

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

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3 ARMANDO VASQUEZ-REYES,) No. 80293

4 Appellant,)

5 v.)

6)

7 THE STATE OF NEVADA,)

8 Respondent.)

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10 **APPELLANT'S APPENDIX VOLUME VI PAGES 1228-1476**

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1 MS. HOJJAT: Where do you think that phrase comes
2 from?

3 PROSPECTIVE JUROR NO. 0910: I -- it's just
4 something that we've grown up listening to and hearing other
5 people say. It's not something that's planted into our head.
6 It's something that we just learn over time from a child to
7 adulthood you hear people using phrases and slangs all the
8 time and so it's not something that --

9 MS. HOJJAT: Who's -- who all has heard the phrase
10 the benefit of the doubt? So what is the State's burden?

11 PROSPECTIVE JUROR NO. 0910: The whole case. They
12 have everything and anything that --

13 THE COURT: Okay. But I just want to make sure this
14 is clear. The Court will instruct the jury panel on the law
15 and the Court will instruct you on what the burden is that the
16 State has. So again, I don't want to put any false narrative
17 out.

18 So when it comes time the Court will instruct the
19 jury panel on the law.

20 MS. HOJJAT: And I should clarify. I didn't mean
21 like what do you think in terms of quantitative. What I meant
22 was just it's proof beyond a reasonable doubt; right? There's
23 that word again, doubt.

24 PROSPECTIVE JUROR NO. 0910: That -- that word it's
25 -- it's -- it's hard to determine unless you have important

1 information to follow through with your choices and your
2 decisions.

3 PROSPECTIVE JUROR NO. 0910: Do you think the phrase
4 the benefit of the doubt -- of the doubt actually comes from
5 the criminal justice system?

6 THE COURT: Okay. No. No, no, no. Again, the
7 Court will instruct the jury panel on what the burden is and
8 you will be given specific legal instructions to follow.

9 MS. HOJJAT: I want to talk about something else
10 that I'm sure everybody here has noticed that hasn't been
11 discussed at all yet.

12 Mr. Vasquez-Reyes is in this trial with the
13 assistance of Spanish interpreters. And they've kind of been
14 rotating out because it's a lot to interpret word for word
15 everything that's going on. So you guys I think have seen the
16 rotation of the interpreters.

17 Has everybody seen that?

18 Does it bother anybody that Mr. Vasquez-Reyes is
19 using an interpreter during this trial? Show of hands.
20 Anybody have any concerns?

21 Ma'am, Ms. Farmer?

22 PROSPECTIVE JUROR NO. 1307: I'm empathetic to the
23 fact that questions are continuously being repeated in English
24 So for that to then be translated into Spanish if there's
25 inconsistency in the way it's translated he may not

1 understand.

2 This whole experience has been pretty eye opening to
3 me. I think the voir dire process in and of itself while I'm
4 empathetic to counsel's mission in selecting a jury introduces
5 a substantial amount of bias into the process before the trial
6 even begins.

7 And I think that that's -- presents additional risk
8 to the defendant.

9 MS. HOJJAT: Interesting. Can you -- can you
10 explain that to me like it introduces bias?

11 PROSPECTIVE JUROR NO. 1307: Um, I mean, I think
12 each member of counsel has come here with a job to do and a
13 mission and all of their questions are crafted and delivered
14 in a way that supports what they hope to be the ultimate
15 outcome of the case and dependent on personalities and
16 interactions with members of the jury panel I think that
17 coming from a background where I'm very sensitive to
18 recognizing my own bias I can feel biases starting to form in
19 my own opinion before I've even heard evidence which frightens
20 me about my ability to separate from that if we move forward
21 into the trial.

22 I mean, I understand and I will do my best to meet
23 my responsibilities under the Constitution and the
24 requirements of the Court. But I am hyper aware of my own
25 biases and opinions as they form because it's necessary to do

1 my work. And I just feel like the voir dire process could be
2 difficult for people who may not be able to self identify
3 biases and opinions that may be forming throughout the
4 process.

5 MS. HOJJAT: That's really interesting, ma'am. I
6 appreciate that. That's very, very interesting. Thank you
7 for sharing that.

8 Ms. Farmer just kind of talked about the idea that
9 we can sometimes have biases that we're not aware we're
10 forming. Did everybody hear that?

11 UNIDENTIFIED PROSPECTIVE JURORS: Yes.

12 MS. HOJJAT: Does everybody agree with that?

13 UNIDENTIFIED PROSPECTIVE JURORS: Yes.

14 MS. HOJJAT: Ma'am, Ms. Meyers?

15 PROSPECTIVE JUROR NO. 0129: I was just agreeing.

16 MS. HOJJAT: Oh, okay. I know, sorry, sometimes
17 it's like we see a hand and we're so happy that somebody wants
18 to participate. Get the microphone over there. Sorry about
19 that.

20 That was really interesting, Ms. Farmer. Thank you.

21 PROSPECTIVE JUROR NO. 1307: Yes.

22 MS. HOJJAT: Does anybody here feel like they could
23 potentially have a bias that they're not consciously thinking
24 of that has formed about Mr. Vasquez-Reyes in this case?

25 Anybody at all? Seeing no hands.

1 Let me rephrase that. We've all heard of the
2 concept of stereotypes, right? The idea that -- stereotypes
3 are kind of a form of bias, right, an unconscious bias. You
4 don't see a person and consciously think a thing about that
5 person but you maybe lump them into categories based on things
6 that you perceive; right?

7 Is everybody aware of this?

8 UNIDENTIFIED PROSPECTIVE JURORS: Yes.

9 MS. HOJJAT: Seeing people shaking their heads yes.

10 Does anybody disagree and think that's not -- that's
11 not really a thing? Seeing no hands.

12 Can everybody agree that throughout this trial when
13 making judgments about Mr. Vasquez-Reyes that any biases that
14 you might feel yourself thinking that will put those aside?
15 Can everybody agree to that?

16 Ma'am, Ms. Jankovic?

17 PROSPECTIVE JUROR NO. 0052: What was the question?
18 I'm sorry.

19 MS. HOJJAT: I was asking if everybody could agree
20 that if during the course of this trial if you're selected as
21 a juror and you feel yourself slipping into a thought process
22 that is basically a bias or a stereotype or kind of judging
23 someone based on something other than the evidence that you've
24 been presented that you won't use that, you won't hold that
25 against Mr. Vasquez-Reyes, will be conscious of it?

1 Can we all agree to try to be conscious of our
2 biases?

3 UNIDENTIFIED PROSPECTIVE JURORS: Yes.

4 MS. HOJJAT: Okay. And could we all agree that an
5 individual should never be judged in a court of law based on
6 our individual biases?

7 UNIDENTIFIED PROSPECTIVE JURORS: Yes.

8 MS. HOJJAT: Okay. So we all agree we're going to
9 try to be very aware of that during this trial?

10 UNIDENTIFIED PROSPECTIVE JURORS: Yes.

11 MS. HOJJAT: Thank you, guys. I appreciate that.

12 A lot of cases in the media, right? A lot of cases
13 that are hyped up in the media, big media cases. Has anybody
14 followed any of them? Ever? You know, there is the --

15 UNIDENTIFIED PROSPECTIVE JURORS: Yes.

16 MS. HOJJAT: -- there was the Casey Peterson, there
17 was Jodi Arias, there was all sorts of big media cases. Who's
18 ever followed one of those cases, kind of been aware of them?
19 Okay.

20 Who's ever seen when one of those big media cases
21 ends up in a not guilty? And everybody wants to attack the
22 jury and why did the jury find that person not guilty. Seen
23 the criticism --

24 UNIDENTIFIED PROSPECTIVE JUROR: Um-h'm.

25 MS. HOJJAT: -- of jurors for finding -- anybody

1 here worried that they'd be criticized for finding Mr.
2 Vasquez-Reyes not guilty?

3 Anybody here worried that they'd be judged if they
4 returned a verdict of not guilty?

5 Okay. In those big media cases have you ever seen
6 when they go talk to the jurors afterward and some juror says,
7 well, you know, we thought he maybe did it but the State just
8 didn't prove it. Have you seen that? Yeah.

9 Everybody here comfortable with that concept? We
10 thought he did it but the State didn't prove it. So he got a
11 not guilty. Is everybody comfortable with that? A show of
12 hands.

13 Ma'am, Ms. Fernandez, you didn't raise your hand.

14 PROSPECTIVE JUROR NO. 0104: Oh, I was.

15 MS. HOJJAT: Is anybody uncomfortable with that?
16 With at the end of the trial thinking, I think he might have
17 done it but the State didn't prove it, and now I've got to
18 return a not guilty even though I think it may have happened.
19 Does anybody feel like they couldn't return that not guilty?
20 Anybody? Everybody is comfortable returning a not guilty if
21 the State didn't meet their burden, whatever your personal
22 thoughts or speculations may be on what happened?

23 Ma'am, Ms. Shock, I didn't see you shaking your
24 head. Are you comfortable with that?

25 PROSPECTIVE JUROR NO. 0763: Yeah.

1 MS. HOJJAT: Yeah? Okay.

2 So here's a question. Right now. Not a single

3 piece of evidence has been presented in this case, right?

4 We're all in agreement, you guys haven't gotten any evidence.

5 You have to go deliberate and vote; guilty or not guilty.

6 Show of hands not guilty?

7 Seeing a couple hands. Seeing a couple hands for

8 not guilty. Okay. A show of hands guilty. A show of hands

9 I'm not comfortable voting right now this is ridiculous how

10 can you possibly try to make me vote right now. Okay.

11 Who are my not guilty's? Let me see my not guilty's

12 again. All right.

13 Mr. Jackson.

14 PROSPECTIVE JUROR NO. 1343: Yeah.

15 MS. HOJJAT: Tell me why it's a not guilty.

16 PROSPECTIVE JUROR NO. 1343: 1343. Because the

17 State hasn't proved beyond a reasonable doubt that he's

18 guilty.

19 MS. HOJJAT: Okay. So that's the default; right?

20 PROSPECTIVE JUROR NO. 1343: Yeah.

21 MS. HOJJAT: Until they prove otherwise it is a not

22 guilty. Is everyone comfortable with that? Anybody

23 uncomfortable with that? Anybody feel like I don't -- I don't

24 want to return a not guilty right now?

25 Okay. So Mr. Jackson, what you just did was you

1 presumed him innocent; correct?

2 PROSPECTIVE JUROR NO. 1343: No, I -- he's not
3 guilty at the time.

4 MS. HOJJAT: Not guilty. Okay. The -- the Judge
5 earlier said that the defendant is presumed innocent. Did
6 everybody hear that? Every defendant is presumed innocent.
7 Okay. And so what that means is until there's evidence that
8 he's guilty he is?

9 UNIDENTIFIED PROSPECTIVE JURORS: Innocent.

10 MS. HOJJAT: Right. And a couple of you guys talked
11 about, you know, being neutral or not wanting to make
12 judgments right now. But as you sit here right now unless
13 proof beyond a reasonable doubt is presented does everybody --
14 is everybody comfortable with the idea he is not guilty,
15 innocent; right? Because presuming him innocent is different
16 from being neutral.

17 Does that make sense to everybody? Does anybody
18 disagree with that?

19 Ma'am, Ms. Farmer?

20 PROSPECTIVE JUROR NO. 1307: I mean, in the example
21 that you gave I think the presumption of innocence is
22 different than saying we'd be comfortable returning a not
23 guilty verdict without seeing any evidence because the
24 presumption of innocence is more of a silent position versus
25 having to assert the idea.

1 MS. HOJJAT: Can you explain that to me a little bit
2 more?

3 PROSPECTIVE JUROR NO. 1307: So right now as jury
4 candidates we're not required to pass any judgment. We're not
5 going to be required to pass judgment until we've seen the
6 case and the evidence. So the presumption of innocence to me
7 is more of a silent position than to raise my hand and say
8 that I would call him not guilty without seeing anything
9 because that's not how the process works.

10 MS. HOJJAT: Okay.

11 PROSPECTIVE JUROR NO. 1307: So I do not believe
12 that he is guilty. I believe that until the proceedings
13 there's a presumption of innocence but I think presumption of
14 innocence is different than hypothetically returning a not
15 guilty with no case.

16 MS. HOJJAT: Okay. Let me ask you this because I
17 don't quite understand and I just want to clarify.

18 So let's say you were called as a juror in this
19 case. You are selected, you are on our jury panel -- or you
20 are on our jury. And we are now beginning opening statements.
21 At that moment in time are you comfortable with the idea that
22 Mr. Vasquez-Reyes is innocent?

23 PROSPECTIVE JUROR NO. 1307: Yes, the presumption of
24 innocence remains until all of the evidence has been heard and
25 the deliberation begins.

1 MS. HOJJAT: Okay. And do you see a difference
2 between being presuming him innocent and just simply being
3 neutral as to whether he is innocent or guilty?

4 PROSPECTIVE JUROR NO. 1307: Yes. But I also think
5 the presumption of innocence in a court needs to also be open
6 to the fact that you're willing to hear evidence to the
7 contrary.

8 MS. HOJJAT: Of course. Of course. We want you to
9 listen to the evidence in making your determination. But I
10 guess what I mean is because some of your fellow jurors used
11 the word neutral. And do you see a difference between being
12 neutral and presuming someone innocent?

13 PROSPECTIVE JUROR NO. 1307: Yes, in a legal setting
14 yes. But I would think that to the lay person those concepts
15 would be fairly interchangeable.

16 MS. HOJJAT: Okay. Fair enough. Fair enough.

17 And that's kind of a little bit of why we're talking
18 about some of these things; right?

19 So then we have talked about the fact that the
20 Defense does not need to present evidence.

21 Question for the panel; if Mr. Vasquez-Reyes on the
22 advice of counsel decides not to testify during this trial is
23 there anyone here who thinks, you know what, that's a thing
24 that I might consider during my deliberation and I might hold
25 that against him?

1 THE COURT: Okay. And let me just add something to
2 that. Even after being instructed from the Court that you're
3 not permitted to consider it or use it against somebody,
4 because you do have a right to remain silent, and so the
5 defendant does not have to take the stand. Like I've said a
6 few times, the Defense can sit there and do nothing if that's
7 what they choose.

8 But the defendant does not have to take the stand
9 and you will be instructed that you're not to consider that in
10 any manner in -- in your deliberation.

11 The question is, is anyone going to have a problem
12 with that concept?

13 UNIDENTIFIED PROSPECTIVE JUROR: No.

14 MS. HOJJAT: Thank you, Your Honor. I didn't want
15 to start instructing them on the law. I appreciate that.

16 Yeah, so the -- I didn't want to start talking to
17 you guys about the law but the Judge just instructed you guys
18 basically that he has the right not to testify. Going hand in
19 hand with the fact that he doesn't have to present any
20 evidence and it is very, very difficult to try to prove
21 yourself innocent. He does not have to testify.

22 Would anybody be uncomfortable going into
23 deliberation if he didn't testify? Would anyone feel like
24 they might hold it against him if he didn't testify?

25 Would anyone feel like you know what, if I was

1 innocent and I didn't do it, I'd testify. Show of hands?
2 Nobody. Not a single person here thinks that they'd testify
3 if they were innocent? No?

4 Sir, I'm going to call on you because you're
5 smiling. Mr. Sanders.

6 PROSPECTIVE JUROR NO. 1323: 1323.

7 MS. HOJJAT: You had a smile on your face when I
8 asked that question; why?

9 PROSPECTIVE JUROR NO. 1323: No, I wouldn't.

10 MS. HOJJAT: You wouldn't want to testify?

11 PROSPECTIVE JUROR NO. 1323: No.

12 MS. HOJJAT: Why?

13 PROSPECTIVE JUROR NO. 1323: Because it's a right
14 and it's -- someone may have a perception or a bias or
15 something that I think it keeps it off the table.

16 MS. HOJJAT: Okay. Can you -- do you think it'd be
17 nerve-wracking to testify in your own trial?

18 PROSPECTIVE JUROR NO. 1323: I'm sure it would be at
19 any trial.

20 MS. HOJJAT: Okay. Do you think if you got up there
21 and said, I didn't do it, that would end the case and, well,
22 everybody would believe you and it'd be done?

23 PROSPECTIVE JUROR NO. 1323: Of course, no.

24 MS. HOJJAT: Does everybody agree -- do you think
25 there's kind of a presumption that a defendant is going to

1 say, I didn't do it, and that's -- it almost doesn't mean
2 anything? A little bit?

3 PROSPECTIVE JUROR NO. 1323: Possibly.

4 MS. HOJJAT: Right? Does everybody agree with that?

5 UNIDENTIFIED PROSPECTIVE JURORS: Yes.

6 MS. HOJJAT: Okay. Does that add much to a trial?
7 Seeing some no's.

8 Does anybody think, yes, that adds a ton to a trial
9 and I would like to hear that. I think I should hear that?

10 Not seeing any hands.

11 MS. HOJJAT: Court's indulgence.

12 THE COURT: Sure.

13 (Mr. Hojjat/Mr. Feliciano conferring)

14 MS. HOJJAT: Ms. Tolliver-Haywood, I am picking on
15 you because I haven't heard from you and I've been in -- I've
16 been blocked. You and I can't see each other at all because
17 of this giant podium.

18 Ever heard the phrase it's better to find ten guilty
19 men not guilty than to convict an innocent man?

20 PROSPECTIVE JUROR NO. 1331: No.

21 MS. HOJJAT: You've never heard that phrase?

22 PROSPECTIVE JUROR NO. 1331: Um-h'm.

23 MS. HOJJAT: Has anybody heard that phrase? A
24 couple people. So I just said the phrase. What does it mean
25 to you?

1 PROSPECTIVE JUROR NO. 1331: It's better to not --
2 MS. HOJJAT: It's better to let ten guilty men go
3 free than to convict one innocent person.
4 MR. SWEETIN: And Judge, can we approach?
5 THE COURT: The objection is sustained.
6 MR. SWEETIN: Thank you.
7 THE COURT: I'm going to ask you to move on.
8 PROSPECTIVE JUROR NO. 1331: Well, no, if --
9 THE COURT: Okay. The objection was sustained so
10 you don't need to answer.
11 MS. HOJJAT: All right. I guess, I am about to sit
12 down. Before I do, this is everybody's last chance. If there
13 is something that you think we as the attorneys should know
14 about your experiences or about your background or about
15 something that you have witnessed in your life that might make
16 you not the best juror for this case; it doesn't mean you
17 wouldn't be a good juror in another case, but for this case if
18 you feel like maybe this isn't the -- the trial for me, I
19 would just ask you to raise your hand and let us know now.
20 Because I would hate for somebody to feel like that
21 in the middle of trial all of a sudden. Is there anybody here
22 who has anything they think we should know about?
23 Does everybody here feel comfortable being a juror
24 in this case? Show of hands.
25 Okay. Thank you guys very much. Appreciate your

1 time.

2 THE COURT: Do you pass this panel for cause?

3 MS. HOJJAT: We do, Your Honor.

4 THE COURT: Okay. Thank you.

5 All right. At this time the Clerk has prepared
6 what's been marked as Court's Exhibit No. 1 and the State of
7 Nevada may exercise their first peremptory challenge. Thank
8 you.

9 (Pause in the proceedings)

10 THE COURT: The Defense may exercise their first
11 challenge.

12 (Pause in the proceedings)

13 THE COURT: The State and Defense may exercise their
14 second peremptory challenge.

15 (Pause in the proceedings)

16 THE COURT: The State and Defense may exercise their
17 third peremptory challenge.

18 (Pause in the proceedings)

19 THE COURT: The State and Defense may exercise their
20 fourth peremptory challenge.

21 (Pause in the proceedings)

22 THE COURT: The State and Defense may exercise their
23 fifth peremptory challenge.

24 (Pause in the proceedings)

25 THE COURT: The State and Defense may exercise their

1 sixth peremptory challenge.

2 (Pause in the proceedings)

3 THE COURT: The State and Defense may exercise their
4 seventh peremptory challenge.

5 (Pause in the proceedings)

6 MR. SWEETIN: Judge, can we approach very quickly?

7 THE COURT: Yeah, of course.

8 (Bench conference begins.)

9 MR. SWEETIN: Judge, I still all my -- my witnesses
10 waiting downstairs.

11 THE COURT: I was kind of hoping we could do the
12 hearing tonight.

13 MR. ROWLES: Our witnesses need to get to work.

14 THE COURT: When I have the jury empaneled I can
15 release them and -- I know you have the witnesses here. I
16 wanted to be able to get that done.

17 MR. SWEETIN: So if we put on by -- we -- we have
18 two hearings. One of them is just to find out whether or not
19 they received anything. You know, I can see maybe the other
20 is going to take probably more than an hour.

21 MR. ROWLES: [Inaudible].

22 MR. SWEETIN: The other witness.

23 THE COURT: Why?

24 MR. FELICIANO: Because --

25 MS. HOJJAT: There's a lot.

1 MR. SWEETIN: There's a lot to go through.

2 THE COURT: Okay. So do you just want to do it in
3 the morning?

4 MR. SWEETIN: You know, they're going to have to
5 come back tomorrow anyway.

6 THE COURT: Okay. I was just trying to avoid
7 because I know you've had your witnesses here.

8 MR. SWEETIN: I know.

9 THE COURT: Sorry about that.

10 MR. SWEETIN: No, that's fine.

11 MR. FELICIANO: The first hearing is going to take
12 maybe ten minutes. But we can do them both tomorrow but
13 whatever everybody wants.

14 THE COURT: Okay. Because I have something set at
15 9:00 o'clock so we won't be able to start until 10:00. So --
16 so maybe not have the jury come until 1:00 o'clock?

17 MR. SWEETIN: Yeah, I think that's probably about
18 right.

19 MR. FELICIANO: If --

20 THE COURT: And that'll give us the morning.

21 MR. FELICIANO: Okay. So whatever you say.

22 THE COURT: And leaves plenty of time. Well, I'm
23 just hoping that will give us plenty of time so you don't have
24 -- I hate to have a jury sitting and waiting.

25 MR. FELICIANO: Well, are you going to give your

1 staff a break after we're done in the morning?

2 THE COURT: Of course.

3 MR. FELICIANO: Then we probably want them here

4 later because if we -- just say we end at noon --

5 THE COURT: So two hours isn't enough?

6 MR. FELICIANO: I'm just -- I mean if -- they --

7 MR. SWEETIN: Well --

8 MR. FELICIANO: -- could be waiting here until 2:00.

9 MR. SWEETIN: -- you know, the thing is that you

10 know if we're going to start, you know, at -- I don't know how

11 much the Defense is planning on doing because, you know,

12 ultimately the showing is just basically a proffer to the

13 Court --

14 THE COURT: Right.

15 MR. SWEETIN: -- of probable cause.

16 THE COURT: Right.

17 MR. SWEETIN: Yeah, so --

18 THE COURT: I mean, it's a --

19 MR. FELICIANO: Well, we -- we have no idea what

20 she's going to say, so.

21 MR. ROWLES: We can do it. We should be fine.

22 MR. SWEETIN: I think so. Yeah.

23 MS. HOJJAT: Okay.

24 THE COURT: Okay.

25 MR. FELICIANO: I'm trying -- if --

1 THE COURT: All right. Are we on the seventh one
2 now? Did you do it?
3 MR. FELICIANO: Uh --
4 THE COURT: Are you done?
5 MR. FELICIANO: I did.
6 THE COURT: Okay.
7 MR. FELICIANO: Would you like us?
8 THE COURT: You -- oh, you already -- you did it?
9 MR. FELICIANO: Yeah, I think he -- because we gave
10 it back to him.
11 THE COURT: Okay.
12 MS. HOJJAT: Maybe at 1:30 [inaudible] --
13 THE COURT: So if you want to let your witness go,
14 is that --
15 MS. HOJJAT: -- if we go from 10:00 to 12:00.
16 MR. SWEETIN: If that's all right.
17 THE COURT: Okay.
18 MS. HOJJAT: Well, perhaps I was going to suggest a
19 1:30, if it goes from 10:00 until 12:00 then an hour from
20 12:00 to 1:30 for lunch and they're -- we all come back --
21 THE COURT: Okay.
22 MS. HOJJAT: -- at 1:30.
23 THE COURT: All right. Thank you.
24 (End of bench conference.)
25 THE COURT: The State and the Defense may exercise

1 their eighth peremptory challenge.

2 Mr. Dorta, do you need a break?

3 PROSPECTIVE JUROR NO. 0006: Oh, I --

4 THE COURT: Are you okay?

5 PROSPECTIVE JUROR NO. 0006: -- just have to

6 straighten my leg --

7 THE COURT: Okay.

8 PROSPECTIVE JUROR NO. 0006: -- for a second.

9 (Pause in the proceedings)

10 THE COURT: Thank you.

11 Okay. At this time the State of Nevada and the
12 Defense may exercise their final peremptory challenge as to 25
13 through 30 with the exception of those that have been
14 exercised.

15 (Pause in the proceedings)

16 THE COURT: Thank you.

17 At this time, ladies and gentlemen, we're going to
18 take a short recess. When -- it'll probably only be about
19 three to five minutes. When Officer Hawkes asks you to come
20 back in I'm going to ask you not to sit in the box, everybody
21 to sit out in the gallery and at that time the Clerk will call
22 the members of our jury panel. We'll have a jury panel
23 empaneled and everyone else will be free to go home.

24 During this recess, you're admonished not to talk to
25 or converse amongst yourselves or with anyone else on any

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

8 Thank you very much and we're in recess.

9 THE MARSHAL: Jurors and everybody in the box please
10 bring all your items with you because you won't be going back
11 to the box; okay?

12 All rise for the exiting jury, please.

13 (Outside the presence of the prospective jury panel)

14 THE COURT: Okay. The record will reflect that the
15 hearing is taking place outside the presence of our jury
16 panel.

17 Our jury panel will be as follows: Juror No. 1 is
18 Meivys Tutaj. No. 2, Lidia De Jaime. No. 3 Bernadette
19 Bartolome. No. 4, Beau William Bracks. No. 5, Patricia
20 Carkeek. No. 6, Veronica Rodriguez. No. 7, Garrett. No. 8,
21 Caro. No. 9, Lutz. No. 10, Millsaps. No. 11, Benitez.
22 Juror No. 12, Guzman. And then No. 13 will be Lynn Dunton-
23 Snider and No. 14, Adrian Tolliver-Haywood.

24 Any objection by the State of Nevada?

25 MR. SWEETIN: No, Your Honor.

1 THE COURT: Any objection by the Defense?
2 MS. HOJJAT: Court's indulgence.
3 THE COURT: Sure.
4 MR. FELICIANO: No, we're -- no objection.
5 THE COURT: Okay.
6 MR. FELICIANO: Are we going to get a list maybe
7 tomorrow of the -- of the names?
8 THE COURT: Sure.
9 THE CLERK: I'll give you a list.
10 MR. FELICIANO: Okay, thank you.
11 MS. HOJJAT: Oh, there was two other matters.
12 THE COURT: I don't know where Hawkes went
13 especially since I'm just going to let them go so he doesn't
14 need to go looking for jury notebooks.
15 MS. HOJJAT: So there were two other matters we
16 wanted to bring up super quickly. One was the elevators.
17 MR. FELICIANO: Oh, yeah, so are we allowed to go
18 use the back restrooms and back elevators when we're in trial?
19 It's just hard because there's so many jurors out there we
20 don't really want to talk to them and we're kind of in a -- we
21 don't want to interact with them obviously. Will we be
22 allowed to?
23 THE COURT: I'm sorry, you believe that if we have a
24 jury panel you'll have to use the back hallway?
25 MR. FELICIANO: No, I'm saying -- I was just saying

1 when we're in trial are we allowed to use the back areas? If
2 not, we're just asking.

3 MS. HOJJAT: The elevator because I know the
4 State's taking the elevator like through the main area.

5 THE COURT: Oh, yeah.

6 MS. HOJJAT: Through the main area. Through the
7 main --

8 THE COURT: Oh, you -- if you want to --

9 MS. HOJJAT: -- the back elevator.

10 THE COURT: -- go out there and leave at the end of
11 the day; that's fine.

12 MS. HOJJAT: Because -- because like during breaks
13 and stuff like that we're kind of stuck waiting for them.

14 THE COURT: Okay. But like during breaks I don't --
15 I'm sorry, I don't --

16 MS. HOJJAT: Oh, okay.

17 THE COURT: -- let everyone go back there.

18 MS. HOJJAT: No, no, no, not the restroom. But like
19 through the hallway to the back elevators because we're not
20 technically supposed to use the elevators in the back --

21 THE COURT: Oh, okay. You want to be able to just
22 go back the hallway to --

23 MS. HOJJAT: The elevator, yes.

24 THE COURT: Okay. All right.

25 MR. FELICIANO: So we can come out this way then go

1 back in and leave?

2 MS. HOJJAT: To use the elevators to go down.

3 THE COURT: That's fine.

4 MR. FELICIANO: Okay.

5 MS. HOJJAT: Thank you. Perfect.

6 MR. FELICIANO: Sorry. I didn't explain it well.

7 THE COURT: I got it. All right.

8 Okay. We can bring them in.

9 THE MARSHAL: Sorry, I had to use the --

10 THE COURT: Oh, I'm sorry. Sorry. I thought you

11 were looking for juror notebooks. Sorry about that.

12 MS. HOJJAT: And then the only other thing that I

13 wanted to bring up and I only brought one copy so we can deal

14 with it tomorrow --

15 THE COURT: Sure.

16 MS. HOJJAT: -- if the Court would prefer. I know I

17 -- I raised this issue in another case about implicit bias and

18 I filed that motion asking the Court to play the video and

19 Your Honor indicated in that case you weren't inclined to play

20 the video but you were inclined to entertain a potential jury

21 instruction at the beginning of trial on implicit bias.

22 So I actually found one from that same jurisdiction,

23 the Federal Western District of Washington. I did find a jury

24 instruction. And I was going to ask the Court if Your Honor

25 would consider reading it as part of the preliminary

1 instructions. It is a preliminary instruction in that
2 jurisdiction. I only have one copy right now because I found
3 it --

4 THE MARSHAL: All rise for the entering jury.

5 MS. HOJJAT: Oh.

6 THE COURT: Okay, then --

7 MS. HOJJAT: We'll deal with it later.

8 (Inside the presence of the prospective jury panel)

9 THE COURT: Okay. You can start calling them.

10 THE CLERK: Juror No. 1 is going to be Meivys Tutaj.

11 THE COURT: You're going to be Juror No. 1.

12 THE CLERK: Juror No. 2, Lidia De Jaime.

13 THE COURT: Ms. De Jaime, you're Juror No. 2.

14 THE CLERK: Juror No. 3, Bernadette Bartolome.

15 THE COURT: I don't think she's come in yet so.

16 THE CLERK: Juror No. 3 is going to be Bernadette
17 Bartolome.

18 THE COURT: Here she comes. Ms. Bartolome, you're
19 Juror No. 3.

20 THE CLERK: Juror No. 4, Beau William Bracks.

21 THE COURT: Mr. Bracks?

22 JUROR NO. 4: Right here. Sorry.

23 THE COURT: Oh, sorry. Okay, Mr. Bracks is Juror
24 No. 4.

25 THE CLERK: Juror No. 5, Patricia Carkeek.

1 Juror No. 6, Veronica Rodriguez.
2 Juror No. 7, Danyel Garrett.
3 Juror No. 8, Estefania Caro.
4 Juror No. 9, Kelly Lutz.
5 Juror No. 10, Caroline Millsaps.
6 Juror No. 11, Heriberto Benitez.
7 Juror No. 12, Belia Guzman.
8 Juror No. 13, Lynn Dunton-Snider.
9 Juror 14, Adrian Tolliver-Haywood.
10 THE COURT: Okay. At this time, ladies and
11 gentlemen, we do have our empaneled jury panel. So if your
12 name was not called you are free to go.
13 Officer Hawkes is going to give you instruction
14 about where to leave your badges. But again, before you do
15 leave I just want to thank you very much for being here for
16 the last couple of days and answering all of our questions.
17 And you are excused from your service. Thank you.
18 (Pause in the proceedings)
19 THE MARSHAL: Thank you. Please be seated.
20 THE COURT: Does the State stipulate to the presence
21 of our jury panel?
22 MR. SWEETIN: Yes, Your Honor.
23 THE COURT: The Defense?
24 MR. FELICIANO: Yes, Your Honor.
25 THE COURT: Okay. At this time, ladies and

1 gentlemen, I'm just going to give you a few instructions
2 before I excuse you for the day.

