MR. GIORDANI: All right. And you can pass the
6 microphone on over to Ms. Sandefur.
7 How are you?
8 PROSPECTIVE JUROR NO. 342: I'm fine.
9 MR. GIORDANI: And you're 342?
10 PROSPECTIVE JUROR NO. 342: Yes.
11 MR. GIORDANI: Your father was killed in the 70s in
12 -- in Los Angeles?
13 PROSPECTIVE JUROR NO. 342: That is correct.
14 MR. GIORDANI: I'm sorry to bring it up, but same
15 concerns as I had with -- with Mr. Ashford here. Is there
16 anything about what happened to your dad that causes you
17 concern or should cause either side here concern?
18 PROSPECTIVE JUROR NO. 342: No.
19 MR. GIORDANI: All right. Do you check in and
20 see --
21 PROSPECTIVE JUROR NO. 342: No, I haven't checked
22 in.
23 MR. GIORDANI: Okay. It's been a while.
24 PROSPECTIVE JUROR NO. 342: It's been a while.
25 MR. GIORDANI: It's the 70s.

1 PROSPECTIVE JUROR NO. 342: Yes.

2 MR. GIORDANI: Okay. What is your feeling, ma'am,

3 on the system in general? You've heard all of the questions

4 I've asked.

5 PROSPECTIVE JUROR NO. 342: Well, yeah, somebody --

6 a jury trial, I think it's fair.

7 MR. GIORDANI: Okay.

8 PROSPECTIVE JUROR NO. 342: A jury trial.

9 MR. GIORDANI: All right. What about the -- the

10 entire system? Uh-oh. Was that a loaded question?

11 PROSPECTIVE JUROR NO. 342: Yes.

12 MR. GIORDANI: All right.

13 PROSPECTIVE JUROR NO. 342: I thought we were going

14 to stick to the jury trial.

15 MR. GIORDANI: Well, no. Because you gave that

16 smirk when I did it, so now I knew I had to ask. So I have to

17 know.

18 PROSPECTIVE JUROR NO. 342: No, I -- I was just

19 teasing. Yeah. I think it's pretty fair.

20 MR. GIORDANI: Okay. Pretty fair, not perfect?

21 PROSPECTIVE JUROR NO. 342: Pretty fair.

22 MR. GIORDANI: All right. Anything that -- that

23 should cause either side concern?

24 PROSPECTIVE JUROR NO. 342: No.

25 MR. GIORDANI: You understand this case needs to be

1 judged on what's coming from the witness --

2 PROSPECTIVE JUROR NO. 342: That's right.

3 MR. GIORDANI: -- stand and that's it?

4 PROSPECTIVE JUROR NO. 342: Yes.

5 MR. GIORDANI: Anything I've asked your fellow

6 jurors that I haven't asked you that you think we should know

7 about you?

8 PROSPECTIVE JUROR NO. 342: No.

9 MR. GIORDANI: All right. Thank you very much,

10 ma'am.

11 Mr. Whitman. The -- I only want to follow up on one

12 thing that you had mentioned earlier. And you said with your

13 malicious destruction, or the destruction of property thing.

14 PROSPECTIVE JUROR NO. 338: Yes.

15 MR. GIORDANI: You said you were treated fairly for

16 the most part? Excuse me. For the most part?

17 PROSPECTIVE JUROR NO. 338: For the most part, yeah.

18 It was kind of -- it was kind of messed up in the beginning

19 because I -- you know, the incident had occurred and I never

20 was, you know, police never showed up, nobody ever said

21 anything, and I didn't know that I was supposed to show up the

22 court date until I wasn't there. So they had a bench warrant

23 issued, that I didn't -- that I didn't even know about. I got

24 pulled over for a traffic stop, they did it --

25 MR. GIORDANI: Bench warrant --

1 PROSPECTIVE JUROR NO. 338: -- checked on the ID
2 and --

3 MR. GIORDANI: Okay.

4 PROSPECTIVE JUROR NO. 338: -- that's why I went
5 into the Clark County Detention Center.

6 MR. GIORDANI: Okay.

7 PROSPECTIVE JUROR NO. 338: So the police weren't at
8 fault, but I -- I was, at the time, upset, because I thought,
9 well, how am I supposed to show up for a court date that I
10 know nothing about? So --

11 MR. GIORDANI: Okay. Let me ask you this, is it
12 something that -- that should cause Ms. Lexis and I concern?

13 PROSPECTIVE JUROR NO. 338: No. I mean, it -- I --
14 no. I don't know why it -- it got screwed up, and I don't
15 know why I was never told I was supposed to show up in court,
16 but, no, I don't think that that would be something that would
17 cause concern.

18 MR. GIORDANI: Okay. You understand, you know, the
19 prosecuting agency, it's either our office or a couple of
20 other prosecuting agencies?

21 PROSPECTIVE JUROR NO. 338: Right.

22 MR. GIORDANI: So the reason I have to ask, and I
23 want a clear answer, is we don't want someone who's going to
24 hold a grudge -- a grudge against us just because they've been
25 prosecuted by some other prosecuting attorney. You get that?

1 PROSPECTIVE JUROR NO. 338: Yeah. No, it -- it was
2 -- at the time it was very aggravating when I was sitting over
3 in the detention center.

4 MR. GIORDANI: Sure.

5 PROSPECTIVE JUROR NO. 338: I got -- you know, had I
6 known about the court date, obviously, I would have been
7 there, but, you know, that was several years ago so I don't
8 really think about it.

9 MR. GIORDANI: All right. Thank you, sir.

10 And Ms. Lake. I'm sorry, I have to come back to
11 you, 334.

12 PROSPECTIVE JUROR NO. 334: Can mine be really
13 simple, one question?

14 MR. GIORDANI: Yes. I'll be quick, I promise.

15 PROSPECTIVE JUROR NO. 334: Thank you.

16 MR. GIORDANI: Tell me what your youngest daughter
17 actually does. What does she do?

18 PROSPECTIVE JUROR NO. 334: Right now she's an
19 intern at the prison.

20 MR. GIORDANI: And intern at the prison.

21 PROSPECTIVE JUROR NO. 334: Yeah.

22 MR. GIORDANI: Does she wear a uniform?

23 PROSPECTIVE JUROR NO. 334: Yeah. Yeah. She's in
24 admin, but she has to wear the uniform.

25 MR. GIORDANI: Oh, okay.

1 PROSPECTIVE JUROR NO. 334: Yeah. And,
2 unfortunately, she's going to drop everything and go back home
3 and take care of my mother-in-law.
4 MR. GIORDANI: Oh, okay. Your mother-in-law has
5 health issues?
6 PROSPECTIVE JUROR NO. 334: Yeah. That's really sad
7 because she worked really hard, but --
8 MR. GIORDANI: Okay.
9 PROSPECTIVE JUROR NO. 334: -- you know.
10 MR. GIORDANI: Your -- your DUI conviction you
11 mentioned, it was a heart medication, all of that.
12 PROSPECTIVE JUROR NO. 334: Yeah.
13 MR. GIORDANI: I won't get into detail. Same
14 question as Mr. Whitman. Anything about your case that should
15 cause either side concern here?
16 PROSPECTIVE JUROR NO. 334: No.
17 MR. GIORDANI: Okay. Your Honor, can I confer with
18 Ms. Lexis before I get to the last row here?
19 THE COURT: Sure.
20 MR. GIORDANI: Just give me a break one second.
21 (Pause in proceedings)
22 MR. GIORDANI: All right. 4:07. I'll try to get
23 through this last group quickly. Sorry. You can pass that
24 microphone down. Thank you, ma'am.
25 Can I have your badge number, please?

1 PROSPECTIVE JUROR NO. 381: No. I did not, no.

2 MR. GIORDANI: Did you have any interaction with law

3 enforcement or at least the prosecuting agents?

4 PROSPECTIVE JUROR NO. 381: No.

5 MR. GIORDANI: Okay. So you just kind of heard

6 through the grape vine what happened?

7 PROSPECTIVE JUROR NO. 381: Correct.

8 MR. GIORDANI: All right. Anything about that

9 experience that should cause either side concern here?

10 PROSPECTIVE JUROR NO. 381: No.

11 MR. GIORDANI: What is your feeling, one way or the

12 other, or what is your feeling in general about the criminal

13 justice system?

14 PROSPECTIVE JUROR NO. 381: Kind of fair. It just

15 depends on the situation I would say.

16 MR. GIORDANI: Okay.

17 PROSPECTIVE JUROR NO. 381: In my opinion, anyway.

18 MR. GIORDANI: That's what we want. That's fair.

19 Your opinion --

20 PROSPECTIVE JUROR NO. 381: Okay. That's it?

21 MR. GIORDANI: -- is what we want. Yeah. Go ahead.

22 PROSPECTIVE JUROR NO. 381: Okay. So I don't want

23 to sound like that person, but I feel like minorities have it

24 a lot worse than white people --

25 MR. GIORDANI: Okay.

1 that particular police officer had an issue or --
2 PROSPECTIVE JUROR NO. 401: Yeah.
3 MR. GIORDANI: -- a bad attitude, let me put it that
4 way.
5 PROSPECTIVE JUROR NO. 401: Exactly.
6 MR. GIORDANI: Is there anything about that
7 interaction that -- that you're going to bring into this
8 courtroom? Are you going to judge --
9 PROSPECTIVE JUROR NO. 401: No.
10 MR. GIORDANI: -- police officers -- okay. That's
11 the reason we ask those kinds of --
12 PROSPECTIVE JUROR NO. 401: Yeah.
13 MR. GIORDANI: -- questions. All right. Anything
14 about your -- your life experience that you think we should
15 know in this case, you think you'd be a good fit for a juror
16 -- as a juror?
17 PROSPECTIVE JUROR NO. 401: Yeah, I am.
18 MR. GIORDANI: Okay.
19 PROSPECTIVE JUROR NO. 401: Uh-huh.
20 MR. GIORDANI: All right. You can pass the
21 microphone down.
22 PROSPECTIVE JUROR NO. 401: Okay.
23 MR. GIORDANI: Trying to speed this up, I apologize.
24 Ms. Haduca?
25 PROSPECTIVE JUROR NO. 403: Yes.

1 MR. LEVENTHAL: What's going to make you a good
2 juror? Why it is -- why would Mr. Matthews and the State want
3 you as a juror? I mean, everyone said fair. Is that -- I
4 mean, is that --

5 PROSPECTIVE JUROR NO. 455: I mean, I'm going to
6 listen. I'll pay attention. I won't let any kind of
7 preconceived notions affect my judgment on -- based on what
8 the facts are. Yeah, I'll listen.

9 MR. LEVENTHAL: Tell me, do you think that people
10 are treated differently in different communities?

11 PROSPECTIVE JUROR NO. 455: Yeah.

12 MR. LEVENTHAL: Okay.

13 PROSPECTIVE JUROR NO. 455: Yeah. I grew up in
14 North Las Vegas and I lived on the east side for a little
15 while and I could say, yeah.

16 MR. LEVENTHAL: And could you understand why
17 somebody would not want to engage with police officers?

18 PROSPECTIVE JUROR NO. 455: Absolutely.

19 MR. LEVENTHAL: Okay. Thank you very much.

20 PROSPECTIVE JUROR NO. 455: No problem.

21 MR. LEVENTHAL: Appreciate it.

22 All right. I'm getting there. How are you?

23 PROSPECTIVE JUROR NO. 342: Oh, I'm fine.

24 MR. LEVENTHAL: Hold on. Hold on.

25 I'm all over the place.

1 THE COURT: Ms. -- it's Ms. Sandefur.
2 MR. LEVENTHAL: Sandefur, No. 14. 342.
3 PROSPECTIVE JUROR NO. 342: Yes.
4 MR. LEVENTHAL: Good afternoon. Good morning.
5 PROSPECTIVE JUROR NO. 342: Good afternoon.
6 MR. LEVENTHAL: I still don't know what time it is.
7 PROSPECTIVE JUROR NO. 342: Me either.
8 MR. LEVENTHAL: How are you today? I know we --
9 this has been a long process.
10 PROSPECTIVE JUROR NO. 342: Yes.
11 MR. LEVENTHAL: You okay?
12 PROSPECTIVE JUROR NO. 342: Yes.
13 MR. LEVENTHAL: It hasn't even started yet.
14 PROSPECTIVE JUROR NO. 342: Oh God.
15 MR. LEVENTHAL: I wrote down, you indicated when you
16 were asked about the system you said "pretty fair".
17 PROSPECTIVE JUROR NO. 342: Yes.
18 MR. LEVENTHAL: What do you mean by that?
19 PROSPECTIVE JUROR NO. 342: I mean that I'm a little
20 shaky about the system, you know, I just feel like there's --
21 sometimes it's good sometimes it's bad some -- you know, it's
22 -- it is what it is.
23 MR. LEVENTHAL: It is what it is. But it's still
24 the best, right?
25 PROSPECTIVE JUROR NO. 342: Yes.

1 MR. LEVENTHAL: Okay. I mean, thank goodness that
2 Mr. Matthews has Mr. Tanasi and I over there fighting for him,
3 it's good that the State has their attorneys fighting for
4 them. We have a Judge who's the referee that will give you
5 the law and so that's what makes it fair; correct?

6 PROSPECTIVE JUROR NO. 342: Correct.

7 MR. LEVENTHAL: Okay. And you can keep an open
8 mind, right?

9 PROSPECTIVE JUROR NO. 342: Correct.

10 MR. LEVENTHAL: Okay. And what experiences do you
11 bring that -- into this that you -- that you think would make
12 you a good juror?

13 PROSPECTIVE JUROR NO. 342: Well, I know I'll be
14 fair. I'll be fair to all the information I receive.

15 MR. LEVENTHAL: Okay. Have you ever been in any
16 type of meetings or have you ever corroborated with anybody?
17 I know that you're in the medical --

18 PROSPECTIVE JUROR NO. 342: Yeah, medical
19 transcriptionist.

20 MR. LEVENTHAL: Transcriptions. Do you --

21 PROSPECTIVE JUROR NO. 342: Oh, yes.

22 MR. LEVENTHAL: Okay.

23 PROSPECTIVE JUROR NO. 342: Um-h'm.

24 MR. LEVENTHAL: And during these meetings do you
25 consider yourself a leader, or a follower, or sort of someone

1 just in between there.

2 PROSPECTIVE JUROR NO. 342: Sometimes -- I'm not a
3 followers.

4 MR. LEVENTHAL: You're not a follower.

5 PROSPECTIVE JUROR NO. 342: But sometimes in the
6 middle, sometimes --

7 MR. LEVENTHAL: Okay.

8 PROSPECTIVE JUROR NO. 342: -- a lead.

9 MR. LEVENTHAL: Are you open to other people's
10 views?

11 PROSPECTIVE JUROR NO. 342: Oh, of course.

12 MR. LEVENTHAL: Okay. Was there ever a time that
13 you can remember that somebody actually changed your mind on
14 something?

15 PROSPECTIVE JUROR NO. 342: Oh, sure.

16 MR. LEVENTHAL: Lots of times?

17 PROSPECTIVE JUROR NO. 342: Well, I've been here a
18 hundred years so I guess you could say some.

19 MR. LEVENTHAL: You and me both. If you were -- God
20 forbid -- sitting in the seat where Mr. Jemar Matthews is
21 sitting, would you want yourself as a juror?

22 PROSPECTIVE JUROR NO. 342: Yes.

23 MR. LEVENTHAL: Yes? I appreciate your time. Thank
24 you.

25 Mr. Ashford.

1 MR. LEVENTHAL: This is Todd Leventhal. At this
2 time I'm going to be --

3 THE COURT: Can I have Court's Exhibit 1?

4 MR. LEVENTHAL: Oh, yes you may. I'm sorry.

5 THE COURT: Are you going to make a -- okay, go
6 ahead.

7 MR. LEVENTHAL: There you go.

8 I'm going to make a motion for a Batson challenge at
9 this time. The State just struck Wendy Sandefur. She --
10 they've -- they've already gotten one African-American female
11 for cause. They asked for cause. This is the second
12 African --

13 THE COURT: You mean, Ms. Sailor who said she
14 couldn't consider --

15 MR. LEVENTHAL: Sailor, correct.

16 THE COURT: -- the three --

17 MR. LEVENTHAL: Correct. Correct.

18 THE COURT: -- forms of punishment?

19 MR. LEVENTHAL: Correct.

20 THE COURT: Hum. Okay.

21 MR. LEVENTHAL: Well, and I understand, but again,
22 we are dealing with a very limited here, number of African-
23 Americans, so there's only now two left, one that probably
24 doesn't have a shot at getting in the box. And I haven't
25 added up the odds, but the fact that they've gotten rid of

1 Wendy Sandefur, there was no justifiable reason to get rid of
2 her. She had -- she said she could be fair. She could be
3 impartial. She gave no indication that she couldn't be.

4 And so there's no justifiable reason and we are
5 dealing with a limited number of African-Americans on -- that
6 are still here. One of them is sitting next to her, and the
7 other one may not even have a shot to get in because he's so
8 far down. So that's the challenge, that I don't believe
9 there's anything that they can point to specifically to say
10 that there's a reason why they excluded her, excused her.

11 MR. GIORDANI: First -- Giordani here -- first
12 there's no prima facie showing of any bias at this point. The
13 first African-American woman that was excused for cause, Ms.
14 Sailor, clearly stated about 50 times that she couldn't
15 consider life without so that was separate and apartment from
16 anything we're doing now.

17 In this particular case, now that we've gotten to
18 our peremptory challenges, she is the first African-American
19 woman who was struck. She gave very tenuous responses when
20 asked about being fair and impartial. And I don't know if she
21 verbally came across that way, but Ms. Lexis and I noted on at
22 least two occasions that she kind of hesitated and rolled her
23 eyes, and I think I even commented about that and tried to dig
24 in a little further. Do you have more?

25 MS. LEXIS: And in comparison to the people who are

1 in the 14 right now, even a comparison to Mr. Ashford who said
2 unequivocally on two or three separate occasions that he could
3 be fair they're very forceful in their answers.

4 I noted that she hesitated when you asked, Your
5 Honor, if there was any reason she could be -- she could not
6 be fair or impartial. And also during Mr. Giordani's
7 questioning she hesitated, and then during, I believe it was
8 Mr. Tanasi or Mr. Leventhal's questioning, concerning about
9 the criminal justice system she was just very -- she
10 equivocated a lot, so.

11 MR. LEVENTHAL: I didn't hear any of that. I heard
12 unequivocal I've -- as a matter of fact she's been on a jury
13 before. They reached a verdict. While it was a civil jury,
14 there's nothing that's impartial, that she's indicated that
15 she couldn't be fair to both sides.

16 She's one of two African-Americans that are left
17 sort of sitting in the box. We've got one left that's not
18 going to have a chance to it --

19 THE COURT: Well, I'm not sure I agree with you
20 because and I'm going to tell you, I don't -- it's not -- I
21 find it very uncomfortable when I'm asked to determine the
22 racial makeup.

23 So if you want to do that, I'll allow you to do it,
24 but I'm not going to -- I'm not going to do that.

25 MR. LEVENTHAL: I understand. I -- I'm --

1 THE COURT: Okay.

2 MR. LEVENTHAL: I'm just making a record that the,
3 you know, that that's -- there no justifiable reason to get
4 rid of her. She gave no indication one way or another other
5 than the fact that she could be fair and impartial. And
6 that's my challenge.

7 THE COURT: Okay.

8 MR. LEVENTHAL: And I don't think they've met their
9 burden by saying, well, she -- she rolled her eyes. I've had
10 a lot of people roll their eyes. I have had a lot of people
11 look down, and nod and -- nodding yes or nodding no, and
12 that's not a reason to get rid of somebody, especially --

13 THE COURT: During this panel?

14 MR. LEVENTHAL: Yes, of course.

15 MR. GIORDANI: It's only when he was telling jokes
16 or trying to --

17 MR. LEVENTHAL: Oh, no, no, no, no, no, no, no, no.

18 THE COURT: I'm sorry. I didn't notice that
19 happening.

20 MR. LEVENTHAL: No, no, no, like it was -- one
21 was --

22 THE COURT: I was typing a lien on your behalf.

23 MR. LEVENTHAL: When -- no, no, no, when like
24 somebody else would make a comment someone would agree or
25 disagree or nod their head and, you know, I look for those

1 signs. That's all I do. And I don't -- I don't think there's
2 a justifiable reason.

3 MR. GIORDANI: I didn't mean to interrupt. I look
4 for those things too, and I clearly saw those with Ms.
5 Sandefur in our questioning. I have a -- when asked, any
6 reason why you wouldn't be fair or impartial, she kind of
7 sighed and said, no, dot dot dot dot dot and I saw that on
8 numerous occasions.

9 So although I bantered with her and tried to get
10 more out of her, I don't think I actually did get more
11 explanation as to why she sighed so much, but I just don't
12 want her on the jury for that reason because there is some
13 hesitation about fairness which is the only thing that matters
14 at this point.

15 THE COURT: Okay. But this --

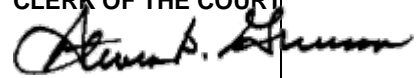
16 MS. LEXIS: And just lastly, Your Honor -- Agnes
17 Lexis -- concerning the actual makeup in terms of race, the
18 stated reasons at least, or the stated races on our jury
19 questionnaire or the jury sheet that we received, there is 3
20 in the 32 that have been qualified who have listed themselves
21 as African-American.

22 THE COURT: That have self-identified?

23 MS. LEXIS: Correct.

24 THE COURT: Okay.

25 MS. LEXIS: Correct.



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

vs.

JEMAR D. MATTHEWS aka
JEMAR MATTHEWS
JEMAR DEMON MATTHEWS,
Defendant.

CASE#: 06C228460-2
DEPT. XII

BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT JUDGE

WEDNESDAY, SEPTEMBER 26, 2018

**RECORDER'S TRANSCRIPT OF HEARING:
JURY TRIAL - DAY 3**

APPEARANCES:

For the State:

AGNES M. LEXIS, ESQ.
JOHN L. GIORDANI, III, ESQ.
Chief Deputy District Attorneys

For the Defendant:

TODD M. LEVENTHAL, ESQ.
RICHARD E. TANASI, ESQ.

RECORDED BY: KRISTINE SANTI, COURT RECORDER

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WEDNESDAY, SEPTEMBER 26, 2018 AT 10:23 A.M.

[Outside the presence of the jury]

THE COURT: Do you have a full panel?

THE MARSHAL: Yes, ma'am.

THE COURT: Okay. You can bring them in. Wait. Okay.

Go ahead.

[Off the record colloquy]

THE MARSHAL: Everybody ready?

MR. GIORDANI: Yes.

MS. LEXIS: Yes.

THE COURT: Are you ready?

MR. TANASI: Yes, Your Honor.

MR. LEVENTHAL: Yes, Judge. Thank you.

MR. TANASI: Thank you.

THE COURT: Uh-huh. Go ahead.

MR. TANASI: Thank you, Judge.

THE COURT: You bet.

THE MARSHAL: All rise for entering jury please.

[Inside the presence of the jury]

THE COURT: Ladies and gentlemen, if you just don't mind standing because the Clerk's going to -- sorry. This will be the only time the Clerk's going to administer the oath of service.

THE CLERK: Please raise your right hand.

THE COURT: Just a minute. Does the State stipulate to the

1 presence of the jury panel?

2 MS. LEXIS: Yes, Judge.

3 MR. GIORDANI: Yes, Your Honor.

4 THE COURT: The defense?

5 MR. LEVENTHAL: Yes, Your Honor. Thank you.

6 THE COURT: Thank you. You may raise your right hand so
7 you can be sworn by the Clerk.

8 [Clerk swears the jury]

9 THE JURORS: Yes [in unison].

10 THE COURT: Thank you.

11 THE CLERK: Please be seated.

12 THE COURT: Okay. Good morning, ladies and
13 gentlemen. Welcome back. You are admonished that no juror may
14 declare to a fellow juror any fact relating to this case of his or her own
15 knowledge. And if any juror discovers during the trial or after the jury
16 has retired that he or she or any other juror has personal knowledge, of
17 any fact in controversy in this case, he or she shall disclose such
18 situation to myself in the absence of the other jurors. This means that if
19 you learn during the course of this trial that you are acquainted with the
20 facts of this case or the witnesses and you've not previously told me this
21 relationship, you must then declare that fact to me.

22 Remember, ladies and gentlemen, you communicate to the
23 Court either in the courtroom in the presence of both sides or through
24 the Court Marshal, Officer Hawkes.

25 What I will now say is intended to serve an introduction to the

1 trial in this case, it is not a substitute for the detailed instructions on the
2 law which I will give you at the close of the case and before you retire to
3 consider your verdict.

4 This is a criminal case commenced by the State of Nevada
5 which I may sometimes refer to as the State against the Defendant, Mr.
6 Matthews. The case is based on an Information.

7 The Clerk will now read that Information to the ladies and
8 gentlemen of the jury and state the plea of the Defendant to that
9 Information.

10 THE CLERK: Thank you, Your Honor.

11 [The Information was read by the Clerk]

12 THE COURT: Thank you.

13 This case is based on the Information which has just been
14 read to you by the Clerk of the Court. You should distinctly understand
15 that the Information is simply a charge and that it is not in any sense
16 evidence of the allegations it contains. The Defendant has entered a
17 plea of not guilty to the Information. The State therefore has the burden
18 of proving each of the elements as alleged in their charging document by
19 proof beyond a reasonable doubt. As the Mr. Matthews sits here today,
20 he is presumed innocent.

21 The purpose of this trial is to determine whether the State of
22 Nevada will meet their burden of proof. It is your primary responsibility
23 as jurors to find and determine the facts. Under our system of criminal
24 procedure, you are the sole judge of the facts. You are to determine the
25 facts from the testimony you hear and the other evidence, including

1 exhibits introduced into Court. It is up to you to determine the inferences
2 which you feel may be properly drawn from the evidence.

3 The parties may sometimes present objections to some of the
4 testimony or other evidence. It is the duty of a lawyer to object to
5 evidence which he or she believes may not properly be offered and you
6 should not be prejudiced in any way against a lawyer who makes
7 objections on behalf of the party he or she represents. At times, I may
8 sustain objections or direct that you disregard certain testimony or
9 exhibits. You must not consider any evidence to which an objection has
10 been sustained or which I have instructed you to disregard. Anything
11 you may have seen or heard outside the courtroom is not evidence and
12 must also be disregarded.

13 Remember statements, arguments and opinions of counsel
14 are not evidence in the case. However, if the attorneys stipulate as to
15 the existence of a fact, you must accept the stipulation as evidence and
16 regard that fact as proved. You must not speculate to be true any
17 insinuation suggested by a question asked a witness. A question is not
18 evidence and may be considered only as it supplies meaning to the
19 answer. You must not be influenced in any degree by any personal
20 feeling of sympathy for or prejudice against the State or the Defendant.
21 Both sides are entitled to the same fair and impartial consideration.

22 In considering the weight and value of the testimony of any
23 witness, you may take into consideration the appearance, attitude and
24 behavior of the witness; the interest of the witness in the outcome of the
25 case if any, the relation of the witness to the Defendant or to the State,

1 the inclination of the witness to speak truthfully or not and the probability
2 or improbability of the witnesses' statements and all of the facts and
3 circumstances in evidence.

4 Thus, you may give the testimony of any witness just such
5 weight and value as you believe the testimony of that witness is entitled
6 to receive. There are two kinds of evidence, direct and circumstantial
7 evidence. Direct evidence is testimony by a witness about what that
8 witness personally saw or heard or did. Circumstantial evidence is
9 testimony or exhibits, which are proof of a particular fact, from which if
10 you have proven you may infer the existence of a second fact. You may
11 consider both direct and circumstantial evidence in deciding this case.
12 The law permits you to give equal weight to both, but it is for you to
13 decide how much weight to give to any evidence.

