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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 VII

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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

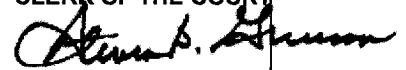
<u>DOCUMENT</u>	<u>VOLUME</u>	<u>PAGE NOS.</u>
Recorder's Transcript of Hearing: Hearing Re: Motion to Set Aside Guilty Verdict as to Counts One and Two, in the Alternative Motion for a New Trial filed January 22, 2020	I	0063-0087
Recorder's Transcript of Hearing Re: Status Check; Negotiations filed 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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TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

JAIDEN CARUSO &
KODY HARLAN,

Defendants.

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

DEPT. III

BEFORE THE HONORABLE DOUGLAS W. HERNDON,
DISTRICT COURT JUDGE

WEDNESDAY, JULY 31, 2019

TRANSCRIPT OF PROCEEDINGS
JURY TRIAL - DAY 3

APPEARANCES:

For the State:

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SARAH E. OVERLY, ESQ.
Chief Deputy District Attorneys

For the Defendant
Jaiden Caruso:

MACE J. YAMPOLSKY, ESQ.
JASON R. MARGOLIS, ESQ.

Kody Harlan:

RYAN K. HELMICK, ESQ.

RECORDED BY: JILL JACOBY, COURT RECORDER

TRANSCRIBED BY: MANGELSON TRANSCRIBING

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1 Las Vegas, Nevada, Wednesday, July 31, 2019

2
3 [Trial began at 9:10 a.m.]

4 [Outside the presence of the jury]

5 THE COURT: Okay. We will be on the record, outside the
6 presence of the jury. Mr. Caruso, Mr. Harlan, all the attorneys are
7 present.

8 Mr. Pesci.

9 MR. PESCI: Your Honor, thank you very much. Just a few
10 things to go over. We wanted to discuss in some sense ground
11 rules and make records of what everybody understands and
12 expects.

13 THE COURT: Okay.

14 MR. PESCI: First and foremost, there is going to be
15 evidence -- or there is plenty of evidence of drug usage --

16 THE COURT: Okay.

17 MR. PESCI: -- by not only the Defendants but by other
18 juveniles.

19 THE COURT: Okay.

20 MR. PESCI: From the State's perspective that's a part of
21 the entire picture of this, the *res gestae*. And I --

22 THE COURT: And I'm sorry to interrupt. Other juveniles
23 meaning the victim and other kids that were at this residence
24 during these time periods?

25 MR. PESCI: Witnesses -- yes, witnesses that will testify,

1 the Defendants themselves, the victim himself --

2 THE COURT: Okay.

3 MR. PESCI: -- and so the evidence will be coming in but
4 I'm thinking from the perspective of the Defendants, as far as any
5 negative or bad act evidence that can be attributed to them, I
6 believe, in order for us to present this case, we need to be able to
7 present that. And I've asked Defense Counsel about
8 misrepresenting they'll say something. I believe they also want the
9 drug evidence, they're not opposing the drug evidence in and so I
10 wanted to make a record of that.

11 THE COURT: All right. Mace?

12 MR. YAMPOLSKY: That's accurate.

13 THE COURT: Ryan?

14 MR. HELMICK: Correct.

15 THE COURT: Thank you.

16 MR. PESCI: So that portion we don't have to worry about.
17 There is, however, other crimes or potential crimes kind of
18 littered throughout the case and we want to try and avoid these
19 land mines.

20 THE COURT: Okay.

21 MR. PESCI: In particular, Your Honor, you're going to
22 hear a testimony about the vehicle the Defendants were in when
23 the car crashes. It's a stolen vehicle.

24 THE COURT: Okay.

25 MR. PESCI: And so there was a motion -- a pretrial motion

1 that -- Mr. Harlan's attorney, right? So there was a motion to keep
2 that out. We're intending on following the Court's ruling, which is --

3 THE COURT: Okay.

4 MR. PESCI: -- we've instructed our witnesses do not talk
5 about it being a stolen car.

6 THE COURT: Okay.

7 MR. PESCI: That's being said, I sent the Defense Counsel
8 last night, via e-mail and phone conversations, I said, listen,
9 gentleman, if you're intent is to impugn or impeach the officer who
10 actually makes the stop about not having PC, we're going to
11 respond by saying well there was PC because she ran it was stolen.

12 THE COURT: Okay.

13 MR. PESCI: My understanding is that they are not
14 intending on doing that; is that accurate, gentlemen?

15 MR. HELMICK: Correct.

16 MR. YAMPOLSKY: That's correct.

17 MR. PESCI: Additionally, the car is searched at the
18 intersection pre-search warrant --

19 THE COURT: Okay.

20 MR. PESCI: -- because it comes back a 411, a stolen
21 vehicle. So the police are already processing this as a stolen
22 vehicle, thus they don't have a search warrant. Again, I brought
23 that up with the Defense asking are you intending on impugning
24 them doing this prior to having a search warrant because if you are,
25 here's the reason why.

1 THE COURT: Okay.

2 MR. PESCI: They've indicated that they are not going to
3 impugn or impeach the police for searching prior to a search
4 warrant. Is that accurate?

5 MR. YAMPOLSKY: That's --

6 MR. HELMICK: Correct.

7 MR. YAMPOLSKY: -- accurate.

8 MR. PESCI: All right.

9 THE COURT: Thank you.

10 MR. PESCI: So I think that helps us.

11 THE COURT: Okay.

12 MR. PESCI: And additionally, Judge, post-shooting of
13 Matt and pre-car accident, there is a pool party. It is alleged that a
14 shot was fired by one of the Defendants as the pool party was
15 ending and they were leaving the scene. We are not seeking to
16 introduce that. We've instructed our witnesses to not say anything
17 about that.

18 I bring this up with the caveat of saying there is going to
19 be at times especially with these juvenile witnesses, some degree
20 of leading in order to try to avoid these very land mines. And so
21 when people see that, maybe we'll approach, try to explain it,
22 because one of the occupants from the vehicle who was at the party
23 heard that shot being fired. So we're trying really hard to avoid
24 that.

25 THE COURT: Okay.

1 MR. PESCI: And then lastly --

2 THE COURT: And that I take it is just some allegation that
3 there was a shot fired off into the air?

4 MR. PESCI: Yes.

5 THE COURT: Okay.

6 MR. PESCI: Yes.

7 THE COURT: All right.

8 MR. PESCI: Then Judge, there's also what's commonly
9 referred to as a phone extraction done on both Defendants' phone,
10 as well as the victim's phone. They use Cellebrite. They can
11 download video, photos, text messages. It doesn't get everything,
12 right? Some things that are deleted are not there, some things that
13 are deleted are still there.

14 All of that is to say, I believe, on Mr. Caruso's there's like
15 850 videos. On Mr. Harlan's I think there's like 200. So there is a
16 ton of videos and photos. Some of which, specifically as to Mr.
17 Kody Harlan, there are two where he shoots one out of a car and
18 just walking down the street. I bring this up for this reason. We are
19 not seeking to introduce the entirety of the phone extraction --

20 THE COURT: Okay.

21 MR. PESCI: -- because intermixed in all of that is a whole
22 bunch of stuff that can't come in.

23 THE COURT: Okay.

24 MR. PESCI: So the State's approach is going to be
25 surgically remove some of those videos from that and present it

1 that way. And I want to bring that up and I have with Defense
2 Counsel because if there's some objection as to the way that we're
3 doing that, we need to figure out a way because otherwise, we
4 could introduce stuff that nobody wants coming in.

5 THE COURT: So are you going to have the forensic
6 analyst testify and just say I did a phone extraction, and did you
7 locate any video, and is this that video?

8 MR. PESCI: Yes.

9 THE COURT: And it's -- that video is going to be on a
10 separate disk?

11 MR. PESCI: Right.

12 THE COURT: Okay.

13 MR. PESCI: But the problem is, Judge, and you gotten
14 right to the point, if there's some -- if there's cross-examination --
15 and anybody can cross whatever they want, I'm not trying to hinder
16 that. But if it's like look, we don't even know what you're looking at,
17 how do we know that that's true because he can with an external
18 hard drive, have the entire thing up in front of him --

19 THE COURT: Right.

20 MR. PESCI: -- with a computer and go through it all. The
21 problem is, is you can quickly and most likely will pull up stuff that
22 we're all trying to keep out of this case.

23 THE COURT: Okay. Understood.

24 Gentlemen?

25 MR. PESCI: I think covers --

1 [Colloquy between Counsel]
2 MR. PESCI: I think that covers all the --
3 THE COURT: Anything --
4 MR. PESCI: -- pregame issues.
5 THE COURT: -- on that phone extraction issue?
6 MR. HELMICK: Not on the phone, but I do have
7 something in regard to Jaiden shooting in the air at the pool party.
8 THE COURT: Okay. But you -- well let's start with the
9 phone extraction --
10 MR. HELMICK: Okay.
11 THE COURT: -- since I brought that up.
12 MR. HELMICK: Sure.
13 THE COURT: I mean, you guys acknowledge that they're
14 just seeking to introduce singular items off the totality of that
15 extraction and depending upon how that forensic analyst gets
16 cross-examined, it might open up testimony about other aspects of
17 that.
18 MR. HELMICK: Absolutely.
19 THE COURT: Okay. Mace?
20 MR. YAMPOLSKY: Correct.
21 THE COURT: Okay. All right. Go ahead about the pool
22 party issue.
23 MR. HELMICK: So I mean, I had actually planned to get
24 into that in cross-examination of some of the juveniles that were at
25 the pool party --

1 THE COURT: Okay.

2 MR. HELMICK: -- about this shot because there's some

3 good facts that I think help our case. So I'd still like to get into that.

4 THE COURT: All right.

5 MR. PESCI: I don't think he's prohibited from doing that,

6 I'm just saying as far as --

7 MR. HELMICK: Okay.

8 MR. PESCI: -- the State's --

9 THE COURT: But --

10 MR. PESCI: -- case in chief.

11 THE COURT: You're just saying we're not planning on

12 going into it but --

13 MR. PESCI: We would --

14 THE COURT: -- if they want to go into then okay.

15 MR. PESCI: Right. But I don't want it to be thought of as

16 our witness held back material evidence and therefore, she's not

17 credible because she didn't say it on the record --

18 THE COURT: Okay.

19 MR. PESCI: -- because we've instructed her, don't talk

20 about that.

21 THE COURT: Okay.

22 MR. PESCI: But if he's telling us he wants us to, we can.

23 THE COURT: Okay.

24 MR. PESCI: And we would ask to do that in advance?

25 THE COURT: What's your position, Mace?

1 MR. YAMPOLSKY: Well obviously I would prefer that it
2 not come in. If the State isn't going to introduce it, it would seem to
3 me it would be outside the scope. Now if Mr. Helmick wants to call
4 the State's witness as its own witness, I don't think --

5 THE COURT: Well --

6 MR. YAMPOLSKY: -- I have a basis.

7 THE COURT: -- I don't -- well here -- I'll say a couple
8 things. Number 1, I never really favor the idea of making people
9 come back on multiple occasions to get into testimony that the
10 people want to get into them.

11 The second aspect of it is I don't know, without sitting and
12 listening to the testimony, that it's really beyond the scope; and part
13 of the scope is discussing this chronology of these events and one
14 of those events is the pool party and this issue is a part of that
15 event, then I think exploring that event is certainly relevant in cross-
16 examination. So I wouldn't say that Mr. Helmick has to recall the
17 witness in his case just to go into that singular issue.

18 The bigger issue is the State says we're not going to go
19 into it and then one defendant says I want to go into it and now the
20 other defendant is saying whoa, wait a minute, I don't want to go
21 into it. And nobody's briefed it.

22 MR. YAMPOLSKY: Maybe that's why you should sever
23 the case.

24 THE COURT: Well hold on. No. No, no, no. That's not an
25 issue that I think falls under the idea of antagonistic defenses such

1 that it would warrant any type of severance. It's not anything that's
2 going to be discussed in opening statements --

3 MR. HELMICK: No.

4 THE COURT: -- correct?

5 MR. PESCI: Correct, because --

6 THE COURT: All right.

7 MR. PESCI: -- we plan --

8 THE COURT: So let me --

9 MR. PESCI: -- on not --

10 THE COURT: Let me stew on this and we'll have some
11 more discussion about it. Is it even something we're getting to
12 today?

13 MR. PESCI: Yes. And that was the last thing -- I'm sorry,
14 did you still have more?

15 MR. HELMICK: No, no. I was going to say to go with what
16 Mr. Pesci is saying if I'm going to go down that road, I'll be happy
17 to tell him in advance before he calls that witness --

18 THE COURT: Okay.

19 MR. HELMICK: -- so it doesn't look like --

20 THE COURT: So you --

21 MR. HELMICK: -- he's hiding something.

22 THE COURT: So you maybe haven't decided for sure that
23 you want to do that?

24 MR. HELMICK: Well right -- I mean, right now I do. I
25 didn't know --

1 THE COURT: Okay.

2 MR. HELMICK: -- that she was going to be called today,

3 but just if --

4 THE COURT: Okay.

5 MR. HELMICK: -- we're sitting here thinking about it and

6 things -- I'm going to give him the heads up either way --

7 THE COURT: Is it at least --

8 MR. HELMICK: -- is what I'm saying.

9 THE COURT: -- after lunch?

10 MR. PESCI: No.

11 MR. HELMICK: Okay. Well then --

12 THE COURT: This morning?

13 MR. PESCI: Yeah.

14 THE COURT: Okay. All right.

15 MR. PESCI: So I'm sorry. That was my last thing --

16 THE COURT: Okay.

17 MR. HELMICK: That's it.

18 MR. PESCI: We've lined up nine --

19 THE COURT: Okay.

20 MR. PESCI: -- witnesses for today.

21 THE COURT: Okay.

22 MR. PESCI: I don't think we're going to get through nine,

23 but we tried to have -- because it's a long day, we tried to have a

24 lot.

25 THE COURT: Yeah, yeah, yeah. No, I -- look, I'm happy to

1 have them all lined up, we'll get through whatever we can. So
2 between --

3 MR. PESCI: But if we come up short --

4 THE COURT: -- what I have to read -- it's not the first
5 witnesses is it?

6 MR. PESCI: Second.

7 THE COURT: Second, okay. Between what I read, your
8 openings, one witness, I mean, it's probably going to be time for a
9 break then anyway before --

10 MR. PESCI: Okay.

11 THE COURT: -- we take up the second witness and so
12 we'll talk about it more at that point, okay?

13 MR. HELMICK: Okay.

14 MR. PESCI: And our witnesses -- just from a comment to
15 me, I actually -- we sent an e-mail last night saying here's who
16 we're calling.

17 THE COURT: Okay.

18 MR. PESCI: Not that that's --

19 MR. HELMICK: Oh, I didn't see that.

20 MR. PESCI: -- required.

21 THE COURT: Okay.

22 MR. PESCI: But we sent it off, so they knew --

23 THE COURT: All right.

24 MR. PESCI: -- who was coming.

25 THE COURT: So what about -- I know there are a number

1 of family members on both sides that were here during jury
2 selection. I don't know what their potential is as witnesses, but
3 generally speaking, if you guys agree to it, even though we have
4 the exclusionary rule, I know family members would like to watch
5 the trial. So do you guys have any discussion about allowing each
6 other's family in the room?

7 MR. YAMPOLSKY: As long as they're not going to testify,
8 I have no objection.

9 THE COURT: Well I'm talking more about if there are, the
10 possibility of either somebody's parents, victim, defendant,
11 somebody like that that would like to watch the trial but might have
12 some potential or is under subpoena. Is there any agreement on
13 allowing them in or out?

14 MR. PESCI: So here's from the State's perspective --

15 THE COURT: Okay.

16 MR. PESCI: -- maybe this will better answer -- or for them
17 to be able to answer. Our intent is to not call decedent's mother --

18 THE COURT: Okay.

19 MR. PESCI: -- and decedent's sister.

20 THE COURT: Okay.

21 MR. PESCI: They are arguably percipient witnesses in this
22 incident having text message interaction with Matthew and/or
23 seeing Matthew being picked up. We're purposely doing that
24 because they really want to be in here and they want to see the
25 trial.

1 THE COURT: Okay.

2 MR. PESCI: We're also under the impression, I'm

3 assuming no one's really questioning who the victim is?

4 MR. YAMPOLSKY: No.

5 MR. PESCI: So I'd think there'd be a stipulation to the

6 identity of the victim.

7 MR. YAMPOLSKY: Right.

8 THE COURT: Ryan?

9 MR. HELMICK: Oh yeah, absolutely.

10 THE COURT: Okay.

11 MR. PESCI: So I was not going to call them for that

12 reason.

13 THE COURT: Okay. Now is that because you believe you

14 can get that evidence in in other fashions --

15 MR. PESCI: If I had to, we could ask one of the kids at the

16 party, who's that.

17 THE COURT: No, no, no, I'm talking about -- you said text

18 messages and seeing somebody in the car --

19 MR. PESCI: Right.

20 THE COURT: -- things like that.

21 MR. PESCI: We're going to avoid that evidence --

22 THE COURT: Okay.

23 MR. PESCI: -- just so that they get that opportunity to be

24 in here.

