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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 10

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Alphabetical Index

<u>Description</u>	<u>Vol.</u>	<u>Page</u>
Judgment of Conviction, 8/19/19	2	181
Minutes, 6/20/19	2	180
Motion to Dismiss for Failure to Preserve Evidence, 6/20/17	1	1
Motion to Dismiss for Pre-Indictment Delay and Lack of Jurisdiction, 10/19/18	1	61
Recorder's Transcript of Hearing: Defendant's Motion to Dismiss for Failure to Preserve Evidence, 7/6/17	2	142
Recorder's Transcript of Hearing: Jury Trial – Day 1, 6/17/19 ¹	2	183
Recorder's Transcript of Hearing: Jury Trial – Day 2, 6/18/19 ²	5	422
Recorder's Transcript of Hearing: Jury Trial – Day 3, 6/19/19	8	715
Recorder's Transcript of Hearing: Jury Trial – Day 4, 6/20/19	9	882
Recorder's Transcript of Hearing: Sentencing, 8/13/19	10	966
Reply to State's Opposition to Defendant's Motion to Dismiss for Failure to Preserve Evidence, 8/14/17	1	54
State's Opposition to Defendant's Motion to Dismiss for		

¹ N.B. Volumes 3 and 4 of the Appellant's Appendix are comprised of Recorder's Transcript of Hearing: Jury Trial – Day 1, 6/17/19

² N.B. Volumes 6 and 7 of the Appellant's Appendix are comprised of Recorder's Transcript of Hearing: Jury Trial – Day 2, 6/18/19

Failure to Preserve Evidence, 6/29/17	1	14
State's Opposition to Defendant's Motion to Dismiss Indictment, 10/29/18	1	74

1 Q And you prepared, I guess, a report that kind of
2 details what you reviewed and then your thoughts as well.

3 A Yes.

4 Q Is there anything else that you prepared that wasn't
5 in here, in this document?

6 A There were other -- other opinions that I have that
7 I did not have time to put into the report, yes.

8 Q Okay. So this would be an incomplete report?

9 A Yes, I guess.

10 Q Okay. Just for timing purposes?

11 A Yes.

12 Q But as far as things you reviewed, that list is
13 complete. You didn't review things that aren't in this list.

14 A You're asking did I review other paperwork that
15 isn't included in it?

16 Q Right.

17 A Correct.

18 Q Okay. That's correct. You didn't review anything
19 else?

20 A Correct.

21 Q Okay. Just want to make sure I'm on the same page
22 as you are, sir. That's all.

23 So I look through here and I notice there are some
24 reports that I want to ask you about that I assume you didn't

1 review because they weren't on this paper. Did you review a
2 DNA analyst's report by the name of Kim Dannenberger?

3 A Yes.

4 Q Okay. That wasn't listed in your --

5 A What I listed on there is Cellmark and related DNA
6 reports. I believe that's in there.

7 Q Bode Cellmark laboratory reports?

8 A Yes.

9 Q Okay. So Dannenberger is not with Bode Cellmark,
10 though; right?

11 A I don't know, sir.

12 Q Okay. 'Cause her report is labeled "Las Vegas
13 Metropolitan Police Department forensic lab."

14 A Okay. Is this the report submitted in and around
15 2015?

16 Q No.

17 A Then I don't recall what report we're talking about.

18 Q Okay. I just want to make sure so I understand
19 which ones you reviewed. Sean Fletcher's report regarding a
20 crime scene investigation.

21 A Which report is that? The property report or the --
22 MR. YAMPOLSKY: Your Honor, I'm gonna object for
23 lack of foundation. If he can make a better foundation, I'm
24 sure the witness can answer --

1 THE COURT: A better foundation as to what he
2 reviewed in his --

3 MR. YAMPOLSKY: Well, to ask him about certain
4 reports. I want the foundation of that. Because I can't tell
5 what they are.

6 THE COURT: Okay. Sir, do you have a copy of the
7 report with ya?

8 THE WITNESS: No, I do not.

9 THE COURT: Counsel, do you have an extra copy?

10 MR. SCHWARTZ: I have a copy, just has all my --

11 THE COURT: I know. Has all your marks on it.
12 All right. So go ahead. Give it to Counsel.

13 Counsel, go ahead and approach. Hand him a copy of it.

14 MR. SCHWARTZ: Yeah. No problem.

15 THE COURT: All right, sir. Here's the question:
16 Basically, looking at your report, did you list all of the
17 documents and pieces of evidence that you reviewed? Are they
18 listed somewhere in your report?

19 THE WITNESS: Yes.

20 THE COURT: Okay. So there are -- there's not out
21 there a single document, a single piece of evidence that you
22 did review that you didn't memorialize that you've reviewed in
23 your report?

24 THE WITNESS: Understand, in the first line it says,

1 "Las Vegas Metropolitan Police officer's report completed by
2 [indiscernible] and related under their report."

3 THE COURT: Okay.

4 THE WITNESS: Now, that would include there was a
5 report, I believe there was a property report, there was a
6 report completed by the photographer. There were other
7 reports. To me, that is -- I was -- the reports that were
8 given related to that report and number, I reviewed. I
9 don't -- I did not list each one individually within my
10 report.

11 THE COURT: Okay. So there are, basically,
12 sub-reports that you've included, just generally, as the
13 entire Metropolitan Police Department's review, or report?

14 THE WITNESS: Correct, Your Honor.

15 THE COURT: Okay. Now, is that -- in your report,
16 what you've list, in your opinion, is that the -- basically,
17 the totality of all of your opinions? Or do you have
18 additional opinions that you didn't put in writing?

19 THE WITNESS: I have additional opinions that were
20 not in writing that --

21 THE COURT: Well, we're not discussing those,
22 Counsel. They're not in his report.

23 MR. SCHWARTZ: Agreed.

24 THE COURT: He didn't put 'em in the report, they're

1 not part of it.

2 MR. SCHWARTZ: Agreed.

3 THE COURT: Next question.

4 BY MR. SCHWARTZ:

5 Q Okay. So it sounds like there's more reports that
6 are under this related number that aren't necessarily
7 delineated by who wrote the report, et cetera.

8 A Correct.

9 Q Okay. Now, this policy manual from Metro, I just
10 want to ask a couple questions about that. I notice that you
11 put it -- you referenced it in here as "Las Vegas Metropolitan
12 Police Department manual partners with the committee."

13 A Correct.

14 Q Now, do you have any idea what policies in that
15 manual were present in 1999?

16 A Again, I mention in my report that I am not sure
17 when certain ones were, but they also -- they're policies that
18 relate to investigative procedures that don't necessary --
19 they're not brand new procedures. They're procedures that
20 have been in existence since detectives were working.

21 Q So I guess, to answer my question, you're not
22 sure -- like, you don't know what the 1999 policy has said for
23 Metro. 'Cause you didn't review that.

24 A There was no way for me to have a copy of that

1 policy at that -- from that time period. Correct.

2 Q And, Mr. Bub, I'm not trying to accuse you of
3 anything. I just want to know if you reviewed Metro's policy
4 from 1999. That's all.

5 A No.

6 Q Okay.

7 MR. SCHWARTZ: Nothing further, Your Honor. Thank
8 you.

9 THE COURT: Any redirect, Counsel.

10 MR. MARGOLIS: Question or two.

11 THE COURT: Go ahead.

12 REDIRECT EXAMINATION

13 BY MR. MARGOLIS:

14 Q Mr. Bub, you were with the Los Angeles Police
15 Department for how many years?

16 A Thirty-three.

17 Q And I think you testified on cross-examination that,
18 largely, while procedures do change over time, many of these
19 procedures are time-tested from the time the detectives have
20 been investigating cases?

21 A Yes.

22 Q And there's a lot of general rules that apply over
23 time?

24 A Yes.

1 Q Thank you.

2 THE COURT: Counsel, any recross on that?

3 RE CROSS-EXAMINATION

4 BY MR. SCHWARTZ:

5 Q And, Mr. Bub, I assume you would have said it.
6 You've never worked for Metro, you worked in Los Angeles as
7 well; correct?

8 A That is correct.

9 Q Okay. Thank you.

10 THE COURT: Thank you. Seeing no questions from the
11 jury, sir, you're dismissed.

12 THE WITNESS: Thank you, Your Honor.

13 THE COURT: Counsel for the Defendant, any other
14 witnesses?

15 MR. YAMPOLSKY: Defense rests, Your Honor.

16 THE COURT: Counsel for the State, any rebuttal
17 witnesses?

18 MS. CRAGGS: No, Your Honor.

19 THE COURT: Okay. Ladies and gentlemen, at this
20 time, I'm going to read the instructions to you. So what I'm
21 gonna do is I'm gonna have copies given to you so that you can
22 follow along with these jury instructions.

23 While I'm reading through these jury instructions, please
24 make sure that you pay special attention to the jury

1 instructions. Please don't try to go through your notes and
2 see if they match up to any jury instructions. You will take
3 these actual jury instructions back with you in your
4 deliberation. So you have a complete set.

5 If you wish to make notes on the jury instructions for
6 yourself, that's fine. Okay? But what I don't want you to do
7 is I don't want you to read through, or as I read through jury
8 instruction number six, you think, "Oh, I made a note that
9 probably is relevant or part of that. I'm gonna go look
10 through my 30 pages of notes and try to find it." Because the
11 second you do that, you'll miss jury instruction 7, 8, 9, and
12 10.

13 I read these jury instructions verbatim. I don't read
14 the grammar part of it. Once in a while, believe it or not,
15 even the judge makes a mistake. I'll catch myself and go back
16 and try to correct the jury instruction. But it's important
17 that you listen to the jury instruction and the content.

18 As I told you or admonished you previously, it's not up
19 to you to make a decision as to the wisdom of a law; okay?
20 The law has been passed by the state legislature and the
21 governor and/or by the people of the State of Nevada.
22 Therefore, it is the law. Whether or not you believe it's a
23 good law, a bad law, or you would like to change it cannot
24 come into your understanding nor your deliberation. You must

1 follow the law as written.

2 [THE COURT READ THE INSTRUCTIONS TO THE JURY.]

3 THE COURT: Ladies and gentlemen, this concludes the
4 reading of the jury instructions. Is the State ready to
5 argue?

6 MR. SCHWARTZ: Yes, Your Honor.

7 THE COURT: Proceed.

8 MR. SCHWARTZ: Can I move this, Your Honor?

9 THE COURT: Go ahead. Just make sure you're within
10 contact with some of the microphones so we can hear ya.

11 CLOSING ARGUMENT BY THE STATE

12 MR. SCHWARTZ: Ladies and gentlemen, there's no
13 question that the person we're talking about in this case is
14 the Defendant. We heard some jail calls from him yesterday
15 where he talked about he wasn't here. "No soy yo." It wasn't
16 him. At this point, though, Defendant's changed his tune.
17 He, the Defense, and the State agree, he was the one there.
18 He's Ray. He was the one with Michelle that night.

