

IN THE IN THE SUPREME COURT OF THE STATE OF NEVADA

MAZEN ALOTAIBI,

Appellant,

vs.

RENEE BAKER, WARDEN
LOVELOCK CORRECTIONAL
CENTER; AND JAMES DZURENDA,
DIRECTOR OF THE NEVADA
DEPARTMENT OF CORRECTIONS,

Respondents.

Supreme Court No. 79752

district court case no. A-18-78515-W
department
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APPELLANT'S APPENDIX

VOLUME I OF VII

BATES NOS. AA00001 – AA00212

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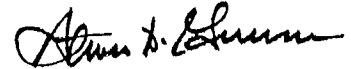
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APPELLANT'S APPENDIX

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CLERK OF THE COURT

AINF
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DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

MAZEN ALOTAIBI,
#2884816
Defendant.

Case No: C-13-287173-1

Dept No: XXIII

SECOND AMENDED
INFORMATION

STATE OF NEVADA)
COUNTY OF CLARK) ss.

STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That MAZEN ALOTAIBI, the Defendant above named, having committed the crimes of **BURGLARY (Category B Felony - NRS 205.060), FIRST DEGREE KIDNAPPING (Category A Felony - NRS 200.310, 200.320), SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Category A Felony - NRS 200.364, 200.366), LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (Category A Felony - NRS 201.230) and COERCION (Sexually Motivated) (Category B Felony - NRS 207.190, 207.193, 175.547)** in the manner following, to-wit: That the said Defendant, on or about the 31st day of December, 2012, at and within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada,

1 COUNT 1 - BURGLARY

2 did, then and there, willfully, unlawfully, and feloniously enter, with intent to commit
3 a felony, to-wit: kidnapping and/or sexual assault and/or lewdness with a minor and/or
4 sexually motivated coercion, that certain building occupied by ANKE DANG, located at
5 CIRCUS CIRCUS HOTEL & CASINO, 2880 South Las Vegas Boulevard, Room No. 631,
6 Las Vegas, Clark County, Nevada.

7 COUNT 2 - FIRST DEGREE KIDNAPPING

8 did, willfully, unlawfully, feloniously, and without authority of law, lead, take,
9 entice, carry away or kidnap ANKE DANG, a minor, with the intent to keep, imprison, or
10 confine said ANKE DANG, from his parents, guardians, or other person or person having
11 lawful custody of said minor, or with the intent to hold said minor to unlawful service, or
12 perpetrate upon the person of said minor, any unlawful act, to-wit: sexual assault and/or
13 lewdness.

14 COUNT 3 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF
15 AGE

16 did, then and there, willfully, unlawfully, and feloniously sexually assault and subject
17 ANKE DANG, a child under fourteen years of age, to sexual penetration, to-wit: anal
18 intercourse, by said Defendant inserting his penis into the anal opening of the said ANKE
19 DANG, against his will, or under conditions in which Defendant knew, or should have
20 known, that the said ANKE DANG was mentally or physically incapable of resisting or
21 understanding the nature of Defendant's conduct.

22 COUNT 4 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

23 did, then and there, willfully, lewdly, unlawfully, and feloniously commit a lewd or
24 lascivious act upon or with the body, or any part or member thereof, a child, to-wit: ANKE
25 DANG, said child being under the age of fourteen years, by said Defendant using his penis
26 to touch and/or rub and/or fondle the buttock(s) and/or anal area of the said ANKE DANG,
27 with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of
28 said Defendant, or said child.

1 COUNT 5 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF
2 AGE

3 did, then and there, willfully, unlawfully, and feloniously sexually assault and subject
4 ANKE DANG, a child under fourteen years of age, to sexual penetration, to-wit: fellatio, by
5 said Defendant placing his penis on and/or into mouth of the said ANKE DANG, against his
6 will, or under conditions in which Defendant knew, or should have known, that the said
7 ANKE DANG was mentally or physically incapable of resisting or understanding the nature
8 of Defendant's conduct.

9 COUNT 6 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

10 did, then and there, willfully, lewdly, unlawfully, and feloniously commit a lewd or
11 lascivious act upon or with the body, or any part or member thereof, a child, to-wit: ANKE
12 DANG, said child being under the age of fourteen years, by said Defendant placing his penis
13 on and/or into mouth of the said ANKE DANG, with the intent of arousing, appealing to, or
14 gratifying the lust, passions, or sexual desires of said Defendant, or said child.

15 COUNT 7 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

16 did, then and there, willfully, lewdly, unlawfully, and feloniously commit a lewd or
17 lascivious act upon or with the body, or any part or member thereof, a child, to-wit: ANKE
18 DANG, said child being under the age of fourteen years, by said Defendant using his mouth
19 and/or tongue to touch and/or kiss and/or lick the face and/or neck and/or body of the said
20 ANKE DANG, with the intent of arousing, appealing to, or gratifying the lust, passions, or
21 sexual desires of said Defendant, or said child.

22 COUNT 8 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

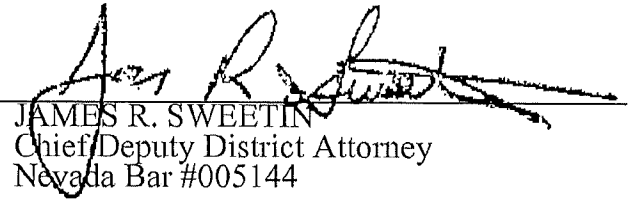
23 did, then and there, willfully, lewdly, unlawfully, and feloniously commit a lewd or
24 lascivious act upon or with the body, or any part or member thereof, a child, to-wit: ANKE
25 DANG, said child being under the age of fourteen years, by said Defendant using his mouth
26 and/or tongue to touch and/or kiss and/or lick the face and/or neck and/or body of the said
27 ANKE DANG, with the intent of arousing, appealing to, or gratifying the lust, passions, or
28 sexual desires of said Defendant, or said child.

1 COUNT 9 - COERCION (Sexually Motivated)

2 did, then and there, willfully, unlawfully and feloniously use physical force, or the
3 immediate threat of such force, against ANKE DANG, with intent to compel him to do, or
4 abstain from doing, an act which he had a right to do, or abstain from doing, by said
5 Defendant said preventing the said ANKE DANG from leaving the presence of said
6 Defendant, the purpose for which the Defendant committing the offense being the sexual
7 gratification of said Defendant.

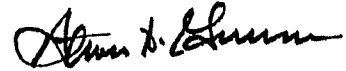
8 STEVEN B. WOLFSON
9 Clark County District Attorney
Nevada Bar #001565

10
11 BY


12 JAMES R. SWEETIN
13 Chief/Deputy District Attorney
14 Nevada Bar #005144
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27 DA#12F20986X/hjc/SVU
28 LVMPD EV#1212311318
(TK06)

TRAN



CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

STATE OF NEVADA,)	CASE NO. C287173-1
)	DEPT NO. XXIII
Plaintiff,)	
vs.)	
)	
MAZEN ALOTAIBI,)	TRANSCRIPT OF
)	PROCEEDINGS
Defendant.)	
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BEFORE THE HONORABLE STEFANY MILEY, DISTRICT COURT JUDGE

PARTIAL JURY TRIAL - DAY 2

FRIDAY, OCTOBER 11, 2013

APPEARANCES:

FOR THE STATE:	MARY KAY HOLTHUS, ESQ. Chief Deputy District Attorney JACQUELINE M. BLUTH, ESQ. Deputy District Attorney
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FOR THE DEFENDANT:	DON P. CHAIREZ, ESQ.
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Also Present:	Nabiha Al-Abed, Interpreter Saad Musa, Interpreter
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RECORDED BY MARIA GARIBAY, COURT RECORDER
TRANSCRIBED BY: KARR Reporting, Inc.

KARR REPORTING, INC.

AA00005

I N D E X

OPENING STATEMENT:

By Ms. Bluth	27
By Mr. Chairez	43

1 LAS VEGAS, NEVADA, FRIDAY, OCTOBER 11, 2013, 1:06 P.M.

2 * * * * *

3 (Prior proceedings not transcribed.)

4 (Outside the presence of the jury.)

5 THE COURT: Good afternoon everyone. We have a jury
6 selected. Is there anything we need to address before we
7 bring them in?

8 MS. BLUTH: Judge, just while you're -- when you're
9 reading your instructions, I'm going to have someone from our
10 help desk come in and fix something on my computer. He won't
11 be disruptive.

12 THE COURT: That's fine. That's fine.

13 Mr. Chairez, anything we need to address?

14 MR. CHAIREZ: The only thing I want to do is -- not
15 that I will make a motion, but I just want to note -- I want
16 the Court to notice that of the nine peremptory challenges the
17 State used, five of them -- four of them were Hispanics and
18 one of them was black. Okay.

19 THE COURT: Are you making a Batson challenge?
20 Because we've already dismissed the other jurors.

21 MR. CHAIREZ: Well, no. I just want to bring it to
22 the Court's attention. I believe they may have had legitimate
23 legal reasons as to why they did it, but it's my observation
24 is that's what I noticed, is they began to knock off all the
25 Hispanics. So Mr. Alotaibi is not Hispanic. I am. But at

1 any rate...

2 THE COURT: Okay. Well, if it's not a Batson
3 challenge -- I mean, the Batson challenge is according to the
4 more recent caselaw needed to be brought prior to letting the
5 rest of the jury go, so we don't completely have to lose an
6 entire jury panel. So I guess you're just bringing it to my
7 attention?

8 MR. CHAIREZ: I'm just bringing it to your attention,
9 Your Honor.

10 THE COURT: Okay. And because I was not aware there
11 was a potential Batson challenge, I did not query the jury as
12 far as what they consider the ethnicity to be. And quite
13 frankly, you can't tell anything just by looking at their
14 names anyway.

15 Is there anything to respond by the State before I
16 bring the jury in?

17 MS. BLUTH: I can give, you know, race neutral reason
18 that the --

19 THE COURT: There's not a -- I don't believe there is
20 a Batson challenge.

21 MS. HOLTHUS: I don't understand what this
22 observation is for. Why are we making this observation?

23 MR. CHAIREZ: Well, the bottom line, Your Honor, is I
24 believe that without hearing what their reasons were, and I
25 know Ms. Holthus, I don't know Ms. Bluth, but I'm assuming

1 they work together, the bottom line is there may be legitimate
2 justifications.

3 For instance, like Ms. Fiscus or whatever, I don't
4 know what the reason was that they knocked her off other than
5 maybe she didn't understand English very well. Ms. Cueto, the
6 pawn shop lady, I don't know what their basis was in that type
7 of thing.

8 THE COURT: The problem is this is not an appropriate
9 time for a Batson challenge. It should have been done
10 previously again, because number one, we have a jury that's
11 sworn in and impaneled as jurors, and number two, according to
12 the fairly recent caselaw -- use my microphone. According to
13 the fairly recent caselaw, it needs to be done sooner, before
14 the whole jury is discharged or the remainder of the jury is
15 discharged, so that there's a less severe remedy versus having
16 to start afresh.

17 MR. CHAIREZ: Well, the reason being, Your Honor, is
18 I want to make sure -- and I'm not accusing either of them of
19 trying to appeal to the jury's prejudice. But for instance,
20 they just gave me stuff yesterday which are a bunch of quotes
21 from Allah, or something like that, that were found on
22 Mr. Alotaibi's cellphone which they obtained from me.

23 So the bottom line is I don't know what the relevance
24 is going to be. I don't even know if they're going to mention
25 it in opening statement. But I think it's one of those things

1 where Mr. Alotaibi signed up for the scripture of the day, and
2 every day these various things come out.

3 Now for me, when whoever from the State testifies
4 about, oh, Allah says this or Allah says that, I mean, I
5 believe that's a subconscious attempt to play the race --

6 THE COURT: With all respect, Mr. Chairez, I'm really
7 not sure what we're doing now. I mean, is this another
8 Brady -- are you alleging another Brady violation?

9 MR. CHAIREZ: No, no, no. It's not a Brady
10 violation.

11 THE COURT: I'm not sure what we're doing here.

12 MR. CHAIREZ: I personally -- when they go to
13 introduce any of that, I personally believe none of it is
14 relevant. But I just want --

15 MS. HOLTHUS: Let me just shortcut that. We've given
16 it to you because we have it, and as of this moment we don't
17 have any intention of using it. If we do, before we do, we'll
18 certainly bring it to everyone's attention. We just had it
19 translated. And so anything that we have we provide to
20 defense, and that's where we are.

21 With respect to the other, he's put us in a really
22 awkward position right now in raising the non-Batson Batson
23 that he's kind of raising. To the extent that I can, I know
24 that the one gal he mentioned was also a student of his wife,
25 and so --

1 THE COURT: Oh, that was the lady sitting somewhere
2 toward the front.

3 MS. HOLTHUS: Correct. So that's why we -- that's
4 why we excused her.

5 THE COURT: Janet Perez.

6 MS. HOLTHUS: That's why we excused her, because we
7 didn't --

8 THE COURT: No, no. I'm sorry. Janet Perez is on
9 the jury.

10 MS. HOLTHUS: She is --

11 THE COURT: We have several with traditionally
12 Hispanic names. Like I said, I would have no way of knowing
13 if they're Hispanic.

14 MR. CHAIREZ: Your Honor, I'm just trying to bring to
15 the Court's attention. I want to try to limit this to the
16 facts. I don't want any appeals to anti-Moslem prejudice,
17 because we're not going to deny that --

18 THE COURT: Well, I need to be -- and I'm sorry.
19 With all respect, I need to be very clear why you're bringing
20 up certain information, because I can't just leave it
21 unanswered for purposes of the record. So you're not bringing
22 a Batson challenge?

23 MR. CHAIREZ: I'm not bringing a Batson challenge.

24 THE COURT: Okay.

25 MR. CHAIREZ: But I am -- I'm just letting the Court

1 know I want to make sure that there is no appeal to racial
2 inflammatory comments, racial --

3 THE COURT: Well, obviously if the State did that,
4 that would be very improper. So both of you have to follow
5 the rules obviously. The other issue, and I just want to make
6 it clear, there's -- you're not alleging a Brady violation,
7 right?

8 MR. CHAIREZ: In terms of the information that was
9 given to me yesterday?

10 THE COURT: I need to be very clear. Are you
11 alleging that they violated Brady by not timely disclosing
12 information, or are you not alleging --

13 MR. CHAIREZ: No, I'm not alleging it, because --

14 THE COURT: Okay.

15 MR. CHAIREZ: -- Ms. Holthus clarified today she just
16 got it two days ago. So I think two days is sufficient time
17 to let me know about it.

18 MS. HOLTHUS: It was actually one day that we
19 gave it.

20 MR. CHAIREZ: Okay. Even one day, that's even...

21 THE COURT: Okay. So are there any issues that I do
22 need to address before I bring the jury back in?

23 (Pause in proceedings)

24 THE COURT: There's not a Batson challenge, and the
25 problem is, is the jury has been -- we've already impaneled

1 the jury.

2 MS. HOLTHUS: I understand that. It's just that the
3 Supreme Court in Batson has been from my end of it somewhat
4 unpredictable --

5 THE COURT: I know. It was my case.

6 MS. HOLTHUS: -- and extremely --

7 THE COURT: If you want to put race neutral just to
8 err on the side of caution, that's fine. I mean --

9 MS. HOLTHUS: If he can point out who he's telling
10 me, I can tell you why we picked them. And I would note that
11 we've kept, I believe, several Hispanics as well.

12 THE COURT: Honestly, I -- fine. If you'd like to
13 err on the side of caution, please put the race neutral or the
14 neutral reason on the record. And we do have several
15 individuals who do have traditionally Hispanic names. Whether
16 Hispanic or not, I don't know. We have Guillermo Flores. We
17 have Jill Romero. We have Janet Perez. I mean, they're
18 traditional names, but I don't know if they're of Hispanic
19 descent.

20 MS. HOLTHUS: I'm unaware of any blacks that we
21 excused.

22 THE COURT: And I don't think we had anyone of Middle
23 Eastern descent.

24 MR. CHAIREZ: Yeah. There was a black woman in the
25 front row.

1 MS. HOLTHUS: Oh, the young gal with the backpack?

2 MR. CHAIREZ: I don't know if she had a backpack.

3 THE COURT: It's the young lady sitting here
4 [indicating] that did not want to be here.

5 MR. CHAIREZ: Right.

6 MS. HOLTHUS: Yeah. She was --

7 THE COURT: With the sweatshirt on.

8 MS. HOLTHUS: She was race neutral. She was totally
9 young. She was totally not --

10 THE COURT: Okay. So let's be clear for the record,
11 so we have a clear record. Okay. So Tamara Hoffman is a --
12 the black woman that was just discussed, and she was released.

