

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

KODY HARLAN

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

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**APPELLANT'S APPENDIX  
Volume XI**

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**Harlan v. State Case No. 80318**

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1           A     I did.

2           Q     And you saw Kody walk into the Foot Locker, right?

3           A     Correct.

4           Q     And he walked up to the register, didn't he?

5           A     He did.

6           Q     And he pulled -- when he bought the pair of shoes, he

7 pulled out a brown wallet, isn't that right?

8           A     That's correct.

9           Q     Okay. And he paid cash out of the brown wallet, right?

10          A     That is correct.

11          Q     Okay. And the wallet that was in the back of the

12 Mercedes, that was a blue wallet, right?

13          A     Correct.

14          Q     And that was Matthew Minkler's wallet that was blue?

15          A     Presumably, yes.

16          Q     Okay. But you now know that it was Matthew Minkler's

17 wallet, right?

18          A     Yes, sir.

19          Q     Okay. So you would also agree that you don't know

20 where Kody got that cash from out of the brown wallet, right?

21          A     Yes, I would agree.

22          Q     Okay. Very well could have been his own money, right?

23          A     It's possible.

24          Q     Okay. And you knew that Kody normally always had

25 money on him based off your interview with Trae Meadows, right?

1           A     I did not conduct an interview with Trae Meadows.

2           Q     Who was the detective that conducted that interview with  
3 Traceo Meadows?

4           A     I believe it was Detective Nichols.

5           Q     Detective Nichols?

6           A     Correct.

7           Q     Okay. Very good.

8                     Now you also saw Jaiden purchase his shoes in Shoe  
9 Palace, right?

10          A     Yes.

11          Q     Okay. Likewise he went up to the register with the shoes  
12 and paid cash, right?

13          A     Yes, sir.

14          Q     Now you didn't see him pull his money out of any wallet,  
15 isn't that right?

16          A     Correct.

17          Q     Okay. Likewise same thing with Traceo Meadows, you  
18 never saw what type of wallet, if any, he had on him, right?

19          A     I never even saw him purchase, sir.

20          Q     Never saw a purchase from Traceo Meadows, right?

21          A     Correct.

22          Q     So you didn't know whether or not he had a wallet on him  
23 at all, right?

24          A     Correct.

25          Q     Okay. Didn't know if he had any cash in his pocket, right?

1           A     Correct.  
2                 MR. HELMICK: Okay. All right. Thank you, Detective.  
3                 THE COURT: Mr. Yampolsky?  
4                 MR. YAMPOLSKY: I have no questions.  
5                 THE COURT: Anything further?  
6                 MR. PESCI: Yes.  
7                 THE COURT: Okay.

8                                 **REDIRECT EXAMINATION**

9         BY MR. PESCI:

10           Q     Since we're asking where money could have come from,  
11         we do know that Matt's wallet was empty.

12           A     That is correct.

13           Q     So the money Kody was using could have come from  
14         Matt's wallet.

15           A     That is possible.

16                 THE COURT: Anything further?

17                 MR. HELMICK: Sure.

18                                 **RECROSS-EXAMINATION**

19         BY MR. HELMICK:

20           Q     I mean, we could go back and forth on this, right? But it  
21         could have come from his own source of money, right?

22           A     Correct, sir.

23           Q     Very good.

24                 MR. HELMICK: Thank you.

25                 THE COURT: Anything from our jurors?

1 Yes, ma'am.

2 [Bench conference transcribed as follows.]

3 THE COURT: I was waiting for that one.

4 MR. YAMPOLSKY: What?

5 THE COURT: I was waiting for that one.

6 MR. YAMPOLSKY: Who is that from?

7 MR. HELMICK: Number 11. Juror Number 11.

8 THE COURT: Shayra.

9 MR. HELMICK: I can't do it.

10 MR. PESCI: Are there formal objections?

11 MR. HELMICK: Yes. We object.

12 [Mumbling between attorneys]

13 MR. YAMPOLSKY: Okay. For sure objecting. I'll use  
14 words like strenuously objecting like in a Few Good Men.

15 MR. PESCI: I can't remember the name. I think  
16 [indiscernible] is the last name. I can find it.

17 MS. OVERLY: Oh yeah.

18 MR. PESCI: But --

19 MS. OVERLY: It was stolen in front of the house.

20 MR. PESCI: But I can't remember her name but it's --

21 MS. OVERLY: Anna [indiscernible] or something.

22 THE COURT: I mean, technically that question doesn't  
23 bring out that it's stolen, it just brings up that it's not their car. But  
24 obviously if you bring up somebody else's name, the next  
25 question's probably going to be who is Anna, blah, blah, blah.

1 MR. PESCI: Right.

2 THE COURT: So.

3 MR. PESCI: There is the issue of what happens when it's  
4 not answered.

5 As far as witnesses go, Judge, we don't have one until  
6 1:00.

7 THE COURT: Okay. Yeah, we're going to break.

8 MR. YAMPOLSKY: Will he know?

9 MR. PESCI: I don't know but I think so. But we don't want  
10 him to answer that because -- not without us telling him what he  
11 can and can't say.

12 MR. YAMPOLSKY: Right.

13 THE COURT: [Indiscernible].

14 MR. HELMICK: No objection.

15 MR. YAMPOLSKY: No objection.

16 MR. PESCI: No objection by the State.

17 THE COURT: All right. Thank you.

18 [End of bench conference.]

19 THE COURT: Okay. Got a couple questions for you,  
20 Detective.

21 **EXAMINATION BY THE COURT [JURY QUESTIONS]**

22 BY THE COURT:

23 Q What day did you go to the Foot Locker, to the mall? If  
24 you recall?

25 A I don't --

1 Q And if you need to look at anything to refresh your  
2 memory, just let me know.

3 A Yeah, I would have to look at my report. I don't  
4 specifically recall.

5 THE COURT: Do you guys have a copy of that?

6 MR. PESCI: I don't have a printed version of it.

7 THE COURT: Okay.

8 MR. PESCI: Court's indulgence.

9 BY THE COURT:

10 Q And while they're looking for that, the next question is,  
11 did the search of the car happen on June 8th, the same day of the  
12 accident or did that go into June 9th at all? Is that in your report?

13 A I apologize. I know it was --

14 Q That's okay.

15 A The call was later that evening, so I don't know what day  
16 it ended up on.

17 Q Okay. All right. So hold on just a second.

18 MR. PESCI: While we're looking for that, can I follow-up  
19 on your questions, Your Honor?

20 THE COURT: Yeah.

21 MR. PESCI: Okay.

22 **FOLLOW-UP EXAMINATION**

23 BY MR. PESCI:

24 Q Detective, we're trying to figure out dates. Speaking of  
25 dates, the video that we just saw from the Galleria Mall, is that from

1 June the 8th, 2018?

2 A Yes, sir.

3 Q Okay. Is it in the evening hours or later in the day on the  
4 2018?

5 A Yes, sir.

6 Q And there's actually kind of a timestamp on the video  
7 itself?

8 A Yes.

9 Q And is it a 24-hour clock?

10 A Yes.

11 Q Sometimes referred to as military time?

12 A Correct.

13 Q All right. So you have to subtract potentially two from  
14 that number?

15 A Correct.

16 Q Okay. So if it's past 12:00 p.m., right?

17 A Then 1:00 would 13.

18 Q Okay. Perfect.

19 MR. PESCI: I'm going to bring you, with the Court's  
20 permission --

21 THE COURT: Yeah.

22 MR. PESCI: -- maybe you can find your own report faster  
23 than we can.

24 THE WITNESS: Judge, we want both of those dates,  
25 specifically?

1 THE COURT: Yeah, if you could.

2 THE WITNESS: In reference to the execution of the search  
3 warrant on the Mercedes, that occurred on 06/09/18.

4 THE COURT: Okay.

5 MR. PESCI: May I approach the witness, Your Honor?

6 THE COURT: You may.

7 THE WITNESS: Yes that is a copy of it.

8 MR. PESCI: Okay. Does that one answer the question?

9 THE WITNESS: So the -- maybe scroll down on that.  
10 It looks like the date was 06/20/2018.

11 THE COURT: That you went out to the mall and then  
12 viewed the surveillance footage?

13 THE WITNESS: Yeah, that is the date listed for the  
14 narrative, correct?

15 THE COURT: All right. Thank you very much.

16 All right. Mr. Pesci, did you have any further questions?

17 MR. PESCI: Yes.

18 BY MR. PESCI:

19 Q So the 06/20 is when you went to go get it, but the video  
20 itself is from June 8th, 2018?

21 A Correct.

22 MR. PESCI: Okay. Thank you, Your Honor.

23 THE COURT: Mr. Helmick, anything?

24 MR. HELMICK: I have nothing, Your Honor. Thank you.

25 THE COURT: Mr. Yampolsky?

1 MR. YAMPOLSKY: No, Your Honor.

2 THE COURT: Thank you.

3 Detective Calvano, I appreciate your time, sir. You are  
4 excused, okay?

5 THE WITNESS: Thank you, sir.

6 THE COURT: And with that, Ladies and Gentlemen, we'll  
7 go ahead and take a lunch break.

8 During the recess you're admonished not to talk or  
9 converse among yourselves or with anyone else on any subject  
10 connected with the trial. Or read or watch or listen to any report of  
11 or commentary on the trial by any medium of information  
12 including, without limitation, newspapers, television, the internet,  
13 and radio. And you cannot form or express any opinion on any  
14 subject connected with the case until it's finally submitted to you.  
15 No legal or factual research, or investigation, or social media  
16 communication on your own.

17 Thank you for your time and I'll see you after lunch.

18 THE MARSHAL: What time, Your Honor?

19 THE COURT: 1:00 -- yeah, good -- ha, ha, there you go.  
20 1:15. We'll start at 1:15.

21 [Outside the presence of the jury]

22 THE COURT: Do you guys have anything outside the  
23 presence?

24 MR. PESCI: Not from the State.

25 MR. YAMPOLSKY: No, Your Honor.

1 MR. HELMICK: No, Your Honor.  
2 THE COURT: No. Okay. See you after lunch. Thank you.  
3 [Court recessed at 12:11 p.m., until 1:27 p.m.]  
4 [In the presence of the jury]  
5 THE MARSHAL: All rise for the jury.  
6 THE COURT: Okay. You all can be seated. Thank you.  
7 We're back on the record. Defendants, attorneys with  
8 us -- or jurors are all present.  
9 We will continue on with the State's case in chief.  
10 Mr. Pesci.  
11 MR. PESCI: The State calls Kymani Thompson.  
12 **KYMANI THOMPSON**  
13 [having been called as a witness and being first duly sworn,  
14 testified as follows:]  
15 THE CLERK: Thank you, please be seated.  
16 If you could state and spell your name for the record.  
17 THE WITNESS: K -- It's Kymani Thompson. K-Y-M-A-N-I,  
18 T-H-O-M-P-S-O-N.  
19 THE COURT: All right. Mr. Thompson, thank you. Just  
20 try to remember to keep your voice up for me, please.  
21 THE WITNESS: Okay.  
22 THE COURT: Thank you.  
23 **DIRECT EXAMINATION**  
24 BY MR. PESCI:  
25 Q Kymani, I want to direct your attention to June,

1 specifically the 8th, of 2018. Did you go to a house where there was  
2 a party going on?

3 A Yes.

4 Q Was that on Cool Lilac?

5 A Yes.

6 Q I'm going to show you State's Exhibit 71.

7 Do you recognize that place?

8 A Yes.

9 Q What do you recognize that to be?

10 A The home where this crime happened.

11 Q Okay. How did you get there in the sense of how did you  
12 even hear of the party?

13 A My friend Ghunnar, he told me that he was going to go  
14 over there and he invited me with him.

15 Q Okay. So when Ghunnar invited you to go with him, did  
16 he provide the ride?

17 A Yes.

18 Q How did that work out?

19 A His mom took us.

20 Q Okay. So Ghunnar's mom shows up where, at your  
21 house?

22 A Yes.

23 Q And picks up you?

24 A Yes.

25 Q And was Ghunnar in his mom's car?

1 A Yes.

2 Q And did you make it over here to this particular house?

3 A Yes.

4 Q All right. Now, did you get the invitation directly through  
5 someone in the house or did it go through Ghunnar to you?

6 A It came through Ghunnar to me.

7 Q All right. I ask that question because this next question is,  
8 did you know how you were supposed to get into the house?

