

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

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DEVOHN MARKS,

Appellant,

*vs.*

THE STATE OF NEVADA,

Respondent.

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Docket No. 80469

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Appeal from a Judgment of Conviction  
Following a Jury Trial and Verdict  
Eighth Judicial District Court, Clark County  
The Honorable Carolyn Ellsworth, District Judge  
Case No. C-18-337017-2

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**APPELLANT'S APPENDIX  
VOL. 6 OF 9**

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JESS Y. MATSUDA, ESQ.  
Nevada Bar No. 10929  
**MATSUDA & ASSOCIATES, LTD.**  
228 South 4th Street, Third Floor  
Las Vegas, NV 89101  
(702) 383-0506

Counsel for Appellant

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### **CERTIFICATE OF SERVICE**

I hereby certify that on the 6 of November, 2020, I served this document on the following:

**Name**

**Address**

Steven B. Wolfson, Esq.  
Clark County District Attorney's Office

Via eFlex  
200 Lewis Ave.  
Las Vegas, NV 89155

Aaron D. Ford, Esq.  
Nevada Attorney General's Office

Via eFlex  
100 N. Carson St.  
Carson City, NV 89701

/s/ Jess Matsuda

JESS Y. MATSUDA, ESQ.  
Nevada Bar No. 10929  
**MATSUDA & ASSOCIATES, LTD.**  
228 South 4th Street, Third Floor  
Las Vegas, NV 89101  
(702) 383-0506

Attorney for Appellant

### **AFFIRMATION**

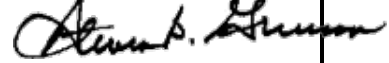
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/s/ Jess Matsuda

Jess Y. Matsuda, Esq.

11-6-20

Date



TRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA  
\* \* \* \* \*

THE STATE OF NEVADA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
DEVOHN MARKS, )  
 )  
Defendant. )

CASE NO. C-18-337017-2  
DEPT NO. V

**TRANSCRIPT OF  
PROCEEDINGS**

BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE

TUESDAY, JULY 23, 2019

**JURY TRIAL - DAY 5**

APPEARANCES:

FOR THE STATE: NICOLE J. CANNIZZARO, ESQ.  
Chief Deputy District Attorney  
LINDSEY MOORS, ESQ.  
Deputy District Attorney

FOR THE DEFENDANT: JESS Y. MATSUDA, ESQ.

RECORDED BY: TRISHA GARCIA, COURT RECORDER  
TRANSCRIBED BY: JD REPORTING, INC.

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1 **LAS VEGAS, CLARK COUNTY, NEVADA, JULY 23, 2019, 1:38 P.M.**

2 \* \* \* \* \*

3 (Outside the presence of the jury)

4 THE COURT: All right. We are on the record. State  
5 of Nevada versus Davon Marks. Record will reflect the presence  
6 of Mr. Marks with his counsel. The prosecutors are present,  
7 all officers of the court are present. We are outside the  
8 presence of the jury.

9 Any matters outside the presence?

10 MS MOORS: None from the State, Your Honor.

11 MR. MATSUDA: None from the defense, Your Honor.

12 THE COURT: How about jury instructions. Have we --  
13 have you sent those out yet?

14 MS MOORS: We have not yet, Your Honor. I can get  
15 those sent out tomorrow morning, first thing.

16 THE COURT: Okay. And so we are going to bring the  
17 jury in just as soon this video gets queued up a little closer  
18 to the time here, which should be -- what time do you want to  
19 pause it and then have the jury come in?

20 MS MOORS: It's supposed to be 5:12 and I just  
21 noticed that it stopped again.

22 THE COURT: It stopped again.

23 MS MOORS: Okay.

24 THE COURT: It's going. Okay.

25 MS MOORS: It was right at 5:12, Your Honor, and is

JD Reporting, Inc.

1 currently at --

2 THE COURT: It keeps freezing.

3 THE MARSHAL: Ready?

4 THE COURT: Yes. Let's go ahead and have them file  
5 in and let it keep going.

6 (Jury entering 1:46 p.m.)

7 THE COURT: Please be seated. And the record will  
8 reflect the presence of all 12 members of the jury and the  
9 three alternates. The defendant is present with his counsel.  
10 The prosecutors are present as are all officers of the court.

11 And we were trying to finish up direct examination  
12 with Mr. Johnson, who is on the stand and still under oath.

13 Are you having still technical difficulties?

14 MS. CANNIZZARO: It does appear that way, Your Honor.

15 THE COURT: It does appear that way. All right. Did  
16 you want to pass then for cross?

17 MS. CANNIZZARO: Court's brief indulgence.

18 And, Your Honor, at this point I think we would pass  
19 the witness.

20 THE COURT: Cross-examination.

21 **ANTWAIN JOHNSON**

22 (having been recalled as a witness and previously sworn,  
23 testified as follows:)

24 / / /

25 / / /

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CROSS-EXAMINATION

BY MR. MATSUDA:

Q Good afternoon, Mr. Johnson. I'm going to ask you some questions about your testimony yesterday. All right?

A Yes, sir.

Q Okay. Now, you do have an agreement to testify; is that correct?

A Yes, sir.

Q Okay. And what is your understanding of this agreement to testify?

A Just to testify, to tell the truth. Just to help my sentence.

Q To help your sentence.

A Yes. To help my -- to give my testimony.

Q Okay. And your attorney is present in court; is that correct?

A Yes.

Q Okay. Now, yesterday you said that you planned this robbery with Mr. Marks; is that correct?

A Yes.

Q Okay. How often do you think you -- or how do you know Mr. Marks? Let's start with that.

A I know him from my apartment where I would see him off and on, coming in and out of the building, walking to the gym or walking his dog. He lives real close.

1 Q Okay. So would you consider him a friend?

2 A Well, we didn't know each other that long. I know  
3 probably about six months. So I guess you could say he was a  
4 associate of mine. Yeah, we started, you know --

5 Q Associate. Okay. Would you guys hang out at night?  
6 Go to parties together?

7 A No parties together. Just inside the building. We  
8 never go outside.

9 Q Okay. Were you guys like gym buddies? Did you go to  
10 the gym together?

11 A No.

12 Q Okay. So it's just -- what it sounds like to me, and  
13 correct me if I'm wrong, it's just you guys would see each  
14 other in passing --

15 A Yes.

16 Q -- because you lived in the same building?

17 A Yes.

18 Q Okay. Is that accurate?

19 A Yes.

20 Q Okay. Now, did Mr. Marks live in the building before  
21 you?

22 A I'm not sure.

23 Q Okay. How long were you in that building?

24 A I was in -- I moved in 2016.

25 Q Okay. And I think your statement was you saw him for

1 probably around six months?

2 A Yes.

3 Q Okay. And that's again just through passing?

4 A Yes.

5 Q Okay. Did you know if Mr. Marks had a wife or  
6 girlfriend?

7 A I'm pretty sure he had a girlfriend.

8 Q Okay. Do you know if he had kids?

9 A I'm not sure if he had kids or not.

10 Q Okay. How many dogs did he have?

11 A I seen him walk one dog.

12 Q Same dog?

13 A Yeah, same dog.

14 Q What kind of dog?

15 A I don't know. I think it was a poodle or something.

16 Q Okay. Do you know if Mr. Marks had a job?

17 A I'm not quite sure. I think when I talked to him he  
18 said he had a job or he was looking for a job. So I can't  
19 really recall.

20 Q Okay. So you can't -- you don't know for sure if he  
21 had a job or not?

22 A Yeah. I'm not sure. Yeah. I can't answer that.  
23 Not for sure.

24 Q Okay. Now, how many times -- well, eventually you  
25 guys exchange numbers; is that correct?

1 A Yes.

2 Q Okay. And how many times did you meet up with  
3 Mr. Marks, I'm sorry, to discuss this plan?

4 A For the plan, maybe, six to maybe five or six times.

5 Q Okay. Five or six times. Where were these meetings  
6 held?

7 A Close to my house and his house like in my vehicle,  
8 we would meet up right there. We would probably be talking  
9 outside close to the gym, you know, right there kind of in  
10 between my house and his house.

11 Q Okay. And each time you met with Mr. Marks was it  
12 just you two?

13 A It would be me, him and another guy.

14 Q Okay. And you don't know who this other guy is?

15 A No, I do not.

16 Q Every meeting you had was this other guy there?

17 A I believe so, yes.

18 Q Okay. And you never got his name?

19 A Never got his name.

20 Q Okay. He was just -- did he live in the  
21 building too?

22 A I can't recall. I'm not sure.

23 Q Okay. He's just some random guy that had these  
24 meetings with you?

25 A Yeah. He just -- yeah, actually he was his best

1 friend. I guess he was always with him. Every time I'd see  
2 him he would be with him.

3 Q Okay. When you say he, who are you referring to?

4 A Devohn.

5 Q Okay. So you met up with these two other gentlemen,  
6 Mr. Marks and the other guy?

7 A Yes.

8 Q And you assumed it was Mr. Marks's best friend?

9 A Yeah, I assumed. Yes.

10 Q Okay. And you said you guys met up five, six, seven  
11 times?

12 A Yes. Or maybe less, maybe more.

13 Q Okay. Before you started going to the actual bar to  
14 kind of case the joint --

15 A Okay.

16 Q How -- when did you guys start meeting up?

17 A Can you rephrase that one more time what you --

18 Q Yeah. I'm sorry. That was kind of confusing.  
19 Before you actually started putting on the vest to sit in the  
20 bar --

21 A Right.

22 Q Remember your testimony from yesterday?

23 A Right.

24 Q Before you started going to the bar physically, when  
25 did the planning start?

1           A     I got to say, maybe, maybe, weeks before. Like maybe  
2 like a week or two before. Then we just started going out and  
3 going forth with it. Then we started going to the bar.

4           Q     Okay. And previously, you said you were kind of  
5 financially strapped and in a bad situation?

6           A     Yes.

7           Q     Okay. And you said it's -- was it your fiancé or  
8 girlfriend, I'm sorry.

9           A     My son's mother.

10          Q     Your son's mother. Okay.

11          A     Yes.

12          Q     She kind of put you in a bad spot you said; right?

13          A     Yes.

14          Q     And then why was that?

15          A     I don't know why. But I lost my job. I was working  
16 at the Springs Preserve full time. And out of the blue she  
17 just dropped -- she's from California, so she dropped him off  
18 from California to me for, you know. It was supposed to be before  
19 five days. She ended up leaving for maybe about a month and a  
20 half. And I was kind of -- it was hard for me to even go get a  
21 job. Having day care -- I couldn't take my son to daycare or  
22 nothing.

23          Q     Okay. So you're in a bad financial spot?

24          A     Yes.

25          Q     Okay. How many times did you actually go to the bar



1 prior to the night of October 29th, or early morning hours of  
2 October 29th?

3 A I cannot recall that. I don't know how many times  
4 exactly.

5 Q Was it more than a couple?

6 A More than a couple. Yes.

7 Q Okay. Less than 10?

8 A Maybe less than 10. Yes.

9 Q Okay. More than five?

10 A Yes, maybe. Maybe more than five, I would say. Yes.

11 Q So you went there quite a few times?

12 A Yes.

13 Q Okay. And would it be alarming that a couple of the  
14 witnesses said they saw you maybe twice a week for some times?

15 A No. It wouldn't be alarming.

16 Q Okay. And each time you were there to what?

17 A Just to, like I said, to play the game. Act as a  
18 customer.

19 Q Okay. And whose idea was this?

20 A It was actually his idea.

21 Q Okay.

22 A Devohn.

23 Q Okay. So your testimony is Devohn approached you;  
24 right?

25 A Yes.

1 Q And said this is what we're going to do?

2 A Yes.

3 Q Okay. Why you?

4 A Well, he just asked me if I was interested in it when  
5 he came up with the plan, and I guess I agreed to it.

6 Q Okay. So you see this guy casually walking around  
7 your apartment; right?

8 A Yes.

9 Q Walking his dog. Going to the gym.

10 A Yes.

11 Q And he just runs up to you and says, hey, man, I got  
12 this plan. We're going to rob this bar; you in?

13 A Yes and no. It kind of sounds like that, but we was  
14 kind of talking before the plan came apart. We was just, you  
15 know, just talking about life before and then one day it just  
16 happened, like that.

17 Q Okay.

18 A Yes.

19 Q And you agreed to it because you were in a bad  
20 situation?

21 A Yeah. I was in a dark place and I guess, you know,  
22 sometimes Satan takes over, you know, spiritualwise. So I  
23 kinda messed up the situation and I regret, you know, that  
24 situation I got myself into.

25 Q Okay. So the plan was for you to go inside and act

1 like a customer; correct?

2 A Yes.

3 Q Put on a vest to make it look like you're  
4 construction or --

5 A Yes.

6 Q -- warehouse kind of worker?

7 A Yes.

8 Q Okay. Now, after this went down, do you remember  
9 speaking to officers or detectives?

10 A Yes.

11 Q Okay. And how long after this robbery occurred did  
12 you actually sit down with a detective?

13 A Maybe an hour or maybe less.

14 Q Okay. After the robbery occurred how fast did an  
15 officer show up?

16 A Maybe 10 minutes.

17 Q Okay. And did you have a chance to speak to the  
18 initial responding officers?

19 A Yes, sir.

20 Q Okay. Do you know if you gave a statement to them?

21 A Yes, sir.

22 Q Okay. Do you know if it was recorded?

23 A No, sir.

24 Q Okay. Did they have like a pen and pad?

25 A Yes.

1 Q And they were just taking notes?

2 A Yes.

3 Q Okay. And at some point you moved to a detective?

4 A Yes.

5 Q All right. He sits you down and says let me talk to  
6 you?

7 A Yes.

8 Q Okay. And do you remember giving a statement then?

9 A Yes.

10 Q Do you remember if that was recorded?

11 A He said it wasn't recorded, but I think it -- I  
12 believe it was recorded.

13 Q Okay. Do you remember what you said during that  
14 interview?

15 A Not exactly. I just gave the same statement that I  
16 gave the other officer at first that wrote --

17 Q And what was your initial statement?

18 A That two guys came in the bar and basically robbed  
19 us. They told everybody to get down and robbed us. That's,  
20 you know, that was my initial statement.