13 MS. HOLTHUS: She was young, single. She was
14 completely disinterested in the process. She came in with her
15 backpack and had really nothing to do with anything. So I
16 think she was actually our first pick. Who else, Don?

17 THE COURT: Okay. Well, hold on. Let's start
18 with --

19 MR. CHAIREZ: Okay.

20 THE COURT: Let's just hold on. Let me just make
21 this clear. These are the ones that were challenged by the
22 State. Jenkins, Number 248.

23 MS. HOLTHUS: Which one?

24 MR. CHAIREZ: Melissa Jenkins --

25 THE COURT: She was sitting in Cindy Jane's seat.

1 MR. CHAIREZ: -- was, I believe, a white woman
2 sitting up front.

3 THE COURT: Okay. So is there an issue with --

4 MS. HOLTHUS: Is it okay with me picking the white
5 woman?

6 MR. CHAIREZ: Well, I think this woman --

7 THE COURT: Well, they only --

8 MR. CHAIREZ: -- she --

9 THE COURT: They only have to defend their selection,
10 as you're aware, if it's potentially a --

11 MR. CHAIREZ: Right. No. My concern, Your Honor,
12 is --

13 THE COURT: -- a racial or ethnically biased
14 challenge.

15 MR. CHAIREZ: Okay. Martha Fiscus, I think -- I'm
16 not sure if she's the one that worked at Taco Bell. But when
17 you look at Martha Fiscus --

18 THE COURT: Well, hold on, please. Let's do one at a
19 time. Jenkins is --

20 MS. HOLTHUS: Yes, she is.

21 THE COURT: Jenkins there's no objection to.

22 MR. CHAIREZ: Correct.

23 THE COURT: Balenz there's no objection to, correct?

24 MR. CHAIREZ: Correct.

25 THE COURT: All right. Hoffman, any objection to

1 that one, Mr. Chairez?

2 MR. CHAIREZ: Well, I would just point out she was
3 one of the two African-American women or African-Americans
4 that we had in the entire panel that was actually called, so
5 we lost 50 percent of them when we knocked off Ms. Hoffman.

6 MS. HOLTHUS: And I've already put the race -- she
7 was the one gal up front here that was not even a part of the
8 process and she -- we discussed her body language and
9 everything else was throughout --

10 THE COURT: And she was asleep through --

11 MS. HOLTHUS: She also said she couldn't judge.

12 THE COURT: It was the Court's observation that she
13 was asleep through a significant portion of voir dire. Okay.
14 What about Brown?

15 MS. HOLTHUS: Where was Brown, Judge?

16 MR. CHAIREZ: He was in the front row right here.

17 THE COURT: He was the last one.

18 MS. HOLTHUS: This other young kid?

19 THE COURT: He was the young man sitting right there
20 in that blue chair.

21 MS. HOLTHUS: He was white, so do you have a problem
22 with him?

23 MR. CHAIREZ: Well, I don't know that he was white.
24 He looked to me like he could be Hispanic, but --

25 THE COURT: Well, here's the problem. If -- this

1 should have been raised before, because then I could query the
2 jury. You just simply --

3 MR. CHAIREZ: Right.

4 THE COURT: It's so hard to tell by looking at an
5 individual.

6 MR. CHAIREZ: Right.

7 MS. HOLTHUS: My belief is he was white, John Brown.
8 I largely only saw the back of his head. But the bottom line
9 is he was between jobs. He was divorced. Our position was
10 that this is a somewhat of a not sophisticated --

11 But if we're going to be arguing legal, they're going
12 to be talking about consent and intent and specific versus
13 general, and so we wanted more educated, older, more
14 experienced people. And he fell flat into that category that
15 we felt was lower education, very young, not a lot of world
16 experience on him. But again, I thought he was white.

17 THE COURT: Anything else on Mr. Brown, Mr. Chairez?

18 MR. CHAIREZ: No, Your Honor.

19 THE COURT: All right. I think the State's offered a
20 race neutral or a neutral reason for letting him go. The next
21 one was Cueto, Number 237.

22 MR. CHAIREZ: Yeah. She's a Hispanic woman. She
23 works as a pawn broker and I guess ten --

24 MS. HOLTHUS: She's the one.

25 MR. CHAIREZ: She was a student when she was in the

1 seventh or eighth grade when my wife was the assistant
2 principal at that school. So I'm assuming that is the reason
3 they let her go, but...

4 MS. HOLTHUS: That was absolutely the reason. I
5 would never leave a juror that has some kind of a tie to
6 opposing counsel. I don't know if it's good or bad, but I'm
7 not going to sit here and wonder if she really liked
8 Mrs. Chairez, and if Mr. Chairez comes and starts appealing to
9 certain, you know, [unintelligible], I'm not going to wonder
10 how she feels good or bad.

11 But I mean, he brought that on himself. It was my
12 sense that that shouldn't have been done in the first place.
13 I did object to a lot of his giving the history of his
14 children and his wife and where she works and how he raised
15 them and what neighborhood he lived in, but that was out
16 there. And so as a result we found out that her vice
17 principal was Mrs. Chairez, and absolutely I kicked her for
18 that reason.

19 MR. CHAIREZ: And the reason that was raised, Your
20 Honor, is because there was two Clark County elementary school
21 teachers there, and my wife for many years was with the Clark
22 County School District as a principal at an elementary school
23 and also intermediate school.

24 THE COURT: All right. I think the State has offered
25 a race neutral reason for that one. The next one was Fiscus,

1 Number 173.

2 MS. HOLTHUS: In addition to as Mr. Chairez pointed
3 out, she has some English issues. It's the same thing. She's
4 a guestroom attendant and formerly worked at Taco Bell. We
5 were looking for a little more sophisticated juror with a
6 little more education and experience quite frankly, than that.

7 THE COURT: Mr. Chairez.

8 MR. CHAIREZ: That's fine.

9 THE COURT: All right. The State has offered a -- in
10 the Court's opinion, the State has offered a race neutral
11 reason. The next one was Mr. Rogo [phonetic], Roggow
12 [phonetic]. He is the gentleman that was in the Number 2
13 chair in the far back next to Mr. Tran.

14 MS. HOLTHUS: He was white.

15 THE COURT: He was 059.

16 MS. HOLTHUS: Do you agree he's white?

17 MR. CHAIREZ: I'm assuming he's white and he was one
18 of those that said, hey, I'm against drugs, if I hear drugs
19 I'll automatically blah, blah, blah. So I have no problem
20 with him.

21 THE COURT: Okay. And then the last one by the State
22 was -- no, it wasn't. Campos was the next one. I'm sorry.

23 MS. HOLTHUS: Campos, same thing. She was -- she
24 bears to -- I don't mean this in any derogatory way, but she
25 works at a coffee shop and again, we're looking for a little

1 higher level of sophistication from them.

2 THE COURT: Okay. Mr. Chairez.

3 MR. CHAIREZ: And that's fine --

4 MS. HOLTHUS: And she had no kids as well.

5 THE COURT: All right. So the State's offered a race
6 neutral reason. The last one is De Los Santos, and that was
7 the new -- the newer juror who was a former military
8 background. I think he was a Marine.

9 MS. HOLTHUS: That would be the guy that doesn't
10 trust DNA evidence and things that were wrongfully imprisoning
11 many, many people, and many people's cases have been
12 overturned.

13 MR. CHAIREZ: I'm not sure if that's what he said,
14 Your Honor. I think that was the confusion. I think he says
15 many people have been wrongfully convicted and now the DNA is
16 exonerating them.

17 But we also talked to him. He's a security officer.
18 They do police reports. He works with Metro. And at the very
19 beginning he said, I'm not sure I can be fair to the
20 defendant. But at any rate, he was not prejudiced. He served
21 in Afghanistan and Southeast Asia, and yes, he was like the
22 last Hispanic that was knocked off.

23 THE COURT: All right. I think the State's offered a
24 race neutral reason. Actually, that juror and the Court's own
25 notes kind of vacillated between not trusting the evidence,

1 the DNA evidence, and then also did not like the defense
2 necessarily because he had seen young girls raped during his
3 military service out of the country. So I think there's a
4 race neutral reason.

5 All right. Now that we've addressed that issue, is
6 there any other issue we need to address before bringing the
7 jury in?

8 MS. BLUTH: Are the chairs going to remain there,
9 Your Honor? If so, may I --

10 THE COURT: You know, we just haven't had the chance
11 to move them and get them back to their homes.

12 MS. BLUTH: Okay. I was just wondering, because I'm
13 going to have to go to the TV to point to things. I'm fine if
14 I can just maybe scoot them a little bit up.

15 THE COURT: You can scoot them back. You can make a
16 pathway. I'm sorry. We just did not have an opportunity to
17 do it.

18 MS. BLUTH: That's all right. Everybody's busy. I
19 understand.

20 (Pause in proceeding.)

21 THE COURT: Okay. With that being done, are we ready
22 to bring the jury in?

23 MS. BLUTH: Yes, Your Honor.

24 THE COURT: Okay. Let's bring the jury in, please.

25 (Pause in proceeding.)

1 (Jurors enter at 1:25 p.m.)

2 THE COURT: Welcome back, ladies and gentlemen of the
3 jury. As you probably recall, right before we took lunch
4 break you were all sworn in as jurors. So right now I'm going
5 to give you a little bit of background information that will
6 help to guide you during the course of this case.

7 As you're aware, you have been selected as the jury
8 in this case, and I'm going to take a few minutes to talk to
9 you about what to expect. My comments are intended to serve
10 as an introduction to the trial. At the end of the trial I'll
11 give you more detailed instructions in writing, and those
12 instructions will control your deliberations.

13 This is a criminal case brought by the State of
14 Nevada against the defendant. The case is based on an
15 Information. The clerk, Antoinette, is going to read the
16 Information and state the plea of the defendant.

17 (Clerk reads Information - not transcribed.)

18 THE COURT: Ladies and gentlemen of the jury, you
19 should distinctly understand that the Information just read to
20 you is simply a description of the charge made by the State
21 against the defendant. It is not evidence of anything and it
22 does not prove anything. Therefore the defendant starts out
23 with a clean slate. The defendant has pled not guilty and is
24 presumed innocent.

25 This is a criminal case, and there's two basic rules

1 you have to keep in mind. First, the defendant is presumed
2 innocent unless and until proved guilty beyond a reasonable
3 doubt. The defendant is not required to present any evidence
4 or to prove his innocence. The law never imposes upon a
5 defendant in a criminal case the burden of calling any
6 witnesses or introducing any evidence.

7 Second, in order to convict, the State must prove
8 beyond a reasonable doubt that the crime was committed and
9 that the defendant is the person who committed the crime. It
10 is going to be your duty to decide from the evidence to be
11 presented whether the defendant is guilty or not guilty.
12 You're the sole judge of the facts. You will decide what the
13 facts are from the evidence which will be presented.

14 The evidence will consist of testimony of witnesses
15 and documents and other things received into evidence as
16 exhibits. You must apply the facts to the law which I shall
17 give you, and in that way you will reach your verdict. It is
18 important that you perform your duty of determining the facts
19 diligently and conscientiously, for ordinarily there is no way
20 of correcting an erroneous determination of the facts by the
21 jury.

22 You should not take anything I may say or do during
23 the trial as indicating my opinion as to how you should decide
24 the case, or to influence you in any way in your determination
25 of the facts. At times I may even ask questions of witnesses.

1 If I do so, it is for the purpose of bringing out matters
2 which should be brought out, and not in any way to indicate my
3 opinion about the facts or to indicate the weight or value you
4 should give to the testimony of a witness.

5 In deciding the facts of this case, you may have to
6 decide which witnesses to believe and which witnesses not to
7 believe. You may believe everything a witness says, or only
8 part of it, or none of it at all.

9 In considering the weight or value of the testimony
10 of any witness, you may consider the appearance, attitude and
11 behavior of the witness when testifying and a number of other
12 things, including the witness's ability to see or hear or know
13 the things the witness testifies to, the quality of the
14 witness's memory, the inclination of the witness to speak
15 truthfully, whether or not the witness has any interest in the
16 outcome of the case, or any motive, bias or prejudice, whether
17 the witness is contradicted by anything the witness said or
18 wrote before the trial, and how reasonable is the witness's
19 testimony when considered with other evidence with which you
20 believe.

21 In deciding whether or not to believe a witness, keep
22 in mind people sometimes forget things. You need to consider
23 whether a contradiction is an innocent lapse of memory or an
24 intentional falsehood, and that may depend on whether it has
25 to do with an important fact or only a small detail. The

1 weight or value of evidence does not necessarily depend on the
2 number of witnesses testifying for one side. You must
3 consider all the evidence, and you may decide that the
4 testimony of a smaller number of witnesses on one side has
5 more weight or value than that presented by the larger number
6 of witnesses on the other side.

7 There's two kinds of evidence; direct and
8 circumstantial. Direct evidence is testimony about what the
9 witness personally saw, heard or did. Circumstantial evidence
10 is indirect evidence. It is proof of one or more facts from
11 which you can find another fact.

12 For example, if you wake up in the morning and see
13 the ground, the sidewalks and the street are all wet and water
14 is running down the gutters, you may find from those facts
15 that it rained during the night. It is proof of one or more
16 facts from which you can find another fact.

17 In contrast, if you were actually awake during the
18 night and saw the rain fall, that would be direct evidence,
19 which is something you personally saw. You may consider both
20 direct and circumstantial evidence in deciding this case. The
21 law permits you to give equal weight or value to both, but it
22 is for you to decide how much consideration to give to any
23 evidence.

24 Certain things are not evidence and you must not
25 consider them as evidence in deciding the facts of this case.

1 Statements and arguments by the attorneys, questions and
2 objections of the attorneys, testimony I instruct you to
3 disregard, and anything you may see or hear if the court is
4 not in session, even if what you see or hear is done or said
5 by one of the parties or by one of the witnesses. Remember,
6 evidence is sworn testimony by a witness while court is in
7 session and documents and other things received into evidence
8 as exhibits.

9 There are rules of law which control what can be
10 received into evidence. When a lawyer asks a question or
11 offers an exhibit into evidence and the lawyer on the other
12 side thinks it is not permitted by the rules, that lawyer may
13 object. If I overrule the objection, the question may be
14 answered or the exhibit received. If I sustain the objection,
15 the question cannot be answered and the exhibit cannot be
16 received. Whenever I sustain an objection to a question,
17 ignore the question and do not guess what the answer might
18 have been.

19 Sometimes I may order evidence stricken from the
20 record and tell you to disregard or ignore such evidence.
21 This means when you're deciding the case you must not consider
22 the evidence which I have told you to disregard.

23 It is the duty of a lawyer to object to evidence
24 which the lawyer believes may not be permitted under the
25 rules. You should not be prejudiced in any way against a

1 lawyer who makes objections on behalf of the party the lawyer
2 represents. Also, I may find it necessary to admonish a
3 lawyer. If I do, you should not be prejudiced toward the
4 lawyer or client because I have found it necessary to admonish
5 that lawyer.

6 Until this case is submitted to you, do not talk to
7 each other about it or about anyone who has anything to do
8 with it until the end of the case, when you go to the jury
9 room to decide upon your verdict. Do not talk with anyone
10 else about this case or anyone who has anything to do with it
11 until the trial has ended and you have been discharged as
12 jurors.

13 Anyone else includes members of your family and your
14 friends. You may tell them that you're a juror in a criminal
15 case, but don't tell them anything else about it until after
16 you've been discharged by me. Do not let anyone talk to you
17 about the case or about anyone who has anything to do with it.
18 If someone should try to talk to you, please report that to me
19 immediately by contacting Jason, the marshal.

20 Do not read any news stories, listen to any radio
21 broadcasts or watch any television reports about the case or
22 about anyone who has anything to do with it. Do not do any
23 research or make any investigation about the case on your own.
24 You may be tempted to visit the crime scene. Please do not
25 do so.

1 In view of the time that has elapsed since the case
2 has come to trial, substantial changes may have occurred at
3 the location in question. Also, in making an unauthorized
4 visit without the benefit of explanation, you may get an
5 erroneous impression. Therefore, please avoid going near or
6 past the location until after this case has been completed.

7 Ladies and gentlemen, this admonishment not to tell
8 people about it, it does include all forms of social
9 networking. Tweeting, Facebook, everything else, that is all
10 strictly prohibited during the course of trial and until you
11 have been discharged as jurors. Also, please don't get on the
12 Internet and attempt to do any type of research on your own.

13 At the end of the trial you'll have to make your
14 decision based upon what you recall of the evidence. You will
15 not have a written transcript to consult, and it is difficult
16 and time consuming for the reporter, or the recorder in this
17 department, to read back lengthy testimony. I urge you to pay
18 close attention to the testimony as it is given.

