

IN THE SUPREME COURT OF THE STATE OF NEVADA

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TONY A. WHITE,	)	Electronically Filed
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#1214172,	)	Elizabeth A. Brown
	)	Clerk of Supreme Court
Appellant,	)	
	)	
	)	CASE NO.: 78483
	)	
vs.	)	D.C. Case No.: C-16-313216-2
	)	
	)	<b>E-FILE</b>
STATE OF NEVADA,	)	
	)	
	)	
Respondent.	)	
	)	

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**APPELLANT'S APPENDIX VOLUME II**

Appeal from the Eighth Judicial District Court  
Clark County, Nevada

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## CERTIFICATE OF SERVICE

I hereby certify that I am an assistant to Terrence M. Jackson, Esquire, am a person competent to serve papers and not a party to the above-entitled action and on the 19th day of September, 2019, I served copy of the foregoing: Appellant, Toney A. White's Opening Brief as well as Volumes I - III of the Appendix, as follows:

[X] Via Electronic Service to the Nevada Supreme Court, to the Eighth Judicial District Court, and to the Petitioner/Appellant as well as the Nevada Attorney General by U.S. mail with first class postage affixed as follows:

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1 up and lock me up and then they let me go after a while without, you  
2 know, without taking me all the way to court, you know.

3 MR. SCHWARTZER: These are misdemeanor charges?

4 PROSPECTIVE JUROR NO. 0507: No, the last one here was  
5 assault on under cover. I assaulted an officer when I was supposed to  
6 be in custody. And, so that was a felony. It was five years they wanted  
7 to give me. And they tried to give me five years in L.A. too.

8 MR. SCHWARTZER: That's here in Nevada?

9 PROSPECTIVE JUROR NO. 0507: One was here in Nevada  
10 and one was in L.A.

11 MR. SCHWARTZER: Okay.

12 PROSPECTIVE JUROR NO. 0507: Okay, but --

13 MR. SCHWARTZER: Well, let's start with the one in L.A.  
14 How long ago was the one from L.A.?

15 PROSPECTIVE JUROR NO. 0507: I've been out here  
16 twenty-two years so it's been longer than that.

17 MR. SCHWARTZER: Okay. And was it an assault or was it a  
18 battery upon a police officer, or --

19 PROSPECTIVE JUROR NO. 0507: A battery.

20 MR. SCHWARTZER: Okay. And I don't know about  
21 California; but in Nevada, battery is the one there's actually a physical  
22 touching as opposed to assault where there is a threat to touch or  
23 attempted to touch.

24 PROSPECTIVE JUROR NO. 0507: Both of them was battery.  
25 Then maybe a couple more too but, yeah, it was battery.

1 MR. SCHWARTZER: Okay. And then, eventually, that got  
2 dismissed in California?

3 PROSPECTIVE JUROR NO. 0507: It got kicked out, yeah.

4 MR. SCHWARTZER: Okay. And then, obviously, that's a  
5 negative interaction. Do you believe the police officer unfairly charged  
6 you?

7 PROSPECTIVE JUROR NO. 0507: Well, yeah.

8 MR. SCHWARTZER: Okay. And then, obviously at some  
9 point, someone agreed because the case was dismissed?

10 PROSPECTIVE JUROR NO. 0507: Yeah.

11 MR. SCHWARTZER: Okay.

12 PROSPECTIVE JUROR NO. 0507: I don't know if they  
13 agreed. I got it -- yeah, it got kicked out, yeah.

14 MR. SCHWARTZER: What does kicked out mean?

15 PROSPECTIVE JUROR NO. 0507: They threw it out.

16 MR. SCHWARTZER: They threw the case out?

17 PROSPECTIVE JUROR NO. 0507: Yeah, the prosecutor --  
18 they were trying to rush into court and I was going in as my own lawyer  
19 and I did something; the prosecutors wasn't aware of it; and then the  
20 judge let us meet and we said what we said. And then he decided not to  
21 prosecute me right then. They was trying to run me down to the  
22 courthouse so they could go on and lock me up there.

23 MR. SWARTZER: So, this is the California case, correct?

24 PROSPECTIVE JUROR NO. 0507: It's California, yeah.

25 MR. SCHWARTZER: The prosecutor and you met and, at

1 some point, after that meeting the case got dismissed?

2 PROSPECTIVE JUROR NO. 0507: I asked to go to court and  
3 Instead of sending me to the courtroom they decided, in the interest of  
4 justice, to cut the case loose.

5 MR. SCHWARTZER: Okay. So, obviously, it sounds like you  
6 had a negative interaction with law enforcement in California but your  
7 interaction with prosecutors, at least that prosecutor seemed to believe  
8 you.

9 PROSPECTIVE JUROR NO. 0507: It's my opinion that when  
10 I had to go to jail it had to do with the government and he didn't want  
11 them to go to jail too; because they didn't do their job after I filed  
12 whatever motions and things I filed.

13 MR. SCHWARTZER: Okay, so it was in response to your  
14 motions is what you're saying.

15 PROSPECTIVE JUROR NO. 0507: Right.

16 MR. SCHWARTZER: Okay. And, obviously, the officers -- you  
17 heard their names, they're not from California, they're not the same law  
18 enforcement officers, right?

19 PROSPECTIVE JUROR NO. 0507: I don't know who arrested  
20 me out here. But I imagine they're not.

21 MR. SCHWARTZER: Did you ever get arrested by  
22 Henderson?

23 PROSPECTIVE JUROR NO. 0507: Not Henderson, no.

24 MR. SCHWARTZER: So, it's been Las Vegas Metropolitan?

25 PROSPECTIVE JUROR NO. 0507: The City and the County

1 I've been arrested there.

2 MR. SCHWARTZER: Well, there's North Las Vegas Police,  
3 there's --

4 PROSPECTIVE JUROR NO. 0507: I haven't been in North  
5 Las Vegas. City of Las Vegas, I guess, and then Metro or the County of  
6 Las Vegas.

7 MR. SCHWARTZER: Okay. Because, the County includes  
8 Henderson and Boulder City or possibly --

9 PROSPECTIVE JUROR NO. 0507: Well, the County; I've  
10 been downtown here, but it was -- everything was down here in Las  
11 Vegas.

12 MR. SCHWARTZER: Okay.

13 PROSPECTIVE JUROR NO. 0507: Apparently in this area.

14 MR. SCHWARTZER: Okay. And do you believe that these  
15 multiple interactions you had with law enforcement, which has been  
16 negative, you don't believe that's going to influence how you view a  
17 police officer on the stand?

18 PROSPECTIVE JUROR NO. 0507: I'd pay attention to what  
19 he's saying because I think they don't always -- they're not always  
20 honest.

21 MR. SCHWARTER: Okay. But you'll pay attention to what  
22 they're saying --

23 PROSPECTIVE JUROR NO. 0507: I'll take it, yeah.

24 MR. SCHWARTZER: But you said they're not always honest  
25 and that's, look, there's people who are -- I mean in all professions

1 there's people who are honest and dishonest, correct?

2 PROSPECTIVE JUROR NO. 0507: Granted.

3 MR. SCHWARTZER: And no matter what you do there's  
4 people that will tell you the truth and there's people who kind of fudge,  
5 right?

6 PROSPECTIVE JUROR NO. 0507: Right.

7 MR. SCHWARTZER: Okay. So, obviously, you don't know if  
8 these officers are good officers or bad officers or somewhere in  
9 between.

10 PROSPECTIVE JUROR NO. 0507: Right.

11 MR. SCHWARTZER: Fair? Would you be able to judge them  
12 just like you would any other witness or are you going to see them in a  
13 negative light based on your experiences with law enforcement?

14 PROSPECTIVE JUROR NO. 0507: I'd listen to the testimony  
15 and then -- but you got testimony from both sides; and I'd weigh it  
16 equally until I came to whatever decision I come to.

17 MR. SCHWARTZER: Okay. And by both sides, what do you  
18 mean?

19 PROSPECTIVE JUROR NO. 0507: Well, one side's gonna  
20 put on a case and the other side's gonna put on a case.

21 MR. SCHWARTZER: Okay.

22 PROSPECTIVE JUROR NO. 0507: And one cross-examines and  
23 the other examines, so.

24 MR. SCHWARTZER: You do realize the burden is on the  
25 State though, right?

1 PROSPECTIVE JUROR NO. 0507: Yeah.

2 MR. SCHWARTZER: We have to prove --

3 PROSPECTIVE JUROR NO. 0507: You have to prove --

4 MR. SCHWARTZER: -- the case beyond a reasonable doubt.

5 PROSPECTIVE JUROR NO. 0507: Yeah, you have to prove.

6 Yeah.

7 MR. SCHWARTZER: Okay. So, Mr. Sanft, I don't know, you  
8 know, I'll let Mr. Sanft talk for himself; but Mr. Sanft can do nothing and  
9 we don't prove our case beyond a reasonable doubt, you still have to  
10 find not guilty. So, then there isn't necessarily two cases that are put on.  
11 There's the case the State puts on and then maybe the Defense puts on  
12 a case or not.

13 PROSPECTIVE JUROR NO. 0507: Well, it's the fact that he  
14 has the chance to cross-examine your witnesses, the police officers.  
15 So, you get two sides or he tries to get one to say something. You  
16 know, try to get him to say something. He's gonna try to get him to say  
17 something. So, then I get to make a judgment.

18 MR. SCHWARTZER: Okay. Do you -- okay. Okay. I get it.  
19 So, I guess at the end of the day, I'm just trying to figure out if you -- if,  
20 you know, someone off the street testifies, is that here [indicating] with  
21 you when it comes to credibility? Is an officer going to be here  
22 [indicating], is he going to be here [indicating], or is he going to be here  
23 [indicating]?

24 PROSPECTIVE JUROR NO. 0507: It depends on what  
25 they're both saying and if it sounds legit, it sounds legit. I mean, you

1 know, anybody can lie, so it all depends, you know, I'd give them both  
2 the same, --

3 MR. SCHWARTZER: Okay.

4 PROSPECTIVE JUROR NO. 0507: -- I'd listen to them both  
5 equally and then I can decide and I'll make my decision, my opinion.

6 MR. SCHWARTZER: Okay. That was the answer I was  
7 looking for. Thank you, sir. Would you pass it down to Mr. Phillips? I  
8 think he's the next person who raised his hand.

9 Are you Mr. Phillips? Your badge number is 529?

10 PROSPECTIVE JUROR NO. 0529: Yes, sir.

11 MR. SCHWARTZER: Is it the stuff that happened in Virginia?

12 PROSPECTIVE JUROR NO. 0529: Yes, in D.C.

13 MR. SCHWARTZER: Okay.

14 PROSPECTIVE JUROR NO. 0529: I was young.

15 MR. SCHWARTZER: That's okay.

16 PROSPECTIVE JUROR NO. 0529: And we were just kids. I  
17 take responsibility for my actions, so.

18 MR. SCHWARTZER: Is that what you're talking about  
19 regarding the assault and battery?

20 PROSPECTIVE JUROR NO. 0529: No. Another couple of  
21 times. But, you know, it was negative. But, you know, I was -- I had  
22 negative -- you know, I put in negative and I got negative back. So, you  
23 know, it was a long time ago and we move on and we grow up.

24 MR. SCHWARTZER: I see. Now, you know, obviously, since  
25 you have the microphone, we should talk about it a little bit, the stuff that



1 happened in Virginia, which was pretty wrong, right? It was about nine  
2 months ago, you said?

3 PROSPECTIVE JUROR NO. 0529: Yes, sir.

4 MR. SCHWARTZER: And it's pretty -- at most it's pretty  
5 unbelievable that they wouldn't go search the father's residence first.  
6 So, that's kind of interesting. So, that's obviously a negative. I mean,  
7 you don't believe the Virginia police or whatever the police department  
8 was, treated you with a manner of seriousness that you needed to  
9 treated?

10 PROSPECTIVE JUROR NO. 0529: I mean, it's my son so, I  
11 mean, they can treat it as seriously as they wanted. You know, it's so  
12 serious to me but, you know, I gotta look at, you know, everything and  
13 look at it in perspective. So, I mean, it is what it is, the young kids off the  
14 street. But, you know, like I said, I said it was handled wrong but, you  
15 know, that's not my, you know, not my forte, it's not my job. So, yeah.  
16 But I just wanted to let you know that.

17 MR. SCHWARTZER: I appreciate you -- I appreciate  
18 everyone being honest and I appreciate you being honest in this  
19 hearing. And, obviously, this isn't something you want to be doing on a  
20 Tuesday, talking about these traumatic things.

21 But, obviously -- and, you know, the Judge went into it a little  
22 bit -- obviously, the police officers you had won't be the same police  
23 officers that testify in this case, right?

24 PROSPECTIVE JUROR NO. 0529: Well, I don't -- like I said,  
25 he was a juvenile so the case is closed. He didn't get to go in, so.

1 MR. SCHWARTZER: It was closed as a juvenile case, is that  
2 right?

3 PROSPECTIVE JUROR NO. 0529: Yes, sir.

4 MR. SCHWARTZER: So not certified as an adult or anything  
5 like that?

6 PROSPECTIVE JUROR NO. 0529: Exactly.

7 MR. SCHWARTZER: Okay. And you thought that was not  
8 the right call?

9 PROSPECTIVE JUROR NO. 0529: Well, I mean, I was upset  
10 about it but no other cases and everything, so I kind of understood.

11 MR. SCHWARTZER: Okay. I appreciate that. Did -- during  
12 that course of investigation with your son, did any detectives come talk  
13 to you?

14 PROSPECTIVE JUROR NO. 0529: At the beginning and then  
15 after that it was pretty tough to get ahold of them.

16 MR. SCHWARTZER: Okay. Do you believe that they were  
17 truthful when they talked to you? Did they treat you with respect?

18 PROSPECTIVE JUROR NO. 0529: Yes, they -- they were,  
19 you know, they were -- yeah, they were truthful.

20 MR. SCHWARTZER: Okay. And then after that it just became  
21 your problem was obviously the way it was handled in the court system;  
22 and it sounds like it was hard to get ahold of the detectives at some  
23 point.

24 PROSPECTIVE JUROR NO. 0529: Impossible.

25 MR. SCHWARTZER: Impossible. Okay. Well, you're not

1 going to hold that against either party in this case?

2 PROSPECTIVE JUROR NO. 0529: No, sir.

3 MR. SCHWARTZER: Okay. Thank you, sir.

4 PROSPECTIVE JUROR NO. 0529: Um, hm.

5 MR. SCHWARTZER: Was there any -- I'll start with Ms.

6 Rodriguez. Is there anyone else in this row? No? Ms. Rodriguez?

7 Ms. Rodriguez, is your badge number 567?

8 PROSPECTIVE JUROR NO. 0567: Yes.

9 MR. SCHWARTZER: Okay.

10 PROSPECTIVE JUROR NO. 0567: I've had multiple  
11 instances where my family has been discriminated by police officers  
12 because of where their family immigrated from. Most of my family  
13 immigrated from Mexico.

14 MR. SCHWARTZER: Okay.

15 PROSPECTIVE JUROR NO. 0567: And a lot of the older  
16 generation, especially, they have a very heavy Spanish accent; and  
17 there have been multiple instances where they are discriminated during  
18 traffic stops.

19 But one -- one of which I've witnessed by a border patrol  
20 officer was when me and my family were traveling to Mexico. When we  
21 were coming back, we had our nieces and everything with us and the  
22 border patrol officer didn't ask for any papers, he didn't ask for any I.D.s.  
23 We had all of them ready but he automatically became annoyed and  
24 angry with my mother because of her heavy Spanish accent.

25 And he started to yell at her and say really disrespectful things

1 towards her; and she kept telling him, are you gonna check our papers?  
2 But he got so angry and annoyed with her to the point where he just told  
3 us to screw off, basically, and sent us to the -- to like the x-ray machines  
4 that they make you go through with the cars and everything to check if  
5 you had anything and check our bags.

6 But he didn't even check any of the children's papers or  
7 anything like that. So, because of that, we were pretty upset because if  
8 we were somebody who was actually doing something illegal, we could  
9 have gone through the border with innocent children.

10 MR. SCHWARTZER: Right.

11 PROSPECTIVE JUROR NO. 0567: So, I've had some bad  
12 instances with discrimination.

13 MR. SCHWARTZER: You're talking specifically of, in this  
14 case, border patrol?

15 PROSPECTIVE JUROR NO. 0567: Yes.

16 MR. SCHWARTZER: Uh --

17 PROSPECTIVE JUROR NO. 0567: But there's been other  
18 instances where my parents and my other family members have been  
19 discriminated by traffic -- by police officers during traffic stops. But the  
20 only one that I've actually witnessed is the one with the border patrol  
21 officer.

22 MR. SCHWARTZER: Okay. Anything regarding LVMPD or  
23 Henderson Police Department?

24 PROSPECTIVE JUROR NO. 0567: The only ones I can think  
25 about is when my stepfather has been stopped by some police officers

1 while he was out driving. And, they treated him very unfairly because of  
2 his Spanish accent; and they tried to pin stuff on him that he didn't even  
3 do.

4 MR. SCHWARTZER: Was he arrested?

5 PROSPECTIVE JUROR NO. 0567: No. They let him go  
6 because they didn't have any actual evidence.

7 MR. SCHWARTZER: Okay. Those experiences, are they  
8 going to influence the way you view a police officer who will testify?

9 PROSPECTIVE JUROR NO. 0567: It really depends on their  
10 demeanor and what they say about the trial and what they have  
11 witnessed. Because, from my standpoint, they're -- depending on what  
12 is said, I might personally choose to think it was a racial type of thing  
13 rather than actual witnessing of the evidence.

14 MR. SCHWARTZER: Just because he's a police officer, you  
15 assume he might have a racial bias against the suspect or defendant in  
16 this case?

17 PROSPECTIVE JUROR NO. 0567: It really depends on how  
18 the person demeans himself.

19 MR. SCHWARTZER: So, do you believe that, you know,  
20 without knowing -- you didn't know any of the names Ms. Luong read  
21 into the record, correct?

22 PROSPECTIVE JUROR NO. 0567: No.

23 MR. SCHWARTZER: So, you don't know any of these officers  
24 personally?

25 PROSPECTIVE JUROR NO. 0567: No, I don't.

1 MR. SCHWARTZER: And you've never dealt with these  
2 officers before?

3 PROSPECTIVE JUROR NO. 0567: No. But I still have an un-  
4 comfortability when I'm approached by one because of what I've  
5 witnessed before with my family.

6 MR. SCHWARTZER: Okay. But do you -- are you going --so,  
7 when an officer gets on the stand are you going to think that -- without  
8 knowing anything about the officer, are you going to think that they have  
9 an immigration bias?

10 PROSPECTIVE JUROR NO. 0567: No, unless something  
11 with their testimony makes me believe so.

12 MR. SCHWARTZER: Okay. Such as?

13 PROSPECTIVE JUROR NO. 0567: Depending on what they  
14 say and how they paint the accused person.

15 MR. SCHWARTZER: What do you mean by paint?

16 PROSPECTIVE JUROR NO. 0567: If they use any type of  
17 words that might describe somebody by just how they look or how they  
18 acted. Some words pertaining to that, I guess.

19 MR. SCHWARTZER: Okay. Does anyone else -- okay, let's  
20 go on. Thank you, Ms. Rodriguez.

21 How many people here -- now, you've heard this had  
22 happened in the Seven Hills, St. Rose area, and this had happened in  
23 Henderson. How many people here have had interaction with  
24 Henderson Police Department?

25 I see one person. Mr. Greene. Anyone else? You don't

1 count, I'm sorry. Not now. Next time. Get rid of somebody. Could we  
2 have a microphone for Mr. Greene? Mr. Greene, your badge number is  
3 463?

4 PROSPECTIVE JUROR NO. 0463: Yes, that's correct.

5 MR. SCHWARTZER: And can you tell me about your  
6 interaction with Henderson Police Department?

7 PROSPECTIVE JUROR NO. 0463: Just basic traffic stops  
8 because I actually live out in Henderson.

9 MR. SCHWARTZER: Okay.

10 PROSPECTIVE JUROR NO. 0463: So, not too far from that  
11 area.

12 MR. SCHWARTZER: Do you like their traffic stops?

13 PROSPECTIVE JUROR NO. 0463: Man, it was smooth. It was, you  
14 know, believe it or not, it was real smooth. You know, it was a lot better  
15 than Metro.

16 MR. SCHWARTZER: Okay.

17 PROSPECTIVE JUROR NO. 0463: You know, to be honest.

18 MR. SCHWARTZER: How so?

19 PROSPECTIVE JUROR NO. 0463: Just a little bit more  
20 respectful, you know, and they don't try to waste your time. You know,  
21 they kind of get to the point. You know, just -- just-- you know, just real  
22 smooth, basic. You know, license and registration, you know, the  
23 reason why I stopped you.

24 MR. SCHWARTZER: Okay.

25 PROSPECTIVE JUROR NO. 0463: You know, but other than

1 that I don't have no problem with Henderson. You know they, they --  
2 you know, because I see them all the time. I see them going back and  
3 forth in white SUVs and they don't bother too many people, you know.  
4 Unless they're called out; but it seems like right when they're called out,  
5 they do come out very quick, you know what I'm saying; so, you know,  
6 it's -- it's good to see them, you know.

7 MR. SCHWARTZER: Okay.

8 PROSPECTIVE JUROR NO. 0463: I mean, I guess you  
9 know. But there's been some instances before, not here, but in other  
10 places that I -- that I have visited and lived, you know, and I called the  
11 police, it takes them hours --

12 MR. SCHWARTZER: Sure.

13 PROSPECTIVE JUROR NO. 0463: --hours to get there and,  
14 you know what I'm saying, kind of nonchalant about things. But  
15 Henderson, you know, you call them they're -- you know they'll be right  
16 there.

17 Mr. SCHWARTZER: Okay.

18 PROSPECTIVE JUROR NO. 0463: So, but that's pretty much  
19 it, really.

20 MR. SCHWARTZER: Now you said they're better than  
21 LVMPD and well, as you heard from Ms. Luong, you know there's only  
22 one officer from LVMPD that may or may not testify.

23 PROSPECTIVE JUROR NO. 0463: Yeah.

24 MR. SCHWARTZER: But it sounds like you might have had, I  
25 guess more negative, or a negative interaction with LVMPD. Traffic



1 stops or just --

2 PROSPECTIVE JUROR NO. 0463: Yeah.

3 MR. SCHWARTZER: -- they take a longer time?

4 PROSPECTIVE JUROR NO. 0463: Well, that and there was  
5 one time I was actually moving by Sahara and Linwood; I had a U-Haul  
6 truck; and I got stopped and the guy was like, open up the back of the  
7 truck, you know, make sure there's not no human trafficking going on in  
8 there.

9 MR. SCHWARTZER: Okay.

10 PROSPECTIVE JUROR NO. 0463: I said, human trafficking,  
11 what are you talking about? You know, he's like, I'm making sure you're  
12 not smuggling no immigrants or anything. I'm like, brother look at me.  
13 You don't understand, why would I try to smuggle some immigrants, you  
14 know what I'm saying? So, it's just -- it's just sometimes -- you know  
15 that was like when I first got here. I was like psychotic, because in '07 --  
16 so, in '07 I kept getting a whole bunch of tickets, you know, saying for  
17 stuff from when I first got here. But two weeks of me being here I got hit  
18 with a -- I just came from Washington -- I got hit with a -- not having a  
19 local I.D. I'm like, brother I just got here, you know, I mean, two weeks  
20 ago. He was like, well you know, well I don't know that.

21 I'm like, you know, here's my you know, like here's my papers,  
22 you know what I'm saying; like you know, like here's my lease, here's  
23 everything.

24 MR. SCHWARTZER: Right.

25 PROSPECTIVE JUROR NO. 0463: You know, just a whole

1 bunch of, you know, just negativity stuff. You know, just, just -- just  
2 rookie cops, you know, I mean trying to make a name for themselves or  
3 whatever. Just trying to -- I don't know, I guess just trying to get me  
4 stirred up or whatever.

5 MR. SCHWSARTZER: Okay.

6 PROSPECTIVE JUROR NO. 0463: But other than that, like it  
7 really doesn't bother me; just, you know, some personalities they just  
8 don't mix.

9 MR. SCHWARTZER: Sure.

10 PROSPECTIVE JUROR NO. 0463: You know, and but that  
11 doesn't mean that my -- that my idea of what's -- of what's taking place  
12 here is gonna be based off of that. You know, that was just one  
13 person's maybe having a bad day. Or, maybe he had somebody before  
14 then maybe had said some very colorful language to him or something  
15 and maybe they was just --

16 You know, because I've noticed that sometimes with the  
17 police, it don't matter where you at, if they had a bad encounter before,  
18 you know, sometimes, you know, that they're still worked up, you know.  
19 You know, because they are human, you know. Just like all of us.

20 MR. SCHWARTZER: Right.

21 PROSPECTIVE JUROR NO. 0463: You know. So, when we  
22 do things sometimes, you know, we still get a little bit worked up; and  
23 sometimes we lash out at others. So, that's why I don't take it personal.  
24 You know, I just smile and just do what they ask me to, but it's -- it's --

25 MR. SCHWARTZER: Okay. I appreciate it Mr. Greene.

1 There's no one else, right? I see no hands. I'm gonna ask you how  
2 many people here watch true crime shows or listen to true crime  
3 podcasts? Let's see, 1, 2, 3 --

4 PROSPECTIVE JUROR NO. 0511: What do you mean by  
5 true crime?

6 MR. SCHWARTZER: -- I think I --

7 PROSPECTIVE JUROR NO. 0511: Are you talking Law and  
8 Order; or are you talking about --

9 MR. SCHWARTZER: No. No. I don't have any questions  
10 about that. No, I'm not talking about -- and, that was for the record, it  
11 was Ms. -- I'm sorry, Randi, what was your first name?

12 PROSPECTIVE JUROR NO. 0511: Oh, it's McCay. Randi.

13 MR. SCHWARTZER: Ms. McCay, okay.

14 PROSPECTIVE JUROR NO. 0511: No, it's okay. I was just  
15 [indiscernible].

16 SCHWARTZER: Let me clarify that. I'm talking about, you  
17 know, making a murderer or serial, like documentaries. The one with  
18 Durst -- the one where he says, I killed them all at the end. I'm not sure  
19 what that was called.

20 PROSPECTIVE JUROR NO. 0511: What about Another 48?

21 MR. SCHWARTZER: Another 48, like those. So, everyone  
22 watches those? Not everyone, very strong shaking of the head right  
23 there. Okay.

24 UNIDENTIFIED PROSPECTIVE JUROR: Every now and  
25 then.

1 MR. SCHWARTZER: Now and then? Okay. Does anyone, I  
2 mean -- and then there's, you know, Las Vegas Law, Sin City Law. It  
3 featured the District Attorney's Office that I was not involved in.

4 PROSPECTIVE JUROR NO. 507: What channel is it?

5 MR. SCHWARTZER: I wasn't involved in it so I don't know.

6 PROSPECTIVE JUROR NO. 507: It's called Justice --Justice  
7 TV.

8 MR. SCHWARTZER: There you go. Now, besides, you  
9 know, what we talked about, these documentaries -- it's fair to say that  
10 these documentaries are meant to entertain as well as somewhat inform  
11 but they -- it's mostly to entertain. Does anyone have -- so, things that  
12 you might hear in Another 48 or things that you might hear in serial or  
13 things that you might hear in that --

14 UNIDENTIFIED PROSPECTIVE JUROR: HBO.

15 MR. SCHWARTZER: Yeah. That show on HBO that I'm  
16 trying to figure out the name. Those -- you can't just take what was  
17 done in those cases and then apply it to here where you don't get the full  
18 story. You're going to hear it. You're going to have a trial. You're going  
19 to have all these people testify in front of you.

20 Does anyone have any issues regarding that? Does anyone  
21 think that they'll have any influence by those -- those shows? Okay. And  
22 I see everyone's shaking their head no. Okay. Now let's go to the  
23 fictional shows. So, NCIS, CSI Miami. All those shows. Okay.

24 Everyone knows those shows are fictional, right? All Right.  
25 Everyone's shaking their head. That the science -- that we're not going

1 to have some crazy science that's gonna solve this case in twenty  
2 minutes. I mean, you guys have been here longer than twenty minutes  
3 now, right? Right? All Right, no one is going --does anyone expect to  
4 see stuff that they might see in CSI or anything like that? Okay.  
5 Everyone on the panel is shaking their head.

6 Now, the judge did ask you in a broad sense will anyone  
7 have issues following the law as instructed by the Judge, because the  
8 Judge, at the end of -- if you are picked to be on this trial -- the Judge at  
9 the end is going to instruct you on the elements and the law involving  
10 our Defendant in this case.

11 Meaning, like what elements that need to be proven by the  
12 State, among other things as well. Some people have issues with some  
13 of the law as it is written in Nevada. The one that we used to use all the  
14 time but has been changed was marijuana. Obviously, people, a lot of  
15 people -- in fact, over the majority in Nevada, found that marijuana  
16 should not be a crime and it's not a crime anymore.

17 But there still was -- people before that, you know people were  
18 prosecuted for marijuana. And you would have to -- you would just take  
19 an oath to follow the law.

20 Another example of this would be kind of like conspiracy  
21 theory in which two people -- you have a driver -- you have two people  
22 that are gonna rob a convenience store. There's a driver and the guy  
23 who goes in and robs the convenience store. And under Nevada law,  
24 the driver is just as guilty as the person who robs the store.

25 Some people find that hard to follow, that the gunman should

1 be more responsible than the driver. But the law as stated by, you  
2 know, Nevada is equal. Does anyone have issues -- and why would you  
3 have issues in following the law as instructed by the Judge? Or, is there  
4 like a specific -- is there a specific situation where you think you would  
5 not be able to follow the law; or, you would have a moral or a conviction  
6 against following the law? Everyone's shaking their head.

7 Which then brings us -- I'm sorry, she keeps looking over  
8 here. You two guys. Okay, negative response. The other thing I want to  
9 talk about is judgment. Some people have problems passing judgment  
10 on another individual. In this case we're obviously going to ask you to  
11 pass judgment whether Mr. White is guilty or not of these crimes.

12 Does anyone have a moral or religious or otherwise reason  
13 that they can't pass judgment regarding whether the State proved the  
14 facts of this case or not? All right, I see no hands.

15 Does anyone believe that when you're intoxicated you  
16 shouldn't be responsible for your actions? Or, you should be less  
17 responsible for your actions? Okay. Everyone's shaking their head.

18 Okay. Does anyone believe that substance abuse should  
19 mitigate, or make a crime less of a crime, because they have a  
20 substance abuse issue? No one's shaking their head. Okay.

21 Can people who are involved in criminal activities be victims of  
22 crimes themselves? And to paint a picture, it's not this case, because  
23 you won't get the facts of this case unless you're chosen. But the  
24 most dangerous job -- in my years being in the District Attorney's Office -  
25 - I'll tell you right now, the most dangerous job in Nevada is being a

1 street marijuana dealer. Those guys get robbed all the time; and  
2 sometimes killed.

3 Now, because a person is selling marijuana illegally, not from  
4 a dispensary, and they're robbed, do you believe they can still be a  
5 victim of a crime? Can they still be a victim of robbery? Can they still be  
6 a victim of murder? Okay. So, if someone's involved in criminal activity,  
7 does everyone believe that they can still be victims of crime themselves?  
8 No one has any issues or any --

9 PROSPECTIVE JUROR NO. 0463: It's the other way around,  
10 the way I look at it.

11 MR. SCHWARTZER: I'm sorry, Mr. Greene.

12 THE MARSHAL: Microphone, your full name and badge  
13 number, please.

14 MR. SCHWARTZER: Mr. Greene is 463?

15 PROSPECTIVE JUROR NO. 0463: Yeah, badge number  
16 463. You can be a victim but in the eyes of the law it's wrong all the way  
17 around. Because you guys are both breaking the law.

18 MR. SCHWARTZER: Sure. So, both people are breaking the  
19 law but can -- and, obviously, both people have to answer to the law,  
20 right?

21 PROSPECTIVE JUROR NO. 0463: Correct.

22 MR. SCHWARTZER: Can that person who is breaking the  
23 law -- do you still believe that person deserves, you know, justice in a  
24 sense as in the criminal justice system? Or do you believe, because  
25 they decide to engage in illegal activity that they do not deserve the

1 same, you know, rights that everyone else has like a true victim, quote,  
2 true victim, unquote?

3 PROSPECTIVE JUROR NO. 0463: I believe it was a choice  
4 they chose to make and they knew the risk that came with it.

5 MR. SCHWARTZER: Okay,

6 PROSPECTIVE JUROR NO. 0463: So -- so, with that being  
7 said, you know, if you know you're doing wrong, you know that wrong  
8 comes with it.

9 You know what I'm saying, regardless of how you look at, I  
10 mean the justice that's coming behind it is -- is -- well, you know, with  
11 that it's always that street justice or what not. You know, but that's not  
12 fair either because -- because now you got two parties you know,  
13 obviously, that are both -- okay, okay, so now you have a situation with  
14 two people who both made a wrong choice; but now you have other  
15 people who are not involved that are now involved, due to two people's  
16 choices that they woke up and decided to make that day.

17 MR. SCHWARTZER: Right.

18 PROSPECTIVE JUROR NO. 0463: So, I mean --

19 MR. SCHWARTZER: Can you still be convicted of a crime if  
20 you -- you know, let's say the marijuana dealer who gets robbed --

21 PROSPECTIVE JUROR NO. 0463: Right.

22 MR. SCHWARTZER: -- can you-- can the person doing the  
23 robbery still in your -- would -- if that was proven beyond a reasonable  
24 doubt, and again not this case, --

25 PROSPECTIVE JUROR NO. 0463: Right, right, right, right,



1 right.

2 MR. SCHWARTZER: -- if that was proven beyond a  
3 reasonable doubt would you still be able to find the person robbing the  
4 person selling marijuana on the street guilty of -- the person who is doing  
5 the robbery, can you still find that person guilty of robbery? Or do you  
6 think, well he took the chance of doing this illegal sale; therefore,  
7 robbery occurs, it's part of the deal, so sorry.

8 PROSPECTIVE JUROR NO. 0463: What do you mean? So,  
9 you're asking me, the person who did the robbery, could he still be  
10 convicted of the crime for robbing him if he is caught?

11 MR. SCHWARTZER: Right.

12 PROSPECTIVE JUROR NO. 0463: Boy. I mean, you know,  
13 that's, that's, that's up to the person who's actually trying to prosecute  
14 him. You know that, that right there, you know --so, based on the  
15 evidence of what's going on and how the robbery was -- did anybody get  
16 hurt, was there, you know?

17 MR. SCHWARTZER: Um, hm.

18 PROSPECTIVE JUROR NO. 0463: But like I said, but either  
19 way it goes, no matter how it's looked at, it was wrong. It was wrong all  
20 the way around so they got to convict them anyways, regardless.

21 MR. SCHWARTZER: Well, it's -- it's a jury, right?

22 PROSPECTIVE JUROR NO. 0463: Yeah. Yeah, because it's due to  
23 the fact that -- of the legality of the situation. Now, if the person -- now if  
24 it was a dispensary or whatever, --

25 MR. SCHWARTZER: Um, hm.

1 PROSPECTIVE JUROR NO. 0463: -- that's one thing.  
2 They're within their legal right otherwise to operate. But, if you're not  
3 within your legal right to operate and you still commit a crime, two people  
4 both are committing a crime, you know.

