vehicle in two different directions.
We're trying to establish a perimeter around where these subjects are running in or about. We take up the tronically Filed position there. We see a unmarked patrol vehQct25-20dopeqianem.

Elizabeth A. Brown was a Henderson robbery detective. We kind oClerakef Serprente Count with him to try to establish what he might know. As we're coming up to him, he's pointing to a backyard to the south of our location indicating that one of the males that was involved in the robbery was in the backyard at one of those residences going west.

Q So what do you do after he's pointing, directing you?
A Because I'm driving, I back the vehicle up to 8th and Canosa where I'm talking to Officer Presta, giving him directions that, okay, our responsibility is this corner. We're going to watch over here and make sure the subject doesn't run west past 8th Street. We're going to make sure he doesn't go any further north over Canosa while we're talking about kind of our tactics because he's still brand-new out of the academy. He's not sure exactly what's going on.

> I swing from being on 8th and Canosa to where I turned back to my left, and I see a black male running north across Canosa from the area of where the suspect was last seen trying to go north from our perimeter.

Q Okay. Let me -- I'm going to throw up on here, and you'll have it on your computer screen in front of you [unintelligible] a little bit.

Can you still read the street names on there?
A Yes, I can.
Q And can you -- you can use the mouse to indicate areas that you recognize. Do you see the area that you were at on here?

A Yes, I do.
Q Go ahead and grab the mouse and move the pointer up to where you're at.

A We should be right about here.
Q 8th and Canosa?
A Correct.
Q And a few houses down is St. Louis as well; is that right?

A That's correct.
Q And so you're in this area when the Henderson
detective --
That's not in a patrol uniform; right?
A That's correct.
Q Plainclothes?
A Plainclothes.
Q -- was pointing the direction to you. Where was the direction that he was pointing to you?

A We came down 8th Street from this direction, make the left-hand turn to go east. He's right about here, and probably

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down a little bit further, but he's in this location pointing in this direction towards these houses as the last place that he saw the suspect running west.

Q Okay.
A So we take this position so we can look down Canosa, and we can look down 8th Street to ensure the suspect stays in this area.

Q So you had driven this way a little bit, but then back up --

A Correct.
Q -- as you previously testified?
A Correct. Correct. So as we made a left-hand turn to go east, we made contact with the detective who then points in this direction that the suspect is in this area. I back the vehicle up and basically point the vehicle so that we have both containments until another officer gets in the area.

Q So you're trying to set up a perimeter to prevent anybody from getting outside of that area?

A That's correct.
Q What do you do when you're at that location, 8th and Canosa? What do you see, and what do you do?

A Like I said, as I'm talking to Officer Presta and directing him to keep an eye down 8th Street, as I come back to look east on Canosa, which is where the detective is and my lieutenant subsequently in that area also, I believe he stopped

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to talk to the detective; I see a black male adult running from the south side of the street north across the -- north across Canosa. He's looking back over his shoulder.

I immediately turned towards him, draw my weapon, give verbal commands for the man to lay down on the ground and to basically stop.

Q Okay. When you're working patrol, you're in a uniform, a police -- recognizable police uniform?

A That's correct.
Q And as part of that uniform a body camera that would be up on one of your shoulders?

A It's on my left shoulder.
Q And I'm going to show you a portion of State's Proposed 255 and ask you if you recognize what you see.

Let me know when you recognize what you see.
A That's my body-worn camera. That's the watch I wear when I work on duty, and that's my left hand as I'm driving the vehicle --

Q In a nearby area?
A In a nearby area.
Q As you start to recognize the streets that you're on as we go along on this video, go ahead and let us know, but this is from events that morning, August 9th, 2018? Officer Farrington?

A That's correct.

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MR. SCOW: Okay. I'll move for admission of State's Proposed 255.

MR. BROWER: Submitted, Judge.
MR. HUGHES: Submitted.
THE COURT: All right. That'll be admitted.
(State's Exhibit Number 255 admitted)
THE WITNESS: And then also in the upper right-hand corner is the date-time stamp even though the time says 1746 , that's from that date.

BY MR. SCOW:
Q Okay. And can they time stamp reflect when you actually uploaded it in to digital evidence?

A It could, yes. I'm not sure exactly the time stamp that's on there, and there's some drift in the tasers.

Q And just to help orient what the time frame is, is there a log that's created with each Metro event number?

A Yes, there is.
Q With regards to a 9-1-1 or another call for service?
A Any time there's a call or we generate a call for a car stop, it gets updated into our CAD system to generate the call.

Q And is this a catalyst for this particular event?
A It appears so, yes, based on the details such as the location, the burgundy Grand Marquis. They watched it happen. The car is going northbound through an alleyway towards

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Bonneville, and it says Henderson is tracking the vehicle. It's occupied four times.

Q Okay.
A And it just goes through a description of which way the vehicle is traveling and who's giving out the information.

Q And it gives times associated with --
A Yes, it does.
Q -- what's getting called out?
A Correct.
Q So again the event number is 180809-1546?
A That's correct.
It's 407, which is a burglary to the U.S. Bank which happened at 801 East Charleston, and the call comes in roughly 10:45 and three-tenths of a second.

Q And at the time that the call comes out or near when the call comes out is when you're going to be getting information about the vehicle and what you're searching for when you respond to this call?

A Yes. Immediately the information is given out with, like I said, the make, model or color of the vehicle and direction of travel.

Q Okay. I just wanted to make sure it was clear that you're responding to a 10:45 a.m. call, and the time on here is 1746?

A That's correct.

Q Which is likely when it was uploaded into digital evidence?

A Most likely, yes.
MR. SCOW: Move for admission of State's 255.
MR. HUGHES: Submitted.
MR. BROWER: Submitted, Judge.
THE COURT: All right. I think it's already in, but if not, now it's really in.
(State's Exhibit Number 255 admitted)
THE COURT: Now, I mean it.
MS. SCHIFALACQUA: It's doubly in evidence.
MR. SCOW: That's right. I forgot that happened. BY MR. SCOW:

Q Okay. As you're responding to calls like robberies when there may be information a weapon was used or threatened, what does that do for you in your mindset as you're responding?

A And in this instance I also have to talk to Officer Presta to ensure he knows exactly what the details are; he knows what our proper response should be when we arrive.
[Unintelligible], one of the biggest things is the severity of crime at issue. What's going on? This is a robbery. It's not some minor nothing. This is a robbery. Typically there is violence or a weapon is involved. So we need to respond appropriately and anticipate that we might come across somebody who has a gun or is armed and is going to fight
it out with us or shoot it out with us as soon as we make contact with them.

Q So when you make contact with someone in that situation, are you going to use strong language to get command of that situation?

A Absolutely. I need to control the situation from the onset that I make contact with that person to try to immediately de-escalate through verbal commands for him to understand where I'm coming from from the get-go. If I come in, you know, please, sir, can you do this and I'm trying to be nice, I'm probably not going to get the desired response. So if I have to come in and swear at somebody or yell at somebody to get their attention and get them to understand where I'm coming from, then I have to do that.

Q And are you prepared to use your weapon if need be to protect yourself or your partner?

A Absolutely.
Q Or anybody else who --
A Or anybody else.
Q Okay. Not -- like I said before, as we go through this, as you recognize streets, whatever, just feel free to talk about what we're observing on this video, okay?

A Okay. So you can hear the lights and sirens going because we're responding Code 3. We're switching to the radio channels to get over to the wants channel because it's a bank
robbery. So our channel is typically downtown. Because it's a federal crime, we have to switch over channels. So we're actually operating on two different channels right now. Our car is on one channel, which is where everybody's going to, and then our actual pack sets, our radios that are on our body, is actually on downtown.

Q Okay.
A So Officer Presta, who is off to my right, should have the computer up, and he's trying to read details in case we miss anything while I'm trying to navigate traffic.

Q And you heard on there there's information about a vehicle --

A A burgundy Grand Marquis.
So right now I'm trying to basically listen to see where the updates are at. Dispatch started giving a direction of travel. I'm trying to wait for them to try to give us more information so I -- before I keep going west when I should have actually gone south. That's why we stopped at this intersection. We're kind of waiting, trying to wait for the update from dispatch to tell us which way the car's going.

So I'm getting ready to come up to Charleston which is the street right in front of us, but the traffic on it directly in front of us is Charleston, and I'm going to end up making a right-hand turn to go west on Charleston. We should subsequently pass Maryland Parkway, which should be the first major street we come to.

Q Okay. And if you want to use the mouse, you can use the mouse to kinda indicate what you're talking about on the screen.

A So this is Charleston, and we'll come up here to where this car is at. We'll make a right-hand turn and head west. And then right over here should be Maryland Parkway.

So now we're going west on Charleston.
Q What was that?
A We're going west on Charleston at this point.
Q Okay. What street did you just pass through?
A Maryland Parkway.
Q I didn't mean to pause it where I did. I wasn't trying to highlight anything. I just wanted you to say the street.

You were getting a little frustrated about the call and getting assigned to the call?

A Correct. Because when dispatch finally puts us on the call it also generates a mapping system. So it shows really the entire area where the call is coming from, and it puts us on the call and tells dispatch we're on the call. So if right here I get in a car accident -- our policy mandates that when we go and start driving Code 3, which is lights and sirens, dispatch is notified either $A M$ or on the radio, or text message or on the radio, that we're going Code 3 to a call.

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This call could be at this Burger King right now. We could stop, jump out, immediately get in a shooting. I get on the radio and say shots fired, and dispatch is going to go, Where are you at? I'm, like, put me on the call. Put me on the call so if something happens everybody knows exactly where I'm at, which is why I'm being frustrated at dispatch because, like I said, we're operating on two different channels, and neither one of the dispatchers is going to -- has put us on the call at this point.

So it's frustrating because put me on the call, these guys in the car could pop out right here in front of me, and I might have an accident, and nobody knows where I'm at. So I'm getting frustrated at dispatch for not doing their job so we can do our job.

Q Okay. So you drive straight through Maryland Parkway?

A That's correct. And I'm getting frustrated with my new officer because he's not doing more than he's -- he should be doing more to try to get everybody to put on the call.

Eventually I come up here to 8th Street where I'll go south.

So I'm pointing out the air unit to him because the air units typically circle wherever the vehicle or suspect is at. So it tells us which way we're going to go.

That's 8th street.

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And again we're still not assigned to the call. So if something goes down, we're in the wind.

Up there on the left where that car comes out, so I'm now going to follow this car into the area. This is -- I'm not sure which street that was we just crossed over.

Q And the air unit you can see in this shot of your body cam?

A Correct. So I can see this unit ahead of me. So I'm not going to drive up behind him. I'm going to try to stop behind him to set up a perimeter barrier, make a north end cap so they can't go any further, and that should be Canosa right there where he stops at.

Q So you said this was 8th and Canosa?
A This should be 8th and Canosa. Correct.
So at this point I'm just waiting for updates, which direction do I need to go, and again you can still see the air unit circling ahead of us.

And that's where I'm at right now.
And that's the unmarked Henderson detective.
Q Did you speak with that detective, or is he just kind of --

A I think he was just pointing. So at this point I backed the car up to 8th and Canosa and park it.

And R3 is one of our robbery units.
So I tell Officer Presta to grab a shotgun based on

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the details of the call. The suspects of robbery might be armed. Our reach out and touch somebody weapon is a shotgun.

Q What did he say he was cut from?
A Bushes.
Q So is the end of your portion of the video for that the arrest of Damien Phillips?

A Correct. We took him into custody. We subsequently talked to the Henderson detective that's there for robbery that actually was one of the two subjects or two officers that were trailing the vehicle after it committed the robbery. We subsequently turned Damien over to that detective to process for the robbery.

Q Okay. And obviously caught on video, when you're asking his name, he says it and spells it for you. You took him into custody without incident?

A That's correct. MR. SCOW: Pass the witness, Judge. THE COURT: Mr. Brower. CROSS-EXAMINATION

BY MR. BROWER:
Q People don't like to pull over for you when you're in those cars, do they?

A Not always, no. MR. BROWER: I have nothing else, Judge. THE COURT: Mr. Hughes?

## CROSS-EXAMINATION

BY MR. HUGHES:
Q Officer, how exactly does dispatch put you in a call? What does that mean?

A How they do it, I have no idea. It's like magic to me. I told --

Q Well, what is the consequence of them putting you on the call?

A They assign, they show me that I'm assigned to this call, the robbery, whatever it might be in the event that they make -- the sergeant may ask how many officers are on this call, and she might say two, but I'm out there floating. Even though I'm going to the call, they haven't assigned me to the call. So I still show open or vacant.

Q If you are put on the call, do you have access to different or other radio channels?

A I have access to all the radio channels. By putting me on the call, everything that's been broadcast, all the details of the call are put on my computer, and now I can read the details that I may have missed before I got assigned to the call or just didn't hear in the first place. Maybe I missed an important detail of the call when it first came out. Once they put me on the call, the information populates to my computer, and I can then read whatever my updates at.

MR. HUGHES: Okay. I just didn't understand what you JD Reporting, Inc.
meant. Thank you.
THE WITNESS: You're welcome.
THE COURT: Any redirect?
MR. SCOW: No.
THE COURT: Any juror questions for the witness? No.

All right, Officer, thank you for your testimony. Please do not discuss your testimony with anyone else who may be a witness in this case.

THE WITNESS: Yes, Your Honor.
THE COURT: Thank you. And you are excused.
THE WITNESS: Thank you.
THE COURT: And the State may call its next witness. MR. SCOW: Yes. It's Manny Papazian.

## MANUEL PAPAZIAN

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

THE CLERK: Thank you. Please have a seat. State and spell your first and last name for the record.

THE WITNESS: The first name is Manuel, M-a-n-u-e-l.
Last name is Papazian, $\mathrm{P}-\mathrm{a}-\mathrm{p}-\mathrm{a}-\mathrm{z-i-a-n}$.
THE COURT: All right. Thank you.
Mr. Scow.
MR. SCOW: Thank you, Judge.

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BY MR. SCOW:
Q Manuel, how are you employed?
A With Las Vegas Metropolitan Police Department.
Q How long have you been a police officer?
A About four and half years now.
Q Going back to August 9th, 2018, what was your assignment on that day?

A Downtown patrol, working the downtown area.
Q And at about 10:45 a.m., did a call come out for a bank robbery that had occurred at 801 East Charleston?

A Correct.
Q And they were asking for patrol units to respond and help with a vehicle stop and arrest of the suspects?

A Yes, sir.
Q What was the description of the vehicle that you were looking for?

A A red vehicle. I can't remember the make and model off the top of my head, but it was a red vehicle.

Q Okay. If you were to look at the CAD report of the incident would that help?

A Right. I want to say Oldsmobile, but I'm not sure.
Q And having looked at that, did you ever come in contact with a red vehicle?

A We did see it pulled over as I got to the area, the JD Reporting, Inc.

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Grand Marquis.
Okay. Yeah, burgundy in color.
Q So did that help refresh your memory of --
A Yeah. Right.
Q Okay. So red Grand Marquis. So you drove by the stop location?

A Correct.
Q Do you recall where you were when you first get the call?

A I was, let's see, Main and [unintelligible] area-ish, over there.

Q So when the call first comes out, it'll take you a minute or a couple minutes to get to the area where the vehicle stop ultimately takes place?

A Right. Right.
Q I'm going to show you State's Exhibit 258. Do you recognize this?

A I do.
Q What area of downtown are we looking at?
A This would be the southern portion of our area command, if you will, say 8th and St. Louis area basically.

Q Okay. 8th and St. Louis -Where is Charleston in relation to St. Louis Avenue?

A Charleston is going to be -- [unintelligible] Sahara. So we're going to go Charleston.

Is this true north right here? And we're going --
Q Yeah. North is pointing straight up.
A Right. Then we're going to know that Charleston is going to be just north of us.

Q Okay. And in relation to this map, where is Maryland Parkway?

A Just east of us, so just to the right.
Q So off to the right from this map?
A Correct. Correct.
Q So as you get the call, you're not at the location. So you have to drive a little bit to get there?

A Correct.
Q And as you're driving, what are you looking for? What do you do?

A We're basically looking for the red vehicle, listening to the radio traffic, see which way the vehicle is traveling, and then we hear the vehicle is stopped and people are chopping out of it.

Q So when you hear that information, what do you do then?

A I just start -- we're looking for the air unit to see where he's hovering around, listening to the radio traffic which way someone's running, and we heard traffic. Someone is running southbound over a wall, if I remember right.

Q Okay. So then do you kind of anticipate the movement

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of somebody who's running and get in the area to intercept or --

A Right. Yeah. Because we're not looking for a crime anymore. So we're just looking who's hopping walls and who's trying to get away from us.

Q Okay. And that's where --
A Along with the descriptors that were provided. So.
Q Okay. Now, there's an air unit in the area as well?
A Uh-huh.
Q That's a yes?
A Yes, sir.
Q And they're giving updates as to what they're seeing and suspect descriptions as well?

A Correct.
Q And as you mentioned, there was information given about somebody running southbound; that's coming from the air unit?

A Correct.
Q I'm going to show you a portion of State's
Proposed 257 and ask if you recognize what you see in that.
Do you recognize what we're seeing and listening to?
A Yeah. This is my body camera I'm assuming. Correct?
Yes?
Q I'm asking you --
A Yes.

Q -- do you recognize this?
A Yeah, it looks like it is. Yes. As soon as I see my --

Q Do you need to see a little bit more before you --
A I'll recognize my nose once it's in the camera footage.

Q Is that your nose?
A Yeah. I recognize it. There it is.
Q All right. And this is body camera from your camera on your shoulder from August 9th, that morning?

A Correct. I'm driving. It's on my left shoulder because I have a trainee, I'd rather have driven than the new officer.

Q Okay.
A So I'm driving.
MR. SCOW: Move for admission of State's Proposed 257.

MR. HUGHES: Submitted.
THE COURT: Submitted?
MR. BROWER: Submitted, Judge.
THE COURT: 257 is admitted.
(State's Exhibit Number 257 admitted)
BY MR. SCOW:
Q Now, I'm going to play it, and as you recognize things that occur you tell us where you are and what's
happening. Okay?
A Okay. So eastbound St. Louis. I'm trying to listen to the radio, and I'm also keeping an eye out for the helicopter here. I'm trying to see where he's hovering specifically.

Q And the helicopter is in your view right here?
A Correct. Oh, yeah. I could hear and see him. Definitely.

So here I'm just trying to slow the momentum, wait for more radio traffic so I'm not driving everywhere.

Q Now, is that from the air unit?
A I believe so, yes.
So in the -- oh, sorry. This is going to play.
Q Go ahead.
A So when I heard that radio traffic, I'm familiar with that area. So I kind of know where to go once he said cul-de-sac and the black trailer. There's a little nook where homeless people like to sleep and hang out. So we've been there a few times to move it along. So once I heard that, I pretty much knew where I was going.

Q So when you heard the box trailer described --
A The box trailer in the cul-de-sac. It's pretty much the only cul-de-sac with the box trailer in the driveway there.

Q So you had right there?
A Yeah. It seems the trailer seems to never move. So

I kind of knew where to go.
Q Now, can you indicate on there where you see where the suspect is at?

A Yeah. My body camera doesn't catch it, but just to the right of the trailer, it looks like he was going to run this way, saw a patrol car and kind of ran back, and then he's between the front of the Chevy and the back of this trailer laying down in the landscaping there behind the retaining wall.

Q There's a mouse in front of you. If you grab that and move it --

A Oh.
Q If you can put the cursor where you're talking about.
A Yeah. So he looked like he was going to run this way. He saw us and kind of went back, and then --

MR. BROWER: Judge, I'm going to object as to what the person saw.

THE WITNESS: Okay.
THE COURT: Did you see him looking at you?
THE WITNESS: In our direction. I don't know. We didn't make eye contact or nothing.

THE COURT: Okay. But maybe not directly at you?
THE WITNESS: Correct.
THE COURT: Okay. And then what did you see?
THE WITNESS: Went behind this trailer and then laid down in the landscaping here.

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BY MR. SCOW:
Q And you're referring to Ponce on there. Who is Ponce?

A She's my trainee at the time, a new officer.
Q And when you're coming into a situation like this, you don't know what's in that person's mind?

A No.
Q You're taking control of the situation?
A Absolutely.
Q With strong language and commands?
A Uh-huh.
Q That's a yes?
A Yes, sir.
Q Now, as the other officers walked him out of the landscaping bush area, you saw on his clothing there was like something that looked like grass or something on his clothing; correct?

A Right. Right.
Q Did you notice anything else on him or on his clothing during this time that you're taking him into custody?

A Not at this time, just the grass on him that we can see.

Q So as you were interacting with him and getting into your patrol vehicle and placing him under arrest, did you notice anything on his face?

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A Yeah. He had -- when he was in the backseat and I was talking to him, I noticed he had what appeared to me at the time was makeup on his face.

Q Okay. And on your patrol vehicle right here, what's that?

A I'm going to go with his makeup once he rested his head on there.

Q And right before he put his face down on the hood -I'll just go right back to it. I'll go back a little bit more.

So the -- the hood is clear and wide at that point; is that right?

A Say it one more time. I'm sorry.
Q The hood.
A Yeah, there's nothing on it except for that stick looking thing.

Q Stick looking thing. And it looks like a piece of grass or something --

A Right.
Q -- was deposited?
A Correct.
Q And his feet are getting spread apart?
A Correct.
Q So you can do a pat-down search for safety reasons?
A Right. Yeah. We don't want to have a firearm or any weapons in the crotch area or pockets or anything. So we break JD Reporting, Inc.
the power base down.
Q And his face now is touching the hood of your car?
A Correct.
Q And what's left behind there?
A It's going to be his makeup on the hood of my car.
Q And you said when he's later in your car and looking at him more closely and talking to him to get his identification and stuff like that?

A Right.
Q You notice something on his face?
A Right. Because he's in the backseat. I was talking to him, and I looked, and I was like -- and I thought to my -is this guy wearing makeup? So I'm like it was weird, and then I went to another -- I think it was a detective, and I was like, hey, I think my guy is wearing makeup. However that was relevant or not I didn't know at the time, but I was finding it weird, strange.

Q You let one of the detectives know?
A Correct.
Q At the time that you're doing this, taking him into custody, do you notice this on the hood?

A I want to say I was kind of wondering what this was, and then when I looked at him and then I was thinking to myself he had makeup on, and then I kind of put two and two together. I was, like, oh, that's his makeup on my hood. Kind of what
was going through my head and my thought process, however you want to explain it.

Q So after this, there's -- it's almost halfway through. It's about six minutes. Is the rest of this just kind of processing things at the scene, updating the dispatch?

A Yeah. I think we're talking small talk, and then he said something. And so I turned my camera back on and --

Q Okay. And in this first part of the video, it's just getting to the point where you get him in the vehicle? It takes a few minutes?

A Yes.
Q So just to -- this is an exhibit now if the jury wants to review it later, but we don't need to go through all of it for time purposes right now.

A Okay.
Q But you said you did have some interaction with that suspect back in the car?

A Correct.
Q And how did you identify him? In the video you were saying it sounded like, We know who you are. What's your

A Right.
Q -- and he didn't give you his name; right?
A No. No.
Q Did he have an ID on him?

A $\quad \mathrm{He}$ did.
Q And what was his name?
A Anthony Barr I believe it was.
Q Okay.
A And I say that to every suspect I come into contact with. Just if they provide me false information, you know, kind of, hey, I know who you are and just who are you. So --

Q And then there's a second video where you turn it back on because you're going to have some interaction with him at the car?

A Uh-huh.
Q And that's a yes?
A Yes. Sorry.
Q Sorry. It's being recorded.
A Yes.
Q So you need to --
A I apologize.
Q And that's Officer Purcell who was involved in the arrest of Barr?

A Correct. He assisted with Officer Briggs in taking him into custody in the landscaping area.

Q And again the first 30 seconds is silent of your body cam?

A Correct. That's the way the body cameras work. Once we double click to activate it, it will give you 30 seconds of JD Reporting, Inc.
audio, but no sound.
Q And this is --
A Or I'm sorry. The other way around.
MR. SCOW: For the record, we're showing State's Proposed 253, and you recognize what you're seeing?

A Correct.
MR. SCOW: Move for admission of State's Proposed 253.

MR. BROWER: Submitted, Judge.
MR. HUGHES: Submitted.
THE COURT: All right. 253 is admitted.
(State's Exhibit Number 253 admitted)
BY MR. SCOW:
Q So we'll watch this all the way through, and then I'll ask you follow-up questions. This is after he's already in the vehicle?

A Yes.
Q So when you went back to the car, he was trying to tell you something.

A Right.
Q What was it that he told you?
A Just something about two girls being involved. So I don't know if he heard my -- so the problem is with us is sometimes we'll leave the radio on, and they could hear what's going on, and then they'll bang on the window -- I'm not sure
if this happened exactly in that case -- and they'll want to talk to us. So I'll activate my body camera and see what he wanted done -- wanted to ask or say.

But I was careful not to ask him anything
interrogative because I don't want to get into Miranda versus Arizona case law or anything. So I let him say what he said and that was about it.

Q Okay. So he had knocked -- patted on the window. You went over and --

A See what he needed.
Q -- and from what you hear on the video, he says the two females in the car, they knew nothing about this?

A Correct. MR. SCOW: All right. We'll pass the witness, Judge. THE COURT: All right. Mr. Brower. MR. BROWER: I don't have anything for this witness, Judge.

THE COURT: Mr. Hughes.
MR. HUGHES: No questions.
THE COURT: Any juror questions for this witness?
All right, Officer, I see no additional questions.
Thank you for your testimony. Please don't discuss your
testimony with anybody else who may be a witness in this case. THE WITNESS: Thank you. THE COURT: Thank you.

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Do you have another witness?
MS. SCHIFALACQUA: Yes, we do. We have two more,
Your Honor.
THE COURT: All right.
MS. SCHIFALACQUA: Officer Parrish. STEPHAN PARRISH
[having been called as a witness and being first duly sworn, testified as follows:]

THE CLERK: Thank you. Please have a seat. State and spell both your first and last name for the record.

THE WITNESS: It's Stephan Parrish. S-t-e-p-h-a-n, P-a-r-r-i-s-h.

THE COURT: All right. Thank you. Ms. Schifalacqua. MS. SCHIFALACQUA: Thank you, Your Honor.

DIRECT EXAMINATION
BY MS. SCHIFALACQUA:
Q Officer, can you tell the members of our jury where and how you are employed.

A I am currently with the Las Vegas Metropolitan Police Department at Downtown Area Command.

Q And how long have you been with Metro?
A Eleven years.
Q And what's your current assignment in Downtown Area Command?

A Currently I am a COP officer, but I was an FTO.

JD Reporting, Inc.

Q Okay. And FTO, you were the field training officer back on August 9th, 2018?

A Correct.
Q Who were you working with?
A I was working with Officer Price.
Q Okay. And Officer Price was your trainee; is that fair?

A That's correct.
Q Okay. I want to turn your attention. Did you have occasion to get called out to a robbery that had been called out over the radio at 801 East Charleston?

A Yes. Yeah. I believe we actually self-dispatched ourselves to that call, but I do -- I'm aware of the call, yeah.

Q And I apologize. I said that wrong.
A Yeah.
Q There was a call about the U.S. Bank being robbed, and then thereafter you assigned yourself to the call; is that fair?

A Correct. Correct. Yes.
Q Okay. With regard to what you were tasked with on that day, describe for the members of the jury kind of where you go with your trainee and the steps that you take.

A So ultimately when we arrived on scene, the suspects had been already -- they were already in custody, and when we
arrived, I spoke with another officer, Officer Rollo, and he described the direction that the suspects went out from the vehicle, and so I followed the path that they went, and ultimately that's when I discovered money.

Q Okay. And so it's clear, was Officer Rollo working with Officer Damschen?

A Correct. Yes.
Q Okay. And those two were together. It was his, Officer Damschen's --

A Yes. Yes.
Q -- third day; is that right?
A Yes. Yes, correct. Yes.
Q Okay. And that was in the area of 705 St. Louis?
A Yes.
Q And then you had occasion to get information from him about where suspects went, and describe for the members of our jury kind of what physically you do when you're in that area.

A So I was just retracing the steps. I'm looking for any sort of evidence via the weapon or money or any sometimes, you know, tossed clothes around, and so that's ultimately what I was looking for when I was --

Q And in this case were you aware that a gun was used at the robbery?

A I don't recall if I heard that over the radio or not.
Q Okay. Is it -- was that one of the things you were JD Reporting, Inc.
looking for?
A It was, yes.
Q Okay. And after you kind of walked around, did you have occasion to go to 701 East St. Louis?

A Yes.
Q And is there a residence there?
A It's a -- yeah, it's a residence.
Q Okay. I'm showing you what's been previously admitted as State's 224. Do you recognize that residence?

A Yes.
Q Is that the 701 St. Louis?
A Yes.
Q In Las Vegas, Clark County, Nevada?
A Yes.
Q Okay. Showing you a little closer up of State's 225. What are we looking at here?

A That's just the open gate that I ultimately discovered the money in the backyard right there.

Q Okay. And showing you then 226, is that the gate area that you're describing?

A Correct.
Q And there's a mouse in front of you, Officer.
A Okay.
Q Can you show kind of the path that you went when you observed that money?

A Okay. So I was just walking right here, and then the money is ultimately around this area.

Q Did a Detective Worley get -- get permission to go back and ultimately seize that money?

A Correct.
Q Okay. And so you had permission of the owners to go to the back of the residence?

A From my understanding, yeah.
Q Okay. And showing you 227, is that the close-up of the money that you observed?

A Yes.
Q Ultimately was that -- was crime scene analyst Jeff Smith called to scene?

A Yes.
Q Did you sit on this money or for lack of a better term watch this money until the crime scene analyst could come?

A Yes. Myself and Officer Price did. Yes.
Q Okay. And then ultimately did Detective Miller come with crime scene analyst Jeff Smith to collect that money?

A Yeah. Correct.
MS. SCHIFALACQUA: Court's indulgence.
BY MS. SCHIFALACQUA:
Q Did you wear body camera, or did you have a body camera activated on August 9th of 2018?

A I did.

MS. SCHIFALACQUA: Permission to publish a portion of State's Proposed 254 for authentication purposes.

THE COURT: Okay.
BY MS. SCHIFALACQUA:
Q And, Officer Parrish, I'm going to have you tell us when you recognize what we're observing on the video.

A I believe right now all you're hearing on the radio is just we're trying to get to the area right now.

Q Okay. And is this a fair and accurate copy of the footage that you wore from your body camera on August 9th of 2018?

A It is.
MS. SCHIFALACQUA: I'd move for admission of 254 at this time, Your Honor.

THE COURT: Submitted?
MR. HUGHES: Submitted.
MR. BROWER: Submitted, Judge.
THE COURT: 254 is admitted.
(State's Exhibit Number 254 admitted)
BY MS. SCHIFALACQUA:
Q And for purposes of this court proceeding, you're aware that we redacted some of this footage so that we're not just having --

A Yes.
THE COURT: So were not here all month.

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THE WITNESS: Correct. Yes. Yes. Yes.
BY MS. SCHIFALACQUA:
Q Right. So we're not for a month. Yes?
A Yes. Yes.
Q Okay. And what are you approaching here?
A So right now I'm approaching where the vehicle was -where they ultimately left the vehicle.

Q Okay.
A That's where Damschen and Rollo were located.
Q Is that your trainee?
A That is my trainee, yes.
Q What are you approaching now?
A Officer Damschen and Rollo, and then now we're going to discuss -- that's the vehicle.

So that's when he mentioned that there was a gun in
the car.
Q And what did that do for you --
A I may -- there's a possibility that there's another one.

Q Okay.
A My understanding there was two of them.
Q So it was more than --
A Two suspects.
Q -- one suspect?
A Correct. Two suspects.

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Q And so you're going to as an officer kind of go back, search the perimeter, and that's what you did in this case?

A Well, search where they actually ran, the direction that they ran in.

So Officer Rollo just pointed out a direction that they went and said that they jumped a certain wall into the yard that I ultimately went into.

So that's when I found it, and I told my trainee to stop, and then we eventually got on the radio, announced it. We taped it out.

Q And as you indicated, you weren't tasked with collecting that money, but ultimately it was collected?

A Yes.
Q And then you ensure that no one else kind of went, took the money --

A That went -- no.
Q -- that kind of thing --
A That it just remained there.
Q -- at the scene?
A Yes.
MS. SCHIFALACQUA: I pass the witness, Your Honor. CROSS-EXAMINATION

BY MR. BROWER:
Q So when you started this, you said you were currently -- did you say a COP officer?

A Yes. It's Community Oriented Policing. I've only been there for two weeks right now.

Q Okay. I just thought it was ironic that you were currently a COP.

A I'm a cop. I'm a COP. Yeah. Yeah.
MR. BROWER: Okay. That's my only question, Judge. THE COURT: Mr. Hughes.

MR. HUGHES: No questions, Your Honor.
THE COURT: Do we have any redirect from that question?

MS. SCHIFALACQUA: No, Your Honor.
THE WITNESS: I'd give you my card.
THE COURT: Any juror questions?
All right, Officer. I see no additional questions.
Thank you for your testimony.
THE WITNESS: Thank you.
THE COURT: Please don't discuss your testimony with any other witnesses in this case.

THE WITNESS: Thank you.
THE COURT: Thank you, and you are excused.
And you --
MS. SCHIFALACQUA: And, Your Honor, the State calls Detective Miller.

THE COURT: Okay. We have a quick one?
MS. SCHIFALACQUA: Correct. THE COURT: All right. DAVID MIITFER
[having been called as a witness and being first duly sworn, testified as follows:]

THE CLERK: Thank you. Please have a seat. State and spell your first and last name for the record, please. THE WITNESS: My name is David Miller. D-a-v-i-d, M-i-l-l-e-r.

THE CLERK: Thank you.
MS. SCHIFALACQUA: May I, Your Honor?
THE COURT: You may.

## DIRECT EXAMINATION

BY MS. SCHIFALACQUA:
Q Detective, please let our members of our jury know how you're currently employed.

A I am a detective with the robbery section with the Las Vegas Metropolitan Police Department.

Q How long have you been with Metro, sir?
A For almost 19 years.
Q Okay. And how long have you been assigned to robbery?

A For almost 14 years.
Q Okay. And did you have occasion to work with Detective Will Hubbard on August 9th of 2018?

A Yes.

Q Was that in conjunction with a robbery that occurred at 801 East Charleston at the U.S. Bank?

A Yes, ma'am.
Q And from your perspective or understanding, did you get called out after suspects were already taken into custody?

A That is correct.
Q Okay. With regard to your duties on that date, did you have occasion to work with crime scene analyst Jeff Smith?

A I did.
Q And, in fact, did you go to two locations to collect money that was recovered from that robbery?

A Yes, ma'am.
Q The first location, did you go to a Bonita, 606 Bonita?

A That is correct.
Q And did you also go to a 701 St. Louis?
A Yes, ma'am.
Q Which one -- do you remember which one you went to first, sir?

A 606 Bonita.
Q Okay. So the 606 Bonita, I'm showing you what's been previously admitted as that address. Is that depicted here in the photograph?

A That is correct, ma'am. MS. SCHIFALACQUA: And that State's, I'm sorry, for JD Reporting, Inc.

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the record, 205.
BY MS. SCHIFALACQUA:
Q In the backyard of that home, showing you State's 208, Detective, does that look familiar?

A Yes, it does.
Q Okay. And ultimately did you also work -- there was a Detective Worley that Henderson police Detective Worley that was at that scene?

A Yes, ma'am.
Q Okay. And did he kind of pass off the duties of collecting the money to your jurisdiction, Metro's jurisdiction?

A That's correct.
Q With regard to State's 220, what are we looking at here, Detective?

A That's once we gathered it all up in the yard and we laid it out on this little storage bin so that the CSA Smith could take photographs of it.

Q Okay. And then you said your secondary location you did go to 701 St. Louis?

A Yes.
Q Is that right, sir?
A That is correct.
Q Showing you State's 225, is that the outside of that area?

JD Reporting, Inc.

A Yes, ma'am.
Q Showing you 226, is that the side area?
A Yes, ma'am.
Q And then showing you 227, what are we looking at here, Detective?

A That's the money that Officer Price and Officer Parrish found on the ground at 701 East St. Louis.

Q And did you have occasion to collect that money as well for evidence in this case?

A Yes, ma'am.
Q With regard to the collection of money, do you fill out what we call or what Metro calls or uses as a money accounting report?

A Yes, ma'am.
Q Did you do so in this case?
A Yes, ma'am.
MS. SCHIFALACQUA: Showing defense what's been
previously provided in discovery, State's Proposed 357. BY MS. SCHIFALACQUA:

Q Detective Miller, I'm going to show you what's been marked as State's Proposed 357. Do you recognize that, sir?

A I do.
Q And what is it?
A That is the money accounting report that we fill out as we were counting the money.

JD Reporting, Inc.

Q Okay. And did you physically count the money? A Yes.

Q And then did you physically fill out the report?
A I did.
Q Is your signature on there, sir?
A My signature is printed actually.
Q Okay.
A This is my supervisor's signature there. And that's my partner Jason [inaudible].

Q Okay. And your --
A Printed.

Q And your personnel number as well?
A Yes.

Q It fairly and accurately depicts the amount of money that you collected in this case?

A Yes, ma'am.
MS. SCHIFALACQUA: I move for admission of 357.
MR. BROWER: Submitted, Judge.
MR. HUGHES: Submitted.

THE COURT: All right. 357 is admitted.
(State's Exhibit Number 357 admitted)
MS. SCHIFALACQUA: Permission to publish, Your Honor?
THE COURT: You may.
MS. SCHIFALACQUA: Thank you.

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BY MS. SCHIFALACQUA:
Q Okay. So let's zoom in and just talk about what this is. If you want to go ahead, there's a mouse in front of you, Detective.

A Uh-huh.
Q And can you just point out where your information is.
A Right here.
Q Okay. And then is this -- I'm going to move this down. We have all these bills numbered. What do you do when you fill out this form in conjunction of the money you collected?

A We add it up.
Q There we go. And what was the total amount?
A $\$ 8,540$.
Q Was it your understanding that that was $\$ 20$ off of the amount of money that was taken in the robbery at U.S. Bank?

A Correct.
MS. SCHIFALACQUA: I pass the witness, Your Honor.
MR. BROWER: So I just have a couple crazy questions. What else is new; right?

CROSS-EXAMINATION
BY MR. BROWER:
Q So you see over here where it says $\$ 100$ bills, 26 of them?

A Yes.

Q How do you get to \$2700?
A That is incorrect.
Q Okay. If I add all of these up, am I going to find other inconsistencies or --

A I don't know.
Q I'm not going to do it. I just --
A I'm no math whiz, but we could get out a calculator and try.

Q Your supervisor ought to probably read things better, huh?

A He obviously made a mistake there too.
MR. BROWER: Okay. I'll pass the witness. CROSS-EXAMINATION

BY MR. HUGHES:
Q Officer, did you check to see if 606 Bonita was occupied?

A Yes.
Q Was it occupied?
A No.
Q When I say occupied, I meant owned by somebody or somebody was living in it.

A Oh. Yes. Somebody lived there. They just weren't home at the time. Correct.

Q So what did you do to ascertain whether the owner of the property had any claim to the money on his property?

A The Detective Worley had contacted -- I want to say her name was Jessica Brown.

MR. BROWER: Objection.
BY MR. HUGHES:
Q Let me stop you.
A Oh, sure.
Q What do you personally know about whether anything was done?

A I only know what Detective Worley told me when he gave me the scene.

Q So you didn't do anything yourself?
A No.
Q And you didn't seek permission to enter the property?
A Again, I only know what Detective Worley told me.
Q Regarding 701 St. Louis, is it your understanding that somebody was residing in that residence also?

A I don't know anything about the -- who was residing in that residence.

Q You did enter on that -- or you did enter the yard of that residence, didn't you?

A We sure did.
Q And did you personally get permission from anyone who may have owned the property?

A No.
Q Did you personally check with the owner of the JD Reporting, Inc.
property and whether they had claim to the money on their property?

A As I just said, no.
MR. HUGHES: Okay. Thank you, Officer. That's all I have.

THE COURT: Ms. Schifalacqua.
MS. SCHIFALACQUA: Thank you.
REDIRECT EXAMINATION
BY MS. SCHIFALACQUA:
Q Detective, did you work with Detective Worley as you already indicated?

A Yes.
Q So you worked in conjunction with other officers; is that right?

A Yes, ma'am.
Q Are some of them tasked with doing certain things, and you were tasked with collecting the money?

A Correct.
Q With regard to that, let me make clear. Have you gotten any calls from any homeowners with regard to the money you collected, sir?

A We have not.
Q Okay. And if they would've claimed or had some claim to that money and contacted the unit, would you have done a report for the same, sir?

A Yes, ma'am.
Q Did you do that?
A No, ma'am.
Q Because it didn't happen?
A It did not happen.
MS. SCHIFALACQUA: Thank you. Nothing further.
THE COURT: Any follow-up?
MR. HUGHES: Officer --
THE COURT: Well, Mr. Brower might have follow-up.
MR. BROWER: Mr. Hughes is so anxious to go, I'm
going to let him.
THE COURT: Okay. Now, it's your turn.
RECROSS-EXAMINATION
BY MR. HUGHES:
Q Officer, how would the homeowner know to contact you about money that was taken from his or her property? Did you leave a card at the residence?

A Regarding the St. Louis address, again, that homeowner was spoken to on the phone.

Q You -- by yourself?
A No, by Detective Worley.
Q You believe --
THE COURT: Was that done in your presence or -THE WITNESS: No, it was done out of my presence. THE COURT: Okay.

BY MR. HUGHES:
Q So once again, how would either of the homeowners know to contact you if they had some question?

A I can only tell you that the police were out there with yellow crime scene tape or standing by there for several hours. I can only tell you that the homeowners, as far as I know, were either made aware of the fact that we were out there or would've noticed we were out there.

Other just general ideas would be that if somebody was missing $\$ 8,540$, they might contact the police department to inquire into such activity. I can only tell you to my knowledge that did not happen.

THE COURT: Or $\$ 8,440$ depending on where the arithmetic error occurred?

THE WITNESS: Correct. We'd have to pull it from evidence and recount it, and I apologize for that. BY MR. HUGHES:

Q But if they contacted the department, they would just call the usual desk. They wouldn't necessarily call you, would they?

A Me personally --
Q They wouldn't know you existed.
A Me personally, no.
MR. HUGHES: Okay. Thank you.
THE COURT: Mr. Brower?

JD Reporting, Inc.

MR. BROWER: Nothing, Judge.
THE COURT: Ms. Schifalacqua?
MS. SCHIFALACQUA: Nothing further, Your Honor.
THE COURT: Ladies and gentlemen of the jury, do you have any questions for the detective?

All right, Detective, I see no additional questions. Thank you for your testimony. Please don't discuss your testimony with anybody else who may be a witness in this case. THE WITNESS: Yes, ma'am.

THE COURT: Think you, and you are excused.
THE WITNESS: Have a good day.
THE COURT: All right, ladies and gentlemen, it's almost 5:00 o'clock. In a moment we're going to take our evening recess.

Because of some scheduling issues tomorrow, our schedule is going to be a little bit different. We're going to start at 9:00 o'clock. We're not going to take a lunch break. We're going to go until 1:30, so from 9:00 to 1:30, and then we'll take our lunch, slash, evening recess at 1:30. So for that reason make sure you eat breakfast or bring a snack with you or whatever you need to do because we're not going to break until 1:30.

The following day, Wednesday, we will be dark. So we will not be in session Wednesday.

Thursday we will reconvene at 12:30 without a lunch

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break, and we're ahead of schedule.
The good news is we're running ahead of schedule. So we'll definitely be finishing up this week either Thursday or Friday. So, again, we'll reconvene tomorrow at 9:00 a.m.

Before I excuse you for the evening recess, I must remind you that you're not to discuss the case or anything relating to the case with each other or with anyone else. You're not to read, watch or listen to any reports of or commentaries on the case, person or subject matter relating to the case. Do not do any independent research by way of the Internet or any other medium. Do not visit any of the locations at issue, and please do not form or express an opinion on the trial.

Please place your notepads in your chairs and follow the bailiff through the double doors. We'll see everyone at 9:00 a.m. tomorrow.
(Jury recessed for the evening at 4:57 p.m.)
THE COURT: And while I think of it, we have to put on the record that prior to -- I can't remember which officer it was, whoever the first officer --

MR. SCOW: Farrington.
MS. SCHIFALACQUA: Farrington.
THE COURT: -- with the body-cam footage testified, counsel approached, and defense counsel indicated that they had no objection to the redacted body-cam footage and that the

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State could play the redacted body-cam footage, and so I said, well, let's put that on the record at our next break.

Is that correct, Mr. Brower?
$\operatorname{MR}$. BROWER: That is correct, Judge. If you recall, when we were at calendar call, I did indicate that there was a redaction that I had requested regarding my client's apprehension that took place on -- at least on the body-cam footage, where they asked about a prior arrest, and that was redacted by the State, and obviously since we wanted it out, I'm certainly not opposed to it having come out.

THE COURT: All right. So, and, Mr. Hughes, is that correct?

MR. HUGHES: Yes. That's correct.

THE COURT: All right. And I didn't hear anything in any of the body-cam footage that would have been objectionable relating to prior arrests or convictions or jail time or gang membership or anything of that nature.

All right. We'll see everybody back tomorrow. (Proceedings recessed for the evening at 4:58 p.m.)
-oOo-

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case.


