

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 10 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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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
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1 a rope to the chimney so if they fell they wouldn't go very
2 far. Then they helped him with cleaning out the cooler pan
3 or changing the pads to keep our house cool for the summer.

4 Brian loved to help his dad in the garage. George
5 was fond of woodworking and had tons of equipment with which
6 to play at his hobby. Brian wore the safety goggles that
7 George required. He sawed and drilled and sanded and helped
8 with every aspect of the project. Because George was so
9 patient with him, Brian learned and loved what he learned.
10 He loved spending time with his dad because of the kind
11 person he was. He brought out the best in our children.

12 George loved to be a part of Brian's soccer and
13 baseball activities. He helped coach his soccer team in the
14 fall 1997 season. And when he wasn't helping the coaches
15 and the boys, he was on the sidelines encouraging the
16 parents to cheer for the kids. He made enough noise for all
17 of us. He had fun watching Brian learn the skills it took
18 to play the game, and he had fun being part of his life,
19 doing something that Brian enjoyed so much.

20 I know Brian loved having his dad involved in his
21 extracurricular activities. It made him feel special to
22 know that his dad cared enough to be there.

23 Brian was angry for a very long time. I still
24 think he harbors some anger towards Vanisi for George's
25 death. I try to turn the children's away from anger

1 because it does nothing but take up the energy they need
2 just to keep going day-to-day. Brian's sadness hinges on
3 his anger. One day his anger will be replaced by positive
4 feelings. I hope as he grows he is able to place his trust
5 in our justice system and know that justice has been served.

6 Meghan is our oldest. She will be 17 in December.
7 She is a beautiful girl who looks much like her dad. She
8 was just 15 when George was murdered. What a thief his
9 death has been to her.

10 I think girls grow close to their fathers, more so
11 than their mothers. This was true of Meghan. She and
12 George had a very close relationship. When she would feel
13 overwhelmed with tasks at hand, he would sit down with her
14 and show her how to break it down into manageable portions.
15 Meghan had a very difficult time in fifth grade when she was
16 ten. Her teacher was demanding and she didn't know how to
17 handle the demands. George taught her how to study, how to
18 construct a report, how to memorize. I was always better at
19 the concrete things like math, while he was better at
20 theory. We complemented each other, each adding a little to
21 the situation.

22 George would spend two or three hours with Meghan
23 on many evenings after her brothers were in bed. Together
24 they tackled what seemed like insurmountable tasks of
25 learning. I think Meghan will always remember those times.

1 I remember when he taught her how to ride her
2 bike. He ran next to her, holding the bike steady, and
3 finally let go. How proud she was when she realized she was
4 coordinating the balance with the speed and stopping all at
5 the same time. I was manning the movie camera so we
6 wouldn't miss a second of it.

7 Because of his shift work, George was in a unique
8 position to spend lots of time with each of our children.
9 For many years he worked the evening shift, typically three
10 to 11 p.m. Because I worked day shift as an R.N., he spent
11 many of them with Meghan during her early years.

12 He did many of the household chores, but he also
13 spent a great deal of time with each of the kids when he had
14 the schedule. Meghan was our only child for four years.
15 She and George bonded tightly. He would sit and watch
16 Sesame Street with her, ride her bike, or color pictures.

17 I remember plainly that she loved to put clips in
18 her long blond hair. She decided that it would be fun to do
19 Daddy's hair, too. In the afternoon when she would no
20 longer nap but Dad was tired from his later schedule, he
21 would lay down on our bed and Meghan would bring in the
22 clips, combs and brush, hair bands and other assorted items
23 to fix Dad's hair. By the time she was done he was relaxed
24 from the rest and she had created a beautiful work of art in
25 his hair.

1 We were always grateful for the amount of time he
2 was able to spend with her, not only as a toddler, infant
3 and preschooler, but also as a growing child and young
4 adult. Meghan is lucky because she got to spend so many
5 years with him. But it hurts her more, because her loss is
6 more acute.

7 Since George's murder, Meghan has learned to drive
8 a car. George was so good at driving because it was part of
9 his job. He took the emergency vehicle operation course at
10 regular intervals and enjoyed it a lot. He really wanted to
11 teach Meghan how to drive. I didn't want to have to deal
12 with the stress of it. Meghan was really looking forward to
13 learning from him, too. We spent six months, she and I, in
14 cars together, giving her the skills to become a good
15 driver. We both would rather it had been her dad.

16 Families always came first for us. So many good
17 memories we will cherish. We always will remember the 4th
18 of July when we went to the university to watch the
19 fireworks at Rancho San Rafael. When the fireworks were in
20 Sparks, we would go to the hospital parking lot or on the
21 roof of our house to watch from there. George didn't want
22 to be in crowds; they were so much of a part of his daily
23 life at work.

24 When he had time off he wanted to be with his
25 family and close friends. I realized just in the last year

1 that he wanted nothing more than to be a family because he
2 missed out on that while he was growing up. Because his
3 mother died so young, he lacked the influence a mother can
4 bring to her young child. He knew the importance of family,
5 and he wanted that for his new family.

6 Christmas was his favorite time of the year. He
7 was like a little kid, getting out all of the decorations,
8 some from when he was growing up. On Christmas morning when
9 it was time to open gifts, the children would always have to
10 come and wake him up. Then it was time for a shower and
11 then breakfast. He prolonged the agony of waiting just long
12 enough to make them want it just a little bit more.

13 He had fun with them as they begged him to hurry
14 up. As the children opened gifts, George would put the bows
15 on the dog, on the cat, or on his own head. Anything to get
16 a laugh.

17 I remember one year when the wrapping paper was
18 everywhere and we were putting it all into large garbage
19 bags. At the end of the day Brian was missing his favorite
20 stuffed animal that he slept with each night. We looked
21 high and low for it. George finally started digging through
22 the trash and the bags. Lo and behold, there it was. He
23 got the reputation around our house for being the dad who
24 could find anything. If you lost it, ask Dad; he always
25 found it.

1 Dinners out, just the two of us, were rare.
2 Because he worked either evening or graveyard shift for most
3 of his 20 years at UNR P.D. he had only two nights a week
4 with the children as they reached school age. He cherished
5 those nights as family nights. We reserved time, and we
6 reserved time for us out for a Christmas party or an
7 anniversary dinner.

8 On our 16th wedding anniversary, Meghan made us a
9 beautiful card that all the children signed. Inside it said
10 that their gift to us was a night out, just the two of us,
11 and that she would babysit without being paid. I remember
12 George's reaction to that was mixed. It was so nice that
13 she was offering her services and realizing we might like
14 some time alone, but he was very sad to think she thought we
15 would rather be alone than together as a family.

16 Family was first with him, all the way. We love
17 our children and we wanted to be with them and enjoy them as
18 much as possible. When Meghan was 12 she started playing
19 competitive softball. She played in weekend tournaments all
20 over northern California and Nevada and down into the Las
21 Vegas area on occasion. He would always take a day off from
22 work so that he could stay home with our littler ones while
23 I would take Meghan and Brian and travel to the tournaments.
24 He loved being with the children and he took time off work
25 to do it when I couldn't be there.

1 So many things we have missed out on in the last
2 year. It has been an incredibly difficult year for all of
3 us. Things that most of you take for granted like
4 birthdays, Father's Day, Christmas, family vacations, they
5 all have been agonizing for our family. We have spent many
6 days at the cemetery placing flowers on his marker. It has
7 given our family a place to go together to remember George
8 all at the same time. It has also provided a safe place for
9 many tears.

10 We have had to deal with so many emotions in the
11 last year, too. We have all been devastated and been trying
12 hard to express our emotions positively. We have been in
13 counseling to deal with the many feelings and words that are
14 hard to say. Early on, as I am still, I was dealing with a
15 very angry Scotty. He was picking up on profanity he heard
16 and repeating it to others. He was fighting more, and I had
17 noticed a lack of patience with our family.

18 Kyle, too, has had a hard time. I tried to spare
19 him the details of his dad's murder by telling him his daddy
20 was shot. I thought that might be easier for him to handle.
21 I was devastated when my three-year-old had questions about
22 the truth, the way his dad had really died. Trying to
23 explain the hatefulness associated with his dad's death has
24 been awkward. A three-year-old's world is kind, nice,
25 protected. Kyle had to learn way too soon some of the

1 realities of life.

2 And though Brian knows so much more than he
3 should, he was unable to vent his sadness after the first
4 week or so. And he would cry himself to sleep at night.

5 Meghan was dealing with her anger and sadness by
6 being angry with me. And she wouldn't talk at all. Most of
7 those initial reactions and emotions have been replaced by
8 healthy ones. We have all been through the counseling to
9 help us with that. But the pain is not dulled. We miss him
10 as much today as we did the first day without him.

11 Our lives have been painfully altered. A parent's
12 wish is to take as much pain away from their children as
13 possible, to protect them from the reality of the world
14 until they are ready. I have cried a thousand times not
15 just for my own loss but for my inability to protect our
16 children from theirs. I want nothing more than to make it
17 better for them. But I can't take away their sorrow.

18 In preparing for the first trial in January, as we
19 were watching some old family videos, Meghan heard George
20 talking behind the camera as he was taking pictures of the
21 children outside playing in the snow. Meghan said, "That
22 doesn't sound like Dad." I looked back at her in shock as
23 the tears welled up in her eyes.

24 I said, "That's Dad. You don't remember what his
25 voice sounds like, do you?" She said she didn't, as the

1 tears rolled down our faces. Can you imagine what it would
2 be like for a 16-year-old child not to remember the sound of
3 her dad's voice? It's only been a year. I never expected
4 that from Meghan because she is the oldest. She spent 15
5 years with George.

6 So I asked Brian if he remembered. He said he
7 didn't remember either. My heart is broken for them. What
8 I feared has come true. All we have left to remind them of
9 their dad are home videos and pictures. George's life was
10 stolen from all of us.

11 A poem was given to me not long after George died,
12 and it hangs on our wall with a picture of him on the page.
13 The poem reads:

14 "A million times we've needed you. A million
15 times we've cried.

16 If love could have saved you, you never would have
17 died.

18 In life we loved you dearly. In death we love you
19 still.

20 In our hearts you hold a place no one else will
21 ever fill.

22 It broke our hearts to lose you, but you didn't go
23 alone.

24 Part of us went with you the day God took you
25 home."

1 I think often of the little things George did for
2 me because he loved me, because he was a team player, and
3 because he put his family above all else. He did the
4 laundry so that I wouldn't have to do it. He washed the
5 dishes after dinner each night because he said since I
6 cooked it was only fair. He skinned the chicken for me when
7 I was making chicken for dinner. He cleaned the house when
8 I was at work so I could come home to a clean, friendly
9 environment.

10 He helped the boys make a Christmas tree necklace
11 hanger to set on my bathroom counter. It's beautiful and
12 reminds me daily of his passion for woodworking.

13 In our relationship he put my needs above his. We
14 laughed together, enjoyed our children together. We were
15 good together. All that remains are memories of those
16 wonderful times. In my lifetime I will never forget him.

17 I will love him until I die. He will always be my
18 first love, the father of my children, the man with whom I
19 found great happiness. He brought out the best in me.

20 It must be clear to you now how we have missed
21 George over the last year-and-a-half. We will continue to
22 miss him through the years. I don't think a loss like ours
23 is one you ever get over, but one you learn to cope with.
24 He was so much more than a police officer doing his job. He
25 was a daddy, a best friend, a mentor. Our lives have

1 changed drastically, and not for the better. We are
2 learning to live without him. We don't like that at all.

3 Siasosi Vanisi is a man who killed without remorse,
4 and he continues to exhibit no regret for what he did. His
5 hatred for people unknown to him is a frightening prospect.
6 He is a violent criminal. We must keep him forever away
7 from our community where he would have the opportunity to
8 hurt another family. He has devastated ours. He must never
9 be given that chance again.

10 When I have had a long day and I come home from
11 work to a house full of four children as the only adult, I'm
12 tired. You, Vanisi, are the reason for my exhaustion. I
13 have four children to feed, to help with homework. I have
14 to take two or three to a sport or a lesson, give the little
15 ones a bath, and keep ahead of the laundry for four
16 children. You are the reason that I alone am their
17 confidant, their teacher, and their cook. You are the
18 reason I take care of the yard, do all the shopping. And
19 George is not there to listen to my frustrations, to help
20 with the chores, or to help with the taxi service. George
21 is not there to hold me in his arms and tell me it will all
22 get done.

23 You are the reason my kids have less time, each
24 one of them, with me, because I have to do all these things
25 without the help of my best friend. I have to share what

1 little is left of me at the end of the day with my four
2 kids. They don't have their dad to turn to when I am busy;
3 they only have me left.

4 We opened Christmas presents without George last
5 year and we'll do it again in three months. He wasn't here
6 to help the kids put their toys together, to hear their
7 shouts of glee. You never thought about that when you
8 killed George. You never considered anything but yourself
9 and your own hatefulness. And you have devastated this
10 family. You have taken from us what can never be returned.
11 You will never be forgiven for that.

12 My children and I despise what you have done and
13 what you have taken from us. We have only our memories left
14 and we should have had many years of memories to make. You
15 have caused my children to grow up before they should have.
16 You have caused a river of tears. You have changed our
17 lives, and not for the better. We are a family in mourning
18 and have to live each day for the rest of our lives knowing
19 what we missed.

20 I had 16 wonderful years with George, but it
21 should have been 50. But our children are the ones who have
22 truly been cheated. They are missing out on so much by not
23 having George with them to help them grow up. We are
24 learning to live again. But we will always know what we
25 missed because we had so much. And you took it away in an

1 instant and left us with emptiness that will last forever.

2 And yet his goodness lives on. George was such a
3 powerful presence in life that in death he left a legacy to
4 many. He will long be remembered as a wonderful friend. He
5 was fun loving, a prankster. He always had a funny story to
6 tell, a quip or a gesture.

7 George was the most awesome father that a woman
8 could hope to have for her children. He loved them well and
9 was so much a part of their lives. As for me, he was my
10 everything. It takes being together for many years until
11 you realize it. And I discovered that our marriage made me
12 a better person. George was good for me. He brought out
13 the best in me and allowed me to realize my full potential
14 as a wife, as a mother, and as a professional.

15 You can't take any of these wonderful things away
16 from us, Vanisi, even though you took George. George was
17 loved, respected, and admired. He has left a legacy to
18 many.

19 In Washington, D.C. there is a memorial bearing
20 over 15,000 names of police officers who have died in the
21 line of duty. A section of this wall says: "It is not how
22 these officers died that made them heroes. It's how they
23 lived."

24 And George lived well. He touched many lives. We
25 will never forget him.

1 MR. STANTON: Your Honor, I would like to publish
2 Exhibit 45 at this time.

3 THE COURT: You may do so.

4 MR. GAMMICK: Your Honor, we may need to get
5 another power bar. This one is not working.

6 (There was a pause in the proceedings.)

7 MR. GAMMICK: May we have a few moments? We'll
8 get a technical person up here. We are not getting either
9 of these working.

10 THE COURT: Ladies and gentlemen of the jury, we
11 will take a recess now. During this recess it is your duty
12 not to discuss among yourselves or with anyone else any
13 matter having to do with this case. It is your further duty
14 not to form or express any opinion regarding the ultimate
15 outcome of this case until the matter is submitted to you.
16 You are not to read, listen to, or view any news media
17 accounts regarding this case.

18 Should any person attempt to influence you in any
19 manner with regard to this case, you are to report such an
20 attempt to the bailiff, who will then report it to me.

21 Ladies and gentlemen of the jury, you are excused
22 at this time.

23 (Whereupon, the following proceedings took place
24 out of the presence of the jury.)

25 THE COURT: We are going to go ahead and take a

1 recess. During this recess I would like the defense to get
2 ready because I don't want to have to take another recess.

3 MR. GREGORY: We will try to do that for the
4 Court.

5 THE COURT: Court is in recess.

6 (A recess taken at 3:35 p.m.)

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1 RENO, NEVADA, FRIDAY, OCTOBER 1, 1999, 3:50 P.M.

2 --oOo--

3 (Whereupon, the following proceedings took place
4 out of the presence of the jury.)

5 THE COURT: Thank you. Please be seated.

6 MR. GREGORY: I want to make a brief record so we
7 don't have to break again after Mrs. Sullivan's testimony.

8 Again there was weeping and halting speech,
9 outright crying by the witness. Some of the jurors tended
10 to follow that act, and there was a great deal of it going
11 on in the audience. It was much more intense with
12 Mrs. Sullivan, as it should be, I suspect, than it was with
13 previous witnesses.

14 That's the only record I would like to make.

15 Thank you.

16 THE COURT: Comment from the State?

17 MR. STANTON: No comment, Your Honor.

18 THE COURT: Please bring in the jury.

19 (Whereupon, the following proceedings took place
20 in open court, in the presence of the jury.)

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

23 MR. STANTON: State will so stipulate.

24 MR. GREGORY: Defense will so stipulate.

25 THE COURT: You may proceed.

1 MR. STANTON: I apologize to the Court. At this
2 time the State would like to publish Exhibit 45.
3 THE COURT: You may do so.
4 (Exhibit 45 was played in open court, with
5 dialogue as follows:)
6 (Laughter. Inaudible voices.)
7 UNIDENTIFIED SPEAKER: Ain't I purty?
8 (Inaudible.)
9 ANOTHER SPEAKER: You're welcome.
10 UNIDENTIFIED SPEAKER: Merry Christmas.
11 ANOTHER SPEAKER: I love your face.
12 (Inaudible.)
13 UNIDENTIFIED SPEAKER: I don't mind (inaudible).
14 ANOTHER SPEAKER: You said it; nobody else did.
15 UNIDENTIFIED SPEAKER: Carolyn, I (inaudible).
16 ANOTHER SPEAKER: You did that (inaudible). What
17 a pose! What a beautiful turkey!
18 UNIDENTIFIED SPEAKER: Time to carve it.
19 (Inaudible.)
20 UNIDENTIFIED SPEAKER: Doing good, Buddy.
21 VOICE OFF CAMERA: (Inaudible) There goes Daddy,
22 sweeping (inaudible).
23 UNIDENTIFIED SPEAKER: Snow shovel Jackson here.
24 VOICE OFF CAMERA: Snow shovel Jackson. We have
25 been through two snow shovels already this season. And this

1 one is rapidly dying now, too. One last follow through.
 2 Little Brian went back in the house to get his snow suit.
 3 Hi! Wave to Mommy.
 4 UNIDENTIFIED CHILD: Hmm?
 5 VOICE OFF CAMERA: Wave. Where are you going?
 6 UNIDENTIFIED CHILD: Huh?
 7 VOICE OFF CAMERA: Where are you going?
 8 VOICE OFF CAMERA: Hi, honey.
 9 (Inaudible voices.)
 10 VOICE OFF CAMERA: Brian's much more interested in
 11 his Lifesafer than any ball coming in his direction.
 12 UNIDENTIFIED CHILD: Who is that?
 13 (Inaudible voices in the background.)
 14 VOICE OFF CAMERA: Hi? George, ask him to make
 15 the animal sounds from the State of Maine? (Inaudible.)
 16 VOICE OFF CAMERA: Here, Buddy.
 17 UNIDENTIFIED SPEAKER: Use your (inaudible.) It
 18 works on me.
 19 ANOTHER SPEAKER: Got your knife on you?
 20 UNIDENTIFIED SPEAKER: No, I don't.
 21 ANOTHER SPEAKER: Why not? (Inaudible).
 22 UNIDENTIFIED SPEAKER: I stopped carrying it
 23 because my pants fall down.
 24 (Inaudible.)
 25 VOICE OFF CAMERA: Hi. There's Scotty helping

1 Daddy. Are you helping? He's like: Oh, no, get me out of
2 here! There's a big one. Yeah, Daddy.

3 Get me away from here. There he goes. There he
4 goes. They're having such a good time.

5 VOICE OFF CAMERA: We have a big gathering here at
6 Mom and Dad's (inaudible) summer. And Daddy is opening a
7 gift right now.

8 A big gathering here and some new faces, which is
9 kind of fun. And some old ones. A beautiful day.

10 This is Father George here. He's putting on his
11 collar. (Inaudible.) Aren't you a handsome fellow?

12 (Inaudible.)

13 VOICE OFF CAMERA: Bye-bye. Say night-night.
14 Night-night. Love you.

15 UNIDENTIFIED SPEAKER: That's Santa Claus. That's
16 Santa Claus. Is that his helpers?

17 VOICE OFF CAMERA: What does Santa Claus say,
18 Kyle? What does he say?

19 VOICE OFF CAMERA: There's Daddy taking a walk
20 down the beach, too. A beautiful overcast day today. The
21 weather is just beautiful. It's cool out here. We have our
22 sweat shirts in case it's too cool.

23 VOICE OFF CAMERA: We are walking down (inaudible)
24 to the beach after lunch. (Inaudible) Meghan for sandwiches
25 and stuff all day. The kids want to go down and overlook

1 (inaudible). There's Brian!

2 VOICE OFF CAMERA: Are you having a good time?

3 UNIDENTIFIED YOUNG GIRL: Yeah.

4 UNIDENTIFIED CHILD: Yeah.

5 VOICE OFF CAMERA: I'm going to go past you

6 (inaudible).

7 VOICE OFF CAMERA: Your temper is forever

8 captured.

9 UNIDENTIFIED SPEAKER: It's from Santa.

10 UNIDENTIFIED CHILD: Look, Dad.

11 UNIDENTIFIED SPEAKER: Wow, is that what you got?

12 Wow! (Inaudible).

13 UNIDENTIFIED CHILD: It's special, guys.

14 (Inaudible.)

15 UNIDENTIFIED SPEAKER: I'll get the scissors.

16 (Inaudible.)

17 VOICE OFF CAMERA: Grandpa has a present there to

18 open, too.

19 UNIDENTIFIED SPEAKER: Open one from our old son.

20 VOICE OFF CAMERA: Okay.

21 UNIDENTIFIED CHILD: This is different from the

22 present.

23 UNIDENTIFIED SPEAKER: That must be what this is.

24 VOICE OFF CAMERA: That must have something to do

25 with it.

1 UNIDENTIFIED SPEAKER: It's a dust collection
2 system for the garage.

3 VOICE OFF CAMERA: To collect the dust that
4 accumulates in the garage, hmm?

5 (The playing of Exhibit 45 concluded.)

6 MR. STANTON: Thank you, Your Honor. I have no
7 further questions of Mrs. Sullivan. Thank you.

8 THE COURT: Counsel?

9 MR. GREGORY: Bless you and your family,
10 Mrs. Sullivan. We have no questions.

11 THE COURT: Thank you, ma'am. You may step down.

12 (The witness was excused.)

13 MR. STANTON: Your Honor, the State has a final
14 witness, Meghan Sullivan.

15 (One witness sworn.)

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

18 MEGHAN SULLIVAN,
19 called as a witness on behalf of the
20 Plaintiff, having been first duly sworn,
21 was examined and testified as follows:

22
23 DIRECT EXAMINATION

24 BY MR. STANTON:

25 Q Could you please state your name and spell your

1 first name for the court reporter?

2 A Meghan Sullivan, M-e-g-h-a-n.

3 Q Meghan, how old are you?

4 A I'm 16.

5 Q And you are the daughter of George Sullivan?

6 A Yes.

7 Q Do you attend school?

8 A Yes.

9 Q What grade?

10 A I am in eleventh grade.

11 Q At your Dad's funeral service did you prepare a
12 poem that spoke of your feelings for your father and your
13 sense of loss based upon his death?

14 A Yes, I did.

15 Q Could you read that poem now?

16 A Yes.

17 I see your face against the sky. It takes all I
18 have to say good-bye.

19 My memories of you stay in my heart. With your
20 soul I'll never part.

21 Every night in my prayers, I know in my heart that
22 you'll always be there.

23 All of my life you have been there for me.

24 Memories give me the strength that I need.

25 You are the best dad and I'll love you forever.

1 You were always there for me and forgot me never.

2 You were always there to ease my pain. I know
3 that you care and I feel the same.

4 You said to me once that life isn't always fair.
5 I never really understood until now, now I dare.

6 It's a feeling of loneliness like the loss of my
7 heart. My Daddy is gone now, and now we must part.

8 You'll always be there though, even though we
9 can't touch. You are a wonderful man. We all know that
10 much.

11 MR. STANTON: Thank you, Your Honor. No further
12 questions.

13 THE COURT: Mr. Gregory?

14 MR. GREGORY: No questions, Your Honor. Thank
15 you, Your Honor.

16 THE COURT: You may step down.

17 (The witness was excused.)

18 MR. STANTON: Your Honor, the State would rest its
19 case in the penalty phase.

20 THE COURT: Counsel?

21 MR. BOSLER: Your Honor, we call Sione Peaua.

22 (One witness sworn.)

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

25 ///

1 SIONE PANUVE PEUAU,
2 called as a witness on behalf of the
3 Defendant, having been first duly sworn,
4 was examined and testified as follows:
5

6 DIRECT EXAMINATION

7 BY MR. BOSLER:

8 Q Mr. Peaua, could you please state your full name
9 and spell it, the whole name for the record?

10 A First name is Sione, S-i-o-n-e. Middle name is
11 Panuve, P-a-n-u-v-e. Last name is Peaua, P-e-a-u-a.

12 Q How old are you right now?

13 A I'm 26.

14 Q And earlier we had a witness by the name of Renee
15 Peaua. Are you a relation to her?

16 A That's my younger sister.

17 Q Sione, how long have you lived in Reno?

18 A Twenty-two years, between 20 and 22 years. I
19 don't know exactly.

20 Q Do you go to school?

21 A Right now I'm taking time off, but I will be
22 during the spring.

23 Q And where are you attending school?

24 A University of Nevada, Reno.

25 Q And what subject are you pursuing?

1 A Criminal justice.

2 Q Why are you a criminal justice major?

3 A I'm hoping to be a marshal, U.S. marshal.

4 Q Your goal is to be a U.S. marshal?

5 A Yes.

6 Q Do you know the person sitting at the table in the

7 blue jacket?

