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IN THE SUPREME COURT OF THE STATE OF NEVADA

RAMON MURIL DORADO,) Supreme Court Case No.: 79556
) Dist. Ct. Case No.: C-17-323098-1
)
Petitioner,)
)
vs.)
)
THE STATE OF NEVADA,)
)
Respondent.)

APPELLANT'S APPENDIX

Volume 9

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1 THE COURT: -- do not ask, "Well, during those time
2 periods, was she promiscuous with men or did she basically
3 look like she was having sexual relations or relations with
4 men?"

5 And we're gonna define sexual relations very simply:
6 Touching, kissing, hugging, like that. Those are all sexual
7 relationships. Okay? Whether we consider them to the extent
8 that politicians consider them is irrelevant.

9 Okay. You're trying to taint her by her previous
10 actions, which you cannot do. But you can bring up the fact
11 that this witness has a personal relationship with the victim
12 and she is claiming, according to her testimony here, that
13 they went out and did go to clubs, go to the dance halls, go
14 to drinking establishments within the two years prior to.
15 That's fine. That disputes what she said in regards to she
16 was not a person who went out and partied since the birth of
17 her first son.

18 MR. MARGOLIS: One more point, Your Honor. There's
19 been some discussion with Ms. Lehr on the stand about alcohol
20 consumption, what she did or did not drink, Midori, shot, what
21 have you. Can I --

22 THE COURT: She didn't remember the name of the
23 drink. She couldn't recall if that was even the name of the
24 drink.

1 MR. MARGOLIS: Right. Can I inquire of Ms. Perez as
2 to the drinking habits of Ms. Lehr on their previous nights of
3 partying?

4 MS. CRAGGS: No.

5 THE COURT: You can ask her on those nights when you
6 guys went out, did you see Ms. Lehr consume alcohol. Yes,
7 Counsel, that's not a rape issue.

8 MS. CRAGGS: I understand, but our objection to that
9 would be what's the relevance of whether she consumed
10 alcohol --

11 MR. MARGOLIS: Impeachment.

12 THE COURT: Because your client got on the -- or not
13 your client -- the victim got on the stand and said that she
14 did not go out bar hopping and did not go out drinking -- she
15 said the word "drinking" -- in the two years previously. If
16 this person's now getting on the stand and asked a question,
17 "Did you see Ms. Lehr consume alcohol outside of her home," or
18 if you want to phrase it, "at a bar or at a dance
19 establishment in the two years previously?"

20 And if she says yes, that's fine. It goes in direct
21 contradiction to what your victim said.

22 If she said -- if you make it a general question and
23 Counsel asks, "Did you see Ms. Lehr ever consume alcohol in
24 the two years previously?"

1 I would imagine you would object and say, Counsel -- or,
2 "Your Honor, that question is too vague and ambiguous to be
3 answered." Because she never said on the stand that she
4 didn't have a beer sitting at her house.

5 MS. CRAGGS: Right.

6 THE COURT: Or she doesn't celebrate new years with
7 a toast. She just said, "I didn't go out" --

8 MS. CRAGGS: Right.

9 THE COURT: -- "to bars or dance places and have
10 drinks." That's different than the very general, broad
11 question of, "Did you ever see her drink before?"

12 I would imagine, as a good attorney, you would object to
13 that. And it would be sustained because it's not a specific
14 question that's contradicting to what her testimony was. Her
15 testimony was she didn't go out bar hopping from the time her
16 first son was born until this night. Okay?

17 Let's get this jury in here. They're out there waiting.

18 MR. YAMPOLSKY: Your Honor --

19 THE COURT: Okay. Wait.

20 Go ahead.

21 One second.

22 MR. YAMPOLSKY: Just one thing, we had a
23 conversation at the bench about precluding the State's expert.
24 And I just want to put it on the record.

1 THE COURT: On the record.

2 MR. YAMPOLSKY: I didn't think it was appropriate
3 because it violates right to confrontation. I understand that
4 the previous SANE nurse is dead. They had this other person
5 come in who -- and -- who can testify regarding data of their
6 own opinions. However, unlike a fingerprint card, the data
7 would be actually examining Ms. Lehr. She didn't do that.

8 Based on that, I don't think she should testify. Maybe
9 it's trying to unring the bell, but --

10 THE COURT: Well, no, Counsel. I think if you look
11 back at the testimony, this individual -- Dr. Ekroos --
12 basically said something that was, I would imagine you would
13 consider in your favor. You had a previous nurse who said, "I
14 detected bruising in the vaginal cavity or vault. And that
15 doctor just got up there on behalf of her exam and said, "I
16 didn't see that."

17 Now, if I'm mistaken, that's probably kind of good for
18 the Defense, when you have a doctor, 20 years later, saying
19 that the nurse's diagnosis or prognosis was incorrect. But if
20 you'd like to have that stricken, I'll consider that.

21 MR. YAMPOLSKY: No. No, I won't.

22 THE COURT: Because you don't get to pick and choose
23 what part you have her stricken. It's either her whole entire
24 testimony is stricken or it's not. And all I got from her is,

1 "I looked at the nurse's notes and I guess I say after the
2 blood -- what we call the blue dye test was done, there was
3 clearly an abrasion. I can't tell you if that is sexual in
4 nature. I couldn't tell you if it was a tampon," she said.
5 She just knows that there was an abrasion to the vault.
6 That's all she said.

7 She said, "I disagree with the previous nurse in regards
8 to bruising." She says, in her opinion, bruising is a blunt
9 force trauma event. And, again, she used the tampon example.
10 And she just basically said, "In my professional opinion, I
11 would not have labeled that as bruising." If you want that
12 stricken, I'll consider that. But --

13 MR. YAMPOLSKY: No. No, I do not.

14 And one final thing, Your Honor.

15 THE COURT: Okay.

16 MR. YAMPOLSKY: In the discovery, the
17 Detective Lora Cody, she talked about various things, which I
18 don't care about. But what she did say, do we have --
19 basically what she said was, "Oh, I looked at these bruises
20 and they were consistent with sexual assault." This is not an
21 expert. This's the detective.

22 THE COURT: Okay. When we get that detective coming
23 up here, let's raise that one when that detective comes up
24 here.

1 MR. YAMPOLSKY: Okay. But I don't want her to say
2 that then object because you can't unring the bell.

3 THE COURT: Okay. We don't have Detective Cody
4 coming up next; right?

5 MR. YAMPOLSKY: Right.

6 THE COURT: Okay. So you're asking me, in the
7 future, if Detective Cody takes the stand, prevent her from
8 saying this. Let's find out if Cody's gonna take the stand
9 first and we can deal with that. What I've got now is a jury
10 that's been out there for 45 minutes.

11 MR. YAMPOLSKY: Okay.

12 THE COURT: And you've asking about an issue about a
13 witness I don't even know is going to be called.

14 MR. YAMPOLSKY: Well, I thought it was incumbent
15 upon --

16 THE COURT: I understand. I understand that you can
17 let the other side know, basically, if Cody's gonna be called,
18 we're gonna have this issue. I can tell you this: I don't
19 usually do precursory decisions. But I don't allow police
20 officer -- and I thought we made this kind of obvious during
21 voir dire. We don't allow police officers to make the
22 ultimate determination.

23 Police officers cannot come in and say, "These bruises
24 are indicative of a sexual assault." Can they say, "Over my

1 30 years and my 6,000 sexual assault cases, do I see women
2 with bruises or men with bruises after a sexual assault."
3 Yeah, they can say that.

4 "Can you tell, officer, that that was done in the
5 commission of a sexual assault?" I don't allow officers to
6 say that. I don't think I'd allow an expert to say that
7 because that's basically them making a determination whether
8 or not it was consensual sex, whether or not it was consensual
9 sex that turned into blunt force trauma that could cause a
10 bruising.

11 I take Coumadin every day. I step off this podium the
12 wrong way, I have a bruise on my leg for the next six weeks.
13 Okay. That doesn't -- it's not indicative of anything unless
14 you know my history. So for an officer to come in and say,
15 "Yes, that bruise right there, I can tell comes from a sexual
16 assault." No. I would never allow an officer to testify to
17 that. I don't even know if I'd allow an expert. I'm sure
18 some experts believe they can say that. But I don't think
19 it's valid.

20 MS. CRAGGS: The State was not going to be eliciting
21 that testimony, Your Honor.

22 THE COURT: Okay. Let's get our next -- let's get
23 our jury in here, get the witness on.

24 MR. YAMPOLSKY: And, Your Honor, this won't stop

1 anything.

2 THE COURT: Okay.

3 MR. YAMPOLSKY: Mr. Margolis is going to examine
4 Ms. Perez. Okay. And I think the next thing, you're gonna
5 put on the GL calls; right?

6 MR. SCHWARTZ: We're gonna do the DNA analyst. And
7 she's gonna leave.

8 MR. YAMPOLSKY: Okay. What I was -- my expert's out
9 there. And I just wanted the Court to excuse me for a couple
10 of minutes --

11 THE COURT: Oh, absolutely. Counsel, if you need to
12 go out there and be with your expert, go ahead.

13 MR. YAMPOLSKY: Okay. Thank you.
14 I'll wait until the jury comes in.

15 [DISCUSSION OFF THE RECORD]

16 THE MARSHAL: All rise for the jury.

17 [IN THE PRESENCE OF THE JURY]

18 THE MARSHAL: The jury's all present, Your Honor.

19 THE COURT: Counsel, stipulate to the presence of
20 the jury.

21 MS. CRAGGS: Yes, Your Honor.

22 MR. YAMPOLSKY: Yes, Your Honor.

23 THE COURT: Thank you.

24 Welcome back, ladies and gentlemen.

1 Counsel for the State, call your next witness.

2 MR. SCHWARTZ: Maria Perez, Your Honor.

3 THE COURT: Ms. Perez, if you'll take the stand.
4 Remain standing. Raise your right hand, facing my clerk,
5 please.

6 MARIA PEREZ,
7 [Having been called as a witness and being first duly
8 sworn testified as follows:]

9 THE CLERK: Please be seated. State and spell your
10 first and last name for the record.

11 THE WITNESS: My name is Maria Perez. It's
12 M-A-R-I-A, P-E-R-E-Z.

13 THE COURT: Thank you, Ms. Perez.
14 Counsel, your witness.

15 MR. SCHWARTZ: Your Honor, may I approach just to
16 mess with the microphone?

17 THE COURT: You may.

18 DIRECT EXAMINATION

19 BY MR. SCHWARTZ:

20 Q Ms. Perez, do you also go by a nickname?

21 A Yes.

22 Q What's your nickname?

23 A Candy.

24 Q Candy. Okay. Is that your middle name?

1 A Yes.

2 Q Candalaria (phonetic)?

3 A Yes.

4 Q Now, I want to talk to you about some things that
5 happened back in 1999. Okay?

6 A Yes.

7 Q At that time, were you friends with someone by the
8 name of Michelle Lehr?

9 A Yes.

10 Q How did you first meet Michelle?

11 A I met her working at the general store.

12 Q Okay. So you were co-workers?

13 A Yes.

14 Q At some point did Michelle also spend some time
15 living with you?

16 A Yes.

17 Q Would you and Michelle go out?

18 A Yes.

19 Q Okay.

20 MR. SCHWARTZ: Bless you.

21 THE COURT: Thank you.

22 BY MR. SCHWARTZ:

23 Q Specifically, I want to talk to you about
24 April 24th, 1999. Do you remember going to the Silver Saddle

1 that evening?

2 A Yes.

3 Q Now, let's kind of back up a little bit. How did
4 the night start?

5 A We just, you know, decided to go out. We asked her
6 if she wanted to come with us. We had asked her before. She
7 wouldn't go out with us that much because, you know, it was a
8 Hispanic night club and she just decided to go with us.

9 Q Did she plan -- was the plan for her to meet at your
10 house?

11 A Yes.

12 Q So I know it's been a while. If you don't remember,
13 that's fine. Do you recall about what time she met at your
14 house?

15 A No, I don't.

16 Q Sometime in the evening?

17 A Yes.

18 Q And what did you guys do once she arrived at your
19 house?

20 A Well, we got in our cars and we went.

21 Q Okay.

22 A She took her car because she wanted to go home
23 before us.

24 Q Okay. So she drove separately from you?

1 A Yes.

2 Q Was there a woman by the name of Joanne that was
3 also there?

4 A Yes, that was her friend too.

5 Q Okay. So Joanne was primarily Michelle's friend?

6 A Yes.

7 Q And she also joined going to Silver Saddle that
8 night.

9 A Yes.

10 Q Showing you State's Exhibit 8. Should be able to
11 see it on the screen there. What are we looking at in that
12 picture?

13 A Silver Saddle.

14 Q Okay. You said it was mostly a -- did you describe
15 it as, like, a Spanish-speaking casino or Hispanic casino? I
16 missed what you said.

