

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

\* \* \* \* \*

SIAOSI VANISI,

Appellant,

vs.

WILLIAM GITTERE, WARDEN,  
and  
AARON FORD, ATTORNEY  
GENERAL FOR THE  
STATE OF NEVADA.

Respondents.

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Volume 6 of 38

**APPELLANT'S APPENDIX**

Appeal from Order Denying Petition for Writ of  
Habeas Corpus (Post-Conviction)  
Second Judicial District Court, Washoe County  
The Honorable Connie J. Steinheimer

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- 36 1. Transcript of Proceedings – Status Hearing, *Vanisi v. State of Nevada*, Second Judicial District Court of Nevada, Case No. CR98-0516  
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33	214. Memorandum to File from MP March 22, 2002.....	AA06993 – AA07002
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12-13	Transcript of Proceedings – Post-Conviction, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 January 28, 2003.....	AA02576 – AA02582
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9-10	Transcript of Proceedings – Trial Volume 9, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 October 1, 1999.....	AA01754 – AA01984
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## **CERTIFICATE OF SERVICE**

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 26th day of September, 2019.

Electronic Service of the foregoing Appellant's Appendix shall be made in accordance with the Master Service List as follows:

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Sara Jelenik  
An employee of the Federal  
Public Defender's Office

1 A PROSPECTIVE JUROR: Yes, I would consider  
2 that.

3 MR. BOSLER: The mystery thing about something  
4 in their life you may think is a reason to spare their life?

5 A PROSPECTIVE JUROR: Yes.

6 MR. BOSLER: That would go into that analysis.  
7 Any reason why I should be worried about you sitting as a  
8 juror?

9 A PROSPECTIVE JUROR: No.

10 MR. BOSLER: If I could have a moment?

11 THE COURT: You may.

12 MR. BOSLER: I have a few questions for the  
13 whole panel. I'm through with the individuals. It should  
14 take less than ten minutes.

15 There was some discussion from jurors about  
16 concept of life imprisonment versus the death penalty.  
17 Anybody think that really life imprisonment is too light a  
18 penalty for murder and shouldn't be considered?

19 MR. STANTON: I'm going to object to the form  
20 of the question. Counsel has already covered this ground  
21 with virtually every juror.

22 THE COURT: Sustained.

23 MR. BOSLER: If I can rephrase it.

24 Anybody ever had any contact with any maximum  
25 security facility, prison?

1 MR. STANTON: I object. The question is  
2 improper.

3 May counsel approach?

4 THE COURT: Yes.

5 (Whereupon, a bench conference was held between  
6 Court and counsel outside the presence of the  
jury as follows:)

7 MR. STANTON: Your Honor, the State's objection  
8 is that it's an improper question to ask the jury whether or  
9 not they've had any exposure to a prison setting so that  
10 they can make an assessment as to the punishment, just as  
11 it's improper to call a witness to establish what the  
12 conditions are at prison so that they can make that  
13 establishment.

14 It's either a sentence of imprisonment for  
15 years, not a determination about whether anybody out there  
16 can grasp the realities of prison. It's not a proper basis  
17 for evidence in the case. Certainly can't be a proper basis  
18 to ask questions in voir dire.

19 THE COURT: Mr. Bosler.

20 MR. BOSLER: Do you have a case citation that  
21 it would be improper to call someone to testify about the  
22 conditions in prison?

23 MR. STANTON: Sure. I don't have the case with  
24 me, but I certainly have an appellate case that says you  
25 can't call inmates to testify about what prison is like.

1 MR. BOSLER: You may not be able to call  
2 inmates, but I think you can call guards and wardens to  
3 testify about the conditions of the prison, what people do  
4 in prison.

5 THE COURT: The test for the Court for voir  
6 dire is not whether or not you would be allowed to call a  
7 witness. We can debate that issue later.

8 MR. BOSLER: I'm just --

9 THE COURT: The question is whether or not it's  
10 a proper question before the jury panel. I have two  
11 concerns: One, I ordered that all questions be submitted to  
12 me in writing prior to voir dire. I was told last week by  
13 you that you would not be asking any questions that you did  
14 not ask in the first trial. This question was not asked in  
15 the first trial; therefore, it was not approved by me. This  
16 is a new area of inquiry.

17 I see no reason to allow you to go into that  
18 new area of inquiry. Furthermore, I don't think it elicits  
19 information that will lead to a determination as to who is  
20 an appropriate person to sit on this jury. I think it is  
21 argumentative in its content, and you are attempting to  
22 argue to the jury a particular position. For all of those  
23 reasons, I'm going to grant the motion and sustain the  
24 objection.

25 MR. BOSLER: I need to make a record. Your

1 Honor, I would ask --

2 THE COURT: You have to make the record before  
3 I order something.

4 MR. BOSLER: You didn't ask my position.

5 THE COURT: Yes, I did.

6 MR. BOSLER: You stopped me when we talked  
7 about the order. Your Honor, I would ask the Court: First,  
8 did the Court get written questions from the District  
9 Attorney's Office before the trial started? Either this  
10 trial or the first trial?

11 THE COURT: They made the same representation.

12 MR. BOSLER: So no, the Court didn't?

13 THE COURT: There have been no questions. I've  
14 reviewed the transcript from the first trial. Mr. Stanton  
15 has asked the same questions, except for the individual  
16 questions of jurors. I've let you go beyond and ask the  
17 specific individual questions of jurors that you wanted.  
18 This is a general question of the panel.

19 MR. BOSLER: All right. That being said, Your  
20 Honor, I think if a juror is to decide what type of  
21 punishment is available, if a juror harbors an idea that  
22 life imprisonment is life on a country club, Mr. Vanisi  
23 should know that before he decides to exercise his  
24 peremptory challenges. I'm not going to try to indoctrinate  
25 them to anything. I want to find out what information these

1 people have, what they think about it, because it's going to  
 2 help Mr. Vanisi decide whether these people are actually  
 3 going to seriously weigh the option of life imprisonment.  
 4 Because if they think it's life in a country club, they may  
 5 not, they may give it little weight.

6 THE COURT: Your offer on the record has not  
 7 changed my mind to my initial ruling.

8 MR. BOSLER: Note my objection.

9 MR. GREGORY: Court's indulgence. Want to have  
 10 her specify why --

11 MR. BOSLER: Oh, while we're here -- earlier  
 12 there was a challenge to a juror where the State argued it  
 13 was *Morgan Witherspoon*. I argued it was bias. The Court  
 14 didn't rule why you were sustaining the challenge; you said  
 15 you'd do it later. I ask this to be the later.

16 THE COURT: I'm sorry, I have to think about  
 17 it. I didn't want to -- I know I can tell you I didn't want  
 18 to put it on the record because I was afraid jurors were  
 19 using, starting to pick up on what would get them off the  
 20 jury and would be making things up, and that's why I didn't  
 21 put the specifics. I'll think about it and review the  
 22 transcript and tell you.

23 MR. BOSLER: I'd ask the Court do it as soon as  
 24 possible.

25 MR. GREGORY: Thank you, Your Honor.

1 (Whereupon, the following proceedings were held  
2 in open court, in the presence of the jury.)

3 MR. BOSLER: Those people that raised their  
4 hands can put them down.

5 If I might have a moment, Your Honor.

6 THE COURT: Yes.

7 MR. BOSLER: Your Honor, apart from the  
8 challenges I've already made, I'm not going to waive those,  
9 but --

10 THE COURT: You have to renew your challenges.

11 MR. BOSLER: I'll renew those challenges:  
12 Shaylene Grate, Ms. Ziler. I believe Ms. Patch.

13 THE COURT: Wait. You've got Shaylene Grate,  
14 and who was the second one?

15 MR. BOSLER: Well, Your Honor, I think the best  
16 thing to do would be to allow me to review the transcript  
17 just to make sure everything is done proper or give me a  
18 chance to consult with my co-counsel.

19 THE COURT: Certainly. Talk to Mr. Gregory,  
20 whoever you want to challenge for cause. When I denied your  
21 request, I said subject to renewal. I don't keep track of  
22 which ones you really want to request after everyone has  
23 asked all these additional questions. Now you have to tell  
24 me, if you have someone you want to challenge for cause,  
25 tell me.

1 MR. GREGORY: Your Honor, would the Court stand  
2 easy? May we have the Court's indulgence while we do this?

3 THE COURT: Certainly. Go ahead and talk.

4 A PROSPECTIVE JUROR: If we can get through  
5 this, you want to ask if we want to stay a little late to  
6 try to get the final panel in; not everyone has to come back  
7 in tomorrow?

8 THE COURT: We are going to get this jury  
9 tonight, if I have to provide blankets and pillows.

10 A PROSPECTIVE JUROR: I can use one right now.

11 THE COURT: You in the hard chairs may stand.

12 A PROSPECTIVE JUROR: Does that mean there's a  
13 possibility we will be staying after 5:00?

14 A PROSPECTIVE JUROR: Are we going to be after  
15 5:00?

16 THE COURT: It's possible.

17 A PROSPECTIVE JUROR: Is there any way I can  
18 make a phone call?

19 MR. GREGORY: Your Honor, if I might, may I  
20 have our Deputy Ms. Hall come in front of the bar?

21 THE COURT: Certainly.

22 MR. BOSLER: Thank you, Your Honor.

23 THE COURT: Everyone be seated.

24 MR. BOSLER: Your Honor, there are three jurors  
25 that caused challenges at this point. We'd like to renew



1 those challenges at this point. Shaylene Grate, Lauren  
2 Ziler and Marilyn Patch.

3 THE COURT: Thank you.

4 Mr. Stanton.

5 MR. STANTON: Your Honor, the State would  
6 traverse the motion for the reasons previously stated and  
7 the comments of counsel at side bar.

8 THE COURT: With those -- I'm going to deny  
9 your request to excuse for cause as to those three. With  
10 that said, do you pass the rest of the remainder of the  
11 panel for cause?

12 MR. BOSLER: Is the Court going to articulate  
13 any reason to deny?

14 THE COURT: I don't have any new reason based  
15 on the additional questioning. My ruling will stand as I  
16 previously made.

17 MR. BOSLER: That being said, we'll pass the  
18 rest of the panel for cause.

19 THE COURT: Mr. Stanton.

20 MR. STANTON: May I have the Court's indulgence  
21 for one moment?

22 THE COURT: Yes.

23 MR. STANTON: May counsel approach?

24 THE COURT: Certainly.

25 (Whereupon, a bench conference between Court  
and counsel outside the presence of the jury as

1 follows:)

2 MR. STANTON: Mr. Bosler some time ago  
3 requested a side bar with Ms. Grate to ascertain her  
4 knowledge of the publicity of this case outside of the news  
5 media. I asked them whether or not they were going to waive  
6 that or whether they wanted to have the side bar conference  
7 to ascertain that.

8 MR. BOSLER: I think we need to do it sometime,  
9 so --

10 THE COURT: We better do it before we pick her  
11 as a juror.

12 Ms. Grate, would you please come join us.

13 THE COURT: Now would be a good time for you  
14 all to talk quietly amongst yourselves.

15 Hi.

16 MR. BOSLER: Ms. Grate, you had said earlier in  
17 the questioning that you had spoken to some friends or  
18 police officers and may have learned some information about  
19 the crime that wasn't part of the public domain. Can you  
20 tell us what information you have about the crime?

21 A PROSPECTIVE JUROR: Nothing, just like rumor  
22 type stuff about the trial being a mistrial before and stuff  
23 like that. Nothing --

24 MR. BOSLER: Can you explain in more detail?

25 A PROSPECTIVE JUROR: That's really all I know.

1 MR. BOSLER: Just kind of the general --

2 A PROSPECTIVE JUROR: Yeah, like hearsay about  
3 stuff.

4 MR. BOSLER: The actual words I'm most  
5 interested in.

6 A PROSPECTIVE JUROR: That's about all I have,  
7 really. And just I knew some people who had gone to the  
8 funeral and stuff but nobody had said anything pertaining to  
9 this, to the case itself, anything specifically.

10 MR. BOSLER: All right. Any information about  
11 the mistrial that occurred, what it's about?

12 A PROSPECTIVE JUROR: No, just that there was  
13 paper problems or something with paperwork. That's all I  
14 heard.

15 MR. BOSLER: Any other information that you  
16 were given as a result of knowing these people that other  
17 people wouldn't know from reading the paper or listening to  
18 the news?

19 A PROSPECTIVE JUROR: Not that I can think of.

20 No. I mean that was really about it.

21 MR. BOSLER: All right. Has that changed any  
22 of the statements you've already made, any of the things  
23 you've already said during questioning, have any information  
24 in your mind?

25 A PROSPECTIVE JUROR: No.

1 MR. BOSLER: No further questions.

2 THE COURT: Did you have any questions?

3 MR. STANTON: Ms. Grate, do you believe you  
4 know any facts about the underlying crime that was not  
5 ascertained from the media?

6 A PROSPECTIVE JUROR: No.

7 MR. STANTON: No further questions.

8 A PROSPECTIVE JUROR: I can't tell you  
9 anything.

10 THE COURT: Thank you. Go ahead and have a  
11 seat.

12 Mr. Bosler, is there anyone else still on the  
13 panel that you wanted me to inquire privately of.

14 MR. BOSLER: No.

15 THE COURT: Okay. Then I did not hear anything  
16 new from Ms. Grate that would cause me to have concerns  
17 about her remaining on the panel. So I'm going to allow her  
18 to stay.

19 MR. BOSLER: Your Honor, would the Court  
20 consider this: I know a lot of information has been brought  
21 out today. Would the Court consider, since we have enough  
22 people to pick the panel with our challenges, allow us to do  
23 that tomorrow morning so we can review all the information  
24 we have?

25 THE COURT: No. This panel has been sitting

1 here for two days. These people need to get back to work,  
2 the ones you're going to excuse. It's 20 minutes to 5:00.  
3 There's plenty of time for me to get rid of the audience,  
4 give you a little bit of time to look at it. You've been  
5 thinking about it. You know who you want. Then we can  
6 exercise the peremptory challenges at 5:00.

7 MR. GREGORY: Would it be possible for us to  
8 have 10 or 15 minutes, Your Honor.

9 MR. BOSLER: We have to discuss this with  
10 Mr. Vanisi.

11 THE COURT: Right. I'm going to give you 10  
12 minutes or so. It's 20 to 5:00. We'll come back on the  
13 record and exercise the challenges at about two minutes to  
14 5:00. So that gives you 18 minutes.

15 MR. BOSLER: I don't think it's enough time,  
16 but I'll defer to your judgment.

17 THE COURT: The problem, Mr. Bosler, these  
18 people -- you're talking about their lives, and they cannot  
19 go back to work until -- if I bring them back in here  
20 tomorrow at 10:30, it's a whole nuther day. You've been  
21 looking at this panel. You can decide in 20 minutes who you  
22 want to exercise. It's the same as any other case.

23 MR. GREGORY: Your Honor, if we might be given  
24 a half hour to come back in at 5:15, have the jury out by  
25 5:30. I mean we just don't want to be in a fire drill with

1 this.

2 THE COURT: I understand that. I want to give  
3 you enough time to do it, but I also want to get the jury  
4 moving as quick as possible.

5

6 (Whereupon, the following proceedings were held  
7 in open court, in the presence of the jury.)

8

9 THE COURT: Ladies and gentlemen of the jury  
10 panel, is there any one of the 36 of you seated here in the  
11 jury box that after reflection on my questions, the  
12 questions of counsel, you feel it's important to tell me  
13 something new or different about your circumstances or your  
14 position as reflected in the service as a juror?

15 Yes, Ms. Hodges.

16 Counsel approach.

17

18 (Whereupon, a bench conference between court  
19 and counsel was held outside the presence of  
20 the jury.)

21

22 A PROSPECTIVE JUROR: As you guys all were  
23 aware yesterday, I was very emotional. I still am. I've  
24 had a headache these last few days, stomach ache. I haven't  
25 hardly been eating. Last night I went to bed at 6:30 when I  
got home. I cried -- I went, turned the light on, it was  
8:30. I cried that whole time. This is too emotional for

1 me. I really don't think that I'm going to be able to  
2 handle two to three weeks of dealing with this kind of a  
3 thing.

4 THE COURT: Do you believe that you will not be  
5 able to concentrate on the evidence?

6 A PROSPECTIVE JUROR: I've already got the  
7 stress of how I'm going to pay my bills. Like I said  
8 before, I'm a single mom. I work. I try to be a good  
9 person and do that kind of thing instead of being on welfare  
10 and doing nothing.

11 I try to be a good person so my daughter cannot  
12 go in that same track.

13 MR. STANTON: Your Honor, I might be able to  
14 alleviate some of Ms. Hodges' concerns, if I can talk to  
15 counsel and the Court at side bar without Ms. Hodges here.

16 THE COURT: Thank you, Ms. Hodges.

17 MR. STANTON: Your Honor, the State's going to  
18 exercise a peremptory challenge against Ms. Hodges anyway in  
19 the case, so instead of --

20 THE COURT: Thank you.

21

22 (Whereupon, the following proceedings were held  
23 in open court, in the presence of the jury.)

24

25 THE COURT: Anyone other than Ms. Hodges?

Ladies and gentlemen of the jury --

1 MR. STANTON: The question before we went to --  
2 the State formally, for the record, would pass the panel for  
3 cause. Thank you.

4 THE COURT: Thank you.

5 Ladies and gentlemen of the audience, I want to  
6 thank you for your service. We all appreciate your service  
7 and your attentiveness. Now, as you know, this courtroom is  
8 the people's courtroom. Any time you want to come back and  
9 visit, you're always welcome. But you are going to be  
10 excused from service in this case. You're released from  
11 your admonition. Please check in with the Jury  
12 Commissionerso she can tell who has been released. And if  
13 you'd quietly exit the courtroom, I'd appreciate it. Thank  
14 you.

15 Mr. Anderson, will you get the parking stamp.

16 THE BAILIFF: Tiffany has it.

17 THE COURT: Mr. Anderson, go ahead and get the  
18 parking stamp from Ms. Clements so you can assist the Jury  
19 Commissioner. Come back as soon as you can.

20 Ladies and gentlemen, I'm going to give the  
21 attorneys a few minutes to look over all of your  
22 questionnaires, before they exercise those challenges I told  
23 you about. Remember I told you there was another kind of  
24 challenge other than the ones we've been dealing with the  
25 last couple days and that's the peremptory challenges? The



1 attorneys are each going to be allowed 10 peremptory  
2 challenges. If you add the numbers up, that's how we reduce  
3 your number from 36 to the 16 that will actually be sitting  
4 through the trial. So while they do that, I'm going to  
5 allow you to stretch your legs. You're going to go with the  
6 bailiff. You're going to exit the courtroom and he'll take  
7 you down the hall and then he'll bring you back when we're  
8 ready for you to come back.

9 Stay together. Do not discuss the case among  
10 yourselves or with anyone else. Do not form or express an  
11 opinion about the ultimate outcome of this case, and do not  
12 allow anyone to influence you with regard to it.

13 (Jury excused.)

14 (Whereupon, the following proceedings were held  
15 in open court, outside the presence of the  
16 jury.)

17 THE COURT: Counsel, do you wish to be in  
18 recess and go into a private area or are you doing all right  
19 where you're at?

20 MR. GREGORY: If we could be accommodated in  
21 that manner. Could we go into the jury room? Would that be  
22 all right?

23 THE COURT: Doesn't matter to me, whichever way  
24 is -- you've got all your stuff out there.

25 MR. STANTON: We can go into the jury room, if  
that's convenient for the Court.

1 THE COURT: That's fine.

2 MR. GAMMICK: We can even go downstairs, leave  
3 defense here. I believe the Court was mentioning we're  
4 going to resume at 5:30.

5 THE COURT: 5:15. Either the defendant will  
6 remain in the courtroom or we'll put them in the jury room.  
7 I don't care.

8 THE BAILIFF: It probably will be better to  
9 keep the defendant in here and we will spread away from them  
10 and let them talk.

11 THE COURT: Everyone will leave the courtroom  
12 so they can have some privacy. We'll be back on the record  
13 at 5:15 for exercising peremptory challenges. The Court's  
14 in recess.

15 (Recess taken.)

16  
17  
18  
19  
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24  
25

RENO, NEVADA, TUESDAY, SEPTEMBER 21, 1999, 5:15 P.M.

-oOo-

THE COURT: Counsel stipulate to the presence of the jury panel?

MR. STANTON: State will so stipulate, Your Honor.

MR. BOSLER: Defendant so stipulates, Your Honor.

THE COURT: Thank you. Counsel, are you ready to proceed?

MR. STANTON: State is.

THE COURT: Mr. Bosler?

MR. BOSLER: Yes, Your Honor.

THE COURT: Okay.

MR. GAMMICK: The State has exercised its first peremptory challenge, Your Honor.

THE COURT: Thank you.

MR. BOSLER: Defense has exercised its first challenge, Your Honor.

MR. GAMMICK: State exercises its second peremptory challenge, Your Honor.

MR. BOSLER: Mr. Vanisi has exercised his second peremptory challenge, Your Honor.

MR. GAMMICK: The State has exercised its third

1 peremptory challenge, Your Honor.

2 MR. BOSLER: Mr. Vanisi has exercised his third  
3 challenge, Your Honor.

4 THE COURT: Thank you.

5 MR. GAMMICK: State has exercised its fourth  
6 peremptory challenge.

7 MR. BOSLER: Mr. Vanisi has exercised his  
8 fourth challenge, Your Honor.

9 THE COURT: Thank you.

10 MR. GAMMICK: State has exercised its fifth  
11 peremptory challenge, Your Honor.

12 THE COURT: Okay.

13 MR. BOSLER: Mr. Vanisi has made his fifth  
14 challenge, Your Honor.

15 MR. GAMMICK: State has exercised its sixth  
16 peremptory challenge, Your Honor.

17 THE COURT: Thank you.

18 MR. BOSLER: Mr. Vanisi has exercised his sixth  
19 challenge, Your Honor.

20 MR. GAMMICK: State has exercised its seventh  
21 peremptory challenge, Your Honor.

22 MR. BOSLER: Defense has exercised its seventh.

23 MR. GAMMICK: State has exercised its eighth  
24 preemptory, Your Honor.

25 MR. BOSLER: Mr. Vanisi has made his eighth

1 peremptory challenge.

2 THE COURT: Hand it to the bailiff, please.

3 MR. GAMMICK: May we see that real quick to see  
4 who the eighth was?

5 THE COURT: Certainly. I'm sorry.

6 MR. GAMMICK: Thank you.

7 THE COURT: Counsel, you may exercise the  
8 remainder of your challenges, beginning with chair 26.

9 MR. GAMMICK: The State has exercised its first  
10 of the two remaining challenges, Your Honor.

11 MR. BOSLER: Mr. Vanisi has exercised his first  
12 alternate challenge, Your Honor.

13 MR. GAMMICK: Your Honor, the State has  
14 exercised its last peremptory challenge.

15 THE COURT: Counsel, would you like to approach  
16 the clerk's list and make sure she has what you have.

17 While they're checking on this, ladies and  
18 gentlemen, they have exercised their peremptory challenges  
19 that are allowed. In this way they have indicated to the  
20 Court what challenges they want to make and the clerk has  
21 compiled a list of who will actually be serving on the case.  
22 What we're going to be doing as soon as they verify that  
23 this is the list of names is the clerk will be reading off  
24 those names of people who are excused. Now, if your name is  
25 read, just take your belongings and you may leave quietly.

1 When you leave, if you need your parking permit stamped, my  
2 administrative assistant is standing by in the office. Go  
3 out the doors to the left. It's the far side of the  
4 building here on the left. She's waiting. You've met her  
5 many times before, Mrs. Clements. She'll be more than glad  
6 to stamp your parking permit. The Jury Commissioner's  
7 office is closed at this time. There's nobody downstairs to  
8 help you.

9 I want to tell you how much I appreciate, as do  
10 counsel, your paying such close attention in the last two  
11 days and your participation. As I told you in the  
12 beginning, I understand that it is a hardship for everyone,  
13 and an inconvenience, but our system of government could not  
14 work without your assistance. So those of you who are  
15 excused, come back and visit at any time. And thank you.  
16 Go with our thanks for your service.

17 A PROSPECTIVE JUROR: Are we excused for the  
18 remainder of our service or do we have to call in again?

19 THE COURT: If you are excused, you will be  
20 excused for the remainder of your service and you won't be  
21 called again for a minimum of a year.

22 A PROSPECTIVE JUROR: If I am excused I do need  
23 paperwork for work. Do I come back tomorrow?

24 THE COURT: Yes, just tell her what you need  
25 and she'll be glad to get it for you. Go on out and go over

1 to her office.

2 THE COURT: Mr. Bosler, you did exercise your  
3 last challenge, right?

4 MR. BOSLER: Yes, Your Honor.

5 THE COURT: It looked like you had but it wasn't  
6 put on the record.

7 You have had a chance to review it and you have  
8 no objection?

9 MR. STANTON: Our record jibes with the Court's  
10 record.

11 MR. BOSLER: Yes, Your Honor.

12 THE COURT: The clerk will read the names of  
13 those jurors who have been excused from service. And thank  
14 you.

15 THE CLERK: Victoria Kersbergen. Marilyn A.  
16 Patch. John E. Kennedy. Leon D. Ralston. Mary E. Callahan.  
17 Starlin E. Jones. Patrick W. Grider. Kevin M. Stevens.  
18 Wendy S. Kruse. Bruce C. Miller. Susan E. Johnson. Joan  
19 C. Scolari. Kimberly M. Hodges. Warren C. Estes. Maria L.  
20 Knight. Holly R. Jenkins. Donna J. Martin. JoAnn Shively.  
21 Diane M. Smith. Miles E. Webb.

22 THE COURT: Ladies and gentlemen of the jury,  
23 those of you currently seated with us still will be  
24 constituting our jury in this case.

25 I am going to recess in just a few minutes, but

1 first I do want to tell you a few things so you'll know what  
2 is expected of you for the remainder of the trial and you  
3 can handle your personal arrangements.

4 Tomorrow morning we are beginning the case at  
5 ten a.m., and I anticipate we will take a normal lunch hour  
6 from 12:00 to 1:00 and will finish up by 5:00. I will try  
7 not to go late like I did today unless I give you plenty of  
8 advanced notice and an opportunity to be heard if you have  
9 other arrangements.

10 I found it necessary to do it today because I  
11 really wanted to excuse those people who were not going to  
12 be serving on our jury.

13 The role each person will play in the courtroom  
14 during these proceedings is important for you to understand.  
15 You will, at the conclusion of the evidence, determine the  
16 facts in the case, apply to those facts the law which will  
17 be stated to you by the Court and on that basis reach a  
18 verdict consistent with the facts and the law.

19 It is the duty of attorneys on each side to  
20 present their respective cases in the most favorable light,  
21 consistent with the truth and the law. But statements and  
22 arguments of counsel made during the course of the trial are  
23 not to be treated by you as evidence. Keep an open mind.  
24 Refrain from forming or expressing any opinion concerning  
25 this case until all of the evidence is in, the attorneys



1 have made their closing arguments, you have received the  
2 Court's instructions as to the law, and you have retired to  
3 the jury room to find your verdict.

4 During the trial do not discuss the case among  
5 yourselves or with anyone other person. Do not allow anyone  
6 to speak of it in your presence. You are not to read,  
7 listen to or observe any newspaper or radio or television  
8 news account of the trial while it is in progress. Now it's  
9 very important that you follow this admonition. It's  
10 important that you not be influenced by anyone else's  
11 perception of the evidence except your fellow jurors during  
12 your deliberation.

13 I know it will be difficult when you go home  
14 and you'll say that you're on the jury and family members  
15 will say oh, what happened, or each day, what did you hear,  
16 what happened today. But think about how you might be  
17 influenced by someone who never ever saw the evidence. If  
18 you describe a witness or what a witness says, the way you  
19 describe it, the person you're describing it to may react.  
20 And their reaction may ultimately influence the way you look  
21 at the evidence, and that person may never have heard a word  
22 or seen any of the evidence. So you must abide by this  
23 admonition.

