

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

2                                   \_\_\_\_\_

3   ARMANDO VASQUEZ-REYES,            )       No. 80293

4   Appellant,                    )

5   v.                                )

6    )

7   THE STATE OF NEVADA,                )

8   Respondent.                    )

Electronically Filed  
Aug 27 2020 11:27 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

9   \_\_\_\_\_)

10                                   **APPELLANT'S APPENDIX VOLUME XI PAGES 2390-2492**

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3  
4 DISTRICT COURT  
5 CLARK COUNTY, NEVADA

6 THE STATE OF NEVADA,

7 Plaintiff,

8 vs.

9 ARMANDO VASQUEZ-REYES,

10 Defendant.

)  
) CASE NO. C316382

)  
) DEPT. XII  
)  
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)  
)  
)

11  
12 BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT JUDGE  
13 THURSDAY, APRIL 26, 2018

14 **RECORDER'S TRANSCRIPT RE:**  
15 **JACKSON v. DENNO HEARING**  
16 **DEFENDANT'S MOTION TO DISMISS**

17  
18 **APPEARANCES:**

19 For the Plaintiff:

JAMES SWEETIN, ESQ.  
Chief Deputy District Attorney

20 For the Defendant:

NADIA HOJJAT, ESQ.  
Deputy Public Defender

21  
22 Also Present:

MAGDALENA BECERRA  
Certified Spanish Court Interpreter

23  
24  
25 RECORDED BY: KRISTINE SANTI, COURT RECORDER

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\* \* \* \* \*

1 LAS VEGAS, NEVADA, THURSDAY, APRIL 26, 2018, 11:17 A.M.

2 \* \* \* \* \*

3 THE COURT: Okay. The record will reflect the presence of the  
4 interpreter.

5 Will the interpreter state her name for the record?

6 THE COURT INTERPRETER: Magdalena Becerra.

7 THE COURT: Thank you.

8 Does the State wish to make their appearance?

9 MR. SWEETIN: James Sweetin for the State, Judge.

10 MS. HOJJAT: Nadia Hojjat on behalf of Mr. Vasquez-Reyes, who is  
11 present in custody, Your Honor.

12 THE COURT: Thank you.

13 Do you want to call your first witness?

14 MR. SWEETIN: Yes, Judge.

15 MS. HOJJAT: And, Your Honor, before we call witnesses –

16 THE COURT: Sure.

17 MS. HOJJAT: – I do think there's a matter we need to address.

18 THE COURT: Okay.

19 MS. HOJJAT: So in this case the Defense was planning on introducing  
20 part of Mr. Vasquez-Reyes' medical records from his time at CCDC, the NaphCare  
21 records. We were provided with a copy of their NaphCare records. I believe it was  
22 by Mr. Sweetin himself who actually provided the Defense a copy of the NaphCare  
23 records and they came with a certification from the custodian of records. Basically,  
24 all I'm trying to get to is that when Mr. Vasquez-Reyes' blood pressure was taken  
25 immediately after being booked he had a blood pressure of 180 over 160. I was

1 planning on having the EMT who took his blood pressure testify to that at this  
2 hearing. He notified me yesterday afternoon that his son has the stomach flu and  
3 that he's the sole childcare provider, so he can't be here today.

4 I attempted to this morning contact CCDC and see if we could get a  
5 custodian of the records to come and testify. They sent an individual, and I really  
6 appreciate her coming out here on such short notice, but she's not a custodian of  
7 the records. I have been informed she's an EMT. So she's not the EMT who  
8 provided him with any of the care and she's not a custodian of the records. So at  
9 this point my position is: I don't think she can testify to these records. I do want  
10 parts of the records in.

11 It's my understanding Mr. Sweetin also wants parts of the records in.  
12 I've offered to stipulate to – basically, everybody stipulates to the parts of the  
13 records we need in. I've offered to stipulate to the full records being in. It's my  
14 understanding Mr. Sweetin doesn't want either one of those two things at this point.  
15 He wants this individual to testify to these records. I'm going to object to that,  
16 because I don't think she's a custodian of the records and she also didn't provide  
17 any of the medical treatment, so she would be testifying to something that she's  
18 read on a piece of paper. That's not appropriate. I think either the records need to  
19 be entered or, alternatively, I might need to do a *Hill* motion in order to get the  
20 individual, or custodian of records essentially, here in order to get the records  
21 [indiscernible].

22 THE COURT: Okay. If you want the records, they have to – if you  
23 want them in, you got to figure out how to get them in. It doesn't sound like you  
24 have a stipulation, so.

25 MS. HOJJAT: I don't have a stipulation. I do have a certification by the

1 custodian of records. I think the Court can absolutely accept that and enter the  
2 records either in full or the parts that both myself and Mr. Sweetin want. I think the  
3 Court can accept that due to the fact that we do have –

4 THE COURT: Can I see your affidavit?

5 MS. HOJJAT: Yes, if I can approach, Your Honor.

6 THE COURT: Mr. Sweetin, what's your objection?

7 MR. SWEETIN: I just found out that they wanted to essentially admit  
8 these records. I would submit to the Court that what they're – what they want to do  
9 is they want to have one small piece of information and that being that his blood  
10 pressure on this particular time was this particular blood pressure. I think that in  
11 order to understand what that blood pressure means there has to be testimony from  
12 a medical expert, because in going through the records it appears that he has a long  
13 range of high blood pressures. It also appears that within hours after that first high  
14 blood pressure there's another blood pressure taken that is also high and there  
15 appears to be an assessment that's done and that assessment indicates that he  
16 essentially is – there's no problem with him being able to function and understand.  
17 There's no impediments to him and the whole issue becomes whether or not this  
18 blood pressure in any way affects the voluntariness of his statement.

19 THE COURT: Sure.

20 MR. SWEETIN: So as I – as she – as defense counsel made reference  
21 to admitting these things, I talked to the person who is here, who is an EMT. She's  
22 familiar with the records and she indicated consistent with what I just described to  
23 the Court. So when Ms. Hojjat made mention, well, I want to get these records in, I  
24 said, that's fine, so long as we get these other records in and this person is able to  
25 testify as to the meaning of those, because by just looking at the records the things

1 that I said I don't think are completely clear.

2 MS. HOJJAT: And –

3 THE COURT: Okay. So it sounds like you don't have any objection to  
4 them all being admitted. I could admit them for purposes of this hearing. That  
5 witness, it doesn't sound like the witness could authenticate the records or –  
6 however, if you lay a proper foundation to ask that witness certain questions, you  
7 can present – an expert witness can testify regarding things made known to him  
8 during the hearing. I don't know why you couldn't do that.

9 MR. SWEETIN: That's fine.

10 THE COURT: And if you stipulate to the records, then she wouldn't be  
11 called to authenticate them. So, if there's a stipulation, I'll admit the medical records  
12 into evidence. Do you have the entire packet?

13 MS. HOJJAT: I do, Your Honor. I'm sorry. I just had a couple of  
14 stickies on them. I'll take them off right now. And, Your Honor, if I could approach?

15 THE COURT: Of course.

16 MS. HOJJAT: I have this tabbed. Can I just leave it until after she's  
17 testified just so we're not searching for that page?

18 THE COURT: Sure. Sure, no problem.

19 MS. HOJJAT: And then I'll take it off after.

20 THE COURT: No problem

21 MS. HOJJAT: Thank you.

22 THE COURT: All right, so they'll be marked as Defense A?

23 MS. HOJJAT: Yes, please, Your Honor.

24 THE COURT: And they'll be admitted.

25 [Defense Exhibit A admitted]

1 MS. HOJJAT: Thank you. And so we would just reserve any objection  
2 we have to the expert testimony until we've had a chance to –

3 THE COURT: Sure.

4 MS. HOJJAT: – canvass the witness.

5 THE COURT: Sure.

6 MS. HOJJAT: Thank you very much.

7 THE COURT: So you may call your first witness.

8 MR. SWEETIN: Maria Corral.

9 MS. HOJJAT: And for the record, the Defense invokes the exclusionary  
10 rule, Your Honor.

11 THE COURT: Okay. Are there any other witnesses in the courtroom  
12 that will be called to testify? If you're a witness in this matter, you've been  
13 subpoenaed to be here, I'm going to ask you to step outside. Don't discuss this  
14 case or the testimony you're about to give with anyone other than the attorney that  
15 subpoenaed you here today.

16 Go ahead. You can –

17 THE COURT MARSHAL: Ma'am, if you'll please come up to the  
18 witness stand. And if you'll please step up into the witness stand, remain standing  
19 and raise your right hand and face the clerk please.

20 **MARIA CORRAL**

21 [Having been called as a witness, being first duly sworn, testified as follows:]

22 THE COURT CLERK: Thank you. Please be seated. Could you  
23 please state and spell your name for the record.

24 THE WITNESS: My name is Maria Corral and Maria is spelled  
25 M-a-r-i-a; Corral is C-o, double r, a-l.

1 THE COURT CLERK: Thank you.

2 DIRECT EXAMINATION

3 BY MR. SWEETIN:

4 Q Ms. Corral, how are you currently employed?

5 A Pardon?

6 Q How are you currently employed?

7 A I am employed by LVMPD as a part-time interpreter.

8 Q And when you say interpreter, what do you interpret essentially?

9 A Spanish, Spanish to English, English to Spanish.

10 Q And what qualifies – what training, experience do you have that  
11 qualifies you to perform that function?

12 A I have taken courses through UNLV. I've attended several court  
13 workshops and I'm also certified by LVMPD.

14 Q Okay. And when you say certified by LVMPD, can you be more  
15 specific?

16 A I've taken – I have past the – their exams, all of their exams that are  
17 required, such as oral, written, writing.

18 Q And have you previously testified as an expert in court in regards to the  
19 translation from English to Spanish, Spanish to English?

20 A Yes, I have, once before.

21 Q Okay. Now I'm going to turn your attention to April 16 of 2016, around  
22 – between 4:00 and 5:00 p.m. Do you recall being so employed and on duty at that  
23 time?

24 A Yes, I was.

25 Q Did you have occasion to respond to the residence at 2213 Berkley



1 Avenue, here in Las Vegas, Clark County, Nevada, on that particular date and  
2 approximate time?

3 A Yes. Yes, I was. It was a little bit after 4:00 and, from what I recall, it  
4 was a domestic violence.

5 Q Okay. So you responded to that residence based upon the report of a  
6 domestic violence?

7 A That's correct.

8 Q Okay. And what was your purpose in being dispatched to that  
9 particular residence?

10 A It was because during that time the young girl approached the officer  
11 and told him –

12 MS. HOJJAT: Objection, hearsay.

13 THE WITNESS: – that she had been molested.

14 MS. HOJJAT: Your Honor, objection.

15 THE COURT: The objection is sustained.

16 MS. HOJJAT: Thank you, Your Honor. Move to strike, Your Honor.

17 THE COURT: Okay. It's granted.

18 MR. SWEETIN: Well, I'm not offering it for the truth of the matter. I'm  
19 just as to why she did what she did.

20 THE COURT: Okay. I mean because I know how –

21 MR. SWEETIN: I –

22 THE COURT: – we got to this point –

23 MR. SWEETIN: Right.

24 THE COURT: – because I'm familiar with the facts and I know it's that  
25 the child made a disclosure and –

1 MR. SWEETIN: Okay.

2 THE COURT: – to the police officers when they were there.

3 MR. SWEETIN: Sure.

4 BY MR. SWEETIN:

5 Q So would it be fair to say that you were there to assist in a criminal  
6 investigation?

7 A That's correct.

8 Q And your assistance would be in assisting investigating officers in  
9 translating English to Spanish, Spanish to English?

10 A That's correct.

11 Q Now upon arriving at that location, did you come in contact with  
12 someone by the name of Armando Vasquez-Reyes?

13 A Yes, I did.

14 Q Do you see that person in the courtroom today?

15 A Yes. He's sitting right in front of me.

16 Q Okay. Just, if you would, point to him and tell the Judge something he's  
17 wearing.

18 A Well, he's sitting [indicating] behind the computer and he's wearing a  
19 grey overall.

20 Q The person in the middle of these two ladies?

21 A He's in the middle of – yes.

22 MR. SWEETIN: May the record reflect the witness identified the Defendant?

23 THE COURT: So reflected.

24 BY MR. SWEETIN:

25 Q And could you describe your initial contact with the Defendant?

1           A     When we first got there the officer asked him some questions and I  
2 repeated what the officer asked him.

3           Q     And when you say the officer, you're referring to Detective Pretti?

4           A     At that time it was a police officer.

5           Q     Okay. Did there come a point in time when you came in contact with  
6 Detective Pretti?

7           A     Yes. He came shortly after –

8           Q     And at that –

9           A     – if I recall correctly, or he might have already been there.

10          Q     At that time did you assist Detective Pretti in regards –

11          A     And at that time, yes, I did assist Detective Pretti.

12          Q     Okay. And that would be in translation; is the correct?

13          A     In translation, Spanish to English and, again, English to Spanish.

14          Q     Okay. And was there a conversation that Detective Pretti had with the  
15 Defendant at that time through you as a translator?

16          A     Yes, he did.

17          Q     And what was that conversation?

18          A     I don't remember exactly what that conversation was, but I believe it  
19 was that some allegations had been made against him and that we needed to go to  
20 headquarters to talk some more.

21          Q     Okay. And did you convey that to the Defendant?

22          A     Yes, I did.

23          Q     Okay. Did the Defendant agree to go to headquarters at that time?

24          A     Yes, he did.

25          Q     Okay. And subsequent to that time were you familiar with the

1 Defendant being transported to some location?

2 A I'm sorry. What was that?

3 Q Subsequent to that did you know whether or not the Defendant was  
4 transported somewhere?

5 A He was transported. We all met over there.

6 Q When you say over there, at headquarters?

7 A At headquarters.

8 Q Okay. And that's over here on Martin Luther King?

9 A 200 Martin Luther King, Building A.

10 Q Okay. And upon arriving at that location, did you have additional  
11 contact with the Defendant?

12 A Not until we went into the interview room.

13 Q Okay. And about what time was that?

14 A Oh, I don't recall the exact time. I want to say maybe a quarter to –  
15 MS. HOJJAT: Objection, speculation.

16 THE WITNESS: – 5:00, around there, between 4:00 –

17 THE COURT: Sustained. If you know what it is, we just don't want  
18 you to speculate.

19 THE WITNESS: Okay.

20 THE COURT: Do you know what time it was?

21 THE WITNESS: No, it – I don't.

22 THE COURT: Okay.

23 THE WITNESS: I don't know the exact time.

24 MS. HOJJAT: And I'd move to strike.

25 THE COURT: Granted.

1 BY MR. SWEETIN:

2 Q Fair to say, it was some time that afternoon; is that right?

3 A That's correct.

4 Q All right. And upon you making contact with the Defendant where was  
5 he at headquarters?

6 A He was in the interview room.

7 Q Okay. And did you assist in any translation in that interview room?

8 A Yes, I did.

9 Q Do you recall there being a conversation in the interview room in  
10 regards to money that the Defendant might provide to his girlfriend?

