

IN THE SUPREME COURT OF THE STATE OF NEVADA

SHAWN RUSSELL HARTE

Appellant,

v.

STATE OF NEVADA

Respondent.

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Elizabeth A. Brown
Clerk of Supreme Court

CASE NO. 78978

Appeal from an Order Denying Petition and Supplemental Petition for Writ of
Habeas Corpus (Post-Conviction) in Case CR98-0074A
The Second Judicial District Court of the State of Nevada, Washoe County
Honorable Connie J. Steinheimer, District Judge

JOINT APPENDIX VOLUME 4

VICTORIA T. OLDENBURG, ESQ.
OLDENBURG LAW OFFICE
P.O. Box 17422
Reno, NV 89511
Tel. (775) 971-4245

ATTORNEY FOR APPELLANT

JENIFER P. NOBLE, ESQ.
CHIEF APPELLATE DEPUTY
P.O. Box 11130
Reno, NV 89502
Tel. (775) 337-5750

ATTORNEY FOR RESPONDENT

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1 4185

2 JUDITH ANN SCHONLAU

3 CCR #18

4 75 COURT STREET

5 RENO, NEVADA

6
7 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

8 IN AND FOR THE COUNTY OF WASHOE

9 BEFORE THE HONORABLE CONNIE STEINHEIMER, DISTRICT JUDGE

10 -o0o-

11 THE STATE OF NEVADA,)

12 Plaintiff,)

13 vs.)

14 SHAWN RUSSELL HARTE,)

15 Defendant.)

CASE NO. CR98-0074A

DEPARTMENT NO. 4

16
17 TRANSCRIPT OF PROCEEDINGS

18 TRIAL (PENALTY PHASE)

19 THURSDAY, JANUARY 29, 2015, 9:00 A.M.

20 Reno, Nevada

21
22 Reported By: JUDITH ANN SCHONLAU, CCR #18
23 NEVADA-CALIFORNIA CERTIFIED; REGISTERED PROFESSIONAL REPORTER
24 Computer-aided Transcription

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A P P E A R A N C E S

FOR THE PLAINTIFF: OFFICE OF THE DISTRICT ATTORNEY

 BY: ZACH YOUNG, ESQ.

 MATTHEW LEE, ESQ.

 DEPUTY DISTRICT ATTORNEY

 WASHOE COUNTY COURTHOUSE

 RENO, NEVADA

FOR THE DEFENDANT: OFFICE OF THE PUBLIC DEFENDER

 BY: MAIZIE PUSICH, ESQ.

 CHERYL BOND, ESQ.

 DEPUTY PUBLIC DEFENDER

 350 S. CENTER STREET

 RENO, NEVADA

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I N D E X

<u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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SHAWN RUSSELL HARTE

<u>EXHIBITS:</u>	MARKED FOR <u>IDENTIFICATION</u>	ADMITTED INTO <u>EVIDENCE</u>
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1 RENO, NEVADA; THURSDAY, JANUARY 29, 2015; 9:00 A.M.

2 -oOo-

3 THE COURT: Thank you. Please be seated.

4 The clerk has been asking you questions and the
5 transport team questions and giving me answers, so I kind of
6 have in my mind what I want to do. It is my understanding Dr.
7 Piasecki is available tomorrow afternoon at 1:30.

8 MS. PUSICH: She's either available Monday at 8:30
9 or again at 11. She has an appointment at 10:00. I think if
10 we started at 8:30, we would be finished with her. If she's
11 not, she's here.

12 THE COURT: The other question I have, is the State
13 prepared to put on any rebuttal case if you have it and the
14 family on Friday afternoon?

15 MR. YOUNG: The family is here. They can go at any
16 time. Once we know when we are going to conclude the defense
17 case, the State will be prepared if rebuttal is necessary.

18 THE COURT: What I think is going to happen, we are
19 going to finish the defense case today, and I suspect perhaps
20 early afternoon if not before the lunch hour. And then we will
21 do whatever we are going to do with the Jury Instructions this
22 afternoon, the attorneys, and then tomorrow afternoon we'll
23 have Dr. Piasecki say at 1:30. We'll have the State's case
24 and the family. We'll recess for the weekend, then Monday

1 morning we can go right into reading Jury Instructions and
2 closing arguments. That way we are sure we get the case to
3 the jury timely, you know, timely on Monday. Otherwise, we
4 for sure are going to be here on Tuesday, because it is just
5 going to be too late.

6 MS. PUSICH: I will let her know, Your Honor.

7 THE COURT: So tomorrow 1:30. Does that work for
8 everyone?

9 MR. YOUNG: Fine with the State, Your Honor.

10 THE COURT: Okay. All right. Good. Is there
11 anything further outside the presence of the jury?

12 MR. YOUNG: Not from the State, Your Honor.

13 THE COURT: Okay. Thank you.

14 MS. BOND: Yes, Your Honor.

15 THE COURT: Anything further?

16 MS. BOND: No.

17 THE COURT: We'll bring the jury in.

18 Counsel, will you stipulate to the presence of the
19 jury?

20 MR. YOUNG: State will, Your Honor.

21 MS. BOND: Yes, Your Honor.

22 THE COURT: Mr. Harte, you are still under oath.
23 Please retake the stand.

24 THE WITNESS: Yes, ma'am. Counsel, you may proceed.

1 DIRECT EXAMINATION OF MR. HARTE CONTINUED

2
3 BY MS. BOND:

4 Q Shawn, I just want to catch you up to where we left
5 off yesterday?

6 A Okay.

7 Q You had described a great deal about your childhood
8 and your family. Then you talked about the first major shift
9 that you felt regarding empathy?

10 A Yes.

11 Q That occurred while you were in custody around 2001,
12 2002?

13 A 2001, 2002, correct.

14 Q That was a realization for you that other people may
15 feel things that are different from you or very different?

16 A Yeah. It was like becoming alive almost where it
17 occurred to me most people were probably feeling that, where I
18 never had previously.

19 Q Then there was a second shift in 2003 when you saw
20 the movie Good Will Hunting?

21 A Yes.

22 Q At that time, your focus was still internal in that
23 it was about how you could be different?

24 A Correct. It was my growth about realizing the

1 possibility that for the first time it occurred to me that
2 growth was possible. That health was possible.

3 Q That you could be different?

4 A Absolutely.

5 Q Did you have contact with your mother after that
6 2003 realization?

7 A I attempted to contact her, but, no, there was no
8 contact ever made.

9 Q When did you last have contact with her?

10 A 2003.

11 Q Oh, in 2003?

12 A Uh-huh.

13 Q How did that contact occur?

14 A It was a phone call.

15 Q What happened during that phone call with your mom?

16 A This was about a year after I began experiencing
17 empathy, also in 2003 after I had seen Good Will Hunting, and
18 it was after these epiphanies I realized I had a lot of
19 growing to do, some serious growing. I wanted her to come
20 along with me. She was a stable person in my life, meaning
21 she was the one usually there for me, not in a healthy way,
22 but she was a person who was my primary caregiver most of my
23 life, and I knew that she was very unhealthy psychological
24 speaking. A lot of alcoholism, a lot of other issues, too. And

1 it was my hope and intention that she would do some growing
2 with me. We could possibly do it together.

3 Q Did you convey that to her?

4 A I did.

5 Q How did she respond?

6 A While we were talking on the phone at night, and she
7 was intoxicated. She would get off work and start drinking.
8 While she was drinking, she was very belligerent, and she told
9 me that -- I had suggested to her that I wanted her to do some
10 growing with me, and she asked me what I suggested. And I
11 said maybe starting with not drinking so much. And she
12 responded very hostilely to that. And she said to me, if you
13 don't like who I am, don't fucking call me anymore.

14 Q And did she hang up then?

15 A Yes.

16 Q Did she ever speak to you again?

17 A No.

18 Q Those were her last words to you?

19 A The very last words she ever spoke to me, yes.

20 Q Did you try to contact her again?

21 A Yes.

22 Q How?

23 A A few times by mail, and I also sent her some books
24 I found helpful in my own growth.

1 Q Did she ever respond to that in any way?

2 A No.

3 Q How did you feel about that?

4 A In a way it was hurtful. From a selfish
5 perspective, it was hurtful, but from a more wise perspective,
6 I think I tried to have understanding and compassion. I knew
7 she had had a very hard life, a lot of abuse she experienced.
8 And so much of the family expected me to be angry with her,
9 but I just couldn't be. I knew she lived the best life she
10 knew how to live given her circumstances, and that is what I
11 responded with just trying to be compassionate, understanding
12 and turned a negative situation into something positive.

13 Q Is that what prompted you to try to contact her
14 again a few more times?

15 A Yes.

16 Q You previously had been discussing the conventional
17 education you had been seeking since you got to Ey, high
18 school, some college courses. After this shift in your
19 thinking from watching that scene in Good Will Hunting, did
20 you change your focus on how you were going to continue
21 education for yourself?

22 A I did. After my epiphany from seeing that movie, it
23 occurred to me that conventional education was a good start,
24 but it wasn't really edifying. It wasn't going to change all

1 the damage in my life. It wasn't going to help me become the
2 fully better person that I wanted to be. So after that, I
3 started to give -- do a lot of research into philosophy,
4 psychology, religion of all different kinds.

5 Q How did you engage in that study? What did you do?

6 A A lot of reading. Some courses. Mostly reading.

7 Q Did you focus on any particular religion or
8 philosophical idea?

9 A No. No. I explored Buddhism, Hinduism,
10 Christianity, every one I could find. As many as I could
11 find.

12 Q What about philosophy and psychology, how did you go
13 about learning about that?

14 A Primarily books.

15 Q How long did you spend doing that?

16 A Many years.

17 Q When did you begin?

18 A I guess it started in about 1999, but it focused
19 more seriously on the subjects that involved personal growth
20 and self-edification, psychology, philosophy, religion, mostly
21 starting around 2003.

22 Q That is when you refocused?

23 A Yes.

24 Q Has that continued?

1 A Absolutely.

2 Q So you still are reading about these things?

3 A Yes.

4 Q As you began to do this sort of independent study of
5 those subjects in those areas, did you reach any realization
6 about yourself?

7 A Yeah, I would say a few, many. Many.

8 Q All at once or over time?

9 A Oh, no. This was interspersed throughout several
10 years.

11 Q Could you explain some of these realizations that
12 you reached?

13 A I realized that I had a lot of anger from the past.
14 A lot of pain. A lot of things that I needed to transcend and
15 overcome.

16 Q Did you think you could?

17 A At that time, absolutely, yes.

18 Q At what time?

19 A Post 2003.

20 Q Okay. As you were developing these ideas and
21 realizations, did you engage in any formal writing about it?

22 A Quite a bit, yes.

23 Q Why did you do that in writing?

24 A I would say partially it was to spread what I was

1 learning to others. Part of it was to, I think, condense a lot
2 of what I was learning and better understand it yourself. I
3 think anybody who has been to school knows when you write
4 about things you learn them most-- more intently and
5 intimately.

6 Q You said you wanted to spread those ideas. What
7 kind of ideas?

8 A Most of my work centers on personal growth,
9 development, capacity for change.

10 Q How did you intend to spread these ideas to other
11 people that they had that capacity?

12 A Some I did personally. Some I had published.

13 Q How did you have those published?

14 A A journal called Philosophy Now.

15 Q So a couple of writings have been published about
16 your growth process?

17 A Not all of them have been specifically about growth,
18 but most of them incorporate some degree of psychology,
19 personal growth and transformation.

20 Q Was that the first way you began reaching out to
21 other people as you began to change?

22 A I would say so, yes, through writing.

23 Q What made you feel that you needed to share this
24 with other people? You talked about a publication. A

1 publication outside the prison?

2 A Uh-huh.

3 Q What made you feel you needed to share that with
4 people outside the prison?

5 A I started to realize it was important to me for
6 people everywhere to realize outside and inside prison that
7 change is possible, that growth is possible. And I wanted --
8 I was aware that society in general seemed to tend to see
9 prisons in a very negative light. People that are convicted
10 of crime in a very negative light. And I wanted to show that
11 people in prison can be productive. They can do wonderful
12 things.

13 Q We talked in the abstract about growth and change.
14 So I want to make sure we are all thinking the same thing?

15 A Yes.

16 Q Could you tell me what you mean when you say growth
17 or personal growth?

18 A It would involve going into your past and uprooting
19 a lot of your experiences and reanalyzing them.

20 Q And doing what with that?

21 A Developing new ways of thinking, new ways of
22 learning. I think that is what motivated a lot of my own
23 study. In my home, it was a very, very sick environment where
24 the options for dealing with problems were very, very limited.

1 Usually it was, you know, do something negative to respond to
2 something negative. And in my exploration, I learned from
3 different religions or philosophy, psychology, different ways
4 of dealing with the world, with myself, helping myself,
5 understanding myself, understanding other people. These were
6 all different ways I had never been exposed to previously.

7 Q Over the course of that study, have you been
8 changing how you deal with negative experiences?

9 A Oh, yes.

10 Q How have you changed with that?

11 A In the past, if something were to happen to me
12 painful, that was painful or negative, I would generally use
13 that as an excuse to torment other people. My attitude was if
14 I am going to suffer, I am going to make everybody else around
15 me suffer. In the last I would say probably 12 years, the
16 attitude has changed drastically, whereas before I have used
17 my suffering to justify causing other people suffering. The
18 last 12 years I would say it has been quite the opposite.
19 Every time I suffer, it makes me, I would say, more sensitive
20 and compassionate to the other people. The death of my mother
21 in 2020 would be an instance. Before, if that would have
22 happened decades ago, I would have been very, very mad. I
23 would have used that to justify all sorts of chaos. Whereas
24 now, when it happens, I think it made me a lot more sensitive

1 to the suffering of other people. I think that was the first
2 person in my life very, very significant to me that I lost and
3 experienced the pain of a close loss.

4 Q That was in 2010?

5 A Yes.

6 Q And you felt a serious loss even considering your
7 mother's last words to you in 2003?

8 A Absolutely. She was still my mother?

9 Q Around this same time, 2003, right around that area,
10 did you reach out to people outside of the prison to try to
11 help them?

12 A Yes, in different ways.

13 MS. BOND: If I may approach, Your Honor?

14 THE COURT: You may.

15 BY MS. BOND:

16 Q I am going to hand you marked Exhibits 60-a, b, c
17 and ask you to look at those. Do you recognize what those are?

18 A Yes.

19 Q Do those involve some of the people you reached out
20 to?

21 A Yes, they do.

22 Q What are those, just speaking generally?

23 A They are three children that I sponsored.

24 Q What do you mean by sponsored?

1 A The company is called World Vision. It is a
2 Christian organization. They have a very high rating for the
3 most, highest percentage of money going to the children. For
4 instance, every dollar you pay, I believe 92 percent goes to
5 the children. It is basically a company where you can pick a
6 child in a different place of the world and for a small fee,
7 \$20, \$25 a month you get a picture of the child. You
8 physically correspond with the actual child. It is a very
9 personal thing.

10 Q Correspond by letter?

11 A Yes.

12 Q 60-a, b, and c, is each one about a different child?

13 A Yes, three different ones.

14 Q Did you have any involvement in sponsoring any of
15 those three children?

16 A Indirectly all three. Directly two at different
17 times.

18 Q Explain to me how you were indirectly involved and
19 which child it was.

20 A Well, it was with a friend of mine. It turned into
21 a more serious relationship between 2006 and 2010, and --

22 Q Let me stop you for a second so we can be sure.
23 What friend?

24 A Her name is Toni Marie.

1 Q You and she were involved in sponsoring one of the
2 kids together?

3 A Yes. I wanted to do some micro lending. Based on a
4 PBS documentary I saw a year prior, I thought it was a
5 wonderful idea. She did some research, couldn't find any
6 sites she trusted for micro lending. She found this instead
7 and thought this would be a fantastic idea.

8 Q Did you and Toni Marie work together with all three
9 kids and the sponsorship of them?

10 A Yes.

11 Q Who are the three kids?

12 A The first one we did was Preethi Renvmala from
13 India. The second one was Viturshan Krishnabhawan from Sri
14 Lanka. The third was Rameau mBalassm in Chad, Northern
15 Africa.

16 Q 60-a, does that have a picture and describe one of
17 the children?

18 A Yes. This is Preethi Renumala in India.

19 Q That is one of the children you sponsored?

20 A Yes.

21 Q 60-b, is that a photograph and description of one of
22 the children?

23 A This is Rameau-- excuse me -- Viturshan.

24 Q 60-c?

1 A This is Rameau.

2 Q It is the same thing, a photograph and description?

3 A Yes.

4 Q Is that the information in each of those cases you
5 were given about these children?

6 A Initially, yes.

7 Q When did you sponsor the kids?

8 A I believe the first one began in 2006. I think the
9 second one was perhaps in 2007. I believe the third one was
10 2008, maybe 2009.

11 Q So essentially one at a time for a while?

12 A We kind of did one a year.

13 Q Was there a point where you had a letter that you
14 wrote to one of the kids?

15 A Yes. Several, actually.

16 Q So did you write to each of the kids?

17 A I believe it was just -- I don't believe I ever
18 wrote to the girl in India. The two boys, though, yes,
19 regularly.

20 Q You talked about that you were more involved in
21 sponsoring two of the children than the third. Would that be
22 the two boys?

23 A Yes.

24 Q I am going to show you what has been marked Exhibit

1 61 and ask if you know what that is?

2 A This was my first letter to Rameau, the boy in Chad.
3 Kind of like an introductory letter.

4 Q How old was Rameau when you wrote to him?

5 A First time I think he was eight or nine.

6 Q Did you describe to Rameau who you were?

7 A Yes.

8 Q Did you tell him you were in Ely prison?

9 A No, I did not.

10 Q Did you describe you were in prison at all?

11 A I don't think I did.

12 Q He's very young?

13 A Yes.

14 Q Eight or nine?

15 A Uh-huh.

16 Q Were you inclined at that point to tell an eight or
17 nine year old anything about the charges you were in prison
18 for, what you were convicted of?

19 A No. No. I didn't want that to be part of it.

20 Q What did you convey to him?

21 A I told him who I was. I told him who my friend or
22 girl friend at the time was. I told him that I lived in the
23 United States, she lived in Canada. That we were probably
24 going to be married soon.

1 Q Was that something you had plans for with Toni
2 Marie?

3 A No, not really.

4 Q Why would you say that to Rameau in the letter?

5 A I am aware in many places in the world boyfriend-
6 girl friend relationships aren't really recognized or
7 sometimes even tolerated. I figured if I were to say
8 something like that, it would be much more appropriate. I
9 didn't want to mention boyfriend-girl friend. I didn't want
10 to mention prison. I didn't want to offend this family,
11 essentially.