24 Not only must you conduct yourselves as jurors  
25 above reproach, but you must avoid even the appearance of

1 any improper conduct. Do not talk to the defendant, the  
2 attorneys or the witnesses during the trial, even upon  
3 matters unconnected with the case. In the event any person  
4 should attempt to discuss the case with you or in any manner  
5 attempt to influence you with respect to it, you are to  
6 advise the bailiffs, who will in turn advise the Court. Any  
7 rulings made by the Court during the course of this trial  
8 will be based upon the controlling law of the state of  
9 Nevada. Accordingly, you must not infer any leaning on my  
10 part based upon such rulings or infer any feeling on my part  
11 for or against either side in this case.

12 If any objection to the admission of evidence  
13 is sustained, you must not speculate as to what the answer  
14 might have been or draw any inference from the question  
15 itself. During the course of the trial -- and you've  
16 already seen this -- matters may arise which must be  
17 determined by me as matters of law outside the presence of  
18 the jury. Again, you are not to speculate or be concerned  
19 in any way as to the reasons for such occurrences.

20 I assure you that I will be limiting them in  
21 frequency and duration as much as the law permits. Observe  
22 carefully each witness as they testify and consider  
23 carefully all of the evidence as it is presented, for it is  
24 you who must determine the credibility of the witnesses and  
25 wherein the truth lies.

1           You may individually take notes during the  
2 course of this trial. And for that purpose you will be  
3 provided with pencils and note pads by the bailiff. In the  
4 event of a conflict between the notes of the individual  
5 jurors during your deliberations, you are not to look at  
6 these notes. You must disregard them. And you must proceed  
7 with your collective memory of what the testimony was. The  
8 only authentic record of this trial is taken by the court  
9 reporter.           The clerk will now swear you as jurors.  
10 Please stand and raise your right hand.

11                       (Jury sworn)

12           THE COURT: You may be seated.

13                       Ladies and gentlemen of the jury, you are  
14 admonished that no juror may declare to your fellow jurors  
15 any fact relating to this case that you may have within your  
16 own knowledge. And if any juror discovers during the course  
17 of the trial or after the jury has retired to deliberate  
18 that you do have some personal knowledge of any fact in  
19 controversy in this case, you shall disclose that situation  
20 to the Court outside the presence of your fellow jurors.  
21 Please use the jury room at all times when we have a short  
22 recess or hearing outside the presence of the jury, before  
23 court starts in the morning, and at lunch, if you desire.

24                       The bailiff will open the jury room for you  
25 following our noon and overnight recesses. If you should

1 need anything for your personal comfort during the course of  
2 the trial, please advise the bailiff who in turn will tell  
3 me about it and will make every effort to accommodate you.  
4 We have in the jury room coffee in the morning and some  
5 snacks, but if you need something else for your personal  
6 comfort, you should bring it with you. I think we have tea  
7 and chocolate. But you will not be allowed to wander around  
8 the courthouse or go down to the vending machines. You'll  
9 be able to come and go for lunch and at morning and night.  
10 The rest of the time you'll all stay together.

11 I don't know if any of you are part of our  
12 smokers, but if you are, accommodation will be made for  
13 that. But basically you're going to be pretty much together  
14 with the bailiff or Mr. Anderson at all times while you're  
15 here in the courthouse. So use the jury room. Let us know  
16 if there's something you need and we'll make every effort to  
17 accommodate you.

18 Tomorrow morning you will begin hearing --  
19 you'll hear the Information. You'll hear what the  
20 defendant's plea is, and you'll hear opening statements, and  
21 you'll probably begin hearing evidence in the morning also.

22 And then we will proceed with the trial.  
23 During the course of the trial, if you have questions of  
24 like where to park your car and that kind of thing, the  
25 bailiff is going to help you with that. He'll also put you

1 in an order here so that you will all be together in the  
2 morning. He'll line you up. He'll probably give you some  
3 information tonight and tomorrow morning. Follow the  
4 admonition that you've been given at all the breaks and I'll  
5 be seeing you tomorrow at 10:00.

6 Before you leave I want to remind you of what that  
7 admonition is.

8 Ladies and gentlemen of the jury, during this  
9 recess that we are about to take, you are admonished that it  
10 is your duty not to discuss among yourselves or with anyone  
11 else any matter having to do with this case. It is your  
12 further duty not to form or express any opinion regarding  
13 the guilt or innocence of the defendant until the case has  
14 been finally submitted to you for decision. You are not to  
15 read, look at or listen to any news media accounts relating  
16 to this case. Should any person attempt to discuss the case  
17 with you or in any manner attempt to influence you with  
18 respect to it, you are to advise the bailiffs, who in turn  
19 will advise the Court.

20 Ladies and gentlemen of the jury, you may go  
21 with the bailiff now through the jury room door.

22 A PROSPECTIVE JUROR: Just real quickly.  
23 There's 12 and four alternates.

24 THE COURT: We have not decided who the  
25 alternates are at this point.

1 A PROSPECTIVE JUROR: That will be determined  
2 tomorrow.

3 THE COURT: It will be determined at the end of  
4 the trial.

5 A PROSPECTIVE JUROR: Can I bring my own food?  
6 Do I have somewhere to put it?

7 THE COURT: Yes, we have a refrigerator and a  
8 microwave.

9 A PROSPECTIVE JUROR: We can bring our lunch  
10 then?

11 THE COURT: Sure, you can.

12

13 (Whereupon, the following proceedings were held  
14 in open court, outside the presence of the  
jury.)

15

16 THE COURT: The audience will be seated. Counsel,  
17 the clerk has something to give you notice of pursuant to  
18 Supreme Court Rule 234. So-before you leave the courtroom,  
19 please see the clerk.

20 In addition, many of you will be here during  
21 the course of the trial. Because we may have lots of  
22 spectators, we may have hearings outside the presence of the  
23 jury and be moving the jury in and out. I ask that the  
24 audience remain seated when the jury is coming and going.  
25 And in that manner, if counsel chooses to stand, that's

1 fine, but the audience will remain seated at all times.  
 2 That will accommodate the logistics of me telling people to  
 3 sit down right before the attorneys want to talk, et cetera.  
 4 I appreciate your accommodation in that regard.

5 Mr. Bosler.

6 MR. BOSLER: Yes, Your Honor. For the sake of  
 7 the record, there are some things I have to say. At this  
 8 point Mr. Vanisi is going to make an objection to the jury  
 9 as it was sworn, just to make the record. I would advise  
 10 the Court -- before these proceedings began we asked the  
 11 Court for an extended questionnaire to learn a little bit  
 12 more about the jury. That was denied. We also made a  
 13 motion for individual sequestered voir dire. That motion  
 14 was denied. We further made a motion for additional  
 15 peremptory challenges. That too was denied. And as part of  
 16 those motions we submitted an affidavit from a professor in  
 17 Chico about the danger of close-ended questions being asked  
 18 by the Court in the process of a jury selection, because  
 19 what you have, according to this professor, is people being  
 20 indoctrinated and essentially learning the proper responses.

21 I'll submit that's exactly what happened. What  
 22 was trying to be prevented in the jury selection actually  
 23 came to pass. In fact, what you had is a person who put on  
 24 their questionnaire that they were prejudiced against  
 25 minorities and could not be fair in the case, but that

1 person, for whatever reason, was able to answer the  
2 questions correctly to avoid any *Whitt, Witherspoon* or  
3 *Morgan* challenges. I would submit that was a systemic  
4 problem that could have been cured had we been able to do  
5 individual sequestered voir dire.

6 Your Honor, based upon those facts we also have  
7 Mrs. Bell, who remains on the jury, despite having a child  
8 in the same school as Mr. Sullivan's, I believe having been  
9 on a field trip with Mr. Sullivan. We have Shaylene Grate,  
10 who, from the first day said she couldn't be fair in this  
11 case, but slowly through the process has now learned to say  
12 the right things to fight off any challenges.

13 For those reasons we're going to object to the  
14 jury panel as it's been sworn on the Sixth Amendment right  
15 to a fair trial and impartial jury; the Eighth Amendment  
16 right to reliability in sentencing, and a Fourteenth  
17 Amendment right to due process and protection.

18 THE COURT: Thank you, Mr. Stanton.

19 MR. STANTON: I believe the record at side bar  
20 and the Court's previous rulings regarding the motions that  
21 counsel states is sufficient for the State for purposes of  
22 establishing the record.

23 I also am somewhat puzzled by Mr. Bosler's  
24 response about the juror, I believe it's Mr. Greiner, who he  
25 claims was prejudiced against minorities and cites as *Whitt*,



1       *Witherspoon* and *Morgan*. Neither of those cases deal in any  
2       way, shape or form with the answers that Mr. Greiner gave.  
3       Mr. Greiner had no answers to questions that dealt with his  
4       ability to assess the death penalty. And citing to *Whitt*,  
5       *Witherspoon* and *Morgan* for Mr. Greiner is puzzling, to say  
6       the least.

7                 In addition, Your Honor, Ms. Ziler and Ms.  
8       Grate, the State only wants to establish the record that the  
9       defense did not exercise peremptory challenges against those  
10      two jurors.

11                MR. BOSLER: For the reason there were other  
12      jurors that were more harmful, we believe, Mr. Vanisi  
13      believes were more harmful to his position than those people  
14      who said the things that may have established the cause, a  
15      challenge for cause.

16                Additionally -- I haven't put this on the  
17      record -- we have to object to the exclusion of Raul Frias,  
18      Mr. Caballero Salais and Joy Ashley, who we believe did not  
19      fit any legal exception from jury duty, and that was just  
20      because they were life prone and were excluded from the jury  
21      pool. For that reason we'll refer the Court to our other  
22      objections.

23                THE COURT: Mr. Stanton.

24                MR. STANTON: As far as the final articulation  
25      by Mr. Bosler, truly *Whitt* and *Witherspoon* and the record

1 that was established by each of those jurors' responses,  
2 that they would not consider the death penalty in any other  
3 case, is a basis properly for exclusion.

4 MR. BOSLER: I'll let the record speak for  
5 itself.

6 THE COURT: The motion for -- I guess the  
7 objection to the jury would be a mistrial, I guess is what  
8 you're looking for.

9 MR. BOSLER: It would be an objection to the  
10 panel being sworn, which would necessitate a mistrial, Your  
11 Honor.

12 THE COURT: It's denied, for the basis of the  
13 decisions I made and the record that we made with regard to  
14 these jurors as a package. Anything else?

15 MR. BOSLER: Your Honor, I would like the  
16 opportunity to get the transcript of the hearing and discuss  
17 with Mr. Petty what still is a potential change of venue  
18 motion. I'm not comfortable arguing that without looking  
19 over the details of the transcript at this point. If it  
20 comes to pass, we'd like to renew that, I would like to be  
21 able to advise the Court and the State. I'm just trying to  
22 figure out a way I can do it accurately, and that would  
23 necessitate access to today's transcript, and I won't get  
24 that until 8:00 tomorrow morning. And I just wanted to  
25 advise the Court.

1 MR. STANTON: The time to make an objection  
2 relative to a change of venue because of pretrial publicity  
3 was before this jury or panel was excused. Obviously we're  
4 not at the point where he's going to make the objection, so  
5 I guess we'll just wait and see if the motion comes.

6 THE COURT: Look at the transcript and see if  
7 you have standing. You can talk to Mr. Petty about when the  
8 proper time to make the motion would have been and whether  
9 you should be making it or not. If you do want to make it,  
10 be here at a quarter to 10:00 tomorrow morning if you decide  
11 you want to make something outside the presence of the jury  
12 before we begin.

13 So you're going to see the clerk on the notice  
14 that she has to give you. You will also need to look over  
15 the Information with her that she's going to be reading  
16 first thing in the morning. You'll be ready for opening  
17 statement.

18 Is there anything that needs to be marked or  
19 any discussion with regard to opening statement,  
20 demonstrative documents?

21 MR. BOSLER: Nothing from Mr. Vanisi, Your  
22 Honor.

23 MR. GAMMICK: The only thing we're going to do,  
24 Your Honor, is I believe we've already talked to the court  
25 clerk about setting up the different equipment again, the

1 audio and visual equipment. We're going to try to do that  
2 at 9:30 if the Court is clear at that time. If not, then we  
3 can do it sometime -- the only time I need to have it set up  
4 is before we actually start witnesses. So whenever we get  
5 an opportunity.

6 THE COURT: We might be okay. The 8:00 hearing  
7 may break in plenty of time for that. But maybe you might  
8 want to get your people here around 9:00 in case Mr. Bosler  
9 and Mr. Gregory have a motion at a quarter to 10:00 so that  
10 you're done. I don't know how long it will take you.

11 MR. GAMMICK: That's fine, Your Honor.

12 I'm advised that if we have access to the court  
13 now, our personnel are here with the equipment, we can do it  
14 now if that's convenient with the Court.

15 THE COURT: That's fine. That's sort of fine  
16 but it is fine. They're nodding their head.

17 Anything else?

18 MR. GREGORY: We have to bring our stuff over.  
19 Are we going to interrupt the Court by --

20 THE COURT: I don't think so. I think I'm  
21 hearing that we'll have plenty of time in the morning. I do  
22 it around 9:00. And then if you have to wait a few minutes,  
23 you can still get it in.

24 Anything else?

25 MR. BOSLER: No, Your Honor.

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THE COURT: Court's in recess.

(Recess taken at 6:00 p.m.)

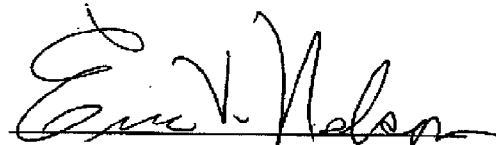
STATE OF NEVADA,       )  
                              )  
COUNTY OF WASHOE.    )

WE, ERIC V. NELSON and DENISE PHIPPS, Certified  
Shorthand Reporters of the Second Judicial District Court of  
the State of Nevada, in and for the County of Washoe, do  
hereby certify:

That we were present in Department No. 4 of the  
above-entitled Court and took stenotype notes of the  
proceedings entitled herein, and thereafter transcribed the  
same into typewriting as herein appears;

That the foregoing transcript is a full, true  
and correct transcription of our stenotype notes of said  
proceedings.

DATED: At Reno, Nevada, this 21st day of  
September, 1999.



ERIC V. NELSON, CCR No. 57

*(Certified Original)*  
\_\_\_\_\_  
DENISE PHIPPS, CCR No. 234

BY \_\_\_\_\_  
JAMES H. HARRIS, Clerk of the Court  
District Court, in and for the County of  
Washoe, State of Nevada  
DATE: \_\_\_\_\_  
Office in care of \_\_\_\_\_  
which was on file in record in my  
office in care of \_\_\_\_\_  
which was on file in record in my  
office in care of \_\_\_\_\_

FILED

Code No. 4185

SEP 23 1999

AMY HARVEY  
By: *[Signature]*  
DEPUTY CLERK

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE HONORABLE CONNIE STEINHEIMER, DISTRICT JUDGE

-oOo-

THE STATE OF NEVADA,

Plaintiff,

vs.

SIAOSI VANISI,

Defendant.

Case No. CR98-0516  
Dept. No. 4

ORIGINAL

TRIAL - VOLUME 3  
September 22, 1999  
Reno, Nevada

APPEARANCES:

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The Defendant:

SIAOSI VANISI

Reported by:

ERIC V. NELSON, CCR No. 57  
DENISE PHIPPS, CCR No. 234

SIERRA NEVADA REPORTERS (775) 329-6560

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1 RENO, NEVADA, WEDNESDAY, SEPTEMBER 22, 1999, 9:10 A.M.

2 -o0o-

3  
4 (Whereupon, the following proceedings were held  
5 in open court, outside the presence of the  
6 jury.)

7 THE COURT: Counsel, the Court has received a  
8 letter from Juror No. 2, Lauren Ziler, and it reads:

9 "Your Honor, as a juror on the civil case  
10 pending in your court, I have some issues that  
11 are of major concern for me. May I please,"  
12 underlined, "see you in private before court  
13 convenes this morning?"

14 "Respectfully, Lauren Ziler."

15 She arrived about eight this morning and handed  
16 the note to the bailiff. That's why I asked you to come  
17 over so that we could make it clear. I have not met with  
18 her, but the bailiff did go in and explain that we would  
19 have to meet with her with the attorneys present.

20 She went a little further with the bailiff than  
21 in her written note, indicated that she was feeling that she  
22 might be suffering from a nervous issue. She complained  
23 about her hormones being out of whack again, started crying,  
24 and acted extremely anxious and said she was afraid she  
25 would get sick. So that brings you up to date.

Would you like me to inquire of her?

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1 MR. STANTON: State would, Your Honor.

2 MR. BOSLER: Yes, Your Honor.

3 THE COURT: Would you please bring Miss Ziler  
4 in?

5 (Juror Ziler present in courtroom.)

6 THE COURT: Good morning, Mrs. Ziler. Not a  
7 good morning.

8 JUROR ZILER: No. Absolutely not.

9 THE COURT: I read your letter, and I have  
10 shared your letter with counsel. Can you tell us a little  
11 bit more about what's happening with you this morning?

12 JUROR ZILER: Going into this, guilty was in my  
13 mind, but I truly believed I could be fair and impartial.

14 I have major business concerns that not being  
15 able to represent my 20 percent ownership has been  
16 constantly on the back of my mind that causes more stress,  
17 because any trial by jury in my mind deserves a hundred  
18 percent of every juror and nothing less, no matter what kind  
19 of trial it is.

20 I joked about my hormones yesterday, but I'm  
21 big time stressed. I am not a crier. I am a control freak.  
22 I don't like getting drunk because that's letting go of my  
23 control, and I'm about this close to losing it. That means  
24 my hormones are not allowing me to cope with all this  
25 additional stress, and that is a major health concern to me.

1 And I didn't know who else to talk to. That's  
2 why I gave you the note.

3 THE COURT: Are you having trouble catching  
4 your breath this morning?

5 JUROR ZILER: No, I'm having trouble to keep  
6 from getting screaming meemies. I mean, I'm literally this  
7 close to going on another crying jag.

8 THE COURT: Have you been crying today?

9 JUROR ZILER: I'm scared to death I am. I got  
10 maybe four hours' sleep worrying about this last night. I'm  
11 scared to death I'm going to fall asleep in the jury box.  
12 And I mean major stress. And I don't know what to do about  
13 it.

14 THE COURT: Mr. Stanton, do you have any  
15 questions?

16 MR. STANTON: Yes. Miss Ziler, your conditions  
17 that you have described here this morning, do you think they  
18 would substantially impair your ability to sit and listen to  
19 the evidence as a juror needs to in this case?

20 JUROR ZILER: Yeah. That is a major concern,  
21 because my business concerns are in the back of my mind  
22 constantly. That's not a hundred percent attention out here  
23 where it needs to be. And that's causing me a lot of  
24 stress.

25 MR. STANTON: Okay. If you could just listen.

1 I know you are emotional, upset. If you could listen to my  
2 question very carefully.

3 All the things that are bothering you, would  
4 that substantially impair your ability to perform your role  
5 as a juror?

6 JUROR ZILER: In my mind, yes.

7 MR. STANTON: Thank you, Your Honor. I have  
8 nothing further.

9 THE COURT: Mr. Bosler.

10 MR. BOSLER: No questions, Your Honor.

11 THE COURT: Mrs. Ziler, would you mind going  
12 into the jury room and awaiting me? It will just be a few  
13 more minutes. Then I'll be able to talk to you.

14 JUROR ZILER: Yes.

15 THE COURT: Thank you.

16 (Juror Ziler excused from courtroom.)

17 THE COURT: Mr. Anderson, would you go into the  
18 jury room, please. We have a second juror there now. Would  
19 you just wait with the jurors? I don't really want  
20 Mrs. Ziler talking. You can go in through this door.

21 Counsel, my inclination is to excuse  
22 Miss Ziler. What was not shown on the record was her  
23 hesitancy in speaking.

24 It looked to me like she was having trouble  
25 catching her breath. She said it was because she was trying

1 to control herself, but she was physically manifesting signs  
2 of stress, and I am concerned about her ability to act as a  
3 fair and impartial juror at this stage in the proceedings.

4 Mr. Bosler.

5 MR. BOSLER: Your Honor, I don't think this  
6 type of case should be easy for anybody, and I would hope  
7 that all the jurors feel a little bit of stress sitting in  
8 judgment of someone else and deciding whether they live or  
9 die. In that sense, I think the stress is understandable.

10 I think what you heard from Miss Ziler is that  
11 really this business concern she had which she mentioned on  
12 her questionnaire, mentioned during jury selection, in fact  
13 mentioned today when we talked about stress, she has  
14 business concerns in the back of her mind. I think that  
15 really is the majority of her problem.

16 I know that Mr. Stanton asked her a question  
17 about substantial impairment. I don't think it fits the  
18 Witt case. It's a stress level that is due to the gravamen  
19 of the type of case, and that's a natural thing. There is  
20 no reason to excuse her as a juror, and we would ask she  
21 remain.

22 THE COURT: I thought you wanted me to excuse  
23 her.

24 MR. BOSLER: We reserved judgment until we got  
25 our jury information, Your Honor.

1 THE COURT: But she was one of the people you  
2 wanted me to excuse for cause during the selection. I  
3 didn't think you would have a problem with me letting her go  
4 now.

5 MR. BOSLER: Your Honor, as I explained  
6 earlier, that I made some cause challenges, but as it turned  
7 out as I got through the jury, there were people I believed  
8 that were worse, and I still believe there are people that  
9 are worse than Miss Ziler who would now be seated as jurors  
10 if she were excused. For that reason we're going to ask the  
11 Court to allow her to stay as a juror.

12 MR. STANTON: The logic of that is astounding  
13 to me, Your Honor, why counsel says that there is for cause,  
14 and I believe Miss Ziler, Mr. Bosler raises on at least two  
15 occasions during the voir dire process, and now they are  
16 claiming that she should remain on the jury for some  
17 unspoken reason that other jurors are potentially worse, and  
18 there is no record or facts articulated by Mr. Bosler that  
19 justify that statement.

20 Your Honor, the core question -- and the  
21 citation to *Witt* again is astounding to the State. You  
22 can't cite a case that stands for the proposition about  
23 whether someone is life or death qualifying in their  
24 concerns as an individual to address those issues in a trial  
25 as a juror for someone who now has a stress related or

1 medical claim or business or work claim. Citing *Witt* in  
2 this situation is nonsensical. Unless counsel can cite to a  
3 portion of *Witt* that I'm not aware of that addressed  
4 something remotely similar to what Miss Ziler has.

5 I think the ultimate question for the Court is,  
6 is there facts and evidence that would suggest that she is  
7 incapable of performing her function as a juror. The Court  
8 through articulation of some nonverbal factors today,  
9 specifically the demeanor and appearance of Miss Ziler, and  
10 the State would reaffirm that she is quite emotionally upset  
11 as she presents herself to us this morning -- the operative  
12 phrase that has frequently been used is substantially impair  
13 a juror's ability to perform the functions. Her answer is  
14 the best of her ability, she says yes.

15 Contrary to what counsel says that serving as a  
16 juror is a stressful situation, what Ms. Ziler presents  
17 today I don't think is anything remotely similar to the  
18 internal stress that an individual may have in sitting in a  
19 capital jury.

20 This is someone who I think is, as she said,  
21 for the record, she held up her finger less than an inch  
22 apart and said she's this far from losing it. That is a  
23 concern, I would think for all parties in this litigation, a  
24 juror that is emotionally that close to a breakdown. For  
25 those reasons the State thinks that it is appropriate that



1 she be removed from the jury at this time.

2 THE COURT: Anything further, Mr. Bosler?

3 MR. BOSLER: No, Your Honor. I'm just  
4 reflecting when you look at *Witt, Witherspoon, Morgan*, there  
5 is the phrase substantial impairment, and that is my  
6 analysis to the Court.

7 THE COURT: I believe and have had an  
8 opportunity to observe jurors in capital cases both as an  
9 attorney and as the judge, and everyone who sits on a jury  
10 in a capital case is serious and takes it seriously, and  
11 there is a certain amount of concern.

12 However, the level of concern that I'm seeing  
13 in Miss Ziler this morning is unusual. It is clearly  
14 impairing her ability.

15 We didn't even put on the record that at times  
16 her voice would rise. She would act almost angry in her  
17 responses to counsel's questions to the point when she is  
18 saying I'm about ready to lose it, she is almost yelling.

19 I asked Mr. Anderson to go into the jury room  
20 because I felt her mental state was such a matter that she  
21 might affect another juror by saying something or not  
22 abiding by my admonition.

23 For all of those reasons and the reasons I  
24 articulated earlier, I'm going to excuse Miss Ziler.

25 The bailiff will ask Miss Ziler to come around

1 to chambers, and I will let her know that she's been excused  
2 and counsel thanks her for her attendance here at the trial.

3 What we will do is I always tell the jury that  
4 I reserve who is going to be an alternate or not until the  
5 end of the case because I don't want the alternates not  
6 paying attention. Who knows what else might happen along  
7 the way, or even if we have the jurors sitting throughout  
8 the trial, sometimes right before they deliberate something  
9 comes to our attention that disqualifies a juror. So I  
10 always tell the alternates -- actually I don't ever  
11 delineate between alternates and jurors.

12 So what we're going to do in this case is we're  
13 going to remove one of the extra chairs, and everyone will  
14 be moved down. It will be Bonnie Jenkins, then Nettie  
15 Horner, then Grate, Minassian, Mullins, McMorran, Sheahan,  
16 Bell in the back row. The front row will remain the same,  
17 which will be Johnson, Ayers, Buck, Tower, Carmichael,  
18 Costello and Frazer.

19 So that will be the order.

20 Go ahead and we'll take a recess until we're  
21 ready to start at ten, unless anyone has anything else.

22 MR. STANTON: Your Honor, we concluded  
23 yesterday with an advisement from defense counsel that they  
24 may or may not be pursuing a motion relative to a change of  
25 venue, and since we're outside the jury's presence, maybe we

1 could take that issue up now.

2 THE COURT: Yes.

3 MR. BOSLER: Your Honor, upon further  
4 reflection, we believe that we made enough of a record as to  
5 the other violations in the jury selection. We're not going  
6 to raise a change of venue at this time.

7 THE COURT: Also, has counsel had an  
8 opportunity to review the Information with the clerk?

9 The first thing we'll do is read the  
10 Information as soon as the jury comes in.

11 MR. GAMMICK: Yes, Your Honor. I have had, and  
12 it appears to be the same one we filed.

13 MR. BOSLER: Yes, Your Honor.

14 THE COURT: Okay. Then the reading of the  
15 Information will take place as soon as we start. We're  
16 scheduled to start at 10:00 a.m., and the jury is coming  
17 already. So I really don't think we'll be waiting on them  
18 at all.

19 MR. STANTON: Does the Court have -- I know it  
20 is subject to how long counsel's opening argument is, but  
21 would the Court be inclined based upon maybe a historical  
22 perspective of the first go-round of this case of taking  
23 witnesses prior to the noon hour today?

24 THE COURT: Yes, I think if we start right at  
25 ten, you will be having a witness before noon. I mean, I'm

1 guesstimating at maybe 30 minutes for opening from the  
2 State? I think that is about all it was before.

3 MR. STANTON: Can the Court give us some  
4 inclination of about how close to the noon hour we'd be that  
5 you would just recess and say bring your first witness back?  
6 Say openings are concluded at 11:45, would the Court be  
7 inclined at that time to call a witness, or would we just  
8 call it for the morning at that time?

9 THE COURT: That is fine with me. It doesn't  
10 really make a difference to me. If you think the openings  
11 are going to go until quarter to 12 --

12 MR. STANTON: Actually it is more that cutoff  
13 time. If the Court would say 11:45 --

14 THE COURT: We won't start a witness at 11:45.  
15 Your first witness will probably be on the stand on direct  
16 for how long?