17 A It was mostly Mexican music.

18 Q Okay. Were most of the people in there Mexican?

19 A Hispanic, yes.

20 Q Hispanic. Most of the people in there speak
21 Spanish --

22 A Yes.

23 Q -- or English?

24 And you mentioned that that's one reason that Michelle

1 didn't often come to the Silver Saddle because she didn't
2 speak Spanish.

3 A She speak a little bit, but she wasn't that
4 comfortable.

5 Q Okay. So once you got to the Silver Saddle, what
6 happened?

7 A We walked in. We usually go to the bar, ordered
8 beer, we drink, dance.

9 Q Okay. Now, you said "usually." Do you kind of have
10 an independent recollection of that night in particular, what
11 you did, or is this just kind of what you would normally do
12 when you went to Silver Saddle?

13 A That was just normally what we did.

14 Q Okay.

15 A Go to the bar.

16 Q Okay. So if I'm asking you specifically about this
17 night, do you have a memory of exactly what you did that
18 night?

19 A We had a spot at the bar. And everybody knew we
20 would all hang out there all the time.

21 Q Okay. So you were a regular, then?

22 A Yes.

23 Q So you would have -- that was what you would have
24 done on April 24th, 1999, gone to the bar, got your spot?

1 A Yes.

2 Q And got some drinks.

3 A Yes.

4 Q Do you remember what you did after you got some
5 drinks?

6 A Just drinking.

7 Q Okay. What's happening in the bar? What -- paint
8 me a picture. Is there -- you're at the bar. There's music?

9 A Yeah, there's a band playing. They play for a
10 while. Then they will take breaks. Sometimes during the
11 breaks, you know, one of the girls will tell us, like, "Oh,
12 I'm going outside."

13 We're like, "Okay."

14 And sometimes the -- yeah, the guys from the band will
15 come down, talk to the girls, dance with them too.

16 Q Okay. That was a pretty standard --

17 A Yeah.

18 Q -- night at the Silver Saddle?

19 Now, specifically, though, for this night, do you
20 remember Michelle -- what do you remember Michelle doing at
21 the Silver Saddle with you that night?

22 A She was dancing. I remember her dancing.

23 Q Okay. Were you dancing too?

24 A No.

1 Q Okay. Was Joanne dancing?

2 A Yes.

3 Q So Michelle and Joanne were dancing?

4 A Yes.

5 Q Do you remember anything else in particular just
6 about that night?

7 A All of a sudden she was gone.

8 Q Okay. Did -- I know it's, again, with the times,
9 but do you remember how long you had been at the casino or the
10 Silver Saddle before she would have left?

11 A No.

12 Q More than just a minute or two; right?

13 A It was a while.

14 Q A little bit?

15 And do you know where she went?

16 A No.

17 Q Do you know if she went to check on her son? If she
18 went to another bar? Do you know anything about where she
19 would have gone?

20 A No. We just assumed she had gone home.

21 Q Okay. And at this time that you remember her
22 leaving, was Joanne still there or did Joanne leave with
23 Michelle?

24 A No, Joanne was there because she was her ride.

1 Q So she left Joanne.

2 A Yes.

3 Q Do you remember seeing Michelle come back that
4 evening?

5 A No.

6 Q What did you do with the rest of your night?

7 A Got drunk.

8 Q Okay. That is okay. No one's judging.

9 You got drunk. What did you normally drink or what were
10 you drinking that night?

11 A Just beer.

12 Q Just beers. Okay.

13 Did you ever dance or no?

14 A Yes.

15 Q Oh, okay. Okay. So you danced, drank. Do you
16 remember hanging out with anyone from the band that night?

17 A I used to know a guy from the band.

18 Q Okay.

19 A But I had known him since before that. I've known
20 him for a long time.

21 Q Okay.

22 A It was the guy that played the guitar.

23 Q Okay. Was it -- was his name Ramon Dorado?

24 A No.

1 Q Okay. Someone else.

2 A Yes.

3 Q That band that you saw playing that night, were they
4 like the local band? Like, they play every night or every --

5 A Yes.

6 Q -- weekend?

7 The house band, I guess they would be called?

8 A Yes.

9 Q So you drink -- do you remember how long you stayed
10 at the Silver Saddle?

11 A Till, like, 8:00 in the morning.

12 Q Okay. And just drinking that whole time?

13 A Yes.

14 Q Dancing and hanging out, having a good time?

15 A Yes.

16 Q And where did you go after you left?

17 A Home.

18 Q What did you do when you got home?

19 A Went to sleep.

20 Q Okay. What happened next?

21 A Michelle came to my house and woke me up and told me
22 what had happened.

23 Q So we're talking about the next day now. So you
24 went out on the 24th. We're talking about the next day on the

1 25th?

2 A Yes.

3 Q Do you remember around what time it would have been?

4 A No, I don't.

5 Q She came over and told you what happened. What did
6 she say happened?

7 A She said that one of the guys from the band that she
8 was talking to, and she said she had danced with him on his
9 break, had invited her somewhere. I don't know where. I
10 don't recall where. And that he had raped her.

11 Q Now, when Michelle was telling you these things, can
12 you describe what she was acting like or her demeanor at the
13 time?

14 A She was upset, mad. She couldn't believe that that
15 had happened to her.

16 Q Do you recall going with Michelle to the hospital
17 after that?

18 A The only thing I recall, me sitting in a chair at
19 UMC.

20 Q Okay.

21 A That's all I recall.

22 Q That's a hospital.

23 A Asleep.

24 Q Yeah.

1 A On the chair.

2 Q Okay. We're talking about this day, though.

3 A Yes. And I still remember where we went. You know,
4 where the trauma center is, that little street, straight
5 ahead --

6 Q Okay.

7 A -- there were these doors. I just remember walking
8 in there and seeing chairs. And I was asleep fast. That's
9 all I remember.

10 Q Okay. Okay. Do you remember, at least, Michelle
11 going with you?

12 A Yes.

13 Q Okay. And I know you said that's all you remember,
14 but let me just ask a couple things. And if you don't
15 remember, totally fine. But just want to be clear. Do you
16 remember speaking with any police officers that day?

17 A No, I don't.

18 Q Do you remember speaking with, I guess, anybody at
19 the hospital that day?

20 A I don't remember.

21 Q Okay. Do you remember what you did that evening?
22 So you went to hospital -- you remember being at the hospital.
23 Do you remember what you did that night?

24 A That night, the girls -- there were more girls that

1 we used to all hang out and go to the Silver Saddle together.
2 You know, I called them and I told them what had happened. So
3 we decided to get ready and go to the Silver Saddle again.
4 But this time, we decided to go in early.

5 Q Okay. What was your purpose in going in early?

6 A I wanted to know who did that to her.

7 Q Okay.

8 A And why he did that to her.

9 Q So when you arrived, what -- what do you mean by
10 early-ish?

11 A Well, you know, usually we would get there, like,
12 11:00, 12:00. This time, we decided to be there early, when
13 the band started playing at 10:00.

14 Q 10:00. What happened when you arrived?

15 A When we arrived, the band was playing. We walked in
16 there. It's like six of us girls. And we walked straight in
17 front of the stage where they're playing. And, then, next
18 thing we know, this guy, in the middle of the song, stops
19 playing, drops his instrument, and rushes in between us and
20 runs out the door.

21 And we thought we were tough. So we just started chasing
22 him. But of course we couldn't catch him.

23 Q Okay. Do you remember who that guy was?

24 A To be honest, no.

1 Q Okay.

2 A I don't -- I don't recall his face. I don't
3 remember.

4 Q Just remember he was playing in the band --

5 A Yes.

6 Q -- and did it -- I want to make sure I understand.
7 When you walked in, were you guys standing right in front of
8 the band?

9 A Yes.

10 Q And what were you doing when you were standing
11 there, so to speak?

12 A Staring at them. Staring at all the band.

13 Q Okay. And how soon after you did that did the
14 individual run off --

15 A Not even five seconds.

16 Q Okay. Do you recall Michelle being with you that
17 day?

18 A I don't recall Michelle being with me. I don't
19 recall.

20 Q Okay. What was your reaction to that, running out
21 and chasing him --

22 A That Michelle had told me the truth.

23 Q What did you do -- and then -- let me ask this:
24 After that -- let's actually go to present day. Did you and

1 Michelle remain friends for these 20 years or did you guys
2 kind of lose touch?

3 A We kind of lost touch.

4 Q Okay. The band, I know you had said you had -- you
5 always went to the Silver Saddle. Did you go back to the
6 Silver Saddle, again, after this night -- or these two nights
7 we've been talking about?

8 A Yes.

9 Q Okay. Did you ever see that band member there, ran
10 off the stage, did you see him get back up and play any other
11 [indiscernible]?

12 A No, never saw him again.

13 MR. SCHWARTZ: Court's indulgence.

14 THE COURT: Go ahead.

15 BY MR. SCHWARTZ:

16 Q Just a couple more questions, Ms. Perez.

17 When Michelle came over to your house the next morning
18 and talked to you about what had happened, did you observe --
19 do you remember anything significant about her clothing?

20 A I don't remember.

21 Q Do you remember anything about observing injuries on
22 her or anything like that?

23 A I don't remember.

24 Q Okay.

1 A She might have, but I don't remember.

2 Q Okay. And then, just specifically this night that
3 we were talking about, where you guys went out and Michelle
4 left before you guys left, at the Silver Saddle, did you see
5 her drinking?

6 A Michelle didn't really drink.

7 Q Okay. So you don't recall seeing her drinking a lot
8 that night?

9 A She drank water.

10 Q Okay.

11 MR. SCHWARTZ: Your Honor, at this time we pass the
12 witness.

13 THE COURT: Cross.

14 CROSS-EXAMINATION

15 BY MR. MARGOLIS:

16 Q Good afternoon, Ms. Perez. Thanks for being here.

17 A Thank you.

18 Q Just a couple questions about your testimony. So
19 you said that you and Ms. Lehr met when you guys worked
20 together at the general store; is that right?

21 A Yes.

22 Q Remember approximately when that was?

23 A No, I don't.

24 Q How about in reference to April 24th, 1999, how long

1 had you known Michelle at that time, if you can estimate?

2 A I had known her about a year.

3 Q About a year? Okay.

4 And at -- you guys became friends. More than co-workers,
5 you became friends; correct?

6 A Yes.

7 Q And I believe you testified that, at some point, she
8 lived with you for a brief period of time?

9 A Yes.

10 Q Do you remember about how long she lived with you?

11 A She lived with me, like, about two months. Because
12 she like her independency (sic) a lot.

13 Q Okay. And even when she wasn't living with you, you
14 guys socialized together; correct?

15 A Yes.

16 Q Okay. And you would go to bars and clubs together;
17 correct?

18 A Yes.

19 Q And do you remember -- I think Michelle, at the time
20 that this happened, Michelle had a two-year-old son at home.

21 A Yes.

22 Q Do you remember, and if in the year or so prior to
23 that, or in that two-year period since the birth of her son --
24 and I don't know if you knew her when her son was born or not.

1 Did you?

2 A No.

3 Q Okay. So you met her some time after that?

4 A Yes.

5 Q So in the time that you knew her, approximately how
6 many times did you guys go out together to bars and clubs?

7 A I say about 10, 15 times.

8 Q Ten or fifteen times?

9 And I know you testified that on the evening of
10 April 23rd, the early morning hours of April of 24th, you
11 don't remember Michelle drinking very much at the
12 Silver Saddle that night; right?

13 A Michelle didn't drink. She didn't drink beer.

14 Q Okay. When you went to these bars and clubs, did
15 you drink?

16 A Yes.

17 Q And on these previous 10 to 15 occasions, is your
18 testimony that Michelle Lehr didn't drink at all?

19 A I know Michelle. She didn't even drink at home.
20 She would drink wine, but not beer. She didn't like bear.

21 Q They serve wine at --

22 A Yeah, she would drink a --

23 Q -- any of the establishments you went to?

24 A -- she would drink a cup of wine and stuff. But she

1 was not a heavy drinker.

2 Q She wasn't a heavy drinker.

3 A No.

4 Q But she drank?

5 A Yeah.

6 Q Okay. And she went out and partied with you guys.

7 A Yes.

8 Q Okay.

9 MR. MARGOLIS: Court's indulgence one minute.

10 THE COURT: Go ahead.

11 MR. SCHWARTZ: All right. No further questions,
12 Ms. Perez. Thanks very much.

13 THE COURT: Thank you. Any redirect, Counsel?

14 MR. SCHWARTZ: None, Your Honor. Thank you.

15 THE COURT: Thank you, Ms. Perez. You're excused.

16 THE WITNESS: Thank you.

17 THE COURT: State, call your next witness.

18 MR. SCHWARTZ: Your Honor, the State is going to
19 call Kimberly Dannenberger.

20 KIMBERLY DANNENBERGER,
21 [Having been called as a witness and being first duly
22 sworn testified as follows:]

23 THE CLERK: Please be seated.

24 State and spell your first and last name for the record.

1 THE WITNESS: Kimberly Dannenberger,
2 K-I-M-B-E-R-L-Y, D-A-N-N-E-N-B-E-R-G-E-R.

3 THE COURT: Good afternoon, Ms. Dannenberger.
4 Counsel, your witness.

5 MR. SCHWARTZ: Your Honor, the parties have agreed
6 to some stipulations with regard to the DNA in this case. And
7 I'd like to read those into the record, with the Court's
8 permission.

