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IN THE SUPREME COURT OF THE STATE OF NEVADA

JUSTIN PORTER,)
)
Appellant,)
)
vs.)
)
THE STATE OF NEVADA,)
)
Respondent.)
)
_____)

Case No: 80738

APPELLANT'S APPENDIX
Volume V

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1 A Yes.

2 Q Did you go directly to the police department?

3 A Yes, we did.

4 Q When you got there, did you see an individual that
5 the Chicago police represented to you was Justin Porter?

6 A Yes, we did.

7 Q Do you see him here in court today?

8 A Yes, I do.

9 Q Can you describe where he's sitting, what he's
10 wearing?

11 A He's wearing a white shirt with vertical stripes and
12 glasses, and he is sitting to the left of Mr. Brown.

13 MS. LUZAICH: Record reflect identification of the
14 defendant.

15 THE COURT: Yes.

16 BY MS. LUZAICH:

17 Q And, of course, you know Mr. Brown, right?

18 A Yes, sir (sic). Yes, ma'am.

19 Q When you got to Chicago, where -- sorry. When you
20 got to the police department in Chicago, where was the
21 defendant? Like where was he physically located?

22 A He was located I believe on the second floor where
23 their major crimes are, and he was in a holding type cell.

24 Q Was he handcuffed?

25 A No, he was not.

1 Q Did you have contact with him right away?

2 A I don't recall if we contacted him right away. We
3 may have stopped in and said hi.

4 Q Did you do something for him?

5 A Yes. We -- being that time in the afternoon, I went
6 to a McDonald's which was down the street from the police
7 station and got him some McDonald's food, a hamburger and a
8 drink, some french fries.

9 Q Did you give it to him?

10 A Yes, we did.

11 Q Did you do that before having any conversation with
12 him?

13 A Yes, we did.

14 Q Why?

15 A I didn't know if he'd eaten that day. I believe we
16 may have asked him if he was hungry.

17 Q Just trying to be nice?

18 A Yes.

19 Q And did you at least give him time to eat by himself,
20 relax?

21 A Yes, we did.

22 Q And then did you and Detective LaRochelle go in the
23 room to talk to him?

24 A No, we didn't. We -- we took him down the hallway to
25 what they have as an interview room.

1 Q Okay. And when you took him to the interview room,
2 who was present in the room?

3 A At first it was me, Detective LaRochelle and Sergeant
4 Cricket, but Sergeant Cricket ended up excusing herself out of
5 the room.

6 Q Okay. So it was just you, Detective LaRochelle and
7 the defendant?

8 A Yes.

9 Q What did you do?

10 A I -- we advised him of rights. I provided him with a
11 Miranda card which I had him read out loud to me.

12 Q Do you do that all the time?

13 MS. LUZAICH: May I approach the clerk?

14 THE COURT: Yes?

15 THE WITNESS: I do it quite a bit. I wouldn't say
16 all the time.

17 MS. LUZAICH: May I approach the witness?

18 THE COURT: Yes.

19 BY MS. LUZAICH:

20 Q Showing you what's been marked as State's Proposed
21 Exhibit 102, is that the Miranda card that you had with you?

22 A Yes, it is.

23 Q When you had that card, you have them read it out
24 loud?

25 A Yes.

1 Q And do you have them sign it as well?

2 A Yes, I do.

3 Q Did he sign that card?

4 A Yes, he did.

5 Q In your presence?

6 A Yes.

7 Q And did you then sign it as well?

8 A Yes, I do.

9 MS. LUZAICH: Move it into evidence.

10 MR. ABOOD: No objection, Your Honor.

11 THE COURT: Admitted.

12 (Plaintiff's Exhibit 102 admitted into evidence.)

13 BY MS. LUZAICH:

14 Q Now, when you had him read it out loud, how did that
15 go?

16 A He read it slow. He kind of had to sound out some of
17 the words. I don't recall which words he had to sound out.
18 But after he read it, I explained it to him, and I asked him if
19 he understood it, and he said he did, and then that's when he
20 signed it.

21 Q And then did you guys talk to him for a bit?

22 A Yes, we did.

23 Q Now, as a detective with the Las Vegas Metropolitan
24 Police Department -- you know, you've been there for 20 years
25 -- are you familiar with some street terms?

1 A Yes, I am.

2 Q In your experience have you ever heard the term
3 "lick", a "lick"?

4 A Yes, I have.

5 Q What is a lick?

6 A A lick is a street term for a robbery.

7 Q And the -- just totally to change, the crime scene
8 where Mr. Lungtok was killed, that's on 10th Street, correct?

9 A Yes, it is.

10 Q And you're familiar with South 10th Street?

11 A Yes, I am.

12 Q Is there a phone or a phone booth on South 10th
13 Street?

14 A No, there is not.

15 Q Did you actually walk up and down 10th Street to see
16 if there was a phone or phone booth?

17 A Yes, I did.

18 Q And there isn't.

19 A That's correct. There's no phone there.

20 Q Thank you, Detective.

21 MS. LUZAICH: I would pass the witness.

22 THE COURT: Cross.

23 MR. ABOOD: Thank you, Your Honor.

24 CROSS-EXAMINATION

25 BY MR. ABOOD:

1 Q Detective, how are you?

2 A Very good.

3 Q Sir, you told us about going to 208 North 13th
4 Street, Apartment No. 3. Now that was his mother's apartment;
5 is that right?

6 A That's correct.

7 Q And you had some information that Justin was staying
8 there?

9 A Yes.

10 Q Now, did he have a room of his own?

11 A No, he did not.

12 Q It's like he just slept on the couch or something?

13 A Yes, sir.

14 Q And do you know where he kept his clothing and things
15 like that?

16 A According to his mother he kept it in the hall
17 closet.

18 Q And that's where you went to find these shoes that
19 you showed the jury?

20 A Yes.

21 Q Okay. Other than those shoes, I take it that no
22 other evidence was discovered at that apartment that linked
23 Justin to this crime scene; is that right?

24 A That's -- that's correct.

25 Q So we don't have any firearm.

1 A No, sir, we don't.

2 Q We don't have any bullets.

3 A No.

4 Q No clothing with blood on them or anything like that?

5 A No.

6 Q And no items of property that would have belonged to
7 Mr. Lungtok.

8 A That's correct.

9 Q Okay. Now, these Sarsony (phonetic) shoes -- is that
10 what they, are by the way, Sarsony or --

11 A I believe it's pronounced Saucony.

12 Q Saucony. Okay. These shoes, you had an opportunity
13 to look them over before you put them into evidence obviously.

14 A Yes, we did.

15 Q And you didn't discover any blood either top or
16 bottom, anywhere on those shoes; is that right?

17 A That's correct.

18 Q Okay. Now, you also told the jury that Justin's
19 mother told you during the course of your looking into the
20 apartment that Justin was in Chicago with his father?

21 A Yes.

22 Q And did you come to discover that his father actually
23 lived there in Chicago?

24 A Yes, we did.

25 Q And Justin was apparently visiting him at his

1 apartment there in Chicago.

2 A Yes.

3 Q And later I guess you discovered that, in fact,
4 Justin had plans to come back mid to late August.

5 A Yes, sir.

6 Q But obviously you don't have to wait for a suspect to
7 come back to Las Vegas. You decided you wanted to have him
8 arrested and go to Chicago to speak with him.

9 A Yes.

10 Q Okay. Now, as far as you know, nothing of value to
11 this investigation, the homicide investigation, was located in
12 his father's apartment in Chicago either.

13 A Not as far as I know.

14 Q So again, no clothing with blood on them, no gun, no
15 bullets, nothing relating to this homicide here in Las Vegas.

16 A That's correct.

17 Q Okay. Sir, you also discussed briefly the interview
18 process that you had with Justin, and you told us that you
19 advised him of his rights.

20 A Yes.

21 Q And obviously what we're talking about is you got the
22 right remain to silent, anything you say can and will be used
23 against you, things that people hear about all the time on TV.

24 A Right.

25 Q Okay. And when you advised him of these rights,

1 obviously he had a right to remain silent, but he agreed to
2 speak with you.

3 A Yes, he did.

4 Q And you spent some time interviewing him about this
5 incident in Las Vegas, the homicide.

6 A Yes.

7 Q And my understanding is Detective LaRochelle will
8 speak to the separate statements that Mr. Porter gave
9 concerning that homicide.

10 A Okay.

11 Q Okay. Oh, so you didn't know that. Okay. Give me
12 just one moment, sir.

13 MR. ABOOD: Court's indulgence.

14 BY MR. ABOOD:

15 Q Sir, Mr. Brown pointed something out to me. You
16 talked to the jury a little bit about what you took the meaning
17 of a lick to be?

18 A Yes, sir.

19 Q In other words, when Justin said something about a
20 lick, you thought that it meant a --

21 A It's a common street term that is used for a robbery.

22 Q Okay. Now, that's not something Justin told you, is
23 it?

24 A No. That's what a lick means to us in law
25 enforcement. That's what a lick means to people on the street

1 that would use terminology like that.

2 Q All right. And when Justin gave you his statement,
3 you asked him what a lick means; is that right? Do you recall
4 that?

5 A I don't recall that. I may have.

6 Q Well, let me see if I can refresh your memory a
7 little bit. Did he say to you when you asked what -- well, let
8 me just make sure -- yeah. When you asked what does a lick
9 mean, do you recall him saying something like, well, anybody go
10 get some money?

11 A Yeah, something like that.

12 Q Something like that. Okay. Sir, thank you very
13 much.

14 MR. ABOOD: Thank you, Your Honor.

15 THE COURT: Thank you. Redirect.

16 REDIRECT EXAMINATION

17 BY MS. LUZAICH:

18 Q In all your years as a police officer, do you see
19 often people use a gun during the commission of a crime and
20 then they get rid of it?

21 A Yes.

22 Q And then they get rid of bullets?

23 A Yes.

24 Q Do they generally keep bloody clothing?

25 A No.

1 Q Do they wash it sometimes?

2 A Sometimes.

3 Q Can you wash blood off tennis shoes?

4 A Yes, you can.

5 Q Thanks.

6 MR. ABOOD: Very briefly, Your Honor.

7 THE COURT: All right.

8 RECROSS-EXAMINATION

9 BY MR. ABOOD:

10 Q Sir, in all fairness you also you've also
11 investigated many crime scenes where people do have the guns
12 and the bullets or other items like that, firearms, that were
13 involved in a crime.

14 A Yes.

15 Q And you've also investigated many crime scenes where
16 you do find clothing or other items that link to the crime, the
17 crime scene?

18 A Yes, we do.

19 Q It just didn't happen in this case.

20 A That's correct.

21 Q Okay.

22 MS. LUZAICH: Nothing.

23 MR. BROWN: Before he leaves, Your Honor, can we
24 approach real quick?

25 THE COURT: Sure.

1 (Bench conference began at 1:51 p.m.)

2 MR. BROWN: The only reason I want to bring it up is
3 I thought they were going to use him to get into some
4 statements.

5 THE COURT: So did I.

6 MR. BROWN: We need to fix that statement that we
7 (indiscernible) where they're still talking about probation in
8 there. We had talked about it before. They'll probably do it
9 through Detective LaRoche. (Indiscernible) he did mention
10 things (indiscernible) interviewed him, and he said certain
11 things.

12 I didn't stand up and lodge an objection. But
13 because of the statement -- you know, we are -- just to remind
14 the Court, we're objecting to anything referencing the
15 statement Justin gave --

16 THE COURT: Right.

17 MR. BROWN: -- in Chicago. And so I didn't want to
18 -- I didn't stand up and object right at the moment, so this is
19 my contemporaneous objection.

20 THE COURT: Okay.

21 MS. LUZAICH: And just so you know, we didn't
22 specifically (indiscernible).

23 THE COURT: I figured there was something like that
24 when he said no. Okay.

25 MR. BROWN: I am lodging the objection now. When

1 Detective LaRoche gets up and talks about, you know --

2 THE COURT: The statements.

3 MR. BROWN: -- (indiscernible) they're introducing
4 (indiscernible).

5 THE COURT: (Indiscernible).

6 MR. BROWN: And address (indiscernible) the phone
7 call (indiscernible) the phone call. Yes, I objected to it, of
8 course, the phone call. And the Court's made its record on
9 that, so I didn't object while he was speaking.

10 THE COURT: Right.

11 MR. BROWN: (Indiscernible) objections
12 (indiscernible). Thank you, Judge.

13 THE COURT: Okay.

14 (Bench conference concluded at 2:53 p.m.)

15 MR. ABOOD: Thank you, Your Honor.

16 THE COURT: Hold on.

17 MR. ABOOD: We don't have anything else further.

18 THE COURT: Hold on just a minute. You know what,
19 Counsel, I shouldn't have had you sit down. Come on up again,
20 Counsel.