19 If you wish, you may take notes to help you remember
20 what the witnesses said. If you do take notes, please keep
21 them to yourself until you and your fellow jurors go to the
22 jury room to decide the case. Do not let note-taking distract
23 you so that you do not hear other answers by witnesses. You
24 should rely upon your own memory of what was said and not be
25 overly influenced by the notes of the other jurors.

1 Do not make up your mind about what the verdict
2 should be until after you've gone to the jury room to decide
3 the case and you and your fellow jurors have discussed the
4 evidence. It is important that you always keep an open mind.

5 A juror may not declare to a fellow juror any fact
6 relating to this case of which the juror has knowledge. If
7 any juror discovers during the trial or after the jury has
8 retired that the juror or any other juror has personal
9 knowledge of any fact in controversy in the case, the juror
10 shall disclose the situation to me in the absence of the other
11 jurors.

12 This means if you learn during the course of the
13 trial you have personal knowledge of any fact which is not
14 presented by the evidence in this case, you must declare that
15 fact to me. Again, you communicate to the Court through
16 Jason, the marshal.

17 Remember, during the course of this trial, the
18 attorneys for both sides and all court personnel other than
19 Jason, the marshal, are not permitted to converse with members
20 of the jury. These individuals are not being antisocial.
21 They are bound by ethics and the law not to talk to you
22 because doing so may contaminate your verdict.

23 The trial is going to proceed in the following
24 manner. The deputy district attorney will make an opening
25 statement, which is an outline to help you understand what the

1 State expects to prove. Next the defendant's attorney may,
2 but does not have to make an opening statement. Opening
3 statements serve as an introduction to the evidence which the
4 party making the statement intends to prove.

5 The State will then present its evidence and counsel
6 for the defendant may cross-examine the witnesses. Following
7 the State's case, the defendant may present evidence and the
8 deputy district attorney may cross-examine the witnesses.
9 However, as I have said, the defendant is not obligated to
10 present any evidence.

11 After all the evidence has been presented, I will
12 instruct you on the law. After the instructions on the law
13 have been read to you, each side has the opportunity to
14 present oral argument. What is said in closing argument is
15 not evidence. The arguments are designed to summarize and
16 interpret the evidence.

17 Since the State has the burden of proving the
18 defendant guilty beyond a reasonable doubt, the State has the
19 right to open and close the arguments. After the arguments
20 have been completed, you will retire to deliberate upon your
21 verdict.

22 Counsel, do you want to invoke the exclusionary rule?

23 MS. BLUTH: The State does, Your Honor.

24 THE COURT: All right. So the exclusionary rule will
25 be invoked. If there's anyone in here who is a witness in

1 this case, please step outside. By the State, would you like
2 to present your opening?

3 MS. BLUTH: Yes, Your Honor. Thank you.

4 STATE'S OPENING STATEMENT

5 MS. BLUTH: In December of 2012, an individual by the
6 name of Mai Le decided to come to Las Vegas for the New Year's
7 Eve holiday weekend. And with her she decided to bring her
8 then 13-year-old grandson, AJ Dang. What Mai Le did not know
9 and that she could not have known was that while here,
10 13-year-old AJ would be sexually assaulted by the defendant,
11 Mazen Alotaibi, on December 31st of 2012.

12 Now, when Mai Le and AJ got to the Circus Circus on
13 December 30, AJ runs into a little girl that he goes to school
14 with back home. It was kind of a coincidence he ran into her
15 at the casino. And AJ hangs out with her. Her name is Mary
16 Candelario. He hangs out with Mary and her family at the
17 Circus Circus that day, a little bit that evening, and he also
18 makes plans to meet up with Mary the following morning and get
19 some breakfast.

20 So you'll hear some testimony from a couple different
21 people in this case that were staying at the Circus Circus.
22 So we have the Candelario family, which is Mary and her family
23 staying on the sixth floor in Room 625. AJ and his
24 grandmother stay on the ninth floor in Room 829, and the
25 defendant and some of his friends have a hotel room on the

1 sixth floor, same as the Candelario family, in Room 631.

2 So fast-forward to December 31st of 2012. AJ wakes
3 up at about 7:30 in the morning. He goes to pick up Mary on
4 the sixth floor, to pick her up for breakfast around 7:45.
5 When he gets there he speaks with members of Mary's family,
6 and they find -- and he finds out from them that Mary is
7 asleep and he's told to come back in awhile, maybe 10, 20
8 minutes, to see if she's woken up by that time.

9 So what AJ does is he decides to walk around the
10 casino and wait for Mary to wake up, and he tries to pass some
11 time. And as I'm sure you're all aware, when you're at a
12 casino, you're pretty much on video all of the time,
13 especially the elevators, the casino floor. The only place
14 that it's rare to have video is in certain hallways, and
15 that's the situation at the Circus Circus.

16 So the video surveillance of the elevators show that
17 at 7:43 in the morning on the New Year's Eve, AJ enters the
18 elevator. And this is when he is going to pick up Mary. So
19 he is on the ninth floor. He takes the elevator and goes down
20 to the sixth floor to pick up Mary. He speaks with Mary's
21 family, kind of chats with them for a little bit, and he finds
22 out that Mary's still asleep.

23 So at 7:51 he gets back on the elevator from the
24 sixth floor. And like I said previously, AJ will tell you
25 that he walked around for about ten minutes trying to pass

1 some time. Ten minutes later -- and you will see video
2 surveillance of him kind of just walking in and out of the --
3 not out of the casino, but walking around the casino passing
4 time.

5 Then about ten minutes later, at 8:00 on the dot,
6 8:00:58, so almost 8:01, AJ then re-enters the elevator and
7 takes it back up to the sixth floor to see if Mary is awake
8 yet. And AJ will tell you that he took the elevator and at
9 the sixth floor, when the elevators open, there is some
10 couches off to the side, and he sits down on those couches and
11 he passes some time.

12 And he'll tell you he was bored, he was lonely, he
13 was just waiting for Mary to wake up so they could go have
14 some breakfast and enjoy the rest of their day. But
15 unfortunately for AJ the defendant gets into the elevator at
16 8:08, he and a friend, and they take the elevator to the sixth
17 floor right where AJ's sitting on that couch.

18 And AJ will tell you that as he's sitting on the
19 couch he sees the defendant and some of his friends walking
20 around in the hallway and he hears them talking. And he
21 approaches them and sees kind of what they're doing, and he
22 thinks that maybe someone in that group has marijuana. And so
23 he talks to them. He sees if he can get some marijuana.

24 He, you know, starts talking about it and he follows
25 them into their room where they're staying at 631. And inside

1 Room 631, some of the defendant's friends, you know, ask AJ,
2 hey, kid, how old are you, you know, should you be doing this.
3 And AJ tells them, I'm 13. And the people inside the room
4 say, yeah, you got to get out of here, you're too young.

5 So AJ leaves the room. But when AJ leaves the room,
6 the defendant follows, and AJ and the defendant walk out in
7 the hallway together. And AJ will tell you that in the
8 hallway the defendant begins saying some things, making some
9 somewhat sexual advances towards AJ, making AJ feel a little
10 bit uncomfortable. But AJ wants some marijuana, so he and the
11 defendant continue walking.

12 And they walk to the elevator and they get in the
13 elevator at 8:15 in the morning. This is AJ. You can see the
14 little white cap that he's been wearing throughout the video
15 surveillance, and this is the defendant. They get on the
16 elevator on that sixth floor, and about 15 seconds later you
17 see the defendant make the first sexual advance to AJ.

18 This is AJ's little white hat. This is the defendant
19 leaning down, leaning down towards AJ. And AJ will tell you
20 that he kind of lips kissed his cheek, slash, ear. AJ was
21 kind of taken back. He didn't -- he didn't really know how to
22 handle that situation. And the two of them take the elevator
23 down to the ground floor. They walk through the casino and
24 then they exit into kind of a back alley area. And they're in
25 that back alley from about 8:15 in the morning to 8:27 in the

1 morning.

2 AJ will tell you that while down there both of them
3 smoke marijuana together, and during that the defendant
4 continues to make these advance -- excuse me, these sexual
5 advances on AJ. And AJ keeps saying, Hey, man, I'm just
6 trying to buy some marijuana, I'm just trying to get some
7 marijuana. He's trying to make clear that that's what he
8 wants from the defendant.

9 So after they're done smoking marijuana, they decide
10 to go back up to Room 631, and AJ believes by going back to
11 the defendant's room he is going to get this marijuana that he
12 is trying to buy from either the defendant or someone else in
13 the room. When they get to the room, the defendant tells AJ
14 to go into the bathroom. AJ does so. The defendant follows,
15 and then he leaves the room for a brief second and comes back.

16 When he comes -- when the defendant comes back into
17 the bathroom he shuts the door behind him. And AJ will tell
18 you it's at that time when AJ realizes this is a situation
19 that he can't get out of and he's in over his head, and he
20 wants to leave the bathroom. But the defendant will not let
21 him leave the bathroom. The defendant blocks AJ from walking
22 out of the bathroom, not allowing him to leave.

23 AJ will tell you that once he's locked into the
24 bathroom the defendant begins touching him, kind of groping
25 him, kissing on him, kissing on his ear, touching his chest,

1 and he starts to try and take off AJ's clothes. He then
2 forces AJ to perform oral sex on him, forces AJ to bend down.
3 And AJ will tell you at this point he doesn't know what to do.

4 He's a 13-year-old kid. He's in a room with the
5 defendant. The defendant's friends are all in the room
6 outside of the bathroom. And he thought for a second maybe he
7 could take the defendant, maybe he could fight him. But he
8 was scared. And he was scared, well, if I do fight this guy,
9 am I going to have to fight the five other guys in the room
10 outside.

11 So AJ did what the defendant made him do, but it was
12 very rough and it was hurting the back of AJ's throat. And so
13 he tried to shove the defendant off and shove the defendant's
14 penis out of his mouth. But that wasn't enough for the
15 defendant, because when AJ would no longer perform oral sex on
16 him, he took AJ, he slammed him onto the bathroom ground onto
17 his belly.

18 He then took a piece of -- or excuse me, not a piece
19 of, but he took one of those little shampoo bottles that you
20 see in the bathrooms when you stay at the hotels, he opened it
21 up. He took the shampoo, he put it on his penis. He then put
22 some on his finger and rubbed it in and around AJ's anus. He
23 then repeatedly and forcefully shoved his penis into AJ's anus
24 and sodomized him. While he's doing this, he's also slapping
25 and punching AJ in the butt while he's raping him.

1 AJ will talk about how excruciating this pain was,
2 about how scared he was. He was able to somewhat struggle
3 away at some point after being sodomized. He gets off the
4 ground, pulls his pants up. He leaves the room and he runs to
5 the elevator as fast as he can. And you will see AJ running
6 to that elevator, and you'll see him look out the side of that
7 elevator and just keep pounding, door close, door close, door
8 close, because he's making sure that no one's coming after
9 him.

10 AJ then takes the elevator down to the main floor.
11 And you'll see as he kind of paces around the security booth
12 on the bottom floor of the casino. And he'll tell you that
13 he -- he's in shock of what has just happened to him. He's
14 scared. He's embarrassed. He's ashamed. And he's also
15 scared of getting into trouble, scared of the situation he
16 feels like he got himself into.

17 Scared of people, the police maybe knowing he smoked
18 marijuana, his mom and his grandma knowing that he smoked
19 marijuana, and he doesn't know what to do. And he receives a
20 phone call from his mom. And you'll hear from his mother and
21 his mother will tell you that AJ seemed -- he seemed a little
22 different on the phone when she was speaking to him. He
23 seemed very rushed, very hurried, like he needed to get off
24 the phone, kind of frantic, and so she just let him go.

25 And you'll see AJ talking on the phone right when he

1 exits that elevator. And then, as soon as he hangs up you see
2 AJ make contact with security. And you'll hear from that
3 security officer. It's an officer by the name of Security
4 Officer Laskin. And Officer Laskin will tell you that AJ was
5 very hesitant to speak to him.

6 The security is kind of in a square booth like this
7 on the casino floor. And Mr. Laskin was standing at the booth
8 and he sees AJ approach, but AJ kind of just stands there and
9 he sees AJ looking around. And there's another hotel guest or
10 another casino guest standing somewhat near AJ, and AJ just
11 keeps, you know, glancing at the guy. And it isn't until that
12 guy leaves that AJ feels comfortable in contacting Mr. Laskin
13 and telling him what happened.

14 And as soon as that guy leaves he comes up to
15 Mr. Laskin and he tells him, Sir, I've been raped, I was
16 raped. Officer Laskin asked for a description of the
17 individual who did this to him and for a room number or any
18 information that AJ can give in order to help him identify the
19 suspect. And AJ tells Security Officer Laskin that the
20 individual is in a red shirt with a big bold crown on it and
21 he's staying in Room 631, where this took place.

22 Officer Laskin then calls Metro, calls 911, and asks
23 them to respond to the hotel. In the meantime, while Metro is
24 responding, other security officers go up to the room, 631,
25 where the defendant and his friends are staying. And they are

1 given instructions just to wait outside the door and make sure
2 nobody leaves.

3 But while they're out there, two individuals leave
4 the hotel room. So they apprehend them and pull them off to
5 the side. But they begin to think, well, the people inside
6 might have heard what just went on, so it's better to be safe
7 than sorry, we're just going to go in.

8 So they enter the room and they find the defendant
9 and the rest of the occupants inside the room as well. They
10 take all of them down to the security holding room to kind of
11 get a grasp of how many there are and what everybody's saying
12 happened. Well, they do that by way of the elevator.

13 And security officers, you'll hear from multiple
14 security officers that were working at the Circus Circus in
15 those morning hours, and they'll tell you that they had
16 contact with these men and they had contact with the
17 defendant. They did not seem drunk. They were able to walk.
18 They were able to talk. They weren't having difficulty with
19 any of those things.

20 Now, it becomes readily apparent to the security
21 officers that the defendant and the other people inside of his
22 room speak Arabic. They're not speaking English to one
23 another. And the security tells them, Hey, no more talking,
24 do not speak to each other at all, no more talking. So they
25 agree. They agree except the defendant.

1 The defendant repeatedly, especially in the elevator,
2 repeatedly attempts to speak to the other man very rushed,
3 dih-dih, dih-dih, dah, keeps speaking, speaking, speaking.
4 The security officer tells him, No more talking. Keeps going,
5 keeps going, and the other men are nodding at what the
6 defendant is saying.

7 While the security officers are dealing with the
8 defendant and the other occupants of that room in the security
9 office, AJ is taken to the hospital. He's taken to University
10 Medical Center. And at University Medical Center he meets
11 with members -- detectives of the Las Vegas Metropolitan
12 Police Department, and he tells them about the sexual assault.

13 And AJ will tell you that he was not honest about how
14 he got into that room. He was dishonest about saying he
15 willingly went in there. He told them that the defendant
16 grabbed him and took him into the room forcefully. And he'll
17 tell you that he did that because he was scared. Again, he
18 was embarrassed and he did not want to get in trouble.

19 He didn't want his mom and his grandma and the police
20 to know that he had been smoking marijuana and that he
21 willingly went into that room to buy marijuana. And so
22 instead of saying I went in there willingly, he said that the
23 defendant forced him into the room.

24 You'll also hear from an individual by the name of
25 Jeri Dermanelian, and she is what is called a sexual assault

1 nurse examiner. And when someone is sexually assaulted, if
2 they report it, most of the times they go to the hospital and
3 they have what's called a sexual assault nurse examination.
4 It's a type of examination that's conducted on victims of
5 sexual assault. And in this case it's no different.

6 AJ was taken, like I said, to University Medical
7 Center, and this examination was done by him -- by
8 Ms. Dermanelian. And she'll talk a little bit about AJ's
9 demeanor when he was at the hospital, and she'll tell you that
10 he's young, he's shy, he's very timid and immature, he's very
11 embarrassed. His face would often become flushed red during
12 her questions and he would get teary-eyed. He was emotional
13 during certain parts of her examination.

14 She also will tell you that he complained of pain in
15 the back of his throat and pain in his anus. AJ -- as part of
16 the examination, the nurse asks for details of what happened,
17 where it happened, how it happened, so that can help guide her
18 in the type of examination that she needs to do. Another part
19 of it is taking swabs for DNA testing.

20 So if AJ were to say he kissed or licked my right
21 ear, the nurse would then take a swab of his ear to submit it
22 later for DNA testing down the line. And so listening to what
23 AJ told her, she then took swabs for DNA testing in the
24 following areas; AJ's testicles, his penis, his left ear, left
25 area of his chest, his rectum, his anus, his mouth and his

1 hands. His clothes, specifically his boxers are also taken
2 for testing as well.

