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IN THE SUPREME COURT OF THE STATE OF NEVADA

JAIDEN CARUSO,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Case No. 80361

APPELLANT'S APPENDIX VOLUME II

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THE STATE OF NEVADA**

ALPHABETIC APPENDIX FOR APPELLANT'S APPENDIX

<u>DOCUMENT</u>	<u>VOLUME</u>	<u>PAGE NOS.</u>
Defendant Harlan's Motion to Sever or in the Alternative Motion to Deem Statements of the Co-Defendant Inadmissible filed April 8, 2019	I	0001-0013
Defendant Jaiden Caruso's Joinder to Defendant Kody Harlan's Motion to Set Aside Guilty Verdict as to Counts One and Two; In the Alternative Motion for a New Trial filed August 28, 2019	I	0014-0015
Defendant Jaiden Caruso's Joinder to Defendant Kody Harlan's Motion to Sever or in the Alternative Motion to Deem Statements of the Co-Defendant Inadmissible filed April 22, 2019	I	0016-0017
Defendant Jaiden Caruso's Supplemental Points and Authorities in Support of His Joinder to Defendant Kody Harlan's Motion to Set Aside Guilty Verdict as to Counts One and Two; In the Alternative Motion for a New Trial filed September 12, 2019	I	0018-0033
Information filed July 17, 2018	I	0034-0037
Judgment of Conviction filed December 12, 2019	I	0038-0039
Notice of Appeal filed January 2, 2020	I	0040-0041
Notice of Motion to Place on Calendar to Set Aside Guilty Verdict as to Counts One and Two; In the Alternative Motion for a New Trial and to Request Additional Time for Supplemental Briefing filed August 13, 2019	I	0042-0046
Notice of Non-Filed Plea Agreements of Jaiden Caruso and Kody Harlan filed May 27, 2020	I	0046A-0046W
Order Denying Defendant's Motion to Sever, or in the Alternative, Motion to Deem Statements of the Co-Defendant Inadmissible filed May 15, 2019	I	0047-0048
Order Denying Defendant's Pretrial Petition for Writ of Habeas Corpus (as to Defendant Caruso) filed October 23, 2018	I	0049-0050
Petition for Writ of Habeas Corpus (as to Defendant Caruso) filed August 29, 2018	I	0051-0062

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Recorder's Transcript of Hearing Re: Status Check; Negotiations filed June 4, 2020	I	0087A-0087G
Reporter's Transcript of Preliminary Hearing before the Honorable Samuel G. Bateman filed July 30, 2018	II	0088-0303
Recorder's Transcript of Proceedings: All Pending Motions filed January 22, 2020	III	0304-0375
Recorder's Transcript of Proceedings: Sentencing filed January 22, 2020	III	0376-0418
Response to State's Opposition to Harlan's Supplemental Briefing for Motion for a New Trial filed October 3, 2019	III	0419-0429
State's Opposition to Defendant Harlan's Motion to Sever or in the Alternative Motion to Deem Statements of the Co-Defendant Inadmissible filed April 11, 2019	III	0430-0442
State's Opposition to Defendant's Motion to Set Aside Jury Verdict as to Counts One and Two; or in the Alternative, Motion for New Trial and Supplemental Briefing filed August 20, 2019	III	0443-0460
State's Return to Writ of Habeas Corpus filed September 11, 2018	III	0461-0472
State's Supplemental Opposition to Defendant's Motion for New Trial filed September 26, 2019	III	0473-0500
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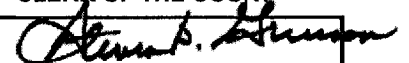
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TRAN

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

IN THE JUSTICE COURT OF HENDERSON TOWNSHIP
COUNTY OF CLARK, STATE OF NEVADA

STATE OF NEVADA,)	
)	
Plaintiff,)	
)	
vs.)	CASE NOS. 18FH1236A
)	18FH1236B
JAIDEN CARUSO and KODY)	
HARLAN,)	
)	
Defendants.)	

REPORTER'S TRANSCRIPT OF PRELIMINARY HEARING
BEFORE THE HONORABLE SAMUEL G. BATEMAN
MONDAY, JULY 9, 2018

APPEARANCES:

For the State: GIANCARLO PESCI, ESQ.
SARAH OVERLY, ESQ.
Deputy District Attorneys

For the A-Defendant
Jaiden Caruso: WILLIAM B. TERRY, ESQ.

For the B-Defendant
Kody Harlan: KEITH BROWER, ESQ.

REPORTED BY: DANA TAVAGLIONE, RPR, CCR 841

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1 HENDERSON, NEVADA; MONDAY, JULY 9, 2018;

2 11:22 A.M.

3 * * * * *

4
5 THE COURT: All right. Let's go on the
6 record. Jaiden Caruso -- everything that could go
7 wrong can go wrong -- Kody Harlan, 18FH1236A and B,
8 on for preliminary hearing.

9 Mr. Terry for Mr. Caruso, Mr. Brower for
10 Mr. Harlan. Mr. Pesci.

11 MR. PESCI: Thank you, Your Honor.

12 MR. TERRY: Could we invoke the
13 Exclusionary Rule.

14 THE COURT: Absolutely. I assume on both
15 sides. Do we have witnesses in here for either --
16 you guys planning on having any witnesses?

17 MR. TERRY: No, Your Honor.

18 THE COURT: All right.

19 MR. PESCI: I don't recognize that any
20 individuals in here are going to be testifying.

21 THE COURT: All right. So the Rule is
22 invoked. Mr. Pesci.

23 MR. PESCI: Thank you, Your Honor.

24 Today we received a copy of the autopsy
25 report authored by Leonardo Roquero, the doctor in

1 this case. He literally walked into the courtroom
2 with it, and then I handed it to defense counsel
3 before I even read it so that they could see it.
4 We've asked your staff, who were very kind, to make
5 copies. So now they do have a copy of it. They
6 received it the same time that I did.

7 In addition, the autopsy report that we
8 have here does not have the toxicology. So I talked
9 to the doctor. He had it forwarded to me, and then
10 I forwarded it to defense counsel. And that's also
11 been -- as I understand it, being copied right now
12 or has been copied, and all everyone now has a copy
13 of the autopsy report.

14 THE COURT: Full autopsy in terms of the
15 autopsy report itself from the toxicology; is that
16 correct?

17 MR. PESCI: Correct. So I just wanted to
18 make a record of it, when it became available and
19 it's been provided to defense counsel. Other than
20 that, I think that we're good to go.

21 THE COURT: And just, for the record, last
22 time we did set it for Thursday, the 12th. I
23 received an e-mail with everyone on it -- everyone
24 being Mr. Pesci, Mr. Terry, and Mr. Brower --
25 requesting that we reset that to the 9th.

1 Is that correct?

2 MR. PESCI: It was the State's request.
3 Defense counsel was very kind to agree.

4 THE COURT: All right. Do you have a
5 concept of how many witnesses we're looking at,
6 Mr. Pesci?

7 MR. PESCI: I think we have eight.

8 THE COURT: All right. Call your first
9 witness.

10 MR. PESCI: State calls Dr. Leonardo
11 Roquero.

12 Judge, while he's coming in, we do have a
13 stipulation as to the individual that the autopsy is
14 performed on, that being Matthew Minkler.

15 Is that correct, Counsel?

16 MR. TERRY: Correct on our behalf, Judge.

17 THE COURT: Stipulating to ID?

18 MR. PESCI: Yes.

19 THE COURT: All right.

20 MR. PESCI: Consequently, the defendant
21 (phonetic) is not testifying.

22 THE COURT: I understand.

23 Come on up, Doctor. Have you get up on the
24 witness stand. Remain standing. Raise your right
25 hand for me.

1 (Witness sworn.)

2 THE WITNESS: I do.

3 THE COURT: Thank you. Please be seated.
4 State and spell your full name, for the
5 record.

6 THE WITNESS: Sure. My name is Leonardo
7 Roquero. L-E-O-N-A-R-D-O, R-O-Q-U-E-R-O.

8 THE COURT: Go ahead, State.

9
10 Thereupon --

11 LEONARDO ROQUERO,
12 having been first duly sworn to testify to the
13 truth, was examined and testified as follows:

14
15 DIRECT EXAMINATION

16 BY MR. PESCI:

17 Q. Sir, could you give us your qualifications,
18 your training and experience, please.

19 A. Sure. I am currently employed as a medical
20 examiner at Clark County Office of the
21 Coroner/Medical Examiner.

22 After I finish my med. school, my medical
23 school, I went, continue pathology residency training
24 for anatomical and clinical pathology at Henry Ford
25 Health System in Detroit, Michigan. This is a

1 four-year training. This is followed by a one-year
2 subspecialty training in forensic pathology under
3 the University of Michigan. I am currently certified
4 in forensic, anatomical, and clinical pathology.

5 Q. Do you work right now at the Clark County
6 Coroner's Office?

7 A. Yes.

8 Q. And in that capacity, do you perform
9 autopsies?

10 A. Yes.

11 Q. Did you perform autopsies prior to coming to
12 the Clark County Coroner's Office?

13 A. Yes.

14 Q. Okay. And where was that? Was that back in
15 Michigan?

16 A. Correct.

17 Q. Where in particular?

18 A. In Detroit, Michigan, at the Wayne County
19 Medical Examiners Office.

20 Q. And how long did you work there?

21 A. Two years.

22 Q. How many, do you estimate, autopsies did you
23 perform in Michigan?

24 A. Close to 1,000.

25 Q. And since you've been here at the

1 Clark County Coroner's Office, have you performed
2 autopsies?

3 A. Yes.

4 Q. And when you perform an autopsy, do you do
5 an external and then an internal examination of the
6 individual?

7 A. Correct.

8 Q. As you do this autopsy, do you take notes,
9 and do you generate a report to memorialize the
10 autopsy that you did?

11 A. Yes.

12 Q. Do you have a unique number that's assigned
13 for each specific autopsy?

14 A. Yes.

15 Q. Did you perform the autopsy on Matthew
16 Minkler, under your offices, Case No. 18-05977?

17 A. Correct.

18 Q. Was the autopsy performed on June the 10th
19 of this year?

20 A. That is correct.

21 Q. And when you did an external and an internal
22 examination, at the conclusion of that, did you come
23 to an opinion as to cause and manner of death?

24 A. Yes.

25 Q. Let's focus on the examination.

1 What is it that you saw, as far as injuries,
2 that led to the death of Matthew?

3 A. There was a gunshot wound to the head.

4 Q. Where exactly was it?

5 A. It was on the left side of the chin.

6 Q. Could you show the Court, by indicating on
7 your face, where it was.

8 A. Sure. It was on the left side of the chin
9 (indicating).

10 Q. And then where did the path of that bullet
11 go into the body of Matthew?

12 A. The bullet went through the lower lip. The
13 mandible, went into the tongue, pharynx, went into
14 the cervical soft tissue. And the bullet was
15 recovered, as well as the fragments, was recovered
16 in the level of C3 cervical vertebra.

17 Q. So if a bullet hits the C3 vertebrae, what
18 does that do to the individual?

19 A. Sure. In association with this, the
20 associated injuries, on that level of the C3
21 cervical vertebra is injury to the spinal cord.

22 Q. And then when you did the external and the
23 internal examination of that particular gunshot
24 wound, did you see any evidence of stippling?

25 A. No.

1 Q. What is "stippling"?

2 A. "Stippling" is the unburned gunpowder.

3 Q. And when there is not evidence of stippling,
4 what does that tell you as far as how close the gun
5 is in relation to the victim?

6 A. In the absence of stippling, there's no
7 evidence of close range of firing.

8 Q. Okay. And is there a distance that's
9 associated with that for you to say "in the absence
10 of"? About how far away would it have to be?

11 A. Generally, it's approximately 2 feet for
12 the gunpowder stippling to be noted on the skin
13 surrounding the gunshot wound.

14 Q. Okay. So an individual would have to have
15 been further than 2 feet away from Matthew's face
16 because there is no stippling?

17 A. Yes.

18 Q. Okay. Now, did you come to a conclusion as
19 to the cause of death in this case?

20 A. Yes.

21 Q. What was that?

22 A. Gunshot wound to the head.

23 Q. And did you come to a conclusion as far as
24 the manner of death?

25 A. Yes.

1 Q. What was that?

2 A. Homicide.

3 Q. Now, there is -- medically speaking, there
4 can be a homicide. There could be suicide.

5 Could you also have an "undetermined"
6 sometimes?

7 A. Correct.

8 Q. In making your determination in not finding
9 suicide, what were some of the factors that brought
10 you to a homicide determination?

11 A. Sure. First is the gunshot wound itself.
12 The gunshot wound does not have any stippling, nor
13 evidence of some soot, which are evidence of close
14 range of firing. So there was nothing around the
15 gunshot wound on the skin.

16 The gunshot wound was located on the chin
17 as well. With regards to that, the investigator's
18 report are also included in the evaluation of the
19 whole circumference of death, which is defined as
20 also the manner of death. With all of this in
21 constellation, this is regarded or, in my opinion,
22 this is a homicide.

23 Q. Now, in your experience, you said you did
24 thousands of autopsies in Detroit.

25 Did you ever do any there or even here in

1 Clark County where they were suicides?

2 A. Yes.

3 Q. And what you just described is somewhat that
4 distinguishes this particular incidence from some of
5 those suicides?

6 A. Yes.

7 Q. And this is not even a shot under the chin;
8 right? It's entering the chin, just below the lip?

9 A. Correct.

10 Q. And tell us about the path as far as the
11 directionality.

12 A. Sure. The direction is from front to back.

13 MR. PESCI: Okay. Thank you very much.

14 Pass the witness, Your Honor.

15 THE COURT: Who wants to go first?

16 Mr. Terry?

17 MR. TERRY: I will, Judge.

18 THE COURT: All right. Go ahead.

19 Cross-examination.

20 MR. TERRY: Good morning, Doctor.

21

22 CROSS-EXAMINATION

23 BY MR. TERRY:

24 A. Good morning, sir.

25 Q. You also did not find any soot; correct?

1 A. Correct.

2 Q. And soot is different on the face than the
3 stippling would be; correct?

4 A. Correct.

5 Q. Okay. Now, you were aware that a toxicology
6 exam was also done?

7 A. Yes.

8 Q. Is that standard procedure?

9 A. Yes.

10 Q. Okay. Was it done for drugs?

11 A. Correct.

12 Q. What was the finding?

13 A. The presence of marijuana, as well as
14 Alprazolam.

15 Q. And do you recall what the nanograms were on
16 the marijuana and the nanograms on the Alprazolam?

17 A. I don't remember.

18 MR. TERRY: May I approach.

19 THE COURT: Yes.

20 BY MR. TERRY:

21 Q. Ask you to take a look at the toxicology
22 report, Doctor, and see if that refreshes your
23 memory.

24 A. Sure. Thank you.

25 Q. Okay. And it's a three-page document. So

1 take your time.

2 A. So what I received is a three-page document
3 of the Postmortem Toxicology Report of Case
4 No. 18-05977. I stand corrected. Rather, it's a
5 four-page Postmortem Toxicology Report.

6 The level of Alprazolam is 140 nanogram
7 per mil.

8 Q. Is that high?

9 A. I don't know.

10 Q. That is not your area?

11 A. Correct.

12 Q. Correct?

13 If I were to ask you the same questions on
14 the nanograms involved with the marijuana, would you
15 give me the same answer, which is you did not know
16 whether or not that would be enough to impair?

17 A. Correct.

18 Q. Okay. And was there any attempt to find
19 alcohol in the system?

20 A. Yes.

21 Q. And what was the result of that?

22 A. There is none.

23 Q. And just so we're clear, it was one shot;
24 correct?

25 A. Correct.

1 Q. And you would assume that it was from a
2 distance because there's no soot, no stippling;
3 correct?

4 A. Correct.

5 Q. Are you able to determine the distance?

6 A. That is correct.

7 Q. Are you able to determine the approximate
8 distance?

9 A. No.

10 MR. TERRY: Okay. Nothing further, Judge.

11 THE COURT: Mr. Brower.

12

13 CROSS-EXAMINATION

14 BY MR. BROWER:

15 Q. Doctor, can you tell me how fast death would
16 have occurred after the deceased was shot?

17 A. It's based on the injuries of the gunshot
18 wound that the decedent sustained, it's a rapid
19 death.

20 Q. And how do you define "rapid death"?

21 A. Rapid death occurs within seconds to
22 minutes following the injury.

23 Q. And the other question I have for you,
24 Doctor, is did you check the -- Mr. Minkler's hands
25 for any gunshot residue, or would that be outside of

1 your purview?

2 A. I'm sorry. Could you please repeat the
3 question.

4 Q. Did you check the deceased hands for any
5 gunshot residue, or would that have been through
6 another person?

7 A. That would be another person.

8 MR. BROWER: No further questions,
9 Your Honor.

10 THE COURT: Any redirect?

11 MR. PESCI: No. Thank you, Your Honor.

12 THE COURT: All right. This witness free
13 to go?

14 MR. PESCI: On State's behalf, yes.

15 MR. TERRY: Yes.

16 THE COURT: All right. You're free to
17 leave. Thank you so much.

18 THE WITNESS: Thank you.

19 THE COURT: Appreciate it.

20 Can you guys -- before you call your next
21 witness, we're operating off an Amended Criminal
22 Complaint, aren't we?

23 MR. PESCI: We have on file, I believe, an
24 Amended Criminal Complaint. That's correct.

25 THE COURT: Do you have an extra copy in

1 there?

2 MR. PESCI: Yes, Your Honor.

3 THE COURT: Can you approach with that.

4 You guys have the Amended; correct,
5 Mr. Terry?

6 MR. TERRY: I do, Judge.

7 THE COURT: Mr. Brower?

8 MR. BROWER: Yes, Judge.

9 THE COURT: All right.

10 MR. PESCI: May I approach, Your Honor.

11 THE COURT: Yes. Thank you.

12 Go ahead and call your next witness.

13 MS. OVERLY: Your Honor, the State calls
14 Alaric Oliver.

15 MR. PESCI: Judge, I would ask that the
16 media not film. This is a juvenile. So that's the
17 State's request.

18 THE COURT: Not film at all or not film --

19 MR. PESCI: Just the face.

20 THE COURT: Okay. In the media -- who do I
21 have here? Is it just this one camera?

22 (No audible response.)

23 THE COURT: All right. Can you guys make
24 sure you don't film the face.

25 (No audible response.)

1 THE COURT: Thank you.

2 Come on up, sir. Have you jump up here on
3 the witness stand. Remain standing for me, and
4 raise your right hand, if you could.

5 (Witness sworn.)

6 THE WITNESS: Yes, ma'am.

7 THE CLERK: Please be seated.

8 State and spell your full name, for the
9 record.

10 THE WITNESS: Alaric Oliver. A-L-A-R-I-C,
11 Oliver, O-L-I-V-E-R.

12 THE COURT: Okay. You're really
13 soft-spoken. I know this isn't easy, but I need you
14 to speak up really loud. She's going to type down
15 everything you say. They're going to ask you
16 questions. Everyone needs to be able to hear what
17 your answers are. Okay?

18 THE WITNESS: All right.

19 THE COURT: All right. Go ahead, State.

20

21 Thereupon --

22 ALARIC OLIVER,
23 having been first duly sworn to testify to the
24 truth, was examined and testified as follows:

25 / / /

1 DIRECT EXAMINATION

2 BY MS. OVERLY:

3 Q. Good morning, Alaric. I'm going to direct
4 your attention to the night of June 7th, 2018.5 Do you recall where you spent the night that
6 night?7 A. It was at a house. I was told these kids
8 were renting it, but then they came --9 MR. TERRY: Judge, he's going to have to
10 speak up.

11 THE COURT: Yeah.

12 Go ahead. You were told what? Just make
13 sure you speak right in the microphone as loud as
14 you can. Okay?15 THE WITNESS: I was told that the house, it
16 was being rented out, but then it came to find out
17 that it was an abandoned house.18 MR. TERRY: Judge, I'm going to object on
19 hearsay grounds. And, likewise, he must raise his
20 voice.

21 THE COURT: All right. Keep speaking loud.

22 I'm going -- is it offered for the truth?
23 Is it offered as to what he knows about the truth of
24 whether it's rented or abandoned?

25 MS. OVERLY: Your Honor, it just goes -- it

1 goes to his state of mind at the time, what he was
2 told, not for the truth.

3 THE COURT: As of right now, I don't know
4 that it would be for the truth. I'm going to
5 overrule the objection for now. But if we continue
6 down the road of who owns the house or what's going
7 on with that, we'll deal with it at that point,
8 Mr. Terry.

9 Go ahead.

10 BY MS. OVERLY:

11 Q. So it's safe to say this wasn't your home?

12 A. No.

13 Q. And when you arrived at that location, who
14 else was there?

15 A. It was Jaiden, Kody, Traceo Meadows.

16 THE COURT: Is that one -- is that one
17 name?

18 THE WITNESS: Yeah.

19 THE COURT: "Traceo Meadows"? All right.

20 THE WITNESS: Kymani, and there was some
21 more people there, but I don't recall their names.

22 BY MS. OVERLY:

23 Q. Do you see any of those individuals in court
24 here today?

25 A. Yes, ma'am.

1 Q. Can you point to them and identify something
2 that they're wearing.

3 A. It's them two (indicating).

4 Q. Can you be specific about what two you're
5 referring to.

6 A. Jaiden and Kody.

7 Q. And which one is Jaiden?

8 A. Jaiden is the one with the black hair.

9 MR. TERRY: Judge, third time, and I really
10 apologize --

11 THE COURT: I understand.

12 MR. TERRY: -- he has to speak up.

13 THE COURT: Go ahead. You said -- say that
14 last thing you said. You said how you identified
15 Jaiden.

16 THE WITNESS: I said he's the one with the
17 black hair.

18 THE COURT: All right. Go ahead.

19 MS. OVERLY: Your Honor, may the record
20 reflect the identification of the defendant.

21 THE COURT: It will so reflect.

22 BY MS. OVERLY:

23 Q. And you also indicated someone else?

24 A. Yes. Kody.

25 Q. And can you identify that person.

1 A. He's the one with the short hair.

2 Q. What color hair?

3 A. Blond, I believe.

4 MS. OVERLY: Your Honor, may the record
5 reflect identification of the defendant.

6 THE COURT: It will so reflect.

7 BY MS. OVERLY:

8 Q. So once you arrived at that residence, was
9 that located in Henderson?

10 A. Yes, ma'am.

11 Q. And when you arrived there, what did you do?

12 A. We were hanging out, listening to music.
13 We were smoking a little bit.

14 Q. When you say "smoking," what were you
15 smoking?

16 A. Marijuana.

17 Q. Did you know any of those individuals before
18 you arrived there that night?

19 A. Yes and no. I kind of knew them from
20 school, but I never really hung out with them or
21 associated with them.

22 Q. What about the defendants?

23 A. No.

24 Q. You didn't know them before that night?

25 A. I knew about them. I just didn't

1 personally know them.

2 Q. So once you arrived, did you spend the night
3 there?

4 A. Yes, ma'am.

5 Q. And the next morning, what did you do?

6 A. I woke up. I went and grabbed breakfast,
7 and I came back and --

8 Q. Well, let's talk about that. So what time
9 would you say you woke up?

10 A. I believe I woke up between 7:00 and 8:00.

11 Q. And you said you went and got breakfast?

12 A. Yes, ma'am.

13 Q. Where did you go?

14 A. Wendy's.

15 Q. Is that in the same area?

16 A. Yes. It was just down the street.

17 Q. And did you go alone?

18 A. Yes.

19 Q. What did you do after that?

20 A. I went back to the house.

21 Q. And who was at the house at this time?

22 A. It was, I believe his name was Charles, and
23 then a few of the other people that I don't know
24 their names.

25 THE COURT: Say that again, a little

1 louder.

2 THE WITNESS: One, I think his name was
3 Charles. And I don't recall the other kids's names
4 that was there.

5 BY MS. OVERLY:

6 Q. Were the defendants there?

7 A. Not at the moment.

8 Q. Eventually, did the defendants come back to
9 the residence?

10 A. Yes.

11 Q. And were they with anyone else?

12 A. No.

13 Q. They didn't bring anyone else back with
14 them?

15 A. No.

16 Q. Okay. Now, at some point in time, did
17 anyone else arrive at that residence?

18 A. Yes.

19 Q. Who was that?

20 A. Matthew.

21 Q. Do you know Matthew's last name?

22 A. Minkler.

23 Q. Did you know Matthew before that date?

24 A. Yes.

25 Q. How did you know him?

1 A. School.

2 Q. Approximately, do you recall what time
3 Matthew arrived at the house?

4 A. It was probably around 1:00. I can't
5 really recall.

6 Q. So at this point in time, who was at the
7 house?

8 A. Matthew, Jaiden, Kody, me, Kymani.

9 THE COURT: Do you know how to spell
10 Kymani?

11 THE WITNESS: I don't.

12 THE COURT: Okay.

13 THE WITNESS: And the other bystanders that
14 were there that I don't recall their names.

15 BY MS. OVERLY:

16 Q. So Traceo was gone?

17 A. Yeah.

18 Q. And Charles wasn't there?

19 A. No, he was there.

20 Q. Charles was there as well?

21 A. Yes, ma'am.

22 Q. Now, what did you all do when you were
23 hanging out at the house around 1:00?

24 A. We were just hanging out, smoking. I --
25 there was alcohol there. I didn't personally drink.

1 I did smoke a little bit, but I was just really
2 sitting on my phone.

3 Q. Did anyone have any weapons on them?

4 A. I believe so.

5 Q. And what do you believe they had?

6 A. Pistols.

7 Q. When you say "they," who are "they"?

8 A. Jaiden and Kody.

9 Q. What did Jaiden have?

10 A. It might have been a revolver.

11 Q. And what did it look like?

12 A. It was black.

13 Q. And what was he doing with it?

14 A. He was just -- he didn't pull it out that
15 often. I seen he was like playing with it a little
16 bit, but I honestly don't know what he was doing
17 with it.