21 (Bench conference began at 1:53 p.m.)

22 THE COURT: Uh-huh.

23 MS. LUZAICH: (Indiscernible).

24 UNIDENTIFIED SPEAKER: (Indiscernible).

25 THE COURT: They're all the same question. It's the

1 same question I had in my mind.

2 MS. LUZAICH: I-yi-yi (phonetic).

3 UNIDENTIFIED SPEAKER: That's a great question.

4 THE COURT: It is.

5 MS. LUZAICH: It is, yeah.

6 MR. BROWN: (Indiscernible).

7 MS. LUZAICH: Yeah.

8 THE COURT: All right. So is there any way to say
9 this without revealing the other crimes?

10 MS. LUZAICH: No.

11 THE COURT: Okay.

12 UNIDENTIFIED SPEAKER: (Indiscernible) the rules of
13 evidence we're not allowed you can't ask the question
14 (indiscernible).

15 THE COURT: Okay.

16 UNIDENTIFIED SPEAKER: I don't like them
17 (indiscernible).

18 THE COURT: (Indiscernible).

19 (Bench conference concluded at 1:54 p.m.)

20 THE COURT: All right, ladies and gentlemen. I
21 appreciate the questions that you've asked, but under the rules
22 of evidence I cannot ask the witness this question at this
23 time.

24 All right, sir. You are free to go. Thank you so
25 much.

1 THE WITNESS: Thank you, ma'am.

2 (Pause in proceedings)

3 MS. LUZAICH: Detective James LaRochelle.

4 THE MARSHAL: Please step up into the box, raise your
5 right hand, face that gentleman right there.

6 JAMES LaROCHELLE, PLAINTIFF'S WITNESS, SWORN

7 THE CLERK: Thank you. Please be seated. Please
8 state your complete name spelling both your first and last name
9 for the record.

10 THE WITNESS: James LaRochelle, L-a, capital R,
11 o-c-h-e-l-l-e.

12 THE CLERK: First name?

13 THE WITNESS: James.

14 THE CLERK: Spell it, please.

15 THE WITNESS: J-a-m-e-s. Thank you.

16 DIRECT EXAMINATION

17 BY MS. LUZAICH:

18 Q Sir, by whom are you employed?

19 A With Las Vegas Metropolitan Police Department.

20 Q How long have you been with Metro?

21 A Over 17 years.

22 Q In what capacity are you right now?

23 A A detective supervisor.

24 Q When you say a detective supervisor, are you
25 currently a sergeant?

1 A Yes, ma'am.

2 Q Did you spend many years as a detective not as a
3 supervisor?

4 A Yes.

5 Q How many years did you spend as a detective, not a
6 supervisor?

7 A Ten years.

8 Q How long have you been a sergeant?

9 A Four and a half years.

10 Q As a detective with Metro, do you work with many
11 other detectives in the investigation of offenses?

12 A Yes.

13 Q And specifically, if you're investigating a homicide,
14 are there many, many detectives that participate in the
15 investigation?

16 A Yes.

17 Q Is that because you just never know how much there is
18 to do?

19 A Yes.

20 Q I'm going to take you back to June of 2000. Were you
21 a detective back then?

22 A Yes.

23 Q And a detective, not a supervisor, correct?

24 A That's correct.

25 Q And in June of 2000, were you called upon to

1 participate in an investigation involving the death of an
2 individual named Gyaltsso Lungtok?

3 A Yes. That's correct.

4 Q Were you called to the residence at 415 South 10th
5 Street on June 10th of 2000?

6 A Yes.

7 Q Now, when you went out there in June to investigate
8 that homicide, were you kind of like the lead detective at that
9 time?

10 A No.

11 Q Well, were you and Detective Thowsen together?

12 A Yes.

13 Q Okay. And as the lead detectives, does one of you
14 take responsibility for scene and one for interviews and things
15 of that nature?

16 A Yes. That's correct.

17 Q And which part of it did you have?

18 A I had the interviews at the scene.

19 Q Although your primary responsibility would have been
20 interviews at the scene, would you also walk into and around
21 the scene so that you know what you're talking about?

22 A Yes. The scene was available, yes.

23 Q What time of day was it that you got there? Do you
24 remember?

25 A It was in the afternoon.

1 Q And when you went to 415 South 10th Street, Apartment
2 H, did you go inside?

3 A Yes.

4 Q Okay. What did you see, just briefly, when you went
5 inside?

6 A It was a crime scene that was in the second story of
7 an apartment complex or a duplex that had four apartments on
8 the east side of the -- excuse me, on the west side of the
9 street or west side of the building. The apartment, No. H, the
10 crime scene, was upstairs to the north side.

11 We walked in the door that faced south, walked into a
12 hallway. There was blood spatter in the apartment. The room
13 where the deceased, the victim, was located was in the east
14 side of the apartment. It was a one-bedroom apartment.

15 Through that door the victim was located along side
16 of a bed in that east bedroom propped up to the side, leaning
17 against the side of the bed near a night stand that was located
18 in the northeast corner and by a telephone.

19 Q When you talk about blood spattered throughout the
20 apartment, was there also blood on the -- like in the doorway
21 of the apartment?

22 A Yes.

23 Q Specifically like on the -- there's a word for it.
24 Like the strip of the door on the floor?

25 A Yes, like the tread of the threshold. Yes.

1 Q Thank you. Did you also notice that there were some
2 bullets or bullet fragments found in the apartment?

3 A Yes.

4 Q And a shell casing outside on the landing.

5 A Yes. That's correct.

6 Q While you were responsible for interviews, did you
7 and a bunch of other detectives attempt to interview all the
8 neighbors that were around to see what information you could
9 ascertain?

10 A Yes.

11 Q And did you discover that it had not happened
12 immediate prior but it was a little while before?

13 A That the incident occurred approximately two days
14 before? Is that the question?

15 Q Yes.

16 A Yes.

17 Q Okay. Two days before, like in the middle of the
18 night?

19 A Yes.

20 Q Okay. And was that pretty much consistent between
21 all the neighbors that you were able to talk to?

22 A Yes.

23 Q In addition to talking to the neighbors about what
24 had occurred pertaining to Apartment H, did you discover that
25 there was another blood trail that you had to be concerned

1 about?

2 A Yes. There was blood trail that was located on the
3 east side of the apartment, so that was the opposite side of
4 the apartment, that adjoined a parking lot area. That was also
5 on the second floor and led from a fire extinguisher down the
6 stairwell.

7 Q Okay. And you can keep talking about east side and
8 west side. Just because I'm not directional, would that be the
9 front side and the back side?

10 A Yes. The crime scene with the victim was located on
11 the front side closest to 10th Street, and there was a second
12 blood trail that was located on the opposite side of the
13 building closest to a parking lot area which would be the east
14 side, the opposite side.

15 Q Thank you. And while you guys were interviewing
16 witnesses, did you discover that the back side or as you call
17 it the east side blood trail really didn't have anything to do
18 with the murder you were investigating?

19 A That's correct.

20 Q And how did you find that out?

21 A That while we were at the scene and I'm doing
22 interviews, that a person by the name of Derrick Sterling
23 arrived. And initially he said that he was coming to the scene
24 because he was concerned that something could have happened to
25 a friend of his.

1 And -- and in talking with Derrick Sterling, that
2 Derrick Sterling said that he was the person that caused the
3 blood trail on that opposite side, on the east side next to the
4 parking lot. And he described a series of events that
5 occurred.

6 That he said that he was with a roommate or a former
7 roommate upstairs at that apartment on that side, and that he
8 was in an argument -- if my recollection's correct -- about a
9 girlfriend, and he had hit the fire extinguisher and cut his
10 hand, and that he had bled coming down the stairs. And he went
11 to a spigot that was located on the side of the building and
12 washed it off.

13 And during our contact with him, he was cooperative,
14 and he allowed us to get a buccal swab and to collect up his
15 clothing, his footwear that had some blood spatter on it. And
16 I compared that to what we found on that side of the building.

17 Q When you say a buccal swab, for those jurors who
18 don't do what you do, what is a buccal swab?

19 A A buccal swab is a swab that we use for evidentiary
20 purposes. It's controlled. The -- we ask the person to swab
21 the inside of their cheek to try to get some cells that can
22 slough off in the side of the mouth onto the swab, and we
23 impound that and we send it our forensic lab to do a DNA
24 analysis on that swab.

25 Q When you say we ask them to swab the inside of their

1 mouth, is it a little thing that looks kind of like a long
2 Q-tip?

3 A Yes.

4 Q So there's no pain involved.

5 A No.

6 Q Okay. And he voluntarily provided you with a sample
7 of his DNA?

8 A Yes, he did.

9 Q And did you take that, mark it, tag it, place it into
10 evidence, and cause it to be compared to the blood that was
11 found from the apartment on the back side of the building
12 leading up to the spigot?

13 A Yes.

14 Q And are you familiar with Dave Welch?

15 A Yes.

16 Q Did Dave Welch work at the Las Vegas Metropolitan
17 Police Department's crime lab for many, many, many, many years
18 performing DNA analysis?

19 A Yes.

20 Q And are you aware that he also testified many times
21 in court here as an expert in DNA analysis?

22 A Yes.

23 Q And did he confirm that the blood on the back side
24 trail was in fact Derrick Sterling's blood?

25 A Yes, he did.

1 Q Okay. And you said that Mr. Sterling was cooperative
2 in the fact that he also gave you clothes and shoes?

3 A Yes.

4 Q Now, his shoes that you collected, those shoes were
5 bloody?

6 A Yes.

7 Q And you actually collected those shoes and marked,
8 tagged and placed them into evidence as well.

9 A Yes.

10 Q Okay. And you said that he came up to you because he
11 was concerned that something may have happened to a friend of
12 his. When you guys go out and you're investigating a crime
13 scene like this, about how many patrol cars are generally
14 there?

15 A On a homicide there's many crimes -- there's many
16 patrol cars initially to help cordon off the area and help us
17 canvass the area. In addition, there's a number of unmarked
18 cars that are readily recognizable as being unmarked police
19 cars that are parked along the street or near the scene.

20 Q And then in addition to the patrol cars that are
21 there would be patrol officers in uniform wandering around --

22 A Yes.

23 Q -- the area as well? And a bunch of plainclothes
24 detectives would be walking around, too.

25 A That's correct.

1 Q So it's pretty obvious that there's something
2 significant going on if somebody were to just walk by not
3 knowing.

4 A That's correct.

5 Q Okay. And you in fact confirmed and spoke with a
6 person who lived in that upstairs apartment on the back that
7 was in fact Derrick Sterling's friend, correct?

8 A I'd have to look at my notes to refresh that. I
9 can't remember exactly who I spoke with on that side.

10 Q But there was a friend --

11 A Yes.

12 Q -- that was living there, and he confirmed what Mr.
13 Sterling had told you.

14 A Yes.

15 Q Okay. The shoes that you collected from Mr.
16 Sterling, however, they were white tennis shoes, right?

17 A Yes.

18 Q But they were not Saucony brand.

19 A That's correct. They were not.

20 Q Okay. Now while you are at the scene -- you talked
21 for a minute some bullets and a shell casing. Was there also
22 something on the door that was important in your investigation?

23 A Yes. There was the transfer pattern of a sole from a
24 sneaker.

25 Q In the transfer pattern of the sole from the sneaker

1 was a name or brand name readable?

2 A Yes.

3 Q What was that?

4 A Saucony.

5 Q Okay. And that was not Mr. Sterling's shoe.

6 A That's correct.

7 Q And would you be the one who would cause that lift to
8 be examined and compared with other things?

9 A Yes.

10 Q In addition to Mr. Sterling's buccal swab and blood
11 being examined, did you also ask Mr. Welch to examine the blood
12 at the front of the apartment, the actual -- sorry, the front
13 of the building, the actual crime scene?

14 A Yes.

15 Q And whose blood did he determine that was?

16 A He determined that that was the victim, Gyaltsa
17 Lungtok's blood.

18 Q Okay. So you're at the scene, and you're looking
19 around, and you interview witnesses. Do you also then go to
20 the autopsy of the victim?

21 A Yes.

22 Q When was that?

23 A That would most likely have been on Sunday morning,
24 the following day.

25 Q The next day.

1 A Yes.

2 Q And why do you go to the autopsy?

3 A To discuss the details of the case with the medical
4 examiner, to tell them how we found the body, how the body was
5 positioned. Also, there's evidence that is retrieved at the
6 autopsy. There can be clothing from a victim. There can be
7 ballistic evidence from the victim that our crime scene people
8 impound also at that location. And also for us to get a more
9 detailed listing of the injuries on the victim at that time.

