

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

KODY HARLAN

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

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Case No. 80318  
Elizabeth A. Brown  
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**APPELLANT'S APPENDIX  
Volume XVII**

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

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DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,

vs.

JAIDEN CARUSO and KODY  
HARLAN,  
Defendants.

CASE NO: C-18-333318-1  
C-18-333318-2

DEPT. III

BEFORE THE HONORABLE DOUGLAS HERNDON, DISTRICT COURT JUDGE  
MONDAY, DECEMBER 10, 2019

**RECORDER'S TRANSCRIPT OF PROCEEDINGS:  
SENTENCING**

APPEARANCES:

For the State:

SARAH OVERLY, ESQ.  
GIANCARLO PESCI, ESQ.  
Chief Deputy District Attorneys

For the Defendants:

JAIDEN CARUSO:

MACE J. YAMPOLSKY, ESQ.

KODY HARLAN:

KIRK R. HELMICK, ESQ.

RECORDED BY: JILL JACOBY, COURT RECORDER

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ADDITIONAL APPEARANCES:

Victim Impact Speakers:

DESIREA ROBERTS  
KRISTY MURPHY  
SAMANTHA VALENTINE  
JAMIE SHANKLIN MINKLER  
STEVEN MINKLER

1 Las Vegas, Nevada; Tuesday, December 10, 2019

2  
3 [Proceeding began at 11:37 a.m.]

4 THE COURT: Mr. Helmick is here on behalf of Mr. Harlan;  
5 Mr. Yampolsky on behalf of Mr. Caruso; Ms. Overly and Mr. Pesci on  
6 behalf of the State. We got an audience full of people. I thank you all  
7 for your patience, I know it was a long calendar this morning, so  
8 nonetheless, I appreciate you all being patient with us as we got here.  
9 Any legal cause or reason why sentencing should not go forward?

10 MR. HELMICK: No, Your Honor.

11 THE COURT: Okay.

12 MR. YAMPOLSKY: No, Your Honor.

13 MR. PESCI: No, Your Honor.

14 THE COURT: All right. Mr. Caruso is going to be adjudicated  
15 guilty of the first degree murder with use of a deadly weapon, one count  
16 of robbery with use of a deadly weapon. Mr. Harlan, first degree murder  
17 with use of a deadly weapon, robbery with use of a deadly weapon, and  
18 the accessory to murder with use of a deadly weapon, also a felony. All  
19 right, State?

20 MR. PESCI: Judge, pursuant to statute we'd ask that the  
21 speakers go last. We have five individuals who will speak after  
22 everyone's done, if that's okay with Your Honor.

23 THE COURT: Okay.

24 MR. PESCI: Judge, as to Mr. Caruso, what I would point to as  
25 far as his age and him being rather young when this happened -- and

1 it -- and, he's young now, as far as how that mitigates in his regard, the  
2 State accepts that and understands that. These are decisions made by  
3 individuals who were young. But, you have to kind of differentiate these  
4 two Defendants from some other young defendants when you look at  
5 the criminal history. So, if you look at Mr. Caruso's criminal history, he is  
6 not new to the scene. This is not his first time being involved in the  
7 criminal justice system as you know from the PSI.

8           So, we've got 2015, he's stealing things and he's put on  
9 probation. So, there was an effort by the system to try to change his  
10 behavior to make him change the way he goes about things. It  
11 progresses to 2016, where he gets another charge; this is drug related.  
12 And again, there's -- there're actually services provided, there's  
13 probation involved, and he violates that probation in that same year. We  
14 move to 2017, and then there's more criminal behavior, possession of  
15 stolen property, and possession of a stolen vehicle. And again, there is  
16 efforts made to try to deal with him, formal probation, and then we get to  
17 our case.

18           And so, I think that's why when you come to the decision as to  
19 what to do with the deadly weapon enhancement, as far as how much  
20 time to give, I think taking in consideration his criminal history prior to  
21 this is why it's appropriate to go at least as much as P&P says. So, P&P  
22 has talked about a three-year sentence on that deadly weapon  
23 enhancement. I think it may be appropriate to go more, but at least that,  
24 because he's different from a juvenile who has no criminal history, who  
25 maybe would warrant a one-year sentence on a deadly weapon. So,

1 we'll submit it to your discretion as far as how much it should be, but we  
2 think it should be at least that 23. And, we'll also submit it on P&P's  
3 recommendation as far as the robbery with use.

4 THE COURT: Okay.

5 MR. PESCI: I'm not sure if you want me to pivot to Mr.  
6 Harlan --

7 THE COURT: Yeah, you can go ahead --

8 MR. PESCI: Okay.

9 THE COURT: -- as to both the gentlemen and then I'll --

10 MR. PESCI: Judge, same type of argument, right, as far as  
11 this is an individual who actually has more criminal history than Jaiden,  
12 right? He's actually been involved with the system and the system's  
13 been involved with him even more. So, there's formal probation in 2013,  
14 there's formal probation later in that same year, and he goes up to  
15 Spring Mountain Youth Camp. So, this is someone where the system  
16 has done even more with him. He goes up to Spring Mountain Youth  
17 Camp and it goes on. In 2014, there's a violation, there's formal  
18 probation; this is injuring and tampering with a motor vehicle. 2015,  
19 again, formal probation; damages to school property and fighting. 2016,  
20 formal probation a second time at Spring Mountain Youth Camp. 2016,  
21 violation of probation. 2017, possession of stolen vehicle and is a  
22 commitment to DCFS.

23 So, this is someone where the system has been working with  
24 him. And Judge, I would remind you, again, in the same type analysis  
25 as far as where it should be as far as the deadly weapon enhancement,



1 this individual merits even more time. Because, you have in front of you  
2 on prior motions for an OR, the State objected and filed attachments of  
3 video, where this Defendant is shooting a gun out of a moving vehicle,  
4 driving along and just pulls down the window, and just shoots randomly  
5 out the window. And then, if that's not enough, there's another video.  
6 This is all from his phone, where he's walking with the co-Defendant,  
7 and just walking, presumably somewhere in Henderson, just picks up  
8 the gun and just shoots randomly.

9           So, this is an individual who's distinguished himself as far as  
10 him using a gun long before this even happens. I know he's not the  
11 shooter in this case, but he's someone who is dangerously shooting  
12 weapons in a fashion that could hurt somebody. I think it would be  
13 appropriate to, again, not go the minimums on that deadly weapon  
14 enhancement, to go at least, and I'd probably say more with him,  
15 because of that history.

16           As far as the robbery and accessory, especially the accessory, I  
17 would run that concurrent what we'd submitted to you as far as the  
18 ultimate time. But, I think that they both deserve life sentences, so that  
19 there could be supervision for these individuals, because they're going  
20 to get out; eventually, they're going to get out. And, that supervision will  
21 be an incentive to do the right thing after getting out. And then, we  
22 would submit it with our speakers going last, Your Honor.

23           THE COURT: Okay. Mr. Caruso, is there anything you  
24 wanted to say before your attorney speaks on your behalf?

25           THE DEFENDANT CARUSO: Yes, Your Honor.

1 THE COURT: Okay.

2 THE DEFENDANT CARUSO: I would like to tell -- I wrote a  
3 letter for the family.

4 THE COURT: Sure.

5 THE DEFENDANT CARUSO: To the Minkler family I would  
6 start this letter by expressing my deepest apology to you and everyone  
7 who has suffered from the loss of Matthew. I very much want you to  
8 know that while my actions that day were careless, they were not  
9 intentional. Regardless of how the prosecutors painted me, there was  
10 no plan to hurt your son. And, it hurts my heart when I think of how you  
11 must feel. I can only imagine what it feels like to lose a child, as I am  
12 not much more than a child myself. I'm prepared today to accept my --  
13 I'm prepared today to accept responsibility for my actions, as was  
14 always my intention.

15 I want you to know that I'm going to make the most of my time  
16 in prison by starting with NA program to address the drug use that was --  
17 that played a major part in this tragic event. I will end this letter by  
18 asking for your forgiveness. I hope that someday you will find it in your  
19 hearts. God bless you all, Jaiden Caruso.

20 THE COURT: Thank you. Mr. Harlan?

21 THE DEFENDANT HARLAN: Yes, Your Honor. First, I'd like  
22 to start it off by saying that thank you, Your Honor, for giving me the time  
23 and opportunity to speak. Today is a very big day and I am, however,  
24 extremely nervous, so please forgive me if I fail to articulate myself  
25 properly.

1           Part of being a man is owning up to your actions; taking  
2 responsibility for what you have done. But, any human's most valuable  
3 possessions is time, simply because we can never get it back. So, I  
4 know in my heart, that if I've done something wrong, I'm going to man up  
5 to it. But, Your Honor, what I will not do is waste a year and a half of my  
6 life fighting against the justice system if I know I'm in the wrong. Your  
7 Honor, I never thought in a million years that if I fell asleep on the couch,  
8 that I'd be committed to first degree murder. Every time that I sit or lay  
9 on the couch, I have to remind myself to not fall asleep because I may  
10 wake up and be committed to the first degree murder.