220/24 223/13
BY MR. BROWER:
[12] $14 / 1066 / 1266 / 22$ 128/16 132/14 133/8 134/17 135/2 158/10 184/20 208/23 215/22 BY MR. HUGHES: [8] 69/20 136/9 185/2 216/14 217/4 219/14 220/1 220/17
BY MR. SCOW: [28] 5/22 16/5 17/1 92/13 96/17 97/4 100/3 112/7 119/12 119/24 124/5 124/20 125/14 126/17 127/7 140/6 146/17 152/14 153/3 153/10 170/9 170/11 176/10 178/13 187/2 191/23 194/1 199/13

## BY MS.

SCHIFALACQUA: [44]
18/10 21/1 22/24 25/21
26/11 28/5 28/16 30/21 32/24 35/12 37/18 38/2 42/7 45/12 46/7 47/2 47/15 50/13 51/4 54/9 56/5 57/20 63/14 72/19 74/12 81/7 81/24 83/12 84/3 86/1 160/16 163/24 166/22 167/22 201/16 205/22 206/4 206/20 207/2 210/13 212/2 213/19 215/1 218/9
MR. BROWER: [62] 15/25 16/18 17/12 30/17 34/16 41/21 41/23 45/24 46/3 47/8 50/23 56/4 63/6 66/7 66/21 69/16 73/11 81/18 83/24 87/8 89/22 89/24 90/2 90/4 90/25 91/9 91/14 96/24 123/21 124/10 124/12 126/11 127/1 132/12 132/20 133/2 133/5 134/24 136/6 144/23 145/16 152/11 158/8 158/23 167/16 169/10 176/3 178/6 184/24 191/20 193/15 199/9 200/16 206/17 209/6 214/18 215/19 216/12 217/3 219/10 221/1 223/4
MR. HUGHES: [38] 16/2 17/13 30/16 34/18 45/25 47/9 50/22 56/1 63/7 72/16 73/12 81/17 83/25 87/10 96/25 118/17 127/2 132/23 140/1 144/25 145/17 152/10 158/25 167/17 169/12 176/4 178/5 185/25 191/18 199/10 200/19 206/16 209/8 214/19 218/4 219/8

MR. SCOW: [48] 5/10 5/20 14/8 16/20 17/10 87/19 87/24 92/2 92/11 96/12 96/15 96/23 97/3 100/1 112/3 118/16 118/22 123/24 124/2 125/13 126/24 127/4 128/11 132/18 140/4 144/21 145/14 146/1 146/15 152/8 157/24 158/2 159/3 169/19 169/23 170/8 176/1 178/4 178/12 184/17 186/4 186/14 186/24 191/16 199/4 199/7 200/14 222/21
MS. SCHIFALACQUA: [97] 17/19 17/21 18/8 20/25 25/18 25/20 26/10 28/3 28/15 30/14 30/20 32/22 34/15 34/25 35/9 37/15 37/23 38/1 42/2 42/4 45/7 45/10 45/21 46/1 46/21 46/24 47/6 47/12 47/14 50/11 50/20 51/1 51/3 54/8 55/25 57/18 63/5 63/10 63/13 66/5 66/9 66/19 73/9 73/23 74/10 81/5 81/16 81/21 81/23 83/9 83/22 85/25 87/5 88/24 89/1 89/7 89/10 89/13 89/16 89/18 90/7 90/10 90/14 90/18 90/21 91/3 91/17 160/2 160/12 160/14 163/23 166/19 167/14 167/20 169/8 178/11 201/2 201/5 201/14 205/21 206/1 206/13 208/21 209/11 209/22 209/25 210/10 211/25 213/17 214/17 214/22 214/24 215/18 218/7 219/6 221/3 222/22
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DISTRICT COURT CLARK COUNTY, NEVADA

THE STATE OF NEVADA, ) Plaintiff, VS.

DAMIEN ALEXANDER PHILLIPS, a.k.a. TRAVIS ALEXANDER PHILLIPS, and ANTHONY TERRELL BARR, )

Defendants.

CASE NOS. C-18-335500-1, C-18-335500-2 DEPT NO. XXI

TRANSCRIPT OF PROCEEDINGS

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BEFORE THE HONORABLE VALERIE ADAIR, DISTRICT COURT JUDGE
TUESDAY, DECEMBER 11, 2018
JURY TRIAL - DAY 7
APPEARANCES :
FOR THE STATE:
BARBARA F. SCHIFALACQUA, ESQ. RICHARD. H. SCOW, ESQ.
Chief Deputy District Attorneys
FOR DEFENDANT PHILLIPS: KEITH C. BROWER, ESQ.
FOR DEFENDANT BARR: EDWARD B. HUGHES, ESQ.

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LAS VEGAS, CLARK COUNTY, NEVADA, DECEMBER 11, 2018, 9:04 A.M. * * * * *
(Outside the presence of the jury)
THE COURT: All right. We're on the record. And we're out of the presence of the jury.

MS. SCHIFALACQUA: Morning, Your Honor.
THE COURT: Good morning.
MS. SCHIFALACQUA: We did have a lay witness that was as of a couple minutes ago parking at the Fremont parking garage and making their way over, but before they testify I did want to outside the presence address just some things before the Court. It includes Jaszman who testified at the preliminary hearing and potentially Vidal Holman as well.

Earlier in the trial I know Mr. Hughes had made a comment to myself and Mr. Scow that Jaszman Moorehead had reasons or motives to lie and I wanted to put something outside the presence because we have that no discovery from defense with regard to any character evidence. We want to make sure that they're admonished not to have impermissible character evidence. We've had no motions in limine before the Court, and no Petrocelli hearings. And we've gotten no -- we've run the records, they have no prior criminal history and so to the extent that there's going to be questioning potentially about a motive to lie, we just wanted to make a record thereof that it's obviously not going to delve into any impermissible

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character evidence that they would act in conformity thereof and/or the basis of that because at this point we don't know if any of the defendants are going to hit the stand --

THE COURT: Okay. I mean, obviously if she has a motive to lie in this case for --

MS. SCHIFALACQUA: For sure.
THE COURT: -- to stay out of trouble or because she's angry at the defendants or whatever -MS. SCHIFALACQUA: Sure. THE COURT: -- clearly they can get into that. MS. SCHIFALACQUA: Correct.

THE COURT: So --
MS. SCHIFALACQUA: But --
THE COURT: -- what are you afraid they're -- let's cut to the chase.

MS. SCHIFALACQUA: Well, I -- I don't know. That's my point. We've got nothing from defense and so to the extent that Mr. Hughes or Mr. Brower stands up and alleges something before the jury rings the bell if you will, Judge, and we haven't not -- we've had nothing about it with regard to any particular bad act. We know of nothing. We've run their, as I said, run them. They have no criminal history, convictions, and so I just wanted to make a record upfront that they're obviously NRS 48045 applies to each side equally so I just wanted to make sure out of the presence that they're aware of JD Reporting, Inc.
that and not going to try to elicit something that would fall in that -- under that statute, Judge.

THE COURT: Are you guys going to ask about anything that -- any acts or --

MR. BROWER: Judge, I'm not --
THE COURT: -- things that don't relate to this case?
MR. BROWER: Judge, my only inclination as far as well, I don't really want to necessarily go into all my questions because I have to hear what she's going to testify to. But there was some video that was presented the last time that showed some people that would meet the height description as I addressed yesterday of people that could potentially be --

THE COURT: That's fine. I mean, that's --
MS. SCHIFALACQUA: Sure.
THE COURT: -- if you need these other people that are similar looking that's all fine, that's fair game.

MR. BROWER: I mean, those were kind of the questions that I remember going through. I don't know if there's something different the State recalls, but that's -- was my general line of questioning.

THE COURT: Mr. Hughes, are you going to go into any prior acts or anything that's not directly related to the events in the --

MR. HUGHES: I'm not aware of any prior -- Your Honor, I'm not aware of any prior acts or records. All I would JD Reporting, Inc.
say is that the State is in communication with Jaszman, whose last name \(I\) forget, so if there is any -- if there is any relationship issues between her and the defendants, the State has just as much acts as to prior relationships that I would have for my --

THE COURT: Well, you can get into that anyway. I mean, I don't see that that's objectionable what's going on with the defendants and any witness's relationship to the defendants. I mean, that's I think always fair game.

MS. SCHIFALACQUA: Absolutely, Your Honor.
THE COURT: All right. Is the witness here?
MR. SCOW: Not that we know of yet.
The other thing that we wanted to do this morning. The information --
(Pause in the proceedings)
MR. SCOW: In the Information there's two -- one clerical error and the other was information that we didn't have at prelim and so is bound up Count 20 as to an unnamed customer, and based on the testimony that's been presented and what we've received in discovery that customer is Vince or Vincent Rotolo. He testified in the end of last week he was one of the customers that was in the meeting at the table when the gun was pointed in the direction and he dove to the ground. THE COURT: The pizza guy? MR. SCOW: Yes.

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THE COURT: Okay.
MR. SCOW: So that's all I needed to say.
THE COURT: So you want to amend it to insert his
name --
MR. SCOW: Instead of unnamed.
THE COURT: -- in Count 20?
MR. SCOW: Yes.
THE COURT: Any objection?
MR. HUGHES: No, Judge.
MR. BROWER: No, Judge.
THE COURT: All right. So the clerk will
interlineate the Information to or amended whatever it is to replace unknown customer with --

And you have the spelling; correct? All right.
THE CLERK: Count 20?
MR. SCOW: Okay. Yeah. Count 20. That's on page 12 lines 1 and 2. And then the other is a clerical issue that -in the heading with the list of charges it's page 2 line 4 . It gives the date range on or between July 17th, 2018, and August 6th, 2018. It should say August 9th and that's reflected in the remaining counts that it's on or between July 17th and August 9th, that would be the second. So I'd move to amend that one as well.

THE COURT: Any objection?
MR. HUGHES: No objection to that.

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THE COURT: Mr. --
MR. BROWER: I'll submit it, Judge.
(Pause in the proceedings)
MR. SCOW: Judge, I just checked the hall and they're not out there quite yet.

THE COURT: Okay.
Okay. So I guess we'll just be at ease then until somebody shows up.

MS. SCHIFALACQUA: I'm sorry, Your Honor, we did tell them 8:45.

THE COURT: And I told the jury we would break at 1:30, I mean, if we're all like starving to death, maybe we'll break closer to 1:00. We'll see. We'll see actually meaning if they're starving to death. I don't really care if you people are starving to death.

MR. SCOW: We may not --
THE COURT: Did they complain or anything, Kenny?
THE MARSHAL: I'll go check.
THE COURT: Did they bring --
MS. SCHIFALACQUA: Yeah, we may not even go -- we have about five more witnesses, Judge, before we're complete.

THE COURT: Before you rest?
MS. SCHIFALACQUA: Correct.
MR. SCOW: Right.
THE COURT: Okay.

MR. SCOW: We may not make it till 1:30.
THE COURT: Where are we on the jury instructions? MS. SCHIFALACQUA: We sent them to defense. The -our packet to defense. I believe they're reviewing them.

MR. HUGHES: We received -- I received them; I'm most the way through them.

MR. BROWER: I'm trying to look at them right now, Judge. We received them last night, and I'm looking at one other case.

THE COURT: All right. I guess Kenny will come get me when --

THE MARSHAL: Will do, Judge.
MS. SCHIFALACQUA: Thank you, Your Honor. Sorry about that.

THE COURT: It's, okay.
(Proceedings recessed 9:12 a.m. to 9:30 a.m.)
(In the presence of the jury)
THE COURT: All right. Court is now back in session. The record should reflect the presence of the State and the deputy district attorneys, the defendants and their counsel, the officers of the court and the ladies and gentlemen of the jury.

And is the State ready to call its next witness?
MR. SCOW: Yes, Judge.
Jaszman Moorehead.

JD Reporting, Inc.
[having been called as a witness and being first duly sworn, testified as follows:]

THE CLERK: Thank you. Please have a seat. State and spell both your first and last name for our record.

THE WITNESS: Jaszman, J-a-s-z-m-a-n. Moorehead, M-o-o-r-e-h-e-a-d.

THE COURT: All right. Thank you.
Mr. Scow.
MR. SCOW: Thank you, Judge.
DIRECT EXAMINATION
BY MR. SCOW:
Q Jaszman, I'll start by asking you do you know a Vidal
Holman?
A Yes.
Q How do you know him?
A He's my boyfriend.
Q Currently your boyfriend?
A Yes.
Q When did you meet him?
A Where?
Q When?
A Eight months ago.
Q Okay. Did you say eight months ago?
A Eight months ago.

THE COURT: Okay.
BY MR. SCOW:
Q Okay. Was this -- where was it that you met Vidal?
A Boulder Pine Apartments.
Q Were you living there?
A Yes.
Q And was he living there?
A Yes.
Q Did you -- did you also meet Damien Phillips in that time frame?

A Yes.
Q How did you meet Damien?
A Walking. They were walking their dogs.
Q When you say they, who's they?
A Him and Vidal.
Q Damien and Vidal?
A (No audible response.)
Q And that's a yes?
A Yes.
Q Okay. So as we're talking back and forth if it's a yes, don't nod if it's no don't shake your head because everything you're saying is being recorded and a nod won't be picked up.

A Okay.
Q So if it's a yes, say, yes, if it's a no say no,
okay.
So that was when you first met Damien or was it also
when you first met Vidal?
A Both.
Q Okay. And what was your understanding of the relationship between Vidal and Damien?

A They were cousins.
Q And also if you can keep your voice up so everybody can hear you too.

A Okay.
Q So is it your understanding that Damien and Vidal were cousins?

A Yes.
Q Did there come a point around that time frame when you first met Vidal that you became his boyfriend and started living with him?

A No.
Q You didn't start living with Vidal?
A Not right away.
Q Okay. But sometime after that?
A Yes.
Q Okay. About how long after you met him did you start living with him?

A A week and a half.
Q And where did you live together at that time?

A In the truck.
Q In his truck?
A Yes.
Q Okay. Did there come a point that you found a place where you could live together?

A Yes.
Q Where was that?
A Aviator Suites.
Q Do you remember when you moved in to the Aviator Suites?

A Mid June -- mid July.
Q June, July time frame?
A Yes.
Q When you guys moved into there was it an upstairs or downstairs apartment?

A Downstairs.
Q Do you remember the room number?
A (No audible response.)
Q Okay. Was it 142?
A Yes.
Q Does that help you remember?
A Yes.
Q Okay. And when you and Vidal moved to the Aviator Suites apartments, did anybody else move there as well?

A Yes.

Q Who?
A Damien and Jakari.
Q Damien and Jakari?
A (No audible response.)
Q That's a yes?
A Yes.
Q What apartment did they move into?
A 140.
Q Was it one next to you?
A No, it's upstairs.
Q Above you?
A Yes.
Q Okay. And was that 242?
A I think so.
Q If you don't remember that's okay.
A I don't remember.
Q You don't remember the number. Was it directly above you?

A Yes.
Q And Damien and Jakari moved into that room?
A Yes.
Q And during this time frame, this is, you said June,
July --
A Yes.
Q -- did you also meet Anthony Barr?

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A Not this time frame, no.
Q Not June?
A July-ish.
Q July-ish?
A Yes.
Q While you were living at the Aviator Suites?
A Yes.
Q Do you see Damien Phillips in the courtroom today?
A Yes, I do.
Q Can you point to him and describe an article of clothing that he's wearing.

A To my left. He has glasses and a gray shirt and black pants.

MR. SCOW: Your Honor, can the record reflect the identification of defendant Damien Phillips?

THE COURT: It will.
BY MR. SCOW:
Q And we just mentioned Anthony Barr. Was the first time you met him in July when you were living in the Aviator Suites apartments?

A No. I met him at Boulder Pines also.
Q Okay. But he wasn't living in or near you guys until Aviator Suites?

A Yes.
Q And what room was he living in?

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A Upstairs with Damien.
Q Do you see Anthony Barr in the courtroom today?
A Yes, I do.
Q Can you point to him and describe an article of clothing that he is wearing.

A A white long-sleeved shirt and twists in his hair.
Q All right. I missed some of that because of the cell phone that was, can you say it again.

A The white long-sleeved shirt and twists in his hair.
Q Twists in his hair, you said?
A Yes.
MR. SCOW: Your Honor, can the record reflect the identification of the defendant Anthony Barr?

THE COURT: It will.
BY MR. SCOW:
Q Did you know Anthony by a different name?
A Yes.
Q What was that name?
A Shiraq [phonetic].
Q While you were living at the Aviator Suites, did there come a time where you noticed that Damien started coming into money?

A Yes.
Q When was that? Well, in terms of -- we'll go through this. When rent payments were due --

A Uh-huh.
Q -- about what number of rent payment was it that Damien started coming into money?

A The third rent payment.
Q And how was it that you noticed, what did you observe that led you to believe he had come into some money?

A Small talks. Him not coming home sometimes or he leave early in the morning and, like, going with Shiraq and Sweet Pea.

Q You'd see them leaving together?
A Yes.
Q And Shiraq, Anthony, that's Anthony?
A Yes.
Q And then Sweet Pea, who's that?
A Sabrina.
Q Okay. Did you ever see Damien with cash or money?
A Yes.
Q Did he offer to buy you things or people that --
A Sometimes. Not all the time.
Q Okay. When you, this time frame that you're talking about that you noticed that Damien was coming into money --

A Uh-huh.
Q -- did you ever ask him about that or hear him say about where he was getting the money?

A Just a few times. Talked about he was hitting licks JD Reporting, Inc.
or, you know, like, he came -- I don't know he just came into, like, a lump of cash that I saw him with.

Q You saw him with lumps of cash?
A (No audible response.)
Q And that's a yes?
A Yes.
Q And from what you said, you said he got it from hitting some licks?

A Yes.
Q And what do you understand hitting some licks to be?
A Like getting money illegally or going places that he shouldn't be going without, like, a loan or just, like, robbing people.

Q Robbing people?
A Yeah.
Q When you say he would leave with Sweet Pea and
Shiraq, did you notice anything about their appearances when they would leave? Were they wearing anything unique?

A One time. Not all the times though.
Q Okay. What did you notice?
A That Damien was wearing a wig, like, girly girl clothes.

Q Okay. Did you see him wearing those?
A In pictures, but not in person, no.
Q Okay. Not in person, you saw it in a picture?

A Yes.
Q Did you ever notice makeup on anybody?
A Yes.
Q On who?
A Shiraq.
Q Where was the makeup that you noticed?
A On his face.
Q What was it covering or on?
A His tattoos.
Q Just to talk about when you're saying -- I'm going to show you State's Proposed or it's Exhibit 199, ask if you recognize on this screen or right in front of you?

A Yes.
Q Who's that?
A Sabrina Henderson.
Q And what was the name that you knew her by?
A Sweet Pea.
Q Was she dating or had a relationship with anybody that we're talking about?

A Yes.
Q Who's that?
A Shiraq.
Q Okay. And you're looking here at the defendant Anthony Barr?

A Yes.

Q You mentioned Jakari --
A Yes.
Q -- earlier, he moved into Aviator Suites with Damien?
A Yes.
Q Showing you what's been marked as State's Proposed 274.

A Yes.
Q Okay.
MR. SCOW: What's the next in line, Madam Clerk?
THE CLERK: 403.
MR. SCOW: 403.
BY MR. SCOW:
Q State's Proposed 403 and ask if you recognize these?
A Yes.
Q And what is it?
A Jakari.
MR. SCOW: Move to admit State's Proposed 274 and
403.

THE COURT: Any objection? Submit it?
MR. HUGHES: Submit it.
MR. BROWER: I'll submit it, Judge.
THE COURT: All right. Those will be admitted. (State's Exhibit Nos. 274, 403 admitted.)

BY MR. SCOW:
Q Showing you first, 403, who's this?

A Jakari.
Q And a closer up in 274?
A Jakari.
Q When was the rent due at Aviator Suites; do you remember?

A No.
Q Now let's -- let me ask you a little bit about when you said you saw Damien in a wig and women's clothing; where was it that you saw that?

A On Jakari's cell phone.
Q Okay. I'm going to show you some images from State's Exhibit 358. I'm going to ask if you recognize anything, okay?

A Okay.
Q Okay. Do you recognize what you're seeing?
A Yes.
Q What is it that you're seeing?
A Damien.
Q And there's --
A In a wig.
Q Okay. And I'm going to go back to the beginning and play it again. There's a mouse in front of you --

A Uh-huh.
Q -- when you see something that you recognize.
A Right here.
Q Okay. I'm going to pause it. Okay. Point to what JD Reporting, Inc.
you recognize again.
A Damien and the wig that he has on.
Q Okay. And it panned to the right as well -- if you let go of the mouse for a second, there we go. Do you recognize anybody there?

A Shiraq.
Q And is the cursor on Shiraq right now?
A Yes.
Q That's Anthony?
A Yes.
Q Okay. You had seen that on Jakari's cell phone?
A Yes.
Q And after seeing that, did you ever talk to Damien about that?

A No, not about that incident.
Q Okay. And did there come a time where you saw anything on the news that caused you to confront or talk to Damien about something you saw in the news?

A Yes.
Q I'm going to show you a couple of exhibits and ask if you recognize anything from these; 365, 263, 352, 264, 351, and 354, let me know when you recognize something that you saw from the news.

A This there.
Q Okay. And you're pointing at some pictures, and this JD Reporting, Inc.

A Yes.
Q I'm just going to put that up now. Showing you State's Exhibit 264. These -- are these the images that you had seen on the news?

A Yes.
Q And there's three there, which ones did you see on the news?

A The top left and the top right.
Q Okay. When you saw those images on the news, what did you do or after that?

A Well, we were actually at a car shop and we went home, and Vidal brought it up to him as well as I did. And he just said don't worry about it that everything was going to be okay.

Q And when you said him who did you bring it up with?
A Vidal.
Q Okay.
A To Damien.
Q To Damien?
A Yes.
Q And what did Damien say about what you saw in the news?

A He said don't worry about it that everything is going to be okay.

Q Did he say anything about the cops or fear of being caught by the police, anything like that?

A He said he didn't care.
Q He said he didn't care. I'm going to show you now State's Exhibit 195; do you recognize what you see here?

A Yes.
Q What do you see?
A Melissa.
Q Okay. And did you see her at the Aviator Suites apartments as well?

A Yes.
Q About what time frame?
A Mid-August.
Q In August?
A Yes.
Q And so when you guys move in it's July --
A Uh-huh.
Q -- you're there for a little while, and so in August is when you first see Melissa?

A The ending of July beginning of August, yes.
Q Okay. In that time frame?
A Yes.
Q In the time frame that you were living at the Aviator Suites apartments when Damien and Anthony were living in the apartment above you guys, did you ever see either of them with
a gun, a handgun?
A Yes.
Q Who did you see with the gun?
A Both.
Q Did you ever see them both with a gun at the same time?

A No, not at the same time.
Q Okay. So at different times you had seen one of them --

A Yes.
Q -- or both of them holding a gun?
A Yes.
Q I'm going to direct your attention now to the beginning part of August 2018. Did there come a time where they left and you didn't see them anymore?

A Yes.
Q Do you know or were you aware whether they were staying at a room at the Circus Circus?

A Yes, they were.
Q Okay. And is this the time frame we're talking about when you last saw them?

A Yes.
Q The last time that you saw them, describe what was happening that day and what you observed.

A Me and my mom or -- well, me and my stepmom were in JD Reporting, Inc.
the room and Damien came in and knocked on the door, opened it, he was, like, where's my gun? I said where you left it at. So he went on top of the shelf, grabbed it then walked out the door, shut the door, went in the Mazda car that he had, grabbed some clothes and left.

Q Okay. Who was he with when he left at that time?
A Shiraq.
Q Okay. Was Sabrina with them?
A I didn't see her.
Q You didn't see her. And what about Melissa, did you see her?

A Yes. She was there too.
Q Before they left, did you have any conversation with Shiraq?

A Outside.
Q Outside?
A Outside.
Q Okay. Tell us about the interaction that you had with Shiraq.

A Well, I did get -- I got threatened the first time saying that if I told anybody about what happened my life was over and that --

Q Okay. So what happened right before that?
A Oh, he asked me to go with them.
Q Who asked you to go with them?

JD Reporting, Inc.

A Shiraq.
Q Okay. And when he -- when Shiraq or Anthony asked you to go with them, what did you say?

A I said no.
Q Was this after you had seen Damien grab a gun?
A Yes.
Q So what did Shiraq tell you when you said you didn't want to go with them?

A That if I told anybody, that my life was over.
Q Okay. Do you remember the type of clothing that they were wearing when they left?

A Damien had on red pajama pants and then a do-rag I think. And then I just remember Shiraq had a towel around his neck.

Q Okay. Was that, you mentioned a towel around Shiraq's neck, is that something that you had seen him with frequently?

A Yes.
Q I'm showing you Exhibit 181 and ask you if you recognize anything here?

A Yes.
Q What do you recognize?
A Damien and the outfit he was wearing when he left.
Q State's 204, do know who that is?
A Yes. That's Shiraq.

Q Shiraq?
A Yes.
Q Do you know what type of vehicle Shiraq drove?
A It was a red -- I don't remember the name of it though.

Q Okay. It was a red vehicle?
A Yes.
Q And that was the vehicle that Anthony had and drove around?

A Yes.
Q Who would -- and you said before Sabrina or Sweet Pea was his girlfriend?

A Yes.
Q And she would go with him in that car a lot?
A Yes.
Q And when that last day that we're talking about when Shiraq said if you told anybody what they were doing your life would be over, what did they leave in; did you see what they left in?

A The red car.
Q And who did you see leave again?
A Shiraq and Damien and Melissa.
Q And I asked you before I'm pretty sure, did you see Sabrina at that time?

A No.

Q Okay. I'm going to show you some images now. This is from State's Exhibit 1, and as we go through these I just want to ask you if you can tell me what you recognize, okay?

A Okay.
Q And as I'm pulling this up if you can tell us during the time frame that you were living at the Aviator Suites and Damien was there, how frequently would you see Damien?

A All the time.
Q And when Shiraq moved in, how frequently did you see him?

A Sometimes.
Q Do you recognize anything in this video?
A Yes.
Q What do you recognize?
A Damien.
Q Okay. You can use that mouse and that cursor to indicate what you recognize.

A The shirt and his hat.
Q Okay. That first image for the record was from clip two. In an earlier image you'd said you'd recognized clothing. Do you recognize anything else in this image from clip six?

A Glasses.
Q The glasses as well?

JD Reporting, Inc.

A Yes.
Q And who's this?
A Damien Phillips.
Q Okay. And do you recognize the face as well?
A Yes.
Q Okay. Next I'll show you images from State's 27. And again as you see anything that you recognize, let the jury know what it is you recognize.

A Damien right here in the white sweater and in the hat. And then Shiraq is in the plaid red and white long-sleeve shirt.

Q Okay. And if you can remember to keep your voice up so everybody hears you.

From what you just said, Damien's the one in the
white?
A Yes.
Q And Shiraq is the one in the red and white --
A Yeah.
Q -- plaid shirt?
A Yes.
Q How is it that you recognize them?
A Damien wears that sweater a lot.
Q You recognize that sweater that Damien wears a lot?
A Yes.
Q And about Shiraq?

A I can just -- I just know it's him.
Q Okay. And how is it that you can tell that it's him? Describe what it is that you recognize.

A The glasses and the do-rag.
Q Okay. And I'm just moving in a fast motion to get us to relevant points. What do you recognize here?

A That's Damien.
Q Okay. And again just tell us what you recognize and how you know that's Damien.

A His face and the sweater he's wearing.
Q Okay. And do you recognize the glasses as well?
A Yes.
Q What do you recognize in this image?
A The long-sleeve shirt and the glasses that Shiraq is wearing.

Q And you said that's Shiraq?
A Yes.
Q And you recognize his face as well?
A Yes.
Q I'm showing you portions of State's Exhibit 105. Do you recognize anything in the image right now?

A The car.
Q Whose car do you see?
A Shiraq's.
Q And use the mouse to show which car that is.

A This one.
Q And what do you recognize there?
A Damien.
Q And describe what it is that you recognize about Damien in this?

A The wig.
Q Okay. Do you recognize anything in the video at this point?

A Yes.
Q Okay. What do you recognize?
A Shiraq.
Q Did you say you recognize Shiraq?
A Yes.
Q How is it that you recognize him?
A The towel around his neck.
Q And I'm going to show you portions of State's 103.
When you recognize things in the video, you let us know, okay?
A Okay. That's Damien.
Q And what is it that you recognize?
A The wig.
Q Okay. Did you recognize anything about the clothing?
A That's what I saw on the picture on Jakari's phone.
Q Okay. And what about here?
A That's Shiraq.
Q And what do you recognize about Shiraq?

A The towel.
Q So now as you look at both of these images and you say that you see here Damien Phillips in the wig?

A Yes.
Q Is there any question about that in your mind?
A No.
Q And when you see this image here, do you have any doubts about who this is?

A No.
Q And who is that?
A Shiraq.
Q Now showing you portions of State's Exhibit 59. Do you recognize anything in this?

A Yes, that's Shiraq.
Q How do you recognize Shiraq?
A The glasses and the towel.
Q What's that?
A The glasses and the towel.
Q Okay. Do you recognize the face?
A Yes.
Q Is there something different about the face in this image than what you know Shiraq?

A Yes.
Q What is it?
A His tattoos are not showing.

Q And as you look at that image is there any doubt in your mind that that's Shiraq?

A No.
Q What do you recognize in this image?
A Damien.
Q Tell us how you recognize Damien.
A His face and the shirt.
Q Okay. Now showing you portions of State's Exhibit 154.

And just for the record we are at 40 minutes and 20 seconds fast forwarding a little bit.

As you see things that you recognize you just let us know, okay?

A Okay. Shiraq.
Q Okay. What did you say you recognize?
A Shiraq.
Q Okay. And how do you recognize him?
A The tattoo on his face.
And that's Damien.
Q That's who?
A Damien.
Q Okay. And how do you recognize Damien?
A 'Cause that's the shirt he had on when he left.
Q That was the shirt he had on when he left?
A Yes.

Q Okay. If you could just keep your voice up. All right. What do you recognize there?

A Shiraq.
Q Okay. And when you look at this image how do you know that's Shiraq?

A His face.
Q His face. Did you recognize the clothing that he's wearing?

A Kinda. Not really, no.
Q Okay. But you recognize his face?
A Yes.
Q And this is now for the record clip four.
What do you recognize here?
A Damien and Shiraq.
Q Okay. And what do you -- sorry. What do you recognize about Damien?

A The clothing.
Q Can you point to the clothing that you recognize.
A The shirt and his pants.
Q The day that -- the day that you -- you talked about when they left the last time that you saw them, that was the time that Shiraq made a threat to you; is that right?

A Yes.
Q When you saw Shiraq at that time could you see the tattoos on his face?

A Yes.
Q You could?
A (Witness nods head.)
Q Okay. And that was before they left?
A Yes.
Q Was there any time that you ever saw anybody putting makeup on Shiraq?

A Not personally, no.
Q Okay. And what about on Damien?
A No.
Q I'm going to show on here a couple more images. Showing you State's Exhibit 97, do you recognize anything from this?

A Sabrina.
Q How do you recognize Sabrina?
A Her hair.
Q And State's Exhibit 96?
A Sabrina.
MR. HUGHES: Sorry, I'm having a hard time hearing.
Could you ask her to speak up.
THE COURT: Make sure you keep your voice up and talk into that black box there; it's the microphone.

BY MR. SCOW:
Q Who was that?
A Sabrina.

MR. SCOW: Court's brief indulgence. All right. I'll pass the witness, Judge. THE COURT: All right. Mr. Brower.

\section*{CROSS-EXAMINATION}

BY MR. BROWER:
Q So, ma'am, you were asked about Damien having money; do you recall that?

A Yes.
Q Do you recall Damien having a job?
A Yes, I do.
Q Okay. Do you know what he did?
A He was a nurse.
Q Okay. So he was working?
A Yes.
Q Normally when people work do they have money?
A Yes.
Q Okay. And you were shown a picture or a video of a phone -- phone that you said or were told came from Jakari's cell phone; do you recall that?

A Yes.
Q And you identified two people on that video; do you recall that?

A Yes.
Q There's a third person in that video; do you know who JD Reporting, Inc.
that was?
A Yes.
Q Who was it?
A Sweet Pea.
THE COURT: I'm sorry. Can you say that again; I didn't hear you.

THE WITNESS: Sweet Pea.
BY MR. BROWER:
Q Okay. And that wasn't Jakari?
A The shirt looked like it could have been, but her hair was different too.

Q Okay. But it's possible it was Jakari?
A Yes.
Q Okay. And I'm going to ask you do you know how -well, how tall are you?

A \(\quad 5-4\).
Q 5-4. Do know how tall Jakari is?
A No.
Q Well, if you had to describe somebody to Jakari, would you describe him as your height, taller, shorter?

A Shorter.
Q How much shorter?
A I don't know.
Q Okay. When you stand by each other, do you kinda look each other in the eye?

A Kinda. Not really.
Q Kinda, not really. So that's two different answers.
A Yeah.
Q So which one, kinda or not really?
A Yeah.
Q Let me try this again. When you're looking at the person do you have to look down to look into their eyes or are they looking up at you?

A Up.
Q Okay. How far up is her head craned totally up or --
A No.
Q -- just slightly?
A Slightly.
Q Okay. And you said you saw -- I think you said you saw Damien grab a gun; correct?

A Yes.
Q Isn't it true that just technically do you believe it was a real gun or was it a toy gun?

A I'm not sure.
Q So you don't know?
A (No audible response.)
Q Okay. One of the last sets of videos you saw, I believe it was State's 154, you were watching a video of a bank; do you recall that?

A Yes.

Q Okay. And you said that you could identify the person in the video because of tattoos that you saw?

A Yes.
Q You saw the tattoos on that video?
A Yes.
Q And I also noticed the State showed you a whole bunch of videos, and they said let us know when you see something, and it seemed to me that you didn't let them know when you saw anything, that the State had to pause the video and ask you what you were seeing?

A Yes.
Q Okay. So they had to prod you to tell them what was on the video or you just didn't recognize anything until they specifically asked?

A Yes. Until they specifically asked.
Q Okay. So you -- when you were watching the video you didn't recognize any of it?

A No.
MR. BROWER: I'm going to pass the witness, Judge. THE COURT: Mr. Hughes. CROSS-EXAMINATION

BY MR. HUGHES:
Q Ma'am, I want you to think back to the last time that you saw either Mr. Barr or Mr. Phillips at the apartments you were living in; do you remember the time?

JD Reporting, Inc.

A Yes.
Q You said that they -- they left and you didn't see them again for some time?

A Yes.
Q What time of day was that that they left?
A Morning.
Q Can you describe what Mr. Phillips was wearing the last time you saw him?

A The red pants and the gray shirt.
Q What was Mr. Barr wearing?
A He had a white shirt on at the time and he had blue jeans on.

Q Anything else that you remember about either of them the last time that you saw them?

A No.
Q Was Mr. Philip -- did Mr. Phillips have makeup on his face when you last saw him?

A No.
Q Did Mr. Barr have makeup on his face the last time you saw him?

A No.
Q So the last time you saw Mr. Barr his tattoos were visible?

A Yes.
Q Did you also testify that Mr. Phillips came down to JD Reporting, Inc.
your apartment I think you said it was 142 to get his gun?
A Yes.
Q If there was a gun and if it belonged to
Mr. Phillips, why would it be in your apartment?
A Because that's where he had left it at.
Q Mr. Phillips lived upstairs; is that right?
A Yes.
Q Who lived with you in the downstairs apartment?
A My boyfriend Vidal.
Q Describe Vidal for me.
A He's tall. He's light skinned. He has tattoos.
Q Is he black or is he white?
A He's black.
Q So he's a tall, light skinned black man --
A Uh-huh.
Q -- with tattoos?
A Yes.
Q Is he skinny?
A Yes.
Q And he lived downstairs in the apartment with you?
A Yes.
Q Where supposedly Mr. Phillips stored his gun?
A Yes.
Q I think you testified that -- that Mr. Phillips had trouble with his rent?

A Yes.
Q How would you know whether Mr. Phillips was able to pay his rent or not?

A Because both rooms were paid for at the same time all the time.

Q By whom?
A By Damien.
Q Damien paid for your rent?
A Yes.
Q Why is that?
A Because we didn't have the money and my boyfriend was at work all the time when rent was due.

Q And your boyfriend Vidal you say he's the cousin of Mr. Phillips?

A Yes.
MR. HUGHES: Okay. Thank you, ma'am. That's all I have.

THE COURT: Any redirect?
MR. SCOW: Yes, Judge. Thank you. REDIRECT EXAMINATION

BY MR. SCOW:
Q I just need to ask you a few questions. First you were asked by Mr. Brower the attorney right there that asked the questions first, was he -- he asked you about when Damien was working; is that right?

A Yes.
Q And you knew him to be work -- Damien to be working as a nurse?

A Yes.
Q Did there come a time that Damien lost his job?
A Yes.
Q Do you remember the time frame for that?
A End of June beginning of July.
Q Okay. And in that time frame when you knew that Damien lost his job how did you learn that?

A Because he just stopped going to work. Because he would go to work with my boyfriend every morning.

Q And then he stopped going to work altogether?
A Yes.
Q Altogether?
A Altogether.
Q And then he started leaving with Sabrina and Shiraq?
A Yes.
Q And then by the third rent payment is when you noticed that he started having lumps of cash?

A Yes.
Q At some point was Damien dating your stepmother?
A They were messing around, yes.
Q Okay. And at times would he leave things in your apartment?

A Yes.
Q I'm going to ask you some questions about surveillance video now. You were asked by Mr. Hughes if -- or maybe it was Mr. Brower, is when you are watching the surveillance video that you had to be prodded by me to ask what if anything you recognized; do you remember that?

A Yes.
Q So as we were watching these videos was it because I'm asking you what you saw that you recognized something or was it because what you saw that caused you to recognize something?

A Because of what I saw.
Q Okay. It's not because of what I was asking?
A No.
Q So the times that anybody walked into the screen, were those the times that you recognized something?

A Yes.
Q Showing you again portions of 154.
And the time frame just for the record on the video
is 42:50.
A That's Shiraq.
Q Okay. Now as you're looking at this -- you said before that you thought you had seen some tattoos on here; is that right?

A Yes.

Q And I can't zoom in any further. Do you see tattoos in this image?

A Yes.
Q Okay. Can you point to where you see tattoos.
A Below his eye.
Q Okay. Is it possible that that could be a shadow?
A Maybe.
Q But as you're looking at this image of that individual moving around in the bank, what is it that you recognize about that that you said that that's Shiraq?

A His whole image. His face. Everything.
Q Everything about him?
A Yes.
Q So it's not because of any tattoos that you're seeing there then that you think that that's Shiraq?

A No.
Q That's because of the entire image?
A Yes.
Q And the face?
A Yes.
Q And just to be clear and what you just saw here in the videos that I had shown you previously from each of the other locations, did you ever see Jakari in any of those videos?

A No.

Q Did you ever see Vidal in any of those videos? A No.

MR. SCOW: I don't have any more questions.
THE COURT: Mr. Brower, any follow-up?
RECROSS-EXAMINATION
BY MR. BROWER:
Q The last time you saw Mr. Phillips can you describe to me again what clothes you thought he was wearing.

A His gray shirt and his red pajama pants.
Q You didn't see him in a different shirt?
A No.
Q When you said you saw him -- I'm sorry, you said that your stepmom and Mr. Phillips were in an argument or, I mean, in a relationship?

A They were messing around, yes.
Q Okay. Did there come a time when they were in an argument or when Melissa and your mom were in an argument?

A Yes.
Q Was that regarding Damien?
A Yes.
Q Okay. And --
MR. BROWER: Court's indulgence.
Judge, I'm going to move on and just pass the witness at this point in time.

THE COURT: Okay. Mr. Hughes, do you have any follow JD Reporting, Inc.
up?
RECROSS-EXAMINATION
BY MR. HUGHES:
Q Ma'am, how long was Mr. Barr living with Mr. Phillips before they left that last time?

A A month, two months maybe.
Q Are you sure or are you guessing?
A An estimate. It was a month or two months.
Q During that period of time did you ever see Mr. Barr with money?

A Sometimes. Not all the time.
Q Can you recall one time that you recall him having money?

A Yes.
Q Tell me about it.
A It was upstairs in the room with I believe Damien. I think Damien was in the rest room, but he had money and Sabrina was laying down on the floor.

Q And where was Vidal during this time?
A Downstairs.
Q So you often came upstairs to see them without Vidal?
A Sometimes.
Q You've seen a lot of videos this morning --
A Yes.
Q -- on your screen. Have you ever seen any of those JD Reporting, Inc.
prior to today?
A What do you mean?
Q Have you ever seen any of these videos prior to today when you were watching on video?

THE COURT: Did you watch those videos at any time before you watched them here in the courtroom with us? THE WITNESS: Oh, yes. THE COURT: Okay. BY MR. HUGHES:

Q Can you tell me when.
A Last week sometime.
Q Where?
A In the office where my attorneys were located.
Q With your attorneys?
A Yes.
Q Are these your attorneys?
A Yes.
Q As I point to the prosecutor at this table?
A Yes.
Q Those are your attorneys?
A (No audible response.)
Q How many times -- was that the only time that you had seen any of these videos prior to today?

A Yes.
Q And I'm sorry I -- I was distracted when Mr. Brower JD Reporting, Inc.
was talking to you so I have to clarify. Did I understand you to say that Mr. Phillips has some kind of relationship with your mother?

A Yes.
Q And your mother had some kind of fight with Melissa?
A Yes.
Q And that was about Mr. Phillips?
A Yes.
Q Where was Mr. Barr when all of this was going on?
A He was not there.
Q Was there just one fight?
A Yes.
Q How long had Mr. Phillips been having a relationship with your mother?

A It wasn't that long.
THE COURT: What's that?
THE WITNESS: It wasn't that long.
THE COURT: It wasn't that long?
THE WITNESS: (Shakes head.)
THE COURT: Okay. Does that mean a few days or a --
THE WITNESS: Like a week.
THE COURT: -- couple weeks?
THE WITNESS: A week.
BY MR. HUGHES:
Q That you know of?

A Yes.
Q How did you learn of it?
A I talk to my mom every day.
Q I'm sorry?
A I talk to my mom every day.
Q What does your mom live?
A Downtown.
Q In Las Vegas?
A Yes.
Q Do you have any idea where this relationship was taking place?

A Not really, no.
Q Thank you. THE COURT: Mr. Scow, anything else? MR. SCOW: Just a couple if I may? THE COURT: Sure.

FURTHER REDIRECT EXAMINATION
BY MR. SCOW:
Q You were asked about when you saw the video before today; right?

A Yes.
Q And we met with you --
A Yes.
Q -- to see what you know about the case, and we let you see video to see if you recognized anybody; right?

A Yes.
Q We met with you just like we meet with all the witnesses before trial; right?

A Yes.
THE COURT: Well, she doesn't know -MR. SCOW: Okay. So if they want to object they can. THE COURT: -- what you do with other witnesses.

Sorry, I guess I was making an objection there. MR. BROWER: I appreciate that, Judge. MR. SCOW: Is that sustained, Judge? THE COURT: I sustain my own objection, yes. MR. SCOW: Okay.

BY MR. SCOW:
Q And then the -- you were asked about when you had seen Anthony Barr with cash before, and you described seeing that upstairs with Anthony and Sabrina --

A Uh-huh.
Q -- what -- where was the money?
A On Sabrina. (Unintelligible.)
Q Who was putting it on Sabrina?
A Anthony.
Q What was he doing with the money?
A Taking pictures.
Q And you remember testifying a few months ago too; is that right?

A Yes, I do.
Q And at that time did you talk about Damien coming into money problems and losing his job?

A Yes.
MR. SCOW: I don't have any more questions.
THE COURT: Any follow-up to the --
MR. BROWER: No, Judge.
MR. HUGHES: No, Your Honor.
THE COURT: All right. Any juror questions for this
witness?
All right. Counsel approach.
(Conference at the bench not recorded) THE COURT: All right. I have a question from a juror and it refers to the video from Jakari's phone. Do you know what video we're talking about?

THE WITNESS: Yes.
THE COURT: Okay. The question is, Anthony looks
like he has a ponytail, was he wearing a wig if you know?
THE WITNESS: No.
THE COURT: No you don't know or no you don't think he was wearing a wig?

THE WITNESS: I don't think he was wearing a wig. THE COURT: Okay. Does the State have any follow-up? MR. SCOW: Yeah, I'll just put that up.

THE COURT: They're going to have you look at it.

JD Reporting, Inc.

BY MR. SCOW:
Q All right. Is this the -- is this the image you remember from Jakari's cell phone?

A Yes.
Q And did you see -- do you see what the question was referring to?

A Yes.
Q Okay. And do you know -- I'll just let it play. Do you know if -- the question was do you know if that was a wig or not?

A No, I don't.
Q Okay.
MR. SCOW: I don't have any other follow-up then, Judge.

THE COURT: Mr. Brower?
MR. BROWER: No, Judge.
THE COURT: Mr. Hughes?

\section*{FOLLOW-UP EXAMINATION}

BY MR. HUGHES:
Q Ma'am, did you ever see Mr. Barr with a wig any other time other than what you think might or might not be in that video?

A No.
Q Did you ever see a wig like that in the upstairs JD Reporting, Inc.
apartment?
A No.
Q Did you ever see a wig like that in downstairs in your apartment?

A No.
Q Were you ever aware of a wig similar to what that may or may not have been in his car?

A No.
MR. HUGHES: Thank you.
MR. SCOW: No follow-up.
THE COURT: Nothing else.
Any additional juror questions? All right. I see no other questions.

Thank you for your testimony. Please don't discuss your testimony with anybody else who may be a witness in this case. Thank you. You're excused, and just follow the bailiff from the courtroom.

Ladies and gentlemen, were going to go ahead and take a brief break. Is 10 minutes enough?

MR. SCOW: Yeah.
THE COURT: Enough for everybody. All right. We'll be in recess until, let's see, 10:50.

And during the brief recess you're all reminded you're not to discuss the case or anything relating to the case with each other or with anyone else. You're not to read,
watch, listen to any reports of or commentaries on the case, person or subject matter relating to the case. Don't do any independent research by way of the Internet or any other medium. And please don't form or express an opinion on the trial.

Please place your notebooks in your chairs and follow the bailiff through the double doors.
(Jury exiting 10:38 a.m.)
(Colloquy off the record.)
MR. BROWER: Judge, I'm sorry. When were we going to canvass the two ugly gentlemen standing beside me?

THE COURT: When we're on our next --
MR. BROWER: Okay.
THE COURT: -- I mean, right when the State rests.
MR. BROWER: I understand. I just wanted to make
sure.
MS. SCHIFALACQUA: Maybe after the CSA.
THE COURT: So whenever we take our next break --
MR. BROWER: And thank you, Judge.
THE COURT: -- and State is close to resting I'll do it.

MR. BROWER: Change the topic.
THE COURT: I like it to be closer to when they actually --
(Jury entering 10:54 a.m.)

JD Reporting, Inc.
\(001470^{58}\)

THE COURT: All right. Court is now back in session. And the State may call its next witness.

MS. SCHIFALACQUA: The State calls Vidal Holman.

\section*{VIDAL HOIMAN}
[having been called as a witness and being first duly sworn, testified as follows:]

THE CLERK: Thank you. Please have a seat. State and spell both your first and last name for the record.

THE WITNESS: Vidal Holman. V-i-d-a-l, H-o-l-m-a-n.
THE COURT: Thank you.
You may proceed.
MS. SCHIFALACQUA: Thank you.