17 MR. STANTON: Probably about --

18 MR. GAMMICK: Oh, somewhere between I'd say 30,  
19 45 minutes.

20 THE COURT: So I think that we shouldn't start  
21 a witness before -- after a quarter till. So if closings  
22 are still going on at 11:40, don't worry about it.

23 Anything further?

24 MR. BOSLER: You were going to advise us, we  
25 had a juror where there was multiple bases offered for

1 exclusion, you said you'd tell us later what it was. I  
2 asked you late yesterday afternoon.

3 THE COURT: I'll have to read the transcript,  
4 and I haven't seen the transcript this morning. I'm sorry.  
5 We have got it and I'll look at it. We'll get to it.

6 Court is in recess.

7 (Recess taken at 9:25 a.m.)

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1 RENO, NEVADA, WEDNESDAY, SEPTEMBER 22, 1998, 10:17 A.M.

2 -oOo-

3  
4 (Whereupon, the following proceedings were held  
5 in open court, in the presence of the jury.)

6 THE COURT: Counsel stipulate to the presence  
7 of the jury?

8 MR. GAMMICK: Yes, Your Honor.

9 MR. GREGORY: Defense will so stipulate, Your  
10 Honor.

11 THE COURT: Counsel, you may proceed. At this  
12 time, ladies and gentlemen of the jury, as I told you last  
13 night, you are going to hear the Information in this case  
14 and the plea of the defendant.

15 THE CLERK: "Case No. CR98-0516, Department  
16 No. 4, in the Second Judicial District Court of the  
17 State of Nevada in and for the County of Washoe.  
18 The State of Nevada, plaintiff, versus Siao Si Vanisi,  
19 also known as Pe, also known as George, defendant.  
20 Information.

21 "Richard A. Gammick, District Attorney within  
22 and for the County of Washoe, State of Nevada, in  
23 the name and by the authority of the State of  
24 Nevada, informs the above-entitled Court that  
25 Siao Si Vanisi, also known as Pe, also known as

1 George, the defendant above named, has committed  
2 the crimes of:

3 "Count I. Murder in the first degree, a  
4 violation of NRS 200.010 and NRS 200.030 and NRS  
5 193.165, a felony, in the manner following:

6 "That the said defendant, on the 13th day  
7 of January, AD, 1998, or thereabout, and before  
8 the filing of this Information, at and within  
9 the county of Washoe, state of Nevada, did  
10 willfully, unlawfully and with malice aforethought,  
11 deliberation and premeditation, kill and murder  
12 Sergeant George Sullivan, a human being, by means  
13 of repeated blows to the head and face with a  
14 hatchet and/or other implement and/or other blunt  
15 force trauma inflicted to the head and upper torso,  
16 thereby inflicting mortal injuries upon the said  
17 Sergeant George Sullivan from which he died on  
18 January 13th, 1998; or

19 "That the said defendant, during the course  
20 of or in furtherance of an armed robbery, did  
21 willfully and unlawfully murder Sergeant George  
22 Sullivan in that the said defendant, on or about  
23 January 13th, 1998, did kill and murder Sergeant  
24 George Sullivan, a human being, in the perpetration  
25 and/or the furtherance of an armed robbery at the

1 University of Nevada, Reno, at or near the  
2 information kiosk with the use of a deadly weapon,  
3 to wit, a hatchet and/or other implements; or

4 "That the said defendant, on or about  
5 January 13th, 1998, did kill and murder Sergeant  
6 George Sullivan, a human being, by lying in wait  
7 in that the said defendant did watch, wait and  
8 conceal himself from Sergeant George Sullivan  
9 with the intention of killing Sergeant George  
10 Sullivan in that he hid and waited until Sergeant  
11 George Sullivan completed a traffic stop, then  
12 observed and followed Sergeant George Sullivan  
13 to a location where he was alone and then  
14 ambushed Sergeant George Sullivan, inflicting  
15 mortal injuries to his person from which he died  
16 on January 13th, 1998.

17 "Count II. Robbery with the use of a  
18 deadly weapon, a violation of NRS 200.380 and  
19 NRS 193.165, a felony, in the manner following:

20 That the said defendant, on the 13th day  
21 of January AD 1998, or thereabout, and before  
22 the filing of this Information, at and within  
23 the county of Washoe, State of Nevada, did  
24 willfully and unlawfully take personal property,  
25 to wit, a Glock .45 caliber handgun, Glock



1 magazines, a flashlight and handcuffs from the  
2 person of Sergeant George Sullivan, at or near  
3 the information kiosk located at the University  
4 of Nevada, Reno campus, Washoe County, Nevada,  
5 against his will and by means of force or violence  
6 to his person and with the use of a hatchet and/or  
7 other implements which the said defendant used to  
8 strike Sergeant George Sullivan repeatedly in the  
9 head and face, and/or other blunt force trauma  
10 inflicted to the head and upper torso;

11 "Count III. Robbery with the use of a  
12 firearm, a violation of NRS 200.380 and NRS 193.165,  
13 a felony, in the manner following:

14 "That the said defendant, on the 13th day  
15 of January, AD 1998, or thereabout, and before  
16 the filing of this Information, at and within  
17 the county of Washoe, State of Nevada, did  
18 willfully and unlawfully take personal property,  
19 to wit, U.S. currency from the person of Patricia  
20 Misito, the clerk at the 7-11 store located at  
21 710 Baring Boulevard, Washoe County, Nevada,  
22 against her will and by means of force or violence  
23 or fear of immediate or future injury to her  
24 person and with the use of a large caliber  
25 handgun which the said defendant displayed

1 to the victim and demanded money.

2 "Count IV. Robbery with the use of a  
3 firearm, a violation of NRS 200.30 and NRS 193.165,  
4 a felony, in the manner following:

5 That the said defendant, on the 13th of  
6 January, AD 1998, or thereabout, and before the  
7 filing of this Information, at and within the  
8 county of Washoe, State of Nevada, did willfully  
9 and unlawfully take personal property, to wit,  
10 U.S. currency from Diana Lynn Shouse, the clerk  
11 at said establishment at the Jackson Food Mart  
12 located at 2595 Clearacre Lane, Washoe County,  
13 Nevada, against her will and by means of force  
14 or violence or fear of immediate or future  
15 injury to her person, and with the use of a  
16 large caliber handgun which the said defendant  
17 displayed to the victim and demanded money.

18 "Count V. Grand larceny, a violation of  
19 NRS 205.220, a felony, in the manner following:

20 "That the said defendant, on the 13th day  
21 of January, AD 1998, or thereabout, and before  
22 the filing of this Information, at and within  
23 the county of Washoe, State of Nevada, did  
24 willfully and unlawfully steal, take and drive  
25 away the personal property of Louis E. Hill, to

1 wit, a certain black four-door 1993 Toyota Camry,  
2 bearing Nevada license plate 029 HPY, with the  
3 intent then and there to permanently deprive the  
4 owner thereof.

5 "All of which is contrary to the form of  
6 the statute in such case made and provided, and  
7 against the peace and dignity of the State of Nevada.

8 "Richard A. Gammick, District Attorney,  
9 Washoe County, Nevada. David L. Stanton, Chief  
10 Deputy District Attorney."

11 To which the defendant has entered pleas of not  
12 guilty.

13 THE COURT: Ladies and gentlemen of the jury,  
14 it is now the time in the process that you will hear opening  
15 statement of the State. The defense may make their opening  
16 statement now or reserve it until later.

17 Counsel, are you ready to proceed?

18 MR. GAMMICK: Yes, I am, Your Honor. Thank  
19 you.

20 If it please the Court, counsel, ladies and  
21 gentlemen of the jury:

22 Monday, January 12th, 1998, at approximately  
23 11:00 p.m., 19-year police veteran, Sergeant George Sullivan  
24 of the University of Nevada, Reno Police Department, goes to  
25 work. He does not realize that this is his last shift.

1 Also on duty with him that night is Officer Carl Smith, a  
2 13-year veteran.

3 At about 17 minutes, 20 minutes, 15 minutes,  
4 somewhere in there -- and you're going to hear times, and  
5 you are going to hear them expressed in police lingo. In  
6 this case it would be 0017, Tuesday morning, January 13th,  
7 1998. Sergeant Sullivan calls in that he is making a stop  
8 to talk to a couple of people in the area of Ninth and  
9 Center in Reno.

10 This map that you see up here has the  
11 University of Nevada campus located right in this area,  
12 Interstate 80. Downtown Reno would be down in here. So he  
13 was right in this area just south of campus.

14 Officer Carl Smith, the only other officer on  
15 UNR PD at night -- by the way, school was out at that time.  
16 Pretty quiet on campus. Should have been a real quiet  
17 night.

18 Officer Smith rolls over to assist Sergeant  
19 Sullivan to cover him. While he's in route there, just  
20 around the corner from where Sergeant Sullivan is located,  
21 he sees a man. He sees a man who is in a threatening  
22 posture. Remember, I told you, a 13-year veteran.

23 This man catches his attention. This man has  
24 long hair, full beard, something on his head, a beanie or  
25 hat. He is wearing a jacket.

1           You will hear Officer Smith describe why this  
2 man caught his attention. But Officer Smith was sent to  
3 cover Sergeant Sullivan.

4           So he goes on down to cover. At about 0025,  
5 eight minutes later, which would be about 25 minutes after  
6 midnight, Tuesday morning, Sergeant Sullivan clears that  
7 call. He leaves.

8           He goes up in his marked patrol car in full  
9 uniform to what's known as the kiosk up at the university  
10 campus, which is right here, indicated by this little red  
11 dot. It is just up from Ninth and Center. In fact, Center  
12 Street goes right straight up on campus and just to the  
13 right, right at the top of the hill.

14           MR. GREGORY: Your Honor, I don't mean to  
15 interrupt, but Mr. Gammick's opening statement should be an  
16 outline of the case he intends to present. He should not be  
17 testifying in front of this jury.

18           He's done that several times, talking about how  
19 it's quiet on the campus. He is making these  
20 representations. So I'd ask that he just outline his case  
21 for the jury.

22           MR. GAMMICK: Every single thing I have said,  
23 Your Honor, will be testified to. It is all evidence.

24           THE COURT: Just preface that before you go  
25 into the area.

1 MR. GAMMICK: Be glad to.

2 Ladies and gentlemen of the jury, the evidence  
3 will show you everything I'm about ready to tell you.

4 Center Street goes right on up to the top of  
5 the hill, and that is where the kiosk is located. You'll  
6 hear testimony that police officers would go up there  
7 because of the lighting at night to sit there in their cars  
8 and complete paperwork.

9 What Officer Carl Smith did not know when he  
10 saw this man is that this man was a hunter.

11 MR. GREGORY: Again, Your Honor. I would  
12 object. Mr. Gammick is offering evidence to this jury.  
13 He's testifying.

14 THE COURT: Overruled.

15 MR. GAMMICK: I'm offering evidence, Your  
16 Honor, and that is exactly what the evidence is going to  
17 show. I would ask to continue without being interrupted.

18 THE COURT: Counsel, both of you, please, I  
19 have ruled. Overruled.

20 MR. GAMMICK: Thank you, Your Honor.

21 The evidence will show you that he is being  
22 stalked, that this man is watching Sergeant Sullivan; that  
23 this man arrived in Reno one to two weeks earlier; that he  
24 had cousins, relatives, and friends here; that this man made  
25 comments and statements about wanting to kill a cop; this

1 man made statements to not only adults, he made statements  
2 to children about wanting to kill a cop.

3 Friday night, January I believe 9th, the  
4 statements take a different change because this man, in the  
5 company of other people, goes to Wal-Mart in north Reno, and  
6 for seven dollars, he buys a camping hatchet. Now, he not  
7 only makes the statements to his friends and relatives that  
8 he wants to kill a cop, he shows them the hatchet.

9 Saturday night, he goes to a dance. When this  
10 man came to Reno, he brought a long wig and a beanie with  
11 him. Saturday night, he is at the dance wearing the wig and  
12 the beanie, displaying the hatchet. It almost becomes a  
13 mantra how many times -- you will hear witnesses, they said  
14 they heard it as many as ten times, him stating he wanted to  
15 kill a cop.

16 Sunday night, January 11th, 1998, this man goes  
17 hunting a cop in Sparks. You will hear testimony about how  
18 he sees a police officer and how he wants the man that's  
19 driving to follow the police officer; and the man that is  
20 driving says, I don't want anything to do with this. He  
21 drives him back home on Rock Boulevard, which is one of the  
22 residences that you will hear about during this trial.

23 Monday night, January 12th, 1998, this man is  
24 seen with his hair, beanie, he's at the Sterling address,  
25 which belongs to cousins of this man, right in this area.

1 As you notice, just close to the UNR campus.

2 And he is in the company of Doobie, the  
3 cousin's dog. This man during his statements has said  
4 things: I want to kill a cop, I want to take his badge, his  
5 radio, and his pistol, and commit other armed robberies so I  
6 have money. I want to kill a cop while he's doing his  
7 paperwork. I want to kill a cop while he's on coffee break.  
8 And I want to have Doobie there so Doobie is my cover.  
9 Doobie being the cousin's dog.

10 10:30 Monday night, we know where he's at.  
11 Right after midnight, this man is seen, not by Officer  
12 Smith, but by another person who happens to be up on the UNR  
13 campus. And he is seen up in this area by Lawlor Events  
14 Center. Guess who is with him? Doobie, the dog.

15 When this young lady finishes her business up  
16 here, picking up her dad at night, like she does every  
17 night, she leaves the Lawlor Events Center and comes back  
18 down campus and sees this man around the student center.  
19 Then this man, as I have already explained to you, is seen  
20 by Officer Carl Smith down here in the area of Ninth and  
21 Center.

22 0025, as I have explained to you, 25 minutes  
23 after midnight, thereabouts, Sergeant Sullivan completes his  
24 traffic stop. He leaves that area and he goes up to the  
25 area of the kiosk in his patrol car.



1           Officer Smith hangs around that area of Ninth  
2 and Center for a while, smokes a cigarette, takes a little  
3 bit of time, watches for people. He never sees our man  
4 again. Officer Smith leaves the area, he goes to do other  
5 duties.

6           So now at this time, between 30 minutes after  
7 midnight and 1:00 o'clock Tuesday morning, we have Sergeant  
8 Sullivan is up on the UNR campus, Officer Carl Smith is  
9 somewhere on the campus, and our man that's been seen,  
10 nobody knows where he's at.

11           Ladies and gentlemen, this is an opening  
12 statement. You have heard part of it so far. What it is is  
13 a road map, so to speak, where we explain to you what the  
14 evidence should show and kind of put it in chronological  
15 order. Unfortunately, when we start a trial, the perfect  
16 world would be we would walk you through all the events in  
17 order, no confusion at all.

18           This isn't a perfect world. People have other  
19 commitments, people have so many things to do, witnesses may  
20 know something at the beginning and again at the end. So we  
21 have to bring the witnesses in and plug in all the holes for  
22 you.

23           This will give you an idea of what the evidence  
24 will show and time wise on this thing. That's what an  
25 opening statement is about.

1           As I said, we have Sergeant Sullivan up on the  
2 campus, we have Carl Smith on the campus somewhere, and we  
3 have our man missing at this time.

4           At about 20 minutes to 1:00 that morning,  
5 Tuesday morning, January 13th, a young man named Andrew  
6 Ciocca or Ciocca - I don't remember which way to pronounce  
7 it for sure - a student at UNR, leaves the area of Seventh  
8 and Wells, and he starts up toward the campus. He comes by  
9 the SAE house on Evans Avenue, comes up here to Ninth  
10 Street, cuts across, and then he goes up the steps which run  
11 right next to Center Street going up to the area of the  
12 kiosk. That is how he is going up on campus, he goes up the  
13 hill.

14           As he tops the hill, he sees a police car. Not  
15 unusual for him. He's seen them before up there. But in  
16 this case, he sees the officer lying down next to the car.  
17 And he sees a large pool of what he believes to be oil. So  
18 he thinks the officer has some kind of vehicle problem at  
19 this time.

20           As he gets closer, he realizes that's not oil,  
21 it's blood, and that this officer is hurt.

22           Mr. Ciocca then goes over to the telephone  
23 which is close to there and makes a 911 call, calls  
24 emergency at about five minutes to 1:00, and tells them what  
25 he has found. He then goes back, rolls the officer over,

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1 and even though the officer is still warm, he knows that  
2 he's beyond any help.

3 He also notices that the officer's gun is  
4 missing. The officer still has his name tag on. So  
5 Mr. Ciocca gets on the radio and broadcasts that Sergeant  
6 Sullivan is down.

7 That starts a massive, massive response. Units  
8 from every police agency in this area start rolling up  
9 there. The UNR campus is sealed off. A massive search  
10 begins. Not only is the person who did this missing, but  
11 the officer's gun is missing. Officer Carl Smith responds.

12 What happened to our man? Where did he go?  
13 What did he do?

14 Later in my story, our man winds up in Salt  
15 Lake City, Utah, where he meets with his cousins. He tells  
16 one of those cousins all the details. Vainga Kinikini will  
17 come in and talk to you.

18 Vainga Kinikini is not a stranger to the  
19 criminal justice system. He's been in trouble before, and  
20 he'll tell you about it. But our man confided in Vainga and  
21 told him what happened.

22 He talks about seeing Sergeant Sullivan at the  
23 kiosk. He talks about putting the sneak on Sergeant  
24 Sullivan when he's parked up by the kiosk. Sergeant  
25 Sullivan is in his car doing paperwork. He talks about

1 giving a greeting to Sergeant Sullivan, and then before  
2 Sergeant Sullivan can do anything, he talks about hitting  
3 him with the hatchet again and again and again and again and  
4 again.

5 Then after Sergeant Sullivan is down, he talks  
6 about stomping on Sergeant Sullivan. And on top of  
7 everything else, he talks about being happy doing this. Our  
8 man then takes the gun belt and the equipment of Sergeant  
9 Sullivan, rips them from his body and leaves with Doobie to  
10 guide him home.

11 He goes up the Orr Ditch, which runs right  
12 along the campus here, and while he's in route there, he  
13 hears some dogs bark at him and thinks it is police canine  
14 after him. He gets rid of the wig and the beanie in the  
15 ditch. It is later recovered.

16 He gets to the address on Sterling where he  
17 gets a ride over to the address on Rock. Once he arrives at  
18 Rock, he stays there until later on Tuesday. We're still in  
19 one day here. We started just about midnight Tuesday, we're  
20 still in that day.

21 At about sometime in the morning, the news is  
22 broke, it's on TV, everybody starts seeing it. The witness  
23 who saw this man gave to police a composite, a drawing, got  
24 with a police artist, and they put a drawing together of  
25 what this man looked like. That goes on television.

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1                   Things start tightening up a little bit for  
2 this man because his friends and relatives recognize the  
3 picture that is put on TV. This man comes to the house on  
4 Rock, he has a jacket with him, a pair of gloves, and the  
5 hatchet.

6                   He leaves Rock Avenue later on that day,  
7 Tuesday, goes to the Mormon church, which you'll hear about  
8 during the course of the trial quite often, Mormon church  
9 located just on the other side of the campus, to play  
10 basketball. He leaves the jacket, the hatchet, and the  
11 gloves at the house on Rock, which are later recovered by  
12 police. The hatchet, the gloves, and the jacket all have  
13 the blood of Sergeant George Sullivan on them.

14                  While he's at the church, he shows a friend of  
15 his the gun that was taken from Sergeant Sullivan. The  
16 police don't know this yet. They don't know who they are  
17 looking for. They know they are looking for a man, they  
18 know roughly what he looks like. They don't even know  
19 whether or not he is a suspect at this time or just a  
20 witness on campus.

21                  A Secret Witness call comes in Tuesday  
22 afternoon. A telephone conversation is overheard. Baya  
23 committed a 187. A 187 is the penal code in the state of  
24 California for murder. A lot of exhaustive investigation is  
25 done, and Baya is finally identified.

1 Friends and relatives are contacted. They  
2 start relaying a lot of these incidences that were happening  
3 to the police.

4 Tuesday night there is a massive search going  
5 on. There are stakeouts at houses at Rock Boulevard. There  
6 are police officers actually there. They are looking for a  
7 man.

8 Tuesday night, we have a car stolen. It is  
9 stolen right here in northeast Reno.

10 About that same time frame, armed robbery is  
11 committed at Jackson's Market, again here in north Reno, and  
12 another armed robbery is committed at 7-11 in Sparks. That  
13 means a man walks in with a gun in his waistband and tells  
14 the clerks, Give me the money, or whatever words are used,  
15 but that is an armed robbery. You will hear testimony from  
16 the victims on that.

17 Photographs are seen of the person who  
18 committed the robbery at Jackson's Food Mart by  
19 acquaintances of our man, and he's positively identified.

20 The gun is the same as taken from Sergeant  
21 George Sullivan. In spite of the search that is going on  
22 here, nothing else is heard.

23 Wednesday, arrest warrant has been issued for  
24 the arrest of our man charging him with murder, charging him  
25 with the robbery of Sergeant Sullivan, charging him with the

1 robbery of Jackson's Foot Mart and the robbery at 7-11 and  
2 with stealing the car.

3 Salt Lake City, Utah, authorities contact Reno  
4 authorities and tell them, We have your man here in Salt  
5 Lake City. We're in a standoff position here. He's  
6 surrounded by police. He's in the apartment of his cousins.  
7 He's made some comments about some children being here in  
8 the apartment.

9 Finally our man is taken into custody after  
10 some shooting.

11 Ladies and gentlemen, the man who made these  
12 threats about wanting to kill a cop, a man who said he  
13 wanted to kill a cop, to take his gun and to take his badge  
14 and take his radio and his other equipment and to commit  
15 other robberies and steal money with that gun, the man who  
16 said he wanted to kill a cop while he was on break or while  
17 he was doing his paperwork, the man who told his cousin all  
18 the details of what he did, the man who said he wanted to  
19 kill a cop, the man who said he killed a cop, and when you  
20 see all the evidence and reach your decision, the man you  
21 will say did kill the cop is this man sitting right here in  
22 front of you today, the defendant, Siaosi Vanisi. Thank  
23 you.

24 THE COURT: Counsel, do you wish to make an  
25 opening statement now or reserve until later?

1 MR. GREGORY: Thank you, Your Honor. At this  
2 time we're going to reserve our opening statement.

3 THE COURT: Okay. Move everything away. Do  
4 you have a witness ready?

5 MR. GAMMICK: I believe we do, Your Honor, if I  
6 can check real quick.

7 THE COURT: Certainly.

8 MR. GAMMICK: Your Honor, the State would call  
9 Dr. Ellen Clark, please.

10 ELLEN CLARK  
11 called as a witness on behalf of the Plaintiff,  
12 having been first duly sworn,  
13 was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MR. GAMMICK:

16 Q Would you please state your name and spell your  
17 last name, ma'am?

18 A Ellen Clark, C-L-A-R-K.

19 Q And you are a medical doctor?

20 A Yes.

21 Q Would you please give the ladies and gentlemen  
22 of the jury a brief description of your education in order  
23 to become a medical doctor?

24 A I received my doctorate of medicine degree in  
25 1984 from Texas Tech University and then entered specialty



1 training in combined anatomic and clinical pathology at an  
2 accredited residency training program at the University of  
3 Texas in San Antonio.

4 THE COURT: I'm going to stop you there,  
5 Dr. Clark. Can you move the microphone a little bit?

6 THE WITNESS: I'm not sure it's on.

7 MR. GAMMICK: Yes, it is on.

8 THE COURT: There you go.

9 THE WITNESS: Can you hear me?

10 THE COURT: Could you state your name again?

11 THE WITNESS: Ellen Clark, C-L-A-R-K.

12 THE COURT: Can all the jurors hear that?

13 THE JURY: Yes.

14 THE COURT: Thank you. You may proceed.

15 THE WITNESS: I participated in residency  
16 training in anatomic and clinical pathology from 1984 to  
17 1987, and then transferred to the University of New Mexico  
18 to subspecialize in forensic pathology. I completed that  
19 program in 1989 and came to Reno and assumed my current  
20 position in a hospital-based practice group in forensic  
21 medicine and hospital pathology at Washoe Medical Center and  
22 through the coroner's office.

23 BY MR. GAMMICK:

24 Q Are you a licensed doctor in the State of  
25 Nevada?

1 A Yes.

2 Q And in other states?

3 A Yes.

4 Q What states are those?

5 A I'm licensed to practice medicine in Nevada,  
6 California, and Texas.

7 Q Do you have a specialty?

8 A Yes.

9 Q And what is that?

10 A I am board specialized and am certified in  
11 anatomic, clinical and forensic pathology.

12 Q And would you please explain in layman terms  
13 what that means?

14 A Broadly speaking, pathology is the medical  
15 specialty which studies disease. It's typically broken down  
16 into two major categories. Those are anatomic and clinical  
17 pathology.

18 Clinical pathology is more commonly known as  
19 laboratory medicine and involves obtaining, evaluating,  
20 interpreting tests on body fluids, like blood and urine.  
21 Anatomic pathology is making diagnoses and examinations on  
22 solid tissues, which may range from single cells smeared  
23 onto a slide, to intraoperative biopsy examinations and  
24 ultimately autopsy examinations which are performed to  
25 establish a cause of death.

1 Forensic pathology is the specialty which  
2 combines those two and is charged with identifying,  
3 investigating, and evaluating unusual, unexplained and  
4 particularly violent death cases.

5 Q Does the fact you are a forensic pathologist  
6 put you in the area where you can determine the cause of  
7 death and in some cases the implement of death?

8 A Yes.

9 Q And you said you were certified. Who are you  
10 certified through?

11 A I am certified or boarded by the American Board  
12 of Pathology. That is a specializing credentialing agency  
13 for my specialty in the United States.

14 Q And how long did it take for you to become  
15 board certified?

16 A My residency and fellowship programs were five  
17 years, and I sat for board examinations within the two years  
18 after that over the prescribed time period.

19 Q And do you perform autopsies as part of your  
20 duties?

21 A Yes.

22 Q And would you please explain generally what an  
23 autopsy is?

24 A A forensic autopsy is an examination conducted  
25 on the body after death, and it is directed at identifying a

1 cause, mechanism and manner of death. The cause of death is  
2 simply the thing which terminates life. The mechanism of  
3 death may be a refinement of the cause of death. It may  
4 describe, for example, fatal bleeding from a gunshot wound.

5 The manner of death falls into five major  
6 categories, which are homicide, suicide, accidental death,  
7 natural death, and on occasion we have undetermined manners  
8 of death.

9 Q I would like to call your attention then to  
10 January 13th, 1998. Did you perform an autopsy on that  
11 date?

12 A Yes.

13 Q I show you what's been marked as Exhibit No. 9  
14 and ask if you recognize the person who is depicted in that  
15 photograph.

16 A Yes.

17 Q Is this the person you performed the autopsy  
18 on?

19 A Yes.

20 Q Sergeant George Sullivan?

21 A That's correct.

22 MR. GAMMICK: I move for 9 to be admitted, Your  
23 Honor.

24 THE COURT: Any objection?

25 MR. GREGORY: We submit it, Your Honor.

1 THE COURT: Exhibit 9 is admitted.

2 (Plaintiff's Exhibit No. 9 admitted.)

3 BY MR. GAMMICK:

4 Q Now, at the time you perform autopsies, are  
5 photographs taken?

6 A Yes.

7 Q And do you direct the taking of the  
8 photographs?

9 A Yes.

10 Q And why do you have photographs taken? Why do  
11 you direct those?

12 A Photographs are one method of documenting what  
13 we find at the autopsy examination. If there is a  
14 particular finding on the body surface or injury or disease  
15 process that should be documented, I may direct that a  
16 photograph be taken.

17 Q I show you, to start with, Exhibit 4-B, please.

18 MR. GAMMICK: May I approach the witness, Your  
19 Honor?

20 THE COURT: You may.

21 BY MR. GAMMICK:

22 Q I show you 4-B and ask if you recognize that  
23 photograph.

24 A Yes.

25 Q Is that a true and accurate depiction of the

1 autopsy of January 13th, 1998?