12 Q You put it in the light of you are going to be
13 married?

14 A Yes.

15 Q What else did you talk to him about in that letter?

16 A I spoke to him about, let's see here, what a great
17 opportunity I thought it was to have this chance to know him
18 and share and learn different things. I drew him a picture of
19 Scooby Doo. I asked him many different questions about what he
20 wanted to be when he grew up, things like that.

21 Q Is this letter that is in Exhibit 61, is that the
22 only one that you happen to have a copy of?

23 A Yeah, I believe so.

24 Q Did you get that copy back from Toni Marie?

1 A Yes. Sometimes she would make colored copies and
2 send them back to me. I would send her the letter and she
3 would put in toys, stickers on occasion, and mail all that to
4 Sri Lanka or Chad.

5 Q If you had mailed the letter directly, it would be
6 post marked from Ely?

7 A Ely State Prison, right.

8 MS. BOND: Move for admission of 60-a, b, c and 61.

9 THE COURT: Counsel?

10 MR. YOUNG: No objection.

11 THE COURT: Exhibits 60-a, b, c and 61 are admitted.

12 (Exhibits 60-a, b, c and 61 admitting in evidence.)

13 BY MS. BOND:

14 Q So the communication with each of the kids in 60-a,
15 b, c was facilitated by Toni Marie?

16 A Yes.

17 Q She did the mailings, mailed things out?

18 A Right.

19 Q Was there a time when you stopped sponsoring?

20 A Yes.

21 Q How did that occur?

22 A It somewhat coincided with the end of her and my
23 relationship. But it was never something we intended to do
24 separately anyways.

1 Q This was something you found instead of micro
2 lending?

3 A Exactly.

4 Q That letter in 61, is that very different from the
5 letter that is Exhibit 8-d that you wrote in 1998?

6 A I would say it is the polar opposite.

7 Q In that letter, do you encourage negativity?

8 A No. Just the opposite.

9 Q What do you encourage Rameau as a child to do?

10 A I ask him what he likes to learn about. What he
11 wants to do when he's older. I asked him maybe he could be a
12 teacher or doctor so he can help people.

13 Q At the time you wrote that letter to Rameau,
14 approximately what year would that be?

15 A I believe this letter was written in 2008 or '9. He
16 was the last child we sponsored jointly.

17 Q Were you the same person in 2008 or '9 who wrote
18 that letter as you were in 1998 when you wrote 8-d?

19 A Not even close.

20 Q After the sponsorship of the children, did you take
21 other action to help someone that you didn't know, someone who
22 wasn't in the prison system?

23 A Yes.

24 Q How did you do that?

1 A I found someone who found me a good micro lending
2 site which is what I always wanted to do from the beginning.

3 Q Are you able to look these things up for yourself
4 when you are in prison?

5 A No. We don't have internet access.

6 Q You had to have friends help you find it?

7 A It creates an impediment sometimes.

8 Q If I could trade you those exhibits for Exhibit 62.
9 Do you recognize what that is in Exhibit 62?

10 A It is information about and a mixture of a group of
11 woman in northern India that I micro lend to.

12 Q How did you go about giving -- being involved in
13 that micro lending?

14 A Well, it was in 2005 I think it was when I saw the
15 documentary. Again, it was something I always wanted to do,
16 and so it was some time ago. I believe it was early last year
17 where the idea occurred to me again, and I had somebody
18 investigate and she found several sites that she thought were
19 reputable. Kiva.org was the one I decided on.

20 Q What is micro lending?

21 A Basically, a micro loan business is a company that
22 will go to other parts of the world, places where big
23 corporate banks will not even waste their time with, people
24 who need, for instance in the documentary I saw there was a

1 woman who had a few cows and milked them and sold milk, but
2 her efficiency was very, very low, because she didn't have a
3 refrigerator. If she had more product to sell, in a given
4 amount of time, her product went bad. She lost all that
5 money. She needed \$50 for a solar refrigerator to increase
6 her efficiency. Very, very, small insignificant things like
7 that. Corporate banks just wouldn't waste their banks with
8 that to help people very, very significantly.

9 Q So it would be offering very, very small loans?

10 A Yes.

11 Q To whom?

12 A Some individual, some collectively.

13 Q These would be people to whom fifty dollars or a
14 hundred dollars might be a tremendous amount of money?

15 A Huge for them, absolutely.

16 Q And you explained Exhibit 60 and 62 is a description
17 of a group of women?

18 A 62 is, yes.

19 Q Are those women that were the recipient of money
20 that you gave for a micro loan?

21 A Yes.

22 Q Did you ever contact those women directly?

23 A No, I did not.

24 Q Did they ever write to you?

1 A No.

2 Q Or call you?

3 A No.

4 Q You got no personal relationship out of it with
5 those women?

6 A Not a relationship, but I got the personal
7 satisfaction of knowing that I helped someone.

8 Q Who facilitated that loan?

9 A I didn't really ask that.

10 Q Well, did you send them the money directly?

11 A Not directly, no. A friend of mine, her name is
12 Krista. I guess I have to explain. When you are in prison,
13 you have an account and you can buy various things with it.
14 To send money from that account, you write what is called a
15 brass lid, kind of writing a check. You attach it to the
16 envelope with the amount and sign it. That money goes to
17 whoever I choose it to go to. In that case, to her. She put
18 it into our account online and electronically sent the money
19 on my behalf.

20 Q Did she send the money to the women or to the
21 company?

22 A To the website, then the website distributes it.

23 Q The woman who received money in a loan from you
24 didn't get it from you or someone directly connected to you

1 but through the company?

2 A Right.

3 Q Did you know where it was going to go at the time?

4 A Yes, I did. That is one of reasons that I chose
5 Kiva out of all the options, because it is very personal. They
6 give basically a profile. They tend to be dealing with more
7 groups than individuals. Groups have a higher repayment rate
8 and doing a collective loan is usually more efficient. And so
9 I chose Kiva. It was much more personal. These people that
10 apply for these loans, they have a background story, tell you
11 exactly what they want it for. The people at Kiva, as I
12 understand it, on the ground document these cases and verify
13 them, and so it is not highly personal, but you know what the
14 people are about that you are lending the money to. You are
15 not just blindly doing it.

16 Q Do you get to chose who gets the money?

17 A Yes. You can pick whatever group you want to loan
18 to.

19 Q What did the group that you picked, what did they
20 need the money for?

21 A They have a collective farm, grow vegetables. They
22 wanted to expand with modernized seeds and modernized safer
23 pesticides.

24 Q This is a loan right?

1 A Yes.

2 Q So it is not a gift of money?

3 A No.

4 Q How does repayment occur?

5 A Through the site. Again, basically the reverse
6 process. I believe it is a three year loan.

7 Q Are you aware that there is no guarantee the money
8 will come back?

9 A Yes.

10 Q Do you get interest for it?

11 A No, there is no interest.

12 Q So it is just a straight, you are letting them
13 borrow money with no interest?

14 A Basically, the philanthropic aspect, it is an
15 interest free loan. You forfeit the one or two percent you
16 might have otherwise got in a savings account.

17 Q Exhibit 62, is that the information that you
18 received from Kiva about this group?

19 A Yes, it is.

20 Q It describes who they are?

21 A Yes.

22 Q And their background and their need?

23 A Yes, it does.

24 MS. BOND: Move admission of 62.

1 MR. YOUNG: No objection.

2 THE COURT: Exhibit 62 is admitted.

3 (Exhibit 62 admitted in evidence.)

4 BY MS. BOND:

5 Q You described your effort to assist the children
6 that we have talked about and this micro loan. As you began to
7 start helping other people, did you also try to assist other
8 inmates?

9 A Yeah. That occupies the majority of my time. It
10 probably came first much before this.

11 Q So it happened during the same course of time
12 period?

13 A Yeah. I don't discriminate whether I help inside or
14 outside prison.

15 Q Are you continuing to try to assist other inmates in
16 prison?

17 A Oh, continuously. Continuously.

18 Q That has been at Ely State Prison?

19 A Different places, but primarily there, yes.

20 Q What is it like there, the prison, itself?

21 A Well, there is a lot of concrete and steel, of
22 course. The cells are somewhat claustrophobic. You can reach
23 your arm out and touch both sides. About six feet wide,
24 twelve feet long. There are lots of serious criminals around.

1 There is, occasionally violence. There is stabbings. There
2 are rapes, lots of mental illness, suicides. Overall, it is
3 not a very comforting place.

4 Q Are there different -- Ely is a maximum security
5 prison; is that right?

6 A Yes.

7 Q Are there different levels of restriction in
8 different units there?

9 A Oh, significantly.

10 Q Are you currently in one of the least restrictive
11 units there?

12 A Yes, that's correct.

13 Q What is it that makes it less restrictive? What do
14 you get people in more restrictive units don't?

15 A The Ely State Prison setup, there are nine major
16 units each with an A and B sub unit, altogether 18 sub units.
17 Two of those are what are called open units. The rest are
18 completely locked down meaning inmates are in their cell 23
19 hours a day. When they come out for an hour a day, they are
20 completely alone. Two cells are open. Inmates come out in
21 groups. The one I am in, it is approximately groups of
22 fifteen. It is very casual there for the most part.

23 Q So you have approximately fifteen inmates in your
24 unit?

1 A Uh-huh. Yes.

2 Q Are you allowed out together?

3 A Yes.

4 Q In the same physical location?

5 A Yes.

6 Q So you can talk to them. You can have contact with
7 them at that time?

8 A Play sports, play cards, talk.

9 Q Are you allowed visitors?

10 A I am.

11 Q How does that visiting take place?

12 A Well, they take you down to a visiting room. It is
13 a room approximately three quarters the size of this
14 courtroom. Multiple tables are set up with chairs, and there
15 is a guard table over here. And you come in, you meet your
16 visitors and you sit across the table from each other for
17 about six hours.

18 Q Are there barriers between you, like a glass wall?

19 A No, no barriers.

20 Q Are you able to touch and hold hands?

21 A You can hold hands and kiss, yeah.

22 Q And that is allowed for the unit that you are in
23 right now or that you have been in most recently?

24 A Yes. The whole prison actually.

1 Q Jumping back to contrast that with where you were
2 being held when you were 20 years old in the Washoe County
3 Jail prior to the trial, did you have a cellmate?

4 A I had a few actually at Washoe County Jail.

5 Q So they actually lived in the same cell with you?

6 A Yeah. Two of us together in a very tight quarter,
7 yes.

8 Q Were you let out with other inmates back then?

9 A I was.

10 Q Sometimes as many as 112 of you at the same time?

11 A For a few months I was in general population. I
12 believe it was 56 cells times two inmates each, total 112,
13 yes.

14 Q Either at that time with that many people out at
15 once or in your stay in Ely when you have been allowed out
16 with as many as fifteen inmates, have you ever hurt any of the
17 other inmates?

18 A Never once.

19 Q Ever hurt the guard?

20 A Never once.

21 Q Anyone?

22 A Never.

23 Q Did you cause any riots?

24 A Not once. No, I did not.

1 Q Did you encourage anyone there, either place, Washoe
2 County Jail or Ely State Prison to hurt anyone else?

3 A No. In fact, I spend a lot of time encouraging just
4 the opposite.

5 Q Psychologically speaking, is prison an easy place to
6 be?

7 A No, not at all.

8 Q Is it easy to change yourself while you are there?

9 A I would say the odds are stacked against you.

10 Q Does the prison or any system in the prison
11 encourage you to change yourself?

12 A There are very, very limited opportunities whether
13 you are at a maximum or medium prison. There are Alcoholics
14 Anonymous classes, maybe anger management classes, limited
15 amounts of free education. But for the most part, nothing
16 that I have seen or nothing that has been reported by me, by
17 other inmates that have used those have had any significant
18 rehabilitative effect whatsoever.

19 Q You say there is limited amounts of free education?

20 A Like for instance the high school diploma I earned,
21 that was free.

22 Q What about the college credits?

23 A No. I had to pay for all that myself.

24 Q That is not offered for free to you?

1 A Not a chance.

2 Q Are a lot of resources provided to you to assist you
3 in changing?

4 A Almost zero.

5 Q How do you get those resources when you need them?

6 A You better hope that you have friends and family on
7 the outside that care about you.

8 Q You said you read a lot of books?

9 A Yes.

10 Q Were those from a library or did you have to
11 purchase them?

12 A Oh, no. I had to purchase all those.

13 Q The changes you have been talking about making in
14 yourself, did you do that because someone at the prison said
15 go here, do this, try these things?

16 A No. In fact, I would suggest it is somewhat set up
17 to where you are encouraged not to try new things.

18 Q Did you have to reach that desire to do that on your
19 own?

20 A With time, yeah, it emerged by itself.

21 Q Once you started trying to help other inmates make
22 changes for themselves, how did you do that?

23 A I would have to give specific examples there.

24 Q Were you trying to make them just like you?

1 A No. No. I realized a long time ago everybody's
2 growth is going to be different. Everybody's background is
3 different. What worked for me might not work for the next
4 person. So my major or main tactic was kind of to start them
5 off the same way that I did. When I had my epiphany in 2003,
6 it wasn't about studying a particular thing. It was looking
7 for completely different ideas. I found that in some ways I am
8 very different than other prisoners. A lot of prisoners are
9 covered in tattoos. I have none. Some of them have a drug
10 history. I don't. But in many ways we are similar. Abuse is
11 almost ubiquitous among all inmates I have met. Very, very
12 few that weren't exposed to severe abuse or neglect in some
13 way. That being the case, it was very important to me to want
14 to share my own growth. I saw people that were just like me,
15 and I know, I know how horrible it is to be in a situation
16 where you feel like there is no chance to grow whatsoever you
17 don't know what to do. Your life has been so limited and so
18 full of sickness learning psychology, philosophy all these
19 ideas. You were never exposed to them. You don't realize
20 them to be a possibility. My growth started when I began to
21 realize there are other ways of thinking and existing, other
22 modes of existence. I didn't set out to indoctrinate anybody
23 in certain religions or thought, paradigm interest. It was
24 just about setting that spark off where they realize there are

1 other ways of existing, that you don't have to keep repeating
2 the past over and over. You don't have to be enslaved in all
3 your pain and misery. You need to find new ways, basically
4 find new ways of analyzing yourself and interacting with other
5 people.

6 Q Have you tried to help more than one inmate?

7 A Oh, yeah. Yeah.

8 Q Have you always been successful in helping other
9 people change?

10 A No. No. Generally, yes, to differing degrees, but
11 not all, no.

12 Q I am going to show you what has been marked as
13 Exhibit 63 and ask you if you recognize that?

14 A Yes, I do.

15 Q Is that a letter from a person who has indicated to
16 you have helped them?

17 A Yes.

18 Q Who is that letter from?

19 A Inmate William Castillo.

20 Q Who is William Castillo? Who is he?

21 A Well, the story has a better ending than it does a
22 beginning. He's someone I met in, I believe it was 2000, and
23 he was the type of person you just didn't want to be around.
24 He was negative. He was hateful. He was a troublemaker. Since

1 I have known him in 2000, he was making alcohol pretty much
2 every weekend, getting into physical altercations, covered in
3 tattoos, a life of abuse. When he was six or seven years old,
4 he was helping his mom sell drugs. His dad was in a very
5 violent biker gang. He had a horrible life. Incarcerated or
6 institutionalized when he was eleven years old. It showed in
7 his behavior. Everything about him was negative, hateful.
8 You could see the misery and suffering exuding from him in
9 everything he did. He was a miserable individual. I avoided
10 him at all cost.

11 Q The inmates at Ely State Prison, you said it is a
12 maximum security prison?

13 A Yes.

14 Q Have they been convicted of serious crimes?

15 A Many of them serious crimes. Many are less serious
16 crimes, but people who are at significant risk because of
17 their behavior while in prison. Attempted stabbings,
18 stabbing, things like that.

19 Q A lot are there for convictions of murder?

20 A Oh, yeah. Yeah. It is a maximum security prison.

21 Q Do you know what Mr. Castillo has been convicted of?

22 A Yes, I do.

23 Q What is that?

24 A I believe when he was in his twenties he was a drug

1 addict and his girl friend was a drug addict, and they had
2 this idea to rob a house. And he broke in the house while she
3 waited in the get-away car while he was breaking in the house.
4 It was occupied by an older woman who woke up and attacked him
5 and he struck and killed her. And that was his crime.

6 Q He was convicted of first degree murder for that?

7 A Yes.

8 Q He also has other convictions for violence?

9 A He's been in prison his whole life, in and out since
10 he was 11 first institutionalized.

11 Q A lot of violence in his convictions?

12 A Oh, yes. Robberies, violence, drugs.

13 Q Weapons?

14 A Horrible things.

15 Q And many of those convictions, not just the one?

16 A Many. Even in prison while I knew him initially his
17 behavior was horrible. Assaults, alcohol.

18 Q Even while in prison, he would continue violent
19 behavior?

20 A He did not change at all when I first knew him.

21 Q In that letter, does he talk about changing himself?

22 A Yes.

23 Q And that letter is written about you and him and the
24 changing that he sought because of things you have said or

1 done?

2 A Yes. What happened, I avoided him very successfully
3 when I knew him in 2000 and beyond. We weren't always in the
4 same unit, but often times we were. In 2012, chance put him in
5 the cell next to me. Because of his past, all the rejection,
6 abuse he suffered, he kind of has a social need to be
7 emotionally clingy. He needs a friend to bond to regardless
8 where he is. It is fairly common in prison. I was the target
9 of that need. I was kind of giving him the cold shoulder at
10 first, because I didn't want to be around this guy. I saw him
11 kind of as, not helpless, but to change you have to want to
12 change. And I didn't see that in him. He didn't really
13 indicate he was doing things that showed he really wanted to
14 change. He was still doing the same thing he was twenty,
15 thirty years prior. I don't want to be around that negativity.
16 I gave him the cold shoulder and he noticed this, and he
17 confronted me about it. I said, basically, to him, I said,
18 dude get the hell away from me because you need to grow up.
19 You are doing stupid crap all the time. You need to change.
20 I just don't want to be around that. I don't want to be
21 exposed to it.

22 Q How did he respond to that?

23 A I thought he was going to attack me.

24 Q Did he at that time?

1 A No. Few days later, he came back and said he was
2 very pissed off about that, because it was completely true
3 that he needed to grow up.