9 A Through a back door.

10 Q Okay. Was that information relayed to Ghunnar?

11 A Yes.

12 Q And then did he relay it to you?

13 A Yes.

14 Q All right. Speaking of the back door, looking at State's 75,  
15 how did you get there?

16 A Through that gate in the picture.

17 Q All right. Did you go through the side gate?

18 A Yes.

19 Q All right. And when you went inside the house, where in  
20 the house did you go? How did you make entry?

21 A I walked in through the back door and I sat down on the --

22 Q Show --

23 A -- couch.

24 Q I interrupted you, I'm apologize.

25 A Sorry. That's okay.

1 Q No, go ahead.

2 A I just said I went in through the back door and sat down  
3 on the couch.

4 Q State's 82, the back door. Is that the back slider?

5 A Yes.

6 Q Okay. When you came inside -- when you first came  
7 inside, what did you see?

8 A People.

9 Q Okay. Showing you State's 85.

10 Was there a kitchen area in the house when you first  
11 made entry?

12 A Yes.

13 Q And then off to the right, looking at State's 87, when you  
14 talked about the people, were they in this portion of the house?

15 A Yes.

16 Q All right. Now, do you remember about what time of day  
17 it was that you and Ghunnar went over there on June the 8th?

18 A Maybe like 12:30/1:00.

19 Q Okay. So earlier in the day?

20 A Yes.

21 Q Are you exactly sure of that time or are you estimating?

22 A Just an estimate.

23 Q All right. This happened over a year ago?

24 A Yes.

25 Q Okay. When you got there and you saw people, who are

1 the people that you saw?

2 A Alaric, Charles, Kody, Jaiden, myself, Ghunnar.

3 Q Okay. So Alaric and Charles, let's start with them. Did  
4 you know Alaric and Charles before this?

5 A I knew Alaric better, yes.

6 Q Okay. How did you know Alaric?

7 A Through school.

8 Q Okay. Were you friends with any of these individuals  
9 through social media?

10 A Yes.

11 Q All right. Did you know of some people because of social  
12 media, as opposed to personally knowing them?

13 A Yes.

14 Q Okay. And you said that you saw Kody and Jaiden as  
15 well?

16 A Yes.

17 Q Were they there when you first got to the house?

18 A No.

19 Q Okay. So when you first got to the house, who was there?

20 A Kody -- or no, not Kody. Charles and Alaric --

21 Q Okay.

22 A -- and another kid.

23 Q Charles, Alaric, and some other kid.

24 A Yes.

25 Q Did you know the other kid?

1           A     No.

2           Q     Okay. So after you get there, about how much time  
3 before Jaiden and Kody get there?

4           A     Maybe 10 minutes, 15 minutes.

5           Q     Okay. And did you see how they got there, or did they  
6 just show up inside the house?

7           A     Yeah, they just showed up.

8           Q     When they showed up -- or after the showed up, I should  
9 say, what was going on in the house?

10          A     Weed smoking.

11          Q     Okay. Was there anything besides weed that was being  
12 used there?

13          A     Yes. Alcohol and Xanax.

14          Q     Okay. So was the Xanax there when you first got there, or  
15 did it come later?

16          A     I'm pretty sure it came later.

17          Q     Okay. So everybody's doing these different things during  
18 the party. Are you listening to music as well?

19          A     No, I'm looing down at my phone.

20          Q     Okay. And you said Ghunnar was your friend?

21          A     Yes.

22          Q     So of all the people that you've just mentioned, the  
23 person you were closest to, would that be Ghunnar?

24          A     Yes.

25          Q     When you said you're looking down at your phone,

1 maybe this is a generational thing, are you saying you were  
2 actually talking with Ghunnar on your phone when he was in the  
3 house with you?

4 A No, I was just looking social media and stuff.

5 Q Okay. All right. Did you ever communicate with Ghunnar  
6 when you were in the house?

7 A Yeah.

8 Q Did you do it on your phone?

9 A No.

10 Q Okay. Did you talk with him in in different phases of the  
11 time you were there?

12 A Yeah.

13 Q Okay. Did you move around the house?

14 A Not really. I mean, I stood up --

15 Q Okay.

16 A -- but I mostly sat in the same spot the whole time.

17 Q But did people get up and move around?

18 A Yeah.

19 Q Did you see people go outside sometimes?

20 A No.

21 Q Were there points at the time you were there where you  
22 didn't see everyone?

23 A No, everybody stayed together.

24 Q Okay. So now that you've described everyone's there, I  
25 want to talk to you about a Matthew Minkler. Do you know him?

1           A     Yes.

2           Q     All right. At the time we were just talking about, was  
3 Matthew there yet?

4           A     No.

5           Q     Okay. Let's make a line there and say before Matthew  
6 gets there; let's just focus on that time period. So before Matt gets  
7 there, you're talking about drinking and smoking, you saw Jaiden  
8 and Kody. And do you see them here in court today?

9           A     Yes.

10          Q     Okay.

11               MR. PESCI: I'm not sure if there's a stipulation or --

12               MR. HELMICK: Sure, we'll stipulate to the identification.

13               THE COURT: Thank you.

14               MR. PESCI: Thank you, Your Honor.

15           BY MR. PESCI:

16          Q     Did you see Jaiden or Kody with a gun or guns during this  
17 time period?

18          A     Yes.

19          Q     All right. What guns did you see?

20          A     I seen a revolver and a semi-automatic handgun.

21          Q     Okay. Who did you see holding the revolver?

22          A     Jaiden.

23          Q     Who did you see holding the semi-automatic?

24          A     Kody.

25          Q     Okay. But the guns passed around somewhat?

1 A Yes.

2 Q Did you in fact touch the gun at some point?

3 A One of them.

4 Q All right. Were other people touching the guns?

5 A Yes.

6 Q Okay. And did you see a laser on one of those guns?

7 A Yes.

8 Q A laser sight, I should say.

9 A Yes.

10 Q Which gun was that on?

11 A The semi-automatic.

12 Q Okay. All right. Now, we're still using that line in the

13 sand before Matt gets there. Before Matt gets there and after

14 Jaiden and Kody have gotten there and clearly you're there, did you

15 ever hear anything about a lick?

16 A Yes.

17 Q Okay. What is a lick?

18 A A robbery. It's --

19 Q All right. Is that a term that you've heard of before?

20 A Yes.

21 Q Okay. When you heard that term, did you understand it to

22 be that?

23 A Yes.

24 Q All right. Who talked about a lick?

25 A I can't -- I don't remember that.

1 Q Okay.

2 A I don't know anyone specific.

3 Q And when that conversation was had about a lick, was

4 Jaiden there?

5 A Yes.

6 Q Was Kody there?

7 A Yes.

8 Q Was Alaric there?

9 A Yes.

10 Q Was Charles there?

11 A Yes.

12 Q You?

13 A Yes.

14 Q And Ghunnar?

15 A Yes.

16 Q All right. Did you talk about doing a lick?

17 A No.

18 Q Did Ghunnar?

19 A No.

20 Q All right. Did you see Alaric talking about doing a lick?

21 A No.

22 Q Did you hear Charles talking about doing a lick?

23 A No.

24 Q Okay. Now, you heard the conversation about doing a lick

25 before Matt got here.

1           A     Yes.

2           Q     All right. After the conversation about doing a lick, what  
3 happened?

4           A     They sat and figured it out. Went and got Matthew, I  
5 guess.

6           Q     Okay. Well let's say what you saw and what you heard,  
7 right?

8           A     Uh-huh.

9           Q     So the conversation about a lick happens.

10          A     Yes.

11          Q     And then after that conversation, does anybody leave?

12          A     Yes.

13          Q     Who left?

14          A     Jaiden and Kody.

15          Q     Okay. And did you see how they left?

16          A     No.

17          Q     All right. Did anybody else leave?

18          A     No.

19          Q     Okay. After Jaiden and Kody left, did the rest of you just  
20 stay there?

21          A     Yes.

22          Q     Did you continue to smoke weed and --

23          A     Yes.

24          Q     -- other things that people were doing?

25          A     Yes.

1 Q Okay. Did Jaiden and Kody come back at some point?

2 A Yes.

3 Q All right. When they came back, who was with them?

4 A Matthew.

5 Q All right. And after Matthew came back, was there

6 anything different about what drugs you guys had?

7 A No, everything was still the same.

8 Q All right. I'm asking bad questions, I apologize.

9 A It's okay.

10 Q Let me ask it to you this way because I'm learning things

11 in this case. What does matching mean?

12 A When two people with weed come together.

13 Q All right.

14 A Smoke each other's weed.

15 Q Was the weed getting low or the amount of weed that you

16 had, was it starting to go down?

17 A Yes.

18 Q All right. Did Matthew match or was there any drugs that

19 you saw come in after Matthew came in?

20 A More weed.

21 Q I guess I got to be specific. Did you see more weed when

22 Matthew came?

23 A Yes.

24 Q And was that weed put in with the weed that everyone

25 was using?

1           A     Yes.

2           Q     Okay. And do you understand match as -- is it almost like  
3 sharing?

4           A     Yes.

5           Q     Okay. So was there -- were there any other drugs that you  
6 saw after Matt got there?

7           A     No, just the same Xanax pills.

8           Q     Okay. So that's where I'm trying to find a line as far as  
9 timing on the Xanax. Did you see Xanax before Matthew got there?

10          A     Yes.

11          Q     All right. And did you see Xanax after Matthew got there?

12          A     Yes.

13          Q     All right. Who was using or taking the Xanax?

14          A     Jaiden and Kody.

15          Q     Okay. Did you see anybody else using the Xanax?

16          A     No.

17          Q     Okay. Now at some point after Jaiden and Kody came  
18 back with Matt, did you hear a gunshot?

19          A     Yes.

20          Q     All right. Tell us about that.

21          A     I had my head down, he shot in the air. I stood up and got  
22 out of there.

23          Q     Okay. What was your first reaction, before you got out,  
24 when the gun went off?

25          A     I jumped up and checked everyone and myself and left.

1 Q Okay. Did anybody leave with you?

2 A Yes. I don't know his name though.

3 Q Okay. Did Ghunnar leave?

4 A Yes.

5 Q All right. Did you and Ghunnar leave together?

6 A Yes.

7 Q Okay. Now, before you got out of the house, after the  
8 shot to the ceiling, did you see what Matt did or where he was?

9 A He was sitting next to me in the kitchen.

10 Q Okay. I'm going to show you State's Exhibit 84.

11 And now the monitor to your left has a little mouse below  
12 it. And the Court's going to pull it up for you. And now you can --

13 THE COURT: Click with your left -- or left click and then  
14 draw, okay?

15 So you drew a circle on a chair that's pulled away from  
16 the island.

17 THE WITNESS: Yes.

18 THE COURT: Is that where you were sitting?

19 THE WITNESS: No, that's where Matthew was sitting.

20 THE COURT: Got it. Okay.

21 BY MR. PESCI:

22 Q So you're indicating for us where Matthew was seated  
23 when the shot went off?

24 A Yes.

25 Q All right. So did you have to go past Matt to make it to --

1 or look, let me ask you this. Did you go out the back door?

2 A Yes.

3 Q Did you have to go past Matt?

4 A Yes.

5 Q All right. Did you hear Matt say anything after the shot to

6 the ceiling and before you got out the door?

7 A He just mentioned that it was really loud, and he was like

8 grabbing his ear.

9 Q Okay. Did he say anything about where the bullet went

10 near him or in his perspective?

11 A No. He just was like what the eff is that and stuff.

12 Q Okay. You know it's a courtroom, you can actually say it.

13 What did he say?

14 A What the fuck is that?

15 Q Okay.

16 A Or what was that or something.

17 Q And did you stick around to hear more of the

18 conversation?

19 A No.

20 Q Okay. Now why did you leave?

21 A It was loud. I wasn't paying attention when it went off.

22 Q Okay. However, did you actually go back?

23 A Yes.

24 Q Okay. Why was that?

25 A Because I left a lighter there.

1 Q All right. Did you get a phone call after the shot when you  
2 ran --  
3 A Yes.  
4 Q -- and before you came back?  
5 A Yes.  
6 Q All right. Tell us about that.  
7 A It was just saying come back, we're good. Nothing  
8 happened.  
9 Q All right. Did you get the call or did Ghunnar get the call?  
10 A Ghunnar.  
11 Q All right. Were you with Ghunnar?  
12 A Yes.  
13 Q Was it a regular call or was it a FaceTime call?  
14 A I think it was a regular call.  
15 Q All right. So did you actually hear what was said?  
16 A No.  
17 Q Did Ghunnar tell you something after?  
18 A Yes.  
19 Q All right. Based on what he said, did you two go back to  
20 the house?  
21 A Yes.  
22 Q Okay. And that was, as you said earlier, to get your  
23 lighter?  
24 A Yes.  
25 Q Did you stick around long?