19 There's also no question that the sexual acts happened.
20 There's no dispute. Parties agree. There was sexual contact.
21 So, ladies and gentlemen, we can limit our focus. Was it
22 consensual? That's the issue here today.

23 I want to talk to you a little bit about the law on
24 sexual assault. Focus on one TV at a time here. Well, what

1 is sexual assault? It's sexual penetration against the
2 victim's will. What is sexual penetration? Cunnilingus,
3 mouth, tongue to vagina or any intrusion, however slight, of a
4 body part into a genital opening of the victim.

5 And these are in instructions. I've just kind of
6 simplified the [indiscernible] so we can talk about them.
7 And, again, the fact that sexual acts happened is not in
8 dispute. I just want you to make sure we -- we all understand
9 the law. So if his penis is not erect and it just penetrates
10 a little bit, that's still sexual penetration. Just the tip
11 is penetration. And this includes digital penetration, which
12 includes fingers inside, penetrating the vagina. And of
13 course, those are the three sexual acts that we're talking
14 about in this case.

15 So what's the issue that we need to figure out
16 [indiscernible]? Here's some law that the judge just read you
17 and just so we can review it together, there's no force
18 necessary for it to be a sexual assault. The perpetrator --
19 the Defendant did not need to be holding Michelle down when he
20 did it. He just needed to be doing it without her consent.
21 Physical force not necessary. Listen, crucial question is
22 easy.

23 And the law doesn't require that Michelle does something
24 specific to show her opposition. She doesn't have to scratch

1 and claw him, punch and kick him. Really what it says, it
2 just needs to be reasonable under the circumstances. No means
3 no. No is enough. Showing your opposition is enough.

4 There's no specific thing she had to do. She didn't have to
5 run out of the apartment or even try to. She just had to say
6 no.

7 That's what she told you. She did more; right? She
8 tried to push him away. Tried to scratch at him. Had a
9 safety pin to show her opposition. Did whatever she could in
10 the circumstances.

11 Now this is important. And submission is not consent.
12 Giving up does not equal "yes." Right? If you're fighting or
13 you're even saying no and then you just submit to what's
14 happening and allow it to happen, that's not the same thing as
15 saying yes. And that's what the law says.

16 Now this is important. And we talk a lot about this in
17 jury selection. I'm just gonna read it slow. There is no
18 requirement that the testimony of a victim of a sexual offense
19 be corroborated. Her testimony alone is sufficient to sustain
20 a verdict of guilty.

21 And there was some discussion in jury selection about if
22 you believe the victim, is that enough? And under the law, it
23 is. And so the victim's testimony alone, uncorroborated, if
24 you believe it beyond a reasonable doubt, the law allows for

1 them. It understands that sexual assault is a unique crime.
2 Not -- you know, may just be Defendant and victim in a
3 situation.

4 And we're gonna talk a little bit more, in this case,
5 there's actually a lot more than just the victim's statement
6 that we'll talk about. But this is an important part of how
7 important really considering the victim's statement is. And
8 you may be asking yourselves, well, [indiscernible] sexual
9 assault but it all happened at the same time.

10 And so if you're asking yourself that, it's for each
11 separate section. Cunnilingus, when Michelle explained that
12 he had his mouth and tongue inside her vagina; digit
13 penetration, she testified that his fingers went inside; and
14 of course, his penis.

15 One thing that the instructions also discuss is the
16 credibility and believability of witnesses. As the jury, it's
17 what you're here to determine: Credibility, believability.
18 There's a few other things that are in the instruction, but
19 you can look at someone's manner on the stand over here, what
20 their motives are for testifying, what their motives are for
21 being here. What are their interests and feelings in the
22 case?

23 And these are things that you can look at and try to
24 figure out -- we're going to talk a lot about these things

1 throughout. But just keep that in mind. Michelle's motives,
2 Candy, Maria -- Candy's motives in being here.

3 Okay. So, ladies and gentlemen, we have Michelle's
4 testimony. Let's talk about that just briefly. And much of
5 it's not in dispute. The Defense isn't gonna come up here and
6 say she didn't go to Silver Saloon with Candy and she didn't
7 go home with the Defendant. That's all agreed to.

8 They went out together, her and Candy. She ended up
9 meeting the Defendant, who's here, Mr. Ramon Dorado, and she
10 ended up giving him a ride. They'd all been hanging out at
11 the bar. Believe Joanne, her, bartender, and Ramon. All
12 hanging out. And it's time to go to the next stop.

13 So she gave him a ride. And she went inside his house.
14 And she said, you know, "We were in kind of a neighborhood I
15 wasn't comfortable in. I figured I'd just go inside." All he
16 was gonna do was make a phone call. And they were gonna be
17 back in the car on the way to PT's or whatever bar they had
18 actually decided to go to.

19 And as far as Michelle told you, everything about him at
20 that time seemed cool. He seemed like a nice guy. They were
21 obviously having a good time with the group. She had no
22 reservations that she shouldn't go inside his apartment for
23 fear that he was gonna rape her. So she went inside. And
24 that's where it begins; right?

1 She says that there was some individual that Defendant
2 told to leave, who left. And then the Defendant started
3 making these advances; right? Picked her up, took her into
4 the room, was trying to get her pants off, her shirt off over
5 her head, and there was the penetration with his mouth on her
6 vagina. It sounded like she had got one of the pant leg and
7 the pantyhose down and was able to get there. He had to use
8 his fingers and was trying to penetrate her with his penis as
9 well.

10 And she told you she was trying to get him off. She said
11 no. She was pushing him away, using the safety pin from her
12 pants to try and stop him. And that's what she told you, as
13 far as everything that happened inside that house. Once he
14 couldn't continue penetrating her with his penis, he stopped,
15 said something about his ex-wife or something. And she got up
16 and left.

17 Now, in the opening statement from the Defense attorney,
18 said you got to fact check her; right? You got to fact check
19 this lady. What she talking about? None of this makes sense.
20 So let's fact check her a little bit. There are some
21 differences. Big surprise, 20 years ago versus now, there's
22 some minor differences. Is that surprising to anybody?

23 That she said she had one drink and maybe had a couple
24 drinks. It's been 20 years. She remembered a lot for

1 20 years with some minor differences that we can talk about.
2 But in the end, does these minor differences mean that she's
3 not being truthful about everything she told you?

4 And Defense counsel seems to think that, well, either you
5 believe everything she says or not. All you need to listen to
6 is the first witness and we could have gone home. We could
7 have [indiscernible] this process. You're just gonna have to
8 take her word for it. He said, she said. That's all we got.

9 So I want to kind of go down the list. Let's look at
10 things that corroborate, support what she said. She's saying
11 this man sexually assaulted her. Well, we know, it's
12 undisputed that she reports to Maria, [indiscernible] that
13 day, same day. Maria told you that. That's something aside
14 from Michelle's testimony that supports what she said. It's
15 not like she reported this in 2015 and now we're here. It's
16 the same day. Right?

17 She went to the hospital and the SANE exam was done.
18 That's corroborating evidence. She did those things. We
19 don't need to take her word for it. The -- a nurse came in
20 and explained that there was an exam done and was with
21 Michelle and explained the process that she had to go through.

22 Let's think about that for a second. There's no dispute
23 that a SANE exam is a very intrusive exam. So she went there,
24 explained to the nurse what happened, had to obviously get

1 undressed, get in the stirrups, have the nurse look around,
2 photographs, flashlights, all that happened. And it's
3 supported without Michelle's testimony.

4 Her injuries. We don't even need her to talk about 'em.
5 She told us, but we have the pictures. She's missing four
6 fingernails. Consistent with what she said, she was fighting
7 him off, trying to get him away. She had some bruises that
8 are consistent with someone grabbing you.

9 Another one consistent with someone -- you grab someone's
10 arm, thumb print's gonna be right on there. You can see it
11 on -- you'll have the photographs. You can look at it. But
12 you see a mark right there. If you look at this, this is her
13 inner leg, where if someone was grabbing one's leg to push it
14 open or force it open, again, that thumb print is right there.

15 And think about this with the injuries; right? Michelle
16 didn't just get up there and say, "Oh, yeah, every photo,
17 that's my injury. From him. Every one." No. She said a
18 couple of 'em. "These aren't from the injury. No, that's not
19 from this. That's not from this." She picked and chose the
20 specific ones. She didn't get up here and just blatantly,
21 blindly point the finger at Ramon Dorado for doing everything
22 to her. She showed you.

23 And you heard from the nurse. She said that SANE exam
24 results were constant with what Michelle told her. Now,

1 that's important to kind of think about that. Because the
2 SANE exam didn't say that she was sexually assaulted. But the
3 nurse said that only -- I think she said 10 to 18 percent of
4 the cases that they -- these exams they do actually show the
5 findings of sexual assault.

6 So the fact that there weren't specific -- there were
7 nonspecific findings doesn't say -- doesn't show that there
8 wasn't sexual assault. In fact, the findings, according to
9 the nurse, were consistent with what Michelle said.

10 Again, remember, we're going through these other things
11 that support her testimony that you can rely on to ensure that
12 she's a incredible [indiscernible].

13 This is an important one. The Defendant's DNA. And it
14 kind of gets glossed over in this case because you heard me
15 read some stipulations. Everyone's agreeing it's his DNA. So
16 jury might be thinking, "Well, must not be that big of a deal.
17 Everyone's agreeing to it."

18 Think about this -- let's start at the beginning: When
19 Michelle reported this that day, she didn't know there was
20 gonna be a DNA hit 20 years later. She didn't know that there
21 were DNA gonna be taken, was gonna be tested when she
22 initially reported it. And now that we have the DNA, it
23 completely supports her story, her testimony about what
24 happened. It completely supports it.

1 The Defendant, you heard his statements that he made
2 previously on the calls, in court. It wasn't him. He wasn't
3 even in Vegas. Probably before he really looked at what the
4 DNA evidence showed. Now, "Oh, it was consensual. I was in
5 Vegas. It was consensual." Oh, okay. Or it was
6 [indiscernible] depending on which statement you rely on for
7 that.

8 Regardless, ladies and gentlemen, DNA evidence is
9 extremely powerful in this case because it shows the sexual
10 aspect that took place 20 years ago. And if you go back to
11 the DNA, take out this whole "Defense is agreeing to it," this
12 is gonna corroborate exactly what she said happened. Right?

13 If the Defense attorneys weren't standing up and saying,
14 "We agree. We agree. It's consent." Then, look, this
15 becomes very powerful. It shows -- it's corroborating exactly
16 what she said happened happened. If you think about it, if
17 the Defense -- that the Defendant reported on the calls in
18 court that couple years ago in the transcripts, "It wasn't
19 me." That blows it right out of the water; right? What do
20 you mean it wasn't you? Your DNA's in her vagina. Think
21 about that when now -- now, of course, it's a consent.