2 A Yes.

3 MR. GAMMICK: I'd move for 4-B, Your Honor.

4 MR. GREGORY: Submitted, Your Honor.

5 THE COURT: 4-B is admitted.

6 (Plaintiff's Exhibit No. 4-B admitted.)

7 BY MR. GAMMICK:

8 Q I also show you what is 4-C and ask you to look  
9 at that photograph. Is that also a true and accurate  
10 depiction of the autopsy of Sergeant George Sullivan?

11 A Yes.

12 MR. GAMMICK: I'd move for 4-C.

13 MR. GREGORY: Again, Your Honor, we submit it.

14 THE COURT: Admitted.

15 (Plaintiff's Exhibit No. 4-C admitted.)

16 BY MR. GAMMICK:

17 Q 4-D? Again, the same questions. Is that a  
18 true and accurate photograph taken during the autopsy of  
19 Sergeant George Sullivan?

20 A Yes.

21 MR. GAMMICK: Move for its admission, Your  
22 Honor.

23 MR. GREGORY: Submitted.

24 THE COURT: Admitted.

25 (Plaintiff's Exhibit No. 4-D admitted.)

1 BY MR. GAMMICK:

2 Q 4-E, is that also a true and accurate  
3 photograph taken during the autopsy of Sergeant George  
4 Sullivan?

5 A Yes.

6 MR. GAMMICK: Move for admission, Your Honor.

7 MR. GREGORY: Submitted Your Honor.

8 THE COURT: 4-E is admitted.

9 (Plaintiff's Exhibit No. 4-E admitted.)

10 BY MR. GAMMICK:

11 Q 4-F? Is that a true and accurate photograph  
12 taken during the autopsy of Sergeant George Sullivan?

13 A Yes.

14 MR. GAMMICK: I'll move for 4-F, Your Honor.

15 MR. GREGORY: Again submitted, Your Honor.

16 THE COURT: Admitted.

17 (Plaintiff's Exhibit No. 4-F admitted.)

18 MR. GAMMICK: If I may have just a moment, Your  
19 Honor.

20 THE COURT: Yes.

21 BY MR. GAMMICK:

22 Q I'm going to hand you photographs 4-L, 4-K,  
23 4-J, 4-G, 4-I, and 4-H, and ask you to look at all of these  
24 photographs, and I'll ask you the same question.

25 Dr. Clark, are all the photographs that I just

1 handed you true and accurate depictions of portions of the  
2 autopsy of Sergeant George Sullivan?

3 A Yes.

4 MR. GAMMICK: I move for all their admissions,  
5 Your Honor.

6 THE COURT: Counsel?

7 MR. GREGORY: Again, Your Honor, we submit it.

8 THE COURT: H, I, J, K, L are admitted.

9 (Plaintiff's Exhibit Nos. 4-H, 4-I, 4-J, 4-K,  
10 and 4-L admitted.)

11 BY MR. GAMMICK:

12 Q As a result of your findings during the autopsy  
13 of Sergeant George Sullivan, were you able to determine  
14 cause of death?

15 A Yes.

16 Q What was that?

17 A Sergeant Sullivan died of multiple injuries of  
18 the skull and brain due to blunt impact trauma.

19 Q When you say multiple injuries, how many  
20 injuries did you find?

21 A In all there were a total of at least 20  
22 separate and discrete impacts to the face and head.

23 Q During the course or immediately after the  
24 autopsy, were you shown an implement that could possibly be  
25 the weapon involved in this case?



1 A Yes.

2 Q And did you compare that -- first of all, what  
3 was that item?

4 A The potential weapon was a camp ax or a  
5 combination ax and hammer.

6 Q And were you able to make comparisons between  
7 that ax, if you are calling it now, and the wounds suffered  
8 by Sergeant Sullivan?

9 A Yes.

10 Q Were you able to reach any conclusions  
11 concerning that ax possibly being a source for those  
12 injuries?

13 A Yes.

14 Q What were your conclusions?

15 A In my opinion, many of the injuries which were  
16 present on Mr. Sullivan had patterning which was  
17 characteristic of various portions and edges of the ax that  
18 I was shown.

19 Q I would like to show you now, if I may,  
20 Dr. Clark, item 21 that's been marked for evidence and ask  
21 if you recognize this item.

22 A Yes.

23 Q And is this the ax that you were shown to make  
24 the comparisons?

25 A Yes.

1           Q     Dr. Clark, we have mounted the photographs that  
2     you identified as being part of the autopsy of Sergeant  
3     Sullivan on a board in front of the jury here. Did you go  
4     through a lot of photographs in order to -- did you pick  
5     these out? Let's back up here.

6           A     Yes.

7           Q     And did you go through a lot of photographs in  
8     order to pick out these particular photographs?

9           A     Yes.

10          Q     Why did you pick these photographs?

11          A     These photographs are a representation of the  
12     injuries in total and various patterning that was present in  
13     the injuries that allow me to draw conclusions about how the  
14     injuries occurred.

15          Q     Would you please step down here with me,  
16     Dr. Clark? I'm going to hand you item number 21. If this  
17     is sealed in plastic, can you work with this, or would you  
18     rather use another one like it?

19          A     I would prefer to use one outside of the  
20     plastic.

21          Q     Let me have that one. Let me show you item  
22     number 21 and then item that's been marked No. 5. On your  
23     examination, do they appear to be the same type, size,  
24     weight and whatever other characteristics?

25          A     Yes.

1 MR. GAMMICK: And, Your Honor, at this time,  
2 may I go ahead and kind of -- may I go ahead and advise the  
3 jury that No. 5 is demonstrative only for these purposes?

4 THE COURT: Do you want to utilize Exhibit 5  
5 for demonstrative purposes, Dr. Clark?

6 THE WITNESS: I do.

7 THE COURT: Any objection?

8 MR. GREGORY: We submit it, Your Honor.

9 THE COURT: I will allow it. 5 is admitted for  
10 demonstrative purposes.

11 (Plaintiff's Exhibit No. 5 admitted.)

12 BY MR. GAMMICK:

13 Q If you will, please, Dr. Clark, using the  
14 photographs and Exhibit No. 5 where you need to, explain to  
15 the ladies and gentlemen of the jury the injuries that were  
16 suffered by Sergeant Sullivan, how you reached your  
17 conclusion as to his cause of death, and what comparisons  
18 you made between the ax and the injuries to determine if  
19 that could possibly be the weapon used.

20 A The exhibits again show in total the aggregate  
21 of injuries as well as specific pattern injuries for this  
22 case. Photograph Exhibit 4-B shows a facial photograph  
23 taken at the outset of the autopsy exam. It shows  
24 aggregated injuries that commence at the top of the head and  
25 extend onto the undersurface of the chin and wrap around

1 both sides of the face.

2 On closer examination of this, you will be able  
3 to identify at least 10 separate areas of injury or separate  
4 impact sites.

5 In particular, there are three located on the  
6 forehead coming from the right front of the forehead to the  
7 left lower part of the forehead. There is an aggregate of  
8 at least three separate impact sites on the right facial  
9 cheek. There is massive trauma to the central face, the  
10 lips and the jaws, partially obscured by the mustache.  
11 There is an impact site to the left side of the face, and  
12 there are some relatively non-pattern impacts to the right  
13 side of the chin.

14 State's Exhibit 4-K shows a closer view or a  
15 more detailed photograph of some of the aggregated injuries  
16 on the right facial cheek. These in my opinion represent at  
17 least two impacts directed largely from the side of the face  
18 towards the mid face, and it is a separate area of impact to  
19 the central face.

20 Adjacent to the skin surface injuries, there  
21 was massive fracturing that involved the orbits on both  
22 sides of the face, the mandible, the nasal bones, and both  
23 sides of the maxilla or the upper jaw.

24 State's Exhibit 4-I shows a partial view of  
25 Mr. Sullivan's oral cavity or his mouth. It shows that

1 there is massive bruising. There are many, many  
2 lacerations. These involve the lips as well as portions of  
3 the tongue, and most of the teeth have been evulsed or  
4 broken loose from the front of the jaw, both the upper jaw  
5 and the lower jaw. Some of the teeth were actually  
6 recovered from outside of the body.

7 State's Exhibit 4-H shows the top of Sergeant  
8 Sullivan's head. It shows that in addition to the injuries  
9 that were on the front of the face and the sides of the  
10 face, there were many, many separate and discrete impact  
11 sites that went from the top of the head onto both the right  
12 and left sides of the head, and also wrapped around onto the  
13 back of the head. In all there were a minimum of seven  
14 separate impacts to the back of the head.

15 State's Exhibit 4-J shows very massive trauma  
16 not only in the mouth or the oral cavity, but to both eyes.  
17 In addition to bruising around the soft tissue that holds  
18 the eye or supports the eye, there was bruising of the eye  
19 surface itself.

20 State's Exhibit 4-D begins to show some of the  
21 patterning of various injuries. In particular, this is a  
22 wedge-shaped injury which has features of both sharp force  
23 trauma and blunt trauma. This is evidence of a weapon that  
24 has sharpened edges as well as blunt or curved and flat  
25 edges, such as is represented by the ax.

1 State's Exhibit 4-L shows a portion of the hair  
2 having been shaved from the top of the head and shows in  
3 some detail injuries which were towards the top and back  
4 side of the head. These have patterns which also include  
5 very sharp cut margins as well as blunt torn margins. Again  
6 suggesting a weapon that has sharpened edges as well as  
7 blunt or straight and square shaped edges.

8 State's Exhibit 5 shows a separate pattern that  
9 was present. This actually represents two different  
10 injuries, if you look at it on close examination, each of  
11 which has a seagull configuration. There are very sharp  
12 margins at some edges of the wounds and very -- what we call  
13 blunt margins or abraded margins which are consequence of  
14 tearing or blunt impact against the skin.

15 Q If I may, Dr. Clark, ask you a couple questions  
16 here before you proceed. I believe you just stated State's  
17 Exhibit 5, which was actually 4-G?

18 A Excuse me.

19 Q That's what I was going to ask you about. I  
20 see numbers in several of these photographs. What are  
21 those?

22 A When we're presented with a case that has many,  
23 many injuries, it's not uncommon that we number the injuries  
24 or we somehow identify them so that we can reference back to  
25 them during the course of the examination or subsequent

1 study of the injuries.

2 In this case, you can see that as we continue  
3 on to the left side of the face, we're up to injury number  
4 13. Those do not necessarily reflect the order in which the  
5 wounds were inflicted, simply the order that they were  
6 examined.

7 I'd like to show some portions of the alleged  
8 weapon or the ax and how the surfaces on the ax correspond  
9 to some of the patterning in the wounds.

10 Directing you first to State's Exhibit 4-D,  
11 this shows the injury at the central top of the forehead  
12 going into the frontal hairline. This has a wedge shape  
13 with very sharp margins at both edges of the wedge and some  
14 dog-eared tearing at the back surface of the wedge shape,  
15 and then the entire wedge is superimposed with abrasions, or  
16 tearing or crushing of the skin.

17 You can see that there is a scale in the  
18 photograph. That is so we can measure the dimensions of the  
19 wound.

20 In particular, given the ax to compare wounds,  
21 if you look at the undersurface of the edge of the blade, it  
22 corresponds almost exactly in size and shape to that wound.  
23 So that if the rounder surface of the head were impacted  
24 downward with the undersurface of the blade, this wound  
25 pattern would be produced.

1           Moving on to Exhibit 4-L, wound number 3, in  
2 particular, shows a broad rectangular or square shaped  
3 impact site that again has evidence of sharp edges, as well  
4 as blunt edges. In size, this corresponds to the back edge  
5 of the ax blade or the blunt hammer type portion of the  
6 blade, based upon the diameter or the horizontal width as  
7 well as the vertical width. Again the scale is in the  
8 picture so that we can do comparisons when a scale is  
9 applied or measured, held up to the weapon.

10           In the same photograph, State's Exhibit No. 2  
11 has similar features. It shows a straight line but then  
12 intersecting perpendicular lines that are at different  
13 spacing than those in the upper ones.

14           In examining the weapon, the dimension and  
15 configuration of this wound corresponds to an impact with  
16 this surface of the back of the blade. In other words, it's  
17 a short rectangular injury while the other is a long  
18 rectangular injury.

19           At this point, it's apparent that the same  
20 weapon is being used throughout the infliction of the  
21 trauma, that it's being wielded in different fashions, that  
22 some of the injuries are coming this direction, some are  
23 coming this direction, some are coming towards the back, and  
24 other injuries are made with a sharp portion of the blade.

25           In particular, in State's Exhibit 4-B, there



1 are very sharp cut injuries that even in fact have some of  
2 the V-shaped patterning of the edges of the blade. In  
3 addition, supporting the fact that this was a very sharp  
4 edge to create these lower forehead injuries is the fact  
5 that the skull that was beneath that was cut very sharply,  
6 fractured very extensively and essentially lifted up off of  
7 the brow.

8 State's Exhibit No. 4-G shows another type of  
9 injury patterning which again corresponds to a specific site  
10 on the weapon. When you examine this more closely, there  
11 are actually two seagull or circular shaped injuries, some  
12 of which have very sharp margins or sharply cut margins.  
13 Others of which have abrasion or impact trauma also  
14 associated with them.

15 If we look at the flat portion of the blade,  
16 and the area of the tooled groove that is used for  
17 nail-pulling, the angle that is represented in these  
18 injuries is reproduced in this edge of the blade. Again,  
19 the impacts here in my opinion represent two separate  
20 impacts with this portion of the weapon held at slightly  
21 different angles.

22 Finally, State's Exhibit 4-C shows Sergeant  
23 Sullivan's left hand. It shows what we refer to as a  
24 defensive wound. That is a wound on a body surface or in a  
25 location that is readily used to fend off a blow or stop a

1 weapon.

2 In this case, you can see the left index finger  
3 and the left long finger with very deep combination sharp  
4 and blunt impact trauma, such that the tips of the fingers  
5 are nearly evulsed or broken off of the hand.

6 Q How many defensive wounds did you find on the  
7 body of Sergeant Sullivan?

8 A If these represent a single impact, this would  
9 be one set of defensive wounds that could be incurred with  
10 one blow. Although more likely there were a minimum of two  
11 separate blows because one of the edges of the sharp force  
12 injuries are at the tips of the fingers and others are  
13 towards the base of the fingers.

14 There was also very extensive bruising on the  
15 other aspects of the hand and on the back of the hand where  
16 the supportive bones are. So although the injuries may have  
17 been caused with one very tremendous impact, in all  
18 likelihood, it represents at least two separate and perhaps  
19 many more impacts.

20 Q And you discussed maybe two, maybe somewhere in  
21 that neighborhood for the left hand. Did you find any other  
22 areas on Sergeant Sullivan's body, the rest of the arms or  
23 the other hand, where there were what you described as  
24 defensive type wounds?

25 A There were not defensive type wounds. There

1 were also injuries, blunt traumatic injuries on the tops of  
2 the shoulders, some of which indicated very forceful impact  
3 trauma as they had taken on the patterning of the clothing  
4 that was over the tops of the shoulders.

5 Q Did you find any evidence that would support  
6 stomping of Sergeant Sullivan?

7 A When you say stomping, blunt impact trauma is a  
8 broad category that describes injuries which are not sharp  
9 force injuries and are not gunshot injuries.

10 In this case, if you draw your attention and  
11 examine the photo in detail to the right chin and jaw  
12 region, there is a diffused area where the skin has been  
13 scraped away or crushed against the bone. This is more  
14 characteristic of the broad surface impact, and there was a  
15 similar area of impact trauma with a more broad surface or  
16 diffused impact towards the left back of the head.

17 So there were opposite surface injuries to the  
18 front of the jaw and the back of the head that were more  
19 consistent with broad flat impact. Stomping would be one  
20 possibility.

21 May I sit down?

22 Q Certainly. If you are done using the  
23 photographs, Doctor.

24 You testified and made some comments about  
25 broken bones on both the face and the skull area. Would you

1 describe that a little more? What did you find with the  
2 head of Sergeant Sullivan as far as broken bones?

3 A The cranial vault, the round part of the head  
4 had many, many fractures, in excess of 20 separate  
5 fractures. Now, some of those may be fractures that radiate  
6 from one impact site. The top portion of the front of the  
7 skull was cut through and fractured so that it was  
8 essentially lifted off above the brows.

9 There were very extensive fractures of the  
10 inner surfaces of the skull at the base of the skull in the  
11 region that holds the eyes, the orbital sockets or the eye  
12 sockets.

13 There were also fractures to the base of the  
14 skull in the area that cradles the brain above the spinal  
15 cord or above the top of the neck. Virtually all of the  
16 bones in the base of the skull and in the round vault  
17 portion of the skull were fractured.

18 Some of the fractures on the outer surfaces of  
19 the skull had patterning which was duplicative of similar to  
20 that on the outer skull. That is, some of the injuries on  
21 the skull surface were wedge shaped and very sharp  
22 margined. Other injuries had impact edges which were  
23 square or rectangular shape. Again, the importance of that  
24 is that the blows that created the skin injuries were very  
25 forceful to the extent that they created transferred

1 injuries to the skull.

2 The facial bones were virtually all fractured.  
3 The nose, the maxilla or the upper portions of the jaw, the  
4 cheek bones and all of the lower jaw.

5 Q Do you have an opinion as to the relative  
6 amount of force that would be necessary to fracture  
7 different bones in the head, the skull, the cheek bones, the  
8 other bones that you have talked about?

9 A I can't tell you precisely how much force. It  
10 requires less force to fracture some of the more fragile  
11 facial bones than it does the relatively thick skull. But  
12 in general, the magnitude and the numbers of the injuries  
13 indicate extreme force in this case.

14 Q As part of your examination of wounds did you  
15 make a determination as to when those wounds were caused in  
16 relation to time of death?

17 A Yes.

18 Q And in this case, did you make that  
19 determination as to the wounds you have described today?

20 A Again, based upon the gross appearance of the  
21 wounds, they were all very acute injuries. There was red  
22 and purple bleeding into them with no evidence of bruise or  
23 bleeding resolution. So they were all acute and of the same  
24 age.

25 The injuries were of a nature and severity that

1 they damaged vital structures of the brain, and in my  
2 opinion, the survival interval would have been relatively  
3 short. I can't tell you how long, but in terms of minutes  
4 after the injuries were inflicted to the brain.

5 Q But were all of these wounds caused before  
6 death, before cessation of his heart?

7 A Yes.

8 Q You cannot make a statement about whether or  
9 not he was conscious when these wounds were inflicted upon  
10 him, can you?

11 A I cannot.

12 Q Just to make sure for the timing of the wounds  
13 and when they were delivered, do you make your determination  
14 based on blood flow basically?

15 A Relative to your question about when the heart  
16 was beating, all of the wounds had evidence of bleeding into  
17 their margins or into the tissue around them, implying that  
18 there is heart -- or excuse me -- blood still circulating,  
19 that the heart was beating. Beyond that, we may use other  
20 things to date wounds also.

21 Q During the course of the autopsy, did you take  
22 control samples of Sergeant Sullivan's blood?

23 A Yes.

24 Q And are those submitted to the laboratory for  
25 whatever they need to do later on?

1 A Yes.

2 Q Was the death of Sergeant Sullivan natural?

3 A No.

4 Q Was it a suicide?

5 A No.

6 Q Was it an accident?

7 A No.

8 Q That only leaves homicide?

9 A This is a homicide.

10 MR. GAMMICK: Thank you. That is all I have at  
11 this time.

12 THE COURT: Cross-examination?

13 MR. GREGORY: Thank you, Your Honor. May we  
14 have the Court's indulgence?

15 THE COURT: Yes.

16 MR. GREGORY: Thank you, Your Honor. No  
17 questions.

18 THE COURT: Miss Clark, you are excused.

19 THE WITNESS: Thank you.

20 (The witness was excused.)

21 MR. GAMMICK: May I check real quick to see if  
22 my next witness is here?

23 THE COURT: Yes, you may.

24 MR. GAMMICK: Your Honor, we have moved a lot  
25 quicker than anticipated this morning. We have contacted

1 our next witness. She is en route but has not arrived yet.  
2 We'll have them lined up a little better later on today.

3 THE COURT: Ladies and gentlemen of the jury,  
4 we're going to take a short recess so you can stretch your  
5 legs in the jury room. During this recess, remember the  
6 admonition that you have been given at all the breaks.

7 It is your duty not to discuss among yourselves  
8 or with anyone else any matter having to do with this case.  
9 It is your further duty not to form or express any opinion  
10 regarding the guilt or innocence of the defendant until the  
11 case has been finally submitted to you for decision. You  
12 are not to look, read, look at, read or listen to any news  
13 media accounts regarding this case.

14 Should any person attempt to influence you with  
15 regard to it, in any manner, report that attempt to the  
16 bailiff outside the presence of your fellow jurors.

17 Ladies and gentlemen of the jury, please await  
18 us in the jury room.

19 (Whereupon, the following proceedings were held  
20 in open court, outside the presence of the  
jury.)

21 THE COURT: The audience will please be seated.

22 Approximately how long do you think it will  
23 take, Mr. Gammick?

24 MR. GAMMICK: That I do not know, Your Honor.  
25 We normally have our witnesses on about a 15- to 20-minute



1 lead time. I apologize to the Court. We moved a little  
2 quicker. So we'll get her here as soon as I can. I expect  
3 one more witness before lunch and we will have them lined up  
4 better this afternoon.

5 THE COURT: We're going to go ahead and call a  
6 recess now. I'm going to ask that the gallery vacate the  
7 courtroom during the recess.

8 Court is in recess.

9 (Recess taken at 11:19 a.m.)

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RENO, NEVADA, WEDNESDAY, SEPTEMBER 22, 1999, 11:33 A.M.

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(Whereupon, the following proceedings were held in open court, in the presence of the jury.)

THE COURT: Counsel, call your next witness.

MR. GAMMICK: State notes the presence of the jury, Your Honor, and we call Brenda Martinez.

THE COURT: Stipulate to the presence of the jury, counsel?

MR. GREGORY: We would so stipulate.

BRENDA MARTINEZ

called as a witness on behalf of the Plaintiff,

having been first duly sworn,

was examined and testified as follows:

DIRECT EXAMINATION

BY MR. GAMMICK:

Q Would you please state your name and spell your last name?

A Brenda Martinez, M-A-R-T-I-N-E-Z.

Q What is your profession or occupation?

A Right now I'm a student at UNR, and I work at a real estate company. I do advertisement.

Q And do you have a relative who is employed at UNR?

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1 A Yes, my father. He's a custodian.

2 Q How long has he been there?

3 A He's been there for I think two and-a-half  
4 years now, three.

5 Q Let's go back about 21 months, January of 1998.  
6 How would that affect your life, his employment up at UNR?

7 A Well, when I was living at home, I used to pick  
8 up my dad every day at the same time, midnight, from work.

9 Q So you used to pick him up from work. About  
10 what time of the day was that?

11 A 12:00, between 12:00 and 12:10 at night.

12 Q Right after midnight?

13 A Right after midnight.

14 Q What would happen if you weren't there?

15 A He would start walking towards downtown to take  
16 a bus because he would not wait longer than that. If I was  
17 not on time, he would start walking, and I knew that I would  
18 have to go down Virginia Street looking for him.

19 Q So were you pretty prompt about being there at  
20 12:08, 12:10, right in that neighborhood?

21 A Yeah, I was, because I was always checking my  
22 dashboard, and that's the time that I went down to the  
23 parking lot, at 12:08.

24 Q Let me call your attention to the night of  
25 Monday night, Tuesday night, January 12th, January 13th.

1 Did you pick up your dad that night right after midnight?

2 A Yes, I did.

3 Q And --

4 MR. GAMMICK: Your Honor, I believe No. 7, we  
5 can stipulate to admission? It is an aerial photograph of  
6 the university campus.

7 THE COURT: Counsel?

8 MR. GREGORY: We'll submit it, Your Honor.

9 THE COURT: Do you have any doubt about the  
10 authenticity of the document?

11 MR. GREGORY: Do not, Your Honor.

12 THE COURT: Exhibit 7 is admitted.

13 (Plaintiff's Exhibit No. 7 admitted.)

14 MR. GAMMICK: Thank you, Your Honor.

15 BY MR. GAMMICK:

16 Q Let me show you this aerial photograph and ask  
17 if you recognize the area that's depicted there.

18 A Uh-huh.

19 Q What area is that?

20 A It's -- right here is the parking lot.

21 Q Right now I'm just talking about the whole  
22 photograph, what area?

23 A It's UNR.

24 Q And do you know what this big brown structure  
25 is right there?

1 A That's Lawlor Events Center.

2 Q Could I get you to step down here for a minute,  
3 Miss Martinez, please?

4 Now, you said you picked up your father every  
5 morning just after midnight, on this particular night you  
6 did. Would you show the ladies and gentlemen of the jury  
7 the route that you would take to get to where your father  
8 worked?

9 A I would drive up on North Virginia Street, and  
10 I would turn here in this parking lot. There is a new  
11 parking lot built right now, but this is the way it used to  
12 be. I would drive down to the parking lot, go towards the  
13 inside and wait for my dad right in front of the social  
14 studies building, that parking lot right there.

15 Q Okay. And did you follow that route this  
16 particular night?

17 A Yes, I did.

18 Q Once you made your turn right here from  
19 Virginia Street onto what was a parking lot -- is there a  
20 parking garage there right now?

21 A Uh-huh.

22 Q What was a parking lot, did you see something  
23 unusual at that time?

24 A Yes. I saw a dog that caught my attention.  
25 And I also saw a man.

1           Q     If I can back up here just a second. I'd like  
2 to show you what has been marked as 41-A and -B and ask if  
3 you recognize what's in those photographs.

4           A     There is a dog, and he looks familiar to the  
5 one I saw that night.

6           Q     Is there anything about this dog that's  
7 different than the dog you saw that night?

8           A     No. I saw a black and white dog. It was dark,  
9 but I know it was black and white.

10           MR. GAMMICK: Your Honor, I move for 41-A and  
11 -B, please.

12           MR. GREGORY: Again, Your Honor, we'll submit  
13 it to the Court.

14           THE COURT: 41-A and 41-B are admitted.  
15 (Plaintiff's Exhibit Nos. 41-A and 41-B admitted.)

16           MR. GAMMICK: May I publish just real quickly,  
17 Your Honor, walk by with them?

18           THE COURT: You may.

19 BY MR. GAMMICK:

20           Q     Now, you saw this dog in the parking lot? Why  
21 did you notice him?

22           A     Because I like animals, and whenever I saw a  
23 lost dog, I tend to put them in my car and take them to my  
24 house and find out who the owner is. I looked at the dog  
25 and I thought he might have been lost, but then I looked

1 farther and I saw the man. And then I thought to myself,  
2 maybe he belongs to him, but he was walking up farther than  
3 the dog.

4 Q Would you please show where you saw the man and  
5 where he was walking to when you saw him this time?

6 A Okay. As I was coming down this parking lot,  
7 he was coming out towards Virginia Street. So we kind of  
8 crossed. As I went down, he walked up.

9 Q Did you get a good look at this man?

10 A Yes, I did. I made eye contact, and I got  
11 scared, locked my doors and kept on going.

12 Q Why did you get scared?

13 A He was walking kind of funny and also his  
14 appearance. He was wearing a beanie cap, he had long hair,  
15 a full face beard, long coat and baggy pants. So just the  
16 look of him and the way he was walking make me scared.

17 Q Do you mind standing here with me for just a  
18 minute? We need to show something else here in a minute.

19 Did you pick up your dad that morning?

20 A Yes, I did.

21 Q Did you leave the campus with your dad?

22 A Uh-huh.

23 Q Would you show the ladies and gentlemen of the  
24 jury the route you took leaving the campus?

25 A I took the exact same route that I used to come

1 in. I went out the parking lot, towards Virginia Street, I  
2 drove south on North Virginia Street, towards my house.

3 Q Did you see this man again?

4 A Yes, I did.

5 Q Where did you see him?

6 A I had mentioned the man and the dog to my dad,  
7 and as I was driving down passing the bridge that unites the  
8 dormitories with the campus, I said, Look, there's the dog  
9 again. He was walking right underneath the bridge, and then  
10 I said, Look, there's the man again, too. And he was in  
11 this little parking lot right here, the student union  
12 parking lot.