3 Officer Hawkes is giving you those blue badges
4 identifying you as a Juror in Department 12. You can take the
5 white ones off. But while you're in the courthouse I just ask
6 that you always wear that badge. It identifies you as a juror
7 so people that work in the courthouse, lawyers, witnesses,
8 persons involved in this case know not to discuss the case
9 around any jurors.

10 And I know I've told you this a few times, but I
11 just want to reiterate now that we do have a jury empaneled
12 we're going to be together throughout the rest of the week and
13 maybe into next week.

14 We are going to see each other in the elevators, the
15 hallway, maybe even coming in and out of the courthouse. We
16 cannot speak to you. Officer Hawkes is the only one that's
17 permitted to have any communication with you whatsoever
18 outside of the courtroom.

19 So if we see you please do not be offended if we
20 don't acknowledge you. We're not even going to say hello.
21 We're all maintaining our ethical obligation and maintaining
22 the integrity of the jury system.

23 So if there is anything that you need to discuss
24 with the Court you can always tell Officer Hawkes and Officer
25 Hawkes can make me aware of it and I can initiate proceedings

1 so that you can communicate with the Court.

2 Also you can't discuss the case with anyone. I know
3 you've heard me say -- I'm required by law to read that
4 admonishment to you every time we do leave the courtroom and
5 that's why I do read it. It's important. You're not
6 permitted to discuss the case with anyone, including your
7 fellow jurors, until you go back to deliberate upon your
8 verdict.

9 So when you go home tonight you can tell your
10 family, your friends, your co-workers that you are a juror in
11 a criminal case. But you can't tell them anything else.

12 You will be -- even when you're together as jurors I
13 ask that you don't discuss the case until you are instructed
14 on the law and you go back to deliberate upon your verdict.

15 Tomorrow after -- we're going to start tomorrow
16 afternoon. There's some things I have to do in the morning
17 before we start. When you come back tomorrow the Clerk will
18 give you the oath of service. You'll be given further
19 instructions and then both sides will have the right to speak
20 to you in their opening statement and then the State will
21 start to call their witnesses.

22 So tomorrow afternoon, 1:30. Come right up to the
23 14th Floor. It's the same process. Officer Hawkes will greet
24 you and he'll bring you in here when we're ready.

25 Let me give you an idea about what the rest of the

1 week will be like. So tomorrow we'll start at 1:30. Thursday
2 will be 10:30. And -- and Friday --

3 (Clerk/Court conferring)

4 THE COURT: And Friday we will probably start at
5 8:30. And if it goes into the following Monday I'll let you
6 know when we'll start. But we -- we probably wouldn't start
7 before 9:00 or 10:00 on Monday.

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

17 Those notebooks that Officer Hawkes gave to you I'd
18 just ask that you put those on your chair. I'm going to give
19 you further instruction about that tomorrow. That's your
20 juror notebook, but it has to remain in the courtroom at all
21 times until you are excused to deliberate upon your verdict.

22 So thank you very much for your willingness to be
23 here and your courtesy and cooperation. You are excused until
24 tomorrow afternoon at 1:30.

25 THE MARSHAL: Thank you. All rise for the exiting

1 jury, please.

2 (Outside the presence of the prospective jury)

3 THE COURT: Okay. The record will reflect that the
4 hearing is taking place outside the presence of the jury
5 panel.

6 If you want to give the State a copy of that
7 instruction I'd be happy to consider it.

8 MS. HOJJAT: Thank you very much, Your Honor.

9 THE COURT: Okay.

10 MS. HOJJAT: I appreciate that. I'll get a copy
11 over to you guys this evening.

12 MR. SWEETIN: You're going to e-mail it to us?

13 MS. HOJJAT: Yes.

14 MR. SWEETIN: Okay.

15 THE COURT: Anything else? So tomorrow --

16 THE CLERK: Are we doing the witness tonight or?

17 THE COURT: No, we're not going to do the witness
18 tonight.

19 So your witnesses will be here --

20 MR. SWEETIN: You indicated 10:00 o'clock, I think.

21 THE COURT: Okay. Because I'm sorry but I have
22 another hearing set at 9:00 o'clock. I hate that when that
23 happens during a trial, I know, but I'm going to push them to
24 get done in an hour, okay? So we'll see you tomorrow at
25 10:00.

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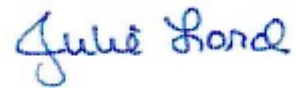
MR. FELICIANO: Okay. Thank you.

THE COURT: Okay, thanks.

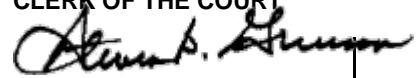
(Court recessed at 4:46 P.M., until Wednesday,
October 9, 2019, at 10:34 A.M.)

* * * * *

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



JULIE LORD, TRANSCRIBER
VERBATIM DIGITAL REPORTING, LLC



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

* * * * *

THE STATE OF NEVADA,)	CASE NO. C-16-316382-1
)	
Plaintiff,)	DEPT. NO. XII
v.)	
)	
ARMANDO VASQUEZ-REYES,)	
a/k/a ARMANDO VASQUIEZREYES,)	
)	
Defendant.)	
)	

BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT JUDGE

WEDNESDAY, OCTOBER 9, 2019

RECORDER'S TRANSCRIPT OF HEARING:
JURY TRIAL - DAY 3

APPEARANCES:

FOR THE STATE:	JAMES R. SWEETIN, ESQ. Chief Deputy District Attorney
	WILLIAM C. ROWLES, ESQ. Deputy District Attorney
FOR THE DEFENDANT:	MIKE FELICIANO, ESQ. NADIA HOJJAT, ESQ. Deputy Public Defenders

ALSO PRESENT:

MARIA PERALTA de GOMEZ
BETTE BROOKS
SOLEDAD GARCIA
ALEX AVANTS
XIMENA FIENE
MARIELLA LOPEZ
Spanish Interpreters

RECORDED BY: KRISTINE SANTI, COURT RECORDER
TRANSCRIBED BY: VERBATIM DIGITAL REPORTING, LLC

1 LAS VEGAS, NEVADA, WEDNESDAY, OCTOBER 9, 2019

2 (Case called at 10:34 a.m.)

3 (Outside the presence of the jury)

4 THE COURT: Good morning.

5 MR. FELICIANO: Good morning.

6 THE COURT: State versus Vasquez-Reyes, Case
7 C316382. The hearing is taking place outside the presence of
8 the jury panel and the parties can make their appearance.

9 MR. FELICIANO: Mike Feliciano and Nadia Hojjat for
10 Mr. Vasquez-Reyes.

11 MR. SWEETIN: And James Sweetin and William Rowles
12 for the State.

13 MR. FELICIANO: And before we start, can we address
14 a couple small -- or other issues --

15 THE COURT: Sure.

16 MR. FELICIANO: -- before? Okay. So we did a
17 Denno hearing on Monday and we were asking if we could get a
18 transcript of that like tomorrow, if that's possible. I know
19 we have to request the Court for a rush transcript.

20 THE COURT: How in the world would -- I mean, I've
21 got the court recorder in the courtroom.

22 MR. FELICIANO: I believe if you order it, we can
23 get it tomorrow. We're just requesting it. I know we can
24 get a disk, but we're asking for a transcript.

25 THE COURT: Who would --

1 THE COURT RECORDER: I'd have to send it out and
2 the attorneys would have to pay for a daily.

3 THE COURT: Would they -- would we be able to get
4 it back?

5 THE COURT RECORDER: I think so, but it would be
6 very expensive.

7 MR. FELICIANO: Considering we have live testimony,
8 we'd ask for the transcript.

9 THE COURT: Okay. We'll try to get it.

10 MR. FELICIANO: Okay. Thank you. And the next
11 issue is in looking over the discovery, some of the discovery
12 we have, it -- there's a reference -- there's a document that
13 we received, it's about ten pages or so, it's called Nevada
14 Initial Assessment. It appears to be -- I've never seen
15 anything like this or styled like this. So it appears to be
16 from CPS.

17 On the second page, they reference unity notes. So
18 those were the notes that CPS keeps, and we ask for those in
19 every case. I filed the motion on this probably a couple
20 years ago asking for those notes.

21 It references them. I've spoke to Mr. Sweetin, and
22 we -- it doesn't look like -- we've never received them, and
23 I don't know -- I don't believe he's asked for them, but we
24 have asked that he ask that we get those notes, so --

25 THE COURT: Do you have the CPS records?

1 MR. FELICIANO: We don't have them, no.

2 THE COURT: You didn't ask for CPS --

3 MR. FELICIANO: Yes, we've asked for it in a -- I

4 asked for it in a discovery motion. I asked Mr. Sweetin

5 personally at least one time.

6 THE COURT: Because, I mean, I would have granted

7 that. That would be my practice --

8 MR. FELICIANO: Yes.

9 THE COURT: -- in this type of case. You don't --

10 and you didn't tell me before we started trial that I don't

11 have CPS records in this case?

12 MR. FELICIANO: I didn't realize, and that was my

13 -- this Nevada's Initial Assessment we received at the last

14 setting. I believe we received at the last setting. As I

15 was going through it, that's something I missed, but I see

16 that there's a reference to unity notes.

17 But we -- I mean, we asked for them like years ago,

18 so -- and I don't know if Mr. Sweetin --

19 THE COURT: Because it would have been nice before

20 the trial's set --

21 MR. FELICIANO: Understood, but --

22 THE COURT: -- for you to tell me you didn't have

23 them.

24 MR. FELICIANO: -- but it also would have been nice

25 if we would have got them when we requested them --

1 THE COURT: So I can --

2 MR. FELICIANO: -- and when you ordered it.

3 THE COURT: -- make sure you get them.

4 MR. FELICIANO: Well, I asked Mr. Sweetin even on

5 Friday when I met in his office, Thursday or Friday when we

6 met. I said, are there any --

7 THE COURT: I mean, this is shocking that you're

8 telling me after we have a jury impaneled that you don't have

9 CPS records.

10 MR. FELICIANO: I mean, I think it's also shocking

11 that I've asked for them repeatedly, I never get them. And I

12 don't know --

13 THE COURT: But that someone would not bring that

14 to my attention before trial, yeah.

15 MR. FELICIANO: I do apologize. But in any event,

16 but we asked for these, and we didn't get them. So I'm

17 asking that we get these as soon as possible before the

18 victim testifies, not at the hearing, but at trial.

19 MR. SWEETIN: I don't know that there are other CPS

20 records. I thought this was a complete CPS record.

21 THE COURT: Well, that's what I asked. Did --

22 MR. SWEETIN: And this is what --

23 THE COURT: -- I turn the --

24 MR. SWEETIN: -- this is what we received -- this

25 is what we received from CPS, and this is what we provided to

1 defense counsel.

2 THE COURT: What it -- that --

3 MR. SWEETIN: I mean --

4 THE COURT: -- just one document?

5 MR. SWEETIN: That's what we received from CPS.

6 MS. HOJJAT: And to be clear, Your Honor, we're
7 talking about we didn't bring this up sooner.

8 THE COURT: Mr. Feliciano, can we just --

9 MS. HOJJAT: To be clear that we --

10 THE COURT: -- see what you're talking about?

11 MR. FELICIANO: Sure. May I approach?

12 THE COURT: Yeah.

13 MS. HOJJAT: To clarify when we're talking about
14 not bringing this up sooner, we didn't notice that one
15 sentence referencing unity notes until last night. We've had
16 this document, but we didn't notice that one sentence until
17 last night.

18 Had we noticed sooner, that there was a reference
19 to unity notes, we would have obviously brought it up sooner.
20 But last night in reviewing some stuff, Mr. Feliciano noticed
21 this reference. It's one sentence in a ten-page document to
22 unity notes, and that's why he inquired of Mr. Sweetin again
23 this morning.

24 MR. FELICIANO: And I've asked for these several
25 times, and I was told -- I don't -- I don't -- I can't quote

1 Mr. Sweetin as to what we told me the status was, but he said
2 he believed there were none. And I said, well, you need to
3 ask. I mean, we don't just -- it doesn't matter what he
4 believes. He needs to actually find out if any exists and we
5 don't have them.

6 MR. SWEETIN: Well, I mean, that conversation never
7 happened. He asked me whether there was any CPS records, and
8 I says, this is all that we have.

9 It's my understanding that those were forwarded to
10 us by CPS and would constitute all of the CPS records. If
11 there are other records, I'm not aware of them. I have
12 texted over to CPS to determine whether there are any unity
13 notes, but I'm certainly not aware of them.

14 I don't believe that there was CPS involved in this
15 case because the defendant was removed from the residence.

16 THE COURT: Because it says report number 1692560
17 came to CPS attention on April 16, 2016.

18 MR. FELICIANO: Yeah, and we asked for the records.

19 MS. HOJJAT: Right. So we were under the
20 impression that Your Honor's holding was everything that
21 existed as of yesterday afternoon. Last night we catch this
22 one reference. It's this sentence about unity notes, and we
23 caught it last night.

24 MR. FELICIANO: And it's the second tab on the I
25 believe second page. And that --

1 THE COURT: Well, this might be -- I mean, this
2 might be all there is, but --

3 MR. FELICIANO: It could be, but I've never --

4 THE COURT: -- but it doesn't --

5 MR. FELICIANO: -- seen that format. And they're
6 saying unity notes have a very distinct format.

7 THE COURT: I know.

8 MR. FELICIANO: You know, so I think we -- I mean,
9 I don't --

10 THE COURT: Right.

11 MR. FELICIANO: -- if they exists, I don't see why
12 we can't get them today.

13 THE COURT: Right. I see unity note 4/21/16. I
14 mean, because wouldn't it have to come to CPS's attention?
15 Wouldn't Metro at least have to report it?

16 MS. HOJJAT: We were aware that CPS wasn't, but
17 based on that document, that document is obviously CPS was
18 involved. But we were under the impression they did the
19 initial assessment, and then nothing came of it, and we had
20 everything.

21 THE COURT: Okay.

22 MS. HOJJAT: But now it looks like there's at least
23 a unity note somewhere, which tells us there's more that we
24 don't have.

25 MR. FELICIANO: And the unity note would talk about

1 opening the case, the case progress, and closing the case,
2 and that's not in there.

3 THE COURT: Right. But if this is all they did,
4 maybe the unity notes are not, you know, 50 pages long.

5 MR. FELICIANO: Maybe -- maybe not.

6 THE COURT: They might be --

7 MR. FELICIANO: We don't know, but unless without
8 seeing, I mean, without -- that's why we asked for them
9 several years ago.

10 THE COURT: Okay. Well, Mr. Sweetin, can you find
11 out if there's anything else in the CPS file.

12 MR. SWEETIN: And I've already sent a text over to
13 CPS. I haven't received a response yet.

14 THE COURT: Okay. Because normally what I do,
15 especially when it's a motion, I sign an order requiring them
16 to give the records to me, I review them, and then I turn
17 them over to both sides, and I usually make a copy and mark
18 it for the court.

19 MR. FELICIANO: Yeah, we do it in almost every
20 case --

21 THE COURT: Did I do --

22 MR. FELICIANO: -- right?

23 THE COURT: Did I do that in this one?

24 MR. FELICIANO: Well --

25 THE COURT: I don't recall.

1 MR. FELICIANO: -- I mean, I asked for them, and I
2 don't -- I tried to look this up and look back at the record,
3 but it's not on there because we're in trial, I guess. I
4 couldn't pull up the case.

5 THE COURT: Oh, okay.

6 MR. FELICIANO: But generally, I mean, I've been in
7 this department a lot, you order them, and if they exists,
8 the DA will do the order, you'll get them, review them in
9 camera, and release whatever we're entitled to. So no order
10 was -- I'm pretty sure no order was done.

11 THE COURT: I mean, if I have them marked and
12 sealed --

13 MR. FELICIANO: I don't think an order was ever
14 done, but I could be -- I could be incorrect because I was
15 under the --

16 THE COURT: Yeah, even if I --

17 MR. FELICIANO: I was --

18 THE COURT: Even if I would have still got them,
19 you know, if they would have come to me in any manner, I
20 would have reviewed them, and that's what I do. I mark them,
21 and then make copies for both sides.

22 THE CLERK: Yes.

23 THE COURT: Oh, there are?

24 MR. FELICIANO: Oh.

25 THE CLERK: On January 22, 2018, there is -- well

1 -- was there a jury trial at some point?

2 MR. FELICIANO: No.

3 THE COURT: What do you mean was there a jury --

4 THE CLERK: Susan's exhibit list says jury trial

5 January 2nd, 2018, CPS records sealed by the Court.

6 MR. FELICIANO: We never got past calendar call in

7 this case.

8 THE CLERK: I don't know why her note says that but

9 we do have CPS records in the vault. Yes.

10 THE COURT: Okay.

11 MR. FELICIANO: Oh, okay. Great.

12 THE COURT: I can get them and see if they're --

13 THE CLERK: [Inaudible].

14 THE COURT: -- if they're --

15 MR. FELICIANO: That would be great.

16 THE COURT: Let's just make sure you have

17 everything.

18 MR. FELICIANO: Perfect. Thank you.

19 THE COURT: Okay? But then, Mr. Sweetin, you will

20 also check to make sure whatever we have is the complete

21 file?

22 MR. SWEETIN: And Judge, and that's all I had in my

23 file.

24 THE COURT: Okay.

25 MR. SWEETIN: I don't have a memory of when it went

1 to my file. I just produced it over because it was in my
2 file to defense. It was my understanding that that was all
3 of the CPS records.

4 MR. FELICIANO: And -- and --

5 THE COURT: Okay.

6 MR. FELICIANO: -- while we're looking at this,
7 since those CPS records that Your Honor has are a bit -- are
8 old, if the case was still open, and your version of the
9 record shows the case was still open, then we would still
10 request the subsequent records that you don't, so --

11 THE COURT: Well, here's the thing, because it says
12 right on here, I mean, it's dated July 4, 2016, and it says
13 that it was based on information gathered, the case will be
14 closed, substantiated. I mean, the report says it was
15 closed.

16 MR. FELICIANO: Yeah, so -- but I -- there may be
17 other notes in there. So without -- once we see what you
18 have, then I guess we can go from there.

19 THE COURT: Okay.

20 MR. FELICIANO: May I -- thank you.

21 THE COURT: So when we take a break, because, I
22 mean, the Clerk will have -- you'll have to go to the vault,
23 right?

24 THE CLERK: Yeah, I'll e-mail them.

25 MR. FELICIANO: Perfect. Thank you.

1 THE COURT: Anything else?

2 MS. HOJJAT: Did Your Honor want to address the
3 issue of a potential bias instruction now or later?

4 THE COURT: No, I want to get these witnesses in.

5 MS. HOJJAT: Sounds good.

6 MR. SWEETIN: And Judge, just in regards to our
7 hearing, we have three witnesses outside if the Court wants
8 to elicit testimony from all three in regards to any benefits
9 they got.

10 And just relating to Guadalupe and our Franks
11 motion. You know, and I had mentioned this earlier, and this
12 is sort of new to me as well as it probably is to the Court
13 as to exactly how -- how these things are done.

14 But I do have a copy of the Franks case, and I know
15 the Court has reviewed it, but if I could, provide you just
16 so I can reference specific --

17 THE COURT: Sure.

18 MR. SWEETIN: -- parts of it.

19 THE COURT: No problem.

20 MR. SWEETIN: Here at the bottom of page 5 and into
21 the top of page 6, it makes reference to the fact that under
22 Franks, the Petrocelli hearing is no longer a requirement;
23 however, the Court is required to make a determination before
24 the propensity evidence, and pursuant to Franks, is going to
25 be admitted.

1 And it goes into detail in regards to essentially
2 the State is required to provide a proffer. It specifically
3 says that a hearing is not required.

4 I know we already addressed this with the Court,
5 and the Court wants to hear the witness, but the issue that
6 State would submit is that, you know, this isn't a discovery
7 tool. This is isn't something where the witness needs to be
8 cross-examined because all the Court is receiving is
9 information that would allow it to make a determination, and
10 is, I think the way -- the Court lays it out, the District
11 Court, must make a preliminary finding that the police sexual
12 offense is relevant for the propensity purposes and that the
13 jury could reasonably find that by a preponderance of the
14 evidence that the bad act constituting a sexual offense
15 occurred.

16 I -- the State would submit, I understand why the
17 Court wants to hear from the victim in this case because it
18 is kind of a unique, unusual situation because many of the
19 things he's going to testify to impact other things that she
20 would be testifying to anyway in trial, so it has to all be
21 laid out and put it into context.

22 However, I don't think that there is any --
23 certainly, there's not a requirement to have a hearing.
24 Certainly, a proffer, the State would submit, under Franks
25 just from the District Attorney is adequate. And for that

1 reason, the State submits there's no reason to cross-examine
2 the victim.

3 MR. FELICIANO: And we've addressed this, but
4 again, I mean, they need to meet the standard -- the
5 preponderance of the evidence standard.

6 THE COURT: But you know what my concern is? I
7 concern is when you tell me yesterday this is going go on for
8 hours and hours, that you are going to use this as a
9 discovery tool.

10 MR. FELICIANO: No, I mean --

11 THE COURT: Because really, the State does just
12 need to make a proffer. I indicated I wanted to hear it from
13 the witnesses.

14 MR. FELICIANO: Well, I mean, there's no way to
15 judge if they meet the preponderance of the evidence standard
16 on what we have. The only thing -- the only thing the
17 defense has as far as these new allegations is what's in this
18 motion.

19 Guadalupe -- I guess we can use her name now since
20 we're in court, right, instead of initials. Guadalupe was --
21 was -- she gave a voluntary statement in April 2016, she gave
22 a preliminary hearing testimony in July of 2016. And for
23 three years we heard nothing.

24 Now, a week before trial or a few days before
25 trial, we're hearing new evidence of all these new

1 allegations, and we're not even sure exactly what they are
2 because we don't -- we've received nothing, no evidence.

3 So at this point, we're asking for the hearing so
4 we can determine if they meet their standard. And this isn't
5 going to be a discovery tool. This is going to be questions
6 about the bad acts and her statement. I'm not going to go on
7 for hours and hours, I promise.

8 THE COURT: Okay. Because if I allow
9 cross-examination, it's going to be very limited. I mean,
10 because really the State does just have to make a proffer.

11 MR. FELICIANO: Well, but I -- I believe I get to
12 question, I mean, to determine if there's a -- if they meet
13 the preponderance of the evidence standard, credibility would
14 be an issue as well. So --

15 THE COURT: I'll give you a limited ability. But
16 again, I'm not -- this is not going to be -- we're not going
17 to examine these witnesses two times.

18 MR. FELICIANO: And I don't plan to do that.

19 THE COURT: Okay.

20 MR. FELICIANO: It's -- my cross would be lengthy,
21 but I believe I can cut this down pretty quick.

22 THE COURT: Okay.

23 MR. SWEETIN: With that, Judge, do you want to --
24 since one of our witnesses out there, I guess, wants to -- is
25 trying to get to work today, she -- and she's not going to be

1 needed later in the day, if we could put the two shortest
2 witnesses on first, and then we could have the last witness,
3 our first victim in the case, testify as to the issues
4 receiving anything and then get into the Franks issues last,
5 if that would be all right?

6 THE COURT: Okay. Sure.

7 MR. SWEETIN: Okay.

8 THE COURT: So we -- we just have to do one witness
9 in the Franks hearing?

10 MR. SWEETIN: Yes.

11 THE COURT: Okay.

12 MR. FELICIANO: Yeah, so I think we could call the
13 first two, the G.A., we -- she can --

14 THE COURT: Okay.

15 MR. FELICIANO: -- do the benefits stuff and then
16 go straight into the Franks?

17 THE COURT: Well, the District Attorney wants me to
18 do that last.

19 MR. FELICIANO: Yeah.

20 THE COURT: So you're going to call -- are you
21 going to call the mom?

22 MR. SWEETIN: Yeah, we can call the mom.

23 THE COURT: Okay.

24 MR. SWEETIN: That would be Rosalba Cardenas. And
25 I don't know how the Court wanted to do this, I mean, the

1 Court indicated you might ask the questions or do you want --

2 THE COURT: Sure.

3 MR. FELICIANO: Or maybe we could follow up.

4 THE COURT: Sure. I'll start out. And you know
5 what, you can come right here to the podium, ma'am. She can
6 come right to the podium. Okay.

7 And the witness is using the services of the
8 interpreter. Would the interpreter state her name for the
9 record.

10 THE INTERPRETER. Soledad Garcia.

11 THE COURT: Okay. And if the witness will raise
12 her hand to you can be sworn.

13 (Testimony outside the presence of the jury:)

14 ROSALBA CARDENAS-MORENO, STATE'S WITNESS, SWORN

15 THE COURT: Thank you. Okay. If you'll state your
16 name and spell it for the record.

17 THE WITNESS: Rosalba Cardenas-Moreno.

18 THE CLERK: And please spell.

19 THE WITNESS: R-o-s-a-l-b-a. Cardenas,
20 C-a-r-d-e-n-a-s. Moreno, M-o-r-e-n-o.

21 EXAMINATION

22 THE COURT: Okay. Ms. Moreno, thank you very much for
23 being here this morning. I just have a few questions for
24 you.

25 Have you received any benefits from the district

1 attorney or anyone on behalf of the Government because your
2 child is a victim in this case?

3 THE WITNESS: No.

4 THE COURT: Have you received any immigration
5 assistance from the federal government?

6 THE WITNESS: No.

7 THE COURT: Okay. So other than the witness fee
8 that would be provided to you by the district attorney, you
9 have not received anything else of monetary value or benefit
10 from the District Attorney's Office?

11 THE WITNESS: No.

12 THE COURT: Or any other government entity?

13 THE WITNESS: No.

14 THE COURT: Okay. Do you -- and I know you have
15 two daughters that are going to testify. Have either of them
16 received any benefit as I've described?

17 THE WITNESS: No.

18 THE COURT: Have they received any type of special
19 immigration treatment from the federal government because
20 they are victims in this matter?

21 THE WITNESS: Can you please ask the question
22 again?

23 THE COURT: Sure. Have your daughters received any
24 type of immigration assistance from the federal government,
25 any type of special visa because they are victims in this

1 case?

2 THE WITNESS: No.

3 THE COURT: Okay. Any follow-up?

4 MR. FELICIANO: Please, briefly.

5 THE COURT: Sure.

6 CROSS-EXAMINATION

7 BY MR. FELICIANO:

8 Q Ma'am, have you applied for any type of immigration
9 benefits?

10 THE INTERPRETER: Can I turn?

11 THE COURT: Sure, sure.

12 MR. FELICIANO: Sure. Sorry, was --

13 THE COURT: Sure.

14 BY MR. FELICIANO:

15 Q Have you applied for any type of immigration
16 benefits for yourself based on this case?

17 A No.

18 Q How about for any family member?

19 A No.

20 Q And for -- you're planning to testify in this case.
21 After you testify, do you plan -- do you believe you'll get
22 any benefits in the future by testifying in this case?

23 A Benefit of what?

24 Q Well, has anybody said if you testify that you may
25 get some type of immigration benefit in the future?

1 A No.

2 Q Have you sought out that information?

3 A No.

4 Q Okay. And how about financial benefits, other than
5 your witness fees?

6 A None.

7 Q Okay.

8 THE COURT: Okay. Mr. Sweetin, do you have
9 anything?

10 MR. SWEETIN: I don't, Judge.

11 THE COURT: Okay.

12 BY MR. FELICIANO:

13 Q And not just my -- have you received any help with
14 housing or anything like that? Housing?

15 A No.

16 Q Have you applied for any of that type of funding?

17 A No.

18 MR. FELICIANO: Okay. Thank you.

19 THE COURT: Ms. Moreno, thank you very much for
20 coming in. Thank you for your testimony. You may step
21 outside.

22 MR. SWEETIN: Next would be Stephania Alvarez.

23 THE COURT: Ms. Alvarez, you can come right up here
24 to the podium. You can come right up there. Good morning.

25 THE WITNESS: Good morning.

1 THE COURT: If you'll just raise your right hand so
2 you can be sworn.

3 (Testimony outside the presence of the jury)

4 DAREY STEPHANIA ALVAREZ, STATE'S WITNESS, SWORN

5 THE CLERK: Can you please state and spell your
6 first and last name for the record. And there is a
7 microphone right there, if you can just try to [inaudible].
8 Okay.

9 THE WITNESS: Do I just say my first and last name?

10 THE CLERK: Yes.

11 THE COURT: Please.

12 THE WITNESS: My first name is Darey, D-a-r-e-y.
13 And my last name is Alvarez, D -- A-l-v-a-r-e-z.

14 THE CLERK: Thank you.

15 THE COURT: I'm sorry, what's your first name?

16 THE WITNESS: Darey.

17 THE COURT: Okay.

18 THE COURT RECORDER: Can you spell your last name
19 one more time, please?

20 THE WITNESS: A-l-v-a-r-e-z.

21 THE CLERK: Thank you.

22 THE COURT: Thank you.

23 EXAMINATION

24 THE COURT: Ms. Alvarez, how old are you?

25 THE WITNESS: Right now I'm 22 years old.

1 THE COURT: You're 22 years old?
2 THE WITNESS: Yes.
3 THE COURT: Okay. Have you received any type of
4 benefit from the District Attorney's Office or any government
5 entity because you are a victim in this matter?
6 THE WITNESS: No.
7 THE COURT: Okay. So nothing other than the
8 statutory witness fee?
9 THE WITNESS: Um-h'm.
10 THE COURT: Okay. You got your witness fee, I'm
11 assuming?
12 THE WITNESS: Yes.
13 THE COURT: Okay. Did you get anything other than
14 that witness fee from the --
15 THE WITNESS: Not at all.
16 THE COURT: -- District Attorney? Okay. Have you
17 gotten any type of immigration benefit from the federal
18 government?
19 THE WITNESS: Not at all.
20 THE COURT: Have you applied for any type of
21 immigration benefit --
22 THE WITNESS: Not at all.
23 THE COURT: Just a minute. From the federal
24 government because you're a victim in this matter?
25 THE WITNESS: Yes.

1 THE COURT: Have you applied for any type of
2 immigration --

3 THE WITNESS: Oh, no.

4 THE COURT: Let me finish first, okay?

5 THE WITNESS: Okay.

6 THE COURT: Have you applied for any type of
7 immigration benefit from the federal government because
8 you're a victim in this matter?