14 Opening statements and closing arguments of the attorneys
15 are intended to help you in understanding the evidence and applying the
16 law but they are not evidence. No statement, ruling, remark or comment
17 which I make during the course of this trial is intended to indicate my
18 opinion as to how you should decide the case or to influence you in any
19 way in your determination of the facts. At times, I may even ask
20 questions of witnesses. If I do so, it is for the purpose of bringing out
21 matters which I feel should be brought out and not in any way to indicate
22 my opinion about the facts or to indicate the weight I feel you should give
23 to the testimony of the witness.

24 I may also find it necessary to admonish the lawyers and if I
25 do, you should not show prejudice against a lawyer or his or her client

1 because I have found it necessary to admonish him or her.

2 Until this case is submitted to you, you must -- you must not
3 discuss it with anyone, even with your fellow jurors. After it is submitted
4 to you, you must discuss it only in the jury room with your fellow jurors.
5 It is important that you keep an open mind and not decide any issue in
6 the case until the entire case has been submitted to you under
7 instructions from the Court.

8 The trial will proceed in the following manner. The Deputy
9 District Attorney will make an opening statement, which is an outline to
10 help you in understanding what the State expects to prove. Next, the
11 Defense attorney may, but does not have to make an opening
12 statement. Opening statements serve as an introduction to the evidence
13 which the party making the statement intends to prove. The State will
14 then present its evidence and counsel for the Defense may cross-
15 examine the witnesses.

16 Following the State's case, the Defendant may present
17 evidence and the Deputy District Attorney may cross-examine the
18 witnesses. However, as I have said the Defendant is not obligated to
19 present any evidence. After all of the evidence has been presented to
20 you, I will instruct you on the law. After the instructions on the law have
21 been read to you, each side will have the opportunity to present oral
22 argument. What is said in closing argument is not evidence. The
23 arguments are designed to summarize and interpret the evidence.

24 Since the State has the burden of proving the Defendant guilty
25 by proof beyond a reasonable doubt, the State has the right to open and

1 close the arguments. After the arguments have been completed, you
2 will then retire to deliberate upon your verdict.

3 Again, let me remind you that until this case is submitted to
4 you, do not talk to each other about it or about anyone who has anything
5 to do with it 'til the end of the case when you go to the jury room to
6 decide upon your verdict. Do not talk with anyone else about this case
7 or about anyone who has anything to do with it until the trial has ended
8 and you have been discharged as jurors. Anyone else includes
9 members of your family and your friends. You may tell them that you
10 are a juror in a criminal case, but don't tell them anything else about it
11 until after you have been discharged by myself.

12 Do not let anyone talk to you about the case or about anyone
13 who has anything to do with it. If someone should try to talk to you,
14 please report it to me immediately by contacting the Court Marshal.

15 Do not read any news stories or articles or listen to any radio
16 or television reports about the case or about anyone who has anything
17 to do with it.

18 As jurors you will be given the opportunity to ask written
19 questions of all of the witnesses called to testify in this matter. I have a
20 process by -- by which you may do that. I have it. It's in your juror
21 notebooks so you may refer back to your juror notebook at any time if
22 you want to refresh your memory on that process. But what happens is
23 the witness will come in, the State will have an opportunity to do direct,
24 the defense has an opportunity to do cross. If there's cross, the State
25 can do redirect. If there's redirect, the defense can do recross. So

1 basically each side has a couple of opportunities to question each
2 witness.

3 Only when both sides are done questioning a questioning and
4 only at that time. And you'll know when both sides are done because
5 I'm going to turn to the witness, I'm going to tell him thank you for being
6 here. And I'm going to excuse them from their subpoena. If at that time
7 you have a written question that you'd like to ask that witness, just raise
8 your hand. I'll make sure the witness stays here. Then you are to write
9 your question down on a clean sheet of paper with your juror number.

10 You need to -- I will only read the question exactly how it is
11 written. So if it doesn't make sense, I'd probably won't ask the question.
12 So it's as though you are asking the question. Write down exactly how
13 you would ask that question of that witness. When I get your question,
14 the Court Marshal will present it to the Court. I will review that question
15 with the attorneys. And if I think that question is legally appropriate, I will
16 then ask that question. If I do ask the question, you're not to place any
17 undue weight on that particular question or any answer that's been
18 provided.

19 After that written question, I usually give the State and the
20 defense an opportunity to ask any follow-up questions regarding any
21 question that the juror has asked. I ask that you just get my attention
22 because once I excuse that witness and tell them they are excused from
23 their subpoena, I won't require them to come back in order to answer a
24 written question from a juror.

25 So in other words if I have a witness today, I excuse them,

1 they'll be no longer under subpoena. I won't have them come back
2 Friday to answer a question that could have been answered today, so no
3 problem. Get my attention. I'll have the witness wait here as long as
4 you want and we'll give you plenty of opportunity to write your question
5 out. When you're done, the Court Marshal will collect it and again, if I
6 review the question and think it's appropriate, I will then ask that written
7 question.

8 You have been given juror notebooks. In your juror notebooks
9 all the instructions that I have given you this morning, the admonishment
10 that I'm required to read to you every time we take a recess is in there
11 as well as the process to ask written questions. At any -- those are your
12 notebooks. You can refer to them at any time.

13 Also, I have put blank paper in there. As jurors, you do have
14 the right to take notes. When you go back to deliberate upon your
15 verdict, you will not have a transcript to consult of these proceedings.
16 And so it will be your memory collectively that will prevail. You'll also be
17 permitted to take any notes back there. And you'll be permitted to share
18 those notes collectively with the other members of the jury panel.

19 The only thing that I ask is that you leave those notebooks in
20 the courtroom at all times. That you will be given an opportunity to take
21 them with you when you go back to deliberate upon your verdict, but
22 only at that time. At the end of the day, the Court Marshal's under Court
23 order to collect notebooks. He will put them in a safe place and he will
24 also make sure that they are out on your respective chair the next day
25 when you come in.

1 And again, it's very important 'cause you will be able to take --
2 that's the only thing you'll be able to take with you when you go back to
3 deliberate upon your verdict plus the written instructions that I will give
4 you on the law.

5 At the end of the case, before you go back to deliberate your
6 verdict, I'm required by law to instruct you on the law. When I'm reading
7 the instructions on the law, each of you will have a copy. You'll be
8 permitted to follow along. And each of you will have that copy that you
9 will put in your juror notebook and you will have that when you go back
10 to deliberate upon your verdict as well.

11 So with that I am going to allow the State of Nevada to
12 address the jury panel in their opening statement.

13 **OPENING STATEMENT BY THE STATE**

14 BY MS. LEXIS:

15 Good morning, ladies and gentlemen, of the jury. Almost 12
16 years to the day on September 30th, 2006 at about 9:52 p.m., shots rang
17 out on the corner of Balzar Avenue and Lexington -- Lexington Street.
18 The Defendant, Jemar Matthews, another individual by the name of
19 Pierre Joshlin and two other unidentified men dressed in very similar
20 clothing, black shirt and jeans, armed like they were going to war
21 convened at 1271 Balzar Avenue and ambushed the individuals outside
22 of that home.

23 The evidence will show that on September 30th, 2006 there
24 were several individuals outside of 1271 Balzar Avenue. That's the front
25 of the residence. The evidence will show that Jemar Matthews and

1 those other men came up the side of Lexington Street, the side of 1271
2 Balzar, and they shot 39 times at least by the crime scene analyst was
3 the detective's count.

4 Here's the picture of that side where the evidence will show
5 Jemar Matthews and the other men stood as they fired those 39 shots.
6 The police recovered, crime scene analyst recovered several different
7 types of cartridge cases. You'll learn what that is which is indicative of
8 several different firearms being used to fire those 39 shots.

9 The evidence will show -- the testimony will show that the
10 individuals they were firing at were initially towards the front of that
11 house in between that blue car and the front porch area of that
12 residence. Here's a little bit of a view showing that side entrance or that
13 side area of the yard where Mr. Matthews and the other men began
14 firing. Also shows that blue car and the porch.

15 Here's a view of that very same front area showing where
16 these individuals who were outside the home were standing, just talking.
17 Closer view. So in between that blue car and this front porch area.

18 At the end of those 39 shots, Mersy Williams laid dead in that
19 front porch. She didn't make it out alive. Her cousin, Myniece Cook,
20 was shot in the wrist. One of the other individuals inside or outside the
21 home that particular day and time was an individual by the name of
22 Maurice Hickman. He was 18 years old at the time. He actually lived at
23 1271 Balzar Avenue.

24 Mersy Williams who was 22 years old, her cousin, Myniece
25 Cook, 27 years old and Michel-le Tolefree, their other cousin, 16 years

1 old, just happened to be there that day, that night. These girls were at
2 the wrong place at the wrong time.

3 The evidence will show that the intended target, Maurice
4 Hickman, who lived at that home, he was the one that these individuals
5 were after. The evidence will show however that Jemar Matthews and
6 these other men came armed like they were definitely meaning to kill
7 some people. They didn't care if they shot other people. They didn't
8 care if Mersy and Myniece and Michel-le -- Michel-le didn't belong there.
9 They fired those 39 rounds anyway.

10 You'll hear from Michel-le, yeah 12 years later. She's a little
11 bit older now. She'll tell you that she was hanging out with her older
12 cousins that night. Myniece was the oldest. She'll admit she was not
13 the fun cousin, okay. Mersy who was 22 was the one who wanted to
14 appease Michel-le the youngest cousin.

15 You see the girls had been earlier that night at their
16 grandmother's house which is near this area. They were celebrating
17 Mersy's birthday early. Mersy's birthday is October 3rd. September 30th,
18 2006 fell on a Saturday and it was a good time for the family to get
19 together.

20 Two of the girls, Mersy and Myniece, made plans to go out
21 that night. You know you do your family thing early on and these girls,
22 young, vibrant women, decided they were going to go out. There was a
23 wrench in the plan when Michel-le, all 16 years old, wanted to hang out
24 with her cousins. She wanted to go see about a boy, Maurice Hickman
25 who just happened to live at 1271 Balzar Avenue.

1 Myniece will tell you being the not fun cousin she told them,
2 I'm not taking you nowhere. I don't know -- I'm not taking you in my
3 mom's car. We're supposed to go out. Mersy was supposed to
4 celebrate her birthday. Michel-le begged, asked again. And Mersy also
5 begged Myniece, let's just take her back there. Let's take her. It'll be
6 quick. Let her see her little friend and we'll be off partying and
7 celebrating in no time. Little did they know the people meddled at Jemar
8 Matthews had other plans.

9 Michel-le will tell you that as they stood in front of that front
10 porch area that I showed you, the three girls were kind of all standing
11 next to each other facing that back area or the side of the house.
12 Maurice Hickman had his back to that side area. They're meeting. At
13 first Myniece and Mersy didn't want to get out of the car. They were just
14 going to let Michel-le talk to Maurice. Eventually they came out, said
15 their hellos. They were there no less than five minutes standing around,
16 the girls in a semi-circle with Maurice facing them.

17 Myniece will tell you during her testimony that towards the end
18 of that conversation right before they were about to leave, she hears
19 Mersy say, who's that. Michel-le and Myniece will tell you that that
20 caused them to look out towards that side area where you saw all of
21 those cones marking the cartridge cases all 39 of them, they'll tell you
22 they saw a young boy, appeared to be a young black boy. Turned out it
23 was a young black man standing right there towards the sidewalk and
24 grassy area with his hands behind his back.

25 And that struck them as odd that they didn't think anything of

1 it. And when Mersy said, who's that, that caused Maurice to turn
2 around. And the minute he saw who that was standing on the corner on
3 the side -- that 1271 Balzar, Maurice told them to run. Run. He grabbed
4 Michel-le and they ran across Balzar Avenue.

5 Mersy froze. Myniece standing next to her, they saw their little
6 cousin Michel-le run towards safety with Maurice. Mersy froze. And in
7 the split second it took for Mersy to say, I'm scared, and for Myniece to
8 say, we have to run, those girls took a couple of steps. And Myniece will
9 tell you that they had held hands or locked arms and all she heard after
10 the gunshots, all she felt -- well what she heard was Mersy say, uh. And
11 she felt Mersy get heavy on -- on her arm. And that caused -- right as
12 she said, uh, Mersy fell to the ground and so did she. They both landed
13 on their stomachs.

14 And Myniece will tell you the gunshots didn't stop. They kept
15 going. And so she instead of deciding to get up and run to safety, she
16 just lay next to her cousin who she did not know had been shot in the
17 head and she played dead.

18 The gunshots continued. She heard movement. And so she
19 pretended -- she lay next to her cousin pretending to be dead until the
20 gunshots stopped. And she will tell you as she lay there, once silence
21 finally came, she got up, she ran to the side -- the other side of the
22 house and hid until the door to that residence opened and she was
23 allowed into safety.

24 The individual in the home had been -- called 9-1-1. And once
25 they were on the phone with police, Myniece went out to that front porch

1 to check on her cousin. And it was at that time that she saw her cousin
2 had been shot right -- right in the head and that she was dead.

3 Michel-le, the 16 year old, who ran with Maurice will tell you
4 that as soon as Maurice said to run, she took off. She took off in the
5 direction of -- of Maurice with Maurice across the street of Balzar. And
6 at some point though there were shots being fired in their direction,
7 shots -- just shots ringing out, she turned her head to look and it caused
8 her to lose her shoe right there.

9 She'll tell you also that at this time she saw Maurice fire two
10 rounds from a gun back in the direction of the people who were shooting
11 at them. She'll tell you that she kept feeling or hearing shots coming in
12 their direction, so they continue to run until they found a backyard to hide
13 in.

14 Meanwhile, Mersy lay on this concrete. As I told you Myniece
15 was laying next to Mersy, you know, pretending to be dead. Myniece
16 will tell you that as she lay there once the gunshots stopped, she heard
17 men walk back pass them back towards that side area of the house,
18 back towards Lexington Street.

19 Now on this particular photo, 1284 Lawry Avenue, you can
20 see it, it's kind of towards the end of that arrow, okay, that's Lawry
21 Avenue, 1284 Lawry Avenue.

22 1284 Lawry Avenue. Just as Geishe -- Geishe Orduno and
23 Melvin Bolden were on their way home from I think it was the Main
24 Street Casino, you'll hear from them. They're in their grey Lincoln Town
25 car with their friends, Betty and Steve, neighbors but also friends. As

1 they were coming into 1284 Lawry Avenue in that direction, they heard
2 gunshots. And as they were about ready to park the car Melvin is
3 driving, Geishe who is next to -- next to Melvin on the front passenger
4 seat, tells him keep going, keep going, like don't park, don't stop in front
5 of the car.

6 Melvin stops. He was just parking that grey Lincoln Town car
7 thinking gunshots we're going to go into the safety of our home, right. I
8 mean where are we going to go to. We're just going to run into the
9 house, we'll be all right. So he decides he's going to park the car.
10 They'll tell you that then they saw as -- he didn't even have a chance to
11 turn off the ignition yet, when they saw four young black males approach
12 them.

13 They had on black shirts. They noticed that they were
14 wearing gloves. One in particular had a red glove. The one with the red
15 glove kept saying, get out of the car, get out of the car. Another one with
16 a fire -- with a handgun actually pointed the gun right at Melvin's head
17 ordering them all out of the car. Betty starts to have a panic attack or
18 some kind of heart issue, so they come out of the car. They listened to
19 these armed intruders, robbers, and they come out of the car.

20 Geishe and Melvin will tell you that one of them had -- they
21 characterize it as a sawed-off shotgun, but really turns out to be a short
22 barrel rifle. And, of course, one -- they had the hand gun that was being
23 pointed at Melvin. The one with the hand gun fired two shots in the air.
24 Once they were all out of the car, these men got in and took off at a high
25 rate of speed.

1 What they were not counting on, these men who had just
2 robbed Geishe and Melvin, Betty and Steve, was that there were two
3 police officers in that area in an unmarked police vehicle. Officers
4 Bradley Cupp and -- and Brian Walter. Officer Cupp was driving. Officer
5 Walter in the front passenger seat. This is their unmarked patrol vehicle.
6 It had lights and sirens. On the visor it had those strobe lights such that
7 -- that it would once they activated these things a reasonable person
8 would know that this was a police vehicle. I know it doesn't look like it,
9 but that it was a police vehicle. We don't have a picture of Officer Walter
10 that day, but we do have a picture of Officer Cupp showing that he is
11 dressed. While he's not in a regular patrol uniform, he does have on a
12 vest clearly saying police, also a hat. But he was certainly identifiable as
13 a police officer.

14 They will tell you that they were so close to 1271 Balzar
15 Avenue that they heard these shots go off. And once they heard it, they
16 immediately made their way down towards Balzar Avenue. But this
17 must have been around the time where it had just begun to get silent
18 because they passed right on through and didn't notice anything out of
19 the ordinary at 1271 Balzar Avenue. So they make a left towards
20 Lexington -- Lexington Street or left on Lexington Street. And as they're
21 sitting there or making their way down to Lexington Street looking at
22 Lawry, they notice a disturbance at 1284 Lawry Avenue where Geishe
23 and Melvin and Betty and Steve were all having -- we'll call it an
24 interaction with Jemar Matthews and the other men he was with.

25 So the police officer said, you know, they couldn't quite hear

1 exactly what was being said, but it sounded like they -- it was a
2 disturbance. It looked like a disturbance. Someone was shouting. And
3 so they proceed to that intersection. As they get to that intersection,
4 they see that grey car belonging to Geishe and -- and Melvin speed off
5 at a high rate of speed disregarding that stop sign.

6 Officers Cupp and Walter will tell you that they went down
7 1271 or they went down Balzar, down to Lawry. They saw the car, the
8 vehicle, that had just been carjacked run through a red light at that
9 intersection and proceeded at a high rate of speed down Lawry, get onto
10 Martin Luther King Boulevard where they run a stop -- where they run a
11 stop light on Martin Luther King and Lake Mead as indicated by that
12 circle. And they'll tell you that they activated their lights and sirens
13 probably before that West Lake Mead intersection of MLK where the
14 circle is.

15 They'll tell you that even though they were in pursuit of
16 suspects, okay, they couldn't disregard traffic and drive as recklessly as
17 this -- this vehicle that they were -- that they were pursuing. So they
18 activated their lights and sirens, went after them as quick as they could,
19 kept their visual on this vehicle that entire time.

20 After going through that stop sign on Lake Mead and Martin
21 Luther King, the vehicle that they were pursuing made a sharp turn onto
22 Jimmy Avenue and then come down Lexington, okay, Lexington Street.
23 They'll tell you that after making that turn onto Lexington, okay, the
24 vehicle started to kind of coast and go a little bit slower onto where it
25 ultimately rested right here, okay. And so that's Doolittle Avenue

1 towards the top right.

2 So we're now at 1915 Lexington Avenue. This is right outside
3 of a church. There -- that's the sidewalk. So the car comes to a stop
4 right there. We're going to go kind of one by one as to what each of
5 those individuals in the car did. All right.

6 So drawing your attention and the evidence will show to what
7 the individuals on the passenger side of the vehicle did. While one of
8 them, okay, as Officer Cupp and Officer Walter drive up to right where
9 this car stopped, they see someone from the passenger side run off
10 towards the church parking lot, okay. They didn't go after that person
11 because that person didn't appear to have a firearm.

12 Another person from that passenger side of the vehicle, they
13 couldn't tell if it was front or back ran down towards Doolittle Avenue,
14 okay. Officer Cupp will tell you that person had a gun, so he went after
15 him towards Doolittle. Officer Cupp will tell you that they went down
16 Lexington towards Doolittle and as he is -- as he just made that -- as he
17 just made that turn onto Doolittle, Officer Cupp will tell you that as the
18 individual he was chasing, person later identified as Pierre Joshlin, as he
19 was running, okay, he had a gun in his hand and at some point he
20 turned back towards Officer Cupp with that gun in his hand.

21 Officer Cupp will tell you he felt his life was in danger. He
22 looked, assessed the situation real quick to make sure there weren't
23 any, you know, innocent bystanders who could be struck with his -- with
24 his gun fire, and he made a decision to shoot towards Pierre Joshlin
25 three times. He shot, boom, boom, boom. Then took cover behind a

1 car, okay. Realizes he didn't strike this individual, so he continued to
2 chase after him.

3 At some point, Pierre Joshlin is seen by Bradly Cupp going
4 through the church parking and over a fence or over a wall just towards
5 1701 North J Street. Officer Cupp after realizing he hadn't hit this
6 individual who's chasing him after basically in the dark, this man is -- is
7 armed, okay, decides -- also realizing that he had left his vehicle, his
8 unmarked police vehicle at the site of the church, you know, right where
9 the sidewalk was, decides he's going to stop pursuing. He's going --
10 other officers were already on the way setting up a perimeter which is,
11 you know, sectioning off parts of the area where they believe the
12 suspects might be located.

13 Officer Cupp at that time will also tell you that he realized
14 there was yet maybe one or two other individuals unaccounted for or two
15 or three, and that his partner, Officer Walter, was off on his own chasing
16 probably another -- chasing another suspect. So he stops, he goes back
17 towards 1915 Lexington Avenue and ultimately he is called back to 1701
18 North J Street.

19 When he gets there he comes to find out that Pierre Joshlin
20 was found hiding in a dumpster, right there. Right in the direction that
21 Officer Cupp saw him go towards. He jumped that wall, passed the
22 church towards 1701 North J Street. And in one of those dumpsters is
23 Pierre Joshlin. Also in the dumpster with Pierre Joshlin is a firearm and
24 gloves.

25 At that time Officer Cupp has Pierre Joshlin brought out of this

1 dumpster said, yeah, that's the guy I was pursuing. Officer Cupp will tell
2 you that as he was pursuing him and as this individual Pierre Joshlin
3 turn back pointed that gun, he got a good look at his face. This was the
4 individual he saw running from him, the individual he fired at, that same
5 individual they pulled out of that dumpster.

6 You'll also hear about gunshot residue. In this particular case
7 gunshot residue was found on the palm of the right hand of Pierre
8 Joshlin's right hand and also the back of his left hand. What does that
9 mean? You'll learn, testimony will show that he may have discharged
10 the firearm, handled a discharged firearm or was in close proximity to a
11 discharged firearm; that's what that means.

12 You'll also learn and the evidence will show that those black
13 gloves found in the dumpster with Pierre Joshlin also had gunshot
14 residue on them. The right back area of the right hand glove. The right
15 palm area of the right hand glove. And the left palm area of the left hand
16 glove. What does that mean? That black gloves may have come into
17 contact with a discharged firearm or was in close proximity to a
18 discharged firearm.

19 That gun turned out to be a Glock 21 45 caliber semi-
20 automatic handgun with an extended magazine capable of holding 28
21 rounds. That gun, well, 11 of the cartridge cases fired at 1271 Balzar
22 were linked to that gun were found to have been fired from that gun.
23 That's what happened with Officer Cupp and Pierre Joshlin.

24 So let me take you back to the church, 1915 Lexington. We'll
25 discuss what happened with the Defendant, Jemar Matthews. But first

1 after all of this goes down, police do search that vehicle. The vehicle
2 that had just been carjacked from Geishe and also Melvin. And in the
3 front passenger board of that particular or floor board of that vehicle they
4 find a Colt model officer's ACP, a 45 caliber handgun semi-automatic.
5 So after forensic testing, one cartridge case found at 1271 Balzar
6 Avenue was identified as having been fired from this gun which also had
7 an extended magazine.

8 Now 39 shots, right, by our count. Why only one? Well, the
9 evidence will show that this gun actually jammed. Otherwise, it might
10 have been more. So Officer Brian Walter, he is remember on the
11 passenger side of the unmarked patrol vehicle, he and Bradley Cupp --
12 Officer Cupp will tell you that as this car being driven by the Defendant
13 has pulled up now to a slow roll on this sidewalk, they see the driver side
14 door swing open, hand -- left hand with a red glove opening the door,
15 and an individual who they will later identify as the Defendant, Jemar
16 Matthews, with a short barrel pistol coming out of the car.

17 They'll tell you that as this vehicle stolen car coasting on the
18 sidewalk very slowly, the Defendant isn't looking at where the vehicle is
19 going. The Defendant has his head completely turned around and he is
20 watching Officer Cupp and Officer Walter. They're able to get a look at
21 him then. They'll tell you that the Defendant that comes out of the
22 driver's side and starts walking in their direction.

23 Officer Cupp and Officer Walter will tell you that they not
24 knowing they were going to be in this high-speed pursuit at high rates of
25 speed in this area of town, they still have their seatbelts on and their

1 guns were not -- were not out yet. And so I mean it's happening very,
2 very quickly as you'll come to find out from the testimony. This is
3 happening very quickly. They both felt in fear for their lives 'cause now
4 this armed man coming out of a vehicle with other armed men, okay,
5 were coming towards them. So Officer Cupp who is in the driver's side
6 of the unmarked patrol vehicle, he'll tell you that he swerved and hit the
7 Defendant, Jemar Matthews, with a part of his unmarked police car. It's
8 the passenger front side or the front passenger side of -- of the patrol --
9 of the police car.

10 They'll tell you that as the Defendant was bumped by that side
11 of the car, part of him actually landed on the hood. And while he was on
12 that hood, Officer Cupp and Officer Walter will tell you they had every
13 opportunity to see and observe his face. And they will tell you that that
14 person who fell on the hood of their car is the Defendant, Jemar
15 Matthews.

16 Now get from the hood, rolls down to the passenger side of
17 Officer -- of the vehicle towards Officer Walter's side. Remember, he's
18 on the passenger side. The Defendant lands in such an area where or
19 in such a way on the ground that Officer Cupp can't open his passenger
20 side door. So he'll tell you that at some point the Defendant gets up and
21 he's able to open his door and he pursues the Defendant, Officer Walter.

22 So the Defendant runs towards the other side of the sidewalk
23 and Officer Walter books after him. He will tell you that he ran in this
24 direction where police ultimately recover a short barrel shotgun or a rifle
25 along with what appears to be a couple.

1 There's a picture of the firearm. The same firearm that they
2 saw the Defendant -- the Defendant had when he opened that driver's
3 side door, turned and was watching them, they saw in his right hand.
4 That firearm is found on the ground in the path where this Defendant
5 ran.

6 Officer Walter will tell you that the Defendant went the
7 opposite way where Pierre Joshlin went up Lexington and the Defendant
8 made a turn towards Eleanor Avenue.

9 Now Officer Walter is chasing after him, okay. But at some
10 point, you know, officers have radios, he hears his partner, Officer Cupp,
11 saying, shots fired, shots fired. And he decides -- Officer Walter decides
12 he's going to stop pursuit. They're going to let the perimeter get set up.
13 They're all going to get to safety. He's going to check on his partner.
14 He stops pursuit. They all meet up again. Perimeter is set.

15 The police will tell you or testimony will show that at right
16 along Eleanor Avenue, okay, at 1200 Eleanor Avenue, police find a red
17 glove. Police find this red glove right in the path that the Defendant,
18 Jemar Matthews, went through. He'll tell you that it's the same red glove
19 they saw him wearing when he pushed open the door to that car that
20 had just been stolen from that couple.

21 So the glove is found at 1200 Eleanor Avenue. The evidence
22 is also going to show that at 1116 Eleanor Avenue towards the back in
23 the grass and bushes near this area the Defendant, Jemar Matthews, is
24 found hiding. And he's not found by, you know, patrol officer -- just a
25 patrol officer. It took a canine dog, a police dog, Lasco [phonetic] to pull

1 him out of that area.

2 That's the Defendant as he appeared when he was pulled out
3 of his hiding spot. Now he did have some injuries from the dog. He was
4 bit on the shoulder and also on his left hand. Apparently he tried to hit
5 the dog as the dog went toward him, the dog bit him. So he was found
6 right next door. So the gloves found at 1200 Eleanor Avenue. The
7 Defendant is found at 1116 Eleanor Avenue.