1       A     No.

2       Q     And when I say you, I mean, you and Ghunnar.

3       A     No.

4       Q     So did you leave the second time?

5       A     Yeah.

6       Q     Ghunnar as well?

7       A     Yes.

8       Q     Okay. After the second time of leaving, did you get

9 another call?

10      A     Yes.

11      Q     At this point, had you made it back to Ghunnar's house?

12      A     Yes.

13      Q     How did you get back there?

14      A     An Uber.

15      Q     And Uber?

16      A     Yeah.

17      Q     Okay. Who called the Uber?

18      A     Ghunnar.

19      Q     Okay. So you and Ghunnar take the Uber back to

20 Ghunnar's house?

21      A     Yes.

22      Q     And then do you -- is there a second phone call that

23 comes into you and/or Ghunnar?

24      A     Yes.

25      Q     All right. And explain that; how did that go?

1           A     It was a call and he said I just killed someone and  
2 Ghunnar seemed in disbelief, so he gave me the phone and I just  
3 hung up because I didn't want nothing to do with that.

4           Q     All right. So what we need to understand is if it was to  
5 Ghunnar, could you hear it?

6           A     Yes.

7           Q     How could you hear it?

8           A     It was a FaceTime call --

9           Q     Okay.

10          A     -- so it just blurts out --

11          Q     All right. So on a FaceTime call, is it a video call -- it's like  
12 speaker so you can --

13          A     Yes.

14          Q     -- see anyone who's in the area of the phone.

15          A     Yes.

16          Q     Okay. Who was talking?

17          A     Jaiden.

18          Q     And what did Jaiden say?

19          A     That he just killed Matthew.

20          Q     Okay. What did you do after receiving that information?

21          A     I hung up instantly.

22          Q     Okay. Did you call the police?

23          A     No.

24          Q     All right. A police -- or I should say did the police  
25 eventually come to see you?

1 A Yes.

2 Q All right. And did they talk to you?

3 A Yes.

4 Q Okay. I want to show you what's a transcript of an  
5 interview with you. Do you recall meeting with the police and  
6 talking to them?

7 A Yes.

8 Q All right. And do you remember them recording that?

9 A Yes.

10 Q And is there a transcript made of that statement?

11 A Yes.

12 Q All right. And you said what was the date of that  
13 statement?

14 A June 13th.

15 Q Of?

16 A 2018.

17 Q All right. Would you agree with me that your memory of  
18 this event was better close in time to the event?

19 A Yes.

20 Q Specifically on June 13th, was your memory better than it  
21 is today?

22 A Yes.

23 Q All right. So do you recall talking to the police about who  
24 was talking about the lick?

25 A Not really.

1 Q All right. Do you think it would refresh your recollection if  
2 you were to review that statement?

3 MR. YAMPOLSKY: Counsel, what page?

4 MR. PESCI: Hold on one second.

5 BY MR. PESCI:

6 Q Do you think it would help you remember --

7 A Yeah.

8 Q -- if you saw that?

9 Directing your attention to pages 36 and then 37. Take a  
10 moment just to yourself, read that, and then afterwards I'll ask you  
11 if that helps you remember what you said.

12 A Okay. Can you repeat the question again?

13 Q Absolutely. So what I need you to do is read the bottom  
14 part of page 36 to yourself and then the beginning part of page 37  
15 to yourself. And when you're done with that let me know, please.

16 A Yeah. It says Kody and Jaiden --

17 Q Okay.

18 A -- were talking about it.

19 Q So in reading that, do you remember better what it was  
20 that you said to the police back on June 13th, 2018, which was just  
21 five days after the event?

22 A Yes.

23 Q All right. And did you tell the police then that it was in  
24 fact Kody and Jaiden who were talking about doing a lick?

25 A Yes.

1 Q All right. And that's in that statement there?

2 A Yes.

3 Q That helps you remember that?

4 A Yes.

5 Q Okay. Speaking of remembering, there's some video  
6 from this event. Prior to testifying, did you get a chance to see that  
7 video?

8 A Yes.

9 Q All right. And do you recognize that video after being able  
10 to see it?

11 A Yes.

12 Q Okay.

13 MR. PESCI: Court's indulgence.

14 [Video playing]

15 BY MR. PESCI:

16 Q Kymani, earlier you mentioned that you saw a revolver, is  
17 that correct?

18 A Yes.

19 Q Okay. And you said who was it that had the revolver?

20 A Jaiden.

21 Q All right. And a moment ago you also said -- I'm going to  
22 back it up -- that what was it that you guys were smoking?

23 A Weed.

24 Q Okay.

25 [Video playing]

1 BY MR. PESCI:

2 Q Do you recognize that as some of the weed that was there  
3 at that house?

4 A Yes.

5 Q Okay.

6 [Video playing]

7 BY MR. PESCI:

8 Q I caught you at just the right time, right, Kymani?

9 A Uh-huh.

10 Q Who's that?

11 A That's me.

12 Q All right. You're not flipping us off, who you flipping off?

13 A The camera.

14 Q All right. The person that's videoing?

15 A Yes.

16 Q Okay.

17 [Video playing]

18 BY MR. PESCI:

19 Q Who's that?

20 A That's Ghunnar.

21 Q All right.

22 [Video playing]

23 BY MR. PESCI:

24 Q And who's on the video?

25 A Jaiden.

1 Q All right.

2 MR. PESCI: Pass the witness.

3 THE COURT: Mr. Helmick?

4 MR. HELMICK: Thank you, Your Honor.

5 **CROSS-EXAMINATION**

6 BY MR. HELMICK:

7 Q Okay. Kymani, I just want to go through a few things with  
8 you, okay?

9 A Okay.

10 Q All right. Kymani, so I want to talk with you about when  
11 you first arrived, okay?

12 A Okay.

13 Q So you said Ghunnar's mom picked you up from your  
14 apartment complex, right?

15 A Yes.

16 Q And then you drove over to the Cool Lilac house, right?

17 A Yes.

18 Q And when you walked into the Cool Lilac house, there was  
19 Charles?

20 A Yes.

21 Q Alaric, right?

22 A Yes.

23 Q And then there was the unknown African American kid,  
24 right?

25 A Yes.

1 Q And the unknown African American kid had a spray paint  
2 can in his hand, isn't that right?

3 A Yes.

4 Q Okay. Now let's talk about the environment at the house  
5 that you were in that day. When you showed up, you said Jaiden  
6 and Kody showed up about ten minutes later, right?

7 A Yes.

8 Q Okay. And the music was playing, right?

9 A Yes.

10 Q You were smoking marijuana, right?

11 A Yes.

12 Q And when Jaiden came in the house and he sat down, he  
13 had the Xanax on him, isn't that right?

14 A Yes.

15 Q And he gave Kody four Xanax, right?

16 A Yes.

17 Q And he took three Xanax, right?

18 A Yes.

19 Q Okay. And this is before Matthew got to the house, isn't  
20 that right?

21 A Yes.

22 Q Okay. Now, in regard to the conversation about  
23 matching, I just want to talk with you about that. Mr. Pesci had  
24 asked you, you know, what does it mean; it means somebody  
25 sharing marijuana with others, right?

1       A     Uh-huh.

2       Q     Is that right?

3       A     Yes.

4       Q     Sorry, we just --

5       A     When two people have marijuana.

6       Q     Come together, right?

7       A     Yes.

8       Q     Sure. Okay. And isn't that the reason why -- well let me

9 back track a tad. Ghunnar was invited over to the house, right?

10      A     Yes.

11      Q     Okay. Ghunnar was invited over to the house to match,

12 right?

13      A     Yes.

14      Q     Okay. And that was by Jaiden, right?

15      A     Yes.

16      Q     Okay. And so Ghunnar came over to the house with

17 marijuana, right?

18      A     Yes.

19      Q     Okay. And so when there was a conversation about who

20 wants to bring more marijuana over that was by Jaiden at the

21 house, right?

22      A     Yes.

23      Q     Okay. And that's how Matthew's name came up, isn't that

24 right?

25      A     Yes.

1 Q Okay. Now mostly everybody in the house, while you  
2 were there, was talking about wanting to get more marijuana,  
3 right?

4 A Yes.

5 Q The only person that didn't indicate his thoughts on  
6 getting more marijuana is Kody, isn't that right?

7 A No.

8 Q Okay. Now you had testified previously at the preliminary  
9 hearing, right --

10 A Yes.

11 Q -- in this case?

12 Okay. Now I recognize that this was a while ago, right,  
13 Kymani?

14 A Yes.

15 Q Okay. So if you need me to help your refresh your  
16 memory on certain things, I'll grab it for you --

17 A Okay.

18 Q -- and bring it up there for you. I'm just going to grab the  
19 preliminary hearing transcripts, okay?

20 A Okay.

21 Q Okay.

22 MR. HELMICK: 70/71.

23 Your Honor, may I approach?

24 THE COURT: Yes.

25 ...

1 BY MR. HELMICK:

2 Q Okay. So you said you remember the preliminary hearing  
3 that you testified at, right?

4 A Yes.

5 Q And you were under oath, just like you are here today,  
6 right?

7 A Yes.

8 Q Okay. I'm going to have you read just page 70 and then  
9 the top of 71, just read it to yourself and then look up at me when  
10 you're done.

11 Does that help refresh your memory?

12 A Yeah.

13 Q Okay. So let me ask you the question again. The only  
14 person that didn't indicate of wanting to get more marijuana was  
15 Kody, right?

16 A I don't know why it says that, but it -- he did -- they --

17 Q But that's what it says, right?

18 A Yeah.

19 Q Okay.

20 A But --

21 Q And that was your testimony at the preliminary hearing,  
22 right?

23 A Yeah.

24 Q Okay. In regards to Matt's name being brought up, you  
25 don't remember exactly who brought it up, right?

1           A     No, I don't.

2           Q     Okay. But it wasn't brought up by Kody because he was  
3 kind of out of it when you were there, isn't that right?

4           A     Yeah.

5           Q     Okay. Let's talk about that just for a moment. I mean, he  
6 was laying on the couch the majority of the time, right?

7           A     Yeah.

8           Q     Okay. And he was nearly falling asleep or falling asleep,  
9 right?

10          A     Yes.

11          Q     Okay. I want to talk with you now about when Matt  
12 arrives, okay? So when Matt arrives, he brings a small sandwich  
13 bag of marijuana, isn't that right?

14          A     Yes.

15          Q     Okay. It wasn't a large amount of marijuana, right?

16          A     No.

17          Q     Okay. And he didn't bring any pills with him, right?

18          A     No.

19          Q     Okay. And when Matt got there, there was more  
20 conversation amongst all of you about smoking marijuana and  
21 who's going to roll what and all that stuff, right?

22          A     Yeah.

23          Q     Okay. In regards to the mood of the house that day, there  
24 was no hostility towards Matt at all, right?

25          A     No.

1 Q Okay. Nobody was saying bad things about Matt, right?

2 A No.

3 Q Okay. Also, given Kody's demeanor that day, he didn't  
4 really -- you didn't really hear him talk that much at all, right?

5 A Not really.

6 Q Okay. And you were kind of just -- like you said you were  
7 on your phone -- focused on your phone, right?

8 A Yes.

9 Q All right. Now I want to talk about this revolver for a  
10 moment, okay?

11 A Okay.

12 Q You said Jaiden had the revolver, right?

13 A Yes.

14 Q Now Jaiden was playing with the revolver in regards to  
15 taking the bullets out of the revolver and then --

16 A Yes.

17 Q -- putting them back in, right?

18 A Yes.

19 Q And when he would take the bullets out of the revolver, as  
20 far as you knew, there were no bullets in there, right?

21 A Yeah.

22 Q Okay. But he would point the gun at others in the room  
23 and dry click the trigger, right?

24 A Yeah.

25 Q Okay. He would even point it to his head and click the

1 trigger, right?

2 A Yes.

3 Q Okay. In regard to the shot into the ceiling, Kody was still  
4 laying down on the couch at that time, right?

5 A Yes.

6 Q Okay. Now after the shot into the ceiling, obviously you  
7 were scared, right?

8 A Yes.

9 Q And so you left?

10 A Yes.

11 Q Got into the Uber and went back to Ghunnar's house,  
12 right?

13 A No, I --

14 Q Well after you -- sorry, you came back and then went to  
15 Ghunnar's house, right?

16 A Yes.

17 Q When you got to Ghunnar's house you hung out there,  
18 right?

19 A Yes.

20 Q Made some food, right?

21 A Yeah.

22 Q Okay. And then eventually you get that phone call from  
23 Jaiden, right?

24 A Yeah.

25 Q Okay. Now he called multiple times Ghunnar's phone,

1 right?