21 Q Okay. And your initial statement was a lie?

22 A Yes.

23 Q Okay. Did you -- do you recall telling the officer  
24 or the detective that you just got off work?

25 A I can't recall.

1 Q Okay. Do you recall or -- because your plan was to  
2 wear the vest; correct?

3 A Yes.

4 Q To make it look like you just got off of work?

5 A Right. Right.

6 Q So do you recall telling the officer where you work?

7 A Well, yeah, I guess I probably did tell him where I  
8 worked, yeah.

9 Q Okay. And do you remember what you told the officer  
10 where you worked?

11 A I think I said I worked at a warehouse or something  
12 like that, a beverage warehouse. I'm not sure exactly.

13 Q Okay. And were you working at a beverage warehouse  
14 at the time?

15 A No, I wasn't.

16 Q Okay. So that was a lie?

17 A I didn't have a job at the time.

18 Q Okay. Do you also recall telling the officer that  
19 you also worked at the MGM?

20 A Yes.

21 Q Okay. And were you, in fact, working at the MGM?

22 A Well, I actually had prior, like, maybe three weeks,  
23 I was doing like some janitorial work. But it kind of was part  
24 time. So I didn't really count it as a job like that.

25 Q So at that time were you actually employed by MGM?

1 A No.

2 Q So that was a lie?

3 A Yes.

4 Q Okay. Do you -- so at no point, during this  
5 interview with the detective, after the robbery occurred, did  
6 you ever say, yeah, I was involved; I was involved in the  
7 planning; I was involved?

8 A No.

9 Q Okay. Your story throughout that interview was you  
10 were a victim; correct?

11 A Yes.

12 Q Okay. You said you didn't know who these individuals  
13 were; correct?

14 Is that a yes?

15 A Yes.

16 Q Okay. You were pushed into the bar; correct?

17 A Yes.

18 Q You didn't see what was going on because your head  
19 was down; correct?

20 A Yes.

21 Q Okay. And you couldn't identify anyone because they  
22 had masks?

23 A Yes.

24 Q Is that all correct?

25 A Yes.

1 Q And that's the story you told the detectives right  
2 after it happened?

3 A Right.

4 Q Right. And now you're -- those are all lies?

5 A Yes. The first story. Yes. The first initially,  
6 yes.

7 Q Okay. At some point you get arrested?

8 A Yes.

9 Q Right? Do you remember speaking to detectives the  
10 second time?

11 A Yes.

12 Q Okay. What did you tell the detectives?

13 A I can't recall exactly what was said. They asked me  
14 a few questions.

15 Q Do you remember going over what happened?

16 A They didn't talk too much. So I don't remember or  
17 recall exactly what was said.

18 Q Okay. Do you know if that interview was recorded?

19 A No, I do not.

20 Q Okay. Did they tell you it was recorded?

21 A I can't recall.

22 Q Okay. But you don't remember what was said during  
23 that?

24 A Not exactly. Yeah, I don't remember exactly what was  
25 said.

1 Q Okay. At some point you're indicted?

2 A Yes.

3 Q For these charges?

4 A Yes.

5 Q For being a part of this robbery?

6 A Yes.

7 Q Right? And at some point you sign an agreement to  
8 testify?

9 A Yes.

10 Q Okay. And now you're saying Mr. Marks is the grand  
11 master of this; right?

12 A Yes.

13 Q He's the planner?

14 A Yes.

15 Q And you guys know each other because you've seen each  
16 other walking through the apartment complex?

17 A Yes.

18 Q And he approaches you and says, hey, I know the ins  
19 and outs of this bar. We're going to rob it. We need you to  
20 be the guy that goes in and acts like a victim, more or less;  
21 that's the plan?

22 A Yes, sir.

23 Q Okay. You tell detectives right after it happened, I  
24 don't know what's going on; right?

25 A Yes, sir.



1 Q You stick to that story; right?

2 A Yes, sir.

3 Q Ultimately you're indicted because your involvement  
4 in this robbery; right? Is that a correct, yes?

5 A Yes, sir.

6 Q Okay. And at some point you strike up a deal with  
7 the DA's office to testify; right?

8 A Yes.

9 Q To benefit yourself?

10 A Yes.

11 Q And now this is your story?

12 A Yes, sir.

13 Q Is that a yes?

14 A Yes, sir.

15 Q Okay. You agree with me, it's totally different from  
16 the story you initially told?

17 A Yes, sir.

18 Q Okay. Going back to your relationship with Mr. Marks  
19 from the apartment complex. Is it fair to say that you didn't  
20 really know him that well?

21 A Not -- what do you call real?

22 Q Well, you didn't know if he had kids. You didn't  
23 know if he had a girl or not. You didn't know if he had a job.  
24 So it doesn't sound you guys were close?

25 A Yeah. I guess, yes.

1 Q Is that fair to say?

2 A Yes.

3 Q Okay. So you didn't know his situation?

4 A No.

5 Q Okay. Was it ever mentioned that Mr. Marks did some  
6 time in the past?

7 A I believe so. I think, I'm not sure. I can't recall  
8 if he said that or not.

9 Q Okay. You can't recall if you knew if he did some  
10 prison time?

11 A He might have mentioned it before. But I can't just  
12 think of it off the back if he said yes or no.

13 Q Okay.

14 A But he might of mentioned that. I'm not sure.

15 Q He might have mentioned that, but you're not sure?

16 A Yes. I'm not -- I can't -- so I could say no on that  
17 part.

18 Q Okay. So you might have?

19 A Yeah.

20 Q You just can't recall?

21 A Right.

22 Q So you might have known that he did some time for  
23 robbery?

24 A Yes. Well, I don't know for robbery. I don't  
25 know -- he might have told me he just did some time. I can't

1 even recall if he did tell me or not.

2 Q Okay.

3 A You know what I'm saying? He might of, but I don't  
4 want to say, yeah and I don't want to say no.

5 Q Right. And, again, going back to this agreement you  
6 signed the DA's office. Part of the agreement has or reads  
7 that you have to be truthful; is that correct?

8 A Yes.

9 Q Or the deal's off.

10 A Yes.

11 Q So your testimony is, you don't remember what or if  
12 Mr. Marks said these things to you?

13 A I don't know if he told me he went to prison or not.

14 Q Okay.

15 A I can't recall.

16 Q And you don't remember saying that in any kind of  
17 statement to detectives?

18 A I can't recall.

19 Q You can't recall?

20 A Yes.

21 Q Okay. This third gentlemen, the unknown  
22 coconspirator, he was always with Mr. Marks; is that your  
23 testimony?

24 A Yes.

25 Q Okay. And not once did you get his name?

1 A No.

2 Q He never said, hey, I'm Antoine -- Antwain, by the  
3 way --

4 A No.

5 Q -- what's your name, man?

6 A We never introduced.

7 Q Okay. So you guys are sitting --

8 A That's where I messed up on my part, yeah. I feel  
9 like I should have introduced myself. I didn't. I never  
10 introduced myself.

11 Q Well, you guys conspire to rob someplace and you  
12 don't even know this guy's name; right?

13 A Right.

14 Q Right. So you guys are sitting in someone's car?

15 A In my car.

16 Q In your car?

17 A Yes.

18 Q Talking about robbing Torrey Pines Pub?

19 A Right.

20 Q And you don't even know who this guy is?

21 A Right.

22 Q Is that correct?

23 A That's true.

24 Q It never struck you that, yeah, this is kind of  
25 weird. I don't even know this dude.

1 A It did later on, it hit me, but at the time, no.

2 Q Okay. Do you know what he looked like?

3 A Yes.

4 Q What did he look like?

5 A Well, kind of slim build. Maybe about 5-8, 5-9.

6 Maybe in his late 20s, maybe. African American.

7 Q Okay. He didn't have a nickname or anything?

8 A Like, if he did tell me, I can't recall at all.

9 That's why I said no, because I don't really know.

10 Q Each one of these meetings, was it always in your  
11 car?

12 A Yes. When we meet with the three of us, yes. We  
13 talking about plans, yes, always in my car.

14 Q Okay. And you said that was roughly how many times  
15 did you guys meet up?

16 A Maybe about five plus more. I can't really recall.  
17 Maybe about eight, five, six, around that time.

18 Q Five, six, eight times?

19 A Yeah.

20 Q Okay. Now your testimony is also, once you got in  
21 the bar you kind of look at the cash register; right?

22 A Yes.

23 Q You would see how many people were in there?

24 A Yes.

25 Q Right. And you're relaying this to someone else,

1 basically giving them the insights of what's going on in the  
2 bar; is that correct?

3 A Yes.

4 Q Okay. And that night you were doing that exact  
5 thing; correct?

6 A Yes.

7 Q Okay. You were in the bar looking at the cash drop,  
8 checking to see how many people were in the bar, and you were  
9 relaying that to someone; right?

10 A Yes.

11 Q Via text?

12 A Yes.

13 Q Did you ever call someone?

14 A I believe either he called me or I called him.

15 Q And when you say he, who are you referring to?

16 A Devohn.

17 Q Okay. So he called you at some point?

18 A Yes.

19 Q When was this?

20 A While we was at the bar. While I was at the bar.

21 Q Do you know what time it was?

22 A I cannot recall what time.

23 Q Some time -- because I believe your testimony was you  
24 got there at 1:30 in the morning; correct?

25 A Yes.

1 Q This happened at roughly 10 minutes after 5:00.

2 A Okay.

3 Q Correct?

4 A Yes.

5 Q So sometime from 1:30 to 5:00 you spoke to Mr. Marks?

6 A Yes.

7 Q On the phone?

8 A Yes. Well, I didn't speak to him. I left the phone  
9 running just so he could hear where everything was going on.

10 Q Okay. So your test -- right. You testified that you  
11 left your phone on --

12 A Yes.

13 Q -- but as muted; correct?

14 A Yes.

15 Q Okay. Your end was muted?

16 A I think his end was muted, maybe, so I couldn't hear  
17 his background. I'm not sure. Actually, I don't know if it  
18 was even muted to be actually. I just know I called. I put it  
19 on speaker so he could hear what was going on.

20 Q Okay.

21 A I left the phone running, yes.

22 Q Because if you mute your side he can't hear what's  
23 going on.

24 A Yeah. Right. So I don't think it was muted at all.

25 Q Okay. So your side wasn't muted, you know that?

1           A     Yeah, my side wasn't muted so he could hear what was  
2 going on inside the bar.

3           Q     Okay. So the plan was to put the phone down to --  
4 what's the purpose of that?

5           A     I don't know. That's just what he told me to just to  
6 maybe call and just turn the phone on so he could just hear  
7 maybe how many people's in the bar. Kind to get the feel  
8 what's going on inside the bar.

9           Q     But you're the one telling him who's in the bar.

10          A     Yes. I understand.

11          Q     Why does he need to hear how many people in the bar?

12          A     I don't know. That's what he wanted me to do. So I  
13 don't know why.

14          Q     Okay. So sometime from 1:30 to 5:00 you make the  
15 call; right.

16          A     Yes.

17          Q     You don't hear who answers; you just put your phone  
18 down; correct?

19          A     Right.

20          Q     So there's no discussion, no talking.

21          A     No talking.

22          Q     It's just dial, phone down, leave it on so he can  
23 hear whatever?

24          A     Right.

25          Q     Okay.



1           A     It might have been some talking going on, but like I  
2 say, for the most part it was just to listen. It was listening  
3 period. That's all it was.

4           Q     There might have been some talking on going on  
5 between you and the person --

6           A     Yeah. If I said something, yeah. Me and Devohn. I  
7 don't know if we said anything. But for the most part it was  
8 just on just so he could hear the live whatever was going on.

9           Q     So you can't recall if there was an actual  
10 conversation?

11          A     Right. If I was saying me to give him clues of who  
12 was in there, I can't recall if I was saying that to him.

13          Q     Why would you do that if you're texting him the  
14 information?

15          A     That's, like I say, that's the part of the plan to do  
16 that. Turn the phone on and kind of, I don't know why, but  
17 that was part of the plan.

18          Q     Because it sounds like this plan is kind of well  
19 thought out, for the most part. You guys plan for a couple  
20 weeks. You case the joint for another couple weeks. You pose  
21 as a victim; right?

22          A     Right.

23          Q     So it sounds like you know what you're doing in this  
24 situation. But then you're saying, you're calling Mr. Marks.  
25 You put your phone down so he can hear what's going on when

1 you're already telling him what's going on?

2 A Exactly.

3 Q Why is that?

4 A Like I said, this is the part of his plan. I don't  
5 know why he wanted to get extra descriptions. I don't know. I  
6 can't recall why. That's just what was said.

7 Q Okay. Now, at some point you're texting this number,  
8 saying it's a go; right?

9 A Yes.

10 Q At some point you make the decision; right?

11 A Yes.

12 Q Because you're the guy; you're the in man?

13 A Yes.

14 Q You're the guy looking at everything that's going on.  
15 You made the decision --

16 A Yes.

17 Q -- to say it's on. Green light. Is that correct?

18 A Correct.

19 Q Okay. At some point you get up, and you walk to the  
20 side door, and you open it; correct?

21 A Yes.

22 Q Two guys wearing all black, black ski masks on, throw  
23 you in.

24 A Yes.

25 Q Correct? You get thrown or -- you act like you're

1 thrown to the ground, and then you go into kind of a prone  
2 position with your head down for basically the whole time;  
3 correct?

4 A Yes.

5 Q Your face is on the floor; correct?

6 A Yes.

7 Q At any point do you look up to see what's going on?

8 A No.

9 Q Okay. So two men enter with masks on. Throw you to  
10 the ground; your face is on the ground. You don't see what's  
11 going on. They leave; right?

12 A Yes.

13 Q Okay. Does anyone say anything to you?

14 A They just told me to get on the ground as they pushed  
15 me. That was it.

16 Q Okay. And nothing was taken from you; correct?

17 A No.

18 Q And that was part of the plan?

19 A I don't know if that was part of the plan. We didn't  
20 discuss that. We just discussed just push me on the floor. We  
21 didn't discuss about taking anything or nothing so.