5 So, technically, justice is done amongst those two. Whether  
6 it's right or whether it's wrong, that's -- that's between -- you know that's  
7 between the people, you know, obviously, are prosecuting him. You  
8 know, that part, without evidence, I really can't move forward on the  
9 answer because I don't have any --

10 MR. SCHWARTZER: Here's some --

11 PROSPECTIVE JUROR NO. 0463: -- way to know the  
12 circumstances or --

13 MR. SCHWARTZER: Here's what it is -- and that's fair  
14 because, obviously --

15 PROSPECTIVE JUROR NO. 0463: You know what I mean?

16 MR. SCHWARTZER: No, I get it.

17 PROSPECTIVE JUROR NO. 0463: Yeah.

18 MR. SCHWARTZER: Here's -- here's what I'm looking for.  
19 Can -- if someone's committing a crime --

20 PROSPECTIVE JUROR NO. 0463: Uh, huh.

21 MR. SCHWARTZER: -- and they become a victim of a crime  
22 themselves --

23 PROSPECTIVE JUROR NO. 0463: Uh, huh. You can't -- you  
24 can't call the police, bro. You can't do that because -- I mean you can. I  
25 mean you can; but in a sense -- in a sense -- but in a sense what's going

1 to end up happening is that -- because you might even convict yourself.  
2 And then that case that you're gonna, you know -- that you're  
3 supposedly calling in on, they're gonna be like, we have all we need  
4 right here.

5 MR. SCHWARTZER: Sure, but I guess what I'm saying, like,  
6 you know, say the street marijuana dealer that is killed selling marijuana.

7 PROSPECTIVE JUROR NO. 0463: Right, right.

8 MR. SCHWARTZER: You're still -- I mean we're -- could that  
9 -- I mean is --

10 PROSPECTIVE JUROR NO. 0463: [Indiscernible].

11 MR. SCHWARTZER: You're not saying that that person is  
12 going to walk away --

13 PROSPECTIVE JUROR NO. 0463: No.

14 MR. SCHWARTZER: -- with murder?

15 PROSPECTIVE JUROR NO. 0463: No, they don't walk away.

16 MR. SCHWARZTER: Okay.

17 PROSPECTIVE JUROR NO. 0463: No, they don't walk away  
18 with murder. They're -- what ends up happening is that they --

19 MR. SCHWARTZER: All right. I mean I don't want to get --

20 PROSPECTIVE JUROR NO. 0463: Yeah. I don't want to  
21 want to --

22 MR. SCHWARTZER: -- [indiscernible] or anything like that.

23 PROSPECTIVE JUROR NO. 0463: -- go into detail about it.  
24 Yeah.

25 MR. SCHWARTZER: But I --

1 PROSPECTIVE JUROR NO. 0463: Yeah, but they still have  
2 to be convicted. Yes.

3 MR. SCHWARTZER: Okay.

4 PROSPECTIVE JUROR NO. 0463: Yeah.

5 MR. SCHWARTZER: [Indiscernible]

6 PROSPECTIVE JUROR NO. 0463: If their -- if the person --  
7 if the robber killed the other person and he's eventually caught or what  
8 not, yes, yes he has. Yes. Yes, in that case.

9 MR. SCHWARTZER: Okay. I guess what I'm saying is if you  
10 know that a victim was doing something criminal, are you going always -  
11 - are you going to always find against the victim? Are you going to  
12 always, say well, he had it coming, I'm not going to convict anyone  
13 committing a crime against that person? No matter what the law says.

14 PROSPECTIVCE JUROR NO. 0463: Say that again?

15 MR. SCHWARTZER: I guess what I'm saying is, if the law  
16 says you can be convicted of committing a crime upon an individual --

17 PROSPECTIVE JUROR NO. 0463: Right.

18 MR. SCHWARTZER: -- that was doing a crime --

19 PROSPECTIVE JUROR NO. 0463: Correct.

20 MR. SCHWARTZER: -- will you follow the law?

21 PROSPECTIVE JUROR NO. 0463: Yeah.

22 PROSPECTIVE JUROR NO. 0609: Can you separate the  
23 two?

24 MR. SCHWARTZER: Can you separate the two?

25 PROSPECTIVE JUROR NO. 0609: Yes.

1 MR. SCHWARTZER: Thank you.

2 PROSPECTIVE JUROR NO. 0463: Yes.

3 PROSPECTIVE JUROR NO. 0609: Would it minimize

4 [Indiscernible].

5 PROSPECTIVE JUROR NO. 0463: Yeah, yeah, yeah.

6 MR. SCHWARTZER: Yeah, that's a good point.

7 PROSPECTIVE JUROR NO. 0463: Yeah, yeah.

8 THE MARSHAL: Whoa, guys, guys, one at a time.

9 THE COURT: Hawkes. Hawkes, we're good. Yeah, you --

10 PROSPECTIVE JUROR NO. 0463: Yeah, that's basically

11 what I'm saying to him, like you got to be able to separate the two.

12 MR. SCHWARTZER: Perfect. And that was Mr. Tipton, right?

13 PROSPECTIVE JUROR NO. 0609: Yes.

14 MR. SCHWARTZER: Badge number 609?

15 PROSPECTIVE JUROR NO. 0609: 609, sorry.

16 MR. SCHWARTZER: Thank you.

17 Okay, does anyone else have a comment regarding that?

18 Does anyone else have an issue regarding that? Okay, everyone's

19 shaking their head.

20 Okay. Has anyone been -- has anyone had a residence or a

21 business or a vehicle that's been the subject of a search warrant? Has

22 anyone been present during an execution of a search warrant? I see no

23 hands.

24 All right, let's go into individual questions now. I'm going to go

25 with badge number 545, Kasravi-Khan.

1 PROSPECTIVE JUROR NO. 0545: Yes. Kasravi-Khan.  
2 MR. SCHWARTZER: You said your son is in law school?  
3 PROSPECTIVE JUROR NO. 0545: Yes, he is.  
4 MR. SCHWARTZER: Second year?  
5 PROSPECTIVE JUROR NO. 0545: Yes.  
6 MR. SCHWARTZER: Do you know -- has he taken like any  
7 internships or clerkships anywhere?  
8 PROSPECTIVE JUROR NO. 0545: Yes, at the District  
9 Attorney's Office.  
10 MR. SCHWARTZER: Okay.  
11 PROSPECTIVE JUROR NO. 0545: Not in this building. It  
12 was the Juvenile Court, I understand.  
13 MR. SCHWARTZER: Okay.  
14 PROSPECTIVE JUROR NO. 0545: That's where he was.  
15 MR. SCHWARTZER: Okay. So, the one that is on Bonanza?  
16 PROSPECTIVE JUROR NO. 0545: I believe so.  
17 MR. SCHWARTZER: Okay.  
18 PROSPECTIVE JUROR NO. 0545: Yes.  
19 MR. SCHWARTZER: Okay. Do you know what kind of law  
20 he wants to practice?  
21 PROSPECTIVE JUROR NO. 0545: Not yet, no. I mean he's  
22 just studying at the moment and we are not quite sure what his plans  
23 are, so.  
24 MR. SCHWARTZER: Okay. Now, the fact that he's doing an  
25 internship at the District Attorney's Office, Juvenile Division --

1 PROSPECTIVE JUROR NO. 0545: He actually did that about  
2 a year ago.

3 MR. SCHWARTZER: Okay.

4 PROSPECTIVE JUROR NO. 0545: So, he's not there right  
5 now. It was just an internship for the summer.

6 MR. SCHWARTZER: So, is he applying for a summer  
7 internships or similar associate positions now?

8 PROSPECTIVE JUROR NO. 0545: I don't think so. He's  
9 looking for work right now.

10 MR. SCHWARTZER: Okay. So, he's looking to go inside  
11 private practice?

12 PROSPECTIVE JUROR NO. 0545: Right, right.

13 MR. SCHWARTZER: Do you know litigation or transaction  
14 law? Does he want to work for like a big firm and make money, or does  
15 he want to be in government?

16 PROSPECTIVE JUROR NO. 0545: He did do some  
17 internship with a lawyer in Summerlin this past summer.

18 MR. SCHWARTZER: Okay.

19 PROSPECTIVE JUROR NO. 0545: For about four months or  
20 so. And that ended too because it was just the summer internship.

21 MR. SCHWARTZER: Okay.

22 PROSPECTIVE JUROR NO. 0545: Beyond that I'm not quite  
23 sure which direction he's going to be taking later on.

24 MR. SCHWARTZER: Okay. Thank you.

25 PROSPECTIVE JUROR NO. 0545: Okay.

1 MR. SCHWARTZER: Ms. O'Farrell, badge 520.  
2 So, you were on a jury in Texas?  
3 PROSPECTIVE JUROR NO. 0520: Yes.  
4 MR. SCHWARTZER: Okay. And you don't know if it was civil  
5 or criminal?  
6 PROSPECTIVE JUROR NO. 0520: No. It's been too long  
7 ago.  
8 MR. SCHWARTZER: You guys reached a verdict though?  
9 PROSPECTIVE JUROR NO. 0520: Yes.  
10 MR. SCHWARTZER: Okay. So, there was a verdict. I just  
11 didn't catch that when you said it. Anything from that experience that  
12 kind of soured you on jury service?  
13 PROSPECTIVE JUROR NO. 0520: No.  
14 MR. SCHWARTZER: Okay. And you know, obviously, that --  
15 it sounds like, I mean, if you don't know if it was criminal or civil; but  
16 probably the criminal law that you were instructed on; but obviously,  
17 Nevada law is different than Texas law.  
18 PROSPECTIVE JUROR NO. 0520: They're a little different.  
19 MR. SCHWARTZER: Okay. What part of Texas?  
20 PROSPECTIVE JUROR NO. 0520: Dallas.  
21 MR. SCHWARTZER: Okay. Thank you.  
22 Can we go to badge number 553, Ms. Matos?  
23 PROSPECTIVE JUROR NO. 0553: Yes, I'm here.  
24 MR. SCHWARTZER: So, your ex-husband --  
25 PROSPECTIVE JUROR NO. 0553: Current husband.



1 MR. SCHWARTZER: Not ex-husband, current husband.  
2 PROSPECTIVE JUROR NO. 0553: Yeah, my current.  
3 MR. SCHWARTER: I'm sorry. I didn't mean to do that to you.  
4 So, your husband has been convicted of a felony.  
5 PROSPECTIVE JUROR NO. 0553: Yes.  
6 MR. SCHWARTER: Was that -- did you know him during that  
7 period of time?  
8 PROSPECTIVE JUROR NO. 0553: No. I just know because  
9 he has to register his address -- his change of address.  
10 MR. SCHWARTER: Okay.  
11 PROSPECTIVE JUROR NO. 0553: And, obviously, for his  
12 papers, we have to go through all that. His history and everything.  
13 MR. SCHWARTZER: Okay. Has he ever talked about it at  
14 all?  
15 PROSPECTIVE JUROR NO. 0553: Not really. He just says  
16 that, you know, he realizes he made a big mistake when he was  
17 younger. So, now he has to suffer the consequences of that.  
18 MR. SCHWARTZER: Based on your -- it sounds like you've  
19 already answered this, but based on your interactions with him regarding  
20 what happened, or that incident, do you feel he was treated fairly by the  
21 system?  
22 PROSPECTIVE JUROR NO. 0553: Yes.  
23 MR. SCHWARTZER: And, you don't -- and I'm not going into  
24 his rap sheet here -- is -- does he -- is it -- it's not like people regularly  
25 check up on anyone on parole or anything like that.

1 PROSPECTIVE JUROR NO. 0553: No, he's not on parole but  
2 because of his immigration status he has to report yearly to the  
3 Immigration.

4 MR. SCHWARTZER: Okay. To like HS -- HSSI or  
5 something?

6 PROSPECTIVE JUROR NO. 0553: Yeah. Because he only  
7 gets a work permit but he has to renew it every year with his driver  
8 license.

9 MR. SCWARTZER: Okay. But none of that should influence  
10 you in the case, right?

11 PROSPECTIVE JUROR NO. 0553: No.

12 MR. SCHWARTZER: Okay. All right. Thank you. Could you  
13 pass this to Ms. Serratos, 566?

14 PROSPECTIVE JUROR NO. 0566: Hi.

15 MR. SCHWARTER: Are you going to tell my boss that I'm  
16 doing a good job right now?

17 PROSPECTIVE JUROR NO. 0566: Oh, very good.

18 MR. SCHWARTER: So, you worked -- your company's been  
19 hired by -- by Mr. Wolfson for his political campaigns?

20 PROSPECTIVE JUROR NO. 0566: Yes, sir.

21 MR. SCHWARTZER: Okay. Is that back when he was a city  
22 councilman or --

23 PROSPECTIVE JUROR NO. 0566: Last year.

24 MR. SCHWARTZER: Also, District Attorney, that's when he  
25 was running for District Attorney or re-election?

1 PROSPECTIVE JUROR NO. 0566: Right.

2 MR. SCHWARTZER: So, none of the prior experience when  
3 he was on City Council or anything like that?

4 PROSPECTIVE JUROR NO. 0566: Uh, uh.

5 MR. SCHWARTZER: Okay. And that's your company you're  
6 running?

7 PROSPECTIVE JUROR NO. 0566: Yeah, I work for myself.

8 MR. SCHWARTZER: And your interactions with Mr. Wolfson,  
9 you don't believe will influence how you view this case?

10 PROSPECTIVE JUROR NO. 0566: No.

11 MR. SCHWARTZER: Okay. You can be fair and impartial?

12 PROSPECTIVE JUROR NO. 0566: Very much.

13 MR. SCHWARTZER: Which is all we can ask. Now, I hate, to  
14 be honest, to dig up something that happened a while ago, but it sounds  
15 like you were arrested for a domestic violence crime?

16 PROSPECTIVE JUROR NO. 0566: Um, hm.

17 MR. SCHWARTZER: Now, domestic violence is a  
18 misdemeanor. So, it can be prosecuted by the City Attorney's Office,  
19 which is not the District Attorney's Office, like this trial I'm involved in; or,  
20 it can be prosecuted by the District Attorney's Office in the County where  
21 you were arrested.

22 PROSPECTIVE JUROR NO. 0566: It was North Las Vegas.

23 MR. SCHWARTZER: It was North Las Vegas. Was it the City  
24 of North Las Vegas?

25 PROSPECTIVE JUROR NO. 0566: The City of North Las

1 Vegas.

2 MR. SCHWARTZER: So, you never dealt with the District  
3 Attorney's Office, you dealt with some City of North Las Vegas  
4 prosecutor?

5 PROSPECTIVE JUROR NO. 0566: Right.

6 MR. SCHWARTZER: And you dealt with him without an  
7 attorney?

8 PROSPECTIVE JUROR NO. 0566: Yeah, I just thought it was  
9 no big deal, what really happened. And, so did he, the way he made it  
10 sound; but he was lowering it to Disturbing the Peace, like a noise  
11 pollution.

12 MR. SCHWARTZER: Okay. And the Court didn't appoint you  
13 an attorney?

14 PROSPECTIVE JUROR NO. 0566: No.

15 MR. SCHWARTZER: In spite of having all this, you know,  
16 obviously, as you know you can't possess a firearm now, so.

17 PROSPECTIVE JUROR NO. 0566: But I just don't know why  
18 it didn't get lowered two years ago.

19 MR. SCHWARTZ: Okay.

20 PROSPECTIVE JUROR NO. 0566: So, I'll have to work on it.

21 MR. SCHWARTZ: Yeah. I understand. Obviously, that's a,  
22 you know, it's a negative -- I would say that's a negative experience.  
23 Somebody tells you they're gonna do something and it doesn't happen,  
24 right?

25 PROSPECTIVE JUROR NO. 0566: Um, hm.

1 MR. SCHWARTER: Knowing that that's obviously not  
2 someone in the District Attorney's Office; it obviously wasn't Ms. Luong,  
3 herself, right?

4 PROSPECTIVE JUROR NO. 0566: Um hm.

5 MR. SCHWARTZER: Do you think you will have any bias  
6 against --

7 PROSPECTIVE JUROR NO. 0566: No.

8 MR. SCHWARTZER: -- the prosecution?

9 PROSPECTIVE JUROR NO. 0566: It was really -- I should  
10 have followed up to make sure, I mean, you know, I think prior that I  
11 never had a ticket; nothing prior to that so I should've made sure that it  
12 was what he said it was. And I didn't.

13 MR. SCHWARTZER: Okay. I appreciate that.

14 Pass it to 594, Mr. Dombrowski. Saying that -- saying that  
15 name right?

16 PROSPECTIVE JUROR NO. 0594: Yeah.

17 MR. SCHWARTZER: Sir, when Judge Leavitt asked about  
18 felonies, you raised your hand and then you said Wisconsin and then  
19 you said you weren't -- you know, you weren't a felon. So, was there  
20 like -- were you accused of a crime, or --

21 PROSPECTIVE JUROR NO. 0594: Yes.

22 MR. SCHWARTZER: Okay. And that was in Wisconsin?

23 PROSPECTIVE JUROR NO. 0594: In Florida.

24 MR. SCHWARTZER: In Florida, okay. Can you tell us about  
25 that?

1 PROSPECTIVE JUROR NO. 0594: I graduated in '76, and  
2 then went on a spree, burglarized and stuff.

3 Mr. SCHWARTZER: Okay. That's in Florida?

4 PROSPECTIVE JUROR NO. 0594: That was in Wisconsin.

5 MR. SCHWARTZER: Okay. And since back in '76, were you  
6 convicted of a crime?

7 PROSPECTIVE JUROR NO. 0594: Yes.

8 MR. SCHWARTZER: Okay. Do you believe you were  
9 convicted of a felony or do you believe it was less than a felony?

10 PROSPECTIVE JUROR NO. 0594: It was a felony because I  
11 broke in things with fusing.

12 MR. SCHWARTZER: Has that been -- have you had your  
13 rights restored since then?

14 PROSPECTIVE JUROR NO. 0594: I don't know if they  
15 dismissed it afterwards or not. I don't know if I am still on there.

16 MR. SCHWARTZER: Do you register at all?

17 PROSPECTIVE JUROR NO. 0594: No.

18 MR. SCHWARTZER: Can you vote?

19 PROSPECTIVE JUROR NO. 0594: I haven't voted since I  
20 was eighteen.

21 MR. SCHWARTZER: Okay. So, you don't know if you can  
22 vote or not and you don't know if you're technically still a felon or not?

23 PROSPECTIVE JUROR NO. 0594: Yes, I don't know.

24 MR. SCHWARTZER: Okay.

25 THE COURT: Okay. You were convicted of a felony but you

1 don't know if that felony is still a felony?

2 PROSPECTIVE JUROR NO. 0594: I don't know if they  
3 dismissed it after the years or not.

4 THE COURT: Okay. Officer Hawkes. Do you -- can you --  
5 We're gonna ask you to write down your personal information, okay?  
6 And you think it was in Wisconsin?

7 PROSPECTIVE JUROR NO. 0594: One was in Wisconsin  
8 for burglarizing.

9 THE COURT: Was it Burglary?

10 PROSPECTIVE JUROR NO. 0594: Burglary and Grand  
11 Theft; and the other one about the same thing in Florida.

12 THE COURT: All Right. I'm just going to ask you --

13 PROSPECTIVE JUROR NO. 0594: One was '76 and the  
14 other one was '86.

15 THE COURT: All Right. I'm just gonna ask you to write down  
16 your name, social security number and date of birth.

17 PROSPECTIVE JUROR NO. 0594: Yes.

18 THE COURT: Okay. And at this time, we're going to take a  
19 recess. During this recess you are admonished not to talk or converse  
20 amongst yourselves or with anyone else on any subject connected with  
21 this trial or read, watch or listen to a report of or commentary on the trial,  
22 by any person connected with this trial by any medium of information  
23 including, without limitation, newspapers, television, the Internet or radio;  
24 form or express any opinion on any subject connected with this trial until  
25 the case is finally submitted to you.

1 We'll be in recess for fifteen minutes.

2 THE MARSHAL: Thank you. All rise for the exiting jury.

3 [Recess taken at 3:56 p.m.]

4 [Proceeding resumed at 4:14 p.m.]

5 [Outside the presence of the prospective jury panel]

6 THE COURT: Do you want to bring them in?

7 THE MARSHAL: Yes, ma'am. They're lining up right now.

8 MR. SCHWARTZER: Did you find out about the conviction?

9 THE COURT: Pardon?

10 MR. SCHWARTZER: Did you find out about the conviction?

11 THE COURT: He does not.

12 MR. SCHWARTZER: Okay.

13 THE COURT: Yeah, and they did an NCIC, so.

14 MR. SCHWARTZER: Good.

15 THE COURT: I don't know how people don't understand their

16 personal stuff.

17 Mr. SANFT: Yeah. Maybe it happened too long ago.

18 THE COURT: But that's better, right –

19 MR. SCHWARTZER: Yeah.

20 MR. SANFT: Right.

21 THE COURT: – that he thought he did and really doesn't?

22 MR. SANFT: It's good news for him. That means he can vote

23 now.

24 MR. SCHWARTZER: Yeah, he's automatically absolved

25 because it's in the '70s.



1 THE COURT: Yeah, I don't know.

2 MR. SCHWARTZER: Yeah. A lot of states have that

3 automatic registration in place.

4 THE COURT: And how do you not vote your whole life?

5 MR. SCHWARTZER: Well, there's that.

6 THE MARSHAL: All rise for the entering jury, please.

7 [In the presence of the prospective jury panel]

8 THE COURT: Does the State stipulate to the presence of the

9 panel?

10 MR. SCHWARTZER: Yes, Your Honor. Thank you.

11 THE COURT: The Defense?

12 MR. SANFT: Yes, Your Honor. Thank you.

13 THE COURT: Okay. You may continue.

14 MR. SCHWARTZER: Thank you. Okay, sir.

15 THE MARSHAL: Where are you going?

16 MR. SCHWARTZER: We're on Mr. Dombrowski. All right, sir.

17 It looks like for your record, that you do not have a felony conviction in

18 your record.

19 PROSPECTIVE JUROR NO. 0594: Cool.

20 MR. SCHWARTZER: There you go.

21 PROSPECTIVE JUROR NO. 0594: It was worth coming, I

22 guess.

23 MR. SCHWARTZER: With that known -- so, it sounds like you

24 had this back in -- back in '74, you said, right?

25 PROSPECTIVE JUROR NO. 0594: '76.

1 MR. SCHWARTZER: '76. You had some issues regarding a  
2 burglary in Wisconsin and in Florida you had something else?

3 PROSPECTIVE JUROR NO. 0594: Same thing in '86.

4 MR. SCHWARTZER: In '86. Okay. So, these are from -- and  
5 it sounds like you don't have a conviction from anywhere. So, for what  
6 you did, your rights have been restored. Now, those are -- obviously  
7 occurred over thirty -- the last one occurred over thirty years ago, right?

8 PROSPECTIVE JUROR NO. 0594: Yes.

9 MR. SCHWARTZER: Those incidents you had with police  
10 officers and the court system; do you believe you were treated fairly?

11 PROSPECTIVE JUROR NO. 0594: Yes.

12 MR. SCHWARTZER: Okay. Is there anything that either  
13 myself or Mr. Sanft should know about that experience?

14 PROSPECTIVE JUROR NO. 0594: I learned a lesson.

15 MR. SCHWARTZER: Okay. Thank you, sir.

16 PROSPECTIVE JUROR NO. 0594: Your welcome.

17 MR. SCHWARTZER: Please pass it to Ms. Day who is badge  
18 number 480. She's back there, back over there.

19 PROSPECTIVE JUROR NO. 0480: Ms. Day, you sound like  
20 you've traveled a lot.

21 PROSPECTIVE JUROR NO. 0480: Yes.

22 MR. SCWHARTZER: May I ask why?

23 PROSPECTIVE JUROR NO. 0480: Yeah, sure. So, when I  
24 was seventeen, I got the opportunity to be a foreign exchange student  
25 with the Congress-Bundestag Scholarship. That's basically with the

1 German government and the American government. They put on a  
2 scholarship for 150 kids in the U.S.

3 So, I was the one -- one of the ones in Washington State that  
4 got elected to go over there. So, I spent one year as a foreign exchange  
5 student. I came home for about six months and lived with my  
6 grandparents in California. And then I got the opportunity to become an  
7 Au Pair. So, I went over again and worked as an Au Pair and Nanny for  
8 two kids.

9 MR. SCHWARTZER: Okay. And then, you mentioned what  
10 happened to your brother?

11 PROSPECTIVE JUROR NO. 480: Yes.

12 MR. SCHWARTZER: It was pretty recent, right?

13 PROSPECTIVE JUROR NO. 0480: Yeah.

14 MR. SCHWARTZER: Was that -- where was that?

15 PROSPECTIVE JUROR NO. 0480: So, here in Las Vegas.

16 MR. SCHWARTZER: Where is it? Like what --

17 PROSPECTIVE JUROR NO. 0480: Centennial Hills.

18 MR. SCHWARTZER: Centennial Hills?

19 PROSPECTIVE JUROR NO. 0480: Yeah.

20 MR. SCHWARTZER: Okay. And it sounds like those  
21 individuals were caught?

22 PROSPECTIVE JUROR NO. 0480: Yes.

23 MR. SCHWARTZER: They were prosecuted?

24 PROSPECTIVE JUROR NO. 0480: As far as I know, yeah.

25 MR. SCHWARTZER: Do you -- so, do you believe the police

1 treated your brother's case with the respect it deserved?

2 PROSPECTIVE JUROR NO. 0480: Yeah, I do.

3 MR. SCHWARTZER: Okay. Do you believe -- I mean, it  
4 sounds like you don't know what the resolution was -- do you have any  
5 complaints about the court system?

6 PROSPECTIVE JUROR NO. 0480: I don't believe so. I  
7 mean, I wasn't actually there. It was a juvenile case --

8 MR. SCHWARTZER: Okay.

9 PROSPECTIVE JUROR NO. 0480: -- because he is, you  
10 know, a juvenile.

11 MR. SCHWARTZER: Sure.

12 PROSPECTIVE JUROR NO. 0480: Or, he is younger. But,  
13 yeah, I mean as far as I know my parents were happy with how the  
14 situation was handled; because was in their care at the time, so.

15 MR. SCHWARTZER: Did your brother have to testify?

16 PROSPECTIVE JUROR NO. 0480: No.

17 MR. SCHWARTZER: And did you have to testify?

18 PROSPECTIVE JUROR NO. 0480: No.

19 MR. SCHWARTZER: Okay. Can you pass it to Ms. Grajeda?  
20 Did I say that right?

21 PROSPECTIVE JUROR NO. 0464: Yes. Grajeda.

22 MR. SCHWARTZER: Badge number 464?

23 PROSPECTIVE JUROR NO. 0464: Yes.

24 MR. SCHWARTZER: You were a witness in a murder case,  
25 which not a lot of people can say.

1 PROSPECTIVE JUROR NO. 0464: Right.

2 MR. SCHWARTZER: And that was -- when did you actually

3 testify?

4 PROSPECTIVE JUROR NO. 0464: I believe it was four

5 years ago.

6 MR. SCHWARTZER: Four years ago?

7 PROSPECTIVE JUROR NO. 0464: Three to four years.

8 MR. SCHWARTZER: Okay. And you testified there was a

9 jury?

10 PROSPECTIVE JUROR NO. 0464: Yes.

11 MR. SCHWARTZER: Okay. And so you were in this -- It

12 sounds like you in this --

13 PROSPECTIVE JUROR NO. 0464: In this courtroom, yes.

14 MR. SCHWARTZER: You are certain about that.

15 PROSPECTIVE JUROR NO. 0464: Yes.

16 MR. SCHWARTZER: Did you meet with the prosecutor

17 beforehand and then talk about your testimony?

18 PROSPECTIVE JUROR NO. 0464: I actually had to meet

19 with the D.A. first, before I came to trial.

20 MR. SCHWARTZER: Okay. So, the District Attorney or the

21 prosecutor in the case.

22 PROSPECTIVE JUROR NO. 0464: Yes.

23 MR. SCHWARTZER: Did they call you as a witness or did the

24 Defense call you as a witness?

25 PROSPECTIVE JUROR NO. 0464: I believe the District

1 Attorney called me as a witness.

2 MR. SCHWARTZER: Who asked you the questions first?

3 PROSPECTIVE JUROR NO. 0464: The District Attorney.

4 MR. SCHWARTZER: Okay. As a witness sometimes, the  
5 office cannot be the best with communications. Do you believe that that  
6 they were able to communicate with you in a proper fashion and kind of  
7 tell you what's going on and about your testimony?

8 PROSPECTIVE JUROR NO. 0464: Yes. So, I think actually  
9 why I got called with the D.A. was because I believe, if I'm not mistaken -  
10 - because it happened years ago like 2006 -- they had me on a  
11 recording. So, the detective, whoever came out to the murder scene,  
12 was recording people who actually witnessed the murder.

13 MR. SCHWARTZER: Okay, by the recording you're talking  
14 about, they took your statement?

15 PROSPECTIVE JUROR NO. 0464: They took my statement  
16 and then he made me record on a recorder of what happened.

17 MR. SCHWARTZER: Did you know you were being  
18 recorded?

19 PROSPECTIVE JUROR NO. 0464: Yes, he told me I was  
20 being recorded.

21 MR. SCHWARTZER: Okay. Did you, I mean this is kind of a  
22 loaded question, but did you not want to testify, were you okay with  
23 testifying --

24 PROSPECTIVE JUROR NO. 0464: Well, I was okay with  
25 testifying because I feel like anybody -- like if I would want somebody to

1 testify if that was my brother or my mom or my dad or my family or  
2 anybody that I know. I would want somebody to speak up if they did see  
3 something like that happen.

4 MR. SCHWARTZER: Is there anything from that experience  
5 that either myself or Mr. Sanft would want to know that might influence  
6 you in the case?

7 PROSPECTIVE JUROR NO. 0464: No, not really. I mean I  
8 was scared to testify the first time because you always think of that  
9 person knowing where you were, or knowing where you live, or following  
10 you or whoever was there to witness something like that.

11 MR. SCHWARTZER: Testifying is not the easiest thing.

12 PROSPECTIVE JUROR NO. 0464: Yeah.

13 MR. SCHWARTZER: Thank you, ma'am. Can you pass it  
14 down to Mr. Wilkins who is badge number 510?

15 PROSPECTIVE JUROR NO. 0510: Hello.

16 MR. SCHWARTZER: Hi, sir. I have you down as an  
17 Inspector Apprentice.

18 PROSPECTIVE JUROR NO. 0510: That's correct, with local  
19 12.

20 MR. SCHWARTZER: Okay. What is it -- what are the duties  
21 for that?

22 PROSPECTIVE JUROR NO. 0510: Inspection? Well, right  
23 now, I do a lot of soils testing.

24 MR. SCHWARTZER: Okay.

25 PROSPECTIVE JUROR NO. 0510: And then testing density

1 and moisture.

2 MR. SCHWARTZER: Okay.

3 PROSPECTIVE JUROR NO. 0510: You know, and just the  
4 compaction of soils of soils which you build on. Which is the --  
5 everything is built upon --

6 MR. SCHWARTZER: All right.

7 PROSPECTIVE JUROR NO. 0510: -- so, it's crucial.

8 MR. SCHWARTZER: Okay. And by apprentice, you're  
9 working with someone else until --

10 PROSPECTIVE JUROR NO. 0510: Well, no I'm actually by  
11 myself. There are journeyman -- well some sites -- on-site, like one  
12 going to Caesar's, there's a journeyman there, so.

13 MR. SCHWARTZER: Okay. And it sounds -- what does your  
14 wife do again?

15 PROSPECTIVE JUROR NO. 0510: She's an Executive Vice-  
16 President of MCA and SMACNA. They're both non-profit trade  
17 associations. Both are union companies she represents.

18 MR. SCHWARTZER: Okay. Has she ever been -- I mean that  
19 sounds like a position that you would be deposed in or come to court to  
20 testify before in, not for criminal matters, obviously, but some civil.

21 PROSPECTIVE JUROR NO. 0510: Yeah. Yeah, there's  
22 times. Yeah. Obviously, she just went to Carson City today --

23 MR. SCHWARTZER: Okay.

24 PROSPECTIVE JUROR NO. 0510: -- for legislation  
25 [indescribable].



1 MR. SCHWARTZER: Lobbying, yeah.

2 PROSPECTIVE JUROR NO. 0510: Yeah.

3 MR. SCHWARTZER: Is there anything -- does she have any -

4 - as someone who has probably experience in the court system, does

5 she have any -- do you or -- do her or yourself have any feelings

6 specifically about the court system as a whole, or?

7 PROSPECTIVE JUROR NO. 0510: Not -- no. I'm sure she

8 does. She's -- but not me, no. No.

9 MR. SCHWARTZER: And she's just up there lobbying for --

10 PROSPECTIVE JUROR NO. 0510: For bills that impact her

11 trade -- her trades.

12 MR. SCHWARTZER: Thank you, sir.

13 PROSPECTIVE JUROR NO. 0510: Yeah, you're welcome.

14 MR. SCHWARTZER: Pass it to Mr. Long. Mr. Long, your

15 badge number is 611?

16 PROSPECTIVE JUROR NO. 0611: Yes.

17 MR. SHWARTZER: Okay. Again, I'm sorry you have to go

18 through what happened to your aunt. You said you were thirteen at the

19 time?

20 PROSPECTIVE JUROR NO. 0611: Yeah.

21 MR. SCHWARTZER: Okay. You weren't -- you were thirteen -

22 - I mean, that's so young you don't know what's happening, right?

23 PROSPECTIVE JUROR NO. 0611: Correct.

24 MR. SCHWARTZER: At thirteen you are aware of your

25 surroundings?

1 PROSPECTIVE JUROR NO. 0611: Yes.

2 MR. SCHWARTZER: It sounds like -- did the other individual  
3 escape and then end up committing suicide or did it happen at the same  
4 time?

5 PROSPECTIVE JUROR NO. 0611: Same time.

6 MR. SCHWARTZER: Okay. So, there's no criminal  
7 investigation?

8 PROSPECTIVE JUROR NO. 0611: No. He gunned her down  
9 and then turned the gun on himself.

10 MR. SCHWARTZER: That's terrible. Okay. Obviously, there  
11 isn't any investigation regarding that. But the way the police handled it --  
12 obviously, you were -- did they do it with an amount of respect? Is your  
13 family satisfied with how it was handled, or -- obviously, it's a very tragic  
14 situation.

15 PROSPECTIVE JUROR NO. 0611: My family was split about  
16 it. Given the certain nature of the individual who murdered my aunt and  
17 who he was affiliated with, I felt like they should have put some  
18 protection around my -- my cousin at the time; and my uncle because  
19 they were both assaulted by people who were affiliated with him.

20 MR. SCHWARTZER: Okay.

21 PROSPECTIVE JUROR NO. 0611: Other than that, I mean  
22 there wasn't that much to --

23 MR. SCHWARTZER: You're talking about afterwards?

24 PROSPECTIVE JUROR NO. 0611: -- it at that time. Yes.

25 MR. SCHWARTZER: They were assaulted by persons who

1 were related to the person who killed your aunt?

2 PROSPECTIVE JUROR NO. 0611: Yeah.

3 MR. SCHWARTZER: And the police didn't do anything about  
4 it?

5 PROSPECTIVE JUROR NO. 0611: Not -- not that I'm aware  
6 of. I mean it kept -- it kept happening over, you know, the course of  
7 eight or nine years.

8 MR. SCHWARTZER: Wow. And where was this?

9 PROSPECTIVE JUROR NO. 0611: Specifically?

10 MR. SCHWARTZER: No, what area? Was it here in Clark  
11 County, or?

12 PROSPECTIVE JUROR NO. 0611: No, L.A. County.

13 MR. SCHWARTZER: Okay. So, was -- again, I know this was  
14 not directed at you -- but these are people you were very close with.  
15 Were they going to the police asking for protection and it just wasn't  
16 happening?

17 PROSPECTIVE JUROR NO. 0611: I'm not sure. You know  
18 at, at that -- at my age there, there was more communication between  
19 my parents and their siblings versus -- you know, I just got a little  
20 trickling down in babysitting my cousins or, you know, through  
21 processes.