25 THE COURT: Okay. All right. So you're not planning on

1 calling them, so I'm fine with them staying in.

2 What about are there any defendant family members that
3 are subpoenaed as witnesses at all?

4 MR. PESCI: No.

5 THE COURT: Okay.

6 MR. PESCI: But I believe that Jaiden's mother could be a
7 percipient witness potentially, but I mean, I think it's appropriate for
8 her to be in here --

9 THE COURT: Okay.

10 MR. PESCI: -- if she wants to, based on the fact that we're
11 having our family stay in here.

12 THE COURT: Sure.

13 MR. PESCI: I'm not intending on calling her, but I can see
14 potentially because when they go to the apartment they do --

15 THE COURT: Okay.

16 MR. PESCI: -- a search warrant at the Caruso apartment,
17 she is at the police office and there's interaction with the detectives.
18 And in fact, there's also a text message or what purports to be a
19 text message from Mr. Caruso's mom to him. So in the phone
20 extraction, there is in fact that text, so.

21 THE COURT: Okay.

22 MR. PESCI: But I didn't want to keep her out, if she wants
23 to be here.

24 THE COURT: Mace, what's your position?

25 MR. YAMPOLSKY: We're not planning to call her.

1 THE COURT: But what about -- there's a possibility that
2 the State may call her but they're saying we don't care if she stays
3 in the courtroom.

4 MR. PESCI: No, our intent is not to call her.

5 THE COURT: Okay.

6 MR. PESCI: We can introduce that evidence without her.

7 THE COURT: Okay.

8 MR. PESCI: Just didn't want to exclude her.

9 THE COURT: Okay.

10 MR. YAMPOLSKY: Right. And we're not planning to call
11 her.

12 THE COURT: What about --

13 MR. HELMICK: I have no --

14 THE COURT: Got it.

15 MR. HELMICK: -- opposition on this.

16 THE COURT: Okay. Great. Okay. So family members will
17 be allowed to stay in the courtroom.

18 Any other issues before we get started?

19 MR. PESCI: No. Thank you.

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

21 [Pause in Proceedings]

22 THE COURT: Everybody check their stuff to make sure
23 we're good to go?

24 MR. PESCI: We did. And on that note, Judge, I did inform
25 the media that in our opening statement there is graphic video.

1 Obviously, they can do whatever they want, but I just wanted to
2 give them a heads up.

3 THE COURT: Okay.

4 MR. HELMICK: Just as a housekeeping matter, Mace is
5 going to do his first.

6 THE COURT: Okay.

7 MR. HELMICK: And then I would just ask for a small break
8 to set up my JAM board --

9 THE COURT: Okay.

10 MR. HELMICK: -- before I do the opening.

11 THE COURT: Okay.

12 [Pause in proceedings]

13 MR. HELMICK: Another -- a housekeeping issue. When
14 we do cross-examination, I've talked to Mace first, I'm going to go
15 first on the witnesses just so you know when you say this --

16 THE COURT: Okay.

17 MR. YAMPOLSKY: All right.

18 [Pause in Proceedings]

19 MR. PESCI: Judge, one more thing, I apologize.

20 THE COURT: Okay.

21 MR. PESCI: So our second witness is still a juvenile.

22 THE COURT: Okay.

23 MR. PESCI: We asked at the preliminary hearing and the
24 media cooperated, we asked that her face not be shown --

25 THE COURT: Okay.

1 MR. PESCI: -- during her testimony --

2 THE COURT: Okay.

3 MR. PESCI: -- because she is in fact a juvenile. And then
4 we have other juveniles that will be coming -- not today but
5 tomorrow, assuming they're still here. So our request is all
6 juveniles, that their face is not shown.

7 THE COURT: Thumbs up. So just let the gentlemen
8 know --

9 MR. PESCI: Thank you very much.

10 THE COURT: -- that you have that issue, so they know
11 what the witness is.

12 [Pause in Proceedings]

13 [In the presence of the jury]

14 THE MARSHAL: Jurors are present. All rise.

15 THE COURT: Whenever you come in and get to your
16 seats, you guys feel free to drop right down.

17 All right. Everybody can be seated. Thank you.

18 We will be on the record. Mr. Harlan and Mr. Caruso are
19 present with their attorneys, States' attorneys are present, all of our
20 jurors are present.

21 So good morning, Ladies and Gentlemen.

22 THE JURY: Good morning.

23 THE COURT: Parking was a little better, yes?

24 THE JURY: [Various responses].

25 THE COURT: Yay, good. Okay. Everybody have a

1 clipboard and notepad in your chair?

2 THE JURY: Yes.

3 THE COURT: Yes, okay.

4 So before we get started with opening statements, there's
5 a couple of things that I'm going to chat with you about. It's a little
6 bit kind of a road map if you will, just to familiarize you a little bit
7 with how a case unfolds, the chronology of things. There are a
8 couple of discussions in here about legal things. This is not a
9 substitute for the jury instructions at the end of the case; although
10 there are, like I said, a couple of legal instructions that I'll talk to you
11 about. As well as talking to you about some of the things you can
12 and cannot do as jurors and some of the things that you'll be
13 allowed to do. Like I think we talked during jury selection about
14 asking questions of witnesses, so we're going to talk about that in a
15 moment as well.

16 But before I get into that, I'm going to have Kory read to
17 you -- well first off, we're going to swear you in. There's a different
18 oath that we give to you now that you're jurors. And then Kory's
19 going to read to you the Information. So you can remain seated,
20 but if you'd go ahead and raise your right hands for me again.

21 [The Clerk swears in the jury]

22 THE COURT: All right. Thank you. So we're going to
23 read the Information to you. As I told you during the jury selection
24 process, the Information is not evidence, it's just the document that
25 somebody gets that lets them know what they've been charged

1 with. And she'll state the pleas that are in it as well.

2 [The Clerk reads the Information]

3 THE COURT: All right. Ladies and Gentlemen, as Kory
4 said both Mr. Harlan and Mr. Caruso pled not guilty to those
5 charges as we discussed under the principles of law yesterday, they
6 are presumed innocent. The State has the burden of proving each
7 of the elements of the charges beyond a reasonable doubt and the
8 purpose of the trial will be to see if the State can meet that burden.

9 As we discussed during jury selection, it's your primary
10 responsibility as jurors to find and determine the facts of what
11 occurred in any given situation. And you do that by listening to the
12 testimony of the witnesses, evaluating any exhibits that are
13 introduced into court, documents, photographs, whatever it may
14 be, and making whatever reasonable inferences you feel can be
15 drawn from those items that are introduced in court as well.

16 Trial starts with opening statements. Each side has the
17 opportunity to make an opening statement. Because the Defense
18 has no burden in the case, they don't have to make an opening
19 statement, or they could defer making an opening statement until
20 after the State presents their evidence. But each side -- all three
21 sides, I should say, have the opportunity to make an opening
22 statement.

23 Opening statement is not evidence, they're the words of
24 the attorneys and it's an opportunity for the attorneys to discuss
25 with you what they believe the evidence will be once a party starts

1 presenting their evidence through their case in chief.

2 And a case in chief -- excuse me. A case in chief is just
3 what we refer to when we're talking about one side's opportunity to
4 present their evidence. So it would consist of the calling of
5 witnesses and the production of physical items of evidence, the
6 exhibits in a case. It may be, you know, something as simple as a
7 rock, it may be a complex diagram, it may be a photograph, it may
8 be a video, whatever it may be that's marked as an exhibit and
9 introduced.

10 Any witnesses that are called by the State in their case in
11 chief, the Defendants will then have opportunities to cross-examine
12 those witnesses. Once the State rests their case in chief, that's the
13 opportunity then for the Defense to present a case in chief. Each of
14 the Defendants, separately. Again, they have no burden of proof so
15 they do not have to produce any evidence, but they have the
16 opportunity to put on a case in chief.

17 If the Defense calls witnesses in a case in chief, then the
18 State has that same opportunity to cross-examine their witnesses
19 that they have to cross-examine the State's witnesses. If there is a
20 presentation of a case in chief by a Defense, sometimes there may
21 be a rebuttal case by the State, sometimes you can have a
22 surrebuttal case by the Defendant thereafter as well.

23 In terms of the presentation of evidence we usually refer
24 to evidence in one of two ways and you've probably heard these
25 terms before; direct evidence and circumstantial evidence. Direct

1 evidence is the testimony of a person about what they personally
2 saw, or hear, or did on a particular occasion, such as an eyewitness.
3 Circumstantial evidence, on the other hand, is a testimony of a
4 chain of facts and from that chain of facts, you can infer the
5 existence of another fact, even though you don't have direct
6 evidence of that. And that would be proof of something by use of
7 circumstantial evidence. And I'm going to give you an example that
8 I think makes it a little easier to understand this.

9 Let's say you're driving home after court today and it
10 starts raining. You're heading up to the northern part of town on 95
11 and the rain starts falling. And you can see the rain falling on your
12 car, on the roadway, people driving crazy like they do here when it
13 rains. Maybe you roll your window down, you feel the rain on your
14 hand. If you got your radio off, maybe you can hear the rain hitting
15 your car, you got to put your windshield wipers on, all of that.

16 If somebody asked you to come back to court later on to
17 testify about whether it was raining on July 31st in the evening, you
18 would be an eyewitness. You could provide direct evidence. I saw
19 the rain, the heard the rain, I felt the rain, I experienced the rain, I
20 had to drive in the rain. That's direct evidence of the fact that it
21 rained at that time.

22 On the other hand let's say you drive home and there are
23 rain clouds in the sky, dark rain clouds, but it's not raining. And you
24 park your car in the driveway, and you go in your home. Maybe
25 you're in there a couple hours, you're not really paying attention to

1 anything going on outside and now when you walk out you notice
2 that the ground's wet, your car is wet, water's running down the
3 street by the gutter, the rain clouds have parted, the sun's poking
4 through, it's very humid in the air. And you look around and you
5 say to yourself, I'm pretty sure it rained while I was inside my
6 house. I didn't see the rain, or hear the rain, or feel the rain, but I
7 have all these little chain of facts that would lead me to conclude
8 that it rained, so that would be proof of the fact that it rained by use
9 of circumstantial evidence.

10 Under the law, you can use both direct and circumstantial
11 evidence to decide any issues in the case. It's up to you to decide if
12 you think a fact has been proven by circumstantial evidence. And
13 it's up to you to decide how much weight to give any piece of
14 evidence, whether it's direct or circumstantial but you can use both
15 forms of those evidence in deciding the issues and reaching a
16 verdict in the case.

17 Anything that you see or hear outside the courtroom is
18 not evidence and must be disregarded.

19 During the presentation of evidence, it will be an occasion
20 where attorneys object to things. Please don't hold that against
21 them. The attorneys have legal and ethical obligations to raise
22 objections to things that they feel should not be properly be
23 brought before the Court. Objections most commonly occur when
24 a question is asked of a witness before the witness gives an answer
25 because there is a belief maybe that the question posed was

1 inappropriate or goes into a topic that's irrelevant or things like
2 that. So an attorney raises an objection.

3 If I sustain an objection that means, you know, the party
4 posing the question needs to rephrase the question or move on to a
5 different topic. If I overrule it that means witnesses, go ahead and
6 answer the question. Sometimes objections are raised after a
7 witness has already started answering a question.

8 We all know folks that maybe you just kind of say hello to
9 them in passing and five minutes later they're still talking to you,
10 right? They're very chatty. People do that in court as well, even
11 though we have strict kind of rules on how to present evidence in
12 court. So sometimes it may be that a witness goes off talking about
13 something that's way beyond what the question was about, and an
14 attorney raises an objection and asks the Court to strike certain
15 things because they were nonresponsive to the question.

16 If that happens and I order something to be disregarded
17 or stricken, you have to do just that. Even though you've heard it,
18 you can give it no weight or consideration in your deliberations.

19 Now with regard to the witnesses themselves in
20 considering the weight and value of the testimony of any witness,
21 you can take into consideration the appearance, attitude behavior of
22 the witness; the interest, if any of the witness in the outcome of the
23 case, the relationship, if any, of the witness to either the State or the
24 Defendants, and the overall consideration of the witnesses'
25 testimony in light of all the other facts and circumstances in the

1 case. So you can give whatever weight and value you want to each
2 witness and to portions of the witnesses' testimony. That's solely
3 within your wheelhouse to decide.

4 After all the evidence has been presented, regardless of
5 which side's presented, that's when we would have closing
6 arguments. As I discussed with you, you'll get a packet of jury
7 instructions that I'm going to read to you, and you get your
8 individual packets. That happens before closing arguments. Then
9 we'll have closing arguments.

10 Because the State has the burden of proof in the case,
11 they get to both start and end closing arguments. So the
12 Prosecution gives a closing argument, the Defense -- each
13 Defendant has an opportunity to give a closing argument, and then
14 the State can give a rebuttal closing argument.

15 Closing arguments, like opening statements are the words
16 of the attorneys, they're not evidence. But it is the opportunity for
17 the attorneys to discuss with you the law that you've just been
18 given by me and the facts that have come out during trial and
19 discuss with you how to mesh that together to come up with a just
20 and proper verdict in a case.

21 After the arguments are concluded, that's when you all
22 will go back to deliberate.

23 During the course of the trial, we give you notepads and
24 clipboards, obviously to be able to take notes, which is important
25 because you do not get a transcript at the end of the case to tell you

1 everything that was said.

2 Don't make any inference from when I'm taking notes. I
3 may be taking notes about witnesses, I may be taking notes about
4 jury instructions, I may be taking notes about, you know, my other
5 cases that are calendar tomorrow morning. You just need to take
6 notes when you think it's appropriate.

7 The only thing I would caution you, it's important to watch
8 and listen to people as they testify as well. So don't let really
9 ambitious notetaking interfere with your ability to kind of pay
10 attention to people while they're testifying.

11 A couple things about what you can and cannot do during
12 trial. If during the course of the trial any of you discover or come
13 upon the belief that you know something about the case or
14 somebody involved in the case, and it did not come up during jury
15 selection, I need you to let me know and I need you to do that by
16 notifying the marshal. And please do not talk with any other jurors
17 about what it is you think you know about a person or about the
18 case.

19 And here's usually how this happens. It's not terribly
20 uncommon. You get this giant list of witnesses that are spoken to
21 you about by the attorneys, right; but we don't give you any kind of
22 yearbook where you could look at everybody and figure out if you
23 think maybe you know them. Occasionally somebody comes into a
24 court and a juror says whoa, you know what, I didn't recognize their
25 name but I think that person lives in my neighborhood, their kid

1 goes to school with my kids, they go to my grocery store, whatever
2 it is. So I think maybe I've met them before or have some
3 knowledge of them.

4 Anything like that happens, like I said, just let the marshal
5 know. Please don't tell any other jurors about what it is you think
6 you know and then we'll talk about it and we'll figure out what, if
7 anything, we need to do, okay? All right.

8 You cannot communicate with anybody outside of the
9 court during the trial, including yourselves. When we take recesses,
10 you have to find other things to chat about. You cannot talk about
11 the case until you're in the deliberation room deliberating. And
12 most particularly, you cannot talk with attorneys, witnesses, parties,
13 anybody else.

14 We will endeavor as long as we can to have you in the
15 deliberation room during our recesses. The only time that becomes
16 a problem is if any other courts on my floor have juries that need to
17 deliberate in that room. But I don't think that's going to happen so
18 we should be able to get you back there whenever you come in, in
19 the morning and then during our recesses as well.

20 You cannot visit the scene of any of the acts or
21 occurrences that are made mention of during the trial, unless I
22 specifically direct you to do so.

23 You cannot do any legal or factual research on your own.
24 We talked about please do not engage in any kind of social media
25 communication on your own.

1 I don't tell jurors not to watch the media or read the
2 newspaper or anything during a trial but you have to be cognizant
3 of not looking at, or listening to, or reading or anything -- any media
4 stories that are related to this case, okay? You know yourselves
5 best. That may be that, you know, what -- you do everything on the
6 internet and you're just searching stuff so maybe you do say I'm
7 going to avoid doing that for right now. But you just have to avoid
8 any kind of media reporting on the case during the pendency of our
9 trial.

10 Also, you must not be influenced in any degree by any
11 sympathy for or prejudice against either the State or either
12 Defendant. All three sides are entitled to the same fair and
13 impartial considerations from our jurors.

14 Jury questions. We talked about this a little bit during jury
15 selection, I mentioned it to you all. You'll be given the opportunity
16 to ask written questions of any of the witnesses who are called to
17 testify during the case. You're not encouraged to ask a large
18 number of questions because that's the primary responsibility of
19 the attorneys. I have the ability to preclude individual jurors from
20 asking an excessive number of questions, but in 15 years I've never
21 had to do that. Jurors are always more than appropriate.