11 A He was – he offered to give the rent money, I believe.

12 Q Okay.

13 A Yes, rent money.

14 Q And did you facilitate a conversation between Detective Pretti and him  
15 in that regard?

16 A Yes.

17 Q Okay. And in that conversation you said he agreed to give rent money.  
18 Did he count the rent money out?

19 A That I don't recall.

20 Q Okay. And was there any other conversation at that time?

21 MS. HOJJAT: And, Your Honor, I'd object to relevance on all of this.

22 THE COURT: Overruled. You can answer.

23 THE WITNESS: Pertaining to what? I don't remember the exact  
24 conversation at the beginning, but there was rent money and he also mentioned that  
25 he was feeling a little lightheaded.

1 BY MR. SWEETIN:

2 Q Okay. And did you communicate between Detective Pretti and the  
3 Defendant as he indicated that?

4 A Yes, I did.

5 Q Okay. And in that conversation did Detective Pretti make reference to  
6 him, or how did he respond in regards to that?

7 A Asked him about what medication he was taking or where his  
8 medication was, something to that reference.

9 Q Okay. Did –

10 A And –

11 Q Yeah. And how did Detective Pretti respond to that?

12 A Told him that if he needed medical that he – if he needed medical  
13 attention to let us know and we would call the ambulance.

14 Q Okay. And did the Defendant agree to that?

15 A Yes.

16 Q And what was the Defendant's demeanor at this time?

17 A He was calm.

18 Q Okay. Did at any point in time in our contact with the Defendant did he  
19 ever request any sort of medical assistance?

20 A No, he did not.

21 Q At some point in time was there an interview conducted specifically with  
22 the Defendant?

23 A Yes, there was.

24 Q Now I'm showing you what's marked first as State's Proposed  
25 Exhibit 1 –

1 MR. SWEETIN: May I approach, Judge?

2 THE COURT: You may.

3 BY MR. SWEETIN:

4 Q – and ask you if you recognize that?

5 A Yes.

6 Q And what is that?

7 A This is the video of the interview that was –

8 Q Okay.

9 A – taking place.

10 Q And what's the basis of your recognition of this particular disc as being  
11 a record of that interview?

12 A Well, it has his name, the event number, my initials and my p-number.

13 Q Okay. So, in fact, you reviewed this video and verified that this was the  
14 video?

15 A Yes, I have.

16 Q Okay. And this video, you made reference to an interview that was  
17 done; is that correct?

18 A That's correct.

19 Q That interview is on this video; is that correct?

20 A That's correct.

21 Q And you've also made reference to some things that happened even  
22 before that interview, the conversation that was had with him previous to that; is that  
23 right?

24 A Yes. Such as what conversation are you –

25 Q A conversation in regards to him feeling lightheaded and –

1 A Oh, yes.

2 Q – the rent money?

3 A Yes. And the rent money, yes.

4 Q And that's also on this video; is that right?

5 A I believe so, yes.

6 Q Okay. And on this particular audio/video you are heard translating from  
7 Spanish to English, English to Spanish between Detective Pretti and the Defendant;  
8 is that right?

9 A That's correct.

10 Q And is your translation clear and accurate as you had a chance to  
11 review it?

12 A Yes.

13 Q Okay. And I'm showing you what's marked as State's Proposed Exhibit  
14 2. Do you recognize that?

15 A Yes. This is the transcription of the interview.

16 Q Okay. So just the interview portion that we're talking about.

17 A Yes.

18 Q Is that right?

19 A That's correct.

20 Q Okay. And is this a clear and accurate depiction of a transcription of  
21 that interview as you translated it?

22 A Yes, it is.

23 MR. SWEETIN: Okay. The State would move for the admission of  
24 what's been marked as State's Proposed Exhibit 1 and 2.

25 MS. HOJJAT: And, Your Honor, I'd like to clarify. Was the transcription



1 done by this witness?

2 THE COURT: Do you want to –

3 Was the transcription done by you?

4 THE WITNESS: No. I did not do the transcription.

5 THE COURT: Oh, you mean the actual –

6 MS. HOJJAT: Yes.

7 THE WITNESS: The –

8 THE COURT: – transcribing?

9 THE WITNESS: No. I did not do the transcribing.

10 MS. HOJJAT: I would object to the transcription being entered, only  
11 because the transcription contains translations in it. It's not a transcription of  
12 precisely what we would hear. It contains English – Spanish to English translation  
13 within the transcription.

14 MR. SWEETIN: I think she just testified that it's an accurate depiction  
15 of the translation she [indiscernible].

16 THE WITNESS: Yes.

17 THE COURT: Overruled. They're admitted.

18 [State's Exhibit Numbers 1 and 2 admitted]

19 BY MR. SWEETIN:

20 Q Now as – in this particular case do you recall at the beginning of the  
21 interview that there being *Miranda* warnings that were given to the Defendant?

22 A Yes.

23 Q And do you remember that there was a particular acknowledgement of  
24 those *Miranda* rights card that was provided over to the Defendant?

25 A Yes.

1 Q And I'm showing you what's marked as State's Proposed Exhibit 3.  
2 Just for identification, does that appear to be consistent with the admonishment card  
3 that you made reference to?

4 A Yes.

5 Q Now that particular admonishment card appears to be in Spanish; is  
6 that –

7 A That's correct.

8 Q Okay.

9 A This one is.

10 Q Right. Now there appears to be two parts to that card; is that right?

11 A Yes.

12 Q Okay. Is this a clear and accurate depiction of the card you saw in that  
13 room?

14 A Yes.

15 MR. SWEETIN: The State would move for the admission of what's  
16 been marked as State's Proposed Exhibit 3.

17 THE COURT: Any objection?

18 MS. HOJJAT: I'll submit it.

19 THE COURT: It's admitted.

20 [States Exhibit Number 3 admitted]

21 BY MR. SWEETIN:

22 Q Now on this particular card there appears to be writing on two sides of  
23 the card; is that correct?

24 A That's correct.

25 Q All in Spanish, correct?

1 A Correct.

2 Q What's the difference between the two sides of the card?

3 A One is for adults and the other one's for juveniles.

4 Q Okay. Now, if you could for us for the benefit of the Court, just read on  
5 the adult side the admonishment that's detailed there. Can you translate that from  
6 Spanish to English for us?

7 A Yes, I can. It says: You have the right to remain silent. Anything you  
8 say can be used against you – and I can't see – can be used against you in a court  
9 of law. You have the right to remain silent. Can I start over because I can barely  
10 see it? It's dark in here. Okay. You have the right to remain silent. Anything you  
11 say and will – anything you say will be used against you in a court of law. You have  
12 the right to consult an attorney before the – and – before the questioning. You have  
13 the right to the presence of an attorney during questioning. If you cannot afford an  
14 attorney, one will be assigned to you. Do you understand these rights?

15 MR. SWEETIN: Thank you.

16 No further questions, Judge.

17 THE COURT: Any cross?

18 MS. HOJJAT: Yes, Your Honor. Thank you.

19 CROSS-EXAMINATION

20 BY MS. HOJJAT:

21 Q Good morning, ma'am?

22 A Good morning.

23 Q You mentioned that you were a part-time interpreter with the Las Vegas  
24 Metropolitan Police Department.

25 A That's correct.

1 THE COURT: Just a minute.  
2 Does the interpreter need a break for some water?  
3 THE COURT INTERPRETER: No. I'm fine. Thank you.  
4 THE COURT: You're okay. All right, thanks.  
5 MS. HOJJAT: Thank you.  
6 BY MS. HOJJAT:  
7 Q And then you talked a little bit about what training you have for that.  
8 A That's correct.  
9 Q You said that you took some courses through UNLV.  
10 A Yes.  
11 Q So you don't have a degree?  
12 A No. I don't have a degree. I have a certification from UNLV.  
13 Q Okay. How many courses did you take?  
14 A I took two.  
15 Q Two courses?  
16 A Uh-huh, two –  
17 Q How long was each course?  
18 A They were, like, three months long each one.  
19 Q So, like, a semester each?  
20 A Yeah.  
21 Q Okay. So you took two one-semester courses?  
22 A Right, it was a continuation. Right.  
23 Q And then you also mentioned some programs.  
24 A I took some workshops through the court system.  
25 Q Okay. How many workshops?

1 A I want to say about six.

2 Q Six workshops. Who led those workshops?

3 A Her name was Andrea. I don't remember her last name. Andrea, she  
4 was the coordinator for the – for these workshops.

5 Q Okay.

6 A This was a while ago.

7 Q Okay. So you've taken two one-semester courses. Are you a certified  
8 interpreter through the court system?

9 A No, I'm not. That's what I was trying to do.

10 Q Okay.

11 A And that's the purpose of me taking those workshops.

12 Q Okay. How long ago did you take the workshops?

13 A The last one, I want to say about, maybe about three years ago, three  
14 or four years ago.

15 Q Three years ago. So you took the workshops to try to become a court  
16 certified interpreter?

17 A That's correct.

18 Q And you took the final workshop three years ago?

19 A I want to say about three years ago [indiscernible].

20 Q But you're still not a court certified interpreter?

21 A No. I have not taken the exam.

22 Q Okay. So you have not past the exam to be a court –

23 A I –

24 Q – certified interpreter?

25 A I have only past the written exam and the sight translation.

1 Q Okay. So that's a no, you have not past the exams –  
2 A No. That's correct.  
3 Q – to be a court certified interpreter?  
4 A Mm-hmm, correct.  
5 Q Okay. So, just so I'm clear, in grand total you have taken two classes –  
6 well, let me back up. How long were each of the workshops?  
7 A I'm sorry?  
8 Q How long were each of the workshops?  
9 A They were, like, a day, like, eight hour – yeah.  
10 Q A day?  
11 A Mm-hmm.  
12 Q So each workshop is about eight hours?  
13 A Approximately, mm-hmm.  
14 Q Okay. So you've taken six one-day workshops, correct?  
15 A Correct.  
16 Q And two one-semester courses?  
17 A Correct.  
18 Q You don't have a degree from a university?  
19 A Correct.  
20 Q You don't have certification through the court system?  
21 A Correct.  
22 MS. HOJJAT: Your Honor, at this point I would move to strike this  
23 individual. I mean she's not a certified court interpreter and doesn't appear to have  
24 the training.  
25 THE COURT: Does she have to be?

1 MS. HOJJAT: I mean –

2 THE COURT: I don't think there's any rule that says she has to be.

3 MS. HOJJAT: I would submit to the Court, at this point we're in a  
4 situation in which this is the individual who did the interpretation of my client's  
5 interrogation and she's testifying to things that my client said. I think anything that  
6 she's testified to that my client said in her function as an interpreter, we're now  
7 discovering that she doesn't have the qualifications to be an interpreter, and so she  
8 shouldn't be allowed to testify to that.

9 THE COURT: The objection is overruled and you can proceed.

10 BY MS. HOJJAT:

11 Q You talked about arriving at the residence.

12 A Correct.

13 Q And you said that you spoke with my client at the residence.

14 A Correct.

15 Q You were interpreting for a police officer.

16 A Correct.

17 Q Do you remember who that police officer was?

18 A No, I don't.

19 Q Okay. But you do remember asking my client questions?

20 A I do remember, mm-hmm.

21 Q Okay. So the police officer was asking questions and you were  
22 interpreting those questions?

23 A I was repeating what the officer was saying into the target language.

24 Q Okay. And you were asking questions, not just like what's your name  
25 and things like that but questions about what happened?

1 A I don't remember what questions were asked at that time.

2 Q So you don't remember what questions were asked?

3 A No.

4 Q You did not read my client his *Miranda* rights prior to asking him those  
5 questions, correct?

6 A Well, we – I don't recall doing that there. No.

7 Q Okay. So he was being questioned at the scene without being advised  
8 of his rights pursuant to *Miranda*, correct?

9 A I don't remember there at the scene.

10 Q Okay.

11 A I remember reading his *Miranda* rights at headquarters.

12 Q Okay. And then you told him that he's being transported to  
13 headquarters for further questioning?

14 A For further – right, for some allegations that were being made against  
15 him.

16 Q Okay. And at that point did you tell him what the allegations were?

17 A No.

18 Q And then you said that you went into the interview room where my client  
19 was?

20 A Correct.

21 Q Do you recall whether my client was handcuffed at that point?

22 A He wasn't handcuffed at that time.

23 Q Not in the interview room –

24 A No.

25 Q – to your recollection?



1 A From what I recall, he was not.

2 Q Okay. And he mentioned to Detective Pretti that he was not feeling  
3 well?

4 A That he was feeling lightheaded, correct.

5 Q Okay. And at that point no medical treatment was brought in for him?

6 A No.

7 Q He was, in fact, left in the interrogation room for a while, correct?

8 A Well, we were all in there for a while.

9 Q Let me clarify. Was there a break in time between when you first spoke  
10 to him about the rent money and him feeling lightheaded and when the actual  
11 interrogation started?

12 A There was no break. We were there that whole time.

13 Q There was no break. Okay.

14 And then during the interrogation, you would agree, that my client  
15 answered I don't know to a number of questions?

16 A I don't recall what questions.

17 Q Would it refresh your recollection to see a transcript of the  
18 interrogation?

19 A Pardon?

20 Q Would it refresh your recollection to see a transcript –

21 A Yes.

22 Q – of the interrogation?

23 A Mm-hmm.

24 MS. HOJJAT: If I can approach, Your Honor?

25 THE COURT: You may.

1 BY MS. HOJJAT:

2 Q I'm showing you page 11.

3 A Okay.

4 Q Just go ahead and read that part silently to yourself.

5 A That's correct, mm-hmm.

6 Q Okay. And then showing you page 12.

7 A Right, mm-hmm.

8 Q Showing you page 14.

9 A Correct, mm-hmm.

10 Q Showing you page 15.

11 A Correct, mm-hmm.

12 THE COURT: Isn't the transcript in evidence?

13 MS. HOJJAT: It is in evidence.

14 THE COURT: Okay.

15 MS. HOJJAT: That's correct. I forgot.

16 THE COURT: Then I don't – yeah, I don't think you need to do this,  
17 because it's in evidence. You can make those arguments.

18 MS. HOJJAT: I forgot. Sorry about that.

19 THE COURT: That's okay.

20 MS. HOJJAT: Thank you.

21 BY MS. HOJJAT:

22 Q All right. So you would agree that my client answered I don't know or I  
23 don't remember –

24 A Yes.

25 Q – to a number of questions?

1           A     Correct.

2           Q     In fact, he answered I don't remember, let's see, it was one, two, three,  
3 four, five, at least five times?

4           MR. SWEETIN: Well, and I'm going to object if she didn't count the  
5 remembers. I'm not sure what – it is in evidence.

6           THE COURT: Right, it's in evidence. You can make the appropriate  
7 argument.

8           MS. HOJJAT: Thank you.

9 BY MS. HOJJAT:

10          Q     And you would agree that the beginning of the interrogation my client  
11 denied the allegations?

12          A     Yes.

13          Q     Okay. And then Detective Pretti persisted?

14          A     Well, he continued asking questions. I don't know that he persisted.

15          Q     Well, he – his questions were: I know you did this, correct? Is that a  
16 yes?

17          THE COURT: I –

18          THE WITNESS: I don't recall.

19          THE COURT: And let me just say.

20          THE WITNESS: I'd have to –

21          THE COURT: I don't understand why you're just trying to get her to  
22 testify to what's already in evidence. I mean you can make these arguments. You  
23 can make the argument that it was five times, that the detective persisted. I don't  
24 think you have to get her to agree to what the transcript says.