2 A No, just once.

3 Q He didn't call three times?

4 A No, just called him once and he answered it.

5 Q Okay. So let me see if I have my stuff here for you,  
6 Kymani.

7 Okay. Let me ask you this though instead. Did you  
8 ultimately answer the phone when Jaiden called?

9 A No.

10 Q Okay. Did Ghunnar answer the phone and hand you the  
11 phone because he was too scared to talk to Jaiden?

12 A Yes.

13 Q Okay. And then you were talking to Jaiden, right?

14 A Yes.

15 Q And then he wanted you to FaceTime him, right, because  
16 he didn't believe it was actually you?

17 A Yes.

18 Q Okay. And that's when he said that he killed Matt, bro,  
19 and he shot him, right?

20 A Yeah.

21 Q Okay. Nothing about Kody doing anything, right?

22 A No.

23 Q Okay. There was no mentioning of Kody's name at all,  
24 right?

25 A No.

1 Q Okay. After that you hung up the phone of course.

2 A Yeah.

3 Q All right. And then you also got a phone call later on that

4 day from Alaric, right?

5 A Yes.

6 Q Okay. And then he told you his version of the events as

7 well, right?

8 A Yes.

9 Q Okay. Now let's talk about this robbery stuff and this lick

10 stuff, okay?

11 A All right.

12 Q Mr. Pesci had showed you some -- your testimony from

13 the preliminary hearing in regards to what you said about the lick,

14 right?

15 A Yes.

16 Q Okay. Oh sorry, in regards to your interview with the

17 police.

18 A Yeah.

19 Q So what I want to do is I want to show you the rest of

20 what you said. I want you to read that to yourself first and then I'll

21 ask you some questions, okay?

22 A All right.

23 MR. HELMICK: So page 36/37, interview.

24 May I approach?

25 THE COURT: Yeah.

1 BY MR. HELMICK:

2 Q Let me ask you this. Did you have a question in regards  
3 to what you believed happened, right?

4 A Yes.

5 Q Okay. And can you read what you stated your opinion  
6 was that you told the officer that day?

7 THE COURT: Read that to himself?

8 MR. HELMICK: No.

9 BY MR. HELMICK:

10 Q Go ahead and read that out loud, please.

11 A A failed robbery.

12 Q No, go ahead and read the whole thing.

13 A It says but in me -- in my opinion I think it was a robbery  
14 gone wrong.

15 Q Okay. What else? Just keep reading.

16 A Then it said: I think that they tried to hold Matthew at  
17 gunpoint, and he resisted so they shot him.

18 Q And what were they trying to do in regard to this  
19 obtaining of a robbery? What were they trying to rob him for?

20 A Weed? Money?

21 Q Marijuana?

22 A Yeah.

23 Q And did you say anything about money in there?

24 A No, I wouldn't have said anything about money.

25 Q Okay. So you're -- when you were talking to the detective,

1 you were asked if you had anything else to add to that interview,  
2 right?

3 A Yes.

4 Q Okay. And you said in your opinion you thought it was a  
5 robbery gone wrong because -- and you thought that Matt had  
6 resisted in some way and they were trying to rob him for his weed  
7 and that's why he got shot, right?

8 A Yeah.

9 Q That was your opinion.

10 A Yeah.

11 Q Okay. So after this incident happens, you read some  
12 news articles on this case, didn't you?

13 A Yes.

14 Q And you read some comments on those news articles,  
15 didn't you?

16 A Yes.

17 Q From other people.

18 And now Kymani, you and I have talked in person before,  
19 isn't that right?

20 A Yes.

21 Q Okay. And I had my investigator present with me when  
22 we had that conversation, right?

23 A Yes.

24 Q And that was at the bottom of the staircase at your  
25 apartment complex, right?

1       A     Yes.

2       Q     Back in April, right?

3       A     Yes.

4       Q     Okay. And I asked you specifically in regards to how did  
5 you come up with this robbery talk, right?

6       A     It was just a guess.

7       Q     No, no, I asked you -- it was a guess, right?

8       A     Yeah.

9       Q     And didn't you tell me that the reason that you came up  
10 with this robbery guess was because of what you read on the news  
11 and the comments on those news articles --

12      A     Yes.

13      Q     -- isn't that what you said?

14            Okay. Nobody in that house that day was talking about  
15 robbing Matt or doing a lick on Matt, isn't that right?

16      A     Yes, nobody said that.

17      Q     Okay. You never heard -- in regards to the word lick, you  
18 only remember hearing that vaguely mentioned in the house that  
19 day, right?

20      A     Yes.

21      Q     But you don't know who mentioned it, right?

22      A     No, I don't.

23      Q     Okay. And you don't know who the target of this lick was,  
24 right?

25      A     No, I don't.

1 Q Or what was to be stolen in this lick, right?

2 A No, I don't.

3 Q Nothing that -- or what time of day it was take place,  
4 right?

5 A Yes.

6 Q Okay. So the truth is, Kymani, is that you don't really  
7 know, right --

8 A No, I don't.

9 Q -- what took place in that house and why Matthew was  
10 killed, isn't that right?

11 A Yeah, I don't know why.

12 Q All right. Thank you very much, Kymani.

13 THE COURT: Mr. Yampolsky.

14 MR. YAMPOLSKY: Thank you.

15 **CROSS-EXAMINATION**

16 BY MR. YAMPOLSKY:

17 Q To follow up on what Mr. Helmick said, when you heard  
18 the term lick, you said that they wanted to rob somebody else for  
19 weed. Do you remember saying that?

20 A Yeah.

21 Q Okay. And Matthew brought weed to the house, correct?

22 A Yes.

23 Q And you said he matched someone else, correct?

24 A Yes.

25 Q And that meant he was sharing it.

1 A Yes.

2 Q And to your knowledge he shared it freely.

3 A Yeah.

4 Q And you said you saw someone -- I believe you said it was  
5 a Black individual that was using the spray paint.

6 A Yes.

7 Q And showing that picture where you flipped off the  
8 cameraman; you weren't scared of the cameraman, correct?

9 A No.

10 Q And you weren't scared of being robbed or shot?

11 A No.

12 MR. YAMPOLSKY: I have nothing further.

13 THE COURT: Thank you.

14 Mr. Pesci.

15 **REDIRECT EXAMINATION**

16 BY MR. PESCI:

17 Q So putting it all in time -- Kymani relax, man, open up  
18 your arms. You're good.

19 What do you mean in time when you flipped off the  
20 camera, so we understand, that's before the shot to the ceiling,  
21 correct?

22 A Yes.

23 Q All right. So you're at ease, you're smoking some weed,  
24 no one's doing anything with shooting a gun into the air at the time  
25 of that video.

1       A     Yes.

2       Q     All right. But it all changes with a shot to the ceiling.

3       A     Yes.

4       Q     And you decided to do what at that point?

5       A     Leave.

6       Q     Okay. Now you were asked a moment ago about the  
7 mood of the house, right? Do you remember that?

8       A     Yes.

9       Q     What was your feeling about the mood of the house or  
10 the vibe of the house when you first go there?

11      A     It just didn't feel right.

12      Q     Okay.

13      A     It felt weird.

14      Q     It felt weird to you?

15      A     Yeah.

16      Q     Did that feeling persist or stay with you?

17      A     Yeah.

18      Q     Did it become even more intense after the shot to the  
19 ceiling?

20      A     Yes.

21      Q     Okay. Now, so we understand as far as -- well, let me just  
22 go off on a little tangent. The -- do you know a person by the name  
23 of Traceo Meadows?

24      A     I know of him.

25      Q     Okay. So the individual that you said you didn't know the

1 name of, that's not Traceo, is it?

2 A No.

3 Q Okay. So that other person we're talking about, we don't  
4 have a name for, that's not Traceo.

5 A No, that's not.

6 Q The one with the spray paint.

7 A Yes.

8 Q Okay. Now, you went back, if I understood correctly, to  
9 get your lighter?

10 A Yes.

11 Q All right. Now we just talked about a bad mood, we talked  
12 about a shot to the ceiling, but yet you went back. Why was that?

13 A I didn't want to leave a trace of myself.

14 Q Okay. Why would you -- well you didn't want to leave a  
15 trace of yourself there, is that correct?

16 A Yes.

17 Q Okay. Were there things going on there that you weren't  
18 comfortable with?

19 A Yes.

20 Q And you didn't want tied back to you?

21 A Yes.

22 Q All right. Now, Defense Counsel just asked you some  
23 questions about your opinion of what happened, and I want to talk  
24 about your opinion versus what you heard, okay?

25 We got to be really clear as far as a difference between

1 let's say like me and you in this room right now, you hearing what I  
2 say, versus somebody else on the News tonight watches something  
3 and they hear something. You would agree with me those are  
4 different things?

5 A Yes.

6 Q The person on the News doesn't get to see it, they're not  
7 here.

8 A Yes.

9 Q All right. So focusing on the questions you were just  
10 asked about your opinion about it being a robbery gone bad. Do  
11 you remember those questions?

12 A Yes.

13 Q All right. If I understood you correctly, at the time that  
14 Matt's shot, you're not there.

15 A No, I am not.

16 Q Okay. So when you're giving an opinion about what you  
17 think happened, that's because you weren't there; it's not what you  
18 actually saw?

19 A Yeah.

20 Q All right. So you don't know for a fact that there was a  
21 robbery, someone tried to get him, and it didn't go well.

22 A Yeah. No, I didn't know that

23 Q All right. However, isn't it a fact that you actually heard  
24 with your own ears in this very house, the concept or the  
25 conversation about a lick?

1           A     Yes.

2           Q     All right. That wasn't something that somebody told you  
3 afterwards?

4           A     No.

5           Q     It wasn't something that you read online on some media  
6 post?

7           A     No.

8           Q     All right. You might have come up with some information  
9 from a media post about what happened at the time Matt was shot,  
10 right?

11          A     Yeah.

12          Q     All right. But forget that. We're just talking about what  
13 you heard in that house. And if I'm hearing you correctly, you  
14 heard a conversation about a lick.

15          A     Yes.

16          Q     Okay. So Counsel asked you about page 36 and 37 of  
17 your statement that you gave on June 13th of 2018, correct?

18          A     Uh-huh.

19          Q     Is that a yes?

20          A     Yes. Sorry.

21          Q     Now is it all right if I just step over your shoulder? Would  
22 that be okay --

23                 THE COURT: Yeah.

24                 MR. PESCI: -- with you?

25                 THE WITNESS: Yeah, that's fine.

1 BY MR. PESCI:

2 Q Okay. So Counsel read earlier from portions of this,  
3 didn't you actually say on that date in response to questions, page  
4 36, line 21: Because they just kept talking about it. And they were  
5 talking about they wanted. They were plucked. They wanted to rob  
6 somebody else for weed. They were like who do you know --  
7 somebody -- because they call it a lick. Apparently, they said they  
8 were like.

9 Do you see that?

10 A Yes.

11 Q That's what you told the police?

12 A Yes.

13 Q And that's what you actually heard in the house, as  
14 opposed to after the fact on media posts?

15 A Yes.

16 Q Okay. Goes to the next page.

17 Question: A lick?

18 You respond: Yeah, when you still something. A lick.  
19 They were like oh, you know, where the licks are, you know, where  
20 a lick is. And I was like -- they were just -- they just kept talking  
21 about how they wanted to come up on a lot of weed.

22 Correct?

23 A Yes.

24 Q That's all they -- and when you're talking about they,  
25 you're talking Kody and Jaiden, right?

1           A     Yes.

2           Q     All right. And the very next line, the question was: Okay.  
3 Now was this before they had discussed Matthew, and Matthew's  
4 name came up, or after?

5                     Do you see that?

6           A     Before.

7           Q     Now just a moment ago Defense Counsel asked you the  
8 timing of when Matthew's name came up. What did you say to the  
9 police on June 13th?

10                    Line 8.

11          A     That's what it -- that's why he was brought up.

12          Q     That's what brought Matthew's name up into the  
13 conversation, right?

14          A     Yes.

15          Q     Okay. So you're telling the police just five days later, not  
16 because of something you saw on the News, because your own  
17 personal hearing of it, that they, these two guys sitting in court,  
18 were talking about doing a lick; robbing Matthew?