18 Q. Was there ever any indication to you that it
19 was loaded?

20 A. Yes and no. At times, I seen him pull out
21 the bullets when he was looking at it.

22 Q. And what would he do with the bullets when
23 he took them out?

24 A. He would place them in his pocket, I
25 believe.

1 Q. would he ever put them back in?

2 A. Yes.

3 Q. And what about Kody, what kind of weapon did
4 you see him with?

5 A. I'm not sure.

6 Q. Was it --

7 A. It was a handgun too.

8 Q. A handgun as well. Did it look like the one
9 Jaiden had?

10 A. No.

11 Q. Did anyone else have a weapon on them that
12 you saw?

13 A. No.

14 THE COURT: What was that? Speak up for me.

15 THE WITNESS: No.

16 THE COURT: Thanks.

17 BY MS. OVERLY:

18 Q. Now, at some point in time, did anybody else
19 handle the weapons that Jaiden or Kody had?

20 A. Yes. Matthew.

21 Q. And what weapon did Matthew handle?

22 A. It was the revolver.

23 Q. And was that Jaiden's revolver?

24 A. Yes.

25 Q. And how did that happen?

1 A. He asked to see it, and I don't know why,
2 but he just asked if he could look at it.

3 Q. And after he looked at it, what did he do
4 with it?

5 A. He set it back on the counter.

6 Q. And what counter is this?

7 A. It was in the kitchen.

8 Q. And once it was set back down on the
9 counter, what happened after that?

10 A. Jaiden stood up, and he grabbed the gun,
11 and then he shot Matthew.

12 Q. So he grabbed the gun from the counter, that
13 Matthew had placed it down on?

14 A. Yes.

15 Q. And you said that he shot Matthew?

16 A. Yes.

17 Q. How far was he from Matthew?

18 A. He wasn't too far.

19 Q. Where were you?

20 A. I was somewhat near them. I didn't realize
21 what had happened until I heard my ear ringing
22 and --

23 Q. Do you know how many times Jaiden shot?

24 A. I believe it was just one.

25 Q. And what did Matthew do?

1 A. He fell.

2 Q. And where was Kody at the time?

3 A. He was on the couch.

4 Q. And when you had your ears ringing, what did
5 you do after that?

6 A. I left. I got scared.

7 Q. And when you saw Jaiden shoot Matthew, did
8 he say anything at the time?

9 A. No. I left right away.

10 Q. Did Matthew say anything before he was shot?

11 A. Not that I know of.

12 Q. Now, you had spent some time with Kody and
13 Jaiden since the prior night; correct?

14 A. No.

15 Q. Well, they were at the house; correct?

16 A. Yes.

17 Q. Now, at any point in time, did you hear
18 anybody, including the defendants, talk about doing a
19 lick?

20 A. No.

21 MR. TERRY: Object to the question. Object
22 to the form of the question.

23 THE COURT: Form --

24 MR. TERRY: Hearsay. It invites hearsay.

25 If she's going to limit it, let her limit it to the

1 either and/or of the defendants.

2 THE COURT: All right. Why don't we -- why
3 don't you -- I'll sustain. Why don't you -- I'll
4 sustain it. Why don't you rephrase and maybe see if
5 you can make it a little more specific.

6 BY MS. OVERLY:

7 Q. Did you ever hear either the defendant, Kody
8 or Jaiden, talk about doing a lick?

9 A. No, ma'am.

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

12 THE COURT: All right. Mr. Terry, do you
13 want to go first?

14 MR. TERRY: Please.

15 THE COURT: Go ahead.

16

17 CROSS-EXAMINATION

18 BY MR. TERRY:

19 Q. Was this the first time you had been over at
20 that residence?

21 A. Yes.

22 Q. Okay. Did it appear to you that it was an
23 abandoned residence?

24 A. No. There was running water, electricity,
25 air.

1 Q. And when you say that you were hanging
2 around there, you were doing fun things while at the
3 residence too; correct?

4 A. Yes.

5 Q. Shooting pool?

6 A. Yes.

7 Q. Okay. So the house had a pool table in it?

8 A. Yes.

9 Q. And the fact that it had running water and
10 electricity caused you to believe that somebody was
11 an occupant of that house, a renter or an owner of
12 that house?

13 A. Yes.

14 Q. Who did you think was the renter or the
15 owner of the house?

16 A. Charles had said him --

17 Q. No, no, no.

18 Who did you think was the owner or renter of
19 the house? Not what somebody said.

20 A. I have no clue.

21 Q. Okay. It wasn't Jaiden; correct?

22 A. No, no.

23 Q. And it wasn't Kody; correct?

24 A. No.

25 Q. Because they were like you, they were

1 invited over; correct?

2 A. Yes.

3 Q. How long, in total, do you think you were at
4 the house from the point in time that you arrived to
5 the point in time that you left that day?

6 A. Possibly 12 hours.

7 Q. 12 hours?

8 A. (No audible response.)

9 Q. Now, you indicated that you got there about
10 1:00 o'clock. Is that a guess, or are you fairly
11 sure that that was the time?

12 A. It's a guess.

13 Q. It's a guess. But if you were there
14 12 hours, you would have been there until 1:00 in the
15 morning; correct?

16 A. Yes.

17 Q. Do you remember what time you left the
18 residence?

19 A. I left -- it might have around 3:00 o'clock
20 the next day.

21 Q. 3:00 o'clock the next day?

22 A. Yes.

23 Q. So you spent the night?

24 A. Yes.

25 Q. All right. Let's talk about what we'll call

1 Day 1. 1:00 o'clock, you get there, Day 1.

2 You've already told His Honor who's present
3 at the house; correct?

4 A. Yes.

5 Q. And when Jaiden -- was Jaiden there on that
6 day? We'll call it "Day 1."

7 A. No.

8 Q. Okay. But there were other people in and
9 out of the house; correct?

10 A. Yes.

11 Q. And, once again, it did not appear to you
12 that those people that were in and out of the house
13 were the owners or occupants of the house; correct?

14 A. Sorry. Repeat that.

15 Q. Sure. It did not appear to you that the
16 other people that were in and out of the house were
17 either the renters or the owners of the house; is
18 that correct?

19 A. Yes.

20 Q. Okay. So people were coming and going;
21 right?

22 A. Yes.

23 Q. Now, on Day 1, you indicated Jaiden wasn't
24 even there; correct?

25 A. No.

1 Q. Are you smoking marijuana on that day?

2 A. Yes.

3 Q. Are you taking pills?

4 A. No.

5 Q. Was Matthew taking pills?

6 A. I believe so.

7 Q. Okay. And that's still on Day 1; correct?

8 A. No. That was Day 2. Matthew didn't arrive
9 until --

10 Q. Let's focus on Day 1.

11 THE COURT: Hang on a second. Let him
12 finish his answer.

13 THE WITNESS: Matthew didn't arrive until
14 Day 2.

15 BY MR. TERRY:

16 Q. Okay. And that's why I was asking you that.
17 Matthew wasn't even there on Day 1; correct?

18 A. No.

19 Q. Nor was Jaiden; correct?

20 A. No.

21 Q. Now we go to Day 2. You had slept at the
22 house; correct?

23 A. Yes.

24 Q. And you said you got up and you went out and
25 you got something to eat?

1 A. Yes.

2 Q. Right? When you came back, just so we know,
3 who was already at the house?

4 A. There was possibly two or three people.

5 Q. I don't want you to guess. I want you to --
6 if you are sure that somebody was there, I want you
7 to tell me. If there was somebody there that you
8 think was there, I want you to say that for His Honor
9 too.

10 A. I don't -- I know there was one guy, I
11 don't recall his name. But when I got there,
12 Charles was there, and I don't know his last name.

13 Q. And who else?

14 A. And --

15 Q. Who else was there? Charles was there.
16 Who else?

17 A. The guy -- I don't recall his name, but
18 there was another guy.

19 Q. Can you describe him?

20 A. About 5'8, 5'9. Dark.

21 Q. This was not a person that you knew?

22 A. No.

23 Q. Before you left the house that morning, were
24 you smoking marijuana?

25 A. Sorry. Repeat that.

1 Q. Surely. On the second day, before you left
2 to go out and come back, were you smoking marijuana?

3 A. No.

4 Q. Okay. Were you taking any pills?

5 A. No.

6 Q. All right. When you got back, you've
7 already indicated that the only person that you could
8 recall that was there was Charles and an unidentified
9 person; correct?

10 A. Yes.

11 Q. How long was it until Jaiden arrived?

12 A. Possibly a few hours. I don't recall how
13 long it was.

14 Q. Okay. Did you contact Jaiden and tell him
15 to come over?

16 A. No.

17 Q. All right. Now, Matthew still wasn't there
18 when Jaiden got there with Kody; correct?

19 A. No -- yes. Correct.

20 Q. Not correct or it is correct?

21 A. Yes. Sorry. Yes.

22 Q. Okay. But there was a point in time that
23 Matthew got to the house; correct?

24 A. Yes.

25 Q. Do you know how he got to the house?

1 A. He asked Jaiden and Kody if they -- if they
2 could pick him up.

3 Q. Okay. So it's clear, in your mind, that
4 Matthew called or text Jaiden or Kody to come and get
5 him; correct?

6 A. Yes.

7 Q. And as a result, Jaiden and Kody leave the
8 house --

9 And, Judge, if my co-counsel wants me to
10 reserve my questions to Jaiden, I will do that. But
11 this is preliminary, preliminary at this point.

12 THE COURT: Well, I think your questions
13 right now don't have any -- don't necessarily
14 implicate statements at this point. So I think
15 you're fine. Go ahead.

16 MR. BROWER: I'll object if they do.

17 BY MR. TERRY:

18 Q. Okay. So Jaiden and Kody do what Matthew
19 wants. They go and get him, correct, and they bring
20 him back to the house; correct?

21 A. Yes.

22 Q. Now, when Matthew gets there, does he have
23 marijuana with him?

24 A. Yes.

25 Q. Does he have pills with him?

1 A. Someone brought the pills. I don't recall
2 who it was.

3 Q. I couldn't hear you. And I apologize.

4 A. I don't know who -- someone did bring pills
5 over there, but I don't recall who it was.

6 Q. Well, I'm going to ask you the specific
7 question: Isn't it true that Matthew went and he
8 brought the pills, Xanax pills?

9 A. I wasn't sure who brought them in.

10 Q. All right. Did you see Matthew smoking
11 marijuana?

12 A. Yes.

13 Q. Did you see Jaiden smoking marijuana?

14 A. Yes.

15 Q. Did you see Matthew taking pills?

16 A. Yes.

17 Q. Okay. Did you later learn what kind of
18 pills these were?

19 A. Yes.

20 Q. What were they?

21 A. They were green Xanax.

22 Q. I'm sorry?

23 A. Green Xanax.

24 Q. Okay. And do you recall how many he took?

25 A. No.

1 Q. If I were to tell you that the tox- -- well,
2 the toxicologist didn't testify. There has been
3 evidence adduced that 140 nanograms of Xanax were in
4 Matthew's system.

5 MS. OVERLY: Your Honor, I'm going to
6 object to this. I don't -- he would be asking him
7 to speculate. He doesn't understand what that
8 quantifies to.

9 MR. TERRY: Well, 140 nanograms is a large
10 amount, Judge. My question is going to be: "Does
11 that refresh your memory as to the number of Xanax
12 bars and/or pills" --

13 THE COURT: I'd say that's a little bit
14 speculative.

15 MR. TERRY: All right.

16 THE COURT: Speculative as to how he would
17 know how many pills results in 140. So I'm going to
18 sustain the objection. But I understand your point.

19 BY MR. TERRY:

20 Q. What's the difference between a Xanax "pill"
21 and a Xanax "bar"?

22 A. I honestly have no idea.

23 Q. Okay. Were you taking any Xanax?

24 A. No.

25 Q. But you were smoking marijuana?

1 A. Yes.

2 Q. And you indicated, in response to the State,
3 that you weren't drinking any alcohol?

4 A. No.

5 Q. But alcohol was there; correct?

6 A. Yes.

7 Q. Do you recall, specifically, a bottle of
8 vodka?

9 A. Yes.

10 Q. Okay. Was Matthew drinking vodka?

11 A. I think he did drink a little bit.

12 Q. Okay. Was Jaiden drinking vodka?

13 A. I don't remember.

14 Q. Did you observe Jaiden to -- and this is
15 going to be an all-encompassing question -- smoke
16 marijuana, take the Xanax, and drink the vodka?

17 A. Yes.

18 Q. Okay. Now, Jaiden had a gun; correct?

19 A. Yes.

20 Q. And you described it as a revolver, but it
21 was -- you were a little hesitant in that.

22 It was a revolver; correct?

23 A. Yes.

24 Q. And you described the gun for the police in
25 the two statements that you gave; correct?

1 A. Yes.

2 Q. And you talked about the fact that there was
3 a cylinder, a thing that went around as opposed to a
4 clip that goes in the bottom of other types of guns;
5 correct?

6 A. Yes.

7 Q. Okay. And at points in time, Jaiden, as
8 you've already testified to, would take the bullets
9 out; correct?

10 A. Yes.

11 Q. Do you know what "dry firing" is?

12 A. Yes.

13 Q. What is "dry firing"?

14 A. When you fire a gun without the bullets in
15 it.

16 Q. How about when you pull the trigger and
17 there are no bullets in the gun, it goes click.

18 A. Yeah.

19 Q. Would you agree with that definition?

20 A. Yes.

21 Q. All right. Did you observe him to do that?

22 A. Once.

23 Q. Okay. Once? Once?

24 A. Yeah.

25 Q. Now, there was a point in time when Matthew

1 asked to see the gun; correct?

2 A. Yes.

3 Q. And there was no hesitancy on Jaiden's part
4 in letting him see the gun; correct?

5 A. Yes.

6 Q. Okay. And Matthew picked up the gun;
7 correct?

8 A. Yes.

9 Q. All right. And then he put it back down on
10 the table; correct?

11 A. Yes.

12 Q. But before he put it back down on the table,
13 was he likewise playing with the gun?

14 A. From what I seen, he was just observing it.

15 Q. Did he dry fire it?

16 A. I don't believe so.

17 Q. But you're not sure, are you?

18 A. No.

19 Q. Okay. So then he puts the gun down on the
20 table. would that be a correct statement?

21 A. It was more of a counter.

22 Q. More of a what?

23 A. Countertop.

24 Q. More of a?

25 THE COURT: Say it again.

1 THE WITNESS: More of a countertop.

2 BY MR. TERRY:

3 Q. A countertop.

4 Now, you used the word that Jaiden "grabbed"
5 the gun. He didn't grab the gun. He picked up the
6 gun; correct?

7 A. Yes.

8 Q. All right. Do you understand there's a
9 difference between "grabbing it" and picking it up?

10 A. Yes.

11 Q. Would you agree?

12 A. Yes.

13 Q. All right. But what Jaiden did is he picked
14 up the gun; correct?

15 A. Yes.

16 Q. It wasn't done in a quick manner; correct?

17 A. Uh-huh. Yes.

18 Q. Am I correct?

19 A. Yes.

20 Q. Okay. He didn't push Matthew, at any point
21 in time, so Matthew no longer had access to the gun;
22 correct?

23 A. He did not push him, correct.

24 Q. Okay. All right. So Jaiden picks up the
25 gun -- and you had already -- correct?

1 A. Yes.

2 Q. And you had already indicated that he had
3 been dry firing it; correct?

4 A. Yes.

5 Q. When he was dry firing it earlier, where was
6 he aiming the gun?

7 A. At himself.

8 Q. Okay. At himself. And we're talking about
9 Jaiden now at himself; correct?

10 A. Yes.

11 Q. And specifically was aiming it at his head;
12 correct?

13 A. Yes.

14 Q. Did you see him aim the gun at anybody else
15 and, quote, dry fire it?

16 A. I don't recall seeing that.

17 Q. You're not saying it didn't happen? You're
18 saying you didn't recall?

19 A. Yeah, I personally didn't see it happen.

20 Q. Okay. Did you observe the gun to discharge
21 prior to the time that Matthew was struck by a bullet
22 from the gun that Jaiden had?

23 A. Sorry. Can you repeat that.

24 Q. Sure. Did you see the gun discharge, a
25 bullet, prior to the time that Matthew was shot?

1 A. Yes.

2 Q. Okay. When was that?

3 A. Maybe 20 minutes before the incident had
4 happened.

5 Q. And Jaiden accidentally shot into the roof;
6 correct?

7 A. Yes.

8 Q. All right. And he made a statement when he
9 did that, indicating that he didn't mean to shoot
10 into the roof; correct?

11 MR. PESCI: Objection as to what the
12 defendant said as introduced by the defendant is
13 hearsay.

14 THE COURT: Mr. Terry.

15 MR. TERRY: I think counsel is correct,
16 Your Honor.

17 THE COURT: All right. I'll sustain the
18 objection.

19 You don't have to answer that question.

20 Go ahead and ask your next question.

21 BY MR. TERRY:

22 Q. As a result of what occurred, was it
23 apparent to you that Jaiden was startled by the fact
24 that a bullet had discharged from that gun?

25 Yes or no?

1 A. No.

2 Q. Wasn't startled?

3 A. I don't believe so.

4 Q. Okay. Now, a period of time goes by;
5 correct?

6 A. Yes.

7 Q. And other people are holding Jaiden's gun
8 too, not just Matthew; correct?

9 A. I don't recall anyone else holding his gun.

10 Q. Did you hold it?

11 A. No.

12 Q. Did you hold Kody's gun?

13 A. Yes.

14 Q. Okay. Kody's gun was very different than
15 Jaiden's gun, wasn't it?

16 A. Yes.

17 Q. Okay. Do you know the difference between a
18 revolver and a nonrevolver?

19 A. Yes.

20 Q. And one has a clip and one has that cylinder
21 that we talked about?

22 A. Yes.

23 Q. Correct?

24 A. Yes.

25 Q. Kody didn't have a cylinder, did he?

1 A. No.

2 Q. Do you understand the term "Russian
3 Roulette"?

4 A. Yes.

5 Q. What is "Russian Roulette"?

6 A. Where there's one bullet in the chamber and
7 you spin it and it's a game of life or death.

8 Q. Okay. At any point in time, did you
9 specifically observe Jaiden to put one bullet in the
10 chamber, in the revolver, spin it, and then shoot?
11 Yes or no?

12 A. No.

13 MR. TERRY: Okay. Court's indulgence,
14 Your Honor.

15 THE COURT: Go ahead.

16 BY MR. TERRY:

17 Q. Now, you did not call the police. The
18 police made contact with you; correct?

19 A. Yes.

20 Q. And as a matter of fact, they interviewed
21 you twice; correct?

22 A. Yes.

23 Q. The reason they interviewed you twice is
24 because you lied to them on the first time that you
25 were interviewed by them; isn't that correct?

1 A. Yes.

2 Q. All right. Now, you didn't voluntarily call
3 them on the phone and go, "Okay. Guys, I lied to you
4 the first time that you interviewed me and I'd like
5 to come clean." They contacted you again for a
6 second interview; correct?

7 A. Yes.

8 Q. And you had a second interview with them?

9 A. Yes.

10 Q. Correct?

11 A. Yes.

12 Q. Okay. And during the second interview, were
13 you made any promises in reference to whether you
14 would or wouldn't be prosecuted?

15 A. I don't believe so.

16 Q. You don't believe so?

17 Have you listened to the recording of the
18 interview that you did with the police twice?

19 Yes or no?

20 A. Not -- no, I haven't listened.

21 Q. You haven't even listened to those?

22 A. No.

23 MR. TERRY: And, for the record, there's
24 no -- been no transcript prepared of those, Judge.

25 THE COURT: Okay.

1 BY MR. TERRY:

2 Q. So I'm going to ask you, you haven't seen a
3 transcript of what you said with the police either;
4 correct?

5 A. No.

6 Q. But you're not disputing the fact that you
7 lied to the police on the first occasion; correct?

8 A. Yes.

9 Q. All right. Now, did you attempt to tell the
10 police what they wanted to hear the second time that
11 you were interviewed, not necessarily the truth but
12 what they wanted to hear?

13 A. No. I told them --

14 Q. Were you made any promises --

15 THE COURT: Wait.

16 MR. TERRY: Sorry, Judge.

17 MR. PESCI: I'd ask he be able to finish
18 the answer.

19 THE COURT: Yeah, we need to let him
20 answer.

21 MR. TERRY: He said no.

22 THE COURT: Okay. Go ahead.

23 BY MR. TERRY:

24 Q. Am I correct you said "no"?

25 A. Yes.

1 Q. Now, were you made any promises, after the
2 second interview, that you wouldn't be prosecuted for
3 anything?

4 A. No.

5 Q. Yes or no?

6 A. No.

7 Q. Okay. You certainly weren't arrested;
8 correct?

9 A. Yes.

10 Q. And at the first interview, the police told
11 you it was a crime to lie to the police; correct?

12 A. Yes.

13 Q. So now you come to the second interview.
14 You give them that story and they don't arrest you,
15 right, even though you had already lied to them;
16 correct?

17 A. Yes.

18 Q. Okay. Now, do you know an individual by the
19 name of Kymani Thompson?

20 A. Yes.

21 Q. Giving you the full name.

22 A. Yes.

23 Q. Is that the person you've referred to today
24 as "Kymani"?

25 A. Yes.

1 Q. Okay. Do you recall telling him that Jaiden
2 was clicking the gun, dry firing the bullets, but one
3 of those times, it didn't click anymore and you saw
4 Matthew fall to the ground.

5 Do you recall telling him that?

6 A. No.

7 Q. Okay. So if at a point in time he testifies
8 that that's what you said, that would not be
9 accurate; correct?

10 A. Sorry. Repeat that.

11 Q. Sure. If at a later point in time, he
12 testifies and I ask him, "Isn't it true that
13 Mr. Oliver told you that Jaiden was clicking the
14 gun -- that is, dry firing the bullets in the
15 chamber -- but that one of those times, it didn't
16 click and it was at that point in time that Matthew
17 fell to the ground," would that be an accurate
18 statement that you made to him or not?

19 A. No.

20 Q. So you're saying you never made that
21 statement?

22 A. No. He might have --

23 Q. I would think the answer would be "Yes, I
24 never made that statement"; correct?

25 A. Yes.

1 MR. TERRY: All right. Court's indulgence,
2 Your Honor. Pass the witness, Your Honor.

3 THE COURT: Mr. Brower. Cross-examination.
4

5 CROSS-EXAMINATION

6 BY MR. BROWER:

7 Q. Mr. Oliver, at the time that Matthew was
8 shot, where was my client?

9 A. He was on the couch.

10 Q. Was he awake?

11 A. I think, because he had taken Xanax too, I
12 think he was falling asleep; but I wasn't too sure.

13 Q. Okay. So you saw him taking Xanax?

14 A. Yes.

15 Q. Did you see him smoking any marijuana?

16 A. Yes.

17 Q. Was this just a party?

18 A. Not a party but a little get-together, you
19 could say.

20 Q. So if using marijuana, Xanax, and alcohol
21 isn't a party, how do you describe a "party"?

22 A. A big group of people.

23 Q. Doing what?

24 A. Partying.

25 Q. Well, a get-together that's got Xanax,

1 marijuana, and alcohol, what does a party have?
2 A. A big group of people.
3 Q. Doing the same things or more?
4 A. Possibly more.
5 Q. So my client was basically falling asleep on
6 the couch?
7 A. Yes.
8 Q. Okay. He wasn't arguing with anybody?
9 A. No.
10 Q. He wasn't standing up?
11 A. No.
12 Q. He was laying down, essentially sleeping?
13 A. Yes.
14 Q. And you mentioned a lot of names earlier.
15 Do you remember ever mentioning to the cops
16 a "Rexvin Mbogo" or "Mbego" (phonetic)?
17 A. I've heard the name, but I don't personally
18 know him.
19 THE COURT: Do you have any spelling,
20 Mr. Brower?
21 MR. BROWER: R-E-X-V-I-N, M-B-O-G-O. I
22 have no idea how to say it.
23 THE COURT: That's fine. That's close
24 enough.
25 / / /

1 BY MR. BROWER:

2 Q. So he wasn't the one that invited you to the
3 party at this house?

4 A. No.

5 Q. And you didn't tell the cops that he was the
6 one that invited you over?

7 A. No.

8 Q. Okay. So if they put that in the report,
9 they would be wrong?

10 A. Sorry. Repeat that.

11 Q. I'm saying if the cops wrote in the
12 report --

13 MR. PESCI: Objection as to what this
14 witness knows as far as the veracity of a police
15 report that's not even in evidence.