\section*{DIRECT EXAMINATION}

BY MS. SCHIFALACQUA:
Q Vidal, I want to start by asking you if you want to be here today; do you want to be here today?

A No, I don't.
Q You were issued a subpoena to come to court; is that right?

A Yes.
Q And it's your understanding that that's a court order to appear --

THE COURT: Okay.
THE RECORDER: I'm sorry I can't hear.
THE COURT: Do you see this lady --

JD Reporting, Inc.

THE WITNESS: Oh, sorry.
THE COURT: -- here at the end, she records everything --

THE WITNESS: Okay.
THE COURT: -- and so it's important that she as well as the ladies and gentlemen of the jury can hear you --

THE WITNESS: Okay.
THE COURT: -- so make sure you speak up clearly and loudly into the microphone --

THE WITNESS: Okay.
THE COURT: -- okay, because you have a quiet voice, all right?

THE WITNESS: Okay. Sorry.
THE COURT: Okay.
Ms. Schifalacqua, go ahead.
MS. SCHIFALACQUA: Thank you.
BY MS. SCHIFALACQUA:
Q Vidal, you were issued a subpoena to be here today;
is that right?
A Yes.
Q You were explained that that's a court order to appear before the court; is that right?

A Yes.
Q You were explained by myself that if you did not appear, in fact, I could request an order to show cause to the JD Reporting, Inc.

Judge upwards of a warrant for your arrest if you did not appear; is that your understanding?

A Yes.
Q Was that explained to you?
A Yes.
Q If you had your choice and your way, would you be here testifying?

A No.
Q Okay. I want to have -- but you understand that you have to tell the truth when you're on this stand; is that right, sir?

A Yes.
Q Okay. Do you know Damien Phillips?
A Yes.
Q Do you see him in the court?
A Yes.
Q Can you point to him and tell me what he's wearing today.

A Gray shirt --
Q And there's tissues here, sir.
A -- and black pants.
MS. SCHIFALACQUA: Your Honor, let the record reflect the witness has identified Damien Phillips.

THE COURT: It will.

BY MS. SCHIFALACQUA:
Q And with regard to Damien have you known him for a number of years?

A Yes.
Q How many?
A Since, like, 2010.
Q Okay. Have you ever referred to him as your cousin?
A Yes.
Q Okay. Is that blood relation or is cousin like you act in a familial like you're like family --

THE COURT: Like, you're so close like family. THE WITNESS: Like family. Yes. MS. SCHIFALACQUA: Okay. THE COURT: So you're not actually blood related through --

THE WITNESS: No.
THE COURT: Okay.
MS. SCHIFALACQUA: Okay.
BY MS. SCHIFALACQUA:
Q Is it fair -- is it your -- the mother of your children and the mother of his children, are they like best friends?

A No.
Q Okay. How is it that you've known him then?
A His son's mother and my son's mother are friends and JD Reporting, Inc.
so that's how we, yes.
Q Okay. So I kind of set it backwards, but you explained it better.

A Oh, yes.
Q Okay. Do you know a person that goes by the name of Shiraq?

A Yes.
Q Do you see him in the court today?
A Yes.
Q Can you point to him and tell me what he's wearing today in court.

A White shirt. MS. SCHIFALACQUA: And, Your Honor, let the record reflect the witness has identified the defendant Anthony Barr. THE COURT: It will.

BY MS. SCHIFALACQUA:
Q Do you -- I went to turn your attention to approximately July of 2018; were you living in Las Vegas at that time?

A Yes.
Q Did you meet at some point at the end of June or early July Jaszman?

A Yes.
Q Okay. When was that, when was the time frame; do you remember?

A I can't remember, like, the date --
Q Where --
A -- the days or --
Q Okay. You don't know the exact date. Where were you living at that time when you met Jaszman?

A These apartments, don't know the name of them.
Q Okay. Where were they located?
A Off of Boulder.
Q Okay. At some point do you and Jaszman start a dating relationship?

A Working on it.
Q Okay.
A At that point.
Q Are you continuing -- are you with her -- would you call her your girlfriend --

A Yes.
Q -- I don't want to label anything --
A Yes.
Q -- well, labels are not big nowadays; right, but you have a romantic relationship with her; is that fair?

A Yes.
Q Okay. When -- did there come a time that you moved with her to the Aviator Suites?

A Yes.
Q Where did you live in the Aviator Suites, was it an JD Reporting, Inc.
upstairs or downstairs apartment?
A Downstairs.
Q Okay. And was there an upstairs apartment that Damien lived at?

A Yes.
Q And was it directly above your downstairs apartment?
A Yes.
Q Okay. Who stayed at that apartment -- at those two apartments, excuse me, in July and early August of this year?

A In my apartment?
Q Yes, who was in your apartment? We'll start with that.

A Me and Jaszman.
Q Okay. And who was in Damien's apartment?
A Damien, Shiraq, and his girlfriend.
Q Okay. His girlfriend. Did his girlfriend have a nickname?

A Sweet Pea.
Q Okay. And did you know her real name or no?
A No, I don't.
Q Okay. Showing you what's been admitted as State's 199, who are we looking at here?

A Sweet Pea.
Q Okay. That's Sweet Pea. Did you know a person named Melissa Summerlays [phonetic]?

JD Reporting, Inc.
\({ }_{001477} 65\)

A Yes.
Q Okay. Showing you what's been admitted as State's 195 who are we looking at here?

A Yes.
Q Who is that?
A Melissa.
Q Okay. And did you know a person named Jakari or J?
A \(J\), yes.
Q Okay. You knew him as J. I'm going to show you what's been admitted as State's 274, who are we looking at there?

A J.
Q Okay. And showing you 403, is that another picture of J?

A Yes.
Q Okay. I want to talk to you about the July and early August time frame. Were you aware if Damien had a job?

A When we moved to the Aviator's he did have a job.
Q He did or did not, I'm sorry, sir.
A He did have a job.
Q He did have a job. How was he employed?
A He was a nurse.
Q Okay. At some point after you moved to the Aviator Suites does he still have that job or did he lose that job?

A Lost the job because I was told that he wasn't
working there no more.
MR. BROWER: Judge, I'm going to object to what he was told.

MR. HUGHES: -- he was told.
MS. SCHIFALACQUA: Okay. Let me back up and I can clarify.

THE COURT: All right. She's going to rephrase. MS. SCHIFALACQUA: Thank you.

BY MS. SCHIFALACQUA:
Q When you say he's -- what you were told were you told by Damien about his job?

A No.
Q Okay. Were you told by someone else about his job?
A Yes.
Q Let me ask you this. When Damien had a job and you knew that he was working, did you guys leave for work -- leave the Aviator apartments for work around the same time?

A Yes.
Q Okay. When there comes a time where -- well, let me ask you this. Does there come a time where you continue to leave for work that Damien no longer leaves at the same time frame as you?

MR. BROWER: Judge, this is leading.
MS. SCHIFALACQUA: It's not leading, Your Honor,
I'm --

JD Reporting, Inc.

THE COURT: Well, overruled.
MS. SCHIFALACQUA: Okay.
THE WITNESS: Can you repeat that.
BY MS. SCHIFALACQUA:
Q Sure. Does there come a time where you continue to leave for work routinely and Damien no longer leaves at the same time?

A Yes.
Q Okay. Now with regard to the Aviator Suites are -what type of apartments are those? Do you pay by the month? Do pay by the week? Do you pay by the day? How do you pay for Aviator Suites?

A Week.
Q Okay. And do you know when the rent was due -- the weekly rent was due generally?

A Every Tuesday.
Q Okay. And you kind of got a question look on your face are you certain of when it was due?

A I'm just trying to remember.
Q Okay. But you knew it was due weekly; is that fair?
A Yes.
Q Okay. Does there come a point in time that Damien begins to pay for your apartment as well as his apartment?

A Yes.
Q Okay. What time frame was that, sir?

A The second payment.
Q Of what month?
A Of the month we moved in.
Q Okay. Do you remember what month you moved in?
A No, I don't.
Q Okay. Let me ask you this. Do you remember when you moved out?

A Maybe September.
Q Okay. Did there come a point in time where you were present when police came to your apartment and searched?

A Yes, I was there.
Q Okay. Did they also search your vehicle?
A Yes.
Q And you gave them that permission to do that when it came to your vehicle?

A Yes.
Q Okay. And so you were there on that day. Were the -- you said the second payment, were the payments made by Damien before the time frame of when the police came and did search warrants?

A No.
Q Okay. When the -- he didn't make payments after the police searched; right?

A No.
Q Okay.

MS. SCHIFALACQUA: And showing counsel what's been previously provided as State's 402 if I may approach?

THE COURT: It's fine.
MS. SCHIFALACQUA: Thank you.
BY MS. SCHIFALACQUA:
Q I'm showing you what's been marked as State's Proposed Exhibit 402; do you recognize your name?

A Yes.
Q Okay. And is this the information form for Aviator Suites to move in?

A Yes.
Q Does it have your unit number?
A Yes.
Q What's that?
A 142 .
Q Okay. I'm going to turn a couple pages in. Does it show the receipt from the first time that you rented a room 142?

A Yes.
Q What's the time frame?
A \(\quad 7 / 01\) to 7/17.
Q So that was the first. So you said about the second payment or after the second payment is when Damien started paying for the room; is that right?

A No.

Q Okay. When do you remember him starting to pay for the room?

A If I remember it was since the first time 'cause he had got paid from his job that he did have.

Q Okay. And so that was in July; is that fair?
A Yes.
Q Okay. And looking at this helped you -- we have the -- did you recognize up there the guy from the Aviator Suites?

A No.
Q Okay. Well, these aren't your records, but this is where you rented from; is that fair?

A Okay, yes.
Q Okay. So it was in July at some point, I believe you said July 1st through July 17th that he would have began paying for your room and; is that right?

A Yes.
Q Okay. I want to show you what's been admitted as State's 318, do you recognize the vehicle depicted in that photograph, sir?

A Yes.
Q What's that?
A Damien's car.
Q Okay. And you had seen Damien in this car driving this car, et cetera?

JD Reporting, Inc.

A Yes.
Q Okay. I want to talk to you about the -- about meeting with myself and Mr. Scow in preparation for this case. Do you remember coming and meeting with us?

A Yes.
Q Okay. Prior to meeting with us had you reviewed any video surveillance?

A Yes.
Q On the date you met with us is that when you first saw it?

A Yes.
Q Okay. And did we review video surveillance with you before you had to come testify today?

A Yes.
Q Okay. And that was in our offices; is that right?
A Yes.
Q And when we came to meet with you, were there any officers waiting to meet with us as well that you saw?

A Yes.
Q Okay. And so did we call you in one at a time to meet with you?

A Yes.
Q Okay. And you remember doing that; is that right, sir?

A Yes.

Q Okay. I'm going to show you some video surveillance that's been previously admitted. We're going to start with State's Exhibit 1. And, Vidal, I'm going to ask you to view what's in State's 1, and if you recognize something please say it out loud.

A Yes.
Q Who do you recognize?
MR. BROWER: Judge, he just said he recognized
something; he didn't say he recognized the person.
THE COURT: What do you recognize?
BY MS. SCHIFALACQUA:
Q What do you recognize?
A Damien.
Q We're going to go forward for the record's sake. Do you recognize anyone in this video?

A Yes.
Q Who is that?
A Damien.
Q Damien that's in court here today?
A Yes.
Q I'm now going to show you, Vidal, State's 27.
A Yes.
Q What did you recognize?
A Damien and Shiraq.
Q Okay. Damien and Shiraq that are sitting in court JD Reporting, Inc.
today that you've identified?
A Yes.
MS. SCHIFALACQUA: So the record is clear, we are going -- moving in an elevated speed with regard to the video. BY MS. SCHIFALACQUA:

Q I'm going to pause it. Vidal, who do you see there?
A Damien.
Q Okay. And who are we looking at here?
A Shiraq.
Q With regard to the time frame of Shiraq living with Damien at Aviator Suites with yourself, was that the same time frame that you were staying there starting in July?

A I think he came, like, a little bit after.
Q Okay. But --
A He just started like -- first, he was like he was just coming over just like this hanging out with him.

Q Okay. And so you observed him coming over and hanging out; is that fair?

A Yes.
Q Okay. And you've spoken with him before?
A Yes.
Q Okay. You've met him, et cetera; is that right?
A Yes.
Q And so the time frame you're not certain of, but it was at least in July; is it fair to say part of August as well?

JD Reporting, Inc.

A Repeat that.
Q The time frame of when Shiraq was coming around and/or living with Damien, was that July and August?

A Yes.
Q Okay. Was it all before the time that the police served search warrants?

A Yes, it was before.
Q Okay. I'm going to show you what's been admitted as State's 103. Vidal, again, let me know if you recognize anything.

A Yes.
Q What did you recognize?
A Damien and Shiraq.
Q With regard to who you recognized as Damien, was there anything that stuck out to you about his appearance in this video?

A He had a wig on and a dress.
Q Okay. You have a mouse in front of you. You said you also saw Shiraq. Do you see that mouse in front of you, Vidal?

A Yes.
Q Can you use it to point out who it is you recognize.
A (Witness complies.)
Q Who's that?
A Shiraq.

Q Do you recognize anyone in that angle of the camera?
A Yes.
Q Who?
A Damien.
Q Were you aware if Shiraq had a particular vehicle?
A Yes.
Q Okay. And do you remember what type of vehicle Shiraq had?

A I can't remember the name, but it looks like a Lincoln.

Q Okay. Do you know what color it was?
A Like a burgundy red.
Q Okay. Did you ever see him driving that vehicle?
A Yes.
Q Okay. What about his girlfriend, did you ever see her driving his vehicle, Sweet Pea?

A I don't recall seeing her ever.
Q Okay. I'm going to show you a portion of State's 105. Do you recognize any of the vehicles depicted in this video?

A Yes.
Q And which one?
A The red one.
Q And how do you recognize that or what do you recognize it to be?

JD Reporting, Inc.

A The car Shiraq was driving.
Q Okay. Vidal, do you recognize anything that's depicted in that video?

A Yes.
Q What did you recognize?
A Shiraq and Damien getting in the car.
Q Who's getting in what part of the car? Describe for our jury, please.

A Shiraq in the front and Desmond in the back.
Q Okay. And is that the vehicle, Shiraq's vehicle?
A Yes.
Q Okay. I'm now going to show you a portion of what's been admitted as State's 59, Vidal. Vidal, do recognize anyone in this video?

A Yes.
Q Who?
A Damien and Shiraq.
Q Who are we looking at right now?
A Shiraq.
Q Did you know Shiraq to have tattoos on his face?
A Yes.
Q Do you see them in that video?
A No.
Q Vidal, what are you looking at here?
A Damien.

Q And I'm going to show you a portion of what's been admitted as State's 154. While that's getting ready to load, did you ever see Shiraq use a towel or have a towel around his neck?

A Sometimes.
Q Okay. And, Vidal, let me know again if you recognize anything in State's 154.

A Yes.
Q What did you recognize?
A Shiraq.
Q Anyone else?
A Yes, Damien.
Q Do you see them both in the video right now?
A Yes.
Q Which one is Damien and which one is Shiraq?
A Shiraq is the one with the gun and Damien was the one that got whatever he had got.

Q And I didn't hear you as to describe Damien. Shiraq's the one with the gun, Damien was he in front of Shiraq at some point?

A Yes, he was in front.
Q Okay. When you just observed these video surveillance and reviewed them, did you ever see who you know as \(J\) in any of the videos?

A No.

Q Okay. Let me make it clear to these jurors, at any time did you -- were you involved in any bank robberies?

A No.
MS. SCHIFALACQUA: I pass the witness, Your Honor. THE COURT: All right. Mr. Brower. MR. BROWER: Judge, I'm going to pass the witness. THE COURT: Mr. Hughes.

BY MR. HUGHES:
Q Sir, I want you to think about the car that you say that Mr. Barr owned. Did it have tinted windows?

A Yes.
Q Were the windows always tinted since you knew Mr. Barr?

A No.
Q No? When --
A I don't recall the windows being tinted.
Q I'm sorry, you don't recall the windows being tinted?
A No, I don't.
Q So your testimony is that Mr. Barr's car did not have tinted windows; is that what I understand?

MS. SCHIFALACQUA: Objection, Your Honor. He said he didn't recall. He didn't say he didn't.

THE COURT: Well, he can follow up because he said JD Reporting, Inc.
two things.
THE WITNESS: But you asked me was his windows tinted and I said, yes. BY \(\operatorname{MR}\). HUGHES:

Q Okay. How long did you know Mr. Barr?
A I didn't, like, really know him.
Q When did you first meet Mr. Barr?
A I can't remember.
Q Did you take anything to steady your nerves today before you came in?

A No, I didn't.
Q Did you have a gun in your apartment at Aviator Suites?

A I had like a -- it was like a -- it was a air soft gun in there.

Q Was it your air soft gun?
A Not really mine. We -- I, like -- I found it, and we bought like some air things that go in there just to see if it would work.

Q So when you say an air soft gun what do you mean?
A Like a BB gun.
Q And you found it?
A Yes.
Q Where did you find it?
A At the -- the apartments where I was living at, the JD Reporting, Inc.
ones on Boulder.
Q Okay. And you kept it in your apartment because it was your gun?

A It was in the apartment.
Q And you are the one that found it?
A Yes.
Q And I believe you said that you often left in the morning with Mr. Phillips; is that right?

A Yes, when he was working. MR. HUGHES: Thank you. That's all I have. THE COURT: Redirect? MS. SCHIFALACQUA: Thank you.

REDIRECT EXAMINATION
BY MS. SCHIFALACQUA:
Q I want to make clear for our jury, were you ever friends with Shiraq?

A No.
Q Okay. You knew him; is that fair?
A Yes.
Q Okay. But as far as how close you were with Damien you didn't have that type of relationship with Shiraq?

A Not at all.
Q But you had a chance to observe him; is that right, see his face?

A Yes.

Q He lived in the apartments same as you?
A Yes.
Q Okay. With regard to this BB gun, when you say we bought things to see if it would work, who's we?

A Me and Damien.
Q Okay.
MS. SCHIFALACQUA: Nothing further.
THE COURT: Any follow-up?
MR. BROWER: No, Judge.
MR. HUGHES: Nothing, Your Honor.
THE COURT: Any juror questions for this witness?
All right. I don't see any questions.
Thank you for your testimony. Please don't discuss your testimony with anybody else who may be a witness.

THE WITNESS: Okay.
THE COURT: Thank you, and you are excused. And the State may call its next witness.

\section*{TERRY DYCUS}
[having been called as a witness and being first duly sworn, testified as follows:]

THE CLERK: Thank you. Please have a seat. State and spell your first and last name for the record.

THE WITNESS: Terry Dycus. T-e-r-r-y, D-y-c-u-s.
THE COURT: All right.
THE CLERK: One more time, I'm sorry.

JD Reporting, Inc.

Nevada Supreme Court
State of Nevada, Plaintiff
v.

Anthony Barr, Appellant
Docket Number 78295

\section*{APPELLANT'S APPENDIX Vol. VII}

NRAP 26.1 Disclosure
The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a), and must be disclosed. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

Jeannie Hua, Esq., Attorney of record for Appellant, Anthony Barr Clark County District Attorney's Office for the State of Nevada

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THE WITNESS: D-y-c-u-s.
THE COURT: All right. Thank you.
Mr. Scow.
MR. SCOW: Thank you, Judge.

\section*{DIRECT EXAMINATION}

BY MR. SCOW:
Q Terry, what do you do for a living?
A I work in property management. I'm the current property manager at Aviator Suites.

Q How long have you been a manager of that property?
A Since the beginning of June of this year.
Q And as the property manager do you take rent payments and help manage the rooms, who's renting rooms and things like that?

A Correct.
Q Do you get to know somewhat the people that are in the particular suites?

A Yes. I don't deal with the payments as much as I should be doing because I'm an leasing agent, but I do see everybody from time to time.

Q Okay. So I'm going to direct your attention to July and August 2018. Did you provide room records for 142 and 242?

A Yes, I did.
Q I'm going to approach and showing you what's been marked as State's Proposed Exhibits 401 and 402 and ask if you JD Reporting, Inc.
recognize these?
A Yes, the -- this is my rental application, copy of the ID and these are rent receipts.

Q And which room is that associated with?
A This one is 242.
Q And exhibit -- Proposed Exhibit 402 take a look at that.

A Rental application, copy of ID, yep, these are Aviator Suites tickets for room 142.

Q Okay. Who applied for and was on the receipts for Room 242?

A Damien Phillips.
Q Okay. And for 142?
A Vidal Holman.
MR. SCOW: I move for admission of State's Proposed 401 and 402.

MR. HUGHES: Submitted.
MR. BROWER: Submitted, Judge.
THE COURT: All right. They will be admitted.
(State's Exhibit Nos. 401-402 admitted.)
BY MR. SCOW:
Q And are you familiar with who was making payments for both of these rooms?

A Yes. It was to my knowledge that Damien that was the one that was doing the arrangements.

JD Reporting, Inc.

Q We'll just -- just go through a few of these so the jury knows what it is that they're looking at when they see this exhibit. Can you describe what are -- what's on these copies?

A What am I looking at?
Q If you -- the monitor.
THE COURT: It should be on the monitor right there. THE WITNESS: Oh, I didn't even see that. Wow.

BY MR. SCOW:
Q And there's a mouse too that you can move the cursor around as you're pointing to things.

A Okay. So this is week two. Where is week one? Move in, oh, this is the first week. Okay. So this is the -- it just has the room numbers and it goes by date and it looks like he was paying a week at a time. This is his move-in special, 199. There's week three down there and --

Q And can you show where the dates are.
A The dates are at the top. 7/3/18, was the first move-in initial date for --

Q So they moved in on July 3rd?
A Yes, sir.
Q Okay. And then the second payments with these would be somewhat out of order --

A It would be the 10th.
Q -- but the 10th is the last one?

JD Reporting, Inc.

A Yeah. So as you see here it's 7/3 to 7/10 and then it goes from 7/10 to 7/17.

Q Okay. And then the second or the third week payment?
A 7/17 to 7/24. And week four 7/24 to 7/31.
Q Okay. And then it has other receipts for later dates?

A Yeah. So this was his final week of taxes or you see here this one is two days with no tax. And this one -- no, I'm sorry. This is the two days with tax and five days no tax I'm sorry.

Q Okay. And the last -- the last?
A The last date is 8/7.
Q Okay. It's similarly with the other --
A Yeah.
Q And this is Exhibit 402. Does it show when they moved in as well?

A Yep. This is a move-in date of \(7 / 3\). And then that's the 7/10, second week. Let's see where is -- 7/10 to 7/17. And week three the 7/17 to 7/25 --

Q Okay.
A -- four.
Q They -- they had receipts going through about what time that you see there?

A Last one is September 1st.
Q Okay.

MR. SCOW: Pass the witness, Judge.
THE COURT: All right.
Mr. Brower?

\section*{CROSS-EXAMINATION}

BY MR. BROWER:
Q Sir, you just testified that it was your recollection that Mr. Phillips was making payments on Mr. Holman's suite; correct?

A Yes, sir.
Q Okay. And you were just shown a series of exhibits; does that ring a bell?

A Yes.
Q Okay. And on the exhibits you were shown do you see signatures on the receipts?

A Yes.
Q Okay. Now, this is the receipts for Mr. Phillips's rooms; correct?

A Yes.
Q Do you also see receipts for Mr. Holman's rooms?
A Right. Yes.
Q Okay. Now, do the signatures on the receipts, do they look the same for Mr. Holman's and Mr. Phillips?

A No.
Q Okay. They're actually -- they look to you to be different; correct?

A Yes.
Q Now, if Mr. Phillips is paying those receipt or those payments, why wouldn't he be signing the receipts the same?

A Because all he has to do is get a money order for his -- for Mr. Holman's.

Q So a money order paid for the rooms; correct?
A Possibly.
Q Do you sell the money order?
A No -- did I sell the money order?
Q Yeah, did you sell the money order?
A No.
Q So you don't have any --
A There's also --
Q -- idea who purchased the money order; correct?
THE COURT: Well, let --
THE WITNESS: There's also been credit card payments and all that. BY MR. BROWER:

Q Okay. Did you -- did you accept mostly money orders in this case?

A We accept credit cards and money orders.
Q Okay. Do you have the credit card receipts with you?
A No. I did provide those.
Q You show the names of who paid -- was on the credit card?

A We do require ID, yes.
Q Okay. But you didn't bring those?
A No.
Q And you admit that the signatures are different; correct?

A Correct.
Q All right. And you were paid by a money order?
A In which payment? There was multiple tickets there.
Q Some of the payments were made by money order;
correct?
A I can go with that, yes.
Q Okay. And you have no idea who purchased the money order; correct?

A Correct.
Q So you have no idea who was making the payments for the room; correct?

A Correct.
MR. BROWER: No further questions.
THE COURT: Um --
MR. HUGHES: No, no questions.
THE COURT: Any redirect?
MR. SCOW: Yep.
REDIRECT EXAMINATION
BY MR. SCOW:
Q Were you present when payments were made?

A No.
Q Okay. And when you testified initially, you said it was to your knowledge that Damien was paying for both rooms at times?

A Correct.
Q I know you're not a handwriting expert, so I'm not going to ask you to -- but don't these two signatures look different?

A Yes.
Q Doesn't that look like it starts with a D?
A It does.
Q And what about down here?
A It does. And I just want to throw out there too, people can pay on other people's units especially in this incident when they were known to be relatives, that's how they presented themselves to us. So if he wanted to pay a room on his brother or whoever he was, he's allowed to do that, but they're not allowed to grab the receipt. The tenant in that room would have to come down and grab it so.

Q Okay. And they -- you said they presented themselves as --

A As -- as I was -- if they're paying with a credit card, they have to show their ID; we don't just run it.

Q Okay. And you said that Damien and Vidal presented themselves as family or related?

JD Reporting, Inc.

A Correct.
Q Okay.
MR. SCOW: Nothing else.
THE COURT: Anything else?
MR. BROWER: No, Judge.
THE COURT: Mr. Hughes?
MR. HUGHES: Nothing, Your Honor.
THE COURT: Any juror questions for the witness? All
right. I see no additional questions.
Thank you for your testimony. Please don't discuss your testimony with any of the witnesses in this case.

And the State may call its next witness.
MR. SCOW: It's Michael Cromwell.
THE COURT: And then please remain standing. Face that lady right there.

\section*{MICHAEL CROMNELL}
[having been called as a witness and being first duly sworn, testified as follows:]

THE CLERK: Thank you. Please have a seat. State and spell your first and last names for the record.

THE WITNESS: Michael Cromwell. M-i-c-h-a-e-l,
\(\mathrm{C}-\mathrm{r}-\mathrm{O}-\mathrm{m}-\mathrm{w}-\mathrm{e}-\mathrm{l}-\mathrm{l}\).
THE RECORDER: I couldn't hear that.
THE CLERK: Can you spell last name again.
THE WITNESS: C-r-o-m-w-e-l-l.

JD Reporting, Inc.

THE CLERK: Thank you. DIRECT EXAMINATION

BY MR. SCOW:
Q How are you employed?
A I'm a crime scene analyst with the City of Henderson Police Department.

Q How long have you been a crime scene analyst?
A Total approximately 11 years.
Q Has it been always with Henderson?
A No. I've been with Henderson for the past five. I was with Las Vegas Metropolitan Police Department before that, and for a brief period of time I was with the Washington DC Department of Forensic Sciences.

Q Can you describe for the jury your background, education, training and experience that led up to you becoming a CSA.

A Sure. I graduated in 2007 from University of Central Florida with my bachelor's degree in forensic science and a chemistry minor. I hired on with Las Vegas Metropolitan Police Department in 2008 where I underwent a 400 hour crime scene analyst academy followed by a 12 week field training and evaluation program. And since then I have regularly participated in several trainings that are relevant to the field of crime scene investigations.

Q About how many scenes have you worked in your 11 or JD Reporting, Inc.
so years?
A Approximately I believe it's upwards to 2,000.
Q And how many times have you testified?
A Greater than 25.
Q And each of the times that you testified in a trial, did you meet with the prosecuting attorney beforehand?

A Yeah, as a pretrial conference we request or we expect it.

Q Each time?
A Each time.
Q And when -- did you meet with us before this trial in this case?

A Yes, we did.
Q And when you came did you notice other witnesses or officers that were waiting to meet with us?

A When I came I was the only one in the waiting area.
Q Okay. I want to direct your attention to August 9th and August 10th of this year. Were you called to assist with a bank robbery series investigation?

A Yes, I was called to assist with a search warrant regarding that investigation.

Q What was the first search warrant location that you went to?

A It was located at the Circus Circus motel behind the casino.

Q And where was that located?
A 2080 South Las Vegas Boulevard.
Q And you were there to take some images of a room at that location that was being searched?

A That's correct.
Q Do you remember what room?
A I believe 2404.
Q And do you have that documented in your report?
A I do.
Q Because you said you believe it, would it help you to remember for sure by looking at your report?

A Yes, it would.
Q Okay. Go ahead.
A It's correct, 2404, Building C.
Q Okay. And when you -- when you go to that location is it verified who is renting from the location?

A Once inside we located a room receipt that was documented and photographed as well as collected as evidence.

Q Okay. And do you go with a detective that's part of searching the scene and you go to document it?

A Yes. We're there solely to assist the detectives in executing a search warrant.

Q So is it your decision as to what is impounded or not impounded?

A Ultimately, no.

Q I'm going to show you State's images -- Proposed 299 to 317 and ask if you recognize what you see here.

A Yes, these are images from the hotel room.
Q At the Circus Circus?
A At the Circus Circus.
Q Room 2404?
A Yes.
MR. SCOW: Move for admission of State's Proposed 299
through 317.
MR. BROWER: Judge, can we actually see them?
MR. SCOW: These have previously been provided in discovery.

THE COURT: Submit it?
MR. BROWER: I'll submit it, Judge.
MR. HUGHES: Submit it.
THE COURT: All right. That will -- those will be admitted.

THE CLERK: That was 299 through 317?
MR. SCOW: Yes, 317.
(State's Exhibit Nos. 299-317 admitted.)
BY MR. SCOW:
Q Showing you first 315, what is this?
A That's a photo of the exterior just documenting the sign that says Circus Circus Manor.

Q As you document a scene you kind of start big and
then kind of narrow into where you're going?
A Yes. That's correct.
Q What do we see in State's Exhibit 299?
A This is a photo of the exterior of the door leading into Room 2404.

Q 300?
A That's a close-up of the placard with the room number on it.

Q 301?
A That's an overall view of the hotel room once inside. Q 303?

A That's a relationship shot of the desk located in the hotel room to document its contents.

Q And did you get closer up and photograph items of potential evidence on that table?

A Yes, I did.
Q Is 304 kind of moving closer?
A Yes.
Q 306 ?
A That's even closer, yeah.
Q What is it that we're looking at that you're getting close ups of?

A There was open cosmetics containers on the desk.
Q 307?
A Again that's another photo of the open cosmetics JD Reporting, Inc.
container as well as a cell phone.
Q 308?
A Again, another cosmetic container open.
Q Those are all on the little table or desk as you called it?

A Yes.
Q Did you do anything with those cosmetics?
A I collected them and impounded them as evidence.
Q Show you what's been marked as State's Proposed Exhibit 339 and ask if you recognize it?

A Yes. This is the package containing those cosmetics.
Q And how do you know that that's what's contained in there?

A There's a label with the item description as well as the case number as well as my name and information. It has package 2100-001, 2100 is my P number and on the back it's sealed with tamperproof evidence tape both initialed and dated by me.

Q And what's the case number that you did the search warrant under?

A It's 18-15877.
Q And there were multiple of that number and this was just the one that attached to you serving this search warrant and taking pictures?

A I think so, yes.

MR. SCOW: I'll move for admission --
Q And what's contained in here is what we're looking at in those pictures that we just looked at?

A Yes.
MR. SCOW: Move for admission of State's Proposed
339.

MR. BROWER: Submit it.
MR. HUGHES: Submitted.
THE COURT: All right. That will be admitted. (State's Exhibit No. 339 admitted.)

MR. SCOW: And contents.
THE CLERK: What?
MR. SCOW: I'm going to have the witness open it. So
I just need some scissors.
THE CLERK: Mr. Scow.
THE COURT: Does he need gloves?
MR. SCOW: (Inaudible.)
THE CLERK: I have some right here.
THE WITNESS: Thank you.
BY MR. SCOW:
Q And in looking at this, since you impounded it has it been opened or accessed before today?

A It has not.
Q And how do you know that?
A Both my seals are intact and there's no additional

JD Reporting, Inc.
00151098
cuts or seals on the package itself.
Q So if you could go ahead and open it and you can display what's inside. It's already in the bag.

A Yeah.
Q So can you just show it up for the jury the items that you documented by photograph.

A (Witness complies.)
MR. SCOW: Okay. I'll give these back to I think to mark. Put those with the other one. BY MR. SCOW:

Q And you documented other areas inside of that Circus Circus room as well?

A I did, yes.
Q And in 309?
A That is an upholstered chair located in the corner of the room.

Q In 310 is that a closer up of that chair?
A Yes, to document and ID what was on top of the chair.
Q And what's the name on that ID?
A Damien Phillips.
Q 312?
A This is a bag that was located in the room.
Q 311?
A Further images of contents of that bag.
Q And did you -- were you able to see what was inside JD Reporting, Inc.
that bag?
A It looks like miscellaneous cosmetics.
Q 313?
A This is in the bathroom. That's a photograph of towels hanging off of a shutter rod.

Q And then did you take a close-up shot of that as well?

A I did I believe.
Q In 314?
A Yes. That's the close-up image.
Q That's the close-up image?
A Yes.
Q And in Exhibit 317?
A This is a pair of jeans.
THE CLERK: Mr. Scow.
MR. SCOW: Would you like to see a little bit better?
There you go.
THE WITNESS: Still a pair of jeans.
BY MR. SCOW:
Q Still a pair of jeans. Well, that was impressive.
That's the front of the jeans?
A Yes.
Q And then 316?
A That's the back.
Q Just showing the overall condition of those pants? JD Reporting, Inc.

A Correct.
Q Of note are there some tear holes on both knees?
A Yes.
Q And other defects in the pants?
A Correct, yes.
Q You mentioned a receipt that you located in the room; where was that?

A Do you mind if I look at my report?
Q If you could look -- yeah, go ahead look at it and see.

A The receipt is Item No. 7, and it was located on the end table.

Q Was that the one between beds?
A That was the one next to the chair.
Q And we'll show you State's Proposed Exhibit 333 and ask if you recognize this?

A Yes. Again this is my package containing one Circus Circus Manor room receipt dated 8/7/18.

Q And is this the receipt that you found inside room 2404?

A Yes, it is.
Q And as was asked with the other package of evidence, has this been opened since you impounded it?

A No, it has not.
MR. SCOW: Move for admission of State's Proposed 333

JD Reporting, Inc.
and contents.
MR. BROWER: Submit it, Judge.
MR. HUGHES: Submitted.
THE COURT: Okay. 333 and contents are admitted. (State's Exhibit No. 333 admitted.)

BY MR. SCOW:
Q I'll ask you to open this as well.
A (Witness complies.)
Q Showing you the contents which we've marked as 333A. This is the receipt you found?

A Yes.
Q And the name of the person that was renting the room per the receipt?

A Per the receipt it's Sabrina Henderson.
Q After you documented the scene at Circus Circus, took those pictures, grabbed some items of evidence that you later impounded, what scene did you do after that?

A I then responded to the Aviator Suites located on North Las Vegas Boulevard.

Q I'm going to show you what's marked as State's Proposed to 266 through 3 -- I'll do that one later.

MR. SCOW: These are different sections. Just give me a second. 266 through 275 first and then 319 through 327. BY MR. SCOW:

Q While they look at those, I'll have you look at these JD Reporting, Inc.
ones first. And these are 266 through 275. Do you recognize those?

A I do.
Q What are those?
A They are photos from the Aviator Suites specifically room 142 and room 242.

Q Okay. And then 319 to 327?
A These are also photos looking at the Aviator Suites of a vehicle parked outside.

Q And these are the photographs you took August 9th when you went to Aviator Suites?

A Yes, they are.
MR. SCOW: Move for admission of State's Proposed 266 through 275 and then 319 to 327.

THE COURT: Submit it?
MR. HUGHES: Submitted.
MR. BROWER: Submit it, Judge.
THE COURT: All right. That will -- those will all be admitted.
(State's Exhibit Nos. 266-275 \& 319-327 admitted.)
BY MR. SCOW:
Q Room 142 that's the room number from Exhibit 266? THE COURT: Is that just a picture of the room number there?

THE WITNESS: It is.

BY MR. SCOW:
Q And then 267, is that a picture of the interior after you took the room number picture?

A It is.
Q Did you impound anything from the Room 142?
A 142 a number of cell phones and I believe currency. U.S. currency was recovered from that room.

Q Okay. And then 268, is that a number for the -- on the exterior of the door?

A Yeah, of Room 242.
Q And 269 is that showing the inside of that apartment?
A Yes.
Q And if you zoom in on the door, I think you caught the number on the door?

A Yes. Correct.
Q So in the kitchen there's like that dog cage and the dog inside?

A Yes, there was.
Q And then there this 270 just kinda getting more into the room now?

A It is.
Q Didn't -- oh, I meant to go out. Do you see anybody in the picture that you recognize?

A You can see me in the mirror.
Q And just overall room condition 271?

A Yes.
Q \(\quad 273\) in the kitchen area?
A Yes; correct.
Q In 275 in the bathroom?
A Correct, yes.
Q And the other photos you took, 319 what is this showing?

A This is showing a Mazda Protégé that was parked outside.

Q We already previously admitted 318.
A Another view of that same vehicle.
Q 320?
A Another view of the same vehicle.
Q Just the back with the license plate?
A Correct.
Q In the interior 321?
A Yes, looking into the front passenger door.
Q And then you documented some of the items within that vehicle as well?

A Correct.
Q Is that showing in 325?
A Yes, that was in the rear cargo area.
Q 326?
A Yes, that was a BB gun that was located inside.
Q 327?

A This is the vehicle registration of that vehicle.
Q And who is it registered to?
A Damien Phillips.
Q Did you do anything else on August 9th as far as documenting evidence or going to process the scene?

A There was another vehicle that we processed on consent that was outside, and no evidence was recovered from that vehicle.

Q Is that a vehicle belonging to Vidal Holman?
A I don't recall who it belongs to. It was a Tahoe or a Suburban.

MR. BROWER: Judge, he's referring to his notes. I'd ask before he can use that if he --

THE COURT: I'm sorry?
MR. BROWER: He seemed to be just referring to his
notes without questioning.
THE COURT: Were you referring to your notes there? THE WITNESS: I was. May I look at my notes? THE COURT: Would that refresh your memory?

BY MR. SCOW:
Q As you sit there now you don't remember whose vehicle that was?

A I don't know whose vehicle that was. I can just give you a description of the vehicle.

Q Is it reflected in your notes?

A The description of the vehicle is.
Q But not the owner of the vehicle?
A Correct.
Q Okay. So it would not refresh your recollection if you looked at your notes?

A No.
Q Okay. The next day August 10th were you asked to assist further in the investigation of the bank robberies in executing search warrants?

A Yes, I was.
Q Where did you go or what were you asked to assist with on the next day?

A A search warrant of another vehicle that was -- had been towed to our criminalistics garage.

Q I'm going to show you State's Proposed Exhibits 276 through 298. Although one of them has already been admitted; it is Exhibit 277. And then a different set 390 through -- it looks like 390 is the last one. 385 through 390.

A Okay. These are vehicle or photographs of the vehicle taken during that search warrant.

Q Okay.
A And these are also photographs I had took of the same vehicle during that same search warrant.

Q Photos you took on August 10th, 2018?
A Correct.

Q Where were these photos taken?
A In our criminalistics garage located at our main station.

Q When you first saw the vehicle, was it sealed in a sealed condition?

A Yes, it was.
Q And describe for the jury how it's sealed.
A The doors, trunk and hood have red evidence tape covering, you know, so preventing them from being opened. And they were all intact showing that the doors, hood and trunk were not opened previous.

Q All right. So I'm going to show you first State's Exhibit --

MR. SCOW: I'd move for admission of those proposed exhibits.

MR. BROWER: Submit it, Judge.
MR. HUGHES: Submitted.
MR. SCOW: So it's 276 to 298.
THE COURT: All right. Those will be admitted.
(State's Exhibit Nos. 276-298 admitted.)
MR. SCOW: And then the second batch was 385 to 390.
MR. BROWER: Submit it as well, Judge.
MR. HUGHES: Submit it.
THE COURT: All right. 385 through 390 is admitted. (State's Exhibit Nos. 385-390 admitted.)

JD Reporting, Inc.

BY MR. SCOW:
Q Showing you first 276. Just tell us what you see as we put these up.

A This is the photograph of the vehicle from the front end of the vehicle.

Q 277?
A This is the backside of the vehicle.
Q 278 you just kinda do every side of the vehicle just to get the condition on each side?

A Correct.
Q And then 280?
A This is the license plate that was attached to the inside of the rear windshield.

Q And as you're looking at that the one picture made it seem like you couldn't see anything in the car at all when we look at 277, but the way that this picture documents the car 280 you could see into the vehicle?

A Correct. It had tinted windows, but as you got closer to the vehicle and you could focus your flash on that particular area it was able to illuminate the plate.

Q So does the lighting have an effect on how the tint of the window appeared?

A It can. You can shine light through it.
Q So on the front of the vehicle in Exhibit 390 did you take a picture of the VIN?

A I did. And this is the photo of that.
Q And can you read that into the record for us.
A It's 2MELM75W6RX655459.
Q 282 a closer up of the back of the vehicle?
A Correct.
Q And as you get into the inside 283?
A That's in the inside as viewed from the opened driver door.

Q 284?
A Another photograph of the inside as for the rear driver's side door.

Q 285?
A That is looking down at the floorboard and what's on the seat of the rear driver's side passenger seat.

Q And what was on the floorboard of the rear passenger area of that red Grand Marquis?

A There was a BB gun on the floorboard there.
Q 286?
A That's a photo -- a close-up photo of the BB gun that was located on the floor.

Q Did you collect that item of evidence?
A Yes, we did.
MR. SCOW: Did you mark this one? Is this one marked?

THE CLERK: (Inaudible.)

BY MR. SCOW:
Q I'm going to show you what's just been marked as State's Proposed Exhibit 404 and ask if you recognize that?

A I do.
Q What is it?
A This is the BB gun that was impounded from that vehicle. It is in a gun box secured inside and a label with the case information, again my information and the description of the evidence inside on the front.

Q And it's under that same event number of the previous packages that we went through, the one ending in 15877?

A Yes.
Q And what's -- what's contained in this box?
A Inside is Item No. 2100-007-012, and it is one SIG Sauer P226X5C02 pistol, point 177 caliber serial number 60631954.

Q Okay. And is it -- is what's inside what's documented on the photograph that's being displayed at this time?

A Yes.
MR. SCOW: And for the record that's in Exhibit 286. BY MR. SCOW:

Q Which tape on here is yours?
A The red tape is ours and then the blue tape would be the forensic labs.

Q Okay. And does Henderson have a firearms forensic lab?

A No, we do not.
Q So if it's going to be examined or looked at would it be sent to another jurisdictions lab?

A Yes, it would.
Q Which lab is that?
A LVMPD.
Q And I'm gonna ask you the condition of the tape, has your tape been disturbed?

A Yeah, my tape has been broken; however, the blue tape is intact.

Q Okay.
MR. SCOW: So I'll move for admission of State's Proposed 404 and contents.

THE COURT: Submit it?
MR. BROWER: Submit it, Judge.
MR. HUGHES: Submit it.
THE COURT: All right. That will be admitted. (State's Exhibit No. 404 admitted.)

MR. SCOW: And I want to have him open it at this
time.
THE COURT: Okay.
BY MR. SCOW:
Q Looking back at 285 you'd mentioned some contents on
the rear seat of the vehicle?
A Yes.
Q So the blue bag and some contents?
A That's what it looks like, yes.
Q And were there other -- you documented other items that were located within the vehicle; is that correct?

A Yeah, we try to document what the contents of that vehicle.

Q I'm going to show you now what's marked as State's -or State's Exhibit 298; what was this?

A A makeup case.
Q Do you recall where that was located in the vehicle?
A I do not.
Q That was something that you documented?
A Correct.
Q 297?
A A close-up of just more cosmetics.
Q Were those items that you recovered?
A No, they were not.
Q Showing you Exhibit 289.
A That's a photograph inside the trunk of the vehicle.
Q A blue bag?
A Correct.
Q Okay. And when you take pictures of the cosmetics like that on top of something else, what does that indicate to JD Reporting, Inc.

A That that's where they were removed from.
THE COURT: Maybe this would be a good time to take another break.

MR. SCOW: Okay.
THE COURT: Ladies and gentlemen we're going to go ahead and take another break just till 12:25.

During the brief break, you're all reminded you're not to discuss the case or anything relating to the case with each other or with anyone else. You're not to read, watch, or listen to any reports of or commentaries on the case, person, or subject matter relating to the case. Don't do any independent research by way of the Internet or any other medium, and please do not form or express an opinion on the case.

Please leave your notepads in your chairs and follow the bailiff through the double doors.

And, sir, during the break, please don't discuss your testimony with anybody, okay.
(Jury exiting 12:12 p.m.)

THE COURT: All right. Scheduling, how much longer do we think with this witness?

MR. SCOW: I have probably five or six more questions. I was almost done.

THE COURT: Sorry.

MR. SCOW: That's all right.
THE COURT: I don't know these things.
MR. SCOW: I know.
THE COURT: And then cross what do we think?
MR. BROWER: Judge, I'm -- I don't anticipate many
questions at all.
MR. HUGHES: My average.
THE COURT: Okay. And then the ballistics --
MS. SCHIFALACQUA: Correct.
THE COURT: -- and that's it?
MS. SCHIFALACQUA: And that's it.
MR. SCOW: Yeah.
MS. SCHIFALACQUA: Correct.
MR. SCOW: We'll finish probably by 1:00 maybe a little after 1:00.

THE COURT: Okay.
MR. SCOW: The ballistics I don't think will be that long.

MS. SCHIFALACQUA: It's a functionality test, Your Honor.

THE COURT: All right. So --
MS. SCHIFALACQUA: There's --
THE COURT: -- if we finish a little after 1:00 then maybe when we take a break I'll canvass the defendants --

MS. SCHIFALACQUA: Sure.