25          MS. HOJJAT: Okay.

1 THE COURT: I mean because it's in evidence. I mean you can argue  
2 any reasonable inference or argument that arises from that.

3 MS. HOJJAT: Okay. Court's indulgence.

4 BY MS. HOJJAT:

5 Q Do you remember him at some point asking for his pills?

6 A For what?

7 Q For his pills and a bottle of water.

8 A Yes, at the beginning.

9 Q So he asked for his pills, correct?

10 A For his medication.

11 Q For his medication, okay.

12 MS. HOJJAT: I'll pass the witness, Your Honor.

13 THE COURT: Any redirect?

14 REDIRECT EXAMINATION

15 BY MR. SWEETIN:

16 Q Just to be clear, I think earlier you testified that he indicated he was  
17 lightheaded; is that correct?

18 A Right, that he was lightheaded.

19 Q And at that time did he talk about his pills that were at his house?

20 A In his lunchbox.

21 Q Okay. And Detective Pretti –

22 THE COURT: In his what?

23 THE WITNESS: Lunchbox.

24 THE COURT: Oh, lunchbox.

25 ///

1 BY MR. SWEETIN:

2 Q And Detective Pretti had a conversation with him about that at that time;  
3 is that correct?

4 A Right.

5 Q And in that conversation essentially Detective Pretti said, hey, if you  
6 ever have any medical issue you let me know?

7 A Right and we will call the paramedics.

8 Q Right. And did he clarify that with him and say, that's the deal, you  
9 agree to that?

10 A Yes.

11 Q Do you remember that?

12 A Mm-hmm.

13 Q And the Defendant indicated, yes; is that correct?

14 A Yes. That's correct.

15 Q At any point in time did the Defendant ever indicate that he had any  
16 medical issues?

17 A No, not after that.

18 Q And were you present each time Detective Pretti talked to him  
19 throughout the video that's been provided to the Court?

20 A In the interview room, yes.

21 MR. SWEETIN: Thanks, nothing further.

22 THE COURT: Any recross?

23 MS. HOJJAT: Just briefly, Your Honor.

24 ///

25 ///

1 RECROSS EXAMINATION

2 BY MS. HOJJAT:

3 Q So I want to be clear. My client said he wasn't feeling well?

4 A Right.

5 Q Then he indicated that he wanted his pills, correct?

6 A He –

7 THE COURT: Okay. I'm not getting verbal responses. You have to  
8 answer yes or no.

9 THE WITNESS: Yes.

10 BY MS. HOJJAT:

11 Q So let's start over. My client indicated he wasn't feeling well?

12 A That's yes.

13 MR. SWEETIN: And that's a misstatement, Judge, of the evidence. I  
14 don't think –

15 THE COURT: Okay. I think the evidence is he indicated he was  
16 lightheaded.

17 BY MS. HOJJAT:

18 Q Okay. So he indicated some sort of health issue to Detective Pretti.

19 A Yes.

20 Q Correct?

21 A Yes.

22 Q And then he indicated to Detective Pretti that he wanted his medication,  
23 correct?

24 A Yes.

25 Q Then he specifically told Detective Pretti where that medication was

1 located?

2 A Yes.

3 Q Detective Pretti did not at that point make any efforts to go get that  
4 medication?

5 A No, correct.

6 Q The interrogation continued?

7 A Correct.

8 MS. HOJJAT: Pass the witness.

9 THE COURT: Okay. Thank you very –

10 Do you have any other questions?

11 MR. SWEETIN: I do not, Judge.

12 THE COURT: Okay. Thank you very much for your testimony.

13 THE WITNESS: Okay.

14 THE COURT: Thank you for being here. You may step down.

15 Can she be excused from her subpoena?

16 MR. SWEETIN: Yes. From on behalf of the State, yes.

17 MS. HOJJAT: The Defense has no objection.

18 THE COURT: Okay, thank you. Thank you for being here.

19 MR. SWEETIN: The State will call Mark Pretti.

20 THE COURT: Thank you.

21 THE COURT MARSHAL: If you'll please step up into the witness  
22 stand, remain standing, raise your right hand and face the clerk please.

23 **MARK PRETTI**

24 [Having been called as a witness, being first duly sworn, testified as follows:]

25 THE COURT CLERK: Thank you. Please be seated. Could you

1 please state and spell your name for the record.

2 THE WITNESS: It's Mark Pretti, M-a-r-k P-r-e-t-t-i.

3 THE COURT CLERK: Thank you.

4 DIRECT EXAMINATION

5 BY MR. SWEETIN:

6 Q Detective Pretti, how are you currently employed?

7 A As a detective with the Las Vegas Metropolitan Police Department.

8 Q And how long have you been with the police department?

9 A About 11-and-a-half years.

10 Q At some point were you assigned to the Sexual Assault Unit?

11 A Yes, I was.

12 Q And that would be the Detective Bureau; is that correct?

13 A Correct.

14 Q How long were you assigned to that unit?

15 A Almost 4-and-a-half years.

16 Q Now I want to turn your attention to April 16<sup>th</sup> of 2016, in the afternoon  
17 about – between 4:00 p.m. and 5:00 p.m. Were you employed with the police  
18 department and on duty on that day?

19 A I was.

20 Q Were you assigned to the Sexual Assault Unit of the Detective Bureau  
21 at that time?

22 A I was.

23 Q Did you have occasion to be dispatched to 2213 Berkley Avenue, here  
24 in Las Vegas, Clark County, Nevada, on that date and approximate time?

25 A I did.



1 Q And what was the purpose of your dispatch?

2 A I was contacted by patrol officers informing me that they had a –

3 MS. HOJJAT: Objection, hearsay.

4 THE COURT: Right. You don't need to tell us what they told you.

5 THE WITNESS: Okay.

6 BY MR. SWEETIN:

7 Q So just fair to say that you were dispatched to that location to assist in a  
8 sexual assault investigation?

9 A Yes.

10 Q And you had some basic information as you were dispatched to that  
11 location; is that correct?

12 A Yes.

13 Q And upon arriving at that location did you have any contact with Maria  
14 Corral who just left the courtroom?

15 A I did.

16 Q And what was the nature of your contact with her?

17 A She's employed as a Spanish interpreter for the police department.

18 The family at the location was Spanish speaking only. I believe – I don't recall. Ms.  
19 Corral was there to assist in Spanish translation for me.

20 Q Okay. And upon arrival at that location did you come in contact with an  
21 individual by the name of Armando Vasquez-Reyes?

22 A I did.

23 Q And do you see that person in the courtroom today?

24 A I do.

25 Q And, if you could for the benefit of the Judge, just point him out – him or

1 her out – and identify an item of clothing he or she is wearing.

2 A Sitting in the middle [indicating] at the defense table wearing a blue  
3 shirt.

4 MR. SWEETIN: May the record reflect the witness identified the  
5 Defendant?

6 THE COURT: So reflected.

7 BY MR. SWEETIN:

8 Q Could you describe your initial contact with the Defendant as you  
9 arrived at that location?

10 A He was, I believe, out in front of the residence. I identified myself as a  
11 detective and let him know that some allegations have been made against him.

12 Q Okay. Now you mentioned that you had come in contact with Maria  
13 Corral; is that correct?

14 A Yes.

15 Q Did she assist you in your communication with the Defendant as you  
16 arrived at that residence?

17 A She did.

18 Q So she's translating English to Spanish for you as you're talking to him?

19 A Yes.

20 Q And she's translating back Spanish to English to you?

21 A Yes.

22 Q Upon notifying the Defendant that there were some allegations pending  
23 upon – pending relative to him, was there any further conversation?

24 A I informed him that I would like to basically move everybody over to  
25 LVMPD headquarters and requested his consent to come with us over to

1 headquarters for an interview.

2 Q Okay. And how did the Defendant respond to that?

3 A He said that was fine with him.

4 Q Now at the time that you made contact with the Defendant was that  
5 outside, inside? Where was it exactly?

6 A It was outside the house.

7 Q Okay. And what was his demeanor as you come in contact with him?

8 A He was calm.

9 Q Was he cooperative at that time?

10 A Yes.

11 Q Did you have further conversation with the Defendant at that time in  
12 regards to going to headquarters?

13 A I did. I let him know that he would be transported in a marked patrol  
14 unit by patrol officers and that it was our policy that he needed to be handcuffed  
15 prior to being transported.

16 Q As you describe to the Defendant through a translator, anything to  
17 indicate to you that he didn't understand what you were saying to him?

18 A No.

19 Q And how did he respond to that?

20 A He said he was okay with that.

21 Q Okay. At some point in time was, in fact, the Defendant transported?

22 A Yes.

23 Q And, when you say to headquarters, that would be the headquarters  
24 over on Martin Luther King just up the street; is that correct?

25 A Correct.

1 Q Here in Clark County, Nevada?

2 A Yes.

3 Q Did – were you present while he was being transported?

4 A I was not.

5 Q Did you see him again that evening?

6 A Yes.

7 Q And where did you see him?

8 A Inside the interview rooms at headquarters.

9 Q Okay. Now as you go to the interview room at headquarters, do you  
10 recall you indicated that the Defendant was transported being handcuffed; is that  
11 correct?

12 A Correct.

13 Q What happens when he gets into the interview room?

14 A Once he got into the interview room I remove the handcuffs from him,  
15 ask him to sit down and told him I'd be with him shortly.

16 Q Okay. Now on this particular night how were you dressed?

17 A I was dressed in a long-sleeve, button-up shirt and khaki pants.

18 Q Okay. Did you have a gun exposed or anything of that sort?

19 A No.

20 Q Did you have your badge exposed?

21 A I had my ID card on a lanyard that I was wearing.

22 Q Okay. And how about Ms. Corral? How was she dressed that night?

23 A I believe in just a regular shirt and pants, her ID card on a lanyard as  
24 well.

25 Q Okay. Now at the time that you made contact with the Defendant in the

1 interview room at headquarters, do you have an extensive conversation with him  
2 upon that initial contact with him?

3 A Initially, I had a conversation with him about rent money that he had  
4 that our victim's mother requested from him. He agreed to give that rent money to  
5 me so that I could give it to our victim's mother.

6 Q Okay. And, in fact, did he, in fact, count the rent money out to you?

7 A Yes.

8 Q All right. Now at the time you had that conversation, did you have any  
9 conversation with him in regards to him being lightheaded?

10 A I walked out of the room to get his wallet. He had a conversation with  
11 Ms. Corral in Spanish. I came back in. She informed me that he said that due to his  
12 diabetes, I believe, that he was lightheaded.

13 Q Okay. And was there indication by him in regards to medication or  
14 anything of that sort at that time?

15 A I believe he requested medication, which was at his house.

16 Q And how did you respond to that?

17 A I told him I could not give him any medication at that time, and I said if  
18 you feel like you need medical attention let me know and we'll get EMTs in here to  
19 take a look at you.

20 Q And how did the Defendant respond to you as a result of that?

21 A He understood that was okay.

22 MS. HOJJAT: Objection to he understood, speculation.

23 THE COURT: Overruled.

24 BY MR. SWEETIN:

25 Q At that time, as you were having that conversation, could you describe

1 the Defendant's demeanor?

2 A It was calm, normal.

3 Q Okay. Was there anything to indicate to you that he wasn't able to  
4 understand everything that you were saying to him?

5 A No.

6 MS. HOJJAT: Objection, speculation.

7 THE COURT: Well, based on your observation. He can answer that.

8 MR. SWEETIN: Thank you, Judge.

9 THE WITNESS: No. Based on my observation he appeared to  
10 understand.

11 BY MR. SWEETIN:

12 Q Okay. Based upon your observation, anything indicates to you that he  
13 couldn't convey his thoughts properly to you in –

14 A No. No.

15 Q – in a reasonable way?

16 A No.

17 Q Okay. Now you indicated that this happens at some point prior to the  
18 ultimate interview with the Defendant; is that fair to say?

19 A Yes.

20 Q What happens in the period where there's delay with that interview?

21 A From when we had the conversation about the medication and the  
22 money?

23 Q Yes.

24 A I took the money over – back to the victim's mother, got the other  
25 detective with me and we went in with Ms. Corral to start the interview.

1 Q Okay. Now, and while that's going on what's – where's the Defendant?  
2 A In the same room.  
3 Q So he's in the room without handcuffs just sort of waiting?  
4 A Correct.  
5 Q Okay. Now at some point you indicate you return to that room; is that  
6 correct?  
7 A Yes.  
8 Q And you mentioned something about another detective.  
9 A Yes.  
10 Q Who would that be?  
11 A Detective Franc Gabron.  
12 Q Okay. And did he assist you in that – in a subsequent interview with the  
13 Defendant?  
14 A He did.  
15 Q Now, besides you and Detective Gabron, was there anybody else  
16 besides the Defendant present in that room?  
17 A Ms. Corral for the Spanish interpretation.  
18 Q All right. Now, if you could just for the record, describe approximately  
19 the size of the interview room?  
20 A The room is approximately 10 foot by 10 foot square.  
21 Q And is there any furniture inside the room?  
22 A There's a table in the middle and then as many chairs as we need.  
23 Q Okay. When you return to do that interview, you indicated that it would  
24 be the other detective, as well as yourself and Ms. Corral and the Defendant  
25 present; is that right?

1 A Yes.

2 Q You've indicated how you were dressed. Was Detective Gabron  
3 dressed similarly or different?

4 A Pretty similar.

5 Q Okay. His gun wasn't exposed?

6 A I don't believe so.

7 Q Okay. And there was no badge that you saw or anything of that sort?

8 A Other than his lanyard, I don't believe so.

9 Q All right. Now as – in regards to your contacts within that room and the  
10 subsequent interview that was conducted, are you aware of whether that was audio  
11 and video recorded?

12 A It was audio and video recorded.

13 Q Okay. And I'm going to show you what's marked as State's Exhibit 1  
14 and ask you if you recognize that.

15 A I do.

16 Q And what is that?

17 A That's the DVD of the interview.

18 Q Okay. What's the basis of your recognition of that particular DVD?

19 A It's got my initials and p-number, as well as the event number on it.

20 Q Okay. And is this a DVD that you've been able to look at and verify that  
21 it's a true and accurate depiction of what happened in that room on that day?

22 A Yes.

23 Q Okay. And I'm also showing you for identification what's marked as  
24 State's Exhibit 2. Do you recognize that?

25 A I do.



1 Q And what's that?

2 A It's a transcription of the interview itself.

3 Q And have you had an opportunity to review that particular transcription?

4 A I have.

5 Q Is that a fair and accurate depiction of what you understood was said  
6 through the translator in the course of the interview portion that we've talked about  
7 that's beginning at this point?

8 A Yes.

9 Q Now as you begin that interview, what do you do initially?

10 A Start the audio recording. The video was already recording as soon as  
11 he entered the room, so I started the audio recording and read him *Miranda* from our  
12 *Miranda* cards.

13 Q Okay. You said you read it from a card. Do you have that card with  
14 you today?

15 A I do.

16 Q Could you read for us exactly what you recall reading to him –

17 A Yes.

18 Q – at that particular time?

19 A You have the right to remain silent. Anything you say can be used  
20 against you in a court of law. You have the right to consult with an attorney before  
21 questioning. You have the right to the presence of an attorney during questioning.  
22 If you cannot afford an attorney, one will be appointed before questioning. Do you  
23 understand these rights?