3 Ms. Dermanelian will tell you that during her
4 examination she noted multiple, multiple injuries to AJ's
5 anus. She noted [inaudible], contusions, swelling and a blood
6 clot. And when she's looking at the anus, it's obviously
7 circular, and she documents those as if it's a clock. So
8 12:00, 1:00, 2:00, 3:00, and that's how she documents them in
9 her paperwork.

10 So at the 11:00 o'clock position she noted a blood
11 clot, 12:00 o'clock laceration, 12:30 laceration, 1:00 o'clock
12 laceration, 2:00 o'clock laceration, 4:00 o'clock contusion,
13 5:00 and 5:30 laceration, 6:00 o'clock laceration and
14 swelling, and at 7:00 o'clock two lacerations.

15 She also documented these by photography. And she
16 will explain to you that she often uses a blue dye solution,
17 which makes it easier to see by the naked eye the lacerations
18 and the swelling. And that's what you're seeing in the left,
19 the left picture here. And what was of particular concern,
20 and you'll see this more when she's testifying, and I can blow
21 the pictures up, was this laceration right here at the 12:00
22 o'clock position, this tear.

23 She also noted bruising in the back of AJ's throat
24 where he was complaining about the pain. She also notated
25 that there was a bruise or a mark on AJ's bottom where the

1 defendant had slapped him and punched him while he was
2 sodomizing him. She notated in her findings that the victim,
3 AJ, had multiple perianal lacerations consistent with blunt
4 force trauma, and he had multiple contusions, ecchymosis,
5 swelling, edema consistent with blunt force trauma.

6 While AJ was getting his examination done at
7 University Medical Center, a crime scene analyst was called to
8 respond to the Circus Circus to analyze Room 631. So
9 detectives called a crime scene analyst, and you'll hear from
10 this woman. She's a CSA, crime scene analyst, by the name of
11 Kelly Tucker.

12 A search warrant is executed on the room, on
13 Room 631. And there is detailed -- there is certain details
14 at this point from the assault. And so they take those
15 details when they do a search warrant to see if they can get
16 any of the evidence, so they can corroborate what victims or
17 witnesses are saying. So in here they were looking in the
18 bathroom area and they were looking for things such as like
19 the little lotion or shampoo.

20 And as soon as Ms. Tucker arrived in the bathroom,
21 right on the counter there were some towels and washcloths
22 kind of in a disarray, and she found an open shampoo bottle
23 right on the counter that had been opened from this big
24 container, and then a little bit of the shampoo had fallen out
25 onto the counter.

1 She also made contact with the defendant and
2 documented what he was wearing and his body. I should have
3 blown his picture up a little bit bigger. Here is the red
4 shirt, and in other pictures you will see it's a red shirt
5 with a big gold crown on it.

6 The defendant and the other occupants from the room
7 are taken from the security section of Circus Circus and
8 they're transported down to the headquarters of the Las Vegas
9 Metropolitan Police Department. And there are six individuals
10 in total; the defendant, Mohammed Jafaari, Emad Alshehri, Adel
11 [phonetic] Alharbi, Saeed Alshahrani, and Rashed Alshehri.
12 These individuals, like I said, were taken down to the
13 headquarters.

14 And you will hear from Rashed Alshehri in this trial.
15 The State will call him as one of their witnesses, and this is
16 him right here. And Mr. Alshehri will tell you that he did
17 see AJ Dang in the hallway in those morning hours, that
18 7:30-8:00 o'clock time range. And she heard -- excuse me. He
19 heard AJ bring up marijuana or discuss marijuana.

20 He also remembers seeing AJ in their room briefly,
21 but AJ got kicked out because he said he was 13 and they
22 thought that was inappropriate for a 13-year-old to be in the
23 room, so they kicked him out. He'll tell you that he
24 remembered that when AJ got kicked out of the room the
25 defendant followed AJ out, they were gone for awhile, the

1 defendant and AJ then came back into the room and went into
2 the bathroom.

3 Rashed will tell you that he and his friend Mohammed
4 thought that that was odd, that the defendant would be in the
5 room, the bathroom with a 13-year-old, and they attempted to
6 get into the bathroom door, but it was locked. So they
7 repeatedly banged on the door, what's going on in there,
8 what's going on in there, let him out, what's going on in
9 there. No response.

10 We talked a little bit -- I talked a little bit
11 earlier about the swabs taken by Ms. Dermanelian during the
12 sexual assault nurse examination. Well, those were then taken
13 to the DNA lab and tested. And you'll hear from a DNA expert
14 in this case, Julie Marschner, who's a forensic scientist with
15 the police department.

16 And she will tell you that in regards to the swabs
17 from AJ's left ear, it was consistent with two individuals.
18 One of those individuals is the defendant, and he was the
19 major DNA profile found on AJ's left ear. They took swabs
20 from AJ's chest. It was consistent with two individuals. The
21 major DNA profile found on AJ's chest was consistent with the
22 defendant.

23 Swabs taken from AJ's right hand consistent with two
24 individuals. The defendant could not be excluded as a
25 possible individual from the DNA on AJ's right hand. Swabs

1 from AJ's testicles again, mixture of two individuals. The
2 major DNA profile from AJ's testicles consistent with the
3 defendant.

4 Swabs from AJ's penis, mixture of two individuals.
5 The major DNA profile is consistent with AJ. The defendant
6 could not be -- excuse me, could not be excluded as a
7 contributor. There was a stain in the crotch of AJ's boxers,
8 mixture of two individuals, major DNA profile consistent with
9 the defendant. Minor DNA profile consistent with AJ.

10 When the defendant was taken down to the
11 headquarters, he spoke with detectives. And you'll hear that
12 statement in its entirety a little bit further on next week.
13 In the beginning of that statement the defendant denies. He
14 denies anything with AJ. He says, "I didn't touch him. No,
15 he never came into my room. I didn't touch him. I swear to
16 God, I didn't touch him."

17 Then he's confronted with the fact that there is
18 video, that the child has gone to the hospital and had an
19 examination, has injuries consistent with sexual assault, and
20 his story starts to change. And it becomes, "I'll be honest
21 with you, I not just force the children to have sex with me.
22 I don't know, but when you drink and some fucking people come
23 at you, what are you going to do. I like to swing. He wanted
24 sex for money."

25 When asked if the defendant put his penis in AJ's

1 mouth the answer was yes, but that he wanted it, AJ wanted it
2 because he's crazy. The question, "Did you put your penis in
3 his butt? Answer, Well, just for a second. Maybe. Well,
4 maybe it slipped in. Yeah, maybe he wanted it. He was just
5 chilling out."

6 By the conclusion of this trial you will have seen
7 the video, you will have heard from the DNA expert, you will
8 have seen the injuries to the back of AJ's throat and to his
9 anus. You'll hear from AJ what happened to him. And if all
10 that isn't enough for you, you'll hear from the defendant in
11 his own words, on the morning of December 31, 2012, about what
12 he did to 13-year-old AJ Dang.

13 And because of that, at the end of this trial we're
14 going to ask you to find him guilty of burglary, first degree
15 kidnapping, sexually motivated coercion, lewdness with a minor
16 under 14 years of age, and sexual assault on a minor under 14
17 years of age. Thank you.

18 THE COURT: Mr. Chairez, sir, do you wish to present
19 at this time?

20 MR. CHAIREZ: I do, Your Honor.

21 DEFENSE'S OPENING STATEMENT

22 MR. CHAIREZ: There's two aspects to this case. One
23 is the believability of AJ Dang. The other is the
24 believability of the scientific evidence. And what the DNA
25 evidence will show is a bunch of glaring errors that exist in

1 the story of AJ Dang.

2 I mean, from Metro's own collection of the evidence,
3 you'll find out that when the police officers went into that
4 bathroom and they grabbed the shampoo or lotion bottle, they
5 put it into their evidence. They grabbed washcloths and
6 towels on the ground and put that into their evidence bag.

7 They grabbed pieces of toilet paper from the
8 wastebasket and put that into their evidence basket. They
9 grabbed a used condom and put it into their evidence basket.
10 And when they ultimately ran the tests on all of the items
11 that were found in the bathroom, nothing came back to AJ Dang
12 and nothing came back to my client, Mazen Alotaibi.

13 And more importantly, when the DNA evidence was run,
14 there was no DNA from Mazen inside of the boy's mouth, totally
15 dispelling his story as to how this could have happened.
16 There was no DNA evidence inside of the boy's rectum or on
17 site on the boy's buttocks. And so any of the particular
18 private parts that were mentioned, no DNA from Mazen on the
19 young boy.

20 And more critically, in terms of the young boy's DNA,
21 there's no DNA on Mazen's penis from AJ. There's no DNA on
22 Mazen's genital area from AJ. There's no DNA on any part of
23 Mazen's body from young AJ. So the story that you just heard
24 cannot be believed if you believe DNA evidence.

25 Okay. Now, more importantly, AJ has told multiple

1 stories, and the story that you just heard is now the fourth
2 story that AJ Dang has told about how this happened. Mazen
3 Alotaibi was arrested when AJ Dang approached the security
4 officers. And you'll see the security tape. You'll see AJ
5 walking around the hotel that morning at 7:40, just talking on
6 his cellphone, going along because, yes, he has plans to meet
7 Mary Candelario.

8 And he had met Mary Candelario, who was in the same
9 class as him there in Rosemead, California, and just by chance
10 they happened to be there at the -- I don't want to call it
11 playground, but Adventuredome or adventure area that young
12 people like to go to. And Mary and AJ and Mary's sister hung
13 out there that night until midnight of December the 30th.

14 So Mary had a curfew, she had to go back, and they
15 had an agreement that they were going to get together for
16 breakfast. So what the State tells you there, that is
17 correct. AJ went down at approximately 7:40 in the morning to
18 say -- and went to Mary's room, which I believe was 621, and
19 it's not really important. It was on the sixth floor, and
20 knocks on the door and Mary's sister says Mary's still
21 sleeping, you know, she doesn't want to have breakfast.

22 So we're going to disagree that Mary wanted to have
23 breakfast later on. She's still sleeping and she doesn't want
24 to have breakfast. So AJ takes off and roams the floor, roams
25 the hotel, walking around all by himself with the \$10 that his

1 grandmother has given him to go have breakfast with Mary that
2 particular morning.

3 And as he's leaving Mary's room, which is Room 621,
4 he runs into the Arab guys who have been out all night long
5 partying for New Year's, and he smells marijuana on some of
6 the guys that Mazen Alotaibi is with. Now, AJ recognizes the
7 smell of marijuana and he tells the detective, I've smelled it
8 before. And so he does, as Rashed will tell you, follow them
9 to Mazen's room.

10 Now, the DA correctly pointed out it's Room 631. But
11 in the complaint or the Information that was read earlier they
12 said Room 613. So we're going to ask the State to amend that
13 later on to correct -- the correct room, because we want to
14 present all of the correct evidence so you can make your
15 decision.

16 So at any rate, they all run the young boy off, and
17 he comes back 20 minutes later and he's saying that he wants
18 to get some money, he wants to be able to buy marijuana and he
19 also wants to buy a gift for his girlfriend, assuming that
20 Mary -- I'm assuming that Mary Candelario is the girlfriend to
21 which he refers. And so as Rashed will say, they tried to get
22 rid of him, but he wouldn't go.

23 So my client, Mazen, stupidly takes him down, they go
24 downstairs, and you see them get on the elevator. And there's
25 going to be a big dispute. You're going to hear evidence that

1 we're going to maintain Mazen arrived in Las Vegas around 2:00
2 o'clock, went with his friends to the Palms Casino, but there
3 was no dancing, but there was drinking.

4 And from there they say we want to go to a club. And
5 so a taxi driver takes them from the Palms Casino to the
6 Olympic Garden, where they stay until 6:30 in the morning and
7 then they head back to their hotel. And while they're at the
8 Olympic Garden and also starting earlier at the Palms Casino,
9 in one of the clubs there, Mazen starts drinking.

10 And he told Detective Pool, "I was drinking Hennessy.
11 How did you drink it? I drank it straight." No -- not on the
12 rocks, no mixture with water. Seven double shots of Hennessy,
13 and that's what Mazen had been drinking. And the other guys
14 had been drinking too.

15 And at any rate -- and so one of the issues will be
16 was Mazen drunk on the morning when all of this was going on.
17 And the reason that's important is because there's a
18 difference between what -- how do you commit lewdness with a
19 minor and how do you commit sexual assault with a minor.
20 Because one of the key buzz words that the judge will show you
21 later on --

22 MS. BLUTH: Judge, I'm going to object at this point.
23 This is an opening statement what the evidence will show.
24 There shouldn't be any legal argument or conclusion.

25 THE COURT: I agree. Ladies and gentlemen, disregard

1 the last statement, please. Counsel.

2 MR. CHAIREZ: We're going to show -- the evidence
3 will show Mazen Alotaibi was intoxicated. All right. And so
4 when you look down and you see Mazen Alotaibi reaching over,
5 there's no evidence that he touched the ear. There's no
6 evidence that he touched the neck in a sexual manner.

7 Okay. And the State, because AJ misled them, you
8 know, was so justifiably so concerned about trying to do the
9 right thing that they listened to AJ and the story that he was
10 going to tell, and AJ basically led them on a wild goose chase
11 for the last ten months.

12 Okay. So you're going to have to decide did AJ lie
13 because he was embarrassed, or did AJ lie because he was
14 trying to cover up the fact that he went to this room
15 voluntarily, he was willing to do anything in order to get
16 marijuana and in order to get the money.

17 So when AJ first talked to the detectives, he claimed
18 that he was dragged down the hallway. They grabbed me by the
19 coat and Mazen dragged him from the elevator all the way down
20 to Room 631. And 631, you'll find out, is about like the
21 second or third room from the end of the hallway, so that's a
22 long ways to be dragging somebody.

23 He'll tell you that he was carrying his money around
24 in a backpack. But when you look at the video, you're not
25 going to see any backpack. And on the second interview that

1 he gave to Detective Christensen she'll admit, AJ, we're
2 confused and we're just trying to help you. We want to get
3 the story straight. And so you put the money -- you say you
4 put the money in the backpack. AJ says, Yes.

5 And then of course there was an issue. We want to
6 find out about this Mary. Did you have breakfast with Mary or
7 did you not have breakfast with Mary? Because on December
8 the 31st, he says that when he left the room he went
9 downstairs. And you'll have to decide. If you look at that
10 video closely, the door is already open.

11 So you can infer that maybe he ran into the door
12 because he's running away from the room, but you can also
13 infer he's running into the door because he wants to make sure
14 he catches that elevator before it closes, just like we do
15 when we go out here to leave this floor and leave this
16 building.

17 So AJ goes down to the main floor, and at 9:04 his
18 mother calls him. But he doesn't tell his mother he's been
19 out there trying to buy marijuana. He doesn't tell his mother
20 that I've been going to a stranger's room to look for
21 marijuana. He doesn't tell his mother anything.

22 All right. And you'll see him walking along, and his
23 demeanor is no different at 9:04 than it was at 7:40, than it
24 was at 8:02, or all the other times prior to being with --
25 with Mazen. He acts the same. So you would think that if

1 really he was sexually assaulted he would have acted
2 differently. But he doesn't. And watch that video
3 surveillance.

4 So AJ will say that when he went into that room he
5 saw these guys smoking marijuana. He's adamant about that.
6 They're smoking marijuana. Now, AJ is telling a story to make
7 these guys look as terrible as possible, because when the
8 security officers and the police officers come there later on,
9 there's no ashtrays in the room.

10 And I don't know whether the room was a smoking room
11 or a non-smoking room, but there's no ashtrays in the room and
12 more importantly, there's no odor of marijuana. And why?
13 Because nobody was smoking marijuana. They were drinking
14 Hennessy. And when they come and search the room, what do
15 they find? They find the alcohol.

16 But the other thing they do find is they find a
17 bottle or a jar or two of medical marijuana that had been
18 purchased in California several days earlier, and for the life
19 of me, and I can't understand it, the police officers leave
20 the medical marijuana behind in the room when they're
21 gathering evidence for this entire case and they don't take
22 it.

23 And this leads to another point, because as we
24 mentioned, AJ led the police officers on a wild goose chase
25 because he wasn't totally honest with law enforcement that

1 morning. So Detective Christensen will call AJ a week later
2 and speak to him to say, "AJ, we want to understand something.
3 You told us a week ago on December the 31st that you didn't
4 report the crime right away because you were having breakfast
5 with your friend, Mary. Now, did you have breakfast with Mary
6 or did you not have breakfast with Mary?"

7 And AJ now says, "Well, I didn't have breakfast with
8 Mary. I was supposed to meet up with her. She was -- but no,
9 I didn't meet her." But on December the 31st, AJ will say,
10 "Well, what time is it?" He doesn't want to give the girl's
11 name. I don't know why, but he doesn't want to give the
12 girl's name, doesn't want to get her in trouble, and says,
13 "Oh, it's 10:00 o'clock, she's already left."

