

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

GUSTAVO RAMOS,  
Appellant,

vs.

THE STATE OF NEVADA,  
Respondent.

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Elizabeth A. Brown  
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Supreme Court Case No. 79781

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**APPELLANT'S APPENDIX VOLUME 6 OF 9 PAGES 0744-0986**

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**INDEX Vol 6**  
**GUSTAVO RAMOS, CASE NO. 79781**

<b><u>DOCUMENT</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
Bindover (12/10/10)	1	0001-0040
Information (1/11/11)	1	0092-0095
Information, Amended (2/16/11)	2	0181-0185
Information, Second Amended (5/15/19)	4	0495-0498
Judgment of Conviction (Non-Jury Trial) (9/20/19)	9	1658-1659
Jury Instructions (7/3/19)	9	1486-1514
Notice of Appeal (10/7/19)	9	1660-1661
Notice of Intent to Seek Death Penalty (1/24/11)	1	0102-0104
Order Denying Defendant's Motion to Dismiss (4/2/19)	4	0481-0482
Order Granting in Part/Denying in Part Motion (8/7/12)	2	0243-0249
Order Granting Motion File Information by Affidavit	2	0186-0190
Ramos Motion to Dismiss (9/11/18)	3	0255-0272
Ramos Motion-Dismiss Counts 3 & 4 (Amended Inform.)	2	0191-0194
Ramos Motion-Strike Penalty of Life w/out Poss. Parole	9	1517-1560
Ramos Motion to Suppress (5/24/19)	4	0506-0513
Ramos Opp. Motion to Admit Prior Prelim. Testimony	4	0499-0505
Ramos Opp. Motion-Leave-File Information by Affidavit	2	0167-0172
Ramos Reply to Opp. to Motion to Dismiss (10/9/18)	3	0282-0289
Ramos Reply to Opp Motion-Strike Penalty-Life w/out	9	1573-1578
Ramos Reply to State's Opposition (7/26/12)	2	0229-0235
Ramos Reply to Supp. Opp.-Motion to Dismiss (2/27/19)	4	0456-0462
Ramos Supplement to Motion to Dismiss (2/6/19)	3	0435-0444
Ramos Trial Brief (5/24/19)	4	0514-0521
Sentencing Memorandum (9/19/19)	9	1579-1604
State Motion to Admit Prior Prelim. Hrg. Testimony	4	0490-0494
State Motion-Leave to File Information by Aff. (cont.)	2	0135-0166
State Motion-Leave to File Information by Affidavit	1	0105-0134
State's Opp. to Motion-Dismiss Counts 3 & 4 (7/19/12)	2	0195-0228
State's Opposition to Motion to Dismiss (10/9/18)	3	0273-0281

State Opp. Motion-Strike Penalty-Life w/out Poss. Parole	9	1561-1572
State Supp. Opposition To Motion to Dismiss (2/21/19)	4	0445-0455
State Trial Exhibit 229 re: windows	6	0834-0835
Stip./Order Waiving Right to Trial/Penalty Hrg. By Jury	4	0522-0524
Transcript: 12/16/10 Justice Ct. Preliminary Hearing	1	0041-0091
Transcript: 1/12/11 Arraignment Cont./Trial Setting	1	0096-0101
Transcript: 2/9/11 Motion-Leave-File Information by Aff.	2	0173-0180
Transcript: 7/27/12 Motion-Dismiss Counts 3 & 4	2	0236-0242
Transcript: 11/29/18 Evidentiary Hearing	3	0290-0390
Transcript: 12/4/18 Evidentiary Hearing	3	0391-0434
Transcript: 3/20/19 Motion to Dismiss/Trial Readiness	4	0463-0480
Transcript: 5/2/19 Calendar Call	4	0483-0489
Transcript: 5/28/19 Bench Trial Day 1	5	0525-0678
Transcript: 5/29/19 Bench Trial Day 2	5	0679-0743
Transcript: 5/29/19 Bench Trial Day 2 (cont.)	6	0744-0833
Transcript: 5/30/19 Bench Trial Day 3	6	0836-0986
Transcript: 5/30/19 Bench Trial Day 3 (cont.)	6	0836-0986
Transcript: 5/31/19 Bench Trial Day 4	7	1008-1212
Transcript: 6/10/19 Bench Trial Day 5	8	1219-1286
Transcript: 6/12/19 Status Check-Bench Trial Scheduling	8	1213-1218
Transcript: 7/1/19 Bench Trial Day 6	8	1287-1434
Transcript: 7/1/19 Bench Trial Day 6 (cont.)	9	1435-1476
Transcript: 7/3/19 Decision	9	1477-1485
Transcript: 9/20/19 Motion-Strike Penalty-Life w/out	9	1605-1657
Verdict (7/3/19)	9	1515-1516
Vol. Statement: Gustavo Ramos-Martinez (10/13/10)	7	0987-1007
Waiver: Right to Trial & Penalty Hrg by Jury (6/13/18)	3	0250-0254

1           Q     Sure. Well, and let -- so we have a little bit of a context,  
2 you told -- you told the Judge when the State was asking you  
3 questions that you tried to do CPR. Remembering telling that to the  
4 Judge a few minutes ago?

5           A     I made an attempt.

6           Q     Okay.

7           A     I believe I could do it.

8           Q     And in that -- and in the 9-1-1 call, where the operator tells  
9 you to try CPR, you tell that operator, at the 4 minute and 48 second  
10 mark, I really don't want to revive him, he'll be a vegetable.

11          A     I don't --

12          Q     Do you remember --

13          A     -- saying that either.

14          Q     Okay. Do you remember saying he's got brain shit all  
15 over?

16          A     I do not remember that.

17          Q     Do you remember right at the time the phone -- the phone  
18 call was about to end, you said it might be possible to get him  
19 restarted but I don't want to? Do you remember saying that?

20          A     Didn't say that.

21          Q     Going back to your interviews with the detectives, do you  
22 remember one of those interviews being inside of a police car?

23          A     Yes.

24          Q     And the police asked you questions about you and your  
25 relationship with your father, right?

1       A     That's possible, it's years ago.

2       Q     On direct you stated that your dad had a girlfriend.

3       A     Yes.

4       Q     Okay. What was her name?

5       A     Belle.

6       Q     I'm sorry.

7       A     Belle.

8       Q     B-E-L-L-E.

9       A     Yes.

10      Q     Okay. What was her last name?

11      A     Can't remember.

12      Q     Okay.

13      A     I'll I -- know of -- Belle.

14      Q     All right. You never mentioned to the police officer that

15      your dad had a girlfriend back then, right?

16      A     I don't remember if they asked. The first --

17      Q     But you didn't volunteer that to them.

18      A     I did not.

19      Q     Okay.

20      A     First I heard about it was the gentleman who had saw

21      Helen the last time she was alive.

22      Q     Okay.

23      A     That's the first time I heard about the relationship.

24      Q     One of the questions that the police officers asked you

25      was about your dad's car because you had used your dad's car to

1 get to the hospital, right?

2 A Right.

3 Q Okay. And one of the things they asked you is whether --  
4 if the police went and searched that car, whether they were going to  
5 find any blood in that car.

6 A Yes.

7 Q Do you remember that question?

8 A Something like that, yeah.

9 Q Okay. And let me -- from page 15 of your transcript, let  
10 me read exactly, so we're on the same page. The question and it's  
11 the third question from the bottom.

12 The question to you is: Do you have any reason to believe  
13 we might find anything in the car as far as blood or anything like  
14 that?

15 Your answer: No.

16 The detective says: no.

17 And you say: No, again. I don't think I have anything. I  
18 don't believe you'll find anything that will connect me to this.

19 Do you remember saying that?

20 A No, I do not.

21 MS. WECKERLY: I'm going to object. If you're going to  
22 read it, read the whole answer.

23 MR. YANEZ: Well, if you want to on re-direct ask him --

24 MS. WECKERLY: All right.

25 THE COURT: Well, I'll --

1 MS. WECKERLY: I mean --

2 THE COURT: I'll overrule the objection, you go ahead.

3 MR. YANEZ: Okay. I'll go -- Well, Judge, that's fine so we  
4 don't have to go back.

5 THE COURT: Okay.

6 BY MR. YANEZ:

7 Q I don't believe you'll find anything that will connect me to  
8 this, to this ah, tra -- tragedy or what this travesty to ah -- since that  
9 sounds like the way interview's going.

10 MR. YANEZ: Is that good for Ms. Weckerly?

11 MS. WECKERLY: Yes.

12 MR. YANEZ: Okay. Okay.

13 BY MR. YANEZ:

14 Q Do you remember that?

15 A Like I said, long time ago. My dad took his -- did his --

16 THE COURT: Do you remember?

17 THE WITNESS: I don't remember. It's a long time ago.

18 THE COURT: Thank you. Next question.

19 MR. YANEZ: Thank you.

20 BY MR. YANEZ:

21 Q You said after your dad's murder you eventually went  
22 back to live in California, right?

23 A That's where I lived, yes.

24 Q Okay. And in about June of 2004, so approximately six  
25 years after your dad's murder, you actually reached out to the

1 police, right?

2 A Yes, I did.

3 Q Okay. And the reason you reached out to the police at  
4 that point is your belief that someone was trying to frame you for  
5 the murder of your father, right?

6 A Yes, I did.

7 Q And you believed that you had documentation of  
8 someone trying to frame you for your dad's murder.

9 A Payroll documentation, yes.

10 Q All right. And so you set up an interview with detectives  
11 of the Metropolitan Police Department.

12 A Right. I brought in statements and stuff at that time.

13 Q Okay. And you brought in paperwork, right?

14 A Yes, sir.

15 Q Okay. So you voluntarily drove from California, you drove  
16 here to Las Vegas to meet with those detectives in June of 2004,  
17 right?

18 A Yes, sir.

19 Q And you drove down with a couple of women, right?

20 A Yes, sir.

21 Q Okay. One of them was Martha Morales.

22 A Yes.

23 Q Okay. And she was your girlfriend at the one point.

24 A Yes.

25 Q And did you guys ever get married, you and Martha?



1           A     Yes, we did.

2           Q     Okay. And what year were you married?

3           A     '96.

4           Q     And did you get divorced?

5           A     Nope.

6           Q     Okay. Are you still married to her?

7           A     Yes.

8           Q     Okay. You also drove down with a person named Yesenia

9     Orozco.

10          A     Yadira.

11          Q     I'm sorry.

12          A     Yadira.

13          Q     Yadira is her first name?

14          A     Yadira.

15                THE COURT: Is that her first name?

16                THE WITNESS: Yadira yes, sir.

17     BY MR. YANEZ:

18          Q     Okay. So it's not Yeset [sic].

19          A     I'm sorry if I sound --

20          Q     So it's not Yesenia, it's Yadira?

21          A     Yesenia is the older sister.

22          Q     Okay. Last name Orozco that -- was that accurate?

23          A     Right.

24          Q     Do you remember, sir, back in November you came down

25     here to testify at an evidentiary hearing, do you remember that?

1 A Not sure what an evi -- I came back one other time.

2 Q Okay.

3 A In fact I came back --

4 Q That was a bad question, I'm sorry. You came down here  
5 at some point in November to give testimony like you're giving  
6 today.

7 A I've come down twice prior to today.

8 Q Okay. The last time you were here was approximately  
9 November of last year, does that sound about right?

10 A I don't have a date and time.

11 Q Okay. But you do remember coming here to testify, right?

12 A Yes, I do.

13 Q Okay. And I asked you kind of some of the similar  
14 questions that I'm asking you today, right?

15 A I remember a gentleman wearing glasses at that time, yes.

16 Q Okay. And I asked you about Martha Morales.

17 A No, you did not.

18 Q I did not.

19 A Nope.

20 MR. YANEZ: Judge, permission to approach.

21 THE COURT: You may.

22 BY MR. YANEZ:

23 Q I'm going to show you a transcript from that hearing.

24 A Okay.

25 Q And I just want you to read it to yourself.

1           A     All right.

2           Q     Okay. And then I'm going to ask you some questions.  
3     Actually, if -- just read the whole page so you have everything in  
4     context.

5           A     Okay.

6           Q     To yourself.

7                   THE COURT: Is that page 55?

8                   MR. YANEZ: Yes, Judge, 55.

9     BY MR. YANEZ:

10          A     No, these were not --

11          Q     Well, hold on, sir. Hold on.

12          A     Yeah, okay.

13          Q     Hold on, sir. Have you had an opportunity to read that  
14     page 55?

15          A     Yes, I did.

16          Q     Okay. You'd agree with me that I asked you some  
17     questions back then about who you drove down to Las Vegas with  
18     in June of 2004, right?

19          A     You didn't -- all I did was talk to the police department in  
20     2004.

21          Q     Okay. Let me read to you, all right, what the --

22                   THE COURT: The question was, when you were here  
23     previously testifying in Court the gentleman asked you questions  
24     about this trip in 2000 --

25                   THE WITNESS: No, he did not.

1     ///

2     BY MR. YANEZ:

3         Q     So let me read to you the question and I'm going to start  
4     at line 4.

5             Question: Did you go with anyone else or was it just you?

6             Your answer: No, I had company.

7             My question: Okay. Who were you with?

8             Your answer: Just two friends of mine that came down.

9             Question: Okay. Do you remember their names?

10            Your answer: I do remember a Martha. I do remember a  
11    Yesenia.

12            Question: Okay. Do you know Martha's last name?

13            Answer -- your answer: It would have been Morales.

14            Question: Okay. And you're saying she was a friend of  
15    yours?

16            Answer: She was a friend.

17            That's not accurate though is it?

18         A     Who's that -- I'm not sure -- I'm confused who you're  
19    talking about.

20         Q     Martha Morales is your wife not your friend, right?

21         A     At that 2004.

22         Q     Okay. When were you mar --

23         A     I never --

24         Q     When were you married to Martha Morales?

25         A     2006.

1 Q Okay. And when -- and you're still currently married to  
2 her.

3 A Yes.

4 Q Okay. And at that point she wasn't your girlfriend.

5 A She was a friend.

6 Q Okay. Not a girlfriend.

7 A Not a girlfriend -- a friend.

8 Q Okay. When did you first get to know her?

9 A I knew her from '89 when we started working as a  
10 phlebotomist at LAC, USC Medical Center.

11 Q And did your sister Leslee, know who she is?

12 A She got to know who she was, yes.

13 Q Okay. When you came down --

14 A I'm still concerned about that 2004 meeting.

15 Q Okay. And that's -- I'm going to keep asking you  
16 questions about that. Okay. So you came down and you meet with  
17 a couple of the detectives, correct?

18 A Yes.

19 Q Okay. And you brought paperwork with you.

20 A Right.

21 Q And I think at that prior hearing you described the  
22 paperwork as a duffel bag of documents.

23 A Right.

24 Q Okay. And you testified at that hearing as well, that the  
25 detectives didn't want to look at the documents or see the

1 documents, is that accurate?

2 A Something about they couldn't cross departmental lines  
3 just FBI.

4 Q Okay. And did Martha Morales come with you to that  
5 meeting?

6 A Yes, she did.

7 Q Okay. So was she present at that meeting?

8 A No, she wasn't.

9 Q All right. And you said -- at least the transcripts says that  
10 it was a Yesenia, you're saying it's a Yedera.

11 A She --yeah, Yedera the younger sister.

12 Q Of Martha?

13 A No.

14 Q Of Yesenia.

15 A Of Yesenia.

16 Q Okay. Do you remember how long that meeting was with  
17 the detectives?

18 A No, I do not. It didn't last too long maybe a half hour and  
19 when if -- I never met you in 2004.

20 Q Okay. Hold on just listen to my questions. You told those  
21 detectives that you -- the reason why felt someone was framing you  
22 is that someone had opened up, according to you, a bank account  
23 in your father's name the day after his murder, so about May 17<sup>th</sup>,  
24 do you remember that?

25 A It was in my sister's name.

1 Q Okay. Not in your father's name.

2 A Not in my father's name.

3 Q Okay. But that gave you -- that gave you cause or  
4 suspension that someone was trying to frame you for your dad's  
5 murder, right?

6 A I found out back in -- a year after that that account was still  
7 open.

8 Q Okay. And that was in Inglewood, California.

9 A Yes, sir.

10 Q And you gave the detectives that information, right?  
11 About the account.

12 A What infor -- they didn't really want to see any  
13 information, it might have been in discussion, it may not have. I  
14 don't remember.

15 Q Okay. Do you remember any of the information that you  
16 told the detectives in that meeting in June of 2004?

17 A What I remember is that they didn't care because they  
18 couldn't do nothing about it. They didn't want to hear about it, and  
19 that was the end of it.

20 Q Did you tell them your suspicions about a black male  
21 being arrested in San Bernardino who had committed crimes  
22 similar to how your dad was killed. Do you remember talking to  
23 detectives about that?

24 A I was never arrested in San Bernardino.

25 Q I'm sorry.

1           A     I was never arrested in San Bernardino.

2           Q     Listen to my question, Mr. Siegel. I'm not saying that you  
3 were. I'm saying do you remember telling the detectives that there  
4 was a black male who was arrested in San Bernardino, Riverside  
5 area, and that he had committed crimes similar to how your dad  
6 was killed? Do you remember --

7           A     Yeah. I do remember that happening.

8           Q     -- telling them that?

9           A     I was at -- I was -- I had just returned back to work and on  
10 the radio, they mentioned a --

11          Q     And do you remember telling that to the detectives, right?

12          A     I do not remember.

13          Q     Okay. Any of the information that you told the detectives,  
14 it's your understanding that the detectives never followed up on the  
15 information you tried to provide them, is that correct?

16          A     As far as I know they did not. But the MOU and I heard  
17 from my sisters that they found the DNA of an African American  
18 male -- or an African male underneath the fingernails of somebody  
19 that scratched him.

20          Q     Do you remember telling your sister -- well, let me back  
21 up one second. The other -- you testified on direct that the other  
22 person who was killed at the place at the Camlu, where your dad  
23 lived, was a person named Helen Sabraw, is that your  
24 understanding?

25          A     She was the other person murdered the night be -- the



1 night afterwards, yes.

2 Q Okay. Do you remember telling your sister, Leslee, that a  
3 person named Ax, A-X, was the person who killed that other lady?

4 A No.

5 Q Okay. Do you remember telling anybody, whether your  
6 sister or not, that that female, who was killed and found after your  
7 dad's death, was killed by a person named Ax, A-X?

8 A No.

9 Q Okay. Do you know a person named Ax, A-X?

10 A Nope.

11 Q Okay. Do you know a person named John Valdez?

12 A Yes, I do.

13 Q Okay. And who's John Valdez?

14 A John Valdez was somebody I met through Martha.

15 Q Okay. So she [sic] was a friend of Martha's?

16 A He was.

17 Q Okay. And back in '98 Martha was a friend of yours, or a  
18 girlfriend what was her status back in '98?

19 A She's just a friend.

20 Q Okay. And so you met this John Valdez through her?

21 A Right.

22 Q Okay. Would you describe yourself as good friends,  
23 acquaintances, how would you describe your relationship with Mr.  
24 Valdez?

25 A Mr. Valdes, just John Valdez.

1 Q Okay. But would hang out with him sometimes when you  
2 hung out with Martha?

3 A Yeah, throw some darts or something.

4 Q Okay. What about a person named Mierto, M-I-E-R-T-O?  
5 Does that name sound famil --

6 A Who?

7 Q -- familiar? Mierto, M-I-E-R-T-O.

8 A No. I hung out with very few people at that time.

9 Q Now, at the time of your dad's death, you weren't  
10 working, right?

11 A I was on industrial accident.

12 Q Right.

13 A I was going through worker's --

14 Q And we know from the medial records, right at least --

15 A -- we'll say worker's comp

16 Q Right. And from the records your status is -- for  
17 occupation was unemployed. Remember we went over that, right?

18 A Right.

19 Q Okay.

20 A Well, lack of determining the definition or whatever.

21 Q Okay. During your -- well, do you remember when you  
22 paid -- you paid for the Wal -- for the medicine at Walgreens that  
23 you got, right?

24 A Yeah.

25 Q Okay. And you paid that with a \$100 bill, didn't you?

1           A     I don't know, I had very little money on me.

2           Q     Okay.

3                   MR. YANEZ: Can I just have this marked for identification  
4 purposes?

5                   THE COURT: Sure.

6                   MR. YANEZ: Or do you have -- oh, it's already in there.

7                   MS. WECKERLY: We have it. But it's not admitted.

8                   MR. YANEZ: Thank you.

9                   MS. WECKERLY: Sure.

10                  MR. YANEZ: And permission to approach, Judge?

11                  THE COURT: You may.

12 BY MR. YANEZ:

13           Q     This is the State's Proposed Number 219. This is the  
14 receipt that I believe Ms. Weckerly showed you. Just take a quick  
15 look at that.

16           A     And this is the receipt for?

17           Q     Well, I just want you to look at it.

18           A     Oh, okay.

19           Q     Okay. And I just want to point out a few things -- make  
20 sure I'm reading this correctly. It looks like the amount, the total  
21 amount is 7 -- it's noted here at least, \$7.89, right?

22           A     Okay.

23           Q     Okay. And then it says cash \$100, is that correct?

24           A     That's what it says.

25           Q     Okay. And then it says change \$92.11.

1           A     That's what it says.

2           Q     Okay. And I believe he said on direct that this was the  
3 receipt -- this was the receipt from the Walgreens, is that right?

4           A     That's -- doesn't say that on there.

5           Q     Okay.

6           A     Just give me an amount.

7           Q     Okay. And you have no memory of going to Walgreens.

8           A     I do -- I do remember going to Walgreens.

9           Q     Okay. Do you have the memory of paying for an item?

10          A     I do.

11          Q     Okay. Do you remember giving a receipt to the police?

12          A     No, I do not.

13          Q     Okay.

14          A     I wasn't asked for one anyways.

15          Q     Back in 1998, around the time of your dad's death, were  
16 you using methamphetamine?

17          A     No.

18                MS. WECKERLY: Objection, around the time, I get -- enter  
19 timeframe I wouldn't object.

20                THE COURT: Well, just be a little more specific by what  
21 you mean by around the time.

22                MR. YANEZ: Sure.

23 BY MR. YANEZ:

24          Q     In May of 1998, were you using methamphetamine?

25          A     No.

1 Q At -- during any of the time that you were here with your  
2 dad, from February until May of '98, were you using  
3 methamphetamine?

4 MS. WECKERLY: Objection, relevance.

5 THE COURT: Well, I'll allow it. You can answer the  
6 question.

7 BY MR. YANEZ:

8 A No.

9 Q You helped -- when you were here with your dad, taking  
10 care of him for those three months, you were helping your dad with  
11 his banking situation, right. His paperwork.

12 A No.

13 Q I'm sorry.

14 A No.

15 MR. YANEZ: Page 10.

16 MR. YANEZ: Permission to approach, Your Honor?

17 THE COURT: You may.

18 MR. YANEZ: Thank you.

19 BY MR. YANEZ:

20 Q Mr. Siegel, this is a copy of your transcribed interview  
21 with the police.

22 A Okay.

23 Q All right. If you can just read that page just so you have  
24 the full context of the -- with the questions I'm going to ask you.

25 A Just the front page?

1 Q Yes.

2 A Okay.

3 Q That's -- there's only, yes. And you had a -- you've had a  
4 chance to read that?

5 A Yes, sir.

6 Q Okay. One of the questions the detectives asked you is,  
7 do you have any idea how much life insurance your father might  
8 have?

9 And your answer is: Yes, because I've been helping him  
10 with his banking, right?

11 A No. I --

12 Q That was your response at least according to this  
13 transcript, correct?

14 A What's on that paper, yes.

15 Q Okay. And then he asked you: Okay. Could you tell me.

16 And you answer is: Yes, around \$100,000 or so between  
17 CD's, and savings account, and annuity he has.

18 That's what the transcripts says your answer was, correct?

19 A That's what that paper says, yes.

20 Q Okay. And he asked you right after that: Okay. Where  
21 does he keep that?

22 Your answer: All the books should be in a briefcase  
23 underneath the bed.

24 That was your response according to this transcript,  
25 correct?

1           A     According to that paper.

2           Q     Now, within weeks, at most, a month you filed a claim for  
3 your dad's annuity insurance because you were the beneficiary,  
4 correct?

5           A     False.

6           Q     I'm sorry.

7           A     No.

8           Q     That's not true.

9           A     No.

10                               [Colloquy between Counsel]

11               MR. YANEZ: Permission to approach, Judge.

12               THE COURT: You may.

13               MR. YANEZ: Thank you.

14 BY MR. YANEZ:

15           Q     I'm going to show you a document here and if you can  
16 just look at it, and read it to yourself, and then I'm going to ask you  
17 a few questions after that.

18           A     Okay. Is there something else? This says total of page  
19 two.

20           Q     Hold on.

21           A     But were not interested -- okay.

22           Q     Have you had an opportunity to read it?

23           A     Yeah, I read it, I read it.

24           Q     Okay. So I just want to go over a few things. I'm going to  
25 stand up here with you.

1           A     Sure.

2           Q     This looks like it's on the letterhead of something called  
3 Zurich Kemper Life, right? Is that what that says there?

4           A     Zurich Kemper.

5           Q     Right.

6           A     Let's see it was Kemper Life of Zurich.

7           Q     Okay.

8           A     Something like that.

9           Q     And is that who your dad had his annuities with?

10          A     Kemper Life, yes.

11          Q     Okay. And this -- the letter is addressed to a Jack Siegel,  
12 right?

13          A     That's what this says, yes.

14          Q     Okay. And it -- the date on it is June 15<sup>th</sup>, 1998, right.

15          A     That's what that paper says, yes.

16          Q     Okay. So we're about a month after your dad's passing,  
17 right? Of May 15<sup>th</sup>, 1998 -- 16, right? Ball park.

18          A     Yeah, that's what that says, yes.

19          Q     Okay. And the letter is addressed to you, Mr. Siegel, at  
20 your Long Beach, California address, correct?

21          A     I don't know if Mr. Siegel -- it's not spelled right.

22          Q     Okay. It does say Jack Siegel, correct?

23          A     Right. Uh-huh.

24          Q     Okay. And it's --

25          A     Oh, okay that is an E, okay.



1 Q Okay. And then it says regarding -- it says Wallace Siegel  
2 deceased and there's a policy number and a claim number, right.

3 A Yes.

4 Q Okay. And is says Dear Mr. Siegel, right?

5 A Yes.

6 Q All right. And it says we have received your claim form on  
7 the above-mentioned contract.

8 A Right.

9 Q Right. Upon review of the death certificate, we found the  
10 cause of death to be homicide.

11 A Okay.

12 Q Right, that's what is says.

13 A That's what that says, yes.

14 Q Okay. And it says that they have been in contact with the  
15 detectives on the case.

16 A No, detective.

17 Q Right, Detective Hardy.

18 A Yeah, it says detective not detectives.

19 Q Right, Detective Hardy of the Las Vegas Metropolitan  
20 Police Department.

21 A It says Las Vegas Police Department.

22 Q Okay. After speaking with him, we were advised that the  
23 investigation is still pending.

24 A Yes.

25 Q And we will continue to follow up with Detective Hardy

1 regarding the status of this investigation and keep you informed as  
2 to the above status of your claim, right?

3 A I don't know what it means by -- mean my claim?

4 Q Okay. I'm just telling you that's what it says, correct?

5 A No, okay. Yeah, so, okay, that's what it says.

6 Q It says your claim.

7 A That's what it says, yes.

8 Q Right. On the letter dated June 15<sup>th</sup>, 1998, addressed to  
9 Jack Siegel, right?

10 A Right.

11 Q Okay.

12 A That was a letter I got from Kemper --

13 Q I -- there's no question, Mr. Siegel. I don't have a question  
14 now.

15 A Oh, okay.

16 Q Because of that rejection, eventually --

17 THE WITNESS: Excuse me, Your Honor.

18 THE COURT: In a second, go ahead. Go ahead, Mr.

19 Yanez.

20 BY MR. YANEZ:

21 Q Mr. Siegel, because of that rejection letter, you wound up  
22 filing a lawsuit against the annuity insurance company, right?

23 A No, I did not.

24 Q Okay. Did you with your family file a lawsuit?

25 A Once again, I was not executor of his estate, so I could not

1 do anything about any of it.

2 Q So your testimony today is you have no memory of you  
3 filing or being part of a lawsuit against your dad's insurance  
4 annuity.

5 A I'm not saying -- my memory recall. I'm saying I was not  
6 part of any of his estate issues.

7 Q Okay. So putting aside his estate issues, specifically  
8 dealing with your dad's annuities, did you or were you part of a  
9 lawsuit because there was rejection of your claim?

10 A I do not -- no, I was not -- I did not file a lawsuit or am I  
11 aware of any lawsuit against Kemper. It was Kemper Zurich of  
12 England or something like that. Kemper Life Zurich of England.

13 MR. YANEZ: Court's indulgence, Judge.

14 THE COURT: Okay.

15 [Colloquy between Counsel]

16 BY MR. YANEZ:

17 Q Sir, during the time you were down here from February of  
18 '98 till May of '98, were there some friends, whether here in Las  
19 Vegas or in California, that you would socialize with or hangout  
20 with?

21 MS. WECKERLY: Objection, relevance.

22 THE COURT: Well, I'll overrule it on relevance. I'll give  
23 you a little leeway on that, but can you break it down. I mean, it's  
24 kind of compound in terms --

25 MR. YANEZ: Sure, sure.

1 THE COURT: -- of friends here, friends there.

2 MR. YANEZ: Sure.

3 BY MR. YANEZ:

4 Q During the time period of February when you -- down here  
5 in '98 till May when you were with your dad here. Did you have  
6 friends here in Las Vegas that you would hang out with?

7 A No.

8 Q Okay. Your friend Martha and John Valdez did they come  
9 down here and visit with you during February and May of 1998?

10 A Just Martha, once.

11 Q And do you remember when that was in relation to when  
12 your dad passed away?

13 A Approximately, somewhere around when the first lady  
14 was murdered. Oh, well, they say it was an accident. I believe it  
15 was a similarly to the first -- second two murders that happened.

16 Q So she was down here around the time that that second --

17 A A week before that happened.

18 Q A week before. Okay. And you indicated that you would  
19 go to the dining hall with your father when he would go eat.

20 A I would take him down to it, yes.

21 Q Okay. You wouldn't say and eat with him, right? You  
22 would just take him there and leave.

23 A No, I would not.

24 Q Right.

25 A I did not.

1 Q Okay.

2 [Colloquy between Counsel]

3 Q Sir, that -- you said that you gave three statements  
4 remember -- as you gave three statements to the police after your  
5 dad's murder.

6 A Approximately.

7 Q Okay. And that those interviews all happened that same  
8 day when the police showed up, when you called 9-1-1 when your  
9 dad was found.

10 A The same day. Yes, sir.

11 Q Okay. After that day, did the detectives ever reach out to  
12 you to talk to you again?

13 A No.

14 Q Okay.

15 A They -- did they reach out? They just had me -- when my  
16 whole family was present, we did show up at Detective  
17 Christianson he was the lead -- Christian -- Christianson. I don't  
18 remember his last name. He was the lead detective.

19 Q Let me ask it to you this way maybe it was a bad question.  
20 Those three times that they questioned you, after that day, did they  
21 ever question you again? I know you might have had contact, but  
22 did they ever question you again?

23 A No.

24 MR. YANEZ: I have nothing further, Judge.

25 MS. WECKERLY: No redirect.

1 THE COURT: All right. Mr. Siegel, thank you very much  
2 for your time. You're excused, sir. And we'll take a recess before  
3 we continue on before continue on for a few minutes, guys. Thank  
4 you.

5 [Court recessed at 3:10 p.m., until 3:27 p.m.]

6 THE COURT: All right. We will be back on the record. Mr.  
7 Ramos, the court interpreter, his attorneys, State's attorneys are all  
8 present. You all can call your next witness.

9 MS. WECKERLY: Kim Murga.

10 **KIMBERLY MURGA**

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

13 THE CLERK: Thank you. Please be seated. If you could  
14 state and spell your name for the record, please.

15 THE WITNESS: My name is Kimberly Murga.  
16 K-I-M-B-E-R-L-Y, M, as in Mary, U-R-G-A.

17 THE COURT: All right. Thank you. Ms. Weckerly.

18 **DIRECT EXAMINATION**

19 BY MS. WECKERLY:

20 Q How are you employed?

21 A I'm the laboratory director at forensic services with the  
22 Las Vegas Metropolitan Police Department.

23 Q How long have you worked as the director?

24 A I've been the director for six years.

25 Q And prior to that, what was your position?

1           A     I was both the DNA lab manager and the technical lead for  
2 the Las Vegas Metropolitan Police Department from 2007 to 2013.

3           Q     And what are -- what's your educational background that  
4 allows you to work in both of those jobs?

5           A     I have a Bachelor's in science in criminal justice and a  
6 Bachelor's in arts in biology and then I have a masters of forensic  
7 science.

8           Q     And within your -- the scientific community of DNA are  
9 you on any boards or associations that work with DNA in the  
10 forensic setting?