8 A Yes.

9 Q Siaosi Vanisi?

10 A Yes.

11 Q How do you know him?

12 A He is my relative, my cousin.

13 Q How long have you known him?

14 A Seventeen years.

15 Q If you could explain to the jury, how is it you

16 guys first met?

17 A First met? Just through the family, through

18 functions in San Francisco, through family events. I don't

19 know exactly when I met him.

20 Q Does the Peaua family go to San Francisco and

21 attend events with other Tongans?

22 A Yes.

23 Q If you could, explain a little bit about how you

24 know, how you would characterize Siaosi? Is he a friend?

25 As a relative?

1 A Siaosi, I think he's one of my closest relatives.
2 We pretty much grew up together. Every single time that we
3 would go to San Francisco, we always stayed at his house
4 because we got along. He was always helpful finding --

5 Q Explain why he is your closest relative. How many
6 relatives -- I get the impression there's a large
7 closely-knit Tongan community. Why is he your closest?

8 A As far as cousins I have? First cousins, I think
9 I have almost 200, first cousins. But because his mother
10 and my mother are pretty close, so we became close.

11 So every single time we would always go to San
12 Francisco, we would always stay with him.

13 Q The last time you saw Siaosi, was it when you went
14 down for a football game, I believe?

15 A Yes, we were playing against the University of San
16 Diego State. Pe and his wife had come down to watch my
17 game.

18 Q You were actually a football player for the
19 university?

20 A Yes.

21 Q Could you tell the jury a little bit about how
22 that went, when you would go stay with Siaosi and his wife?

23 A Siaosi had come down, him and his wife, for the
24 weekend to watch my game and just to spend some time. And
25 he showed us around all of Southern California and we just

1 got an opportunity to spend time because I hadn't seen him
2 in like three years before that.

3 And he pretty much took care of us the whole
4 weekend. Took us down to Tijuana because I had never been
5 there. He took us down there, showed us around. Then we
6 went back to L.A. He showed us around L.A., too. Took us
7 to the beaches, took us around Hollywood, in that area.

8 Q Did he ask for anything in return for showing you?

9 A No, no.

10 Q Is that the type of person Siaosi is?

11 A Yeah, he, that's the type of person he was. He
12 was always making sure that people around him was
13 comfortable, had their needs, whether it be food, money,
14 making sure that our stay there was comfortable.

15 Q If you could, explain -- you've known him since
16 essentially childhood?

17 A Uh-huh.

18 Q Was he the same way when he was growing up?

19 A Excuse me?

20 Q Was he the same way when he was growing up?

21 A Oh, yeah.

22 Q All right. Did you get a chance to meet some of
23 Siaosi's friends while you were visiting?

24 A The only one that I met up there was, in L.A. was
25 Greg because we were always busy. You know, it was

1 basically a time for just us to bond because it has been so
2 long since we ever had contact with each other.

3 Q When you grew up, when you knew him growing up,
4 did you both have friends that were Caucasians?

5 A Oh, yeah, right.

6 Q In the San Bruno area, there's a lot of Caucasians
7 in San Bruno?

8 A Yeah, quite a few.

9 Q If you looked at the total number of friends that
10 you knew Siaso to have, what percentage would you say were
11 actually Caucasians?

12 A Most of them, I would say. Over 50.

13 Q How about when you went to see him this last time?
14 The friend you were talking about, is he also Caucasian?

15 A Yes.

16 Q Siaso's wife, is she also Caucasian?

17 A Yes.

18 Q Have you ever known him to say anything --

19 A Never.

20 Q -- racially derogatory, say things bad about the
21 Caucasian race?

22 A Never.

23 Q You have known Siaso Vanisi for quite awhile.
24 Ever known him to be a violent person?

25 A Never.

1 Q Type of person who likes to go out and pick
2 fights?

3 A Never.

4 Q Get in trouble?

5 A No.

6 Q Let's talk, what would happen if Siaosi saw you
7 and maybe Renee arguing about something?

8 A He would always -- he would be the, I guess, the
9 mediator. I mean, he would, you know, hear both sides of
10 the story and then try to work it out, making sure that we
11 didn't argue anymore.

12 Q Ever see anything out of character from that? Him
13 wanting to mediate disputes, be a peacemaker? Have you seen
14 him do anything else other than that?

15 A No.

16 Q Have you known him to be anything other than being
17 generous?

18 A No, that's the kind of person he was. He was just
19 a generous, good person.

20 Q Some people have said he's kind of a preacher.
21 Would you agree?

22 A Yes.

23 Q Why? Why is that?

24 A Because he was always looking to do good. You
25 know, because Pe is a few years older than I and when I

1 would be in San Francisco, you know, I wasn't, I was just a
 2 kid. I wasn't willing to -- you know, I was really narrow
 3 minded. And whenever I felt like doing something bad, it
 4 wasn't anything like too bad. Like in a scuffle with this
 5 other kid, you know, he would always come and explain to me
 6 why, you know, why do I feel like doing it? And making me
 7 realize that, you know, that's not the way to go.

8 Q You knew Siaosi when he was going to junior high
 9 school?

10 A Excuse me?

11 Q Did you know Siaosi while he was going to junior
 12 high school?

13 A Yes.

14 Q I show you a picture that has been marked. I ask
 15 you if this looks like an accurate photograph depicting how
 16 Siaosi looked while he was in junior high school.

17 A That's the same, yeah.

18 MR. BOSLER: Your Honor, we move for its
 19 admission.

20 MR. STANTON: No objection.

21 THE COURT: It's admitted.

22 (Exhibit 51-B admitted.)

23 MR. BOSLER: May we publish it to the jury?

24 THE COURT: Yes.

25 MR. BOSLER: Okay to hand it to them or do a

1 walk-by?

2 THE COURT: You can do a walk-by if -- can
3 everyone see it if Mr. Bosler holds it for you?

4 (The exhibit was displayed to the jury.)

5 MR. BOSLER: Your Honor, may I have a moment?

6 THE COURT: Yes.

7 MR. BOSLER: No further questions, Your Honor.

8 THE COURT: Cross?

9 CROSS-EXAMINATION

10 BY MR. STANTON:

11 Q Sir, I would like to direct your attention to
12 January of 1998. Did you live in Reno during that time
13 frame, sir?

14 A January 1998? Yes.

15 Q You did? Did you live at Sterling Way?

16 A Yes.

17 Q Did you see Mr. Vanisi in the week prior to July
18 13, 1998?

19 A No.

20 Q January, I'm sorry. January 1998. You didn't see
21 him?

22 A No.

23 Q Did you know he was in town?

24 A No.

25 Q Were you in town during that time period?

1 A 1998. No.

2 Q You were not in town?

3 A No.

4 Q So you never --

5 A Actually, in 1998, January? I was not staying
6 here in Reno.

7 Q So you never saw Mr. Vanisi in 1998?

8 A No.

9 Q Prior to January 1998, when was the last time you
10 saw the defendant?

11 A 1995.

12 MR. STANTON: Nothing further.

13 MR. BOSLER: Just one other.

14 REDIRECT EXAMINATION

15 BY MR. BOSLER:

16 Q January 1998, were you on your mission?

17 A Yes.

18 MR. BOSLER: That's all, Your Honor.

19 THE COURT: Anything further?

20 MR. STANTON: No, Your Honor.

21 THE COURT: You may step down. You are excused.

22 (The witness was excused and left the courtroom.)

23 MR. BOSLER: We call Renee Peaua.

24 (One witness sworn.)

25 THE COURT: Ma'am, you are still under oath. Go

1 ahead and take the stand.

2 RENE PEUA,
3 called as a witness on behalf of the
4 Defendant, having been previously duly sworn,
5 was examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. BOSLER:

9 Q Ms. Peua, just to refresh the jury's
10 recollection, could you tell them your complete name?

11 A Renee Nancy Peua.

12 Q Your middle name is Nancy?

13 A Yes.

14 Q Renee, how old are you?

15 A Eighteen.

16 Q And do you remember testifying earlier in this
17 case?

18 A Yes.

19 Q And do you remember who called you as a witness?

20 MR. STANTON: May the record reflect the witness
21 pointed to the prosecution table?

22 THE COURT: The record will so reflect.

23 BY MR. BOSLER:

24 Q So you were called by the District Attorney's
25 office to testify earlier?

1 A Yes.

2 Q If you could, tell the jury, how long have you
3 been in Reno?

4 A All my life.

5 Q And the person who just walked out of the
6 courtroom, he is your brother?

7 A Yeah.

8 Q All right. Do you know -- obviously, you know
9 Siaosi Vanisi?

10 A Yes, I do.

11 Q How long have you known him?

12 A All my life.

13 Q Have you been down to San Francisco, that area, to
14 visit?

15 A Uh-huh.

16 Q Have you seen Siaosi while he was down there?

17 A In L.A. also.

18 Q In L.A.?

19 A Uh-huh.

20 Q If you could, I would like to draw your attention
21 to something you said when the State called you as a
22 witness.

23 A Okay.

24 Q You testified that you idolized Siaosi Vanisi. Do
25 you remember saying that?

1 A Yes, I do.

2 Q Why is that?

3 A Because he was uplifting. He was intelligent.
4 And he was always positive, always positive.

5 Q Was that the way he was even as you were growing
6 up?

7 A Yes, he was.

8 Q Did you see him interact with the rest of your
9 family and the Peauas, other people?

10 A Uh-huh, with everyone.

11 Q If you could, I would like to take you back about
12 two years. Were you sent on a mission to Tonga?

13 A Kind of, for school.

14 Q Did you want to go back to Tonga?

15 A No.

16 Q And of course, living up here, where did you have
17 to go first before going to Tonga?

18 A To L.A.

19 Q Was Mr. Vanisi there?

20 A Yes, he was.

21 Q Could you explain a little bit to the jury about
22 what he did for you when he found out you were unwillingly
23 going to Tonga?

24 A Okay. Me and my other brother, Manaoui, we went
25 up to L.A. We were stuck at the airport for like forever,

1 because our auntie didn't come pick us up.

2 So we called him. He came and picked us up. And
3 I was still crying after being there for two hours. Him,
4 his wife and his kid Forrest. And when they came and picked
5 us up, he's all like, he was -- he knew I was on my way to
6 Tonga because I had to go there for school. He's like,
7 "What's wrong?" I told him I didn't want to go.

8 Then he was, he was just encouraging me to go. He
9 was just telling me, "You know, if you go, look at the
10 outcome. You will finish school. Your parents will be
11 happy for you, especially for the experience."

12 Because basically me and all my brothers have been
13 raised here. And I'm the only one that actually, you know,
14 that had the courage to go to Tonga. I didn't even want to
15 go to Tonga. I didn't want to be stuck there eating
16 coconuts morning, for lunch and for dinner. I told him,
17 too.

18 Being in Tonga you have to be really humble,
19 especially being brought up in America. In Tonga we don't
20 even have half of the things we have here.

21 And he was just all like, you know, it will humble
22 yourself. When Forrest, he was always talking about his
23 son. "When Forrest gets older, I'm going to send him down
24 there."

25 And he even promised me he was going to come live

1 with me up there, but I don't know what happened.

2 Q While you were in Los Angeles, did you stay with
3 Siaosi?

4 A Yes, I did. I stayed with him.

5 Q And I imagine your trip wasn't scheduled. You
6 weren't scheduled to come stay with him?

7 A No, I was supposed to stay with my auntie.

8 Q How did he treat you, not having planned for you
9 to come down and stay with him?

10 A As in, what do you mean?

11 Q How did he treat you? Was he upset that he had to
12 put you up for a couple of days while you were waiting to go
13 to Tonga? Was he mad with you, that you had to stay with
14 him?

15 A No, he was always uplifting me, him and my
16 brother. He wasn't even -- he said, "Oh, you're going to go
17 to Tonga." So I felt like Siaosi was, you know, more of an
18 older brother than any of my older brothers.

19 MR. BOSLER: Can I approach the witness, Your
20 Honor?

21 THE COURT: You may.

22 MR. BOSLER: I would like the record to reflect
23 I'm showing the witness what has been marked for
24 identification as Defense 51-A.

25 ///

1 BY MR. BOSLER:

2 Q I ask you if you recognize that picture?

3 A Yes, I do.

4 Q Who is depicted in that picture?

5 A His wife Deann and Forrest and Siaosi.

6 Q Does it look like an accurate depiction of how

7 they looked together?

8 A Yes, it does.

9 MR. BOSLER: Move for its admission.

10 THE COURT: Any objection?

11 MR. STANTON: It is not Defense's Exhibit 51; it

12 is Exhibit 51. But I have no objection.

13 THE COURT: Yes, Exhibit 51-A is admitted.

14 (Exhibit 51-A admitted.)

15 MR. BOSLER: I stand corrected. May I publish?

16 THE COURT: You may.

17 (The exhibit was displayed to the jury.)

18 BY MR. BOSLER:

19 Q What race is Siaosi's wife?

20 A White. Well, I think she's white.

21 Q Have you been around Siaosi, Siaosi's friends in

22 Los Angeles?

23 A His neighbors.

24 Q And what race are they?

25 A They are white; from the ones I met were white.

1 Q Have you known Siaoasi's friends as he has been
2 growing up?
3 A I met some, but I don't know who they are.
4 Q All right. What race were they?
5 A White.
6 Q You say you've known Siaoasi all your life?
7 A Yes.
8 Q All right. So you knew him as you grew up as a
9 child?
10 A Yes, I did.
11 Q Through your teen years?
12 A Yes.
13 Q You're still in kind of your teen years. When you
14 last saw him, when he came to Reno in January, was he the
15 same person you had known growing up?
16 A No.
17 Q In what way had he changed?
18 A It depends. To me he had like a multi
19 personality.
20 Q Explain.
21 A He was like weird when he had his wig on and he
22 was normal when he didn't have his wig on.
23 Q And when he first showed up at the airport, I get
24 the impression --
25 A I didn't see him at the airport.

1 Q When you first saw him, was he wearing his wig?
2 A Yes, he was.
3 Q And my next question, I don't mean to make you
4 feel uncomfortable. Were people around the Sterling
5 address, the Rock Boulevard address using drugs?
6 A Were they using drugs? Not that I know of.
7 Q All right. Smoking marijuana?
8 A Hmm, not that I know of.
9 Q Speed?
10 A I don't know.
11 Q Had you seen Siaoisi before when he was high on
12 drugs?
13 A I have never seen him once in my life take drugs,
14 not even drink a beer or anything, until -- until last year
15 when he was wearing the wig.
16 Q All right. And how would he act?
17 A Weird.
18 Q When he was drinking?
19 A Uh-huh.
20 Q Never been to a party with him before that, all
21 those other years?
22 A No. He always would go with my brothers, my older
23 brothers.
24 Q And all that time you never even saw him pick up a
25 drink of alcohol?

1 A No. Even family gatherings, I never would see him
2 drink anything. He was always with the little kids and all
3 the old ladies.

4 Q Would you explain a little bit? Explain a little
5 bit about how the family gatherings work?

6 A Well, usually family gatherings, what we have,
7 guys have to go cook. Girls just sit there and wait for
8 guys to cook. But him, he would be with the old ladies
9 gossiping while all the guys are doing all the work. And he
10 would be with the little kids. That's how I know him.

11 Q Ever seen him act violently toward anybody?

12 A No, not even his kids, not even disciplining his
13 kids. He'll just be like, "Forrest, come on now, Forrest.
14 No McDonalds for you, Forrest."

15 And his son is as big as him, so.

16 Q In all the years you've known him, never seen --

17 A All the years I've known him, I've never seen him
18 in a negative way.

19 Q If you could, I know that you told this to the
20 police. While Siaosi was up here in January, did you and
21 your brother have a little argument?

22 A Yeah, me and my brother before me.

23 Q Your younger brother, is that what you mean? Or
24 your older brother?

25 A I have four older. The fourth one.

1 Q What address was this at?

2 A Sterling Way.

3 Q And Mr. Vanisi, what did he try to do?

4 A He stopped it. He took me -- me and my brother
5 was arguing because that weekend my brother usually goes on
6 recruiting trips. And like in the Tongan way, girls are
7 supposed to stay home. They are not even supposed to go out
8 unless it's with their mom or dad. But our parents don't
9 even believe in going out.

10 So I wanted to go out with my cousins to the
11 movies. And one of my brothers were all yelling at me. He
12 told me to stay home, don't go. I was sitting there crying
13 because I was here for my summer, and this was like in
14 January. And so, his name is Manaoui. Manaoui was yelling
15 at me, telling me to stay home.

16 He overheard the argument. He came and told
17 Manaoui to calm down. He just put on some more CDs and
18 said, "Here, why don't you like stay in your room. Or go
19 with your friend."

20 He grabbed me and took me in the kitchen and
21 taught me how to cook.

22 Q And is that the type of person you know Siaosi
23 Vanisi to be?

24 A That's the type of person I know of Siaosi.

25 Q And the person you saw in this wig at your door,

1 he was a different person?

2 A Totally different person. I've never seen him
3 like that before in my life. I even told the police,
4 everyone.

5 MR. BOSLER: May I have a moment, Your Honor?

6 No further questions, Your Honor.

7 THE COURT: Cross?

8 CROSS-EXAMINATION

9 BY MR. STANTON:

10 Q Do you remember talking to the Reno homicide
11 detectives about seeing Mr. Vanisi arrive in Reno, maybe not
12 on the plane at the airport, but when you first saw him,
13 wearing the wig?

14 A Yes.

15 Q And his beanie? Do you remember telling police
16 detectives what Mr. Vanisi told you about the relationship
17 between him and his wife?

18 A He just said his wife left him.

19 Q And do you know that woman to be his wife, or are
20 they divorced?

21 A At that time I didn't know what was up with them.

22 Q Your brother that just left the courtroom, do you
23 know what his goal as far as employment is?

24 A Well, he's always telling my mom he wants to be a
25 U.S. marshal. He used to work for Rite of Passage with

1 assisting juveniles.

2 Q Okay. On the morning of January 13, 1998, when
3 you were in the kitchen area of the Rock Boulevard address
4 with the defendant, Siao Si Vanisi, and you asked him whether
5 or not he killed a cop, and he mentioned he did?

6 A Uh-huh.

7 Q How long after that did you call the police about
8 that?

9 A Did I call the police?

10 Q Yes, ma'am.

11 A I did not call the police.

12 MR. STANTON: Nothing further.

13 THE COURT: Anything further?

14 MR. BOSLER: No, Your Honor.

15 THE COURT: You may step down. You are excused.

16 (The witness was excused and left the courtroom.)

17 MR. BOSLER: Your Honor, we anticipated we only
18 would be able to get through a couple witnesses after the
19 State's case. Those are the two we have available
20 immediately. We ask the Court to allow us to continue our
21 presentation on Monday morning.

22 THE COURT: Ladies and gentlemen of the jury, we
23 are going to take our evening recess now. During this
24 evening's recess, and it will keep going over the weekend, I
25 want to remind you that it is important that you follow the

1 admonition. Sometimes when you are here every day, it's
2 easy for you to be reminded many times during the day. You
3 only have one overnight before I start reminding you again.

4 This weekend when you go on about your business,
5 please remember my voice. And if anyone does attempt to
6 influence you or if you find yourself in a situation that my
7 admonition would apply, please remember that and abide by
8 it. It is your duty and my order.

9 We will be starting court next week on Monday
10 morning at 9:30 on this matter. So I'm going to ask that
11 the jury return for court at 9:30.

12 During this weekend's recess, it is your duty not
13 to discuss among yourselves or with anyone else any matter
14 having to do with this case. It is your further duty not to
15 form or express any opinion regarding the ultimate outcome
16 of this case until the matter is submitted to you for
17 decision.

18 You are not to read, look at, or listen to any
19 news media accounts regarding this case. And should any
20 person attempt to influence you in any manner with regard to
21 the case, you are to advise the bailiff outside the presence
22 of your fellow jurors immediately, and he in turn will
23 advise me.

24 Ladies and gentlemen of the jury, you are excused
25 for the evening.

1 (The jury was excused at 4:35 p.m.)
 2 (Whereupon, the following proceedings took place
 3 out of the presence of the jury.)
 4 THE COURT: Counsel, would you please give me the
 5 names of the witnesses that you intend to call on Monday?
 6 MR. GREGORY: I don't have my witness list with
 7 me. Sorry, Judge.
 8 MR. BOSLER: I think one of them was admitted into
 9 evidence. Maybe I can go off of that.
 10 THE COURT: Do you have anybody who is local that
 11 you plan to call on Monday?
 12 MR. BOSLER: There are possible local witnesses.
 13 A lot of that depends on how productive we think the
 14 out-of-state witnesses are going to be. A lot of family
 15 members are coming up voluntarily.
 16 MR. GREGORY: If the Court is concerned with the
 17 witnesses we compelled, I assure the judge we can get them
 18 on and get them back home to California.
 19 THE COURT: I'm not concerned about that. I'm
 20 concerned about the scheduling. I like to keep a pretty
 21 tight schedule. We weren't supposed to quit before five. I
 22 thought you were going to have everyone who lived in the
 23 local area here ready to testify this afternoon. We talked
 24 about it on numerous occasions. I was surprised and shocked
 25 that we had to recess at 4:30. I just want to make sure we

1 don't have any more delays.

2 So what I want to know is who you are going to
3 call and I want to make sure we have a full complement of
4 people here in the morning and a full complement of people
5 here in the afternoon.

6 MR. GREGORY: I can assure the Court we will have
7 a full complement.

8 MR. BOSLER: More than we need for both morning
9 and afternoon.

10 THE COURT: Do you know who you are going to call
11 in the morning?

12 MR. BOSLER: A lot of that depends on people
13 flying in tonight or flying in Sunday. We will meet them
14 Sunday night. We will review our investigators' reports
15 with them and then decide what order we feel is appropriate
16 for the presentation. That will be accompanied with a few
17 family members and locals. At this moment I don't have an
18 order to give to the Court.

19 THE COURT: Okay. What I am going to do, the jury
20 is not due back until 9:30. I am going to order that
21 counsel provide the list of witnesses in the order that they
22 plan to call them for Monday morning to the court clerk at
23 eight a.m., and provide a copy to the State at that time so
24 we don't have any issues with delay. At eight a.m. I would
25 like to know the order that you intend to call the witnesses

1 for Monday.

2 MR. GREGORY: I don't type, Judge. Our
3 secretaries are in action at 8:00. Could we have until
4 8:15?

5 THE COURT: I don't mind if you print; that won't
6 bother me.

7 MR. BOSLER: I'll print it.

8 THE COURT: Print if you can't type. E-mail is
9 fine. I know you all are capable of doing e-mail.

10 MR. BOSLER: I am.

11 THE COURT: Just one of you is. Okay.

12 MR. GREGORY: That's not true.

13 THE COURT: That's what he's telling us,
14 Mr. Gregory.

15 MR. GREGORY: I know.

16 THE COURT: Eight a.m. give it to her one way or
17 another. Make sure the State has a copy.

18 Anything further before we recess?

19 MR. GAMMICK: No, Your Honor.

20 MR. GREGORY: No, Your Honor.

21 THE COURT: Court is in recess.

22 (The trial adjourned at 4:50 p.m.)
23
24
25

STATE OF NEVADA,)
)
COUNTY OF WASHOE.)

WE, DENISE PHIPPS and KAREN YATES, 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 2nd day of October, 1999.



DENISE PHIPPS, CCR No. 234

KAREN YATES, CCR No. 195

Code 4185

FILED

OCT 05 1999

AMY HARVEY
By: *msica*
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 10
October 4, 1999
Reno, Nevada

APPEARANCES:

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The Defendant:

SIAOSI VANISI

Reported by:

KAREN YATES, CCR No. 195
DENISE PHIPPS, CCR No. 234

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RENO, NEVADA, MONDAY, OCTOBER 4, 1999, 9:38 A.M.

-oOo-

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

THE COURT: Thank you. Please be seated.

Counsel stipulate to the presence of the jury?

MR. STANTON: State will so stipulate.

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

THE COURT: Counsel, you may call your next witness.

MR. BOSLER: Matthew McGinn.

(One witness sworn.)

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

MATTHEW MCGINN

called as a witness on behalf of the Defendant,

having been first duly sworn,

was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BOSLER:

Q Matt, can you state your full name and spell your last name for the record?

A My name is Matthew James McGinn, M-c-G-i-n-n.

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1 Q How old are you, Matthew?

2 A I'm 27.

3 Q Where do you live?

4 A I live in San Bruno, California.

5 Q How long have you been in San Bruno?

6 A My whole life besides college.

7 Q Growing up in San Bruno, did you know a person
8 by the name of George Tafuna?

9 A Yes, I did.

10 Q If you could, tell the jury a little bit about
11 how you guys met.

12 A I believe George and I were introduced in
13 probably the third or fourth grade. He was a year older
14 than myself. We were just childhood friends. We grew up in
15 the same neighborhood. We would, you know, do the typical
16 childhood thing, play sports together in the neighborhood.
17 We went through elementary school, junior high, and high
18 school together.

19 Played sports together, football. I believe
20 George wrestled for a couple of years.

21 Q Growing up with him, I get the impression you
22 were kind of chums?

23 A Yes, childhood buddies. We would, you know,
24 run around the neighborhood, do the typical childhood
25 things, play sports, like I said.

1 Q Did you have an opportunity to spend time with
2 George Tafuna as a child?

3 A Oh, yeah, yeah. Every day pretty much.

4 Q Come over to your house?

5 A Yes.

6 Q Could you tell the jury a little bit about the
7 type of person he was?

8 A Just real friendly, outgoing, talkative person.
9 High school and even -- all school levels, elementary,
10 junior high, high school, he was always real well liked and
11 just a positive person. He seemed to interact with everyone
12 real well. Made a lot of friends. Everyone seemed to like
13 him.

14 Q You are Caucasian. The record doesn't reflect
15 that. Is that an accurate statement?

16 A Yes.

17 Q What kind of friends did George have growing
18 up?

19 A All races. I mean, we had a pretty diverse
20 school and area. San Bruno is a pretty diverse area
21 culturally. I would say he had friends of all, you know,
22 races.