22 Q Did you have a wallet with you?

23 A No wallet.

24 Q Okay. But you obviously had your phone?

25 A Yes.

1 Q Okay. Now, at some point after you spoke to the  
2 detectives about this robbery, what did you do with your phone?

3 A You said prior?

4 Q After you spoke to detectives. So that same day,  
5 October 29th --

6 A Yes.

7 Q -- you spoke to detectives, probably, 6:00-ish I want  
8 to say, after the 5:00 a.m. robbery?

9 A Yes.

10 Q So you spend maybe an hour with the detectives. What  
11 do you do after you speak with the detectives?

12 A I go home.

13 Q Okay.

14 A To go pick up my daughter. I get ready to pick up my  
15 daughter from school.

16 Q How far as home from -- I'm sorry I cut you off. How  
17 far is home from the bar?

18 A Maybe 8 to 10 minutes.

19 Q Okay. You drive straight home?

20 A Yes.

21 Q Okay. What's the first thing you do when you get  
22 home?

23 A I believe I tried to contact him.

24 Q When you say him, who are you referring to?

25 A Devohn.

1 Q Okay. You try to contact Mr. Marks?

2 A Yes.

3 Q How?

4 A Via text or maybe a phone call, I believe. I tried  
5 to contact him then. But I think his phone wasn't even working  
6 or something like that. So I think I seen him, and that's when  
7 I had contacted him.

8 Q I'm going to stop you right there. You tried to  
9 contact him via phone or text?

10 A Yes.

11 Q But it wasn't working?

12 A Yes.

13 Q How do you know it wasn't working?

14 A Because I called and it went straight to voice mail.

15 Q Okay.

16 A As if he turned it off.

17 Q So you didn't text, you called?

18 A I think I did both. Yes.

19 Q Okay. You think you did both, or you know you did  
20 both?

21 A I can't recall.

22 Q Okay. You try to contact Mr. Marks. You're not  
23 successful. So then what happens?

24 A I see him. As I'm pulling up I actually see him by  
25 his building, and I talk to him right there.

1 Q Okay. And what time is this?

2 A Maybe like 6:45, 7:00 or around 7:00 or something  
3 like that a.m.

4 Q Okay. And your testimony is what? What happens when  
5 you see Mr. Marks?

6 A I asked him about the split with the money.

7 Q Okay. What does he say?

8 A He said he's going to get it to me real soon. They  
9 going to split it up, and then he going to bring it to me or  
10 something like that. He going to call me when they get it or  
11 something like that.

12 Q Okay. And did you ultimately receive anything?

13 A Yes.

14 Q What did you receive?

15 A I can't recall. It was maybe \$200 or maybe \$300.

16 Q 2- or \$300?

17 A Yes.

18 Q Okay. And between the three of you was it supposed  
19 to be split evenly?

20 A I believe so.

21 Q Okay. So if it was \$200 it would be \$600 total that  
22 they got off with?

23 A Yes.

24 Q If it was 300 it would be 900?

25 A Maybe so, yes.

1 Q Okay. Were you happy with that?

2 A It was -- it couldn't -- I had no choice to be happy  
3 or sad because it was already done so it was whatever, you  
4 know. It was nothing I could do, you know, so.

5 Q Okay. Do you remember what you did with the money?

6 A Yes. I bought some groceries. I did like family  
7 things. Like, that was what I was intending to do. I didn't  
8 party with it or nothing. I kind of just put gas in my car and  
9 stuff like that.

10 Q Okay. So after you meet up with Mr. Marks, as your  
11 testimony is, you talk about splitting the bag; right?

12 A Yes.

13 Q Okay. At some point do you modify your phone?

14 A Yes.

15 Q What do you --

16 A I'm sorry, what do you mean modify?

17 Q Well, do you do anything to your phone after you  
18 speak to detectives?

19 A I believe I tried to reset it and stuff like that.  
20 Yes.

21 Q Okay. When you say reset it what do you mean?

22 A Just like a factory reset. When you go to settings,  
23 just going to factory reset. That don't really do much. It's  
24 just a reset.

25 Q Okay. And what was the purpose of this factory

1 reset?

2 A Well, the purpose was I thought I was erasing some of  
3 the information off my phone but obviously it didn't erase  
4 anything.

5 Q Okay. At some point did you change or try to change  
6 your SIM card?

7 A I think so. I believe so, yes.

8 Q Okay. You think so?

9 A I believe so. Yes.

10 Q Okay. And what was the purpose of that?

11 A To try to just get a different talk on a different  
12 line instead of the number that I was talking with.

13 Q Okay. I'm not too familiar with phones so if you  
14 want to let the ladies in the gentlemen of the jury know what a  
15 SIM card is, do you know what a SIM card is?

16 A A SIM card is a chip you put on your phone that  
17 stores your number and information, I believe so.

18 Q Okay. So if you change your SIM card you can change  
19 your phone number; is that correct?

20 A Yes. Just from the phone. You just change that  
21 number -- the phone number to another phone. That's basically  
22 what you're doing. So I basically took out the number that I  
23 had from that phone into -- just took that number out of the  
24 phone and put a different number inside that phone.

25 Q So if I have my phone --



1 A Right.

2 Q -- and I missed a call from my mom. She's not going  
3 to be happy. So if I take my SIM card out --

4 A Yes.

5 Q -- and I put another SIM card in, can I change the  
6 number on this phone?

7 A Yes, by the SIM card.

8 Q Okay.

9 A By swapping the SIM card.

10 Q So if you have a SIM card with a number that's  
11 already coded into it, you can just slip it into someone's  
12 phone and use that phone?

13 A I believe so. Yes.

14 Q Okay. Now, after -- your testimony is after you saw  
15 Mr. Marks, after this happened and you guys discussed splitting  
16 the bag, did you see Mr. Marks again?

17 A If I did see him it was like weeks later. Weeks  
18 later I would see him walking his dog.

19 Q Okay. Did you guys have any communication? Did you  
20 guys text or call each other?

21 A No.

22 Q So you guys just went on your own business?

23 A That was part of the plan. Yes.

24 Q Part of the plan was to make like you don't even know  
25 each other?

1 A Right.

2 Q Okay. Why is that?

3 A I guess just to not look suspicious if anything did  
4 happen to occur. I guess we just, you know, keep our distance  
5 from each other.

6 Q Okay.

7 MR. MATSUDA: Court's indulgence.

8 Thank you, Your Honor. I have no further questions.

9 Thank you, Mr. Johnson.

10 THE COURT: Redirect.

11 MS. CANNIZZARO: Yes, Your Honor.

12 REDIRECT EXAMINATION

13 BY MS. CANNIZZARO:

14 Q Now, Mr. Johnson, on cross-examination you were asked  
15 about the phone call we discussed yesterday where you sort of  
16 left the phone open; is that right?

17 A Yes.

18 Q Prior to that phone call had you been texting with  
19 the defendant?

20 A Yes.

21 Q And after that phone call did you also text with the  
22 defendant?

23 A Yes.

24 Q We talked a little bit yesterday about you sending  
25 text messages after that phone call letting him know when you

1 would be walking out of the door; is that right?

2 A Yes.

3 Q Okay.

4 MS. CANNIZZARO: So at this point, Your Honor, I  
5 would like to publish State's 63, Channel 13 if we may.

6 THE COURT: All right. Granted.

7 MS. CANNIZZARO: I'm hoping that it will work.

8 BY MS. CANNIZZARO:

9 Q Mr. Johnson, while we're playing this, which is at  
10 5:12:37, do you recognize this? And I think earlier yesterday  
11 you also had pointed out that was your white Monte Carlo as the  
12 car farthest away?

13 A Yes, ma'am.

14 Q Okay. And you recognize this as being just outside  
15 the bar by that side door?

16 A Yes, ma'am.

17 Q Okay. And at 5:12:54, what, if anything, do you see  
18 happening in that portion of the video?

19 A I see two guys hopping the gate, running towards the  
20 bar, behind the side of my car.

21 Q And what did we just watch in this portion of the  
22 video at about 5:14?

23 A I opened up the door for 'em and two gentlemen walk  
24 in.

25 Q And right before you open up the door, did you see

1 the two men that you described earlier, did you see them do  
2 anything right before you opened the door?

3 A Yes.

4 Q What did they do?

5 A They was crouching by my vehicle. It seemed like  
6 they was getting ready to come in.

7 Q Did you see them move from where they had been  
8 crouched by your vehicle?

9 A Yes.

10 Q And that was just right before you opened up the  
11 door; is that right?

12 A Yes. Yes.

13 Q Okay. And so you were not -- you testified on  
14 cross-examination, and I want to revisit this for just a  
15 moment, because I want to make sure that I have it correctly,  
16 that you didn't know -- you weren't sure why you needed to have  
17 a phone call where you weren't really talking to the defendant?

18 A Correct. Yes, ma'am.

19 Q Was that your idea or his idea?

20 A That was his idea.

21 Q Okay. And again you actually texted with him again  
22 after that particular phone call?

23 A Yes.

24 Q Okay. So that phone call happened sometime while you  
25 were still inside of the bar?

1 A Yes, ma'am.

2 Q You mentioned on cross-examination that you had  
3 tried -- you tried to call him, but you got his voice mail  
4 later on in the morning after you talked with detectives; is  
5 that right?

6 A Yes, ma'am.

7 Q And what time, approximately, did you think that that  
8 phone call had occurred?

9 A Approximately, 6:45, 7:00.

10 Q So around 7:00 a.m.?

11 A Yes.

12 Q And was that the last phone call that you attempted  
13 to make to the defendant?

14 A I believe so, yes, ma'am.

15 Q Do you ever recall having any text message  
16 conversations with him just as the robbery was ending?

17 A I can't recall.

18 Q You don't remember if you did or not?

19 A Yes.

20 Q Okay. Is it possible that you did?

21 A Yes.

22 Q Okay. And then you also mentioned you still had your  
23 phone with you; is that right?

24 A Yes.

25 Q And what did you do with your phone, again, after the

1 robbery had sort of concluded, and you were waiting for police  
2 to show up?

3 A I deleted all text messages and attempted to reset  
4 the phone.

5 Q Now, you didn't delete -- you mentioned earlier that  
6 you had tried to reset your phone, and I just want to clarify  
7 that. You didn't delete or reset your whole phone at that  
8 point?

9 A No.

10 Q So what specifically did you delete between the time  
11 that the robbery occurred and you spoke with detectives?

12 A The text messages.

13 Q Okay. To whom?

14 A Devohn.

15 Q Did you delete any other text messages?

16 A I can't recall. I don't believe so. I just deleted  
17 his number.

18 Q When you say you reset your phone, did that happen at  
19 that point in time or did that happen later?

20 A Later.

21 Q Okay. So this was after you had talked with  
22 detectives that you tried to reset your phone?

23 A Yes, ma'am.

24 Q When you spoke with detectives, do you ever remember  
25 them telling you that they would attempt to get your cell phone

1 records?

2 A Yes.

3 Q Okay. On cross-examination you were also asked about  
4 your relationship with the defendant, and you mentioned that  
5 the two of you had sort of hung out. So can you kind of -- I  
6 know we talked a little bit about you didn't know his -- if he  
7 had a girlfriend or not or if he did or if he had kids, but  
8 what was your ordinary encounter like with him?

9 A We would just be sometimes we would meet up it would  
10 be late. Sometimes at night we would smoke weed or something  
11 and just chill. Drink sometimes. Just kind of -- and then  
12 we'd discuss the plan, which was a bad idea.

13 Q Okay. Prior to coming up with this plan -- now when  
14 you say you would kind of see him and sometimes you guys would  
15 hang out and smoke weed together, you guys still hanging out  
16 and doing that?

17 A I'm sorry -- rephrase that one more time, I'm sorry.

18 Q Yeah. So on cross-examination you were sort of  
19 asked, you know, it's not like you just met. You met the  
20 defendant and he said, hey, let's do this robbery. So did you  
21 know him before you actually started talking about the plan?

22 A I knew him, yes. Maybe about a week or a month  
23 before probably, we would just see each other. We wasn't  
24 really hanging out. We'd just see each other hi and bye, you  
25 know. We wasn't really hanging out until we started coming up,

1 you know, hey, and then we started coming up with the plan  
2 chilling together.

3 Q So would it be fair to say that you were actually  
4 familiar with him prior to talking about this plan?

5 A Yes.

6 Q And knew somebody that you knew from the  
7 neighborhood?

8 A Yes.

9 Q And you mentioned that you had also -- you had his  
10 cell phone number, and so the two of you would communicate via  
11 cell phone. When did you get his cell phone number?

12 A I believe kind of right before the plan had started  
13 when I got his number.

14 Q You were asked a little bit about the third guy, you  
15 know the guy that you don't know his name.

16 A Yes.

17 Q When he would come around with the defendant, how  
18 would you, like, say hello to him? Can you give us an example.

19 A Just say what's up, you know. Just greet him. We  
20 wouldn't -- like, if I saw him it's kind of weird like, well, I  
21 didn't have no good relationship with the guy. I would just,  
22 like, what's up, how you doing or stuff like that. It wouldn't  
23 really too much the talk -- well, he was quiet too. So we  
24 didn't really conversate as much.

25 Q Okay. So you wouldn't say hello to him?



1 A Not often.

2 Q Okay.

3 A Sometimes we would just say what's up and that's it.

4 Q Okay. So just kind of like general, like what's up,  
5 hey.

6 A Yeah. That's it. Yeah.

7 Q But if I'm understanding you correctly, no, like,  
8 where did you grow up? Where do you live?

9 A No.

10 Q Where do you hang out? Who's your family members?  
11 Nothing like that?

12 A No, nothing like that.

13 Q Okay. So it wasn't as though he was there and you  
14 were just ignoring him completely?

15 A No.

16 Q But you never stuck out your hand and introduced  
17 yourself and told him your name.

18 A No. Never.

19 Q Okay. You did attempt -- or let me ask -- let me ask  
20 you this question. Did you ever attempt to give detectives a  
21 description of that individual?

22 A Yes, ma'am.

23 Q And did you attempt to identify someone when  
24 detectives asked you?

25 A Yes, ma'am.

1 Q Okay. And were you able to identify anyone at that  
2 point?

3 A No, ma'am.

4 Q You mentioned that part of this plan was that you  
5 were going to be the customer in the bar; is that right?

6 A Yes, ma'am.

7 Q Was that always the plan?

8 A Yes, ma'am.

9 Q Okay. So your role was always to be the customer in  
10 the bar?

11 A Yes, ma'am.

12 Q What was the plan for, inevitably, detectives,  
13 officers, someone from the police department, would respond to  
14 a robbery? What was the plan for what you would do when that  
15 happened?

16 A Initially was supposed to give a different number,  
17 but I guess I didn't. I gave my real number.

18 Q Okay. Was that something that you mentioned to the  
19 defendant that you actually gave the real number?

20 A I believe so. Yes, I mentioned that to him.

21 Q You were asked about the statement that you had given  
22 to detectives when they first arrived on the scene. So the  
23 first statement that you gave to the detective, and you  
24 initially described what happened, that two guys came into the  
25 bar and sort of robbed the place; is that right?