14 But the hotel records will show that Mary's family
15 didn't leave for two or three days thereafter. So either Mary
16 told them that I'm leaving today and I can't have breakfast
17 with you, or for whatever reason AJ is not telling the truth
18 about when Mary was leaving. But that's not necessarily a
19 critical point. The critical point is this is a different
20 version of the facts that AJ has given.

21 So AJ tells his story, and we don't have the
22 scientific evidence to back it up. Now, we will concede that
23 the DNA on the left ear is from Mazen Alotaibi. We will
24 concede that the DNA on the left neck is Mazen Alotaibi. And
25 the State has made two counts, lewdness with a minor because

1 of the saliva or DNA found on the left ear and the left neck.

2 We will concede that the DNA found on the right chest
3 of AJ Dang is from Mazen Alotaibi and from the right hand is
4 Mazen Alotaibi. But those spots in that DNA doesn't cover
5 what's essentially missing, you know, that's very critical to
6 find my client guilty.

7 And as I told you, our DNA expert will come in using
8 the evidence that the State will present and the evidence that
9 they gathered and show again, there's no DNA from Mazen
10 Alotaibi on or around the boy's buttocks area, on or in the
11 boy's anus. There's no DNA inside the boy's mouth from the
12 client.

13 And I think that there's a difference of facts,
14 because as I believe the prosecutor gave her opening
15 statement, she says that the oral sex took place first, before
16 the rectal sex, and yet that's like maybe the third version as
17 to which happened in which order. So I believe the main
18 stories that were given, AJ said, I was anally raped first and
19 then he made me and stuck it down my mouth.

20 Now, just think about it, is there's no bite marks on
21 Mazen's penis. There's no bruising or scratching anywhere on
22 Mazen's body. And at 3:00 o'clock in the afternoon, after
23 this interrogation that took place, they took pictures all
24 over Mazen's body, and nothing is found that shows scratching,
25 nothing is found that shows bruising, nothing is found that

1 shows any particular fight on anything that happened.

2 So and more importantly, when all is said and done,
3 the prosecutor is correct. After AJ reports his story, after
4 he's taken to security, 20 or 30 minutes goes by before the
5 security officers come back to Room 631. And who's sitting
6 there like a dumb idiot just drinking and pretending like
7 nothing happened? Mazen Alotaibi.

8 And at the end of the trial the judge will give you a
9 jury instruction about flight, and think about it. You know,
10 people, when they do things wrong, are going to take off. And
11 so the fact that he's sitting there as if nothing has happened
12 will help you understand what was his state of mind. And this
13 is a case about state of mind.

14 You know, the State needs to prove that there was a
15 specific intent, that any touching that Mazen may have done on
16 AJ's body --

17 MS. BLUTH: Judge, I'm going to object to the --
18 excuse me, Mr. Chairez. I'm going to make the same objection
19 as to what the State has to prove in regards to legal
20 conclusions.

21 MR. CHAIREZ: I disagree, Your Honor. I mean, the
22 evidence has to show that there was a specific --

23 THE COURT: Counsel, the objection is to presenting
24 the law at this time. Please just keep with what the --

25 MR. CHAIREZ: Well, they've read the Information, and

1 I'm just saying -- well, we'll just -- I'll make my point
2 about the intoxication.

3 THE COURT: Objection sustained, Counsel.

4 MR. CHAIREZ: So you need to sit there and decide is
5 this a young 13-year-old boy who's lying because he knew he
6 was in trouble and didn't want to get into more trouble? Is
7 this a 13-year-old boy who has \$10, and how can you buy
8 marijuana with \$10? I don't know what the prices are, but it
9 seems impossible that you can stand by a story to say I went
10 there to buy marijuana.

11 So back in January, when the story was first given,
12 this is the story that Mazen stood by, this is the story that
13 the State has had, this is the story and the facts that they
14 had to work with.

15 Also in terms of the confession, you're going to find
16 out that Mazen, as we mentioned, arrived in Las Vegas at 2:00
17 o'clock in the morning. He had come from California because
18 he was stationed at Lackland Air Force Base in San Antonio,
19 Texas, and he had just graduated from that semester, or they
20 had just finished that semester and he had a two-week leave.

21 So he and Mohammed Jafaari had a legitimate two-week
22 leave that they could go and do anything that they wanted. So
23 Mazen got conned into renting the car, so he pays for the car,
24 and Rashed, Mohammed and Mazen drive from San Antonio, Texas
25 to Los Angeles, California. And on December the 30th, the

1 other gentleman that you saw mentioned here that rented Room
2 631 said, Come to Vegas. Come here for New Year's. We'll
3 have fun, and that type of thing.

4 And Mazen is sitting there saying, I don't want to
5 come. But ultimately the friends, and Rashed will confirm
6 this, say, okay, let's go to Las Vegas for New Year's and
7 celebrate, we've heard all these great things about New Year's
8 Eve and New Year's in Las Vegas, Nevada.

9 So that's where they end up at 2:00 o'clock. They
10 end up going to the Palms. They end up going to the Olympic
11 Garden. They end up drinking. And only by chance, if this
12 had happened just 60 seconds later, that AJ was going down
13 sooner or Mazen and his friends were coming back differently,
14 we wouldn't be here today.

15 But it was the boy that chose to go to the room. It
16 was the boy that will tell you, When I looked at Mazen I saw
17 his eyes were really pink. Now, and we'll ask him, could you
18 tell whether or not he was drunk, could you tell whether or
19 not he was intoxicated. Because if a 13-year-old boy can tell
20 that Mazen was drunk, you're going to hear all of the security
21 officers say no, he wasn't drunk.

22 Okay. You're going to hear Detective Pool say no, he
23 wasn't drunk. Okay. But as the prosecutor mentioned, you're
24 going to look at that tape and you can listen and you can sit
25 there and say he seems really wasted, or no, he's just sober

1 but he's speaking with a Saudi accent.

2 And that's what Detective Pool testified to is, no,
3 he wasn't drunk. He sounds slurred, he sounds this way
4 because he's speaking with a Saudi accent. And so at any
5 rate, why is Detective Pool saying this? Because they're
6 trying to make their evidence fit into the story that the boy
7 has told them.

8 But just recently, you know, as the prosecutor
9 mentions, because the boy has now seen the surveillance video,
10 because the State has got him and had the opportunity to get
11 him ready for trial, they've confronted him with the facts and
12 now he's come clean to say, yes, I was misleading you before
13 but now I'm telling you the truth.

14 And so we believe when all of the evidence is in
15 after the State has the opportunity to present their evidence
16 and after we have the opportunity to cross-examine their
17 witnesses, after we present our scientific evidence, you're
18 going to see there is no way this was a sexual assault.

19 There is no way that Mazen Alotaibi, given the
20 absence of all the DNA evidence from AJ on him, that AJ's
21 story can stand water, and we're going to ask you to find the
22 defendant not guilty of sexual assault with a minor. We're
23 going to ask you to find him not guilty of all of the
24 lewdnesses, including the touching on the ear, the touching on
25 the neck, and I don't know where else they allege, but we're

1 going to ask you to find him not guilty of that.

2 We're going to ask you to find him not guilty of
3 kidnapping, because AJ has now changed his story from being
4 dragged down the hall, which was the original set of facts
5 that led up to this kidnapping. We're going to ask you to
6 find him not guilty of burglary, because they say Mazen
7 entered Circus Circus with the intent to commit sexual
8 assault. So in that sense, these are the facts that we intend
9 to prove, and if we don't prove them, we want you to find our
10 client guilty.

11 So we're not just hiding behind proof beyond a
12 reasonable doubt. We want the facts to affirmatively show
13 that our story is the story of what really happened that
14 particular morning and, after all is said and done, you
15 cannot, cannot find him guilty of any of the charges. Thank
16 you.

17 THE COURT: Thank you, Mr. Chairez.

18 All right. Ladies and gentlemen of the jury, it's
19 going to be a short day. Please come back at 1:00 o'clock on
20 Monday. At that time the State will start presenting its
21 case. Jason will give you the information that we talked
22 about before the break. He'll also give you the information
23 about parking.

24 Ladies and gentlemen of the jury, until I see you on
25 Monday, you are admonished not to converse amongst yourselves

1 or with anyone on any subject connected with the trial, or to
2 read, watch or listen to any report of or commentary on the
3 trial by any medium of information, including without
4 limitation television, newspaper, radio, Internet, and do not
5 form or express an opinion on this case until it's submitted
6 to you.

7 See you shortly. Thank -- or actually, see you
8 Monday. Have a wonderful weekend. You need to take your
9 stuff with you, because I do have criminal court in the
10 morning on Monday. Actually, the notepads, give them to
11 Jason, please, if that's what you're talking about. I'm
12 sorry. I gave you contradictory information. Listen to him.

13 (Jurors recessed at 2:32 p.m.)

14 THE COURT: Okay. The jury is out of the room. Is
15 there anything we need to address before Monday?

16 MS. BLUTH: Not on behalf of the State, Your Honor.

17 MR. CHAIREZ: Are we starting at 1:00, or 1:30?

18 THE COURT: 1:00 o'clock, sir.

19 MR. CHAIREZ: All right.

20 THE COURT: 1:00 to 5:00.

21 MR. CHAIREZ: Okay. See you then.

22 THE COURT: Thank you. Have a good weekend.

23 (Pause in proceeding.)

24 MR. CHAIREZ: Am I -- and maybe it's more for the
25 jail officers, but am I allowed to take more than one suit to

1 Mr. Alotaibi, or does he have to wear the same one all the
2 time? We've been changing the ties every day, but...

3 THE COURT: I don't know.

4 THE OFFICER: You can take him all that you can
5 afford.

6 MR. CHAIREZ: Okay.

7 THE COURT: There's your answer.

8 MR. CHAIREZ: That's all I need to know. Thank you.

9 (Court recessed for the evening at 2:34 p.m.)
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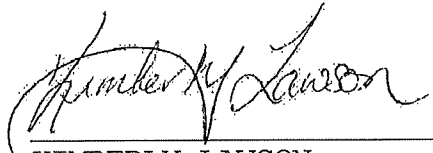
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I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

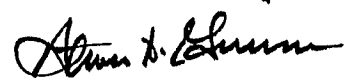
AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

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CLERK OF THE COURT

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

STATE OF NEVADA,)	CASE NO. C287173-1
)	DEPT NO. XXIII
Plaintiff,)	
vs.)	
)	
MAZEN ALOTAIBI,)	TRANSCRIPT OF
)	PROCEEDINGS
Defendant.)	
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BEFORE THE HONORABLE STEFANY MILEY, DISTRICT COURT JUDGE

JURY TRIAL - DAY 3

MONDAY, OCTOBER 14, 2013

APPEARANCES:

FOR THE STATE:	MARY KAY HOLTHUS, ESQ. Chief Deputy District Attorney JACQUELINE M. BLUTH, ESQ. Deputy District Attorney
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FOR THE DEFENDANT:	DON P. CHAIREZ, ESQ.
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Also Present:	Saad Musa, Interpreter Theresa Tordjman, Interpreter Habiha Al-Abed, Interpreter
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1 LAS VEGAS, NEVADA, MONDAY, OCTOBER 14, 2013, 1:23 P.M.

2 * * * * *

3 (Outside the presence of the jury.)

4 THE COURT: Hi, Ms. Juror. Do I have Number 13 over
5 there in the green? Come on up, ma'am. I don't want to make
6 you uncomfortable, but hi, how are you. I don't want to make
7 you uncomfortable. That's not the reason for bringing you in.
8 We didn't think you did anything improper as far as your oath
9 as a juror.

10 Jason brought it to my -- well, Jason told me that
11 you brought to his attention that when coming in to court
12 today you heard something on the news about this case.

13 JUROR NO. 13: Yes, ma'am. It was this morning on
14 the radio. I was at a stoplight and just happened to hear a
15 radio broadcast for this trial.

16 THE COURT: All right. And what exactly was said on
17 the radio broadcast?

18 JUROR NO. 13: All I heard was Circus Circus, and
19 that the boy is going to be here today.

20 THE COURT: Okay.

21 JUROR NO. 13: That was -- that was what was said.

22 THE COURT: So they didn't talk about any more
23 details of the case?

24 JUROR NO. 13: No, ma'am.

25 THE COURT: All right. Well, at the very beginning

1 of the case, especially when I gave you guys the admonishment,
2 I told you that the only thing you can consider when you go
3 back to the jury room is what's actually said and done in the
4 courtroom. If you happen to hear something outside the
5 courtroom, you can't consider that at all in your
6 deliberations. Do you think you can still do that at this
7 point?

8 JUROR NO. 13: Absolutely, yes.

9 THE COURT: All right. Is there anything else to add
10 by the counsel?

11 MS. BLUTH: Not on behalf of the State, Your Honor.

12 MR. CHAIREZ: Not on behalf of the defense, Your
13 Honor.

14 THE COURT: All right. And ma'am, I'm going to tell
15 you and the rest of the jurors when you come back in before we
16 leave for the day, I'm just going to have to strongly
17 encourage you guys, you're just really going to have to go
18 like this and like this [indicating] --

19 JUROR NO. 13: I did.

20 THE COURT: -- until the trial is over.

21 JUROR NO. 13: I don't even know what station it
22 was on. I just was like --

23 THE COURT: Okay. And that's exactly what you're
24 expected to do. We'll just remind the other jurors to do that
25 as well. If you could just go back out and I'm sure Jason has

1 you guys in a certain order. Thank you very much for your
2 time.

3 (Juror No. 13 exits the courtroom.)

4 THE COURT: No, that was Ms. Zoellick. Bring the
5 news back in, please. And I have three interpreters here
6 today, right? All of you were placed under oath last week,
7 correct?

8 (Affirmative response.)

9 THE COURT: All right. So remember you are still
10 under oath at this point. Thank you. Come on in.

11 All right. Welcome back. It looks like we have
12 several ladies and gentlemen from the different sources of
13 media. I wanted to go over a few ground rules with all of you
14 today. As far as I see the television cameras, there are
15 certain parameters you guys -- I know that you're pros at
16 this, but let's go over a few parameters.

17 Probably as in other cases, you cannot shoot any
18 footage of the jurors. In this particular case the victim is
19 a minor, so you will not be able to focus on the -- or you
20 will not be able to put the cameras on the face of the victim.

21 Okay. The other limitation there's going to be for
22 all media is obviously when the witness -- you're not to print
23 anything or publish anything that would identify the victim or
24 the names of the victim's family. All right. So when the
25 young man comes in to testify and obviously state his name for

1 the record, that portion is not to be disclosed in any way.
2 His identity is to be kept private.

3 Does anyone have any questions regarding these
4 parameters? Yes, sir.

5 UNKNOWN SPEAKER: I can shoot his chin and below,
6 correct, not his face? Or what's the --

7 MS. HOLTHUS: We would request if you could maybe
8 focus on the seal.

9 THE COURT: Yeah.

10 UNKNOWN SPEAKER: On the seal?

11 MS. BLUTH: No. We don't want any portion of the
12 victim's body video-taped at all.

13 UNKNOWN SPEAKER: Okay.

14 THE COURT: Yeah. And you know, I know that it's
15 been previously requested by different people from the media
16 as far as the charging document. My understanding is that the
17 information director for the courts has released that to the
18 individuals, or is going to release that to the individuals
19 that have requested it. However, obviously because the victim
20 in this case is a minor, the victim's name will be redacted
21 out of those documents.

22 Are there any other questions? And then the other
23 issue is during breaks the media is going to be asked to
24 please leave the courtroom.

25 All right. Then please bring the jury in.

1 (Jurors reconvene at 1:29 p.m.)

2 THE COURT: All right. Welcome, ladies and gentlemen
3 of the jury. You probably noticed that there are some cameras
4 in the courtroom. Please be advised that the cameras will not
5 be focusing on any of your faces, nor will they have any of
6 your names.

7 All right. It's real important, given the fact that
8 cameras are in the courtroom, I want to remind you guys of my
9 prior admonishment. This is a case really where you have to
10 put your blinders on. You have to make sure that you don't
11 learn anything about this case from anything other than what
12 you hear in the courtroom.

13 Okay. So my suggestion is, is maybe keep it off
14 local news. If anything starts to sound like news on the
15 radio, please switch to another station. Obviously don't do
16 any research on the Internet. And lastly and most
17 importantly, you cannot talk to any media about this case.

18 The only time you can possibly talk to media would be
19 after a jury has rendered a verdict and you have been
20 discharged as jurors. That is the only time you can talk to
21 anyone about this case. Remember, the only evidence you can
22 consider when you're deliberating is the evidence which you
23 hear within the four walls or the walls of this courtroom.