16 THE COURT: Well, I'm going to grant -- I'm
17 going to grant the objection. So sustained
18 objection.

19 Go ahead, Mr. Brower.

20 BY MR. BROWER:

21 Q. So you did not tell the police that Rexvin
22 Mbogo invited you over to the house and you went
23 there after arguing with your mother?

24 A. Well, I --

25 Q. It's a yes-or-no question. Is that what you

1 told the police or not?

2 A. Yes.

3 Q. Okay. But you don't know who the guy is?
4 You just told the police that?

5 A. I got invited by Charles, and Charles told
6 me that Rex invited -- was inviting everyone.

7 MR. BROWER: Judge, I have no further
8 questions for this witness.

9 THE COURT: Redirect.
10

11

REDIRECT EXAMINATION

12 BY MS. OVERLY:

13 Q. Alaric, you were asked about being
14 interviewed by police two different times; correct?

15 A. Yes, ma'am.

16 Q. So was the first time the day after the
17 incident?

18 A. Yes.

19 Q. So that would have been June 9th?

20 A. Yes.

21 Q. And how many days later would you say you
22 were interviewed the second time?

23 A. Possibly four days later, five days later.

24 Q. So just five days, at most?

25 A. It might have been a week. I don't recall.

1 Q. Does June 12th sound accurate?

2 A. Possibly.

3 Q. Okay. So that first time that you were
4 talking to police, that was in person with them;
5 correct?

6 A. Yes.

7 Q. And isn't it true that you didn't
8 necessarily lie to them. You just didn't provide all
9 the information?

10 A. Yes.

11 Q. And when they asked you and confronted you
12 with some other information about Rexvin invited you,
13 did you reveal who actually invited you?

14 A. Not the first time.

15 Q. Did you eventually reveal that it was
16 Charles?

17 A. I believe so.

18 Q. And at some point in time, you wound up
19 leaving Henderson; correct?

20 A. Yes.

21 Q. And you no longer reside here?

22 A. No.

23 Q. Why is it that you weren't honest with
24 police the first time?

25 A. I was scared.

1 Q. And why is it that you no longer reside in
2 Henderson now?

3 A. I actually had moved. I was out here
4 visiting. I had moved beforehand.

5 Q. So you were just visiting at the time?

6 A. Yes.

7 Q. Now, were you scared when you talked to the
8 police the second time?

9 A. No.

10 Q. You weren't scared?

11 A. (No audible response.)

12 Q. Now, did the State ever make any promises to
13 you in exchange your for testimony or your
14 interviews?

15 A. No.

16 Q. Did police ever make any promises to you?

17 A. No.

18 MS. OVERLY: Pass the witness, Your Honor.

19 THE COURT: Any recross?

20 MR. TERRY: A few.

21 THE COURT: Go ahead, Mr. Terry.

22

23 RECROSS-EXAMINATION

24 BY MR. TERRY:

25 Q. Do you remember being interviewed

1 specifically by Kevin Lapeer, L-A-P-E-E-R, on 6/9
2 of '18? "Yes" or "no"?

3 A. Yes.

4 Q. Okay. Do you remember him specifically
5 saying to you, "You are not being truthful with us"?
6 "Yes" or "no"?

7 A. He didn't say it that day, but yes, he did
8 say that to me.

9 Q. Did he say it to you on that day?

10 A. No.

11 Q. Okay. There's another time that he said you
12 weren't being truthful?

13 A. Yes. After he found out I wasn't telling
14 the full truth.

15 Q. Okay. Now, on that first interview that you
16 gave on 6/8, you didn't tell him that you were at all
17 hesitant about giving him a statement, did you?

18 A. Sorry. Can you --

19 Q. Pardon?

20 A. Can you repeat that.

21 Q. Sure. You didn't tell him you were hesitant
22 to give a statement, did you?

23 A. No.

24 Q. Okay. You didn't tell him you were afraid,
25 did you?

1 A. No.

2 Q. Okay. You didn't tell him anybody had
3 threatened you, did you?

4 A. No.

5 Q. And, in fact, nobody had threatened you;
6 correct?

7 A. No.

8 Q. You just went in and you lied to the police;
9 correct?

10 A. (No audible response.)

11 Q. "Yes" or "no"?

12 A. Yes.

13 MR. TERRY: Nothing further.

14 THE COURT: Any recross?

15 MR. BROWER: No, Judge.

16 THE COURT: All right. This witness free
17 to go?

18 MR. PESCI: Yes, Your Honor.

19 THE COURT: All right. Thanks for your
20 testimony, sir. You're free to leave.

21 State, call your next witness.

22 MR. PESCI: State calls Kymani Thompson.

23 THE COURT: Can you spell the first name,
24 please.

25 MS. OVERLY: K-Y-M-A-N-I.

1 THE COURT: Okay. Is the witness a
2 juvenile?
3 MR. PESCI: Yes.
4 THE COURT: Same for the cameras.
5 Come on up, sir. Have you get right up
6 here on the witness stand. Remain standing for me.
7 okay? Raise your right hand.
8 (Witness sworn.)
9 THE WITNESS: Yes.
10 THE CLERK: Thank you. Please be seated.
11 State and spell your full name, for the
12 record.
13 THE WITNESS: Kymani Thompson, K-Y-M-A-N-I.
14 THE COURT: Spell your last name for me.
15 THE WITNESS: T-H-O-M-P-S-O-N.
16 THE COURT: All right. I need you to scoot
17 forward next to that microphone. I need you to
18 speak up really loud. You've got a quiet voice too.
19 All right? She's taking everything down that you
20 say, and they're going to ask you questions. They
21 need to be able to hear your answers. Okay?
22 THE WITNESS: Okay.
23 THE COURT: All right. Go ahead, State.
24 MR. PESCI: Thank you.
25 / / /

1 Thereupon --

2 KYMANI THOMPSON,
3 having been first duly sworn to testify to the
4 truth, was examined and testified as follows:

5
6 DIRECT EXAMINATION

7 BY MR. PESCI:

8 Q. Kymani, pretend as if the people in the very
9 back need to hear you. So project your voice so that
10 they can. Is that all right?

11 A. Yes.

12 Q. All right. You'll have to project more than
13 that.

14 A. Yes.

15 MR. PESCI: All right. Thanks.

16 Can I approach the clerk, Your Honor.

17 THE COURT: Yes.

18 BY MR. PESCI:

19 Q. I want to direct your attention to June 8th
20 of this year. Did you go to a party here in
21 Henderson?

22 A. Yes.

23 Q. Do you know the address, offhand?

24 A. 2734 Cool Lilac.

25 MR. TERRY: Judge, not even close could we

1 hear.

2 THE COURT: Yeah, you've got to stay way
3 louder.

4 THE WITNESS: Sorry. 2734 Cool Lilac
5 Avenue.

6 BY MR. PESCI:

7 Q. All right. So are you sure about the
8 Cool Lilac Avenue address?

9 A. Yes.

10 Q. The number, are you not exactly sure?

11 A. Yeah, the number, I'm not sure.

12 MR. PESCI: May I approach the witness,
13 Your Honor, with State's Proposed Exhibit 2, and ask
14 him if he recognizes that.

15 THE COURT: Yes.

16 (Whereupon State's Exhibit No. 2 was marked
17 for identification.)

18 BY MR. PESCI:

19 Q. Sir, do you recognize State's Proposed
20 Exhibit 2?

21 A. Yes. Or -- yes.

22 Q. Okay. And what do you recognize that to be?

23 A. A home.

24 Q. Okay. Is this the home that you went to on
25 that day?

1 A. Yes.

2 Q. All right. So nice and loud.

3 A. Yes.

4 Q. Okay. Great job.

5 Does this look as the house looked when you
6 went to it on June 8th of 2018?

7 A. Yes.

8 MR. PESCI: I move for the admission of
9 State's 2, Your Honor.

10 THE COURT: Any objection?

11 MR. TERRY: No.

12 THE COURT: All right. Admitted.

13 (Whereupon State's Exhibit No. 2 was
14 admitted into evidence.)

15 BY MR. PESCI:

16 Q. When you were at that house on June the 8th,
17 were there other people there that you see here in
18 court right now?

19 A. Yes.

20 Q. Could you tell us who the people you
21 recognize from being at that house that are here in
22 court?

23 A. Alaric and Jaiden.

24 Q. Okay. And is Alaric the individual that
25 just left the courtroom before you came in?

1 A. Yes.

2 Q. Okay. And then Jaiden, do you see Jaiden
3 here today?

4 A. Yes, sir.

5 Q. Could you point to him and describe
6 something he's wearing today in court.

7 A. He's in a blue jump suit.

8 Q. What color hair does he have?

9 A. Black-brown.

10 MR. PESCI: Okay. Would the record reflect
11 identification of Jaiden Caruso, Your Honor.

12 THE COURT: It will so reflect.

13 BY MR. PESCI:

14 Q. Do you recognize the other young man seated
15 at counsel table?

16 A. Yes.

17 Q. Who do you recognize him to be?

18 A. Kody.

19 Q. And do you know Kody's last name?

20 A. Harlan.

21 Q. And then what color hair does Kody have?

22 A. Blond.

23 MR. PESCI: Let the record reflect
24 identification of Kody Harlan, Your Honor.

25 THE COURT: It will so reflect.

1 BY MR. PESCI:

2 Q. Did you know a young man by the name of
3 Matthew?

4 A. Yes.

5 Q. Did you know his last name?

6 A. Minkler.

7 Q. Okay. Did you know Matthew, Kody, and
8 Jaiden before June the 8th of this year?

9 A. Yes.

10 Q. How did you know them?

11 A. School.

12 Q. Where did you go to school?

13 A. Silverado High School.

14 Q. Okay. And they were all students there as
15 well?

16 A. Not Kody.

17 Q. Not Kody? Okay.

18 Now, on this date, June the 8th of 2018, did
19 you ever see the defendants here in court with
20 firearms?

21 A. Yes.

22 Q. Can you describe what they were and who had
23 them.

24 A. I don't know whose firearm was who. But I
25 know that there was a revolver and maybe like a

1 black pistol of some sort.

2 MR. TERRY: Judge, he has to speak up.

3 THE COURT: Yes.

4 BY MR. PESCI:

5 Q. You're doing great. You just came off the
6 microphone a little bit. So if you can, lean down.

7 THE COURT: The best thing is -- we can all
8 hear you when you're real close to that microphone.
9 okay? So pretend like you're talking right directly
10 into it. All right?

11 THE WITNESS: Okay.

12 MR. PESCI: Is that microphone fixed,
13 Your Honor.

14 THE COURT: Yeah, unfortunately, it is.

15 BY MR. PESCI:

16 Q. Okay. So you're going to have to just lean
17 in. So did you see two firearms?

18 A. Yes.

19 Q. Was one of them a revolver?

20 A. Yes.

21 Q. The other one, was it not a revolver?

22 A. No, it wasn't.

23 Q. Was it a handgun?

24 A. Yes.

25 Q. Okay. Are you very familiar with

1 semiautomatic handguns and revolvers?

2 A. Yes.

3 Q. You're very familiar or just somewhat?

4 A. I know about them.

5 MR. TERRY: He asked the question, Judge.
6 Repetitious.

7 THE COURT: Well, I'll --

8 MR. TERRY: "Are you very familiar?" The
9 answer was "Yes."

10 THE COURT: He is familiar. I guess the
11 question you could ask would be "How?" But I'm
12 going to overrule Mr. Terry.

13 So the answer was what?

14 BY MR. PESCI:

15 Q. How familiar are you with handguns?

16 A. Pretty familiar.

17 Q. Okay. Is that why you know the difference
18 between a revolver and a semiautomatic?

19 A. Yes.

20 Q. Okay. Did you see Jaiden Caruso with a
21 handgun on June the 8th?

22 A. Yes.

23 Q. Did you see Kody Harlan with a handgun on
24 June the 8th?

25 A. Yes.

1 Q. What were they doing with those guns?

2 A. Holding them.

3 Q. Okay. Did you ever see them --

4 MR. TERRY: I'm going to object to the
5 "they."

6 THE WITNESS: Both of them.

7 THE COURT: Well, I'll sustain it. Why
8 don't you re-ask the question individually.

9 BY MR. PESCI:

10 Q. What did you see Jaiden Caruso do with the
11 firearm?

12 A. Hold it, take it out, set it down.

13 MR. TERRY: Judge.

14 THE COURT: A little louder.

15 THE WITNESS: Hold it, take it out, and set
16 it -- set it down. Hold it, take it out and --

17 BY MR. PESCI:

18 Q. What did you see Kody Harlan do with the
19 firearm?

20 A. Same thing. Holding it.

21 Q. What was going on in the house while you
22 were there?

23 A. Marijuana smoking.

24 Q. Were you smoking some marijuana?

25 A. Yes.

1 Q. Is that a "yes"?

2 A. Yes.

3 Q. Okay. Was there anything else being, done
4 besides marijuana, as far as drugs or alcohol?

5 A. Not that I know of.

6 Q. Okay. Did you ever hear a conversation
7 about getting more drugs?

8 A. Yes.

9 Q. Who spoke about getting more drugs?

10 A. I don't remember. I honestly don't.

11 Q. Okay. When the conversation was had about
12 getting more drugs, was Jaiden Caruso present?

13 A. Yes.

14 Q. When the conversation about getting more
15 drugs was had, was Kody Harlan present?

16 A. Yes.

17 Q. Did they indicate their thoughts about
18 getting more drugs?

19 Did they say anything about that?

20 MR. TERRY: Objection to "they."

21 MR. PESCI: We'll start with Jaiden.

22 THE COURT: I'll sustain it. Go ahead.

23 THE WITNESS: No.

24 BY MR. PESCI:

25 Q. What about Kody?

1 A. No, not that I know of.

2 Q. Okay. So they didn't say anything when
3 there was a conversation about getting more drugs?

4 A. Not that I heard.

5 Q. Okay. Have you ever heard of the term of
6 "matching"?

7 A. Yes.

8 Q. What is it?

9 A. Like when two people bring weed together.

10 Q. Okay. Was there a conversation about
11 matching?

12 A. Yes.

13 Q. Who had that conversation?

14 A. I don't remember.

15 Q. Okay. When that conversation about matching
16 was --

17 MR. TERRY: Objection. Hearsay. He
18 doesn't remember. It can't be attributed to
19 anybody. It wasn't one of the defendants. Hearsay.

20 MR. PESCI: I'm asking if the defendants
21 were present when that conversation occurred.

22 THE COURT: Well, that -- okay. So I'm
23 going to delay my ruling on your objection. Let me
24 determine whether it's -- adoptive admission is
25 where I'm assuming you're going with. So go ahead,

1 ask the next question. If not, then I'll sustain
2 it.

3 MR. PESCI: Thank you, Judge.

4 MR. TERRY: Just so we're clear, even if
5 somebody was present and says something or doesn't
6 say something, that's not relevant.

7 THE COURT: Well, I think that --

8 MR. TERRY: They're not the sayer of the
9 statement.

10 THE COURT: Well, Mr. Pesci?

11 MR. PESCI: You can adopt the statements by
12 being present and not disavowing that statement and
13 then taking actions based on that statement that you
14 were present for afterwards.

15 THE COURT: And I would need the additional
16 questions to lay the foundation for that.

17 I'm not unwilling to sustain it going
18 forward, Mr. Terry. But I think I understand where
19 he's going. I'm going to give him the opportunity
20 to lay foundation for what he just said. If he can,
21 great. If he can't, not. So I'm going to not --
22 I'm going to overrule it at this point, but you can
23 reserve your objection as we go forward.

24 Go ahead.

25 MR. PESCI: Thank you.

1 BY MR. PESCI:

2 Q. So focusing on Jaiden Caruso, was Jaiden
3 Caruso present when the conversation about matching
4 was had?

5 A. Yes.

6 Q. Was Kody Harlan present when the
7 conversation about matching was had?

8 A. Yes.

9 Q. Did either of the two defendants say they
10 wanted nothing to do with matching?

11 A. No.

12 Q. Did either of the two defendants back away
13 from that physically, like leave the room?

14 A. No.

15 Q. Okay. After a conversation -- well, let me
16 ask you this: when the discussion of matching
17 occurred, was Matthew present?

18 A. No.

19 Q. After the conversation about matching was
20 had, did Matthew come to the house?

21 A. No, not until way later after.

22 THE COURT: A little louder. I've got to
23 have you say it louder.

24 THE WITNESS: No, not until way longer
25 after that conversation.

1 BY MR. PESCI:

2 Q. Okay. So after this conversation about
3 matching, Matthew shows up?

4 A. Yes.

5 MR. TERRY: That wasn't the testimony.
6 "Way after" was the testimony. The inference is
7 that he showed up immediately. We object to that.

8 MR. PESCI: I'm not saying that it was
9 immediate. I'm saying --

10 THE COURT: Well, I'll sustain it as vague.
11 I'll let you re-ask the question.

12 BY MR. PESCI:

13 Q. I think you just testified that it was way
14 after, the conversation about matching, that Matthew
15 showed up.

16 A. Yes.

17 Q. Do you know how much "way after" means to
18 you?

19 A. Maybe around an hour.

20 Q. Okay. Thank you.

21 When Matthew shows up, what do you see
22 Matthew do?

23 A. He came in and greeted everyone and then
24 sat down.

25 Q. Okay. Did you ever see Jaiden point the gun

1 at anybody?

2 A. No.

3 Q. Did you ever see Kody point the gun at
4 anybody?

5 A. No.

6 Q. Did you see them do anything with the gun?

7 A. Just holding it and interacting with it.

8 Q. All right. Do you know what "Russian
9 Roulette" is?

10 A. Yes.

11 Q. Did you see anybody behaving in a fashion
12 that would appear to you to be Russian Roulette?

13 A. No.

14 Q. What does it mean to you, "Russian
15 Roulette"?

16 A. You put one bullet in a revolver cylinder
17 and spin it and then put it to your head and click
18 it.

19 Q. Okay. Did you ever see Jaiden take bullets
20 out of the revolver?

21 A. Yes.

22 Q. Tell us about that. What happened? Where
23 were you? Who was there?

24 A. We were just sitting down, and he just took
25 the cylinder and just dropped them out.

1 MR. TERRY: I cannot hear them.

2 THE COURT: I understand.

3 You're going to say that again. Say your
4 answer again.

5 THE WITNESS: All he did was just take them
6 out. He just dumped them out, the cylinder.

7 BY MR. PESCI:

8 Q. We're still talking about Jaiden; correct?

9 A. Yes.

10 Q. Okay. When you say "the cylinder," you're
11 talking about the revolver?

12 A. Yes.

13 Q. Okay. And then what happened after Jaiden
14 took the bullets out of the cylinder?

15 A. Put them right back in.

16 Q. You saw him put them back in?

17 A. Yeah.

18 Q. And what did he do after put them back in?

19 A. Set the gun back down.

20 Q. Okay. At some point, were you present when
21 a bullet was fired into the ceiling?

22 A. Yes.

23 Q. Tell us about that.

24 A. I had my head down. I was speaking on the
25 phone, and a shot went off. So I ran out the

1 backdoor.

2 Q. Okay. When the shot went off, did you get
3 up?

4 A. Yes.

5 Q. Did you see what was going on after your
6 head was down and the shot went off? You got up.
7 what did you see?

8 A. Everybody standing up, looking around
9 asking "what just happened?"

10 Q. Okay. Did you see either of the defendants
11 with a gun?

12 A. Yes.

13 Q. Who?

14 A. Jaiden.

15 Q. All right. And what did Jaiden do after you
16 got up? What did you see him do?

17 A. He just still sat there.

18 Q. Still sat there?

19 A. Yes.

20 Q. Okay. So if I'm understanding you
21 correctly, you didn't actually see Jaiden shoot that
22 gun?

23 A. No, I didn't.

24 Q. After you heard the shot, you saw Jaiden
25 with the gun?

1 A. Yes.

2 Q. Okay. What did Jaiden do? He just sat
3 there, you said?

4 A. Yes.

5 Q. Okay. And then did you leave after that?

6 A. Yes.

7 Q. Who did you leave with?

8 A. Gunner.

9 Q. Okay. And when you left with Gunner, was
10 there any phone calls that came to you and/or Gunner
11 as you left the house?

12 A. Yes.

13 Q. Did you get on that phone and talk to the
14 person that called?

15 A. No.

16 Q. Okay. Originally was the phone call to
17 Gunner?

18 A. Yes.

19 Q. Okay. And you didn't ever actually pick up
20 the phone and talk?

21 A. No.

22 Q. Okay. Did you ever hear Jaiden say anything
23 about the shooting?

24 A. Yeah.

25 Q. Okay. What did you hear Jaiden say about

1 the shooting?

2 A. I honestly don't remember, but I just
3 remembered overhearing it from Gunner.

4 THE COURT: I got to hear you. Louder.

5 THE WITNESS: I said I don't remember
6 exactly, but I just remember overhearing it from
7 Gunner's cell phone.

8 BY MR. PESCI:

9 Q. Okay. So that's a really good point.
10 There's a distinction between hearing it on the cell
11 phone versus hearing Gunner say it. So I don't want
12 to hear what Gunner said.

13 I just want to hear what you heard. Now,
14 was that on Gunner's cell phone?

15 A. Yes.

16 Q. Okay. So when you were able to hear someone
17 speaking through and to Gunner's cell phone?

18 A. Yes.

19 Q. And what did you hear that person say?
20 What you remember.

21 A. All I remember is --

22 MR. TERRY: Judge, I'm going to object.

23 MR. PESCI: What's the basis?

24 MR. TERRY: It's kind of an interesting
25 objection or weird, however you want to put it. He

1 was not a participant in the conversation. In
2 Nevada, you have to have consent. You have to be --
3 every party has to consent to the person that
4 they're speaking to. So if I call you on the phone
5 and you've got somebody else standing in the
6 background, that person is not who I'm consenting
7 with having this conversation.

8 One-party consent, that's what Nevada has.
9 So if somebody else is standing there listening,
10 that person -- who in this case would be this
11 witness -- cannot testify to that.

12 THE COURT: Are you saying --

13 MR. TERRY: He's not a consented-to
14 participant.

15 THE COURT: Are you saying that that would
16 prevent admission of the information or that -- my
17 understanding was that might create some sort of
18 civil liability.

19 MR. TERRY: Well, it does both.

20 THE COURT: Or it might be a crime.

21 MR. TERRY: Could be a crime. He'd be
22 responsible. It's a felony under the statute, and
23 the statute says it's not admissible for any
24 purpose.

25 THE COURT: State.

1 MR. PESCI: Judge, that's as to a
2 recording. This is not a situation where he's being
3 recorded. He is in the presence of the individual
4 who's hearing that phone call. We all assume the
5 risk, when we call somebody else, that somebody
6 else, other than that person, could hear it. In
7 fact, we'll often say, "Hey, am I on speaker phone?"
8 And so people know all the time that you can be
9 heard.

10 Now, recording it is a different issue.
11 That's when we're talking about consent. That's not
12 the situation here. He can overhear what someone
13 else chooses to say on the phone.

14 MR. TERRY: That's when somebody's smart
15 enough to say, "Hey, are we talking on a speaker
16 phone?"

17 THE COURT: I'm going to overrule your
18 objection. But I'll allow you to look at -- if you
19 can look at a statute or any case law that you'd
20 like to provide me, Mr. Terry, I'll go back and
21 look.