10 Q And, in fact, there were three bullets or bullet
11 fragments recovered from Mr. Lungtok's body, correct?

12 A Yes.

13 Q And the -- is there a crime scene analyst with you
14 also at the autopsy?

15 A Yes, there is.

16 Q Do they take photographs of the body?

17 A Yes, they do.

18 Q To preserve for these purposes as well, right?

19 A That's correct.

20 Q And did you cause the three bullet fragments that
21 were recovered from the body as well as the three bullets or
22 fragments recovered from the crime scene and the shell casing
23 to go to the lab for analysis?

24 A Yes. That's correct.

25 Q And did Richard Good, a person who works at the crime

1 lab, analyze or perform some tests on those?

2 A Yes.

3 Q What exactly -- Richard Good does not work at Metro
4 anymore, correct? He retired?

5 A I'm not aware of -- I can't recall if he retired or
6 not. I'm sorry.

7 Q Okay. Did he work at Metro's lab for many, many
8 years?

9 A Yes, he did.

10 Q And what was -- what did he do?

11 A He was a forensic examiner as far as ballistics.

12 Q And what does that mean?

13 A That they look at firearms. They make comparisons of
14 shell casings, ballistic evidence such as bullets, determine if
15 a particular bullet was fired from a firearm, a particular
16 firearm, make a comparison between the two, a casing found at
17 the scene, if it was extracted from that firearm.

18 Q Did he -- and what was his conclusion in relation to
19 the bullets from the crime scene, the -- Gyaltsso Lungtok's body
20 and the shell casing?

21 A That the casings, the cartridge casings, meaning that
22 they're the spent casings that expel from the firearm, were
23 fired from the same firearm, and that the case -- recovered --
24 three of the bullets recovered at the autopsy were consistent
25 with a .22 caliber which is consistent with the cartridge

1 casing that was found at the scene.

2 Q Okay. And that bullets all came from the same gun.

3 A Yes.

4 Q Okay. During the course of your investigation, did
5 you develop a suspect known to you as Justin Porter?

6 A Yes.

7 Q Would that information be shared with all the
8 detectives investigating the case?

9 A Yes.

10 Q Did you have contact with Detective Barry Jensen
11 regarding that on August 10th of 2000?

12 A Yes.

13 Q And did he talk to you about being at a residence on
14 13th Street?

15 A Yes. That's correct.

16 Q And did he talk to you about speaking with Justin
17 Porter's mother and the information that he got from her?

18 A Yes.

19 Q And did he talk to you about finding -- well, serving
20 a search warrant at the residence?

21 A Yes.

22 Q And finding some Saucony tennis shoes?

23 A That's correct.

24 Q Now, there was no blood found on the Saucony tennis
25 shoes, correct?

1 A No, there was not.

2 Q Okay. Did you also go to that residence later, after
3 Detective Jensen?

4 A Yes.

5 Q What was the purpose of your going there?

6 A That from the information that I received from
7 Detective Jensen and additional interviews is that I wanted to
8 search that residence for a .22 caliber firearm and any
9 ammunition or ballistic evidence.

10 Q And did you do that pursuant to a search warrant?

11 A Yes.

12 Q A search warrant that you obtained, got signed by a
13 judge, and then went to the residence to serve?

14 A Yes.

15 Q And when you went there, was Ms. Porter there?

16 A Yes.

17 Q Did you have conversation with her?

18 A Yes, I did.

19 Q And did she also tell you where Justin Porter was?

20 A Yes, she did.

21 Q Did you find any firearm or anything pertaining to a
22 firearm while you searched the residence?

23 A No, I did not.

24 Q Did you speak with Detective Jensen on the next day,
25 August 11th, about some messages and a phone call that he got?

1 A Yes.

2 Q And did you also -- or were you also aware that one
3 of the detectives had sent -- with that information in mind,
4 sorry, sent information to the Chicago Police Department for
5 them to look for Justin Porter?

6 A That's correct.

7 Q And did you discover at some point that Justin Porter
8 was actually placed into custody in Chicago?

9 A Yes.

10 Q And because of that, did you then go to Chicago?

11 A Yes, I did.

12 Q Who did you go to Chicago with?

13 A I flew to Chicago early that morning with Sergeant
14 Laurie Cricket and Detective Barry Jensen.

15 Q When you went to Chicago, do you remember around what
16 time of day it was that you got there?

17 A We arrived in Chicago in the early afternoon hours,
18 afternoon.

19 Q And did you go right to the police department?

20 A Yes.

21 Q And did Detective Jensen do something for the
22 individual when he got there?

23 A We sat down and met with Justin Porter.

24 Q Okay. Did he bring him some food first?

25 A Yes.

1 Q Okay. You didn't go with him, though, did you?

2 A No.

3 Q So you sat down and you met with somebody while you
4 were there?

5 A Yes.

6 Q Do you see that person here in court today?

7 A Yes, I do.

8 Q Can you describe where he's sitting, what he's
9 wearing?

10 A He's sitting at counsel's table in the middle. That
11 he's a black male, adult, with his hair pulled back wearing
12 glasses and a slight goatee.

13 MS. LUZAICH: Record reflect identification of the
14 defendant.

15 THE COURT: Yes.

16 MS. LUZAICH: Thank you.

17 BY MS. LUZAICH:

18 Q When you found Mr. Porter, the defendant, in Chicago,
19 where was he?

20 A He was located in a police station. It's called Area
21 No. 4 or Area 4, and he was in a room, and I did not see the
22 room that he was initially.

23 We went into a conference room, spoke briefly with
24 Detective Kato and myself. Detective Jensen was there and
25 Sergeant Cricket, and then Justin Porter came into the room to

1 meet with us and talk.

2 Q At the time that he was brought into the room where
3 you were, was he handcuffed?

4 A I don't recall if he was handcuffed when he was
5 brought in. I don't think he was. He was not handcuffed when
6 we spoke with him.

7 Q Okay. So when you spoke with him, who exactly was in
8 the room?

9 A When we talked with him at length it was just
10 Detective Jensen and myself.

11 Q When you talked to him, you said he was not
12 handcuffed.

13 A That's correct.

14 Q And Detective Jensen used a card to provide the
15 defendant with his rights pursuant to Miranda?

16 A Yes.

17 Q Were you there while that happened?

18 A Yes, I was.

19 Q And after he was given his rights pursuant to
20 Miranda, did he choose to give a statement?

21 A Yes.

22 Q Now, when you take a statement, do you have some --
23 well, do you tape record statements?

24 A We do an interview and then we take a recorded
25 statement. Yes.

1 Q That's where I was going. So you have some
2 conversation before you turn your tape recorder on.

3 A Yes, we do.

4 Q And during the course of -- you call that the
5 interview and then a taped statement? During the course of the
6 interview, was conversation flowing freely between yourselves
7 and the defendant?

8 A Yes.

9 Q And what did he tell you?

10 A That we first got into his background --

11 MR. ABOOD: And I'm sorry to interrupt, Detective.
12 Your Honor, based on previous rulings we've lodged our
13 objection. The Court's made its decision. I just wanted to
14 make the Court know -- aware that this is (indiscernible).

15 THE COURT: All right. And my ruling's the same, but
16 that's fine. Thank you.

17 MS. LUZAICH: Thank you.

18 THE COURT: Go ahead.

19 BY MS. LUZAICH:

20 Q Go ahead.

21 A Initially we got just background information about
22 Justin Porter, how tall he was, how much he weighed, where was
23 he living at, how long he lived Las Vegas, some general
24 information, and that's to help establish a rapport and get a
25 feel how he's answering questions.

1 Then we started to talk about this incident on 10th
2 Street, and initially he did not know where 10th Street was.
3 He did not know the incident I was talking about, and I had
4 mentioned 10th Street and this hundred block. So I placed a
5 photograph, crime scene photograph, in front of him that just
6 showed the outside of the complex.

7 And I did not say anything particular about this
8 incident, that it was a homicide investigation. I said that I
9 want to talk about this incident here and it was with the
10 photograph in front of him.

11 When he saw the photograph, his demeanor had changed.
12 That he became very serious, almost scared or frightful of the
13 photograph. That he paled, he pushed the chair back, he got up
14 out of the chair and said that he had nothing to do with that.
15 He knows what I'm talking about, but he had nothing to do with
16 that. And he sat back down, and we talked about the incident.

17 And he said that he was leaving his house and he was
18 with a person by the name of Dionne (phonetic), and he
19 described Dionne, though he was unsure of the exact name. He
20 said Dionne, something like that.

21 He said that he had -- that Justin Porter had a
22 firearm upon his person, a firearm that contains small bullets,
23 and that he passed that firearm on to Dionne. Dionne said that
24 he was going to do a lick, and I asked Justin Porter what a
25 lick means, and he had told me it was a street term for

1 robbery. Dionne was looking to make some cash by doing a
2 robbery.

3 They walked south on 10th Street from his house. He
4 described the path that they walked. And he described the
5 location of the scene that he didn't see from the photograph
6 that I provided him. He described a school that was located
7 nearby.

8 And he says that he's at a phone booth when Dionne
9 talks about -- or is headed towards this apartment. Justin
10 says that he's on the phone acting like he's talking on the
11 phone while Dionne goes to the apartment complex. And that he
12 goes upstairs, and he hears a banging noise followed by -- and
13 he used kind of a term like "locka (phonetic), locka, locka",
14 and I asked him what does that mean, and he had signified --
15 told me that that was gunshots, that he had heard gunshots.

16 Dionne is upstairs for approximately about a minute,
17 comes skipping or running back down, runs northbound towards
18 Justin Porter's location and tells Justin we got to go. I did
19 -- I did the guy. And as they're running he tells Justin that
20 he had picked up the shell casings, the cartridge casings that
21 are expelled from the gun at the shooting scene.

22 Justin gets the gun back, goes back to his house. In
23 the area of house they separate, Dionne and him, and then
24 Justin decides to go back to the scene. Justin goes back to
25 the scene to check on -- to see what had happened.

1 He approaches the apartment, he goes up the stairs,
2 and he says that the door is shut but not shut, and he pushes
3 it open with his foot by the door knob. And he steps back in,
4 and he can see blood on that tread of the threshold of the
5 door, and he looks into the apartment and he sees that a back
6 door is closed.

7 He says that he hears some noise I believe in that
8 statement, that -- some moaning. And then as soon as -- he
9 indicates that that moaning might be in his head, that he's
10 thinking about that, and at which time he leaves the scene and
11 goes back home to his house.

12 Q This is conversation that you have in what you call
13 the interview, so the tape recording is not going yet, correct?

14 A That's correct.

15 Q And then after you have this interview, you turn the
16 tape recorder on?

17 A Yes.

18 Q And then what?

19 A The --

20 Q You asked him to just go over the story so that it's
21 preserved?

22 A Right. We turned the tape recorder on. It's a
23 statement. It's taken in place or in lieu of a victim, witness
24 or suspect writing out everything that we discussed. We have a
25 memorialization in their own words of what was just discussed.

1 And we go over again what we just talked about.

2 Q When you turned the tape recorder on, did he say
3 anything to you like no, I don't want to talk on tape?

4 A No.

5 Q Did he do anything to indicate that he didn't want to
6 be tape recorded?

7 A No, he did not.

8 Q Are there people who sometimes do refuse to speak on
9 tape?

10 A Yes.

11 Q And if that happens, what do you do?

12 A We have to document the conversation, the interview,
13 between the two detectives on what was said during that
14 interview.

15 Q But you don't force them to talk on tape, correct?

16 A No.

17 Q So the fact that it's tape recorded and his voice is
18 there means it's voluntary --

19 A Yes.

20 Q -- essentially.

21 MS. LUZAICH: Can I get this marked next in order?
22 May I approach?

23 THE COURT: Yes.

24 BY MS. LUZAICH:

25 Q After you take a taped statement from somebody, do

1 you then take the either tape or disk or whatever and cause it
2 to be transcribed?

3 A Yes, we do.

4 Q And then do you provide a copy to the State so that
5 we can then provided it to the defense and everybody has one?

6 A Yes, we do.

7 MS. LUZAICH: May I approach?

8 THE COURT: Yes.

9 BY MS. LUZAICH:

10 Q Showing you what's been marked as State's Proposed
11 Exhibit 107. Does this look familiar to you?

12 A Yes, it does.

13 Q Is that a transcript of the taped statement you took
14 from the defendant that you are about to actually talk about?

15 A Yes.

16 MS. LUZAICH: Move it into evidence.

17 THE WITNESS: Yes.

18 THE COURT: Any objection?

19 MR. BROWN: Yes, Your Honor.

20 MR. ABOOD: Yes. Oh, I beg your pardon. Go ahead.

21 MR. BROWN: Previously noted.

22 THE COURT: Okay. It's overruled. It will be
23 admitted.

24 (Plaintiff's Exhibit 107 admitted into evidence.)