24 Q And at the conclusion of reading those rights to him through the  
25 interpreter, did the Defendant respond?

1 A Yes.

2 Q And how did he respond?

3 A He said, yes, that he understood.

4 Q Okay. And did he agree to talk to you at that time?

5 A Yes.

6 Q Now I'm showing you what's marked as State's Exhibit Number 3 and  
7 ask you if you recognize that.

8 A I do.

9 Q And what is that?

10 A That's a copy of the *Miranda* card that the Defendant signed.

11 Q Okay. Now that particular *Miranda* card, is it in English or Spanish?

12 A This side is in Spanish. It's a two-sided card.

13 Q Okay. And that particular card do you understand to contain the same  
14 warning that you have just told him and was translated for him, would that be  
15 accurate?

16 A I believe so, yes.

17 MS. HOJJAT: Objection, lack of foundation.

18 THE COURT: I'm sorry. Can I hear the question again?

19 MR. SWEETIN: Sure.

20 BY MR. SWEETIN:

21 Q That particular card is your understanding was the same warning that  
22 you had just read to him, only in the Spanish language?

23 MS. HOJJAT: And there's been no foundation as to whether he's –

24 THE COURT: Right. I'm trying to figure out what it is you're trying to  
25 ask him.

1 MR. SWEETIN: The reason that he gave him the card, because it's his  
2 understanding that this particular card depicts the *Miranda* warning in Spanish.

3 THE COURT: Okay. And your objection is –

4 MS. HOJJAT: Lack of foundation.

5 THE COURT: – what he doesn't know Spanish? Okay.

6 MS. HOJJAT: If he doesn't know what's on the card.

7 THE COURT: Overruled.

8 MR. SWEETIN: Okay.

9 THE COURT: You can –

10 MR. SWEETIN: Thank you.

11 THE COURT: Because it's just your understanding, but you don't  
12 speak Spanish?

13 THE WITNESS: Correct.

14 THE COURT: Okay.

15 BY MR. SWEETIN:

16 Q And as you gave him this card, what was the purpose of giving him the  
17 card?

18 A For him to put his signature on the card that he acknowledged his  
19 rights.

20 Q All right. And did you, in fact, see him sign that card?

21 A I did.

22 Q And is that the same card that you saw at that particular time?

23 A Yes.

24 Q And what's the basis of your recognition of that particular card?

25 A It's got my handwriting. I wrote my name, date, time and the event

1 number on it.

2 Q All right. Now as you start the interview with the Defendant what's his  
3 demeanor?

4 A He was calm, nothing that I saw that was out of the ordinary.

5 Q Now just to clarify, over the course of your contact with him from the  
6 residence to headquarters into this interview and throughout the interview, does the  
7 Defendant's demeanor change at all?

8 A No.

9 Q So it's pretty consistent?

10 A Yes.

11 Q Now you said that he was calm; is that right?

12 A Yes.

13 Q Was he cooperative, uncooperative?

14 A He was cooperative.

15 Q All right. Now as the interview begins, how do you start off the interview  
16 after you've given the *Miranda* warning and the Defendant's agreed to talk to you?

17 A I ask him if he knows why we're basically doing the interview.

18 Q And does the Defendant acknowledge the allegations at that particular  
19 time?

20 A Not at that time.

21 MS. HOJJAT: And, Your Honor, I'd object to cumulative. I was trying to  
22 get into questions with the last witness about what's contained in the interview and I  
23 was instructed that – to move on essentially and that interview was in the evidence  
24 and we don't need to rehash it, so I'd raise the same objection now with this witness.

25 THE COURT: Okay. I'm not sure – I'm not sure that's what the District

1 Attorney is doing. But, I mean, I really don't need these witnesses to tell me what's  
2 already in the transcripts, but I don't think the question called for that, so go ahead.

3 Do you remember the question?

4 THE WITNESS: I do not, if he could repeat please.

5 BY MR. SWEETIN:

6 Q So as you begin the interview does the Defendant initially acknowledge  
7 his understanding of allegations being made against him?

8 A No.

9 Q Okay. How does the interview progress from there?

10 MS. HOJJAT: And I'd object again and raise the same objection.

11 MR. SWEETIN: Well, I –

12 THE COURT: Overruled.

13 MR. SWEETIN: Thank you.

14 THE COURT: I mean there's certain things I know I have to hear.

15 MR. SWEETIN: Thank you.

16 THE COURT: But go ahead.

17 THE WITNESS: I believe my next questions to him were is if he knew  
18 why the police were at his house that day.

19 BY MR. SWEETIN:

20 Q Okay. And at that time does he acknowledge that he understands that  
21 or not?

22 A Yes.

23 Q Okay. And how does the interview go from there?

24 A He talks about the police coming to his house for a domestic  
25 disturbance, that he was upset about – I don't know if it's his wife or his girlfriend,

1 forgive me, but his domestic partner – her kids using his tools and not putting them  
2 back. He was upset about that, and then he said that she had called the police.

3 Q Okay. Is there a discussion at some point about allegations that have  
4 been made against him?

5 A Yes.

6 Q Okay. And did you describe that there were allegations made against  
7 him?

8 A Yes. I described that allegations that he had abused the victim had  
9 come forward.

10 Q All right. And how does the Defendant respond to those allegations  
11 initially?

12 A Initially, he denied those.

13 Q Okay. How do you respond to his denial?

14 A I just told him there's two sides right here. One side is telling me one  
15 thing and you're telling me one thing. Somebody is lying, so is it – is it you or is it  
16 her? Who's lying?

17 Q And how does the Defendant respond to that?

18 A He said he was lying and that he had touched the victim.

19 Q Okay. Now you mentioned touch the victim. Had you mentioned  
20 anything about touch at that point?

21 A I had not.

22 Q Okay. You – what was the nature of your questions to that point?

23 A I said the allegations were of abuse.

24 Q Okay. Now, as a result of him saying that, was there any change in his  
25 demeanor? Did he act differently, appear differently? Did his emotions change?

1           A     I don't believe so. I remember he did tear up and cry towards the end  
2 of the interview, but I don't remember at what point that started.

3           Q     Okay. Based upon that disclosure what did you do next?

4           A     Asked him to tell me about the touching –

5           Q     Okay.

6           A     – what he recalls of it, how long it went on, how many times, things of  
7 that nature.

8           Q     Okay. And did he describe to you essentially some incidents of  
9 touching?

10          A     Yes, he did.

11          Q     Did he describe the incidents of penetration?

12          A     Yes, he did. One incident, yes.

13          Q     At some point in time did the Defendant indicate to you that he did not  
14 want to talk to you any further?

15          A     Yes.

16          Q     Okay. And how did that come about?

17          A     He had talked about the one incident. I had asked him, we believe  
18 there are more incidents based on what the victim said and now you're telling us  
19 about the one, and at that point he said, I don't want to talk to you guys anymore.

20          Q     Okay. And as a result of that what did you do?

21          A     Just confirmed that he wanted to end the interview, excuse me, and  
22 then I stopped the interview. There were no more questions.

23          Q     Throughout the interview was there any change in the Defendant's  
24 demeanor?

25          A     No.

1 Q Okay. You made mention earlier that you had told the Defendant if he  
2 had any medical issues to let you know; is that correct?

3 A Correct.

4 Q Did the Defendant at any point verbalize any medical issues?

5 A No.

6 Q Did you observe anything that would cause you to believe that the  
7 Defendant had medical issues?

8 A No.

9 Q Now, as a detective assigned to prosecute sexual assault cases, is it  
10 important for you to recognize whether there's any issue with any particular person  
11 that you're interviewing?

12 A Yes.

13 Q And you – is it true or not that you take special care to do that?

14 A Yes.

15 Q In this case was there anything to indicate to you that there was any  
16 problem with the Defendant understanding what was being said to him and  
17 answering in a reasonable manner?

18 A No.

19 MS. HOJJAT: I'm going to object. There's been no foundation that this  
20 individual is a medical professional and it's already been testified that he was told  
21 I'm feeling lightheaded.

22 THE COURT: Okay, overruled. His answer can stand.

23 BY MR. SWEETIN:

24 Q Now the interview itself, do you recall what time that it, the interview  
25 portion that we made reference to, when it started?



1 A I believe a little after 6:00 p.m., I believe.

2 Q Would it refresh your recollection to look at the actual transcript?

3 A Yes, please.

4 Q I'm showing you what's marked as State's Exhibit 2.

5 A Okay.

6 Q So when did the interview begin?

7 A 6:27 p.m.

8 Q And do you recall when it ended?

9 A Approximately 20 minutes later.

10 Q So the interview was 20 minutes in duration?

11 A Yes.

12 Q Now at the conclusion of the interview what happens next?

13 A Detective Gabron, myself and Ms. Corral left the room, get the  
14 paperwork ready to take him down to CCDC for booking.

15 Q Okay. At some point in time was the Defendant taken to CCDC for  
16 booking?

17 A Yes.

18 Q And approximately when was he booked into CCDC?

19 A The official booking, I believe, was just after 8:00 p.m., I believe 8:10  
20 p.m.

21 MS. HOJJAT: Objection, lack of foundation.

22 THE COURT: I'm sorry?

23 MS. HOJJAT: Lack of foundation.

24 THE COURT: As to the time?

25 Do you know the time?

1 THE WITNESS: I believe it's 8:10 p.m. 8:10 p.m., I'm sorry.

2 MR. SWEETIN: Thank you, nothing further.

3 THE COURT: Any cross?

4 MS. HOJJAT: Court's indulgence, Your Honor. Court's indulgence,  
5 Your Honor.

6 CROSS-EXAMINATION

7 BY MS. HOJJAT:

8 Q Good morning.

9 A Good morning.

10 Q You didn't have a warrant to arrest my client at his house, correct?

11 A No, I did not.

12 Q So you drive out to his house, correct?

13 A Yes.

14 Q And after a short conversation with him, he ends up in a patrol vehicle,  
15 correct?

16 A Yes.

17 Q He ends up in handcuffs?

18 A Yes.

19 Q In the back of a patrol vehicle?

20 A Yes.

21 Q And he's being taken to police headquarters?

22 A Yes.

23 Q Okay. And during that conversation that you have with him, he didn't  
24 confess to any crimes?

25 A No.

1 MR. SWEETIN: I'm just going to ask for foundation in regards to during  
2 what conversation, when it was?

3 THE COURT: Right. I thought you meant from the house to the police  
4 station.

5 BY MS. HOJJAT:

6 Q During the short conversation at the house –

7 THE COURT: Okay, thank you.

8 BY MS. HOJJAT:

9 Q – prior to placing him in handcuffs he didn't confess to any crimes?

10 A Correct.

11 Q Okay. You hadn't interviewed any witnesses yet?

12 A Not formal interviews, no.

13 Q Okay. So –

14 THE COURT: But you spoke to the victim in this case?

15 THE WITNESS: Yes.

16 THE COURT: Okay.

17 BY MS. HOJJAT:

18 Q But you hadn't done a formal interview?

19 A Correct.

20 Q You still needed to do a formal interview?

21 A Correct.

22 Q So you didn't have a warrant. You drove out. Within how long of  
23 arriving at the scene was my client in handcuffs?

24 A I don't know.

25 Q Okay. And was the – was anybody other than my client transported to

1 headquarters in a police vehicle?

2 A No.

3 Q So he's the only person who was transported to headquarters in the  
4 back seat of a police vehicle?

5 A Yes.

6 Q In handcuffs?

7 A Yes.

8 Q And then after he's transported to headquarters he's placed in a 10-by-  
9 10 interrogation room?

10 A Yes.

11 Q And then you went and you did interviews of the other witnesses?

12 A Yes.

13 Q And he's just sitting in that interrogation room?

14 A Yes.

15 Q My client indicated to you that he was feeling lightheaded?

16 A Yes.

17 Q He indicated to you that he needed his pills?

18 A Yes.

19 Q He told you the exact location of the pills?

20 A Yes.

21 Q You told him that you weren't going to go get those pills for him?

22 A Correct.

23 Q You told him that you weren't going to give him pills?

24 A Correct.

25 Q You testified on direct examination that you told him that he needed to

1 let you know if he needed – medical attention was the word, correct?

2 A I believe so.

3 Q Okay. So you told him, if you need medical attention you let me know?

4 A Yes.

5 Q You didn't clarify for him what medical attention meant?

6 A I believe I said I'd have an EMT come and take a look at you.

7 Q Okay. But you didn't clarify for him what medical attention meant?

8 A No.

9 Q So you didn't clarify, you know, it doesn't have to be that you're on the  
10 brink of death, if you're having any issues at all?

11 A I said if he needed medical attention to let me know.

12 Q Okay. So that was just the phrase you used and you didn't clarify what  
13 you meant by that?

14 A Right.

15 Q And he'd already told you that he was feeling lightheaded and needed  
16 pills?

17 A Yes.

18 Q And you'd indicated to him he wasn't getting that?

19 A Right.

20 MS. HOJJAT: Court's indulgence.

21 BY MS. HOJJAT:

22 Q You said that you took the money from him and gave it to his domestic  
23 partner?

24 A Yes.

25 Q Was she at the police station, or was she at the house?

1 A She was at headquarters.

2 Q She was at headquarters?

3 A Yes.

4 Q Okay. So prior to interrogating my client you spoke with Guadalupe?

5 A Yes.

6 Q And you also spoke with her?

7 A Rosalba, yes.

8 Q Okay. So his interrogation came last?

9 MR. SWEETIN: And, Judge, I'm – just for the record, I would object to  
10 the victim's name being used in the record and I would ask that that be stricken from  
11 the proceeding.

12 THE COURT: For just purposes of this hearing?

13 MR. SWEETIN: Yes, yes.

14 MS. HOJJAT: I mean, Your Honor, it's a hearing. We've got to ask  
15 questions. Obviously, we're not filing the name in documents and things like that.

16 THE COURT: Right, but we know – everyone knows who we're talking  
17 about, so the objection is sustained.

18 MS. HOJJAT: Okay.

19 THE COURT: I mean, detective, you know who we're talking about,  
20 correct?

21 THE WITNESS: Yes, Your Honor.

22 THE COURT: Okay.

23 BY MS. HOJJAT:

24 Q So he was sitting in that interrogation room for more than an hour  
25 waiting to be interrogated?

1 A I believe so.

2 Q And then during the interrogation he initially said that he didn't do these  
3 things?

4 A Correct.

5 Q And then after he told you that nothing happened, you told him, well,  
6 she's saying these things?

7 A Yes.

8 Q And you told him, you know, she has no reason to do that?

9 A Yes.

10 Q You told him, you know, everything that was going on today, that didn't  
11 have anything to do with her?

12 A Yes.

13 Q And she's saying what she's saying?

14 A Yes.

15 Q So, fair to say, he said, no, correct, originally?

16 A He said, no to?

17 Q He originally said, no to abusing her?

18 A Yes.

19 Q And you persisted in asking questions?

20 A Yes.

21 Q Questions that strongly suggested you believed something had  
22 happened?

23 A I was interviewing and trying to figure out what happened, yes.

24 Q Okay. Questions that strongly suggested you believed something had  
25 happened?

1 MR. SWEETIN: The question has been asked and answered.

2 THE COURT: Right.

3 MS. HOJJAT: No, but he didn't answer.

4 THE COURT: I mean, yeah, he – why don't you rephrase your  
5 question?

6 BY MS. HOJJAT:

7 Q You were asking questions that conveyed the idea that you believed  
8 something had happened?

9 MR. SWEETIN: And I would [indiscernible] speculation in regards to  
10 what this officer might think that his questions conveyed. His questions speak for  
11 themselves.