22 MR. TERRY: All right. Thank you.

23 THE COURT: Go ahead, State.

24 BY MR. PESCI:

25 Q. Are you familiar with Face Time?

1 A. Yes.

2 Q. This conversation that you heard, was that
3 via Face Time?

4 A. Yes.

5 Q. And so when someone has a phone and they're
6 doing Face Time, is the whole screen lit up?

7 A. Yes.

8 Q. So if I'm standing here Face-Timing with
9 someone that I know, could you see and hear what I
10 was saying?

11 A. Yes.

12 Q. In fact, you could see physically the person
13 on the other side of the phone?

14 A. Yes.

15 Q. So when you heard this, this was via
16 Face Time on the phone of Gunner?

17 A. Yes.

18 Q. Okay. So there was nothing that was
19 preventing you from seeing and hearing what was said?

20 A. No.

21 Q. Okay. What did you hear said during the
22 Face Time?

23 A. All I heard was something about a body.

24 Q. A body?

25 A. Yes.

1 Q. Okay. The person that said that, did you
2 recognize the voice?

3 A. No.

4 Q. You didn't know who it was that was calling
5 or Face-Timing.

6 A. I wasn't that close, but I'm pretty sure it
7 was Jaiden though.

8 MR. TERRY: Judge.

9 THE COURT: I've got to have you say it
10 louder.

11 THE WITNESS: I said I wasn't close by.
12 I'm positive it was Jaiden though.

13 BY MR. PESCI:

14 Q. You're positive it was Jaiden?

15 A. Yes.

16 Q. What was it that made you positive it was
17 Jaiden?

18 A. The voice.

19 Q. Okay. If I understood your testimony
20 earlier, you said you've gone to the same school with
21 Jaiden?

22 A. Yes.

23 Q. You knew him before June the 8th?

24 A. Yes.

25 Q. How many times had you interacted with him?

1 A. Tens of times.

2 Q. Were there enough times that you would
3 recognize his voice?

4 A. Yes.

5 Q. So you were able to recognize his voice
6 talking about a body?

7 A. Sort of, yeah.

8 MR. PESCI: Okay. Court's indulgence.

9 BY MR. PESCI:

10 Q. Now, in your time at that house, did you
11 ever hear a conversation about a lick?

12 A. Yes.

13 Q. What is a "lick"?

14 A. A robbery.

15 Q. Okay. Who did you hear talking about doing
16 a lick?

17 A. I don't remember that.

18 Q. You don't remember who had said that?

19 A. I don't remember.

20 MR. TERRY: Asked and answered.

21 MR. PESCI: I was trying to follow-up
22 because sometimes --

23 MR. TERRY: Asked and answered.

24 MR. PESCI: Sometimes his voice isn't loud
25 enough. So I can't hear him.

1 MR. TERRY: Even I heard him that time.

2 THE COURT: He answered he don't remember.
3 So I'll technically sustain it.

4 You can continue, Mr. Pesci.

5 BY MR. PESCI:

6 Q. Okay. So but you heard a conversation about
7 doing a lick?

8 A. Yes.

9 MR. TERRY: Objection. Hearsay.

10 THE WITNESS: Yes.

11 MR. PESCI: If we're going to lay a
12 foundation, I've got to get it out from him as far
13 as the prior inconsistent statement.

14 THE COURT: I'll give you a little
15 latitude. The objection is hearsay. He heard a
16 conversation about it. That technically, at this
17 point, wouldn't be offered until someone heard it
18 and acted in some way. So I'm going to -- I'm going
19 to overrule it at this point.

20 But I'll allow a little leeway, Mr. Pesci.

21 MR. PESCI: Thank you.

22 BY MR. PESCI:

23 Q. Do you remember telling the police that you
24 heard Jaiden and Kody talking about doing a lick
25 earlier in the day, on June the 8th, 2018?

1 A. I never told the police that on the day of.

2 Q. You never told the police that ever?

3 MR. TERRY: Objection. Asked and answered.

4 MR. PESCI: It's a different question.

5 MR. TERRY: He got his answer, Judge, and
6 he doesn't like it.

7 THE COURT: No, I don't think he tried to
8 change his answer. I'm going to -- part of the
9 problem is Mr. -- our witness here likes to trail
10 off in the last part of what he's saying. And I
11 think Mr. Pesci, at this point, was trying to
12 clarify what the last point of what he was saying
13 is.

14 So I need you to keep your voice up.

15 I'm going to overrule the objection. Ask
16 your question again.

17 BY MR. PESCI:

18 Q. Did you ever tell the police that you heard
19 Jaiden and Kody talking about doing a lick earlier in
20 the day, on June the 8th?

21 A. Yes. I told that to the detective that
22 came to my house.

23 Q. Okay. So you did, in fact, tell the
24 detectives that?

25 A. Yes.

1 Q. All right. Why did you tell the detectives
2 that?

3 A. He asked me.

4 Q. Okay. So when you answered the detective
5 and said that you had heard that, was that accurate?

6 A. From what I tried to remember, yes.

7 Q. Okay. So what we need to know is if, in
8 fact, you actually heard the two defendants talking
9 about doing a lick on June the 8th, 2018?

10 A. Yes.

11 Q. Okay. So you heard them talking about doing
12 a lick. Was that before the shot into the ceiling?

13 A. Yes.

14 Q. Okay. And then you later told that to the
15 police, that you heard the defendants talking about
16 doing a lick?

17 A. Yes.

18 Q. Okay. Now, you've come in here and you've
19 testified. Has the State of Nevada, the prosecution,
20 have we promised you anything?

21 A. No.

22 Q. Have we asked you to come in here and tell
23 the truth?

24 A. Yes.

25 MR. PESCI: Thank you very much.

1 Pass the witness.

2 THE COURT: Mr. Terry.

3 MR. TERRY: Please.

4 THE COURT: Go ahead. Cross-examination.

5 MR. TERRY: My colleague --

6 THE COURT: Just -- if I could stop.

7 One thing, I know it's going to happen that
8 you ask the question and it's a leading question
9 that's appropriate, and then this witness, like the
10 last one, kind of answers quickly and then trails
11 off in addition.

12 So I need you to -- I need you to be very
13 specific and talk loudly into the microphone so that
14 Mr. Terry can hear your answer. Okay?

15 THE WITNESS: Okay.

16 THE COURT: All right. Mr. Terry, go ahead.

17

18 CROSS-EXAMINATION

19 BY MR. TERRY:

20 Q. My colleague just asked you if you were
21 interviewed by the police; correct?

22 A. Yes.

23 Q. How many times?

24 A. Once.

25 Q. And was the total of that conversation

1 recorded by the police?

2 A. Yes.

3 Q. In other words, no introductory comments,
4 no "This is going to go easy, just tell us the
5 truth," everything you said that day was put on a
6 recording; correct?

7 A. Yes.

8 Q. Okay. Now, just so we're clear, was the
9 8th the only day that you were at the house?

10 A. Yes.

11 Q. Okay. And just so we're clear, you were not
12 there when Matthew was shot; correct?

13 A. No, I was not.

14 Q. Okay. Did you even see Matthew there at the
15 house --

16 A. Yes. I seen Matthew --

17 THE COURT: Hang on. I need you to let
18 him -- same with you. I need you to let Mr. Terry
19 finish his question, and then you can answer. Okay?

20 Go ahead. Mr. Terry.

21 BY MR. TERRY:

22 Q. Okay. But you saw Matthew there; correct?

23 A. Yes.

24 Q. Okay. Before you left the house, how long
25 was Matthew at the house?

1 A. 30 minutes maybe.

2 Q. 30 minutes. He had brought marijuana with

3 him?

4 A. Yes.

5 Q. He had brought pills with him?

6 A. No.

7 Q. Okay. Where did the pills come from?

8 A. I honestly have no idea.

9 Q. You honestly have no idea?

10 A. Yes.

11 Q. The number of people that were there, you're

12 sitting right there and you don't know who brought

13 the Xanax?

14 A. No, I don't.

15 Q. Okay. But you told the police that you

16 observed people utilizing, eating, taking the Xanax

17 bars; correct?

18 A. Yes. But I don't know --

19 Q. Did you know what they were?

20 A. Do I -- I didn't hear you. I'm sorry.

21 Q. I'm sorry. Do you know what they are?

22 A. Xanax?

23 Q. Yeah.

24 A. Yeah.

25 Q. Did you take any that day?

1 A. No.

2 Q. Did you have any alcohol?

3 A. No.

4 Q. Did you smoke any marijuana?

5 A. Yes.

6 Q. Okay. So all that's there, but all you do

7 is smoke marijuana; correct?

8 A. Yes.

9 Q. Do you smoke marijuana on a consistent

10 basis?

11 A. No.

12 Q. No? Only when somebody else gives it to

13 you, huh?

14 A. Just with friends.

15 Q. And you were smoking Matthew's marijuana

16 that day; correct?

17 A. Yes.

18 Q. Now, Jaiden and Kody had marijuana too;

19 correct?

20 A. Yes.

21 Q. And you were smoking that marijuana too;

22 correct?

23 A. Yes.

24 Q. And they didn't run out of marijuana?

25 In other words, there was plenty of

1 marijuana sitting there even at a point in time when
2 Matthew got there; correct?

3 A. We eventually ran out.

4 Q. Okay. Only after Matthew got there;
5 correct?

6 A. Before.

7 Q. Before?

8 A. Yes.

9 Q. Did you tell the police that?

10 A. No.

11 Q. So you're there for a half an hour and then
12 you leave; correct?

13 A. I wasn't there for a half hour, total.
14 That's how long --

15 Q. I thought that's what you just said.

16 A. That's how long I was there while Matthew
17 was there.

18 Q. Okay. How long were you at the house
19 totally?

20 A. Maybe an hour and a half, two hours.

21 Q. Okay. What made you leave though was the
22 shot in the ceiling; correct?

23 A. Yes.

24 Q. Okay. And that would have occurred while
25 Matthew was there; correct?

1 A. Yes.

2 Q. All right. Did you observe Jaiden taking
3 the Xanax?

4 A. No.

5 Q. You didn't observe him using Xanax?

6 A. I seen him, but I wasn't just observing.

7 Q. I can't hear you. Speak up.

8 A. They were taking Xanax, but I wasn't
9 observing him, watching him.

10 Q. Well, did you observe him to eat Xanax or
11 ingest Xanax? "Yes" or "no"?

12 A. Yes.

13 Q. "Yes"?

14 A. Yes.

15 Q. Correct? Okay. And the same with
16 marijuana; correct?

17 A. Yes.

18 Q. Okay. And, in fact, you told the police
19 that you believed that Jared (sic) had had four bars
20 of Xanax. Would that be accurate? "Yes" or "no"?

21 A. I don't know who "Jared" is, sir.

22 Q. I'm sorry. My client. The gentleman seated
23 to my right.

24 A. Yes.

25 Q. You told him that he had four bars; correct?

1 A. Not four but three, yeah. Yes.

2 Q. Three bars?

3 A. Yes.

4 Q. Okay. So does that refresh your memory that

5 you saw him ingesting Xanax?

6 A. Yes.

7 Q. Okay. At least three bars?

8 A. Yes.

9 Q. Quite a bit; correct?

10 A. Yes.

11 Q. In addition to smoking marijuana; correct?

12 A. Yes.

13 Q. Okay. You described the guns, and to the

14 police you were very specific, a Ruger .357 revolver.

15 A. Yes.

16 Q. Correct?

17 A. Yes.

18 Q. Did you handle the gun that day?

19 A. No.

20 Q. No?

21 A. No.

22 Q. Others hand the gun beside Jaiden, though,

23 that day; correct?

24 A. Yes.

25 Q. Matthew handled the gun that day; correct?

1 A. I'm completely sure not.

2 Q. Okay. If I were to tell you that Oliver,
3 Mr. Oliver who just testified, said that --

4 MR. PESCI: Objection as to what another
5 witness said.

6 MR. TERRY: Well, I'm trying to refresh his
7 memory.

8 THE COURT: Well, I think he already said
9 that -- I think you can do it a different way than
10 saying what another witness in this proceeding said.

11 So I'm going to sustain the objection.

12 BY MR. TERRY:

13 Q. All right. Would it refresh your memory if
14 another witness had already testified that Matthew
15 actually handled the same gun that Jaiden had?

16 MR. PESCI: Same objection, Your Honor.

17 THE WITNESS: No, because I didn't see
18 Matthew handle it myself.

19 THE COURT: I think he took care of it.

20 Go ahead, Mr. Terry.

21 BY MR. TERRY:

22 Q. I'm sorry. You're not saying Matthew didn't
23 handle the gun. You just didn't see it; correct?

24 A. Yes.

25 Q. Where as someone else might have seen it;

1 correct?

2 A. Yes.

3 Q. All right. Now, you observed Jaiden to put

4 the gun on the table; correct?

5 A. Yes.

6 Q. And you told the police that?

7 A. Yes.

8 Q. So this wasn't a situation where he was, in

9 effect, hoarding the gun to himself; correct?

10 A. No, he wasn't.

11 Q. All right. And as a matter of fact, when he

12 put it down on the table, you observed it was loaded;

13 correct?

14 A. Yes.

15 Q. Okay. "Loaded" simply meaning with bullets

16 in it; right?

17 A. Yes.

18 Q. Okay. And it was accessible to those that

19 were there that day; correct?

20 A. Yeah.

21 Q. And including you; correct?

22 A. Yes.

23 Q. Okay. Did you handle the gun?

24 A. No.

25 Q. Did you handle Kody's gun?

1 A. Yes. I held it.

2 Q. So you handled the other gun but not the
3 revolver?

4 A. No.

5 Q. Correct?

6 Okay. Did you observe Jaiden empty the
7 bullets from the gun?

8 A. Yes.

9 Q. Did you observe him to dry fire it at
10 individuals?

11 A. Yes.

12 Q. Okay. Who did he do that with?

13 A. Gunner.

14 Q. He did it with himself too, didn't he?

15 A. Yes.

16 Q. He put the gun up to his head and dry fired
17 it to his head; correct?

18 A. Yes.

19 Q. And then did you observe him, at times, put
20 the bullets back in?

21 A. Yes.

22 Q. And then take them out again?

23 A. No. Not multiple times.

24 Q. Okay. I'm going to ask you about a
25 conversation that you had with the gentleman that

1 just left the room. Do you know the gentleman that
2 just left the room?

3 A. Yes.

4 Q. Mr. Oliver?

5 A. Alaric?

6 Q. Yeah. How long have you known him?

7 A. A year.

8 Q. Okay. Here's my question to you: Did he
9 call you or Skype you, or any other type of
10 communication, and indicate that Jaiden was clicking
11 the gun?

12 MR. PESCI: Objection. It's hearsay.

13 MR. TERRY: It isn't. It's to impeach what
14 the other witness said. He already indicated he did
15 not say that, what I'm about to relate. This is
16 something he told the police. So one way or the
17 other, it's either an inconsistent statement,
18 impeachment by inconsistent statement, which I can
19 do with any witness.

20 THE COURT: I remember you asking the
21 question of the previous witness. Was it, the
22 question, whether this witness made a statement to
23 him?

24 MR. TERRY: No. That witness made a
25 statement to him (indicating).

1 THE COURT: Okay. So you're trying to
2 impeach the statement the last witness made.

3 MR. TERRY: Exactly.

4 THE COURT: Mr. Pesci.

5 MR. PESCI: My objection is it's hearsay.

6 THE COURT: Okay. I'm going to overrule
7 it. Go ahead.

8 BY MR. TERRY:

9 Q. All right. Here's the question I want to
10 make sure you understand. The gentleman that just
11 left, I call him "Oliver." You call him something
12 different.

13 A. (No audible response.)

14 THE COURT: Oliver is his last name,
15 Mr. Terry.

16 BY MR. TERRY:

17 Q. Right. What do you call him?

18 A. Alaric.

19 Q. Okay. That's his first name; right?

20 A. Yes.

21 Q. I have to be respectful, "Mr. Oliver."

22 Okay. Do you recall him calling your phone
23 and indicating that Jaiden was clicking the gun,
24 meaning dry firing with no bullets in the chamber,
25 but one of those times, it wasn't a click anymore and

1 Alaric, as you call him, saw Matthew fall to the
2 ground?

3 A. Yes.

4 Q. So that's a statement he gave you; correct?

5 A. Yes.

6 Q. All right. You told the police that no one
7 had any problems with Matthew; correct?

8 A. Yes.

9 Q. And that would be true of Jaiden; correct?

10 A. Yes.

11 Q. Okay. And that would be true of Mr. Oliver;
12 correct?

13 A. Yes.

14 Q. And that would be true of Charles; correct?

15 A. Yes.

16 Q. So there was no vendetta, no dislike, those
17 types of things directed at Matthew; correct?

18 A. No, there wasn't.

19 MR. TERRY: Okay. Court's indulgence,
20 Your Honor.

21 THE COURT: Yep.

22 BY MR. TERRY:

23 Q. Now, you indicated in reference to this
24 "lick" scenario that you thought that meant a
25 robbery; correct?

1 A. Yes.

2 Q. Okay. Did you indicate to the police that
3 when they asked you what a "lick" was, it meant
4 stealing?

5 A. Yes.

6 MR. TERRY: Nothing further.

7 THE WITNESS: Nothing else.

8 MR. TERRY: Nothing further.

9 MR. PESCI: He's not asking you.

10 MR. TERRY: Pass that witness.

11 THE COURT: All right. We'll strike that
12 last point. Mr. Brower.

13 MR. TERRY: Don't strike the last question.

14 THE COURT: Well, the last answer.

15 MR. TERRY: Thank you.

16 THE COURT: All right.

17

18 CROSS-EXAMINATION

19 BY MR. BROWER:

20 Q. Mr. Thompson, you testified when you first
21 got on the stand, I believe that you were asked who
22 was at the house when you got there, and you said
23 Alaric and Jaiden; is that correct?

24 A. Yes.

25 Q. Those are the only two people you mentioned;

1 correct?

2 A. Actually, when I arrived, they weren't
3 there.

4 Q. They weren't there. So you arrived first?

5 A. Yes.

6 Q. Okay. So you were in the house by yourself?

7 A. No.

8 Q. So the question that was asked earlier was
9 who was at the house when you got there, and I can
10 get a read-back if you want. But I'm almost certain
11 that you said Alaric and Jaiden. Now you're saying
12 they weren't there.

13 So who was at the house when you got there?

14 A. Me, Gunner, Charles, and Alaric.

15 Q. Okay. And what's Gunner's last name?

16 A. Methvin.

17 Q. How do you spell that?

18 A. M-E-T-H-V-I-N.

19 Q. Okay. And what were you guys doing at the
20 house?

21 A. Just smoking marijuana.

22 Q. Whose marijuana?

23 A. Gunner's and Jaiden's.

24 Q. But you just said Jaiden wasn't there?

25 A. When he arrived, we continued.

1 Q. Before Jaiden and Kody get to the house,
2 what are you doing?
3 A. Sitting down, smoking marijuana.
4 Q. Whose marijuana?
5 A. Gunner's.
6 Q. Okay. How much marijuana did you smoke?
7 A. Maybe a quarter of an ounce.
8 Q. Did you use anything besides marijuana?
9 A. No.
10 Q. Did you drink any vodka?
11 A. No.
12 Q. Did you see any vodka?
13 A. Yes.
14 Q. Who brought the vodka?
15 A. I don't know.
16 Q. It was there when you were there and Jaiden
17 and Kody were not; correct?
18 A. Yes.
19 Q. How much vodka was there?
20 A. Just like one sip at the bottom.
21 Q. Okay. And then more people show up, and you
22 guys continue to use drugs; correct?
23 A. Yes.
24 Q. Okay. What specifically do you see people
25 using?

1 A. Marijuana and Xanax.

2 Q. Okay. And did you see Kody take any Xanax?

3 A. Yes.

4 Q. How much?

5 A. I don't know. Four?

6 Q. Okay. And there comes a point in time when

7 there's a shot to the ceiling; correct?

8 A. Yes.

9 Q. What's Kody doing at that point in time?

10 A. Sitting down on the couch.

11 Q. Is he sitting down, or is he passed out?

12 A. He's sitting down.

13 Q. Okay. Does he jump up?

14 A. No, not that I remember.

15 Q. Okay. Are you talking to him?

16 A. No. I wasn't talking to him.

17 Q. Okay. So do you know if he was awake?

18 A. Yeah, I'm pretty sure he was.

19 Q. You're pretty sure? You know or you don't

20 know?

21 A. Yes. I'm almost positive.

22 Q. And how would you know he's awake?

23 A. I looked over -- I looked at everyone in

24 the room.

25 Q. Okay. Were his eyes open?

1 A. Yes.

2 Q. Was he still smoking marijuana?

3 A. No.

4 Q. Was he still taking Xanax?

5 A. No.

6 Q. Okay. And at that point in time, you leave;

7 correct?

8 A. Yes.

9 Q. Now, you remember talking to the cops;

10 right?

11 A. Yes.

12 Q. Okay. And you got asked a bunch of

13 questions about a lick and everything else; is that

14 correct?

15 A. Yes.

16 Q. But you actually told the cops it was your

17 theory; is that correct?

18 A. I never said that.

19 Q. The very end of your conversation, you

20 didn't tell the cops, "You want to know my theory"?

21 A. No.

22 Q. So if I had an audio recording of that, that

23 recording would not be correct?

24 A. I don't remember saying that "I have a

25 theory."

1 MR. BROWER: Judge, can we approach very
2 briefly.

3 THE COURT: Yep.

4 (Bench conference.)

5 THE COURT: All right. We're going to just
6 take a short ten-minute break.

7 All right. We're going to take a break.
8 Just I need you to hang around and have you go
9 outside. All right? Don't talk to anybody about
10 your testimony. All right? Just go sit out there
11 by yourself.

12 All right. We're going to be in a short
13 ten-minute break.

14 (Pause in the proceedings.)

15 THE COURT: All right. Back on the record.

16 Mr. Brower, I believe we left off with you
17 asking questions about what this witness told whom.

18 MR. BROWER: That's correct, Judge, and --

19 THE COURT: Told the detective. You used
20 the term "theory." So I'm going to let you -- I'm
21 going to let you state a new question, and let's go
22 from there.

23 BY MR. BROWER:

24 Q. Mr. Thompson, I previously asked you if you
25 had told the officers about a theory of the case, and

1 you said no. So let me ask you, did you tell the
2 officers you had an opinion about this case?

3 A. I never told them I had an opinion, but he
4 asked me what I think actually happened.

5 Q. So you didn't actually proffer opinion when
6 he just said, "Is there anything else you want to
7 tell me?"

8 A. No. I just told him what I think happened.

9 Q. "Think" but not "know"; correct?

10 A. Yes.

11 Q. Okay. And what you said is "I think it was
12 robbery," but you don't know that; correct?

13 A. Yes.

14 Q. And you gave a lot of "I think" answers, but
15 you weren't there; correct?

16 A. No, I wasn't.

17 MR. BROWER: Okay. Court's indulgence.

18 BY MR. BROWER:

19 Q. And you did testify that you believed
20 everybody there -- there was no -- I think you used
21 the term "dislike" amongst the people there; correct?

22 A. I'm pretty sure, yes.

23 Q. So everybody there seemed to be friendly?

24 A. Yes.

25 Q. They were all using Xanax and marijuana and

1 whatever else together?

2 A. Yes.

3 Q. Okay. And you left after the shot went into
4 the roof?

5 A. Yes.

6 Q. And did anybody else run out with you?

7 A. Gunner.

8 Q. Okay. But nobody else? They stayed and
9 continued partying, to your knowledge; right?

10 A. Yeah.

11 Q. Like nothing happened?

12 A. No.

13 MR. PESCI: I'm going to object as to
14 speculation as to what the people who stayed at the
15 party, that he wasn't present for, continue doing.

16 THE COURT: I'm going to sustain that
17 objection.

18 MR. BROWER: I'm done.

19 THE COURT: Okay. Any redirect?

20 MR. PESCI: Yes.

21

22 REDIRECT EXAMINATION

23 BY MR. PESCI:

24 Q. You know, you were asked questions about
25 some questions about ingesting or taking drugs.

1 Do you remember those questions?

2 A. Yes.

3 Q. You said that you saw people taking them,
4 but you didn't know the exact amount that was taken;
5 right?

6 A. Yes.

7 Q. I mean, when you're hanging out with your
8 friends partying, do you sit there and keep real
9 track of how many drugs they put into their system?

10 A. No, I don't.

11 Q. Okay. But you did see drugs being put in?

12 A. Yes.

13 Q. Okay. You were also asked some questions
14 about when somebody arrived and when someone didn't
15 arrive. Do you remember those questions?

16 A. Yes.

17 Q. So that it's clear, at the very beginning
18 when you were at this house, the two defendants were
19 not present?

20 A. No, they weren't.

21 Q. And that Matthew, the victim, was not
22 present?

23 A. No, he wasn't.

24 Q. Let me ask you this, because you were asked
25 just a moment ago about more people showing up.

1 That's what defense counsel asked you.

2 For clarity purposes, did Matthew arrive
3 after the defendants arrived?

4 A. Yes.

5 Q. In fact, how did Matthew arrive?

6 A. They picked him up.

7 Q. Who's "they"?

8 A. Jaiden and Kody.

9 Q. Okay. So Jaiden and Kody left, picked up
10 Matthew, and brought him back.

11 MR. BROWER: Judge, I'm going to object.
12 Calls for speculation.

13 THE COURT: I'm going to -- I'm going to
14 overrule it. I think it's --

15 MR. TERRY: It's also outside the scope of
16 cross.

17 MR. PESCI: No, it's not because he asked
18 about people showing up, when they showed up. He
19 specifically asked about the timing of Matthew.

20 MR. BROWER: But I didn't ask how they got
21 there, Judge.

22 THE COURT: Well, I think the questions
23 were you specifically started out saying -- trying
24 to imply that there was something different in his
25 earlier testimony than what he was testifying to

1 then, which was when Jaiden and Kody were there in
2 relation to when he was there. So I'm going to let
3 Mr. Pesci clarify.