25 MS. LUZAICH: Oh, you know, actually I'm going to

1 leave it with you.

2 BY MS. LUZAICH:

3 Q And specifically, when you went back and talked to
4 him on tape, did he tell you essentially the same thing that he
5 told before the tape was turned on?

6 A Yes.

7 Q And specifically, you said that he talked to you
8 about a lick?

9 A Yes.

10 Q And a lick where he describes it as somebody going to
11 get some money; is that correct?

12 A Yes.

13 Q And specifically when he's talking about Dionne, I
14 mean, he goes into like great detail about Dionne, right?

15 A As far as a description. His name, no.

16 Q Right. Sorry. Description of the individual.

17 A Yes.

18 Q Did you believe that Dionne existed?

19 A No.

20 Q Why not?

21 A That Justin Porter knew some specific information
22 that only the person at the scene of the crime would know.
23 That he knew going into this that we were looking for some
24 items of evidentiary interest, knowing that we'd do a search
25 warrant on his house for the firearm that we were looking for,

1 the Saucony shoes beforehand. So previous to contacting him he
2 knew that the police were looking for those things.

3 The statement that he gives is that he's walking down
4 the street, stops at a phone booth, and even in that -- at that
5 point of the interview in the statement is that he says that
6 he's aware that Dionne goes upstairs to the apartment to the
7 left. However, if you're situated at the phone bank or the
8 phone booth that he alleges was there is that you would not be
9 in a position to determine which apartment that he went to.

10 Q And, in fact, there is no phone booth on 10th Street,
11 correct, South 10th Street?

12 A No, there's not.

13 Q Anything else that he knew that he shouldn't have
14 known if he weren't physically in there?

15 A And then he talks about the cartridge cases being
16 picked up, and then he talks about the blood spatter at the
17 threshold door. And he talks about Dionne leaving and excited
18 flight from the scene, but in his flight he's talking about how
19 Dionne says -- they're having a conversation about why is it so
20 important to pick up casings from the scene to me which seems
21 very unreasonable for two people fleeing a scene.

22 Q Does he say that Dionne tells him something about if
23 the police get the bullets or something?

24 A Yes.

25 Q What was that?

1 A That if the police get the bullets, that they can
2 match it to a firearm and they can match it to any other crime
3 that that firearm could have been used in.

4 Q Okay. Now, specifically when you're talking to him
5 on tape in this interview, do you remember asking him about the
6 window, the apartment -- the victim's apartment -- the window?

7 A He -- the picture of the window is that he made a
8 reference to the window I believe is that he mentioned that the
9 window was open when he saw the picture.

10 Q Right. The shade.

11 A Yes.

12 Q But did you ask him whether the shade was actually
13 open or closed?

14 A I may have asked that question.

15 Q I would invite your attention to page 11.

16 A And the question's asked, "Okay. And do you remember
17 if there's a window that overlooked the street from this
18 apartment or not?" The answer was, "The window is right
19 there."

20 "Was the shade open or closed do you remember," is
21 the question I asked. His response is, "In the picture you
22 showed me it was open."

23 My question is then, "In the picture I showed you it
24 was open?" And he responds, "Yes."

25 And I said, "Okay. Do you remember -- do you

1 remember that night if it was open or closed?" And his
2 response was, "I can't recall if it was open or closed, but I
3 know it was a window right there."

4 Q And he talked to you about the phone that we talked
5 about doesn't exist. Did he talk to you a lot about money?
6 Well, not a lot, but did he talk to you about money and
7 dressing nice?

8 A Yes, he did.

9 Q What did he indicate about that?

10 A He indicated that people have nice clothes,
11 name-brand clothes, particularly the brands that a teenager
12 would like to wear. That when they wear those things, that
13 those things help bolster their respectability or their
14 standing among their peers.

15 Q And did he talk to you about what he heard when this
16 Dionne was up at the door?

17 A Yes.

18 Q What did he tell you he heard when this Dionne was at
19 the door?

20 A He heard a loud banging noise followed by the
21 terminology he had used for gunshots, and he indicated that he
22 had heard by sounding off those gunshots by going locka, locka,
23 locka approximately four times.

24 Q And did he say something about the door? At the top
25 of page 14.

1 A Yes. His response is when he was upstairs that, "I
2 heard a noise like shhh, like something cracking in." And I
3 asked, "Okay. Like something cracking in? Yes. And then what
4 do you hear? Like locka, locka, locka, locka," and he says
5 that four times.

6 Q Did he talk to you about what he did with the gun
7 after -- and I'm sorry. Did you say that he told you he had
8 the gun and that this Dionne person asked for the gun and he
9 lent it to him?

10 A Yes.

11 Q Did he tell you what he did with the gun when this
12 was over?

13 A He said they brought it back to his apartment, that
14 he retained possession of it, and that he put it on the roof of
15 his house is my recollection.

16 Q Did he then kind of change his mind and tell you he
17 gave it to somebody?

18 A Is that -- I can't remember if it was that part of
19 the statement or later on that he said that he had passed the
20 firearm on.

21 Q To anyone in particular? Do you remember?

22 A Yes. My recollection was to a cousin, Kristopher
23 Deloney.

24 Q Okay. At the conclusion of that particular
25 interview, did he say something that you found to be different?

1 A Yes. In this interview and then we take the
2 statement is that he's putting himself as a witness to a crime.
3 He placed himself there.

4 But at the end of the statement he asked me can you
5 ask me if I'm sorry for this which I found very strange. And
6 you can hear me on the statement after he asked that, and I
7 asked him do you feel sorry for this.

8 Q So he wanted you to ask him if he felt bad.

9 A Yes.

10 Q Okay. When you finished with that interview, did you
11 stay in the room or what did you do?

12 A We took a break. That I told him that I'd turn off
13 the tape recorder. I said that I'm going to go meet with my
14 supervisor outside that was in the lobby area that could
15 oversee the interview, and that I was going to discuss it with
16 Detective Jensen, and when I came back that I was going to tell
17 him what I thought about his story and about this incident and
18 this case.

19 Q So what happened?

20 A We left the interview room, took a break, and then I
21 could see that he had stood up. It was a room approximately 12
22 by 8, in that area, and he had got up and he started pacing the
23 room inside the room. And he wasn't sitting down. He looked
24 nervous.

25 And after discussing it is that I went back into the

1 room with Detective Jensen. We sat down and I said, Justin,
2 our investigation shows that you're not being completely
3 truthful with us. That you had something more to do with this
4 incident.

5 Q How did he respond?

6 A He became very emotional. He started crying, had his
7 head down. He said that telling the truth is very hard to do.
8 That he said he was in a loop or he was saying over and over
9 again for a moment if I could only take back the hands of time,
10 if I could only take back the hands of time. Then he started
11 talking about the incident.

12 I said I wanted to get to the truth, to know the
13 truth. He talked about how he was leaving his girlfriend's
14 house, and that the police were in the area, and the police
15 went to stop him, was trying to flash a spotlight on him, and
16 he got scared and he ran. And he said that he ran to an
17 apartment that he remembers or thought that was empty, ran up
18 the stairwell and he kicked the door, and out of the darkness
19 this person came at him. And he just remembers pointing the
20 gun and the gun going off and shots being fired.

21 He said this very quickly, this story right here,
22 much the way I just told the jury here now. And it's at the
23 point where I'm trying to get this statement memorialized
24 because it's different from the other one. So I start getting
25 out my tape recorder, and I'm going to take a second taped

1 statement where we get to the truth of the matter.

2 Q Was Detective Jensen also in the room with you?

3 A Yes.

4 Q Did you turn the tape recorder on?

5 A Yes.

6 Q Did he then give you a statement on tape?

7 A Yes.

8 Q He didn't say no, I refuse to talk on tape or
9 anything like that?

10 A No.

11 Q In-between the time that you walked out of the room
12 until the time you walked in the room to get the second
13 statement, how much time passed?

14 A I'd say approximately 30 minutes.

15 Q And after you took that taped statement, did you
16 cause a copy of it to be given me, us, the State of Nevada?

17 A Yes.

18 MS. LUZAICH: And do we have a copy -- or and we have
19 a disk here in court that is -- may I approach --

20 THE COURT: Yes.

21 MS. LUZAICH: -- State's Proposed Exhibit 104. The
22 defense has a copy and (indiscernible) I would move it into
23 evidence and ask to play it.

24 MR. ABOOD: Same issue, Your Honor.

25 THE COURT: All right. That will be admitted.

1 (Plaintiff's Exhibit 104 admitted into evidence.)

2 MS. LUZAICH: Thank you. And may I play it?

3 THE COURT: Yes. Go ahead.

4 (The recorded statement was played at 2:33 p.m. until 3:03
5 p.m.)

6 BY MS. LUZAICH:

7 Q Okay. Detective LaRochelle, the fact that the
8 defendant talked to you about shells, going back and picking up
9 shells, does that necessarily mean that he's talking about the
10 fact that he shot the man using a semiautomatic weapon as
11 opposed to a revolver?

12 A Yes.

13 Q And for those people who have no gun knowledge like
14 myself, can you describe what is the difference between a
15 revolver and a semiautomatic weapon?

16 A A revolver is like a -- for simple terms -- an
17 old-fashion cowboy gun that has a cylinder that turns. When
18 you load that weapon, you -- the cylinder comes out and you put
19 in each cartridge into an individual slot, close it. And after
20 you fire by the hammer being back coming forward is that the
21 gun rotates for each pull of the trigger, but those cartridge
22 casings -- meaning that the bullet has gone out the barrel of
23 the gun and the casings still remaining inside, is that they're
24 not expelled from the firearm. They stay within that cylinder
25 until somebody takes them out.

1 On a semiautomatic means that you have a magazine or
2 magazine well, sometimes people call a magazine a clip, and it
3 usually enters the bottom of a firearm, and then you have to
4 charge the firearm by sending a cartridge into the chamber to
5 be shot outside the barrel. So you have a magazine that comes
6 from the bottom, you charge it by moving the slide backwards.
7 It chambers a cartridge. And then when you pull the trigger,
8 each cartridge expels outside to the right and then the action
9 of the firearm automatically cycles a new cartridge into that
10 chamber.

11 So on a semiautomatic we have -- at this scene we
12 have a cartridge that was found at the scene at the time the --
13 we processed the scene, and then we also have Justin Porter in
14 his statement talking about picking up additional cartridges
15 which would account for the total of the shots that were fired
16 in this incident.

17 Q Okay. And when you are shooting a semiautomatic
18 weapon, assuming, of course, there are six, seven, eight, nine,
19 ten, twelve bullets in a magazine, do you just keep pulling the
20 trigger with no other movement for the bullets to keep going
21 out the end of the gun?

22 A Yes.

23 Q Revolver, on the other hand, is that different?

24 A The revolver has a greater trigger pull to it and the
25 cylinder moves. On the old-fashioned revolvers you have to

1 move the trigger backwards with your thumb to cycle that
2 cylinder.

3 Q Okay. And to go back for one second --

4 MS. LUZAICH: Can I approach the clerk?

5 THE COURT: Yes.

6 BY MS. LUZAICH:

7 Q When you were talking with the defendant about his
8 first statement, the Dionne statement, did he actually draw
9 something for you?

10 A Yes.

11 Q And what was that and why?

12 A Trying to get the bearings of the scene, location
13 that he's talking about and where he was standing is that I
14 wanted to know because I didn't recall this phone booth and to
15 see what he could see from that location, the proximity that he
16 put himself at. And so I pictured the front of the apartment
17 complex, and then he drew in the phone booth in his handwriting
18 on that piece of paper.

19 MS. LUZAICH: May I approach?

20 THE COURT: Yes.

21 BY MS. LUZAICH:

22 Q I'm showing you what's been marked as State's
23 Proposed Exhibit 101. Do you recognize that?

24 A Yes.

25 Q What is that?

1 A That is the drawing that we talk about in the
2 statement. You can see right there.

3 Q And in the drawing -- this is what he drew in front
4 of you in your presence?

5 A Yes. I drew this here, and then he drew the phone
6 book -- phone booth there.

7 Q Okay.

8 MS. LUZAICH: Move it into evidence.

9 MR. BROWN: No --

10 MR. ABOOD: Same objection. Well, actually same
11 objection does apply. It's in the context of the statement,
12 Your Honor.

13 MR. BROWN: Oh, that's correct, Your Honor.

14 THE COURT: All right. It will be admitted.

15 (Plaintiff's Exhibit 101 admitted into evidence.)

16 MS. LUZAICH: Thank you. May I publish?

17 THE COURT: Yes.

18 BY MS. LUZAICH:

19 Q Okay. Showing you on the overhead State's Exhibit
20 101, and I'm sorry. You just -- you said that you drew
21 something. What did you draw?