9 THE COURT: Go ahead.
10 Members of the jury, what's gonna happen now is Counsel's
11 gonna read into the record portions of evidence that are
12 stipulated to. That means they are to be accepted as the
13 truth. They are exhibits and/or pieces of evidence that both
14 sides have stipulated to.

15 So if you'll please pay attention, he's gonna read those
16 portions that have been stipulated to.

17 MR. SCHWARTZ: Michelle Lehr's sexual assault kit
18 was properly preserved for DNA testing. In 2016,
19 Detective Corey Dunkhurst (phonetic) obtained a buccal swab
20 from Defendant Ramon Dorado in Winnemucca, Nevada. That
21 buccal swab was then sent to the Las Vegas Metropolitan Police
22 Department for DNA testing. In 2016, Defendant Ramon Dorado's
23 DNA was located on the vaginal swabs taken from
24 Michelle Lehr's sexual assault kit.

1 Thank you, Your Honor.

2 THE COURT: Thank you. Counsel, your witness.

3 MR. SCHWARTZ: Thank you.

4 DIRECT EXAMINATION

5 BY MR. SCHWARTZ:

6 Q How you doing, ma'am?

7 A Good, thank you.

8 Q Where do you work at?

9 A I work for the Las Vegas Metropolitan Police
10 Department's forensic laboratory in the biology DNA section.

11 Q Okay. Would you tell the jury a little bit about
12 your training and your educational background getting to
13 become a DNA analyst?

14 A I have a Bachelor of Science degree from the
15 University of Nevada Las Vegas in cell and molecular biology.
16 I also completed an approximate 16-month training program
17 within the biology DNA section.

18 Q And how long have you worked with Metro in the lab?

19 A I have been at the laboratory a little over ten
20 years, total. And I've been in the biology DNA section for
21 the past -- a little over eight years now.

22 Q Okay. Do -- as an analyst for the lab, do you do
23 different kinds of continuing education classes or continuing
24 training classes as DNA evolves, so to speak?

1 A Yes. I'm required every year to complete at least
2 eight hours of continuing education. That can be in the form
3 of participating in online webinars, attending national
4 conferences, attending outside training or sometimes training
5 does come to the laboratory for us.

6 Q And what would you say your primary duties and
7 responsibilities are as a DNA analyst?

8 A As an analyst, I can be tasked with looking at items
9 of evidence, taking samples from those items of evidence,
10 subjecting those samples to a series of lab processing steps,
11 ultimately making interpretations on DNA profiles.

12 If there are known reference standard -- so a reference
13 standard just means we know where that standard came from. It
14 came from an actual person. And make comparisons of known
15 reference standards to evidence samples. Write reports,
16 generate statistics, do reviews, testimony.

17 Q If I was to, say, break it down a little, you can
18 take some DNA that was collected and potentially -- or
19 something that was collected and compare it to a known
20 individual's DNA and see if it matches, so to speak.

21 A Correct. If at the end of the day that evidence
22 profile is deemed interpretable, we can make comparisons to
23 those known standards.

24 Q And, I guess, just, generally, what is DNA?

1 A DNA is basically our genetic blueprint. It's what
2 makes us who we are. Between humans, you know, about
3 99.9 percent of our DNA is gonna be the same. It's coding for
4 your internal organs: Two arms, two legs, you know,
5 et cetera. It's that .1 percent that makes us unique: Eye
6 color, hair color, height, skin color, any other uniqueness.

7 And the locations that we are testing for, in forensic
8 DNA analysis -- excuse me -- is in that .1 percent. So it's a
9 unique portion.

10 DNA is inherited. You know, half comes from mom; half
11 comes from dad. And it's also unique to each individual, the
12 exception being identical siblings.

13 Q I guess, are there different things on the body that
14 can produce DNA or that you can find DNA from?

15 A DNA, the testing that we are doing is -- can come --
16 excuse me -- can come from any nucleated cell. So the nucleus
17 of a cell, that brain power of a cell. Blood has cells that
18 have that nucleus. So we can obtain DNA profiles from blood
19 samples, saliva samples, semen samples, skin cells, almost
20 anywhere on the body there's a potential for DNA.

21 Q What were we kind of -- what was at issue in this
22 case? When I say that, what type of DNA fluid or specimen
23 were we -- you analyzing in this case?

24 A In this case, I made a comparison to samples that

1 were from the vaginal swabs.

2 Q Vaginal swabs. Okay.

3 Now, the way this case kind of got to you, procedurally,
4 would you say that that's a little bit unusual for your day to
5 day?

6 A For most of our cases, yes.

7 Q Typically, will you get a case where the -- I guess
8 the evidence was collected maybe a few weeks ago and then you
9 will be doing the analysis then and will be produced within a
10 month or so? A shorter time frame?

11 A Yes.

12 Q Okay.

13 A Yes.

14 Q This case, we're obviously talking about something a
15 little bit different.

16 A Yes.

17 Q And your involvement didn't start when this case
18 started; right?

19 A It did not, no.

20 Q When did you become involved?

21 A 2016.

22 Q Are you aware, though, given that you've reviewed
23 what happened, what happened to the sexual assault kit prior
24 to your involvement?

1 A Yes.

2 Q Okay. Could you tell the jury a little bit about
3 what happened from 1999, when this sexual assault kit was
4 collected and how it ended up in your hands in 2016?

5 A As an agency, we identified sexual assault kits that
6 had never been tested previously. So this sexual assault kit
7 was among those. And we actually outsourced almost all of
8 those cases to an outside laboratory to do the initial
9 testing.

10 So the initial testing was done by a laboratory that was
11 not LVMPD. They -- at the time, the laboratory's name was
12 Cellmark Forensics. They have since merged with a company
13 called Bode, Bode Cellmark Forensics is what's listed on the
14 report.

15 And so once Bode Cellmark Forensics generates their
16 profiles, if they have any, maybe their interpretations, as an
17 agency, in order for us to take ownership of that data, we
18 have to independently kind of review that case file and say,
19 "Yes," you know, "we're agreeing with this other laboratory
20 that we kind of blessed to do the work for us." We are
21 agreeing with it, in order for us to take ownership of that
22 case file.

23 So that's what happened in this case. The outside
24 laboratory did the initial evidence interpretation. And then

1 it came back to the LVMPD laboratory kind of as, like, a
2 verification, like, yes, we are agreeing with this case file.

3 Q Now, when did that outsourcing start, approximately?

4 A We are on -- we're -- currently, we're on the tail
5 end of about three- to four-year project.

6 Q Okay. So about 2015, the lab received some grant
7 money to send out -- outsource these kits to another lab.

8 A Yes.

9 Q Now, why were these kits, in 2015, why hadn't they
10 been tested yet from 1999?

11 A I don't know the specifics of every case. It --

12 Q Mm-hmm. Generally.

13 A Generally, they just -- they weren't tested for
14 various reasons.

15 Q Okay. Was there, so to speak, from 1999 to 2015 a
16 backlog or lots of DNA cases that were essentially stacking up
17 and had not been tested?

18 A Yes. As an agency, we identify the number that
19 LVMPD basically was in charge of or had possession of. As
20 well, we also worked with the other jurisdictions in
21 Southern Nevada to help them identify the sexual assault kits
22 that had never been tested that were, for lack of a better
23 word, sitting on shelves.

24 Q Now, you mention that -- so this -- the kit that

1 we're talking about at issue in this case, was one of those
2 that was sent out for testing at a different agency?

3 A Yes.

4 Q And once you received the data back from that
5 agency, essentially, they gave you a DNA profile to look at?
6 Is that essentially what they gave you?

7 A They give us their entire case file. So we had to
8 review the case file, which did contain the data associated
9 with the DNA profiles that were generated.

10 Q Okay. And were you -- you were the one who would
11 have compared, made sure that, basically, they did all the
12 right steps.

13 A I could have been. I was tasked with that for about
14 a five-month period. In this specific case, I was not the
15 initial reviewer who reviewed the data coming in. But, yes,
16 somebody in our laboratory had to review the data. It -- they
17 went -- our case files that we received back that had
18 interpretable results had to go through a technical review
19 in-house by LVMPD as well as an administrative review in-house
20 by LVMPD. So we did have to do, still, a two-prong review
21 process like we do for our own casework.

22 Q And then the data that was sent back from that
23 agency, do you recall if, also, they tested whether it was
24 positive or negative for sperm?

1 A They did do testing, per their report, yes.

2 Q And that was positive for sperm, per their report?

3 A Yes. Per the report, yes.

4 Q Now, once you -- once the lab reviewed the data that
5 was received, a DNA profile that was received, is there a way
6 for, I guess, the lab to -- is there some sort of database
7 that the lab can look at to see if this profile matches
8 somebody?

9 A If the DNA profile is eligible and meets certain
10 criteria, it can be uploaded into a database, yes.

11 Q And is that what happened in this case?

12 A It did, yes.

13 Q And through that process, was the lab able to
14 identify someone that potentially matched this profile?

15 A Yes.

16 Q And who was that?

17 A Ramon Dorado.

18 Q Once that process is done, of course there's
19 probably more steps that the lab needs to take to ensure that
20 that is actually a match; true?

21 A Correct. Any time the database comes back with what
22 we consider a match, there's a two-prong verification for DNA
23 and fingerprints.

24 Q And in this case, were you provided with what's

1 known as a buccal swab for Ramon Dorado?

2 A Yes, I was.

3 Q That's not something you go out and obtain yourself;
4 right?

5 A I -- no, I do not.

6 Q That's something that an officer or a detective
7 could obtain a buccal swab and provide it to the lab and then
8 you can use that sample to test against your profile.

9 A Correct. Yes.

10 Q That's what happened in this case?

11 A Yes.

12 Q So once you obtained that buccal swab, you got the
13 data from that other agency, what are the steps that you do?

14 A So, as an analyst, I did the analysis for the
15 reference standard. So then I can make my comparisons. And
16 then I do statistics. So if there is an inclusion, so if the
17 reference standard is consistent with that evidence profile, I
18 then have to make -- do statistics to kind of give weight to
19 that inclusion. So that's what I did in this case.

20 Q And you refer to it as a reference standard. Is
21 that what you're saying when we're talking about that buccal
22 swab that was obtained?

23 A Yes. Sorry. Yes. Reference standard and the
24 buccal swab or buccal swab, they're all going to be the same

1 thing. It's just a swabbing of the inside of the cheeks.
2 They're called buccal swells -- swabs -- excuse me -- buccal
3 cells, we call 'em buccal swabs, buccal swabs. So --

4 Q Have I been saying it wrong? Is it buccal?

5 A I use the term buccal. A lot of people say buccal,
6 so --

7 Q Okay. We're good. Basically, you know who's DNA
8 that is because it's taken from the person's mouth or
9 somewhere.

10 A Yes, so the reference standards come from a very
11 specific person and the chain of custody has been established.

12 Q Okay. And so, essentially, you were able to take
13 that comparison or take that known standard, that buccal swab,
14 and you can compare it to the data that was given to you from
15 the other company --

16 A Yes.

17 Q -- [indiscernible]?

18 A Yes.

19 Q And what were the results?

20 A May I refer to my report?

21 Q Yes. And, I guess, let me ask you this while you're
22 getting to your report, do you generate a report when you do a
23 DNA comparison?

24 A We do, yes.

1 Q And that's what you're referring to here, just to
2 kind of see your -- the specifics of what you did.

3 A Correct. I'm referring to the DNA report that I
4 wrote at LVMP.

5 Q Okay. And what were your conclusions?

6 A So in this instance, the vagina swabs, there's -- so
7 to kind of give a back story, the vaginal swabs -- so one
8 sample of vaginal swabs are actually split into two samples
9 during processing. So that's why I might have two results
10 that I'm reporting right now.

11 Q Why is it split into two?

12 A When there's an indication that there is a
13 possibility of semen or sperm, generally -- again, I'm not
14 going to testify as to what Bode Cellmark did, but just,
15 generally, there's kind of a two step extracting process.

16 So extraction is the first step of DNA processing. We
17 want to isolate just the cells that contain DNA and get rid of
18 all the other junk that's in the cells. So we just want the
19 DNA. So when there's an element of semen or sperm involved,
20 sperm are a little hardier. They don't break open and release
21 that DNA with our initial step of chemicals.

22 So kind of the first step is to break open all the
23 non-sperm cells. Most laboratories, including ours, refer to
24 it as the epithelial cells. But for the most part, it's the

1 non-sperm cells. A second set of reagents to include
2 different chemical or chemicals, again, depending on what kit
3 you're using, then aims to break up the sperm cells. And we
4 call that the sperm fraction.