11          A     I currently sit on three boards. All of which are national,  
12 one of which is called the Organization of Scientific Area  
13 Committees. I serve on the Biology DNA SAC. And then I'm also  
14 chair of the Biological Methods subcommittee within the  
15 Organization of Scientific Area Committees. And then I also serve  
16 on the Academy Sciences Board which is a standards development  
17 organization for DNA documents.

18          Q     And I take it, you've testified as an expert in the area of  
19 DNA analysis in comparison?

20          A     Yes, I have testified a number of times in the area of DNA  
21 analysis.

22          Q     Now, with -- in regard to this particular case, did the State  
23 request that you look at some prior testing that was done by DNA  
24 analyst Terry Cook and David Welch?

25          A     Yes, that is correct.

1 Q As well as a report from the Serological Institute.

2 A Yes, that is correct.

3 Q Now, back in 1998 can you describe for the Court the  
4 nature, sort of what type of DNA testing was done at that time.

5 A So back in 1998 there was PCR based or preliminary chain  
6 reaction, based DNA testing. We looked at a total of seven different  
7 genetic markers. One of which was called D1S80 and another type  
8 of testing that was Polymarker/DQA1.

9 Q And in terms of the -- that type of testing back in 1998, are  
10 there -- were there statistics generated at that time to talk about  
11 what we would later hear about as like a rarity of profile or the  
12 frequency of that profile in a population.

13 A I believe statistics were used on occasion however, in the  
14 reports that were generated there was no statics included in the  
15 scientific reports.

16 Q And do you have any like idea why that wouldn't have  
17 been included in these particular reports?

18 A I don't think it was nearly as popular or required. I know  
19 the laboratory started doing statistics on everything that was  
20 considered a match or an inclusion in biology DNA back in 2008.

21 Q And the reports of Mr. Cook and Mr. Welch are 1998 and I  
22 think 2000.

23 A That is correct.

24 Q Two reports were done by Terry Cook in this case that we  
25 asked you to look at.



1           A     That is correct.

2           Q     And then one by Mr. Welch in 2000.

3           A     Yes.

4           Q     Now in terms of, sort of the first report that was generated  
5 in this case, it -- did it focus primarily on blood analysis in  
6 comparison of blood samples to victims.

7           A     That is correct, yes.

8           Q     There's a second report in this case done by Terry Cook  
9 that focuses on hairs that were collected at the scene.

10          A     Yes.

11          Q     Did you review that case file?

12          A     I did.

13          Q     Can you tell the Court, in general, how hairs maybe fit into  
14 DNA analysis and comparison now versus back then.

15          A     So hairs -- there were several hair-like substances that  
16 were collected. You know, hairs have kind of moved out of being  
17 examined in forensic science actually. The Las Vegas Metropolitan  
18 Police Department removed hair analysis in December of 1999, so  
19 these reports that were issued by Terry Cook were right before the  
20 forensic science laboratory stopped doing hairs. Typically, back  
21 then hairs were examined under the microscope to determine their  
22 ethnic origin. And then whether they had a DNA root for DNA  
23 analysis.

24          Q     And if -- could you or is it -- in science today do people  
25 look -- or scientists look at hairs under a microscope to determine

1 ethnic origin?

2 A That no longer occurs.

3 Q Okay. That doesn't occur in 2019.

4 A Absolutely, not.

5 Q Okay. It was just what was done back in 1998.

6 A Correct. There was limited -- there wasn't the DNA  
7 advance technology at the time so they were trying to evaluate  
8 hairs to determine some sort of way to identify a source of a  
9 possible contributor. But with the advent of DNA technology, hair  
10 microscopy has gone by the wayside.

11 Q Okay. Now, in terms of hair and DNA analysis, would any  
12 piece of hair be -- would you be able to test any hair for DNA?

13 A In order to test hair for DNA for short tandem repeats or  
14 the type of DNA that's performed today, a hair root has to be  
15 present. If a hair root is absent, it is only -- it is only eligible to be  
16 subjected to mitochondrial DNA analysis.

17 Q Okay. And we'll talk about mitochondrial in just a minute.  
18 In terms of the hairs that were the subject of Terry Cook's report,  
19 from looking at the case file are you able to see whether or not  
20 there was a root attached or whether those hairs were just hairs  
21 without a root?

22 A In reviewing the case files from Terry Cook there were,  
23 according to his notes, there were no hairs that were appropriate  
24 for nuclear DNA testing or the type of testing they were performing  
25 because there were no hair roots that were observed.

1           Q     Okay. And so that may explain why they were looked at  
2 under a microscope instead.

3           A     That's correct. I believe that he probably looked at them  
4 under the microscope to determine the ethnic origin and then if  
5 they had hair roots available which could then be subjected to DNA  
6 testing.

7           Q     Okay. And the Las Vegas Metropolitan Police  
8 Department -- what is its history, I think you touched on this, with  
9 doing testing on hairs?

10          A     Our laboratory never used identification information with  
11 regards to evaluating hairs they used terms such as similar and  
12 dissimilar, as well as the ethnic classifications. So that was  
13 probably from the 80's through 1999 in December when hairs were  
14 taken offline.

15          Q     Okay. And they're taken offline -- why is that?

16          A     You know, there was a lot of concern over the accuracy of  
17 that type of technology and with the advent of DNA testing really  
18 taking root and kind of taken over in the forensic arena, there really  
19 wasn't a need for it anymore. So there was no longer the  
20 classification of ethnic -- the ethnic origin or hairs but the DNA labs  
21 still today will look at a hair to determine if there's a root present in  
22 order to perform DNA testing on it.

23          Q     Okay. And that root that's present that is used in  
24 mitochondrial DNA testing.

25          A     The root that's present can be used in nuclear DNA

1 testing.

2 Q Okay.

3 A And the absence of a root or hair shaft can still be used for  
4 mitochondrial DNA testing.

5 Q And the Las Vegas lab does not do mitochondrial DNA.

6 A That is correct. Mitochondrial DNA is very rare. There's  
7 only -- less than ten labs that offer that type of technology in the  
8 United States.

9 Q Now, as the director of the lab, if you wanted the lab to  
10 start doing mitochondrial DNA testing, or testing on hairs, would  
11 that be something that you could institute at your lab?

12 A No. If we were going to want to incorporate additional  
13 testing it would be in the form of what's called X short tandem  
14 repeats or female linked short tandem repeats. We would -- it  
15 would be outdated for us to bring on mitochondrial DNA analysis.

16 Q Oh, so that's outdated as well.

17 A It's just not a common offering and at the time labs  
18 brought it on because it's good for samples that are very degraded  
19 or limited. But with the rapid advancement of DNA technology Y --  
20 or X linked chromosome evaluation would be a much better  
21 technology to bring online.

22 Q Okay. So the testing though that was done by the  
23 Serological Institute, what type of testing was that?

24 A That was mitochondrial DNA sequencing analysis.

25 Q Okay. And you're saying that's sort of obsolete now -- or.

1           A     It's only offered by limited laboratories and really, I don't  
2 see it being around for another ten years.

3           Q     Why is that?

4           A     Because technology's advanced so much that it could be  
5 replaced with X, with X short tandem repeat testing. So female  
6 specific DNA testing. Similar to Y, D -- Y, male DNA testing.

7           Q     So the type of testing that was done by the Serological  
8 Institute, which is the mitochondrial, can you tell the Court sort of  
9 the specificity that the results are able to gener -- that are able --  
10 that, I guess, are possible to be generated with that type of testing.

11          A     So with mitochondrial DNA testing it's not possible to  
12 positively identify the source of a DNA sample. They can only point  
13 to a maternal line. So mitochondrial DNA is maternally inherited  
14 therefore, everybody in the same maternal line has the same  
15 mitochondrial DNA sequence. Therefore, you can't tell definitively  
16 who left that sample. That has to be identified through other  
17 evidence in the crime or other detective type of information that's  
18 sought out.

19          Q     Thank you.

20               MS. WECKERLY: I'll pass the witness.

21               THE COURT: Ms. Maningo or Mr. Yanez.

22               MR. YANEZ: Thank you.

23                               **CROSS-EXAMINATION**

24           BY MR. YANEZ:

25          Q     Good afternoon, Ms. Murga.

1           A     Good afternoon.

2           Q     You're familiar based on all the experience you just noted  
3 to the Court, you're familiar with what's called DNA transfer, right?

4           A     Yes, I am.

5           Q     Okay. And under what is called DNA transfer, it's possible  
6 for one person to put their DNA or shed themselves, their DNA onto  
7 another object, right?

8           A     That is correct.

9           Q     Onto another human being.

10          A     That is correct.

11          Q     Right. So for instance, if I were to shake Judge Herndon's  
12 hand and then you swab my hand it's possible that Judge  
13 Herndon's DNA could be on my hand, correct?

14          A     Correct, it is possible.

15          Q     And the other way around. My DNA could now be on  
16 Judge Herndon's hand.

17          A     Yes, that is correct.

18          Q     Right. And that's what's call primary transfer, right?

19          A     It could be.

20          Q     Okay. As opposed to -- have you heard something called  
21 secondary transfer?

22          A     Yes, I have.

23          Q     Okay. So correct me if I'm wrong, but secondary transfer,  
24 let's say, I shake Judge Herndon's hand and some of his DNA  
25 comes onto my hand. And then I do what I'm doing right now and

1 touch my collar. I go home take off my shirt. You could get my  
2 shirt swab it, and Judge Herndon's DNA might be on my shirt at my  
3 house, correct?

4 A That is possible.

5 Q Okay. It -- is that something that's called secondary  
6 transfer or do you call it something else?

7 A I believe that could be called secondary transfer.

8 Q Okay. And are you familiar in the research field the  
9 articles the literature in the field DNA the tests and studies that they  
10 have done on primary transfer, secondary transfer?

11 A I am, yes.

12 Q Okay. Now, you would agree, transfer is -- well, let me  
13 back up a little bit. If you find DNA on an object, right, you can  
14 maybe get a profile out of that, but you might not be able to say --  
15 definitively how that DNA made it onto that object, correct?

16 A That is correct.

17 Q Okay. And same thing without repeating my question,  
18 same thing for a person, correct? In other words, you could find  
19 someone else's DNA, let's say, on a swab from another person, you  
20 can't necessarily always tell how that made it onto that person,  
21 correct?

22 A That is correct.

23 Q Okay. You would agree with me that if you do a swab,  
24 let's say, and you find DNA the quantity of DNA, I believe that's  
25 measured in RFUs is that what it's called?

1           A     It's actually measured through a quantitation system.  
2 RFUs are relative florescent units.

3           Q     Okay.

4           A     And those measure how high the peak is when we're  
5 doing DNA analysis.

6           Q     Okay. And that usually indicates the quantity of DNA,  
7 does it not?

8           A     RFUs don't indicate the quantity of DNA they indicate how  
9 strong the signal is.

10          Q     Okay. So let me phrase it as just the quantity of DNA.  
11 Okay. So you swabbed some of the quantity of the DNA. Let's just  
12 say it's a large quantity, that necessarily just because it's a large  
13 quantity doesn't necessarily mean you're going to be able to  
14 identify; I know how this DNA landed on this object, or on this shirt,  
15 or on this person, is that fair to say?

16          A     There could be some information that we could surmise  
17 from evaluating the quantity and associated with the timeline of the  
18 crimes committed particular in sexual assaults. But I can't, you are  
19 correct? I can't say blanket all the time, we can know that  
20 information.

21          Q     Right. Because -- so for instance just because you pull,  
22 let's say, a major profile out of an object, that -- just because you're  
23 pulling a major profile you can't determine, I know how this DNA  
24 got onto this item, is that fair?

25          A     That's fair, yes.



1 Q Okay. And the same thing with the quality of the DNA.  
2 You would agree, and I'm sure you've done a lot of analysis with  
3 DNA, sometimes it's of a good quality, sometimes it's of a bad  
4 quality, right?

5 A That's correct.

6 Q Okay. Food, degradation, time, whatever, the amount of  
7 cells that perhaps maybe were left, there's different levels of  
8 quality.

9 A That's correct.

10 Q Okay. So my question is the same thing as I asked you  
11 with quality the -- with quantity, I'm sorry. The quality doesn't  
12 necessarily tell you; I know how this DNA was deposited onto this  
13 shirt, onto this object, or onto this person, is that fair?

14 A That is fair.

15 Q Okay. And You would agree with me that if you develop,  
16 in a case, a major profile of someone, let's say, you have a mixture  
17 and you develop a major profile of somebody, you can't tell based  
18 necessarily on that major profile that that's the person who had last  
19 contact with the object, let's say. Did you understand the question  
20 or I can maybe give you another example?

21 A I understand the question.

22 Q Okay.

23 A We can tell that that person left the most DNA on that  
24 object but we can't tell how that occurred.

25 Q Right. So you don't know how that person left his major

1 profile on that object?

2 A That's correct.

3 Q Okay. And it's possible that you can have contact with a  
4 person, with an object, with a shirt, and leave no DNA, right?

5 A That is possible that no DNA will be detected.

6 Q Correct.

7 A Yes.

8 Q Okay. So kind of -- the point I'm getting at and you let me  
9 know if you agree or not, is that there are no definitive rules of DNA  
10 on determining this is the person who left the -- who held the  
11 object, who transferred the object, there's no hard set rules for that,  
12 is that fair to say?

13 A That is fair.

14 Q Okay. Now, are you aware, I know you said you have a lot  
15 of research or knowledge in regards to transfer, are you aware of  
16 the *Lucas Anderson* case out of San Jose, California?

17 A I am not aware of that case.

18 Q Okay. And you would agree with me to transfer is  
19 something different then contamination, right?

20 A That is correct.

21 Q Right. So contamination -- the sample has been somehow  
22 compromised, is that a general lawyer layman type of definition of  
23 it?

24 A That is correct. The sample could be compromised during  
25 the commission of the crime or by residual DNA that was present

1 during the commission of the crime that occurred before.

2 Q Right. Or you could have contamination at a lab, correct?

3 A Correct.

4 Q You could have contamination from the crime scene  
5 analyst who is perhaps impounding that evidence, right?

6 A That is correct.

7 Q Okay. And backing up slightly, but on the same point,  
8 when we talked about transference, it's possible for DNA to transfer  
9 from certain parts of an object, or a shirt, onto a different part of  
10 that object or shirt, correct?

11 A That is correct.

12 Q Okay. So for instance, if I take off, you know, my dress  
13 shirt later tonight and I and, let's say, you could swab my neck and  
14 there's some -- my DNA's on there, I throw it down on the floor,  
15 crumpled up. It's possible that that DNA can transfer, let's say, to  
16 the bottom of the shirt?

17 A That is correct.

18 Q Okay. And going back to the contamination, the point I'm  
19 trying to make is contamination can, maybe not 100 percent be  
20 prevented, but it can be controlled as best as possible by wearing  
21 masks, gloves, making sure two samples that you're comparing  
22 aren't crisscrossing with each other, right?

23 A That is correct.

24 Q Okay. Transfer on the other hand is almost inevitable. It's  
25 a little more difficult because it's just the way humans are with

1 touching and transference the science is not there to know exactly  
2 how things get transferred from primary to secondary, is that fair?

3 A That is correct.

4 Q Okay. In a case -- have you had a case in your experience  
5 where there's two different crime scenes? In other words, there's  
6 perhaps a murder, let's say, in one area and then a whole different  
7 building or room or anything like that in a different area? Have you  
8 had any of those cases?

9 A Can I just clarify?

10 Q Sure.

11 A You mean a crime scene that's dynamic, where there's  
12 multiple things going on associated with the same crime in  
13 different locations.

14 Q Well, what I mean, and I don't want to get into specifics,  
15 but just real general, let's say, you have a murder on one side of a  
16 hotel, let's say, and in another room, not that same room separate  
17 room there's a murder and a crime scene there. Okay.

18 A Completely unrelated.

19 THE COURT: So they're being investigated as one case --

20 MR. YANEZ: Yes.

21 THE COURT: -- but multiple different events.

22 MR. YANEZ: Yes. Does that make sense?

23 BY MR. YANEZ:

24 A It's one crime but multiple different locations.

25 Q Correct.

1       A     Yes.

2       Q     Okay. In that type of scenario, I'm assuming you would  
3 be concerned about people going from one crime scene over to the  
4 other, right?

5       A     Yes.

6       Q     Okay. Because of the possibilities of contamination.

7       A     Yes.

8       Q     Okay. Now, in the area DNA when it comes to -- what  
9 we -- what they call DNA mixtures, when there's more than one  
10 profile in a DNA mixture. You'd agree that increases the complexity  
11 of getting a profile, do you agree to that?

12      A     It come -- it increases the ability to decipher the different  
13 components of that profile.

14      Q     And when it comes to those DNA mixtures there's -- there  
15 can be depending, I know every situation is different, but there can  
16 be some subjectivity with the analysis interpretation, would you  
17 agree with that?

18      A     That is correct.

19      Q     Okay.

20      A     Unless there's software that's used, deconvolution  
21 software.

22      Q     Right. And in my scenario, I'm just talking about a -- not  
23 without the -- and when you say software, you're talking about  
24 something like STRmix or something like that?

25      A     Correct.

1 Q But a simp -- analysis not a program like that. That is a  
2 potential problem or issue where you have subjectivity -- I'll put it  
3 that way.

4 A Yes.

5 Q You have some subjectivity, right?

6 A Yes.

7 Q Okay. Because different analysts might interpret the  
8 mixture differently, right?

9 A That is correct.

10 Q Okay. Do you know someone in the field of DNA named  
11 John Butler?

12 A Yes, I do.

13 Q Okay. And who's John Butler?

14 A John Butler works at NIST, the National Institute of  
15 Standards and Technology. He's actually written three books on  
16 DNA, a variety of DNA topics to include analysis interpretation,  
17 standardization of mixture interpretation, he's also run studies to  
18 evaluate different laboratories and he works with a website called  
19 Starbase.

20 Q Okay. So he's a pretty authoritative figure in the field of  
21 DNA.

22 A Yes.

23 Q Okay.

24 A That is correct.

25 Q He has a quote I was going to read to you, just let me

1 know if you agree with it or not.

2 He says: You can have the same data and scientists at  
3 different labs or even within the same lab can interpret that data  
4 differently.

5 Would you agree with that?

6 A That is correct. Is that from a 2005 study?

7 Q I believe so, yes.

8 A Yes, 2005. Okay.

9 Q So you would agree with his statement in that regard.

10 A From 2005.

11 Q Yes. Okay. It what were the documents, I'm sorry, I know  
12 you said this on direct, what were the documents that you reviewed  
13 for your testimony here today?

14 A I reviewed Terry Cook's two reports and case files that he  
15 issued in 1998, I think it was July of 1998. And then I also reviewed  
16 case file from David Welch from a report that he issued in 2000.

17 Q Okay.

18 A And then I reviewed the case file documentation from  
19 SERI [phonetic] regarding the mitochondrial DNA sequence  
20 analysis of the hairs.

21 Q Okay. And so the case file would be the actual written  
22 report that kind of says what was compared, the analysis, and the  
23 underlying, I guess, data as well that's included with that case file.

24 A That is correct.

25 Q Okay.

1 MR. YANEZ: Court's indulgence.

2 [Colloquy between Counsel]

3 BY MR. YANEZ:

4 Q Ma'am, I want to ask you some questions about Terry  
5 Cook's reports. What was tested and some of those conclusions.  
6 Okay. There were two different event numbers, correct?

7 A That is correct.

8 Q Okay. And event number that ends in 0400 which is the  
9 Wallace Siegel one, do you remember that one?

10 A I do. Yes, I do. Thank you.

11 Q Okay. And I just want to go over some of the testing that  
12 was done in that case first and then we can talk about the other  
13 case. From that case file one of the things that Terry Cook tested or  
14 sought to obtain some DNA profiles on was some blood substances  
15 or bloodlike material that was found on a couple of doors, right?

16 A Yes.

17 Q Okay. And I have an extra copy of his report if you  
18 needed to refresh your memory. Okay. He also tested some  
19 material that was found on a steering wheel of a 1993 Dodge,  
20 correct?

21 A Yes.

22 Q Okay. And the -- so we're clear, the testing that he did in  
23 that case -- there were actually two different doors that were tested,  
24 right?

25 A It was a north door and a south door.



1 Q Right. One is labeled interior door handle of south exit,  
2 right?

3 A Yes.

4 Q Okay. And the other one is labeled blood on external side  
5 of north door, correct?

6 A Yes.

7 Q Okay. And as to specifically -- as to the steering wheel,  
8 Mr. Cook did detect human blood, correct?

9 A I remember he had no DNA conclusions.

10 Q Right. I'm asking if the substance was tested and  
11 determined to be blood by Mr. Cook.

12 MR. PESCI: Counsel, I don't think she has a copy of the  
13 report. Maybe if she could get that.

14 MR. YANEZ: Right. That's what I'm saying if you do need  
15 a copy, if you don't remember I can get you a copy.

16 MR. PESCI: Or, do you have them with you?

17 THE WITNESS: I do.

18 MR. YANEZ: Okay.

19 THE WITNESS: May I refresh my memory?

20 MR. YANEZ: Yes, yes.

21 THE COURT: And are you just asking, Abel, if they did a  
22 presumptive test for blood?

23 MR. YANEZ: No, no his actual testing that he did at the  
24 lab.

25 THE COURT: Or the lab testing to confirm that it's blood.

1 MR. YANEZ: Yes.

2 THE COURT: Okay.

3 MR. YANEZ: That's in his conclusions in his report.

4 BY MR. YANEZ:

5 A So in the reports, I don't see in the -- we're talking about  
6 the interior door handle of the south exit.

7 Q No, no, no, I'm sorry, if I wasn't clear. I had moved to the  
8 steering wheel which is Conclusion Number 3.

9 A Oh, the steering wheel.

10 Q Conclusion Number 3.

11 A Okay.

12 Q Right.

13 A Oh, human blood, that's correct, yes.

14 Q Yes.

15 A Yes.

16 Q Okay. So I know his conclusion is that the DNA profiling  
17 results were inconclusive, I understand that, but at least he did  
18 determined that it was human blood, correct?

19 A Yes, yes.

20 Q Okay. And as to the interior door handle of the south exit,  
21 make sure you're with me -- do you underst --

22 A Yes.

23 Q Okay. That's also he -- Terry Cook found that to be human  
24 blood, correct?

25 A It doesn't indicate that on the report.

1 Q And maybe if you have the DNA summary chart. I don't  
2 know if you have that.

3 A I do. May I refresh my memory?

4 Q Yes, please.

5 A Blood sample and control, external site of north door,  
6 blood sample and control, interior door handle in east stairway.

7 Q Well, let me make sure we're on the -- let me make sure  
8 we're on the first page -- on the right page. On the -- on Conclusion  
9 Number 1, blood on external side of north. The blood on the  
10 external side of the north door which is Conclusion Number 1,  
11 right? Do you see that one? Let's just start there so it might be  
12 easier.

13 A I do.

14 Q Okay. So let me -- just let me ask you some questions  
15 about that.

16 A Sure.

17 Q Okay. There was blood detected, correct?

18 A Correct.

19 Q Okay. And his conclusion was that Wallace Siegel could  
20 not be eliminated as a possible source.

21 A That is correct.

22 Q Okay. And then Conclusion Number 2. That one is the  
23 interior door handle of the south exit.

24 A Yes.

25 Q Right?

1           A     Yes.

2           Q     And that also was determined to be human blood,  
3 correct?

4           A     Correct.

5           Q     Okay. And on that one it was a DNA mixture, correct?

6           A     That is correct.

7           Q     And that Wallace Siegel could not be eliminated as a  
8 possible source of that mixture, right?

9           A     So were -- so Item Number 2, TLC; Item Number 2 was not  
10 a mixture. And the victim was excluded but the inter door handle  
11 of the south exit, Item Number 3, that was the mixture that Wallace  
12 Siegel cannot be eliminated as a possible source.

13          Q     Right. What was the first thing you said? Maybe I'm not  
14 on the right page with you. And I was turned -- I was talking about  
15 his conclusion in Number 2, which is the interior door handle of the  
16 south exit, which is TLC 1 Item 3.

17          A     The interior door handle, there's no indication of a  
18 mixture in that sample.

19          Q     Well, he says on conclu --

20          A     Conclusion Number 2.

21          Q     And when I say -- let me see, can I?

22                 MR. YANEZ: Permission to approach, Judge.

23                 THE COURT: Sure.

24                 MR. YANEZ: Thanks.

25 BY MR. YANEZ:

1           A     This one?

2           Q     Right.

3           A     Number 2?

4           Q     Right. Okay. So that one says the victim Wallace Siegel  
5 cannot be eliminated as a possible source of the DNA mixtures  
6 detected on TLC 1, Item 3, interior door handle of south exit,  
7 correct?

8           A     That is correct.

9           Q     Okay. And also, the same thing TLC 3 Item 9, the carpet of  
10 the 1993 Dodge, correct?

11          A     The carpet of the Dodge, human blood was detected but  
12 DNA profiling results were inconclusive.

13          Q     Right. But you would agree with me his conclusion, at  
14 least, what writes is; he cannot be eliminated as a possible source  
15 of the DNA mixtures detected on TLC Item 3 and TLC 3 Item 9,  
16 right? That's at least what his conclusion says Number 2.

17          A     I'm sorry, can you repeat that.

18          Q     Yes.

19          A     I apologize.

20          Q     Right. On Conclusion Number 2, you would agree with  
21 me Terry Cook wrote, that the victim Wallace Siegel cannot be  
22 eliminated as a possible source of the DNA mixtures detected on  
23 TLC 1 Item 3, in parenthesis interior door handle of south exit,  
24 right?

25          A     Yes.

1 Q That's what we just said a few minutes ago.

2 A Correct.

3 Q And then it says, and TLC 3 Item 9, carpet of 1993 Dodge.

4 A That is correct.

5 Q Okay.

6 THE COURT: You just said Terry Cook. Are we on Terry  
7 Cook's report or is this still Welch?

8 MR. YANEZ: No, this has all been Terry Cook's report.

9 THE COURT: It's all been Terry Cook. Okay.

10 MR. YANEZ: Right?

11 BY MR. YANEZ:

12 Q Is that your understanding, Ms. Murga?

13 A That is correct.

14 Q Okay. And then we already discussed Conclusion Number  
15 3, right? That the human blood was detected on the steering wheel  
16 but however the DNA results were inconclusive.

17 A That is correct.

18 Q And then on his 4<sup>th</sup> conclusion there, he's talking about  
19 TLC 1 again, Item 2, the interior door handle of the east stairway  
20 this time, right?

21 A That is correct.

22 Q Okay. And he's saying that of the people -- and I'm not  
23 going to go through all of them, but of the people who are excluded  
24 as a source of the DNA one of them is a Helen Sabraw, correct?

25 A That is correct.

1 Q Okay. And then he indicates his last conclusion, was that  
2 no hairs were recovered from the crime scene, right?

3 A That is correct.

4 Q Okay. And then if we can switch over now to the case  
5 number ending 0848.

6 A May I refer to the case file?

7 Q Yes, yes. Are you ready?

8 A I am.

9 Q Okay. So just so we're in order and we don't lose track of  
10 each other. On that first conclusion what he tested there, what is  
11 the sexual assault kit in this case, right?

12 A That is correct.

13 Q And according to what he has here, his items, they were  
14 vaginal swabs and smears, right? And this is of the -- this would be  
15 of the victim, Helen Sabraw, correct.?

16 A That is correct.

17 Q Okay. So we have vaginal swabs and smears, we have  
18 rectal swabs and smears, oral swabs and smears, pubic hair  
19 combings, pulled pubic hairs, it looks like the pulled head hairs  
20 weren't examined, right? And then what he's labeled as item N,  
21 debris.

22 A Correct.

23 Q Right? And on those swabs and smears in his conclusion  
24 section, is that no spermatozoa was detected on those items  
25 examined, correct?

1           A     Correct.

2           Q     And then he tested what he labeled -- or actually this  
3 would be the crime scene analyst when he impounded the item, a  
4 gray t-shirt, which is Item 32 and a white undershirt which is Item  
5 33, correct?

6           A     Correct.

7           Q     Okay. And he detected there some DNA mixtures on the  
8 collar regions of the gray t-shirt and the white undershirt.

9           A     That is correct.

10          Q     Right. And his conclus -- the -- I guess the furtherest [sic]  
11 he can go on his conclusion was that Helen Sabraw could not be  
12 excluded as a possible component of these mixtures, right?

13          A     Correct.

14          Q     Okay. And then you kind of discussed this on your direct  
15 testimony, he has here what he described as Negroid pubic hair  
16 was recovered from a pink knit blanket. However, there was  
17 insufficient DNA recovered for profiling purposes, right?

18          A     That is correct.

19          Q     And the label of Negroid hair that's something Terry Cook  
20 gave that label, right? He would have been the one to do that.

21          A     Right. There's a standard three different labels at the time  
22 for ethnicity.

23          Q     Okay. And then same thing with Number 4, he mentions  
24 numerous nam -- numerous Negroid hairs were recovered from  
25 several items they had -- he has here; debris from the sexual assault



1 kit of the victim, that gray t-shirt which is Item 32, the white  
2 undershirt from Item 33, and it looks like some hair like material  
3 from some items that were booked by -- or impounded by  
4 Lemaster, correct?

5 A Correct.

6 Q All right. Now, it's your understanding that these extracts  
7 from the gray t-shirt and from the white undershirt, after Mr. Cook  
8 was done testing them, he put them back in, I'm assuming it's some  
9 type of controlled environment. I don't know if you call it a vault or  
10 a refrigerator, what -- how do you --

11 A I believe it's a freezer.

12 Q Okay. In the freezer.

13 A Yes.

14 Q Okay. So that went back in there for potential future  
15 testing if that was necessary.

16 A That is correct.

17 Q Okay. And then you said you also had reviewed David  
18 Welch's report, right?

19 A That is correct.

20 Q Okay. And go ahead if you want to grab it so --

21 A Thank you.

22 Q I can ask you some questions.

23 A I'm ready.

24 Q Okay. Now, Mr. Welch went back and grabbed that Item  
25 32 and 33 that we had discussed in Terry Cook's report, the gray t-

1 shirt and the white undershirt, right?

2 A That is correct.

3 Q Now, he didn't test the exact same extracts that Mr. Cook  
4 did, correct?

5 A That is correct.

6 Q He went and got his own extracts.

7 A He created his own extracts during his testing processes.

8 Q Right. And my understanding based on his report is that  
9 from the gray t-shirt he took three samples indicated from the  
10 collar, right?

11 A That is correct.

12 Q And then from Item 33, the white t-shirt, he took three  
13 samples from the shoulder straps of that white t-shirt, correct?

14 A Was it three or was it two? Oh, it was three, you are  
15 correct.

16 Q Okay. So three from the gray t-shirt, three from the white  
17 t-shirt totally different areas than what Terry Cook had tested.

18 A That is correct.

19 Q Okay. And his conclusion on that -- it's a one-page report  
20 that he has, right? Is that human cellular debris was detected on  
21 the collar of the gray t-shirt and the shoulder straps of the white t-  
22 shirt, however no DNA typing results were obtained, right?

23 A That is correct.

24 Q So he wasn't able to develop a profile based on his testing  
25 of those extracts.

1           A     That is correct.

2           Q     Okay.

3                   MR. YANEZ: Courts' indulgence.

4                   THE COURT: All right.

5                               [Colloquy between Counsel]

6   BY MR. YANEZ:

7           Q     Do you recall or was part of your review a email exchange  
8   that you had with a Detective Blasko, back in approximately June of  
9   2009?

10          A     I did review that, yes.

11          Q     Okay. And if you need to refresh your memory with it, let  
12   me know. I have a few questions about that. Detective Blasko  
13   reached out to you in regards to the testing that Terry Cook had  
14   done, right?

15          A     Yes.

16          Q     And according to the email, at least, it seemed like  
17   Detective Blasko thought maybe since there was a mixture, what  
18   didn't belong to Helen Sabraw maybe -- he was inquiring to you if  
19   that could be put into CODIS, right?

20          A     Correct.

21          Q     Okay.

22          A     I think he wanted to know if we could do male specific  
23   testing.

24          Q     Right. Yes.

25          A     Y-STRs and then put that into CODIS.

1 Q Correct.

2 A Yes.

3 Q And you kind of explained to him the process of the  
4 different testing that was done with Terry Cook and the testing that  
5 was done -- that was being done in 2009, right?

6 A That is correct.

7 Q Okay. And that you -- you did suggest to him that you --  
8 he could put in a request to get the extracts from Terry Cook and  
9 have those retested under testing standards of 2009.

10 A That is correct.

11 Q Okay. And he responded to you that that's what he was  
12 going to do, correct?

13 A Yes.

14 Q Okay. And at least, what he informed you of is that he  
15 was looking for a negro male that that might solve both crimes.

16 A That is correct.

17 Q Okay. And that it's your understanding because I -- there  
18 was a -- if your copy has kind of like a sticky, I don't know if you  
19 have that in yours.