22 Your questions are posed at the end of a person's
23 testimony. So the State calls a witness, the witness comes up to
24 the stand, the State gets to do what we call direct examination,
25 that's their opportunity to question the witness. Then the Defense

1 attorneys each have an opportunity to do cross-examination of the
2 witness; that may go back and forth a couple of times. We call it
3 redirect examination and recross-examination.

4 Once they're all done, I will look over to you all and say do
5 we have any questions from our jurors. Again, it has to be in
6 writing so you can't just fire it off by speaking it. You got to just
7 raise your hand to let me know you have a question. The marshal
8 will come over and collect it from you. You can just put it on a
9 clean sheet of paper. I have to write some notes on it so don't --
10 sometimes jurors tear off tiny little sheets of paper so at least a half
11 a page, if you would for me.

12 Your questions, to be legally appropriate, need to be
13 factual in nature and designed to clarify information already
14 presented by the witness. So it can't be a question for me, it cannot
15 be a question for some other witness. It needs to be I'm listening to
16 this person testify, there's something they're explaining that I need
17 clarification on and I'm going to write my question down.

18 What I generally tell jurors is, as the testimony is going, if
19 you have questions be writing them down. As testimony continues
20 on, usually most of your questions get answered, so maybe you're
21 just crossing those out. But if we get to the end and you still have a
22 question, like I said raise your hand, let me know.

23 The marshal will collect them from you, I'll discuss your
24 questions with the attorneys, and if I decide that they're legally
25 appropriate, I'll ask the questions of the witness and then the

1 attorneys will get an opportunity to follow up.

2 The only thing I do need you to do is make sure you write
3 your juror number on the question, just like up at the top left or
4 right, just your number and a circle around it. And we just start
5 where Ms. Hocker is with Number 1, all the way down to Ms. Evans,
6 Number 14. Okay?

7 All right. That's pretty much everything I have.

8 I think we discussed, and I apologize if we didn't, but
9 during jury selection, I think we discussed that we generally take a
10 break about every hour and a half to two hours during testimony to
11 give people an opportunity to stretch, use the restroom, grab
12 something to drink if you want. If you need a break earlier than
13 that, you don't feel well, you need to use the restroom, anything
14 like that, just get somebody's attention, mine or the marshal's and
15 we can take a break.

16 If you cannot hear a witness -- sometimes our microphone
17 tends to get pushed out of the way when something's going on,
18 raise your hand to let us know and we'll make sure we get the
19 microphone close to the witness, and the witness close to the
20 microphone. If you're just generally having problems with hearing,
21 we have some headphones that we can give you to assist you with
22 that.

23 No witnesses testifying in a foreign language, correct?

24 MR. PESCI: No, Your Honor.

25 THE COURT: No, okay. Keep an open mind. It's

1 important that you keep an open mind as we talked about in jury
2 selection and not decide any issues in the case until the case is
3 finally submitted to you.

4 And finally, unless you want everybody hearing your
5 really crazy ringtone on your phone, please make sure that you
6 silence your phones when you come into court. I don't make
7 people turn them off, but even if they're on vibrate, that can get
8 kind of loud and interfere with the audio system of the Court, so if
9 you would just completely silence it before you come in, that would
10 be great, okay?

11 So thank you very much. I will turn it over to the State for
12 opening.

13 MR. PESCI: Judge, would it be all right if I move that
14 board a little bit?

15 THE COURT: Yeah.

16 MR. PESCI: Thank you.

17 THE COURT: Oh, I'm sorry. Ms. Overly.

18 MS. OVERLY: Thank you.

19 THE COURT: Got to hit the big blue button on here,
20 Sarah.

21 MS. OVERLY: Oh, this one?

22 THE COURT: Yeah, there you go.

23 MS. OVERLY: Okay.

24 THE COURT: Oh, maybe not.

25 MS. OVERLY: Hit it one more time?

1 THE COURT: Hit it one more time.

2 MS. OVERLY: Are you logged into the [indiscernible]?

3 MR. PESCI: Yep.

4 THE COURT: It's coming. Slow and steady.

5 MS. OVERLY: Okay.

6 **OPENING STATEMENT FOR THE STATE**

7 BY MS. OVERLY

8 So why are we here? Why are you here? Why am I here?
9 Why are they here? Because, on June 8, 2018, approximately a
10 year ago, this is what happened to Matt Minkler. 17-year-old, Matt
11 Minkler.

12 [Video playing]

13 BY MS. OVERLY:

14 And this is how his friends, Jaiden Caruso and Kody
15 Harlan left him, after taking that video.

16 Now in order to understand how we get to that place, and
17 how we get here, it's important to first recognize what happened
18 that day. And on June 8, 2018, you're going to hear that there were
19 several high school kids -- high school boys, that all decided to
20 meet up at 2736 Cool Lilac Avenue.

21 You're going to hear that this was an abandoned house,
22 and that various high school kids were coming in and out of that
23 house that day. And that those individuals included the
24 Defendants, Kymani Thompson, Alaric Oliver, Charles Osurman,
25 and Ghunnar Methvin. And you're going to hear that they hung out

1 there, they were smoking, they were drinking, they were doing
2 drugs. Everyone.

3 You're also going to hear that two of those individuals
4 that happened to be at the house that day had guns. And those two
5 individuals were the Defendants. You're going to hear that Kody
6 Harlan possessed a semi-automatic weapon, and you're going to
7 hear that Jaiden Caruso had a .357 revolver.

8 You're going to hear that they primarily hung out in this
9 living room area of the house. That that's where they were
10 listening to music, smoking weed, hanging out, and that's also
11 where the Defendants were brandishing their weapons; oftentimes,
12 taking them out, pointing them, pointing them at people, and even
13 at one point, shooting them.

14 And you're going to see that there's a pattern here of
15 wanting to document that conduct. And Jaiden Caruso did just that
16 when he documented this .357 revolver while they were hanging
17 out.

18 [Video Plays]

19 BY MS. OVERLY:

20 And you're going to hear that during this time the
21 Defendants were at that house, as well as some of the other high
22 school boys that we're going to hear from. And that during the day,
23 there was some sort of conversation between the Defendants, that
24 they wanted to rob someone for weed. They needed more weed,
25 and they wanted to rob someone. You're going to hear that they

1 also referred to this as a lick, and that at some point, Matt Minkler's
2 name was brought up.

3 And you're going to hear that Matt Minkler also,
4 oftentimes had weed on him, and sold weed, and that they wanted
5 to then go pick him up and bring him back to the house. And that's
6 exactly what they did.

7 The only two people to have left that house and pick up
8 Matt Minkler, were the Defendants. They drove, picked Matt up,
9 and brought him directly back to that house. You're going to hear
10 that when they went back to that house, they were hanging out
11 again, drinking, smoking, brandishing their weapons -- and by
12 brandishing their weapons, I mean the Defendants.

13 And you're going to hear that at one point, in consistency
14 with what's been happening, the Defendant, then took that revolver
15 out -- Jaiden Caruso -- and he shot it up into the ceiling. And you're
16 going to see that Matt Minkler actually documented this in a video.

17 [Video playing]

18 BY MS. OVERLY:

19 And consistent with brandishing that weapon, you're
20 going to see in that video that Kody Harlan had a semi-automatic
21 weapon out, with a laser on it, and was also pointing it.

22 You're going to hear that that shot into the ceiling scared
23 some of the individuals that were there. You're going to hear that
24 Kymani Thompson, and Ghunnar Methvin were terrified, they in
25 fact, thought they had been shot, and they fled the house. They

1 didn't want to be a part of this anymore.

2 You're going to hear that at that point and time, Charles
3 Osurman, Alaric Oliver, the Defendants, and Matt Minkler remained
4 in this house.

5 And you're going to hear that at one point in time, Matt
6 stood up, walked over to this kitchen area, and wanted to see
7 Jaiden Caruso's revolver. That he did just that. He picked it up, he
8 looked at it, he handled it, and he placed it back down on the
9 counter.

10 After doing so, Jaiden Caruso stood up, walked over to
11 that very kitchen island, picked up that revolver that he had handled
12 the entire morning, pointed it at Matt Minkler, and shot him directly
13 in the face.

14 You're going to hear that the immediate reaction from
15 Jaiden Caruso and Kody Harlan was not to call 9-1-1. It was not to
16 call an ambulance. It was not to drive back to Matt Minkler's house
17 to contact his family. It was to do what he had been doing the
18 entire day, which is document it.

19 [Video playing]

20 BY MS. OVERLY:

21 And you're going to hear from the coroner in this case
22 that Matt Minkler suffered a gunshot wound to his left chin area.
23 And that that gunshot wound traveled and traversed all the way
24 into the back of his vertebral bone, and it shattered, and bullet
25 fragments remained inside.

You're also going to see that even after that first video taken of his friend, Matt Minkler, Jaiden Caruso wasn't done documenting the full extent of what he had just done. So it was time to take a second video. This time, the second video was somewhat of a foreshadowing event, because he started to clean off his shoes, which is exactly what he was planning to do with Kody Harlan immediately after taking this video.

[Video playing]

BY MS. OVERLY:

And you're gonna hear another individual in the background of that video, and you're going to hear that that individual's name is Traceo Meadows. And Traceo, while he hadn't been there that day, arrived after Matt had been shot. He stumbled upon the scene, saw what occurred, and made contact with the Defendants.

And you'll see that at that point in time, he came exactly at the moment upon which the Defendants decided it was time to get rid of this body. It was time to clean up this scene.

And you'll see that that's exactly what they started to do. You'll see there are bloody sheets, towels on the floor. You'll hear that Kody Harlan removed Matt Minkler's shoes, that he checked Matt Minkler's pockets, that he removed his wallet, and you'll hear that Jaiden Caruso then enlisted Traceo Meadows to help him drag Matt Minkler's body into a nearby closet. Not to the car, not to an ambulance; to a closet. And that when placing him in that closet,

1 they threw him in there, threw a tarp over him, and rest in peace
2 was spray painted on the outside of that hallway closet.

3 You're also going to see that there was evidence of spray
4 paint throughout that house. Some of which occurred before this
5 event, some of which happened after this event. But more notably,
6 you're going to see that the words Fuck Matt, were written on the
7 outside of the very closet upon which his friends left him in.

8 You're going to hear that the blood on the floor was
9 cleaned up. That the nozzle from the sink was used to spray water
10 on the floor to alleviate some of that red blood stain, and that
11 Clorox wipes were found on the floor, opened, in an effort to again,
12 clean up the crime scene.

13 You're also going to hear that on top of Matt Minkler's
14 body, on top of the tarp that was laid so carelessly over him, was
15 his phone. And his phone was not in the same condition it was
16 when he had recorded that video mere hours before. Now, his
17 phone was cracked, and pretty much irreversibly broken.

18 You'll hear from Jared Spangler, a detective from
19 Henderson, who did the forensic analysis on that phone, and he'll
20 tell you that the phone was not only shattered, but it had been
21 burnt. That he had to completely replace the digitizer of that phone.
22 That the USB port had been completely broken and damaged, and
23 that phone was virtually inoperable at this point.

24 And you're going to hear that after shooting Matt Minkler,
25 after cleaning up the scene, after all of this occurred, the

1 Defendants didn't call the police for their friend, Matt Minkler. They
2 didn't call an ambulance. They didn't call his family. After taking
3 that video, they decided the next thing to do was to go to the mall.

4 And that's exactly what they did. They drove to the
5 Galleria Mall. In the very same vehicle they went and picked Matt
6 up in, and brought him back to that house, they got into that
7 vehicle, after cleaning up that crime scene, after taking those
8 videos, and drove to the Galleria Mall.

9 While they were there, they did some shopping. And they
10 shopped for shoes. You'll see that they went to Shoe Palace at the
11 Galleria Mall. They bought some shoes. You'll even see video
12 footage from them at Footlocker, where they again, casually walked
13 around the store, picked out some items, Kody Harlan bought some
14 new shoes, paid cash for those shoes. And you'll see that
15 documented here, in the receipt, which is dated 6/8 at 3:52 p.m.

16 You'll hear that even after their trip to the mall, no one
17 called police, no one called an ambulance, no one went back to that
18 house for Matt Minkler. Instead, after the mall, it was now time to
19 go to a party. So that's what they did.

20 With their new items that they had just purchased, they
21 went to an apartment complex pool party. And you'll hear from the
22 witnesses at that pool party that both the Defendants still had their
23 weapons, were brandishing them, had them out. The Defendant,
24 Jaiden Caruso had a .357 revolver. Kody Harlan had a semi-
25 automatic.

1 They were socializing, talking to people. And you'll even
2 hear from one of the witnesses, Angie Knox, that she overheard
3 Kody Harlan telling her friend, I just caught a body. The same
4 words Jaiden Caruso used when he took the video of Matt Minkler
5 dead on the floor. Not a horrible accident occurred, not I can't
6 believe what just happened. I caught a body. Again, didn't call
7 police after that.

8 Instead, they decided to drive around. They offered to
9 give some of the witnesses from that party a ride home. So whilst
10 they were driving, you'll hear from Officer Cochran, a Henderson
11 Police Department patrol officer, that in her efforts to patrol around
12 the area of Valley Verde in -- I'm sorry -- in the area of Sunset and
13 Green Valley, that she came across the Defendant's vehicle, driven
14 by Kody Harlan.

15 And that in an effort to make a traffic stop, the Defendant
16 didn't stop, he fled. And in his efforts to flee, caused an accident
17 with not only another vehicle, but their own vehicle. You'll hear
18 that even after this accident, they fled. You'll hear that Jaiden
19 Caruso fled from the passenger seat of that vehicle, through the
20 Chevron parking lot, through a restaurant, causing Officer Cochran
21 to have to chase him, and ultimately apprehend him.

22 And you'll also hear that Kody Harlan fled from the
23 driver's seat, and when he fled, he fled in the area of the Villas
24 Apartments. And that's important because you're going hear that
25 Jaiden Caruso actually lives at the Villas Apartments. And you're

1 going hear that officers didn't recover the semi-automatic weapon
2 that we see Kody Harlan holding in that video.

3 And you're going hear from Detective Spangler, the one
4 who did the forensic analysis on the phone, that Jaiden actually
5 received a text message approximately an hour after the accident.

6 You okay? Your friend just showed up. He said you lost
7 each other; he's trying to meet back up.

8 And you'll ultimately hear that Kody Harlan was
9 apprehended in the area of the Villas apartments.

10 You'll hear from crime scene analysts that processed that
11 Mercedes, that vehicle, and that they recovered a .357 revolver in
12 the passenger side compartment seat, as well as the bullet casing.
13 You'll hear that that revolver and the bullets that go to it matched
14 the same bullet fragments recovered from Matt Minkler's neck.

15 You'll also see that Matt Minkler's wallet was recovered
16 from the back seat of that vehicle. A shirt worn by Jaiden Caruso
17 that day. And you'll see that the contents of that wallet had
18 nothing, but Matt Minkler's Silverado High School's ID card in it.

19 So, Ladies and Gentlemen, that's why we're here.
20 Because on June 8, 2018, the Defendants decided and conspired to
21 rob their friend, Matt Minkler, murder him, steal from him, and
22 leave him for dead, in a hallway closet, in an abandoned house,
23 while they socialized around the city, and bought a few shoes.

24 And the State's confident that after you hear all the
25 evidence in this case, you will return a verdict of guilty on all the

1 charges. Thank you.

2 THE COURT: Thank you. Mr. Yampolsky.

3 **OPENING STATEMENT FOR THE DEFENDANT CARUSO**

4 BY MR. YAMPOLSKY:

5 This is a case about stupid kids, doing drugs, and playing
6 with guns, which ended up in a tragic result. Play with fire, you get
7 burned; play with guns, you get shot.

8 I represent Jaiden Caruso. Who is he? Is he some sort of
9 criminal mastermind? No. Stupid kid, doing drugs, playing with a
10 gun, with a tragic result. He didn't wake up that morning and say,
11 I'm going kill Matthew Minkler. Got up that morning and said, I'm
12 going get high with my friends.

13 He went there, had a gun; wasn't the only one that had a
14 gun. Was doing drugs -- when I say doing drugs, he was doing
15 Xanax. He was zonked out on Xanax, and not your average type
16 Xanax, but what's called on the street, Benzos, which is
17 Benzodiazepine. These Xanax are -- for lack of a better word, Xanax
18 on steroids. And that's what he was doing that day.

19 You saw in the State's video, and the pictures, you saw
20 what he looked like. He's about 30 pounds lighter, had a flat affect,
21 because he was zonked out on Xanax. You won't hear any
22 evidence that he took any of Matthew Minkler's property; that he
23 stole the property; that he drove off with the property. You won't
24 hear that. Once again, this is just stupid kids, doing drugs, and
25 playing with guns, which came out with a tragic result.

1 And this is not a who done it. I'll tell you right now, my
2 client shot and killed Matthew Minkler. Did he intend to kill him?
3 No. Did he murder him? No.

4 And Ladies and Gentlemen, when you've heard all the
5 evidence, I will ask you for a not guilty verdict on the murder, and a
6 not guilty verdict on the robbery. Because it's just stupid kids,
7 doing drugs, playing with guns, and an absolutely tragic result.