4 Q What did he do from that point forward?

5 A He asked me how to do that.

6 Q How did you respond to that from him?

7 A Well, for his specific circumstances, I thought that
8 modern western psychology would be the best way to go. So I
9 gave him an Oxford American Psychiatric reference book that I
10 had, and he also on his own obtained an entry level psychology
11 book and entry level abnormal psychology book. He spent a lot
12 of time -- This is a man, by the way, who had no conventional
13 education. Frankly, I thought he was a little cognitive dull,
14 but it turned out he's extremely bright, just uneducated. No
15 one gave him a chance. He didn't, at that time, have any
16 conventional educational experience. When he found these
17 texts all over, he saw himself, different disorders that
18 applied to him, different problems with his emotions, with his
19 thinking, with his behavior, with his past. And you could
20 just see the spark light up inside of him where he realized
21 that he didn't have this chance in his previous years. He was
22 a little bit upset. At first he felt a little resentful
23 towards the system because this spark it created with him,
24 this desire to grow and change was catalyzed by, I believe,

1 him realizing for the first time in his life just like I did
2 in 2003 change was possible. He saw different things that
3 applied. He saw many things that applied to him. He saw they
4 had labels. He saw they had ideologies. He saw they had
5 causes. He saw they had treatment. For the first time he
6 began now to understand himself. With this, I opened up the
7 potential for change and transformation. Once that spark lit,
8 he was different. I don't want to say overnight, but rapidly
9 the negative behavior stopped and his whole life became
10 focused. All the energy became focused on bettering himself
11 and bettering his family on the outside.

12 Q Did he continue in his effort to learn about himself
13 and how to change himself?

14 A Continually over the next two years, yes.

15 Q Were you a part of that with him?

16 A I was alongside him almost the whole time.

17 Q That letter in Exhibit 63?

18 A Yes.

19 Q In that letter, does he describe how you helped him
20 change?

21 A Yes, intimately.

22 MS. BOND: Move for admission of Exhibit 63.

23 MR YOUNG: No objection.

24 THE COURT: Exhibit 63 is admitted.

1 (Exhibit 63 admitted in evidence.)

2 BY MS. BOND:

3 Q Is that letter dated? Does it have a date on it?

4 A Yes. It is signed and dated.

5 Q When was it written?

6 A Looks like June 3rd of 2014.

7 Q Written about six months ago, maybe a little more?

8 A Yes.

9 Q Where is Mr. Castillo now?

10 A He's still in prison.

11 Q Are there parts of that letter that have been
12 important to you?

13 A The entire thing.

14 Q What is it about that really has meaning for you?

15 A Well, I would say generally and impersonally it
16 represents the work I have done with a lot of inmates. This
17 isn't an isolated case. This is something I have done with
18 many different inmates. It represents the process of growth
19 that I tried to devote lots of my time to stimulate in people.

20 Q How does he describe it?

21 A Could I read it?

22 Q Yes, if there is something you think really fits.

23 A I would like to read the whole thing.

24 Q You can do that. It is admitted.

1 A "My name is William Castillo. I have been
2 incarcerated for the last 18 years. I would like to tell you a
3 little bit about myself and how Shawn Harte has impacted my
4 life. From early childhood, I was emotionally neglected,
5 physically abused, psychologically traumatized. The violence
6 I witnessed and endured taught me, in order to survive, I must
7 exploit others before myself was exploited. This conditioned
8 me to perceive threats in every area of my life, and I
9 responded with defensiveness and hostility. My suffering
10 caused others to suffer which ultimately led to a lifetime of
11 incarceration.

12 Wanting to change my life, not having the resources
13 to do so, left me spending my time in stagnation which led to
14 frustration, emotional pain, anger and psychological turmoil.
15 This inner conflict manifested as conflict with others,
16 disciplinary segregation, and eventually led me to view
17 suicide as a viable solution. But all these disruptive
18 patterns began to change when I was moved into the cell next
19 to Shawn.

20 We began interacting when I was severely in need of
21 growth and most receptive to it. He saw in me a desire to
22 change, but also I have no tools in which to evolve into the
23 person I wanted to become. This made growth difficult. I was
24 a life-long criminal with a tangled mess of psychological

1 damage, considered a lost cause by society as well as myself.
2 But seeing my potential and my inherent human worth when the
3 system had given up on me, Shawn did not.

4 He spent quality time with me at every available
5 opportunity, going outside with me in freezing weather so we
6 could discuss the various teachings he had been sharing with
7 me. Shawn helped me to learn how to navigate the mine field of
8 my psyche by introducing me to psychology, to philosophy, to
9 multiple systems of wisdom to help me understand who I was.
10 He made sure I had a practical understanding of who I was --
11 excuse me -- of what I was learning so I could apply it as a
12 crucial tool in my own growth. I relearned how to think, how
13 to feel, how to control my emotions and impulses as well as
14 how to heal the damage of my past and live a peaceful life
15 free of anger, hatred and all the other poisonous emotions I
16 had festering within. Throughout this entire process, Shawn
17 patiently guided me of a harmonious way of existing. He
18 invested time to become my teacher. In all honesty, the only
19 real friend I have had.

20 What I've learned has not only benefited me but also
21 had a positive influence on others, whereas before I viewed
22 relationships as a means to fulfill my own selfish needs, now
23 I see them as opportunities to help others. With my wife this
24 has manifested itself in our communications which is a

1 healthier and more authentic level. Whereas the misery of my
2 childhood only caused chaos and confusion, now it enables me
3 to not only understand my son's suffering but also help him
4 understand and heal his own suffering.

5 Since I've learned to transform my past trauma into
6 psychological health and spiritual fulfillment, I now find
7 meaning and purpose in every aspect of my life. How does one
8 adequately express gratitude for something like that except to
9 share with others the wisdom that Shawn has shared with me."

10 Q That is signed by William Castillo?

11 A Yes.

12 Q I notice a couple of times your voice got tight
13 while you were reading that?

14 A Yes.

15 Q Is this something as you read it it affects you?

16 A Very definitely.

17 Q What is it you are feeling as you read that?

18 A I think it is two things. The tears I'm suppressing
19 are, I think there is simultaneous tears of sadness and joy.
20 Sadness because I see so much of his own growth and his past
21 in myself. Indeed all prisoners I think for the most part. And
22 it is a sadness for the person that I was and the pain that I
23 suffered and couldn't get out of back then. And I know how
24 difficult that is to get out of. I know that when you are in a

1 situation like that, it seems impossible, doesn't even seem
2 possible to get out of. And I think part of it is a
3 retrospective compassion for myself and others who are still
4 in that. It is a psychological hell to be in. And so I think
5 that is a sadness for my past self and for his past self.

6 Simultaneously, the other side of the coin is it is
7 a joy to do this. In the past when I suffered, all I cared to
8 do was spread what I was and that was miserable, unhealthy.
9 It was toxic. I mean, let's face it, the evidence that the
10 State has presented, it shows I was a parasite on society, a
11 menace and parasite and a plague to society. And getting
12 arrested in a way was probably the best thing that ever
13 happened to me. But simultaneously it is a joy. It is a joy
14 that now I do not have that sickness within me or I should say
15 at least a very, very minimal amount. I am a work in
16 progress, obviously. I don't think I am ever going to be
17 perfect. I don't think anybody ever will be. But it is
18 something I strive for every day. This gives me great
19 pleasure. This right here, again it is not an isolated
20 incident. It is something I do on a regular basis. It is
21 what I have devoted I would say the last ten or so years to
22 very, very seriously and intimately, and it is a very, it is a
23 great feeling. It is an empowering feeling. It is a
24 liberating feeling, a joyful feeling to be able to do this as

1 opposed to all the other sickness and chaos that I was doing
2 several years ago. Now that I have other options, it is very
3 easy to do this.

4 Q That letter was written about six months ago?

5 A Yes.

6 Q Is that something that Mr. Castillo wrote with this
7 hearing in mind?

8 A Yes. We discussed our lives thoroughly and
9 intimately. Knowing this was coming up, I asked him if he
10 would be willing to write something to document his own growth
11 and demonstrate what kind of things actually he and I both do.
12 After two years, his growth has been so significant that he
13 now guides and mentors other people.

14 Q And did you tell him what to write?

15 A No.

16 Q Are those your words?

17 A No, not at all.

18 Q You and he speak in some similar language?

19 A Absolutely we do.

20 Q Have you talked to each other frequently?

21 A I would say hundreds of hours in the last two years
22 that I was helping him over the last, yeah, two years and we
23 have helped people jointly and independently.

24 Q So a lot of conversation involves this very subject?

1 A Oh, absolutely. We use terms like toxicity, misery
2 all the time between ourselves and other people.

3 Q Since Mr. Castillo has begun to change --

4 A Yes.

5 Q -- and made these realizations for himself, have you
6 noticed a change in his behavior?

7 A Completely. Since I have known him for the last two
8 years, he doesn't have any disciplinary problems anymore. He
9 doesn't drink anymore. He doesn't assault people anymore. He
10 used to antagonize people that would intimidate people. He now
11 devotes his time to helping people. Several people actually
12 commented this is a good thing. Others have commented it is
13 form of weakness. Despite all that, he continues to grow. He
14 continues to help people on his own. This right here, it's one
15 of the most striking outcomes for me, because not only did it
16 happen in a two-year period where it was a literal reversal,
17 but knowing intimate details of his childhood, knowing that he
18 could go from helping his mom sell drugs and being
19 institutionalized at age 11 to this. I want to be clear, this
20 isn't something he just wrote. This is something, if you
21 listen to him speak to other inmates, this is how he talks to
22 other inmates. This is an uneducated man who knows how to
23 communicate this compassion naturally.

24 Q How old is he now?

1 A He's now 42.

2 Q So the vast majority of his life has been
3 institutionalized or incarcerated?

4 A I believe about twenty-five of those 42 years, yes.

5 Q As you are describing this transformation for
6 yourself Mr. Castillo and other people, it kind of sounds like
7 there is some pinnacle of perfection that has been reached.
8 Do you think that is true?

9 A Oh, no, no, no.

10 Q In yourself?

11 A Obviously, in a piece of writing it might come off
12 as that. No. He strives to grow every day. In fact, it has
13 been a matter of dispute and some conflict between him and
14 other inmates how time is spent. A lot of people he used to
15 hang out with still expect him to be the old Billy, the old
16 William Castillo. They want to talk about sports, previous
17 crimes. They want to talk about previous robberies or drug
18 use. They want to talk about assaulting staff, assaulting the
19 guards, masochistically speaking about women. They all want
20 him to be that old person. When you try to grow out of that,
21 you can potentially offend people. And because of that, he's
22 had to brake a lot of those ties.

23 The good side of that is it enables him to have a
24 lot of time to himself where he spends most of it reading.

1 Q Is that something that is common to your experience
2 as well?

3 A It is almost universal, yes.

4 Q Have you reached some pinnacle of perfection where
5 your never get angry, never get frustrated?

6 A No. I would say I am rarely angry. Occasionally I
7 get irritated and frustrated, absolutely.

8 Q You have to deal with that current anger or
9 frustration or anything that is dissatisfactory to you every
10 day?

11 A Absolutely.

12 Q How do you respond to that now?

13 A It depends on what the situation is. If it is a
14 person who is like this, I can approach them on a completely
15 authentic level. If it is someone with a convict mentality
16 that is just, you know, a form of chaos in the prison, then
17 you have to deal with them on their level.

18 Q So your approach might be different with different
19 people?

20 A Oh, completely. It has to be, I would say.

21 Q Do you have a lot of room to grow still?

22 A Yes.

23 Q Have you always had the resources you needed when
24 you have been trying to help other people begin reading or

1 studying?

2 A No. That has been a source of frustration on many
3 occasions for me.

4 Q Has anyone helped you with some of those resources?

5 A Yes. Yes.

6 Q Who is that?

7 A Recently, I would say Janine Marshall.

8 Q Who is Janine Marshall?

9 A She's my fiancée.

10 Q How did you meet her?

11 A I believe she was online somewhere and a pop-up ad
12 came up to write a prisoner dot com. This is the way
13 prisoners can put up a profile to meet friends.

14 Q You say you have no internet access. Does someone
15 do that for you?

16 A You send a profile and check to the company. They
17 do it all for you.

18 Q Ms. Marshall can describe how she first started
19 contact with you. When is it that you met her?

20 A I believe it was the very beginning of 2014, so
21 about a year ago.

22 Q Was that through written correspondence, initially?

23 A Initially, yes.

24 Q You described her as your fiancée. The two of you

1 are engaged?

2 A We are.

3 Q You do realize that the best possible outcome for
4 you would mean that you would be in prison until you are at
5 least 60 years old?

6 A At least, yes.

7 Q You would have, at best, the possibility of parole
8 after 20 years for first degree murder?

9 A Yes.

10 Q And that could come as quickly as three years from
11 now?

12 A Yes, it could.

13 Q If that is granted, are you going to be able to get
14 out of prison immediately?

15 A No. I would then begin doing my next 20 year
16 sentence after that.

17 Q That is for using a firearm to commit first degree
18 murder?

19 A Correct.

20 Q You would then have to serve an additional 20 years?

21 A Correct.

22 Q That is how we get to age 60 as the earliest you
23 could be released?

24 A The earliest, yes.

1 Q Have you and Ms. Marshall discussed that you can't
2 get out of prison even at the earliest until you are at least
3 sixty?

4 A Yeah. I would say those factors are completely
5 insignificant to our relationship for the most part.

6 Q Have you and she discussed the fact, even if you ask
7 for parole, the Parole Board doesn't have to give it to you?

8 A Oh, yeah. She's fully aware of that.

9 Q Even given the possibility you may never get out of
10 prison?

11 A That's true. Sixty would be earliest. If my
12 behavior and actions aren't in accordance with immediate
13 parole, they could keep me indefinitely. It is just based on
14 behavior and a professional Parole Board deciding.

15 Q Then even if you got out, you would have a parole
16 officer and someone watching you?

17 A Probably.

18 Q It is a life sentence. Someone has to keep track of
19 you for the rest of your life?

20 A Right.

21 Q You said it doesn't really affect your relationship
22 with Ms. Marshall or isn't an overwhelming factor. How could
23 it possibly work if you are going to be engaged to her but not
24 going to get out of prison at all until you are at least 60 or

1 maybe never?

2 A That's a great question. I am sure that is
3 curiosity to a lot of people. I am sure a lot of people look
4 at relationships with someone incarcerated as very unusual, at
5 a minimum. That is understandable. Many of them are
6 exploitive. Many of them are based on some sort of
7 dependency. But, yes, she and I don't involve any of those
8 things at all. She's a very, very, great intellectual. She
9 loves to learn. We share many of the same things, many of the
10 same values. We love learning. We love growing. She loves
11 subjects like religion, philosophy and psychology. She also
12 loves science, cosmetology, how the universe works and how
13 people work. Above and beyond that, though, greater than her
14 intellect is her heart. She's very caring. She's very loving.
15 By no means naive. She told me about an incident once where --

16 Q Well, we will let her tell that.

17 A Okay.

18 Q What I am getting at is the two of you have
19 considered, even though you are engaged to be married, she's
20 your fiance, you won't be living together any time in the near
21 future, possibly never?

22 A That is what I was describing. All the aspects of
23 the relationship don't really necessitate physical
24 cohabitation.

1 Q Have you changed since 1997?

2 A Drastically, yes.

3 Q Do you intend to continue trying to make more
4 changes?

5 A Every day. Every day I try something.

6 Q How will you continue trying to change?

7 A I do some things. It is hard. Reading of course is
8 part of it. Always continuously learning new ideas, new
9 thoughts, new ways of things. Helping people is a huge part
10 of it for me. Continuing to do that. I think when I help
11 people who have had similar background, to me it brings up my
12 past, lots of unpleasant things about my past. Makes me
13 reface them over and over and over again when you do that. So
14 many times you begin to be a little bit more comfortable with
15 it. I know that might sound weird. How can you ever be
16 comfortable with so many horrible things in the past. One
17 thing I learned for certain the last 17 years, the key to
18 growth is not hating yourself for what you experienced or did.
19 It is understanding why that happened and getting rid of the
20 causes. Hating yourself just doesn't do it. So when I help
21 people, it makes me a lot more accepting and tolerant of other
22 people's defects and shortcomings as well as my own and
23 continues to shine the spotlight on those defects and
24 shortcomings.

1 Q Yesterday you described your first experience with
2 empathy in your testimony. Since then you have described this
3 long path you have gone through to change.

4 A Yes.

5 Q And some growth and changes in yourself.

6 A Yes.

7 Q In light of those changes and those real life
8 situation that you have had, how do you feel now about having
9 killed John Castro?

10 A I think it goes back to what I first said when I
11 came up here, ashamed, disgusted, saddened, sickened. One
12 thing, that one thing that bothers me is that every time I
13 walk by Mr. Castro's family, I know they are just glaring at
14 me, and I understand this, of course. What bothers me about
15 that is that for the last 17 years they probably think that I
16 should say -- Let me reword that. They have no reason to
17 believe that I might not be the same person that I was that
18 wrote that letter. The Shawn Harte they know that caused all
19 this suffering to them, that said all those horrible things
20 about it afterwards. As far as they know, that person might
21 still exist. And part of me did not want to be here for all
22 this. The jury has had to see horrible things that the State
23 has shown, and rightfully so. Rightfully so. All the time
24 that is being consumed, all the money and the resources being

1 consumed for all this could be going to education or teen
2 mentoring programs. And for many reasons, I didn't want to do
3 this. But for many reasons I did. One of those was to show the
4 possibility of growth and change. And a part of that was to
5 show Mr. Castro's family that, you know, I'm not the person
6 that did that 17 years ago. I can't take that back. I can't.
7 But I am sorry for what I did. And I have never said that
8 before. I have never said that verbally. And I don't think
9 that apology and remorse are things that should just be spoken
10 verbally. I think that over the past 12 years I have tried to
11 demonstrate that with my actions to show that. Not only just
12 say, hey, I am sorry, ashamed, remorseful, but to show that I
13 have done things to eliminate the person that did those
14 horrible things 17 years ago that caused all that harm and
15 suffering and to heal all the elements in myself that caused
16 all that misery. And that is how I have tried to the best of
17 my ability, to show my remorse, to show that I am sorry. I
18 don't want to be the person I was 17 years ago. Every day I
19 have woken up I have tried not only to better myself, escape
20 from that, done so consistently, but help others, because I
21 know how bad it sucks to be caught in turmoil, feel like you
22 have no escape being in that, causing harm to other people. I
23 am truly sorry for what I have done to Mr. Castro's family,
24 especially.