1 A Yes, ma'am.

2 Q When you were telling them about what happened with  
3 respect to the robbery, how did you describe those two men?

4 A Black masks. All black -- I said there might have  
5 been two black guys and maybe one Hispanic.

6 Q So you actually told them that they were masked and  
7 gloved?

8 A Yes.

9 Q Did you mention that they had guns with them?

10 A Yes.

11 Q Did you mention how it is that they were able to gain  
12 access to the bar?

13 A Yes.

14 Q And did you mention how they sort of pushed you back  
15 into the bar?

16 A Yes, ma'am.

17 Q Now, you were asked on cross-examination -- you spoke  
18 with the detectives a second time and still maintained that you  
19 were not involved; is that right?

20 A Yes, ma'am.

21 Q Okay. Thereafter, you were indicted for charges  
22 related to this incident?

23 A Yes, ma'am.

24 Q After you were indicted, you were asked on  
25 cross-examination if you signed an agreement to testify; is

1 that right?

2 A Yes.

3 Q Prior to signing the agreement to testify, did you  
4 actually sit down and talk with the detective again?

5 A Yes.

6 Q So before you signed an agreement to testify, you met  
7 with the detective again?

8 A Yes, ma'am.

9 Q And when you met with the detective at that point in  
10 time, what was it that you told the detective?

11 A That I wanted to testify to tell the truth.

12 Q Did you talk to the detective about everything we've  
13 talked about during your testimony yesterday?

14 A Yes, ma'am.

15 Q And that was prior to your agreement to testify?

16 A Yes.

17 Q And was that prior also to you signing a guilty plea  
18 agreement?

19 A Yes.

20 Q Once you were indicted, did you become aware the  
21 detectives had your phone records?

22 A Yes.

23 Q You mentioned something on cross-examination that I  
24 wanted to ask you about because you sort of said like Satan  
25 takes over when you were asked about why it was that you

1 would -- that you agree to do something like this because it's  
2 a little extreme to agree to do a robbery?

3 A Right.

4 Q And so what do you mean by that?

5 A Well, I just think that, you know, sometimes  
6 everyone's not perfect. So sometimes we make bad decisions in  
7 our life based on your environment. So I just kind of think  
8 that, you know, my environment was kind of messed up at the  
9 time and, you know, and Satan is real, the devil is real, and  
10 it could affect your life. And I believe I was in a dark place  
11 at the time, and I just made a real bad decision that I ever  
12 made. I never got in trouble before so. For me to even come  
13 up to agree to that was, you know, was a bad decision for me.

14 Q Okay. You mentioned that you actually had lost your  
15 job; is that right?

16 A Yes, ma'am.

17 Q And that you were then taking care of a son?

18 A Yes. I have a son and a daughter. I was actually,  
19 yeah, because my son was living with his mom in California and  
20 then she dropped him off. Well, I had two kids to actually  
21 take care of. I had a daughter I was already living with at  
22 the time.

23 Q Okay. So you had two kids that you were then taking  
24 care of?

25 A Yes, ma'am.

1 Q Were you supporting them as well?

2 A Yes. With help from her mom and then -- yes.

3 MS. CANNIZZARO: Court's brief indulgence.

4 BY MS. CANNIZZARO:

5 Q So, Mr. Johnson, we talked a little bit about your  
6 role as part of this plan. When you were discussing this plan  
7 with the defendant, was there ever a plan to physically hurt  
8 anyone?

9 A No.

10 Q What was the plan supposed to be?

11 A The plan was to just get the money and not hurt  
12 anybody. We wasn't planning on hurting anybody, and I was kind  
13 of messed up about somebody getting hurt in there.

14 Q So that was not something that was part of the  
15 discussions?

16 A No, not at all.

17 MS. CANNIZZARO: Okay. Nothing further, Your Honor.  
18 Pass the witness.

19 THE COURT: Recross?

20 MR. MATSUDA: Thanks, Your Honor.

21 RECROSS-EXAMINATION

22 BY MR. MATSUDA:

23 Q So the devil takes over sometimes; right?

24 A Well, in everybody, yes. Yes, sir.

25 Q You made some bad decisions on this?

1 A Yes, sir.

2 Q So when you met up with Mr. Marks for 5, 6, 7, 8  
3 times, bad decisions?

4 A Yes. At the time it wasn't, but you know, you don't  
5 understand. When you're blinded you don't really realize what  
6 you're doing until, you know, what happens and everything hits  
7 the fan, you know.

8 Q Understood. So all the times you met with Mr. Marks,  
9 that's your testimony, you met with him to go over this plan;  
10 right? The devil made you do it?

11 A What made me do it?

12 Q Bad time in your life?

13 A Yes.

14 Q You weren't thinking clearly?

15 A Right.

16 Q Okay. The other 6, 7, 8, 9 times you cased the  
17 joint?

18 A Right.

19 Q Same situation?

20 A Same situation. I mean, I wasn't thinking it was bad  
21 at the time, you know --

22 Q Right. No.

23 A Everything is good. I'm trying to take care of my  
24 family at the end.

25 Q You're doing what you think you need to do; right?

1           A     Yes.

2           Q     Just like testifying. Doing what you think you need  
3 to do?

4           A     Yes.

5           Q     Correct?

6           A     Yes.

7           Q     Okay.

8           A     Tell the truth.

9           Q     Tell the truth because it saves yourself?

10          A     Well, it saves everybody. The truth will set you  
11 free.

12          Q     So the planning stage, then you go to the bar; right?

13          A     Yes.

14          Q     But it's not until you're actually indicted and  
15 that's when you see the light; right?

16          A     Yes.

17          Q     That's when you have this realization?

18          A     Well, I, actually, had this before once they -- once  
19 I started talking to the detective that night I started seeing  
20 the light that night after the whole thing happened, that's  
21 when I started seeing. I realized I made a mistake.

22          Q     Okay. Let me stop you right there. So after you  
23 speak to detectives, after this robbery --

24          A     Right.

25          Q     -- that's when you start seeing the light?



1           A     Yeah. I start realizing that I made a mistake, yes.

2           Q     Okay. Hold on right there. So you realize you made  
3 the mistake right there?

4           A     Yes.

5           Q     What do you do to correct the situation?

6           A     I don't do nothing.

7           Q     Why? You saw the light?

8           A     Right. I mean, but it's nothing I can just take it  
9 back. What am I supposed to do? I see the light. I don't  
10 know just, all I do is just, I gotta start walking the straight  
11 and narrow from there. That's all I can do.

12          Q     Well, you just committed this robbery?

13          A     Right.

14          Q     And you saw the light?

15          A     Yes.

16          Q     Reasonably, what's your next step if you just had  
17 this come to Jesus moment? What are you going to do to make  
18 this better?

19          A     Well, I just got to stay on the right path. Start  
20 having faith in God and, you know, that's when it started  
21 hitting me. I guess after that my conscience started realizing  
22 that what I did wasn't right. So after that moment I started  
23 to realize I better start walking on the straight path again.

24          Q     Okay. So you became a new man after that?

25          A     I don't know about a new man, but I --

1 Q Tried to become a new man?

2 A Yes.

3 Q Okay. But it wasn't until you're actually indicted,  
4 in custody, and that's when you said I got to do the right  
5 thing?

6 A Yeah. It was a part of it. Yeah, that was part of  
7 walking the straight path. You gotta start somewhere.

8 Q Yeah, but you didn't take it upon yourself to do  
9 something until something was done to you?

10 A What would I do?

11 Q You could've walked into a police station and said,  
12 hey, you know that bar that was robbed, I planned it.

13 A Okay.

14 Q Right?

15 A I didn't decide to do that, yes.

16 Q So my question to you is, you didn't act until you  
17 were put in a position where you had to save yourself?

18 A Yes.

19 Q Okay. Now, the State on redirect asked you certain  
20 questions about your time with Mr. Marks prior to this; right?

21 A Yes.

22 Q About the apartment complex and whatnot. At any  
23 point did you see Mr. Marks with a gun?

24 A No.

25 Q A firearm?

1 A No.

2 Q He didn't have one in his car or anything like that?

3 A If he did, I never seen it.

4 Q Okay. So the few times -- the times that you saw  
5 Mr. Marks, you've never seen him with a gun?

6 A No.

7 Q Okay. And again, the guys that busted in when you  
8 opened the side door were all wearing masks; right?

9 A Yes, sir.

10 MR. MATSUDA: Okay. Thank you, Mr. Johnson.

11 Nothing further, Your Honor.

12 MS. CANNIZZARO: Nothing further.

13 THE COURT: And may this witness be excused? Oh,  
14 wait, questions from the jury. No questions? All right. I  
15 see no hands.

16 Thank you for your testimony, sir.

17 You may call your next witness.

18 MS. MOORS: Court's brief indulgence.

19 Your Honor, The State would call Miriam Byrd.

20 **MIRIAM BYRD**

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

23 THE CLERK: Please be seated and state and spell your  
24 name for the record.

25 THE WITNESS: Miriam Byrd, M-i-r-i-a-m, B-y-r-d.

1 THE COURT: Proceed.

2 MS. MOORS: Thank you.

3 DIRECT EXAMINATION

4 BY MS. MOORS:

5 Q Good afternoon, Ms. Byrd. I want to direct your  
6 attention back to February 4th of 2011. At that point in  
7 time, did you have a different last name?

8 A Yes.

9 Q What was it?

10 A Odell, O-d-e-l-l.

11 Q And at that point in time, where were you working?

12 A Fred's Tavern.

13 Q Where's that located?

14 A Tropicana and Decatur.

15 Q Okay. And is that in Las Vegas, Clark County,  
16 Nevada?

17 A Yes.

18 Q So back in 2011 how long had you worked at this bar?

19 A I'm not really sure. I think close to a year.

20 Q And what were your duties? What did you do at the  
21 bar?

22 A I was the daytime bartender.

23 Q When were your hours customarily?

24 A 8:00 to 4:00. 8:00 in the morning until 4:00 in the  
25 afternoon.

1 Q So what time did you normally get to work?

2 A About 7:30.

3 Q So back to this specific date, February 4th, 2011,  
4 do you remember that date?

5 A Yes, I do.

6 Q And why do you remember that date?

7 A Because it was Super Bowl weekend. It was the Friday  
8 of Super Bowl weekend, and that night I was driving my daughter  
9 to Palm Springs for a cheer competition.

10 Q Okay. So you were going to go to work and then  
11 ultimately drive to Palm Springs?

12 A Yes.

13 Q About what time did you get to work?

14 A About 7:30. That gives me 15 minutes to count in the  
15 money in the drawer and everything.

16 Q And specifically do you have -- were there various  
17 locations in which money was kept in this bar?

18 A Yes. We had a cash drawer that we cashed paychecks  
19 and then we had one under the register for people that bought  
20 cigarettes and stuff like that. Smaller.

21 Q And when would it be customary, I guess, what day of  
22 the week would it be customary to cash paychecks?

23 A Fridays.

24 Q So this was a Friday you had said; right?

25 A Yes.

1 Q When you got there, who was located within the bar?

2 A John, the graveyard bartender.

3 Q And so you would essentially be relieving him?

4 A I was relieving him. Yes.

5 Q Was there anyone else in the bar?

6 A No.

7 Q So when you're at the bar there's, I guess,  
8 essentially, an overlap of time with you and John?

9 A Yes.

10 Q Did anyone come into the bar at that point in time?

11 A Yes.

12 Q Can you describe for me that person.

13 A A younger gentleman walked around like he was looking  
14 for a drunk friend, maybe that stayed at the bar all night,  
15 which wasn't unusual, so we were used to it. He walked in,  
16 looked around. We asked if he needed help, and he just said  
17 no. And then he walked out.

18 Q And what else do you remember about him? You said a  
19 young gentleman.

20 A Uh-huh.

21 Q Do you remember if he was tall or short?

22 A I'm not even sure to tell you the truth.

23 Q Okay. But he was male?

24 A Yes. And he had on a hoodie.

25 Q Okay. And do you remember what ethnicity he was?

1           A     Yes. African American.

2           Q     Okay. How long would you say he was in the business?

3           A     Not even five minutes.

4           Q     And you also mentioned that you thought maybe he was  
5 just looking for a drunk friend?

6           A     Yes.

7           Q     Would that be fair to say that's a common occurrence?

8           A     Yes.

9           Q     Okay. So ultimately after he leaves what then  
10 happened next when you're at work?

11          A     I was sitting inside the bar; John was outside the  
12 bar, and we were just talking. I had already counted the  
13 drawers out. So he was off. And then all of a sudden a few  
14 people came in. I'm not really sure how many. I think it was  
15 five maybe four, I'm not sure. And they were holding a gun and  
16 they said on the floor. On the fucking floor. And me and John  
17 just looked at each other. I laid behind the bar. He laid on  
18 the outside of the bar.

19          Q     Okay. So once you laid down on the floor, what did  
20 you observe these people do?

21          A     Jumping over the counter. Going to the cash drawer.

22          Q     Okay. And so you were now in front of the bar; is  
23 that right?

24          A     I was -- the bar kind of went like this, and I was  
25 right here, and they jumped right there.

1 Q Okay. So I was looking at your hands. It looks like  
2 you indicated that you may be kind of perpendicular to the bar?

3 A Yeah. I was like this, the bar was like this way.  
4 John's on the outside out here. I'm on the inside here, and  
5 they jumped over right here.

6 Q I see. So fair to say you're on the inside of the  
7 bar. John's on the outside. The bar's essentially making a  
8 right angle and then they jump over the front?

9 A Yes.

10 Q Okay. Now, you said that they had guns. Do you  
11 remember what the guns looked like?

12 A Black. That's all I remember.

13 Q Okay. Were they hand guns?

14 A Yes.

15 Q Were they rifles?

16 A Oh, no. They were handguns.

17 Q Okay. And did each of the individuals that you saw,  
18 did they all have guns?

19 A As much as I remember, yes.

20 Q Okay. You said you weren't quite sure on the amount.  
21 You thought maybe four or five; is that right?

22 A Yes.

23 Q With regards to the four or five, and let me know if  
24 they were different, but were they all male?

25 A Yes.



1 Q Okay. Do you remember the ethnicities of the males?

2 A Yes. They are all African American.

3 Q Okay. Do you remember any -- whether or not their  
4 faces were covered?

5 A None of their faces were covered. They did have on  
6 hoodies like pulled kinda like this, but it wasn't covered at  
7 all.