8 Officers Cupp and Walter will tell you that the person found
9 hiding against that fence in the grass next to the mulch is the Defendant,
10 Jemar Matthews. The same person they saw wearing the red glove.
11 The same person they saw with a short barrel rifle.

12 Gunshot residue testing was also conducted. Some samples
13 taken from Mr. Matthews' hands. Gunshot residue was detected on the
14 palm of his right hand, on the back of his left hand and also on the palm
15 of his left hand. Now you'll hear -- you'll hear testimony concerning
16 gunshot residue. We're not claiming by any means that it is a, you
17 know, and all be all this case, okay. But the testimony will show that
18 what that means the finding of or detection of gunshot residue on his
19 hand just means he may have discharged the firearm, handled a
20 discharged firearm or was in close proximity to a discharged firearm.

21 Testing was also done on that red knit glove. Gunshot residue
22 was found on that red knit glove, the one that he dropped and discarded
23 one house before he hit. What does that tell you? The evidence will
24 show that it just means the red knit glove may have come into contact
25 with a discharged firearm or was in close proximity to a discharged

1 firearm.

2 That gun that the Defendant, you know, the short barreled rifle
3 that the Defendant dropped as he ran from Officer Walter, the evidence
4 will show that that was a Ruger model .22 caliber short barreled rifle with
5 a 30 round magazine. Also known as a banana clip. I mean capable of
6 holding 30 rounds. The evidence will also show that 25 of the 39
7 cartridge cases that were recovered from 1271 Balzar was fired from this
8 short barrel rifle.

9 Crime scene analyst will testify, they put together a diagram,
10 but what I circled here in this diagram is the concentration of cartridge
11 cases that were recovered, the 39 that -- that they were able to recover
12 and count. Twenty-five from that short barreled rifle that the Defendant
13 was seen holding that he dropped as he ran from the police. That bullet
14 -- bullet recovered from Mersy's head is consistent with a .22 caliber.

15 Ladies and gentlemen of the jury, at the end of this trial, Mr.
16 Giordani and I, we're going to ask you find the Defendant guilty of all
17 charges. The evidence will show that the only person who was in the
18 wrong place at the wrong time, but the only people who were at the
19 wrong place at the wrong time on September 30th, 2006 was Michel-le,
20 Myniece and Mersy. The evidence will show that the Defendant, he
21 wasn't at the wrong place at the wrong time. Evidence will show he was
22 one of those armed men snuck them and ambushed these people and
23 shot 39 times not caring who they took out along the way. Thank you.

24 THE COURT: Thank you.

25 MR. TANASI: Thank you, Your Honor.

1 THE COURT: Mr. Tanasi.

2 **OPENING STATEMENT BY THE DEFENSE**

3 BY MR. TANASI:

4 Good morning, ladies and gentlemen.

5 THE JURORS: Good morning [in unison].

6 MR. TANASI: These good Prosecutors and I will agree about
7 one thing in this case and that it is about being in the wrong place at the
8 wrong time. We share that sentiment, folks.

9 Now I stand before you with nothing, but sympathy for the
10 tragic loss of life and the families that mourn them. I have nothing but
11 sympathy for them, okay. Mr. Matthews, he sits before you accused
12 innocently simply because he was in the wrong place at the wrong time.

13 Now folks, you're going to learn that on the night of the murder
14 police they stormed the neighborhood that Jemar walking. As many as
15 46 patrol officers played different law enforcement roles that night.
16 There was a chase. You heard about the car chase. There was a foot
17 chase. There was gun fire. Chaos. Ladies and gentlemen, chaos.
18 Chaos [indiscernible].

19 Now you'll learn that Mr. Matthews he was found in a
20 backyard that wasn't his. But a backyard that was in the neighborhood
21 that he lived in. A backyard in the neighborhood of a home where his
22 child lived. A home that had a temporary restraining order keeping Mr.
23 Matthews from that home. All in the same area. And folks we're not
24 here to talk about the temporary restraining orders and the reasons
25 behind it and whether Mr. Matthews is a good father or a bad father, any

1 of that.

2 State of Nevada is accusing him of murder, ladies and
3 gentlemen. That's what we're here to decide. You're going to learn that
4 -- on that evening of the murder, he was -- Mr. Matthews was arrested.
5 And you're going to learn that through the course of the arrest he was
6 handled many times by law enforcement. And he was moved to
7 different locations by law enforcement.

8 Law enforcement officers you'll learn who routinely fired their
9 weapons. Who holstered their weapons. Who have gunshot residue on
10 their hands, ladies and gentlemen. And you're going to learn about an
11 additional concept, additional from what you've heard in the State's
12 opening. The transfer -- the transfer of gunshot residue. You'll learn
13 that that basically means that Mr. Leventhal fired a weapon and I give
14 him a high-five this morning. I now have gunshot residue on my hand.

15 You're also going to learn that if I go home and I high-five my
16 six year old son who's never been around a weapon, he'll now have
17 gunshot residue on his hand under what's called transfer.

18 You're going to hear from a variety of witnesses in this case.
19 And none of the eyewitnesses, ladies and gentlemen, that come into this
20 courtroom will be able to identify Mr. Matthews. Not one. What you'll
21 hear is more chaos four to five suspects involved in the murder. The
22 shooter is described at 5'7". The shooter is described at 5'11". The
23 shooter had long pants you'll learn. The shooter wore shorts you'll
24 learn.

25 Officers in that chaotic moment where their vehicle may claim

1 came into contact with Mr. Matthews caught only a glimpse of Mr.
2 Matthews. You're also going to learn again as you heard that there was
3 a car on pedestrian crashed, but what you won't hear and what you
4 won't see is any evidence of any injury on Mr. Matthews consistent with
5 that kind of collision.

6 Throughout the course of this case, folks, you'll learn that
7 there is no fingerprint evidence, no DNA evidence, no forensic evidence
8 of that kind linking Mr. Matthews to the murder in any way. Not on any
9 gun, any bullet, any casing, any glove, any vehicle or linking him to Mr.
10 Pierre. The law enforcement found in a dumpster with gloves and a
11 firearm.

12 Now the State of Nevada are represented by great
13 Prosecutors here today. Throughout this course of this trial there will be
14 a few things that we agree on, but mostly there will be things we don't.
15 We agree that this is a case about being in the wrong place at the wrong
16 time. We also agree that it's their burden to prove Mr. Matthews guilty
17 beyond a reasonable doubt. So logically rule out all possibilities, all
18 logical and reasonable possibilities that Mr. Matthews was simply not in
19 the wrong place at the wrong time. And when they fail to do so at the
20 end of this trial, ladies and gentlemen, we will ask for the only verdict
21 which is not guilty. Thank you.

22 THE COURT: Okay. Thank you very much. At this time,
23 we're going to take a recess. During this recess you're admonished not
24 to talk or converse amongst yourselves or with anyone else on any
25 subject connected with this trial or read, watch or listen to any report of

1 or commentary on the trial or any person connected with this trial by any
2 medium of information, including without limitation newspapers,
3 television, the Internet or radio; form or express any opinion on any
4 subject connected with this trial 'til the case is finally submitted to you.

5 We'll be in recess for 10 minutes. Thank you.

6 THE MARSHAL: Thank you. All rise for the exiting jury
7 please.

8 [Recess taken from 11:37 a.m. to 11:49 a.m.]

9 [Outside the presence of the jury]

10 THE COURT: The record will reflect that the hearing is taking
11 place outside the presence of the jury panel.

12 MR. GIORDANI: Yes, Your Honor. Briefly, the parties had
13 met and conferred on the exhibits and we agreed to stipulate to State's
14 proposed 1 through 451.

15 MR. TANASI: That's correct.

16 THE COURT: One through 451, no objection?

17 MR. TANASI: No objection.

18 THE COURT: One through 451 are all admitted.

19 [State's Exhibit Numbers 1 through 451, admitted]

20 MR. GIORDANI: The other thing we need to make a record
21 about is there was a brief conversation we had regarding the gang stuff
22 being kept out of this trial which of course we respect the Court's ruling.
23 We're going to abide by that. We've instructed these witnesses. The
24 first two witnesses we want to get on before lunch. And they are --
25 they've been made clear there's no reference to gang affiliation

1 whatsoever. There's no reference to the seven or so shootings that
2 happened in the week before this. There's no reference to retaliation or
3 anything of that nature. So we're putting it on the record now that we've
4 admonished them.

5 Of course, defense just needs to be careful, you know, on
6 cross that they don't elicit something that they've been told not to get
7 into that stuff.

8 The other thing is that we -- we've informed them to -- if
9 they're impeached or anything with prior testimony, we've informed them
10 that it's going to be referred to as a prior proceeding --

11 THE COURT: Okay.

12 MR. GIORDANI: -- so --

13 THE COURT: Okay.

14 MR. GIORDANI: -- they should -- they should understand
15 what's the Court's rulings have been so far.

16 THE COURT: Okay. Well, the attorneys should all use that
17 term prior proceeding.

18 MR. GIORDANI: Correct.

19 MR. TANASI: Real good.

20 THE COURT: That's what I think would alleviate any issue
21 with saying -- I mean a prior trial.

22 MR. LEVENTHAL: And just -- and into that -- in some
23 instances in terms of the officers there's going to be a sworn statement
24 that they gave --

25 THE COURT: Correct.

1 MR. LEVENTHAL: -- at the scene because it was a crime
2 homicide. Then there was the prelim.

3 THE COURT: Okay.

4 MR. LEVENTHAL: Then there was the first trial. So when I
5 say prior hearing or prior -- you know, because there's -- they change.

6 THE COURT: I don't care if you say preliminary hearing. I'm
7 not going to have a problem with that.

8 MR. LEVENTHAL: Okay.

9 THE COURT: I'm going to have a problem if you say trial.
10 Just say a prior proceeding.

11 MR. LEVENTHAL: Prior proceeding like when it comes to
12 trial. So I could say you gave an interview to the homicide detectives
13 after?

14 THE COURT: That's fine.

15 MR. LEVENTHAL: And then you did the prelim and then you
16 did a prior proceeding and then we're here, perfect.

17 THE COURT: I think that's fine.

18 MR. LEVENTHAL: Right.

19 THE COURT: As long as you don't refer to a prior trial.

20 MR. TANASI: One additional matter if I may, Your Honor. Did
21 you have another one?

22 MR. LEVENTHAL: Just one. My concern about what Mr.
23 Giordani just indicated that regarding the gang stuff, that in -- in Ms.
24 Lexis' opening she indicated that they were there to see the male. And
25 I'm not sure how they were there to see the -- the male person that --

1 what was his name that was --

2 MS. LEXIS: Maurice.

3 THE COURT: Maurice.

4 MR. LEVENTHAL: -- Maurice. They -- Maurice was the
5 intended victim. And I guess there's hints of that on gang retaliation.
6 And so I'm not sure -- I just throwing it out there because it seems just
7 odd to me that we're not supposed to be talking about retaliation gangs
8 and then the intended victim was Maurice. So I'm just not sure how
9 they're going to get around that if that was the --

10 THE COURT: I don't have --

11 MR. LEVENTHAL: -- intent.

12 THE COURT: -- any problem with what the DA said. The
13 evidence is going to show that the intended victim was Maurice. How is
14 that gang? I mean if the evidence is -- is going to show that the State
15 believes that they were there not to kill the persons that were actually --
16 kill the person that was actually killed, but somebody else, I don't know
17 how that --

18 MR. LEVENTHAL: Okay.

19 THE COURT: -- how that gets into gang. I mean as long as
20 they don't say it was a gang, it was retaliatory or anything like that, but I
21 mean they have to be able to tell the jury what the evidence is.

22 MR. LEVENTHAL: Sure. Of course.

23 MR. TANASI: One more matter, Your Honor. Just in terms of
24 kind of courtroom mechanics and kind of keep things as smooth as
25 possible, for the State's second witness, Geishe Orduno, there's a lot of

1 testimony as least in the prior trial with respect to different heights her in
2 particular, then her in comparison to the person she claims robbed the
3 vehicle and then my client's height.

4 And in the prior trial essentially both were close to each other.
5 The Court have allowed them to be somewhat close to each other so the
6 jury could make on their own an evaluation of the size of the person.
7 And so I was just hoping to do the same thing in this trial keeping them
8 as far and apart as I can keep the Court comfortable as well. What I had
9 kind of envisioned is Mr. Matthews just standing right here and -- and
10 then if the witness could just come down off of the witness stand and
11 even stand that far away, but just on the floor so that it's level playing
12 field. Again --

13 THE COURT: What's the purpose?

14 MR. TANASI: Making the key point, Your Honor, that she
15 identifies the person who robbed her as being shorter than she is. And
16 Mr. Matthews is clearly taller than she is.

17 MR. GIORDANI: And I don't know how Figler got away with
18 that at the first trial to be honest with you. I think the witnesses were
19 being intimidated by Mr. Matthews approaching them --

20 THE COURT: Yeah.

21 MR. GIORDANI: -- in any way.

22 THE COURT: That makes me really, really, really, really
23 uncomfortable to have witnesses that are testifying, you know, against
24 certain people. I'm not going to allow any of that, you know. I wouldn't
25 have a problem with her telling the jury how tall she is if you want her to

1 stand up. If you want your -- you want your client to actually stand up?

2 MR. TANASI: Two things, Your Honor. Again --

3 THE COURT: Okay.

4 MR. TANASI: -- I'm envisioning the witness stand up down
5 from the witness stand because on the witness stand she's taller and so
6 that we have an accurate description. Down from the witness stand on
7 the floor and then Mr. Matthews maybe standing right here far enough
8 away. They -- they can even be back to back. However -- they're not
9 touching each other. There's a lot ground here between the two.

10 THE COURT: I think if you want the jury to see your client,
11 your client can stand up. The jury can observe the witness when she
12 comes in and out of the courtroom and you can ask her how tall she is.
13 You can even elicit testimony -- I'm assuming you can elicit from
14 somebody the height of your client.

15 MR. TANASI: Correct.

16 THE COURT: Right?

17 MR. TANASI: I can.

18 THE COURT: Without putting your client up there, so I'm sure
19 that information would be available from one of the State's witnesses.

20 MR. TANASI: Sure.

21 THE COURT: But I'm not comfortable with -- with like a
22 comparison.

23 MR. TANASI: Okay.

24 THE COURT: I think you can get the evidence in and then
25 make your argument. I don't want to make any witnesses feel

1 uncomfortable or intimidated.

2 MR. TANASI: Understood. Your Honor, then you said I would
3 be able to allow my client to stand up.

4 THE COURT: I don't have a problem with that.

5 MR. TANASI: At the end of her testimony perhaps just --
6 again, in line with trying to make a point that -- that he is clearly taller
7 than she is, that that's the point --

8 THE COURT: I don't know what you mean.

9 MR. TANASI: So --

10 THE COURT: I mean you can have your client stand up at
11 any time.

12 MR. TANASI: Okay.

13 THE COURT: Okay.

14 MR. TANASI: Okay. Fair enough.

15 THE COURT: Or it could be during her testimony, that's fine.
16 I mean you'll be able to ask her clearly how tall she is.

17 MR. TANASI: Okay.

18 THE COURT: And then, you know, you can ask her how tall
19 she thinks the person was and then you can have -- I mean is it drastic?

20 MR. TANASI: Yeah. In our opinion it is -- it is.

21 THE COURT: Okay.

22 MR. TANASI: You know, it's -- again, I think the point is better
23 served visually, but I understand the Court's concern and I think as long
24 as I can have him stand up at some point through her testimony so that
25 they're not near each other or making her more uncomfortable than it is,

1 I'll probably do it at the very end.

2 THE COURT: Okay.

3 MR. TANASI: Then I can -- I can go that route.

4 THE COURT: Okay. Thank you.

5 MR. TANASI: Thank you.

6 THE COURT: So you've clearly given a list of your witnesses
7 for today?

8 MR. GIORDANI: Oh yeah.

9 THE COURT: Thank you. Thank you very much.

10 MR. GIORDANI: No problem.

11 THE COURT: Okay.

12 THE MARSHAL: All rise for entering jury.

13 [In the presence of the jury]

14 THE COURT: Does the State stipulate to the presence of the
15 jury panel?

16 MR. GIORDANI: Yes, Your Honor.

17 THE COURT: The defense?

18 MR. TANASI: Yes, Your Honor.

19 MR. LEVENTHAL: Yes.

20 THE COURT: You may call your first witness.

21 MS. LEXIS: The State calls Myniece Cook.

22 THE MARSHAL: Please step up to the witness stand, remain
23 standing, raise your right hand and face the Clerk.

24 THE CLERK: Please raise your right hand.

25 **MYNIECE COOK**

1 [having been called as a witness and being first duly sworn,
2 testified as follows:]

3 THE CLERK: Thank you. Please be seated. And could you
4 please state and spell your name for the record.

5 THE WITNESS: Myniece Cook, M-Y-N-I-E-C-E, C-O-O-K.

6 THE CLERK: Thank you.

7 MS. LEXIS: May I, Your Honor?

8 THE COURT: You may.

9 MS. LEXIS: Thank you. Brief indulgence.

10 DIRECT EXAMINATION

11 BY MS. LEXIS:

12 Q Hi, Ms. Cook.

13 A Hello.

14 Q Ms. Cook, I'm going to need you to please speak into that
15 microphone, okay.

16 A Okay.

17 Q So everyone can hear you.

18 A Right.

19 Q How are you?

20 A I'm -- I'm -- I'm here.

21 Q Okay. Ms. Cook, I'd like to turn your attention to September
22 30th of 2006. Where were you earlier that evening?

23 A Earlier?

24 Q Yes.

25 A We was at my grandmother's house. We were celebrating

1 Mersy's birthday.

2 Q Okay. Who is Mersy to you?

3 A It's my first cousin.

4 Q Your grandmother's house --

5 A Right.

6 Q -- is it located in a certain part of town?

7 A It's right up the street from where she was murdered.

8 Q Okay. You said you were celebrating Mersy's birthday?

9 A Yeah. Which was the 3rd of October.

10 Q Okay.

11 A So we celebrated it over the weekend.

12 Q Okay.

13 A Yeah.

14 Q Just speak up as much as you can, okay.

15 A Okay.

16 Q All right. And so was there another cousin at your

17 grandmother's house with you that day?

18 A Yes.

19 Q Okay. Do you know someone named Michel-le?

20 A Yes. That's my cousin as well.

21 Q Okay. Are they first cousins?

22 A We all are.

23 Q Okay. How are you all cousins, mom's, dad's?

24 A Mom's.

25 Q All of your moms are sisters?

1 A Correct.

2 Q Okay. Back in 2006, I'm not trying to be nosey, but how old
3 were you then?

4 A I was 27 at the time.

5 Q Okay. And Mersy, you said she was celebrating a birthday
6 October 3rd --

7 A Mm-hmm.

8 Q -- didn't quite make it to October 3rd. How old was she?

9 A Twenty-two.

10 Q Okay. And Michel-le, how old was she?

11 A She was 16 I believe.

12 Q Okay. So after dinner at your grandmother's house, did you
13 and Mersy have plans to celebrate further?

14 A Yes. We were going to go out that night.

15 Q Okay. You were of driving age at that time; correct?

16 A Yes.

17 Q Okay. Did you have a vehicle that you were driving that
18 night?

19 A Yes.

20 Q What type of vehicle was it?

21 A It was a Tahoe -- 2007 Tahoe.

22 Q What color?

23 A White.

24 Q Did that vehicle belong to you?

25 A Well yeah, my mom.

1 Q Okay.

2 A Yeah.

3 Q She let you use it that night?

4 A Yeah.

5 Q Okay. And so at some point did there come a time throughout
6 that night or that night where you, Michel-le and Mersy were together?

7 A Yes.

8 Q Okay. And at some point did Michel-le ask you to take her
9 some where?

10 A Yeah. She asked me to stop by her friend house to say hi.

11 Q Okay. This friend, did you know this person?

12 A I didn't know him, no.

13 Q Okay. And you said him, so this friend was a male?

14 A Correct.

15 Q Okay. And where was this house or this friend's house
16 located?

17 A On the corner of Balzar and Lexington.

18 Q Okay. Had you ever been to this house before?

19 A Never.

20 Q Ever laid eyes on this friend before?

21 A Never.

22 Q Okay. And was there some conversation between you,
23 Michel-le and also Mersy about whether or not you all should go there?

24 A Yeah.

25 Q What was your position on that?

1 A I didn't want to go and Mersy was just like just let her say hi
2 and that's what we did.

3 Q Okay. And so did you drive your cousins up over there?

4 A Yes.

5 Q Do you recall about what time you all got there?

6 A I'm going to say around 9ish maybe --

7 Q Okay.

8 A -- between -- the sun was down. Yeah.

9 Q Okay. So the sun was down, so evening time?

10 A Yeah. Evening. Yeah.

11 Q Okay. So once you all get there, what happens?

12 A Michel-le got out the car and was talking to her friend. Mersy
13 wanted to introduce me to him. So we get out the car and we wasn't
14 there five minutes and when I looked up a group of guys was standing
15 there. Well, it was one guy and then the other ones walked up and then
16 they started shooting.

17 Q Okay. Let me take you back just a little bit and go through
18 that a little slower, okay. You said that at some point Mersy asked you
19 to come out the car?

20 A Yes.

21 Q Yes. Okay. And when you finally got out the car, did you join
22 your other cousins in speaking to Michel-le's friend?

23 A Yes.

24 Q Was this friend named Maurice Hickman?

25 A Yes.

1 Q Okay. To your knowledge, did Mersy know this gentleman as
2 well?

3 A She probably knew him better than me.

4 Q Okay.

5 A Like she was probably introduced to him through Mich.

6 Q And you call Michel-le, Mich?

7 A Yeah. Michel-le.

8 Q Okay. And so where -- when you get out of the house, where
9 do you go? Do you go inside the house? Do you talk outside?

10 A No. We never went inside. We wasn't even out there five
11 minutes.

12 Q Okay.

13 A We wasn't out there long at all.

14 Q Okay.

15 A Yeah.

16 Q And so what part of the house were you girls and Maurice
17 standing at?

18 A We were standing in front of the -- right in front of the house.
19 It was like a blue car located in the yard. So we was standing on the left
20 inside of the car. So closer to the house.

21 Q Okay.

22 A Yeah.

23 Q Let me see if I can find a photo.

24 Your Honor, permission to publish what's been previously
25 marked as Exhibit 49 admitted by way of stipulation?

1 THE COURT: You may.

2 MS. LEXIS: Thank you. And I apologize.

3 Brief indulgence, Your Honor.

4 Myniece, just going to ask you to look at the photo, okay. I
5 apologize. Does this photo show where you -- it's okay. Just take your
6 time. Does this photo show where you and your cousins were standing?

7 THE WITNESS: Yes.

8 BY MS. LEXIS:

9 Q Okay.

10 Your Honor, can I use a Post-it?

11 THE COURT: You may.

12 BY MS. LEXIS:

13 Q I'm sorry, Myniece. Does this photo show where you and your
14 cousins were standing?

15 A Yes.

16 Q Okay. You said there was a blue or green car.

17 A Yeah.

18 Q Is that right?

19 A Yes.

20 Q And so were you on the side of the blue car closer to the
21 street or by the house?

22 A Closer to the house.

23 Q Okay. So you're right in between that gap, that area right
24 there?

25 A Yeah.

1 Q And so what side were you facing?

2 A I was facing this way toward the street.

3 Q Towards Lexington?

4 A Yeah. Toward Lexington.

5 Q Okay. And which way was Mersy facing?

6 A She was standing by me. We was both facing the street.

7 Q Okay. And what about Michel-le?

8 A They was -- they back was kind of to the street 'cause we was

9 talking -- we was in front of them, so they back was to Lexington, but we

10 was facing Lexington.

11 Q Okay. When you say their back was --

12 A Maurice and Mich.

13 Q -- Maurice and Mich, okay.

14 A Yeah.

15 Q And so you said at some point something drew your attention

16 towards the Lexington side of this house; right?

17 A Yeah.

18 Q Okay. Did you hear Mersy say anything?

19 A She -- she -- she was like who is that.

20 Q Okay. And when Mersy said that -- that, did that cause you to

21 --

22 A Everybody just looked up.

23 Q Okay.

24 A And we like -- and then the guy who house we was at he was

25 like you all run.

1 Q Okay. So when you first look over towards the Lexington side
2 of the house --

3 A Mm-hmm.

4 Q -- you indicated you saw one person there, one male at first;
5 right?

6 A At first, yes.

7 Q Okay. Now this male could you describe anything about him?

8 A The only thing I remember is all black. Only seen a silhouette.

9 Q Okay.

10 A Just a silhouette.

11 Q Could you tell -- was he doing something with his hands?
12 Could you see his hands?

13 A It was behind his back.

14 Q Okay. Did that strike you as odd?

15 A Of course.

16 Q Okay. And so then Maurice tells you all to run; is that right?

17 A Yes.

18 Q So what do you do?

19 A I stood. I mean I stood there. Mersy was in shock. She just
20 stood there and trying to get her to run. I didn't want to run off and leave
21 her. The boy grabbed Mich and ran across the street. Everything just
22 happened so fast.

23 Q Okay.

24 A That's all I remember is just standing there trying to get her to
25 come too 'cause she was like freaking out. And then finally when she

1 came too, we -- I told them let's run. Don't look back. Just run. And I
2 guess she was shot in her head and she got heavy on my arm. And we
3 fell to the ground and I was going to get up, but something was just like
4 just lay there. Don't move.

5 Q Okay.

6 A Yeah.

7 Q So at some point you hear gunshots; is that right?

8 A Yeah.

9 Q Okay. How long do you think it was that you laid on the
10 ground?

11 A How long? I would say probably like a minute or less.

12 Q Okay.

13 A A minute or two. I'm not sure.

14 Q Do you recall how many gunshots you heard?

15 A Oh my goodness. No, I don't. It was a lot. That's all I know.

16 Q Okay.

17 A It was a lot.

18 Q So initially you see one -- one individual standing there, one
19 male --

20 A Right.

21 Q -- is that right? Could you tell the race of this person?

22 A Could I tell the race?

23 Q Yes.

24 A I just seen a black silhouette --

25 Q Okay.

1 A -- in all black.

2 Q Okay.

3 A It was --

4 Q And so -- let me find -- showing you what's been marked and
5 admitted or publishing -- asking to publish what's been marked and
6 admitted by way of stipulation as State's Exhibit 75. May I publish, Your
7 Honor?

8 THE COURT: You may.

9 MS. LEXIS: Thank you.

10 Can -- does this picture show where it is that you first saw the
11 -- the male with his hands behind his back?

12 THE WITNESS: Yes.

13 BY MS. LEXIS:

14 Q Okay. Now there's a mouse in front of your -- yeah. And just
15 hold on just one minute. Let me set the setting. Okay. So don't touch
16 the mouse. Okay. So now you can use the mouse to draw like where it
17 is that you saw the person come up or how about you put an X.

18 A Like around up in here.

19 Q Okay.

20 A 'Cause we standing -- well --

21 Q Okay. Right by that blue car?

22 A Yeah.

23 Q Okay.

24 A So we can kind of see this way.

25 Q Okay. And so at some point you said very early in your

1 examination that you saw other individuals join that -- that one male; is
2 that right?

3 A Yes.

4 Q Okay. And was that when you heard the gunshots?

5 A Yes. Yes.

6 Q Okay. Did you actually ever see those -- that group of people
7 start shooting?

8 A Did I -- I mean I heard it.

9 Q Okay. Okay.

10 A I can't say --

11 Q Okay.

12 A -- you know --

13 Q And you said you -- you said Mersy kind of froze.

14 A Yeah.

15 Q Do you remember her telling you she was scared?

16 A Oh yeah.

17 Q Okay. And were you encouraging her to run?

18 A Yeah. 'Cause I didn't know what to do. I've never been in no
19 situation like that in my life.

20 Q Okay. And did you like grab her hand you said she began to
21 feel heavy?

22 A Yeah. Well when she finally came like, you know, finally got
23 her attention and I grabbed her arm and she was like I'm scared. I was
24 like I know. Just run and don't look back, you know. So we took a few
25 steps and then she got heavy on my arm and she fell 'cause she like

1 way taller and bigger than me. So she kind of drug me down and then I
2 just laid there.