13 Q Do you know where the lake is on campus?

14 A Yes.

15 Q Where was he the second time with respect to  
16 the lake?

17 A He was walking towards the lake.

18 Q And there's a couple of dots. Did you put  
19 these dots on here at another time?

20 A Yes, I did.

21 Q And this top dot, the ones up here in the  
22 parking lot, is that the area where you originally saw the  
23 dog and the man?

24 A Uh-huh.

25 Q And then the other dot that is just above the



1 lake here, is that the dot for where you saw the man again,  
2 the second time?

3 A Yes.

4 Q And he was walking toward the lake area?

5 A Yes, he was going towards the inside of the  
6 campus towards the lake.

7 Q Did you ever see that man again?

8 A No.

9 Q Would you go ahead and have a seat, please.  
10 Did there come a time when you met with police  
11 over what you had seen that morning?

12 A Uh-huh.

13 Q You have to answer yes or no, please.

14 A Yes.

15 Q Miss Martinez, when you met with the police,  
16 did they have you do something for them?

17 A Yes. They had me do a composite, a comparison  
18 composite drawing of the person I saw that night.

19 Q Did you do a drawing of the person you saw that  
20 night?

21 A Yes.

22 Q And did it look like the person who you saw  
23 both in the parking lot and later on down by the lake?

24 A Yes, it did. The only exception was the color  
25 of the skin on the drawing, I couldn't get an exact

1 description of the man I saw.

2 Q Let me show you what's been marked as No. 6 and  
3 ask if you recognize that item.

4 A Uh-huh. Yes, I do.

5 Q Is that true and accurate of what you did that  
6 night?

7 A Yes, it is.

8 MR. GAMMICK: Move for 6, Your Honor.

9 THE COURT: Counsel?

10 MR. GREGORY: Again, submitted Your Honor.

11 THE COURT: Exhibit 6 is admitted.

12 (Plaintiff's Exhibit No. 6 admitted.)

13 MR. GAMMICK: May I publish quickly?

14 THE COURT: You may.

15 BY MR. GAMMICK:

16 Q Did you get an opportunity to see the man again  
17 down by the lake besides just the general appearance -- let  
18 me put it this way. Did you get a chance to see his face  
19 again?

20 A I saw the side of him. I did not see his face,  
21 but I saw the side, and I knew it was the same man.

22 Q Are you able to identify anyone in this  
23 courtroom as being the man you saw that night?

24 A Yes.

25 Q Would you please indicate where that person is

1 at and what he's wearing today?

2 A He's wearing a blue, I guess, jacket. Is that  
3 how you call it?

4 Q Would you please point to where you are  
5 talking?

6 A Yes, right there.

7 Q The middle man?

8 A The middle man.

9 MR. GAMMICK: May the record reflect the  
10 identification of the defendant Vanisi, Your Honor?

11 THE COURT: The record will so reflect.

12 MR. GAMMICK: That's all the questions I have  
13 at this time. Thank you, Miss Martinez.

14 THE COURT: Cross-examination?

15 MR. GREGORY: Court's indulgence.

16 THE COURT: Yes.

17 MR. GREGORY: Thank you.

18 THE COURT: You are welcome to move the podium  
19 anywhere you want it.

20 MR. GREGORY: Thank you. It might be more  
21 convenient over there.

22 MR. GREGORY: Again, Court's indulgence.

23 THE COURT: Yes.

24

25

**CROSS-EXAMINATION**

BY MR. GREGORY:

Q Ms. Martinez, you remember testifying in this courtroom in January; do you not?

A Yes, I do.

Q And you were asked very much the same questions that Mr. Gammick asked you at that time?

A Yes.

Q When you first saw this individual in the parking lot, who was in the car with you?

A My mom and my dog. But my mom was asleep.

Q Was your mom sitting next to you, ma'am?

A She was sitting next to me.

Q Your dog was in the back seat?

A He was in the back.

Q And you were driving; is that correct?

A I was driving.

Q Approximately how much time elapsed? You say you saw the dog do by. Approximately how much time elapsed from the time you saw this person and you got scared until you continue driving away?

A I would say 10 minutes; 10, 15.

Q Well, then I misunderstand. You stopped; is that what you are saying?

A I stopped to pick up my dad, yes.

1 Q Okay. And you were stopped in the parking lot?

2 A Uh-huh.

3 Q You saw Doobie; correct?

4 A I saw, uh-huh, the dog.

5 Q The dog as shown in the photographs?

6 A Uh-huh.

7 Q You already identified the dog. You saw the  
8 dog, and then you saw this individual; is that correct?

9 A I saw the dog and I saw the man. I parked  
10 where I usually park to pick up my dad. I waited a few  
11 minutes.

12 Q Let me stop you there. That is where I'm  
13 confused. So you were driving when you saw the dog that's  
14 depicted in the photographs?

15 A Yes.

16 Q And you were also driving when you saw the man?

17 A Yes.

18 Q Then you stopped, waited for your father for  
19 approximately 10 minutes?

20 A No, it was less than that. I misunderstood  
21 your question at the beginning. Sorry.

22 Q But you stopped?

23 A I stopped.

24 Q Waited for your father, got uncomfortable, and  
25 then moved your car; is that correct, or did I

1 misunderstand?

2 A You misunderstood. I parked the car, waited  
3 for my dad, he got in the car, and I told him what I saw,  
4 that it was strange, that night.

5 Q All right. And then subsequent to that, as you  
6 and your father and your mother and your dog are driving  
7 away, you see this individual again?

8 A Uh-huh.

9 Q Now, you indicated that this individual -- what  
10 were the lighting conditions like? Let me ask you that,  
11 Miss Martinez.

12 A Virginia Street has a lot of lights. So it was  
13 pretty much lighted.

14 Q You indicated that this individual was stooped  
15 over or walking funny, as you said?

16 A Yeah. He was walking slanted kind of as if he  
17 was maybe drunk.

18 Q Could you, with the Court's permission, could  
19 you show us what you mean by walking slanted?

20 A Yes.

21 THE COURT: You may do so. Why don't you go on  
22 down.

23 THE WITNESS: He was walking like this, and  
24 then he looked, and then he kept going, with his arms.  
25

1 BY MR. GREGORY:

2 Q Ma'am, if I might, if you just stay right  
3 there. You were showing a gait that was a fairly open gait  
4 as he walked. Is that what you are talking about when you  
5 say slanted?

6 A I don't know what gaited means.

7 Q His walking style.

8 A He was funny. He was kind of like when you get  
9 drunk, or you are sleepy and you're walking nowhere.

10 Q I'm not trying to embarrass you, but show us,  
11 your best acting ability, if you can, Miss Martinez, show us  
12 the best you can for this jury how this person was walking.

13 A Okay.

14 Q Duplicate it, if you can.

15 A He has his arms like this, big jacket, and he  
16 went like this. He looked at me and he kept on walking.

17 Q So his head is kind of swinging, he's not  
18 staggering, but kind of meandering; is that fair to say?

19 A Maybe his body but not his head.

20 Q I see. Thank you, ma'am.

21 And you indicated how he was dressed?

22 A Yes. He was wearing a long jacket and baggy  
23 pants. He had a beanie cap on. He had a full face beard,  
24 long bushy hair.

25 Q Let me stop you there. You say the pants were

1 baggy. How long was the coat, ma'am?

2 A Probably down to here.

3 Q Thigh length, is that fair to say?

4 A Yeah. That's close enough.

5 Q Baggy pants. Had a beanie kind of cap and hair  
6 hanging down?

7 A Coming out of his beanie cap.

8 Q Coming out of the sides?

9 A Uh-huh.

10 Q How far down?

11 A Maybe five or six inches.

12 MR. GREGORY: May the record reflect she's  
13 pointed to her collar bone, Your Honor?

14 THE COURT: Yes, the record can so reflect.

15 MR. GREGORY: Thank you.

16 BY MR. GREGORY:

17 Q Miss Martinez, I'm going to ask you to estimate  
18 approximately how much time, and just try to think back to  
19 the event in your own mind, how much time elapsed from the  
20 time, the total time that you saw this man. Maybe count to  
21 yourself.

22 A The minutes, you mean?

23 Q Were there minutes? Did you see him for  
24 minutes?

25 A I don't really understand your question. Can



1 you rephrase that?

2 Q I'm a little unclear on how much time you  
3 actually viewed him. Maybe you could tell us.

4 A Well, when I was coming down the parking lot,  
5 it must have been probably two minutes as I was coming down,  
6 and when I saw him again, let's say another two or three,  
7 because I saw him as I was driving down.

8 Q Again, you remember testifying in January, do  
9 you not?

10 A Yes, I do.

11 Q But at that time, you didn't identify anybody  
12 in this courtroom as being that man, did you?

13 A They did not ask me.

14 Q The person you identified in the courtroom is  
15 not dressed in the same manner as the person you saw that  
16 day, is he?

17 A No, he's not.

18 Q He doesn't have the long hair, partially  
19 covering the face, the beard, that sort of thing?

20 A No, he's not.

21 MR. GREGORY: Court's indulgence.

22 THE COURT: Yes.

23 MR. GREGORY: Thank you, Your Honor. No  
24 further questions.

25 THE COURT: Redirect?

1 MR. GAMMICK: No, I have no further questions.  
2 Thank you, Miss Martinez.

3 THE COURT: You may step down. You are  
4 excused.

5 (The witness was excused.)

6 THE COURT: Do you want to take the lunch  
7 recess now, gentlemen? Is this a good time?

8 MR. STANTON: We have our next witness, but  
9 it's right on the cusp of the noon hour. It is up to the  
10 Court.

11 THE COURT: It's whatever you want to do. If  
12 you think you can get through direct and want to go for it,  
13 that's fine, or we can wait till after lunch.

14 MR. STANTON: We won't get through direct with  
15 the next witness, Your Honor, before 12:00.

16 THE COURT: Ladies and gentlemen of the jury,  
17 we'll go ahead and let you go to lunch now. During this  
18 lunch recess, remember to leave everything, your notes in  
19 the jury room. Do not take them outside the courthouse.

20 Also during this lunch recess, I'm going to  
21 give you the admonition. We'll be back on the record at  
22 1:30 this afternoon.

23 It is your duty not to discuss the case among  
24 yourselves or with anyone else. It is your further duty not  
25 to form or express any opinion regarding the guilt or

1 innocence of the defendant until the matter is finally  
2 submitted to you for decision.

3 You are not to read, look at or listen to any  
4 news media accounts regarding this case, and should any  
5 person attempt to influence you in any manner or attempt to  
6 speak with you about it, you are to report that incident to  
7 the bailiff as soon as you return to the courthouse.

8 Counsel, ladies and gentlemen of the jury,  
9 we're in recess.

10 (Recess taken at 11:56 a.m.)

11  
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RENO, NEVADA, WEDNESDAY, SEPTEMBER 22, 1999, 1:35 P.M.

-o0o-

(Whereupon, the following proceedings were held in open court, in the presence of the jury.)

THE COURT: Counsel stipulate to the presence of the jury?

MR. GAMMICK: Yes, Your Honor.

MR. GREGORY: The defense will so stipulate, Your Honor.

THE COURT: You may proceed.

MR. GAMMICK: Call officer Carl Smith, please.

(Witness sworn.)

CARL SMITH

called as a witness on behalf of the Plaintiff,

having been first duly sworn,

was examined and testified as follows:

THE CLERK: Thank you. Please be seated at the witness stand.

DIRECT EXAMINATION

BY MR. GAMMICK:

Q Would you please state your name and spell your last name, sir.

A Carl Smith, S-M-I-T-H.

Q What's your profession or occupation?

SIERRA NEVADA REPORTERS (702) 329-6560

1 A Police officer for the University of Nevada,  
2 Reno.

3 Q How long have you been a police officer?

4 A 14 years.

5 Q How long have you been at the University of  
6 Nevada, Reno?

7 A I've been a police officer for a little over  
8 15, but at UNR for 14.

9 Q Did you retire within the last period of time?

10 A I retired a year ago, yes, sir.

11 Q And have you returned to duty since?

12 A Yes, I have.

13 Q Prior to being a police officer, what were you?

14 A I was a Navy lieutenant commander and retired  
15 from the Navy.

16 Q Did you have a specialty while you were in the  
17 Navy?

18 A I did.

19 Q What was that?

20 A I was an engineer, chief engineer, as a matter  
21 of fact.

22 Q Did you know George Sullivan?

23 A Yes, I did.

24 Q How did you know him?

25 A Rather well.

1           Q     What relationship did you have with George  
2     Sullivan?

3           A     When I first got hired with the University of  
4     Nevada, Reno, he was my training officer. He was also my  
5     shift sergeant or supervisor. Better than 50 percent of the  
6     time I worked at the University of Nevada, Reno was on his  
7     shift underneath his supervision.

8           Q     Let me call your attention to January of 1998,  
9     specifically Monday, January 12th, Tuesday, January 13th,  
10    that night. Were you on duty with Sergeant Sullivan that  
11    night?

12          A     Yes, sir, we were.

13          Q     How many people were on duty that night as  
14    police officers at the university?

15          A     Two of us, Sergeant Sullivan and myself.

16          Q     Let me show you photograph No. 9. Is that  
17    Sergeant Sullivan?

18          A     That's Sergeant Sullivan.

19          Q     What does Union 129 mean?

20          A     That was my call sign that night.

21          Q     For? What's the purpose of it? What do you  
22    use it for?

23          A     It's our identifier so that if we get  
24    dispatched to a call, they call us that way and dispatch us.

25          Q     So dispatch won't call Officer Smith, they'll

1 call Union 129?

2 A Yes, sir.

3 Q And Union 130?

4 A That was Sergeant Sullivan's call sign.

5 Q Those were the call signs you were using that  
6 night?

7 A Yes, sir, it was.

8 Q Let me call your attention to 0017. Is that 17  
9 minutes after midnight?

10 A It is.

11 Q And at that time, did Sergeant Sullivan become  
12 involved in an activity?

13 A Yes, sir, he did.

14 Q What was that?

15 A He made a traffic stop at Ninth and Center. On  
16 Center Street, actually.

17 MR. GAMMICK: Your Honor, at this time, No. 8  
18 is what we've talked about. It's a map of the area of north  
19 Reno and the university. I'm going to move for its  
20 admittance.

21 THE COURT: Counsel, have you seen that?

22 MR. GREGORY: We'll submit it.

23 THE COURT: Exhibit 8 is admitted.

24 (Plaintiff's Exhibit No. 8 was admitted.)

25 / / /

1 BY MR. GAMMICK:

2 Q Can you see Exhibit 8, first of all?

3 A Yes, I can.

4 Q Do you recognize this area?

5 A Yes.

6 Q And north Reno, the university?

7 A Right.

8 Q And then Exhibit 9?

9 A Yes, sir.

10 Q And what's that of, primarily?

11 A That's primarily of the University of Nevada,

12 Reno.

13 Q And overhead photograph?

14 A It is an overhead photograph.

15 Q And it doesn't -- in comparing the two, is this

16 one a much smaller area depicted on the photograph than

17 there is on the map?

18 A Oh, yes, sir.

19 Q Now, you mentioned that Sergeant Sullivan made

20 a stop in the area of Ninth and Center.

21 A Yes, sir.

22 Q Did you previously testify when some red dots

23 were affixed, or at least a red dot was affixed to this

24 photograph?

25 A Yes, sir.



1 Q I'll point to this one here. Is that the area  
2 you're talking about?

3 A That's exactly it. That's the correct spot  
4 there.

5 Q In fact, you placed this dot on here  
6 previously, didn't you?

7 A Yes, sir.

8 Q What was your role in this, in the stop?

9 A Normally whenever we make a stop, any officer  
10 makes a stop, one of the officers goes as a backup unit,  
11 irregardless of the circumstances, as a precautionary  
12 measure for officer safety.

13 Q Is that also called a cover unit?

14 A Yes, it is.

15 Q Were you dispatched or did you start responding  
16 to the area of Sergeant Sullivan to cover him?

17 A I was not dispatched. I just immediately  
18 started responding. He did put out a code 4 before I got  
19 there.

20 Q So you can hear his communications with  
21 dispatch over the radio?

22 A Yes, sir, I can.

23 Q And you said he put out a code 4. What does  
24 that mean?

25 A It means, I'm okay.

1 Q Did you go ahead and respond to the area of  
2 Ninth and Center?

3 A Yes, sir, I did.

4 Q And prior to arriving where Sergeant Sullivan  
5 was actually at, did you see anybody?

6 A Yes, sir, I did.

7 Q How many people did you see in that immediate  
8 area?

9 A Well, there were several people up the street  
10 from the Beer Barrel, but down toward the area where  
11 Sergeant Sullivan was, just one person.

12 Q And did that person catch your attention?

13 A Yes, sir, he did.

14 Q Describe that, please.

15 A He looked dark-skinned. He had dreadlocks.

16 Q Let me back up. What I'm asking right now is  
17 why did he catch your attention?

18 A Because the person, as I drove by, took a few  
19 steps further up the street toward the corner, turned, and  
20 at the same time, because it is at the intersection of Ninth  
21 and Center, a car stopped. There's a stop sign there. I  
22 slowed down to stop. There was a car immediately in front  
23 of me. I stopped and looked to my right down toward the  
24 area where Sergeant Sullivan had made his stop. And this  
25 individual gave me a glaring stare like, Let's fight. It's

1 something you see occasionally.

2 Q Did you have the opportunity to see him full  
3 face, face on?

4 A Yes, sir, I did.

5 Q And about how long did you look at his face?

6 A Three, may be four seconds.

7 Q Now, you started describing what he looked  
8 like. Would you please go ahead and do that.

9 A Yes, sir. He had dreadlocks. Dark skin. He  
10 had on a dark jacket. At the time it appeared to me to be  
11 leather, but I was far enough away so I couldn't be sure  
12 without actually touching it. Dark enough so you can't be  
13 sure unless you're right there touching it. It appeared to  
14 be leather, had bulky sleeves, three-quarter length,  
15 reminiscent of the types of coats that one would wear in the  
16 '60s.

17 Q And you said dreadlocks. What does that mean?

18 A It was like corn rows that hung down. For lack  
19 of a better word, I would say people that are involved in a  
20 reggae type lifestyle wear those kinds of hairdos.

21 Q Let me show you Exhibit No. 6 that's been  
22 admitted into evidence and ask if that looks like the  
23 individual you saw.

24 A Yes, but the hair was more dreadlocked. It  
25 appeared to be more dreadlocked than that. And I don't

1 remember a cap.

2 Q Braided?

3 A Braided.

4 Q Is that dreadlock?

5 A Right.

6 Q And that person you saw right here in the same  
7 area as the red dot that we talked about?

8 A Yes, sir, I did.

9 Q Now, you mentioned Sergeant Sullivan's vehicle.  
10 Where was he at?

11 A Sergeant Sullivan was 60, 65 feet from the  
12 curb, if you took the X of the curb at Ninth and Center,  
13 went down, maybe a little further than that, 65, 100 feet,  
14 maybe. I don't know. I didn't measure it exactly.

15 He was out of the car. I looked over toward  
16 that area. You could plainly see his headlights. There's  
17 no building there, from the angle you have there, so you can  
18 plainly see what's going on.

19 Q So you were between him and the university?

20 A Yes, sir.

21 Q And which direction was his car facing?

22 A His car was facing the southbound direction, on  
23 Center Street.

24 Q So you were looking at the back or the front of  
25 his car from where you were at?

1 A The back end.

2 Q Did he have any extra lighting on besides  
3 normal taillights?

4 A Yes, he had his overhead lights on.

5 Q What lights are those, reds and blues?

6 A Reds, blues.

7 Q Any flashing lights you have on your cars?

8 A They do flash, the red and blue.

9 Q That was a marked police vehicle?

10 A Yes, sir, it was.

11 Q I want you to look at item 11, please. See if  
12 you recognize --

13 A This certainly appears to be a jacket that  
14 looks exactly like the one that, similar in shape and style  
15 to the one that the individual had on.

16 Q Do you see that person in this courtroom today?

17 A I do.

18 Q Would you please indicate where he's seated,  
19 what he's wearing today.

20 A Seated between the two gentlemen to my right  
21 wearing a navy blue coat, tan pants, looks like navy blue  
22 socks. Black shoes. Tie. White shirt.

23 MR. GAMMICK: May the record reflect the  
24 identification of the defendant Vanisi, Your Honor?

25 THE COURT: The record will so reflect.

1 BY MR. GAMMICK:

2 Q Is his appearance different today than it was  
3 that night?

4 A Oh, yes, sir, considerably.

5 Q Except for the hat and maybe a little curlier  
6 hair, he looked like this on that particular night?

7 A Yes, sir.

8 Q What did you do after you saw this individual?

9 A Drove up and stopped behind Sergeant Sullivan's  
10 car.

11 Q And that was your original mission, so to  
12 speak, was to cover him there on his stop?

13 A That is a matter of most importance in public  
14 safety, yes, sir.

15 Q Was he still out with other people at the time  
16 that you arrived there?

17 A He was.

18 Q Anything unusual occur during that stop?

19 A Yes, sir. The driver of the vehicle, as I  
20 recall, it was a Jeep, and the individual's name, I believe  
21 it was Wood, was out talking with Sergeant Sullivan. They  
22 were on like a dirt area.

23 He was acting kind of funny. One of the  
24 strange things about it, and it was in January, and  
25 Christmas had been well passed, and he had on like Santa

1 Claus boots and kind of like trousers like Santa Claus. And  
2 he was looking for an address that clearly wasn't in that  
3 area. And he was saying that it was a house for sale.

4 MR. GREGORY: I'll object to what he was  
5 saying, Your Honor.

6 THE COURT: Sustained.

7 MR. GAMMICK: That's fine.

8 BY MR. GAMMICK:

9 Q Let me ask this way: Any altercations,  
10 disturbances, arrests, anything made as a result of that  
11 stop?

12 A No, sir, other than arousing my suspicion.

13 MR. GREGORY: I'm going to object as  
14 nonresponsive. He answered the question: No, sir.

15 MR. GAMMICK: I believe he was in the middle of  
16 finishing his answer, Your Honor.

17 THE COURT: Let me -- the objection is  
18 nonresponsive.

19 MR. GREGORY: Yes, Your Honor. If I might  
20 clarify. He responded and then wants to expand on it. I'm  
21 going to object to that.

22 MR. GAMMICK: I'll move on.

23 THE COURT: Move on.

24 MR. GAMMICK: Yes, no problem.

25 / / /

1 BY MR. GAMMICK:

2 Q You worked with Sergeant Sullivan for 14 years,  
3 13 years?

4 A Yes, sir.

5 Q And did you become pretty familiar with his  
6 habits and how he did his police duties and his work?

7 A Intimately familiar.

8 Q Let me show you what's been marked as Exhibit  
9 No. 12 and ask if you recognize that item.

10 A Yeah, I recognize it.

11 Q What is that, sir?

12 A Sergeant Sullivan's personal notebook when we  
13 would make stops. Frequently to speed them up, he would  
14 take personal name and information down, and then later --

15 MR. GREGORY: I'm going to object, Your Honor.  
16 I'd ask the witness to respond directly to the question  
17 asked by the prosecutor.

18 MR. GAMMICK: I'll let the Court rule. I have  
19 no response to that, Your Honor.

20 THE COURT: The question asked him, what is  
21 Exhibit 12 and whether or not he recognized it. It appears  
22 to me he's answering how he might have recognized that. The  
23 objection is overruled.

24 MR. GAMMICK: Thank you, Your Honor.

25 / / /



1 BY MR. GAMMICK:

2 Q Officer Smith, I'm going to ask you to look at  
3 these two pages that I'm pointing out to you. Do they seem  
4 to be stuck together?

5 A They are stuck together.

6 Q And you've seen this notebook previously?

7 A Right. There should be a rubber band there.

8 Q Would you please look between those two pages.  
9 Does it appear to still be there or at least what's left of  
10 it?

11 A Yes, sir, it is.

12 Q Could you pull those pages apart, please. Is  
13 there an entry made on that page?

14 A Yes, sir, there is.

15 Q What does that entry involve?

16 A It's Mr. Woods' personal data for  
17 transformation to a standard field interview card that the  
18 department has.

19 Q Field interview card. Is that a document kept  
20 by the university?

21 A Yes, sir, it is.

22 Q And it has information on it?

23 A Yes, sir. It records who he made contact with  
24 and where and what were the circumstances and the  
25 disposition, if there is one.

1 Q So did Sergeant Sullivan make notes in his  
2 notebook and then later on put it on a field interview card?

3 A Yes, sir, he would.

4 MR. GAMMICK: I'm going to move for 12, Your  
5 Honor.

6 MR. GREGORY: We'll submit it, Your Honor.

7 THE COURT: Exhibit 12 is admitted.

8 (Plaintiff's Exhibit No. 12 was admitted.)

9 BY MR. GAMMICK:

10 Q When would Sergeant Sullivan make entries in  
11 his notebook?

12 A As soon as he could in an area where it was  
13 slow and/or relatively no one around.

14 Q For entries into his notebook?

15 A Oh, into his notebook?

16 Q Yes, sir.

17 A No, sir. Immediately at the scene of the stop,  
18 the minute he was taking the information down.

19 Q Do you recognize that handwriting on the  
20 information --

21 A That was Sergeant Sullivan's handwriting.

22 Q I already asked you if the stop was completed  
23 without arrest or any kind of problems. Did the Woodses go  
24 along about their business?

25 A Yes, sir, they did.

1 Q Where did Sergeant Sullivan go?

2 A Sergeant Sullivan drove up to the university  
3 and disappeared behind a little knoll at the kiosk and went  
4 up there for a specific reason.

5 Q You testified he was on Center Street facing  
6 southbound with his car, so toward Reno?

7 A Yes, sir.

8 Q Then how did he get up on where you're talking  
9 about at the university?

10 A He made a U-turn.

11 Q And then where does Center Street go on the  
12 university?

13 A It goes straight into the university, straight  
14 up to the kiosk.

15 Q Is that on top of any kind of topographical  
16 feature?

17 A Yes, sir.

18 Q A hill?

19 A A hill.

20 Q And the last you saw Sergeant Sullivan at that  
21 time, he was headed up to the kiosk?

22 A Yes, sir.

23 Q What was that area like up there?

24 A It's an area that's fairly well lighted at that  
25 particular time of day. Almost no traffic or no traffic at

1 all. A quiet area.

2 Q Was school out at this time?

3 A Yes, sir.

4 Q And have you used the area of the kiosk at  
5 night?

6 A A lot.

7 Q For what purpose?

8 A The purpose of going up, writing reports,  
9 recording information. Doing routine administrative details  
10 that we're tasked with from time to time.

11 Q To your knowledge, is that the same reason that  
12 Sergeant Sullivan would go up there?

13 A That was one of the reasons that particular  
14 night, yes, sir.

15 Q And would you please indicate on No. 8 where  
16 you're talking about, where the kiosk was located. Are you  
17 looking for Center Street?

18 MR. GREGORY: I'm going to object to  
19 Mr. Gammick helping the witness out, Your Honor. He's  
20 leading by demonstration.

21 THE COURT: Well, the objection as to leading  
22 is sustained.

23 THE WITNESS: The Center Street runs this way,  
24 dead-ends into the university to the right of Manzanita  
25 Lake, and it runs actually past Manzanita. There's some

1 fence across here that disappears right here. The kiosk is  
2 right up here.

3 BY MR. GAMMICK:

4 Q Is that in the area where that red dot is?

5 A It is.

6 Q What did you do after Sergeant Sullivan did the  
7 U-turn and left?

8 A I went over to the parking lot, which is  
9 directly below this area, and it is right adjacent to the  
10 area where we made the traffic stop. Stopped in the parking  
11 lot with my car facing toward the university. I got out of  
12 the car and was out for maybe 20 minutes. And the reason we  
13 did that is because --

14 MR. GREGORY: I'm going to object, Your Honor.  
15 He's going way beyond the scope of the question.

16 THE COURT: Sustained, the reason.

17 BY MR. GAMMICK:

18 Q Why did you do that?

19 A The reason we did that is because we felt like  
20 the information that Mr. Woods gave us may not have been  
21 entirely correct and he may have been coming back to pick  
22 someone up that may have been doing burglaries in the area.