8 Q Okay. So you were able to see their faces?

9 A Yes.

10 Q Okay. Now, when they're going through and getting  
11 all the money, did they ultimately take anything from you  
12 personally?

13 A Yes. I had my cell phone in my back jeans pocket.  
14 They took that out. Took my cell phone, and then they took  
15 John's off the counter, off the bar top.

16 Q Okay. And then your cell phone, do you remember if  
17 it had a cell phone case on it?

18 A Yes, it did. It had a pink Coach case.

19 Q Okay. When you say coach, like the brand Coach?

20 A Yes.

21 Q Now let me ask you this. You were talking about this  
22 cash drawer that you use -- that you would cash paychecks with  
23 and because it is a Friday, is there more money in that drawer  
24 on Fridays because it's payday?

25 A Usually, yes.

1           Q     Okay. Now, you had ultimately, you said you had to  
2 count the money in the morning. Do you know how much money was  
3 in the register, in the cash drawer?

4           A     Yes. There was \$7,777 because John and I were  
5 talking about it. It was a strange amount to have.

6           Q     Okay. So that's kind of why you remember that  
7 number?

8           A     Right.

9           Q     All right. So how long would you say total these men  
10 were in the bar?

11          A     It seemed like forever, but it was very fast. It was  
12 very fast. It just seemed forever.

13          Q     Once they get all of these items, what do you  
14 remember happening after that?

15          A     John got up, and they had left the house phone there.  
16 So he got up and called 9-1-1.

17          Q     Let me stop you real quick. When you say they had  
18 left the house phone, you mean like they didn't pull the phone  
19 off the wall?

20          A     Right. They took our cell phones and there was still  
21 the house phone right there.

22          Q     Okay.

23          A     And it was cordless, so I don't know why they left  
24 it. But they did, thank goodness. And John called the police.  
25 I was still on the floor. I was scared.

1 Q Okay. Now, is there a window anywhere near the bar  
2 near where John would have been on the phone?

3 A Yes. The whole back side of the bar was glass  
4 windows to see the city.

5 Q Okay. And ultimately, did it appear that you and  
6 John could observe these individuals getting into their getaway  
7 car and driving away?

8 A Right. One -- John was describing the car, that's  
9 when I finally got up and I saw them going out also.

10 Q Okay. So did police arrive shortly thereafter?

11 A Yes.

12 Q Now, when they arrived did you speak with them?

13 A Yes.

14 Q Did they ultimately take you out to several different  
15 locations?

16 A Yes, they did.

17 Q Did they, in fact, take you to three locations?

18 A Yes.

19 Q And did they conduct what we would call a show-up?

20 A Where I had to identify them?

21 Q Yes.

22 A Yes.

23 Q And at all three of those locations did you identify  
24 those individuals as being involved in the robbery?

25 A Yes, I did.

1 Q How close in time was this identification to when the  
2 robbery happened?

3 A Very close. It was real close. They brought us  
4 right out after they caught them.

5 Q Okay. So right out, like, within a half an hour.

6 A Five minutes.

7 Q Five minutes?

8 A Fifteen minutes. Yeah. It was really soon.

9 Q Okay. So wherever the officers took you to was  
10 fairly close in time to -- or it was close, I guess,  
11 geographically from the bar?

12 A Yes.

13 Q Okay.

14 MS. MOORS: Court's indulgence.

15 I have no further questions, Your Honor.

16 THE COURT: Cross.

17 MR. MATSUDA: Thanks, Your Honor.

18 CROSS-EXAMINATION

19 BY MR. MATSUDA:

20 Q Good afternoon, Ms. Byrd.

21 A Hi.

22 Q How are you doing?

23 A Fine, thank you.

24 Q Were you at a Torrey Pines Pub on October 29th,  
25 2018?

1 A Couldn't tell you.

2 Q Okay.

3 A I don't know.

4 Q Were you at a bar that was robbed in 2018, the Torrey  
5 Pines Pub?

6 A No, I was not.

7 Q Thank you, ma'am.

8 MR. MATSUDA: Nothing further, Your Honor.

9 THE COURT: All right. Any redirect?

10 MS. MOORS: No redirect, Your Honor.

11 THE COURT: Any questions from the jury?

12 The testimony of this witness is not offered to prove  
13 that the defendant committed a robbery. It's, you know, it's  
14 not offered to prove that he acted in conformity. It's offered  
15 for other proof such as identification. So you'll be further  
16 instructed on that in your written instructions.

17 Thank you for your testimony.

18 Call your next witness.

19 MS. MOORS: Thank you, Your Honor.

20 Court's indulgence for just one moment. Let me see  
21 if my next witness is here.

22 Your Honor, can we approach?

23 THE COURT: Yes.

24 (Conference at the bench not recorded.)

25 THE COURT: All right. Ladies and gentlemen, the

1 next witness is on the way. So this would be a good time to  
2 take a break because by the time we finish with our afternoon  
3 break, the witness will be here.

4 So, ladies and gentlemen, we're going to take a  
5 15-minute recess. During this recess it's your duty not to  
6 converse among yourselves or with anyone else on any subject  
7 connected with the trial or to read, watch or listen to any  
8 report of or commentary on the trial by any person connected  
9 with the trial or by any medium of information including  
10 without limitation newspaper, television, radio, or Internet.

11 You are not to form or express an opinion on any  
12 subject connected with this case until it is finally submitted  
13 to you. Of course, no research into anything. No  
14 experimenting with your cell phones to see if you can swap out  
15 your Sim cards, et cetera. Nothing like that. Remember,  
16 everything you learn in the courtroom. All right.

17 I'll see you in 15 minutes.

18 (Jury recessed at 2:51 p.m.)

19 THE COURT: And the record will reflect that the jury  
20 has departed the courtroom.

21 We'll be in recess.

22 (Proceedings recessed 2:52 p.m. to 3:07 p.m.)

23 THE COURT: Thank you. Please be seated. And the  
24 record will reflect we are back in the presence of the jury and  
25 the alternates. The defendant is present with his counsel.

1 The prosecutors are present as are all officers of the court.

2 You may call your next witness.

3 MS. MOORS: Thank you, Your Honor. The State calls  
4 Officer Charles Jivapong.

5 **CHARLES JIVAPONG**

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

8 THE CLERK: Please have a seat, and state your name  
9 and spell it for the record.

10 THE WITNESS: First name Charles, C-h-a-r-l-e-s.  
11 Last name is Jivapong, J-i-v-a-p-o-n-g.

12 THE COURT: You may proceed.

13 MS. MOORS: Thank you.

14 **DIRECT EXAMINATION**

15 BY MS. MOORS:

16 Q Good afternoon, Officer. Can you tell the members of  
17 the jury how you're employed.

18 A I've been employed with the Las Vegas Metropolitan  
19 Police Department for 13 years. I am currently assigned to  
20 Convention Center Area Command as a sergeant.

21 Q I want to direct your attention, sir, back to  
22 February 4th of 2011. At that point in time were you still  
23 working for Metro?

24 A Yes.

25 Q And in what capacity?

1           A     As a patrol officer assigned to Enterprise Area  
2 Command.

3           Q     All right. Where is Enterprise Area Command located?

4           A     It's located at Rainbow and Windmill, 6795 West  
5 Windmill.

6           Q     Okay. So ultimately back on February 4th of 2011,  
7 were you working?

8           A     Yes.

9           Q     Did you have occasion to get involved in the  
10 apprehension of some robbery suspects?

11          A     Yes.

12          Q     Describe for me how you became involved.

13          A     It's a regular morning at patrol capacity over at  
14 Flamingo and Decatur. My partners and I were out grabbing  
15 breakfast at the Tropical Smoothie at the corner of Flamingo  
16 and Decatur. A call for officers came through a priority zero  
17 call of a robbery in progress came over the air, which  
18 geographic was located just south of our current location at  
19 the Tropical Smoothie over from Flamingo and Decatur.

20                At that point in time, my partners and I scrambled  
21 out of the establishment and got into our patrol cars and  
22 proceeded towards the intersection of Flamingo and Decatur.

23          Q     Okay. Let me stop you there. You said a call came  
24 out as a priority zero. What does that mean?

25          A     Priority zero is a felony in progress.



1 Q Okay. And obviously this was a while ago so what, it  
2 was like a --

3 A Eight years ago.

4 Q Eight years ago. How is it that you remember you  
5 were at Tropical Smoothie?

6 A I remember to the day because I used to be assigned  
7 to the academy as a trainer. And I remember telling this story  
8 to a bunch of recruits and grabbing all my breakfasts and  
9 smoothies and such and just running out of the Tropical  
10 Smoothie hand-in-hand with everything. And then jumping in my  
11 patrol car, and just pretty much throwing my breakfast sandwich  
12 and smoothie into the side of the shotguns of my patrol  
13 vehicle.

14 Q So you didn't leave your breakfast behind is what  
15 you're saying.

16 A Did not leave my breakfast behind.

17 Q So you said you and your partners, how many people  
18 were with you?

19 A That morning there was three of us.

20 Q Okay.

21 A I was riding in the passenger side with my partner at  
22 the time.

23 Q So you would have been riding as a passenger and  
24 someone else was driving?

25 A I'll take that back. Excuse me. I was driving and

1 my partner was riding with me in the passenger.

2 Q Okay. What was her name?

3 A Her name was Jessica Ward.

4 Q And then there was one other person in a separate  
5 car?

6 A Correct.

7 Q Okay. So ultimately as you are attempting to  
8 apprehend these individuals how many -- were you made aware of  
9 how many individuals there were?

10 A Correct. Yes.

11 Q How many?

12 A Five.

13 Q Okay. And there were three of you; correct?

14 A Yes.

15 Q All right. So what happens, like, do you have a  
16 description of the vehicle?

17 A Yes. So with a priority zero call that comes over,  
18 it provides the direction of travel, the suspect vehicle, maybe  
19 suspect descriptions, location of the incident. So at that  
20 point in time we proceeded to the major intersection to try to  
21 bubble the area. To try to intercept the vehicle.

22 Q And were you successful in ultimately locating the  
23 vehicle?

24 A Yes.

25 Q Did both of your police vehicles locate that vehicle?

1           A     Correct.

2           Q     And so in terms of, I guess, if you were behind it,  
3 who was first? You or the other vehicle?

4           A     We were the first vehicle.

5           Q     Okay. So once you locate the vehicle, what do you  
6 do?

7           A     So once we locate the vehicle we notify dispatch and  
8 advise them that we have the suspect vehicle. At that point in  
9 time, dispatch would give us a code over the radio for  
10 emergency traffic only, due to the nature of the crime. At  
11 that point in time, we picked up the vehicle at, I want to say  
12 Decatur and Flamingo. We were heading eastbound on Flamingo.

13          Q     Would you be illuminating your lights?

14          A     Correct. At that point in time, we'd activate our  
15 emergency lights, the sirens, to try to conduct a felony  
16 vehicle stop.

17          Q     Okay. And I see that you're wearing, essentially,  
18 sort of like, a long-sleeved, polo shirt here today. What  
19 would you have been wearing back in 2011?

20          A     We would wear our uniform for the day which is the  
21 tans.

22          Q     Okay. So the tan kind of polyester wool looking  
23 thing?

24          A     Correct, with a full gun belt.

25          Q     And would you have been in a marked patrol vehicle?

1 A Yes.

2 Q And that would have been the same for your partner?

3 A Correct.

4 Q And then the second vehicle that was involved as  
5 well?

6 A Yes.

7 Q Who was in that vehicle?

8 A At the time it was Officer Jarvis Dudley.

9 Q Okay. So your lights and sirens are going. Does the  
10 vehicle pull over?

11 A It does not.

12 Q So what happens after that?

13 A A minor vehicle pursuit ensues, and we would continue  
14 to trail the vehicle. The vehicle, at which point in time made  
15 it over to, I want to say Twain and Stober area, where the air  
16 unit finally picked up the vehicle. And then all of a sudden  
17 the vehicle stopped, and I believe four or five attempted to  
18 bail out of the vehicle at which point in time I was able to  
19 detain the driver.

20 Q The driver. Okay. So did you detain the driver  
21 until ultimately the victim from the potential robbery was able  
22 to come and do the show-up?

23 A Correct.

24 Q So he would have been with you until that victim was  
25 ultimately brought to that location?

1 A Yes.

2 Q Do you recall about how long that would've taken?

3 A I don't.

4 Q Okay. But fair to say it was fairly soon after the  
5 incident?

6 A Correct.

7 Q And ultimately at that point was your understanding  
8 that an identification was made?

9 A Yes.

10 Q And at that point was the driver taken into custody?

11 A Yes.

12 Q Do you remember that driver to be Devohn Marks?

13 A Yes.

14 Q Okay.

15 MS. MOORS: Court's indulgence.

16 I have no further questions, Your Honor.

17 THE COURT: Cross.

18 CROSS-EXAMINATION

19 BY MR. MATSUDA:

20 Q Good afternoon, Sergeant.

21 A Good afternoon.

22 Q Did you have any involvement in investigating a  
23 robbery that occurred on October 29, 2018?

24 A I did not.

25 MR. MATSUDA: Thank you, Officer, I'm sorry,

1 Sergeant.

2 Nothing further, Your Honor.

3 THE COURT: Any redirect?

4 MS. MOORS: No, Your Honor.

5 THE COURT: Questions from the jury? All right.

6 Thank you for your testimony, sir.

7 THE WITNESS: Thank you, Your Honor.

8 THE COURT: You may call your next witness.

9 MS. MOORS: Thank you. The State would call  
10 Detective Jeff Swanbeck.

11 **JEFFREY SWANBECK**

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

14 THE CLERK: Please be seated and state and spell your  
15 name for the record, please.

16 THE WITNESS: It's Sergeant Jeffrey Swanbeck.  
17 J-e-f-f-r-e-y, S-w-a-n-b-e-c-k.

18 THE COURT: You may proceed.

19 MS. MOORS: Thank you.

20 DIRECT EXAMINATION

21 BY MS. MOORS:

22 Q Good afternoon, Detective. Could you tell the  
23 members of the jury how you're employed.

24 A Currently I'm a sergeant with the Las Vegas,  
25 Metropolitan Police Department.

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1 Q And how long have you worked for Metro?

2 A Going on 17 years.

3 Q I want to direct your attention, sir, back to  
4 February 4th, of 2011. At that point in time were you still  
5 employed by Metro?

6 A I was.

7 Q And in what capacity?

8 A I was a robbery detective.

9 Q Ultimately on that date, did you get called out to a  
10 Fred's Tavern and Bar located at 4680 South Decatur Boulevard?