20 A My copy does not have that.

21 Q Okay. Can I.

22 [Colloquy between Counsel]

23 MR. YANEZ: Permission to approach.

24 THE COURT: Yes.

25 MR. YANEZ: Okay.

1     ///

2     BY MR. YANEZ:

3           Q     At least on my copy there was this sticky. If you could just  
4     review it and then I'll just ask you a few questions about that.

5           A     Oh, yes, I do --

6           Q     You do remember that.

7           A     I apologize, I do remember this.

8           Q     Okay.

9           A     Yes, that was my wri -- yes.

10          Q     So that's your handwriting.

11          A     Yes.

12          Q     Where it says remove DNA from to -- right, that part?

13          A     TLC's box.

14          Q     That part is you, right?

15          A     Yep, that's me.

16          Q     And this over here to the right is someone else, correct?

17          A     That's Julie Marschner.

18          Q     Right.

19          A     Yes.

20          Q     So this is your note, correct? At least, the part that's not  
21     Ms. Marschner's that you just indicated, right?

22          A     That is correct.

23          Q     That's your note that you had pulled the items, the  
24     extracts, that Terry Cook had done that testing in '98, right?

25          A     Yes.

1 Q Okay. And then it's your understanding that those weren't  
2 tested, right? That Ms. Marschner decided to get her own set of  
3 extracts from the t-shirt and from the gray t-shirt.

4 A She started with her own testing and generated her own  
5 DNA extracts.

6 Q Right. Okay. Thank you, Ms. Murga. I appreciate it.

7 MR. YANEZ: Thank you, Judge.

8 MS. WECKERLY: Just briefly.

9 THE COURT: Ms. Weckerly.

10 **REDIRECT EXAMINATION**

11 BY MS. WECKERLY:

12 Q On cross-examination Mr. Yanez was asking you about a  
13 quote from the expert, Butler, about two analysts could look at the  
14 same data and reach different -- or reach different conclusions  
15 essentially.

16 A Yes.

17 Q And you said that's from a 2005 study.

18 A Yes.

19 Q Does the date of that have significance to you in terms of  
20 reading data?

21 A Yes. There's been a lot of evolution in the field of DNA  
22 technology since then. There was some disparity amongst  
23 analysts, but the field has evolved such that a lot of laboratories  
24 have incorporated specific deconvolution software to help unravel  
25 complex mixture -- mixtures and ensure that there's more

1 consistent interpretation amongst analysts.

2 Q And at the Metro lab are there protocols and systems and  
3 sort of checks in place to make sure that everyone's sort of checking  
4 up on everybody else's reading of data.

5 A That is correct. The FBI has come forward with guidelines  
6 and recommendations since 2005 several iterations of them -- of  
7 those interpretation protocols and requirements labs have  
8 strengthen their protocols and many labs have brought on  
9 deconvolution software. And at the Las Vegas Metropolitan Police  
10 Department we brought on STR mix in 2017.

11 Q So if I could, you were asked questions about Terry Cook's  
12 first report and I think that's July 1<sup>st</sup>, 1998.

13 A That is correct.

14 Q In conclusion --

15 MR. YANEZ: I'm sorry is this Wallace Siegel or Helen?

16 MS. WECKERLY: At the -- Siegel.

17 MR. YANEZ: Okay.

18 BY MS. WECKERLY:

19 Q In Conclusion Number 4, do you have the report up there  
20 with you?

21 A I do. May I refresh my memory?

22 Q Sure.

23 A Yes.

24 Q So Mr. Yanez asked you about Conclusion Number 4,  
25 which was a swab from the interior door handle of east stairway.

1           A     Yes.

2           Q     And he indicated, obviously, that there was several people  
3 compared to that but that Helen Sabraw was excluded as a source  
4 of that DNA.

5           A     That is correct.

6           Q     And the second to the last person though who is excluded  
7 is Jack Siegel according to Mr. Cook, is that.

8           A     That is correct.

9           Q     Obviously, indicating that he had his profile available back  
10 in 1998.

11          A     That is correct. Thank you.

12               THE COURT: Mr. Yanez, anything further?

13               MR. YANEZ: Thank you.

14                               **RECROSS-EXAMINATION**

15          BY MR. YANEZ:

16          Q     Ms. Murga, you're not saying that under -- Metro has  
17 interpretation protocols, right?

18          A     That is correct.

19          Q     Okay. You're not suggesting that there is no analyst  
20 discretion when it comes to those protocols are you?

21          A     There is analyst discretion.

22          Q     Okay. And when there is discretion you might have two  
23 different interpretations from two different analysts, would you  
24 agree with that?

25          A     The discretion has been narrowed considerably to only to



1 determining how many people exist in the mixture. So the  
2 variability has been significantly decreased.

3 Q I know it hasn't -- I know it's been decreased. It hasn't  
4 been eliminated though has it?

5 A That is correct.

6 Q Thank you.

7 MR. YANEZ: I have nothing further.

8 MS. WECKERLY: Nothing else, thank you.

9 THE COURT: Ms. Murga, thank you very much. I  
10 appreciate your time. You are excused. State may call their next  
11 witness.

12 MR. PESCI: State calls David Lemaster.

13 **DAVID LEMASTER**

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

16 THE CLERK: Thank you. Please be seated. If you could  
17 state and spell your name for the record, please.

18 THE WITNESS: David Lemaster. L-E-M-A-S-T-E-R.

19 THE COURT: Thank you, sir. All right. Mr. Pesci.

20 MR. PESCI: Thanks.

21 **DIRECT EXAMINATION**

22 BY MR. PESCI:

23 Q Sir, thank you for your patience waiting. Did you work as  
24 a senior crime scene analyst for the Las Vegas Metropolitan Police  
25 Department?

1           A     Yes.

2           Q     And focusing your attention to May of 1998, specifically  
3 the 17<sup>th</sup> of May, 1998. Did you work a scene on Spencer Avenue  
4 here in Las Vegas?

5           A     Yes.

6           Q     And did you work that together with a woman named  
7 Kathy Adkins-Nevin?

8           A     Yes.

9           Q     Okay. What do you recall your responsibilities at that  
10 scene? Was there a division of labor as far as who did what?

11          A     My responsibilities were to basically gather the evidence  
12 at the scene.

13          Q     Okay. And when you say gather did you specifically  
14 impound evidence?

15          A     Yes, process and impound evidence, yes.

16          Q     Okay. And as far as impounding evidence did you  
17 impound it with a specific event number for that particular event  
18 that ended in 0848?

19          A     That is correct, yes.

20          Q     And did you have a personnel number at that time, was it  
21 4243?

22          A     That's correct, 4243.

23          Q     And when you notated a piece of evidence would you  
24 sometimes utilize a placard or an exhibit to show your initials and  
25 P-number to indicate you're the person that was doing it?

1           A     At times, yes.

2           Q     Okay. In this particular case, did you also attend the  
3 autopsy?

4           A     Yes.

5           Q     I want to show you what's been marked as State's  
6 Proposed Exhibits 203 to 214. I'll ask you to take a look at those and  
7 see if you recognize them.

8           A     Yes, I recognize those.

9           Q     Are those fair and accurate depictions of the photographs  
10 that you took at the autopsy?

11          A     It appears to be, yes.

12               MR. PESCI: Move for the admission of State's 203 to 214,  
13 Your Honor.

14               THE COURT: Any objections?

15               MS. MANINGO: Can I just take a quick look at them,  
16 please?

17               THE COURT: Okay.

18               MR. PESCI: Sure.

19 BY MR. PESCI:

20          Q     While she's doing that, I'll ask you some other questions.  
21 When you're at this particular autopsy -- have you had a chance to  
22 review some reports to refresh your recollection?

23          A     Yes.

24          Q     Okay. Do you recall either independently or from your  
25 reports taking a buccal swab from the decedent at that autopsy? Or

1 some type of a DNA sample I should say?

2 A Part of the process with getting a swab would the kit that  
3 was involved.

4 Q Okay.

5 A And the techs actually did the insertion into body parts  
6 and then I would impound it as part of the procedure at the  
7 morgue.

8 Q Okay. And so as a part of the process at this particular  
9 autopsy, you took the photographs and then that DNA evidence  
10 collected from the victim was then impounded.

11 A Yes.

12 Q With the same -- your P-number and the event number.

13 A Yes.

14 Q And then that particular item can be utilized for DNA  
15 testing later.

16 A Yes.

17 MR. PESCI: Any objection?

18 MS. MANINGO: No.

19 MR. PESCI: Judge, move for admitting again for 203 to  
20 214.

21 THE COURT: 203 to 214 will be admitted.

22 MR. PESCI: Thank you.

23 **[STATE'S EXHIBIT NUMBERS 203 TO 214 ADMITTED]**

24 BY MR. PESCI:

25 Q I want to show you something really fast. Do you

1 recognize State's 110?

2 A Yes.

3 Q Okay. And do you recognize that as being a crime scene  
4 diagram that you created from the scene that you worked?

5 A Yes.

6 Q Okay. And does it indicate certain pieces of evidence that  
7 were notated and given numbers.

8 A Yes. Some of the evidence were of the numbers from  
9 scene are annotated on this diagram.

10 Q Okay. Focusing in on your Diagram Numbers 32 and 33  
11 what did those correspond to?

12 A 32 is a gray t-shirt with a possible bloodlike substance and  
13 33 was a white tank top or muscle shirt with a bloodlike substance  
14 on it.

15 Q I'm showing you State's Exhibit 118.

16 Does that reflect at least one of those shirts from this  
17 scene?

18 A Yes.

19 Q Okay. Was -- is 33 -- what is labeled as 33 depicted at the  
20 feet of Helen Sabraw?

21 A Yes.

22 Q Okay. And then what's not depicted in State's 118, but we  
23 can tell from your Diagram 110, the gray shirt is that in Position 32  
24 which is a little bit to the right as you at Helen Sabraw's feet.

25 A That would be correct, looking at the photo, looking at her

1 feet it would be to the right, yes.

2 Q And you impounded those particular items.

3 A Yes.

4 Q All right. And do you recall after impounding them, and  
5 getting them back to the lab later on, taking individual photographs  
6 of those specific items?

7 A Yes, I did.

8 Q Okay. Now, in State's 118 there appears to be, I believe  
9 like a wicker chair, do you see that?

10 A I do.

11 Q Okay. Well, let me ask you this, as you see those  
12 photographs does it bring back some memories of this particular  
13 scene?

14 A Yes.

15 Q Okay. Even though it's 21 years ago.

16 A Yes.

17 Q Okay. Did you do a lot to work this scene?

18 A There was a lot involved in all of us, but myself, yes.

19 Q Okay. And I should say that. You personally and  
20 collectively as a team was there a lot done at the scene?

21 A Yes.

22 Q Okay. Focusing in on the wicker chair for a moment,  
23 looking at State's Exhibits 131 to 133, do you see those?

24 A Yes.

25 Q Okay. There seems to be a shirt kind of wedged into part

1 of that chair, is that correct?

2 A That is correct.

3 Q All right. Did you do some presumptive testing of some  
4 items from the scene to include fingerprinting or checking for the  
5 presence of blood?

6 A All that was done.

7 Q Okay. However, was there some items that presumptive  
8 tests were not done to?

9 A I don't recall on the shirt if I did a presumptive test on that  
10 dark colored shirt.

11 Q Right. Now, what would be some rationale as to why,  
12 let's say, this particular shirt or something else in this scene is or is  
13 not tested for presumptive evidence?

14 A Well, ultimately if necessary or needed, it's a dark colored  
15 shirt, we did have multiple light sources but the laboratory could do  
16 their forensic analysis of that and look for it.

17 Q If they need to, did you impound the shirt?

18 A Yes.

19 Q Okay. So any other testing could be done later on back at  
20 the lab.

21 A Absolutely.

22 Q All right. So even though you didn't necessarily do a  
23 presumptive test at the scene that doesn't precru -- preclude you or  
24 someone else at the lab doing further testing of that?

25 A That would just -- that would be a common methodology.

1 Q Right. You preserved it so testing could be done.

2 A Yes.

3 Q Okay. You know things have changed a little bit since  
4 back then, but I'm going to go out on a limb, did the lab test  
5 everything you wanted to back in 1998?

6 A I didn't make requests.

7 Q Okay. But in your experience did you know of the lab not  
8 necessarily testing every single item that's collected.

9 A It's my understanding not every single item gets analyzed.

10 Q Okay. Shifting gears, a little bit, may be the diagram will  
11 help? Do you recall that particular apartment having a bathroom?

12 A Yes.

13 Q Okay. This was a very bloody scene.

14 A Oh, yes.

15 Q Okay. But the bathroom itself however, did not have as  
16 much blood did it?

17 A No.

18 Q Okay. However, State's Proposed Exhibit 221, do you  
19 recognize that?

20 A Yes.

21 Q Okay. Was there some, what appeared to be blood on the  
22 toilet seat itself?

23 A Yes.

24 Q All right. Was that photographed?

25 A Yes.



1 Q Okay. But compared to the other sce -- I shouldn't say the  
2 other scene, around the body was there way more blood around  
3 the body as opposed to in the bathroom itself?

4 A A significant amount more.

5 Q Okay.

6 MR. PESCI: Give me one second. Court's indulgence.

7 THE COURT: Okay.

8 [Colloquy between Counsel]

9 MR. PESCI: Pass the, Judge.

10 THE COURT: Ivette.

11 MS. MANINGO: Thank you, Your Honor.

12 **CROSS-EXAMINATION**

13 BY MS. MANINGO:

14 Q Good afternoon, Mr. Lemaster.

15 A Good afternoon.

16 Q Now, you of course, you said you did a lot, and had  
17 processed the scene, did the crime scene diagram, and you  
18 attended the autopsy in this case. Who did you do that with aside  
19 from Atkins? Was is -- was Autrey also involved in some aspects of  
20 the case? Do you recall processing or doing anything with him on  
21 this case?

22 A Okay. And I'm being respectful of when I ask this. Are  
23 you talking about the scene, you mentioned the autopsy, which are  
24 you talking about?

25 Q Well, let's start with the scene.

1           A     Yes. Jerry Autrey was involved at the scene with the  
2 photographs we just looked at.

3           Q     Okay. Do you remember what his involvement was?

4           A     His involvement involved his expertise with super gluing  
5 bodies.

6           Q     Okay. So Autrey --

7           A     Also, if I --

8           Q     Sure.

9           A     -- may I add, Your Honor? And he was one of our  
10 preeminent specialists also with the Polilight which is a multiple  
11 light source that was kind of coming, kind of a newish thing to -- I  
12 don't want to call it new, but he was more proficient with that  
13 particular unit.

14          Q     Okay. So he was asked, I guess, to assist partly because  
15 of that reason, correct?

16          A     Oh, yes, yes.

17          Q     And also because there was a lot to do and you needed  
18 help, is that fair to say?

19          A     I think it's fair to say and I think it's fair to say too that he --  
20 the best I recall he had a good ex -- a little bit more better  
21 experience involving that particular methodology.

22          Q     Okay. And so although, Adkins and yourself were actually  
23 the crime scene analysts, and if I'm using the wrong word,  
24 assigned to the scene, I don't know what the term is. But you were  
25 the ones who were called to the scene to process the Sabraw scene,

1 correct?

2 A Along with Joe Szukiewicz.

3 Q Okay.

4 A We were initial team if will, CSI assigned to a team, but  
5 that's not a vacuum. We request, you know, expertise when we  
6 need it.

7 Q No, I -- and I understand that but I was just saying those  
8 are the three people that were crime scene analysts that were lead  
9 -- on that case.

10 A I would agree with that, yes.

11 Q Okay. And so Autrey was with Michael Atkin on the  
12 Siegel case, correct? Originally.

13 A I can't speak to the other case at all.

14 Q Okay. So you weren't aware that Autrey was actually one  
15 of the crime scene analysts that was working on the Siegel case  
16 that was the day before.

17 A I would be cautious to say what I did and didn't hear. I  
18 wasn't there. I wasn't proactive in conversation with anything  
19 specifically.

20 Q Okay.

21 A So I would have to caution myself to anything I would  
22 really say to that.

23 Q So you're not sure if he was on the Siegel case but you  
24 know that you helped with the Sabraw case, fair?

25 A Well, I think it's fair to say I think he was -- I believe, I

1 believe he was on the Siegel case, but what I know about that case,  
2 Your Honor, I really don't know much about it.

3 Q Okay.

4 THE COURT: So you have some sense of his name being  
5 attached to that --

6 THE WITNESS: Yes.

7 THE COURT: But you don't know the specifics of  
8 anything.

9 THE WITNESS: I think that would be safe to say.

10 THE COURT: Okay.

11 BY MS. MANINGO:

12 Q Okay. And was he with you basically during the entire  
13 time you guys were there? I know this was a long process -- Mr.  
14 Autrey.

15 A At 212?

16 Q Yes.

17 A I don't -- I don't recall how long he was there.

18 Q Okay. A significant amount of the time.

19 A I can't -- I honestly cannot tell you the time he spent  
20 involved with that portion of our crime scene.

21 Q Okay.

22 A I don't know that answer.

23 Q Okay. That's fine. And how many days was the process --  
24 of that scene if you recall?

25 A Well, we did the initial scene and we arrived somewhere

1 around, on the 17<sup>th</sup>, 12:30 and I believe we left sometime late  
2 morning the next, day but then we'd also sealed it and then gone  
3 back for follow up so I'm not sure how to answer that question.

4 Q Okay. The initial -- the initial processing of the scene  
5 before you went back on another separate event for not, let not say  
6 event, the separate time. When you initially got there that shift, that  
7 day, was it a 24-hour thing, was it a 12-hour thing? If you recall, I  
8 know it was a long time ago.

9 A How long were we at the scene?

10 Q Yes.

11 A I believe it was longer than 14 hours.

12 Q Okay.

13 A I believe.

14 Q Okay. And that was, at least, one of the days that Autrey  
15 was there.

16 A Yes.

17 Q Okay.

18 A Yes, because the decedent was present.

19 Q Okay. Now, fair to say that there was no signs of forced  
20 entry into that location, correct?

21 A On the door, no sign of forced entry. On the door to 212,  
22 no sign of forced entry.

23 Q Okay.

24 MS. MANINGO: May I approach the Clerk, Your Honor?

25 THE COURT: Yes.

1     ///

2     BY MS. MANINGO:

3           Q     I'm going to go back to the scene for a -- in a moment but  
4     at the autopsy -- some -- there was jewelry recovered at the autopsy  
5     from the decedent, correct?

6           A     Yes.

7           Q     Okay. Do you remember what jewelry was recovered?

8           A     Oh.

9           Q     And if you don't remember, it's fine I can.

10          A     I want to say a watch and three rings.

11          Q     Okay.

12          A     But without looking at the receipt.

13          Q     Okay.

14          A     I'm sorry, I don't have that specific answer in my head  
15     right now.

16                   MS. MANINGO: May I approach the witness, Your Honor?

17                   THE COURT: You may.

18     BY MS. MANINGO:

19           Q     I'm showing you what's been marked as proposed  
20     Defense Exhibit AA and BB. Will you take a look at those and tell  
21     me if those two photographs -- or what's depicted in both of those  
22     photographs?

23          A     Okay. The first picture is going to be her photo of the  
24     decedents left hand.

25          Q     Uh-huh

1           A     With rings on her middle finger and her ring finger,  
2 bearing what appears to be one ring on her middle finger with a  
3 black stone in the middle and, I think, two rings on her left hand  
4 with a clear stone and another ring behind it.

5           Q     And then the -- and that is the one you just referred to is  
6 AA.

7           A     AA.

8           Q     And BB?

9           A     And -- okay.

10          Q     What is depicted in BB?

11          A     BB is -- it the same hand -- left hand and again, the clear  
12 ring is obvious on her ring finger turned inward towards the palmar  
13 surface that you can see, with a gold per -- appears to be a gold  
14 band attached to it, that's all I can see with her thumb in the way.

15          Q     So this is the same hand -- what -- it just depicts different  
16 areas of the ring, is that right?

17          A     It appears that way, yes.

18          Q     Okay. And so this -- these -- first of all is these -- this is the  
19 hands and how they appeared at the scene when you were at the  
20 actual scene, correct?

21          A     I have to qualify that.

22          Q     Okay.

23          A     Defense Exhibit?

24          Q     Yes.

25          A     Defense Exhibit BB.

1 Q Uh-huh.

2 A Is at the scene in C2 in place on a pair of white shoes and  
3 this other photo -- I'm looking at the background maybe the  
4 morgue.

5 Q Okay.

6 A I'm not sure.

7 Q Okay. It's -- so you're saying that one maybe from the  
8 scene and one maybe from the autopsy, correct?

9 A I'm guessing AA is from the autopsy and BB would be --

10 Q Okay.

11 A -- from the coroner's office.

12 Q And you were both locations, correct?

13 A Yes.

14 Q So those accurately depict the jewelry that was on the  
15 deceased's hands at that time.

16 A Yes.

17 Q And what was collected during the autopsy.

18 A Yes.

19 Q Okay.

20 MS. MANINGO: Move for the admission of Defense  
21 proposed AA and BB.

22 MR. PESCI: No objection.

23 THE COURT: Those will be admitted, thank you.

24 **[DEFENSE EXHIBIT NUMBERS AA AND BB ADMITTED]**

25 MS. MANINGO: May I approach again, Your Honor?



1 THE COURT: Yes.

2 BY MS. MANINGO:

3 Q What's depicted in this photograph which is, I'm sorry,  
4 Proposed Exhibit -- it says Number 2, I just want to make sure it's  
5 Defense Exhibit CC?

6 THE COURT: ZZ.

7 THE CLERK: Z.

8 MS. MANINGO: Oh, Z.

9 THE COURT: Z as in Zebra.

10 MS. MANINGO: Okay. Normally it says Defendant --  
11 doesn't. Okay.

12 BY MS. MANINGO:

13 Q So I'm showing you, I guess, Defense Proposed Exhibit Z,  
14 as in Zebra. What's depicted in that photograph?

15 A This is a photograph from the crime scene showing,  
16 remote controls, books, a black wallet, mail, clipboard, and some  
17 miscellaneous papers.

18 Q Okay.

19 MS. MANINGO: Move for the admission, I believe the  
20 State has no objection.

21 MR. PESCI: No objection.

22 THE COURT: All right. Z will be admitted.

23 **[DEFENSE EXHIBIT NUMBER Z ADMITTED]**

24 BY MS. MANINGO:

25 Q Within this -- the wallet that you just referred to, do you

1 remember the amount of currency that was in there or if there was  
2 currency?

3 A I can only refer from the report that ca -- CS -- Supervisor  
4 Adkins did.

5 Q Okay. Do you -- would it be accurate to say it was over  
6 \$500 in cash?

7 A It was around \$530, that's what the report said.

8 Q Okay. Thank you. At the time of autopsy, the decedent's  
9 fingernails were scrapped and clipped, is that correct?

10 A I believe my report says clipped, on it. Because I looked at  
11 that and I think I circled clipped. It should have a check mark on it  
12 and a circle around it.

13 Q If it's checked fingernails, scrapings, and clipping, and  
14 then you circled clippings, it's just the clippings?

15 A And scraped is not checked, correct?

16 THE COURT: Or circled.

17 BY MS. MANINGO:

18 Q Let me show it to you.

19 A Yeah, that would --

20 MS. MANINGO: May I approach, Your Honor?

21 THE WITNESS: Yeah, that would help.

22 THE COURT: Yes.

23 BY MS. MANINGO:

24 Q I didn't realize that just the clippings was circled, but  
25 maybe you could explain if they were both done or just one.

1       A     Okay.

2       Q     Does that refresh your recollection?

3       A     Historically when I would do this this was a while back.

4       Q     Okay.

5       A     Historically when I would do this I would indicate because  
6 it's a dual category and then it would be clipping, in other words,  
7 the fingernail was removed and clipped and then placed into the  
8 receptacle for impound.

9       Q     Okay. So in this partic -- well, this refreshes your  
10 recollection on what you did that day.

11      A     Yes, yes --

12      Q     So just so I'm clear you just -- they just clipped the  
13 fingernail, so they had the actual fingernails, but they did not do a  
14 scraping, or they did?

15      A     Well, I work in tandem with the forensic tech.

16      Q     Okay.

17      A     With me right there because that -- we work together on  
18 that and it goes into a -- normally -- normal procedure is on a  
19 glassing paper, if you will, or it could be a manila envelope and it is  
20 cut and removed and goes into the kit itself and usually separated  
21 by hand, right hand, left hand. Does that make sense to you?

22      Q     Yes. So from then on, is it your decision on whether to  
23 test this or from there on you don't do anything else with it.

24      A     I don't do anything else.

25      Q     Okay. So you wouldn't know if it was tested later.

1           A     That is correct.

2           Q     Okay. Now, you mentioned that you went back to the  
3 crime scene on several occasions, three other occasions, correct?

4           A     Sounds about right.

5           Q     Okay. Or actually, potentially four or five, correct?

6           A     I -- well, the building.

7           Q     The building.

8           A     The building.

9           Q     And to clarify you went back a couple times to take  
10 exemplars of employees, correct?

11          A     That's correct.

12          Q     Okay.

13          A     Of DNA buccal swabs, and fingerprint and palm  
14 exemplars, yes.

15          Q     Okay. And one time you went back pursuant to a request  
16 by a Detective Vaccaro to release the apartment to a family  
17 representative, is that right?

18          A     Yes.

19          Q     Okay. And at that time that family representative actually  
20 collected more jewelry from the apartment, is that right?

21          A     I don't recall -- I recall released to but I don't recall  
22 indicating the family took or may --

23          Q     Okay. And is that something that again, you all worked in  
24 tandem, but CSA Adkins was the one that did the report, correct?

25          A     Yes.

1 Q Okay. So did you review her report on -- before testifying  
2 today?

3 A Yes. Yes, I did, yes.

4 Q Okay. Do you remember that the report said that the --  
5 there was jewelry released to the family or did --

6 A There -- I'm sorry.

7 Q It's okay. Do you remember that or you don't?

8 A I recall, Your Honor, something about some clothing, a  
9 dress, without referring to my report right now, I'm --

10 Q And would it refresh your recollection to refer to it?

11 A Yes, it would. It would right now, yes.

12 Q Okay. And do you have that with you? Adkins report or  
13 no? I can give you a copy if you don't.

14 A I have it on the top if I can open it.

15 Q Sure.

16 THE COURT: You can go ahead and take a look at it.

17 THE WITNESS: Okay. Thank you.

18 BY MS. MANINGO:

19 A Oh, this specific report of what we're talk -- do we have a  
20 date?

21 Q It is -- date of the report is 5 -- it's actually, I believe 5/17  
22 but, yeah.

23 A For clothe -- for clothing?

24 MS. MANINGO: Court's indulgence.

25 MR. PESCI: 5/25's the date the apartment's released.

1 MS. MANINGO: Let me see if I can find that report. I  
2 apologize, it's 5/18 report, it's the crime scene report, it's signed by  
3 Adkins and I have a copy if you have any difficulty finding it.

4 BY MS. MANINGO:

5 A 18 -- oh, 18. Okay. I see the report.

6 Q And it's towards the bottom onto page two is where the  
7 items are listed.

8 A I'm looking at the report to see my interaction with this.  
9 On the second line that says -- I'm sorry, can I paraphrase, Your  
10 Honor?

11 Q Well, let me ask you this.

12 THE COURT: Hold on a just a second.

13 BY MS. MANINGO:

14 Q This is one of the reports that as a team again, everyone  
15 has different roles you work together, but one person does the  
16 reports, fair?

17 A I don't know if I was here. Was I here?

18 MR. PESCI: So Judge, if I could interject, I think a little bit  
19 of confusion is Ms. Maningo was asking about Detective Vaccaro  
20 asking to release that apartment.

21 THE COURT: To the family.

22 MR. PESCI: So that is actually the witnesses report dated  
23 5/25. The report that's now being asked about is crime scene  
24 analysts Adkins' report from 5/18. I'm not sure that the witness  
25 was part of that particular incident.

1 THE COURT: Okay.

2 THE WITNESS: Your Honor, I believe I was at the morgue  
3 at the time.

4 THE COURT: On 5/18?

5 THE WITNESS: That was the next day.

6 THE COURT: Okay. So hold on let me let Ivette --

7 THE WITNESS: Okay.

8 THE COURT: -- kind of follow up.

9 MR. PESCI: The State will stipulate that crime scene  
10 analyst Adkins released among other things some gold metal  
11 earrings, and a pearl type earring, and a pearly type necklace to  
12 Sharon Tienner. I just don't think this witness was a part of that  
13 process.

14 THE COURT: Okay. Is that what you're trying to --

15 MS. MANINGO: If there's a stipulation, that's fine, Your  
16 Honor.

17 THE COURT: Okay. So we'll note that stipulation for the  
18 record. So you don't need to worry about where you were.

19 THE WITNESS: Thank you, Your Honor.

20 MS. MANINGO: Court's indulgence.

21 BY MS. MANINGO:

22 Q The decision to process something at the scene is made  
23 by someone like yourself in this case, right?

24 A The ultimate authority would fall under the supervisor of  
25 the scene, which in this case would be Kathy Adkins.

1 Q Okay.

2 A And then we work collectively as we decide.

3 Q Okay. So she's got the, I guess, the ultimate say but you  
4 work as a team and you decide whether or not something needs to  
5 be processed.

6 A It will certainly be discussed.

7 Q Okay. And so it was the decision at the scene not to  
8 process the black shirt, fair?

9 A It depends on what you mean by process.

10 Q At the scene you do different things to different because  
11 of the evidence, correct?

12 A I suppose it'd be fair to say for defining shirt as process as  
13 in going through visual, and lasers and doing all that that was more  
14 impounded for future analysis.

15 Q Okay. What -- tell me what you could have done with the  
16 black shirt, I guess, we could ask that.

17 THE COURT: At the scene.

18 MS. MANINGO: At the scene.

19 THE COURT: Right, at the scene.

20 MS. MANINGO: Oh, at the scene, yeah.

21 BY MS. MANINGO:

22 A Yeah, in that particular case, not a whole lot. You got a  
23 dynamic scene and you don't want to mess with that too much  
24 particularly there at the scene.

25 Q Okay. Not a whole lot, but what if anything could be



1 done?

2 A Well, you could look at it.

3 Q Okay. And there's nothing else that can be done at the  
4 scene with that black shirt.

5 A In theory, I suppose, well, we're getting into a whole  
6 theoretical realm. But many times, over my career evidence gets  
7 collected and gets impounded and that can go to a technical area  
8 later on.

9 Q Okay. Was -- and again, that's just a decision made at the  
10 scene by the team and ultimately the supervisor.

11 A And the circumstances of what's going on, yes.

12 Q Okay. And then whatever's done at the lab that's a  
13 different team that decides whether or not to process it there.

14 A It's outside of my hands at that point.

15 MS. MANINGO: Pass the witness, Your Honor.

16 THE COURT: State.

17 MR. PESCI: Thanks.

18 **REDIRECT EXAMINATION**

19 BY MR. PESCI:

20 Q Speaking of your hands, your hands were not involved, or  
21 you weren't involved in the Siegel scene, correct?

22 A Correct.

23 Q In fact, when you're working the Sabraw scene the Siegel  
24 scene's done being processed. Well, that you're aware of.

25 A I guess.

1 Q Well, did you run into any other crime scene analysts  
2 when you were --

3 THE COURT: Just for the record, Mr. Lemaster kind of  
4 shrugged meaning, I don't know much about that scene.

5 THE WITNESS: I'm sorry, Your Honor.

6 THE COURT: Is that okay.

7 THE WITNESS: I should have articu --

8 THE COURT: No, no.

9 BY MR. PESCI:

10 A Yeah, I don't know much about that scene.

11 Q Did you work that other scene?

12 A No.

13 Q Okay. Thank you very much.

14 MR. PESCI: Pass the witness.

15 THE COURT: All right. Anything further, Ms. Maningo?

16 MS. MANINGO: Yes.

17 **RECROSS-EXAMINATION**

18 BY MS. MANINGO:

19 Q You yourself didn't work the other scene or ever go to that  
20 room, correct? Is that your testimony.

21 A That is correct.

22 Q But you -- you're not aware of who might have been asked  
23 to help just like Autrey was asked to help, you're not aware of who  
24 might have been asked to help at the other scene?

25 A I can't engage in anything that occurred involving -- as I'm

1 hearing the Siegel's scene.

2 Q Again, you wouldn't be aware of it.

3 A I don't know what to say to it anymore.

4 Q I'm sorry.

5 A I don't know what to say to that anymore. I don't know  
6 much about the Siegel scene.

7 Q Okay.

8 MS. MANINGO: Nothing further.

9 THE COURT: Anything further, State?

10 MR. PESCI: No, thank you.

11 THE COURT: All right. Mr. Lemaster, thank you very  
12 much for your time. You are excused, sir.

13 THE WITNESS: Thank you.

14 THE COURT: All right. We'll go ahead and break for the  
15 evening at this time. And we'll start tomorrow at -- it should be  
16 10:30, the calendar tomorrow should hopefully be a lot more  
17 expedient than it was this morning.