23 Q While you were sitting there for 20 minutes,  
24 did you look for this subject again?

25 A I looked all around the area and saw no one in

1 that area.

2 Q Did you ever see him again?

3 A No, sir, I did not.

4 Q After you were there for 20 minutes or so, what  
5 did you do next?

6 A Got in the car, drove down and drove over  
7 behind a Church of Fine Arts and started calibrating a radar  
8 gun to go back out to Virginia Street and start running  
9 radar.

10 Q Church of Fine Arts. Is that in another  
11 location or another area on the campus?

12 A Yes, sir. It's about, between a quarter and a  
13 half a mile away from Center Street.

14 Q I call your attention to just right before 1:00  
15 in the morning. Were you dispatched to the area of the  
16 kiosk or did you hear any information that made you go that  
17 way?

18 A Yes, sir, I did.

19 Q What happened?

20 A I was dispatched to the kiosk first on a  
21 trouble-unknown call. And as I had started heading out for  
22 Virginia Street, I left behind the Church of Fine Arts  
23 immediately, headed down Virginia Street toward there. I  
24 heard a voice on the radio that wasn't real clear about what  
25 was going on, but I could tell that it did not sound like a

1 police person, a trained police officer on the radio.

2 That person was more or less cut off and the  
3 dispatcher said, Union 129 or 136, respond to the kiosk,  
4 officer down.

5 Q And did you respond to the kiosk?

6 A Yes, I did.

7 Q What did you find when you got there?

8 A As I drove up, I saw a young man bent over  
9 Sergeant Sullivan.

10 Q Do you know that young man's name?

11 A Yes, sir. I ordered him off of him at gunpoint  
12 and Union 136 arrived about that time, took him to the side.  
13 I recognized him as a guy that I know as Drew that I had  
14 contact with a year or two before, pranks at White Pine Hall  
15 I believe was the call.

16 Q When you arrived at the scene, was Sergeant  
17 Sullivan in the area of his vehicle?

18 A Yes, he was. He was laying several feet away  
19 from the vehicle prone on the ground face up.

20 Q I want to show you Exhibit 17-A and ask you if  
21 you recognize that photograph.

22 A Yes.

23 Q Is it a true and accurate depiction of what you  
24 found that night?

25 A It is exactly.

1 MR. GAMMICK: Your Honor, I move for 17-A.

2 THE COURT: Counsel?

3 MR. GREGORY: Again, we would submit it.

4 THE COURT: 17-A is admitted.

5 (Plaintiff's Exhibit No. 17 was admitted.)

6 MR. GAMMICK: May I publish it?

7 THE COURT: You may.

8 BY MR. GAMMICK:

9 Q Were you able to recognize Sergeant Sullivan?

10 A Yes, I was.

11 Q At the time, did you notice whether or not any  
12 items were missing?

13 A Yes, sir, I did.

14 Q What?

15 A His gun belt was missing with most of the  
16 equipment on the gun belt.

17 Q Let me show you photographs 10-A and 10-B and  
18 ask if you recognize those items.

19 A Yes, both of them. Sergeant Sullivan was more  
20 or less --

21 MR. GREGORY: I'm going to object.

22 THE COURT: Sustained.

23 MR. GREGORY: The question was whether or  
24 not --

25 THE COURT: I sustained it.



1 MR. GREGORY: Thank you.

2 BY MR. GAMMICK:

3 Q Do you recognize the photographs?

4 A Yes, I do.

5 Q Are those true and accurate --

6 A Yes.

7 Q -- of what they depict?

8 A They are.

9 MR. GAMMICK: Move for those two items to be  
10 admitted, Your Honor.

11 MR. GREGORY: Again, we would submit it.

12 THE COURT: Admitted.

13 (Plaintiff's Exhibit No. 10-A, 10-B admitted.)

14 BY MR. GAMMICK:

15 Q What do those photographs depict?

16 A The photographs depict Sergeant Sullivan's  
17 radio, his flashlight, his cuff case, radio holder, his  
18 keys, the holster and his magazine carriers.

19 Q You say Sergeant Sullivan's items. How do you  
20 know that?

21 A One of the ways I know is Sergeant Sullivan, as  
22 the radio officer, encouraged and put his name on  
23 everything. He encouraged everybody to do it.

24 Q I want to show you an item that is removed from  
25 evidence, item 16, and ask if you recognize what I've just

1 handed you.

2 A Yes, I do. It's Sergeant Sullivan's gun belt  
3 and keys. The key here, there's only three people in the  
4 department that's got 'em. And I know this is his. It has  
5 his name.

6 Q I'd also like to show you what's been marked as  
7 16-A and ask if you recognize that item.

8 A Yes, I do. It has Sergeant Sullivan's name on  
9 the back of it.

10 Q What is that item?

11 A This is his radio.

12 Q And the same for item 16-B, please.

13 A I absolutely identify this, because Sergeant  
14 Sullivan and I engraved our names on the flashlights at the  
15 same time, the same night.

16 MR. GAMMICK: Your Honor, I move for 16, 16-A,  
17 16-B, please.

18 MR. GREGORY: Thank you. Again, we would  
19 submit it.

20 THE COURT: 16, 16-A and 16-B are admitted.

21 (Plaintiff's Exhibit No. 16, 16-A and 16-B  
22 admitted.)

23 BY MR. GAMMICK:

24 Q Let me show you what's been marked as 15-A and  
25 ask if you recognize that.

1           A     This appears to be Sergeant Sullivan's Glock,  
2     personal weapon, model 2135.

3           Q     Where did he carry this weapon when he was on  
4     duty?

5           A     In his holster.

6           Q     In visible site?

7           A     Yes.

8           Q     When you found him that night laying there next  
9     to his car --

10          A     Gun belt, holster, gun, everything was gone,  
11     with the exception of what was laying on the ground,  
12     nightstick, pepper gas.

13          Q     Let me show you item 14, I believe 14 and 14-A.  
14     Or 14-A and 14-B. I ask if you recognize those items.

15          A     These are Sergeant Sullivan's glasses, and this  
16     appears to be the lens that goes on the other side.

17          Q     Again I'll show you 17-A. Are those in that  
18     photograph?

19          A     Yes, sir, they are. They're laying here  
20     adjacent to the pepper gas can.

21                 MR. GAMMICK: Move for 14-A and B, Your Honor.

22                 MR. GREGORY: We would submit it, Your Honor.

23                 THE COURT: 14-A and 14-B are admitted.

24                 (Plaintiff's Exhibit Nos. 14-A and 14-B  
25     admitted.)

1 BY MR. GAMMICK:

2 Q You've been on the UNR campus 14 years now?

3 A Yes, sir.

4 Q And are you familiar with what is known as Orr  
5 Ditch on the east side of the campus?

6 A I am.

7 Q What role does that play in use by students?

8 A The students frequently go across the  
9 university and have to walk down in a park by the Orr Ditch  
10 away from the university. Frequently walk along a path that  
11 goes out there.

12 Q Let me show you what's been marked as Exhibit  
13 No. 7, which is a photograph of the campus, and ask if you  
14 can point out the Orr Ditch. You need to do it so the  
15 ladies and gentlemen of the jury can see it. In fact, step  
16 down here with me, if you would.

17 A The Orr Ditch comes up here, right about here,  
18 goes underground.

19 Q Could I get you to step aside so all the jurors  
20 can see it.

21 A Right here. Goes underground and comes up  
22 again over in here and runs -- I believe the railroad tracks  
23 run down like this and the Orr Ditch actually runs down like  
24 this.

25 Q Is there a trail or path that follows the Orr

1 Ditch?

2 A Well, there is. Where it comes across at Ninth  
3 and Evans Street, where it makes the wide shaped curve  
4 there, there's the parking lot, what we call the upper  
5 registry parking lot. It has a fence around it. This fence  
6 comes like this. And there's a gap between this fence  
7 that's left where students can walk in and out of there, and  
8 they park their car on the other side of the railroad  
9 tracks.

10 THE COURT: The jury can't see when the witness  
11 comes in front of the -- just step back, please. The people  
12 to your left can't see. Can everyone see now? Do you still  
13 need him to take one more step back? Okay.

14 BY MR. GAMMICK:

15 Q We've been saying students, but can anyone use  
16 that path?

17 A Yes. We found on at least two occasions --

18 MR. GREGORY: I'm going to object to what he's  
19 found on other occasions. He answered the question yes.

20 BY MR. GAMMICK:

21 Q Can other people use that path?

22 A Yes, they can.

23 Q Do you know about where that path comes out?

24 A Yes, over by Highland.

25 Q Which is where?

1           A     Well, it's back this way, back over in this  
2     area here. This kind of runs all along.

3           Q     Go ahead and have a seat.

4                     Have you had the opportunity to hear an  
5     audiotape of the dispatch, what was happening that night  
6     over the radio?

7           A     Yes, sir, I have.

8           Q     It's Item 18. I'd ask you to look at that.  
9     Does that appear to be the tape you've listened to before?

10          A     Yes, sir, it does.

11                    MR. GAMMICK: I'm going to move for No. 18 and  
12     ask we publish it.

13                    THE COURT: Counsel?

14                    MR. GREGORY: Again, Your Honor, we submit it.

15                    THE COURT: Counsel, have you reviewed  
16     Exhibit 18 and is it what you believe it to be?

17                    MR. GAMMICK: Yes, we have listened to the  
18     front of it again, Your Honor. As the Court's aware, we've  
19     listened to it in court previously and it's the tape.

20                    THE COURT: It's admitted and I will allow you  
21     to play it.

22                    MR. GAMMICK: We'll play it once, then we'll go  
23     back.

24                             (Whereupon, the tape is played. See  
25     Exhibit 18-A for transcript of tape.)

1 BY MR. GAMMICK:

2 Q Once again, Union 129 was you?

3 A Yes, sir.

4 Q Union 130, that was Sergeant Sullivan?

5 A Yes, sir, it was.

6 Q There was a lot of things being said on there.

7 What was a NOR 136?

8 A NOR 136 was the cover unit that was dispatched  
9 as the primary responding unit along with me.

10 Q What agency?

11 A Reno Police Department.

12 Q And while you were there that night, did Reno  
13 Police Department respond?

14 A They did.

15 Q How about other agencies?

16 A They did, Washoe County.

17 Q Do you remember who?

18 A Washoe County.

19 Q And there was some comment made about  
20 establishing a perimeter. What did that mean?

21 A It means they wanted people within the line of  
22 sight because the threat of a weapon for not only radio  
23 communications but verbal communications as well completely  
24 around the university to possibly stop anybody that would be  
25 making an escape from the university.

1 Q Was the campus being sealed off at that time?

2 A Yes, it was.

3 Q And your last comment there was a little hard  
4 to understand. What were you telling dispatch you wanted  
5 done?

6 A I wanted someone over at Ninth and Evans  
7 Street, because I felt like if anyone was going to leave the  
8 campus, they would take that route because of the darkness  
9 of it and the tree line.

10 Q Is that the path we were just talking about?

11 A It is.

12 MR. GAMMICK: May I have just a moment, Your  
13 Honor?

14 THE COURT: Yes.

15 BY MR. GAMMICK:

16 Q Now, you've testified that Defendant Vanisi was  
17 the man you saw in the area of Ninth and Center.

18 A I did.

19 Q To your knowledge, had there been any previous  
20 contact at all between Sergeant Sullivan and Defendant  
21 Vanisi?

22 A Not to the best of my knowledge.

23 Q Had you ever had any previous contact with  
24 Defendant Vanisi?

25 A No, sir, I had not.



1 Q In fact, to your knowledge, had anybody at the  
2 University of Nevada, Reno Police Department had contact  
3 with Mr. Vanisi?

4 A Not to the best of my knowledge, no, sir.

5 Q Let me show you Exhibit No. 13, please, and ask  
6 if you recognize that item, sir.

7 A Yes, sir. This is some of the same information  
8 that was recorded in Sergeant Sullivan's personal notebook.  
9 And this is --

10 MR. GREGORY: I'm going to object to what it is  
11 at this point.

12 BY MR. GAMMICK:

13 Q Do you recognize that item?

14 A I do.

15 Q Whose handwriting is on it?

16 A Sergeant Sullivan.

17 MR. GAMMICK: Move for admission, Your Honor.

18 THE COURT: And those were Exhibits No. -- I'm  
19 sorry?

20 MR. STANTON: 13, Your Honor.

21 THE COURT: Any objection?

22 MR. GREGORY: We would submit it.

23 THE COURT: Exhibit 13 is admitted.

24 (Plaintiff's Exhibit No. 13 admitted.)

25 BY MR. GAMMICK:

1 Q What is that item, sir?

2 A It's a field interview card issued by the

3 department.

4 Q The information on it was written by Sergeant

5 Sullivan?

6 A This is Sergeant Sullivan's handwriting.

7 Q And what subject or subjects are reflected on

8 that interview card?

9 A Mr. Wood, the same guy that was stopped and

10 interviewed at the traffic stop.

11 Q I'd like to have you turn that over and look at

12 the back of it, please. Would you please read what is in

13 the -- I believe is there a remarks block there?

14 A There is.

15 Q Can you read that, please. Again, is that in

16 Sergeant Sullivan's handwriting?

17 A It was. You want me to read the narrative?

18 Q Yes, please.

19 A "Subject was first seen parked behind another

20 car in UNR's lot, Ninth/Center, seen again going into main

21 entrance of campus, seen again," and that's --

22 Q Does that sentence appear complete?

23 A Oh, no. He would have wrote something else

24 after this.

25 Q And do you know where that card was found?

1           A     No, sir, I have no idea where this card was  
2 found.

3           Q     Let me show you item 17-B and ask you if you  
4 recognize what's depicted there.

5           A     Yes, sir, I do.

6           Q     Is that a true and accurate photograph?

7           A     This is a true and accurate photograph.

8           MR. GAMMICK: Your Honor, I move for admission.

9           MR. GREGORY: Again, Your Honor, we would  
10 submit it.

11           THE COURT: Exhibit 17-B?

12           MR. GAMMICK: Yes, Your Honor.

13           THE COURT: Is admitted.

14           (Plaintiff's Exhibit 17-B was admitted.)

15 BY MR. GAMMICK:

16           Q     What is that?

17           A     This is a picture of the kiosk in the area  
18 where Sergeant Sullivan was found that night.

19           Q     What angle was that taken from?

20           A     This is an overhead view.

21           Q     Do you see a telephone?

22           A     I do see a telephone.

23           Q     Would you please, as well as you can, show that  
24 to the ladies and gentlemen of the jury, and point out the  
25 telephone to them.

1 A The telephone is right here (pointing).

2 Q The lower left corner?

3 A Right. There's a little black thing that  
4 sticks up. That's the actual telephone.

5 MR. Gammick: May I publish it, Your Honor?

6 THE COURT: You may.

7 MR. Gammick: Thank you.

8 BY MR. Gammick:

9 Q We heard I believe a young man you identified  
10 as Andrew or Drew --

11 A Yes, sir. Drew.

12 Q -- identify himself on the tape on the  
13 telephone call.

14 A Yes, sir.

15 Q Then we heard somebody get on the radio and say  
16 that Officer Sullivan is down.

17 A Right.

18 Q Do you know who that was?

19 A I have no idea. I assumed it was Drew.

20 MR. Gregory: I'm going to object to what he  
21 assumes.

22 THE COURT: Sustained.

23 BY MR. Gammick:

24 Q As you sit here today, is there any doubt in  
25 your mind whatsoever that Defendant Vanisi is the man you

1 saw at Ninth and Center on the night of January 13, 1998?

2 MR. GREGORY: I believe that was answered  
3 already, Your Honor.

4 THE COURT: Overruled.

5 THE WITNESS: No doubt.

6 MR. GAMMICK: May I repeat the question?

7 THE COURT: You may.

8 MR. GAMMICK: May I repeat the question?

9 THE COURT: You may.

10 BY MR. GAMMICK:

11 Q As you sit here today, is there any doubt  
12 whatsoever that Defendant Vanisi was the man you saw at  
13 Ninth and Center on the night of January 13th, 1998?

14 A I am absolutely positive, above and beyond a  
15 certain doubt.

16 MR. GAMMICK: Thank you. That's all I have at  
17 this time.

18 THE COURT: Cross-examination.

19 MR. GREGORY: Thank you. May we have the  
20 Court's indulgence?

21 THE COURT: Certainly.

22 MR. GREGORY: Thank you, Your Honor.

23 CROSS-EXAMINATION

24 BY MR. GREGORY:

25 Officer Smith, how old are you, sir?

1           A     56.

2           Q     You were 55 --

3           A     I was 55 at the time, yes, sir.

4           Q     -- since the incident occurred. When will you

5           be 57, if I might ask?

6           A     Sir?

7           Q     When will you be 57?

8           A     February the 2nd.

9           Q     Now, you indicated that this menacing

10          individual, if I could phrase it that way, was seen on Ninth

11          Street; is that correct?

12          A     That's correct.

13          Q     And that you saw him for how long?

14          A     Between three and four seconds.

15          Q     Three or four seconds?

16          A     Yes, sir.

17          Q     And you were going down Ninth Street to make a

18          right-hand turn onto Center Street?

19          A     I believe I testified that I momentarily

20          stopped. A car was stopped in front of me at a stop sign.

21          Q     But that was your ultimate destination?

22          A     Yes, sir.

23          Q     I'm not trying to trick you or anything.

24          A     Absolutely.

25          Q     And you were going as a backup to Sergeant

1 Sullivan; is that correct?

2 A Yes, sir.

3 Q Was that unusual to back up one another?

4 A Unusual?

5 Q Yes, sir.

6 A No, sir. It's mandated by our department.

7 Whenever possible. Standard practice.

8 Q And as quickly as possible; is that correct?

9 A And as quickly as possible.

10 Q What's the reason for backing up another  
11 officer? Just so the jury understands.

12 A So the officer doesn't get hurt, so that things  
13 don't get out of hand. There are enumerable reasons, for  
14 both the citizens' safety and the officer's safety.

15 Q I understand. So when you get a call like  
16 that, that's a priority for you to get there as soon as  
17 possible; is that correct?

18 A Yes, sir, it is.

19 Q As you're going down Ninth Street, do you see  
20 Sergeant Sullivan's car before you see this individual for  
21 three or four seconds or afterwards, sir?

22 A Before I see this individual?

23 Q The individual you saw for three or four  
24 seconds.

25 A Actually, I saw them both almost at the same

1 time, when his car first came into view, because I was like  
2 this -- the guy was like this. As I come up alongside, I'm  
3 just kind of watching the area, looking toward the area of  
4 where Sergeant Sullivan's car is, and he turned toward me  
5 and squared off. And that's what drew my attention.

6 Q Yes, sir. I believe you testified to that.

7 Do you know what the ambient temperature was at  
8 the time?

9 A That night?

10 Q Yes, sir.

11 A It was cold enough that I had to wear a  
12 sweater.

13 Q You indicated in an earlier hearing that there  
14 was a refraction going on from the overheads of Sergeant  
15 Sullivan?

16 A I'm sorry?

17 Q You indicated that there was a light refraction  
18 going on because of the overhead of Sergeant Sullivan.

19 A I don't believe I said light refraction.

20 Q What did you say, sir?

21 A I may have said -- I may have responded to a  
22 direct question -- which time are you asking?

23 Q When you previously testified -- you remember  
24 testifying, don't you?

25 A I remember testifying, yes, sir.



1 Q You remember talking about how the --

2 A Which time --

3 Q Do you remember the lights were refracting  
4 through your windshield?

5 A I don't think I said anything about refracting  
6 through my windshield.

7 Q Do you remember the questioning on those lines?

8 A Yes, sir, I do.

9 Q Why don't you help me out and tell me what you  
10 remember.

11 MR. GAMMICK: Your Honor, excuse me. I'm going  
12 to ask maybe that be narrowed down a little bit: Explain  
13 what you remember.

14 MR. GREGORY: I'll rephrase it.

15 THE COURT: Okay.

16 BY MR. GREGORY:

17 Q Could you see the lights of Sergeant Sullivan's  
18 car --

19 A Yes, sir, I could.

20 Q -- through your windshield?

21 A Yes, sir, I could.

22 Q And that included his blues and his reds; is  
23 that correct?

24 A Through my windshield, yes, sir.

25 Q Just so that you're clear, it's through your

1 windshield, that's what I'm talking about.

2 A Yes, sir.

3 Q And the lights were turning? What do they do?

4 A They flash. They rotate and flash like this  
5 (demonstrating).

6 Q Actually it's done with mirrors?

7 A Right.

8 Q So it sort of pulses?

9 A Right.

10 Q That was coming through your windshield; is  
11 that fair to say?

12 A I had both windows rolled down at the time  
13 because I was going up to the stop.

14 Q Your windows were rolled down in your car?

15 A Oh, yeah, both my windows were rolled down.

16 Q Approximately how far away were you from this  
17 individual that you saw for three or four seconds?

18 A 25 feet. 23 to 25 feet. I believe it's  
19 probably about 23 feet across the roadway there.

20 Q Did you measure it?

21 A Did I get out and specifically measure it? No,  
22 sir, I have not.

23 Q Approximately how far away were you from  
24 Sergeant Sullivan's vehicle?

25 A Between 65 and 100 feet.

1 Q How far away were you from the corner?

2 A Maybe 18 to 20 feet.

3 Q So, I just want to get this straight. So this  
4 individual that you saw that was maybe 18 to 20 feet from  
5 the corner, maybe 23 to 25 feet from you, and you're getting  
6 ready to make the turn to assist Sergeant Sullivan; is that  
7 correct?

8 A No. There's a car in front of me and I stopped  
9 momentarily.

10 Q Thank you.

11 MR. GREGORY: May I have the Court's  
12 indulgence?

13 THE COURT: Yes.

14 MR. GREGORY: I have nothing further.

15 THE COURT: Redirect?

16 MR. GREGORY: Excuse me?

17 THE COURT: I asked the State if they wanted to  
18 redirect.

19 MR. GREGORY: I'm sorry.

20 REDIRECT EXAMINATION

21 BY MR. GAMMICK:

22 Q Did the lighting from Sergeant Sullivan's car  
23 or anything else, or anything else interfere at all with  
24 your observation of Defendant Vanisi?

25 A No, it didn't. The lights from his car, the

1 flashing lights, no, sir.

2 MR. GAMMICK: Thank you. That's all I have.

3 THE COURT: Mr. Gregory, anything further?

4 MR. GREGORY: No, Your Honor. Thank you.

5 THE COURT: You may step down. You are  
6 excused.

7 Call your next witness.

8 MR. GAMMICK: The State would call Andrew  
9 Ciocca, please.

10 THE CLERK: Please raise your right hand.

11 (Witness sworn.)

12 THE CLERK: Thank you. Please be seated at the  
13 witness stand.

14 ANDREW CIOCCA

15 called as a witness on behalf of the Plaintiff,

16 having been first duly sworn,

17 was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MR. GAMMICK:

20 Q Would you please state your name and spell your  
21 last name, sir.

22 A Andrew Guy Ciocca, last name spelled  
23 C-I-O-C-C-A.

24 Q Mr. Ciocca, I've been pronouncing it Ciocca.

25 A Either is fine.

1 Q What do you do?

2 A I am a student at the University of Nevada,  
3 Reno and employed by Wells Gaming Research.

4 Q What are you studying?

5 A I'm studying gaming management.

6 Q Call your attention to January 1998, about 21  
7 months ago. Were you a student at the University of Nevada,  
8 Reno at that time?

9 A School was not in session. But yes, I was in  
10 between semesters at UNR.

11 Q Where were you living at that time?

12 A At 1316 Buena Vista, No. B, or letter B.

13 Q And where is that just generally in reference  
14 to the university campus?

15 A That's about two blocks west of the campus.

16 Q Monday night, January 12th, Tuesday morning,  
17 January 13th, during the darkness hours, was there a time  
18 you were returning back to either the campus or to your home  
19 going through the campus?

20 A Yes. I was coming from Seventh Street where I  
21 was visiting a friend at the Days Inn, Reno. And I was  
22 heading to 1316 Buena Vista at that time.

23 Q Are you aware or familiar with the SAE house?

24 A Yes, I am.

25 Q Where is that located?

1           A     I believe that is where Evans and Ninth hit  
2 each other or meet.

3           Q     And as part -- were you walking?

4           A     Yes, I was.

5           Q     As part of your trip, did you go by the SAE  
6 house?

7           A     Yes, I did.

8           Q     From there, how did you get onto campus?

9           A     I proceeded to cross Ninth Street to the foot  
10 of the hill on the south side of the campus and walked  
11 westward towards the stairway which leads into the most --  
12 southernmost parking lot of the campus.

13          Q     What's located at that parking lot?

14          A     There is a historic building of some nature. I  
15 don't recall the name. A parking lot. A visitor's  
16 information kiosk. Then there's some school and Manzanita  
17 Lake or Pond is close by.

18          Q     Had you been through that area previously?

19          A     I walked through that area quite regularly  
20 around that time.

21          Q     And at night?

22          A     At night, yes.

23          Q     And had you seen University of Nevada Police  
24 cars parked there?

25          A     Very regularly.

1 Q What's the lighting like at that location?

2 A At that location, there is a new -- or at the  
3 time I believe they were still constructing some form of a  
4 monument structure for alumni, and the lighting around it  
5 was very, very good, as was the parking lot lighting was  
6 very sufficient.

7 Q Was that at the top of the hill?

8 A Yes, that's correct.

9 Q When you crested the hill, you said you went up  
10 the stairs, I believe?

11 A Yes, I did.

12 Q When you crested the hill there, what did you  
13 see?

14 A Upon cresting the hill, I noted that there was  
15 a UNR, actually doesn't say UNR but a State of Nevada police  
16 vehicle parked just about where the construction was going  
17 on or where the monument was being built. There's also a  
18 fire hydrant nearby.

19 Q And was there anyone in the location of that  
20 car?

21 A Upon my first vision, there's a bit of a lift  
22 or a hump in the parking lot and I really -- the door was  
23 open. I didn't notice anybody at the time in the vehicle.  
24 Upon the hump going back down, I did notice a gentleman  
25 under the vehicle.

1 Q What did you believe was happening at that  
2 time?

3 A At that time, I noted that there was a fluid on  
4 the ground and I believed that the person was looking under  
5 the vehicle to see where the fluid was leaking from.

6 Q Did that opinion of yours or impression change?

7 A Yes. A few seconds later, upon noticing the  
8 gentleman was face down, I realized the fluid was his blood.

9 Q What did you do when you realized that?

10 A Should memory suffice, I went up to the  
11 gentleman. I called his name. I went up. I felt for a  
12 pulse, which I noticed the body was still warm. The light  
13 was on in the visitor's information kiosk, so I went there,  
14 knocked on the window. Nobody responded, at which time --  
15 there's a pay phone by Manzanita Lake at the edge of the  
16 parking lot. And I went and called 911.

17 Q And then after you called 911, what did you do?

18 A After speaking with the operator, I returned to  
19 the officer. I rolled him over, again felt for a pulse,  
20 attempted to resuscitate. Got into the vehicle, got on the  
21 police radio and called again for assistance.

22 Q When you say you called again for assistance,  
23 you used the radio at that time?

24 A That is correct.

25 Q Were any of your resuscitation efforts



1       successful?

2               A       At the time it did not, no. Obviously now I  
3       know, no. At the time, due to some obvious panic and  
4       concern, and the body was still warm, I did not know whether  
5       or not I was being successful. But no, in short.

6               Q       And 17-A, which is already in evidence, that's  
7       what you observed when you came up -- this is after you've  
8       rolled Sergeant Sullivan over on his back?