23 Q All sizes, colors, shapes?

24 A Yes, every aspect.

25 Q San Bruno is what, about ten miles south of San

1 Francisco?

2 A About that. It's right where the airport is.

3 Q Ever know in this time George to say something
4 bad about another race, Caucasians, Hispanics?

5 A No, I never heard him say anything like that.

6 Q Did you guys actually play on the same high
7 school football team?

8 A Yes.

9 MR. BOSLER: If I may approach the witness?

10 MR. STANTON: If counsel can approach for just
11 a moment?

12 THE COURT: Administratively?

13 MR. STANTON: Yes.

14 (There was a discussion at the bench off the
15 record.)

16 BY MR. BOSLER:

17 Q Showing you what has been marked as Exhibit
18 No. 52, can you see that? That's a football picture, of a
19 football team? Are you on there somewhere?

20 A Yes.

21 Q Where is that?

22 A Right up here (indicating).

23 Q I don't mean to embarrass you. Do you see
24 George in the back row, too?

25 A Yes, in here.

1 Q Does that kind of accurately depict the way you
2 guys looked when you were playing on this team?

3 A Yeah.

4 Q It was awhile ago?

5 A Yeah, that was our frosh-soph team.

6 Q Freshman-sophomore?

7 A He would have been a sophomore. I was a
8 freshman.

9 MR. BOSLER: I move to have it admitted.

10 MR. STANTON: No objection.

11 THE COURT: It is admitted.

12 (Exhibit No. 52 admitted.)

13 MR. BOSLER: May I publish?

14 THE COURT: You may publish.

15 BY MR. BOSLER:

16 Q You're both in the back row?

17 A Yes.

18 Q You said George is second from the end?

19 A Yes.

20 (The exhibit was displayed to the jury.)

21 BY MR. BOSLER:

22 Q Let's talk a little bit about high school
23 athletics. Obviously, football is a contact sport.

24 A Yes.

25 Q Have you ever known George as an athlete to go

1 out of his way to try to hurt somebody?

2 A No, I've never -- I never witnessed anything
3 like that.

4 Q Malicious?

5 A No.

6 Q I know a lot of high school athletes tend to
7 hang out after the games, go to parties or social events.
8 Did you do some of that with George?

9 A Yes.

10 Q Ever know him even to drink alcohol at these
11 events? I know you're all in high school.

12 A Yeah. Not that I can remember, no. I don't
13 think he drank, as far as I remember.

14 Q Any kind of drugs, anything like that you
15 remember about his youth?

16 A No, not that I can remember.

17 Q Ever see a situation in high school where maybe
18 two people are fighting and George is around?

19 A I do remember an instance where there was a
20 fight after a football game with another team. It was kind
21 of, I don't know how it started. I remember one of our
22 players trying to go onto their bus. I remember George
23 pulling him out and trying to stop him from continuing the
24 melee.

25 Q Have you ever known him to be anything but a

1 peacemaker in those kind of situations?

2 A No, I've never seen him fight or be violent in
3 any way.

4 Q What type of friends did George hang around
5 with? A little group of people? Or was he friends with
6 everybody in high school?

7 A Yeah, I wouldn't say he had any one particular
8 group he would hang around with. I think he was friends
9 with just about everybody.

10 Q Did you ever spend much time over at George's
11 house when he was growing up?

12 A Not really. He would come over my house. We
13 would talk on the phone and we would just kind of meet at an
14 area. Like, we had a basketball court right next to my
15 house. We would go there or kind of wander around the
16 neighborhood.

17 Q Did he ever tell you why he didn't bring any
18 friends over to his house?

19 A No.

20 Q I heard, you previously described George as a
21 big teddy bear, a gentle giant?

22 A Yes, that's accurate.

23 Q That's the way you remember him?

24 A Yes.

25 Q Obviously it's been awhile since you've seen

1 him?

2 A Yes, been about 11 years, something like that.
3 '89, I think. Ever since he graduated high school.

4 Q You describe him as the all-around great
5 American kid? Would that be accurate?

6 A Yeah.

7 Q Do you have a bad word to say about George
8 Tafuna all the time you knew him growing up as a kid, in
9 high school?

10 A No, never.

11 Q Shocked by it?

12 A Yes, very.

13 MR. BOSLER: May I have a moment?

14 Q Do you see George in the courtroom?

15 A Yes, I do.

16 Q Can you tell the jury where he's sitting?

17 A Sitting right there at the table, gray suit
18 (indicating).

19 MR. BOSLER: Your Honor, we ask the record to
20 reflect that he recognizes his friend George.

21 THE COURT: Record will so reflect.

22 MR. BOSLER: No further questions.

23 CROSS-EXAMINATION

24 BY MR. STANTON:

25 Q Mr. McGinn, you don't know -- let me ask you

1 this: Do you know him by any other name besides George
2 Tafuna?

3 A I remember hearing him be referred to as Pe.

4 Q Do you know him as Siaosi Vanisi at all?

5 A No, I don't.

6 Q Never heard that name before?

7 A No.

8 Q Do you know -- I gather by your answers to the
9 questions that you do not know him to be a violent person?

10 A Correct.

11 Q Have you ever heard him speak of minorities,
12 specifically whites, that he disliked or hated white people?

13 A No, never.

14 Q Have you ever heard him say that he hated white
15 police officers?

16 A No.

17 Q If I were to tell you that Mr. Vanisi has been
18 convicted of first degree murder of a white police officer
19 where he beat him repeatedly in the head and face with a
20 hatchet, would that be inconsistent with the George Tafuna
21 that you know?

22 A Very.

23 Q When was the last time you saw the defendant?

24 A I would have to say '89, just probably before
25 he graduated high school.

1 Q And the photograph that was of your football
2 team, what year was that photograph taken?

3 A Probably '8- -- let me think, I was a freshman.
4 '87, I believe. '87.

5 MR. STANTON: Thank you, sir. No further
6 questions.

7 MR. BOSLER: No further questions, Your Honor.

8 THE COURT: May this witness be excused?

9 MR. STANTON: From the State's perspective,
10 yes.

11 MR. BOSLER: Yes.

12 THE COURT: May the witness be excused?

13 MR. BOSLER: Yes, Your Honor.

14 THE COURT: You may step down. You are
15 excused.

16 MR. BOSLER: Defense would next call Leanne
17 Jones.

18 (One witness sworn.)

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

21 LEANNE MARIE JONES

22 called as a witness on behalf of the Defendant,

23 having been first duly sworn,

24 was examined and testified as follows:

25 ///

DIRECT EXAMINATION

BY MR. BOSLER:

Q Ms. Jones, could you state your full name?

A Leanne Marie Jones.

Q Spell your last name?

A J-o-n-e-s.

Q How old are you?

A Twenty-seven.

Q And where do you live right now?

A Currently I'm in Chico, California.

Q Did you at any time live in the San Bruno area?

A My whole life. I just recently moved to Chico.

Q Essentially you were raised as a child in San Bruno?

A Yes.

Q Go to Cappuchino High School?

A Yes, I did.

Q As you grew up in San Bruno, did you come to know a person by the name of George Tafuna?

A Yes, I do.

Q Do you see him in the courtroom?

A Right there, yes (indicating).

Q If you could, tell the jury a little bit about how you first met George Tafuna.

A Started in junior high, I met George. He's a

1 year older than I am. Went from junior high to high school.
 2 Knowing each other was, he was athletic. If you played
 3 sports in our high school you were somewhat to say in more
 4 of a popular crowd. Involved in not only in school but the
 5 more extracurricular activities, outgoing type. George was
 6 in that area. And I was myself.

7 Q What type of activities are you speaking of?

8 A Athletics, student government, you know,
 9 rallies, just kind of -- he is one of the guys you would
 10 want to know, you would want to hang around.

11 Q You actually went to junior high school and
 12 high school with George?

13 A Yes, I did.

14 Q Let's talk about the area you grew up in. What
 15 kind of area is San Mateo as far as ethnic groups?

16 A San Bruno, Cappuchino, the high school I went
 17 to was a school of every nationality. It was actually a
 18 privilege to go there. When you went on after high school,
 19 knowing every type of nationality was a privilege. I felt
 20 that you knew different people and you could relate with
 21 them well.

22 Q Did you have occasion to see the type of people
 23 George would hang out with in high school?

24 A Sure. Some of the people he hung out with were
 25 my friends also.

1 Q Any Caucasians?

2 A Of course. Myself, too.

3 Q Obviously, the record should reflect that you
4 are Caucasian.

5 A Yes.

6 Q Ever known him to say a bad word about any
7 ethnic group?

8 A Absolutely not.

9 Q Ever know him to say a bad word about any
10 particular person?

11 A No.

12 Q You've previously described George as always
13 helpful. What do you mean by that?

14 A Outgoing. If you needed someone to help you
15 out, he would probably be the person to do it. He would
16 be -- thinking back to high school, it's quite awhile ago.
17 I can't think of anything specific. But I know that he was
18 always, he was always there to lend a hand. He was always
19 helpful, in the group to get something done.

20 Q Ever demand anything in return?

21 A No, no.

22 Q Kind of volunteered just to be there?

23 A Absolutely.

24 Q Any other way you would describe George's
25 personality for the jury? You said outgoing, friendly.

1 A Friendly, vivacious, vibrant. Lively.

2 Q I'm sorry?

3 A Lively.

4 Q Did you have an opportunity -- I guess, like

5 after high school, some people go to social gatherings,

6 students?

7 A After high school?

8 Q After high school, while you're in high school,

9 after football games, things like that?

10 A Oh, sure.

11 Q Ever see George at those events?

12 A Yes.

13 Q Ever know him to be aggressive or violent

14 towards anybody?

15 A No.

16 Q Ever know him to drink alcohol, use any kind of

17 drugs?

18 A No.

19 Q I guess some people drink alcohol in high

20 school, right?

21 A Yeah, they do.

22 Q That's not the George Tafuna you remember?

23 A No.

24 Q You obviously know a little bit about what kind

25 of trouble George is in right now.

1 A Yes, I do.

2 Q Is that anything in the character of the person
3 you knew?

4 A Not the person that I knew in high school, no.

5 Q Hard to believe?

6 A Very hard to believe.

7 MR. BOSLER: No further questions, Your Honor.

8 THE COURT: Cross?

9 CROSS-EXAMINATION

10 BY MR. STANTON:

11 Q Today's date is October 4, 1999. Would you
12 tell me, when was the last time you sat down and had any
13 meaningful conversation with the defendant?

14 A Meaningful conversation? Last time I saw
15 George Tafuna was in '89 when he graduated. He's a year
16 older than I am. I graduated in '90. Last time would be
17 '89.

18 Q Sometime around June?

19 A June, May '89. That's when school lets out.

20 Q Did you ever hear him say he had a hatred
21 towards white people, white police officers?

22 A Absolutely not.

23 MR. STANTON: Nothing further.

24 THE COURT: Anything further?

25 MR. BOSLER: Nothing further.

1 THE COURT: May this witness be excused?

2 MR. BOSLER: No objection, Your Honor.

3 THE COURT: You may step down. You are

4 excused.

5 MR. BOSLER: The defense would next call Tupou

6 Uluave.

7 (One witness sworn.)

8 THE CLERK: Thank you. Please be seated at the

9 witness stand.

10 TUPOU ULUAWE

11 called as a witness on behalf of the Defendant,

12 having been first duly sworn,

13 was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MR. BOSLER:

16 Q Could you state your full name and probably
17 spell the whole thing for the record?

18 A Tupou Ata Uluave.

19 Q How do you spell it?

20 A T-u-p-o-u, A-t-a, last name U-l-u-a-v-e.

21 Q And you go by another name? Bou?

22 A Bou, B-o-u.

23 Q How old are you, Bou?

24 A Twenty-two.

25 Q And do you know George Tafuna?

1 A Yes.

2 Q How do you know him?

3 A He's my older brother.

4 Q How much older than you is he?

5 A I don't know. I think it's like three or four

6 years older than me, five or six --

7 Q Where did you grow up, Bou?

8 A I grew up in San Bruno, California.

9 Q San Bruno, how close is that to San Mateo?

10 A Like three or four miles down.

11 Q Same general area?

12 A Yeah.

13 Q Let's talk a little bit about your older

14 brother.

15 A Okay.

16 Q Describe to the jury, what type of brother was

17 he?

18 A George, he's my oldest -- he's like the second

19 to the youngest of our family. And I'm the baby of the

20 family. He's my older brother. He's like a teacher, like a

21 minister. I looked up to him. He was like, in school and

22 everything -- Sorry.

23 He played football and everything. I always

24 looked up to that school-wise. He was -- the man was smart.

25 He was a good man.

1 Q Did he ever try to help you with school?

2 A All the time. You know, like he would help me
3 with homework. Come in and tell me stuff like, ask me
4 stuff, like quizzes or, so, how am I doing in school? "What
5 are you doing with your life?" "What do you want to be?"

6 Really, I just wanted -- he is the only older
7 brother that was in school I looked up to. All the other
8 brothers were like 30 -- years apart, we have far, like time
9 span between us, a lot of years. He's the only one in
10 school.

11 Like he went down to L.A. I was like, "Wow,
12 man, that's where I want to go to school." L.A., that's
13 where you make it up there. Try to be a star.

14 That's really what it is, you know. That's
15 what I wanted, to be like my brother right there.

16 Q Well, let's talk about growing up. Did George
17 try to help you with some, what they call life lessons? Who
18 to hang out with, what to do?

19 A All the time. Like, whenever, what he did,
20 like all my other cousins would do, he would say, "Don't go
21 with that crowd," you know. "Go where," you know, "Go try
22 to meet people, shake a hand, make a friend." I thought he
23 was strict about that, you know, like don't let me go around
24 with my own friends. Don't let me pick my own friends.
25 Really when I look at it, he did make me pick my friends,

1 pick the right ones. Don't be a follower; be a leader.

2 Q I guess as an older brother, he may have had
3 the ability to exert some influence on you, make you stay
4 home, not go out to parties, that type of thing?

5 A Yeah, because like -- well, he would tell me
6 like -- because he is in church. He was Mormon, he was like
7 a church guy. Religious, that goes to church, you know. He
8 became like in the Eagles. Like not the Eagles, but trying
9 to get an Eagle Scout. He was a Boy Scout. That's what I
10 wanted to go to.

11 He said you have to put your mind to stuff like
12 that. If you go out, you know, with these church guys. I
13 was like, you know, just -- it was cool. I mean, the way I
14 looked at it, I thought he was strict in a way, you know,
15 because he was -- I'm the youngest in the family. He was
16 the baby of the family, but then I became the baby and
17 everything. I don't know, he was more like a father figure,
18 like. My dad wasn't there, you know.

19 Q There was no father figure in the family?

20 A No.

21 Q Do you know something about him trying to
22 complete his Eagle Scout requirements?

23 A Yeah. I mean, I thought it was --

24 Q It took some effort to do that?

25 A Yeah, it does take a lot of effort to do that.

1 Q If you could describe, do you know what George
2 did after school? Junior high school, high school?

3 A Yeah, he became, we had an uncle that was in a
4 coma. Like, he would go have to help him with his mom.
5 And, you know, help him out because he couldn't, he -- he
6 had been bedridden like 14, 15 years, I think. He was,
7 like, he would always have to come back home and help his
8 mom and everything.

9 Q When he's growing up at his house, he's caring
10 for another person who is in a coma?

11 A Yeah, his uncle. That's about -- let's see,
12 that was his brother and, you know, he would have to come
13 home and like mostly -- he was like the boy over there, and
14 help out with doing a lot of things, you know. Like giving
15 him a bath, picking him up, you know, turning him over and
16 everything.

17 Q Did you ever know him to say anything bad about
18 that? That he felt bad that he had to be doing that and not
19 going out with other kids?

20 A I think that's pretty hard. He never said
21 anything, that it was hard or that he had to do it.

22 Q He just did it?

23 A Yeah, he just did it.

24 MR. BOSLER: Your Honor, may I have a moment?

25 THE COURT: Yes.

1 BY MR. BOSLER:

2 Q Just so the jury is not confused, do you know
3 who raised George Tafuna?

4 A My auntie. That's why we call him --

5 Q Umu?

6 A Umu. That's why we call it his mom. She
7 like -- should I go into that?

8 Q Let me walk you through it. George is raised
9 by his aunt?

10 A Yes.

11 Q Born to another woman, right?

12 A Yeah, born to my mom. That's why my mom --

13 Q How did George end up with Umu?

14 A Because she could have no kids. My auntie
15 didn't have no kids. Just to help, like to go and help him
16 out, help her out.

17 Q So your mother gave George to Umu because --

18 A To her sister.

19 Q -- because Umu didn't have children of her own
20 and to help her with her life?

21 A Yeah.

22 Q Is that an unusual thing in the Tongan
23 community?

24 A Not in the Tongan way. That's -- I think
25 that's really a lot of love, to give your own kid away and

1 everything. But he knew who his mom was and stuff like
 2 that.

3 Q And you weren't raised with Umu?

4 A No, I wasn't. Not in the same house, no.

5 Q You were raised in a different household?

6 A Yes.

7 Q But you knew George was your brother?

8 A Yes.

9 Q And you knew you had the same mother?

10 A Yes.

11 Q You Do know what kind of trouble George is in?

12 Right?

13 A Yeah.

14 Q Are you shocked by what has happened?

15 A Oh, man, yeah. Yeah! I'm shocked.

16 Q You described George as a brother. Ever know
 17 him to be mean, aggressive, try to hurt people?

18 A No, no.

19 Q Did you at any time over the last couple of
 20 years notice a change in George's behavior?

21 A Like how?

22 Q Clothing wise, the way he acted or talked?

23 A It was just -- clothing wise? I mean, I don't
 24 know. Like, yeah, it was just clothes, that was different.
 25 Because I barely saw him when he went down to L.A.

1 Q You didn't see him much after he went down
2 there?

3 A No.

4 MR. BOSLER: That's fine. We have no further
5 questions, Your Honor.

6 THE COURT: Cross-examination?

7 CROSS-EXAMINATION

8 BY MR. STANTON:

9 Q Sir, in January of 1998, where did you live?

10 A In San Bruno, sir.

11 Q And where did your brother, the defendant,
12 Siaosi Vanisi, live?

13 A L.A., I believe.

14 Q Do you know where in Los Angeles?

15 A I think, last time I think it was in Redondo
16 Beach.

17 Q Pardon?

18 A Redondo Beach.

19 Q That's the last place you knew of?

20 A That's the last place I'd go.

21 Q January of 1998, how often would you see the
22 defendant?

23 A January of '98? I don't remember. Just once
24 in awhile.

25 Q Once in awhile?

1 A Yeah.

2 Q Okay. Let's walk back. From January of 1998
3 through 1992 --

4 A Okay.

5 Q -- how often would you see the defendant during
6 that time period?

7 A A lot. I believe a lot.

8 Q A lot?

9 A Yeah.

10 Q And nothing unusual about him? Always seemed
11 normal? Same old person?

12 A Yes, yes.

13 Q Never saw a change in him at any time during
14 that time period?

15 A I think it was like, when there was school, he
16 tried, instead of changing, like going for acting and stuff.
17 I thought he was in the limelight or something.

18 Q He was an actor in Los Angeles?

19 A Yeah.

20 Q Anything besides him being an actor in Los
21 Angeles that you saw a change in him? As far as how he
22 acted, how he behaved?

23 A No, just always, like being smart. Always like
24 having -- like having things to say to me.

25 Q And the Eagle Scout, when was that? What year

1 was that?

2 A I don't remember. It was before -- I think
3 when he went to his mission, before he went on his mission.

4 Q Do you remember what year that was?

5 A No, I don't.

6 MR. STANTON: No further questions.

7 THE COURT: Redirect?

8 MR. BOSLER: Briefly, Your Honor.

9 REDIRECT EXAMINATION

10 BY MR. BOSLER:

11 Q Do you know how many actors live in Los
12 Angeles?

13 A No. Actors? Do all of them live in L.A.?

14 Q People who go up there because they would like
15 to become an actor.

16 A Just one.

17 Q Just one.

18 MR. BOSLER: No further questions, Your Honor.

19 THE COURT: Anything further?

20 MR. STANTON: No, Your Honor.

21 THE COURT: You may step down. You are
22 excused.

23 THE COURT: You may call your next witness.

24 MR. BOSLER: Sitiveni Tafuna.

25 (One witness sworn.)

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

3 SITIVENI FINAU TAFUNA
4 called as a witness on behalf of the Defendant,
5 having been first duly sworn,
6 was examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. BOSLER:

9 Q Mr. Tafuna, could you state your full name?

10 A Sitiveni Finau Tafuna.

11 Q Could you spell that for the record?

12 A S-i-t-i-v-e-n-i, middle name is F-i-n-a-u;
13 Tafuna, T-a-f-u-n-a.

14 Q How old are you?

15 A I'm 38.

16 Q And where do you live right now?

17 A I live in San Bruno, California.

18 Q How long have you been there?

19 A Thirty years.

20 Q Do you know George Tafuna?

21 A Yes, sir.

22 Q Do you see him in the courtroom?

23 A Yes, sir.

24 Q All right. Who is George Tafuna to you?

25 A He is my younger brother.

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1 Q If we could, let's talk a little bit about
2 George Tafuna. You knew him as a child, obviously?

3 A Yes.

4 Q Would you describe for the jury what kind of
5 childhood George Tafuna had?

6 A I was very close to George. He was in the same
7 room with our grandfather. And he is -- he grew up with a
8 mind to always try to improve things. He always wanted to
9 impress the family, to impress his grandfather. And that,
10 grew up trying to impress us by his education. He always
11 came home with everything good that he did. His grades was
12 always good. His grandfather was always proud of him.

13 Then our father, my stepfather, had a stroke,
14 had a brain tumor. And he was like very sick for like 13
15 years. Then he had a stroke for eight years.

16 George was adopted by my aunt. And my aunt was
17 like the nurse to my stepfather. My stepfather is my
18 mother's brother -- is my real mother's brother. And
19 George's mother was the nurse to my father, stepfather,
20 which when he had a stroke, he needed to be -- he was
21 bedridden for eight years. He needed to be helped with
22 changing clothing and bathing, stuff like that.

23 George was right there every minute with my
24 mother, with my aunt. And me, he was right alongside of me
25 at my side trying to support me and my mother, helping out

1 with my stepfather, very sick.

2 And he was very good in sports. He did a lot
3 of things that very impressed me. He had a lot of friends.
4 He was very popular. He always had friends coming over to
5 the house. He was always the center of the attention.

6 Q When George had these people come over to the
7 house, would he -- when the people came over, would he go
8 out and play right away? What would he do first before he
9 went out with his friends?

10 A He would check with his mother, do his homework
11 first. He does his work around the house first. He's
12 always telling his friends to come around after 5:00, 6:00,
13 because he would be home tending to his mother's needs to
14 help out with his brother, with her brother.

15 Q What kind of younger brother was he?

16 A He was very helpful around the house, mostly.
17 He was loyal, very loyal to his mother.

18 Q This is Umu you're speaking about? Umu?

19 A Yeah, Umu.

20 Q If you could, describe what you mean by
21 loyalty? How did he show his loyalty to his mother?

22 A I noticed a lot of times that he would ask his
23 mother first what needs to be done before he would even
24 consider going out with his friends.

25 Q Did he try to support her or bring money to the

1 family as a kid?

2 A I remember he had a paper route that he had.
3 And every time he had the money, he would get his paycheck,
4 he would always bring it to his mother.

5 Q Is this to Umu?

6 A To Umu, yes.

7 Q Was she working?

8 A She wasn't having no income at all. The only
9 work, the work she did was to help the brother, to nurse the
10 brother. No work at all. She didn't have no time to work.
11 And the support that we did to George was, money wise was
12 from the sister and the brothers and the uncles.

13 Q Umu wasn't George's biological mother?

14 A Yes.

15 Q George was given to her by George's biological
16 mother?

17 A Yes.

18 Q You're his biological brother? Older brother?

19 A Yes.

20 Q And in which household were you raised? Umu's
21 or the biological mother's?

22 A Umu's.

23 Q So you spent all your life essentially with
24 George?

25 A Right.

1 Q Ever known him to be violent, aggressive?

2 A No.

3 Q Ever known him to be anything but a helpful,
4 nurturing person?

5 A Mostly that's true.

6 Q Do you still stay with Umu? Are you still in
7 that area?

8 A No.

9 Q If you could, do you remember a time when
10 George Tafuna left the San Bruno, San Mateo area and went to
11 Los Angeles?

12 A Yes. He wanted to go to L.A. to go to school,
13 education.

14 Q Become an actor, if possible?

15 A Yes.

16 Q Did you see him when he would come back from
17 Los Angeles?

18 A Uh-huh.

19 Q Did you notice any change in his behavior when
20 he came back from Los Angeles to be with the family?

21 A A lot of change. I seen him go, he was as
22 normal as he can be. He told me, he said goodbye to me. He
23 said, "I'll make you proud of me, big brother."

24 I said, "George, I don't want you to go far
25 away from us."

1 He goes, you know, "I will make you proud of
2 me."

3 Then he left. Then he came back up about three
4 years later for my sister's wedding. And it was a whole
5 different George. I didn't know him. It wasn't the George
6 that I knew. I told him if he had any problems or anything,
7 let me know.

8 But the way he was talking and the way he was,
9 his appearance was very different.

10 Q How did he act at this wedding? Let me strike
11 that question.

12 It was a Tongan wedding?

13 A Yes.

14 Q And there's some ritual involved in Tongan
15 weddings? People need to do certain things to not offend
16 other people? Who gets to talk first, things like that?

17 A Uh-huh.

18 Q Would that be consistent with a Tongan wedding?

19 A Can you repeat that, please?

20 Q Does a Tongan wedding have a certain ritual
21 aspect to it, the way it's supposed to be done?

22 A Right.

23 Q How did George act? Did he interrupt the
24 wedding? Do some things that were not supposed to be done
25 at a wedding?

1 A Yes.

2 Q Could you tell that to the jury, how he was
3 acting at the wedding?

4 A Well, he was the camera man and he was, during
5 the ceremony, he was very interruptive and he wasn't
6 himself.

7 Q And interrupting the ceremony, is that
8 something you are supposed to do at a Tongan wedding?

9 A No. We had noble people there. They was
10 related to the king of Tonga. And it's very disrespectful
11 to go up behind him and stand behind him. He was told that.
12 But he disregarded his uncle.