3 Q Okay.

4 A I didn't -- I didn't even know she was shot until, you know.

5 Q Later?

6 A Yeah.

7 Q Okay. Did -- were you injured at all?

8 A Yes.

9 Q Did you know that at the time that you went down?

10 A No.

11 Q Okay. So when you were down, were you -- I mean obviously
12 you weren't hurt. Did you pretend -- did you pretend that you were hurt?

13 A Yeah. I pretended that I was dead. Yeah.

14 Q Okay. And so you said you lay there next to Mersy for about a
15 minute, you know. At some point did the gun -- did the gun fire stop?

16 A Yes.

17 Q And so what did you do?

18 A Well when it stopped, I -- I guess Maurice's mother came to
19 the door and I heard her open the door. When I got up, I leaned up
20 against the side of the house 'cause I didn't know, you know, it just got
21 complete silent and I just leaned up against the side of the house and I
22 heard the lady open the front door and I just took off running to the front
23 door.

24 Q Inside the house?

25 A Yeah.

1 Q Okay. And you said you leaned up against the side of the
2 house --

3 A Yes.

4 Q -- because you didn't know what was happening?

5 A Yeah.

6 MS. LEXIS: Permission to publish admitted Exhibit 34?

7 THE COURT: You may.

8 MS. LEXIS: Thank you. I apologize, Your Honor. It's just not
9 as responsive.

10 All right. So now publishing Exhibit 34; does this show kind of
11 the side of the house where you, you know, leaned up against?

12 THE WITNESS: Yes.

13 BY MS. LEXIS:

14 Q Okay. And using your mouse can you show us where that
15 was? Okay. So towards like exact -- the side of the house --

16 A Mm-hmm.

17 Q -- leading up to like the backyard area --

18 A Yes.

19 Q -- located towards the left of the photo?

20 A Yes.

21 Q Okay. And is the front door to the residence shown on this
22 exhibit as well?

23 A Yes.

24 Q Okay. And so you go in there. To your knowledge was the
25 police called?

1 A She was on the phone with the police. And then after she -- I
2 asked her if I can use the phone to call down to my grandmother house
3 and Mersy's mom answered the phone.

4 Q Okay.

5 A And -- yeah. I told her to get down there 'cause Mersy was
6 shot and I think she dead.

7 Q At some point did you ever have the opportunity to come out
8 of the house?

9 A Oh yeah. I came out and I turned -- I told her I was like come
10 on Mersy we can get up now. And she didn't respond and I kind of
11 turned her over and that's when I seen she was shot in her head.

12 Q Okay. And just for the record you pointed kind of towards the
13 middle of her forehead?

14 A Yeah.

15 Q Okay. And then what did you do?

16 A What did I do?

17 Q Did you come to find out that you had been shot too?

18 A Oh yes. I was freaking out of course. Then the police was
19 telling me to calm down, but my brother-in-law was on the scene and he
20 was like, Niece, you bleeding. And I'm like, huh. And I took my jacket
21 off and that's when I seen the hole in my arm.

22 Q Okay. I'm going to show you, and permission to publish a
23 series of photographs labeled 448 through 451 admitted by way of
24 stipulation.

25 THE COURT: You may.

1 BY MS. LEXIS:

2 Q State's Exhibit 448; do you recognize what's depicted in that
3 photo?

4 A Yeah.

5 Q Okay. Is that you at the hospital being treated for the gunshot
6 wound --

7 A Yes.

8 Q -- to your is that your left wrist?

9 A Yes.

10 Q State's Exhibit 449; just a closer picture of your wrist, yes?

11 A Yes.

12 Q 450; to your knowledge were you shot once on your wrist?

13 A Yes.

14 Q Okay. And State's Exhibit 451, closer view of your wrist as
15 well; is that right?

16 A Yes.

17 Q Okay. Do you have any scars from this?

18 A Yes.

19 Q Do those scars remain today?

20 A Yes.

21 Q So is it fair to say, Myniece, that you didn't get a look at any of
22 the individuals who were firing from that side -- Lexington side of the
23 house?

24 A Yes.

25 Q Okay. Could you tell how many people were there based on

1 silhouettes?

2 A It was about four, maybe five.

3 Q Okay. As you lay there, you know, after the gun fire stopped
4 or immediately before it stopped, did you hear or feel someone run past
5 you?

6 A Yes. I heard somebody walking up in the rocks.

7 Q Okay. I'm going to show State's Exhibit 28 admitted by way of
8 stipulation which I'm publishing, Your Honor. Does this show, you know,
9 that rocky area where you would have heard someone run past you or --

10 A Yes.

11 Q Okay. Can you use your mouse and show?

12 A It was over this way where I fell over that -- right up in that
13 area.

14 Q Okay.

15 A So --

16 Q So you fell right where Mersy's body kind of was, right?

17 A Yeah.

18 Q And then as you're laying there you hear someone run past
19 you --

20 A Walking through the rocks.

21 Q -- in the rocks?

22 A Mm-hmm.

23 Q Could you -- which direction?

24 A Lexington -- what's the next street over --

25 Q Lawry.

1 A -- back toward Doolittle Way.
2 Q Okay.
3 A Yeah.
4 Q Okay.
5 A Yeah.
6 Q So run past you back towards Lexington --
7 A Yeah.
8 Q -- that way --
9 A That way.
10 Q -- down the street?
11 A Yes.
12 Q Okay. So in this photo going back to kind of towards the right
13 --
14 A Right.
15 Q -- of the photo?
16 A Yes.
17 Q Okay.
18 A Back that way.
19 Q Okay. Court's brief indulgence.
20 I have no more questions for this witness. Thank you, Your
21 Honor.
22 THE COURT: Cross examination.
23 MR. TANASI: Thank you, Your Honor.
24 CROSS EXAMINATION
25 BY MR. TANASI:

1 Q Good morning, ma'am.

2 A Hello.

3 Q I'm Rich Tanasi and I represent Mr. Matthews.

4 A Okay.

5 Q I have just a few short questions for you on cross; is that
6 okay?

7 A Okay.

8 Q All right. Just want to make sure that the testimony is clear.
9 Four to five individuals --

10 A Correct.

11 Q -- do you remember that night at the corner?

12 A Correct.

13 Q And those silhouettes; correct?

14 A Correct.

15 Q Lots of gunshots you heard --

16 A Correct.

17 Q -- right? You can't say with any certainty who shot you;
18 correct?

19 A I mean I was trying to figure out how I was going to saving my
20 life. I wasn't trying to see who was shooting.

21 Q Fair enough.

22 A But no.

23 Q And I'm not judging you.

24 A I didn't.

25 Q I just want to make sure --

1 A Right.

2 Q -- I have your --

3 A No. Yes. That's correct.

4 Q -- testimony correct.

5 A Correct.

6 Q All right. Now, the -- the first thing the individual that you saw

7 he's kind of standing with his hands behind his back; right?

8 A Mm-hmm. Yes.

9 Q Okay. Dressed in all black; right?

10 A All black, yes.

11 Q All black.

12 A Yes.

13 Q Okay. Didn't see his face; correct?

14 A No. Just seen a silhouette.

15 Q Didn't recognize him at all; right?

16 A Just seen a hair, silhouette, hair, body. That's it.

17 Q Okay. Thank you, ma'am.

18 A You're welcome.

19 MR. TANASI: Pass the witness.

20 THE WITNESS: All right.

21 THE COURT: Any redirect?

22 MS. LEXIS: No, Your Honor.

23 THE COURT: Okay. Thank you very much for your testimony

24 here today. You may step down. You are excused from your subpoena.

25 You may call your next witness.

1 MS. LEXIS: The State calls Michel-le Tolefree.

2 THE MARSHAL: All right. If you'll please step up on the
3 witness stand, remain standing and raise your right hand and face the
4 Clerk please.

5 **MICHEL-LE TOLEFREE**

6 [having been called as a witness and being first duly sworn,
7 testified as follows:]

8 THE CLERK: Thank you. You may be seated. Could you
9 please state and spell your name for the record?

10 THE WITNESS: M-I-C-H-E-L-L-E.

11 THE CLERK: Last name please.

12 THE WITNESS: TOLEFREE, T-O-L-E-F-R-E-E.

13 THE CLERK: Thank you, ma'am.

14 MS. LEXIS: May I, Your Honor?

15 THE COURT: You may.

16 MS. LEXIS: Thank you.

17 **DIRECT EXAMINATION**

18 **BY MS. LEXIS:**

19 Q Ms. Tolefree --

20 A Mm-hmm.

21 Q -- I'm going to need you to speak into the microphone okay.

22 A Yes.

23 Q Kind of soft spoken. Showing you what's been marked and
24 admitted as State's Exhibit Number 97.

25 Permission to publish?

1 THE COURT: You may.

2 BY MS. LEXIS:

3 Q Do you know this person?

4 A Yes.

5 Q Who is that?

6 A My cousin.

7 Q Your cousin?

8 A Mm-hmm.

9 Q What's her name?

10 A Mersy Lindsey.

11 Q Okay. Is she -- how is she your cousin? Is she your first
12 cousin?

13 A No. My second.

14 Q Okay. How are you all related? Through what family
15 member?

16 A Her and my mom are sisters.

17 Q Okay. Do you know someone named Myniece?

18 A Yes.

19 Q Was that the woman who just walked out before you came in?

20 A Yes.

21 Q Are you related to her?

22 A Yes.

23 Q How?

24 A Cousins.

25 Q Okay. Were you with Mersy and your cousin, Myniece, on

1 September 30th of 2006?

2 A Yes.

3 Q How old were you then?

4 A Sixteen.

5 Q Were your cousins Myniece and Mersy older than you?

6 A Yeah.

7 Q Who's the oldest out of the group?

8 A Niece -- Myniece.

9 Q Okay. You call her Myniece -- you call her Niece?

10 A Yes.

11 Q Okay. What's your nickname?

12 A Mich.

13 Q Mich. Okay. Were you all at your grandmother's house
14 earlier --

15 A Yes.

16 Q -- that night? Yes. Okay. What were you all there for?

17 A We have family gatherings at my grandmother house.

18 Q Okay. Was there a specific reason for this gathering?

19 A We always have cook outs every weekend.

20 Q Okay. And at some point in that night, did -- were you with
21 Myniece and also Mersy --

22 A Yes.

23 Q -- later that night?

24 A Yes.

25 Q Did you ask for one of your cousins, Myniece, to drive you

1 over to a friend's house?

2 A Yes.

3 Q What was this friend's name?

4 A Maurice.

5 Q Maurice?

6 A Yeah.

7 Q Hickman?

8 A Yes.

9 Q Okay. Did he live close to your grandmother's house?

10 A Yes. Down the street.

11 Q Okay. At some point did your cousins agree to bring you
12 there?

13 A Yes.

14 Q Okay. You didn't drive at that time?

15 A No.

16 Q Okay. So they drove you over?

17 A Mm-hmm. Yes.

18 Q Is that a yes?

19 A Yes.

20 Q Do you remember about what time it was that you were -- that
21 you all got there?

22 A It was like 8, 9ish.

23 Q Okay. P.M.?

24 A Yes.

25 Q Okay. At some point -- well initially once you all get there, did

1 you get out of the car obviously?

2 A Yes.

3 Q Okay. Did you start speaking to Maurice?

4 A Yes.

5 Q At some point did Mersy and Myniece also come out of the
6 car?

7 A Yes.

8 Q Were you all kind of chatting or talking?

9 A Yes.

10 Q Which part -- did you go inside or remain outside the house?

11 A We remained outside.

12 Q Okay. What part of the house were you all at talking or
13 outside the house were you all talking?

14 A On the corner of the house like in front of the house outside.

15 Q Okay. Showing you what's been marked and admitted as
16 State's Exhibit Number 49. I apologize.

17 A Mm-hmm.

18 Q Do you recognize what's depicted here?

19 A Yes.

20 Q Okay. Does this photo show where you, Myniece and Mersy
21 were standing?

22 A In front of the blue car.

23 Q Okay. Towards the street or towards the house?

24 A Towards the house.

25 Q Okay. So kind of in between that porch --

1 A The gate and the car.

2 Q Okay. All right. At some point, did something happen while

3 you were, you know, talking? Well first of all let me ask you this, were

4 you four the only people outside at the front of the house?

5 A It was three, me, Mersy and Maurice.

6 Q Okay.

7 A Oh yeah, four.

8 Q What about Myniece? She came out the car too as well?

9 A Yes. They both came out the car together, Mersy.

10 Q Okay. So four total?

11 A Yes.

12 Q Okay. Did something happen -- did something happen while

13 you all were standing there?

14 A Yes. While we were standing and talking, the way the house

15 is it's like another street. So someone was standing on the street just

16 staring at us. Mersy was like who is that, so she noticed him first. And

17 that's when Maurice turned around and said run.

18 Q Did you turn around and look as well?

19 A I glanced, yeah.

20 Q Okay. And so when you glanced, did you see the person

21 Mersy was talking about?

22 A Yes.

23 Q Okay. How many people did you see?

24 A The first time --

25 Q Yes.

1 A -- I saw one person.

2 Q Okay. What was this person doing?

3 A He just was standing there watching us with his hands behind
4 his back.

5 Q Okay. Could you tell his race?

6 A Black.

7 Q Okay. And so you said the first time you looked over, did you
8 have -- okay. So you look over there and you see this -- this guy. It's a
9 male; correct?

10 A Yes.

11 Q Okay. Could you see how he was dressed?

12 A Yes. Black --

13 Q How was --

14 A -- black shirt, blue pants.

15 Q Black shirt and blue pants?

16 A Yes.

17 Q Okay. And so when Maurice said run, what happened? What
18 did everybody do?

19 A We all tried to run. Me and Maurice ran across the street, but
20 while I was running I fell. And all I seen was bullets like hitting the
21 ground, so I was scared to get up. But I ran out of my shoes, so I got
22 back up and started running. But when I glanced back it was like four to
23 five people.

24 Q Okay. When you glanced over, did you ever at any time see
25 Maurice fire back at these individuals?

1 A Yes.

2 Q Okay. How many times do you think?

3 A Probably like once.

4 Q Okay. Did you -- did you know that Maurice had a gun? Did
5 you see it prior to him actually shooting?

6 A No. We didn't know he had a gun. Like I didn't know anything
7 what was going on that night.

8 Q Okay. And so I'm going to publish what's already been
9 admitted and published previously as State's Exhibit 28; does this show
10 -- you said, you know, it was next to another house or next to another
11 street, so it was a corner house; right?

12 A Yes.

13 Q Okay. 1271 Balzar; is that shown in the photo?

14 A Yes.

15 Q As a matter of fact there's a street sign and if I could just get
16 this glare without darkening it.

17 THE COURT: Thank you.

18 MS. LEXIS: Thank you so much. Perfect. Thank you. Much
19 better. Thank you very much.

20 Okay. There's actually a street sign on this Exhibit; is that
21 right?

22 THE WITNESS: Yes.

23 BY MS. LEXIS:

24 Q Okay. And it shows -- see where it says Lexington?

25 A Yes.

1 Q Okay. All right. And so -- and it's Lexington and Balzar; right?

2 A Yeah.

3 Q Okay. Does this photograph or this exhibit show where you
4 saw that black male with his hands behind his back? If you put -- you
5 can take the mouse -- hold on real quick. Let go of the mouse. I'm
6 going to have to put this on the marker. Don't touch the mouse yet.
7 Sorry. It's a little slow to respond.

8 Okay. Can you use your mouse to put an X where you saw
9 this person? Okay. For the record you put an X kind of near like the
10 sidewalk grassy area behind --

11 A It was down the sidewalk.

12 Q -- oh, the sidewalk. Okay.

13 A Yeah.

14 Q Okay. Right at that corner right before like the gutter; do you
15 see that?

16 A Yeah.

17 Q Okay. And could you let us know from this photo which way
18 and let me unzoom -- brief indulgence. I'm sorry. My mouse is just not
19 responding very well. Here we go.

20 All right. So back to this exhibit. Could you tell or could you
21 see from this photo where you and Maurice ran?

22 A Yeah.

23 Q Okay. Can you again use your mouse and kind of draw like
24 the direction at which way you went? Okay. So you crossed the street
25 on Balzar --

1 A Yes.

2 Q -- is that right?

3 A Mm-hmm.

4 Q And did you just continue to run up?

5 A We ran and hid.

6 Q And hid?

7 A Yes.

8 Q Okay. Where did you hide?

9 A It was like -- like a shuttle thing over there.

10 Q Shuttle?

11 A Yeah. Like with a door. So we hid, closed the door, but they

12 most definitely right behind us.

13 Q Okay. A shuttle like a car or a shed?

14 A A shed, yeah.

15 Q Okay. And was this shed in a backyard?

16 A Yes.

17 Q Okay. On Balzar, but on the opposite side of this street?

18 A The people house right here on the side --

19 Q Yes.

20 A -- in they backyard they had in the backyard.

21 Q Okay. So almost directly across the street?

22 A Yes.

23 Q In a shed in somebody's backyard?

24 A Mm-hmm.

25 Q Yes?

1 A Yes.

2 Q Okay. And you said you they most definitely ran after you; are
3 you talking about the people who were shooting?

4 A Yes.

5 Q How do you know that they ran after --

6 A Because we was peeking out to see if it was clear, but we
7 heard footsteps. And when we glanced out we seen somebody like stop
8 and look around and ran back -- ran somewhere.

9 Q Could you tell if that person was the same person you saw
10 with his hands behind his back earlier or were there other people?

11 A I don't know -- I don't think -- I don't know if it was the first
12 person I seen. It probably was another, but it was more like four to five
13 people.

14 Q Okay. And total?

15 A Yes.

16 Q Okay. You said as you were running you turned around and
17 looked back the second time?

18 A Yes.

19 Q Okay. Is that when you saw multiple people firing?

20 A No. I only seen one person.

21 Q Okay.

22 A When we was hiding?

23 Q No. When you were running across the street and you fell out
24 or you --

25 A Yeah.

1 Q -- kind of came out of your shoes.

2 A When I got up, I glanced back and that's when I seen like a

3 line people standing together.

4 Q Shooting?

5 A Yeah.

6 Q Okay. And you said as you were running you actually saw

7 bullets coming in your direction?

8 A Yeah. Landing on the ground.

9 Q Landed on the ground --

10 A Mm-hmm.

11 Q -- as you're running trying to get to safety?

12 A Yes.

13 Q Okay. And what color shoe was it that you came out of?

14 A I had on some white Forces.

15 Q Some white what?

16 A White Air Force Ones.

17 Q White Air Force Ones?

18 A Yeah.

19 Q Okay. I'm going to look for a photograph. Could you tell what

20 kind of gun it was that Maurice had?

21 A No. I was young. I didn't know what kind of gun it was.

22 Q Okay. So at some point did you and Maurice come out of

23 hiding?

24 A Yeah.

25 Q When -- when did you do that?

1 A When I heard Myniece screaming and then I heard my mom
2 screaming and I heard the sirens.

3 Q You heard your mom screaming. Was your mom in the area
4 like at your grandmother's house or something?

5 A She was at my auntie house that's close by too.

6 Q Okay. So a lot of your family lives there?

7 A Around the area, yes.

8 Q Okay. And so you heard them screaming. Where -- where
9 was it that your mom's voice was coming from?

10 A By the circle park.

11 Q By the circle park?

12 A Yeah.

13 Q Okay. Is that kind of north of like where this house is located?

14 A Like straight down the street.

15 Q Okay. And so showing you what's been marked and admitted
16 as State's Exhibit 26. Permission to publish?

17 THE COURT: You may.

18 BY MS. LEXIS:

19 Q Okay. Let me just clear this out. So publishing 26; do you
20 see the circle park --

21 A Yeah.

22 Q -- here?

23 A Mm-hmm.

24 Q Okay. Is it marked Lubertha Johnson Park?

25 A Yes.

1 Q Okay. And 1271 Balzar is also noted; do you see that right
2 here?

3 A Yes.

4 Q Okay. And so you ran which house -- can you tell from this
5 map which house and, you know, which backyard you hid at?

6 A Like somewhere over here.

7 Q Okay. So for the record it's like the third house on the
8 opposite side of 1271 Balzar.

9 A On the other street, yes.

10 Q Okay. Okay.

11 A Well across the street.

12 Q Okay. And then you said you heard your mom -- when you
13 heard Niece scream -- Myniece scream, where was it coming from?
14 Was she at -- from the park too?

15 A No. She was still by the house.

16 Q Okay.

17 A Maurice house.

18 Q Okay. Maurice's house?

19 A Yes.

20 Q And so you made your way at some point towards the circle
21 park?

22 A Yes.

23 Q And did you then meet up with your mom?

24 A Mm-hmm.

25 Q Is that a yes?

1 A Yes.

2 Q And at some point, did you speak to the police?

3 A Not really.

4 Q Okay.

5 A I was just in shock.

6 Q Okay. Later that night, do you remember meeting with the
7 police and giving them a statement?

8 A Mm-hmm.

9 Q Yes?

10 A Yes.

11 Q Okay. And back to that shoe question. State's Exhibit
12 Number 64, 38 and 39 admitted by way of stipulation.

13 Permission to publish 64?

14 THE COURT: You may.

15 BY MS. LEXIS:

16 Q It's almost better without the mouse. Brief indulgence.

17 Okay. So showing you State's Exhibit Number 64. Drawing
18 your attention to like that white thing by the cone and also State's Exhibit
19 38 now being published. Your Honor, 38 and 39. Do you recognize the
20 shoe there?

21 A That was my shoe.

22 Q That's your shoe --

23 A Mm-hmm.

24 Q -- the one that you came out of --

25 A Yes.

1 Q -- when -- when you fell?

2 A Yes.

3 Q And State's Exhibit Number 87, permission to publish,
4 admitted by way of stipulation?

5 THE COURT: You may.

6 BY MS. LEXIS:

7 Q So does this show the opposite side of Maurice's house?

8 A Yes.

9 Q Okay. Does this show where you hid?

10 A Yes.

11 Q Okay. Can you use your mouse and tell us?

12 A In the backyard.

13 Q In the backyard --

14 A Yes.

15 Q -- kind of by where that red car is showing with a bunch of
16 trees and stuff?

17 A Yes.

18 Q Okay. And when you heard someone follow you and Maurice,
19 could you tell what part of the street they were on? Did they actually go
20 to the --

21 A No. They came --

22 Q -- backyard?

23 A -- in the back, yeah.

24 Q They came to the backyard?

25 A Yes.

1 Q Okay. And when you were seeing shots hitting the ground
2 you were on your way to that house; correct, to hide?

3 A Mm-hmm. Yeah.

4 Q Okay. How many people did you see follow you when you
5 would peek out?

6 A I only seen one.

7 Q Could you hear any other voices? Any -- anything else going
8 on while you were hiding?

9 A No. No.

10 MS. LEXIS: Brief indulgence.

11 Showing you what's been marked and admitted by way --
12 admitted by way of stipulation State's Exhibit 17.

13 Permission to publish, Your Honor?

14 THE COURT: You may.

15 BY MS. LEXIS:

16 Q Do you recognize this individual?

17 A Yes. That look like the same boy that I seen the first time
18 when we was outside talking.

19 Q Okay. Was he the individual who you saw and told the jury
20 about who had his hands behind his back --

21 A Yes.

22 Q -- initially?

23 A Yes.

24 MS. LEXIS: No further questions for this -- for this witness.

25 Thank you.

1 THE COURT: Thank you. Cross examination?

2 MR. LEVENTHAL: Yes. Thank you, Judge.

3 CROSS EXAMINATION

4 BY MR. LEVENTHAL:

5 Q Good morning, Ms. Tolefree. How are you?

6 A Good morning.

7 Q I just have a few questions. Going to be very quick. The --
8 the night of August 30th after you heard gunshots --

9 A Mm-hmm.

10 Q -- and ran --

11 THE COURT: You mean September?

12 MS. LEXIS: Objection. Oh yeah.

13 MR. LEVENTHAL: I'm sorry.

14 THE COURT: Did you mean September?

15 MR. LEVENTHAL: September 30th. I apologize. 2006. And
16 you ran. You were interviewed after that by a detective; correct?

17 THE WITNESS: Yes.

18 BY MR. LEVENTHAL:

19 Q And that was at approximately I believe 12 p.m. at night
20 around 12:00, 12:01, 12:02, that evening?

21 A Yes.

22 Q Okay. So it was just a few hours after --

23 A Mm-hmm.

24 Q -- the event occurred?

25 A Yes.

1 Q Okay. And you indicated today that Maurice shot -- shot back;
2 correct?

3 A Yes.

4 Q You -- you never indicated that to the officer, the detective that
5 night did you?

6 A I don't remember.

7 Q Okay. Would you like to see a copy of your statement if that
8 would refresh your recollection whether you remember?

9 A I saw it.

10 Q Pardon me.

11 A I saw it.

12 Q You did?

13 A Yes.

14 Q How did you prepare for today?

15 A It was hard.

16 Q No. I mean -- and I understand that and I -- did you review
17 your prior transcripts of --

18 A Yes.

19 Q -- proceedings?

20 A Yes.

21 Q Okay. So you reviewed your statement that you gave to the
22 detective that night?

23 A Yes.

24 Q Okay. And that would have been -- I mean I know it's been a
25 long time, but that would have been Detective Kyger; do you remember

1 speaking to him?

2 A I don't remember his name.

3 Q You remember his name?

4 A But --

5 Q Okay.

6 A -- yeah.

7 Q And you gave him an interview that evening and that interview
8 you never told him that Maurice had a gun did you?

9 A I don't think so.

10 Q No? Okay. And you didn't even know Maurice's last name at
11 that point; right?

12 A No.

13 Q No. And then at the preliminary hearing you testified today
14 that the person you saw originally was -- you testified today that you saw
15 somebody with a black shirt and blue jeans; that's your testimony today?

16 A Yes.

17 Q Okay. And do you remember at a preliminary hearing that
18 occurred on November 30th, 2006?

19 A Yes.

20 Q Okay. Do you remember making the statement that the boy
21 was all in black?

22 A Yes.

23 Q You did. Okay. So what's changed since 2006 to today, why
24 now do you believe that he had black shirt, blue jeans when you
25 indicated closer in 2006 that he was all in black?

1 A All you see is black even if you see black over blue, you going
2 to see black.

3 Q Okay. But you indicated it was all black. You didn't indicate
4 jeans back then in 2006; correct?

5 A Yeah. It was black.

6 Q Okay. It was black?

7 A Yeah.

8 Q Okay. You also indicated that the person you saw was 5'6" or
9 5'7"; correct?

10 A Yes.

11 Q Okay. And you stick by that as well?

12 A Yes.

13 Q And you heard lots of gunshots?

14 A Yes.

15 Q Thank you very much. I appreciate it.

16 A Mm-hmm.

17 Q Thank you.

18 THE COURT: Any redirect?

19 MS. LEXIS: Briefly, Your Honor.

20 REDIRECT EXAMINATION

21 BY MS. LEXIS:

22 Q Michel-le, as the defense attorney asked, you had an
23 opportunity to look at the transcript of your taped interview with some
24 detectives; correct?

25 A Yes.

1 Q Okay.

2 May I approach, Your Honor?

3 THE COURT: You may.

4 BY MS. LEXIS:

5 Q Showing you just a stack of -- stack of papers, but drawing
6 your attention to the first page; does this appear to be the transcript of
7 your taped interview with the detective?