9 THE WITNESS: No, Your Honor.

10 THE COURT: Okay. Mr. Feliciano?

11 CROSS-EXAMINATION

12 BY MR. FELICIANO:

13 Q So after you testify in this case, do you expect to
14 receive any benefit in the future for it?

15 A I don't expect anything.

16 Q Have you -- do you have information on immigration
17 benefits for people that are victims of a crime?

18 A I don't have any information. Just --

19 Q So you haven't received any information?

20 A No.

21 Q Okay. Have you applied -- have you done forms or
22 anything like that to apply for some type of --

23 A No.

24 Q Okay. How about any type of financial benefits?

25 A Not at all.

1 Q Okay. So you're getting a witness fee, I believe,
2 for testifying; is that right?

3 A Um-h'm.

4 Q That you got in the past?

5 A (Nods head yes). Um-h'm.

6 Q How much was that?

7 A Twenty-five [inaudible].

8 Q Okay. Have you received any type of rent
9 assistance or anything like that?

10 A No.

11 Q Okay. And for any other family member?

12 A The witness fee?

13 Q No, like immigration benefits?

14 A Nothing at all.

15 Q How about or any type of funds that you're aware of
16 that have gone to any other family members?

17 A No, not at all.

18 Q Okay.

19 MR. FELICIANO: Thank you.

20 THE COURT: Okay. Does the State have anything?

21 MR. SWEETIN: No, Your Honor.

22 THE COURT: Okay. Ms. Alvarez, thank you very much
23 for being here. Thank you for providing that testimony, and
24 you may step out in the hallway, too.

25 THE WITNESS: Thank you so much.

1 THE COURT: Thank you.

2 MR. SWEETIN: Yeah, and just -- just to be clear, I

3 think she goes by Stephania, but she can --

4 THE COURT: Okay.

5 MR. SWEETIN: -- she can be released to go back to

6 work, then, at this time?

7 THE COURT: Sure. I thought that's what you said,

8 too, because then she spelled a different name.

9 MR. SWEETIN: Yeah, I think her name is -- it's --

10 MR. FELICIANO: Darey.

11 MR. SWEETIN: -- Darey Stephania --

12 THE COURT: Okay.

13 MR. SWEETIN: -- Alvarez.

14 THE COURT: Because I was like am I losing it up

15 here? Because I wrote down --

16 MR. SWEETIN: Yeah.

17 THE COURT: -- Stephania.

18 MR. SWEETIN: Maybe I'm losing it, I don't know.

19 MR. FELICIANO: It's D-a-r-e-y is -- I think that's

20 the legal name, but she goes by her middle name, I believe.

21 THE COURT: Okay.

22 MR. SWEETIN: And our last witness is going to be

23 the first victim, and that's going to be Guadalupe.

24 THE COURT: Okay.

25 MR. SWEETIN: And she's got an advocate with her.

1 THE COURT: Sure.

2 MR. SWEETIN: And I'm going to ask the advocate to
3 come in the courtroom. It might help her at some point if
4 she breaks down to have the advocate maybe go up and be next
5 to her, if that's something the Court would consider as we go
6 on.

7 THE COURT: Sure. I mean, yeah, for purposes of
8 this hearing, yeah --

9 MR. SWEETIN: Okay.

10 THE COURT: -- I don't -- I don't mind. So but
11 she'll come up here on the witness stand.

12 MR. SWEETIN: Guadalupe Alvarez.

13 (Testimony outside the presence of the jury).

14 GUADALUPE ALVAREZ, STATE'S WITNESS, SWORN

15 THE CLERK: You may be seated. Please state and
16 spell your first and last name for the record.

17 THE WITNESS: My first and last name?

18 THE CLERK: Yes, please.

19 THE WITNESS: My name is Guadalupe Alvarez.

20 THE CLERK: Can you go ahead and spell?

21 THE WITNESS: G-u-a-d-a-l-u-p-e. Alvarez --

22 THE CLERK: Can you --

23 THE WITNESS: -- is A-l-v-a-r-e-z.

24 THE COURT: Thank you.

25 MR. SWEETIN: And Judge, I don't know if we want to

1 maybe start and get the -- any kind of instructions --

2 THE COURT: Oh, that's right.

3 MR. SWEETIN: -- out of the way.

4 EXAMINATION

5 THE COURT: Okay. Ms. Alvarez, have you received
6 any type of benefit from the District Attorney other than the
7 witness fee that was provided to you to be here in --

8 THE WITNESS: No.

9 THE COURT: -- in this case? Okay. So no one's
10 provided you with any monetary benefit.

11 THE WITNESS: No.

12 THE COURT: Okay. Have you received any type of
13 immigration benefit from the District Attorney or the federal
14 government because you're a victim in this case?

15 THE WITNESS: No.

16 THE COURT: Have you applied for any benefit based
17 on the fact that you're a witness in this case?

18 THE WITNESS: No.

19 THE COURT: To any government entity?

20 THE WITNESS: No.

21 THE COURT: Okay. Mr. Feliciano.

22 CROSS-EXAMINATION

23 BY MR. FELICIANO:

24 Q Good morning. Do you expect after this case is all
25 over that you'll be eligible for some type of immigration

1 benefit?

2 A No.

3 Q Okay. Have you sought any type of benefits that
4 you may be entitled to because you're a victim in a crime?

5 A No.

6 Q Okay.

7 MR. FELICIANO: Thank you.

8 THE COURT: Okay. Go ahead.

9 MR. SWEETIN: Thank you.

10 CROSS-EXAMINATION

11 BY MR. SWEETIN:

12 Q Hey, Guadalupe. How are you doing this morning?

13 A Good, and you?

14 Q We're going to walk through some questions now. So
15 just relax and we'll run through. First, I was wondering,
16 how old are you?

17 A I'm 17 years old.

18 Q And what's your date of birth?

19 A January 20, 2002.

20 Q What's your current grade in school?

21 A Tenth.

22 Q And are you familiar with the person by the name of
23 Armando Vasquez-Reyes?

24 A Yes.

25 Q Okay. Do you see that person in the courtroom

1 today?

2 A Yes.

3 Q Okay. Now, what I need you to do is I need you to

4 point that person out to the judge, and tell the judge

5 something that that person's wearing?

6 A That's him. He's wearing a blue shirt.

7 MR. SWEETIN: May the record reflect the witness

8 identified the defendant?

9 THE COURT: So reflected.

10 BY MR. SWEETIN:

11 Q How are you familiar with the defendant?

12 A He was my mother's lover.

13 Q Okay. When did you first meet him?

14 A When I first moved to Las Vegas.

15 Q And when was that?

16 A When I was five or six years old.

17 Q Okay. So let's see, if you're 17 now, that's about

18 2007, right in that area?

19 A Yes.

20 Q When you said you first came to Las Vegas, did you

21 come here alone or with anyone else?

22 A I came with my siblings.

23 Q Okay. And who are your siblings?

24 A My sister and my brother.

25 Q What's your sister's name?

1 A Darey.

2 Q Okay. And is that Darey Stephania?

3 A Yes.

4 Q Okay. Alvarez; is that right?

5 A Yes.

6 Q All right. And is she older or younger than you?

7 A Older.

8 Q About how much older?

9 A Five years.

10 Q And you said your brother as well?

11 A Yes. Mael Alvarez.

12 Q Okay. Is he older or younger than you?

13 A Older than me.

14 Q And about how much older is he than you?

15 A About eight years.

16 Q Okay. When you came here to Las Vegas, where did
17 you live?

18 A When I first got here?

19 Q Yes.

20 A With my mother, him, and my siblings.

21 Q Okay. And when you say him, are you referring to
22 the defendant?

23 A Yes.

24 Q Okay. And then your brother and sister that you
25 just talked about; is that right?

1 A Yes.

2 Q Now, how did -- how long did you remain living in
3 that -- that same kind of household with those individuals?

4 A Until -- until the police came.

5 Q Okay. And do you remember when that was?

6 A April 16th, I believe.

7 Q Okay. Do you remember the year?

8 A No.

9 Q Okay. Was it a couple years ago?

10 A Yes.

11 Q Sound like -- 2016 sound about right?

12 A Yes.

13 Q Okay. Now, while you were living with them over
14 that period of time, did you always live at the same
15 residence or other residences?

16 A Multiple residence.

17 Q Okay. And did all those same people always --
18 always live together or did some of them leave and come back?

19 A My brother came and left.

20 Q Okay. Your brother, Mael?

21 A Yes.

22 Q And do you remember which house you were living at
23 when he came and left?

24 A It was the -- he was still with us in the two-story
25 house. He left and then he came back to the last residence

1 that --

2 Q Okay.

3 A -- the incident happened.

4 Q Okay. So in the two-story house he was still with
5 you, and the next residence he wasn't living with you?

6 A Yes. Well, then he came back.

7 Q Was there other people who also lived in the house
8 besides just you, your siblings, the defendant and your mom?

9 A My sister's boyfriend came like in the end, in the
10 last residence, and my sister-in-law was -- was with us
11 during the green house with the three bedrooms.

12 Q Okay. So somewhere later on when you moved to some
13 other houses, your brother's girlfriend was living with you;
14 is that right?

15 A Yes.

16 Q And you said in this sort of -- the short time
17 before the police came in April 2006 (sic) that your sister's
18 husband was living with you; is that right?

19 A Yes.

20 Q Okay. Now, over that period of time while you were
21 living in the household from about 2007 to 2016, did
22 something happen to you that you came to talk to the court
23 about today?

24 A I'm sorry, I didn't hear you. Can you repeat that
25 again?

1 Q Sure. So over that period of time, when you first
2 moved here to Las Vegas in 2017 -- I'm sorry, 2007 until the
3 police came to your house in 2016, did something happen to
4 you while you were living with your family that you came to
5 talk to the court about today?

6 A Yes.

7 Q What happened?

8 A He grabbed my -- my butt.

9 Q Okay. When you say, he, who are you referring to?

10 A The defendant, Armando.

11 Q Okay. So you said that he touched you in some way;
12 is that correct?

13 A Yes.

14 Q Now, when did the touching start?

15 A Before the police came to our residence.

16 Q I'm sorry?

17 A Before the police came to the last house.

18 Q Okay. When was the first time -- how old were you
19 the first time that he touched you in some way?

20 A Five or six years old.

21 Q Okay. So you indicated that you moved here to Las
22 Vegas when you were about five --

23 A Yes.

24 Q -- is that right? So how long was it after you
25 moved here that the touching started?

1 A Throughout my whole life.

2 Q So how long after you got here to Las Vegas did he

3 start touching you in that way?

4 A I don't know.

5 Q Okay. Was it a long time or a short time?

6 A Through those residence or --

7 Q Okay. Yeah, and I'm sorry --

8 A Sorry, I'm not understanding.

9 Q Yeah, that's okay.

10 So I'm just asking you that when you moved here with

11 your mom and your brother and sister came with you, you

12 started living with your mom, right? Is that a yes?

13 A Yes.

14 Q Okay. Just relax.

15 A Sorry.

16 Q That's okay. So how long after you started living

17 with your mom did the defendant start to touch you?

18 MR. FELICIANO: Objection. Asked and answered.

19 THE COURT: Yeah, overruled. You can answer.

20 THE WITNESS: Sorry. I don't know.

21 BY MR. SWEETIN:

22 Q Okay.

23 A It just happened.

24 Q Was it a long time or a short time?

25 MR. FELICIANO: Objection. That's a vague and

1 ambiguous question. Long and short's not quantified.

2 THE COURT: Okay. Why don't you try to clarify for
3 her. I don't know if she understands the question.

4 MR. SWEETIN: Sure.

5 BY MR. SWEETIN:

6 Q You said that the first time that you were touched
7 was when you were five; is that right?

8 A Yes.

9 Q Okay.

10 MR. FELICIANO: Objection. That misstates your
11 evidence.

12 THE COURT: Five or six.

13 MR. SWEETIN: Okay.

14 BY MR. SWEETIN:

15 Q When you were five or six; is that right?

16 A Yes.

17 Q Okay. And that's about the same time that you
18 moved here to Las Vegas; is that right?

19 A Yes.

20 Q All right. Now, do you remember those first sexual
21 touches?

22 A Yes, I do remember.

23 Q How did those -- can you describe those first
24 sexual touches to us?

25 A How he touched me?

1 Q Yes.

2 A He grabbed my breasts, like simulating my breasts.

3 He also grabbed my butt the same way. And he grabbed my

4 vagina by simulating -- like gripping up and down.

5 Q Okay. Now, you used your hand while you were

6 talking about touching those different places on your body as

7 you were testifying to it.

8 A Yes.

9 Q Did he touch you with his hand?

10 A Yes.

11 Q Okay. Do you remember where you were? Were you

12 inside an apartment, outside? Where were you at when he

13 initially started touching you?

14 A In the apartment.

15 Q Okay. Do you remember where in the apartment that

16 you were?

17 A My -- my mother's room.

18 Q Okay. Do you remember whether there was anybody

19 else in the room?

20 A No, it was just us.

21 Q Okay. Do you remember did the door -- what -- did

22 the bedroom have a door?

23 A Yes.

24 Q Do you remember whether the door was open or

25 closed?

1 A Closed.

2 Q Okay. Do you remember whether there was anybody in
3 the house at the time or not?

4 A No.

5 Q Okay. Now, besides him touching you in those ways,
6 as you first got here, did he touch you in any other ways as
7 you first got here to Las Vegas?

8 A Yes.

9 Q How did he touch you?

10 A It was just the same way, the only difference was
11 that he told me to grab his penis.

12 Q Okay. Now, where did that happen?

13 A In their room, in my mother's room.

14 Q Okay. In the same room?

15 A Yes.

16 Q Was there anybody else in the room besides you and
17 him?

18 A No.

19 Q Okay. Was there a door to that room?

20 A Yes.

21 Q Okay. And was that door open or closed?

22 A Closed.

23 Q Okay. Now, you said that he wanted you to touch
24 his penis; is that correct?

25 A Yes.

1 Q What did he want you to touch his penis with?
2 A My hands.
3 Q At that time, was his penis under his clothes or
4 was it exposed?
5 A Exposed.
6 Q Okay. So you could see the skin of his penis?
7 A Yes.
8 Q Now, you said he wanted you to touch it in a
9 certain way; is that right?
10 A Yes.
11 Q How did you know the way that he wanted you to
12 touch it?
13 A He showed me.
14 Q And what did he show you?
15 A To grip his penis.
16 Q Okay.
17 A And go up and down.
18 MR. SWEETIN: Now, may the record reflect that the
19 witness has held up her hands sort of in a cupping way and
20 moved it back and forth.
21 THE COURT: So reflected.
22 BY MR. SWEETIN:
23 Q Is that what -- what he told you to do?
24 A Yes.
25 Q Now, do you remember after the abuse that you

1 described started, did it continue to happen or did it just
2 stop?

3 A It continued.

4 Q Okay. How often did it continue after it started?

5 A There wasn't a specific time. It was like probably
6 three times a week or one time a week. It's just when we
7 were alone.

8 Q Okay. And was it that way from the time it started
9 all the way up until you were 13 years old?

10 A Yes.

11 Q Is that a yes?

12 A Yes.

13 Q Okay. Now, do you remember you said that these
14 incidents happened in the apartment; is that right?

15 A Yes.

16 Q Do you remember moving apartments after the abuse
17 started?

18 A Yes.

19 Q Do you remember an apartment with a pool?

20 A Yes.

21 Q Okay. Was that another apartment that you moved
22 to?

23 A Yes.

24 Q And is this -- how old are you when you moved to
25 the apartment with the pool? Do you have any idea?

1 A Like same age, five or six years old.

2 Q Okay.

3 A We didn't stay in the first apartment very long.

4 Q Okay. And did the abuse continue in that other

5 apartment as you've described?

6 A Yes.

7 Q Okay. It happened in the same way?

8 A Yes.

9 Q Did it happen in a particular place within the

10 residence or outside the residence?

11 A Inside, and just my mother's room.

12 Q Okay. Again, it was just you and him inside the

13 room?

14 A Yes.

15 Q The door to the room was open or closed?

16 A Closed.

17 Q Okay. Did you know where anybody else -- whether

18 there was anybody else in the house at that time? Is that a

19 no?

20 A No, sorry.

21 Q Okay. Now, do you remember at that apartment with

22 the pool whether anything else happened besides the things

23 that you've already talked about, the way he touched you?

24 A No.

25 Q At some point in time, was there something else

1 that started to happen?

2 A No. It continued the same pace.

3 Q Okay. Was there other acts that happened as time
4 went on?

5 A I don't understand.

6 Q Sure. You talked about him touching you; is that
7 right?

8 A Yes.

9 Q And having you touch him; is that right?

10 A Yes.

11 Q Did he ever touch you or put anything else on you
12 or in you besides what you've already described? It's okay.
13 Just take a deep breath.

14 A Sorry.

15 Q Are you okay?

16 A Yes.

17 Q All right. Just relax. Okay?

18 A Sorry.

19 Q What's the next thing that happens, Guadalupe?

20 A He put his penis in my anus.

21 Q Okay. It's okay. Do you need some water? Would
22 that help you? No?

23 A No, I'm okay.

24 Q All right. Do you know where you were living the
25 first time that he did that?

1 A In -- in those apartments.

2 Q I'm sorry?

3 A In the apartment with the pool.

4 Q You think it was the apartment with the pool?

5 A Yes.

6 Q Okay. Are you sure it was the apartment with the

7 pool?

8 A No. It was -- I just won't keep track of his --

9 it's -- like, it wasn't even a specific time. It just

10 happened, but I remember it happening there.

11 Q All right. Now, after that house or the apartment

12 with the pool, do you remember anything about a Stafford

13 Street residence?

14 A Yes.

15 Q Is that the next place that you moved to?

16 A Yes.

17 Q Okay. Do you know if the defendant putting his

18 penis in your anus happened at the apartment with the pool or

19 the Stafford Street?

20 MR. FELICIANO: Objection. Asked and answered.

21 THE COURT: Overruled. You can answer.

22 THE WITNESS: Yes.

23 BY MR. SWEETIN:

24 Q Okay. Did it happen at both of those residences

25 or --

1 MR. FELICIANO: Objection. Leading.

2 THE COURT: Well, we're outside the presence of the
3 jury. Go ahead, you can answer.

4 THE WITNESS: Yes.

5 BY MR. SWEETIN:

6 Q Let's talk about where it happened. Did it happen
7 inside those residences?

8 A Yes.

9 Q Did happen any particular place inside the
10 residences?

11 A My mother's room.

12 Q Okay. So the same way; is that right?

13 A Yes.

14 Q Was there anybody else in your mother's room at the
15 time?

16 A No.

17 Q Was the door to your mother's room open or closed?

18 A Closed.

19 Q Okay. Do you know if there was anybody home when
20 those incidents happened?

21 A No.

22 Q How do you remember them happening?

23 A He would invite me to the room, and he would -- and
24 I'd go inside the room, he would close the door, he would
25 take off my clothes, and he -- he will touch my breasts. He

1 -- he would touch my breasts, um, my butt and my vagina. He
2 would put me on my back on the bed, and he would place his
3 penis in my anus.

4 Q You said that he would -- after he took your
5 clothes off, he would put you on your back on the bed; is
6 that right?

7 A Yes.

8 Q Okay. Would he move any other parts of your body
9 at that time?

10 A I'm sorry, I don't understand.

11 Q Okay. Where were where you are legs located?

12 A They were in the air.

13 Q Okay. So you're laying on your back on the bed,
14 and your legs are in the air?

15 A Yeah.

16 Q How did your legs come to be in the air?

17 A He put them on -- he grabbed them and put them on.

18 Q And then you said that he put his penis in your --

19 A Anus.

20 Q Where?

21 A In my anus.

22 Q In your anus.

23 All right. Do you -- and you remember that happening at
24 both of those residences; is that right?

25 A Yes.

1 Q Do you remember him doing other things to you at
2 either of those residences as he was putting his penis in
3 your anus?

4 A In those two residence?

5 Q Yes.

6 A Yes, it happened multiple times.

7 Q Okay. Do you remember him doing anything else,
8 touching you with any part of his body rather than his hands
9 and his penis during those incidents?

10 A No, just --

11 Q Do you remember whether he licked you in some way?

12 A He -- yes.

13 Q Okay. How did he lick you?

14 A He licked my vagina.

15 Q All right. And was that when you were in his
16 bedroom that we've described?

17 A Yes.

18 Q And you were on the bed, as you've described?

19 A Yes.

20 Q Okay. Did he do anything with his hands in regards
21 to your vagina?

22 A Just the same way, just rubbing my vagina.

23 Q Did he ever put any part of his hand inside your
24 vagina?

25 A No.

1 Q Did he ever put his fingers inside your vagina?

2 A No.

3 MR. FELICIANO: Objection. Asked and answered.

4 THE COURT: Okay. She said no to both.

5 MR. FELICIANO: Okay.

6 BY MR. SWEETIN:

7 Q Now, besides him having you on your -- your back,
8 and let's talk about the Stafford Street house that you made
9 reference to. Okay?

10 And now besides him penetrating your anus while you
11 were on your back, were you ever put in any other position
12 within that room which he penetrated your anus?

13 A I was, like, bent over --

14 Q Okay.

15 A -- like my knees.

16 Q Can you describe to me how you were bent over?

17 A Like, my back was -- this is my back. I was like
18 this, and then my legs -- sorry, I don't know how to show
19 you.

20 Q And that's fine. Let me ask you this. It's okay.
21 Just relax.

22 A Sorry.

23 Q You okay? Okay. Just relax. Take a deep breath.
24 All right.

25 Where were you at inside the bedroom when this happened

1 in the other -- in the other position?

2 A In my mother's bedroom.

3 Q Okay. Where in the bedroom?

4 A On the side of the bed.

5 Q Okay. And when you say the side of your bed, how

6 was your body positioned by the bed?

7 A I was bent over.

8 Q Okay. When you say bent over, where were your

9 knees?

10 A They were like on the floor kind of.

11 Q Okay. So you were next to the bed and your knees

12 were on the floor; is that right?

13 A Yes.

14 Q Okay. And what was your body facing?

15 A The wall.

16 Q Okay. And would that be -- was your body facing

17 the bed or facing away from the bed?

18 A Away from the bed.

19 Q Okay. And what happened at that point?

20 A He put his penis in my anus.

21 Q Okay. Now, after the Stafford Street house, do you

22 remember living in a house near Jim Bridger?

23 A Yes.

24 Q Okay. And when you moved into that house, do you

25 remember how many bedrooms that house had?

1 A Three.

2 Q Okay. Do you remember whether the sexual acts
3 you've been talking about continued when you moved in there
4 or did they stop?

5 A They continued.

6 Q Okay. You indicated that they -- they happened
7 sometimes three times a week. Was it still sort of that
8 frequency three times a week or one time a week?

9 A Yes.

10 Q Do you remember at that location where these acts
11 happened?

12 A Yes.

13 Q Okay. Where did they happen?

14 A One time in the laundry room.

15 Q Okay.

16 A And two times in the bed -- in my mother's bedroom.

17 Q Okay. So let's talk about the ones in your
18 mother's bedroom first. Okay?

19 A Okay.

20 Q Okay. Now, is that the same thing that you were in
21 the bedroom alone with the defendant and the door was closed?

22 A Yes.

23 Q Okay. Did you know where anybody else was at the
24 time?

25 A No.

1 Q Okay. And what happened? How did you come to be
2 in the bedroom on those two occasions? Let's take them one
3 at a time.

4 A The first time was he invited me to watch a movie
5 with him.

6 Q Okay. And what happened?

7 A After that, he got up and closed the door. He
8 locked it.

9 Q And that's the bedroom door; is that right?

10 A Yes.

11 Q And what happened next?

12 A And he took off my clothes and put his penis in my
13 anus.

14 Q Okay. Now, you said that there was another time
15 that you remember; is that right?

16 A Yes.

17 Q And what was the other time? How did you get into
18 the bedroom on that occasion?

19 A I was folding my mother's laundry and I fell
20 asleep, and then when I woke up, he was there.

21 Q Okay. When you say, he, is that the defendant?

22 A Yes.

23 Q And what happened then?

24 A Same thing, he took off my clothes and put his
25 penis in my anus.

1 Q Okay. Now, you said something about a laundry room
2 as well; is that correct?

3 A Yes.

4 Q Okay. And that laundry room was there at that Jim
5 Bridger house also?

6 A Yes.

7 Q Okay. What happened in the laundry room?

8 A I was washing my laundry, and he came up behind me
9 and he put -- he proceeded to grip my breasts and my
10 (indiscernible) and then he put my leg on top of -- well, he
11 took off my clothes and he put my leg on top of the -- the --
12 the washing machine and he put his penis in my anus.

13 Q All right. Now, you said that when he first came
14 in, that he started touching your breasts; is that correct?

15 A Yes.

16 Q Did he do anything with his mouth when he first
17 came in? Did he kiss you or anything like that?

18 A Yes, he -- he did kiss me.

19 Q Okay. Did he have you perform any other acts
20 besides him just kissing you at that time?

21 A No.

22 Q Okay. Now, do you remember after the Jim Bridger
23 house, do you remember ever living in a two-story house?

24 A Yes.

25 Q Okay. Do you remember how many bedrooms were at

1 that two-story house?

2 A Four.

3 Q Okay. Now, prior to living at the two-story house,

4 did you ever have your own bedroom?

5 A Yes.

6 Q Prior to living at the two-story --

7 A Oh, no.

8 Q I'm sorry, let me finish the question. So prior to

9 living at the two-story house, did you ever have your own

10 bedroom?

11 A After or before?

12 Q Before.

13 A No.

14 Q Okay. Did you have your own bedroom at the

15 two-story house?

16 A Yes.

17 Q Okay. Do you remember whether the things that were

18 happening continued at the two-story house?

19 A Yes.

20 Q Okay. Did they continue at the same rate that

21 you've described?

22 A Yes.

23 Q Okay. Do you remember it happening -- where it

24 happened inside the two-story house?

25 A Yes.

1 Q Okay. Where do you remember specifically it
2 happening?

3 A In my mother's room and in my room.

4 Q Okay. Let's talk about your room first. What do
5 you remember happening?

6 A I was in my room, and I had my door locked, and he
7 opened it.

8 Q Okay. When you say, he, you mean the defendant?

9 A Yes.

10 Q Okay. Was it at daytime, nighttime, or --

11 A Nighttime.

12 Q It was nighttime?

13 And when you were in your bedroom, were you awake,
14 asleep?

15 A I was watching TV.

16 Q Okay. And what happened after the defendant opened
17 your door?

18 A He closed it, and he went and took off my clothes,
19 and he put his penis in my anus.

20 Q Was it just you and him in that room?

21 A Yes.

22 Q And how were you situated on the bed when he did
23 that, do you remember?

24 A My back was on the bed.

25 Q Okay.

1 A And my legs were in the air.

2 Q Okay. And why were your legs in the air?

3 A Because he -- he was holding them in the air.

4 Q Okay. Now, you said it also happened in the other

5 bedroom, the defendant's bedroom while you were living there;

6 is that right?

7 A Yes.

8 Q Okay. How do you remember that happening?

9 A He would invite me to watch movies.

10 Q Do you remember a time when he invited you to watch

11 movies when it happened?

12 A Yes.

13 Q Yes? Could you describe that?

14 A He would -- he would just call my name, and then I

15 would go. He's like, do you want to watch a movie, and I was

16 like yes, and I would go in there.

17 Q At the time that you went in there, do you know if

18 there was anybody else in there besides just you and the

19 defendant?

20 A One time my sister came as well.

21 Q Okay. And what happened?

22 A We were watching a movie on the bed, and my sister

23 got tired, and she left, and when she left, he got up and

24 closed the door, and he locked it.

25 Q Okay. And what happened next?

1 A He took off my clothes, he -- he would grip my
2 breasts and my butt, and he would put his penis in my anus.
3 Q Okay. And was that after he took your clothes off?
4 A Yes.
5 Q Now, after the two-story house, do you remember a
6 Ferguson Street house?
7 A Yes.
8 Q Okay. And do you remember how many bedrooms there
9 were there?
10 A Three.
11 Q Okay. And I think you said that at some point that
12 Mael and his girlfriend move out, and I believe you said it
13 was the Ferguson Street house; is that right?
14 A Yes.
15 Q Okay. So at that particular house, did you have
16 your own bedroom?
17 A Yes.
18 Q Do you remember what had been happening continue to
19 happen?
20 A Yes, it did.
21 Q Okay. Did it happen inside your bedroom?
22 A Just in my parent's bedroom.
23 Q Okay. Do you remember a time when it happened
24 inside your parent's bedroom?
25 A Yes.

1 Q Now, you said that this happened fairly often; is
2 that correct?

3 A Yes.

4 Q Okay. Did it still keep happening as often as you
5 were living there in the Ferguson Street house?

6 A Yes.

7 Q Do you remember that there was a last time?

8 A Yes.

9 Q That happened at that house?

10 A Yes.

11 Q What do you -- do you remember that last time?

12 A Yes.

13 Q Can you tell us about it?

14 A He invited me to the room and he --

15 Q Let me stop you there for a minute.

16 A Okay.

17 Q About when was it?

18 A I don't understand.

19 Q About when did this last time happen? Well, let
20 met ask you this, we've talked about this date in April when
21 the police came; is that right?

22 A Yes.

23 Q How long before that date when the police came, did
24 this last time happen at the Ferguson house?

25 A Like after we moved to where the house the police

1 came on Bruce Street.

2 Q Okay. So how -- was it -- do you remember whether
3 it happened around any holidays?

4 A Thanksgiving, Christmas.

5 Q Okay. And would that be the Thanksgiving,
6 Christmas right before the time the police came?

7 A Yes.

8 Q Okay. And tell us what happened on that time.

9 MS. HOJJAT: And I'm sorry, can we just clarify at
10 this point because Mr. Sweetin is talking about the Ferguson
11 house, but I think her testimony was about the house on Bruce
12 Street. Can we clarify what house we're talking about here?
13

14 THE COURT: Well, it's my understanding you're
15 talking about the Ferguson house.

16 MR. SWEETIN: Yes, and I think she's been clear.

17 THE COURT: And you're asking about the last
18 time --

19 MR. SWEETIN: Yeah.

20 THE COURT: -- something occurred.

21 MS. HOJJAT: Can we clarify that with the witness
22 so --

23 MR. SWEETIN: I think it is clear.

24 BY MR. SWEETIN:

25 Q Are we talking about the Ferguson Street?

1 A Yes.

2 Q All right. So what happened there around November
3 or Christmas before the police came to your house there at
4 the Ferguson Street house?

5 A He invited me to the room, and I went. And he told
6 me that I was going to -- like, he would -- he wasn't going
7 to touch me, and he took off my clothes, and he put his penis
8 in my anus. He did try to put it in my vagina, but I pushed
9 him off. And I told him that I -- that I was going to call
10 the police if he continued.

11 Q Okay. Now, besides him trying to put his penis in
12 your vagina at that location, had that ever happened at other
13 places?

14 A Yes.

15 Q Okay. And where was that at?

16 A In -- in the -- in the other green house.

17 Q Okay. And that would be -- is that the green house
18 by Jim Bridger?

19 A Yes.

20 Q Okay. And how did that happen there at that green
21 house there by Jim Bridger?

22 A The same way. He would try and I would just push
23 him off because it would hurt.

24 Q Did his penis ever go inside?

25 A Just a little bit.

1 Q Okay.

2 A But I managed to get him off me.

3 Q Okay. You said that it hurt?

4 A Yes.

5 Q So when it went in a little bit, it hurt you?

6 A Yes.

7 Q Okay. And how many times did that happen there at

8 the Jim Bridger residence that he tried to put his penis

9 inside your vagina?

10 A Just once that I remember.

11 Q Okay. And you said it hurt when he did that?

12 A Yes.

13 Q And the same thing happened there at the Ferguson

14 Street house that he --

15 A Yes.

16 Q I'm sorry?

17 A Yes.

18 Q He tried to put his penis inside your vagina and it

19 hurt?