5 So in this case, original sample was one sample, vaginal
6 swabs. Bode Cellmark did that two-step extraction process to
7 have the epithelial fraction or the non-sperm fraction and
8 then the sperm fraction.

9 Q And then you would take the epithelial one and the
10 sperm one and see if you could identify where that came from,
11 essentially.

12 A Correct. Once they're separated, they now become
13 two samples and they are their own kind of entity. They have
14 their own interpretation. But they originate from the same
15 set of swabs.

16 Q Same vaginal swab that was in this kit from
17 Michelle Lehr, 1999.

18 A Yes.

19 Q Okay. And what were the results once you had
20 separated into two -- not you, but once you had the two
21 separate data, what were the results of your comparisons?

22 A Okay. So for the epithelial fraction, the full DNA
23 profile obtained from the epithelial fraction of the vaginal
24 swabs is consistent with Michelle Lehr. For the sperm

1 fraction, the DNA profile obtained from the sperm fraction of
2 the vaginal swabs is consistent with a mixture of two
3 individuals, with at least one contributor being a male.

4 The major DNA profile is consistent with Ramon Dorado.
5 The probability of randomly selecting an unrelated individual
6 from the general population having a DNA profile that is
7 consistent with a major DNA profile obtained from the evidence
8 sample is approximately 1 in 1.45 sextillion. The minor
9 alleles are consistent with Michelle Lehr.

10 Q Okay. So let me make sure I understand just -- just
11 cause there was a lot in there. There -- the profile for the
12 sperm fraction had two people?

13 A Yes.

14 Q And major profile from that was consistent with
15 Ramon Dorado.

16 A Yes.

17 Q And the minor profile was consistent with
18 Michelle Lehr.

19 A Yes.

20 Q Now, you said -- let me just make sure I don't say
21 it wrong. The probability of randomly selecting an unrelated
22 individual from the general population is 1 in
23 1.45 sextillion. First of all, what is sextillion?

24 A Sextillion is a number with 21 zeros behind it.

1 Q So it would be 1.45 and then you'd add 21 zeros?

2 A Yes.

3 Q Okay. Or 145, twenty-one zeros, is what we would
4 do; right?

5 A Yeah.

6 Q Okay. Can you explain that figure, how you get it
7 and kind of what it means in maybe laymen's terms?

8 A So when I mentioned earlier, when the comparisons
9 are made between evidence samples and known reference
10 standard, if we consider that an inclusion or someone's
11 consistent, we have to give statistical weight.

12 So in this case, this is the statistic that was
13 generated. What it basically means is the theoretical chance
14 of just randomly plucking someone out of the population that
15 they would have the DNA profile consistent with the evidence
16 profile. So you kind of think of it as, you know, just
17 randomly picking people, what's the probability or the
18 theoretical chance that their DNA would match that major
19 profile from the sperm fraction of the vaginal swabs.

20 Q What's the population of the world?

21 A Roughly seven and a half billion, I think. I'm not
22 100 percent sure.

23 Q Okay. A lot less zeros than a sextillion; right?

24 A Yes.

1 Q Okay.

2 MR. SCHWARTZ: No further questions, Your Honor.
3 Thank you.

4 THE COURT: Cross.

5 MR. YAMPOLSKY: No questions, Your Honor.

6 THE COURT: Thank you.
7 Thank you, ma'am.

8 THE WITNESS: Thank you.

9 THE COURT: You're excused.
10 Approach.

11 [BENCH CONFERENCE]

12 THE COURT: Ladies and gentlemen, at this time,
13 we're going to take a brief recess. We're just waiting on one
14 of the -- actually, the next witness to get here. Even for
15 those of us who work downtown, we still haven't figured out
16 the secret passage how to get here without fighting traffic.
17 I can remember when I could go across town in ten minutes.
18 That's a long time ago.

19 During this recess you're admonished not to talk or
20 converse among yourselves or with anyone else on any subject
21 connected to this trial or read, watch, or listen to any
22 report of or commentary on the trial or any person connected
23 with this trial by any medium of information, including
24 without limitation: Newspapers, television, radio, or

1 Internet, or form or express any opinion on any subject
2 connected with the trial until the case is finally submitted
3 to you.

4 You're not to do any experiments or investigation
5 regarding any matters raised in this trial, nor are you to
6 post on any social media forums about the trial or attempt to
7 investigate anything you've heard in this trial by any form of
8 social media or the Internet.

9 We will see you back here at five till the hour. That'll
10 give you about ten minutes. Let's give it -- let's go
11 15 minutes. We'll be here five till the hour. Okay? I want
12 to give you enough time. I know some people either might want
13 to go smoke or go down and get a drink.

14 THE MARSHAL: All rise for the jury.

15 [OUTSIDE THE PRESENCE OF THE JURY]

16 THE COURT: All right. Counsel, come back here in
17 about ten minutes. We'll discuss the matters about getting
18 certain things into the record in front of the jury before we
19 bring that up; okay?

20 MS. CRAGGS: Thank you.

21 MR. YAMPOLSKY: Thank you, Your Honor.

22 [RECESS AT 2:39 P.M.; PROCEEDINGS RESUMED AT
23 2:56 P.M.]

24 [OUTSIDE THE PRESENCE OF THE JURY]

1 THE MARSHAL: Department 29 is back in session.

2 THE COURT: Please be seated, everyone.

3 All right. Counsel, anything that needs to come before
4 the bench before we get the next witness here?

5 MS. CRAGGS: Your Honor, just that we -- just the
6 jail calls that we've discussed.

7 THE COURT: Okay.

8 MS. CRAGGS: And if I can put on the record, I think
9 what the agreement is between the parties, for how to address
10 them, we've taken out all the beginning stuff about CCDC being
11 recorded, et cetera. So we were going to say calls -- these
12 are calls that were recorded at the Clark County Detention
13 Center after the Defendant was take into custody on the arrest
14 warrant in this case.

15 THE COURT: Okay.

16 MS. CRAGGS: And I was hoping to add the year
17 "2017" -- "in 2017," just so it's not confusing to the jury if
18 it was like '99 or 2001 or something along those lines.

19 THE COURT: Any problem with the dating, Counsel?

20 MR. MARGOLIS: Don't have a problem with that,
21 Your Honor.

22 THE COURT: Okay. So that beginning's gonna be
23 fine.

24 Okay. Anything else in controversy about the jail calls?

1 MS. CRAGGS: I don't believe so. We were good -- we
2 were told we don't need to bring in a COR. I think they're
3 stipulated to. We've listened to them together. We also have
4 the two transcripts, Your Honor.

5 THE COURT: Okay.

6 MS. CRAGGS: Which my thought was that I would read
7 the, essentially, the date --

8 THE COURT: Okay.

9 MS. CRAGGS: -- and what court it was in. So the
10 District Court of Clark County Nevada, June 15, 2017, and the
11 Defendant stated in court when this allegation happened of
12 this call girl, you know, showing up at my apartment.

13 THE COURT: Okay. Counsel, what's -- any objection
14 to that?

15 MR. YAMPOLSKY: No.

16 THE COURT: Okay.

17 MS. CRAGGS: Most of it's all blanked out because it
18 was all about -- it was an OR motion.

19 THE COURT: It was an OR motion.

20 MS. CRAGGS: So it was all -- and then the other one
21 is in the Justice Court of Las Vegas Township on
22 April 19, 2017. There's a lot of other sort of preamble in
23 here. But essentially, the Defendant, "I have a question."

24 The Court, "Yes, sir."

1 The Defendant, "How old is this case?"

2 The Court, "It's very old. 1999."

3 The Defendant, "I wasn't in Vegas until '03."

4 THE COURT: Counsel, any problem with that?

5 MR. YAMPOLSKY: No.

6 THE COURT: Okay. Those two can be read in. Just
7 those portions that were stated previously.

8 MS. CRAGGS: Just those portions. And while I'm on
9 the --

10 THE COURT: The background stuff about the
11 [indiscernible] stuff.

12 MS. CRAGGS: Yeah. There's nothing in there that
13 should be an issue. And we've shown those to the Defense as
14 well.

15 THE COURT: Okay. As long as there's nothing of an
16 issue --

17 MR. YAMPOLSKY: That's correct.

18 THE COURT: -- let's go ahead and have 'em read in
19 that way.

20 MS. CRAGGS: Okay.

21 THE COURT: Anything else that needs to come before
22 the Court?

23 All right.

24 MS. CRAGGS: No, Your Honor.

1 MR. YAMPOLSKY: The witness, Lora Cody's gonna
2 testify. But you want to wait until she says something than
3 I --

4 THE COURT: Well, here -- we got Cody coming up
5 next; right --

6 MS. CRAGGS: Yes --

7 THE COURT: -- Counsel?

8 MS. CRAGGS: -- she's up.

9 THE COURT: Okay. Let me go back to my notes. The
10 objection in regards to Lieutenant Cody was what, Counsel?

11 MR. YAMPOLSKY: That when she was -- in her report
12 in the discovery and she said something in -- of course I
13 don't have it in front of me. But it was, I -- that the
14 bruises that were present -- and their expert said there
15 weren't bruises -- but the bruises that were --

16 THE COURT: Bruises on the vaginal cavity is what
17 she said, Counsel.

18 MR. YAMPOLSKY: Yes.

19 THE COURT: That's different than bruises on the
20 external part of her skin that we've already seen pictures of.

21 MR. YAMPOLSKY: Yes. But she said that the bruises
22 were consistent with sexual assault. And because she's not an
23 expert, I don't think she can say that. And I think it would
24 be highly prejudicial.

1 MS. CRAGGS: And, Your Honor, I was not planning on
2 eliciting. And the way that I read it, I think she's saying
3 these injuries are consistent with sexual assault as described
4 by Lehr. So I guess my reading of it was kind of describing
5 what the nurse had said.

6 THE COURT: Here's what's gonna happen --

7 MS. CRAGGS: Which we already contradicted.

8 THE COURT: -- police officer is not gonna make
9 comment upon whether or not she believes these bruises are
10 consistent with a sexual attack. Can she say, if asked
11 correctly, has she seen similar type bruises on victims of
12 sexual assault or people who have alleged sexual assault,
13 that's fine. There's nothing conclusive about that.

14 As an attorney, you can say, "Boy, that looks like a bad
15 bruise."

16 "Oh, yeah, I got that when I was raped."

17 "Well, that looks like it might be consistent with that."

18 Okay. That's a statement of absolutely no value because
19 it's basically being said by someone -- a layperson. But a
20 police officer can't be asked, "Do you believe that those
21 bruises are indicative of or were caused by a sexual assault?"
22 No, they can't say that. But, "Officer, did you see any
23 bruises on the victim?"

24 "Yes."

1 Okay. What you observed is nothing. Whether that
2 officer can make the next step, no. That's where the bridge
3 collapses. Okay?

4 MS. CRAGGS: One --

5 THE COURT: So don't even solicit that question
6 because either they'll object or I'll --

7 MS. CRAGGS: I will not.

8 One more thing, Your Honor. I'm sorry. There is an
9 exhibit that had been stipulated to. It's State's Exhibit 26.

10 THE COURT: Okay.

11 MS. CRAGGS: I was hoping to withdraw that exhibit.

12 THE COURT: Is that the one that just has numbers on
13 it?

14 MS. CRAGGS: It is.

15 THE COURT: Okay.

16 MS. CRAGGS: It was a sexual assault kit number.
17 But because that was essentially agreed to, I don't think it's
18 necessary to confuse the jury --

19 MR. YAMPOLSKY: And no objection.

20 MS. CRAGGS: -- with this exhibit.

21 THE COURT: Exhibit 26 that was stipulated to
22 previously is hereby withdrawn.

23 MS. CRAGGS: Thank you.

24 THE COURT: Okay. Now, can I get my jury in?

1 MS. CRAGGS: Yes.

2 THE COURT: All right. Let's get my jury in.

3 [DISCUSSION OFF THE RECORD]

4 THE COURT: Counsel, jury instructions, where we at
5 on 'em?

6 MS. CRAGGS: We will send our --

7 MR. SCHWARTZ: Tonight.

8 MS. CRAGGS: -- proposed instructions to Defense
9 tonight.

10 THE COURT: Proposed? We're not even at the point
11 where we've already done that and we're now talking about
12 stipulated jury instructions?

13 MS. CRAGGS: I feel so confident that we're gonna be
14 able to agree.

15 THE COURT: Uh-huh.

16 MR. YAMPOLSKY: We generally agree with these
17 things.

18 THE COURT: Well, let's put it this way: You're
19 gonna have those in forms to me before we start tomorrow in
20 stipulated and non-stipulated to so that, at our first break,
21 we can go through them. Because I'm anticipating that, unless
22 something is completely out of order, we're getting this thing
23 to this jury tomorrow.

24 MS. CRAGGS: Yes.

1 MR. YAMPOLSKY: Tomorrow morning --

2 THE COURT: Well, that means I need jury

3 instructions tonight.