22 A The apartment complex.

23 Q If you look at the screen to your right.

24 A Yes. I drew the building in here.

25 Q If you touch the screen it'll --

1 A Right in here. I drew this and then the streets kind
2 we're talking about, and I asked him to place where he was at
3 this phone booth where he had stopped and he saw Dionne go to
4 the apartment. And he drew -- this is all his handwriting
5 right here.

6 Q The nonexistent phone booth right there.

7 A Yes.

8 Q Okay. Thank you. Additionally -- well, when you
9 were done talking to the defendant that day, did he just go
10 back and stay in Chicago in custody?

11 A That day he was in custody, yes.

12 Q Did you stay there for that night into the next day?

13 A Yes.

14 Q And then on August 13th of 2000, where did you go?

15 A I tried to contact Justin Porter's family. I wanted
16 to retrieve the bus ticket to show what time he was in Chicago
17 and what time he would have been in Las Vegas, and I contacted
18 Justin Porter's either his step dad or his real dad. I can't
19 remember.

20 Q Is dad George Porter?

21 A Yes.

22 Q At the apartment on Kildare (phonetic)?

23 A Yes.

24 Q When you went there, did you go with somebody?

25 A Yes.

1 Q A Chicago detective or sergeant?

2 A Yes. I believe it was lieutenant.

3 Q Oh, sorry. And did you actually talk with the
4 defendant's father, George Porter?

5 A Yes.

6 Q Did you get from Mr. Porter the bus pass that -- or
7 bus ticket, sorry, that the defendant used to get from Las
8 Vegas to Chicago?

9 A Yes.

10 MS. LUZAICH: May I approach?

11 THE COURT: Yes.

12 BY MS. LUZAICH:

13 Q I'm showing you what's been marked as State's
14 Proposed Exhibit 103.

15 (Pause in proceedings)

16 BY MS. LUZAICH:

17 Q I'm showing you what's been marked as State's
18 Proposed Exhibit 103. Do you recognize this?

19 A Yes.

20 Q And what is that?

21 A That is the Greyhound Lines bus ticket that departed
22 Las Vegas July 13th it says here.

23 Q And --

24 A The destination is Chicago.

25 Q And Mr. Porter gave that to you and then you brought

1 it back here with you?

2 A Yes.

3 MS. LUZAICH: Move it into evidence.

4 MR. ABOOD: No objection.

5 THE COURT: It's admitted.

6 (Plaintiff's Exhibit 103 admitted into evidence.)

7 BY MS. LUZAICH:

8 Q Actually before you even went to Chicago did you talk
9 with Kristopher Deloney, the defendant's best friend and
10 cousin?

11 A Yes.

12 Q And pursuant to information that you got from him and
13 to either corroborate or contradict what the defendant told
14 you, after Chicago did you also speak with or cause other
15 detectives to speak with Antwoyne Wilson?

16 A Yes.

17 Q And Kurtis Richards?

18 A Yes.

19 Q And were you able to -- you, the collective you --
20 sorry -- detectives able to find Maria that the defendant was
21 talking about?

22 A Yes.

23 Q And did detectives go talk to Maria?

24 A Yes.

25 Q Was she actually living at the time on Las Vegas

1 Boulevard or staying -- sorry -- Las Vegas Boulevard and
2 Charleston?

3 A Yes.

4 Q The place that she was staying at Las Vegas Boulevard
5 and Charleston, is that -- let me rephrase that. Is the
6 victim's apartment pretty much directly between where Maria was
7 staying at Las Vegas Boulevard and Charleston and the
8 defendant's home on 13th Street?

9 A Yes. It would be a reasonable path if you left her
10 house to travel to Justin Porter's house to cross that -- very
11 near to that proximity in front of the house.

12 Q Thank you.

13 MS. LUZAICH: I would pass the witness.

14 THE COURT: Okay. Cross.

15 MR. BROWN: Your Honor, would this be an appropriate
16 time to take a quick break --

17 THE COURT: (Indiscernible).

18 MR. ABOOD: Yeah. I think I might need one.

19 THE COURT: All right. All right. We'll go ahead
20 and take our afternoon break at this point.

21 Ladies and gentlemen, during this short break you're
22 admonished not to talk or converse among yourselves or with
23 anyone else on any subject connected with this trial or to
24 read, watch or listen to any report of or commentary on the
25 trial or any person connected with this trial by any medium of

1 information, including, without limitation, newspapers,
2 television, the Internet and radio, or to form or express any
3 opinion on any subject connected with this trial until the case
4 is finally submitted to you.

5 See you in a few minutes.

6 THE MARSHAL: All rise.

7 (Court recessed at 3:12 p.m. until 3:25 p.m.)

8 (Outside the presence of the jury)

9 THE MARSHAL: Court's now in session again.

10 MR. BROWN: I need to make a quick record, Your
11 Honor, and this is in reference to -- just so that the
12 appellate record is clear for purposes and people in my office.

13 THE COURT: Yes.

14 MR. BROWN: If Detective LaRochelle had testified
15 with respect to findings and conclusions drawn by Firearms
16 Expert Good as well as DNA results from the -- what's his first
17 name?

18 MR. TOMSHECK: Dave.

19 MR. BROWN: Welch. That was with stipulation with
20 defense counsel --

21 THE COURT: Okay.

22 MR. BROWN: -- for purposes that Detective LaRochelle
23 could bring that information in as opposed to having them come
24 here directly.

25 THE COURT: Okay.

1 MR. BROWN: And that I just wanted to make that clear
2 when they're --

3 THE COURT: Okay.

4 MR. BROWN: -- throwing up their hands --

5 THE COURT: I figured you had some reason --

6 MR. BROWN: -- as they're reading the transcript.

7 THE COURT: -- not to object.

8 MR. TOMSHECK: And there was actually a couple
9 reasons for it, Judge. One is both of those individuals are
10 currently retired. Secondly, obviously there's the issue with
11 the severance. And the testing that was done specifically by
12 Mr. Good included testing from another event which linked all
13 the cartridges together. And we were concerned that there
14 would be some spill over.

15 THE COURT: Okay. All right.

16 MR. BROWN: Thank you, Judge.

17 THE COURT: No problem.

18 THE MARSHAL: Please be seated.

19 (In the presence of the jury)

20 THE COURT: Counsel stipulate to the presence of the
21 jury?

22 MS. LUZAICH: Yes.

23 MR. ABOOD: Thank you, Your Honor.

24 CROSS-EXAMINATION

25 BY MR. ABOOD:

1 Q How you doing, Detective?

2 A Good. Thank you.

3 Q Good. Thank you. Okay. Let me just review a few
4 things with you. As you told us, June 10th of 2000 you were a
5 homicide detective with Metro.

6 A Yes, sir.

7 Q And you were assigned to the investigation in this
8 case, and that was the killing of Gyaltsso Lungtok at 415 South
9 10th Street, Apartment H.

10 A Yes, sir.

11 Q Now, there was a two-detective team assigned to that
12 case and the other detective was Detective Thowsen?

13 A That's correct.

14 Q And the two of you responded to that scene, and the
15 way it works with Metro is that one of you will interview the
16 witnesses and the other detective will document the scene
17 itself.

18 A Yes, sir.

19 Q Now, you actually were responsible for interviewing
20 the witnesses; is that correct?

21 A Yes.

22 Q But as part of that interview, you obviously want to
23 do a walk-through of the scene so you can get an idea of what's
24 going on in there to assist you in the interview of the
25 witnesses.

1 A Yes, sir.

2 Q And that's something that you did in this case.

3 A That's correct.

4 Q Okay. And you described to the jury kind of a basic
5 layout of what you saw, and let me just go over a couple of
6 those things with you if I can.

7 A Yes.

8 Q Now, you saw this blood that was documented in the
9 apartment.

10 A Yes.

11 Q And there was blood both inside and outside the
12 apartment. In fact, it was sort of like a blood trail; is that
13 fair?

14 A Yes.

15 Q And you can conclude based on what you saw that after
16 Mr. Lungtok was shot, he apparently traveled around from one
17 spot of his apartment to another and left that trail.

18 A Yes.

19 Q Now that's not just based on what you saw, but it's
20 also based on some of the interviews that you did with the
21 neighbors that heard things the evening that this thing -- that
22 happened.

23 A That the neighbors -- if I can summarize the gist of
24 several interviews with the neighbors -- that they heard --

25 Q Yeah. That's fine.

1 A -- a loud crashing noise, some banging, footsteps and
2 then also the gunshots in there. So that I would not say
3 basically from statements from the neighbors that I could say
4 exactly how Gyaltsso Lungtok took -- walked about in that
5 apartment.

6 Q Right. And essentially what you're telling us is the
7 neighbors were able to hear footsteps actually up in that
8 apartment, and that was after the loud banging.

9 A Yes.

10 Q Okay. And by that you concluded that he was able to
11 move around.

12 A Yes.

13 Q Okay. Now you don't know exactly where he went from
14 one room to another, but you did get confirmation that he was
15 moving about into the apartment towards the back.

16 A Yes.

17 Q Okay. Let me ask you about the light switch that's
18 in that apartment. Now, sir, did you notice the light switch
19 that had blood smeared on it?

20 A Yes.

21 Q And that light switch was directly inside the front
22 door when you walk into the apartment?

23 A Yes.

24 Q Now did you -- were you able to determine whether
25 that was a light switch that turned the light on outside where

1 the stairs were or whether it was a switch that turned lights
2 on in the apartment?

3 A I don't recall. I did not do that. No.

4 Q Okay. But at least when you got there your
5 understanding was that there were no lights on other than the
6 lamp light that was on that was in the bedroom.

7 A That I didn't document the condition of the lights,
8 that -- that the walk-through at that time was daylight hours.
9 I would have you look at the crime scene analyst's report on
10 the condition of the lights and look at the photographs, the
11 photographs in place at the time of the crime scene.

12 Q Right. And I did do that, and I guess what I'm
13 getting at is nobody was able to tell you that the lights were
14 actually on when the first responding officer showed up and
15 then the detectives and crime scene people showed up
16 thereafter.

17 A Right. That's correct.

18 Q Okay. Now, one of the things that you did at this
19 point in the investigation is you tried to look around to
20 determine if there was any evidence that would explain why
21 someone kicked that door in to get into that apartment; is that
22 right?

23 A There was evidence of that, yes.

24 Q Okay. And obviously you want to know if there's any
25 evidence that someone broke into steal from this apartment; is

1 that fair?

2 A I would look for a motive of why the door was kicked
3 in, yes.

4 Q Right. And when we use the term "ransacking", are we
5 describing a situation where a thief kind of pulls out drawers
6 or goes through closets, turns things over? Is that a fair I
7 use the term "ransacking"?

8 A Yes, it is.

9 Q And in your report you stated in two separate places
10 that there was no ransacking that went on in this apartment; is
11 that right?

12 A Yes. And that would have been I believe Tom
13 Thowsen's report.

14 Q Okay. And no ransacking in the bedroom either.

15 A That's correct.

16 Q Okay. And, in fact, did you notice that there were
17 some items of value that were in that apartment? And obviously
18 they were in there, nobody took them.

19 A That's correct.

20 Q Okay. And specifically there's a TV in there.

21 A Yes, sir.

22 Q And there are a set of keys, a pen, an envelope.
23 They're sitting on top of this TV.

24 A I'd have to look at the photo for that.

25 Q Well, if you want to look at the report, that would

1 be fine with me as well.

2 A Sure. Let me get --

3 Q I think you'll find it on page 8 of the crime scene
4 report. And specifically what I'm asking you is the TV that's
5 in the apartment, were there a set of keys, a pen and an
6 envelope that were sitting on top of this TV?

7 A That sounds reasonable (indiscernible) --

8 Q Oh, okay.

9 A Yeah. But just give me a moment to pull up that
10 report.

11 Q Please.

12 A Do you have that report with you?

13 Q Yeah, I think I might.

14 (Pause in proceedings)

15 THE WITNESS: Sir, on page 6 of Tom Thowsen's report
16 that may be similarly situated to the crime scene analyst's
17 report, it says a set of keys including one to the apartment
18 along with a pen and envelope were on top of the TV set.

19 BY MR. ABOOD:

20 Q Okay. Now, near that TV there was a wall calendar,
21 and it had 119 dollars cash in it?

22 A Yes, sir.

23 Q Okay. In front of the couch there's a coffee table,
24 and the coffee table had a watch, a gambling card, some
25 prescriptions. Do you see that in the report as well?

1 A Yes.

2 Q And obviously those things weren't taken.

3 A That's correct.

4 Q Now, the kitchen was east in this small apartment,
5 and it appeared undisturbed; is that fair?

6 A Okay.

7 Q In the bedroom was a lamp on a night stand, and what
8 I'm getting from the report is that that was the only light
9 that was on in the apartment. Do you have a recollection?