18 MR. PESCI: Judge, I think we had -- Court's indulgence.

19 THE COURT: Sure.

20 [Colloquy between Counsel]

21 MR. PESCI: Judge, can we just check with those witness  
22 that are here still?

23 THE COURT: Yeah, if you got somebody really short then.

24 MR. PESCI: Well, no, I just meant as far as tomorrow --

25 THE COURT: Oh.

1 MR. PESCI: -- their availability.

2 THE COURT: Okay, yeah.

3 [Colloquy between Counsel and Court]

4 MR. YANEZ: The reason why I was inquiring, Judge, is  
5 because we're supposed to do that call at 11:00.

6 THE COURT: Okay.

7 MR. YANEZ: So I didn't know if it made more sense just  
8 to be here at 11:00.

9 THE COURT: Oh.

10 MR. YANEZ: Or can we knock something out between  
11 10:30 and 11:00 that's all -- and so we had talked about that.

12 THE COURT: No, we can start at 11:00.

13 MR. PESCI: I think the shortest witness would be Robbie  
14 Dahn, if you want, Your Honor, we can try and do that. But we are  
15 happy to go home for the night. I was just checking to see about  
16 11:00.

17 THE COURT: Is that witness short in your minds as well?

18 MS. MANINGO: It is, but we can do it tomorrow, I have  
19 problem that.

20 MR. PESCI: If it's shor --

21 THE COURT: Well, all right, let's try and start -- we'll just  
22 start tomorrow at 11:00

23 MR. PESCI: Okay.

24 THE COURT: And we'll have them all back and we'll do  
25 your witness by phone first, and then take our lunch break. Okay.

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MS. MANINGO: Thank you, Your Honor.

THE COURT: All right. So you don't need to tell your  
folks to be back until like 1:30.

MS. WECKERLY: Okay.

THE COURT: Sound good.

MS. WECKERLY: Thank you.

MR. YANEZ: Okay.

MR. PESCI: So 1:30, right?

MS. WECKERLY: 1:30 for them, we're going to do the  
telephonic at 11:00.

MR. YANEZ: Judge, are we at ease, are we done for the  
day?

THE COURT: Yep, we're done.

MR. YANEZ: Okay.

[Evening recess at 4:50 p.m.]

\* \* \* \* \*

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

  
\_\_\_\_\_  
Brittany Mangelson  
Independent Transcriber

OUTSIDE.

THERE ARE TWO WINDOWS WITH SCREENS TO ROOM# 120; ONE TO THE BEDROOM ON THE SOUTHEAST AND THE LIVING ROOM WINDOW TO THE SOUTHWEST; THE LIVING ROOM WINDOW CANNOT BE OPENED - A SECOND INTERIOR WINDOW IS SCREWED INTO PLACE. THE BEDROOM WINDOW SCREEN AND THE LIVING ROOM SCREEN HAD BEEN REMOVED FROM THE WINDOWS AND LAYING ON THE GROUND NEAR THE WINDOWS. THE BEDROOM WINDOW WAS CLOSED BUT NOT IN A LOCKED CONDITION; IT COULD BE SLID OPEN. THE DUST/DIRT COATINGS ON THE EXTERIORS OF THE BEDROOM AND LIVING ROOM WINDOWS HAD APPARENT "SLIDING FINGER" MARKS, INDICATING THE WINDOW BEING SLID OPEN (ON THE BEDROOM WINDOW). THERE DID NOT APPEAR TO BE ANY FORCED ENTRY (TOOLMARKS) ON THE METAL PORTIONS OF THE WINDOWS.



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TRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

GUSTAVO RAMOS,

Defendant.

CASE NO. C-10-269839-1

DEPT. III

BEFORE THE HONORABLE DOUGLAS W. HERNDON,  
DISTRICT COURT JUDGE

THURSDAY, MAY 30, 2019

**TRANSCRIPT OF HEARING**  
**BENCH TRIAL – DAY 3**

APPEARANCES:

For the State:

GIANCARLO PESCI, ESQ.  
PAMELA WECKERLY, ESQ.  
Chief Deputy District Attorneys

For the Defendant:

IVETTE A. MANINGO, ESQ.  
ABEL M. YANEZ

RECORDED BY: JILL JACOBY, COURT RECORDER

TRANSCRIBED BY: MANGELSON TRANSCRIBING



1 **WITNESS INDEX**

2 **STATE'S WITNESSES**

**PAGE**

3 **JANET WEST (via telephone)**

4 Direct Examination by Ms. Maningo 5  
5 Cross-Examination by Ms. Weckerly 23

6 **MICHAEL ATKIN**

7 Direct Examination by Mr. Pesci 41  
8 Cross-Examination by Ms. Maningo 71  
9 Redirect Examination by Mr. Pesci 108  
10 Recross-Examination by Ms. Maningo 113

11 **DAVID RUFFINO**

12 Direct Examination by Mr. Pesci 121  
13 Cross-Examination by Ms. Maningo 124

14 **ROBBIE DAHN**

15 Direct Examination by Mr. Pesci 126  
16 Cross-Examination by Ms. Maningo 129

17 **LESLEE SIEGEL**

18 Direct Examination by Mr. Yanez 130  
19 Cross-Examination by Mr. Pesci 140  
20 Redirect Examination by Mr. Yanez 144

21 **EXHIBIT INDEX**

22 **STATE'S EXHIBITS**

**DESCRIPTION**

**PAGE**

23 11 - 87 Photographs 43  
24 219 Photograph 50  
25 88 - 95 Photographs 123  
222 & 223 Photographs 128

26 **DEFENSE EXHIBITS**

**DESCRIPTION**

**PAGE**

A - F Photographs 76

1 Las Vegas, Nevada, Thursday, May 30, 2019

2  
3 [Trial began at 11:35 a.m.]

4 THE COURT: All right. we will be back on the calendar on  
5 Mr. Ramos's matter. He is present with the Court interpreter. All  
6 attorneys are present on both sides. So what do we got?

7 MR. YANEZ: Judge?

8 THE COURT: Oh, I'm sorry do want to do the gentleman  
9 with the phone call first and then talk about the other things?

10 MS. MANINGO: I think. Just because he's been there for  
11 a while --

12 THE COURT: Okay.

13 MS. MANINGO: -- and I want to make sure --

14 THE COURT: Yeah --

15 MS. MANINGO: -- that's --

16 THE COURT: -- that's fine.

17 MS. MANINGO: I just text him that we're about to call.

18 THE COURT: And is there somebody there to swear him  
19 in? Or do we -- or are we swearing him in in here?

20 MS. MANINGO: So the witness is a woman.

21 THE COURT: Okay. I'm sorry.

22 MS. MANINGO: And my investigators is there who's got  
23 her driver's license, Retkey --

24 THE COURT: Okay.

25 MS. MANINGO: -- verifying who she is.

1 THE CLERK: Hi, is this Retkey? Mr. Retkey?  
2 MR. RETKEY: Yes.  
3 THE CLERK: Hi, this is Kory. I'm the court clerk for Judge  
4 Herndon.  
5 MR. RETKEY: All right.  
6 THE CLERK: We're calling regarding the Ramos matter.  
7 MR. RETKEY: Yes.  
8 THE CLERK: Okay. Do you have the witness there? Janet  
9 West?  
10 MR. RETKEY: I do. I've identified her with her Texas  
11 driver's license. She's sitting right here.  
12 THE COURT: Okay. Great, thank you Mr. Retkey.  
13 MR. RETKEY: You're welcome.  
14 THE COURT: All right.  
15 And I'm sorry, what's her name again?  
16 MS. MANINGO: Janet West.  
17 THE COURT: Janet West. Ms. West, how are you?  
18 MS. WEST: Yes. I'm good, thank you.  
19 THE COURT: Where in Texas are you?  
20 MS. WEST: Deep southeast Texas.  
21 THE COURT: Deep southeast Texas. Okay. I'm from  
22 Texas, that's why I was asking.  
23 MS. WEST: Oh, really?  
24 THE COURT: Yes, ma'am.  
25 All right. could I have you raise your right hand for me

1 please?

2 MS. WEST: Yes, sir.

3 **JANET WEST**

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

6 THE CLERK: Thank you. If you could state and spell your  
7 name for the record, please.

8 THE WITNESS: Janet West; J-A-N-E-T. W-E-S-T.

9 THE COURT: Okay. Ms. Maningo.

10 **DIRECT EXAMINATION**

11 BY MS. MANINGO:

12 Q Hi, Ms. West. This is Ivette Maningo I'm going to be  
13 asking you some questions. I represent the Defendant in this case  
14 along with my co-counsel, Abel Yanez, who's present in the  
15 courtroom with the prosecutors.

16 A Okay.

17 Q Are you currently retired, ma'am?

18 A Yes.

19 Q Okay. And how were you employed back in the mid-to-  
20 late 90's?

21 A I'm sorry. Where was I employed?

22 Q Yes. Where were you employed back in the mid-to-late  
23 90's? 1995 through 1998, approximately in that time period.

24 A Yeah, I was working for independent living for Camlu  
25 Retirement.

1 Q Okay. And what were the dates of your employment at  
2 Camlu?

3 A In Vegas or [indiscernible]?

4 Q Well, actually first generally you worked for the company  
5 then in different locations?

6 A Yeah, I worked from 1992 until '98.

7 Q Okay. And what -- when did you start working in Las  
8 Vegas for Camlu?

9 A You know, I don't recall the exact date. Probably '97.

10 Q Okay. So --

11 A Might have been in that area.

12 Q Okay. And at that time what was your position -- well let  
13 me ask you this. Were you actually employed there in May of 1998?

14 A I had just taken a job with another company, so I'm not  
15 sure an exact date. I'm sorry.

16 Q It's okay. So you said you thought you started in Las  
17 Vegas. Do you remember the address of that retirement home?

18 A The one -- Camlu?

19 Q Yes.

20 A No, I don't.

21 Q Okay. Do you remember if it was approximately located  
22 at Spencer and Rochelle, here in Las Vegas?

23 A Yes.

24 Q Okay. And so you said that you had worked there from  
25 1997, is that right?

1           A     I think that's the date.

2           Q     Okay. And do you recall an event that occurred May 16<sup>th</sup>  
3 of 1998, at the retirement home?

4           A     Yes.

5           Q     Okay. And what was that?

6           A     I believe that's the date that two people were killed.

7           Q     Okay. What was your position, or what were -- you were  
8 still living there at that time?

9           A     I was there temporarily. We were live-in managers, but I  
10 had already taken a job with another company --

11          Q     Okay.

12          A     -- me and him, we were just packing up to move out of  
13 our apartment.

14          Q     Okay. So there was a recent transition period during that  
15 week?

16          A     Correct.

17          Q     Okay. But you were actually still living at Camlu?

18          A     Yes.

19          Q     Okay. And where was your apartment located; on the first  
20 or second floor?

21          A     It was on the second floor.

22          Q     Okay. Who was the person that took over for you when  
23 you were transitioning out at that time?

24          A     Steven Barhei.

25          Q     Okay. And what was Steven's position before he became

1 manager and took your position?

2 A He was the assistant manager.

3 Q Do you remember how long he had been there, generally?

4 A No, I don't. It wasn't long.

5 Q Okay. But he didn't just come -- you said he was your  
6 assistant. So he wasn't starting that week, he was just transitioning  
7 from assistant to manager; is that right?

8 A I believe that is correct.

9 Q Okay. I want to talk to you a little bit about the facility in  
10 general. Is Cam -- was Camlu then a secured facility?

11 A What do you mean by secured?

12 Q Okay. Let me ask -- how could -- during the day, how do  
13 residents come in and out of Camlu when you were manager and a  
14 resident there?

15 A They just came in and out the front door. It was not  
16 locked, no.

17 Q Okay.

18 A [Indiscernible].

19 Q Other than the front door, was there any other ways to get  
20 in and out of that building during the day?

21 A They could come through the assisted living side which  
22 was at the rear of the building.

23 Q Okay. Other than that, was every other door locked of the  
24 building, during the day?

25 A Yes, should have been.

1 Q Okay. And so did there come a time during the afternoon  
2 or evening where all doors at the facility were locked?

3 A After a certain time of the evening, but I couldn't tell you  
4 the exact time that the doors were locked.

5 Q Okay.

6 A It's been too long.

7 Q Okay. Can you give me an approximate time? Was it in  
8 the early -- was it in late afternoon, early evening, do you remember  
9 that?

10 A It was probably around 9:00 or 10:00 at night.

11 Q Okay. And at that time what was the procedure? Who  
12 locked the doors and what was done after the doors were locked?

13 A Probably the manager. One of the managers locked the  
14 doors before we went up to our apartment. Probably -- I'm pretty  
15 sure that one of us made a little round before the end -- you know,  
16 before late and locked up the front door.

17 Q Okay. So when you said one of you, are you saying -- you  
18 said managers, does that include an assistant manager as well?

19 A Him, or my husband and me.

20 Q Okay. And in addition to, you said locking the front doors,  
21 you would make a round. Can you be more specific about that?

22 A Checking it, side doors.

23 Q Okay.

24 A To the outside, because they remained locked all the time.

25 Q So you were just double checking to make sure they were



1 locked when you locked the other front doors?

2 A And closed, yes.

3 Q Okay. So those other doors that were not the front door  
4 or the assisted living door, those doors locked automatically from  
5 the outside, correct?

6 A Yes.

7 Q Now, what about keys to the front door? Did residents  
8 have the keys to the front door?

9 A Yes.

10 Q And after the locking was -- is that how residents were  
11 able to come in and out if they so desired?

12 A Correct.

13 Q Who was on staff -- after you'd locked down the facility,  
14 who was -- remained on staff for the night?

15 A It would have been the assisted living person.

16 Q In addition to that, would the manager and assistant  
17 manager also be on site?

18 A Yes. No, not necessarily the assistant manager; usually  
19 they were just there on the weekends.

20 Q Okay. But in addition to the assisted living staff person,  
21 you also had at least a manager on site?

22 A Yes.

23 Q Okay. And did the manager and also the assisted living  
24 person have keys to all doors?

25 A Yes.

1 Q Okay. And did that include the doors of the -- to all  
2 residence?

3 A Oh, excuse me. I'm not -- I can't remember, or don't recall  
4 if the assisted living person had a key to everybody's door on the  
5 independent side.

6 Q Okay.

7 A But we did. The managers did.

8 Q Okay. So in the event of an emergency, could the  
9 manager or another staff member get into the apartment in order to  
10 assist?

11 A Yes. If they had the master key.

12 Q Okay. And that includes even the independent living side?

13 A Yes.

14 Q And was there also a mechanism in each room of that  
15 building, each resident's room, that allowed the resident to buzz or  
16 somehow call for assistance if they needed it?

17 A Yes.

18 Q And did that mechanism exist in all rooms including the  
19 independent living rooms?

20 A I believe so.

21 Q Okay.

22 A It's been a long time and I've worked different places so --  
23 but I believe so.

24 Q Okay. Did -- At Camlu was anyone required to keep their  
25 doors unlocked?

1 A No.

2 Q So if a -- it was okay for any resident that wanted to lock  
3 their door to lock their door at night and then if there was an  
4 emergency, you could assist?

5 A Yes.

6 Q Did you know a woman by the name of Helen Sabraw?

7 A Yes.

8 Q Okay. And how did you know her?

9 A She was a resident.

10 Q Okay. And where -- do you remember where Helen  
11 Sabraw lived?

12 A She lived on the second floor, on the same wing actually  
13 where our apartment was.

14 Q Okay. How many doors down -- or how far were you from  
15 Ms. Sabraw's apartment?

16 A I think it was about four or five doors away. She lived on  
17 the other side of the hall.

18 Q Okay. And how well did you know Ms. Sabraw?

19 A Oh, as well as I knew any of the residents, yeah.

20 Q Okay. Did you talk to her on a regular basis, see her,  
21 socialize?

22 A Just hi, hello, how are you.

23 Q Okay.

24 A She wasn't really a complainer or anything.

25 Q Okay. What was she like?

1           A     I inferred that she was outgoing. She liked to talk to the --  
2 other residents. She went out to casinos.

3           Q     Okay. And would you consider her a -- basically a social  
4 person?

5           A     Yes.

6           Q     Okay. And with regards to -- you said you lived in the  
7 same hallway and we talked about the doors being locked. What  
8 was Sabraw's habit with regards to locking her door; if you know?

9           A     I don't know.

10          Q     Okay. And did she have a habit of -- or if you know of  
11 letting people in freely, or what -- was she that type of person?

12          A     I don't recall. In my memory I don't think she was too  
13 scared of anybody. She was pretty outgoing, pretty comfortable.

14          Q     Okay. So did you know Mr. Wally Siegel?

15          A     Yes.

16          Q     Okay. And how did you know him?

17          A     He was one of the residents.

18          Q     Okay. And do you remember where Wally lived?

19          A     Yes, he was downstairs on another wing, I believe.

20          Q     Okay. And describe Mr. Siegel.

21          A     He was -- always seemed to be a pleasant fellow to us.  
22 And if I'm correct he -- I guess, he was just like a normal little guy.

23          Q     Okay. And do you know, were Helen Sabraw and Wally  
24 Siegel friends?

25          A     As far as I know, yes. They were friends.

1 Q Okay. Did they socialize a lot?

2 A I recall something like that. I'm not sure it was a lot, but I  
3 know they did socialize.

4 Q Okay. Would you consider them to be good friends?

5 A Yes.

6 Q Did you see -- well, let me ask you first. There was kind of  
7 a little bit of an informal assigned seating situation, is that right?

8 A Yeah, it wasn't always adhered to.

9 Q Okay. Did you ever see Helen Sabraw and Wally Siegel at  
10 the same table during meals?

11 A I don't recall.

12 Q Did you see them conversing during meals at any time; do  
13 you remember?

14 A I possibly could have, but I just don't remember.

15 Q Did you ever see them -- you mentioned Helen Sabraw  
16 went to casinos? How did she get there, if you know, to the  
17 casinos?

18 A I believe the casino buses -- bus came by. I don't  
19 remember which casino. There were two or three of them that  
20 came by and picked up residents that wanted to go.

21 Q Okay. And did you see Helen Sabraw and Wally get on  
22 that -- those buses sometimes together to go to the casinos?

23 A They would get on the same bus. I don't know if I'd say  
24 together, but yeah, they were on the same bus.

25 Q Okay. Did you know Wally's son?

1       A     Yes.

2       Q     Okay. Do you remember his name?

3       A     Jack.

4       Q     Okay. And how did you get to know Jack?

5       A     He was staying there with his dad. His dad had hurt  
6 himself and they thought he needed more help and so Jack was  
7 staying there.

8       Q     Okay. So during the time that Jack was living with his dad  
9 you -- were you the manager during that time?

10      A     Yes.

11      Q     Okay. With the exception of couple of days?

12      A     Yes.

13      Q     Okay.

14      A     Correct.

15      Q     Did you have any type of special arrangement with Jack  
16 with regards to whether his dad was supposed to leave the door  
17 unlocked if he left?

18      A     Not that I remember, no.

19      Q     What was Jack's -- describe Jack to me.

20      A     Oh, it's been too long.

21      Q     Okay. What was his demeanor, generally, if you could  
22 remember?

23      A     He was not a real pleasant person. He didn't -- if I reach  
24 back in my memory, he didn't seem to be too pleasant.

25      Q     Okay. And what was his relationship like with his father?

1 MS. WECKERLY: Objection, foundation.

2 THE COURT: I'll sustain it. You can ask some follow up  
3 foundational questions.

4 BY MS. MANINGO:

5 Q During the time that Jack was living with his dad, did you  
6 see the two of them together pretty often?

7 A Maybe in the dining room but not outside, no.

8 Q Okay. With regards to the dining room, would Jack eat  
9 with his father?

10 A I can't remember. I don't think he was eating there, but I  
11 can't remember.

12 Q Okay. But why would you see him there -- I mean you  
13 would see him in the dining room, is that what you testified to?

14 A Yeah, and he'd occasionally pass by the office.

15 Q Okay. But you don't recall them eating together?

16 A I don't recall, no.

17 Q What was -- do you remember if Mr. Siegel was in a  
18 wheelchair at some point, as well?

19 A He might have been. I remember that he was definitely  
20 using a cane or something, but he might have been in a wheelchair.

21 Q So would Jack help him in the hall to get to the meals?

22 A I don't know. We might have -- and I don't recall all of it  
23 but we -- if he was not able to come to the dining room, we  
24 would've taken a tray to him.

25 Q Okay. But in the times that you saw Jack and his dad, was

1 it him assisting his father getting to the dining room or was it under  
2 another situation?

3 A It could've been. Yeah, I didn't see him too often with his  
4 dad, but he could've been bringing him to the dining room. I just  
5 don't recall, I'm sorry.

6 Q That's okay. So did you -- well do you have -- do you  
7 know what the relationship was with his dad, or do you not recall?

8 MS. WECKERLY: Objection, foundation.

9 THE COURT: Ms. Maningo?

10 MS. MANINGO: She -- I mean, she saw them together. If  
11 she doesn't know, she doesn't know.

12 THE COURT: Well I'll sustain the objection. I mean, there  
13 needs to be some follow up about the interactions she saw, not just  
14 that she saw them kind of in the same area, but that there were  
15 some type of interaction that would form the basis of an opinion  
16 about how they -- their relationship.

17 BY MS. MANINGO:

18 Q Okay. Did you see Jack and his dad interact?

19 A I don't recall. I do know what Jack said to us, but I don't  
20 recall he and his father interacting that much.

21 Q Okay. Do you know if -- you said that Ms. Sabraw was  
22 also at mealtime often, is that right?

23 A Uh-huh.

24 Q Okay. Do you know if Jack and Helen knew each other?

25 MS. WECKERLY: I'm going to --



1 THE WITNESS: Yes, I think they did.

2 MS. WECKERLY: -- object as to foundation.

3 THE COURT: Hold on, just one moment. Hold on Ms.  
4 West, just one moment.

5 THE WITNESS: Okay.

6 THE COURT: As to specifically --

7 MS. WECKERLY: Just foundation. I understand that she  
8 could've seen it, but if that's the basis that's fine but if it's through  
9 someone else, it's hearsay.

10 THE COURT: All right. I'll sustain the objection.

11 MS. MANINGO: Okay.

12 THE COURT: Just make sure you're specific on that.

13 MS. MANINGO: Okay.

14 BY MS. MANINGO:

15 Q Did you, yourself, know whether or not Helen and Jack  
16 knew each other? Was there ever a time that you saw them  
17 interact?

18 A If I did it would have been in the dining room so -- but I  
19 can't recall, I'm sorry.

20 Q Were you -- or was there a time well -- strike that.  
21 Were there times where you actually saw for yourself  
22 Helen going to visit Wally in his room?

23 A I would see her going down that hall, I'd assume that was  
24 where she was going, but I couldn't -- you know, I didn't see her  
25 walk into the room.

1 Q Was that based on information that you would gather  
2 before she was going down there?

3 MS. WECKERLY: Objection, hearsay.

4 THE COURT: Yeah, I'm not -- a little confused by that  
5 question.

6 MS. MANINGO: Court's indulgence.

7 I believe I just asked her if she would see her going that  
8 way.

9 THE COURT: Right.

10 MS. MANINGO: And --

11 THE COURT: But then you said something about is that --  
12 is your opinion based on information you would gather before that I  
13 thought you said, and I wasn't really clear what that meant.

14 MS. MANINGO: Okay. Well maybe it was the way I asked  
15 the question.

16 THE COURT: Okay.

17 BY MS. MANINGO:

18 Q You'd said that you would see Ms. Sabraw in the hallway  
19 going towards Wally's room, correct?

20 A Correct.

21 Q Okay. And you said that you believed that she was going  
22 there. Why would you believe that?

23 A Because I had seen them get on the buses.

24 Q Okay.

25 A It was -- I don't remember exactly.

1           Q     Okay. When you say buses, are you referring to the ones  
2 that the -- to go to the casinos?

3           A     Yes. The buses to the casino.

4           Q     Okay. Did Jack tell you why he was taking care of his  
5 father?

6                     MS. WECKERLY: Objection, hearsay.

7                     MS. MANINGO: Your Honor.

8                     THE COURT: Well, that's just yes or no for right now, Ms.  
9 West. Did Jack Siegel ever mention to you -- and I don't want to  
10 know what he said, but did he ever mention to you why he was  
11 living there taking care of his father?

12                    THE WITNESS: Yes.

13                    THE COURT: Okay.

14                    MS. MANINGO: And, did he tell you --

15                    MS. WECKERLY: Objection, hearsay.

16                    THE COURT: Well let --

17                    MS. MANINGO: -- based on the information from  
18 yesterday.

19                    THE COURT: -- let me go ahead and hear the question.

20 BY MS. MANINGO:

21           Q     What did he tell you with regards to why he was there  
22 taking care of his father?

23                    MS. WECKERLY: Objection, hearsay.

24                    THE COURT: Well why don't you -- if you're seeking to  
25 impeach something Jack said, why don't you ask a very specific

1 questions so I can recall what it was that Jack said as to whether --

2 MS. MANINGO: Okay.

3 THE COURT: -- that's appropriate.

4 BY MS. MANINGO:

5 Q Did Jack tell you he was designated by his family  
6 members to take care of his father because he was the one that was  
7 unemployed?

8 THE COURT: I'll let you --

9 THE WITNESS: Yes.

10 THE COURT: Yeah, okay. That question's fine.

11 BY MS. MANINGO:

12 Q Did he tell you he was stuck with it?

13 MS. WECKERLY: Objection, hearsay.

14 THE COURT: Well, overruled. I'll let you answer the  
15 question. Did he ever use that term, Ms. West, to say he was quote:  
16 Stuck with that job?

17 BY MS. MANINGO:

18 A He could have, but he did say that he was sent there  
19 because his family -- other family members where working, and he  
20 wasn't.

21 Q Did he tell you he was frustrated with it?

22 MS. WECKERLY: Objection, hearsay.

23 THE COURT: Overruled.

24 THE WITNESS: Can I answer?

25 THE COURT: Yes --

1 MS. MANINGO: Yes.

2 THE COURT: -- ma'am, I'm sorry.

3 BY MS. MANINGO:

4 A Okay. Yes, he did not like being there.

5 Q Did you get the impression that he volunteered, or that he  
6 was there because he had to be?

7 MS. WECKERLY: Objection, foundation.

8 THE COURT: Well --

9 MS. WECKERLY: And speculation.

10 THE COURT: -- I'll let her answer the question, overruled.  
11 You can go ahead, Ms. West.

12 BY MS. MANINGO:

13 A Would you repeat the question?

14 Q Did you get the impression that he volunteered or that he  
15 was there because he had to be?

16 A Oh, I got the impression he didn't volunteer.

17 MS. MANINGO: Pass the witness.

18 THE COURT: All right. Ms. Weckerly or Mr. Pesci?

19 MS. WECKERLY: Your Honor, is it okay if I stay seated?

20 Just --

21 THE COURT: Yep.

22 MS. WECKERLY: -- because I -- okay.

23 THE COURT: Yeah.

24 ///

25 ///

1 **CROSS-EXAMINATION**

2 BY MS. WECKERLY:

3 Q Ma'am can I -- I just want to ask you a couple questions.  
4 How many times do you think it was that you would have ever  
5 spoken to Jack Siegel?

6 A I -- you were cutting out.

7 Q Oh, I'm sorry. How many times do you think you had a  
8 conversation with Jack Siegel?

9 A How many times?

10 Q Yeah.

11 A Oh. Oh, my goodness. More than once, probably less  
12 than five.

13 Q Okay.

14 A I couldn't tell you the exact number of times.

15 Q I know, and it was 20 years ago. Of those --

16 A Uh-huh.

17 Q -- of those conversations which are somewhere between  
18 one and five, I think you said, can you give us a sense of when they  
19 were? Was it in like February, March, April?

20 A I don't recall when.

21 Q Okay. Was there anything about those conversations that  
22 made you -- that caused you any kind of alarm that you felt you  
23 needed to report anything?

24 A No, not alarm. I just know he really didn't want to be  
25 there.

1           Q     Okay. I want to ask you a couple questions. You were --  
2 you discussed with the defense attorney that you would sometimes  
3 see Helen Sabraw walking down the hallway, I assume on the first  
4 floor, toward what you believed to be Wally's room?

5           A     Yes.

6           Q     Were there other rooms in the area?

7           A     There were other rooms in the area.

8           Q     Did you ever see her go inside the room?

9           A     No, I did not.

10          Q     Could she --

11          A     Not that I recall.

12          Q     Would it have been possible for her to be heading to a  
13 different room, other than Wally's?

14          A     Yes, she could've been.

15          Q     Okay.

16          A     But I don't recall.

17          Q     Yeah. So on -- in your discussions with Ms. Maningo you  
18 said that you considered -- or it was your belief that Helen and  
19 Wally were friends?

20          A     Yes.

21          Q     Were most of the residents at the complex friends with  
22 each other?

23          A     Well they had their own little groups and own little  
24 special friends and all.

25          Q     Sure. It -- I mean, were the residents pretty social with

1 each other?

2 A Some were, some weren't.

3 Q And you said that you sometimes saw Wally and Helen  
4 get on the same bus to go to a casino?

5 A Yes.

6 Q Did you ever see them ever do anything else together?

7 A I don't recall.

8 Q Okay. So your only recollection is that they would get on  
9 the same bus to go to a casino?

10 A Yes, because they would come by the office and that's  
11 where they would -- they would go through the front door to go to  
12 the casino.

13 Q You also said that it was your impression that Helen was a  
14 pretty outgoing person?

15 A That's my recollection.

16 Q Okay. And that she wasn't too timid or afraid of anything?

17 A That's my recollection.

18 Q Lastly, ma'am, I just wanted to ask you about the complex  
19 itself. I know it's been a long time but, aside from the main door,  
20 can you tell me how many other exits were in the complex itself?  
21 Like on the sides, or in stairwells?

22 A There were side doors at the front, --

23 Q Sure.

24 A -- back doors. Those remained locked all the time --

25 Q Okay.



1           A     -- from the outside. I think there probably were doors at  
2 the back that were locked all the time, but I can't recall exactly.

3           Q     Okay. But there were other doors besides the main door,  
4 is that fair to say?

5           A     Yes.

6           Q     And the rule was to keep them locked?

7           A     Yes.

8           Q     Do you know, or do you recall if the residents ever  
9 propped them open?

10          A     Yes.

11          Q     How -- Why would they do that?

12          A     Well, it was usually a resident family member or  
13 somebody who would go out the door because they wanted to  
14 smoke --

15          Q     Okay.

16          A     -- and they would stick a piece of paper in the door so it  
17 wouldn't shut good --

18          Q     Right.

19          A     -- and remove the paper when they came back in.

20          Q     Was that kind of a problem at the complex?

21          A     Not a huge problem because when we locked up for the  
22 night, we would go around and check those doors.

23          Q     Do you remember if you had to put a sign up to instruct  
24 people not to prop open the door?

25          A     I don't recall. There could've been.

1 Q Yeah.

2 A But I don't recall.

3 Q And then in terms of keys, were employees issued a key  
4 to get into the -- sort of the main part of the complex?

5 A I don't think so. I know the chef had a key to the kitchen.

6 Q Sure.

7 A But I don't recall any other, other than the managers --

8 Q Okay.

9 A -- having a key and perhaps -- I can't recall, but perhaps  
10 the activity person did, but I don't recall that facility.

11 Hello?

12 MS. WECKERLY: Just --

13 THE COURT: Yeah, we're still here.

14 MS. WECKERLY: I just -- I'm sorry.

15 THE COURT: Attorneys are looking at some notes right  
16 now, hold on just a second.

17 BY MS. WECKERLY:

18 Q Ma'am, do you remember if the owners or the corporation  
19 was sued after the two murders took place?

20 A I don't recall.

21 Q Okay. Thank you very much.

22 THE COURT: Ms. Maningo?

23 MS. MANINGO: Nothing, thank you.

24 THE COURT: All right. Ms. West, you're all done. Thank  
25 you very much for your time today, I greatly appreciate it.

1 THE WITNESS: Thank you, Your Honor.  
2 THE COURT: All right. take care.  
3 Okay. So we will be in recess as far as a presentation of  
4 witnesses go, before we start back up this afternoon.  
5 What is it that you wanted to chat about?  
6 MS. MANINGO: Well, we haven't had the opportunity  
7 to --  
8 MR. YANEZ: Can you give us just a few minutes --  
9 MS. MANINGO: -- discuss --  
10 MR. YANEZ: -- with our client, we haven't informed him.  
11 MS. MANINGO: -- what happened with the client.  
12 THE COURT: Okay. Sure.  
13 MS. MANINGO: He was not here until just before  
14 testimony.  
15 THE COURT: Okay.  
16 MR. YANEZ: We'll make it quick, Judge.  
17 THE COURT: Do you guys want to go into the holding  
18 cell?  
19 MR. YANEZ: Yeah, we would prefer that.  
20 MS. MANINGO: Really quick.  
21 [Pause in proceedings]  
22 THE COURT: Okay. We will be back on the record. Mr.  
23 Ramos, the interpreter, all the attorneys are present.  
24 Mr. Pesci.  
25 MR. PESCI: So Judge, last night I had contacted David

1 Johnson, who's the fingerprint expert who will be testifying, trying  
2 to set up his testimony for today. I received a phone call from him  
3 at my home last night, I think it was about 7:45 p.m. He told me  
4 that there was an AFIS hit, and so I gathered the information.  
5 Specifically, what I was told is that Joseph E. Guy, ID Number  
6 1522754 was made, or identified, on the exterior north front door of  
7 Room 212, which is Helen Sabraw's --

8 THE COURT: Okay.

9 MR. PESCI: -- room. He specifically indicated that for his  
10 internal reports, which shows up in the reports that we have it,  
11 would be reference DJJ-28. So it's that particular print that he had  
12 labeled. Now, he had said it had not been searched in 2010. As I  
13 recall our conversations with him in the past, AFIS's capacity with  
14 palm prints has improved with time.