8 THE COURT: Thank you. Okay. Mr. Helmick, do you
9 need a quick break to get that?

10 MR. HELMICK: Just like five minutes.

11 THE COURT: Okay.

12 MR. HELMICK: Sure.

13 THE COURT: Ladies and Gentlemen, we're going to take a
14 quick recess before we continue on with openings. Every time we
15 take a recess, you can just leave your notepad and clipboard in your
16 chair. And we'll always go out this side door back towards the
17 deliberation room.

18 So during the recess, you are admonished not to talk to,
19 or converse among yourselves, or with anyone else on any subject
20 connected with the trial, or read, watch, or listen to any record of, or
21 commentary on the trial by any medium of information. Including,
22 without limitation the newspaper, television, internet, and radio.
23 And you cannot form or express any opinion on any subject
24 connected with the case, until it is finally submitted to you. No
25 legal, or factual research, or investigation on your own.

1 Thank you.

2 It's not rude if you get up and start moving while --

3 JUROR NUMBER 11: Oh, okay.

4 THE COURT: -- I say that, because --

5 JUROR NUMBER 11: Good.

6 THE COURT: -- I'm going to be saying it so often --

7 JUROR NUMBER 11: -- I was worried.

8 THE COURT: -- so you're -- don't worry, Shayra, you're

9 fine.

10 [Court recessed at 10:13 a.m., until 10:24 a.m.]

11 [In the presence of the jury]

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

13 THE COURT: All right. You all can be seated. Thank you.

14 We will be back on the record. Mr. Harlan, Mr. Caruso, all the

15 attorneys, all of our Jurors.

16 Is everybody there, Bridget? Yes? I can't see through the

17 monitors, so I'm just making sure we got all our Jurors.

18 Okay. We will continue on with opening statements on

19 behalf of Mr. Karland. Mr. Harlan -- excuse me.

20 Mr. Helmick.

21 MR. HELMICK: Thank you very much, Your Honor.

22 Good morning, everybody.

23 THE JURY: Good morning.

24 ...

25 ...

1 **OPENING STATEMENT FOR THE DEFENDANT HARLAN**

2 BY MR. HELMICK:

3 This case is about one drugged up, reckless kid, who killed
4 someone for no reason. But, it's not about some robbery. It's not
5 about some lick. Bro, I just caught a body. I killed Matt. I shot him.
6 I shot him on accident. I just caught a body.

7 Not we just caught a body. Not we shot him. Not we shot
8 him on accident. Not we anything. Those are the words that came
9 from Jaiden Caruso, and Jaiden Caruso only.

10 There were no more dry clicks of the gun in this sick game
11 that Jaiden Caruso, and Jaiden Caruso only, was playing that day.
12 But this was no game. Russian Roulette can hardly be considered a
13 game. It's life or death. And in this case at the hands of another
14 person, surrounded by other kids who didn't even want to play.

15 When the gun clicked no more, Matthew fell to the
16 ground. When the gun clicked no more, Matthew fell to the ground.

17 The loud bang inside of the house that day, caused my
18 client, Kody Harlan, to pop up from the couch, which he had been
19 laying down on, asleep. You see, Kody had taken so much Xanax,
20 smoked so much marijuana, and dranken alcohol, that he was
21 basically like a zombie at the time that Jaiden pulled the trigger that
22 killed Matt. Barley even able to stand up from the couch he had
23 been laying down on the majority of the day.

24 The telephone rings, and on the other end of the line, Matt
25 says to Jaiden, can you pick me up? I've got you on some when

1 you get here. It's broad daylight outside in another -- in the middle
2 of another hot, Las Vegas summer day. All the kids have just
3 gotten out of high school, Kody's driving the car, Jaiden's sitting in
4 the passenger seat, as they pull up near the front of Matt's house.

5 Outside of Matt's house is Matt's sister and her fiancée.
6 They see Matt get into the right, rear passenger seat of the car.
7 Now, neither Kody, nor Jaiden, make any efforts to discretely, or
8 secretly, pick Matt up without anybody seeing them. They don't
9 pull around the corner here to pick Matt up. They don't pull around
10 the corner here to pick him up. They don't pull around the street
11 over here to pick him up. They pull into the cul-de-sac next -- near
12 the front of Matt's house to pick him up. Matt gets into the car, he
13 says what's up to Jaiden, he says what's up to Kody --

14 MR. PESCI: Judge, I apologize, I'm going to object as to
15 what Matt said, that's hearsay.

16 MR. HELMICK: Oh --

17 THE COURT: Well, I'll overrule the objection now for
18 opening statement.

19 MR. HELMICK: Thank you.

20 THE COURT: You can go ahead.

21 BY MR. HELMICK:

22 When Matt gets into the car, he has his cell phone with
23 him, he has a fresh bag of -- a small Ziploc bag of marijuana on
24 him, and he has his wallet.

25 Now, at the time that he got into the car, both Kody and

1 Jaiden, had their handguns on them. Matt was alone in the car,
2 with a fresh bag of marijuana, with his wallet presumably with
3 some cash in it, and his cell phone.

4 They don't drive him out to some secluded desert location
5 and rob him for everything that he has at gun point. They don't tell
6 him to hand it all over and kick him out of the car. Nothing that a
7 normal robbery-type of situation would involve. If there was some
8 plan to rob Matt that would have been the time to do it. Instead,
9 what do they do? They drive back to the party house, where all
10 their friends are at; to hang out, smoke marijuana, take Xanax, and
11 listen to music.

12 When Matt walks into the house, he pulls out his bag of
13 marijuana, there's a discussion about who's smoking what, who's
14 rolling what. He's rolling a marijuana cigar, so that he and some of
15 the other kids in the house can smoke it. He was giving it away for
16 free, by letting his friends smoke it. There's no need to rob
17 someone of something, that they're giving away for free.

18 Now, everything in the house was going fine for a while,
19 until Jaiden decides he wants to play some modified version of
20 Russian Roulette. Under his rules, of which nobody was even made
21 aware, he would take all, but one of the bullets out of the revolver,
22 spin the cylinder, and then point the gun at other people in the
23 room, including himself, and pull the trigger.

24 As you can imagine, this caused fear and tension among
25 some of the other kids in the house. Their fear became a reality

1 when all of a sudden, Jaiden takes the gun out and shoots into the
2 roof, and everybody jumps out of their seats, checking to see if they
3 had been hit by anything. They look at Jaiden, he's covering his
4 belly, and when Jaiden has everybody looking at him, he takes his
5 hands off his belly, and he starts laughing, and pointing to the
6 ceiling.

7 That was the last straw for some of the kids in the house,
8 and so they left. Other kids stayed in the house. The kids, as you
9 will see, that stayed in the house, was a kid named Charles, a kid --
10 Kody stayed in the house, Alaric stayed in the house, Jaiden, and
11 Matthew.

12 Now, as you already know, things were about to take a
13 turn for the worse, right? They continued to stay in the house,
14 smoke more marijuana, listen to music, and so forth. Matt wanted
15 to see Jaiden's gun, and so he asked Jaiden, can I see your gun; as
16 any teenage boy would want to check out the gun. Matt takes the
17 gun, he looks at it, flips it over, sets it on the kitchen counter.

18 Jaiden, who was sitting directly to his left, stands up out
19 of his chair, all wobbly from the Xanax and the marijuana that he
20 had taken. He picks up the gun, and he points it at Matt, just like he
21 had done to other kids in the house that day, including himself, and
22 he pulls the trigger. But this time, there was no dry clicking sound
23 that came from the gun. No, this time, it was the loud bang of a
24 fired gun, and Matthew dropped to the floor.

25 At the time that Jaiden pulled the trigger that ended this

1 young kid's life, Kody was asleep, or nearly passed out on the
2 couch. You're going to hear this from people who were in the
3 house at the time, other kids that were in there. It was only after
4 the shot was fired, that Kody even woke up, and knew what the
5 heck was even going on.

6 They say a picture speaks a thousand words, right? Well,
7 if that's the case, then a video must be worth a million. Now, you
8 saw the videos in this case. Absolutely horrendous, right? Two of
9 which shocked the conscience of any human being. But what's
10 important to note from our perspective from those videos, is that
11 Kody is not visible in a single one.

12 What's also important to note, is those videos were filmed
13 and narrated by Jaiden, and Jaiden only. It came from his phone.
14 What's another -- what's also important to note, is there's no talk
15 about robbing Matt, doing some lick on Matt, anything like that. He
16 doesn't pull out his phone and say, I just robbed Matt. Sadly, what
17 he says is much worse.

18 But let's talk about these robbery allegations for a
19 moment. The police in this case, seized both, Kody's and Jaiden's
20 cell phone. They went through every text message, every e-mail,
21 every social media account, every post, every comment; not a
22 single one talks about wanting to rob Matt, or do a lick on Matt, or
23 anything like that.

24 You're also going to hear from nearly every single person
25 who was in the house that day, all the other kids in the house.

1 Nearly every single one, in that small living room area said they
2 never heard any conversation about wanting to rob Matt, never
3 heard any conversation about wanting to do a lick on Matt. There
4 was no hostility towards Matt at all. The only person that says that
5 they even heard the word lick mentioned was a kid named Kymani
6 Thompson, and he only says that he vaguely remembers the
7 mentioning of the word lick being thrown out in conversation. He
8 vaguely remembers.

9 Now, this case -- I just want to go back to this. This case is
10 about one drugged up, reckless kid, who killed someone for no
11 reason. But it's not about some robbery, it's not about some lick.
12 It's not about some premediated murder. And guess what? It
13 doesn't have to be, because it's already as bad as it gets.

14 Did Kody do something wrong in this case? Did he do
15 something illegal? You bet. Am I going to ask you at the end of
16 this trial to convict him for what he did wrong? Absolutely.
17 Because, convicting somebody for the crime for which they actually
18 did, is called justice, but to convict somebody for the crime for
19 which they did not do, that's called injustice.

20 Nobody talks about this better, than this man right here.
21 What does he say? He says: Injustice anywhere is a threat to
22 justice everywhere. Injustice anywhere is a threat to justice
23 everywhere.

24 Kody helped move the body. He did some bad stuff,
25 right? He was an accessory to murder. That's beyond a reasonable

1 doubt. You have the right to convict him of that at the end of this
2 trial. But he wasn't the one that pulled the trigger. He wasn't the
3 one that killed Matt and ended this young kid's life.

4 This was a one-player game. Only one person in this
5 courtroom, not two, is responsible for the death of an innocent
6 young kid, named Matthew Minkler, and his name is Jaiden Caruso;
7 not Kody Harlan.

8 At the end of this trial, I'm going to ask you guys to do
9 two things. Two things. One, to do justice, by convicting him for
10 the crime for which he actually committed; for what he did wrong.

11 And two, to prevent injustice, by finding him not guilty for
12 what he did not do. For not being the one that killed Matt. For not
13 being a part of some alleged robbery. Thank you.

14 THE COURT: Thank you.

15 All right. The State may call their first witness.

16 MR. HELMICK: Let me just move this

17 THE COURT: Can you -- yeah, you can just slide it over.

18 MR. PESCI: While he is doing that, can we approach really
19 fast, Judge?

20 THE COURT: Yes.

21 [Bench conference transcribed as follows.]

22 MR. PESCI: I think we need to make a record from the
23 Defendants that he was on board --

24 MR. YAMPOLSKY: Wait, wait, I can't see.

25 MR. HELMICK: I'm sorry.

1 MR. YAMPOLSKY: If I can't see, I can't hear.
2 MR. HELMICK: I apologize.
3 THE COURT: So here's the thing, when we take a break at
4 lunch, I'll inquire about that. I don't think it's the same as what we
5 used to do --
6 MR. PESCI: Right.
7 THE COURT: -- where prior to trial somebody had to say
8 I'm going to concede certain things and we would canvas our client
9 about it. But nonetheless I will ask him.
10 MR. PESCI: Okay. And I'm happy -- we're happy -- the
11 State to step out. I just didn't know about proceeding with
12 witnesses before you wanted to do that or if you wanted to wait
13 until --
14 THE COURT: No, I'm okay. Because the case law that
15 came out after that said that's not even really an inquiry the Court
16 has to make.
17 MR. PESCI: Sure.
18 MR. HELMICK: And as an Officer of the Court -- we talked
19 about that.
20 THE COURT: Yeah.
21 MR. PESCI: I'm sure he has. I just want a record from the
22 Defendants' mouth later on, so he can't turn around and say
23 something.
24 THE COURT: Okay.
25 MR. PESCI: The tough thing though is the United States

1 Supreme Court has kind of waffled on that, right, because they've
2 talked about it --

3 THE COURT: Well then that's --

4 MR. PESCI: -- in the context of first versus second.

5 THE COURT: -- trial judge [indiscernible].

6 MR. PESCI: I'm sorry?

7 THE COURT: [Indiscernible] trial judge [indiscernible]
8 yesterday.

9 MR. PESCI: Yes. Again, for the record, Giancarlo Pesci.
10 There's like some issue about conceding second, I think there is. I
11 know locally, the last word on it is you don't have to get the word
12 from the Defendant. But the United States Supreme Court in the
13 case where it was someone with mental health issues --

14 THE COURT: Right.

15 MR. PESCI: -- was it a first or a second and his attorneys
16 conceded to second.

17 THE COURT: Right.

18 MR. PESCI: The United States Supreme Court, I think it
19 was Joseph Ginsberg ruled you can't do that.

20 THE COURT: Right.

21 MR. PESCI: And so it's -- to me it's somewhat nebulous.
22 I'm sure he talked about it. I'm sure the Defendant's going to say
23 that. I just want to make a record and I didn't know if we wanted to
24 do --

25 THE COURT: So --

1 MR. PESCI: -- it before witnesses hit the stand.
2 THE COURT: We'll do it when we take our break. But did
3 you have that conversation with Jaiden as well I'm sure.
4 MR. YAMPOLSKY: I haven't --
5 THE COURT: About conceding that he --
6 MR. YAMPOLSKY: -- had a conversation with Jaiden at
7 this stage of the game.
8 THE COURT: Have not?
9 MR. YAMPOLSKY: Have not.
10 THE COURT: About conceding that he fired a shot?
11 MR. YAMPOLSKY: No, I told him about that, yeah.
12 THE COURT: Oh, good. Great. All right.
13 MR. PESCI: Because he didn't say that he committed a
14 crime, just that he did shoot.
15 THE COURT: Yeah, all right.
16 MR. YAMPOLSKY: No, I absolutely talked to him about
17 that.
18 THE COURT: Okay. All right.
19 MR. HELMICK: Let me move this for you.
20 THE COURT: Thank you.
21 MR. PESCI: Thank you, Judge.
22 THE COURT: Uh-huh.
23 [End of bench conference.]
24 MR. PESCI: The State calls Officer Katherine Cochran.
25 May I approach your clerk, Your Honor?

1 THE COURT: You may.

2 Oh, and let me give you your phone back since I was
3 watching the video on your phone.

4 Thank you.

5 Could you raise your right hand, please?

6 Thank you.

7 **KATHERINE COCHRAN**

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

10 THE CLERK: Thank you, please be seated.

11 If you could state and spell your name for the record,
12 please?

13 THE WITNESS: Katherine Cochran. K-A-T-H-E-R-I-N-E.
14 Cochran, C-O-C-H-R-A-N.

15 THE COURT: All right. Thank you, ma'am.

16 Mr. Pesci.

17 MR. PESCI: Thank you, Your Honor.

18 **DIRECT EXAMINATION**

19 BY MS. OVERLY:

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

21 A Police officer with the Henderson Police Department, sir.

22 Q And how long have you been doing that?

23 A Two years.

24 Q I want to direct your attention to June 8th of 2018. Were
25 you working as an officer then?

1 A Yes, sir.

2 Q And what capacity within the Henderson Police
3 Department did you work?

4 A I was in the North Area Command patrol.

5 Q Okay. Now -- and when you do that patrolling, are you by
6 yourself in the vehicle?

7 A Yes, sir.

8 Q Were -- specifically on June 8th, in the evening hours,
9 were you wearing a uniform?

10 A Yes, sir.

11 Q Were you in a marked patrol vehicle?

12 A Yes, sir; with lights and sirens.

13 Q When you were out on that evening, was there a car that
14 grabbed your attention?

15 A Yes, sir.

16 Q Tell us about that.

17 A I had just finished a traffic stop on little bit north on
18 Sunset and Valley Verde. I was exiting the parking lot by CVS when
19 I observed a silver Mercedes. The Mercedes drove past me as I was
20 ready to turn out onto Sunset. I observed there to be a placard for
21 a front license plate, but there was no license plate on the front
22 placard.