20 A Yes.

21 Q Okay. Now, at the time -- this last time, was it

22 sort of different? Did you react differently to him at that

23 point you had on prior occasions that last time on the

24 Ferguson Street house?

25 A I don't understand.

1 Q Sure. Did you say something to him or act in a
2 different or more aggressive way or less aggressive way or
3 what there at the Ferguson house on that last occasion than
4 you had on prior occasions?

5 A On the last occasion, I got aggressive.

6 Q Okay. And when you say aggressive, what do you
7 mean by that?

8 A I threatened him that I was going to call the
9 police if he continued abusing me.

10 Q Okay. And is that how that last incident ended?

11 A Yes.

12 Q Okay. Now, after that, that last incident there at
13 the Ferguson house in the months following that between that
14 time right around Thanksgiving and Christmas and when the
15 police come, did he continue to touch you?

16 A No.

17 Q So it stopped after that?

18 A Yes.

19 Q Did there come a point in time when he did touch
20 you again?

21 A Yes.

22 Q Okay. Can you describe that to the Court?

23 A He just gripped my butt.

24 Q Okay. Now, when was this?

25 A Before even the police came to our residence.

1 Q Okay. How long before the police came?
2 A I don't know, I'm not sure.
3 Q Okay. Was it a short time?
4 MR. FELICIANO: Objection. That's ambiguous.
5 Short time.
6 THE COURT: Well, I mean, we're talking about from
7 Thanksgiving 2015 to April 2016, correct?
8 MR. SWEETIN: That's correct.
9 THE COURT: Okay.
10 BY MR. SWEETIN:
11 Q So was it more than a week before?
12 A No. It could have been longer.
13 Q What's that?
14 A Would have been longer.
15 Q About how long?
16 A I don't know.
17 Q Okay. Could it have been two weeks?
18 A Yes, it could have been.
19 Q Okay. So about two weeks?
20 MR. FELICIANO: Objection. That misstates her
21 testimony.
22 MR. SWEETIN: I'm just asking.
23 THE COURT: Well, she said it could have been. I
24 mean, I don't know how much more you want to narrow it down.
25 MR. SWEETIN: Yes.

1 THE COURT: There's a timeframe.
2 MR. SWEETIN: Yeah.
3 THE COURT: I mean, so it's up to you.
4 BY MR. SWEETIN:
5 Q So just to be -- just to be clear, are you saying
6 that it was within that two weeks before?
7 MR. FELICIANO: Objection. That misstates her
8 testimony.
9 MR. SWEETIN: Well, I'm asking her.
10 THE COURT: Okay. Go ahead, you can ask her.
11 BY MR. SWEETIN:
12 Q Okay. Are you saying it's within the two weeks
13 before the police came to the residence?
14 A Yes.
15 Q All right. And what happened on that occasion?
16 A When the police got there?
17 Q No, on that occasion it happened a couple -- within
18 two weeks before the police came?
19 A Oh. I was in the kitchen and he just passed -- he
20 passed by and --
21 Q Okay. Now, let me stop you there. Where were you
22 living at the time?
23 A I was living in the Bruce house.
24 Q Okay. Is that the house over there on Berkley
25 Street?

1 A Yes, sorry.

2 Q Okay. Okay. And so you moved to the Berkley
3 Street house since that last occasion?

4 A Yes.

5 Q Okay. So while you were at the Berkley Street
6 house, you said you were in the kitchen; is that right?

7 A Yes.

8 Q And what happened?

9 A He passed by and grabbed my ass.

10 Q Okay. Was there anybody else in the kitchen at
11 that time?

12 A No.

13 Q Okay. And when you say, he, are you referring to
14 the defendant?

15 A Yes.

16 Q What did he grab your -- your butt with?

17 A His hand.

18 Q Okay. And what did he do with his hand when he put
19 it on your butt?

20 A He just like glazed it, like --

21 Q Okay. You're making a motion with your hand of
22 sort of like back and forth --

23 A Yes.

24 Q -- would that be right? Is that what he did with
25 his hand on your butt at that time?

1 A Yes.

2 MR. SWEETIN: I have no further questions, Judge.

3 THE COURT: Okay. Cross-examination.

4 MR. FELICIANO: Thank you.

5 CROSS-EXAMINATION

6 BY MR. FELICIANO:

7 Q Okay. So I just want to -- I want to clear up a

8 few things as to where you lived. Okay?

9 A Okay.

10 Q So when you first lived with Armando, which place

11 was that?

12 A I don't understand the question.

13 Q However you describe it. Like, the first -- when

14 you move in with Armando, which place did you live?

15 A In an apartment.

16 Q Okay. Now, I noticed like you're saying apartment

17 with pool and there's other apartments.

18 A Yes.

19 Q Is there like a certain way you describe this one?

20 A This one had like a little balcony.

21 Q Okay.

22 A And on the back it had like two screen doors, it

23 was two-bedrooms.

24 Q Okay. Do you remember where it was?

25 A No.

1 Q Okay. Do you remember how long you lived there?
2 A It was a short time.
3 Q Okay. When you say, short, less than a year?
4 A Yes.
5 Q Okay. Less than six months?
6 A Probably.
7 Q Okay. Can you be any more specific or is that
8 about --
9 A That's --
10 Q -- as much as you know?
11 A -- about --
12 Q You were really young, right?
13 A Yes.
14 Q And how old were you?
15 A Five or six years old.
16 Q Okay. So after the first apartment, you moved to
17 where?
18 A The apartment with the pool.
19 Q Okay. Apartment with the pool. So we got that.
20 And then what's the next place?
21 A A green house.
22 Q The green house. Is there another description for
23 the green house? Is that the -- let's see.
24 A That one was two bedrooms.
25 Q Is that the Jim Bridger house?

1 A I don't understand.

2 Q Okay. I think we talked about a house being

3 described as the Jim Bridger house this morning. Did --

4 A Yes.

5 Q Okay. Is that the green house?

6 A It was green also, but --

7 Q Okay. So -- all right. And then was there another

8 green house or there's only one?

9 A There were --

10 THE COURT: Well, there was a Stafford Street

11 house.

12 THE WITNESS: Yes.

13 BY MR. FELICIANO:

14 Q That was also green?

15 A Yes.

16 Q Okay. So the first green house, is there any way

17 -- other way -- do you know the address?

18 A I know where's located, but I don't know the

19 address.

20 Q Okay. Do you remember the street?

21 A No.

22 Q Okay. So after that, where did you live?

23 A In -- in the other green house.

24 Q Okay. Do you remember a street or any other type

25 of description for that house?

1 A The only difference was that one of them was two
2 bedrooms and the other one was three.

3 Q Which was which?

4 A The -- the Stafford Street was -- was two-bedrooms,
5 and the green house was three.

6 Q Okay. So --

7 A That's the one with the laundry room.

8 Q Okay. I'm sorry, so we have the first apartment,
9 then the apartment with the pool, then the green house; is
10 that right?

11 A Yes.

12 Q And then the other green house?

13 A Yes.

14 Q And then where after that?

15 A It was a two-story.

16 Q Okay.

17 A And then it was the pale house.

18 Q Pale?

19 A That was the -- where the last incident occurred.

20 Q Okay. And then after the two-story house, where?

21 A The last --

22 Q And how do you describe that house?

23 A Well, it was pale.

24 Q Okay.

25 A It was three bedrooms.

1 Q Okay. Do you remember what street it was on?
2 A No.
3 Q Okay. And then where after that?
4 A On the last house had the -- I think Bruce Street.
5 Q Bruce Street?
6 A Yes.
7 Q Is that the house the police came to?
8 A Yes.
9 Q Okay. So seven places; is that right?
10 A Yes.
11 Q Okay. All right.
12 So -- and the first time that something happened, that
13 was in the first apartment?
14 A The first or second. It -- because I moved and
15 like it was a short period of time.
16 Q Okay.
17 A I don't really remember if it was like the first or
18 second.
19 Q Okay. So you're not -- it could have been first,
20 could have been the second?
21 A Yes.
22 Q Okay. So you've talked about this case with
23 different people, right?
24 A Yes.
25 Q Okay. At the time that the police came -- do you

1 remember when the police came in April of 2016, and --

2 A Yes.

3 Q -- they arrested him? At that time, had you talked
4 to anybody about what was going on?

5 A No.

6 Q Okay. No friends at school?

7 A No.

8 Q Okay. No family members or anything like that?

9 A No.

10 Q Okay. So the first time you ever spoke a word
11 about it was to the police that day?

12 A Yes.

13 Q Okay. And you told the police --

14 MR. FELICIANO: Court's indulgence.

15 BY MR. FELICIANO:

16 Q Okay. So after -- after the place came out that
17 day, you told -- it looks like you told the officer that
18 arrived that something was going on, something sexual?

19 A Yes.

20 Q All right. How many officers did you speak to
21 there?

22 MR. SWEETIN: And Judge, I'm not sure how that's
23 really relevant to a proffer of whether there's --

24 THE COURT: I mean, I would like you to -- I mean,
25 I'm not sure. I'm going to allow you to do some

1 cross-examination --

2 MR. FELICIANO: Okay.

3 THE COURT: -- but, I mean, I don't know how that's

4 relevant.

5 MR. FELICIANO: Well, I mean, it goes to

6 credibility as to what was said, the initial disclosure and

7 how it's changed, so -- so that would be something to

8 consider when determining if they --

9 THE COURT: How many police officers --

10 MR. FELICIANO: -- met the standards.

11 THE COURT: -- were there?

12 MR. FELICIANO: Well, who was -- who was told.

13 THE COURT: Okay. You can ask her who she told.

14 BY MR. FELICIANO:

15 Q So at the scene, who did you tell?

16 A The police.

17 Q Okay. How many police officers?

18 A There were two police officers there.

19 Q Okay. And you told them both?

20 A Well, I was only talking to one, but the other

21 officer was there listening.

22 Q Okay. And then after that, when did you talk about

23 it next?

24 A They arrested him, and then they told us to go with

25 a detective.

1 Q Okay.

2 A I don't know.

3 Q And then you give like a statement at

4 headquarters --

5 A Yes.

6 Q -- does that sound right? Okay.

7 After that, when was the next time you spoke about it?

8 A I didn't speak with nobody else.

9 Q Okay. Then you came to court a few months later,

10 right?

11 A Yes.

12 Q Between the time that you spoke to the police at

13 hearts, did you talk to anybody else about it?

14 A Well, it was --

15 MR. SWEETIN: And Judge, I'm going to ask for

16 some --

17 THE WITNESS: I don't know understand.

18 MR. SWEETIN: -- foundation as to, you know, what

19 is he talking about? Obviously, she's talked to me and --

20 MR. FELICIANO: That's what I'm asking.

21 THE COURT: Okay. Well, she said she didn't

22 understand.

23 MR. FELICIANO: Okay.

24 THE COURT: Maybe you could just be more specific.

25 MR. FELICIANO: Sure.

1 BY MR. FELICIANO:

2 Q So you went to the police headquarters and told --

3 told them that there was some sexual stuff happening, right?

4 A Yes.

5 Q When was the next time you spoke to anybody about

6 it?

7 A Like with my family?

8 Q Anybody.

9 A Well, it was pretty obvious something was going on,

10 and my mother asked what was going on.

11 Q Okay. So you spoke to your mother about it?

12 A Yes, I told her what happened.

13 Q Okay. Anybody else?

14 A No.

15 Q Okay. And then you came to court a few months

16 later, right?

17 A Yes.

18 Q Okay. Did you meet with anybody from the District

19 Attorney's Office before you testified?

20 A I don't understand.

21 Q Did you talk to some District Attorney or somebody

22 that was prosecuting the case, did you tell them your version

23 of what happened?

24 A Like in here or --

25 Q Anywhere.

1 A -- outside?

2 Q At their house or outside of court or anything like

3 that?

4 A I don't remember.

5 Q Okay. Have you met with the District Attorney at

6 the District Attorney's Office's Office?

7 A I don't understand.

8 Q Okay. Have you ever had to go --

9 THE COURT: Why don't you tell her who Mr. Sweetin

10 is.

11 BY MR. FELICIANO:

12 Q Mr. Sweetin's a District Attorney, right?

13 A Okay.

14 Q Have you met with Mr. Sweetin before?

15 A Yes.

16 Q Okay. How many times have you met with him?

17 A Just the times that I was called in.

18 Q Sorry?

19 A The times that I was called in.

20 Q Okay. And how many times were those, do you

21 remember?

22 A No.

23 Q Sorry?

24 A No.

25 Q Do you remember if it was more than one time?

1 A Just two times.

2 Q Two times. That you remember?

3 A Yes, that I remember.

4 Q Okay. And when you met with Mr. Sweetin, did you
5 tell him kind of what happened as far as the sex abuse stuff?

6 A Yes, I told my version of the story.

7 Q Okay. Did you meet with anybody else that -- from
8 -- from that office, from the District Attorney's Office?

9 A No.

10 Q Okay. Okay. So the -- when the police came out on
11 April 16th of 2016, they were there because there was some
12 issue about rent money; is that correct?

13 A Yes. The -- how that happened was my sister was
14 with her at that time boyfriend, and they borrowed some of
15 his tools, and I guess something was wrong with the tools and
16 then he got mad that they like, messed it up or something.
17 And then he refused to give the rent money to my mom because
18 they had to pay rent that day, and he said he wasn't going to
19 give it to him because it was his. And that's when I believe
20 my mother called the police, and that's when the police came
21 to -- for them to -- for him to give the money back.

22 Q Okay. So -- and they weren't there for any call of
23 sex abuse or anything --

24 A No.

25 Q -- like that? Okay.

1 So while they were there, that's when you decided --
2 A Yes.
3 Q -- to -- to tell them, right?
4 A Yes.
5 Q Okay. And did you tell them that the last time
6 that something happened with Armando was about a week before
7 the police were called?
8 A Yes.
9 Q Okay. Did you tell them that a week before police
10 were called that he put his penis in your vagina?
11 A No.
12 Q Okay. What did you tell them?
13 A I told them that he -- that he was sexually --
14 like, he was raping me, and they told me, what is -- well,
15 what is rape?
16 Q Uh-huh.
17 A And I told them that he was grabbing my body and
18 that he put his penis in my anus.
19 Q Okay.
20 A And they told me to go back, and that's when they
21 arrested him.
22 Q Okay. Did you tell them that he put his penis in
23 your anus a week before they were there?
24 A No.
25 Q Okay. When -- did you tell them at all when was

1 the last time he put his penis in your vagina?

2 A I don't remember.

3 Q Okay. How about the last time he put his penis in

4 your anus?

5 A I don't remember.

6 Q So when all of this thing started happening with

7 Armando, said you were five or you were six years old?

8 A Yes.

9 Q Is it possible you were a different age? Could you

10 have been older?

11 A No.

12 Q Okay. What makes you sure that it was between when

13 you were five or six?

14 A Because I remember coming here in -- to Las Vegas

15 with my siblings.

16 Q I'm sorry?

17 A I remember coming here to Las Vegas with my

18 siblings, and that's when I saw my mother, and that's when I

19 met Armando in the first apartment.

20 Q Okay. And the first thing that happened with

21 Armando, sex thing that happened with Armando, what exactly

22 was that?

23 A I don't understand.

24 Q Okay. The first -- when you said abuse, when the

25 abuse started, what was the first type of abuse?

1 A He would just grip my breast, my vagina, and my --
2 my ass.

3 Q Okay. So did anal sex happen back then?

4 A Between the second apartment, which is the one with
5 the pool --

6 Q Uh-huh.

7 A -- and the green house.

8 Q Okay. And how old were you then?

9 A I don't remember.

10 Q Okay. Do you remember how long after you had been
11 living with Armando that that started, the anal sex?

12 A Like in the green house.

13 Q In the green house?

14 A Yes.

15 Q The first green house? No -- yeah, the first green
16 house or the second green house?

17 A There was --

18 MR. SWEETIN: And I would just ask for some
19 foundation here in regards to what is he referring to?

20 MR. FELICIANO: I think it's pretty clear what I'm
21 referring to. I'm asking her when exactly it happened, which
22 house --

23 THE COURT: Right.

24 MR. FELICIANO: -- the specific act.

25 THE COURT: The first time?

1 MR. FELICIANO: Yes.

2 THE COURT: Okay. Go ahead.

3 MR. SWEETIN: I think that that question's been
4 asked and answered.

5 MR. FELICIANO: Not by me.

6 MR. SWEETIN: She indicated --

7 THE COURT: I mean be --

8 MR. SWEETIN: -- I believe that the first that --
9 that it occurred she indicated was either at the apartment
10 with the pool --

11 MS. HOJJAT: And Your Honor, I'm going to object
12 because this is now -- Mr. Sweetin is --

13 THE COURT: Okay. Well, it's Mr. Feliciano
14 witness, I mean, so --

15 MR. FELICIANO: I'll clarify.

16 THE COURT: -- I mean, it's your witness.

17 MR. FELICIANO: I'll clarify.

18 THE COURT: Okay? I mean, because I don't want to
19 just ask the same questions over again.

20 MR. FELICIANO: Understood.

21 THE COURT: I mean, it's cross-examination.

22 MR. FELICIANO: But it seems like we're unclear
23 now, so that's what I'm trying to clear up.

24 THE COURT: Go ahead.

25 BY MR. FELICIANO:

1 Q So the first time that his penis went in your anus,
2 you don't remember how old you were?

3 A No, I don't remember.

4 Q Okay.

5 A But it was in the pool -- the apartment with the
6 pool or the green house.

7 Q So it was either the apartment with the pool or the
8 green house?

9 A Yes.

10 Q But you're not sure, though?

11 A Well, it was a short period of time.

12 Q Okay. But either -- it was one of those two
13 places?

14 A Yes.

15 Q Okay. But in -- before the first -- the first time
16 there was anal sex, other touching was going on; is that
17 right?

18 A Yes.

19 Q Okay. So the last time that something happened,
20 you said that was a touch on your butt?

21 A Yes.

22 Q All right. Before that, when was the last time
23 that his penis went in your anus?

24 A It was before that house, which was the pale house.

25 Q The pale house?

1 A Yes.

2 Q Is that the three bedroom?

3 A Yes.

4 Q Okay. So it's not the green house?

5 A I don't understand. The last house that it

6 happened was the pale house.

7 Q The pale house?

8 A That was the last house because I moved into the

9 street -- the house where the police came.

10 Q Okay. So just to make sure, the last time his

11 penis went in your anus -- it went inside your anus was at

12 the pale house?

13 A Yes.

14 Q Okay. And you said that was around Thanksgiving or

15 Christmas of the previous year, 2015; is that right?

16 A Before.

17 Q So if the police came out April of 2016, you said

18 the last time was around Thanksgiving or Christmas the year

19 before, about five or so months?

20 A I don't understand.

21 Q Okay. So the police were called in April. They

22 came out to the house in April --

23 A Yes.

24 Q -- of 2016, right?

25 A Yes.

1 Q How long before that was the last time he put his
2 penis inside of your anus?

3 A Before Christmas and Thanksgiving.

4 Q Before Thanksgiving as well?

5 A Yes.

6 Q Okay. So before Halloween?

7 A Around Halloween probably.

8 Q Around Halloween? And what makes you remember that
9 it was Halloween?

10 A Decorations.

11 Q Okay. So you remember decorations being out at
12 that time?

13 A Yes, there was a lot of holidays that were coming
14 out. It was Thanksgiving holidays, Halloween.

15 Q Okay. So at the time that -- the last time his
16 penis went inside your anus, you remember around that time
17 seeing Halloween decorations --

18 MR. SWEETIN: And that misstates --

19 BY MR. FELICIANO:

20 Q -- that's correct?

21 MR. SWEETIN: -- the testimony. I believe she says
22 Halloween, Thanksgiving decorations.

23 MR. FELICIANO: That's why I'm clarifying.

24 THE COURT: Go ahead.

25 BY MR. FELICIANO:

1 Q So the last time his penis went inside of your anus
2 was you remember -- do you remember seeing Halloween
3 decorations around that time?

4 A A little bit, yes.

5 Q Okay. So do you actually -- the last time that it
6 happened around Halloween or whatever, do you actually
7 remember how it started or did it just kind of -- do you
8 remember how the incident started?

9 MR. SWEETIN: And again, that assumes facts not in
10 evidence. She's testified that she observed, you know,
11 things from Halloween and Thanksgiving at this time.
12 Although, defense counsel keeps going back and saying when it
13 happened back at Halloween. So that states facts that are
14 not in evidence.

15 THE COURT: Okay. Well, I think she indicated to
16 Mr. Feliciano that she recalled a little bit Halloween
17 decorations.

18 MR. FELICIANO: Okay. I can clarify.

19 THE COURT: Doesn't mean it was Halloween.

20 MR. FELICIANO: Okay.

21 THE COURT: But it's just putting it into a
22 timeframe.

23 MR. FELICIANO: Okay. Yeah, no problem.

24 BY MR. FELICIANO:

25 Q The last time that his penis went inside of your

1 anus, do you remember how the incident started?

2 A He called me to the room.

3 Q Okay. So you remember that?

4 A Yes.

5 Q Okay. And do you remember why he called you to the

6 room?

7 A To watch a movie.

8 Q Okay. And this sounds like that it usually

9 happened the same way where he would call you and ask you to

10 come watch a movie?

11 A Yes.

12 Q Okay. And how many times do you think over the

13 years he called you and asked you to watch a movie?

14 A Multiple times throughout the year.

15 Q Okay. What's your best estimate for how many

16 times?

17 A I don't understand.

18 Q How many times do you think it happened? That he

19 called you into the room to watch a movie.

20 MR. SWEETIN: And Judge, I'm going to --

21 THE WITNESS: I don't understand.

22 MR. SWEETIN: -- object because he's asking for

23 this witness to speculate as to how many times it might have

24 happened.

25 MR. FELICIANO: I asked her if she knows. I didn't

1 ask her to speculate.

2 THE COURT: Okay. Do you know Mr. Ms. Alvarez?

3 THE WITNESS: I don't understand the question.

4 THE COURT: Okay.

5 MR. FELICIANO: I'll reask it.

6 THE COURT: Go ahead.

7 BY MR. FELICIANO:

8 Q So you said that the last time that something

9 happened, or that his penis was inside of your anus, that he

10 called you to watch a movie?

11 A Yes.

12 Q Okay. Do you remember how often he would call you

13 to watch a movie?

14 A He would call me to the room for multiple reasons.

15 Q Okay.

16 A It was not always just movies. He would just call

17 me, like, oh, come hang out with me or just he would just

18 call me to the room.

19 Q Okay. Up to -- during the last time that we just

20 discussed, do you remember what you were doing before you

21 went into the room?

22 A No.

23 Q Okay. Now, do you know what ejaculate means?

24 A Yes.

25 Q Do you know if he ejaculated on that day?

1 A I don't understand. On that date did he --
2 Q Yes.
3 A -- ejaculate? I don't remember.
4 Q You don't remember? Do you ever remember him
5 ejaculating?
6 MR. SWEETIN: And Judge --
7 THE WITNESS: Yes.
8 MR. SWEETIN: -- I'm going to object again. This
9 is a proffer to determine whether or not there's proof by a
10 preponderance of the evidence. I don't think the fact of
11 whether the defendant did ejaculate, when he ejaculated, I'm
12 not sure how that's relevant.
13 MR. FELICIANO: It goes to her recollection of the
14 events.
15 THE COURT: Right. I'm going to allow it. Go
16 ahead.
17 BY MR. FELICIANO:
18 Q So do you remember him ever ejaculating ever?
19 A Yes.
20 Q Okay. And can you describe that for us?
21 A He told me to grab him on his penis.
22 Q Okay.
23 A And then I would ejaculate him.
24 Q Okay.
25 A And then --

1 Q And when was that? Your best -- your -- whatever
2 you can remember.

3 A In the apartments.

4 Q Okay. And the first one or the pool apartment?

5 A I don't remember, but I know it was one of the
6 apartments.

7 Q Okay. So was that the only time it happened back
8 then?

9 THE COURT: The only time what happened?

10 MR. FELICIANO: The -- that he ejaculated was back
11 in the apartments.

12 BY MR. FELICIANO:

13 Q Was that the only time?

14 MR. SWEETIN: You know, and Judge, I would just --

15 THE COURT: I know, I just --

16 MR. SWEETIN: -- foundation here because what
17 defense counsel is doing is he's asking her about various
18 sexual acts --

19 THE COURT: Right.

20 MR. SWEETIN: -- specifically and then he's asking
21 did he ejaculate. I believe it's confusing. I would just
22 like some foundation --

23 THE COURT: I think it's a little confusing.

24 MR. SWEETIN: -- specifically what he's asking.

25 THE COURT: So --

1 BY MR. FELICIANO:

2 Q So you described that in the apartment -- one of
3 the apartments, either the first apartment or the apartment
4 with the pool that he ejaculated?

5 A Yes.

6 Q Okay. Did you -- is that the only time you saw him
7 ejaculate?

8 A No.

9 Q Okay. What other times did you see him ejaculate?

10 A Not specific he would -- sometimes he would do it
11 or I would do it for him.

12 Q Okay. So, I mean, how could you tell, I guess is
13 what I'm asking?

14 A Because I'm gripping his penis.

15 Q Okay. And how many times did that happen?

16 A I don't remember.

17 Q Okay. So when did you first tell somebody that you
18 were touching his penis and making him ejaculate?

19 A When did I first tell anybody?

20 Q Yes.

21 A The detective when I was first -- when he told me
22 to come and talk to --

23 Q At headquarters?

24 A -- some other detective. Yes.

25 Q Okay. You also talked about -- you know what

1 cunnilingus is?

2 A No, I don't know.

3 Q When somebody puts a mouth on a vagina? Did that

4 ever happen? Did he ever put his mouth on your vagina?

5 A Yes.

6 Q Okay. When did that happen?

7 A When?

8 Q Yes.

9 A I don't remember when it started, but he would do

10 it throughout the -- the whole time I was -- that he would

11 sexually abuse me.

12 Q Okay. So -- so it happened more than once?

13 A Yes.

14 Q Okay. And when was the first time you told

15 somebody about that?

16 A With the detectives.

17 Q Okay. So if we look back at your statement to the

18 detective, it would -- you believe that you said that he put

19 his mouth on your vagina or something --

20 A Yes.

21 Q -- like that? Is that a yes?

22 A Yes.

23 Q Okay. Thanks.

24 MR. FELICIANO: Court's indulgence.

25 BY MR. FELICIANO:

1 Q So did Armando ever put his penis inside of your
2 vagina?

3 A Yes, a little bit.

4 Q Okay. Actually, inside or around it?

5 A Trying to go in -- inside my vagina.

6 Q Did it ever go in?

7 A A little bit.

8 Q Okay. How many times did that happen?

9 A Twice.

10 Q Twice? And do you remember where you were living
11 when that happened?

12 A I just -- I just said in the last house when the
13 incident stopped.

14 Q Oh.

15 A Which was the pale house, and -- and then it was,
16 excuse me, the green house.

17 Q Okay. So the first green house or the second green
18 house?

19 A The three bedroom.

20 Q Okay. And is that -- I'm sorry, is that the first
21 one or the second one?

22 A That is the one with the laundry room.

23 Q Okay. And is that the first one or the second one?

24 A Second one.

25 Q Okay. So -- and those are -- it only happened two

1 times and that's it?

2 A That I remember.

3 Q Okay. And then you talked about an incident that

4 happened in a laundry room?

5 A Yes.

6 Q All right. And which house was that?

7 A The green house.

8 Q The green house. The first one or the second one?

9 A I believe it was the second one --

10 Q Okay.

11 A -- that has the laundry room.

12 Q So do you remember exactly what happened? Do you

13 remember what -- what actually happened or do you not

14 remember?

15 MR. SWEETIN: You know what, Judge, I'm going to --

16 THE COURT: Other than what --

17 MR. SWEETIN: -- object.

18 THE COURT: Other than what she's already testified

19 to, why don't -- I mean, it's cross-examination.

20 MR. FELICIANO: Um-h'm.

21 THE COURT: She's already testified on direct about

22 a laundry room incident.

23 MR. FELICIANO: Yeah, I'm trying to specifics --

24 THE COURT: I mean, you can ask --

25 MR. FELICIANO: -- of what happened in the laundry

1 room.

2 THE COURT: Okay. Why don't you ask her question,
3 then?

4 MR. FELICIANO: Okay.

5 BY MR. FELICIANO:

6 Q So in the laundry, what specifically happened?

7 A I went to wash my clothes.

8 Q Okay.

9 A He went -- he came inside the laundry.

10 Q Okay.

11 A He kissed me. He touched me. And he put his penis
12 in my anus.

13 Q And is that something that when you spoke to police
14 at headquarters, did you tell them all that?

15 A Yes.

16 Q Okay.

17 MR. FELICIANO: Court's indulgence.

18 BY MR. FELICIANO:

19 Q The -- so you -- I guess, you described a lot of
20 these things happening in the bedroom, right?

21 A Yes.

22 Q Was it always the same bed throughout the years or
23 was it different beds?

24 A I don't understand.

25 Q So the actual mattress and bed, was it the same one

1 that moved along with you to each house or were they
2 different?

3 A They were all different.

4 Q Okay. Were they different heights or were they
5 lower, some lower, some higher, or were they all the same?

6 MR. SWEETIN: I'm going to object again, Judge.

7 THE COURT: Oh, I mean, come on.

8 MR. SWEETIN: I --

9 THE COURT: I mean, I don't know what you're
10 getting at.

11 MR. FELICIANO: It goes to her ability to recall
12 the events. I mean, they have to prove this beyond a
13 preponderance of the evidence, and that's what I'm getting
14 at. I mean --

15 THE COURT: Okay.

16 MR. FELICIANO: -- I'm almost done.

17 THE COURT: Go ahead.

18 BY MR. FELICIANO:

19 Q So --

20 A There --

21 Q Sorry.

22 A -- was sometimes just like it's the mattress --

23 Q Uh-huh.

24 A -- like double mattress with like a metal thing

25 supporting it or sometimes it was an actual like bed set --

1 Q Okay.

2 A -- made of wood and just the two beds or sometimes

3 one.

4 Q So and those were different depending on where you

5 lived?

6 A Yes, they were --

7 Q Okay.

8 A -- all different.

9 Q Were some lower and some higher?

10 A Yes.

11 MR. FELICIANO: Court's indulgence. Thank you.

12 We'll pass.

13 THE COURT: Okay. Any redirect?

14 MR. SWEETIN: No questions, Judge.

15 THE COURT: Okay. Thank you very much, Ms.

16 Alvarez. Thank you for being here.

17 THE WITNESS: Okay.

18 THE COURT: You may step down.

19 (Witness exits the courtroom)

20 THE COURT: Okay. Go ahead.

21 MR. SWEETIN: And so, Judge, I would note that

22 based upon the evidence that's been elicited, I would note

23 that there were some things that were testified to that are

24 not currently charged that we would be looking to bring in.

25 Particularly, I believe the victim was very clear

1 that the acts of sexual abuse happened on a regular basis.
2 She indicated sometimes three times a week, sometimes one
3 time a week, I believe.

4 Additionally, she indicated that there were other
5 acts that occurred in conjunction with some of the sexual
6 acts, and those -- and those acts included the act of
7 cunnilingus or licking of the vagina.

8 There was also an incident which the victim did
9 testify to or made a statement to in her -- in her original
10 statement to the police, but was not charged, and that had to
11 do with the rape in the laundry room -- or the sexual assault
12 in the laundry room that was described, and was at the second
13 green house, which indicated was near Jim Bridger.

14 There was also testimony in regards to activity
15 that occurred at the last house on Ferguson, which is not
16 currently charged. Specifically, she testified that the same
17 conduct that had been happening before continued at that
18 residence and additionally, she testified to a last incident
19 of sexual penetration that occurred at that incident.