12 THE COURT: Well, I'll allow you to answer.

13 THE WITNESS: Okay. Of her side of the story, I'm asking him  
14 questions based on what she told me happened.

15 BY MS. HOJJAT:

16 Q Okay. But you weren't just asking questions based on what she told  
17 you, correct?

18 THE COURT: Well, what else would he be basing it on?

19 BY MS. HOJJAT:

20 Q You were saying things like: She had no reason to do this. She  
21 approached us, right?

22 A Right.

23 Q Okay. So you were asking questions that go to her motive, correct?

24 A Okay.

25 Q Yes?



1           A     I mean all I have is what she told me, so.

2           THE COURT: Well, he can't just – he can't – he doesn't have to just  
3 agree with you. I mean he's under oath.

4           MS. HOJJAT: Right, it's a yes or a no.

5           THE COURT: He's here to testify to the truth.

6           MS. HOJJAT: So yes or no.

7           THE COURT: If you can answer it yes or no.

8           THE WITNESS: I mean I don't know. I really don't know how to  
9 answer that question.

10          MS. HOJJAT: Okay.

11          THE COURT: Okay, that's fine.

12 BY MS. HOJJAT:

13          Q     Let me rephrase it. You specifically said she had no reason to do this.

14          A     Okay.

15          Q     Right?

16          A     Yes.

17          Q     Okay. Suggesting that you believe she had no motive to lie?

18          A     I want him to tell me the truth. So if he – if I tell him that I believe in her,  
19 or I believe what she's saying, I want him to tell me the truth. So that's a technique I  
20 would use in an interview. Yes.

21          Q     Okay. So that was a yes, you asked a question suggesting you believe  
22 she had no motive to lie?

23          MR. SWEETIN: Well, Judge, and, you know, she keeps wanting to  
24 put –

25          THE COURT: Well, I think that's probably an argument and you're free

1 to make that argument, but the witness doesn't have to agree with everything that  
2 you say.

3 MS. HOJJAT: He just said, okay.

4 BY MS. HOJJAT:

5 Q You did say okay and answered that, right?

6 A Oh, okay.

7 MS. HOJJAT: He agreed.

8 THE COURT: Okay.

9 BY MS. HOJJAT:

10 Q And then after you asked several questions like that, then he said,  
11 okay?

12 A Yes.

13 Q And then throughout the interrogation he said, I don't remember on  
14 multiple occasions?

15 A Okay.

16 Q Would you disagree?

17 A I don't disagree. I would have to go back and look at it, but.

18 Q Okay. Would you like to take a look?

19 A Sure.

20 MS. HOJJAT: If I can approach?

21 THE COURT: Okay. Again, I think the – I mean we can stipulate that –  
22 I mean what is it now, five times?

23 MS. HOJJAT: I believe five times.

24 THE COURT: I think it's five times.

25 MS. HOJJAT: Five times.

1 THE COURT: That's fine.

2 MS. HOJJAT: Thank you.

3 BY MS. HOJJAT:

4 Q And then after that he first said that he touched just her breasts and  
5 legs?

6 A Yes.

7 Q And then you insisted you knew there was more than that?

8 A Yes.

9 Q And then he agreed to penetration?

10 A Yes.

11 Q And there's been a lot of talk about – he was calm is what you said.

12 A Yes.

13 Q By that you mean he was sitting there?

14 A Yes.

15 Q He wasn't emoting?

16 THE COURT: He wasn't what?

17 MS. HOJJAT: Emoting.

18 THE WITNESS: Correct.

19 BY MS. HOJJAT:

20 Q He was kind of reserved?

21 A Okay.

22 Q He wasn't – he was responding to direct questioning?

23 A Yes.

24 Q But he wasn't engaging in going on on long tangents?

25 A No.

1 Q He wasn't animated?

2 A Not particularly, no.

3 MS. HOJJAT: Court's indulgence. I'll pass the witness.

4 MR. SWEETIN: No questions, Judge.

5 THE COURT: Thank you very much for your testimony here today.

6 THE WITNESS: Thank you, Your Honor.

7 THE COURT: You can get some water, if you want, before you leave.

8 THE WITNESS: All right.

9 THE COURT: Can the detective be excused from his subpoena?

10 MR. SWEETIN: On behalf of the State, yeah.

11 MS. HOJJAT: The Defense has no objection.

12 THE COURT: Okay. You are excused from your subpoena.

13 THE WITNESS: Thank you, Your Honor.

14 THE COURT: Thank you for being here.

15 Do you have any other witnesses?

16 MR. SWEETIN: The only other witness I would have would be the  
17 representative from the Clark County Detention Center who is here, and I'm not  
18 even sure I have her name.

19 THE COURT: Okay. And what would be the purpose of calling that  
20 witness? I mean because I'll tell you, my recollection of why this hearing was taking  
21 place was that the Defense was going to hire a medical expert and the medical  
22 expert was going to come in and somehow cast doubt on the voluntariness of the  
23 plea agreement.

24 MR. SWEETIN: I don't know. I know there was –

25 THE COURT: But it doesn't look like they have a medical expert.

1 MR. SWEETIN: Right. This is the issue: you know the – there's  
2 particular records that detail out – you know, essentially Defense – I think what  
3 Defense wants to do, they just want to present evidence that he had a – such  
4 amount of blood pressure at a particular point in time. I'm not sure that that has any  
5 meaning to this proceeding if there's not an expert to testify of what affect that that  
6 actually has.

7 THE COURT: Well, I think I made that very clear –

8 MR. SWEETIN: Right.

9 THE COURT: – when we talked about this originally.

10 MR. SWEETIN: Right. So the State's only concern is that there would  
11 be some record that would somehow paint that as something very significant to this  
12 case, because my review of the records would indicate that it's not. I guess my –

13 THE COURT: Well, if the records are in.

14 MR. SWEETIN: My request would be if, you know, they don't have an  
15 expert to recognize what significance that might have, that it have no bearing to the  
16 relevance of this proceeding today. I mean, I guess, that's – that would be my  
17 position, because short of that, I feel as if I have to explain, you know, what that  
18 blood pressure actually means.

19 MS. HOJJAT: And if I may respond, I'd remind everybody the Defense  
20 doesn't actually have a burden at this hearing. It's the State's burden. The –

21 THE COURT: Oh, I agree. I understand what the State's burden is.  
22 They've met their burden, so that's why I'm just wondering what's – what is going  
23 on? What's the issue? And I'm only going by my recollection. My recollection was  
24 – and I'll tell you, I go right back to when the motion was filed. The motion was filed  
25 and I said, based on the pleadings I'm not even sure it was appropriate to have a

1 hearing, but then I was given additional information that – I mean I – the pleadings  
2 were – from both sides they were well written. I had an opportunity to look at the  
3 transcript. I had an opportunity to review it all, but I was told there might be  
4 something that I wouldn't necessarily see or hear in that statement; that when he  
5 presented to the jail that his blood pressure was significantly high. I agree that was  
6 a high blood pressure. What does that have to do with this? I mean it was my  
7 impression that the Defense – because I said – if you go back to that hearing I said,  
8 why would I put this on for a hearing? I think based on the pleadings the State has  
9 met their burden.

10 MS. HOJJAT: Well and, Your Honor, with all due respect, I'm a little bit  
11 concerned about that, because the State hasn't rested yet, the Defense hasn't had  
12 the chance to call any witnesses yet and the Defense hasn't heard from the  
13 Defendant yet, which we have a right to do at a *Jackson v. Denno*.

14 THE COURT: Sure.

15 MS. HOJJAT: And so the –

16 THE COURT: I said at this point.

17 MS. HOJJAT: Right. But, I mean, the suggestion that just from the  
18 pleadings the State can have met their burden, when the Defendant has a right to  
19 testify and hasn't testified yet, I don't know that that should be the state of the  
20 proceedings.

21 THE COURT: I granted you a hearing.

22 MS. HOJJAT: Yes. I appreciate that.

23 THE COURT: But here's the deal. You have to come in and say  
24 there's a legal basis to have a hearing. Just because there's a statement doesn't  
25 mean that we have to have a *Jackson v. Denno* hearing before every single trial

1 before a statement is admitted.

2 MS. HOJJAT: I think the burden is just as long as we challenge the  
3 voluntariness the State has the burden of then proving it. It's kind of like probable  
4 cause –

5 THE COURT: Okay.

6 MS. HOJJAT: – at a preliminary hearing.

7 THE COURT: Yeah.

8 MS. HOJJA: We don't need a basis. We just need to say we're  
9 invoking our right to a preliminary hearing and then the State has to come in and  
10 prove their probable cause.

11 THE COURT: So here's the thing. I can probably cut to the chase.  
12 Since you don't have a medical expert and there's going to be nobody that testifies  
13 about this blood pressure issue, that was my concern, I don't think the State needs  
14 to call anyone to testify about that. I mean if you're just going to rest on the records  
15 and the fact that he had a high blood pressure reading that's fine. I don't believe  
16 they have to call the EMT or any type of medical person at this point.

17 MS. HOJJAT: And, I mean, my position would be that this EMT is not  
18 qualified anyway.

19 THE COURT: Okay.

20 MS. HOJJAT: So I'll submit it on that, if the State's going to decide not  
21 to, but I will say that we are planning on challenging that and that is going to be part  
22 of my argument.

23 THE COURT: Challenging what?

24 MS. HOJJAT: The fact that he was not feeling well at the time of the  
25 hearing.

1 THE COURT: Oh, sure. Sure, of course. Yeah, and that's in the  
2 record.

3 MS. HOJJAT: Perfect.

4 THE COURT: I mean that's in the record.

5 MS. HOJJAT: And I will be making reference to the Nafcare records  
6 during my argument.

7 THE COURT: Sure.

8 MS. HOJJAT: Okay.

9 THE COURT: So –

10 MR. SWEETIN: The State would rest, Judge.

11 THE COURT: Okay. You can go ahead and call your first witness.

12 MS. HOJJAT: Thank you, Your Honor. And if I can have the Court's  
13 indulgence for one moment please.

14 THE COURT: Sure.

15 [Pause in proceeding]

16 MS. HOJJAT: And, Your Honor –

17 THE COURT: Are you ready? Does he want to – he can be there, or  
18 he can go on the witness stand. It's up to you.

19 MS. HOJJAT: Court's pleasure.

20 THE COURT: Okay.

21 MS. HOJJAT: I would just make the record clear that I've advised him,  
22 nothing he says at this hearing can be used against him at trial; that pursuant to the  
23 statute –

24 THE COURT: Unless he testifies.

25 MS. HOJJAT: I think the statute just says nothing the Defendant says



1 can be used against him at trial. The statement is not admissible.

2 MR. SWEETIN: Any inconsistent statements are.

3 THE COURT: Unless he testifies and it would be used for – you can't  
4 testify one way here and then take the stand at trial and testify completely different  
5 and not expect impeachment, but I agree, it would be if he testified and whether  
6 there was anything to impeach him on.

7 MS. HOJJAT: Court's indulgence, because my reading of the statute  
8 has always been that it's inadmissible. It's like an – it's inadmissible, but Court's  
9 indulgence.

10 THE COURT: And does your client want to testify?

11 MS. HOJJAT: Yes. I will be calling him to testify. I would just object to  
12 the record to any statement he gives today being used against him at trial based on  
13 my reading of the statute, because it doesn't create an exception. If the statute  
14 doesn't say unless the Defendant testifies at trial or except in cases of impeachment  
15 or anything like that.

16 THE COURT: But we know that based on case law and precedent that  
17 if he takes the stand and testifies and he testifies inconsistent that that – I'm not  
18 saying it would be admissible, but it would certainly – the State would certainly be  
19 able to utilize that statement for purposes of impeachment. So, yeah, I guess, I do –  
20 I don't think you could actually take the statement and admit it. I believe it could be  
21 used for purposes of impeachment.

22 Does the State want to add anything?

23 MR. SWEETIN: No. Any inconsistent statement that he makes  
24 between testifying here and testifying at trial is open game in cross-examination, just  
25 to be clear.

1 THE COURT: Okay.

2 MR. SWEETIN: That's the state of the law.

3 THE COURT: All right, so, sir, do you want to testify?

4 THE DEFENDANT: Yes.

5 THE COURT: Okay. You can raise your right hand so you can be  
6 sworn.

7 **ARMANDO VASQUEZ-REYES**

8 [Having been called as a witness, being first duly sworn, testified as follows:]

9 THE COURT CLERK: Thank you. Please state and spell your name  
10 for the record.

11 THE WITNESS: Armando Vasquez-Reyes.

12 THE COURT: You can have a seat, sir. You can have a seat while you  
13 testify.

14 MS. HOJJAT: Can I grab some napkins, Your Honor? We had a little  
15 bit of a spill.

16 THE COURT: Sure, of course.

17 MS. HOJJAT: Thank you.

18 THE COURT: Go ahead.

19 MS. HOJJAT: Thank you.

20 **DIRECT EXAMINATION**

21 **BY MS. HOJJAT:**

22 Q All right, Mr. Vasquez-Reyes, can you spell your last name for us?

23 A Vasquez or Reyes?

24 Q All of it.

25 A Okay, R-e-y-e-s.

1 THE COURT CLERK: Thank you.

2 THE COURT RECORDER: Could you pull the microphone towards you  
3 please, Ms. Interpreter? Thank you.

4 BY MS. HOJJAT:

5 Q Sir, do you have any health conditions?

6 A Yes.

7 Q Please tell us about those.

8 A I have diabetes, high blood pressure, high cholesterol.

9 MS. HOJJAT: Okay.

10 THE COURT: Did you say high blood pressure?

11 THE WITNESS: Yes, high blood pressure.

12 BY MS. HOJJAT:

13 Q I want to draw your attention to the day that you were arrested, okay?

14 A Okay.

15 Q You were transported to the Metro headquarters?

16 A Yes.

17 Q And once there you were placed in an interrogation room?

18 A Yes.

19 Q How were you feeling at that point?

20 A I felt dizzy. I thought that my – I felt that my heart was beating, you  
21 know, rapidly and I felt like my head was going to explode.

22 Q Did you indicate to anybody that you weren't feeling well?

23 A Yes.

24 Q Who did you indicate that to?

25 A To the people that were interviewing me.

1 Q Okay. Did you ask them for anything?

2 A I asked for my pills and a bottle of water.

3 Q Did you receive your pills?

4 A No.

5 Q Did they refuse to give you your pills?

6 THE COURT: What pills were you trying to get?

7 THE WITNESS: They said that where were my pills?

8 THE COURT: What pills were you trying to get?

9 THE WITNESS: The ones for diabetes and the ones for the pressure.

10 THE COURT: Okay. How often do you take them?

11 THE WITNESS: Every day.

12 THE COURT: How many times a day?

13 THE WITNESS: Once in the – one in the morning, one in – at noon,

14 two pills for the sugar and one for the blood pressure every day.

15 THE COURT: Okay. So it's later in the afternoon and you haven't

16 taken any of your medication yet?