8 A Yes.

9 Q And this is what you reviewed prior to testifying today?

10 A Yes.

11 Q Okay. Just calling your attention to the date and time October
12 1st of 2006 at approximately 12:03 hours; do you see that?

13 A Yes.

14 Q Okay. So like the following day after -- you gave this interview
15 the following day after Mersy was shot; correct?

16 A Yes.

17 Q Okay. Do you recall the detectives asking you during that
18 taped interview what the boy that you saw what he was wearing --

19 A Yes.

20 Q -- do you remember that?

21 A Mm-hmm.

22 Q Okay.

23 THE COURT: Is that a yes?

24 THE WITNESS: Yes.

25 THE COURT: Thank you.

1 BY MS. LEXIS:

2 Q And do you remember your answer at that time?

3 A Yes.

4 Q Okay. What did you tell the detectives a day after -- hours
5 after --

6 A I said black.

7 Q Black. Okay.

8 A Yes.

9 Q And do you remember mentioning anything about shorts?

10 MR. LEVENTHAL: I'm going to object as to leading, Judge.

11 THE COURT: You are leading.

12 MS. LEXIS: Okay.

13 THE COURT: Sustained.

14 BY MS. LEXIS:

15 Q Do you remember what you told the detectives about or how
16 you described the bottom part of what this person was wearing?

17 MR. LEVENTHAL: Still leading, Judge.

18 MS. LEXIS: I'm asking if she remembers.

19 THE COURT: I'm going to allow an answer.

20 THE WITNESS: I said shorts.

21 BY MS. LEXIS:

22 Q Okay. Do you remember what color shorts you told the
23 detective?

24 A I told him -- I just -- all I said was black.

25 Q Okay. And you're sure about that?

1 A Black or blue, yes.

2 Q Black or blue?

3 A Yes.

4 Q Okay.

5 A It was shorts.

6 Q Would looking at that part of your voluntary statement, your
7 taped statement, the transcript, would that refresh your memory as to
8 exactly what you told the detective?

9 A I read it.

10 Q Okay.

11 THE COURT: Would it refresh your recollection?

12 BY MS. LEXIS:

13 Q Would it help you remember your exact words?

14 A Yeah.

15 Q Okay.

16 May I approach, Your Honor?

17 THE COURT: You may.

18 MR. LEVENTHAL: Your Honor, I'm not sure she's -- I
19 apologize. I object. I'm not sure if she's refreshing recollection. She
20 just indicated that she said what she said. She's not --

21 THE COURT: She indicated she didn't remember, so I'm
22 going to allow her to approach with the statement.

23 MS. LEXIS: Thank you.

24 Showing you page 7 of your statement towards the lower half,
25 if you could please read that to yourself silently and look up at me when

1 you're done.

2 THE WITNESS: Yeah.

3 BY MS. LEXIS:

4 Q Okay. You read it?

5 A Mm-hmm.

6 Q Okay. Is that a yes?

7 A Yes.

8 Q Okay. And so what is it, Michel-le, that you told the detectives
9 about the shorts, what color they were?

10 A Blue.

11 MS. LEXIS: Nothing further. Thank you.

12 THE COURT: Any recross?

13 MR. LEVENTHAL: Just briefly.

14 REXCROSS EXAMINATION

15 BY MR. LEVENTHAL:

16 Q So you ended up giving a one month later on November 30th,
17 2006 you were in a preliminary hearing; do you know what that is?

18 A No.

19 Q Okay. That's where you came in and you testified before the
20 Justice of the Peace that would be downstairs; do you remember that?

21 A Yes.

22 Q Okay. And -- and in that -- in that hearing you raised your
23 hand to swear to tell us the truth at that hearing; correct?

24 A Mm-hmm. Yes.

25 Q Okay. And you -- do you remember giving the following or at

1 least giving -- never mentioning blue shorts or blue jeans just saying all
2 black is the person that you saw? Do you remember that?

3 A I don't.

4 Q If I -- if I showed you your preliminary hearing transcripts on
5 page 26 and you reviewed it, would that refresh your recollection?

6 A Yes.

7 MR. LEVENTHAL: Yes. May I approach?

8 THE COURT: You may.

9 BY MR. LEVENTHAL:

10 Q So does that refresh your recollection that you never
11 mentioned anybody in jeans?

12 A No. I said all black.

13 Q You said all black at the preliminary hearing?

14 A Mm-hmm.

15 Q Okay. You never mentioned blue shorts. You said all black;
16 correct?

17 A No.

18 Q Thank you.

19 A But the day after I mentioned blue shorts.

20 Q I'm sorry. There wasn't any question.

21 A I said after the day of her shooting, when he came and taped
22 me, I said blue shorts.

23 Q I understand that. You were just read that.

24 A Okay.

25 Q But at your preliminary hearing under oath you said all black;

1 correct?

2 A Yes.

3 Q Okay. Thank you.

4 THE COURT: Anything else for this witness?

5 MS. LEXIS: No, Your Honor. Not from the State.

6 THE COURT: Okay. Thank you very much for being here.

7 THE WITNESS: Thank you.

8 THE COURT: Thank you for your testimony. You may step
9 down. You are excused from your subpoena.

10 At this time we are going to recess for lunch. During this
11 recess you're admonished not to talk or converse amongst yourselves or
12 with anyone else on any subject connected with this trial or read, watch
13 or listen to any report of or commentary on the trial or any person
14 connected with this trial by any medium of information, including without
15 limitation newspapers, television, the Internet or radio or form or express
16 any opinion on any subject connected with this trial 'til the case is finally
17 submitted to you.

18 We'll be in recess 'til 2 o'clock. Thank you very much.

19 THE MARSHAL: All rise for the exiting jury please.

20 [Outside the presence of the jury]

21 THE COURT: The record will reflect that the hearing is taking
22 place outside the presence of the jury panel. The Clerk is noticing some
23 sort of problem with exhibits. So I need to make sure that when you're
24 referring to exhibits that they are admitted. In number 97 that you
25 published, the Clerk is indicating that was not admitted.

1 MR. GIORDANI: One through 451.

2 THE COURT: I know. I'm just telling you.

3 MR. GIORDANI: Okay.

4 THE COURT: She's telling me that that specific exhibit was

5 not marked in this case and was not admitted. Okay. So you can't --

6 you cannot use exhibits that haven't been marked and admitted in this

7 case. I don't know what this is. I'm assuming it's an exhibit that was

8 marked and admitted in a prior proceeding. However, if I'm assuming,

9 the defense will have no objection.

10 MR. TANASI: Correct, Your Honor.

11 THE COURT: So we'll mark it next in line which will be?

12 THE CLERK: 452.

13 THE COURT: And so just so the record's clear, when the

14 State referred to Exhibit 97, it was referring to 452.

15 MS. LEXIS: I apologize for that.

16 THE COURT: Do we -- that's okay. I just want to make sure

17 because I said the same thing, what do you mean 1 through 451 are

18 admitted.

19 MS. LEXIS: I apologize.

20 THE COURT: So you don't have any more like that, right?

21 MS. LEXIS: No.

22 THE COURT: Okay.

23 MS. LEXIS: No.

24 THE COURT: Just be --

25 MS. LEXIS: It wasn't marked because I took it for my opening

1 and had it in my hand, so she didn't --

2 THE COURT: Okay.

3 MS. LEXIS: -- get it.

4 THE COURT: But you're not going to use that?

5 MR. GIORDANI: That one there, no.

6 THE COURT: Yeah. Okay. Can we make it --

7 MR. GIORDANI: We can make it disappear.

8 MS. LEXIS: Somehow, it's 1 through --

9 THE COURT: So I just know 'cause everyone gets busy in
10 trial and, you know, I would have done the same thing, but my Clerk is
11 extremely good at what she does.

12 MS. LEXIS: At what she does. I'm sorry, Susan.

13 THE CLERK: It's okay.

14 THE COURT: Thank you.

15 MR. TANASI: Thank you.

16 THE COURT: Okay.

17 [Recess taken from 12:56 p.m. to 2:04 p.m.]

18 [Inside the presence of the jury]

19 THE COURT: Does the State of Nevada stipulate to the
20 presence of our jury panel?

21 MR. GIORDANI: Yes, Your Honor.

22 THE COURT: The defense?

23 MR. LEVENTHAL: Yes, Your Honor.

24 THE COURT: You may call your next witness.

25 MR. LEVENTHAL: Thank you.

1 MS. LEXIS: The State calls Jennifer Corneal.

2 THE MARSHAL: And if you'll please step up to the witness
3 stand, remain standing and raise your right hand, face the Clerk please.

4 **JENNIFER CORNEAL**

5 [having been called as a witness and being first duly sworn,
6 testified as follows:]

7 THE CLERK: Thank you. Please be seated. Could you
8 please state and spell your name for the record?

9 THE WITNESS: Jennifer Corneal, J-E-N-N-I-F-E-R, C-O-R-N-
10 E-A-L.

11 THE CLERK: Thank you.

12 MS. LEXIS: Thank you.

13 **DIRECT EXAMINATION**

14 **BY MS. LEXIS:**

15 Q Ma'am, how are you employed?

16 A I'm a medical examiner at the -- the Clark County Office of the
17 Coroner Medical Examiner.

18 Q Okay. Before I ask you what a medical examiner does, can
19 you just briefly give us a synopsis of your education, training and
20 experience such that you are qualified to be employed or to have the job
21 of a medical examiner?

22 A Sure. I'm a doctor. I completed four years of medical school
23 and I completed four years of residency training in pathology. I'm a
24 Board Certified Anatomic Pathologist which just means I took a fancy
25 and proved that I know how to do anatomic pathology. And then I

1 subspecialize in forensic pathology for a year. And I am a Board
2 Certified Forensic Pathologist as well.

3 Q And how long have you been employed at the Clark County
4 Coroner's Office?

5 A Since July 2015.

6 Q Okay. What are the duties of a medical examiner? For
7 instance, what -- what do you do?

8 A As a medical examiner I perform external examinations and
9 autopsies which include internal examinations, interpret toxicology, look
10 at histology and determine cause and manner of death.

11 Q Okay. What is an autopsy?

12 A An autopsy consists of the external examination which is just
13 looking at the body, documenting hair color, eye color, scars, tattoos and
14 injuries. And then performing an internal examination where we open
15 the body, look at the organs, look for natural disease processes and
16 again look for injuries.

17 Q Okay. So you -- up until now or today's date, how many
18 autopsies have you done approximately?

19 A Probably about a thousand.

20 Q Okay. And you indicated earlier that as a medical examiner
21 you also render opinions as to cause and manner of death; what are the
22 different manners of death?

23 A There are five manners of death in our jurisdiction. They
24 include natural, accident, suicide, homicide and undetermined when the
25 manner doesn't fit in one of the four categories.

1 Q What is -- what is homicide?

2 A Homicide is in my field a definition that just says somebody is
3 dead is as the result of the hands of another person.

4 Q Okay. Did you know a medical examiner by the name of
5 Alane Olson?

6 A I do.

7 Q Did she work at the Clark County Coroner's Office?

8 A She did.

9 Q Okay. Was she also a medical examiner there?

10 A She was.

11 Q Okay. Were you asked to assist the State with a testimony
12 concerning the autopsy of an individual by the name of Mersy Williams?

13 A I was.

14 Q Okay. Now Dr. Olson performed the initial -- the original
15 autopsy on Mersy Williams on October 1st of 2006 -- 2006; is that right?

16 A She did.

17 Q Okay. Where is Dr. -- Dr. Olson now? Does she still work
18 there?

19 A She is retired.

20 Q Okay. So have we, Mr. Giordani and I, asked you to testify on
21 her behalf?

22 A You have.

23 Q Okay. So to testify or to prepare yourself to testify and render
24 an opinion on -- on a case or an autopsy that you yourself did not
25 perform, what did you do, what -- what materials did you look at to

1 prepare?

2 A So when a medical examiner does an autopsy, we compile
3 our information into reports. So I read Dr. Olson's report. I also
4 reviewed photographs that were taken during the autopsy. I also
5 reviewed the toxicology report and a report from one of our
6 investigators.

7 Q Okay. And you indicated that you reviewed one of Dr. Olson's
8 reports; is that right?

9 A Yes.

10 Q Okay. Typically when you conduct an autopsy yourself as a
11 medical examiner, do you put together a report to memorialize your
12 findings?

13 A Yes.

14 Q Okay. And one was done by Dr. Olson concerning Mersy
15 Williams; is that right?

16 A Yes.

17 Q Okay. And while you are testifying concerning an autopsy
18 performed by Dr. Olson, you are -- you were able to come to your own
19 independent opinions as to the cause and manner of Mersy Williams; is
20 that right?

21 A I did, yes.

22 Q Okay. In reviewing your -- the reports, did -- did you come to
23 find out whether a bullet or a missile was recovered from Ms. Williams'
24 body?

25 A Yes.

1 Q Okay. Did you yourself actually see this missile?

2 A No.

3 Q Okay. During the course of your review of the reports, the
4 photos and things that you've indicated, were you able to determine the
5 trajectory -- well first of all, what -- what was the cause of death
6 concerning Ms. Williams?

7 A Gunshot wound of head.

8 Q Okay. And so were you able to upon review of all the
9 materials determine the trajectory of that gunshot wound?

10 A Yes.

11 Q Can you tell us what that was?

12 A Front to back and left to right.

13 Q Showing you -- Your Honor, permission to publish what's been
14 previously marked as State's Exhibits 453 to 457 admitted by way of
15 stipulation?

16 MR. LEVENTHAL: That's correct, Your Honor.

17 THE COURT: Okay. They're admitted and you may publish.
18 [State's Exhibit Numbers 453 through 457, admitted]

19 MS. LEXIS: Thank you.

20 Publishing State's Exhibit 453; do you recognize what's
21 depicted here?

22 THE WITNESS: Yes.

23 BY MS. LEXIS:

24 Q Okay. Is this a photograph of Mersy Williams and the gunshot
25 wound to her forehead?

1 A It is.

2 Q Okay. This placard with the number on it, what's that
3 number?

4 A That number is the individual unique case number that was
5 assigned to Ms. Mersy Williams' case.

6 Q Okay. Showing you State's Exhibit Number 454; what does
7 this show?

8 A This is a close up of the gunshot entrance wound on Ms.
9 Williams' left forehead.

10 Q Okay. Based on your review of the photographs as well as
11 the reports and other materials, were you able to come to a conclusion
12 such that you can give an opinion as to the entrance of this particular
13 bullet?

14 A Yes.

15 Q Okay. And where was the entrance wound?

16 A The entrance is on the left side of the forehead.

17 Q Okay. So shown in State's Exhibit 455?

18 A Yes.

19 Q Dr. Corneal, based on your review of the materials including
20 photographs, were you able to form an opinion as to the caliber of the
21 bullet that struck or caused the death of Mersy Williams?

22 A Based on the size of the wound and photographs of the x-rays
23 that I've seen, I would say small caliber.

24 MR. LEVENTHAL: I'm sorry. I didn't hear that.

25 THE WITNESS: Small caliber.

1 MR. LEVENTHAL: Small. Thank you.

2 BY MS. LEXIS:

3 Q And so to kind of summarize, were you able to also come to
4 your own independent conclusion concerning the manner of death of
5 Mersy Williams?

6 A I did.

7 Q And what was the manner of death?

8 A Homicide.

9 Q Showing you State's Exhibits 457; do you recognize this
10 photograph?

11 A Yes.

12 Q What is it?

13 A It is a photograph of a radiograph of Ms. Williams' head.

14 Q Okay. Does it show the missile still in her head?

15 A It does.

16 Q Okay.

17 A See if I can use this. It's right here.

18 Q You obviously know how to use the system way better than
19 me as I've troubled all morning.

20 A The right side of the head.

21 Q For the record you circled to the left side of -- of this x-ray.

22 A Yes. The left side of the x-ray, right side of the head.

23 Q Thank you. And does this show -- does this particular Exhibit
24 457 show where the bullet, you know, for lack of a more sophisticated
25 word landed or lay in her head?

1 A Yes.

2 MS. LEXIS: I have no more questions. Thank you very much.

3 THE COURT: Thank you. Cross examination.

4 MR. LEVENTHAL: No, Your Honor. Thank you.

5 THE COURT: Okay. Thank you very much for testimony

6 here today. You may step down and you are excused from your

7 subpoena. And you may call your next witness.

8 MR. GIORDANI: Thank you. The State will call Melvin

9 Bolden.

10 THE MARSHAL: If you'll please step up to the witness stand,

11 remain standing and raise your right, face the Clerk please.

12 **MELVIN BOLDEN**

13 [having been called as a witness and being first duly sworn,

14 testified as follows:]

15 THE CLERK: Thank you. Please be seated. And could you

16 please state and spell your name for the record?

17 THE WITNESS: Melvin Bolden, M-E-L-V-I-N, B-O-L-D-E-N.

18 THE CLERK: Thank you, sir.

19 **DIRECT EXAMINATION**

20 **BY MR. GIORDANI:**

21 Q Good afternoon, sir.

22 A Good afternoon.

23 Q I want to bring you back to 2006. Where were you residing on

24 September 30th of that year?

25 A 1284 Lawry.

1 Q Okay. And is that here within Clark County, Nevada?

2 A Yes [indiscernible] Nevada. Uh-huh.

3 Q All right. I want to show you State's proposed or State's

4 already admitted 25.

5 Your Honor, may I publish freely?

6 THE COURT: You may.

7 MR. GIORDANI: Thank you.

8 Can you see that on your screen there, sir?

9 THE WITNESS: Yes.

10 BY MR. GIORDANI:

11 Q And I'm going to zoom in a little bit here. Can you see your

12 home on this map?

13 A Yes.

14 Q Can you -- well, is it flagged with 1284 Lawry Avenue on

15 there?

16 A Yes.

17 Q Is that's your home on the corner?

18 A Yes.

19 Q All right. On the 30th of September, 2006, did you live with

20 someone at that residence?

21 A Yes. I lived with my girlfriend.

22 Q What's her name?

23 A Geishe Bolden.

24 Q Okay. At the time, was her name Geishe --

25 A Orduno.

1 Q -- Orduno?

2 A Yes.

3 Q Okay. And now since you've --

4 A Yeah. We're married.

5 Q Okay.

6 A Mm-hmm.

7 Q So now she goes by Bolden?

8 A Yes.

9 Q On that evening, do you remember what you and Geishe were

10 doing?

11 A Yes. We had went out to -- to eat at a buffet, Main Street

12 Buffet.

13 Q Okay. And did you go out to eat by yourselves or with another

14 couple?

15 A Me and her and friends of ours, Steve and Betty.

16 Q Steve and Betty?

17 A Yes.

18 Q Are Steve and Betty are now unfortunately deceased?

19 A Yes, sir.

20 Q Okay. So at that time were they friends of yours?

21 A Yes.

22 Q And you said you went to Station Casino; right?

23 A Yes. Mm-hmm.

24 Q How did you get to that casino?

25 A We drove in my car.

1 Q All right. What kind of car did you have back then, sir?

2 A I had a '86 Lincoln Town car.

3 Q All right. Was there anything unique about that -- that Town
4 car or at least the steering mechanism in that Town car?

5 A The power steering didn't work.

6 Q All right. I'm showing you now State's 280; you recognize this
7 vehicle?

8 A Yes. That's my car.

9 Q All right. Obviously, your car but you didn't crash it into that
10 hydrant; right?

11 A No.

12 Q Okay. When you ultimately left the buffet, did you drive back
13 to your home?

14 A Yes, sir.

15 Q All right. I want to show you a couple of photographs and I'm
16 going to start now with 259; does that appear to be the front of your
17 home?

18 A Yes.

19 Q And 260; is that just a further out shot of your home?

20 A Yes.

21 Q Okay. Tell the ladies and gentlemen of this jury what
22 happened when you arrived back at your home?

23 A Okay. I drove -- I drove up -- I remember we stopped and
24 then Geishe switched 'cause the power steering ain't working. So I
25 drove up to the corner right there to back up and some guys was coming

1 down this corner right here. I think it's like four guys.

2 Q All right. Let me stop you for a moment, okay.

3 May I approach the witness?

4 THE COURT: You may.

5 BY MR. GIORDANI:

6 Q So you can mark on this screen, sir. You take this, click the
7 little red crayon here and then you can actually mark on the screen so
8 describe what you just described while marking. Where you drove in
9 from.

10 A Okay. Yeah. I was --

11 Q Hold the mouse down actually. When you want to write, you
12 just hold the button down.

13 A -- yeah. I was going this way right here. Okay. Right there.

14 Q Okay.

15 A And I was backing in. I was right here backing in. Tried to
16 back in right here. I was right here trying to back in right here.

17 Q All right. And let me stop you --

18 A About right here -- I was about right here.

19 Q Let me stop you one more time, sir.

20 A Right there.

21 Q When you click on mouse, you can hold it down and it can
22 make a line and you can just draw where you went.

23 A Okay.

24 Q All right.

25 A Mm-hmm. Okay. Yeah. I was driving right on this way to

1 park right here. And guys just coming around the corner right there and
2 then stopped me right here and told me to get out the car.

3 Q Okay.

4 A Mm-hmm.

5 Q All right. Now you can forget about the mouse for now. Let
6 me just talk to you, okay.

7 A Mm-hmm.

8 Q So you came from the right side of this photograph and then --

9 A Yes.

10 Q -- you drove in and then you were going to back up --

11 A Back up.

12 Q -- into that parking space?

13 A Yeah. I was going to back up there.

14 Q Okay.

15 A Mm-hmm.

16 Q And then you indicated that you switched --

17 A Mm-hmm.

18 Q -- with Geishe; what do you mean by that?

19 A I got on the driver side where the pull in -- in front of the
20 Mustang -- to pull in the back of the Mustang.

21 Q Don't touch that. Hold on, sir.

22 A Mm-hmm.

23 Q I'm going to fix something real quick.

24 A Mm-hmm.

25 Q Don't touch the mouse. Just describe what you mean you

1 switched with Geishe. Had she been --

2 A Yeah.

3 Q -- driving?

4 A She was driving at first.

5 Q Okay.

6 A And I got on the driver side 'cause the car still wasn't working -

7 -

8 Q Okay.

9 A -- to back into that spot right there in front of the house.

10 Q Okay. So you actually had to get out of the vehicle and switch

11 spots with Geishe?

12 A Yeah. Mm-hmm.

13 Q Where was -- so Geishe was driving; are you in the front

14 passenger seat?

15 A Yes. Mm-hmm.

16 Q And are Betty and Steve in the back?

17 A In the back, yeah. Mm-hmm.

18 Q So you indicated there were some men approaching -- and

19 you don't need to touch that again. You're done with that.

20 A Mm-hmm.

21 Q They were coming from that street which --

22 A Yeah.

23 Q -- appears to be Lexington.

24 A Lexington, yeah.

25 Q How many men do you believe you saw?

1 A Three to four. I believe it was four.

2 Q And had you heard anything prior to seeing those men coming
3 down?

4 A Yeah. Gunshots.

5 Q All right.

6 A Mm-hmm.

7 Q Describe that. How many?

8 A It was like -- sound like a machine gun or something like -- it
9 was like rapid fire like pop, pop, pop, pop --

10 Q Okay.

11 A -- pop, pop, pop, pop. You hear gunshots.

12 Q All right. So did you hear those gunshots and then see the
13 men coming towards you?

14 A Yeah. Yeah. But -- yeah. I did and my -- my girlfriend told
15 me she said, keep going, keep going. And I said, I don't know what's
16 going on up further down the street. Let's just go in the house. Let's
17 just try getting in the house.

18 Q All right.

19 A Mm-hmm.

20 Q So you instead of driving away, you decided to --

21 A Trying to park.

22 Q -- park and go in?

23 A Yeah. Mm-hmm.

24 Q All right. And then as those men approached --

25 A Mm-hmm.

1 Q -- tell the jury what happens.

2 A The guy approached me. He said, get out the car, get out the
3 car. So Geishe got out the car and Steve and Betty got out the car. I
4 was like the last person to get out the car. He had put the gun -- gun to
5 my head and he said, get out the car, leave the keys in the car. So I got
6 out the car -- well I put my hands up like this and I got out the car and
7 went over to the back of the car and I seen -- before the car can take off
8 I seen somebody get in the back -- the back passenger side. Mm-hmm.
9 With a gun --

10 Q Okay.

11 A -- and the car took off.

12 Q All right. So I'm going to back -- back up a little bit and get
13 some more detail from you, okay.

14 A Mm-hmm.

15 Q So you indicated it was three or four people --

16 A Yeah.

17 Q -- that came at you?

18 A Mm-hmm.

19 Q Can you to --

20 THE COURT: Just a minute. Is that a yes?

21 THE WITNESS: Yes.

22 THE COURT: Thank you.

23 BY MR. GIORDANI:

24 Q I'm sorry, sir. Every answer is being recorded. So it has to be
25 a yes or no answer.

1 A Okay.

2 Q Okay. Three or four people; can you describe those people's
3 ages, race, clothing or anything of that nature?

4 A Mm-hmm.

5 Q Go ahead, sir.

6 A I remember they all had on black -- black t-shirts or blue jeans.
7 It was dark colored pants I know. Blue jeans or black pants.

8 Q Okay.

9 A Mm-hmm. And they was young. They was teenagers I know
10 around about 17, 18.

11 Q Okay.

12 A Mm-hmm.

13 Q So they were all black males?

14 A Mm-hmm.

15 Q They were all young?

16 THE COURT: Is that -- is that a yes?

17 THE WITNESS: Yes. Yes. I'm sorry.

18 THE COURT: Thank you.

19 THE WITNESS: Yes.

20 BY MR. GIORDANI:

21 Q They were all young?

22 A Yes.

23 Q All had black tops on?

24 A Yes.

25 Q And you said they were dark colored jeans --

1 A Jeans.

2 Q -- black or blue?

3 A Yeah. Black or blue.

4 Q Okay.

5 A It was dark.

6 Q Do you remember anyone wearing gloves?

7 A Yes.

8 Q Go ahead.

9 A Two -- I know the one on the -- on my side had like red -- red

10 and black gloves on.

11 Q Okay.

12 A Uh-huh. And the one that got in [indiscernible] side had on

13 like red and black gloves.

14 Q Okay. So you've indicated two of the three or four had black

15 or red --

16 A Yes.

17 Q -- black and red gloves?

18 A Yeah. The one that got in the back passenger seat I'm sure

19 he had -- I'm sure he had on black and red gloves too.

20 Q Okay.

21 A Mm-hmm.

22 Q And now you've described weapons, but I want to be more

23 specific.

24 A Mm-hmm.

25 Q How many weapons do you remember seeing?

1 A Two.

2 Q Okay.

3 A The one --

4 Q Could you --

5 A -- the one that came up to me on -- on my side and the one
6 that got in the back passenger seat. Mm-hmm. The one that got in the
7 back passenger seat look like to me had a sawed off shotgun --

8 Q Okay.

9 A -- or something that look like a shotgun any way.

10 Q Okay.

11 A And the guy that got on my side looked like he had like a
12 handgun, like a 9 or something like that.

13 Q Like a 9 being --

14 A Nine millimeter or something --

15 Q -- a semi-automatic?

16 A Yeah.

17 Q Okay. Do you recall what those people said to you if anything
18 when they approached?

19 A Just told me to get out the car, get out the car and leave the
20 keys in the car.

21 Q Okay. Did you comply?

22 A Yes.

23 Q Did at any point any of those men discharged any of those
24 weapons?

25 A Yeah. You know, when the guy first came up, he did like pow

1 in the air and let you know he means business, you know.