24 All right. Are you ready to begin? All right. If
25 the State would please call its first witness.

1 MS. BLUTH: Thank you, Your Honor. The State calls
2 AJ Dang.

3 (Pause in proceeding.)

4 THE COURT: Ms. Bluth, do you want to go check on
5 him?

6 THE MARSHAL: She'll swear you in.

7 THE CLERK: You do solemnly swear the testimony
8 you're about to give in this action shall be the truth, the
9 whole truth and nothing but the truth, so help you God?

10 THE WITNESS: [Inaudible response.]

11 THE COURT: Yes. All right, sir. You're going to
12 need to speak up a little bit louder, because everything's
13 being recorded in the courtroom. When you sit down, there
14 should be a microphone right in front of you. Make sure you
15 speak up so the microphone can catch -- or --

16 Whenever you're ready.

17 AJ DANG, STATE'S WITNESS, SWORN

18 MS. BLUTH: Thank you, Your Honor. Does he need to
19 spell and state his name for the record, Your Honor?

20 THE COURT: Yeah. AJ, can you please state and spell
21 your full name.

22 THE WITNESS: AJ Dang, A-J, D-a-n-g.

23 MS. BLUTH: And AJ, what does A and J stand for?

24 THE WITNESS: An Junior.

25 MS. BLUTH: And can you spell that, please?

1 THE WITNESS: A-n-j-r.

2 MS. BLUTH: May I proceed, Your Honor?

3 THE COURT: You may.

4 DIRECT EXAMINATION

5 BY MS. BLUTH:

6 Q Good afternoon. How old are you?

7 A I am 14 years old.

8 Q And when is your birthday?

9 A September 25, 1999.

10 THE COURT: Hold on, AJ.

11 Can you hear him okay, Maria?

12 THE COURT RECORDER: Yes.

13 THE COURT: Okay. You're fine. Why don't you scoot
14 a little bit closer, please.

15 THE WITNESS: [Complies.]

16 THE COURT: Okay. Please continue.

17 MS. BLUTH: Thank you.

18 BY MS. BLUTH:

19 Q And can you state your birthdate again, please.

20 A September 25, 1999.

21 Q And what grade are you in?

22 A Ninth grade.

23 Q What state do you live in?

24 A California.

25 Q Who do you live with?

1 A My mother.

2 Q Do you have any siblings?

3 A Two on my father's side and one on my -- two on
4 my mother's side.

5 Q And how old are your brothers and sisters?

6 A The one on my father's side is about five years
7 old to six, and my little sister is around four to five. And
8 then on my mother's side, my sister is either 11 or 12, and my
9 little brother's six months.

10 Q Six months?

11 A Yes.

12 Q Thank you. I'd like to turn your attention now
13 to December of 2012. During that time period, did you come to
14 Las Vegas?

15 A Yes.

16 Q Who did you come to Las Vegas with?

17 A My grandmother.

18 Q What's your grandma's name?

19 A Mai Le.

20 Q Was it just the two of you?

21 A Yes.

22 Q And just as a side note, how tall are you as you
23 stand here today?

24 A Around five-eight to five-seven.

25 Q How much do you weigh?

1 A Around 125.

2 Q And when you were here in December of 2012, do
3 you know how tall you were?

4 A Around five-three.

5 Q And how much did you weigh during that time
6 period?

7 A 108.

8 Q Now specifically I'd like to turn your attention
9 to December 30. When you guys came to Las Vegas, where were
10 you going to be staying at?

11 A Me and my grandmother were going to stay at
12 Circus Circus hotel.

13 Q And when you got to the Circus Circus hotel, did
14 you find out that someone you knew was staying there?

15 A Yes.

16 Q Who was it that you knew?

17 A Mary.

18 Q And where did you know Mary from?

19 A My old school that I used to go to in LA when I
20 lived with my father.

21 Q And was Mary a friend from school?

22 A Yes.

23 Q And who was Mary with?

24 A Mary was with her family and her cousins.

25 Q Was Mary staying at Circus Circus as well?

1 A Yes.

2 Q So on the night of December 30, did you hang out
3 with Mary and her family?

4 A Yes.

5 Q And if I showed you a video of you and Mary,
6 would you recognize the two of you?

7 A Yes.

8 MS. BLUTH: And Your Honor, pursuant to stipulation
9 by the parties, the video surveillance from Circus Circus
10 which is State's Proposed Exhibit 16, is going to be admitted
11 into evidence.

12 THE COURT: All right. Is that correct, Mr. Chairez?

13 MR. CHAIREZ: It is, Your Honor.

14 THE COURT: All right.

15 MS. BLUTH: And I'd ask permission to publish at this
16 time.

17 THE COURT: They'll be admitted, and you may publish.

18 (State's Exhibit 116 admitted.)

19 MS. BLUTH: Now, AJ, there should be a monitor, it
20 should be on in front of you. Just if you could look at that
21 monitor while I'm asking you questions, you should be able to
22 see what I'm looking at. Okay.

23 BY MS. BLUTH:

24 Q Is your monitor on in front of you?

25 A Yes.

1 Q And can you see yourself and Mary?

2 A Yes.

3 Q All right. The monitor in front of you
4 actually, if you mark on it, it will actually come up on the
5 television. So can you point to where Mary is, please.

6 A [Complies.]

7 Q And can you point to yourself?

8 A [Complies.]

9 Q That's you in the white hat?

10 A Yes. Gray.

11 Q So on the night of the 30th, you were hanging
12 out, like you said, with Mary and her family; is that correct?

13 A Yes.

14 Q Now, did you make plans to meet with Mary the
15 following morning, which would be December 31?

16 A Yeah. Yes.

17 Q And what were those plans?

18 A That we were -- I was going to hang out with her
19 to say bye before she left that day, the next day.

20 Q And so were you to go and meet her in the
21 morning?

22 A Yes.

23 Q Did you know what floor that Mary was staying
24 at?

25 A The sixth floor.

1 Q So after you part with Mary and her family that
2 evening, do you go back to your hotel room?

3 A Yes.

4 Q And what floor were you staying on?

5 A I think the ninth floor.

6 Q And it was just you and your grandma in the
7 room?

8 A Yes.

9 Q Now I'd like to go into the following morning,
10 which would be December 31.

11 A Yes.

12 Q What time did you wake up in the morning?

13 A Around 6:30 to 7:00.

14 Q And what time did you go to get Mary?

15 A Around 7:00 to 7:30.

16 Q When you went from your ninth floor to the sixth
17 floor, did you take the elevator or the stairs?

18 A Elevator.

19 Q When you got to the sixth floor to Mary's room,
20 did you make contact with Mary?

21 A No. I made contact with her sister.

22 Q And was Mary awake?

23 A No.

24 Q So because Mary wasn't awake, what did you do?

25 A I went down to the promenade and walked around

1 to waste time, to wait.

2 Q When you said to waste time to wait, did you
3 have plans to go back and see Mary?

4 A Yes.

5 Q Okay. And were you told a certain amount of
6 time with which to go back?

7 A Around like 20 minutes.

8 Q So whoever you spoke with from Mary's family
9 told you to come back in about 20 minutes?

10 A Yes.

11 Q And so what did you do in order to waste that
12 time?

13 A Walk around the bottom floor.

14 Q After you walked around -- when you say the
15 bottom floor, you're talking about the ground floor of the
16 Circus Circus?

17 A Yes.

18 Q After you walked around for awhile, where did
19 you go?

20 A First I went to the McDonald's. Like I went
21 around to go see if the McDonald's was open, and then I left
22 and I went back up to see if she was awake.

23 Q When you went back up, did you go back to the
24 sixth floor?

25 A Yes.

1 Q And did you go right to her room or did you go
2 somewhere else?

3 A I went -- I was going there, but then I just
4 sat -- went to go sit on the couch that was in front of the --
5 the elevator.

6 Q On the couch that was in front of the elevator?

7 A Yes.

8 Q And how long about do you think you sat on the
9 couch for?

10 A For like 10 to 15 minutes. I don't remember.

11 Q While you were sitting on the couch outside of
12 the sixth floor elevator, did you make contact with someone?

13 A Yes.

14 Q Do you see that person in the courtroom today?

15 A Yes.

16 Q Can you point to that person and describe an
17 article of clothing that he's wearing?

18 A [Indicating.] The one with the suit and the
19 curly hair.

20 MS. BLUTH: Your Honor, may the record reflect that
21 he has identified the defendant?

22 THE COURT: It will.

23 BY MS. BLUTH:

24 Q How did that contact begin?

25 A As soon as like -- while I was sitting there, an

1 elevator came up and like he got out and he was talking to
2 someone, and then when he got out he talked to me and we
3 talked for a little bit.

4 Q What did he say to you when he got out of the
5 elevator?

6 A I don't -- specifically don't remember.

7 Q And then you said you guys started talking --

8 A Yes.

9 Q -- to each other?

10 A Yes.

11 Q And what were you talking about?

12 A As he left, I followed him and then I asked him
13 if he had marijuana.

14 Q Why did you ask the defendant if he had
15 marijuana?

16 A Because when he passed by I saw he had pink eyes
17 and he smelled like it.

18 Q He smelled like marijuana?

19 A Yes.

20 Q And you said that you followed him and asked him
21 that question. Where did you follow him to?

22 A To the hallway.

23 Q And when you had that conversation with him, you
24 asked him if he had marijuana, what did he say?

25 A He said yes.

1 Q So where did you guys go from the hallway?

2 A I followed him down back to his room.

3 Q And what happened when you guys got to the room?

4 A I guess he was talking to another person in the
5 room. I didn't understand what they were saying. So then
6 like he told me to go down with him to the area, the ground
7 area.

8 Q Let me ask you a few questions. When you said
9 you didn't understand what they were saying to each other,
10 were they speaking a different language?

11 A Yes.

12 Q At any point in time when you're up in the room,
13 is there a conversation about how old you are?

14 A Yes.

15 Q How old do you say you are?

16 A Thirteen.

17 Q And you were --

18 MR. CHAIREZ: Your Honor, I'm going to object,
19 because this calls for speculation. He just said he didn't
20 understand the language that they were speaking, so how would
21 he know if they're talking about his age?

22 THE COURT: Re-ask the question, please.

23 BY MS. BLUTH:

24 Q You had spoken to the defendant before in
25 English, correct?

1 A Yes.

2 Q And he responded to you in English?

3 A Yes.

4 Q And at some point when you got into the room, he
5 and his friends are speaking a different language?

6 A Yes.

7 Q But while you're in the room, does someone ask
8 your age in English?

9 A Yes.

10 Q And do you tell them again, in English, that
11 you're 13 years old?

12 A Yes.

13 Q And once they find out you're 13, what happens?

14 A I stand there for a bit and then the man tells
15 me to go with him down to -- down the elevator to go outside.

16 Q When you say the man, are you talking about the
17 defendant?

18 A Yes.

19 Q When you and the defendant leave the room and
20 you're headed towards the elevator, does the defendant say or
21 do anything that makes you feel a little uncomfortable?

22 A He starts talking about sexual stuff as we were
23 walking to the elevator.

24 Q I know that this is hard to talk about, but if
25 you could just speak up just a little bit so it's being picked

1 up on the microphone, okay?

2 A Okay.

3 Q He started talking about sexual things?

4 A Yes.

5 Q When he -- when he was -- this is on the way to
6 the elevator?

7 A Yes.

8 Q And what types of sexual things was he saying?

9 A He was just like saying -- like he started
10 talking about like how do you say, like I can't -- I -- he was
11 saying like he'll -- he -- well, he wasn't like saying it, but
12 he was like showing it.

13 Q Was he making advances towards you?

14 A Yes.

15 Q When you get into the elevator, does he continue
16 this type of behavior?

17 A Yes.

18 Q And what happens inside the elevator?

19 A He -- I was in the corner and then he started to
20 move onto me, and then he started to like kiss around my neck.

21 Q And when he -- you said he moved onto you and
22 was kissing your neck. Can you show me where it was that he
23 was kissing you?

24 A [Indicating.]

25 MS. BLUTH: And Your Honor, if the record can reflect

1 that the victim is pointing to his upper left neck underneath
2 his ear.

3 THE COURT: Yes.

4 BY MS. BLUTH:

5 Q And what's going through your mind when this is
6 going on in the elevator?

7 A It was just like -- it was like I was in an
8 awkward position and like I didn't know what to do, but I -- I
9 wasn't really thinking about what was going to happen. And
10 like I knew something bad was going to happen at the end, but
11 like I just kept on going.

12 Q Where did you guys go after you left the
13 elevator?

14 A We walked down the hallway and went to an alley.

15 Q I'm sorry. Out to a where?

16 A An alley.

17 Q And what happened when you and the defendant got
18 out to the elevator -- excuse me, out to the alley from the
19 elevator?

20 A We walked outside, and he had like a little
21 cigarette pipe, I think it was, and he asked a man like for a
22 lighter that walked by. And then we smoked two hits, and then
23 he did two, and then he started advance onto me again.

24 Q When you said he -- when you say he started to
25 advance on you again, explain to me what he was doing.

1 A He started touching me around my body and
2 started kissing me.

3 Q When he was kissing you, where was he kissing?

4 A Around my face.

5 Q And what were you doing when he was doing those
6 things to you?

7 A Just like trying to back off, like stepping
8 away, like trying to say no and stop.

9 Q When you would step away from him, what would he
10 do?

11 A Like try and bring me back closer.

12 Q After the alley what happened?

13 A We walked right back to the elevator, and on the
14 way up the elevator he started saying that he'll have like --
15 he'll basically like he'll -- he wants to have sex, and like
16 when we got to the like room, he started telling me he'll have
17 sex for money, he wanted sex for money and weed. And I was
18 like -- I said yes, but like not to like actually do it, but
19 just to trick him, but --

20 Q You've already stated you wanted marijuana,
21 correct?

22 A Yes.

23 Q And so when you went from the alley up to the
24 room, why did you do that?

25 A To buy marijuana.

1 Q To buy marijuana?

2 A Yes.

3 Q Okay.

4 THE COURT: Sir, I couldn't hear what you said.

5 THE WITNESS: To buy marijuana.

6 THE COURT: Okay.

7 BY MS. BLUTH:

8 Q If you could just speak up a little bit louder,
9 okay?

10 A Okay.

11 Q So you're stating that on the way up in the
12 elevator, the defendant offered you money and weed for sex?

13 A Yes.

14 Q And what did you say to that?

15 A Yes.

16 Q Did you plan on doing anything sexual with him?

17 A No.

18 Q Well, then what was your plan?

19 A To -- first it was to buy marijuana from -- with
20 money which I -- which I did have, like 'cause I barely
21 remember that, but I -- I used it the night before for the
22 Adventuredome. I used the \$20 my grandma told me to save.

23 Q Okay. So your first plan, you're stating, was
24 to buy marijuana?

25 A Yes.

1 Q And then what was your other plan?

2 A To see if he gives me it and then run.

3 Q So if the defendant were going to give you the
4 marijuana first, you were going to take it and run?

5 A Yeah.

6 Q When you got to the room, was it the same room
7 as before?

8 A Yes.

9 Q That's on the sixth floor?

10 A Yes.

11 Q Do you remember what room that was?

12 A No.

13 Q When you get to the room, are there other people
14 in the room?

15 A Yes.

16 Q When you get there, where do you guys go?

17 A He tells me to step into the bathroom, and then
18 he closed the door and started talking to other people.

19 Q So you were in the bathroom alone by yourself?

20 A Yes.

21 Q And he was outside?

22 A Yes.

23 Q Does he ever come back into the bathroom?

24 A Yes.

25 Q And then what happens when he gets into the

1 bathroom?

2 A He pulls out his marijuana and puts it on the
3 counter. And then he starts talking to me, and then he's
4 saying that he'll give me money, he starts saying that he'll
5 take care of me, and then he's talking about he's just like
6 saying that he'll have sex for money.

7 And I was like -- then it started getting even weird,
8 so I was like in an awkward position. Like I wanted to leave
9 and like forget about everything. And then I kept -- then he
10 started trying to touch me again. And then he started
11 touching me, and I'm just like trying to back off away from
12 him. And then he starts to touch me even more, and then he
13 started kissing me.

14 Q Okay.

15 A And then I'm just like, no, I don't want it no
16 more, can I just go, just like trying to leave the bathroom.
17 And then he starts trying to take off my clothes, and like he
18 got my shirt off and like started touching me again. And then
19 he like pulled down my pants and like he took off his clothes,
20 and then he just like made me like bend over and he made me --
21 he put his penis in my mouth.