20 Finally, the victim testified as to the last house
21 that they lived at, which I characterized as the Berkley
22 Street house, which I think she's referenced as the Bruce
23 Street house from time to time, that the defendant touched
24 her buttocks, and that that happened within the two weeks
25 previous to the police arriving.

1 I think that those are the specific pieces of
2 uncharged sexual conduct that the State would be seeking to
3 bring in. The State submits that all these incidents, as
4 we've already laid out clearly, are propensity evidence. The
5 State submits that the evidence that's presented here clearly
6 meets the burden that's placed upon the State by the Franks
7 court and asked to show by preponderance of the evidence so
8 that essentially that the jury could determine by a
9 preponderance of the evidence that, in fact, these acts
10 occurred. And we'd submit it on that.

11 THE COURT: Okay. Mr. Feliciano.

12 MR. FELICIANO: So Guadalupe gave a statement -- or
13 she told the police something at the scene April 16, 2016.
14 She went to the police headquarters that day and gave a
15 lengthy statement. I think it was an hour or so, and her
16 preliminary testimony. That's all we have.

17 Every -- a lot of stuff she's saying today is -- I
18 mean, it's extremely confusing. I'm not even really sure at
19 this point what happened when. Her testimony, from what you
20 heard today, she added a major detail or a major offense of
21 cunnilingus. That's never been mentioned anywhere. Not in
22 her voluntary statement. Not in her statement to the police
23 on the scene, not at the preliminary hearing.

24 She even said that she said it to the detective in
25 the voluntary, but she didn't. I mean, if it's there, I

1 missed it, and I've read that statement numerous times. And
2 you would think if it was credible that that would have been
3 said. They asked her numerous times did anything else
4 happen?

5 I don't think it's a small detail to say that
6 Armando -- for her to say that Armando put his mouth on her
7 vagina, and the first time we're hearing about it is three
8 and a half years later. Just that alone makes it not
9 credible.

10 She answered numerous times that she couldn't
11 remember a lot of things that required a lot of leading by
12 Mr. Sweetin to try to get her to say what he wanted her to
13 say. She -- her memory is not good. And I don't think we
14 can say it's been proven by the preponderance of the evidence
15 when she doesn't remember a lot of things.

16 She needed her recollection refreshed where the
17 details are different, the timing's different, and very huge
18 details are totally different. And she added -- and she's
19 adding some major stuff, such as cunnilingus. That alone I
20 think is enough to say none of this should come in.

21 He's charged with multiple felonies. They've got
22 plenty of stuff to charge him with. And this is just going
23 to make the jury believe he's a bad guy, he was doing this
24 all the time with no proof, and they're going to convict him
25 for it.

1 THE COURT: Thank you.

2 MR. SWEETIN: And the State would submit that all
3 of these evidence -- all the evidence is clearly sexual
4 conduct, clearly under 48.045, paragraph 3, it is admissible
5 upon a finding by this Court. The State submits clearly its
6 met that requisite and it should be admitted.

7 THE COURT: Okay. At this time, I'm going to make
8 a determination that the State has met their burden and make
9 a preliminary finding the jury could reasonable find by a
10 preponderance of the evidence, it's relevant, and they met
11 their burden as to the limine factors, and I'm going to allow
12 it to come in.

13 MR. FELICIANO: Okay. So can we get, just for
14 clarify occasion, can we -- because I imagine more stuff's
15 going to come out because that's the way this is going. If
16 we can get a detailed list of what exactly is being allowed
17 in as bad acts.

18 THE COURT: Okay. Do you want me -- do you want me
19 to repeat what the District Attorney said? I mean, because
20 they're -- I mean, I have -- I have -- I have pages and -- I
21 have ten pages of notes.

22 MR. FELICIANO: Okay.

23 THE COURT: So I don't know what --

24 MR. FELICIANO: Well, I mean, we -- I just don't --
25 if -- I mean, your ruling is your ruling. I mean, we --

1 THE COURT: Right.

2 MR. FELICIANO: Of course, we respect your ruling.

3 THE COURT: That there was acts of sexual abuse
4 three times a week where other acts occurred, where she said
5 he grabbed her breasts, grabs her vagina, grabbed her butt.

6 MR. FELICIANO: Okay.

7 THE COURT: She discussed the licking of the
8 vagina, the sexual assault in the laundry room, and the
9 activity at the last house, the Ferguson house.

10 MR. FELICIANO: Okay.

11 THE COURT: And then the touching of her buttocks,
12 I think, at the Bruce house.

13 MR. FELICIANO: Okay. I mean, just if she gets up
14 there and says cunnilingus 20 times, that's why I wanted to
15 make sure that the record is clear that that's not what was
16 said, so --

17 THE COURT: I don't believe that's what was said.

18 MR. FELICIANO: No. If she -- I mean, I'm just
19 saying the way this is going, it's -- that may happen. It
20 may get even -- you know.

21 THE COURT: Okay. I only recall her saying that
22 that occurred one time; is that correct?

23 MR. SWEETIN: I'm not sure that she quantified it.

24 THE COURT: Okay. Maybe she didn't.

25 MR. SWEETIN: I think -- yeah.

1 THE COURT: I don't know.

2 MR. FELICIANO: No, I'm -- I'm sorry.

3 MR. SWEETIN: I think she said that the act of
4 fellatio did happen in the course of the conduct. I think
5 that's what she -- she indicated. And I think that that was
6 brought out on cross-examination by defense counsel.

7 THE COURT: Well, I mean, it came out on direct
8 because she referred to it as you asked her -- you used a --
9 I can't remember what term you used, but she didn't
10 understand what you meant. She referred to it as licking and
11 said -- yeah.

12 But again, I don't know if she said how many times.

13 MR. FELICIANO: I thought it was one. But, I mean,
14 I could be wrong.

15 THE COURT: Okay. Okay. All right. I mean, I can
16 go back over my notes during lunch, but she at least
17 testified that it occurred at least one time.

18 MR. FELICIANO: Okay. I -- I --

19 THE COURT: I mean, that would be my
20 interpretation.

21 MR. FELICIANO: I didn't hear more than one.

22 THE COURT: Pardon?

23 MR. FELICIANO: I didn't hear that it happened more
24 than one time.

25 THE COURT: I don't recall that.

1 MR. SWEETIN: Yeah, I think -- I think it came out
2 on cross that she indicated that it had occurred on even
3 other occasions.

4 THE COURT: Well.

5 MR. SWEETIN: I think I developed from her that at
6 the Stafford house, which, you know, as we've characterized
7 these things --

8 THE COURT: Well, let me --

9 MR. SWEETIN: -- would be the first green-ish house
10 that I think that there was a licking that she described.
11 And when defense counsel asked her, you know, about that, she
12 says, yeah, that that's happened --

13 THE COURT: Yeah, that --

14 MR. SWEETIN: -- with all the other stuff.

15 THE COURT: -- I do have it in --

16 MR. SWEETIN: It happened on other occasions.

17 MR. FELICIANO: I didn't get that.

18 THE COURT: Okay. I'm just going to tell you what
19 my notes say, and it's under the Stafford Street address. He
20 -- he would lick her vagina while she was on the bed. So
21 again, I don't know if that meant one time, two times. I
22 don't know. My notes don't have a number. And that he never
23 put his hands or fingers in her vagina.

24 MR. FELICIANO: I did get that.

25 THE COURT: Okay. So again, I don't know if she

1 said one time, two -- I mean, I was sitting over here as
2 close as I could get to her because I was having a hard time
3 hearing her because she's so soft spoken.

4 MS. HOJJAT: And can we clarify that just for the
5 record because I -- the motion as far as I can tell talked
6 about fingers in the vagina, fingers in the anus and
7 fellatio --

8 THE COURT: Okay. She said that that never
9 happened.

10 MS. HOJJAT: Right.

11 THE COURT: She specifically said that that did not
12 occur.

13 MS. HOJJAT: Correct. And so was an investigator
14 present when she was pretried and she said those things to
15 the District Attorney's Office?

16 MR. FELICIANO: Where is this coming from, right?
17 If that's in their motion.

18 THE COURT: Where's what coming from?

19 MS. HOJJAT: Well, not where's this coming, but
20 we're going to need to be able to impeach her on it. So was
21 an investigator present because --

22 MR. SWEETIN: Well, I don't think she's ever
23 testified to that.

24 THE COURT: She hasn't testified that --

25 MS. HOJJAT: But if she told the DA's Office

1 something inconsistent to what she testified to, that's stuff
2 that we can bring out and impeach now.

3 THE COURT: Okay.

4 MS. HOJJAT: So I'm hoping that there is a witness
5 present --

6 THE COURT: Well, I --

7 MS. HOJJAT: -- that we could call other than the
8 District Attorneys themselves.

9 THE COURT: I mean, I don't know what you're
10 talking about. I don't know, did the District Attorney give
11 you a statement?

12 MS. HOJJAT: The motion.

13 THE COURT: The motion?

14 MS. HOJJAT: The motion. They indicate --

15 THE COURT: Okay.

16 MS. HOJJAT: -- in the motion that it was given to
17 them information that her that there was digital penetration
18 in the vagina, digital penetration of the anus and fellatio.
19 She didn't testify to any of those things today. She --

20 THE COURT: Okay. Right. She said it didn't --

21 MS. HOJJAT: -- in fact affirmatively denied that.

22 THE COURT: -- which is exactly why you have a
23 proffer.

24 MS. HOJJAT: Right. Well, that's why --

25 THE COURT: Which is why I had them bring the

1 witness in.

2 MS. HOJJAT: Right. Well, so we -- that's not
3 exculpatory is our position.

4 THE COURT: If you want to ask her on
5 cross-examination did you tell the District Attorney blah,
6 blah, blah?

7 MS. HOJJAT: Right.

8 THE COURT: I'm not going to prevent that.

9 MS. HOJJAT: And so I want to clarify was an
10 investigator present when that occurred?

11 MR. SWEETIN: What's that?

12 MS. HOJJAT: Those statements that were made to
13 you? Because those statements were made to you. You put
14 something in a motion. You didn't just come up with it.
15 Those statements were made to you by the alleged victim,
16 correct?

17 MR. SWEETIN: Yeah, that's -- I had an investigator
18 there, but you can't impeach with extrinsic evidence anyway.
19 So you can ask her --

20 THE COURT: Okay.

21 MR. SWEETIN: -- and you're stuck with the answer.

22 MS. HOJJAT: I don't believe that.

23 THE COURT: I do have like a stack of CPS records
24 up here. So I don't understand how you could say you didn't
25 get them.

1 MR. FELICIANO: I didn't -- I mean, I didn't.
2 THE COURT: I mean --
3 THE CLERK: And they were brought in during a
4 hearing on [inaudible].
5 THE COURT: They were brought in during a hearing?
6 THE CLERK: A hearing [inaudible].
7 THE COURT: Who brought them in?
8 THE CLERK: It's a court's exhibit, so I don't
9 know.
10 THE COURT: I mean, because that is -- that would
11 be -- it's a court's exhibit. I mean, here's the thing --
12 MR. FELICIANO: Is it a lot?
13 THE COURT: Yes. Because it would not -- I mean,
14 I'm just telling you my practice would not be to seal it and
15 make it a part of the record until copies were made and given
16 to both sides.
17 MR. FELICIANO: If was a hearing, I -- I figured we
18 would have been here and got a copy.
19 THE COURT: What was the hearing? I know, that's
20 -- did you say January 18th?
21 THE CLERK: [Inaudible].
22 THE COURT: It's bizarre.
23 MR. FELICIANO: I know, this is very unusual. I
24 never seen this happen before.
25 THE CLERK: Court's indulgence.

1 THE COURT: See, here's the order I signed. See,
2 so we did everything like normal.

3 MR. FELICIANO: Was the order filed?

4 THE COURT: Yes.

5 THE CLERK: I have Feliciano was present, Jim
6 Sweetin was present. It was on January 22, 2018.

7 THE COURT: What did we do at that hearing?

8 THE CLERK: I think it was on for a motion. Let me
9 check right now. This was that -- it was the defendant's
10 motion to suppress, and I think it was in regards to the
11 chlamydia issue.

12 THE COURT: That was a --

13 MR. FELICIANO: I mean, there's been so many court
14 appearances and --

15 THE COURT: I know.

16 MR. FELICIANO: -- so much going on it's confusing.

17 MS. HOJJAT: Well, if we can just request a copy
18 for both sides because it sounds like Mr. Sweetin doesn't
19 have it either.

20 THE COURT: Yeah, the order was filed March 23,
21 2018, which is weird because what date did you say the
22 hearing was?

23 THE CLERK: January 22, 2018.

24 THE COURT: Before this order was signed?

25 THE CLERK: Yes.

1 MR. FELICIANO: That -- that makes no sense.

2 THE COURT: That would make it almost impossible,
3 but I don't know what to say.

4 MR. FELICIANO: I mean, I -- I -- I don't -- I
5 mean, of course, I don't remember everything we've done in
6 this case. I've been here a million times, but --

7 THE COURT: I know.

8 MR. FELICIANO: I think I would have remembered
9 that there were CPS records available, I think.

10 THE COURT: Okay. Wait, let me just make sure.

11 THE CLERK: Let me read her minute order, maybe
12 this is the one.

13 THE COURT: Okay. Is that this -- is this -- this
14 is a different case.

15 THE CLERK: What?

16 THE COURT: Yeah.

17 MR. FELICIANO: Oh, that explains it.

18 THE COURT: Oh, gosh. Yeah, I'm looking at this
19 thinking this doesn't make any sense. This is a different
20 case.

21 MR. FELICIANO: Which case is -- is that one of
22 mine?

23 THE CLERK: No, I'm looking at the computer, so
24 everything I said is true. I don't know what that is.

25 MR. FELICIANO: Oh.

1 THE CLERK: [Inaudible].
2 THE COURT: Yeah, the order here is from a
3 different case.
4 THE CLERK: Oh, the order.
5 THE COURT: Jim Vasquez.
6 MR. FELICIANO: That doesn't sound familiar to me.
7 THE COURT: Let me just see if the --
8 THE CLERK: That makes sense, Judge --
9 THE COURT: It might have gotten --
10 MR. FELICIANO: Wrong Vasquez.
11 THE COURT: Yes. It might be the wrong Vasquez.
12 Let me just -- because I'm looking at it, and I'm looking at
13 these notes and the names are different. Like, there's --
14 THE CLERK: And Judge, on the order --
15 THE COURT: Yeah, this is -- these --
16 THE CLERK: -- the exhibit list is January 22, 2018
17 jury trial. And you guys said there was no jury trial. So I
18 think she put it [inaudible].
19 THE COURT: Yeah, it must have -- oh, my gosh. How
20 bizarre is that.
21 MR. FELICIANO: Okay.
22 THE COURT: Yeah. So just --
23 MR. FELICIANO: So the Court --
24 THE CLERK: So are those CPS records for this case,
25 though?

1 THE COURT: No, they're not for this case.

2 MR. FELICIANO: Okay. So do we know if there are

3 any CPS records for this case?

4 MS. HOJJAT: Not with the court. So Jim's going to

5 have to --

6 THE COURT: It doesn't appear as though with me.

7 MR. FELICIANO: Okay.

8 THE COURT: Which would be consistent with -- my

9 practice would be to -- I seal them, make them part of the

10 record, after I give both sides a copy.

11 MR. FELICIANO: Okay.

12 THE COURT: So Mr. Sweetin's going to find out --

13 MR. FELICIANO: Okay.

14 THE COURT: -- because based on what I read, that

15 you provided to me, it seemed like there's at least some

16 unity notes because they cite to specific dates. And I mean,

17 unity notes, they look like this.

18 MR. FELICIANO: Yes.

19 THE COURT: That's what I have in front of me.

20 MR. FELICIANO: They always seem to look the same.

21 THE COURT: Right, right. And I -- I don't recall

22 seeing a document like what you showed me, you know.

23 So I'm going to seal these back up.

24 THE CLERK: I'm going to have Susan correct

25 [inaudible].

1 THE COURT: Okay. But t was my case, I guess. It
2 must have been. Yeah, wrong Vasquez, I guess. Sorry about
3 that. But Mr. Sweetin you're going to follow up with that?
4 MR. SWEETIN: And I will. I've already sent a
5 text, but I'll call with a phone call over the lunch hour.
6 THE COURT: Okay. And hopefully someone can just
7 bring them over here. That's what I'm hoping. Sometimes
8 they'll just bring them right over to us.
9 MR. FELICIANO: Okay.
10 THE CLERK: I do have another sealed document that
11 don't think is [inaudible]. Do you want me to open it?
12 THE COURT: And it's in this case?
13 THE CLERK: It is Vasquez-Reyes.
14 THE COURT: Yeah. I have another sealed document.
15 We're just going to open it just to make sure.
16 MR. FELICIANO: Oh.
17 THE COURT: It's in this case.
18 THE CLERK: [Inaudible].
19 (Pause in the proceedings)
20 THE CLERK: CPS records sealed by the court.
21 THE COURT: I hope they're just -- oh, yes. It's
22 the same thing you have.
23 MR. FELICIANO: Oh, okay.
24 THE COURT: Okay?
25 MR. FELICIANO: The initial --

1 THE COURT: Okay?

2 MR. FELICIANO: Nevada Initial Assessment?

3 THE COURT: Yeah. I mean, it's a court's exhibit.

4 Let me just make sure there's nothing else in here. So

5 clearly, that's what I got, right?

6 MS. HOJJAT: And the order encompasses --

7 THE COURT: Yeah, CPS records sealed by the court.

8 MS. HOJJAT: And the order for the records

9 encompasses unity notes?

10 THE COURT: I'm sorry?

11 MS. HOJJAT: I'm sorry. Losing my voice. The

12 order for the records, the order that accompanies those, it

13 encompasses --

14 THE COURT: There's not -- there's not an order in

15 here.

16 MS. HOJJAT: Oh.

17 THE COURT: But it appears -- I mean, I'll let both

18 sides come up and look at it. It looks exactly what you gave

19 me. I still think it's appropriate for Mr. Sweetin to follow

20 up because even if this is what we got, it seems like it's

21 not complete.

22 MS. HOJJAT: And that's what we would request at

23 this point.

24 MR. FELICIANO: So the last page that I have is

25 page 17.

1 THE COURT: Yeah.
2 MR. FELICIANO: Okay.
3 THE COURT: Um-h'm.
4 MR. FELICIANO: Cooley, Cheryl Cooley (phonetic)
5 entry.
6 THE COURT: Page 17?
7 MR. FELICIANO: Yeah.
8 THE COURT: Is that a chart?
9 MR. FELICIANO: Yeah. Okay.
10 THE COURT: Yeah.
11 MR. FELICIANO: Yeah, we got the same thing.
12 THE COURT: Yeah, Cheryl Cooley (phonetic). It
13 took me a minute.
14 MR. FELICIANO: Okay.
15 THE COURT: All right. So I don't have any unity
16 notes, so Mr. Sweetin will update us. And I'm going to order
17 these sealed again. I thought it was on January 22nd?
18 THE CLERK: Well, I'm going to meet with Susan
19 right now.
20 THE COURT: Yeah, because I sealed them and made
21 them part of the record on January 22nd in this case, so --
22 MR. FELICIANO: Okay. 1:30?
23 THE COURT: Uh-huh. January 22nd --
24 MR. FELICIANO: Are we --
25 MS. HOJJAT: And then the only other matter that's

1 remaining is the implicit bias instruction. Do we want to
2 just handle that at 1:30?

3 THE COURT: Right. Because my -- I --

4 MS. HOJJAT: Yeah.

5 THE COURT: I think the State filed something. Did
6 you get a copy?

7 MS. HOJJAT: I got a copy of their memorandum.

8 THE COURT: Okay. I haven't had a chance to read
9 it yet.

10 MS. HOJJAT: Perfect. Thank you very much.

11 THE COURT: Thanks.

12 MR. FELICIANO: Thank you.

13 (Court recessed at 12:18 p.m. until 1:41 p.m.)

14 (Outside the presence of the jury.)

15 (Pause in the proceedings)

16 THE MARSHAL: Please come to order. Court is now
17 in session.

18 THE COURT: Okay. The record will reflect that the
19 hearing is taking place outside the presence of the jury
20 panel.

21 Again, the defense got the brief that the State
22 filed?

23 MS. HOJJAT: Yes, Your Honor. We did receive them.

24 THE COURT: Okay. My only concern is is that the
25 State has no objection to the Court instructing the jury on

1 implicit bias. That is what this is.

2 MR. ROWLES: That would be the second instruction

3 on there, not the unconscious --

4 THE COURT: But you understand --

5 MR. ROWLES: -- bias aspect of it.

6 THE COURT: -- implicit bias is by definition

7 unconscious bias?

8 MR. ROWLES: Then I was under -- misunderstood.

9 THE COURT: Okay.

10 MR. ROWLES: My -- it would be direct bias that you

11 can't do it based on race, the second page of the

12 instruction.

13 THE COURT: Okay. Let me -- I mean, because I --

14 implicit bias by definition is unconscious bias.

15 MR. ROWLES: That was my misunderstanding, then. I

16 thought --

17 THE COURT: Why don't you approach --

18 MR. ROWLES: I --

19 THE COURT: -- and tell me what it was that you

20 objected or didn't object to.

21 MR. ROWLES: My objection would be to the ones that

22 reference unconscious bias altogether, but not this right

23 here, without, of course, the voir dire instruction.

24 THE COURT: Yeah, well, I mean, I don't think I

25 indicated I would give all of these.

1 MR. ROWLES: Yeah.

2 THE COURT: I guess my only concern is you say you
3 don't object to it, but then -- I mean, implicit bias by
4 definition is --

5 MR. ROWLES: Yeah, and that was --

6 THE COURT: -- unconscious bias.

7 MR. ROWLES: -- just -- that was a misunderstanding
8 of my -- of what implicit bias meant to me. I thought that
9 was referring to direct bias. My objection would be to the
10 references to unconscious bias and that language with regards
11 to that.

12 THE COURT: Okay. So you basically, object?

13 MR. ROWLES: Yeah.

14 THE COURT: And then again, my only concern is, is
15 the footnote here that indicates the research says maybe we
16 shouldn't bring it to their attention. It says, research
17 regarding the jury instructions is still young and some of
18 literatures raise questions whether highlighting the notion
19 of unconscious bias would do more harm than good.

20 MS. HOJJAT: And I'm sorry, which footnote is that?

21 THE COURT: That's concerning. The first paper,
22 and then I didn't have an opportunity to read all this stuff
23 in the footnote, but it looks like there's some good --
24 there's at least one good law review article, and I just
25 haven't had a chance to read it.

1 MS. HOJJAT: So --

2 MR. ROWLES: And the point of the State's
3 opposition would be is that if you look at Western District
4 of Washington, it seems that they've informed a committee or
5 the bench and the bar in that there was --

6 THE COURT: Sure.

7 MR. ROWLES: -- adequate time to research and vet
8 that research and discuss it as a community within the
9 committee before just doing it on a case-by-case basis in
10 this particular situation.

11 MS. HOJJAT: And Your Honor, if I may?

12 THE COURT: Uh-huh.

13 MS. HOJJAT: I mean, talking about forming a
14 committee and all these things, it's basically death by
15 delay, right? They're trying to kill the idea of implicit
16 bias or unconscious bias instruction being given in Clark
17 County.

18 The instruction that they are saying we need a
19 committee because we might have differences from the Western
20 District of Washington is literally that you must decide the
21 case solely on the evidence and the law before you, and must
22 not be influenced by any personal likes or dislikes,
23 opinions, prejudice as sympathy, or biases, including
24 unconscious bias. Unconscious biases are stereotypes,
25 attitudes are preferences that people may consciously reject,

1 but which may be expressed without conscious awareness,
2 control, or intention. Like conscious bias, unconscious
3 bias, too, can affect out we evaluate information and make
4 decisions.

5 What about that is specific to the Western District
6 of Washington or any population? That is a very general
7 instruction that is just instructing a jury to be aware of
8 the fact that we all have unconscious biases and to make sure
9 that it is not having a part in their verdict, which is
10 appropriate.

11 The research shows that making jurors aware of this
12 topic and instructing them not to consider it, actually does
13 work in eliminating unconscious biases and implicit biases.

14 When people are made aware of the fact that they
15 need to just be on guard, they actually are on guard and they
16 do try. I understand Your Honor's --

17 THE COURT: Well, our problems is what you gave me
18 to is kind of research regarding this. It says that it may
19 do more harm than good, and again, there's a footnote here
20 with what appear to be some really good research on it.
21 There's some law review articles, but I didn't even have a
22 chance to look up any of them.

23 MS. HOJJAT: And Your Honor, I believe I filed a
24 motion in another case --

25 THE COURT: No significant offense to the

1 instruction on judgments of guilt, confidence, strength of
2 prosecution evidence or sentence length, that they may be
3 unable to identify a more traditionally expected baseline
4 bias.

5 I mean, I -- that's my only concern is that the
6 foot -- in the footnotes of what you gave to me, it indicates
7 -- it may -- the research is showing it may do more harm than
8 good by pointing it out and telling them.

9 MS. HOJJAT: And I'm sorry, I just -- which
10 footnote is that that says it might do more harm than good?

11 THE COURT: It's on the first page.

12 MS. HOJJAT: Oh, I'm sorry.

13 THE COURT: And it's footnote --

14 MS. HOJJAT: Okay.

15 THE COURT: -- one. First, do no harm on
16 addressing the problem of implicit bias and juror decision-
17 making. I mean, that's what it cited to, but the right up
18 here --

19 MS. HOJJAT: But then the very next sentence --

20 THE COURT: -- the research says it may be do more
21 harm than --

22 MS. HOJJAT: But then --

23 THE COURT: -- good. That's my concern.

24 MS. HOJJAT: The very next sentence says, however
25 the body of research supports that as a general matter

1 awareness and mindfulness about one's own unconscious
2 associations are important and thus a decision-maker's
3 ability to avoid the use of these associations, however that
4 is achieved, will likely result in fair decisions and then
5 it's got citations to that research.

6 MR. ROWLES: And that's --

7 MS. HOJJAT: So I think what it's doing is it's
8 addressing the counter argument, and then saying, but that's
9 not -- I mean, that's clearly not the conclusion the Western
10 District of Washington reached because they are giving --

11 THE COURT: Well, sure.

12 MS. HOJJAT: -- the instructions.

13 THE COURT: Um-h'm.

14 MS. HOJJAT: And so what I think they're doing is
15 they are taking into account the counter argument and then
16 saying, however, the body of research suggest that this is an
17 appropriate instruction to give. And I can tell the Court,
18 Judge Eric Johnson here in the Eighth Judicial District Court
19 gives an unconscious bias instruction. I don't have --

20 THE COURT: Well, how is it -- how is it -- how
21 does it read?

22 MS. HOJJAT: I don't have the wording of that
23 instruction. I could reach out to Judge Johnson's chambers
24 if the Court would like if, I mean --

25 MR. ROWLES: I did last night to his former law

1 Clerk who just transitioned over, and she was not aware of
2 any unconscious bias instruction given. That's the point of
3 the safe opposition, Your Honor, is that Western District of
4 Washington recognizes that research is negative, but we
5 vetted it and we think it's positive. We haven't had the
6 opportunity to review this research. And to suggest that our
7 community is the same as the Western District of Washington,
8 it's not.

9 I mean, we're a big country. We're a big -- every
10 single state is different. Every single jurisdiction is
11 different, and that's reflected in our case law, which even
12 says that what other jurisdictions decide is not binding on
13 our jurisdiction because we're the State of Nevada and it's
14 adopted by [inaudible] court.

15 THE COURT: Well, I mean, no doubt. I mean, the
16 research, I don't think that it's any different in Washington
17 than it is here.

18 MR. ROWLES: Okay. But it hasn't been wholly
19 vetted by our jurisdiction yet.

20 THE COURT: Yeah, that's true.

21 MS. HOJJAT: Your Honor, we take instructions from
22 other jurisdictions all the time.

23 THE COURT: I know. I'm not so sure -- I mean, I
24 told you, I'm not so sure this is a bad idea to instruct a
25 jury. My only concern is, you know, I certainly don't want

1 to do something that's going to do more harm than good.

2 MS. HOJJAT: Right, and -- and --

3 THE COURT: And if it's -- if we're drawing the
4 attention to it and somehow that's bad, I mean, I don't like
5 that.

6 MS. HOJJAT: My reading of this cover page is that
7 it is -- it is not saying that that is a likely scenario. It
8 is saying we're taking that into consideration, however, the
9 body of research supports that we should give these
10 instructions, and thus, we've come up with these instructions
11 and we're giving them.

12 And we are asking the Court to give the duty of
13 jury instruction because it is -- it is an instruction that
14 is appropriate. It is pertinent, it is on point, and it is
15 helpful to jurors to remind them to be aware of their
16 implicit biases.

17 THE COURT: Okay. Anything else?

18 MR. ROWLES: I would just ask that they follow the
19 same procedures that took place in the Western District of
20 Washington. I mean, we have not had the opportunity to
21 review any of that research, and from -- if I remember
22 correctly, the string citations with regards to the concerns
23 were many, and the one that said it was fine --

24 THE COURT: Right.

25 MR. ROWLES: -- was one citation.

1 THE COURT: Again, I'm not going to give it in this
2 case. I'll mark it and make it part of the record. But
3 again, I mean, I'm not so sure that this is not a good thing
4 and that we shouldn't be doing it, so I'd like an opportunity
5 to review it more, and, you know, obviously since there's an
6 objection, give the State an opportunity to do that as well.
7 Do you want me to mark this?
8 MS. HOJJAT: Yes, please. We'd ask --
9 THE COURT: Okay.
10 MS. HOJJAT: -- for the whole packet that we sent
11 the court and the --
12 THE COURT: All right.
13 MS. HOJJAT: -- District Attorney to be marked as a
14 court's exhibit.
15 THE COURT: It's five pages?
16 MS. HOJJAT: That's -- yes, five pages.
17 THE COURT: Okay. Thank you.
18 MS. HOJJAT: Would the Court consider -- because I
19 know there's also an instruction that it -- there's one that
20 goes towards the credibility of witness instruction that
21 would be given during the time of jury instructions. Will
22 the consider if we re-raise it during that time?
23 MR. ROWLES: I'd ask to defer that to when we
24 settle instructions --
25 THE COURT: Right, I mean --

1 MR. ROWLES: -- if that's fine with defense
2 counsel.

3 THE COURT: -- because I saw that.

4 MS. HOJJAT: Yeah.

5 THE COURT: Can I see it again? And I think the
6 only issue with that is is that it raises the same you must
7 avoid bias, conscious or unconscious based on, you know, all
8 those things. I mean, did you read that one?

9 MR. ROWLES: I did, and I would just ask that when
10 we settle jury instructions that we maybe have a more
11 opportunity to discuss that at that time.

12 MS. HOJJAT: Okay.

13 MR. ROWLES: My only concern --

14 THE COURT: Oh, okay.

15 MR. ROWLES: Yeah.

16 THE COURT: At the time of -- all right. I got it.

17 MS. HOJJAT: Okay. I just wanted to make sure I'm
18 not barred from presenting it later during --

19 THE COURT: Okay.

20 MS. HOJJAT: -- during the time of -- so I'll put
21 propose it in our defense packet.

22 THE COURT: Thank you.

23 MS. HOJJAT: Thank you very much.

24 (Court/Clerk conferring)

25 THE COURT: I just want to make sure that there's a

1 record. I did get those CPS records, and Mr. Feliciano, you
2 got a copy, correct?