17 THE WITNESS: When they went to my house it was 12:30, almost

18 1:00 p.m.

19 THE COURT: Okay. What medication had you taken?

20 THE WITNESS: I was just about to take the ones for the pressure and

21 for the sugar as well.

22 THE COURT: Okay, go ahead.

23 MS. HOJJAT: Okay.

24 BY MS. HOJJAT:

25 Q So you were just about to take them when police arrived?

1 A Yes. When the – when they came I was just about – yes.

2 Q Okay. So you weren't feeling well when you were in the interrogation  
3 room and you let the detectives know?

4 A Yes.

5 Q And you asked for your pills?

6 A Yes.

7 Q Did they give you your pills?

8 A No.

9 Q And then you were interrogated?

10 A Yes.

11 Q During the interrogation were you feeling well?

12 A No.

13 Q During the interrogation did you feel like you could leave the  
14 interrogation room?

15 A Well, the thing is that I was sweating and then my heart was hurting,  
16 and I felt that I was, like, being harassed.

17 Q You felt like you were being harassed?

18 A Yes.

19 Q You were feeling pressured by the detective?

20 A Yes.

21 Q Did you feel like the detective was going to let you out of the room if he  
22 didn't hear what he wanted to hear?

23 A No.

24 Q So did you feel pressured to say the things that you said in the  
25 interrogation?

1 A Yes.

2 Q Were you just telling him what he wanted to hear?

3 MR. SWEETIN: Judge, I've let this go on a while. I'm going to object.

4 THE COURT: Okay. But I think the last question was: Did you tell him  
5 what you wanted to hear? So I think –

6 MS. HOJJAT: What he wanted to hear, I'm sorry.

7 THE COURT: All right, okay.

8 BY MS. HOJJAT:

9 Q Did you tell him what he wanted to hear?

10 MR. SWEETIN: Yeah, and it's –

11 THE COURT: That objection is sustained, because how in the world  
12 would this witness know what the detective wanted to hear?

13 MS. HOJJAT: I'll clarify the question.

14 THE COURT: Okay.

15 BY MS. HOJJAT:

16 Q When you said what you said, were you telling him what you thought he  
17 wanted to hear?

18 A I did it because I wanted my medication because I was feeling bad.

19 Q So would you say that you voluntarily said what you said?

20 A Voluntarily, I said what I said because I felt very pressured.

21 Q Okay. So would you have said what you said if you didn't feel  
22 pressured and if you had gotten your medication?

23 A No. No, because I –

24 Q Is that a no?

25 A No.

1 Q Okay. So it sounds like you thought if you told him what you believed  
2 he wanted to hear it would get you out of that room and get you your medicine?

3 A Yes.

4 Q And how were you feeling physically during the interrogation?

5 A I felt – I was sweating and I felt that my heart was beating very hard,  
6 and I felt like my head was going to explode.

7 Q So, fair to say, you didn't feel well?

8 A No.

9 Q Fair to say, you said what you said just to get out of that room?

10 A Yes.

11 MS. HOJJAT: Pass the witness, Your Honor.

12 THE COURT: Any cross?

13 MR. SWEETIN: Yeah, Judge. Thank you.

14 CROSS-EXAMINATION

15 BY MR. SWEETIN:

16 Q Sir, you indicated that you took medication on a daily basis; is the right?

17 A Yes.

18 Q And it's pretty safe to say that you needed to take that medication at  
19 specific times?

20 A Yes.

21 Q And, in fact, you told your attorney that you would take those  
22 medications every day; in the morning you would take one and you would take two  
23 of them at noon; is that right?

24 MS. HOJJAT: I'm sorry. Can we clarify, told me –

25 THE COURT: Are you – you're talking about today, right?

1 MR. SWEETIN: Yes.

2 MS. HOJJAT: Okay.

3 THE COURT: Okay. That's what I thought.

4 MS. HOJJAT: Thank you.

5 THE COURT: I thought that's what he was referring to.

6 THE WITNESS: Yes.

7 BY MR. SWEETIN:

8 Q Okay. Now let me talk to you a little bit. You mentioned that the  
9 medication was for diabetes and blood pressure; is that right?

10 A Yes.

11 Q And it sounds like you took three pills?

12 THE COURT INTERPRETER: I'm sorry. Can I clarify; that he took or  
13 he takes?

14 BY MR. SWEETIN:

15 Q Do you take three different medications on a daily basis?

16 A Yes.

17 Q What's the name of those medications? Do you know?

18 A I don't remember.

19 Q So on that day you would have been ready to take your medication at  
20 12:00 noon?

21 A Yes.

22 Q Okay. Would it surprise you, sir, that the police did not arrive at your  
23 house until 3:53 p.m.?

24 A I don't know what time they came, because my son arrives from work at  
25 2:30 and he had just arrived.



1 Q So then your son had arrived home at 2:30, so then actually the police  
2 arrived after 2:30?

3 A Before 12:30.

4 MR. SWEETIN: Okay.

5 THE COURT: Before 12:30 what?

6 THE WITNESS: That's before 1:00 p.m.

7 THE COURT: Okay. I don't understand what he's trying to say. What  
8 time do you think the police came there?

9 THE WITNESS: Around I don't remember.

10 THE COURT: Around I don't know? Okay. You don't know when the  
11 police arrived. That's okay. You don't have to know, but you just indicated your son  
12 comes home at 2:30 and that's when the police came.

13 THE WITNESS: The police had been there a little bit earlier than that.

14 THE COURT: Okay. So they were there before 2:30?

15 THE WITNESS: Mm-hmm.

16 THE COURT: Okay. Is that yes?

17 THE WITNESS: Yes.

18 BY MR. SWEETIN:

19 Q And, sir, are you aware that police calls – when there's a call made to  
20 the police that it's on a recorded line and that's timed and that the police record  
21 exactly what time they're – they go to a residence?

22 A I don't know.

23 Q Okay. Well, would you agree with me that when someone makes a  
24 phone call that the police know what time they go out to a residence?

25 A I think so.

1 Q So in this case the police went to your residence at 3:53 p.m., so is it  
2 possible you're mistaken on the time?

3 A Maybe I was – I was not well because of the medicine that I hadn't –  
4 was missing.

5 Q Okay. And, in fact, you said that it's important for you to take your  
6 medicine and you normally take that at noon, right?

7 A Yeah, but sometimes I feel bad and I take them in the afternoon as well.

8 Q Well, a minute ago, sir, you said that it was very important that you take  
9 your medication at specific times, remember that?

10 MS. HOJJAT: Objection, misstates the testimony. I don't believe he  
11 said that.

12 MR. SWEETIN: He did.

13 THE COURT: Okay. I believe he said that, so.

14 MS. HOJJAT: He indicated the times that he typically takes his  
15 medication, but I don't recall him saying it's very important I take it at the exact same  
16 time every day.

17 MR. SWEETIN: I clarified what –

18 THE COURT: Well, if it's diabetic medication I think that's common  
19 sense.

20 Sir, is it important that you take your medicine at the same time on a  
21 daily basis?

22 THE WITNESS: Yes.

23 THE COURT: Do you generally take it at the same time every day?

24 THE WITNESS: Yes.

25 THE COURT: Okay, go ahead.

1 THE WITNESS: But maybe I had forgotten that day. I don't know.

2 BY MR. SWEETIN:

3 Q Okay. So, fair to say, that you would normally have taken your  
4 medication hours before the police after – actually arriving at your residence?

5 A I had not taken them; otherwise I would not been asking for them.

6 Q Now when you went in and you talked to the police at the police station,  
7 do you remember that?

8 A I don't remember.

9 Q Okay. Do you remember leaving your residence some time on that  
10 afternoon when the police arrived and going to the police station?

11 A Yes.

12 Q And when you got to the police station you went into a room to talk to a  
13 detective; is that correct?

14 A Yes.

15 Q And do you remember that detective telling you that if you had any  
16 medical issues to let him know and he would get someone there to take care of  
17 you?

18 MS. HOJJAT: And I believe that misstates the testimony. I believe his  
19 testimony was if he needs medical attention.

20 THE COURT: Okay. Why don't we ask the witness what he recalls?

21 THE WITNESS: He never said that.

22 BY MR. SWEETIN:

23 Q Sir, why don't you tell me what you remember him saying to you about  
24 medical care?

25 A He never said anything about medical care.

1 Q Okay. So would your testimony be that on this tape that you've heard  
2 about that video and audio records the entire time that you're in that room at the  
3 police station, that this detective never tells you that he would provide you with  
4 medical care if you requested it?

5 A No. He never said that.

6 Q Okay. And you never acknowledged it by saying, okay, fine?

7 A No. I never said that either.

8 Q Because if that would've happened, then you would've known that you  
9 could've asked for help at any point in time, right?

10 MS. HOJJAT: Objection, speculation.

11 THE COURT: I'm sorry. It was hard for me to hear that entire question.

12 MR. SWEETIN: Right.

13 THE COURT: Can you state it again?

14 MR. SWEETIN: Yes, Judge.

15 BY MR. SWEETIN:

16 Q Because if the detective had told you that you could have medical  
17 attention at any point, you clearly would've asked for it because of the way you  
18 detailed previously that you're feeling, right?

19 THE COURT: He can answer that.

20 MS. HOJJAT: And I'm going to object, Your Honor, to speculation on –  
21 as to this and –

22 THE COURT: No. He can answer. He can answer.

23 THE WITNESS: And if he's – and if he asked me that, then why didn't  
24 he give me the medication that I needed?

25 ///

1 BY MR. SWEETIN:

2 Q And, again, sir, I ask you, if he had made that statement to you and you  
3 knew that you could get medical care, the way that you described that you were  
4 feeling that day, clearly you would've asked for medical care, right?

5 MS. HOJJAT: And, Your Honor, I'm going to object to this question,  
6 this line of questioning. It hasn't been inquired whether it's possible it happened and  
7 he just doesn't remember.

8 THE COURT: Okay, overruled. You can answer.

9 THE WITNESS: Can you ask that again?

10 BY MR. SWEETIN:

11 Q So if the detective had told you that he would get you medical care, if  
12 you were feeling as bad as you described, you clearly would've told him you wanted  
13 medical care, correct?

14 A Yes.

15 Q Okay. Now in the interview itself you say some pretty specific things,  
16 don't you?

17 A Like what things?

18 Q Like you tell the detective that one time you walked into the victim's  
19 room while she was masturbating.

20 A I did it because I needed my medication and I wanted to get that over  
21 with.

22 Q Did the detective ever say anything about masturbating?

23 A No.

24 Q So you thought that up yourself?

25 A That's the first thing that came to mind in order to get medical attention.

1 Q The first thing that came to your mind to get medical attention was that  
2 the young daughter of your girlfriend was masturbating in her bedroom?

3 MS. HOJJAT: Objection, argumentative, Your Honor. I mean this is –

4 THE COURT: Overruled. You can answer.

5 MS. HOJJAT: I think he's already testified. He said –

6 THE COURT: You can answer.

7 THE WITNESS: I just wanted – that's the first thing that came to my  
8 mind.

9 BY MR. SWEETIN:

10 Q Okay. And you actually told him some more detail about that, didn't  
11 you?

12 A I don't understand.

13 Q Did you tell him that when you saw her masturbating that you put your  
14 penis in her anus?

15 A But because I thought they were going to do their job well, that they  
16 were going to take the person to have her checked out.

17 Q So what does that have to do with you telling the police that you put  
18 your penis in her anus?

19 A Because I felt desperate because I needed my medication.

20 Q And then you also told them that she was about eight years old at the  
21 time?

22 A I didn't say –

23 Q So if –

24 A – anything.

25 Q So if you told her that it was eight – that – if you told the police that the

1 victim was eight years old at the time, you say you didn't say that, it wouldn't be on  
2 this audio/video recorded statement; is that right?

3 A I don't remember.

4 Q And you said that you did not use force; that it was rape, but it was not  
5 force?

6 A I didn't say that either.

7 Q Okay. So, again, and that would not be on that tape, right?

8 A Well, I don't remember none of that.

9 Q Okay. So are you sure that it's not on the tape, or it might be on the  
10 tape?

11 A It's not on the tape.

12 Q Okay. Do you remember saying to the police, if I have to pay for it I will  
13 pay for it?

14 A I told that if – one moment. And I said, if I were to be guilty, then I  
15 would have to pay for it.

16 Q And what were you talking, guilty of what, of putting your penis in your  
17 daughter's butt?

18 MS. HOJJAT: Objection, argumentative, Your Honor. I mean these  
19 questions –

20 THE COURT: Overruled. You can answer.

21 THE WITNESS: I never put anything in there.

22 MR. SWEETIN: Thanks, nothing further.

23 THE COURT: Any redirect?

24 MS. HOJJAT: Yes, Your Honor. Thank you.

25 ///

1 REDIRECT EXAMINATION

2 BY MS. HOJJAT:

3 Q Mr. Vasquez-Reyes, we've established you were not feeling well during  
4 this interrogation, correct?

5 A Mm-hmm, correct.

6 Q Okay. You asked for your pills before it started?

7 A Yes, correct.

8 Q So you can't remember exactly why you hadn't taken them, but you  
9 clearly hadn't taken them that day?

10 A I needed them.

11 Q Okay. Because if you'd already taken them you wouldn't take them  
12 again?

13 A Mm-hmm. I had not taken them.

14 Q Okay. And, fair to say, during this interrogation you've described  
15 yourself as being lightheaded, feeling like your heart was pounding, feeling dizzy?

16 A Yes.

17 Q Fair to say, your memory of what happened that day two years ago is  
18 not perfect?

19 A It's not perfect.

20 Q Okay. And, in fact, this was – the date of the arrest was April 16<sup>th</sup>,  
21 2016, right?

22 A I think it was the 4<sup>th</sup> of April.

23 Q Okay. If I told you it was the 16<sup>th</sup>, do I have any reason to lie to you?

24 A No. I don't know. I don't remember.

25 Q Okay. And today is April 26<sup>th</sup>, 2018, correct?



1 A I don't know what day I'm living in.

2 MS. HOJJAT: Okay. I'd ask the Court to take judicial notice.

3 THE COURT: Sure.

4 MS. HOJJAT: Thank you very much.

5 THE COURT: Sure, absolutely.

6 BY MS. HOJJAT:

7 Q So, fair to say, it's been over two years, correct?

8 A Yes.

9 Q And prior to your testimony today you didn't review the transcript of your  
10 interrogation?

11 A No.

12 Q In fact, the transcript is in English?

13 A I don't know English.

14 Q Right. So you didn't review this?

15 A No.

16 Q And I didn't play you a tape of your interrogation, correct?

17 A Yes.

18 Q Okay. So you're going based off of your memory of what happened two  
19 years ago?

20 A Only, yes.

21 Q Okay. And you're being as truthful as you can be?

22 A Yes.

23 Q Okay. And you didn't feel well at the time that it was happening, so  
24 maybe your ability to perceive wasn't the best?

25 A Yes.

1 Q Okay. And, in fact, were you having troubles during the interrogation?

2 A Yes.

3 Q Okay. So if you said that something doesn't exist in the transcript or in  
4 the tape and, in fact, it does exist, are you deliberately lying to the Court, or is it just  
5 an honest mistake?