22 Q Now, you said when he came into the bathroom he
23 started touching you. Where was it that he was touching you?

24 A Around my body.

25 Q On your body?

1 A Yes.

2 Q Over your clothes or under your clothes?

3 A First it was over my clothes.

4 Q You said he was kissing you. Where was he
5 kissing you?

6 A Around my -- he kissed me right here and then he
7 started kissing me up here [indicating] --

8 Q First --

9 A -- around the face.

10 Q -- when you said right here, you pointed to the
11 middle part of your chest?

12 A Right here [indicating].

13 Q The left part of your chest?

14 A Yeah.

15 MS. BLUTH: The record may reflect, Your Honor, that
16 he's pointing to the left upper part of his chest?

17 THE COURT: Yes.

18 BY MS. BLUTH:

19 Q And then where else did he kiss you?

20 A Around my face.

21 Q You stated that, you know, you told him, no, I
22 don't want to do it anymore and stop?

23 A Yes.

24 Q What was his response when you were telling him
25 no and stop?

1 A Then he tried to double up the money.

2 Q How much money was he offering you?

3 A The first time?

4 Q At first.

5 A The first time was 150.

6 Q And then you said no, you didn't want it anymore
7 and he upped it. What did he up it to?

8 A I don't remember that one. But I remember he
9 tried to give me more money.

10 Q Did you ever feel like you could leave through
11 the door at this point?

12 A No.

13 Q And why didn't you feel like you could leave?

14 A Because like he was kind of like blocking the
15 door between me and him. Because like the bathroom is like
16 there's the door, there's him, and then there's me by the
17 toilet. So if I might have moved, he might have like just
18 tried to block me. So I was like I didn't want to get -- I
19 felt like I was trapped in the corner.

20 Q So he was between you and the door?

21 A Yes.

22 Q When you stated that the defendant made you --
23 or he put his penis in your mouth, he made you do that, what
24 did he do that made you do that?

25 A He like moved my head towards like his private

1 area.

2 Q When he moved your head, what did he use to move
3 your head?

4 A His hands.

5 Q When he put his penis in your mouth, what
6 happened then?

7 A He -- it hurt like -- it hurt my throat. Like
8 he put it -- like he just like kept on going like -- and then
9 I pulled it -- like I just like yanked out away and like
10 said -- I was just like creeped out. I wanted to leave, but I
11 didn't know what to do.

12 Q So when you pulled away, what happened?

13 A He just like -- he like tried to get me and then
14 told me go -- like put me on the ground on my belly.

15 Q How did he put you on the ground?

16 A He just like -- like pushed me to the ground.

17 Q So you were on the ground on your belly, your
18 belly was touching the floor?

19 A Yes.

20 Q What happened after that?

21 A He got this green bottle. I don't know what it
22 was, but like it was green, and then he put it on his penis
23 and then he put it on my -- my butt.

24 Q After he put the substance from the green
25 container on his penis and on your butt -- when you're talking

1 about your butt, are you talking about your hole?

2 A Yes.

3 Q What did he do after that?

4 A He like put it, his penis in my butt.

5 Q What did that feel like?

6 A Painful. Very painful.

7 Q And what happened -- what happened during that?

8 Are you saying anything? Is he saying anything?

9 A He's just saying it -- before he put it in he's
10 like, "It's not going to hurt, but try to stay calm. It's not
11 going to hurt." And then it was like I was -- right when he
12 put it in I was just like, it was like really hurting. Like I
13 screeched, but it was without sound. Like it was a screech
14 without sound.

15 Q Explain that to me. What do you mean by that?

16 A Like it was like ahh. It was like you get hit
17 and then you don't want to say -- make a loud noise, so it's
18 like [indicating]. So it's like really painful, but like you
19 don't want to say anything.

20 Q Okay. And how many times do you think his penis
21 is going in and out?

22 A Twice.

23 Q What happened after that?

24 A I finally pushed him away and like got my
25 clothes, pushed -- I pulled up my pants where which they were

1 at my ankles, and I pulled them up quick and then got my
2 shirt, slid it on and ran out.

3 Q Where did you run to?

4 A The elevator.

5 Q And when you got to the elevator, where did you
6 take the elevator to?

7 A To the lobby.

8 Q And when you got down to the lobby, did you ever
9 receive a phone call?

10 A Yes.

11 Q Who was that phone call from?

12 A My mother.

13 Q Did you tell your mom what had happened?

14 A No.

15 Q Why not?

16 A Because I was scared that she was going to worry
17 a lot, and like I didn't want her to worry like -- like real
18 badly, and like she's going to like call everybody I wouldn't
19 want to be alarmed.

20 Q Were you -- were you embarrassed?

21 A Yes.

22 Q Were you ashamed?

23 A Yes.

24 Q Did you want your mom to know you were trying to
25 get marijuana?

1 A No.

2 Q After you speak with your mom, what happens
3 next?

4 A I was like -- I went past the security booth
5 thinking like, oh, my God, did this really happen. I was like
6 scared. I didn't know what to do. And then like I thought of
7 like get then some -- like I didn't want an STD, so I was like
8 I was scared. I didn't know what to do. So the first thing,
9 I went up to the security booth and I told him everything.

10 Q So you thought maybe you were scared you might
11 have a disease?

12 A Yes.

13 Q So you decided to tell security?

14 A Yes.

15 Q Now, is security on that ground floor?

16 A Yes.

17 Q And when you tell security, what did you tell
18 them?

19 A I told him that I was -- I had been raped. I
20 told him that I asked for marijuana, and like he like started
21 talking to me and I told him, and then we -- he called other
22 people. I don't know who he called, but people showed up and
23 we -- I told him everything, and then he told me to go tell
24 someone else, like another person, like a detective, I think.

25 He told me to speak to them. And I -- because my

1 grandma was there that time, so when I told him, I told him a
2 different story, because I didn't want my grandma to know. So
3 I lied to like -- I didn't want my grandma to worry. And then
4 when we went to the hospital, I told the nurse most same thing
5 I told the security officer. I told them everything. And
6 then now today I have to tell the whole truth, so I am.

7 Q Okay. Let me ask you a few questions. So when
8 you told security initially, when you go downstairs and you
9 talked to security, you told them that you had approached the
10 man because you wanted marijuana?

11 A Yes.

12 Q And did you tell them that you went with the man
13 willingly in his hotel room?

14 A Yes.

15 Q And then at some point you're taken to the
16 hospital to have an exam; is that right?

17 A Yes.

18 Q And there you speak with detectives from the Las
19 Vegas Metropolitan Police Department?

20 A Yes.

21 Q When you speak with them, what do you
22 specifically lie about? What do you tell them?

23 A I told them that he pulled me in, and like I
24 told him I never smoked marijuana, and I just -- I was really
25 scared, and so I made up this part of a story just to not get

1 in trouble by my parents or my grandmother.

2 Q So you told them that the detective [sic]
3 physically grabbed you and threw you in the room?

4 A Yes.

5 Q And at that point your grandma --

6 A Was worried.

7 Q -- was around, correct?

8 A Yes.

9 Q And then during your examination with the nurse,
10 you gave her the details as well, correct?

11 A Yes.

12 Q And she asked very specific questions about
13 where you were touched, et cetera?

14 A Yes.

15 Q If you were to see a picture of that green
16 bottle that you were referencing in the bathroom that the
17 defendant used to place on his penis and inside your anus,
18 would you recognize that bottle?

19 A Yes.

20 MS. BLUTH: May I approach, Your Honor?

21 THE COURT: You may.

22 BY MS. BLUTH:

23 Q I'm showing you what's been marked for purposes
24 of identification as State's Proposed Exhibit 113. Do you
25 recognize that photo?

1 A Yes.

2 Q Do you recognize what's being depicted in that?

3 A Yes.

4 Q What's that?

5 A A Fructis shampoo.

6 Q Is that the bottle that the defendant used that
7 day?

8 A Yes.

9 Q And is that a fair and accurate description of
10 that body [sic]?

11 A Yes.

12 MS. BLUTH: Your Honor, at this time I'd move to
13 admit into State's -- or excuse me, into evidence State's
14 Proposed 113.

15 THE COURT: Any objections?

16 MR. CHAIREZ: I haven't seen it yet, Your Honor.

17 (Pause in proceeding.)

18 MR. CHAIREZ: No objection.

19 THE COURT: All right. Admitted. You can publish to
20 the jury.

21 (State's Exhibit 113 admitted.)

22 MS. BLUTH: The Court's indulgence, Your Honor.

23 BY MS. BLUTH:

24 Q Just as a point in clarification, when we were
25 discussing where the defendant licked your chest when you were

1 in the room, can you show me again where that was?

2 A Right here [indicating].

3 Q Okay. Your upper left chest?

4 A Yes.

5 Q Okay. Thank you.

6 MS. BLUTH: And Your Honor, may I have permission to
7 publish?

8 THE COURT: You may.

9 MS. BLUTH: Did you already give it to me?

10 THE COURT: Yes, I did.

11 MS. BLUTH: Thank you.

12 BY MS. BLUTH:

13 Q Is that the green bottle, AJ?

14 A Yes.

15 Q You approached the defendant that day because
16 you wanted marijuana, correct?

17 A Yes.

18 Q Did you want any of those things to happen to
19 you inside that bathroom?

20 A No.

21 Q Did you want to perform oral sex on the
22 defendant?

23 A No.

24 Q Did you want the defendant to place his penis in
25 your rectum?

1 A No.

2 MS. BLUTH: I'll pass the witness, Your Honor.

3 THE COURT: Cross, Mr. Chairez.

4 MR. CHAIREZ: Yes, Your Honor.

5 THE COURT: Do you want to take that off the
6 overhead, sir?

7 MR. CHAIREZ: Pardon?

8 THE COURT: The photograph.

9 MR. CHAIREZ: Oh.

10 CROSS-EXAMINATION

11 BY MR. CHAIREZ:

12 Q AJ, you and I have never spoken before, have we?

13 A Yes.

14 Q Yes, we haven't spoken, or yes, we spoke before?

15 A Yes, we haven't spoken.

16 Q Okay. And how many times have you spoken with
17 the DA about this case to get ready for today's testimony?

18 A Around -- around four times, I think.

19 Q Around four times. And how many times in the
20 last 30 days have you spoken to the DAs to get ready for
21 today's testimony?

22 A Three times, I think.

23 Q Three times?

24 A Yes.

25 Q Okay. And did they tell you -- at what point

1 did you tell them the testimony or the statements I originally
2 gave to the police were not true?

3 A Today.

4 Q Today?

5 A No. Actually, Wednesday.

6 Q When?

7 A Wednesday.

8 Q Wednesday. Okay. And so when they told -- when
9 you told them that what you had previously said for the last
10 eight or nine months -- did they sit down and show you the
11 videos of -- the Circus Circus surveillance video to say your
12 story can't be true if this video is correct?

13 A Yes.

14 Q Okay. So they had an opportunity to show you
15 all the Circus Circus surveillance video. And did they show
16 you anything else?

17 A No.

18 Q Okay. And so you told them the story that you
19 had spent the day before, December 30, with Mary from school
20 to, I guess, ride the roller coaster or whatever they have
21 there at Circus Circus?

22 A Yes.

23 Q Okay. And how late did you stay out with Mary
24 that night before you guys came back?

25 A Between 11:00 to 12:00.

1 Q All right. And was Mary supposed to be in
2 earlier that night, or did you guys call and get permission
3 for her to stay out later?

4 A She was supposed to be home, but then we stayed
5 out longer.

6 Q Did you call her mother or did she call her
7 mother to get permission to stay out later?

8 A She was hanging -- I think she was staying with
9 her cousin when we went to -- her oldest cousin when we walked
10 around.

11 Q All right. Now, and was it just you and Mary,
12 or was it Mary and her sister and you that were there at
13 Circus Circus having a good time?

14 A It was me, Mary, I think it was her cousin or
15 her sister, and her older cousin which was a male.

16 Q So all four of you guys played together?

17 A Yes.

18 Q And in the morning when you were supposed to
19 meet her for breakfast, where were you guys supposed to have
20 breakfast?

21 A I was going to ask her if she wanted to go
22 Krispy Kreme.

23 Q To Krispy Kreme?

24 A Yes.

25 Q All right. And is there a reason you wanted to

1 go to Krispy Kreme?

2 A No. I thought it was just like the closest
3 place.

4 Q And when you went to Mary's room, I believe you
5 testified, because it's hard to hear you, AJ, because you're
6 not talking very loud, you said Mary said -- Mary or her
7 sister said that -- for you to come back?

8 A Yes.

9 Q And it was your understanding that you and Mary
10 were going to have breakfast that day, correct?

11 A Yes.

12 Q And -- correct?

13 A Yes.

14 Q And it was also your understanding that Mary was
15 going to be leaving, checking out of the hotel that day and
16 going back to Los Angeles?

17 A Yes.

18 Q And did she tell you that, or what made you
19 think that she was leaving for LA that day?

20 A She told me that she was going to leave the next
21 day.

22 Q That day or the next day?

23 A The night, night -- the night when I was hanging
24 out with her, she said that she was going to leave the next
25 day.

1 Q Okay. So it was important for you to make sure
2 you had breakfast with Mary before she left and went back to
3 Los Angeles, correct?

4 A Yes.

5 Q Now, which school do you and Mary go to?

6 A Roger Temple.

7 Q Temple?

8 A Yes.

9 Q Roger Temple; is that correct?

10 A Yes.

11 Q And that's a junior high or intermediate school
12 in -- in Los Angeles?

13 A Yes.

14 Q All right. And what classes did you and Mary
15 have together?

16 MS. BLUTH: Your Honor, objection as to relevance.

17 THE COURT: Can you give me an offer?

18 MR. CHAIREZ: Well, I mean, he mentioned in his
19 original statement that they went to school, that's where he
20 knew her, and I just want --

21 MS. BLUTH: Can we approach?

22 THE COURT: Yes.

23 (Bench conference transcribed as follows.)

24 MS. BLUTH: I'd rather you give your offer up here,
25 just because I don't know how much detailed information we

1 need about the school he went to and stuff like that.

2 MR. CHAIREZ: Well, my only concern, Your Honor, was
3 [inaudible].

4 MS. HOLTHUS: Or the motive. That's not -- that's
5 not -- he can -- you don't need to go to the school records on
6 that. Our position's going to be [inaudible].

7 MR. CHAIREZ: At any rate, my question is going to be
8 were you good friends with Mary or is it possible that she was
9 telling you she was leaving that day because she --

10 MS. HOLTHUS: Speculation.

11 MR. CHAIREZ: Huh?

12 MS. BLUTH: How is she going to know?

13 MS. HOLTHUS: Speculation. And hearsay based. None
14 of that's [inaudible].

15 MS. BLUTH: How's he going to know if Mary was
16 tricking him?

17 MS. HOLTHUS: By hearsay or speculation.

18 MR. CHAIREZ: And the other thing -- well, at any
19 rate, I just -- I guess I'd like to know if they're going to
20 bring in Mary, because if they're not, then I'll [inaudible].

21 MS. HOLTHUS: Don't plan on us.

22 MR. CHAIREZ: Okay.

23 THE COURT: [Inaudible] far as the extent to whether
24 they're good friends or not.

25 MR. CHAIREZ: Okay.

1 THE COURT: But I mean, if [inaudible] speculation
2 [inaudible].

3 MS. HOLTHUS: As far as he knows she was leaving,
4 which is really probably more than you should have got.

5 THE COURT: And I probably would not allow the name
6 of the school [inaudible].

7 MS. BLUTH: [Inaudible.]

8 THE COURT: I would prefer nothing else that can
9 identify specifics on the school, because I think it makes it
10 easier to identify who he is, plus who Mary is.

11 MR. CHAIREZ: [Inaudible.]

12 THE COURT: So if you're just going to -- if the
13 question's going to be were you guys good friends --

14 MR. CHAIREZ: Right.

15 THE COURT: I mean, you could ask --

16 MR. CHAIREZ: How many classes did you have together,
17 and then I'll get back to the morning of the breakfast that
18 didn't take place.

19 MS. HOLTHUS: What is the relevance of how many
20 classes they had together?

21 MR. CHAIREZ: Well, I just wanted to show that they
22 were friends or not friends, but just acquaintances.

23 THE COURT: Why don't you just ask him?

24 MR. CHAIREZ: Pardon?

25 THE COURT: Just ask him.

1 MR. CHAIREZ: Okay.

2 THE COURT: I would just ask that question.

3 MS. BLUTH: Were you best friends or...

4 MR. CHAIREZ: Yeah. Okay.

5 (End bench conference.)

6 BY MR. CHAIREZ:

7 Q So AJ, would you say that Mary was a friend of
8 yours, or would you say you and Mary were just classmates?

9 A We were friends.

10 Q You were friends. All right. And did you know
11 she was going to be in Las Vegas for the New Year holiday?

12 A No.

13 Q So it's just by chance that the two of you ran
14 into each other, correct?

15 A Yes.

16 Q And when you -- after all of these events took
17 place and you first spoke to the detectives, and I think you
18 first spoke to the security officers, you told them that you
19 had waited because you were having breakfast with Mary; is
20 that correct?