4 I'm going to overrule the objection.

5 BY MR. PESCI:

6 Q. Did you see Jaiden and Kody leave at some
7 point?

8 A. Yes.

9 Q. And when they came back, was Matthew with
10 them?

11 A. Yes.

12 MR. PESCI: Thank you.

13 THE COURT: Anything else, Mr. Pesci?

14 MR. PESCI: No. Thank you, Your Honor.

15 THE COURT: Mr. Terry.

16 MR. TERRY: No, sir. Thank you.

17 THE COURT: Mr. Brower.

18 MR. BROWER: No, Judge.

19 THE COURT: All right. This witness free
20 to go?

21 MR. PESCI: Yes, Your Honor.

22 THE COURT: All right. You're free to
23 leave. Thank you for your testimony.

24 Next witness.

25 MR. PESCI: State calls Officer Katherine

1 Cochran.

2 THE COURT: Ma'am, come on up to the
3 witness. Stand up on there for me.

4 Raise your right hand for me.

5 (Witness sworn.)

6 THE WITNESS: I do.

7 THE CLERK: Thank you. Please be seated.
8 State and spell your full name, for the
9 record.

10 THE WITNESS: Officer Katherine Cochran.
11 K-A-T-H-E-R-I-N-E. Last name Cochran, C-O-C-H-R-A-N.

12 THE COURT: Finally somebody is speaking
13 loudly.

14 All right. Mr. Pesci, go ahead.

15 MR. PESCI: Thank you.

16 MR. TERRY: Thank you.

17

18 Thereupon --

19 KATHERINE COCHRAN,
20 having been first duly sworn to testify to the
21 truth, was examined and testified as follows:

22

23 DIRECT EXAMINATION

24 BY MR. PESCI:

25 Q. Ma'am, I want to ask you, were you working

1 in your capacity as a Henderson police officer on
2 June the 8th, 2018?

3 A. Yes, sir.

4 Q. And specifically around 7:22 p.m., were you
5 in the area of Valle Verde and Sunset Road here in
6 Henderson, Nevada?

7 A. Yes, sir, I was.

8 Q. Was there a car that you observed that got
9 your attention?

10 A. Yes, sir.

11 Q. Can you describe that car.

12 A. Originally, what I saw was a silver
13 Mercedes without a front license plate. There was a
14 black space with a placard, and it drove past me.
15 The windows were down. I could see a bunch of
16 people inside the vehicle.

17 Q. Okay. And what did you do in relation to
18 that vehicle, based on what you just told us about,
19 specifically the placard in the front?

20 A. Well, originally, I turned out of where I
21 was sitting at. I had just gone done with a traffic
22 stop, and I was all ready turn to onto Valle
23 Verde -- onto Sunset.

24 Q. Did you follow that Mercedes?

25 A. I did. And as soon as I turned out, the

1 vehicle switched lanes and went into a turn lane.

2 Q. Okay. When it went switched lanes and went
3 into a turn lane, did it signal?

4 A. It did signal, but it did -- the signal was
5 about right after it -- right before it started to
6 turn. So it did not signal 100 feet before turning.

7 Q. So you just mentioned signaling 100 feet
8 before turning. Isn't it a rule or a law that you're
9 supposed to wait 100 feet after signaling before
10 turning?

11 A. Yes, sir.

12 Q. Okay. And did you also observe that there
13 was a lack of a plate on the front of the Mercedes
14 where a placard could be?

15 A. Yes, sir.

16 Q. What's your understanding about the traffic
17 law regarding plates in the front of the vehicle?

18 A. If there's a spot for a plate to be
19 displayed, by Nevada law, it must be displayed.

20 Q. Okay. So if the manufacture doesn't make a
21 spot for a plate and a car does not have a plate,
22 that does not violate the statute?

23 A. Yes, sir.

24 Q. But if there is a place to put a plate and
25 the plate is not on there -- a license plate, that

1 is -- that is a violation?

2 A. Yes, sir, it is.

3 Q. So based on seeing those two violations,
4 what did you do?

5 A. I -- right when I got to the car, there was
6 a car in front of it, and so right when the light
7 turned green to turn left, I turned on my lights,
8 and the car immediately took off.

9 Q. Okay. When you said "the car," you're
10 referring to this Mercedes?

11 A. I was behind -- originally, I was behind a
12 truck, and then I went around the truck to get
13 behind the Mercedes, and once I turned on my lights,
14 then the Mercedes took off.

15 Q. Okay. Now, there was no front plate, but
16 did you see a rear plate?

17 A. Yes, sir.

18 Q. Do you remember the plate?

19 A. Sir, at that time, I did not see the plate.

20 Q. And then when the car took off, what did you
21 do?

22 A. I followed it originally, and then it
23 almost got in an accident, and then I turned my
24 light on in pursuit.

25 Q. Okay. Did you see it obey traffic signals

1 as it drove away from you?

2 A. No, sir, it did not. It was going in --
3 there's -- if you're familiar with that road,
4 there's a little -- there's a spot for a bicyclist
5 or whatnot to be riding on there. It was going in
6 that lane. It was driving in that lane, went past
7 everybody, and it was a solid red light, and it ran
8 that red light.

9 Q. Okay. So you personally observed this
10 Mercedes run through a red light?

11 A. Yes, sir.

12 Q. Okay. And then you said you stopped your
13 pursuit?

14 A. Yes, sir.

15 Q. Did you reengage or catch up to that vehicle
16 again later?

17 A. I did. Once I saw the vehicle go into the
18 accident, I then went into the middle of the
19 intersection as well to try and render aid, and I
20 observed multiple occupants run from the vehicle.

21 Q. Okay. So I'm going to stop you. I
22 apologize. The last I remember, you saw the car run
23 a red light. Did you then observe it actually get
24 into an accident?

25 A. Yes, sir, I did.

1 Q. What happened?

2 A. The vehicle got in an accident, and it went
3 into a little -- by a Chevron, it went into a
4 planter area, a bunch of grass and whatnot, and it
5 kind of went into the area, a pole, and then it
6 stopped.

7 (The record was read.)

8 THE WITNESS: Into a pole.

9 BY MR. PESCI:

10 Q. Okay. And then after it went into the pole,
11 did you see the occupants get out of the vehicle?

12 A. Yes, sir.

13 Q. What did they do?

14 A. The original one that I saw, he got out of
15 the passenger side, and he started running through
16 the Chevron. And I saw another one exit the other
17 side, but I didn't see where that occupant went.

18 Q. All right. So if I understood you, the
19 person that was not in the driver's seat was the one
20 you saw get out, and did you pursue that one?

21 A. Yes, sir.

22 Q. Tell us about that.

23 A. Originally, I got my patrol vehicle right
24 next to that, and I saw the occupant running through
25 the Chevron parking lot. The entire time I was

1 yelling at him to "Stop." The occupant kept looking
2 back at me and continued to run.

3 And then eventually he went to jump a fence
4 behind the Chevron. I went to grab him off the
5 fence, and when I did, I pulled his backpack and his
6 shoe off. He then fell over the fence, and then I
7 went around the fence and then watched him go into a
8 business on the other side.

9 And I went to that business, and when I
10 asked the employees if anybody came in, he said,
11 "Yeah, he's in the back, he's in the back." I then
12 went through the business, and when I opened the
13 back door, he was standing there with his hands up
14 and with a shoe in his hand.

15 (The record was read.)

16 THE WITNESS: A shoe. Yes, ma'am.

17 BY MR. PESCI:

18 Q. I apologize. Earlier, when you were chasing
19 this individual, were you dressed in your police
20 uniform?

21 A. Yes, sir. I was in my full police uniform,
22 as well as a marked patrol vehicle.

23 Q. Did you identify yourself as a police
24 officer?

25 A. I do not believe I identified myself as

1 police when I was running after him, no.

2 Q. But your clothing showed that?

3 A. Yes, sir.

4 Q. And I apologize. Back when you decided to
5 pursue the vehicle, did you ever turn on your lights
6 and sirens?

7 A. I did originally. When I first went to
8 make the traffic stop, I did. And then once I saw
9 the accident, I turned them back on. Because I
10 turned them off after he almost got into the first
11 accident.

12 Q. So there was indication from you with lights
13 and sirens on and then your uniform as you chased
14 this individual?

15 A. Yes, sir.

16 Q. Do you see the person that was standing
17 there with the shoe?

18 A. Yes, sir.

19 Q. Could you point to that person and describe
20 something he's wearing.

21 A. He's wearing a blue jumpsuit and black
22 hair, shaggy.

23 MR. PESCI: Would the record reflect
24 identification of the defendant, Jaiden Caruso.

25 THE COURT: It will so reflect.

1 BY MR. PESCI:

2 Q. Did you take him into custody?

3 A. Yes, sir.

4 Q. Did you call other officers to the scene?

5 A. Yes, sir. As soon as it got into a car
6 accident, I called for more officers to come. And
7 as soon as I put him in the handcuffs, I gave him to
8 another officer.

9 Q. Okay. And then when other officers were
10 called, in fact, was a CSA or a CSI investigator
11 called out to that actual Mercedes?

12 A. Yes, sir.

13 Q. Okay. And did you go back to that Mercedes?

14 A. No. I never actually -- I went and drove
15 back because I had to get my patrol vehicle. My
16 patrol vehicle was right by that Mercedes, but I
17 never actually went into the Mercedes or anything
18 like that, no.

19 Q. All right. But when you went back to your
20 patrol vehicle, it was near that Mercedes?

21 A. Yes, sir.

22 Q. Were you present when other police personnel
23 started to work or interact with that Mercedes?

24 A. When I was there, they started to seal it
25 up. I was with other people in that car that we

1 found later, when they went into the Mercedes.

2 MR. PESCI: Thank you. Pass the witness.

3 THE COURT: Mr. Terry.

4

5 CROSS-EXAMINATION

6 BY MR. TERRY:

7 Q. Just so we're sure, the gentleman seated to
8 my right that you've identified as the person that
9 was inside of the store, got out of the passenger
10 side of the vehicle; correct?

11 A. Yes, sir.

12 MR. TERRY: No further questions.

13 THE COURT: Mr. Brower.

14 MR. BROWER: Nothing, Judge.

15 THE COURT: Any redirect?

16 MR. PESCI: No. Thank you.

17 THE COURT: Is this witness free to go?

18 MR. PESCI: Yes, Your Honor.

19 THE COURT: Thank you. You're free to --

20 THE WITNESS: Thank you.

21 THE COURT: All right. Your next witness,
22 State.

23 MS. OVERLY: State calls Officer Hornback.

24 THE COURT: We traded soft for loud and
25 fast.

1 Come up to the witness stand, ma'am. Jump
2 up there. Remain standing and raise your right hand
3 for me.

4 (Witness sworn.)

5 THE WITNESS: Yes, ma'am.

6 THE CLERK: Thank you. Please be seated.
7 State and spell your full name, for the
8 record.

9 THE WITNESS: My name is Jennifer Hornback.
10 That's J-E-N-N-I-F-E-R, H-O-R-N-B-A-C-K.

11 THE COURT: Go ahead, State.

12

13 Thereupon --

14 JENNIFER HORNBACK,
15 having been first duly sworn to testify to the
16 truth, was examined and testified as follows:

17

18 DIRECT EXAMINATION

19 BY MS. OVERLY:

20 Q. Good morning, Officer. How are you
21 employed?

22 A. I'm employed with the City of Henderson as
23 a crime scene analyst.

24 Q. And how long have you been a crime scene
25 analyst?

1 A. I've been a crime scene analyst with the
2 City of Henderson for five years, six years.

3 Q. And were you working in that capacity on
4 June 8th of this year?

5 A. Yes, ma'am.

6 Q. And did you have cause to go to a scene
7 located at Valle Verde and Sunset Road in Henderson?

8 A. Reference that day, it was actually at
9 Green Valley Parkway and Sunset.

10 Q. Okay.

11 A. It was a -- I initially got called for a
12 car accident that involved a stolen vehicle.

13 Q. And when you arrived, what is it that you
14 observed there?

15 MR. TERRY: I'm going to object unless it's
16 offered -- it's not offered for the truth of the
17 matter asserted regarding a stolen vehicle.

18 THE COURT: Yeah, I don't think --

19 Well, was it offered for the truth of the
20 matter asserted or why she's going to this location?

21 MS. OVERLY: Her testimony is offered for
22 why she was arriving at that location.

23 THE COURT: All right.

24 MR. TERRY: Well, again --

25 THE COURT: Well, I understand what

1 you're -- there's no testimony, at this point, or no
2 evidence in front of me that it, in fact, was
3 stolen.

4 MR. TERRY: I guess the objection would be
5 assumes facts not in evidence.

6 THE COURT: Okay. Well, I think they're
7 offering it as to why the CSA went to this
8 particular -- actually, I'm going to sustain it.
9 I'm going to let you rephrase. I'm going to sustain
10 the objection. I'm going to let you rephrase your
11 question.

12 BY MS. OVERLY:

13 Q. So you arrived at the scene that you
14 indicated which was at what location?

15 A. That would be Green Valley Parkway and
16 Sunset.

17 Q. And when you arrived at that location, what
18 is it that you were asked to do?

19 A. I was asked to document a car accident
20 which had happened and process a vehicle, which was
21 reportedly stolen, out of Metro.

22 MR. TERRY: Objection. Move to strike.
23 Assumes facts not in evidence. Court's already
24 sustained that objection in reference to the, quote,
25 stolen vehicle.

1 THE COURT: Is there a reason we need --
2 I'm going to sustain the objection.

3 She went, based upon the report of the
4 accident at this point. And any additional
5 information about whether it was stolen or not, I'm
6 sure can come in later.

7 But I'll sustain your objection.

8 BY MS. OVERLY:

9 Q. So you don't have any personal knowledge
10 about whether or not the vehicle was stolen?

11 A. It was relayed to me as why, one of the
12 reasons that I'm going there, by one of the officers
13 that were on the scene.

14 THE COURT: It's not offered for the truth.
15 It's clearly not offered for the truth, at this
16 point.

17 MS. OVERLY: Correct.

18 MR. TERRY: Fine.

19 THE COURT: So let's move on.

20 BY MS. OVERLY:

21 Q. So when you arrived, what type of vehicle
22 was this?

23 A. There were two vehicles involved. One of
24 them was a 2006 silver Mercedes, and the other one
25 was a 2013 black Acura.

1 Q. With regards to the 2006 Mercedes, did you
2 process that vehicle?

3 A. I -- when I responded, I initially took
4 overall photos of the car accident scene, which
5 includes both photos; and then I went in and started
6 documenting the inside of that vehicle.

7 Q. And once you started documenting the inside
8 of that vehicle, what, if anything, did you recover?

9 A. That evening, I recovered a black Ruger
10 revolver.

11 Q. And is that a .357 revolver?

12 A. It is.

13 Q. And where did you locate that?

14 A. So that along with there were two other
15 firearm types of evidence recovered, but all of the
16 firearms was recovered inside the front passenger
17 area. So the gun itself was located on the
18 floorboard, under a plastic bag; and then there was
19 one live round, a .357 round, that was also on the
20 floorboard. And then I recovered a magazine
21 containing four -- I believe there were .45 live
22 ammunition rounds inside the door pocket.

23 Q. And you indicated that that was the front
24 passenger seat?

25 A. Front passenger, that's correct.

1 Q. All of which was located in that specific
2 area on the floor and the compartment?

3 A. Yeah, and the compartment, yes.

4 Q. Okay. Nothing in the rear?

5 A. No.

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

8 MR. TERRY: No questions on our behalf.

9 THE COURT: Mr. Brower.

10 MR. BROWER: Nothing, Judge.

11 THE COURT: This witness free to go?

12 MS. OVERLY: Yes, Your Honor.

13 THE COURT: All right. Thank you for your
14 testimony. I appreciate it.

15 THE WITNESS: Thank you.

16 THE COURT: State.

17 MS. OVERLY: State's next witness is
18 Detective Michael Condratovich.

19 THE COURT: Sir, if you can go up to the
20 witness stand. Remain standing, and raise your
21 right hand for me.

22 (Witness sworn.)

23 THE WITNESS: I do.

24 THE CLERK: Thank you. Please be seated.
25 State and spell your full name, for the

1 record.

2 THE WITNESS: Michael Condratovich.

3 M-I-C-H-A-E-L, C-O-N-D-R-A-T-O-V-I-C-H.

4 THE COURT: Go ahead, State.

5

6 Thereupon --

7

MICHAEL CONDRATOVICH,

8 having been first duly sworn to testify to the

9 truth, was examined and testified as follows:

10

11

DIRECT EXAMINATION

12

BY MS. OVERLY:

13

Q. Good morning, Detective.

14

A. Good morning.

15

Q. Where do you work?

16

A. I'm a detective with the Henderson Police

17

Department.

18

Q. And were you working in that capacity on

19

June 9th of 2018?

20

A. Yes, I was.

21

Q. And are you assigned to a specific unit?

22

A. Yes.

23

Q. And what is that?

24

A. Robbery, homicide, or crimes against

25

persons.

1 Q. Now, on that day, did you have cause to
2 investigate an incident that occurred at
3 2736 Cool Lilac Avenue?

4 A. Yes.

5 Q. And when did that incident occur?

6 A. I was called out approximately 10:00 o'clock
7 that evening to come assist detectives with their
8 investigation.

9 Q. So were you called out to investigate an
10 incident that happened earlier in the day?

11 A. Yes.

12 Q. Now, pursuant to your investigation, did you
13 issue or draft and issue a search warrant?

14 A. Yes, I did.

15 Q. And did you draft and issue more than one?

16 A. No. It was one search warrant for four
17 different locations.

18 Q. And, specifically, did one of those
19 locations include the residence that this alleged
20 incident happened?

21 A. Yes. On Cool Lilac.

22 Q. Is that 2736 Cool Lilac?

23 A. Yes.

24 Q. And what else was the search warrant for?

25 A. It was for a silver Mercedes-Benz and for

1 DNA from both Kody and from Jaiden.

2 Q. And was there anything specifically inside
3 of the Mercedes-Benz that you were trying to obtain?

4 A. The search warrant was -- wasn't -- was for
5 any electronics, any firearms. I'd have to look at
6 exactly what was listed on the search warrant. But
7 I don't think there was anything specific that
8 was -- I was attempting to locate.

9 Q. Would that include any of the cell phones
10 belonging to the defendants?

11 A. Yes.

12 Q. And what was recovered from the
13 2736 Cool Lilac residence?

14 A. I was not present during the service of the
15 search warrant. I only authored the search warrant.

16 Q. So you weren't present for that?

17 A. No.

18 Q. Were you present for the execution of the
19 warrant on the vehicle?

20 A. No, I was not.

21 Q. Did you subsequently obtain the items that
22 were recovered from that vehicle?

23 A. I got a copy of the search warrant return
24 from Detective Calvano.

25 MS. OVERLY: I'll pass the witness,

1 Your Honor.

2 MR. TERRY: No questions.

3 THE COURT: Mr. Brower.

4 MR. BROWER: No questions, Judge.

5 THE COURT: Okay. Is this witness free to
6 go?

7 MR. PESCI: Yes, Your Honor.

8 THE COURT: All right. Thank you, sir.

9 MR. TERRY: Yes, Your Honor. Sorry.

10 MR. PESCI: State calls Officer Nathan
11 Calvano.

12 THE COURT: Detective, if you can come up
13 to the witness stand. Remain standing and raise
14 your right hand for me.

15 THE WITNESS: Yes, sir.

16 (Witness sworn.)

17 THE WITNESS: I do.

18 THE CLERK: Thank you. Please be seated.
19 State and spell your full name, for the
20 record.

21 THE WITNESS: Nathan Calvano. N-A-T-H-A-N.
22 Last is Calvano C, as in Charlie, A-L-V, as in
23 Victor, A-N-O.

24 THE COURT: State, go ahead.

25 MR. PESCI: Thank you.

1 Thereupon --

2 NATHAN CALVANO,
3 having been first duly sworn to testify to the
4 truth, was examined and testified as follows:

5

6 DIRECT EXAMINATION

7 BY MR. PESCI:

8 Q. Do you work in conjunction with Detective
9 Condratovich that just left?

10 A. I do.

11 Q. Was he, in fact, the individual who authored
12 and obtained search warrants from a court to be able
13 to search the Mercedes-Benz and the 2736 Cool Lilac
14 Avenue?

15 A. That's correct.

16 Q. Just for the record, 2736 Cool Lilac, is
17 that here in Henderson, Nevada?

18 A. That is correct.

19 Q. Okay. Were you a part of the execution of
20 that warrant?

21 A. Yes.

22 Q. Specifically focusing on that Mercedes-Benz,
23 did you respond to where that Mercedes-Benz was found
24 originally?

25 A. Originally, yes.

1 Q. Okay. Could you see that it was involved in
2 a car accident?

3 A. Yes.

4 Q. And then was the execution of the warrant
5 done there at the scene, or was the car brought back
6 to the lab?

7 A. It was brought back to the lab.

8 Q. And in the execution of that warrant,
9 specifically to that vehicle, were there certain
10 items of interest that were recovered?

11 A. There were.

12 Q. When I say "items of interest," when you
13 were working this case, is there a division of labor
14 as to who does what?

15 A. Yes.

16 Q. Were you working together with another
17 Detective Wayne Nichols?

18 A. Yes.

19 Q. Were you and Detective Nichols and the
20 others detectives involved communicating with each
21 other, passing information around?

22 A. Yes.

23 Q. Based on that communication, were you
24 looking for certain items in the car?

25 A. Yes.

1 Q. Were you aware that a revolver, a .357
2 revolver, was found in the car?

3 A. I was aware, yes.

4 Q. Were you aware that CSA Hornback, who just
5 left, had processed that vehicle and found that
6 revolver?

7 A. Yes.

8 Q. And then the search warrant that you
9 obtained lets you search inside that vehicle,
10 additionally, and were two iPhones found?

11 A. Were they found was the question?

12 Q. Yes.

13 A. Yes, sir.

14 Q. Where were they found?

15 A. There was one that was in the front
16 passenger seat area and one that was in the front
17 driver's seat area.

18 Q. Okay. Did you know the name of your victim
19 at this point?

20 A. Yes, we did.

21 Q. What was that name?

22 A. Matthew Minkler.

23 Q. When you executed the warrant, did you find
24 anything with Matthew Minkler's name inside that
25 vehicle?

1 A. I did. So in the backseat of the vehicle
2 was a blue wallet. Inside of that wallet was
3 nothing else other than a Silverado High School ID,
4 with the name Matthew Minkler on it.

5 Q. Did it have a picture on it?

6 A. It did.

7 Q. Okay. So did you recognize that photograph
8 as the individual that was found deceased inside
9 2736 Cool Lilac?

10 A. I don't believe I had seen a picture of him
11 prior to that.

12 Q. Okay. Subsequent to that, have you been
13 able to see that?

14 A. Yes.

15 Q. Did it appear to be the same person to you?

16 A. Yes.

17 Q. All right. So if we understand correctly,
18 Matthew Minkler's wallet and ID were inside the
19 Mercedes?

20 A. Correct.

21 Q. Were you a part of the execution of the
22 warrant at 2736 Cool Lilac?

23 A. I was.

24 Q. Was another phone, a non-iPhone, recovered
25 at that residence?

1 A. That's correct.

2 Q. What kind of phone was it?

3 A. I believe it was a Samsung.

4 Q. Okay. Did you have information that Matthew
5 had a Samsung?

6 A. I don't recall that.

7 Q. Okay. Subsequently in your investigation,
8 were you able to develop that information?

9 A. Yes.

10 Q. Suffice it to say you recovered that phone
11 pending your investigation it could be something
12 related?

13 A. Correct.

14 Q. And in the process of the investigation
15 found that it was, in fact, related?

16 A. Correct.

17 Q. So three phones, two in the Mercedes, one in
18 the house?

19 A. Correct.

20 MR. PESCI: Okay. Court's indulgence.

21 Pass the witness.

22 THE COURT: Mr. Terry.

23 MR. TERRY: Yes, Your Honor.

24 / / /

25 / / /

CROSS-EXAMINATION

BY MR. TERRY:

Q. Was it you that found Matthew's wallet in the backseat of the car?

A. Yes, sir.

Q. And were you aware that Matthew had been in the car earlier?

A. At that point, I don't recall.

Q. But you learned at a later point in time that Matthew had been in that car?

A. That is correct.

Q. Earlier?

A. That is correct.

Q. Certainly before he was demised; correct?

A. Correct.

MR. TERRY: Nothing further.

THE COURT: Mr. Brower.

MR. BROWER: No, Judge.

THE COURT: Is the witness free to go? Oh, I'm sorry. Do you have any redirect?

MR. PESCI: No. Thank you.

THE COURT: All right. Witness free to go?

MR. PESCI: Yes, Your Honor.

THE COURT: Thank you so much for your testimony.