1 MS. BOND: Thank you, Mr. Harte. I have no further
2 questions.

3 THE COURT: Thank you. Ladies and gentlemen we'll
4 take a very short recess now and then begin with the
5 cross-examination of the defendant. During this break,
6 remember the admonition I have given at other breaks. Do not
7 discuss the case among yourselves or with any other person or
8 your family or anyone involved in the trial. This includes
9 discussing the case on the internet or any chat rooms or
10 internet blogs, bulletins boards such as Facebook or twitter
11 or text messaging, e-mails. If anyone tries to communicate
12 with you, notify me immediately.

13 Do not watch, listen to or view any news media or
14 any other accounts regarding the case including online. Do
15 not do any research independently such as consulting
16 dictionaries, looking online or looking at reference materials
17 about the case or the parties involved. We'll see you in
18 about 15 minutes. Court is in recess.

19 (Short recess taken.)

20 THE COURT: Counsel, I am going to tell the jury we
21 will just kind of go, I am going to keep going for a couple of
22 hours even, though it will be over the lunch hour. Then if it
23 will be more than that, we'll take a break.

24 MR. YOUNG: However, Your Honor wants to proceed.

1 THE COURT: How long do you think your cross is
2 going to be?

3 MR. YOUNG: I would like to say half an hour or so.

4 THE COURT: We'll just see, play it by ear.

5 MS. PUSICH: Your Honor, we have our next witness
6 available. The second will be here in about ten minutes. If
7 we take a break I will have them come back. If we don't, they
8 are ready.

9 THE COURT: All right. Please bring in the jury
10 Counsel, will you stipulate to the presence of the jury?

11 MR. YOUNG: State will, Your Honor.

12 MS. PUSICH: Yes, Your Honor.

13 THE COURT: Thank you. Please be seated.
14 Cross-examination.

15 MR. YOUNG: Thank you, Your Honor.

16
17 CROSS-EXAMINATION

18 BY MR. YOUNG:

19 Q Mr. Harte, you and I have never formally met?

20 A Never.

21 Q My name is Zach Young. You understand I am one of
22 the prosecutors on this case?

23 A I do.

24 Q I want to be perfectly clear about a couple of the

1 events which occurred in 1967?

2 A Okay.

3 Q There were a number of armed robberies that you
4 jointly with Latisha Babb and Weston Sirex discussed and
5 planned out, the majority of which were never actually
6 completed, correct?

7 A I believe that's true, yes.

8 Q And that included, as we've discussed in the
9 hearing, some maps with areas of interest being highlighted or
10 targeted stores being highlighted and drawn out, correct?

11 A I think so, yes.

12 Q And the downside, the risk of those armed robberies
13 were discussed and contemplated, right?

14 A Yes.

15 Q And at least on one occasion as I understand it,
16 multiple occasions, it wasn't simply discussions. You would
17 go out along with Ms. Babb and Mr. Sirex to those locations
18 and actually look at the location, right?

19 A I believe on a few instances we did.

20 Q Then on October 14th of 1997, just so we are all
21 perfectly clear, you participated directly in the shooting of
22 Abraham Lee's Jeep as it drove by on highway 95?

23 A That's correct.

24 Q The intention of that, the specific intention of

1 doing that shooting was to hit the car, stop the car and rob
2 the occupants, right?

3 A It was.

4 Q And then two weeks later or thereabout, on October
5 26th, 25th into the 26th, right around the midnight hour, you,
6 Shawn Harte, murdered John Castro Jr., correct?

7 A That is correct.

8 Q And then approximately two weeks or a little beyond
9 that on November 12th of 1997 when there was a traffic stop of
10 your vehicle effected by Churchill County, you had
11 contemplated getting into a shootout but for Latisha Babb's
12 infant child in the back seat, correct?

13 A That was a potential plan, yes.

14 Q All of those actions you would agree with me were
15 out of the prison setting, right? You were at liberty in the
16 community, correct?

17 A Yes.

18 Q You discussed, Mr. Harte, your childhood?

19 A I did.

20 Q I'm not going to argue with you. It doesn't sound
21 like a great childhood, fair?

22 A Fair.

23 Q You mentioned your mother several times. I don't
24 believe you ever testified to her name. What is your mother's

1 name?

2 A Linda Soloman.

3 Q You also mentioned you have a brother or a step
4 brother I believe who is five years older?

5 A Timothy Harte.

6 Q Full brother, half brother?

7 A Half brother.

8 Q Is Linda Solomon the mother of Timothy?

9 A Yes.

10 Q Different fathers?

11 A Yes.

12 Q Do you speak with Timothy?

13 A I haven't spoken with him or seen him since I was
14 13.

15 Q Since 13? Do you know anything about him?

16 A Through relatives. Through a mutual grandmother,
17 yes.

18 Q Do you know what he's doing now?

19 A I hear that he is in and out of jail for alcoholism
20 and I believe domestic violence, simple crimes like that.

21 Q Okay. Misdemeanor type offenses?

22 A As far as I know, yes.

23 Q And you mentioned several other incidents. I am not
24 going to go through all of them, of course. An incident with

1 one hundred dollars that was maybe not stolen, picked up off
2 the ground and not returned to the elderly lady?

3 A It was stolen.

4 Q You mentioned I believe at the age of 14 your best
5 friend was killed in Washington?

6 A Yes.

7 Q How was he killed?

8 A The story I heard was that he was associating with a
9 gang that involved drugs, and that in order to join this gang,
10 they wanted him to bring them a gun, and he gave it to them.
11 As he walked away, they shot him in the back and killed him.

12 Q Now was he likewise 14, or about that age?

13 A We were both in high school, so, yes.

14 Q What was his name?

15 A I am sorry?

16 Q What was your friend's name?

17 A Joe Molinar.

18 Q Joe?

19 A Yes.

20 Q You knew Joe just through school?

21 A He lived nearby, so I believe we walked together or
22 road the bus together.

23 Q And you I believe testified yesterday he was your
24 best friend?

1 A Yes.

2 Q I suppose you knew his family?

3 A No, I did not.

4 Q You never met who he lived with?

5 A No, I did not.

6 Q Did you ever meet or see his family after he was
7 killed?

8 A No.

9 Q Did his death have an impact on you?

10 A It did.

11 Q I suspect you were sad by it?

12 A Yeah, I was somewhat devastated by it, yes.

13 Q Now what we just briefly discussed and what you
14 discussed more at length with Ms. Bond about your childhood?

15 A Yes.

16 Q Did any of that give you the right to rob other
17 people?

18 A Not at all.

19 Q Or kill John Castro?

20 A Not even slightly.

21 Q Now you were in the Army, correct?

22 A Correct.

23 Q I believe, and I apologize, it was you either
24 testified to it or it was in your interview that you were in

1 the Army from May of 1996 to May of '97. I believe that was
2 from your interview?

3 A Korea May '96 to '97. I believe the Army was
4 October '95 to maybe August of '97.

5 Q So you were in Korea for a one-year period of time
6 from May to May?

7 A Yes.

8 Q '96 to '97?

9 A Yes, sir.

10 Q At that point while you were overseas is where you
11 first meet Weston Sirex?

12 A Yes, it was.

13 Q In your interview, there was some discussion about
14 explosives and talking about explosives with Mr. Sirex.

15 A Yes.

16 Q And that happened, right?

17 A It did.

18 Q And also there was discussion about killing people
19 while you were over in Korea, right?

20 A Yes.

21 Q And that conversation actually took place?

22 A I believe it did, yes.

23 Q Now when did you -- So you get back from Korea in
24 May. You are discharged in August of '67, right?

1 A I believe it was August, yes, I am not positive.
2 Could have been July.

3 Q Somewhere in that time frame?

4 A Yes.

5 Q So within a couple of months from July or August of
6 '97 until October of '97 we are talking two to three months
7 that you are out of the Army?

8 A Yes.

9 Q In the community committing these crimes?

10 A That sounds about right.

11 Q Well I mean let's even taking the furthest date
12 back, July of '97 to October would be about three months?

13 A Okay.

14 Q Right?

15 A Yup.

16 Q Now I want to discuss with you your discharge from
17 the Army.

18 A Okay.

19 Q Explain to me the reason you wanted to get out of
20 the Army. Not to me, rather explain to the jury, please?

21 A The reason was because the person that read the
22 horrible letter, Ms. Anderson, reported to me that she was
23 pregnant, and I wanted to get out to come home in order to be
24 the -- be the father I could be at that time.

1 Q When did she became pregnant?

2 A I don't know when, but it was obviously after I got
3 back from Korea, so probably late May or early June
4 potentially.

5 Q Then she reported to you she had a miscarriage?

6 A During my discharge process, yes.

7 Q So within the first couple of months of her reported
8 pregnancy?

9 A Yes.

10 Q Do you know in fact whether she was pregnant?

11 A Factually, no, I cannot be certain of that.

12 Q So your reason or your interest in getting out of
13 the Army was solely because of Lanette Anderson, back then
14 Lanette Bagby, that was the reason you sought discharge?

15 A Yes.

16 Q How did you in fact obtain your discharge?

17 A I was, after Korea, I had a month of leave which I
18 believe occupied most of June. And I drove to Ft. Campbell,
19 my next duty assignment. At Ft. Campbell, almost upon
20 arriving there, I would say, not immediately, but within the
21 first week, I talked to my commander and I told him that he
22 needed to let me out or bad things were going to happen.

23 Q You said let you out or bad things were going to
24 happen?

1 A Discharge me or bad things were going to happen.

2 Q Bad things were going to happen to who?

3 A I didn't specify. I left it open like that
4 intentionally.

5 Q Did you testify to something about meeting with a
6 psychiatrist?

7 A Yes. That was part of the discharge process. I read
8 later in reports that he was considering actually
9 incarcerating me when I told him that. His decision was to
10 whether to incarcerate me because he was afraid I was going to
11 do something crazy. He chose not to. He sent me to a
12 psychiatrist.

13 Q When you met with the psychiatrist, did you report
14 hallucinations, anything of the like?

15 A I lied. I said was hallucinating in order to
16 expedite my discharge.

17 Q You used the word lied, you knew that, when meeting
18 with the psychiatrist, what you were saying was a lie?

19 A Oh, yes. Yes.

20 Q So based on that, did the psychiatrist prepare and
21 provide a psychiatric evaluation or report that was used as
22 part of your discharge?

23 A Yes. He interviewed me for I believe it was about
24 an hour, prepared a report, gave the diagnosis of personality

1 disorder NOS, not otherwise specified. Based on that, gave me
2 a medical discharge.

3 Q Personality disorder was diagnosed by the
4 psychiatrist related to your Army discharge?

5 A Yes. Yes.

6 Q Regarding Lanette Anderson, the letter you wrote her
7 that has been discussed?

8 A Yeah.

9 Q You mailed it to the Aimee Lane residence where your
10 mother lived?

11 A I believe so.

12 Q Okay. Just so we are clear, putting up 8-d, that is
13 the cover letter, correct?

14 A Yup.

15 Q Or the envelope, rather.

16 A That is my mom's address.

17 Q 1051 Aimee Lane?

18 A Yes.

19 Q It was addressed to Lanette Bagby. That is what you
20 are saying, you mailed it to your mom's residence with the
21 expectation it be delivered to Lanette?

22 A That my mom would give it to Lanette.

23 Q Who did you show this letter to prior to mailing it?

24 A I don't believe anybody.

1 Q Okay.

2 A I can't be certain of that. I don't think I showed
3 it to anybody.

4 Q This was from the jail, right?

5 A Yes.

6 Q You weren't walking around showing it to everybody?

7 A I have no recollection of that, no, but it is
8 possible I spoke with someone about it. I don't remember if I
9 did or not.

10 Q Any idea who you might have spoken to about it?

11 A No. Inmates came and went, and I associated with a
12 lot of people back then.

13 Q We'll get back to the letter in a little bit, sir?

14 A Okay.

15 Q I want to discuss the robbery offense. The reason
16 was simply you needed the money? When I say you, I mean you
17 collectively with Ms. Babb and Mr. Sirex?

18 A I think the reasons were different for each person.

19 Q What were your reasons?

20 A I don't know that I had any logical reasons other
21 than the fact that I wanted to just metastasize the chaos and
22 misery on to other people essentially.

23 Q The plans were very calculated, would you agree with
24 me?

1 A Time consuming, yes.

2 Q Well, there are a number of steps taken and thought
3 out and planned out and in some ways executed?

4 A I would agree with that, yes.

5 Q You have already discussed there were some maps
6 about different stores or otherwise to rob?

7 A Yes.

8 Q There was some discussion about a gas station. You
9 said it was either an AM-PM or Texaco in Fernley?

10 A Correct. Correct.

11 Q That was in the interview that you did. That
12 actually happened, though, right?

13 A I believe it did, yes.

14 Q And the discussion was it was an elderly clerk or
15 elderly man at the gas station who was going to be the target
16 of that, right?

17 A Right.

18 Q As far as what I am talking about calculating and
19 planning things out, you actually drove out to that gas
20 station?

21 A Yes, we did do that.

22 Q And the reason that that robbery was not carried out
23 was because of your concern that your car would be identified.
24 It was an obvious black car and tinted?

1 A I believe that was part of it, yes.

2 Q That is what you said in your interview.

3 A Yes.

4 Q There was discussion about robbing the hotel?

5 A Yes.

6 Q And, again, you went out to that hotel, right?

7 A Yes.

8 Q And the reason that that robbery wasn't completed
9 was because of the light. It was too light?

10 A I believe that's the case, yes.

11 Q So similar to the reason for the gas station and the
12 car, it was a concern of being identified, right?

13 A I would say yes.

14 Q Okay. So, again, you are weighing the risks and the
15 chances of being caught prior to committing these robberies.
16 Even though you didn't actually carry them out, it is for that
17 reason you specifically did not carry them out, fair?

18 A As a collective group, yes.

19 Q You were part of that group?

20 A I was.

21 Q Now the Jeep that was passing, the blue Jeep that
22 was testified to buy by Lee and some of the Churchill County
23 detectives.

24 A Yes.

1 Q Had you ever seen the photos of that Jeep before?

2 A When?

3 Q Well, yesterday, maybe two days ago?

4 A Before that?

5 Q Right?

6 A Yes. I had the newspaper.

7 Q Okay. So you knew that this Jeep had multiple bullet
8 holes through the side and back of the vehicle?

9 A Yes.

10 Q And you knew that there was a bullet hole through
11 the windshield?

12 A Yup.

13 Q And that a bullet or fragment or otherwise actually
14 struck the vizor clip right above Mr. Lee's head breaking
15 that. And you heard testimony the clip actually hit Mr. Lee's
16 knee?

17 A Yes.

18 Q Now getting back to when I was asking about these
19 armed robberies were planned and calculated, there was a great
20 degree of planning for this incident?

21 A Correct.

22 Q In other words, all three of you were involved. Ms.
23 Babb was the get-away driver?

24 A Correct.

1 Q And there was radio communication between all three
2 of you?

3 A Correct.

4 Q And in fact, to avoid having a trucker or anybody
5 else overhear the conversation, you used different means of
6 communication, a CB and a hand radio to communicate back and
7 forth?

8 A Correct.

9 Q Okay. There was the plan for Mr. Sirex to shoot out
10 the tires and you to hit the vehicle?

11 A Engine was the plan, I believe.

12 Q And then run down there and hold them up at
13 gunpoint, right?

14 A That was the plan, yes.

15 Q Now unlike the hotel and the gas station, you
16 actually followed through with this plan?

17 A Yes.

18 Q And it was unsuccessful ultimately because the Jeep
19 got away. But the dangerous part of shooting at a driving
20 passing vehicle, you did that?

21 A We did, yes. That happened, correct.

22 Q And then when you realized that the vehicle went by,
23 getting back to kind of the calculated nature of this
24 incident, you discussed and thought about the possibility what

1 if they have a cellphone?

2 A Correct.

3 Q And so based on that, you thought about road blocks,
4 and if there is one, we'll get out of the vehicle and hike
5 back in with the weapon and send Ms. Babb in, right?

6 A Right.

7 Q And at the very first side street you get to, you
8 guys take that to avoid detection, right?

9 A Right.

10 Q Now the murder of Mr. Castro was calculated and
11 planned out as well, right?

12 A Yes, it was.

13 Q You testified yesterday afternoon and I wrote down,
14 you were under the impression that cab drivers of certain
15 companies dealt drugs. Do you remember testifying to that
16 yesterday?

17 A Yes.

18 Q That's not the reason that Reno-Sparks Cab Company
19 was chosen, right?

20 A Not primarily, no.

21 Q What was the primary reason?

22 A They lacked a global positioning system. At least I
23 was under that impression.

24 Q So, again, when I say you, I mean collectively with

1 Mr. Sirex and Ms. Babb your group consciously thought about
2 that?

3 A Yes.

4 Q When carrying out this plan?

5 A Yes.

6 Q Versus Whittlesea Taxi where Mr. Sirex worked,
7 right?

8 A Correct.

9 Q I am going to put up Exhibit 52, sir. Do you
10 remember this exhibit?

11 A Yes. It is a map of the route out to Cold Springs.

12 Q Right. Up at the top here which is labeled is the
13 place where you murdered John Castro, right?

14 A Yes.

15 Q And at the very bottom of this map is the area where
16 dispatch was called and a cab requested to respond, right?

17 A Right.

18 Q So you heard testimony it is approximately
19 twenty-five miles between those two points?

20 A It was.

21 Q That is more or less consistent, if I slide this up
22 a little bit, with that chart on the bottom showing distance,
23 fair?

24 A Fair.

1 Q Again, going to the calculated nature of the offense
2 that you were committing in '97, you had Mr. Castro drive
3 twenty-five miles up into the Cold Springs area knowing what
4 was going to be committed against him, right?

5 A Knowing that that was a potential, yes.

6 Q You knew you were going to rob him, right? That was
7 planned?

8 A Yes.

9 Q And you knew somebody else, an unrelated case, had
10 taken a lighter to the cab driver. The cab driver started
11 going 100 miles an hour?

12 A Yes, that's correct.

13 Q Now you wore a wire with a microphone?

14 A Yes.

15 Q And Ms. Babb was able to listen into everything that
16 occurred in the vehicle?

17 A That's correct.

18 Q Again, that was planned out so she would know what
19 was going on, when to come up and pick you up and the like?

20 A Right.

21 Q You and Mr. Sirex were talking in code?

22 A I believe that was the case.

23 Q Well, was there conversation of do you want to
24 party?

1 A Yes, that's true.

2 Q And you weren't talking about an actual party. You
3 were talking about do you still want to carry this out?

4 A Correct.

5 Q When I'm saying code, that's what I'm talking about.

6 A Sure. Yes.

7 Q There was not an actual action taken to clean the
8 bullets, right?

9 A Yes.

10 Q And either they were cleaned and/or possibly
11 straight from the box, in your interview you used your shirt
12 to show how you kind of used that to eliminate fingerprints,
13 right?