22 MR. SCHWARTZER: And, I know that the Judge already  
23 asked you this but regarding specifically the stuff that where they --you  
24 know, law enforcement apparently didn't -- you know failed to protect  
25 your uncle and your niece -- niece or cousin?

1 PROSPECTIVE JUROR NO. 0611: Cousin.

2 MR. SCHWARTZER: Cousin. Would that affect anything

3 about this case?

4 PROSPECTIVE JUROR NO. 0611: No.

5 MR. SCHWARTZER: Obviously, totally different departments,

6 right?

7 PROSPECTIVE JUROR NO. 0611: Yes.

8 MR. SCHWARTZER: Now, what did you say you did?

9 PROSPECTIVE JUROR NO. 0611: I'm a HERS Writer and

10 Risk Consultant.

11 MR. SCHWARTZER: Okay. What is that?

12 PROSPECTIVE JUROR NO. 0611: I test new homes for

13 energy efficiency and I inspect them at rough stage for energy code.

14 And then risk assessment is going through and inspecting WRB --

15 weather resistant barriers and exterior claddings and so on.

16 MR. SCHWARTZER: Thank you, sir.

17 PROSPECTIVE JUROR NO. 0611: You're welcome.

18 MR. SCHWARTZER: And, then Mr. Woodrow?

19 PROSPECTIVE JUROR NO. 0610: Feeler.

20 MR. SCHWARTZER: Feeler, thank you. Badge number 610,

21 Woodrow Feeler?

22 PROSPECTIVE JUROR NO. 0610: Yes.

23 MR. SCHWARTZER: I used your first name for your last

24 name, I apologize.

25 PROSPECTIVE JUROR NO. 0610: It's all right.

1 MR. SCHWARTZER: Sir, you said you were in law  
2 enforcement at one point?

3 PROSPECTIVE JUROR NO. 0610: Yes, twelve years.

4 MR. SCHWARTZER: And that was in Indiana?

5 PROSPECTIVE JUROR NO. 0610: Yeah. Gary, Indiana.

6 MR. SCHWARTZER: And then you became a teacher  
7 afterwards?

8 PROSPECTIVE JUROR NO. 0610: Yes, the GI Bill, I was  
9 going to school and was a police officer and got a teacher's license and  
10 changed jobs and went to teaching.

11 MR. SCHWARTZER: Why did you did you decide to transition  
12 from -- was there a reason why you transitioned from law enforcement to  
13 education?

14 PROSPECTIVE JUROR NO. 0610: Well, better opportunities  
15 for my family as far as salary is concerned; it had better benefits; and  
16 after twelve years as a police officer -- where I was at there was a lot of  
17 murders and a lot of crime going on -- and it's a -- it's a toll on you after a  
18 while. I thought it was time for a change.

19 MR. SCHWARTZER: Okay. So, it was kind of both better for  
20 your family salary wise and mental health wise?

21 PROSPECTIVE JUROR NO. 0610: Yeah, oh yeah.

22 MR. SCHWARTZER: Do you have any negative feelings  
23 about that law enforcement career that you left to teach?

24 PROSPECTIVE JUROR NO. 0610: No, not at all. I was glad  
25 to have served and I got a lot of experience out of it.

1 MR. SCHWARTZER: I appreciate that, sir. Can you pass it to  
2 Mr. Quick?

3 Hello, sir. How are you doing?

4 PROSPECTIVE JUROR NO. 0559: I'm good.

5 MR. SCHWARTZER: I know it's been a long day so I'm  
6 almost done, I promise.

7 PROSPECTIVE JUROR NO. 0559: Okay.

8 MR. SCHWARTZER: Your wife works with you said, quote,  
9 problem kids?

10 PROSPECTIVE JUROR NO. 0559: Yes, sir

11 MR. SCHWARTZER: Okay. Well, can you explain that for  
12 me?

13 PROSPECTIVE JUROR NO. 0559: Well, it's like they tried to  
14 stop the pipeline from like kids going to prison from young ages. So,  
15 they're trying to stop that pipeline. So, like my wife, she's in Oakland,  
16 California now. They took a couple of kids out there. President Obama  
17 is speaking today. He was supposed to have spoken today at like 3:00  
18 o'clock.

19 So, they work with the kids that's like done got in trouble, you  
20 know, with school. Instead of trying to get the kids suspended, they  
21 trying to make programs to keep them in school. So, she works with a  
22 lot of kids like that.

23 MR. SCHWARTZER: It sounds like a great program. What  
24 age group?

25 PROSPECTIVE JUROR NO. 0559: Oh, they start anywhere

1 from kindergarten on up through -- on up through high school.

2 MR. SCHWARTZER: And this is something that's affiliated  
3 with the City?

4 PROSPECTIVE JUROR NO. 0559: Uh, huh.

5 MR. SCHWARTZER: Okay. Do you know what specifically --  
6 what department in the City?

7 PROSPECTIVE JUROR NO. 0559: No, I don't know the  
8 specific department she's in.

9 MR. SCHWARTZER: Okay. Does she -- do some of those  
10 children that she works with commit crimes that end up in the adult  
11 system? Has she told you about anything like that?

12 PROSPECTIVE JUROR NO. 0559: Lots of them do.

13 MR. SCHWARTZER: And does she talk to you about those --  
14 those children?

15 PROSPECTIVE JUROR NO. 0559: Oh, I volunteer. I work  
16 with them too.

17 MR. SCHWARTZER: Okay. So, you know some of them.

18 PROSPECTIVE JUROR NO. 0559: Yes.

19 MR. SCHWARTZER: Okay. Now the fact that -- I mean, I'm  
20 sure that there's a lot that's been helped out and they don't go down that  
21 pipeline but --

22 PROSPECTIVE JUROR NO. 0559: Sure is.

23 MR. SCHWARTZER: -- some obviously did. With your  
24 experience dealing with those individuals going through the adult  
25 criminal system at some point, do you think that's going to affect how

1 you -- affect the way you may view this trial?

2 PROSPECTIVE JUROR NO. 0559: No. I don't think it will.

3 MR. SCHWARTZER: Okay. You believe you can be fair and  
4 impartial?

5 PROSPECTIVE JUROR NO. 0559: Oh, yeah. I know I can.

6 MR. SCHWARTZER: Perfect. Thank you, sir.

7 And then can we go to Ms. Dobbs, 505, which is back in the  
8 row?

9 Ms. Dobbs?

10 PROSPECTIVE JUROR NO. 0505: Yes.

11 MR. SCHWARTZER: So, you work in substance abuse?

12 PROSPECTIVE JUROR NO. 0505: I do.

13 MR. SCHWARTZER: What do you do specifically?

14 PROSPECTIVE JUROR NO. 0505: So, we teach women that  
15 are in substance abuse recovery. We go out to the women's prison; out  
16 to conservation camp; different treatment centers; and we actually work  
17 with teaching them health, nutrition, body image so that they can,  
18 hopefully, get better -- hopefully, not relapse.

19 MR. SCHWARTZER: Okay. So, you go over to Smiley Road  
20 and --

21 PROSPECTIVE JUROR NO. 0505: Yep.

22 MR. SCHWARTZER: Your interactions with those individuals,  
23 so you've seen kind of the inner workings of the criminal justice system;  
24 at least one aspect of it, right?

25 PROSPECTIVE JUROR NO. 0505: I've seen the end of it.



1 MR. SCHWARTZER: You've seen the end of it. Okay. Does  
2 that affect any way you view this right here, where we are at right now in  
3 the actual court process?

4 PROSPECTIVE JUROR NO. 0505: I don't think so. No.

5 MR. SCHWARTZER: There's nothing from that that otherwise  
6 affects the way you view the State or the Defense?

7 PROSPECTIVE JUROR NO. 0505: No.

8 MR. SCHWARTZER: Okay. And these individuals,  
9 specifically, that you're helping out on Smiley Road, is it all female or a  
10 mix --

11 PROSPECTIVE JUROR NO. 0505: It's all female.

12 MR. SCHWARTZER: So, you said you were talking about  
13 nutrition and making better life decisions and stuff like that?

14 PROSPECTIVE JUROR NO. 0505: Um, hm.

15 MR. SCHWARTZER: Are you specifically targeting individuals  
16 that have a -- a drug problem that you're trying to help or is it everyone,  
17 basically?

18 PROSPECTIVE JUROR NO. 0505: The program that we  
19 teach is called Healthy Substance Freedom. It's basically, it is focused  
20 on women with a substance abuse background; but out at Smiley and  
21 out at Jean they don't actually screen for that. So, really, it's general  
22 population. But in the treatment centers it's just the substance abuse.

23 MR. SCHWARTZER: And once you get your -- you're trying  
24 to get your PhD, right? That's what you're working on?

25 PROSPECTIVE JUROR NO. 0505: My Master's.

1 MR. SCHWARTZER: Your Master's. And once you get your  
2 Master's do you plan on continuing with this or is that --

3 PROSPECTIVE JUROR NO. 0505: I plan on continuing with  
4 it, yes.

5 MR. SCHWARTZER: Okay. So, working within, I guess, the  
6 later end of the justice system.

7 PROSPECTIVE JUROR NO. 0505: Um, hm.

8 MR. SCHWARTZER: And what kind of drew you to that? It's  
9 a tough question, right?

10 PROSPECTIVE JUROR NO. 0505: That's a tough question.  
11 I just actually started working in a different program and they needed  
12 someone to kind of fill into this program. And so, as I started filling in, I  
13 really got to enjoy what I'm doing, working with the women that I'm  
14 working with; and so, I ended up transitioning completely over to this  
15 other program.

16 MR. SCHWARTZER: Okay. Thank you. Could just pass it  
17 right next to you, to Mr. Serrano, badge number 506?

18 PROSPECTIVE JUROR NO. 0506: Yes, sir.

19 MR. SCHWARTZER: How are you doing, sir?

20 PROSPECTIVE JUROR NO. 0506: Good.

21 MR. SCHWARTZER: So, I know you're in a band, right?

22 PROSPECTIVE JUROR NO. 0506: Yeah.

23 MR. SCHWARTZER: You also said you area a music  
24 teacher?

25 PROSPECTIVE JUROR NO. 0506: Yeah. Well, that's my

1 degree.

2 MR. SCHWARTZER: That's your degree?

3 PROSPECTIVE JUROR NO. 0506: Yeah.

4 MR. SCHWARTZER: So, are you teaching music now?

5 PROSPECTIVE JUROR NO. 0506: No, I'm not. I don't do it  
6 in this country. Back in my country, yeah.

7 MR. SCHWARTZER: Okay. Where were you teaching?

8 PROSPECTIVE JUROR NO. 0506: In Cuba.

9 MR. SCHWARTZER: Okay. Were you teaching students or  
10 were you teaching adults?

11 PROSPECTIVE JUROR NO. 0506: Students.

12 MR. SCHWARTZER: Okay. So, you mentioned you're from  
13 Cuba?

14 PROSPECTIVE JUROR NO. 0506: Yes.

15 MR. SCHWARTZER: When did you leave Cuba to come to  
16 the United States?

17 PROSPECTIVE JUROR NO. 0506: It was back in 2004.

18 MR. SCHWARTZER: Okay. Did you ever deal with the  
19 Cuban Police or military or anything like that?

20 PROSPECTIVE JUROR NO. 0506: Never. I always stayed  
21 out of trouble.

22 MR. SCHWARTZER: Obviously, that's a different system  
23 than what we have here.

24 PROSPECTIVE JUROR NO. 0506: Yeah.

25 MR. SCHWARTZER: You never had to deal with --

1 PROSPECTIVE JUROR NO. 0506: Never.

2 MR. SCHWARTZER: -- issues there? Okay. All right, Court's  
3 indulgence. I pass for cause, Your Honor. Thank you

4 THE COURT: Mr. Sanft?

5 MR. SANFT: Ladies and gentlemen, does anyone here have  
6 a watch? Can someone tell me when it's five minutes 'till five and I will  
7 sit down? Well, let me do this. We have about -- it's 4:43 p.m.  
8 according to my watch, so we're going to have a little bit of time. I'm just  
9 going to ask you some general questions because I think that counsel  
10 for the State has done a very good job about kind of asking what we're  
11 all intending.

12 Now, my very first question is this. Does anyone here have a  
13 nagging suspicion or feeling like, I wish they would just ask me this one  
14 question because I could demonstrate to them that I'm not a good juror; I  
15 could not be fair and impartial to either the State of Nevada or to Mr.  
16 White. Does anyone have that feeling? Anything at all like I just wish  
17 they would ask me this one question about whatever, no? Okay. A  
18 uniform no response on that. Thank you.

19 Next question I have is, the Court asked you earlier about  
20 police officers and said does anyone here -- would anyone here give  
21 undue weight to a police officer who testifies just because they're a  
22 police officer? And, I think for the most part we all said no, right? I don't  
23 recall anyone saying yes to that.

24 But here's my question. We all understand that police  
25 officers have certain standard of performances, right? The same way

1 that you would have a standard of performance if you do soil sample  
2 testing –

3 UNIDENTIFIED PROSPECTIVE JUROR: Absolutely.

4 MR. SANFT: – or whether you work as a chef maybe or  
5 someone who may become a correctional officer. There is standard of  
6 performances. Would that be fair to say? Would everyone agree with  
7 that? Okay.

8 If during the time that -- if you're selected as a juror in this  
9 case, and during the time that we spend together, you find that the  
10 police officers in this case did not do what they were supposed to do  
11 according to their own standard of performance, whatever that is, would  
12 you be the type of juror that would then say, well, it's not that big of a  
13 deal or, in the alternative, ah, police officers are overworked, they're  
14 underpaid, I'm going to give him a pass or I'm going to help him out here  
15 and just kind of move on from whatever the standard of performance  
16 that they failed to do? Does anyone here feel like they are going to be  
17 that kind of juror on this case? That's a uniform no response. Do we all  
18 understand my question because I'm talking kind of fast? Okay.

19 The next question I have is has anyone here heard of the term  
20 where there's smoke there's fire? We have one person saying no.

21 PROSPECTIVE JUROR NO. 0480: Sorry, and I don't know --

22 MR. SANFT: That's all right. Before you continue, we'll just  
23 hand the microphone over to you because we're going to pick on you  
24 now.

25 PROSPECTIVE JUROR NO. 0480: Oh, pick on me, oh, no.

1 Hi. By the way, my name is McKenzie Day, badge number 480.

2 MR. SANFT: All right. You've never heard of that term

3 before?

4 PROSPECTIVE JUROR NO. 0480: No.

5 MR. SANFT: Okay.

6 PROSPECTIVE JUROR NO. 0480: I'm sorry.

7 MR. SANFT: Well, let me just explain it to you real quick.

8 The term basically is that if you see smoke there's a presumption that

9 that's fire that's creating the smoke, okay? Where there's smoke there's

10 fire. Am I mis-explaining that or not explaining it right? Okay.

11 Now in this case, we have this man that's sitting over next to

12 me, Mr. White. He's been charged with a crime. Do you feel that just

13 because he's charged with a crime that he must have done something

14 wrong to get him in the position that he's sitting over here next to me at

15 counsel's table?

16 PROSPECTIVE JUROR NO. 0480: No.

17 MR. SANFT: That's what I'm saying about smoke versus fire.

18 PROSPECTIVE JUROR NO. 0480: Okay. I understand.

19 MR. SANFT: Obviously, the idea is, well, he must have done

20 something if he's sitting here next to his attorney. Does anyone have

21 that kind of concern or that kind of feeling about this case, like, hey, he

22 must have done something wrong do be sitting over here charged with a

23 crime? That's a uniform no response. Okay.

24 MR. SANFT: And let me make sure I'm clear. There was a

25 question or something that was asked earlier by the State with regards

1 to Mr. -- I'm sorry -- Mr. Oliver?

2 PROSPECTIVE JUROR NO. 0507: Yes, sir.

3 MR. SANFT: Okay. There was a discussion with Mr. Oliver,  
4 and that's badge number --

5 PROSPECTIVE JUROR NO. 0507: 507.

6 MR. SANFT: -- 507, about making the case, right? I think you  
7 had said something about making the case, that the State's going to  
8 make its case and then the Defense will make its case, something along  
9 those lines, right?

10 PROSPECTIVE JUROR NO. 0507: Right.

11 MR. SANFT: Okay. Now, I'm going to ask this as a whole,  
12 but does anyone here have a problem with the idea that if I just shut my  
13 mouth from this point forward, went back to my seat and played with my  
14 hair for the rest of the time that we spent together, that it would still be  
15 the State's responsibility of proving its case beyond a reasonable doubt  
16 to you? Does anyone have a problem with that concept? Okay. That's  
17 a uniform no response.

18 Well, let me ask you this question, would that factor in your  
19 understanding of the facts to say, you know I still never heard from the  
20 other side. I wish they had said something or done something, besides  
21 playing with his hair during the course of the trial, just something else.  
22 Would that be something that you think you would say or think during the  
23 course of the trial? Okay. That's a uniform no response.

24 Now, I want to make sure we're clear. This is a safe place.  
25 We're all friends here, okay? So, if you really feel that way, you can just

1 raise your hand and no one is going to judge you for that, okay?

2 I'm sorry, Mr.--

3 PROSPECTIVE JUROR NO. 0529: Philips, 529.

4 MR. SANFT: Okay, thank you. If you can just get the --  
5 Sir, please.

6 PROSPECTIVE JUROR NO. 0529: Yes. I think you -- if you  
7 just sat there and didn't do anything, I would question why are you here.

8 MR. SANFT: Well, I mean, I -- let me make sure we're clear.  
9 I think that that's a normal reaction. I think we all would want the other  
10 attorney to say at least something during the course of the trial to justify  
11 why I'm even here. Would that be a fair way of phrasing what you're  
12 thinking?

13 PROSPECTIVE JUROR NO. 0529: Yes.

14 MR. SANFT: Okay. But you do understand, though, that  
15 under the concepts of the Constitution of the United States, the State of  
16 Nevada bears that burden of proving that charge against my client to  
17 you beyond a reasonable doubt?

18 PROSPECTIVE JUROR NO. 0529: Yes.

19 MR. SANFT: Okay. Now, since you're holding the  
20 microphone, let me ask you this, sir. The State of Nevada also have the  
21 responsibility of proving every element of every crime beyond a  
22 reasonable doubt. Let me just give you an example. They have to  
23 prove that one, plus two, plus three, equals six, right?

24 PROSPECTIVE JUROR NO. 0529: Right.

25 MR. SANFT: Okay. Now, those are elements. Say, number



1 one is an element, number two is an element and number three is an  
2 element. Say, for instance, they prove to you one and two but when it  
3 comes to number three, or the value three, it's 2.5, 2.7. Would you be  
4 the type of juror to say, you know what, they got close, I'm just going to  
5 give it to them on that last element and say that they did prove that last  
6 element beyond a reasonable doubt. Would you be the type of juror that  
7 would do that?

8 PROSPECTIVE JUROR NO. 0529: No.

9 MR. SANFT: Okay. Does anyone here believe that they'd be  
10 that type of juror that would do that in this case? Does everyone  
11 understand my question? Okay. That's a nodding and a yes response.  
12 Thank you. And I appreciate your answer, sir.

13 Now, for those of us who have had children who are relatively  
14 close in age -- let me pick on someone who has. Mr. --

15 PROSPECTIVE JUROR NO. 0487: Williams.

16 MR. SANFT: -- Williams, you have five children; is that  
17 correct?

18 PROSPECTIVE JUROR NO. 0487: Yes, sir.

19 MR. SANFT: And just for your -- just for the record, what is  
20 your badge number, sir?

21 PROSPECTIVE JUROR NO. 0487: Badge number 487.

22 MR. SANFT: 497?

23 PROSPECTIVE JUROR NO. 0487: 487.

24 MR. SANFT: 487, okay. Have you ever had an incident occur  
25 where two of your children are fighting and you don't know what they're

1 fighting about and someone is crying?

2 PROSPECTIVE JUROR NO. 0487: Yes.

3 MR. SANFT: Okay. Have you had it where you are not  
4 present when it's happened?

5 PROSPECTIVE JUROR NO. 0487: Yes.

6 MR. SANFT: Have you had to make a choice or decision as  
7 to what happened and who should be punished, if anybody?

8 PROSPECTIVE JUROR NO. 0487: Yes.

9 MR. SANFT: How have you made a determination as to who  
10 did what?

11 PROSPECTIVE JUROR NO. 0487: I would ask both of my  
12 kids and whoever had the more -- the story that made more sense would  
13 be the one that I believed.

14 MR. SANFT: Okay. Well, let me ask you this question. And I  
15 appreciate that because I've had other parents, basically, I just punish  
16 both of them, just get over it.

17 PROSPECTIVE JUROR NO. 0487: Yeah.

18 MR. SANFT: Right? I mean, some of us, I think, would just  
19 get right to it, right, if you have another person [Indiscernible]? But let  
20 me ask you this question, though. If you are asking the question about  
21 who you believe did what, does the factor of credibility come into play?  
22 Meaning, that child is the troublemaker among the five of your children,  
23 would that also be a factor in your decision as to who did what?

24 PROSPECTIVE JUROR NO. 0487: I think it would depend on  
25 what exactly the troublemaker, you know, what kind of troublemaker

1 they were and if they had an issue with lying; which one of them of mine  
2 do; then, yeah, I wouldn't believe that one.

3 MR. SANFT: Okay. All right, now would it be fair to say that,  
4 in this case, you weren't present during any of the things that happened  
5 in this case, right?

6 PROSPECTIVE JUROR NO. 0487: Right.

7 MR. SANFT: If you're selected as a juror, you're going to be  
8 making decisions based upon credibility of people that will get up on the  
9 stand?

10 PROSPECTIVE JUROR NO. 0487: Yes.

11 MR. SANFT: And evidence that the State will present to you?

12 PROSPECTIVE JUROR NO. 0487: Yes.

13 MR. SANFT: If that happens, would consider yourself to be a  
14 fair evaluator of the facts in this case; and make a determination that's  
15 both fair to the State of Nevada as well as to Mr. White?

16 PROSPECTIVE JUROR NO. 0487: I think so.

17 MR. SANFT: Okay. Thank you. Now, one other thing that's  
18 going to be asked of you by the State of Nevada, Mr. White and myself,  
19 as well as the Court, is specifically about reserving your judgment to the  
20 end.

21 What does that mean? That means that, as we sit here right  
22 now, does anyone have any thoughts as to whether or not the State of  
23 Nevada has proven its case beyond a reasonable doubt with regard to  
24 the charges against Mr. White? Does anyone believe that the State of  
25 Nevada has proven it right now? Okay.

1           Now at some point if you're selected as a juror, you will hear  
2 opening statements; and what the opening statements will be is,  
3 basically, what the parties believe and the evidence will show.

4           If after the opening statements, would you be the type of juror  
5 to say, you know what, I've been convinced based upon what the  
6 opening statements are for either the State or the Defense and then I'm  
7 done with this. I'm just gonna sit here and wait until the end of this thing  
8 and then make my decision. Does anyone believe that they'd be that  
9 type of juror in this case? It's a uniform no response.

10          Okay. Now, one final question. I've had before on panels,  
11 where you've had two people getting a divorce be on the same panel.  
12 And, I've had where we've had married couples be on the panel at the  
13 same time.

14          Does anyone here on this panel know anyone else in the  
15 panel? We've asked about everybody else but we've never asked that  
16 question here today. Anyone know anybody else here on the panel from  
17 church, work, the supermarket?

18          PROSPECTIVE JUROR NO. 0566: Are you talking about do  
19 we know one of the jurors?

20          MR. SANFT: Yes.

21          PROSPECTIVE JUROR NO. 0566: We do.

22          PROSPECTIVE JUROR NO. 0479: We do.

23          PROSPECTIVE JUROR NO. 0566: We do.

24          MR. SANFT: And I'm sorry. Let's make sure we're clear. We  
25 need to get the microphone over to --

1 PROSPECTIVE JUROR NO. 0566: 566, Norma Serratos.  
2 MR. SANFT: Okay. And this is Ms. Lee?  
3 PROSPECTIVE JUROR NO. 0479: Yeah, 479.  
4 MR. SANFT: Okay. And you know Ms. – I'm sorry.  
5 THE COURT: Will you state your name and badge number?  
6 PROSPECTIVE JUROR NO. 0566: Norma Serratos, 566.  
7 MR. SANFT: Okay. And how do you know Ms. Serratos?  
8 PROSPECTIVE JUROR NO. 0479: On a personal level. We  
9 have a mutual friend that we hang out with.  
10 MR. SANFT: Okay.  
11 PROSPECTIVE JUROR NO. 0479: Did you want more  
12 specific?  
13 MR. SANFT: That's fine. What do you --  
14 PROSPECTIVE JUROR NO. 0479: I don't know how much  
15 more you --  
16 MR. SANFT: Do you do sky diving together? I mean is it --  
17 PROSPECTIVE JUROR NO. 0479: We're planning a  
18 wedding together currently for our friend.  
19 MR. SANFT: Are you both going to be in the wedding?  
20 PROSPECTIVE JUROR NO. 0566: We're the planners.  
21 MR. SANFT: You're the planners of the wedding.  
22 PROSPECTIVE JUROR NO. 0479: Yeah. I'm officiating it.  
23 MR. SANFT: Oh, okay. You're officiating.  
24 PROSPECTIVE JUROR NO. 0479: Yeah.  
25 MR. SANFT: And so, let me make sure we're clear. You're

1 officiating and did you know each other prior to the wedding or planning  
2 of the wedding?

3 PROSPECTIVE JUROR NO. 0566: No.

4 PROSPECTIVE JUROR NO. 0479: No.

5 MR. SANFT: All right. And, are you the official planner of this  
6 wedding?

7 PROSPECTIVE JUROR NO. 0566: We all are. Everybody is  
8 a family –

9 PROSPECTIVE JUROR NO. 0479: It's like a team. Yeah.  
10 It's –

11 PROSPECTIVE JUROR NO. 0566: It's a team thing.

12 MR. SANFT: It's a village effort.

13 PROSPECTIVE JUROR NO. 0566: But before this I didn't  
14 know her.

15 MR. SANFT: I see. Okay. And you both know the people  
16 that are getting married?

17 PROSPECTIVE JUROR NO. 0566: Yes.

18 PROSPECTIVE JUROR NO. 0479: Yes.

19 MR. SANFT: And do you have personal relationships with the  
20 people that are getting married?

21 PROSPECTIVE JUROR NO. 0479: Just friends, yeah.

22 PROSPECTIVE JUROR NO. 0566: Friends.

23 MR. SANFT: Okay. Do you know both of them, both the  
24 husband – or the bride and the groom?

25 PROSPECTIVE JUROR NO. 0566: Yes.

1 PROSPECTIVE JUROR NO. 0479: Yes.

2 MR. SANFT: Now is there anything at all -- I'm going to ask  
3 Ms. Lee first this question, but is there anything at all, Ms. Lee, about  
4 your connection to Ms. -- I'm sorry, your name?

5 PROSPECTIVE JUROR NO. 0566: Norma.

6 MR. SANFT: With Norma, badge number 566 --

7 PROSPECTIVE JUROR NO. 0566: 566.

8 MR. SANFT: -- that would impair your ability to be fair and  
9 impartial in this case either to the State of Nevada or to my client?

10 PROSPECTIVE JUROR NO. 0566: No.

11 MR. SANFT: So, for instance, if you both are lucky enough to  
12 be selected on this jury; and you're sitting there and have a major  
13 dispute as to some factual issue, would that count into the fact that, hey,  
14 I don't want to have any problems with Norma because we have to work  
15 with each other planning this wedding?

16 PROSPECTIVE JUROR NO. 0479: No.

17 PROSPECTIVE JUROR NO. 0566: No.

18 MR. SANFT: And, I'm sorry. You're officiating, though, right?

19 PROSPECTIVE JUROR NO. 0479: Yeah.

20 MR. SANFT: And you're also planning as well?

21 PROSPECTIVE JUROR NO. 0479: Yeah.

22 MR. SANFT: Okay.

23 PROSPECTIVE JUROR NO. 0479: My friends asked me to  
24 ordain the wedding.

25 MR. SANFT: Okay.

1 PROSPECTIVE JUROR NO. 0479: But, yeah --  
2 PROSPECTIVE JUROR NO. 0566: She's not--  
3 PROSPECTIVE JUROR NO. 0479: Yeah. We're all just  
4 helping her plan the wedding. Yeah.  
5 MR. SANFT: And there's nothing about that connection  
6 between you and Norma that would have you go, at this point, yeah, I'm  
7 going to just agree with what Norma has to say so I don't cause any  
8 problems during the wedding?  
9 PROSPECTIVE JUROR NO. 0479: No.  
10 MR. SANFT: Or, officiating the wedding?  
11 PROSPECTIVE JUROR NO. 0479: No.  
12 MR. SANFT: Norma is not going to stand up and object to  
13 that during the course of the wedding, right, if you disagree with her?  
14 PROSPECTIVE JUROR NO. 0479: No.  
15 PROSPECTIVE JUROR NO. 0566: No.  
16 MR. SANFT: Okay. No further questions. Ms. Lee, just pass  
17 the microphone to Norma.  
18 MR. SANFT: And, Ms. Serratos, the same question for you.  
19 Is there anything at all about your connection with Ms. Lee that would  
20 prevent you from being fair and impartial?  
21 PROSPECTIVE JUROR NO. 0566: No. We just became  
22 personal like maybe the last month when we found out about the  
23 wedding, but I don't -- and, actually, today is the only time we've really  
24 been together for this long.  
25 MR. SANFT: Okay.



1 PROSPECTIVE JUROR NO. 0566: We were forced to  
2 [indiscernible] together.

3 PROSPECTIVE JUROR NO. 0479: It's been a really long  
4 day, so.

5 PROSPECTIVE JUROR NO. 0566: But, other than that, no.  
6 We just know the grooms and the bride.

7 MR. SANFT: Okay. And nothing at all that would be able --

8 PROSPECTIVE JUROR NO. 0566: No.

9 MR. SANFT: -- to change your perspective on anything?

10 PROSPECTIVE JUROR NO. 0566: No.

11 MR. SANFT: Okay. With that being said, I have no further  
12 questions, Your Honor. I will pass for cause.

13 THE COURT: Thank you. At this time, the Clerk has  
14 prepared what will be marked as Court's exhibit --

15 Do you have Court's Exhibit Number 1?

16 THE CLERK: Yes.

17 THE COURT: Okay. Thank you.

18 And the State of Nevada may exercise their first challenge.

19 The Defense may exercise their first.

20 The State may exercise their second.

21 The Defense may exercise their second.

22 The State may exercise their third.

23 The Defense may exercise their third.

24 The State and the Defense may exercise their fourth  
25 peremptory challenge.

1           The State and Defense may exercise their fifth.  
2           The Defense may exercise their fifth.  
3           Okay, the State and Defense may exercise their sixth.  
4           The State and the Defense may exercise their seventh  
5 peremptory challenge.  
6           The Defense may exercise their seventh.  
7           The State and Defense may exercise their eighth peremptory  
8 challenge.  
9           The Defense may exercise their eighth.  
10          Okay, at this time, the State and the Defense may exercise  
11 your final peremptory challenge as to the alternates and it is seventeen  
12 through thirty-two with the exception of those that have been exercised.  
13                   [Colloquy between the Court and the Marshal]  
14          THE COURT: You're correct, so it's eighteen through thirty-  
15 two with the exception of those that have been exercised. Thank you.  
16          MR. SCHWARTZER: Thank you, Your Honor.  
17          THE COURT: The Defense may exercise their final  
18 peremptory challenge.  
19          Okay. At this time, ladies and gentlemen, we are going to  
20 take a short recess. There's just something that I have to do outside of  
21 your presence. It'll be only about, you know -- it'll be three to four  
22 minutes.  
23                   When Officer Hawkes greets you and asks you to come back  
24 in, I just ask that you don't sit in the jury box; that you sit out in the  
25 gallery. When you come back in, the Clerk will call our panel of jurors. If

1 you name is called, you will be seated on the jury panel. If not, you will  
2 be excused for the day.

3 During this recess you are admonished not to talk or converse  
4 among yourselves, or with anyone else, on any subject connected with  
5 this trial or read, watch or listen to any report of or commentary on the  
6 trial or any person connected with this trial by any medium of  
7 information, including, without limitation, newspapers, television, the  
8 Internet or radio; form or express an opinion on any subject connected  
9 with this trial until the case is finally submitted to you.

10 Thank you very much. We're in recess.

11 THE MARSHAL: Thank you. All rise for the exiting jury.

12 [Outside the presence of the jury]

13 THE COURT: Okay. The record will reflect that the hearing is  
14 taking place outside the presence of the jury panel. Our jury panel will  
15 be as follows: Juror number 1, Janice Paul; number 2, Chelsea Lee;  
16 number 3, McKenzie Day; number 4, Linda Fornos; number 5, John  
17 Williams; number 6, Patricia Taylor; number 7, Robert Wilkins; 8, Randi  
18 McCay; 9, Doris Lee; 10, Christopher Long; 11, Chelsea Santamaria;  
19 and 12, Linda O'Farrell; and juror number 13 is Paul Phillips; and  
20 number 14, Leonor Canon.

21 Any objection by the State?

22 MR. SCHWARTZER: None by the State, Your Honor.

23 THE COURT: By the Defense?

24 MR. SANFT: No, Your Honor, but just a matter of  
25 housekeeping once again for the record. I spoke with my client; we

1 were satisfied with pretty much the entire panel. We do not believe that  
2 there was anybody that we needed to strike.

3 THE COURT: Okay.

4 MR. SANFT: And so, as a result, there were additional  
5 waivers that I had put down on our selection just because we were  
6 satisfied with what the panel was at that particular point.

7 THE COURT: Okay, thank you. Then we'll bring them back in  
8 and we'll seat them and then we'll excuse them for the day.

9 MR. SCHWARTZER: I guess we didn't have to worry about  
10 opening.

11 THE COURT: I'm sorry?

12 MR. SCHWARTZER: I guess we didn't have to worry about  
13 an opening.

14 THE COURT: No, you didn't have to worry about it.

15 THE MARSHAL: Okay, jurors. Come on in. All rise for the  
16 entering jury, please.

17 [In the presence of the prospective jury panel]

18 THE MARSHAL: Please just filter into both sides. Please  
19 listen for your name.

20 THE COURT: Janice Paul, you're juror number 1; Chelsea  
21 Lee, you're juror number 2; McKenzie Day, you're juror number 3; Linda  
22 Fornos, juror number 4; John Williams, juror number 5; juror number 6,  
23 Patricia Taylor; juror number 7, Robert Wilkins; juror number 8, Randi  
24 McCay.

25 JUROR NO. 8: I'm sorry. Did someone just say my name?

1 THE COURT: Randi McCay.  
2 JUROR NO. 8: Oh, okay.  
3 THE COURT: Yes.  
4 Juror number 9, Doris Lee; juror number 10, Christopher  
5 Long.  
6 Christopher Long?  
7 JUROR NO. 10: Who?  
8 THE COURT: Christopher Long.  
9 JUROR NO. 10: Right here.  
10 THE COURT: Yep. You're juror number 10.  
11 Juror number 11, Chelsea Santamaria; juror number 12,  
12 Brenda O'Farrell; juror number 13, Paul Phillips; and number 14, Leonor  
13 Canon.  
14 Okay, at this time, ladies and gentlemen, we do have our  
15 impaneled jury. If your name wasn't called, you're free to go. If you just  
16 don't mind just leaving your badges. There's a box right outside the  
17 department. And I do want to thank you very much for your willingness  
18 to be here. Thank you for your patience and courtesy and you are  
19 excused. Thank you.  
20 [Pause in the proceedings]  
21 THE COURT: Okay. Does the State stipulate to the presence  
22 of the jury panel that is now impaneled?  
23 MR. SCHWARTZER: Yes, Your Honor.  
24 THE COURT: Mr. Sanft?  
25 MR. SANFT: Yes, Your Honor. Thank you.