22 Maria's testimony also is very strong corroboration for
23 the victim's statement. Of course Maria doesn't really
24 remember a lot from that specific night because, for her,

1 there was really nothing unique about it; right? She wasn't
2 sexually assaulted. She wasn't with her friend when she was
3 assaulted. For her, she said, it was just another night.
4 Went out and partied. "I went home." Of course, the next
5 morning, it makes sense that she's remembering more, then,
6 especially that evening because, of course, her friend
7 discloses that she was assaulted.

8 So what does Maria tell us? That the victim told her the
9 next day that she had been sexually assaulted and that
10 Michelle's demeanor was upset, angry, consistent with someone
11 who had just been sexually assaulted. I think it's important,
12 too, to think about Maria's testimony about what she did then.

13 Remember, she meets with Michelle and takes care of her,
14 so to speak. Goes to the hospital. That evening, though, she
15 goes back to the Silver Saddle. She gets right in front of
16 the band; right? Wants to see exactly what happened. And a
17 couple seconds, someone ran right off the stage. That person
18 was no longer in the band every night she went back there.

19 Does that -- ask yourself if that's consistent with what
20 Michelle testified to, that she was sexually assaulted by a
21 band member. Her friends kind of go to support her and find
22 out who did this. The man takes off.

23 You heard testimony from the detective, yesterday, that
24 some of the follow up that was done, that the Ray who was in

1 the band, Raymond, Defendant, he was let go a week later. So
2 this term "he said, she said," as the Defense put it in their
3 opening, is that what this is? She said, plus Maria said,
4 plus the nurse examiner said, plus, plus all the things we
5 just talked about. Okay? It's not a "he said, she said."

6 Let's take a step back for a second; right? Figure all
7 this testimony, all this law, let's take a step back. What
8 makes sense? Common sense is one of your instructions we
9 talked about in jury selection. You should use it; right?
10 That's essentially what it says, use your common sense to make
11 inferences about the evidence. You're encouraged to do that.
12 You're instructed to do that.

13 So based on all the things we -- the parties agree to,
14 the things that are not in dispute and are in dispute, there's
15 two options; right? Maria (sic) was sexually assaulted and
16 told you all about it on the stand or she made it up. She was
17 not truthful when she reported it. She was not truthful when
18 she got on the stand and testified.

19 So let's think about the second one. Okay. So to
20 evaluate her testimony, think about her motives; right? And
21 not sure that the Defense specifically said the phrase
22 "buyer's remorse," but the idea that Michelle only reported it
23 because she was upset with herself, regretted her decisions,
24 had made a mistake. Let's think about that.

1 So Michelle was so upset April 24th, 25th, 1999, after
2 having sex with the Defendant, that she went to her friend's
3 house and said that he raped her. But she didn't stop there.
4 Because then she went -- she didn't shower either. She kept
5 her clothes; right? She went to the police department and
6 told them that he raped her, too.

7 And, then, no, that's not enough, though. Let's go to
8 the hospital. You know what? I'm gonna take it all off, give
9 it to them. They can keep all my clothes. And get on the
10 stirrups; right? This isn't enough. Come on. This -- I'm so
11 upset with myself, doctor, check me out. I need the DNA. Get
12 in there. Feel around.

13 And then 20 years later, she's so pissed at herself, she
14 came back in here and stuck to the story. Is that what your
15 common sense tells you?

16 And Maria, she must have just seen a different band
17 member run out. It must have been a misunderstanding; right?
18 Didn't make any sense, buyer's remorse.

19 So maybe -- okay. Maybe it wasn't buyer's remorse.
20 Maybe -- I think, as in opening, Defense counsel put it, she
21 was just disappointed and she felt bamboozled, as I quote.
22 Because she had had a blast; right? She met this awesome band
23 member. They'd gone back to the apartment. Things were
24 getting hot and heavy. And then he couldn't perform. He

1 couldn't give her the full Ramon. And so she was pissed. "I
2 was ready for it. I was having a blast. I'm bamboozled.
3 Disappointed. We had a great -- what did he not like?"

4 And so all because of that, well, you know what? "I
5 think I'm so disappointed with him, I'm pissed at him, I'm
6 gonna say he raped me. That'll show him." And I'll go
7 through the same steps I just talked about. Go to the police
8 department. "I'll go to the hospital. I'll take all my
9 clothes off and let them get really in there and see what
10 happened. And then I'll come back in 20 years and tell you
11 guys that he raped me. All because I felt bamboozled by him."

12 Does that make sense? No.

13 And this -- I mean, another thing that was brought up in
14 Defense opening, that how fired-up can you get after being led
15 on by a woman for six hours? I mean, is it Michelle's fault
16 that she led him on? So he deserved the sex? So he was gonna
17 take it. I don't even know how to respond to that. It's not
18 her fault. It's not her fault that she gave him a ride, she
19 went into his house 'cause he seemed like a normal guy. It's
20 not her fault.

21 Let's blame the victim though, for everything; right?
22 She's disappointed and pissed and made the whole thing up.
23 It's all her fault. Use your common sense, please. Draw
24 reasonable inferences, as I already said.

1 It specifically says this too, that it should -- your
2 inferences should not be based on speculation or guess.
3 Meaning that, as you're going through the testimony and
4 evaluating it, using your common sense, you should not guess
5 about things that were not presented in the evidence. Not
6 guess and speculate as to possibilities.

7 You should rely on the evidence. And if it's enough,
8 it's enough. If it's not enough, it's not enough. You don't
9 speculate and guess about other things.

10 So then what evidence is there really that it was
11 consensual? That she went inside? Gave him a ride? Because
12 she said "sack of potatoes" one day and didn't say "sack of
13 potatoes" the next day? Is that what makes it consensual all
14 of a sudden?

15 Did she [indiscernible] imply that she was having
16 consensual sex? Did Maria imply that she thought, you know,
17 it was a consensual thing that was happening? When you really
18 sit back and look at the evidence and don't speculate about
19 outside things that aren't in front of you or guess about
20 things, the evidence shows you exactly what it is. It's not
21 consensual. There's nothing about this that [indiscernible]
22 consensual.

23 Ladies and gentlemen, the Defendant was guilty in 1999
24 for sexually assaulting Michelle Lehr. He's just as guilty

1 today. I'm asking you to find him [indiscernible]. Thank
2 you.

3 THE COURT: Thank you, Counsel.

4 Counsels, approach.

5 [BENCH CONFERENCE]

6 THE COURT: Ladies and gentlemen, as you can
7 imagine, these conversations at the bench, they remind me a
8 lot of times of the conversation that professional athletes
9 have with one another. I have been privy to a lot of those
10 conversations. And when a football player is on the sideline
11 and is talking to another football player after he just
12 tackled him, most of us think that they're basically kind of
13 jawing back at each other.

14 Sometimes what we talked about was, "Hey, those are nice
15 looking shoes you got on. Where'd you buy 'em?" Or "Who's
16 supplying 'em for you?" Or usually what it was, was, "Hey, I
17 just heard you bought a brand new Lamborghini, can I ever
18 drive it?"

19 These conversations at the bench are just like that.
20 Discussions we were having basically is, you may know or may
21 not know, water in the building right now is having some
22 difficulties. My understanding is the 15th floor is still dry
23 and some of the other floors are working. So because of that,
24 I was basically anticipating taking a lunch break, coming back

1 and doing closings, giving you guys a short period of time now
2 to break.

3 But if I give you a short period of time now, something
4 tells me at least the vast majority of you won't be able to
5 get to use the water closets because they're not functioning.
6 So what we're gonna do now is we're gonna take a little bit
7 extended break. We're then gonna have the Defense do close,
8 rebuttal close. It'll be submitted to you.

9 I have ordered lunch for the jury. So when you go back
10 in deliberations, you'll have access, hopefully by then, to
11 working restrooms. And you'll have lunch.

12 So basically what I'm gonna do is we're gonna take an
13 extended break now to allow you to do the restroom breaks.
14 Come back, finish up closing, which is probably only going to
15 be about 30 to 45 minutes. The case will be submitted to you.
16 You'll have lunch and hopefully working bathrooms. And that
17 way it doesn't inconvenience you too far.

18 If the bathrooms don't work on this floor, I would
19 imagine, my understanding is --

20 THE JEA: They're working on L-6.

21 THE COURT: -- they're working on the bottom floors;
22 okay?

23 So during this recess you're admonished not to talk or
24 converse among yourselves or with anyone else on any subject

1 connected to this trial or read, watch, or listen to any
2 report of or commentary on the trial with any person connected
3 with this trial by any medium of information, including
4 without limitation: Newspapers, television, radio, or
5 Internet, or form or express any opinion on any subject
6 connected with the trial until the case is finally submitted
7 to you.

8 You're not to do any experiments or investigation
9 regarding any matters raised in this trial, nor are you to
10 post on any social media forums about the trial or attempt to
11 investigate anything you've heard in this trial using any form
12 of social media or the Internet.

13 We will see you back here at 15 minutes after the hour.
14 That's -- we'll see you back here at 12:15. And then we'll go
15 right through the remaining of closing and give the case to
16 you. Please leave all of your papers, the jury instructions,
17 everything else. You can take, of course, your personal
18 items. We'll see you back here at that time period.

19 THE MARSHAL: All rise for the jury.

20 [OUTSIDE THE PRESENCE OF THE JURY]

21 THE COURT: Okay. Counsel, anything that needs to
22 come before the bench before we break?

23 MS. CRAGGS: No, Your Honor.

24 MR. YAMPOLSKY: No, Your Honor.

1 MR. MARGOLIS: No.

2 THE COURT: Thank you. We understand the break.
3 And due to the fact that you guys may have to use other
4 floors, please, not in the elevators with the jury --

5 MS. CRAGGS: Yes.

6 THE COURT: -- at the same time and/or the
7 restrooms.

8 MS. CRAGGS: Thank you.

9 THE COURT: Thank you.

10 [RECESS AT 11:50 A.M.; PROCEEDINGS RESUMED AT
11 12:15 P.M.]

12 [OUTSIDE THE PRESENCE OF THE JURY]

13 THE COURT: Please be seated.

14 Counsel, anything that needs to come before the bench
15 before we get started?

16 MS. CRAGGS: No, Your Honor.

17 MR. YAMPOLSKY: No, Your Honor.

18 THE COURT: Let's get in Mr. Dorado and then we'll
19 get our jury in here.

20 [DISCUSSION OFF THE RECORD]

21 THE COURT: Okay. Get our jury in here.

22 THE MARSHAL: All rise for the jury.

23 [IN THE PRESENCE OF THE JURY]

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

1 THE COURT: Counsel, stipulate to the presence of
2 the jury.

3 MS. CRAGGS: Yes, Your Honor.

4 MR. YAMPOLSKY: Yes, Your Honor.

5 THE COURT: Counsel for the Defense, proceed.

6 MR. YAMPOLSKY: Thank you.

7 Madam Court Recorder, you're gonna be able to hear me
8 over there?

9 CLOSING ARGUMENT BY THE DEFENSE

10 MR. YAMPOLSKY: This is a case about buyer's remorse
11 that happened due to a one-night stand that happened 20 years
12 ago. Did something happen? Yes. Did they have sex? Yes.
13 Was it consensual? Absolutely. Buyer's remorse. How could
14 she do that? She's a nice girl.