1 THE WITNESS: Thank you, sir.

2 THE COURT: State, call your next witness.

3 MR. PESCI: State calls Jared Spangler.

4 May I approach the clerk, Your Honor.

5 THE COURT: Yes.

6 If I can have you jump up on the witness
7 stand and remain standing, and raise your right hand
8 for me.

9 THE WITNESS: Sure.

10 (Witness sworn.)

11 THE WITNESS: Yes.

12 THE CLERK: Thank you. Please be seated.
13 State and spell your full name, for the
14 record.

15 THE WITNESS: Jared Spangler. J-A-R-E-D,
16 S-P-A-N-G-L-E-R.

17 THE COURT: Go ahead.

18

19 Thereupon --

20 JARED SPANGLER,
21 having been first duly sworn to testify to the
22 truth, was examined and testified as follows:

23 / / /

24 / / /

25 / / /

1 DIRECT EXAMINATION

2 BY MS. OVERLY:

3 Q. Good morning, Detective. How are you
4 employed?5 A. Good. I'm sorry. One second. I
6 apologize. I have hearing aids. I'm just turning
7 it up so I can hear clearly.8 THE COURT: Okay. Go ahead and ask your
9 question again.

10 BY MS. OVERLY:

11 Q. How are you employed?

12 A. I am a computer forensics detective for the
13 Henderson Police Department.14 Q. And were you working in that capacity on
15 June 10th of this year?

16 A. That is correct, yes.

17 Q. And did you have cause to do a forensic
18 examination of items that were recovered pursuant to
19 a murder that occurred at a Cool Lilac residence?

20 A. Yes, I did.

21 Q. And specifically what items of evidence that
22 were recovered were you doing an examination on?23 A. There was two iPhones, cell phones, that
24 came from the vehicle.

25 Q. And would that be the 2006 Mercedes?

1 A. That is correct.

2 Q. And at the time, did you -- were you aware
3 of who was the owner of those cell phones?

4 A. At the time, I was not. No, I did not know
5 the owner.

6 Q. So when you do a forensic examination of
7 cellular phones, do you use certain software?

8 A. I do, yes.

9 Q. And what is that?

10 A. The one used for both of the phones was
11 Cellebrite.

12 Q. And what does that do exactly?

13 A. It connects through the computer, and it
14 contacts the phone. It has communication where it
15 will ask the phone for all the contents of it. And
16 from there, the computer will analyze it and create
17 a digital fingerprint, per se, and so that it has an
18 evidentiary value to it, to show that that's exactly
19 how it came from the phone.

20 Q. And when you say "data from the phone," does
21 that include text messages, photos, video?

22 A. Yes, it does.

23 Q. And were you able to pull data from both of
24 those phones?

25 A. Yes, I was.

1 Q. And were you able to pull, specifically,
2 videos?

3 A. Yes, I was.

4 Q. And the videos that you pulled, are you able
5 to determine whether or not those videos were made
6 using that particular phone or whether or not they
7 were sent to that phone?

8 A. In most cases, yes.

9 Q. Okay. And in this case, what were the
10 videos? What was the determination of the videos?

11 A. The videos in question, there was three
12 specifically, I believe. All of those came from
13 that device.

14 Q. And they would have been recorded using that
15 device?

16 A. Correct. That is correct.

17 Q. And did you do anything to edit those
18 videos?

19 A. No.

20 Q. And when you pulled them, did you preserve
21 them to a disc?

22 A. Yes.

23 Q. And would that be this disc I have as
24 State's Proposed Exhibit 1?

25 A. I believe so, yes.

1 MS. OVERLY: Your Honor, the State would
2 move to admit State's Proposed Exhibit 1.

3 THE COURT: Any objection, Mr. Terry?

4 MR. TERRY: No, Your Honor.

5 THE COURT: Any objection, Mr. Brower?

6 MR. BROWER: Submitted, Judge.

7 THE COURT: They'll be admitted.

8 (Whereupon State's Exhibit No. 1 was
9 admitted into evidence.)

10 MR. TERRY: Judge, that "no objection" was
11 for purposes of a preliminary hearing.

12 THE COURT: Absolutely.

13 MR. TERRY: Thank you.

14 BY MS. OVERLY:

15 Q. And just to clarify, those three videos that
16 were pulled, were they from one particular phone or
17 two?

18 A. From one particular phone.

19 Q. One of the iPhones that you did an
20 examination on?

21 A. It was, yes, from one of them.

22 Q. And which phone was that?

23 A. The one that belonged to Jaiden.

24 MR. TERRY: Objection. Now that assumes
25 facts not in evidence.

1 THE COURT: Sounds like a foundational
2 objection. I'll sustain it as to -- you can
3 follow-up with foundation as to how he would know.

4 BY MS. OVERLY:

5 Q. Of the two phones, were you able to identify
6 who the owner of either phone was?

7 A. The detective, Detective Nichols who gave
8 me the phones, identified the owners when he gave me
9 the pass codes to enter the phones. So he gave me
10 the phone and said, "This is Jaiden's phone." That
11 was how we established whose it was at that time.

12 MR. TERRY: Again, objection. I think I
13 know what the State is going to say. It's, you
14 know, one police officer means every police officer
15 knows it, but we don't concur with that. So we do
16 object on hearsay grounds. It goes to an ingredient
17 of this case, Judge.

18 THE COURT: Is Detective Nichols going to
19 testify?

20 MR. PESCI: Yes.

21 THE COURT: All right. So I'll sustain the
22 objection at this point. I'll sustain the objection.

23 BY MS. OVERLY:

24 Q. So of the phones that you had, the two, you
25 didn't have personal knowledge of who possessed each

1 phone?

2 A. Well, it's pretty easy to tell, by looking
3 at the contents of the phone and you see the videos
4 of the individual filming it, who the owner of the
5 phone is. So when I say Jaiden's phone --

6 MR. TERRY: We don't have any trouble with
7 that, Judge.

8 THE COURT: So that's -- yeah, I think the
9 original question was foundation. So if the State
10 wants to elicit additional foundation from reviewing
11 the phone and he can make a determination from that,
12 that's I guess what your questions are going to be.

13 So you don't have an objection right now to
14 that question?

15 MR. TERRY: No.

16 THE COURT: All right. Go ahead.

17 BY MS. OVERLY:

18 Q. So you were able to look at the contents of
19 the phone?

20 A. Correct. Yes.

21 Q. When you reviewed the contents of the
22 particular phone you found the videos on --

23 A. Yes.

24 Q. -- what was it that were you able to
25 determine from that phone that led you to believe the

1 owner was, in fact, the defendant, Jaiden?

2 A. The individual taking the videos, the
3 camera was switched where you could see the person
4 holding the phone, and then they would switch it to
5 the front-facing camera and reverse it so you could
6 see who was doing the actual filming and then what
7 they were seeing on the opposite side of the phone.

8 So the assumption is that the person
9 actually recording it was the owner of the phone.

10 Q. So you indicated before, these videos
11 weren't e-mailed to the phone, weren't text messaged
12 to the phone?

13 A. Correct.

14 Q. They were created using that particular
15 phone?

16 A. They were native to the phone.

17 Q. And the angle at which the video was being
18 taken led you to believe that whoever possessed that
19 phone, in fact, took those videos?

20 A. That is correct.

21 Q. And were those videos dated June 8th of
22 2018?

23 A. I believe so. To the best of my knowledge,
24 yes.

25 MS. OVERLY: I'll pass the witness,

1 Your Honor.

2 THE COURT: Mr. Terry.

3 MR. TERRY: No questions, Judge.

4 THE COURT: Mr. Brower.

5 MR. BROWER: Judge, I don't have any
6 questions for this witness.

7 THE COURT: All right. Witness free to
8 leave?

9 MR. PESCI: Yes.

10 MS. OVERLY: Yes.

11 THE COURT: All right. Thank you for your
12 testimony. State.

13 MR. PESCI: State calls Detective Wayne
14 Nichols.

15 THE COURT: Can you guys approach real
16 quick while he's coming up.

17 (Bench conference.)

18 THE COURT: Before we swear the detective
19 in, it's been brought to my attention that this is
20 being broadcast, I believe, live online. And so I
21 know that there's a potential video to be played.
22 It's my understanding it may be played with this
23 particular witness. There may be --

24 Mr. Pesci, if you want to just, is there
25 any graphic nature to these videos?

1 MR. PESCI: Yes, Your Honor. In fact, with
2 this detective, we're going to admit that video.
3 There are three separate videos. One of them shows
4 the decedent on the ground, shot in the head, with
5 blood all over.

6 MR. TERRY: We're going to object to that,
7 Judge, as being highly prejudicial at this stage of
8 the proceeding.

9 THE COURT: Well, my concern is about
10 having that on, potentially on television or
11 whatever and how that might affect a jury. I'm
12 going to issue an order for --

13 Are you Channel 8.

14 UNIDENTIFIED SPEAKER: Yes, sir. I've
15 already spoken to them that I wasn't going to stream
16 that at all.

17 THE COURT: Okay. So I just want to make
18 sure, my order is don't be -- if it comes up, it's
19 going to come up on these two videos. So I don't
20 want any of the cameras on these two videos. Okay?

21 UNIDENTIFIED SPEAKER: Okay.

22 THE COURT: All right. That will be the
23 order.

24 MR. PESCI: Judge, I apologize. Just
25 responding to the objection, I believe it's

1 pertinent for the proceedings. I'm not sure if
2 defense counsel is trying to say that it's not
3 admissible at this hearing.

4 THE COURT: Well, we haven't got to that
5 point. No, no, no, no, no.

6 MR. TERRY: I am not.

7 MR. PESCI: Okay. All right. Sorry.

8 THE COURT: Only ruling making is this:
9 If we're live online or it's going to be broadcast
10 on television, for the purposes of this, if this
11 goes to a jury trial later on, I don't want our jury
12 pool watching online and watching potentially, at
13 this point, on television, the potential graphic
14 nature of the videos that may be played. So I'm
15 just issuing that --

16 MR. PESCI: I understand.

17 THE COURT: We'll take up the evidentiary
18 ruling or whether they're admissible or not
19 admissible when we get to that witness testimony.
20 I'm just -- if they're admitted and they're playing
21 these two videos, I'm just ordering this particular
22 news station not to be pointing the camera at those
23 two television sets.

24 MR. PESCI: Thank you.

25 THE COURT: We're good on that?

1 MR. PESCI: Yes.

2 THE COURT: Okay. Raise your right -- come
3 on up. Raise your right hand for me.

4 (Witness sworn.)

5 THE WITNESS: I do.

6 THE CLERK: Thank you. Please be seated.
7 State and spell your full name, for the
8 record.

9 THE WITNESS: Wayne Nichols. W-A-Y-N-E,
10 N-I-C-H-O-L-S.

11 THE COURT: Go ahead, State.

12

13 Thereupon --

14 WAYNE NICHOLS,
15 having been first duly sworn to testify to the
16 truth, was examined and testified as follows:

17

18 DIRECT EXAMINATION

19 BY MR. PESCI:

20 Q. Detective, do you work with the Henderson
21 Police Department, and were you assigned to an
22 investigation on Cool Lilac on June the 8th, 2018?

23 A. Yes, I was.

24 Q. Do you remember the exact number?

25 A. 2736 Cool Lilac.

1 MR. PESCI: May I approach the witness,
2 Your Honor.

3 THE COURT: Yes.

4 MR. PESCI: And, Your Honor, I believe you
5 have Exhibit No. 2. Could I borrow that, take that
6 back? Is that okay?

7 THE COURT: Yes.

8 MR. PESCI: Thank you.

9 BY MR. PESCI:

10 Q. I want to show you what's previously been
11 admitted as State's Proposed Exhibit 2.

12 Do you recognize that?

13 A. I do, sir.

14 Q. And what do you recognize that to be?

15 A. That's going to be a photograph depicting
16 the exterior of the front of the residence,
17 2736 Cool Lilac.

18 Q. Is that a fair and accurate depiction of
19 that area?

20 A. Yes, it is.

21 Q. Okay. Now, did you respond to this house?

22 A. Yes, I did.

23 Q. And then did you divide up responsibilities
24 with some of your other colleagues as to who would do
25 what?

1 A. Yes, I did.

2 Q. What was your responsibility?

3 A. My responsibility was the primary case
4 agent on this investigation. As you mentioned, I
5 delegated responsibilities to include personnel or
6 my team obtaining a search warrant for the
7 residence, conducting various searches. We also
8 obtained a search warrant for the vehicle that was
9 related to this incident, as well as other things.

10 Q. Okay. And then while you were there, was
11 the scene processed by a crime scene analyst as far
12 as taking photographs?

13 A. Yes, it was.

14 Q. Showing you State's Proposed Exhibits 3
15 through 10. Please review those and tell me if you
16 recognize them.

17 A. Okay. (Witness complies.)

18 THE COURT: I'm sorry. That's 3
19 through 10?

20 MR. PESCI: 3 through 10, Your Honor.

21 THE WITNESS: I do recognize all these
22 images which were taken inside of the residence.

23 BY MR. PESCI:

24 Q. And, in fact, No. 10 though, was that inside
25 the residence, or was that later at the autopsy?

1 A. I believe that was later at the autopsy.

2 Q. You attended that autopsy?

3 A. Yes, I did.

4 Q. Okay. So are 3 through 10 fair and accurate
5 depictions of the evidence that's shown in those
6 photos?

7 A. That's correct.

8 MR. PESCI: Move for admissions 3 through 10.

9 THE COURT: Any objection, Mr. Terry?

10 MR. TERRY: No, sir.

11 THE COURT: Mr. Brower?

12 MR. BROWER: Submitted, Judge.

13 THE COURT: All right. They'll be admitted
14 for prelim.

15 (Whereupon State's Exhibit Nos. 3 through
16 10 were marked for identification
17 and admitted into evidence.)

18 BY MR. PESCI:

19 Q. All right. Let's walk through State's 3.
20 What are we are looking at?

21 When you responded to that scene, was the
22 body still present?

23 A. Yes, it was.

24 Q. Did you learn who the body was at that time?

25 A. Yes, I did.

1 Q. Who was that?

2 A. Matthew Minkler.

3 Q. And was the body found where we're looking
4 at State's 3, where there's some towels?

5 A. Yes, there was.

6 Q. But the body wasn't found where those towels
7 are; it was found in a different location?

8 A. That's correct.

9 Q. All right. Did you find some cleaning
10 agents out at that scene? Looking State's Exhibit 4.

11 A. Yes, I did.

12 Q. What is that?

13 A. That's going to be a bottle of disinfectant
14 wipes.

15 Q. Okay. And then when you were reviewing that
16 scene, did you find a bullet hole in the ceiling of
17 this area in the house?

18 A. Yes, we did.

19 Q. Showing you State's Exhibit 5, what is that?

20 A. That is going to be a photograph depicting
21 one single bullet wound -- or bullet hole through
22 the ceiling of the residence, and this is at the
23 downstairs level.

24 Q. And let me show you State's Exhibit 3, and
25 I'll hold it up for the Court and defense counsel if

1 they need to see it.

2 In relation to State's Exhibit 3, where is
3 the bullet hole that's depicted in State's Exhibit 5?

4 A. So, again, it's going to be on ceiling. If
5 we're looking at State's Exhibit No. 3, it would be
6 between this left area blind, in this photograph,
7 again directly up in the ceiling, towards the center
8 of the room itself.

9 Q. Okay. And that's near the area where all
10 the blood was found; correct?

11 A. That is correct.

12 Q. All right. And then State's 6, is that a
13 closeup of that particular hole in the ceiling?

14 A. It is.

15 Q. And State's 7, does that have that hole with
16 a measuring tool to be able to see how big it is?

17 A. It does.

18 Q. Okay. Now, we said a moment ago that the
19 decedent's body was not found in that kitchen area.

20 Does State's 8 show the area leading to
21 where the body was found?

22 A. It does.

23 Q. Where is that in relation to the area that
24 the blood is in State's Exhibit 3?

25 A. So in Exhibit 3, it is a photograph

1 depicting the kitchen area and the dining room of
2 the home. In Exhibit No. 8, this is going to be a
3 hallway that would lead you to the central area of
4 the home, and also you would be able to access that
5 same kitchen and dining room as well.

6 Q. So let's spin it so that the Court can see
7 that. What does it say on the door?

8 A. It says "Fuck Matt."

9 Q. Okay. Where did you find Matt?

10 A. Matt was inside of that closet. So this is
11 the exterior door that leads to that closet where
12 Matt's body was found.

13 Q. Showing you State's 9, is that where Matt's
14 body was found?

15 A. Yes, it was.

16 Q. Okay. So if we're looking at State's 8, the
17 door is open; is that correct?

18 A. That's correct.

19 Q. State's 9, is that the body inside where
20 this door says "F-Matt"?

21 A. That is correct.

22 Q. And then the body was eventually taken to
23 the coroner's office and an autopsy was performed?

24 A. That is correct.

25 Q. You were present for that autopsy?

1 A. Yes, I was.

2 Q. Was there one gunshot wound to the victim?

3 A. That is correct.

4 Q. All right. And in the course of your
5 investigation, did you gather information that led
6 you to speaking with Kody Harlan and a Jaideen Caruso?

7 A. That is correct.

8 Q. Are you familiar with them?

9 A. Yes, I am.

10 Q. Did you interact with them?

11 A. Yes, I did.

12 Q. Do you see Kody Harlan here in court today?

13 A. I do.

14 Q. Could you point to him, describe something
15 he's wearing.

16 A. He would be the defendant who's sitting in
17 the chair with his feet crossed in front of him, and
18 he has a shorter-style haircut, if you will.

19 Q. What color is his hair?

20 A. Blond.

21 MR. PESCI: Will the record reflect
22 identification of defendant, Kody Harlan.

23 THE COURT: It will so reflect.

24 BY MR. PESCI:

25 Q. Did you also interact with Jaideen Caruso?

1 A. That is correct.

2 Q. Do you see him here in court?

3 A. Yes, I do.

4 Q. Would you point to him and describe
5 something he's wearing and what his hair color is.

6 A. He is seated between both counsel, and he
7 is wearing a blue jumpsuit, and he has dark black,
8 wavy hair.

9 MR. PESCI: Would the record reflect
10 identification of defendant, Jaiden Caruso.

11 THE COURT: It will.

12 BY MR. PESCI:

13 Q. Now, you mentioned earlier that there was an
14 investigation dealing with that Mercedes car; is that
15 correct?

16 A. Yes, sir.

17 Q. Did you have information from a patrol
18 officer who literally chased after Jaiden Caruso
19 after that vehicle crashed?

20 A. Yes, I did.

21 Q. Okay. And he was taken into custody at that
22 scene?

23 A. Yes, he was.

24 Q. All right. And then what about Kody Harlan?
25 where was he taken into custody?

1 A. He too was associated with that recovered
2 vehicle; however, he was taken in custody
3 approximately two to three blocks away from the
4 initial crash scene.

5 Q. Okay. Did you make contact with Kody Harlan
6 on that day, June the 8th?

7 A. Yes, I did.

8 Q. And did you conduct an interview with him?

9 A. Yes, I did.

10 Q. Prior to conducting that interview, did you
11 provide him with his Miranda Rights?

12 A. Yes, I did.

13 Q. And specifically, it was your information
14 that he was a juvenile?

15 A. That is correct.

16 Q. Did you give him his juvenile Miranda
17 Rights?

18 A. That is correct.

19 Q. Did he indicate that he understood those
20 rights?

21 A. Yes, he did.

22 Q. And did he indicate he wanted to speak with
23 you?

24 A. Yes, he did.

25 Q. And did you ask him questions?

1 A. Yes, I did.

2 Q. In fact, did you do, in essence, two
3 interviews?

4 A. That is correct.

5 Q. Let's focus on the first one, post Miranda.
6 What did he tell you happened?

7 A. He advised that he was present earlier in
8 the evening at a murder.

9 Q. Okay. Prior to that portion, did he admit
10 that he was associated with that Mercedes?

11 A. Yes, he did.

12 Q. In fact, did he say he was the driver?

13 A. Yes, he did.

14 Q. So now you had information that tied him to
15 that particular Mercedes?

16 A. That is correct.

17 Q. And then did he talk about someone being
18 shot?

19 A. Yes, he did.

20 Q. Okay. Did he, in fact, direct you to the
21 location of where the body was?

22 A. Yes, he did.

23 Q. Was that the 2736 Cool Lilac?

24 A. That is correct.

25 Q. Okay. Now, did Jaiden -- I'm sorry.

1 Did Kody say that he shot or that he did not
2 shoot the victim?

3 A. Kody said he was present for the shooting
4 but that he did not shoot the victim.

5 Q. Okay. Did he indicate who shot the victim?

6 A. Yes, he did.

7 Q. Who did he say shot the victim?

8 A. Jaideen Caruso.

9 Q. Okay.

10 MR. TERRY: Object for the record, Judge,
11 as far as hearsay as to my client.

12 MR. PESCI: Understood.

13 MR. TERRY: And I understand the Court
14 could consider it but not as against my client.

15 MR. PESCI: And that is -- the State's
16 response is that you can consider it. You can sift
17 through it.

18 MR. TERRY: Well, it's a "Bruton" issue.

19 THE COURT: It's a "Bruton" issue.

20 Are you making the argument that "Bruton"
21 applies or doesn't apply at a preliminary hearing,
22 or how do you want me to -- what's your "Bruton"?

23 MR. TERRY: "Bruton" applies at a
24 preliminary hearing.

25 MR. PESCI: What I'm arguing is that you

1 can sift through it. You cannot consider it for the
2 purposes of making a determination of probable cause
3 as to Jaiden.

4 THE COURT: That's my -- and that would be
5 my intent.

6 MR. TERRY: And I agree with that.

7 THE COURT: Unless there was some other
8 arguments.

9 MR. TERRY: I agree with that.

10 THE COURT: Okay. Got it.

11 MR. PESCI: And this is going to be
12 testimony about who said what and that same --

13 THE COURT: I'll apply it to that
14 particular defendant.

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

16 BY MR. PESCI:

17 Q. Now, did you continue your investigation?

18 A. Yes, I did.

19 Q. And was there information being passed
20 between you and detectives?

21 A. That is correct.

22 Q. And then did you do a followup interview
23 with Kody Harlan?

24 A. That is correct.

25 Q. Tell us about that one as far as did you ask

1 him more specific questions based on gaining more
2 information in your investigation?

3 A. That is correct, sir.

4 Q. What do you remember asking?

5 A. Specifically, I confronted him about his
6 involvement regarding what he had participated in
7 regarding the event following the shooting of the
8 victim.

9 Q. Okay. So with specificity, in that regard,
10 did you ask him if he went back to the scene, that
11 being the 2736 Cool Lilac?

12 A. Yes, I did.

13 Q. What did he say?

14 A. He admitted that they had gone back, and he
15 implicated himself and Jaiden returning to the
16 residence.

17 Q. Okay. What did he say that he, Kody, did
18 when he went back to the residence?

19 A. Among what he did was move the victim's
20 body.

21 Q. Okay. Did Kody, in addition to admitting to
22 moving the victim's body, say that he had covered the
23 victim's body?

24 A. Yes, he did.

25 Q. The body, when you first arrived on it, was

1 there anything covering it?

2 A. Yes, there was.

3 Q. What was that?

4 A. There was a plastic sheet, if you will,
5 also wrapped up with a white in color, perhaps a
6 bedding sheet.

7 Q. And that's inside that closet?

8 A. That's correct.

9 Q. Okay. And in your investigation inside that
10 house, did you find some of that plastic covering on
11 some other furniture in other parts of the house?

12 A. Yes, we did, sir.

13 Q. So he admitted to you that he moved the body
14 and he covered the body?

15 A. Yes, he did.

16 Q. And he had previously told you that he knew
17 that Jaiden had shot the victim?

18 A. That is correct.

19 Q. Okay. And you just said a moment ago, he
20 told you what he did do.

21 Did you also ask him what he did not do?

22 A. That is correct.

23 Q. Did you ask him about whether he had called
24 911 or done anything to try to assist or help
25 Matthew?

1 A. I did.

2 Q. What did he say?

3 A. He confirmed that he had not called 911 to
4 report the incident. He did not attempt to render
5 aid on the victim. And, in fact, appeared to be
6 more concerned about cleaning up after the fact.

7 Q. Okay. And did you ask him whether or not he
8 had taken anything from the victim?

9 A. Yes, I did.

10 Q. What did he say?

11 A. He denied taking anything from the victim.

12 Q. All right. Now, separate from Kody, did you
13 also do interviews with Jaiden Caruso?

14 A. That is correct.

15 Q. And then the information that you had, was
16 this actually on June the 9th of 2018?

17 Had your investigation gone into the early
18 morning hours of June the 9th?

19 A. That is correct.

20 Q. So by the time got to Jaiden, now it's
21 June 9th?

22 A. That is correct.

23 Q. Okay. Did you have information that Jaiden
24 was a juvenile?

25 A. Yes, I did.

1 Q. Based on that, did you provide him with
2 Miranda warnings, specifically juvenile Miranda
3 warnings?

4 A. Yes, I did.

5 Q. Did he indicate he understood?

6 A. Yes, he did.

7 Q. Did he tell you -- was he willing to talk to
8 you?

9 A. Yes, he was.

10 Q. All right. And in that first interview, did
11 he admit to doing anything?

12 A. No.

13 Q. In fact, what was his position as to what
14 had happened to the victim?

15 A. I would categorize his interview as being
16 he wasn't involved and didn't have any information
17 to provide me unless I was willing to confront him
18 with evidence or circumstances that I knew of.