23 Q All right. So let me stop you there. Are we supposed to
24 have a license plate on the front of the car?

25 A Yes, sir.

1 Q Okay. So is that a traffic violation?
2 A Yes, sir.
3 Q What did you do based on observing that traffic violation
4 of the -- was it silver Mercedes, you said?
5 A Yes, sir.
6 Q Okay.
7 A I pulled out and right when I pulled out the vehicle then --
8 the Mercedes then switched lanes. Just after they used their
9 blinker signals to switch lanes after 100 feet, they switched into the
10 Number 2 turn lane right --
11 Q Yeah.
12 A -- when I changed onto --
13 Q So --
14 A -- Sunset.
15 Q -- these are things we probably should remember from
16 driver's ed, but are we supposed to wait more than 100 feet before
17 turning?
18 A Yes, sir.
19 Q Okay. So is there a traffic violation as far as turning
20 without waiting that time after hitting the blinker so to speak?
21 A Yes, sir.
22 Q Okay. Based on those two things, what did you do?
23 A I went into the turn lane as well, it was a red light and
24 there was a car in between us, so as soon as it turned green, I went
25 to activate my lights and sirens on my vehicle to make a traffic stop

1 on the vehicle.

2 Q Okay. So this is your marked patrol vehicle?

3 A Yes, sir.

4 Q And now you've activated the lights and sirens?

5 A Correct. Yes, sir.

6 Q What happened after you activated the lights and sirens?

7 A As soon as I activated my lights and sirens, the vehicle

8 took off.

9 Q Okay. When you say took off, which direction?

10 A They switched lanes into the Number 1 turn lane and then

11 went around a vehicle at a high rate of speed.

12 Q Okay. When you say the Number 1, where is that?

13 A That'd be the lane farthest to the left.

14 Q Okay. And after that car, the silver Mercedes, did that,

15 what did you do?

16 A I tried to follow the vehicle with my lights and sirens still

17 on.

18 Q And then did something happen that impeded you or

19 prevented you from stopping the car?

20 A Yes, sir. So it was pretty heavy traffic on Sunset and the

21 vehicle tried to go around in the bike lane. When other vehicles

22 saw my lights and sirens on, they went to the right and almost

23 caused an accident with the vehicle that was going into the bike

24 lane.

25 Q So did you observe other vehicles, based on your lights

1 and sirens, pulling off to the right?

2 A Yes, sir.

3 Q And then did you say there was almost an accident?

4 A Yes, sir. So there was almost an accident when the other
5 vehicles went to the right and the Mercedes tried to go around
6 those vehicles. So because of the high traffic, I did terminate my
7 pursuit at that time.

8 Q You terminated your pursuit?

9 A Yes, sir.

10 Q What does that mean?

11 A It means I shut off my lights and sirens because I believed
12 that there was more chance of someone else being hurt, for the
13 way the vehicle was driving.

14 Q Okay. Did you just stop following it?

15 A No, sir. I continued to go the same direction but the
16 vehicle continued to go at a high rate of speed in the bike lane and
17 at that point I observed the vehicle, the Mercedes, drive through a
18 red light on Green Valley and Sunset and cause a car accident.

19 Q Okay. Based on seeing that car accident, what did you
20 do?

21 A I then turned back on my lights and sirens to try and
22 render aid to the -- any of the victims but then I observed the
23 occupants of the vehicle start to run.

24 Q Okay. So where did your attention go after you saw the
25 occupants run?

1 A So I went up to the Mercedes, I parked on just about the
2 right side and I observed someone get out of the passenger side of
3 the vehicle and run through the Chevron.

4 Q Okay. Was that the first person that you saw leave the
5 vehicle and run?

6 A Yes, sir.

7 Q All right. And did you say you pursued that person --

8 A Yes, sir.

9 Q -- running towards the Chevron?

10 A Yes, sir.

11 Q All right. I want to show you what's previously shown to
12 Defense Counsel as State's Proposed Exhibit 1.

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

14 THE COURT: You may.

15 BY MR. PESCI:

16 Q And ask you if you recognize that?

17 A Yes, sir.

18 Q What do you recognize that to be?

19 A That was the Chevron that the crash happened in front of.

20 Q Is that a fair and accurate aerial photo of this intersection?

21 A Yes, sir.

22 MR. PESCI: I'd move for the admission of State's Exhibit
23 1, Your Honor.

24 THE COURT: Any objection?

25 MR. HELMICK: No, Your Honor.

1 MR. YAMPOLSKY: No objection.

2 THE COURT: That'll be admitted.

3 **[STATE'S EXHIBIT NUMBER 1 ADMITTED]**

4 THE COURT: You can publish.

5 MR. PESCI: Thank you, Your Honor. Show --

6 THE COURT: Anything that gets admitted, you can
7 publish, you don't need to ask.

8 MR. PESCI: Thank you very much.

9 THE COURT: Thank you.

10 BY MR. PESCI:

11 Q I'm going to go publish that.

12 A Perfect.

13 Q It's just going to show up on your left side. And while that
14 happens, can you look at State's Proposed 9 through 19 --

15 A Yes, sir.

16 Q -- and let me know if you recognize those.

17 [Colloquy between Counsel]

18 MR. PESCI: Is it all right if I move the board a little bit?

19 THE COURT: Yeah.

20 BY MR. PESCI:

21 Q Have you had a chance to review 9 through 19?

22 A Almost.

23 MR. PESCI: Can everybody see?

24 BY MR. PESCI:

25 A Yes, sir.

1 Q Okay. What'd you recognize 9 through 19 to be?

2 A The car accident from Sunset and Green Valley, sir.

3 Q By the way, Sunset and Green Valley, is that in
4 Henderson, Nevada?

5 A Yes, sir.

6 Q Here in Clark County?

7 A Yes, sir.

8 Q Okay. Are these fair and accurate photographs of the
9 scene that you came upon that you just told the jury about?

10 A Yes, sir.

11 MR. PESCI: Move for the admission of State's 9 through
12 19.

13 THE COURT: Any objection?

14 MR. HELMICK: No, Your Honor.

15 MR. YAMPOLSKY: No, Your Honor.

16 THE COURT: 9 through 19 will be admitted.

17 **[STATE'S EXHIBIT NUMBER 9 through 19 ADMITTED]**

18 BY MR. PESCI:

19 Q Ma'am -- or Officer, I apologize, looking at State's Exhibit
20 1 -- on your lefthand side, there's a screen in there. There is a
21 mouse, I believe.

22 A Right.

23 Q And pad, right? So you can click and circle and make
24 indications with it on there.

25 THE COURT: So click that little green pencil there and

1 then you just left click and draw.

2 THE WITNESS: Okay. Thank you, sir.

3 BY MR. PESCI:

4 Q Could you, with Court's permission, do exactly like he just
5 said, draw where it is that the car, the silver Mercedes came to rest?

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

7 Q And I believe I heard you earlier say that you saw
8 someone come out of the passenger side of the vehicle?

9 A Yes, sir.

10 Q Okay. On this photograph, State's Exhibit 1, the
11 passenger side, would that be the side closer to Green Valley
12 Parkway?

13 A Yes, sir.

14 Q Okay. And the individual in that vehicle ran where?

15 A He ran through the Chevron. So he ran right through the
16 planter area and then through to the back here.

17 Q And would you mind, please, using that mouse to draw
18 the line that you --

19 A Yes.

20 Q -- saw the person run?

21 A He then --

22 Q Now, how did you see this if he's running -- is that an
23 alley?

24 A Yes, sir.

25 Q How did you see that if you're at the car?

1 A So when I was at the car, I observed him run and so right
2 when he took off, I took off after him, sir?

3 Q Were you by yourself?

4 A Yes, sir.

5 Q Okay. Why did you go after him?

6 A I observed a traffic violation and I observed someone
7 running from it, thinking that they possibly were in some accident
8 and they were trying to leave without rendering aid or giving --

9 Q All right. That green line that you're showing us that's
10 State's 1, as you follow along that, were you saying anything?

11 A Yes, sir. I kept saying stop. He kept looking back at me --
12 looking at me and then he kept looking and turning away and
13 continued to run.

14 Q When you say he turned and looked back at you, do you
15 see that person here in court today?

16 A Yes, sir.

17 Q Would you point to that person and describe something
18 the person's wearing?

19 A Right in front of me. He's where it looks like a gray suit,
20 blue shirt, black hair, and a little goatee.

21 MR. PESCI: Your Honor, would the record reflect the
22 identification of Defendant Jaiden Caruso?

23 THE COURT: Yes, it will. Thank you.

24 MR. PESCI: Thank you.

25 ...

1 BY MR. PESCI:

2 Q So Defendant Caruso, what did he do at the end of that
3 green line on State's Exhibit 1?

4 A He attempted to jump over this wall right here. There's a
5 fence that goes to the other side. He went to jump over the wall
6 and at that point I had grabbed his backpack and shoe -- one of his
7 shoes off of him and he fell to the other side.

8 Q All right. So did he make it over the wall?

9 A Yes, sir.

10 Q Had you been able to make it over the wall then?

11 A Not yet, sir, I went around.

12 Q Okay. So tell us what happens after the wall?

13 A So I observe him run and he falls on the ground right here
14 and so then I continue to go around and then I follow him through
15 and observed him go through this way around and then that's
16 when I also followed as well.

17 Q I said this earlier, but I think I just want to go over this one
18 more time. At this point you're dressed in a police uniform?

19 A Yes, sir.

20 Q Were you announcing yourself as an officer?

21 A I do not believe I ever announced Henderson Police, but I
22 told him to stop multiple, multiple times and he looked at me
23 multiple times.

24 Q All right. And you had your Henderson police officer --

25 A Yes, sir.

1 Q Okay. So where did he go after he made the corner at the
2 top of --
3 THE COURT: Can I just make a record real quick --
4 MR. PESCI: Yes.
5 THE COURT: -- to make sure we're clear?
6 So we started from the accident down there at the
7 intersection of Sunset and Green Valley, you drew a line kind of
8 through that desert corner shrubbery area, straight through the
9 Chevron, behind the back alleyway behind the Chevron building.
10 Correct?
11 THE WITNESS: Correct, sir.
12 THE COURT: And then to the right along an alleyway on
13 the northern side of the building?
14 THE WITNESS: Yes, sir.
15 THE COURT: He jumps that wall, you can see running
16 parallel on the picture, you went around the wall and then you said
17 he went this way and then I followed. What's the building there?
18 THE WITNESS: This building? I'm not exactly sure which
19 the exact building is.
20 THE COURT: Okay.
21 THE WITNESS: I know where -- he ended up at the Thai
22 Chili --
23 THE COURT: Okay.
24 THE WITNESS: -- right here.
25 THE COURT: Okay. So in any event, the building that

1 kind of runs to the west and north of the convenience store, he
2 went up and around that building and started going west?

3 THE WITNESS: Yes, Your Honor.

4 THE COURT: Okay. So that's where we are now.

5 THE WITNESS: Yeah, so I followed --

6 MR. PESCI: Thank you, Your Honor.

7 THE WITNESS: -- right there.

8 BY MR. PESCI:

9 Q So let's pick up where His Honor just said. You're moving
10 west at the northern end of that building?

11 A Yes, sir.

12 Q And what happens?

13 A So I continue to chase him through here, I looked -- oh,
14 sorry.

15 THE COURT: It's okay, you can see it.

16 THE WITNESS: Okay.

17 BY MR. PESCI:

18 A And so right here. And then I observed him -- when I
19 turned the corner, I observed him go through the Thai Chili.

20 Q So you were at the northwest corner of the building
21 depicted in State's Exhibit 1, when you saw the Defendant to the
22 south of you entering the Thai Chili?

23 A Yes, sir.

24 Q All right. Did you do anything based on seeing him enter
25 the Thai Chili restaurant?

1 A Yes, sir. I continued to chase him through. I followed him
2 back through --

3 Q That'd be a south direction?

4 A Yes, sir.

5 Q And did you go into the Thai Chili?

6 A I did, yes, sir.

7 Q What happened?

8 A I went through the Thai Chili and I asked if anybody had
9 come through there. Everyone in the building started saying yeah,
10 he's in the back, he's in the back.

11 Q Okay. So did you have to go into the back of the
12 restaurant?

13 A Yes, sir. I went through the restaurant and I tried to
14 strategically clear it, as much as possible, looking for him.

15 Q You're still by yourself?

16 A Yes, sir.

17 Q And when we say the back, we're not talking about where
18 the patrons or customers were?

19 A No, sir.

20 Q Okay. What happened?

21 A So I exited through, I went through here and then right
22 when I exited this door, I observed the Defendant standing outside
23 the door with his hands up and his other shoe in his hand.

24 Q For the record, you went in an easterly direction inside the
25 store, exited a door, which would be on the east side of that

1 building.

2 A Yes, sir.

3 Q And so now we're back to the area of the Chevron parking
4 lot?

5 A Just about. So there is another -- right here there is
6 another fence that gives separation from the Chevron and where
7 the back place is for all of the workers of the Thai Chili place and
8 the other stores.

9 Q So what happened at that location?

10 A I told him to get on the ground multiple times. He
11 continued to say that he didn't do anything, it wasn't him and that
12 he didn't do anything. He eventually did get on the ground and I
13 put him into cuffs.

14 Q Okay. And then after he was taken into the cuffs, what
15 happened?

16 A Another officer showed up by that time. I handed him to
17 the other officer and me and the other officer walked him up to the
18 front, just about -- I say about right here --

19 Q Okay.

20 A -- where the other officer's vehicle was.

21 Q All right. So you just indicated a location which seems to
22 be a parking spot outside of the Terrible Herbst convenience store
23 at the location of Sunset and Green Valley Parkway, is that right?

24 A Yes, sir.

25 Q Now we're going to come off of that for a second and then

1 we're going to go through some pictures and then I want to go back
2 to where we are here, okay?

3 A Yes, sir.

4 Q I think the Court's going to help us and he's going to clear
5 that out.

6 So now looking at State's Exhibit 9.

7 What do you recognize that to be?

8 A The intersection of Sunset and Green Valley.

9 Q Is that where you responded to this crash?

10 A Yes, sir.

11 Q Showing you State's 10.

12 Does that give us the cross street?

13 A Yes, sir.

14 Q All right. And is the silver Mercedes near the Chevron
15 sign?

16 A Yes, sir.

17 Q Now you talked about how there was an actual car
18 accident, correct?

19 A Yes, sir.

20 Q Looking at State's Exhibit 11.

21 What are we looking at here?

22 A That is the vehicle that was involved in the car accident,
23 sir.

24 MR. PESCI: Judge, I'm going to --

25 THE WITNESS: The black vehicle.

1 MR. PESCI: Is it all right if I kind of adjust this a little bit?

2 THE COURT: Sure.

3 BY MR. PESCI:

4 Q And so that -- that's the other vehicle?

5 A Yes, sir.

6 THE COURT: You can zoom it in a little bit as well and
7 that will get rid of the lamp part of it.

8 BY MR. PESCI:

9 Q All right. That's the other vehicle, not the silver
10 Mercedes?

11 A Yes, sir.

12 Q And does seeing State's 12 kind of put in context the two
13 vehicles at the intersection?

14 A Yes, sir.

15 Q State's 14.

16 Does that depict where it was that the vehicle came to
17 rest?

18 A Yes, sir.

19 Q And in actuality, if you -- if we go to State's 15, which
20 would be on the west side of the vehicle, was it right next to, is that
21 a light pole?

22 A Yes, sir. Or it looks like the stop light.

23 Q Okay.

24 A The stop light.

25 Q And State's 16.

1 Is that another angle showing that -- how close it was to
2 that pole?

3 A Yes, sir.

4 Q And State's 19.

5 Does this depict the license plates, so we knew which car
6 we're talking about?

7 A Yes, sir.

8 Q And then State's 17.

9 Is that the damage to the other vehicle?

10 A Yes, sir.

11 Q And State's 18?

12 A Yes, sir.

13 Q Okay. Now I want to go back to State's Number 1, where
14 you ended up with the Defendant Jaiden Caruso. He was in cuffs,
15 right?

16 A Yes, sir.

17 Q Okay. Did you start asking questions?

18 A No, sir.

19 Q Okay. So without asking him any questions, did he say
20 something?

21 A Yes, sir.

22 Q What did he say?

23 A He said that it doesn't matter because when he's 18,
24 everything will just wash off his record.

25 Q Thank you very much.

1 MR. PESCI: Pass the witness.

2 THE COURT: Mr. Helmick?

3 MR. HELMICK: Just briefly.

4 THE COURT: Oh.

5 MR. YAMPOLSKY: That's right, sorry.

6 **CROSS-EXAMINATION**

7 BY MR. HELMICK:

8 Q Officer, you may have already answered this. When you
9 did the stop, the individual that you were chasing, what door did he
10 exit the vehicle from?

11 A The front passenger side.

12 Q Passenger side door.

13 A Yes, sir.

14 Q Okay. Thank you very much.

15 MR. HELMICK: That's all I have, Your Honor.

16 THE COURT: Thank you.

17 Mr. Yampolsky.

18 MR. YAMPOLSKY: I have nothing. Thank you.

19 THE COURT: Any further redirect based on that?

20 MR. PESCI: No. Thank you very much.

21 THE COURT: Anything from our jurors?

22 Yes.

23 You guys can approach.

24 [Bench conference transcribed as follows.]