14 A Right, to insert the bullets.

15 Q In the interview you said you didn't really know --
16 Let me ask you here, prior to shooting Mr. Castro in the back
17 of the head, did you make any demands?

18 A I didn't.

19 Q Didn't give him an opportunity to just hand over the
20 \$89 he had?

21 A No, I did not.

22 Q Going back to the Churchill County case. At the
23 time of the shooting, you didn't know who was in the vehicle,
24 right?

1 A I had no idea.

2 Q It was dark and kind of in the hills?

3 A Right.

4 Q Could have been anybody?

5 A Could have been anybody.

6 Q Could have been a family?

7 A Could have been anybody, yes.

8 Q Or women or kids, right?

9 A Yes.

10 Q In this case, it was two friends you didn't know
11 then. You know now it was Abraham Lee and David Burnett?

12 A Right.

13 Q And the investigation revealed nine shell casings in
14 that area, right?

15 A Right.

16 Q So at a minimum, between you and Mr. Sirex, nine
17 shots were taken?

18 A Correct.

19 Q I am not going to show the picture because it is not
20 necessary, but that Jeep that you shot at was a relatively
21 small area, right?

22 A Pretty small yes.

23 Q Put two people in there and you agree with me you
24 shoot at a vehicle with that small of an area with two people

1 occupying it, it is a pretty good chance one or both of them
2 are going to get hit?

3 A Absolutely.

4 Q You knew that when you were doing the shooting,
5 right?

6 A Yes.

7 Q And the vehicle gets away?

8 A Yes.

9 Q And you said, well, in your interview, it was good
10 and bad. It was good because no one got hurt. But it was bad
11 that we didn't get any money?

12 A Right.

13 Q You consciously thought it was good nobody got hurt,
14 right?

15 A I must have been thinking that if I said that, yes.

16 Q Then two weeks later you engage in the activities
17 which have brought us to court here?

18 A Yeah. My sickness was clearly escalating at the
19 time.

20 Q Again, this your words, sickness. It is while you
21 are out of custody in the community?

22 A Yes.

23 Q Then was it this sickness that two weeks after the
24 murder that you thought about the possibility of a shootout

1 with police as well?

2 A I don't know when exactly that idea came to mind,
3 but it was just something always there in the back of my mind
4 as a possibility.

5 Q In your testimony yesterday you stated you were
6 suicidal?

7 A Yes.

8 Q You stated, your words, you contemplated suicide by
9 cop?

10 A One of the many ways.

11 Q So we are all clear, suicide by cop is your actions?

12 A Right.

13 Q Which are threatening or dangerous in nature which
14 will require the police to respond and kill you?

15 A With lethal force, yes.

16 Q I will talk with you briefly, sir, about John
17 Castro?

18 A Okay.

19 Q The letter, 8-d, again we aren't going to get into
20 the full letter, but it mentioned that he was dealing drugs
21 correct?

22 A Yeah. I believe I insinuated or inferred that based
23 on a robbery he had told me about.

24 Q Right. He told you that he got ripped off a \$1,000.

1 A Right.

2 Q You automatically related that to drugs?

3 A At the time I wanted to as an excuse. As a
4 justification, essentially.

5 Q In your interview you said you didn't find any
6 evidence of drugs, but Weston Sirex might have said something
7 about a straw?

8 A Yes.

9 Q A straw could be used for the ingestion of
10 narcotics, fair?

11 A Correct.

12 Q Now you don't personally know whether there were any
13 drugs found in the cab or on Mr. Castro's person, right?

14 A No. Personally, no.

15 Q You heard the testimony the investigation didn't
16 reveal anything of that nature?

17 A Correct.

18 Q Just like not knowing Mr. Lee and Mr. Burnett, you
19 did not know Mr. Castro at the time of the robbery and his
20 death either, right?

21 A That's correct.

22 Q So at the time that you shot Mr. Castro in the back
23 of the head, you had no idea that he had previously served in
24 the Army, right?

1 A I had no way of knowing that, no.

2 Q Had you considered or contemplated whether he had
3 family when you killed him?

4 A I didn't.

5 Q Did you ever contemplate that he was working, doing
6 a job to support that family?

7 A At that time, I didn't think about things like that
8 at all. Other people's well-being did not even occur to me.

9 Q So you didn't know at the time you killed him he had
10 a two month old son?

11 A I had no idea.

12 Q Are you aware that two month old is now seventeen?

13 A That would be in accord with the timeline, yes.

14 Q It goes without saying, but that two month old never
15 got to know his dad, right, based on your actions?

16 A That's right.

17 Q Did you know at the time you shot Mr. Castro that he
18 had a mom and a dad?

19 A No.

20 Q Did you know at the time you shot him he had a
21 brother named Ron?

22 A I had no idea.

23 Q A brother named Tony and sister-in-law named Cindy?

24 A I had no idea.

1 Q You mentioned seeing Mr. Castro's family. You are
2 aware all three of them are sitting in this Court, right, the
3 entire proceedings?

4 A I am not sure who they are, but I am aware there is
5 family, yes.

6 Q Are you aware seventeen years after John Castro's
7 death they still think about him and mourn his loss?

8 A Of course they would.

9 Q When you killed John Castro, this was after your
10 friend had likewise been shot and killed, right?

11 A Yes.

12 Q You knew the pain of losing someone from being
13 murdered, right?

14 A Yes.

15 Q And you chose to murder anyway?

16 A Yes.

17 Q Now when you committed all these crimes you had
18 absolutely no remorse, would you agree with me?

19 A I would say very, very, little at the time.

20 Q Did you have any remorse after you shot at the Jeep?

21 A It is very difficult to think back that far and get
22 into my state of mind back then. I would say very little.

23 Q Certainly not enough to stop you from committing
24 more crime, right?

1 A No, not at all.

2 Q Because again, two weeks later, you rob and shoot
3 Mr. Castro?

4 A Yes.

5 Q And your interview, you stated in your interview,
6 you stated that after shooting Mr. Castro, you got into your
7 vehicle being driven by Ms. Babb along with Mr. Sirex and you
8 left?

9 A Right.

10 Q And you said in your interview at no point did you
11 make any effort to contact medical aid or assistance for Mr.
12 Castro, right?

13 A Right.

14 Q So certainly not enough remorse at that point to
15 seek help for him, right?

16 A That's completely true, yes.

17 Q And in your interview, do you show any remorse in
18 your interviews in your opinion?

19 A I don't think there was much, no.

20 Q Well, the first interview that you have is with Jim
21 Steaurt of the Churchill County Sheriff's Department, right?

22 A Right.

23 Q He asks you at that point simply about the Churchill
24 County shooting?

1 A Right.

2 Q You in fact deny everything, right?

3 A Completely.

4 Q And then only after Mr. Sirex and Ms. Babb talk and
5 the investigation ensues, that is when detective Beltron with
6 Washoe County interviews you. Again, at the beginning of that
7 interview, you deny everything, right?

8 A Completely, yes.

9 Q Then there is this long back and forth, what do you
10 know, how do I know you aren't putting me up to this, right?

11 A Right.

12 Q So you don't just come out and say you know what, I
13 feel awful, let me tell you about what I did, correct?

14 A Correct.

15 Q Do you recall in the same recorded interview after
16 confessing to those two crimes asking for a shower and
17 complaining that your cell is a little small?

18 A They had me in a four foot by four foot rubber room
19 with no sink or toilet.

20 Q Again, the letter that you wrote to Ms. Bagby?

21 A Yes.

22 Q Ms. Anderson now. Absolutely no remorse in that
23 letter, right?

24 A None displayed in that letter, that's correct.

1 Q In fact, one of the phrases you use is no remorse,
2 right?

3 A Correct.

4 Q You testified not yesterday, this morning, that when
5 you were saying sorry to Mr. Castro's family, that was the
6 first time you apologized?

7 A Right.

8 Q So since the murder in 1967 which is approximately
9 seventeen years ago, right?

10 A Right.

11 Q At no time have you reached out to the Castro family
12 and offered an apology?

13 A No. I was informed that family members, at least
14 one of them had posted certain statements online that made it
15 clear to me that they would probably not be receptive to any
16 contact or communication by me, which is understandable.

17 Q That's understandable, right?

18 A Absolutely.

19 Q You still never made the effort?

20 A No.

21 Q So for the first time today is when you offer any
22 apology?

23 A Verbally, yes.

24 Q Now you understand that this hearing and this jury

1 will determine your sentence, right?

2 A I do.

3 Q Okay. And there is a major significance in what
4 sentence you receive, mainly the opportunity to be released
5 back into the community or a sentence where that is not a
6 possibility?

7 A Yes.

8 Q Now after -- Let's go beyond these crimes. You
9 testified that since November 12 of 1997 when you were
10 contacted by the Churchill County Sheriff's Office, you have
11 been in custody ever since, right?

12 A I believe that's correct, yes.

13 Q Okay. Well, you were taken down to the station. You
14 gave an interview with detective Steuart or sergeant Steuart
15 rather, right?

16 A Right.

17 Q At the conclusion of that interview, you were
18 arrested for the Churchill County case?

19 A Right.

20 Q And then the next morning is when you are
21 interviewed by detective Beltron?

22 A Right.

23 Q That's what we saw?

24 A Right.

1 Q At the conclusion of that, you actually see
2 detective Beltron coming in with the probable cause form
3 advising you you are under arrest?

4 A Right.

5 Q So you haven't been out of custody since?

6 A Since November 12th, that's correct, yes.

7 Q And your testimony is that at this point since 1997
8 on so, eighteen plus years, you have never hurt an inmate and
9 you have never hurt a staff member, either a jail deputy or a
10 prisoner?

11 A As far as I can recollect, yes, that's absolutely
12 correct.

13 Q I want to talk about kind of the setting, your
14 custodial status during this time?

15 A Okay.

16 Q While in the Washoe County Jail, your testimony
17 yesterday was it was "high security" your specific security.
18 Do you remember using those words?

19 A Are we talking about '97 or talking right now?

20 Q Washoe County Jail, '97?

21 A At first high security. With time it eased out and
22 I was put into the general population.

23 Q And upon your conviction at trial, you are then
24 transferred to Ely State Prison.

1 A First Northern Nevada Correctional Center, NNCC,
2 processed and then Ely State Prison.

3 Q And that first prison setting?

4 A Minimum security prison all inmates go to be
5 distributed throughout the system.

6 Q It determines which prisons will be appropriate, not
7 to put two rival people together?

8 A Right.

9 Q That's a very short period of time?

10 A I believe it is about a month, yeah.

11 Q Then you go directly to Ely?

12 A Right.

13 Q Now you testified Ely is a maximum security prison?

14 A It is.

15 Q Are you aware it is Nevada's only maximum security
16 prison?

17 A I'm not certain of that, but I haven't heard of any
18 others, so.

19 Q So --

20 A Actually, I believe High Desert has a max part. I'm
21 not positive about that.

22 Q Let's talk about Ely, the maximum security. You
23 told us there is 18 sub units?

24 A Yes.

1 Q All of which have varying degrees of privileges?

2 A Different privileges, different freedoms, different
3 constraints upon movement and interaction.

4 Q Have you been in a single cell the entire time at
5 Ely?

6 A At Ely, yes.

7 Q When I say single cell, no other inmates with you?

8 A One inmate per cell, yes.

9 Q Whether you are in your cell or out with the others,
10 you said approximately fifteen inmates?

11 A Right.

12 Q Constantly under supervision, right?

13 A The most part yes.

14 Q I mean there is never a time all the prison guards
15 just take off and let you and your other inmates be?

16 A For the last many years there has been a short staff
17 problem, and so the recreational yard occasionally is
18 unsupervised. Some violent inmates have taken advantage of
19 that.

20 Q The yard though is under video monitor?

21 A It is as of a few months ago.

22 Q So there is somebody, person, video or otherwise
23 able to watch?

24 A Yes.

1 Q Now, I understand that you are able to get out with
2 these other fifteen inmates I think you said and play cards or
3 talk or the like?

4 A Uh-huh.

5 Q But your contact in the prison setting or even in
6 the Washoe County Jail is significantly limited as compared to
7 say when you are walking around Fallon prior to your crime?

8 A Oh, absolutely. They are all incarcerated settings.

9 Q Of the 18 units or sub units at Ely, you said some
10 of them are higher security than others including you are
11 locked down for 23 hours a day?

12 A Right.

13 Q Come out for only one hour at a time?

14 A Right.

15 Q Do you have an incentive to stay out of those units?

16 A Oh, of course. Prison is based on primarily I think
17 an incentive and reward type of mentality. It is based on
18 conditioning where, if you do certain things, then you get
19 certain privileges, absolutely.

20 Q So some of the privileges that you receive being out
21 of your cell, how many hours a day are you out of your cell?

22 A It would average including yard time, about three to
23 four hours a day.

24 Q So that three to four hours a day you are aware

1 could be taken away if you get into fights or if you are
2 caught making alcohol or if you are threatening a staff
3 member, any number of things, right?

4 A Right. Everywhere in life there are consequences
5 for our actions.

6 Q But the consequences at Ely State Prison are you
7 lose the privileges that you have grown accustomed to, fair?

8 A Sure.

9 Q Now, again, I am not going to go through all of it,
10 but you testified how you helped others while you have been at
11 Ely?

12 A I have, yes.

13 Q And you said both on the outside and on the inside?

14 A Right.

15 Q In the outside was we saw the group from India,
16 right?

17 A That and people that I have known personally.

18 Q Okay. The three children that you sponsored?

19 A Right.

20 Q Each one was you said about a year long you would
21 sponsor them?

22 A No. Some of them were multiple years, but we
23 acquired a new one each year.

24 Q And then one of them was on the inside in prison,

1 William Castillo?

2 A Right.

3 Q And you briefly talked about him about being a
4 negative person, how that has changed and you kind -- As I
5 understood your testimony, he broke into the house of an
6 elderly woman and killed her is what I heard you testify to.

7 A Yes, he did that.

8 Q You said, I wrote this down, after he broke in, the
9 elderly woman attacked him. Do you remember testifying to
10 that?

11 A I did. That was me improvising. I didn't know the
12 specific facts of that.

13 Q Has he shared with you the specific facts of that?

14 A No.

15 Q So he told you he did break into an elderly woman's
16 home?

17 A Right. He talked about he was a drug addict, he
18 broke into a house to rob it and an older woman he said ended
19 up getting killed.

20 Q Did he tell you how he killed her?

21 A I don't remember the specifics. I believe it was
22 either some type of wooden club or perhaps a tire iron.

23 Q He bludgeoned her to death, right?

24 A Yeah, that sounds right.

1 Q Did he tell you after he left the residence after
2 taking property what he did to the house?

3 A I don't recall that, no.

4 Q Do you recall him telling you that he set the house
5 on fire to get rid of any fingerprint evidence?

6 A No. I didn't know that.

7 Q You didn't know that or you don't remember now?

8 A No, I don't remember having hearing that in reading
9 or from him.

10 Q Okay. If somebody were convicted of arson, that
11 would be setting something such as a house on fire, agreed?

12 A Right.

13 Q Now you make contact with him earlier in your stay
14 at prison or your sentence at prison, rather?

15 A Right.

16 Q Don't have much to do with him until 2012 when he's
17 put in a unit next to you?

18 A Yeah. The cell right next to me, correct.

19 Q Over the last two years is when you and he have
20 talked and I guess garnered a relationship for lack of a
21 better phrase?

22 A Right.

23 Q You consider Mr. Castillo to be a friend of yours?

24 A I would say an extremely close friend.

1 Q And, based on your understanding, does he likewise
2 consider you to be an extremely close friend?

3 A Yes.

4 Q The letter, I don't recall the number, 63, the
5 letter that you read and has been admitted?

6 A Right.

7 Q Is one that he wrote, correct?

8 A Right.

9 Q He wrote that last year in preparation of this
10 sentencing hearing?

11 A Right.

12 Q And you testified that you actually asked him will
13 you write me a letter?

14 A I did. I was considering asking two or three people
15 but ultimately just decided on his because I thought it was
16 very moving.

17 Q You have helped, in your words, some of these
18 groups, Mr. Castillo, and as I understand your testimony in
19 large part it has helped you heal?

20 A Absolutely, it has.

21 Q And that is kind of a primary motive or the driving
22 force behind all this, right?

23 A Helping me heal?

24 Q Yeah?

1 A I would say that is a secondary effect. I think
2 just the joy of doing it, the fact I am now able and have
3 ability and tools to be able to cause healing and happiness in
4 society as opposed to the chaos I was creating before.

5 Q So it makes you feel good?

6 A Yeah. I would say philanthropy and helping people,
7 yeah, it feels good.

8 Q Have you ever offered to help the Castro family?

9 A No.

10 Q And, again, you knew at some point in the past, not
11 when you were committing that crime, at some point that Mr.
12 Castro had a young son, two month old son; is that right?

13 A Yes.

14 Q Never offered to help him, right?

15 A No.

16 Q Lastly, sir, I do want to go over this letter with
17 you, okay?

18 A Okay.

19 Q For the record, this is 8-d. Would you agree with me
20 that what is contained in this letter was an accurate
21 representation of your true feeling in 1997 when you committed
22 these crimes?

23 A Everything contained in that letter?

24 Q Yup.

1 A Specifically about the crime or about other things?

2 Q Everything in the letter?

3 A I don't think that, no, I don't think much of it was
4 true at all. Some of it was.

5 Q Explain. Again, I want to make sure I understand,
6 why did you write this letter?

7 A Primarily at the time when you arrive at a facility
8 of incarceration, especially me at age 20, I had no experience
9 of being around people who had been criminals, arrested,
10 incarcerated. That was a completely new environment for me. It
11 was frightening. It was uncomfortable. I was very young.
12 Most of the people in there were very much older than me, had
13 lots of life experiences that I never had. A lot of
14 incarceration. That was completely foreign to me and
15 different from me. Swastikas on their forehead, things like
16 that. And in that time period, as I would characterize this
17 letter, I was practicing to portray a role, a new role that
18 would be very protective for me in that new environment that
19 was being told to me by many, many senior males around me in
20 their thirties, forties, fifties telling me to be convict safe
21 in prison, you have to believe certain things. You have to
22 express certain things. You have to talk a certain way. At
23 first I kind of bought into that.

24 Q So this letter is for show?

1 A I would say most of it is kind of me practicing to
2 be in that new role. Trying to take on that persona, if you
3 will.