19 Q. All right. Would you describe his interview
20 differently than one with Kody?

21 A. Yes.

22 Q. Okay. As far as this first interview with
23 Jaiden, did he indicate that Kody was the person that
24 shot?

25 A. Yes, he did.

1 Q. Okay. And did Jaiden deny owning or
2 possessing a firearm?

3 A. That is correct.

4 Q. Or even using the firearm?

5 A. That is correct.

6 Q. And did he indicate what he did after the
7 shooting occurred?

8 A. That he immediately fled the residence.

9 Q. Okay. Now, just like we just described a
10 moment ago with Kody's interview, after this first
11 interview, did you talk with the other detectives and
12 gain more information in your interview to then
13 subsequently have a second interview with Jaiden?

14 A. That is correct.

15 Q. I will show you this in just a second. But
16 had you reviewed some video?

17 A. Yes, I had.

18 Q. Okay. And did you ask questions based, in
19 part, on that video and other things that you had
20 gained in the investigation?

21 A. To Jaiden, yes, I did.

22 Q. Okay. Did you confront Jaiden with the
23 video or the information from the video?

24 A. Yes, I did.

25 MR. PESCI: All right. And that's State's

1 Exhibit 1. May I approach, Your Honor.

2 THE COURT: Yes.

3 BY MR. PESCI:

4 Q. Detective, are you aware of the fact that --
5 well, in fact, did you provide to me, the
6 prosecution, video taken from phones that were
7 recovered inside the Mercedes?

8 A. Yes, I did.

9 Q. Okay. And you're aware of that being
10 created onto a disc to be able to be provided to the
11 Court to be considered for probable cause?

12 A. That is correct.

13 MR. PESCI: And that's what we have on
14 State's Exhibit 1.

15 And it's been admitted; right, Your Honor?

16 THE COURT: Did you move to admit it yet?

17 MR. PESCI: If not, I'm moving now.

18 THE COURT: All right. Any objection,
19 Mr. Terry?

20 MR. TERRY: No, sir.

21 THE COURT: Mr. Brower?

22 MR. BROWER: I'll submit it.

23 THE COURT: All right. It's granted.

24 (State's Exhibit No. 1 was previously
25 admitted into evidence.)

1 BY MR. PESCI:

2 Q. Okay. So in the first interview, defendant,
3 Jaiden Caruso, denied any responsibility with the
4 death of Matthew Minkler; is that correct?

5 A. That is correct.

6 Q. And then when you watched the video, what
7 did you see?

8 A. That clearly he had been lying to me from
9 the very beginning.

10 MR. PESCI: Okay. In fact, if we could,
11 Your Honor, I'm going to now ask to play this, these
12 videos, and then I'll ask subsequent questions.

13 THE COURT: All right. So we'll put up on
14 the screen -- I've got three, is it correct -- and
15 just the record we're making is for purposes of
16 being able to present this testimony or this
17 evidence. It's my understanding no party is
18 objecting to the fact that what I have on my jump
19 drive, in order to be able to play this through my
20 computer, is what is on Exhibit --

21 Is it Exhibit No. 2; is that correct?

22 MR. PESCI: It's Exhibit No. 1.

23 THE COURT: Exhibit No. 1. Is that
24 correct, Mr. Terry?

25 MR. TERRY: It is, Judge.

1 THE COURT: All right. Mr. Brower?

2 MR. BROWER: Yes, Judge.

3 THE COURT: All right. And is it correct
4 that there's three videos, Mr. Pesci?

5 MR. PESCI: Yes. Three videos on State's
6 Exhibit 1 have been previously provided to defense
7 counsel, in advance of hearing, so they know what
8 that video is.

9 THE COURT: All right. So and the reason
10 I'm doing this is because, Mr. Pesci's laptop isn't
11 picking up the wifi. So at the end of the day, I've
12 got -- which video is it that you want me to --

13 MR. PESCI: We'll just go in order,
14 Your Honor.

15 THE COURT: All right.

16 BY MS. PESCI:

17 Q. Detective, you reviewed these videos and you
18 confronted the defendant -- that is, Jaiden Caruso --
19 with the information from the videos?

20 A. That is correct.

21 THE COURT: Does it have audio?

22 MR. PESCI: There is audio.

23 THE COURT: All right. That may be --
24 yeah, that may not be working. Why don't you grab
25 your video. Let me grab your video, and you can

1 play it on the --

2 MR. PESCI: Well, that's all right. I
3 think there's a mute spot right there on the
4 left-hand corner, at the bottom, Your Honor.

5 THE COURT: Let's try it again.

6 MR. PESCI: It looks like there's an "X"
7 right there. Nope. On the bar itself. There.

8 THE COURT: Let's try it again.

9 (Video plays.)

10 THE COURT: Did you hear any -- can you
11 hear it sufficiently?

12 MR. PESCI: No.

13 BY MR. PESCI:

14 Q. Detective, as we sit here and watch this
15 now, could you hear the audio?

16 A. I've seen the video numerous times. I
17 heard it intermittently. But I am aware of the
18 video. I recognize the video.

19 Q. Okay. Do you remember what was said by the
20 defendants into the video?

21 A. Yes, I do.

22 Q. What was that?

23 MR. TERRY: Judge, unless, unless we can
24 get the video with an audio, it would be hearsay.

25 THE COURT: Well, he can -- I don't know

1 that it's hearsay.

2 MR. TERRY: Watching something else. This
3 is not a statement made by the defendant --

4 THE COURT: All right.

5 MR. TERRY: -- to him.

6 THE COURT: We can play it. Why don't you
7 come up here, Mr. Pesci.

8 MR. TERRY: But, respectfully, I don't want
9 to see this video played 15 times while the State
10 tries to figure out how to get audio on it.

11 THE COURT: Well, I'm assuming what we're
12 going to do is we're going to play it here. His
13 audio is working, and we'll just -- we'll do it on
14 this so it's not up on the --

15 MR. TERRY: That's fine.

16 THE COURT: Technical difficulties.

17 MR. PESCI: I have it just on my laptop,
18 and so I'll play it.

19 THE COURT: Yep. That will work. Sure.
20 Oh, you're doing it on the laptop?

21 MR. PESCI: Yes.

22 THE COURT: You'll stipulate that he's
23 downloading -- you don't have a problem with the
24 fact that he's playing it off of a file that's saved
25 onto his laptop; correct?

1 MR. TERRY: No, Judge.

2 THE COURT: All right.

3 BY MR. PESCI:

4 Q. And, Detective, we're going to play the same
5 one that the Court just played; is that correct?

6 A. From the thumbnail, it does appear to be so.

7 (Video playing.)

8 BY MR. PESCI:

9 Q. Okay. Detective, at the very beginning of
10 that video, is it the video of Jaiden Caruso, a
11 self-video, and then what exactly did he say there?

12 A. He looks into the camera and says, "Bro, I
13 just caught a body."

14 Q. And then does the video turn to the victim
15 and that shows the victim on the ground?

16 A. It does.

17 Q. Okay. So now you have this information,
18 which obviously was inconsistent with what he told
19 you in his first statement; is that correct?

20 A. That is correct.

21 MR. PESCI: Okay. And, Judge, I'm not sure
22 if you want to play the second one and I'll stay
23 here in case we have the same audio problem.

24 THE COURT: Yeah, we may have the same
25 audio problem, so. All right. Go ahead and play

1 yours, Mr. Pesci.

2 MR. PESCI: Do you want me to play it on
3 this one here?

4 THE COURT: I want you to play it on that
5 one, yeah.

6 MR. PESCI: Okay. Defense counsel, do you
7 want do to come up?

8 THE COURT: Do you want to come up and see
9 it?

10 MR. TERRY: I don't have any problem with
11 Mr. Pesci indicating verbally what is said, as long
12 as it's being played to the detective and he's
13 hearing it.

14 THE COURT: Able to hear it.

15 MR. TERRY: That's correct.

16 THE COURT: Okay.

17 MR. PESCI: And for counsel's benefit, I'm
18 going to go to the second one down that the Court
19 has up on the --

20 THE COURT: Why don't I play it up here so
21 you can see it, and then you can replay it to him
22 with the audio if it doesn't work, Mr. Pesci.

23 MR. PESCI: Sounds good.

24 MR. TERRY: Then I would say why is that
25 necessary, Judge?

1 THE COURT: Well --

2 MR. TERRY: If the witness is looking at
3 it, why is it necessary?

4 THE COURT: Okay. That's fine.

5 MR. PESCI: I'll play it here.

6 THE COURT: Go ahead and play it. Go ahead
7 and play it there. We won't even mess around with
8 it.

9 MR. TERRY: Then to make sure it's the
10 right video, if I could approach at the same time.

11 THE COURT: Go ahead. Come on up.

12 BY MR. PESCI:

13 Q. So, Detective, looking at a timestamp on the
14 one that we watched previously, did that have a, what
15 at least is showing up here as 2.44?

16 A. That's correct.

17 Q. So for everybody's benefit, we know which
18 one we're talking about. The one going we're going
19 to go to now, is that the one that says 2.50?

20 A. That is correct.

21 (Video playing.)

22 BY MR. PESCI:

23 Q. In the second video that we just watched,
24 was it again the defendant, Jaiden Caruso, that was
25 holding that video?

1 You could see it pointed at himself?

2 A. That's correct.

3 Q. And was there a questioning about leaving
4 the body there?

5 A. Yes.

6 Q. Okay. And then moving on to the final one,
7 which is stamped 08.12.

8 (Video playing.)

9 BY MR. PESCI:

10 Q. All right. In this third and final video,
11 is there, in fact, a portion where defendant,
12 Jaiden Caruso, is pointing the gun at himself,
13 videoing himself?

14 A. That is correct, yes.

15 Q. And when it spanned the other portions of
16 the house, did you see things that were of interest
17 to your investigation, that is, specifically a
18 firearm?

19 A. That is correct.

20 Q. Marijuana?

21 A. That is correct.

22 Q. And then, in fact, some other witnesses?

23 A. That is also correct.

24 Q. In fact, one of those individuals is the
25 young man, Kymani, who testified here earlier?

1 A. That is correct.

2 Q. He's in that last video?

3 A. He is.

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

5 BY MR. PESCI:

6 Q. So when you confronted him, being Jaiden
7 Caruso, with that evidence, did he change his
8 position from he had nothing to do with it to
9 something else?

10 A. That is correct.

11 Q. What was his explanation as to what happened
12 the second time?

13 A. After confronting him with the video
14 evidence, he now admitted to shooting the victim but
15 claimed it was an accident.

16 Q. Okay. And did he indicate what was it that
17 created this accident or what was going on inside of
18 him that led to that accident?

19 A. That he was under the influence of
20 narcotics.

21 Q. Okay. Specifically, did he talk about
22 Xanax?

23 A. Yes, he did.

24 Q. All right. And then where -- did you ask
25 questions about money or things being taken?

1 A. Yes, I did.

2 Q. And what was his answer to you?

3 A. That he had not taken anything from the
4 victim after shooting him.

5 Q. Okay. Did he indicate who had?

6 A. Yes.

7 Q. All right. Who was that?

8 MR. BROWER: Judge, I'm going to object
9 that this implicates my client, and it will be a
10 "Bruton" issue as well.

11 THE COURT: Same response?

12 MR. PESCI: Same response.

13 THE COURT: All right. I understand it
14 relates only to the speaker. So go ahead, Mr. --

15 I'll note your objection.

16 BY MR. PESCI:

17 Q. You can answer the question.

18 A. Jaiden claimed that it was Kody who had
19 stolen money belonging to Matthew.

20 Q. Okay. And in his response -- and this is
21 part of the reason why I'm asking you, not to try to
22 elicit that alone -- but did he indicate that
23 anything was done with that money that was stolen
24 after?

25 A. Yes, he did.

1 Q. What did he say?

2 A. He stated that they all subsequently went
3 shopping together and purchased things, to include
4 shoes.

5 Q. Okay. And in the course of your
6 investigation, did you try to follow-up on that
7 information?

8 A. Yes, we did.

9 Q. What did you do to follow-up on that
10 information, or what did you discover?

11 MR. TERRY: That's two questions, Judge,
12 and part of it may be based on hearsay and facts not
13 in evidence.

14 THE COURT: All right. I'll sustain it.

15 Why don't you -- it's a two-part question.
16 Why don't you restate the question, Mr. Pesci.

17 BY MR. PESCI:

18 Q. Did you follow-up based on that information?

19 A. Yes, we did, sir.

20 Q. What did you do?

21 A. I reached out to my colleague, Detective
22 Calvano, in regards to tracking down any obtainable
23 footage that would prove or disprove if, in fact,
24 they had been shopping after the time of the murder.

25 Q. All right. So that's what you talked about

1 earlier as far as division of labor. Detective
2 Calvano was responsible for doing that?

3 A. That's correct.

4 Q. And to your knowledge, did he obtain any
5 footage of the defendants shopping?

6 A. Yes, he did.

7 Q. And did you obtain or see that footage
8 yourself?

9 A. I have not observed that footage, no.

10 MR. TERRY: Then we'd object based on facts
11 not in evidence and hearsay, Judge.

12 THE COURT: Mr. Pesci.

13 BY MR. PESCI:

14 Q. So as far as actual video of the shopping,
15 you haven't personally seen it?

16 A. That's correct.

17 Q. But are you aware of the fact that the
18 detective found it?

19 A. That is correct.

20 Q. And has it been obtained as a part of your
21 case file?

22 A. Yes, it has.

23 Q. Okay. But you just personally haven't
24 reviewed it yet?

25 A. That's correct.

1 MR. TERRY: Which it assumes facts not in
2 evidence, Judge. The State's had opportunity to
3 bring whatever witnesses they need to bring in
4 today.

5 THE COURT: The specific answer you're
6 objecting to is? The specific information that
7 he --

8 MR. TERRY: Assumes facts not in evidence
9 and hearsay.

10 THE COURT: As to what's on the video?

11 MR. TERRY: Correct.

12 THE COURT: Mr. Pesci.

13 MR. PESCI: Judge, I don't think it's
14 hearsay. It's video of seeing somebody do
15 something, and I'm just asking him if he's aware of
16 that, based on the totality of all their
17 investigation, is he aware of that in response to
18 what was said in the State. Just trying to
19 follow-up with that.

20 MR. BROWER: Judge --

21 MR. TERRY: We don't have a foundation of
22 date. We don't have daytime or nighttime. We don't
23 have was somebody else present. We don't have any
24 of that.

25 MR. BROWER: Judge, we also have that he

1 hasn't seen the video and he's hearing all this from
2 another detective, which is the very definition of
3 hearsay.

4 THE COURT: Okay. Well, I'm going to
5 sustain it as to what would be his understanding of
6 the contents of the video at this point.

7 All right. Go ahead.

8 BY MR. PESCI:

9 Q. Let's ask a different question.

10 Are you aware, personally or otherwise, of
11 the victim's property being found in the
12 Mercedes-Benz?

13 A. Yes, I am.

14 Q. Were you a part of the execution of that
15 warrant?

16 A. No, I was not.

17 Q. All right. But have you seen photographs
18 that were taken from that car?

19 A. Yes, I have.

20 Q. We've had a detective already testify about
21 that item being found in that car.

22 Are you aware of that?

23 A. Yes, I am.

24 Q. And is that, in fact, Matthew Minkler's
25 wallet and his ID?

1 A. That is correct.

2 Q. And you're aware, from your investigation,
3 that that particular Mercedes-Benz, these defendants
4 fled from?

5 A. That is correct.

6 Q. In fact, your information and testimony is
7 that Kody Harlan told you he, in fact, was driving
8 that car?

9 A. That is correct.

10 Q. And your information from Officer Cochran is
11 that she caught Defendant Caruso as he fled from that
12 car?

13 A. Yes, it is.

14 MR. PESCI: Thank you very much.

15 Pass the witness.

16 THE COURT: Mr. Terry.

17 MR. TERRY: Please.

18

19 CROSS-EXAMINATION

20 BY MR. TERRY:

21 Q. Since we're talking about the wallet, you
22 have no point in time of reference as to when that
23 wallet got into that vehicle; correct?

24 A. That's correct.

25 Q. Okay. All you could testify to and, more

1 specifically, all the other detectives that located
2 the warrant, the wallet, can testify to is that a
3 wallet was found that belonged to Matthew in the
4 Mercedes; correct?

5 A. That's correct, sir.

6 Q. We don't know how long it was there;
7 correct?

8 A. Correct.

9 Q. We don't know what, if anything, was in it;
10 correct?

11 A. Yes, sir.

12 Q. Okay. Now, in the second interview that
13 you did of my client, you asked him a question and
14 you asked him -- you asked him if he had anything to
15 say to Matthew's family.

16 Jaiden related that if he spoke --

17 MR. PESCI: Objection. Hearsay as to what
18 Jaiden said when introduced by the defendant.

19 THE COURT: Mr. Terry.

20 MR. TERRY: Well, it's not offered for the
21 truth of the matter asserted, Judge. It's offered
22 to see -- to verify exactly what Mr. Caruso
23 ultimately indicated to the detective, being that
24 this was an accident.

25 It's a statement that was not brought out

1 by the State, but it was affirmative confirmation of
2 the fact that the shooting was an accident.

3 MR. PESCI: And, Judge, again, it's still
4 hearsay. If the defendant wants to testify, he can
5 assert that.

6 THE COURT: Well, the question that
7 Mr. Pesci asked, the State asked Mr. Nichols was
8 what did Jaiden say about -- it's my understanding
9 it was elicited that he said to Detective Nichols
10 that it was an accident.

11 Is that correct, Mr. Pesci?

12 MR. PESCI: On the first one, he said he
13 had nothing to do with it.

14 THE COURT: Correct. And then the second
15 one?

16 MR. PESCI: He said that it happened and it
17 was because he was doing Xanax.

18 THE COURT: Okay. And then so is your
19 question --

20 MR. TERRY: No. He said it was an
21 accident. That was the testimony.

22 THE COURT: Well, I think that's what the
23 testimony that Detective Nichols stated earlier. We
24 can double-check.

25 But is your question specifically related

1 to that interaction, or is it something beyond that
2 question and --

3 MR. TERRY: Well, it's beyond, but it has
4 to do with the fact that it's a confirmation of the
5 accident and not a reliance just on the drugs.

6 MR. PESCI: Judge, I agree --

7 MR. TERRY: So it's a prior inconsistent
8 statement, again.

9 MR. PESCI: You cannot bootstrap a
10 defendant's statement from the defendant via a prior
11 inconsistent statement. He testified that the
12 defendant told him it was an accident. He doesn't
13 get to corroborate it with some other statement in
14 the defendant's statement.

15 THE COURT: Well, specifically, what is the
16 question, Mr. Terry?

17 MR. TERRY: Well, the question -- and I'll
18 do it by way of an offer of proof.

19 THE COURT: That's what I'm -- that's what
20 I was shooting for.

21 MR. TERRY: For the detective: "Isn't it
22 true that you asked him if he had anything to say to
23 Matthew's family?" And that the response was Jaiden
24 relayed that, if we spoke to his mother, he wanted
25 to pass along that it was an accident, adding that

1 Jaiden was his friend and he was sorry for what had
2 happened.

3 It's a confirmation of Jaiden, again,
4 reaffirming it was an accident, and there is nothing
5 in that statement in reference to drugs and an
6 accident.

7 THE COURT: Mr. Pesci.

8 Look, at the end of the day, he already
9 testified that it was an accident. At some other --
10 I don't know whether him telling, Jaiden telling
11 Mr. Nichols that it was an accident via that
12 specific statement or another specific statement in
13 the full transcript is -- I don't know where it came
14 from, but it doesn't seem to me like it's any
15 different than what you've already asked him. So
16 it's like it's the exact same thing.

17 MR. PESCI: That's fine. I'll just
18 follow-up on that question.

19 THE COURT: Okay. So go ahead. That was
20 your question. Is that what --

21 MR. TERRY: That we have -- oh.

22 THE COURT: Go ahead. Is that what he told
23 you?

24 THE WITNESS: Yes, it is, Your Honor.

25 THE COURT: Okay. Mr. Terry.

1 MR. TERRY: And as a result, we have no
2 other questions.

3 THE COURT: All right. Mr. Brower.
4

5 CROSS-EXAMINATION

6 BY MR. BROWER:

7 Q. So, Detective, you had three videos that
8 were recovered from the phone; correct?

9 A. Yes.

10 Q. And we watched those videos?

11 A. Yes, sir.

12 Q. And the individual on that, the primary
13 individual on that video is Jaiden; correct?

14 A. That is correct.

15 Q. And they look like they're self-shot by him;
16 correct?

17 A. That is correct.

18 Q. Okay. And one of the videos, there's a lot
19 of other people. You can see other people around;
20 correct?

21 A. Yes, sir.

22 Q. And there's a revolver that's being pointed
23 at them, and some of them are giving, looks like the
24 peace sign or something, to the cameraman who's
25 pointing the revolver; correct?

1 A. Yes, sir.

2 Q. And you see one bullet in that revolver?

3 A. Yes, sir.

4 Q. And a lot of drugs?

5 A. Yes, sir.

6 Q. Okay. Did you see my client on that video?

7 A. No, I did not.

8 Q. Okay. But you see other people?

9 A. That is correct.

10 Q. And they're all essentially messing around
11 with the gun, correct, or at the gun?

12 The gun is being pointed at them and they're
13 doing signs and they're looking at the gun and
14 they're grinning, and it looks like they're all
15 partying, doing drugs; correct?

16 A. I would categorize it as them being aware
17 of Jaiden having a firearm.

18 Q. And they're all kind of around in the table
19 area?

20 A. That is correct.

21 Q. And my client's not there; correct?

22 A. That is correct.

23 Q. And just a few moments later, there is a
24 video with a dead body; correct?

25 A. That is correct.

1 Q. And then that turns out to be Mr. Minkler.

2 A. Yes, it is.

3 Q. And you don't see my client in that video
4 either?

5 A. That is correct.

6 Q. And the person in that video that you do
7 see, Jaiden, says, "Bro, I just caught a body";
8 right?

9 A. That is correct.

10 Q. What did you think "Bro, I just caught a
11 body" was?

12 MR. TERRY: Objection. Speculation.

13 THE COURT: I'm going to allow -- I'm going
14 to allow him to, the Detective, I'm going to allow
15 him to answer the question.

16 So I'm going to overrule it.

17 THE WITNESS: I took that statement to be
18 him meaning that he had just killed somebody.

19 BY MR. BROWER:

20 Q. Okay. And he didn't say, "we just caught a
21 body"; he said, "I just caught a body"; correct?

22 A. That is correct.

23 Q. Okay. And after you watched those videos,
24 you went back and talked to Jaiden again; correct?

25 A. Yes, I did.

1 Q. And he told you that he was essentially
2 lying to pin the murder on Kody because Kody was
3 homeless and had no aspirations and essentially that
4 he has nothing -- that he was a -- excuse me -- that
5 he was a more worthy person than Kody; correct?

6 A. That is correct.

7 Q. But he ultimately since said, "It's an
8 accident and, you know, but I tried to pin everything
9 on Kody" before; right?

10 A. That is correct.

11 MR. BROWER: Court's indulgence.

12 BY MR. BROWER:

13 Q. And, Officer, when -- or Detective, when you
14 first found -- spoke with my client, correct, when
15 you first speaking with him --

16 A. Yes, sir.

17 Q. -- he actually is the one that proffered the
18 information about the shooting; correct?

19 A. That is correct.

20 Q. And he brought you out to the house?

21 A. Yes, he did.

22 Q. And he was cooperative with you?

23 I mean, he basically said, "I have something
24 you need to know about"; correct?

25 A. I would agree with that.

1 Q. And he told you there was videos out there?

2 A. I don't recall him mentioning the videos.

3 Q. Okay. When he found out about videos, did
4 he appear happy, like, "Hey, that's great those are
5 out there because I'm not on them"?

6 A. I don't recall him mentioning anything
7 about videos or knowing about the videos.

8 Q. But when you recovered the videos, he wasn't
9 on them; correct?

10 A. (No audible response.)

11 Q. He's not visible on them; correct?

12 A. That, we've since learned information after
13 the fact. So it's not --

14 Q. On the three videos that are in evidence, is
15 he visible in them?

16 A. No.

17 MR. BROWER: Nothing further, Judge.

18 THE COURT: Any redirect?

19

20 REDIRECT EXAMINATION

21 BY MR. PESCI:

22 Q. Yeah, so defense counsel just asked you
23 about the portion of the statement in the second
24 interview where Mr. Caruso said, "If I could talk to
25 his mom," meaning Matthew's mom, "I'd say sorry, it

1 was an accident"?