4 THE MARSHAL: All rise for the jury.

5 [IN THE PRESENCE OF THE JURY]

6 THE MARSHAL: Jury's all present, Your Honor.

7 THE COURT: Counsel, stipulate to the presence of

8 the jury.

9 MS. CRAGGS: Yes, Your Honor.

10 THE COURT: Go ahead, Counsel. Call your next

11 witness.

12 MS. CRAGGS: Lora Cody, Your Honor.

13 LORA CODY,

14 [Having been called as a witness and being first duly

15 sworn testified as follows:]

16 THE CLERK: Please be seated.

17 State and spell your first and last name for the record.

18 THE WITNESS: Laura Cody, L-O-R-A, C-O-D-Y.

19 THE COURT: Hello, Ms. Cody.

20 Counsel, your witness.

21 MS. CRAGGS: Thank you, Your Honor.

22 THE COURT: Afternoon, actually.

23 /

24 /

1 DIRECT EXAMINATION

2 BY MS. CRAGGS:

3 Q What do you do for a living, ma'am?

4 A I'm a detective with the Las Vegas Metropolitan
5 Police Department.

6 Q And how long have you been a detective of the
7 Las Vegas Metropolitan Police Department?

8 A Approximately 15 years.

9 Q And how long have you actually been with a police
10 department?

11 A Almost 18 years.

12 Q When does that mean you started?

13 A In 2001.

14 Q Okay. Do you have a specific assignment currently?

15 A Currently, I'm assigned to the homicide section.

16 Q I want to take you back to 2016. What were you
17 assigned to at that time?

18 A At that time I was assigned to a new squad called
19 the Cold Case Sexual Assault Unit.

20 Q Do you know when that squad began?

21 A I believe it was in December of 2015.

22 Q Okay. And when were you assigned to that squad?

23 A I was actually one of the original detectives.

24 Q Can you please describe what that squad does and, I

1 guess, did.

2 A What that squad does is we recognized early on, in
3 about 2009-ish or so, that we had a backlog of sexual assault
4 kits. From 2009 to 2015, several grants were offered to the
5 Metropolitan Police Department in order to go back and
6 reinvestigate those sexual assault kits.

7 Once those sexual assault kits were submitted for
8 forensic testing, we realized that we possibly had quite a few
9 solvable cases. So they created the Cold Case Sexual Assault
10 Unit and assigned myself and one other detective to kind of
11 start up that unit and to start beginning these investigations
12 with the cold case sex assaults.

13 Q So you said this all began in 2015?

14 A 2015 is when we actually started the unit.

15 Q Do you know how many kits had been untested,
16 approximately?

17 A Approximately 6,000 in the State of Nevada and I
18 want to guess probably about 4,000 in Clark County alone.

19 Q Okay. And you said that the grants were received.
20 Were those national grants? Do you know?

21 A Various. There were some national grants that were
22 offered through the Bureau of Justice -- I'm sorry -- the
23 Bureau of Institute of Justice. There was one particular
24 grant that was offered to the Metropolitan Police Department

1 from the State of New York. And then there were several other
2 smaller grants that were just kind of offered from various
3 sources.

4 Q Now, do you know why these 6,000 or so kits had not
5 been tested up until this point?

6 A There's various reasons. Sometimes the technology
7 wasn't available back when some of these sexual assault kits
8 were taken. Some could be from something simple as maybe the
9 victim didn't want to prosecute, so they were left untested.
10 Other may be that a detective might have, like, closed them
11 for whatever reason. Or sometimes they just simply got lost.

12 Q Now, in -- I'm gonna take you to 1999 specifically.
13 In 1999 did we have the same technology to test these kinds of
14 kits that we do today?

15 A No, we did not.

16 Q Okay. Was there DNA testing of any kind back in
17 1999 or, I guess, 2001 is probably when you can talk about it,
18 since that's when you started.

19 A In 2001 we were starting to develop some of the
20 technology. It's ever expanding. It changes almost on an
21 hourly basis.

22 Q Okay. Okay. How long were you on this, did you
23 call it the Cold Case Sexual Assault Unit?

24 A Yes. Eleven months.

1 Q Okay. And when you started, it was just you and one
2 other individual.

3 A That's correct.

4 Q And then where did you get moved to after you were
5 on the cold case unit?

6 A I was transferred to homicide.

7 Q Okay. So do you know how many folks are on the cold
8 case unit now?

9 A Right now on the cold case, we've actually expanded
10 to four full-time sexual assault -- or I should say cold case
11 sexual assault detectives. We have two or three part-time
12 investigators, one dedicated sergeant, multiple victim
13 advocates, multiple student interns that will come in and give
14 us any assistance. We also have an attorney general that's
15 been assigned to the actual unit itself. So it's expanded
16 quite a lot.

17 Q And are there also currently just -- for lack of a
18 better term -- regular sexual assault squads as well?

19 A Oh, yes. Yes. We had four separate adult -- what
20 we call adult sexual assault squads, which are 16 to 17
21 detectives. And they're responsible for only investigating
22 adult sexual assault. So individuals that are 18 and over.
23 We have another group that is dedicated to children sexual
24 assault or sexual abuse. And that's another eight detectives

1 alone. We also have four Internet Crimes Against Children
2 detectives, which deal with child pornography. And they're, I
3 should say, very young sexual assaults, as well as numerous
4 FBI agents, attorney general officers, and then we also have a
5 child abuse squad that also helps investigate a lot of the
6 sexual assaults.

7 Q Now, does the cold case sexual assault squad, when
8 you were on it and now, did they focus solely on cases that,
9 essentially, were reopened based on the testing of these kits?

10 A Yes.

11 Q They don't do any other kind of investigation?

12 A No, they do not.

13 Q Okay. Now, compared to back when you started in
14 2001, did Metro have the same type of sexual assault squads
15 and resources dedicated to sexual assault?

16 A No, they did not.

17 Q Can you describe for us what it looked like back
18 then, when you started.

19 A Back then -- when I started in 2001, the -- these
20 kind of cases, there really wasn't a definitive way on how to
21 handle 'em. A sexual assault is extremely different than,
22 let's say, a robbery or a burglary. I mean, essentially, the
23 sexual assault, the actual evidence, if you will, is the
24 victim themselves.

1 So from 2001 on until, like I say, until now, we really
2 didn't know how to focus in on the actual victim itself or the
3 actual evidence, per se. Since 2001, since I've been on, up
4 till now, I can tell you that the protocols and procedures on
5 how these cases are handled is changed drastically. There's a
6 whole different way that these investigations are handled.

7 They're handled on a very victim-centered approach.
8 Again, because the victim is essentially the evidence in the
9 case. A lot more care and a lot more concern is taken into
10 actually doing the investigations from everything from the
11 interview of the victim all the way up to crime scene
12 preservation and interrogation, from everything from
13 establishing evidence, from establishing suspect, and other
14 accessory interviews.

15 Q Has there been any education of different detectives
16 or officers at Metro about the appropriate way to deal with
17 sexual assault victims and these types of investigations?

18 A I can tell you, now, that the sexual assault --
19 especially since we started the actual sexual -- the Cold Case
20 Sexual Assault Unit, every detective that has been assigned to
21 sexual assault has to go through specific training and it's
22 victim-centered approach training. Again, focusing in on the
23 actual victim, which, again, is the evidence usually in these
24 cases.

1 Q Now, talking about the protocols that you discussed
2 and how those have changed, is there, essentially, particular
3 things or checklist or something that you are supposed to do
4 as a detective when you are investigating a sexual assault?

5 A Yes, there is.

6 Q I know you don't have your handbook with you, but
7 can you name what some of those things are that currently
8 you're supposed to be doing?

9 A I can tell you back when I was a sexual assault
10 detective and now through homicide detective, I mean, the
11 first and foremost thing is establishing a really good
12 interview with the victim, establishing the facts and
13 circumstances, locating a crime scene, if there is a crime
14 scene. And if there is a crime scene, getting the evidence
15 off of that crime scene, whether it's through doing search
16 warrants, those kinds of things. It's also going around and
17 talking to any kind of witnesses that we may have, talking to
18 the suspects at the time, establishing if there's any kind of
19 DNA evidence that could be taken from any of the suspects.

20 We've also expanded it to now go and look for video
21 evidence. Like cellular evidence, any kind of technologic
22 evidence. So it's really expanded from -- I could say since
23 I've started to current -- I mean, it's just grown.

24 Q And is this sort of enumerated somewhere in terms of

1 the things that, you know, are supposed to be done when cases
2 are being investigated?

3 A Yes.

4 Q And where's that located?

5 A It's -- they now have a basic, like a guidebook, a
6 checklist for detectives. And the detectives are supposed to
7 go through that and make sure that they hit all of the
8 different points. And, again, this is also on a case-by-case
9 basis. I mean, you may come across some cases where you may
10 not have a crime scene, per se. So it's just kind of, you
11 know, a general type of a checklist.

12 Q Okay. And when did you become a detective? What
13 year?

14 A I have to do the math. 2005.

15 Q Now, in 2005, did you have a checklist similar to
16 this?

17 A It started -- we started to get one. It started to
18 kind of grow. There was a basic set of steps that every
19 detective would have to take, yes.

20 Q And -- but it's different now than what it was then?

21 A Very much so, yes.

22 Q And how about back -- and I know you weren't a
23 detective, but if you have the knowledge, back in 2001, when
24 you started, was there something of this sort?

1 A I really don't know.

2 Q Okay. Going back to when you were on the cold case
3 squad, so you were kind of the beginning phase. You were the
4 first people to be on this kind of squad doing this type of
5 investigation. Was there any sort of specific things that you
6 were supposed to be doing when you were investigating these
7 kinds of cases or were you just kind of starting out and see
8 what happens?

9 A We were literally just starting out and seeing what
10 happened. We've never done this type of investigation before.
11 So a lot of it was just kind of hit or miss.

12 Q Okay. So you were assigned a case involving a
13 victim name Michelle Lehr back in 2016; is that correct?

14 A Yes.

15 Q Okay. And how were you assigned this specific case
16 and other cases of this type?

17 A Whenever the sexual assault kits were submitted for
18 forensic testing, if they were able to extract suspect DNA or
19 any other kind of DNA for that reason, that DNA would
20 oftentimes be thrown into CODIS. CODIS would then tell us if
21 there was a match with somebody else that had that particular
22 DNA already in the system.

23 At that time, I was assigned this specific case because a
24 name had popped out.

1 Q And just to stop you, CODIS is just a database with
2 DNA from various sources --

3 A Correct.

4 Q -- is that accurate?

5 A Yes.

6 Q Okay. Sorry. Go ahead and continue.

7 A That name had popped out. It was given to me. We
8 recognize that it was a case from 1999. And at that point,
9 what we do is we try to backtrack and get whatever kind of
10 information that we may have, whether there are reports on
11 file, whether there are witness statements, victim statements,
12 if the victim is still alive, if there's basically anything
13 that we may have that can reopen this case so that we can
14 investigate it.

15 Q So let's first talk about the victim. So when you
16 get a case like the case we're discussing with Michelle Lehr,
17 is it important or I guess necessary for the victim to be
18 willing to move forward with prosecution?

19 A Absolutely.

20 Q If a victim is unwilling to move forward with
21 prosecution, what happens with the case?

22 A At that point, the case is closed.

23 Q And is that sort of what you're talking about with
24 this victim-centered approach to these kinds of cases?

1 A Yes.

2 Q And why was the determination made that if a victim
3 says, at this point, they don't want to be involved, that
4 it -- that we won't go any further with the cold case?

5 A We respect the privacy of the victim. Oftentimes,
6 maybe they don't want to go forward. Maybe it's something
7 that they put behind them. Maybe it's something that they
8 have moved on from. Or, you know, or maybe they've already
9 kind of -- they've kind of reconciled the fact that -- the
10 past.

11 So once a victim says that they don't want to go forward
12 with the case, we close it at that point.

13 Q And how, when you received these cases, did you
14 contact the victims?

15 A We get pretty creative. At the time we really
16 didn't have a set way. So oftentimes we're using a lot of
17 social media outlets. We're going back and pulling whatever
18 kind of records that we have. We're finding victims through,
19 like, DMV databases, social media databases, other databases
20 within, you know, Metro. Sometimes we reach out to, like,
21 Health and Human Services to see if maybe they may be
22 receiving any kind of benefits so that we can contact them.

23 Q Is it fair to say that you have personal contact
24 with multiple victims, in terms of letting them know that

1 their cases could be reopened?

2 A Yes.

3 Q Would you say that the reactions of individuals that
4 you contacted varied?

5 A Yes, they did.

6 Q Can you expound on that a little bit?

7 A There were some times where a lot of times the
8 victims were just in complete shock and disbelief that we
9 actually were able to possibly find a suspect. There would be
10 anything from anger to fright to joys of happiness. It just
11 kind of depended on each and every victim.