THE COURT: -- at the next break because it'll be late, and that way if they're going to testify it'll be Thursday --

MS. SCHIFALACQUA: Sure.
THE COURT: -- because it sounds like probably we're going to be really close to the 1:30 time.

MR. SCOW: I would think so.
THE COURT: So, yeah, I'll just do their canvass at the break, and then they can think about it for the next day and a half.

MR. BROWER: I would hope we would know before that, Judge, just to prepare our --

THE COURT: Well, I know but.
(Pause in the proceedings 12:14 p.m. to 12:26 p.m.) (Jury entering 12:28 p.m.)

THE COURT: All right. Court is now back in session. And you may resume your questioning. MR. SCOW: Thank you, Judge.

BY MR. SCOW:
Q Showing you 386. It's just more pictures documenting the condition -- the overall condition of the vehicle?

A Yes, it is.
Q 387?
A Another photo documenting the condition of the vehicle.

Q As you guys were taking these pictures you guys didn't do anything to roll windows down or up or just you just documented the condition it was in at the lab after it had been brought there and sealed?

A That's correct.
Q And then the last thing we cover, last couple photographs are, are these images you took of the firearm at a different location before they were -- before you put this in the box to impound it?

A Yes, just close-ups of that firearm.
Q 291?
A Like, another close-up of the firearm with the magazine removed.

Q And it's at the flip side of the firearm from the last picture?

A Yes, it is.
Q Okay. And it gives you different information, the make, model, the caliber, things like that?

A Yes.
Q All right.
MR. SCOW: I will pass the witness, Judge.
THE COURT: All right.
Mr. Brower.

JD Reporting, Inc.

BY MR. BROWER:
Q So you said when the car was brought to you it was sealed; correct?

A Yeah, the doors, the trunk and the hood were sealed.
Q So I guess my question is how do you seal a car if in 386 the windows are open? Isn't it true that anybody can just reach in and move things or place things or do anything else?

A This is how the vehicle was when I first came to it.
Q So it's not really sealed?
A The doors were sealed. There was tape over the door preventing them from being open, but, yes, the windows were opened in that.

Q Okay. And to your knowledge people can reach in opened windows; correct?

A Reach in to open the windows?
Q Well, in your life experience when a window's open can you stick your hand through it?

A You can.
Q Can you take -- can you go to the drive through; can they hand you something and you get it back?

A But in addition to being secured or sealed it's also in our secure laboratory.

Q Okay. But -- okay. Well, I guess we'll differ around what the term sealed is.

JD Reporting, Inc.

MR. BROWER: And I'll pass the witness.
THE COURT: Mr. Hughes.
CROSS-EXAMINATION
BY MR. HUGHES:
Q Sir, as I understand it, you were present during execution of the search warrant executed at the Circus Circus Manor; is that correct?

A That's correct, yes, sir.
Q Was your job there simply to take photographs or did you do other crime scene analysis duties?

A It was to document the room, and the detectives were searching the room. I'm then ultimately to collect any evidence that was seized.

Q So nobody was dusting for prints?
A No.
Q Nobody was checking for DNA?
A Not in the room, no.
Q How about at the Aviator Suites where you searched two places pursuant to a search warrant; is that right?

A Two rooms and then the vehicle.
Q And was -- was part of your duty there to check for fingerprints?

A No. It was simply to document the search and collect any evidence that was taken.

Q You say collect evidence, were you able to make a JD Reporting, Inc.
determination as to whether something would be evidence and collected, or were you simply told what to collect?

A I worked hand in hand with the detective, but ultimately they were the ones who decided what was collected and what was not and pursuant to search warrant.

Q So how were you working hand in hand with them if they're making the decision, you had no input?

A They ultimately have the input and as well as the search warrant.

Q Did you make any suggestions on collection of evidence that you ran by them and they rejected?

A Not that I know of.
Q Did you have an understanding as to why you were asked to photograph certain items?

A In some cases, yes, some cases no.
Q Do you know why you were -- or do you have an idea why you were asked to photograph makeup?

A Based on the search warrant and just based on the crime and the -- what they told me at the crime they said that this would be relevant --

Q Okay. I don't want to -- that would be hearsay.
A Okay.
Q Do you have any understanding as to whether any females were registered to the room you were searching?

A The name on the receipt appeared to be a female's JD Reporting, Inc. \(0_{001532} 120\)
name.
Q So it would not be unusual to have cosmetics in the room with at least one female in it; right?

A It might not be, no.
Q Did you have an opportunity to see the vehicle registration on the vehicle that you searched at the Henderson impound area?

A I don't recall. Typically we will photograph it if we see it.

Q And if you did, you have no memory of the name on it, do you?

A I don't, no. MR. HUGHES: All right. That's all I have. Thank you.

\section*{THE COURT: Any redirect?}

\section*{REDIRECT EXAMINATION}

BY MR. SCOW:
Q So when you're with detectives executing a search warrant and documenting a scene, things that you come across, can you just seize anything that you want, or is it tied to a search warrant?

A Everything we see is tied to the search warrant.
Q So if there's something that's not in the search warrant, you can't seize it?

A Correct.

Q I'm going to show you State's Exhibit 356. I'll just let you look at it in person. If you go ahead and look on the VIN for that vehicle on that DMV record. And now showing you Exhibit 390, the picture that you took of the VIN.

A Yes. They are the same.
Q Same number?
A Yes.
Q And now the registration from State's Exhibit previously admitted by stipulation 356. It shows a request date of 11/21/2018. The last transaction was September 1st, 2016, as far as registration goes; is that right?

A That's what it says on the receipt of the registration.

Q On the DMV record?
A Yes.
Q And the last person to register it back in
September 2016 was Joseph B. Vernato [phonetic]?
A That's what this says, yes.
Q So you didn't find any current registration, documentation of that vehicle, did you?

A I don't recall.
Q Because the last one was from September 2016 per the DMV records?

A That would make sense. MR. SCOW: No questions left.

THE COURT: Mr. Brower.
RECROSS-EXAMINATION
BY MR. BROWER:
Q You did find or take photographs of a temporary moving permit though; correct?

A Was that what was fixed to the rear windshield?
Q I'll show you what was --
MR. BROWER: Your clerk is ahead of me, Judge.
BY MR. BROWER:
Q Page or excuse me Exhibit 385, so what did you take a photograph of?

A The temporary license plate with a Texas 30 day permit.

Q Okay. And you don't have any registration information that you gleaned off of this? Did you take a copy of or a photograph of the other side?

A I took a photograph of what was shown in the rearview mirror or I'm sorry, in the rear windshield.

Q Okay. So when you were showed the 2016 information this actually comes up with 2018; correct?

A This states on here 2018.
Q And that's the last DMV items that you photographed; correct.

A That was affixed to the vehicle, yeah.
Q All right. But you photographed that; correct?

JD Reporting, Inc.

A I did.
MR. BROWER: All right. No further questions, Judge. MR. HUGHES: Nothing further.

THE COURT: Anything else?
MR. SCOW: Nope.
THE COURT: Do we have any juror questions for this
witness? All right. I see no additional questions.
Thank you for your testimony. You are excused at this time.

THE WITNESS: Thank you.
THE COURT: And the State may call its next witness.
MS. SCHIFALACQUA: Thank you, Your Honor. The State calls Jerry Wilcox.

Heavier than I thought, sorry.

\section*{ROY WILCOX}
[having been called as a witness and being first duly sworn, testified as follows:]

THE CLERK: Thank you. Please have a seat. State and spell your first and last name for the record.

THE WITNESS: My name is Roy Wilcox. R-o-y, W-i-l-C-O-X.

THE COURT: All right. Thank you.
Ms. Schifalacqua.
MS. SCHIFALACQUA: May I?

JD Reporting, Inc.

BY MS. SCHIFALACQUA:
Q Did go by Jerry?
A Sometimes. That's my first name.
Q Okay.
A I -- it's on all my official documents. LeRoy is my middle name and I've gone by Roy my whole life.

Q Okay. And so your official name is Jerry Wilcox, but you're referred to as Roy?

A That's right.
Q Okay. Can you tell the members of our jury, please, Mr. Wilcox, how you are currently employed?

A I am currently employed as a forensic scientist for the Metro Police Department in the forensics lab. I am assigned to work in the firearms detail.

Q Okay. With regard to firearms forensic scientist what type of education do you have, sir?

A I have a bachelor of science degree in zoology from Brigham Young University. After I completed that I began work, a training program which took about two years, very intensive about firearms. This was with the Phoenix Police Department where I started, and after completing that and passing a series of competency tests and proficiency tests I was able to start firearms examination work.

Q Now let me go back and ask you -- you indicated

JD Reporting, Inc.

Phoenix Police Department, how long did you work there in firearms analysis?

A Almost eight years. It was 7 and 10 months, something like that.

Q Okay. And then ultimately you come to work for Metro's lab; is that right?

A That's correct.
Q About how long have you been with Metro's lab now?
A In a few weeks it will three years.
Q Okay. And with regard to firearms and tool mark analysis, can you talk -- you talked a little bit about it in intensive training, but talk about the training that you have received to do this type of work, sir.

A The two-year training program that I talked to is a pretty standardized program that is utilized by every accredited lab in the country, many of them around the world. This was put together by a body called AFTE which is -- stands for the Association of Firearms and Tool Mark Examiners. This is the largest professional organization of forensic firearms examiners such as myself; I am a member of that organization. And as a member I also voluntarily took and passed their certification program which was additional testing both tests and practical tests, and so I am AFTE certified firearms examiner as well.

Q Okay. How long -- well let me go back and ask so JD Reporting, Inc.
it's clear for our jurors. You talked about accredited labs, is Metro's lab accredited with firearms and tool marks?

A Yes, it is.
Q Okay. And how many cases over your career you said almost eight years with Phoenix PD about three years here, how many firearms, sir, do you believe that you've analyzed?

A Hundreds. From the time I started I've probably looked at easily 4- or 500 firearms in regular casework.

Q Now, can you please describe to our jury what our -what is your area, what is firearms and tool marks? Those are kind of not layman terms. So can you describe for them what it is you do.

A In a case usually I will receive a firearm or components of a firearm or components of ammunition, and a big part of my training was to learn how firearms function, how they function and what kind of tool marks they can impart on the components, the ammunition components. A tool mark that I'm referring to would be where a hard object comes in contact with a softer object. For example, if a firing pin on a gun hits a primer on a cartridge, that creates pressures, and the dimpling of that firing pin would be considered a tool mark. So when the pressures rise inside a firearm a lot of things happen. Tool marks are made, the firing pin impression is one of them. And so occasionally I'm asked just to look at a firearm and discover whether it is operational as designed, if JD Reporting, Inc.
it has been modified and then sometimes also match components of ammunition back to that firearm in question.

Q And so if I can break a little bit of this down for our jurors. You first can talk about the functionality of a gun or a firearm; is that right?

A Correct. Yes.
Q And you can analyze the functionality?
A Yes.
Q Is it in working order, what is the length, the size, the weight, all of that; is that correct, sir?

A Yes.
Q Okay.
A In fact, most of our examination is to discover whether it is operational as designed, how was it designed, how was it meant to operate. And then we look at things like safety, trigger pull, modifications to length and then our report includes those things.

Q And you also have a capacity to if, for example, cartridge casings from firearms were collected on a particular scene and/or what evidence recovered to see whether or not those tool marks indicated it was fired from that particular weapon; is that also something that you're able to analyze?

A Yes. That's one part of it.
Q Okay. And that's kind of layman's terms of microscopic detail, forensic analysis with regard to markings JD Reporting, Inc.
on potential items of evidence; is that fair?
A That's correct. And a big part of it is the training and experience I receive allows me to create a value to the tool marks that I see understanding how they were created during the normal functioning of this firearm. So that all comes into play.

Q Okay. And in this particular case you weren't asked to analyze any particular cartridge casings or evidence of items to a gun, but you were asked to analyze a gun that was collected in this case; is that right?

A That's right.
Q And I'm going to actually first approach with what's been provided previously as State's 395 through 400.

Mr. Wilcox I'm going to show you a series of photographs if you can look at those, and when you're done feel free to look up at me, please.

And you recognize what's depicted in these
photographs?
A I do.
Q In fact, are these photographs that you took of the gun that you analyzed in the instant case?

A Yes, they are.
Q Okay.
MS. SCHIFALACQUA: And I'd move for admission of 395
to 400.

MR. BROWER: Submit it, Judge.
MR. HUGHES: Submit it.
THE COURT: All right. 395 through 400 are admitted. (State's Exhibit Nos. 395-400 admitted.)

BY MS. SCHIFALACQUA:
Q And I'm going to now show you, Mr. Wilcox, what's been admitted as State's Exhibit 404. What are we looking at here, sir?

A This is how such evidence is packaged currently. It's a firearms cardboard box, and I noticed there's a label here which I actually had photographed and also a series of markings, also notation of chain of custody which we write on the outside. I also recognize here that I have my seals with my dates and my signature showing that I received them in chain of custody and now I turned it back.

Q So let's walk through what you were asked to analyze a gun that was under this Henderson event number 18-15877; is that right?

A Yes.
Q And then when this piece of evidence comes to you, your lab, it's Metro's lab, it came from Henderson, however; is that right?

A I'm not sure how it comes through. I get notified that I have a case to work and then it -- the vaults talk to each other and I do get it. The chain of custody is all noted JD Reporting, Inc.
along the way.
Q So you're not responsible for getting it over to you, but you're responsible thereafter taking, for example, the condition of the box, and I'll show you for our jurors photographs of how it looked when you received it?

A Yes.
Q And then you thereafter opened the seals, the red seals that were already placed?

A Yes.
Q After you do -- well, let's walk through. What did you do in this case, sir?

A After I had noted that everything was sealed by the previous possessor, I cut all the seals, opened it up, took the pictures, and then I removed the zip ties that were holding this pistol in there and began my examination noting manufacturer, noting condition, noting everything that I could about -- about it externally.

Q And let's have you open this for our jurors, sir. For the record let me make clear. Is this in the same -substantially the same condition as it was after you had examined it?

A It appears to be my seals that I put on are still intact, and they are very tamper evident when they start getting played with.

MS. SCHIFALACQUA: Permission of the witness to open JD Reporting, Inc.
the evidence, Your Honor.
THE COURT: Go ahead.
THE WITNESS: (Witness complies.)
BY MS. SCHIFALACQUA:
Q You can go ahead and hold that up to show it to the jurors, please.

A It's zip tied to the box.
Q And -- well, you want to just --
A Okay.
Q Yeah. We'll start with that. So you -- when you receive it, it's also zip tied to the box, this is the firearm box that has holes in the back to hold the -- or excuse me, a gun box to hold the gun?

A It just keeps it from rattling around. I put them through the back and to hold it in place plus there's a zip tie going through the action from the magazine well up through the chamber area which keeps everything from closing and locking up.

Q And is also there a magazine?
A This is a magazine as I received. And this is also a spent CO2 cartridge which was inside the magazine when I received it.

Q Okay. So let's talk about your analysis for this particular gun. What type of gun is it, sir?

A There -- this is modeled after a SIG Sauer P226

JD Reporting, Inc.

\section*{firearm.}

Q Okay.
A It is a CO2 powered pneumatic gun. It's designed to fire a projectile using -- using compressed air from a CO2 cartridge which is inside of the magazine.

Q And so when you referred to things like a pneumatic -- pneumatic pressure, is that by air or by gas?

A Yes, it would be a prepressurized gas or air and in this case CO2.

Q Okay. So in this case the pneumatic pressure is the CO2; is that right?

A Yes.
Q Okay. And you said it's modeled after a SIG Sauer pistol, but it is a for layman's purposes we don't go around saying pneumatic weapon, but for layman's purposes it's a BB gun; is that right?

A Yes.
Q Okay.
A BB and might -- maybe it can fire pellets as well. I tested it with BBs, but it's designed to fire small objects, small metal objects.

Q Okay. And what is -- can you describe for our jurors what a ball bearing is?

A A ball bearing could be -- would be a small metal sphere in various sizes. They're generally used to reduce JD Reporting, Inc.
friction and moving parts, but it would be a very small, very hard metal or maybe ceramic sphere.

Q With regard to this CO2 powered pistol or gun, was this designed to shoot metal BBs?

A Yes.
Q Okay. And did you in fact shoot this gun, this particular gun?

A I did.
Q Can you describe for the jurors what you do to test the functionality so that you know that it's working.

A With -- with this particular one after I had gone through and recognized that every -- all the linkages, everything appeared to working as designed before I fire it, then I took the spent CO2 cartridge out. I went to our range, and I set up a chronograph which is designed --

Q Let me stop you there. What's a chronograph?
A It's designed to measure velocities. It's basically speaking there's a few checkpoints that shine light into a sensor and as something passes between the light and the sensor it recognizes and measures the time spent to travel a known distance. So then a little machine if it reads the shadow going across it, going through it, then it will spit out a speed that is calculated. So we have a chronograph, and I set that up within our range.

Q After you set up the chronograph, what did you do,

Mr. Wilcox, with this gun?
A The chronograph first of all what I did with it is I took a standard firearm and I made sure that the chronograph was set up properly by firing a .9mm Luger bullet through it, and it came up with a pretty standard speed, what I would expect for a .9mm Luger pistol. And then I proceeded to set this up, get it ready to fire, and in doing so I took out the spent CO2 cartridge. I put in a new one that we have there at the lab, and I filled the magazine with 4.5 mm standard BBs, which it says on the side of this pistol that it's sized for.

Q And so that's what it's designed to shoot?
A Yes.
Q Okay. Go ahead. What did you do next?
A So I set up the magazine, filled it up, and I put in the CO2 cartridge and began turning it down to puncture the seal and prepare this pressure to be used by the gun with every pull of the trigger a small amount would be released to fire the projectile down the barrel.

Q And so were you able to fire one of the BBs out of this SIG Sauer pneumatic gun?

A What happened is with this particular one is when I put in the cartridge and turned it down, I could hear pressure. I could hear gases escaping. I noted --

Q How did that lead you to believe?
A I realized that what that meant is that there is a JD Reporting, Inc.
seal that was likely just broken inside of this pistol, but it was a slow enough leak that I walked into the -- the range and went ahead and we've -- were able to fire, and I got a few measurements through the chronograph speed measurements, not as many as I would have liked, but that's expected with such a small projectile. The chronographs do not always measure the travel through all three of the planes that they measure. But I was able to get three and noted three measurements.

Q Okay. So there -- so our jurors aren't confused by that, if you weren't able to get some of those measurements or when you weren't able with regard to BBs, that wasn't unusual in your experience?

A It's not unusual for that size. That size of projectile it -- in my experience I've done a lot of these BB guns, and I've had to shoot many times to get a few measurements. So in this case I shot probably 20 -- 20 something times BBs through this and I got three measurements.

Q And the -- however, the gun itself did function the BBs shot through as it is designed to do, sir; is that right?

A Yes.
Q Describe for our jurors what a trigger pull is. And how do you measure it?

A Trigger pull is the amount of pressure that the manufacturers have designed to allow for the firing of the firearm or pistol. In this case it had a distinct point where JD Reporting, Inc.
the trigger once it was pulled it released and then it would release this burst of air behind the BB and propel it down the barrel.

Q Sir, are you able to analyze and get what the amount it is for a trigger pull in this case for this gun?

A Yes.
Q And what was that? Do you remember or would look --
A I'd like to look at my notes if that's okay?
Q Sure. Absolutely.
A This particular pistol has both a double action and single action trigger pull.

Q What does that mean?
A What that means is that there's a physical hammer that's pulled back. With the pull of the trigger the hammer can be pulled back and then released that would be called a double action. Usually there's a little more pull required because you're cocking the hammer back and then releasing it. Or if I with my thumb pull the hammer back and it locks rearward and then I pull the trigger, then that's a different amount of pressure to release from that state which would be a single action.

Q What was the double and what was a single?
A In single action it was two and a half to two and three-fourths pound of pressure and in double action it was seven and three-fourths to 8 pounds of pressure.

JD Reporting, Inc.

Q And did the magazine -- did you know how many BBs it could hold?

A I did. This magazine -- this particular magazine I was able to put 214.5 mm the standard BB s size into the magazine.

Q And if you could now, I'm going to have you take the gun out of the box. And then if you could cut.

A Let's see if this works. This is really hard.
Q I'm not going to have you, however, take out the magazine.

A The magazine's out. It's over here.
Q Okay. I mean, excuse me, place in the (unintelligible) I meant take it out of the box.

A I'm going to break your scissors.
Q Well, not quite.
I want you to talk to the jurors a little bit about you indicated kind of the make of this gun. You indicated that it's modeled after a SIG Sauer firearm pistol. Are you familiar -- you indicated you did analysis on a number of pneumatic gums as well as traditional firearms; are you familiar with the traditional firearm SIG Sauer that this is modeled after?

A Yes. Yes, I've seen it in many cases.
Q Okay. And with regard to that when I picked up the box if you heard I made a noise a little earlier, is that
weighted like a regular traditional firearm?
A I did not weigh it and compare it exactly, but it's got pretty significant heft with it. If I were to put them side by side I imagine it's very close to what a traditional SIG Sauer P226 would weigh.

Q What are the other characteristics of a traditional SIG Sauer that you see represented in this pneumatic gun?

A Well, it's similar in how the hammer moves. Also I noted with this pistol is with every pull of the trigger part of the energy imparted by the cartridge causes the slide to move back and forward thereby cocking the hammer which is exactly the same as a SIG Sauer 223 firearm would do. So with every pull of the trigger this would come back and set the hammer for a single action trigger pull.

Q With the naked eye without having the advantage of the CO2 cartridge, can you see the differences between a traditional SIG Sauer and this one that's the pneumatic gun?

A The only way that \(I\) know that this is not an actual SIG Sauer P226 actual firearm is because I looked at the markings on the side, and I'm familiar with how this particular pistol functions and that took me looking at it, pulling it apart, looking at how the magazine was built and noting how the chamber was designed.

Q What about from the front, if the barrel is towards you was there anything indicative on the front of this -- I'm JD Reporting, Inc.
going to put this down -- is there anything indicative on the front? You said that you looked at the side. You looked inside the chamber. Was anything in the front that you would have been able with your naked eye even as you've analyzed guns for a living, is there anything that would with your naked eye be able to make you tell the difference?

A With regards to how this is designed from the front, the hole here, the mouth, the muzzle is designed to look larger than a 4.5 mm BB. If you look down inside, you can see the smaller barrel, but you have to look for it. Just looking at the side like this it looks as though it's chambered for a . 9 mm maybe a . 40 Smith and Wesson bullet. It looks from the front it looks real.

MS. SCHIFALACQUA: Court's indulgence. I pass the witness, Your Honor.

THE COURT: All right.
Mr. Brower.

\section*{CROSS-EXAMINATION}

BY MR. BROWER:
Q So you differentiated a few times between a firearm and what you're holding in your hand; correct?

A That's right.
Q Okay. And you said you're a firearms examiner?
A I am.
Q Okay. So what is the true difference between a JD Reporting, Inc.
firearm and what you're --
A Firearms rely on a combustion event. They require a primer to go to allow for a rapid increase of pressures. So in this case I don't call this a firearm. It doesn't meet the definition because there's a container of prepressurized gas in there that is released and provides that energy to push the projectile down the barrel.

Q So this is not a firearm?
A It is not.
Q Okay. And you also testified that there was -- when you placed a new cartridge or CO 2 cartridge in the not a firearm, you noticed a leak; correct?

A That's right.
Q Okay. How long did it take for that leak to -- well, how long did it take to empty the CO2 cartridge?

A Well, what I did is -- is I -- as soon as I realized there was a leak, I went quickly into the range. I put the cartridge in, magazine was out of this pistol and I put it in, and I was going to take it in and load it in. Normally there isn't a leak, but as soon as I put it in there and I heard the gas leaking, we went straight into the range and I began shooting.

If I remember correctly, I got maybe 8 or 10 shots off before the cartridge had to -- had diminished noticeably and so I pulled it out and put in a new one. So in my 21 BBs

JD Reporting, Inc.
that I fired, I used two CO2 cartridges, and there was a little bit left over after that.

Q Okay. And how long did that take?
A Just a few minutes.
Q Okay. So you believe -- did you -- so you didn't test the actual how long the leak lasted; correct?

A No. I just noted that there was.
Q Okay.
MR. BROWER: I'll pass the witness, Judge.
THE COURT: Mr. Hughes.

\section*{CROSS-EXAMINATION}

BY MR. HUGHES:
Q Sir, as I understand the totality of your testimony is the soft air pellet gun that you tested was operable for mere moments after a new CO2 cartridge was placed in it; is that correct?

A Most of what you said is correct except it was not an air soft. It was actually a BB. It fires a metallic BB from it. But you are correct it did have a leak in a seal which meant that the pressure dropped pretty quickly.

Q Thereby rendering the weapon inoperable except for mere moments after a new CO2 cartridge was placed in it?

A For a normal function of firing a very small projectile at whatever speed it's designed to do it at it only does this for a few minutes once a new cartridge was put in.

JD Reporting, Inc.

Q After that it may be good for blowing out a birthday candle?

A I haven't tried.
Q Or maybe not even that? Okay. Thank you. MR. HUGHES: That's all I have. THE COURT: Redirect? MS. SCHIFALACQUA: Thank you.

REDIRECT EXAMINATION
BY MS. SCHIFALACQUA:
Q Mr. Hughes used the word inoperable. Let's make something clear for this jury. It requires CO 2 pneumatic pressure to fire; does it not?

A It requires that pressure to expel the projectile through the barrel, yes.

Q So even without a leak does it -- if the CO2 has run out, does it require more pneumatic pressure another CO2 cartridge?

A In order to expel a projectile, yes.
Q Okay. And so the operability wasn't in question, whether or not the CO2 ran out was; is that fair?

A I noted that the CO2 ran out, it was in my notes. My report noted that it operated as designed --

Q Okay.
A -- minus the CO2 leak.
Q So there was nothing about inoperability. It
operated as it should operate, but there was a leak?
A Yes.
Q Okay. So if you had a hundred CO2, new CO2 cartridges, if you will, lined up and I don't know if they're called cartridges, what are they called? Canisters?

A I think they're CO2 cartridges. I've always called then that.

Q Oh, okay. Fair enough. If you had a hundred of them lined up and you put a hundred in you could continue to operate the gun as designed?

A Theoretically, yes.
Q Okay. You didn't do that, to be fair?
A I did not. I spent two.
Q Okay. Sure.
A I put two in there.
Q Thank you. MS. SCHIFALACQUA: Nothing further.

RECROSS-EXAMTNATION
BY MR. BROWER:
Q How long did it take you to put a CO2 cartridge in?
A I made a change halfway through and it took me walking out of the range, loosening the back plate, popping it, it dumps right out, put in the new one and then crank it down, so depending on how quickly I wasn't trying for speed, but I could probably do it in 30,45 seconds.

JD Reporting, Inc.

Q And I just want to go back. You testified earlier you had a bunch of training in firearms; correct?

A Correct.
Q But to be clear this isn't a firearm?
A It's not a firearm, but this particular type of a pistol is part of our training because it does come up regularly. It's not uncommon for the source of things to be used in situations that to look like a firearm. So it's our job to define it as what it is. So we were trained in it.

Q Okay. So when you were testifying about your training earlier you didn't include more but you were trained more?

A I've been trained in many areas not just firearms examination. There's comparisons, there's distance determinations, there's lots of things, yes.

Q Okay. But again it's not a firearm?
A This is not a firearm. MR. BROWER: Thank you. MR. HUGHES: Nothing. THE COURT: Nothing else. Any redirect? MS. SCHIFALACQUA: No, Your Honor. THE COURT: Any juror questions for the witness? All right. Counsel approach. (Conference at the bench not recorded) JD Reporting, Inc.

THE COURT: All right. Sir, we have a juror question. A juror asks, Does the end of the barrel appear to be modified?

THE WITNESS: No, it did not appear to be modified at all. It appeared to be -- the appearance was as designed by the manufacturer.

THE COURT: Okay. And then, Airsoft pellet guns typically have an orange knob on the and of the barrel to indicate they're not actual firearms; is that correct?

THE WITNESS: I've seen that. I'm not sure of the rules surrounding their manufacturing. But I do know that -- I know my son had one with a bright orange tip on it, and it was designed to fire Airsoft. Now, this is not an Airsoft gun. Airsofts are generally plastic spheres slightly larger about 6 millimeters. These were smaller designed for a little more kinetic energy, a little more movement made out of metal at 4.5 millimeters.

THE COURT: Thank you.
Ms. Schifalacqua, follow-up?

\section*{FOLLOW-UP EXAMINATION}

BY MS. SCHIFALACQUA:
Q And -- and actually you cleared it up. This isn't an Airsoft gun; correct?

A It is not an Airsoft gun.
MS. SCHIFALACQUA: Okay. Thank you.

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THE COURT: Mr. Brower?
MR. BROWER: Nothing, Judge.
MR. HUGHES: Nothing.
THE COURT: Nothing?
MR. BROWER: No, Judge.
THE COURT: Any other juror questions?
All right, sir, I see no additional questions. Thank you for your testimony. You are excused at this time.

\section*{State?}

MR. SCOW: Judge, I was just reviewing the exhibit list and it looks like everything has been that should be admitted. If we need to readdress it, I'll ask that we can do that --

THE COURT: Okay.
MR. SCOW: -- but at this point in time as far as witnesses and evidence go, we'll rest.

THE COURT: All right. The State rests.
Ladies and gentlemen, it looks like we finished up a little bit earlier today. So in a moment we're going to go ahead and take our evening recess. As I told you yesterday we will be dark tomorrow, and then we will reconvene at 12:30 on Thursday, 12:30 on Thursday. Since we're getting a late start we won't be taking a lunch break so once again eat lunch or bring a snack or do whatever you need to do in that regard.

Before I excuse you, I must remind you that you're
not to discuss the case or anything relating to the case with each other or with anyone else. You're not to read, watch, or listen to any reports of or commentaries on the case, person or subject matter relating to the case. Do not do any independent research by way of the Internet or any other medium. Do not visit any of the locations at issue. And please do not form or express an opinion on the case.

Please leave your notepads in your chairs and follow the bailiff through the double doors. And I'll see you all back at 12:30 on Thursday.
(Jury exiting 1:10 p.m.)

THE COURT: All right. Before we take our break I'm going to go over the admonishment with the defendants. I will start with Mr. Phillips. I'm just going to do it individually.

Mr. Phillips, you have the right to take the stand and testify on your own behalf; are you aware of this right?

DEFENDANT PHILLIPS: Yeah.
THE COURT: All right. If you choose to take the stand and testify, the deputy district attorneys will have the opportunity to (unintelligible). They'll have the opportunity to cross-examine you, and defense cocounsel Mr. Hughes may question you as well. And anything you say whether it's in response to a question from your lawyer or the deputy district attorneys or the Court or one of the jurors or anyone else will be the subject of fair comment by the deputy district attorneys JD Reporting, Inc.
in their closing arguments; do you understand that? DEFENDANT PHILLIPS: Yeah.

THE COURT: All right. Also, if you've been convicted of a crime within the past 10 years, a felony crime, he has no --

MS. SCHIFALACQUA: He has not.
THE COURT: All right.
MR. SCOW: Not with Mr. Phillips.
MS. SCHIFALACQUA: Not for Phillips.
THE COURT: All right. So Mr. Phillips has no crimes which might be utilized for impeachment purposes; is that right?

MS. SCHIFALACQUA: Correct.
THE COURT: All right.
Mr. Phillips, conversely you have the right not to take the stand and testify. If you choose to avail yourself of your right not to testify, the deputy district attorneys are precluded or forbidden from commenting upon that in their closing arguments; do you understand?

DEFENDANT PHILLIPS: Yes, ma'am, thanks.
THE COURT: Also if you choose not to take the stand and testify, the Court will give an instruction to the jury if asked to do so by your lawyer. The instruction essentially says an accused in a criminal case may not be compelled to testify. Thus the decision as to whether or not he should

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testify is left to the defendant on the advice and counsel of his lawyers. It tells the jury that they're not to draw any inference of guilt from the fact that he does not testify nor should that be discussed or considered by them in their deliberations in any way. Do you understand?

DEFENDANT PHILLIPS: Yes, ma'am.
THE COURT: All right. Have you had an opportunity to discuss your right to testify as well as your right not to testify with your lawyer Mr. Brower?

DEFENDANT PHILLIPS: Yes, ma'am.
THE COURT: All right. And do you have any questions you would like to ask me, the Court, about any of these rights? DEFENDANT PHILLIPS: No.

THE COURT: All right. And have you made a decision as to whether or not you want to testify in this case?

DEFENDANT PHILLIPS: I have made a decision, Your Honor.

THE COURT: What's that? DEFENDANT PHILLIPS: I have made decision. THE COURT: You have made decision. And what is that decision?

DEFENDANT PHILLIPS: I'm not going to testify. THE COURT: I'm sorry? DEFENDANT PHILLIPS: No, I'm not going to testify. THE COURT: You don't want to testify.

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MR. BROWER: Judge, just for purposes of this record I'm going to put him closer to the microphone. But I know he's now standing by his codefendant --

THE COURT: Okay.
MR. BROWER: -- so I --
THE COURT: I think we're done.
MR. BROWER: Okay.
THE COURT: All right.
MR. BROWER: I just know you asked him to repeat himself so I wanted --

THE COURT: All right. Turning to Mr. Barr. We'll go over these rights with Mr. Barr.

Mr. Barr, do understand that you have the right to take the stand and testify in your own behalf; do you understand that?

DEFENDANT BARR: Yeah.
THE COURT: If you choose to take the stand and testify, the deputy district attorney will have the opportunity to cross-examine you, and anything you say whether it's in response to a question from your lawyer, defense cocounsel, the deputy district attorney, the Court or one of the jurors will be the subject of fair comment by the deputy district attorneys in their closing arguments; do understand that?

DEFENDANT BARR: Yes.
THE COURT: Also if you choose to take the stand and JD Reporting, Inc.
testify and you've been convicted of a felony crime within the past 10 years or you have discharged your sentence of parole, probation or imprisonment within the past 10 years, the deputy district attorneys will be able to question you about that limited to the offense, the date of the offense, the date of the conviction and the jurisdiction. And then the Court will also give an instruction that they can only consider that conviction as it bears on your credibility; do you understand? DEFENDANT BARR: Yes.

THE COURT: And does the State have any convictions that might be used for impeachment if Mr. Barr were to take the stand?

MS. SCHIFALACQUA: Yes, we do, Your Honor. MR. SCOW: Yes, there are four. There are four judgments that we have against him. THE COURT: All right. And, Mr. Hughes, are you aware of what those four judgments of conviction are?

MR. HUGHES: I have been provided something regarding juvenile court, and I've been provided two other judgments of conviction, but as I remember looking they have the same case number.

MR. SCOW: They don't. There's a similar date.
There's the same conviction date, but there's different underlying offense dates.

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THE COURT: Okay.
MR. SCOW: But different convictions. One is robbery with substantial bodily harm. The other is aggravated robbery. And then the other two there's, like, a harassment -- something with --

THE COURT: Is that an adult case or juvenile case?
MR. SCOW: They're all adult.
MS. SCHIFALACQUA: All adult.
MR. SCOW: There is also a juvenile one as well, but that wouldn't be used for any impeachment.

THE COURT: Right. Okay. And so --
MS. SCHIFALACQUA: Right. And we're not including that, Your Honor.

THE COURT: Okay. Tell us on the record this is a little fuzzy on the record what the convictions are if you have them.

MR. SCOW: The two are -- the two robbery ones are aggravated robbery and robbery resulting in substantial bodily harm.

THE COURT: Okay. Are those different case numbers?
MR. SCOW: They are.
THE COURT: Okay. And those are both in the Eighth Judicial District?

MR. SCOW: Nope.
THE COURT: Okay. Where --

MR. SCOW: They're out of Texas.
THE COURT: All right. But you have the certified judgments of conviction?

MR. SCOW: Yes.
THE COURT: All right. And then the others?
MR. SCOW: The other two I don't remember the specific names. One of them is, like, a harassment for spitting on an officer.

THE COURT: Okay. And that was a felony?
MR. SCOW: Yes. And the other one I can't remember as I sit here, but I can bring them with me and put them on the record when we come back next week or Thursday.

THE COURT: Okay. All right. And what state are
those out of?
MS. SCHIFALACQUA: Texas.
MR. SCOW: Texas as well.
MS. SCHIFALACQUA: Texas.
THE COURT: All right. So everything is out of
Texas, and you do have certified judgments of conviction?
MR. SCOW: Yes.
THE COURT: All right.
So you understand if you were to testify, Mr. Barr, they'd be able to ask you about those prior convictions, and they'd have to show the Court the certified judgments of conviction ahead of time so we can make sure that those were

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felony crimes; do understand that?
DEFENDANT BARR: Yes, ma'am.
THE COURT: Okay. Conversely you have the right not to take the stand and testify. Should you choose not to testify, the deputy district attorneys are precluded or forbidden upon commenting upon that in their closing arguments; do you understand?

DEFENDANT BARR: Yeah.
THE COURT: That means they can't say well, what Mr. Barr didn't tell you where he was or Mr. Barr didn't testify or Mr. -- they can't say anything like that; do you understand they can't refer to it at all?

DEFENDANT BARR: Yes, ma'am.
THE COURT: Yes?
DEFENDANT BARR: I got a question to ask.
THE COURT: Go ahead.
DEFENDANT BARR: What if all those cases was one case?

THE COURT: Well, they basically that's why we look at the certified judgments of conviction. So they would say case number blah, blah, blah and, you know, this County in Texas were you convicted of this particular crime on this date. So let's just say even if it was one case and five felony counts, they can ask you about all five felony counts. They would just have to say in this particular case number were you

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convicted of attempt robbery, and in the same case number were you convicted of robbery. So we look at the JOCs ahead of time and see what those are. And they're going to bring that with you and put it --

MR. SCOW: I have it scanned from the e-mail I sent to Mr. Hughes.

MR. HUGHES: I have it on my phone.
MR. SCOW: And I can pull it up right now to help verify.

MR. HUGHES: It's not big enough for me to read clearly.

Your phone is smaller than mine.
MR. BROWER: He's younger (unintelligible).
MR. SCOW: I'll get the case numbers. The conviction for aggravated robbery with a deadly weapon a firearm is Case Number 1211085D, and it has a separate offense date from the next that I'm about to read and a separate case number. I think the plea date or the conviction date is the same day. THE COURT: Okay.

MR. SCOW: So the robbery -- it's pulling up the robbery with substantial bodily harm Case Number 12 -- need to make it bigger -- 1111 so it's four ones 9D and that conviction is for robbery causing bodily injury. And I -- I'm just going to see if I can go down and see the listed offense date. If not I can get it from the actual paperwork that's easier to
read. And there's different victims named on each.
THE COURT: Okay.
MR. SCOW: And so then the harassment judgment of conviction is Case Number 1209761D State of Texas, harassment of public servant, third-degree felony. And then the fourth one, the offense is retaliation Case Number 12097 -- oh, wait let's see. Do -- I think this one might be the same as the other one, harassment and retaliation they might -- but this -THE COURT: It's one case?

MR. SCOW: They might be. The case number -- and I'll look again at the other one to see if it's the same number. It's 1209760D and I'll just pull up the harassment now 9760. It is -- it's different, it's one number off. This one is 9761D the other one is 9760D so they are different case numbers.

THE COURT: Okay.
So they could ask you about that if you choose to testify. Now, if you choose not to testify, again they are precluded or forbidden from commenting upon the fact that you didn't testify when they make their closing arguments to the jury. And also the Court will give an instruction to the jury if asked to do so. Which essentially says, that an accused or in a criminal case may not be compelled to testify thus the decision as to whether he should testify is left to the defendant on the advice and counsel of his lawyer. And it
tells the jury that they're not to draw any inference of guilt from the fact that he does not testify nor should that be considered by them or discussed by them in their deliberations in any way. Do you understand all that?

DEFENDANT BARR: Yes.
THE COURT: Okay. Have you had an opportunity to discuss your right to testify as well as your right not to testify with your lawyer Mr. Hughes?

DEFENDANT BARR: Yes.
THE COURT: And do you have any questions you would like to ask me, the Court, about either of these rights?

DEFENDANT BARR: Yes.
THE COURT: What?
DEFENDANT BARR: 'Cause I was convicted for them already. I went to prison for all those.

THE COURT: Right.
DEFENDANT BARR: I'm saying does -- does -- does that -- I'm saying, like, it's supposed been one case so, like, how's it -- I want to know how's it different?

THE COURT: Well, I don't know that -- I mean, all I -- all they're required to do is get the certified judgments of conviction, and if they have the certified judgments of conviction they can say, you know, isn't it true that you were convicted on this date, in this county, and case number of this crime. That's all they can ask you basically.

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And then they can't argue, like, to the jury they can't say we know Mr. Barr is a bad person because he's been convicted of robbery before or we know Mr. Barr must have committed these robberies because he's a robber. All they can say and there's an Instruction --

MS. SCHIFALACQUA: Yeah.
THE COURT: -- and I don't have it in front of me, but essentially the instruction tells the jury that they can only consider the evidence of your past convictions as it weighs on your credibility as a witness, but they can't consider it as evidence of bad character or that you acted in conformity with the bad character.

Does anyone have that instruction? I'm essentially paraphrasing it.

MS. SCHIFALACQUA: Correct. And I said if they would testify I would put in it's a standard felony instruction that we use even if our witnesses had a felony --

THE COURT: Right.
MS. SCHIFALACQUA: -- they're instructed that it is directed only to their credibility as a witness --

THE COURT: Right.
MS. SCHIFALACQUA: -- the fact that a witness or a witness is a felon is only to be considered by the jury as to it weighs on their credibility and the jury is to give it its weight, and it's not to be considered for any evidence of that
character.
THE COURT: Of bad character or anything like that. DEFENDANT BARR: Okay. Yes, ma'am. THE COURT: Do you understand that?

DEFENDANT BARR: Yes, ma'am.
THE COURT: Any other questions?
DEFENDANT BARR: No.
THE COURT: All right. Did I cover that admonishment to the --

Oh, well, I'm sorry. Mr. Barr, have you made a decision as to whether or not you want to testify in this case? DEFENDANT BARR: Yes.

THE COURT: And what is that decision?
DEFENDANT BARR: No, I do not want to testify. THE COURT: Okay.

Did I cover that admonishment to the satisfaction of the defense, Mr. Brower?

MR. BROWER: Judge, you did. Especially given my prior conversations with my client regarding his rights to testify. We addressed all that, and we've gone through actually the fact that you were going to do this as well so you're fine with me.

THE COURT: Mr. Hughes?
MR. HUGHES: I'm satisfied, Your Honor.
THE COURT: State?

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MR. SCOW: We are satisfied as well, Judge. MS. SCHIFALACQUA: That's correct.

THE COURT: All right. So here's the deal. We have the jury coming back at 12:30. Maybe, lawyers, you can come in at -- I looked at the calendar it's not too bad. Do you guys --

\section*{THE CLERK: Tomorrow?}

THE COURT: No, on Thursday --
THE CLERK: On Thursday.
THE COURT: -- come in at 11 on Thursday --
MS. SCHIFALACQUA: Okay.
MR. SCOW: That's fine.
THE COURT: -- so we can settle jury instructions. And I don't know if you need your clients here for that if you want them here or don't want them here for settling jury instructions?

MR. HUGHES: I don't see that they would add anything to the --

THE COURT: Yeah.
MR. BROWER: Judge, I think my client would just like to be here to discuss part of my closing which would be easier when we have the break. So I don't know if it's inconvenient to bring them over, but if it is, I'd like to go over at least have him available so I don't wait later. But I will leave that to the discretion of the Court and the staff. I don't
know if it's easier or not.
THE COURT: Can't you visit him at the jail?
MR. BROWER: Well, I can visit him at the jail.
THE COURT: I mean, I'm fine if the jail brings him
over. I don't know -- I mean --
MR. BROWER: I just don't know if --
THE COURT: -- maybe dressed and everything to go at 11 -- 11:00 o'clock and then they eat their lunch --

THE CORRECTION OFFICER: Yeah, that way we're going to dress them at 7:00 in the morning and have them downstairs (inaudible).

THE COURT: -- and then they'd come back at
12:30 for --
MR. BROWER: Yeah, he's actually indicated he's okay with coming over a little bit later, Judge, so.

THE COURT: Okay. So Mr. --
MR. BROWER: Phillips.
THE COURT: -- Phillips, I'm sorry, Phillips, do you want to be here when we just talk about the jury instructions? DEFENDANT PHILLIPS: I mean, if I can. If it's a big deal, no, that's cool.

THE COURT: It's not a big deal.
DEFENDANT PHILLIPS: All right.
THE COURT: You do. All right. Then they'll both be here --

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MR. HUGHES: Mr. Barr says he'd prefer to stay over at his accommodations.

THE COURT: Well, it's probably easier for the jail --

MR. HUGHES: All right.
THE COURT: -- to do both or none. So if one comes, they both come.

And then we'll take our -- however long that takes to do then we'll eat lunch or --

MS. SCHIFALACQUA: Sure.
THE COURT: And then 12:30. So what I'd like the lawyers to do is if there are objections or you have some proposed instructions, defense -- defense?

MR. BROWER: Sorry --
THE COURT: Then if you guys have proposed
instructions, send them to the State and then before you come in and see me because you have a whole day to do this --

MR. BROWER: And, Judge, can I --
MR. SCOW: We'll have it --
THE COURT: -- see if you meet together -- the lawyers just the lawyers meet and see if you can resolve your differences so.

MR. BROWER: Judge, can I just address the 11:00 thingy. My client was under the impression the jury would be here --

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THE COURT: No.
MR. BROWER: -- and he did not want -- I just explained to him it's just us going over the written instructions. He's okay coming over later.

THE COURT: Right. Right.
\(\operatorname{MR}\). BROWER: And he will dress that --
THE COURT: And sometimes we may be, you know, like, they might object to a word, and we may rewrite something that kind of thing.

MR. BROWER: But he's okay coming over at 12:30. I know he was just canvassed so he would --

THE COURT: Is that right, Mr. Phillips?
DEFENDANT PHILLIPS: Yes, ma'am.
THE COURT: Okay.
And then, Mr. Barr, you didn't want to come over till 12:30 either?

DEFENDANT BARR: Yes, ma'am.
THE COURT: Okay. All right. If there's anything momentous in settling of the jury instructions we'll put it on the record when the defendants are here.

MR. HUGHES: Okay. Can I call you tonight?
MR. BROWER: Judge, just procedurally while we're -THE COURT: You can, but I'm not going to answer the phone.