11 A I did.

12 Q And what were you called out for?

13 A The way that we split up the areas of assignment when  
14 I was in robbery is by area commands. And so because it was in  
15 the Enterprise Area Command, that was my responsibility so I  
16 got called out as a case agent.

17 Q So it was based on geography essentially?

18 A Yes, ma'am.

19 Q Now, when you get out there, how soon after the  
20 robbery occurred did you get there?

21 A I don't have an exact time. It was still ongoing  
22 when I got out there. I don't remember the time when I got  
23 there.

24 Q Okay. But it's not like several days later?

25 A No. No. No. It was the same morning.

1 Q Okay. So same morning. Was it your understanding  
2 that this had occurred a little before 8:00 a.m.?

3 A Yes, ma'am.

4 Q So once you get there, what do you do first?

5 A I went straight to the tavern itself, to try to get a  
6 little bit of a layout. Since I'm the case agent, I want to  
7 see what the crime scene looks like. And so I walked in. I  
8 make sure that our CSI was called so they can process the  
9 scene. We have two victims that were inside. And so we  
10 separate the victims. We try to get them on voluntary  
11 statements. And I just kind of got a quick statement from each  
12 one of them before we got to the formal statements.

13 Q Would there have already been some patrol officers on  
14 the scene?

15 A Yes, ma'am.

16 Q So we had spoke with some patrol officers yesterday,  
17 and they kind of described to us what patrols' duties are. How  
18 are detectives' duties different?

19 A Patrol will take a report and they pretty much pass  
20 it on to the detectives. And so it's our job, just like it is  
21 on TV and the movies, it's our job to solve a case. And so we  
22 have to analyze the scene. We have to, you know, get all that  
23 evidence from the CSI, including the interviews. We have to  
24 make sure all the correct charges are placed on the suspects.  
25 And then we'll either submit that to the courts or the DA's



1 office for the charges.

2 Q Okay. So say if a patrol officer, they go out on,  
3 say, I don't know, 200 calls over the course of a month or two  
4 months, would all of those calls ultimately be forwarded to a  
5 detective?

6 A No, just the ones that they take reports on. And  
7 really, if there's follow up because a lot of times there's  
8 calls and reports that they'll take and there's no follow up to  
9 do. And so they have so many calls, there's an enormous amount  
10 of reports that are taken. And so we focus on the ones where,  
11 you know, there's a solvability rate. And so those are the  
12 ones that we focus on.

13 Q Okay. So only when there's follow up needed would a  
14 detective get involved?

15 A Yes.

16 Q Okay. So you ultimately go to the bar, and was it  
17 your understanding that there were two victims?

18 A Yes.

19 Q And did you have a chance to look at any video  
20 surveillance?

21 A I did.

22 Q What was your, I guess, your understanding of what  
23 had happened at the bar?

24 A It came out as a takeover-style robbery at a bar.  
25 They said that one individual walked into the bar first, and he

1 asked to use the rest room. At this time in the morning there  
2 were no patrons in the bar. It was just the two. I guess, it  
3 was one guy that was servicing like a vending machine or  
4 something. But he had left.

5 So when the actual robbery happened there were just  
6 the two employees that were there. So one suspect entered the  
7 bar, and we call it casing the bar. They walk in. They look  
8 to see what the environment looks like. You know, what dangers  
9 are there. How many people are in there. Kind of get the  
10 layout and then they go back and relay that to everybody else  
11 that's actively involved in it.

12 So we got the call that it was a takeover-style  
13 robbery. And when I say takeover style, it pretty much means  
14 what it says. They went in. They go into the bar or bank or  
15 any type of establishment. So suspects will run in. They'll  
16 jump the counters. They'll show guns. They are very  
17 intentional with what they do. When they jump the counters,  
18 they'll point the guns at individuals, the victims and, you  
19 know, they'll lay them on the ground. They pretty much take  
20 them hostage for the time that they're in there.

21 It's very scary and very dangerous. And then the  
22 suspects, we call them suspects, ended up leaving. So they  
23 weren't in the bar anymore. And the patrol officer had picked  
24 up on what he thought was a suspect vehicle driving down the  
25 street.

1 Q Okay. So it's your understanding that there was a  
2 description of the vehicle that the suspects had left in?

3 A Yes.

4 Q Okay. And was it also your understanding that items  
5 were taken personally from the bar workers?

6 A Yes.

7 Q Okay. So once this happens and these individuals are  
8 apprehended, did you go out to the show-ups that conducted --  
9 or that were conducted or did you not?

10 A I went out to where the -- where they had stopped and  
11 were doing a car stop, and they took some people in custody.  
12 But I did not personally do the show-ups.

13 Q Okay. In terms of what was recovered with regards to  
14 this vehicle, was there ever any money recovered?

15 A There was.

16 Q And how much was recovered?

17 A I know it was over \$7600.

18 Q Okay. So it was over 7,600?

19 A Yes.

20 Q And that was located near where they all kind of  
21 split from this vehicle?

22 A Yes. The majority of it was located in a water  
23 heater closet where one of the suspects was hiding. He shoved  
24 it behind the water heater. And then there was, I think, two  
25 other locations in the street that a little bit of money had

1 dropped that we recovered.

2 Q Okay. And was, to your knowledge, was a cell phone  
3 case recovered?

4 A Yeah. A half the cell phone case, so it was like a  
5 clamshell case. So half of it was recovered on the scene and  
6 the other half was recovered in the car after we did a search  
7 warrant.

8 Q Okay. And to your knowledge was that a pink Coach  
9 cell phone cover?

10 A Yes, ma'am.

11 Q Once these show-ups are conducted is there ultimately  
12 arrests made on the individuals that were involved?

13 A Yes.

14 Q And was one of those arrests on the individual by the  
15 name of Devohn Marks?

16 A Yes, ma'am.

17 Q When you're dealing with suspects here in Las Vegas,  
18 is it customary that they get what's called an ID number?

19 A Yes.

20 Q And is that a number that would be unique to them and  
21 that would be used in the booking process anytime they would be  
22 booked here in Clark County?

23 A It is.

24 Q And was it your understanding that Mr. Marks' ID  
25 number was 2798254?

1           A     That sounds correct.

2           Q     Now, did you ultimately have a chance to speak with  
3 Devohn Marks?

4           A     I did.

5           Q     Do you see Devohn Marks in court here today?

6           A     I do.

7           Q     Can you please point to where he's seated and  
8 identify an article of clothing that he's wearing.

9           A     Sure. He's at the defendant's table, wearing a white  
10 collared shirt.

11                MS. MOORS: And may the record reflect the  
12 identification of the defendant?

13                THE COURT: It will.

14 BY MS. MOORS:

15           Q     When you speak with him, what does he tell you about  
16 the vehicle that he was driving?

17           A     The vehicle was registered in his mom's name, but he  
18 was allowed to drive it.

19           Q     Okay. So he admitted that it was his mother's  
20 vehicle?

21           A     Yes.

22           Q     And this was the vehicle that was listed as the  
23 suspect vehicle leaving the bar?

24           A     Yes.

25           Q     What did he say about his involvement with the

1 robbery at this tavern?

2 A He said he was the person that went inside the bar to  
3 begin with. He's the one that cased out the bar. He checked  
4 it out in his words. Then he went back out to the car. And  
5 about five to seven minutes later, that's when the other three  
6 guys went in and took it over. And he was also -- he also said  
7 he was the getaway driver in the car.

8 Q So he essentially admitted to his involvement?

9 A Yes, ma'am.

10 Q And did you speak with him on the same day that this  
11 robbery occurred?

12 A Yes.

13 Q And that was February 4th of 2011?

14 A Yes.

15 MS. MOORS: Court's indulgence.

16 I have no further questions.

17 THE COURT: Cross.

18 CROSS-EXAMINATION

19 BY MR. MATSUDA:

20 Q Good afternoon, Detective.

21 A Hi.

22 Q All right. Now you on direct, you said that you were  
23 the case agent; is that correct?

24 A Yes, sir.

25 Q Can you explain to the ladies and gentlemen of the

1 jury what a case agent is.

2 A So when I said the case agent, that means I'm  
3 ultimately the lead detective in that case.

4 Q So on certain cases there are, I'm assuming, there's  
5 a lot of detectives that work on a case?

6 A Yes.

7 Q And you're ultimately the lead one?

8 A I'm the one in charge.

9 Q Okay. And this happened in 2011; correct?

10 A Yeah.

11 Q Okay. And at that or -- during that robbery in 2011,  
12 how many suspects were involved?

13 A There were four people that were involved, but there  
14 were five people in the car. So one person stayed in the car  
15 the whole time. He never got out that we know of.

16 Q Okay. So five total?

17 A Five total.

18 Q And what was Mr. Marks' role in that?

19 A He was the driver of the car. And then he also was  
20 the one that walked inside to case out the bar.

21 Q And Mr. Marks admitted that; correct?

22 A Yes, sir.

23 Q Okay. Now, during this takeover-style robbery in  
24 2011, were the suspects wearing masks?

25 A No. They were all wearing hoodies.

1 Q Okay. Nothing covering their face.

2 A No.

3 Q Were the suspects wearing gloves?

4 A I believe some of them were wearing gloves. I don't  
5 remember if they were all wearing gloves.

6 Q Okay. Now, did any person at the bar, meaning any  
7 customers or patrons, was anyone physically harmed?

8 A No. No one was harmed, just shaken up.

9 Q Okay. So, no --

10 A No physical harming.

11 Q Thank you. And again this is referring -- did you  
12 have any work on the alleged robbery on October 29, 2018?

13 A No, sir.

14 Q Okay. So you're only here to testify as to what  
15 happened for the 2011 --

16 A Years ago. Yeah. I don't anything about the recent  
17 one.

18 MR. MATSUDA: Thank you, Detective.

19 Nothing further, Your Honor.

20 THE COURT: Thank you. Any redirect?

21 MS. MOORS: No, Your Honor.

22 THE COURT: Any questions from the jury? I see no  
23 hands.

24 Thank you for your testimony.

25 THE WITNESS: Thank you, Your Honor.



1 THE COURT: You may call your next witness.

2 MS. CANNIZZARO: The State calls Officer Winn.

3 **JOSEPH WINN**

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

6 THE CLERK: Please be seated and state and spell your  
7 name for the record.

8 THE WITNESS: First name is Joseph, J-o-s-e-p-h.  
9 Last name is Winn, W-i-n-n.

10 THE COURT: You may proceed.

11 MS. CANNIZZARO: Thank you, Your Honor.

12 **DIRECT EXAMINATION**

13 BY MS. CANNIZZARO:

14 Q Good afternoon, Officer Winn. How are you currently  
15 employed?

16 A I'm employed as a detective with the Las Vegas  
17 Metropolitan Police Department.

18 Q And I apologize. I keep saying officer but I meant  
19 detective.

20 A That's fine.

21 Q And so you -- how long have you been a detective with  
22 the Las Vegas Metropolitan Police Department?

23 A I've been a detective since around 2009.

24 Q And how long have you been employed in total with the  
25 Las Vegas Metropolitan Police Department?

JD Reporting, Inc.

1           A     I've been employed since 2004.

2           Q     And prior to your employment as a detective, what  
3 other capacities did you work in?

4           A     Besides a detective I worked as an officer in various  
5 units and also as a detective in other units.

6           Q     And so as a detective, are you assigned to any  
7 particular area command or bureau?

8           A     Yes. I'm currently assigned to the major violators,  
9 narcotics bureau.

10          Q     Okay. And how long have you been assigned to that  
11 particular department?

12          A     I've been assigned there since 2013.

13          Q     Fair to say you were working in that capacity in  
14 October of 2018?

15          A     Yes, I was.

16          Q     And that would have also been true going into 2019?

17          A     Yes.

18          Q     As part of your duties as a detective, can you  
19 describe for the members of the jury what your daily job  
20 entails?

21          A     I'm assigned to a team whose responsibility is to  
22 find wanted subjects or people involved in recent crimes where  
23 there's probable cause to arrest.

24          Q     So fair to say that your primary responsibility is to  
25 assist with a team in arresting individuals?

1 A Yes.

2 Q Now, in 2018, specifically I want to talk a little  
3 bit about December of 2018. Were you ever assigned to a case  
4 involving a robbery at Torrey Pines Pub that had occurred in  
5 October?

6 A Yes, I was.

7 Q And how is it that you get assigned to a particular  
8 case?

9 A We'll get certain details of people involved in the  
10 case and also the details and some of the facts of the case,  
11 and we are provided that information. And it's up to us to  
12 locate the individuals that are wanted.

13 Q At some point in December of 2018, were you ever  
14 asked to get involved with a case involving an individual by  
15 the name of Antwaine Johnson?

16 A Yes.

17 Q And what was the purpose of your involvement with  
18 Mr. Johnson?

19 A To locate him and arrest him.

20 Q Okay. I want to direct your attention to December  
21 10th of 2018, were you working on that day?

22 A Yes, I was.

23 Q And when you are working to arrest individuals, you  
24 mentioned that you work with the team. Approximately, how many  
25 detectives are we talking about that work on this particular

1 team?

2 A Including the supervisor, typically around, on any  
3 given day, around five to seven.

4 Q Do you always go out with all of the five to seven  
5 detectives, or would it vary depending on the case?

6 A Sometimes we split up depending on what the  
7 circumstances are or how credible the information is. So, you  
8 know, we will split up, but this day I believe we had at least  
9 three to four people minimum.

10 Q Three or four people. So on December 10th of 2018,  
11 you were assigned to the case to try and attempt to locate  
12 Mr. Johnson. Were you able to locate Mr. Johnson?

13 A Yes, we were.

14 Q And where were you able to locate him?

15 A It was in an apartment complex; I think it was off  
16 Gowan. I'm sorry, I don't remember the exact address.

17 Q Okay. Are you familiar with the Bloom Apartments by  
18 any chance?

19 A Yes.

20 Q Does that sound like the same apartment complex?

21 A Yes, that is.

22 Q And you mentioned that it was off of Gowan?

23 A Yes.

24 Q Okay. How is it that you came in contact with  
25 Mr. Johnson?

1           A     We had a location that he might be at an address, and  
2 we set up a surveillance in the parking lot, and during the  
3 surveillance we see him walking through the parking lot.

4           Q     And with that have been at that same Bloom Apartment  
5 Complex off of Gowan?

6           A     Yes, it was.

7           Q     When you came into contact with Mr. Johnson, were you  
8 able to arrest him?

9           A     Yes.

10          Q     And I think you mentioned that there were several  
11 other detectives with you as well; is that right?