12 Q And directing you specifically to this case from,
13 looks like, November of 2016, it's -- obviously it's from
14 1999. Is that correct?

15 A Yes.

16 Q Okay. And you talked about some of the things that
17 you would try to do when you received these cases, including
18 get reports, get notes, get evidence, that kind of thing.
19 Were you able to do that in this case, based on the fact that
20 it was 20 years ago?

21 A We were able to get some, yes.

22 Q Okay. Have the databases or ways that the police
23 department tracked things changed since 1999?

24 A Yes, very much so.

1 Q Can you explain that a little bit.

2 A Back -- and I can tell you back in 2001, from when I
3 was hired on, we had different databases. For example, we had
4 a database called LRMS, which is Law Record Management
5 something or rather. It has since changed to another
6 database, which has changed to another database, which has
7 changed to what we currently are using now, which is called
8 P1.

9 And sometimes that information, when it goes to database,
10 to database, to database, obviously, is lost. We also had a
11 change in your computerated dispatching system. So from --
12 and I think it was maybe the early 2000s down, if you had
13 called 9-1-1, sometimes those records were lost. Again, it's
14 just because we were just -- technology's ever changing. And
15 when you change technology, you may lose stuff.

16 The same thing with photographic evidence. If I recall
17 back, like, before 2000, we were literally using old eight by
18 five actual physical photographs that were in a big cardboard
19 box in our storage vault somewhere. Now, everything's
20 digital. So things have changed greatly.

21 Q So in terms of this case, what were you able to
22 find, in terms of records, if you can recall?

23 A I was able to find the victim's statement. I was
24 able to find some handwritten, like a written report from, I

1 believe it was the first responding detective. I was able to
2 find records of the victim's sexual assault nurse examiner
3 exam. And I think that's probably about it.

4 Q Were you able to find evidence of a, essentially, a
5 property or impound report?

6 A Yes.

7 Q Okay. Do you recall what was impounded in that
8 property impound report?

9 A I believe there was a -- it was a black jacket, a
10 pair of pantyhose, her sexual assault kit, and that's all that
11 I recall.

12 Q If -- would looking at that report help to refresh
13 your memory?

14 A Yes.

15 MS. CRAGGS: Your Honor, may I approach?

16 THE COURT: Approach.

17 BY MS. CRAGGS:

18 Q You can take a look at that.

19 Is your memory refreshed?

20 A Yes, it is.

21 Q Okay. What else was impounded?

22 A The essay kit, the pair of pantyhose, a halter top,
23 pair of black pants, and a jacket.

24 Q As part of your investigation into this case, did

1 you attempt to find this physical property?

2 A Yes, we did.

3 Q Were you able to do that?

4 A Yes.

5 Q Were you able to essentially find it now?

6 A No.

7 Q Okay. Can you explain that.

8 A The sexual assault kit was retained. Everything had
9 been destroyed.

10 Q Why are -- why, sometimes, is physical evidence
11 that's been impounded destroyed?

12 A And, again, it's -- we have -- at the time, we had a
13 certain policy that we could only hold evidence for X amount
14 of time. And I think it was maybe it starts at 24 months and
15 then maybe go to 48 months. Once a case is closed, once that
16 property -- once the case is closed, we hold on to that
17 property.

18 And after a while, that property -- it's a property
19 disposition goes back to the original detective for them to
20 figure out what they want to do -- you know, do with it. If
21 they want to keep it. If they want to give it back to the
22 other owner or whatever. And we found that this property was
23 actually ordered to be destroyed in early 2000 by a sergeant
24 that was currently assigned to the sexual assault detail.

1 Q So that actually happened two years after this case
2 was initially opened?

3 A Yes.

4 Q Okay. Do you know, through your investigation, why
5 the case was closed?

6 A I do not. I believe, from what I recall, that they
7 had lost contact with the victim.

8 Q Okay. Do you recall if they were able to determine
9 a suspect?

10 A No.

11 Q You don't recall or you don't know?

12 A I don't know.

13 Q Okay. Would looking at those notes that we -- that
14 you were discussing with me earlier help to refresh your
15 memory?

16 A Yes.

17 MS. CRAGGS: May I approach, Your Honor?

18 THE COURT: You may approach.

19 BY MS. CRAGGS:

20 Q And I am handing you the case monitoring and closure
21 form, it appears, 2000. You can take a look at that and let
22 me know when your memory's refreshed.

23 A Yes. So according to this case monitoring form, on
24 5/4 of '99 there was a -- looks like the detective contacted

1 the Silver Saddle Saloon. A Charley Howl will recall what the
2 band members' names. And then on 5/5, Howl recalled, said
3 that Ray is Raymond -- I think it's Raymond, an accordion
4 player, who the band let go. And then on 6/7 of '99, the
5 detective at the time closed it as leads exhausted.

6 Q And through your investigation into this case, did
7 you find any other records to sort of explain further what
8 leads had been exhausted?

9 A No.

10 Q Okay. But then the case was closed in 2000?

11 A Yes.

12 Q Okay.

13 MS. CRAGGS: May I approach, Your Honor?

14 THE COURT: You may approach.

15 BY MS. CRAGGS:

16 Q So based on the records that you were able to find,
17 what did you do when you were assigned this specific case with
18 Michelle Lehr?

19 A Well, again, once we had the CODIS notification, I
20 contacted Ms. Lehr, who said that she did want to go forward.
21 The CODIS name's a person, name's an individual. So we were
22 able to locate this individual in, I believe it was
23 Winnemucca.

24 Q And then -- and, basically, we've kind of talked

1 about this. So at that point a buccal swab was taken from the
2 individual and then that was all compared. Do the fancy DNA
3 analysis and then it was determined that there was a
4 confirmatory match between Ramon Dorado and that sperm
5 fraction from the sexual assault kit.

6 A Yes.

7 Q Okay. And then once that occurred, do you do
8 anything else with the case?

9 A At that point, I try to get -- I actually submitted
10 for a probable cause arrest warrant for Ramon Dorado.

11 Q And then, at some point, Mr. Dorado was arrested.

12 A Yes.

13 Q Okay.

14 MS. CRAGGS: Court's indulgence.

15 THE COURT: Go ahead.

16 MS. CRAGGS: Nothing further.

17 THE COURT: Cross.

18 MR. YAMPOLSKY: No questions.

19 THE COURT: Thank you. Officer, you're excused.
20 Counsels, approach.

21 [BENCH CONFERENCE]

22 THE COURT: Ladies and gentlemen, at this time
23 what's gonna happen is there's gonna be a presentation of
24 evidence to you through ways of the District Attorney's

1 Office. Basically what you have occasionally in a case is
2 materials that the sides have agreed to, to be presented to
3 the jury. And the only way to do that is either, one, to read
4 it into the record, which usually happens by one of the
5 attorneys, or a presentation of that actual piece of evidence.

6 The State at this time -- what do you wish to present to
7 the jury?

8 MS. CRAGGS: Your Honor, I would like to start,
9 State's Proposed Exhibit 28. I believe there's no objection
10 to --

11 MR. YAMPOLSKY: No objection.

12 MS. CRAGGS: -- any of the calls.

13 THE COURT: Okay.

14 MS. CRAGGS: And if I could just briefly read into
15 the record, Your Honor.

16 THE COURT: Okay. This is State's Proposed
17 Exhibit 28, which has now been stipulated into evidence.

18 [STATE'S EXHIBIT 28 ADMITTED.]

19 THE COURT: Go ahead, Counsel.

20 MS. CRAGGS: These are calls that were recorded at
21 the Clark County Detention Center after the Defendant,
22 Ramon Dorado, was taken into custody on the arrest warrant in
23 this case, which was in 2017.

24 [The recording was played for the jury.]

1 MS. CRAGGS: And that was clip two, for the record.
2 This is clip one.

3 [The recording was played for the jury.]

4 MS. CRAGGS: And, Your Honor, that's it for
5 State's Exhibit 28.

6 THE COURT: Okay. Next piece of evidence that the
7 State wishes to introduce.

8 MS. CRAGGS: Thank you. I'm gonna go a little bit
9 out of order for date, Your Honor. State's Proposed
10 Exhibit 30, which I believe there's no objection to. It is a
11 reporter's transcript of proceedings from April 19th of 2017.

12 THE COURT: Defense, any objection?

13 MR. YAMPOLSKY: No objection, Your Honor.

14 THE COURT: Go ahead, Counsel. Introduce it into
15 evidence.

16 MS. CRAGGS: Thank you, Your Honor. So State's
17 Proposed Exhibit 30's a transcript from that date. That was
18 in the Justice Court of Las Vegas Township where Mr. Dorado
19 was in court.

20 The Defendant, Mr. Dorado, says, "I have a question."

21 The Court, "Yes, sir?"

22 The Defendant, "How old is this case?"

23 The Court, "It's very old. 1999."

24 The Defendant, "I wasn't in Vegas until 2003."

1 And, Your Honor, then there's State's Proposed
2 Exhibit 29, which is also a transcript, as well, from a
3 district court that I believe there's no objection to.

4 THE COURT: Defense, any objection?

5 MR. YAMPOLSKY: [Indiscernible].

6 THE COURT: 29 so stipulated in.

7 [STATE'S EXHIBIT 29 ADMITTED.]

8 THE COURT: Go ahead, introduce it.

9 MS. CRAGGS: Your Honor, so this is the
10 District Court of Clark County Nevada on June 15th of 2017.
11 Mr. Dorado was in court. And the Defendant states, "When this
12 allegation happened to this call girl, you know, showing up at
13 my apartment."

14 And, Your Honor, other than that, just making sure I have
15 all my exhibits logged with the Court, the State would rest.

16 THE COURT: Okay. Go through all the exhibits that
17 were logged with the Court. We withdrew the last exhibit
18 prior to the introduction of those last three; correct?

19 MS. CRAGGS: Yes, we did, Your Honor.

20 THE COURT: Okay. Madam Clerk, all in?

21 THE CLERK: Yes.

22 THE COURT: Okay. Counsel, at this time, State?

23 MS. CRAGGS: We would rest, Your Honor, if I can
24 approach.

1 THE COURT: You may approach.

2 Stay here. Just you two.

3 MS. CRAGGS: Oh, okay.

4 THE COURT: Okay. It's okay.

5 [BENCH CONFERENCE]

6 THE COURT: Ladies and gentlemen, I'm gonna make
7 your day. I noticed how some people perked up to that one.
8 We are gonna recess for the evening. Tomorrow, what's gonna
9 happen, basically, is the State, as you may have heard, has
10 rested their case-in-chief. What, then, will happen tomorrow
11 is the Defendant has the opportunity, but they do not have the
12 burden, to present evidence.

13 They may present evidence tomorrow at the beginning of
14 trial. We are gonna start tomorrow at 10:30. We're starting
15 at 10:30. Okay? That means I need everybody here about ten
16 minutes before that. That means 10:20. Because at 10:30 I
17 hope to have this case started.

18 After the presentation of the Defense, if they wish to,
19 but again they have no burden to, but if they do present
20 evidence, after that the State has the ability to call
21 rebuttal evidence into question or witnesses. Okay. If they
22 do, they'll take a certain period of time. But as soon as
23 they are done with that, you will have a summation or the
24 arguments, the closing arguments that we talked about. You'll

1 have jury instructions. The case will be submitted to you
2 tomorrow. Okay? So plan accordingly.

3 In regards to the rest of the stuff, yes, you're still
4 part of this jury. Okay? You'll hear the admonishments, but
5 also you're still part of this jury. So you may not discuss
6 this case with anyone at all, including your fellow jurors,
7 until it is finally submitted to you. Okay?

8 In addition to that, what you do with the rest of your
9 day is up to you; okay? You're adults. But you are a member
10 of this jury. Therefore, you are technically in court from
11 9:00 to 5:00 or 10:00 to 5:00, depending on how your call is.
12 So what you do with the rest of your free time, up to you.

13 During this recess you're admonished not to talk or
14 converse among yourselves or with anyone else on any subject
15 connected to this trial or read, watch, or listen to any
16 report of or commentary on the trial or any person connected
17 with this trial by any medium of information, including
18 without limitation: Newspapers, television, radio, or
19 Internet, or form or express any opinion on any subject
20 connected with the trial until the case is finally submitted
21 to you.

22 You're not to do any experiments or investigation
23 regarding any matters raised in this trial, nor are you to
24 post on any social media forums about the trial or attempt to

1 investigate anything you've heard in this trial using any form
2 of social media or the Internet.

3 We will start promptly tomorrow at 10:30. Be here at
4 10:20.

5 THE MARSHAL: All rise for the jury.

6 [OUTSIDE THE PRESENCE OF THE JURY]

7 THE COURT: All right. Counsel, before we break for
8 the evening for the -- the ability for you guys to do the jury
9 instructions because we're gonna probably go right into the
10 introduction of evidence tomorrow and we may not have a
11 logical point to read this admonition. I'm gonna read the
12 admonition against self-incrimination to your client.