25 MR. PESCI: Everybody's jumping the gun.

1 MR. HELMICK: Oh geez.
2 THE COURT: What's that?
3 MR. PESCI: They're just jumping the gun.
4 MR. HELMICK: We get to that, right?
5 MR. YAMPOLSKY: Yeah.
6 MR. HELMICK: How'd you get from Thai Chili back to
7 Chevron [indiscernible]?
8 MR. PESCI: From the State's perspective, Juror Number
9 8's question is appropriate. I think Juror Number 1 and Juror
10 Number 11, I don't know if this witness can answer that question.
11 THE COURT: So you said this is okay?
12 MR. PESCI: From the State's perspective.
13 MR. HELMICK: From the Defense, it's fine too. But
14 likewise, these two --
15 THE COURT: You good with that, Mace?
16 MR. YAMPOLSKY: I'm fine with that.
17 THE COURT: On these I'll just ask her did you have any
18 involvement in chasing after him -- anything with the driver.
19 MR. PESCI: Right.
20 MR. HELMICK: Okay.
21 MR. PESCI: That's who we're calling next.
22 THE COURT: Okay.
23 [End of bench conference.]
24 THE COURT: So a couple questions for you, Officer, if I
25 could?

1 THE WITNESS: Yes, Your Honor.

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

3 BY THE COURT:

4 Q Did you have any involvement in chasing, apprehending,
5 anything the driver?

6 A No, sir.

7 Q Okay. And then how did you get from Thai Chili, that back
8 area, to the Chevron parking lot? What path did you take to get
9 back to that other officer?

10 A There is an indent right here in this area --

11 Q Okay.

12 A -- so we came from here and he met me around the
13 corner, and this is when I -- he actually jumped the fence right here
14 and then I gave him to him, and we walked together over here.

15 Q Got it. So you guys just did like a U-turn down and back
16 up?

17 A Yes, Your Honor.

18 Q Okay. Thank you.

19 THE COURT: And just for the record, she's indicating
20 there was an indent down in the southern part closer to getting to
21 Sunset. And then they went back around to into the parking lot of
22 the Chevron station.

23 THE WITNESS: Yes, Your Honor.

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

25 MR. PESCI: No. Thank you very much.

1 THE COURT: Mr. Helmick?

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

3 THE COURT: All right. Mr. Yampolsky?

4 Officer Cochran, thank you very much for your time,
5 ma'am, I do appreciate it. You are excused.

6 THE WITNESS: Thank you, Your Honor.

7 THE COURT: Can you guys approach again real quick? I
8 apologize.

9 [Bench conference transcribed as follows.]

10 THE COURT: So next witness is pool party?

11 MR. PESCI: Yes.

12 MS. OVERLY: Yes.

13 THE COURT: Okay. So what is your position going to be
14 on this?

15 MR. YAMPOLSKY: Well I don't --

16 THE COURT: Well let me ask Ryan first [indiscernible].
17 Do you still intend on wanting to get into --

18 MR. HELMICK: I was going ask him right now and
19 [indiscernible]. Okay. So are you calling Patrick or Jacy?

20 MR. PESCI: Most likely not. Patrick --

21 MR. HELMICK: Because Angie doesn't see him as he fires
22 the gun, that's the problem.

23 THE COURT: Okay.

24 MR. HELMICK: So I'm not going to get into it because
25 then it could tailor towards -- it could be up in the air as to whether

1 it was my guy.

2 THE COURT: Got it.

3 MR. PESCI: Patrick --

4 THE COURT: So we're clean for this witness and
5 [indiscernible] deal with this issue because you're not going to go
6 into it with this witness.

7 MR. HELMICK: No, because --

8 THE COURT: Okay.

9 MR. HELMICK: -- that's why I asked about those other two
10 people because they saw who did it.

11 MR. PESCI: Right. Because as we understand, Patrick has
12 [indiscernible] warrant for his arrest and he's not being found.

13 THE COURT: Okay. All right.

14 MR. HELMICK: Okay. All right.

15 THE COURT: Okay. Good. Thank you.

16 [End of bench conference.]

17 THE COURT: All right. State may call their next witness.

18 MS. OVERLY: Thank you, Your Honor.

19 The State calls Angelina Knox.

20 **ANGELINA KNOX**

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

23 THE CLERK: Thank you, please be seated.

24 And state and spell your name for the record, please.

25 THE WITNESS: A-N-G-E-L-I-N-A, K-N-O-X.

1 THE COURT: Okay. So you got a really soft voice. I need
2 to make sure you stay -- you don't have to bend over the top of it,
3 but just keep your voice up a little bit, if you would, thank you.

4 THE WITNESS: Angelina Knox, A-N-G-I-E -- wait, no.
5 A-N-G-E-L-I-N-A, K-N-O-X.

6 THE COURT: Thank you.

7 All right. Ms. Overly.

8 **DIRECT EXAMINATION**

9 BY MS. OVERLY:

10 Q Hi, Angelina. Do you go by Angie?

11 A Yeah.

12 Q Okay. Can I call you that?

13 A Yeah.

14 Q Now Angie, I'm going to take you back to June 8th of
15 2018. Were you in Las Vegas at that time?

16 A Yes.

17 Q And were you in school?

18 A Yes.

19 Q Or was it the summer?

20 A The summer.

21 Q Okay.

22 THE COURT: You got to keep your voice up a little bit,
23 okay?

24 THE WITNESS: Okay.

25 ...

1 BY MS. OVERLY:

2 Q And what grade were you in?

3 A 11th?

4 Q You had just finished 11th grade?

5 A I think so, yeah.

6 Q And how old were you?

7 A 16.

8 Q So on June 8th, do you remember that day?

9 A Yeah.

10 THE COURT: Hold on.

11 THE WITNESS: Yeah.

12 THE COURT: Can you guys hear her?

13 Yeah, I got some no's, so you got to keep your voice up,
14 okay?

15 BY MS. OVERLY:

16 Q Just try to speak into that mic right in front of you.

17 So you recall that day, correct?

18 A Yes.

19 Q And around the evening time, who were you hanging out
20 with?

21 A My friend Jacy and Patrick.

22 Q And what's Jacy's last name?

23 A Freshour.

24 Q And what about Patrick?

25 A Stauffenberg or something. Stauffen --

1 MS. OVERLY: Okay. Just --
2 MR. HELMICK: I'm sorry, Your Honor.
3 THE WITNESS: Stauffenberg.
4 MR. YAMPOLSKY: We can't --
5 THE COURT: Young lady --
6 MR. YAMPOLSKY: -- hear.
7 THE COURT: -- you got to speak up, okay?
8 THE WITNESS: Okay.
9 THE COURT: I don't want to tell you again, please. You
10 got to keep your voice up so people can hear what you're saying.
11 Hey. And if you roll your eyes at me again, we're going to
12 have a separate conversation, you understand?
13 THE WITNESS: Yes.
14 THE COURT: Ms. Overly.
15 MS. OVERLY: Thank you.
16 BY MS. OVERLY:
17 Q So you were hanging out with your friend Jacy and
18 Patrick, correct?
19 A Yes.
20 Q Okay. And at some point, did you guys decide to go
21 somewhere?
22 A Yes.
23 Q And where'd you go?
24 A To a party.
25 Q And how'd you get there?

1 A Jacy's mom.

2 Q So Jacy's mom drove you there?

3 A Yeah.

4 Q Do you remember where this party was?

5 A In like Green Valley area?

6 Q And was it at a house or apartment?

7 A Apartment.

8 Q Okay. And did you go inside of an apartment or was it

9 outside?

10 A It was like outside.

11 Q Okay. So where outside?

12 A It was like by the pool in her like backyard kind of.

13 Q Okay. So near like the complex pool area?

14 A Yeah.

15 Q And when you were there, did you come into contact with

16 somebody by the name of Jaiden Caruso?

17 A Yes.

18 Q And do you see that person here in court today?

19 A Yes.

20 Q Can you point to that person and identify something

21 they're wearing?

22 A Like a gray jacket.

23 Q Okay. There might be two people sitting there with

24 similar-looking clothing. In terms of how many people in from the

25 outside --

1 A Two.

2 Q -- of the table --

3 A Two.

4 Q Two.

5 MS. OVERLY: Your Honor, may the record reflect the
6 identification of the Defendant?

7 THE COURT: Yes. Thank you.

8 BY MS. OVERLY:

9 Q And did you also come into contact with somebody by the
10 name of Kody Harlan?

11 A Yes.

12 Q And do you see that person in court?

13 A Yes.

14 Q Can you identify him?

15 A Blue jacket.

16 Q And again --

17 THE COURT: The record will reflect --

18 MS. OVERLY: -- how many people in from the other end?

19 THE WITNESS: Two.

20 THE COURT: I think that's the only blue jacket, so the
21 record will reflect the identification of Mr. Harlan.

22 BY MS. OVERLY:

23 Q And where is that you saw them?

24 A At the party.

25 Q Okay. So they showed up to the party?

1 A Uh-huh.

2 Q Were they there before you or after you arrived?

3 A After.

4 Q Did they come together?

5 A Yeah.

6 Q And while they were there, did you see them with any

7 weapons on them?

8 A Yeah.

9 Q Okay. And what about Jaiden, what did you see him

10 have?

11 A You mean like --

12 Q In terms of a weapon.

13 A Oh, a gun.

14 Q And what'd the gun look like?

15 A I don't know, I didn't see like -- like I didn't look at it.

16 Q Okay. But you knew it was a gun?

17 A Yeah.

18 Q And what about Kody?

19 A I think he had a gun too.

20 Q Okay. A gun?

21 A Yeah.

22 Q Did you get a good look at that?

23 A No, I just know they're guns.

24 Q So they each --

25 MR. YAMPOLSKY: Your Honor, I'm sorry. I really can't

1 hear her.

2 THE COURT: So some of us are kind of old and we don't
3 hear as well, so you got to keep your voice, please, so that people
4 can hear what you're saying, okay?

5 THE WITNESS: Okay.

6 BY MS. OVERLY:

7 Q So you said that both Kody and Jaiden had a gun each.

8 A Yes.

9 Q Okay. Now did you talk to either of them at the party?

10 A Not really.

11 Q Did you see Jacy talking to them?

12 A No.

13 Q What about Patrick?

14 A Yeah, it was Patrick talking to them.

15 Q So primarily Patrick?

16 A Uh-huh.

17 Q Who is Patrick talking to?

18 A Jaiden.

19 Q Okay.

20 A No, Kody. Kody.

21 Q Kody?

22 A Yeah.

23 Q Okay. And were you around the area when he was talking
24 to Kody?

25 A Kind of, yeah.

1 Q Did you overhear anything that Kody said?

2 A Not really. Like I wasn't paying attention.

3 Q Okay. Was there something that he did say that you
4 overheard?

5 MR. HELMICK: Objection, asked and answered.

6 THE COURT: Well, overruled. You can answer the
7 question.

8 BY MS. OVERLY:

9 A I don't -- like I don't remember really like the conversation.

10 Q Okay. Do you remember giving a statement to police
11 officers in this case?

12 A Yeah.

13 Q Okay. And you remember that that was recorded?

14 A Uh-huh.

15 Q Okay.

16 [Colloquy between Counsel]

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

18 THE COURT: Okay.

19 [Colloquy between Counsel]

20 BY MS. OVERLY:

21 Q Now, Angie, do you recall when police officers were
22 talking to you, they asked you about the content of what Jaiden and
23 Kody were talking about at the party? And do you remember
24 telling police that you overheard --

25 MR. HELMICK: Object -- may we approach, please?

1 THE COURT: Sure.

2 MR. HELMICK: Thank you.

3 [Bench conference transcribed as follows.]

4 MR. HELMICK: So her answer is based off the hearsay of
5 Patrick talking to Kody. That's what I'm concerned about. It's
6 based off of hearsay.

7 THE COURT: Let me see the statement.

8 Where am I looking?

9 MS. OVERLY: 19.

10 MR. HELMICK: She says in the beginning --

11 MS. OVERLY: [Indiscernible].

12 THE COURT: Yeah, hold on, hold on, let me look.

13 MR. HELMICK: All right.

14 THE COURT: So that last line on 19, is that what
15 [indiscernible]?

16 MS. OVERLY: Talking about [indiscernible].

17 THE COURT: So what's your --

18 MR. HELMICK: She got that information -- if you look at
19 page 10, she never talked to him, she says. She got that
20 information from Patrick. She said she never talked to either one of
21 them. Jaiden was sitting there, but Kody was talking to Patrick.

22 THE COURT: Well I mean, she said they said something
23 about something about they caught a body.

24 MR. HELMICK: But she learned that information from
25 Patrick though -- but through the course of that interview that's

1 what was gained from that.

2 MR. PESCI: Giancarlo Pesci, on behalf of the State. The
3 witness --

4 THE COURT: [Indiscernible]. You can clear that up on
5 cross-examination some of the stuff that she says. So I don't know
6 if she's trying to hide what she heard by who said it. Maybe you're
7 right, maybe somebody else said it. But this would appear that she
8 is saying that they said that to her. And that's about it that they
9 said.

10 MR. HELMICK: It's just taken out of context, that's all.

11 THE COURT: Well I'll allow it.

12 MR. HELMICK: Okay.

13 [End of bench conference.]

14 THE COURT: You can continue.

15 BY MS. OVERLY:

16 Q So Angie, do you remember telling police officers that
17 you overheard the Defendants discussing catching a body?

18 A Yeah, that's what Patrick told me that Kody said.

19 MR. HELMICK: Objection, based off of hearsay.

20 THE COURT: Well at this point I'll sustain the objection.

21 MS. OVERLY: Okay. So I just want to --

22 THE COURT: And I'll strike the last response.

23 BY MS. OVERLY:

24 Q I just want to clarify. That was something that you heard
25 from Patrick after the fact, or something that you overheard at the

1 party?

2 A I think it was like kind of like during -- like during it. Like
3 after he said it, he told me.

4 Q Okay. But I'm just asking, is it something that you heard
5 Patrick tell you or was it something that you personally overheard
6 the Defendant saying while you --

7 A Both.

8 Q -- were at the party?

9 A Both.

10 Q Both.

11 A Yeah.

12 Q Okay. So you did personally overhear that comment
13 being made?

14 A Yeah.

15 Q Okay. And that's because you weren't personally talking
16 to the Defendants, but you were standing by Patrick as he did?

17 A Yeah.

18 Q Okay. Now, after that did something happen that broke
19 up the party?

20 A The cops came.

21 Q So was everyone leaving at that point?

22 A Yeah.

23 Q And at this point in time, did you see the Defendants
24 leave?

25 A No.

1 Q No.

2 A No.

3 Q Now how is it that you left the party?

4 A We went in the car with them.

5 Q Okay. So when you say we, are you talking about Jacy --

6 A Yeah.

7 Q -- and Patrick?

8 A And Patrick. Yeah.

9 Q So you went in the car with the Defendants?

10 A Uh-huh.

11 Q So how did that come about?

12 A Because they were using Patrick's charger and like the

13 phone and the charger was inside the house, so we had to wait for

14 like the cop to come out.

15 Q Who was using Patrick's charger?

16 A I think Kody.

17 Q Okay. And that was inside the apartment?

18 A Yeah.

19 Q So you waited for that --

20 A Uh-huh.

21 Q For the cops to leave to get it?

22 A Yeah.

23 Q Okay. So then when you left, the Defendants gave you

24 and Patrick, and Jacy a ride?

25 A Yeah.

1 Q Who was driving?

2 A Kody.

3 Q And where'd you guys go?

4 A We were just like driving around and then we went to a

5 gas station.

6 Q All right. And who was sitting in the passenger -- front

7 passenger seat?

8 A Jaiden.

9 Q And were all three of you in the back seat?

10 A Yeah.

11 Q Now at some point, do you recall being in the area of

12 Sunset and Green Valley?

13 A Yeah.

14 Q Okay. And showing you State's Exhibit 10. Just look on

15 the screen in front of you there, you should be able to see it.

16 A Uh-huh.

17 Q Does that area look familiar to you?

18 A Yes.

19 Q Okay. So while you were in this area and Kody is driving,

20 what happens?

21 A We crash into a pole and then we hit a car.

22 Q Okay. And did he suddenly just crash into a car or a pole

23 or how did that happen?

24 A It's because we were on a high-speed chase and then I

25 guess we like crashed.

1 Q When you say a high-speed chase, what do you mean?
2 A Like the police were like -- like the police were after us
3 basically --
4 Q Okay. So the --
5 A -- because we were speeding.
6 Q So police tried to pull the car over?
7 A Yeah, uh-huh.
8 Q And did Kody stop for police?
9 A No.
10 Q All right. And you said that you were on a high-speed
11 chase --
12 A Yeah.
13 Q -- do you mean because he was speeding?
14 A Yeah. Speeding.
15 Q Okay. And how else was he driving?
16 A What do you mean?
17 Q Was he just speeding or was he weaving in and out of
18 traffic?
19 A I don't really -- I wasn't really paying -- but I know he was
20 speeding.
21 Q Okay. And then ultimately you said you crashed?
22 A Yeah.
23 Q Do you know if there was another car that was involved?
24 A Yeah.
25 Q Okay. And showing you State's Exhibit 11.