12          A     Yes.

13          Q     When you came into contact with Mr. Johnson, do you  
14 ever remember coming into possession of any of his property?

15          A     I can't remember, specifically, but usually we'll  
16 document it, and then it would need to be impounded when we  
17 found it.

18          Q     Do you remember whether Mr. Johnson had any cell  
19 phones on him?

20          A     Not specifically, I'm sorry.

21          Q     Okay. Would it refresh your recollection to take a  
22 look at the property report?

23          A     Yes, it would.

24                 MS. CANNIZZARO: Court's brief indulgence.

25                 Permission to approach the witness, Your Honor?

1 THE COURT: Granted.

2 BY MS. CANNIZZARO:

3 Q And, Detective, I'm showing you a copy of the  
4 property report from December 10. If you could just take a  
5 look and peruse that quietly to yourself.

6 A Yes.

7 Q And does that refresh your recollection as to whether  
8 Mr. Johnson had his cell phone on him on the day of December  
9 10th, 2018?

10 A Yes.

11 Q And when you --

12 A Sorry. Can I see it one more time? Can I see that  
13 one more time?

14 Q Yes.

15 A Can I see the paper one more time. Sorry.

16 Q Oh. I'm sorry.

17 MS. CANNIZZARO: Permission to approach the witness,  
18 Your Honor?

19 THE COURT: Granted.

20 MS. CANNIZZARO: You can go ahead and take a look at  
21 that while I wait here.

22 BY MS. CANNIZZARO:

23 Q And that did refresh your recollection, Detective?

24 A Yes.

25 Q And do you recall whether Mr. Johnson had a cell

1 phone on his person the day of December 10th, 2018?

2 A Yes.

3 Q Okay. And did you impound that cell phone?

4 A Yes.

5 Q I want to talk a little bit about January 14th of  
6 2019. Were you still assigned to the same section of that  
7 bureau involving arrest of individuals who may be wanted?

8 A Yes.

9 Q And did you on that date recall becoming involved  
10 with a case involving an individual by the name of Devohn  
11 Marks?

12 A I did.

13 Q And what was the purpose of your involvement with  
14 that particular individual on that day?

15 A To locate and arrest him as well.

16 Q And were you also working -- you mentioned that you  
17 worked with a various number of detectives; how many detectives  
18 were you working with on that day?

19 A That day I believe was around five of us, with a  
20 supervisor.

21 Q And a supervisor?

22 A Yes.

23 Q And were you able to come into contact with  
24 Mr. Marks?

25 A Yes.

1 Q Okay. Where was it that you arrested Mr. Marks?

2 A I arrested Mr. Marks in the actual complex. Before I  
3 mentioned Johnson, Johnson was arrested during the car stop,  
4 I'm sorry. I was confused for a second. I arrested  
5 Mr. Johnson during a car stop, leaving the complex. I arrested  
6 Devohn in the complex that day in January.

7 Q Now, you mentioned complex in both of those, and so  
8 to kind of clarify. Mr. Johnson was arrested just outside of a  
9 complex; is that right?

10 A Yes.

11 Q And would that have been the Bloom Apartments that we  
12 were talking about?

13 A Yes. He was leaving the Bloom Apartments. We  
14 arrested him on the street during a car stop.

15 Q And when you say complex with respect to Mr. Marks,  
16 is this the same apartment complex?

17 A Yes. The exact same complex apartment.

18 Q So the Bloom Apartment Complex, as well?

19 A Yes. On Gowan.

20 Q And was Mr. Marks actually inside of the complex?

21 A Yes, he was.

22 MS. CANNIZZARO: Court's brief indulgence.

23 Nothing further, Your Honor. I pass the witness.

24 / / /

25 THE COURT: Cross.



CROSS EXAMINATION

BY MR. MATSUDA:

Q Good afternoon, Detective.

A Good afternoon.

Q Okay. So you were part of the team that arrested Mr. Johnson?

A Yes.

Q Okay. So you guys actually had to go out and apprehend him?

A Yes.

Q He didn't come to you saying, you got me; I'm a bad dude; come arrest me?

A No.

Q Okay. Now, pertaining to Mr. Marks here, do you know exactly where in the complex you encounter Mr. Marks?

A Yes. It was not directly in front of the office, just a little bit south of the office.

Q Okay. Do you know what he was doing at that moment? Can you recall?

A He was just walking to the parking lot.

Q Okay. Do you know if he was headed to work?

MS. CANNIZZARO: Objection, Your Honor. Calls for speculation.

THE COURT: Sustained unless you have some personal knowledge.

1 THE WITNESS: No, I don't know where he was going.

2 THE COURT: Sustained.

3 MR. MATSUDA: Okay.

4 BY MR. MATSUDA:

5 Q Did he have any items on him that you can recall?

6 A I don't remember.

7 MR. MATSUDA: Okay. Thank you, Detective.

8 Nothing further, Your Honor.

9 THE COURT: Any redirect?

10 MS. CANNIZZARO: Nothing from the State, Your Honor.

11 THE COURT: Questions from the jury? I see no hands.

12 You may be excused, sir. Thank you.

13 THE WITNESS: Thank you.

14 THE COURT: Call your next witness.

15 MS. CANNIZZARO: Your Honor, may we approach?

16 THE COURT: Yes.

17 (Conference at the bench not recorded.)

18 THE COURT: All right. Ladies and gentlemen, we were  
19 talking about scheduling there at the bench, and there are  
20 couple of witnesses -- well, there are no more witnesses  
21 scheduled for today. The other witnesses are coming in from  
22 out of state and won't be arriving until tomorrow, and so we're  
23 giving you an early out today.

24 So, ladies and gentlemen, we're going to start  
25 tomorrow at 1:00 o'clock.

1           And so during this overnight recess, of course, it's  
2 your duty not to converse among yourselves or with anyone else  
3 on any subject connected to the trial or to read, watch or  
4 listen to any report of or commentary on the trial by any  
5 person connected with the trial or by any medium of information  
6 including without limitation newspaper, television, radio or  
7 Internet. You're not to form or express an opinion on any  
8 subject connected with this case until it's finally submitted  
9 to you and, of course, no research on your own.

10           I'll see you tomorrow at 1:00.

11                       (Jury recessed at 3:40 p.m.)

12           THE COURT: All right. The record will reflect the  
13 jury has departed the courtroom.

14           The only bench conference we had was regarding  
15 scheduling. Is that accurate?

16           MS. MOORS: Yes.

17           MR. MATSUDA: I think so.

18           THE COURT: All right. Anything else outside the  
19 presence?

20           MS. MOORS: Nothing from the State.

21 / / /

22 / / /

23 / / /

24 / / /

25 / / /

1 MR. MATSUDA: Nothing from the defense, Your Honor.

2 THE COURT: I will see you tomorrow at 1:00.

3 (Proceedings recessed for the evening 3:41 p.m.)

4 -oOo-

5 ATTEST: I do hereby certify that I have truly and correctly  
6 transcribed the audio/video proceedings in the above-entitled  
7 case.