19          A     Yes.

20          Q     Now you were also asked some questions from the  
21 preliminary hearing. You remember him showing you some pages  
22 from that? From the other --

23          A     Yes.

24          Q     Okay. So turning to page 87.

25                   MR. PESCI: May I approach?

1 THE COURT: Yes.

2 BY MR. PESCI:

3 Q Now page 87. Now this is when you testified at the  
4 preliminary hearing, correct?

5 A Yes.

6 Q Now when you testified at the preliminary hearing, did  
7 you have that transcript to be able to look at before you testified?

8 A No, I didn't.

9 Q Would that have helped your memory?

10 A Yeah.

11 Q But you didn't it at the time.

12 A No.

13 Q All right. So looking at page 87, line 14: And then you  
14 later told that to the police that you heard the Defendants talking  
15 about doing a lick.

16 What was your answer?

17 A Yes.

18 Q Right. So even at the preliminary hearing, you're saying  
19 that you heard these two Defendants talk about doing a lick?

20 A Yes.

21 Q Okay. And that conversation happens before Matt gets to  
22 the house?

23 A Yes.

24 Q Thank you very much.

25 MR. PESCI: Pass the witness.

1 THE COURT: Mr. Helmick.

2 MR. HELMICK: Thank you.

3 **RECROSS-EXAMINATION**

4 BY MR. HELMICK:

5 Q Kymani, let's talk about the preliminary hearing for a  
6 minute.

7 A All right.

8 THE COURT: Could we -- I don't want your notes being  
9 displayed for the jurors.

10 MR. HELMICK: Oh, I'm sorry, I didn't even know that  
11 was --

12 THE COURT: That's okay.

13 MR. HELMICK: Shut off. There we go.

14 THE COURT: Thank you.

15 MR. HELMICK: Thank you.

16 BY MR. HELMICK:

17 Q Okay. So I want to show page 84 of the preliminary  
18 hearing.

19 MR. HELMICK: May I approach, Your Honor?

20 THE COURT: Yes.

21 BY MR. HELMICK:

22 Q Okay. You were asked by Mr. Pesci, who did you hear  
23 talking about doing a lick, right? Page 84.

24 A Yes.

25 Q Okay. And this is before the reference that he just talked

1 about on page 87, right?

2 A Yes.

3 Q Okay. And what did you say there?

4 A I don't remember.

5 Q You don't remember, right?

6 A Uh-huh.

7 Q It wasn't until Mr. Pesci impeached you with the interview  
8 with the detective --

9 A Yes.

10 Q -- that you then said oh, it was Kody and Jaiden, isn't that  
11 right?

12 A Yes.

13 Q Okay. And that was your testimony under oath before  
14 you were impeached, isn't that right?

15 A Yes.

16 Q Okay. And so just to clear this up, I mean, the reason that  
17 you came up with this opinion in regards to the robbery or the  
18 lick -- well let me backtrack, the interview that you gave to the  
19 police was days after this happened, right?

20 A Yes.

21 Q Okay. Multiple days, right?

22 A Yes.

23 Q And by that point it had already been all over the news,  
24 right?

25 A Yes.

1 Q It had -- people had already been commenting on stuff,  
2 right?

3 A Yes.

4 Q And you had read that stuff, right?

5 A Yes.

6 Q And so at this particular point in time that you were  
7 talking to the police, you came up with this opinion that there was a  
8 robbery based upon what you read, isn't that right?

9 A Yeah.

10 Q Okay. Not based upon what you heard in the house,  
11 right?

12 A Yes.

13 Q Okay. Because you didn't hear Kody talking about  
14 wanting to rob Matt or do a lick on Matt, isn't that right?

15 A No, not on anyone --

16 Q Okay.

17 A -- specific.

18 Q You just heard the word lick mentioned.

19 A Yes.

20 Q But don't remember by who exactly mentioned it, right?

21 A Kody and Jaiden, I just said that.

22 Q No, no, I'm saying -- okay, so when I talked to you earlier  
23 today, right, I asked you, you don't remember who mentioned the  
24 lick, right?

25 A Yeah, I didn't remember at the time.

1 Q Okay. So now you're saying that it was Kody and Jaiden  
2 who mentioned doing a lick?

3 A Yes, because my memory has been refreshed.

4 Q Your memory has been refreshed.

5 A Yes.

6 Q Okay. When I talked to you at your house though, right?

7 A Yes.

8 Q You didn't tell me that -- when I asked you that question  
9 you didn't say that Kody said anything about doing a lick, isn't that  
10 right?

11 A Because -- yeah, that's not right. Or that is right.

12 Q That's right.

13 A Yes.

14 Q And that's what you told me, right?

15 A Yeah.

16 Q Okay. And you told me that Kody was out of it, that he  
17 was on the couch, falling asleep, and out of it multiple times  
18 throughout the day, right?

19 A Yeah.

20 Q Okay. And you didn't even hear him talk much, right?

21 A Not really.

22 Q Okay.

23 MR. HELMICK: Court's indulgence.

24 BY MR. HELMICK:

25 Q Okay. You were asked by Mr. Pesci when Matt's name

1 came up, and he made it seem like as if it were referenced in  
2 regards to the lick, right? That's when it was first brought up, that's  
3 what you said?

4 A Yeah.

5 Q Okay. But wasn't it first brought up, and I'll refresh your  
6 memory if you need it, when Jaiden sat down and there was talk  
7 about who has more marijuana, right?

8 A Yes.

9 Q Okay. So Matt's name came up at that point, right?

10 A Yes.

11 Q Okay. And that was in regards to matching; who wants to  
12 come over and share, right?

13 A Yes.

14 Q Not in regards to who wants to -- who can we rob or who  
15 can we do a lick on, right?

16 A Yes.

17 Q Okay. So that's when Matt's name first came up.

18 A Yes.

19 Q Okay. Thank you very much, Kymani.

20 THE COURT: Mr. Yampolsky, anything?

21 MR. YAMPOLSKY: Thank you.

22 Court's indulgence.

23 **RECROSS-EXAMINATION**

24 BY MR. YAMPOLSKY:

25 Q When you were shown the video, there was a picture of

1 some weed, correct?

2 A Yes.

3 Q And that's the weed that Matthew brought?

4 A No, that --

5 Q No, that was the weed that was at the party.

6 A Yes.

7 Q And approximately how much, if you know, was it?

8 A I can't tell the certain amount.

9 Q All right. You wouldn't say it's a lot of weed, would you?

10 A No.

11 Q No. And Matthew brought weed, correct?

12 A Yes.

13 Q And you said he matched the weed --

14 A Yes.

15 Q -- correct?

16 And would you say the weed he had was about the same  
17 amount?

18 A No.

19 Q No. It was more?

20 A A little bit more.

21 Q A little bit more. But would you say that's a lot of weed?

22 A Sure. Yeah.

23 Q So you said what was there was not a lot of weed but a  
24 little bit more was a lot of weed?

25 A I'm saying we didn't have a lot of weed but Matthew had

1 more weed than we did.

2 Q Right. And you said he had a little more?

3 A Yes.

4 Q Okay. So what I'm saying is, you -- the stuff that was at  
5 the party was not a lot of weed, correct?

6 A Not really.

7 Q And Matthew had a little more.

8 A Yes.

9 Q But in your opinion having that little more would turn that  
10 into a lot of weed?

11 A Yeah.

12 Q Okay.

13 A It was more than we had.

14 Q Well I understand that. It was more than you had,  
15 correct?

16 A Yes.

17 Q And would you say the amount that you had was a little  
18 bit?

19 A I didn't have any.

20 Q All right. Would you say the amount that was there at the  
21 house before Matthew came was a little bit?

22 A Yes.

23 Q And you're saying Matthew had more --

24 A Yes.

25 Q -- right?

1 But he didn't have twice as much or anything like that?

2 A No.

3 Q He had a little more.

4 A Yeah.

5 Q And you characterize that as a lot?

6 A More than -- if it's more than what we had then sure, it's a  
7 lot.

8 Q All right. Okay. Let me back up. So if there was an  
9 amount of weed that was -- let's say had one more joint, would you  
10 say that's a lot?

11 A Yeah.

12 Q Okay. Now, you're aware that Jaiden and Kody both  
13 knew Matthew --

14 A Yes.

15 Q -- right?

16 Okay. Now, when you were -- when you gave your  
17 statement to the police, you said when they -- you overheard  
18 someone say: They want to rob somebody else for weed.

19 Correct?

20 A I don't remember that.

21 Q No?

22 MR. YAMPOLSKY: May I approach, Your Honor?

23 THE COURT: Yes.

24 BY MR. YAMPOLSKY:

25 Q Okay. I'd like you to read to yourself line 21 to right

1 there, okay? Can you read that?

2 A Yeah. They were like do you know somebody.

3 Q Okay. So when you heard them talking about wanting to  
4 rob somebody else they said, do you know somebody?

5 A Yes.

6 Q Okay.

7 MR. YAMPOLSKY: I have nothing further.

8 THE COURT: Mr. Pesci?

9 MR. PESCI: Very quickly.

10 **FURTHER REDIRECT EXAMINATION**

11 BY MR. PESCI:

12 Q So if I'm understanding correctly, Ghunnar brought some  
13 weed?

14 A Yes.

15 Q Matt brought some weed?

16 A Yes.

17 Q Jaiden shoots into the ceiling.

18 A Yes.

19 Q You take off.

20 A Yes.

21 Q And Jaiden calls you back?

22 A Jaiden calls Ghunnar back.

23 Q Right. The guy who brought the weed?

24 A Yeah.

25 Q All right. And Ghunnar came back because of you, right?

1 A Yeah.

2 Q So you could get your --

3 A Lighter.

4 Q -- lighter? Because you didn't want to be tied to that  
5 place.

6 A Yes.

7 Q And then you took off.

8 A Yes.

9 Q You and Ghunnar weren't around for what happened to  
10 Matt.

11 A No, we weren't.

12 Q Thank you.

13 THE COURT: Anything further?

14 MR. HELMICK: Just briefly, yes.

15 **FURTHER RECROSS-EXAMINATION**

16 BY MR. HELMICK:

17 Q I mean, so Kymani, you took off, right, understandably --

18 A Uh-huh.

19 Q -- because you were scared of what was taking place in  
20 that house, right?

21 A Yeah.

22 Q Yeah. Jaiden was taking the bullets out of the gun and  
23 pointing it at people and clicking that gun, isn't that right?

24 A Yes.

25 Q Yeah. He was being reckless with the gun, right?

1 MR. YAMPOLSKY: Objection, calls for characterization.

2 THE COURT: Well I'll sustain the objection.

3 MR. HELMICK: Okay.

4 THE COURT: You just ask him what he observed.

5 MR. HELMICK: Okay.

6 BY MR. HELMICK:

7 Q Well, you observed him playing with the gun multiple  
8 times in that house, right?

9 A Yeah.

10 Q And that instilled fear in you, right?

11 A Yeah.

12 Q Yeah. And fear in Ghunnar as well, right? That you --

13 A Yeah.

14 Q -- could see at least.

15 A Uh-huh.

16 Q Yeah. And so that's the reason that you wanted to get out  
17 of that house because of what Jaiden was doing with the gun, isn't  
18 that right?

19 A Yes.

20 Q Thank you.

21 THE COURT: Mr. Yampolsky?

22 MR. YAMPOLSKY: I have nothing further.

23 THE COURT: Anything from our jurors?

24 Yes.

25 ...

1 [Bench conference transcribed as follows.]  
2 THE COURT: I mean, I think you said that was in April,  
3 right?  
4 MR. HELMICK: April 19th to be exact.  
5 THE COURT: [Indiscernible].  
6 MR. HELMICK: Yeah.  
7 Yeah, I'm okay with that.  
8 THE COURT: I can just make a statement to them that  
9 attorneys have the right to interview witnesses --  
10 MR. HELMICK: Yeah, yeah, please.  
11 THE COURT: -- who are not under oath.  
12 MR. YAMPOLSKY: Yeah.  
13 THE COURT: Okay.  
14 MR. HELMICK: Yeah. And that you -- and I had a third  
15 party with me.  
16 THE COURT: Okay. And then do you guys just want to  
17 stipulate that it was April 2019?  
18 MR. HELMICK: April 19th.  
19 MR. YAMPOLSKY: [Indiscernible].  
20 MR. HELMICK: I took notes --  
21 MR. PESCI: I have follow-up questions.  
22 THE COURT: Okay. All right. That's a good question.  
23 MR. PESCI: Gosh, that's long.  
24 MR. YAMPOLSKY: That's fine.  
25 MR. HELMICK: Okay.