11           Your Honor, at trial you had more than four witnesses come to  
12 testify. Not one of those people said I stood up, not one said I was  
13 arguing, not one said I was even talking. Their exact words was I was  
14 asleep. Your Honor, within my time being here, you nor the DA, have  
15 ever said I killed that man. I put my trust into the justice system hoping  
16 that they would do us right. One thing that I have never seen in  
17 photographs is how others did exactly as I did, and they're not facing  
18 first degree murder. I hope by what I've said so far, nobody is taking it  
19 as me being a victim because I'm not. I'm just standing up for what I  
20 believe in. If a man doesn't stand for something, then he'll fall for  
21 anything. I'm hoping that I can prevent it happening for others. So, if I  
22 got to be the one to stand up to the book, then so be it.

23           Now, I'd like to point my attention to the DA, Mr. Pesci. I  
24 wanted to let you know that I don't hold any grudges against you. I kind  
25 of look up to you like a role model. Anyone that can fight for a family the

1 way you did, is a true definition of a man. You stood for what you  
2 believed in, just like I'm doing today. I understand you have a job to do  
3 and a family to feed, so by no means do I have any hatreds toward you.  
4 Now to the Judge, Mr. Herndon, I'd like to thank you for having such an  
5 open ear and for taking every -- all things into consideration, no matter  
6 how difficult it was, but always coming to a conclusion.

7 Now, to the Matthew Minkler family, every court date you guys  
8 come in, sit down, and look in my direction, smile, stare, and do  
9 whatever it is y'all do. In return, I stare back and smile back. Now, there  
10 is a reason that I smile back, it's because I know you guys are sitting  
11 there thinking that if I have no feelings -- that I have no feelings or  
12 remorse for what happened to your son. I'm smiling because I know  
13 that's what you guys are thinking. No words could explain how much I  
14 feel for you guys. I want you guys to know that if I committed this  
15 horrible crime, then I wouldn't do something so disrespectful like making  
16 you guys come to court and see your son's face on the screen and  
17 make you relive the horrible day you lost him. Just know those were  
18 never my intentions and I'm deeply sorry.

19 Now, to my lawyer, Mr. Helmick, I'd like to thank you for  
20 believing in me even when they didn't. You stood by my side countless  
21 times and you took my word and ran with it. When I was forced to sit  
22 and keep my mouth closed, you were standing and fighting for my  
23 innocence. You've come to see me various times with bags under your  
24 eyes, and your eyes were bloodshot red, always giving me 110%.  
25 You're a hardworking man and for that I will always have the utmost

1 respect for you and the Richard Harris Law Firm. Thank you.

2 Now, to my mom -- I know she's not here today. Now, to my  
3 mother, my beautiful queen, the fight is far from over. They haven't  
4 knocked me out yet, because I'm still standing here. You've always  
5 been the best coach in my corner, I love you. Thank you, Your Honor,  
6 that's all.

7 THE COURT: Thank you. All right, Mr. Yampolsky on behalf  
8 of Mr. Caruso?

9 MR. YAMPOLSKY: Thank you, Your Honor. As the Court's  
10 well aware, we filed a lengthy and detailed sentencing memorandum  
11 with letters from many people, and I'm not going to go through the whole  
12 thing again. I know you've reviewed it, talked about his background  
13 where, you know, dad was abusing Xanax and he followed it. But, the  
14 Court was here the whole time.

15 Now, you heard his statement where he's shown remorse. He  
16 actually wanted to read that during the trial; however, based on the  
17 situation, the fact that I didn't think it's appropriate for him to testify, he  
18 couldn't read it. And, that's where it is now. Question is: has he shown  
19 remorse? As the Court well knows, he was ready to plead -- he actually  
20 did plead; however, the State extended the plea offers and they were  
21 contingent. So, even though he wanted to plead, he wasn't able to do  
22 so. And, it's unfortunate that the co-Defendant changed his mind,  
23 because not only did it adversely affect him, it adversely affected Jaiden,  
24 and really there's nothing we can do.

25 Regarding the sentence, he was 16. It's not like he laid in

1 wait, it's not like he planned to kill someone, and as I said in the trial, it  
2 was stupid kids playing with guns, doing drugs, and it's a tragic, tragic  
3 result. He's had drug problems. Now, since he's been in custody,  
4 obviously he hasn't been doing drugs. He is a lot healthier.

5 Minimum sentence is 20 years and there is the deadly  
6 weapon enhancement. I would disagree with Mr. Pesci. I think the  
7 minimum would be appropriate because he's, I believe, 17 or 18 now  
8 with, you know, 20, 23, whatever -- he's going to be 40 years old. And, I  
9 just -- you know, it's unfortunate and I think that based on the fact that  
10 he's shown remorse, based on the actual facts, that he deserves a  
11 sentence of 20 to 50. That's all.

12 THE COURT: Mr. Helmick?

13 MR. HELMICK: Thank you, Your Honor. You know, this is  
14 one of the most difficult parts of this job, by far. We're always told to be  
15 careful about who we surround ourselves with, right? Don't hang out  
16 with the wrong people, because if something happens, then that person  
17 will be caught up with the rest of them. This case, as far as Kody is  
18 concerned, is a perfect example of that. The kid that stands here today  
19 is not the same kid that he was back on that terrible day in June of last  
20 year. That was the reflection of a kid who was living a life of making  
21 poor choices, a confused kid. A kid doing drugs, smoking marijuana,  
22 drinking alcohol on a regular basis, hanging out with the wrong people,  
23 not thinking about tomorrow, not thinking about the consequences.

24 And, to be very frank with Your Honor, when I first came on  
25 this case earlier this year, and I went over to CCDC to visit him, that's

1 the kid that I thought I was going to meet. But, boy was I wrong,  
2 because the Kody that I know -- that I came to know, answered all my  
3 questions with yes sir or no sir. The Kody that I know handled himself  
4 with respect and matureness throughout the entire trial and every court  
5 proceeding. The Kody that I grew to know maintained a positive mental  
6 attitude and remained optimistic in the face of what many others would  
7 consider to be very dire circumstances.

8           Unfortunately though, living a life of poor choices comes with it  
9 severe consequences. And, he stands here accepting -- knowing that,  
10 accepting responsibility for his role. What happened to Matthew Minkler  
11 was horrific, and it's something that no human being should ever have to  
12 endure. It's something that no parents should ever have to be put  
13 through. There's no question in my mind that Kody feels remorse and  
14 wishes, obviously, he wasn't standing here today. But, he accepts  
15 responsibility for his role.

16           At the time, he was 17 years old, stands here before you only  
17 18, and his future as far as it looks to him now is very scary for a young  
18 kid, and unknown. But, even in those circumstances, while he's been at  
19 CCDC, he has been working on his GED. When he goes to prison, I  
20 know this is the type of guy that's going to participate in every program  
21 possible in an effort to better himself, so that maybe one day he can  
22 leave a positive impact on this earth.

23           And so, all I'm -- all we're asking from Your Honor is to see  
24 the other side of this kid -- there's another side to this kid, and to give  
25 him the opportunity to one day be able to reenter society and be a

1 contributing member. And, for those reasons we're asking for the  
2 definite term of 50 years with the possibility of parole after 20 and the  
3 minimum consecutive sentence on the deadly weapon enhancement for  
4 the charges to run concurrent.

5 THE COURT: Okay. All right, Mr. Pesci, who all wanted to  
6 speak?

7 MR. PESCI: Thank you, Your Honor. Desirea Roberts will go  
8 first.

9 THE MARSHAL: Raise your right hand. Face our clerk.

10 **DESIREA ROBERTS**

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

13 THE CLERK: Thank you, if you could state and spell your  
14 name for the record.

15 THE VICTIM SPEAKER: Desirea Roberts. D-E-S-I-R-E-A, R-  
16 O-B-E-R-T-S.

17 MR. PESCI: Your Honor, may she sit?

18 THE COURT: Yeah -- well, yeah, absolutely.

19 [Colloquy between counsel and the Victim Speaker]

20 THE VICTIM SPEAKER: Thank you.

21 THE COURT: So, did you write something?

22 THE VICTIM SPEAKER: Okay. Oh, what's that? Sorry.

23 THE COURT: Did you write something?

24 THE VICTIM SPEAKER: Yeah, I wrote something.

25 THE COURT: Okay. So, why don't you start out by -- first off,



1 take a big, deep breath, right? So, tell me what your relation is to  
2 Matthew.

3 THE VICTIM SPEAKER: I'm Matthew's older -- sorry.

4 THE COURT: It's okay. You can take another big, deep  
5 breath.

6 THE VICTIM SPEAKER: Can I just read it?

7 THE COURT: Okay.

8 THE VICTIM SPEAKER: Okay. Good morning, Your Honor.  
9 My name is Desirea. I'm Matthew's older sister by five years. I  
10 remember the day the coroner came to the door. They had asked if we  
11 could identify my little brother by his license. In that moment, for a split  
12 second, we had hope. Matthew did not -- Matthew didn't have a license.  
13 When they opened the manila folder, I could see Matt's ID laying flaying.  
14 I could see his face, his bright blue eyes, his beautiful, big smile.  
15 Everything in an instant was gone. All I could do was scream. I couldn't  
16 cry, I couldn't feel, I was in complete shock.