3 MR. FELICIANO: We did, thank you.

4 THE COURT: Mr. Sweetin, you got a copy, correct?

5 MR. SWEETIN: Yes, Your Honor.

6 THE COURT: Okay. And they were kind of -- they
7 weren't voluminous, thank goodness. So I've marked them as
8 Court Exhibit No. 3, and they'll be sealed and made part of
9 the record.

10 MR. FELICIANO: Okay. Thank you.

11 THE COURT: Anything else before we bring them in?

12 MR. FELICIANO: No.

13 THE COURT: Okay.

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

16 (Inside the presence of the jury.)

17 THE COURT: Okay. Ladies and gentlemen, when you
18 come in, if you'll please remain standing because the Clerk's
19 going to administer the oath of service.

20 Does the State of Nevada stipulate to the presence
21 of the panel?

22 MR. SWEETIN: Yes, Your Honor.

23 THE COURT: The defense?

24 MR. FELICIANO: Yes, Your Honor.

25 THE COURT: Thank you.

1 MS. HOJJAT: Yes, Your Honor. Your Honor, can we
2 approach?

3 THE COURT: Sure. Why don't you have a seat. I
4 won't make you stand while they chat with me.

5 (Bench conference begins).

6 MR. FELICIANO: So --

7 MS. HOJJAT: We forgot, here sorry.

8 MR. FELICIANO: Yeah.

9 THE COURT: That's okay.

10 MR. FELICIANO: While we were walking out, just
11 outside this door, and I thought before we got outside we had
12 not any jurors around. Mr. Rowles and I as we're talking, he
13 commented on my tie.

14 THE COURT: About how great you look in your tie?

15 MR. FELICIANO: Yeah, well --

16 MR. ROWLES: We walked out --

17 MR. FELICIANO: And I --

18 MR. SWEETIN: And he does look pretty good, I must
19 say.

20 MR. FELICIANO: And he -- and he said I look very
21 prosecutorial, and I said thank --

22 THE COURT: Oh.

23 MR. FELICIANO: -- and I said thanks. I go that --
24 so I guess, I look credible or something like that. As we
25 were walking out there was a juror standing right there. I

1 don't know if she heard anything.

2 MR. ROWLES: And my memory of it is that I said
3 it's a very nice tie.

4 MR. FELICIANO: You said, patriotic.

5 MR. ROWLES: I said it's patriotic, and I was like
6 it looks very prosecutorial, and then you said I credibility
7 [inaudible].

8 MR. FELICIANO: Something like that.

9 MS. HOJJAT: I think a juror may have heard. We're
10 not sure.

11 MR. ROWLES: [Inaudible].

12 MR. FELICIANO: I don't think she did, and I
13 thought we were still in the room, but --

14 MS. HOJJAT: She was looking at her phone and she
15 smirked. I'm not sure if it was at what she saw on her
16 phone or whether she heard the comment and that's why she
17 smirked.

18 MR. FELICIANO: And I apologize. I --

19 MS. HOJJAT: It slipped all of our minds.

20 MR. FELICIANO: We didn't expect anybody to be
21 there and hour before and it was on the way out.

22 THE COURT: Do you object. Do you want me to voir
23 dire that juror?

24 MS. HOJJAT: I think maybe we should individually
25 voir dire her.

1 MR. FELICIANO: You want to call her up maybe and
2 see if she heard anything?

3 THE COURT: Well, no, I'll just -- if I'm going to
4 voir dire I'll clear it. Do you remember which one it is?

5 MS. HOJJAT: It's Millsaps. That's correct.

6 MR. FELICIANO: I don't know.

7 MR. SWEETIN: Was it yes, Millsaps.

8 MR. ROWLES: [Inaudible].

9 MS. HOJJAT: Where's our jury list.

10 THE COURT: I'm sorry. Okay. Garrett?

11 MR. FELICIANO: 10. I believe, I said Millsaps.
12 No. 10, I believe.

13 THE COURT: Ten, Millsaps? Okay.

14 MR. FELICIANO: And I do apologize.

15 THE COURT: That's okay. So I'll just excuse them
16 all with the exception of Juror No. 10.

17 MR. FELICIANO: Okay.

18 MS. HOJJAT: Thank you.

19 THE COURT: Okay.

20 (End of bench conference.)

21 THE COURT: All right. Sorry about this, ladies
22 and gentlemen. I am going to excuse you with the exception
23 of Juror No. 10, Caroline Millsaps. So if you don't mind,
24 with the exception of Juror No. 10, if everyone else can go
25 wait outside.

1 This shouldn't only take a few minutes, and Officer
2 Hawkes will bring you in and then we're going to start.

3 THE MARSHAL: All rise for the exiting jury,
4 please. Thank you.

5 THE COURT: Sorry.

6 (Outside the presence of the jury.)

7 THE COURT: Okay. The record will reflect that
8 this hearing is taking place outside the presence of the
9 other jurors with the exception of Juror No. 10, Ms. Caroline
10 Millsaps. And you're not in trouble. I don't want you to
11 panic. I thought, boy, that probably wasn't a very nice
12 thing to do in front of all the other jurors, so I apologize.

13 Before you came in to the courtroom today, I know
14 you were standing outside of the doors that come into
15 Department 12. Did you hear any interaction between any of
16 the lawyers in this matter?

17 JUROR NO. 10: No, I just heard the defendant shush
18 everyone, and that's it. That's all I heard.

19 THE COURT: Okay. You just heard somebody shush
20 somebody?

21 JUROR NO. 10: Yeah, that's it. That's all I
22 heard.

23 THE COURT: Okay.

24 MR. FELICIANO: Nothing.

25 THE COURT: All right. So we'll bring the rest of

1 the jurors in. But before I do bring them in, if we have
2 another discussion like this again, and today you're not
3 permitted to discuss what we've discussed in here with any of
4 your fellow jurors, and if anyone insists on speaking to you
5 about it, you can make that fact known to me by contact being
6 the Court Marshal.

7 JUROR NO. 10: Yes, ma'am.

8 THE COURT: Okay?

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

11 (In the presence of the jury.)

12 THE COURT: Okay. And again, if you'll all remain
13 standing, and raise your right hand. Does the State
14 stipulate to the presence of the full panel?

15 MR. SWEETIN: Yes, Your Honor.

16 THE COURT: The defense?

17 MR. FELICIANO: Yes, Your Honor.

18 THE COURT: Okay. If you'll all raise your right
19 hand so the Clerk can administer the oath of service.

20 (THE CLERK SWEARS JURY PANEL)

21 THE CLERK: You may be seated. Thank you.

22 THE COURT: Before I do allow both sides to speak
23 to you in their opening statements, there are a few
24 instructions I'm required to give to you.

25 Ladies and gentlemen, you're admonished that no

1 juror may declare to a fellow juror any fact relating to the
2 case of his or her own knowledge, and if any juror discovers
3 during the trial or after the jury's retired that he or she
4 or any other jurors has personal knowledge of any fact in
5 controversy in this case, he or she shall disclose that
6 situation to myself in the absence of the other jurors.

7 This means that if you learn during the course of
8 this trial that you're acquainted with the facts of this case
9 or the witnesses and you have not previously told me of this
10 relationship, you must then declare that to me. Again, I
11 want to remind you that myself, the staff in Department 12,
12 with the exception of Officer Hawkes, the parties, and the
13 attorneys involved in this matter are not permitted to have
14 any communication with you whatsoever outside of the
15 courtroom. So if there's anything you need to communicate to
16 the Court, I just ask that you do so in the courtroom in the
17 presence of both sides or you can speak to Officer Hawkes.

18 What I will now say is intended to serve as an
19 introduction to this trial in this case. It is not a
20 substitute for the detailed instructions on the law, which I
21 will give you at the close much the case and before you
22 retire to consider your verdict.

23 This is a criminal case commenced by the State of
24 Nevada, which I may sometimes refer to as the State, against
25 Mr. Armando Vasquez-Reyes. The case is based on an

1 Information. The Clerk will now read the Information to the
2 ladies and gentlemen of the jury and state the plea of
3 defendant to that information.

4 (THE CLERK READS THE INFORMATION TO THE JURY)

5 THE COURT: Thank you. This case is based on the
6 information which just been read to you by the Clerk of the
7 Court. You should distinctly understand that the Information
8 is simply a charge and is not in any sense evidence of the
9 allegations it contains.

10 The defendant has entered a plea of not guilty to
11 the Information. The State, therefore has the burden of
12 proving each of the elements as alleged in their charging
13 document by proof beyond a reasonable doubt. As the
14 defendant sits here today, he is presumed innocent.

15 The purpose of this trial is to determine whether
16 the State of Nevada will meet their burden of proof. It is
17 your primary responsibility as jurors to find and determine
18 the facts. Under our system of criminal procedure, you are
19 the sole judge of the facts. You are to determine the facts
20 from the testimony you hear and the other evidence, including
21 exhibits introduced in court.

22 It is up to you to determine the inferences, which
23 you feel may be properly drawn from the evidence. The
24 parties may sometimes present objections to some of the
25 testimony or other evidence. It is the duty of a lawyer to

1 object to evidence which he or she believes may not properly
2 be offered and you should not be prejudiced in any way
3 against a lawyer who makes objections on behalf of the matter
4 he or she represents.

5 At times I may sustain objections or direct that
6 you disregard certain testimony or exhibits. You must not
7 consider any evidence to which an objection has been
8 sustained or which I have instructed you to disregard.
9 Anything you may have seen or heard outside the courtroom is
10 not evidence, and must also be disregarded.

11 Remember, statements, arguments, and opinions of
12 counsel are not evidence in the case. However, if the
13 attorneys stipulate as to the existence of a fact, you must
14 accept the stipulation as evidence and regard that fact as
15 proved.

16 You must not speculate to be true any insinuation
17 suggested by a question asked the witness. A question is not
18 evidence and may be considered only as it supplies meaning to
19 the answer. You must not be influenced to any degree by any
20 personal feeling of sympathy for or prejudice against the
21 State or the defendant. Both sides are entitled to the same
22 fair and impartial consideration.

23 In considering the weight and value of the
24 testimony of any witness, you may take into consideration the
25 appearance, attitude, and behavior of the witness, the

1 interest of the witness in the outcome of the case, if any,
2 the relation of the witness to the defendant or to the State,
3 the inclination of the witness to speak truthfully or not,
4 and the probability or improbability of the witnesses'
5 statements and all the facts and circumstances in evidence
6 that you may give the testimony of any witness just such
7 weight and value as you believe the testimony of that witness
8 is entitled to receive.

9 There are two kinds of evidence; direct and
10 circumstantial. Direct evidence is testimony by a witness
11 about what that witness personally saw or heard or did.
12 Circumstantial evidence is testimony or exhibits which are
13 proof of a particular fact from which if proven, you may
14 infer the existence of a second fact.

15 You may consider both and circumstantial evidence
16 in deciding the case. The law permits to give you equal
17 weight to both, but it is for you to decide how much weight
18 to give to any evidence.

19 Opening statements and closing arguments of the
20 attorneys are intended to help you in understanding the
21 evidence and applying the law, but they are not evidence. No
22 statement, ruling, remark, or comment which I make during the
23 course of this trial is intended to indicate my opinion as to
24 how you should decide the case or to influence you in any way
25 in your determination of the facts.

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

6 I might also find it necessary to admonish the
7 attorneys, and if I do, you should not show prejudice against
8 a lawyer or his or her client because I found it necessary to
9 admonish him or her.

10 Until this case is submitted to you, you must not
11 discuss it with anyone, even with your fellow jurors. After
12 it is submitted to you, you must discuss it only in the jury
13 room with your fellow jurors. It is important that you keep
14 an open mind and not decide any issue in the case until the
15 entire case has been submitted to you under instructions from
16 the Court.

17 The trial will proceed in the following manner:
18 The Deputy District Attorney will make an opening statement,
19 which is an outline to help you understand what the State
20 expected to prove. Next, the defense attorney may, but does
21 not have to make an opening statement.

22 Opening statements serve as an introduction to the
23 evidence, which a party making the statement intends to
24 prove. The State will then present its evidence, and counsel
25 for the defendant may cross-examine the witnesses.

1 Following the State's case, the defendant may
2 present evidence and the Deputy District Attorney may
3 cross-examine the witnesses. However, as I have said, the
4 defendant is not obligated to present any evidence. After
5 all the evidence has been presented to you, I will instruct
6 you on the law. After the instructions on the law have been
7 read to you, each side will have the opportunity to present
8 oral argument.

9 What is said in closing argument is not evidence.
10 The arguments are designed to summarize and interpret the
11 evidence. Since the State has the burden of proving the
12 defendant guilty by proof beyond a reasonable doubt, the
13 State has the right to open and close the arguments.

14 After the arguments have been completed, you will
15 then retire to deliberate upon your verdict. Again, let me
16 remind you that until this case is submitted to you, do not
17 talk to each other about it or anyone who has anything to do
18 with it until the end of this case when you go to the jury
19 room to decide upon your verdict. Do not talk with anyone
20 else about this case or about anyone who has anything to do
21 with it until the trial has ended and you have been
22 discharged as jurors. Anyone else includes members of your
23 family and your friends.

24 You may tell them that you are a juror in a
25 criminal case, but don't tell them anything else about it

1 until after you've been discharged by the court.

2 Do not let anyone talk to you about the case or
3 about anyone who has anything to do with it. If someone
4 should try to talk to you, please report that to me
5 immediately by contacting the Marshal. Do not read any news
6 stories or articles or listen to any radio or television
7 reports about this case or about anyone who has anything to
8 do with it.

9 As jurors, you will be given the opportunity to ask
10 written questions of any of the witnesses called to testify
11 in this case. You're not encouraged to ask large number of
12 questions because that is the primary responsibility of
13 counsel.

14 Questions may be asked, but only in the following
15 manner: After both sides have finished questioning the
16 witness and only at this time, if there are additional
17 questions that you would like to ask the witness, you may
18 then seek permission to ask that witness a written question.
19 Should you desire to ask a question, write your question down
20 with your juror number on a full sheet of clean paper and
21 raise your hand.

22 All questions from the jurors must be factual in
23 nature and designed to clarify information already presented.
24 In addition, jurors must not place undo weight on the
25 responses to their questions. The Court Marshal will pick up

1 your question and present it to the Court.

2 All questions must be directed to the witness and
3 not to the lawyers or to the Court. After consulting with
4 counsel, I will then determine if your question's legally
5 proper. If I determine that your question may properly be
6 asked, I will ask it. No adverse inference should be drawn
7 if the Court does not allow a particular question.

8 You've also been given juror notebooks, the
9 instructions that I've given to you, as well as the procedure
10 for asking questions of witnesses, and the admonishment I'm
11 required to give you every time you leave, they're in your
12 notebook. So you can refer to those at any time.

13 We've also put some lined paper in the back, which
14 you can -- we put it there so you can take notes, if you want
15 to. I want to remind you that when you do go back to
16 deliberate upon your verdict, you will not have a transcript
17 to consult.

18 So during your deliberations, it will be your
19 memory collectively as a jury panel as well as any notes.
20 I'll allow you to take the notes with you when you go back
21 there.

22 So again, no transcript, but any notes that you
23 take, I will permit you to take those back there. The only
24 thing I ask is that those juror notebooks stay in the
25 courtroom at all times until you've been excused to

1 deliberate upon your verdict.

2 When you open up the notebook on the left-hand side
3 there's a pocket. That is extra. You can take that out.
4 That just identifies where you are. It has phone numbers of
5 the staff in Department 12. So if for any reason when we're
6 not in session, you have to get ahold of us, you can call
7 someone on there. Probably the most effective person would
8 be Pamela Rocha (phonetic). She's the executive assistant in
9 Department 12, and she can get any message to me at any time.

10 So other than that, the State of Nevada can address
11 the jury panel in their opening statement.

12 MR. SWEETIN: Thank you, Judge.

13 STATE'S OPENING STATEMENT

14 MR. SWEETIN: May it please the Court, counsel,
15 co-counsel, ladies and gentlemen of the jury, if you don't
16 stop, I'll call the police. Ladies and gentlemen, those the
17 words spoken by -- in about 2015, by then 13-year-old
18 Guadalupe Alvarez.

19 Words spoken after she had been sexually abused by
20 none other than the defendant, Armando Vasquez-Reyes, on a
21 regular basis for the better part of a decade. But the
22 defendant didn't stop.

23 Finally, on April 16th of 2016, Guadalupe's mother,
24 Rosalba, had a disagreement in which she called police. The
25 disagreement had to do with her live-in boyfriend of many

1 years, the defendant, and issues in regards to rent payments
2 as well as his tools.

3 Ultimately, as a result of that call, the police
4 arrived at the residence. And when they arrived at the
5 residence, Guadalupe was there. Guadalupe saw her chance.
6 It was at that time that she approached one the patrol
7 officers and asked if she could speak with him.

8 The patrol officer took her over off to themselves,
9 and it was at that time that she confided in him that the
10 defendant had been sexually abusing her.

11 You're going to hear that about a month later that
12 Guadalupe was coming here to the District Attorney's Office
13 to talk to an attorney about an upcoming hearing that had to
14 do with the allegations she had made. When she came to the
15 office, she brought with her her mother, Rosalba, and she
16 also brought her older sister, Stephania.

17 Stephania was about 19 years old at the time. They
18 came into the District Attorney's Office, and Guadalupe went
19 in to talk do a District Attorney with an investigator in
20 preparation for the hearing, while Rosalba and Stephania
21 remained in a sort of a waiting area.

22 It was at this time, that Stephania just kind of
23 broke down. She started crying to the point that the
24 District Attorney investigator went to her to see what was
25 the matter, whether there was anything that she could do to

1 help her.

2 Ultimately, Stephania agreed to talk to that
3 investigator and an attorney. As she began to talk to them,
4 almost immediately she uttered words to the effect of he did
5 it to me too.

6 Now, you're going to hear from both Guadalupe and
7 Stephania in the course of this trial. They're a little
8 older now than they were back a few years ago. Now you're
9 going to hear from Guadalupe as she's 17 years old, and
10 you're going to hear from Stephania, as she's about 22 years
11 old.

12 You're going to hear about how they initially came
13 in contact with the defendant and the course of their contact
14 with the defendant. Specifically, you're going to hear that
15 their mother, Rosalba Cardenas, actually came here to Las
16 Vegas from Mexico in about 2005.

17 When she come -- came here, she lived here, but her
18 three children remained in Mexico. We've already talked
19 about two of those children, and that's Guadalupe and
20 Stephania. She also had an older son.

21 Now, while living here in Las Vegas, Rosalba met
22 the defendant, and she developed a relationship with him,
23 which ultimately resulted in them to begin living together in
24 the same residence in about 2006.

25 You're going to hear that in approximately 2007,

1 Rosalba's children were able to come here to Las Vegas to
2 live with their mother. Rosalba was at that time living with
3 the defendant, and they would move in and live with the both
4 of them, and that's the three children. Remember,
5 Guadalupe's the youngest and Stephania is about five years
6 older, and Mael was about eight years older than Guadalupe or
7 three years old than Stephania.

8 Now, Rosalba and the defendant were living in a
9 one-bedroom apartment when the children first moved in, but
10 moved within a short period of time to larger apartments and
11 other residences in the following years.

12 And you're going to hear that in the years leading
13 up to 2016, that Rosalba and the defendant lived in many
14 residences with Guadalupe and Stephania.

15 Rosalba worked from basically the whole period that
16 we're talking about here from 2007 through 2016, and the
17 defendant worked for most of that time as well.

18 You're going to hear that Rosalba normally worked
19 at night over that period of time, and the defendant normally
20 worked during the day. So you're going to hear that the
21 defendant was normally alone with the children at night.

22 Now, we talked about these many residences that
23 they lived at, and this is instructive to describe some of
24 the issues in this trial. So we're going to talk about the
25 -- many of those residences.

1 I've listed them here. It was first, at first
2 apartment, then there was an apartment with a pool, there was
3 a Stafford Street house by Jerry's Nugget, there was a
4 green-ish house near the Jim Bridger School. There was a
5 two-story house.

6 You're going to hear that in that two-story house
7 that the oldest son, Mael's, girlfriend also lived in that
8 residence. And that was also the first residence that
9 Guadalupe had her own bedroom, which has significant in the
10 case.

11 The Ferguson Street house, Mael and his girlfriend
12 did not live at that residence, but Guadalupe, the defendant,
13 her mother, and Stephania did. Guadalupe had her own bedroom
14 there as well.

15 At the Berkley Street house, that is the last house
16 that they lived at. And that's the house that the police
17 came to when Guadalupe initially disclosed.

18 Now, on April 16, 2016, you're going to hear that
19 all the family members knew that Mael and his girlfriend and
20 Stephania and her husband -- Stephania you're going to hear
21 got married a very short time before this April 16, 2016
22 date. Her -- her husband moved into the house, but everyone
23 understood that they were moving out as well as Mael and his
24 girlfriend at the end of May of 2006, just a short time after
25 that April 16, 2016 date.

1 You're going to hear that after they moved out,
2 that everyone knew that it was only going to be defendant,
3 Rosalba, and Guadalupe remaining that residence.

4 Now, you're going to hear about the sexual abuse of
5 Guadalupe in this case in some detail. The sexual abuse of
6 Guadalupe started only a short time after she arrived in Las
7 Vegas. You'll hear that it started when she was about five
8 or six years of age.

9 She remembers the first incident of abuse occurring
10 in a bedroom of the residences that she was living in over
11 that period of time. Only the defendant and Guadalupe were
12 present in the bedroom, the bedroom door was closed.

13 The defendant initially touched on her breasts, her
14 vaginal area, her buttocks with his hands over and under her
15 clothes. The defendant also exposed his penis to Guadalupe.
16 He told her that -- to touch his penis. And in fact, he
17 showed her what he wanted her to do, how he wanted her to
18 grip his penis, how he wanted her to move his hand up and
19 down on his penis.

20 She remembers a liquid. She's going to refer to it
21 as cum coming out of his penis onto her chest.

22 And defendant told Guadalupe that this was a normal
23 thing to do. He also told her not to tell anyone. And
24 you're going to hear that Guadalupe didn't tell anyone.

25 Now, once the sexual touching began, it continues

1 on a pretty regular basis. You're going to hear that. It
2 was pretty regular. Sometimes multiple times in a given
3 week.

4 While Guadalupe was still very young, the defendant
5 continued, however, to progress in his sexual conduct that
6 we've already talked about. The touching progressed to the
7 defendant's penis, actually, penetrating Guadalupe's anus.

8 The sexual conduct continued as Guadalupe got
9 older. It happened at various locations within the residence
10 -- residences in which Guadalupe lived with the defendant and
11 her family, sometimes not only in the bedroom of the
12 defendant. And the conduct always happened in a secluded
13 environment with only the defendant and Guadalupe present.

14 The conduct included a progression. As Guadalupe
15 got a bit older, the defendant actually started placing his
16 penis in Guadalupe's vagina on a few occasions.

17 The defendant, however, you're going to hear,
18 placed his penis in her anus on a much more frequent basis.
19 She's going to -- Guadalupe is expected to tell you about
20 other sexual acts, and touchings that the defendant committed
21 on her over this time, that sort of surrounded these events
22 that we've already talked about.

23 Now, when Guadalupe was approximately between the
24 ages 10 and 13, her family moved to a two-story house in the
25 Ferguson Street house, in both of which Guadalupe had her own

1 bedroom for the first time, as we've already discussed.

2 Subsequently, you're going to hear that the
3 defendant began to come into Guadalupe's bedroom to perform
4 some sexual acts on Guadalupe. While in these two
5 residences, Guadalupe sought to get a lock put on her bedroom
6 door, you're going to hear. And a lock was put on her door.
7 Her mother assisted her in that.

8 However, Guadalupe found that the defendant was
9 able to unlock the door from the outside and gain access to
10 Guadalupe.

11 While in the Ferguson Street house, and Guadalupe
12 is approximately 12 or 13 years of age, she had a
13 realization, you're going to hear. She was talking to a
14 friend, who was telling her about the friend's sister who was
15 sexually abused by someone, and that person went to jail for
16 what he did.

17 You're going to hear that Guadalupe clearly
18 recognized at this point that what the defendant had been
19 doing to her was not right.

20 At this point, you're going to hear that there was
21 sort of a change in Guadalupe. She starts to withdraw from
22 everyone. She begins to stay to herself. She'll describe
23 how she cut herself and she even experimented with the idea
24 that she might be able to kill herself by taking some pain
25 pills.

1 Now at the Ferguson house, the defendant committed
2 the last act of sexual penetration on Guadalupe. And this
3 was at the end of 2015 when Guadalupe's about 13 years of
4 age. At that time, Guadalupe, as we've indicated, has been
5 going through this time of withdrawing, trying to deal with
6 what she knows is clearly not appropriate at this point.

7 She starts to become aggressive with the defendant
8 and actively fight with him. Beyond that, she tells him,
9 hey, if you keep this up, I am going to call the police.
10 After this incident, the sexual abuse stopped for an extended
11 period of time.

12 Guadalupe and her family actually moved from that
13 Ferguson Street residence to another residence over on
14 Berkley Street, the last residence where the police
15 ultimately come. And you're going to hear that approximately
16 one week before the police respond to the Berkley Street
17 residence, that Guadalupe's in the kitchen of that residence
18 alone with the defendant, the defendant then walks up behind
19 her and begins to caress her buttocks with his hand when no
20 one else is around.

21 Well, you know, prior to the defendant touching
22 Guadalupe in this way, he had not sexually touched her since
23 that prior act that we're talking about at the end of 2015.
24 So we're talking about a number of months between that and
25 about approximately April of 2016.

1 She was abused for a number of months there, and
2 she thought that her aggressive conduct, that what she had
3 told him had made the difference, and he had stopped the
4 abuse. But after his actions, she was concerned that the
5 abuse was going to continue.

6 Now, I'm going to jump to Stephania for a moment.
7 Now, as we've indicated, Stephania lived in the same
8 household as Guadalupe over this period of time. She had
9 gotten married, and her husband moved into that Berkley
10 Street residence, as we talked about, a short time before
11 April 16th of 2006, and she'll describe only one incident of
12 sexual abuse committed upon her by the defendant when she was
13 younger.

14 Stephania will describe to you the period of time
15 she lived at the Stafford Street house near's Jerry's Nugget
16 with her sister and families years before. While living at
17 this residence, Stephania was sexually penetrated by the
18 defendant.

19 She believed she was approximately 13 years of age
20 at that time. And Guadalupe would have been about eight
21 years of age at that time. Stephania remembers that it was
22 warm outside, and everyone in the household was sort of
23 outside of the residence. Stephania was playing soccer, she
24 remembers it, with her brother and some friends outside, but
25 she came back into the residence to go to the bathroom.

1 When she came in, the defendant told Stephania to
2 go into his room, the room that he shared with Stephania's
3 mom, Rosalba. Stephania came into the room. Only the
4 defendant and Stephania were in the room at that time, and
5 it's at this time that the defendant closes the room door.

6 The defendant pushed Stephania onto the bed at that
7 time. And you're going to hear that as Stephania was laying
8 on her back, the defendant got on top of her. He began to
9 touch her body, he took her clothes off, and as Stephania
10 sort of struggled with the defendant, ultimately, the
11 defendant placed his penis in Stephania's vagina.

12 Stephania will tell you she felt pain. When the
13 defendant was done, Stephania -- what did Stephania do? She
14 gets up and she goes outside to just get away. She didn't
15 tell anyone. She was afraid, and you'll hear that she wasn't
16 sure her mom would believe her at that time.

17 Now, neither Stephania or Guadalupe knew that the
18 other had been sexually abused during this period of time.

19 Let's go to April 16th of 2016 now. Remember, this
20 is the day that the police arrive at the residence of
21 Guadalupe and her family. On this day, there's a number of
22 people living at this residence. There's the defendant, his
23 wife, Rosalba, we have Guadalupe and Stephania's older
24 brother, Mael, and his wife.

25 Stephania, as we indicated, had just gotten

1 married, and her husband had recently moved in, and then we
2 had Guadalupe all living at this residence.

3 On that date, Rosalba calls the police because of a
4 disagreement with the defendant over the defendant's tools
5 and rent money, and that's when the police arrive at the
6 residence about 4:00 p.m.

7 Now, when the police arrive, they make contact with
8 Rosalba and defendant as police normally do when they get a
9 call for assistance and they try to work things out, and they
10 start talking to people.

11 Also, present at the residence at that time was
12 Stephania, her husband, and Guadalupe. Now, while police
13 were there, Guadalupe asks one of the officers if she can
14 talk to him. And the officer took Guadalupe away, as we
15 previously said. And at that point, he tells her -- or she
16 tells him that, in fact, she is being sexually abused by the
17 defendant.

18 Now, Guadalupe will tell you that she disclosed at
19 this time for a number of reasons. First, she believed that
20 the abuse was going to continue. Remember, she's gone
21 through this stage of trying to deal with this. She's gotten
22 aggressive with the defendant. She's given him ultimatum,
23 hey, if you continue to do this, I'm going to call the
24 police, and it stops.

25 But now just before the police arrive here, what do

1 we have happen? It starts again. But it really gets worse
2 than that because she believes that everyone's going to move
3 out of the house and leave her. And what's going to happen?
4 It's going to be her, Rosalba, her mother, and the defendant.

5 We already know that Rosalba works nights, the
6 defendant works days. She thinks the abuse has not stopped,
7 she's worried, she's scared.

8 She's also going to tell you she just couldn't
9 handle it anymore. We've talked about these conduct that she
10 was cutting herself, she was contemplating suicide. This was
11 it for her.

12 The officer Guadalupe made her initial disclosure
13 to was a patrol officer. And you're going to hear that his
14 job is basically only to respond to immediate issues, and to
15 investigate crimes, like an ongoing various things.
16 Certainly not to investigate a sexual assault.

17 So when he heard what Guadalupe had told him, he
18 immediately separates defendant and Guadalupe, and he
19 requests a sexual assault detective to come out and begin the
20 investigation. And that's what happens.

21 You're going to hear that Detective Pretti of Las
22 Vegas Metropolitan Police Department, special victims unit is
23 assigned this case, and he ultimately arrives at that
24 residence just a short time later.

25 Now, upon arrival of Detective Pretti, he made

1 contact with both Guadalupe and the defendant separately.
2 And after briefly talking with Guadalupe, she agreed to come
3 down to the police station to give a statement. You're going
4 to hear from him that at this point, they're out in front of
5 a house, and they're talking about things that happened of a
6 very serious nature, and he thought it would be better if
7 they did something like that in a more controlled
8 environment, in an environment that was more certainly easier
9 for Guadalupe to speak, and probably easier for even the
10 defendant to speak.

11 He also briefly speaks with the defendant, with the
12 assistance of a Spanish translator, and the defendant also
13 agrees to come down to the police station to give a
14 statement.

15 Detective Pretti tells the defendant that if he
16 transports him to the police station, that he has to put him
17 in a police car and that requires him to put him in
18 handcuffs. That's Las Vegas Metropolitan Police Department
19 policy when you arrive in a patrol car.

20 He agrees to that. He gets into the car, and is
21 transported to police headquarters. Now, as Detective Pretti
22 comes in contact with the defendant, you're going to hear
23 Detective Pretti tell you that he knew what the allegations
24 were, the sexual abuse, as Guadalupe had disclosed it.

25 But you're going to hear that Detective Pretti, he

1 has not shared that specific information with individuals who
2 might be perpetrators of that conduct, such as the defendant.
3 He does this so he doesn't influence the defendant's
4 statement or what he's told by the defendant later. He
5 doesn't want the defendant to parrot what he's telling him.
6 He wants the defendant to tell him his side of the story so
7 he could ferret out both sides of the story and figure out
8 what's going on.