9               A       That is correct.

10              Q       And did he have his name tag on, is that how  
11       you knew who it was?

12              A       Yes, he did.

13              Q       You say you noticed his gun was missing. What  
14       about his gun belt?

15              A       I did notice that his gun was missing. His gun  
16       belt had been pulled from his body and was laying loosely  
17       about his lower waist, as he was on the ground or in the  
18       area where he would be laying.

19              Q       You're sure his gun belt was laying there still  
20       with him?

21              A       Not with a hundred percent certainty. But,  
22       yes, I do recall that the belt was not on his body. Upon  
23       coming across a situation, the first thing I looked for was  
24       his gun, obviously for protection for myself and, no, that  
25       was missing, and that his belt was no longer around his

1 waist.

2 Q And I'll show you 17-B, which has been  
3 admitted, and can you locate the telephone there that you  
4 used?

5 A Yes, I can. It's located by the blue small  
6 information board roof.

7 Q Would you please point to it?

8 A Right there.

9 Q Lower left corner of the photograph?

10 A That's correct.

11 Q Now, you say you entered his patrol vehicle?

12 A That's correct.

13 Q Let me show you photograph 17-C, ask if you  
14 recognize what's depicted there.

15 A Yes. That is the interior of the vehicle, at  
16 least similar to the vehicle which I got into.

17 Q And you recognize that from the early morning  
18 hours of January 13th, 1998?

19 A I do recognize it. I assume this picture was  
20 taken at that time because the clipboard was on the dash.

21 Q Before you describe things, do you recognize  
22 that photograph?

23 A Yes.

24 MR. GAMMICK: I move its admission.

25 MR. GREGORY: We would submit it.

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THE COURT: 17-C is admitted.

(Plaintiff's Exhibit No. 17-C admitted.)

BY MR. GAMMICK:

Q You say you see a clipboard laying on --

A I make the assumption this is the vehicle due to the clipboard on the dash is where it was located when I got into the vehicle, yes.

Q Did you find a coffee cup in that vehicle?

A Yes, there was, in a console holder of some nature.

Q Is it depicted in that photograph?

A I do see it, yes, right here, lower central of the photograph.

Q Please indicate to the ladies and gentlemen of the jury where you're pointing at. Center lower portion.

A Blue mark in the center lower portion.

Q That was there at the time you got into the vehicle?

A Yes, sir.

Q Was there anyone else around when you arrived at the scene?

A No, there was not, not until Sergeant -- I believe it was Smith, Carl Smith.

Q Officer Smith?

A Officer Carl Smith, yes. Not until he arrived.

1 MR. GAMMICK: May I publish it?  
2 THE COURT: You may.  
3 MR. GAMMICK: That's all the questions I have  
4 at this time. Thank you, sir.  
5 THE COURT: Cross-examination?  
6 MR. GREGORY: May I approach the clerk?  
7 THE COURT: You may.  
8 MR. GREGORY: May I have the Court's  
9 indulgence?  
10 THE COURT: Certainly.  
11 MR. GREGORY: Thank you, Your Honor. No  
12 questions.  
13 THE COURT: You may step down. You're excused.  
14 Call your next witness.  
15 MR. GAMMICK: Call William Stevenson, please.  
16 THE CLERK: Please raise your right hand.  
17 (Witness sworn.)  
18 THE CLERK: Please be seated at the witness  
19 stand.  
20 MR. GAMMICK: Your Honor, may I have Mr. Mosser  
21 come forward and set up the video, please?  
22 THE COURT: Yes.  
23 MR. GAMMICK: If I could take a moment.  
24 WILLIAM STEVENSON  
25 called as a witness on behalf of the Plaintiff,

1                   having been first duly sworn,  
2                   was examined and testified as follows:

3                   DIRECT EXAMINATION

4                   BY MR. GAMMICK:

5                   Q     Would you please state your name and spell your  
6                   last name.

7                   A     William Stevenson, S-T-E-V-E-N-S-O-N.

8                   Q     What's your profession or occupation?

9                   A     I'm a forensic investigator with the Washoe  
10                  County Sheriff's crime lab.

11                  Q     How long have you been in such a position?

12                  A     Approximately eight years.

13                  Q     And what did you do before that?

14                  A     Prior to the crime lab, I was a homicide  
15                  detective. And prior to that, patrol division officer.

16                  Q     And how long have you been involved in law  
17                  enforcement?

18                  A     Since approximately 1971.

19                  Q     What do you do as a forensic investigator?

20                  A     Forensic investigator is responsible for the  
21                  processing of crime scenes and the documentation of crime  
22                  scenes through still photography, video photography,  
23                  collection of evidence, preservation of evidence, things of  
24                  that nature.

25                  Q     January 13th, 1998, did you respond to the area

1 of the information kiosk on the University of Nevada campus?

2 A Yes, I did.

3 Q Did you make a videotape of that crime scene?

4 A Yes, I did.

5 Q Let me show you what's been marked as Exhibit  
6 19 and ask if you recognize that.

7 A It would appear to be one of the copies of the  
8 tape.

9 Q And you have seen this tape previously?

10 A Yes, I have.

11 MR. GAMMICK: Your Honor, I'd like to admit 19  
12 and publish it, please.

13 THE COURT: Any objection?

14 MR. GREGORY: We would submit it, Your Honor.

15 THE COURT: Exhibit 19 is admitted.

16 (Plaintiff's Exhibit No. 19 was admitted.)

17 MR. GAMMICK: I believe some courtroom lights  
18 may need to be adjusted for the screen, I believe. We can  
19 wait and see what it looks like?

20 THE COURT: Why don't you turn off the lights  
21 in this part, turn them down. I think we need more lights.

22 (Whereupon the videotape was played.)

23 BY MR. GAMMICK:

24 Q Mr. Stevenson, was there any audio portion to  
25 this, a narrative?

1 A No, we normally block off the audio.

2 Q So what are we looking at here now?

3 A This is from the west side of the parking area  
4 near the kiosk. This is looking towards, I believe it was  
5 Officer Smith's car, as well as Sergeant Sullivan's car.

6 Q We see a car kind of in the foreground, one in  
7 the background with the door open. The one in the  
8 foreground, did that belong to another officer?

9 A That was Carl Smith's.

10 Q The one with the door open is Sergeant  
11 Sullivan's car?

12 A Yes, it was.

13 Q We see an item on the ground covered in white.  
14 What is that?

15 A That is Sergeant Sullivan.

16 Q And was he covered up at this time?

17 A Yes, he was. He was covered with a white  
18 sheet.

19 Q We're seeing what appears to be some type of  
20 substance on the ground around Sergeant Sullivan. Were you  
21 able to determine what that is?

22 A Yes. It was blood.

23 Q And the source?

24 A Sergeant Sullivan.

25 Q Thank you.

1                   There appeared to be some kind of a shiny metal  
2 object lying there in what you described as blood. Do you  
3 recall what that was?

4                   A     Yes, that was a pair of prescription glasses.

5                   Q     What are you showing now?

6                   A     The speckled material on the L and the O and  
7 the other areas of the door is called blood spatter.

8                   Q     I notice you're shooting the edge of the front  
9 door now. Did you find any of this blood spatter on the  
10 edge of the door or anywhere on the interior of the vehicle?

11                  A     Not on the edge of the door and not on the  
12 interior of the vehicle.

13                  Q     We've already seen it on the outside of the  
14 front door. Did you find additional blood spatter back on  
15 the side of the car?

16                  A     Yes, there was some further back.

17                  Q     Was Sergeant Sullivan's car still running at  
18 this time?

19                  A     Yes, it was.

20                                 (Video tape completed.)

21 BY MR. GAMMICK:

22                  Q     Let me show you 17-A. It has been admitted  
23 into evidence. I'll ask you to look at that item right  
24 there (pointing). Do you recognize that item?

25                  A     I believe that's the belt buckle from the duty



1 belt of Sergeant Sullivan.

2 Q You've been in law enforcement for a long time?

3 A Yes.

4 Q And what is a belt buckle for a duty belt?

5 A A duty belt is a large belt that the holster  
6 and other items that an officer carries while he is on duty,  
7 and the buckle is a rather large oversized type buckle that  
8 is part of the holding of that belt together.

9 Q Let me show you item number 16. Is this a duty  
10 belt?

11 A Yes, it is.

12 Q What you're calling a duty belt?

13 A Yes.

14 Q And does that have the buckle on it?

15 A No, it doesn't.

16 Q Does that somehow work with these holes, these  
17 brass ears?

18 A Normally the buckle will fit on the holes side  
19 or the brass ears or tangs will lock in behind the buckle.

20 Q So it would hook it in some way like this so it  
21 holds the belt?

22 A Correct.

23 Q Now, I believe you mentioned a set of  
24 eyeglasses. Is that what you were referring to lying here  
25 by his foot?

1           A     Yes, it was actually a pair of glasses missing  
2 one of the lenses.

3                     MR. GAMMICK: May I have just a moment, Your  
4 Honor?

5                     THE COURT: Yes.

6 BY MR. GAMMICK:

7           Q     Are you familiar with an investigator by the  
8 name of Toni Leal?

9           A     Yes, I am.

10          Q     Was she working with you at the scene that  
11 night?

12          A     Yes, she was.

13          Q     And we've talked about the belt buckle and the  
14 glasses and I noticed other items, personal effects in the  
15 area there of Sergeant Sullivan's. Did she collect those  
16 items?

17          A     Yes, she did.

18          Q     And what happens to those items when they are  
19 collected, by either you or investigator Leal or anyone else  
20 in the crime lab?

21          A     When they're first collected, they're collected  
22 into packages out at the scene. Those packages are then  
23 taken back to the crime lab where they'll be finished,  
24 packaged, if you will, and entered into an evidence system  
25 that we have at the lab.

1 Q Is that for future forensic investigative  
2 purposes?

3 A Yes. The items will be kept in the evidence  
4 section until any requests are made to either process them  
5 possibly for fingerprints or for trace evidence such as  
6 hairs, fibers, blood, things of that nature.

7 Q DNA testing also a part of the subsequent  
8 follow-up?

9 A Yes, it is.

10 Q Did you ever respond to 1098 North Rock?

11 A No, I did not.

12 Q Did you ever meet with Detective Jim Duncan  
13 from the Reno Police Department?

14 A Yes.

15 Q Did he give you some items that were reportedly  
16 from North Rock?

17 A I believe he did.

18 Q Item number 11?

19 A Yes. These items were actually collected by  
20 Toni Leal and I did some packaging on the items.

21 Q So at one time you did handle this item?

22 A Yes, I did.

23 Q Do you recognize it as being the item that  
24 belongs with that bag?

25 A Yes, it is.

1 Q And the same question for items number 25.

2 A Yes, I did handle these items also.

3 Q And item number 21?

4 A Item number 21 was an item that I photographed  
5 for criminalist Maria Fassett.

6 Q She also works at the crime lab?

7 A Yes, she does.

8 Q And now, you mentioned the blood spatter on the  
9 outside of Sergeant Sullivan's car when you did the  
10 videotape.

11 A Correct.

12 Q What happened to his car after you finished  
13 with what you were doing at the scene?

14 A The car was towed to the crime lab and placed  
15 in bay number two of the crime lab garage.

16 Q Were there examinations and different things  
17 done to his vehicle?

18 A Yes, several.

19 Q What was done to his vehicle?

20 A Initially it was rephotographed. It was  
21 processed for possible fingerprints. It was searched for  
22 other trace evidence such as hairs or fibers, and a few  
23 sections of the left front fender were removed for future  
24 trace work.

25 Q Do you know Investigator Dave Billau?

1 A Yes, I do.

2 Q Is he also a forensic investigator like you

3 are?

4 A Yes.

5 Q Does he have any areas of expertise?

6 A His expertise is blood spatter reconstruction.

7 Q Was he requested to do that type of work to

8 Sergeant Sullivan's vehicle?

9 A Yes, he was.

10 Q Were you present when that was done?

11 A I was present during parts of it, yes.

12 Q I'll show you 17-D and ask if you recognize

13 that photograph.

14 A Yes, I do. This is a photograph of the actual

15 stringing of the blood spatter as done by Investigator

16 Billau.

17 Q Did you take that photograph?

18 A Yes, I did.

19 Q Is it a true and accurate depiction of what it

20 depicts?

21 A Yes.

22 MR. GAMMICK: I'd move for 17-D to be admitted.

23 MR. GREGORY: Again, we would submit it for the

24 Court.

25 THE COURT: 17-D admitted.

1 (Plaintiff's Exhibit No. 17-D admitted.)

2 BY MR. GAMMICK:

3 Q You mentioned blood spatter stringing. What  
4 did Investigator Billau do?

5 A What you can do with blood spatter through the  
6 mathematics and formulas is to actually plot the trajectory  
7 of every single little small blood droplet, and you can plot  
8 it in reverse. In other words, you plot it from the surface  
9 it's on back to a point where it most likely originated.

10 When you do that, you can actually take  
11 individual strings from individual blood spatters on the  
12 side of the vehicle and take them back to a common origin  
13 point very nearly to where it would have occurred from to  
14 cause the blood spatters to fly to those areas.

15 Q And that's what that photograph depicts is the  
16 actual strings, where the blood came from and where it wound  
17 up?

18 A Yes, it does.

19 MR. GAMMICK: May I publish, Your Honor?

20 THE COURT: Yes.

21 BY MR. GAMMICK:

22 Q As part of the evidence that you processed and  
23 got involved in in this case, did there come a time that you  
24 became involved in any way with a white plastic bag, much  
25 like a grocery bag?

1 A Yes, I did.

2 Q And again, Investigator Toni Leal, to your  
3 knowledge, did she get involved with that bag?

4 A Yes, she did. She processed the bag for  
5 fingerprints.

6 Q Was she successful?

7 A Yes, she was.

8 Q If you know, how many -- did she ask you --  
9 what is your expertise? I never did ask that.

10 A My expertise is, I have approximately seven  
11 weeks of training in fingerprints regarding just what a  
12 fingerprint is through the collection and processing of  
13 items for fingerprints.

14 Q Does that also include fingerprint comparison?

15 A Yes, it does.

16 Q And identification?

17 A Yes, it does.

18 Q In the state of the art of fingerprint  
19 comparison, do any two people, known two people, have the  
20 same fingerprint?

21 A No two people compared to this date have ever  
22 had the exact same fingerprint.

23 Q And were you requested after Investigator Leal  
24 processed the white plastic bags, which are in Exhibit 16,  
25 were you requested to make any comparisons of any

1 fingerprints that she found?

2 A Yes, I was.

3 Q How many?

4 A I was asked to look at two.

5 Q And were you able to make a positive  
6 identification from either one of those fingerprints?

7 A I was able to make a positive identification to  
8 fingerprint number 1.

9 Q And who was that fingerprint -- whose  
10 fingerprint is that?

11 A The latent fingerprint that came off of the bag  
12 was compared to an inked fingerprint which was on a 10-print  
13 card which came from the Salt Lake City Sheriff's office.  
14 And the name on the card was Siaosi Vanisi, and the  
15 fingerprint from the bag as well as the inked fingerprint on  
16 the card were a match.

17 Q So sometime, someplace, Defendant Vanisi left  
18 his fingerprint on that bag?

19 A That's correct.

20 Q Were you ever able to identify the second  
21 print?

22 A No. The second print still remains  
23 unidentified.

24 Q And were you ever asked to make comparisons  
25 with other people involved in this case in various respects,



1 witnesses, et cetera?

2 A As far as the prints from the bag, I made one  
3 other attempt for a comparison and it was negative.

4 MR. GAMMICK: Your Honor, my understanding,  
5 there was a previous stipulation to admit item number 30,  
6 and that's what I have at this time.

7 THE COURT: Okay. There was a previous  
8 stipulation. Do you still stand by that?

9 MR. GREGORY: Your Honor, I believe that was --  
10 that previous stipulation was made in January and we will  
11 stand by that.

12 THE COURT: Okay. Exhibit 30 is admitted.

13 (Plaintiff's Exhibit No. 30 was admitted.)

14 BY MR. GAMMICK:

15 Q I'm going to show you item number 30 which is a  
16 chart, which has all kinds of numbers and letters on it. I  
17 notice here's a column that is labeled "samples analyzed."  
18 And "George Sullivan," "Siaosi Vanisi," and then it has  
19 several Q numbers down through here. And some P numbers.  
20 And some C numbers.

21 What are those? What does that mean?

22 A The Q numbers are the primary numbers that are  
23 used when an evidence item is collected. Whenever myself or  
24 another member of my team would go to a crime scene and we  
25 would collect one item, say a hatchet or something of that

1 nature, that item would receive what's called a Q number.  
2 And basically it's a bar code. And the numbers are in  
3 sequential order, so that each item will have an individual  
4 number and can be identified by that number.

5 Q Does everyone that works in the crime lab, not  
6 only investigators but people who do the blood comparisons,  
7 DNA analysis, others, have access to that particular control  
8 number?

9 A Yes, they do. The original would be Q numbers.  
10 If an analyst or criminalist in the crime lab would, say,  
11 work on one of the items that I collected, they may work on  
12 a Q number, being that item. If they take, say, a stain off  
13 of that item, they will then give it a second number, and  
14 actually it will be the primary number for that stain.

15 So the original evidence number might have a Q  
16 number, a stain taken off of that particular piece of  
17 evidence will then get a P number, because that is the  
18 number that is given by the criminalist when he or she  
19 collects a sample of trace off of an item.

20 Q So each number that we're talking about, these  
21 control numbers, are unique to a specific piece of evidence?

22 A Yes, they are.

23 Q Or even a specific procedure performed on a  
24 subpart of a piece of evidence?

25 A That's correct.

1           Q     You mentioned a hatchet when you were looking  
2     at that chart. So where we have Q number 15136 denoted on  
3     this card and this card, that pertains to that item of  
4     evidence, No. 21?

5           A     Yes, it does.

6           Q     That hatchet?

7           A     Yes.

8           Q     I think this sack has just about had its day.  
9     The same then would be true with the jacket which I believe  
10    has Q number 15137?

11          A     That's correct.

12          Q     That's unique to this item, and any follow-up  
13    lab work that was done with respect to this would be under  
14    that number?

15          A     It would be under that as an initial number.

16          Q     Or a subsequent number like a P or a C number?

17          A     Correct. Any stains that may have been  
18    collected off of the jacket would probably go to a P number,  
19    because it would be the criminalist's number.

20          Q     And then the same with these gloves. I don't  
21    see a Q number on them. But they should have their own Q  
22    number assigned. It would be the same testing?

23          A     Yes, they should.

24          Q     Now, you mentioned something on, when they're  
25    working with the jacket. I notice there's a lot of small

1 writing on this jacket, little lines drawn and numbers and  
2 other things. Do you understand what that is or what it --  
3 generally what it is? Maybe not specifically.

4 A Generally those are indicators that a  
5 criminalist would use when testing stains on a jacket. They  
6 will test a stain to determine whether or not, in the first  
7 place, it is blood. If it is blood, it usually gets a  
8 positive. If it is not blood, it will get a negative sign.  
9 And they will actually circle the stain that they have  
10 tested or are working on or have actually lifted from the  
11 jacket and relate back to those marks as to where those  
12 stains came from.

13 Q Is that the type of activity Criminalist Maria  
14 Fassett gets involved in?

15 A Yes, it is.

16 MR. GAMMICK: Those are all the questions I  
17 have at this time, Investigator Stevenson. Thank you.

18 MR. GREGORY: May I have the Court's  
19 indulgence?

20 THE COURT: Yes.

21 MR. GREGORY: Thank you, Your Honor. No  
22 questions.

23 THE COURT: You may step down. You are  
24 excused.

25 Ladies and gentlemen of the jury, we're going

1 to take our afternoon recess now. During our afternoon  
2 recess, again, I'm going to remind you that you'll all stay  
3 together in the jury room and/or -- I still don't know if  
4 any of you smoke. But if any of you do, we'll make special  
5 arrangements.

6 During this break, remember that it is your  
7 duty not to discuss among yourselves or with anyone else any  
8 matter having to do with this case. It is your further duty  
9 not to form or express any opinion regarding the guilt or  
10 innocence of the defendant until the case has been finally  
11 submitted to you for decision.

12 You are not to read, look at, or listen to any  
13 news media accounts relating to this case should there be  
14 any.

15 Should any person attempt to influence you in  
16 any manner with regard to this case, you must inform the  
17 bailiff immediately outside the presence of your fellow  
18 jurors. He in turn will inform me.

19 Counsel, we'll take a 15-minute break. I'll  
20 see you back ready to go in 15 minutes. Court's in recess.

21 (Recess taken.)  
22  
23  
24  
25

RENO, NEVADA, WEDNESDAY, SEPTEMBER 22, 1999, 3:55 P.M.

-o0o-

THE COURT: Counsel stipulate to the presence of the jury?

MR. STANTON: The State would so stipulate.

MR. GREGORY: The defense would so stipulate.

THE COURT: Go ahead and call your next witness.

MR. STANTON: The State would next call Jeff Riolo. Your Honor, while Mr. Riolo is coming into courtroom, may counsel approach regarding some administrative matters?

THE COURT: Yes.

(Bench conference between Court and counsel, outside the presence of the court reporter.)

THE CLERK: Please raise your right hand.

(Witness sworn.)

THE CLERK: Thank you. Please be seated at the witness stand.

JEFFREY RIOLO

called as a witness on behalf of the Plaintiff,

having been first duly sworn,

was examined and testified as follows:

/ / /

SIERRA NEVADA REPORTERS (702) 329-6560

DIRECT EXAMINATION

BY MR. STANTON:

Q Good afternoon. Could you please pull that microphone in front of you and state your full and complete name and spell your last name for the court reporter.

A It's Jeffrey Riolo. Spelled R-I-O-L-O.

Q And, Mr. Riolo, how are you currently employed?

A I'm employed at the Washoe County Sheriff's Office in the forensic division as a DNA criminalist.

Q Do you have any specialized education and training in the performance of the duties in that occupation?

A Yes, I do. I got my bachelor's degree in microbiology in 1987. After I received that, I joined the University of Nevada, Reno staff and I worked there for nine years; started out as a laboratory technician and worked my way up to a research associate.

During my time there, I performed various duties in molecular biology. What we did was I did research with herpes viruses and Hanta virus. Along with that, I also was a DNA supervisor of a DNA paternity laboratory which is basically the same techniques that I used there is what I presently use in my current position at the sheriff's office, which I've been there about three years now.

Q And, Mr. Riolo, in that three-year tenure with

1 the crime lab, can you explain to the ladies and gentlemen  
2 of the jury what your primary function is regarding DNA at  
3 the crime lab?

4 A I perform DNA analysis on evidence and also  
5 reference standards, so I perform DNA evidence on any  
6 biological material.

7 Q And pursuant to my request, have you prepared  
8 what has previously been marked Exhibits 43-A and G as  
9 charts or diagrams to explain the DNA process?

10 A Yes, I have.

11 Q Mr. Riolo, with me directing these charts, if  
12 you could go through the DNA process and explain to the  
13 ladies and gentlemen of the jury how it works.

14 A Yes. This will be a little overview of DNA.

15 Q Where does DNA come from?

16 A Half comes from your mom and half comes from  
17 your dad. That's why we have some characteristics that look  
18 like mom and some that look like dad. It's been called the  
19 blueprint of life. The reason for that is it tells us how  
20 tall we're going to be. What color hair we're going to  
21 have. How big we're going to be. Eyes, what color eyes  
22 we'll have.

23 There's areas of DNA that are common between  
24 individuals. Now, these are the areas of DNA that would  
25 say, like, you would have two arms or two legs.



1 Now, there's areas of DNA that are a little bit  
2 different. Those areas would be, say, like eye color.  
3 Different people have different eye color.

4 Now, there's areas of DNA that are also very  
5 different. Those are the areas that we use in forensic  
6 science to help distinguish one person from another or  
7 whether one sample came from an individual or not.

8 Q 43-B?

9 A Where can DNA be found? If you want to look at  
10 the chart, DNA can be found in virtually every cell of the  
11 body. What a cell is, it's kind of like a box and inside  
12 the box is where the DNA is.

13 Different cell types are blood, hair, saliva,  
14 sweat, semen, various other tissues.

15 Now, all the DNA from one individual would be  
16 the same. So I can compare the DNA from, say, a hair sample  
17 to the DNA from a blood sample.

18 Q And, Mr. Riolo, although in your chart here you  
19 have at the end that DNA from the various different sources  
20 listed there, blood, hair, saliva, sweat, semen and other  
21 tissues, is the same pattern for the same individual?

22 A That's correct.

23 Q Very shortly we're going to be hearing from you  
24 regarding what is called mixed samples or mixed stain  
25 samples. Is it possible in examining, say, for example, a

1 substance that has DNA from blood to also be testing DNA  
2 that's found in sweat?

3 A Yes, it is possible.

4 Q 43-C.

5 A Where does DNA come from? We know it comes  
6 from the cell. Inside the cell is this thing called the  
7 nucleus, kind of like a small box inside the bigger box.  
8 The big box would be the cell, the smaller box would be the  
9 nucleus.

10 Inside this nucleus are these things called  
11 chromosomes. Chromosomes, we get half from mom and half  
12 from dad. Again, we can look at the chromosome as a box  
13 that's inside the nucleus. Inside the chromosome is this  
14 stuff called DNA. And that's what we want to look at.  
15 That's what we want to look at, the different areas. And in  
16 forensic science, we want to look at the areas that help  
17 distinguish one individual from another individual.

18 Q 43-D.

19 A The DNA molecule itself is termed in the form  
20 of a double helix. What that is, it's like a ladder and the  
21 ladder is twisted. What makes up the rungs of the ladder  
22 are bases. We call them A, T, G and C. It's the bases of  
23 these two, As bind with the Ts and Gs bind with Cs, that we  
24 use that premise to help us determine our DNA profile.

25 Q 43-E.

1           A     To get the DNA, I need to isolate the DNA from  
2     the various parts of the cell, like the nucleus and the  
3     chromosome and the rest of the cell. To do that, what I do  
4     is I'll take a sample. In this particular example, it's a  
5     blood stain. I'll take part of that blood stain and I'll  
6     put it into these little tubes, which are little test tubes.  
7     From there I'll apply a chemical to inside the tube along  
8     with the stain. What that does is it allows me to separate  
9     the DNA, which is what I want to look at, from the rest of  
10    the cell. So now in the last tube that we have up here, we  
11    actually have just DNA.

12           Q     Mr. Riolo, after the process that you just  
13    described with the isolation of the DNA molecule, is there a  
14    distinction between an RFLP and PCR process to determine  
15    DNA?

16           A     Yes. There's two tests that are used in the  
17    laboratory. One is called RFLP and one is called PCR.

18           Q     Can you explain the difference to the ladies  
19    and gentlemen of the jury between those two types of tests?

20           A     Yes. One test, the RFLP test, requires a  
21    larger sample size to actually get a DNA profile from. The  
22    PCR test requires a smaller sample size, and we're able to  
23    look at it through a process that's called amplification  
24    which is a process to make copies of the DNA, which we'll  
25    talk about in a second.

1 Q 43-F.

2 A This PCR process is an amplification process.  
3 What the amplification is, it's like a Xerox machine. So  
4 what I'm doing here is I'm taking my single piece of DNA and  
5 I want to make copies of it. Kind of like you're making  
6 copies of a book on a Xerox machine. You'll take a book,  
7 put it on a Xerox machine and say you want 30 copies of that  
8 page. It will make the same exact copy of that page each  
9 time.

10 Now, what I'm doing, the DNA aspect is I'm  
11 taking that DNA at the first cycle and I'm putting it  
12 through a process, and at the second cycle I'm ending up  
13 with a copy. The third cycle more. This increases, and I  
14 do it for 30 cycles. So I get, from one piece of DNA, I end  
15 up with a lot of DNA.

16 Q And are there several types of PCR tests to  
17 amplify DNA?

18 A Yes, there are.

19 Q And approximately how many are there?

20 A In this procedure, there was seven that were  
21 used.

22 Q 43-G.

23 A In this process, in this tube is the amplified  
24 DNA. So that's the DNA that I've made the copies from.

25 Now what I want to do is I want to determine

1 what the DNA profile is of that sample. So what I do is I  
2 take that DNA that's been amplified and I apply it to a DNA  
3 strip. What the DNA strip is, it's just like paper. But on  
4 this paper are known areas of DNA. And that's what these 1,  
5 2, 3, 4 and these other numbers are. Those are the known  
6 areas of DNA.