MR. HUGHES: That's what \(I\) was afraid of.

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MR. BROWER: -- while we're still here, I had reserved my opening. My client's not testifying I won't be giving one. We can address it later but I won't be getting an opening at this point in time because --

THE COURT: All right.
MR. BROWER: -- I'm not anticipating calling any other witnesses.

THE COURT: All right. So basically probably what you should just do is they've rested. When I turn to you, Mr. Brower, you can just rest.

MR. BROWER: Right and -- that's correct.
THE COURT: All right.
MR. BROWER: I just wanted the Court to be aware procedurally because of that I won't be trying to do an opening and then resting.

THE COURT: Right. Because your opening basically is going to be your closing. MR. BROWER: Correct.

THE COURT: All right. So we'll see everybody back 11:00 on Thursday. (Proceedings recessed for the evening 1:27 pom.) - ono-

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case.


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DISTRICT COURT CLARK COUNTY, NEVADA

THE STATE OF NEVADA, )
vs.
DAMIEN ALEXANDER PHILLIPS, a.k.a. TRAVIS ALEXANDER PHILLIPS, and ANTHONY TERRELL BARR

Defendants.))))

## TRANSCRIPT OF PROCEFEDINGS

CASE NOS. $\begin{aligned} & C-18-335500-1, \\ & C-18-335500-2\end{aligned}$ DEPT NO. XXI

BEFORE THE HONORABLE VALERIE ADAIR, DISTRICT COURT JUDGE THURSDAY, DECEMBER 13, 2018 JURY TRIAL - DAY 8

APPEARANCES:
FOR THE STATE:
BARBARA F. SCHIFALACQUA, ESQ. RICHARD. H. SCOW, ESQ.
Chief Deputy District Attorneys

FOR DEFENDANT PHILLIPS: KEITH C. BROWER, ESQ.

FOR DEFENDANT BARR: EDWARD B. HUGHES, ESQ.

RECORDED BY: SUSIE SCHOFIELD, COURT RECORDER TRANSCRIBED BY: JD REPORTING, INC.

## I N D E X

Closing argument for the State by Ms. Schifalacqua 30
Closing argument for Defendant Phillips by Mr. Brower 55 Closing argument for Defendant Barr by Mr. Hughes 57 Rebuttal argument for the State by Mr. Scow 64

EXHIBITS
STATE'S EXHIBITS ADMITIED:
182-184 24

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LAS VEGAS, CLARK COUNTY, NEVADA, DECEMBER 13, 2018, 11:40 A.M.

THE COURT: I've received the packet submitted by the State, and it's rather thick. Does the defense have any objection to the proposed instructions submitted by the State?

Mr. Hughes.
MR. HUGHES: I'm trying to find it.
THE COURT: What do you mean?
MR. HUGHES: I'm trying to find the one that I objected to.

THE COURT: Oh.
MR. HUGHES: I'm not going to object to all of them. Oh. It's on the -- oh, it's on page 32.

THE COURT: Okay.
MR. HUGHES: The State is not required to have recovered the deadly weapon used. I don't think that that conforms to our evidence. There's no allegation. They submitted a weapon they say was used. It's an exhibit.

THE COURT: Okay. First of all, I don't know what Ms. Schifalacqua was going to say, but it occurs to me that the jury might think, well, this wasn't the same weapon used in all the crimes and have a question there. So it is a correct statement of the law. To the extent that they might think it's a different weapon or I can't remember if the witnesses described the weapon differently for any of the scenarios, but JD Reporting, Inc.
if they did, then certainly that question could arise in the minds of the jurors. So I think given that, they're entitled to give the instruction and it's a correct statement of law.

MS. SCHIFALACQUA: And I appreciate that, Your Honor. Not only do we want them to understand that we don't have to produce it. But even if we do, there were multiple crimes in this case. And so if they have a question about each one, just what you said --

THE COURT: That's what I --
MS. SCHIFALACQUA: And then there also is an
allegation of $a$ bomb. So we clearly did not produce that. And so that deadly weapon, as an explosive device, also was not produced and we're not required to.

MR. HUGHES: Well, I wouldn't want you to.
MS. SCHIFALACQUA: Well, that's fair. That's fair.
So that's why we put it in there.
THE COURT: All right. So any other objection?
MR. HUGHES: I object to every time the word "victim"
is used in the verdicts. I have no objection to the individuals' names appearing on the count, but I object to the word "victim."

THE COURT: State -- I mean, look. Sorry. They're allowed to use the word victim.

MS. SCHIFALACQUA: Right. To the --
THE COURT: I think it's used too many times to go

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through and insert "purported victim." And since it's legally okay --

MR. BROWER: And, Judge, just for the record, I actually -- we talked about these objections earlier so -THE COURT: You're joining?

MR. BROWER: They are joint objections, but Mr. Hughes was gracious enough to want to articulate that. THE COURT: That's fine. MS. SCHIFALACQUA: And for our purposes, Judge, part of why we're using and identifying the victims of the different count is because we have similar counts --

THE COURT: Well, I don't think he's objecting to being named.

MS. SCHIFALACQUA: Correct, yes.
THE COURT: Because that's assuming that they're really victims. Although in this case, it's not whether it happened. It's not like a fraud case where the question is, did it happen? It's -- well, generously, it's more of a whodunit.

MS. SCHIFALACQUA: And to the extent that, you know, legally they are -- and it's in the statutes -- victims of crime because it is a criminal case. I mean, you know, so -THE COURT: No, I mean, like I said, it's legally allowable. So --

MR. SCOW: Judge, just for the record, since we're on JD Reporting, Inc.
the verdict form, I didn't know if there would be changes or anything, so I didn't fix the spacing.

THE COURT: Okay.
MR. SCOW: So, like, if you see on page 66 at the top, it's the not guilty from Count 8. So I didn't go through and fix that because I didn't --

THE COURT: And generally we don't -- I mean, we can fix it, I guess.

MR. HUGHES: Your Honor --
THE COURT: Like page numbers, because the page
numbers won't correspond to the --
MR. SCOW: And I just had those in there just so -THE COURT: Yeah, it's actually helpful for us right now.

MS. SCHIFALACQUA: Right.
THE COURT: So, I'm sorry, where is the spacing wrong? Like on Count 13, that should go on some page.

MS. SCHIFALACQUA: That's correct. And then Count 8, the not guilty --

THE COURT: And then the date is on a different page. MR. SCOW: Do you want me to go through and fix that? MR. HUGHES: I believe that if the victim was taken out of every count, by removing those words, the spacing would be perfect.

THE COURT: Right.

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MS. SCHIFALACQUA: Except that [indiscernible] would still be in the exact same spot, Mr. Hughes.

THE COURT: It's the same exact thing.
Okay. So any objection to the verdict form?
MR. BROWER: There was -- I don't believe we had any objection to the form. I don't mind if it gets spaced differently, but it's the State's -- the form is what it is.

THE COURT: Okay. I mean, you can correct the spacing, State, and then just email us that.

MR. SCOW: Do you want me to take out the page numbers too?

THE COURT: Right.
MR. SCOW: Okay.
THE COURT: And then turning to the rest of the jury instructions, did the defense have any other objections to the proposed jury instructions.

MR. BROWER: No, Judge, but if they're taking out spacing issues, on page 9 and 14, there's some little dashes that come down in the middle of the top of the page on 14 and then 9. There's -- it's the original spacing from the original charges.

THE COURT: Oh, right.
MR. BROWER: So they might as well fix that too.
It's page 9 and page 14 that $I$ noticed it on.
THE COURT: Right.

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All right. Now, so did the defense have any instructions they are offering?

MR. BROWER: Judge, we do not. We did discuss potentially an instruction based on the case called Dorina [phonetic] v. State; however, those instructions are essentially encompassed in what is given here. It's more of an argument for the jury, so we decided not to tender those.

THE COURT: Okay. Is that right, Mr. Hughes? MR. HUGHES: That's correct.

THE COURT: All right. Because the -- and I know Justice Cherry, when he was a district court judge used to do this, so it's purely allowable. On very long informations, he would not read the very long information as part of reading the jury instructions. He would just say the information just read to you. Oh, there's also a mistake on 14 in the spacing, so you guys need to go through that.

MS. SCHIFALACQUA: 14.
THE COURT: He would just say the information is included as part of Instruction 3 that has been read to you by the clerk. Do both sides waive the court rereading that? So if you don't waive it, I'll read it. It probably adds another 15 minutes.

MR. HUGHES: I think I'm willing to waive that.

## THE COURT: Right.

MS. SCHIFALACQUA: Do you want to waive the reading JD Reporting, Inc.
of the Information?
MR. SCOW: Yes, I would like to.
THE COURT: All right. And just --
MR. SCOW: We can just tell them it's on the printed form.

THE COURT: Yeah, it's on this -- it's on here. And I read the first part and then I say, you'll see counts. You need to go through each count separately. Because it's already been read to you at the beginning, I'm not going to read it again, but it's -- you know.

Mr. Brower, do you waive the court rereading the lengthy Information?

MR. BROWER: Absolutely, Judge. I think we could save a good amount of time with that.

THE COURT: Yeah. And, Mr. Hughes, you waive it as well?

MR. HUGHES: I do.
THE COURT: Plus the other benefit, in my opinion, is you don't put them to sleep reading this. They're alert and listening to the instructions which is really what, you know, the new Information they need to listen to. So I think it's beneficial from that point of view as well.

MR. SCOW: A couple things just for the record. On page 14, I left that space there on purpose just so that last paragraph is easily separated from the last charge. If you

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want me to move it up or put it before the counts, I can do that.

THE COURT: Oh. Wait a minute. I'm talking about lines 4 through 6 where you've got the -- whatever their -- the lines. So why don't you put Count 22 and 23 up tight? Are you saying it's because it only charges Mr. Barr?

MR. SCOW: The copy that I have is already -- that's already fixed.

THE COURT: Oh, it's not fixed on my copy.
MR. BROWER: And it wasn't fixed on mine either.
MR. SCOW: So the one that I recently sent, it must not have been changed or saved.

THE COURT: All right. So your copy is fine. All right.

MR. SCOW: Here's a clean one that you can use. And then I'll change the -- and there's two verdict forms, one for each defendant?

THE COURT: Right.
MR. SCOW: So I'll take out the page numbers and then --

THE COURT: And then you'll just re-email those. MS. SCHIFALACQUA: Right, separately. Yes, Your Honor.

THE COURT: So if there's nothing else, can we number?

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MR. BROWER: I'm fine with number, Judge.
MS. SCHIFALACQUA: Judge, yes.
THE COURT: All right. Instructions to the jury, Number 1, Members of the jury.

Number 2, If in these instructions.
3, An Information is but.
MR. BROWER: [Indiscernible.]
THE COURT: I guess, maybe. I don't know. Maybe you should leave the page numbers because it's so lengthy that --

What do you guys think?
MR. SCOW: Judge, I'm going okay with --
THE COURT: Does that make it easier for the jury
then to go through this if there's page numbers?
MR. SCOW: It might.
MS. SCHIFALACQUA: It might.
THE COURT: It might. So maybe because there's so many, maybe if everybody agrees, just leave -- normally I delete the page numbers, but it might just make their job easier if we have page numbers. What do you guys think?

MR. SCOW: I'm good with it.
MR. BROWER: Judge, I don't think the pages numbers detract from anything. There's still an instruction number, so I'm fine with page also.

MR. HUGHES: So are we going to -- we're going to number the second page of the Information as page 4 then?

THE COURT: No. It's page 2. The instruction numbers are the same. It would just keep the page numbers on the bottom so that when they go through it, it's easier for them to flip through it than trying to find the -- I just want to make it easier for them.

MR. SCOW: But I'll take it off the verdict form. THE COURT: Yes, absolutely off the verdict form. MR. SCOW: I'm going to go do that now while -THE COURT: Okay. So, Mr. Hughes, are you fine with -- I'm just trying to make it easier for the jurors to go through these.

MR. BROWER: Yes, we're fine, Judge.
THE COURT: Don't you think it makes it easier for them?

MR. BROWER: Judge, it makes it easier for me when I'm trying to look at the notes I already have.

THE COURT: I'm just trying to make it easy on them. Are you fine with that, Mr. Hughes?

MR. HUGHES: I am.
THE COURT: Like I say, normally I delete them but this is kind of long.

All right. So page 15 is Instruction 4: A conspiracy is an agreement.

5, It is not necessary.
6, Where several parties.

7, Whenever there is slight.
Are we -- what is it, a Carter instruction? Do we have that in here? It is -- are you requesting that, Defense? MS. SCHIFALACQUA: Yes. I think we did -- I believe we put it in but I don't know if they're going to want it. THE COURT: Do you want that, that your clients don't have to testify? I don't see it.

MR. HUGHES: Well, I've seen it in here. I don't know where it is but I know I saw it.

MS. SCHIFALACQUA: I think it's near the end.
THE COURT: I usually put that by the reasonable
doubt. And it is. It's page 53.
MS. SCHIFALACQUA: Okay. Great.
THE COURT: Is the defense requesting that?
MR. BROWER: Court's indulgence.
THE COURT: I think it's good to give, but it's up to you folks.

MR. BROWER: Judge, I'm okay with it being in there.
THE COURT: It's up to you. I mean, you need to request it.

MR. BROWER: I'm going to defer to Mr. Hughes.
MR. HUGHES: I am thinking just for later down the road, we could probably leave it in. And we're going to leave it at 53?

THE COURT: Right. Because we already went -- I JD Reporting, Inc.
mean, to me it's better to leave it in, but it's up to you. Because we told them that at the beginning, but that was days ago and they may not remember. So this reminds them.

So defense wants it in?
MR. HUGHES: Yes.
MR. BROWER: Yes, Judge.
THE COURT: All right. Turning to Instruction Number-- we're on page 19, Instruction 8: A conspiracy to commit.

9, Each member of a criminal conspiracy.
10, It is not necessary.
11, Where two or more persons.
12, A defendant cannot.
13, While a guilty verdict.
Do we have the aiding and abetting instruction? MS. SCHIFALACQUA: We do. And I think -- court's indulgence. For some reason, we put it after --

MR. BROWER: I remember seeing it, Judge.
MR. HUGHES: I remember seeing it.
MR. BROWER: I just don't remember where it was.
THE COURT: This is why it's better -- now I'm reminded why we don't number the bottoms of the pages because if you want to move things around --

All right. Because we take -- well, it could be an aider and abettor, but we don't tell them what an aid or

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abettor is until later.
MS. SCHIFALACQUA: Until much later, yes, and I'm sorry, we should.

THE COURT: So I think 13 should go later.
MS. SCHIFALACQUA: Yeah.
THE COURT: After we've instructed them on all the theories of liability. Don't you agree? Because we tell them, oh, you can find them guilty as an aider and abettor, but then we don't tell them what that is until later.

MS. SCHIFALACQUA: Right, and I'm trying to find it. THE COURT: All right. I'm going to -- and then so renumber the bottom pages.

MS. SCHIFALACQUA: Let me text Mr. Scow because --
MR. HUGHES: Starting at --
MR. BROWER: Page 24.
THE COURT: Yeah. So I think Instruction 13 should be a person who by day or night. So I'll wait for Ms. Schifalacqua to do that.

MR. BROWER: So that's page 25; correct, Judge?
THE COURT: Right. I don't know. Do you guys agree with me?

MR. BROWER: I'm fine with it, but --
THE COURT: We're using a term and it hasn't been defined yet.

MS. SCHIFALACQUA: Right. I'm just trying to find JD Reporting, Inc.

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our aiding and abetting because I know we --
MR. HUGHES: This Instruction 14 -- or 13.
THE COURT: So 13 was page 25.
14, It is not necessary.
15, A person who enters.
16, When two or more persons.
17, Every person who.
18, Every person who commits the crime of burglary.
19, As used in these instruction, deadly weapon
means.
20, The State is not required.
21, In order to use.
22, If more than one person.
23, The law recognizes.
24, Robbery is the unlawful taking. That should have been earlier also. I guess it's okay.

25, Personal property is.
26, It is unnecessary to prove.
27, For the defendant to be found.
28, Where one defendant.
I'm looking to see where your aiding and abetting instruction is.

MS. SCHIFALACQUA: You what I just realized, Your Honor. It's 11.

THE COURT: Did I miss something?

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MS. SCHIFALACQUA: Yeah, it's 11.
THE COURT: Oh, it is?
MS. SCHIFALACQUA: Correct.
THE COURT: Well, then maybe we can redo this.
Sorry. I didn't catch it.
MS. SCHIFALACQUA: I didn't see it either. Sorry about that, Judge.

THE COURT: I'm sorry. Let's put page 24 back where it was, and then we'll just have to renumber the tops.

MR. BROWER: So that's back to Number 13?
THE COURT: Yeah, because I didn't see this. Nobody else did either.

MS. SCHIFALACQUA: No, I didn't either.
THE COURT: All right.
MS. SCHIFALACQUA: And I've looked at it a hundred times. I'm sorry, Judge.

THE COURT: So let's start over on page 24. And then Instruction 13 is going to be, While a guilty verdict must be unanimous.

Instruction 14, page 25, is, A person who by day or night.

Instruction 15, page 26, It is not necessary.
Instruction 16, A person who enters.
Instruction 17, When two or more persons.
18 is, Every person who.

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19, Every person who commits the crime of burglary.
20, As used in these instructions.
21, The State is not required.
22, In order to use a deadly weapon.
23, If more than one person commits a crime.
24, The law recognizes two kinds of possession.
25, Robbery is the unlawful taking.
26, Personal property is.
27, It is unnecessary.
28, For the defendant to be found.
29, Where one defendant.
30, If you find the defendant guilty.
31, If more than one person.
32, A person unlawfully attempts.
33, If you find -- you are instructed. I'm sorry.
33, You are instructed that if you find.
34, As to Count 21.
35, A person who.
36, Evidence that.
37, A person who carries.
38, The flight of a person.
39, You have heard and/or seen.
40, To constitute the crime charged.
41, The defendant is presumed innocent.
42, It is a constitutional right.

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43, it says, You are here to determine the guilt or innocence of the defendant. Since we have two defendants, shall we say each defendant?

MS. SCHIFALACQUA: Each, yeah.
MR. BROWER: And, Judge, I apologize. I should have addressed this earlier. I actually don't think they're here to determine the innocence as the clients are innocent as they sit here.

THE COURT: I'm willing to change this one if requested to do so to, You are here to determine whether or not each defendant is guilty or not guilty of the crimes charged. MR. HUGHES: I would prefer that.

MR. BROWER: I would prefer that, Judge. And I apologize.

THE COURT: Are you fine with that, State?
MS. SCHIFALACQUA: I have no objection to that, Your Honor.

THE COURT: I change that. Each defendant is guilty or not guilty of the crimes charged.

MR. BROWER: Thank you, Judge.
THE COURT: Are you all fine with that?
MS. SCHIFALACQUA: Yes.
THE COURT: Yeah, I make that change if requested.
MR. BROWER: And, Judge, I usually do that
automatically. I don't know why I didn't think to do it.

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THE COURT: Some defense attorneys don't bring it up, and we leave it. Some do. If they do --

44, The evidence which you are to consider.
45, The credibility of a witness.
46, A witness who.
47, Although you are to consider.
48, In your deliberation.
49 --
MR. BROWER: Judge, should this say defendants now that we're here? And then we have the guilt or innocence again on this one.

MR. HUGHES: Oh, we should do that again.
THE COURT: You are here -- your duty is confined to the determination. I mean, we can rewrite this a couple of different ways. Whether each defendant is guilty or not guilty of the crimes charged.

MR. HUGHES: I like that.
MR. BROWER: That's fine with me, Judge, if the State's okay with that.

MS. SCHIFALACQUA: No opposition.
MR. BROWER: [Indiscernible] too soon.
MS. SCHIFALACQUA: Yeah.
THE COURT: Or you can say -- another way to do it is your duty is confined to the determination of whether the State has proven each defendant's guilt beyond a reasonable doubt of

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the crimes charged.

I actually like the first way better because there's so many crimes. Does that mean -- oh, I don't know. MR. HUGHES: I like the first -- I like what we did the first time.

THE COURT: I like the first one better, but there's two ways we can do it. Probably more than that but --

49, During the course of this trial.
50, When you retire to consider your verdict.
51, If during your deliberations.
And 52, Now you will listen.
MR. HUGHES: Congratulations, Barbara. That's the first case I've ever done where there was more witnesses than instructions.

MS. SCHIFALACQUA: Well, there we go. We had 53
witnesses. So --
Madam, what is the email --
THE COURT: I think we moved really quickly, and I really want to compliment defense counsel on not wasting time with a lot of cross-examination that would lead nowhere. No seriously, I mean --

MR. HUGHES: It's easy when you --
THE COURT: You kind of homed in, you know. You didn't --

MR. HUGHES: And we let you lead nonstop for a couple JD Reporting, Inc.

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days, just to speed it along.
MS. SCHIFALACQUA: Your definition of leading is
not --
THE COURT: Well, a lot of it was foundational stuff, though. You know, like the --

MS. SCHIFALACQUA: Where you worked, if --
THE COURT: Right. Is this your body cam footage
or --
May I just say that these Metro cops are just so nice. I've never encountered, when I've been pulled over, such niceness.

MS. SCHIFALACQUA: They get a bad rap.
MR. BROWER: It's because they're all on film now, Judge.

THE COURT: I know.
MS. SCHIFALACQUA: That might be -- it has an impact. But, actually, most of the guys I knew even before that were pretty -- just standard, like they didn't have -- I mean, it's traffic.
(Pause in the proceedings.)
(Proceedings recessed 12:04 p.m., until 12:47 p.m.)
THE COURT: You could make sure the changes were made correctly and you approved of the verdict form. Did she give the right verdict form to each of you?

MR. HUGHES: I'm looking at Mr. Phillips.

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MR. SCOW: We did.
MS. SCHIFALACQUA: Yes, we have them both.
MR. HUGHES: Oh, I've got both.
MR. BROWER: Here, give me mine.
THE COURT: Okay. All right. So each one, check them over just to make sure that -- they should be correct, but I just want counsel to verify it just in case. That way it's on you.

MR. SCOW: And there are three exhibits that we somehow missed in the naming the range of exhibits, so I'm going to move to admit these before the defense says that they rest their case.

THE COURT: Okay. So you're reopening to move to admit. And you did reserve the right on the exhibits when you rested to make sure they were all in, so that's fine.

MR. BROWER: And, Judge, I think what happened is, when we were going through numbers, there were numbers that were anticipated being named and marked and we had anticipated just moving on them. So I don't know that they -- they can't just admit them in this one time without technically reopening. I would submit that we didn't anticipate having those admitted before.

THE COURT: Okay. So no objection.
And as I said, they did say, before they rested, subject to the admission of all the exhibits.

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MR. HUGHES: No, and I saw the exhibits, and, yeah, we stipulate.

THE COURT: All right. So say the numbers.
MR. SCOW: It is 182, 183, and 184.
THE COURT: All right. So those will be admitted.
Go ahead and give those to the clerk so she can mark them.
(State's Exhibit Numbers 182-184 admitted)
MR. SCOW: Thank you, Judge.
MR. BROWER: Do you want me to say it when the jury
comes in, or just by stipulation, we're -- we're good?
THE COURT: Yeah, just by stipulation.
All right. Okay. We're on the -- is the verdict -Mr. Brower, did you double check the verdict form?

MR. BROWER: Judge, it looks accurate to me. I don't see any glaring inconsistencies.

THE COURT: All right. Then we can blue back that. And, Mr. Hughes, did you double-check the verdict form?

MR. HUGHES: I did, Your Honor. It looks fine. THE COURT: All right. So we can blue back that one. All right. And is there anything -- we did number and agree on the jury instructions. A couple of changes were requested by defense counsel, and those changes were made by the court, and the State didn't have any objection to those changes.

MS. SCHIFALACQUA: That's correct.
THE COURT: There was one that Mr. Hughes asked that we remove, but -- regarding they didn't have to recover the deadly weapon -- but since there was multiple robberies, the court said no, that that did pertain, and Ms. Schifalacqua pointed out the bomb -MS. SCHIFALACQUA: Correct. THE COURT: -- was not recovered. So that did pertain.

Does that accurately reflect what happened with us settling the jury instructions?

MR. BROWER: It does, Judge, but I don't think there was ever any proof that a bomb existed to be recovered.

THE COURT: Well, you can say that.
MR. BROWER: I will. I just did. But I'm going to say it again.

THE COURT: I meant to the jury. Say it to someone who matters, Mr. Brower, Mr. Hughes.

MR. HUGHES: That accurately reflects the discussion that took place.

MS. SCHIFALACQUA: It does, as well, Judge.
THE COURT: All right. And that was on the record, but that's just to kind of let the defendants know that the requested changes were made.

All right. Is there anything else we need to do JD Reporting, Inc.

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before we bring the jury in?
MR. HUGHES: No.
MR. SCOW: Are the jury instructions being reprinted now with the --

THE COURT: No. I told Crystal, because they're my notes, to hold off because I'm going to read them.

MS. SCHIFALACQUA: Got it. And then we'll --
THE COURT: And then she'll work on that while you guys are making your arguments.

MS. SCHIFALACQUA: Sure. Just so that such -- they will have the copy of the Information.

THE COURT: No, no, they have --
MS. SCHIFALACQUA: Yeah.
THE COURT: Yeah.
MS. SCHIFALACQUA: Okay.
THE COURT: No, no, I don't pass them out.
MS. SCHIFALACQUA: I understand.
THE COURT: I'm not one of those departments.
MS. SCHIFALACQUA: Got it. Got it.
THE COURT: Because they don't listen, and there's reading --

MS. SCHIFALACQUA: Right.
THE COURT: I guess some people like it better, but, to me, it's --

All right. Bring them in.

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-- they're reading ahead, and then they're reading the instructions when people are making their --

MS. SCHIFALACQUA: And they're not following along.
THE COURT: -- arguments and not following along. I think it's better not to hand them out. I will do it if requested, but I prefer not to do it.

MS. SCHIFALACQUA: Sure.
MR. SCOW: Okay.
THE COURT: Plus, then they make notes on their
instructions.
MS. SCHIFALACQUA: I know. They always collect them and --

THE COURT: And they don't get it -Right.

THE MARSHAL: All rise for the presence of the jury. THE COURT: We're not too late, considering.
(Jury entering 12:53 p.m.)
THE COURT: Do they have their notepads?
THE MARSHAL: No, that would probably help if they did.

THE COURT: While Kenny is passing out the notepads, we did have a calendar this morning that went rather late, so I apologize for the somewhat tardy start.

The record should reflect the presence of the State through the deputy district attorneys, the presence of the

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defendants along with their counsel, the officers of the court, and the ladies and gentlemen of the jury.

State.
MR. SCOW: Judge, we did rest on Tuesday. There were a couple of exhibits that, in going through, weren't admitted but have just been admitted by stipulation, 182 through 184. And with that, we are resting at this time again.

THE COURT: All right. Mr. Brower.
MR. BROWER: Judge, the defense will submit this to the jury following closing argument.

THE COURT: All right. So defense rests?
MR. BROWER: That's correct, Judge.
THE COURT: On behalf of --
MR. BROWER: Of Mr. Phillips.
THE COURT: Of Mr. Phillips. Mr. Hughes?
MR. HUGHES: Your Honor, Mr. Barr rests.
THE COURT: All right. Thank you.
Ladies and gentlemen, that concludes the presentation of evidence in this case. As I told you at the outset, that's followed by the instructions on the law which I shall read to you in a moment.

Following the instructions on the law, the attorneys will have the opportunity to make their closing arguments. Because the State has the burden of proof in this case, they both open and close the closing arguments, meaning they get to

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address you twice.
It is important that I read these jury instructions exactly as they are written. I am precluded from trying to clarify them or expound upon them in my own words in any way.

You will have a number of copies of these written jury instructions back in the jury deliberation room with you so that you can refer to them throughout your deliberations. You will also have all of the exhibits that were admitted into evidence. Each instruction has the number for your convenience and ease of reference.
(Reading of the instructions not transcribed)
THE COURT: Ladies and gentlemen, Instruction Number 3 thereafter sets forth all of the counts from the information. You will all recall that the information was read to you by the court clerk at the beginning of the trial. I'm not going to reread all 23 counts of that information to you at this time, but they are a part of the instructions and you are directed to go through each count throughout your deliberations.

And I believe both sides waive any objection to the Court not reading the 23 counts of the information; is that correct?

MS. SCHIFALACQUA: Yes, Your Honor.
MR. SCOW: Correct.
MR. BROWER: That is correct.

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MR. HUGHES: Yeah, that's correct.
(Resumes reading the instructions, not transcribed)
THE COURT: Ladies and gentlemen, that concludes the instructions on the law. Is the State ready to proceed with their closing argument?

MS. SCHIFALACQUA: Yes, Your Honor.

## CLOSING ARGUMENT FOR THE STATE

MS. SCHIFALACQUA: Ladies and gentlemen of the jury, on August 9th of 2018, the employees and the customers at the US Bank, located at 801 East Charleston, really had their lives turned upside down. They didn't know it at that time, but those two men had been committing burglaries and robberies in Henderson, and they had a plan to continue their crime spree.

But the employees and the customers weren't the only ones that didn't know something that day. On that day, the defendants didn't know that their moves were being tracted. They were woefully unaware that Detective Dennis Ozawa and Detective Karl Lippisch had been researching and tirelessly working the Henderson crimes in order to catch the defendants.

They applied for a tracker warrant, and they placed it on the Grand Marquis of Anthony Barr's that was used throughout this crime spree. They didn't know that Detective Worley, Detective Ebert, and ultimately Metro Detective Hubbard had eyes on them as they went forward with their plan to continue crime.

But on August 9th of 2018, that's when it stopped. You saw firsthand body camera footage of Officer Farrington arresting Damien Phillips and firsthand of Officer Papazian apprehending and arresting Defendant Barr.

Now, what crimes did they commit? Let's look at them. Damien Phillips's crimes: conspiracy to commit burglary, conspiracy to commit robbery, burglary while in possession of a deadly weapon, robbery with the use of a deadly weapon, assault with use of a deadly weapon, and assault with use of a deadly weapon, victim 60 years of age or older.

Defendant Barr's crimes include much of what Defendant Phillips's crimes include: The conspiracy to commit burglary, a conspiracy to commit robbery, burglary while in possession of a deadly weapon, robbery with the use of a deadly weapon, assault with use of a deadly weapon, assault with use of a deadly weapon, victim 60 years of age or older, carrying a concealed pneumatic gun, and preventing your dissuading a witness or victim from reporting a crime or commencing prosecution.

So let's talk about the law. A conspiracy to commit a crime, what is that? Well, a conspiracy is an agreement, a mutual understanding between two or more persons to commit a crime. What does the law tell us? That there's no formal contract needed; right? No one has to sign up on the dotted line for the conspiracy. It's not necessary even to show a
meeting of the alleged coconspirators or their making of an express or formal agreement. It's inferred from the circumstances. What do we know? What do you look to? You look at the conduct before, during, and after the crimes. And is there a coordinated series of events and acts by these two? The answer is yes.

So let's talk about who's liable. Who is liable in a conspiracy? Each member of a criminal conspiracy is liable for each act and bound by each declaration of every other member of the conspiracy if the act or declaration is in furtherance of the object of a conspiracy. What does that mean? Well, the law recognizes that when more than one person gets together to commit crime, the success rate increases. But what else it recognizes is that when more than one person gets together to commit crime, different people will have different acts. Oftentimes, someone might be a driver. Someone might be the person that actually physically does something. And the law recognizes that you're responsible for the acts of the other because you have a joint intent to commit that crime. So it's smart.

The act of one is the act of all. The words of one are the words of all. For specific-intent crimes, it's that -the specific-intent crime was intended by the defendant, and then he or she is liable for the acts of the coconspirator. And general-intent crime, it follows as one of the probable and

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natural consequences of the object of their conspiracy. Did the defendants conspire together? Absolutely. Watch as they -- how the coordinated series of acts, they go together, they act together, they leave together.

But they're not the only ones involved in the conspiracy. There's one or more coconspirators in this case. And when you get that information, and there's always kinds of words that has and/or, and/or, and/or, what are we talking about here? We're talking about that the defendants charged here are obviously Damien and Anthony, but there's others. There's Sabrina Henderson and there's Melissa Summlears.

Now, does it matter who they conspired with? The law recognized that it doesn't. They can -- you can show the acts of their conspiracy between the two, which you've seen over and over again, even by video surveillance. But you can also see the conspiracy and the acts with Sabrina Henderson, with Melissa Summlears, or any combination thereof. And so it isn't that you have to have every single person. It's one or more of the coconspirators that got together to effectuate this crime spree.

Aiding and abetting. The law tells us that a person who knowingly and with criminal intent aids, promotes, encourages, instigates, by act or advice or by act and advice, the commission of such crime with the intention of the crime be committed. And we're not required to prove who committed the

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crime and who aided and abetted. In this case, it's unique in the fact that you see them do all -- many of the theories, if not all of the theories, of liability.

So these different theories, what are they? First of all, all of these theories -- liable as directly committing the offense, aiding and abetting, or as a coconspirator -- you don't have to agree on the theory. You have to be unanimous, and we're confident you will be unanimous in your guilt as to these defendants. But the liability, the theory, if they directly committed the crime or if they helped each other or if they did it pursuant to their conspiracy to continue to commit crime, that's your choice. And they don't have to be the same. As long as you agree that the evidence establishes a defendant's guilt, your verdict will be guilty to that offense.

And in this case, it is interesting. It's unique in a way. Because the defendants and liability they had in multiple ways. Both the defendants would make entry into a branch on most of our occasions, except for the first US Bank. And while one was directly robbing one of the tellers, they were aiding and abetting their coconspirator and conspiring as they committed the offense on the other. And so in this case, it's a unique circumstance where they're doing more than one theory at the same time.

So let's talk about the crimes that they committed. Burglary. Every person who, by day or night, enters any

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building with the intent to commit a felony is guilty of burglary. Well, burglary is all about intent, ladies and gentlemen and the law tells us that. The gist of it is the criminal intent. It's committed if a defendant entered a building with the intent to commit a robbery even if -- even if they don't effectuate the ultimate crime that they entered to complete.

And also of import, especially in commercial establishments like the US Banks or the Bank of the West, it's no defense that that establishment is open to the general public. There's no breaking that needs to occur. It's all about the intent of the people that make entry. And what do we know? We know that neither of these defendants have a bank account at US Bank. They neither have one at Bank of the West. And we also know what it is they were intending to do when they walked in those doors. It was to commit a robbery. That's a felony in the state of Nevada. And regardless if they're successful, they're guilty of the crime of burglary.

We have an example of that in this case. On August 9th of 2018, at the Smith's US Bank at 2550 [sic] Maryland Parkway, Detective Worley talked to you about seeing these defendants collaborating. Remember the questioning?

How did you know they were collaborating? Well, they were looking at each other, they were talking to each other, and then they were looking around before they made entry into

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that Smith's. Did they stay there long, Detective? No, they sure did not. Why? Well, it was busy.

But what did they enter in to do? Think of their conduct before, during, and after this -- on this day. They entered to rob. But did they do so? They didn't rob but they sure burglarized the place, because it doesn't matter if they were successful in completing the underlying offense, which, in this particular instance, they weren't. And they did so with a deadly weapon. If you remember, Detective Worley talked about the bulge that he saw. And you have video surveillance from them walking away from that. What did they do after that? Think about how we know their intent. Because after that is when they actually complete the robbery at 801 East Charleston. After they make a stop but don't enter that Chase branch.

So they're guilty of burglary while in possession of a deadly weapon. So let's talk about that crime. And it tells you that anybody who commits a crime of burglary, who has in his possession or gains the possession of a deadly weapon at any time during the commission of the crime or before leaving, is guilty of burglary while in possession of a deadly weapon.

The law talks about different types of possession, actual and constructive, right. I actually hold this gun in my hand or I have possession, dominion and control over that clicker, and it is possessed either by myself or jointly with Mr. Scow who may use it next. The law recognizes that

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possession can be all of those things, sole or joint, actually or constructive.

What other crimes did these two men commit? Robbery with use of a deadly weapon. What is it? Robbery; it's an unlawful taking of personal property from the person of another by means of force or violence or fear or injury thereto. Such force or fear has to be used to either obtain or retain the property or to prevent or overcome resistance to the taking or to facilitate an escape with the property. In this case, it's clear that the force or violence or fear of injury thereto was to get money from the tellers at the bank, and that's a robbery.

It's not necessary to prove both violence or intimidation, and it just has to be likely to create an apprehension of danger and induce a man -- and in our instance, all women -- to part with her property for the safety of her person. That's a robbery. It's not necessary to prove actual fear. Although, I would submit to you that the fear was actual, and you heard from the victims in this case, many through tears about what happened to them that day and why they parted with the money. But the law will presume it even if they don't have actual fear.

So let's talk about that degree of force. It's
immaterial. And one other thing about robbery is that a value of the property, it's not an element of the crime. So when the JD Reporting, Inc.
defendants came in and robbed the victims of thousands of dollars, it's not of import that it was thousands of dollars, right, because it could have been of their pen. It could have been of anything. It's just personal property.

Deadly weapon. What does the law tell us? A deadly weapon is any instrument which, if used in the ordinary manner it's contemplated by its design or construction, will or is likely to cause substantial bodily harm or death; or a deadly weapon is under the -- same under the circumstances in which it's used, attempt to be used, or threatened to be used, is readily capable of causing substantial bodily harm or death; or an explosive or incendiary device -- that's a deadly weapon. The example in this case would be the threat to bomb -- or a pneumatic gun.

Now, let's talk about pneumatic guns because you saw one before you in this case. What is it? The law defines it as any implement designed as a gun that may expel a ball bearing or a pellet by action of pneumatic pressure.

Now, the State is not required in any trial to recover a deadly weapon alleged in a crime or to produce a deadly weapon at court. Why is that? The law is smart. It understands that most people would get rid of some type of evidence like that, or it can happen, and we're not required to show you a deadly weapon in court. But we did.

Let's talk about the different deadly weapons we
showed you in court. One was in Defendant Phillips's Mazda Protege. Mike Cromwell got on the stand and told you that he photographed this gun. Where else have we seen a gun? In Defendant Barr's Grand Marquis. That gun, however, was brought to you in court and you have it. You have it in evidence for you to see. What is that? It's a pneumatic gun, and it is, by law, a deadly weapon. But what else do we know about it? Forensic scientist, Mr. Wilcox, got on the stand and talked to you about the gun that was impounded being a pneumatic gun, that it was a Sig Sauer pistol powered by CO2 pneumatic pressure, gas, and that it was fully operational as designed, though it did have a leak in one of the cartridge casings -- I mean, excuse me, one of the cartridges for the CO 2 , and that it shoots ball bearings, metal BBs, and he was successfully able to shoot those multiple times. The gun that was recovered in this case and presented to you, the pneumatic gun, is a deadly weapon.

Now, use of a deadly weapon. What does the law tell us? In order to use a deadly weapon, there need not be conduct that actually produces harm, but only conduct which produces fear of harm or force by means or display of the deadly weapon in aiding in the commission of the crime. The law makes sense and it's smart. It protects its citizens. You do not have to shoot someone, hit someone, show someone the deadly weapon in order for it to be used when you do things like rob someone.

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Why? Because the law is going to recognize that it's protecting its citizenry when it doesn't make the tellers, as I asked, challenge these defendants when they tell them they have guns. No, show it to me. That makes no sense at all. It doesn't want to increase the risk of harm to victims, and it recognizes that you can show that they used a deadly weapon by other means or by display. It's an "or."

The law makes sense. It also recognizes that more than one person commits a crime -- and when more than one person commits a crime and one uses a deadly weapon in commission of that crime, that each -- each may be convict of using a deadly weapon even though he or she didn't personally use it. And that makes sense because, when you have that coordinated series of events and actions and intent by more than one person, one person might be collecting the money, as we saw at 801 East Charleston, while the other person is helping to effectuate the fear and getting that money. But whether or not they physically had hands on it is of no importance in the terms of the law and responsibility. The act of one is the act of all so long as the unarmed offender had knowledge of the use of the deadly weapon, which is clear here.

Now, I want to talk about the deadly weapon before August 9th of 2018. Mr. Hughes and Mr. Brower, skilled attorneys, will get up before you and they will argue. Now, what they say and what I say is not evidence, and it's argument
on both parts. But listen to what it is they will ask you to conclude when it comes to a deadly weapon and ask yourself if that's consistent with the evidence. Because it's likely that they will argue that all of the crimes before August 9 didn't have a deadly weapon, and the State submits otherwise. But make no mistake, even if you found that all of the crimes that these two committed prior to August 9th of 2018 didn't have a deadly weapon, then your verdict would be a burglary, just not a burglary while in possession of deadly weapon, or it would be a robbery, but not with use of a deadly weapon, right. It wouldn't be that they're not guilty of the crimes, if that's your determination. And make no mistake, ladies and gentlemen, it is your determination.

But when they get up and argue that to you, respectfully think back of what evidence you have. The law says there has to be fear of harm by a means or display. So what means did these two men have and use that proves to you that a deadly weapon was used in all of the crimes? And I'll show you.

Let's talk about Amie Carr. When Defendant Phillips passed that note to her and got the money, what did the note say? 4,500, weapon, no alarm. What about Melanie Terada? Note: Give me your money. We have a gun. Allyson: This is a robbery. Give me your money from both drawers. This is no bullshit. Nur Begum: Give me all your money. I have a
weapon. These are the means. Mary Grace -- Give me all your money. I have a bomb in my bag.

Meghan Zitzmann and Sunny Shay Cortner. With regard to Meghan, she couldn't read the note, but the defendant at the time said verbally to her, We have a gun. Give us everything. If you alarm, I'm going to shoot you. She told you those words as she cried on this stand. And what did Sunny tell you? She also couldn't read the note. But what did Barr say to her? Give me everything in your drawer, and then when that wasn't enough, she showed him the bottom drawer. Remember? If you say anything or do anything, I will shoot you.

What do we know -- what do we know about the defendants and their means of the use of this deadly weapon in their crimes? We know that they did use one. They used one not on August 6th, not on the times before, but on August 9th. So what does that tell you? Is it reasonable that they had the weapons on these occasions? Absolutely. Is it reasonable that, when they told the tellers they had weapons or guns or that they would shoot them, that they had access to them? Of course it is. His Mazda had a gun. His Grand Marquis had a gun. And who else told you that they had access to guns during this time frame? It was Vidal and Jaszman, right. Seen them both with them.

Now, if each had access and availability, you should take them at their word. They and their statements made is
evidence. So when they get up to argue with you -- to you that there wasn't a deadly weapon, the means by which there was includes what they told the victims. Take them at their word. It's reasonable. It's absolutely reasonable that the defendants had the weapons that they said they had on all of the other dates of crimes.

So let's talk about the crimes they committed then. On August 9th of 2018, the day that this conspiracy comes finally to a halt, as I said, they're not the only ones involved; right? Who else do we know was there? Melissa Summlears, she's a lookout. She goes in. She walks into that branch. You have the video of it. This is a still from that video. She walks in -- timed it. She walks in, has a very short time frame, walks out. When she walks in, she's on a cell phone. She walks out, and minutes after that is when they come in to commit their crimes. She's a lookout.

What else do we know? We know Sabrina Henderson was the getaway driver; right? She gets caught with him driving the vehicle, and they committed burglary while in possession -burglary, excuse me, while in possession of a deadly weapon and robbery with use of a deadly weapon. You see it on video. Taken from Claudia was $\$ 5,452$ in their robbery, and taken from Jada was $\$ 3,108$, robbery with use of a deadly weapon. That was on August 9th.

What else happened on August 9th, 2018, in that

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branch were other crimes and included assault with use of a deadly weapon. What is that? It's an intentional placing of another person in reasonable apprehension of immediate bodily harm or an unlawful attempt to use physical force against another person. What does the law tell us? There doesn't have to be an actual injury. The reasonable apprehension, the dropping to the ground by all of our victims in this case is clear, and they used a deadly weapon to do so.

Now, both defendants are guilty because they're working together with knowledge to effectuate these crimes. So even though it is Defendant Barr that physically had the gun in his hand, we know that Phillips had knowledge of the same, and he also, if you remember Teri Williams's testimony, was directing him where to go with that gun. And even Jada told you that he hesitated and waited until Barr pulled out the gun before he went over to complete these robberies. So he acts with use of a deadly weapon for the assaults, as well as for the robberies themselves.

Now, they use a deadly weapon but on who? Well, you can see it here. And you have video surveillance of this, and this portion is in a corner portion. But who's on the ground when [indiscernible] has the gun? Drop to the ground right away. That's consistent with what Vince told you on the stand and with what Michael Irish told you and Kerri Pedroza. Vince dropped to the ground right away. He didn't hesitate one

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minute. When that man told him to get down on the ground and had a gun pointed at his face, he dropped to the ground, period.

But then what happened? Michael Irish -- and you can see him on these slides -- finally dropping to the ground. And Kerri Pedroza talked to you about her dropping to the ground because of the gun. She's off camera when it comes to Barr pointing it at her, but she testified to the same, that she, too, dropped to the ground.

But there's another assault with deadly weapon that occurs at this branch at that time, and that's of a victim 60 years of age or older, Ms. Teri Williams, who told you that she was 76 years old. She was 76 years old when this man came back more than one time, having her get on the ground. And if you watch the live surveillance that you did, you saw her struggle with her bad knees trying to get to the ground. Now, she was smart because you also saw her put her wallet in her bra before she got there. But it's clear that they committed the crime of assault with use of a deadly weapon, victim 60 years of age or older, when Ms. Teri Williams is told to get to the ground.

That's not the only crimes that were committed on
August 9th of 2018. What else was committed? Carrying a concealed pneumatic gun. And concealed means it's carried upon a person in such a manner not to be discernible by ordinary observation. What does that mean? You can't see it, right.

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We know it's pneumatic gun. Mr. Wilcox obviously talked to you about it, we collect it.

But what do we know? We know that when Anthony Barr first makes entry, when both of them together make entry and burglarize the place but before they commit the robberies, you can't see the gun. That's because it's concealed. And if that is not clear enough for you, watch the video because it will show you Anthony Barr pulling that gun from his waistband before he uses it. And if you notice something else, as Jada Copeland said, Damien Phillips has yet to come because he hadn't pulled out the gun yet. He has knowledge and the same criminal intent as Mr. Barr.