17 I can remember my mom letting out this gut-wrenching  
18 scream. And, I can still hear it in my head. I couldn't be there for her.  
19 In -- sorry, in that moment it was like someone taking your breath right  
20 out of your lungs and you're just gasping for air. My little brother was  
21 gone.

22 Matthew was the youngest of six kids; he is our baby.  
23 Matthew towered over me being five years younger than me. He was  
24 my rock, my protection, my little-big brother, my best friend. He would  
25 always have a big smile on his face. When he would talk about

1 something, you knew he loved it, and was passionate because of the  
2 energy that came with it.

3 He had so much love for his family. He never wanted to see  
4 anyone struggling and if he did, he would always try to be there to give  
5 them the shirt off his back. Losing you has left me with a broken heart,  
6 with no way of feeling, only trying to make it to the next day. It's been a  
7 year and a half of not hearing your voice, not seeing you grow up, or  
8 where you would be at this point. It's left an empty hole in our family  
9 where you used to be. Every day I think of you, and I want you here.  
10 Every day I think of your loss, of you, and what happened to you, and it  
11 eats me up inside. It's too much for one person to handle, let alone a  
12 family.

13 That's why I ask you to please take all things into  
14 consideration. Please think of Matthew. Thank you.

15 THE COURT: So --

16 [Colloquy between counsel and the Victim Speaker]

17 THE COURT: -- so, what do you do?

18 THE VICTIM SPEAKER: I work at the Fashion Show Mall.

19 THE COURT: Okay. So, did you -- did you ever talk with  
20 Matthew, kind of, about what do you want to do with your life, the thing --

21 THE VICTIM SPEAKER: Yeah.

22 THE COURT: -- that sometimes I'm shocked when my  
23 daughters say, this is what we discussed we want to do with our life.  
24 We were like, oh really, okay.

25 THE VICTIM SPEAKER: Yes.

1 THE COURT: So, what was that?

2 THE VICTIM SPEAKER: I remember -- it's funny, we were  
3 watching Doctor Strange, and you know how he's like a surgeon --

4 THE COURT: Right.

5 THE VICTIM SPEAKER: -- and he's like this really handsome  
6 guy, he's so handsome, and then he gets into the crash, and he loses  
7 his hands?

8 THE COURT: Right.

9 THE VICTIM SPEAKER: And, he's like defeated, he doesn't  
10 want to go anywhere. And, I was telling Matt, I was like you could do  
11 that. I was like, you're a good guy, you could be like a surgeon, you  
12 could be something like that. He's like, oh no Des, no Des, I want to be  
13 an entrepreneur. I want to get my own business and do my own stuff,  
14 like that, so.

15 THE COURT: Okay, and what about you? When those  
16 discussions happened, what was it that you wanted to do? Did you want  
17 to be Doctor Strange? Right?

18 THE VICTIM SPEAKER: No.

19 THE COURT: Doctor Strange --

20 THE VICTIM SPEAKER: No.

21 THE COURT: -- is pretty cool.

22 THE VICTIM SPEAKER: No, I don't know. I didn't know. I  
23 still don't know. I'm 23 so I'm kind of in that --

24 THE COURT: Well, you're not supposed to have it figured out  
25 yet, right?

1 THE VICTIM SPEAKER: Yes. So, I don't know.

2 THE COURT: And, that's the -- it's a trick question kind of  
3 thing.

4 THE VICTIM SPEAKER: Yes.

5 THE COURT: When people come and extern with me and  
6 they tell me they've wanted to be a lawyer since they were five, I'm like,  
7 I'm really very sorry, because that's a miserable childhood if you always  
8 wanted to be --

9 THE VICTIM SPEAKER: Yes.

10 THE COURT: You're supposed to want to be an astronaut, or  
11 something, right? You'll figure it out, and I'm sure you'll do something --

12 THE VICTIM SPEAKER: Yes.

13 THE COURT: -- that would have made your brother very  
14 proud --

15 THE VICTIM SPEAKER: Yes.

16 THE COURT: -- okay?

17 THE VICTIM SPEAKER: Yes. Thank you.

18 THE COURT: So, thank you for coming.

19 THE VICTIM SPEAKER: Thank you so much.

20 [Colloquy between counsel and the Victim Speaker]

21 THE COURT: All right, who else?

22 MR. PESCI: Judge, the State will call Kristy Murphy.

23 THE MARSHAL: Stand right here, raise your right hand, and  
24 face our clerk.

25 **KRISTY MURPHY**

1 [having been called as a victim speaker and being first duly sworn,  
2 testified as follows:]

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

5 THE VICTIM SPEAKER: Kristy Murphy. K-R-I-S-T-Y, M-U-R-  
6 P-H-Y.

7 THE COURT: Okay. Would you like to sit down?

8 THE VICTIM SPEAKER: Yes.

9 THE COURT: Yeah, please go ahead. It's okay.

10 THE VICTIM SPEAKER: I have it on my phone.

11 THE COURT: That's okay. That's kind of a thing these days.

12 THE VICTIM SPEAKER: Yeah.

13 THE COURT: It used to be we wrote it all down, and now lots  
14 of people have it digitally. I understand.

15 THE VICTIM SPEAKER: Okay. Good morning, Your Honor.  
16 My name is Kristy Murphy. I'm Matthew's older sister.

17 I remember when my brother was just four years old. I lived in  
18 California at the time with my sister, Kimberly, and we would come to  
19 Vegas once a week for summer break to spend time with my dad and  
20 my siblings. When I was 15, I moved to Vegas to live with my mom and  
21 dad. Matthew was about eight years old at the time. He grew up  
22 around all girls, and I believe that's what made him such a respectful,  
23 young man. At the time, I honestly felt sorry for him and my dad being  
24 surrounded by all of us. Matthew enjoyed hanging out in his room  
25 playing video games and spending time with his family. Anybody who

1 knew Matt knows he loved food. He would compete with my dad to see  
2 who could eat more. He had a very good life.

3 It was 11 days before my birthday when I got the news my  
4 brother had been murdered; June 8<sup>th</sup>, 2018. The news changed my life  
5 forever. I couldn't believe my little brother was gone. Matthew enjoyed  
6 hanging with us at the house that he never really wanted to go  
7 anywhere. Apparently he had asked my parents to give him a summer  
8 to hang out with his so-called friends. Unfortunately, Jaiden and Kody  
9 weren't his friends, because if they were, my brother would still be here.

10 Matthew and our mother shared a bond that was unbreakable  
11 and that would never change. It tears me apart watching my family go  
12 through this. My family isn't the same without Matthew. Every holiday  
13 since my brother was murdered, my mom leaves an open seat for him at  
14 the dinner table with a picture of his face so that we can try and make it  
15 through his favorite times of the year. Until something like this happens  
16 to your family, you can't begin to imagine the heartbreak. I miss my little  
17 brother so much, and the only thing I have left is to go through his  
18 Facebook and watch his videos just to be able to hear his voice again.

19 All I ask is to please think of Matthew and what he has went  
20 through while making this final decision. Our lives will never be the  
21 same. Thank you so much for your time and allowing us the opportunity  
22 to share the impact this has had on us.

23 THE COURT: So, what was his favorite holiday?

24 THE VICTIM SPEAKER: Thanksgiving.

25 THE COURT: Why? Because, that's my favorite holiday, and

1 I think I know the answer, but why?

2 THE VICTIM SPEAKER: He loves to eat.

3 THE COURT: Yeah, you eat for like five days, right?

4 THE VICTIM SPEAKER: Yeah.

5 THE COURT: You eat and then you eat again later that night,  
6 and then maybe it's hot for the next couple of days, and then it's cold  
7 food for the next three days.

8 THE VICTIM SPEAKER: Yeah.

9 THE COURT: But, it's the best food, so I get it. I get it. I can  
10 get a little picture of that, so thank you. I appreciate you coming to  
11 court.

12 THE VICTIM SPEAKER: Thank you.

13 MR. PESCI: Samantha?

14 THE MARSHAL: Raise your right hand, face our clerk.

15 THE COURT: Just raise your right hand, please. Thank you.

16 **SAMANTHA VALENTINE**

17 [having been called as a victim speaker and being first duly sworn,  
18 testified as follows:]

19 THE CLERK: Thank you, if you could state and spell your  
20 name for the record, please.

21 THE VICTIM SPEAKER: My name is Samantha Valentine.  
22 S-A-M-A-N-T-H-A. Valentine, V-A-L-E-N-T-I-N-E.

23 THE COURT: Would you like to sit down?

24 THE VICTIM SPEAKER: Yes, please.

25 THE COURT: Okay.

1 THE VICTIM SPEAKER: And, it's also on my phone.

2 THE COURT: Okay.

3 THE VICTIM SPEAKER: Good morning.

4 THE COURT: Good morning.

5 THE VICTIM SPEAKER: My name is Samantha and I am  
6 Matthew Minkler's oldest sister out of six kids. Matthew, being the only  
7 kid still at home, all our attention was on him and his next year as a  
8 senior in high school. My brother had dreams of running his own  
9 company and making a difference in this world. On Friday, June 8,  
10 2018, the greatest of robberies was committed. Matthew, my little  
11 brother's life was stolen from him; his future and our future with him.