1 THE COURT: We could just stipulate to that, right?  
2 MR. PESCI: Yeah.  
3 THE COURT: The last question [indiscernible] Kristine.  
4 MR. HELMICK: Kristine?  
5 MR. YAMPOLSKY: Who's Kristine?  
6 THE COURT: Kristin.  
7 MR. HELMICK: [Indiscernible] confused.  
8 THE COURT: Prentiss.  
9 MR. HELMICK: Matthew killed Kristine.  
10 Something about a bullet  
11 He doesn't know.  
12 MR. YAMPOLSKY: He wants Matt.  
13 MR. HELMICK: God, are they that confused? Come on.  
14 MR. YAMPOLSKY: I don't think you should ask this.  
15 THE COURT: I'm not going to ask that.  
16 MR. HELMICK: This is fine. That one.  
17 THE COURT: [Indiscernible].  
18 MR. YAMPOLSKY: I don't --  
19 MR. HELMICK: No, she got him confused with Charles.  
20 Kristin picked up Charles.  
21 THE COURT: Oh. So I'll just -- he was not there that night  
22 with Kristin.  
23 MR. PESCI: Right. He called to talk -- [indiscernible].  
24 THE COURT: Okay.  
25 MR. HELMICK: Maybe you want to clear that up though?

1 THE COURT: What were you doing once you left the  
2 house?  
3 MR. HELMICK: Sure.  
4 MR. YAMPOLSKY: Yeah.  
5 MR. PESCI: Sounds good.  
6 THE COURT: And then Kristin did not pick you up, you  
7 were picked by an Uber, correct?  
8 MR. PESCI: Right.  
9 MR. HELMICK: Yeah.  
10 MR. YAMPOLSKY: By whom?  
11 MR. HELMICK: Uber.  
12 THE COURT: An Uber.  
13 MR. YAMPOLSKY: Right.  
14 THE COURT: Okay.  
15 MR. YAMPOLSKY: All right.  
16 MR. PESCI: Good questions though.  
17 MR. YAMPOLSKY: [Indiscernible].  
18 MR. PESCI: I got to look up the date on the prelim.  
19 MR. YAMPOLSKY: Huh?  
20 MR. PESCI: I need to look up the date on --  
21 MR. HELMICK: I got it right here.  
22 MR. YAMPOLSKY: What's -- yeah.  
23 MR. PESCI: Okay.  
24 THE COURT: Okay. Are we good with those?  
25 MR. PESCI: No objection.

1 MR. HELMICK: Okay.

2 MR. PESCI: Is that it?

3 THE COURT: Okay.

4 [End of bench conference.]

5 THE COURT: Okay. A couple of questions for you and I  
6 also think the attorneys are going to stipulate to some things. So  
7 just for the record, you guys will stipulate that the preliminary  
8 hearing was Monday, July 9th, 2018, right?

9 MR. YAMPOLSKY: Correct.

10 MR. PESCI: Yes, Your Honor.

11 THE COURT: Okay.

12 All right. And then --

13 MS. OVERLY: Can we say that date again?

14 THE COURT: Oh, July 9th, 2018. Monday, July 9th, 2018.

15 **EXAMINATION BY THE COURT [JURY QUESTIONS]**

16 BY THE COURT:

17 Q And do you recall, specifically, Kymani, when it was that  
18 you had the conversation with Mr. Helmick and his investigator?  
19 The date?

20 A No. Not specifically.

21 Q I think he asked you and you agreed that it was in April?

22 A In April, yeah.

23 THE COURT: And I think, Mr. Helmick, your  
24 representation was April 19th?

25 MR. HELMICK: April 19th, yes.

1 THE COURT: 2019?

2 MR. HELMICK: 2019.

3 THE COURT: Okay. And just so you understand, Ladies  
4 and Gentlemen, attorneys have the right to talk to and interview  
5 witnesses before a trial. They're not under the oath at the time they  
6 have those discussions, however.

7 BY THE COURT:

8 Q All right. You mentioned that the vibe was off at the  
9 house. How were Kody and Jaiden acting towards Matt?

10 A Not suspicious.

11 Q Okay. Would you say that they were treating Matt the  
12 same as they did you?

13 A Yeah.

14 Q Okay. And what were you doing once you left the house?

15 THE COURT: And I'm assuming you mean the second  
16 time that he left, after going back to retrieve the lighter? Yes?

17 JUROR NUMBER 5: Oh, me?

18 THE COURT: It's your question, yeah.

19 JUROR NUMBER 5: I'm trying to remember. I said why  
20 did he feel he needed to get his lighter and feel something --

21 THE COURT: Well your question says what were you  
22 doing once you left the house. So my question is are you asking  
23 when he left the house the first time or when he --

24 JUROR NUMBER 5: Yeah, the first -- no, the second time.

25 THE COURT: The second time, okay.

1 JUROR NUMBER 5: When they went to Ghunnar's house.

2 THE COURT: Got it.

3 BY THE COURT:

4 Q So what were you doing once you left the house after  
5 going back to retrieve your lighter?

6 A After I left the first time, we went to some businesses next  
7 door and waited --

8 Q Okay.

9 A I got a call, I got my lighter and went back.

10 Q Okay. So did you guys go straight back to Ghunnar's  
11 house after that?

12 A Yes.

13 Q All right. And the question references Kristin picking you  
14 up. You didn't say Kristin picked you up, correct? Didn't you guys  
15 say you got picked by an Uber?

16 A Yeah.

17 Q Uber, okay.

18 THE COURT: All right. Any questions based on mine,  
19 STATE?

20 MR. PESCI: No, Your Honor.

21 THE COURT: Mr. Harlan?

22 MR. HELMICK: No, Your Honor. Thank you.

23 THE COURT: Mr. Yampolsky?

24 MR. YAMPOLSKY: No, Your Honor.

25 THE COURT: Okay. All right. Kymani, you're all done.

1 Thank you very much for your time. I appreciate it.

2 The State may call their next witness.

3 MS. OVERLY: The State calls Somridee McCaffery.

4 MR. YAMPOLSKY: Your Honor, may we approach?

5 THE COURT: Sure.

6 [Bench conference transcribed as follows.]

7 MR. YAMPOLSKY: I just wanted a quick bathroom break.

8 But I mean, I can run in and run out. I don't want to stop them.

9 THE COURT: We can't have you gone when --

10 MR. YAMPOLSKY: We have Jason here.

11 THE COURT: -- witnesses testify. Oh well, okay.

12 All right. I mean, what if you hold it and go in about 15

13 minutes?

14 MR. YAMPOLSKY: What can I tell you, I drank a lot at

15 lunch.

16 THE COURT: But are you cross-examining the witness?

17 MS. OVERLY: This is the custodian --

18 MR. YAMPOLSKY: Custodian of records, I don't think

19 we'll ask any questions.

20 THE COURT: Oh, okay.

21 MR. YAMPOLSKY: It's the Foot Locker guy.

22 THE COURT: Yes, you can go ahead.

23 [End of bench conference.]

24 ...

25 ...

1 **SOMRIDEE McCaffrey**

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

4 THE CLERK: Thank you, please be seated.

5 If you could state and spell your name for the record,  
6 please.

7 THE WITNESS: My name is Somridee, S-O-M-R-I-D-E-E.  
8 Last name, McCaffrey. M-C-C-A-F-F-R-E-Y.

9 THE COURT: Thank you very much, ma'am.

10 Ms. Overly.

11 **DIRECT EXAMINATION**

12 BY MS. OVERLY:

13 Q Ma'am, how are you employed?

14 A I am a store manager at a Foot Locker at Galleria Mall.

15 Q And how long have you been a store manager?

16 A I've been a store manager for three years.

17 Q And were you working as a store manager back in June of  
18 2018?

19 A I was.

20 Q And what location was that?

21 A I was actually at the Kids Foot Locker across the hall.

22 Q And is that at the Galleria Mall as well?

23 A Correct.

24 Q Okay. But were you familiar with the Foot Locker located  
25 across the way?

1           A     Yes. We actually work at both locations sometimes.

2           Q     Okay. So at the time were you working at both locations?

3           A     Uh-huh.

4           Q     And are you familiar with whether or not that Foot Locker

5 is equipped with video surveillance?

6           A     Yes, we all are.

7           Q     All of them are, okay.

8           A     Uh-huh.

9           Q     And is that included -- and what angles of the store does

10 that consist of?

11          A     Usually we have a front view, which sees the store with

12 everyone walking in, there's usually a couple on the register, and

13 there's a couple randomly around just in certain blind spots that we

14 know that maybe people will be standing.

15          Q     And were you able to review video surveillance from the

16 Foot Locker store at the Galleria Mall from June 8th of 2018?

17          A     Yes, ma'am.

18          Q     And did you do that prior to coming to court?

19          A     Yes, ma'am.

20          Q     And did that video surveillance fairly and accurately

21 depict the store on June 8th of 2018?

22          A     Yes, ma'am.

23                MS. OVERLY: And, Your Honor, at this time the State

24 would move to admit State's Proposed Exhibit 146.

25                THE COURT: Any objection?

1 MR. HELMICK: No, Your Honor.

2 THE COURT: Mr. Margolis?

3 MR. MARGOLIS: No objection, Your Honor.

4 THE COURT: Thank you.

5 **[STATE'S EXHIBIT 146 ADMITTED]**

6 BY MS. OVERLY:

7 Q And I'm just going to show you video on the screen. It'll  
8 be in front of you as well.

9 And while he's doing that, let me ask you this as well;  
10 does Foot Locker keep records of the transactions that are done at  
11 the store?

12 A Yes, ma'am.

13 Q And are those kept in the ordinary course of business?

14 A Yes, ma'am.

15 Q And those are done for every purchase and transaction  
16 completed, is that correct?

17 A Yes, ma'am.

18 Q Okay. And did you have an opportunity to review -- well  
19 let me ask you this.

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

21 THE COURT: You may.

22 BY MS. OVERLY:

23 Q Showing you what's been marked as State's Proposed  
24 Exhibit 65. Well I believe it's an exhibit now.

25 Does that look familiar to you?

1 A Yes, it is.

2 Q And does that look like a Foot Locker receipt?

3 A It is.

4 Q And does that fairly and accurately depict one from June  
5 8th of 2018?

6 A Yes.

7 Q Now I'm just going to show you the video.

8 [Surveillance video playing]

9 BY MS. OVERLY:

10 Q And I believe this is reflecting Channel 2 view here. Do  
11 you recognize that?

12 A Yes, ma'am.

13 Q And what does that appear to be?

14 A That is the very front of the store where the customers  
15 walk in.

16 Q Okay. And that would be the Foot Locker at the Galleria,  
17 correct?

18 A Correct.

19 Q Okay. And if we go to approximately 2:20 in.

20 [Surveillance video playing]

21 BY MS. OVERLY:

22 Q Does it appear as though two individuals are walking in --

23 A Yes.

24 Q -- to the store?

25 A Uh-huh.

1 Q And then if we go to -- this looks like this is another angle.

2 [Surveillance video playing]

3 BY MS. OVERLY:

4 Q What is this angle of?

5 A This is the cash wrap.

6 Q Okay.

7 A The side view of the cash wrap.

8 Q Cash wrap. Is that the cash register area?

9 A Oh yes.

10 Q Okay.

11 A Yeah, sorry.

12 Q Okay. And so this is where anybody would go if they  
13 want to conduct a transaction or buy something?

14 A Yes, ma'am.

15 Q Okay. And if we go to around four minutes --

16 [Colloquy between Counsel]

17 BY MS. OVERLY:

18 Q And does it appear as though there's somebody in a black  
19 shirt with a backpack on?

20 A Yes.

21 Q And somebody with a multicolored shirt?

22 A Looks like it.

23 Q Behind him.

24 A It's hard to tell.

25 Q Now the area that those people are standing, is that the

1 area where you would stand in line?

2 A Are you talking about the gentleman in the stripes or are  
3 you talking about the two young ladies at the register?

4 Q I'm sorry. I'm talking about the individual behind the two  
5 young ladies.

6 A Oh yes, that would be the line.

7 Q Okay. So there's two young ladies that are currently at  
8 the cash register, correct?

9 A Correct.

10 Q And then now we have another individual walking --

11 A Yes.

12 Q -- towards the register. Okay.

13 [Surveillance video playing]

14 BY MS. OVERLY:

15 Q And does it appear as though there might another person  
16 behind that individual who's purchasing something now coming to  
17 the side?