4 Q And you used the word persona yesterday when you
5 testified as well?

6 A Yes.

7 Q Your new persona?

8 A Right.

9 Q This is the new Shawn Harte?

10 A At least what I was trying to practice to a degree.

11 Q Okay. Listing through it, sir. The first page you
12 see this paragraph right there, I have always known that I had
13 a special purpose in life. I have always known that I was
14 different?

15 A Yes.

16 Q Did you believe you had a special purpose?

17 A I don't know about the special purpose, but
18 different, absolutely.

19 Q And you start talking at the bottom of that first
20 page militia, fire power, weapons, right?

21 A Right.

22 Q You really had an affection and interest and passion
23 for weapons, did you not?

24 A I would say since getting my first gun as a

1 teenager, yes.

2 Q So the discussion carries over though this page
3 starting with militia and finding two people and meeting up
4 with Mr. Sirex?

5 A Right.

6 Q Was that all accurate or was that you being the new
7 persona?

8 A For the most part, that was fantasy and
9 exaggeration.

10 Q Okay. We slide down to talking about in Korea,
11 explosives, accurate?

12 A That is completely true, yes.

13 Q And, again, you use high-order TNT, RDX, the pipe
14 bomb that is going to take off a hand?

15 A I had interest in those things since my early teens.

16 Q Again, going back to my question about passion and
17 interest, that was an accurate passion and interest that you
18 had?

19 A Prior to incarceration, yes. My life was such that I
20 liked guns and explosives, and it sort of fit in with the rest
21 of my generalized sickness I was exposed to.

22 Q Again, you said the militia was more fantasy to you,
23 starting a militia?

24 A Yeah. I mean I was 20 years old. I didn't know

1 anything about that stuff.

2 Q You didn't know anything about what, I am sorry?

3 A Militias.

4 Q At the bottom of this page and carrying over you
5 talk about about the militia, free of addiction. I kind of
6 assumed that means addiction to alcohol and drugs?

7 A I would imagine so, yes.

8 Q Every member would have to kill, special firearms,
9 one of four special methods to kill. That carries over to the
10 next page. Fantasy or accurate?

11 A I would say that is mostly fantasy.

12 Q Okay. Then this, the third, fourth page of the
13 packet, third page of the letter. Again, you are getting very
14 specific into all these calibers of weapons. You actually
15 talk about the four different methods of killing as you
16 described as fantasy?

17 A Right.

18 Q This is because it is the new persona of Shawn
19 Harte?

20 A No, not necessarily. The obsession with guns and
21 explosives pre-exists incarceration.

22 Q So just the militia, what would be required of
23 people was fantasy as I understand your testimony?

24 A The whole concept of a militia in general I think is

1 fantasy, yes.

2 Q This is Exhibit 9, sir. Before I have show you this
3 we are talking about the militia. At the top of this page,
4 this top paragraph right here is where you list the four
5 methods of killing, cleaning, planting, assassinry and sniper.
6 You describe what all four of those are, right?

7 A Yes.

8 Q This is Exhibit 9. This is the packet of
9 documentation that was obtained from your residence upon,
10 execution of the Search Warrant, right?

11 A Right.

12 Q Prior to your incarceration?

13 A Yes.

14 Q This document titled Elimination was one of those
15 documents obtained, correct?

16 A Correct.

17 Q Isn't it true that this document lays out those
18 exact same four methods of killing?

19 A It does.

20 Q So you had this concept and these methods of killing
21 the exact same four we just discussed, assassinry, sniping,
22 planting, cleaning prior to your incarceration?

23 A Oh absolutely. To reiterate the gun and explosives,
24 those were all things from my early teens. I believe I

1 testified clearly that upon incarceration, it was the attitude
2 of being proud of your crime. Those were the personas I was
3 attempting. To be proud of your crime, to believe that rats
4 should be killed, things like that. No one is saying that
5 sickness happened immediately upon incarceration. It was just
6 a whole new aspect and level added on to that that previously
7 existed.

8 Q But your testimony is that the discussion of a
9 militia was something of a fantasy and something to bolster
10 yourself as you are going to portray this new role, is your
11 testimony?

12 A Applying of the old with the new, absolutely.

13 Q All I am getting at, all my question is prior to
14 your incarceration while you are at liberty in the community?

15 A Right?

16 Q You were producing documentation about four
17 different methods of killing people?

18 A Yes.

19 Q Okay. And you had a Sterling Company or Sterling
20 Enterprise or something like that that this could be made
21 available?

22 A Yes.

23 Q With the Aimee Lane address?

24 A Correct.

1 Q And based again on your affinity for firearms and
2 prior to incarceration while you are still at liberty, in the
3 same packet is literature on firearms and explosives right?

4 A Right.

5 Q And then actually a description of ammunition?

6 A Right. When I was about 14 years old.

7 Q For the better part of six years you contemplated
8 ways of killing people from 14 to 20 when you were arrested?

9 A I would say that is somewhat true, yes.

10 Q Going back to this letter 8-d, this page again at
11 the bottom of that same page we were just looking at about the
12 four methods of killing, this is where you then start talking
13 about meeting up with Weston Sirex again and what you
14 described as some real training and the Churchill County
15 shooting, the Abe Lee shooting?

16 A Yes.

17 Q Again, you are saying a lot of this letter was
18 fascination or exaggeration, correct?

19 A Right.

20 Q But what you include on this page is accurate?

21 A Written as an after the fact analysis I would say it
22 corresponds, because I was fitting a fantasy to the facts
23 afterward. Prior to that, I am sure if you were to ask
24 Mr. Sirex if he thought he was in a militia, that he would

1 very clearly say no.

2 Q Well the paragraph starts: Then come some time for
3 some real training, right?

4 A Right.

5 Q And you say 20 miles south planned to disable
6 vehicle, take hostages. That happened?

7 A It did,

8 Q Constructed device of epoxy and nails to flatten
9 tires. Did that happen?

10 A I believe it did.

11 Q Okay. I have SKS. He, being Mr. Sirex, had my .22
12 silence rifle. That happened?

13 Q Right?

14 Q Stopped one car. Kids. We let them go. Did that
15 happen?

16 A I don't remember that happening. I don't know.

17 Q We went for brute force. We decided to just open up
18 on random vehicles, take hostages. I had the heavy high
19 power. I went for the engine compartment. He went for the
20 tires. All accurate?

21 A That's all accurate yes.

22 Q The only thing in here you are saying, well, it was
23 me thinking after the fact may not be accurate is the comment
24 about the kids. Everything else is, true?

1 A Yes. Can I?

2 Q Please. Go ahead.

3 A Yeah. I think what you might be missing is that a
4 lot of what you are talking about in terms of the information
5 from when I was 14, the gun fantasy and infatuation, I had
6 starting at age six, those were essentially fantasies, not
7 acted upon. When I did commit this crime, it became a way now
8 incarcerated to bring those fantasies into reality and then
9 use them partially to serve as a new persona in prison.

10 Q Well, that is what I am trying to figure out, sir?

11 A Yes.

12 Q Because you are saying this letter is fantasy. It
13 is not true. It is your bolstering, bringing on a personal?

14 A I didn't say it is not true. Much of it was
15 fantasy.

16 Q So far this paragraph, everything is true short f
17 the comment about the kids, right?

18 A Correct.

19 Q Okay. Blue Jeep Cherokee. That is accurate, isn't
20 it?

21 A Yes.

22 Q I scored 17 hits, that is an exaggeration?

23 A That is a complete exaggeration.

24 Q But you did hit the Jeep?

1 A Yes.

2 Q Weston fired and missed. He certainly didn't hit it
3 like you did right?

4 A No.

5 Q It got away. Went back to town behind it. Heard
6 the call over the scanner. We were safe. None of that is
7 fantasy. That is all real?

8 A That's all real, yes.

9 Q So he fucked up there but swore it was because I was
10 in his way. Is that the excuse he gave you?

11 A I believe so, yes.

12 Q Very next page: One more chance. We take someone
13 out. Naturally we decided it would be someone who had it
14 coming. Then it gets down to Latisha says cab driver. And,
15 fine, that is not fantasy. That happened?

16 A Yes, that's true.

17 Q Okay. And the discussion about following and
18 wearing a transmitter, cab driver spurting off about being
19 ripped off a thousand cash earlier, blah, blah, blah. That
20 happened?

21 A It did.

22 Q Then you start talking about how you associate him
23 with drug use even though now you are conceding you had no
24 knowledge he was involved with drugs?

1 A It was just an excuse at the time.

2 Q And the investigation didn't reveal any connection
3 with drugs and Mr. Castro?

4 A Correct.

5 Q I chambered a round. A CCI Stinger. .22-caliber
6 hyper velocity hollow pointed lubnloy-coated .40 grain slug,
7 fired out of my Smith & Wesson semi-auto four inch barrel
8 point blank an inch above the ear and two behind. That is
9 accurate isn't it?

10 A It is accurate, yes.

11 Q None of that is fantasy is it?

12 A None of that is fantasy, no.

13 Q That simple, that easy, no remorse. Now are you
14 saying that out of the last page and a half that we have read
15 which is all accurate, now all of a sudden that is a new
16 persona?

17 A No, that is not what I was implying at all.

18 Q Is that accurate?

19 A Which part?

20 Q Boom, that simple, that easy, no remorse.

21 A I would say at the time that was mostly true, yes.

22 Q The next paragraph you talk about having the cab
23 coast up in front of the drug dealer's house in Cold Springs.
24 Again, did you have any idea that the house that Mr. Castro

1 was killed in front of was a drug dealer's house or was that,
2 again, you wanted to associate that?

3 A No. Again, you can see the fantastical qualities of
4 my mind at work back then.

5 Q I am seeing all accurate information?

6 A What you are seeing is true facts that are being
7 used in this letter to bring previous fantasies into the
8 present to make it look like-- I mean the reality of the
9 situation is I was an idiot out there doing idiotic things.
10 When you do that, you feel like an idiot and, therefore, I
11 used the facts of these crimes to bring fantasies from the
12 past into the future in order to create a persona as if this
13 was all intended from the beginning, when, in reality, it was
14 a bunch of random idiocy.

15 Q Whether it was idiotic or not, I won't argue with
16 you. But you are talking about this conjunction of fantasy and
17 reality.

18 A Yes.

19 Q And what you have contained in your letter is
20 largely reality?

21 A Yes. Many of the facts are true. The way they are
22 construed, no. There was no militia.

23 Q Because it as just you and Weston Sirex?

24 A Exactly.

1 Q Running around with guns shooting people.

2 A Two idiots doing stupid crap, and me trying to paint
3 this in a light as if this was something I had planned and
4 wanted all along to make it look like this is who I am. This
5 is my, these were my intentions. As we go on, we'll see many
6 things that never came true.

7 Q Like what?

8 A Riots in prison.

9 Q We'll get to that. Let's finish up this page: Went
10 to Circus Circus, played some games and gambled. You went to
11 Circus Circus, right?

12 A I think we did, yes.

13 Q Got some food?

14 A I don't recall that.

15 Q Nothing to it. Just another chore like taking out
16 the trash except easier and funner. Like the comment up above
17 it, that simple, that easy. Was that true?

18 A At the time, I would say that is probably possibly
19 true, yes.

20 Q You found it fun what had happened. I understand you
21 are saying different today, but in 1997 you found what you did
22 to be fun?

23 A It was exhilarating in a very sick pathological way
24 to spread your misery into the world. At that time, yes, there

1 was some degree of morbid satisfaction in that. That is not to
2 say there weren't other elements that completely contrasted
3 that. No human being is monolithic. There are drives in the
4 mind constantly at work. Unfortunately, the pathological form
5 of those were the influences that predominated then,
6 absolutely.

7 Q So using your words, exhilarating and morbid
8 satisfaction was while you were at liberty in society?

9 A I would say that characterizes these few months
10 pretty accurately, yes.

11 Q You gained this new thought process or this new
12 believe system, however you want to describe it, entirely in
13 the time you have been in prison, right?

14 A I don't understand the question.

15 Q Sure. You have taken, over the course of two of
16 days, to say how you changed.

17 A Right.

18 Q And all those changes have been while you have been
19 in custody in the Nevada Department of Corrections, correct?

20 A I would say outwardly, yes. But, again, I don't
21 think people are monolithic. I always had seeds of compassion
22 within me, seeds of goodness. They just weren't the ones that
23 sprouted. There were times in the past where I have helped
24 people, but I wasn't really in a place to where I understood

1 and could help myself. So those times and those instances
2 were few and far between. But no person is completely
3 destructive or completely bad. There are always other
4 elements in a person, so it wasn't that something new just
5 magically popped up. It was about eliminating the pain and
6 suffering that caused me to be such a person that I was to do
7 all this. And then enduring the good parts which had been
8 previously suppressed due to life experiences or thinking that
9 things like compassion and love were weaknesses and getting
10 out of those unsafe environments into a new environment which
11 in the Washoe County Jail I did not think was safe. Upon
12 coming to prison, I eventually realized, okay, there are ways
13 to stay out of trouble and be safe. That is what allowed
14 those good elements inside of me to begin growing.

15 Q Let's go on to the next page, sir. Again, getting
16 to whether this is fantasy or reality that you are writing
17 about in this letter. The top paragraph talks about Sirex
18 being a cab dispatcher, true?

19 A Yes.

20 Q And there is some discussion about the militia, but
21 then cops questioned every cab company employee. He told them
22 everything. Didn't even call me on my cellphone to give me a
23 ten minute warning. That part is true, right?

24 A Yes.

1 Q That he's going die. Is it your position that is
2 not true?

3 A No, it is completely not true. He was aware of the
4 letter. We talked about it. He actually laughed about it
5 because he knew just how silly most of it was.

6 Q Again, the last page and a half which has been
7 accurate, this one three word sentence is not true, right? Is
8 that your position?

9 A Yes.

10 Q Okay. Next paragraph. Talking about working at
11 Radio Shack. Then going down below, again that is accurate,
12 right, you were working at Radio Shack?

13 A Yes. Many of these facts are accurate.

14 Q Pulled over right outside of Cock & Bull. Latisha's
15 kid was in the back so I couldn't have a shootout. Again,
16 accurate, right?

17 A Right.

18 Q And then you talk about how, which is again
19 accurate, how you denied everything and only after finding out
20 everybody else talked, you talked as well?

21 A Totally accurate.

22 Q So after all of that accuracy, then you get into, as
23 I understand your position, fantasy, talking about escaping,
24 prison riots and the like.

1 A Right.

2 Q Then it ends on the last page.

3 A We are not going to discuss that part?

4 Q Please.

5 A This letter reads as a series of facts which
6 actually occurred culminating in this fantasy of what I am now
7 going to do in prison. Riots, creating a race of prisoner,
8 whatever that means. That is what this whole thing culminates
9 in, and the culmination of letter besides being silly and
10 preposterous, nothing like that even happened. In fact, the
11 opposite of the whole culmination of this letter is what
12 happened.

13 Q Why is it so silly and preposterous?

14 A I was 20 years old. I knew nothing of these things.
15 I am regurgitating what the old males with swastikas on their
16 face have told me. Taking some stupid senseless crimes I did
17 as a naive wounded idiotic 20 year old kid and trying to
18 retrospectively taking a fantasy of gun and explosives and
19 bring that into the present. And taking what I learned from
20 my new environment in prison, excuse me, in Washoe County Jail
21 and turning that into some fantastic delusion about creating a
22 race called prisoner and creating riots, that is why it is
23 silly. It never happened. I don't want to do anything like
24 that. I haven't done anything like that. I have done just

1 the opposite.

2 Q But is it in part silly and preposterous because of
3 the level of security?

4 A No.

5 Q That you have had in the prison setting?

6 A No, it is not. In the Washoe County jail I was in a
7 unit open with 112 inmates.

8 Q I understand. If you go up to some other inmates
9 who are also there with some incentive to be good, fair? If
10 you are not good, not only do you get benefits taken away,
11 there could be new charges, lots of other things?

12 A Absolutely.

13 Q Do you think you are going to be the new guy on the
14 block going up to other inmates and say, hey, let's start a
15 riot, that that's going to be accepted?

16 A That is the whole preposterousness of it.

17 Q Could it be, though, in addition to that, it
18 wouldn't effectively work, not because of anything that you
19 are doing but because of the very structure of the prison
20 setting?

21 A No. It could work. I could have joined a prison
22 gang. I have had offers. I could join a white supremacy
23 prison gang. I had no desire to. These groups do things like
24 that. The notion that Ely State Prison is a maximum security

1 prison thus prevents this, it is just not true. Since I have
2 been at Ely for approximately fifteen years, there have been
3 murders. There have been rapes. In my unit alone 267 people
4 involved in violence, four of which used a weapon. I have
5 seen people sliced open laying in bloody pools on the ground.
6 I have gone out of my way, put myself in danger to try and
7 prevent these things from happening. Lack of ability? It is
8 just not so. If you had more familiarity with these
9 environments, I think you would see that.

10 Q Not a nice place is it?

11 A No, it is not.

12 Q Some of those same points we are just describing may
13 not look favorably upon some of the things you were expressing
14 in this letter because it might affect them negatively?

15 A Oh, I think some people were actually impressed by
16 it. In fact, if I could relay a very recent incident would
17 that be allowed?

18 Q I am sure your attorney will be able to ask you some
19 of those questions, sir.

20 THE COUR: If you would like, we can take our lunch
21 recess and you can review your notes and decide.

22 MR. YOUNG: That's fine?

23 THE COURT: Ladies and gentlemen, we are going to
24 take our lunch recess now. I am going to let you go to lunch.

1 Be back at 1:30.

2 During this recess, remember that during the trial
3 you may not discuss the case with anyone including your fellow
4 jurors, members of your family or persons involved in the
5 trial or anyone else. And that you may not allow anyone to
6 speak of the case to you. This includes discussing the case
7 in the internet, in internet chat rooms or through internet
8 blogs, internet bulletin boards such as Facebook or twitter,
9 e-mail or text messaging. If anyone tries to communicate with
10 you about this case, you must tell me immediately.

11 Do not read, listen to or view any news media
12 accounts or any other accounts regarding the trial or anyone
13 associated with it including any online information.

14 Do not do any research such as consulting
15 dictionaries, searching the internet or using other reference
16 materials. And do not make any investigation into or about
17 the case on your own. Go ahead and have a nice lunch. We'll
18 see you back at 1:30. Court's in recess.

19 (Whereupon the court adjourned for the noon recess.)

20 THE COURT: Thank you. Please be seated. Is there
21 anything for outside the presence of the jury?

22 MR. YOUNG: No, Your Honor.

23 MS. PUSICH: No thank you, Your Honor.

24 THE COURT: Okay. Then bring the jury in. Counsel

1 will you stipulate to the presence of the jury?