9 Now, both the defendant and Guadalupe arrived
10 separately at the police station at about 5:00 p.m. that same
11 day. The defendants handcuffs are removed as soon as he gets
12 to the police station. He's put in an interview room in one
13 part of the building of their headquarters, and Guadalupe is
14 placed in another area of the building.

15 Guadalupe's accompanied to headquarters by her
16 mother, Rosalba, and her older sister, Stephania.

17 Now, Detective Pretti first completes a very brief
18 interview with Guadalupe at approximately 5:20 p.m., lasting
19 about 30 minutes. And you're going to hear that another
20 detective actually interviewed Rosalba, and which over a even
21 shorter period of time. Stephania was not interviewed by the
22 police on this day.

23 Detective Pretti subsequently went back to talk to
24 the defendant at approximately 6:10 p.m., after he had
25 already talk to Guadalupe, and he talks to him with the

1 assistance of a translator very briefly. Detective Pretti
2 asks the defendant if he would be willing to give the rent
3 money that he had to Rosalba so she could pay the rent. So a
4 brief discussion about that. And the defendant agrees, and
5 he takes his wallet and he counts out the money, the rent
6 money, and gives it to Detective Pretti to give to Rosalba.

7 It's also at this time, that the defendant tells
8 the translator that he feels a little lightheaded and wanted
9 his medication. Now, upon being told this by the translator,
10 Detective Pretti inquired further with the defendant and
11 determined that his medication was at home, and Detective
12 Pretti told the defendant that he could not provide him that
13 medication because it wasn't there, he couldn't give
14 medication to someone who is at the police station anyway,
15 but if he needed medical attention, he would call somebody
16 immediately to come and attend to him.

17 Detective Pretti asked if this would be acceptable
18 to defendant. Defendant responded that it was. The
19 defendant never requested medical assistance at any time on
20 this day.

21 Detective Pretti subsequently sent Guadalupe to
22 have a sexual assault exam, and he had no further contact
23 with Guadalupe, Rosalba, or Stephania on that date of April
24 16, 2016.

25 Now, I'm going to jump forward just a bit.

1 Detective Pretti did have contact with Stephania in about a
2 month's time in May of 2016. Stephania gave a statement
3 relating to her abuse to Detective Pretti at that time. And
4 we know that the statement to Detective Pretti came after she
5 for the first time disclosed the abuse that she suffered
6 while at the District Attorney's Office.

7 As we mentioned earlier, she comes into --
8 Guadalupe comes in to speak with the DA and Rosalba and
9 Stephania accompany Guadalupe, and while Guadalupe is away
10 talking to the DA, Stephania breaks down.

11 DA staff comes and ultimately helps her, see what
12 was going on, and Stephania then agrees to speak to the
13 deputy District Attorney with that investigator and for the
14 first time indicates, hey, it happened to me, too.

15 Stephania was then referred to Detective Pretti to
16 be interviewed, where she describes the abuse in detail, as
17 we previously indicated.

18 Now, Stephania will tell you why he did not
19 disclose her abuse when Guadalupe disclosed. First, she was
20 scared. Why was she scared? Well, she's going to tell you
21 that she had never told her husband. She never told anybody.
22 And she didn't know how he would think of her if he knew.
23 She's very concerned about her husband finding out.

24 Now, I want to go back, though, to April 16, 2016
25 because Detective Pretti did do something else on that day in

1 regards to this investigation. On that evening, as we
2 indicated, the defendant was in the interview room, he had
3 come down to the police station, agreed to come down and talk
4 to Detective Pretti.

5 It's about 6:25 p.m. on that day. The defendant
6 communicated with Detective Pretti via a translator during
7 that statement. That statement is audio and video recorded.
8 And ladies and gentlemen, you will see and hear that
9 statement during this proceeding in its entirety.

10 The statement's only about 20 minutes long. The
11 defendant in that statement is first given his Miranda
12 rights, which we've probably all heard of on TV, and he
13 agrees to speak to the police. As the interview begins, the
14 defendant asks -- is asked if he knows why he and Detective
15 Pretti are talking. And the defendant indicates that he does
16 not.

17 Remember, Detective Pretti doesn't share that with
18 a potential perpetrator, why they're talking, what the
19 allegations are, essentially.

20 Detective Pretti tells the defendant that some
21 allegations were made against him by Guadalupe. Some
22 allegations. The defendant indicates that he wants to know
23 what the allegations are. And Detective Pretti responds that
24 you have been abusing her since she was a little girl.

25 The defendant indicated that he had done nothing

1 but love all of them and help them out. He indicated that he
2 had been with them for over 13 years. He suggested that a
3 potential reason for the disclosure by Guadalupe was maybe
4 she was mad because, yeah, I do come home and I tell them,
5 you know, what things that have -- they have to do. I come
6 home mad.

7 Detective Pretti tells the defendant that Guadalupe
8 did not appear angry when he talked to her. He then asked
9 for details from the defendant as to what happened that very
10 day, and the defendant launches into a description where he
11 describes a disagreement with his wife and Stephania and
12 Stephania's husband, in which description never mentions
13 Guadalupe.

14 Detective Pretti then points that Guadalupe had
15 nothing to do with the dispute for which the police came that
16 day. He also points out that the only thing Guadalupe talked
17 to the police related to the defendant abusing her.

18 Detective Pretti then tells the defendant, quote,
19 "So if you're saying that all you've done is loved them,
20 you've only provided for them, you've never hurt Guadalupe,
21 then and Guadalupe is saying that what she's saying, somebody
22 is a liar. Are you going to tell me it's her or are you
23 going to tell me what really happened?"

24 How does the defendant respond? He responds, "Yes,
25 it's true, I did touch her." Now, ladies and gentlemen, I

1 would note that previous to this time, only abuse has been
2 mentioned. This is the first time touch has been mentioned
3 in this conversation, and it's been brought up by the
4 defendant.

5 The defendant is the first person to bring up this
6 word touch. Detective Pretti thanks for the defendant for
7 admitting his conduct. The defendant is asked when it all
8 started. The defendant indicated that he didn't remember the
9 time, but that it only happened one or two times.

10 Detective Pretti indicated to defendant that he
11 knew it was more than one or two times, and that the
12 defendant knows that Detective Pretti knows that.

13 The defendant then continued to indicate that he
14 could not remember when the conduct started. Detective
15 Pretti then asked the defendant, okay, how are you touching
16 her? The defendant responded, well, touching her body.
17 Detective Pretti asks the defendant, okay, where on her body?

18 The defendant responds, her breasts, her legs.
19 Detective Pretti asks and what else? The defendant responds
20 nothing else. Detective Pretti tells the defendant that he
21 knows that there's more. Detective Pretti ask the defendant
22 about the last incident that happened a couple of months ago,
23 and indicated that he knew it was more than just touching
24 Guadalupe's breasts and her legs.

25 The defendant then responds, quote, "One time there

1 was a penetration, just one time." This is the first time
2 the word penetration ever comes up. And that word comes from
3 the defendant. Detective Pretti then asks when it occurred.
4 Defendant responded that he didn't remember when. Detective
5 Pretti then asked the defendant to tell him about the
6 penetration.

7 Now defendant responds I'm embarrassed. He further
8 states, I feel terrible now because what I've done.
9 Detective Pretti points out the importance of the defendant
10 being honest. He tells him the more honest you are with me
11 and the more you talk to me about what happened, the better
12 we can do for Guadalupe and get her help because at this
13 point, everything going forward is about her in making sure
14 she's okay as she grows up.

15 The defendant responds, quote, "We need to get her
16 help," end quote. Defendant then describes an incident.
17 Quote, "Well, one time I walked into the room, and she was
18 masturbating, so I walked in and I -- well, I was with her.
19 I didn't rape her. I mean, it was rape, but it wasn't
20 forced."

21 Detective Pretti then clarifies by asking, okay, so
22 what did you do to her? Defendant responds, I just
23 penetrated her. Detective Pretti asks, okay, with your
24 penis? Defendant responds, yes. Detective Pretti then asks,
25 okay, and her vagina, her anus, or something else. Defendant

1 responds, in her anus only.

2 Defendant indicated he only penetrated her anus on
3 one occasion. Detective Pretti then asked the defendant how
4 old Guadalupe was when this event that he described of him
5 penetrating her anus, how old was she at that time? She was
6 about eight years old.

7 At the conclusion of the interview, the defendant
8 indicated if I have to pay, I have -- I will pay. Ladies and
9 gentlemen, the conclusion of the evidence in this case, the
10 State will ask you to find defendant, Armando Vasquez-Reyes,
11 guilty as charged. Thank you.

12 THE COURT: Thank you. The defense may address the
13 panel.

14 MS. HOJJAT: Thank you, Your Honor. If I can have
15 a moment to take the microphone from Mr. Sweetin?

16 THE COURT: I'm sorry?

17 MS. HOJJAT: I need the microphone.

18 THE COURT: Okay.

19 MS. HOJJAT: Thank you.

20 (Pause in the proceedings)

21 DEFENDANT'S OPENING STATEMENT

22 MS. HOJJAT: Ladies and gentlemen, Armando
23 Vasquez-Reyes is not guilty of the allegations in this case.

24 What you will see in this case is that these
25 allegations were made up by Armando's teenage stepdaughter

1 because she doesn't like him, and she wanted the police to
2 take him away from her house.

3 So how did this all start? The police were called
4 out to the house, and the call -- the original call that was
5 placed was placed for a domestic violence. Now, what you're
6 going to hear is that no domestic violence had occurred that
7 day. Armando had not hit anyone. He was arguing with his
8 stepchildren.

9 Who was involved? Armando had been with his
10 girlfriend, Rosalba, for ten years. They were not legally
11 married, but they referred to each other as husband and wife
12 because they had been together for so long. And Armando
13 referred to her daughters as his stepdaughters, and they
14 referred to him as their stepfather.

15 She had two daughters. She has two daughters;
16 Stephania, who goes by Stephanie, who was 19 years old at
17 that time, and Guadalupe, who was 14 years old on that day.

18 And what you will see in this case, ladies and
19 gentlemen of the jury be, is that Armando argued with
20 Rosalba's children quite a bit. Armando can be ornery,
21 difficult, argumentative, harsh. And you're going to hear
22 later on in the trial that this is actually symptomatic of an
23 intellectual disability that Armando has.

24 On that particular day of April 16, 2016, Armando
25 was arguing with Stephania's new husband. The argument --

1 the argument that day started because Stephania's husband had
2 taken some of Armando's tools. He had taken the tools and he
3 used some of the tools, and he hadn't taken very good care of
4 them, and he hadn't put them back correctly.

5 And Armando felt that the tools had been damaged.
6 He was very upset that his tools were damaged. And so he
7 said he was going to take money out of the rent money. There
8 was a pile rent of money, you're going to hear, that was kept
9 in a certain location. And Armando felt that he was entitled
10 to money to make up for the tools that Stephania's husband
11 had damaged.

12 So he went to the pile of money, and he took the
13 money that Stephania's husband had contributed to the pile,
14 and he was saying, no, this is what you owe me for damaging
15 my tools. So that was the argument.

16 Because he had taken the money, Rosalba was upset,
17 she wanted the money back. And you will actually hear that
18 that is the conversation going on in the 911 call is about
19 the money.

20 She called in to report the domestic violence.
21 Armando never hit anyone.

22 So the police arrive, and it quickly becomes
23 apparent that Armando has not committed a domestic violence.
24 He has not hit anybody. And the police were not going to
25 arrest Armando and take him away from his residence. He

1 hadn't done anything.

2 He had been fighting with Stephanie and her
3 husband. And Stephanie and her husband, Guadalupe felt, were
4 going to be moving out soon because of Armando. Because they
5 didn't get along with Armando because of these conflicts that
6 were coming up in the house that Guadalupe felt were because
7 of Armando. Her big sister was leaving because of Armando.

8 And this is when Guadalupe makes her accusation,
9 when the police come out and they don't take Armando away.
10 Armando is staying, and she knows that means Stephanie is
11 probably leaving.

12 And so she asks an officer to step aside and makes
13 her accusations that Armando has been sexually abusing her.

14 Now, the first story that Guadalupe gives, she
15 gives to Officer Murray. You will hear from Murray that she
16 says Armando has been putting his penis in her vagina. She
17 says it's been happening for years, and she says the most
18 recent incident of penis to vagina penetration was one week
19 ago.

20 These details are important because they're not
21 going to stay the same.

22 So what did the police do? They want to interview
23 everyone. They want to get everybody's statement. And they
24 want to take Guadalupe for a sexual assault exam. And so
25 that's what they tell everyone. We're going to do

1 interviews, we're going to be examined. We're going to be
2 looking for evidence of sexual assault. The sexual assault
3 that she at this point has claimed happened one week ago,
4 vaginal penetration.

5 They put Armando in handcuffs, they put him in the
6 backseat of the police car, and everyone goes to the police
7 station for interviews and integrations.

8 Now, Guadalupe is at the police station, and she's
9 aware after the police station they're going to be looking
10 for evidence of her story. Sexual assault examination is
11 coming up. And suddenly the story changes, ladies and
12 gentlemen. Now the story is that Armando has been putting
13 his penis in her anus, and the most recent time was six
14 months ago.

15 The story goes from vaginal penetration one week
16 ago to anal penetration six months ago. The only intervening
17 thing that happened that she found out she was going to be
18 examined.

19 During this time, the detective also had a
20 conversation with Stephanie. Detective tells her Guadalupe
21 has made an accusation against Armando. The detective
22 specifically asks Stephanie, we have this allegation that
23 something has happened to your little sister. Has anything
24 happened to you? Have you ever been touched by this man?
25 This is the time to tell us. No. Stephanie says, she's

1 never been touched, never been sexually assaulted, nothing
2 has happened to her.

3 And she knows that her 13-year-old little -- or
4 14-year-old little sister is saying that something happened
5 to her. But she's saying, no, nothing happened to me.

6 Rosalba, their mother, is interviewed. And what
7 does she say? In this house with all these people, these
8 people have all been living together in these apartments and
9 these small houses, lots of people in these residences, she
10 had no idea. She never saw anything suspicious. She says
11 she loves her daughter, she trusts her daughter if her
12 daughter is saying something happened, then she believes her.
13 But she never saw anything suspicious. No one ever saw
14 anything suspicious all these years.

15 She does say that Guadalupe, the 14-year-old
16 teenager, had been acting aggressive the last few months.
17 And then the detectives -- detective goes and interrogates
18 Armando. And what we see before the interrogation even
19 starts is that Armando is not feeling well. Armando has
20 diabetes, high blood pressure, high cholesterol. He tells
21 the detective, I'm not feeling well. I'm feeling
22 lightheaded, can you please get me my medication? I need my
23 medication.

24 And the detective says, no. No, I'm not going to
25 get you your medication. That's not for me to do. If you're

1 feeling so bad that you need an EMT, you let me know. We'll
2 get you medical attention if it gets to that, essentially.
3 And Armando say, okay. That doesn't magically make him feel
4 better ladies and gentlemen. He's still not feeling well.
5 And he's now been told that if it's at the point that, I
6 guess, he's about to pass out, then they'll get him some
7 medical attention.

8 You're also going to hear that Armando has an
9 intellectual disability. He has a whole scale IQ of 61. And
10 you'll hear during this trial, the average person is 100. 85
11 is considered below the average population. 70 is what the
12 colloquial term used to be is what was referred to as, quote,
13 mental retardation. That's not a word we use anymore, but
14 it's the more colloquial thing that people are familiar with
15 that diagnosis. That's 70. He's 61. Just about 40 points
16 below average.

17 So what happens during this interrogation of this
18 slow man who's not feeling well? He denied it at first, and
19 the detective keeps insisting it happened. And he doesn't
20 feel well, and he doesn't know how to get out of there. And
21 he eventually agrees because he thinks it will get him out of
22 that room. He thinks if he tells them what they want to
23 hear, they'll let him out.

24 And you guys, State said it best, you will get to
25 see that interrogation. You will get to listen to it. And

1 you will get to decide if it looks and sounds credible to you
2 or not.

3 And then when Armando is booked at the Clark County
4 Detention Center, lo and behold, his blood pressure is
5 180/116. Remember, he told the detective, I'm not feeling
6 well. I'm feeling poorly. Please, I need my medication.
7 When he's booked and they take his vitals, it corroborates
8 exactly that.

9 So what does the intellectually disabled person
10 who's not feeling well in an interrogation room who denies,
11 but who has a detective insisting, what does he do? He
12 agrees.

13 But what you're going to see about this confession
14 is not consistent with anything Guadalupe is saying happened.
15 It's not like he's telling a story that matches up with what
16 Guadalupe is saying. They don't have the same story, not
17 even close. And numerous times throughout this interrogation
18 he says, I don't remember, I don't remember, I don't
19 remember, I don't remember. Nothing about that interrogation
20 makes sense, and you will get to listen to it and watch it
21 for yourselves.

22 So what happens next? Guadalupe has a sexual
23 assault kit. Shocker, shocker, absolutely no injuries in her
24 vagina, absolutely no injuries in her anus.

25 Right? But we knew that. That's why the story

1 changed. She knew that was going to be the result. So then
2 what happened? Well, the investigation was done. That was
3 it. There were no more efforts to gather evidence. There
4 were no efforts to corroborate the story, to look for
5 something that supports the allegations. They were done.

6 Case was filed against Armando. And the case was
7 moving forward. And then they were approaching the hearing
8 date. And what we mean when we're talk being a hearing date,
9 is we're approaching a time when Guadalupe's story is now
10 going to be questioned, it's going to be tested, it's going
11 to be cross-examined.

12 And it's at this moment, when Guadalupe's story is
13 going to be questioned, when Guadalupe is going to face
14 examination, that her big sister steps in to protect her.
15 And Guadalupe's big sister, Stephanie, suddenly makes an
16 accusation.

17 Big sister who loves her, when she was asked on the
18 first day, did anything happen to you, did Armando do
19 anything? No, no, no. I'm aware he touched my little
20 sister, but I wasn't touched. Now when the little sister's
21 facing a court date, she claims she was raped.

22 And you're going to see in this case the
23 inconsistencies in Guadalupe's story. Vaginal versus anal,
24 one week ago versus six months ago versus at a hearing she
25 says one to two years ago was the last time it happened.

1 Changes. Big changes.

2 And you're going to hear we even have a new
3 accusation on the eve of trial, just days ago, a new
4 accusation made against Armando by Guadalupe for the first
5 time ever. Friday on the eve of trial he also forced
6 cunnilingus on her.

7 The things we talked about in voir dire, ladies and
8 gentlemen, stories changing in major ways getting bigger and
9 bigger, piling on. You're going to see all those things in
10 this story.

11 So does Guadalupe claim about why she didn't report
12 sooner? She tells police that she didn't understand what was
13 happening to her. She didn't understand the nature of what
14 was going on. She didn't realize that it was wrong.

15 Ladies and gentlemen, she's a 14-year-old girl.
16 She's not seven, she's not eight. She's 14, and she's
17 claiming at the age of 14, she didn't know what was going on.

18 She claims she didn't know until November of 2015.
19 So I apologize, two months before her 14th birthday. But
20 still, she claims they didn't know that it was bad for a
21 penis to be placed in her anus and that a friend at that
22 point explained sex abuse to her. And that for the first
23 time that's when she realized this was inappropriate. This
24 shouldn't be happening at 14 years old.

25 By the way, these are Guadalupe's words, but the

1 words of a 14-year-old who didn't understand anal sex on a
2 child is bad in her own statement. I think like two or three
3 times, like he fucked me, like in my pussy. And then mostly
4 all the time was like in my ass. Oh, yeah, like his cum,
5 like, went inside my ass.

6 That's how she talks. But she didn't know it was
7 wrong. She didn't realize that an adult putting a penis was
8 inappropriate. That's her explanation for not disclosing it.

9 What you will see in this case, ladies and
10 gentlemen, there was no investigation. She says at one point
11 that a friend who was at a sleep over, sleeping over at the
12 house, saw Armando come and try to touch her during the sleep
13 over. She says that to detectives. Do you think anybody
14 tried to track down that friend and question that friend and
15 say, hey, did you see anything during the sleep over? No.

16 She talks about the friend who explained sex abuse
17 to her for the first time two months before her 14th
18 birthday. Do you think anybody tracked that friend down and
19 tried to talk to that friend and say, hey, did this
20 conversation actually happen? No.

21 She says at one point that she was having medical
22 issues when she was about nine or ten years old, and that an
23 examination was done of her anus at nine or ten, which if
24 you're keeping track of her story is precisely during the
25 time she claims she was being anally raped by Armando. There

1 was a medical examination done of her anus.

2 Do you think anybody tried to track down that

3 medical examination? No. What are you going to see in this

4 case, ladies and gentlemen? Nothing else. This is the whole

5 case. No other evidence. No investigation. No proof.

6 This is a case of sexual assault on a child under

7 the age of 14. They are asking you to convict a man of

8 sexual assault on a child under the age of 14, and this is

9 what they're going to give you.

10 So what is this case really about? These

11 allegations were made up by Armando's teenage stepdaughter

12 because she didn't like him. She wants police to take him

13 away from her house. She wanted him gone, and now he's gone.

14 At the end of this trial, ladies and gentlemen, we

15 are going to ask you to find Mr. Armando Vasquez-Reyes not

16 guilty of these charges. Thank you.

17 THE COURT: The State may call their first witness.

18 MR. SWEETIN: The State would call Guadalupe

19 Alvarez.

20 GUADALUPE ALVAREZ, STATE'S WITNESS, SWORN

21 THE CLERK: You may be seated. Please state and

22 spell your first and last name for the record.

23 THE WITNESS: My name is Guadalupe Alvarez,

24 G-u-a-d-a-l-u-p-e. Alvarez, A-l-v-a-r-e-z.

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DIRECT EXAMINATION

BY MR. SWEETIN:

Q Good afternoon, Guadalupe.

A Good afternoon.

Q How old are you?

A 17.

Q And what's your date of birth?

A January 20, 2002.

Q And do you currently live here in Las Vegas?

A Yes.

Q How long have you lived here? Well, when did you first move here?

A Five or six years old.

Q So let's see, that would have been right around 2007; is that about right?

A Yes.

Q All right. Are you currently in school?

A Yes.

Q And what grade are you in?

A Tenth.

Q Have you ever repeated or skipped any grade at school?

A Yes.

Q And what would that be?

A Third grade.

1 Q When you first came to Las Vegas, did you -- did
2 you start school in kindergarten?
3 A Yes.
4 Q So as far as school goes, do you have a favorite
5 class?
6 A Art.
7 Q Art? Why do you like art?
8 A I get to express kind of my emotions and able to
9 create something I'm happy about.
10 Q Yeah? What do you like the most in art?
11 A The '70s art.
12 Q Yeah.
13 A It's pretty my favorite.
14 Q And why is that?
15 A The colors.
16 Q Do you currently live with anyone?
17 A Yes.
18 Q Who do you live with?
19 A My mother and my brother.
20 Q And what's your mother's name?
21 A Rosalba.
22 Q And what's her last name?
23 A Cardenas-Moreno.
24 Q Okay. And how about your brother?
25 A Mael Alvarez.

1 Q Okay. Now, are you familiar with a person by the
2 name of Armando Vasquez-Reyes?

3 A Yes.

4 Q Okay. Do you see him in the courtroom?

5 A Yes.

6 Q Okay. What I need you to do is I need you to point
7 him out to him -- point him out and then tell us something
8 that he's wearing today. Can you do that?

9 A Do I point?

10 Q Yes, please.

11 A He's right there in the blue and the -- the tie,
12 the --

13 Q Sitting at the table next to me?

14 A Next to you?

15 Q Sitting at this table?

16 A Yes.

17 MR. SWEETIN: May the record reflect the witness
18 has identified the defendant?

19 THE COURT: So reflected.

20 BY MR. SWEETIN:

21 Q How are you familiar with him?

22 A He used to be my mother's lover.

23 Q Okay. And that would be your mother Rosalba
24 Cardenas?

25 A Yes.

1 Q So when did you first meet the defendant?
2 A When I first moved here to Las Vegas.
3 Q Okay. So that was about back in 2007?
4 A Yes.
5 Q Okay. And let me ask you, when you first came to
6 Las Vegas, did you come here alone or with anyone else?
7 A I came with my siblings.
8 Q And could you tell us who your siblings are?
9 A My sister, Darey -- no, Darey Stephanie Alvarez and
10 Mael Alvarez.
11 Q Okay. And is Stephania older or younger than you?
12 A Older.
13 Q About how much older?
14 A Five years.
15 Q And how about Mael, is he older or younger?
16 A Older.
17 Q And about how much older is he?
18 A Eight years.
19 Q Okay. Now, when you and your siblings got here to
20 Las Vegas, do you remember where you lived?
21 A Yes.
22 Q Okay. Where did you live?
23 A In some apartments.
24 Q Okay. And who did you live with?
25 A Armando, my mother, and my siblings and I.

1 Q I'm sorry?

2 A Me, my siblings, my mother and Armando.

3 Q Okay. The defendant?

4 A Yes.

5 Q Okay. How long did you stay living in the same

6 residence here in Las Vegas with essentially all those

7 people?

8 A I don't understand.

9 Q Sure. How long after -- you said you got here in

10 about 2007, and you were living with your mom, the defendant,

11 and your three -- your two siblings; is that right?

12 A Yes.

13 Q So how long did you live in the same house with all

14 those people?

15 A In just one residence or all of them?

16 Q All of them combined.

17 A Until the police took the defendant.

18 Q Okay. And do you remember when that was?

19 A April 16th.

20 Q Okay. Was that 2016?

21 A Yes.

22 Q Yes?

23 A Yes.

24 Q Okay. And over that period of time was it just the

25 same people living in the residences all the time or did some

1 people come and go?

2 A My brother left and came.

3 Q Okay. And do you remember about when that was or
4 where you were living?

5 A He stayed with us until the two-story house, and
6 then he left for a period of time, and then he came back.

7 Q Okay. And do you remember if anybody else actually
8 moved into the residence besides you guys?

9 A Yes, his -- his wife.

10 Q When you say his, who are you referring to?

11 A My brother's.

12 Q Okay.

13 A And --

14 Q His wife moved in for a period of time?

15 A Yes.

16 Q And anybody else?

17 A My sister's now husband.

18 Q Okay.

19 A But that was in the last residence where the police
20 came.

21 Q Okay. So that was a short time before the police
22 came?

23 A Yes.

24 Q Now, you've talked about other residences. Did you
25 live in other residences while you lived here in Las Vegas

1 with your family as you've detailed it?

2 A Yes.

3 Q Okay. Now, while you were living in these
4 residences, did something happen that you -- you came to tell
5 the jury about today?

6 A Yes.

7 Q What happened?

8 A In the first -- I don't understand.

9 Q Did something happen to you while you were living
10 in those residences that you came to tell us about today?

11 A Yes.

12 MR. FELICIANO: And I'm going to object as to
13 foundation. We're talking about a ten-year span. If we
14 could narrow what we're talking about.

15 THE COURT: I'll allow her answer to remain, and
16 then the District Attorney can clarify.

17 BY MR. SWEETIN:

18 Q Let's start off with when you first came here to
19 Las Vegas. You said that you were about six years old. Is
20 that what you said?

21 A Yes.

22 Q Okay. Do you remember something happening at that
23 time that you've come to tell the jury about today?

24 A Yes.

25 Q Okay. What?

1 A I don't know how to say it. Like, I don't
2 understand.

3 Q Were you sexually abused?

4 A Yes.

5 Q Yes? Did that happen as you start living here in
6 Las Vegas?

7 A Yes.

8 Q Do you remember exactly the first residence you
9 were living in when you were sexually abused?

10 A When it started?

11 Q When it started?

12 A It -- it just happened. I didn't -- I don't
13 remember exactly the day or -- but I do know it was at night.

14 Q So when you first moved here to Las Vegas, were you
15 living in a house or an apartment?

16 A Apartment.

17 Q Okay. Did the first incidence of sexual abuse
18 start in the apartment?

19 A Yes.

20 Q And how old were you at the time that they started?

21 A Five or six years old.

22 Q Okay. So five or six years old? So is it possible
23 that you moved here when you were with five or six, in that
24 range?

25 A Yes.

1 Q All right. And do you remember the first
2 incidence? What happened? Well, how did it start?

3 A He invited me to my mother's room.

4 Q When you say, he, are you referring to the
5 defendant?

6 A Yes.

7 Q Okay.

8 A And --

9 Q And when you say into their --

10 A Yeah.

11 Q -- their room, that was inside of the residence; is
12 that right?

13 A Yes.

14 Q Okay. Did you go into that room?

15 A Yes.

16 Q Was that a bedroom?

17 A Yes.

18 Q Was there anybody else besides you and the
19 defendant in the bedroom when you went in?

20 A No.

21 Q And what happened once you went in?

22 A He took off my clothes, and he grabbed my breasts,
23 my vagina, and my butt.

24 Q Okay. Now, at the time this that happened, was
25 there a door on the bedroom?

1 A Yes.

2 Q Okay. Was the door open or closed?

3 A Close.

4 Q Okay. Now, you talked about him touching you in
5 different places; is that right?

6 A Yes.

7 Q You said that he touched you on your breasts?

8 A Yes.

9 Q I need to ask you, when he touched you on your
10 breasts what would he touch you with?

11 A His hand.

12 Q I'm sorry?

13 A His hand.

14 Q Okay. And would that be over your clothes or under
15 your clothes?

16 A Under.

17 Q Under? Would your clothes remain on or would they
18 come off?

19 A Off.

20 Q And when he touched you with his hand on your
21 breasts, what would he do with his hand? Would he just put
22 it there and leave it there or would something else happen?

23 A No, he would grab my breasts and my butt as well,
24 and he would grip my vagina under.

25 Q Okay. So you made a motion with your hand of kind

1 of like squeezing back and forth; is that correct?

2 A Yes.

3 Q So is that what he did to your breasts?

4 A Yes.

5 Q Now, you also made reference to him touching your
6 butt, I believe you said; is that correct?

7 A Yes.

8 Q Did he touch your butt over the clothes or under
9 the clothes?

10 A Under.

11 Q Did your clothes stay on or did they come off?

12 A Off.

13 Q And when he touched you on your butt, what would he
14 touch you with?

15 A His hand.

16 Q I'm sorry?

17 A His hand.

18 Q Okay. And when he touched you with his hand, what
19 -- would he just put his hand there or would his hand move in
20 some way?

21 A Sorry, I didn't hear you.

22 Q When he put his hand on your butt, would his hand
23 just stay on your butt or would it move in any way?

24 A It would move.

25 Q How would did move?

1 A Like gripping it.

2 Q Okay. You're making a motion like moving your hand
3 up and down and then also squeezing your hand?

4 A Yes.

5 Q Is that what happened?

6 A Yes.

7 Q Okay. Now, you also said that he touched you on
8 another part of your body; is that right?

9 A Yes.

10 Q Okay. And where is that?

11 A My vagina.

12 Q All right. Now, when he touched you on your
13 vagina, what did he touch you with?

14 A His hand.

15 Q Okay. And did he touch you over your clothes or
16 under the clothes?

17 A Under.

18 Q Okay. And did you have your clothes on when he
19 touched you under the clothes or were your clothes off?

20 A Off.

21 Q Okay. Now, I need you to describe, and I think you
22 were kind of making a hand motion to describe, how he touched
23 you on your vagina. Can you describe that to us?

24 A Um, like here's my vagina, and it was just a motion
25 up -- yeah.

1 Q Okay. And you're making a fist with one hand and
2 you're taking your other hand opened at the palm, and you're
3 kind of moving that hand under your fist and upward; is that
4 accurate?