13 He was very respectful of his uncle before; of
14 what the uncle said to do, he'll do. When the uncle told
15 him not to stand behind the nobleman, he went behind the
16 nobleman in his own way and just start using the camera.

17 He was told not to do that. We didn't
18 understand why he did that.

19 Q Was that totally out of character?

20 A Totally out of character. Didn't understand
21 why he disrespect my grandfather, I mean my uncle. And I
22 told him about that. He just like went off in another
23 conversation that I didn't understand. And I knew there was
24 something very wrong with his mind.

25 Q So when you tried to explain to him that you're

1 not supposed to stand behind this nobleman from Tonga,
2 George starts talking, but you can't even understand what
3 he's talking about?

4 A Yes, it was like -- come off, come talking
5 about something that I didn't even understand.

6 Q Ever know him to be that way?

7 A Like I said, when he went to L.A. he was -- if
8 he was told that before he went to L.A., he wouldn't even --
9 he would think twice before going behind that guy.

10 Q Respectful before he left?

11 A Very respectful.

12 Q Having grown up with him all of his life as a
13 younger brother, you know that he is in great trouble right
14 now?

15 A Yes.

16 Q How would you describe how you felt when you
17 found out what he was in trouble for?

18 A I was very saddened because from what I had
19 known and then from what I heard, it depressed and very
20 distressed me a lot to see that George did something very
21 terrible like that.

22 Q Is that anything like the George you know?

23 A George, he was very friendly to everybody. I
24 remember he was protecting, he was very protective of people
25 that was being beaten up at school. He would tell people

1 that picked on people that they pick on him again, he would
2 stop people from picking on people. Then when it came down
3 to him to do that, I was very shocked.

4 My mother was by my side when we heard the
5 news. She was crying and I was crying also. I said to
6 myself, this just couldn't be the George that I know. It's
7 just very, very wrong. This couldn't be the George Vanisi
8 that I know, but it wasn't.

9 Q The name Pe, what does it mean in Tongan? Do
10 you know how George got that nickname?

11 A He was the baby of the family and his Umu used
12 it as a nickname, as short for baby.

13 Q Some people pronounce it Pe?

14 A Pe, yes.

15 Q But it came from baby?

16 A Baby George.

17 MR. BOSLER: No further questions, Your Honor.

18 THE COURT: Cross?

19 CROSS-EXAMINATION

20 BY MR. STANTON:

21 Q Mr. Tafuna, what year did Siaosi Vanisi leave
22 the Bay Area and go to Los Angeles?

23 A I'm not sure.

24 Q Approximate year? Do you know the general time
25 frame?

1 A '95, I think.

2 Q Okay. And how often did you see him after he

3 went to Los Angeles?

4 A Twice.

5 Q And the wedding that you've previously

6 described, I believe you said it was your sister's wedding?

7 A Yes.

8 Q What year and month did that wedding take

9 place?

10 A That was in July of '97.

11 Q And you said that he was extremely different

12 after going to Los Angeles?

13 A Right.

14 Q Do you know what changed him?

15 A I think it was manic depression or bipolar,

16 some kind of sickness.

17 Q And did you ever know him to be diagnosed by a

18 physician of those problems in Los Angeles?

19 A No.

20 MR. STANTON: No further questions.

21 THE COURT: Anything further?

22 MR. BOSLER: Thank you, no, Your Honor.

23 THE COURT: You may step down. You are

24 excused.

25 MR. BOSLER: Defense would next call Anna Marie

1 Jones.

2 (One witness sworn.)

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

5 ANNE MARIE EMMA JONES

6 called as a witness on behalf of the Defendant,

7 having been first duly sworn,

8 was examined and testified as follows:

9 DIRECT EXAMINATION

10 BY MR. BOSLER:

11 Q Ms. Jones, if you could state your full name?

12 A Anna Marie Emma Jones.

13 Q How do you spell your last name?

14 A J-o-n-e-s.

15 Q I'm not trying to be rude, but I have to ask
16 you your age.

17 A Sixty-three.

18 Q Are you up here with your daughter?

19 A Yes, I am.

20 Q And are you currently employed?

21 A Yes, at the San Bruno Park School District. I
22 work at Parkside School as the office manager.

23 Q And either through your daughter or through
24 Parkside Junior High School, did you know a person by the
25 name of George Tafuna?

1 A Yes, I did.

2 Q How is that? Would you tell the jury?

3 A Basically I really don't know George in a
4 personal way, but from hearing his name from my daughter and
5 Matt and a lot of the kids that did play football and that
6 were in this whole same group of kids.

7 I personally was not at Parkside when George
8 was there. I started the year after that.

9 Q And so you knew him as a friend of your
10 daughter?

11 A Correct.

12 Q And Matthew you're speaking of, is that Matt
13 McGinn?

14 A Yes.

15 Q You've seen him earlier this morning?

16 A Correct.

17 Q In your official capacity with the school
18 district, I guess you get to have contact with other
19 teachers?

20 A Oh, absolutely.

21 Q Other people at Parkside?

22 A Exactly. Everybody comes in in the morning,
23 I'm the one right there.

24 Q Either through your daughter or through anybody
25 at Parkside, the school district, ever heard a bad word

1 about George Tafuna?

2 A No, I never did.

3 Q What type of person was he?

4 A From what -- you know, from what I heard about
5 him, George was always helpful, kind of funny, outgoing,
6 willing to help others. Just a good all-around kid.

7 Q Of course, you knew him, we're talking several
8 years ago?

9 A Correct.

10 Q Shocked by what has happened here?

11 A Yes, I just found it impossible to believe. I
12 was very shocked.

13 MR. BOSLER: No further questions, Your Honor.

14 MR. STANTON: We have no questions for
15 Ms. Jones.

16 THE COURT: Ma'am, you may step down.

17 MR. BOSLER: The defense would next call Sela
18 Oto Ota DuBruce.

19 (One witness sworn.)

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

22 MR. BOSLER: Watch out, the chair tilts back.

23 ///

24 ///

25 ///

1 SELA OTO OTA DuBRUCE
2 called as a witness on behalf of the Defendant,
3 having been first duly sworn,
4 was examined and testified as follows:

5 DIRECT EXAMINATION

6 BY MR. BOSLER:

7 Q Could you state your full name for the record?

8 A Sela Oto Ota DuBruce.

9 Q Could you spell that?

10 A D-u-B-r-u-c-e.

11 Q And your first and middle name, how is that
12 spelled?

13 A S-e-l-a.

14 Q O-t-o?

15 A O-t-o, O-t-a.

16 Q Sela, how old are you?

17 A Thirty-three.

18 Q Do you know George Tafuna?

19 A He is my brother.

20 Q Do you also know him as Siaosi Vanisi?

21 A Correct.

22 Q Siaosi Vanisi and George Tafuna, why two
23 different names?

24 A It goes back to when George was born. Siaosi
25 Tafuna is my mother's maiden name. He was raised up by my

1 Auntie Umu. Siaosi Vanisi is my brother from same father,
2 same mother. And Umu was my mom's sister. She was never
3 married and she have no children. And so my mom had given
4 in the Polynesian way, had given Siaosi to Umu so that
5 Siaosi could help Umu and then that Umu can give motherly
6 love to Siaosi.

7 Then with Tafuna, Umu enrolled Siaosi to be
8 Siaosi Tafuna. All throughout Siaosi's life, he have known
9 that he was a Tafuna and he never know his father's
10 background, that he is a Vanisi.

11 Q Siaosi, George, is that the translation in
12 Tongan?

13 A Siaosi in English is George, correct.

14 Q When one mother gives a child up to a relative,
15 why do they do that? Does that mean they don't love their
16 children?

17 A No. When a mother in a Polynesian way, when a
18 mother gives his child, knowing the child know that his
19 biological is my mother Louisa, knowing that his mother,
20 blood mother is Louisa, and Umu is his race adopted mother.
21 In a Polynesian way, you don't call that -- it's not you're
22 not loved or you're not struggling. My mother's love for
23 her sister, she was the only one that was giving birth. She
24 have two sisters that doesn't have any children.

25 So she looked at her younger sister Umu with

1 love, knowing she doesn't have any children, thinking
2 letting Umu raise Siaosi up, Siaosi in the future will help
3 Umu have a better life than the life she had before.

4 Q In What house were you raised?

5 A I was raised by my mother. There were seven of
6 us children. I had two -- I have five brothers and there's
7 two girls. The two oldest one again -- my mother was a
8 loving woman. She was a giving person.

9 Of the two older children, the brother, my
10 older brother Veni and my sister Lani, my uncle asked my
11 mother if they can raise or adopt Veni and Lani to be his
12 children. My uncle, at that time he wasn't able to have
13 children himself. My mother lovingly gave those two up with
14 the fact knowing that my uncle will raise them up and taught
15 them, to bring them up to let them know they have a real
16 mother.

17 And then there is myself. I have other
18 brother, he passed away. And there's Siaosi. We are,
19 Siaosi, Siu, and myself, we all have the same mother, same
20 father. And Siaosi was, Umu was the close one to my mom at
21 that time when Siaosi was born. Became so attached to
22 Siaosi, and that's when my mother saw the love and the
23 connection that Umu have with Siaosi. That's when she had
24 told Umu, you can raise Siaosi to be one of your son for
25 your own.

1 Q So where was Umu and your mother, where were
2 they living?

3 A When they left Tonga.

4 Q No, when Siaosi was given to Umu, where was
5 that?

6 A They were all -- in the island we were very
7 close-knit family. We all were brought up in the same house
8 with my uncles, my aunties, in the same land. There was
9 different houses, you know. In the island, all in the same
10 land.

11 My uncle had a house in the front and we had a
12 house in the back. All of us cousins, we all grew up in the
13 island together as very close knit. We all consider
14 ourselves brothers and sisters, even though we were first
15 cousins or second cousins.

16 Q So you knew George as an infant?

17 A I know him as an infant, yes.

18 Q And you were there when he was given to Umu?

19 A I was there and I used to babysit him because I
20 was like a couple years older. With my older sister, we
21 were there watching him, yes.

22 Q I apologize if I move from George to Siaosi.

23 A That's okay.

24 Q How was George's relationship with Umu?

25 A It was a very close relationship. When

1 Siaosi -- you're talking about when we were in Tonga or here
2 in the United States?

3 Q Let's first start with Tonga.

4 A Tonga. Siaosi's relationship with Umu, Umu
5 took care of Siaosi as her own child. She looked after him.
6 She fed him. She bathed him, everything. My mom didn't
7 have anything to do with Siaosi because she wanted Siaosi to
8 grow up to have that love for Umu, as his own mother.

9 Q And did that happen?

10 A Yes, that did happen. Because when Umu had
11 come to the United States, you know when we had petitioned
12 for a paper to leave the island, Umu's paper came first.

13 Q Did Umu decide to go to the United States
14 first?

15 A Umu left, but I remember when Siaosi was
16 little, two, he cried after her. He cried after her and
17 every time we have the picture of Umu in the living room,
18 Siaosi would go stand and look at the picture and talk to
19 Umu. And my mom would try to comfort him and he would say,
20 "I want to go to Umu. I want to go to my mom."

21 And every time when Umu would write, she would
22 send money for George to buy him things that he needed in
23 the island. And George would always look forward to a
24 letter from Umu.

25 And the island is very small because we don't

1 hardly see airplane. Every time when the airplane come by
2 and George would remember that Umu left in an airplane, and
3 he would cry. He would cry and call after Umu. He would
4 look up at the airplane and he would call to Umu. "Umu, I
5 want to be with you." It was very hard.

6 And George would always have a favorite blanket
7 that Umu had given him. And the blanket was so ragged and
8 old and dirty. My mom would try to take it away from him.
9 George would take that blanket and crawl under the bed and
10 he would cry for Umu. He would always cry for Umu. That's
11 what I remember of him in the island.

12 Q Did there come a time where George got to come
13 to the United States?

14 A He came, he came and at that time we were all
15 so happy because we all have knowledge of knowing that we
16 come to the United States with a better opportunity. That's
17 like the dream of my grandfather, that he had for all his
18 children and grandchildren, to come to the United States.
19 That's why we were all happy.

20 I remember when we all were travel, it was my
21 mother, it was my brother Siu, it was George and I. When we
22 all left Tonga and George was so happy, Siaosi was so happy
23 that he was going to meet Umu.

24 At that time it was a far distant space. I
25 don't know how long I was -- it was a long space that Siaosi

1 hadn't seen Umu for a long period. When we came to the
2 United States and when Umu came to George, just like a child
3 would do if they haven't seen anybody for so long since they
4 were away. Siaosi would shy away from Umu. He would not --
5 at that time he didn't recognize Umu.

6 But then my mom would tell, "Umu, Umu, why
7 don't you take George and give him a bath?" You know, "And
8 talk to him. Maybe he will recognize you."

9 And I remember so well that it was so hard.
10 When Umu called Siaosi to come, he wouldn't go to Umu for a
11 long period of time. Then little by little, you would see
12 Siaosi coming up to Umu and when Umu, you know, when Umu had
13 bathed him and given him a bath because it was a long trip,
14 that's when Siaosi realized, "This is the woman that had
15 raised me up in the island."

16 Q Let's talk a little bit about Siaosi as he grew
17 up. Did you know him through elementary school, junior high
18 school, high school? Did you stay in the same area?

19 A We didn't live in the same household, but we
20 went to the same elementary school. And I didn't live far
21 away from Siaosi. I only lived a couple blocks away from
22 him. And I used to remember, we used to walk to school
23 together, you know. He was a couple years younger than me.
24 But I known Siaosi all my life, I have known him. I have
25 never known him to be a disrespectful person. I have

1 known -- in a Tongan culture we are taught, we cannot watch
2 the same television, especially if there's a lot of violence
3 or swear words or like kissing or anything like that. It
4 was a taboo for brothers and sisters to sit in the same room
5 and watch the same movie.

6 George would always have the respect for me.
7 When I'm watching a T.V. program, whether it's music or
8 comedy, he would leave the room. Because he know I like
9 that show. He would leave it for me to sit there and watch
10 the comedy movie or any kissing scene and leave the room.

11 I have never known him to swear. And I swear
12 to you on the Bible, the time I know my brother, I had
13 never, ever seen any act of anger, any act of swearing. I
14 have never hear him saying, "Shut up." It was always, "Be
15 quiet." And whatever I ask of him to do, is like if I come
16 home and the dishes -- let me rephrase that.

17 If he come up to my uncle's house, because
18 there's always things going on, like always like meeting or
19 feeding. When he come up and there's so many dishes to be
20 washed and I'm there and I ask him please help me. He would
21 look down and say, "You can sit down, I'll wash the dishes
22 for you." You know, that don't mean something to any of
23 you, but that really mean something to me because I have
24 known him as the person I know him. I know him, he's always
25 gone out of his way to do things that I ask of him.

1 I have never, never seen him, I have never seen
2 him done anything bad or say anything bad in front of me.

3 Q There was some testimony about Siaoosi trying
4 to -- George trying to get a certificate for an Eagle Scout.

5 A Absolutely. I remember we were so proud of
6 him. We were so happy and we were supporting him 100
7 percent in trying to get his Eagle Scout. But I remember, I
8 remember from Umu what she had told, his paper was turned in
9 late. His age, his birthday, I guess, it was the Eagle
10 Scout you have to be -- if you're over 18 or if it's when
11 you are 18 you cannot obtain your Eagle Scout.

12 I remember, I recall that the paper was turned
13 in late. His birthday had rolled over. I'm not sure, but I
14 don't want to be misquoted, but I understand that when
15 you're 18 or you cannot get your Eagle Scout. It's either
16 you are over 18 or you have to turn it in before your
17 birthday.

18 His paper was turned in after his birthday.

19 Q So he didn't get the Eagle Scout?

20 A He didn't get his Eagle Scout.

21 Q Things like Eagle Scouts, sports, were those
22 things George was involved in?

23 A He was involved in sports. He loves football.
24 He loves football. That's the sport he played, football for
25 his high school. I used to remember every time when he had

1 his practice, you know, he would go to his practice and he
2 would always come home. I've never known him to go and
3 party and associate with other people.

4 And I know Siasosi very well because my other
5 brother Siu, he was the person that I, you know, he liked to
6 be with a different kind of crowd. With Siasosi, he never
7 liked to be in the crowd where Siu, my other brother Siu, he
8 was more of a troublemaker, to understand the two
9 differences of these two brothers. He never liked to be
10 associated with that crowd.

11 Siasosi was more into the church. I had a
12 vehicle. I had a Pinto. I was scheduling ready to go on my
13 mission, on my missionary. I looked to Siasosi and Siu and I
14 choose which brother of mine am I going to give my vehicle
15 to? Of course I picked Siasosi because he was more
16 independent. You know, I'm more relying on him. Plus with
17 the knowledge he had at that time, he was a smart student.
18 You know, I figure okay, I'll give him my vehicle so it will
19 help him, so it will benefit him for the future that he can
20 go to the seminary, to his church activities, and sports and
21 school, and that way he can drive Umu to the store and take
22 Umu to her doctor's appointments. That way they can use it
23 for that purpose.

24 Q When Siasosi is growing up, what is going on in
25 Umu's house?

1 A Okay. What was going on in Umu's house, my
2 uncle, may he rest in peace, that's how we all came to
3 America is with Moli. That's how we all came to America,
4 because of him. He came here. He petitioned for our paper
5 to bring us here. And when we came here, he went into, he
6 had a brain tumor. He went into a coma.

7 He couldn't function anymore. He lie in bed, I
8 think, for 18 years. I remember we were growing up, we all
9 take turns looking after him. Because Siaosi was in the
10 household, and Umu, Umu didn't work at all. That was her
11 job 24 hours, bathing, cleaning and feeding my uncle.

12 And Siaosi at the time when he was going to
13 school and Umu wanted to take a break, Siaosi would come and
14 help Umu to tend for my uncle that was very ill that
15 couldn't care for himself. Siaosi would come and help Umu
16 bathe him, sit him up, read to him, sing to him, even though
17 he doesn't know any activities that goes on around him.
18 Siaosi would feed my uncle, would help him change -- excuse
19 me, you know, to change his diapers. At that time he was
20 having a catheter at that time also.

21 So that was George's role, Siaosi's role in the
22 household is to care after my uncle.

23 Q This is through elementary school, junior high
24 school, high school?

25 A Through elementary school. My Uncle Moli

1 wasn't that bad in elementary school. Siaosi would sit in
2 the kitchen and spoon feed him, wipe his mouth, wash his
3 eyes, tie his shoes, groom him, care for him, walk with him
4 around the neighborhood. It got to the point when my uncle
5 cannot be walked around or do anything. That's when Siaosi
6 in junior high, I believe, that's when he would come from
7 school and sit with the uncle while Umu take a break to go
8 to the store and relieve herself for a time.

9 There was also my grandfather was there, too.
10 As you can see, this household, there was a lot of elderly.
11 There was an elderly man and a sick person. Siaosi would
12 also care for the elderly man. You know, his name is
13 Moleni. Siaosi, if you know Siaosi, he's a very caring
14 person. He cared for these people and he loved them.

15 Q You mentioned Siaosi's intelligence. How did
16 that affect the rest of the family, how well he was doing in
17 school?

18 A With Siaosi, he was, you know, we all known
19 him. He was a smart person. You know, he would come there
20 with me at the time. I was studying for my nursing, for my
21 nursing. A lot of medical terminology I wasn't familiar
22 with it or wasn't able even in pronouncing this medical
23 terminology. I would sit there and Siaosi would visit me up
24 in my uncle's house. I would bring up my book, and I would
25 ask him. He's very good in English and I would ask him,

1 "How would you pronounce this word?" He would sit there and
2 pronounce it for me. He would tell me the meaning of the
3 word and I would sit there and look at him and say, "How do
4 you know this?"

5 One time I recalled he was saying he wants to
6 be a doctor. You know, he wanted to study to be a doctor.
7 I told him, "That's very nice. That's very nice if you want
8 to be a doctor. That way you can be a doctor, I can be a
9 nurse. We can have a clinic together where we can help out
10 the people, you know. Especially those people who are less
11 fortunate that cannot afford insurance. We can be like, you
12 know, charity, charity clinics. Plus we can help our
13 people. The Polynesian people, they don't have good health
14 care."

15 I said this way we can help them. That was a
16 lot of things that Siaosi and I have talked about. Like
17 making a difference, you know, to making everybody's life
18 different than what we had.

19 Q Did you look to Siaosi as like a confidant?
20 Somebody you could talk to about personal problems?

21 A Exactly. I remember at the time I was having
22 problems with my boyfriend and I would call him up when he
23 was in L.A. with his wife. And we would stay on the phone
24 for a long period of time. I would tell him, you know,
25 "From a man's point of view, you know, how do you feel?" If

1 the situation it's going through, I would explain to him the
2 problems I was having in my relationship with my boyfriend.
3 He would tell me, he would give me advice.

4 I would sit there on the phone and talk about
5 our upbringing because I feel at times that growing up, I
6 didn't know much about my father's side because the woman in
7 my mother's side, I know so much about my mother's side.
8 Not until later on I know something about my father's side.

9 I was able to share that with Siaosi. He was
10 shocked about a lot of things on my father's side that I had
11 told him, that he never knew of.

12 Q Like what?

13 A Like I know when I was getting -- when my
14 wedding day, I didn't know that my father have a connection
15 to the royal family of Tonga. You know, I didn't know that
16 until the day of my wedding. I was told that the queen's
17 sister is going to be present and also the princess is going
18 to be present and also some noble.

19 At first I was shocked, you know. I told my
20 mom, you know, I don't know -- plus we didn't give any
21 invitation. But because in the Tongan way, when you are
22 related to somebody, even though if you get invitation or
23 not, you go automatically because that's how family is.
24 It's a very close-knit family. Blood is more important.
25 You go.

1 So I was surprised. I felt very honored that
2 they had showed that to my wedding. I felt very honored. I
3 know George was doing video, taping at that time --

4 Q All right. If I could? George at some point
5 leaves to go to Los Angeles?

6 A Yes.

7 Q Let's talk about the wedding. Did you notice
8 any change in George's behavior when he comes back to attend
9 the wedding with the noble people?

10 A Oh, it was a big change. It was a big change
11 when I saw him, and his behavior. It was a behavior I've
12 never known. It was behavior like -- I don't know, you
13 know. I have spoken to him before. I had asked him,
14 because he say he went to L.A. to study films. And here I
15 think this will be wonderful, I have brother in film
16 industry, he's going to learn. I ask him, "Why don't you be
17 my camera person? Why don't you be my camera person instead
18 of me paying extra to hire a video person? Why don't you
19 come and do my video, the filming? Because since you know
20 something about it."

21 He said okay. When he came, I noticed when I
22 was trying to get through to him at times it was, before, it
23 was like I saw a change in him. He came to the wedding, he
24 dressed very nice. He had a nice suit on. After the
25 ceremony, it came to the reception and I noticed he was

1 running around. Because we weren't, you know -- we weren't
2 brought up in a royal family and know how to act around
3 them.

4 I noticed George was video cameraing around the
5 royal family. My uncle indicated to him, "Go away, don't go
6 by there. It's rude in a Tongan way. It's disrespectful.
7 Come down from there." I never seen him act like that. He
8 was very -- to my uncle, standing up to my uncle. In the
9 middle of the ceremony I would tell him, "Go away, go back."
10 From that kind of behavior it was very odd. Usually when we
11 ask of George something to do, he would quietly, humbly he
12 would move away.

13 At the reception after that, after that he
14 changed his suit and come with clothes. I never seen any
15 kind of dressing like that, any kind of -- he looked like
16 the arm was torn off. You know, from the sleeve. And when
17 I talked to him, I say, "George, what kind of attire is
18 this? Why don't you go and change?" He started talking to
19 me in ways that he never talked to me before.

20 Q If you could describe? You had spoken of him
21 kind of as a person you would look to for advice?

22 A Yeah.

23 Q Having talked to him in that way, how did his
24 actual speech, the way he was talking, change at the
25 wedding? How was it different?

1 A He looked at me. And he said, "Why you worry
2 about what I dress? I don't care if the people look at me.
3 I don't care."

4 I'm looking at him like, "Please, this is my
5 wedding. Can you please at least have some respect? What's
6 wrong with you? Why are you talking to me like that? You
7 know, you never talked to me like that." I say to him,
8 "Just enjoy the wedding and just let me be."

9 At first, inside of me I was hurt because I'm
10 shocked. And he never -- all my life I've known him as a
11 brother to me and I look up to him. Every time where there
12 was problems like with my mother or whatever, I would call
13 him and he would tell me good advice.

14 For him to turn around and talk to me, I was
15 hurt but I tried to hold it inside. I didn't want to make a
16 big thing about it. I thought, "Who cares? Maybe he's
17 right." But I don't see him like that. That's not the way
18 I look at him.

19 Q Did there come a time where you were able to
20 understand what he was talking about? Where he would talk
21 and not make sense?

22 A I remember, I remember after my wedding was
23 over, George came over. He wanted to get his, he wanted to
24 get his passport. He was saying something about China. And
25 I'm looking at him like, "China? What are you going to go

1 do in China?" He says, "I'm going to go there for some
2 film."

3 I remember he came, he was talking to my
4 husband all night long. And I'm like looking, like I would
5 come out a couple of times and I say, "George, you got to
6 let my husband sleep. What are you doing?" And then
7 sometimes I made a remark. I was like, "Are you on drugs?"
8 You know, because it was very shock to me, the way he
9 behaved. And the way he was wearing his clothes and he
10 would talk and he makes no sense at all.

11 And my husband came in and I would -- you know,
12 this is like 7:00 in the morning. I got up to get ready and
13 he's still talking. And then I mentioned to my husband and
14 I ask him, "Did you notice anything different from him?" I
15 told him, "His behavior is different. How come he's like
16 that?" I was trying to get information so I can see what's
17 wrong with him.

18 My husband, "Oh, no, we were shooting the
19 breeze."

20 "That's some kind of breeze you guys are
21 shooting because how come he behave like that?"