2 Q Okay. All right. And you've -- you've described the guy with
3 the hand gun as the one --

4 A Yeah.

5 Q -- who approached you?

6 A Yeah. Yeah. Yeah. He was the one.

7 Q Okay.

8 A Mm-hmm.

9 Q And that's the same person --

10 A Yeah.

11 Q -- who had discharged on in the air?

12 A Yup.

13 Q Were you paying attention to what was happening with Geishe
14 or were you dealing with this guy?

15 A Oh no. I was dealing with that guy. I was like, you know, I
16 was scared --

17 Q Okay.

18 A -- you know. Yeah.

19 Q Understood.

20 A Yeah. I was like the last one to get out. I was like the last
21 one. I don't even know which way nobody went like Geishe and them. I
22 just was calling their name, you know. And I thought Geishe had -- he
23 took off -- I thought they took off with Geishe.

24 Q Okay.

25 A But they was in the front of the -- front of the car. The front of

1 my Cadillac in the yard --

2 Q All right.

3 A -- dialing 9-1-1.

4 Q So when you say in front of the Cadillac, you mean this one --

5 A Yeah.

6 Q -- here in the --

7 A Yeah.

8 Q -- driveway?

9 A Yeah.

10 Q Okay. And I'm still showing 260 for the record. So you know
11 Betty, Steve and Geishe had all got -- got out of the car?

12 A Yes.

13 Q You end up getting out last?

14 A Yes.

15 Q Those men were making demands or at least you described
16 the one man making demands of you to get out --

17 A Yes.

18 Q -- and leave the keys in?

19 A Yes.

20 Q Did you in fact leave the keys in?

21 A Yes.

22 Q Okay. What happened after you finally get out of the car?

23 A I went into the yard. I was calling for Geishe. And I was like
24 oh man I said they took off with Geishe, you know. So I went up into the
25 house where -- where Geishe and them was and the police and

1 ambulance came 'cause Betty had -- Betty had -- Betty had got -- she
2 had some kind of episode. I think she had a seizure.

3 Q Okay.

4 A She was going through a seizure.

5 Q All right.

6 A Uh-huh.

7 Q We jumped a little bit, sir. So what I'm -- what I'm asking is
8 once you got out of the car, what did those three or four men do?

9 A Oh, they took off down the street.

10 Q All right.

11 A Mm-hmm.

12 Q When you say they took off down the street, what street are
13 you referring to?

14 A They took off down Lawry and they turned left on Martin
15 Luther King.

16 Q Okay. And you've indicated that you were scared, but I want
17 to ask you; at any point during this episode, did you get a good look at
18 any of the men's faces?

19 A No.

20 Q Okay. And you were about to say that Betty had some kind of
21 seizure or episode; right?

22 A Yeah. Mm-hmm.

23 Q Did an ambulance end up coming?

24 A Yeah.

25 Q And you indicated police came as well?

1 A Yes.

2 Q How soon after this incident did the police arrive that you're
3 aware of?

4 A Like in a minute or 30 seconds seem like to me.

5 Q Okay.

6 A They was fast.

7 Q So it felt like they were there fast?

8 A They were there. Yeah. They was like in the area seem like
9 to me already.

10 Q Okay. Ultimately, you give a statement to police and
11 described what had happened to you; correct?

12 A Yes.

13 Q And you've testified at two prior proceedings before this one;
14 correct?

15 A Yes.

16 Q Okay. Did you ever get your vehicle back?

17 A No. Well, eventually I got it back about -- about a week later
18 'cause we didn't know where it was. We didn't know where it was and it
19 was wrecked and we didn't know where to pick it up at, you know.

20 Q Okay. That's all right.

21 A But we never -- we never -- you know, we did get it back. It
22 was all wrecked up and, you know.

23 Q Okay. You indicated before that one of the men fired a
24 warning shot or a shot into the air.

25 A Yes.

1 Q Did you convey that information to the police when they got
2 there?

3 A I don't know if I did or not.

4 Q Okay.

5 A It's been a long time ago. I really don't --

6 Q That's okay. Do you remember giving a statement to police
7 shortly after this?

8 A Yeah. Yeah, I did.

9 Q Where they recorded it and all that?

10 A I think yeah. Yeah. Yes.

11 Q Okay. I want to show you -- may I approach?

12 THE COURT: You may.

13 BY MR. GIORDANI:

14 Q Would you refresh your memory to look at your statement to
15 know if you told the police whether or not the guy fired a warning shot?

16 A Yes.

17 Q Would this refresh your memory?

18 A Yes.

19 Q Okay. Give me a second here. Let me get to the right page.
20 One second. I'm sorry, sir.

21 You know what? I apologize, sir. I'm going to ask your wife
22 about that. You don't recall whether you told the police that or not?

23 A I really don't.

24 Q Okay. That's all right.

25 I will pass the witness at this time, Your Honor.

1 THE COURT: Thank you. Cross examination?

2 CROSS EXAMINATION

3 BY MR. LEVENTHAL:

4 Q Good afternoon, sir.

5 A Hello.

6 Q My name is Todd Leventhal. I represent Mr. Matthews over
7 here.

8 Now let me take you back to September 30th, 2006. District
9 Attorney just asked you a number of questions. I'm going to ask you a
10 few more about that evening. Do you have independent recollection as
11 you sit here today of what transpired that evening or did you review
12 documents to prepare for your testimony today?

13 A I reviewed some documents.

14 Q Okay. And you met with the District Attorney's Office?

15 A Yes.

16 Q Okay. And the documents you -- that you reviewed would
17 have been trial or transcripts from like a preliminary hearing or other
18 hearings in this matter that you had testified at --

19 A Yes.

20 Q -- right?

21 A Mm-hmm.

22 Q Okay. So let me go through some of that. You indicated that
23 the person that came over to you had a handgun --

24 A Yes.

25 Q -- right?

1 A Yes.

2 Q And you remember that handgun --

3 A Yes. I remember.

4 Q -- distinctly; correct?

5 A Mm-hmm.

6 Q Okay.

7 THE COURT: Is that a yes?

8 THE WITNESS: Yes.

9 THE COURT: Thank you.

10 BY MR. LEVENTHAL:

11 Q And you remember distinctly that the person that got into the
12 back seat had a shot gun or a sawed off shot gun; correct?

13 A Yeah. Yeah. Yeah.

14 Q Okay.

15 A Yes.

16 Q And you also remember on your -- in your testimony that you
17 remember that the person that came up to you had some red and black
18 glove; correct?

19 A Yes.

20 Q Okay. And you also indicated that the person in the black --
21 back seat also had a red and black glove; correct?

22 A Yes. Mm-hmm.

23 Q Okay. You also indicated in prior testimony that the person
24 that came to you was approximately your height; correct?

25 A About -- yeah. About my height.

1 Q And you're approximately 5 foot 7?

2 A Yes.

3 Q You even said the person that came to you with the handgun

4 and got into the vehicle as the driver; correct?

5 A Yes.

6 Q Was 5 foot 7 or even shorter than you; correct?

7 A Right.

8 Q Okay.

9 A Right.

10 Q Now, you couldn't get a look at the person or couldn't ID these

11 -- the individuals; correct?

12 A That's correct.

13 Q Okay. And you were asked if you could identify them?

14 A Excuse me.

15 Q You were asked if you could identify them?

16 A Yes. Yes.

17 Q And you could not?

18 A I could not.

19 Q Okay. And you remember telling the police that -- that you

20 think that they had t-shirts, either blue jeans or black pants; correct?

21 A That's correct.

22 Q Okay. But you weren't exactly a hundred percent certain at

23 the time what exactly -- how they were dressed; right?

24 A I remember black shirts and a dark color pants, black or blue

25 jeans somewhere in there.

1 Q Okay. And again is that a memory that you have as you sit
2 here independently today or is that you reviewed --

3 A Yes.

4 Q -- your prior --

5 A No. That's -- that's independent today.

6 Q Okay.

7 A Mm-hmm.

8 Q That's independent today?

9 A Yes.

10 Q All right. And this is -- what's being shown up here is Exhibit --
11 I'm sorry. What Exhibit number is this?

12 MR. GIORDANI: It's on the back.

13 MS. LEXIS: It's on the back.

14 MR. LEVENTHAL: Okay. Thank you. Number 260. This is
15 your house; correct?

16 THE WITNESS: Mm-hmm. Mm-hmm.

17 BY MR. LEVENTHAL:

18 Q Okay.

19 A Yes.

20 Q And --

21 THE COURT: Thank you.

22 BY MR. LEVENTHAL:

23 Q -- and Exhibit 260 does that seem like it's dark out or it's at
24 least like some twilight hours maybe 7 o'clockish, 8 o'clockish, the sun
25 seem to be going down there?

1 A Yeah. About 9. About 9.

2 Q Nine-ish --

3 A Right.

4 Q -- when that -- this picture was taken?

5 A Yeah.

6 Q Roughly?

7 A I don't know when that picture was taken.

8 Q Okay. And -- and there's plenty of lighting around your

9 house?

10 A Like right now it was dark to me -- it was very dark.

11 Q Okay. But you see that light that I'm circling --

12 A Yeah.

13 Q -- here in the picture; correct?

14 A Yeah. Yeah. That's down the street.

15 Q Right. And that's very close to your house; correct?

16 A Yeah. On the side it's pretty farther down. It's not that -- that

17 light like this picture right here.

18 Q Okay. But you think this picture probably was taken around 9

19 o'clock?

20 A Yeah.

21 Q Would that have been around the same time that these -- that

22 these four individuals approached you?

23 A Yeah. About 9, 9:30, 10 --

24 Q That's when you got home from the buffet --

25 A Yeah.

1 Q -- around 9, 9:30?

2 A Yeah.

3 Q Okay. So this would have been a fear -- fair and accurate
4 description or a picture of what your house would have looked like with
5 the lighting situation at 9 o'clock September 30th, 2006?

6 A It was darker than that.

7 Q It's darker than that?

8 A Yeah.

9 Q Okay. So you didn't take this picture obviously; right?

10 A No.

11 Q Okay. You don't know when this picture was taken; correct?

12 A No.

13 Q Okay. You were asked a question about that pop that you
14 heard prior to these individuals approaching you?

15 A Mm-hmm. Yes.

16 Q You're indicating that now?

17 A Yes.

18 Q Do you ever remember indicating that or telling the officers
19 that interviewed you that evening that you heard that pop?

20 A I'm sure I did.

21 Q Okay.

22 A I'm sure, but not -- I'm not quite sure if I did or not.

23 Q When you reviewed your -- your trial -- prior testimony, do you
24 remember seeing that statement?

25 A No. I really don't.

1 Q You don't -- you don't remember seeing that?

2 A I don't remember seeing that. No.

3 Q Okay. So you may not have ever told the officer that evening
4 that you heard that pop?

5 A Like I said I'm not sure. It's been awhile.

6 Q Okay. I understand, sir.

7 A Yeah.

8 Q I know it puts you in a very difficult position. If you heard that
9 pop, do you remember when in time that pop took place? Was it within
10 30 seconds of the individuals --

11 A It was like -- it was like within I'll say I was backing up -- you
12 talking about -- are you talking about the shots that the individuals shot
13 when you said when he came up to the car or are you talking about the
14 shots we heard when we was driving up?

15 Q Yes, sir. I'm referring to the -- the statement that you made
16 that somebody -- when you said they meant business. Somebody came
17 up to you.

18 A Shots -- yeah. Shot in the air.

19 Q Shot in the air.

20 A In the air. Yeah.

21 Q That's the -- the pop that I'm talking about.

22 A Yeah. Okay yeah.

23 Q Okay.

24 A It was like when I was driving back, when he came from that
25 side of that corner right there, he shot in the air.

1 Q Was this the person with the handgun --
2 A Yes. Yes.
3 Q -- that got into --
4 A Yes. Yes.
5 Q -- the driver's seat?
6 A Yes. Yes. Yes. Yes.
7 Q This is the person with the handgun that got into the driver --
8 A Yes.
9 Q -- seat --
10 A Yeah.
11 Q -- that's shorter than you?
12 A Yeah.
13 Q Yes?
14 A Yeah.
15 Q Very good. Thank you very much. I have no further question.
16 I appreciate it.
17 A Mm-hmm.
18 THE COURT: Thank you. Any redirect?
19 MR. GIORDANI: Yes. Thanks.
20 REDIRECT EXAMINATION
21 BY MR. GIORDANI:
22 Q First, let me clarify something. You didn't take this photograph
23 and you're not a crime scene analyst; right?
24 A I didn't take it. No.
25 Q Okay. You don't know when that photograph was taken?

1 A No.

2 Q You recall it being dark and night time; right?

3 A Dark. Yes.

4 Q You didn't get a look at the guys' faces?

5 A No.

6 Q Okay. I want to ask you specifically about some questions Mr.

7 Leventhal asked. He asked you about height and you indicated it was

8 maybe 5'7", maybe shorter than that; correct?

9 A 'Cause I'm 5'7".

10 Q Okay.

11 A He like about my -- my height or maybe shorter whatever, you

12 know.

13 Q Okay.

14 A My height I know that.

15 Q Okay. And I want approach you.

16 May I approach?

17 THE COURT: You may.

18 BY MR. GIORDANI:

19 Q With your voluntary statement; you see this here, sir?

20 A Yes.

21 Q Does that look like a recording or a transcript of your recording

22 given September 6th, 2006 around 21:52 -- I'm sorry --October 1st at

23 around 12:45 in the morning?

24 A So sorry. I don't --

25 Q You don't have your glasses on?

1 A No.

2 Q That's all right. Will you take my word for it this is a transcript
3 of your statement?

4 A Yes.

5 Q Okay.

6 MR. LEVENTHAL: Your Honor, I'm going to -- I'm not sure
7 what he's doing. Is he refreshing recollection or is he -- I'm not sure
8 what -- I don't even know what the pages are.

9 THE COURT: Well, he can't --

10 MR. GIORDANI: I'm not on a page.

11 THE COURT: -- 'cause he doesn't have his glasses, so he
12 can't -- the witness can't read.

13 MR. GIORDANI: Right. So I'm just going to go ahead and
14 skip to the page. He's taking my word for it that it's his transcript. I'm
15 going to go to page 14 if that's okay with, Your Honor.

16 THE COURT: Okay. But he's -- is he going to be able to see
17 it?

18 MR. GIORDANI: I don't know.

19 THE COURT: Okay.

20 MR. GIORDANI: I'm going to try it.

21 THE COURT: Okay.

22 BY MR. GIORDANI:

23 Q Can you see those words now?

24 A Okay.

25 Q All right.

1 THE COURT: Do you have your glasses here somewhere?

2 THE WITNESS: I have contacts on. And if I see -- I can't -- I

3 need my cheater's glasses to see close, you know. I can't --

4 THE COURT: Oh, sorry about that.

5 THE WITNESS: -- you know, I have contacts on. Yeah.

6 THE COURT: Yup. I get it.

7 THE WITNESS: If I had the -- yeah. If I had the glasses, you

8 could see very close, you know.

9 THE COURT: I'd let you borrow mine.

10 THE WITNESS: All right. It'll work.

11 THE COURT: You want to -- okay.

12 THE WITNESS: Yeah.

13 THE COURT: I have no problem.

14 THE WITNESS: Yeah. That works for me.

15 BY MR. GIORDANI:

16 Q All right. So we're on page 14. You see that now?

17 A Yes.

18 Q Okay. And you recall -- you were asked about their height?

19 A Yes.

20 Q And you said about the same size --

21 A Yeah.

22 Q -- it was all about the same size?

23 A That's right, 5'7". That's my size.

24 Q Right. And you say roughly and then you go, mm-hmm, yeah.

25 A That's right.

1 Q Okay. Let me take that from you. I want to kind of bring you
2 back to that night. We're in a sterile courtroom right now. You're being
3 carjacked by men with guns, okay.

4 A Mm-hmm.

5 Q Do you recall taking out a tape measure and measuring their
6 heights?

7 A No, sir.

8 Q Okay. Did this happen relatively quickly?

9 A Yes, sir.

10 Q Can you estimate for this jury how long it took from start to
11 finish?

12 A Seconds.

13 Q Okay.

14 A Seconds like bam.

15 Q Okay.

16 A Like bam, bam, bam, bam. Like, you know, there's no time
17 for, you know, to do nothing, you know. Just everything happened so
18 fast, you know. I mean your heart beating, you're scared. Kind of like
19 bring me back to it right now, you know. Start thinking about it real hard.

20 Q All right.

21 A Yeah.

22 Q One last line of questioning here, sir. Mr. Leventhal asked
23 you about the pants that the men were wearing; do you recall as you sit
24 here today seeing jeans?

25 A That's all I know is it was dark.

1 Q I understand.

2 A It could have been black or it could have been blue jeans. I
3 mean it was dark. I know it was dark clothing. Jeans or black pants,
4 one of the -- one of them.

5 Q Okay. If I showed you your statement from that night, would
6 that refresh your memory as to what you said then?

7 A Yes.

8 Q Okay. And I'm going to go ahead and approach you and
9 show you page 13. You have those cheaters?

10 A Mm-hmm.

11 Q Page 13 at the top it looks like your answer to a question
12 regarding the clothing.

13 A Oh yeah.

14 Q Go ahead and read that to yourself and tell me if that
15 refreshes your memory.

16 A Yes.

17 Q Okay. Do you recall now what you said that the pants were?

18 A Black pants or jeans.

19 Q Okay. So from the very beginning?

20 A Yes.

21 Q Okay. I'll pass the witness.

22 THE COURT: Any recross?

23 MR. LEVENTHAL: Just briefly. Thank you.

24 RECROSS EXAMINATION

25 BY MR. LEVENTHAL:

1 Q Mr. Bolden, I understand that this happened very quickly.

2 A Mm-hmm.

3 Q -- right? And your heart was racing you indicated; right?

4 A Yes.

5 Q Okay. And you see four or three or four males approach you
6 with guns; correct?

7 A Yes.

8 Q Okay. And I mean you're not trained to look at things. You
9 were just getting out of your car; right?

10 A Yeah. Trying to get somewhere.

11 Q Okay. Nobody has asked you let's say the color of their eyes
12 have they?

13 A No.

14 Q Nobody has asked you, you know, whether they had, you
15 know, an earring or anything like that; right?

16 A No.

17 Q Okay. The simple question of you recognizing someone your
18 height or shorter is -- is just that simple. You saw somebody your height
19 and you're sure of that or shorter; correct?

20 A Yeah.

21 Q And that's the person with the gun getting into the driver's
22 seat; correct?

23 A Yes.

24 Q Okay. So we're not asking for details. We're just asking for a
25 generalization; right?

1 A That's right.

2 Q And that's what you remember?

3 A Yes, sir.

4 Q Thank you very much, sir.

5 A Mm-hmm.

6 THE COURT: Anything else for this witness?

7 MR. GIORDANI: No, Your Honor.

8 THE COURT: Okay. Thank you very much for your testimony
9 here today, sir.

10 THE WITNESS: Thank you so much.

11 THE COURT: You're welcome.

12 THE WITNESS: Mm-hmm.

13 THE COURT: Thank you for being here. You may step down
14 and you are excused from your subpoena. And you may call your next
15 witness.

16 MR. GIORDANI: Geishe Bolden Orduno.

17 THE MARSHAL: Will you please watch your step. Step up
18 into the witness stand, remain standing, raise your right hand, face the
19 Clerk please.

20 THE CLERK: Please raise your right hand.

21 **GEISHE BOLDEN**

22 [having been called as a witness and being first duly sworn,
23 testified as follows:]

24 THE CLERK: Thank you. Please be seated. Could you
25 please state and spell your name for the record?

1 THE WITNESS: Geishe Bolden. It's G-E-I-S-H-E. Last
2 name was B-O-L-D-E-N.

3 THE CLERK: Thank you, ma'am.

4 DIRECT EXAMINATION

5 BY MR. GIORDANI:

6 Q How are you doing, ma'am?

7 A Fine. How are you?

8 Q Great. Thank you. I want to bring you back to October -- I'm
9 sorry, September 30th of 2006; where were you living at that time?

10 A 1284 Lawry.

11 Q Do you see 1284 Lawry on the photograph?

12 A Yes.

13 Q Is that where you were residing with Mr. Melvin Bolden?

14 A Correct.

15 Q And is he now your husband?

16 A Yes.

17 Q At the time were you boyfriend and girlfriend?

18 A Yes.

19 Q Do you remember that night going out somewhere?

20 A Yeah. We went out to eat with -- with friends.

21 Q Okay. What were those friend's names?

22 A Betty and Steve.

23 Q And do you recall where you went to eat?

24 A Main Street Casino.

25 Q Okay. Do you remember what vehicle you went in?

1 A Yeah. We went in -- in the -- the grey car. The Lincoln.

2 Q The Lincoln?

3 A Mm-hmm.

4 Q It's not one of these cars sitting in front of the house here?

5 A No.

6 Q Okay. Who was driving the Lincoln when you eventually went

7 home?

8 A I drove halfway and then we pulled over. Melvin switched

9 because the power steering in the car wasn't working.

10 Q Okay.

11 A So I have --

12 Q I'm sorry. Do you remember what time of day that was or

13 evening?

14 A It was around like 9:30, 10 o'clock.

15 Q Okay. How -- how would you describe the -- the lighting?

16 Can I presume it was dark outside?

17 A Yes.

18 Q When you said we switched, you were letting Melvin then

19 drive the vehicle to park it?

20 A Yes.

21 Q At that point in time did you hear something that drew your

22 attention?

23 A Gunshots.

24 Q Okay. Where did you hear those gunshots coming from?

25 A When we're coming down Lawry I heard gunshots.

1 Q Oh okay.

2 A So --

3 Q So as you're coming down Lawry --

4 A Yeah.

5 Q -- you heard gunshots?

6 A Mm-hmm.

7 Q Can you describe or estimate how many you heard?

8 A More than ten.

9 Q Okay. What did you do or think when you heard the

10 gunshots?

11 A Well I told Melvin to keep going, but he -- he parked.

12 Q Okay. Parked where?

13 A In front of the Mustang.

14 Q All right. And you just pointed to the -- the photo that's up?

15 A Yeah. So right here.

16 Q Okay. Right in front of the Mustang?

17 A Mm-hmm.

18 Q Was he driving into that spot or backing in?

19 A Backing.

20 Q All right. Who else was in the vehicle with you? I forgot their

21 names.

22 A Betty and Steve.

23 Q Okay. So were Betty and Steve in the back seat?

24 A Yes.

25 Q All right. As Melvin is parking the car, are you still inside the

1 vehicle?

2 A Yes.

3 Q Are you now in the passenger?

4 A Yes. Passenger side.

5 Q All right. Describe for the jury what happens as he's parking
6 the vehicle?

7 A So as he's parking the -- the vehicle, they came around the
8 corner and we were right here and they told us to get out of the car.

9 Q Okay. When you say they, how many people are we talking
10 about?

11 A I saw four.

12 Q Okay. Can you to the best of your ability describe those
13 people, height, weight, race, clothing?

14 A I guess one -- I usually say my height. They were kind of like
15 bent over. They had dark clothes on.

16 Q Okay.

17 A Red gloves on. That's the one that came on my side.

18 Q Okay.

19 A The rest they had dark. I did see someone in a white shirt.

20 Q Okay.

21 A And told us to get out.

22 Q All right. When you say they were crouching, do you mean
23 they were kind of approaching you and --

24 A Yeah. Like kind of --

25 Q Okay.

1 A -- hunched over a little bit.

2 Q Hunched over, okay. When they came at you, did they split
3 up or did they all come to one side of the vehicle or what?

4 A I saw the one that came to my side. So it's a four door --

5 Q Tell us.

6 A -- car.

7 Q Okay.

8 A So my side, so obviously they had to split up to get one driver
9 and then Betty and Steve were in the back, so.

10 Q Okay. So when you say one came to my side --

11 A Yes.

12 Q -- you mean the passenger side of the vehicle?

13 A Correct.

14 Q Did you see where the other three went?

15 A I saw one person go to the driver side and, you know,
16 repeating to get out the car, get out the car.

17 Q Okay. Did any of those men guns or weapons?

18 A Yeah.

19 Q All right. Describe who had what weapon to the best of your
20 ability.

21 A So the one that I saw really good, the one -- the person that
22 came to my side, the gun was kind of like this long.

23 Q Okay.

24 A But I can't tell you what like the name -- what type of gun it
25 was. I just saw it was like this.

1 Q Okay. And you're holding your hands out --
2 A Mm-hmm.
3 Q -- a few inches apart.
4 A Yeah.
5 Q Not a handgun; is that what you're saying?
6 A Yeah. It wasn't a gun. It wasn't a gun. It was like this long.
7 Q Okay. Do you remember what that person -- we're describing
8 the person who came to your side.
9 A Mm-hmm.
10 Q Do you remember his height or what he was wearing?
11 A Dark clothes and the gloves.
12 Q What color gloves?
13 A Red.
14 Q Okay. Do you remember what his height was?
15 A 'Cause he was kind of slunched, so I don't know. Maybe my
16 height or a little taller --
17 Q Okay.
18 A -- 'cause you know they're not standing up straight. It's hard --
19 Q I understand.
20 A -- to judge.
21 Q Do you know as this is going on where Betty and Steve go?
22 A Well, after we get out, I know me and Betty ended up in the
23 driveway behind in front of the car that's in the driveway, Cadillac.
24 Q Okay. And you're still referring to the same exhibit for the
25 record --

1 A Yeah.

2 Q -- that we've had up. It's 260. So let me clarify for the record.
3 There's a grey car in the driveway and then there's a blue car in the
4 yard; correct?

5 A Correct.

6 Q So the car that you were behind or in front of was the grey car
7 in the driveway?

8 A Yes.

9 Q When you say in front of, do you mean literally like in front of
10 it?

11 A Yeah. In front of it. Bending -- trying like and hide under --
12 basically trying to hide.

13 Q Okay.

14 A And that's where we, me and Betty, end up at.

15 Q And where's -- where did Steve go?

16 A Steve and Melvin I --

17 Q Understood.

18 A -- I don't know.

19 Q Did you observe whether Melvin got out of the vehicle as well?

20 A I kept hearing get out the car, then they -- one person said
21 leave the keys and then I heard one gunshot.

22 Q Okay. Did you see -- actually see the gunshot?

23 A No. I just heard it.

24 Q All right. Ultimately, do you hear the car leave?

25 A Yes.

1 Q And does it leave slowly, fast; how -- how would you describe
2 that?

3 A Fast.

4 Q Fast?

5 A Mm-hmm.

6 Q All right. Is that a yes?

7 A Yes. I'm sorry.

8 Q Okay. After the car sped away, did you or somebody else call
9 police?

10 A Yeah. I called 9-1-1.

11 Q Okay. And did the police show up?

12 A Yeah. By that time I was in the house. I was calling 9-1-1 and
13 they kept passing us by. So and I told the operator they're passing us
14 by --

15 Q Okay.

16 A -- so he said that someone got hurt, so they went their first
17 before --

18 Q Okay.

19 A -- they actually came.

20 Q Did something happen that caused you to call an ambulance
21 or --

22 A Oh yeah, because Betty had like a little seizure. So that's -- I
23 had to call the ambulance for her.

24 Q Okay. When the police eventually came to where you were --

25 A Mm-hmm.

1 Q -- did you give a statement to police?

2 A Yes, I did.

3 Q Did you give a written statement and then a recorded
4 statement?

5 A Yes.

6 Q And do you recall whether you conveyed to the police or told
7 the police about the warning shot?

8 A Yeah, I did. I did.

9 Q Okay. Do you recall if police personnel actually looking
10 around in the area for that cartridge case?

11 A I was inside the house, so I believe they did.

12 Q Okay. All right.

13 A But I was in the house at that time.

14 Q Okay.

15 The Court's brief indulgence.

16 Just real briefly, ma'am.

17 A Okay.

18 Q 284; do you recognize that?

19 A Yeah. That's our Lincoln.

20 Q All right. Is that the car you were in you just described being
21 taken?

22 A Yes. Mm-hmm.

23 Q Okay. You referenced height and you said someone was
24 taller than you. Just for the record, how tall are you?

25 A I'm 5'5".

1 Q Okay.

2 I'll pass the witness. Thank you, ma'am.

3 THE COURT: Cross examination.

4 MR. TANASI: Thank you, Your Honor.

5 CROSS EXAMINATION

6 BY MR. TANASI:

7 Q Good afternoon, ma'am.

8 A Good afternoon.

9 Q I'm Rich Tanasi. I represent Mr. Matthews. I have a few
10 questions for you on cross, okay?

11 A Okay.

12 Q All right. I just want to make sure that I'm clear you cannot
13 identify any individual from that evening; correct?