5 A Yes.

6 Q And is that the way that he touched your vagina?

7 A Yes.

8 Q All right. Now, you said that your clothes came
9 off; is that correct?

10 A Yes.

11 Q How did your clothes come off?

12 A He took them off me.

13 Q Okay. Now, when he did this to you, did he have
14 any discussion as to whether what he was doing is all right
15 or not all right?

16 MR. FELICIANO: Objection. Leading.

17 THE COURT: Yeah, you are leading.

18 MR. SWEETIN: Okay.

19 BY MR. SWEETIN:

20 Q Did he have any discuss with you about anything as
21 he was touching you in this way?

22 A To not tell nobody.

23 Q Okay. Did you believe that what he was doing to
24 you at that time was normal or all right?

25 A Yes.

1 Q And why is that?

2 A Because I trusted him.

3 Q Okay. Why did you trust him?

4 A Because I saw him as a father figure.

5 Q Okay. Now, besides him touching you in the way
6 that we talked about in those first apartments that you were
7 living in, did he touch you any other way or have you touch
8 him in any other way at the beginning?

9 A He told me to -- to grip his penis.

10 Q I'm sorry, you have to speak up just a bit.

11 A Sorry. He --

12 THE COURT: And just a minute. Can the ladies and
13 gentlemen of the jury hear the witness?

14 UNIDENTIFIED JUROR: We cannot.

15 UNIDENTIFIED JUROR: Not really.

16 THE COURT: Okay. All right. That's what I was
17 worried about.

18 JUROR NO. 6: We can barely hear what is being said
19 by -- on her end.

20 THE COURT: Okay. That was concerning me. So Ms.
21 Alvarez, you're going to speak up enough --

22 THE WITNESS: Okay.

23 THE COURT: -- so ladies and gentlemen of the jury
24 can hear you.

25 THE WITNESS: Okay.

1 THE COURT: Okay? Is that okay?

2 THE WITNESS: Yes.

3 THE COURT: All right. And you're just going to
4 have to be a little bit louder because you are a little soft
5 spoken.

6 THE WITNESS: Sorry.

7 THE COURT: No need to apologize.

8 BY MR. SWEETIN:

9 Q Now, you indicated that besides him touching you on
10 your breasts, your buttocks, and your vagina, that there was
11 other touching at the beginning as well; is that right?

12 A I don't understand.

13 Q Sure. Yeah, besides the defendant touching you on
14 your -- your breasts and your butt and your vagina, that
15 there was other touching that happened at the beginning as
16 well; is that right?

17 A Yes.

18 Q Okay. And what was that?

19 A He told him to grip his penis.

20 Q Okay. At the time that he told you to do that, was
21 his penis under his clothes or was it exposed?

22 A Exposed.

23 Q Okay. And where would this happen?

24 A In my mother's room.

25 Q Okay. In the bedroom that we were just talking

1 about?

2 A Yes.

3 Q At the time it would happen, would you be alone in
4 the room with the defendant or would there be other people in
5 the room?

6 A Alone.

7 Q Okay. Was there a door to the bedroom?

8 A Yes.

9 Q Would that door be open or would it be closed?

10 A Closed.

11 Q Now, in regards to the door being closed, did you
12 close the door?

13 A No.

14 Q Who closed the door?

15 A He did.

16 Q Do you know if there was a lock on the door?

17 A Yes.

18 Q Was there a lock on the door or not?

19 A There was.

20 Q Okay. And do you know if the door was locked when
21 it was closed?

22 A Locked.

23 Q And who locked the door?

24 A He did.

25 Q Now, in regards to the touching of the defendant's

1 penis, was his penis exposed?

2 A Yes.

3 Q Okay. And what happened?

4 A He told me to grip his penis.

5 Q When you say grip his penis, what do you mean?

6 A I was just like gripping up and down.

7 Q Okay. Now, you made a motion with your hand of

8 kind of like curving it up and then going back and forth; is

9 that right?

10 A Yes.

11 Q Did the defendant say something to you to let you

12 know that that's what he wanted you to do or did he show you

13 or what happened exactly?

14 A He was showing me and telling me.

15 Q Okay. At the time that you did that, did you see

16 anything happen in regards to his penis?

17 A I don't understand.

18 Q Sure. Did his penis change? Did it become a

19 different shape? Did something come out of it? What

20 happened?

21 A It -- sperm came out of it.

22 Q Okay. And did this happen while you were moving

23 your hand on it?

24 A Yes.

25 Q And where did sperm go?

1 A On my chest.

2 Q Okay. Now, you've talked about some acts that
3 happened as you first come to Las Vegas; is that right?

4 A Yes.

5 Q Did those happen just one time or more than one
6 time?

7 A In that single residence?

8 Q No, from that beginning, did those things just
9 happen just that one time or did they happen additional times
10 later?

11 A It happened more times.

12 Q Okay. How often would that happen?

13 A Like three times a week. It never had a schedule.
14 It's like one --

15 MR. FELICIANO: I'm sorry, I'm just going to
16 object. I just need to clarification as to what the act that
17 she's describing.

18 THE COURT: Well --

19 MR. FELICIANO: What happened --

20 THE COURT: -- I think you're -- I don't know if
21 you asked generally or maybe you can clarify.

22 MR. SWEETIN: Sure.

23 BY MR. SWEETIN:

24 Q So we're talking about the acts that you've
25 described, the touching of your body.

1 A Yes.

2 Q And also, you touching his penis; is that right?

3 A Yes.

4 Q So once that initially happened in those

5 apartments, did that continue to happen?

6 A Yes.

7 Q And about how often would it happen from that time

8 on?

9 A Like I said, it doesn't -- like, it was never a

10 specific time. It was like when we were alone.

11 Q Now, you mentioned how many times a week sometimes?

12 A Like three times one time. Just depended if we

13 were alone or not.

14 Q Okay. Was it three times every week?

15 A No.

16 Q Okay. Some weeks was it maybe one time?

17 A Yes.

18 Q So it varied?

19 A I don't understand.

20 Q So it was different? One week it would be three

21 times? One week it would be one time?

22 A Yes.

23 Q But it was regularly?

24 A Yes.

25 Q Now, at some point in time, do you remember living

1 in a house with -- or an apartment with a pool?

2 A Yes.

3 Q Okay. And about when was it that you were living

4 in that apartment?

5 A After the first apartment or before?

6 Q I'm sorry?

7 A I don't understand.

8 Q Sure. When you were living in the apartment with

9 the pool, about how old were you then?

10 A Five or six years old.

11 Q Okay. So it was pretty soon after you arrived here

12 in Las Vegas that you were living there as well?

13 A Yes.

14 Q Did the conduct at that particular location

15 continue, the sexual conduct that was happening, did it

16 continue at that particular place where you were living?

17 A Yes.

18 Q And was it still the same kind of frequency? That

19 is to say it was happening sometimes three times a week,

20 sometimes one time a week?

21 A Yes.

22 Q All right. Now, when you moved to this other

23 residence, you said that as it started off at the first

24 apartment, it was in the bedroom; is that correct?

25 A Yes.

1 Q And was it always in the bedroom at that initial
2 apartment?

3 A Yes.

4 Q How about at the apartment with the pool?

5 A My mother's room as well.

6 Q Okay. So it was always in your mother's room?

7 A Yes.

8 Q Now, when these things happened, did you know
9 whether or not there was anybody else in the house or where
10 everybody was?

11 A No.

12 Q Okay. In that house that -- with the pool, do you
13 remember the same specific acts happening?

14 A Yes.

15 Q So you said it happened in the bedroom; is that
16 right?

17 A Yes.

18 Q Was there anybody else in the bedroom at the time?

19 A No.

20 Q Just you and the defendant?

21 A Yes.

22 Q Was the door to the bedroom open or closed?

23 A Close.

24 Q Do you know if it was locked or not?

25 A Locked.

1 Q Who closed and locked the door?

2 A He did.

3 Q And what happened once the door was closed and
4 locked?

5 A He would take off my clothes.

6 Q Okay. And what would happen next?

7 A He would touch my body.

8 Q And when you say touch your body, in the same
9 places that you made reference to?

10 A Yes.

11 Q Okay. Now, do you remember a time when there was
12 additional things that happened of a sexual nature besides
13 what we've already talked about?

14 A Yes.

15 Q And what would that be?

16 A He -- he put his penis in my anus.

17 Q Okay. Do you remember the first residence where
18 that happened?

19 A It was between the apartment with the pool and the
20 green be house.

21 Q And when you say the green house, was there a
22 Stafford Street house?

23 A Yes.

24 Q Is that the green house you're referring to?

25 A Yes.

1 Q Okay. Now, tell me about that. Where did that
2 happen?

3 A I don't understand.

4 Q Sure. Where did that happen, that particular act
5 of him putting his penis in your anus? Where were you at?

6 A I don't understand.

7 Q Sure. So did that happen at that apartment? At
8 the apartment with the pool or at the green-ish house? One
9 of those two places?

10 A Yes.

11 Q Okay. And inside either of those residences, do
12 you know what part of the residence that it occurred in?

13 A My mother's room.

14 Q Okay. So it was still in your mother's room?

15 A Yes.

16 Q Okay. And do you recall, was there anybody else in
17 the room at the time?

18 A Just me and him.

19 Q Okay. And was the door to the bedroom closed?

20 A Closed.

21 Q Okay. Was it locked?

22 A Yes.

23 Q And who closed and locked it?

24 A He did.

25 Q Okay. And what happened?

1 A He took off my clothes, and he started touching my
2 body. I was laying on my back on the bed. He lifted up my
3 -- my legs, and he put his penis in my anus.

4 Q Okay. Now, does he say anything to you during
5 these incidents?

6 A To not tell anybody, and that it was all right.

7 Q Okay. And be when you say it's all right, what did
8 he say exactly?

9 A That it was okay.

10 Q Did you believe him?

11 A Yes.

12 Q Now, at this time, did you ever think about telling
13 anyone else? Telling your mom or anyone else?

14 A No.

15 Q Why is that?

16 A Fear.

17 Q What was your fear?

18 A Of losing my mom.

19 Q Why did you think you would lose your mom?

20 A Because she would judge me and hate me.

21 Q Now, do you remember after --

22 THE COURT: Ms. Alvarez, you need some tissue? Are
23 you okay? Any time you need a break, just let me know.

24 THE WITNESS: Okay.

25 BY MR. SWEETIN:

1 Q Now do you remember after this started where the
2 defendant was placing his penis in your anus, did it just
3 happen once or did it happen more than one time?

4 A It happened more than one time.

5 Q How often would that happen?

6 A When we were -- whenever we were alone.

7 Q So it happened on a regular basis?

8 A Yes.

9 Q Now, in regards to that first green-ish house or
10 the Stafford house, did it happen more than one time at that
11 house?

12 A Yes.

13 Q And did it happen the same way?

14 A Yes.

15 Q Did -- was your body ever positioned -- while you
16 were living at that house, was your body ever positioned in
17 different ways --

18 A Yes.

19 Q -- when he -- I'm sorry?

20 A Yes.

21 Q Okay. Was your body ever positioned in different
22 ways when he penetrated your anus with his penis?

23 A Yes.

24 Q Okay. Now, you described one where you were laying
25 on your back; is that right?

1 A Yes.

2 Q How else was your body positioned?

3 A I was facing the wall, and my knees would be kind
4 of close to the floor.

5 Q Okay. And where would be the bed in relation to
6 your body?

7 A Behind me.

8 Q Okay. And what happened?

9 A He put his penis in my anus.

10 Q Okay. So you said that your knees were on the
11 ground; is that correct?

12 A Yes.

13 Q Where was the rest of your body?

14 A Like upwards. Like, I wasn't touch being the floor
15 or anything. It's just -- it was like holding my own weight
16 on my feet.

17 Q So you were on your knees and he was behind you?

18 A Yes.

19 Q And that's when his penis went into your anus?

20 A Yes.

21 Q Now, do you remember there being a second green
22 house?

23 A Yes.

24 Q Okay. This was that the next house that you moved
25 to?

1 A Yes.

2 Q All right. Do you remember how many bedrooms were
3 at that house?

4 A Three.

5 Q Okay. And do you remember what the sleeping
6 arrangements were at that house?

7 A I don't understand.

8 Q Who slept in those three bedrooms while you were
9 living there?

10 A My brother had his own room, my and my sister
11 shared one and then he would sleep with my mother in the
12 other room.

13 Q Okay. Now, at that house did the sexual touching,
14 all the things that you previously talked about, did they
15 continue at that house?

16 A Yes.

17 Q And did they continue in the same frequency that
18 we've talked about, I mean, happening, you know, three times
19 a week or one time a week, that sort of thing?

20 A Yes.

21 Q Okay. Now, do you remember specific things
22 happening at that house?

23 A Yes.

24 Q Where did it happen inside of that house?

25 A I remember two times in my mother's room and then

1 one time in the laundry room.

2 Q Okay. Okay. Let's talk about in your mother's
3 room first. Okay?

4 A Okay.

5 Q Do you remember how each of those times started?

6 A One time he invited me to the room, and he took off
7 my clothes. He touched my body, and he put his penis in my
8 anus.

9 Q I'm sorry, you got to speak up just a bit.

10 A Sorry.

11 Q I'm so sorry.

12 THE COURT: Okay. Again, I'm -- the jurors can't
13 hear you --

14 THE WITNESS: Sorry.

15 THE COURT: -- so, I'm sorry, you're going to have
16 to --

17 THE WITNESS: Sorry.

18 THE COURT: -- speak up.

19 THE WITNESS: He touched my body, and he put his
20 penis in my anus.

21 BY MR. SWEETIN:

22 Q And you said that happened in the bedroom; is that
23 right?

24 A Yes.

25 Q Okay. Do you remember on that occasion how your

1 body was situated or --

2 A My back was on my bed -- on the bed, sorry.

3 Q Okay. And how did he penetrate your anus?

4 A He lifted up my legs and --

5 THE COURT: Just going to try to get the microphone

6 closer to you.

7 THE WITNESS: Okay.

8 THE COURT: Okay? Thank you, Hawkes. Go ahead,

9 you may continue.

10 THE WITNESS: He put -- he grabbed my legs and put

11 them up, like he put his penis in my anus.

12 BY MR. SWEETIN:

13 Q Okay. Was there ever a time when he tried to

14 penetrate you with his penis somewhere besides your anus?

15 A Yes.

16 Q Was it at that house?

17 A Yes.

18 Q And that's the house with the laundry room; is that

19 right?

20 A Yes.

21 Q How did that happen?

22 A He tried to put it in my vagina, but I pushed him

23 off me because it hurt.

24 Q Now, you said that it hurt. And let's talk about

25 the one occasion that we talked about where he brought you

1 into the room to watch a movie; is that right?

2 A Yes.

3 Q On that occasion, did he try to put his penis

4 inside of your vagina?

5 A Yes.

6 Q Okay. And was that before he put it in your anus?

7 A After.

8 Q Okay. And you said that when he tried to put it in

9 your vagina, it hurt; is that right?

10 A Yes.

11 Q Okay. When you say it hurt, did you feel it

12 actually go inside your vagina?

13 A I just felt pain, and it went in like a little bit

14 because I felt like something going in.

15 Q Okay. Now, you said besides that occasion, there

16 was -- that time, there was another time in your mom and the

17 defendant's bedroom; is that right?

18 A Yes.

19 Q And how did you get in the bedroom on that other

20 time?

21 A I was doing my mother's laundry, and I fell asleep

22 in the room, and then when I woke up, he was there.

23 Q And what happened when you woke up?

24 A He took off my clothes, and same thing, he put his

25 penis in my anus.

1 Q How -- where were you located inside the bedroom
2 when that happened?

3 A On the bed.

4 Q How were you laying on the bed?

5 A My back on the bed.

6 Q On that occasion, did he attempt to put his penis
7 inside of your vagina?

8 A On that one?

9 Q Yes.

10 A I don't understand.

11 Q Yes. So on that occasion, when you went into the
12 bedroom or are you fell asleep while you were doing laundry,
13 did he attempt to put his penis inside your vagina on that
14 occasion?

15 A I don't remember.

16 Q Okay. Now, when he penetrated your anus on that
17 occasion, while you were laying on your back, how did he
18 penetrate your anus?

19 A The same.

20 MR. FELICIANO: I'm going to object. That's a
21 vague question.

22 THE COURT: I'm sorry?

23 MR. FELICIANO: It's a vague question.

24 THE COURT: You can answer. Go ahead.

25 THE WITNESS: My back was on the bed, then he put

1 his penis in -- in my anus.

2 BY MR. SWEETIN:

3 Q Okay. Where were your legs located when he did

4 that?

5 A He -- he had them in the air.

6 Q Okay. So he raised your legs up?

7 A Yes.

8 Q All right. Now, on both of those occasions you

9 said they happened in the bedroom; is that right?

10 A Yes.

11 Q Okay. Was there anybody else in the bedroom?

12 A No.

13 Q Was the door to the bedroom open or closed?

14 A Closed.

15 Q Okay. And do you know if it was locked?

16 A The first one, yes. The second one, I'm not sure.

17 Q Okay.

18 A But it was closed.

19 Q All right. And on those occasions, did you know if

20 anybody else was in the house?

21 A No.

22 Q Now, you also said there was a time in the laundry

23 room; is that correct?

24 A Yes.

25 Q Could you describe that for us?

1 A I was doing laundry, and he came -- he came from
2 behind. He would touch my body. He kissed me. He put my
3 leg on top of the laundry, and then put his penis in my anus.
4 Q On all of these occasions, were your clothes on or
5 off?
6 A Off.
7 Q And how did they get off?
8 A He took them off me.
9 Q Now, do you remember the -- you mentioned that
10 there was another residence that you moved into, in a
11 two-story house; is that correct?
12 A Yes.
13 Q Now, do you have a real good memory of how old you
14 were at each of these residences when all of this happened?
15 A I know that in the two-story house I was in fifth
16 grade.
17 Q Okay. So if you were in fifth grade, about how old
18 would you have been?
19 A Nine, ten years old, I think.
20 Q And once you were at the two-story house, did it --
21 did it continue there, the sexual conduct or did it stop?
22 A It continued.
23 Q All right. And again, did it continue at the same
24 rate, things happening, you know, three times a week, one
25 time a week?

1 A Yes.

2 Q Now, in that particular house, how many bedrooms
3 were there?

4 A Four.

5 Q And what were the sleeping arrangements in that
6 house? Who slept in what rooms?

7 A My brother and his -- his wife were in one. Him
8 and my mother in one. My sister and then I had my own room.

9 Q Okay. Is that the first time that you had your own
10 room?

11 A Yes.

12 Q Now, while you were at that house, did you want the
13 things that the defendant was doing to you, the sexual
14 things, did you want those things to happen?

15 A No.

16 Q Did you do anything as far as trying to keep
17 yourself protected in your bedroom or anything like that
18 while you were at that residence?

19 A Yes.

20 Q What did you do?

21 A I would lock my door every day.

22 Q Okay. Do you remember if your door had a lock --

23 A Yes.

24 Q -- on it?

25 And you indicated that you would lock that door?

1 A Yes.

2 Q While you were at that house, you said that these
3 incidents continued. Where did they happen inside that
4 house?

5 A In my room and my mother's room.

6 Q Okay. As far as your room, you indicated that you
7 had a lock on your door; is that right?

8 A Yes.

9 Q So if you locked your door, then no one could come
10 in; is that right?

11 A No.

12 Q Can you explain that to us?

13 A The -- the lock, it's a lock that where you lock
14 it. On the other side you could use like a knife or your
15 nail to like turn it around so you will be able to open it.

16 Q Okay. So you had said that some things happened
17 inside of your room at that place; is that correct?

18 A Yes.

19 Q Do you remember any of those times specifically?

20 A Yes.

21 Q Could tell us about them?

22 A I was in my room, and then it was locked, it was
23 night, and he opened my room, he closed it, he closed the
24 door, and he locked it, and he started touching me, and he
25 took off my clothes. He put his penis in my anus.

1 Q Okay. While you're in your room, you indicated you
2 were in your bed; is that right?

3 A Yes.

4 Q How were you situated when he penetrated your --
5 your butt with his penis?

6 A My back was on the bed.

7 Q Okay. And how did he accomplish penetrating your
8 butt with his penis at that time?

9 A He -- he had my legs in the air.

10 Q Okay. So the same way as it had been done before?

11 A Yes.

12 Q Was there anybody else in the room at that time?

13 A No.

14 Q You said that it happened also in the -- in the
15 other bedroom; is that correct?

16 A Yes.

17 Q And that would be the defendant and your mother's
18 bedroom?

19 A Yes.

20 Q And how did that happen?

21 A He walked everybody, me and my sister, to the room
22 to watch a movie, and my sister got tired, and then she left
23 the room, and when she left, he got up and he closed the door
24 and locked it.

25 Q What happened then?

1 A He took off my clothes, touched my body again, and
2 he put his penis -- his penis in my anus.

3 Q Do you remember how you were situated on the bed at
4 that time?

5 A My back was on the bed.

6 Q And how did he -- how was he able to penetrate your
7 anus at that time when your back was on the bed?

8 A He had my legs up.

9 Q Okay. Now, you said that these things happened
10 regularly. So were there other times when he performed these
11 acts on you while you were living at that house?

12 A Yes.

13 Q Now, do you remember a -- a white house on Ferguson
14 Street?

15 A What color?

16 Q Was it a white house on Ferguson Street?

17 A Three bedrooms.

18 Q What was the next house that you moved into after
19 the two-story house?

20 A A pale house.

21 Q It was a pale house?

22 A Yes.

23 Q Okay. And do you remember whether that was on
24 Ferguson Street or not?

25 A I don't remember. But I do believe so that it was.

1 Q I'm sorry?

2 A I do believe so.

3 Q Okay. And when you moved into that house, about
4 how old were you?

5 A I don't remember.

6 Q Okay. And once you moved into that house, did the
7 things that were happening stop or did they continue?

8 A Continued.

9 Q So it would be the same sort of acts that we've
10 already talked about happening in that house?

11 A Yes.

12 Q Now, do you remember a last incident where the
13 defendant penetrated you?

14 A Yes.

15 Q And where did that happen?

16 A In my mother's room.

17 Q Okay. Was that -- which house was that at?

18 A The pale house.

19 Q Okay. And you said that that happened inside your
20 mother's bedroom?

21 A Yes.

22 Q Do you remember about what time of year it was when
23 that happened?

24 A Before Thanksgiving and Christmas.

25 Q Okay. So right around Thanksgiving and Christmas

1 of what year?

2 A 2015.

3 Q Okay. So in that particular incident, what
4 happened? How did you come to be inside your mother and the
5 defendant's bedroom?

6 A He invited me to watch a movie. He -- he told me
7 that he wasn't going to do anything to me, and then he took
8 off my clothes and touched my body, and he put his penis in
9 my anus.

10 Q You said he took off your clothes and he touched
11 your body?

12 A Yes.

13 Q And what else did he do?

14 A I'm sorry. He --

15 THE COURT: You know what? Do you need a break?
16 Why don't we take a break?

17 During this recess, you're admonished not to talk
18 or converse amongst yourselves or with anyone else on any
19 subject connected with this trial, or read, watch, or listen
20 to any report of or commentary on the trial, any person
21 connected with this trial of any medium of information,
22 including without limitation, newspapers, television, the
23 Internet, or radio, or form or express any opinion on any
24 subject connected with this trial until the case is finally
25 submitted to you.

1 We'll be in recess for the next 15 minutes. Thank
2 you.

3 THE MARSHAL: Thank you. All rise for the exiting
4 jury, please.

5 (Outside the presence of the jury.)

6 THE COURT: Yeah, you can step down, Ms. Alvarez.

7 MS. HOJJAT: Your Honor, if we could --

8 THE COURT: What?

9 MR. FELICIANO: Maybe admonish the witness not to
10 speak --

11 THE COURT: What do you want --

12 MR. FELICIANO: -- to talk to anybody during the
13 break.

14 THE COURT: Okay. Ms. Alvarez, you're still under
15 oath, so I'd just ask you not to speak to anybody about your
16 testimony during the break. But you can --

17 MR. FELICIANO: Thank you.

18 THE COURT: -- go out and go to the bathroom. Just
19 don't leave the courthouse.

20 THE WITNESS: [Inaudible].

21 THE COURT: Pardon? Right, you can -- you can go,
22 uh-huh.

23 (Court recessed at 3:49 p.m. until 4:07 p.m.)

24 (In the presence of the jury.)

25 THE MARSHAL: Thank you, everyone. Please be

1 seated.

2 THE COURT: Does the State stipulate to the
3 presence of the jury panel?

4 MR. SWEETIN: Yes, Your Honor.

5 THE COURT: The defense? Mr. Feliciano?

6 MR. FELICIANO: I think Mr. Sweetin's still --

7 THE COURT: The jury panel?

8 MR. FELICIANO: Oh, I'm sorry. Yes, thank you.

9 THE COURT: Okay. Thank you. You may continue
10 with your direct.

11 MR. SWEETIN: Thank you, Judge.

12 BY MR. SWEETIN:

13 Q Guadalupe, how are you doing?

14 A Good, and you?

15 Q Okay. Guadalupe, we were talking about this time
16 when you moved into the Ferguson or this pale house; do you
17 remember that?

18 A Yes.

19 Q Sometime after moving into that house or around
20 that time, do you remember you learning something that just
21 sort of changes things in your life?

22 A Yes.

23 Q What was that?

24 A I started realizing what was going on in my life
25 was wrong.

1 Q And how did that realization come about?

2 A I don't understand.

3 Q How did you realize that?

4 A School and through a friend.

5 Q Okay. Let's talk about school first. What
6 happened at school?

7 A There was -- do projects on that we will talk about
8 like crimes, like drugs, the long-term effects, safety.

9 Q And when you say they -- it talked about that,
10 would the police come in and talk to you at school about
11 those sorts of things?

12 A No, it was just a teacher.

13 Q Okay. And when the teacher talked about those
14 sorts of things, was one of the things that came up sexual
15 abuse?

16 A Yes.

17 Q Okay. And when that came up, you said you had a
18 realization; is that right?

19 A Yes.

20 Q Okay. What was that realization that you had?

21 A That it was happening to me.

22 Q Okay. So in that class, did they talk to you about
23 if that's happening to you, that you needed to report it?

24 A Yes.

25 Q Okay. Did you report it at that time?

1 A No.

2 Q Why not?

3 A Fear.

4 Q Explain that to me.

5 A I was scared.

6 Q Scared of what?

7 A Losing my mom.

8 Q I'm sorry?

9 A Losing my mom.

10 Q Okay. Why did you think you were going to lose

11 your mom?

12 A Because I thought she would hate me and judge me.

13 Q All right. You said that there were some other

14 things that came up as well that kind of made you realize; is

15 that right?

16 A Yes.

17 Q And what would that be?

18 A A friend of mine was -- was talking -- we were

19 talking, and then it was around that time period that we were

20 talking about class, and which was about criminal acts and

21 everything.

22 Q You need to talk -- speak up just a bit.

23 A Sorry.

24 Q Okay?

25 A It was around the time it was about class, about

1 criminal acts, and he said that his -- his sister was
2 sexually abused.

3 Q And when you heard that, how did that change the
4 way you were looking at things?

5 A I was realizing that what's happening to me is --
6 was wrong.

7 Q So after you -- you kind of heard these things, did
8 the way that you acted around the house, did it change?

9 A Yes.

10 Q How did it change?

11 A I started cutting myself.

12 Q When you say cutting yourself, what do you mean by
13 that?

14 A I grabbed a sharpener from -- from which I used for
15 school, and I took it apart and I grabbed the blade and
16 started cutting my arm.

17 Q When you say a sharpener, what do you mean by that?

18 A It was the round sharpener where you just need like
19 a tool to undo the screw, and that's when the blade comes out
20 of.

21 Q Okay.

22 A And then I grabbed the blade and I put it on my
23 skin to cut myself.

24 Q So it was like a pencil sharpener?

25 A Yes.

1 Q And when you -- what part of your body did you cut
2 with it?

3 A My -- my -- my hands.

4 Q Okay. And why did you do that?

5 A Because I was disgusted with myself.

6 Q Why?

7 A I felt dirty.

8 Q Did you do anything else?

9 A I was -- there was like -- I felt like a ball in my
10 breast, and I told my mother about it, and we went to the
11 hospital, and I told it was just like something in there, and
12 they gave me pills, and I took more than I should of.

13 Q What kind of pills were they?

14 A I don't remember if they were pain pills or like
15 pills to like disinfect what was in my breast.

16 Q Okay. And why did you take more pain pills -- or
17 more of those pills than you --

18 A To kill myself.

19 Q Did you any that that might happen?

20 A Yes.

21 Q So you were struggling during this time?

22 A Yes.

23 Q Now, you mentioned that the defendant was still
24 doing things to you sort of on a regular basis; is that
25 right?

1 A Yes.

2 Q Did you do anything different in your relationship
3 with him after you sort of had this realization and you were
4 having a real hard time?

5 A I was being more aggressive.

6 Q What do you mean by that?

7 A I was avoiding him. I was push being him off me
8 whenever he tried to rape me.

9 Q Okay. Now I want to talk about that last time that
10 we were talking about when you left the courtroom. Remember?

11 A Yes.

12 Q And that was I believe at the pale house; is that
13 right?

14 A Yes.

15 Q Okay. Now, that last incident, where did it happen
16 at the pale house?

17 A In my mother's room.

18 Q Okay. And was there anybody else inside the room
19 besides yourself and the defendant?

20 A No.

21 Q Was the door to room open or closed?

22 A Close.

23 Q Do you know if it was locked?

24 A Locked.

25 Q And who closed and locked the door?

1 A He did.

2 Q And what happened when you were in that room?

3 A He told medical that he wasn't going to do anything
4 to me, and I believed him.

5 Q What happened then?

6 A He took off my clothes, and then he put his penis
7 in my anus and I was pushing him off me, and I told him if he
8 didn't stop, I was going to tell the police.

9 Q Was that the first time that you said that?

10 A Yes.

11 Q Okay. You said that you were pushing him off of
12 you. Was it different this time than it had been on prior --
13 prior times?

14 A Yes.

15 Q How was it different?

16 A Because I just kept pushing him off me and to --
17 like he was like losing his grip on me.

18 Q Okay. So on the prior occasions, you didn't push
19 off or fight him as much as you did on that occasion?

20 A Yes.

21 Q Now, after that occasion, after that happened, did
22 he continue to sexually touch you after that?

23 A I don't understand.

24 Q Okay. So you said that he was sexually touching
25 you on be a regular basis, three times a week, one time a

1 week, right?

2 A Yes.

3 Q And that was before this particular time; is that
4 right?

5 A Yes.

6 Q The last time?

7 After that time, did he continue to sexually touch you
8 three times a week, one time a week --

9 A No.

10 Q -- after that time?

11 So it stopped?

12 A Yes.

13 Q What did you think about that?

14 A I was happy.

15 Q Did --

16 A I felt -- I felt safer, but I still avoided him at
17 any chance that I got.

18 Q Okay. Did you think that maybe things were not
19 going to happen anymore?

20 A Yes.

21 Q Okay. Now, this happened in the pale house; is
22 that right?

23 A I don't understand.

24 Q What we just talked -- what we just talked about
25 happened in the pale house; is that right?

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ARMANDO VASQUEZ-REYES,) No. 80293
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 Appellant,)
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 v.)
)
 THE STATE OF NEVADA,)
)
 Respondent.)
 _____)

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I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 27 day of August, 2020. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

AARON FORD
ALEXANDER CHEN

AUDREY CONWAY
WILLIAM M. WATERS

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

BY /s/Rachel Howard
Employee, Clark County Public Defender's Office