13 Mr. Dorado, I need you to pay special attention to this;
14 okay? Under the Constitution of the United States and under
15 the Constitution of the State of Nevada, you cannot be
16 compelled to testify in this case.

17 Do you understand that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: You may, at your own request, give up
20 this right and take the witness stand and testify. If you do,
21 you will be subject to cross-examination by the
22 Deputy District Attorney and anything you may say, be it on
23 direct or cross-examination, will be the subject of fair
24 comment when the Deputy District Attorney speaks to the jury

1 in his or her final argument.

2 Do you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: If you choose not to testify, the Court
5 will not permit the Deputy District Attorney to make any
6 comments to the jury because you have not testified.

7 Do you understand that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: If you elect not to testify, the Court
10 will instruct the jury, but only if your attorney specifically
11 requests, as follows: The law does not compel a Defendant in
12 a criminal case to take the stand and testify. And no
13 presumption may be raised and no inference of any kind may be
14 drawn from the failure of a Defendant to testify.

15 Do you have any questions about these rights, sir?

16 THE DEFENDANT: Yes, I got a question.

17 THE COURT: Okay.

18 THE DEFENDANT: And I brought it up with my
19 counsels. It was very hard for me to decide to follow the
20 counsels' recommendation of not testifying. However, if I do
21 change my mind, come hell or high water, to testify because
22 there's a couple of things just [indiscernible] 20 last years
23 and they're not being addressed to save my life, Your Honor.

24 THE COURT: Okay.

1 THE DEFENDANT: I have very serious concerns. And I
2 know I ain't no lawyer, compared to the 30-plus years that I
3 respect Mr. Yampolsky, but I do know enough substance
4 procedure law to find my way around the block. With that
5 said, the two little things that I have to defend my life
6 against what I --

7 MR. YAMPOLSKY: Hold on. Hold on.

8 THE COURT: Counsel.

9 I don't want you to -- sir, wait. I don't want you to
10 tell me about what you believe some facts are.

11 MR. YAMPOLSKY: Listen --

12 THE COURT: Counsel, hold on.

13 [DISCUSSION OFF THE RECORD]

14 THE COURT: Okay. Counsel, hold on.

15 Mr. Dorado, what I don't want you to say here -- and you
16 have every right to speak in your own defense, but I do not
17 want you to mention or make a statement about what you believe
18 some pieces of evidence you might have or something you may
19 want to say. Because the second you say those, the
20 prosecution has the ability to go investigate it or go look
21 into that.

22 That's different than if you have a belief as to what you
23 want to do as far as testify or not. Sir, that is up to you
24 and only up to you. Okay? Whether you take advice of counsel

1 is up to you; okay?

2 But what I don't want you to discuss -- okay -- at this
3 time period what it is you believe you would be able to say or
4 what you may be able to present as far as evidence on your own
5 behalf. Because if you were to say that -- okay -- that would
6 open the door, so to speak, so that the Prosecution can use
7 that statement against you; okay?

8 So I do not want you to make a statement as to what you
9 think the facts are or what could or could not be said on the
10 stand. Okay? Do you understand that?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Whether or not you choose to take the
13 stand or not, Mr. Dorado, that's why I'm going through -- we
14 refer to this as a canvass. I'm going through these questions
15 so that you understand; okay?

16 THE DEFENDANT: Yeah.

17 THE COURT: I'm not asking you, at this time period,
18 whether or not you wish to take the stand. I'm just reading
19 to you -- okay -- a statement as to what I need to have you
20 understand and I need to have you answer either in the
21 affirmative or not.

22 That does not mean that I am asking you, at this time,
23 whether or not you are going to take the stand. That is not
24 up to me to make that decision for you nor is it for the

1 counsel. You make the decision as to whether or not you are
2 going to take the stand, based upon whatever input you assume;
3 okay?

4 But I'm not asking you, right now, sir, are you taking
5 the stand or not? That's not my question. All I'm doing is
6 informing you, if you take the stand, what are some of the
7 consequences; if you don't take the stand, what are some of
8 the consequences.

9 For some reason, everybody thinks "consequence" is a bad
10 word. There are good consequences to things that happen. You
11 play the lottery, your numbers get picked, good consequence.
12 Not a bad thing, I don't think; okay? You pick the right
13 girl, you get married, you have kids, good consequence. You
14 step out in front of a speeding truck, you get ran over, bad
15 consequence. Okay. Consequence is not always a negative
16 thing.

17 All I'm telling you is if you take the stand, this is
18 what you may expect. If you don't take the stand, this is
19 what you may expect. Some of which is, I will -- if requested
20 by your counsel, have that quote jury instruction read to them
21 verbatim, which is simply that they cannot view or consider in
22 their deliberation whether or not you took the stand.

23 If you chose not to take the stand, by law, they cannot
24 consider that. Okay? But if you do take the stand -- okay --

1 and the last thing I want to make sure you understand is, you
2 are further advised that if you have a felony conviction and
3 more than ten years has not elapsed from that date, from when
4 you've been convicted or discharged from prison, parole, or
5 probation, whenever is the latter, and the Defense has not
6 sought to preclude that coming before the jury and you elect
7 to take the stand and testify, the Deputy District Attorney,
8 in the presence of the jury, will be permitted to ask the
9 following: One, have you been convicted of a felony; two,
10 what was the felony; three, when did it happen; four, there
11 will be no details in regards to the question after that.
12 It'll be just, basically, what was it? When did you get
13 convicted? What was the crime? They can't go into that.

14 But if you have a felony and all those other criterias
15 comply and you take the stand, asking about your felony
16 conviction is open. Okay? If those conditions apply.

17 Do you understand that?

18 THE DEFENDANT: Yes.

19 THE COURT: Okay. Whether or not you take the stand
20 or not, sir, you can address that with your counsel. They can
21 tell me in the morning whether or not you plan on taking the
22 stand. I am not asking you, this time, to make that decision.
23 That is up to you with whatever input you take for whatever
24 sources you have. Okay? At this time I'm just advising you

1 of your rights whether you take the stand or not; okay?

2 THE DEFENDANT: Thank you, Your Honor. Just --

3 THE COURT: Counsel, I expect to have jury
4 instructions to you before you leave to my JEA in Word form.
5 You can do it by e-mail, whatever way, thumb drive, whatever
6 works for you guys.

7 THE JEA: I want e-mail.

8 THE COURT: She wants 'em by e-mail, then.

9 MS. CRAGGS: Do you like one with law; one without
10 law? Or --

11 THE COURT: Basically, if they're stipulated to, I
12 don't need the law.

13 MS. CRAGGS: Okay.

14 THE COURT: Okay? I don't think you guys are gonna
15 come up with one I haven't seen.

16 MS. CRAGGS: I don't think so.

17 THE COURT: But if you stipulate to it, you're bound
18 by it. That's real simple. If the Nevada Supreme Court wants
19 to overturn me because four attorneys agreed to a jury
20 instruction, I'll be overturned.

21 MS. CRAGGS: Okay.

22 THE COURT: Okay?

23 MS. CRAGGS: Thank you.

24 THE COURT: It's really simple. If there's disputed

1 ones, that's the one where I need the law.

2 MS. CRAGGS: Okay.

3 THE COURT: Okay?

4 MS. CRAGGS: Thank you.

5 MR. SCHWARTZ: Yes, Your Honor.

6 THE COURT: Thank you.


7 Mr. Dorado, we'll see you in the morning.

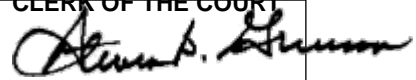
8 And, then, Counsel, as I said, you're not leaving until
9 it's done.

10 [Hearing concluding at 3:41 p.m.]

11
12 *****

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

16
17
18 
19 ALLISON SWANSON, CSR NO. 13377
20 CERTIFIED SHORTHAND REPORTER
21 FOR THE STATE OF CALIFORNIA
22
23
24



RTRAN

DISTRICT COURT

CLARK COUNTY, NEVADA

STATE OF NEVADA,)	
)	
Plaintiff(s),)	CASE NO. C-17-323098-1
)	
vs.)	
)	DEPT. NO. XXIX
RAMON MURIL DORADO,)	
)	
Defendant(s).)	
_____)	

BEFORE THE HONORABLE DAVID M. JONES, DISTRICT COURT JUDGE

THURSDAY, JUNE 20, 2019

RECORDER'S TRANSCRIPT OF HEARING:
JURY TRIAL - DAY 4

APPEARANCES:

For the Plaintiffs:	GENEVIEVE CRAGGS
	BRYAN SCHWARTZ

For the Defendants:	MACE J. YAMPOLSKY
	JASON MARGOLIS

RECORDED BY: MELISSA MURPHY-DELGADO, COURT RECORDER
TRANSCRIBED BY: ALLISON SWANSON, CSR No. 13377

I N D E X O F W I T N E S S E S

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1 Las Vegas, Nevada, Thursday, June 20, 2019

2 [Case called at 10:43 a.m.]

3
4 [OUTSIDE THE PRESENCE OF THE JURY]

5 THE MARSHAL: Back in session.

6 THE COURT: Thank you. Good morning, everyone.
7 Please be seated.

8 Had 'em all ready and then you guys just have -- just
9 throw a curve ball in there --

10 MS. CRAGGS: I'm sorry, Judge.

11 THE COURT: -- [indiscernible]. It's okay. I blame
12 your partner.

13 [DISCUSSION OFF THE RECORD]

14 THE COURT: Are we ready to go on the record?

15 THE COURT RECORDER: We're on.

16 THE COURT: All right. C-17-323098, State of Nevada
17 versus Ramon Muril Dorado.

18 Counsel, are we ready to argue jury instructions?

19 MS. CRAGGS: Yes.

20 MR. YAMPOLSKY: Yes.

21 THE COURT: Okay. I have before me the jury
22 instructions that originally were 1 through 23, with 16 being
23 the only one that had not been stipulated to; is that correct?

24 MS. CRAGGS: Yes, Your Honor.

1 MR. YAMPOLSKY: Yes, Your Honor.

2 THE COURT: Okay. And then I received, this
3 morning, an additional one, which will now become 23, I
4 believe, which is stipulated to. And I want to make sure we
5 put this on the record and read it.

6 "Portions of transcripts from court proceedings have been
7 admitted as evidence in this case. The Court and the
8 attorneys have all agreed that the relevant portions of the
9 statement have been admitted. The jury is not to consider or
10 speculate on any of the portions of the statement that were
11 not admitted."

12 That jury instruction is stipulated to; correct?

13 MS. CRAGGS: Yes.

14 MR. YAMPOLSKY: Yes, Your Honor.

15 THE COURT: Okay. So we have, then, it'll be -- it
16 will be the last jury instruction before the finality, where
17 the judge basically says, now you'll listen to arguments;
18 correct? That's the order?

19 MS. CRAGGS: Yes, Your Honor.

20 THE COURT: Okay. Now, let's talk about jury
21 instruction number -- proposed jury instruction number 16.
22 "Voluntary use of drugs or alcohol is not a defense to general
23 intent crimes. Thus, voluntary use of drugs or alcohol is not
24 a defense to a charge of sexual assault." Citing the Hardin

1 case.

2 Go ahead, Counsel.

3 MS. CRAGGS: And, Your Honor, while I would -- I
4 believe that the argument against is going to be that there
5 was not evidence presented of any intoxication on the
6 Defendant's part. However, in the opening statement, the
7 Defense stated multiple times that the Defendant was not
8 sober. That he was, quote, "Certainly not drinking water."
9 That he was "looking to have a good time."

10 Based on that, the State is concerned that since this is
11 a consent case, the jury might go back there and think,
12 "Well" -- and there's also the -- right before that is the
13 consent instruction.

14 THE COURT: General consent.

15 MS. CRAGGS: So that is what made us feel concern
16 that the jurors might think, "Well, maybe because he was
17 drunk, he had some belief that she was consenting." And they
18 might not understand that that is not a defense to a general
19 intent crime.

20 THE COURT: And there was also testimony by the
21 witness known as Candy that the band had been drinking all
22 night or were drinking all the night.

23 MS. CRAGGS: And so that is why we believe that this
24 is an appropriate instruction. And I would submit it,

1 Your Honor.

2 THE COURT: Okay. Defense?

3 MR. YAMPOLSKY: Your Honor, as the Court has
4 abundantly instructed the jury, Counsel's statements are not
5 evidence. So I don't think the fact that maybe it was
6 mentioned in opening should have any bearing on the Court's
7 ruling. However, I don't remember -- and I could be wrong. I
8 don't remember any testimony that said Mr. Dorado was
9 drinking.

10 I mean, there's a lot of people in the band. But
11 there -- I don't believe that Candy ever said, "Oh, Mr. Dorado
12 was drinking." If he was, I'm mistaken. But based on that,
13 Your Honor, I don't think there is any evidence that
14 Mr. Dorado was drinking. And because of that, I object to the
15 instruction.