22 Twenty-four hours and then the next morning, I
23 don't understand.

24 And then I know George was wearing this kind of
25 outfit. It was like George was taught to dress up nice,

1 very properly. I have never seen him wear clothes torn off
2 or -- it was to me, I looked at him like -- I looked at him
3 and he was like a lost child, a child that needed help, but
4 I did not know what was going on with him. He looks so lost
5 to me at that time. He looked so lost to me because I
6 remember every time when we used to go up to L.A., he would
7 take us to Tijuana. It was nice, very pleasant. We would
8 take a trip to Tijuana. Go with his wife, go dancing with
9 my girlfriends and also my friends. We would come back, and
10 fly back. He would make sure I'm well looked after, knowing
11 I am his sister. He always make sure.

12 But recently I was like shocked at his
13 behavior. I was like -- plus I was talking to my brother.
14 I asked him, "You guys notice something wrong with him?"
15 Then I would call him up on the phone and ask him, "George,
16 is everything okay with you? Are you all right?" He would
17 talk about things, like -- there's no importance at all. No
18 importance at all. I was surprised at that kind of
19 behavior. That's a behavior -- even my family when he came
20 to the wedding, we were all surprised at the behavior.
21 That's not the behavior he was taught and raised up to.

22 Q When was the last time you saw George?

23 A The last time I saw George, it was at my
24 wedding, in '97. And I recall, I'm not really sure, but he
25 came after, after that he came at my wedding I think in

1 around October. I'm not sure. I don't want to be
2 misquoted. But I think it's like a couple months down after
3 my wedding. That's when I saw the big change in him. In
4 '97 like toward the end of the year. That's when he said he
5 wants to go to China. He wants to go and do this, and then
6 he was talking to my mom and my mom was like -- she would
7 tell George, "Can you be quiet for a second so I can put
8 some sense in your head? How come you behave like this?
9 Why you talk like this?"

10 As a family we were surprised because George
11 would come from L.A. with his beautiful family and his wife.
12 We were able to sit down and talk and have a normal
13 conversation. We would have to have feedback, "How you
14 doing?"

15 But when he came, it was like a person -- I'm
16 like looking at him like, sometimes I would walk out of the
17 room. I would honestly, I swear to you on the Bible, I
18 would walk out of the room because I don't want to carry on
19 any conversation with this person because I know it's not
20 him.

21 It was very difficult to me. It was very hard.
22 Because I wanted to share, I wanted to tell him how my
23 marriage has been going, things like that. And it was -- I
24 could not get through to him.

25 Q If you could, you know that George is in very

1 great trouble? You know that?

2 A Yes, I understand he's in very great trouble.

3 Q How did you feel when you learned that he had
4 been arrested for this? For killing another person?

5 A When I heard that he had killed the officer, I
6 said to myself, I don't think it's him. I know it's not
7 him. I have another cousin with the same name as him. I
8 was thinking of him. I said, "I think this is a mistake.
9 It can't be him."

10 Q All right.

11 A I would say to myself, I went and I knelt down
12 and I prayed and I cried and I poured my heart out to my
13 heavenly father and said, "This can't be him. It's not him,
14 it can't be. This is not the one. I know it's not him."

15 And then when I learned that, my mind went back
16 to the last time I saw him and it's like, maybe he was in
17 trouble and we did not know of it.

18 MR. BOSLER: Your Honor, I don't have any
19 further questions.

20 MR. STANTON: No questions of this witness.

21 MR. BOSLER: Your Honor, it's probably a good
22 time to let the court reporter rest her fingers.

23 THE COURT: Yes, it is. Ma'am, you may step
24 down. You can go.

25 THE WITNESS: Okay.

1 MR. GREGORY: May we approach the bench on an
2 administrative matter?

3 THE COURT: Yes.

4 (There was a discussion at the bench off the
5 record.)

6 THE COURT: Ladies and gentlemen of the jury,
7 we are going to take our morning recess now. During this
8 break, remember the admonition that you have been given at
9 all the other recesses. It is your duty not to discuss
10 among yourselves or anyone else any matter related to this
11 case. It is further your duty not to form or express any
12 opinion regarding the ultimate outcome of this matter until
13 it is submitted to you for decision.

14 You are not to read, look at, or listen to any
15 news media accounts regarding this case. And do not allow
16 anyone to attempt to influence you in any manner with regard
17 to this case. If anyone should attempt to make such an
18 influence on you, you are to report it to the bailiff
19 outside of the presence of the other jurors immediately.

20 Ladies and gentlemen of the jury, you may go
21 into the jury room for our morning recess.

22 Counsel, I'll see you back in 15 minutes.
23 Court is in recess.

24 (A morning recess was taken at 11:06 a.m.)
25

RENO, NEVADA, MONDAY, OCTOBER 4, 1999, 11:30 A.M.

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

THE COURT: Thank you. Please be seated.

Counsel stipulate to the presence of the jury?

MR. STANTON: State will so stipulate.

MR. BOSLER: Yes, Your Honor.

THE COURT: You may proceed.

MR. GREGORY: Bishop Tonga.

(One witness sworn.)

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

NIFAI TONGA

called as a witness on behalf of the Defendant,

having been first duly sworn,

was examined and testified as follows:

DIRECT EXAMINATION

BY MR. GREGORY:

Q Would you state your name, sir?

A My name is Nifai Tonga.

Q Would you spell that?

A They call me Bishop Tonga.

Q Spell your first name.

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1 A N as Nancy, i, f as Frank, a-i. Last name is T
2 as Tom, o-n-g-a.

3 Q And you said that you are a Bishop. Of what
4 denomination are you a Bishop?

5 A Bishop of the Mormon church, the Church of
6 Jesus Christ of Latter Day Saints.

7 Q And in that capacity, Bishop Tonga, did you
8 have occasion to come into contact with a person known as
9 George Tafuna?

10 A Yes.

11 Q Do you see George Tafuna in the courtroom
12 today? Do you see him here? I call your attention to
13 counsel table. Do you see George Tafuna sitting there?

14 A Oh, yes.

15 Q Describe what he's wearing. Describe what
16 Mr. Tafuna is wearing today, Bishop. I'm sorry.

17 A I haven't seen -- is George Tafuna? I'm sorry,
18 I still am confused.

19 Q Do you have trouble hearing, Bishop? Is that
20 the problem?

21 A Yes.

22 Q Do you have a problem with your hearing?

23 A No, I have a problem with understanding the
24 language.

25 Q All right. I'm sorry. I apologize.

1 Do you see George Tafuna in the courtroom
2 today?

3 A No.

4 Q You don't see George Tafuna?

5 A I haven't seen him in this courtroom.

6 Q Well, I'm going to call your attention to this
7 fellow in the gray coat.

8 A Oh, my goodness. George looks different. I'm
9 sorry, I looked at him, but I didn't recognize him. Yes,
10 this is the gentleman.

11 Q Do you recognize him now?

12 A Yes.

13 MR. GREGORY: May the record reflect the
14 identification by the Bishop?

15 THE COURT: Yes.

16 BY MR. GREGORY:

17 Q When did you first meet George Tafuna?

18 A I assume I met him some 27 years ago when he
19 first entered the United States.

20 Q And where do you preside as a Bishop?

21 A I was presiding at Little Palm Tree, they
22 called it, Ward in the San Francisco area, which they called
23 it the San Francisco Tongan Ward.

24 Q Was George Tafuna a member of that ward?

25 A Yes.

1 Q And did you deal with George Tafuna on a
2 regular basis in church?

3 A Yes.

4 Q What kind of a church member was George Tafuna?

5 A George was, when he was a little boy, he was in
6 the primary initiation. And when he arrived at he was 12
7 years of age, he upgraded to the youth program, they called
8 it. It's mutual, where children, M-I-A, Mutual Improvement
9 Association. It's for the youth, the boys and the girls.
10 George was a member of that group.

11 Q What kind of a church member was he? Was he
12 devout? Was he casual? What kind of a member was he at
13 your church?

14 A George is good acting, an active member at that
15 time.

16 Q Were you proud to have George as a member of
17 your church?

18 A Yes, I do.

19 Q Now, the Mormon church also has an affiliation
20 with the Boy Scouts of America; is that correct?

21 A That is correct.

22 Q Did George participate in the Boy Scouts
23 through the Mormon church?

24 A Yes.

25 Q How well did he do as a Scout, Bishop?

1 A He accomplished all the requirements, starting
2 from his 12 years of age until he was 18. And he
3 accomplished to become an Eagle Scout, which is the highest
4 rank in this program.

5 Q Did he get to be an Eagle Scout?

6 A He accomplished the requirements, but ---

7 Q I understand what you said. But he didn't get
8 to be an Eagle Scout, did he?

9 A He didn't.

10 Q Why was that, Bishop?

11 A Because it was neglected. We put all his
12 paperwork together and handed it to Umu, which was George's
13 mother at the time. She misplaced it. We checked with her.
14 She said she already mailed it, but she put it in a drawer
15 or something and then didn't send it.

16 Q So when did you find out that she had failed to
17 send it, Bishop?

18 A I found it out when I called. Because we
19 supposed to receive, in order to have him have a court of
20 honor for his accomplishment, we didn't receive the paper
21 return. So we checked with the family. And they said they
22 already sent it. And it takes some time to discover that
23 all the paperwork wasn't sent.

24 Q So you discovered that the paperwork wasn't
25 sent in and George had passed his 18th birthday, hadn't he?

1 A Yes.

2 Q What did the Boy Scouts, when you found out the
3 mistake that had been made, did you try to correct it for
4 him?

5 A We do. I talked to the Boy Scout of America
6 Council. They said they would try to see if there's any way
7 they can send it later. But they do sent it back, too late.

8 Q Because he had already achieved his 18th
9 birthday?

10 A Yes.

11 Q But he had accomplished all the requirements
12 that the Scouts insisted upon for Eagle Scout?

13 A Yes.

14 Q And that was prior to his 18th birthday, all of
15 that stuff was done?

16 A Yes.

17 Q Did George participate in all the church
18 activities, Bishop Tonga?

19 A He did, very active. And participated all the
20 programs that he was in.

21 Q You told me yesterday he had a habit of
22 carrying a Bible around. What was that about, Bishop?

23 A As we presiding and conducting and directing
24 the youth, we recommend to carry a Bible with them. When
25 they listen to somebody talk referring to the Bible, they

1 can look at it to make sure what they said is in the Bible.

2 And George was one of the good boys that I
3 found that he was carrying the Bible all the time. Bring it
4 to church.

5 Q You indicated to me yesterday, Bishop, that
6 something happened with a car when George was about nine
7 years old at the church. Can you tell this jury what
8 happened with the car?

9 A Yes, I was in the office at that time and some
10 of the boys run into the office and knocked on the door and
11 said there was an accident outside in the parking lot. I
12 went over there and looked at it. It was George with the
13 other boys. So George came to me and felt sorry about what
14 has happened. And I told him is responsible of the family;
15 it could not be church's.

16 Q What happened, Bishop?

17 A I think George was driving the car into a wall.
18 It is a fence, a wooden fence.

19 Q So George had gotten into a car with the other
20 kids and they ran it into a wall?

21 A Yes.

22 Q Did the other kids tell you that they had done
23 it?

24 A No, George told me.

25 Q George told you?

1 A Yes.

2 Q You indicated just now that you told George to
3 talk to his family?

4 A Yes, I instructed him to see if the family take
5 the responsibility instead of the church and he said, "I'll
6 do it." He said, "I'll go talk to my uncle and my mom to
7 see if there's any way that we can take care."

8 Q Did George help you take care of that fence,
9 Bishop?

10 A Yes, with the responsibility rested on me.
11 It's happened in the church property and I'm pretty sure
12 that I need to help.

13 So I helped George. I told him that I can help
14 to take care of the problem. So I went and talked to the
15 neighbors and present, you know, the proposal, what we can
16 do. He accepted. And we built a fence, put it back with
17 new wood.

18 The neighbor asked if we can do a favor, if the
19 boys can remove a tree that was hit with the wall. And I
20 talked to the boys and George. And we did -- this is --
21 isn't actual work, but he offered to give us money to help
22 the boys.

23 Q George helped you correct the wrong that had
24 been done to the neighbor's fence?

25 A Yes.

1 MR. GREGORY: Court's indulgence.

2 BY MR. GREGORY:

3 Q You indicated that George was a devoutly
4 religious person. I show you what has been marked as
5 Exhibit 33-A --

6 MR. GREGORY: May I approach?

7 THE COURT: You may.

8 BY MR. GREGORY:

9 Q I ask you if you recognize the people that are
10 depicted in the pictures in the upper left corner?

11 A Yes.

12 Q Does that fairly and accurately depict those
13 people?

14 A Yes.

15 Q You know who they are?

16 A I do.

17 MR. GREGORY: I offer 33-A. We stipulated to
18 the foundation already.

19 MR. STANTON: I would have no objection to 33-A
20 being admitted. However, I would like as a foundational
21 thing for the Bishop to tell the ladies and gentlemen of the
22 jury who the people are in that photo.

23 MR. GREGORY: I will have him do that.

24 THE COURT: 33-A is admitted with that
25 foundation.

1 (Exhibit No. 33-A admitted.)

2 BY MR. GREGORY:

3 Q Tell the people of this jury who is depicted in
4 those pictures up in the left-hand corner.

5 A The one in the middle is a Prophet, President
6 Hinkley. On the other side is Thomas S. Monson. He's the
7 First Counsel to the Prophet. On the other side, President
8 Faust, who is the Second Counsel to the Prophet.

9 Q These people are important to the church, to
10 say the least, are they not?

11 A Yes.

12 Q Who is this gentleman?

13 A That is a picture of Jesus Christ.

14 Q If I was to tell you that George Tafuna had
15 pointed at these people and said that he wanted to kill
16 them, would that shock you, knowing the George Tafuna that
17 you knew?

18 A Yes, I just don't believe that that's happened.

19 MR. GREGORY: May I publish?

20 THE COURT: You may.

21 (The exhibit was displayed to the jury.)

22 THE REPORTER: Excuse me, Your Honor.

23 (There was a pause in the proceedings.)

24 BY MR. GREGORY:

25 Q Bishop, you know what George has been convicted

1 of. Would you tell this jury how you felt when you found
2 out that he was -- that he had committed this terrible
3 crime?

4 A Yes. When I heard this happen, I just don't
5 believe it was George. The George, I know him for a number
6 of years and when he left to L.A., from San Francisco, he
7 told me that he was going to go to school and I tried to get
8 in touch with him and see how he's doing in school.

9 And I received a phone call from a Bishop in
10 the area where George moved into; called me and said George
11 is coming to church, And I want to see if you have his
12 membership. Because the system that we used in the church,
13 every member moving from one place to another, it -- he's
14 going to take his membership with them.

15 All give notice to the Bishop to transfer the
16 membership to the area where he's going to move to. And
17 when the Bishop called me, George was coming to church in
18 L.A.

19 From that time on, I lost contact with them. I
20 was released from the Bishop at that time and the new
21 Bishop -- the last time I saw George is coming to a wedding
22 reception in San Bruno.

23 Q Was George, did George strike you as unusual
24 when you saw him at this wedding reception? At the wedding?

25 A Yes.

1 Q Was that --

2 A When I walk up to George and shake hand with
3 him, it seems to me that he don't know me, he don't want to
4 spend time with me, he don't want to talk that much with me.

5 Q It was a different George that you saw?

6 A So I assure him -- I thought it could be, you
7 know, young people growing and they have so many things on
8 their mind. And then school and stuff. And I didn't want
9 to disturb him. I just walked to my family and sit with
10 them for the rest of the activities.

11 Q Was he dressed oddly?

12 A That is one thing, yeah. The dress that he
13 wore that night, it is not permitted and it is not
14 recommended within the church building.

15 Q How did George dress when he was around you in
16 the church, Bishop? Was he always neat and clean?

17 A Yes. It's a state, sometimes they call it
18 Sunday best. If you are going to attend events other than
19 Sunday, we recommend to have them, you know, use good, clean
20 dress to the church building.

21 Q George wore his Sunday best every day, didn't
22 he, Bishop? Tried to be neat and clean?

23 A Yes.

24 MR. GREGORY: I have nothing further from the
25 Bishop.

1 THE COURT: Cross-examination?

2 CROSS-EXAMINATION

3 BY MR. STANTON:

4 Q Sir, did you help Mr. Vanisi in regards to his
5 mission?

6 A Yes.

7 Q How long was the defendant active in the church
8 as you know it?

9 A He's supposed to be active in the church.
10 There is some of the young boys, they fall away from the
11 church for a number of years. But then when they come back
12 in that age, they, the Bishop is supposed to take care of
13 how they doing for two years. They live up to the standard
14 of the youth.

15 Q And you knew Mr. Vanisi when he was active in
16 the church from 1988 until 1994? Is that right?

17 A Yes.

18 Q Now, you indicated to our office that you were
19 instrumental in having Mr. Vanisi placed in his mission at
20 the age of 19; is that correct?

21 A Yes, I was responsible to interview him and
22 talk with him.

23 Q Did Mr. Vanisi complete his mission?

24 A No.

25 Q Why not?

1 A Because when I sent him to the mission field,
2 to the mission -- they called it the M.T.C., the Mission
3 Training Center in Salt Lake City. I hadn't found anything
4 that is a conflict with George at that time. But when he
5 went to M.T.C., and he was uplifted with the spirit -- this
6 is what they told me --

7 Q Sir, maybe you didn't understand my question.
8 Mr. Vanisi didn't finish his mission, did he?

9 A No.

10 Q He didn't finish his mission because he was
11 booted out because he got a girl pregnant, correct?

12 A That's correct.

13 Q After he got the girl pregnant and was thrown
14 out, you specifically appealed so that he would have a
15 second opportunity to fulfill his mission and that you would
16 supervise Mr. Vanisi on a 24-hour basis in order to get him
17 back in, correct?

18 A That is correct.

19 Q That lasted two weeks and then he was thrown
20 out again, correct?

21 A No. It wasn't because I have been told there
22 is a problem with his souls. And the mission president
23 instructed me to have a meeting with the family, the girl
24 that she was pregnant and George's family, and see if one of
25 those people close to his family can adopt legally the baby

1 when it's born so that they, the church doesn't get involved
2 in supporting the baby or some complaint of such support
3 against him while he was in the mission.

4 And when we come to the point, the girl's
5 family doesn't want to adopt, anybody, they want to keep the
6 baby, and we don't have no choice. George cannot go back
7 because there is not legal person responsible for the baby.

8 Q When was the last time that you saw the
9 defendant, Siaso Vanisi, before your testimony today?

10 A It was the marriage, the marriage of George
11 sister.

12 Q Do you remember what month and year that was,
13 sir?

14 A I don't. I think it would be somebody else can
15 bring it up. But I'm pretty sure that is the last time I
16 saw him.

17 Q And the photograph that was shown to you by
18 defense counsel of Jesus Christ and high-ranking members of
19 the Mormon church, you remember that photograph?

20 A Uh-huh, yes.

21 Q Would it surprise you that not only did
22 Mr. Vanisi point at those individuals, but he pointed a gun
23 at each one of them and he said he wanted to kill them and
24 referenced them as white and used vulgarities to describe
25 them? Would that surprise you?

1 A Yes.

2 MR. STANTON: Nothing further.

3 MR. GREGORY: One question.

4 REDIRECT EXAMINATION

5 BY MR. GREGORY:

6 Q It was George Tafuna that told on himself, that
7 had said he had gotten a girl pregnant, wasn't it, Bishop?

8 A Yes.

9 MR. GREGORY: Nothing further.

10 THE COURT: Anything further?

11 MR. STANTON: Nothing further, Your Honor.

12 THE COURT: Sir, you may step down. You are
13 excused.

14 THE COURT: Ladies and gentlemen of the jury,
15 we are going to take our noon recess now. During this
16 break, remember the admonition that I've given you at the
17 other breaks. I will ask that you return by 1:30. We will
18 start hearing testimony again at 1:30 p.m.

19 It is your duty not to discuss among yourselves
20 or with anyone else any matter having to do with this case.
21 It is your further duty not to discuss this case or form or
22 express any opinions about the ultimate result in this
23 matter until it is finally submitted to you. You are not to
24 look at, listen to, or read any news media accounts of this
25 case.

1 Should anyone attempt to influence you in any
2 manner regarding this case, you are to notify the bailiff
3 outside of your fellow jurors' presence.

4 Ladies and gentlemen, you may be excused from
5 the courtroom now.

6 (The jury left the courtroom at 11:58 a.m.)

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

9 THE COURT: Counsel, we have found an
10 interpreter who speaks Tongan. The clerk will give you the
11 name now to make sure you don't have any conflicts with this
12 name.

13 THE CLERK: The name is Tui Finnau, T-u-i,
14 F-i-n-n-a-u.

15 THE COURT: She is on an original list the
16 clerk's office had for individuals who could interpret
17 Tongan.

18 I have asked that she be here a few minutes
19 before 3:00 p.m. We will take a recess when she gets here
20 so I can make sure she understands her responsibilities as
21 an interpreter because I have not used her at all.

22 MR. STANTON: At that time, could the Court
23 inquire based on the witness list provided by defense
24 counsel whether or not she is affiliated or related to any
25 of those witnesses?

1 MR. GREGORY: We will do that.

2 THE COURT: I have a question about the witness
3 list. This morning I received a witness list, but Bishop
4 Tonga was not on here. Unless I don't understand --

5 MR. GREGORY: It was just a mistake, Judge.

6 MR. BOSLER: We advised the District Attorney
7 when we came to court that he was not on the list.

8 MR. GREGORY: He should have been on the list,
9 Judge. Bishop Tonga I don't think is one of the witnesses
10 they dispute. They have known about him since --

11 THE COURT: I'm trying to keep track. We still
12 have, from the witnesses that you had expected to call this
13 morning, five people that were not called yet; is that
14 correct?

15 MR. GREGORY: Yet.

16 MR. BOSLER: Yes, Your Honor.

17 THE COURT: We have Brian Verna. I have
18 promised that he is going to be on the afternoon flight.

19 MR. GREGORY: We will do it, Judge.

20 MR. BOSLER: We may have to juggle the order,
21 but we are fine with getting him through today.

22 THE COURT: I am fine with changing the order.
23 What time is he scheduled to leave?

24 MR. BOSLER: 5:56 flight, Your Honor.

25 MR. GREGORY: We'll get him out, Your Honor, I

1 assure you.

2 THE COURT: If at all possible, maybe he can
3 testify right after lunch?

4 MR. BOSLER: He and Krueger, we made a promise
5 to get him out of here.

6 THE COURT: I would like to get those both
7 handled since they are returning to the Bay Area tonight.

8 MR. GREGORY: Yes, ma'am.

9 THE COURT: Anything further?

10 MR. GREGORY: No, Your Honor.

11 THE COURT: Mr. Stanton?

12 MR. STANTON: No, Your Honor. I did advise
13 defense counsel of the rebuttal witnesses that the State
14 would be calling in anticipation of what has been presented
15 so far. So they are aware of that. I'm not sure if there
16 is going to be a hearing requested outside of the jury's
17 presence prior to rebuttal.

18 THE COURT: I think you should all maybe plan
19 on staying a bit later tonight. When we recess with
20 witnesses tonight, we have to talk about jury instructions
21 and talk about whether or not we need a hearing out of the
22 presence of the jury and how we will handle that.

23 MR. GREGORY: Okay, thank you.

24 THE COURT: Court is in recess.

25 (The luncheon recess was taken at noon.)

RENO, NEVADA, MONDAY, OCTOBER 4, 1999, 1:35 P.M.

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(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. STANTON: State so stipulates.

MR. BOSLER: Your Honor, yes, Your Honor.

THE COURT: You may call your next witness.

MR. BOSLER: Brian Verna.

(One Witness sworn.)

BRIAN VERNA

called as a witness on behalf of the Defendant,

having been first duly sworn,

was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BOSLER:

Q Mr. Verna, could you please state your complete name.

A Brian Keith Verna.

Q How do you spell that last name?

A V, as in Victor, e-r-n-a.

Q How old are you?

A Twenty-eight.

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1 Q And where do you live right now?

2 A San Bruno.

3 Q How long have you been in the San Bruno area?

4 A I guess approximately 18 years.

5 Q In those 18 years, did you have an opportunity
6 to meet a person by the name of George Tafuna?

7 A Yeah.

8 Q If you could, tell the jury a little bit how
9 you and George first met.

10 A Currently I moved to the area approximately --
11 actually in fourth grade, halfway through the school year,
12 and he kind of welcomed me to -- I was a new kid, and he
13 kind of welcomed me into the environment, into the school.
14 That's when I first met him.

15 Q And how did he welcome you into the school?

16 A Just trying to get to know me right away. He
17 kind of -- it was kind of nice to have someone -- have
18 someone approach you being a new guy and say hello, hi and
19 let you hang out with him, more or less.

20 Q You guys developed a friendship right away?

21 A The first day, yeah.

22 Q Did that friendship continue on into junior
23 high school, high school?

24 A All the way through to the last day of high
25 school, the last day I saw him.

1 Q If you could, tell the jurors a little bit
2 about the community. Is there a lot of Caucasians in the
3 area of San Bruno?

4 A Yeah, the school was -- I think we talked
5 earlier -- it was probably about 60, 70 percent Caucasian.

6 Q What other nationalities are represented at the
7 school?

8 A We had mixes of every race. We had a wide
9 Polynesian. 70 percent I would say was Caucasian. The rest
10 was mix and match. We had a large Polynesian population as
11 well.

12 Q From the fourth grade on, growing up with
13 George Tafuna, did you have an opportunity to meet some of
14 his other friends?

15 A Yeah. When I first met him, he introduced me
16 to everybody that there was to meet at the school, besides
17 just brought you in and -- brought me in right away and
18 introduced me to everybody. Him and another, one of our
19 other friends that sat next to him more or less sat me down
20 and kind of introduced me to everybody and let me know --
21 when I first moved to the area, the older guys also,
22 throughout lunch and recess and everything like that.

23 Q Some of these other friends Caucasian also?

24 A Oh, yeah.

25 Q Ever known George Tafuna to be racially

1 discriminatory?