2 MR. YOUNG: State will, Your Honor.

3 MS. PUSICH: Yes, Your Honor.

4 THE COURT: You may continue your cross-examination.

5 MR. YOUNG: Reviewing my notes over the lunch hour,
6 I have no further questions. Thank you.

7 THE COURT: Ms. Bond.

8 MS. BOND: Thank you, Your Honor.

9

10 REDIRECT EXAMINATION

11 BY MS. BOND

12 Q Mr. Harte, you have described for this jury the last
13 12 years, changes that you have made, growth that you have
14 achieved?

15 A Yes.

16 Q And has that been some kind of act you set up so you
17 could find sympathy with this jury?

18 A No.

19 Q If you were trying to create this false picture of
20 yourself in the hope of getting parole, would you have to keep
21 doing that for the next 23 years?

22 A Consistently, yes.

23 Q I am going to ask a couple of questions about your
24 family, your brother Timothy.

1 A Yes.

2 Q He hasn't murdered anyone?

3 A I don't think so.

4 Q He was raised in the same family as you?

5 A Partially.

6 Q He's been getting in some trouble; is that right?

7 A Yes.

8 Q Just a different kind of trouble than you?

9 A Yes.

10 Q Not to the same extent?

11 A Not the same extent.

12 Q He's a different person?

13 A Absolutely.

14 Q Mr. Young asked you if you felt that your childhood
15 gave you the right to rob people or to kill Mr. Castro. Do
16 you recall that?

17 A Right.

18 Q Are you trying to blame your mom for killing John
19 Castro?

20 A Oh, absolutely not. In fact, I think at one point I
21 did hate my parents, absolutely. I blamed them for a lot.
22 But as part of my own growth, it was important for me to go
23 back and release that hatred I had for them and th blame I had
24 by exploring some of their history. Realizing my mom was the

1 way she was because of the abuse she suffered. My dad was the
2 way he was because primarily seeing his father beat his
3 mother. And that was all part of my own growth was exploring
4 why they are the way they are, not about preliminarily
5 excusing it, but understanding so things could be fixed.

6 Q The bottom line to what happened to Mr. Castro is
7 that your mom wasn't in that cab?

8 A Right.

9 Q Your brother wasn't in that cab?

10 A Right.

11 Q You were the one in that cab behind Mr. Castro?

12 A Correct.

13 Q And you are the one that pulled the trigger?

14 A Correct.

15 Q If you were in that cab today with John Castro Jr.,
16 in the driver's seat, would you pull that trigger?

17 A Of course not. I wouldn't even have a gun.

18 Q You are not the same person today you were at
19 twenty?

20 A Not even close.

21 Q I want to talk to you about Exhibit 8-d the letter
22 that was written to Lanette that has been discussed in great
23 detail. In fact, you and Mr. Young went over pieces of that
24 letter?

1 A Right.

2 Q One by one. Did you write that letter so that you
3 could convince the other guys in the jail, look what a bad guy
4 I am, look what a sociopath I am?

5 A I don't remember showing anybody, but at the time, I
6 think that was part of practicing the persona, to take
7 everything from my past, tie it to the present crime and
8 create this imagine that I am this all powerful sociopath.
9 Don't screw with me, essentially.

10 Q Mr. Young asked you a number of questions about
11 crimes that you and Ms. Babb and Mr. Sirex planned?

12 A Right.

13 Q Several robberies that were planned although not
14 completed?

15 A Yes.

16 Q The attempted completion of the planned robbery with
17 the shooting in Churchill County?

18 A Right.

19 Q You looked at maps when you were doing these
20 plannings?

21 A I think so, yes.

22 Q You talked about possible things that could go
23 wrong?

24 A Yes.

1 Q Had some discussion?

2 A Yes.

3 Q This letter, 8-d, was that part of your planning and
4 practicing for what you thought you had to become?

5 A I think that would be a fair characterization of it,
6 yes, in part.

7 Q At that time, you weren't someone who felt a lot of
8 remorse?

9 A No.

10 Q You were very limited in your emotional response to
11 them?

12 A Yes.

13 Q Or even understanding of things?

14 A Absolutely.

15 Q So in part, it was who you were at that time?

16 A At the time in part, yes.

17 Q And when you talk about the fantastical or fantasy
18 aspect of it, was that really the part that was practiced for
19 trying to perfect that role?

20 A Oh, of course.

21 Q So it didn't really have anything to do with showing
22 the guys who were in prison with you then that letter in
23 particular?

24 A Not -- I don't think particularly at that moment,

1 no.

2 Q There was some discussion with Mr. Young about your
3 comments in that letter about Mr. Castro dealing drugs or
4 talking about having had a \$1,000 stolen from him. Do you
5 recall that?

6 A Right.

7 Q As far as you know, John Castro Jr., didn't have
8 anything to do with drugs as you sit here today as far as you
9 know?

10 A As far as I know, I have no reason to believe that.

11 Q Even if he had, as you sit here today, do you think
12 that would justify killing him?

13 A Not even slightly.

14 Q At that time, what was that to you, your claim that
15 he was involved in drug dealing?

16 A A fantastical justification to explain something
17 that was completely ridiculous and turn it into some plan that
18 was just made up and nonexistent.

19 Q When you say ridiculous, you used that term a couple
20 of times. Do you mean something ridiculous, funny?

21 A No. As in ridicule.

22 Q When you say ridicule, we often use that in terms of
23 talking about humor, even if it is hurtful humor. To ridicule
24 somebody, making fun. You are not making fun of that event,

1 are you?

2 A No. No. It is ridiculous in the sense that it is
3 preposterous. It is not something that is founded in reality.

4 Q So when you talk about it as an excuse or
5 justification, you are not saying it really was one. It is
6 something you tried to pretend was?

7 A It wasn't part of reality. It was completely
8 constructed in my mind.

9 Q On the second to the third page of that letter
10 Exhibit 8-d, there was that list of four special methods for
11 killing people?

12 A Right.

13 Q And you had paperwork that you had at your home that
14 described similar methods?

15 A Right.

16 Q Is that part of what you are talking about,
17 incorporating things that you knew or facts that existed, into
18 that letter?

19 A Yes.

20 Q Was that -- That was about the pretend militia?

21 A Essentially.

22 Q So that was using something you already knew about?

23 A Right.

24 Q But it wasn't actually based on reality of that

1 really is happening?

2 A No. It was taking some of those fascinations about
3 guns and explosives and other things like that, taking a
4 senseless crime and after the fact trying to make it look like
5 the crime was part of something greater which was planned when
6 in reality it had nothing to do with anything.

7 Q Yesterday you said that it was difficult for you to
8 pick out facts that were true in that letter and separate them
9 from the fantasy, exaggeration part of th letter?

10 A Right.

11 Q Did you find that to be true this morning when you
12 were looking at the letter with Mr. Young?

13 A There were certainly some facts I noticed were parts
14 he skipped over.

15 Q There were some facts you could say definitely that
16 was true?

17 A Absolutely.

18 Q But were those facts then woven with other things,
19 exaggeration?

20 A That is what I was trying to explain to him.

21 Q Were there some mischaracterizations of things?

22 A Of course.

23 Q That was hard for you to pick apart each little bit?

24 A To a degree, yes, because it was, the intention

1 behind it, that was the fantasy. Certainly there were facts
2 in there, but when you look at the culmination, the part where
3 I talk about becoming a God, that is not a fact. That is
4 non-realistic fantasy.

5 Q When you were asked about not having previously
6 apologized to Mr. Castro's family.

7 A Yes.

8 Q You indicated that you were under the impression
9 they would not want that contact from you?

10 A Right.

11 Q Were you going to try to force them to hear from you
12 if they didn't want to?

13 A No. In my experience, when it comes to growing and
14 forgiveness, growing, things like that, I found it is best not
15 to try to force it onto people.

16 Q Do you think it would have been hurtful to hear from
17 you if they didn't want to?

18 A Possibly. I wasn't sure.

19 Q Did you think it would be appropriate somehow to
20 offer financial assistance to their son if they didn't want to
21 hear from you at all? I am sorry to, Mr. John Castro, Jr's
22 son?

23 A I worried that perhaps that would be taken in the
24 wrong way. I was under the impression they probably wanted

1 nothing to do with me at all and to offer anything or
2 communicate in any way could be potentially perceived as a
3 slap in the face, especially based on previous interaction and
4 comments that I was informed that were made about me.

5 Q They would have no reason to think that you were
6 going to be sincere about it, right?

7 A Right. All they know of me is what happened and
8 what is in that letter. Based on that, I think that is a
9 logical conclusion for them to be just completely disgusted
10 with me.

11 Q Mr. Young's questions focused quite a bit on you
12 being very dangerous while you were at liberty, out of custody
13 prior to going to jail?

14 A Right.

15 Q And you explained at that time you didn't have the
16 ability to see that you could live a different way?

17 A Right.

18 Q If you were to ever get released from custody and
19 prison and be back at liberty in society, are you suddenly
20 going to revert to the person you were in 1997?

21 A No.

22 Q Why not?

23 A It is -- it is just not a part of who I am. I think
24 that the people generally spread who and what they are, so if

1 you own a certain political view you spread that to people.
2 If you are about anger, you spread that. If you are about
3 pain and misery, you try to spread that. If you are about
4 compassion, peace, health and growth, then that is what you
5 spread.

6 MS. BOND: I have no further questions. Thank you.

7 MR. YOUNG: No questions.

8 THE COURT: You may step down.

9 (Witness Excused.)

10 THE COURT: Call your next witness.

11 MS. PUSICH: Janine Marshall, Your Honor.

12 THE COURT: You may proceed.

13
14 JANINE MARSHALL

15 called as a witness, having been first duly sworn,
16 took the witness stand and testified as follows:

17
18 DIRECT EXAMINATION

19 BY MS. PUSICH:

20 Q Good afternoon, ma'am. Could you please introduce
21 yourself to the jury and spell your last name for the record?

22 A Certainly. I am Janine Marshall. Spelling of that
23 is M-A-R-S-H-A-L-L.

24 Q You have an accent that has not been heard here this

1 afternoon. Where are you from?

2 A I am originally from the United Kingdom. I was born
3 there. And I moved to Australia about ten years ago.

4 Q Why did you move to Australia?

5 A I moved there because my soon to be ex-husband
6 wanted to go back home to help care for his mother and father
7 and he wanted me to go with him. I didn't really want to go,
8 but we kind of do that for somebody. So I left my friends, my
9 family, my business I had and went to Australia.

10 Q What kind of business did you have?

11 A Well, when I, when I completed school, then I went
12 to college to do sport and beauty therapy which was a two year
13 full-time course. And then at the age of about 18 I opened my
14 own beauty salon which was quite a big step because I was
15 quite young, but I had the opportunity, so I did that.

16 Q Where was that?

17 A United Kingdom. A place called Doncaster.

18 Q How long did you run that business?

19 A Until right before I left to go to Australia.

20 Q What period of time was that?

21 A It was probably from 2000, year 2000 to 2004 around
22 about that time.

23 Q Then you moved to Australia with your husband. His
24 name?

1 A Tim. Tim Marshall.

2 Q You moved to Australia with Tim. What did you do
3 there?

4 A When I first got there, I still went into the beauty
5 therapy trade. I worked for a number of prestigious cosmetic
6 companies, Estee Lauder, Clarion. I achieved quite a lot of
7 different things with those companies. And I did that right
8 up until leaving to go to university about three years ago.

9 Q Are you still attending the university?

10 A I am about two-thirds of the way through.

11 Q What are you studying?

12 A I am studying two Bachelor of Science majors,
13 environmental science and environmental sustainability
14 management.

15 Q At some point you met Shawn Harte?

16 A I did.

17 Q How did that happen?

18 A Extremely randomly. I was on Facebook at the time
19 and on Facebook you have advertisements pop up and I saw one
20 for Write a Prisoner. And me being very nosey, I wanted to
21 know what this was, so I clicked on it. I had a read of it,
22 and I thought it was really interesting from a sense of
23 rehabilitation for inmates to get into people on the outside.
24 I kind of just left it and went about my chores. I went back

1 and decided to just have a peek a little bit further into it.
2 I came across Shawn's profile and was immediately inspired by
3 what I read about him.

4 Q Why?

5 A Because he just sounded so unique and so different
6 and so interesting.

7 Q Did you start to write to him?

8 A I actually sent an e-mail there and then I had no
9 intention of doing that, but I couldn't help it. I thought
10 this guy is somebody I would really like to get to know, so I
11 did.

12 Q How did you send the e-mail?

13 A It was through Write a Prisoner. You send them an
14 e-mail and then they forward it on.

15 Q Did you get some sort of response from Mr. Harte?

16 A I did. I got a letter back.

17 Q Do you remember when?

18 A It was more or less straightaway. The post takes
19 quite a while in Australia, so it was probably about three or
20 four weeks after I sent the initial e-mail.

21 Q And then did you begin corresponding regularly?

22 A Absolutely. All the time.

23 Q Generally, what sort of things would you talk about?

24 A Well, first of all I mean it started out we are very

1 similar on a multitude of levels. It started out talking
2 about science, philosophy, you know, that kind of thing. Then
3 just progressed from then on. I never really met anybody who I
4 could talk to about such subjects and them understand. Most of
5 my friends aren't into the kind of stuff I am. I am very much
6 into science and philosophy and learning is a passion. And a
7 lot of my friends are still doing the same career what I used
8 to do. They just don't understand when I try and talk about
9 this kind of thing. Shawn does, so that was really good.

10 Q We heard earlier today, maybe it was late yesterday
11 that you are engaged?

12 A Yup.

13 Q When did that happen?

14 A That happened around April I think it was. I am
15 really bad with dates, so.

16 Q I am not trying to be at all disrespectful. You
17 know that he may never be someone who gets to come home and
18 have dinner with you?

19 A Absolutely.

20 Q He may never get to come home at all.

21 A Yeah, I understand.

22 Q Does that change your opinion?

23 A No. I don't think a relationship is based on
24 physicalities. Just because he's not going to be home with me

1 every night does not mean that Shawn and I can't have a really
2 good successful relationship. There is no reason why that
3 should make any difference to me. He brings out the best in
4 me. And just having him in my life, we'll make the best of
5 any situation.

6 Q You said that Tim Marshall is your soon to be
7 ex-husband?

8 A Yup.

9 Q Was that caused by your relationship with Mr. Harte?

10 A Oh, God know. We have our troubles. I have been
11 with him since I was 16 years old. Tim is the only person I
12 have ever really known. We started having difficulties about
13 five years ago, and we decided to split up three years ago. We
14 live in the same house because we actually built a house
15 together. And while I was going to university, he agreed that
16 he would help support me while I did this, because I supported
17 him through a hell of a lot of things regarding care for his
18 parents. So it was about ten months ago where we actually
19 moved out into his mother's permanently. Then when I get
20 back, we are going to sell the house.

21 Q Is Tim still a friend of yours?

22 A Absolutely.

23 Q Is he a good person?

24 A He's a very good person.

1 Q Does he know about Shawn?

2 A He knows everything about Shawn.

3 Q Does he support your decision?

4 A He does. Obviously, this might sound strange because
5 most men I think would find it extremely weird. And, yeah, he
6 did find it a little strange at first, but he can see how
7 Shawn makes me happy. Shawn brings out the best in me and he
8 can see that. I have been open and honest with him, you know,
9 about everything. And he's happy that I found somebody who
10 makes me so happy. That is all he ever wants for me.

11 Q When was the first time you met Shawn Harte
12 face-to-face?

13 A Mid December.

14 Q Did you come to be here during this trial?

15 A Yeah. It was hard to, one, get finances together
16 and to come over here, but to be here for him during this was
17 really important to me. To try and get that money together, to
18 combat my fear of flying which is horrible, it was really
19 important that I do that and support him. There is some things
20 bigger than self.

21 Q How did you get finances together?

22 A Well, I had some savings. I sold my car. I need my
23 car. I needed it. I still did, but I sold my car and a few
24 other items and got the money together. Yeah.

1 Q You have been here off and on since we started
2 Monday?

3 A Yeah.

4 Q You have heard descriptions of what happened in 1997
5 and 1998?

6 A Yup.

7 Q Were these descriptions you heard here in the
8 courtroom the first time you heard what Shawn was in prison
9 for?

10 A No. I did know what he was in prison for when we
11 kind of first met. Not straightaway. I didn't want to talk
12 about that kind of thing. I wasn't interested in who he was.

13 Q Before you came here?

14 A Before I came here, I was aware of that, yes.

15 Q Would it be fair to say it was more difficult to
16 hear in person?

17 A This has been the most difficult thing I have ever
18 had to do. I don't know if you noticed I have not been -- sat
19 outside most of the time because it is quite hard to hear.

20 Q If you had met Shawn Harte in 1997, would you be
21 dating him?

22 A Absolutely not. I wouldn't be associated with
23 anybody like that. He was a complete idiot. Sorry.

24 Q But you are associated with him now?

1 A Yeah, cause to me it has been like hearing about a
2 complete stranger. It is not who he is now. He's a totally
3 different person. He's compassionate. He's loving. He's
4 inspiring. He is something that is so different to the person
5 I have heard about now. It is hard for me to believe that
6 that was him, it really is.

7 Q But did you first hear about what he had done from
8 Shawn?

9 A Yeah.

10 MS. PUSICH: Thank you, ma'am. Thank you, Your
11 Honor.

12 THE COURT: Cross-examination.

13 MR. LEE: Thank you, Your Honor.

14 THE COURT: You're welcome.

15
16 CROSS-EXAMINATION

17 BY MR. LEE:

18 Q Ms. Marshall, when did you -- Had you been in the
19 United States before?

20 A Never.

21 Q When did you arrive here?

22 A I arrived here in mid December. I can't remember
23 the exact date. Might have been the 7th or 8th. I can't quite
24 remember.

1 Q Been here since that time I take it?

2 A Yeah.

3 Q When was it that you met Mr. Harte?

4 A It was in early 2014.

5 Q Do you know the month?

6 A February I think.

7 Q Was that when you saw the Facebook, the profile?

8 A Yup.

9 Q In February?

10 A Uh-huh.

11 Q Then did you write the letter to him right away?

12 A After I looked into his profile, yeah, I found
13 myself sending an e-mail straight away. Yup.

14 Q Then you got a letter back you say three to four
15 weeks with the Australian mail?

16 A The Australian mail takes a little longer.

17 Q That puts us roughly March 2014?

18 A Uh-huh.

19 Q And then did you say you were engaged in April of
20 2014?

21 A Yup.

22 Q Was that done by letter?

23 A No. We spoke on the phone.

24 Q You hadn't seen Mr. Harte though until at least

1 face-to-face December?