6 A Because I don't know what's in the recording. I don't remember –

7 Q Okay, that's perfect.

8 A – what I –

9 MS. HOJJAT: Thank you. I'll pass the witness.

10 THE COURT: Thank you.

11 Any recross?

12 MR. SWEETIN: No, Judge.

13 THE COURT: Okay. Thank you very much for your testimony.

14 Do you have any further witnesses?

15 MS. HOJJAT: No, Your Honor.

16 THE COURT: Okay. I'll hear from the State.

17 CLOSING ARGUMENT

18 BY MR. SWEETIN:

19 Judge, I think the State has shown that the Defendant's statement was  
20 clearly made voluntarily. First, defense counsel in their briefing seemed to indicate  
21 that, for some reason, that the *Miranda* warning was not adequate.

22 THE COURT: Yeah. That's right. It's –

23 MR. SWEETIN: The State would submit that it has shown clearly that  
24 the requisites of *Miranda* were met, I mean beyond the requisites of *Miranda*. There  
25 doesn't have to be talismanic phrases or specific words that are mentioned, just

1 specific things have to be covered. We go beyond that in the *Miranda* that we have  
2 here. We have a *Miranda* which is clearly given to the Defendant, which  
3 encompasses each element both – that's required under existing case law. And  
4 beyond that, we give the Defendant an Acknowledgement of Rights form which  
5 details that. He was given that. We have video of him having the opportunity to  
6 look at that and actually sign that and provide it – and a copy of that's been admitted  
7 here in court.

8 I would note that the Defendant's interview itself is 20 minutes long. It's  
9 a fairly short interview and over the course of that interview the Defendant can be  
10 seen to be very casual. He's sitting. He's crossing his arms at some point. He's in  
11 a relaxed state. He's not in a state which appears to in any way be – have any great  
12 deal of anxiety or anything of that sort. He's just answering questions and the  
13 questions are asked in very quick succession. As indicated before, initially there's  
14 some denials, there's a clarification and the Defendant volunteers information.

15 Now, as the information comes, the Defendant is the one who's  
16 bringing up the information. It's not the police. It's not through repetitive  
17 questioning. It's a very clear course. Defense counsel has mentioned, well, the  
18 Defendant said I don't know. And there were at some points that the Defendant  
19 indicated that. He didn't remember how many times that he sexually assaulted the  
20 girl. He didn't remember exactly when it started. You know, he didn't remember  
21 exactly where it occurred, but he knew that it was while he was living with them. He  
22 knew that these were some of the acts that had occurred. And ultimately when the  
23 Defendant decided that he didn't want talk anymore he just said that, I don't want to  
24 talk anymore and the interview stopped. The State would submit that *Miranda* was  
25 adequate, that the statement is indicative clearly of there being a voluntarily

1 statement here and that there is really no evidence of any sort of coercion.

2 Now defense counsel has admitted medical records into evidence here.  
3 I don't think that the medical records that we have here say anything to the issue  
4 that's before the Court. There is no testimony that details essentially what is in the  
5 medical records or the significance of the one page defense counsel made  
6 reference to, which is a apparent blood pressure that was taken from the Defendant  
7 at the time that he was booked in.

8 Now remember the testimony that we have has the Defendant making  
9 his statement beginning, I believe, at about close to 4:30 and finishing up before  
10 5:00 o'clock, as I recall, and he ultimately, I believe, is – well, let me make sure I got  
11 that right. I don't have that right. I think it's actually a little bit before 4:30. Well, let  
12 me look. I'm sorry. Oh, I'm sorry. So it's a little bit before 6:30 and he's finishing up  
13 before 7:00 o'clock. We have the officer testifying that he was actually booked at  
14 the Clark County Detention Center at about 8:10. So the blood pressure that was  
15 taken would actually be kind of attenuated in time even from the statement that we  
16 have before us. And –

17 THE COURT MARSHAL: I'm sorry, Mr. Sweetin. I don't mean to  
18 interrupt you.

19 Ma'am, do they need the nurse? They're calling the officer here to  
20 have her go back, if she's not needed.

21 THE COURT: Okay, what?

22 THE COURT MARSHAL: The nurse.

23 THE COURT: What about the nurse?

24 MS. HOJJAT: The witness.

25 THE COURT: Oh. Oh, okay.

1 MS. HOJJAT: To excuse the witness.

2 THE COURT MARSHAL: The jail is calling for her to come back.

3 THE COURT: Sure. They want her back.

4 MS. HOJJAT: Yeah. Let's –

5 THE COURT: Yeah. Can we release that witness?

6 MS. HOJJAT: Yes. Let's excuse her.

7 THE COURT: Oh my gosh. Sorry about that. Yes

8 THE COURT MARSHAL: Thank you. Sorry to interrupt.

9 THE COURT: Sure. Thank you.

10 MS. HOJJAT: Thank you.

11 MR. SWEETIN: And the State would submit that the medical records  
12 are replete with a detail of the Defendant's blood pressure taken from him over an  
13 extended period of time as he's been incarcerated at CCDC. I would note that the  
14 blood pressure that he has runs that high sort of on a consistent basis. And I would  
15 also note that, I believe, the first blood pressure, as I indicated, was taken some  
16 time that evening. There isn't an assessment sheet attached to that particular blood  
17 pressure, but the next blood pressure that's taken is the following day.

18 And I believe that on the following day at about 1:00 p.m. the blood  
19 pressure that is taken is a 170 over 118, so approximately the same. But the  
20 clinician's observations, as detailed there, details whether he's oriented to person,  
21 yes, to place, yes, to time, yes, to situation, yes. His appearance is appropriate. His  
22 behavior is appropriate. His perception is appropriate. Going through, his  
23 respiratory is even, unlabored and normal rate. His cardiovascular is regular rate.  
24 His overall demeanor is cooperative. His affect is appropriate. His state of  
25 consciousness is alert. And this is with a similar blood pressure.

1           So the State would submit that the medical records in no way bolsters  
2 an attenuation in time between the actual interview which we're talking about and  
3 which we have an audio/video that actually details the Defendant in that interview  
4 and the blood pressure that's initially taken. And even that blood pressure is  
5 consistent with the blood pressure that he has and other assessments have shown  
6 with that blood pressure that he certainly was alert and able to conduct himself as a  
7 normal person would be. Based upon that, the State submits that clearly the  
8 Defendant's statement was voluntary and it should not be suppressed and we'd  
9 submit it on that.

10           THE COURT: Thank you very much.

11                           CLOSING ARGUMENT

12 BY MS. HOJJAT:

13           Thank you, Your Honor. And I think this hearing has brought about a  
14 couple of different issues and some issues that we didn't necessarily brief have  
15 come to light during the hearing from the testimony.

16           So I will start with the issue that we've discussed previously, which is  
17 the blood pressure. The reason the medical records are so important is they  
18 corroborate what my client was saying now and what he was saying then prior to his  
19 interrogation starting. This is an individual who says, hey, I'm not feeling well, I  
20 need my medicine. He goes through this interrogation. He goes to the jail and the  
21 jail, in fact, documents that his vitals are not normal; something is going on with him,  
22 consistent with what he said.

23           MR. SWEETIN: Well, and I –

24           THE COURT: Well –

25           MR. SWEETIN: And I'm –

1 THE COURT: Yeah. I'm not sure not normal is appropriate, because it  
2 sounds like it was – because normal for me, you, Ms. – it could all be different,  
3 okay?

4 MS. HOJJAT: But 180 over 116 was his vitals.

5 THE COURT: I agree that's not normal.

6 MS. HOJJAT: Right. And so I knew that we had previously discussed  
7 calling an expert, but at the end of the day an expert couldn't testify to how he was  
8 feeling at the time of the interrogation. Only he could testify to that. And that's kind  
9 of the back and forth that we had and what we landed on is the only person who  
10 could really talk about whether he was feeling dizzy, lightheaded, his heart  
11 pounding, all of these things during the interrogation, was him. So we presented  
12 Your Honor with the best evidence that existed of that, which is his testimony. And,  
13 again, the medical records corroborate what he's saying and the interrogation video  
14 corroborates what he's saying, because he asked for help. He did. He said, I'm not  
15 feeling well, I'm feeling lightheaded, I need my medication, and he was told no.

16 And you know this suggestion, well, we told you we'd get you medical  
17 help if you needed it, I mean that is the equivalent of, I'm asking for my lawyer, well,  
18 no, we're not going to get you your lawyer and then you Mirandize a person and  
19 say, well, we told him he could have a lawyer if he wanted one. He had already  
20 asked for medical attention, been denied medical attention specifically by that same  
21 detective.

22 THE COURT: Well, he asked if he could have some medication from  
23 his lunchbox.

24 MS. HOJJAT: Right, his medication, his pills, and everybody testified to  
25 that. He was very clear that he wasn't feeling well and he needed his medication

1 and he was told, no. So this suggestion that somehow profoactively [sic] after the  
2 fact we can say, but we'll get you medical treatment, even though we just denied  
3 you the medical treatment you asked for –

4 THE COURT: Well, just because you need medication doesn't mean  
5 you need medical assistance.

6 MS. HOJJAT: Okay, but this is an individual who presented he said,  
7 I'm going through something right now, I need some medication. To expect him to  
8 be thinking that clearly and that rationally of, oh, I got denied this assistance, but I  
9 bet you they'll give me this other assistance. I mean that's a really high burden to  
10 place on him. The point is: it's undisputed he asked for help and he was denied  
11 that help. And the State is now trying to point to the fact that there was some sort of  
12 attempt to fix it by saying, oh, you know we'll get you something if you need  
13 something. He asked for something, his medication that he needs for his high blood  
14 pressure and his diabetes. And what do the medical records bear out? Precisely  
15 that he has high blood pressure and diabetes.

16 He was not being dishonest with this detective. He was – I mean  
17 everything corroborates what he said then and what he says now, that he was not  
18 feeling well that day, that he needed his medication and that he was denied his  
19 medication. And what he has told the Court today is that he felt like his heart was  
20 beating, his headed was cloudy, he was dizzy and he was just trying to get out of  
21 that room at that point and that is not a voluntary statement. Our statements –  
22 interrogations and statements should not be based on an individual feeling like they  
23 need medical attention and I just need to tell this guy whatever he wants to hear so I  
24 can get out of here and get my medical attention.

25 And the State points to the fact that it's a really fast interrogation. I'd



1 agree. He agrees immediately because he wants to get out of there and get his  
2 medical help that he was just denied when he asked for it. He's going along with  
3 whatever they say, as quickly as possible, to get out of there and get his medical  
4 attention. So I would submit and that's – I mean the facts are what they are.  
5 They're in the recording. Every witness testified to that. Nobody is disputing he  
6 asked for medical attention and was denied the medical attention he asked for here.

7 A couple of other issues that came up during this hearing, Your Honor,  
8 first and foremost, they did not have a warrant to arrest him at his residence. And  
9 you can't arrest an individual at their residence without either a warrant or exigent  
10 circumstances and they didn't have either.

11 THE COURT: They didn't arrest him until after the interview.

12 MS. HOJJAT: They placed him in handcuffs in the back of a patrol car  
13 and drove him to Metro headquarters and then left him –

14 THE COURT: Based on his consent, correct?

15 MS. HOJJAT: – and left him in an interrogation room. I would submit,  
16 Your Honor, that is – I mean –

17 THE COURT: The only evidence in the record was that he consented  
18 to that. That's the only evidence that there is.

19 MS. HOJJAT: That is their claim. I mean if the Court wants to reopen  
20 the evidence, I – if the Court's position is that I should've asked my client, then I'd  
21 ask to reopen the evidence and ask my client.

22 THE COURT: No. You can ask whatever you want.

23 MS. HOJJAT: Okay.

24 THE COURT: But I'm telling you, they – the state of the record is that  
25 he voluntarily went to the police department.

1 MS. HOJJAT: Then I'd ask to reopen so that I can inquire of my client  
2 whether he voluntarily went to the police department or whether he was placed in  
3 handcuffs in the back of a police car and taken to the police department.

4 THE COURT: No. We're going to proceed. You can go ahead.

5 MS. HOJJAT: I mean because this is testimony that came out during  
6 the – during this hearing. I mean then he was –

7 THE COURT: Yeah, but this has been in litigation for two years. I  
8 assume you would know how your client got to the police department by now.

9 MS. HOJJAT: He was detained in the interrogation room for over an  
10 hour, which is a per se arrest at that point, and the detective did agree that he was  
11 in that interrogation room for over an hour, so under Nevada law that is a per se  
12 arrest. So this was an unlawful arrest. So this entire interrogation is actually the  
13 fruit of an unlawful arrest for multiple reasons. They didn't have a warrant. They  
14 didn't have exigent circumstances. They put him in handcuffs in the back of a police  
15 vehicle and drove him to the station. Every other witness got to get in their own car  
16 and drive to the station. The suggestion that, oh, you're not under arrest; we're just  
17 putting you in handcuffs in the back of a police car and driving you to a police  
18 station, where we're going to hold you in a room for an hour, I mean that –

19 THE COURT: I think there's a difference between being in custody and  
20 under arrest.

21 MS. HOJJAT: I –

22 THE COURT: I would agree with you that he was in custody. When  
23 they put him in handcuffs and put him in a marked patrol vehicle he's in custody.

24 MS. HOJJAT: I mean I would suggest because it's – it goes beyond the  
25 scope of *Terry*, it turns into an arrest. I think custody is *Terry* and if you don't have

1 the reasonable suspicion you release them, and if you do and you're continuing,  
2 then you're – that person is under arrest at that point. That's a probable cause  
3 arrest and they didn't have that probable cause here because they testified they  
4 hadn't interviewed the witnesses yet. So they didn't have probable cause. They  
5 didn't have exigent circumstances. They didn't have a warrant and he was  
6 unlawfully detained at that point. And everything that comes after an unlawful  
7 detention must be suppressed as a fruit of the poisonous tree. And so I would move  
8 to suppress the entire interrogation pursuant to the unlawful arrest.

9 And if the Court has concerns and would like a hearing on that issue or  
10 to hear from him on that issue, I would ask for some mechanism that we could have  
11 him testify to that, because this was a hearing that was originally limited to just the  
12 interrogation issue, rather than the Fourth Amendment, unlawful arrest issue. That  
13 was my oversight. That was my mistake for not asking that question during the  
14 direct examination, but I certainly think that if the Court needs that testimony, then  
15 we need to have some sort of hearing, either reopening today or having a hearing –

16 THE COURT: I don't need any testimony. I mean the state of the  
17 record is what it is. You can file any motion that you think is appropriate.

18 MS. HOJJAT: Okay. So perhaps a motion asking for a *Franks* hearing.

19 THE COURT: You can do whatever you think is appropriate.

20 MS. HOJJAT: Okay. And so I would say for multiple reasons it was an  
21 unlawful arrest, one being the lack of exigent circumstances, the lack of probable  
22 cause, the lack of a warrant, and then second being when he was detained for more  
23 than an hour in the interrogation room, again still without a warrant and without  
24 probable cause.

25 And then the final issue that was brought to light during this hearing is

1 that he was questioned at the scene without *Miranda* being read to him, because  
2 that was also testified to by the interrogator, Ms. – or interpreter – Ms. Corral; that  
3 he was questioned at the scene, then taken to the interrogation room and further  
4 questioned. And so we had a two-part interrogation, which is unlawful pursuant to  
5 *Siebert*, and pursuant to *Siebert*, the two-part interrogation where you start  
6 questioning someone without Mirandizing them, then you decide to switch over and  
7 Mirandize them at some point. When you're ready to Mirandize them is not the way  
8 interrogations are supposed to go. So for those three reasons, I would move to  
9 suppress the statement.