10 A Yes, that's my recollection.

11 Q Okay. Now, there's no evidence at all to suggest
12 that whoever entered into that apartment ever entered into the
13 bathroom, the bedroom or the kitchen; is that right?

14 A There's no education that they did or didn't.

15 Q Okay. Okay. That's fair. Now, obviously, no
16 evidence was collected, no photographs were taken, nothing like
17 that that would suggest anyone entered into any of those rooms.

18 A There's nothing that I could say with definitive that
19 they entered that room.

20 Q All right. And in the bedroom we talked about a
21 small table next to the bed, and the cordless phone base was on
22 that small table. Do you recall that?

23 A Yes.

24 Q And there was a small clock sitting on that table?

25 A Yes.

1 Q And there was a dollar bill and there was some change
2 sitting in a cup. Is that part of the report?

3 A It sounds reasonable, yes.

4 Q Okay. Now, we spoke earlier with another witness
5 that underneath that table in the bedroom was an envelope, a
6 telephone directory and a wallet with the victim's name and ID
7 in the wallet. Do you recall that?

8 A Yes.

9 Q And, obviously, there was no evidence that anyone had
10 touched that wallet other than Mr. Lungtok.

11 A That's correct.

12 Q Okay. Now, a search warrant was issued for the home
13 that Justin Porter was living in here in Las Vegas. Do you
14 recall that?

15 A Yes.

16 Q All right. And the address to that apartment was 208
17 North 13th Street, Apartment 3. Does that ring a bell?

18 A Yes.

19 Q All right. And do you have any recollection as to
20 what day that warrant was issued?

21 A There was two search warrants. The first one --

22 Q Let's go with the first one.

23 A Yeah. The first search warrant was -- the author or
24 the affiant of that search warrant was Detective Casteneda.

25 Q Um-h'm.

1 A And my recollection was that would have been on
2 August 10th. Then the following day I was the affiant on a
3 search warrant previous -- prior to traveling to Chicago.

4 Q Okay. And that was the home that was Angela Porter's
5 home, is the mother.

6 A Yes.

7 Q Okay. And living in that home were Sergio, and
8 that's Justin stepfather.

9 A At that house, yes.

10 Q At that house. And Justin was living there as well.
11 And as far as you know, he didn't have any room of his own. He
12 apparently I guess slept on the couch, Justin did.

13 A Yes.

14 Q Okay. Now, obviously, you found no gun, no bullets,
15 no clothing with blood on it, no evidence connecting him to
16 this killing other than the shoes that the jury heard about
17 earlier.

18 A That's correct.

19 Q The Saucony's. All right. And we had -- did you get
20 a chance to see those shoes when they were taken into --

21 A No.

22 Q You didn't look at them. Okay. Now, Justin wasn't
23 there at the time that the warrant was issued at this apartment
24 that his mother lived in.

25 A No, he was not.

1 Q In fact, you came to find that he was with his father
2 in Chicago.

3 A That's correct.

4 Q Okay. Now, you told us about you and a number of
5 other detectives traveling to Chicago to interview Justin
6 Porter. Do you recall had he been in custody approximately 15
7 hours by the time the detectives got there?

8 A That's what the -- my estimation is that my
9 recollection was we had worked all day (indiscernible) the
10 afternoon of the search warrant. And then late that evening,
11 close to midnight, I was advised that Justin Porter was in
12 custody and that -- to try to make expeditious travel plans to
13 Chicago.

14 So we flew out that morning at -- I want to say the
15 flight left around 7:00, and then arriving into Chicago 3:00 or
16 4:00 o'clock to contact Justin Porter. So you're looking at
17 that evening around midnight down to going to the following day
18 early evening.

19 Q Now, as you told us, you did end up getting a taped
20 interview with Justin concerning this shooting, and the jury
21 heard one of those tapes; is that right?

22 A Yes.

23 Q Now, we've been talking about the fact that Justin
24 essentially gave two statements, and you were there for both of
25 them.

1 A Yes, sir.

2 Q All right. Now, obviously he had the right to remain
3 silent and everything else, but according to you he waived that
4 right and he agreed to talk.

5 A Yes.

6 Q And before you got to the taped portion of the
7 interview, apparently you had something called a preinterview
8 that you told the jury about.

9 A No. I would not term it preinterview, but we think
10 it in these terms is that you have an interview. And in an
11 interview you're trying to develop a rapport, trying to get
12 some background information, try to tell us a direction on how
13 this interview's going to proceed.

14 Many, many times is that if you sit down and you talk
15 to somebody whether it's a victim, witness or a suspect, if
16 that tape recorder is placed from the very beginning is that
17 it's very, very difficult to solicit the truth. That people
18 are less apt to talk with you, less willing to speak with you
19 about a number of things, and it really makes it very difficult
20 to get to the truth.

21 So we have an interview and then in lieu of having a
22 written statement where somebody sits down for a very, very
23 lengthy period of time and may leave things out and admit
24 things is we take a taped statement, and that taped statement
25 is a memorialization of what was discussed in the interview.

1 Q All right. So I guess the point that I'm making is
2 before the actual tape recorder went on you spent some time
3 talking with Justin, and that didn't end up on the actual
4 recorded statements where we have transcripts.

5 A Yes.

6 Q Okay. Now, you told the jury you asked him about
7 what happened at 415 South 10th Street, and initially he didn't
8 know where that was.

9 A That's correct. When I said the address, when I --
10 when I described it as South 10th Street this address, he did
11 not know where that was.

12 Q But then you showed him a photograph. And when you
13 showed him that photograph, I guess it showed the exterior of
14 the apartment complex. That's when he immediately, apparently,
15 recognized the building, and he stated that I had nothing to do
16 with this.

17 A That's correct.

18 Q All right. And it's at that point that he tells you
19 about Dionne.

20 A Yes, sir.

21 Q Let's talk a little bit about what he told you. In
22 the first statement that he gave, apparently Justin explain
23 that when you walk out of Justin's back door at 208 North 13th
24 Street -- now that's his mother's place --

25 A Yes.

1 Q -- is that true? Okay. When you walk out the back
2 door, there's a man who's about 50 or 55 years old that lives
3 back there in a house the same color as Justin's house. Did he
4 mention that?

5 A Yes.

6 Q Okay. And this man that Justin described is
7 apparently dark skinned, and he walked with some kind of a
8 weird walker type thing; is that right?

9 A Yes.

10 Q Okay. And the man has a wife who's apparently
11 Mexican; is that right?

12 A I don't recall about the wife, but I remember him
13 discussing the man.

14 MR. ABOOD: Your Honor, you mind if I approach?

15 THE COURT: Go ahead.

16 MR. ABOOD: Thank you.

17 BY MR. ABOOD:

18 Q Sir, is one of the statements that you were there
19 with Detective Jensen to tape, did one of them occur on
20 8/12/2000 at 19:30 hours in Chicago?

21 A Yes.

22 Q Does this appear to be that statement? You can go
23 ahead and have a look at it.

24 A Yes, it is. Yes, it is.

25 Q Okay. Let me direct you to page 4, see if we can

1 refresh your memory as to what he told you about the man's
2 wife. I'm sort of in the middle of the page there. And this
3 is where he's describing the man that I just spoke of, isn't
4 it?

5 A Yes, sir.

6 Q And did he mention that she (sic) had a Mexican wife?

7 A Yes, he did.

8 Q Okay. Thank you. And living with that man and his
9 Mexican wife was this guy named Dionne.

10 A Can I follow along with my statement here with that?

11 Q Yeah. This is the same. And I'll try to help you by
12 telling you page numbers as we go along, and I'm still looking
13 at page 4.

14 A That he said that this one was staying with him.
15 That I don't know if -- he didn't use the word "living" but
16 certainly that he was at the apartment.

17 Q Okay. So they were together apparently in this
18 apartment.

19 A Yes.

20 Q Okay. Now, Justin goes on to tell you that he's
21 actually willing to take you there where you can actually talk
22 to this man named Dionne; is that right?

23 A Yes.

24 Q And he goes forward, and he knows gives you an actual
25 physical description of Dionne himself; is that correct?

1 A Yes.

2 Q And he describes Dionne as a little bit taller than
3 he is, Justin, okay, and bigger than him in terms of being
4 muscular.

5 A That's correct.

6 Q That he's got a gap between his teeth.

7 A Yes.

8 Q And he's got a bulldog tattoo on his chest.

9 A Yes.

10 Q And apparently he's a black male adult who's about 19
11 or 20 years old.

12 A Yes. Thank you.

13 Q Okay. And this Dionne weighs approximately 195
14 pounds.

15 A Yes.

16 Q And he has hair under his chin. In other words --
17 I'm sorry. Go ahead.

18 A Yes. He has hair on his (indiscernible).

19 Q Justin was asked does he have any facial hair, and he
20 described hair growing under the man's chin.

21 A That is correct.

22 Q All right. And he even tells you that Dionne hangs
23 out on Maryland Parkway and the Stewart area; is that right?

24 A Yes.

25 Q Okay. Now, no one goes looking for this house even

1 though Justin tells you that he'll actually take you there; is
2 that right?

3 A Yes.

4 Q And no one looks into questioning this Dionne to find
5 out if he's involved in any way at all.

6 A That's correct.

7 Q Okay. Now, later in the statement Justin was asked
8 about the nature of his relationship with Dionne. And do you
9 recall was his response, "There ain't no buddy relationship
10 there"?

11 A Dionne. That's what he says.

12 Q With Dionne.

13 A Yes.

14 Q Okay. So, in other words, Justin and Dionne
15 apparently are not buddies.

16 A Right.

17 Q Okay.

18 A That's correct.

19 Q Now, it's at that point that he goes forward and
20 tells you how this incident that we've been talking about takes
21 place; is that right?

22 A That is --

23 Q The shooting.

24 A Right. And again, that's the first narration where
25 he says that -- subsequently he says that did not happen.

1 Q Right. This is -- so far we're still in the first
2 recorded statement.

3 A That's correct.

4 Q Okay. And that's when he says that Dionne and him
5 were out late at night and Justin had a gun with him; is that
6 fair?

7 A Yes.

8 Q Okay. Dionne asks if he could borrow the gun because
9 he wants to conduct -- or he wants to conduct a lick. Do you
10 recall that?

11 A Yes.

12 Q Okay. And Justin describes a lick as a situation
13 where someone wants to get money or something along those
14 lines?

15 A Robbery would be --

16 Q Is that the word Justin used?

17 A He said that Dionne may have said that to him as far
18 as (indiscernible), correct. If you -- I can look at the
19 report and can clarify whether it was his narration that he
20 said Dionne said it to him or if that was a term that Justin
21 had used.

22 Q Yeah. If you can find where it's a term that Justin
23 actually used.

24 A It's on page 8, and so it was dark out and Justin's
25 response was, "Yeah." He tells -- he told me that he had a

1 lick and I said a lick -- said a lick, excuse me. "All right.
2 Cool. I'll go with you but I ain't going in." So this is --

3 Q Now, this is Justin talking, right?

4 A So this is Justin answering the question, and he's
5 saying that Dionne is talking about doing a lick or a robbery.

6 Q Um-h'm. So Justin says Dionne wants to do a lick,
7 but Justin responds I ain't going in with you.

8 A That's correct.

9 Q And then he asks what does a lick mean. Do you see
10 that?

11 A Yes.

12 Q And he says, "Well, some -- anybody go get some
13 money." So does that clear up whether or not Justin actually
14 used the word "robbery"?

15 A No. Justin did not use the word "robbery". He --

16 Q Okay.

17 A However, my understanding was is that when we use the
18 "lick", we were talking about a robbery.

19 Q That was your understanding. Okay. Now apparently
20 Dionne, according to Justin, then runs upstairs and Justin
21 waits by this phone booth.

22 A Yes.

23 Q And when Dionne was coming back down the stairs,
24 Justin was walking towards him.

25 A Yes.

1 THE COURT: I'm sorry. Say that again.

2 MR. ABOOD: While Dionne was walking back down the
3 stairs, Justin was walking towards him.

4 THE COURT: Sorry. Go ahead.

5 BY MR. ABOOD:

6 Q Okay.

7 A And if I could just clarify that a little bit,
8 Counselor, is that he describes not Dionne walking down the
9 stairs but skipping down.

10 Q Skipping down the stairs.

11 A Right.

12 Q Okay. Thank you. And Justin apparently heard the
13 sound of a door cracking in and then heard what you described
14 as the locka, locka, locka, the gunshots; is that right?

15 A Yes, sir.

16 Q Let me talk to you about what Justin said about the
17 shell casings themselves. Now, he told you at that point that
18 Dionne picked up the shell casings.

19 A In his initial statement, yes.

20 Q In the same statement that we're talking about.

21 A Yes.

22 Q Okay. And that's because according to Justin, "That
23 still just by one little bullet, you know, just thinking about
24 that one little bullet could tell every gun which one it is."
25 Do you recall Justin saying that?