15 But let's listen to what she said. Mr. Schwartz said,
16 "Oh, let's do some fact checking." Okay. Why don't we do
17 that. Now, you're going to have this voluntary statement,
18 which was taken on April 29th -- April 24th, 1999, at
19 14:50 hours, which would be 2:50 in the afternoon.

20 And as we've gone over, Ms. Lehr wanted to be helpful,
21 truthful, accurate, complete because she wanted the police to
22 catch this awful person, Ramon Dorado. So when they asked her
23 these questions, they asked, you know, "You were just very,
24 very upset."

1 "I was. I was in shock. I mean, like, you know, I mean,
2 two years. I've not gone out in two years. I had my son.
3 The very first night I actually go out, this happens, you
4 know?"

5 That the truth? No. You heard from her friend, the one
6 she lived with, Candy. "Oh, yeah, I know her for about a
7 year. And the last year, we went out 10, 15 times."

8 "Well, does she drink?"

9 "Well, yeah. She doesn't like beer." But she likes
10 wine. She has a couple glasses of wine.

11 And, you know, sometimes people forget things. It's been
12 20 years. But do you forget you went out to a bar 10 or 15
13 times? No. Is that, like, oh, a little minor difference?
14 No. That's a major difference. "Oh, I don't drink. I don't
15 go out since my son was born," different than, "Yeah, I'm a
16 party girl. I've gone out 10 to 15 times. I have a great
17 time."

18 You heard from Candy when she said, "Well, I really
19 didn't believe her in the beginning." Well, why is that?
20 Because of what she observed. Because she's gone out with
21 her. She went out with her several times.

22 Now, why did she say this if it didn't happen? 'Cause
23 I'm sure that's what's on your mind. Because why would
24 somebody say this? Well, we talked in jury selection on how

1 people want to look at themselves in the best light. And, you
2 know, sometimes people do things that they're not proud of.
3 Especially people that drink alcohol. They'll do things that,
4 in retrospect, they probably shouldn't have done. And maybe
5 Ms. Lehr thinks she probably shouldn't have had sex with
6 Ramon.

7 Now, there are some statement, "Oh, I really want to get
8 home to my child." And then she went back. But she came back
9 to the bar. She came back to the bar, spent several hours
10 with Ramon.

11 Now, she said, "Oh, oh, no, I didn't dance with him. I
12 don't think I talked to him." But Candy, who had no dog in
13 this fight and she's gonna lean any way, she's gonna lean
14 towards her friend, Michelle, that lived with her for a couple
15 of months. And she said, "Oh, yeah, I saw 'em talking. Oh,
16 yeah, they were drinking."

17 And then she left with Ramon. Did he twist her arm? No.
18 Did he promise her something? Pay her money? No. She gave
19 him a ride, after she spent several hours with him drinking
20 and dancing, went to his apartment. Gee, what do you think
21 might have happened?

22 You know, she's 25 years old. She goes out with her
23 friend. That's what people do in their 20s. I mean, there's
24 nothing wrong with that. You know, you don't have to be a

1 saint. There are no saints in this courtroom, I can tell you
2 that. And I don't know of any -- except some people say my
3 girlfriend because she puts up with me. But aside from that,
4 no.

5 But that doesn't matter. You judge what came up from the
6 witness stand. We're not making moral judgment, is this
7 person a good person; is that person a bad person. I was told
8 by a lawyer a long time ago, just because it's moral doesn't
9 mean it's legal, and just 'cause it's legal doesn't mean it's
10 moral.

11 I mean, is Michelle a bad person? Did she come out and
12 she wants to just, you know, rip Ramon apart for whatever
13 reason? I don't think that's how it started. What I think
14 happened was, oh, they went out. They had a good time. She
15 had a few drinks. And then she went over to Ramon's. We say
16 they had sex and it was consensual. She said, oh, no, he
17 forced himself on me.

18 So I want to talk about the timeline 'cause it's curious
19 to me. She said, oh, I was at the bar and, you know, she
20 spent several hours. No one disputes that. And she said,
21 "Well, I gave him a ride." And there was some confusion.
22 Granted, it's been 20 years. But I -- the way I remember --
23 and by the way, if I misstate something, which I often do, go
24 by your memories cause that's what control.

1 But I think what she said was, oh, we got over there
2 about quarter of 8:00 and my memory says that it took around
3 half an hour, 45 minutes. So that would bring us to 8:30.
4 And she said she drove to Candy's. And she drove to Candy's
5 and it's about ten minutes. Well, what happened to the other
6 time? I mean, from 8:30 to 10:20, where did she go? Didn't
7 take that long. Where did she go?

8 And she said, "Oh, he cradled me." Cradled her. Okay.
9 Now, I'm not exactly sure how much Ms. Lehr weighed in those
10 days. Said she was lighter. I mean, I know I was lighter
11 20 years ago. But I want to make this one point. Stand up,
12 Ramon. Stand up.

13 Okay. I'm about 5-7. He's about maybe 5-6. She said
14 she was about 5-6 or 5-7. Let's say they're around the same
15 weight. And from what she said was, he cradled her. And she
16 didn't want him to do that so she was struggling. But he
17 cradled her and then he threw her over shoulder like a sack of
18 potatoes and walked to the next room.

19 So I was having a hard time visualizing this. So I
20 thought I would do this. This is a 50-pound sack of potatoes.
21 This is 50 pounds. I weigh almost 200. This is one quarter
22 of my body weight. And carried it this far and then swung it
23 over the shoulder.

24 I mean, this thing is tough. This is only one quarter of

1 my body weight. There is no way that Ramon could do that. He
2 just couldn't do it. It's physically impossible. Maybe he
3 was a body builder or someone like that, a weight lifter, but
4 he's not.

5 MR. SCHWARTZ: Your Honor, I'm gonna object to the
6 use of this item of potatoes that was obviously not in
7 evidence and was just brought. We don't know the weight that
8 Mr. Yampolsky's claiming it is. None of that's in evidence.

9 THE COURT: Okay. Counsel, it's demonstrative.
10 Counsel, keep down the theatrics; okay?

11 MR. YAMPOLSKY: Yes, Your Honor.

12 THE COURT: Let's deal with facts.

13 MR. YAMPOLSKY: In the jury instructions it'll say,
14 don't leave your common sense at the door. And you shouldn't.
15 And common sense tells you that this individual, even at the
16 weight he is now, but they're both going to be lighter, and
17 just for a [indiscernible] purposes I -- we'll say they're
18 both the same size. One could be bigger than the other a
19 little bit more, but no one is going to be able to lift their
20 own body weight and then throw it over the shoulder while that
21 person is struggling. It's strains the credulity. It just
22 doesn't make sense. Who could do that? I don't know.

23 So the other thing that's interesting to me is that, "Oh,
24 my pantyhose were ripped." Oh, really? Well, when you made

1 the statement, you know, that same day, the voluntary
2 statement, where did you say that? I had her review it. And
3 guess what? It's not in there.

4 Now, she did say, "Oh, well, there's spaces in here and
5 they didn't get everything." And she's absolutely right. But
6 you'll have this back there. And you look through it. And
7 there is no place where there's spaces where there's
8 discussion or there could be any discussion of pantyhose.
9 Just in a [indiscernible] it doesn't make any sense.

10 So according to her testimony, first he cradles her
11 against her will. Then he throws her over the shoulder like a
12 sack of potatoes, carries her into the other room, and throws
13 her down on the bed. And after that, he pulls up her shirt.
14 He pulls up her shirt or jacket, the bolero jacket, which was
15 still fastened, and he pulls that up.

16 And then she blanked out. I don't know how long, but she
17 said she blanked out. And then all she remembers is that one
18 of her legs was out. One of her legs was out of her pants;
19 one of her legs was out of her pantyhose. He was trying to
20 pull the pants down; she was trying to pull the pants up.

21 There is a safety pin. She said she stabbed him with it.
22 But she said, he got the pantyhose and the pants almost off
23 the one leg, it was off the other leg. Then, supposedly, you
24 know, he had -- he performed cunnilingus on her. He entered

1 her vagina with his finger and he entered with his semi-hard
2 penis, I think, three times. So that's what she said.

3 And looking at the timeline, how long did this take? Put
4 her over the shoulder. He wanted to dance. She didn't want
5 to dance. He threw her in the other room. He tried to do all
6 these things. How long did this take? How long can you
7 attempt to have sex with a semi-erect penis? Not long.

8 I mean, I don't think it could take an hour and a half,
9 however long, from 8:30 to, let's say, 10:00 o'clock. Yeah.
10 And it was 10:20. Took her a while to get there. It doesn't
11 make sense.

12 Now, we'll talk about the burden of proof. And it's in
13 the instructions. And in the instructions it says that the
14 government has the burden of proof to prove each and every
15 element. And Mr. Schwartz went over the burden of proof in
16 jury selection, as did I. So as I said, I could just sit
17 here, eat mints, not question any witnesses, and if the
18 government hasn't met their burden, you can't victim him.

19 And have they met their burden? Well, Mr. Schwartz said,
20 "Oh, well, this happened 20 years ago. And people are going
21 to have" -- you know, there's going to be minor
22 inconsistencies. And that's true. Minor inconsistencies.
23 But as someone said in jury selection, well, you should
24 remember a traumatic event. And you should. And you should

1 know whether your pantyhose were ripped. And you should know
2 whether or not you went out 10 to 15 times. That's not a
3 minor inconsistency.

4 So everyone's heard no means no. But never means never.
5 I never went out from the time my son was born until tonight
6 and look what's happened. That's a major point. Never means
7 never.

8 Now, regarding the burden -- and you'll have jury
9 instructions, but I wanted to talk about a couple that --
10 it'll be in instructions, the Defense has no burden. So it's
11 all the government's burden. And if they met their burden,
12 you convict Mr. Dorado. And if they haven't, you need to
13 acquit him. That's what you're supposed to do.

14 All right. And I put this on here. And this is an
15 instruction. And I'm not sure which it is, but it's the
16 credibility. It says, "The credibility or believability of a
17 witness should be determined by his manner upon the stand, his
18 relationship to the parties, he's fears, motives, interests,
19 or feelings, his opportunity to observe the matter to which he
20 testified, the reasonableness of his statements, and the
21 strength or weakness of his recollection. If you believe that
22 a witness has lied about any material fact in the case, you
23 may disregard the entire testimony of that witness or any
24 portion which is not proved by other evidence."