1 THE COURT: Okay. Ladies and gentlemen, I know it has  
2 been a long day so I am going to excuse you for the day. I just want to  
3 give you a few instructions. I do want to remind you that you are an  
4 impaneled jury panel now.

5 Officer Hawkes is giving you those blue badges that identify  
6 you as a juror in Department XII. I just ask that when you are in the  
7 courthouse that you wear those badges. That's so that everybody that's  
8 involved in this case, witnesses and other people, know not to talk about  
9 the case when you're around.

10 Again, I want to remind you that myself, the parties, the  
11 attorneys and other persons involved in this case, with the exception of  
12 Officer Hawkes, are not permitted to have any communication with you,  
13 whatsoever outside of the courtroom.

14 So, again, we will inevitably see each other coming in and out  
15 of the courthouse, maybe in the elevators and probably out in the  
16 hallway as well. We're not ignoring you. We're not trying to be rude.  
17 Again, we're maintaining our ethical obligation to maintain the integrity of  
18 the jury system.

19 I want to remind you that you are not permitted to discuss this  
20 case with anyone, including your fellow jurors, until you go back to  
21 deliberate upon your verdict. That means that when you are outside  
22 during your recess, you will probably all hang out together. You are not  
23 permitted to discuss any of the facts and circumstances surrounding this  
24 case until you go back to deliberate upon your verdict.

25 You can tell your family, your friends and your co-workers that

1 you are a juror in a criminal case but you are not permitted to tell them  
2 anything else until you are discharged by the Court.

3 We are going to conclude for the day. We're going to start  
4 tomorrow morning at 10:30 a.m. Each day when we come back you'll  
5 just come up to the 14<sup>th</sup> floor. Officer Hawkes will greet you and he'll  
6 bring you in when we're ready to begin.

7 During this recess you are admonished not to talk or converse  
8 amongst yourselves or with anyone else on any subject connected to  
9 this trial or read, watch or listen to any report of or commentary on the  
10 trial or any person connected with this trial by any medium of  
11 information, including, without limitation, newspapers, television, the  
12 Internet or radio; form or express any opinion on any subject connected  
13 with this trial until the case is finally submitted to you.

14 I do want to thank you very much for your willingness to be  
15 here, for your participation in this process. Have a good night and we'll  
16 see you tomorrow morning.

17 MR. SANFT: Your Honor, before the jury leaves --

18 THE COURT: Wait.

19 MR. SANFT: -- can we approach?

20 THE COURT: Sure.

21 [Bench conference transcribed as follows:]

22 THE COURT: What's wrong with 10:30?

23 MR. SANFT: Do you want to swear them in right now or  
24 tomorrow morning?

25 THE COURT: No. Are you kidding me? You of all people

1 asked that. I wait.

2 MR. SANFT: Okay.

3 THE COURT: I'm a little superstitious.

4 MR. SANFT: Okay.

5 THE COURT: Because if something happened and we lost  
6 somebody --

7 MR. SANFT: Then we just redo it. Yeah.

8 THE COURT: -- jeopardy hasn't attached.

9 MR. SCHWARTZER: Okay.

10 THE COURT: So, I can't believe you of all people said that.

11 MR. SANFT: I didn't know for sure.

12 THE COURT: It's been too long.

13 MR. SANFT: It's been a minute. It's been a minute.

14 THE COURT: It's been a minute.

15 MR. SANFT: Yeah.

16 THE COURT: Thank you though.

17 MR. SCHWARTZER: Thank you, Your Honor.

18 [Bench conference concluded]

19 THE COURT: Okay, at this time, ladies and gentlemen, you  
20 are excused.

21 THE MARSHAL: Thank you. All rise for the exiting jury.

22 [Outside the presence of the Jury]

23 THE COURT: All right, see you tomorrow,

24 MR. SCHWARTZER: Thank you, Your Honor.

25 MR. SANFT: Thank you, Your Honor.



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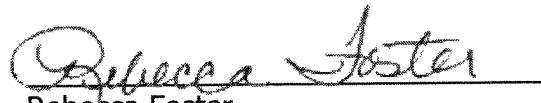
3 THE COURT: Thank you.

4 [Proceedings concluded at 5:18 p.m.]

5 \* \* \* \* \*

6 ATTEST: I do hereby certify that I have truly and correctly transcribed the  
7 audio/video proceedings in the above-entitled case to the best of my ability.

8



9

Rebecca Foster  
Independent Transcriber

10

11

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1 RTRAN

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5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

7  
8 THE STATE OF NEVADA,  
9 Plaintiff,

10 vs.

11 TONEY ANTHONY WHITE,  
12 Defendant.

CASE#: C-16-313216-2  
DEPT. XII

13  
14 BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT  
15 JUDGE

16 WEDNESDAY, FEBRUARY 20, 2019

17 **RECORDER'S TRANSCRIPT OF HEARING:**  
18 **JURY TRIAL — DAY 2**

19 APPEARANCES:

20 For the State:

MICHAEL SCHWARTZER, ESQ.  
VIVIAN LUONG, ESQ.

21  
22 Deputy District Attorneys

23 For the Defendant:

MICHAEL W. SANFT, ESQ.

24  
25 RECORDED BY: KRISTINE SANTI, COURT RECORDER

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**DEFENSE EXHIBITS**

None

\* \* \* \* \*

1 Las Vegas, Nevada, Wednesday, February 20, 2019

2 [Hearing began at 11:07 a.m.]

3 [Outside the presence of the jury]

4 THE COURT: All right. The State of Nevada versus Toney  
5 White. He's present. He's in custody. The hearing is taking place  
6 outside the presence of the jury panel. I know you had something  
7 before I brought the panel in.

8 MR. SCHWARTZER: Correct, Your Honor. I have two things.  
9 The number one thing is -- and Mr. Sanft might have one copy -- but we  
10 did do an amended indictment. The original indictment had all four co-  
11 defendants in it.

12 THE COURT: Okay.

13 MR. SCHWARTZER: So, it doesn't change the charges, it  
14 doesn't change the theory of the case; it was always *Barren* pled, so but  
15 now we just took out the three defendants, the three other defendants  
16 who have all pled guilty --

17 THE COURT: Okay.

18 MR. SCHWARTZER: -- out of the caption and put them into  
19 the body of the indictment.

20 THE COURT: Okay. Any objection?

21 MR. SANFT: No objection, Your Honor.

22 THE COURT: Okay.

23 MR. SCHARTZER: And then the second thing that we need  
24 to talk about, Your Honor, is we did -- based on the Court's request, we  
25 did attempt to get Marland Dean transported from Lovelock. We made

1 contact with them this morning. I got out -- I sent out the order to  
2 transport. We contacted them this morning and they said -- they told us,  
3 there's absolutely no way to transport him by Monday. They said the  
4 earliest they can get him here is March 1<sup>st</sup>. I have a contact information  
5 if you want to talk to them but --

6 THE COURT: Yeah.

7 MR. SCHWARTZER: -- my assistant talked to them and I  
8 attempted to talk to them before I came here but I wasn't able to reach  
9 anyone. But we do have the contact information and I'll forward that  
10 information to you -- to your JEA and to Mr. Sanft as well. And then  
11 maybe since -- I'm not important, you're important -- they'll maybe listen  
12 to you and so.

13 THE COURT: You're important. You're all important. But  
14 maybe I can -- I mean, they have to comply with the order.

15 MR. SCHWARTZER: Yeah. I guess they said they don't  
16 have a regular transport and they were mentioning security reasons.  
17 But, again, I don't want to -- and this is stuff that was sent to me second  
18 hand so I don't want to misquote them either.

19 THE COURT: Sure. So, I mean, before we go to all that I just  
20 want to make sure that --

21 MR. SANFT: This is my client's request, Your Honor. I do  
22 understand the problem that we have with regards to representations  
23 that were made in his effort to withdraw his guilty plea, but he has  
24 specifically requested Marland Dean to be present and so we're still  
25 asking for it.

1 THE COURT: Okay. Well, I'll do my best --

2 MR. SANFT: Thank you.

3 THE COURT: -- and see if they can have him transported  
4 before the trial ends.

5 MR. SCHWARTZER: Thank you, Your Honor. And then --

6 THE COURT: And he's in Lovelock prison?

7 MR. SCHWARTZER: He's in Lovelock, Your Honor. And we  
8 confirmed he's there. It's just they won't -- they said the earliest they  
9 can get him here is March 1<sup>st</sup> --

10 THE COURT: Okay.

11 MR. SCHWARTZER: -- which is -- we'll be well done before  
12 then or the State will be well done before then.

13 THE COURT: Okay.

14 MR. SCHWARTZER: I guess there's a third thing that my co-  
15 counsel just brought up. We do have an exhibit list that we provided to  
16 the Court and to Mr. Sanft. My understanding, with reviewing the  
17 discovery with Mr. Sanft -- these are all crime scene photographs and  
18 Google maps --

19 THE COURT: Sure.

20 MR. SCHWARTZER: -- is that we're going to have a  
21 stipulation to the exhibits --

22 THE COURT: All right.

23 MR. SHWARTZER: -- to these exhibits. There's going to be  
24 additional exhibits that will come in later in the trial that there hasn't been  
25 any talk about stipulation about, so.

1 THE COURT: So, Exhibit 1 through --

2 MR. SCHWARTZER: I believe it's 1 through -- well, we didn't  
3 talk about the disk either, to be fair. So, it will be 1 through 229.

4 THE COURT: So, Exhibit 1 through 229 are going to be  
5 admitted by stipulation. Is that correct, Mr. Sanft?

6 MR. SANFT: Well, I would imagine it's -- 1 through 233 that  
7 would be admitted by stipulation.

8 MR. SCHWARTZER: Yeah. We just -- I didn't talk to you  
9 about those photos. That's why I didn't include them. But there -- the  
10 photos he's talking about, 230 through 233 are just pictures of the co-  
11 defendants, so.

12 THE COURT: Okay.

13 MR. SANFT: That is correct, Your Honor. I have seen those  
14 pictures, so I don't have any objection to their admission at this particular  
15 point.

16 THE COURT: All Right, so Exhibit 1 through 233 are admitted  
17 by stipulation.

18 **[EXHIBITS 1 THROUGH 233 ADMITTED]**

19 MR. SCHWARTZER: And I'm going to -- we did a redacted --  
20 234 we had to redact some stuff out of it. It's a bodycam video in which  
21 an officer mentions Mr. White's eighteen years in prison. That part's  
22 been redacted.

23 THE COURT: Okay.

24 MR. SANFT: I'll provide the redacted disk to Mr. Sanft so he  
25 can review it and then we'll go from there.

1 THE COURT: All right. Anything before we bring them in?

2 MR. SCHWARTZER: That's it, Your Honor.

3 THE COURT: Okay. We're ready.

4 THE MARSHAL: Ready to go, ma'am?

5 THE COURT: We're ready. Thank you.

6 [In the presence of the jury]

7 THE MARSHAL: All rise for the entering jury, please.

8 THE COURT: And if you'll all remain standing when you  
9 come in because the Clerk is going to administer the oath of service.

10 THE COURT: Does the State stipulate to the presence of the  
11 jury panel?

12 MR. SCHWARTZER: Yes, Your Honor.

13 THE COURT: The Defense?

14 MR. SANFT: Yes, Your Honor.

15 THE COURT: Okay. If you will all please raise your right  
16 hand so the Clerk can administer the oath of service.

17 [Clerk administered oath to the jury]

18 THE COURT: Thank you.

19 THE MARSHAL: Okay. Everyone, be seated.

20 THE COURT: Ladies and gentlemen you are admonished  
21 that no juror may declare to a fellow juror any fact relating to this case of  
22 his or her own knowledge; and if any juror discovers during the trial or  
23 after the jury is retired that he or she or any other juror has personal  
24 knowledge of any fact and controversy in this case, he or she shall  
25 disclose that situation to myself in the absence of the other jurors.



1           This means that if you learn, during the course of this trial, that  
2 you are acquainted with the facts of the case or the witnesses, and if  
3 you've not previously told me this relationship, you must then declare  
4 that fact to me. Remember, you communicate to the Court either in the  
5 courtroom in the presence of both sides or through Officer Hawkes, the  
6 Court Marshal.

7           What I will now say is intended to serve as an introduction to  
8 the trial in this case. It is not a substitute for the detailed instructions on  
9 the law, which I will give you at the close of the case and before you  
10 retire to consider your verdict.

11           This is a criminal case commenced by the State of Nevada,  
12 which I may sometimes refer to as the State against Mr. Toney White,  
13 the Defendant. The case is based on an amended indictment. At this  
14 time the Clerk is going to read the indictment to the ladies and  
15 gentlemen of the jury and state the plea of the defendant to that  
16 indictment.

17                       [The Clerk read the amended indictment]

18           THE COURT: Thank you very much. This case is based on  
19 the indictment which has just been read to you by the Clerk. You should  
20 distinctly understand that the indictment is simply a charge and that it is  
21 not in any sense evidence of the allegations that it contains.

22           The Defendant has entered a plea of not guilty to the  
23 indictment. The State, therefore, has the burden of proving each of the  
24 elements as alleged in that indictment by proof beyond a reasonable  
25 doubt.

1           As Mr. White sits here today, he is presumed innocent. The  
2 purpose of this trial is to determine whether the State of Nevada will  
3 meet their burden of proof. It is your primary responsibility as jurors to  
4 find and determine the facts.

5           Under our system of criminal procedure, you are the sole  
6 judge of the facts. You are to determine the facts from the testimony you  
7 hear and the other evidence, including exhibits introduced in court. It is  
8 up to you to determine the inferences which you feel may be properly  
9 drawn from the evidence.

10          The parties may sometimes present objections to some of the  
11 testimony or other evidence. It is the duty of a lawyer to object to  
12 evidence which he or she believes may not properly be offered; and you  
13 should not be prejudiced in any way against a lawyer who makes  
14 objections on behalf of the party he or she represents.

15          At times I may sustain objections or direct that you disregard  
16 certain testimony or exhibits. You must not consider any evidence to  
17 which an objection has been sustained or which I have instructed you to  
18 disregard.

19          Anything you may have seen or heard outside the courtroom  
20 is not evidence and must also be disregarded.

21          Remember, statements, arguments and opinions of counsel are not  
22 evidence in the case. However, if the attorneys stipulate as to the  
23 existence of a fact, you must accept the stipulation as evidence and  
24 regard that fact as proved.

25          You must not speculate to be true any insinuations suggested

1 by a question asked a witness. The question is not evidence and may  
2 be considered only as it supplies meaning to the answer.

3 You must not be influenced in any degree by any personal  
4 feeling, a sympathy for or prejudice against the State or the Defendant.  
5 Both sides are entitled to the same fair and impartial consideration.

6 In considering the weight and value of the testimony of any  
7 witness, you may take into consideration the appearance, attitude and  
8 behavior of the witness, the interest of the witness in the outcome of the  
9 case, if any, the relation of the witness to the Defendant or the State of  
10 Nevada, the inclination of the witness to speak truthfully or not and the  
11 probability or improbability of the witness's statements and all of the  
12 facts and circumstances in evidence. Thus, you may give the testimony  
13 of any witness just such weight and value that you believe the testimony  
14 of that witness is entitled to receive.

15 There are two kinds of evidence, direct and circumstantial.  
16 Direct evidence is testimony by a witness about what that witness  
17 personally saw, or heard or did. Circumstantial evidence is testimony or  
18 exhibits which are proof of a particular fact from which, if proven, you  
19 may infer the existence of a second fact. You may consider both direct  
20 and circumstantial evidence in deciding this case. The law permits you  
21 to give equal weight to both but it is for you to decide how much weight  
22 to give to any evidence.

23 Opening statements and closing arguments of the attorneys  
24 are intended to help you in understanding the evidence and applying the  
25 law, but they are not evidence.

1           No statement, ruling, remark or comment which I make  
2 during the course of this trial is intended to indicate my opinion as to how  
3 you should decide the case or to influence you in any way in your  
4 determination of the facts.

5           At times I may even ask witnesses questions. If I do so, it is  
6 for the purpose of bringing out matters which I feel should be brought out  
7 and not in any way to indicate my opinion about the facts or to indicate  
8 the weight I feel you should give to the testimony of any witness.

9           I may also find it necessary to admonish the attorneys. And if  
10 I do you should not show prejudice against a lawyer or his or her client  
11 because I found it necessary to admonish him or her.

12           Until this case is submitted to you, you must not discuss it with  
13 anyone, even with your fellow jurors. After it is submitted to you, you  
14 must discuss it only in the jury room with your fellow jurors.

15           It is important that you keep an open mind and not decide  
16 any issue in this case until the entire case has been submitted to you  
17 under instructions from the Court.

18           The trial will proceed in the following manner: The Deputy  
19 District Attorney will make an opening statement, which is an outline to  
20 help you to understand what the State expects to prove.

21           Next the Defense attorney may, but does not have to, make  
22 an opening statement. An opening statement serves as an introduction  
23 of the evidence which the party making the statement intends to prove.  
24 The State will then present its evidence and counsel for the Defense  
25 may cross-examine the witnesses. Following the State's case, the

1 Defendant may present evidence and the Deputy District Attorney may  
2 cross-examine the witnesses.

3           However, as I've said, the defendant is not obligated to  
4 present any evidence. After all the evidence has been presented, I will  
5 instruct you on the law. After the instructions on the law have been read  
6 to you, each side will have the opportunity to speak to you in their  
7 closing argument.

8           What is said in closing argument is not evidence. The  
9 arguments are designed to summarize and interpret the evidence. Since  
10 the State has the burden of proving the Defendant guilty by a proof  
11 beyond a reasonable doubt, the State has the right to open and close  
12 the arguments. After the arguments have been completed, you will then  
13 retire to deliberate upon your verdict.

14           Again, let me remind you that until this case is submitted to  
15 you, do not talk to each other about it or about anyone who has anything  
16 to do with it until the end of the case when you go to the jury room to  
17 decide upon your verdict.

18           Do not talk with anyone else about this case or about anyone  
19 who has anything to do with it until the trial has ended and you have  
20 been discharged as jurors by myself. Anyone else includes members of  
21 your family and your friends. You may tell them that you're a juror in a  
22 criminal case but don't tell them anything else about it until after you've  
23 been discharged by myself.

24           Do not let anyone talk to you about the case or about anyone  
25 who has anything to do with it. If someone should try to talk to you,

1 please report it to me immediately by contacting Officer Hawkes.

2 Do not read any news stories or articles or listen to any radio  
3 or television reports about this case or about anyone who has anything  
4 to do with it.

5 As jurors, you will be given the opportunity to ask written  
6 questions of any of the witnesses called to testify in this case. You are  
7 not encouraged to ask large numbers of questions because that is the  
8 primary responsibility of the attorneys.

9 Questions may be asked but only in the following manner,  
10 after both attorneys have finished questioning the witness, and only at  
11 this time, if there are additional questions that you would like to ask a  
12 witness, you may then seek permission to ask that witness a written  
13 question. Should you desire to ask a question, write your question down  
14 with your juror number on a full sheet of clean paper and raise your  
15 hand.

16 All questions from jurors must be factual in nature and  
17 designed to clarify information already presented. In addition, jurors  
18 must not place undue weight on the responses to their questions. The  
19 Marshal will pick up the question and present it to the Court. All  
20 questions must be directed to the witness and not to the lawyers or to  
21 the Court.

22 After consulting with the attorneys, I will then determine if  
23 your question is legally proper. If I determine that your question may be  
24 properly asked, I will ask it. No adverse inference should be drawn if the  
25 Court does not allow a particular question.

1           So, I will follow that procedure pretty strictly. When a witness  
2 comes in to testify, the State will do the direct, the Defense will do cross,  
3 the State will do redirect and then the Defense can do a re-cross. When  
4 both sides are done, I'm going to look at the witness, I'm going to thank  
5 them for being here and I will excuse them from their subpoena.

6           So, if you have a question that you'd like to ask a witness, I  
7 just ask that you get my attention, raise your hand so I know you have a  
8 question. I'll instruct the witness to stay and then you can take whatever  
9 time you need to draft your question and present it to the Court.

10           I will not, after I excuse a witness from their subpoena, I won't  
11 require them to come back to the courthouse any time later to answer a  
12 written question from the juror. So, it's just very important that you get  
13 my attention if you want to ask that witness a question; because when  
14 they're gone, I don't have them under subpoena. I can't bring them back  
15 here to answer any further questions.

16           You've also been presented with juror notebooks. Those are  
17 your notebooks. The only thing I ask is that you keep those notebooks  
18 in the courtroom at all times until you are excused to deliberate upon  
19 your verdict.

20           The instructions I gave you this morning, the admonishment  
21 I'm required to give you every time we take a recess, as well as the  
22 procedure for asking written questions, those are all in there. You can  
23 refer to them at any time.

24           Also, in the back we have given you some lined paper so that  
25 you can take notes. When you go back to deliberate upon your verdict,

1 you will not have a transcript to consult. It will be your memory that will  
2 prevail, collectively, as well as any notes that you take.

3 So, the jury, collectively, you will rely on each other's memory  
4 of the testimony as well as those notes. So, if you'd like to take notes,  
5 they're there. If at any time you need additional paper, let me know and  
6 I'll make sure you get it.

7 On the inside of that pocket is one sheet of paper. You can  
8 take that out and take it with you. It just has all the information about  
9 where you are and any phone numbers for the staff in Dept 12, if for any  
10 reason, when we're not in court, you have to contact us.

11 Otherwise, everything stays in the notebook and in the  
12 courtroom. At the end of the day, Officer Hawkes is under Court order to  
13 collect those notebooks. He puts them in a safe place. He won't read  
14 them. He won't allow anyone else to read them. Your notes and  
15 everything in there will be kept strictly confidential and then when you  
16 come back the next day your notebook will be on your chair when you  
17 come in.

18 With that I'm going to allow the State of Nevada to address the  
19 jury panel in their opening statement.

20 **OPENING STATEMENT BY THE STATE**

21 BY MR. SCHWARTZER:

22 Thank you, Your Honor. It started with a knock, that's how  
23 this whole thing happened, or started. January 20<sup>th</sup> -- on January 20,  
24 2016, Marlene Burkhalter and her husband, Jason Cliff, were at their  
25 apartment at the Horizons at Seven Hills. That, as you heard during Ms.



1 Luong's introduction, is by St. Rose and Seven Hills, right across from a  
2 convenience store and there's a tailor and stuff like that, a nice  
3 residential neighborhood.

4 They hear a knock. It's about 11:00 o'clock at night -- or about  
5 10:30 at night. Ms. Burkhalter is off from work that day. She is watching  
6 some TV; Mr. Cliff is in the office. Ms. Burkhalter looks outside the door  
7 and sees a young lady in her twenties, nothing unique about her,  
8 someone who could be a neighbor.

9 So, she opens the door. As soon as she opens the door, two  
10 black males wearing U.S. Marshal gear, vests, shirts, I.D.s, rush in.  
11 They say they're U.S. Marshals. They have a search warrant. Get  
12 down on the floor.

13 They have the vests, they have I.D.s, they have firearms; not  
14 only the silver firearm you see there, but you're going to hear that they  
15 had two black firearms, one that looks like a rifle. They had paperwork  
16 that said that they had a search warrant and they also had handcuffs.

17 Ms. Burkhalter complies. She gets down on the ground and  
18 she gets handcuffed. Mr. Cliff thinks there's something wrong. Mr. Cliff  
19 is no angel. You'll hear that he has prior felonies. But there's something  
20 that's not right about this, about the way this is set up, by the time and  
21 anything else. So, he starts saying, take what you want. He knows that  
22 this is a robbery. He knows that this isn't unique.

23 They don't take what they want. Instead, they start beating  
24 Mr. Cliff. They start beating Mr. -- both these individuals. Both these  
25 black males are beating him with what's called an asp. And what an asp

1 is, is a classical baton. They start beating him over the head. They start  
2 beating him over the back. They start beating him and beating him and  
3 beating him until they can handcuff him.

4 Because at the end of the day these were not U.S. Marshals.  
5 These were not law enforcement. These were Toney White and his co-  
6 conspirators. The woman outside, her name -- you'll find out that her  
7 name is Amanda Sexton and she was in a romantic relationship with Mr.  
8 White. The two black males that came in, you'll find out is Toney White  
9 and Marland Dean. And, you'll hear from Mr. Cliff and you'll hear from  
10 Ms. Burkhalter, as they talk to you about what happened that night.

11 Marlene will come in here and say Mr. White attacked her  
12 husband, helped restrain him, helped put him in handcuffs, beat him.  
13 And then when it was all over, still tried to pretend that he was a U.S.  
14 Marshal saying, look, I have paperwork.

15 And you'll hear from Jason Cliff and you'll see pictures of  
16 Jason Cliff. You'll hear about the beating he took. About the baton  
17 strikes that were so hard, that this man -- you will see the metal baton --  
18 so hard that this metal object was bent.

19 You will hear from detectives about how they'd never seen an  
20 object like that, a classical baton, something that law enforcement  
21 carries with them, bent. That's how hard these strikes were, that an  
22 open gash is in Mr. Cliff's head. That it caused major back injuries.  
23 They knocked out his teeth. You'll hear about these injuries caused by  
24 Mr. White and his co-conspirators.

25 So, as this beating is going on and he finally gets Mr. Cliff in

1 handcuffs, you will hear from Ms. Burkhalter and Mr. Cliff about how,  
2 then, the apartment started being searched a little bit. Some people go  
3 into the office area. Some people go in the bedroom. But within  
4 minutes, maybe even seconds, by the time they get Mr. Cliff under  
5 control there's another knock.

6 And this time it's Henderson Police Department. That the  
7 screaming and the yelling by Ms. Burkhalter, as they're beating her  
8 husband in front of her and from Mr. Cliff were so loud, that a neighbor --  
9 and again, this is an apartment complex, so people are pretty close  
10 together -- a neighbor calls and Henderson Police respond.

11 And you'll hear today from Officer Engel and his partner  
12 Officer Leinan that they'd arrived -- they thought they were going to a  
13 domestic disturbance; they had no idea what they were going to. But  
14 they knocked on that door at 2511, at the Horizons Seven Hills, the  
15 apartment -- downstairs apartment. And they didn't get a response; but  
16 they heard screaming, they heard moaning, so Officer Leinan starts to  
17 go -- goes to the side door.

18 The side, as you'll see from the pictures, there is a window  
19 where there's a -- there is a bicycle outside on the patio and then there's  
20 like a sliding door to get to their patio; and he sees some movement  
21 sways the blinds and he sees a bloodied male on the floor on the  
22 ground.

23 So, based on that, based on the phone call, Officer Engel and  
24 Officer Leinan go into the apartment. As they are knocking on the door,  
25 you will hear from Ms. Burkhalter that Toney White and Amanda Sexton

1 disappear into the bedroom. And then you'll hear that the other  
2 individual, who is Marland Dean, says that's my backup. So, they don't  
3 know what's going, the victims -- Ms. Burkhalter and Mr. Cliff.

4 You'll hear that when they come through the sliding -- when  
5 officers come through the sliding glass door with their guns drawn, Ms.  
6 Burkhalter's still not sure what's happening. She just saw her husband  
7 attacked by people wearing U.S. Marshal gear. So, she's not completely  
8 forthright right off the bat.

9 She still doesn't really know what's going on and she just  
10 watched her husband being beat. While this is happening, Mr. White  
11 escapes to the bedroom, goes out that bedroom window and, as you  
12 see in this picture right here [indicating], they take the frame off the bed -  
13 - or the window, throw it on the bed and they go out. And they go behind  
14 the building.

15 You'll hear from Officer Engel that as he walks in the sliding  
16 glass door, he sees Mr. Cliff on the ground, bloody; he sees the female,  
17 Ms. Burkhalter, kind of by the kitchen area; and then he sees an  
18 individual that he says -- who was Marland Dean, who he says looks like  
19 he's security. He's wearing a vest that he associates with apartment  
20 security.

21 He'll tell you that, that individual told him that the suspects ran  
22 that way [indicating] and pointed -- this is Apartment 25 [indicating] --  
23 and pointed this direction. So, and then that individual, Marland Dean,  
24 ran out and started running this way [indicating]. Officer Engel followed  
25 him in his car. He says that, that person wearing the security outfit, Mr.

1 Dean, started running behind the buildings and looked like he was  
2 chasing somebody.

3 Officer Engel follows in his car hoping to cut off the suspects;  
4 and by the time he reaches here [indicating], vanished. He doesn't see  
5 the security officer anymore. He goes -- Officer Engel goes back to the  
6 apartment and then they get the story about what happened.

7 They also get some information that a black Jeep with an  
8 antenna and a police spotlight was parked right alongside the apartment  
9 and as soon as Officer Engel left with the security officer, an individual  
10 got into that jeep and drove away.

11 He calls out the description of the Jeep, and it's a very unique  
12 looking Jeep, and we're talking about 11:00 o'clock at night in a pretty  
13 quiet residential area. You can't really see it that well in this picture, but  
14 it has a very big antenna on the top and you have the spotlight, the  
15 police spotlight, making a very unique featured vehicle.

16 Officer -- you'll hear from Officer Hansen, who works  
17 graveyard at Henderson Police Department, who sets up on Seven Hills  
18 Drive looking for this vehicle; and about 11:20 p.m., sees that vehicle,  
19 pulls it over -- pulls it over around St. Rose and Seven Hills.

20 It's a felony car stop which takes a while because they have to  
21 secure the street; he has to secure the vehicle; he needs more than one  
22 officer to be there in order to do this; there were reports that there might  
23 have been weapons used; so they wanted to be very cautious while  
24 approaching this vehicle.

25 It turns out that vehicle is registered to Toney White. The

1 individual inside that vehicle is Kevin Wong. Officer Engel goes to the  
2 traffic stop and actually I.D.s Kevin Wong as the individual who was  
3 waiting outside the apartment when he first approached the apartment at  
4 2511 Seven Hills.

5 That Kevin Wong was driving that vehicle, that they held him  
6 there, and a detective -- who you will hear from later, not today but --  
7 maybe today, but later in this -- in this trial. Detective Ryan Adams did  
8 an interview there and that based on his interview with Kevin Wong, the  
9 investigation led to an area called The Spas, which is at 9457 Las Vegas  
10 Boulevard, kind of by the South Point; if anyone knows where the  
11 Manhattan condos are, it's literally -- it's right across the street from  
12 there.

13 Obviously, knowing what happened, that this is a home  
14 invasion/robbery type situation where the victims were handcuffed and  
15 one was beaten so badly he ended up in the hospital; they started doing  
16 -- the officers then responded with detectives, detectives for the  
17 Robbery/Homicide Division of Henderson.

18 They came there, they searched the apartment, they found  
19 various things of evidence; one, as we talked about earlier, they came in  
20 with the black rifle that was found in the office area. It turns out to be --  
21 that one turns out to be a BB gun that can shoot metal projectiles.

22 Additionally, they find in the area where there's the blood and  
23 there's the struggle -- and you'll see pictures that show the struggle --  
24 they found flashlights, one of which says police on it, and blue gloves.  
25 Because these individuals turned out that they were wearing gloves.

1           Additionally, that night -- we're talking about that night, early  
2 morning hours of January -- the night of January 20, 2016 going into the  
3 early morning hours of January 21, 2016. The detective and a CSA, and  
4 you'll hear from CSA Farrell, they then searched the outside of the  
5 apartment that night.

6           And if you go behind the building -- so, going back to that map  
7 [indicating]. If you go behind twenty -- so, Seven Hills Drive is right here  
8 [indicating]; St. Rose is over here [indicating]; behind the building, when  
9 they walk around the way that Amanda Sexton and Toney White  
10 disappeared at, they find the asp -- the classical baton we were talking  
11 about -- that's bent, right on the other side of the fence with blood all  
12 over it [indicating].

13           They tested -- you'll find out it was tested for DNA; the DNA  
14 comes back to Jason Cliff because it's covered in Jason Cliff's blood and  
15 DNA; and that's the only DNA they are able to get off of it. And then  
16 there's gloves, blue gloves, later down the walkway a little bit further  
17 back [indicating]; you can't really see it in that picture.

18           That path takes you toward the entrance of the apartment  
19 complex. There's only one way in and one way out. It's a gated  
20 apartment complex but it's one of those gates where you can follow  
21 someone in. The gate stays out for a little bit. It stays open for a little  
22 bit.

23           Additionally, while searching this immediate area around  
24 2511, detectives also note this red Mustang; it's noted by people,  
25 residents in that community -- in that apartment that that Mustang

1 doesn't belong there. Kevin Wong is seen next to it. The detectives  
2 look in and they see a radio in the middle; and the residents of building  
3 25 say that's not a vehicle that parks there.

4 So, that becomes a vehicle of note. Additionally, while they're  
5 going around doing this investigation on the apartment complex, a  
6 resident, Kathleen Perry, who you will hear from tomorrow, she finds a  
7 manila envelope.

8 And inside of that manila envelope that she provides to  
9 Henderson Police Department and Kevin Lapeer -- who is the case  
10 agent and lead detective in this case -- is a Federal -- what represents  
11 itself to be a Federal search warrant for Jason Anthony Cliff.

12 You'll hear from detectives who are very familiar with search  
13 warrants, who've been on Federal Task Force that this is not how search  
14 warrants look. Law enforcement, you know, obviously dealing with  
15 search warrants know that this is a fake search warrant. But it's in the  
16 name -- somebody wrote it up to be in the name of Jason Cliff.

17 And there's also what is called a workup which is where a  
18 person lives; a person who has a spouse; the age; stuff like that. That  
19 workup is also in the envelope as well. Again, not official U.S. Marshal  
20 paperwork, but it looks -- it's made to look like law enforcement  
21 paperwork. And that's found in the direction that Marland Dean ran as  
22 opposed the direction that Toney White and Amanda Sexton ran.

23 So, Detective Ryan Adams, who is the individual who  
24 interviewed Kevin Wong, goes and decides that night, I'm going to go  
25 check out the Spas area. Because there is nothing that really came



1 from the interviews with the victims. The victims couldn't give them any  
2 leads; they said they didn't recognize any of these individuals. They  
3 don't know why people would come in and do what they did.

4 And so, Ryan Adams goes to The Spas, that place I was  
5 talking about on Las Vegas Boulevard -- 9457 Las Vegas Boulevard. He  
6 goes there; there's a lot one-way in and one-way outs so if you're in a  
7 car that's not familiar, you kind of stick out. Well, he decides to do  
8 surveillance anyway.

9 And while he's out there, around 3:45 a.m. -- so roughly  
10 about over four hours after this occurs -- he sees Amanda Sexton and  
11 Toney White and Marland Dean; or a person he believes is Marland  
12 Dean, go into a vehicle with an individual named Glen Cousert, who  
13 you'll -- who we'll talk about a little bit later in this opening.

14 Obviously, Toney White is someone that is of interest to him  
15 because he's the person who is the registered owner of that Jeep. He  
16 pulled up a picture of Toney White. He knows what Toney White looks  
17 like, so he was able to positively identify him.

18 Additionally, he's interested in Amanda Sexton too because in  
19 that Jeep, when they did -- when they did a cursory search of that Jeep  
20 to see if there's any weapons, they found an ID with Amana Sexton's  
21 name in it. So, they know -- they -- so Ryan Adams, Detective Adams,  
22 believes that Toney White is possibly one of those suspects and that  
23 Amanda Sexton is the white female. And then, when he's told that there  
24 is a third black male, or a second black male with them, he believes that  
25 would be the other black male as well that was involved with this

1 takeover/kidnapping.

2 That car -- Ryan Adams is out there by himself, he's doing  
3 surveillance by himself; he gets spotted -- you'll hear from him, he gets  
4 kind of spotted by residents of that community and then they start kind of  
5 approaching his undercover vehicle; and Glen drives off with the three  
6 individuals; and Detective Adams isn't able to follow them. So, the  
7 investigation then goes into kind of the next day and there's a search  
8 warrant done of the vehicles; both the Jeep and the red Mustang.