1 A Yes, I do.

2 Q Now, in that recorded statement he never told you
3 what caliber bullet it was; is that fair?

4 A That's fair.

5 Q And you didn't ask him what caliber it was.

6 A No.

7 Q He specifically described the bullet in this
8 statement as just one little bullet, true?

9 A True.

10 Q Okay.

11 A And to clarify that answer is that I had asked him
12 previously to describe --

13 Q But I'm talking about this statement. In this
14 statement one little bullet is what he said, and you took that
15 to mean size of the bullet, not like quantity.

16 A No. In this statement here I took it to mean that he
17 felt like if there was forensic evidence of a bullet at a
18 scene, regardless, just one bullet, that that -- the police had
19 the ability compare that bullet to other ballistic evidence.

20 Q Right. Okay. Now, Justin then tells you that
21 eventually he goes back and looks in the apartment door after
22 Dionne did what he did.

23 A Yes.

24 Q Now, you already told us there was a blood trail from
25 the broken door and actually parts of it going down the stairs

1 of this complex; is that right?

2 A Yes.

3 Q So if Justin didn't know that it was the apartment on
4 the left-hand side before this, he certainly knows that now
5 having seen the blood trail; is that fair?

6 A No. I think that he only mentions that he sees the
7 blood at the threshold of the door after opening the door, and
8 that the apartment complex, it's a narrow stairway. There's
9 carpet I believe on that stairway or -- and that may not be
10 readily identifiable walking to the scene --

11 Q Well --

12 A -- at night time.

13 Q It may not, but you acknowledge there was blood on
14 the stairs.

15 A Yes, sir.

16 Q And there was blood on the threshold that you
17 described for the jury. And, in fact, there was visible blood
18 on the threshold on the inner part of the apartment as well as
19 the threshold on the outer part where the door closes; is that
20 right?

21 A Yes. But --

22 Q Okay.

23 A -- in response to your question, you'd asked was
24 there a blood trail leading up to the apartment that you
25 discussed, and his response in all fairness when we discussed

1 the interview was that he noticed the blood at the threshold of
2 the door.

3 Q Okay. So he noticed the blood.

4 A At --

5 Q Where the left door was. Okay.

6 A That was after moving the door open.

7 Q He pushed on the door with his foot when the door was
8 cracked; is that right?

9 A Yes.

10 Q And he told you that he put his shoe under the --
11 under where the knob is to push that door open.

12 A Yes.

13 Q Okay. Finally, when you asked Justin if he had told
14 anyone about this, he says to you I might get killed for
15 telling you this; is that right?

16 A Yes.

17 Q And again, he's talking about Dionne. He's
18 frightened about what Dionne would do if he finds out that
19 Justin talked.

20 A Yes.

21 Q Okay. Now, you also talked to the jury a little bit
22 about you finding it odd that Justin said something about being
23 sorry for what he did. Do you recall that?

24 A Yes.

25 Q Now, when Justin said towards the end of that first

1 recorded statement that we've been talking about don't you want
2 to ask me whether or not I'm sorry or something along those
3 lines, you did ask him that, didn't you?

4 A Yes, I did.

5 Q And that's where you told the jury about finding it
6 unusual that Justin said that he was in fact sorry for what he
7 did. You took it to mean he was talking about the shooting.

8 A That's correct.

9 Q Now, you don't know whether or not he was talking
10 about the shooting or whether he was talking about lending
11 Dionne his gun or whether he was in fact talking about not
12 calling the police or an ambulance when he heard a man up in
13 the apartment. You just don't know.

14 A From the totality of the interview, it was my opinion
15 that he was saying that he was sorry for something he committed
16 and --

17 Q That's your opinion, isn't it?

18 A Yes, sir.

19 Q He certainly had other things to be sorry about,
20 didn't he?

21 A In that narration of events that I just found it
22 unusual.

23 Q Okay. No. I understand. Now, it's at this point
24 that you explained to the jury that Justin asks you what you
25 all think about the statement he gave, and I think that the

1 position you took is that he's not being truthful with you; is
2 that right?

3 A Yes, sir.

4 Q And you told him that, I'm not being truthful, and
5 that's when he gives the second statement, and that's the one
6 that the jury in fact heard.

7 A Right.

8 Q Okay. Let me talk to you -- review with you just
9 very briefly some of the portions of that second statement. He
10 says to you -- do you have that statement with you, sir?

11 A The second part, yes, I do.

12 Q Okay. He starts out by saying that he wants to tell
13 you the truth in his words because it's too important; is that
14 right?

15 A It's too important?

16 Q Yeah.

17 A Yes.

18 Q Okay.

19 A At first initially when we come in, the second
20 statement, is that --

21 Q I'm talking about the recorded statement itself.
22 Does he use --

23 A The recorded statement.

24 Q Does he use the words "I want to tell you the truth
25 because it's too important"?

1 A Yes, sir.

2 Q Okay. I want to stick to the actual recorded
3 statement itself.

4 A Okay.

5 Q All right. Now, the story that is now being told --

6 THE COURT: Take down the (indiscernible), please.

7 Thanks.

8 UNIDENTIFIED SPEAKER: Sorry.

9 THE COURT: It's okay.

10 UNIDENTIFIED SPEAKER: Okay.

11 BY MR. ABOOD:

12 Q Is that the night before this killing, assuming that
13 it happened in the early hours the following day -- you know,
14 like sometime after midnight -- that Justin was with his
15 ex-girlfriend Maria. And he tells you where she lives. She
16 lives with her grandma on Bruce and Stewart; is that right?

17 A No. That my recollection is that she was staying at
18 Charleston and the Boulevard.

19 Q All right. Does she tell you that -- he tells you
20 where she works, at Stewart Market.

21 A Yes.

22 Q Okay. And again, he offers to actually take you
23 there.

24 A Yes.

25 Q Okay. Now, after he was with Maria at sometime after

1 midnight, he tells you that -- and this is what the jury heard
2 -- eventually he wants to walk home and he's carrying a gun,
3 true?

4 A Right.

5 Q Okay. And this is when he sees that police car
6 coming, and the police car apparently shines a spotlight on
7 him, he gets scared and he runs.

8 A Yes.

9 Q Okay. And he ran past the apartment building stairs,
10 and in his words he remembered that nobody lived there.

11 A That's correct.

12 Q And, in fact, he stated a number of times -- and this
13 is something that the jury heard on the tape -- nobody lives
14 there, nobody lives there; is that right?

15 A Yes.

16 Q Okay. And, in fact, he even talks about the fact
17 that every time he ever walked by that apartment he never saw
18 that anybody lived there because he looked at the window, true?

19 A That's correct.

20 Q And the window always looked the same; is that right?

21 A He related something similar to that about the
22 curtains being opened.

23 Q Okay. And he goes on to say that the curtains are
24 always open. Okay. And he tells you the only reason he runs
25 up there is because nobody lives there; is that right?

1 A Yes.

2 Q Okay. And he kicks the door open again at the knob.
3 So in both statements that he gives there's going to be reason
4 for his footprint to be on that door underneath the knob; is
5 that right?

6 A Certainly in the second statement that we're talking
7 about right now. The first one with the lock that was busted
8 out that the transfer and a full kick seemed that that would be
9 unreasonable to push a whole door open --

10 Q Well, Detective, the actual print that was taken off
11 that door was a faint print, wasn't it? I mean, it wasn't a
12 good print.

13 A It -- in my opinion it was decent, a very decent
14 print in that we don't find those very, very often and you
15 got --

16 Q Okay. And a person wearing a shoe like a dusty shoe
17 like that, if they place their foot on that door they're going
18 to leave a print.

19 A In reviewing it, the first statement, it seems like
20 it would be much more reasonable --

21 Q Well, but that's --

22 A -- to push the --

23 Q It's a simple question. If somebody puts that --

24 A Yeah. I'm just trying to clarify.

25 Q I'm sorry. If somebody puts their shoe on that door,

1 it's going to leave a print that can be lifted.

2 A Yes.

3 Q Okay.

4 A Particularly if it's a door kick.

5 Q No. I understand what you're saying, but we've
6 established that there's reason for his shoe to be on the door
7 in both statements. You'll acknowledge that.

8 A Yes.

9 Q Okay. Now, specifically this night when he goes up
10 to that apartment before he goes in, he recollects that there
11 was no light on this night either, true?

12 A That's correct.

13 Q Okay. And had there been a light on, he would have
14 just kept going, kept running. This is what he says.

15 MS. LUZAICH: Well, objection. He did not.

16 MR. ABOOD: Well, but that's what he said.

17 THE COURT: The question is is that what he said in
18 his statement?

19 MR. ABOOD: Is that what he said in his statement.

20 THE COURT: Okay. Is that what he said, Officer?

21 Detective. I'm sorry.

22 THE WITNESS: There was a question about the light
23 being on. And if I could look at the statement, I could
24 clarify.

25 THE COURT: Go ahead.

1 BY MR. ABOOD:

2 Q Let me just show you page 11. Do you ask him, "Okay.
3 Was there a light on inside of that?"

4 A Yes, I do.

5 Q He responds, "There was no light."

6 A That's correct.

7 Q And you say, "Okay."

8 A Yes.

9 Q And he says, "No light, cause if there was a light, I
10 wouldn't have went in there. I would have kept going."

11 A Yes.

12 Q Okay. Now, after he got into the apartment, that's
13 when some guy just came at him out the dark; is that right?

14 A That's what he said.

15 Q Okay. And he scared him -- or this man scared
16 Justin, and again it's because in his mind nobody lives there;
17 is that right?

18 A That's what Justin said, yes.

19 Q Okay. And the jury in fact heard his own words in
20 terms of how frightened he became when this person came at him
21 from inside the apartment, and you heard that as well.

22 A Yes.

23 Q Okay. Let me talk to you very quickly about the
24 shells that we've been discussing. Do you know -- Justin was
25 asked during the course of this statement -- again, we're still

1 talking about the second recorded statement -- whether or not
2 he knew where he dropped those shells after he picked them up.
3 Do you recall that?

4 A Yes.

5 Q Okay. And he said if I went back, I probably will
6 remember. Do you recall that?

7 A Yes.

8 Q In other words, he dropped them somewhere on the
9 street, and he was willing to actually take you where he
10 dropped them to get those shells. Do you agree with that?

11 A Yes.

12 Q Okay. Now that never happened, right?

13 A No.

14 Q Okay. Let me ask you about the photo and the diagram
15 that you showed Justin during the course of his statement. Mr.
16 Porter, Justin, actually describes this apartment complex for
17 you during the course of this statement; is that right?

18 A Yes.

19 Q In other words, you want him to describe the building
20 so that you get an idea of what he knows about this building.

21 A Right.

22 Q All right. And it's at that point that you showed
23 him the photograph of the building, and at that point there was
24 a sketch done on a piece of paper to assist him in his
25 description of the apartment building; is that right?

1 A No. The photo was much earlier. The photo was
2 initially when he said that he didn't know what we were talking
3 about 10th Street.

4 Q That's when you started the interview.

5 A Yes.

6 Q Okay. So you never took that photo back?

7 A Yes, I did take the photo back.

8 Q Oh, you did take it back.

9 A Yes.

10 Q All right. So at the point where he's describing the
11 apartment building, what we're talking about then is that
12 sketch.

13 A There's a part in there and that we're talking about
14 the sketch, and that would be just particular to the sketch.
15 But other times when he's about walking down to the building,
16 his approach to the building, the stairs, many times when we
17 talk about this location that sketch would not have been used
18 then.

19 Q All right. But at the point in time that he's
20 describing the apartment to you, a sketch was being used to
21 assist him in the description of the actual building. That's
22 what I'm getting at.

23 A I believe I was trying to get to his location where
24 he was standing at.

25 Q Okay. And that's when he -- you had him draw where

1 the phone booth might be.

2 A Yes, sir.

3 THE COURT: Sorry. Are you still -- you're not still
4 in the second statement, are you?

5 MR. ABOOD: The first statement he's describing the
6 building with a sketch.

7 THE COURT: Okay. Sorry. I lost you.

8 MR. ABOOD: I'm sorry.

9 BY MR. ABOOD:

10 Q There was only one sketch made; is that right?

11 A Right. Right. And that was the first statement.

12 Q Right. And then shortly thereafter the second
13 statement was given. At that point there was no further
14 description. That was done when he gave the initial statement.

15 A That's correct.

16 Q Okay. There's a point in time that you asked him
17 about the actual window that was on that apartment building.
18 Do you recall that?

19 A Yes.

20 Q And he says something like -- he was asked was the
21 window open or closed, and his response was, well, in the photo
22 it's open. Do you recall?