18 A It's possible. It looks like they're just looking around.

19 Q Okay.

20 [Surveillance video playing]

21 BY MS. OVERLY:

22 Q And now a third individual's approaching the register?

23 A Yes.

24 [Surveillance video playing]

25 ...

1 BY MS. OVERLY:

2 Q And does that appear to be a Foot Locker bag that's  
3 provided to the customer?

4 A Yes, it is.

5 Q Okay. And then if we go to Channel 4.

6 [Surveillance video playing]

7 BY MS. OVERLY:

8 Q And what is this view of?

9 A This is above the cash wrap.

10 Q Okay. So that would be on top of the cash register,  
11 correct?

12 A Correct. Yes.

13 [Surveillance video playing]

14 MS. OVERLY: And if we go to around six minutes or so --  
15 there we go.

16 [Surveillance video playing]

17 BY MS. OVERLY:

18 Q And does that appear as though the customer's  
19 purchasing some shoes?

20 A It is, yes.

21 Q Okay.

22 [Surveillance video playing]

23 BY MS. OVERLY:

24 Q And it seems as though they're paying in cash?

25 A Uh-huh. Yes, it is.

1 [Surveillance video playing]

2 BY MS. OVERLY:

3 Q And is it fair to say that the person standing behind the  
4 person who's purchasing something, the one in the multicolored  
5 the shirt --

6 MS. OVERLY: If we back it up just a little bit.

7 [Surveillance video playing]

8 BY MS. OVERLY:

9 Q Do you see the person I'm talking about?

10 A Yes, with the Shoe Palace bag?

11 Q Yes. Does that person appear to be wearing white  
12 sneakers?

13 A Yes.

14 [Surveillance video finishes playing]

15 BY MS. OVERLY:

16 Q And then if we go to the final view.

17 [Surveillance video playing]

18 BY MS. OVERLY:

19 Q This is Channel 8, does -- what is that an image of?

20 A That's the opposite view. So instead of looking towards  
21 the store, this is looking into the store.

22 Q Okay. So if I were standing on the outside of the store,  
23 this would be the view I'm facing?

24 A Correct.

25 Q Okay. And can you point to us -- if you use that little

1 mouse in front of you, you can actually draw on the screen.

2 THE COURT: There you go.

3 MS. OVERLY: Thank you, Judge.

4 THE COURT: Just left click and then draw.

5 BY MS. OVERLY:

6 Q Can you identify for us where the cash register is?

7 A [No audible response - marking on monitor].

8 Q And are there any other doors that lead anywhere else?

9 A This is the door to the stock room.

10 Q Okay. Other than that though, the stock room and then  
11 the front entrance, correct?

12 A Correct.

13 Q Okay. So if we go to about six minutes in.

14 [Surveillance video playing]

15 BY MS. OVERLY:

16 Q And does this appear to reflect just another angle of what  
17 we were already looking at?

18 A Yes, ma'am.

19 Q So we have the two females who are purchasing  
20 something right now, correct?

21 A Yes, ma'am.

22 Q And then there's an individual behind them who's now  
23 coming up to the counter?

24 A Yes, ma'am.

25 Q Okay.

1 [Surveillance video playing]

2 MS. OVERLY: If we go to about eight minutes in.

3 [Surveillance video playing]

4 BY MS. OVERLY:

5 Q Look like we see those individuals now exiting the store?

6 A Yes.

7 Q Okay.

8 [Surveillance video finishes playing]

9 BY MS. OVERLY:

10 Q Now in addition to the video surveillance, I asked you  
11 about if there's records made of any transactions at the store. With  
12 any transaction are customers provided receipts?

13 A Yes.

14 Q Okay. And are those receipts also logged and kept with  
15 the Foot Locker store?

16 A Yes.

17 Q And showing you State's Exhibit 65. Let's see if I can --  
18 So you indicated that this appeared to be a Foot Locker  
19 receipt, correct?

20 A Yes, ma'am.

21 Q And I believe it reflects at the very top that -- the address  
22 to the Galleria at Sunset.

23 A Yes, ma'am.

24 Q And then if we go down, does it reflect a date and a time?

25 A Yes, ma'am.

1 Q And what would that be?

2 A The date is June 8th, 2018, and the time is 3:52 p.m.

3 Q And would that be when the transaction is actually  
4 processed through the cash register?

5 A Yes, that's when it's completed.

6 Q Okay. And if you go down it looks like there's an item  
7 reflected here.

8 A Yes.

9 Q Are you familiar with what that item is?

10 A Yes.

11 Q What is that?

12 A It's a Air Force One Jord -- Air Force One Nike. It looks  
13 like it's a like a red, white, and blue pair.

14 Q Okay. Would that be consistent with what we saw on the  
15 video?

16 A The dude with the box, yes.

17 Q Yes. Okay. And it reflects an amount here and the total,  
18 is that correct?

19 A Yes, ma'am.

20 Q And I believe there's some tax noted here.

21 A Uh-huh.

22 Q And then at the very bottom it references cash and  
23 change, correct?

24 A Correct. Yes.

25 Q So what does that reflect?

1           A     So they gave \$110 in cash and they received \$1.75 in  
2 change back.

3                   MS. OVERLY: Court's indulgence, Your Honor.

4 BY MS. OVERLY:

5           Q     And showing you what's been marked as State's Exhibit  
6 40. Let me zoom out of here.

7                   Do you see a pair of sneakers in that photograph?

8           A     Yes.

9           Q     And what do those appear to be?

10          A     The Air Force Ones.

11          Q     And would that be the Air Force Ones that were reflected  
12 in the receipt that you saw?

13          A     It's hard ---

14          Q     The red, white --

15          A     -- to tell actually --

16          Q     Okay.

17          A     -- in that one.

18          Q     Let me show you State's Exhibit 41.

19                   What do those appear to be?

20          A     Those are actually the ones.

21          Q     Okay. So those would be the shoes that were reflected in  
22 the receipt --

23          A     Yes, ma'am.

24          Q     -- we just looked at?

25                   Okay. And then showing you State's 43.

1 Does that appear to be the same receipt?

2 A Yes, ma'am.

3 MS. OVERLY: I'll pass the witness, Your Honor.

4 THE COURT: Mr. Helmick?

5 MR. HELMICK: No, Your Honor. Thank you.

6 THE COURT: Mr. Yampolsky?

7 MR. YAMPOLSKY: No questions.

8 THE COURT: Anything from our jurors?

9 Okay. All right. Ma'am, thank you very much for your

10 time. I appreciate it. You are excused.

11 The State may call their next witness.

12 MR. PESCI: The State calls Kathy Geil.

13 **KATHY GEIL**

14 [having been called as a witness and being first duly sworn,

15 testified as follows:]

16 THE CLERK: Thank you, please be seated.

17 THE WITNESS: Thank you.

18 THE CLERK: If you could state and spell your name for

19 the record, please?

20 THE WITNESS: Yes. My name is Kathy Geil. K-A-T-H-Y,

21 G-E-I-L.

22 THE COURT: Thank you.

23 All right. Mr. Pesci.

24 ...

25 ...

1 **DIRECT EXAMINATION**

2 BY MR. PESCI:

3 Q Ma'am, what do you do for a living?

4 A I am a forensic scientist with the Las Vegas Metropolitan  
5 Police Department in their Firearms Detail.

6 Q And what training and experience do you have that  
7 qualifies for that job?

8 A So there's an in-house two-year training program that's  
9 extensive about all they types of examinations that a firearms  
10 examiner would conduct. So it includes modules where you're  
11 working on different types of firearms and how they function or  
12 how you -- they could modified.

13 It's working with different types of ammunition and their  
14 components. It's comparing test fires from firearms to fired  
15 components, the bullets or cartridge cases and understanding how  
16 that microscopic comparison works. Lots of reading. Visiting  
17 different manufacturers of firearms and ammunition.

18 And then there's lots of different modules and the  
19 different types of examinations. So serial number restorations,  
20 muzzle to target distance determinations, or the examination of  
21 gunshot residue that's left on items. Toolmark examinations. It's  
22 really involved. There's lots of things that go on.

23 But at the end of that what happens is you get an exam, if  
24 you will, like a mock case and that is graded by your peers. And  
25 you go through a moot court associated with that mock case and

1 then you're signed off to determine whether you're competent or  
2 not. And then yearly we're given proficiencies to make sure that  
3 competency level is maintained.

4 Q And how long have you been doing this line of work?

5 A So particularly in firearm, almost 12 years. September  
6 will be around 12 years, where I started with the department. So  
7 two years after training, so essentially ten years completely signed  
8 off to do this line of work.

9 Q And have you testified in this area in other courtrooms, in  
10 other cases?

11 A That's correct.

12 Q Sometimes do people have different ideas about firearms  
13 and, for lack of a better term, layman's terms, a bullet? Explain to  
14 us what a bullet is and what the terminology you use for a bullet.

15 A Sure. I actually have a demonstrative aid, it's like a plastic  
16 cartridge.

17 MR. PESCI: If that's okay with the Court?

18 THE COURT: Sure.

19 MR. PESCI: Any objection from Defense?

20 MR. HELMICK: No objection.

21 MR. YAMPOLSKY: No.

22 MR. PESCI: Okay.

23 BY MR. PESCI:

24 A All right. This is my really large round of ammunition.  
25 We call this a cartridge. The projectile that goes out the barrel of a

1 firearm, we call that a bullet. So not the whole thing but just this  
2 part is the bullet to be clear for us. And then this would be the  
3 cartridge case. So the whole thing together is a cartridge or a  
4 round of ammunition.

5 Q Okay. So when it's all together, it hasn't been shot, you  
6 refer to it as a cartridge?

7 A That's correct.

8 Q And after it's been fired, the bullet leaves the cartridge  
9 case?

10 A Correct.

11 Q And then the cartridge case, depending on if it's a  
12 revolver or a semi-automatic, will be left in the gun or expelled  
13 from the gun?

14 A Yes, exactly.

15 Q And so with the revolver, tells us what happens with a  
16 cartridge; a bullet?

17 A So it is loaded into a cylinder or a wheel, typically in the  
18 center of that firearm by the user. And those cartridges fit inside  
19 chambers so there's five, six, seven, depending upon how that  
20 firearm is manufactured. Then when you pull the trigger, it  
21 activates the internal mechanisms.

22 The cartridge is fired, bullet comes out the barrel, and the  
23 firearm sits. It doesn't extract and eject that cartridge case, it just  
24 sits there and resets and waits for you to pull -- either pull the  
25 trigger or you cock the hammer, something to activate it again.

1 Q Okay. Showing you Exhibit 34.

2 Is this a revolver?

3 A That's correct.

4 Q And is this the revolver that you actually examined?

5 A It appears like it, but I'd have to look at the serial number  
6 to see exactly if that's --

7 Q Okay. Does that help you?

8 A Yes, it does.

9 Q All right. And do you recognize that?

10 A Yes, I do.

11 Q All right. And how do you recognize that?

12 A By the serial number, as well as the make and the model  
13 and the caliber on that --

14 Q All right.

15 A -- that is on that firearm.

16 Q And were you specifically asked to analyze this firearm?

17 A That's correct.

18 Q What did you do to analyze the firearm?

19 A First I photo document what I receive and how I received  
20 it. I document what it is, what's its capabilities are; you know, that  
21 it's a revolver, what's its markings are. I'm going to see whether or  
22 not it's safe to fire because the next thing I'm going to do is test fire  
23 this firearm to see if it's functional.

24 After I test fire that firearm, I collect the fired cartridge  
25 cases and bullets that I've collected from that test firing and then

1 I'm going to compare there if there are submitted cartridge cases or  
2 bullets to those test fires.

3 Q Where do you test fire it?

4 A We actually have a range inside of our lab and there's a  
5 water tank that you can shoot into, so it's the only thing I think the  
6 movies get right about firearms. When you shoot into water, the  
7 bullet kind of slows it down and keeps it intact so that I can collect  
8 and examine those bullets later on to say something else that was  
9 submitted for comparison.

10 Q Why do you want to examine the bullet, the part that  
11 comes out? What are you -- what can you gather from that or learn  
12 from that?

13 A Sure. So the barrel of that firearm is rifled and it's rifled  
14 by the manufacturer. That manufacturer when they rifle the barrel  
15 can leave markings in the barrel that can be imparted on the bullet.  
16 Those imperfections, those microscopic imperfections is what I can  
17 examine if they're imparted on that fired bullet to compare with  
18 other fired bullets, either collected from the scene or from an  
19 individual, those types of things.