1 Does that also look like the scene?

2 A Yeah.

3 Q Is that the other car?

4 A Yeah.

5 Q Okay. And showing you State's Exhibit 15. Does that look
6 like a closer image of the car?

7 A Yeah.

8 Q And that was the car you were in?

9 A Uh-huh.

10 Q So when the car crashed, what did Jaiden do?

11 A They got out of the car.

12 Q When you say they -- I'm just asking about Jaiden right --

13 A Oh.

14 Q -- now, so what --

15 A He got --

16 Q -- did Jaiden do?

17 A He got out of the car.

18 Q And where'd he go?

19 A He ran towards the gas station.

20 Q Okay. When you say went towards the gas station, did he
21 run? Walk?

22 A Yeah, run.

23 Q What about Kody?

24 A He ran a different way.

25 Q So he got out and ran a different way?

1 A Uh-huh.

2 Q What did you three do?

3 A We like got out of the car and walked like around to the
4 restaurant.

5 Q Now at some point, did you make contact with a
6 Henderson police officer?

7 A Yeah.

8 Q And you spoke with police about this case?

9 A Yeah.

10 Q Okay.

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

12 I'll pass the witness.

13 THE COURT: Thank you.

14 Mr. Helmick.

15 MR. HELMICK: Thank you, Your Honor.

16 **CROSS-EXAMINATION**

17 BY MR. HELMICK:

18 Q I want to ask you some questions about some stuff that
19 the Prosecutor just talked to you about at the pool party, okay?

20 A Uh-huh.

21 Q Is that a yes?

22 A Yeah.

23 Q I'm sorry because we have to record everything --

24 A Uh-huh.

25 Q -- because we have to make a record, right?

1 A Uh-huh.

2 Q Is that a yes?

3 A Yes.

4 Q Okay. All right. So you had an interview with the police
5 after this incident, right?

6 A Yes.

7 Q Okay. And you knew that was recorded, right?

8 A Yes.

9 Q And you knew that you had to be truthful with the
10 detective in this case, right?

11 A Yes.

12 Q Okay. And didn't you tell the detectives when you were at
13 the pool party that you never talked to Kody, right?

14 A Uh-huh.

15 Q Is that a yes?

16 A Yes.

17 Q That you never talked to Jaiden, right?

18 A Yes.

19 Q Okay. That -- and they didn't talk to you, isn't that right?

20 A Yes.

21 Q Okay. That basically Patrick was talking to them --

22 A Yes.

23 Q -- only, right?

24 A Yes.

25 Q Okay. So you never had -- you never had any direct

1 conversation --

2 A No.

3 Q -- with Kody --

4 A Uh-uh.

5 Q -- or Jaiden, right?

6 A Uh-uh.

7 Q Is that a --

8 A No.

9 Q No. Okay.

10 So isn't it true in regards to the caught a body comment
11 that the Prosecutor had asked you about, you did not hear that
12 personally, isn't that right?

13 A No.

14 Q Okay. Thank you very much.

15 THE COURT: Mr. Yampolsky?

16 MR. YAMPOLSKY: I have no questions.

17 THE COURT: Anything further from the State?

18 **REDIRECT EXAMINATION**

19 BY MS. OVERLY:

20 Q I just want to clarify, Angie, because we've had a couple
21 questions about this.

22 A Uh-huh.

23 Q It's my understanding that when you overheard the
24 comment, I caught a body --

25 A Uh-huh.

1 Q -- you not only heard that from Patrick, but you also
2 overheard it from the Defendants yourself?

3 A Well I didn't like physically heard it, but like I heard like -- I
4 didn't like hear what they were saying, you know what I mean? But
5 I heard --

6 Q Right.

7 A -- something --

8 Q So the conversation surrounding the comment, you
9 weren't involved in the conversation --

10 A No.

11 Q -- correct?

12 But you were physically there as you overheard the
13 Defendants discussing it?

14 MR. HELMICK: Objection. She's asked and answered and
15 it's misstating the testimony.

16 THE COURT: Well overruled. I don't think it's really clear
17 who all's in -- and I'm going to ask you to back up from a
18 foundational standpoint. Who all's involved in the conversation
19 that she is overhearing? So --

20 MS. OVERLY: And I -- okay.

21 BY MS. OVERLY:

22 Q So as you're at the party, you said that Patrick is speaking
23 to the Defendants?

24 A Uh-huh.

25 Q And I think you clarified that he was speaking to Kody at

1 one point.

2 A Yes.

3 Q Okay. Where are you standing in relation to Patrick and
4 Kody?

5 A Like on the other side of the party.

6 Q Okay. And you see them talking?

7 A Uh-huh.

8 Q While you're standing there, do you overhear any of the
9 conversation that they are having?

10 A Yeah, like kind of, but I wasn't really like paying attention.

11 Q I understand, you weren't paying attention, but you could
12 still overhear some of the conversation?

13 A Yeah.

14 Q Okay. While you are standing there and listening to -- or
15 overhearing some of the conversation, was one of the comments
16 that you heard the comment about catching a body?

17 A Yeah, I think so.

18 MR. HELMICK: Objection, speculation. She's saying, I
19 think.

20 THE COURT: Overruled.

21 MS. OVERLY: Okay.

22 THE COURT: You said yes, I think so?

23 THE WITNESS: Yeah. I'm like -- I'm not sure, I wasn't
24 paying attention.

25 MS. OVERLY: Okay.

1 THE COURT: I'm sorry, I couldn't hear the last part of
2 what you said.

3 THE WITNESS: Okay.

4 BY MS. OVERLY:

5 Q I think you said you weren't sure; you weren't paying
6 attention?

7 A Yeah, I wasn't really paying attention.

8 Q Okay. So you weren't paying attention, but you think that
9 you overheard the comment of I caught a body?

10 A Yeah.

11 Q Okay. And so that was the thing that you personally
12 overheard while standing at the party?

13 A Uh-huh.

14 Q Okay.

15 [Colloquy between Counsel]

16 THE COURT: Mr. Helmick?

17 MS. OVERLY: Is that a yes?

18 THE WITNESS: What? Yes.

19 THE COURT: Thank you.

20 **RECROSS-EXAMINATION**

21 BY MR. HELMICK:

22 Q Okay, Angie, we got to talk about this for a second. You
23 said you just remember maybe overhearing --

24 A Uh-huh.

25 Q -- the catching a body phrase, right?

1 A Yeah.

2 Q But you don't know who said it, right? Isn't that right?

3 A Yeah.

4 Q Okay. You don't know who it came from, right?

5 A I don't -- yeah, I don't remember.

6 Q Okay. And then you said just now, today, that you were

7 on the other side of the house --

8 A Uh-huh.

9 Q Is that a yes?

10 A Yes.

11 Q Okay. Not really paying attention, right?

12 A Uh-huh.

13 Q Okay. Is that a yes?

14 A Yes.

15 Q But you could maybe overhear some conversation, right?

16 A Yeah.

17 Q Okay. Now in your whole interview with the police,

18 right -- it's -- what pages we got here? We got 24 pages. Did you

19 ever tell them at any point that you were on the other side of the

20 house and maybe you heard some conversation? Did you ever tell

21 the police that?

22 A I don't remember. It was a long time ago.

23 Q Okay. If I showed you your report, you think that would

24 refresh your memory or do you --

25 A Yeah.

1 Q -- just agree?

2 A Yeah.

3 Q Okay.

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

5 THE COURT: You may.

6 BY MR. HELMICK:

7 Q Okay. So I'm showing you the transcripts of your
8 interview for that day. Just go ahead and just briefly look through
9 it and then look up at me when you're done.

10 [Witness complies.]

11 Q You don't have to look through the whole thing if you
12 don't want to.

13 Let me ask you this, Angie, while you're looking at it, did
14 you -- when's the last time -- have you ever read those reports in
15 this case?

16 A No.

17 Q Okay. So it was a long time ago, right?

18 A Yeah.

19 Q A year ago?

20 A Uh-huh.

21 Q Okay. So safe to say that you did not make those
22 comments to the police at that time; about being on the other side
23 of the house and overhearing that comment?

24 A Yeah, I guess. Yeah.

25 Q That's safe to say?

1 A I think so.

2 Q Okay. Thank you, Angie.

3 THE COURT: Anything further, Ryan?

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

5 THE COURT: Mace?

6 MR. YAMPOLSKY: I have no questions.

7 THE COURT: State, anything further?

8 MS. OVERLY: No, Your Honor.

9 THE COURT: Anything from our jurors?

10 Okay. All right. Ms. Knox, thank you very much for your

11 time. I appreciate it. You're excused.

12 The State may call their next witness.

13 MR. PESCI: The State calls Olivia Mancuso.

14 **OLIVIA MANCUSO**

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

16 testified as follows:]

17 THE CLERK: Thank you, please be seated.

18 If you could state and spell your name for the record,

19 please?

20 THE WITNESS: Olivia Mancuso. O-L-I-V-I-A,

21 M-A-N-C-U-S-O.

22 THE COURT: All right. Thank you, Officer.

23 You can go ahead.

24 ...

25 ...

DIRECT EXAMINATION

BY MR. PESCI:

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

A I'm a Henderson police officer.

Q And how long have you been with the Henderson Police Department?

A Approximately two years.

Q I want to direct your attention to June 8th of 2018, in the evening hours, you -- were you working as an officer that day?

A Yes, sir.

Q And did you respond to the intersection of Sunset Road and Green Valley Parkway?

A Yes, sir.

Q Specifically showing you State's Exhibit 1.
Did you respond to that area?

A Yes, sir.

Q And why did you respond to that area?

A There was an accident and juveniles running from the scene.

Q You said an accident and juveniles running from the scene?

A Yes, sir.

Q Okay. Was another officer, an Officer Cochran, the first on scene?

A Yes, sir.

1 Q Is that the officer that testified earlier that left the
2 courtroom?

3 A Yes, sir.

4 Q Okay. When you arrived on the scene, showing you
5 State's 15, was this one of the vehicles that you saw at this scene?

6 A Yes, sir.

7 Q And then specifically State's 11.

8 Is that another vehicle that you saw at that scene?

9 A Yes, sir.

10 Q All right. So when you're at this specific scene, showing
11 you State's 12, what was your responsibility there?

12 A Once I arrived on scene, we were getting word from
13 dispatch that there was a white male juvenile with Germany on his
14 shirt and jeans, hopping walls.

15 Q Okay.

16 A So my sergeant told me and another officer to start
17 locating him.

18 Q And what did you do to try to locate him?

19 A We --- well I went southbound on Green Valley and was
20 just following updates from dispatch on to where he was last seen.

21 Q When you say following on dispatch, what exactly does
22 that mean?

23 A It means that they're giving over the air what witnesses
24 are seeing. based on calls coming in.

25 Q Okay. And is that information given to you over some

1 sort of an audio device?

2 A Yes, sir.

3 Q And were you dressed as a police officer that day?

4 A Yes, sir.

5 Q And did you respond in a marked patrol vehicle?

6 A I did, sir.

7 Q Were you assigned as a patrol officer at that time?

8 A Yes, sir.

9 Q Okay. And when you got to that location, did you head --

10 well what direction did you head from this intersection?

11 A South on Green Valley.

12 Q Okay. I want to show you -- you've previously seen

13 State's Exhibit 1. I want to show you State's Exhibit 4 and State's

14 Exhibit 2. There's 4 and then 2 and ask if you recognize that?

15 A Yes, sir.

16 Q What do you recognize State's 4 to be?

17 A It is the area which I drove to get to the location where I

18 contacted the suspect.

19 Q All right. Can you raise your voice just a little?

20 A Sorry. Yes.

21 Q That's okay.

22 And is that a fair and accurate aerial photo of that

23 location?

24 A Yes, sir.

25 Q State's 4.

1 A Yes.

2 Q Okay.

3 MR. PESCI: Move for the admission of State's 4.

4 THE COURT: Any objection?

5 MR. HELMICK: No, Your Honor.

6 THE COURT: 4 will be --

7 MR. YAMPOLSKY: No, Your Honor.

8 THE COURT: -- admitted. Thank you.

9 **[STATE'S EXHIBIT NUMBER 4 ADMITTED]**

10 MR. PESCI: Mace, do you object?

11 MR. YAMPOLSKY: No, Your Honor.

12 BY MR. PESCI:

13 Q Looking at State's 2 --

14 THE COURT: I thought you said no.

15 MR. PESCI: I couldn't hear him, I'm sorry.

16 BY MR. PESCI:

17 Q In State's 2, you talked about how there was reports -- or

18 information about someone running through yards, is that correct?

19 A Yes, sir.

20 Q And did the information that you receive bring you to the

21 area of an apartment complex in Henderson?

22 A Yes, sir.

23 Q What's the name of that apartment complex?

24 A The Villas.

25 Q And is that depicted in State's Exhibit 2?

1 A Yes, sir.

2 Q And does that show the proximity of the crash scene to
3 that apartment?

4 A Yes, sir.

5 Q and is that a fairly and accurate aerial photo of that?

6 A Yes, sir.

7 MR. PESCI: Move for the admission of State's 2.

8 MR. HELMICK: No objection.

9 MR. YAMPOLSKY: No objection.

10 THE COURT: 2 will be admitted as well. Thank you.

11 **[STATE'S EXHIBIT NUMBER 2 ADMITTED]**

12 MR. PESCI: Thank you, Your Honor.

13 BY MR. PESCI:

14 Q Showing you State's 4. Could you with the screen and
15 with --

16 MR. PESCI: Oh, Judge is going to prep it.

17 THE COURT: So you can just use the mouse and left click
18 and draw.

19 BY MR. PESCI:

20 A The direction --

21 Q Yes. I think I froze this a little bit. I apologize.

22 THE COURT: Once we've clicked on it, it won't -- you can't
23 move the picture again.

24 MR. PESCI: Yeah. Sorry.

25 THE COURT: It's okay.

1 BY MR. PESCI:

2 Q Officer, is this a green line on State's Exhibit 4 that you've
3 done from the northern portion of Green Valley Parkway in the
4 intersection of Sunset Road heading south towards the Villas at the
5 Green Valley apartments on North Valley Green Parkway?

6 A Yes, sir.

7 Q Okay. Showing you now State's 2.

8 It looks I made you do this for nothing. Does this show
9 that same area of the interaction [sic] of the car crash and then
10 making your way down to the Villas?

11 A Yes, sir.

12 Q All right. And then what is the distance from the crash to
13 the apartments?

14 A Approximately 0.7 miles.

15 Q All right. And then if someone tries to walk, about how
16 much time does it take you?

17 A 14 minutes around.

18 Q All right. Would you assume then if someone were to run
19 it'd be faster?

20 A Yes, sir.

21 Q Okay. And now I'm going to show you State's Proposed
22 Exhibits 6, 7, and 8.

23 And ask you if you recognize those?

24 A Yes, sir.

25 Q And what are these of?

1 A This is of the suspect I detained at the Villas?

2 Q Okay. And you said earlier that you had a description as
3 far as some specific clothing that you were searching for, is that
4 correct?

5 A Yes, sir.

6 Q And what was that?

7 A It was a black shirt with Germany lettering on the back
8 and blue ripped jeans.

9 Q All right. And are State's 6, 7, and 8 fair and accurate
10 depictions of the individual that you did come into contact when
11 you searched for someone in those clothes?

12 A Yes, sir.

13 MR. PESCI: Move for the admission of 6, 7, and 8, Your
14 Honor.

15 MR. HELMICK: No objection.

16 MR. YAMPOLSKY: No objection.

17 THE COURT: Those will be admitted. Thank you.

18 **[STATE'S EXHIBIT NUMBER 6, 7, and 8 ADMITTED]**

19 BY MR. PESCI:

20 Q All right. This individual that you came into contact with,
21 did you come into contact with them right there at the crash scene?

22 A No.

23 Q Okay. Did you come into contact with him all the way
24 away at -- looking at State's 4, the Villas apartment?

25 A Yes, sir.

1 Q Okay. With that description, did you come across an
2 individual fitting that description in the apartments?

3 A Can you repeat the question?

4 Q Yeah. You had the description in your mind.

5 A Yes, sir.

6 Q When you got to the villas, did you find someone that fit
7 the description?

8 A Yes, sir.

9 Q Tell us about it. What happened? Where was he? What
10 was he doing?

11 A He was by Building -- between Building 11 and 13 and he
12 was on a little kid's bicycle.

13 Q Okay. Showing you State's Exhibit 6.

14 Do you recognize that individual?

15 A Yes, sir.

16 Q And who do you recognize that to be?

17 A Kody.

18 Q And do you know Kody's last name?

19 A Harlan.

20 Q Okay. Showing you State's 7.

21 Do you recognize that?

22 A Yes, sir.

23 Q Okay. And does this show the word Germany on the
24 shirt?

25 A Yes, sir.

1 Q And that was information that you had from a person
2 fleeing the scene of the crash?

3 A Yes, sir.

4 Q Okay. And in fact on the front, does it also have the word
5 Germany?

6 A Yes, sir.

7 Q And then showing you State's Exhibit 8.

8 Who is that?

9 A Kody Harlan.

10 Q And that individual you came into contact you said on a
11 kid's bike?

12 A Yes, sir.

13 Q Okay. What if anything happened when you came into
14 contact with him on a kid's bike?

15 A Multiple officers, we approached him, we had -- and then
16 we took him, patted him down for weapons because we got word
17 that he had a gun, and --

18 Q Okay.

19 A -- brought him --

20 Q So let me stop you there. So the information that you had
21 was someone dressed in, you said blue ripped jeans and then a --

22 A Germany --

23 Q -- a shirt --

24 A Sorry. Germany lettering.

25 Q Okay. And then you also had information about a

1 firearm?