12 He never got to see his graduation day. He will never get to  
13 see his three nieces grow up, nor will they have their big uncle to protect  
14 them through life. He will never get to meet his first nephew that is now  
15 named Matthew, after him. We will never get to help him through his  
16 first heartbreak, or get to watch him get married, or have a family of his  
17 own. Not only did I lose my brother that day, I lost my parents that day.  
18 They will never be the same after watching what those monsters did to  
19 their son.

20 I carry such a strong guilt for letting my brother get into the car  
21 with those monsters that robbed and murdered him that day. Every day  
22 is an emotional roller coaster; one second you're okay, and the next  
23 you're falling apart. My heart is forever broken without my brother. I  
24 wish they were eligible for the death penalty, because I do really believe  
25 that the monsters deserve it. I ask you to please think of this heinous



1 crime and their inhumane behavior when it comes to sentencing. And,  
2 please think of my brother, Matthew. I love you, Matthew, forever and  
3 always.

4 THE COURT: So, how old is Matthew the nephew?

5 THE VICTIM SPEAKER: He is one -- one years --

6 THE COURT: Is that your child?

7 THE VICTIM SPEAKER: Yes.

8 THE COURT: Does he look like him?

9 THE VICTIM SPEAKER: Just like him.

10 THE COURT: Really?

11 THE VICTIM SPEAKER: Blonde hair, blue eyes, big smile.

12 THE COURT: All right.

13 THE VICTIM SPEAKER: Yeah.

14 THE COURT: Well, that's a wonderful thing --

15 THE VICTIM SPEAKER: Yes.

16 THE COURT: -- right, that you get to see him every day?

17 THE VICTIM SPEAKER: It's the greatest blessing we've had.

18 Mm-hmm.

19 THE COURT: So, he can grow up to be an entrepreneur?

20 THE VICTIM SPEAKER: Yes. Yes.

21 THE COURT: And like Thanksgiving?

22 THE VICTIM SPEAKER: Yes.

23 THE COURT: All right.

24 THE VICTIM SPEAKER: He already does.

25 THE COURT: I am sure you'll make sure that happens. So,

1 thank you, appreciate it.

2 THE VICTIM SPEAKER: Thank you.

3 MR. PESCI: Next will be Jamie Minkler.

4 THE MARSHAL: If you can raise your right hand and face our  
5 clerk.

6 MS. SHANKLIN MINKLER: By the way, this is my son. I  
7 carry Matthew around with me everywhere I go, Your Honor.

8 THE COURT: Thank you.

9 MS. SHANKLIN MINKLER: My name is Jamie --

10 THE COURT: All right, Mrs. Minkler, you raise your right  
11 hand.

12 MS. SHANKLIN MINKLER: Jamie Shanklin Minkler. J-A-M-I-  
13 E, S-H-A-N-K-L-I-N, M-I-N-K-L-E-R.

14 **JAMIE SHANKLIN MINKLER**

15 [having been called as a victim speaker and being first duly sworn,  
16 testified as follows:]

17 THE COURT: Okay, thank you.

18 THE VICTIM SPEAKER: Good morning, Your Honor.

19 THE COURT: Good morning.

20 THE VICTIM SPEAKER: I would like to begin by thanking  
21 you, the jury, the prosecuting lawyers, and the time and effort put into  
22 the case. Our family's forever grateful for all your hard work. Sorry.

23 THE COURT: It's okay.

24 THE VICTIM SPEAKER: My heart's been pounding out my  
25 chest all day.

1 THE COURT: You want some water?

2 THE VICTIM SPEAKER: I'll get myself a drink, don't worry.

3 THE COURT: It's okay. Take as much time as you need.

4 THE VICTIM SPEAKER: Okay. I would like to begin to thank  
5 you -- I -- no, sorry. Let me tell you about this amazing, young man who  
6 was carelessly murdered on June 8<sup>th</sup>, 2018. Matthew Steven Minkler,  
7 my 17-year-old-son, my only son, my youngest child, the only child my  
8 husband Steve and I created together, our beautiful baby boy, that we  
9 could not be more proud of.

10 Matthew has a very trusting heart and he was never good at  
11 seeing ugly in -- or the bad that some people possess. My Matthew just  
12 didn't have that kind of heart that would allow him to believe someone  
13 would want to hurt him. My son was kind and always helpful to elderly  
14 and the less fortunate. One day, while we were in Denver with my  
15 niece, we were shopping at the store -- I know this by heart, and we  
16 looked -- Matthew just went across the street and he always digging in  
17 his wallet to give somebody money for -- to feed them, the homeless.  
18 We'd walk together and he'd be like, oh mom, they look like they need  
19 money to eat, because he loved food. So, he stopped and he suddenly  
20 gave a homeless person \$5. We were kind of like, what are you doing?

21 And then, we -- okay, sorry. He gave them -- the -- most  
22 teenagers would have been so caught up in excitement and what was  
23 going on and about their self, that they wouldn't even have noticed  
24 somebody in need. That was the kind of young man my son was, and  
25 still is. That is a loving quality that can be taken from him, even if he's

1 not here with us physically. Matthew was a kind and loving to every  
2 person that he met and always eager to help anyone. He wore a big  
3 smile on his face while volunteering at church because I drug [sic] him  
4 everywhere and he went.

5 He took great care in his niece. He loved helping me at work;  
6 I work with seniors. He did all of this without wanting recognition or  
7 anything in return. Matt would do anything to help in any way you could  
8 imagine. Not only is Matthew our son, but he's an incredible brother, a  
9 great uncle, and a caring cousin to so many and a very loved member of  
10 our big, loving family. He's a very important missing piece to our  
11 family's puzzle that will never be put back together again.

12 We struggle daily with sadness, heartbreak, and anger.  
13 These are now our everyday emotions and this is our everyday reality.  
14 The crippling thought of what my son's last few moments were like haunt  
15 me constantly. Sorry. I can't help but think about the fact that there was  
16 no one there to hold his hand -- I'm sorry -- as he took his last breath, no  
17 one to tell him he was loved and cherished. The sad part -- the sad truth  
18 is people were there to kill him. His last moments were filled with fear  
19 and depression -- I mean, desperation, sorry, I should have brought  
20 glasses -- while they stood over him like he was no one, laughing and  
21 filming his death. No person -- not one person wanted to help him.

22 These thoughts haunt -- like no parent should ever have to  
23 hurt. A nightmare we will now live with. We could not fix it for him. We  
24 could not save him. And, it sits heavily on my heart every day, because  
25 in my head I couldn't save him. Each day to give with a new set of

1 painful thoughts and realizations that this is real. Our son is really gone,  
2 forever.

3           Your Honor, I can't grasp that somebody could do this to your  
4 child, and even worse, someone his own age. Some days, my mind  
5 plays tricks on me and I think Matthew's at his cousin's, Leah's  
6 [phonetic], or he's at school, or he's even upstairs just playing his Xbox.  
7 I pray to God every day, so I can check on my son in heaven. I just wish  
8 life and the people in it could have been kinder to my son. While I talked  
9 to -- while I talk with Abby [phonetic], his nine-year-old-niece, I see the  
10 pain in her eyes. The loss she has to endure at such a young age is  
11 horrible. Imagine having to explain to a young girl, that her only uncle is  
12 never coming home. I try to comfort her, but meanwhile I feel like I'm  
13 dying on the inside.

14           Matthew now has a nephew, a -- baby Matt. The day we  
15 found out he was going to have a nephew, is the day we all reminisced  
16 about. Finally, he would not be surrounded mostly by women. He was  
17 over the moon, he was so excited. I wish you guys could see his face.  
18 It breaks my heart knowing that baby Matt will never get to meet the  
19 man he is named after. The love that Matthew was so excited to give to  
20 his new nephew was so great. Now, baby Matt will never experience his  
21 uncle's love; what a terrible thing to live without.

22           There has been countless nights that I have found my strong  
23 husband in tears, mourning the loss of our son, Matthew. Matthew filled  
24 our life's [sic] with love, laughter, and compassion. He kept us feeling  
25 young with his excitement and zest for life. Family dinners, trips,

1 holidays are -- and now -- are now just a reminder of the empty spot  
2 where Matthew's smiley face used to be. He had the energy of ten high-  
3 spirited teens and the joy he brought to our family can never be  
4 replaced. We will never know the beautiful things Matthew's future held,  
5 the career path he would have chosen, when he would have gotten  
6 married, how many children he would have had. His entire future, and  
7 ours, has been ripped from us in a senseless act of greed, jealousy, and  
8 hate.

9           Your Honor, I hope you take all of this in consideration and  
10 remember my incredible son that was taken from this world far too soon.  
11 I will never be the same person that I was when my son was still here.  
12 My family will never be the same. And, we struggle to find ways to carry  
13 on.