1 Did they have sex? There's DNA. They had sex. And we
2 said from the beginning, DNA doesn't matter in this case.
3 We're not contesting that they had sex. Yes, it's
4 [indiscernible] they had sex. But DNA doesn't matter.
5 Credibility matters. Because, essentially, if you believe
6 her, you convict him. If you don't believe her, you shouldn't
7 convict him. And if you have doubts, say, "Gee, she may be
8 telling the truth," or, "maybe she's not," that's reasonable
9 doubt. And if that's the case, you should come back not
10 guilty.

11 Now, there's another instruction that says, "It is a
12 defense to the charge of sexual assault that the Defendant
13 entertained a reasonable and good faith belief that the
14 alleged victim consented to engage in sexual intercourse. If
15 you find such a reasonable good faith belief, even if
16 mistaken, you must give the Defendant the benefit of the doubt
17 and find him not guilty of sexual assault."

18 No means no, but maybe could mean yes. And there's no
19 talismanic magic words. Yes, no means no. But after that, I
20 mean, people get together all the time and they don't
21 expressly say, "I want to have sex with you. Do you agree?"
22 That's not how it happens.

23 I mean, could you have a reasonable belief if someone
24 came over to your apartment, after you'd been drinking all

1 night, and someone starts taking off their clothes? Would you
2 have a reasonable belief that you're going to have sex? Yes.
3 That would be a reasonable belief. Can you change your mind?
4 Yes. After they start taking off their clothes say, "No."
5 That's it.

6 But what if they say, "No, I don't want to have sex,"
7 then they start taking of their clothes? Wouldn't that be
8 changing their mind, even though they don't come out and say
9 it? Say, "Hey, you know, yes, I change my mind. We can have
10 sex now." That's not what people do. So you have to look at
11 the totality of the circumstances.

12 Now, there's been a lot said, this happened 20 years ago.
13 And it did happen 20 years ago. And then the -- in jury
14 selection, "Well, there's gonna be some things that maybe
15 don't make sense that maybe people will forget." And that's
16 true. But the burden of proof of beyond a reasonable doubt in
17 1999 is the same burden of proof that we have today.

18 But the State, for whatever reason, decided not to
19 prosecute. So what? Justice delayed is justice denied? They
20 decide to prosecute later. What's the big deal? I'll tell
21 you what the big deal is. According to jury instructions, you
22 must "if equal justice" -- "equal and exact justice" -- and
23 I'll read it. I want to make sure I say this properly.

24 It's the last instruction. And it says, "Whatever

1 Counsel may say, bear in mind it's your duty to be governed
2 in your deliberation by the evidence as you understand it and
3 remember it to be and by the law, as given to you in these
4 instructions, with the sole fixed and steadfast purpose of
5 doing equal and exact justice between the Defendant and the
6 State of Nevada."

7 So you want to do justice. That's your job. But you
8 want to do justice to the State and justice to Mr. Dorado.
9 And can you do justice at this late date?

10 Let's talk about the investigation. Nine days later,
11 after this happened, a detective was assigned. Why it took
12 nine days, we don't know. Is that a big deal? Yes, it's a
13 big deal. I mean, you heard Ms. Lehr say she went over to the
14 police station and she took them to that address, the 2101 --

15 MR. MARGOLIS: Sunrise.

16 THE DEFENDANT: Sunrise.

17 MR. YAMPOLSKY: -- Sunrise. Thank you --
18 2101 Sunrise. So it's not like they didn't know where it was.
19 But what could they have done? They could have sent an
20 officer, a couple of officers over there, check out the scene,
21 see if there's maybe physical evidence that would help. They
22 could talk to witnesses.

23 I mean, Ms. Lehr said that, "Oh, there are these two
24 women that saw me as I came out." And then there was the

1 individual that was on the couch. They knew that day. They
2 had a description of Mr. Dorado and they knew his name was
3 Ray. They knew he played at the Silver Saddle.

4 Did they go there? No, Candy went there the next day and
5 saw someone and she didn't say who it was, but someone who ran
6 away from the band. Michelle wasn't there, but Candy and
7 these other people. Police could have gone over there. They
8 could have talked to the band members. They could have found
9 out where Mr. Dorado lives. They could have interviewed him.
10 They could have seen if what she said was corroborated.

11 She said she stabbed him a couple of times with a safety
12 pin. She stabbed him with a safety pin, there would have been
13 a wound. And that wound would have corroborated her story.
14 Or if there wasn't a wound, it would have buttressed
15 Mr. Dorado saying, "Hey, I never forced her to do anything.
16 She never stabbed me. This was consensual sex." But we'll
17 never know.

18 So this is something that happened 20 years ago, which
19 can't be properly investigated now. There is -- the
20 Defendant -- excuse me. The detective that took the
21 statement -- once again, you'll have the voluntary
22 statement -- and it's, I believe his name is Hnatuick. And
23 it's H-N-A-T-U-I-C-K.

24 Now, he tape-recorded it. He tape-recorded her. He was,

1 I believe, considered the lead detective. And on that day, he
2 could have visited the scene, could have got some uniforms, go
3 out there. He didn't do it. Why not? We don't know because
4 they didn't put him on the stand. Why not? Not our burden;
5 their burden.

6 Why couldn't we have had some detective? You heard this
7 woman give a voluntary statement. Why didn't you do this?
8 Why didn't you do that? Why didn't you do this? Maybe he
9 didn't believe her. We don't know and we'll never know. But
10 it's the State's burden, not the Defense burden.

11 So there's a lot to be said about your oath as jurors.
12 And it's very solemn oath. And Judge George, who the building
13 in federal court is named after, always says that jury
14 service, except for combat in war time, is the highest,
15 highest civil service, the highest duty of civil service that
16 you will you have.

17 And this is very, very important because you are the
18 finders of fact. Doesn't matter what I say. Doesn't matter
19 what they say. Doesn't even matter what the judge says
20 because you are the finders of fact. You think it happened,
21 it happened. You think it didn't happen, it didn't happen.
22 And that's up to you.

23 And in jury selection, everyone has their own opinions.
24 And you may all agree in the beginning, you may disagree, but

1 you need to stay with your own opinion. If someone convinces
2 to change your opinion, fine. But if they don't, you need to
3 have the courage to say, "No, that's not my verdict. That's
4 not my opinion. I don't believe that. I know everyone else
5 does, but I don't. I'm not convinced."

6 And you must be convinced beyond a reasonable doubt.
7 Some of you had civil jury experience, by a preponderance of
8 the evidence, more likely than not, that's not reasonable
9 doubt. You'll read about what reasonable doubt is. But
10 that's not it.

11 So when you look at everything, oh, this happened, but
12 this is the first time it ever happened. So that's a lie.
13 Oh, I didn't dance with Ramon. Oh, that's a lie. You know,
14 he cradled me. I mean, did he really cradle her? Was he able
15 to pick up someone of his own body weight and then throw her
16 over his shoulder like a sack of potatoes, which she never
17 mentioned in the voluntary statement, but did that really
18 happen? No. Physically impossible.

19 And I want to go back to the pantyhose because if things
20 had happened as she said, "Oh, he cradled me. He threw me
21 over his shoulder. I was struggling. He threw me on the bed.
22 He pulled my jacket over my head. I blacked out. One of my
23 legs was out, the other one's on and the pantyhose were
24 ripped." Well, where are they? Where are those ripped

1 pantyhose? Because if they had the ripped pantyhose, they
2 would be in this courtroom and they're not.

3 So I always like to wrap up, the American system of
4 justice is taken from English common law. That's where we get
5 many of our inalienable rights from the Magna Carter (sic) --
6 Magna Carta. And the first judicial system that really works,
7 I think, is English common law. And in England there's a
8 court called Old Bailey. It is the first court. It is the
9 most majestic court. And outside of this Court is a huge
10 rock. And the rock says, "The crown never loses."

11 What does that mean? That means, by your verdict,
12 whether you find the Defendant not guilty or guilty, the crown
13 never loses because the importance is that this case be tried
14 fairly. And when you review everything and you think about
15 the delay that was not caused by Mr. Dorado and you think of
16 all the things that you would have liked to have heard, is you
17 find the Defendant not guilty.

18 THE COURT: Okay. Counsel, does the State wish to
19 proceed with a rebuttal close?

20 MS. CRAGGS: Yes, Your Honor. Thank you.

21 May I proceed, Your Honor?

22 THE COURT: Proceed.

23 MS. CRAGGS: Thank you.

24 /

1 REBUTTAL CLOSING ARGUMENT BY THE STATE

2 MS. CRAGGS: Ladies and gentlemen, I stood up here a
3 few days ago before you and started these proceedings by
4 saying that no means no. We talked about it, voir dire and I
5 said no means no. And it meant no in 1999 and it means no in
6 2019.

7 And while the Defense said they agreed with that, what I
8 heard throughout the closing argument was "no means no, but."
9 Or "no means no, except for this." Specifically I heard,
10 between the opening and closing arguments, "It's not like he
11 clubbed her over the head." So because he didn't club her
12 over the head, even though she said no, it didn't really mean
13 no.

14 It's not like he twisted her arm. Though I would submit
15 to you, ladies and gentlemen, that the injuries on her arm may
16 show you differently. She gave him a ride. She was nice to
17 him. And I think what Mr. Yampolsky said was, "Gee, what do
18 you think might have happened?"

19 So are we to take from that, then, that when a woman is
20 nice to a man, gives him a ride home because she thinks that
21 he's a nice, normal individual who's not going to sexually
22 assault her, forcibly, for a lengthy period of time, that she
23 should just know what's gonna happen and that she deserved it?

24 So no means no, except for when you give somebody a ride

1 to their house. Except for when you try to be nice and do
2 them a favor. Because you're a woman, apparently, dressed in
3 a bolero jacket and pantyhose and jeans, so you should know
4 that that's what you're in for.

5 But that's not what the law says, ladies and gentlemen.
6 That's not what the law says. Because no does mean no. And
7 there's no "but," there's no "except" in this instance.

8 He also said, "That's what people do." Ladies and
9 gentlemen, that's not what people do. You heard
10 Michelle Lehr. She didn't have any reason, and you can read
11 in her voluntary statement, which we [indiscernible] into
12 evidence. So you can take a look at that. She thought that
13 the Defendant was a nice guy. Her friend Candy knew some
14 other people at the bar. She had reason to think that it was
15 okay.

16 I'm sure she'd do things differently now, obviously, but
17 she had reason to think, "Okay. Well, I'll just take him to
18 his house." Because that's what people do. They're nice.
19 They try to believe the best in people. They try to do people
20 favors. But what people don't do, what they shouldn't do is
21 then forcibly commit sexual assault on that person. That's
22 not what people do.

23 And, ladies and gentlemen, there's not any evidence that
24 she consented to this. There's no evidence of that at all.

1 The evidence that you heard was from Ms. Lehr, talking about
2 the fact that she absolutely did not. And she admitted,
3 "Well, I went into the house," you know, "probably shouldn't
4 have done that, but I was nervous about the neighborhood." "I
5 gave him a ride 'cause I thought he was nice."