2 A Yeah. Yeah. We had seven contact visits.

3 Q Then you mentioned how you have sat through these
4 proceedings, right?

5 A Uh-huh.

6 Q I think you have been here for most of it, fair?

7 A I have been here every day. Most of the time out
8 in --

9 Q Were you here for the entire morning?

10 A Today?

11 Q This morning?

12 A (Witness nods head.)

13 Q So you have learned about what went on back in 1997
14 today and throughout the last several days?

15 A I certainly have.

16 Q Other than that, you only knew what went on from
17 Mr. Harte?

18 A Yup.

19 Q When you visited Mr. Harte, I am assuming you are
20 not allowed to leave Ely prison, right, itself?

21 A Oh, yeah. You have to stay in the one visiting
22 room.

23 Q It is in that room Mr. Harte described earlier?

24 A Yes, that's correct.

1 Q And, again, you did not -- you have had no contact
2 with Mr. Harte before?

3 A Not physically, no. Just we had letters all the
4 time. We spoke nearly every day on the phone.

5 Q Before February of last year, no contacts at all?

6 A No. I mean it is not that easy when I am in
7 Australia and he's here.

8 Q You hadn't heard about this case or anything like
9 that I am assuming, fair?

10 A (Witness nods head.)

11 Q Okay.

12 MR. LEE: Your Honor, that is all the questions I
13 have. Thank you.

14 MS. PUSICH: Nothing further.

15 THE COURT: All right, ma'am, you may step down.

16 (Witness excused.)

17 MS. PUSICH: Your Honor, could we have just a
18 moment.

19 THE COURT: Certainly.

20 MS. PUSICH: May we speak with the clerk?

21 THE COURT: Yes, you may.

22 THE CLERK Exhibit 44-a marked.

23 (Exhibit 44-a marked for identification.)

24 MS. PUSICH: The next testimony will be of Linda

1 Solomon through a transcript read back. She died in 2010.

2 THE COURT: You may proceed.

3

4 LINDA SOLOMON

5 called as a witness, having been first duly sworn,

6 took the witness stand and testified as follows:

7

8 DIRECT EXAMINATION

9 BY MS. PUSICH:

10 Q I need to have you use the actual exhibit. Thank
11 you. What is your name?

12 A Linda Solomon.

13 Q You have to speak up a little?

14 A Linda Solomon.

15 Q Do you live in Fallon, Nevada?

16 A Yes, I do.

17 Q Are you related to any person in this courtroom?

18 A Yes, I am.

19 MS. PUSICH: Excuse me Your Honor, the next line is
20 yours.

21 THE COURT: Do you want me to have her move closer to
22 the microphone?

23 MR. LEE: That would be good, yes.

24 THE COURT: Turn around. Change your direction,

1 actually. Go ahead.

2 BY MS. PUSICH:

3 Q If you can face me a little bit then your voice will
4 carry and we'll know that everybody can hear you. Who are you
5 related to?

6 A I am related to Shawn Harte.

7 Q That's my client seated over against the wall?

8 A Correct.

9 Q What is your relationship to Shawn Harte?

10 A I am his mother.

11 Q How old is Shawn?

12 A Shawn will be 22 tomorrow.

13 Q Where was he born?

14 A He was born in Anaheim, California.

15 Q At about the time that he was born, not at the exact
16 moment, of course, but about the time he was born, were you
17 employed?

18 A Yes, I was.

19 Q How old were you when he was born?

20 A 24.

21 Q And was his father employed?

22 A Yes, he was.

23 Q What was your employment?

24 A I was a registered dental assistant working for an

1 orthodontist.

2 THE COURT: I am going to stop you. Pull the
3 microphone down just a little. There you go.

4 BY MS. PUSICH:

5 Q What was his father's employment?

6 A He worked for my father and went to school part
7 time.

8 Q After that, did he join the Navy, Shawn's father?

9 A He had been in the Navy prior to his birth. He had
10 taken a two year, I don't know, break and re-enlisted.

11 Q So he rejoined the Navy. Then did did you become a
12 military family? Yes, we did?

13 Q Does Shawn have brothers or sisters?

14 A Shawn has a brother.

15 Q An older brother or younger brother?

16 A Older brother.

17 Q Where does Shawn's older brother live?

18 A He lives in the San Francisco area.

19 Q Where is Shawn's father?

20 A Long Beach, California.

21 Q Were you and Shawn's father at one time separated
22 then eventually divorced?

23 A Yes.

24 Q About how old was Shawn when you separated?

1 A About 12 years old.

2 Q Where were you living when that happened?

3 A In Virginia Beach, Virginia.

4 Q Did you live with Shawn's father and his brother and
5 his father in a number of places after Shawn was born?

6 A Yes, we did.

7 Q What cities and states did you live in?

8 A We lived in Yuma, Arizona. We lived in Honolulu,
9 Hawaii. We lived in Virginia Beach, Virginia, and that's where
10 his father and I split up. And then we moved to Bremerton,
11 Washington with his stepfather, then to Sunnyvale, California.

12 Q The ladies and gentlemen of the jury, the only thing
13 that they know about your son is just looking across the room
14 and seeing him. Tell the jury what your boy was like when he
15 was a little boy?

16 A Best of my knowledge, he was a good boy, didn't get
17 into a lot of trouble. He wasn't perfect, but never really
18 any problems with him.

19 Q What kinds of things did he like to do?

20 A He always seemed to like computers. He was active
21 for a number of years in soccer and I was his coach.

22 Q Do you think he was a smart boy?

23 A I am sorry.

24 Q Do you think he was a smart boy?

1 A I know he's a smart boy.

2 Q How did he do in school?

3 A Average.

4 Q Were there some classes he did okay in and some that
5 he didn't?

6 A Some classes he did okay in and some classes he
7 excelled in.

8 Q Did he finish public high school?

9 A No, he did not.

10 Q How far did he get?

11 A I believe he did not return after his sophomore
12 year.

13 Q What did he do?

14 A He enrolled in the Fall that year in an adult
15 education program.

16 Q Did he ever complete a GED?

17 A Yes, he did.

18 Q Where did he do that?

19 A The test, that he actually went and took, was at
20 Western Nevada Community College.

21 Q Were you living in Fallon then?

22 A Yes.

23 Q Did he get his GED?

24 A Yes, he did.

1 Q Did your son, Shawn, ever join the military service?

2 A Yes, he did.

3 Q What branch did he join?

4 A The Army.

5 Q When did he do that?

6 A In November of '95.

7 Q And how long was he in the Army?

8 A For about 20 months or 21 months.

9 Q Did he get out in around June of 1997?

10 A July of '97.

11 Q Where were you living when he got out?

12 A In Fallon.

13 Q By the way, you are remarried are you?

14 A Yes.

15 Q Is your husband here?

16 A Yes, he is.

17 Q He's in the courtroom; is that right?

18 A Yes.

19 Q The fellow, will you stand up? That's your husband,
20 Mr. Solomon?

21 A Yes.

22 Q What does he do?

23 A He's retired from the Navy. Currently is employed
24 by the government on the Fallon air base.

1 Q So, basically, you have been part of a Navy family
2 most of your grown up and married life; is that right?

3 A Yes.

4 Q How long has your husband been the step dad to
5 Shawn?

6 A Well, him and I have lived together since January of
7 '91. We have been married going on five years.

8 Q Has he been a good step dad to Shawn?

9 A Yes.

10 Q Does he love him, too?

11 A Very much.

12 Q When Shawn got out of the Navy, I am sorry, the Army
13 in July of 1997 -- Would you like a drink of water?

14 A No.

15 Q Do you want to stop for a minute?

16 A No.

17 Q When Shawn got out of the Army in July of 1997,
18 where did he come to live?

19 A With myself and his stepfather in Fallon.

20 Q What did he do?

21 A You mean when he --

22 Q When he came to live with you, did he just stay at
23 home? Did he get a job?

24 A No. He went and got a job.

1 Q Where did he get a job?

2 A The first job he got was at a truck wash in Fernley.
3 He wanted to work at Radio Shack kind of for a long time. Not
4 too long after that, he got a job there.

5 Q Does Shawn have an interest in electronics is that
6 why he wanted to work at Radio Shack?

7 A And computers.

8 Q Did Shawn go to school while he was working?

9 A Yes. He was enrolled at Western Nevada Community
10 College.

11 Q Was he working days and going to school at night?

12 A Uh-huh. Yes.

13 Q Until Shawn was arrested in this case, did he have
14 trouble with the law before?

15 A No.

16 Q Any minor things when he was a kid?

17 A No. I know there was one instance where I don't
18 think he was arrested, that he had gotten into some trouble
19 with something to do with contributing to the delinquency of a
20 minor which happened to be a current girl friend his at the
21 time.

22 Q Latisha Babb?

23 A No.

24 Q Any kind of violence before this incident?

1 A Not that I am aware of.

2 Q Do you love your son?

3 A Pardon me?

4 Q Do you love your son?

5 A I love my son very much.

6 Q What do you love about him?

7 A That he is kind and loving and he's honest and
8 generous.

9 Q What has this incident done to you?

10 A It has basically destroyed my life more than I can
11 explain to anyone sitting in the room.

12 Q Were you shocked when this happened?

13 A Yes. Shocked would be an understatement.

14 Q It is hard for you to talk about, isn't it?

15 A Yes, it is.

16 Q It has been very hard for you and I to talk about
17 this, hasn't it?

18 A Very much.

19 Q Are you mad at your son? Are you angry with him?

20 A Yes.

21 Q Have you been able to deal with how angry you are at
22 your son right now yet?

23 A Have I been able to deal with him so far?

24 Q With your own anger?

1 A No.

2 Q And why not?

3 A Because I am having a hard time dealing with it.

4 Q Also because you need to stick by him right now?

5 A Yes. So I try to hold myself together so I can be
6 there for him because I am going, regardless.

7 Q Does your son try not to express his emotions?

8 A Does he what?

9 Q Try not to express his emotions?

10 A Yes, until now, because it upset him because he
11 knows he's destroyed a lot of people's lives.

12 Q Can you think of a single reason why your son did
13 what he did?

14 A No.

15 Q Is it the son you know?

16 A No, not at all.

17 MS. PUSICH I have a photo book I would like marked.
18 It consists of a number of photographs. I would like it
19 marked as a collective exhibit, and I have given copies to
20 counsel.

21 THE COURT: Okay.

22 BY MS. PUSICH:

23 Q Let me show you Exhibit 44. Open it please to the
24 first page. Does that exhibit contain pictures of the son

1 that you know?

2 A Yes.

3 Q Are they early pictures?

4 A Yes.

5 Q Are there pictures in this exhibit which show your
6 son as young as when you brought him home from the hospital?

7 A Yes. Actually, there is one of him in the hospital.

8 Q Do they show pictures of your son with his brother?

9 A Yes.

10 Q And with members of his family?

11 A Yes.

12 Q His father and you?

13 A Yes.

14 Q And school portraits? Are there school portraits?

15 A Yes, there is.

16 Q Is there a Valentine in there that he made for you?

17 A Yes.

18 Q I have to ask this technical question even though it
19 sounds kind of silly. Are those pictures, are they accurate
20 pictures of what they are supposed to be?

21 A Yes.

22 Q Is the Valentine in there an original Valentine your
23 son made for you when he was a little boy?

24 A Yes.

1 MS. PUSICH: Your Honor, I offer the exhibit.

2 THE COURT: Any objection?

3 MR. LEE: No objection.

4 THE COURT: Exhibit 44-a is admitted.

5 (Exhibit 44-a admitted in evidence.)

6 BY MS. PUSICH:

7 Q Are the pictures in that book to your mind pictures
8 of a murderer?

9 A No.

10 Q Do you know how this happened to all your lives?

11 A Pardon me?

12 Q Do you know how this happened to all your lives?

13 A No

14 Q Is there anything you want to ask of this jury?

15 A I just want to say that I love my son with all my
16 heart.

17 MS. PUSICH: Thank you, Your Honor.

18 THE COURT: Cross-examination?

19

20 CROSS-EXAMINATION

21 BY MR. LEE:

22 Q Mrs. Harte, did I hear you, or excuse me, Mrs.

23 Solomon, did I hear you correctly that this man over here is
24 not the person you knew?

1 A Well, I know him.

2 Q But he is not --

3 A I don't know the behavior.

4 Q So the person that murdered John Castro is not the
5 son that you knew?

6 A That's not the son that I thought I knew, no.

7 MR. LEE: Thank you.

8 THE COURT: Anything further, counsel?

9 MS. PUSICH: Yes.

10

11 REDIRECT EXAMINATION

12 BY MS. PUSICH:

13 Q Yes. No matter what he's done, you still love him?

14 A No matter what he does, has done, I will love my son
15 unconditionally and I will be there for him forever.

16 MS. PUSICH: That's all I have.

17 THE COURT: Anything further?

18 MR. LEE: Nothing.

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

20 (Witness Excused.)

21 MS. PUSICH: Your Honor, may we approach?

22 THE COURT: You may.

23 (Discussion at the bench.)

24 THE COURT: Ladies and gentlemen of the jury, that

1 concludes the evidence we have today, but we are going to have
2 another witness. That witness is going to be tomorrow at 1:30
3 in the afternoon. And so we will hear some testimony
4 beginning again tomorrow at 1:30. But we do not have any
5 witness for you tomorrow morning. So we are still on
6 schedule. It looks like it will be the first part of next
7 week still before the case is resolved. And so we are in good
8 timing even though it sounds like maybe you are losing some
9 time. But we'll be fine.

10 I am going to let you go for the evening now and have
11 you come back at 1:30. During this break I want to remind you
12 of the admonition. You may not discuss the case amongst
13 yourselves or with any other person, family members or anyone
14 associated with the trial.

15 You may not allow anyone to discuss the case with
16 you. This includes discussing the case on the internet or
17 internet chat rooms or through internet blogs, internet
18 bulletin boards such as Facebook or twitter, e-mails, texting
19 or messaging in any way. If anyone tries to communicate with
20 you about the case, please tell me immediately.

21 Do not read, watch, listen to or view any news media
22 account or any other accounts about the trial or anyone
23 associated with it including any online information.

24 Do not do any research such as consulting

1 dictionaries, searching the internet or using other reference
2 materials. And do not make any investigation into or about
3 the case on your own.

4 Now you have heard about some internet connection to
5 the case, and that would be improper for you to make any
6 independent investigation. So I do not want you using the
7 internet. It would really be best if you just stayed away
8 from it until the case is done, just so you don't run into any
9 news media accounts or any other account about the case or
10 about anything even connected to the case. So this admonition
11 is a requirement. This isn't a request. It is an order. I
12 will see you back tomorrow at 1:30. You may step out.

13 THE COURT: I want to kind of clean up what happened
14 with Exhibit 44.

15 MS. PUSICH: The State, I had asked them to redact
16 transcript portions that talked about Exhibit 44 because the
17 clerk advised the original exhibit was released following the
18 first trial. But when I mentioned that to the State, they
19 said they had a black and white copy and would I like to use
20 it. So I accepted that. But because there was a 44, it is no
21 longer part of the record, we asked the clerk to mark what we
22 used today as 44-a.

23 THE COURT: I was just curious. Has anyone seen
24 that order releasing?

1 MS. PUSICH: I have not. I just know that is what
2 the clerk advised. Because they are home color pictures, they
3 may have been given back to Mr. Ohlson for Ms. Solomon.

4 THE COURT: I think that could have happened.
5 Normally we would have told the clerk of court, not this one,
6 but a person to hold onto the exhibit, to make copies before
7 it was released. It would not just normally just be released.
8 So I was kind of curious what that order would say. But apart
9 from that, everyone is comfortable with the 44-a?

10 MS. PUSICH: That is fine. I appreciate the State
11 telling us they had it.

12 THE COURT: Okay. And so when we talked about it, I
13 admitted 44-a via the transcript. Are we all in agreement
14 44-a has in effect actually been admitted at this point?

15 MR. YOUNG: Yes, Your Honor.

16 MS. PUSICH: Yes. Thank you.

17 THE COURT: All right. Now we have Dr. Piasecki
18 tomorrow at 1:30 and then once she's finished, you were going
19 to rest?

20 MS. PUSICH: Yes.

21 THE COURT: Then the State is prepared to move
22 forward?

23 MR. YOUNG: Yes. The family will make their
24 statement, and I don't believe the State is going to have any

1 rebuttal case at all.

2 THE COURT: Okay. You can make up your mind
3 tomorrow, but I still want to do the Jury Instructions this
4 afternoon. So if you guys will take maybe fifteen, twenty
5 minutes to gather your things up and come into chambers for a
6 few minutes, we could go over some preliminary matters. We
7 would ask Mr. Harte remain in the courtroom so that we can
8 actually settle the instructions on the record. This would
9 be, we probably have to make a record to finalize the set when
10 the case is all finished, but we can at least go through the
11 set now.

12 MS. PUSICH: Certainly, Your Honor.

13 MR. YOUNG: That is fine.

14 THE COURT: Okay. I said remain in the courtroom. I
15 really meant remain in the courthouse close by. He doesn't
16 have to stay in the courtroom. Okay. I will see you in about
17 20, 25 minutes in chambers and we will be in recess.

18 (Whereupon, the proceedings were concluded.)

19 --o0o--

20

21

22

23

24

1 STATE OF NEVADA,)
2) ss.
3 COUNTY OF WASHOE.)

4 I, Judith Ann Schonlau, Official Reporter of the
5 Second Judicial District Court of the State of Nevada, in and
6 for the County of Washoe, DO HEREBY CERTIFY:

7 That as such reporter I was present in Department
8 No. 4 of the above-entitled court on Thursday,
9 January 29, 2015, at the hour of 9:00 a.m. of said day and
10 that I then and there took verbatim stenotype notes of the
11 proceedings had in the matter of THE STATE OF NEVADA vs. SHAWN
12 RUSSELL HARTE, Case Number CR98-0074.

13 That the foregoing transcript, consisting of pages
14 numbered 1-156 inclusive, is a full, true and correct
15 transcription of my said stenotypy notes, so taken as
16 aforesaid, and is a full, true and correct statement of the
17 proceedings had and testimony given upon the trial of the
18 above-entitled action to the best of my knowledge, skill and
19 ability.

20 DATED: At Reno, Nevada this 18th day of March, 2015.

21
22 /s/ Judith Ann Schonlau
23 JUDITH ANN SCHONLAU CSR #18
24