14           My health has been greatly affected from the murder of my  
15 baby, and I have found myself in the hospital for the third time. More  
16 specifically speaking, my heart is under extreme stress. When I say the  
17 words heartbroken, it's not a figure of speech. My heart is literally not  
18 functioning well without him. We love you Matthew, always and forever.  
19 Thank you everyone, for listening. Always, Jamie. Be safe.

20           THE COURT: So, what do you think his favorite thing to do  
21 was? Other than, obviously, playing American Girl and Pet Shop with all  
22 his sisters?

23           THE VICTIM SPEAKER: He liked to video tape a lot. I used  
24 to get mad at him. That sounds -- you know, I had a lot of times to  
25 reflect over things now, and sometimes it -- stupid stuff is just stupid stuff

1 now.

2 THE COURT: Right.

3 THE VICTIM SPEAKER: Always. I'd be like, you always got  
4 the thing in your face. You know what I mean?

5 THE COURT: Well, it's -- you know, it's a different time than it  
6 was --

7 THE VICTIM SPEAKER: Yes.

8 THE COURT: -- when you were young, right?

9 THE VICTIM SPEAKER: I know, and it's such a generational  
10 gap --

11 THE COURT: We were -- the parents --

12 THE VICTIM SPEAKER: -- between us. I know.

13 THE COURT: -- kicked us out of the house and said be back  
14 before bedtime, right? There wasn't video games or anything else going  
15 on.

16 THE VICTIM SPEAKER: Well, you know, my kid really didn't -  
17 - Matt really didn't have a social life or go out a lot, so I really didn't have  
18 to be concerned about him. The four girls are the ones that kept me  
19 busy.

20 THE COURT: Oh, well.

21 THE VICTIM SPEAKER: Yes. Matt was --

22 THE COURT: So, what's -- the truth comes out, girls.

23 THE VICTIM SPEAKER: Yeah. Matt was actually my easiest  
24 going child, very strong-willed and had his point of views, but he didn't  
25 disappear, you knew where he was -- you know what -- it was just a

1 different child.

2 THE COURT: Got it.

3 THE VICTIM SPEAKER: Yes.

4 THE COURT: All right, well, thank you.

5 THE VICTIM SPEAKER: Thank you.

6 THE COURT: I appreciate it very much.

7 THE VICTIM SPEAKER: Thank you, very much.

8 THE COURT: Okay.

9 MR. PESCI: Steve Minkler.

10 THE COURT: Okay. Hey, Jen? Jen? Hold on one second,  
11 sir.

12 [Colloquy between the Court and counsel]

13 THE CLERK: Do --

14 THE COURT: All right, thank you, sir.

15 **STEVEN MINKLER**

16 [having been called as a victim speaker and being first duly sworn,  
17 testified as follows:]

18 THE CLERK: Thank you, if you could state and spell your  
19 name for the record.

20 THE VICTIM SPEAKER: Steven Minkler. S-T-E-V-E-N, M-I-  
21 N-K-L-E-R.

22 THE COURT: All right, sir. You want to have a seat?

23 [Colloquy between the Marshal and the Victim Speaker]

24 THE VICTIM SPEAKER: Good morning, Your Honor.

25 THE COURT: Good morning.



1 THE VICTIM SPEAKER: I'd like to start with my  
2 granddaughter, Abigail.

3 THE COURT: Wait, you got the phone -- I figured you'd be a  
4 writer guy.

5 THE VICTIM SPEAKER: Well --

6 THE COURT: Right?

7 THE VICTIM SPEAKER: I did write mine, sir.

8 THE COURT: Okay, all right.

9 THE VICTIM SPEAKER: I'm old school.

10 THE COURT: Okay.

11 THE VICTIM SPEAKER: So -- but, I'd like to read mine -- one  
12 from my nine-year-old-granddaughter, please.

13 THE COURT: Sure.

14 THE VICTIM SPEAKER: She wrote this herself.

15 THE COURT: Okay.

16 [Victim statement of Abigail Valentine as read by Mr. Minkler:]

17 THE VICTIM SPEAKER: So, it says: my name is Abigail  
18 Valentine. I am nine years old, and I am Matthew Minkler's niece. What  
19 Jaiden and Kody have done is horrible. Matthew wasn't even really my  
20 uncle; he was more like my brother. Matthew has always been there by  
21 my side. I will never forget him. The moment I heard my grandma say  
22 about what happened to Matthew, teared me -- teared my heart apart,  
23 she put. I was eight years old when Matthew was taken from all of us.  
24 Just by writing this, it makes me sad.

25 Matthew was very loved. Knowing that I will never see this

1 human being again is heartbreaking. I always loved to watch Matthew  
2 play his video games. I don't know why such a person would even harm  
3 an angel. Matthew was my only uncle. I hope Matthew gets justice just  
4 like what he deserves. Be safe. Thank you.

5 And then, once again, good morning, Your Honor.

6 THE COURT: Good morning.

7 THE VICTIM SPEAKER: My name is Steven Minkler and I  
8 am Matthew Minkler's father. The victim here is Matthew Minkler; he is  
9 the victim. The Defendants here are Jaiden Caruso and Kody Harlan,  
10 who have been found guilty by a jury of their peers, of first degree  
11 murder and robbery, both crimes with the use of a deadly weapon.

12 On June 9<sup>th</sup>, 2018, I received a phone call at work from my  
13 daughter. She was screaming hysterically, and the only words I was  
14 able to understand were: you need to get home now. As I pulled up to  
15 the house, a man and a woman, the detective from Henderson Police  
16 Department and the Clark County Coroner, were just leaving my house.  
17 They informed me that my son, Matthew Minkler, had been murdered.  
18 That was the worst day of my life. Excuse me.

19 Matthew Minkler was a son, a brother, a cousin, he was a  
20 nephew and uncle, a grandson, and a friend to many. He was so  
21 energetic and full of life; wherever he was, he always had a huge smile  
22 on his face. Matthew was one to help others. He volunteered for  
23 Convoy of Hope and helped to distribute food to the needy. Matthew  
24 was very smart and a good student. He would have graduated from  
25 Silverado High School this past May. At 17 years old, Matthew was still

1 searching for his identity, like where he was supposed to be, and what  
2 his purpose was in life. When Matthew did things, he tried his best to do  
3 them with perfection. He was a young man who would have made a  
4 difference in this world. I will definitely miss the future I was supposed to  
5 have with him.

6 This heinous crime has affected many people. I, for one, have  
7 been totally devastated by the murder of my son, Matthew. Matthew  
8 was Jamie and my only son -- only child together, and her only son. My  
9 heart is broken and it aches every day. The tears continue to flow on a  
10 daily basis. I can't count the number of sleepless nights I've had since  
11 Matthew's death.

12 Oh, and the pain; let's not forget the pain. No words can  
13 come close to describing the pain that I feel, the anxiety, and anger, just  
14 to name a couple of the emotions that attack me every day. How about  
15 depression? Sometimes it's just unbearable. There are days I don't  
16 want to even get out of bed, let alone go to work. I am broken and my  
17 life has forever been changed.

18 I'm asking that the Court give these two Defendants, Jaiden  
19 Caruso and Kody Harlan, the maximum sentence for the murder and  
20 robbery of Matthew Minkler. Thank you, very much, Your Honor.

21 THE COURT: So, what was it that you and your son liked to  
22 do the most? Again, other than playing with all the women in your  
23 house, obviously. And, I get that because I only have daughters. So, I  
24 had a --

25 THE VICTIM SPEAKER: He --

1 THE COURT: -- I had a male dog. He --

2 THE VICTIM SPEAKER: Right. Right.

3 THE COURT: -- my black lab, Norm, he lasted about 16  
4 years. And then, I was on my own.

5 THE VICTIM SPEAKER: Everybody's mentioned he loves to  
6 eat. So, aside from going and getting some food, we liked to go to the  
7 pinball arcade, the museum there on --

8 THE COURT: Right, right.

9 THE VICTIM SPEAKER: -- Tropicana. And, we'd take 20  
10 bucks each, I'd give it to him, and we'd buy -- get a bunch of quarters  
11 and play, you know, air hockey against each other, play the games  
12 against each other, go off on our own and play certain games. I found  
13 one in there that I used to play as a kid, called Dominos, and I'd get all  
14 these replays. And, people would be watching me and I'd just -- here  
15 you guys can play. I'd let everybody play it and then I'd go off with  
16 Matthew and play some more games, and I'd turn around and those  
17 games would be gone. So, I'd go back, put my quarter in and get five or  
18 six more replays, and I didn't let other people play, just because I had  
19 that game mastered when I was a kid.

20 So, you know, it was fun doing that, and you know, we liked  
21 doing a lot of stuff. His favorite ball player was -- in basketball was, I'm  
22 sorry, James Worthy.