9 Inside the Jeep there's more evidence of Toney White having  
10 possession of that vehicle, including his ID and social security number  
11 found in there. Again, he's also the registered owner.

12 But there's also other things of interest in that vehicle as well.  
13 Because not only does it have that antenna and that spotlight, but it also  
14 has, white and -- white and blue lights attached to the front windshield  
15 both on the top and the bottom, to make itself look like a police vehicle.

16 Additionally, you have a bull horn that's attached to the engine  
17 battery, inside the engine compartment. And a radio inside the vehicle  
18 so you can broadcast yourself out like a police vehicle would do. So, not  
19 only do you have the police spotlight and that police-looking antenna,  
20 but you also have the red and blue lights and the speaker; clearly  
21 indicating that this vehicle was made to look like a police vehicle and  
22 that it's not.

23 Additionally, they find a radio inside the Jeep, this Unimax,  
24 and they find a vehicle radio inside that red Mustang that was parked  
25 right by the Jeep; same brand and they were both on the same channel.

1 They were both on channel 9.

2 The CSA, CSA Farrell, gets called back out to Seven Hills  
3 because more evidence is located by residents of the Seven Hills, this  
4 apartment complex.

5 Right outside the front driveway [indicating], so this is kind of  
6 the back area where Toney White and Amanda Sexton ran; and back by  
7 the entrance way where they would would've ran off to, it's discovered  
8 that a duty belt with firearms, both the black firearm -- which is actually --  
9 also turns out to be a BB gun; just this gun right here [indicating]; and  
10 the silver 9mm Smith and Wesson firearm, an actual firearm, is found  
11 with that along with handcuffs; along with ID, U.S. Marshal ID; along with  
12 a tee shirt that says U.S. Marshal on it.

13 Gear that's stashed behind a bush, it's actually kind of hard to  
14 find; and you'll hear from CSA Farrell where it was found and located;  
15 and about the processing he does to kind of, you know, take it out and  
16 try to be careful regarding fingerprints.

17 And then you'll hear from a forensic scientist, a fingerprint  
18 expert by the name of Kent Timothy, who got a fingerprint off the  
19 handcuffs that are inside the duty belt. And you'll hear that the  
20 fingerprints on the handcuff belongs to Toney White.

21 Also, during the search of the vehicle, there's mail in the name  
22 of -- and the address of 2895 E. Charleston, Apartment 2085. So, based  
23 on that, another detective that you'll hear from, Detective Wayne  
24 Nichols, goes to that apartment complex and he talks to the manager  
25 over there; and it turns out there's a lease at 2895, number 28085, that

1 is in the name of Toney White and Amanda Sexton. They're the only  
2 two people on that -- on that lease.

3 And, based on that and based everything else, they do a  
4 search warrant there; and there they find a whole bunch of U.S. Marshal  
5 -- fake U.S. Marshal -- paperwork. These fake workups that you will  
6 hear about of other individuals is found in this suitcase. There's five of  
7 them, it's found in the suitcase in Toney White's bedroom.

8 Additionally, you'll find out in his bedroom they find information  
9 regarding the victims, Jason Cliff and Marlene Cliff -- she's not Marlene  
10 Cliff, she's actually Marlene Burkhalter but the put Marlene Cliff there.  
11 They have other papers that have their date of birth and other personal  
12 information on it. Additionally, in the same apartment, in the same room,  
13 the room of the master bedroom that belongs -- that was the bedroom of  
14 Toney White and Amanda Sexton.

15 Not only did they find all this fake U.S. Marshal paperwork that  
16 matches what was found at the scene, and the information of Jason Cliff  
17 and Marlene Burkhalter; but they also find blue gloves that are similar to  
18 the gloves that are found at both at the entrance way at Seven Hills and  
19 found at the crime scene in 2511; and found on the walkway behind  
20 where they find -- where the asp that was bent was found.

21 And, moreover, they find another asp that's very similar, this is  
22 it right here [indicating]. It's very -- it's the classical baton. They find that  
23 in Toney White's closet as well. CSA Farrell is called out a third time  
24 later on January 21, 2016 because yet more stuff is found in this  
25 apartment complex.

1           He goes to building 15, which is, if you follow Marland Dean's  
2 pathway as he was chasing someone but trying -- running away from the  
3 police, basically -- if you tracked his path, building 15 is there  
4 [indicating] and then there is kind of like a little step where he can jump  
5 over the fence as well right by there.

6           Stashed behind a pillar by 1511 is more U.S. Marshal gear  
7 and a holster. And at this point, CSA Farrell is like, you know what, I'm  
8 just going to search the entire apartment complex; I don't want to come  
9 out here a fourth time. And he finds more stuff in the entrance way --  
10 some headphones.

11           So, at this point, you have all this evidence that clearly shows  
12 that Toney White was the individual along with others -- Marland Dean  
13 and Amanda Sexton -- is the individual that did this robbery and did this  
14 kidnapping.

15           So, they go looking for him. He's not at his apartment; he's  
16 not at the 2085; he's not at his sister's apartment at The Spas, which is  
17 apartment 145. Instead, him and Amanda Sexton hide out in apartment  
18 120, which is -- you can see apartment 145 from where apartment 120  
19 is.

20           An officer who is very familiar with this area, a Las Vegas  
21 Metropolitan Police Department Officer by the name of Officer Yannis,  
22 goes out to that -- that -- you know, he knows Henderson is looking for  
23 them; he talked with Detective Ryan Adams the last time Detective Ryan  
24 Adams was out there with Tony Niswonger, another Detective for  
25 Henderson Police.

1           So, Officer Yannis takes it on himself to kind of look for these  
2 suspects for Henderson Police; and he gets information that they are  
3 holed up in apartment 120. And Officer Yannis -- unlike Henderson,  
4 Metro has bodycams -- so, Officer Yannis has his bodycam on.

5           And you'll see the bodycam in which he possibly is trying to  
6 get Toney White and Amanda Sexton to come out of the apartment.  
7 And it takes a while but, eventually, Toney White comes out of the  
8 apartment. Officer Yannis says, I want to check you for weapons; he  
9 gets close to Toney White; and as he's trying -- starting his pat down for  
10 the weapons, Toney White takes off, starts running away.

11           And you'll see all that on bodycam. He's apprehended a short  
12 time later but he flees from Officer Yannis and all that's on video and  
13 you'll get to see it with your own eyes.

14           Finally, you will hear from Glen Cousert, who is that guy I  
15 talked about earlier that Ryan Adams saw drive Toney White, Amanda  
16 Sexton and Marland Dean to the Circle K across the street and then  
17 somewhere else.

18           So, Glen will tell you that Toney and Amanda came to his  
19 place, early hours of November 21, 2016 with a third individual, that  
20 would be Marland Dean; that he then drove them to a Charleston  
21 residence; he can't tell you exactly where it was but it was on Charleston  
22 -- which lines up with, again, the fact that their lease is at the 2895  
23 Charleston apartment. That they get a suitcase and they go back to his  
24 apartment; his apartment being that 120 in The Spas.

25           And then while he's there, Toney White asked him to go

1 recover a red Mustang and gear that they left over at a Seven Hills  
2 apartment. And Toney White actually draws out a map, well draws  
3 something in front of him, in front of Glen and hands Glen this map that  
4 shows both where the red Mustang is parked and where all that gear  
5 that we find in the entrance way of Seven Hills is; where it shows where  
6 that location is and where the baton is found -- that baton is found.

7 So, after hearing all this evidence from the victims, from the  
8 police officers, from the CSA and seeing all exhibits -- which is going to  
9 be over 200 exhibits -- and hearing from Glen, the State is going to ask  
10 you to find Toney White responsible for what he did, which is the counts  
11 that you heard in that indictment. Thank you.

12 THE COURT: Thank you.

13 Mr. Sanft?

14 MR. SANFT: Yes, Your Honor.

15 **OPENING STATEMENT BY THE DEFENSE**

16 **BY MR. SANFT:**

17 All right, a couple of things. First of all, I've never worn one of  
18 these -- one of these things before [indicating lapel mic] so if there's any  
19 problem with it at all just forgive me because I'm not very good with this  
20 technology.

21 The reason why you were picked as jurors in this case and the  
22 reason why we spent so much time with you yesterday is because we  
23 need twelve people and we believe, both on behalf of my client, Mr.  
24 White, as well as the State of Nevada, that you are twelve people that  
25 will not rush to judgment. And what I mean by that is, specifically, that

1 you've heard this evidence from the State. Now, the State's told you  
2 what they believe the evidence will show. But when we boil it down,  
3 here's what the issue is. We are not going to dispute that there was a  
4 problem in this home with these two individuals where people broke in  
5 and robbed them; we're not.

6 The only question you have to ask yourself is, is Toney White  
7 responsible for that? The charge that has been charged for Toney  
8 White is specifically a conspiracy charge to commit all of these other  
9 crimes. What you're going to learn at the end of the time we spend  
10 together, the law requires, or basically says, look, if you are involved as  
11 a co-conspirator or an aider and abettor; or if you directly commit the  
12 crime, you're responsible for the crime.

13 The question you have to ask yourself is, what evidence does  
14 the State of Nevada have to show beyond a reasonable doubt that  
15 Toney White was either a co-conspirator, an aider and abettor or directly  
16 committed the crime? That's it.

17 Now, there's a lot of evidence in this case, and the danger is  
18 that over time you're just going to glaze over because you're just going  
19 to hear about this piece of evidence found here or that piece of evidence  
20 found over there. The only question you have to ask yourself is, how  
21 does it relate back to Toney White?

22 And so, at the time that we spent together, at the end of the  
23 time, I'm going to get back up here and I'm going to remind you of what  
24 we just talked about and ask you that simple question. And, I will point  
25 to things that I believe the State of Nevada has demonstrated or not



1 demonstrated in terms of their case against Mr. White.

2 But at the end of this case we expect you to find that the State  
3 of Nevada cannot prove beyond a reasonable doubt that Toney White  
4 was either a co-conspirator, an aider and abettor or directly committed  
5 the crime. Thank you.

6 THE COURT: Thank you. You may call your first witness.

7 MS. LUONG: The State calls Officer Matthew Engel.

8 **MATTHEW ENGEL**

9 THE MARSHAL: Officer, if you would please remain standing,  
10 raise your right hand and face the Clerk, please.

11 [Pause in the proceedings]

12 [Colloquy between the Court, the Clerk and Ms. Luong]

13 MS. LUONG: Thank you, Your Honor.

14 MR. SCHWARTZER: She needs to swear him in.

15 THE COURT: Thank you. Okay, so if you will raise your right  
16 hand so the Clerk can administer the oath.

17 [The witness is sworn in by the Clerk]

18 THE CLERK: You may be seated. Can you please state and  
19 spell your first and last name for the record?

20 THE WITNESS: My first name is Matthew, M-A-T-T-H-E-W;  
21 my last name is Engel, E-N-G-E-L.

22 MS. LUONG: May I begin, Your Honor?

23 THE COURT: You may.

24 [Having been called as a witness and being first duly sworn testified as follows:]

25 ///

**DIRECT EXAMINATION**

BY MS. LUONG:

Q Good morning, sir. How are you employed?

A Currently, a police officer for the City of Henderson.

Q And, how long have you been doing that for?

A For Henderson, I started in 2004, so I'm going on fourteen years.

Q And what were you doing before?

A Before Henderson I was also a police officer in a suburb of Kansas City, for six years prior to that.

Q What kind of training and experience do you have as a police officer?

A Well, I went to the Nevada Police Academy which is about twenty-two weeks and I also went to field training here which is another seventeen weeks. Also, as a police officer, you do at least eighty hours of training every year to stay current with your -- it's kind of like a license -- to stay current with being able to be a police officer you have to do eighty hours a year.

On top of that I do training for, well other assignments. I am a training officer, so I actually have new police officers ride with me for five weeks at a time and I teach them how to be a police officer.

On top of that I'm also an officer in charge in my squad. So, when my supervisor is gone, the ranking officer, then I would work under the supervisor at that point.

Q Thank you. Now what are some of your jobs and duties as a

1 police officer?

2 A Well, currently I'm assigned to patrol the west side of  
3 Henderson. So, we work out of the Green Valley substation which is off  
4 of Green Valley Parkway and Paseo Verde.

5 So, basically, my job duties is I work graveyard shift from  
6 10:00 p.m. to 8:00 a.m. and anytime somebody calls 911; and if it's in an  
7 area that I'm close to and that I'm responsible for, then I'm assigned to  
8 that call. It could be anything from a noise disturbance, a suspicious  
9 vehicle driving down the street, to domestic violence, to a robbery at a  
10 gas station.

11 And if things aren't -- if there's no calls for service then we do  
12 what we call a self-initiated activity; look for traffic stops, you know,  
13 people walking around and look like they're up to no good, stuff like that.  
14 Trying to -- I try to stay busy that way; to be noticeable in the community.

15 Q Thank you. So, I want to direct your attention all the way back  
16 to January 20, 2016. Were you working that day and night?

17 A I was.

18 Q And what shift were you working?

19 A I was still working the graveyard shift.

20 Q And, directing your attention specifically to approximately  
21 11:00 p.m. Did you get a call out that night that brings you here today?

22 A I did.

23 Q And what was the nature of that call?

24 A The call came out and the police code was a 404, which is an  
25 unknown problem. Basically, the caller lived in an apartment complex.

1 She lived in the second floor of the complex and she could hear what  
2 she thought was a male and a female arguing.

3 So, she called 911 saying, hey, can you guys come and check  
4 on this apartment below us because I hear what sounds like a struggle  
5 going on.

6 Q Now based on that call, did you then respond to 950 Seven  
7 Hills?

8 A I did.

9 Q And is that particularly apartment 2511?

10 A Yes.

11 Q So, I'm gonna show you State's Exhibit 3 which has been  
12 admitted by stipulation. Do you recognize this area here [indicating]?

13 A I do.

14 Q And what is this area that we're looking at?

15 A Well, it's the area that I'm assigned to as a patrol officer but,  
16 more importantly, it's the -- one of the areas of the apartment complex  
17 that I responded to.

18 Q And is that complex right here [indicating]?

19 A It is. It's Horizons at Seven Hills.

20 Q Thank you. And then now I'm going to show you what is  
21 Exhibit 1 and, specifically, is this more of a diagram of the units in the  
22 complex?

23 A Excuse me. Yes.

24 Q I'll move it in a little more here. Now, when you responded to  
25 apartment 2511, did you respond with anyone else?

1 A There was a second officer that was also dispatched.

2 Q Who was that second officer?

3 A His name is Jeremy Leinan.

4 Q Were you guys working together that night?

5 A We're on the same patrol shift but we don't ride together, we --

6 separate vehicles but same squad.

7 Q Now, due to the nature of the call, did dispatch have two of

8 you guys respond?

9 A Anytime there's an unknown disturbance call, it's two officers.

10 Q Thank you.

11 Did you guys arrive at the same time?

12 A We did.

13 Q And where did you park or where did you first go?

14 A Would you like me to --

15 Q Yes, please. You can show us on the map.

16 A Okay. I would say we parked, let's see, right about this area

17 facing that way [indicating].

18 Q Thank you.

19 A So, it'd be like one car and then us. So, I didn't do too good

20 there; but the second car behind the first car.

21 Q And, is apartment 2511 down here [indicating]?

22 A It's right here where I have the pointer.

23 Q Thank you. And, can you circle that?

24 A All right.

25 Q And where is the entrance to the complex?

1 A The entrance to the actual complex?

2 Q Yes.

3 A It's right here off of Seven Hills [indicating].

4 Q Thank you.

5 Now, when you responded, why did you park at that building  
6 over there, Building 27?

7 A Normally, as a police officer, we're trained not to park right in  
8 front of the, we call it the target address, because we want to walk up.  
9 That way we're not as exposed. We can kind of hear things, see things  
10 and people don't necessarily see us first. That way we can see what  
11 they're doing first.

12 Q Thank you. And when you arrived did you see anybody or  
13 anything outside of building 25?

14 A As I was walking up towards the north along the sidewalk I  
15 witnessed -- I saw a male standing in the parking lot near 2511.

16 Q And did you talk to the male?

17 A No. We acknowledged each other, kind of like head nods,  
18 and hey, how are you doing. I didn't really like say anything. But I --  
19 being the nature of the call, he didn't seem out of place, he didn't seem  
20 like he thought the police were coming. So, he looked like just a  
21 resident outside smoking a cigarette, minding his own business. He  
22 didn't act suspicious the time that we saw him.

23 Q I'm going to show you State's Exhibit 233. Is that a picture of  
24 the male that you saw?

25 A It is.

1 Q And did you later learn what his name was?

2 A I did.

3 Q What was his name?

4 A I believe it was Kevin Wong.

5 Q And was he standing by any type of vehicle that was of  
6 particular note to you?

7 A That he was -- when he was outside just standing next to a  
8 utility box but behind that was a black, older model Jeep Cherokee.

9 Q And why did you take note of that vehicle?

10 A The vehicle did seem out of place. It was an older model Jeep  
11 Cherokee but noticing that on the, like the pillars by the passenger door  
12 and the driver's door, they had like the police style spotlights; it was  
13 something like we would have in our police vehicles.

14 And there was also a lot of antennas sticking up on the  
15 vehicle, which made it look kind of almost like a law enforcement style  
16 vehicle. So, it did look out of place and it did catch my attention to --  
17 well, that's an unusual looking Jeep Cherokee that this person is  
18 standing next to.

19 Q Okay, and then as we turn to State's Exhibit 10, does this  
20 appear to be the apartment 2511 that you walked up to?

21 A It is.

22 Q Now, as you and Officer Leinan walked up, can you tell us  
23 what happened?

24 A So, I walk up the sidewalk in this direction here [indicating] you  
25 know -- is it okay to make notes, or?

1 Q Yes, please.

2 A I took a position kind of by the front door, here [indicating].  
3 Officer Leinan was standing about in that area here [indicating]. So, as I  
4 walked up, I could hear some muffled noise, some people talking not too  
5 loud; but enough where I could hear but I couldn't make out what was  
6 being said.

7 Q Now, based on that, what did you do?

8 A I started pounding on the door, I announced, police. Pretty  
9 hard, you know. So, that way they knew, you know, hey, the police are  
10 at the door; cops are here.

11 Q And did you hear anything?

12 A Also after -- immediately after I got the word police out a  
13 couple of times, I believe I heard a male start yelling help, help, help.

14 Q And Officer Leinan, did -- he was standing by the patio there,  
15 did he indicate that he saw something?

16 A The --

17 Q And, without telling me what he saw.

18 A -- the slider was open. It had the vertical blinds, not the  
19 horizontal ones but the vertical blinds on the slider; and they weren't  
20 closed all the way; and through that position you could see inside the  
21 apartment. And from there, there was a male on his knees and another  
22 male that you could see standing over him.

23 And we noticed that the slider was open about four inches.  
24 Therefore, it wasn't -- it was unlocked. And the front door was locked,  
25 so.



1           Q     Now, based on what you saw there, what did you decide to  
2 do?

3           A     Being that it was an unknown disturbance call; what we  
4 observed inside, with the male standing over another male; and people  
5 screaming help, with the door unlocked, it was our duty to go in the  
6 apartment and just see what was going on in order to help people.

7           Q     And did you make entry into the apartment?

8           A     We did. We made an entry and, at that point, from what we  
9 saw outside was the exact same thing. We saw a black male standing  
10 over a white male, and he was wearing handcuffs and bleeding; and  
11 behind them in the kitchen was another white female. Her hands were  
12 behind her back but she was just kind of just sitting there, standing  
13 there.

14          Q     Okay. So, you saw a lot of things in there. So, I'm going to  
15 break it down a little bit. So, you made entry through the patio there?

16          A     We did. You could just step right over this [indicating]. It's not  
17 too tall so we were able to go over the little wrought iron fence to where  
18 the slider opens up.

19          Q     And then showing you State's Exhibit 29, is this where you  
20 made entry here [indicating]?

21          A     Yes, through the slider, not the front door.

22          Q     Yes. Through the slider, excuse me. And what did you see  
23 on the ground in front of you?

24          A     I saw a male, just kind of on his knees on the ground -- a white  
25 male.

1 Q Did you later learn his name?  
2 A I did.  
3 Q What was his name?  
4 A Jason Cliff.  
5 Q And, how did he appear to you?  
6 A He looked injured. He was bloody. His head was bleeding,  
7 blood on his shirt. He was definitely in some pain.  
8 Q And where were his hands?  
9 A They were handcuffed behind his back.  
10 Q And, you indicated you saw a black male?  
11 A There was a black male standing behind him.  
12 Q I'm showing you Exhibit 28. This is the view you see when  
13 you walk into the apartment from the patio?  
14 A It is.  
15 Q And can you kind of write on the photo for us where you saw  
16 Jason on the ground? If you can do that here --  
17 A Jason would probably be approximately in this area  
18 [indicating]. And then the other male, we later learned his name was  
19 Marland, he was standing over in about this area [indicating].  
20 Q And, what was that black male doing?  
21 A He was standing there, he had a -- like a manila folder similar  
22 to the one I brought in with me. And he was holding it in his hand  
23 standing over Jason.  
24 Q Did he say anything to you?  
25 A Basically, when we walked in, he identified himself as hotel --

1 hotel, pardon -- apartment security.

2 Q And you indicated that you saw a white female there also?

3 A I did.

4 Q And was that Marlene Burkhalter?

5 A It was.

6 Q And can you show us where she was standing?

7 A She's a B for Burkhalter but she was about over here

8 [indicating].

9 Q And, at that point, did you see her hands?

10 A I could not. They were behind her back.

11 Q Did you later learn why they were behind her back?

12 A I did later learn that she was also handcuffed.

13 Q Okay. And, so what did you do at that point?

14 A Marland identified himself as a security officer for the  
15 apartment. He appeared to fit the part. He was dressed similar as a  
16 security officer would be dressed, especially that time of night in the  
17 apartment complex. So, --

18 Q What was he wearing specifically?

19 A He was wearing a black shirt, black pants, a -- like a tactical-  
20 style vest, where you kind of see like a swat team person would have,  
21 where they've got different pockets where you can put handcuffs or your  
22 radio; and I also noticed like where a badge would be, there was  
23 something similar to like writing or a star or just something that looked  
24 like an official, you know, badge of some type.

25 So, between the envelope he was holding and the file folder,

1 the way he looked -- and he identified himself as security -- so, we asked  
2 him what was going on.

3 Q And would it be unusual for security to be there?

4 A No. Many of the apartment complexes that we patrol, we work  
5 with, they have security at night at you know -- they also respond to calls  
6 a lot times, too, where the residents will make a call to management; it  
7 goes to a answering service and then they'll show up, too, on mostly  
8 noise complaints, people stomping too loud -- if you've ever lived in an  
9 apartment and have an upstairs neighbor -- so, it's pretty normal that  
10 they're gonna show up about the same time we show up.

11 Q So, now after Marland Dean identifies himself as security,  
12 what happens next?

13 A As to what happens, he basically, within a few seconds, he  
14 tells me, you just missed them, they went out that direction -- which kind  
15 of pointed back towards the slider, towards back what would be the east,  
16 the direction of the parking lot.

17 Q And based on that, what did you decide to do?

18 A I went outside to look and see, you know, if I saw people  
19 running away from the complex; and I was standing there looking and  
20 then Marland comes back outside and he was like, they're that way,  
21 they're that way, can you see them? They're going that direction. And  
22 he takes off running towards the east of the apartment complex and I go  
23 back to my police vehicle at that point.

24 Q And what did you do -- why did you go back to your police  
25 vehicle?

1           A     As Marland, the security guard, he was running behind the  
2 apartments towards the east. So, I basically kind of told him I'll drive in  
3 the front of the complex, or in front of the apartments. That way if the  
4 suspect comes towards the south, we can cut him off between different  
5 apartments.

6                     So, I went one direction and he went behind the complex. I  
7 went in front of the different complexes, hoping we would catch this guy  
8 who is running that he described.

9           Q     Okay. So, I'm showing you Exhibit 1 again, our State's  
10 exhibit.

11          A     Okay.

12          Q     Can you show, kind of show me where Marland indicated the  
13 suspects ran?

14          A     Yeah, he, the apartment's right here [indicating] and he  
15 basically indicated they were going this direction [Indicating]. So, --

16          Q     And afterwards, you said Marland took off?

17          A     Yeah. I got in my police vehicle and what I did was I  
18 proceeded this direction [indicating]; Marland, he came up this way  
19 behind the complex [indicating]. Can you zoom out a little bit?

20          Q     It's right there. Let me do this, sorry.

21          A     Okay, that's perfect. So, I proceeded to continue this way  
22 [indicating] and I thought Marland, he was going back this way  
23 [indicating] in hopes that whoever might come out one of these  
24 directions between apartments and, you know, he'd, kind of flush them  
25 out towards me. By the time I got here [indicating] everybody was gone.

1 Q And you didn't find anybody?

2 A No, I got out of my car between these two buildings  
3 [indicating], went back this direction which is to the north [indicating] and  
4 Marland was gone. I didn't see the person that he described that was  
5 running; and walked to the apartments; to the buildings for a few minutes  
6 looking for anything; realized that they were both gone; and went back to  
7 my car and I went back to the original location.

8 Q Okay. What kind of description did Marland give you?

9 A At the time he just said, male wearing green color pants, like  
10 olive drab style pants.

11 Q Okay. I'm showing you State's Exhibit 231. Do you recognize  
12 this photo?

13 A I do.

14 Q And who is that?

15 A It's Marland.

16 Q And that's the man you saw inside of the apartment?

17 A He's the one that was wearing the black, security-looking outfit  
18 and he also, I forgot to mention, had like a gun belt on.

19 Q Okay.

20 A Kind of similar to what I would have on.

21 Q Thank you. And just backtrack a little bit. When you first  
22 came out of that apartment when Marland told you that they ran this way  
23 [indicating], did you see Kevin Wong at that time?

24 A At that point, he was walking away. Like if we --he was over  
25 here by that Jeep. I just kind of noticed he was just walking in this

1 direction [indicating] again. Just, not running, not acting out of place,  
2 just walking, you know. With all the commotion going on, you think he  
3 would, if he was up to no good, he would act more suspiciously. He was  
4 very normal acting.

5 Q Okay. So, now after you went after Marland to look for that  
6 potential suspect and you came back to apartment 2511, did you see  
7 Kevin Wong?

8 A Okay, so I come -- after that I come back to the original scene  
9 of my police vehicle. And, by this point, there's just bystanders outside  
10 because of all the commotion and they hear the police vehicle moving,  
11 the cars, car doors slamming, people yelling. And there was bystanders  
12 outside and --

13 Q And, without telling me what they said, did they indicate to you  
14 something about the black Jeep?

15 A They said the black Jeep --

16 MR. SANFT: Objection, Your Honor, leading.

17 THE COURT: Leading or --

18 MR. SANFT: I'm sorry.

19 THE COURT: -- hearsay?

20 MR. SANFT: Hearsay, I apologize.

21 THE COURT: Sustained.

22 MR. SANFT: Thank you, Your Honor.

23 BY MS. LUONG:

24 Q And, without telling me what they told you, based on the  
25 information you got from those bystanders, did you then broadcast

1 something over the radio regarding the black Jeep?

2 A The black Jeep that I noticed that was parked there when we  
3 originally arrived, had since left and knowing the area as I do, I gave out  
4 information, which direction of travel I believed the Jeep to be going.

5 Q And which direction probably did you believe it was going?

6 A I told oncoming officers that the vehicle is on Seven Hills  
7 probably traveling north towards St. Rose Parkway, because if you go  
8 south it just takes you back into other neighborhoods. Unless you live  
9 there, there's no real reason to go south on Seven Hills.

10 Q And what was the description of the Jeep that you  
11 broadcasted?

12 A Just the black Jeep with the spotlights, the antennas --  
13 because it seemed suspicious that it left as soon as all this commotion  
14 went on. That person just turned into a ghost.

15 Q Okay. And later that night, are you aware, did medical come  
16 out and take Mr. Cliff to the hospital?

17 A Henderson Fire Department did come to the scene and they  
18 transported Mr. Cliff to the, excuse me, to the St. Rose Sienna Hospital.

19 Q And showing you State's Exhibit 68, does that appear to be  
20 how Mr. Cliff looked like that night?

21 A Yes. He was clean -- at that point he was cleaned up, though.  
22 There was a lot more fresh blood running down his face and on his  
23 clothes. He looks actually good there.

24 Q Okay. Thank you. And later that night, did you -- were you  
25 made aware of whether Henderson Police did stop the black Jeep or



1 not?

2 A After I gave out the description of the vehicle that we thought  
3 could be possibly be involved, another officer located the vehicle on  
4 Seven Hills near Horizon Ridge and made a traffic stop on the vehicle.

5 Q And was that Officer Hansen?

6 A It was.

7 Q And when you arrived on that scene did you -- what did you  
8 see?

9 A I was called to the scene of the traffic stop because I was able  
10 to -- since I observed the black Jeep and the male earlier -- they wanted  
11 to make sure they had the right vehicle stopped. So, they called me  
12 back to the traffic stop to see if it was, indeed, the same vehicle I saw  
13 earlier.

14 Q And was it the same vehicle?

15 A The same vehicle and the same person, definitely.

16 Q And it was the same person, Kevin Wong?

17 A Yes, ma'am.

18 Q Now when you first arrived and you saw that black Jeep, do  
19 you remember was it parked next to a red Mustang?

20 MR. SANFT: Objection, Your Honor, leading.

21 THE COURT: You are leading.

22 BY MS. LUONG:

23 Q Do you remember whether it was parked next to a car?

24 A There were other vehicles there it was parked next to in the  
25 parking lot; and there was a red Mustang in that area, yes.

1 Q I'll show you State's Exhibit 9. And, what are we looking at  
2 here?

3 A It's facing building 25, apartment 11, so apartment 11 would  
4 be right here [indicating]; and this is the power box I saw Kevin Wong  
5 smoking next to; and this was the parking spot where the Jeep was  
6 [indicating].

7 Q Thank you.

8 MS. LUONG: Court's indulgence, Your Honor. I'll pass the  
9 witness.

10 THE COURT: Thank you.

11 Cross?

12 **CROSS EXAMINATION**

13 BY MR. SANFT:

14 Q Officer, have you ever been involved in something like this  
15 before where some person imitates a police officer and you believe  
16 them?

17 A Has -- I'm confused.

18 Q Have you ever been involved in this, like this type of thing  
19 before, where this, you know --

20 A When people identify themselves as law enforcement?

21 Q Right, to you.

22 A Yes. I mean but --

23 Q And tell you that they're a police officer and you believe them?

24 A Of course, but I did find out later they lied and, you know, you  
25 -- we -- like I said, we work with apartment security a lot, security in front

1 of different restaurants, bars. So, for somebody to identify themselves  
2 as a security officer, dressed the part, looking the part, holding the part,  
3 at that point we didn't have any real reason not to -- discount him  
4 because it was a very fluid situation.

5 Q Right, and would it be fair to say that you have had a  
6 multitude, many times where you've come into a situation and you don't  
7 know who is who and you're trying to figure out what's going on and  
8 who's responsible for what? Would that be fair to say --

9 A Definitely.

10 Q -- over the course of your career as a police officer?

11 A That's kind of the main thing that we do is, who's who and  
12 what's going on.

13 Q Right. So, you arrive on the scene, you look in through a  
14 window and you notice that there's a person on the ground, handcuffed  
15 and bloody and screaming out for help.

16 A Yes.

17 Q Obviously, in your mind, at that particular point, there's a  
18 problem, something's going on and there may be a danger still lurking  
19 inside of that apartment. Would that be a fair analysis of what's going  
20 through your head prior to your going into the apartment?

21 A And that's the only reason why we can even go in that  
22 apartment.

23 Q Okay. And would it be fair to say that you're -- you're not  
24 lackadaisical about it; you're not taking it for granted or being flippant.  
25 You're walking in there with your head on a swivel saying, okay, I need

1 to make sure I know who's who and what's what?

2 A I believe we had our guns drawn when we went in that  
3 apartment.

4 Q Okay.

5 A So, it was very serious.

6 Q All right. But the individual that you identified as Marland is  
7 standing over this person and he obviously must have been reacting in  
8 such a way that would have told you that he had a reason to be there  
9 and that he was legally there, right?

10 A Yes.

11 Q So, he was calm; he's holding a file in his hands; and he -- you  
12 have enough time with him where he's giving you a description of the  
13 alleged suspects running out of the door in another direction?

14 A Yes.

15 Q He says the person's wearing green pants, does he tell you  
16 anything else besides the green pants?

17 A He may have given me the race but I don't want to speculate  
18 on the race.

19 Q Sure, that's fine. But you recall him, at least, giving you  
20 somewhat of a description of a suspect that he basically is saying did  
21 this to this person that's on the ground.

22 A Yes, sir.

23 Q And you believed him?

24 A I did.

25 Q Did you at any point during this time period ever ask ID of this

1 person that's giving you this description, Marland?

2 A No, there really wasn't time because --

3 Q And let me just cut to it because I understand this may be a  
4 little bit embarrassing for you --

5 A It's not.

6 Q -- because of the fact that this happened. Well, let's cut to it.  
7 But it's a fluid situation, right?

8 A Very.

9 Q And you're accepting the representations made by this  
10 individual in the moment who is calm and is giving you some information  
11 and does not act like a suspect at all, right?

12 A He played the part very well.

13 Q Perfect. So, he jumps, he runs out --

14 A With me.

15 Q With you and you start running in the direction that he's  
16 running; or he jumps --you jump into the vehicle and you follow him kind  
17 of perpendicular or --

18 A When we go outside, he literally is like, they're right there,  
19 they're right there, that way, don't you see them? So, I'm like, oh, no.  
20 But he does. So, --

21 Q Right.

22 A -- let's go.

23 Q Now at any point during this time period do you make any  
24 calls on your radio that you're heading in the direction with a security  
25 officer because you believe a suspect is heading that same direction?

1           A       I may have but I couldn't say for sure if I gave that information  
2 out.

3           Q       Okay. But never during this time period did you believe, hey, I  
4 don't believe that that guys not a security officer?

5           A       Not until I came back.

6           Q       Right. Now, you tell the jury that at some point you get to the  
7 end of this apartment complex and both the alleged suspect in this case  
8 and Marland is gone?

9           A       Right.

10          Q       Do you, at that point, make a call on your radio saying, hey, I  
11 believe that maybe the person that I believed was a security guard in the  
12 beginning may not be a security guard? Did you ever make that call?

13          A       I think I may have, yes, because he disappeared.

14          Q       All right. And you tell other police officers in the area that  
15 there may be someone imitating a police -- a security person -- that's  
16 riding around the area?

17          A       Yeah, I gave the descriptions.

18          Q       You radioed the descriptions?

19          A       [Witness nods head.]

20          Q       Okay. Now, when you come back to the scene did you, at any  
21 point, ever have communication -- any further communication with the  
22 two individuals that were remaining in the home; the female and the  
23 male?

24          A       I did, briefly.

25          Q       All right. When did you verify that Marland was not who he

1 represented to you he was?

2 A I believe once we got back in, Officer Leinan was tending to  
3 Jason and Marlene; and in the course of talking with them about what  
4 happened, that's when they kind of said, he's the guy that beat me up.

5 Q Can you describe to the jury how tall Marland is?

6 A I would say over six foot.

7 Q Over six foot. And approximate his physical description in  
8 terms of his weight and size and so forth?

9 A He's a bigger guy, mid 200's, maybe 220, you know, six foot,  
10 six one, six two. It's been three years so I haven't seen him since.