14 A No. Just what they were wearing.

15 Q Understood. Maybe some things they're wearing, but you
16 cannot identify them independently other than that on that night; correct?

17 A Correct.

18 Q Couldn't do that at the time; correct?

19 A Correct.

20 Q And can't do it as you sit here today; correct?

21 A Correct.

22 Q All right. You indicated there were four people that
23 approached the car?

24 A Yeah. I saw four.

25 Q Four people, okay. And it was roughly between 9:45 and 10

1 p.m.; fair?

2 A Mm-hmm. Yes.

3 Q Okay. It was dark out; right?

4 A Correct.

5 Q All right. And you indicated that on the passenger side the

6 person who approached the passenger side had dark clothes on;

7 correct?

8 A Correct.

9 Q All right. And red gloves; correct?

10 A Mm-hmm.

11 Q Two gloves; right?

12 A Yeah. Red gloves on each hand.

13 Q On each hand. Okay. Couldn't see his face though; correct?

14 A No.

15 Q Okay. You indicated others had a white t-shirt or saw a white

16 t-shirt?

17 A I saw one person in a white t-shirt.

18 Q One person in a white t-shirt?

19 A Mm-hmm.

20 Q Okay. And you saw all those individuals or all of those

21 individuals they had pants on; correct?

22 A Had what?

23 Q They had pants on; correct?

24 A Yes.

25 Q Okay. And, ma'am, you're 5'5"?

1 A Roughly yeah 5'5".

2 Q Roughly 5'5". You testified here today -- in Court here today
3 that the individual in the passenger side that you saw was maybe taller
4 than you; is that right?

5 A They came -- you know, he was kind of hunched over or
6 whatever, but standing up straight on 5'5". He might have been a little
7 taller. When you're bent over it's hard to tell.

8 Q I understand. But your testimony here today is that he was
9 that person, that individual who was maybe taller than you; fair?

10 A Fair.

11 Q Okay. And you've testified in prior proceeding in this case;
12 correct?

13 A Correct.

14 Q Some time in 2007; fair?

15 A Fair.

16 Q Okay. And in that prior proceeding, isn't it true that you told --
17 that you testified that the other person was actually maybe shorter than
18 you or maybe your height; correct?

19 A Yeah.

20 Q Okay. But today you're saying maybe taller; fair?

21 A Maybe. Fair.

22 Q Okay. And prior to today's testimony did you have an
23 opportunity to meet with the DA's office?

24 A Yes.

25 Q How many times?

1 A Once.

2 Q Just once. And did you go over your testimony for today?

3 A Correct.

4 Q Okay. Mr. Matthews, if you could please just stand up for a
5 moment. In looking at my client, ma'am, would you agree with me that
6 he is taller than you?

7 A I think so, yeah.

8 Q Thank you. Go ahead and sit down. I pass the witness.
9 Thank you, Your Honor.

10 THE COURT: Any redirect?

11 MR. GIORDANI: Yes.

12 REDIRECT EXAMINATION

13 BY MR. GIORDANI:

14 Q So Mr. Tanasi just referenced some prior testimony you gave,
15 but you gave a statement to police like really close after the incident;
16 right?

17 A Correct.

18 Q Okay. Do you recall in that saying that he was, in fact, taller
19 than you and he was between 6 and something?

20 A Yeah.

21 Q Okay.

22 A I recall that. Yeah.

23 Q And 6 would be 6 feet and something; correct?

24 A Correct.

25 Q Okay. So that's significantly taller than you if you're 5'5";

1 correct?

2 A Yeah.

3 Q Okay. I'll pass the witness.

4 THE COURT: Any recross?

5 MR. TANASI: Briefly, Your Honor.

6 RECROSS EXAMINATION

7 BY MR. TANASI:

8 Q Ma'am, when you gave that statement to the police, you were
9 not under oath; correct?

10 A No. No.

11 Q Correct. But in that prior proceeding where you indicated the
12 person was either your height or maybe shorter, you were under oath;
13 correct?

14 A Correct.

15 Q Sworn oath to tell the truth, the whole truth and nothing but the
16 truth; fair?

17 A Correct.

18 Q Okay. Thank you. I'll pass the witness.

19 THE COURT: Anything else from this witness?

20 MR. GIORDANI: No, Your Honor. Thank you.

21 THE COURT: Okay. Thank you very much for you testimony
22 here today. You may step down. You are excused from your subpoena.

23 THE WITNESS: Okay.

24 THE COURT: Thank you for being here.

25 And the State of Nevada may call their next witness.

1 MR. GIORDANI: Can I just check who's outside?

2 THE COURT: Absolutely.

3 MS. LEXIS: The State calls Marc Washington.

4 **MARC WASHINGTON**

5 [having been called as a witness and being first duly sworn,

6 testified as follows:]

7 THE CLERK: Thank you. Please be seated and could you
8 please state and spell your name for the record.

9 THE WITNESS: Absolutely. It's Marc Washington. That's M-
10 A-R-C, W-A-S-H-I-N-G-T-O-N.

11 THE CLERK: Thank you, sir.

12 **DIRECT EXAMINATION**

13 **BY MS. LEXIS:**

14 Q Hi. Good afternoon.

15 A Good afternoon.

16 Q Sir, taking you back to on or about October 11th and 2006,
17 how were you employed?

18 A I was employed as a senior crime scene analyst with the Las
19 Vegas Metropolitan Police Department.

20 Q As a crime scene analyst with Metro at that time, what were
21 your duties and responsibilities? Like what did you?

22 A I responded to crime scenes and I documented those crime
23 scenes utilizing digital photography, latent fingerprint processing, crime
24 scene diagram, evidence identification and collection.

25 Q Okay. Leading up to October 11th of 2016 [sic], can you just

1 briefly, if you recall, give us a synopsis of your education, training and
2 experience such that you would have been qualified to be a crime scene
3 analyst back in 2006.

4 A Certainly. I have a Bachelor's Degree in Criminal Justice from
5 the University of Nevada Las Vegas. I have a diploma from the
6 American Institute of Applied Science in Forensic Science. Additionally,
7 I have a -- I had an international certification as a Senior Crime Scene
8 Analyst through -- I can't recall the organization now. But at the time
9 there was only about a thousand people in the world that have that level
10 of certification and I was, you know, glad to have that.

11 During the time of employment, I went to multiple, you know,
12 on-the-job training courses. For example, through the FBI, through
13 Northwestern University, through our own department, things like that.

14 Q Okay. Leading up to October 11th of 2006, how long had you
15 worked up to -- had you worked for Metro?

16 A Approximately 12 years.

17 Q Okay. And now crime scene analysts, do you all -- is it your
18 duties and responsibilities or how it is that you come to scenes; is it like
19 that TV -- you're familiar with that show C -- CSI?

20 A I've seen it once.

21 Q Okay. Is that your job? Like do you go and solve crimes,
22 interview witnesses, things like that?

23 A It's nothing really like that.

24 Q Okay. Fair to say that detectives will typically or patrol officers
25 will typically ask crime scene analysts to respond to scenes to document

1 evidence and things like that?

2 A That's correct.

3 Q Okay. Specifically on October 11th of 2006, were you
4 contacted by some detectives to conduct a follow up at a scene?

5 A Yes, I was.

6 Q That particular scene, was that over at kind of like the
7 intersection of Balzar and Lexington Street?

8 A Yes, it was.

9 Q And that's here in Las Vegas, Clark County, Nevada?

10 A That's correct.

11 Q Okay. Now what is an event number?

12 A Event number is a number that's generated by dispatch or
13 CAD and it's correlated with the year, the day, the month and the
14 number of events that are generated for that day. So for example the
15 very first thing that's produced either by an officer or as this calling in
16 would be for example if it was today, it would be 18 is the year, it would
17 be 9 is the month and then 24 is the date; is that correct?

18 Q Yes.

19 UNKNOWN SPEAKER: It's the 24th.

20 MS. LEXIS: 26th.

21 THE WITNESS: The 26th, sorry about that. And then the very
22 thing that happens on Metro's events would be 0001 and then the next
23 thing would be 02 and then we continue on the rest of day until the next
24 day starts.

25 BY MS. LEXIS:

1 Q Okay. Now what is that event number utilized for back when
2 or during your employment as a crime scene analyst?

3 A So for example if I were to do be called out on a scene, they
4 would reference that event number and then I would use that same
5 event number to, you know, to attach my reports, my property reports,
6 my crime scene reports, any other type of actions that I do or paperwork
7 I've produced for that event, that event number would be attached to it.

8 Q Okay. So kind of a way to keep track of all the documents,
9 evidence and things like that generated for a specific event?

10 A That's correct.

11 Q Okay. And so you mentioned reports. As a crime scene
12 analyst, is it your responsibility when you come out to a crime scene to
13 also complete or prepare report to memorialize your actions at a
14 particular scene?

15 A That's correct.

16 Q Okay. So I'm -- I turned your attention to October 11th of
17 2006, did you do a report for that incident or for --

18 A Yes, I did.

19 Q -- your response on that particular day to that scene?

20 A Yes, I did.

21 Q Now would you have logged it under a new event number or
22 the original event number since it was a follow up?

23 A It would definitely be under the original event.

24 Q Okay. So does the event numbers 060930-3216 ring a bell in
25 terms of the event number that would have logged your report under?

1 A It does.

2 Q Okay. So you go out to Balzar and Lexington; is that right?

3 A That's correct.

4 Q And did you meet up with the detectives there?

5 A Yes, I did.

6 Q Did you -- did they, excuse me, draw your attention to a piece
7 of evidence that you subsequently photographed?

8 A Yes.

9 Q Showing you what has been marked and admitted as State's
10 Exhibit 232; what's this?

11 A That is a grey card. Those grey cards were utilized back in
12 the day when we used color photography to obtain grey balance. It's
13 used for a lighting and accuracy when exposing color negatives. When
14 we switched over to digital photograph that just shows that the beginning
15 of my digital string belongs to me and that's my first initial, my P number
16 and then my last initial and that ruler is what we call a scale.

17 Q Okay. What's -- what's a P number that you just referenced?

18 A A P number is my personnel number. Mine is 4725.

19 Q Okay. So your first name initial or the initial of your first name,
20 your P number and then the initial for your last name?

21 A That's correct.

22 Q Okay. So that's kind of your identification number in terms of,
23 you know, being employed with Metro?

24 A That's correct.

25 Q Okay. And so fair to say if you were to impound evidence

1 similar to when you're documenting evidence by way of photography,
2 you used that personnel number?

3 A That's correct.

4 Q And that is unique to you; correct?

5 A That's correct.

6 Q Okay. And so you photograph this particular scene -- I'm just
7 going to show you State's Exhibit Number 233 and then 234 also
8 previously marked and admitted by way of stipulation; does this show a
9 photograph of the intersection of Balzar and Lexington?

10 A Yes, it does.

11 Q And that's where you would have responded; correct?

12 A That's correct.

13 Q Now what pieces of evidence were you directed to by the
14 detectives?

15 A Two cartridge cases.

16 Q Okay. And so once you were directed to that particular scene,
17 what did you do or the location of these cartridge cases -- cartridge
18 casings -- cases, what would you have done?

19 A Our general procedure for documenting evidence is you take
20 a wide overall photograph, then you take one that's closer in or a
21 medium view and then as you get closer to the evidence, you take a
22 close up.

23 Q Okay. So just State's Exhibit Number 235; is that kind of a
24 further out view of the intersection of Balzar and Lexington that we've
25 been talking about?

1 A Yes, it is.

2 Q And I'm not going to go through all of them, but State's Exhibit
3 Number 236; does this show you kind of moving away from that
4 intersection and documenting the scene as you -- as you move away?

5 A That's correct.

6 Q Now calling your attention to State's Exhibit Number 242; do
7 you see a small little placard, yellow placard in this particular
8 photograph?

9 A Yes, I do.

10 Q Okay. Is it located towards that fenced area towards the
11 middle right of the photo?

12 A Yes, it is.

13 Q Okay. Does this show the photo kind of further away in view?

14 A That's correct.

15 Q Or of the placard further away. State's Exhibit 243; does that
16 show it closer as you've indicated you typically did?

17 A That's correct.

18 Q State's Exhibit Number 245; does that show it a little closer?

19 A That's correct.

20 Q And State's Exhibit Number 248; what does that show?

21 A That's the close up view of the item that I impounded on that
22 day.

23 Q Which was a cartridge casing; correct?

24 A That's correct.

25 Q Okay. Sir, briefly explain to the ladies and gentlemen of the

1 jury what a cartridge casing is?

2 A Well generally when we're talking about ammunition for
3 firearms, there is a bullet. It's the general term or the popular term for
4 ammunition used in firearms. And then once the ammunition is
5 discharged, you know, using the mechanical device, you know, known
6 as the pistol or gun or rifle, then generally what's left behind in the gun
7 or ejected from the gun is the cartridge case. And then, of course, the
8 powder inside the cartridge case is burned very quickly causing, you
9 know, the high pressure gases to force the bullet down the barrel.

10 And then the difference between a cartridge, live cartridge and
11 a cartridge case is one that's been expended and one has not.

12 Q So is a cartridge what we lay people don't know much about
13 guns; is that what we refer to as a bullet?

14 A That's correct. General -- general terms.

15 Q Okay. And this is -- what's shown in State's Exhibit Number
16 248, that's the cartridge casing that actually comes out of the gun?

17 A Depending on the type of firearm, it can remain in the -- in the
18 gun or it can be ejected out as well.

19 Q Would the cartridge casing typically remain in the gun when
20 you're dealing with a revolver?

21 A It would typically remain in the gun with a revolver.

22 Q So did you note in your report specifically where it was that
23 you located the items in State's Exhibit 248, that cartridge case with a
24 placard number two?

25 A I specifically documented that location in the property report.

1 Q Okay. Do you recall that right off the top of your head --

2 A I do not.

3 Q -- the specific location?

4 A No. I do not.

5 Q Okay. Would looking at this report you wrote back in October
6 -- October 11th of 2006, would that help refresh your recollection?

7 A Yes, it would.

8 MS. LEXIS: May I approach, Your Honor?

9 THE COURT: You may.

10 BY MS. LEXIS:

11 Q Sir, if you could please briefly look at this sheet of paper; is
12 that the property report that you indicated would refresh your memory as
13 to the location of item number two indicated -- placard number two in the
14 exhibit we have up?

15 A Yes, it would.

16 Q Okay. And if you could just briefly take a look at it, look up at
17 me when you're done.

18 A Okay.

19 Q Okay. Where was it located specifically?

20 A It was on the ground on the sidewalk of 1271 Balzar
21 approximately a hundred eighteen feet south and four feet eleven inches
22 east of the southeast corner of Balzar and Lexington.

23 Q Okay. Now the southeast corner, you're talking about the
24 actual corner, like on the sidewalk of Balzar and Lexington?

25 A That's correct.

1 Q Okay. Was there another cartridge case located?

2 A Yes, there was.

3 Q Drawing your attention to State's Exhibit Number 251, do you
4 see a placard with the number one?

5 A Yes, I do.

6 Q And would that be towards the middle, lower portion on the left
7 hand side of the photo?

8 A That's correct.

9 Q State's Exhibit 252; does that show a little closer?

10 A That's correct.

11 Q 256 --

12 A That's the --

13 Q -- what are we looking at here?

14 A -- that's the close up photograph of the item that impounded
15 on that day.

16 Q Okay. Is -- what is this item?

17 A It's a cartridge case.

18 Q Okay. Did you note in your report the exact location of this
19 cartridge casing -- of this cartridge casings?

20 A Yes, I did.

21 Q And do you recall that as you sit here today -- do you
22 specifically recall it?

23 A No, I do not.

24 Q Would looking at your property report refresh your memory?

25 A Yes, it would.

1 MS. LEXIS: Permission to approach, Your Honor?
2 THE COURT: You may.
3 MS. LEXIS: Thank you.
4 Sir, is that the same property report you looked at previously?
5 THE WITNESS: Yes, it is.
6 BY MS. LEXIS:
7 Q Does it refresh your memory?
8 A Yes, it does.
9 Q Take -- take a minute to -- a few seconds to look at it and look
10 up at me when you -- your memory's been refreshed.
11 A Okay.
12 Q Okay. Specifically, where was item number one or the
13 cartridge case you labeled with a placard number one located?
14 A Approximately 77 feet, 4 inches south and 6 feet, 8 inches
15 east of the southeast corner of Balzar and Lexington.
16 Q And just so we're clear, State's Exhibit 233; does this show
17 the southeast corner of Lexington and Balzar as you measured it?
18 A Yes, it does.
19 Q Okay. And this would have been the southeast corner that
20 you referenced in the report and also your testimony?
21 A Yes.
22 Q Now, sir, I did bring up and show you your report; is that right?
23 A The property report, yes.
24 Q Your property report. Did you note the event number 060930-
25 3216 on your report?

1 A Yes, I did.

2 Q Okay. That's the event number; correct?

3 A That's correct.

4 Q After you photograph these casings that we just went over, did
5 you impound these items of evidence?

6 A Yes, I did.

7 Q What does it mean to impound an item of evidence?

8 A Take the items. You put them in protective packaging if
9 necessary. You place them in an envelope. You label the envelope.
10 And then you seal the envelope. And then you submit it to the evidence
11 vault personnel who then store it and log it in the evidence vault.

12 Q Okay. When you put it in an envelope, is there usually a
13 label?

14 A Yes, there is.

15 Q Okay. What types of information would be contained on the
16 label on the envelope?

17 A The information on the label contain things like the event
18 number, the location that you responded to, my information and what's
19 inside the envelope.

20 Q And so when you say your information, would it contain the
21 same P number that you would have noted in State's Exhibit 232?

22 A Yes, it would.

23 Q Okay. So on this sticker, it would show the location that the
24 items were collected from; correct?

25 A That's correct.

1 Q So in this particular it should say Balzar and Lexington --

2 A That's correct.

3 Q -- or intersection on or about that area; correct?

4 A That's correct.

5 Q Okay. It would have the event number?

6 A That's correct.

7 Q So it would have that 060930-3216 event number?

8 A That's correct.

9 Q And it would also have a description. So in this case it would
10 have been two cartridge casings?

11 A That's correct.

12 Q Okay. And did it stay in your sole, care, custody and control
13 up until the time you impounded or actually booked it into the evidence
14 vault?

15 A That's correct.

16 Q Okay. And is it -- did you already say, and I'm sorry if I
17 missed it, but do you seal that envelope?

18 A Yes, we do.

19 Q And how do you seal it?

20 A There's a very delicate sticky tape that you place over the
21 entrance or the openings of the envelope.

22 Q Okay. And when -- let's say when someone else has to
23 access that piece of evidence, will they typically cut over your tape or -- I
24 mean how does that work?

25 A So in order to keep the integrity of the envelope for display

1 purposes, they'll usually cut a different spot in the envelope or package,
2 that way they can access the contents, put -- place the contents back
3 and then reseal it.

4 Q Okay. With their own tape?

5 A With their own tape.

6 Q And then also labeled with their own personnel number?

7 A That's correct.

8 Q Okay. Now on this particular date, still October 11th of 2006,
9 did you along with Detectives Vaccaro did you -- were you present and
10 did you take part in measuring the distance between 1271 Balzar and
11 also another location 1284 Lawry Street?

12 A I don't recall that.

13 Q Okay. Would looking at an officer's report drafted by the
14 detective -- Detective Vaccaro maybe refresh your memory?

15 A Yes.

16 MS. LEXIS: May I approach, Your Honor?

17 THE COURT: You may

18 BY MS. LEXIS:

19 Q If you could just read please the last whole paragraph, the one
20 that starts with detectives -- actually the third to the last paragraph on
21 page 2, sir.

22 A Okay.

23 Q Did that refresh your memory at all?

24 A Yes, it did. Yes, it does.

25 Q Okay. And so was the distance between the southernmost

1 cartridge case to -- or okay -- so was your tape measure used to
2 measure the distance between two different places?

3 A Yes, it was.

4 Q Okay. What places?

5 A I don't recall the two places.

6 Q Okay. How about the distance from the southernmost
7 cartridge case to the scene of the robbery involving individuals by the
8 name of Ms. Orduno and Mr. Bolden? Does that sound about right?

9 A That's correct.

10 Q You just read that?

11 A Yes.

12 Q And was that distance measured to be a hundred and seventy
13 feet?

14 A That's correct.

15 Q And for all intents and purposes, the 170 feet would have
16 been the distance traveled by any individuals coming from 1271 --

17 MR. LEVENTHAL: Judge, I'm going to object as leading.

18 THE COURT: You are leading a little.

19 MS. LEXIS: Okay.

20 Let me rephrase. The two distances or the two locations
21 measured were between 1271 Balzar and 1284 Lawry Street; correct?

22 THE WITNESS: That's correct.

23 MS. LEXIS: I have no more questions. Thank you.

24 THE COURT: Thank you. Cross examination?

25 MR. LEVENTHAL: Just briefly.

1 CROSS EXAMINATION

2 BY MR. LEVENTHAL:

3 Q Is it Dr. Washington or Mr. Washington? I'm sorry.

4 A No. Just Officer Washington.

5 Q Officer Washington.

6 A That's correct.

7 Q You're officer with the Las Vegas Metropolitan Police
8 Department; is that correct?

9 A That's correct.

10 Q And that's CSI; correct?

11 A No.

12 Q Oh. You're not with crime scene analyst; CSA?

13 A No. I -- about a year after that scene, I went to the police
14 academy and became a commissioned officer.

15 Q Okay. Let's talk about prior to that scene. How much
16 experience had you had with being a crime scene analyst?

17 A Approximately 12 years.

18 Q Okay. And during those 12 years you indicated that you were
19 educated in latent fingerprints?

20 A That's correct.

21 Q You're educated in photography I guess; correct?

22 A That's correct.

23 Q Okay. DNA?

24 A The proper preservation of DNA.

25 Q Okay. And document -- you also had a lot of classes or

1 courses in document evidence -- documenting evidence; right?

2 A That's correct.

3 Q Okay. And all of these things your fellow -- at the time your
4 fellow crime scene analysts, they all had sort of the same education and
5 background that you did or did you have more?

6 A It would be all at different levels.

7 Q All at different levels?

8 A That's correct.

9 Q Okay. Were you out there on September 30th, 2006?

10 A Could you repeat the date, sir?

11 Q Were you at the scene on September 30th, 2006?

12 A I don't recall and I'm not familiar with the specific scene that
13 you're referring to.

14 Q Okay. But you did go out ten days later on October 11th,
15 2006?

16 A That's correct.

17 Q You requested to go out there; right?

18 A That's correct.

19 Q Because apparently they had -- somebody had found some
20 cartridges; correct?

21 A That's correct.

22 Q Those cartridges were left over from the crime scene from
23 September 30th of 2006; correct?

24 MS. LEXIS: Your Honor, objection. He's asking a witness to
25 speculate.

1 THE COURT: Right. Unless you can lay some more
2 foundation and connecting it up.
3 BY MR. LEVENTHAL:
4 Q Well, did you connect these -- these cartridges with this case?
5 A That wasn't my particular job function at the time, so the
6 answer is no.
7 Q All your job was -- I'm sorry. Go ahead. I didn't mean --
8 A That's okay. So the answer is no.
9 Q Okay. You did not connect it to this case?
10 A No.
11 Q You were just asked to go out there and collect something that
12 may have been missed on the 30th?
13 A My job at this scene was to observe, document and preserve
14 any evidence related to the event number that I was called out to.
15 Q Right. Ten days later?
16 A That's correct.
17 Q To preserve and document the crime scene ten days after the
18 crime had already been committed?
19 A That's correct.
20 Q Thank you very much.
21 THE COURT: Anything else?
22 MS. LEXIS: Not for this witness. Thank you, Your Honor.
23 THE COURT: Okay. Thank you very much for your testimony
24 here today. You may step down. You are excused from your subpoena.
25 At this time we're going to take a recess.

1 During this recess you're admonished not to talk or converse
2 amongst yourselves or with anyone else on any subject connected with
3 this trial or read, watch or listen to any report of or commentary on the
4 trial or any person connected with this trial by any medium of
5 information, including without limitation newspapers, television, the
6 Internet or radio; form or express any opinion on any subject connected
7 with this trial 'til the case is finally submitted to you.

8 We'll be in recess for 15 minutes. Thank you.

9 THE MARSHAL: Thank you. All rise for the exiting jury
10 please.

11 [Recess taken from 3:24 p.m. to 3:40 p.m.]

12 [Inside the presence of the jury]

13 THE COURT: Does the State stipulate to the presence of the
14 jury panel?

15 MR. GIORDANI: Yes, Your Honor.

16 THE COURT: The defense?

17 MR. LEVENTHAL: Yes, Your Honor. Thank you.

18 [Testimony of Amy Nemcik previously transcribed and filed
19 with the Clerk of the Court on October 20, 2018]

20 THE COURT: At this time, ladies and gentlemen, we are
21 going to conclude for the evening.

22 During this recess you're admonished not to talk or converse
23 amongst yourselves or with anyone else on any subject connected with
24 this trial or read, watch or listen to any report of or commentary on the
25 trial or any person connected with this trial by any medium of

1 information, including without limitation newspapers, television, the
2 Internet or radio; form or express any opinion on any subject connected
3 with this trial 'til the case is finally submitted to you.

4 We'll start tomorrow morning at 10:30. Thank you very much.
5 Have a good evening.

6 THE MARSHAL: Thank you. All rise for the exiting jury
7 please.

8 THE COURT: Yeah. Make sure you leave your notebooks
9 there. Thank you.

10 [Outside the presence of the jury]

11 MR. LEVENTHAL: Does Your Honor have Court in the
12 morning?

13 THE COURT: Pardon.

14 MR. LEVENTHAL: Does Your Honor have Court in the
15 morning?

16 THE COURT: I do.

17 MR. LEVENTHAL: Is there -- do we have to take my stuff or
18 is there a place I can sort of or do I take it with me?

19 THE COURT: I don't mind you leaving it here, but would be --

20 MR. LEVENTHAL: It would just be the two binders.

21 MR. TANASI: Actually, a few other binders too.

22 THE COURT: Mr. Hawkes --

23 THE MARSHAL: Ma'am.

24 THE COURT: -- where can they put their binders for tonight?
25 I know you probably don't want it here. Do we have a place they can put

1 their binders?

2 THE MARSHAL: Yeah. I can put them over there. I got a
3 box over here and put it by -- on my podium.

4 THE COURT: Okay.

5 MR. LEVENTHAL: Great. Thank you so much.

6 THE COURT: No problem.

7 MR. LEVENTHAL: See you at 10:30.

8 THE COURT: See you in the morning.

9 MR. TANASI: Thank you.

10 MR. GIORDANI: Thank you, Your Honor.

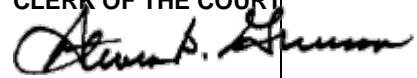
11 MS. LEXIS: Thank you.

12 [Jury Trial, Day 3 concluded at 4:38 p.m.]

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19
20 ATTEST: I do hereby certify that I have truly and correctly transcribed
21 the audio/video proceedings in the above-entitled case to the best of my
22 ability.

23 
24 Michelle Ramsey
25 Court Transcriber



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

vs.