23 THE COURT: Okay.

24 THE VICTIM SPEAKER: I'm sorry.

25 MRS. SHANKLIN MINKLER: Nope.

1 THE VICTIM SPEAKER: Nope. Help me.  
2 MRS. SHANKLIN MINKLER: Labron.  
3 THE VICTIM SPEAKER: Labron James.  
4 THE COURT: Oh, God. I like --  
5 THE VICTIM SPEAKER: See, I had one of the word -- one of  
6 the names right.  
7 THE COURT: -- I like James Worthy better.  
8 THE VICTIM SPEAKER: Me, too. Me, too. I'm old school  
9 with James Worthy; one of the best. But, anyways, he went to the  
10 Lakers, which is my favorite team. On the other hand, with football,  
11 Matthew's team was the Green Bay Packers and mine's the Rams.  
12 THE COURT: Okay.  
13 THE VICTIM SPEAKER: And, his favorite player was Clay  
14 Matthews.  
15 THE COURT: Okay.  
16 THE VICTIM SPEAKER: Which went to the Rams this --  
17 THE COURT: Who went to the Rams, now.  
18 THE VICTIM SPEAKER: -- last year, so --  
19 THE COURT: Yeah.  
20 THE VICTIM SPEAKER: -- we would have had some --  
21 instead of being against each other as we were watching and rooting for  
22 the other team, we could have rooted together, you know, if he was still  
23 here, but those are things we liked to do. Watch some sports, which the  
24 girls never liked, but -- and play the video games. He liked the video  
25 games and I liked the arcade, and so did he. So, that and eating, we

1 had a wonderful time.

2 THE COURT: Good.

3 THE VICTIM SPEAKER: I miss him, dearly.

4 THE COURT: Good. Well, you need to keep doing that. You  
5 need to head back to the arcade and make a lot of kids happy by leaving  
6 games for them.

7 THE VICTIM SPEAKER: Absolutely. And, that's a -- Your  
8 Honor, I'd like to do that, because I don't think I've been back since  
9 Matthew's --

10 THE COURT: Right.

11 THE VICTIM SPEAKER: -- you know, murder, so.

12 THE COURT: Look, it's -- you know, I'm in this unfortunate  
13 role where I have to come in a lot of times in my cases and deal with  
14 parents who've had to bury their children, which is a really difficult thing.

15 THE VICTIM SPEAKER: Difficult.

16 THE COURT: But, I know that people don't want you to just  
17 sit around, right? That they want you to --

18 THE VICTIM SPEAKER: Correct, I've done enough of that, I  
19 think. I've done --

20 THE COURT: If they --

21 THE VICTIM SPEAKER: -- I've done --

22 THE COURT: -- if they had that opportunity for that last  
23 conversation, it would be: don't sit on the couch, you know? Teach the  
24 girls to enjoy sports so they can watch that with you. Go to the arcade,  
25 do all those things that, you know, our children would want us to do if

1 they weren't here any longer.

2 THE VICTIM SPEAKER: Yes, sir.

3 THE COURT: So, thank you very much, I appreciate you  
4 coming in.

5 THE VICTIM SPEAKER: Thank you, Your Honor, appreciate  
6 everything.

7 THE COURT: So, can you guys approach the bench real  
8 quick?

9 [Bench conference]

10 THE COURT: I'm trying to remember, but I can't remember  
11 what the statutory change or the case law that came out about  
12 sentencing minors under 18. I know life without was eliminated, but then  
13 there was --

14 MR. PESCI: Life without's eliminated. Everything else is still  
15 in play, but the statute says that --

16 THE COURT: -- there have to --

17 MR. PESCI: -- they get parole eligibility at 20, no matter what.

18 MS. OVERLY: Mandatory, yeah.

19 THE COURT: Yeah, so no matter what I give them --

20 MR. PESCI: And, I get --

21 THE COURT: -- on the enhancement --

22 MR. PESCI: -- that they can go to the board.

23 THE COURT: -- they're getting the eligibility.

24 MS. OVERLY: Right.

25 THE COURT: So, okay, that's what I thought.

1 MR. HELMICK: Sure.

2 THE COURT: Thank you.

3 [Bench conference end]

4 THE COURT: All right. Well, as I alluded to with Mr. Minkler,  
5 obviously -- and, all the attorneys here, you're all wonderful attorneys,  
6 and you deal with all these cases, as well. And I know, regardless of  
7 what position you take in terms of the advocacy and the litigation that  
8 occurs, that I know you appreciate the difficulty that these cases pose  
9 and the pain that families have on both sides, when you have very  
10 young people that are going to go to prison for a very long time, and  
11 young people who have lost their lives and left their families in chaos,  
12 many times. And as I said, it's just never -- we're not supposed to bury  
13 our children. We're just not supposed to bury our children, particularly in  
14 situations that are not just preventable, but are mind-boggling in how  
15 they come about occurring, in my mind.

16 And, it's not just about who was the shooter, or who wasn't the  
17 shooter. The things that a series of decisions that lead up to this kind of  
18 thing occurring are ridiculous sometimes. I mean, earlier in court today,  
19 somebody made the comment about right is right, and wrong is wrong.  
20 And, I can't tell you how many times I think about it and wish I did not  
21 have a job, because people could just appreciate that right is right, or  
22 wrong is wrong, and you don't play with guns, you don't use narcotics  
23 and run around with guns, you don't aim guns at people. I mean, it  
24 would be really nice that -- if people could just appreciate that very  
25 simple aspect of life, then we wouldn't be here. We wouldn't be here in



1 situations like this.

2           It's troubling to sit there and try and find the words to say to  
3 sisters, and nieces, and nephews, and friends, and parents, and  
4 anybody else that can in any way provide comfort over the loss of a 16-  
5 year-old, in something like this. And, I would say that it's probably just  
6 the same difficulty trying to find words that explain to family members of  
7 defendants that are going to go to prison for a very long time, how these  
8 things occur, and try and provide any type of comfort.

9           But, you know, I appreciate some of what you said, Mr.  
10 Harlan, but the reality is, you know, in cases like this it's not always  
11 about who pulled the trigger. I mean, you can sit up there as long as  
12 you want, and every night that you're in prison now moving forward for  
13 at least the next 20 years, and kind of say, I didn't kill this man, but so  
14 many of these situations arise because of a combination of factors with  
15 a combination of people. But, whose idea was what originally, who  
16 procured a weapon, who fired the weapon, who facilitated an  
17 environment that allowed it to occur; these things don't happen in  
18 vacuums, and I don't believe for one instance that everything that  
19 occurred here was simply Mr. Caruso acting without Mr. Harlan having  
20 some involvement and responsibility in that.

21           And, I think our jurors -- some of whom, you know, came back  
22 to watch these proceedings today, which I greatly appreciate -- kind of  
23 saw that as well, and recognized that people have responsibility for the  
24 things that you not only do, but the things you get involved with, and the  
25 culpability you have in allowing things to occur, never being the person

1 that says stop, right? And, one of the most troubling things to me was  
2 listening to a number of incredibly disrespectful witnesses get on this  
3 stand, and act in ways that were astonishing to me, with their parents in  
4 the courtroom, not seeing fit one iota to say: hey, let me tell you  
5 something, jerk. Kind of mind your Ps and Qs, be responsible, you're in  
6 a court of law with people on trial for murder, and a family that lost their  
7 child, and you're going to act like an a-hole, for Christ sakes.

8 And that, none -- nobody, nobody ever called 911 after this kid  
9 was shot. Nobody. Nobody. All these people that are supposedly  
10 friends with Matthew, and not a single one, not just you all, Mr. Caruso  
11 and Mr. Harlan, not a single other person that sat on this witness stand,  
12 that knew what occurred, that saw it on social media, ever thought: my  
13 God, this is wrong; I should contact somebody.

14 It wasn't until they're pulled over in the car, and things start  
15 spilling out with statements, that the police ever have the idea to go back  
16 and find this poor, young man's body stuffed in a closet. And, you know,  
17 I don't want to sit there and say, that's an indictment on youth, because I  
18 know a lot of really great kids. But, the ability -- and, I don't know what it  
19 is that contributes to this -- but the ability of young people to have such a  
20 callous approach to life and humanity is so troubling to me, so troubling  
21 to me, that we point guns and we shoot people, and we film them on  
22 social media as they're dying on the floor, and kind of, wow, look what I  
23 just did. Let's go to the party, let's go to the mall, all these kinds of  
24 things, speak to something that is just systemically wrong with where we  
25 are as a people.

1           And, I get drug use, and I get alcohol abuse, and how that  
2 affects people's thinking. But, those are choices, as well. Those are  
3 choices that people make. But, I have people every day that abuse  
4 drugs and alcohol and they don't go out and shoot each other, and film  
5 each other dying, and kind of laugh about it, and go on. I mean, that -- I  
6 don't know. I don't know. Sometimes, as I said, I struggle not just to  
7 find the words, but to find the ability -- and, I consider myself to be a  
8 basically intelligent person -- to understand those things and that what  
9 drives that kind of conduct and leads to people being able to do those  
10 things.