Let's talk about August 6 of 2018. Sabrina Henderson is the lookout, right. On that day -- well, she may have also been the driver, but she was the lookout [indiscernible] shows it. Much like Melissa on August 9th, there she is on her cell phone, and look at the time frame before those two men make entry to rob the bank. And this is the one located in the Smith's.

And what occurs? A robbery with deadly weapon occurs. Taken from Meghan Zitzmann, \$1,047. Taken from Sunny Shay Cortner, \$1,439. That's what they were robbed of on that day. On July 31st, the Bank of the West was burglarized and robbed with use of a deadly weapon. We talked about the "with use." But what was taken from Nur, \$686. From Mary Grace,
$\$ 1,929$. They're guilty of the robbery with use of a deadly weapon.

Let's talk about the US Bank on July 23rd of 2018. That's the one on Eastern. Again, they burglarize and rob the bank with use of a deadly weapon. And from Melanie, \$10,395 was taken in that robbery. And from Allyson, \$5,775. July 17th, 2018, this is the count that just Mr. Phillips is charged in. In this case, he went into the US Bank and burglarized it with use of a deadly weapon and robbed Amie Carr. Of how much? Taken from Amie, $\$ 3,309$.

Ladies and gentlemen, they're guilty of all those crimes, and the evidence you can see with your own eyes proves it. But that's not the only crime. Dissuading a witness from reporting a crime, what is that? So a person who, by intimidating or threatening another person, prevents or dissuades a witness from reporting a crime or possible crime to a peace officer is guilty of preventing or dissuading a witness from reporting a crime or commencing prosecution.

What is this about? This is about Jazsman Moorehead and the threats that that man made to her before he left for his final crime. Defendant Barr threatened to end Jazsman's life if she told anybody about what they were doing, and she testified to the same. Remember the timing of this. This is after she confirmed it him about what she saw on the news. Remember those press releases that she was familiar with --

Mr. Scow presented them -- and who she recognized and who she confronted. And it's also after what? After she refused to go with him.

We take seriously, and the law takes seriously, the threats to witnesses of crime and to people who are doing what's right, which is reporting crime and refusing to go along with crime when they're invited to go, which is why he is guilty of preventing or dissuading a witness from reporting a crime. But what else does this show? What else does his threats show? The consciousness of guilt.

Barr knows he's guilty. Evidence that a defendant attempted to suppress evidence against himself in any manner, such as the intimidation of a witness or by discouraging a witness from providing evidence or testimony, can be considered by you as consciousness of guilt. He knows he's guilty and he knows Jazsman can identify him and she did, and he's guilty of that crime.

All of these crimes have been presented to you, and these are the men that committed them. But how do you know that? Well, let's talk about the identity of Damien Phillips. Ladies and gentlemen, you yourself can do the analysis when it comes to identity because you yourself have Damien Phillips on video from every single crime he committed. And that, standing alone, proves his guilt beyond a reasonable doubt.

But additionally, with Mr. Phillips, we have

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fingerprint evidence. Remember Forensic Scientist Tanya Hiner, as well as Gayle Johnson, testified before you. And Phillips's prints were at the Bank of the West. They were on the note collected from the US Bank, the one that's at 55 South Valle Road [sic] in the Smith's, and the prints are on the Twistable Crayola crayon box. But to the extent that defense counsel will get up and talk to you about the scientific evidence that was presented, remember that there are other prints collected. And what's that consistent with? The reliability.

Gayle Johnson picked a lift off of -- well, got a lift from, excuse me, Jeff Smith at the 801 East Charleston. And who did she identify that as? Bryce Crafton [phonetic]. Now, Michael Irish said I know Bryce Crafton. He's a regular customer of ours. Was he there that day? The video suggests that he was. And if you went all the way back to earlier in the day, which you have, Bryce Crafton was there at the same window of which she found the print. Why is that important? Because it's consistent with the reliability of the prints that we find of Phillips's. But what other prints do we have? Of Navaal Ali and David Krans, and they're on those crayons along with Phillips. Why does that make sense? Because they helped him. They testified that they helped him, and that's why their prints are there.

Do you need any of that? No, you have it live on those videos to watch. So let's talk about the identity of

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Anthony Barr, a.k.a. Chi-Raq, right. That's the name he went by, the name that Vidal and Jazsman know him by. [Indiscernible] photographs and video of Chi-Raq. They're right there. And there he is committing all of the crimes that we've alleged. You have it and can do your own analysis, but there are people that know both of them, that lived but merely upstairs -- excuse me, downstairs from where they were living and saw them regularly. And they each viewed video surveillance, and that's Jazsman Moorehead and Vidal Holman. And each one told you that it was Chi-Raq and that it was Damien that committed all the crimes.

Let's talk about the flight. What is that? It's another way where we are able to show the consciousness of their guilt. And you have that as well, that you can watch on the body camera footage of Officer Damschen. Why did they flee? They fled because they knew they were guilty. Let them know that you know that they are guilty too. And when you go back to deliberate, we ask that you find them guilty of all the charges, for all the crimes that they committed across this valley from July through early August.

Thank you.
THE COURT: All right. Thank you, Ms. Schifalacqua.
Does anyone need a break?
All right. We'll take just a quick break. Put us right at 2:15.

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During the brief recess, you are all reminded you're not to discuss the case or anything relating to the case with each other or with anyone else. You're not to read, watch or listen to reports of or commentaries on the case, person, or subject matter relating to the case. Do not do any independent research by way of the Internet or any other medium. Please don't form or express an opinion on the trial.

Please leave your notepads in your chairs and follow [indiscernible] out through the double doors.
(Jury recessed 2:03 p.m.)
MR. BROWER: Judge, we have something when we're totally outside the presence we need to address.

THE COURT: Sure. We're out of the presence. I think those are -- I mean, I think they are --

MR. BROWER: They're DA employees that just came down to observe.

MR. SCOW: Yes, an officer and our investigator.
THE COURT: Yes.
MR. BROWER: So, Judge, if you recall, when we were first here last week, I brought to the attention of Mr. Scott, before I brought it to the Court, that we believe Juror No. 8 may not have been paying the most attention during the trial. It seems like after maybe a conversation with your bailiff she was paying more attention. However, we never had her canvassed or addressed as to whether she was paying attention. We were JD Reporting, Inc.
wondering if it is possible to move her as one of the alternates, by stipulation of the parties, to the end. And then if we have to, we can address her later. So just making the alternates Jurors 7 and 8 --

THE COURT: If you stipulate to that, I'm fine with it.

MR. SCOW: We do, Judge.
THE COURT: The first alternate in order is Mr. -- is Juror No. 6, Mr. Destro. So we would make the alternates 7 and 8, Ms. Giovani and Ms. Chrisotomo; is that right?

MR. BROWER: That's what the parties agreed on.
MR. HUGHES: I'm okay with it.
MR. BROWER: And we thought that would resolve the issue, Judge.

THE COURT: If you stipulate, I'm fine with it.
MR. BROWER: We're fine with that, Judge.
MR. SCOW: We do. Just to help protect the record, we're fine with it, by the way.

THE COURT: Right. I mean, I didn't see her sleeping. You know, I think she just kind of -- okay. It's not going to be clear on any record. She's quite young and so I think as a younger person, she's, A, more flexible; she's, B, thinner.

MS. SCHIFALACQUA: Much more flexible than myself.
THE COURT: Well, let's face it. Some of us can

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barely fit in the chairs as it is, let alone put our feet up. MS. SCHIFALACQUA: Right.

THE COURT: But my point being is she's young and she's thin, and she can fit in the chair with her hips and both of her feet, unlike a lot of us, who can -- in fact, well, one of my -- I'm proud of this. One of the only accomplishments as Chair of the Jury Services Committee was we have now plus-size chairs in each department because I was so sick of watching jurors sit on the edge of their chairs for over a week because they couldn't fit, and all of the plus-size litigants that can't get in the chairs. So now each department has plus-size chairs because there really were a lot of people who can't fit in these chairs.

But the point being, she's young, she's thin, she can fit in the chair, she can put her feet up, and I think that may be why she's sitting like that, as opposed to a lot of the older jurors, maybe heavier jurors, who couldn't sit like that if he wanted to sit like that.

So I don't think it's necessarily -- my whole point of this long dissertation is that I don't think that we can infer from that that she's sleeping or not paying attention. think it has more to do with just -- she's trying to be comfortable in a chair that's uncomfortable.

MR. BROWER: And, Judge, neither one of us actually saw her asleep. We were just concerned -- given the record we JD Reporting, Inc.
made last week and the fact that we had [indiscernible], we thought it was a safer record to make.

THE COURT: It's fine if you stipulate, but I just want it to be clear that I'm not finding that she wasn't paying attention or she was sleeping or anything like that. I think it has, like I said, a lot more to do with the fact that the chairs aren't comfortable and she has more, let's say, flexibility to sit in that chair than a lot of the other jurors.

MR. BROWER: I know I couldn't get in any of those positions.

MS. SCHIFALACQUA: We do yoga.
THE COURT: I could but not -- I mean, I'd have to use the plus size chair. I'll just put it out there.

MR. SCOW: Yes, Judge, we do agree on that
stipulation.
THE COURT: All right. So that's fine. Do you agree, Mr. Hughes?

MR. HUGHES: I do.
THE COURT: All right. Take our break.
THE CLERK: So six and eight will now be the alternate?

THE COURT: Yes.
(Proceedings recessed at 2:08 p.m., until 2:16 p.m.)
THE MARSHAL: All rise for the members of the jury.

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(Jury reconvened at 2:17 p.m.)
THE MARSHAL: Thank you. Everybody be seated. THE COURT: All right. Court is now back in session. Mr. Brower, are you ready to proceed with your closing argument?

MR. BROWER: I am, Judge.

## CLOSING ARGUMENT FOR DEFENDANT PHILLIPS

MR. BROWER: So unlike the State, I'm going to try to be brief. They were --

You guys have sat here for -- going on your second week now, almost your full second week. And I'm assuming and from what I've seen you've paid attention, so you know where we are with this case and you remember what we talked to you about in the beginning. And you know that it's the State's job to prove this case, and it's not anybody else's. And I submit to you that they have not done so to their burden on -- in this case.

You'll notice in the first four alleged robberies there was never any use of a weapon or display of a weapon. The State's talked about their version of that, but you can remember all of the witnesses that sat here and, despite the numerous inconsistencies of who did what or what they looked like or the height -- they were five-five, they were this height, they were dark skinned, they were light skinned. What none of them told you was a weapon was used in this case.

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So you have to determine on all of the stuff that you've been given every single aspect of that case, and I'm sure you can do that. So when you get back, you have to go through, not only what they've told you, but all of the inconsistencies in this case. They've all been brought to your attention. Again, the person was five-foot-five. There was two people. There was one. They displayed a note. I think the note said this. I think the note said that. One note was upside down. I'm pretty sure it said, Give me something. I don't remember because I didn't read it. That's all things that you guys have to look at.

You also have to look at an alleged burglary at a Smith's where you had officers testify, hey, we followed some individuals. It looked like they went into the Smith's. We're certain that, hey, they had to be there to rob the place. You've seen video testimony from, I think, every one of these places. What you didn't see was any video from the Smith's. You didn't see anything from that US Bank that's inside that Smith's. You didn't see anybody walk up and case the joint. You didn't see whether somebody walked up and bought Chiclets at the counter. You didn't see any video surveillance. If it existed, I -- and there was clearly some lookout or we were casing the joint. I'm certain the State would have played that for you.

So, your job is to go weigh all of this evidence, all

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of it, each count, one by one, to go through it and determine if those two -- because they got to point at me a whole bunch. Now I get to point at them -- whether those two proved to you each and every element that they've brought in this case.

Mr. Hughes is going to go. I'm sure he's going to be a lot longer than I am. And I'm going to turn it over to him.

THE COURT: All right. Thank you, Mr. Brower.
Mr. Hughes, you may proceed.

## CLOSING ARGUMENT FOR DEFENDANT BARR

MR. HUGHES: So, ladies and gentlemen, you're going to get a lot of exhibits when you go back to the jury room on this case. You have movies, you have photographs, you'll have the instructions. Please pay close attention to the last page of the Information as part of your package -- I think it will be page 14 -- and the last portion of that which tells you that each charge and the evidence pertaining to it should be considered separately.

There's 30-some-odd pages of information. There's two defendants. They each have numerous charges. But what you are not to do is, if you find an overabundance of evidence regarding one charge, you can't make up a deficiency on another charge. If I could have taken the excess points on my history grade and applied them to organic chemistry, my life would have been different. But I can't. And you can't switch evidence around in this case. You decide each charge based on the
evidence pertaining to it.
The State wants you to believe that these two individuals committed a series of five crimes. And they tell you the crimes are really similar to each other. The similarity is that there's always one or two black males involved, and four out of the five were at US Banks. I don't think that amounts to a modis operandi. We have to look at the dissimilarities.

Some cases have one defendant -- one suspect. Others have two. Some of them have a female scouting. Others don't. In some of the cases, a male dresses up as a female. Some cases have weight. Some don't. Banks are open five days a week. These five events occurred on three of those days. There's very little similar in these cases. There's more dissimilar. The most similar thing between these is in four of them, there was a note. The suspects, whoever they may be, showed the tellers a note. And the note said, I have a gun or I have a weapon. In one case, I think it said, I have a bomb. And this seemed to be working well, because you heard the tellers testify our training is, if somebody says give me the money, I'll give you the money. You don't have to tell me you have anything. You don't have to even look mean at me. Say, give me the money, I give it to you. That's their training.

I think the fact that the last case, the one on August 9th, was different. In that case, the suspects had a BB JD Reporting, Inc.
gun. They didn't use a note. They had a BB gun or a pneumatic gun, if you listen to the State, which may or may not have been operable depending on what you heard. That's different because if the individuals who did the last robbery on the 9th of August were the same as had done the first four, why would they have changed the most crucial element of their modis operandi? They got rid of notes and they actually had a BB gun. The notes were working so well, why change? But they did change, apparently.

I also -- I remember watching the videos. You'll get a chance to watch them ad nauseam. The various events had suspects wearing distinctive clothing. I remember a camouflage hat. I remember a black wig, a red shirt, a black T-shirt that said Gizmo and it had some drawing on it.

The police, after the arrest in this case, got search warrants, and they searched two cars and they searched two rooms at Aviator Suites and they searched a room at Circus Circus. And I don't remember them seizing or photographing any of these items in any of those locations. If these were the same people who committed those crimes wearing these clothes and hats and wigs, where were they? They searched every possible place that these individuals could be, and they didn't find those things.

Some other items they didn't find when they were searching was any handgun ammunition. They didn't find a bomb.

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They didn't find any bomb-making equipment. The State didn't find any prints of Mr. Barr at any of these locations. Didn't find any of Mr. Barr's DNA at any of these locations.

Remember, we're talking about five events. And there's one or two black males involved in each one of them, according to the State, according to the video. But there's some discrepancies. We have different heights between these people that are supposedly robbing the banks, and they go from a low five-five to a high of six-something.

There was more than just two black males living at the Aviator Suites -- are connected. We have Mr. Barr and Mr. Phillips. Mr. Phillips lived upstairs, I believe. Mr. Barr was a visiter. But we also have Jakari and we have Mr. -- or Vidal, Vidal Holman, something. Mr. Jakari is rather short. He's about five-five, if I estimated by his photograph. And Vidal is up there at six foot or so. I was struck by how similar Vidal looks to my client, Mr. Barr. Of course, Jazsman and Vidal tell you that it was Barr and Phillips who did this. But Jazsman -- Jazsman could possibly have been angry at Mr. Phillips because she believed that he was having an affair with her mother.

MR. SCOW: Judge, objection. There's no evidence of this even remotely.

MR. HUGHES: I believe she testified to that.
MS. SCHIFALACQUA: Angry?

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THE COURT: She didn't testify -- I don't recall her saying she was angry, but she said they were, as I recall, messing around.

MS. SCHIFALACQUA: Correct.
THE COURT: And so Mr. Hughes can argue reasonable inferences. It's up to the jury. But she did not testify that she was angry --

MR. HUGHES: I don't think she testified to that.
THE COURT: And, ladies and gentlemen, there may be other disputes as to what the evidence was. I may not remember it. I may remember it incorrectly. Regardless of what I may say or the lawyers may say, it's your collective recollection of the evidence that should control in your deliberations.

All right. Go on, Mr. Hughes.
MR. HUGHES: So Jazsman was aware that Mr. Phillips, in her mind, was having an affair with her mother. When Jazsman testified, she said how Mr. Phillips ran down to get his gun from her apartment. She talked around the fact that that gun, that apparently was found on the night, belonged to her boyfriend Vidal. He testified to that. Jazsman seemed to talk around some of the issues and was less than forthcoming about the ownership of that weapon or -- I'm sorry, that BB gun.

I want you to consider the possibility the other two black male adults that were connected to the Aviator Suites

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could have taken part in some of these robberies. That would explain the height differentials that the witnesses testified to. And, remember, you're supposed to apply the evidence to each charge. They may be guilty of one. They may not be guilty of all.

Regarding the gun, in the first four events, there's not even a witness who says they saw a gun. They said they saw a note. It said gun and/or weapon or bomb. What they -- what was used in the first four robberies was lines of ink on paper. It was not a weapon. If I say I have something, and I tell you and you believe me, it doesn't mean that it exists. Try this when you get home. Go tell your spouse that you have a winning lottery ticket in your pocket and make her believe you. Jump around. Laugh, smile. And if she does believe you, you don't have a winning lottery ticket in your pocket, it's not fair. The fact that I say I have a gun and you believe me doesn't mean I have a gun. It doesn't mean I'm using a gun. I'm using the idea of a gun. And we haven't gone so far yet as to make ideas criminal.

The first four events, the State is giving you zero evidence of a gun or a bomb or a weapon of any nature being used. Try -- try this, spice up your tomorrow. The next time you're in the courthouse, come through the metal detector by security with a note in your pocket that says gun, and see if you breeze in. Then after lunch, you may -- I don't suggest
this -- but try walking in with a gun. It's an existential difference between a piece of paper that says gun and having the gun.

Also, the police apparently suspected some of these people in the Aviator Suites taking part in these robberies. And so they got a tracker on the car, and they had half of Metro and half of Henderson following. Do you believe that if the police department believed that these individuals were engaged in robbing banks and they were armed that they would have allowed that last one to happen? The police obviously did not believe these people had a weapon or that they were armed. They believed, like everybody else, they had a note and they wrote the weapon of the day on it -- bomb, gun. Because if they thought they really were going to walk into banks with firearms, they would not have allowed the last event to happen. It's disingenuous for the State to come in now and say they were armed in all of them when the police, they didn't think so.

I want you to keep the evidence of each count separate. Please consider not just what you've been shown but what you weren't shown, what they didn't test for. They didn't test -- they did not test, as far as I remember, for fingerprints of Jakari or Vidal on anything. Checked other people's. They never checked for those prints. We have some unidentified prints there. There may have been other people

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involved in this. And I want you to consider all those, as you consider, each count separately.

Thank you for your attention.
THE COURT: All right. Thank you, Mr. Hughes. Rebuttal.

## REBUITAL ARGUMENT FOR THE STATE

MR. SCOW: I'm going to start seated. Can you guys tell me how tall I am? Write it down. Everybody write down what you think and then compare when you go back to deliberate. How tall do you think I am? You've walked past me every day for a week and a half. I'm seated right now which makes it harder, I'm sure.

And you heard questions all week last week and some of this week about discrepancies and witnesses and guessing height when they're not even trying to think about height. They're thinking about the note that's in front of them and that they don't want to get shot or blown up. They're not thinking about how tall the person is.

So if everybody has written it down -- I didn't see anybody writing. I really want you to do this. And then I'll tell you afterwards how tall I am.
$\operatorname{MR}$. BROWER: Judge, I think that would be evidence not in the --

THE COURT: Well, that's true.
MR. SCOW: That's why I said afterwards.

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THE COURT: Oh, you mean --
MR. SCOW: Yeah. When everything is done, when everybody is able to talk.

Okay. Let me get this up going now. I just wanted to throw that out there. And while we're doing that, think about the tellers that gave heights of around five-five. Nur and Mary, what were they doing? They were sitting. And what did the individuals do that approached them? They're not paying attention to them when they're standing there in line because that's how every customer is in the bank. When they came to them, they sat down. How the heck are they going to know how tall they are?

And then the next one is Meghan and Shay. What did they do, Anthony and Damien? What did they do when they approached those two tellers? They leaned on the counter. I'll show you the video in a minute. But they leaned. How are they going to know how tall they are? They weren't paying attention. They didn't care. They just didn't want to get shot.

So let's -- let's talk about a few things. First, there's an instruction about reasonable doubt. I mean, the label of that phrase kind of says it all; it has to be reasonable. It can't be something that's made up or speculation or mere possibility. It has to be based on reasonableness.

And we have the videos. Go on, look at them. You won't see Jakari. You have a picture of him. Hold it up next to each video. His face is way different. His nose is what? Look at it. You guys are the judges of fact. It's not Jakari. And you saw Vidal in person; that's not him either. Because you all know who it is. It's these two guys. And we'll show some images. We'll go through that because it's important to keep in mind what the evidence is and not what the speculation is.

I'm going to first address some things that were brought up. I already addressed the height. We all know why that they gave them five-five, because they were either sitting or bending over and you'll see the slides in a minute. There's no video of the Smith's shopping center at 2540 South Maryland Parkway, as if that's a reason to acquit, as if the detectives watching them doing the crime isn't enough. They both said they went in. A few minutes later they came out. Why did they go in? Why did they go in the earlier Smith's a few days before that had a US Bank inside of it? They went in there to rob. And what were they doing this day? Looking for a place to rob. We know that because, ultimately, at the 801 East Charleston location, they robbed somebody.

What they're trying to tell you about the instructions is slightly off. When it says that evidence pertaining to each charge should be considered separately,
yeah, you need to go through and make sure the elements of each offense for each charge are met for each charge. You can't just say, oh, they committed the last one because the police saw them and arrested them right after. That means they did them all. No. That doesn't mean they did them all, but you can use that in establishing the identity of offenders in the ones before. You don't look at each one in a vacuum and say, Is this one alone? Do we have this? You look at it all. You know that. That's your common sense.

You look at all of them to determine whether the people that are committing these crimes are the same in each one. You can look at the video from the fifth one and compare it to the second one and say, hmm, those are the same guys. You're allowed to do that. You don't have to consider the evidence of each independently, as was argued to you.

And something that I want to make sure is clear for you as far as the act of one is the act of all. When Anthony Barr walks up to Sunny Shay Cortner, presents a note, says give me all your money, second drawer too, and then I'm going to shoot you if you cause an alarm, he's also responsible for the one that Damien is robbing next to him, Meghan Zitzmann, because they're in it together. It's not just the one that they approach. Each one is responsible for each teller that they rob when they're in it together.

They talked to you about the firearm and how it was
never displayed in the first four bank robberies. That's absolutely right. But the instruction doesn't tell you it's only by means of display that you can use it. It says by means or display. If I say I had a lottery ticket in my pocket and tomorrow you find one in my car, is it safe to assume that I had one in my pocket today? Of course it is. That's why it's reasonable to conclude. If you find that it's not reasonable to conclude, then find that it's not.

As far as the weapon being used in the first four bank robberies, that's your determination. But the evidence that you see and the fact that they have two different guns and one is brought out on the last one, because the bank is somewhat busy, there's customers scattered throughout, they don't want problems when they walk into that bank and can't do it in their own little isolated control teller window like the first four, that's when the gun comes out immediately. But you can conclude with their access to the guns and that they had them with them on that last one that they did on the previous ones too. And it's by means or display. It's not by display of the firearm.

A lot was talked about, like, look at all these differences. Of course, there's going to be differences. What idiot is going to rob a bank five different times wearing the same exact clothing? That's never going to happen. But what does happen, there's so many similarities that we'll go
through, it's going to blow your minds. But the only one that matters, the only similarity that matters is that it's these two guys in each one.

All right. Let's go through a little bit that's been prepared. I'll move as quickly as I can. First of all, you don't just have video to rely on. You have witnesses who were there and observed. First, Alex Orellana. This is the guy that described to you what each one was wearing from head to toe. A black do-rag. The other one had a hat, facial hair, eyeglasses, the red plaid shirt, the white jacket, the jeans on both, the black Air Force 1 shoes.

What did he miss? Nothing. Because then as he -- we were asking him questions and he kept pointing to the accusers, in his words, finally asked, do you see them? You keep pointing in the direction. He was, like, yeah, that one right there and that one right there, and he pointed out Damien Phillips and Anthony Barr. You can rely on that. And there's nothing that you've heard that suggests that he is mistaken or didn't pay attention. He got every bit of their clothing correct. And he identified Anthony Barr on the left and Damien Phillips on the right.

Chelsey Gritton, same thing. Was she a little bit off on which was which? Yeah, and she told you why. Because my employers are getting robbed and my first concern is their safety, but I'm not mistaken that we're being robbed and that

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those are the guys that did it. She identifies both Damien Phillips and Anthony Barr.

Allyson Santomauro, she identified Phillips, if you recall. She was asked, Why didn't you point him out at the preliminary hearing? Well, I was never asked. If you were asked, would you have been able to identify them? Definitely. And she was certain in her identification of Damien Phillips, the one that approached her.

Manny Saenz, remember Manny? He's the greeter. And what's Barr doing when he walks in? Look at his hand. Oh, here, Manny. Manny says, Hey, welcome to the branch. He got a good look at him. And when he's sitting up here, it's like, Do you recognize anybody? Yeah, that one right there, Anthony Barr. Because they had a little conversation when he walked in, when you see that, because he's waving at him. And then as he's leaving, he's looking right at him. Goodbye, Manny. He was, like, have a good day customer, not knowing right then that he just robbed their bank and he's walking out counting the money. He identified Anthony Barr.

Regina Coleman also identified both. That's the guy that was in the dress, but he's got facial hair today. He didn't have it back then. And that's the guy who was in the towel. She identified both as well.

That's evidence. You don't have to rely just on the video; although, the video is all you need. But you heard it
from eyewitnesses. And you also hear it from the detectives who were following them, both before the entry of the Smith's, which is not on video -- everything else is. But they did watch them go in, watch them come out, and identified them. That's Anthony Barr and Damien Phillips.

Jazsman and Vidal, they also -- look, you saw Vidal. Is that Vidal? Is that Jakari? Again, pull up Jakari's picture. There's no way. They're, like, that's Damien, that's Damien, that's Damien. How do you know? Because I saw it on Jakari's cell phone. And that image from that will come up too. That's Damien and that's Damien.

And as to the other, Anthony wasn't at the first robbery/burglary of the first bank at 1440 Paseo Verde, but when he's in the images, they're identifying Anthony Barr. And his face is pretty distinguishable. You can tell each one. This is the only one that's somewhat blurry as far as the bank's camera, but there's plenty of other ways to identify this as Anthony Barr other than the one, two -- the two witnesses at this bank identified him. Anthony Barr -- that one couldn't be any clearer. And neither could that one because the police watched him go in and watched him come running out with the yellow bag of money. But Jazsman and Vidal, each one: Well, that's Anthony. That's Anthony. How do you know? His face, the way he moves. I've seen him, interacted with him. That's Anthony.

All right. And so we'll go through each of these. How do you know just based what you see in the video that these are these guys? The first one, as he's walking out, Damien is wearing the glasses. He's got his hat down low. And as was pointed out in the opening statement, the very beginning, when he comes in from the second one, he's got those same glasses hanging around his neck. That's a pretty unique identifying factor. What do we learn from those body cameras from the traffic stops? You learn a lot from those. Take a look at them. They're kind of fun. Because in them, you see those same glasses two months before the first robbery in Anthony Barr's car. They're so interconnect -- there's no way to separate them. It's impossible given the evidence in this case. But what was it that Amie said about the glasses? Do you remember? They were very reflective. I could see myself very well. And who can you see reflected in those glasses? Officer Okinaka.

All right. What else do we know about Damien? He's the guy that likes to touch things. He goes in on this check-writing counter and pushed his hands down on it and is writing something, maybe what he used on the note that day. But when you look at each of the arms, they don't stop to write a note. They come in prepared. Show the note, make the threats, get the money, and leave.

And when they process that, they find the right palm
of Damien Phillips. That's his Centennial [indiscernible] working card that was found in the Circus Circus. And that's the image of his palm, got the latent prints on those.

Damien Phillips. What else do we know? Okay, this image is a little bit grainy, but look right there, right through here. When you get the video, go look at it. It's fun. And you can see it in that one. Maybe it's my angle there. You can see it -- well, yeah, you can see it on both.

When he's arrested, what's he got there on the right side of his neck? Oh, a tattoo that he was covering. The ear piercing is the same. The ear -- it's the same. You didn't need Vidal to come in and say that's my cousin Damien over there through tears. Well, we also know because the note that he touched and dropped right on the ground there, those come back to not Oscar De La Hoya. They come back to Damien Phillips.

And again, you know all this. The Crayons that he puts down that they pull from the shelf because Navaal put them back. She's a very diligent employee. I hate it they don't buy them and they're not going to put them back.

The shopping carts, when they test those, they also -- that one's not Damien's. That one is an image to help you know that's a fingerprint. But they find Damien's prints on the Twistable crayons. Who else? David Krans and Navaal Ali, two employees that helped them. It's, like, they did
their job and they identified people who touched it because you saw it on video who touched it.

Now, Barr. I made reference to this in my opening statement. This is a guy that doesn't want people to know he's there. He's very careful. And I'll go through some images, but I invite you to go watch them too.

This one here, when he comes walking in, the doors open by themselves because there's a button out there. You don't see it, but I submit to you that he knocked it with his elbow, with his sleeve, to get those to open so he didn't have to touch anything. And why do I submit to you that he used his elbow? Because when he's leaving this branch, he uses his elbow -- go watch the video -- to open it and he opens the door with it, and then his foot or the elbow to keep the door propped open until Damien could come running out with him. Very careful.

Remember, at the check stand he doesn't touch anything. When he goes on that same bank -- I didn't put a still -- but when he goes to sit down, he doesn't put his hands on the counter. He holds the note up. And, if anything, he rests the sleeve on the edge. He doesn't touch anything so there's -- it's no wonder his prints aren't anywhere. Because he doesn't want it to be known that he's there. He doesn't touch anything. This one, he doesn't touch anything on the counter.

Damien, he must be nervous. He was touching papers there and something by the coffee stand, but Anthony doesn't. He doesn't touch a single thing. Walks up with the shirt touching the edge. You can see it there. Presents the note, puts it in his pocket, and then the only thing else that he touches is the money that he grabs to put in his pockets as he goes walking out.

Hear's another image from the fourth one, the third one that Barr is in, the 55 South Valle Verde. You can see it right there. His arms are rested on the counter and his hands are above with the note, not touching anything. So of course you're not going to have his prints. And then in the last one, the only thing he's touching there is the gun. He's walking around and pointing it at everybody. Get them on the ground, make sure that you get in and out because there's a lot of people in there, that he's surrounding them. Of course he's going to go right to the gun because if somebody somehow clues in as to what's going on, they're all over.

So Phillips on the last one, that -- that was a sidenote because Damien's prints are multiple locations. That doesn't explain why Barr's aren't anywhere. But back to Phillips. August 9th, the shirt he's wearing, the pants he's wearing, and when he's arrested. That couldn't be any clearer, especially when there's detectives that follow. Did they make a mistake in letting -- I say letting. They didn't let them
rob a bank. Those guys chose to rob the bank.
Looking back, should they have maybe have arrested them beforehand? Probably. But that's not what's on trial here. The trial is about their actions, what they chose to do, not what the police could have stopped from happening. The police didn't put a gun to their heads and say, You're going to commit this last robbery so we can have it on video and us following you. Got it. That didn't happen. They just did it. They didn't know they were being followed. I mean, what Damien told Jazsman was, I don't care about the cops. I'm going to keep doing this until I get caught. Fortunately for banks in the Valley, he got caught.

So Damien Phillips, we'll again look at each of these images. It's clearly him. You know that he's guilty of each at each location.

Anthony Barr. Let's look at some of the unique things that are consistent throughout. The glasses first, and then the one on the -- the first image was from the second robbery. The one on the right is from the fourth robbery. Same glasses. And with the face that close, there's no question in the world it's this guy sitting right here, Anthony Barr. Now, the third one. What's unique here? He's wearing a towel. That's pretty unique. You don't see people walking around with towels, long sleeves, long pants, in the middle of summer, making themselves even hotter. So there's the towel.

And then on the next one, this one is August 6th. Again, the towel. Where else is he wearing -- or had a towel? Like I said before, the body cams at the traffic stops, they're really fun because they give you a lot of information. He's also got a towel there too, and it appears to be the same color. He's wiping his face with it there.

What else? The one with the hat. This is from the third one where he's waving to Manny. The next one, he's wearing the same hat, same logo, same camouflage, the blue bill [indiscernible]. And in Jakari's video from his cell phone that Detective Ebert got, it's the same hat. When you look at the bottom, there's two stickers there. Oh, there's two stickers there, when Barr is wearing it and the next one at the Smith's. If you just look at the face, the hat. That's Anthony Barr.

What else do we know about this that helps connect it to these guys? The dog. When the police go back and take pictures, it was 2:42. That same dog is there. You know the video was taken at 2:42 where Damien Phillips was the registered tenant, and Anthony Barr was living with him there. And Jakari was, too. But, I mean, you look at this, it's not Jakari. You guys can see that.

Another interesting thing is, clothing sharing. When you look at the traffic stops and you see the skull cap is one, the detective said, or the black do-rag, look on little
[indiscernible] on top. It's there on this one, too, in the traffic stop. Just little interesting fun things from the video. There were some things mentioned about a ponytail when Barr gets in his car. What could that be? Well, when you look at Damien's, in a couple of these different videos, what do you see on the back of him on the do-rag? And when you play the video, it looks identical to the way it looks in this one here with Anthony Barr. And the same hat. And as you'll see, the same shoes. And Damien dressed with the same wig as the Bank of the West. It's got the same look. It's wig or do-rag. Well, you saw the pictures of the do-rag that were the same as to what you see here. But could it have been a wig? Well, yeah. I mean, the other guy was wearing a wig too.

So as you look at the face or the funny nose, the forehead, everything about him, the chin, the facial hair that's more prominent around the mouth. When you look at these, you know that this is Anthony Barr. And how else do you know that it's Anthony Barr on the right in Jakari's cell phone video? Because right here, you see Anthony Barr getting in Anthony Barr's car.

When you look at the back of that vehicle, everything that's so unique about it, the white paint on the back middle, the Mercury emblem, the trailer hitch, even the moving permit that Mr. Brower so helpfully pointed out from Dallas, Texas, when he'd already been here for four months and no registration
information. But it's the same car.
What's the only difference? In the traffic stops, the windows were never tinted. But as you look at the paint -I don't even need to point it out to you; it's so obvious. I mean, look at the paint. It's the car with the trailer hitch.

And how else do you know it's the same a car?
Officer Baldassarre. I don't know if you all finished writing the VIN when he said the VIN of the vehicle stopped, but it's the same VIN. It's the same car. They just tinted it when they started committed robberies to conceal who's inside. Officer Baldassarre read that number into the record when he talked about his vehicle stop, if you recall.

And how else did Karl Lippisch, the detective, determine that these four vehicle stops were the same vehicle? The VIN. Because each time, the officers have to run the VIN. So that's how Lippisch said, Oh, these are all the same vehicle, and Anthony Barr is in the car, driving, every time but the one that Sabrina is driving it. It's the same car. So they tinted the windows.

All right. This is the fun part. Anthony Barr, with no tattoos that you -- you don't see tattoos here. But what do you see in the body cam when he's arrested? First, there's a clear hood. Then when he's brought down to spread his feet so they could pat him down, make sure he didn't have any weapons, in the video you see his face kind of moving up and down on

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that hood, and when he lifts, you see a smear of makeup covering his right cheek where there's tattoos [indiscernible]. Worley, Lippisch, they both said that he had smeared makeup on his right side because part of it's on the car, and they could start to see the tattoos coming through.

And you can also see it starting to come through on his neck, tattoos, and -- and as they said, makeup on his shirt. There's the tattoo -- the tattoo is not on the car. The makeup is on the car. When they go to Circus Circus, they find open makeup, like it had just been used, as it was, to cover up Anthony Barr.

All right. Let's look at the shoes. They're black laces. There's a black line that goes from the side, around to the back, to the other side. You can see that also in Jakari's video and in the Anthem Realty video. These are pretty unique features about the shoes. Oh, and by the way, there's the towel in Jakari's video that he had around his neck. You can see it hanging down on the table at the Smith's. He's also got those same shoes on, black laces in the front. You can see a black logo on the front of the shoes of his left foot. What's Damien arrested in? White shoes with black laces. There's a black line on the side, a Velcro thing, and the black line around the back and a black Fila logo on the front.

What else do you notice about this picture that the defense tries to say is not Anthony Barr? Look at those pants
with pretty unique tears in each knee and white -- from defects on the pants up above. Remember when he's arrested? What's in his wallet? Circus Circus room card. And when they go there, can't find the pants that he wore August 6th. See the little defects and the holes, and when you look at them compared to the video, it's pretty clear.

And then the final thing, do you see the clothing in the video that he's wearing? The police identify him beforehand. They also identify him running out. And by the way, this picture makes it abundantly clear that Damien Phillips knew there was a gun involved that was being used. It's right in front of his face at that point. So the police follow him to the stop location where Lee Damschen is able to pull them over and they jumped out and start running also with that yellow bag with the money. When he's arrested down here, look at the clothing he's wearing. Obviously it's the same because they'd followed them to that spot after he robbed the bank.

And listen carefully to what he says. You have to listen carefully because he's kind of soft in this video. I'll go back.

Do you hear that? They're females. He uses a swear word. I don't like to swear. But they didn't know spit -rhyme with that -- about this. They didn't know nothing about this, meaning that he did. You hear from himself yourself that JD Reporting, Inc.
he's involved, trying to protect the females. One of them is his girlfriend, Sabrina. But he's telling the officer the females didn't know anything about this. And what's this? The robbery that they had just committed.

So when you look at each surveillance video, you look at his face, the features, the clothing, the things connected between him and Damien Phillips, and after you do that, you've reviewed carefully the evidence, you'll come to the only conclusion possible, the one that they know is inevitable, come back and show them you know it too. Find them guilty.

Thank you.
THE COURT: All right. Thank you.
The clerk will now swear the officer to take charge of the jury.
(The clerk swears officer to take charge of the jury.)
THE COURT: All right. Ladies and gentlemen, in a moment, I'm going to ask all 14 of you to collect your belongings and your notepads and follow the bailiff through the rear door.

As you may now have figured out, a criminal jury is composed of 12 members. There are 14 of you. Two of you are the alternates who were seated in preselected chairs. Those are Jurors No. 7, Ms. Giovani and Juror No. 8, Ms. Chrisotomo. You are the alternates.

Before you leave today, please provide a member of my JD Reporting, Inc.
staff with phone numbers where you can be reached today or tomorrow. If, God forbid, one of the regular 12 jurors becomes ill or something like that before a verdict is reached, then you might be called in to deliberate with the jury.

For that reason, until you are contacted by a member of my staff and told that the jury has reached a verdict and you are excused, the prohibition that I've been reading you about discussing the case or reading about the case or doing anything else relating to the case is still very much in effect until you have been discharged as an alternate juror.

So if all 14 of you would get your notepads and your belongings and follow the bailiff through the rear door.

THE MARSHAL: All rise.
(Jury recessed to deliberate at 3:05 p.m.)
MR. BROWER: Judge, Mr. Hughes and I gave our numbers to your JEA earlier today so that she already has them, and we will hang around for quite a while. If the clerk would like our numbers, we can give them to her.

THE COURT: You know, what is the big deal? Give them to the clerk.

MR. BROWER: Well, no. By saying we already gave them to the JEA just so that's --

THE COURT: Give your numbers, stay, give your cell phones, whatever you have. Also, don't, you know, go to Boulder City. Don't go to Lake Mead.

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MR. BROWER: I live in Henderson, Judge.
THE COURT: I know. Don't go to Henderson. Stay close.

MR. HUGHES: How long will you allow them to deliberate?

THE COURT: At 5:00 o'clock we go in and ask if they have a verdict and then if they want to keep deliberating, but we typically don't let them deliberate past, like, 5:45, 6:00. We try -- like, hopefully they'll leave at 5:00.

MR. HUGHES: We're turning the air off for --
THE COURT: And, actually, we might just kick them out at 5:00 because we're already way ahead of schedule.
(Pause in the proceedings)
(Proceedings recessed 3:07 p.m. to 4:41 p.m.)
THE COURT: All right. Court is now back in session. The record should reflect the presence of the State through the deputy district attorneys, the presence of the defendants along with their counsel, the officers of the court, and the ladies and gentlemen of the jury. Who is the jury foreperson?

JUROR NO. 09: I am, Your Honor.
THE COURT: All right. Juror No. 9, Mr. Mosley. Has the jury in this matter reached a verdict?

JUROR NO. 09: They -- we have, Your Honor.
THE COURT: All right. Would you please hand the forms of verdict to the bailiff.

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All right. The clerk will now read the verdicts out loud and inquire if this is the verdict -- that these are the verdicts of the jury.

THE CLERK: District Court, Clark County, Nevada, State of Nevada versus Damien Alexander Phillips, Case No. C335500-1.

Verdict. We, the jury in the above entitled case, find the defendant, Damien Alexander Phillips, a.k.a. Travis Alexander Phillips, as follows:

Count 1, Conspiracy to commit burglary; Guilty of conspiracy to commit burglary.

Count 2, Conspiracy to commit robbery; Guilty of conspiracy to commit robbery.

Count 3, Burglary while in possession of a deadly weapon; Guilty of burglary while in possession of a deadly weapon.

Count 4, Robbery with use of a deadly weapon; Guilty of robbery with use of a deadly weapon.

Count 5, Burglary while in possession of a deadly weapon; Guilty of burglary while in possession of a deadly weapon.

Count 6, Robbery with use of a deadly weapon; Guilty of robbery with use of a deadly weapon.

Count 7, Robbery with use of a deadly weapon; Guilty of robbery with use of a deadly weapon.

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Count 8, Burglary while in possession of a deadly weapon; Guilty of burglary while in possession of a deadly weapon.

Count 9, Robbery with use of a deadly weapon; Guilty of robbery with use of a deadly weapon.

Count 10, Robbery with use of a deadly weapon; Guilty of robbery with use of a deadly weapon.

Count 11, Burglary while in possession of a deadly weapon; Guilty of burglary while in possession of a deadly weapon.

Count 12, Robbery with use of a deadly weapon; Guilty of robbery with use of a deadly weapon.

Count 13, Robbery with use of a deadly weapon; Guilty of robbery with use of a deadly weapon.

Count 14, Burglary while in possession of a deadly weapon; Guilty of burglary while in possession of a deadly weapon.

Count 15, Burglary while in possession of a deadly weapon; Guilty of burglary while in possession of a deadly weapon.

Count 16, Robbery with use of a deadly weapon; Guilty of robbery with use of a deadly weapon.

Count 17, Robbery with use of a deadly weapon; Guilty of robbery with use of a deadly weapon.

Count 18, Assault with a deadly weapon; Guilty of

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assault with a deadly weapon.
Count 19, Assault with a deadly weapon; Guilty of assault with a deadly weapon.

Count 20, Assault with a deadly weapon; Guilty of assault with a deadly weapon.

Down 21, Assault with a deadly weapon, victim 60 years of age or older; Guilty of assault with a deadly weapon, victim 60 years of age or older.

Dated this 13th day of December 2018, jury foreperson.

District Court, Clark County, Nevada, the State of Nevada versus Anthony Barr, Case No. C335500-2, Department 21. Verdict: We, the jury, in the above entitled case, find the defendant, Anthony Barr, as follows:

Count 1, Conspiracy to commit burglary; Guilty of conspiracy to commit burglary.

Count 2, Conspiracy to commit robbery; Guilty of conspiracy to commit robbery.

Count -- I'm sorry.
Count 5, Burglary while in possession of a deadly weapon; Guilty of burglary while in possession of a deadly weapon.

Count 6, Robbery with use of a deadly weapon; Guilty of robbery with use of a deadly weapon.

Count 7, Robbery with use of a deadly weapon; Guilty
of robbery with use of a deadly weapon.
Count 8, Burglary while in possession of a deadly weapon; Guilty of burglary while in possession of a deadly weapon.

Count 9, Robbery with use of a deadly weapon; Guilty of robbery with use of a deadly weapon.

Count 10, Robbery with use of a deadly weapon; Guilty of robbery with use of a deadly weapon.

Count 11, Burglary while in possession of a deadly weapon; Guilty of burglary while in possession of a deadly weapon.

Count 12, Robbery with use of a deadly weapon; Guilty of robbery with use of a deadly weapon.

Count 13, Robbery with use of a deadly weapon; Guilty of robbery with use of a deadly weapon.

Count 14, Burglary while in possession of a deadly weapon; Guilty of burglary while in possession of a deadly weapon.

Count 15, Burglary while in possession of a deadly weapon; Guilty of burglary while in possession of a deadly weapon.

Count 16, Robbery with use of a deadly weapon; Guilty of robbery with use of a deadly weapon.

Count 17, Robbery with use of a deadly weapon; Guilty of robbery with use of a deadly weapon.

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Count 18, Assault with a deadly weapon; Guilty of assault with a deadly weapon.

Count 19, Assault with a deadly weapon; Guilty of assault with a deadly weapon.

Count 20, Assault with a deadly weapon; Guilty of assault with a deadly weapon.

Count 21, Assault with a deadly weapon, victim 60 years of age or older; Guilty of assault with a deadly weapon, victim 60 years of age or older.

Count 22, Carrying a concealed pneumatic weapon; Guilty of carrying a concealed pneumatic weapon.

Count 23, Preventing or dissuading witness or victim from reporting a crime or commencing prosecution; Not guilty.

Dated this 13th day of December 2018, jury foreperson.

Ladies and gentlemen of the jury, are these your verdicts as read, so say you one, so say you all?

THE JURY: Yes.
THE COURT: All right. Before the verdicts are recorded into the minutes of the court, does either side desire to have the jury polled?

MR. SCOW: Not the State, Your Honor.
THE COURT: Mr. Hughes?
MR. HUGHES: No, Your Honor.
THE COURT: Mr. Brower, do you want the jury polled? JD Reporting, Inc.

MR. BROWER: Court's indulgence, Judge.
No, we don't need them polled, Judge.
THE COURT: All right. The verdict will now be recorded into the minutes of the court.