6 But immediately, as soon as she starts realizing that
7 something is not right, she says no, ladies and gentlemen.
8 And the Defendant just kept going.

9 And sexual assault is a different crime than, really, any
10 other. That's because a lot of times sexual assault is
11 perpetrated on the victim behind closed doors; right? There's
12 only gonna be two people there. There's only going to be two
13 people who know what happened between the two of them. It's
14 not like a burglary -- right -- at a gas station and there's
15 gonna be surveillance videos and potentially other witnesses.

16 Sexual assault's a lot like domestic violence in that
17 way. It's a little bit more difficult because it happens
18 between only two people. And it usually happens in the home
19 or in a secluded place.

20 Now, because sexual assault is like that, the law
21 actually provides -- and Mr. Schwartz touched on this -- but
22 the law does provide a way for that to be proved with only the
23 testimony of the victim. And this is really important, ladies
24 and gentlemen. Instruction number 12, "There's no requirement

1 that the testimony of the victim of a sexual offense be
2 corroborated." And that's because of the type of crime that
3 sexual assault is.

4 "If believed beyond a reasonable doubt, it's sufficient
5 to sustain the verdict of guilty." Well, as Mr. Schwartz
6 touched on, I would say probably more than touched on, there's
7 a lot of corroboration. It's not just Michelle's testimony to
8 you. We presented you with evidence corroborating what it was
9 that she said. Evidence of a friend who she talked to that
10 next morning. Evidence of a voluntary statement that she did
11 with the detective. Evidence of a sexual assault examination.
12 Ladies and gentlemen, photographs of injuries that comport
13 with what she told the detective at the time and what she told
14 you yesterday. Yesterday and the day before.

15 So not only do you have her testimony, which I would
16 submit to you has been consistent in all the major points, but
17 you also have corroborating evidence that we presented you as
18 well. And the law says you don't even need that, as long as
19 you believe her beyond a reasonable doubt.

20 Now, ladies and gentlemen, I want to talk a little bit
21 about the timeline. Because, obviously, the Defense is
22 bringing -- making a big deal about this timeline situation
23 and some of these minor differences. And you can see those in
24 her statement. And you're going to have that to be able to

1 look at. We want you to be able to look at that.

2 But if you think about somebody who has been through a
3 traumatic event -- and I believe Mr. Yampolsky even said that.
4 He said, "You should remember a traumatic event." Ladies and
5 gentlemen, she does remember the traumatic. Maybe she doesn't
6 remember what kind of drink that she had 20 years ago, because
7 when she started the night, she had no idea that this is where
8 it was gonna go. She doesn't remember that.

9 She said that she hadn't been out. She said that she had
10 been to -- I want to say, like, maybe restaurants or out
11 shopping with her friend. And her friend said that they went
12 out to bars. They both said that she doesn't really drink. I
13 mean, Candy said that she's not a heavy drinker. She never
14 really drank when they went out.

15 But of the things that she has been consistent about, in
16 1999 and 20 years later, is exactly what the Defendant did to
17 her and exactly how she felt when he was doing it. That she
18 kicked. That she was yelling. That she was hurt. That she
19 tried to stab him with that safety pin. That she pushed
20 clothes into his face to stop him from assaulting her over and
21 over again.

22 Because that's what you remember when you have been
23 through something traumatic. You're not gonna remember all of
24 the little things leading up to it because you didn't know

1 that it was important at the time.

2 Ladies and gentlemen, she has been consistent about all
3 of those things involving the Defendant for the last 20 years.
4 Which brings us to, obviously, a discussion of credibility and
5 her potential motives. And as Mr. Schwartz talked about,
6 there's kind of two options. And Mr. Yampolsky actually used
7 the term "buyer's remorse."

8 So we are supposed to believe, then, that Ms. Lehr was so
9 upset about what the Defendant had done, because he couldn't
10 maintain an erection, so she was so upset that they couldn't
11 actually have sexual intercourse or she was so upset with
12 herself that they did have sexual intercourse that, then, she
13 put herself through all of those things, all of those steps
14 that Mr. Schwartz outlined. That she goes back to her
15 friend's house and says, "I got raped." That she seems upset.
16 That she goes to the police station and sits there for
17 40 minutes until somebody talks to her. That she then goes to
18 the hospital, has this invasive exam. Has photographs taken
19 of her body and of the inside of her vagina.

20 She said she was there, she remembers, into the evening.
21 And this's all because she's, what? Mad that he couldn't
22 maintain an erection? Mad that she had sex with him? She was
23 upset with herself, that she had sex with this guy. She just
24 could have gone back to her friend's house and never told

1 anybody and that would be the end of it.

2 And then, ladies and gentlemen, we have another layer,
3 because it is 20 years later. And you heard Detective Cody
4 talk about how we have a victim-centered prosecution when it
5 comes to these cases. That Detective Cody was on the cold
6 case squad and she called victims. And if victims said that
7 they did not want to move forward, that was the end of it.
8 There was no further discussion about it.

9 So not only was Michelle so angry in 1999 that she went
10 through all these horrible steps that she had to deal with,
11 but then 20 years later, her vendetta against this man that
12 she only met one night is still so great that she then has to
13 lie about it again 20 years later?

14 Use your common sense, ladies and gentlemen. Both sides
15 have brought that up. That doesn't make any sense. All she
16 would have had to do was say, "You know what? No, I'm good.
17 I don't want to move forward with this prosecution." And that
18 would be it.

19 But when I asked her why she wanted to move forward with
20 it, she said, she wanted justice. She wanted to make sure it
21 didn't happen again. So then she put herself through coming
22 to multiple court appearances and coming in and having to
23 testify to a room full of strangers, the worst sexual
24 encounter that she's ever had and getting into these specifics

1 and talking about her life and having it unpacked.

2 And we're supposed to believe that's all because she was
3 mad at him from a one-night stand 20 years ago? That doesn't
4 make any sense, ladies and gentlemen.

5 What does make sense is that this woman was sexually
6 assaulted and that she was traumatized and that it was
7 horrible and you can see that she was injured. That's what
8 makes sense. And her testimony shows you that because she
9 didn't embellish.

10 I mean, if she was mad and she was making it up, wouldn't
11 she come in here and say, "Oh, he," you know, "viciously
12 sexually assaulted me for hours on end and it was horrible,"
13 et cetera, et cetera. Instead, she said, "Well, he tried. I
14 mean, he might have a little bit, but he had some issues and
15 then he said something about his ex-wife and it was kind of
16 weird and then that was it."

17 So if she's going to lie because she's mad, she's not
18 going to say that. She's going to embellish. And similar to
19 the testimony about the photographs. I showed her those
20 photographs and, frankly, I was surprised when she said, "I
21 actually don't think that that was from the struggle with the
22 Defendant. I think that's from something else."

23 She didn't sit up there and say, "Yep, he did that. Yep,
24 he did that. Yep, he did that." No. She was honest with you

1 about what she remembered. And she was honest about what
2 injuries she believed actually came from the Defendant.

3 The motive to lie due to buyer's remorse didn't make
4 sense back in 1999 and it makes even less sense now.

5 There's also been a lot of discussion about the timeline.
6 And I would submit to you, ladies and gentlemen, that she does
7 remember some times in there. Like, she remembers when she
8 gets back to her friend's house and it's 10:20. Because she
9 remembers going in and telling her friend and she's worried
10 about her son.

11 She's not sure -- and she was honest with you about
12 that -- she's not sure about what time she left. She think it
13 was 7:30. She thinks he might have got to his house at 8:00
14 or 8:30. And we don't know exactly what that timeline is.

15 But she said she went into his house. He made a phone
16 call to work. He talked to this other kid. He looked for his
17 paycheck. She sat on the couch for a while. She's still
18 thinking everything's okay. He picks her up. He -- you know,
19 then he takes her into the bedroom and this happens.

20 And Mr. Yampolsky asked how long can you attempt to have
21 sex with a semi-erect penis? It sounds like he was trying for
22 a while because he didn't want to give up. And obviously he
23 did other things to her as well. And additionally, she's
24 struggling. She trying to get away from him. She gets up.

1 She gets out almost to the door at one point and he grabs her
2 back down. I understand that we don't have these specific
3 times but, ladies and gentlemen, I would submit to you that we
4 know about the timeline.

5 And Michelle Lehr did the best that she could to try to
6 remember when these things happened and to give you the
7 specifics of what happened when she was there. That could
8 take an hour; that could take two hours.

9 Which brings us to the comment about her weight. And
10 fact that he wouldn't be able to pick her up. And I won't try
11 to pick up the sack of potatoes. But we don't have any
12 evidence as to what Mr. Dorado, the Defendant, weighed at that
13 time. We don't know anything about that. No evidence has
14 been brought in to talk about his weight or his size or his
15 ability to lift anybody or what he looks like at that time.

16 So Mr. Yampolsky's discussion of how this isn't possible,
17 there's no evidence of that anywhere. We do know that
18 Michelle Lehr said -- and I think it actually might show
19 somewhere what her weight is. Around 160. And that they were
20 about the same height. And she said that he was able to pick
21 her up and move her from one area to another a short distance.

22 I would submit to you, ladies and gentlemen, that doesn't
23 make her story not credible. The defense is essentially
24 saying that she was -- weighed too much for this to actually

1 happen. But we don't have any evidence of what the Defendant
2 actually weighed or was capable of doing at the time.

3 And talking about the investigation, it would be
4 disingenuous of me to stand in front of you and tell you that I
5 think the investigation from 1999 was perfect. I'm not gonna
6 do that. And frankly, as you heard from Detective Cody, I
7 honestly don't know all the specifics of what happened
8 because, 20 years ago, tough to get all the records.

9 The pantyhose that the Defense is really, really harped
10 on, we presented evidence that those pantyhose were actually
11 impounded by the police at the time. But that Detective Cody
12 told us that, unfortunately, because the case was closed, they
13 had been destroyed. So we would have loved to bring those in
14 here. But unfortunately, that's not possible.

15 There were some things that we don't know if they were
16 done. And would have been good if they were done, but at the
17 end of the day, it doesn't change what this case is about.
18 Because what this case is about is whether or not
19 Michelle Lehr consented or not. And she didn't.

20 And you also heard evidence from Detective Cody about how
21 things have changed, how they're looking at sexual assault
22 investigations differently, how we are reopening these cases
23 that were previously closed because we have the new technology
24 to do so and that there are new guidelines that they are

1 following.

2 So while I understand -- and don't necessarily disagree
3 that I wish we had more to show you, at the end of the day,
4 ladies and gentlemen, that's not necessary for you to find the
5 Defendant guilty, because we presented you with enough
6 evidence. We presented you with the victim and a lot of
7 corroborating evidence as to her story.

8 And finally, that brings us to some of the things that
9 the Defendant said at different times. We played some calls
10 for you. And I'm just gonna play those for you again.
11 Because, now, the defense is that she drove him home and she
12 went into his house, so she wanted to have sex with him.