11           And, I'm sorry that I'm kind of on a soapbox about that, but it  
12 was just an incredible, difficult part of this trial. And, I know that it was  
13 difficult for all of you as attorneys to kind of watch that. I know it was  
14 difficult for people in the courtroom to watch those kids come in and  
15 testify about that. And, I'm not saying that they're more responsible,  
16 certainly, than the people who were on trial and had involvement in this,  
17 and were convicted of it, but it just seemed to be just this whole group of  
18 people, absent the one kid that was emotional when he testified, Alaric.  
19 But, other than that, yeah I -- it -- had it been a different circumstance, I  
20 think I'd have been dragging those kids aside to say, we're going to  
21 have a conversation, because obviously your parents, or anybody that's  
22 involved in your guardianship, isn't doing it. But, that's not something I  
23 can do as the Judge in the case.

24           I also understand, and one of the reasons I asked to -- the  
25 folks to approach the bench, was just to have a brief discussion that

1 look, because of these gentlemen's ages, they're going to be eligible for  
2 parole at 20 years. It's not -- doesn't really matter. It matters, but it  
3 doesn't matter what the enhancements are, because the law provides  
4 that juveniles will be eligible for parole at 20 years. Now, that being  
5 said, I do think there's a lot of things concerning about the prior history  
6 of each of you. I think, generally speaking, you have a couple of people  
7 involved in something, whoever's the person that is actually the shooter  
8 in a killing, generally speaking, would deserve more time. I also think,  
9 however, that there are things that, in regard to Mr. Harlan's conduct,  
10 that are troubling, and the State made mention of those things about the  
11 use of the gun previously, that all in all, probably might equate to giving  
12 each of these gentlemen the same sentence.

13 But, as I said, they're going to be eligible for parole, no matter  
14 what I do at the term of 20 years. But, I do think the life sentence is  
15 appropriate for each of them. There are enough things here that are  
16 concerning about past conduct, the conduct in the case, what occurred  
17 after the murder of this young man, that give me concern about people's  
18 ability to kind of conduct themselves down the road. And, I'll leave it up  
19 to the Prison and Parole system to decide that. But, I do think the life  
20 tails are appropriate.

21 So, all those things being said, there's a \$25 administrative --  
22 for each gentleman, \$25 Administrative Fee, \$150 DNA fee, \$750 in  
23 indigent attorney's fees related to -- well, excuse me, \$750 indigent  
24 attorney's fees related to Mr. Caruso for Mr. Yampolsky. Mr. Helmick  
25 was retained for trial, so it's \$250 as to Mr. Harlan for the appointed --

1 Keith Brower was appointed originally, right?

2 MR. PESCI: Yes, Your Honor.

3 THE COURT: Yeah, so that's \$250 for the appointed  
4 representation. And then, \$3 DNA Collection Fee, \$250 fine. I don't  
5 understand that there was any restitution requested, correct?

6 MR. PESCI: Not per the PSI.

7 THE COURT: Okay. For each of the gentlemen, as to the  
8 first degree murder charge, it'll be a sentence of life in the Nevada  
9 Department of Prisons, with a minimum 20 years before parole eligibility.  
10 I have considered everything under the statute in regard to the weapon  
11 enhancement, and for each of the gentlemen in regard to the weapon  
12 enhancement, it's going to be a sentence of 48 to 120 months, that runs  
13 consecutive by law to the first degree murder portion of the charge,  
14 excuse me.

15 With regard to the robbery with use of a deadly weapon for  
16 each of the gentlemen, robbery is a separate and distinct crime. The  
17 nature of the events that unfolded in this case, even irrespective of the  
18 fact that they're mandatorily eligible at 20, I still think the robbery would  
19 be a concurrency to the homicide charge. So, each gentleman is going  
20 to receive a sentence of 48 to 120 months for the robbery with a  
21 consecutive 48 to 120 months for the weapon enhancement, that charge  
22 running concurrent to count 1.

23 And then, for Mr. Harlan, the accessory charge, 18 to 60  
24 months running concurrent to count 1, as well. I believe each gentleman  
25 has 549 days credit for time served, is that correct folks?

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MR. PESCI: Yes, Your Honor.

MS. OVERLY: Yes, Your Honor.

MR. YAMPOLSKY: Yes.

MR. HELMICK: Yes.

THE COURT: Yeah, okay. All right, thank you all very much,  
again. I appreciate your patience, coming back to so many different  
court proceedings. Thank you.

MR. HELMICK: Thank you, Your Honor.

UNIDENTIFIED SPEAKER: Can we say thank you? I don't  
know if it's okay.

THE COURT: Well, look.

MR. MINKLER: Judge Herndon, thank you very much.

THE COURT: Yeah.

UNIDENTIFIED SPEAKER: Well, we did.

THE COURT: It's okay.

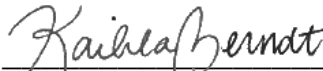
MS. SHANKLIN MINKLER: Thank you, Your Honor.

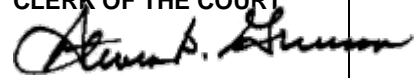
THE COURT: All right, thank you all. Take care.

[Proceeding concluded at 12:34 p.m.]

\* \* \* \* \*

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

  
Kaihla Berndt  
Court Recorder/Transcriber



1 RTRAN

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4  
5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

7 THE STATE OF NEVADA,  
8 Plaintiff,

CASE NO: C-18-333318-1  
C-18-333318-2

9 vs.

DEPT. III

10 JAIDEN CARUSO and KODY  
11 HARLAN,  
12 Defendants.

13 BEFORE THE HONORABLE DOUGLAS W. HERNDON, DISTRICT COURT JUDGE  
14 TUESDAY, APRIL 23, 2019

15 **RECORDER'S TRANSCRIPT OF HEARING RE:**  
16 **ALL PENDING MOTIONS**

17  
18 APPEARANCES:

19  
20 For the State:

GIANCARLO PESCI, ESQ.  
SARA E. OVERLY, ESQ.  
Chief Deputy District Attorneys

21  
22  
23 For the Defendants:

Jaideen Caruso:

JASON R. MARGOLIS, ESQ.

24 Kody Harlan:

RYAN K. HELMICK, ESQ.

25 RECORDED BY: JILL JACOBY, COURT RECORDER

1 **Las Vegas, Nevada; Tuesday, April 23, 2019**

2 [Proceeding commenced at 1:46 p.m.]

3  
4 THE COURT: And what else you got, Ryan?

5 MR. HELMICK: Kody Harlan on --

6 THE CLERK: 17

7 MR. HELMICK: -- 17

8 THE COURT: Is Mace here as well?

9 MR. PESCI: No, Judge.

10 THE COURT: No.

11 MR. MARGOLIS: I'm gonna stand in for him, Judge.

12 THE COURT: You got it? Okay. One second, guys. All right. So  
13 what we have on today on the case, it's on for status check on trial preparedness  
14 for our May 13<sup>th</sup> trial date. We also have Mr. Harlan's motion to sever, or in the  
15 alternative, to deem certain statements inadmissible. Mr. Caruso joined. It's a  
16 non-substantive joinder, but that he did join into that motion. All right. Mr.  
17 Helmick.

18 MR. HELMICK: Thank you very much, Your Honor. In regards to the

19 --

20 THE COURT: And both the defendants are present in custody. I'm  
21 sorry.

22 MR. HELMICK: Thank you, yes. In regards to the motion to sever,  
23 the -- and I won't rehash everything -- but the decisive factor here, according to  
24 the United States Supreme Court in *Zafirino* [sic] is prejudice. In any severance  
25 motion, that's the decisive factor. It talks about the risk of prejudice -- prejudice



1 being heightened when the degrees of culpability are different; which they are  
2 here, between these two individuals. Based upon the charges, the degrees of  
3 culpability are from zero to a hundred on these two individuals. But if we take -- if  
4 we take a step back and just kind of look at the prejudicial aspect of things, there  
5 are -- there are some evil facts in this case that those evil aspects of this case  
6 apply mainly to Caruso.

7 And the concern that I have is that if we -- if we put them side by side  
8 in trial, there's gonna be facts that come out that talk about how they were  
9 friends. How they -- how Mr. Harlan even lived at Caruso's house. How they  
10 drove to the Cool Lilac house together. How they left the Cool Lilac house  
11 together. How they did all these things together. But that doesn't mean that they  
12 were together in killing Mr. Minkler. That doesn't mean they were a part --  
13 together as a part of some robbery. And so my concern is that putting them side  
14 by side, you're gonna have the bad aspects of this case, which we know from  
15 very overwhelming evidence on Caruso, they're gonna -- they're gonna have  
16 some hate. And that hate is going to spill over to Harlan in this case. It's gonna  
17 infect his case. And that's my concern.

18 THE COURT: All right. Mr. Pesci.

19 MR. PESCI: Thank you, Your Honor. Sara Overly and Giancarlo  
20 Pesci on behalf of the State. Your Honor, we responded in our opposition and  
21 pointed out that in the *Zafiro* case cited to you by the defense, the Supreme  
22 Court of the United States said it's not, per se, a reason to sever because of  
23 antagonistic defenses. And what the defense has failed to tell you is what  
24 specific trial rights will be impeded by being seated next to the co-defendant.  
25 There's nothing that has been articulated to you, and there is nothing that can be

1 articulated to you.