16 THE COURT: Okay. State, any rebuttal onto that?

17 MS. CRAGGS: No, Your Honor. I think -- no. I'll
18 submit it to you.

19 THE COURT: Okay.

20 MS. CRAGGS: I think -- I do remember her saying
21 something about the band drinking. So I believe there is
22 evidence --

23 THE COURT: The statement was that the band were
24 drinking all day. They were -- or drinking all morning, all

1 day, all night, going back and forth. All the band was
2 drinking. Okay. That was the testimony that came out of
3 Candy. I don't remember her last name. Perez, I believe.

4 MS. CRAGGS: Yes.

5 THE COURT: Based upon that testimony and the
6 understanding of this general intent crime, I'm gonna allow
7 the jury instruction. Therefore, we will have the jury
8 instructions as stipulated to and the proposed jury
9 instruction number 16 will be added in that spot, right after
10 the, basically, definitions of intent. And we'll add the one
11 about portions.

12 Does that complete all the jury instructions to be given
13 to the jury in this matter?

14 MS. CRAGGS: Your Honor.

15 THE COURT: Are there any additional proposed jury
16 instructions that were not given that the State wishes to make
17 a record about?

18 MS. CRAGGS: No, Your Honor.

19 THE COURT: Were there any proposed jury
20 instructions by the Defendants that were not given that the
21 Defendants want to make a record about?

22 MR. YAMPOLSKY: No, Your Honor.

23 THE COURT: Okay. What about the verdict forms?
24 Have you gone through those? Are those the correct verdict

1 forms? Everybody's agreed to those? I -- jury instructions
2 are one thing. It's amazing how many times attorneys say,
3 "Oh, I never saw the verdict forms."

4 MS. CRAGGS: It was sent over. I don't know if
5 Mr. Yampolsky got a chance to look over it.

6 THE COURT: It was part of the jury instructions
7 that I received. So let's look over the verdict forms,
8 Counsels.

9 MS. CRAGGS: It should be the very last --

10 MR. YAMPOLSKY: This is what I have.

11 MS. CRAGGS: Hmm. I don't -- I don't know why you
12 don't have --

13 MR. YAMPOLSKY: I don't know either.

14 MR. MARGOLIS: I didn't see a verdict form when I
15 saw the e-mail.

16 THE COURT: All right. Counsel, let's get one --
17 you have one there, handy?

18 MS. CRAGGS: It was sent -- I mean, I think it was
19 sent to the Court, Your Honor, so --

20 THE COURT: I received one.

21 MS. CRAGGS: Yeah, okay.

22 THE COURT: I have one.

23 MS. CRAGGS: Okay. I can pull it up.

24 THE COURT: But the Defense don't have it. And if

1 they haven't stipulated to it, we need to discuss it.

2 All right. Before I get our jury in here, what is
3 today's anticipated schedule? What are we --

4 MR. YAMPOLSKY: Well, we are putting on our expert,
5 Mr. Bub. I don't anticipate he's going to take, what?
6 Fifteen minutes, Jason?

7 MR. MARGOLIS: Yeah, probably.

8 THE COURT: Especially with the limitations that we
9 understand the Court placed on the testimony?

10 MR. YAMPOLSKY: Oh, absolutely.

11 THE COURT: Okay.

12 MR. YAMPOLSKY: And one other thing, Your Honor.
13 Can we go off the record?

14 THE COURT: Off the record.

15 [RECESS AT 10:23 A.M.; PROCEEDINGS RESUMED AT
16 10:43 A.M.]

17 [OUTSIDE THE PRESENCE OF THE JURY]

18 THE MARSHAL: All rise. Department 29 is back in
19 session.

20 THE COURT: Please be seated.

21 Are we ready?

22 MR. YAMPOLSKY: Yes, Your Honor.

23 THE COURT: Counsel, anything that needs to come
24 before the bench before you get my jury in here?

1 MS. CRAGGS: Not from the State, Your Honor.

2 MR. YAMPOLSKY: No, Your Honor.

3 THE COURT: Okay. Marshal, let's get 'em in.

4 THE MARSHAL: All rise for the jury.

5 [IN THE PRESENCE OF THE JURY]

6 THE MARSHAL: Jury is all present.

7 THE COURT: Counsel, stipulate to the presence of
8 the jury.

9 MS. CRAGGS: Yes, Your Honor.

10 MR. YAMPOLSKY: Yes, Your Honor.

11 THE COURT: Please be seated.

12 Good morning, ladies and gentlemen.

13 THE JURY: Good morning.

14 THE COURT: I have spoken with the counsel before we
15 brought you in here. It's my understanding that what is gonna
16 happen this morning is the Defense is gonna put on a
17 particular witness. After which time period I will read the
18 jury instructions to you that I talked about earlier. You'll
19 get a copy of them.

20 After the jury instructions are completed, I've done my
21 job of reading them to you, I will then ask the Counsel if
22 they're prepared to argue. After arguments are over, the case
23 will be submitted to you today. Therefore, you'll have this
24 case before you before the end of today; okay?

1 Counsel for the Defense, call your first witness.

2 MR. MARGOLIS: Defense calls Robert Bub.

3 ROBERT BUB,

4 [Having been called as a witness and being first duly
5 sworn testified as follows:]

6 THE CLERK: Please be seated.

7 State and spell your first and last name for the record.

8 THE WITNESS: Robert Bub, R-O-B-E-R-T. Last name is
9 spelled B-U-B.

10 THE COURT: Good morning, Mr. Bub.

11 THE WITNESS: Good morning, sir.

12 THE COURT: Counsel, your witness.

13 DIRECT EXAMINATION

14 BY MR. MARGOLIS:

15 Q Good morning, Mr. Bub. Thanks for coming in.

16 A No problem, sir.

17 Q What do you do for a living currently?

18 A Currently, I do a number of things. This. I'm a
19 part-time subject matter expert in criminal and civil cases.
20 I do a little bit of technical adviser work for television
21 shows in California. I have an active private investigator
22 license in California. And I'm also a volunteer consultant
23 for the National Center for Missing and Exploited Children.

24 Q What, if anything, did you do prior to your current

1 occupations?

2 A Before I retired in March of 2015, I was a police
3 officer for the City of Los Angeles for 33 years.

4 Q And in your 33 years with the Los Angeles Police
5 Department, what different responsibilities did you have?

6 A For the first five years or so, I worked patrol.
7 Then I did about four and a half, five years working vice.
8 And I made detective. And for the last 22 years or so, I
9 worked mostly homicide units, but also ran a homicide unit in
10 a sexual assault table.

11 Q And what exactly does it mean to run a homicide unit
12 or a sexual assault table in a police department?

13 A Los Angeles is divided into 21 geographic divisions.
14 Each one has its own detective bureau or detective division
15 within it. And we're referred to as "specialists." Based on
16 the crime, a, quote, unquote, "table" will handle that
17 particular crime. There's a robbery table, a sex table, a
18 homicide table, burglary table, there's an auto table, crimes
19 against person table. And they all handle those specific
20 crimes.

21 Q Okay. Now, if you could -- as your capacity as the
22 head of a sexual assault table in Los Angeles, what did that
23 entail? What were your responsibilities and obligations in
24 that capacity?

1 A During that time period, what would happen is I
2 would have a group of detectives. Usually it was three or
3 four detectives working for me that would handle the sexual
4 assaults. Every report that came in with regards to a sexual
5 assault would come across my desk. I'd review the report.

6 It would be assigned to one of the detectives. They
7 would go out and handle it. Then they'd come back and I would
8 review their follow up. Within that, if there were things
9 that still needed to be done or if they had questions about
10 how something should be done, we'd discuss that and I might
11 assign them tasks and they would go back out and follow up on
12 those leads.

13 Q And in that capacity, you would also assign a lead
14 detective to a given case once you received a disclosure;
15 correct?

16 A Yes.

17 Q And generally speaking, in your experience, how long
18 was the time frame between disclosure and assignment to a lead
19 investigator or detective?

20 A When a report came in, the longest it would take --
21 say, if an assault occurred on a Friday night, and there were
22 no detectives working a night watch assignment, the latest
23 that report would go to a detective would be the following
24 Monday morning.

1 Q Okay. Now, referring to this case, what, if
2 anything, did you review in preparation for testifying in this
3 matter?

4 A I was provided with the Las Vegas Metropolitan
5 Police Department reports with regards to that: The -- an
6 interview that was done or transcription of an interview that
7 was done with the victim the morning of the attack, there was
8 a property report, anything that fell under the -- what we
9 would refer to as a DR number, a report number for this
10 incident.

11 Q And if you recall, do you know about how long after
12 Ms. Lehr's disclosures this case was actually assigned to a
13 detective?

14 A The incident occurred on the morning, I believe, of
15 April 24th. And the case was first reviewed by the assigned
16 detective, I think it was May 3rd, which is approximately nine
17 days later.

18 Q In your experience, does that impede the
19 investigation in any way, that delay of nine days, let's say?

20 A Yes.

21 Q And in what manner might that impede the
22 investigation?

23 A Well, there -- a number of things could have been
24 done --

1 MR. SCHWARTZ: Your Honor, can we approach?

2 THE COURT: Approach.

3 [BENCH CONFERENCE]

4 THE COURT: Sustained, Counsel. Move on.

5 MR. MARGOLIS: Certainly.

6 BY MR. MARGOLIS:

7 Q Per chance, in preparation for your testimony here,
8 did you review any of Las Vegas Metropolitan Police
9 Department's policies and procedures pertaining to these
10 investigations?

11 A Yeah, I reviewed -- yes. I reviewed the -- there's
12 a manual that the department puts out that I reviewed.

13 Q And what, if anything, did the manual instruct you
14 with regard to the conduct of these investigations? Time
15 frames? Mechanisms of investigation, so forth?

16 A I don't remember the exact sections, but there's at
17 least two different sections that delineate an investigator
18 should handle a serious crime as soon as possible. As soon as
19 they have information, they should be following up on it. And
20 that it's basically their duty to do that.

21 Q And from your review of the information in this
22 case, does it appear that the Las Vegas Metropolitan Police
23 Department followed their own policies and procedures with
24 respect to the investigation?

1 A No, it did not.

2 Q Okay. And I take it you believe that the failure to
3 follow Metro procedures in this investigation has caused some
4 difficulty for Mr. Dorado in defending himself?

5 MR. SCHWARTZ: I'm going to object to that,
6 Your Honor.

7 THE COURT: Sustained.

8 BY MR. MARGOLIS:

9 Q In your opinion, there are things you would have
10 done differently?

11 MR. SCHWARTZ: Objection.

12 THE COURT: Sustained.

13 MR. MARGOLIS: Indulgence.

14 THE COURT: Go ahead.

15 BY MR. MARGOLIS:

16 Q Just reflecting back to Metro's manual, are there
17 things that should have been done, pursuant to the policies
18 and procedures you reviewed, that were not done here?

19 A Yes.

20 Q Thank you, Mr. Bub.

21 THE COURT: Cross.

22 MR. YAMPOLSKY: Okay [indiscernible].

23 THE COURT: Excuse me, Counsel? I didn't hear
24 anything.

1 MR. YAMPOLSKY: All right. All right.

2 THE COURT: All right.

3 Cross-examination, Counsel.

4 MR. SCHWARTZ: Thank you, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. SCHWARTZ:

7 Q How you doing, Mr. Bub?

8 A We'll find out in a minute.

9 Q So, I guess just to -- if I understand, you received
10 the documents from Defense counsel and then you were
11 instructed how to kind of review or did you have -- I guess,
12 what were you asked to come to a conclusion about?

13 A I was not asked to come to a conclusion about
14 anything. I was asked to review the investigation and provide
15 my own opinion as to the quality of the investigation that was
16 done.

17 Q I understand. What type of payment did you receive
18 for the work you did on this case?

19 A I receive an hourly payment for review.

20 Q What would that be?

21 A I get 200 an hour.

22 Q Okay. Approximately how many hours did you do on
23 this case?

24 A I believe up to and including today, I probably

1 worked about -- I want to say 40 hours. I'd have to review my
2 billing.

3 Q Okay. Let me ask you a general, sir. Do you agree
4 that hindsight is 20/20?

5 A Depends on what we're talking about.

6 Q Like, in general, you don't agree with that?

7 A Something that you can look back and pick at
8 something for very minor things, yes.

9 Q I guess, here's my question: If you know that was
10 gonna happen, like, if you can see the future, it'd be easier
11 to know what to do in the present.

12 A Are we talking about police work or general, sir?

13 Q Just in general.

14 A In general, yeah, if you knew the future, it would
15 be easy to make a good decision.

16 Q And police work, looking back on an investigation,
17 you're gonna see some things you should have done differently,
18 in general. Every investigation's gonna have things you
19 should have done differently.

20 A Yes.

21 Q Okay. So for your, I guess, assignment? Is that a
22 fair way to kind of characterize it? Assignment in this case,
23 you received some documents to review; correct?

24 A Correct.