7 Above here you'll see a nomenclature HLA DQ  
8 alpha. And also the same thing done here - polymarker.  
9 LDLR, GYFA, all those are areas of DNA that I know will help  
10 me distinguish whether a sample came from one individual or  
11 another individual.

12 What I do is I'll take the amplified DNA and  
13 I'll apply it to these strips. Now, if I get something  
14 lighting up next to a number, which is what we'll see in  
15 something here next to the 2 and next to the 3, that would  
16 be the type for that particular DNA sample.

17 These other dots that you see are control dots.  
18 The control allows me to say, well, is the test working  
19 properly? And if it is working properly, then I can  
20 actually interpret the DNA profile from that strip. The  
21 same premise is used on the polymarker system. The S dot,  
22 which is the control dot, I need to make sure that works.  
23 And here what we're looking at is the DNA profile. And if I  
24 have something lighting up next to the A, it would be termed  
25 an AA. Next to the B, a BB.

1                   Now, remember, the reason that I'm seeing two  
2 As and two Bs is that I know half the genetic material comes  
3 from mom and half comes from dad. So I'm going to see both  
4 those profiles there.

5                   An example would be in the HBGG area, an A and  
6 a C; an A and a C.

7                   Q     Mr. Riolo, over your left shoulder is a chart,  
8 Exhibit 30. Are you familiar with the contents of that  
9 chart?

10                  A     Yes, I am.

11                  Q     In fact, you prepared that chart pursuant to  
12 your testing of forensic items in this case, correct?

13                  A     Yes, I did.

14                  Q     I'd like to go through that chart, explain it  
15 to the ladies and gentlemen of the jury. On the top  
16 left-hand portion of the samples analyzed, you were provided  
17 with known samples of DNA fluid from George Sullivan and  
18 Siaosi Vanisi; is that correct?

19                  A     That's correct.

20                  Q     What is reflected in the columns immediately to  
21 the right of both those names?

22                  A     Those are -- you're referring to the numbers  
23 and the letters?

24                  Q     Yes.

25                  A     Those are the DNA profile from those

1 individuals.

2 Q Could you explain to the ladies and gentlemen  
3 of the jury what the DNA profile is through the PCR  
4 techniques, the seven that are depicted up there, and let's  
5 start with Sergeant Sullivan's and how that differentiates  
6 itself from the DNA pattern of Mr. Vanisi.

7 A Yes. Is it okay if I stand up?

8 THE COURT: Yes, you may.

9 THE WITNESS: The reference samples are right  
10 here. George Sullivan. Siasosi Vanisi. The DNA profiles  
11 that were obtained from those individuals or those reference  
12 samples. What a reference sample is, I know that sample  
13 came from that individual.

14 So in this particular case, in this one area of  
15 DNA that I'm looking at, Officer Sullivan's DNA profile is a  
16 1.1, 1.2. Remember, half comes from mom, half comes from  
17 dad, so I'm going to look for two DNA types.

18 His next area is regarded as a BB, an AA, a BB,  
19 an AB, an AC. And a 24,29. These are all just destinations  
20 of the DNA profiles if they come up at a certain area when  
21 they're being interpreted.

22 Q Comparing, if you will, the known sample of  
23 Mr. Vanisi, where in the PCR test do their genetic markers  
24 differ?

25 A In Mr. Vanisi's sample, you can see he's a 1.1

1 and a 3. So that is different than a 1.1 and a 1.2. You  
2 can see that he's a BB here and similar -- it's the overall  
3 profile that we're looking at. So I need to combine all  
4 these DNA, this DNA profile from this individual to get the  
5 overall picture.

6 And as you move on down the chart, he differs  
7 here in a BC and also in D1S80 is a 21,24.

8 Q Thank you. Reference the next series of  
9 columns and what is referred to as Q 15137, specifically an  
10 outline of seven stains obtained from the maroon jacket.  
11 Could you explain the results of the DNA pattern to the  
12 ladies and gentlemen of the jury of those seven stains and  
13 how it relates to your control or known samples of  
14 Mr. Sullivan and Mr. Vanisi.

15 A Yes. Once I determine a DNA profile from a  
16 reference standard or a piece of evidence, what I want to do  
17 is I want to compare. I want to see if one sample is from  
18 one individual or whether it's from another individual.

19 So what I'm going to do is, in this particular  
20 stain A, I'm going to look at the DNA profile. And I'm  
21 going to go to the first area of DNA. I'm going to look.  
22 Is this consistent with coming from Officer Sullivan or  
23 Mr. Vanisi? It's consistent with Officer Sullivan? And  
24 I'll go do that all the way through.

25 I go down to here, here, here, here (pointing).



1 I'll also go down to here. And you can see that the AC is  
2 matching with Officer Sullivan. But there's also a light B.

3 When I say light B, remember I referred to the  
4 dots that were on the chart? Sometimes those dots are  
5 lighter than other dots. And that's usually representative  
6 of a sample that has more than one DNA present. So the  
7 light B could be representative of one of the areas of  
8 Mr. Vanisi's.

9 The 24, 29 is consistent with coming from  
10 Officer Sullivan.

11 Q And relative to the next two rows, columns that  
12 you have there, Q 15136, the hatchet shaft, and Q 15136, the  
13 hatchet ring, that's from the same hatchet, correct?

14 A That's correct.

15 Q It's just from different portions of the  
16 hatchet?

17 A That's correct.

18 Q If you could go ahead and have a seat,  
19 Mr. Riolo. Exhibit 21, where on the hatchet would the  
20 samples have been taken?

21 A When a sample comes to me in the DNA section,  
22 it's actually swabbed and it's brought to me. I actually  
23 did not do the swabbing of the hatchet so I cannot say for  
24 certain where they came from.

25 Q If the ring is up here in this area and the

1 shaft here, the same Q number would apply to this weapon,  
2 correct?

3 A That's correct.

4 Q So the two stains that are referenced in the  
5 middle of the chart come from this item, but in different  
6 locations?

7 A That's correct.

8 Q Could you please reference what your results of  
9 DNA testing from this hatchet was?

10 A Yes. The DNA profiles that were obtained from  
11 the hatchet shaft and the hatchet ring are coming from  
12 Officer Sullivan. And you can see again that the numbers  
13 and the letters match up with his profile.

14 Q And is there any opinion that you have,  
15 Mr. Riolo, regarding Mr. Vanisi's genetic material coming  
16 from either of those stains?

17 A He is excluded.

18 Q And finally, the next series of columns, stains  
19 A through E, five coming from the UNR patrol vehicle of  
20 Sergeant Sullivan, what were your results regarding those  
21 stains?

22 A Stains A and B are coming from Officer  
23 Sullivan. Stain C is also coming from Officer Sullivan.  
24 Stain D is also coming from Officer Sullivan. And stain E  
25 is also coming from Officer Sullivan.

1           And when I say stain D and E, you can see that  
2 the -- it's a dominant pattern, a pattern that's not in  
3 parentheses is what we're comparing.

4           Q     The next two areas which are a pair of leather  
5 gloves, were there two stains from those gloves?

6           A     That's correct.

7           Q     And what were the results of that DNA testing?

8           A     The results of the right glove, this item right  
9 here, is a mixed sample. What a mixed sample is, two DNA  
10 profiles are in one sample. And the way I know it's a mixed  
11 sample is you can see that I have a 1.1, a 1.2 and a 3. So  
12 remember, in a single-only sample, I will only see the  
13 contributions from mom and dad. So I will only see two.  
14 I'm seeing three here. So it's a mixed sample.

15                     1.1 and a 1.2, Officer Sullivan. 1.1 and a 3  
16 are Mr. Vanisi.

17                     I'm continuing on down and then we get to the  
18 other area that I know that shows a mixed sample. A,BC.  
19 The AC coming from Officer Sullivan; the BC coming from  
20 Mr. Vanisi. And also the 21,24,29, 24,29 coming from  
21 Officer Sullivan, and 21,24 coming from Mr. Vanisi.

22           Q     The next column is a pair of boots that were  
23 presented to you as being worn by Mr. Vanisi. What were  
24 your results regarding that test?

25           A     The dominant pattern or the pattern that's not

1 in parentheses is consistent with coming from Officer  
2 Sullivan.

3 Q And finally, the pair of pants presented to you  
4 as being worn by Mr. Vanisi, what are the results of that?

5 A The results of that are coming from Officer  
6 Sullivan also.

7 Q Thank you, Mr. Riolo.

8 I'd like to talk to you for a moment about the  
9 process of a mixed DNA stain and pose it to you specifically  
10 on a hypothetical regarding the right glove.

11 A pair of leather gloves that has blood on the  
12 outside and has been touched or worn by somebody that sweat  
13 has been absorbed in the leather, would you indeed get a  
14 mixed sample through that phenomenon?

15 A That could be an example of getting a mixed  
16 sample, yes.

17 Q You could get it from saliva, you could get it  
18 from any of the mixed -- or you could get a mixed sample  
19 from any of the genetic fluids that you've previously  
20 mentioned?

21 A That's correct.

22 Q Pursuant to your testing to find the genetic  
23 markers in the seven PCR tests, is there another process of  
24 the analysis that involves statistics?

25 A Yes, there is.

1 Q And did you prepare a chart relative to the  
2 statistics generated in this case?

3 A Yes, I did.

4 Q Does this appear to be the chart?

5 A Yes, it does.

6 Q It's marked as State's Exhibit 40. Does it  
7 accurately depict the statistical evaluation and opinion  
8 that you've rendered regarding the DNA testing in this case?

9 A Yes, it does.

10 MR. STANTON: Your Honor, at this time I'd move  
11 for State's Exhibit 40 into evidence.

12 THE COURT: Counsel?

13 MR. GREGORY: We would submit it to the Court.

14 THE COURT: Exhibit 40 is admitted.

15 (Plaintiff's Exhibit No. 40 was admitted.)

16 BY MR. STANTON:

17 Q Mr. Riolo, could you explain to the ladies and  
18 gentlemen of the jury what information we're looking at in  
19 State's Exhibit 40?

20 A Yes. This chart represents the frequency,  
21 which is the numbers on the side right there, that tell me  
22 how often I would see a DNA profile from these individuals.  
23 So what I've done now is we've determined the DNA profile  
24 from the previous chart we've looked at.

25 I take that DNA profile, I take that and

1 compare it to a database, Caucasian database and a Hispanic  
2 database. What I do then is I just want to see how often I  
3 would see that DNA profile.

4 In Officer Sullivan's DNA profile, the  
5 frequency would be one in 177,000 in the Caucasian  
6 population. In Mr. Vanisi's would be one in 2,450,000. You  
7 do it all the way down for the black population and also the  
8 Hispanic population.

9 Q Relative to minorities that aren't listed or an  
10 ethnic group that's not listed in that exhibit, Exhibit 40,  
11 how do the statistics address those minority groups?

12 A The formulas that are used in determining the  
13 frequency of a DNA profile, in the formulas there's numbers  
14 or values that have been established that allow for  
15 subpopulation groups. What a subpopulation is is a group  
16 that is part of a larger population.

17 Q And the group that was put together to  
18 formulate the statistical basis of DNA testing is through  
19 the National Research Council, correct?

20 A That's correct.

21 Q Can you explain generally to the ladies and  
22 gentlemen of the jury who compromised that panel as far as  
23 coming up with the scientific conclusion that, indeed,  
24 subgrouping of other ethnic groups fall within these  
25 statistics?

1           A       The National Research Council was composed of  
2 individuals from the various scientific areas and also law  
3 areas. There were geneticists, statisticians, biologists,  
4 ethnicists and psychologists on this committee. This  
5 committee was established by the National Institute of  
6 Justice to look at DNA and come up with basically guidelines  
7 on how to use statistical formulas to come up with a  
8 frequency number.

9           MR. STANTON: Your Honor, at this time I'd move  
10 for the chart previously testified to by Mr. Riolo, Exhibit  
11 No. 30, into evidence, as well as the DNA charts, the 43  
12 series, A through G.

13           THE COURT: Exhibit 30 was already admitted.  
14 43-A, B, C, D, E, F and G are being offered. Mr. Gregory?

15           MR. GREGORY: We would submit it to the Court,  
16 Your Honor.

17           THE COURT: Exhibits 43-A, B, C, D, E, F and G  
18 are admitted.

19           (Pleading's Exhibit Nos. 43-A through 43-G  
20 admitted.)

21           MR. STANTON: With those admissions, I have no  
22 further questions of Mr. Riolo at this time.

23           THE COURT: Cross-examination?

24           MR. GREGORY: Thank you. May we have the  
25 Court's brief indulgence?

1 THE COURT: Certainly.

2 MR. GREGORY: Thank you, Your Honor. No  
3 questions witness of the witness.

4 THE COURT: You may step down. Before we call  
5 the next witness, please move the documents.

6 Go ahead and call your next witness.

7 MR. STANTON: The State would call Mele Maveni.

8 THE CLERK: Please raise your right hand.

9 (Witness sworn.)

10 THE CLERK: Thank you. Please be seated at the  
11 witness stand.

12 MELE MAVENI

13 called as a witness on behalf of the Plaintiff,  
14 having been first duly sworn,  
15 was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. STANTON:

18 Q If you could get as close as you can to the  
19 microphone. I know you speak softly.

20 Could you please state your complete name and  
21 spell your first and last name.

22 A Mele Maveni. M-E-L-E. M-A-V-E-N-I.

23 Q And do you go by any nickname or other name?

24 A No.

25 Q Ms. Maveni, I want to direct your attention to



1 January of 1998, specifically January 27th of 1998. Ma'am,  
2 did you have occasion on that date to be interviewed by  
3 homicide detectives in the Reno Police Department?

4 A Yeah.

5 Q And did you come down to the station with a --  
6 to the police station with a friend of yours?

7 A Yes.

8 Q Who was that?

9 A Makeleta.

10 Q Could you spell that for the court reporter?

11 A M-A-K-E-L-E-T-A.

12 Q Is she a friend or related to you?

13 A A friend.

14 Q Is she also known as Margaret?

15 A Yeah.

16 Q At the time that you had talked to Reno  
17 homicide detectives in January of 1998, how would you  
18 describe your relationship with the defendant, Siaosi  
19 Vanisi?

20 A He was like a friend during that time.

21 Q Pardon me?

22 A He was like a friend.

23 Q How long had you known Mr. Vanisi prior to that  
24 day?

25 A Two weeks, I think.

1 Q And do you recall what day or approximate time  
2 frame when you first met Mr. Vanisi?

3 A Yeah, he came to school with Renee.

4 Q Let me give you a time frame or a reference.  
5 The murder of Sergeant Sullivan at the university campus  
6 occurred approximately 50 minutes after midnight on the 13th  
7 of January, 1998. With that as a point of reference, was it  
8 two weeks prior to the murder that you met the defendant?

9 A Yeah.

10 Q And what was the name or how did you know  
11 Mr. Vanisi when you met him?

12 A Like what did I know him as?

13 Q What name did you know him by?

14 A Pe.

15 Q Do you know what that stands for?

16 A No. Perrin.

17 Q Can you spell that?

18 A P-E-R-R-I-N.

19 Q And at the time that you first met the  
20 defendant, were you a student?

21 A Yeah.

22 Q At what school?

23 A Hug High.

24 Q How old were you?

25 A 17.

1 Q How old are you today?

2 A 19.

3 Q And I want to direct your attention  
4 specifically to the Friday before the murder. Once again,  
5 Ms. Maveni, the murder occurred on Monday night, technically  
6 Tuesday morning. So the prior Friday night, did you have  
7 occasion to be with the defendant Siaosi Vanisi and went to  
8 WalMart?

9 A Yeah.

10 Q What time of day was that?

11 A Like around -- around 9:00.

12 Q 9:00 in the evening?

13 A Yeah.

14 Q How many people were with you?

15 A Just two of us.

16 Q Who was that?

17 A Just me and Saia.

18 Q Saia spelled S-I-A?

19 A S-A-I-A.

20 Q Who is that to you?

21 A My cousin.

22 Q At the time that this trip to WalMart occurred  
23 between you and your cousin Saia, how old was Saia?

24 A 14.

25 Q And what vehicle were you in?

1 A My cousin's red van.

2 Q Who was driving that van?

3 A Me.

4 Q When or where did you first meet Mr. Vanisi

5 that evening?

6 A He came to church.

7 Q And what church is that?

8 A First United Methodist Church.

9 Q Where is that located?

10 A Downtown, back of Comstock.

11 Q And was anybody with Mr. Vanisi when you met

12 him?

13 A Yeah. Renee.

14 Q What's Renee's last name?

15 A Peaua. P-E-A-U-A.

16 Q Who is Renee Peaua to you?

17 A My cousin.

18 Q Are you good friends?

19 A Yeah.

20 Q After you met the defendant and Renee, did you

21 go to WalMart?

22 A We didn't go with her.

23 Q With Renee?

24 A No.

25 Q You dropped her off?

1           A     Yeah.

2           Q     So who went to WalMart?

3           A     Just me, him and Saia.

4           Q     When you say "him," do you mean the defendant,

5     Mr. Vanisi?

6           A     Yeah. Yeah.

7           Q     Was there a conversation while you were in the

8     van from the defendant as to why he wanted to go to WalMart?

9           A     What?

10          Q     Was there a conversation in the van where

11     Mr. Vanisi told you why he wanted to go to WalMart?

12          A     Yeah. I think that was when I asked him, why

13     are we going to WalMart for.

14          Q     Did he tell you?

15          A     He said he was buying some shaving stuff.

16          Q     And what WalMart did you go to?

17          A     I don't know what street it is. Up there by

18     Cub Foods.

19          Q     So north of the university?

20          A     I guess, yeah.

21          Q     And when you got to WalMart, did you go into

22     the WalMart with the defendant, Mr. Vanisi?

23          A     Uh-huh.

24          Q     Is that a yes?

25          A     Yeah.

1 Q And when you got inside the WalMart, did the  
2 defendant, Mr. Vanisi, want to buy something?

3 A Yeah. He was looking at guns.

4 Q And did he ever make a specific mention to you  
5 that he wanted to buy a gun?

6 A Yes.

7 Q What did you tell him when he said that he  
8 wanted to buy a gun?

9 A I said he needed a license.

10 Q You told him he needed a license?

11 A Yes.

12 Q So what happened about the purchase of the gun?  
13 Did that change?

14 A What?

15 Q Was he able to purchase a gun?

16 A He didn't.

17 Q Did he change his mind about what he wanted to  
18 purchase?

19 A I can't remember. But when we were walking  
20 back --

21 MR. GREGORY: I'm going to object, Your Honor.

22 MR. STANTON: I'll rephrase the question.

23 THE COURT: Okay.

24 BY MR. STANTON:

25 Q After the discussion about a gun, he wasn't

1       able to purchase a gun, correct?

2           A       Yeah.

3           Q       Did he then want to buy something else?

4           A       Yeah. We were walking back and then he saw the

5       hatchets. Then he got that hatchet.

6           Q       And did he purchase that hatchet?

7           A       Yes.

8           Q       And you saw him purchase that?

9           A       Yeah.

10          Q       Did he purchase anything else with the hatchet?

11          A       Gloves.

12          Q       What kind of gloves were they?

13          A       It was like a ivory color, leather. They were

14       like construction gloves.

15          Q       I'll show you Exhibit 21. Does that look --

16          A       Yeah.

17          Q       Does that look like the hatchet that he bought?

18          A       Yeah.

19          Q       And Exhibit 25, if you could take a close look

20       at the gloves in both those plastic bags.

21          A       Are they the same?

22          Q       I'm just asking you if they look familiar.

23          A       Yeah.

24          Q       Do they look familiar to you?

25          A       Yeah.

1 Q Is that the same color and shape and size as  
2 the gloves he purchased?

3 A Yeah.

4 Q Did he tell you what he wanted the hatchet for?

5 A The clerk or whatever asked him and he said it  
6 was for construction.

7 Q And how about the gloves?

8 A Construction.

9 Q Do you know how much the defendant paid for the  
10 hatchet?

11 A It was seven dollars but he didn't want to  
12 break his hundred, so I lent him like five dollars or seven.

13 Q So you lent the defendant the money to purchase  
14 the hatchet?

15 A Yeah.

16 Q After the purchase of the hatchet, you left  
17 WalMart?

18 A Yeah.

19 Q And who's leaving WalMart, if you could once  
20 again tell us who is all together now in your van?

21 A Me, him and Saia.

22 Q Did he say anything in the van after the  
23 purchase of the hatchet, immediately after the purchase of  
24 the hatchet, about what he wanted to do regarding police  
25 officers?



1           A     Yeah. He wanted to kill them.

2           Q     And this is in front of Saia?

3           A     Yeah.

4           Q     Did Saia respond in any way when Mr. Vanisi

5     said he wanted to kill a cop?

6           A     Oh -- I can't remember. He was saying like,

7     No, you ain't going to do that.

8           Q     Saia is saying that to Mr. Vanisi?

9           A     Yes.

10          Q     What did Mr. Vanisi respond to Saia saying, No,

11     you're not going to do that?

12          A     Like, Watch me.

13          Q     Approximately two days before the defendant had

14     purchased the hatchet, were you present when Mr. Vanisi made

15     a comment about white people?

16          A     Yeah.

17          Q     What did he say about white people?

18          A     He said he didn't like them.

19          Q     Did he say anything more about how strongly he

20     felt about white people?

21          A     He said that white people took a lot from the

22     Polynesiensis.

23          Q     If you could speak up a little bit louder.

24          A     He said that white people took a lot from the

25     Polynesians.

1 Q And did he make a specific reference that white  
2 people should be killed because of that?

3 A Yeah.

4 Q After or when you left the WalMart, did you go  
5 to pick up anybody else?

6 A Yeah. We went to pick up Makaleta.

7 Q And this is your cousin?

8 A My friend.

9 Q And where was she working?

10 A Cal-Neva.

11 Q On the way to the Cal-Neva, were you driving?

12 A Yeah.

13 Q Did you drive by the Reno Police Department  
14 station on High Street?

15 A Yeah.

16 Q And was the defendant in the vehicle?

17 A Yeah.

18 Q Mr. Vanisi?

19 A Yes.

20 Q And once again, your cousin Saia?

21 A Yeah.

22 Q What did the defendant, Mr. Vanisi, say when  
23 you drove by the Reno Police Department?

24 A He said to drop him off.

25 Q To drop him off?

1           A     Yeah.

2           Q     Why?

3           A     Because there were polices and he wanted to

4     kill a cop.

5           Q     I'm sorry?

6           A     Because it was a police station and he wanted

7     to kill a cop.

8           Q     Was the time that you drove by the Reno Police

9     Department, were there police officers outside the station?

10          A     No.

11          Q     You didn't see any?

12          A     (The witness shook head negatively.)

13          Q     You have to answer out loud.

14          A     No.

15          Q     Did you drop him off?

16          A     No.

17          Q     Why not?

18          A     Because we thought he was joking.

19          Q     After you went and picked up your cousin or

20     your friend at the Cal-Neva; is that correct?

21          A     Yeah.

22          Q     After you picked up your cousin, did you drive

23     in what is commonly referred to as the downtown area of

24     Reno?

25          A     No. I can't really remember if she was in or

1 we were, like, killing time before she gets off. But we  
2 were cruising the strip, and there was like a police car in  
3 front of us.

4 Q What did Mr. Vanisi say when you had the police  
5 car in front of you?

6 A He said to drop him off right there.

7 Q Why?

8 A So he could kill him.

9 Q And how many times did that happen when you  
10 were driving through downtown Reno?

11 A Just that one time.

12 Q So there's a time when you drove by the Reno  
13 Police Department and then another time when you're behind a  
14 vehicle?

15 A Yeah.

16 Q Did the defendant make a statement about  
17 wanting to go home and put some clothing on?

18 A Yes.

19 Q What kind of clothing did he want to put on?

20 A He said that, first, drop him off at home so he  
21 could get some Tongan mats.

22 Q Tongan mats; is that correct?

23 A Yeah.

24 Q Can you explain to the ladies and gentlemen of  
25 the jury what a Tongan mat is?

1           A     Like there's two different ones. We use them  
2     for weddings and stuff, you know. We use them as like a  
3     rug. Put it on the floor.

4           Q     So there's two different types of Tongan mats.  
5     One is a carpet or a rug and the other is a piece of  
6     clothing that you wear?

7           A     Yeah.

8           Q     Are you Tongan?

9           A     Yes.

10          Q     And the type of clothing or the mat that you  
11     would wear, could you describe to the jury how it looks if  
12     you were to look at somebody wearing a Tongan mat, what does  
13     it look like?

14          A     You know, you don't wear it all the time, but  
15     it's like worth a lot of money to us. It has -- it's like  
16     painted, there's some, like, with the Tongan seal on it and  
17     stuff like that.

18          Q     And did Mr. Vanisi indicate to you why he  
19     wanted to get a Tongan mat that evening?

20          A     Because if he was to kill a cop and he would  
21     wear that as a disguise.

22          Q     Did there come a time when you asked the  
23     defendant for money for gas?

24          A     Yes.

25          Q     What was the defendant's response when you

1 asked him for money?

2 A He said to wait until he robbed a store and  
3 then he'll give us money.

4 Q Did he also indicate that he would get money  
5 after he killed a cop?

6 A Yes.

7 Q Once again, in reference to the murder of  
8 Sergeant Sullivan being late Monday night, technically  
9 Tuesday morning, when was the last time you saw Siaosi  
10 Vanisi?

11 A I saw him Monday morning.

12 Q How was he acting Monday morning?

13 A He was normal. He was cool.

14 Q The Friday night before the murder, did you  
15 have occasion to see Mr. Vanisi at church?

16 A Did I see him at church?

17 Q Yes.

18 A Yes.

19 Q How was he dressed?

20 A He was wearing that jacket, that one right  
21 there (pointing).

22 Q The jacket that's down on the floor there?

23 A Yeah. Yes.

24 THE COURT: What is that marked as,  
25 Mr. Stanton?

1 MR. STANTON: I believe the witness has  
2 identified Exhibit 11.

3 BY MR. STANTON:

4 Q What other items of clothing was he wearing  
5 that Friday night?

6 A He was wearing some beige corduroy pants and a  
7 wig. It was like a dreadlock wig.

8 Q And had you seen him wear that outfit  
9 frequently in that two-week time period that you knew  
10 Mr. Vanisi before the murder?

11 A Yeah.

12 Q How often was he wearing that outfit of the wig  
13 and the hat and the jacket?

14 A He was wearing it every day I saw him.

15 Q I show you some Polaroids that are marked as  
16 Exhibits 31-G D and C. Do you recognize what's in each one  
17 of those photographs?

18 A Looks like his wig. But his wig had a hat.

19 Q 31-A and B?

20 A Yeah, that's it.

21 Q Is that the hat?

22 A Yeah.

23 Q Did you ever see Mr. Vanisi without the wig on?

24 A Yeah. Maybe like twice. Not really.

25 Q Not really, or did you?

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A Yes, I did.

Q I'll show you 24-A. Is that the way Mr. Vanisi looked without the wig at that time?

A Yes.

MR. STANTON: Move for 24-A into evidence.

THE COURT: Counsel?

MR. GREGORY: Again, we will submit it to the Court.

THE COURT: 24-A is admitted.

(Plaintiff's Exhibit was admitted.)

MR. STANTON: May I publish 24-A to the jury?

THE COURT: Yes.

BY MR. STANTON:

Q Finally, during the two-week time period that you know Siaosi Vanisi, how many times did he tell you that he wanted to kill a white cop?

A He said it like practically every time we were together.

Q How many times do you think that was over that two-week period?

A Practically every day.

MR. STANTON: No further questions.

THE COURT: Cross-examination?

MR. GREGORY: Yes, Your Honor. The Court's indulgence.