10 THE COURT: Does the State want to respond?

11 MS. SWEETIN: You know, Judge, I think that the issues that Defense  
12 was raising isn't supported by the records. Certainly it's not in front of the Court.  
13 Just to make a complete record, in this particular case –

14 THE COURT: The only issue I'm going to –

15 MR. SWEETIN: Yeah.

16 THE COURT: – rule on is the voluntariness of the statement and the  
17 Defense can reserve any objection or –

18 MR. SWEETIN: Yeah.

19 THE COURT: – motion that they think is appropriate –

20 MR. SWEETIN: And that's fine.

21 THE COURT: – based on the record.

22 MR. SWEETIN: I'll submit it to the Court then.

23 THE COURT: Okay. So at this time I'm going to deny the Motion to  
24 Suppress. Of course, everyone knows we follow the Massachusetts rule, so the  
25 only thing I'm doing now is indicating that the jury can hear this statement, and then

1 the jury will be instructed that it's up to them to determine whether it was freely,  
2 voluntarily, intelligently and knowingly entered into.

3 So does the State wish to prepare the order?

4 MR. SWEETIN: Yes, Judge.

5 THE COURT: Okay.

6 MR. SWEETIN: Thank you.

7 THE COURT: Let me make sure. Are we going to – I'm just checking.  
8 May 29<sup>th</sup> we're going to be ready?

9 MS. HOJJAT: My goal is May 29<sup>th</sup> we're going to be ready –

10 THE COURT: Okay.

11 MS. HOJJAT: – based on I do think we're going to need to file the  
12 motion for a *Franks* hearing, but for that, I would anticipate we'll be ready. I mean –

13 MR. SWEETIN: I don't think that will take long to resolve, but the issue  
14 I think that Mr. Feliciano brought up before was in regards to having the Defendant  
15 have a test –

16 THE COURT: Right.

17 MR. SWEETIN: – in regards to sexually transmitted diseases. And I'm  
18 not sure because that's an issue, as the Court indicated, that would be probably  
19 subject to motions –

20 THE COURT: Right. I was just –

21 MR. SWEETIN: – if, in fact, they were seeking to –

22 THE COURT: I mean has that been accomplished?

23 MS. HOJJAT: I am not aware at this point whether Mr. Feliciano is  
24 intending –

25 THE COURT: Okay.

1 MS. HOJJAT: – to introduce any test results. Obviously, if he is, we  
2 would need to raise that. I think the Court's ruling is we need to –

3 THE COURT: Are there test results?

4 MS. HOJJAT: I'm not aware.

5 THE COURT: Okay.

6 MS. HOJJAT: Yeah.

7 THE COURT: I just wanted to make sure.

8 MS. HOJJAT: I'm not aware. But my understanding is we're going to  
9 be ready to proceed but for this new issue and then –

10 THE COURT: Okay. Because I told him if that issue is going to come  
11 up I want it to be briefed.

12 MS. HOJJAT: Okay.

13 THE COURT: Because the State made it pretty clear that if there were  
14 test results they may want to introduce it. So I don't want that issue to come out  
15 without both sides having an opportunity to, you know, brief it and be heard –

16 MS. HOJJAT: Okay. So I'll make –

17 THE COURT: – beforehand.

18 MS. HOJJAT: I will let Mr. Feliciano know that the Court has said if he's  
19 planning on introducing test results he needs to brief it ahead of time and let the  
20 State know.

21 THE COURT: If there are test results, period.

22 MS. HOJJAT: Okay.

23 THE COURT: I mean because, based on what they are, I would  
24 assume that – I mean if they were one way the State is going to want them. If they  
25 were another way the Defense is going to want them, so.

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MS. HOJJAT: I see.

THE COURT: And based on our discussions that day, I just know that there are so many issues regarding this particular issue –

MS. HOJJAT: I see.

THE COURT: – and whether you would need a medical expert to come in and testify. There were a lot of issues that arose from that. So I did say either way, if there are test results that issue has to be brought before the Court. And you – just so the record is clear, both sides got a copy of the CPS records. Okay. The original has been made part of the record as Court's Exhibit –

THE COURT CLERK: One.

THE COURT: – One. It's been ordered sealed. It won't be unsealed unless by order of the Court. Okay.

MR. SWEETIN: Thank you, Judge.

THE COURT: Thank you very much.

MS. HOJJAT: Thank you.

THE COURT: Thank you.

[Proceedings concluded at 1:17 p.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.



KRISTINE SANTI  
Court Recorder

The Western District of Washington's bench and bar have long-standing commitments to a fair and unbiased judicial process. As a result, the emerging social and neuroscience research regarding unconscious bias prompted the Court to create a bench-bar-academic committee to explore the issue in the context of the jury system and to develop and offer tools to address it.

One tool the committee developed was a set of jury instructions that address the issue of unconscious bias. Research regarding the efficacy of jury instructions is still young and some of the literature has raised questions whether highlighting the notion of unconscious bias would do more harm than good.<sup>1</sup> However, the body of research supports that, as a general matter, awareness and mindfulness about one's own unconscious associations are important and thus a decision-maker's ability to avoid these associations, however that is achieved, will likely result in fairer decisions.<sup>2</sup>

Accordingly, the proposed instructions are intended to alert the jury to the concept of unconscious bias and then to instruct the jury in a straightforward way not to use bias, including unconscious bias, in its evaluation of information and credibility and in its decision-making. The instructions thus serve the purposes of raising awareness to the associations jurors may be making without express knowledge and directing the jurors to avoid using these associations.

The committee has incorporated unconscious bias language into a preliminary instruction, into the witness credibility instruction, and into a closing instruction.<sup>3</sup> In addition, the committee has developed an instruction that can be given before jury selection if the parties are going to ask questions during *voir dire* regarding bias, including unconscious bias.

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<sup>1</sup> See, e.g., Irene V. Blair, The Malleability of Automatic Stereotypes and Prejudice, 6 PERSONALITY & SOC. PSYCHOL. REV. 242 (2002) (cumulating research on value of instruction to suppress stereotype and finding it mixed); Jennifer K. Elek & Paula Hannaford-Agor, First, Do No Harm: On Addressing the Problem of Implicit Bias in Juror Decision Making, 49 CT. REV. 190, 193-195, 198 (2013), available at <http://aja.ncsc.dni.us/publications/courttrv/cr49-4/CR49-4Elek.pdf>; Jennifer A. Richeson & J. Nicole Shelton, Negotiating Interracial Interactions: Costs, Consequences, and Possibilities, 16 CURRENT DIRECTIONS PSYCHOL. SCI. 316 (2007); Jacquie D. Vorauer, Completing the Implicit Association Test Reduces Positive Intergroup Interaction Behavior, 23 PSYCHOL. SCI. 1168 (2012) (finding that White participants' taking race-based IAT led to their non-White (Aboriginal) partners feeling less well regarded than after interactions after a non-race-based IAT); Jennifer K. Elek & Paula Hannaford-Agor, Can Explicit Instructions Reduce Expressions of Implicit Bias?: New Questions Following a Test of a Specialized Jury Instruction, NAT'L CENTER FOR STATE CTS. (Apr. 2014), available at <http://ncsc.contentdm.oclc.org/cdm/ref/collection/juries/id/273> (finding "no significant effects of the instruction on judgments of guilt, confidence, strength of prosecution's evidence, or sentence length"; but the study's authors also reported that they were unable to identify the more traditionally-expected baseline bias, "which prevented a complete test of the value of the instructional intervention.").

<sup>2</sup> See Adam Benforado & John Hanson, The Great Attributional Divide: How Divergent Views of Human Behavior Are Shaping Legal Policy, 57 EMORY L.J. 311, 325-26 (2007).

<sup>3</sup> The committee suggests introducing the topic as part of the preliminary instructions as there is research that suggests priming jurors may be more effective than waiting until the end of a case. See, e.g., Lisa Kern Griffin, Narrative, Truth, and Trial, 101 GEO. L.J. 281, 232 (2013); Kurt Hugenberg, Jennifer Miller & Heather M. Claypool, Categorization and Individuation in the Cross-Race Recognition Deficit: Toward a Solution to an Insidious Problem, 43 J. EXPERIMENTAL SOC. PSYCH. 334 (2007) (finding that warnings given ahead of time about likely misperceptions of other race faces may be effective).



**PRELIMINARY INSTRUCTION TO BE GIVEN  
TO THE ENTIRE PANEL BEFORE JURY SELECTION**

It is important that you discharge your duties without discrimination, meaning that bias regarding the race, color, religious beliefs, national origin, sexual orientation, gender identity, or gender of the [plaintiff,] defendant, any witnesses, and the lawyers should play no part in the exercise of your judgment throughout the trial.

Accordingly, during this voir dire and jury selection process, I [the lawyers] may ask questions [or use demonstrative aids] related to the issues of bias and unconscious bias.

**PRELIMINARY INSTRUCTIONS TO BE GIVEN  
BEFORE OPENING STATEMENTS**

**DUTY OF JURY**

Jurors: You now are the jury in this case, and I want to take a few minutes to tell you something about your duties as jurors and to give you some preliminary instructions. At the end of the trial I will give you more detailed [written] instructions that will control your deliberations. When you deliberate, it will be your duty to weigh and to evaluate all the evidence received in the case and, in that process, to decide the facts. To the facts as you find them, you will apply the law as I give it to you, whether you agree with the law or not. You must decide the case solely on the evidence and the law before you and must not be influenced by any personal likes or dislikes, opinions, prejudices, sympathy, or biases, including unconscious bias. Unconscious biases are stereotypes, attitudes, or preferences that people may consciously reject but may be expressed without conscious awareness, control, or intention.<sup>1</sup> Like conscious bias, unconscious bias, too, can affect how we evaluate information and make decisions.<sup>2</sup>

In addition, please do not take anything I may say or do during the trial as indicating what I think of the evidence or what your verdict should be—that is entirely up to you.

Model Ninth Circuit Criminal Instruction 1.1 (modified). Criminal Instruction 1.1 is similar to Model Civil Instruction 1.1B.

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<sup>1</sup> Definitions modified by combining writings and comments by Harvard Professor Mahzarin Banaji.

<sup>2</sup> <http://faculty.washington.edu/agg/pdf/Kang&al.ImplicitBias.UCLALawRev.2012.pdf>

## **CREDIBILITY OF WITNESSES**

In deciding the facts in this case, you may have to decide which testimony to believe and which testimony not to believe. You may believe everything a witness says, or part of it, or none of it.

In considering the testimony of any witness, you may take into account:

- (1) the witness's opportunity and ability to see or hear or know the things testified to;
- (2) the witness's memory;
- (3) the witness's manner while testifying;
- (4) the witness's interest in the outcome of the case, if any;
- (5) the witness's bias or prejudice, if any;
- (6) whether other evidence contradicted the witness's testimony;
- (7) the reasonableness of the witness's testimony in light of all the evidence; and
- (8) any other factors that bear on believability.

You must avoid bias, conscious or unconscious, based on the witness's race, color, religious beliefs, national origin, sexual orientation, gender identity, or gender in your determination of credibility.

The weight of the evidence as to a fact does not necessarily depend on the number of witnesses who testify about it.

Model Ninth Circuit Criminal Instruction 1.7 (modified)

**INSTRUCTION TO BE GIVEN  
DURING CLOSING INSTRUCTIONS  
(perhaps before 7.5 – Verdict Form)**

**DUTY OF JURY**

I want to remind you about your duties as jurors. When you deliberate, it will be your duty to weigh and to evaluate all the evidence received in the case and, in that process, to decide the facts. To the facts as you find them, you will apply the law as I give it to you, whether you agree with the law or not. You must decide the case solely on the evidence and the law before you and must not be influenced by any personal likes or dislikes, opinions, prejudices, sympathy, or biases, including unconscious bias. Unconscious biases are stereotypes, attitudes, or preferences that people may consciously reject but may be expressed without conscious awareness, control, or intention.<sup>1</sup> Like conscious bias, unconscious bias, too, can affect how we evaluate information and make decisions.<sup>2</sup>

Model Ninth Circuit Criminal Instruction 1.1 (modified). Criminal Instruction 1.1 is similar to Model Civil Instruction 1.1B.

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<sup>1</sup> Definitions modified by combining writings and comments by Harvard Professor Mahzarin Banaji.

<sup>2</sup> <http://faculty.washington.edu/agg/pdf/Kang&al.ImplicitBias.UCLALawRev.2012.pdf>

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THE STATE OF NEVADA,  
Plaintiff,  
vs.  
ARMANDO VASQUEZ-RE  
Defendant.

**VS.**

ARMANDO VASQUEZ-REYES,  
Defendant.

**RECORDER'S TRANSCRIPT OF HEARING:  
STATUS CHECK: MRI**

For the State:	GLEN O'BRIEN, ESQ. Deputy District Attorney
For the Defendant:	CLAUDIA ROMNEY, ESQ. Deputy Public Defender
Also Present:	YUL HASSMAN Court Certified Interpreter - Spanish

RECORDED BY: YVETTE G. SISON, COURT RECORDER

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Las Vegas, Nevada, Friday, September 14, 2018

[Hearing began at 9:31 a.m.]

THE COURT: State of Nevada versus Armando Vasquez-Reyes, C316382-1.

MS. ROMNEY: Your Honor, this is a status check on –

THE MARSHAL: Hold on, we got the interpreter.

MS. ROMNEY: -- oh sorry.

THE COURT: The record will reflect that Mr. Vasquez-Reyes is in custody, being assisted by the Court Interpreter. This is a status check on an MRI.

MS. ROMNEY: And that has been completed, based on the findings of Drs. Colosimo and Harder, that he is currently incompetent to proceed. We would be asking that he be sent to Lakes or Stein pursuant to 178.425 please.

THE COURT: Any objection from the State?

MR. O'BRIEN: No Judge.

THE COURT: All right. So, I will sign the order of commitment. All right. So, sir, they're going to send you to the hospital so that the doctors can do some evaluations, and when you're done with that, they will bring you back to court.

THE DEFENDANT: Okay.

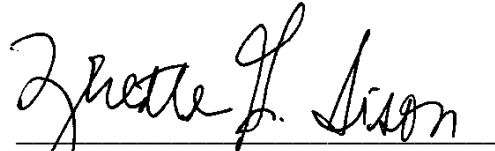
THE COURT: Okay.

[Hearing concluded at 9:32 a.m.]

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

  
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Yvette G. Sison  
Court Recorder/Transcriber

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ARMANDO VASQUEZ-REYES, ) No. 80293  
 )  
 Appellant, )  
 )  
 v. )  
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 THE STATE OF NEVADA, )  
 )  
 Respondent. )  
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DARIN F. IMLAY Clark County Public Defender 309 South Third Street Las Vegas, Nevada 89155-2610  Attorney for Appellant	STEVE WOLFSON Clark County District Attorney 200 Lewis Avenue, 3 <sup>rd</sup> Floor Las Vegas, Nevada 89155  AARON FORD Attorney General 100 North Carson Street Carson City, Nevada 89701-4717 (702) 687-3538  Counsel for 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:

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