13 But back, initially, in 2017, that wasn't the case.
14 Initially when this all happened, the Defendant is saying --
15 and we're going to play those for you, as soon as we get that
16 working -- the Defendant is saying, "It wasn't me. I wasn't
17 even here. I wasn't in Vegas."

18 And then as Mr. Schwartz pointed out, once he got a
19 little more information about the case, suddenly, his tune has
20 changed. So we're gonna listen to clip two.

21 [The recording was played for the jury.]

22 MS. CRAGGS: Yes, let me get the next one, too.

23 Thank you.

24 [The recording was played for the jury.]

1 MS. CRAGGS: So, ladies and gentlemen, initially,
2 when this case was filed, before all the information is out
3 there, the Defendant is saying, "I wasn't even here. It can't
4 be me. The DNA got mixed-up." Right? He said that on the
5 call and he also said that -- and you'll have these back there
6 with you -- he also said that in court on April 19th of 2017.
7 He goes, "It's very old. 1999. I wasn't in Vegas until '03."

8 Then couple months later, more information comes out.
9 And I don't know what he knew at the time, but assuming he
10 found out that his sperm was found inside of her vagina, which
11 is a good indicator that he's in Vegas in 1999, then we have
12 June 15, 2017. And that's when we have this allegation happen
13 of this "call girl, you know, showing up at my apartment."

14 So we have, first, "I wasn't here." And then when the
15 sperm is in her vagina, now she's a prostitute. And now that
16 we've determined that she's not a prostitute and that's not
17 gonna fly, now it was consensual because she gave him a ride
18 home and came inside so "gee, what do you think is gonna
19 happen?"

20 And, ladies and gentlemen, this is not what consensual
21 sex looks like. These bruises on her inner thigh, her nails
22 being broken off, and rug burn all over her back, that's not
23 what consent looks, like, ladies and gentlemen. But that's
24 where the Defendant's at this point, now that he's seen all of

1 the other evidence.

2 Now, I want to talk about reasonable doubt briefly, too.
3 This is a really important instruction. We talking about it
4 over and over again. But I also want to point out the portion
5 where it says a reasonable doubt -- and it's right here -- "is
6 one based on reason. It's not mere possible doubt. But it's
7 such a doubt as it would govern or control a person in the
8 more weighty affairs of life. To be reasonable, your doubt
9 must be actual, not mere possibility or speculation." Not
10 mere possibility or speculation. That is not reasonable
11 doubt. Must be doubt that governs a person in the more
12 weighty affairs of life.

13 Ladies and gentlemen, think about the actual evidence
14 that's been presented to you today and in the last few days.
15 The statement of the victim and all of the corroborating
16 evidence. Ladies and gentlemen, there's not a reasonable
17 doubt. The State has proved our case beyond a reasonable
18 doubt.

19 And, yes, justice was delayed in this case. It has been
20 20 years. But justice does not have to be denied and it
21 should not be denied because we have proved that the Defendant
22 sexually assaulted Michelle Lehr in 1999 beyond a reasonable
23 doubt. Thank you.

24 THE COURT: Thank you, Counsels.

1 Ladies and gentlemen, at this time what's gonna happen is
2 my clerk is gonna swear in the Marshal and my JEA. The
3 Marshal will be in charge of those individuals who will be
4 continuing on in the deliberation. That will be considered
5 the jury. My JEA will be with those two individuals, and she
6 will speak with those two individuals, who are deemed the
7 alternates.

8 Please understand, the individuals who are alternates,
9 you are still a member of this jury. Therefore, until you get
10 contacted by this department, you cannot discuss this matter
11 with anyone, including the other alternate; okay?

12 What happens during this process is those individuals who
13 make up the jury will go back in the room and do their
14 deliberation. If something, unfortunately, should happen to
15 one of those individuals -- okay -- and that individual is
16 unable to continue deliberation, the first alternate would be
17 contacted, brought into the deliberation room with the jury,
18 and you would start your deliberation process over with that
19 new alternate in as a juror. Therefore, the two alternates
20 are not released at this time.

21 Then the question is, "Well, Your Honor, can I go back to
22 work?" "Can I go about my daily life or do I have to stay at
23 home, close the doors, and not answer the phone?" Okay. All
24 you have to do is remember that you're still a part of this

1 jury. That means you have to be available in case you are
2 called in to do the deliberation and that you're not allowed
3 to discuss any portion of this case, just as the admonitions
4 you've heard all the breaks and every time we stop for the
5 evening. You're not allowed to discuss it until you're
6 contacted by this department and released.

7 In this case, the alternates are whom, Ms. Clerk?

8 THE CLERK: [JUROR NO. 1239] and [JUROR NO. 1216].

9 THE COURT: Okay. [JUROR NO. 1239] and
10 [JUROR NO. 1216], you will remain and speak with my JEA.

11 The clerk will now swear in the officers.

12 [The Clerk swore in the officers to take charge of
13 the alternate jurors and the jury during deliberations.]

14 THE COURT: Mr. Marshal, if you will take the 12
15 jurors into the jury deliberation room. If the other two
16 individuals will wait there. My JEA will meet you at the door
17 and she'll give you instructions.

18 Counsel, approach.

19 [Jury retired to deliberate at 1:10 p.m.]

20 [BENCH CONFERENCE]

21 [RECESS AT 1:10 P.M.; PROCEEDINGS RESUMED AT
22 2:58 P.M.]

23 [OUTSIDE THE PRESENCE OF THE JURY]

24 THE COURT: Let's bring in -- Counsel, are we ready?

1 MS. CRAGGS: Yes, Your Honor.
2 THE COURT: Okay.
3 [DISCUSSION OFF THE RECORD]
4 THE MARSHAL: All rise for the jury.
5 [IN THE PRESENCE OF THE JURY]
6 THE MARSHAL: The jury's all present, Your Honor.
7 THE COURT: Please be seated.
8 Counsel, stipulate to the presence of the jury.
9 MS. CRAGGS: Yes, Your Honor.
10 MR. YAMPOLSKY: Yes, Your Honor.
11 THE COURT: Ladies and gentlemen of the jury, you
12 have picked a foreperson amongst your group? That foreperson
13 please rise. Madam foreperson -- excuse me. Sir,
14 foreperson -- I just had a madam [indiscernible]
15 automatically.
16 Foreperson, has your jury reached a unanimous verdict?
17 FOREPERSON: Yes, we have.
18 THE COURT: Can you hand the verdict over to the
19 Marshal, please.
20 Madam Clerk.
21 Dorado, if you'll please rise.
22 The clerk will now read the verdict of the jury.
23 THE CLERK: District Court, Clark County, Nevada,
24 the State of Nevada versus Ramon Muril Dorado, case

1 C-17-323098, Department 29, verdict: "We the jury in the
2 above entitled case find the Defendant Ramon Muril Dorado as
3 follows: Count one, sexual assault, guilty of sexual assault.
4 Count two, sexual assault, guilty of sexual assault. Count
5 three, sexual assault, guilty of sexual assault. Dated this
6 20th day of June 2019. [JUROR NO. 1113], foreperson."

7 THE COURT: Does either party wish to have the jury
8 polled?

9 MS. CRAGGS: Not the State, Your Honor.

10 MR. YAMPOLSKY: Yes, Your Honor.

11 THE COURT: Madam Clerk.

12 As your name is spoken, you'll be basically -- starting,
13 you'll be juror number one, on the top left. She'll ask you a
14 question and then just answer either in the affirmative or the
15 negative, please.

16 THE CLERK: [JUROR NO. 1066] is this your verdict
17 as read?

18 PROSPECTIVE JUROR #1066: Yes, it is.

19 THE CLERK: [JUROR NO. 1074], is this your verdict
20 as read?

21 PROSPECTIVE JUROR #1074: Yes.

22 THE CLERK: [JUROR NO. 1075], is this your verdict
23 as read?

24 PROSPECTIVE JUROR #1075: Yes.

1 THE CLERK: [JUROR NO. 1254], is this your verdict
2 as read?.

3 PROSPECTIVE JUROR #1254: Yes.

4 THE CLERK: [JUROR NO. 1218], is this your verdict
5 as read?

6 PROSPECTIVE JUROR #1218: Yes.

7 THE CLERK: [JUROR NO. 1111], is this your verdict
8 as read?

9 PROSPECTIVE JUROR #1111: Yeah.

10 THE CLERK: [JUROR NO. 1113], is this your verdict
11 as read?

12 PROSPECTIVE JUROR #1113: I yes.

13 THE CLERK: [JUROR NO. 1117], is this your verdict
14 as read?

15 PROSPECTIVE JUROR #1117: Yes.

16 THE CLERK: [JUROR NO. 1147], is this your verdict
17 as read?

18 POTENTIAL JUROR #1147: Yes.

19 THE CLERK: [JUROR NO. 1162], is this your verdict
20 as read?

21 POTENTIAL JUROR #1162: Yes.

22 THE CLERK: [JUROR NO. 1174], is this your verdict
23 as read?

24 PROSPECTIVE JUROR #1174: Yes.

1 THE CLERK: [JUROR NO. 1190], is this your verdict
2 as read?

3 PROSPECTIVE JUROR #1190: Yes.

4 THE COURT: The verdict of the jury shall now be
5 recorded in the court minutes.

6 Ladies and gentlemen of the jury, I thank you for your
7 service. At this time what will happen is my Marshal will
8 take you back into the room that you did your deliberations
9 in. I'll be right with you.

10 What happens after a verdict like this or in any case, is
11 a lot of times the attorneys may want to speak with you in
12 regards to the case itself. Now, what they're gonna ask you a
13 lot of times is -- and they know this -- for example, they
14 will not ask you at all about the evidence of the case, ask
15 you specifics on why you found the way you did.

16 What it is, is just like all of us in our job
17 performance, we like to hear back from those individuals who
18 have basically gone through the process and, for better word,
19 critiqued us.

20 I always tell the attorneys this: I participated in
21 conferences where we've done mock trials where the jury, when
22 they're deliberating, because it's a mock trial it's not real,
23 we're able to hear what the jury does and how they deliberate.
24 And all of the attorneys basically are very enlightened by

1 hearing that.

2 So what will happen once in a while is an attorney may
3 say, "Your Honor, can I speak to the jury after the fact
4 about," one, for example, "my job performance? How I did this
5 or I did that."

6 You're under absolutely no obligation to speak with them.
7 Okay? If an attorney ever told you, as you were working out,
8 and you said, "Ma'am, can I speak with you for a second?" And
9 you said no. They then got in your way or they said -- or
10 even so much as asked you a follow-up question after you told
11 them that you're not going to speak with them, let me know.
12 I'll take care of it; okay?

13 But I trust these attorneys. If you are asked whether or
14 not you would give them five minutes of your time to talk to
15 'em, you said, "No, I can't," or "no, I won't." They're not
16 gonna bug you. Okay? They just may ask you that one question
17 and if you refuse or say no, then they'll let you go about
18 your business.