2 A No.

3 Q Say bad things about other races?

4 A No.

5 Q Did you play sports in school?

6 A Yes.

7 Q Were you on the same teams as George Tafuna?

8 A Yeah, we played football together. I can't
9 remember if we wrestled or not.

10 Q Run track or anything?

11 A No. I was in baseball. I never did track,
12 though.

13 Q Let's talk a little bit, did you guys actually
14 play in the same games together?

15 A Yeah, same team all four years.

16 Q Were you guys on defense or offense?

17 A Freshman year pretty much I think he was
18 learning the game. I played most of the time. And then
19 sophomore through senior year, we played together both sides
20 of the ball, offense and defense.

21 Q Ever known him to lose his temper, be
22 aggressive to other people?

23 A No, not really. We sat inside the -- I'm kind
24 of a laid back, kind of happy-go-lucky kind of guy, and it
25 was like everything would be tense, there would be two guys

1 joking around in a huddle, it would be more or less him and
2 I just calming people down and just having fun.

3 Q Growing up with George, did you have an
4 opportunity to hang out socially after school, things like
5 that?

6 A Just through sports. Every time sports were
7 over, I thought he went home to his family or else to
8 church.

9 Q Did you ever get a chance to go to his house,
10 find out what he was doing at home?

11 A No, actually never been to his home. Just
12 walked home and then his house was -- in like fourth grade,
13 I remember his house was before mine. It was, "All right,
14 see you later," walked in, then I continued down and he
15 showed me all the little shortcuts home and everything.

16 Q Let's talk a little bit more about high school.
17 I guess some high school people meet after games and stuff
18 and have social gatherings?

19 A Uh-huh.

20 Q There's even sometimes people drink alcohol
21 even though they're in high school. Ever known George to
22 drink alcohol, use drugs, anything like that?

23 A Never, never seen him.

24 Q Ever known him to cuss, swear words?

25 A I can't remember if there was any swearing.

1 Q You ever had an occasion to see other people
2 involved in an altercation when George was around and how he
3 acted towards other people who were trying to get at it, to
4 fight?

5 A The last time -- the last time I saw George, we
6 were at this small gathering. He was there with a couple of
7 his friends. I was there with a couple of my friends. We
8 all knew each other, except I didn't know one of the guys he
9 was with. And an altercation happened with one of the --
10 the gentleman I didn't know and a friend of both of ours.
11 They went at it and he was the first one to stop it. "Hey,
12 we don't need this." There was a fight and he stopped it,
13 and that's the last I saw him. That was the last thing I
14 remember of him.

15 Q How long ago was this?

16 A Right after -- probably within the last week of
17 high school or after the last week of high school.

18 Q So this is several years ago?

19 A Yes.

20 Q You know what he's been arrested for now, don't
21 you?

22 A Yeah, I've been notified of it.

23 Q Anything consistent with the person you knew?

24 A No, not at all. When he walked by me right out
25 there, reality hit and it was like, wow. It was the last

1 time I've seen him in 10, 11 years now.

2 Q How did you feel when you heard what had
3 happened in Reno?

4 A As soon as the investigator came to my house,
5 she sat me down, we started talking, I was like, wow. It
6 blew me away. And I called some of -- I immediately called
7 my fiancée and it was like, hey, she was just, wow, no way.

8 Q Was she close to him, too? Did she know
9 George?

10 A She knew him, yes.

11 MR. BOSLER: Your Honor, may I have a moment?

12 THE COURT: You may.

13 BY MR. BOSLER:

14 Q If you could, you said you saw George as you
15 were walking through the hallway. Do you see him in the
16 courtroom this afternoon?

17 A Oh, yes.

18 Q And where is he seated, if you could?

19 A Obviously. Yeah, right there.

20 Q He's wearing a gray suit?

21 A Uh-huh.

22 MR. BOSLER: Would the record reflect the
23 identification?

24 THE COURT: Yes, the record will reflect.

25 ////

1 BY MR. BOSLER:

2 Q What do you do right now, Mr. Verna, are you a
3 teacher, involved in school?

4 A I'm a fireman.

5 MR. BOSLER: No further questions.

6 THE COURT: Cross?

7 CROSS-EXAMINATION

8 BY MR. STANTON:

9 Q Mr. Verna, when was the last time you had a
10 meaningful conversation with the defendant, Siaosi Vanisi?

11 A As far as meaningful, I couldn't tell you. But
12 as far as, like I said, the last time I saw him was in this
13 altercation, not amongst him, but amongst two other people.
14 We said, "Hey, I'll see you after," shook his hand, slight
15 hug.

16 Q This is towards the end of graduation?

17 A Yeah, or right after.

18 Q What month and year was that?

19 A It was 6 of '89.

20 Q Were you close friends with the defendant
21 during high school or did you hang out occasionally with one
22 another? You said you were at a party with one group of
23 friends and he was at another.

24 A Yeah. At school, lunchtime, it was like I was
25 kind of with a wide variety of people. The same with

1 George, a wide variety. And kind of with everybody. And
2 yeah, I mean, sometimes I was. Sometimes I wasn't. And
3 sometimes I was with other people and sometimes I was not.

4 Q And then my question would be, in relationship
5 to the last time you saw him, when was the last time you had
6 a meaningful conversation where you sat down and talked
7 about, besides just the weather or sports or something, when
8 was the last time that happened?

9 A Probably close to the end of the school year,
10 talking about, if I remember right, he was telling us he was
11 going on his mission through the church and it was like two
12 years.

13 MR. STANTON: Thank you. Nothing further.

14 MR. BOSLER: No further questions, Your Honor.

15 THE COURT: You may step down. You are
16 excused.

17 MR. BOSLER: Call Kurt Krueger.

18 (Witness sworn.)

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1 KURT KRUEGER
2 called as a witness on behalf of the Defendant,
3 having been first duly sworn,
4 was examined and testified as follows:
5 DIRECT EXAMINATION
6 BY MR. BOSLER:
7 Q Mr. Krueger, if you could state your full name.
8 A Kurt Herbert Krueger.
9 Q Spell your last name.
10 A K-r-u-e-g-e-r.
11 Q And are you working right now?
12 A Yes.
13 Q Where are you employed?
14 A Teacher at Cappuchino High School, San Bruno,
15 California.
16 Q And how long have you been a teacher at San
17 Bruno?
18 A Thirty-five years.
19 Q Have you been at Cappuchino for that whole
20 time?
21 A No.
22 Q How long have you been at Cappuchino?
23 A Off and on since 1965.
24 Q So pretty much most of your career?
25 A Most of the career.

1 Q What kind of subjects do you teach?

2 A This year I'm teaching work experience
3 residential planning which is an architectural drawing
4 course, mechanical drawing, and P.E.

5 Q Back in the mid '80s, were you teaching at
6 Cappuchino High School?

7 A Yes.

8 Q Did you have a time or an occasion during that
9 time to meet someone by the name of George Tafuna?

10 A Yes.

11 Q If you could, explain to the jurors, how did
12 you actually meet George Tafuna?

13 A George Tafuna was a student in my class. The
14 title is residential planning. It's an architectural
15 drawing course. It's an elective course, and I had George
16 for three semesters.

17 Q And what do you mean by "elective course"?

18 A It's a course that counts only for high school
19 graduation, not the A through F list of Cal Berkeley or the
20 state college. It's kind of a stand-alone course. Students
21 take it because they want the experience of architectural
22 drawing.

23 Q And you said that George was in your class for
24 three semesters?

25 A Yes.

1 Q Is it a -- is that usual; unusual that someone
2 would be in that class for three semesters?

3 A It was more usual then because of the slightly
4 less graduation requirements than it is now. Usually I have
5 students for anywhere from one to four years.

6 Q If you could, tell the jury a little bit about
7 what kind of student George Tafuna was.

8 A George was, in the three semesters, he had two
9 Bs and one C. And an elective course, this is a student
10 that you liked to have in your course. He's a good student,
11 not a fantastic student. He would not be in the second or
12 third semester if he didn't like the course. And if we had
13 had personality conflicts, we probably would have talked it
14 over and he might have decided not to take it. But he
15 didn't and we got along quite well. And he went through the
16 three semesters in his sophomore and junior year.

17 Q When you were a teacher at Cappuchino High
18 School, did you have occasion to talk to other teachers at
19 Cappuchino High School?

20 A I have a very isolated room but I do have some
21 occasion, but it's not in the middle of the school.

22 Q How about people who are disciplinary problems,
23 do you have occasion to hear that through the grapevine, who
24 is being a problem at school, who has done something bad?

25 A Absolutely, yes.

1 Q George Tafuna, ever hear a bad word about him?

2 A No.

3 Q Your class, is it -- I imagine it's like a
4 50-minute, one-hour period?

5 A Fifty-five-minute multi-level class. There's
6 beginning and advanced students in the same class.

7 Q Did you see George just during class through
8 these three periods?

9 A No. The reason I remembered George as a
10 person, as a student, is that he would come into my room and
11 work at lunch, which is unusual for some students, and very
12 usual for others.

13 He also was an athlete, and with my P.E.
14 background, I like to talk to athletes. When you have a
15 student in there at lunch, you can talk to him one-on-one.
16 This is how I got to know him better than some other
17 students.

18 Q Your impression of him as a person?

19 A He was a fine young man for me.

20 Q As an athlete, did you ever hear of any
21 problems with him as an athlete, being a cheap shot artist
22 or anything like that?

23 A No. Neither as a football player or as a
24 weight man and track.

25 MR. BOSLER: If I could approach, Your Honor?

1 THE COURT: You may.

2 BY MR. BOSLER:

3 Q If I could show you what's been marked as
4 Exhibit 38. It's kind of a transparency. Do you recognize
5 those photos as yearbook photos?

6 A Yes, senior.

7 Q And the person in the upper left-hand corner?

8 A Is George Tafuna.

9 Q There's also --

10 MR. BOSLER: Your Honor, if I may.

11 BY MR. BOSLER:

12 Q Do you remember George Tafuna being singled
13 out, I guess they call them senior superlatives, like
14 special recognition type things?

15 A When Crystal Calderon talked to me, I
16 remembered a senior superlative in the yearbook. I did not
17 remember the exact wording, but it was proved after, as we
18 looked through the yearbook, that he was actually two of
19 senior superlatives.

20 Q Do you remember what those were?

21 A One of them was the most gullible, and that was
22 kind of the one that I remembered. And I don't --

23 Q Why was that?

24 A Because George seemed to be, not the brunt of a
25 joke, but a person who other students would work with to

1 lead him just a little bit but not too far into the process.

2 Q Also something like the biggest mooch?

3 A I didn't remember that one; but as we've gone
4 through this, yes.

5 MR. BOSLER: We move for the admission of
6 Exhibit 38, without the masking that was originally placed
7 over the superlatives.

8 MR. STANTON: No objection.

9 THE COURT: It's admitted and it's admitted in
10 its modified form. The clerk will take care of it for you.

11 (Exhibit No. 38 admitted.)

12 MR. BOSLER: Would the Court allow me to
13 publish the exhibit?

14 THE COURT: Did you want to show it on an
15 overhead?

16 MR. BOSLER: I'd rather just hand it to the
17 jurors, if it's possible.

18 THE COURT: Fine.

19 BY MR. BOSLER:

20 Q Mr. Krueger, I guess eventually you were told
21 of the tragic circumstances here in Reno?

22 A Yes.

23 Q Your first reaction when you heard that George
24 Tafuna was involved?

25 A Very out of character.

1 Q Anything like the person you knew?

2 A No.

3 MR. BOSLER: Your Honor --

4 THE COURT: Go ahead.

5 BY MR. BOSLER:

6 Q Did you have an occasion, Mr. Krueger, during
7 any of your high school years -- I'll wait a moment.

8 Did you ever have an occasion during your high
9 school years, either talking to teachers or other students,
10 people involved in the athletic program, to hear one bad
11 word about George Tafuna?

12 A No.

13 MR. BOSLER: No further questions, Your Honor.

14 THE COURT: Cross?

15 CROSS-EXAMINATION

16 BY MR. STANTON:

17 Q Mr. Krueger, if I understand your testimony
18 correctly, the last time you would have seen the defendant
19 would have been his junior year in 1988; is that correct?

20 A No. Probably the last time I saw him was when
21 he graduated from Cappuchino, because I always work the
22 front door at graduation.

23 Q Last time you had any significant interaction
24 with him would have been --

25 A Junior year at Cappuchino.

1 Q In 1988?

2 A Yes.

3 Q The person you mentioned about Crystal Calderon

4 shown sitting down with you with the yearbook, that's the

5 investigator from the Public Defender's Office; is that

6 correct?

7 A No, I didn't say she sat down with me with the

8 yearbook.

9 Q She reminded you of the fact.

10 A We discussed it. My statement, if I can

11 remember a statement, was I remember something about him

12 getting a senior superlative, and I guess I said in the

13 yearbook because that's where it was or where it is.

14 Q It was only after reference to the yearbook

15 that you were able to remember what the superlative was?

16 A Right.

17 MR. STANTON: No further questions.

18 MR. BOSLER: Just briefly. I apologize that I

19 didn't bring this up last time. If the State wants me to

20 call him again as a witness, I'll reach that issue.

21 REDIRECT EXAMINATION

22 BY MR. BOSLER:

23 Q You have a son?

24 A Yes, three.

25 Q And do you have a son who is a police officer?

1 A He was.

2 Q Knowing that your son is a police officer and
3 this case involved a police officer, have you always been
4 willing to come up here to testify on George Tafuna's
5 behalf?

6 A Yes.

7 MR. BOSLER: Nothing further, Your Honor.

8 THE COURT: Mr. Stanton?

9 MR. STANTON: No questions of the witness.

10 THE COURT: Sir, you may step down. You are
11 excused.

12 MR. BOSLER: We'd next call Judith Celeste.

13 (One witness sworn.)

14 JUDITH CELESTE

15 called as a witness on behalf of the Defendant,

16 having been first duly sworn,

17 was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MR. BOSLER:

20 Q Ms. Celeste, could you state your complete
21 name.

22 A Judith Celeste.

23 Q And how do you spell that last name?

24 A C-e-l-e-s-t-e.

25 Q And if you would be so kind as to tell us your

1 age.

2 A Fifty-four.

3 Q Are you employed at this time, Ms. Celeste?

4 A Yes, I am.

5 Q And where are you employed?

6 A Cappuchino High School.

7 Q How long have you been there?

8 A Seventeen years.

9 Q So you would have began back in 1982, somewhere

10 around there?

11 A Yes.

12 Q Have you been working consistently at

13 Cappuchino High School since that time?

14 A Yes.

15 Q If you could, describe to the jury what type of

16 students do you have at Cappuchino High School as far as

17 ethnicity.

18 A Well, we have pretty much a variety of

19 students. We have Latinos, Caucasian, and we have the

20 Pacific Islanders, and we have black American.

21 Q Is that kind of consistent with that area of

22 South San Francisco, San Bruno, San Mateo?

23 A Yes, it is.

24 Q During your high school years, did you have

25 occasion to come to know a student by the name of George

1 Tafuna?

2 A Yes, I did.

3 Q Do you see him in the courtroom today?

4 A Yes, I do.

5 Q Can you tell the jury what he's wearing.

6 A He's wearing a gray jacket.

7 MR. BOSLER: Would the record please reflect
8 the identification?

9 THE COURT: The record will so reflect.

10 BY MR. BOSLER:

11 Q If you could, tell the ladies and gentlemen of
12 the jury, how did it first come that you met George Tafuna?

13 A George was a student at Cappuchino High School.
14 He was a good person and he worked for me in the fall
15 semester of his senior year. I have students that we call
16 them teacher's aides that come and work with us, and they do
17 various things that we need them to do. And George was one
18 of the students that worked for me.

19 Q If you could, give me some information -- I
20 know that when some people get to their senior year, they
21 get to take fewer classes during their senior year. Is
22 California the same way?

23 A Yes, it is.

24 Q Is that the way it was in 1982?

25 A George didn't take a lighter class load. He

1 had six classes.

2 Q So even though he could have taken less
3 classes, he decided to be a teacher's aide in your class?

4 A It was -- he got credits for it.

5 Q But they weren't credits he needed to graduate?

6 A No.

7 Q If you could, explain exactly what he did for
8 you as a teacher's aide.

9 A He would go -- and I am the attendance clerk.
10 I keep all the records for the students. George would go
11 and pick them up in all the classes, bring them to me. He
12 would take summonses out to call students out of classes.
13 He would bring messages in classes for students. He just
14 had various duties that he did. And he did them all well.

15 Q What type of person was George Tafuna?

16 A George was a good person. He was a very happy
17 person. He always had a smile on his face. He was an
18 athlete. He was a good athlete. He seemed to help people,
19 a lot of the students. When somebody was down, he was
20 always patting them on the back. He'd make them laugh or
21 try to help them out.

22 Q How was he in relation to you as a teacher?

23 A He respected me very well. He treated me very
24 well.

25 Q Ever heard, while you were in high school or

1 supervising George Tafuna, ever heard him say a bad word
2 about any other person at the school, any other teacher?

3 A No, I didn't, no.

4 Q Did you ever hear a bad word about George
5 Tafuna?

6 A No. He was everyone's friend.

7 Q You described him as well mannered, a very
8 caring person; would that be accurate?

9 A Yes.

10 Q How about the description of a big teddy bear
11 as a person?

12 A Yes. He was built that way and he was always
13 very easy going.

14 Q Did you have occasion during these high school
15 years to see George with some of his friends?

16 A Yes.

17 Q Were they Caucasian friends?

18 A Yes.

19 Q Ever hear him say a bad word about Caucasians?

20 A No.

21 Q There in the high school yearbook, there's some
22 senior superlatives offered for George Tafuna. Do you
23 remember what those were?

24 A One I think was most gullible, I think was one.
25 And I think one was biggest mooch. I can remember George

1 always going around asking people to eat: Do you want to
2 eat your food? Do you want to eat your food?

3 Q So asking people if they were done so he could
4 eat the leftovers?

5 A Yes.

6 Q That's where the biggest mooch --

7 A Yeah.

8 Q How about most gullible, does that bring back
9 any memories for you about George Tafuna?

10 A I'm sorry?

11 Q Did the superlative most gullible bring back
12 any memories for you about George Tafuna?

13 A Yeah. He was kind of just like an airhead kind
14 of like, just happy-go-lucky. He never took anything really
15 that serious.

16 Q Did you ever have occasion to know about
17 George's religious leanings while he was in school?

18 A He used to go to seminary in the morning. It
19 was like 6:30 in the morning. Because sometimes he would
20 come over from seminary right over to school. We used to be
21 there at like 7:15.

22 Q Seminary wasn't offered on the school property?

23 A No, it wasn't.

24 Q What time would school normally begin?

25 A 8:00.

1 Q George would go to a seminary class before
2 coming to school?

3 A Uh-huh.

4 Q Still do six credits or the full class load in
5 the senior year?

6 A In all four years.

7 Q You're still a teacher at Cappuchino High
8 School?

9 A Yes.

10 Q So your last contact with George would have
11 been in high school?

12 A Right.

13 Q You guys ever have a chance during these high
14 school years to sit down and talk about the meaning of life
15 and plans for the future type conversations?

16 A I don't remember that.

17 Q You no doubt have been told that George has
18 been convicted of a very serious offense here in Nevada?

19 A Yes, I have.

20 Q What was your impression when you first heard
21 that news?

22 A I couldn't believe it. I still couldn't
23 believe it when I saw him walk through here.

24 Q Why is that?

25 A I never saw him -- I never thought him as that

1 type of a person. I'm just shocked.

2 MR. BOSLER: No further questions, Your Honor.

3 THE COURT: Cross-examination?

4 MR. STANTON: No questions of this witness.

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

7 MR. GREGORY: Dr. Thienhaus.

8 THE COURT: I'm sorry, what was that name
9 again?

10 MR. BOSLER: Thienhaus.

11 (One witness sworn.)

12 OLE THIENHAUS

13 called as a witness on behalf of the Defendant,

14 having been first duly sworn,

15 was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. GREGORY:

18 Q Would you state your name and spell your last
19 name for the record.

20 A My name is Ole Thienhaus. Last name
21 T-h-i-e-n-h-a-u-s.

22 Q Is it Dr. Thienhaus?

23 A Yes.

24 Q Maybe you should spell your first name for the
25 record.

1 A Ole, O-l-e.

2 Q What's your occupation, Doctor?

3 A I'm a psychiatrist.

4 Q Are you the psychiatrist that's employed by the
5 Washoe County Jail?

6 A Yes. I'm working at the county jail on a
7 contract.

8 Q Would you tell this jury a little bit about
9 your educational background, Doctor.

10 A I went to college and medical school in what
11 then was West Germany. Graduated in 1978 from the
12 University of Berlin. Started out in neurosurgical
13 training, switched to psychiatry. Did my residency in
14 psychiatry at the University of Cincinnati. Graduated in
15 1984 from the residency.

16 I took my general psychiatry boards in 1985. I
17 joined the faculty of the University of Cincinnati. I rose
18 to associate professor with tenure at the University of
19 Cincinnati, then I got called by the School of Medicine at
20 the University of Nevada to be the chairman of the
21 Department of Psychiatry and full professor here, which is
22 the position I've held since January 1996.

23 I do most of my work in teaching,
24 administrative research functions. I spend about ten hours
25 a week on clinical work and much of that now at the county

1 jail where I have been the attending psychiatrist since
2 August of 1998.

3 Q Doctor, help us out: What's the difference
4 between a psychiatrist and a psychologist?

5 A A psychiatrist went to medical school, has an
6 M.D. degree, and then followed up with a specialty residency
7 of four years' duration.

8 Psychologists are trained in usually college of
9 arts and sciences, very much often a research orientation,
10 and are trained in interpersonal relationships, in testing
11 procedures, statistics and so forth, can do clinical
12 internships to become more clinically oriented and then
13 practice things like psychotherapy. But it's a very
14 different area.

15 As a psychiatrist, with the medical background,
16 I'm able to prescribe medication, which is in the general
17 public's opinion very often the only difference between the
18 two.

19 Q So you're able to prescribe medicine to your
20 patients?

21 A Oh, absolutely, yes.

22 Q That suggests that you must have an expertise,
23 in -- I don't know if this is the correct word --
24 pharmacology, or the use?

25 A We are trained in pharmacology and have to take

1 exams in pharmacology in order to obtain our degree.

2 Q And as a psychiatrist, your educational degrees
3 are much more extensive than a psychologist; is that
4 correct?

5 A The training and the expertise is differently
6 weighted than in psychology. As a clinician, I think on the
7 whole, yes, you can say it's more broad, more in depth,
8 where psychology is much more in depth than say research
9 technology, for example.

10 Q In the course of your practice at the Washoe
11 County Jail, did you have occasion to come into contact with
12 an inmate known as Siaosi Vanisi?

13 A Yes.

14 Q Is he present in the courtroom?

15 A Yes.

16 Q Would you point to where he's seated and
17 describe what he's wearing.

18 A He's wearing a gray suit, colorful tie. And
19 sitting next to I think an attorney at the table on my
20 right.

21 MR. GREGORY: May the record reflect the
22 identification by Dr. Thienhaus?

23 THE COURT: Yes, the record will so reflect.

24 BY MR. GREGORY:

25 Q How did you happen to come into contact with

1 Mr. Vanisi?

2 A I was asked to see him I think September 30th
3 of 1998 as a routine consultation for an inmate with a
4 presenting complaint of possible mental illness referred to
5 me by the nurse at the jail.

6 Q So that's not unusual to have inmates referred
7 to you?

8 A Not at all unusual. That's what I do there.

9 Q As a result of that contact with Mr. Vanisi,
10 what did you do?

11 A I came up with an impression of, quote,
12 possibly bipolar disorder or cyclothymia, which is similar
13 condition. And I recommended a trial of a drug called
14 Depakote.

15 Q Did there come a time when you were able to
16 diagnose Mr. Vanisi?

17 A This is a diagnosis, although a tentative one.

18 Q Did there come a time when you had a more
19 secure diagnosis, if you will, less tentative?

20 A Actually, I will tell you the most confident I
21 was in my diagnosis was most recently, meaning almost a year
22 or -- almost a year later, when I saw him last week and he
23 presented with a quite significant degree of pressured
24 speech, and I wrote "continue lithium" -- "slight increase
25 of lithium recommended," because the pressured speech and

1 perseverance was so prominent that I felt more confident
2 that this was the right diagnosis.

3 In addition, I should mention that one of my
4 colleagues in another setting had seen Mr. Vanisi
5 independently of me and told me that that was his
6 impression, too.

7 Q Would that be Dr. Lynn?

8 A Yes.

9 Q As a matter of fact, you succeeded Dr. Lynn,
10 did you not, as being chairman of that?

11 A Dr. Lynn was chairman temporarily, I understand
12 it, many years ago, yes.

13 Q He's presently a physician in Carson City; is
14 that correct?

15 A That's correct.

16 Q Now, you indicated to the jury that it was
17 bipolar disorder. Is that also known to some older folks as
18 manic depressive?

19 A Yes. A different name for the same condition.

20 Q Is there some reason why they changed the name,
21 Doctor?

22 A It was changed in 1980, which is the year I
23 started psychiatric training, so I don't know why. I think
24 there's some concern that manic depressive had an image
25 associated with it that was not accurately reflecting the

1 actual condition.

2 Q What are the symptoms of being manic
3 depressive/bipolar?

4 A The key symptoms is in the area of mood,
5 meaning the way a person feels, and depression of course is
6 almost self-explanatory. It's a feeling of sadness,
7 hopelessness, often decreased energy. Sometimes suicidal
8 fantasies or even suicidal actions, compounded by some
9 physical symptoms, such as loss of appetite. Sometimes
10 weight loss. Poor sleep. Decreased interest in sexual
11 function, sexual activities.

12 The mania, or manic episode, is characterized
13 by an increased activity level, tendency to take risks. A
14 lessened or lowered threshold for impulsive behavior.
15 Sometimes mood symptoms resembling irritability. Sometimes
16 euphoria or grandiosity. And the characteristic of bipolar
17 or manic depressive illness is that those two mood stages
18 alternate. Sometimes just from one to the other, sometimes
19 with intervening periods of a more normal,
20 middle-of-the-road type of mood.