23 A Yes.

24 Q And that again is referring to the photograph that
25 you gave him when he -- when you initially started questioning

1 about this.

2 A Yes.

3 Q Okay.

4 A Very briefly made reference to it and noted the
5 window was open.

6 Q All right. Let's talk a little bit about the
7 evidence that links Justin to this specific killing, and we've
8 heard about this Sarsony (sic) -- is it Sarsony or --

9 A Saucony.

10 Q Saucony.

11 A Yes.

12 Q Saucony. Okay. We've heard about the shoes. There
13 was no other forms of clothing found obviously that had any
14 blood on them, anything that would indicate that the clothing
15 itself was associated with this crime scene.

16 A That's correct.

17 Q And that would be either here in Las Vegas or in
18 Chicago.

19 A That's correct.

20 Q Now, even the shoes that we talked about, the
21 Sasonies (sic), there was no sign of blood on them either top
22 or bottom.

23 A That's correct.

24 Q And as we already discussed, nobody can say that
25 anything was stolen from that apartment by Justin Porter.

1 A That's correct.

2 Q Now, no gun was found that would link Justin to this
3 killing.

4 A No.

5 Q And in Justin's voluntary statement, he describes the
6 gun as in the -- a black gun with a brown handle.

7 A Yes.

8 Q Okay. So that's all he says in his statement itself.

9 A In that statement.

10 Q In the statement. Now, nothing else is asked of him
11 in terms of any further description. This is the description
12 that he gives.

13 A No. There were some --

14 Q From the statement.

15 A Just in the statements, correct.

16 Q Okay. Now, a black gun with a brown handle, could
17 that describe guns other than a .22?

18 A Yes.

19 Q Okay. In one of the statements Justin states that he
20 goes home, takes the gun with him and puts it up on the roof;
21 is that right?

22 A Yes.

23 Q At his grandma's house?

24 A Yes.

25 Q Did anybody actually get up on the roof to see if

1 there was a gun there?

2 A My recollection is that the eaves were checked. That
3 -- and that is an apartment complex that has a walkway that's
4 -- you can easily look over or see the eave from walking in
5 front of the apartment complex.

6 Q And obviously there was no gun there. And in one
7 statement he claims that he gave the gun to his cousin Kris.

8 A Yes.

9 Q Does Kris say Justin ever gave him a gun?

10 A No.

11 Q He didn't give him that gun. Okay. Now just to wrap
12 up, the jury heard the second recorded statement. Will you
13 agree, Detective, that when Justin gave you the second
14 statement he was obviously very emotional in his explanation of
15 what happened?

16 A Yes.

17 Q And he expressed to you a great deal of remorse for
18 what happened.

19 A Yes.

20 Q And as the jury heard, he said numerous times he just
21 wished he could hurt -- you know, turn back the hands of time,
22 and that was the position he took.

23 A Yes.

24 Q Okay. Sir, thank you very much.

25 MR. ABOOD: Thank you, Your Honor.

1 THE COURT: Thank you. Redirect.

2 MS. LUZAICH: Just briefly.

3 REDIRECT EXAMINATION

4 BY MS. LUZAICH:

5 Q Detective LaRochelle, prior to conducting the first
6 taped statement in the interview portion of the first -- sorry,
7 the first interview I guess we would call it, did you ask him
8 to describe the gun that you guys were all talking about?

9 A Yes.

10 Q And specifically how did he describe it?

11 A He described it as a firearm that you had to pull a
12 slide back and that -- that the gun took tiny, very small,
13 bullets.

14 Q And black gun, brown handle.

15 A Black gun and brown grips. Yes.

16 Q Okay. The fact that there was no ransacking of the
17 apartment, does that necessarily mean that he didn't go there
18 with the intent to commit a robbery?

19 MR. BROWN: Your Honor, I'm going to object to the
20 question and the speculative answer.

21 MS. LUZAICH: Well, no.

22 MR. BROWN: That's ultimately the jury --

23 MS. LUZAICH: The question was does it necessarily
24 mean.

25 THE COURT: Sustained.

1 BY MS. LUZAICH:

2 Q No ransacking of the apartment only means that nobody
3 tore the apartment up.

4 A That's correct.

5 Q Would you agree with that?

6 A In this case, the -- I was asked is there any
7 evidence that shows that a person was or was not in a room, and
8 I cannot say that specifically. But, however, in this case it
9 was noted that the wallet that was on the floor did not contain
10 any money. That there was no money in that wallet.

11 Q That was empty.

12 A Yes.

13 Q And when Mr. Abood asked you about the 119 dollars
14 that was found in the calendar, that was actually in a pocket
15 that was kind of hidden beyond, not observable to the naked eye
16 unless you walked up and touched it.

17 A That's correct.

18 Q That TV that was sitting on the coffee table for want
19 of a better word, wasn't that like a 13-inch black and white
20 TV?

21 A Right. It was an older TV sitting by the front door,
22 yes.

23 Q Just because the defendant gave a detailed
24 description of Dionne, does that mean that Dionne actually
25 exists?

1 A Absolutely not. It's my opinion that there is no
2 Dionne.

3 MR. BROWN: I'm going to object to that, Your Honor.

4 MR. ABOOD: I'm going to object to it also.

5 THE COURT: Okay. You guys got to stop
6 double-teaming me. If it's witness, he's the one who does it.

7 MR. BROWN: I apologize, Your Honor. I thought --
8 earlier I thought we had -- I was going to do the objections.

9 MR. ABOOD: No, that's fine.

10 MR. BROWN: But he's implicit, too.

11 MR. ABOOD: I don't mind if Curtis does it.

12 THE COURT: Pick one.

13 MR. ABOOD: Go ahead.

14 MR. BROWN: I'll handle the objection and I object.

15 THE COURT: Okay. Okay. And --

16 MR. BROWN: His opinion as to the existence or
17 nonexistence of Dionne again is a jury question. I would
18 object to this witness giving his opinion.

19 MS. LUZAICH: Actually if I can respond to that. Mr.
20 Abood went to great lengths to talk about the fact that they
21 didn't try to track Dionne down, so his opinion whether or not
22 Dionne existed is absolutely relevant.

23 THE COURT: So ask him why he didn't try to track
24 Dionne down.

25 BY MS. LUZAICH:

1 Q Well, the fact that he gave great detail about the
2 description of Dionne does not mean that Dionne actually
3 exists, right?

4 A That's correct.

5 Q And the fact that he gave detailed description about
6 whoever Dionne may have lived with doesn't mean that that
7 person actually exists, right?

8 A That's right.

9 Q Why do you not believe that Dionne exists?

10 MR. BROWN: Now I'm going to object because the fact
11 that he didn't do something based upon his opinion's one thing.
12 But offering his opinion as to why he doesn't believe he
13 exists, save it for argument.

14 MS. LUZAICH: If they're going to complain about lack
15 of investigation, he can certainly explain why there was a lack
16 of investigation in that one small area.

17 THE COURT: Have him explain why there was a lack of
18 investigation.

19 MR. BROWN: I believe he did that, Your Honor, when
20 he indicated that he didn't believe this man existed.

21 THE COURT: No. Overruled. He can explain why he
22 didn't think so which he already kind of did, but okay,
23 briefly.

24 THE WITNESS: It's not uncommon in a statement the
25 first time through or an interview for somebody to tell the

1 police a different narration of events.

2 In this particular case is that we have a tight
3 chronology of events. We have Maria, Justin's girlfriend, at a
4 location with Justin prior to the incident that was
5 corroborated. We have a path from her house to his house they
6 traveled on. We have him telling us that he's telling us the
7 truth now in an emotional statement where he's saying that the
8 truth is hard to say, hard to tell, if I could turn back the
9 hands of time, and he gives us a narration of events that fits
10 what we know from a witness' statement. And then we also have
11 him placing himself at a location that does not exist north of
12 the apartment where he could not have seen or where this person
13 had alleged -- gone up to the second floor to the left of that
14 apartment.

15 BY MS. LUZAICH:

16 Q Directly across the street from that apartment is a
17 school, correct?

18 A Yes.

19 Q And there's several buildings to that school?

20 A Yes.

21 Q And the apartment, 415, has a sister apartment, kind
22 of 417?

23 A Yes, south of it.

24 Q And there's trees and all sorts of things around
25 that --

1 A Yes.

2 Q -- correct? When the police are driving by and
3 flashing a spotlight on him, there were numerous places where
4 he could have hidden in that area, correct?

5 A That's correct.

6 Q Mr. Abood asked you about him saying repeatedly
7 nobody lives there, nobody lives there, nobody lives there.
8 But on page 9 did he tell you, "I only walked past a few
9 times"?

10 A Is that at the top --

11 Q Oh, do you have State's Exhibit -- where's the
12 exhibit statement?

13 MR. BROWN: We haven't marked it yet.

14 MS. LUZAICH: Oh, you know what, can I -- no, this is
15 the second one.

16 (Pause in proceedings)

17 MS. LUZAICH: I'm talking about the second one.
18 Where's the exhibit? Oh, this is -- can I get the second
19 statement marked as State's next in order?

20 THE COURT: Yes.

21 MS. LUZAICH: All right. State's Proposed Exhibit
22 108 is the second statement. I would move it into evidence.

23 MR. BROWN: No objection.

24 THE COURT: It will be admitted.

25 (Plaintiff's Exhibit 108 admitted into evidence.)

1 BY MS. LUZAICH:

2 Q Okay. Now, on page 9 at the bottom, does he say
3 something to the effect of every time I walk by it was empty,
4 but I only walked by there a few times?

5 A Yes.

6 Q Thank you.

7 MS. LUZAICH: Nothing further?

8 THE COURT: Recross.

9 MR. BROWN: Court's indulgence for just a second,
10 Your Honor.

11 THE COURT: Um-h'm.

12 RE CROSS-EXAMINATION

13 BY MR. BROWN:

14 Q I guess what you're telling us, Detective, is that
15 you just -- you discounted the whole Dionne story?

16 A No. I certainly weighed it in that first statement,
17 but going back that Justin told us that the first story was not
18 true.

19 Q So you ended up discounting the Dionne story.

20 A Yes.

21 Q Okay. Thank you.

22 MR. BROWN: Nothing further, Judge.

23 MS. LUZAICH: Nothing.

24 THE COURT: Okay. Thank you, sir.

25 THE WITNESS: Thank you.

1 MS. LUZAICH: Can I approach the clerk to make sure
2 everything's been moved into evidence that needs to be?

3 THE COURT: Yes.

4 (Pause in proceedings)

5 (Off-record bench conference began at 4:19 p.m.)

6 THE COURT: Checking out the evidence.

7 MR. BROWN: I think they're done.

8 THE COURT: That's what I'm thinking. They're about
9 to rest and they're making sure.

10 MR. BROWN: Yeah. I think we can probably settle
11 instructions this afternoon and then close tomorrow. I don't
12 want us to initially close yet, give you a chance to --

13 THE COURT: Right.

14 MR. BROWN: -- (indiscernible).

15 THE COURT: Yeah.

16 MR. BROWN: And maybe we'll do it later today or in
17 the morning.

18 THE COURT: (Indiscernible).

19 MR. BROWN: There's an outside chance -- I just sent
20 an E-mail out (indiscernible). I actually do think there's a
21 (indiscernible) but it's no big deal, but we're going to go see
22 if we can take a picture of it since it's (indiscernible) so I
23 got to try (indiscernible).

24 THE COURT: All right.

25 UNIDENTIFIED SPEAKER: (Indiscernible) we can ask

1 that they disclose their (indiscernible).

2 MR. BROWN: Yeah. I'm just (indiscernible) --

3 THE COURT: That's (indiscernible). Right. I
4 understand.

5 MR. BROWN: It's only because (indiscernible).

6 THE COURT: Okay. You have no more witnesses?

7 MS. LUZAICH: Um-um.

8 THE COURT: Okay. So okay.

9 (Off-record bench conference concluded at 4:20 p.m.)

10 MR. TOMSHECK: Judge, at this time the State has no
11 additional witnesses. However, prior to resting we would ask
12 to be moved into evidence what's previously been marked as
13 State's Proposed 56 through 68 in order. The defense has no
14 objection.

15 MR. BROWN: That's correct, Your Honor.

16 THE COURT: 56 to 60 --

17 MR. TOMSHECK: 8.

18 THE COURT: 68. They'll be admitted.

19 (Plaintiff's Exhibits 56 through 68 admitted into evidence.)

20 MR. TOMSHECK: With that, the State has rested.

21 THE COURT: Okay. All right. Ladies and gentlemen,
22 at this point we're going to go ahead and break for the evening
23 and come back tomorrow and finish up. And we'll ultimately get
24 to arguments tomorrow and have you deliberate tomorrow as well.

25 I do have a hearing tomorrow morning. I think we