15 THE COURT: Okay.

16 MR. PESCI: And so, when we pretried him he said -- we  
17 asked, are there any AFIS quality prints that have not been run. He  
18 said yes, and we asked him to run them --

19 THE COURT: Okay.

20 MR. PESCI: -- which generated this hit.

21 THE COURT: Okay.

22 MR. PESCI: I then tried to figure out who this person was  
23 based on the name Joseph E. Guy, but I wasn't at home so I  
24 couldn't really search under normal databases that I could do at  
25 work.

1 THE COURT: Okay.

2 MR. PESCI: I reached out to some homicide -- to a  
3 homicide detective trying to gather information. The best that we  
4 can gather is that it's an individual by the name of Joseph E. Guy  
5 with this ID number, and he appears to be in the discovery.

6 THE COURT: Okay.

7 MR. PESCI: So what the State has, and the Defense has,  
8 was a list that the homicide detectives originally got, which was the  
9 list of employees and then there was a list of former employees and  
10 there is a name of a Joseph E. Guy --

11 THE COURT: Okay.

12 MR. PESCI: -- on the former employee list. So we're  
13 trying to figure out if that's one in the same person as the individual  
14 that came back with the hit.

15 THE COURT: Okay.

16 MR. PESCI: Defense Counsel has that information as far  
17 as that page. I came in this morning, was trying to research this  
18 particular individual, and I provided to Defense Counsel -- is it all  
19 right if I look over your shoulder?

20 MR. YANEZ: Yep, here you go.

21 MR. PESCI: I didn't see anything in Odyssey for District  
22 Court.

23 THE COURT: Okay.

24 MR. PESCI: However, when I ran him in Justice Court,  
25 there is a list of cases which appear to come back to this individual.

1 I printed that off, I provided it to Defense Counsel. It has a date of  
2 birth, so that they now have that.

3 THE COURT: Okay.

4 MR. PESCI: The internal document that everybody has in  
5 discovery has what we believe is a social security number next to  
6 the name.

7 THE COURT: Okay.

8 MR. PESCI: So now they have a social security, a date of  
9 birth and then the address that was at least listed back in '98 during  
10 the investigation. I then looked up -- of those cases there's like  
11 insurance required, driving without a license, an open container,  
12 but there was one felony charge -- or a felony case number.

13 THE COURT: Okay.

14 MR. PESCI: That's 10F00960X. So it looks like it's a child  
15 endangerment; seven counts of child endangerment that was  
16 generated in January of 2010 and it looks like it was pled down to a  
17 disorderly conduct and eventually closed out. So not a felony  
18 conviction

19 We have the parties that are here. Defense Counsel, in  
20 particular Mr. Yanez's name, does not show up for the PD --

21 THE COURT: Okay.

22 MR. PESCI: -- on those. Additionally, he had a  
23 misdemeanor charge of possession of a controlled substance  
24 handled in Justice Court, closed out in Justice Court. So we think  
25 that's this person.

1 THE COURT: Okay.

2 MR. PESCI: And we think he's a former employee. But we  
3 wanted to get this information to them as soon as possible.

4 THE COURT: Okay.

5 MR. PESCI: We wanted to make a record of it so it will be  
6 on the record and let you know because, obviously, they need time  
7 to chew on this and figure out what it is they want to do, but we've  
8 given them everything we can as far as trying to do their own  
9 investigation.

10 THE COURT: Okay.

11 MS. MANINGO: I would just add that I know that Mr.  
12 Pesci got this information last night. We just got it obviously right  
13 before the hearing this morning, but they did pretrial this expert, I  
14 believe -- I don't -- they could tell you, but I think it was two or three  
15 weeks ago --

16 THE COURT: Okay.

17 MS. MANINGO: -- and I guess he was supposed to be  
18 running hits, we weren't unaware of that obviously.

19 THE COURT: So let me interrupt real quick. There are  
20 multiple things that he was re-running?

21 MR. PESCI: No, there --

22 THE COURT: Just this print off the door was the only  
23 thing that was AFIS quality to rerun?

24 MR. PESCI: Well our understanding, Your Honor, after  
25 pretrialing him is we said okay are there any AFIS quality prints that

1 have not been run --

2 THE COURT: Okay.

3 MR. PESCI: -- since they were back in the day.

4 THE COURT: Right.

5 MR. PESCI: And he said there were three.

6 THE COURT: Okay.

7 MR. PESCI: And so we said, we need you to run those.

8 THE COURT: Okay.

9 MR. PESCI: And then this running of it generated this hit  
10 and I would add -- I apologize if that was really fast. Last night he  
11 told me he would generate a report, I just got it as we were walking  
12 in to finally start --

13 THE COURT: Okay.

14 MR. PESCI: -- and I forwarded that to the Defense  
15 Counsel, so they have that report.

16 THE COURT: So what are the three? One of them is the  
17 exterior door of the Sabraw residence.

18 MR. PESCI: And then two are inside --

19 THE COURT: Sabraw?

20 MR. PESCI: -- Sabraw's apartment, which the report that  
21 just came in, I was trying during that last witness, Judge --

22 THE COURT: Okay.

23 MR. PESCI: -- there's a latent print from the evacuation  
24 plan. Remember those evacuation --

25 THE COURT: Yeah.



1 MR. PESCI: -- plans on the door?  
2 THE COURT: Right.  
3 MR. PESCI: So internally, the evacuation plan had a print.  
4 He, Joseph Guy's run to that, and is excluded.  
5 THE COURT: Okay.  
6 MR. PESCI: Then there was, if you recall, the -- hold on  
7 one second -- from the pot, like the china teapot or --  
8 THE COURT: Okay.  
9 MR. PESCI: -- and so he -- that's also inside in the hutch.  
10 THE COURT: Okay.  
11 MR. PESCI: He is excluded from that as well.  
12 THE COURT: And are those two separate people do we  
13 know or --  
14 MS. WECKERLY: I don't think they can do it that way.  
15 THE COURT: Okay. all right.  
16 MR. PESCI: It's just that he, Joseph Guy, doesn't hit those  
17 prints inside because there was three --  
18 THE COURT: But we don't know if the evacuation plan  
19 and the teapot are two separate individuals, we just know that  
20 they're not Mr. Guy.  
21 MR. PESCI: I don't -- we know they're not Mr. Guy --  
22 THE COURT: Okay.  
23 MR. PESCI: -- I don't know the answer to the other  
24 question.  
25 THE COURT: Got it, okay.

1 All right. Yvette, you can continue, I'm sorry.

2 MS. MANINGO: And -- all I was -- I was just making a  
3 point that we just got the information, but that this was apparently  
4 in the works and I don't know why it wasn't turned over before, but  
5 I realize Giancarlo got the actual results of what they knew was  
6 being run last night. And I think he did forward us the report, just  
7 so you know we haven't had the chance to look at it just yet --

8 THE COURT: Okay.

9 MS. MANINGO: -- but we did take a glance at paperwork  
10 he was referring to with this -- with regards to this gentlemen's  
11 prior record or, I don't know if it's the same guy but same -- man  
12 with the same name. So I think their intent was to call the  
13 fingerprint expert today --

14 THE COURT: Okay.

15 MS. MANINGO: -- and based on this, obviously we're not  
16 going to be able to --

17 THE COURT: You'd like --

18 MS. MANINGO: -- go forward --

19 THE COURT: -- to not have that happen today?

20 MS. MANINGO: -- with that examination.

21 THE COURT: Okay.

22 MS. MANINGO: I don't think there's anything preventing  
23 us from going forward with the rest witness but --

24 THE COURT: Okay.

25 MS. MANINGO: -- and I guess I would say also that

1 maybe, maybe not, but there is, I guess, a possibility that we may  
2 have to recall a crime scene analyst. Again, I haven't processed  
3 this, we haven't talked about it and I don't know what it even means  
4 at this point but we may have to recall somebody or -- I just want to  
5 put that on the record so --

6 THE COURT: Yeah, that's -- look --

7 MS. MANINGO: -- guess these people have been released  
8 from their subpoenas but.

9 THE COURT: -- I'm not going to foreclose you all from  
10 having an opportunity to digest it a little longer and figure out what  
11 you want to do. I think it's reasonable to say I don't want to  
12 question the fingerprint examiner, the guy that's going to talk about  
13 the results yet. So let's hold him off for today. He or she, I'm not  
14 sure. Who is it that --

15 MS. WECKERLY: David Johnson.

16 MR. PESCI: It's David Johnson and we --

17 THE COURT: Okay.

18 MR. PESCI: -- indicated to them that we were intending to  
19 not call him --

20 MS. MANINGO: Right.

21 MR. PESCI: -- based on this. They --

22 THE COURT: Okay.

23 MR. PESCI: I think they were saying yes, we would not  
24 like to have him today, so we've called him off for today.

25 MS. MANINGO: Yeah, and I didn't mean that they were

1 going to try and call him despite this information, but originally  
2 that's what they were going to do.

3 MR. PESCI: Correct.

4 THE COURT: Okay.

5 MS. MANINGO: And they did say that -- they agreed that  
6 we would need more time.

7 THE COURT: Okay. Well look, I mean, we'll do what we  
8 need to do. Obviously since this is a non-jury trial, we have some  
9 flexibility there and, I think we had originally talked about even if it  
10 couldn't get done on Friday we would finish it up the week of the  
11 10<sup>th</sup>, which will give you even more time, if you need to, to figure  
12 out, what your request is going to be.

13 My sense is this morning your Hopkins case may end up  
14 dealing -- I don't know.

15 MR. PESCI: I mean, 17 different times they come back to  
16 me with variations.

17 THE COURT: I know, I know. I just got the sense that Dan  
18 Winder and his client were like oh wait we're actually going to trial  
19 now, so we --

20 MR. PESCI: That was the --

21 THE COURT: -- really want to talk about that.

22 MR. PESCI: -- that was the approach I was trying to give.

23 THE COURT: I know.

24 MR. PESCI: And I've --

25 THE COURT: So, but anyway with that cases, I've always

1 said if we need to carry this case over a little bit, we'll give you  
2 some time before we start that case and figure it out.

3 MR. PESCI: And when I got back, I asked my secretary to  
4 work on the new GPA --

5 THE COURT: Okay.

6 MR. PESCI: -- so that's hopefully working --

7 THE COURT: Okay.

8 MR. PESCI: -- as we're here.

9 THE COURT: All right. so we'll just plan on -- and at this  
10 point I'm going to say we're going to start like 1:30ish but we'll start  
11 up and do the other witnesses today and hold off on the print  
12 examiner and we'll talk about it again tomorrow morning.

13 MR. PESCI: And because of that, we might come up short;  
14 we apologize.

15 THE COURT: It's okay. It's okay. All right. guys --

16 MS. MANINGO: Thank you.

17 THE COURT: -- I'll see you back -- actually let's say 1:45  
18 because I have to go meet somebody for lunch.

19 MR. YANEZ: Judge do you know tomorrow what's the  
20 earliest we're going to be able to start?

21 THE COURT: I'm going to say 10:00 because I had to  
22 continue a sentencing over to tomorrow at 9:00 but 10:00, if not  
23 9:30.

24 MS. MANINGO: Okay.

25 MR. YANEZ: Sure.

1 MR. PESCI: Is it possible to leave our computer and stuff  
2 in here?

3 THE COURT: Yeah, you can leave whatever you want.  
4 We'll lock it.

5 MR. YANEZ: And Judge, the reason I was asking is that  
6 we are probably intending on calling Ken Hardy --

7 THE COURT: Okay.

8 MR. YANEZ: -- and based on his schedule I think he is --  
9 there's a graduation in his family --

10 MS. MANINGO: A marriage.

11 MR. YANEZ: A marriage.

12 MS. MANINGO: Graduation was last week, and marriage  
13 coming up.

14 MR. YANEZ: And we were going to request to call him  
15 out of order. He had strongly requested to us if we could do as  
16 early as possible on Friday.

17 THE COURT: Okay.

18 MR. YANEZ: And then, the only other related hiccup with  
19 that is, he is potentially tied into the testimony of Leslee Siegel,  
20 who's the brother of Jack and I don't think we're going to get to her  
21 today according to what -- Ms. Weckerly, right? We wouldn't get to  
22 her --

23 MS. WECKERLY: Well, she's your witness.

24 MR. YANEZ: Right, but you said to her -- you told her not  
25 to come for today, right? So it would have to be for tomorrow?

1 MS. WECKERLY: Well, I could make her come today.

2 MR. YANEZ: Okay. I wouldn't prefer that but -- I don't

3 want to -- I'm not bossing you around or anything.

4 MS. WECKERLY: Well no, it would be your witness out of

5 order, but yeah.

6 MR. YANEZ: Yes, are you okay with that?

7 MS. WECKERLY: I can try to get her here.

8 MR. YANEZ: Okay. That way, it would avoid -- if not we

9 would have to call her first tomorrow morning and then --

10 THE COURT: Okay.

11 MR. YANEZ: -- Ken Hardy.

12 THE COURT: Well if we can get her here, we'll do her

13 today.

14 MS. WECKERLY: I'll --

15 MR. YANEZ: I appreciate that.

16 MS. WECKERLY: -- I'll try to do that.

17 THE COURT: But as far as Ken, I would say the earliest

18 would be 10:00 because it's a four co-defendant sentencing that I

19 had to continue --

20 MR. YANEZ: Okay.

21 THE COURT: -- so it's probably going to take a little bit of

22 time.

23 MR. YANEZ: Thank you.

24 MS. MANINGO: Thank you.

25 THE COURT: All right.

1 [Court recessed at 12:23 p.m, until 2:13 p.m.]

2 THE COURT: All right. We will be back on calendar. Mr.  
3 Ramos is here with his attorney's and the interpreter. States'  
4 attorneys are present. We will continue on.

5 You guys can call your next witness.

6 MR. PESCI: The State calls Michael Atkin.

7 **MICHAEL ATKIN**

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

10 THE CLERK: Thank you, please be seated.

11 If you could state and spell your name for the record,  
12 please.

13 THE WITNESS: Michael Atkin; A-T-K-I-N.

14 THE COURT: All right. Mr. Pesci.

15 MR. PESCI: Thank you.

16 **DIRECT EXAMINATION**

17 BY MR. PESCI:

18 Q Sir, I want to direct your attention to May 16<sup>th</sup> of 1998.

19 Were you working as a crime scene analyst, and did you respond to  
20 4255 Spencer to process an Apartment Number 120?

21 A Yes, I did.

22 Q Okay. And did you work together with another crime  
23 scene analyst named Jerry Autrey?

24 A That's correct, yes.

25 Q And was there also another one, that -- was it Samantha



1 Fox?

2 A Stephanie Fox, yes.

3 Q I'm sorry, Stephanie. I apologize.

4 What was your responsibility at that scene and what were  
5 the responsibilities of the other two?

6 A My responsibility at this scene I believe, if I recall  
7 correctly, was latent print processing and the construction of the  
8 crime scene diagram.

9 Q Okay.

10 A I believe Jerry Autrey was responsible for the  
11 photographs and myself and Stephanie both worked on the print  
12 processing and the diagram together.

13 Q Okay. Notwithstanding the fact that you did not take the  
14 photographs, were you at that scene to physically see all the things  
15 that were photographed?

16 A Yes.

17 Q And in anticipation of your testimony, have you reviewed  
18 the photographs?

19 A I have, yes.

20 Q And showing you what's been marked at State's Proposed  
21 Exhibits 11 through 87 that had been previously shown to Defense  
22 Counsel. Take a moment to look those over or, are there any  
23 objections?

24 MR. PESCI: So I'd move for the admission, Your Honor, of  
25 11 through 87.

1 MS. MANINGO: No objection.

2 THE COURT: Thank you. Those will be admitted.

3 **[STATE'S EXHIBIT NUMBER 11 TO 87 ADMITTED]**

4 THE WITNESS: This is number 11?

5 MR. PESCI: 11 and 12.

6 BY MR. PESCI:

7 A Okay. 11 and 12, these are reproductions of the crime

8 scene diagrams. Showing in one -- this particular one, just the

9 room itself and this was a more extended version to show the

10 outside hallway and a stairway that was adjacent to the room.

11 Q So let me borrow this for a second, I'm going put it on this

12 screen; to your left, that will show up.

13 Showing you State's Exhibit 11. You said this first one is

14 just dealing with the room, is that --

15 A Yeah, it's just --

16 Q --correct?

17 A -- the room itself, yes.

18 Q All right. Now, was there a bedroom inside of this room?

19 A Yes there was. It's at the far south end of the diagram.

20 Q Okay.

21 A Right there, yes.

22 Q The decedent, however, was he was found in a recliner

23 inside the room?

24 A In the main living area, yes.

25 Q Okay. Were there efforts to document this scene by way

1 of photographs, and then later collection of physical evidence?

2 A That's correct, yes.

3 Q When you first get to a scene is it left as is, for initial  
4 photographs to take overall photos?

5 A Yes, that's correct. Nothing's disturbed prior to  
6 photographs being taken.

7 Q All right. However after working a scene or in the process  
8 of working a scene, can things get moved around so to speak?

9 A Yes.

10 Q Okay. Specifically I want to show you an a -- not an  
11 exhibit, but something to refresh your recollection. I've shown it to  
12 Defense Counsel, and it appears to be an impound report from  
13 Jerry Autrey.

14 Now, are you aware of the fact that Mr. Autrey is  
15 deceased?

16 A Yes, I was made aware of that.

17 Q And in preparation for your testimony, did you review  
18 some of his reports to be able to familiarize yourself with what his  
19 work was as well?

20 A I did. The details that I'm discussing today will be directly  
21 from his report.

22 Q Okay. Did he write the main crime scene report?

23 A He wrote the narrative for the original report on the 16<sup>th</sup>  
24 and then also for the follow up on the 19<sup>th</sup> -- I believe it was or the  
25 20 -- yeah. The 27<sup>th</sup>.

1 Q Okay.

2 A Okay. Yeah.

3 Q And then, did you do the impound report?

4 A I did the impound report for the 19<sup>th</sup>, yes.

5 Q Okay. Speaking of --

6 MS. MANINGO: I apologize. I -- just for the record, I just  
7 do want to make a record that he is referring to his reports as he  
8 testifies. I just want to make a record of that.

9 THE COURT: Do you have those reports there Mr. Atkin,  
10 is that what you've been looking at?

11 THE WITNESS: I have -- Yes, I have the reports from Mr.  
12 Autrey and also my evidence in prior reports --

13 THE COURT: Okay.

14 THE WITNESS: -- that's what I've been reviewing right  
15 here.

16 THE COURT: Thank you.

17 MR. PESCI: Any objection?

18 MS. MANINGO: No.

19 MR. PESCI: Okay.

20 MS. MANINGO: I just want to make a record.

21 MR. PESCI: Thank you.

22 BY MR. PESCI:

23 Q So focusing for a moment, you talked about the 19<sup>th</sup>. I  
24 want to look at this impound report on the 19<sup>th</sup> that impound report  
25 was authored by Jerry Autrey?

1           A     That's correct.

2           Q     Okay. What was impounded on the 19<sup>th</sup> by Mr. Autrey?

3           A     A white undershirt bearing the word Jockey, size large,  
4 and he detailed it as soiled.

5           Q     And where did it come from?

6           A     He collected it from the right middle dresser drawer,  
7 bedroom, Room 120 --

8           Q     Okay.

9           A     -- was his description.

10          Q     So -- and I bring this up because we were just talking  
11 about the bedroom.

12          A     Yes.

13          Q     Going back to State's 110 -- I'm sorry, 11. 110's the other  
14 crime scene here. Was impounded from the 19<sup>th</sup>, that shirt, did it  
15 come from that bottom right corner room that you just spoke of?

16          A     Yes.

17          Q     And is --

18          A     That would've been --

19          Q     -- there in fact a bureau depicted in the crime scene  
20 diagram that you created?

21          A     That is the dresser, yes.

22          Q     All right. Were there photographs -- are there  
23 photographs taken often, even on a subsequent visit like on the  
24 19<sup>th</sup>?

25          A     There's -- anytime anything is done, whether at the scene

1 or the follow up, there's always photographs to document what  
2 was being done that particular time.

3 Q Right. And so when we see photographs of the shirt  
4 being taken out of this particular chest of drawers, that's actually  
5 from the 19<sup>th</sup> not from the 16<sup>th</sup>? Based on --

6 A I would assume so based on the evidence impounds --

7 Q Right.

8 A -- and the time that the pieces of clothing were collected,  
9 yes.

10 Q Right, and we'll go through some pictures in a minute, but  
11 is it safe to say that sometimes in the process of processing the  
12 scene, things will get moved around inside of an apartment?

13 A Yes. Once a scene is initially processed, it was fairly  
14 common to go in and search the room a little more to make sure  
15 things hadn't been underneath a bed, to say or shoved maybe into  
16 a washer/dryer to try and make it look like they were cleaned or  
17 something of that -- just to search areas that weren't really visible at  
18 the time.

19 Q Got ya. So a picture of that particular bedroom, that  
20 particular bureau on the 16<sup>th</sup>, may look different than that particular  
21 bureau on the 19<sup>th</sup> where clothes could be in different positions,  
22 based on this search that occurred on the 16<sup>th</sup>.

23 A That's correct.

24 Q Okay. So somebody fixating on the fact that the room  
25 didn't look exactly the same, could be explained by the fact that a

1 search had been conducted and the photographs were taken on the  
2 19<sup>th</sup>, not the 16<sup>th</sup>?

3 A That would be correct. I would assume that based on the  
4 fact that they returned to the scene, some additional information  
5 became available that made the detectives want to return back to  
6 that scene and that would have probably -- that would have  
7 necessitated the extra searching that went on.

8 Q Got ya. So switching to 12, you said 12 in fact has the  
9 hallways associated with that particular wing of the Camlu  
10 residence?

11 A That's correct.

12 Q Okay. Now we're going to kind of keep this here and then  
13 we'll go through some of your other pictures and I'm going to use  
14 them over here --

15 A Yeah, that's fine.

16 Q -- so that the Court can --

17 A Yeah.

18 Q -- see them at the same time.

19 A That's fine.

20 Q And then this one --

21 A That was yours.

22 Q Before I forget, I want to show you State's Proposed  
23 Exhibit 219, because that has not been admitted yet. Can you  
24 review that and tell me if you recognize it?

25 A Yes, this is a receipt. Let's see if it's something that I did

1 on here.

2 Q And are you currently -- for the record, are you currently  
3 looking at your impound report?

4 A Yes, I am.

5 Yeah, this is a receipt but I'm not clear what its origin is.

6 Q Okay. However, it's not on your impound report, is that  
7 correct?

8 A That's correct.

9 Q All right. Sometimes are there items that you're asked to  
10 impound by detectives that's not necessarily notated in your  
11 impound report?

12 A Yes.

13 Q Sometimes if it's a smaller item like a receipt?

14 A Yes.

15 Q Okay. However is there something unique about this item  
16 that let's you know that it's associated with you, and with this case?

17 A Yeah, at the bottom I indicated the event number, and  
18 also my initials and badge number.

19 Q Okay. And so the event number is that the 98 0 --

20 A That's 980516-400 and the M5409A is my badge number.

21 Q Okay. So you know from that that this is a particular item  
22 from this investigation that you impounded --

23 A Right.

24 Q -- and copies have been made.

25 A That's correct.



1 MR. PESCI: Move for the admission of 219.

2 THE COURT: Any objection?

3 MS. MANINGO: No.

4 THE COURT: All right. Thank you. That will be admitted.

5 **[STATE'S EXHIBIT NUMBER 219 ADMITTED]**

6 BY MR. PESCI:

7 Q All right. Now showing you State's 13 through 16 were of  
8 photographs taken of the room upon entry, to be able to kind of  
9 orient this particular room?

10 A Yes, this would have been what we would have referred  
11 to as an overall photograph. Kind of given the whole general area  
12 of what was visible.

13 Q All right. And this door seems to have kind of a standard  
14 doorknob on it, is that correct?

15 A Yes.

16 Q Looking at State's 14, was there something of interest  
17 near that doorknob?

18 A Yeah, there was what appeared to be a bloodlike  
19 substance on the door and as noted by the scale that was intruded  
20 by Mr. Autrey to note its location in relation to the doorknob.

21 Q And was Mr. Autrey's P-number 4367?

22 A To the best of my memory, yes.

23 Q Okay. And at least it has the --

24 A I would assume since that was his scale, that that would  
25 be his P-number, yes.

1 Q Okay. And then that door in particular, in the process of  
2 working a scene, do you sometimes seal it or is it sealed when you  
3 first start? Depending on the situation.

4 A It depends on the request of the detectives. At times they  
5 will ask for the doors to be sealed, but usually it's at -- on our  
6 departure.

7 Q Okay. So State's 15, this is sealed, like you're saying, on  
8 the departure?

9 A Yes, that's correct.

10 Q In case you need to go back in, like in the particular  
11 situation, on the 19<sup>th</sup> to get that white shirt.

12 A That's correct.

13 Q And then State's 16. What is that evidence of that was  
14 done while you were there?

15 A That looks like some sort of chemical processing. That  
16 wasn't done when I was there, that was -- must have been done at a  
17 later date.

18 Q Okay. Are you familiar with that kind of blue material?

19 A If it's what I'm thinking it is I'm familiar with it being  
20 referred to amido black.

21 Q Okay. Is that an effort to try to find fingerprints?

22 A It's an effort to try to bring about fingerprints that may  
23 have been in blood.

24 Q All right. Showing you State's 17.

25 A Sorry, blood substance. Sorry.

1 Q Is this the view as you first walk in that door?

2 A Yeah, that was the overall view of the living room area.

3 Q In State's 18, we're looking -- it looks like maybe a pizza  
4 box on a counter?

5 A There was quite a bit of clutter; food boxes, cans and such  
6 on the counter of the kitchenette, yes.

7 Q Okay. And State's 18 is that a picture of that particular --

8 A That's a close-up picture --

9 Q -- kitchen?

10 A -- of the sink area, yeah.

11 Q All right. And then kind of working our way around the  
12 room, State's 19. Is that that same kitchenette area?

13 A That's the same kitchenette area, yes. And you see the  
14 bathroom starting to appear in the right side of the photograph.

15 Q Right. There seems to be something here, what is that?  
16 Do you recall?

17 A I didn't recall. I read in the report there was a -- it's a  
18 string I believe that was connected to some sort of an alarm.

19 Q Okay.

20 A Like if a -- somebody in the room had fallen and needed  
21 assistance, they could pull the string and --

22 Q Okay.

23 A -- get a nurse or something to come to see them.

24 Q So from the State's perspective in 19, if we were to -- from  
25 the photographer's viewpoint, turn to the right, would we see what

1 we have in State's 20, which is a entryway into a bedroom?

2 A Yes.

3 Q Okay. And then specifically focusing on State's 21, can  
4 you see that string emanating from the bedroom and working its  
5 way out towards the main sitting area?

6 A Yes.

7 Q Okay. State's 22 working our way around the room, is  
8 that that same string here in the left-hand corner?

9 A I would guess it is, yes.

10 Q Okay. And then it seems to be a couch in the foreground?

11 A Yes, that's correct.

12 Q All right. And -- I mean maybe you can call that a TV tray?

13 A A -- It looked like a TV tray, yeah, with the television on  
14 top and a small dresser in the corner.

15 Q And then by the couch, is there like a tray of some sort?

16 A By the couch, yes, also another TV tray.

17 Q State's 23. Does that depict that tray as well as the  
18 carpet -- I'm sorry the blanket on the carpet?

19 A Yes.

20 Q All right. And then 24, were photographs taken of the  
21 items on top of that TV tray?

22 A Yes.

23 Q Was there brain or -- I shouldn't say that. Was there blood  
24 spatter and some brain matter discovered at the scene?

25 A At the scene, yes.

1 Q Okay. Showing you State's 25. Does that depict some of  
2 that blood spatter?

3 A Yes it does.

4 Q And showing you State's 26. Does that show some of the  
5 brain matter? Or what appears to be?

6 A It appears to be that -- more spatter and brain matter, yes.

7 Q Okay. Now do you look at the brain -- I'm sorry the blood  
8 spatter and try to assess directionality of where things happened?

9 A I didn't at that particular scene. Because of my time on  
10 the department, I wasn't a -- an expert in that field. That was  
11 something that Mr. Autrey would have done with his time on.

12 Q But is the --

13 A You can gain a general knowledge of the directionality  
14 based on the spatter, yes.

15 Q And that's why you tried to photograph that and where it  
16 was.

17 A Right. You try to photograph it to show its relation, both  
18 to the victim, and then how it was cast to the walls.

19 Q All right. And in State's 27, is that that recliner chair?

20 A That's --

21 Q After --

22 A -- I'm sorry, go ahead.

23 Q You go ahead.

24 A Yes, it's the same recliner just from a different angle.

25 Q Okay. And then that's after the decedent had been

1 removed, however?

2 A That's correct.

3 Q Okay. Showing you State's 28. Is that with Mr. Siegel still  
4 in the recliner?

5 A That is --

6 Q Now --

7 A -- it's the same chair.

8 Q -- have we done in essence like a 360 around the room?

9 A Yes.

10 Q Okay. And lastly in 29, are we showing from inside the  
11 room back out to the front door where we started these  
12 photographs?

13 A That's correct.

14 Q Okay. Now on the ground here, on the floor, were there  
15 some items of evidence that became of note later on when you  
16 went back?

17 A On the floor, yes.

18 Q Okay. Are there various pieces of newspaper?

19 A Yes.

20 Q Okay. Do we see here where my finger is kind of by the  
21 foot area of the recliner a piece of newspaper?

22 A That's correct.

23 Q And then over to the right, behind the walker and by -- I'm  
24 not sure is that a pillow?

25 A Yeah, a pillow.

1 Q Is there another piece of newspaper?

2 A That is.

3 Q And is there a dumbbell over more towards to chair by the  
4 recliner?

5 A Yes.

6 Q Were there pieces of newspaper also by the dumbbell?

7 A There were a couple of smaller pieces, yes.

8 Q Okay. Now those pieces of newspaper, did you collect  
9 them in this particular case?

10 A I did.

11 Q Did some of them have blood on them?

12 A They -- I believe they all did. They had what appeared to  
13 be blood on them, yes.

14 Q Were they all impounded under this same event number  
15 with your P-number?

16 A Yes.

17 Q Could they later been -- be tested for fingerprints or the  
18 presence of blood?

19 A That's correct.

20 Q Okay. Kind of focusing in, try to give kind of a little bit of  
21 context, looking at State's 30, is that Mr. Siegel on the chair still,  
22 correct?

23 A That's correct.

24 Q All right. now were there some items of evidence of note  
25 found near and around his body?

1           A     Yes.

2           Q     I want to show you State's Exhibit -- well this will probably  
3 be a little bit better.

4                     Does there seemed to be kind of a pattern in red on the  
5 pillow underneath Mr. Siegel's legs.

6           A     You're speaking of the fabric pattern --

7           Q     Yes.

8           A     -- of the pillow?

9                     Yes, there is.

10          Q     All right. To put it in context our next photograph, which  
11 would be State's 34. Do you recognize that?

12          A     Yes, that's the same pillow under his -- under his knees.

13          Q     All right. And was there something recovered from that  
14 area?

15          A     From the pillow directly?

16          Q     Leg --

17          A     Or from --

18          Q     From near his leg area. Was there a money clip that was  
19 recovered or notated during this investigation?

20          A     I believe it was notated, I don't believe it was recovered.

21          Q     All right. And do we have a photograph --

22          A     I'm sorry, yes it was. The yellow money clip was  
23 recovered from the -- next to the victim's left leg.

24          Q     Okay. And this photograph reflects that?

25          A     That is, yeah.



1 Q Were pictures taken of the bathroom as well?

2 A Yes.

3 Q And that particular bedroom, showing you State's Exhibit  
4 37, do you recognize that?

5 A Yes, that's the bed that was in the bedroom.

6 Q All right. Now I want to show you State's Exhibit 39 and  
7 ask you if you recognize that as the bureau we spoke of earlier  
8 where the white t-shirt came from?