2 A Yes, sir.

3 Q Okay. So after finding the person fitting the description --
4 by the way, do you see him here in court today?

5 A I do.

6 Q Could you point to him and describe something he's
7 wearing?

8 A A blue suit jacket. Glasses.

9 MR. PESCI: Would the record reflect the identification of
10 the Defendant Kody Harlan?

11 THE COURT: I'll note that she pointed at the gentleman as
12 well. Yes.

13 MR. PESCI: Thank you very much, Your Honor.

14 BY MR. PESCI:

15 Q Were you able to find a weapon in that area?

16 A No.

17 Q Did you and other officers with you personally search for
18 a weapon?

19 A Yes, sir.

20 Q And were you ever able to find one?

21 A No, sir.

22 MR. PESCI: Pass the witness, Your Honor.

23 THE COURT: Mr. Helmick?

24 MR. HELMICK: Court's indulgence.

25 Pass the witness. Thank you.

1 THE COURT: Mister --
2 MR. YAMPOLSKY: I have no questions.
3 THE COURT: No questions.
4 Anything from our jurors?
5 Okay. All right. Officer, thank you very much for your
6 time. I appreciate it. You are excused.
7 THE WITNESS: Thank you, Judge.
8 THE COURT: Okay.
9 The State may call their next witness.
10 MS. OVERLY: The State calls Michael Condratovich.
11 **MICHAEL CONDRATOVICH**
12 [having been called as a witness and being first duly sworn,
13 testified as follows:]
14 THE CLERK: Thank you, please be seated.
15 If you could state and spell your name for the record,
16 please.
17 THE WITNESS: It's Michael Condratovich. It's
18 M-I-C-H-A-E-L, C-O-N-D-R-A-T-O-V-I-C-H.
19 THE COURT: All right. Thank you, Detective.
20 **DIRECT EXAMINATION**
21 BY MS. OVERLY:
22 Q Hi, sir. How are you employed?
23 A I'm a detective with the Henderson Police Department.
24 Q And how long have you been a detective?
25 A It's 14 years next month.

1 Q And are you assigned a specific unit?

2 A Yes.

3 Q And what is that?

4 A Robbery and homicide.

5 Q Now were you working in that capacity on June 8th of

6 2018?

7 A I was, but I was off that day.

8 Q Okay. So you were employed, but you were off that day.

9 A Yes.

10 Q Okay. And were you called in on that day?

11 A Yes, I was.

12 Q And what was that in reference to?

13 A I was called in to assist with an investigation on a

14 homicide.

15 Q And was that in the evening hours?

16 A Yes.

17 Q Now when you were called in to help investigate, what

18 was it that you were tasked with doing?

19 A I was assigned to author a search warrant for a residence,

20 a vehicle, and for DNA for two individuals.

21 Q And was that residence at 2736 Cool Lilac?

22 A Yes.

23 Q And what kind of vehicle was that?

24 A I believe it was a Mercedes?

25 Q And was there anything else that you were to obtain a

1 search warrant for?

2 A For DNA for Jaiden Caruso and Kody Harlan.

3 Q Are you -- were you present for the execution of that
4 search warrant at the vehicle?

5 A No.

6 Q Okay. What about at the home?

7 A No, I was not.

8 Q And what about obtaining the DNA?

9 A I was not there either.

10 Q Okay. So you authored those, but you weren't there for
11 the execution of it?

12 A Yes.

13 Q Okay. Now did you also have cause to issue and execute
14 a warrant at another residence?

15 A Yes.

16 Q And what location was that?

17 A It was Jaiden's apartment on Green Valley Parkway.

18 Q Would that have been 2338 North Green Valley Parkway?

19 A I believe that's it, yes.

20 Q Showing you what's been admitted as State's Exhibit 2.
21 Does that look familiar?

22 A Yes.

23 Q And are you aware of where the Mercedes that you
24 executed -- or authored a search warrant for was located at?

25 A I know that it was at Sunset and Green Valley Parkway,

1 but I never responded to the scene.

2 Q And do you know precisely on this map -- can you reflect
3 here where the apartment was? Specifically Jaiden's apartment?

4 A I don't recall exactly which building it is but --

5 Q Right.

6 A -- for the apartment complex, it's this apartment complex
7 here on --

8 Q Oh I think you can use the little mouse in front of you.

9 A Oh, this?

10 THE COURT: Yeah.

11 THE WITNESS: Got you.

12 THE COURT: So hold on, let me do something real quick.

13 Okay. Then just left click and draw.

14 BY MS. OVERLY:

15 A So it's in this area here. [Drawing on monitor.]

16 Q So would that be the area of the Villas?

17 A Oh, I'm sorry. The Villas are --

18 THE COURT: So if you hit the little --

19 THE WITNESS: Yeah. The Villas are here.

20 THE COURT: Okay. Thank you.

21 BY MS. OVERLY:

22 A Yeah. The two are associated apartment complexes so.

23 Q Okay. So does the Villas expand across a large area?

24 A Yeah, it does. But like I said, they're associated but
25 they're actually two separate complexes.

1 Q Okay. And what is it that gave you cause to get a search
2 warrant for that apartment?

3 A As part of the investigation, we were listening to jail calls
4 and there was a conversation between Jaiden and his mom where
5 she mentioned something about a firearm. And then there was
6 things we found on his phone where his mom talked about the fact
7 that Kody had stopped by -- it was actually the day of the incident
8 where she said hey, your friend just stopped by the apartment, so
9 we were under the impression that he may have possibly ditched
10 the gun at the apartment.

11 Q Now, do you recall when that text message was sent to
12 Jaiden with regards to his friend being there?

13 A I believe it was within minutes of him being taken into
14 custody. Or I'm sorry, when Kody was taken into custody.

15 Q Okay. So it was in the time of Kody being apprehended?

16 A Yes.

17 Q Okay. And were you present for the execution of that
18 warrant?

19 A Yes, I was.

20 Q Okay. At that apartment?

21 A Yes.

22 Q And what, if anything, was recovered as a result?

23 A We recovered some magazines for a handgun. I believe
24 there was two of them but there was no firearms recovered.

25 Q So did you -- you never recovered a semi-automatic

1 weapon?

2 A I don't recall.

3 Q I'm sorry?

4 A I don't recall recovering one.

5 Q Okay. And do you recall when that warrant was
6 executed?

7 A I don't remember the exact date, but it was about a week
8 after the incident.

9 Q Okay. So even though you authored it at a previous
10 time -- or I'm sorry. Even though you had Kody apprehended on
11 June 8th, the warrant for Jaiden's apartment wasn't done until a
12 week later?

13 A Yes.

14 Q And again, that was based off of information through
15 investigation?

16 A Yes.

17 Q Okay.

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

19 THE COURT: Mr. Helmick?

20 MR. HELMICK: Thank you, Your Honor. I'll pass the
21 witness as well.

22 THE COURT: Mister --

23 MR. YAMPOLSKY: No questions, Your Honor.

24 THE COURT: Thank you. Anything from our jurors?

25 Detective, thank you much for your time, sir. You are

1 excused.

2 THE WITNESS: Thank you.

3 THE COURT: Can you all call your next witness?

4 MS. OVERLY: Yes, Your -- Jennifer Hornback.

5 **JENNIFER HORNBACK**

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

8 THE CLERK: Thank you, please be seated.

9 If you could state and spell your name for the record,
10 please.

11 THE WITNESS: My name is Jennifer Hornback. That's
12 J-E-N-N-I-F-E-R, H-O-R-N-B-A-C-K.

13 THE COURT: Thank you.

14 Ms. Overly.

15 **DIRECT EXAMINATION**

16 BY MS. OVERLY:

17 Q Hi. Ma'am, how are you employed?

18 A I'm currently employed with the City of Henderson as a
19 crime scene analyst.

20 Q And what does a crime scene analyst do?

21 A A crime scene analyst is in charge of responding to a
22 crime scene, documenting a crime scene, and collecting any
23 evidence that might be at the crime scene.

24 Q And are you responsible for processing any of that
25 evidence in terms of testing it?

1 A Yes.

2 Q Okay. And is that forensic testing?

3 A We do -- we will swab if there's blood involved or we will

4 take GSR, for instance, if that would be relevant to the case. But we

5 don't do any actual examination of anything that we collect.

6 Q So that would be left to like a forensic scientist to do.

7 A That's correct.

8 Q Okay. So were you working as a crime scene analyst on

9 June 8th of 2018?

10 A Yes, I was.

11 Q And did you have cause to go out to a scene located in the

12 area of Sunset and Green Valley?

13 A Yes.

14 Q And was that in regards to an accident involving a

15 Mercedes?

16 A Yes, it was a traffic accident.

17 Q And when you went out there, what were you tasked with

18 doing?

19 A I was tasked with documenting the actual traffic accident.

20 Q Okay. And what does that consist of?

21 A That will consist of overall photographs that will show the

22 vehicle in relation to the intersection, as well as anything that it

23 might have hit.

24 Q And did you have an opportunity to also process the

25 Mercedes vehicle?

1 A I did end up taking photographs inside the vehicle and
2 processing it at a later date.

3 Q Okay. And did you document what you found on the
4 outside and inside of the vehicle?

5 A Yes, I did.

6 MS. OVERLY: And if I may approach, Your Honor?

7 THE COURT: You may.

8 BY MS. OVERLY:

9 Q I'd like to show you what's been marked as State's
10 Proposed Exhibits 20 through 43.

11 Do those look familiar to you?

12 A Yes. These are the photographs that I took at the car
13 accident.

14 Q Okay. And that would be at the scene at Sunset and
15 Green Valley?

16 A That is correct.

17 Q Okay. And do those fairly and accurately depict the scene
18 as you documented it that day?

19 A Yes.

20 MS. OVERLY: And, Your Honor, at this point the State
21 would move to admit State's Proposed Exhibits 20 through 43.

22 MR. HELMICK: No objection.

23 MR. YAMPOLSKY: No objection.

24 THE COURT: 20 through 43 will be admitted.

25 **[STATE'S EXHIBIT NUMBER 20 through 43 ADMITTED]**

1 BY MS. OVERLY:

2 Q Now, if I may, showing you what's already been admitted
3 as State's Exhibit 12.

4 Does that look familiar?

5 A Yes, it does.

6 Q And is this a photograph that you documented at the
7 scene?

8 A Yes, it is.

9 Q And if we show State's Exhibit 15.

10 Is that the Mercedes that you processed?

11 A Yes, it is.

12 Q Now, you indicated that you had documented by
13 photographing the Mercedes and looking inside of it. What, if
14 anything -- what was the first thing that you recovered from the
15 Mercedes?

16 A The first thing that I recovered was a black Ruger revolver.

17 Q And where was that black Ruger revolver located?

18 A That was located on the front passenger side floorboard.

19 Q And showing you what's been marked as State's 26.

20 Do you see the revolver there?

21 A Yes, I do.

22 Q And just so you know, in front of you there's a mouse
23 right there so if you want to identify anything on the screen you can
24 use that.

25 A Okay.

1 Q And showing you State's 27.

2 Is that a closer image?

3 A Yes, it is.

4 Q And showing you State's 30.

5 What does this photo reflect?

6 A That photo was a relationship photo between the gun and
7 one live round of ammunition that was also found on the floor
8 which is right here.

9 THE COURT: If you --

10 THE WITNESS: Like -- oh.

11 THE COURT: There you go.

12 THE WITNESS: Thank you very much.

13 THE COURT: Now left click and you can draw.

14 BY MS. OVERLY:

15 A Right there.

16 Q Okay. So that was to show the distance between the two?

17 A Yes.

18 Q Okay. And showing State's 31.

19 Is that a closer image of that?

20 A Yes, it is.

21 Q Okay. Now, you indicated that that was the first thing that
22 you did observe. Did you later document inside of the gun;
23 specifically inside the chamber of it?

24 A The cylinder, yes I --

25 Q Yeah.

1 A -- did.

2 Q Okay. Showing you State's 35.

3 And what does that reflect there?

4 A That is the revolver cylinder open and taking a document

5 of what is inside that cylinder.

6 Q And showing you State's Exhibit 36.

7 What does that reflect?

8 A That is the front passenger side door the -- and showing

9 inside the door pocket.

10 Q Okay. And what did you find inside the door pocket?

11 A I recovered one gun magazine containing live rounds of

12 ammunition.

13 Q And showing State's 37.

14 Would that be a closer image of that magazine?

15 A Yes, it is.

16 Q And I'm sorry, you indicated how many live rounds?

17 A Four.

18 Q Showing you 39.

19 What does that photograph reflect?

20 A That photograph reflects the contents inside that

21 magazine.

22 Q Okay. So you took them outside of the --

23 A I did.

24 Q -- magazine to identify how many there were?

25 A Yes, I did.

1 Q Additionally, did you recover any phones from the
2 vehicle?

3 A Yes, I did.

4 Q And where were those located?

5 A There were two phones. One was located on the front
6 driver's side and the other was located on the front passenger side.

7 Q And showing you State's 28.

8 What does that reflect?

9 A That is the phone from the front passenger side of the
10 vehicle.

11 Q And 29.

12 Would that just be a closer flat surface image of the
13 phone?

14 A Yes, that's correct.

15 Q Now, with regards to the back seat, did you recover any
16 items from the back seat of the vehicle?

17 A Yes, I did.

18 Q Showing you State's Exhibit 20.

19 A So you were able to see a couple of the items that I
20 recovered.

21 Q And if you can identify them with the mouse in front of
22 you, what items did you recover?

23 A There is a laptop that's right here. It's a little hard to see
24 but there's a blue wallet that's on the floorboard right there. And I
25 also collected the shirt that is on that seat. There are other items

1 but it's hard to tell inside that photograph.

2 Q So showing you State's 21.

3 Is that a closer image?

4 A Yes.

5 Q And so that's the blue wallet here in the center that you
6 were talking about?

7 A Yes, it is.

8 Q Okay. And this shirt, what looks like the passenger side,
9 behind the driver's seat, is that fair to say?

10 A Yes.

11 Q Okay. Now, did you recover any identification inside that
12 wallet?

13 A I did. There was one item inside the wallet. It was an
14 identification -- a school ID for a Matthew Minkler.

15 Q And aside from that identification, and the name of
16 Matthew Minkler, did you recover anything else from that wallet?

17 A No.

18 Q Showing you State's 22.

19 Would that be the inside of that wallet?

20 A Yes.

21 Q Now, did you process and document anything recovered
22 from the trunk of the vehicle?

23 A Yes, I did.

24 Q And showing you State's 40.

25 Does that reflect the trunk?

1 A Yes, it does.

2 Q And what, if anything, was recovered from the trunk?

3 A We ended up recovering this shoe, as well as this shoe

4 box that contained additional shoes. And it's hard to tell some of

5 the other items that are on the lefthand of that screen.

6 Q Showing you 42.

7 Would that be the left side of the trunk?

8 A Yes. That is after I've removed some of the items, you're

9 able to see a receipt right there.

10 Q And showing you State's Exhibit 43.

11 A That is a close-up of the receipt.

12 Q Okay. And did the receipt have a time and date

13 associated with it?

14 A Yes, it does.

15 Q And what does that show?

16 A It shows the same date, June 8th, at 3:52 p.m.

17 Q And would that have been a receipt at Footlocker located

18 at Galleria at Sunset?

19 A Yes, it is.

20 Q And you also indicated that there was some shoes in the

21 trunk, correct?

22 A That's correct.

23 Q Showing you 41.

24 A That was the box of shoes circled earlier.

25 Q Okay. That were found in the trunk?

1 A Correct.

2 Q And just to go back and verify. With regards to the wallet,
3 showing you 52. Is that the ID that you found inside the wallet?

4 A Yes, it is.

5 Q And again, nothing -- no other contents inside?

6 A No.

7 Q Now was there anything else in the back seat that you
8 documented?

9 A There were multiple items in the back seat that I
10 documented.

11 Q Okay. Now showing you State's 54.

12 A That photograph represents the back of the front
13 passenger seat and it's showing the handle of a folding knife.

14 Q And showing you State's 55.

15 Would that be a closer image of that knife?

16 A Yes, it is.

17 Q Okay. Was there another knife that was also recovered
18 from the vehicle?

19 A Yes, there was.

20 Q And where was that?

21 A That was located under the shirt that was on the seat of
22 the rear driver's side.

23 Q And showing you State's Exhibit 57.

24 A That is the knife.

25 Q And that would have been after you had removed some