21 Q Is there any set duration for the onset of
22 either one of these conditions? In other words, are you
23 going to be manic for a week and then depressed for a week,
24 or how does it work?

25 A There's no rhyme or reason. The usual

1 untreated duration of the manic episode is described to be
2 shorter than that of the depressed episode, but the database
3 for that is fairly limited because since we have had some
4 effective treatments, you can't really do experiments in
5 that ethically.

6 Q How about middle of the road, is that
7 predictable?

8 A Also unpredictable for patients with this
9 condition. What we know is that typically the first onset
10 of symptoms occurs, as I said, most typically in early
11 adulthood, much more rarely later in life.

12 One problem is that you can have many, say,
13 depressed episodes in a row, maybe with normal episodes
14 interspersed, and your first manic episodes later in life or
15 vice versa. It's not alternating the way I might have
16 suggested before that it definitely is a one manic, one
17 depressive episode alternating with each other. There could
18 be two depressive or more episodes following each other. So
19 it's a very irregular pattern is basically what I'm
20 conveying.

21 Q What's the difference between being neurotic,
22 Doctor, and being psychotic?

23 A Well, psychotic is fairly simple and
24 straightforward to define. It's a loss of reality testing.
25 And that is operationalized or made more concrete by

1 demonstrating that a patient has hallucinations, meaning he
2 or she hears voices, has visions or other sensory inputs
3 that the rest of the world doesn't share.

4 Or the person has delusions, which is a
5 phenomenon where a person adheres to a belief that is
6 utterly out of step with what most people around that person
7 believe.

8 Q Let me stop you there. If someone thought that
9 they were a superhero, would that be something that might
10 suggest psychosis?

11 A Well, it could suggest it. I would always ask
12 further beyond it. See, it's not just believing something
13 but also being impervious to the rectification of it. In
14 other words, if that person who believes he's a superhero
15 and I give him some evidence that he's just a regular
16 person, will not change his mind, I'm more inclined to
17 believe he was psychotic.

18 Q And neurotic?

19 A Pardon me?

20 Q Neurotic.

21 A I'm all right?

22 Q No. Neurotic.

23 A I'm sorry. I thought I had a compliment here.

24 Neurotic is a term that has fallen by the
25 wayside, if I may say so. It's not been used much anymore,

1 but it essentially describes a person who has retained
2 contact with reality but has maladaptive ways of dealing
3 with that reality.

4 As an example, somebody would have an adverse
5 experience, say their boyfriend breaks up with them and that
6 such a person, instead of going into a certain amount of
7 grief over it and maybe sharing the experience with a friend
8 and trying to get over it and get on with their life, start
9 withdrawing completely from the world and dream about
10 revenge on this certain boyfriend, start neglecting his or
11 her appearance at work and go into sort of a prolonged
12 grief, which is understandable, followable by the people
13 around them, but it's out of synch with the actual severity
14 of the event that they are experiencing.

15 Q Isn't it the theory of some psychiatrists, in
16 fact most psychiatrists, that we're all neurotic to an
17 extent?

18 A Oh, yes, absolutely. Just put us in the right,
19 if you will, the environment and we'll probably exhibit some
20 abnormal or maladaptive responses.

21 Q But we're not all psychotic, are we, Doctor?

22 A Hopefully not.

23 Q Now, someone suffering from bipolar manic
24 depressive disorder, are they capable of psychotic episodes?

25 A That's often associated with the manic or can

1 also be associated with the depressive episode, that's
2 correct.

3 Q That's losing touch with reality; is that
4 correct?

5 A Absolutely.

6 Q Now, you say -- you're a psychiatrist, and
7 you're familiar with pharmaceuticals and you have a license
8 to administer drugs; is that correct?

9 A That's correct.

10 Q How about someone who is suffering from the
11 illness, manic depression, bipolar disorder, who
12 self-medicates by using speed or -- that's a street term,
13 methamphetamine or marijuana, how would that affect them?

14 A The person who has bipolar disorder --

15 Q How could that affect them?

16 A It could affect them by triggering, especially,
17 a manic episode. In other words, you can in fact induce a
18 manic psychotic episode even in a normal well-adjusted
19 person by giving them enough methamphetamine.

20 Q Methamphetamine is a very dangerous drug, is it
21 not, Doctor?

22 A Oh, it is, yes.

23 Q What are some of the symptoms manifested by the
24 overdose of methamphetamine?

25 A If you give a person methamphetamine, they

1 usually show a number of predictable symptoms of
2 overactivation, meaning, first of all, their heart rate,
3 blood pressure go up; and then in terms of mental
4 functioning, their thinking speeds up; there's an
5 expansiveness to their thinking. They believe they have
6 powers or capabilities that they don't really have, which in
7 turn can lead to risk-taking actions that can lead to rather
8 disastrous outcomes in some cases.

9 Q I don't mean to interrupt, but I want this
10 clear. That's just with a normal person who has no
11 underlying mental illness; is that correct?

12 A It can induce that, yes, absolutely, in a
13 normal person. And you can certainly induce it in a person
14 who has already the propensity for those kinds of symptoms,
15 i.e., somebody with a manic depressive illness.

16 Q Would it have a tendency to exaggerate the
17 mental illness?

18 A To the best of my knowledge, the threshold for
19 those kinds of symptoms to occur in response to
20 methamphetamine is lower in a person with bipolar illness
21 than in a nonbipolar person.

22 Q All right, Doctor, what is malingering?

23 A Malingering is the conscious fabrication of
24 symptoms of any kind for usually a defined purpose, such as
25 disability benefits or a lenient sentence or what have you.

1 Can be any benefit whatever. But the key concept is
2 fabrication, and it's conscious.

3 Q It's usually -- I don't want to use the term
4 presumed -- but that's the first thing you look for whenever
5 you're dealing with a patient at the jail; is that correct,
6 because they're facing criminal charges?

7 A Well, it's one of the things I look for in
8 patients who I see in jail, that's correct.

9 Q And you and Dr. Lynn both looked for evidence
10 of malingering in Mr. Vanisi, did you not?

11 A Well, I looked for those in my case. I assumed
12 Dr. Lynn did too. I didn't really discuss that with him.

13 Q Well, that would be proper practice, wouldn't
14 it, Doctor?

15 A Correct.

16 Q And you respect Dr. Lynn, do you not?

17 A Yes.

18 Q So you have no reason to think that Dr. Lynn
19 wouldn't concern himself with that?

20 A That's accurate. Yes. He saw the patient I
21 assume in a setting like a jail. I'm not sure where he met
22 him.

23 Q Any evidence of malingering in Mr. Vanisi?

24 A Well, there was one episode that caused me to
25 suspect that. And that was -- I was referred Mr. Vanisi at

1 one point later in the fall of '98 I believe it was -- give
2 me a second. No, it was in the spring of 1999. 5/5/99, in
3 fact. He presented with florid psychosis at that time.

4 Q What is that?

5 A I'll describe to you what a psychosis means.
6 In this particular case, he described that he had a circular
7 orange rind around his wrist as a medical device to help his
8 sinuses, and he accused law enforcement personnel at the
9 jail of, quote, splashing a liquid, unquote, on him and
10 conspiring against him. Besides his formal thought was
11 disorganized, his speech became so fast it was impossible
12 for me to follow his lengthy monologues. And he approached
13 incoherence, meaning the words just didn't hang together.

14 Now, that's a very dramatic presentation and
15 wouldn't cause me at all to think of malingering. In fact,
16 I immediately went in and prescribed an antipsychotic
17 medication.

18 What caused me to wonder about the possibility
19 of malingering was that 24 hours later, when I saw him, all
20 was gone. Coherent, goal-oriented, no symptoms of thought
21 disorder, no hallucinosis. He was argumentative and
22 somewhat loquacious, and he denied yesterday's episode.
23 Quote: Am I accused of being psychotic? Unquote.

24 He showed, in other words, an unexpectedly
25 rapid response to the medication which is really not

1 consistent with the way these drugs work, which usually take
2 several days to make an impact on the loss of reality
3 testing.

4 Q Well, that's not necessarily inconsistent, is
5 it, Doctor?

6 A It's not necessarily inconsistent, that's
7 correct.

8 Q And he was concerned that you might put a label
9 on him of being psychotic?

10 A That's correct.

11 Q Now, you indicated that you prescribed a
12 certain medication for Mr. Vanisi.

13 A Yes.

14 Q Let's just go through the medications you
15 prescribed for him prior to July of this year.

16 A Okay. I started out, when I saw him in
17 September, on a medication called Depakote. That is a mood
18 stabilizer that I chose because it is quite well tolerated
19 usually and easier to manage than some alternatives.

20 Mr. Vanisi asked me to discontinue that after
21 about six weeks. In fact, I think he refused to take it and
22 then the nurses came and asked me to discontinue it. He
23 described he had some side effects with it that were rather
24 surprising and hard for me to relate to the Depakote. If I
25 remember correctly, he thought his bloods were -- his eyes

1 were bloodshot due to the Depakote, which is something I've
2 never heard it do.

3 Anyway, I certainly discontinued it at the time
4 and shortly thereafter he was removed from the jail. When
5 he came back in the spring of -- when did he leave the jail?
6 I forget now. I saw him later. I saw him again in May,
7 which is like five or six months later after the psychotic
8 episode.

9 I started him at that time -- he was on no
10 medication at all -- on Risperdal, which is an antipsychotic
11 as I described, and he had a rapid response. I kept him on
12 it and then he was removed, if I remember correctly, time
13 line terms, and he returned to the jail I think after July.

14 Q Or the middle of July, does that jog your
15 memory?

16 A Okay. I think middle of July sounds about
17 right.

18 Q Of this year?

19 A Yes.

20 Q And at that time, did you prescribe additional
21 medication for Mr. Vanisi?

22 A Yes. If I can just add onto the time period
23 before, I also added a sleeping medication for his regimen.
24 I gave him what we use in the jail, a sedating
25 antidepressant, a sub-antidepressant dose that is still

1 sedating, to help him sleep. So he had two medications at
2 that time.

3 When he came back in July he was on lithium.
4 And I think it was your office, the Public Defender's
5 Office, that jogged the system a little bit and asked me to
6 review his record at that time, and I continued his lithium
7 which had been started by Dr. Lynn, as well as continued the
8 Risperdal and the sleeping medication.

9 Q He received his lithium in July; is that
10 correct?

11 A That's correct.

12 Q And you've checked his blood levels ever since?

13 A Yes.

14 Q And he has appropriate blood levels so that the
15 lithium has effect on him?

16 A Yes. His first blood level that I remember
17 getting was .6. Now, the therapeutic range is .5 to 1.5.
18 Let's not worry about the units with that. So it's .6 is
19 within that range, although it's somewhat at the low end.

20 So I checked them again, because I want to make
21 sure he's not dropping below the therapeutic range. The
22 next level I got earlier in September was .5. So I had it
23 checked again but I haven't received the latest ones, but I
24 increased his dose since it went down to .5 because I want
25 to make sure he's not dropping below the level. So I hope

1 it's now .7 or .8.

2 Q Doctor, what does lithium do for someone that's
3 suffering from this disease?

4 A Lithium is a mood stabilizer. It's a common
5 term for it. What it means is that it both treats and
6 prevents manic episodes and it prevents depressive episodes
7 in persons with a bipolar disorder.

8 To put it another way, lithium, just like other
9 mood stabilizers, increases dramatically the periods of time
10 a person is in what you might call the normal range of mood.
11 And it eliminates or greatly attenuates those spikes, either
12 towards the depressed or towards the manic side.

13 Q So you don't have the extremes, the emotional
14 extremes?

15 A Correct. Absolutely.

16 Q Is lithium an expensive drug, Doctor?

17 A No, it's very cheap. It's basically like salt.

18 Q Let's go back to the malingering issue. I want
19 this jury to understand.

20 Doctor, if someone was exhibiting symptoms
21 prior to the commission of a crime, would that affect your
22 concerns of whether or not they were malingering?

23 A Are you talking about any symptoms at all or
24 the same symptoms?

25 Q The same symptoms, similar symptoms.

1 A If they're similar or the same symptoms, I
2 think that mitigates against the presumption of malingering.
3 I think that makes sense.

4 Q It's fair to say that both you and Dr. Lynn
5 addressed that issue and have concluded that he is not
6 malingering, that he does indeed suffer from manic
7 depressive disorder or bipolar disorder?

8 A Well, speaking just from my part, I cannot
9 definitively say that. I think the evidence suggests that
10 he's more likely suffering from a bipolar disorder than that
11 he's malingering, but it's impossible for me with my limited
12 database to come up with a conclusive diagnosis.

13 Q And just so that this jury knows, you're not
14 just taking a guess at this, you give him tests and stuff,
15 do you not?

16 A I personally interviewed him, did a mental
17 status examination and reviewed his record. That's the
18 degree of tests, if you want to call it that, that I can do
19 in the jail environment.

20 MR. GREGORY: May I have the Court's
21 indulgence?

22 THE COURT: Yes.

23 MR. GREGORY: We'll pass the witness, Your
24 Honor. Thank you.

25 THE COURT: Cross-examination?

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MR. GAMMICK: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. GAMMICK:

Q Good afternoon, Dr. Thienhaus.

A Good afternoon.

Q Now, as a psychiatrist, do you do testing?

A I don't do psychological testing, no. I do evaluate tests that are done by other people.

Q And that's usually a psychologist that will do the testing and the different things we hear, personality tests and scores and all that?

A Correct. Absolutely.

Q In this case, were you asked to do a diagnosis?

A I was asked to come up with a diagnosis, that's correct.

Q And today as you sit here, you say that it may be bipolar but you're not really certain of that?

A Correct.

Q Maybe I'm missing something here, but if you made the jump I missed it. How does bipolar tie in with violence?

A During manic episodes, some bipolar patients become violent.

Q And what, is there a term for that? Extreme?

A If you want to have some Greek terms in here,

1 behavior discontrol would be used.

2 Q How about English?

3 A It depends pretty much on the behavior. What I
4 explained when I discussed the illness is that during a
5 manic episode, the behavioral threshold sort of goes down.
6 People are much more likely to act on impulse. And if
7 somebody is impulsive, and as manics are more irritable,
8 somebody rubs them the wrong way, they're much more likely
9 to respond on the spur of the moment by becoming violent.

10 Q If I understood you earlier, if a manic
11 depressive or a bipolar person is violent, they're having a
12 pretty bad day, it's way at the top of the scale?

13 A It would be an out-of-control manic stage.

14 Q That was going to be my next question. They're
15 totally out of control?

16 A That's correct.

17 Q Can they plan?

18 A No, it's not a condition conducive to any kind
19 of planning. As I said, impulsiveness is the key word here.

20 Q Have you seen anything or heard anything with
21 respect to Mr. Vanisi that would show that he ever had one
22 of these extreme violent bipolar episodes?

23 A I am not aware of those myself, from my review
24 of the record, no.

25 Q Are you aware of your review of the record of

1 the various incidents, violent incidents that he's had with
2 respect to sheriff's deputies and people at the prison?

3 A Actually, I have not seen a direct report of
4 those incidents. All I know is whenever I saw him, there
5 was so much security in the room that I assumed there was a
6 record of that kind of behavior.

7 Q But you weren't ever given any kind of
8 information that he barricaded himself or that he had to be
9 extracted from his cells or any of those types of incidents?

10 A No.

11 Q But if a person -- if the bipolar is resulting
12 in violent behavior, then they're losing it?

13 A They're losing it, yes.

14 Q Totally?

15 A Correct.

16 Q Would that be the kind of a person that you
17 would expect could plan a crime, carry out the crime and
18 then cover it up?

19 A No. The cover-up is another matter. But the
20 planning is incompatible with a manic stage.

21 Q So would it be fair to say that if Mr. Vanisi
22 is bipolar, if he does suffer from this manic depressive,
23 that it's a fairly low type of case, it's not one of the
24 extreme cases?

25 A From my direct evidence, that would be fair to

1 say, yes.

2 Q And the medication you're giving him -- by the
3 way, what you do as psychiatry and trying to help people
4 when they're having mental problems, that's not an exact
5 science at all, is it?

6 A Not at all. I hope I made that very clear when
7 I discussed the condition as such.

8 Q A lot of times, and your primary information
9 source is the patient themselves; is that correct?

10 A That's absolutely correct. It's in my opinion
11 more important than anything written down about them, too.

12 Q And you described some things here when you
13 were talking about Mr. Vanisi, if you can just give me a
14 moment to find my notes here again. You said, "I believe
15 that Vanisi had a degree of pressured speech and
16 perspiration"?

17 A Pressured speech. I don't recall referring to
18 perspiration. Perseveration.

19 Q Perseveration. My hearing is not the best.

20 A It means it's impossible to get him off a
21 particular topic for a time. He would just kept repeating
22 himself. I remember so vividly he was concerned about
23 standard procedure in this case. It was like trying to
24 dislodge something that is stuck. So he was perseverating
25 and he was pressured in his speech, virtually impossible to

1 interrupt.

2 Q Would those same symptoms come about from
3 stress?

4 A Well, the stress certainly can do that to a
5 person. I would submit that the degree to which I saw it
6 that particular day was much more indicative of an actual
7 mild, relatively mild manic episode.

8 Q Were you aware, sir, or did you know at the
9 time that you saw Mr. Vanisi that one week ago today, he was
10 convicted of first degree murder with the use of a deadly
11 weapon, three counts of armed robbery and grand larceny?

12 A Absolutely, yes.

13 Q And could that account for his having pressured
14 speech and the other -- I'm sorry, the other word?

15 A Perseverating.

16 Q Perseverating?

17 A It could conceivably, yes. In fact, I saw him
18 on Tuesday last week, that's right.

19 Q How do you rate Mr. Vanisi as far as
20 intelligence?

21 A I think he's an intelligent man. I found him
22 articulate and able to reason, to put one and one together.
23 I was surprised when I learned at a later date that he had
24 only a high school education. He sounded to me like a
25 college graduate.

1 Q And a person that's intelligent, a little
2 easier for them to fool you when we start talking about
3 things like malingerer?

4 A Absolutely.

5 Q And you know Mr. Vanisi has quite an incentive
6 here to mangle, that being he's facing the death penalty?

7 A That is correct.

8 Q Speaking of the malingerer issue, do you know
9 or have you ever had any dealings with or do you just know
10 of a person by the name of Thomas Bittker, M.D.?

11 A Yes.

12 Q And that's Dr. Bittker?

13 A That's correct.

14 Q Also a psychiatrist?

15 A That's right.

16 Q Have you reviewed his report on Mr. Vanisi?

17 A No.

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

19 THE COURT: You may.

20 BY MR. GAMMICK:

21 Q I've just handed you a report. In the upper
22 left-hand corner on the first page, it says Siaso Vanisi,
23 Case No. CR98-0516, June 9, 1999 and June 15, 1999. Is that
24 the same report you have?

25 A That's the same report.

1 Q In fact, Dr. Thienhaus, if you will go back to
2 page five for me. Dr. Bittker even refers to some of your
3 consultation with respect to Mr. Vanisi.

4 A Oh, yes, I see that.

5 Q About two-thirds of the way down the page?

6 A Yes.

7 Q Now, if you would go to page seven for me,
8 please. There's a paragraph there entitled Opinion
9 Regarding Competency.

10 A Yes.

11 Q If you will please read that paragraph to
12 yourself for me.

13 A (Reviewing document.)

14 Yes, I've read it.

15 Q The next to the last sentence that starts from,
16 "a psychiatric."

17 A Yeah.

18 Q Do you agree or disagree with that sentence?

19 A I agree with part of it and I would disagree
20 with the last part of it.

21 Q Okay. From a psychiatric perspective --

22 A "The defendant shows no positive indications of
23 psychosis." I agree with that. As I mentioned to the other
24 attorney, I saw him psychotic on one particular occasion and
25 I had some questions about that episode of psychosis. I

1 disagree with "shows multiple indications of malingering."
 2 I'm not saying Dr. Bittker is wrong, I just didn't see
 3 multiple indications of malingering.

4 I think malingering is something to be kept in
 5 mind. I think there's some signs supporting it and I think
 6 there's some indications that speak against it.

7 Q So you saw the one episode you talked about
 8 that may have been malingering?

9 A That's correct.

10 Q And if Dr. Bittker had more, you both could be
 11 correct, you just didn't see everything he saw?

12 A That could well be, yes.

13 Q Have you heard of or know a person by the name
 14 of Frank Evarts, Ph.D.?

15 A No.

16 Q Is Dr. Evarts a psychologist?

17 A May have heard the name but it doesn't really
 18 ring a bell. I certainly don't know him personally.

19 Q May I show you a report of his to look at this
 20 subject?

21 A Sure.

22 Q May I approach, Your Honor?

23 THE COURT: You may.

24 BY MR. GAMMICK:

25 Q Dr. Thienhaus, if you'd look inside the fax

1 cover sheet, I've handed you a letter that says
2 Psychological Services of Frank Evarts, Ph.D., addressed to
3 Judge Steinheimer, reference Siao Si Vanisi; is that correct,
4 dated June 10, 1999?

5 A That's correct, yes.

6 Q I'd ask you to look at the second page at the
7 top of the page where it says Diagnosis.

8 A Yes.

9 Q Axis one, V65.2. What does axis one, V65.2
10 mean?

11 A Axis one is the primary psychiatric diagnosis.
12 It's a diagnosis that is made on the basis of current mental
13 status findings in a patient as opposed to, if I may, axis 2
14 is a personality structure.

15 V65.2 is a code number. The International
16 Classification of Diseases, ICD, has a manual that gives
17 every conceivable diagnosis in the world a number.

18 The V means it's not considered a medical
19 condition. So we have conditions that look, if you will,
20 medical, but on second look turn out to be of a different
21 nature. That's what that V is supposed to indicate.

22 Q So then Dr. Evarts goes on to say malingering?

23 A That's correct.

24 Q And then if you look at the discussion at the
25 first sentence: It is the examiner's opinion that

1 Mr. Vanisi's behavior towards the examiner was a reflection
2 of malingering?

3 A Yes.

4 Q You were asked about Defendant Vanisi, with his
5 current mental state, self-administering drugs and using
6 methamphetamine.

7 A I was asked about that, yes.

8 Q Did you ever find any evidence or ever get any
9 information from Mr. Vanisi that he abused methamphetamine?

10 A No.

11 Q Are you familiar, sir, or have you heard of
12 Phillip Rich, medical doctor?

13 A Yes.

14 Q Dr. Rich, also a psychiatrist?

15 A Yes, he's a psychiatrist in Reno.

16 MR. GAMMICK: May I approach?

17 THE COURT: Yes.

18 BY MR. GAMMICK:

19 Q I'd like to hand you a report from Dr. Rich.
20 It's dated October 27, 1998.

21 A Yes.

22 Q If you would, sir, please turn to the second
23 page. I don't believe they're numbered. Yes, they are, at
24 the top, page two.

25 A Yes, I have that.

1 Q And if you'll come down about the middle of the
2 page where it says Drug History.

3 A Yes, I see that.

4 Q And it says, "He," and I'm going to, since the
5 subject is Siao Si Vanisi, "aka Pe, aka George, that the "he"
6 should refer to the patient; is that correct?

7 A That's my impression.

8 Q "He states he's abused marijuana on a daily
9 basis since 1997. He states marijuana is his drug of
10 choice." Let me stop there for a second, then I'll catch
11 the next sentence.

12 Would you expect the same type of results if
13 you were talking about on speed or methamphetamine and
14 marijuana?

15 A No.

16 Q Would marijuana produce bad things?

17 A Can produce bad things in general, but it does
18 not cause the symptoms I described in connection with
19 methamphetamine.

20 Q Not very artful language, but we're talking
21 about episodes and being violent and those type of things,
22 would you expect that to happen from the use of marijuana?

23 A It would be very uncommon or very unusual. In
24 our field, you never say never, but it's not what you
25 expect.

1 Q And then this paragraph goes on to state "He's
2 tried speed five times."

3 A Yes.

4 Q Would you expect a person who has tried speed
5 five times to be a person who is hooked on speed?

6 A Five times would not constitute, quote, hooked,
7 unquote. I assume you mean dependency, by that. And that's
8 not consistent with those five trials.

9 Q Now, also when you were talking about bipolar
10 and manic depressive, I believe you were talking about
11 hallucination, voices, those types of symptoms.

12 A During the psychotic episode, that would come
13 into play, yes.

14 Q Would you please again, in Dr. Rich's report,
15 would you go down where it says Mental Status Examination on
16 page two. That's the report, the last one I handed you.

17 A Yes, I have it.

18 Q Come down, one, two, three, four, five lines.
19 It states "Hallucinations and delusions:"

20 A Yes.

21 Q Does Dr. Rich state, "He states that he's never
22 heard voices or seen things that are not there"?

23 A Correct.

24 Q So that would even support a nonpsychotic
25 conclusion as to Mr. Vanisi?

1 A Up to that point. The next sentence is a
2 little less straightforward in that regard.

3 Q Okay. It states, "He's had grandiose delusions
4 when he was manic and felt he was invincible"?

5 A That's correct, yes.

6 Q Does that mean that a person loses control of
7 himself so he commits a heinous murder and is not
8 responsible for it?

9 A Well, the answer to that composite question
10 would be no. The person can act in a bizarre manner,
11 because they feel they're invincible or whatever, has
12 grandiose delusions; that they would commit a murder is a
13 bit of a far stretch.

14 Q And then I believe we already talked about if
15 they're actually having a psychotic episode, they can't even
16 plan it.

17 A If it's a manic psychotic episode, they're
18 unable to plan, that's correct.

19 Q Richard Lewis, Ph.D., also a psychologist?

20 A I don't know Richard Lewis.

21 Q Okay.

22 MR. GAMMICK: May I approach again?

23 THE COURT: Yes.

24 MR. GAMMICK: Would the Court like copies of
25 all these reports? They are all addressed to the Court and

1 were sent to you earlier.