9 A Yes.

10 Q Is there a dumbbell?

11 A There is a dumbbell.

12 Q Are there any clothes on top of the dumbbell?

13 A No clothes on the dumbbell, no.

14 Q All right. When we look at State's 40, is there a drawer  
15 opened up on that bureau?

16 A Yes.

17 Q And then the clothes underneath that drawer -- are there  
18 clothes underneath the drawer in State's 40 that are not on the floor  
19 underneath the drawer in State's 39?

20 A It would appear so, yes.

21 Q Okay. Does there appear then to be in the efforts of  
22 finding this white shirt, clothes that got put on the floor?

23 A That would be my assumption. As I said, I wasn't there at  
24 that time so --

25 Q Okay.

1           A     -- but based on Mr. Autrey's report, I would assume that  
2 that was what was done.

3           Q     All right. And then State's 41 is that the white shirt taken  
4 out of the drawer in State's 40 and then placed on top of that  
5 bureau?

6           A     Based on Mr. Autrey's report, I would assume that is the  
7 shirt, yes.

8           Q     Okay. And then there were photographs taken all around  
9 the room including the closet, the bathroom, the bedroom?

10          A     There would have been photographs taken of the entire  
11 room, yes.

12          Q     All right. Going back to that kind of sink area, showing  
13 you State's Exhibit 43. Do you recognize that?

14          A     Yes, that's the same kitchenette we were speaking of  
15 earlier.

16          Q     All right. And specifically in State's 44 , was there a Carl's  
17 Jr. drink?

18          A     Yes.

19          Q     Now as you look at that particular photograph, did there  
20 appear to be some condensation still on that drink?

21          A     There did, yes. I believe that was the reason for the  
22 photograph.

23          Q     All right. As far as some other specific items inside that  
24 room, showing you State's Exhibit 47. Was there a picture taken of  
25 an individual holding the prescription bag?

1           A     There was.

2           Q     And then showing you State's 45. Is that the prescription  
3 bottle that was found?

4           A     Yes, it was.

5           Q     Okay. Did it -- Does it have the name of a Doctor Stanley?

6           A     Oh yes. Okay, yeah.

7           Q     And is there a date of May 16<sup>th</sup>, 1998?

8           A     There is.

9           Q     All right. And looking at State 46, specifically, is this from  
10 Walgreens?

11          A     Yes.

12          Q     And is it from the Walgreens on East Flamingo with an  
13 address of, it looks like 2995?

14          A     That's what it appears to say, yes.

15          Q     Is it in the same of Jack Siegel?

16          A     Yes.

17          Q     Okay. It's hydrocodone?

18          A     Yes.

19          Q     Okay. Photographs were -- are taken outside of this  
20 apartment as well. State's 48. Is that the external window?

21          A     Yes.

22          Q     And then State's 49 and 50, were those of the area of the  
23 windowsill?

24          A     Yes, that's what appears to be the sills?

25          Q     All right. Do we have the same ruler with the J4367A?

1           A     Yes, that does appear to be Mr. Autrey's scale.

2           Q     Okay. And you mentioned earlier he was -- part of his job  
3 was to do photographs, correct?

4           A     Yes.

5           Q     Okay. And then were there photographs taken around the  
6 room, State's 51, to try to notate the blood spatter? And you talked  
7 about how you can try to ascertain directionality from that  
8 information later.

9           A     Yes.

10          Q     State's 52. Do you utilize or implement some sort of  
11 measuring device to try to show how high these things have hit the  
12 wall?

13          A     Yeah, the scales they serve two purposes; one to just  
14 show the height and the depth, but also you can use those scales to  
15 measure the individual drops and determine the speed and  
16 directionality of the blood.

17          Q     Okay. And looking at State's 53, is that more close up  
18 where you can try to analyze that better?

19          A     Yes, that's a close-up version of what we've just seen for  
20 the purpose of interpretation.

21          Q     Okay. We talked about earlier, the newspaper. Looking at  
22 State's 54, we talked about -- or do we see one of the larger pieces  
23 of newspaper in this photograph?

24          A     Yes, that's one of them right there.

25          Q     However, isn't there another piece over here --

1       A     There is.

2       Q     -- by this pillow, it's just --

3       A     There is.

4       Q     -- not in this --

5       A     Yes.

6       Q     -- photo? Okay. But focusing on, let's see, this particular  
7 exhibit are there two smaller pieces --

8       A     Next to the --

9       Q     -- of newspaper?

10      A     -- next to the dumbbell, yes.

11      Q     Do we have one that appears to have blood on it?

12      A     Right.

13      Q     And is there another one -- some more pieces over here to  
14 the left?

15      A     Yes.

16      Q     Okay. Now we see a piece of larger paper that's kind of  
17 crumpled up that had some print on it. Looking at State's 56, does  
18 that appear to be that piece because there seems to be this item  
19 over here that says cape?

20      A     Right.

21      Q     And if we pull back is that item what we see here?

22      A     Yes, that's correct.

23      Q     Okay. So then State's 57, is that an entirely different piece  
24 of the newspaper than the one we were just looking at in 56?

25      A     It appears to be, yeah. It appears to be a different piece.

1 Q Okay. So that is different than 56?

2 A Yes.

3 Q Okay. So we know we have two large pieces and then

4 two small pieces --

5 A That's correct.

6 Q -- of newspaper?

7 A Yes.

8 Q You know what, that was really foolish of me. State's 58,

9 we could've have just cut out the zooming in.

10 A Oh okay, yeah.

11 Q Does that show these two pieces better?

12 A That's a depiction of the same two small pieces of paper,

13 yes.

14 Q State's 59.

15 A Yes, the same two.

16 Q Was -- Were there efforts to do fingerprinting around the

17 room?

18 A There were.

19 Q Okay. Showing you State's 61, the door jam of the

20 entrance door. Was that processed?

21 A That was processed. You can -- which you can see with

22 the black powder stains that are left on the door jam.

23 Q And is there some tape in the process --

24 A Yeah, that's a --

25 Q -- of.

1           A     -- that's a piece of latent print lifting tape that would have  
2     been placed over what appeared to be a visible print post-  
3     processing that would have been collected and sent to the  
4     examiners.

5           Q     Okay. State's 62, is that the overall of the door?

6           A     Of the yes, of the door. Yeah.

7           Q     And then focusing on State's 64, were there areas that  
8     were notated as of possible locations of latent prints?

9           A     That is with the red digits, yes.

10          Q     Okay. State's 65. In addition to the door and the door  
11     jam, were items inside of the apartment processed for  
12     fingerprinting?

13          A     Yeah, they were.

14          Q     And are they depicted in State's 65?

15          A     Yes, that does appear to be items. You can also see the  
16     fingerprint tape on some of those items.

17          Q     State's 66 was the phone -- I don't even know what we call  
18     this?

19          A     Looks like a base.

20                 THE COURT: Base.

21     BY MR. PESCI:

22          Q     Okay. State's 67. Was the table also processed?

23          A     It does appear so, yes.

24          Q     And then State's 68, the window?

25          A     It -- yes, it appears so.

1 Q All right. So there are efforts all over that --

2 THE COURT: Just, for the record those were the blinds on  
3 the windows, right?

4 THE WITNESS: The blinds, yes, sir.

5 THE COURT: Thank you.

6 MR. PESCI: Thank you, Your Honor.

7 BY MR. PESCI:

8 Q In these various locations efforts were made to try to find,  
9 or recover fingerprints?

10 A That's correct.

11 Q Now, earlier we looked at your diagram, State's 12, which  
12 incorporated the hall in addition to the room, is that correct?

13 A That's correct.

14 Q Showing you State's Exhibit 69. Where is this, in relation  
15 to State's 12?

16 A Going to put this one back up. This one being State's 69.

17 Q That's showing the external area of the room -- or, I'm  
18 sorry the hallway with the room to the left side of the photograph  
19 and that exit door to the stairwell, I believe it was, in the  
20 background.

21 Q All right. So if we go back to State's 12, the door you  
22 were just referring to, is the entrance to the apartment --

23 A That's --

24 Q -- correct?

25 A -- correct.



1           Q     The photographer in State's 69, is standing what would be  
2 on State's 12, the far-right hand end of the hallway?

3           A     That looks correct, yes.

4           Q     And looking straight forward towards the door that you  
5 depicted in State's 12, correct?

6           A     That's correct.

7           Q     Which in State's 69 shows up as a brown door in the  
8 foreground.

9           A     That's correct.

10          Q     Okay. Just to kind of orient everybody where we are.  
11                And in State's 12, through the door we just mentioned,  
12 there is a hallway where there are some stairs, is that correct?

13          A     That's correct.

14          Q     And showing you State's 74. Is that depicted in your  
15 State's 12?

16          A     Yes. That's shows the stairs leading to the second floor,  
17 and also the exit door to the outside yard.

18          Q     All right. So in State's 74, the door that has the words exit  
19 over the top shows up in State's 12, labeled with exit and a Number  
20 8?

21          A     That's correct.

22          Q     Okay. So we've got an exit door near the door of Jack  
23 Siegel?

24          A     Yes, that's correct.

25          Q     And in fact at the opposite end, which would be the North,

1 based on your legend, the opposite end of the exit door to the  
2 South where -- by the stairs, is there a door to the yard?

3 A There was.

4 Q Okay. So there's means of exit at both ends of that  
5 hallway. The North and the South by the stairs?

6 A Yes.

7 Q Were photographs taken of the various doors throughout  
8 this location?

9 A I believe they were, yes.

10 Q And showing you State's Exhibit 75. Is that a door to a  
11 stairway?

12 A Yes, it is.

13 Q Is there a -- the measuring tool near the handle of the door  
14 to push it open?

15 A Yes.

16 Q State's 76. Does there appear to be some evidence that  
17 was notated based on the positioning of that measuring?

18 A Yes, there is.

19 Q And then State's 77. Are these other doors within this  
20 facility?

21 A It appears so, yes.

22 Q All right. State's 79. This will also be another door with  
23 an exit sign?

24 A Yes.

25 Q Now was evidence collected and taken back to the lab for

1 further processing?

2 A Yes.

3 Q As far as that goes, did it remain that Mr. Autrey and Ms.  
4 Fox were taking that physical evidence and you were notating and  
5 impounding that evidence?

6 A I was notating and impounding evidence both from the  
7 scene and then from the vehicle that was taken back to the lab, yes.

8 Q Perfect. And when that process was going on, now  
9 focusing on the vehicle, were you present while Autrey and Fox  
10 worked that car?

11 A I was present in the garage at the time, yes.

12 Q Okay. Before we get to the car, showing you State's 80.  
13 Do we have a photograph of that newspaper?

14 A Yes, we do.

15 Q Okay. And then State's 82. Does that appear to be the  
16 same tank top that we saw taken out on the 19<sup>th</sup> from that dresser  
17 drawer in the bedroom?

18 A It does appear so, yes.

19 Q Speaking of the car, which was just talked about, showing  
20 you Exhibit 83. Do you recognize that?

21 A I do, yes.

22 Q And what do you recognize that to be?

23 A Under the impound it was a '93 Dodge Spirit, 4 door, grey,  
24 bearing Nevada Handicap Plate 4923.

25 Q Okay. And was that based on the investigation of a car of

1 import or concern thus that it was brought to the lab to be  
2 processed?

3 A That's correct.

4 Q And in fact, do we realize that you're in this photograph?

5 A Yes, that is me.

6 Q So on the left-hand side.

7 A Yes.

8 Q So were you, in this position, impounding the evidence  
9 which we see in these manila envelopes?

10 A That would have been the -- in evidence brought back  
11 from the room. So I was sitting right in that position impounding  
12 that evidence and doing the car while it was being processed.

13 Q All right. And in State's 84, is that the open trunk of that  
14 same vehicle with a wheelchair inside?

15 A Yes.

16 Q The inside of the vehicle was photographed again looking  
17 at State's 85. Do we have the same measuring tool bearing  
18 J4367A?

19 A Yes, we do.

20 Q Was -- does there appear to be something that's on the  
21 wheel of that car that's being notated?

22 A There is. And I believe -- Mr. Autrey noted that as being  
23 what he was concerned of being bloodlike substance.

24 Q Okay. speaking of bloodlike substances, let's go to 86,  
25 staying in that car. Was there something that appeared to be blood,

1 that was notated?

2 A Yes.

3 Q In fact, in State's 87, was that portion of carpeting cut out  
4 of the vehicle in order for further testing to be done?

5 A Yes, it was.

6 Q Were any presumptive tests done with any of this material  
7 from the car that you know of?

8 A I don't recall seeing that for the car, no.

9 Q Okay.

10 THE COURT: What was that last photograph? I'm sorry.

11 MR. PESCI: Sorry, Judge. That's Number 87.

12 THE COURT: And I'm sorry if I missed that Giancarlo, but  
13 where in the car is that?

14 MR. PESCI: Okay. We're going to go back to 86. Is that  
15 the area between the two front seats?

16 THE WITNESS: It does appear to in the console area, yes.

17 THE COURT: Okay. Thank you.

18 BY MR. PESCI:

19 Q And that carpet was taken and preserved for testing?

20 A That's correct.

21 Q Court's indulgence.

22 [Colloquy between Counsel]

23 BY MR. PESCI:

24 Q Do you recall from your reports, the date of the  
25 impounding of the newspaper?

1           A     The date, according to my evidence impound report,  
2 would have been 5/16 of '98.

3           Q     Okay. So you impounded it on the day that you worked  
4 that scene?

5           A     Yes.

6           Q     All right. Now when you worked the Jack Siegel scene,  
7 did you do anything with the Helen Sabraw scene?

8           A     I wasn't aware of a second scene at that time, no.

9           Q     Later on, did you become aware of one?

10          A     I did several days later.

11          Q     Did you have anything to do with that scene?

12          A     I had nothing to do with that scene.

13          Q     Pass the witness.

14                THE COURT: Ms. Maningo.

15                MS. MANINGO: Thank you, Your Honor.

16                Court's indulgence.

17                       [Colloquy between Counsel]

18                MS. MANINGO: Your Honor, can I have permission to just  
19 move this just a little bit?

20                THE COURT: Sure.

21                MS. MANINGO: Thank you.

22                       **CROSS-EXAMINATION**

23                BY MS. MANINGO:

24                Q     Good afternoon, Mr. Atkin, how are you?

25                A     How are you?

1 Q I'm good. So let's talk a little bit just about the overall  
2 scene. You said that when you get there obviously you take some  
3 overall pictures and you kind of assess things generally, right?

4 A That's correct.

5 Q Okay. And in that process, in this case in particular, you  
6 looked to see if there was any signs of forced entry, correct?

7 A Yes.

8 Q Okay. And in this case, you did that with the rest of the  
9 team, correct?

10 A I don't recall that I did it personally. I know Mr. Autrey  
11 was, being the senior analyst on the scene, he was more assessing  
12 those types of things.

13 Q Okay. And of course in preparation for this, you said you  
14 reviewed his report?

15 A I did.

16 Q Do you recall that that was actually something that was  
17 done at the scene?

18 A I did recall reading something about that in his report. If  
19 you give me just a second.

20 Q Sure, if it would refresh your recollection, go ahead.

21 MR. PESCI: While he looks at that, may I just interrupt of  
22 one second?

23 [Colloquy between Counsel]

24 BY MS. MANINGO:

25 A Is it okay to? Okay.

1 Q Does that refresh your recollection?

2 A Yes. I was noting his report -- Mr. Autrey reports in here  
3 that he was looking at the two windows in the -- that are adjacent to  
4 the room. And that's the only place in here that he makes note --a  
5 particular reference to there not being any -- did not appear to be  
6 any forced entry in, quotations, tool marks on the middle portions  
7 of the window.

8 Q Okay.

9 A Although the window screens had been removed. He also  
10 notes that the window screens were lying on the ground, had been  
11 taken off, and sliding finger marks were observed on the windows.

12 Q Okay. So is it true that his report says there does not  
13 appear to be any forced entry?

14 A In relation to the windows, yes.

15 Q Okay. Does it say anything in relation to anything else  
16 that there was forced entry?

17 A Not that I read, no.

18 Q If there was in fact forced entry to the front door, for  
19 example, or any other portion of the apartment that would have  
20 been noted, correct?

21 A It would have noted. Also, it would have been visible in  
22 the photographs.

23 Q Okay. And it wasn't, correct?

24 A I don't recall seeing it in the photographs, no.

25 Q Okay. So fair to say, based on the information you have



1 from the report and your independent recollection, there was no  
2 signs of forced entry?

3 A That would be correct, yes.

4 Q Okay. In addition to that, other than the disturbance  
5 around the actual recliner and the victim himself, there was no  
6 other dis -- sign of disturbance within the apartment with regards to  
7 ransacking or anything like that. Is that correct?

8 A Not that I noted, no.

9 Q Okay. And isn't it true that Mr. Autrey actually specifically  
10 noted that in his report?

11 A That --

12 Q And, if I could.

13 A Do you have it?

14 Q Yes. If could --

15 A Go ahead.

16 Q -- refer you to. It's page 2 of the forth complete, well I'm  
17 sorry -- third complete paragraph. It's kind of towards the middle.

18 A The paragraph that starts with, The area around the  
19 recliner?

20 Q It starts with, The door to Room 120.

21 A Okay. Okay. Did not appear to have any signs of forced  
22 entry other than the strips on the -- yes, that's correct. What -- your  
23 statement was correct, yes.

24 Q Okay. So going back that specifically says that the door to  
25 Room 120 did not appear to have any signs of forced entry --

1           A     That's correct.

2           Q     -- right? So now, based on that we can verify that there  
3 was no forced entry to the window or the door.

4           A     Yes.

5           Q     And then the question was, other than the disturbance  
6 around the area of the victim, there did not to be -- appear to be any  
7 signs of disturbance or ransacking.

8           A     That's correct, according to the report, yes.

9           Q     Okay. Let me show these photographs.

10           MS. MANINGO: May I approach Your Honor?

11           THE COURT: You may.

12           BY MS. MANINGO:

13           Q     Now, just ahead of time some of these might be duplicate  
14 but --

15           A     Okay. That's fine.

16           Q     Just -- I just didn't want to have to search through theirs.

17           A     Sure.

18           Q     Can you take a look at what's been marked --

19           MS. MANINGO: And Your Honor, I believe there's no  
20 objection to that. Is that correct, Mr. Pesci, to any of these  
21 photographs?

22           MR. PESCI: No objection.

23           MS. MANINGO: Okay. Move for the admission of  
24 Defense F, E, D, C, and B, and A and I'm sorry I wasn't sure they  
25 were in chronological order, so.

1 THE COURT: So?

2 MS. MANINGO: A through --

3 THE COURT: F?

4 MS. MANINGO: F. Thank you.

5 THE COURT: Thank you. No objections?

6 MR. PESCI: No objections.

7 THE COURT: All right. A through F will be admitted.

8 **[DEFENSE'S EXHIBIT NUMBERS A to F ADMITTED]**

9 MR. PESCI: Except for the order.

10 MS. MANINGO: I thought they were out of order at first,

11 then I started realize that they weren't.

12 THE COURT: It's okay.

13 MS. MANINGO: Actually, what I -- why don't I go ahead

14 and --

15 THE WITNESS: Sure.

16 MS. MANINGO: May I publish, Your Honor?

17 THE COURT: Yes.

18 BY MS. MANINGO:

19 Q Okay. I'm publishing what's admitted as Defense Exhibit

20 A. This shows a photo of, again, when you walk into the door to

21 the right, kind of an overall photograph, correct?

22 A Yes.

23 Q Okay. And you testified before that this is the way Mr.

24 Siegel was when you came into the room, correct?

25 A That's correct.

1 Q Okay. And he is obviously laying in the recliner with his  
2 feet up, pillow under him, correct?

3 A Yes.

4 Q Okay. And there was no blood around the recliner or  
5 around his area indicating any type of movement or struggle  
6 outside of that recliner chair, is that correct?

7 A You mean aside from the blood that was noted on walls  
8 and the chair and --

9 Q Yeah.

10 A Oh.

11 Q And let me start maybe this --

12 A Just want -- I understand what you are saying.

13 Q So.

14 A That's what you're referring to?

15 Q Yes.

16 A Well, yeah. As previously testified the blood on the walls  
17 the -- on the chair, I don't know exact -- they're in here. But there  
18 was blood noted around the body, yes.

19 Q Okay. So let's start with this the blood spatter was  
20 consistent with the way that he was seated in the recliner, correct?

21 A Yes, that would be correct.

22 Q Okay. So based on the blood spatter and I realize you said  
23 that Autrey was the one that made those conclusions --

24 A Right.

25 Q -- at the time. It appeared as if Mr. Siegel was in that

1 position when he was struck by whatever item he was struck with,  
2 correct?

3 A That would be correct, yes.

4 Q So the blood spatter, first of all, was consistent with that?

5 A Yes.

6 Q And the other thing that was consistent was that -- with  
7 that is that around the recliner, there was no blood indicating that  
8 he was outside of the recliner when he was hit, correct?

9 A Right. That's correct, yes.

10 Q Or that there was any type of struggle outside the area of  
11 the recliner?

12 A No. It didn't appear there was any struggle, no.

13 Q He had actually glasses also laying on his lap. Is that  
14 right? Do you remember that?

15 A That I don't recall. Is that in the photo?

16 Q It is, let me find it.

17 MS. MANINGO: Actually, let me see yours. I thought I had  
18 it pulled up.

19 [Colloquy between Counsel]

20 BY MS. MANINGO:

21 A Yeah, it's right here in the report. The victim's eyeglasses  
22 were laying on top of the -- on top of his slacks at the bottom of the  
23 shirt.

24 Q Okay. So publishing State's 31. Those glasses --

25 A Right, yes.

1 Q -- appear to be near his arm, correct?

2 A Near the slacks at the -- where the bottom of his shirt is  
3 oriented in that photo, yes.

4 Q Right. And --

5 A That appears to be consistent with the report.

6 Q -- and I understand the orientation, but in this photo that  
7 we're looking at now it is the glasses that are like a brass or gold  
8 that are -- appear to be on his lap near his hand, fair?

9 A It looks like more kind of on his stomach, but yeah.

10 Q And the report reflects that it's on more of his stomach or  
11 left.

12 A Right, that's correct.

13 Q And showing you State's 32. That also shows that there is  
14 no blood on the bottom of his feet, correct?

15 A Yes, as best as I can tell that's correct.

16 Q And again, other than the blood spatter that's to his right,  
17 there's no blood in the area with regards -- you know, under his  
18 feet, or close to the recliner.

19 A Not that I can see in that photograph.

20 Q Okay. And just to be sure, and I think you already agreed  
21 to this, that according to Mr. Autrey there was no blood around the  
22 victim indicating moving or struggle outside of the chair.

23 A That appears correct, yes.

24 Now, Mr. Autrey did report or did record that --

25 Q Well I'll -- we'll go ahead and move on to the next thing,

1 because I want to make sure there's a question posed.

2 A Well this relates to the shoes. It says that there was  
3 apparent blood on the toe of his right shoe. Other -- that's the only  
4 notation that I have of that.

5 Q And that would just be, again -- let me put that back up  
6 there.

7 This is the State's 32.

8 That's not very clear.

9 A No, it's --

10 THE COURT: I don't know if we could turn the lights down  
11 on that?

12 THE WITNESS: I'm going to --

13 MS. MANINGO: -- kind of bleached out. Yeah.

14 May I approach the witness?

15 THE COURT: Yes.

16 BY MS. MANINGO:

17 Q I'm going to actually show you 32 -- the State's 32. Is  
18 that -- can you --

19 A That would be what he was referring to as the toe of the  
20 right shoe, yes.

21 Q Okay. So it seems to be a mark of apparent red substance  
22 on his shoe.

23 A Yes. Mr. Autrey determined it has apparent transfer of  
24 apparent blood, yes.

25 Q Okay. But again to be clear there's no blood on the

1 bottom of his shoes?

2 A On the bottom, yes. That's correct.

3 Q Now, on the -- what's up here again, which is Defense A,  
4 near the recliner is -- there's a chair and near the chair there's a  
5 lamp that's actually been knocked over, correct?

6 A Yes, that's correct.

7 Q And showing you B, which I believe the State also  
8 published this picture as well.

9 A Yes.

10 Q That lamp that was knocked over near the victim was  
11 actually processed for latent prints --

12 A Yes --

13 Q -- at the scene, correct?

14 A -- it does appear so. Yes.

15 Q And you're not aware whether these were tested but you  
16 just --

17 A I would've submitted them to the fingerprint bureau and  
18 the results -- they would know the results. I don't have access to  
19 that information.

20 Q Showing you Defense's C. Is that another view, basically  
21 of the area you just testified to his shoe, the right shoe? Is that --

22 A Yeah.

23 Q -- another view of that area --

24 A Yes.

25 Q -- near his shoe?



1           A     It is, yes.

2           Q     Okay. And that was a watch on the floor that was actually  
3 recovered, correct?

4           A     Yes, it was.

5           Q     Okay. And it was processed for latent prints, is that right?

6           A     Let me refer real quick here.

7           Q     Sure.

8           A     Yes, I noted in my evidence report that Item 11, which was  
9 the Crown watch was processed for prints with positive results. I'm  
10 sorry, it did not have positive results. So don't -- prints were  
11 processed but nothing was recovered.

12          Q     Okay.

13                   MS. MANINGO: Court's indulgence.

14 BY MS. MANINGO:

15          Q     Other than the watch, in addition, there was also, showing  
16 you Defense D, a piece of jewelry that was actually on the tray that  
17 was near that recliner. Is that correct?

18          A     Yes. It looks like a bracelet, possibly?

19          Q     And that was something that was collected as well?

20          A     No, the bracelet was not collected.

21          Q     Okay. So sometimes there's things that are actually  
22 photographed but not impounded, fair?

23          A     I'm not sure that this particular photograph is depicting  
24 the bracelet as much as the -- what looks like blood in the upper  
25 left-hand corner area. Based on the placement of the scale, I tend

1 to lean towards that was the reason for the photograph rather than  
2 the bracelet.

3 Q Okay. But it is -- it does happen that things are  
4 photographed but not impounded, correct?

5 A Yeah, unless at the time it was determined that it served  
6 some sort of evidentiary value, we don't just collect everything at a  
7 scene.

8 Q Right. And then sometimes later things do become of  
9 evidentiary value but maybe not that day.

10 A If -- yeah. Sometimes information becomes available at a  
11 later time.

12 Q Okay.

13 MS. MANINGO: And do you have the casino receipt? Do  
14 you know what -- the casino receipt?

15 MR. PESCI: The casino receipt? I think that was yours.

16 [Colloquy between Counsel]

17 BY MS. MANINGO:

18 Q There was also a casino receipt that was at the scene,  
19 correct?

20 A Yes.

21 Q A transaction withdrawal receipt?

22 A Yes.

23 Q Okay. And the receipt was for \$602. Is that right?

24 A I noted \$600.

25 Q Okay.

1           A     Yes.

2           Q     And was that a transaction that occurred from an actual  
3 casino?

4           A     I don't have it in front of me but in my evidence impound,  
5 Item Number 8, I noted as a casino transaction receipt \$600 located  
6 on the TV tray next to the victim.

7           Q     Okay. And do you recall seeing the back of that receipt  
8 when you processed the scene?

9           A     I don't recall that, no.

10          Q     Okay. Showing you Defense F. Is this the casino receipt  
11 that we just talked about?

12          A     Yes, it is. Yeah, with the withdrawal of \$600, yes.

13          Q     Okay. And what is depicted next to that receipt? Is that  
14 the back of the receipt?

15          A     That would have been the back of the receipt, yes.

16          Q     Okay. And on the back of that is just some calculations  
17 with some numbers and amounts --

18          A     Just --

19          Q     -- correct?

20          A     Yeah, that -- they're just a bunch of numbers. I have no  
21 idea what they are.

22          Q     Again, at the time they may have been of evidentiary  
23 value, correct?

24          A     I don't recall the exact reason that the casino receipt was  
25 kept, other than it may have had a time on it that was important to

1 the detectives.

2 Q At the time, obviously, it was something that was --

3 A They wanted --

4 Q -- important?

5 A -- it collected, yes.

6 Q Okay. And showing you E. Was a -- the victim was also  
7 wearing jewelry, is that correct?

8 A That I'm not sure of. I wasn't that close to him and in his  
9 condition, it wasn't real easy to see what he was wearing.

10 Q So that's something that might have been impounded and  
11 more closely looked at, at the time of autopsy?

12 A This appears to be an autopsy photo, yes.

13 Q Okay. So you have no independent recollection of that?

14 A I didn't attend the autopsy --

15 Q Okay.

16 A -- so no, I don't.

17 Q Okay. Now, there was -- again you testified there was a  
18 bedroom that was a -- actually was a room that was separate from  
19 the family room, correct?

20 A Yes.

21 Q It had a door to it.

22 A Sperate and adjoined.

23 Q Okay. Showing you Defense W. This is, I believe  
24 something -- the State had a similar picture up here.

25 This is how the room was when you processed the scene

1 correct?

2 A That's correct.

3 Q Okay. So there the dumbbell is not covered or anything,  
4 there's no clothes scattered about, correct?

5 A Yes, that dumbbell was a second one though and that's  
6 noted in the report as being separate from the one next to the  
7 victim.

8 Q So there were actually two dumbbells, both 25 pounds in  
9 the apartment; one was in the bedroom and one was near the  
10 victim?

11 A That's correct. If you refer to the diagram, Item 1 was the  
12 one next to the victim with the bloodlike substance and Number 6  
13 was noted as the second dumbbell.

14 Q Okay. And showing you a closer picture of that dresser,  
15 which is X, Defense X. Also, on that dresser and hard to see and  
16 maybe if you have a memory of this there was another watch on  
17 the dresser, is that right?

18 A This appears to be the photo from the follow-up  
19 investigation and I wasn't involved in that.

20 Q Okay. Let me take that one off and put the other one back  
21 on. It's admitted. Do you recall another watch that was on the --  
22 that dresser?

23 A I don't recall one.

24 Q Okay.

25 A This is kind of grainy, I can't really make out the objects

1 on top.

2 Q Okay. And the report does actually say that there was  
3 another watch that was on the bedroom dresser --

4 A Okay.

5 Q -- that was actually processed for prints, correct?

6 A I don't recall reading that in the report. Do you have the  
7 page?

8 Q Let me see if I do.

9 Page 3, first full paragraph.

10 A Okay. That's referring to the watch that was recovered  
11 next to the victim. That's not the bedroom.

12 Q Okay. And at the end of that paragraph it says another  
13 wristwatch. Can you read that --

14 A Oh.

15 Q -- to yourself?

16 A A Casio black nylon band was on the dresser of the  
17 bedroom, yes.

18 Q Okay.

19 A So, that --

20 Q So there were --

21 A --that would have been correct, yes.

22 Q So there was the one, near the victim, on the floor?

23 A Yes.

24 Q And then there was one actually on the dresser?

25 A On the dresser, yes.

1 Q So they were both processed for prints, correct?

2 A Yes.

3 Q Okay. In addition to that, on that same dresser is coins. A  
4 bucket of coins, and also a bag of coins, correct?

5 A I did just read about the bucket of coins, yes.

6 Q Again --

7 A Yeah, there were coins on the top of the --

8 Q Okay.

9 A -- the dresser, yes.

10 Q In addition to that, there was also a safe that was actually  
11 in the bedroom, is that correct?

12 A I don't recall a safe.

13 MS. MANINGO: Court's indulgence.

14 BY MS. MANINGO:

15 A Yes, in the report it does indicate that there were some  
16 clothing on top of a safe.

17 Q Okay. I'm showing you Defense I. Is that the safe that  
18 was in the closet?

19 A It appears so, yes.

20 Q Okay. And that safe was visible from standing outside of  
21 the closet, correct? I'll zoom out so you could get a better view.

22 A It looks like it would have been, yes.

23 Q Okay. And again, it was noted that there was no  
24 disturbance around that area, is that right?

25 A It did say that it didn't appear to be disturbed around the

1 safe.

2 Q Okay. On the kitchenette there were several items. Mr.  
3 Pesci went through a cup that was on there, correct?

4 A The Carl's Jr. cup, yes.

5 Q Yeah. Let me zoom in on there. There was also keys  
6 actually found in that area. Do you recall that? And I'm trying to  
7 zoom in. Are there keys that are behind that glass, or the cup or do  
8 you remember exactly where they were?

9 A I don't remember exactly where they were, but I also can't  
10 really make it out from that photograph.

11 Q Okay.

12 MS. MANINGO: And I'm going to approach, Your  
13 Honor --

14 THE COURT: Okay.

15 MS. MANINGO: -- please.

16 Thank you.

17 BY MS. MANINGO:

18 Q This is the photograph which I just published which was  
19 A, and it's not as close up as I was trying to make it, but can you see  
20 keys there on the actual kitchenette?