20 Q What is rifling?

21 A So rifling is -- if you were to look down it looks like there's  
22 a spin to the inside. There's these lands and grooves, these bumps  
23 in the barrel, if you will, so that the bullet when it engages there's a  
24 twist to it so the bullet will actually twist a little bit. So that's  
25 considered rifling.

1 Q Does the rifling actually help the bullet to more on target?

2 A Well that's the intent, I believe, when they do the rifling.

3 Q Somewhat like throwing a football in a spiral, that round  
4 circular movement to try to keep it tight?

5 A Yes.

6 Q Okay. And you said impart -- the barrel could impart  
7 something on the bullet?

8 A That's correct.

9 Q It is almost like a stamp or when it passes by it's being  
10 affected by?

11 A Well to go back to my model, this actually shows rifling on  
12 it. It has -- now usually there's a twist, they're either to the right or  
13 to the left. But the bullet when you -- like if you were just to take a  
14 whole cartridge and not fire it and just pull the bullet out, it's  
15 completely smooth. It doesn't have these indentations. These lands  
16 and grooves on it. So when it goes down it actually swidges or  
17 imparts or interacts with that rifling to give it that spin. So there's  
18 quite a bit of interaction between the bullet and the barrel in order  
19 for it to engage and get pushed down the barrel and impart that  
20 spin.

21 Q Then will that imprint be unique to that barrel?

22 A It can be, yes.

23 Q Okay. So is that why you test fire some rounds?

24 A Correct. So I can look at that and determine if there's  
25 enough unique marks to then examine further.

1 Q Okay. So you did that in this case, you test fired it?

2 A That's correct.

3 Q Were there enough unique points to be able to analyze it  
4 further?

5 A That's correct.

6 Q All right. So those are cartridges that you have on your  
7 own that you just put through this firearm to see how it's  
8 imprinting on the bullets?

9 A Yeah. The ammunition is received from our reference  
10 collection. We have a large amount of ammunition that we can use  
11 to test fire firearms.

12 Q And you said this is a .357 Ruger?

13 A .357 Magnum is the caliber and the make is Ruger.

14 Q Okay.

15 A Correct.

16 Q All right. Now when you have something like this, the  
17 firearm itself, can you compare it to actual fired rounds?

18 A Yes, the test fires I can compare to fired cartridge cases  
19 and/or bullets.

20 Q Okay. So showing you State's 48. In a case, if firearms-  
21 related evidence is recovered, can you retrieve that in order to  
22 compare those to your test fires?

23 A Well they're submitted to us at the crime laboratory. So if  
24 I can -- I'll -- when I get those submitted then again, I do the same  
25 thing that I do with the firearm in terms of documentation of how it

1 was received and what exactly the contents of that package are and  
2 then I evaluate those contents to see whether or not they can be  
3 compared to my test fires.

4 Q In this particular case, the evidence you were able to  
5 compare it to, did it come under a DR number of 18-12238?

6 A Yes, it did.

7 Q All right. Now you work for Metro?

8 A That's correct.

9 Q All right. Is that a DR number or a unique number that's  
10 not a Metro number?

11 A That's correct.

12 Q Is that a Henderson number?

13 A That's what's on the packaging, correct?

14 Q Okay. So we know it's from this case based on that  
15 particular unique number?

16 A Yeah, I think that's their case number.

17 Q And when you receive this evidence, what did you do with  
18 it?

19 A So like I said before I take a picture of it, I document the  
20 contents, I will weigh these fragments together in totality and I will  
21 examine the components, you'll see that there's lots of fragments  
22 and I'll see what's -- those fragments are. And if there's any rifling  
23 imparted on those, which would allow it to be consistent with a  
24 projectile or a bullet.

25 Q Okay. So maybe you could give us the anatomy of a

1 bullet, like break down the front portion that comes out, is it  
2 jacketed, is there something inside?

3 A Well they come in lots of different ways. Very typically,  
4 however there is a copper jacket surrounding a lead core.  
5 Typically. Sometimes it's round nose, sometimes it has a cavity in  
6 the nose, we call those jacketed hollow points. So they come in  
7 lots of different designs and structures, but typically most  
8 ammunition has a lead core surrounded by some sort of copper or  
9 nickel-coated jacket.

10 Q So which portion of the bullet receives the imprint from  
11 the barrel?

12 A So it would be the outer portion. So if that bullet has a  
13 jacket it would be the jacket. If it's fully lead, then obviously it's  
14 going to pick -- be picked up on the lead. So whatever the exterior  
15 surface of that bullet is, it will interact with the rifling and then have  
16 those marks imparted on it.

17 Q And in this particular case, in your analysis, did you have  
18 some jacketing and some of the inner core?

19 A Yes. The more grayey, silver parts that's more consistent  
20 with lead. It's soft, you can poke it and it actually bends and  
21 moves. And then the other more copper-coated, that's going to be  
22 your jacket material.

23 Q All right. And so you test fired this firearm so you knew  
24 what this barrel would imprint, in essence on a jacket, is that  
25 correct?

1           A     That's correct.

2           Q     And then you compared that knowledge that you obtained  
3 from test firing to these pieces obtained from the autopsy?

4           A     Correct.

5           Q     And what were your results?

6           A     So only the very large copper jacket -- that large fragment  
7 there, almost in the center had rifling on it. You can actually see  
8 there was a -- the base -- this open right here but that's just because  
9 it's molded plastic, typically it's going to be solid; that's the base.  
10 And then the rifling up to it. The other pieces were more the top of  
11 the jacket.

12                     So really the only thing that I could compare in this  
13 collection was the larger fragment. And that's -- the larger  
14 fragment had rifling that I could then compare to the test fires from  
15 the revolver.

16          Q     And what was your conclusion?

17          A     That that copper jacket had been fired from that revolver.

18          Q     Okay. So the copper jacket that we're looking at in State's  
19 48 was indeed fired by the Ruger .357 Magnum depicted in State's  
20 34?

21          A     Yes. There is a sufficient amount of marks in quality and  
22 quantity to indicate that it had been fired from that firearm, which  
23 gives us the conclusion, in my opinion that it had been fired from  
24 that firearm.

25          Q     Thank you very much.

1 MR. PESCI: Pass the witness.  
2 THE COURT: Mr. Helmick?  
3 MR. HELMICK: No questions, Your Honor.  
4 THE COURT: Mr. Yampolsky?  
5 MR. YAMPOLSKY: No questions, Your Honor.  
6 THE COURT: Anything from our jurors.  
7 All right. Ms. Geil, Thank you very much for your time.  
8 You are excused, okay?  
9 THE WITNESS: Do you have a question?  
10 THE COURT: Oh, did we have a question that I missed?  
11 Yes. I'm sorry.  
12 THE WITNESS: I'm sorry.  
13 THE COURT: Yep. Stay where you are, I'm sorry. Thank  
14 you for alerting me, I didn't see any hands.  
15 You guys can approach.  
16 [Bench conference transcribed as follows.]  
17 MR. HELMICK: That's an interesting one. Oh my gosh.  
18 [Mumbling between the attorneys]  
19 THE COURT: No objections, I take it.  
20 MR. PESCI: No.  
21 MR. HELMICK: None.  
22 THE COURT: Okay.  
23 [End of bench conference.]  
24 ...  
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**EXAMINATION BY THE COURT [JURY QUESTIONS]**

BY THE COURT:

Q Just so we can be clear, can you tell me what color the  
firearm is that you examined?

A Black.

Q Black. Thank you.

THE COURT: Okay. Any questions based on mine, Mr.  
Pesci?

MR. PESCI: No, Your Honor.

THE COURT: Mr. Helmick?

MR. HELMICK: No, Your Honor.

THE COURT: Mr. Yampolsky?

MR. HELMICK: Mace.

THE COURT: Mr. Margolis?

MR. HELMICK: Mace?

MR. YAMPOLSKY: Yes.

THE COURT: Anybody?  
Did you have any follow-up questions?

MR. MARGOLIS: No.

MR. YAMPOLSKY: Court's indulgence.

[Colloquy between Counsel]

MR. MARGOLIS: No questions.

MR. YAMPOLSKY: No, Your Honor.

THE COURT: All right. Thank you. You're done now. All  
right. You're excused.

1           The State may call their next witness.

2           MR. PESCI: Judge, can we approach?

3           THE COURT: Is it a good time to take a break?

4           MR. PESCI: Yes, please.

5           THE COURT: All right. Ladies and Gentlemen, we'll take a

6 recess.

7           During the recess you're admonished not to talk or

8 converse among yourselves or with anyone else on any subject

9 connected with the trial. Or read or watch or listen to any report of

10 or commentary on the trial by any medium of information

11 including, without limitation, newspapers, television, the internet,

12 and radio. Or form or express any opinion on any subject

13 connected with the case until it's finally submitted to you. No legal

14 or factual research, or investigation, or social media

15 communication.

16           I will see you in a short bit. Thank you.

17                       [Outside the presence of the jury]

18           THE COURT: Anything outside the presence?

19           MR. PESCI: No, Your Honor.

20           THE COURT: You all can be seated, thank you.

21           MR. HELMICK: No, Your Honor.

22           MR. YAMPOLSKY: No, Your Honor.

23           MR. PESCI: No.

24           THE COURT: No. Okay.

25           MR. PESCI: Thank you.

1 THE COURT: Do you have more witnesses today, they're  
2 just not here yet or.

3 MR. PESCI: We have one and my understanding is he  
4 was coming up.

5 THE COURT: Okay.

6 MR. PESCI: We had texted asking to get him up here.

7 THE COURT: Okay.

8 MR. PESCI: So I'm not sure, he could actually be out there  
9 but --

10 THE COURT: Okay.

11 MR. PESCI: -- I also honestly need to use the bathroom.

12 MR. HELMICK: Ten minutes, Your Honor.

13 THE COURT: Yeah.

14 MR. HELMICK: Okay.

15 MR. YAMPOLSKY: Well it's an hour and ten minutes, not  
16 15.

17 [Court recessed at 2:56 p.m., until 3:11 p.m.]

18 [In the presence of the jury]

19 THE MARSHAL: All rise for the jury, please.

20 THE COURT: Okay. You all can be seated. Thank you.

21 We're back on the record. Mr. Caruso, Mr. Harlan, all the  
22 attorneys, all of our jurors are present.

23 We're going to continue on with the State's case in chief.  
24 Mr. Pesci, your next witness is?

25 MR. PESCI: The State calls Ghunnar Methvin.

1 THE COURT: Thank you.

2 **GHUNNAR METHVIN**

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

5 THE CLERK: Thank you, please be seated.

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

8 THE WITNESS: My name's Ghunnar Methvin.

9 G-H-U-N-N-A-R, M-E-T-H-V-I-N.

10 THE COURT: Okay. Mr. Methvin, just make sure you keep  
11 your voice up for me, please? Thank you.

12 Mr. Pesci.

13 **DIRECT EXAMINATION**

14 BY MR. PESCI:

15 Q So if you come in tight to that microphone that'll probably  
16 help with the volume and then if I think you need to raise your voice  
17 I'm going to ask you to do that just so that everybody can hear,  
18 okay? Is that a yes?

19 A Yes.

20 Q Okay. I want to direct your attention to June of 2018,  
21 specifically June the 8th of 2018. Did you go to a party or a house  
22 in Henderson on Cool Lilac?

23 A Yes.

24 Q And how did you hear about this party?

25 A From Jaiden and Kody.

1 Q Okay. And when you say you heard about it from Jaiden  
2 and Kody, how did they communicate that to you?

3 A Text through Snapchat.

4 Q A text through a Snapchat. Okay. All right. Just in case  
5 someone doesn't know all the functions of Snapchat, within that  
6 application can you send videos?

7 A Yes, you can.

8 Q Can you also send sometimes, like you just said, just a  
9 text?

10 A Yes, you can.

11 Q All right. But it utilizes the application, as opposed to  
12 regular texting on your phone?

13 A Yes.

14 Q All right. So did you receive that kind of a communication  
15 from both Jaiden and Kody or just one of them?

16 A No, just Jaiden.

17 Q Just Jaiden. Okay. And what was the communication  
18 you received?

19 A A text through Snapchat.

20 Q And I apologize, I didn't ask that well. What was said?

21 A There's a house party with a pool. Come over.

22 Q Okay. Were you asked to bring anything with you?

23 A No.

24 Q Okay. And when you went to the party, did you go by  
25 yourself?