2 THE COURT: I have them.

3 BY MR. GAMMICK:

4 Q This is a report from Richard W. Lewis, Ph.D.,
5 dated 10/10/98 and again addressed to Judge Steinheimer.

6 A I have that in my hand, yes.

7 Q If you'll go down on the front page to Findings
8 and then the last paragraph of the page there.

9 A Uh-huh.

10 Q "He denied any chemical dependency problems.
11 He has no history of any major head injuries or brain
12 damage. He's never experienced any hallucination. He
13 reported that he always had significant mood swings,
14 although he's never made a suicide attempt." Wasn't that
15 also one of the symptoms that you look for?

16 A Suicidal ideation often complicated by suicidal
17 behavior, yes.

18 Q I believe you made a comparison earlier, not
19 here in the courtroom but when you and I talked earlier,
20 about being fully manic. And that's just the opposite of
21 another condition. What was it you said, Dr. Thienhaus?

22 A Being fully manic would be the opposite of
23 being deeply depressed.

24 Q I believe you used the terminology
25 "cold-blooded"?

1 A That's what I used in our conversation on the
2 phone earlier today. And the opposite of manic would be
3 cold-blooded.

4 In other words, when you're in a manic state or
5 when the person is in a manic state, they're impulsive,
6 thoughtless, and tend to be irrational, easily spilling over
7 into impulsive behavior. To me, that is the exact opposite
8 of cold-bloodedness.

9 Q If we had a person that was extremely
10 thoughtful, not thoughtless, planned and laid out everything
11 he did and then accomplished that and then covered it up,
12 that would be leaning toward the cold-blooded you're talking
13 about; is that correct, Dr. Thienhaus?

14 A That's correct, yes.

15 MR. GAMMICK: That's all the questions I have.
16 Thank you.

17 THE COURT: Redirect?

18 MR. GREGORY: I do have a few questions, yes,
19 Your Honor.

20 REDIRECT EXAMINATION

21 BY MR. GREGORY:

22 Q Doctor, Mr. Gammick selected certain things out
23 of these documents. I'll call your attention to the Rich
24 document. Dr. Rich, who is a medical doctor, indicates his
25 diagnostic impressions. Would you go ahead and read those,

1 axis one, axis two, axis three, four and five.

2 A Axis one, again that's the actual psychiatric
3 diagnosis, bipolar affective disorder and polysubstance
4 abuse. Axis two, mixed personality traits. Axis three,
5 diabetes. Axis four, number four.

6 Q What is number four?

7 A Number four, I have to say I'm not exactly sure
8 what it means. But the axis four is an estimate of
9 stressors that are operating in a person's life. And if --
10 I believe he's referring to a scale that goes from one to
11 five where number four would be a fairly high stress level,
12 which makes sense, somebody incarcerated.

13 Q Axis five?

14 A GAF. Score of 32 GAF score over the past year
15 of 47.

16 Q Can you interpret those for us.

17 A GAF is general assessment of function. And
18 again relates to a scale. In this case a zero to 100 scale,
19 evaluating how well a person is functioning in their life.
20 Score of 32 obviously is fairly low, and usually applied to
21 people who are disabled due to their mental condition.

22 Q Let's go one page back again. And you helped
23 out the District Attorney by adding that additional
24 sentence. But there's one that even follows that. Read
25 that for the jury.

1 A "He states at times he feels like he's Peter
2 Pan and that he's magical."

3 Q Let me call your attention to page four of the
4 document that the prosecutor originally gave to you.

5 A Dr. Bittker's?

6 Q Yes. Actually, it's a compilation of several
7 doctors, is it not?

8 A Is it?

9 Q Because you're mentioned in there.

10 A I'm mentioned in there but it's an evaluation,
11 if I understand it, by Dr. Bittker.

12 Q Go to page four where it says Dr. Knapp, Mental
13 Status Exam. It says "His appearance was bizarre."

14 A I read that, yes.

15 Q "His mood and affect, manic."

16 A Yes.

17 Q "Thought processes" -- let's read it all. It
18 says "sensorium - no comment." I don't even know what that
19 means. Maybe you can help us.

20 A Probably means that he was alert.

21 Q "Cognitive tests - normal"?

22 A Yes.

23 Q "Intelligence - normal"?

24 A Yes.

25 Q Read the next one.

1 Comments. Would you please read that paragraph.

2 A Read it out loud?

3 Q Yes.

4 A "Mr. Vanisi does not believe he's mentally ill
5 but he's smart and motivated. Therefore, he's attempting to
6 manipulate us into believing he is psychotic with a
7 short-term goal of avoiding responsibility for recent
8 misbehavior," in parentheses, "digging under a fence,
9 setting fires, refusing direct orders, et cetera," end
10 paren. "This will produce a future forensic problem.

11 "Mr. Vanisi is motivated to avoid a death
12 sentence and is smart and manipulative. I am required by
13 ethics to educate him regarding his mental illness. This
14 results in his increased ability to fake and exaggerate
15 symptoms. For example, he tried to tell me today that his
16 manic depression makes him unaware," in parentheses, "equals
17 not responsible," end of parentheses, "of what he's doing.
18 I told him he was not telling me the truth and explained
19 that bipolar disorder could result in a decreased ability to
20 make rational, reasonable decisions to control his impulses.
21 He understood the difference immediately and applied it.

22 "Diagnostic impression axis one, bipolar
23 disorder, manic, severe, without psychosis, 296.43. Axis
24 two, psychopathic deviation."

25 Q Are you aware of the interaction between

1 Mr. Vanisi and other inmates while he's been incarcerated?

2 A No.

3 Q Everything we've looked at and talked about
4 here today, can you say that a person that we've been
5 discussing with all of the various diagnoses, the various
6 symptoms, everything else, is a nondangerous person?

7 A No, I cannot say that.

8 Q And even when you prescribed the medication,
9 you're trying to help that person with what you believe may
10 be their mental problems currently?

11 A Correct.

12 Q But can you say that if they take that
13 medication, that that will render that person not dangerous
14 to fellow man?

15 A No, that would be irresponsible to make such a
16 statement.

17 Q And then we even take that a step further, you
18 have no way of controlling whether or not that person will
19 even take their medication that you prescribed, do you?

20 A That is correct.

21 Q And even in a jail setting, they are still --
22 they still have the freedom and will to decide whether or
23 not to take the medication that you prescribe to them?

24 A That's correct.

25 MR. GAMMICK: May I have just a moment, Your

1 Honor?

2 THE COURT: Yes.

3 BY MR. GAMMICK:

4 Q Are you aware of any incidents where Mr. Vanisi
5 has refused to take medication or has quit taking it?

6 A Yes.

7 Q Has that been recently within the last couple
8 of weeks?

9 A No, I'm only aware of the time last fall when
10 he complained of side effects due to the Depakote that I had
11 prescribed at that time, refused to take it and I
12 subsequently discontinued the medication.

13 Q That was a side effect, I believe you made a
14 comment, you never even heard of before?

15 A Correct.

16 MR. GAMMICK: That's all I have.

17 MR. GREGORY: Just one additional question.

18 REDIRECT EXAMINATION

19 BY MR. GREGORY:

20 Q With all the negative things that Dr. Knapp
21 says, he concludes by diagnosing Mr. Vanisi as bipolar
22 disorder, manic severe, without psychosis?

23 A That's correct.

24 Q 296.43, axis two, psychopathic deviation; is
25 that correct?

1 A That's what I read here, yes.

2 MR. GREGORY: Thank you.

3 MR. GAMMICK: I have nothing further for
4 Dr. Thienhaus. Thank you, sir.

5 THE COURT: May the witness be excused,
6 Mr. Gregory?

7 MR. GREGORY: Yes, Your Honor.

8 THE COURT: Thank you. You are excused.

9 Ladies and gentlemen of the jury, we're going
10 to take our afternoon recess now. During this afternoon's
11 recess, do not discuss the case among yourselves or with
12 anyone else. Do not form or express any opinion about the
13 ultimate outcome of this matter until it's finally submitted
14 to you for decision.

15 You're not to read, to look at or listen to any
16 news media accounts regarding this case. And do not allow
17 anyone to attempt to influence you in any manner with regard
18 to the case.

19 You may go ahead and go in the jury room at
20 this time.

21 (Whereupon the jury was excused.)

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

24 THE COURT: Counsel, the interpreter is here.
25 He's awaiting me in chambers. I'm going to go over the

1 witness list with him, make sure he's not related to or
2 acquainted with anyone on the witness list.

3 Is there any name that I should go over more
4 than what's on the original witness list I had and now the
5 witness list the defense has given me?

6 MR. STANTON: Yes, Your Honor. Based upon the
7 name that you gave us of the interpreter, we have in our
8 files a name somewhat similar that has not reached the
9 Court. That is a Michael F-i-n-a-u. It's only one A. That
10 would be the defendant's most recent roommate prior to his
11 arrest in January of 1998. That would be in Manhattan
12 Beach, California.

13 MR. GREGORY: He's not even a witness.

14 MR. STANTON: But whether the person is a
15 witness or not, if the interpreter is related, specifically
16 related to the defendant's roommate, that would cause the
17 State some concern. I think legitimately so.

18 THE COURT: Okay. We'll find out if there's
19 any connection. We'll take our afternoon recess. Court's
20 in recess.

21 (Recess taken.)

22
23
24
25

RENO, NEVADA, MONDAY, OCTOBER 4, 1999, 3:30 P.M.

-oOo-

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

THE COURT: Counsel, I was under the impression you were going to call the witnesses at 3:00 or thereabouts. So we have a court interpreter here ready to be sworn and ready to go. And he actually has been waiting since 2:30. So when do you intend to call the witnesses?

MR. BOSLER: Your Honor, I think we have enough witnesses that we'll go right up to 5:00 and maybe over. The witnesses who need his interpretive services were going to be the last two witnesses called by the defense in their case in chief. I have maybe three more to get through, hopefully have him out of here by 5:00, but he's not necessarily for the witnesses we have immediately following the break. And I'd rather not do them out of order because we've structured this in a way we think benefits Mr. Vanisi.

THE COURT: Will the bailiff ask Mr. Finau if he would be available tomorrow morning first thing.

MR. BOSLER: I know at least one of the witnesses we need to get done today. She'd be our last witness because she needs to return back to San Bruno. The second one has agreed to stay over.

1 THE COURT: I'm sorry, I didn't understand what
2 you were saying, Mr. Bosler.

3 MR. BOSLER: Two witnesses that need
4 interpretive services. One of them --

5 THE COURT: Number 16 and number 17 on your
6 list?

7 MR. BOSLER: Yes. One of them has to return to
8 San Bruno tonight. She'll be our last witness of the day.
9 If I can get them both in, I will. But what I'm trying to
10 say is we may need him later this afternoon and tomorrow
11 morning.

12 THE COURT: How many witnesses do you have left
13 to go? Are you calling everyone on this list?

14 MR. BOSLER: Except Gary Fry, Your Honor.

15 THE COURT: So you have four other witnesses
16 before these two, and it's 3:30.

17 MR. BOSLER: Actually, we have a witness that
18 was on our original witness list who we did not anticipate
19 being present today but who is present today that we're
20 going to be calling as a defense witness.

21 THE COURT: So you have five more witnesses
22 before you ever get to the two that need interpreters?

23 MR. BOSLER: Yes.

24 THE COURT: You have an hour and a half to do
25 that.

1 MR. BOSLER: Some of the witnesses are
2 relatively brief. It depends on the cross-examination.

3 MR. GAMMICK: I would like to inquire as to the
4 identification of this other witness that we don't have on
5 the list that we had this morning. We were given Bishop
6 Tonga and David Kinikini on the list, and now we're being
7 told there's another one still.

8 THE COURT: You're ahead of me. I didn't get
9 David Kinikini.

10 MR. BOSLER: On our original list, I believe it
11 was 23 people, we listed Deanne Vanacey as a potential
12 witness. We were informed that she wouldn't even be in the
13 jurisdiction. But she was here this morning. Based upon
14 her presence, we're going to call her as a witness.

15 THE COURT: What's her name?

16 MR. BOSLER: Deanne. She spells Vanacey --
17 just a second, Your Honor -- V-a-n-a-c-e-y.

18 THE COURT: V-a-n-a-c-e-y.

19 The interpreter's availability?

20 THE BAILIFF: He's informed me he's available
21 to stay the rest of the afternoon and as well returning
22 tomorrow at 10:00 if we start at 10:00.

23 THE COURT: All right. Then we'll go ahead and
24 swear the interpreter at this time.

25 Would you come forward, sir. Before the clerk

1 swears you, go ahead and state your name and spell your name
2 for the reporter.

3 THE INTERPRETER: Tui Finau, T-u-i, F-i-n-a-u.

4 THE COURT: The clerk will swear you.

5 (Interpreter sworn.)

6 THE COURT: Thank you, sir. We'll be using you
7 sometime today. We appreciate your standing by.

8 Counsel, we'll bring the jury in and call your
9 next witness.

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

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

14 MR. STANTON: The State will so stipulate.

15 MR. BOSLER: Yes, Your Honor.

16 THE COURT: You may call your next witness.

17 MR. BOSLER: Defense would call Deanne Vanacey,
18 Your Honor.

19 (Witness sworn.)

20 ///

21 ///.

22 ///

23 ///

24 ///

25 ///

1 DEANNE VANACEY
2 called as a witness on behalf of the Defendant,
3 having been first duly sworn,
4 was examined and testified as follows:

5 DIRECT EXAMINATION

6 BY MR. BOSLER:

7 Q Deanne, could you state your full name.

8 A Deanne A. Vanacey.

9 Q Spell the last name.

10 A V like Victor, a-n-a-c-e-y.

11 Q How old are you?

12 A Twenty-five.

13 Q Do you know Siaosi Vanisi?

14 A Yes.

15 Q How is that?

16 A He's my husband.

17 Q Did you leave Siaosi Vanisi for a white police
18 officer?

19 A No.

20 Q Deanne, if I can take you back to when you
21 first met Siaosi, do you remember when that was?

22 A It was July of '93.

23 Q And how did you two meet?

24 A I was on vacation in Lake Havasu with my
25 girlfriends and we had met there.

1 Q And he was with his friends?

2 A Right.

3 Q You guys kind of hit it off?

4 A Yes.

5 Q Did you begin dating after that?

6 A Yes, he moved to Hermosa Beach and we started

7 seeing each other shortly after that.

8 Q There came a time I guess the relationship

9 became romantic?

10 A Right.

11 Q And you actually became pregnant with a child?

12 A Yes.

13 Q And I don't mean to be rude or I'm not trying

14 to embarrass you, did you become pregnant with this child

15 before you were married?

16 A Yes.

17 Q And where were you living when you became

18 pregnant?

19 A Simi Valley, California.

20 Q Who lives in Simi Valley?

21 A My parents.

22 Q How did they take the news that you had become

23 pregnant?

24 A Not very good.

25 Q And what happened with you and your family?

1 A I ended up getting kicked out of my home.
2 Q How old were you then?
3 A Nineteen.
4 Q Nineteen years old, kicked out of the home,
5 pregnant. Where do you go to stay?
6 A Peren -- Siaosi took care of me. He found me a
7 place to stay and basically supported me.
8 Q And did you stay with him?
9 A Yes.
10 Q How old was he back then when you first came to
11 live together?
12 A How old was Peren? Siaosi?
13 Q Yes.
14 A He was maybe 23.
15 Q You call him Peren. Any reason?
16 A I know him under several names, but that's who
17 I refer to him as.
18 Q Do you also know him as Pe?
19 A Uh-huh.
20 Q Do you know why he was called Pe as a child?
21 A Nickname for baby in Tongan.
22 Q If you could, you're 19. Siaosi is in his
23 early 20s. Does he have a lot of money?
24 A No.
25 Q You guys were pretty poor?

1 A Yes, very.

2 Q But he still made arrangements for you to stay
3 with him and take care of you?

4 A Right. And we eventually got our own place
5 together.

6 Q And how do you mean he was taking care of you?
7 What is he doing to take care of you?

8 A He would just make sure that I was eating
9 right, that I always tried to stay healthy. He gave me
10 money financially to help me out. He was just there for me.

11 Q Was he working?

12 A Uh-huh.

13 Q Keeping a roof over your head?

14 A Right.

15 Q You guys lived together for a while; is that
16 correct?

17 A Uh-huh.

18 Q And eventually you decided to get married?

19 A Right.

20 Q Did you get married before or after the birth
21 of the child?

22 A After.

23 Q And if you could, tell the jury, the child, boy
24 or girl?

25 A Boy.

1 Q And does this boy have a name?

2 A Forest.

3 Q After you get married, you get your own place?

4 A Uh-huh.

5 Q This is with Siaosi?

6 A Right.

7 Q What was he doing to support himself at that

8 time?

9 A He was working.

10 Q And you?

11 A I was working at the time, too.

12 Q Caring for a child also?

13 A Right.

14 Q If you could, tell the jury a little bit about

15 this man you met and he took care of you when you got kicked

16 out of your parents' house. What type of person was he?

17 A He was very friendly, very outgoing. The

18 center of attention. He was kind. He was very fun to be

19 around.

20 Q And how did e he treat you?

21 A Very nice. He was nice to me.

22 Q I know that Mr. Vanisi's behavior began to

23 change sometime after you'd been married.

24 A Right.

25 Q When did you first start to notice that there

1 was a change in his behavior?

2 A About six months after we were married.

3 Q So about a year and a half after you had been
4 together?

5 A Uh-huh.

6 Q Does this take us into 1995-96?

7 A Right.

8 Q What kind of differences did you see in his
9 behavior?

10 A It was Christmas Eve of '95 and it was our
11 first Christmas with our son. And I was trying to make it
12 as nice as possible and trying to get everything done. And
13 he was upset with me and had pushed me to the ground because
14 he didn't want me to be so stressed out over something that
15 he thought was so little.

16 Q He actually pushed you physically?

17 A Yes.

18 Q In all the time you'd known him, from the first
19 time you met through the time after you got kicked out of
20 your parents' house, ever any physical altercations between
21 you?

22 A No.

23 Q Let's back up. When you first get kicked out
24 of your parents' house, you're staying with him. I imagine
25 you're working low-paying jobs?

1 A Right.

2 Q Are things a little stressful then?

3 A Yes.

4 Q For the relationship?

5 A Financially, yes.

6 Q So you've already had at least a year, you have

7 a child. I imagine this is a year and a half of pretty

8 significant stress?

9 A Yes.

10 Q But never any violence?

11 A Not until then, no.

12 Q Then something happens in '95?

13 A Right.

14 Q You start to see strange behavior?

15 A Yes.

16 Q Did his behavior get much more bizarre?

17 A Yes, very much.

18 Q Including things like wearing costumes?

19 A He would want to dress like a superhero. He

20 would wear women's leggings, wanting to be like Superman or

21 something.

22 Q How did you perceive that behavior?

23 A Strange. But it happened over such a long

24 period that -- it didn't happen overnight. It just, little

25 things with the dressing and things.

1 Q To back up a little bit. You've been together
2 a year and a half. You have this first instance of
3 violence. That episode, is it followed by other violence or
4 does Mr. Vanisi return to --

5 A No. It was -- the times that it was violent
6 was very few. And in between that time, everything would be
7 fine.

8 Q I mean, he was the same Siaosi Vanisi you met
9 back in Arizona?

10 A Right.

11 Q Did there come other episodes of either bizarre
12 behavior or violent behavior?

13 A He would start -- the dressing, he would start
14 to dress weird, I mentioned with the leggings.

15 Q Stand in front of a mirror and put wigs on and
16 talk to himself?

17 A He would pretend to be different people. He
18 would pose in front of the mirror pretending to be different
19 people, giving himself names. Sunny.

20 Q Sunny Brown?

21 A Sunny Brown. He had wigs and he would pose in
22 the mirror and pretend to be different people.

23 Q Bizarre behavior?

24 A Very.

25 Q Did you try to explain to him that it wasn't

1 really in touch with reality to act this way?

2 A Yeah. I mean, it was just very strange. Very
3 strange.

4 Q Did he seem to understand that he was acting
5 irrationally?

6 A No. He didn't really have any sense of
7 reality. He didn't have any responsibility kind of things.
8 He didn't seem to know what was real and what wasn't. He
9 thought he could be a superhero.

10 Q Obviously that's not true, right?

11 A Right.

12 Q Did his opinion seem to change or he just
13 believed he could still become a superhero by dressing up?

14 A Right.

15 Q Did you know at some time Siaosi was beginning
16 to use over-the-counter medications?

17 A Uh-huh. He was using Phen Fen.

18 Q And how much Phen Fen was he using, do you
19 know?

20 A At first it wasn't a lot. He said it affected
21 him a lot. He would get kind of jittery and he would change
22 the dosage on it. But then he had gone to China and come
23 back with bottles of it and was using it I believe quite
24 regularly.

25 Q So he, rather than getting them through the

1 drugstore, he had gone out of the country to get a bigger
 2 supply?
 3 A Right.
 4 Q And you observed him using this supply of Phen
 5 Fen?
 6 A Yes.
 7 Q And do you know what Phen Fen is?
 8 A It's a weight-loss drug.
 9 Q Do you know what kind of symptoms it has?
 10 A It makes you stay awake. Keeps you wired.
 11 Q You knew him when you first met him in Arizona.
 12 Did you ever know him to use drugs before that time?
 13 A No.
 14 Q Drink alcohol?
 15 A Drink alcohol, yes.
 16 Q At what time are we talking? You know him '93,
 17 '94, '95. Is it '95 when the Phen Fen starts?
 18 A '95 and '96.
 19 Q And this is where in relation to him pushing
 20 you down?
 21 A It was December of '95 was the first pushing
 22 started. Probably mid to late 1996 maybe with the Phen Fen.
 23 Q And did you know his drug use to increase
 24 beyond Phen Fen?
 25 A I had just heard that he was using like speed

1 and cocaine and things of that nature.

2 MR. STANTON: Your Honor, I would object to
3 anything that the witness has heard and move to strike.

4 THE COURT: Sustained. Stricken.

5 BY MR. BOSLER:

6 Q Well, did you see behavior in Mr. Vanisi that
7 tended to indicate he had been using stronger drugs than
8 Phen Fen?

9 A He was acting very strange, very weird. He
10 would ramble.

11 Q What do you mean by "ramble"?

12 A When you would talk to him, he -- he would talk
13 like he thought he was extremely intelligent but he was not
14 really saying much of anything.

15 Q Not making sense?

16 A Not making any sense at all.

17 Q And this behavior continued from throughout
18 1995, '96?

19 A Right, progressively worse.

20 Q Let's talk about progressively worse. How did
21 the behavior start to worsen?

22 A Just it would be more -- he was always
23 different, but it just became more apparent that he was just
24 really strange with the dressing, with the wigs, just the
25 bizarre things that he would do.

1 Q If you could, give the jury an idea what kind
2 of bizarre behavior we're talking about.

3 A Just like we had gone to a Chuck E Cheese one
4 time and a little boy thought he was Superman or something,
5 and he was real happy about that. He wanted to be a
6 superhero, just having no sense of what reality was.

7 Q And I know this must be difficult. After '95,
8 he pushes you down during Christmas, does the violence also
9 begin to increase?

10 A Uh-huh.

11 Q Episodes of violence?

12 A Not in frequency, but just in the type where he
13 would be physically punching me, pulling me around by my
14 hair, things like that.

15 Q And at this time, how do you describe Siaosi
16 Vanisi when you first met him as far as the way he cared for
17 himself, the hygiene, things like that?

18 A He was very much into the way he looked, wanted
19 to dress nice, look nice, things like wanting to look nice
20 by showering and doing his hair and dressing nice. And as
21 time went on, he wouldn't shower. His hair was unkept, kind
22 of went downhill.

23 Q His hygiene actually began to suffer too?

24 A Right.

25 Q Along with the bizarre behavior?

1 A Right.

2 Q And I don't mean to imply that he was always
3 violent from 1996 on. Was there episodes where he would
4 behave relatively normally between the bizarre behaviors?

5 A Yes.

6 Q But the bizarre behaviors became more and more
7 bizarre?

8 A Right, just more extreme.

9 Q If you could, could you -- I know we've talked
10 about the wig, the superhero dressing. Other bizarre
11 behaviors that you remember during this time?

12 A I'm sure there are, I'm just --

13 Q Are you nervous?

14 A Yes.

15 Q You had two children with Siaosi?

16 A Yes.

17 Q And Forest was the first son?

18 A Right.

19 Q You have a second son?

20 A Right.

21 Q And that son's name?

22 A Moleni.

23 Q Should probably spell it for the court
24 reporter.

25 A M-o-l-e-n-i.

1 Q How is Siaosi with his children?

2 A Very good. He was a very good father to them,
3 playmate.

4 Q What do you mean by playmate?

5 A I wouldn't consider him more of like fatherly
6 figure. He was good with them, would play with them, more
7 like on their type of level. He was good with his children.

8 Q Even despite the violence that happened between
9 you, did you ever suspect a mental illness for Siaosi?

10 A No. I just thought he was just -- in
11 retrospect, obviously. But at the time, I just thought he
12 was different.

13 Q Do you still love him as a husband?

14 A Very much so.

15 Q How did you feel when you heard what he had
16 been accused of?

17 A I couldn't believe it.

18 Q And why is that?

19 A He couldn't do something like that.

20 Q You know he's been convicted of that crime?

21 A (Witness nodded head affirmatively.)

22 Q The person you met, who took you in and took
23 care of you while you were pregnant, is that the person you
24 can think of committing this offense?

25 A No.

1 Q I know that after '95 you guys have a more
2 strained relationship. You eventually leave him; is that
3 correct?

4 A That's correct.

5 Q Because he isn't -- why is that?

6 A Physically and verbally abusive. Just didn't
7 care if I was there or not.

8 Q Different from the person you met and married?

9 A Yes.

10 Q You still have contact with him?

11 A Yes.

12 Q Does he have contact with his children through
13 you?

14 A Yes.

15 MR. BOSLER: Thank you. No further questions,
16 Your Honor.

17 THE COURT: Cross?

18 CROSS-EXAMINATION

19 BY MR. STANTON:

20 Q Ma'am, I'd like to take you back to January of
21 1998. Were you living with the defendant during that time
22 period?

23 A No.

24 Q Did there come a time, specifically January
25 22nd, 1998, where you placed a telephone call to the Reno