8   
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10 Dana L. Williams  
11 Transcriber  
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<p><b>BY MR. MATSUDA:</b> [7] 5/2 48/22 62/19 71/19 80/19 91/2 92/4</p> <p><b>BY MS. CANNIZZARO:</b> [6] 36/13 37/8 48/4 83/13 88/2 88/22</p> <p><b>BY MS. MOORS:</b> [4] 54/4 65/15 72/21 79/14</p> <p><b>MR. MATSUDA:</b> [12] 3/11 36/7 48/20 53/10 62/17 63/8 71/25 82/18 92/3 92/7 93/17 94/1</p> <p><b>MS MOORS:</b> [5] 3/10 3/14 3/20 3/23 3/25</p> <p><b>MS. CANNIZZARO:</b> [17] 4/14 4/17 36/11 37/4 37/7 48/3 48/17 53/12 83/2 83/11 87/24 88/17 88/20 90/22 91/22 92/10 92/15</p> <p><b>MS. MOORS:</b> [16] 53/18 54/2 62/14 63/10 63/19 65/3 65/13 71/15 72/4 72/9 72/19 79/11 80/15 82/21 93/16 93/20</p> <p><b>THE CLERK:</b> [4] 53/23 65/8 72/14 83/6</p> <p><b>THE COURT:</b> [47] 3/4 3/12 3/16 3/22 3/24 4/2 4/4 4/7 4/15 4/20 36/10 37/6 48/19 53/13 54/1 62/16 63/9 63/11 63/23 63/25 64/19 64/23 65/12 71/17 72/3 72/5 72/8 72/18 79/13 80/17 82/20 82/22 83/1 83/10 88/1 88/19 90/25 91/24 92/2 92/9 92/11 92/14 92/16 92/18 93/12 93/18 94/2</p> <p><b>THE MARSHAL:</b> [1] 4/3</p> <p><b>THE WITNESS:</b> [8] 53/25 65/10 72/7 72/16 82/25 83/8 92/1 92/13</p>	<p><b>15 [2]</b> 55/14 64/17 <b>15-minute [1]</b> 64/5 <b>17 [1]</b> 73/2 <b>1:00 [2]</b> 93/10 94/2 <b>1:00 o'clock [1]</b> 92/25 <b>1:30 [3]</b> 24/24 25/5 26/14 <b>1:38 [1]</b> 3/1 <b>1:46 [1]</b> 4/6</p> <p><b>2</b></p> <p><b>200 [1]</b> 75/3 <b>2004 [1]</b> 84/1 <b>2009 [1]</b> 83/23 <b>2011 [12]</b> 54/6 54/18 55/3 65/22 66/6 69/19 73/4 80/13 81/9 81/11 81/24 82/15 <b>2013 [1]</b> 84/12 <b>2016 [1]</b> 6/24 <b>2018 [12]</b> 62/25 63/4 71/23 82/12 84/14 85/2 85/3 85/13 85/21 86/10 88/9 89/1 <b>2019 [4]</b> 1/13 3/1 84/16 89/6 <b>20s [1]</b> 23/6 <b>23 [2]</b> 1/13 3/1 <b>2798254 [1]</b> 78/25 <b>29 [2]</b> 71/23 82/12 <b>29th [4]</b> 11/1 11/2 30/5 62/24 <b>2:51 p.m [1]</b> 64/18 <b>2:52 [1]</b> 64/22</p> <p><b>3</b></p> <p><b>300 [1]</b> 32/24 <b>3:07 [1]</b> 64/22 <b>3:40 p.m [1]</b> 93/11 <b>3:41 [1]</b> 94/3</p> <p><b>4</b></p> <p><b>4680 [1]</b> 73/10 <b>4:00 [2]</b> 54/24 54/24 <b>4th [6]</b> 54/6 55/3 65/22 66/6 73/4 80/13</p> <p><b>5</b></p> <p><b>5-8 [1]</b> 23/5 <b>5-9 [1]</b> 23/5 <b>5:00 [3]</b> 25/1 25/5 26/14 <b>5:00 a.m [1]</b> 30/8 <b>5:12 [2]</b> 3/20 3/25 <b>5:12:37 [1]</b> 37/10 <b>5:12:54 [1]</b> 37/17 <b>5:14 [1]</b> 37/22</p> <p><b>6</b></p> <p><b>63 [1]</b> 37/5 <b>6795 [1]</b> 66/4 <b>6:00-ish [1]</b> 30/7 <b>6:45 [2]</b> 32/2 39/9</p> <p><b>7</b></p> <p><b>7,600 [1]</b> 77/18 <b>7:00 [3]</b> 32/2 32/2 39/9 <b>7:00 a.m [1]</b> 39/10 <b>7:30 [2]</b> 55/2 55/14</p>	<p><b>8</b></p> <p><b>8:00 [2]</b> 54/24 54/24 <b>8:00 a.m [1]</b> 74/2</p> <p><b>9</b></p> <p><b>9-1-1 [1]</b> 60/16 <b>900 [1]</b> 32/24</p> <p><b>A</b></p> <p><b>a.m [4]</b> 30/8 32/3 39/10 74/2 <b>able [9]</b> 44/1 45/11 59/8 70/18 70/21 86/12 86/14 87/8 89/23 <b>about [50]</b> 3/12 5/4 6/3 10/19 12/15 22/18 23/5 23/13 23/16 23/17 29/21 30/2 32/6 33/11 36/15 36/24 37/22 41/3 41/6 41/21 41/22 42/4 42/14 44/21 45/2 46/12 46/13 46/24 46/25 48/5 48/13 51/25 52/20 52/22 55/2 55/13 55/14 56/18 59/21 60/5 71/2 79/15 79/25 80/5 82/16 85/3 85/25 89/5 90/12 92/19 <b>above [1]</b> 94/6 <b>above-entitled [1]</b> 94/6 <b>academy [1]</b> 67/7 <b>access [1]</b> 45/12 <b>accurate [2]</b> 6/18 93/15 <b>act [4]</b> 11/17 12/25 28/25 52/16 <b>acted [1]</b> 63/14 <b>activate [1]</b> 69/14 <b>actively [1]</b> 76/11 <b>acts [1]</b> 18/20 <b>actual [4]</b> 9/13 27/9 76/5 90/2 <b>actually [24]</b> 8/25 9/19 10/25 11/20 13/12 15/22 15/25 25/17 25/18 31/24 38/21 41/21 42/3 44/19 45/6 46/4 47/14 47/18 47/20 50/14 50/18 52/3 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53/14 56/14 57/13 58/12 58/18 58/24 59/2 59/7 59/11 60/9 60/13 61/23 63/9 63/25 64/16 65/1 66/3 67/8 68/15 70/16 72/5 74/22 74/24 75/4 77/20 80/22 81/25 82/5 86/4 92/18 93/12 93/18 <b>alleged [1]</b> 82/12 <b>allowed [1]</b> 79/18 <b>already [6]</b> 28/1 33/3 35/11 47/21 57/12 74/13 <b>also [19]</b> 15/18 15/19 23/20 36/21 37/11 39/22 41/3 42/9 46/17 57/4 61/9 77/4 80/6 80/6 81/19 84/5 84/16 85/10 89/16 <b>alternates [2]</b> 4/9 64/25 <b>always [7]</b> 9/1 21/22 23/10 23/13 44/7 44/9 86/4 <b>am [2]</b> 51/9 65/19 <b>American [3]</b> 23/6 57/1 59/2 <b>among [2]</b> 64/6 93/2 <b>amount [3]</b> 58/20 60/5 75/9 <b>analyze [1]</b> 74/22 <b>angle [1]</b> 58/8 <b>another [4]</b> 8/13 27/20 34/21 35/5 <b>answer [1]</b> 7/22 <b>answers [1]</b> 26/17 <b>Antoine [1]</b> 22/2 <b>Antwain [1]</b> 22/2 <b>ANTWAINE [2]</b> 4/21 85/15 <b>any [37]</b> 3/9 21/16 29/7 35/19 39/15 40/15</p>	<p>52/22 59/3 63/9 63/11 64/6 64/7 64/8 64/9 64/11 71/22 72/3 75/19 76/15 77/14 82/6 82/6 82/12 82/20 82/22 84/6 86/2 86/18 87/14 87/18 92/5 92/9 93/3 93/4 93/4 93/5 93/7 <b>anybody [2]</b> 48/12 48/12 <b>anymore [1]</b> 76/23 <b>anyone [9]</b> 16/21 29/13 44/1 48/8 56/5 56/10 64/6 82/7 93/2 <b>anything [15]</b> 23/7 27/7 29/13 29/21 32/12 33/17 34/4 36/3 37/17 38/2 53/2 59/11 64/13 82/16 93/8 <b>anytime [1]</b> 78/21 <b>anywhere [1]</b> 61/1 <b>apart [1]</b> 12/14 <b>apartment [11]</b> 5/23 12/7 18/16 19/19 52/22 86/15 86/20 87/4 90/16 90/17 90/18 <b>Apartments [3]</b> 86/17 90/11 90/13 <b>apologize [1]</b> 83/18 <b>appear [3]</b> 4/14 4/15 61/5 <b>APPEARANCES [1]</b> 1/16 <b>apprehend [2]</b> 68/8 91/9 <b>apprehended [1]</b> 77/8 <b>apprehension [1]</b> 66/10 <b>approach [4]</b> 63/22 87/25 88/17 92/15 <b>approached [1]</b> 11/23 <b>approaches [1]</b> 18/18 <b>approximately [3]</b> 39/7 39/9 85/24 <b>are [45]</b> 3/4 3/6 3/7 3/7 3/16 4/10 4/10 4/13 9/3 17/4 22/7 22/14 24/15 30/24 51/17 59/2 62/22 64/11 64/24 65/1 65/1 68/7 70/9 74/17 74/18 74/24 75/10 75/11 76/9 76/9 76/16 77/7 78/11 81/4 83/14 84/6 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<p><b>A</b></p> <p><b>arrested...</b> [3] 90/8 90/14 91/5</p> <p><b>arresting</b> [1] 84/25</p> <p><b>arrests</b> [2] 78/12 78/14</p> <p><b>arrive</b> [1] 61/10</p> <p><b>arrived</b> [2] 44/22 61/12</p> <p><b>arriving</b> [1] 92/22</p> <p><b>article</b> [1] 79/8</p> <p><b>as</b> [55] 3/17 4/10 4/22 4/23 11/17 15/24 25/13 27/21 29/14 30/16 31/16 31/24 33/10 37/11 37/14 39/16 42/24 43/13 48/1 48/6 53/21 53/22 58/19 58/19 61/24 63/15 65/1 65/6 65/7 65/20 66/1 66/24 67/7 67/23 68/7 70/4 72/12 72/13 73/16 75/24 79/22 82/14 83/4 83/5 83/16 84/2 84/4 84/5 84/6 84/18 84/18 87/11 88/7 89/15 90/18</p> <p><b>ask</b> [5] 5/3 43/19 43/19 46/24 59/21</p> <p><b>asked</b> [16] 12/4 17/13 32/6 36/14 41/3 41/19 42/14 43/24 44/21 45/17 45/24 46/25 52/19 56/16 76/1 85/14</p> <p><b>assigned</b> [12] 65/19 66/1 67/6 84/6 84/8 84/10 84/12 84/21 85/3 85/7 86/11 89/6</p> <p><b>assignment</b> [1] 73/13</p> <p><b>assist</b> [1] 84/25</p> <p><b>associate</b> [2] 6/4 6/5</p> <p><b>assumed</b> [2] 9/8 9/9</p> 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46/6 47/12 50/18 74/2 74/12 90/2</p>	<p><b>begin</b> [1] 80/3</p> <p><b>behind</b> [6] 37/20 57/17 67/14 67/16 69/2 77/24</p> <p><b>being</b> [7] 18/5 37/14 53/21 61/24 65/6 72/12 83/4</p> <p><b>believe</b> [22] 8/17 14/12 20/7 24/14 24/23 30/23 31/4 32/20 33/19 34/7 34/9 34/17 35/13 39/14 40/16 42/12 44/20 47/10 70/17 82/4 86/8 89/19</p> <p><b>belt</b> [1] 69/24</p> <p><b>bench</b> [4] 63/24 92/17 92/19 93/14</p> <p><b>benefit</b> [1] 19/9</p> <p><b>Besides</b> [1] 84/4</p> <p><b>best</b> [2] 8/25 9/8</p> <p><b>better</b> [2] 51/18 51/23</p> <p><b>between</b> [4] 8/10 27/5 32/18 40/10</p> <p><b>beverage</b> [2] 15/12 15/13</p> <p><b>bit</b> [9] 36/24 41/6 42/14 48/5 74/6 77/25 85/3 89/5 91/17</p> <p><b>black</b> [6] 28/22 28/22 45/4 45/4 45/5 58/12</p> <p><b>blinded</b> [1] 49/5</p> <p><b>Bloom</b> [5] 86/17 87/4 90/11 90/13 90/18</p> <p><b>blue</b> [1] 10/16</p> <p><b>booked</b> [1] 78/22</p> <p><b>booking</b> [1] 78/21</p> <p><b>both</b> [5] 31/18 31/19 31/20 68/25 90/7</p> 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64/7 93/3</p> <p><b>water</b> [2] 77/22 77/24</p> <p><b>way</b> [6] 4/14 4/15 22/3 58/3 64/1 73/13</p> <p><b>we</b> [96]</p> <p><b>we'd</b> [3] 41/12 41/24 69/14</p> <p><b>we'll</b> [4] 64/21 74/25 85/9 87/15</p> <p><b>we're</b> [7] 12/1 12/12 18/19 37/9 64/4 92/22 92/24</p> <p><b>we've</b> [1] 46/12</p> <p><b>wear</b> [2] 15/2 69/20</p> <p><b>wearing</b> [11] 28/22 53/8 69/17 69/19 79/8 79/9 81/24 81/25 82/3 82/4 82/5</p> <p><b>weed</b> [2] 41/10 41/15</p> <p><b>week</b> [4] 10/2 11/14 41/22 55/22</p> <p><b>weekend</b> [2] 55/7 55/8</p> <p><b>weeks</b> [6] 10/1 15/22 27/20 27/20 35/17 35/17</p> <p><b>weird</b> [2] 22/25 42/20</p> <p><b>well</b> [29] 6/2 7/24 12/4 15/7 15/22 19/20 19/22 20/24 22/11 23/5 25/8 27/18 33/17 34/2 42/20 42/23 47/5 47/20 48/1 48/24 50/10 50/18 51/12 51/19 70/5 87/11 89/15 90/18 92/20</p> <p><b>went</b> [12] 11/11 13/8 21/13 31/14 35/22</p>
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<p><b>W</b></p> <p><b>went... [7]</b> 57/24 74/5 76/14 77/10 80/2 80/4 80/6</p> <p><b>were [121]</b></p> <p><b>weren't [5]</b> 38/16 38/17 49/14 58/20 76/23</p> <p><b>West [1]</b> 66/4</p> <p><b>what [119]</b></p> <p><b>what's [17]</b> 18/24 22/5 24/1 25/22 26/4 26/8 27/25 28/1 29/7 29/10 30/21 42/19 42/22 43/3 43/4 51/16 78/18</p> <p><b>whatever [3]</b> 26/23 27/8 33/3</p> <p><b>whatnot [1]</b> 52/22</p> <p><b>when [68]</b> 7/17 9/3 9/16 9/24 12/4 23/12 24/15 24/19 27/25 30/21 30/24 31/6 32/4 32/10 33/21 33/22 36/25 40/18 40/24 41/13 42/11 42/13 42/17 43/23 44/14 44/22 45/2 46/9 46/25 48/6 49/2 49/5 50/15 50/17 50/21 50/25 51/20 52/4 53/7 54/23 55/21 56/1 56/7 57/10 59/10 59/19 60/17 61/9 61/12 62/1 73/13 73/19 73/22 73/22 75/13 76/5 76/13 76/17 78/17 79/15 80/5 81/2 85/23 87/7 87/13 87/16 88/11 90/15</p> <p><b>where [30]</b> 5/23 8/5 15/6 15/7 15/10 22/8 25/9 36/15 38/7 38/17 43/8 43/8 43/10 52/17 54/11 61/2 61/20 66/3 70/15 75/10 77/10 77/10 77/20 77/23 79/7 84/22 86/14 90/1 91/15 92/1</p> <p><b>Where's [1]</b> 54/13</p> <p><b>wherever [1]</b> 62/9</p> <p><b>whether [4]</b> 59/3 87/18 88/7 88/25</p> <p><b>which [9]</b> 3/18 37/9 41/12 55/17 56/15 66/17 69/20 70/14 70/18</p> <p><b>while [6]</b> 24/20 24/20 37/9 38/24 67/1 88/21</p> <p><b>white [2]</b> 37/11 79/9</p> <p><b>who [13]</b> 4/12 8/14 9/3 16/12 22/20 24/15 26/17 27/11 30/24 56/1 69/3 70/7 89/7</p> <p><b>who's [2]</b> 26/9 43/10</p> <p><b>whole [5]</b> 29/2 40/7 50/20 61/3 81/15</p> <p><b>whom [1]</b> 40/13</p> <p><b>whose [2]</b> 11/19 84/21</p> <p><b>why [18]</b> 10/14 10/15 12/3 23/9 26/11 26/13</p>	<p>27/13 27/16 28/3 28/5 28/6 36/2 38/16 46/25 51/7 55/6 60/6 60/23</p> <p><b>wife [1]</b> 7/5</p> <p><b>will [13]</b> 3/5 4/7 37/7 50/10 64/3 64/19 64/24 74/19 76/15 79/13 86/8 93/12 94/2</p> <p><b>Williams [1]</b> 94/10</p> <p><b>Windmill [2]</b> 66/4 66/5</p> <p><b>window [1]</b> 61/1</p> <p><b>windows [1]</b> 61/4</p> <p><b>Winn [4]</b> 83/2 83/3 83/9 83/14</p> <p><b>within [2]</b> 56/1 62/5</p> <p><b>without [2]</b> 64/10 93/6</p> <p><b>witness [21]</b> 4/19 4/22 48/18 53/13 53/17 53/21 63/12 63/18 63/21 64/1 64/3 65/2 65/6 72/8 72/12 83/1 83/4 87/25 88/17 90/23 92/14</p> <p><b>witnesses [5]</b> 2/3 11/14 92/20 92/20 92/21</p> <p><b>won't [1]</b> 92/22</p> <p><b>wool [1]</b> 69/22</p> <p><b>words [1]</b> 80/4</p> <p><b>work [15]</b> 14/24 15/4 15/6 15/23 37/7 55/1 55/10 55/13 57/10 81/5 82/12 84/3 85/24 85/25 91/21</p> <p><b>worked [8]</b> 15/8 15/10 15/11 15/19 54/18 73/1 84/4 89/17</p> <p><b>worker [1]</b> 13/6</p> <p><b>workers [1]</b> 77/5</p> <p><b>working [14]</b> 10/15 15/13 15/21 31/5 31/11 31/13 54/11 65/23 66/7 84/13 85/21 85/23 89/16 89/18</p> <p><b>would [69]</b> 4/18 5/23 6/1 6/5 6/13 8/8 8/8 8/13 9/2 11/10 11/13 23/23 27/13 32/21 32/24 35/18 37/1 37/5 40/25 41/9 41/9 41/9 41/10 41/14 41/14 41/23 42/3 42/10 42/17 42/18 42/21 43/3 44/13 44/14 47/1 52/10 53/19 55/21 55/22 56/3 57/2 57/7 59/22 60/9 61/2 61/19 64/1 67/23 69/9 69/13 69/19 69/20 69/25 70/2 70/13 70/24 72/9 74/13 75/4 75/13 78/20 78/21 78/21 84/16 86/5 87/16 87/21 87/23 90/11</p> <p><b>would've [1]</b> 71/2</p> <p><b>wouldn't [4]</b> 11/15 42/20 42/22 42/25</p> <p><b>written [1]</b> 63/16</p> <p><b>wrong [1]</b> 6/13</p> <p><b>wrote [1]</b> 14/16</p>	<p><b>Y</b></p> <p><b>yeah [36]</b> 6/4 7/13 7/22 7/22 8/25 8/25 9/9 9/18 12/21 15/7 15/8 16/6 17/24 19/25 20/19 21/4 22/8 22/24 23/19 25/24 26/1 27/6 27/6 41/18 43/6 43/6 47/19 51/1 52/6 52/6 52/8 58/3 62/8 78/4 81/10 82/16</p> <p><b>year [1]</b> 54/19</p> <p><b>years [5]</b> 65/19 67/3 67/4 73/2 82/16</p> <p><b>yes [310]</b></p> <p><b>yesterday [8]</b> 5/4 5/18 9/22 36/15 36/24 37/10 46/13 74/16</p> <p><b>yet [2]</b> 3/13 3/14</p> <p><b>you [682]</b></p> <p><b>you'll [1]</b> 63/15</p> <p><b>you're [37]</b> 10/23 13/3 17/4 18/1 18/10 19/3 20/15 23/25 26/9 27/13 27/23 27/24 27/24 28/1 28/7 28/12 28/12 28/14 28/25 31/22 34/22 49/5 49/6 49/25 50/14 52/3 56/7 57/10 58/6 65/17 67/15 69/17 72/23 78/17 81/7 82/14 93/7</p> <p><b>you've [2]</b> 18/15 53/5</p> <p><b>young [1]</b> 56/19</p> <p><b>younger [1]</b> 56/13</p> <p><b>your [164]</b></p> <p><b>yourself [6]</b> 19/9 43/17 50/9 52/8 52/17 88/5</p> <p><b>yourselves [2]</b> 64/6 93/2</p> <hr/> <p><b>Z</b></p> <p><b>zero [4]</b> 66/16 66/24 66/25 68/17</p>		
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