2 The fact that some evidence is more damning to one defendant and  
3 not the other, does not create a basis for a severance. Especially when you can  
4 take into consideration, vicarious liability, Your Honor. And so this is not a  
5 question of who was there and who done it. So the fact that they were together  
6 before and they went there together, doesn't do anything; because if the case is  
7 severed, that evidence is still coming in. There is evidence that will come in on a  
8 severed case or a non-severed case. And that's a really important concept to  
9 keep in mind.

10 There is nothing that they have said that would impede it. When it  
11 comes to the *Bruton*, which is the secondary portion of this, the State's not  
12 seeking to introduce -- will not seek to introduce anything one defendant said the  
13 other defendant did. Now, if it's in the course and furtherance of the conspiracy,  
14 clearly that's admissible evidence; we pointed it out in our response. And so  
15 there's no basis here for severance and the motion should be denied.

16 THE COURT: Ryan?

17 MR. HELMICK: I mean, just briefly. In regards to the *Bruton* issue, I  
18 suppose that is moot, because Mr. Pesci has agreed that he is not gonna  
19 introduce some of the --

20 THE COURT: Yeah, I --

21 MR. HELMICK: -- concerns that I had.

22 THE COURT: -- just so that we're really clear on that. I understood  
23 there are four aspects of the Caruso statement to the detectives that you were  
24 specifically addressing that the State was specifically agreeing they would not  
25 use, correct?

1 MR. PESCI: Correct. When -- when Caruso is talking to the detective  
2 and says that Harlan did A, B, and C, we're not seeking to introduce that. We  
3 cannot seek to introduce that.

4 THE COURT: Okay. All right. So, yeah, I would agree that that's  
5 kind of a moot point --

6 MR. HELMICK: Okay.

7 THE COURT: -- obviously. And that the other things related to  
8 potential statements that are part of an ongoing conspiracy, those are different  
9 things that we'll address at the time of trial. But are there any other statements to  
10 the detective that you guys were seeking to introduce? I know you complained of  
11 four particular things. But are there other aspects of statements to the detectives  
12 that in --

13 MR. PESCI: Sure.

14 THE COURT: -- any way implicate any of these things, or no?

15 MR. PESCI: Things that place him there at the time. Things --

16 THE COURT: No, I'm not --

17 MR. PESCI: -- that he admits --

18 THE COURT: -- I don't mean Caruso talking about Caruso. I'm just  
19 saying there isn't anything else --

20 MR. PESCI: No.

21 THE COURT: Okay.

22 MR. PESCI: No. Not -- not what Caruso saying that the other or vice  
23 versa for that matter, because it's been joined in by the co-defendant.

24 THE COURT: Got it. Okay. All right, Ryan, you can go ahead finish  
25 up.

1 MR. HELMICK: I'll submit it, Your Honor. I mean --

2 THE COURT: Well, look I -- I would agree that I don't believe there's  
3 any particular trial rights that are being prejudiced. There is a difference between  
4 degree of culpability when we're charging co-defendants and you've got one co-  
5 defendant charged with, like, possession of narcotics and a stolen vehicle and  
6 the other co-defendant charged with three counts of murder. I mean, that --  
7 there's a very good argument to be made there that my client's level of culpability  
8 and involvement in this case is so de minimis concerning the other aspects of it  
9 that they should be severed.

10 I think it's different when you're talking about here, where everybody is  
11 charged with the same crimes and the jury is tasked with addressing conduct to  
12 figure out what, if anything, they think each of the individuals is -- is, you know,  
13 guilty of. And I don't think that just saying each of the gentlemen may want to  
14 point the finger at the other one, in terms of who actually killed this young man. I  
15 don't think those are what we contemplate as mutually antagonistic defenses for  
16 purposes of severance. I think that the law is pretty clear on what really  
17 contemplates mutually antagonistic defendants -- or defenses and I don't think  
18 this is it. So all in all I think it's appropriate that the matter stays joined and I'm  
19 going to deny the motion to sever.

20 MR. HELMICK: Okay, thank you.

21 THE COURT: And then there was -- the other matter I think is set for  
22 April 30<sup>th</sup>, correct? That's the --

23 MR. PESCI: There is one. Another one just got filed, I think, today or  
24 yesterday.

25 THE COURT: Okay. And then we have our trial date of May 13<sup>th</sup>, but

1 I also know that I've approved some funding for an expert. So I don't know how  
2 that's going to impact our trial date or whether you guys had any communication  
3 about that.

4 MR. PESCI: The expert, I don't know anything about that.

5 THE COURT: Okay.

6 MR. HELMICK: Well, I did file the notice of expert, timely, --

7 THE COURT: Okay.

8 MR. HELMICK: -- for Mr. Alan Donaldson. All I've been waiting for  
9 was -- was to get the funds approved. We're gonna have him jump on it this  
10 week.

11 THE COURT: Okay.

12 MR. HELMICK: And -- and he may not do a report.

13 THE COURT: Okay.

14 MR. HELMICK: I don't think it's gonna be that technical where he  
15 would need to. And then -- so I don't think that's gonna cause any delay. But --

16 THE COURT: All right.

17 MR. HELMICK: -- there was another reason that we had the hearing  
18 today. I don't know if Your Honor addressed that yet. It was in regards to  
19 leaving the offer open for Mr. Harlan. I just want to make a record that he still  
20 rejects that offer that has been given to him.

21 THE COURT: Okay. All right. So I don't know. I'm assuming Mr.  
22 Caruso may still be amenable to his offer, but Mr. Harlan is rejecting his offer.

23 MR. MARGOLIS: And that was part of why the, I mean, the reason  
24 for our joinder was largely based on the fact that there is real prejudice, not  
25 potential prejudice, to Mr. Caruso in negotiation of this case right now.

1 THE COURT: Right.

2 MR. MARGOLIS: On account of that.

3 THE COURT: The -- the prejudice being that he can't avail himself of  
4 the offer.

5 MR. MARGOLIS: Correct.

6 THE COURT: That -- that doesn't really have any difference between  
7 --

8 MR. MARGOLIS: I know.

9 THE COURT: -- the severance, so --

10 MR. MARGOLIS: I know.

11 THE COURT: -- so I -- I get your concern about that, though, and the  
12 frustration. So all right. Is the offer withdrawn at this point then?

13 MR. PESCI: As to the co-defendant, yes.

14 THE COURT: Okay. All right. So --

15 MR. PESCI: Judge, also if I could -- I apologize that I interrupted you.

16 THE COURT: No, that's okay.

17 MR. PESCI: You were asking about trial readiness earlier. We have  
18 subpoenaed from the Henderson Police Department all the records related to this  
19 case. We have a good portion of them. We've already provided that to the  
20 defense counsel previously. On Friday, I received a stack probably about four  
21 inches deep of paperwork. In addition, they told me they have 150 gigabytes  
22 worth of data on a server that I have to get an external hard drive to them to get.  
23 So --

24 THE COURT: Okay.

25 MR. PESCI: -- i'm in the process of doing that. As soon as I found

1 that out I provided that information `cause I got the email about the 150 --

2 THE COURT: Is that phones or computers?

3 MR. PESCI: I believe it's phones.

4 THE COURT: Okay.

5 MR. PESCI: I think there's, like, there's a multitude of kids with  
6 Snapchat accounts and there's a ton of video and photos associated therewith.

7 THE COURT: Okay.

8 MR. PESCI: So I'm getting that as soon as I can.

9 THE COURT: Well --

10 MR. PESCI: And as soon as I get it --

11 THE COURT: -- so here's what I was going to say. Next week we  
12 have two dates set; one for the motion in limine on the 30<sup>th</sup> and then the calendar  
13 call is on May the 2<sup>nd</sup>. I would prefer just to do -- have you come back once  
14 rather than both days.

15 MR. HELMICK: Sure.

16 THE COURT: And based on that, my inclination is to say let's come  
17 on the later day, the 2<sup>nd</sup>, to give you as much time as you can to figure out what's  
18 going on.

19 MR. PESCI: That would be great too because another motion came  
20 in. So can we calendar that for the calendar call as well?

21 THE COURT: What's the other motion?

22 MR. HELMICK: I filed another motion in limine yesterday.

23 THE COURT: For?

24 MR. PESCI: To preclude the parents of the decedent from testifying  
25 at trial.

1 THE COURT: Okay. So we will calendar that for May 2<sup>nd</sup> as well. So  
2 we'll have the defense motion in limine regarding bad acts. We will have the  
3 defense motion in limine regarding testimony of the decedent's parents. Those  
4 will both be on May 2<sup>nd</sup>. And we will vacate the April 30<sup>th</sup> date. And then we'll  
5 talk more about preparedness for trial at that time as well, okay?

6 MR. PESCI: Thank you, Your Honor.

7 MR. HELMICK: Okay. Thank you, Your Honor.

8 MR. MARGOLIS: Thank you.

9 THE COURT: Thank you.

10 [Proceeding concluded at 1:55 p.m.]

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

23   
24 \_\_\_\_\_  
25 Stacey Ray  
Court Recorder/Transcriber