21 A I see something near the cup, but I can't really make out  
22 what it is.

23 Q Okay. But those keys are actually noted in the report even  
24 though there's not an individual close up photograph --

25 A Okay.



1 Q -- of that, correct?

2 A I don't see. I don't see a mention of the keys.

3 MS. MANINGO: Court's indulgence.

4 BY MS. MANINGO:

5 Q This would be on page 3 of Autrey's report.

6 A Uh-huh.

7 Q Second full paragraph, near the top.

8 A Yeah, two key ring sets of keys to Room 120 and to the  
9 victim's vehicle.

10 Q Okay.

11 A Yes. So yeah, it's indicated in the report.

12 Q Okay. So actually there's two sets of keys --

13 A According to the report --

14 Q -- two sets to the actual apartment --

15 A Yes.

16 Q -- correct? And one to the vehicle.

17 A According to the report, that would be correct, yes.

18 Q Okay. Now, again this is Defense's J, which we saw a  
19 similar picture. I just want to again, go over this assign -- crime  
20 scene diagram in relation to this door. First of all, this is a door  
21 leading to a stairway, correct?

22 A It appears so, yes.

23 Q And it also leads to a couple exits to the building?

24 A Yes.

25 Q And this is the close up, which is Defense A which shows

1 the close up of the handle of that door?

2 A The push bar, yes.

3 Q Okay. And what there -- what you guys are depicting  
4 there is a bloodlike substance on that handle, correct?

5 A That's correct.

6 Q Okay. Now showing you State's 11, which is the --  
7 actually not State's 11, but State's 12, which is the crime scene  
8 diagram.

9 Can you point to where that door is on the crime scene  
10 diagram?

11 A On the diagram it would be depicted by the Number 8 and  
12 the arrow pointing towards that door. In the description it's listed  
13 as a bloodlike substance on the interior push bar of the exit door.

14 Q Okay. What item number was that?

15 A On the diagram?

16 Q Yes.

17 A Number 8.

18 Q Okay.

19 MS. MANINGO: Court's indulgence.

20 BY MS. MANINGO:

21 Q I just wanted you to take a look at your reports again and  
22 verify that it was not -- that it was not the door that's leading into  
23 the stairwell versus the exit door that that was processed on.

24 A No, according to the diagram and my evidence impound,  
25 it was the door as depicted as Number 8; that exit door.

1 Q Okay. The door that's depicted as Number 8 would not  
2 have a sign that says stairway, correct? It would just have the exit  
3 sign?

4 A That I don't recall.

5 Q Okay. Fair that this picture, which is Defense's J, is  
6 actually the door leading -- when you walk out of Mr. Siegel's  
7 apartment to the left. That's the first door to get into the area that  
8 goes into the stairwell, correct?

9 A It --

10 Q So let me --

11 A -- yeah. It --

12 Q -- I'm going to try and put the diagram side by side.

13 A It looks like it, yes.

14 Q Okay. So what's depicted in this photograph actually is  
15 not Number 8, correct? It's the other door that's above Number 8,  
16 next to the door to the yard. Is that right?

17 A Yes, it looks like it.

18 Q Okay. So just to be clear if you walk out of Mr. Siegel's  
19 apartment and you make a left, the first door that you encounter is  
20 a door that leads to either an exit or a stairwell, right?

21 A Yes.

22 Q Okay. And that's actually the door that was that bloodlike  
23 substance on, correct?

24 A Yes.

25 Q So one of the things that the State showed you before

1 was a picture of a -- of blood that actually was found on the exterior  
2 of the front door of Mr. Siegel's, correct?

3 A Yes.

4 Q Okay. So that would be his front door, the exterior, right?

5 A Right.

6 Q And then there was blood on the interior handle of the  
7 stairway door we just talked about, correct?

8 A Yes.

9 Q So it would be from this door and then there's blood on  
10 this door as well.

11 A That's correct.

12 Q And then there's actually blood on the interior door  
13 handle to the South exit, which is the door you were talking --

14 A Which is --

15 Q -- about before which is --

16 A -- which is the Number 8, yes.

17 Q -- Number 8, okay. So you were correct that there is a  
18 bloodlike substance found there, it's just not the one that was  
19 depicted --

20 A In that photo.

21 Q -- in that photograph.

22 A Yes, that's correct.

23 Q Okay. And then if you exit that apartment there's parking  
24 lots obviously near the building, correct?

25 A To the best of my memory, yes.

1 Q Okay. And then you found blood in one of the vehicles in  
2 the parking lot, correct?

3 A Yes.

4 Q Okay. And this is where the vehicle -- showing you  
5 Defense's L. This is where the vehicle was parked, correct?

6 A Yes, that's correct.

7 Q Okay. And that depicts not only where the vehicle was  
8 parked but that there was tape put around, I guess, the doors and  
9 the trunk to secure the vehicle --

10 A Yeah.

11 Q -- for later processing.

12 A Yeah, the car was being sealed prior to towing.

13 Q Okay. So where would -- the last door that we talked  
14 about, the exit door, where is that in relation to the car and the front  
15 door?

16 A That I don't recall.

17 Q Okay. Do you recall what way -- if you are -- do you  
18 remember what street the front door was facing? Or what direction  
19 at least.

20 A The front door of the --

21 Q Yes.

22 A -- room?

23 Q Of -- no, of the actual building --

24 A Oh --

25 Q -- that -- we'll we're --

1           A     -- no, I don't.

2           Q     -- looking at there.

3                   Okay. Was -- is it -- do you recall -- does it refresh your  
4 recollection that the front of that building faces East?

5           A     I don't recall which direction.

6           Q     Okay. So you're not sure where the apartment is in  
7 relation to the vehicle, but you know that that vehicle's in a parking  
8 lot outside of the apartment, fair?

9           A     That much, yes.

10          Q     Okay. So you take -- not only is this sealed but obviously  
11 you take it to the lab later. Showing you Defense M. And that's  
12 where the -- it will be eventually processed, and you said that was  
13 by Mr. Autrey?

14          A     Mr. Autrey and Stephanie Fox, yes.

15          Q     Okay. Now the Judge asked you before with regards to  
16 where the location of the blood and the vehicle. I'm going to show  
17 you a photo kind of a little bit dis -- an overall, correct?

18          A     Yes.

19          Q     And so, there's two seats obviously in the front --

20          A     That's correct.

21          Q     -- correct?

22          A     Yes.

23          Q     And there's a space in between those two seats.

24          A     Yes.

25          Q     Okay. And so the blood -- some of the blood was found

1 between those two seats, correct?

2 A Yes, that's correct.

3 Q And this is the close up, which is Defense's P, of that area.

4 A Yes, that's correct.

5 Q And that in -- there is several stains in that area, correct?

6 A There appears to be two, indicated by the scale, yes.

7 Q And that entire portion was cut out.

8 A Yes --

9 Q Correct?

10 A -- that's correct.

11 Q Okay. And this is -- if you look you saw before that  
12 depicts the portion that was cut out.

13 A That's correct.

14 Q Okay. Also, but in addition to that blood, there was more  
15 blood in the vehicle, correct?

16 A Yes.

17 MR. PESCI: Judge, I'm going to object as to determining  
18 its blood. I mean --

19 MS. MANINGO: Okay.

20 MR. PESCI: -- it could be apparent blood. We haven't had  
21 testimony yet of any of this being blood.

22 THE COURT: All right.

23 MS. MANINGO: Okay.

24 THE COURT: I'll sustain the objection.

25 ///

1 BY MS. MANINGO:

2 Q An apparent bloodlike substance, fair?

3 A Yes.

4 Q Okay. There was more than just that?

5 A Yes.

6 Q Okay. And this is Defense's O. Was there more  
7 bloodlike -- apparent bloodlike substance on the steering wheel?

8 A That appears to be the steering wheel, yes.

9 Q Okay. Now you testified that you did not participate in the  
10 next go-around at the scene, correct?

11 A Where they -- where the secondary -- on the day of the  
12 27<sup>th</sup>? No, I didn't.

13 Q Yes, okay. And so that was the 27<sup>th</sup>, you said?

14 A According to the report, yes, it was the 27<sup>th</sup>.

15 Q Okay. Was there another time that it was -- that there was  
16 something collected on the 19<sup>th</sup>?

17 A I don't have anything that indicates that, no.

18 [Colloquy between Counsel]

19 MS. MANINGO: And, Judge, I believe Counsel just reminded  
20 me that there was testimony yesterday -- I was thinking it was  
21 coming, but there was testimony yesterday that both of the  
22 bloodlike substances in the car were actually blood.

23 MS. WECKERLY: That's incorrect.

24 MS. MANINGO: Okay.

25 MS. WECKERLY: The steering wheel's inconclusive.



1 MR. YANEZ: No, I think they --  
2 MS. MANINGO: They testified --  
3 MR. YANEZ: -- the DNA came back as --  
4 MS. MANINGO: -- it was human blood.  
5 MR. YANEZ: -- inconclusive. They both --  
6 THE COURT: I thought there was a --  
7 MR. YANEZ: -- tested by Terri Cook that they were blood.  
8 THE COURT: -- testimony about presumptive reference to  
9 blood on the steering wheel and in between the seats. Not every  
10 stain potentially in between on the carpet areas. I don't --  
11 MR. YANEZ: No.  
12 THE COURT: -- recall that specifically  
13 MR. YANEZ: And Judge, I do, because I'm the one that  
14 cross-examined Ms. Merga, she referred to Terri Cook's report and I  
15 went point by point on both, on the carpet and on the steering  
16 wheel that Terri Cook determined that that was blood.  
17 THE COURT: Hold on, just a second.  
18 MR. YANEZ: Not saying that there was a profile obtained,  
19 none of that stuff. Just that the serology came back as blood.  
20 THE COURT: I have Ms. Merga testifying that the -- on the  
21 steering wheel there was blood, but it was inconclusive as to a  
22 source and there was blood on the carpet of the Dodge and then --  
23 the victim was not eliminated as the source of that blood. So  
24 you're correct.  
25 Okay. You can go ahead.

1 BY MS. MANINGO:

2 Q So, what -- I was first referring to blood and then said  
3 bloodlike substance, it isn't and -- well, was there a presumptive  
4 done -- test done at the scene?

5 A There would have been presumptive tests done at the  
6 scene, and -- but it would still be classified as a bloodlike substance  
7 until serology --

8 Q Okay.

9 A -- had proven it to be blood.

10 Q Okay. So of course you weren't involved in that but if  
11 serology later says its blood?

12 A Then it's blood, yeah.

13 Q Okay. Going back to the date that Mr. Autrey returned to  
14 this crime scene. I believe you just testified that you thought -- of  
15 course you weren't involved, but you thought might have been the  
16 27<sup>th</sup>?

17 A According to the follow-up report, that's the date listed is  
18 the 27<sup>th</sup>.

19 Q Okay. The impound sheet -- and I believe it's something  
20 that you referred to before.

21 MS. MANINGO: May I approach the witness Your Honor?

22 THE COURT: Yes.

23 BY MS. MANINGO:

24 Q I believe Mr. Pesci showed you this on direct examination,  
25 the one you're looking at here. The date of this impound is actually

1 5/19/98, correct?

2 A It is.

3 Q Okay. And so that -- it's -- that's when it was  
4 impounded --

5 A That's --

6 Q -- it's impossible that he collected it on the 27<sup>th</sup>, because it  
7 was impounded on the 19<sup>th</sup>, correct?

8 A That's correct, according to the dates [indiscernible] and  
9 it's -- it was received on the 26<sup>th</sup>, so yeah, I doubt that it could have  
10 been received before it was -- so I would assume this date is  
11 incorrect for some reason.

12 Q Okay. So it's your understanding that the impound date  
13 on the 19<sup>th</sup> is the correct date?

14 A That would be my assumption, yes.

15 Q Okay. And that it's just a typo on the crime scene  
16 analyst's report?

17 A That would be my assumption, yes.

18 Q Okay. So it was only 3 days later?

19 A Correct.

20 Q Now, of course when you're at the scene initially, you're  
21 trying to collect every piece of evidence that you possibly can,  
22 correct?

23 A That seems to be related, yes.

24 Q Okay. You're going through this scene, just like any other  
25 homicide scene, with a fine-tooth comb basically?

1           A     Yes.

2           Q     Okay. And that's actually -- that's the job of a crime scene  
3 analyst is to try to be as thorough as possible and collect all the  
4 evidence you can that's relevant.

5           A     That's correct.

6           Q     Okay. But you also testified that there comes times where  
7 other facts come into play and more information is gained after the  
8 processing of the scene?

9           A     It does happen, yes.

10          Q     Okay. And so sometimes that necessitates either yourself,  
11 a team, or the same person to go back and do more investigating.  
12 Correct?

13          A     Correct.

14          Q     Okay.

15          A     A follow up, yes.

16          Q     And that information could be a lot of different things,  
17 correct?

18          A     It could be, yes. Usually --

19          Q     Good.

20          A     -- it comes from a detective that tells us they need us to  
21 go --

22          Q     Okay.

23          A     -- back out for some reason.

24          Q     Okay. It could be that there's a neighbor who said they  
25 recovered a casing, or it could be that there's a suspect that they

1 have more information on, correct?

2 A It could be, yeah, but usually it still filters through the  
3 detective down to us.

4 Q Right. And so you would be directed to go do that.

5 A Right.

6 Q Okay. So I realized you testified you weren't there that  
7 day but it's -- it is fair to say that there is -- the scene looks different,  
8 correct?

9 A This photo does look different than the one that -- from  
10 the 16<sup>th</sup>, yes.

11 Q Okay. And all that clothing on the floor that's depicted in  
12 this photograph, m which is Defense's R, that clothing is depicted  
13 without the drawer being open, correct?

14 A Based on the photo, yes.

15 Q Okay. And based on your experience as a crime scene  
16 analyst you just testified earlier that when you are to process a  
17 scene you do an overall first to show what the scene looked like  
18 when you arrived?

19 A Yes.

20 Q Okay. So if you're asked to process this -- any part of this  
21 bedroom, you take it overall and this would be something that  
22 depicts that.

23 A If it was done in the normal course of action, yes.

24 Q Okay. Again I -- realizing you're not there, just in the  
25 normal course of what you're trained --

1           A     Right.

2           Q     -- to do in this situation.

3                     So the clothes is already there, this time covering the  
4 weight, unlike before, correct?

5           A     Yes.

6           Q     Showing you H.

7                     This is what it looked like before the dresser, correct?

8           A     That's correct.

9                     MR. PESCI: Judge, I'm going to object because there's  
10 not a foundation for this witness testifying to the one that's  
11 currently in front of you because that was taken a different date.  
12 The one that was just shown to him was from the 16<sup>th</sup>, this one he  
13 was not there for it's [indiscernible].

14                    THE COURT: Well, let's -- the one that was just shown to  
15 him I thought was the one that was from the date he was there,  
16 right?

17                    MR. PESCI: Correct --

18                    THE COURT: Okay.

19                    MR. PESCI: -- the 16<sup>th</sup>, and what you're looking at now is  
20 from the 19<sup>th</sup>.

21                    THE COURT: Understood, but the last question that was  
22 just objected to was the photo shown to him from when he was  
23 there, and I thought it was just this is how it looked like before.

24                    MR. PESCI: Right. And if she's referring to before  
25 meaning to the 16<sup>th</sup>, I have no objection. But if she's referring to on

1 the 19<sup>th</sup> before the picture was taken, he can't testify to that --

2 THE COURT: All right.

3 MR. PESCI: -- because he doesn't know what it was like.

4 THE COURT: I understand that objection but I'll -- I'm  
5 going to overrule the objection as it pertained to the question asked  
6 of the photo a minute ago from the 16<sup>th</sup> because I think that was  
7 when he was there.

8 MS. MANINGO: Okay.

9 THE COURT: So you can go ahead.

10 MS. MANINGO: Okay. Well for the record, Your Honor,  
11 this was actually brought out in direct examination and he was  
12 asked specifically about -- actually I'm using my own exhibits, but I  
13 think they were admitted through the State --

14 THE COURT: I recognized --

15 MS. MANINGO: -- he asked specifically about this.

16 THE COURT: -- that he was asked a question during direct  
17 examination about the photo that showed clothes on the floor from  
18 the subsequent search several days later.

19 BY MS. MANINGO:

20 Q Okay. So the picture that you're looking at now, which  
21 was something that you were showed by the State on direct,  
22 although it's my version or my -- not my version, my copy of it, is  
23 Defense's R. Fair to say that that picture and those clothes are in  
24 this picture but not the way it was when you were processing the  
25 scene, correct?

1           A     That would be correct, yes.

2           Q     Okay. Again this is consistent with an overall picture of a  
3 scene. Is that right?

4           A     It's more consistent of a photo directly depicting the  
5 dresser, but yes.

6           Q     Okay. So let me show you Defense's S. That depicts the  
7 actual drawer being open, correct?

8           A     It does.

9           Q     And the clothes is underneath the drawer, correct?

10          A     That's correct, yes.

11          Q     Okay. So with -- in your training experience -- strike that.  
12                The item that is later impounded that you testified to, I'm  
13 showing you Defense's T, that's a white muscle shirt that was  
14 pulled out of that drawer, correct?

15          A     Yeah, the evidence lists it as a white undershirt.

16          Q     Okay.

17          A     So yes.

18          Q     And that is a picture actually on the dresser at the scene,  
19 correct?

20          A     It appears so, yes.

21          Q     Okay. And then this is a picture -- which I believe was also  
22 shown to you, but this is Defense's copy U. This is the picture of  
23 the actual shirt that was impounded.

24          A     That's correct.

25          Q     Okay. And I know it's really bright up there but -- and if



1 you have to see it, I can approach. There's -- it's a -- it's soiled,  
2 correct? At the bottom?

3 A It does appear so, yes.

4 Q Okay. And showing you Defense's V. This is another  
5 close up of that, correct?

6 A Close up of the tag? Yes.

7 Q Yeah, and --

8 THE COURT: That's V, as in Victor, right? You said V?

9 MS. MANINGO: V. V, as in Victor.

10 THE COURT: Okay. Thank you.

11 BY MS. MANINGO:

12 Q And that depicts the size of the shirt, which is a large,  
13 correct?

14 A That is what it looks like, yes.

15 Q Okay. And that's consistent with what you testified to was  
16 actually impounded on the 16<sup>th</sup>, or I believe the 19<sup>th</sup>, about 3 days  
17 after these events.

18 A Yes, according to the evidence report, that is correct.

19 Q Okay.

20 [Colloquy between Counsel]

21 MS. MANINGO: Can you mark these two? Please.

22 Thank you.

23 [Colloquy between Counsel]

24 BY MS. MANINGO:

25 Q I want to talk -- go back to the doors we talked about --

1           A     Uh-huh.

2           Q     And I'm looking for 12, I put the wrong one up here again.

3                   MS. MANINGO: Court's indulgence.

4   BY MS. MANINGO:

5           Q     This is State's 12. We talked about the different doors and  
6   at the beginning there was some confusion with regards to what  
7   door was which. And we clarified that the doors that we were  
8   talking about before with the bloodlike substance on the push part  
9   of it was actually not 8, but the other door, correct? The one here?

10          A     Yes.

11          Q     Okay. And that door actually is an exit just to -- still the  
12   interior of the building not exit to the -- of the building, correct?

13          A     To the stairwell, yes.

14          Q     Okay. So if you go out that door you're still inside the  
15   building --

16          A     You're still inside --

17          Q     -- you haven't exited.

18          A     -- the building, yes.

19          Q     Okay. And showing you Defense CC, that actually is the  
20   door that's depicted on Number 8, correct?

21          A     Yes.

22          Q     So that's the one that's the exit to the exterior of the  
23   building?

24          A     That's correct.

25          Q     And if you exit out that building, you're facing Rochelle,

1 do you recall? If you recall.

2 A Exterior. Yes, the exit door leading to Rochelle Avenue.

3 Q Okay. And this is just a close up of that exit, correct?

4 A Yes.

5 Q And, again to be clear there was a bloodlike substance on  
6 the interior of the door handle leading to Rochelle which is this  
7 door and depicted here on -- with the ruler, correct?

8 A Yes, that's correct.

9 MS. MANINGO: Pass the witness, Your Honor.

10 THE COURT: State.

11 [Colloquy between Counsel]

12 **REDIRECT EXAMINATION**

13 BY MR. PESCI:

14 Q Sir, you've been asked some questions about Mr. Autrey's  
15 report from 5/27/98. Do you have that there with you?

16 A I do.

17 Q Okay. There was some questions back and forth about  
18 dates and the accuracy. The 5/27 report authored by Mr. Autrey has  
19 nothing to do with the shirt, does it?

20 A No, it doesn't. It refers to some chemical processing of  
21 the interior side of the front door for possible latent prints.

22 Q Right. That's that picture I showed you earlier with blue  
23 all over the door that you said, I don't know what that is because  
24 you weren't there, correct?

25 A Right. That's correct.

1 Q So the report offered on the 27<sup>th</sup> got to do with processing  
2 of the door, nothing to do with the impounding of the shirt which is  
3 on the 19<sup>th</sup>, which you have a report reflecting that.

4 A That's correct.

5 Q So we got no dates wrong with any impounding of  
6 evidence here?

7 A No, the dates are correct as far as that's concerned.

8 Q Okay. And then you were asked some specific questions  
9 about forced entry. Do you remember those questions?

10 A I do.

11 Q All right. Do you have Mr. Autrey's report in front of you?

12 A I do.

13 Q Specifically page 2, do you remember being asked  
14 questions about the wording of forced entry?

15 A As it pertained to the front door?

16 Q Well, no no. This is in the context of the window. So let's  
17 look at --

18 A Yes.

19 Q -- page 2 of Mr. Autrey's report, dated May 16<sup>th</sup> of '98.

20 Forced entry shows up in that first full paragraph towards  
21 the end, is that correct?

22 A That's correct.

23 Q And right behind the word forced entry is there a  
24 parenthesis with the words tool marks?

25 A That's correct.

1           Q     All right. So for a term of art, for you as crime scene  
2 analyst, when you're talking about forced entry are you talking  
3 about something where tool marks would show that something  
4 was forced open because it's locked so you'd have to force it open?

5           A     Tool marks would be one method of that, but I also --  
6 based on what Mr. Autrey reported, his reference to sliding finger  
7 marks those --

8           Q     You're stealing my thunder.

9           A     Sorry. Go ahead.

10          Q     No, go ahead.

11          A     Handprints on a window being -- showing that maybe  
12 force was applied to try to maybe move the window itself would  
13 also be considered a form of forced entry, but not tool mark related.  
14 So I think that based on what he was writing, I think he was trying  
15 to cover two bases with one sentence.

16          Q     Right. Is there a reference to a sliding finger marks to that  
17 window, this is notated on the outside of the window, the very  
18 window that has screens missing?

19          A     Yes, there is.

20          Q     The very window that he notated was not locked?

21               MS. MANINGO: Excuse me, I didn't hear that last -- the  
22 very window that was what?

23               MR. PESCI: That was notated --

24               THE COURT: That he notated that was not locked.

25               THE WITNESS: I have --

1 MR. PESCI: So if you go up a few sentences --

2 MS. MANINGO: Your Honor, I'm just going to object to  
3 speculation at this point. I mean, I think he could say what's in the  
4 report but he's speculating on what that exactly meant.

5 MR. PESCI: Okay. --

6 THE COURT: Well --

7 MR. PESCI: -- I'll read it --

8 THE COURT: -- let him refresh himself with the report  
9 because I think he was trying to read the areas of the report you all  
10 wanted, so. Let me know when you finish taking a look at that.

11 THE WITNESS: Yes Sir.

12 BY MR. PESCI:

13 A I know that he -- he notes that one window was screwed  
14 into place.

15 Q Right. And if you go 1, 2, 3, 4 --

16 A Yes.

17 Q -- 5 lines down.

18 A The bedroom was closed but not in a locked condition.

19 Q Right.

20 A Yes, that's correct.

21 Q And in fact, he goes on to say it could be slid open.

22 A It could be slid open, yes.

23 Q And then the dust --

24 A The dirt --

25 Q -- and dirt coatings --

1           A     -- and dust coatings, yes.

2           Q     -- on the exteriors of the bedroom --

3           A     Of that particular window.

4           Q     -- and living room windows have apparent --

5           MS. MANINGO: I'm going to --

6           MR. PESCI: -- siding to.

7           MS. MANINGO: -- object to counsel reading from the  
8 report.

9           MR. PESCI: Yes, a moment ago she said she did not  
10 object to what's --

11          MS. MANINGO: Well.

12          MR. PESCI: -- actually in the report.

13          MS. MANINGO: I mean not -- I actually don't object, but I  
14 do object to him testifying.

15          THE COURT: You -- so the objection is just to Mr. Pesci  
16 leading that question rather than the witness referring to what's in  
17 the report, is that --

18          MS. MANINGO: Exactly.

19          THE COURT: -- correct?

20          Okay. So what is the reference in the report to the  
21 exterior of the window?

22          THE WITNESS: Sir, Mr. Autrey noted that the dust, dirt  
23 coatings on the exterior of the bedroom and living room windows  
24 had apparent sliding finger marks indicating the window being slid  
25 open. He notes on the bedroom window there did not appear to be

1 any forced entry tool marks on the metal portions of that window.

2 THE COURT: Okay. Thank you.

3 MR. PESCI: Thank you very much.

4 **RECROSS-EXAMINATION**

5 BY MS. MANINGO:

6 Q You testified before that crime scene analysts, in general  
7 try to be as thorough as they can, correct?

8 A Yes.

9 Q These are important cases to say the very least, right?

10 A Yes.

11 Q So, again with a fine-tooth comb, you're going through  
12 the scene and documenting every possible thing so that -- you think  
13 is of any value.

14 A Yes, as best as possible.

15 Q Correct?

16 A Yes.

17 Q Okay. And fair to say that these -- what you just testified  
18 to is not -- there's no pictures of the -- of any finger marks or  
19 anything like that photographed, is there?

20 A I was not shown any, no. I don't know if any exist or not.

21 Q Okay. If they don't -- well -- if something is of evidentiary  
22 value crime scene analyst photograph and document it, correct?

23 A It would have stood to reason, there would be  
24 photographs of that, yes.

25 Q Okay. And there, I believe you said something about



1 fingerprint marks. There's no -- on windows of like something's  
2 being pushed open, there's absolutely no evidence of that, correct?

3 A I -- are you referring to the sliding finger marks comment  
4 that was written --

5 Q Well, no. I'm referring to your additional comments with  
6 regards -- or Mr. Pesci's, to be fair, with regards to some type of  
7 force or fingerprints on the window. There was no evidence of that  
8 at all, correct?

9 MR. PESCI: Judge, I'm going to object.

10 THE COURT: No evidence of what?

11 MS. MANINGO: Of any fingerprints on any windows.

12 THE COURT: Like fingers prints that were identifiable, you  
13 mean? Or just any finger marks?

14 MS. MANINGO: Any mar -- well, the testimony is that the  
15 report says that they're slide marks like on the rail part in the dirt.

16 THE COURT: Okay.

17 MS. MANINGO: Okay?

18 THE COURT: All right. And you're talking about the  
19 window itself --

20 MS. MANINGO: That's --

21 THE COURT: -- then?

22 MS. MANINGO: -- what the report says.

23 THE COURT: Okay.

24 BY MS. MANINGO:

25 Q In the discussion between you and Mr. Pesci, I believe that

1 you indicated, or that Mr. Pesci did -- I'm sorry, I'm losing track,  
2 about some type of force pushing a window. I just want to make it  
3 clear that there is no evidence that there was any fingerprint marks  
4 on windows or anything depicting someone pushing that window.

5 MR. PESCI: Judge, I'm going to object as to --

6 THE COURT: Well, you're asking him to tell you what his  
7 impression is of the nature of the marks versus just what the marks  
8 are themselves. You --

9 MS. MANINGO: I'm actually --

10 THE COURT: -- understand what I'm saying?

11 MS. MANINGO: -- referring specifically.

12 THE COURT: Okay. What does the report say about  
13 where the sliding finger marks are? It uses the term, sliding finger  
14 marks.

15 THE WITNESS: Yes, sir. It just says that the sliding finger  
16 marks are indicating the window was being slide. They only part  
17 that refers to the --

18 THE COURT: Does it refer --

19 THE WITNESS: -- metal portion.

20 THE COURT: -- to where those are?

21 THE WITNESS: It just says the window.

22 THE COURT: Okay.

23 THE WITNESS: The part about the metal portions of the  
24 window are in reference to the tool marks.

25 THE COURT: Okay. All right.

1                   You can go ahead, Ivette.

2 BY MS. MANINGO:

3           Q     Again, these things that are being referred to here right  
4 now are not documented by photograph, correct?

5           A     Not that I've been shown, no.

6           Q     Okay. With regards to your testimony regarding screens.  
7 You're not aware if there was any other reason those screens would  
8 have been off the window, correct?

9           A     The only reference I have to those screens is that the  
10 window screens of rooms 1125 on the Southwest and 1121 and  
11 1122 both --

12          Q     I'm talking about --

13          A     -- on the west side --

14          Q     -- the window of Mr. Siegel's apartment.

15          A     You testified that the report indicated that the screen was  
16 off, correct?

17          A     That was correct, yes.

18          Q     Okay. Of course that's what you know from the scene.  
19 You have no idea why those windows -- those screens were off. Is  
20 that fair to say?

21          A     No, I don't have any -- I don't have any --

22          Q     If there were a storm --

23          A     -- knowledge of why.

24          Q     -- for example, you wouldn't have known that.

25          A     At the time yes, but no I don't recall if there --

1 Q Okay.

2 A -- was anything --

3 Q But fair to say --

4 A that lead to that, yes.

5 Q -- that the screen was in the position it was in, and you  
6 don't know how it got there.

7 A That's correct.

8 Q Okay.

9 MS. MANINGO: Pass the witness.

10 MR. PESCI: Judge, I would move to admit as next in order  
11 the crime scene report that we have discussed *ad nauseam* so that  
12 way there's not an argument made later on that I took something  
13 out of context.

14 I believe any complaints about hearsay would have been  
15 waived as Defense Counsel started with questioning of this witness  
16 with this report as this individual is deceased. We didn't object to  
17 that to try and accommodate the fact that he had in fact died.

18 So I would move for the admission of crime scene analyst  
19 Jerry Autrey's report dated 05/16 and that's to be marked next in  
20 order.

21 MS. MANINGO: And I object to the admission of that  
22 test -- of that report.

23 THE COURT: Let me see a copy of the report. Because  
24 I'm guess it's a lot longer than what we were referring to.

25 MS. MANINGO: We're referring to one paragraph, Your

1 Honor.

2 THE COURT: Which page was that one paragraph on, by  
3 the way?

4 MS. MANINGO: Page 2.

5 MR. PESCI: Page 2.

6 MS. MANINGO: Sec -- first full paragraph.

7 THE COURT: All right. Look I would agree that there are a  
8 number of references the gentleman made to the report probably  
9 not just specific to this paragraph; however generally I would say  
10 that you don't admit the report. I am going to admit, we can redact  
11 it as we need to, this paragraph that we went back and forth on a lot  
12 of questions on trying to get the specifics of what that paragraph  
13 said.

14 MS. MANINGO: All right. And I just want to make a  
15 record that -- because this is tied to our motion that we had  
16 previously. Mr. Autrey was the person who processed the scene  
17 and obviously had the information. They moved to admit his  
18 transcript, and this was one of the reasons why we believed we had  
19 a problem with it, because we weren't able to confront Mr. Autrey  
20 with all these issues that have come up today.

21 Unfortunately, to no fault of Mr. Atkins, he had specific  
22 roles, but they didn't encompass everything that Mr. Autrey's role  
23 encompassed and so he wasn't able to basically testify to those  
24 things.

25 You agreed to give us leeway because you granted the

1 State's motion, but just for the record, these are the confrontation  
2 issues that we believed and anticipated would happen. So I do  
3 object to having the statement brought in, but I wanted to make a  
4 record of the basis that kind of started at the motion that the State  
5 made, that we objected to.

6 THE COURT: Okay. State?

7 MS. WECKERLY: Well, they did have an opportunity to  
8 cross-examine Autrey at the prelim. Mr. Yanez was there; Ms.  
9 Maningo wasn't counsel at the time. They chose not to ask  
10 questions about that, but they certainly could have asked questions.

11 I'd also note that the report indicates that Detective  
12 Chandler was also present on this day. They can call him as a  
13 witness and get to the same testimony if they want to address it  
14 that way. But, in any event, there isn't a problem with the Court's  
15 prior ruling on the former testimony.

16 THE COURT: Well, I -- look, I still think my prior ruling on  
17 the testimony for Mr. Autrey from the prelim was appropriate. I  
18 think that this issue, coming up during your questioning of this  
19 witness -- which I agree, I was giving both side leeway and I think  
20 both sides were recognizing that became very focused and specific  
21 on the language within this paragraph. That's the only reason I'm  
22 admitting this particular paragraph, so that it is memorialized as  
23 part of our record. So I still think that's appropriate as well.