11 Q Right. Okay.

12 MR. SANFT: I have no further questions, Your Honor.

13 THECOURT: Any redirect?

14 MS. LUONG: No, Your Honor.

15 THE COURT: Thank you very much for your testimony here  
16 today. You may step down. You are excused from your subpoena.

17 THE WITNESS: Thank you.

18 THE COURT: Thank you.

19 At this time, we are going to recess for lunch. During this  
20 recess you are admonished not to talk or converse amongst yourselves  
21 or with anyone else on any subject connected with this trial or read,  
22 watch or listen to any report or commentary on the trial or any person  
23 connected with this trial, by any medium of information, including,  
24 without limitation, newspapers, television, the Internet or radio; or form  
25 or express any opinion on any subject connected with this trial until the

1 case is finally submitted to you.

2 We'll be in recess until 2:00 p.m. Thank you.

3 THE MARSHAL: Thank you. All rise for the exiting jury,  
4 please. Jurors, please leave your notebooks on your chair.

5 [Recess taken at 12:40 p.m.]

6 [Proceedings resumed at 2:02 p.m.]

7 [Outside the presence of the jury]

8 THE MARSHAL: Please come to order. Court is now in  
9 session.

10 THE COURT: Okay. The record will reflect that the hearing is  
11 taking place outside the presence of the jury panel. We did make  
12 contact with the Lovelock prison. There is a statute, NRS 50.215, that  
13 requires no less than seven business days before the date scheduled for  
14 the person's appearance in court if the offender is incarcerated.

15 And then it gives miles from Las Vegas. Okay. And the  
16 provision that applies is NRS 50.215(4)(b), not less than fourteen  
17 business days before the date scheduled for his or her appearance in  
18 court if the offender is incarcerated in a prison which is located at a  
19 distance which exceeds those specified in paragraph A.

20 Lovelock is more than 95 miles, so by statute we're not  
21 permitted to --

22 MR. SANFT: Okay.

23 THE COURT: -- I guess, order them.

24 So, Mr. White, you understand we can't have him transported  
25 because you didn't give me enough notice.



1 MR. SANFT: That's fine, Your Honor  
2 THE COURT: I just want to – you understand that, correct?  
3 THE DEFENDANT: Yeah. Yeah.  
4 THE COURT: Okay, all right.  
5 THE DEFENDANT: Okay.  
6 THE COURT: We can -- I mean I asked. I did --  
7 MR. SANFT: We understand, Your Honor, and you cleared it  
8 by statute, so there's nothing we can do about that.  
9 THE COURT: Okay.  
10 Mr. SANFT: Thank you, Your Honor.  
11 MR. SCHWARTZER: Your Honor, we have one last thing.  
12 THE COURT: Sure.  
13 MR. SCHWARTZER: Ms. Luong and Mr. Sanft reviewed  
14 Exhibit 235, which is just simply another photo of Mr. White from  
15 February –  
16 Is it the February 3<sup>rd</sup> one?  
17 MS. LUONG: No. That's the – yeah, that's the one.  
18 MR. SCHWARTZER: -- the February 3, 2016. So, it's just  
19 simply a picture of him on February 3, 2016, when he was booked into  
20 CCDC and by stipulation we're going to agree that it comes in.  
21 MR. SANFT: That is correct, Your Honor.  
22 THE COURT: Okay, 235 is admitted.  
23 Okay, bring them in.  
24 **[EXHIBIT 235 ADMITTED]**  
25 THE MARSHAL: All right, jurors, come on in. All rise for the

1 entering jury, please.

2 [In the presence of the jury]

3 THE COURT: Does the State stipulate to the presence of the  
4 jury panel?

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

6 THE COURT: Mr. Sanft?

7 MR. SANFT: Yes, Your Honor. Thank you.

8 THE COURT: Thank you. You may call your next witness.

9 MR. SCHWARTZER: The State calls Officer Hansen.

10 THE MARSHAL: If you would please remain standing, raise  
11 your right hand and face the Clerk, please.

12 **JOE HANSEN**

13 [The witness was sworn in by the Clerk]

14 THE CLERK: You may be seated. Please state and spell your  
15 first and last name for the record.

16 THE WITNESS: Joe Hansen. J-O-E H-A-N-S-E-N.

17 MR. SCHWARTZER: May I proceed, Your Honor?

18 THE COURT: You may.

19 MR. SCHWARTZER: Thank you.

20 [Having been called as a witness and being first duly sworn testified as follows:]

21 **DIRECT EXAMINATION**

22 BY MR. SCHWARTZER:

23 Q Officer, how are you employed?

24 A I work with the City of Henderson Police Department.

25 Q In what capacity?

1 A As a patrol officer.

2 Q How long have you been a law enforcement officer for  
3 Henderson?

4 A Almost eighteen years.

5 Q Did you do any law enforcement before those eighteen years?

6 A No.

7 Q What's your current assignment with the Henderson Police  
8 Department?

9 A I'm a patrol officer assigned to the graves A-west division;  
10 west division.

11 Q Okay. And you worked last night?

12 A No, I did not. I actually took the night off.

13 Q Okay, great. So, you normally you work graves. What are the  
14 times for graves?

15 A Our shift starts at 2200, which is 10:00 p.m. and ends at 0800,  
16 8:00 a.m.

17 Q Okay. I want to direct your attention now to January 20, 2016  
18 going into kind of the morning hours of the 21<sup>st</sup> which -- 2016. Were you  
19 working as a patrol officer for Henderson Police Department at the time?

20 A Yes, I was.

21 Q And were you working that day?

22 A Yes, I was.

23 Q I guess, night -- early morning.

24 A That evening, correct.

25 Q And, during that period of time were you -- did you have like

1 the same like sector that you were supposed to be patrolling or was it a  
2 different sector?

3 A I was actually in a different sector, assigned to a different  
4 sector.

5 Q Why don't you tell the ladies and gentlemen of the jury what  
6 sector you were supposed to patrol?

7 A I was assigned to the William 1 area which is the area off of  
8 Gibson and Horizon Ridge.

9 Q Okay. Now, I want to further direct your attention to around, I  
10 would say about 11:20 -- approximately about 11:20 p.m. on January 20,  
11 2016.

12 A Okay.

13 Q Around that time, were you dispatched or did you assign  
14 yourself to a incident that may have occurred around Seven Hills and St.  
15 Rose?

16 A Yes, I was.

17 Q And did you assign yourself or were you dispatched?

18 A I believe I assigned myself.

19 Q Okay. Was there already regular traffic going on about an  
20 incident that occurred at the Horizon Apartments at East Seven Hills?

21 A Yes, there was --

22 Q And the --

23 A -- an unknown trouble call.

24 Q I'm sorry, go ahead.

25 A Unknown trouble call, initially.

1 Q Okay. And did you know that officers were assigned to go to  
2 that call?

3 A Yes, I did.

4 Q And, Henderson, you guys aren't quite as big as LVMPD, is  
5 that correct?

6 A That's correct.

7 Q So, do you know the individual officers that work your section  
8 and work your shift?

9 A Yes, I do.

10 Q Okay. So, did you know the officers that went to that unknown  
11 disturbance call?

12 A Yes, I do.

13 Q And do you recall which officers it was at this time?

14 A I believe it was Officers Engel and Officers Leinan.

15 Q Okay. At time were they working graveyard with you as well?

16 A Yes, they were; same squad.

17 Q Okay. Did radio traffic continue regarding that call?

18 A Yes, it did.

19 Q And during that period of time did either Officer Engel or  
20 Officer Leinan give out a description of a vehicle that might have been  
21 involved with criminal activity?

22 A Yes, they did.

23 Q Okay and what was -- what -- do you recall what the  
24 description was?

25 A I believe the description was a black SUV with a police type

1 spotlight and a large radio antenna on top.

2 Q Okay. And then at this period of time, you know around 11:20  
3 p.m., is that area around Seven Hills between Sunrise Heights or  
4 Sunridge Heights?

5 A Sunridge Heights, correct.

6 Q And St. Rose, is that a very heavily trafficked area.

7 A Not that time of night, no.

8 Q Okay. So, hearing that description and assigned -- when you  
9 assigned yourself to that call, what did you decide to do as part of this  
10 on-going incident?

11 A Okay. Because of the nature of the call, I decided to self-  
12 dispatch myself. I went to the area of Sunridge Heights and Seven Hills  
13 and I took up a position looking for any kind of vehicles that might match  
14 the suspect vehicle description given by Officers Leinan and Engel.

15 Q I'll show you Exhibit 3 just so you can -- so the jury can  
16 visually see what you're talking about. And, this is State's exhibit -- it's  
17 been admitted by stipulation, Exhibit 3. It's a Google map. Can you kind  
18 of recognize the area?

19 A Yes, I do.

20 Q Okay. So, we have -- let me get my pen -- you have the  
21 Horizon-Seven Hills right here [indicating]?

22 A Correct.

23 Q Okay, so the nature of the call -- the call comes from this area,  
24 is that correct?

25 A Correct. The Horizon and Seven Hills apartments.

1 Q And then, down here [indicating], what street do we have  
2 here?  
3 A That would be Sunridge Heights Parkway.  
4 Q Okay. And then all the way up here [indicating], what is this  
5 street over here?  
6 A I believe that is St. Rose Parkway.  
7 Q Okay. And in between we have this [indicating], Horizon  
8 Ridge Parkway?  
9 A Horizon Ridge, correct.  
10 Q Why don't you tell the jury what you did when -- show the jury  
11 kind of your pathway for the call until you make an encounter.  
12 A Okay. When I initially responded to the call --  
13 Q And sir, let me help you with it -- there's a mouse in front of  
14 you.  
15 A Oh, okay. Gotcha.  
16 Q And then, I'm just going -- you can pick a -- go to the pen with  
17 the blue --  
18 A This one --  
19 Q To your --  
20 A -- oh, correct. Gotcha.  
21 Q There you go. Just click on that. And now you can use that to  
22 draw all over the map.  
23 A All righty. When I first responded, I went to the area of  
24 Sunridge Heights and Jeffreys which would be right in this area here  
25 [indicating] where this --

1 Q Here, let me clear this out for you real fast--  
2 A -- I don't know if that's on there or not.  
3 Q There you go.  
4 A I initially set up a position here at Jeffreys and Sunridge  
5 Heights [indicating] --  
6 Q Okay.  
7 A -- not knowing exactly what to expect because the traffic  
8 hadn't come out yet about the suspect vehicle.  
9 Q Okay.  
10 A And then once I -- another patrol vehicle arrived to my area,  
11 and instead of bunching up, we try to do what we call BOLO or be on the  
12 lookout for, I proceeded to drive my patrol vehicle to this corner right  
13 here [indicating] -- the northeast corner of Sunridge Heights --  
14 Q And if you --  
15 A -- and Seven Hills.  
16 Q I'm sorry, I didn't mean to interrupt you.  
17 A No problem.  
18 Q If you click on the pen, it'll actually make marks on the  
19 photograph.  
20 A Okay. So, I was initially here [indicating] --  
21 Q Just hold down.  
22 A -- okay, and I took up a position in this area [indicating].  
23 Q Okay. Can you make an X? Thank you. And from there what  
24 happened?  
25 A I was there approximately about thirty seconds to a minute



1 when I heard the updated suspect vehicle come out, with the black SUV  
2 with the police -- the police spotlight and the antenna.

3 Q Okay.

4 A As I was sitting there, I proceeded to witness a dark colored  
5 SUV, it appeared to be a Jeep Cherokee type SUV, slowly drive  
6 northbound on Seven Hills towards Horizon Ridge right in front of me.

7 Q Let me ask you this, if you went -- so you're talking about  
8 heading, that's north on Seven Hills, right?

9 A North on Seven Hills, correct.

10 Q If you went south on Seven Hills, does that lead anywhere?

11 A It's what we call the Seven Hills loop.

12 Q Okay.

13 A It's just a giant loop, residential area. There's really only one  
14 other way in and out of that area. That's why I took up the position here  
15 [indicating], I figured if the suspect vehicle went that way, the chances of  
16 him coming back out the same way are pretty great.

17 Q Okay. And so, after you see this Jeep pass you on Sunridge  
18 Heights and Seven Hills, what do you decide to do?

19 A I noticed immediately the large antenna sticking up off the  
20 back and the police spotlight; at which point I proceeded to follow the  
21 suspect vehicle northbound on Seven Hills towards Horizon Ridge.

22 Q Okay. Now, in this period of time, did you have -- did you put  
23 on your lights and siren or were you just simply following?

24 A Not at this time because of the description of the vehicle. I  
25 believe I had reasonable suspicion that it might have been involved in

1 the incident that occurred at Horizon at Seven Hills; at which point I  
2 requested a backup officer, what we call a code 9 officer to assist me.

3 Q Why did you want a backup officer?

4 A Because of the nature of the call. As it came out, we learned  
5 that it was probably a robbery that had occurred. Because it was  
6 considered a violent felony, I decided that I was gonna do a felony stop  
7 on the vehicle.

8 Q For a felony stop, does that require another officer?

9 A Yes, if at all possible, to have a second officer there to assist.

10 Q Okay. So, you called out for another officer in order to do a  
11 felony stop?

12 A A felony stop on the vehicle, yes.

13 Q What did you call it, a code 9 officer?

14 A Code 9 officer, correct.

15 Q And then did an officer -- so, did you continue to follow this  
16 Jeep until another officer came around?

17 A Correct. I continued to follow the Jeep northbound on Seven  
18 Hills. I cannot remember if we got stopped at the stoplight at Horizon  
19 Ridge or not; but my backup officer, my code 9 officer was there fairly  
20 quick.

21 Q Okay. And so, he reached you by the time you got to Horizon  
22 Ridge?

23 A Horizon Ridge, correct.

24 Q Okay. Then what happened once your code 9 officer was  
25 there?

1           A       Once I knew I had my backup officer, my code 9 officer, I  
2 called that over the radio that I'm going to initiate a felony car stop on the  
3 vehicle.

4           Q       What does that require?

5           A       Getting on the radio, just letting our dispatch know that we're  
6 in this particular location and that we're going to be taking down the  
7 vehicle utilizing a felony stop technique.

8           Q       Okay. So, you called that out and then did you proceed to do  
9 that --

10          A       Yes.

11          Q       -- to do the felony stop?

12          A       I called the stop out and then I initiated my lights and siren and  
13 I believe the SUV, the black SUV, came to a stop somewhere in this  
14 area here [indicating].

15          Q       All right. So, before that you hit St. Rose?

16          A       Before we hit St. Rose, yes, just south of St. Rose on  
17 northbound on Seven Hills.

18          Q       Okay. And the buildings to kind of the right of you, the -- I  
19 guess it would be east of you, those would be like office buildings?

20          A       Correct. Correct. And then there's a medical office building  
21 and a few other buildings, yes.

22          Q       Okay. Did the vehicle, when you put on your lights and sirens  
23 to stop, did the person who was driving that Jeep comply?

24          A       Yes, they did.

25          Q       Okay. Once that happened, could you please walk the ladies

1 and gentlemen of the jury through what you did during this felony stop?

2 A Okay. During the felony stop, again we always prefer to have  
3 two officers there. I proceeded to light up the suspect vehicle, which  
4 immediately yielded to the right. I called out for traffic in the area to try  
5 to be shut down, because we never know what we're going to  
6 experience during a felony traffic stop.

7 I requested that traffic be stopped if at all possible -- citizen  
8 traffic along the St. Rose and Seven Hills -- and also behind us on  
9 Seven Hills and Horizon Ridge.

10 Once my backup officer was with me and took a position next  
11 to me -- because I was primary officer, I assumed commands of the  
12 felony stop. When we do a felony stop, we do what we call, challenge  
13 the vehicle, we don't know how many occupants are inside the vehicle or  
14 anything like that. I couldn't see inside the vehicle at that time because I  
15 believe the windows were tinted very dark.

16 What we'll do is we will have the driver of the vehicle roll down  
17 the window -- his window -- if the window is not already rolled down;  
18 have them put both hands outside of the vehicle so we can just make  
19 sure that there's no weapons in their hands or in their possession. At  
20 what point, when somebody puts both hands out a window, an open  
21 window, we can kind of get a view of who we're dealing with inside the  
22 vehicle. You know, they kind of have to put their head out just a little bit.

23 At which point, we'll have the driver reach over with their left  
24 hand and turn off the ignition on the vehicle. It's kind of a multi-tasking,  
25 to take their mind off of everything else that's going on; remove the keys

1 from the ignition and with their left hand drop the keys out onto -- out  
2 onto the roadway. Now we know the vehicle isn't running and isn't going  
3 to go forward or backwards towards us.

4 Q Okay. What do you do in order to get the person outside --  
5 out of the vehicle?

6 A We issue verbal commands, either just with a big, loud voice  
7 or through what we call a PA system, public announcement system, that  
8 our patrol vehicles are equipped with. I believe I just gave verbal  
9 commands with my voice because of the close proximity and not a lot of  
10 traffic going by.

11 Q Okay. Did that person inside the vehicle comply with that?

12 A Yes. Yes, that person did.

13 Q Did you make contact with that individual?

14 A Yes, I did.

15 Q Okay. Can you describe that individual for the ladies and  
16 gentlemen of the jury?

17 A Yeah. He appeared to me, initially, -- well when he stuck his  
18 head out -- to be a Hispanic male, bald and probably late twenties, early  
19 thirties, he appeared initially

20 Q Okay. I'm showing you Exhibit 233. Do you recognize this  
21 individual?

22 A Yes, I do.

23 Q Was that the individual that was inside that vehicle --

24 A Yes, it was.

25 Q -- too? And did you -- were you able to get a name from him?

1           A     Yes, I was.

2           Q     And what was that?

3           A     Mr. Kevin Wong.

4           Q     Okay. Did you, while you were taking him out or having him  
5 get out of the vehicle, at some point do you take steps to ensure there's  
6 not other people inside that vehicle?

7           A     Correct. Once -- to continue with the felony stop, once the  
8 keys are dropped off we'll have the suspect open the door; and if it's at  
9 all possible from the outside, using the outside door handle with their left  
10 hand -- open up the door; exit the vehicle; of course showing us their  
11 hands; we have them circle around to try to see if we can see any  
12 bulges, any kind of possible weapons on them; and then, at which point,  
13 we bring them -- walk them back towards our position as we stay with  
14 our patrol vehicles; especially on graveyard, we try to use what we call a  
15 curtain of light which is, it's hard to see behind those lights for a suspect  
16 up front -- walk the suspect back towards our location backwards and  
17 then, at some point, when he gets between our vehicles we'll have the  
18 subject kneel down; at which point, another officer will come up from  
19 behind, place the subject in handcuffs, just as a precautionary measure,  
20 and then put them into a patrol vehicle to secure them.

21                 Once the first person is secured, we'll challenge the vehicle  
22 again; which again, we'll all out any individuals inside the vehicle, make  
23 yourself known, Henderson Police Department, etcetera, etcetera.

24                 If we are confident that there's really nobody else inside the  
25 vehicle, we'll go up and do a cursory -- a cursory check. Which is at

1 least two officers will approach the vehicle with their guns out; and view  
2 inside the vehicle to make sure that there's nobody else inside the  
3 vehicle.

4 Q What did you do in this case? Did the two of you go in there  
5 or was it challenged?

6 A Yes, we did. Once we got Mr. Wong out of the vehicle and we  
7 were fairly certain that there was nobody else inside, myself and another  
8 officer walked up to do a check in the vehicle just to ensure that there  
9 was nobody inside.

10 Q Was there anyone inside the vehicle?

11 A No, there wasn't.

12 Q Okay. Now, you said that, based on the nature of the call, that  
13 this was a violent crime, that's why you did the felony stop?

14 A Yes.

15 Q And, based on that, were you informed that detectives were  
16 going to come out?

17 A Yes.

18 Q Okay. And if, considering the nature of the call and your stop,  
19 to give any information whether a detective would come out to you or  
20 not?

21 A Yeah, I was informed that, I believe that a Detective Ryan  
22 Adams from the Henderson Police Department was going to come out to  
23 our location.

24 Q Okay. So, did you stay in that position for Detective Adams?

25 A Yes.

1 Q And, this Jeep you pulled over, did it have Nevada plates or  
2 did it have plates from another state?

3 A I believe they were the State of Washington plates.

4 Q Okay. And, if you saw pictures of that vehicle with the, what  
5 you talked about the spotlight and the antenna, do you believe you  
6 would be able to recognize it?

7 A Yes, I would.

8 Q All right. I'm going to show you what has been admitted by  
9 stipulation, Exhibit 198. Do you recognize that?

10 A Yes, I do.

11 Q Okay. Is that the Jeep?

12 A Yes, that is.

13 Q And, specifically, you talked about the spotlight and the  
14 antenna, could you just show that to the ladies and gentlemen of the  
15 jury?

16 A Yeah. When the vehicle first approached me, the first thing I  
17 noticed was the large -- the large antenna here [indicating] -- the large  
18 radio antenna which had been called out in the description; and as the  
19 vehicle got just a little bit closer I noticed the spotlight on the driver's  
20 side.

21 Q All right. And you mentioned that it was -- the plates were  
22 from the State of Washington? Showing you Exhibit 199. And those  
23 were the plate on that Jeep?

24 A Yes, sir. That's the same plate, ASW 5060.

25 Q I'm sorry?



1 A ASW 5060.

2 Q Okay.

3 A So, I remember that from my report.

4 Q Now again, because when you knew Detective Adams was  
5 coming out did you decide to run that license plate in order to provide  
6 Detective Adams some information?

7 A Yes, I did.

8 Q And who did those plates come back to?

9 A They came back to a Mr. Toney White.

10 Q And that is information that you would have provided to  
11 Detective Adams?

12 A Yes, sir.

13 Q And the interview or any talk with Mr. Wong would have been  
14 done by Detective Adams?

15 A Correct. At that point my -- any kind of talking to Mr. -- Mr.  
16 Wong had ceased.

17 Q Okay. Thank you, Officer.

18 MR. SCHWARTZER: I will pass the witness.

19 THE COURT: Thank you.

20 Cross?

21 MR. SANFT: No cross, Your Honor. Thank you.

22 THE COURT: Thank you very much for your testimony here  
23 today.

24 THE WITNESS: Thank you, Your Honor.

25 THE COURT: You may step down. You are excused from

1 your subpoena.

2 And you may call your next witness.

3 MR. SCHWARTZER: The State calls Marlene Burkhalter.

4 THE MARSHAL: Please step up onto the witness stand,  
5 remain standing, raise your right hand and face the Clerk, please.

6 **MARLENE BURKHALTER**

7 [The witness is sworn by the Clerk]

8 THE CLERK: You may be seated. Please state and spell you  
9 first and last name for the record.

10 THE WITNESS: It's Marlene Burkhalter, B-U-R-K-H-A-L-T-E-  
11 R.

12 THE CLERK: And could you please spell your first?

13 THE WITNESS: M-A-R-L-E-N-E.

14 MR. SCHWARTZER: May I proceed, Your Honor?

15 THE COURT: You may.

16 [Having been called as a witness and being first duly sworn testified as follows:]

17 **DIRECT EXAMINATION**

18 BY MR. SCHWARTZER:

19 Q Do you mind if I call you Marlene?

20 A Yes, please do.

21 Q Okay. Marlene, I want to ask you about some things that  
22 occurred on January 20, 2016. Is that okay?

23 A Yes.

24 Q All right. So, let's go back to that. January 20, 2016, where  
25 were you living at that time?

1 A At 950 Seven Hills Drive, Unit 2511.

2 Q Okay. And what would be the cross streets of that?

3 A St. Rose Parkway and Seven Hills Drive.

4 Q All right. Who were you living with at the time?

5 A My husband.

6 Q That apartment, is it upstairs or is it downstairs?

7 A It's downstairs.

8 Q And is it one bedroom, two bedrooms?

9 A Two bedrooms, two bathrooms.

10 Q Okay. Did you have two bedrooms in that apartment?

11 A Yes.

12 Q Okay. And is there any like other -- like could you kind of

13 describe the space for the ladies and gentlemen of the jury?

14 A Sure. Right when you open the door it's a living room, that

15 then opens up to my dining room and then the kitchen kind of overlooks

16 the whole living room area. And then the bedrooms are, one's on one

17 side of the place and the other one is in the back.

18 Q Okay. And back in January, 2016 were you working at the

19 time?

20 A Yes,

21 Q And where were you working at?

22 A At Tahiti Resort.

23 Q Okay. So, you lived with your husband at the time?

24 A Correct, yes.

25 Q And what's his name?

1 A Jason.

2 Q And Jason what?

3 A Cliff.

4 Q Cliff. And were you living with anyone else?

5 A No one else.

6 Q Just you and Jason?

7 A Yes.

8 Q On January 20, 2016, that night, were you working?

9 A No, I was off that night.

10 Q And so what were you doing at say, approximately 10:30

11 p.m.?

12 A I had taken a shower and I was just watching TV in my living

13 room.

14 Q And that's that room as soon as you open the front door?

15 A Correct.

16 Q You mentioned that -- well, is there also a patio that kind of

17 overlooks that living room?

18 A Yes.

19 Q Okay. At any point that night, were you out on the patio?

20 A Earlier.

21 Q Okay. How much earlier?

22 A Earlier in the afternoon I would say, but not recently I wasn't.

23 Q Okay. When you were out on that -- do you recall like when,

24 like was it like 5:00 p.m., 7:00 p.m.?

25 A It was probably around 7:00.

1           Q     Okay. Did you know -- I'm sorry, there's no test, it's just  
2 whatever you remember.

3           A     Okay.

4           Q     So, around 7:00 p.m.?

5           A     Probably around 7:00, yeah.

6           Q     Did you notice any vehicles that didn't fit your -- in front of your  
7 house at that time?

8           A     No.

9           Q     Okay. So, now going to 10:30 p.m., you're watching TV in the  
10 living room.

11          A     Um, hm.

12          Q     Why don't you tell the ladies and gentlemen of the jury what  
13 happened?

14          A     Okay. So, there was a knock at my door and I immediately  
15 looked out the peephole and noticed that there was a young female; a  
16 young, white female. She looked like she was in her early twenties.  
17 And she was standing there smiling.

18                 So, I opened the door to see what she wanted and the  
19 moment I opened the door, two black gentlemen with guns pushed their  
20 way in and told me they had a search warrant and they were, excuse  
21 me, with the U.S. Marshals.

22          Q     Okay. Let me stop you there because I'm just going to break  
23 down a little bit of what you said. So, regarding the female that was  
24 outside, how would you describe her?

25          A     She looked like she was in her early twenties. She was a

1 white female. Her hair was pulled back.

2 Q Was there anything, you know, curious about her, anything  
3 that, you know, caught your attention?

4 A No, I mean she looked -- I mean, I just -- I just -- she was  
5 smiling. She looked friendly to me, so I didn't think anything of it.

6 Q So, when you opened the door, did you open it slightly, did  
7 you open it all the way?

8 A I just opened it -- I opened it.

9 Q You didn't think anything of it?

10 A No, not at all.

11 Q Okay. When you opened it, did any time pass before these  
12 two gentlemen came in?

13 A No, it was immediate.

14 Q Okay. Could you describe for the ladies and gentlemen of the  
15 jury what those two black males were wearing and what they looked  
16 like?

17 A Sure. They were wearing all black; it looked like they had  
18 uniforms on; they had black vests on; black combat boots; all of them  
19 were wearing the same exact thing; and on the back of their shirt it said  
20 U.S. Marshal.

21 Q Okay. And you mentioned they had weapons?

22 A Correct.

23 Q Okay. Can you describe that to the ladies and gentlemen of  
24 the jury?

25 A The taller black male had a really big gun, it was a gun he had

1 to hold with both hands; and the shorter black male had a handgun.

2 Q And was he holding that handgun?

3 A Yes. They were both holding and pointing the guns.

4 Q So, it wasn't like in a holster or anything?

5 A No. They had them in their hands pointed at me.

6 Q Pointed at you?

7 A Yeah.

8 Q And can you describe that handgun at all?

9 A I'm not familiar with guns. It was just a normal black handgun.

10 Q Okay. Do you see either of those males in the courtroom  
11 today?

12 A Yes,

13 Q Okay. Which one?

14 A The shorter black male.

15 Q Can you point to him and identify a piece of his clothing?

16 A Yes. He's wearing purple, and [indicating] yes.

17 Q Thank you.

18 MR. SCHWARTZER: Will the record reflect the identification  
19 of Defendant Toney White?

20 THE COURT: So reflected.

21 MR. SCHWARTZER: Thank you.

22 BY: MR. SCHWARTZER:

23 Q Okay. So, the taller black male and the defendant come in  
24 with guns and you said they pointed at you?

25 A Correct.

1 Q How close are they when they start pointing guns at you?

2 A Because right as they came in, they were pointing and they

3 were yelling, get on the floor, we have a search warrant, get on the floor.

4 Q Okay.

5 A So, it all happened so quickly, immediately as they came in,

6 they were yelling, so.

7 Q Were they like two feet away, three feet away -- like how far

8 away were they?

9 A They were like I would say a -- two feet away, a foot to two

10 feet because I was still at the door and right as they came in one of the

11 men shut the door behind them.

12 Q One. You don't know which one?

13 A I don't know which one.

14 Q That's fine. I'm going to approach you; just tell me to stop --

15 A Okay.

16 Q -- when I'm about how close they were when they came in the

17 front door.

18 A They were very close because I was at the door and they just

19 came.

20 Q Just stop me when I'm as close as they were.

21 A Okay. I would say a little closer.

22 Q Just about here?

23 A Right about here, yes.

24 Q Okay. So, you got a good look at their faces?

25 A Correct, yes.



1 Q There was nothing covering their faces?

2 A No.

3 MR. SANFT: Your Honor, for the record, counsel stood next to  
4 the witness, up on the witness stand maybe about two and a half or  
5 three feet away.

6 MR. SCHWARTZER: That's correct, Your Honor.

7 THE COURT: Thank you.

8 BY: MR. SCHWARTZER:

9 Q Okay. So, they're yelling at you to do what?

10 A To get on the floor.

11 Q What did you do?

12 A I got on the floor.

13 Q Did you say anything? Do you remember saying anything?

14 A I mean, I think I said, what is this about? And they -- that was  
15 about it.

16 Q Okay. Did you get on the floor?

17 A I did.

18 Q Okay. When you got on the floor, what happened?

19 A I got handcuffed.

20 Q Okay. Do you remember who handcuffed you?

21 A The female did.

22 Q So, that was the white female that was outside?

23 A Correct, yes.

24 Q So, did she come in with the other two?

25 A Yes.

1 Q Okay. Now, you mentioned they yelled, search warrant?  
2 A Correct.  
3 Q Do you recall which one yelled that or if they both did or if all  
4 three of them did?  
5 A I believe it was both the males that were yelling they have a  
6 search warrant, get on the floor.  
7 Q Okay. So, once -- so, where is Jason during all this? When  
8 you're answering --  
9 A He --  
10 Q -- the door.  
11 A Yeah. He was in the other bedroom and, at that time, he was  
12 coming out of the bedroom.  
13 Q Okay. When -- did Jason ever enter into the living room?  
14 A Eventually.  
15 Q Okay. Where were you when Jason was entering into the  
16 living room?  
17 A I was, at that time, the female had put me on the couch and I  
18 was handcuffed. So, he came around from the bedroom and was  
19 questioning what they were they were there for.  
20 Q So, you said you were on the couch. Is that the couch in the  
21 living room?  
22 A In the living room, yes.  
23 Q Is it like where you were watching TV?  
24 A Correct.  
25 Q And were you in handcuffs like --?

1           A     No, behind my back.

2           Q     Behind your back, okay. And for the record, at first, I showed

3 my hands in front of me, Your Honor. So, Jason came around from the

4 bedroom into the living room and you said he began questioning them?

5           A     Correct.

6           Q     Was he questioning the search warrant?

7           A     Yes.

8           Q     Was he questioning whether they were law enforcement at

9 that time?

10          A     At that time, no. I think he said who is this for?

11          Q     Okay. Did the Defendant or the people with him respond?

12          A     No. They told him to get on the floor.

13          Q     Did Jason get on the floor?

14          A     No.

15          Q     What happened?

16          A     He wouldn't -- he didn't want to get on the floor and so that's

17 when they tried to get him on the floor.

18          Q     Who is they?

19          A     Both of the men.

20          Q     Was the female involved at all?

21          A     She wasn't in the struggle.

22          Q     Okay. So, both the Defendant and then the taller black male -

23 -

24          A     Yes.

25          Q     -- got their hands on Jason?

1           A     Correct, yes.

2           Q     Okay. Now, what were they trying -- what did you observe?

3     What were they doing?

4           A     So, they kept telling him, stop resisting, and he said no. And

5     the taller black male had a metal baton and that's when he started hitting

6     him with it.

7           Q     Okay. What was the Defendant doing?

8           A     He was trying to get his hands -- arms behind his back to

9     handcuff him.

10          Q     Okay. So, while Jason is being struck with this metal baton --

11          A     Yes.

12          Q     -- the Defendant is also physically hands-on with Jason?

13          A     Correct, yes. They're all kind of wrestling around.

14          Q     Okay. Did Jason struggle?

15          A     Yes.

16          Q     Okay. Did they ask you or Jason for anything?

17          A     No.

18          Q     Okay. Were they demanding anything?

19          A     No.

20          Q     Okay. Were they asking Jason to do anything?

21          A     Not other than stop resisting and get on the floor.

22          Q     Did Jason yell anything at them?

23          A     Just to stop.

24          Q     Okay. How long was this struggling going on?

25          A     It seemed like it went on for a while because then there's a

1 point there was so much blood from him being hit; and because he was  
2 struck in the head, there started -- the tile that they were standing on  
3 started to -- there was a little puddle of blood that they started to slip in.  
4 So, at that point, it seemed it was probably at least five minutes I would  
5 think.

6 Q Okay. So, while this struggle was going on, was Jason being  
7 repeatedly struck?

8 A Yes.

9 Q Okay.

10 A He was being struck in his head and I told the girl that was  
11 standing next to me to please make them stop, that he needs medical  
12 assistance; and I was crying and screaming because I thought he was  
13 going to die. I thought they were going to beat him to death.

14 Q What did that female say back to you when you --

15 A She said paramedics are on their way.

16 Q Okay. So, she was acting like it was -- like they were law  
17 enforcement? Is that yes?

18 A Yes.

19 Q Okay. While you're asking that, is Jason still being struck by  
20 the Defendant and the person with the Defendant?

21 A Correct, yeah. So, he kept resisting and he would not let them  
22 put his hands behind his back, so they were wrestling and they struck  
23 him enough until he finally couldn't fight back.

24 Q Okay. While he's fighting, is he saying -- is he yelling,  
25 screaming and --

1       A     I mean, at that point, I was screaming and I was telling them to  
2 please stop, you're going to kill him, please stop, you're going to kill him;  
3 because there was so much blood. I have never in my life seen that  
4 much blood, ever. So, I was assuming that he was going to bleed to  
5 death.

6       Q     Was Jason screaming?

7       A     He was yelling, telling them to stop too.

8       Q     Did they stop?

9       A     Eventually, yes. They got him in handcuffs.

10      Q     Okay, and once they got him in handcuffs, did they move you  
11 anywhere, or they left you on the sofa?

12      A     No, after that, they were kind of tired from the struggle and  
13 they left him on the floor and that's when Toney brought me to my  
14 kitchen table.