Ladies and gentlemen, this concludes your service as jurors. I want to thank you very much for your willingness to serve and your attentiveness during these, what, eight days. The prohibition about speaking about the case is now lifted. You're free to speak with each other or anyone else you choose, including the lawyers who sometimes like to talk to the jurors and get feedback and whatnot. We've arranged -- oh, here they are in the bailiff's hand.

And may I see the bailiff at the bench for a moment. (Pause in the proceedings.)

THE COURT: All right. As you see, he's got your checks in his hand, and those will be distributed to you. Once again, thank you all for your service.

THE MARSHAL: All rise.
THE COURT: Please follow the bailiff. Get your
belongings and follow the bailiff through the rear door.
(Jury excused from service, 4:49 p.m.)
MR. BROWER: The jury is clear, Your Honor.
THE COURT: Wait until the door shuts.
Mr. Barr, yes.
DEFENDANT BARR: I've got a question. I didn't hear

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the last one.
THE COURT: Oh. The last one was not guilty of preventing or dissuading a witness.

MS. SCHIFALACQUA: Correct.
THE COURT: That's what I heard.
MR. SCOW: That's what I heard too, Judge.
THE COURT: Okay. We'll refer the matter to the Department of Home Probation and give in-custody sentencing dates.

MR. SCOW: Judge, are they remanded without bail at this point? We would request that.

THE COURT: All right. It's academic, but they will be remanded based on the verdicts and the mandatory prison of the charges and held without bond.

MS. SCHIFALACQUA: Sentencing will be on January 31st at 9:30.

MR. BROWER: I'm sorry, what -- is that a Wednesday?
THE COURT: No, it's definitely not a Wednesday.
MS. SCHIFALACQUA: It's a Thursday.
MR. BROWER: It's a Thursday. That should be fine with me, Judge.

THE COURT: Do you -- I mean, it's kind of early to tell. Do you anticipate speakers?

MS. SCHIFALACQUA: Yes.
MR. BROWER: Judge, do we want to go a week or so JD Reporting, Inc.
after that or two -- I'm okay with the 31st, but I just -- I'm not sure.

MS. SCHIFALACQUA: We anticipate speakers.
THE COURT: Let us know kind of ahead of time how many people you anticipate speaking.

MS. SCHIFALACQUA: Sure.
THE COURT: Just so if it's going to be a lot of people, we can maybe close that day early, you know, instead of having a bunch of unrelated matters. Maybe we should put it on a Tuesday because the Tuesdays tend to be lighter than the Thursdays, so maybe --

MR. HUGHES: You know, ideally, we would put it on a Tuesday or Thursday when Department 2 in Henderson is in session, so we don't have to be back there.

THE COURT: That's fine.
MR. HUGHES: But I don't know --
MS. SCHIFALACQUA: We don't know their calendar.
Yeah, we do anticipate a number of speakers, Your Honor, so I would -- yeah.

THE COURT: Right. So what I'm saying is let us know ahead of time so we can keep that day sort of light with other matters and not have, you know, 30 matters and then this.

MS. SCHIFALACQUA: Yes. Understood, Your Honor.
Thank you.
THE CLERK: How about -- do you want to do

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February 12th? February 5th?
MR. HUGHES: We have that trial coming up with -MR. BROWER: We have a trial starting that week. Judge, could we do --

THE COURT: We could do the end of January.
MR. BROWER: The 29th of January?
THE CLERK: That's February. Oh, that's what I have, the 31st. We could do that Tuesday.

MR. BROWER: Which would be the 29th?
THE COURT: Or that following Tuesday. Are you in trial the following --

MR. BROWER: We are set to start a trial right around that week, which is, like, the 3rd or whatever -- the 31st, 1st, 2nd --

THE COURT: So let's -- yeah, that would be the 3rd.
So --
MR. BROWER: If we could do the 29th, that would work.

THE COURT: Or the 2nd.
MR. HUGHES: So January --
MS. SCHIFALACQUA: Well, we can do January 29th.
THE COURT: Let's do that then.
All right. Some of the jurors had to leave right at 5:00, so I told Kenny that's fine; I don't need to talk to them, just take them, let them go. So if you want to catch JD Reporting, Inc.

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them, run down to --
MS. SCHIFALACQUA: Absolutely. Thank you, Your Honor.

MR. SCOW: Are they checking into the third floor? THE COURT: No, they don't have to do that. I thought we were going to send them for their -- but we had already gotten their checks. And I know a few were worried about getting out of here, so I told Kenny, well, don't keep them for me.

MS. SCHIFALACQUA: Sure.
THE COURT: You know what I mean? Like, let them go if they have child care issues. So they may not be around, just FYI.

MS. SCHIFALACQUA: Thank you, Your Honor.
THE COURT: Usually I talk to them and everything, but I know people were really expressing concern.
(Pause in the proceedings)
MR. BROWER: Oh, procedurally, we know we're going to need transcripts in this case. Do you want me to submit a transcript order now?

THE COURT: If you want to, but I can't do anything until [indiscernible]. Okay.
$\operatorname{MR}$. BROWER: Well, we're going to make motions for appellate counsel which I've already explained to my client. I might just -- don't know how -- if it's easier for you to start

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now since the Supreme Court is touchy with [indiscernible]. I mean, I'm just thinking for you, not for --

THE COURT: We'll have to send out.
MR. BROWER: Right. But I'm thinking for you it might be easier because it will already be done, so --

THE COURT: It will be better.
MR. BROWER: You're okay if I drop one off, an order off --

THE COURT: Yeah. MR. BROWER: And you did the entire trial; right? No days --

COURT RECORDER: No, I wasn't here -- Patty was here that one day.
(Parties talking over each other.)
COURT RECORDER: I got here that one day by the time we started, but what other day was it that --

THE COURT: I don't know the day, but --
MR. BROWER: Okay. Are you okay if I serve the department, though, just to --

COURT RECORDER: Yeah, that's okay. It doesn't matter. I'm responsible for it anyway.

MR. BROWER: Well, because some -- the Supreme Court makes you [indiscernible] but the transcript is already done, then it saves the appellate counsel the headache, so --

All right. Thank you. I'm going to go. I'm just JD Reporting, Inc.

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going to bring the order in next week while I'm here. Thank you. Hey, it was fun. We'll do this again soon. COURT RECORDER: No, we won't.
(Proceedings concluded at 4:54 p.m.) -oOo-

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case.


## COURT RECORDER: <br> [4] 95/12 95/15 95/20

 96/4JUROR NO. 09: [2]
84/20 84/23
MR. BROWER: [72] 5/3 5/6 7/5 7/17 7/23 8/3 9/13 10/10 11/1 11/7 11/21 12/12 12/15 13/15 13/18 13/21 14/6 14/18 14/20 15/15 15/19 15/22 17/10 19/5 19/13 19/20 19/24 20/9 20/18 20/21 22/13 23/4 23/16 24/9 24/14 25/12 25/15 28/9 28/12 28/14 29/25 51/11 51/15 51/19 52/11 52/13 52/16 53/24 54/10 55/6 55/8 64/22 83/15 83/21 84/1 90/1 90/22 91/17 91/20 91/25 93/3 93/6 93/9 93/12 93/17 94/18 94/23 95/4 95/7 95/10 95/18 95/22
MR. HUGHES: [47] 3/7 3/9 3/12 3/15 4/14 4/18 6/9 6/22 8/9 8/23 9/17 11/24 12/19 13/8 13/22 14/5 14/19 15/14 16/2 19/12 20/12 20/17 21/4 21/12 21/22 21/25 22/25 23/3 24/1 24/19 25/19 26/2 28/16 30/1 52/12 54/19 57/10 60/24 61/8 61/15 84/4 84/10 89/24 92/12 92/16 93/2 93/20
MR. SCOW: [38] 5/25 6/4 6/12 6/21 7/10 7/13 9/2 9/4 9/23 10/7 10/11 10/15 10/19 11/11 11/14 11/20 12/6 12/8 23/1 23/9 24/4 24/8 26/3 27/8 28/4 29/24 51/17 52/7 52/17 54/15 60/22 64/7 64/25 65/2 89/22 91/6 91/10 94/4

## MS. SCHIFALACQUA:

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93/21 94/2 94/10 94/14
THE CLERK: [4] 54/21 85/4 92/25 93/7
THE COURT: [184] THE MARSHAL: [6] 27/15 27/19 54/25 55/2 83/13 90/18

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RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

VS.
DAMIEN ALEXANDER PHILLIPS; ANTHONY TERRELL BARR,

Defendants.

CASE\#: C-18-335500-1 C-18-335500-2

DEPT. XXI

BEFORE THE HONORABLE DOUGLAS SMITH, DISTRICT COURT JUDGE
TUESDAY, JANUARY 29, 2019
RECORDER'S TRANSCRIPT OF HEARING:
SENTENCING
APPEARANCES:

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For the Defendant PHILLIPS

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EDWARD HUGHES, ESQ.
KEITH BROWER, ESQ.

RECORDED BY: SUSAN SCHOFIELD, COURT RECORDER

Las Vegas, Nevada, Tuesday, January 29, 2019
[Hearing began at 9:30 a.m.]
THE COURT: C335500, Damien Phillips and Anthony Barr.
Time set for rendition of sentence. Is there any cause or reason why sentencing should not proceed today?

MR. HUGHES: Yes, Your Honor, two reasons. Number one, Mr. Brower, the attorney for Mr. Phillips, is in the building but he's not here yet.

THE COURT: Call him, get him here, we're sentencing today.
MR. HUGHES: Your Honor, regarding Mr. Barr, I have not had an opportunity to go over his massive PSI with him to check for inaccuracies.

THE COURT: Well, you better get with him. I'm sentencing today. So get your PSI over to your client. Have a seat, your attorney's going to come over and talk to you.

And somebody get Brower here.
[Pause in proceeding]
MS. STEWART: Your Honor, l'm Sandra Stewart and l'm here to confirm as appointed appellate counsel for Mr. Phillips and I'm wondering if --

THE COURT: What page?
THE CLERK: 12.
THE COURT: 12 ?
THE MARSHAL: That's for the Phillips and Barr matter.

MS. STEWART: I wonder if we can do that before the sentencing or if you want me to wait here.

THE COURT: Well, no, l've got to sentence him, then you can be appointed for appeal.

MS. STEWART: All right.
THE COURT: Thank you.
MS. PANDUKHT: And Mr. Scow's coming back on that one?
THE COURT: Yes.
[Pause in proceeding]
THE COURT: C335500, Damien Alexander Phillips and Anthony Terrell Barr.

Time set for rendition of sentence.
Let's do Mr. Barr first.
MR. BROWER: Well, Judge, may I approach very briefly.
THE COURT: Sure.
MR. BROWER: With the State.
[Bench conference -- not recorded]
THE COURT: Give me a second to read this.
[Pause in proceeding]
THE COURT: Yeah, you should have thought about your consequences. I'm sure your church didn't teach you this.

You want -- was this for the judge?
MR. BROWER: Judge, the paperwork --
THE COURT: For the file?
MR. BROWER: -- I gave you was for Mr. Phillips who's --

THE COURT: Right.
MR. BROWER: And he's got his copy of it. I made a copy for the Court.

THE COURT: Okay. So this can be filed in -- on the left side file?

MR. BROWER: He wanted that turned into the Court, Judge for his sentencing --

THE COURT: All right.
MR. BROWER: -- statement. So, yes, it can be filed for Mr. Phillips.

THE COURT: All right. We'll start with Mr. Brower -- or Mr. Barr. I think that's what I said I would do first anyway.

State wish to be heard?
MR. SCOW: Yes, Your Honor.
MR. HUGHES: Your Honor, l'd like to make a record that l've spoken to Mr. Barr, with his PSI, while the court was in session. Mr. Barr tells me that the criminal record included in the PSI is inaccurate.

THE COURT: I didn't look at it but -- well, I did look at it but I'm not taking that into consideration in sentencing.

MR. HUGHES: I -- well, Your Honor, I would object to you sentencing without taking in consideration the PSI.

THE COURT: No, I took the PSI, the convictions, the four prior convictions I wasn't looking at them. Now, you've drawn my attention to them.

MR. HUGHES: Your Honor, my client tells me the PSI is
inaccurate and I would request a continuance for the Department to investigate this and provide an accurate presentence investigation.

THE COURT: What is the problem with the PSI?
MR. HUGHES: Mr. Barr tells me his prior criminal record is inaccurate.

THE COURT: What is inaccurate about it?
MR. HUGHES: Your Honor, he tells me that --
THE COURT: No, l'm asking him.
What's inaccurate about it?
DEFENDANT BARR: Well, they say right here I went -- I went to prison four times, never been to prison four times.

THE COURT: Four counts.
DEFENDANT BARR: Right here it say prison. It say incarcerated four time.

Also l've got some charges on here that -- that's not my charges due to the fact this -- l've got somebody else social on there so. That social is whoever I think charges - some of the charges is, that, and, um, arrested before.

THE COURT: All right. Under Stockmeyer we have to have a clean PSI.

MR. SCOW: Objection, I can --
THE COURT: I'll --
MR. SCOW: -- I can clarify. I have Judgments of Convictions for every felony conviction on there. You can ignore everything else, criminal history-wise -- under that decision --

THE COURT: But if it's wrong --
MR. SCOW: It's not wrong. I have the JOC's.
THE COURT: Let me see the convictions you have.
This is robbery with -- causing bodily injury, that's a second degree felony in Texas. You went to prison for that.

Fingerprints. Seven years?
MR. SCOW: Yes, Judge.
THE COURT: Is that right?
DEFENDANT BARR: Yes, yes, Your Honor.
THE COURT: Okay. That one's correct.
Then Exhibit 2 is aggravated robbery with a weapon, firearm, an Indictment, first degree felony. You got seven years for that one. That's the second one.

Is that right?
DEFENDANT BARR: Yes, sir.
THE COURT: Then another one out of Texas, Judge was Silvant (phonetic); your attorney was Dan Pitzer, harassment of a public servant, third degree felony.

You went to prison for that?
DEFENDANT BARR: Yes.
THE COURT: Then the next one is Silvant, Pitzer again was your attorney, it's retaliation, third degree felony, guilty.

You got seven years for that?
DEFENDANT BARR: Yes.
THE COURT: Well, there's four that you went to prison on.

DEFENDANT BARR: Yeah, but -- but all of them was jury -by one juror. I got charged by one judge. But I was -- not four different judges.

THE COURT: I didn't say four different judges.
DEFENDANT BARR: Well -- well, the problem that I was having was -- I had went over it earlier with my lawyer about it, Mr. Hughes, some -- l've got some stuff on there that's not me.

THE COURT: What? I've asked you what it is.
DEFENDANT BARR: I told you. I've got socials on there that's not me. I've got a social security on there. I've got a weight that say I weigh 170. Your Honor, I never weighed no 170.

THE COURT: Okay.
DEFENDANT BARR: It say I'm five-ten, I'm five-nine.
THE COURT: All right.
DEFENDANT BARR: I feel like the -- that the charges, that whoever was (unintelligible) Gregory Reynolds was, this is his -- this is him. This is him and they're trying -- they're trying --

THE COURT: Well, the ones that concern me were the four felonies and you -- you admit to those, you went to prison for those -DEFENDANT BARR: That's correct.

THE COURT: -- and they have certified documents for those.
MR. SCOW: And the aka listed in the JOC's is -- oh, here they are, it's Gregory Reynolds. It's one of the aka's listed in the PSI that he's trying to challenge now --

THE COURT: All right.

MR. SCOW: -- different social security numbers.
THE COURT: All right.
MR. SCOW: And just --
THE COURT: It appears to the Court that the State has done their homework. I'm sentencing him today.

DEFENDANT BARR: And, Your Honor, I wasn't -- I wasn't locked up for no possession of marijuana. I never was locked up for that. On here it say I was locked up for possession of marijuana, um, somethin' a fugitive, there's a lot of things on here that's not me.

MS. SCOW: That's a misdemeanor offense listed in there, Judge.

DEFENDANT BARR: That's what I'm saying.
THE COURT: I'm going to sentence him today on this.
MR. HUGHES: Your Honor, I would just like to --
THE COURT: They went to trial, he went to trial, he admits to those four felonies, and that's what he says it wasn't him, the other stuff is nonconsequential to the sentencing.

MR. HUGHES: Your Honor, I would request a corrected PSI be done regarding any inaccuracies. This is a document that's going to follow Mr. Barr --

THE COURT: I understand.
MR. HUGHES: -- throughout the system. Mr. Barr's probably going to be in the system for quite a while, it's important that he have a corrected PSI.

In addition, Mr. Barr arrived at this point after a two-week trial
and 50 some odd witnesses. Another judicial officer did that trial, Your Honor doesn't have the benefit of all the information that was brought forth in two weeks, you have the PSI. So all Your Honor's aware of -and we've got questions about the accuracy of some of the PSI.

I would request --
THE COURT: The weight --
MR. HUGHES: I'm sorry?
THE COURT: -- the weight and a misdemeanor? He's got four prior felony convictions and he filed -- he's got 'em there and he admits to it. Mr. Barr admits to it.

DEFENDANT BARR: Your Honor, I've got more than that on there. I've got more on that. I got more than that on there. I just can't point it all out right now. I've got more than that on there. More than that.

MR. SCOW: And, Judge, just --
DEFENDANT BARR: I pointed -- I pointed some of 'em out to my lawyer. Your Honor, it's like this, why I needed Mr. Hughes is because if you see on there it say I got a third grade education level. So I need him to help read some of this stuff. I need him to go over this. And I told him I need him to help me read some of this stuff.

MR. SCOW: Judge, if I may. What l've seen in this case from the very beginning are strategies by the defense to either try to hold us to the fire, to see if maybe we don't get it together in time to get the case presented and maybe we lose counts because we can't get witnesses or evidence gathered. That was a strategy throughout the prelim stage and
the trial stage.
And I'm going to go into that a little bit more in a second.
But now we're at sentencing, we have a victim speaker here who's 76 years old, has bad knees. She doesn't want to have to come back. And if she speaks today, and it's continued to another judge, she'd have to come back and speak again.

They're wanting to continue because they want a different judge sentencing. I know that for a fact. I know the Court knows that. And it's not a proper reason to continue, the little minor discrepancies he brings up, which aren't even discrepancies, have no bearing on whether this should be continued or not.

But here's what happened. At the preliminary hearing stage when I got the case the preliminary hearing was in four days. I got it from another deputy. We didn't have all or really any of the evidence. We had no video surveillance. I sent out an email that said, hey, let's continue this, let me get this together. If it got dismissed at prelim, I could just go the grand jury. It wasn't a big deal. But I just thought, you guys might want everything too in order to proceed at prelim.

In those four days I gathered everything that I could, provided it to the defense, and we went forward because they wanted it to go forward in the hopes that we wouldn't be ready.

The same thing happened at trial. The trial date was set, they wanted it the next week, that's how -- that's how badly they wanted the case to go forward and be done with it, also in the hopes that we wouldn't be able to get the evidence and witnesses ready in time for trial.

So it was set for the December $3^{\text {rd }}$ trial date.
I emailed the Court and said, hey, look, I know this was a short setting, the defense represented it would be a week-long trial; there's no way. And I know the Court had asked about overflow. But the judge said we'll keep it at that time and just see what happens. And we got everything together. And they were unyielding in any discussion about having it continued, more time, because there was still evidence coming in. Even during trial there was evidence coming in but it was their strategy to go forward.

And now they're asking for time. So I want you to give them the same amount of time and leniency that they gave me, which is zero. So I'm asking that the case be sentenced today.

MR. HUGHES: Your Honor --
DEFENDANT BARR: Your --
THE COURT: All right. I've heard -- l've heard him. I've heard you counsel. I'm going to go forward with the sentencing today. DEFENDANT BARR: And, Your Honor, can I say one more thing, please.

THE COURT: Sure.
DEFENDANT BARR: Hey, this is my life on the line. This small error right here is still my life on the line. I gave -- I gave -- look, I told them l'd give them more time, a continuance, if he wanted a continuance, Your Honor, if he OR'd me --

THE COURT: All right.
DEFENDANT BARR: -- and set a new trial date. He said, no.

I gave him all the time. I gave him more than 60 days.
THE COURT: All right.
MR. SCOW: And we went forward.
THE COURT: Before he's --
MR. SCOW: So we're going forward today.
THE COURT: -- the State wish to be heard?
MR. SCOW: I do, Judge.
THE COURT: We'll do Mr. Barr first.
MR. SCOW: I will speak as to Mr. Barr first.
The victim speaker, would you like to proceed after you hear everything from both or are you going to sentence Barr first?

THE COURT: No, l'll -- l'll hear from the victim speaker after both parties have had a chance.

MR. SCOW: Okay. Your Honor, I've submitted -- or I will submit, they're marked now, and l've provided them all to Mr. Hughes, email, PDF copies, and you've reviewed them as well. These are felony convictions and they're also listed in the notice of habitual.

We've noticed three and l'll tell you why there's only three noticed. The first one is a conviction from 2011 out of Fort Worth, Texas. That case number is 12 -- I should have kept it convictions to be able to state 'em. I think the first one is 1211119D. The second one is 1211085D. The first is a robbery resulting in substantial bodily injury. And the second one is aggravated robbery.

And I'll briefly tell you about these cases. The first one was a May $29^{\text {th }}$ robbery, 2010, victim, Allen Polk. At trial the defendant tried to
argue that these were the same case, the same charges, and they're not. They have different case numbers, different offense dates, they just all happen to be sentenced on the same day, if you look at the sentencing or judgment date. The victim on that first one is Allen Polk. The defendant and another unknown co-conspirator beat him with a metal broomstick causing him to need staples or stitches on his head and they took his property.

The second case, the aggravated robbery, is a firearm used in a 7-Eleven convenience store robbery. The defendant walks in, points the gun at the clerk, and they steal money from the register.

Those two convictions are sufficient for the mandatory habitual felon in that the Court has no discretion, it must be a minimum 10-year sentence on that large mandatory felon habitual.

The other conviction there, the harassment and the retaliation, is from the defendant spitting on police officers when he was being arrested for trespassing. He also had these outstanding robbery warrants. And after spitting on the one officer, when they're putting him in the vehicle, he tells the other officer that he's going to have an X put on him as marked. That's the kind of individual we're dealing with.

What's missing from the PSI, the defendant also has a juvenile robbery adjudication where he carjacked an individual who was stopped at a stoplight, him and two other individuals. The defendant was the one with the gun. From the reports it appears that it was a BB gun. But at the age of 14 that's what he's already up to. Carjacks an individual and I have the paperwork here, if the Court would like to see it,

I've provided that also to Ed Hughes.
This is the defendant's life and livelihood. When he comes to Vegas, in the videos that were presented at trial, in the traffic stops, the defendant says he -- he'd only been here in Vegas for a few months. So when he comes to Vegas what he does then is starts robbing banks. And it's not just a single bank robbery. It's five different bank robberies. One of them, as to Mr. Barr, is an attempt, as they're being followed by the police, once they catch on to whose doing these robberies, the police follow them to one Smith's that has a bank inside of it. They go in but they don't -- they choose not to rob it because it's too busy. And then the police follow them to the fifth and final bank robbery location and they're arrested immediately after.

What l'd like to point out briefly in the PSI, in one of the events the -- the -- Mr. Phillips said that they had a bomb. There's two -- there's two victims at each bank robbery except for the first. And the reason I mention that is because $\mathrm{P} \& \mathrm{P}$, in their infinite wisdom, they recommend concurrent on every charge. It blew me away when I saw that. Because the message that they're really sending to this community is, if you have already committed a robbery or you're about to, don't just stop at the first one, keep on going, because everything else after that's going to be run concurrently, the victims after that don't matter, we'll just sentence on the first, run 'em all concurrent. Which I think is absolutely a horrible recommendation. Not just the circumstances of this case but the message that would send to our community.

Based on Mr. Barr's prior felony convictions, he's mandatory
eligible. We have for him four banks that were robbed, eight victims. And if you look at it just from a numbers perspective, this would apply to Phillips also. Each robbery victim, it's a minimum sentence of three years. And if you apply a three year sentence to each victim because really which one doesn't matter. If you're going to run one or a few of them concurrent, which one doesn't matter? If you give a minimum three-year sentence for each victim, for Mr. Barr that's already -- that's 24 years and without any habitual. Then you add in the assault with the use charges for the last bank, 'cause Mr. Barr's walking around the bank pointing the gun at everybody in the bank, including the 76-year-old victim in the back. Who, when she's struggling to get to the ground, 'cause she's elderly and she has bad knees, after he's already pointed the gun at her face told her to get down, he comes back, while she's struggling to get down, as you see on video, and tells her to get on the ground again. I mean it's such callous behavior.

I've had a prior case that went to trial on a mandatory habitual felon, a guy that robbed three convenient stores, no guns in the first two, a gun in the last one, that guy got life without, which, for Mr. Barr, I don't think that's out of the question. He's shown from a juvenile age through all of his adult years, he's committing robberies, he's either been in prison for it or he's out committing more. I know it's a mandatory habitual sentence but l'm asking either for life without or you run at least five of them consecutive because there were five different bank locations where either there was an attempt made or victims were actually robbed, terrorized at their work, when they're just trying to go about their day,
make a living, and instead they're traumatized by the actions of Mr. Barr.
THE COURT: Before your attorney has an opportunity to speak, is there anything you want to say.

DEFENDANT BARR: Yes.
Your Honor, that -- that -- that -- the elderly lady that's back there, she -- the DA -- he ask her, can she point out the victim that -- the -- the -- the defendant that supposedly robbed her; right? She never pointed me out. She said it wasn't me, what she said. And he -- excuse me when I say this, he trying to make like I'm -- I'm a big bad person. Some of that stuff right there, that wasn't that -- that stuff wasn't me.

When I was young I was hanging with the wrong people at the wrong time, you know what I'm sayin'? That -- that situation's over. And I feel like to me I never really had a chance because when they send me to prison, for them robberies that I went to prison for, they send me to a closed custody unit. In Texas, they sent me to a common unit. I'm pretty sure you know what that is. That was one of the worse units in Texas. And I spent four years in closed custody, couldn't go to school, couldn't get my GED, couldn't read, couldn't write, couldn't do none of that. And I did -- I did six and a half years on that seven year sentence, straight. And it wasn't 'cause no behavior. It was because of the crimes I committed. Supposedly it's because the crimes I committed. I didn't commit no murder. I was -- I was charged and convicted for a robbery, not a murder. I feel that I shouldn't be -- I shouldn't get my life thrown away in prison and just rot in a cell. I'm only 28. I don't have no kids, Your Honor.

And not just that -- and -- and what I was telling you about my PSI, they asked me, do I got any family? When I -- when I was in prison, my mom, my dad, my grannie, my aunties, all of 'em passed away or either got killed. Now -- now -- now everybody looking at me like some type of way because l've probably got tear drops on my face or whatever but those are because all of the people that I -- that I -- that passed away while I was in prison or something happened to 'em while I was in prison, Your Honor.

And on the other hand is they asked me, do I got any family? I said, yes, I got one -- one person that I care about. And every time I got pulled over on a traffic stop, which is they already know, he know, everybody that went to trial with me know, I had a -- an autistic little brother. And -- and -- I-- I-- I grew up with him but I went away for them seven years so I kind of lost touch with him. I taught him how to tie his shoe. I taught him to do a lot of things that my parents didn't teach him because they had passed away.

But every time I got pulled over I made sure I told the officers they say, who is this? I tell 'em this is my autistic brother and I'm taking care of him. And I'm all he got. Like I told you, I don't got no kids, Your Honor. He --that's like my son. And now he -- he -- he with a family member that I don't know what's going on with him. And they didn't even put that in my PSI that I got a family member. I don't care if it was just one, that's still my little brother.

And they got something to do with my point schedule. Now -now -- now I probably coulda got a point while -- probably could got
nothin' point. But I got no family support on here. But I should have. But it made me like I'm a bad criminal right here. They made sure they put everything on me and put this and put that it's making me like I'm a bad person, but l'm not.

And I'm not who that gentleman said I am. Now, l'm sorry for being in this courtroom and I apologize for that elderly lady back there, you know what l'm sayin'? I can't change your mind of what you're going to do, Your Honor, of putting me away but I feel I should deserve a chance and not just thrown away. Because I didn't commit no murder and get a life sentence. In those cases was all concurrent. All of them was ran concurrent. The only reason why I fought, Your Honor, to go to trial is because I had no choice, Your Honor. It was a worser charge than that they was offering me. I wasn't going to see the daylight with that, Your Honor. So I feel I might as well go out with a fight. That's the honest God truth. And that's all I got to say.

THE COURT: Thank you.
Counsel.
MR. HUGHES: Your Honor, I renew my objection in proceeding with sentencing today based on the inaccuracies in the PSI and the legibility limitations with Mr. Barr.

That being said, Mr. Barr has been to prison one time, it was three charges or four charges, they were all run concurrent. I don't think that that meets the intent of the habitual criminal enhancement. That is intended for people who had more than one opportunity to correct their behavior and refused to do so after having the opportunity.

Mr. Barr may have four charges but he went to prison once. He was sentenced once. He served one sentence. He's basically had one opportunity to correct his behavior and failed to do so. I don't think that the habitual criminal enhancement is appropriate.

That being said, Mr. Barr in the PSI, accurate portion, as far as I can tell, was removed from his parents' custody due to abuse. He spent some time with a grandmother, as one of 12 children she was caring for and then he bounced around from various group homes. He made it to sixth grade to his education. He started out with no chance. It's not surprising what has happened. I would ask you, if you insist upon sentencing him despite everything, to follow the recommendation of the Department of Parole and Probation, which has spent a lot of time on this case. If you're going to sentence him as a habitual criminal, I would request that you do it and give him 10 to 25 years, run all of these charges concurrently as recommended by the Department of Parole and Probation.

Hopefully, if Mr. Barr has that period of time in prison, he's 28 years old, he will have an opportunity to maybe get a GED, moving up from sixth grade. If he does that, it's possible that he'll be able to earn a living and be self-sufficient if and when he ever gets out. I would ask you to consider the absolute part of the PSI that there is no inaccuracy with -- in setting a sentence.

THE COURT: Thank you.
All right. I'll take the same arguments if -- do you want to argue anymore on Mr. Phillips?

MR. SCOW: Yeah, l'll say a little more for Phillips.
THE COURT: I'm ready to go on Phillips.
MR. SCOW: Okay. As to Mr. Phillips, I anticipate -- I didn't see this letter until this morning. But I anticipated that he would come in and ask the Court for leniency because he's never been in trouble before. He's educated. He had a good job. And someone else --

THE COURT: CNA, he was a certified nurse's assistant.
MR. SCOW: That's right.
-- and somebody else was probably the ring leader. When I read the letter it was exactly that. But here's why I think that he does not deserve much, if any, leniency, because with his education, with his lack of criminal history, he says he just got in with the wrong crowd. But what Your Honor may not know, but what was displayed in the video at trial, the first bank robbery that occurred he committed by himself. There wasn't anybody in there telling him what to do or do this, do that. He went in by himself. He did the first one alone. It shows that he -- he's perfectly capable and willing to do this criminal behavior.

One of the witness that testified at trial, Jazsman Morehead, when talking about seeing this case on the news and recognizing the defendants and the clothing, confronted Mr. Phillips about it and he said, I don't care about the police. I'm not going to stop until l'm caught. That doesn't sound like a guy who's just falling in line based on what other people are trying to get him to do. And he's trying to toss the blame over to Mr. Barr.

That's -- that's the main thing I wanted to say. But again, in
relation to the time recommended by P\&P, everything running concurrent, it's absurd. Not in this community. We don't want the message being sent that anything after the first is a free shot, just keep on committing crimes because it'll all be run concurrent. And like I said before, if you give a minimum of three for each robbery location, that's six locations for Mr. Phillips, that's already 18 years. If you do it for every victim, which I think is more appropriate, you're looking at quite a few more years because as to Mr. Phillips, there's nine victims that he was involved with robbing.

THE COURT: Before your attorney has an opportunity to speak, is there anything you want to say?

DEFENDANT PHILLIPS: Yes, sir.
First and foremost, I just want to apologize to the Las Vegas and Henderson community. You know, I would like to go back in time and change, you know, my actions I definitely would do so. I know I'm educated. I've been, you know, but I want to speak on that, on the education perspectives. I grew up in group homes. My mother was a drug dealer, who turned into a user. My father, I never really knew my father. I spoke that in the letter.

Just --
THE COURT: I read the letter.
DEFENDANT PHILLIPS: -- just to touch base on a few things. When I came out here I came out here to be closer to my son, you know what I mean. And I may have -- I'm not pointing the finger at nobody, you know, I don't wanna -- I don't want anyone to think that I'm pointing
the finger at anybody in -- in this case. You know I did do what I did. I've been trying to take responsibility for my actions. Going to trial, I had to go, like, there was nothing else for me to do but to go to trial. I've never been in court. I don't really know how the court system works and so on and so forth. So l'm really, like, going to trial, which was going through the motions and throwing away, you know, what -- what I did. I didn't really have anything, like, to base this trial or -- or -- what my decisions or anything is doing here, you know, like.

Honestly, like I said, I just want to apologize. You know I'm not -- l'm not a bad a person. I did work in the community. I did make a -- a few mistakes and I just want --

THE COURT: Serious mistakes.
DEFENDANT PHILLIPS: -- and I'm just asking for another chance you know to go out. I do have a 10 year old son. And like I said, like, I don't -- I don't -- I just want to be able go out and show him that you can go through something and turn around.

THE COURT: Mr. Brower.
MR. BROWER: Well, Judge, I'm going to start with Mr. Scow's original address to the Court that we were trying to continue sentencing. I actually wasn't trying to continue sentencing today at all. I just want to address that because it goes to the next part of what I'm going to say.

Mr. Phillips has addressed this briefly but he didn't have a choice in this case. Mr. Phillips went to the State, asked for a negotiation, and they said all negotiations were contingent on Mr. Barr.

There was no offers for Mr. Phillips regardless if Mr. Barr didn't want to take one. And Mr. Barr did not want to take anything because of the potential sentence that he's facing. So we ended up at trial. I went to the State numerous times, and I don't think they're going to dispute this, trying to work out a negotiation for Mr. Phillips. He wanted to accept responsibility for why we're here and ultimately we're here to be sentenced, which is what he was trying to do from the beginning. There were no negotiations.

So when the State's saying, we had this trial tactic of going forward. Well, we didn't have a choice. Mr. Barr exercised his rights, as did Mr. Phillips, to have a speedy trial. Because of that we ended up in a speedy trial. And when the Court said, hey, we can have a speedy trial, calendar call will be tomorrow, we actually said, okay. There was 15 witnesses done. I know that that's a bit absurd but we got a trial date 28 days later. And for the State to couch this as this was a tactic, it -- it was not. I went to them repeatedly and asked for a negotiation.

THE COURT: I don't want to listen to that, that -- that stuff.
MR. BROWER: Well, it's important because he's -- he's trying to tell you that he made a mistake. He did tell you that he made a -THE COURT: He made a huge mistake.

MR. BROWER: He did, Judge. And he's here to pay the price for that by Your Honor.

THE COURT: Huge mistake.
MR. BROWER: So that said, I'm going to reiterate what Mr. Hughes said. P\&P spent a lot of time doing this recommendation. My
client does not have the priors. He absolutely made a mistake. He's here to be sentenced for it. They recommend quite a stiff sentence in my opinion but it is concurrent counts.

The State -- you did not have the benefit of the actual trial. They were found guilty with the first four places for using a firearm. No firearm was ever displayed or used. There was a note. One of the notes said Oscar De La Hoya give me the money. And the banks did what they were trained to do and what they testified about for a week. And they said we just hand the money over. We don't question them. We don't ask to see a gun. We don't do anything else. We just hand them the money.

The last robbery that they were charged with, and convicted of, has an awful set of facts with the video. And my client, again, wanted to accept responsibility. I think the recommendation is appropriate. My client would ask that you give him a 3-to-7 but the 6-to-20 with everything concurrent I do believe is appropriate and I know we're going to have a victim speaker. So --

THE COURT: All right. Thank you.
MR. BROWER: -- I'll wait for after that.
MR. SCOW: And before the victim speaker gets up, just one point I wanted to address as to the habitual and the convictions, to the extent that he's trying to argue that they're the same or don't qualify, if you look at them, they each have separate case numbers, the offense dates are --

THE COURT: I've looked -- l've looked at them.

MR. SCOW: -- the offense dates are different on each, they are certainly --

THE COURT: I've looked at them.
MR. SCOW: -- separate and independent. Okay.
THE COURT: I look at things.
Bring your victim up here.
Ma'am, if I could have you raise your right hand, please.

## TERI WILLIAMS

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

THE CLERK: Please state and spell your first and last names for our record.

THE SPEAKER: It's Teri, T-e-r-i, Williams, W-i-l-I-i-a-m-s.
THE COURT: Go ahead.
THE SPEAKER: I'm here in this court because you two decided to be criminals. The only good outcome is that no one was shot. I am 76 and will live the rest of my remaining life having visions of a gun being pointed at me.

Many years ago I was caught up in a casino shooting. That shooting wrecked my nerves. October 1 shooting was a reminder of the shooting at the casino. Now I have August incident to add to my memory.

The two of you caused fear and trauma to me and a lot of other people.

That's it, Your Honor.

THE COURT: Do you have any questions?
MR. SCOW: No.
THE COURT: No --
MR. BROWER: No, Judge.
THE COURT: Mister --
MR. HUGHES: No, Your Honor.
THE COURT: Thank you.
THE SPEAKER: Thank you, Your Honor.
THE COURT: Mr. Barr you are adjudged guilty of Count 1, conspiracy to commit burglary, a gross misdemeanor. Count 2, conspiracy to commit robbery, a felony. Counts 3,5 , and 8 , burglary while in possession of a deadly weapon; 11, 14, and 15 as well.

Robbery with use of a deadly weapon, $4,6,7,9,10,12,13,16,17$ counts. Counts 18 and 19 assault with a deadly weapon, all felonies, and 20. 21, assault with a deadly weapon victim over 60 years of age or older.

At some point we have to live with the consequence of our actions.

Mr. Barr on Count 1 you're sentenced to 364 days in the Clark County Detention Center.

Count 2, a concurrent 12 to 48 months in Department of Corrections.

Count 3, a concurrent 36 to 120 months in Department of Corrections.

Count 4 , robbery with the use, 36 to 120 , plus 36 to 120
consecutive, concurrent to Counts 1, 2, and 3 .
MR. SCOW: And, Judge, is this -- is this as to Mr. Phillips?
THE COURT: No, this is Mr. Barr.
MR. SCOW: Okay. And Mr. Barr's the mandatory habitual. I just want to make sure that you're -- I'm not trying to interrupt. I'm just trying to make sure it's --

THE COURT: Yeah, well, you guys all interrupt.
Count 5, 36 to 120 months in Nevada Department of Corrections, concurrent to Count 4.

Count 6 , consecutive 36 to 120 , plus 36 to 120 for robbery with use.

Count 7,36 to 120 , plus 36 to 120 for robbery with the use, consecutive.

Count 8,36 to 120 months, concurrent.
Count 9 , robbery with the use, 36 to 120 months, plus 36 to 120 months in Nevada Department of Corrections.

Count 10, a consecutive -- and that's consecutive.
Count 10's a consecutive 36 to 120 months, plus 36 to 120 months in Nevada Department of Corrections.

Count 11, 36 to 120 months concurrent to the consecutive times.

Count 12, 36 to 120 , plus 36 to 120 for robbery with use, consecutive to Count -- the other robbery with the use, 1, 2, 3, 4, 5 .

Count 13 , robbery with the use, 36 to 120 , plus 36 to 120 consecutive to the other robberies.

Count 14,36 to 120.
Count 15, 36 to 120, both concurrent, concurrent to the consecutive time.

Count 16,36 to 120 , plus 36 to 120 for the robbery with the use, consecutive to the other robberies with the use.

Count 17, 36 to 120, plus 36 to 120 , consecutive to the other robberies with the use.

Count 18, 12 to 48 months in Nevada Department of Corrections, concurrent.

19, 12 to 48 months, concurrent.
20, 12 to 48 months, concurrent.
And Count 21, 12 to 48 , plus 12 to 48.
Credit for time served 174 days and that's concurrent. So -[Colloquy between the Court and the Clerk]

THE COURT: Which I have it calculated as 54 years to 180 years. But you want me to sentence him as a habitual?

MR. SCOW: I think you have to. And you can't use the habitual to give less time by statute.

THE COURT: Each robbery with the use you're sentenced to a habitual life without the possibility of parole, consecutive.

So that's one, two, three, four, five, six, seven, eight, nine.
Mr. Phillips you're sentenced on Count 1, conspiracy to commit burglary, a gross misdemeanor, 364 days. Count 2, conspiracy to commit robbery, 12 to 48 months, concurrent to Count 1. Count 3, 5, and $8,11,14,15$, burglary while in possession of a deadly weapon, 36
to 120 , concurrent. Count 4 , robbery with the use, 36 to 120 , plus 36 to 120, concurrent to the concurrent ones. Count 6 , for robbery with the use of a deadly weapon, 36 to 120 , plus 36 to 120, consecutive; consecutive to Count 4. Count 7, 36 to 120, plus 36 to 120 , for the use of a deadly weapon, consecutive to 6 and 4 . Count 9,36 to 120, plus 36 to 120 , consecutive to 7,6 , and 4 .

The remaining counts are all going to be concurrent, 36 to 120 , plus 36 to 120, it has to be consecutive. But 10 is concurrent to the other counts. Count 12, 36 to 120, plus 36 to 120 , concurrent to the consecutives. Count 13, 36 to 120, plus 36 to 120, concurrent to Count 12 and the other orders. Count 16, 36 to 120, plus 36 to 120 , concurrent. Count 17, 36 to a hundred -- but those two have to be consecutive. 36 to 120 , plus 36 to 120. Count 17 is concurrent. Counts 18, 19, 20, are each 12 to 48 concurrent.

Now, 21 is 12 to 48 , plus 12 to 48 concurrent.
So -- let me see if I can figure this out.
My calculation on Mr. Phillips is 360 months to 1200 months in Nevada Department of Corrections. Credit for time served 174 days.

MR. BROWER: Judge, before we move on, we contacted -both defense counsel --

THE COURT: Oh, yeah.
MR. BROWER: -- contacted Mr. Christensen's office. We have substitutions of attorney for Mr. Phillips that we'd like you to sign an order on.

THE COURT: All right.

MR. BROWER: And I know Ms. Hua's here for Mr. Barr's case.

THE COURT: All right. That's fine.
MR. HUGHES: Your Honor, I don't have a substitution, but l'd move to withdraw --

THE COURT: That's granted.
MR. HUGHES: -- and to have Ms. Hua to --
MR. BROWER: Judge, can I -- oh, sorry.
MR. HUGHES: And would the record reflect l've already turned my entire file over to Ms. Hua.

MS. HUA: That's correct.
THE COURT: Okay.
MR. SCOW: Thank you, Judge.
MS. HUA: So, Your Honor, I'm appointed --
THE COURT: Yes.
MS. HUA: -- for Mr. Barr's appeal?
THE COURT: Yes.
MS. HUA: Thank you.
THE COURT: And you'll be appointed for Mr. Phillips.
MS. STEWART: As appointed appellate counsel, yes, Your Honor.

THE COURT: Yes.
MR. BROWER: And, Judge, l've been asked to retain the actual file, which l'm doing. Now, current appellate counsel, after you've just signed the order, has indicated she'll order any of this -- the
transcripts and other things that she needs from the Court. If she needs anything else, she can just contact me directly.

THE COURT: You probably should make copies of --
MR. BROWER: It's 24 or 30 CD's and a two terabyte hard drive and a bunch of other stuff, Judge, which I understand volume-wise why a lot of the electronics would be kept with me.

THE COURT: All right. Thank you.
MS. STEWART: Thank you, Your Honor.
MR. BROWER: Thank you, Judge.
[Hearing concluded at 11:10 a.m.]

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.


Gina Villani Court Recorder/Transcriber

RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

VS.
DAMIEN PHILLIPS and ANTHONY BARR,,

Defendants.
BEFORE THE HONORABLE DOUGLAS SMITH, DISTRICT COURT JUDGE MONDAY, FEBRUARY 04, 2019

RECORDER'S TRANSCRIPT OF HEARING: CLARIFICATION OF SENTENCE

APPEARANCES:
For the State:
BARBARA SCHIFALACQUA, ESQ. RICHARD SCOW, ESQ.
Chief DeputY District Attorneys
For the Defendants
Anthony Barr:
EDWARD HUGHES, ESQ. JEANNIE HUA, ESQ.

Damian Phillips
KEITH BROWER, ESQ.

RECORDED BY: GINA VILLANI, COURT RECORDER

Las Vegas, Nevada, Monday, February 04, 2019
[Hearing began at 8:38 A.M.]
THE COURT: C335500, Damien Phillips and Anthony Barr.
I have missed two sentencings on their - that's why l've called it back. And that was on Mr. Phillips, it was -- I missed Count 22, carrying a concealed firearm with pneumatic gun.

MR. SCOW: That sentence is to Mr. Barr.
THE COURT: I thought that --
MR. BROWER: It's not Mr. Phillips, Judge.
THE COURT: I was told it was both. That's why both are on today.

MS. SCHIFALACQUA: No, Judge, I think they made Barbara Schifalacqua for the State. They made a clerical error. Mr. Phillips' sentencing was fine.

THE COURT: Okay.
MS. SCHIFALACQUA: Mr. Barr is who we needed the modification.

THE COURT: Okay. That's why you were so upset to come. MS. SCHIFALACQUA: Correct.

THE COURT: Why didn't you call and tell us.
MR. BROWER: But what I said, Judge, is (a) they didn't tell me exactly why you wanted to be here; and (b) that there was appellate counsel appointed on this case that should be here.

THE COURT: Right. Should have been here, but that's all
right.
MR. BROWER: And that I was confused at sentencing because you went so fast, and then I said maybe it should go back to Judge Adair since it was from her department.

THE COURT: No.
MR. BROWER: So those were my concerns.
THE COURT: I've already talked to Judge Adair about it, and that's why it's over here. But thank you for coming. I appreciate it.

THE CLERK: Can we have everybody's names?
MR. BROWER: Judge, that was Keith Brower, 7288, for Mr.
Phillips, or actually, l've already withdrawn from this case.
THE COURT: 7288, yeah, that's pretty old, 7288.
MR. HUGHES: Ed Hughes, 1603.
THE COURT: All right.
MR. HUGHES: I was the trial counsel -
THE COURT: You were released on it as well. But on 22, carrying a concealed pneumatic gun, a felony, you're not going to get any extra time. I'm going to sentence him to 12-to-48 months in Nevada Department of Corrections, concurrent to all counts.