19 But like in every one of us in our jobs, we like to hear
20 back from those people and find out what we do well and what
21 we don't do well. As an attorney, I learned early on, because
22 I'm a very small individual, that I don't get really close to
23 the jury box.

24 The reason why is because I had an elderly woman sitting

1 right there where [JUROR NO. 1174] is standing -- or sitting
2 and I got too close and she basically yelled at me and told me
3 to back off. I realized really early on I'm a big, imposing
4 person. I'm gonna back away. I never would have known that
5 had it not been for that very nice woman who basically let me
6 know I was invading her personal space. Okay?

7 So I will meet you back there at this time and you'll be
8 excused. Thank you, ladies and gentlemen.

9 THE MARSHAL: All rise for the jury.

10 [OUTSIDE THE PRESENCE OF THE JURY]

11 THE COURT: Thank you, Counsels. This matter is
12 referred to the Department of Parole and Probation for its
13 presentencing report and set over for entry of judgment and
14 imposition of sentence. The clerk will now give us the date
15 and time.

16 THE CLERK: August 8th at 8:30 a.m.

17 MS. CRAGGS: Your Honor, may I make a motion?

18 THE COURT: You may.

19 MS. CRAGGS: I'm requesting that bail be revoked now
20 that the presumption of innocence is gone and there have been
21 three counts and they all have life details.

22 THE COURT: Counsel, for the opposition.

23 MR. YAMPOLSKY: None, Your Honor.

24 THE COURT: Bail's hereby revoked.

1 Anything else, State?

2 MS. CRAGGS: No, Your Honor. Thank you.

3 THE COURT: Anything on the Defense?

4 MR. YAMPOLSKY: No, Your Honor.

5 MR. MARGOLIS: No, Your Honor.

6 THE COURT: Thank you, Counsels.

7 MS. CRAGGS: Thank you.

8 THE DEFENDANT: I have something to say, Your Honor.

9 Can I?

10 [Hearing concluding at 3:08 p.m.]

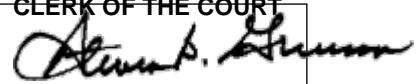
11 *****

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

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ALLISON SWANSON, CSR NO. 13377
CERTIFIED SHORTHAND REPORTER
FOR THE STATE OF CALIFORNIA



1 RTRAN.

3 DISTRICT COURT

4 CLARK COUNTY, NEVADA

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

11 BEFORE THE HONORABLE DAVID M. JONES, DISTRICT COURT JUDGE

12 TUESDAY, AUGUST 13, 2019

13 RECORDER'S TRANSCRIPT OF HEARING:
14 SENTENCING

15
16
17 APPEARANCES:

18 For the Plaintiffs: GENEVIEVE CRAGGS
19 BRYAN SCHWARTZ

20 For the Defendants: MACE J. YAMPOLSKY
21

22
23 RECORDED BY: MELISSA MURPHY-DELGADO, COURT RECORDER
24 TRANSCRIBED BY: ALLISON SWANSON, CSR No. 13377

1 Las Vegas, Nevada, Tuesday, August 13, 2019

2 [Case called at 8:55 a.m.]

3
4 THE COURT: Page 32, C-17-323098, the State of
5 Nevada versus Ramon Dorado.

6 Morning, sir.

7 Counsel, this is the time set for the imposition of
8 sentencing. Are we ready to go forward?

9 MR. SCHWARTZ: Yes, Your Honor.

10 MR. YAMPOLSKY: Yes, Your Honor.

11 THE COURT: So by virtue of the verdict of the jury,
12 I hereby judge you guilty of count one, sexual assault, a
13 category A felony; count two, sexual assault, a category A
14 felony; count three, sexual assault, a category A felony.

15 State?

16 MR. SCHWARTZ: Your Honor, I guess I'll try to keep
17 this brief, for the most part, Your Honor sat through the
18 trial. You know the facts and the instance (sic) of the case.

19 This is a little bit unusual procedurally because this
20 case was from 1999. We have the benefit of seeing what the
21 Defendant's done for the last 20 years.

22 Frankly, if he had a clean criminal history, it might
23 make sense to consider doing a ten to life, Your Honor, as
24 opposed to running any of the terms consecutively. I'm gonna

1 be asking for you to at least run one of the two -- one of the
2 three consecutive to the other for a total of 20 to life.

3 Mainly why I'm asking for that, Your Honor, is looking at
4 his criminal history. Prior to the offense date, he did have
5 an inflict corporal injury misdemeanor. Then the offense date
6 where we're talking about today, where the three counts of
7 sexual assault he was found guilty of. After that, before we
8 were able to get the DNA to link him to this case, he picked
9 up a domestic violence in '99. He had an attempt child
10 endangerment felony where he went to prison in 2003. Assault
11 with a deadly weapon in 2003, where he also went to prison. A
12 theft charge, where he was given probation in 2006, but of
13 course, was revoked off probation for numerous violations.
14 2008, attempt possession of stolen vehicle, six months CCDC on
15 that gross misdemeanor. 2008, another conspiracy to commit a
16 theft, gross misdemeanor. 2011, burglary, felony, grand
17 larceny felony. Again, the Court deemed it appropriate to
18 give him a couple more chances on probation that he screwed up
19 and was revoked on. 2012, burglary. He -- it appears from
20 his PSI, has a bench warrant for a domestic violence case
21 currently in Las Vegas. And then 2012, he has the possession
22 stolen vehicle.

23 So, frankly, Your Honor, he's a habitual criminal. It's
24 clear we can see what path he's taken by looking back and

1 seeing all the crimes he's continued to commit since he
2 committed this sexual assault. I'd ask you to at least impose
3 a sentence of 20 to life.

4 Thank you.

5 THE COURT: Thank you.

6 Sir, is there anything you want to say to me before I
7 listen to your counsel?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Go ahead.

10 THE DEFENDANT: I ask the Court to take into
11 consideration from 2012, 2016 the intense rehabilitation
12 program that I had to complete for 11 certificates. Not only
13 that, I obtained my high school diploma in 2016, when I was in
14 prison. I held a number two [indiscernible] PM job in the OC,
15 which is no small feat.

16 I'm on parole, after I got out. I accomplished my
17 vocational for CDL training. I got my life together.

18 In 2003 to 2012, yeah, I was lost, on drugs. I was lost
19 on a 24/7 atmosphere, and which I used it as a testament now
20 to help others that are lost in addiction world. Yeah,
21 1999 -- I got 60 more seconds, sir, and I'll leave my life up
22 to you. I would respectfully request 60 second to speak
23 before this clerk further deprives me of life and liberty.

24 I hope and pray that this Court not allow anyone to curse

1 profanities at me or interrupt me, as the Court witnessed on
2 6/19/19 by my attorney [indiscernible] in the presence of the
3 jury, nonetheless.

4 With that said, how disheartening it is to think of the
5 untold victims of assault of 20 years ago, who were truly
6 assaulted by the monstrous people of this character in which
7 these victim's rights of due process for the equal probation
8 of the law from justice were violated by the manner of this
9 investigation were conducted by LVMPD.

10 Furthermore, how disheartening to think of those truly
11 innocent people who are not able to receive a fair trial with
12 due process and an equal probation of the law for justice who
13 may have or have been, in my opinion, oppressively prosecuted
14 and convicted by a one-sided jury trial or convicted by being
15 coerced under duress to accept a plea deal such as the 8 to
16 20 years that I refused from the State prior to trial.

17 But most disturbing is how horrible to know that
18 sometimes some people, not all, whom are entrusted with
19 society's judicial system can look deliberately indifference
20 to or with reckless disregard for the fundamental interest of
21 a person's [indiscernible] second only to life itself,
22 Your Honor can oppressively jeopardize a person's personal
23 liberty just to obtain an arrest or a conviction at any cost
24 against people and individuals, such as myself, who's ability

1 to defend our lives against dishonest, false statements from
2 emotionally unstable people, in general, have been
3 substantially impaired by the unnecessary passage of almost
4 two decades.

5 This controversial criminal case may have satisfied
6 intellect aspirations (phonetic) for justice, but otherwise I
7 attest that it has been misapplied to serve the ends of the
8 justice.

9 In conclusion, Your Honor, I attest today that lady
10 justice and her sister, lady liberty, including the State of
11 Nevada, have become victims of assault by the failures of the
12 impartial effected administration of justice in this case.
13 How can it be expected of me to implore for mercy or leniency
14 of a domestic violence dispute in which I was at the receiving
15 end of being violently assaulted until I threatened to call
16 police. My downfall in this case was not following through to
17 make that police report.

18 THE COURT: Thank you, sir. Anything else?

19 THE DEFENDANT: For that mistake, sir, today, I am
20 at the mercy of the court.

21 THE COURT: Thank you, sir.

22 Counsel? Anything?

23 MR. YAMPOLSKY: Your Honor, you were at the trial
24 and you saw it. I mean, yes, he did have a bad record

1 afterwards, as he said, because of drugs. Obviously, he's not
2 on drugs anymore. As you can see, he's gained some weight
3 since then, as we recall.

4 But it -- in the grand -- and I know the Court sees awful
5 things, you know, sexual assault, substantial bodily harm on a
6 child and everything. And that was -- there was alcohol
7 involved. I mean, the jury's verdict is the jury's verdict.
8 But in the, you know, the gamut of awful crimes, this doesn't
9 go way, way, way to the top.

10 I know the -- it's ten to life for each count. Court can
11 run 'em concurrent, can run 'em consecutive. DA asked for one
12 to run concurrent -- I mean, one to run consecutive.
13 Your Honor, it's been a long time. I'm gonna ask that the
14 Court run all of them concurrent.

15 On that, I'll submit.

16 THE COURT: Thank you.

17 Mr. Dorado, in accordance to the laws of State of Nevada,
18 this Court does now sentence you on count one: Confinement to
19 the Department of Corrections for the maximum term of life
20 with the possibility of parole. That eligibility just begin
21 at the minimum of ten years.

22 In accordance with the laws of State of Nevada, this
23 Court does now sentence you on count two: Confinement to the
24 Department of Corrections for a maximum term of life with the

1 possibility of parole. That eligibility to begin in ten
2 years. That will run consecutive to count number one.

3 In count three, in accordance to the laws of the State of
4 Nevada, this Court does now sentence you on count three to
5 confinement Nevada Department of Corrections for a maximum
6 term of life with the possibility of parole. That eligibility
7 to begin, ten years. That will run concurrent with count one
8 and two.

9 In addition to that, you'll have administrative
10 assessment of \$25, a DNA assessment of \$3, the DNA analysis is
11 hereby waived as it was taken on 1/21 of '04.

12 Counsel, I have 844 credits for time served.

13 MR. SCHWARTZ: Yes, Your Honor.

14 THE COURT: 844 days credit for time served.

15 Thank you.

16 MR. YAMPOLSKY: Thank you, Your Honor.

17 MS. CRAGGS: Thank you.

18 [Hearing concluding at 9:04 a.m.]

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