JEMAR D. MATTHEWS aka
JEMAR MATTHEWS
JEMAR DEMON MATTHEWS,
Defendant.

CASE#: 06C228460-2
DEPT. XII

BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT JUDGE

THURSDAY, SEPTEMBER 27, 2018

**RECORDER'S TRANSCRIPT OF HEARING:
JURY TRIAL - DAY 4**

APPEARANCES:

For the State:

AGNES M. LEXIS, ESQ.
JOHN L. GIORDANI, III, ESQ.
Chief Deputy District Attorneys

For the Defendant:

TODD M. LEVENTHAL, ESQ.
RICHARD E. TANASI, ESQ.

RECORDED BY: KRISTINE SANTI, COURT RECORDER

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1 THURSDAY, SEPTEMBER 27, 2018 AT 11:06 A.M.

2
3 [Outside the presence of the jury]

4 THE COURT: The record will reflect that the hearing is taking
5 place outside the presence of the jury panel. It's my understanding you
6 have something outside the presence.

7 MR. GIORDANI: Yes, Your Honor. As Your Honor's aware
8 the news camera was in the courtroom yesterday during opening
9 statements.

10 THE COURT: Uh-huh.

11 MR. GIORDANI: Just wanted to bring to the Court's attention
12 something that Ms. Lexis and I saw last night and that was at least two
13 print articles as well as -- well we have a good faith belief that it was also
14 broadcasted on the news last night. The concern we have and the
15 reason we're bringing it up now is that the print articles kind of infer
16 wrongful conviction for --

17 THE COURT: Yeah.

18 MR. GIORDANI: -- lack of a better term, innocent and all this
19 stuff. So, you know, it is what it is. We can't control the media. But the
20 State's concern is that the jury might have seen the flash wrongfully
21 convicted and then changed it, you know, because of your
22 admonishment. And I just bring it to the Court's attention 'cause we
23 would ask that somehow you address it without bringing too much
24 attention to it.

25 THE COURT: Tell them there's something in the media and I

1 don't --

2 MR. GIORDANI: Well no.

3 THE COURT: -- want you to read --

4 MR. GIORDANI: They can just --

5 THE COURT: -- it or watch it.

6 MR. GIORDANI: -- maybe just --

7 THE COURT: That's --

8 MR. LEVENTHAL: That's --

9 THE COURT: -- that's the problem.

10 MR. GIORDANI: -- maybe just a question is --

11 MS. LEXIS: Have any of you --

12 MR. GIORDANI: -- has any members of the juror watched or
13 seen anything during the course of this trial or --

14 THE COURT: I'm not -- I mean I've done a lot of trials where
15 the media's in here and they're covering it and it's on the news and it's in
16 the papers. I mean I don't know that I've ever specifically said, hey, did
17 you see that news broadcast last night --

18 MR. GIORDANI: Of course.

19 THE COURT: -- or did you see --

20 MR. GIORDANI: Right.

21 THE COURT: -- that in the newspaper. I think I've had jurors
22 bring to my attention before when they have been exposed to it, but I'm
23 really uncomfortable going down a road of asking them did you see what
24 was in the media last night 'cause I don't want them to all go and try to
25 what's in the media.

1 MR. GIORDANI: Yeah. I understand. I mean I've done
2 plenty where there's news cameras too and never we have to address it.
3 But when it's flashing, you know, wrongful conviction, those buzz words,
4 just seeing that, even if they change the channel right after could --
5 causes a little extra concern in this case, so.

6 THE COURT: I didn't see it, so I'm taking your word for it.
7 Did you see it?

8 MR. GIORDANI: Not the news broadcast, no. I'm saying
9 what we're referring to or we have seen is the print articles.

10 THE COURT: Where? What?

11 MR. GIORDANI: But we're --

12 THE COURT: The RJ?

13 MS. LEXIS: It was on the RJ and also Channel 8.

14 THE COURT: Okay.

15 MS. LEXIS: Channel 8 also did a video of the, you know, of a
16 little bit of opening, but also a little bit of defense opening as well as a
17 background into the story talking about the Federal Judge Gloria
18 Navarro reversing the conviction as to Jemar Matthews due to a weaker
19 case by the State and the improper arguments -- prosecutorial
20 misconduct basically by one of the Prosecutors. And so that's what kind
21 of caused worry was it went into a lot of opinion and gave a lot of the
22 background of the case that, of course, we're trying very hard to shield
23 the jury from.

24 It also mentioned that he was previously convicted and that
25 his Co-defendant remains convicted and in prison. And so it just went

1 into a lot of detail both the print article by the RJ as well as Channel 8.

2 MR. LEVENTHAL: Your Honor, obviously I wrote that appeal
3 and I got that appeal from Judge Navarro. And the Order that they're
4 referring to from Judge Navarro came from her words. Those were her
5 words, the weaker case. And that's why he reversed -- she reversed on
6 Mr. Matthews as opposed to the other person, so. And we have not
7 done anything with the news or even talk to them at all.

8 THE COURT: Oh no, no. I -- no --

9 MR. LEVENTHAL: And I know they're not saying that we
10 have, but I don't know how you control. We've just spent eight months
11 last year in Bundy. They were there every single day. You're not going
12 to be able to control it. And people are going to have their
13 preconceived. They're going to watch the news. They're going to come
14 in with it. There's nothing we can do. If you highlight it, then it becomes
15 worse I think, but --

16 THE COURT: Well that's the concern I have is as soon as
17 you tell people don't pay attention to that one thing, everybody wants to
18 pay attention to that one thing, so.

19 MR. GIORDANI: If I can make one suggestion then maybe,
20 when you do your admonishment, can you just throw in something to the
21 effect of if you happen to see something, blah, blah, blah, report it to the
22 Court immediately.

23 THE COURT: Well I think I do say that.

24 MR. GIORDANI: Do you?

25 MR. LEVENTHAL: Absolutely. I heard it.

1 THE COURT: I mean -- well I guess I don't tell them to report
2 to me immediately. I mean in the past when I have had jurors that had
3 been exposed to it, I've had jurors that have told me. I mean I have to
4 rely on -- on the fact that these jurors are listening to my admonishment
5 and they're following it. They have -- I give them a copy of it in their
6 notebook. I say it. I probably said it ten plus times already, you know. I
7 have to -- I mean I have to go with the premise that they're complying
8 with my order.

9 MR. GIORDANI: Sure.

10 THE COURT: And that I would hope that if a juror saw what
11 you're describing that that juror would bring that to my attention and then
12 I could deal with it.

13 MR. GIORDANI: I know. I would hope the same. I just think
14 this is very unique. It's not in every case. I've had plenty of cases that
15 run the news. They show a clip of the trial, give us a synopsis. Here
16 they're throwing out these major buzz words --

17 THE COURT: Yeah.

18 MR. GIORDANI: -- that are very concerning.

19 MS. LEXIS: And it also could change --

20 THE COURT: For both sides to tell you the truth.

21 MR. GIORDANI: Well yeah, really.

22 MS. LEXIS: Yes. Yes. Yes. For both sides because it does
23 show he was previously convicted by --

24 THE COURT: Right.

25 MS. LEXIS: -- an all-white jury. And also there were also

1 photos of the Defendant with his little child and, you know, with his
2 family members and things like that.

3 MR. LEVENTHAL: Well that wasn't last night though I don't
4 believe. That was when they --

5 MS. LEXIS: That was also on the RJ.

6 MR. LEVENTHAL: Today?

7 MS. LEXIS: Last -- yesterday.

8 MR. LEVENTHAL: Oh, I haven't seen the article.

9 MR. GIORDANI: That's one other thing I forgot to mention.
10 So after the appeal was successful or I guess the writ, whatever you
11 want to call it, was successful, apparently Mr. Matthews gave some kind
12 of interview claiming he was innocent or whatever. So that's out there
13 as well. I don't know that that was included 'cause like I said we didn't
14 see it.

15 But that -- the reason this news channel is here, they've me
16 told me specifically is that they covered when -- when it was reversed.
17 So I would presume that that's somehow linked it, but it's just a unique
18 situation that's why we're bringing it to the Court's attention. Maybe you
19 can just slow down on that part of the admonishment, no extenuating too
20 much, but make them --

21 THE COURT: I'm happy to read it slower. I mean I hope that
22 they are -- I hope they're listening. I hope they're complying with it, you
23 know. They can see that there are cameras in the courtroom. I mean
24 they can see it. So this jury knows that the media is covering this trial.

25 MR. GIORDANI: Right. And I --

1 THE COURT: I think it's fairly obvious.

2 MR. GIORDANI: My only concern is that they don't know if
3 we saw something like that to report it immediately 'cause we don't want
4 one person who've seen it and then just slip up and tell another juror
5 and then we got a big issue. We just want to nip it in the butt if it is an
6 issue at all. 'Cause it was on so many different outlets last night.

7 THE COURT: I didn't see or hear any of it, but I mean I hope
8 they were oblivious like me I guess. I mean I don't know --

9 MR. GIORDANI: Yeah hopefully.

10 THE COURT: -- what to say, you know.

11 MR. GIORDANI: Okay.

12 THE COURT: I would -- like I said, I would hope that they
13 would bring it to my attention if they were exposed to it.

14 MR. GIORDANI: Okay. The other thing, Your Honor, is just
15 with regard to scheduling. I can report happily to the Court that we're
16 ahead of schedule.

17 THE COURT: Oh good.

18 MR. GIORDANI: We've been able to narrow some witnesses
19 due to stipulations, etcetera. So for --

20 THE COURT: Excellent.

21 MR. GIORDANI: -- tomorrow's purposes, the defense has
22 agreed to bring their expert in at 10:30. So we'd ask to start at 10:30
23 tomorrow.

24 MR. LEVENTHAL: It's Dr. Mark Chambers, our eyewitness
25 expert --

1 THE COURT: Okay.

2 MR. LEVENTHAL: -- will be here at 10:30 in the morning.

3 THE COURT: Okay.

4 MR. GIORDANI: And we have no objection obviously to him

5 testifying out of order and then we'll have all our witnesses lined up for

6 the after tomorrow that we can get here for tomorrow.

7 THE COURT: That sounds good.

8 MR. GIORDANI: All right.

9 MR. LEVENTHAL: Thank you, Judge.

10 THE COURT: Thank you. Let's bring them in.

11 [Inside the presence of the jury]

12 THE COURT: Does the State stipulate to the presence of the

13 jury panel?

14 MR. GIORDANI: Yes, Your Honor.

15 THE COURT: The defense?

16 MR. LEVENTHAL: Yes, Your Honor. Thank you.

17 THE COURT: You may call your next witness.

18 MS. LEXIS: The State calls Crystina Vachon.

19 THE MARSHAL: Ma'am, if you'll please step up to the

20 witness stand. Please remain standing, raise your right and face the

21 Clerk please.

22 CRYSTINA VACHON

23 [having been called as a witness and being first duly sworn,

24 testified as follows:]

25 THE CLERK: Thank you. Please be seated. And could you

1 please state and spell your name for the record.

2 THE WITNESS: My name is Crystina Vachon. My first name
3 is spelled C-R-Y-S-T-I-N-A. And my last name is V-A-C-H-O-N.

4 THE CLERK: Thank you.

5 MS. LEXIS: May I, Your Honor?

6 THE COURT: You may.

7 MS. LEXIS: Thank you.

8 DIRECT EXAMINATION

9 BY MS. LEXIS:

10 Q Ms. Vachon, did you bring any demonstrative aids which
11 would assist you in your testimony today?

12 A Yes, I did.

13 Q Okay. Do you have them with you at the stand?

14 A Yes.

15 Q Okay. Okay. Okay. So we won't need them just yet. I just
16 wanted to make sure you had access to them.

17 Ma'am, how are you currently employed?

18 A I am a forensic scientist at the Bexar County Crime Lab which
19 is in San Antonio, Texas.

20 Q Were you employed with the Bexar County Crime Lab back on
21 January -- in January of 2007?

22 A Yes, I was.

23 Q Okay. So in total up to today, how long have you been
24 working for Bexar County?

25 A Fourteen years.

1 Q Okay. In the crime lab?

2 A Yes.

3 Q Okay. What do you do specifically at the crime lab?

4 A I am a forensic scientist in the trace evidence section, so I
5 examine a lot of different types of evidence such as hairs, fibers, paint,
6 gunshot residues, foot wear and tire track impressions. I do a lot of
7 different things; wear a lot of different hats.

8 Q Okay. Before we go into specifically what trace evidence is
9 and I'll ask you to talk about that, can you please just give us a synopsis
10 of your education, training and experience such that you are qualified to
11 be employed as a forensic scientist in the trace evidence unit over at
12 Bexar County?

13 A I have a Bachelor's Degree in Biochemistry and I have a
14 Master's Degree in the Concentration in Forensic Science. And I have
15 had training during my time being employed at the Bexar Crime Lab
16 both outside of the laboratory and inside the laboratory. In the lab I had
17 to go through several different steps which would include reading journal
18 articles, completing supervised case work, taking written and oral
19 exams. And then completing competency tests to be able to be
20 released to do my own case work in any one of those disciplines I told
21 you about before.

22 Q Okay. So this training -- first of all, let's talk about the on-the-
23 job training. Does -- for trace evidence do you receive that type of
24 training both on the job and are you sent off to other locations or other
25 trainings in that field?

1 A Yes. I have attended many different conferences and training
2 opportunities outside of the laboratory. And I also get training inside the
3 lab.

4 Q Okay. So these trainings, do they occur pretty regularly?

5 A I do get regular training. Obviously I work for a government
6 entity, so it depends on funding. But I try to get training every couple of
7 years at least.

8 Q Okay. And are there any kinds of certifications or tests or
9 requalifications that -- that you need to keep up with such that you can
10 maintain your employment?

11 A I am certified in hair and fiber examination by the American
12 Board of Criminalistics. And Texas has just recently required all of the
13 forensic scientists to be licensed. And I have passed that test and I'm
14 qualified although the licensing does not begin until January of 2019.

15 Q Okay. But you have -- but you will be licensed pursuant to
16 those standards in January of 2019?

17 A Yes.

18 Q Okay. Have you testified as an expert in trace evidence
19 before?

20 A Yes, I have.

21 Q In which jurisdictions?

22 A I have testified in State Courts in Texas, Nevada, Arizona,
23 Florida, Minnesota, South Dakota; quite a few states. And I have also
24 testified in Federal Court in a couple of states.

25 Q Okay. Could you briefly just tell us -- it doesn't have to be

1 brief -- be brief actually. Can you just tell us what trace evidence is?
2 You gave us some examples, hair, paint, things like, but can you just
3 give us a general view of what that is?

4 A Trace evidence would be evidence that is left behind at the
5 scene by a suspect or maybe there is a transfer that has occurred
6 between two people whenever there's an altercation that could occur if it
7 was hairs or fibers. As I said, I also do foot wear and tire track
8 impression evidence exams. So that would be if someone left the scene
9 and left tire tracks behind or shoe prints.

10 As far as paint is concerned, if there is maybe a hit and run
11 situation. I can find paint on a victim's vehicle that maybe matches to a
12 suspect's vehicle or vice versa.

13 Q Okay. When you are conducting tests for trace evidence, do
14 you use machines or certain types of equipment to assist you in
15 conducting the testing?

16 A Yes, I do.

17 Q Okay. Is it a different machine per different type of trace
18 evidence?

19 A We have a few different scientific instruments that we use.
20 Which ones we choose to use are dependent on the type of testing, yes.

21 Q Okay. Before when you first started talking about trace
22 evidence, you mentioned that also includes gunshot residue?

23 A Correct.

24 Q Okay. What is gunshot residue?

25 A I have a visual aid if I may use it?

1 MS. LEXIS: Your Honor, permission for the witness to use a
2 visual aid to assist?

3 THE COURT: She may.

4 MS. LEXIS: Thank you.

5 Please go ahead.

6 THE WITNESS: This is a plastic model of a round of
7 ammunition. And what happens when a weapon is fired is that the pull
8 of the trigger will release the firing pin of the weapon. And that firing pin
9 strikes the grey area that you see here on my model and that is the
10 primer cap. And it contains chemicals that are shock sensitive. So
11 whenever they receive that strike from the firing pin, it actually causes
12 an explosion here in the primer cap. And that explosion blows through a
13 thin film which can be paper or a foil maybe in this area and it blows into
14 the cartridge case.

15 And the cartridge case contains nitrocellulose which is gun
16 powder. And the nitrocellulose will burn very quickly and the gasses
17 inside the cartridge case expand and those gasses expanding are
18 actually what pushes the bullet out of the cartridge case and down the
19 barrel.

20 So what I look for whenever I'm looking for gunshot residue
21 are the components of the primer cap. And it contains the metals, led,
22 barium and antimony.

23 BY MS. LEXIS:

24 Q Oh --

25 A And -- I'm sorry.

1 Q Go ahead.

2 A I can find those either all three together or just two of those
3 elements together. And I look at the shape and size of the particle
4 which is the morphology particle which is created by the high heat of that
5 explosion. And those particles will land on any surfaces that are around
6 the weapon when it's fired and they're collected with a sampling device
7 and submitted to me in the laboratory.

8 Q Okay. Why is that you look for a certain shape or size or as
9 you refer to a certain morphology when you're looking for gunshot or the
10 presence of gunshot residue?

11 A The process of the explosion and the heat actually causes
12 these elements to evaporate. And whenever they condense back
13 together they form very, very small particles and they have a specific
14 shape also. They're usually -- if they're not spherical, they're molten and
15 metal shape. They don't have any sharp edges. They don't look like the
16 diamond in a ring. They don't have faces.

17 So the reason that that's important is because there are
18 studies that have been conducted that show that whenever I find this
19 morphology, that I can identify it as gunshot residue to the exclusion of
20 anything else.

21 Q Okay. Fair to say that lead, barium and antimony each
22 separately exist naturally in the environment?

23 A Yes.

24 Q Okay. But you are when you are looking for the presence of
25 gunshot residue, you're looking for a combination of two or three; right --

1 A Correct.

2 Q -- of led, barium and antimony, but it has to be in that certain
3 shape for it to be considered primer gunshot residue?

4 A Correct.

5 Q Okay. So how is it that you would test or earlier you indicated
6 that you received kits and you also conduct samples, tell us about the
7 kits. How is it that you first begin your testing or analysis for gunshot
8 residue? Is evidence brought to you?

9 A Yes. In the case of -- case being sent to us from another
10 state, it's generally sent by some sort of certified mail or something that
11 has an ability to be tracked. And it is sent to the laboratory. It's received
12 into the evidence receiving section where they put it into our database
13 system and it's assigned a criminal investigation laboratory number.

14 Q Okay. And so fair to say that you can receive two different
15 types of evidence concerning gunshot residue, a kit and also maybe an
16 item of say clothing such where you would have to take a sample before
17 you conduct your analysis?

18 A Correct.

19 Q Okay. Can you explain to the ladies and gentlemen of the jury
20 what this kit that you would receive what that would consist of?

21 A Sure. I have another demonstrative if I may use it?

22 MS. LEXIS: Permission to, Your Honor?

23 THE COURT: You may.

24 MS. LEXIS: Thank you.

25 THE WITNESS: The kits are envelopes generally which

1 contain a paper that gives instructions on how to collect the samples.
2 And then another paper which is for my use in the laboratory that gives
3 me information on things like how the person is employed if they're a
4 police officer. I would expect to find gunshot residue on their hands if
5 they've fired a weapon. So -- so I get information that would be
6 pertinent to my testing.

7 And then it also has samples in it such as this sample that I
8 have here and I call it a sampling device. And what this is is it's a clear
9 vile and it has this orange cap. And the orange cap actually holds this
10 aluminum disk that you see here by a post which sticks into the cap.
11 And the black that you see there is a double-sided carbon tape and it's
12 just used to dab along the areas of the hands to be collected. So there
13 are either two of these in a kit or four of these in a kit.

14 And I believe Las Vegas Metro Police Department generally
15 collects four sample kits.

16 BY MS. LEXIS:

17 Q Okay. And so when you receive a kit like that in the mail say
18 from Nevada, is that then impounded into your lab and then assigned to
19 an analyst like yourself?

20 A Yes.

21 Q Okay. What happens when you receive an item of clothing
22 upon which you are asked to test for the present or of gunshot residue?
23 What do you do?

24 A The item of clothing will be laid out on a clean table with a
25 piece of butcher paper. And the areas of the item of clothing will be

1 divided out. If it's a shirt, we'll divide out certain sections of the shirt to
2 be sampled. If it's pants, divide certain sections. And then I will use a
3 sampling device just like this and dab along the areas that I have
4 marked off to sample. And then I will put these into a Manila envelope
5 and test those.

6 Q When you are taking samples and dabbing, do you use a
7 different sample kit for various -- for different areas? For instance, if
8 you're dabbing the top of my left hand, would you use a different sample
9 kit for that -- or would you use a different sample kit if you were also then
10 dabbing or sampling the palm of my right hand?

11 A The kits from the Las Vegas Metro Police Department, they
12 have four samples in them. And they are used to collect from the back
13 of the hands of each hand and the palm of each hand. And they are
14 labeled whenever they get to the PD with right back, right palm, left
15 back, left palm.

16 Q Okay. And how about when you test clothing, do you yourself
17 when you're getting the sample and doing the dabbing yourself, do you
18 use different -- different samples -- different sample things that you have
19 for let's say the front of a shirt versus the back of the shirt?

20 A Yes.

21 Q Okay. How about if you are for instance testing or trying to
22 obtain a sample on a pair of gloves, would you use a different sample kit
23 for the -- for each side?

24 A It depends on the type of glove. If it's a glove where I can tell
25 the difference between the back and the palm such as maybe

1 mechanic's gloves, work gloves, then I will use separate samples. If it is
2 a nit glove where I can't tell what the back is and what the palm is, then
3 I'll just use one sample.

4 Q Okay. Do you use a certain type of equipment to test for the
5 presence of gunshot residue? For instance -- well let me back up. Is
6 gunshot residue visible to the naked human eye?

7 A No, it is not. The particles are very, very small. They're
8 general between about one and ten microns in size. And to give you an
9 idea of how small that is, a piece of paper is about a hundred microns
10 thick. So I would have to have a hundred of the one micron particles
11 stacked on top of one another to equal the thickness of a piece of paper.

12 Q Okay. So much smaller than say a particle of dust with which,
13 you know, to the human eye sometimes depending on the light you can
14 actually see floating around, so would you say that gunshot residue
15 particles are much smaller than even a speck of dust?

16 A Yes.

17 Q Okay. So not visible at all to the naked eye?

18 A Correct.

19 Q So what do you use to test for gunshot residue?

20 A I use a scanning electron microscope with an energy
21 dispersive x-ray detector.

22 Q What does that mean?

23 A So a scanning electron microscope is a very high powered
24 microscope and it has a column. And at the top of the column there is a
25 filament which looks like the wire that you can see in the incandescent

1 light bulbs. And whenever a current is applied to it, then it will release
2 electrons which is light basically. And that beam of light is refined down
3 to very, very small point. And it scans across the surface of the sample
4 that I showed you here. And any particles that are on the surface
5 whenever the electrons can make contact of those particles will give off
6 x-rays.

7 And those x-rays are collected by the energy disburse of x-ray
8 detector. And we know that every element on the periodic table has a
9 different x-ray energy. So that x-ray detector will measure the energy of
10 the x-ray and during the automated process will give me a read out of
11 every particle that's on the sample and what elements it's made up of.

12 Q Okay. So if you were to conclude the presence of gunshot
13 residue, the elements of led, barium and antimony all three are
14 combination of the two should be present in that printout?

15 A Yes. It will give me a list of particles and I will look through
16 everything that identifies as having those elements.

17 Q Okay. Is it fair to say that primer gunshot residue, you know,
18 the particle containing led, barium and antimony, either all three or the
19 two, and a certain morphology that you're looking for that that can only
20 come from discharging, you know, a firearm?

21 A Yes. From discharging one of these primer caps.

22 Q Okay.

23 A Yes.

24 Q Is gunshot residue the type of particle that can build? For
25 instance, if let's say I were to handle a firearm and I were to fire multiple

1 times and we're presuming that it hits the firing pin as you explained and
2 there's that cloud of particles that comes out with each shot; right? Is it
3 the type of particle that can build? For instance, if you were to fire -- if I
4 were to fire it ten, twenty times, would you expect the particles to build
5 on my hands? Does that make sense?

6 A Yes. Each round of ammunition will have the same amount of
7 gunshot residue in it because it has the same primer. So each firing of
8 the weapon will theoretically create the same amount of gunshot
9 residue. So if someone fires ten times, then there will be ten times as
10 much gunshot residue as if they had fired once.

11 Q Okay. Is gunshot residue the -- is it a stable type of particle?
12 For instance, is it the type of particle where if once it lands on your hand,
13 is determined to just stay there? Does that make sense?

14 A Yes.

15 Q Okay.

16 A This is a dust like particle, very, very tiny. And it does not
17 form any sort of bond with the surface that it lands on. So it is very
18 easily removed from a surface. So if it lands on someone's hands and
19 they're moving, brushing their hands against things, washing their
20 hands, things like, then the gunshot residue will be easily removed.

21 Q Can these particles transfer? For instance, if I were to have
22 gunshot residue on my hand and I were to shake Mr. Giordani's hand,
23 could that potentially transfer over to him?

24 A Yes. Transfer is possible. The most likely reasons that
25 gunshot residue would be on someone's hands is if they had direct

1 contact with the weapon. It's what I call primary transfer which would be
2 if someone handled the weapon, someone actually fired a weapon or
3 someone was near the weapon when it was fired. It is possible for
4 someone to shoot a weapon and transfer that to someone else. But it
5 would be less likely because it would require two transfers for that to
6 happen. And each subsequent transfer will be less likely than the first.

7 Q Okay. So the primary transfer is the part like after a gun is
8 fired or after a firearm is discharged, that particle first transferring onto
9 perhaps the shooter's hand or someone nearby; is that what you're
10 calling the primary transfer?

11 A Yes.

12 Q Okay. So when I shake Mr. Giordani's hand that would be a
13 second transfer?

14 A Correct.

15 Q And you're saying that the second transfer would be much
16 less likely?

17 A Yes.

18 Q Now, how about if then Mr. Giordani were to shake Mr.
19 Leventhal's hand, would that transfer become even less likely now that it
20 would be the third transfer?

21 A Yes.

22 Q And then if Mr. Leventhal were to shake Mr. Tanasi's hand,
23 would that make it even less likely because now we're on a fourth
24 transfer and so on and so forth?

25 A Correct.

1 Q Okay. Does the location of where the firearm is discharged,
2 does that make a difference in terms of where it lands or where it ends
3 up and also how much of it is -- is there or how it's transferred?

4 A Yes.

5 Q Okay. Can you explain that?

6 A Yes. This gunshot residue after it leaves the weapon it will
7 form a cloud that's actually visible, but then it will quickly disburse. It will
8 spread out into whatever airs available and move on and eventually fall
9 and land on surfaces.

10 If -- if you are in a vehicle, if you're in an enclosed room, a
11 small room, then that gunshot residue won't have far to travel before it
12 ends up landing somewhere. If you are outdoors, then the airs basically
13 infinite, so it can disburse further which would mean that the gunshot
14 residue will be less concentrated whenever it deposits.

15 Q Okay. Now kind of to take from your example of in a vehicle,
16 okay. Let's say Mr. Giordani, myself, Mr. Leventhal and Mr. Tanasi are
17 all in a vehicle and we're all subsequently stopped by the police because
18 we are accused of having fired from that particular vehicle, all right.
19 GSR testing is conducted on all four of us and you find let's say the
20 tester, the analyst of forensic scientist, finds gunshot residue on Mr.
21 Giordani. Does that mean that it was Mr. Giordani that -- that shot the
22 firearm in that vehicle?

23 A No.

24 Q Why not?

25 A Because one of the ways that primary transfer can occur