2 A. Yes, sir.

3 Q. Correct. So State's 8, does it say spray
4 painted over the door where the body is found,
5 "Sorry, this was an accident"?

6 A. No, it does not.

7 Q. What does it say?

8 A. It says "Fuck Matt."

9 Q. Correct. And so in the first interview when
10 defendant, Jaiden Caruso lied and said he didn't do
11 it, that wasn't him saying "I'm sorry" to Matt's mom,
12 was it?

13 A. No.

14 Q. In fact, when he told you the second time
15 around that: Really, I'm going to pin it on Kody
16 because, you know, in essence, he's a lesser person;
17 he's homeless, that's not him saying "I'm sorry. It
18 was an accident," is it?

19 A. No, it is not.

20 MR. PESCI: Thank you.

21 Nothing further.

22

23 RECROSS-EXAMINATION

24 BY MR. TERRY:

25 Q. Isn't it true that Jaiden denied painting

1 "Fuck Matthew" on there?

2 A. Yes, it is, sir.

3 MR. TERRY: Nothing further.

4 THE COURT: Mr. Brower.

5

6 RECROSS-EXAMINATION

7 BY MR. BROWER:

8 Q. I know the doorway had a very offensive
9 thing written on it. Do you recall what the floor in
10 front of the doorway had on it?

11 A. Yes.

12 Q. It was "RIP"; right?

13 A. R-I-P. Yes, sir.

14 Q. Which usually stands for "rest in peace";
15 correct?

16 A. That is correct, sir.

17 Q. And did you see derogatory terms spray
18 painted throughout the entire house?

19 Specifically, did you see the word "Fuck"
20 spray painted throughout the entire house?

21 A. (No audible response.)

22 Q. Like it was used like an everyday term;
23 right? I can pull up pictures of the house, if you
24 need it.

25 A. I do recall other spray paintings. I

1 cannot exactly remember if the word, if the F-word,
2 was specifically spray painted in other parts of the
3 house.

4 Q. But "RIP" was specifically spray painted on
5 the floor to that closet; correct?

6 A. That is correct.

7 MR. BROWER: No further questions.

8 THE COURT: All right. This witness free
9 to go?

10 MR. PESCI: Yes, Your Honor.

11 THE COURT: All right. Thank you, sir.

12 MR. PESCI: Judge with that, the State has
13 no further witnesses to call or evidence to present.
14 We rest.

15 THE COURT: All right. Can you come, just
16 grab these photos for me.

17 MR. PESCI: Yes.

18 THE COURT: No problem. I just wanted to
19 get photos.

20 MR. PESCI: Just trying to put them in
21 order.

22 THE COURT: That's all right. He got them
23 out of order. He can put them back in order.

24 MR. TERRY: If the State is resting, can we
25 take about five minutes.

1 THE COURT: You betcha. Let's take five --
2 let's just take ten minutes. So right now my clock
3 says 2:17. Let's be back here at 2:27.

4 (Pause in the proceedings.)

5 THE COURT: Back on the record.

6 State, you're rested; correct.

7 MR. PESCI: That's correct, Your Honor.
8 We're going to ask to amend at the end, but I'm not
9 sure if they're going to present any evidence.

10 THE COURT: Do you want to make the motion
11 now, or do you want to do it after?

12 MR. PESCI: Well, whatever --

13 THE COURT: Go ahead and make the motion
14 now.

15 MR. PESCI: Okay.

16 THE COURT: We'll take it up as an argument
17 at the end.

18 MR. PESCI: Judge, the State is asking the
19 Court to amend, based on the testimony that was
20 presented today, to add a theory of felony murder to
21 Count 1 so that it would be willful, deliberate,
22 premeditated and/or committed during the perpetration
23 or attempt perpetration of a robbery.

24 And we would also add -- we're going to ask
25 to add Kody Harlan as a defendant on that murder

1 charge, if you find probable cause for that theory,
2 because that would have him susceptible to that
3 charge if he's a part of that.

4 And to support that argument, I'm going to
5 provide defense counsel with a copy so they know
6 what we're looking from.

7 And may I approach.

8 THE COURT: Yep.

9 MR. PESCI: The testimony today from
10 Kymani -- and I don't know if I can pronounce that.
11 Kymani testified that he heard a conversation
12 between the defendants about doing a lick earlier in
13 the day. He indicated what a "lick" was, which was
14 a robbery. There was followup question about
15 stealing. And, in fact, there was also some
16 questions by defense counsel as to his theory about
17 it, and that was the information that he had. We
18 asked him specifically, "Is that what you heard?"
19 And he said "yes."

20 So there's a conversation, before Matthew
21 gets there, about doing a lick -- which is understood
22 to be stealing, a robbery from a person -- that the
23 victim comes over. The victim is killed. After
24 that, the victim's wallet is found in the vehicle
25 the defendants fled from after the murder and that

1 that wallet is empty. Stealing someone's wallet,
2 with or without cash in it, is sufficient for a
3 robbery charge.

4 I understand, based on the questioning from
5 defense counsel, that the argument will be that
6 wallet could have been left there sometime before,
7 could have fallen out of his pocket, but it doesn't
8 change the purposes of determining probable cause,
9 which is slight or marginal evidence that, in fact,
10 a robbery occurred. So that's our request is to
11 amend and barrenplead Count 1 to charge both
12 defendants to add a theory of attempt -- during the
13 perpetration, attempt perpetration of a robbery.

14 THE COURT: All right. Before we get to
15 arguing the amendment, we'll just -- let's go
16 through at least the process.

17 Mr. Terry, do you have any witnesses you
18 intend to present?

19 MR. TERRY: No. Thank you, Your Honor.

20 THE COURT: Have you talked to your client
21 about his right to testify?

22 MR. TERRY: Yes, Your Honor.

23 THE COURT: All right. Is he going to, I'm
24 assuming, take your advice and decline?

25 MR. TERRY: My directive is that he not

1 testify.

2 THE COURT: All right. Is that correct,
3 Mr. --

4 MR. TERRY: The Court knows what we all
5 keep telling the defendant he's got a right to
6 testify. It does absolutely no good because
7 credibility is ultimately up to the jury.

8 THE COURT: That's -- for the most part,
9 that is true.

10 So, Mr. Caruso, you're taking your
11 attorney's advice; is that correct?

12 DEFENDANT CARUSO: Yes, sir.

13 THE COURT: All right. Mr. Brower, do you
14 intend to present any evidence?

15 MR. BROWER: Judge, I'm not presenting any
16 evidence. I've talked to my client about his right
17 to testify today. It's my understanding that he's
18 not going to testify at this point in time.

19 THE COURT: Mr. Harlan, is that correct?

20 DEFENDANT HARLAN: Yes, sir.

21 THE COURT: Okay. So no evidence to
22 present from the defense.

23 State, you made your motion. Let's take up
24 the motion -- well, let's take it kind of all up in
25 a motion to amend and the evidence in this case as

1 it would relate to the probable cause finding, and
2 then we'll go from there.

3 State, you've already kind of made your
4 motion as it relates to the amendment. You'll waive
5 and reserve otherwise; is that correct?

6 MR. PESCI: Right, Judge.

7 THE COURT: Mr. Terry.

8 MR. TERRY: Thank you, Judge.

9 Obviously, we object to the amendment. But
10 even if the State hadn't attempted to amend it, we
11 would still be moving to dismiss the robbery, with
12 use of a deadly weapon. There is no showing, not
13 even a scintilla of evidence, of any plan to rob
14 Matthew.

15 The State is going to point to the fact
16 that the wallet was in the car; but they've already
17 told you, as we brought out on cross-examination, no
18 one knows how long that wallet was in the car.
19 Nobody knows. It was not in anybody's possession,
20 incidentally. It was in the car. There's been no
21 testimony that something had been removed from that
22 wallet.

23 There obviously was no testimony that
24 anything was removed from Matthew. So this is a
25 fluke type of a charge to raise the ante that the

1 State is alleging here. What you have, in reference
2 to our Motion to Dismiss the murder case, I think
3 that the Court has the ability to not just not amend
4 the charging document to felony murder but also to
5 dismiss or amend the open murder charge.

6 The State's going to say: Well, when we
7 get to the jury trial, you can have all the jury
8 instructions you want on second degree and
9 manslaughter and voluntary and that type of thing.
10 But the Court has the power to amend it at this
11 point in time. And at a minimum, while I think I
12 could make a good faith argument that it should be
13 nothing more than a manslaughter case, at a minimum,
14 the most that you've got is a potential
15 second-degree case.

16 And I think the Court has the power to bind
17 it over just on either one of those two theories
18 which, again, we don't agree that they exist.
19 However, you don't have any evidence of the malice
20 that we normally see in a murder case. To the
21 contrary, the testimony is that these boys all got
22 along well together. They're smoking marijuana
23 together. They're doing other things together.
24 They're laying back. They're shooting pool.
25 They're doing all these other things.

1 No animosity. No motivation to kill
2 anybody. And, tragically, you have my client who is
3 playing with a gun and not doing a really good job
4 of it. Everybody talks in terms of while the
5 spinning of the cylinder and the putting in and
6 taking out of the bullets, I don't know that I'd
7 specifically refer to that as a "Russian Roulette"
8 type situation. But you heard the testimony that it
9 was my client that was pointing the gun at his own
10 head that was doing this.

11 Also, this gun was handled by Matthew. So
12 you don't have a situation where if I'm going to
13 murder somebody, the last thing I'm going to do is
14 give them access to the firearm. To the contrary,
15 Matthew was playing with the gun, and there's no
16 testimony that that gun was unloaded at that point
17 in time.

18 But you also have one other thing, and
19 that's the State puts on two witnesses, two -- in
20 theory, two witnesses that either were knowledgeable
21 or percipients. But remember what Oliver says.
22 Even Oliver says, when he talks to his friend, that
23 this was an accident, that Jaiden was pulling what
24 he called a "dry firing" the weapon and then, boom,
25 one went off, and tragically that's what this case

1 is.

2 Now, the State is going to go, "Oh, look at
3 the videos," and the videos are terrible, if you
4 want to know the truth. They're terrible. But they
5 don't show murder. They don't show an acknowledgment
6 of murder. They don't show an admission of murder.
7 Now, so we're asking the Court to dismiss the murder
8 case. Certainly not to allow the State to amend the
9 charging document to felony murder, and to bind it
10 over on, at worst, second degree or manslaughter.

11 In reference to the robbery, you don't have
12 any witness that says that anything was taken from
13 Matthew. You don't even have competent witness in
14 reference to the shopping situation. If you did, we
15 would have brought out other things also, but you
16 don't have it here. So you don't have any taking.
17 But look at the charging document. Look what
18 they're alleging within the charging document:
19 Robbery, with use a deadly weapon, and what are they
20 saying was taken? "By fear of property to obtain or
21 retain" --

22 THE REPORTER: I'm sorry. "By fear"?

23 MR. TERRY: They don't even list it.

24 THE COURT: I'm sorry. She missed you.
25 She missed you, Bill.

1 MR. TERRY: I'm sorry?
2 THE REPORTER: When you were --
3 THE COURT: Dana missed you.
4 THE REPORTER: You were quoting. When you
5 were quoting. When you were quoting.
6 MR. TERRY: Oh, when I was quoting.
7 They don't even say anything about what was
8 taken in this supposed robbery.
9 THE COURT: I think they say it on line 25.
10 Well, let me look at the Second Amended.
11 MR. TERRY: That's -- that's looking at
12 line --
13 THE COURT: Line 5, Count 2.
14 MR. TERRY: -- 25 of the murder count has
15 nothing to do with what was taken.
16 THE COURT: Oh, are you referring to the
17 robbery count --
18 MR. TERRY: Absolutely.
19 THE COURT: -- or the murder count?
20 MR. TERRY: Absolutely.
21 THE COURT: Okay. The robbery count on the
22 Second Amended Complaint is Count 2.
23 MR. TERRY: Says "Taking of the property in
24 order to facilitate escape." To facilitate escape?
25 What property are they alleging?

1 This isn't a crap shoot, you know. They
2 have to be specific as they were, I might tell you,
3 in the original charging document. They weren't,
4 and that's because the evidence isn't here. This
5 was never a robbery case. The State is trying to
6 elevate it to that, to, one, get into felony murder;
7 and, two, to make it more egregious than,
8 unfortunately, what this tragedy really is.

9 So with that, we would ask that you not
10 allow the Amendment, that you not bind the case over
11 on first degree or open murder with use of a deadly
12 weapon; that you bind it over on what I suggested,
13 and that you dismiss the robbery with use of a
14 deadly weapon charge.

15 THE COURT: Thank you, Mr. Terry.

16 Mr. Brower.

17 MR. BROWER: Judge, I'm going to object to
18 the State even getting a chance to respond because I
19 don't believe they said they were reserving their
20 argument for rebuttal. But if they did, I note --

21 THE COURT: I think I reserved it for them.

22 MR. BROWER: Okay. Judge, but I'm just --
23 procedurally, I don't think they did.

24 I'm also objecting the Second Amended
25 Criminal Complaint appears to have been typed up and

1 brought to court today. And, quite frankly, counsel
2 knows the procedures for appointments of counsel,
3 and they should be aware that Drew should have been
4 notified about this case being elevated to a
5 capital A if you proceed with this.

6 They intended to bring this in. This isn't
7 a motion by interlineation. Drew should have, at a
8 minimum, been advised on where he wanted to proceed
9 as far as counsel for my client. At this point in
10 time, he's still my client. I don't believe that a
11 felony murder occurred.

12 If any murder occurred, and this is where
13 Mr. Terry and I are going to divert, if it occurred,
14 it occurred by his client's hands and his client's
15 hands alone. My client, at a best, was passed out
16 on the couch -- or not at best. The testimony you
17 have from the witness that was there, my client was
18 on the couch, basically passed out at the time the
19 victim was shot.

20 They had all been doing Xanax bars. They
21 had all been acting friendly. They had all been
22 partying and doing marijuana and doing everything
23 else; and, unfortunately, an individual is shot and
24 killed, and my client is over there passed out, not
25 involved in this at all. At a best, I think they're

1 trying to say that my client participated in the
2 robbery because something was taken afterwards.

3 And the case law is generally or
4 essentially clear that -- I brought two cases to
5 court with me, Judge -- one is "Leonard," which
6 essentially set the law in Nevada, and "Leonard"
7 says that "Robbery is a general-intent crime, and it
8 can occur after somebody has been murdered if it is
9 done" -- and I'm paraphrasing this, Judge -- but
10 through the actions of the individual who created
11 the fear in the first place. That would be this
12 gentleman sitting beside me.

13 My client's interest and this client's
14 interest or Mr. Terry's client's interests are not
15 the same in this case, not at all. If a robbery
16 occurred, it occurred by this gentleman right here
17 because he's the one that would have created any
18 fear to comport with "Leonard" and its progeny in
19 this state. So that said, I think, at a best, at a
20 best, Count 3 survives. And I don't think you even
21 have testimony supporting that today.

22 But I think, at a best, the only count that
23 can survive for my client is Count 3. And, again,
24 when we get to District Court, we're certainly going
25 to have "Bruton" issues if you bind this case

1 completely up. I don't think there was any
2 testimony supporting the murder or the robbery in
3 this case, and quite frankly, I don't think there's
4 any testimony supporting Count 3. But I think, at a
5 best, given the low standard for this particular
6 court, that's all my client should be facing.

7 I'll submit it, Judge.

8 THE COURT: All right. Mr. Pesci.

9 MR. PESCI: Judge, you specifically asked
10 me, "Are you reserving for rebuttal?" I answered
11 "yes." So I reserved that right. There was nothing
12 procedurally inappropriate. Nor do I have to ask
13 Drew Christensen anything as far as when I'm going
14 to file an Amended Criminal Complaint.

15 Moreover, defense counsel was put on notice
16 on July 2nd, when I was told by defense counsel that
17 this very argument would be made, that the State had
18 a witness that was going to say that there was talk
19 about doing a lick before the actual robbery was
20 taken. So they knew about this. The fact we
21 haven't typed it up is actually trying to help
22 everybody be able to follow the language in advance.

23 And speaking of the language, Mr. Terry
24 talked about a lack of specificity. I interpret
25 that as if you look at page 2 of the Second Amended,

1 line 5, as you pointed out, Your Honor, there is
2 specificity that they took the wallet and contents.
3 So on line 9, when it says "Possession of property,"
4 it's referring to the property that's been already
5 specifically illiterated, that is, wallet and
6 contents. So it's very clear as to what was taken.

7 Going in reverse order as far as the charge,
8 accessory to murder, we have direct testimony from
9 the defendant himself -- that is, Kody -- admitting
10 that he moved the body and admitting that he covered
11 the body. We have evidence, and that's why I asked
12 the "Bruton" question as far as did he say who did
13 it. He said that Jaiden did it. So he has knowledge
14 of who did it, and then he hid that evidence after
15 the fact. That is on point, on all fours, with
16 "accessory."

17 Going to the robbery, as far as "Leonard"
18 goes, you can take advantage of a terrifying
19 incident after the fact. That's what "Leonard"
20 says. And so if, in fact, there's evidence to
21 support a concept of a conspiracy to commit a
22 robbery prior to and that conspiracy includes
23 Defendant Kody, he's on the hook for what happens
24 afterwards.

25 And so there's direct evidence from Kymani.

1 whether you think he's credible or not is a question
2 of fact for the jury. He said these defendants
3 talked about doing a lick and then, lo and behold,
4 Matthew is killed and his wallet shows up in the car
5 that these two fled the scene from. It's another
6 great question for the jury at a trial as to whether
7 or not that wallet got there some time earlier. But
8 we have a dead kid whose wallet is no longer with
9 him.

10 Curiously, the wallet is along with -- did
11 you hear the phone was kept behind but not the
12 wallet. The wallet miraculously leaves that house,
13 gets in the car where these two defendants flee the
14 scene. And so there's evidence right there, slight
15 or marginal, that they took property from the
16 victim. That's sufficient to bind up.

17 Now, we've got a murder here. We don't
18 need evidence of malice, Your Honor. I would direct
19 your attention to "Wren, W-R-E-N, v. Sheriff," which
20 is 87 Nevada 85, which specifically rebuts the very
21 argument that's being made right now, which says you
22 do not have to have direct evidence of malice in an
23 open murder charge.

24 You have to show that this killing was done
25 at the hands of another human being, and there's

1 sufficient evidence here, especially with a felony
2 murder theory, for it to be bound up on an open
3 murder charge. And with that, Your Honor, I believe
4 that we've met the sufficient standard for this
5 proceeding.

6 THE COURT: All right. So you filed the
7 Second Amended. I understand the objections to the
8 Second Amended. I'm granting the filing of the
9 Second Amended.

10 Mr. Terry makes the point as to whether, at
11 a preliminary hearing, a Justice of the Peace can
12 essentially kind of carve up an open murder case,
13 and I know that that's an argument that's been made
14 for some time. I'm not -- I understand the
15 argument. I'm not sure of any concrete --

16 And maybe you can correct me.

17 I'm not aware of any concrete Supreme Court
18 case law that basically says I can do that. I think
19 that I'm at a, at this level of a Justice of the
20 Peace, determining whether an unlawful killing
21 occurred and whether there's probable cause to
22 believe that these two clients were involved.

23 Because it's complicated when you're --
24 when you are -- the way you get there is a theory of
25 liability, but the question of whether it's -- if

1 the evidence establishes, through a theory, that
2 that's what they did, then I think I have to bind it
3 over as an open murder charge and the rest of it is,
4 essentially, a notice plea of potential theories
5 down the road. I don't believe I can carve it up.

6 That being said, if there isn't evidence
7 that meets the theory to get to that point, then
8 obviously I couldn't bind it over on a probable
9 cause finding. You know, it's something that you
10 could certainly take up on a writ, or maybe the
11 Supreme Court could educate us a little better about
12 what my role is as a Justice of the Peace as it
13 relates to specific theories in open murder versus
14 first, second, and voluntary.

15 But my understanding of the law, at this
16 point, is that I'm somewhat limited and don't
17 necessarily have the authority to carve it up in the
18 way you suggest. I'm cognizant of that argument
19 and, you know, there's parts of it that make sense.
20 But I think I'm limited in the respect that I have
21 to find -- or what I have to find to bind over murder
22 with use of a deadly weapon charge.

23 In this particular case, I think there was
24 testimony that there was a discussion that either
25 Mr. Caruso or Mr. Harlan either engaged in or were

1 present and overheard and didn't disavow and
2 regarding doing a lick, which is commonly known as a
3 robbery, and then there was the shooting that was
4 somewhat direct, and ultimately what occurred with
5 the body after the fact, the spray painting of the
6 terminology on the door, and then ultimately the
7 finding of the wallet in the vehicle afterwards.

8 The arguments about when it could have
9 gotten there or could have gotten there by accident
10 is a factual determination that's appropriate for a
11 jury going forward. But I think, based upon that
12 testimony, that the concept of a felony murder,
13 there is probable cause to establish the felony
14 murder portion of the murder with use of a deadly
15 weapon charge as it relates to, in particular, Kody.
16 Mr. Caruso may be subject to some other theories of
17 liability that are within the notice pleading.

18 So I'm going to allow the Second Amended
19 Criminal Complaint to be filed and to include
20 Mr. Harlan and find probable cause as it relates to
21 the murder with use of a deadly weapon. And, also,
22 essentially the facts are the same or similar for
23 establishing the robbery with use of a deadly weapon
24 for purposes of probable cause. I also agree
25 functionally, I guess, as now what would be an

1 alternative theory of accessory to murder with use
2 of a deadly weapon based upon Mr. Harlan's own
3 admissions to Detective Nichols.

4 So it appears to me from the Complaint on
5 file, the Second Amended Criminal Complaint, and
6 testimony adduced at the preliminary examination,
7 that a crime, murder with use of a deadly weapon,
8 robbery with use of a deadly weapon, and accessory
9 to murder with use of a deadly weapon has been
10 committed by both Jaiden Caruso and Kody Harlan and
11 that there is sufficient evidence to believe that
12 the defendants committed those crimes.

13 I hereby order the defendants to be bound
14 over to the Eighth Judicial District Court to answer
15 the charges.

16 What would be the date be?

17 THE CLERK: July 18th.

18 THE COURT: July 18th work for you guys?

19 MR. BROWER: Judge, I have an issue with
20 that. We'll have to talk with Mr. Christensen
21 before --

22 THE COURT: I understand, I understand.

23 MR. BROWER: -- I continue on this case.
24 So I think, as far as my client goes, we have to
25 stay the bindover to find his direction. Because,

1 as you're aware of, I'm not supposed to stay on
2 Category A cases unless this Court makes an
3 appointment through Mr. Christensen's office. So
4 because it's now Category A case, I don't believe I
5 can stay on this case without direction from
6 Mr. Christensen.

7 THE COURT: Well, I think --

8 MR. BROWER: And I think you can stay the
9 bindover.

10 THE COURT: I understand. I think you can
11 stay on this at least until the plea in District
12 Court. Obviously I would suggest you communicate
13 with Mr. Christensen.

14 I did communicate ahead of time, and that's
15 why we ended up with you on the case. Based upon
16 the initial charges, I -- and I'll put it on record.
17 I have to communicate with Mr. Christensen to decide
18 who to appoint on the case. I did suggest to him,
19 you know, there's always that potential down the
20 road.

21 MR. BROWER: And I do Category A cases. I
22 understand that, but it's his decision who stays on,
23 pursuant to the Supreme Court.

24 THE COURT: Well, and they made some sort
25 of -- well, I don't think that you've got a death

1 issue as a result of the age in this particular
2 case. So I don't think you have any problem with
3 that.

4 The problem, ultimately, is that they made
5 some sort of determination that A's have to be
6 handled, I guess, first by the Special Public
7 Defenders Office as opposed to you. I've worked
8 with you a long time. I have no question that you
9 can handle a Category A felony very, very
10 effectively.

11 If Mr. Christensen wants to override it,
12 change the rule or whatever, that would be up to
13 him, but I did -- he's aware of the situation just
14 because I had to be able to appoint someone
15 appropriate for this particular case.

16 So I'll certainly allow you to -- I mean, I
17 don't have any -- I don't have any ability to deal
18 with Mr. Christensen at this point, on this case
19 going forward. I'm sure you can contact him.

20 If Mr. Pesci has concerns, he can contact
21 him, but I'll leave that to you guys. That's
22 between now and the arraignment in District Court.
23 Okay?

24 MR. PESCI: Sure. What time is that?

25 THE COURT: 10:30.

1 THE CLERK: 10:00 o'clock.

2 THE COURT: 10:00 o'clock.

3 THE CLERK: July 18th, at 10:00 a.m.,
4 lower-level arraignment court.

5 MR. PESCI: Thank you very much, Judge.

6 THE COURT: All right. Thank you.

7

8 (The proceedings concluded.)

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11 ATTEST: Full, True and Accurate
12 Transcript of Proceedings.

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15 /S/Dana J. Tavaglione

16 DANA J. TAVAGLIONE, RPR CCR NO. 841

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