MS. SCHIFALACQUA: And, Judge, for the record, we do need to address with Mr. Barr. He was not on Counts 3 and 4. It was Mr. Phillips, alone, that did those two, so we would just ask that you strike the adjudication of Counts 3 and 4 -

THE COURT: Okay.
MS. SCHIFALACQUA: -- for the record.

Nevada Supreme Court
State of Nevada, Plaintiff
v.

Anthony Barr, Appellant
Docket Number 78295

## APPELLANT'S APPENDIX Vol. VIII

NRAP 26.1 Disclosure
The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a), and must be disclosed. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

Jeannie Hua, Esq., Attorney of record for Appellant, Anthony Barr Clark County District Attorney's Office for the State of Nevada

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THE COURT: All right.
MS. SCHIFALACQUA: And then with regard to the burglaries while in possession, we understand that it will run concurrent, but by law, he needs to be adjudicated under the violent habitual criminal statute for those counts as well. We know you've already run them concurrent to the robbery counts, but we do need -

THE COURT: Why, by law, it has to?
MS. SCHIFALACQUA: Right.
THE COURT: Why, by law, does it have to?
MS. SCHIFALACQUA: The statute requires because he's a mandatory violent criminal.

THE COURT: Provide it to me and I'll look at it.
MS. SCHIFALACQUA: Sure.
MR. SCOW: Okay.
MS. HUA: And just for the record, Jeannie Hua appearing -
THE COURT: Yes.
MS. HUA: -- on behalf of Mr. Barr. 5272.
THE COURT: All right, thank you. And we'll get the transcripts for you if it is statutory that I have to do it, l'll have to do it, but it's concurrent.

MS. HUA: Okay. Thank you, Your Honor.
THE COURT: Okay. Thank you. And thanks for coming in, Mr. Hughes.

THE CLERK: And Mr. Sgro and Ms. Schifalacqua? MR. SCOW: Yes.

THE CLERK: Okay.
THE COURT: Scow, not Sgro. He looks like Sgro but it's not.
MR. SCOW: We'll provide that statute to your chambers.
MS. SCHIFALACQUA: Thank you, Your Honor.
[Hearing concluded at 8:41 A.M.]

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.


me EABFI:

# PRESENTENCE INVESTIGATION REPORT 

The Honorable Valerie Adair Department XXI, Clark County Eighth Judicial District Court

Date Report Prepared: January 10, 2019

 both fine and impisonment.

Offense: Count $2=$ Conspiracy to Commit Robbety $(5)-m$
NRS: $\quad 200.380,199,480$
NOC: 50147
Penalty: By imprisonment in the state prison for a minimum termoftotess than 1 year and a maximum term of not more than 6 years.

Offense: Counts 5, 8, 11, 14, and 15 - Burglary While in Possession of a Deadly Weapon (F)
NRS: 205.060 Category: B
NOC: 50426
Penalty: By imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than $\$ 10,000$, each count.

PRESENTENCE INVESTIGATION REPORT ANTHONY TERRELL BARR
CC\#: C-18-335500-2
Offense: Counts $6,7,9,10,12,13,16$, and 17 - Robbery with Use of a Deadly Weapon (F)
NRS: $\quad 200.380,193.165$
NOC: 50138
Category: B
Penalty: By imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years plus a consecutive term of not less than 1 year and a maximum term of not more than 15 years for the use of a deadly weapon, enhancement.

Offense: Counts 18, 19 and 20-Assault with a Deadly Weapon (F)
NRS: 200.471
Category: B
NOC: 50201
Penalty: By imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $\$ 5,000$, or by both fine and imprisonment.

Offense: Count 21 - Assault with a Deadly Weapon, Victim 60 Years of Age or Older (F)
NRS: 200.471,193.167 Category: B
NOC: 50202
Penalty: By imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $\$ 5,000$, or by both fine and imprisonment, plus a consecutive minimum term of not less than 1 year and a maximum term of not more than 6 years, for the victim 60 years of age or older enhancement.

Offense: Count 22 - Carrying a Concealed Pneumatic Weapon (F)
NRS: 202.350 Category: C
NOC: 51459
Penalty: By imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 5 years. In addition to any other penalty, the court may impose a fine of not more than $\$ 10,000$, unless a greater fine is authorized or required by statute.

IF ADJUDICATED AS A SMALL HABITUAL:
NRS: 207.010 (a)
Category: B
NOC: 53138
Penalty: By a minimum term of not less than 5 years and a maximum term of not more than 20 years in the NDOC

## IF ADJUDICATED AS A LARGE HABITUAL:

NRS: 207.010 (b)
Category: A
NOC: 53139
Penalty: For life without the possibility of parole; For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or for a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served.

## IF ADJUDICATED AS A HABITUAL FELON:

NRS: 207.012

## Category: A

NOC: 53140
Penalty: For life without the possibility of parole; For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or for a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served.

## PRESENTENCE INVESTIGATION REPORT ANTHONY TERRELL BARR <br> CC\#: C-18-335500-2

## III. DEFENDANT INFORMATION

Address: Homeless
City/State/Zip: Texas
NV Resident: No
SSN: 319-86-6246
POB: Chicago, Lllinois
Date of Birth: 03-11-90
Age: 28
Phone: (504) 300-2342 (message)
Driver's License: 41865545 (Identification Card)
State: Texas
Status: Valid

FBI: 807657EC4
SID: NV04619819
Aliases: Anthony Barr, Anthony Terrell Barr, Jr., Gregory Reynolds, Arthur Lord Fields, Gregory Montreal Reynolds
Additional SSNs: 321-64-3155
Additional DOBs: 03-19-88, 02-24-90
Additional POB: None
Alien Registration: N/A
US Citizen: Yes
Notification Required per NRS 630.307: No

## Identifiers:

Sex: M Race: B Height: 5'9" (SCOPE reflects: 5'10") Weight: 150 (SCOPE reflects: 170)
Hair: Black Eyes: Brown
Scars: Both ears pierced once (unverified); (NLETS reflects: Scar on left arm)
Tattoos (type and location): Heart, cards, gambling items, naked lady, portrait of lady on right arm; "Somona" on right hand; "Anthony" on left hand; portrait of mother, "Amber" on chest; graffiti design on neck (all unverified); five teardrops on face; dollar symbol on bridge of nose (all verified)

Social History: The following social history is as related by the defendant on December 28, 2018, and is unverified unless otherwise noted:

Childhood/Family: The defendant reported his childhood as poor stating he was abused by his parents at a very young age, was removed from the home by social services and placed with his grandmother. He was periodically placed into group homes as his elderly grandmother was raising twelve children. There was no abuse or neglect while in his grandmother's care and substance abuse was not present in the home.

Marital Status: Single
Children: None reported
Custody Status of Children: N/A

## Monthly Child Support Obligation: N/A

Employment Status: The defendant was employed with a temporaty agency as a porter from April 2018 to June 2018. He also worked as a mover from February 2018 to June 2018. He reported past employment in Texas as a porter, a fruit chopper and crate assembler.

Number of Months Employed Full Time in 12 months Prior to Commission of Instant Offense: 4 months

Age at first arrest: 19 or younger $\boxtimes$
Income: None reported

20-23
 24 or older $\square$

Other Sources: None reported

Assets: None reported
Debts: None reported
Education: He completed the $6^{\text {th }}$ grade, never receiving his diploma or GED. No further education was reported beyond this level.

Military Service: None reported
Health and Medical History: He reported his health as fair stating he has acid reflux and takes Zantac to ease the symptoms.

Mental Health History: While incarcerated in Texas, he participated in mental health counseling. The defendant was diagnosed with Attention Deficit Hyperactivity Disordex, Bipolar Disorder and Schizophrenia. He is not currently receiving treatment and is not taking medication. He believes his mental health has contributed to problems in his life and affects his ability to gain and maintain employment stating he does not like being around other people and feels they are "out to get" him.

Gambling History: He believes gambling to be problematic, spending $\$ 1,200.00$ per week trying to achieve monetary gain.

Substance Abuse History: The defendant began smoking marijuana at the age of 14 , smoking eight times per year until his last use in 2008. He used ecstacy once at the age of 16 then began consuming alcohol at the age of 17 drinking five times per year with his last reported drink in 2016. While incarcerated, he attended mandatory substance abuse treatment and received a certificate of completion.

Gang Activity/Affiliation: None reported

## IV. CRIMUNAL RECORD

As of December 28; 2018, records of the Las Vegas Metropolitan Police Department, the National Crime Information Center and the Federal Bureau of Investigation reflect the following information:

CONVICTIONS- FEL: 4
GM: 0
MUSD: 1
INCARCERATIONS-
PRISON: 4
JAIL: 1
SUPERVISION HISTORY:
CURRENT- Probation Terms: 0
Parole Terms: 0
PRIOR TERMS:

| Probation" | Revoked: 0 | Discharged: | Honorable: 0 | Other: 0 |
| :--- | :--- | :--- | :--- | :--- |
| Parole- | Revoked: 0 | Discharged: | Honorable: 0 | Other: 0 |

## ANTHONY TERRELL BARR

CCH: C-18-335500-2
Active Arrest Warrants:
Warrant\#: 4213535 Issued: 06-21-18 Jurisdiction; Las Vegas Municipal Court Charges: Drive Without Driver's License (M) Extraditable: Clark County only Bail Amount: $\$ 563.00$

Warrant\#: 4218182 Issued: 06-28-18 Jurisdiction: Las Vegas Municipal Court Charges: Drive Without Driver's License (M) Extraditable: Clark County only Bail Annount: $\$ 743.00$

Warrantt: 4248279 Issued: 07-17-18 Jurisdiction: North Las Vegas Municipal Court Charges: Drive Without Driver's License (M) Extraditable: Clark County only
Bail Amount: \$763.00
Adult:

## Arrest Date:

04-21-10
Pantego, Texas
Pantego PD

## Offense:

Assault Causes Bodily Injury to Family Member (M)

08-13-10
Fort Worth, Texas
Fort Worth PD

1. Obstruction or Retaliation Against Juror ( F )
2. Assault Public Servant (F)
3. Criminal Trespass (M)

## Disposition:

1197232001
10-15-10: Convicted of Assault Causes Bodily Injury to Family Mexuber (M), 45 days jail and \$267 fine

1209761001
08-18-1 1: Convicted of Count 1 Harassment of Public Servant (F); Count 2 - Obstruction or Retaliation (F), 7 years prison for each count

1211085001
08-18-11: Convicted of Count 1 Aggravated Robbery ( F ), 7 years prison for each count 08-12-17: Discharged

1211119001
08-18-11: Convicted of Robbery ( F ), 7 years prison 08-12-17: Discharged

M1762639B
03-22-18: Warrant Issued
Warrant \#: 773415273
Jurisdiction: Dallas County Sheriff's Office
Extraditable: Texas only
Bail: Unknown

08-09-18
Henderson, Nevada HPD

1. Robbery ( F ) (3 Counts)
2. Burglary, ( $1^{\text {st }}$ ) ( F ) (3 Counts)
3. Conspiracy Robbery (F) (3 Counts)
4. Conspiracy Burglary (GM) (3 Counts)
RMD: 08-21-18
RMDR: 10-05-18
5. Burglary While in Possession of Gun/Deadly Weapon (F)
6. Robbery, Enhancement/Deadly Weapon (F)
7. Assault, With Deadly Weapon (F) (3 Counts)
RMDR: 10-11-18
8. Conspiracy Burglary (GM) RMDR: 10-12-18
9. Assault, With Deadly Weapon (F)
10. Carry Conceal Weapon Without Permit ( F )
11. Prevent/Dissuade Report Crime/Cause Prosecution/Arrest (F)

Additionally, the defendant was arrested, detained or cited in Texas between April 21, 2010, and November 13, 2017, for the following offenses for which no disposition is noted, prosecution was not pursued or charges were dismissed: (Texas): Failure to Identify Fugitive Intent to Give False Information; Possess Marijuana Less Than Two Ounces.

Additionally, the defendant's criminal history consists of several instances of failure to appear, failure to comply, and/or failure to pay traffic citations.

Supplemental Information: N/A
Institutional/Supervision Adjustment: 1209761001/1211119001: The defendant was convicted of Count 1 - Harassment of Public Servant (F) and Count 2 - Obstruction or Retaliation (F) in 1209761001 and convicted of Robbery ( F ) in case 1211119001 and sentenced to 7 years prison for each count.

## V. OFRENSE SYNOPSIS

Records provided by the Henderson Police Department and the Clark County District Attorney's Office reflect that the instant offense occurred substantially as follows:

On July 17, 2018, a male adult entered a local US Bank. He produced a note demanding money and warned the teller, Victim \#1, he was in possession of a firearm. The teller complied and provided money to the suspect who fled the scene.

On July 23, 2018, two male adults entered a local US Bank. Both suspects produced notes demanding money and warned the tellers, Victim \#2 and Victim \#3, they were in possession of firearns. Both tellers complied and provided money to the suspects who fled the scene.

On July 31, 2018, two male adults entered a local Bank of the West. Both suspects produced notes demanding money and warned the tellers, Victim \#4 and Victim \#5, they were in possession of firearms. Both tellers complied and provided money to the suspects who fled the scene. Officers were able to obtain surveillance footage which showed the two suspects arriving at the scene in a 1994 Mercury Grand Marquis. The vehicle was driven by a third suspect who did not leave the driver's seat. Following the robbery, the video shows the two male suspects enter the vehicle and the three suspects leave the scene in the same vehicle.

On August 6,2018 , officers were dispatched to a local US Bank, located inside a Smiths grocery store, referencing a reported robbery. Upon arrival, officers met with two bank tellers, Victim \#6 and Victim \#7, who were approached at their windows by two male adults. Both suspects produced notes demanding money and warned the tellers they were in possession of firearms. Both tellers complied and provided money to the suspects who fled the scene. US Bank was able to provide still images of the suspects. Upon viewing the photos, officers were able to identify them as participants in the prior robberies. Latent prints were obtained at the scenc and compared to prints obtained at the Bank of the West robbery. The prints returned to a male identified as the co-defendant Damien Alexander Phillips. Photos of Mr. Phillips were obtained and proved to match the suspect in three of the robberies.

Officers confirmed the involved vehicle had been stopped in the past and was driven by the defendant Anthony Terrell Barr. Further investigation revealed Mr. Barr and Mr. Phillips were living at a local apartunent complex. On August 8,2018 , officers conducted surveillance at the complex and observed the suspect vehicle pulling into the parking lot. They followed the vehicle to another apartment complex and observed Mr. Barr, Mr. Phillips and the co-defendant Sabrina Henderson exit the car. At that time, officers were able to attach a tracking device to the vehicle.

On August 9,2018 , officers received an alert that the vebicle was moving. Officers began surveillance on the car which eventually parked in an alleyway near a US Bank. A female adult exited the vehicle, entered the bank and returned to the car. Mr. Phillips and Mr. Barr then exited the vehicle and entered the US Bank. After a short period of time, officers observed them run from the bank carrying a yellow bag and enter the vehicle. A traffic stop was conducted on the vehicle. Mr. Barr and Mr. Phillips fled the car and a foot pursuit ensued. Both men were taken into custody. Officers detained Ms. Henderson and the fermale adult.

Evidence recovered at the scene revcaled Mr. Barr and Mr. Phillips had committed a robbery at the US Bank. Ms. Henderson admitted driving the vehicle to three of the robberies and waiting while Mr. Barr and Mr. Phillips committed the robberies. She also admitted entering the store prior to the robberies to surveil them and reported the conditions inside to the co-defendants prior to the commnission of the offenses.

## PRESENTENCE INVESTIGATION REPORT ANTHONY TERRELL BARR <br> CC\#: C-18-335500-2

Mr. Barr was arrested, transported to the Clark County Detention Center and booked accordingly
Co-Defendant Information: On October 31, 2018, Sabrina Marie Henderson pleaded guilty to Conspiracy to Commit Robbery ( F ), Robbery ( F ) and Attempt Burglary ( F ) in C-18-335500-3 and is scheduled to appear in the Eighth Judicial District Court Department XXI on January 10, 2019, for sentencing.

Co-Defendant: On December 13, 2018, Damien Alexander Phillips was found guilty by a jury verdict in C-18-335500-1 of Conspiracy to Commit Burglary (F), Conspiracy to Commit Robbery (F), Burglary While in Possession of a Deadly Weapon (F) (6 Counts), Robbery with Use of a Deadly Weapon (F) (9 Counts), Assault with a Deadly Weapon ( $F$ ) ( 3 Counts) and Assault with a Deadly Weapon, Victim 60 Years of Age or Older ( F ) and is scheduled to appear in the Eighth Judicial District Court Department XXI on January 29, 2019 for sentencing.

## VI. DEFENDANT'S STATEMENT

See Attached
Defendant interviewed, no statement submitted
Defendant not interviewed

## VII. VICTIM INFORMATION/STATEMENT

The Division was able to make contact with Victim \#2 (VC2258254) and Victim \#4 (VC2258256) who are not requesting restitution and do not wish to speak at sentencing. The Division attempted to make contact with Victim \#1 (VC2258253); Victim \#3 (VC2258255); Victim \#5 (VC2258257); Victim \#6 (VC2258258); and Victim \#7 (VC2258259); however a response has not been received as of the date of this report. Therefore, the Division is unable to provide this information. If the requested information is received after this report has been submitted, it will be provided to the court at sentencing.

Contact with the District Attomey Victim Witness Assistance Center regarding US Bank (VC2133072) and Bank of the West (VC2228864) and they reported they have not requested restitution or made speaker reservations.

## VIII. CUSTODY STATUS/CREDIT FOR TIME SERVED

Custody Status: In Custody, CCDC CTS: 174 DAYS: 08-09-18 to 01-29-19 (CCDC)

## IX. PLEA NEGOTIATIONS

N/A

## X. RECOMMENDATIONS

Based on information obtained and provided in this report, the following recommendations are submitted.

FEES

Administrative Assessment: $\$ 25.00$
DNA Adxain Assessment: $\$ 3.00$
Domestic Violence Fee: N/A

Chemical/Drug Analysis: N/A
Extradition: N/A

DNA: $\$ 150.00$
Psychosexual Fee: N/A

## SENTENCE

COUNT 1 - CONSPIRACY TO COMMIT BURGLARY (GM) Minimum Term: N/A Maximum Term: 365 Days
Consecutive to/Concurrent With: N/A Probation Recommended: No

Fine: None

Restitution: None

COUNT 2 - CONSPIRACY TO COMMIT ROBBERY (F)
Minimum Term: 24 months
Concurrent With: Count 1
Fine: None

Maximum Term: 72 months
Probation Recommended: No
Restitution: None

Location: CCDC
Probation Term: N/A
Mandatory Probation/ Prison: N/A

Location: NDOC
Probation Term: N/A.
Mandatory Probation/ Prison: N/A

IF ADJUDICATED AS A SMALL HABITUAL

Minimum Term: 84 months
Concurrent With: Count 1
Fine: N/A

Maximum Term: 240 months
Probation Recomonended: No
Restitution: N/A

Location: NDOC
Probation Term: N/A
Mandatory Prison: Yes

IF ADJUDICATED AS A LARGE HABITUAL
Maximum Term: Life, with the
Minimunn Term: $N / A$ possibility of parole after a minimum of Location: NDOC ten (10) years has been served
Consecutive to/Concurrent With: Count 1 Probation Recommended: No Fine: N/A

Restitution: N/A
Probation Term: N/A
Mandatory Prison: Yes
IF ADJUDICATED AS A HABITUAL FELON
Maximum Term: Life, with the
Minimum Term: $\mathrm{N} / \mathrm{A}$
Concurrent With: Count 1
Fine: $\mathrm{N} / \mathrm{A}$
ten (10) years has been served.
Probation Recommended: No
Restitution: N/A

Probation Term: N/A
Mandatory Prison: Yes

| COUNT 5-BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (F) |  |  |
| :--- | :--- | :--- |
| Minimum Term: 48 months | Maximum Term: 180 months | Location: NDOC |
| Concurrent With: Count 2 | Probation Recommended: No | Probation Term: N/A |
| Fine: None | Restitution: None | Mandatory Probation/ |
|  |  | Prison: N/A |

IF ADJUDICATED AS A SMALL HABITUAL

Minimum Term: 84 months
Concurrent With: Count 2
Fine: N/A

Maximum Term: 240 months
Probation Recommended: No
Restitution: N/A

Location: NDOC
Probation Term: N/A
Mandatory Prison: Yes

IF ADJUDICATED AS A LARGE HABITUAL
Maximum Term: Life, with the
Minimaum Term: N/A
Concurrent With: Count 2
Fine: None possibility of parole after a minimum of Location: NDOC ten (10) years has been served
Probation Recommended: No Probation Term: N/A
Restitution: None
Mandatory Prison: Yes

## IF ADJUDICATED AS A HABITUAL FELON

Maximum Term: Life, with the
Minimum Term: N/A
Concurrent With: Count 2
Fine: N/A
possibility of parole after a minimum of Location: NDOC ten (10) years has been served
Probation Recommended: No . Probation Term: N/A
Restitution: N/A
Mandatory Prison: Yes
COUNT 6 - ROBBERY WITH USE OF A DEADLY WEAPON (F)
Miniooum Term: 48 months Maximum Term: 180 months Location: NDOC
Enhancement: A consecutive minimum Enhancement: A consecutive sentence of 48 months for the Deadly Weapon Enhancement
Concurrent With: Count 5
Fine: None maximum sentence of 180 months for the Deadly Weapon Enhancement Probation Recommended: No
Restitution: None
Probation Term: N/A
Mandatory Prison: Yes
If ADJUDICATED AS A SMALL HABITUAL
Minimum Term: 84 months
Concurrent With: Count 5
Fine: N/A

Maximum Term: 240 months
Probation Recommended: No
Restitution: N/A

Location: NDOC
Probation Term: N/A
Mandatory Prison: Yes
PRESENTENCE INVESTIGATION REPORT ANTHONY TERRELL BARR CCH: C-18-335500-2
IF ADJUDICATED AS A LARGE HABITUAL
Maximum Term: Life, with the
Minimum Term: N/Apossibility of parole after a minimum of Location: NDOCten (10) years has been servedConcurrent With: Count 5Fine: None
Probation Recommended; No
Restitution: None
Mandatory Prison: Yes
If ADJUDICATED AS A HABITUAL FELONMaximum Term: Life, with the
Minimum Term: $\mathrm{N} / \mathrm{A}$
possibility of parole after a minimum of Location: NDOCten (10) years has been servedConcurrent With: Count 5
Fine: N/A
Probation Recommended: NoProbation Term: N/A
Restitution: N/A. Mandatory Prison: Yes
COUNT 7 - ROBBERY WITH USE OF A DEADLY WEAPON (F)Minimum Term: 48 months Maximum Term: 180 months
Location: NDOC
Enhancement: A consecutive minimum Enhancement: A consecutivesentence of 48 months for the DeadlyWeapon Enhancement
Concurrent With: Count 6
Fine: Nonemaximum sentence of 180 months forthe Deadly Weapon EnhancementProbation Recommended: NoRestitution: None
Probation Term: N/AMandatory Prison: Yes
IF ADJUDICATED AS A SMALL HABITUAL

Minimum Term: 84 months
Concurrent With: Count 6
Fine: N/A
IF AD.JUDICATED AS A LARGE HABITUAL
Maximum Term: Life, with theMinimum Term: N/A.possibility of parole after a minimum of Location: NDOCten (10) years has been servedConcurrent With: Count 6
Fine: None

Maximum Term: 240 months
Probation Recommended: No
Restitution: N/A

Location: NDOC
Probation Term: N/A
Mandatory Prison: Yes

## IF ADJUDICATED AS A HABITUAL FELON

Maximum Term: Life, with the
Minimum Term: N/A.

Concurrent With: Count 6
Fine: N/A
possibility of parole after a minimum of Location: NDOC ten (10) years has been served
Probation Recommended: No
Restitution: N/A.

Probation Term: N/A
Mandatory Prison: Yes
PRESENTENCE INVESTIGATION REPORTANTHONY TERRELL BARR

| COUNT 8 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (F) |  |  |
| :--- | :--- | :--- |
| Minimum Term: 48 months | Maximum Term: 180 months | Location: NDOC |
| Concurrent With: Count 7 | Probation Recommended: No | Probation Term: N/A |
| Fine: None | Restitution: None | Mandatory Probation/ |
|  |  | Prison: N/A |

IF ADJUDICATED AS A SMALL HABITUAL

| Minimum Term: 84 months | Maximum Term: 240 months | Location: NDOC |
| :--- | :--- | :--- |
| Concurrent With: Count 7 | Probation Recommended: No | Probation Term: N/A |
| Fine: N/A | Restitution: N/A | Mandatory Prison: Yes |

IF ADJUDICATED AS A LARGE HABITUAL

Maximum Term: Life, with the $\quad$\begin{tabular}{lll}

Minimum Term: N/A \& | possibility of parole after a minimum of Location: NDOC |
| :--- |
| ten (10) years has been served | <br>

Concurrent With: Count 7 \& Probation Recommended: No \& Probation Term: N/A <br>
Fine: None \& Restitution: None \& Mandatory Prison: Yes
\end{tabular}

$\left.\begin{array}{ll}\text { IF ADJUDICATED AS A HABITUAL FELON } \\ \text { Maximum Term: Life, with the }\end{array}\right]$.
COUNT 9 - ROBBERY WITH USE OF A DEADLY WEAPON (F)Minimum Term: 48 months
Maxinuum Terms 180 months ...... Location: NDOC
Enhancement: A consecutive minimum Enhancement: A consecutivesentence of 48 months for the Deadly maximum sentence of 180 months forWeapon Enhancement ...... the Deadly Weapon Enhancement

Concurrent With: Count 8
Fine: None
IF ADJUDICATED AS A SMALL HABITUAL

Mininoum Term: 84 months
Concurrent With: Count 8
Fine: N/A

Maximum Term: 240 months
Probation Recommended: No
Restitution: N/A

Location: NDOC Probation Term: N/A Mandatory Prison: Yes


## IF ADJUDICATED AS A HABITUAL FELON

Minimum Terim: N/A
Coacurrent With: Count 8
Fine: N/A

Maximum Term: Life, with the possibility of parole after a minimum of Location: NDOC ten (10) years has been served
Probation Recommended: No
Restitution: N/A

Probation Term: N/A
Mandatory Prison: Yes

COUNT 10 - ROBBERY WITH USE OF A DEADLY WEAPON (F)
Minimum Term: 48 months Maximum Term: 180 months Location: NDOC

| Enhancement: A consecutive minimum Enhancement: A consecutive |  |  |
| :--- | :--- | :--- |
| sentence of 48 months for the Deadly | maximum sentence of 180 months for |  |
| Weapon Enhancement | the Deadly Weapon Enhancement |  |
| Concurrent With: Count 9 Probation Recomonended: No Probation Term: N/A <br> Fine: None Restitution: None Mandatory Prison: Yes |  |  |

IF ADJUDICATED AS A SMALL HABITUAL
Minimum Term: 84 months *....... Maximum Term: 240 months .... Location: NDOC"
Concurrent With: Count $9 \quad$ Probation Recommended: No Probation Term: N/A
Fine: N/A Restitution: N/A Mandatory Prison: Yes

| IF ADJUDICATED AS A LARGE HABITUAL |  |  |
| :---: | :---: | :---: |
| Minimum Term: N/A | Maximux Term: Life, with the | Location: NDOC |
|  | possibility of parole after a minimum of ten (10) years has been served |  |
| Concurrent With: Count 9 | Probation Recommended: No | Probation Term: N/A |
| Fine: None | Restitution: None | Mandatory Prison: Y |

IF ADJUDICATED AS A HABITUAL FELON
Minimum Term: N/A Maximum Term: Life, with the Location: NDOC possibility of parole after a minimum of ten (10) years has been served Probation Recommended: No

Probation Term: N/A
Restitution: N/A
Mandatory Prison: Yes

| COUNT 11 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (F) |  |  |
| :--- | :--- | :--- |
| Minimum Term: 48 months | Maximum Term: 180 months | Location: NDOC |
| Concurrent With: Count 10 | Probation Recommended: No | Probation Term: N/A |
| Fine: None | Restitution: None | Mandatory Probation/ |
|  |  | Prison: N/A |

IF ADJUDICATED AS A SMALL HABITUAL

Minimum Term: 84 months
Concurrent With: Count 10
Fine: $\mathrm{N} / \mathrm{A}$

Maximum Term: 240 months
Probation Recommended: No
Restitution: N/A

Location: NDOC
Probation Term: N/A
Mandatory Prison: Yes
IF ADJUDICATED AS A LARGE HABITUAL
Maximum Term: Life, with the
Minimum Term: N/A possibility of parole after a minimum of Location: NDOC ten (10) years has been served

Concurrent With: Count 10
Fine: None
If adJUdICATED AS A HABITUAL FELON
Minimum Term: $\mathrm{N} / \mathrm{A}$

Concurrent With: Count 10
Fine: $\mathrm{N} / \mathrm{A}$.

> Maximum Term: Life, with the Location: NDOC possibility of parole after a minimum of ten (10) years has been served. Probation Recommended: No $\quad$ Probation Term: N/A Restitution: N/A.

COUNT 12 - ROBBERY WITH USE OF A DEADLY WEAPON (F)
Minimum Term: 48 months . ...... Maximum Term: 180 months ..... Location; NDOC
Enhancement: A consecutive minimum Enhancerment: A consecutive sentence of 48 months for the Deadly maximum sentence of 180 months for Weapon Enhancement $\qquad$ the Deadly Weapon Enhancement
Concurrent With: Count 11 Probation Recommended: No
Fine: None
Restitution: None
Probation Term: N/A
Mandatory Prison: Yes
IF ADJUDICATED AS A SMALL HABITUAL
Minimum Term: 84 months
Concurrent With: Count 11
Fine: $\mathrm{N} / \mathrm{A}$

Maximum Term: 240 months
Probation Recommended: No
Restitution: N/A

Location: NDOC
Probation Term: N/A
Mandatory Prison: Yes

TRESENTENCE INVESTIGATION REPORT
ANTHONY TERRELL BARR
CC\#: C-18-335500-2
COUNT 14 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (F)
Minimum Term: 48 months
Concurrent With: Count 13
Fine: None
IF ADJUDICATED AS A SMALL HABITUAL

| Minimum Term: 84 months | Maximum Term: 240 months | Location: NDOC |
| :--- | :--- | :--- |
| Concurrent With: Count 13 | Probation Recommended: No | Probation Term: N/A |
| Fine: N/A | Restitution: N/A | Mandatory Prison: Yes |

IF ADJUDICATED AS A LARGE HABITUAL

| Minimum Term: N/A | Maximum Term: Life, with the Location: NDOC |
| :--- | :--- | :--- |
| possibility of parole after a minimum of |  |
| ten (10) years has been served |  |


| Concurrent With: Count 13 | Probation Recommended: No. | Probation Term: N/A |
| :--- | :--- | :--- |
| Fine: None | Restitution: None | Mandatory Prison: Yes |


| If ADJUDICATED AS A HABITUAL FELON |  |  |
| :---: | :---: | :---: |
| Minimum Term: N/A | Maximum Term: Life, with the possibility of parole after a minimum of ten (10) years has been served | Location: NDOC |
| Concurrent With: Count 13 | Probation Recommended: No | Probation Term: N/A |
| Fine: $\mathrm{N} / \mathrm{A}$ | Restitution: N/A. | Mandatory Pris |

COUNT 15 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (F)

Minimum Term: 48 months
Concurrent With: Count 14
Fine: None

Maximum Term: 180 months
Location: NDOC
Probation Recommended: No Probation Term: N/A
Restitution; None

Mandatory Probation/ Prison: N/A

## IF ADJUDICATED AS A SMALL HABITUAL

Minimum Term: 84 months
Maximuxa Term: 240 months Location: NDOC

Concurrent With: Count 14
Fine: $\mathrm{N} / \mathrm{A}$

Probation Recommended: No
Restitution: N/A

Probation Term: N/A
Mandatory Prison: Yes

IF ADJUDICATED AS A LARGE HABITUAL

Minimum Term: N/A

Concurrent With: Count 14
Fine: None

Maximum Term: Life, with the Location: NDOC
possibility of parole after a minimum of
ten $(10)$ years has been served Probation Recommended: No Probation Term: N/A Restitution: None Mandatory Prison: Yes

## gRESENTENCE INVESTIGATION REPORT

ANTHONY TERRELL BARR
CC\#: C-18-335500-2
IF ADJUDICATED AS A HABITUAL FELON

Minimum Term: N/A

Concurrent With: Count 14
Fine: N/A

Maximum Term: Life, with the Location: NDOC possibility of parole after a minimum of ten (10) years has been served Probation Recommended: No

Restitution: N/A
Probation Term: N/A
Mandatory Prison: Yes

COUNT 16-ROBBERY WTTH USE OF A DEADLY WEAPON (F)
Mininaum Term: 48 months

Maximum Term: 180 months

Enhancement: A consecutive minimum Enhancement: A consecutive sentence of 48 months for the Deadly Weapon Enhancement
Concurrent With: Count 15
Fine: None
maximum sentence of 180 months for
the Deadly Weapon Enhancement
Probation Recommended: No
Restitution: None
Probation Term: N/A
Mandatory Prison: Yes
IF ADJUDICATED AS A SMALL HABITUAL
Minimum Term: 84 months
Maxinnum Term: 240 months
Concurrent With: Count 15
Probation Recommended: No
Fine: $\mathrm{N} / \mathrm{A}$
Restitution: N/A.
Location: NDOC
Probation Term: N/A
Mandatory Prison: Yes

## IF ADJUDICATED AS A LARGE HABITUAL

Maximum Term: Life, with the
Minimum Term: N/A
possibility of parole after a minimum of Location: NDOC ten (10) years has been served
Concurrent With: Count 15
Fine: None
Probation Recommended: No Probation Term: N/A
Restitution: None
Mandatory Prison: Yes

## IF ADJUDICATED AS A HABITUAL FELON <br> Maximum Term: Life, with the

Minimum Term: N/A
possibility of parole after a minimum of Location: NDOC ten (10) years has been served
Concurrent With: Count 15
Probation Recommended: No
Probation Term: N/A
Fine: N/A
Restitution: N/A Mandatory Prison: Yes

COUNT 17 - ROBBERY WITH USE OF A DEADLY WEAPON (F)
Minimum Terma: 48 months
Enhancement: A consecutive minimuxn sentence of 48 months for the Deadly Weapon Enhancement
Concurrent With: Count 16
Fine: None

Maximum Term: 180 months
Location: NDOC
hancement: A consecutive maximum sentence of 180 months for the Deadly Weapon Enhancement Probation Recommended: No Probation Term: N/A Restitution: None

Mandatory Prison: Yes

| PRESENTENCE INVESTIGATION REPORT ANTRONY TERRELL BARR CCH: C-18-335500-2 |  | Page 18 |
| :---: | :---: | :---: |
| IF ADJUDICATED AS A SMALL HABITUAL |  |  |
| Minimum Term: 84 months | Maximum Term: 240 months | Location: NDOC |
| Concurrent With: Count 16 | Probation Recommended: No | Probation Term: N/A |
| Fine: $\mathrm{N} / \mathrm{A}$ | Restitution: N/A | Mandatory Prison: Yes |
| IF ADJUDICATED AS A LARGE HABITUAL |  |  |
| Minimum Term: N/A | Maximum Term: Life, with the possibility of parole after a minimum of ten (10) years has been served | Location: NDOC |
| Concurrent With: Count 16 | Probation Recommended: No | Probation Term: N/A |
| Fine: None | Restitution: None | Mandatory Prison: Yes |
| IF ADJUDICATED AS A HABITUAL FELON |  |  |
| Minimum Term: N/A | Maximum Term: Life, with the possibility of parole after a minimum of ten (10) years has been served | Location: NDOC |
| Concurrent With: Count 16 | Probation Recommended: No | Probation Term: N/A |
| Fine: N/A | Restitution: N/A | Mandatory Prison: Yes |
| COUNT 18-ASSAULT WITH A DEADLY WEAPON (F) |  |  |
| Minimum Term: 24 months | Maximum Term: 72 months Loca | tion: NDOC |
| Concurrent With: Count 17 | Probation Recommended: No Prob | ation Term: N/A |
| Fine: None | $\begin{aligned} & \text { Restitution: None } \end{aligned} \begin{aligned} & \text { Man } \\ & \text { Priso } \end{aligned}$ | datory Probation/ <br> n: N/A |
| IF ADJUDICATED AS A SMALL HABITUAL |  |  |
| Minimum Term: 84 months | Maximum Term: 240 months :. | Location: NDOC |
| Concurrent With: Count 17 | Probation Recommended: No | Probation Term: N/A |
| Fine: N/A | Restitution: N/A | Mandatory Prison: Yes |
| If ADJUDICATED AS A LARGE HABITUAL |  |  |
| Minimum Term: N/A. | Maximum Term: Life, with the | Location: NDOC |
| . . ... ... | possibility of parole after a minimum of ten (10) years has been served | $\cdots \quad: \quad \cdots \quad . .$ |
| Concurrent With: Count 17 | Probation Recommended: No | Probation Term: N/A |
| Fine: None | Restitution: None | Mandatory Prison: Yes |


COUNT 21 - ASSAULT WITH A DEADLY WEAPON, VICTIM 60 YEARS OF AGE OR OLDER (F)Minimum Term: 24 months

Enhancement: A consecutive minimum Enhancement: A consecutive sentence of 24 months for the victim 60 years of age or older Concurrext With: Count 20

Fine: None
maximum sentence of 72 months for the victim 60 years of age or older Probation Recommended: No

Restitution: None

Probation Term: N/A Mandatory Probation/ Prison: No

IF ADJUDICATED AS A SMALL HABITUAL

Minimum Term: 72 months

Maxionum Term: 174 months
Probation Recommended: No:
Restitution: N/A

Location: NDOC
Concurrent With: 20
Fine: N/A
Probation Term: N/A
Mandatory Prison: Yes

IF ADJUDICATED AS A LARGE HABITUAL
Minimum Term: N/A Maximum Term: Life, with the Location: NDOC possibility of parole atter a minimum of ten (10) years has been served.
Concurrent With: $20 \quad$ Probation Recommended: No Probation Term: N/A
Fine: N/A
Restitution: $\mathrm{N} / \mathrm{A}$
Mandatory Prison: Yes

IF ADJUDICATED AS A HABITUAL FELON
Minimum Term: N/A

Concurrent With: Count 20
Fine: N/A

Maximum Term: Life, with the Location: NDOC possibility of parole after a minimum of ten (10) years has been served. Probation Recommended: No Probation Term: N/A
Restitution: N/A

# PRESENTENCE INVESTIGATION REPORT ANTHONY TERRELL BARR 

COUNT 22 - CARRYING A CONCEALED PNEUMATIC WEAPON (F) Minimum Term: 18 months<br>Concurrent With: Count 21<br>Fine: None<br>Maximum Term: 60 months<br>Probation Recommended: No<br>Restitution: N/A<br>Location: NDOC<br>Probation Term: N/A<br>Mandatory Probation/<br>Prison: N/A<br>IF ADJUDICATED AS A SMALL HABITUAL<br>Minioum Term: 84 months<br>Concurrent With: Count 21<br>Fine: N/A<br>Maximum Term: 240 months<br>Probation Recommended: No<br>Restitution: N/A<br>Location: NDOC<br>Probation Term: N/A.<br>Mandatory Prison: Yes<br>\section*{LF ADJUDICATED AS A LARGE HABITUAL}<br>Concurrent With: Count 21<br>Fine: None<br>Maximum Term: Life, with the Location: NDOC<br>possibility of parole after a minimum of ten (10) years has been served<br>Probation Recommended: No Probation Term: N/A<br>Restitution: None Mandatory Prison: Yes<br>\section*{IF ADJUDICATED AS A HABITUAL FELON}<br>Minimum Term: N/A<br>Maximum Term: Life, with the Location: NDOC<br>possibility of parole after a minimum of<br>ten (10) years has been served<br>Concurrent With: Count 21<br>Probation Recommended: No Probation Term: N/A<br>Restitution: N/A.<br>Mandatory Prison: Yes

$\boxtimes$ Pursuant to NRS 239B.030, the undersigned hereby affirms this document contains the social security number of a person as required by NRS 176.145.

Pursuant to NRS 239B.030, the undersigned hereby affirms this document does not contain the social security number of any person.

Per the Nevada Revised Statutes, any changes to factual allegations in the Presentence Investigation Report may be ordered by the court within 180 days of the entry of Judgement of Conviction. The prosecuting attorney and defendant must agree to correct the contents.

The information used in the Presentence Investigation Report may be utilized reviewed by federal, state and/or local agencies for the purpose of prison classification, program eligibility and parole consideration.

In accordance with current Interstate Commission for Adult Offender Supervision rules and requirements, all felony convictions and certain [gross] misdemeanants are offense eligible for compact consideration. Due to Interstate Compact standards, this conviction may or may not be offense eligible for courtesy supervision in the defendant's state of residence. If not offense eligible, the Division may still authorize the offender to relocate to their home state and report by mail until the term of probation is complete and/or the case has been completely resolved.

200.471; COUNT 21 - ASSAULT WITH USE OF A DEADLY WEAPON, VICTIM 60 YEARS OF AGE OR OLDER (Category B Felony) in violation of NRS 200.471, 193.167; COUNT 22 - CARRYING CONCEALED PNEUMATIC GUN (Category C Felony) in violation of NRS 202.350; and COUNT 23 - PREVENTING OR DISSUADING WITNESS OR VICTIM FROM REPORTING CRIME OR COMMENCING PROSECUTION (Category D Felony) in violation of NRS 199.305; the matter having been tried before a jury and the Defendant having been found guilty of the crimes of COUNT 1 - CONSPIRACY TO COMMIT BURGLARY (Gross Misdemeanor) in violation of NRS 205.060, 199.480; COUNT 2 - CONSPIRACY TO COMMIT ROBBERY (Category B Felony) in violation of NRS 200.380, 199.480; COUNTS 5, 8, 11, 14 and 15 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Category B Felony) in violation of NRS 205.060; COUNTS 6, 7, 9, 10, 12, 13, 16 and 17 - ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.380, 193.165; COUNTS 18, 19 and 20 - ASSAULT WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.471; COUNT 21 - ASSAULT WITH USE OF A DEADLY WEAPON, VICTIM 60 YEARS OF AGE OR OLDER (Category B Felony) in violation of NRS 200.471, 193.167; and COUNT 22 CARRYING CONCEALED PNEUMATIC GUN (Category C Felony) in violation of NRS 202.350; thereafter, on the $29^{\text {th }}$ day of January, 2019, the Defendant was present in court for sentencing with counsel EDWARD G. HUGHES, ESQ., and good cause appearing,

THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses under the VIOLENT HABITUAL Criminal Statute as to COUNTS 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17 and, in addition to the $\$ 25.00$ Administrative Assessment Fee, $\$ 250.00$ Indigent Defense Civil Assessment Fee and \$150.00 DNA Analysis Fee including testing to determine genetic
markers plus $\$ 3.00$ DNA Collection Fee, the Defendant is SENTENCED to the Nevada Department of Corrections (NDC) as follows: COUNT 1 - THREE HUNDRED SIXTYFOUR (364) DAYS in the Clark County Detention Center (CCDC); COUNT 2 - a MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS, CONCURRENT with COUNT 1; COUNT 5-a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS, CONCURRENT with COUNT 2; COUNT 6 - LIFE WITHOUT THE POSSIBILITY OF PAROLE plus a CONSECUTIVE term of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS for the Use of a Deadly Weapon; COUNT 7 - LIFE WITHOUT THE POSSIBILITY OF PAROLE plus a CONSECUTIVE term of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS for the Use of a Deadly Weapon, CONSECUTIVE to COUNT 6; COUNT 8 - a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS, CONCURRENT with COUNT 5; COUNT 9 - LIFE WITHOUT THE POSSIBILITY OF PAROLE plus a CONSECUTIVE term of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS for the Use of a Deadly Weapon, CONSECUTIVE to COUNT 7; COUNT 10 - LIFE WITHOUT THE POSSIBILITY OF PAROLE plus a CONSECUTIVE term of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS for the Use of a Deadly Weapon, CONSECUTIVE to COUNT 9; COUNT 11 - a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS, CONCURRENT with COUNT 8; COUNT 12 - LIFE WITHOUT THE

POSSIBILITY OF PAROLE plus a CONSECUTIVE term of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS for the Use of a Deadly Weapon, CONSECUTIVE to COUNT 10; COUNT 13 - LIFE WITHOUT THE POSSIBILITY OF PAROLE plus a CONSECUTIVE term of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS for the Use of a Deadly Weapon, CONSECUTIVE to COUNT 12; COUNT 14 - a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS, CONCURRENT with COUNT 11; COUNT 15-a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS, CONCURRENT with COUNT 14; COUNT 16 LIFE WITHOUT THE POSSIBILITY OF PAROLE plus a CONSECUTIVE term of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS for the Use of a Deadly Weapon, CONSECUTIVE to COUNT 13; COUNT 17 - LIFE WITHOUT THE POSSIBILITY OF PAROLE plus a CONSECUTIVE term of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS for the Use of a Deadly Weapon, CONSECUTIVE to COUNT 16; COUNT 18 - a MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS, CONCURRENT with COUNT 15; COUNT 19- a MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS, CONCURRENT with COUNT 18; COUNT 20- a MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS, CONCURRENT with COUNT 19; COUNT 21 - a MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS plus a

CONSECUTIVE term of FORTY-EIGHT (48) MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS for the Use of a Deadly Weapon, CONCURRENT with COUNT 17; and COUNT 22- a MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS, CONCURRENT with COUNT 21 with ONE HUNDRED SEVENTY-FOUR (174) DAYS credit for time served. The AGGREGATE TOTAL sentence is LIFE WITHOUT PAROLE ELIGIBILITY. DATED this 25 day of February, 2019.


NOASC
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ANTHONY BARR

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,
vS.
ANTONY BARR, \#8437104

Defendant.
Case No.: C-18-335500-2
Dept. No.: 21

## NOTICE OF APPEAL

Notice is hereby given that ANOTHONY BARR, defendant above named, hereby appeals to the Supreme Court of Nevada Judgment of Conviction entered in this action on the 27th day of February 2019.
/s/Jeannie Hua, Esq.
Jeannie Hua, Esq.
Attorney for Appellant
5550 Painted Mirage Rd., Suite 320
Las Vegas, NV 89149


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