24 All right. Any further questions?

25 MR. PESCI: No, thank you very much.

1 THE COURT: All right. Mr. Atkin, thank you very much for  
2 your time. Sir, you are excused.

3 THE WITNESS: Thank you, sir.

4 THE COURT: How many more witnesses do you guys  
5 have?

6 MS. WECKERLY: We have the Defense witness that they  
7 requested, and then two more of our own.

8 THE COURT: Okay.

9 MS. WECKERLY: Or three, more of our own.

10 THE COURT: So how long is you all's witness going to  
11 be?

12 MR. PESCI: I'm sorry, Judge.

13 THE COURT: How long is you all's witness going to be?

14 MR. PESCI: I'm guessing with cross, 30 minutes of so.

15 THE COURT: Okay. And how long are your other two?

16 MS. MANINGO: Very short.

17 THE COURT: Okay.

18 MS. MANINGO: And then we have another witness here  
19 as well, but we'll cut him loose.

20 THE COURT: All right. So let's take like 5 minutes,  
21 everybody could use the restroom and then we'll get right back in  
22 here get we'll get started. We'll try and finish up your two short  
23 ones, and then we'll finish up their witness, okay?

24 MS. MANINGO: Okay.

25 [Court recessed at 3:56 p.m., until 4:04 p.m.]

1 THE COURT: Here with the interpreter, all of our attorneys  
2 are present. Who's your next witness?

3 MR. PESCI: Dave Ruffino.

4 [Colloquy between Counsel]

5 **DAVID RUFFINO**

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

8 THE CLERK: Thank you, please be seated.

9 If you could state and spell your name for the record,  
10 please.

11 THE WITNESS: Okay. My name is David Ruffino.  
12 D-A-V-I-D, R-U-F-F-I-N-O.

13 THE COURT: Thank you. Mr. Pesci.

14 **DIRECT EXAMINATION**

15 BY MR. PESCI:

16 Q Thank you. Sir, are you retired from the Metropolitan  
17 Police Department in the crime scene division?

18 A Yes, I retired 12 years ago.

19 Q And, focusing your attention to May 17<sup>th</sup> of 1998, where  
20 you asked to respond to the Clark County's Coroner's office to  
21 photograph and document the autopsy performed on Wallace  
22 Siegel by Doctor Sheldon Green?

23 A Correct. Yes, I did.

24 Q And did you take some photographs during that autopsy?

25 A Yes, I did.



1           Q     In the process of photographing the autopsy, are you  
2 there as the coroner employee but also working the autopsy and  
3 the body?

4           A     Correct.

5           Q     And then, later on -- or while you were there, did you  
6 collect some evidence from that autopsy?

7           A     Yes.

8           Q     Were there some items found with the victim that you  
9 photographed?

10          A     Yes.

11          Q     And then, did you take overalls of the victim and his  
12 injuries?

13          A     Yes.

14          Q     Additionally, did you recover some sort of DNA sample,  
15 from the decedent that could be utilized later on for DNA analysis?

16          A     Yes.

17          Q     And did you do that under Event Number 980516-0400?

18          A     Yes.

19          Q     And I want to show you what's been showed to Defense  
20 Counsel as State's Proposed Exhibits 88 through 95, and ask you if  
21 you recognize those?

22          A     Yes, I do.

23          Q     Are those fair and accurate depictions of the decedent as  
24 you photographed him May the 17<sup>th</sup>, 1998.

25          A     Yes.

1 MR. PESCI: Move for the admission of State's 88 through  
2 95.

3 THE COURT: Any --

4 MS. MANINGO: Submit it --

5 THE COURT: -- objection?

6 MS. MANINGO: -- Your Honor.

7 THE COURT: Thank you. Those will be admitted.

8 **[STATE'S EXHIBIT NUMBERS 88 to 95 ADMITTED]**

9 BY MR. PESCI:

10 Q And as a part of the collection of evidence, did you take  
11 what was referred to as a serology kit?

12 A Yes.

13 Q What is that, exactly?

14 A Serology kit are standards taken from a decedent at the  
15 coroner's office. It's part of what we do every time we respond.  
16 And in most cases it happens to be vials of blood, head hair, comb  
17 pubic hair -- pubic hairs, things of that nature and that's called a  
18 serology kit .

19 Q Okay. And then did you also recover what you referred to  
20 as a DNA kit?

21 A Yes.

22 Q And what was that?

23 A DNA kit is a piece of the rib, and the kidney for future DNA  
24 samples would be taken from if need be.

25 Q And did you impound them under your P-number, or your

1 personnel number?

2 A Yes.

3 Q And what number was that?

4 A 1502

5 Q And would you, in the process of impounding, utilize your  
6 initials when you were assigned that particular piece of evidence?

7 A Yes, a D in front of the 1502. R, after the 1502.

8 Q Thank you, very much.

9 MR. PESCI: Pass the witness, Your Honor.

10 THE COURT: Ms. Maningo.

11 MS. MANINGO: Thank you.

12 **CROSS-EXAMINATION**

13 BY MS. MANINGO:

14 Q Good afternoon.

15 A Good afternoon.

16 Q I'm showing you what's been admitted as Defense Exhibit  
17 E. Does this appear to be the jewelry that was taken off the  
18 decedent's body at autopsy?

19 A To be honest with you, this is 21 years ago. I have my  
20 scale in there. I don't physically recall it but my --

21 Q But is --

22 A -- my scale is in there. So from looking at it, it appears to  
23 be.

24 Q Okay. And so depending on who's photographing the  
25 picture that scale and that number on that scale corresponds with

1 the person taking that photograph?

2 A Yes.

3 Q Okay. So even though it was 21 years ago --

4 A It appears --

5 Q -- from --

6 A -- to be my photograph --

7 Q Okay.

8 A -- yeah.

9 Q Okay. And again that's -- so that would be the jewelry that  
10 was taken from the decedent?

11 A Yes.

12 Q Thank you, sir.

13 MS. MANINGO: No further questions.

14 THE COURT: Anything further?

15 MR. PESCI: No thank you.

16 All right. Mr. Ruffino thank you very much for coming in.

17 You are excused, sir.

18 THE WITNESS: Thank you, very much.

19 THE COURT: State may call their next witness.

20 MR. PESCI: State calls Robbie Dahn.

21 [Colloquy between Counsel]

22 **ROBBIE DAHN**

23 [having been called as a witness and being first duly sworn,

24 testified as follows:]

25 THE CLERK: Thank you, please be seated.

1 If you could state and spell your name for the record,  
2 please.

3 THE WITNESS: Okay. My name is Robbie Dahn. First  
4 name R-O-B-B-I-E; and last name D-A-H, as in Henry, N.

5 THE COURT: Thank you.

6 Mr. Pesci.

7 MR. PESCI: Thank you.

8 **DIRECT EXAMINATION**

9 BY MR. PESCI:

10 Q Ma'am, are you retired from the Metropolitan Police  
11 Department?

12 A Yes I am.

13 Q And what did you do there?

14 A I was a senior crime scene analyst with the Las Vegas  
15 Metropolitan Police Department.

16 Q And how long were you with them?

17 A 20 years, 5 months.

18 Q And when did you retire?

19 A This January 2<sup>nd</sup>.

20 Q Of 2019?

21 A Yes.

22 Q Okay. I want to direct your attention to October the 13<sup>th</sup> of  
23 2010. Were you asked by Detective Hall to respond to -- at that  
24 point the Investigative Services Division, which was located at 4750  
25 West Oakey Boulevard.

1           A     Yes.

2           Q     Were you asked to do something in relation to an  
3 individual?

4           A     Yes.

5           Q     What were you asked to do?

6           A     I was called there to process an individual. It was up --  
7 upstairs in the homicide area -- the homicide unit.

8           Q     And when you refer to processing, what processing did  
9 you do?

10          A     I was requested to photograph an individual, fingerprint  
11 and collect a few evidentiary items.

12          Q     All right. Showing you what's been previously shown to  
13 Defense Counsel as State's Exhibits 222 and 223. Do you recognize  
14 those?

15          A     Yes, I do.

16          Q     What do you recognize those to be?

17          A     These are photographs that I took up in the -- in one of the  
18 interview rooms.

19          Q     And did your report notate who it was that you were  
20 taking the photographs of?

21          A     Yes.

22          Q     And who was that?

23          A     It was a Gustavo Ramos Martinez.

24          Q     Okay. And then are these fair and accurate depictions of  
25 your photographs that you took of Gustavo Ramos?

1           A     Yes.

2                     MR. PESCI: Move for the admission of 222 and 223, Your  
3 Honor.

4                     THE COURT: Any --

5                     MS. MANINGO: No objection.

6                     THE COURT: Thank you, those will be admitted.

7                     **[STATE'S EXHIBIT NUMBERS 222 and 223 ADMITTED]**

8 BY MR. PESCI:

9           Q     You talked about recovering certain evidence; what was  
10 that?

11          A     I was requested to fingerprint, take major case fingerprints  
12 of palms and fingerprints and also to collect a DNA sample through  
13 buccal swab.

14          Q     All right. The buccal swab, did you take it of the  
15 Defendant in this case, Gustavo Ramos?

16          A     Yes, I did.

17          Q     Was that by means of a swab in the cheek area of the  
18 decedent?

19          A     Yes.

20          Q     I'm sorry, the Defendant?

21          A     Yes.

22          Q     And then, major case prints; what are those?

23          A     Normally like when we would be out at a crime scene, we  
24 would take regular fingerprints primarily of the pad of the finger the  
25 end of the finger and the underside and the same with palms. But

1 when they ask for major case prints, that's where you're doing a  
2 little more where you're getting tips, the sides of both fingers.

3 It's just a much more detailed process to you know to do  
4 the major case prints so it shows all the little creases around the  
5 wrist, the sides of the palm. So, that's just really the difference.

6 Q So in addition to taking a buccal swab from the  
7 Defendant, you took the major case prints of the Defendant?

8 A Yes.

9 Q Thank you very much.

10 MR. PESCI: Pass the witness.

11 THE COURT: Ms. Maningo.

12 **CROSS-EXAMINATION**

13 BY MS. MANINGO:

14 Q Ma'am, you actually did this you said on October 13<sup>th</sup> of  
15 2010, correct?

16 A Yes.

17 Q So the photograph depicting Mr. Ramos is what he looked  
18 like at that time?

19 A Yes.

20 Q Okay.

21 MS. MANINGO: Nothing further.

22 THE COURT: Anything further?

23 MR. PESCI: No, thank you.

24 THE COURT: All right. Ms. Dahn, thank you very much  
25 for coming in. You are excused, ma'am.



1 THE WITNESS: Thank you, sir.

2 THE COURT: All right. Then we want to call you all's  
3 witness now that was the last two you guys had?

4 MR. YANEZ: Yes.

5 THE COURT: Okay. And who is it that we wanted to call?  
6 Is it Hardy?

7 MR. YANEZ: Leslee Siegel.

8 THE COURT: Or, no. Leslee Siegel, thank you.  
9 Leslee Siegel?

10 So our record will reflect that this is a -- the second  
11 Defense witness that we're going to call out of order.

12 **LESLEE KAREN SIEGEL**

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

15 THE CLERK: Thank you, please be seated.

16 If you could state and spell your name for the record,  
17 please.

18 THE WITNESS: Leslee Karen Siegel; L-E-S-L-E-E,  
19 K-A-R-E-N, S-I-E-G-E-L.

20 THE COURT: Thank you.

21 Mr. Yanez.

22 MR. YANEZ: Thank you.

23 **DIRECT EXAMINATION**

24 BY MR. YANEZ:

25 Q Good afternoon, Ms. Siegel. How are you?

1           A     Fine.

2           Q     Your Dad, the last few months of his life, lived here in Las  
3 Vegas, right?

4           A     Right.

5           Q     And from your memory he was at a place called Camlu  
6 Apartments, or something like that?

7           A     Yes.

8           Q     And at approximately May of 1998, he passed away?

9           A     Yes.

10          Q     And as part of that, your father's death, there was an  
11 investigation --

12          A     Yes.

13          Q     -- by the police?

14          A     Yes.

15          Q     You came out here to Las Vegas, after your father's  
16 passing?

17          A     When we found out, yes.

18          Q     And during that time did the police, either officers or  
19 detectives, talk to you?

20          A     The only time I spoke to -- I don't know who it was, I was  
21 still in California and I called my dad's apartment to see if my  
22 brother would answer because I wanted to know, you know, what's  
23 going on and one of the detective's answered the phone.

24                   Other than that, I didn't speak to anybody then except for  
25 the coroner's office when I went to pick up the effects and they

1 asked if I wanted to see pictures and I said no. But I came to get his  
2 car and stuff and that was -- that was the end of it.

3 Q Do you remember how many -- throughout the years,  
4 starting in 1998 with your father's passing, how many different  
5 officers or detectives you might have spoken to? Or you're not  
6 sure?

7 A Nobody at that time.

8 Q I'm sorry?

9 A Nobody during those years. 2011 --

10 Q Well, maybe --

11 A -- or '12.

12 Q -- hold on, maybe I wasn't clear with my question.  
13 Starting from 1998 when you -- you came out here I think, you said  
14 right after you found out about your father's passing?

15 A Yes.

16 Q Okay. From that time over the next several years, let's say  
17 the next ten years, you've had different conversations with different  
18 offices or detectives throughout all of those years?

19 A No.

20 Q Okay. You don't have a memory of speaking to a  
21 detective in approximately the year 2000. In June of 2000?

22 A June of 2000?

23 Q Yes.

24 A No, I don't remember that.

25 Q Okay. And do you know a person by the name of Martha

1 Morales?

2 A Yes, I do.

3 Q Okay. And who is Martha Morales?

4 A She is now my brother's wife.

5 Q Okay. And you say now. Was there a recent marriage?

6 A It was in 2006.

7 Q Okay. At the time of your father's passing, Martha was --  
8 and let me back up. Jack Siegel is your brother?

9 A Yes.

10 Q Back in your father's passing in May of 1998, Martha was  
11 Jack's girlfriend, correct?

12 A Yes.

13 Q Okay. They had actually been boyfriend and girlfriend for  
14 years, before your dad's passing, right?

15 A Yes.

16 Q You remember you testified at a previous hearing where I  
17 asked you questions?

18 A Yes.

19 Q Okay. And I think you said back then that since like the  
20 1980s, Jack and Martha were boyfriend and girlfriend, right?

21 A I believe it was around that time, yes.

22 Q Okay. So they stayed boyfriend and girlfriend from the  
23 80s until their marriage you said in approximately 2006?

24 A Yes.

25 Q I want to -- I know you said you don't remember the

1 conversation that you had with detectives, but I want to ask you a  
2 few questions and see if that perhaps jogs your memory a little bit.  
3 You can tell me either way whether you remember the  
4 conversation. And my understanding is that you had a  
5 conversation with a detective in June of 2000, where you discussed  
6 your father's murder and your belief of who was responsible for  
7 your father's murder. Do you remember anything in general like  
8 that?

9 A Not in the year 2000. I don't remember that.

10 Q Okay. It's possible it could have been maybe before or  
11 after the year 2000?

12 A It was Detective Hall.

13 Q Okay. That's your -- you remember that it was a Detective  
14 Hall?

15 A Yes.

16 Q Okay. You 100 percent sure about that, or?

17 A I know I spoke with him, I saw him in person.

18 Q Okay. At the last hearing that you testified at, do you  
19 remember telling the Judge, it was a different Judge, Judge  
20 Togliatti, do you remember telling the Judge that at the time of  
21 your father's murder in May of 1998 that Jack was involved or using  
22 methamphetamines. Do you remember that?

23 A I remember saying I wasn't 100 percent sure, if I recall.

24 Q Okay.

25 MR. YANEZ: Permission to approach, Judge?

1 THE COURT: Yes.

2 BY MR. YANEZ:

3 Q Ms. Siegel, I'm going to show you a transcript from that  
4 hearing.

5 A Okay.

6 Q And it's page 87 for Court and Counsel.

7 A Okay.

8 Q And I would -- I just want you to read it to yourself and  
9 there's no rush, just take your time starting, This is my question.

10 A Okay.

11 Q And then your answer.

12 A Okay.

13 Q If you can just read that, and then I'm going to ask you a  
14 few questions.

15 A Out loud? Or to myself?

16 Q No, no, to yourself and then I'm going to ask you a few  
17 questions.

18 A [Witness complies].

19 Okay.

20 Q You have an opportunity to read that, ma'am?

21 A Yes.

22 Q Okay. And I'm sure you remember because this wasn't  
23 too long ago at that hearing you took an oath to tell the truth, just  
24 like you did today, correct?

25 A Yes.

1           Q     And you tried to the best of your ability to, based on your  
2 memory, to tell the truth, correct?

3           A     Correct.

4           Q     All right. And from what you just read to yourself, my  
5 question to you back then was: Do you remember talking to  
6 Detective Hall and telling him that at the time when your dad  
7 passed away that your brother Jack was involved with  
8 methamphetamines?

9                     And you answered: Yes.

10                    Right?

11          A     To my knowledge --

12          Q     Well, hold on first --

13          A     Okay.

14          Q     -- my first question is, is it -- did I read that accurately from  
15 what you just read? Or do you need to see it again?

16          A     No, I don't need to see it again. I don't remember it, but I  
17 don't think it was myself that asked that question because there  
18 were two other people in the room [indiscernible].

19          Q     Well, hold on. My only question to you is at least from  
20 what you read in the transcript, I asked you that question, right?  
21 Whether you talked to Detective Hall about Jack using  
22 methamphetamine at the time your dad passed away, correct?

23          A     I remember you asking.

24          Q     Okay. And then you did answer yes, correct?

25          A     I answered -- I don't remember --

1 Q Okay.

2 A -- what I answered right now.

3 THE COURT: I'll take judicial notice that she answered yes  
4 at the proceeding --

5 THE WITNESS: Yeah.

6 THE COURT: -- hearing on November --

7 MR. YANEZ: Thank you, Judge.

8 THE COURT: -- 29, 2018.

9 MR. YANEZ: Thank you.

10 BY MR. YANEZ:

11 Q In your conversations -- and I'm just going to keep it  
12 general to any detective based on your memory, whether --

13 A Okay.

14 Q -- it's Detective Hall or anybody else. Do you remember  
15 talking to a detective about Jack's methamphetamine use at the  
16 time of your father's passing?

17 A I cannot recall that right --

18 Q Okay.

19 A -- now, no.

20 Q Do you remember telling any detective that you believe  
21 Jack's girlfriend, Martha Morales, and her friends were responsible  
22 for the death of your father?

23 A I don't remember saying that.

24 Q Do you remember giving the detectives information about  
25 Martha Morales; in particular, her age, her height, and maybe



1 where she was living or worked at. Do you remember giving the  
2 detective information like that?

3 A I don't remember.

4 Q Okay. Do you remember telling them one of the other  
5 friends of Jack's you believe was involved was a person named  
6 John Valdez?

7 A It's a name, but I don't know the person.

8 Q Do you remember telling the detectives that you believed  
9 he was involved in your father's murder?

10 A That sounds like a possibility.

11 Q Okay. And that you gave him -- you gave the detective a  
12 very general description of age and where he might be located in  
13 prison?

14 A I -- no.

15 Q Okay. Do you remember telling him another one of your  
16 brother's friends -- I'm sorry, one of Martha Morales' friends was a  
17 person name Mierito, M-I-E-R-T-O?

18 A No.

19 Q Okay. You're aware that either around or shortly after  
20 your father's passing at that same Camlu complex there was  
21 another person, a female, who was murdered?

22 A Yes.

23 Q Does the name Helen Sabraw sound familiar?

24 A Yes.

25 Q Okay. Do you remember telling a detective at that time

1 that Jack had said that your brother had said --

2 MR. PESCI: Objection as to what Jack said. That's  
3 hearsay.

4 THE COURT: Mr. Yanez?

5 MR. YANEZ: Well it go -- first of all, it goes to the police  
6 investigation in this case and it was also denied yesterday by Jack  
7 when I asked him that.

8 THE COURT: Well, for the purposes of impeaching  
9 something that Jack testified to, I'll allow you to go ahead.

10 BY MR. YANEZ:

11 Q Let me start with the question over again. Do you  
12 remember telling any detective that Jack had said that a person Ax;  
13 A-X, was the person who killed the lady living upstairs?

14 A I don't remember that conversation.

15 Q Do you remember any of Jack's friends or Martha's friend  
16 by the name of Ax; A-X?

17 A No.

18 MS. MANINGO: Court's indulgence.

19 THE COURT: Okay.

20 MR. YANEZ: Thank you, Ms. Siegel.

21 I don't have nothing further Judge.

22 THE COURT: Okay. State?

23 MR. PESCI: Thank you.

24 ///

25 ///

1 **CROSS-EXAMINATION**

2 BY MR. PESCI:

3 Q Ma'am, you were just asked some questions by the  
4 Defense Counsel about conversations with detectives about  
5 methamphetamines. Do you remember him asking those  
6 questions? Just him asking you a moment ago?

7 A Oh yes, I remember him asking.

8 Q Would you be okay if I walked up and just kind of worked  
9 the computer --

10 A Of course.

11 Q -- over your shoulder?

12 A Yes.

13 Q Okay. So we're looking at --

14 MR. PESCI: Counsel, bottom of page 90, top of page 91.

15 BY MR. PESCI:

16 Q Do you remember being asked at that prior hearing,  
17 quote: Do you remember talking to any detective about your  
18 brother being involved in your dad's murder due to his involvement  
19 with methamphetamines?

20 And your answer was: No.

21 A That's right.

22 Q Is that correct?

23 A That's correct.

24 Q Okay. Now whatever conversations you did or didn't have  
25 with the detectives about what could or could not have happened to

1 your dad, as far as him being killed, are we accurate in  
2 understanding that you were physically not in Nevada on May 16<sup>th</sup>  
3 of 1998?

4 A Correct, I was not there.

5 Q You don't have any firsthand knowledge of what  
6 happened to your dad?

7 A No, I don't.

8 Q Okay. So, conversations about what you thought might  
9 have been -- what happened is not based on any direct evidence  
10 that you saw or heard on the 16<sup>th</sup>, here in Las Vegas.

11 A No.

12 Q Okay. Shifting to a question the Defense asked you about  
13 your brother, Jack, and specifically I want to kind of start with the  
14 80's. He talked about the girlfriend in the 80s and moving forward.  
15 Do you remember that line of questioning?

16 A Yes.

17 Q All right. You are the older sibling to Jack or the younger  
18 sibling?

19 A Older.

20 Q Okay. Consequently, you've known your brother your  
21 ent -- his entire life?

22 A Yes.

23 Q Did you note a change in your brother's mental health  
24 starting in the 80s and moving forward?

25 MR. YANEZ: I'm going to object as to what is mental

1 health and a change. I mean, it's pretty vague and I'm not sure --  
2 and think it's just guess -- it's speculation at this point, Judge.

3 THE COURT: Well, I'll sustain it as to mental health. I  
4 mean, you can ask her specifics about changes she saw in  
5 demeanor, how he acted, how he communicated, things like that.

6 MR. PESCI: Okay.

7 MR. YANEZ: And then I guess too -- there was a relevance  
8 issue too is to the time frame that I think he mentioned to her  
9 correctly, the 80s and we're talking about something that happened  
10 in '98.

11 MR. PESCI: Right, so I'm trying to --

12 THE COURT: Well I'll allow you to establish the preceding  
13 history before we get up to the -- '98. You can go ahead.

14 BY MR. PESCI:

15 Q So focusing Jack's behavior, his interactions with you and  
16 the family, that you personally firsthand experienced and saw, and  
17 heard, was there from your perspective, as a family member, a  
18 change in Jack's behavior starting in the early 80s and moving  
19 forward?

20 A When he came home from Desert Storm.

21 Q Okay. Now do you think that's the 80s or in the 90s?

22 A I'm not sure.

23 Q All right. So let me back it up this way. Did he serve in  
24 the military?

25 A Yes, he did.

1 Q After his service in the military, whichever timeframe that  
2 was, did you note a change?

3 A Yes.

4 Q Speaking of trying to put it in context, that change, does it  
5 precede 1998?

6 A Yes.

7 Q Okay. What was the change as far as -- let me put it to  
8 you this way, did you have difficulty having conversations with  
9 your brother?

10 A Yes.

11 Q What were the difficulties?

12 A It was -- he could hear you, but I don't think he  
13 comprehended anything. His mind -- it's like -- it was like his brain  
14 was playing Pong and it didn't know which way to go, and he was a  
15 changed person and he didn't come off the same. He would say he  
16 understood, and he didn't understand.

17 Q Did you ever have experiences with him after this change,  
18 pre-1998, where he would fixate on something and not be able to  
19 move off of that issue, which would cause problems to your  
20 interactions?

21 A Yes.

22 Q Okay. Did he -- to your knowledge did he have a -- well,  
23 did that continue past the death of your father?

24 A It got worse.

25 Q Does that still exist today?

1 A Yes.

2 Q In your personal experience?

3 A Yes.

4 Q And is it worse now, after your father's death?

5 A Yes.

6 MR. PESCI: Pass the witness.

7 THE COURT: Mr. Yanez.

8 MR. YANEZ: Thank you.

9 **REDIRECT EXAMINATION**

10 BY MR. YANEZ:

11 Q I'm just going to ask you probably some obvious -- I think  
12 they're going to be obvious questions. While your father was alive  
13 those last few months -- I'm assuming you loved your father dearly,  
14 correct?

15 A Yes.

16 Q Okay. And wanted him to have the best care and  
17 treatment possible, right?

18 A Yeah.

19 Q And it was Jack who came out, right, to care for your dad  
20 after his hip replacement surgery and before his death, correct?

21 A Both brothers. My brother Ian, and my brother Jack.

22 Q But Jack came out here to live with him, correct?

23 A Not permanently. Our brother Ian would relieve Jack, and  
24 Jack would come back to California.

25 Q Okay. And why do you say relieve him?

1           A     Well how -- they would take turns taking care of my father  
2 because it was either the -- those two boys or my sister and myself  
3 and because we were females, my dad thought it would be an  
4 uncomfortable situation.

5           Q     But Jack actually came and lived out here for several  
6 months, right?

7           A     I don't know how many months, but I don't think so.

8           Q     At least part of the time he was here, would you -- you'd  
9 agree to that?

10          A     Yes.

11          Q     Okay. And obviously if you were concerned that perhaps  
12 Jack wasn't of a right frame of mind to adequately watch over your  
13 father, you would have said something, right?

14          A     I would have said something had I noticed.

15          Q     Okay. But you never called up Jack and said Jack, I just  
16 don't think you're in the right frame of mind. I don't think you  
17 understand things so you can't come -- you can't watch dad  
18 anymore. You never said that to him, right?

19          A     No.

20          Q     Thank you.

21                THE COURT: Mr. Pesci?

22                MR. PESCI: Thank you, and no, Your Honor.

23                THE COURT: All right.

24                Ms. Siegel, thank you very much for your time. You're  
25 excused, okay.



1 THE WITNESS: Thank you.

2 THE COURT: Did you guys still have any of your other

3 witnesses? Or --

4 MS. WECKERLY: I --

5 THE COURT: -- did --

6 MS. WECKERLY: -- sorry, I had let him go --

7 THE COURT: No, no, no, --

8 MS. WECKERLY: -- before we --

9 THE COURT: -- that's okay.

10 MS. WECKERLY: -- started.

11 THE COURT: All right. Why don't you guys approach?

12 [Bench conference transcribed as follows:]

13 THE COURT: So how many do you have left now?

14 MS. WECKERLY: So we have the detective, which is just

15 going to be reading, like a 20-page statement. We have the DNA,

16 which is pretty long.

17 THE COURT: Okay.

18 MS. WECKERLY: And we have a pathologist --

19 THE COURT: Okay.

20 MS. WECKERLY: -- and prints. So.

21 THE COURT: Okay. So that's long stuff.

22 MS. WECKERLY: It's pretty long --

23 THE COURT: Okay.

24 MS. WECKERLY: -- all of it, yeah.

25 THE COURT: And then how many do you guys have left

1 other than -- since we've done these two?

2 MS. MANINGO: We have --

3 MR. YANEZ: We have our SANE expert coming in -- flying  
4 in tomorrow morning.

5 THE COURT: Okay.

6 MR. YANEZ: And leaves, I think, around 5:00.

7 MS. MANINGO: And then, before that we have either  
8 Hardy --

9 THE COURT: He's going to be in when?

10 MR. YANEZ: I'm sorry

11 THE COURT: He's going to -- what did you say about?

12 MR. YANEZ: My SANE expert's from out of state.

13 THE COURT: Right

14 MR. YANEZ: So she's coming in, flying in tomorrow.

15 She'll be here early in the morning.

16 THE COURT: Okay.

17 MR. YANEZ: And then she has to leave by 5:00.

18 THE COURT: 5:00, okay.

19 MR. YANEZ: I think her flight is.

20 MS. MANINGO: And one of the detectives.

21 THE COURT: Okay.

22 MS. MANINGO: And that's it.

23 THE COURT: So I don't think it's realistic to think we're  
24 going to argue tomorrow.

25 MS. WECKERLY: I think that's unrealistic --

1 THE COURT: It's what I'm getting at.

2 MS. WECKERLY: -- at this point.

3 THE COURT: Yeah. So I'm just trying to figure out do we

4 need to settle --

5 MS. WECKERLY: We do --

6 THE COURT: -- the instructions tonight?

7 MS. WECKERLY: -- have Autrey's that we can read in now

8 if -- I mean we have that. It's going to take, not very long, but I'm

9 just trying to think of things that we can knock out.

10 THE COURT: That's fine.

11 MR. YANEZ: Plus, the fingerprint expert, we are waiting

12 on, seeing if they want us to go forward with that tomorrow --

13 THE COURT: Right.

14 MR. YANEZ: -- or if they're going to want that time.

15 THE COURT: Okay.

16 MS. MANINGO: I don't think we have an option. We're --

17 I mean, my detective -- my investigator's on an airplane although I

18 texted him what I could so, at the airport, he could look.

19 THE COURT: Okay.

20 MS. MANINGO: He's going to get here, we're going to

21 start in the morning we -- what are we going --

22 THE COURT: You don't have an option if what?

23 MS. MANINGO: I don't think we can --

24 MR. YANEZ: Going past [indiscernible] --

25 MS. MANINGO: -- go with the prints.

1 THE COURT: Oh, okay.

2 MR. YANEZ: We're saying we'll wait on the prints.

3 THE COURT: No, I get it.

4 MR. YANEZ: If it provides the time --

5 THE COURT: Okay.

6 MS. MANINGO: I mean, I don't -- and I don't think they

7 have an option not to wait.

8 THE COURT: I was just getting at I didn't think we were

9 going to argue anyway tomorrow so we didn't need to stay tonight

10 to get the instructions.

11 MS. WECKERLY: No.

12 THE COURT: So we'll figure out when we're going to do

13 that.

14 MS. WECKERLY: We do know that that person was an

15 employee --

16 MR. PESCI: We'd got a text saying --

17 MS. WECKERLY: -- and that they worked --

18 MR. PESCI: -- that this confirms.

19 MS. WECKERLY: -- up until like May '98.

20 MR. YANEZ: Well we have to resign [indiscernible].

21 MS. WECKERLY: Sure, sure.

22 THE COURT: Worked there, and then quit May 17<sup>th</sup> 1998?

23 MS. WECKERLY: I don't think so.

24 MR. PESCI: Did have a pair of panties on his head.

25 MS. WECKERLY: But it's locked down, so --

1 MS. MANINGO: Do you know why he -- Do you guys  
2 have information why he was left -- or was terminated?

3 MR. PESCI: No, we just got a text

4 MS. WECKERLY: We just got a text.

5 MR. PESCI: We'll follow up and try to find out more.

6 THE COURT: Okay. So we can read Autrey tonight if you  
7 guys want to? Or we can wait until tomorrow?

8 MS. WECKERLY: Let's wait until tomorrow.

9 THE COURT: Okay. That's fine.

10 MS. WECKERLY: It's boring.

11 THE COURT: That's fine. We'll do it tomorrow.

12 MS. MANINGO: Autrey?

13 THE COURT: Autrey. Yeah.

14 [End of bench conference.]

15 THE COURT: Okay. We're going to go ahead and break  
16 for the evening. And as we discussed at the bench it's obviously  
17 not the anticipation of anybody that we're going to argue  
18 tomorrow, particularly since we are going to give the Defense  
19 whatever leeway you need to figure out what you want to do with  
20 the print testimony from the State.

21 So we will have further discussions tomorrow about when  
22 to -- how to schedule finishing up with the witnesses and arguing  
23 the case, okay? And then I will see you tomorrow morning at 10:00.

24 MS. MANINGO: Thank you.

25 MS. WECKERLY: Thank you.

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MR. YANEZ: Thank you.

THE COURT: All right. Thank you.

MR. PESCI: Thank you.

THE COURT: All right, guys. Take care.

[Evening recess at 4:38 p.m.]

\* \* \* \* \*

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

  
\_\_\_\_\_  
Brittany Mangelson  
Independent Transcriber

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

GUSTAVO RAMOS,

Appellant,

v.

THE STATE OF NEVADA,

Respondent.

Supreme Court Case No. 79781

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**APPELLANT'S APPENDIX**

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**CERTIFICATE OF SERVICE**

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 31st day of March, 2020. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Steven Wolfson, Clark County District Attorney's Office

Aaron Ford, Nevada Attorney General

Jamie J. Resch, Resch Law, PLLC d/b/a Conviction Solutions

By: 

Employee, Resch Law, PLLC d/b/a Conviction Solutions