15      Q     By Toney, who are you talking about?

16      A     Him.

17      Q     The Defendant?

18      A     Yes, the Defendant.

19      Q     He brought you to the kitchen table?

20      A     Correct, and showed me a piece of paper that had my name  
21 on it.

22      Q     Okay. And what was he saying to you?

23      A     He was saying that they had a search warrant.

24      Q     Did he tell you what the search warrant was for?

25      A     No, he didn't

1 Q Okay. But he was acting like he was a U.S. Marshal for a  
2 search warrant?

3 A Correct. Yes.

4 Q Okay. Was there any mention of guns at all; if they were  
5 searching for guns?

6 A Correct, yeah. They had asked me where our guns were and  
7 I said we haven't any.

8 Q When did they ask you and who asked you?

9 A The Defendant did.

10 Q Okay, the Defendant, Toney White did?

11 A Correct, yes.

12 Q When did he ask you? When you were on the sofa or when  
13 he moved you to the kitchen table?

14 A No. That was when we moved to the table.

15 Q Okay. So, after they handcuffed Jason?

16 A Correct, yes.

17 Q Okay. And you said you responded that you don't have guns?

18 A I don't have guns, I told him.

19 Q Was that true?

20 A Correct, that's true.

21 Q Okay. So, you guys did not have guns?

22 A [No audible response.]

23 Q Okay. Do you recall the Defendant asking you for anything  
24 else?

25 A No.

1 Q Okay. While you were at the kitchen table was -- in talking  
2 with the Defendant, what was the taller black male and the white female  
3 doing?

4 A The taller black male went into our other room.

5 Q What's your other room?

6 A To our computer room, our extra room. And --

7 Q And this is the guy with the rifle?

8 A Correct, yes. And, the female, I believe she went into our  
9 bedroom.

10 Q Okay. At some point, does anyone else knock on your door?

11 A Yes, and that's when Henderson Police knocked at our front  
12 door and said, Henderson Police, and started banging on our front door.

13 Q How long, from the time -- and I know you're not sitting there  
14 watching the clock --

15 A Right.

16 Q -- but how long do you estimate from the time that they got  
17 Jason -- and Defendant and his people got Jason into handcuffs until the  
18 time you hear the knock from Henderson Police?

19 A I would say it was pretty quick.

20 Q Okay.

21 A Five minutes, ten minutes at the most.

22 Q Okay, so real quick. Okay. So, there is a knock on the door  
23 and Henderson Police announce themselves?

24 A [Witness nods head.]

25 Q Does either the Defendant or anyone with the Defendant say



1 anything?

2 A They said, that's backup.

3 Q When you say they, who is they?

4 A I just remember hearing one of the men say it -- it's backup.

5 Q You don't' remember whether it was the Defendant or taller

6 black male?

7 A No, I can't remember.

8 Q That's okay. Did you believe them?

9 A I didn't know what to think.

10 Q Okay. Now, this clothing they were wearing with the U.S.

11 Marshal on the back, and the vests --

12 A Yes,

13 Q -- did it look professional to you?

14 A It did.

15 Q Okay. And how about the search warrant -- not the search

16 warrant -- the paper with your name on it?

17 A I was really confused.

18 Q Okay. Okay. Because they said search warrant but they --

19 A Correct, they said search -- it looked kind of legitimate to me.

20 But I was pretty confused after what they did to my husband.

21 Q Okay.

22 A And how it all happened.

23 Q So, after the knock, did Henderson enter through your front

24 door or what happened?

25 A No one answered the door and that's when the Defendant and

1 the female went into my bedroom and the taller black male stood in the  
2 living room but he didn't answer the door.

3 Q Now, your bedroom, is there a way to get outside the  
4 apartment from the bedroom?

5 A Yes, I have a window.

6 Q And that window leads outside?

7 A Correct, yes.

8 Q Okay. So, the taller black male stays while the Defendant and  
9 the white female go to your bedroom?

10 A Yes.

11 Q Do you ever see -- during that day do you ever see the  
12 Defendant -- excuse me -- and the white female again?

13 A No.

14 Q What happens next?

15 A Then the Henderson Police Officers came in through my patio.

16 Q Is your patio door unlocked?

17 A It is. I keep it cracked because I have a cat that goes in and  
18 out.

19 Q Okay. And when they came in do you know if they had their  
20 guns drawn, did they have their guns at their side, do you recall?

21 A No. I don't believe they had their guns drawn. I can't recall.

22 Q Okay. You can't recall or you don't believe?

23 A I don't think they had their guns drawn.

24 Q Okay.

25 A They just came in.

1 Q Okay. And when they came in, where was Jason?  
2 A He was still on the floor.  
3 Q Where?  
4 A In the living room on the tile in front of the TV.  
5 Q Okay.  
6 A Where they struggled.  
7 Q And, where are you?  
8 A I was sitting on the kitchen table.  
9 Q And where was the taller black male?  
10 A He was standing close to me.  
11 Q Was he behind you, in front of you?  
12 A He was in front of me.  
13 Q Okay. So, you would be slightly behind --  
14 A Correct, yes.  
15 Q -- the taller black male and if you're coming through that  
16 sliding glass door, it basically would be Jason --  
17 A Um, hm.  
18 Q -- taller black male, yourself.  
19 A Yes. Yes.  
20 Q Okay. Once the Henderson Police Officer -- and how many  
21 came in?  
22 A Two.  
23 Q Once they came in, did they make contact with either Jason,  
24 yourself or the taller black male?  
25 A Well, right when they came in, the taller black male told them

1 that the suspects went outside and described something to what they  
2 were wearing.

3 Q Do you recall what he said?

4 A I believe he said, they are wearing white shirts and khaki  
5 pants but it wasn't what the other people were wearing. He just made  
6 that up.

7 Q Okay. And after he said that, some suspects left and this  
8 description, then what happened.

9 A One of the police officers went outside the front door with him.

10 Q Okay. Did the other police officer stay with you?

11 A Correct, yes.

12 Q Why didn't you tell the police officer when they were both in  
13 there that, that taller black male had attacked you, or attacked Jason?

14 A Correct. At that time, I was just so concerned about my  
15 husband getting to the hospital and for him to get help; and I was just  
16 relieved that this was pretty much over, I -- at that very moment I -- that  
17 wasn't the first thing to tell them in my head, was what happened.

18 Q Okay.

19 A It wasn't my first thought. I was more concerned about my  
20 husband's well-being than anything else.

21 Q Okay. You said you were -- you were confused because you  
22 were shown like your name --

23 A Correct.

24 Q Were you still kind of like under that confusion?

25 A I was still kind of confused about what had just happened. I

1 was trying to make sense of it all.

2 Q What was Jason doing at this time?

3 A He was on the ground bleeding to death, I thought. So, I  
4 wanted him to get in the ambulance as fast as they could take him.

5 Q Okay. So, how much time do you think happened from when  
6 the police officers came in to when one of the officers ran out with the  
7 taller black male?

8 A It was immediate. It was like he -- right when they walked in,  
9 he told them that and they immediately went outside, so it was instant.

10 Q But you said one officer stayed with you?

11 A Yes, he did.

12 Q Did you start talking to that officer at any point?

13 A Well, the ambulance showed up right away, it seemed like.

14 Q Okay.

15 A Right after that I did tell the officers and he took my handcuffs  
16 off.

17 Q Okay. And do you recall how he was able to take the  
18 handcuffs off?

19 A The police officer, I believe, had keys with him.

20 Q Okay. And, so he got you out of handcuffs?

21 A Yes.

22 Q And, you got -- and he got Jason out of handcuffs?

23 A Yes.

24 Q And you said the ambulance came quickly; so, was he being  
25 worked on?

1           A     Yes, he was.

2           Q     And, was Jason transported to the hospital?

3           A     Yes.

4           Q     Okay. Now, did you, at any point during this time, tell the  
5 officers that were there that, that taller black male was actually one of  
6 the people involved?

7           A     I eventually did. I don't know if I immediately told -- I mean, I  
8 did tell them, yes.

9           Q     Okay. At some point then you talked to the detective as well,  
10 right?

11          A     Correct, yes.

12          Q     Kevin Lapeer?

13          A     Yes.

14          Q     And, did you kind of give him the same version that you're  
15 telling us?

16          A     Yes, I did.

17          Q     Okay. I'm going to show you some photographs. First, I want  
18 to show you some individuals. I'm showing you an exhibit that's have  
19 been marked as, and admitted as, Exhibit 231. Do you recognize that  
20 individual?

21          A     Yes.

22          Q     Who is he?

23          A     That's the other black male.

24          Q     Okay. That was the person that was with the Defendant?

25          A     Correct.

1 Q Okay. I'm showing you Exhibit 232. Do you recognize this  
2 female?  
3 A Yes.  
4 Q Who is that?  
5 A That was the female that was there that night.  
6 Q And, you said she also acted like she was law enforcement?  
7 A Correct.  
8 Q I'm showing you Exhibit 8. Do you recognize this?  
9 A Yes.  
10 Q Okay. What are we looking at?  
11 A What's that?  
12 Q What is this?  
13 A That's where I live.  
14 Q Okay. This area right here [indicating]?  
15 A Correct, yes.  
16 Q So, you're in the downstairs apartment [indicating]?  
17 A Yes.  
18 Q And, this is the -- what is this door [indicating]?  
19 A That is my patio.  
20 Q Okay. Does this lead into your living room?  
21 A Correct, yes.  
22 Q Is that how the police got into your --  
23 A Yes.  
24 Q -- your house?  
25 A Yes.

1 Q Okay. And then what's this window over here [indicating] --  
2 A That's my --  
3 Q -- it's kind of blocked by the wall.  
4 A -- bedroom.  
5 Q Okay. So, this would be the room [indicating] that the  
6 Defendant went with that white female?  
7 A Yes.  
8 Q I'm showing Exhibit 15, we're seeing right here [indicating] this  
9 is your patio door again?  
10 A Yes.  
11 Q Do you recognize the bicycle from that previous photograph?  
12 A Yes.  
13 Q Okay. And, again, there's a kind of a tree and a wall  
14 [indicating] but on the other side there -- is that your bedroom?  
15 A Correct, yes.  
16 Q Then going to your bedroom, I'm showing you Exhibit 16. Do  
17 you recognize this window?  
18 A Yes, that's my bedroom window.  
19 Q Where your -- so, I notice there are shades behind, that would  
20 be in your bedroom?  
21 A Yes.  
22 Q You've got vertical blinds?  
23 A Um, hm.  
24 Q Were they like this when you left the bedroom that night --  
25 A No, they were not.



1 Q -- before this? How has it changed?

2 A It's pulled up.

3 Q Okay. And, how about -- I noticed there's a, like a --

4 A A screen.

5 Q A screen, thank you, on this window. How about on this

6 window [indicating], was there a screen?

7 A Yes, there was.

8 Q And that's not on there now?

9 A No, it's not.

10 Q Okay, when you left your bedroom that night before this

11 incident was that screen up on there?

12 A Yes, it was.

13 Q And, you kind of look through the window and there's -- there

14 appears to be an object in your bed [indicating]. Can you see what I'm

15 talking about?

16 A Yeah.

17 Q Do you want me to zoom in a little bit or are you okay?

18 A That's the screen.

19 Q That's your screen?

20 A Right. Correct, laying on my bed.

21 Q You have kind of already answered that, but your screen

22 wasn't like that before this incident?

23 A No.

24 Q I'm going to show you Exhibit 25. Do you recognize what this

25 item is?

1 A Yes.

2 Q Okay. What is this [indicating] -- is this an item that was used  
3 in your apartment?

4 A Yes. That is the metal baton that they were hitting my  
5 husband with.

6 Q At least you believe that's the item, because you don't know --  
7 do you know where this picture was taken?

8 A The ground? It was left on the ground, obviously.

9 Q But that's how the object appeared?

10 A Oh, yes, that's what it looked like.

11 Q I'm showing you Exhibit 26. This is your apartment, correct?

12 A Yes.

13 Q And, I'm going to zoom out a little bit. There's an item right  
14 here [indicating]. Do you see where I'm pointing to with the pen?

15 A Yes.

16 Q What is that?

17 A It's a bloody shirt.

18 Q Whose shirt is that?

19 A My husband's.

20 Q Now, I'm going to go inside your apartment with photographs.  
21 I'm showing you exhibit -- I'm going to show you two continuous exhibits  
22 in order here, 28, what are we looking at here?

23 A That is the TV in the living room and the speaker fell because  
24 that's where they were struggling.

25 Q And, what speaker are you talking about?

1 A The one that's on the floor in front of the rug.

2 Q So, you're talking about this one right here [indicating]?

3 A Yes.

4 Q So this was up, kind of standing --

5 A Standing, yes.

6 Q And so this would have been a picture kind of taken by your

7 front door area?

8 A Correct, yes.

9 Q And then, turning to Exhibit 29, is this a picture from the other

10 side of your -- of your --

11 A Yes.

12 Q -- taken from the other side? And so, this would be coming

13 from your kitchen?

14 A Correct.

15 Q Okay. Now, with -- going back to your Exhibit 28, do you

16 recognize the two items on the table?

17 A Those are handcuffs.

18 Q Okay. Where did those handcuffs come from?

19 A They came off of us, my husband and I.

20 Q Okay. And then, with this photograph, like if you can, could

21 you use this photograph to kind of point to the jury where Jason was and

22 you were --

23 A Sure.

24 Q -- when the police came?

25 A When the police came?

1 Q Yeah.

2 A Jason was still on the --

3 Q And, Marlene, I'm going to show you something real fast.

4 A Okay.

5 Q There's a mouse right here.

6 A Oh, okay.

7 Q And then you click right here and you can actually draw on it.

8 A Oh, okay. So, basically, Jason was laying on the tile area

9 [indicating] still. And I was sitting on the kitchen table [indicating] in a

10 chair right here [indicating].

11 Q Okay, by tile --

12 A When the police came.

13 Q So, let me just get out of this snapshot real fast. Okay. So,

14 you said tile area, are you talking about over here [indicating].

15 A Right. Correct he --

16 Q -- or are you talking about over here [indicating].

17 A -- was right in front of this TV

18 Q Okay.

19 A Right there [indicating]. And I was sitting on the chair in the

20 kitchen table.

21 Q And where was the taller black male?

22 A He was standing right in front of me, kind of right here

23 [indicating] --

24 Q Okay.

25 A -- while I was sitting on the chair, so.

1           Q     Where did the majority of the struggle take -- and I'm going to  
2 actually it might be easier to show you 29. Where did the majority of that  
3 struggle between the Defendant and the taller black male and your  
4 husband take place?

5           A     It all happened on this tile right in front of the door area right  
6 here [indicating]. So, basically, all of this blood started coming from his  
7 head and it's made this puddle because he was being hit so much; and  
8 he was bleeding so much that this tile area [indicating], there was a  
9 puddle of blood right there; and then they started to slip in it because  
10 there was so much blood. And the speaker fell because of the struggle.

11          Q     Okay. I'm showing you Exhibit 44. Do you recognize what  
12 this is?

13          A     Yeah, our -- it's a lamp that fell.

14          Q     Okay.

15          A     And --

16          Q     Go on, what?

17          A     On the couch.

18          Q     Okay. So, this lamp and this table and kind of like all these  
19 objects over here [indicating]?

20          A     Yeah, everything just disarrayed.

21          Q     Okay. So, it wasn't like that before this incident?

22          A     No.

23          Q     Okay. And this couch [indicating] is this the couch that you  
24 were -- that you sat on?

25          A     Correct, yes.

1 Q When you were handcuffed? Before this and then moved you  
2 to the kitchen?

3 A Yes.

4 Q Okay. And then showing you Exhibit 45. There's a couple of  
5 items I want to point out to you in Exhibit 45. This flashlight over here  
6 [indicating], did you ever have -- did you ever see that flashlight before?

7 A No.

8 Q Okay. So, this isn't something that belongs to you or your  
9 husband, as far as you know?

10 A No.

11 Q How about this glove right here [indicating], this blue glove?

12 A No.

13 Q Okay. You didn't have blue gloves like this around in your  
14 place?

15 A No.

16 Q Okay. I'm showing kind of a close up into that area. 46. How  
17 about this black magazine?

18 A No.

19 Q That's not anything that belongs to you or your husband, as  
20 far as you know?

21 A No.

22 Q Okay. I'm showing you Exhibit 50. Do you recognize that  
23 item?

24 A Yes.

25 Q Where do you recognize it from?

1 A That was the gun that one of the men were holding.  
2 Q Which one?  
3 A The taller black male.  
4 Q Okay. So, this does not -- this item doesn't belong to you?  
5 A No.  
6 Q Okay. I'm showing you Exhibit 51. This is -- where are we at  
7 in your residence?  
8 A That's in my bedroom.  
9 Q Okay.  
10 A The window.  
11 Q Now it's a little light, so I'm going to zoom in a little. This is  
12 inside your residence, correct?  
13 A Correct, yes.  
14 Q So, I'm going to show you 52, which is just part of the wall  
15 from 51. Is that fair to say?  
16 A Yes.  
17 Q This stain right here [indicating], this red stain, was that there  
18 before this incident?  
19 A No.  
20 Q And you already talked about this frame on, Exhibit 53, that's  
21 on your bed. Is that correct?  
22 A Yes.  
23 Q And that's not -- that doesn't belong -- I mean, that wasn't how  
24 that item was before this incident?  
25 A No, it was not.

1 Q Okay. And you said that, you know -- you and Jason didn't  
2 have any firearms in the residence, correct?

3 A No.

4 Q So, if there was a silver magazine found in your apartment,  
5 firearm magazine, would that have belonged to you -- either you or your  
6 husband as far as you know?

7 A No.

8 Q Marlene, did the Defendant have permission to come into your  
9 house to try to take items?

10 A No.

11 Q Did the Defendant have permission to put you in handcuffs?

12 A No.

13 Q Did the Defendant have permission to put Jason in handcuffs?

14 A No.

15 MR. SCHWARTZER: I'll pass the witness, Your Honor.

16 THE COURT: Cross-examination?

17 **CROSS-EXAMINATION**

18 BY MR. SANFT:

19 Q Do you sell drugs out of your apartment?

20 A No.

21 Q Did you have drugs in your apartment at the time this  
22 happened?

23 A No.

24 Q Do you ever have marijuana in your apartment?

25 A No.



1 Q How about heroin?

2 A No.

3 Q Now did you, at any point, have anything in your apartment  
4 that would have been considered to be illegal?

5 A Have I ever?

6 Q Did you at this particular point have anything in your  
7 apartment that would be considered to be illegal?

8 MR. SCHWARTZER: Your Honor, I'm going to object.

9 THE COURT: Can you be more specific?

10 BY MR. SANFT:

11 Q Let me ask you this. Were you aware that police officers,  
12 when they came into your apartment --

13 MR. SCHWARTZER: Your Honor, I'm going to object and  
14 ask to approach.

15 THE COURT: Okay, why don't you approach?

16 [Bench Conference transcribed as follows:]

17 MR. SCHWARTZER: Mr. Sanft is referring to the forgery  
18 lab, right?

19 MR. SANFT: Yeah.

20 MR. SCHWARTZER: Yeah. So, there's --

21 THE COURT: To the what?

22 MR. SANFT: There's a forgery lab and that in the  
23 apartment.

24 THE COURT: Okay, but why is that relevant?

25 MR. SCHWARTZER: That would be our objection.

1 MR. SANFT: I think it goes to the issue of, I guess why he  
2 would be targeted or why they would be targeted, why she would allow  
3 somebody to come knocking on the door, open the door and like allow  
4 those people to come in.

5 MR. SCHWARTZER: I think she already gave the reason  
6 why she opened the door for -- I mean you can ask -- I think you can ask  
7 why would you open the door for her, but I think it's more prejudiced  
8 than probative and not relevant to bring in.

9 MR. SANFT: I think it just goes to the credibility of the  
10 victim as to what they would tell the police officers as to what happened  
11 after.

12 MR. SCHWARTZER: She's never been accused of having  
13 any of that stuff in there. I mean --

14 MR. SANFT: Would it go to him then?

15 MR. SCHWARTZER: I mean he was convicted of a felony  
16 based on stuff that they found in the apartment, but I  
17 mean --

18 THE COURT: Okay. And so, she was not charged or  
19 convicted of anything?

20 MR. SCHWARTZER: No.

21 THE COURT: Yeah. Then the relevance objection is  
22 sustained.

23 MR. SANFT: Okay. I'll move on.

24 [Bench conference concluded]

25 BY: MR. SANFT:

1 Q Ma'am your testimony at this time is that you opened the door  
2 up at 10:30 in the night? Is that correct?

3 A Yes.

4 Q And you opened the door because you saw a lady or a girl  
5 standing outside smiling at you through the peep hole?

6 A Somebody knocked at my door.

7 Q Right. You looked through the peep hole and you find this  
8 person standing there in front of your door smiling and you decided you  
9 wanted to open the door?

10 A Well, they knocked so I opened the door, yes.

11 Q Okay. Prior to that happening, did you tell your husband that  
12 you were going to open the door?

13 A No. I opened -- I opened the door.

14 Q Okay. Now, you said that three individuals come into your  
15 apartment at that particular point, right? You have the female plus two  
16 males?

17 A Correct.

18 Q The tall one and the short one. You've identified my client as  
19 the short one. Is that correct?

20 A Yes.

21 Q Okay. Now, you've identified the tall one as the one being  
22 with the baton?

23 A Correct.

24 Q And, during the time that they are in the apartment, the female  
25 handcuffs you and puts you on the couch at some point, right?

1           A     Correct.

2           Q     Your husband comes out of the bedroom and then they grab

3           ahold of your husband?

4           A     Right. They struggled.

5           Q     All right. Now when that happens, they are trying to handcuff

6           your husband, is that correct?

7           A     Yes.

8           Q     And he's resisting back?

9           A     Correct.

10          Q     He's fighting the two of them at that particular point?

11          A     Right.

12          Q     The person with the baton starts using the baton on your

13          husband?

14          A     Yes.

15          Q     And you had testified to the jury that during that time period

16          they are saying -- your husband is resisting -- they're telling him, do not

17          resist, do not resist, do not resist. Would that be fair to say?

18          A     Something like that.

19          Q     Right. And would it be fair -- and, once again, we're not there

20          so you have to tell this jury --

21          A     Sure.

22          Q     -- what you saw and what you experienced. But on this

23          particular night the baton was being used because your husband was

24          resisting what they were proclaiming to be an arrest?

25          A     Correct.

1 Q And it was being used by the taller of the two individuals?

2 A Yes.

3 Q They weren't just -- let me back up here -- and while your  
4 husband was resisting, he was still resisting up until the very end.  
5 Would that be fair to say?

6 A Yes.

7 Q And as he's resisting, they're still using the baton on him?

8 A Right. Yes.

9 Q Now did -- do you ever see the shorter of the two, my client,  
10 ever pick up that baton and use that baton?

11 A No.

12 Q It is always the taller of the two?

13 A Yes.

14 Q Okay. Now, at some point when you are in -- when you were  
15 in the living room area in cuffs, you said that the two police officers  
16 showed up on -- into your apartment.

17 A Yes.

18 Q And the taller of the two individuals was still there with you?

19 A Yes.

20 Q Is that correct?

21 A That is.

22 Q Did you feel or did you believe, at that particular point, that he  
23 was caught there? Meaning, he was trying to make his way to the  
24 bedroom to jump out of that back window; and he just happened to be  
25 there when the cops showed up? Or did he voluntarily stay behind?

1           A     I'm not sure.

2                   MR. SCHWARTZER: I'm going to object to speculation, Your  
3 Honor.

4                   THE COURT: I'm sorry?

5                   MR. SANFT: Well, let me ask you this. Did you -- I'll -- I will  
6 rephrase the question,

7                   MR. SCHWARTZER: Thank you, Your Honor.

8                   Thank you, counsel.

9                   THE COURT: Thank you.

10          BY: MR. SANFT:

11           Q     Did you -- when the taller of the two individuals was there,  
12 your testimony was that there was a knock at the door. Was it clear at  
13 that point that the person knocking on the door may have been  
14 Henderson --

15           A     They said it very loud, Henderson Police.

16           Q     -- Police Officers?

17                   Okay. So, that was very clear to everyone in your apartment  
18 at that point that the police was outside?

19           A     Yes.

20           Q     Oakly. And as a result of that, your testimony was the shorter  
21 of the two individuals, plus the female, go into your bedroom?

22           A     Yes.

23           Q     And they never come back out?

24           A     Correct.

25           Q     The taller out of the three of them remained in the apartment?

1 A Yes.

2 Q Did you ever see him make an effort to run into that  
3 apartment, into that bedroom before the police appeared inside your  
4 apartment?

5 A No--

6 Q So, if he stood there --

7 A He just stayed, he just stood there.

8 Q Okay. And waited basically for the police to show up?

9 A Correct. He didn't open the door.

10 Q Right. But you never saw anything that would have indicated  
11 to you that he was trying run?

12 A No.

13 Q Now, and in addition to that, you said that the two individuals,  
14 when they were there, kept telling you about a search warrant, right?

15 A Correct.

16 Q And you're saying that my client walked you over to the table,  
17 sat you down at the table and started asking you questions about  
18 maybe, possession of firearms?

19 A Yes.

20 Q The tall one did not do that?

21 A No.

22 Q Where was the taller one when that was happening?

23 A I believe he was walking from the living room area to the other  
24 bedroom. So, it happened pretty quickly.

25 Q So, the amount of time that my client was sitting at the table

1 with you, talking with you, how long would you estimate that to be?

2 A Not long. One minute, thirty seconds to a minute.

3 Q Okay. And, the taller one, did he ever participate in that  
4 conversation about the guns or anything to do with the search warrant?

5 A No.

6 Q He didn't say anything to you about a search warrant at all?

7 A No.

8 Q So, just the shorter one?

9 A Well, when they first came in, they both said they had search  
10 warrants, but after that time -- I -- it was just him.

11 Q Okay.

12 MR. SANFT: I have no further questions, Your Honor.

13 THE COURT: Any redirect?

14 MR. SCHWARTZER: Yes, Your Honor, briefly.

15 **REDIRECT EXAMINATION**

16 BY MR. SCHWARTZER:

17 Q Marlene, has anything like this happened to you before?

18 A No.

19 Q This is -- how would you describe this experience?

20 A Traumatic.

21 Q Okay. Your husband got pretty messed up from this. Is that  
22 fair to say?

23 A Yes.

24 Q He -- and he was eventually, as you said, he was transported  
25 to the hospital?



1       A     Correct, he had --

2       Q     And did you -- go ahead.

3       A     He had staples and they broke his teeth, so he was missing

4     like four teeth.

5       Q     Did he basically struggle after this attack?

6       A     He was definitely in a lot of pain.

7       Q     Okay. So, and this -- how much time do you think happened; I

8     mean, how much time are we talking about? Are we talking about an

9     hour, are we talking about thirty minutes, are we talking about ten -- like

10    how much time?

11      A     It's like ten, fifteen minutes.

12      Q     Okay.

13      A     It all happened so quickly.

14      Q     Okay. And did you know something like this was going to

15    happen to you that night?

16      A     No, not at all.

17      Q     So, and there's a lot of -- there's three -- at least three people

18    that you don't know -- well, let me ask you this, have you met the

19    Defendant before?

20      A     No.

21      Q     Have you met that white female before?

22      A     No, not at all.

23      Q     Have you met that taller black male before?

24      A     No.

25      Q     So, you've never seen these three individuals before?

1 A Never.

2 Q So, you have these three people in your house at 10:30 at  
3 night doing these things in this quick kind of time period?

4 A Correct, yes.

5 Q Okay. And, Mr. Sanft talked a little bit about the Defendant's  
6 actions, you know, about, you know, who was striking your husband.  
7 The Defendant, Mr. White, you said he yelled, search warrant?

8 A Correct.

9 Q He was wearing specific clothes?

10 A Yes. He had a -- all black with a vest and at the very top of his  
11 shirt said U.S. Marshals.

12 Q Okay. You said he was carrying what appeared to you to be a  
13 gun?

14 A Yes, a handgun.

15 Q Okay. And he's actually the one that took you from the couch  
16 to the kitchen?

17 A Yes.

18 Q And he showed you paperwork?

19 A Yes.

20 Q And he asked you questions?

21 A Yes.

22 Q About what items may be in your house?

23 A Right.

24 Q Okay. Did you ever see the taller black male or the white  
25 female demand or threatening the Defendant to do any of that?

1           A       No.

2           MR. SCHWARTZER: I have no further questions.

3           THE COURT: Any re-cross?

4           MR. SANFT: No, Your Honor.

5           THE COURT: Okay. Thank you very much for your testimony  
6 here today. You may step down.

7           THE WITNESS: Thank you.

8           THE COURT: You are excused. We're going to take a  
9 recess.

10                   During this recess you are admonished not to talk or  
11 converse amongst yourselves or with anyone else on any subject  
12 connected with this trial or read, watch or listen to any report or  
13 commentary on the trial or any person connected with this trial, by any  
14 medium of information, including, without limitation, newspapers,  
15 television, the Internet, radio; or form or express any opinion on any  
16 subject connected with this trial until the case is finally submitted to you.

17                   We'll be on a fifteen-minute break.

18           THE MARSHAL: Thank you. All rise for the exiting jury,  
19 please. Jurors.

20                               [Recess taken at 3:10 p.m.]

21                               [Proceeding resumed at 3:26 p.m.]

22                               [Outside the presence of the jury]

23           THE COURT: Okay. The record will reflect that the hearing is  
24 taking place outside the presence of the jury panel. Go ahead.

25           MR. SCHWARTZER: Your Honor, the next witness is Jason

1 Cliff, and as you probably heard a little bit, obviously, during the  
2 questioning of Marlene, there is an issue what Defense can get into  
3 regarding him as a witness.

4 Obviously, he has two felony convictions, both of which we  
5 stipulate do come in; in fact, we'll be bringing it up, it's a 2016 grand –  
6 attempt grand larceny, which he was out on bail when this occurred on,  
7 and a 2017 possession of identification of another. That occurred after  
8 this incident; in fact, based on what happened in this case, the police  
9 being inside the apartment, they found evidence of him possessing IDs  
10 of another and using it; and he was charged with that and was convicted  
11 of a felony and actually went to prison for it.

12 So, obviously, the felonies come in. We would argue that the  
13 – you know what exactly was in that apartment isn't relevant for this  
14 case. It's not, obviously, a defense to the robbery or attempt robberies,  
15 the kidnappings, the battery, the impersonation of a police officer.

16 So, we believe this should be limited just to that he was  
17 convicted of a felony. Whether, you know, Mr. Sanft wants to bring up  
18 the fact that this was a felony, that you were convicted of a felony based  
19 on stuff found in their apartment, I guess that could be fair game, but  
20 anything – you know specific details into what was actually found in the  
21 apartment, which is a totally different case; and quite frankly, I was  
22 walled off with it because I couldn't -- obviously, I can't prosecute a  
23 victim in my case. We believe it is not appropriate at the trial for cross-  
24 examination.

25 A side note to that, there is some mention of heroin being

1 taken, not only --

2 THE COURT: I'm sorry. There is what?

3 MR. SCHWARTZER: Some mention of a little bit of heroin  
4 being taken in this case.

5 THE COURT: Okay.

6 MR. SCHWARTZER: Amanda Sexton, who's the co-  
7 defendant in this case who's going to testify against Mr. White in this  
8 trial, does bring up the fact that heroin was taken -- a little bit of heroin  
9 was taken in this case.

10 Mr. Cliff does admit that there was a small amount of heroin in  
11 his apartment. So, there is going to be some mention of heroin and I  
12 think that does come in. And, quite frankly, from Amanda Sexton, that  
13 was the motive for going into this apartment. So, we do agree that  
14 mention of the heroin does come in but anything else regarding the  
15 possession or ID of another, we would say should not -- should be  
16 excluded.

17 MR. SANFT: Okay.

18 THE COURT: All right.

19 MR. SANFT: Yeah. I mean there's --

20 THE COURT: Are you okay with the parameters?

21 MR. SANFT: I --

22 THE COURT: Okay.

23 MR. SANFT: Yeah. I think that's fair, Your Honor.

24 THE COURT: Okay. All right, well, that was easy.

25 MR. SANFT: Thank you, Your Honor.

1 MR. SCHWARTZER: I just wanted us – I just wanted to make  
2 it clear before we –

3 THE COURT: Okay.

4 MR. SCHWARTZER: -- so we don't argue when the jury is  
5 here.

6 THE COURT: Sure. Thank you. You can bring them in.  
7 And he's your next witness?

8 MR. SCHWARTZER: He's our next witness.

9 THE MARSAL: All rise for the entering jury, please.

10 [In the presence of the jury]

11 THE MARSHAL: Thank you. Everyone, please be seated.

12 THE COURT: Does the State stipulate to the presence of the  
13 jury panel?

14 MR. SCHWARTZER: Yes, Your Honor.

15 THE COURT: Mr. Sanft?

16 MR. SANFT: Yes, Your Honor. Thank you.

17 THE COURT: Okay. You may call your next witness.

18 MS. LUONG: Thank you. The State calls Jason Cliff.

19 THE MARSHAL: If you will please step up into the witness  
20 stand. Remain standing, raise your right hand and face the Clerk,  
21 please.

22 **JASON CLIFF**

23 [The witness is sworn in by the Clerk]

24 THE CLERK: You may be seated. Please state and spell  
25 your first and last name for the record.

1 THE WITNESS: Jason Cliff. J-A-S-O-N C-L-I-F-F.

2 MS. LUONG: May I begin?

3 THE COURT: Yes, you may.

4 MS. LUONG: Thank you.

5 [Having been called as a witness and being first duly sworn testified as follows:]

6 **DIRECT EXAMINATION**

7 BY MS. LUONG:

8 Q Hi, Jason. I want to direct your attention back to January 20,  
9 2016. Were you living at 950 Seven Hills --

10 A Yes.

11 Q -- at that time? And were you in apartment 2511?

12 A Yes.

13 Q Who were you living there with?

14 A My wife, Marlene Burkhalter.

15 Q Okay. And during that time, were you home that night?

16 A Yes.

17 Q And, then at approximately 10:45 p.m., I just want to talk to  
18 you about that night. Where were you when this incident first  
19 happened?

20 A I was in the office, another room we have, basically like a  
21 computer room.

22 Q Okay, how many bedrooms do you have in that apartment?

23 A Two.

24 Q So, you were in the office -- second bedroom?

25 A Yes, second bedroom.

1 Q And there is a master bedroom?

2 A Yes.

3 Q And when you were in the office, did you hear anything?

4 Q Yeah, somebody knocking at the door.

5 Q And after that what did you hear?

6 A Just like a bunch of commotion and then I came out to the

7 room and seen my wife handcuffed and she was like crying and then

8 three people were in there.

9 Q So, when you said you went into the room, do you mean the

10 living room?

11 A Yes, the living room.

12 Q And then you say you saw your wife handcuffed?

13 A Yes.

14 Q Where was your wife standing or sitting?

15 A Near the couch.

16 Q And was she on the ground?

17 A Yeah, well it was like near the couch. I can't -- I can't really

18 recall if she was standing or sitting, though. But she was sitting down at

19 the couch.

20 Q Okay. And she was already handcuffed?

21 A Yes.

22 Q And then you said there were three other people in the room?

23 A Yes.

24 Q And what did those people look like?

25 A There was two African-American males and one Caucasian



1 girl.

2 Q Okay. And the two African-American males, can you tell me  
3 what they looked like?

4 A One of them was tall, like a medium build and the other one  
5 was shorter, I guess compared to him, and average build.

6 Q Okay. And do you see either of them in the courtroom today?

7 A Yes.

8 Q And which one do you see?

9 A The shorter of the two.

10 Q And can you point to him and identify a piece of clothing he's  
11 wearing?

12 A Purple shirt.

13 MS. LUONG: And, Your Honor, will the record reflect  
14 identification of the Defendant?

15 THE COURT: So reflected.

16 BY MS. LUONG:

17 Q Now, you said you also saw a white Caucasian female?

18 A Yes.

19 Q Can you describe what she looked like?

20 A Younger, she had like her hair pulled back and she was  
21 wearing a hat and jacket. Facial features, I mean I can't really describe  
22 it, I mean just fair -- fair skin, I guess.

23 Q Okay. Do you remember what she was wearing?

24 A Sort of like all black, I remember she had boots on.

25 Q Okay. And for the two African-American males, what were

1 they wearing?

2 A Like one of them had brown pants, a black shirt; and then the  
3 other one I can't recall but I know it had like a jacket with what looked  
4 like -- it said U.S. Marshals on the back.

5 Q Okay, and do you remember was it the taller one or the  
6 shorter one wearing -- the one with the jacket?

7 A The taller one.

8 Q Okay. And then other one, you said, was wearing a black shirt  
9 and brown pants?

10 A Yes.

11 Q Okay. Now, when you walked into the living room, did they  
12 say anything to you?

13 A Yeah, they basically told me to like get into these handcuffs.  
14 They were pretty much adamant about me putting the handcuffs on.

15 Q Did they tell you why they were there?

16 A They said they were there to do a search warrant for some  
17 sort of tax evasion or something like that.

18 Q Okay, so they said that they were going to -- they were there  
19 to do a search warrant on tax evasion? I'm sorry. It's a little hard to  
20 hear you.

21 A Oh, sorry, yeah. A search warrant for a tax evasion and I  
22 asked to like speak with their commanding officer and I kind of like  
23 beelined towards the door and then that's when I was struck on top of  
24 the head with a -- with -- with a -- metal baton.

25 Q And when you say you beelined towards the door, what does

1 that mean?

2 A Like I had it in my sight and I kind of like tried to walk past  
3 them, I guess to -- just go outside to try to get help or just actually try to  
4 see if there was like other police involved, you know; because I was  
5 asking to speak with their superior.

6 Q Okay. And you actually -- so at that time, did you think  
7 something was wrong?

8 A Yes.

9 Q Why?

10 A Well, just because of the way that they were talking and  
11 yelling and like just it's not like a protocol that a normal police officer  
12 would do.

13 Q Okay. Thank you. And you've actually been convicted of a  
14 felony for an attempt grand larceny before in 2016?

15 A Yes.

16 Q And you've also been convicted of using and possession of  
17 identification of another in 2017?

18 A Yes.

19 Q And that was also a felony?

20 A Um, hm. [Witness nods head.]

21 Q Now, based on your previous encounter, did you realize that  
22 there was something wrong with this?

23 A Yes.

24 Q So, you stated when you tried to go out, you got hit in the  
25 head with a --

1           A     Like a, like a --a baton or a like a metal -- a hasp I think they  
2 call it.

3           Q     Okay, and did you see who hit you?

4           A     Yes.

5           Q     Who hit you?

6           A     The gentleman over there.

7           Q     Do you mean the Defendant?

8           A     Yes, the Defendant.

9           Q     Okay. And where was the taller male at this time?

10          A     He was like -- he was like in front of me and the Defendant  
11 was behind me and they both were like wrestling me to the ground to  
12 basically get into the handcuffs.

13          Q     Okay. And when you say they both were wrestling, can you  
14 kind of describe to us how that happened?

15          A     So, like when I went towards the door, I was hit from behind  
16 and then I kind of like buckled to the ground and then he just started --  
17 like he just kept hitting me with it, with that -- with that --

18          Q     When you say he, who do you mean?

19          A     The Defendant.

20          Q     He kept hitting you with what?

21          A     That hasp or that baton. And it was to a point where, you  
22 know, like I lost -- I almost lost consciousness but I mean I definitely  
23 seen like stars and I noticed there was like a lot of blood, and I felt the  
24 heat from it.

25                 And then there was just like he just kept on; you know, even

1     though I was willing to comply, you know, to put them on. It just wouldn't  
2     stop. I was screaming stop, help, please, you know, like stop. And I  
3     remember my wife was like saying, you know, please stop, you know  
4     like, you're hurting him, you know like this is unnecessary; and so, finally  
5     I complied and you know, I put -- I put the handcuffs on.

6           Q     And was either of the gentlemen saying anything to you while  
7     they were hitting you?

8           A     I don't recall what they were saying, but I mean I know they  
9     were just acting in character as if they were like real police, you know,  
10    like okay, so what do -- what do we have; and the Defendant and the girl  
11    were going in between the rooms and then like everybody was kind of  
12    like catching their breath after -- after it; and then I just told them, you  
13    know, look just take whatever you want and just leave please. And  
14    they --

15          Q     Okay. Did you see, did they have any other weapons with  
16    them besides the asp?

17          A     Yeah, one of them had with -- what looked like an assault rifle.  
18    I recall like a couple of handguns as well. That's what they had when  
19    they first walked in.

20          Q     Okay. So, when they first walked in you saw the guns?

21          A     Yes.

22          Q     Do you remember who had the assault rifle? It's okay if you  
23    don't remember.

24          A     Yeah. I don't recall.

25          Q     And do you recall --

1           A     I think the taller guy had the assault rifle and the Defendant  
2 had like a pistol, a handgun.

3           Q     Okay. Do you remember what color that pistol or handgun  
4 was?

5           A     Black.

6           Q     And you said, at some point, they stopped beating you and  
7 they got the handcuffs on you?

8           A     Um, hm.

9           Q     So, that's when you said the Defendant and the girl went into  
10 the rooms?

11          A     Um, hm.

12                   THE COURT: Is that a yes?

13                   MR. SANFT: Is that a yes?

14                   THE WITNESS: Yes.

15                   THE COURT: Thank you.

16                   MS. LUONG: I'm sorry. Thank you.

17 BY MS. LUONG:

18          Q     And what was the taller guy doing at that time? Do you  
19 remember?

20          A     No.

21          Q     That's okay.

22          A     No, no, not at that time.

23          Q     Do you remember if you ever tried to grab any of their guns?

24          A     No. I think when they first came in and he had the gun  
25 pointed at me, the taller guy, had the gun pointed at me, I kind of like

1 when I was going towards the door, I put my -- I put my arm up to just  
2 kind of like get it out of my face.

3 And that's when I started walking, you know, like trying to --  
4 trying -- not really bolt, but like walk towards the door and then that's  
5 when I was struck from behind. But, as far as grabbing the gun, no, I  
6 didn't.

7 Q Okay.

8 A I didn't grab the guns from them.

9 Q And do you remember if they went into your pockets at all?

10 A Yes.

11 Q Okay. And did they -- what did it seem like?

12 A I mean they were just like checking my pockets and because I  
13 had a phone -- actually I was like trying to call 911 and it was just  
14 knocked out of my hand as soon as I was hit.

15 Q Okay. And you said you that were on the ground and then the  
16 Defendant and the white female went into the rooms and, at some point,  
17 did you hear a knock on the door?

18 A Yes.

19 Q Okay. And how long after that did it happen. How long after  
20 the beating did you hear the knock?

21 A I would say it wasn't long at all. It was maybe five -- five  
22 minutes, ten minutes at the most. But I know it was pretty quick though.

23 Q Okay. So, what did you do when you heard the knock on the  
24 door?

25 A I was yelling for help and basically, they identified themselves

1 as police and I seen police lights outside.

2 Q What do you mean you seen police lights outside?

3 A The balcony window, sliding glass window, was slightly  
4 cracked a little bit and I could see the lights of -- of police cars outside  
5 like blue and white strobe lights.

6 Q Okay.

7 A And then like a couple seconds after, that's when they were  
8 knocking on the door; and then when they were asking if like we needed  
9 assistance and I said you know, yes, please. And then they -- one of  
10 them came in through the balcony and then the other one was at the  
11 door.

12 Q Okay. And then do you remember if you talked to them right  
13 away when they first came?

14 A The police?

15 Q Yes.

16 A I just remember them stepping in and then the taller guy said  
17 something to them and somehow, like I was able to walk out and, you  
18 know -- before when they knocked on the door, the Defendant asked the  
19 taller guy, like who is it? And he -- and he said it was backup.

20 So, I was like still kind of thinking like, you know, this could  
21 possibly be legitimate where they're just, you know, beating people up  
22 like that. You know, but I just knew that they -- it wasn't real, so they --  
23 when he said that his back up was here, he -- the Defendant and the --  
24 and the -- and the lady, the girl just took off to the master bedroom.

25 Q Okay. So, you said kind of a lot of things there, so I'm going



1 to break it down a little bit, okay?

2 A Um, hm.

3 Q Now, you said that you heard the knock on the door.

4 A Um, hm.

5 Q And at that time were you still on the ground?

6 A Yes.

7 Q Okay. And then after the knock on the door, who said, who  
8 was that?

9 A The Defendant.

10 Q Okay. And the taller guy responded?

11 A It's backup.

12 Q And at that time what were you thinking?

13 A Like I was relieved that they were there so they would stop,  
14 you know. Like, you know, they hurt me. I was unsure of the situation  
15 like if they were real police or not, you know cops.

16 Q Okay.

17 A Or, what they said they were, Marshals. And then I was just  
18 kind of surprised that they were still acting like in character.

19 Q Okay. So, the Defendant and the white female goes into  
20 which room?

21 A The master.

22 Q The master bedroom?

23 A Yeah.

24 Q And you say the taller white -- the taller African-American male  
25 stays in the living room with you?

1           A       Stays in the living room by the door because he looked out the  
2 peephole.

3           Q       Okay. So, when the officers came in, did you see or did you  
4 hear what the taller male said to the officers?

5           A       I mean, something to the effect of about a suspect who is to  
6 the left of the building and that, you know, he told him what he was  
7 wearing like and then he somehow, I guess identified himself as a U.S.  
8 Marshal or had a badge I believe; and they -- what seemed like they  
9 believed him and went around the corner to go look for whoever he was  
10 telling them to look for. And then at the same time, he took off, I guess,  
11 in his vehicle that he had outside.

12          Q       Okay. And when they first came in -- so, when the police first  
13 came in and the taller black male said that, did you try to tell the police  
14 that they weren't U.S. Marshals?

15          A       Yes, but -- well, the first -- the officer that came in through the  
16 balcony was asking, you know, what was going on and then that's when  
17 the taller guy took off out the door. And then the other police officer, I  
18 guess, ran back around the building to the left.

19          Q       Okay. So, fair to say, you don't know what happened outside,  
20 right?

21          A       Yeah. I don't know.

22          Q       Okay. So, the police officer came in, the taller black male said  
23 something, so they ran outside, and then they leave.

24          A       Um, hm.

25          Q       Now, during that conversation did you try to interrupt them to

1 say, hey, this guy's not a --

2 A Yes.

3 A -- U.S. Marshal?

4 A Like I said, that basically -- I can't really recall exactly what I  
5 said to him, but I know I was like screaming for help.

6 Q Okay. And then, fair to say, another officer stayed with you,  
7 correct?

8 A Yes.

9 Q And then you were able to tell him

10 A Yeah, he --

11 Q -- what happened eventually?

12 A Um, hm. He actually was trying to take the cuffs off at that  
13 point and he didn't have a key for it. So, he was trying to -- he was like  
14 just hang on, hang tight, you know, we'll figure out what's going on; and  
15 said that, you know, that, that, that medical -- that there would be a  
16 paramedics coming right now.

17 Q Okay, and fair to say, at that point you were beaten pretty  
18 badly?

19 MR. SANFT: Objection, Your Honor, leading.

20 THE COURT: You are leading.

21 MS. LUONG: I will rephrase, Your Honor.

22 THE COURT: Thank you.

23 BY MS. LUONG:

24 Q And, at that point, how were your injuries?

25 A They were -- there was a lot of blood and I know there was a

1 lot of pain along my back and my leg; and, of course, on top of my head  
2 and then my mouth.

3 Q Okay. And so, eventually were they able to get the handcuffs  
4 off of you?

5 A Yes.

6 Q And then did they take you to the hospital?

7 A Yes.

8 Q Okay. Now, during that time in 2016, were you using heroin?

9 A Yes. Yes.

10 Q And did you actually have some heroin in the house that day?

11 A I had a little bit for personal use.

12 Q Okay. Now, I'm going to show you some photos of that night.  
13 I'm showing you State's Exhibit 231. Do you recognize this man?

14 A Yes.

15 Q And who is that?

16 A He is the taller -- taller -- taller guy of the two.

17 Q So, was he the taller one --

18 A He was the taller guy of the two.

19 Q Okay. That was at your apartment that day?

20 A Yes.

21 Q And then I'm showing you State's Exhibit 232. Do you  
22 recognize this photo?

23 A Yes.

24 Q And is that the white female that was there that day?

25 A Yes. Yes.

1 Q Okay. I'm going to show you some photos of your apartment,  
2 okay?

3 A Um, hm.

4 Q I'm showing you State's Exhibit 11. What is this a picture of?

5 A Um --

6 Q Does that appear to be the outside of your apartment complex  
7 [indicating]?

8 A Yes.

9 Q And is that 2511 right here [indicating]?

10 A Yes.

11 Q And is that your apartment number?

12 A Yes.

13 Q And do you recognize that piece of clothing on the ground?

14 A I believe it's what I had on.

15 Q Okay.

16 A Yeah.

17 Q I'll zoom in a little more if that helps. Does that look like what  
18 you had on that day?

19 A Yes, the top. Yeah.

20 Q And does -- does it look like there's blood on it?

21 A Yes.

22 Q Was there blood on that before the incident?

23 A No.

24 Q I'm showing you State's Exhibit 25. What are you looking at  
25 here? Sir, what are you looking at?

1           A     Um, that's -- that's the object that I was being struck with.

2           Q     Okay. Thank you. I'm showing you State's Exhibit 28. Now,

3 this is a picture of your living room, right?

4           A     Yes.

5           Q     Okay. Can you kind of tell the ladies and gentlemen of the

6 jury where you were situated when the police officers arrived?

7           A     The lower part of the picture, it's like right in front of the coffee

8 table.

9           Q     Okay so there's actually a mouse in front of you and if you

10 want to use it, you can kind of write on it, kind of like on an NFL football

11 screen. If you click on it, it writes.

12          A     So, yeah, I was laying on the ground right here [indicating].

13 I'm kind of facing towards the door.

14          Q     Okay. And do you remember where Marlene was?

15          A     I think at first, she was on the couch and then she was in the

16 living room; or, sitting on a chair in the dining room. But I recall her

17 being behind me so that would've put her on the couch over here

18 [indicating].

19          Q     Okay. And do you remember where the taller black male was

20 when the police first arrived?

21          A     He was standing right here [indicating] here the whole time.

22          Q     Okay. Now, I'm showing you State's exhibit --

23               MR. SANFT: I'm sorry, just for the record, it looks like the

24 witness is pointing with the mouse to the left side --

25               THE WITNESS: Yeah.

1 MR. SANFT: -- of the photograph closer to where the fallen  
2 speaker is and that's in State's Exhibit Number --  
3 MS. LUONG: 28.  
4 MR. SANFT: -- 28.  
5 MS. LUONG: Thank you.  
6 THE COURT: Thank you.  
7 BY MS. LUONG:  
8 Q Now, I'm showing you State's Exhibit 30. Is this a different  
9 view of the living area?  
10 A Yes.  
11 Q Now, I'm going to zoom in right here towards the door. Do  
12 you see what's on the ground right here [indicating]?  
13 A Right here, the blood or --  
14 Q Yes, is --  
15 A Yes.  
16 Q Do you know what that's from?  
17 A I assume from me.  
18 Q Is that where you got into the --  
19 A Yes.  
20 Q -- incident with the two males?  
21 A Yes.  
22 Q And the struggle ensued?  
23 A Yes.  
24 Q Okay. Now, I'm showing you State's Exhibit 45. Is this a  
25 picture of your guys' living room, the rug area?

1 A Yes.

2 Q And do you see this black flashlight right here [indicating]?

3 A Yes.

4 Q Does that black flashlight belong to you?

5 A No.

6 Q And do you know if it belongs to Marlene?

7 A No, it doesn't.

8 Q And I'm showing you State's Exhibit 46. Do you see that black

9 magazine?

10 A Yes.

11 Q And does that belong to you?

12 A No.

13 Q And does that belong to Marlene?

14 A No.

15 Q I'm showing you State's Exhibit 50. Do you recognize that?

16 A Yes.

17 Q What is it?

18 A It's the gun that the taller guy had, I believe.

19 Q Okay. And so that doesn't belong to you, correct?

20 A No.

21 Q And it doesn't belong to Marlene?

22 A No.

23 Q Okay. Now, I'm showing you State's Exhibit 51. Is this a

24 photograph of your master bedroom window?

25 A Yes.



1 Q And was that open before this incident?

2 A No.

3 Q I'm showing you State's Exhibit 53. And is that a picture of

4 your bed?

5 A Of my what?

6 Q Of your bedroom?

7 A Oh, yes.

8 Q The mattress?

9 A Um, hm.

10 Q And what is there -- what is on there?

11 A A screen. It looks like a screen.

12 Q Was that screen on your bed before this incident?

13 A No.

14 Q Now, you were taken to the hospital that night so I kind of

15 want to show you some pictures from the hospital. Do you remember

16 the officers responding to the hospital too?

17 A Yes.

18 Q To talk to you?

19 A Um, hm.

20 Q And then they took some photographs?

21 A Yes.

22 Q Okay. I'm showing you State's Exhibit 68. Is that you?

23 A Yes.

24 Q From that night?

25 A Yes.

1 Q And I'm showing you State's Exhibit 69. Is that a closeup of  
2 your face?

3 A Yes.

4 Q I'm showing you State's Exhibit 70. Is that a closeup of your  
5 mouth?

6 A Yes.

7 Q I'm showing you State's Exhibit 71. Is that another closeup of  
8 your mouth?

9 A Yes.

10 Q And what kind of injuries did you actually sustain to your  
11 mouth area [indicating]?

12 A A couple of cracked teeth and one, like one tooth completely  
13 was -- was gone and it like chipped others -- the other teeth.

14 Q Okay. So, you got a few chipped teeth and one was gone?

15 A Um, hm. Yes.

16 Q And what kind of work did you have to get done to fix that?

17 A It was just a lot of visits to the dental office. They did bridges  
18 and crowns and they had to do some, like I guess, minor surgery to  
19 install the bottom tooth there.

20 Q Okay. And about over how long a period of time did you have  
21 to make visits to them?

22 A For about six months.

23 Q About six months?

24 A Yes.

25 Q Okay. And did you sustain those injuries from what happened

1 that night?

2 A Yes.

3 Q I'm showing you State's Exhibit 72. Is that a closeup of your  
4 forehead?

5 A Yes.

6 Q I'm showing you State's Exhibit 73. Is that your right wrist?

7 A Yes.

8 Q And can you try to describe what we're looking at here.

9 A Marks from the handcuffs. They were pretty tight.

10 Q Okay. And then State's Exhibit 74. Is this a closeup of those  
11 marks?

12 A Yes. I can't tell, is it --

13 Q I'm sorry --

14 A -- a bicep or is that a wrist? Oh, yeah.

15 Q I'm sorry, I'll move it up a little bit. Maybe it helps with these  
16 side by side.

17 A Yes. Yeah.

18 Q And that's injuries to your wrist, correct?

19 A Yes.

20 Q From the handcuffs?

21 A Yes.

22 Q So, I'm showing you State's Exhibit 75. Is this your left hand?

23 A Yes.

24 Q And is that injuries from the handcuff?

25 A Yes.

1 Q Okay. I'm going to go on to the injuries sustained on your  
2 head. I'm showing you State's Exhibit 76. Can you tell us what we're  
3 looking at here?

4 A The side of my face and head.

5 Q And then I'm showing you State's Exhibit 77. Is that a  
6 closeup?

7 A Yes.

8 Q And did you actually have to get staples there?

9 A Yes.

10 Q Do you know how many you had to get?

11 A I believe it was like around twenty; it was like sixteen or  
12 something like that, sixteen.

13 Q Around sixteen?

14 A Um, hm.

15 Q Okay. And then I'm showing you State's Exhibit 78. Is that a  
16 photo of your right shoulder?

17 A Yes.

18 Q And do you see these injuries right here [indicating]?

19 A Yes.

20 Q Is that a result of that night?

21 A Yes.

22 Q I'm showing you State's Exhibit 79. Is this the left side of your  
23 back?

24 A Yes. Yes.

25 Q I'm showing you State's Exhibit 80. Is that a closeup?

1 A Yes.

2 Q State's Exhibit 81.

3 A Yes.

4 Q Is that another closeup of the bottom of your back?

5 A Yes.

6 Q And State's Exhibit 82. Is that your upper left back arm?

7 A Yes.

8 Q Now, obviously you experienced pain from these injuries?

9 A Yes.

10 Q How long would you say you were in pain for?

11 A I would say about a month or two. It's like --

12 Q I'm sorry it's hard to hear.

13 A Like a month or two.

14 Q For your back?

15 A Yes.

16 Q And for your head, do you still experience pain in your head?

17 A Yeah, I mean I get headaches. Sometimes they last for 24 to

18 48 hours. I mean, I don't know if it's from the result of the injuries but it's

19 something that's happened ever since --

20 Q Okay.

21 A -- and that I've never had before.

22 Q Okay. So, you never had those headaches before?

23 A No.

24 Q But you've had them since?

25 A [No audible response.]

1 Q Did you give anyone permission to enter your house that  
2 night?  
3 A No.  
4 Q Have you seen any of these people before?  
5 A No.  
6 MS. LUONG: Court's indulgence, Your Honor.  
7 BY MS. LUONG:  
8 Q Now, just to back up a little bit, when they first -- when the  
9 three people first came into your house, they claimed they had a search  
10 warrant?  
11 A Yes.  
12 Q And they said it was for tax evasion?  
13 A Yes.  
14 Q But did they say anything else about any weapons?  
15 A They asked if -- where -- they were asking where the weapons  
16 were, where the vault is, and I just -- I had no idea what they were  
17 talking about.  
18 Q And do you have weapons in your house?  
19 A No.  
20 Q Do you have guns in your house?  
21 A No.  
22 Q Do you have a vault in your house?  
23 A No.  
24 MS. LUONG: Okay. Pass the witness.  
25 THE COURT: Cross?

1 **CROSS-EXAMINATION**

2 BY MR. SANFT:

3 Q Sir, did you tell this jury that you use heroin?

4 A Yes.

5 Q As you say, you use it for casual use or personal use. Is that  
6 correct?

7 A Yes. I mean, at the time I was on a -- like a detox program  
8 with suboxone so I did have like a little bit of heroin at the house; but I  
9 wasn't actively using it every day. It was just something that I was trying  
10 to combat and beat -- it was a struggle with addiction that I've had and,  
11 so. But I wasn't actively using it every day.

12 Q Okay. And you told this jury that the person that was holding  
13 the baton was my client?

14 A Yes.

15 Q There was pictures, multiple pictures, shown to this jury of  
16 injuries caused by that baton; and you're saying my client is the one  
17 swinging that baton and hitting you in those areas?

18 A Yes.

19 Q Are you absolutely sure?

20 A Yes.

21 MR. SANFT: I have no further questions, Your Honor.

22 THE COURT: Any redirect?

23 MS. LUONG: No, Your Honor.

24 THE COURT: Okay. Thank you very much for your testimony  
25 here today. You may step down. You are excused from your subpoena.

1 THE WITNESS: Thank you.

2 THE COURT: You may call your next witness.

3 MS. LUONG: Your Honor, the State calls Officer Jeremy  
4 Leinan.

5 THE MARSHAL: I'm sorry, the name?

6 MS. LUONG: Officer Jeremy Leinan.

7 **JEREMY LEINAN**

8 THE MARSHAL: Please step up onto the witness stand,  
9 remain standing, raise your right hand and face the Clerk, please.

10 [The witness was sworn in by the Clerk]

11 THE CLERK: You may be seated. Please state and spell  
12 your first and last name for the record.

13 THE WITNESS: Officer Jeremy Leinan. J-E-R-E-M-Y L-E-I-  
14 N-A-N.

15 MS. LUONG: May I proceed, Your Honor?

16 THE COURT: You may.

17 MS. LUONG: Thank you.

18 [Having been called as a witness and being first duly sworn testified as follows:]

19 **DIRECT EXAMINATION**

20 BY MS. LUONG:

21 Q How are you employed?

22 A I'm a patrol officer with Henderson Police Department.

23 Q And how long have you been doing that for?

24 A A little over thirteen years.

25 Q What kind of training and experience do you have as a patrol



1 officer?

2 A Responding to calls for service, investigations, firearms  
3 training --

4 Q Did you have to go to the academy?

5 A -- defensive tactics. Yes.

6 Q And how long was the academy?

7 A Approximately six months.

8 Q Do you have to go through yearly training?

9 A Yes.

10 Q What kind of yearly training?

11 A Most of the same training we cover during the academy, just a  
12 refresher throughout the year, defensive tactics, legal updates, firearms  
13 training, vehicular driving.

14 Q Okay. And what kind -- what's your jobs and duties as a  
15 police officer?

16 A Responding to calls for service, investigating, determining if a  
17 crime has been committed, if there's any help that needs to be assisted.

18 Q Okay. Now I want to direct your attention back to January 20,  
19 2016. Were you working as a patrol officer at that time?

20 A Yes, I was.

21 Q And at approximately 11:00 p.m. did you get a call to respond  
22 to 950 Seven Hills, apartment 2511?

23 A Yes.

24 Q What was the nature of that call?

25 A It was an unknown problem. An anonymous neighbor had

1 called stating that they heard a female inside yelling and a man yelling  
2 back at her to shut up.

3 Q So, did you respond to that call alone?

4 A No, I was with another officer.

5 Q Who was that officer?

6 A Officer Matt Engel.

7 Q And you guys responded around the same time?

8 A Yes.

9 Q Now I'm going to show you State's Exhibit 1. Do you  
10 recognize this as a front view of the complex you responded to?

11 A Yes.

12 Q Now, when you first arrived where did you go?

13 A We entered through the front, where it's the "you are here"  
14 sign.

15 Q Okay.

16 A And then turned left.

17 Q Okay. So, sorry to interrupt you but there's a mouse in front of  
18 you and you can actually click on it and if you click that little -- here, let  
19 me do it. Click this blue pen and you can actually draw now.

20 A Okay. So, we entered through this way [indicating], made a left  
21 turn and parked somewhere around here [indicating].

22 Q And where is 2511 on there?

23 A I believe this is building 25 [indicating] and it should be this  
24 bottom corner apartment right there [indicating].

25 Q And why did you guys park over there instead of parking in

1 front of 2511?

2 A We train not to park directly in front of the address we're going  
3 to.

4 Q And why is that?

5 A For safety reasons.

6 Q Okay. So, as -- so you got -- you parked there and I assume  
7 you got out of your car?

8 A Yes.

9 Q And when you walked up did you notice anything?

10 A There was a neighbor out on his patio across the way, I  
11 believe and there was a person walking in the parking lot, near that  
12 building.

13 Q Now when you walked up who approached the door first?

14 A Officer Engel.

15 Q Okay. And, where were you?

16 A I was set back, out covering the patio area.

17 Q And what happened when you guys approached the door?

18 A Officer Engel approached the door and knocked on it. I had a  
19 view of the patio and the sliding glass door. I --

20 Q So --

21 A Sorry.

22 Q Sorry to interrupt you, sir. So, when you first approached the  
23 apartment, did you hear anything?

24 A I didn't hear anything initially.

25 Q Okay. And then after Officer Engel knocked on the door did

1 you hear anything?

2 A I did.

3 Q What did you hear?

4 A I heard a male's voice yelling, help me.

5 Q I'm showing you State's Exhibit 10. Is that the apartment you  
6 guys responded to?

7 A Yes.

8 Q And can you show me where, on the picture, you were  
9 standing?

10 A Just right about here [indicating] on the sidewalk/gravel area.  
11 So, I had a view of down the sidewalk towards where officer Engel was.  
12 But I could also see the patio here [indicating].

13 Q Okay, now you stated that you heard a male yell, help?

14 A Yes.

15 Q Did you see or hear anything else?

16 A The sliding glass door was slightly ajar, probably six to eight  
17 inches, and the vertical blinds were closed initially. When I heard this --  
18 the male yell for help, the blinds were hit by something causing them to  
19 move back and forth which allowed me to see inside.

20 Q And what did you see inside?

21 A I saw a male laying on the ground in a white tee shirt covered  
22 in blood.

23 Q And, based on that, what did you do?

24 A I notified Officer Engel and then proceeded to crawl over that  
25 gate there and opened the sliding glass door and entered into the

1 apartment.

2 Q Why did you do that?

3 A Because there was a need for a -- somebody was yelling for  
4 help and part of our duties is to see if there is any aid that needs to be  
5 rendered.

6 Q Now when you went into the apartment -- this is Exhibit 28. Is  
7 this what you saw?

8 A Yes.

9 Q Does that look like the view from the patio? You seemed a  
10 little hesitant there.

11 A Well, that's further inside.

12 Q Okay.

13 A That's not -- that's -- I saw a little bit about where the picture  
14 was taken from.

15 Q Okay. I'm showing you State's Exhibit 30. The patio right  
16 here [indicating] is where you entered from, correct?

17 A Yes.

18 Q And that view is taken from someone standing right here  
19 [indicating]?

20 A Correct.

21 Q Okay. So, when you went in -- State's Exhibit 28 again -- what  
22 did you see?

23 A Some male laying on the floor about where the carpet is.  
24 Further back, further back along in this area here [indicating] was an  
25 adult black male wearing, he had like a tactical vest, a police style type

1 vest which it looked like it had -- was a security or police vest. It had an  
2 embroidery, something patched on the left breast. And behind him and  
3 slightly off to one side was a female who was standing there.

4 Q And did you later learn who that male was that was on the  
5 ground?

6 A Yes.

7 Q Who was that?

8 A I believe his name is Jason Cliff.

9 Q And did you later learn who the white female was or the  
10 female was in there?

11 A Yes.

12 Q Who was that?

13 A Marlene Burkhalter, I believe.

14 Q Okay. So, I want to talk a little bit about the black male that  
15 you saw in there. Did he have anything in his hands?

16 A He appeared to be carrying either a clipboard or a folder.

17 Q And do you remember if he had anything around his waist?

18 A Off the top of my head, I don't believe -- I don't remember  
19 exactly what he had on.

20 Q Okay. No worries. So, what was your attention directed  
21 towards when you first went in there?

22 A My attention was directed towards Jason, on the floor.

23 Q And what was Jason's condition?

24 A He was covered in blood. He appeared to have been injured.  
25 He had a gash on the -- a large laceration or a gash on the back of his

1 head. He had blood on the top of his head as well.

2 Q Where were his hands?

3 A They were behind his back in handcuffs.

4 Q Okay. Do you -- what did officer Engel do?

5 A He contacted the black male and spoke with him briefly.

6 Q Do you know -- did you hear if the black male said anything?

7 A He said something to the effect of the suspect ran out the front

8 door prior to our arrival and he was in the area.

9 Q Okay. And what did Officer Engel do with that information?

10 A Him and that male left the front door to go outside.

11 Q Now while you were -- so, you stayed in the apartment?

12 A Yes.

13 Q And what were you trying to do at that time?

14 A I was trying to check to see if there was any medical -- I

15 needed to see if Jason needed any medical attention, which he did. We

16 got that started and also attempted to get handcuffs removed from

17 Jason and Marlene as well.

18 Q Were you able to do that?

19 A With difficulty, yes.

20 Q How did you remove them?

21 A With a handcuff key.

22 Q Okay. So, you had a handcuff key?

23 A Yes.

24 Q Is it a universal handcuff key or how does that work?

25 A Yes.

1 Q Okay. And what did you do with the two handcuffs?  
2 A I placed them on the TV stand that was nearby.  
3 Q Right here is Exhibit 28. Do you see them in this picture?  
4 A Yes, they are right there and right there [indicating].  
5 Q Now, at some point, did you clear the apartment?  
6 A Yes. When Officer Engel returned, we did.  
7 Q What does it mean to clear an apartment .  
8 A We check the surrounding -- surrounding rooms to make sure  
9 there's no other persons in there that we're not aware of.  
10 Q Was there anyone else in there?  
11 A There was not.  
12 Q Thank you.  
13 MS. LUONG: Pass the witness.  
14 THE COURT: Cross?  
15 **CROSS-EXAMINATION**  
16 BY MR. SANFT:  
17 Q Officer did you write a report in this case?  
18 A I wrote a supplemental report, yes.  
19 Q All right. So, was Officer Engelman; Engelman or Engel?  
20 A Engel.  
21 Q Engel. Was he the one that was the person who wrote the  
22 primary report and you wrote a secondary report to that? How does that  
23 work?  
24 A He was the primary responding officer; I was the secondary.  
25 However, when detectives came out to handle the case, they became



1 the primary officers. So, we all did supplementals to that.

2 Q Okay. So, the last photograph that was shown to the jury was  
3 a photograph that showed the inside of the apartment and the handcuffs  
4 that were on top of the entertainment area. Do you recall that  
5 photograph?

6 A Yes,

7 Q State's Exhibit number 28. Thank you.

8 All right. You said that you had difficulty removing the  
9 handcuffs from the two people that were inside the apartment that were  
10 handcuffed, right?

11 A Difficulty from Jason.

12 Q From Jason?

13 A Yes.

14 Q You're using a universal key, why would it be difficult?

15 A The handcuffs on him were ratcheted extremely tight onto his  
16 wrists which put a lot of pressure back on the key lock; and the condition  
17 they were in, as I recall was -- was -- they were in poor condition.

18 Q Okay.

19 A They were rusty or they were not lubricated enough to move.  
20 They were just -- they were very hard to get off.

21 Q Now would it be fair to say, based upon your training and  
22 experience as a police officer, that when you're dealing with a situation  
23 where you have blood or some type of fluid, that you would be wearing  
24 gloves to protect yourself when you're conducting that kind of contact  
25 with a person?

1 A Generally speaking, yes.

2 Q Were you wearing gloves on this day?

3 A I don't recall.

4 Q Now, in addition to that, you say you removed the handcuffs;  
5 you placed them on the -- on this console -- were you wearing some  
6 type of gloves to protect the evidentiary integrity of the two handcuffs  
7 here; and, in this case, in terms of maybe DNA and anything like that  
8 from somebody else to determine who put the handcuffs on who? Did  
9 you have gloves on at that point?

10 A Again, I don't recall if I had gloves on.

11 Q Okay. But, you know, I don't want to be unfair here.

12 A Correct.

13 Q It would be reasonable to believe that, as a police officer, you  
14 are equipped with gloves that you keep in a pouch on your utility belt in  
15 the event of something like this happening; so, you could either handle  
16 unknown bio matter; or, you know, potentially that will be of evidentiary  
17 value. Will it be fair to say that you had the option to do that?

18 A Yes.

19 Q You just don't know at this point if you did or not?

20 A I don't recall if I did or didn't.

21 MR. SANFT: Okay. I have no further questions, Your Honor.

22 THE COURT: Any redirect?

23 MS. LUONG: No, Your Honor.

24 THE COURT: Thank you very much for your testimony here  
25 today.

1 THE WITNESS: Thank you.

2 THE COURT: You may step down. You are excused from  
3 your subpoena.

4 THE WITNESS: Thank you.

5 THE COURT: You're out, okay.

6 All right, we're going to conclude for the day. I was trying to  
7 make sure 10:30 a.m. is good with everybody tomorrow?

8 MR. SANFT: Yes, Your Honor.

9 THE COURT: We're going to start tomorrow morning at 10:30  
10 a.m. and just for the schedule for the rest of the week and, remember,  
11 Friday we will be dark.

12 During this recess you're admonished not to talk or converse  
13 amongst yourselves or with anyone else on any subject connected with  
14 this trial or read, watch or listen to any report of, or commentary on the  
15 trial by any person connected with this trial, by any medium of  
16 information, including, without limitation, newspapers, television, the  
17 Internet, radio; or, form or express any opinion on any subject connected  
18 with this trial until the case is finally submitted to you.

19 Thank you very much. We'll see you tomorrow morning.

20 MR SANFT: Thank you.

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THE MARSHAL: All rise for the exiting jury, please.

[Hearing concluded at 4:20 p.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.

  
Rebecca Foster  
Independent Transcriber

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