21 A I don't remember.

22 Q Well, if I were to show you your statement to
23 say that I didn't come to security right away to report what
24 had happened because I was having breakfast with my friend
25 Mary, would that be an incorrect statement, or you just don't

1 remember what you said?

2 A I don't remember what I said.

3 Q Okay. Do you not remember what you said because
4 it wasn't true, what you told the security officers and the
5 police officers?

6 A No. I just don't remember what I said.

7 Q You don't remember today what you said back
8 then?

9 A All I remember is that I went up to the security
10 and I just told him like what happened. I don't remember what
11 I said. I said everything, but I don't remember what like --
12 some of like the unimportant parts that I said. I just don't
13 remember what I said.

14 Q Okay. AJ, I'm going to need you to speak up a
15 little bit, because either I'm old and getting deaf, or the
16 microphones don't work well here. So I need to hear you very
17 well. And so let's -- so your testimony this morning or this
18 afternoon is you first ran into my client when they got off
19 the elevator, correct?

20 A Yes.

21 Q And was he by himself, or was he with other
22 people?

23 A He was with another person.

24 Q All right. And when they got off the elevator
25 they weren't smoking marijuana, were they?

1 A No.

2 Q Okay. But did you smell marijuana on them?

3 A Yes.

4 Q All right. And did you follow them down to
5 their room?

6 A Not to the room, but to the hallway.

7 Q To the hallway. And so you never went to the
8 room and knocked on the door to the room where they were
9 staying?

10 A No.

11 Q And do you recall the first time that you told
12 the story to the police and to the detectives, you mentioned
13 that my client dragged you down the hallway with your clothes
14 to take you down to the room, correct?

15 A Yes.

16 Q Okay. But you were not being honest with the
17 detectives when you told them that, correct?

18 A Yes.

19 Q And when you first talked to the detectives, you
20 didn't mention that you went to the room voluntarily one time
21 or two times or at all, correct?

22 A Yes.

23 Q You wanted it to look like my client had
24 kidnapped you, correct?

25 A Yes.

1 Q Now, when you were in the elevator, my client,
2 he wasn't forcing you into the elevator, was he?

3 A No.

4 Q You said you were going with him voluntarily?

5 A Yes.

6 Q And you said he was talking to you about sex and
7 money or something like that?

8 A Yes.

9 Q And when you say he leaned down and appeared to
10 kiss you or touch you, you felt kind of queasy or anxious
11 about the whole thing, correct?

12 A Yes.

13 Q And when you got down to the main elevator, did
14 my client grab you or hold you and force you to stay with him?

15 A No. He just like -- he told me to follow him.

16 Q Okay. Could you say that again, please.

17 A He told me to follow him.

18 Q He told you to follow him. Okay. Now, when he
19 touched you on your ear or on your neck, he wasn't doing that
20 to turn you on sexually, was he?

21 MS. BLUTH: Objection. Speculation.

22 MR. CHAIREZ: Okay.

23 THE COURT: Sustained.

24 BY MR. CHAIREZ:

25 Q You didn't feel -- you didn't feel -- you didn't

1 feel any sexual vibes yourself from that encounter, correct?

2 A Yes.

3 Q It wasn't something that you wanted?

4 A Yes.

5 Q And you don't know what he was thinking when he
6 was leaning over and being close to you, correct?

7 A Actually, I think he was like trying to have
8 sex.

9 Q He was trying to what?

10 A Like become sexual like towards --

11 Q So you think he was touching your neck or ear
12 for some type of sexual reason, correct?

13 A Yes.

14 Q Now, if you thought that, AJ, you still followed
15 him voluntarily, correct?

16 A Yes.

17 Q You never saw him with a gun, did you?

18 A No.

19 Q You never saw him with a knife?

20 A No.

21 Q You never saw him with any kind of weapon, did
22 you?

23 A No.

24 Q But you chose -- even though you felt he had
25 touched you in a sexual manner, you chose to follow him out to

1 the alley, correct?

2 A Yes.

3 Q Okay. And when you followed him out to the
4 alley, he wasn't dragging you there?

5 A No.

6 Q He wasn't forcing you there?

7 A No.

8 Q It was something that you did on your own?

9 A Yes.

10 Q Because you were hoping to get marijuana?

11 A Yes.

12 Q And you today, I think, testified that you took
13 a couple hits off of the marijuana from him, correct?

14 A Yes.

15 Q And you knew it was wrong to use marijuana,
16 correct?

17 A Yes.

18 Q And you knew it was unwise for you to be with
19 somebody that you saw with the possession of marijuana,
20 correct?

21 A Yes.

22 Q So after you were done taking these couple hits
23 of marijuana, he didn't drag -- he didn't force you back into
24 the elevator, did he?

25 A No.

1 Q And he didn't drag you into the elevator, did
2 he?

3 A No.

4 Q And you went with him on the elevator all the
5 way up to the sixth floor, correct?

6 A Yes.

7 Q And you followed him into his room?

8 A Yes.

9 Q Now, did you say you went into the bathroom?

10 A Hmm?

11 Q Did you go into the bathroom first, or did he go
12 into the bathroom first?

13 A He told me to go into the bathroom and close the
14 door.

15 Q He told you to go into the bathroom?

16 A Yes.

17 Q And why did you do it, AJ?

18 A I don't know.

19 Q You don't know?

20 A [No audible response.]

21 Q Okay. Did you do it because you still wanted to
22 try to get marijuana off of him or his friends?

23 A Yes.

24 Q Now, do you remember the first time that you
25 told this story, you told the detectives that when you looked

1 into the room you saw all these guys smoking marijuana? Do
2 you remember that?

3 A Yeah.

4 Q Yes?

5 A Yes.

6 Q And you also mention that the door was not
7 locked when these guys were inside of the room, that the door
8 latch was off and they just -- Mazen, I guess, pushed the door
9 open and you guys went in, correct?

10 A Yes.

11 Q But the truth is you didn't see anybody smoking
12 marijuana, did you?

13 A I saw smoke and I saw people -- I saw something
14 burning.

15 Q You saw something burning?

16 A Yeah.

17 Q How far away were you from what you saw burning?

18 A Like from here to like right there [indicating].

19 Q So maybe 5 feet?

20 A Yes.

21 Q Okay. Did it look like a cigarette? Did it
22 look --

23 A Yes.

24 Q And could you smell what was burning?

25 A I don't really know what the smell was, but it

1 smelled like -- it was the smell of like -- I couldn't -- it
2 smelled like marijuana --

3 Q It smelled like marijuana?

4 A -- and like alcohol.

5 Q And alcohol?

6 A Yeah.

7 Q All right. Now, when you went into the bathroom
8 and the whole time that you were there with my client, you
9 never turned on the sink to wash your face to maybe get
10 marijuana smoke off it, did you?

11 A No.

12 Q And you never took a shower and washed any
13 marijuana smoke off of you?

14 A No.

15 Q Okay. And did you see my client wash his face
16 to get marijuana smoke off of him, or did you see him take a
17 shower?

18 A No.

19 Q So and your story today is that the first sexual
20 encounter you had with him, he was forcing his penis down your
21 throat, correct?

22 A Yes.

23 Q Now, and how long did you say the penis was
24 inside of your mouth?

25 A For like a little bit.

1 Q How long?

2 A For a little bit.

3 Q Okay. Well, is a little bit like two seconds or
4 ten seconds?

5 A Like -- like around like --

6 Q Well, let me ask you this: Was it in your mouth
7 long enough that -- you didn't bite his penis, did you?

8 A No.

9 Q Okay. You didn't scratch his face while he was
10 doing this to you, correct?

11 A No.

12 Q You didn't scratch his body while he was doing
13 this to you?

14 A I just -- after I yanked away.

15 Q You yanked away?

16 A Yeah.

17 Q Okay. While this was going on -- while this was
18 going on, you didn't fight him at all or resist him at all?

19 A I tried like going away, like backing off,
20 trying to keep away.

21 Q Okay. And you mentioned the first time that you
22 told the story that you were yelling help. Do you remember
23 that?

24 A Yeah.

25 Q Okay. But then today you say you were yelling

1 but kind of like nothing was coming out, correct?

2 A Yes.

3 Q All right. Now, while you were in the
4 bathroom -- do you remember how long you were in there?

5 A No.

6 Q Just a few minutes? You don't remember?

7 A [No audible response.]

8 Q Okay. Did you hear any pounding on the door and
9 people trying to come in?

10 A No.

11 Q Nobody came to try to help you?

12 A No.

13 Q The other men that were in the room, they didn't
14 come and try to rescue you?

15 A No.

16 Q And when everything was over, did these men --
17 did you see these men as you were leaving the room?

18 A No. I didn't even bother looking. I just ran
19 out.

20 Q Okay. Now, and when you went down the elevator,
21 you got a phone call from your mother, correct?

22 A Yes.

23 Q All right. And you said you didn't want to tell
24 your mother what had happened?

25 A Yes.

1 Q And you said that you didn't want to tell her
2 what had happened because you didn't want to alarm her?

3 A Yes.

4 Q Now, other than your mother, who are you the
5 closest to in life; your father, your mother, your
6 grandmother, some brothers?

7 A My grandmother.

8 Q Your mother. All right.

9 A My grandmother.

10 Q Your grandmother?

11 A Yes.

12 Q Okay. And does your grandmother speak some
13 English?

14 A She can understand, but she doesn't speak that
15 well of English.

16 Q Okay. Now, and how long did you talk with your
17 mother when she called you that morning after you had been in
18 Mazen's room?

19 A For around like five to ten minutes.

20 Q And what did you talk with your mother about?

21 A She asked me what I was doing and -- yeah.

22 Q And what did you tell her you were doing?

23 A I was walking down to Krispy Kreme.

24 Q You were where, what?

25 A Walking down to Krispy Kreme to go eat.

1 Q Walking to Krispy Kreme. Okay. And did you
2 tell her you were going to meet Mary?

3 A No.

4 Q You didn't tell her that?

5 A No.

6 Q Okay. Now, AJ, the story you're telling us is
7 that all of this happened without your consent, without your
8 permission, correct?

9 A Yes.

10 Q Okay. And so when you say -- I mean, Mazen, you
11 basically say he took his penis and he forced it down your
12 mouth, correct?

13 A Yes.

14 Q And you also say that he took his penis and he
15 forced it up your butt?

16 A Yes.

17 Q Okay. But you never -- you never said that he
18 took his penis and rubbed or fondled it around your mouth,
19 correct?

20 A No.

21 Q And you never said that he took his penis and
22 rubbed or fondled your buttocks area, correct?

23 A No.

24 Q So and the time that you say that he touched
25 your neck, you also say that he touched your left chest?

1 A Yes.

2 Q And that touching, can you describe that for me
3 again?

4 A He just started kissing down my chest.

5 Q He what?

6 A He started kissing down my chest.

7 MR. CHAIREZ: I can't hear him, Your Honor.

8 THE COURT: Can you speak up a little bit louder?

9 THE WITNESS: He was kissing down my chest.

10 BY MR. CHAIREZ:

11 Q He kissed your left chest?

12 A Yeah.

13 Q Okay. Now, when you say he had pink eyes and
14 that was an indication to you that he probably had marijuana,
15 why would you think that?

16 A Because they don't look bloodshot or strained.
17 They were just like -- I was like -- I could like tell because
18 like I knew people who smoked, and like they would have the
19 same eyes. So like --

20 Q So you had seen people smoke marijuana before?

21 A Yes.

22 Q Okay. And when you looked at him, was there any
23 indication in your mind that maybe he might have been drinking
24 alcohol and not smoking marijuana?

25 A No, because I know people who drink alcohol and

1 their eyes do not turn pink.

2 Q So there was not an odor of alcohol about his
3 breath?

4 A He had smelly breath.

5 Q He had what?

6 A Smelly breath.

7 Q Smelly breath. But was it the smell of
8 marijuana or was it the smell of alcohol?

9 A Mixed.

10 Q Mixed. Okay. And when you spoke to him, could
11 you tell whether or not he might be drunk or he might be high?

12 A He was like -- he couldn't speak right.

13 Q He couldn't speak right. Okay. And do you
14 recall whether the bathroom at the Circus Circus, when you
15 went in first, did you lock the door?

16 A No.

17 Q Do you know whether or not the door at Circus
18 Circus bathroom has a lock?

19 A No.

20 Q You don't know?

21 A [No audible response.]

22 Q Okay. So you didn't lock the door, correct?

23 A Yes.

24 Q And you didn't see whether Mazen locked the door
25 or whether there was even a lock, correct?

1 A Yes.

2 Q And but when you were yelling for help, nobody
3 came to help you?

4 A Yes.

5 Q Yet you could hear the people in the room,
6 correct?

7 A Yes.

8 Q Okay. And you didn't turn on the sink to wash
9 your face?

10 A No.

11 Q And you didn't turn on the shower to take a
12 shower?

13 A No.

14 Q And you didn't see Mazen turn on the sink to
15 wash his face?

16 A No.

17 Q And you didn't see Mazen turn on the shower to
18 take a shower?

19 A No.

20 Q And when you left, you didn't stop to say
21 anything to anybody, correct?

22 A No.

23 Q So you didn't ask for \$150?

24 A No.

25 Q You didn't ask for marijuana?

1 A No.

2 Q You already realized that this was not going the
3 way you had anticipated, correct?

4 A Yes.

5 Q Now, you said you're what, five-seven or
6 five-eight today?

7 A Yes.

8 Q And how much did you say you weighed?

9 A 108.

10 Q A hundred and what?

11 A Eight.

12 Q Today?

13 A No. Last time.

14 Q In January?

15 A Yes. No, in December.

16 Q So you've grown a lot in the last ten months?

17 A Yes.

18 Q And you told the detectives prior to this you
19 had never used marijuana, correct?

20 A Yes.

21 Q And you told the detectives prior to this you
22 never used illegal drugs?

23 A Yes.

24 Q And you told the detectives prior to this that
25 you had never had sex with girls?

1 MS. BLUTH: Your Honor, objection. May we approach?
2 (Bench conference transcribed as follows.)
3 MS. BLUTH: Are you kidding me?
4 MR. CHAIREZ: I'm just trying to get into his
5 [inaudible] statement --
6 MS. BLUTH: Are you kidding me?
7 MR. CHAIREZ: What?
8 MS. BLUTH: Rape shield on a child, sex assault case,
9 you know that that's --
10 MR. CHAIREZ: Okay.
11 MS. BLUTH: -- inappropriate.
12 MR. CHAIREZ: I was telling what he said during the
13 interrogation.
14 MS. HOLTHUS: Have you heard of rape shield?
15 MR. CHAIREZ: Yeah. [Inaudible.]
16 MS. BLUTH: It doesn't matter. You don't bring it
17 up. And now -- see, and now --
18 THE COURT: [Inaudible.]
19 MS. BLUTH: And now it's out there and it looks
20 like -- the answer is no, but we don't have any choice but to
21 put it out there now, because now if we object it looks like
22 we're hiding it, you know what I mean.
23 MS. HOLTHUS: [Inaudible.]
24 THE COURT: [Inaudible.]
25 MS. BLUTH: I mean, the problem -- the issue is

1 though if we don't -- I feel like we have to address it
2 because now it's going to look like we're trying to hide
3 something [inaudible].

4 MR. CHAIREZ: [Inaudible.]

5 THE COURT: [inaudible.]

6 MR. CHAIREZ: Let's just -- I'm going to ask him
7 about -- he described the marijuana that they had as a blunt,
8 okay.

9 MS. BLUTH: Before that we need to address this issue
10 of how it should be remedied.

11 THE COURT: What was the question you asked first
12 because I don't know the first --

13 MR. CHAIREZ: Which one?

14 MS. BLUTH: Before you said, Have you had sex with
15 girls before.

16 MR. CHAIREZ: Well, so -- [inaudible.]

17 MS. HOLTHUS: [inaudible.] I thought we agreed that
18 that was other bad act stuff as well that you weren't going to
19 get into.

20 MR. CHAIREZ: Right. But see I don't want --

21 MS. HOLTHUS: That's two taboos. That's two
22 absolutely objectionable questions you shouldn't have been
23 asking. And we discussed them all, and one specifically --

24 MR. CHAIREZ: That was all [inaudible].

25 MS. BLUTH: But we had and admonishment from the

1 court that we were not allowed to get into that.

2 MR. CHAIREZ: [inaudible.] Well, I'm not asking him
3 about -- I'm asking him what he was -- what he was asked and
4 what he answered.

5 THE COURT: So I don't think that question
6 [inaudible] do you want me to admonish the jury to disregard
7 or do you want to just [inaudible.]

8 MR. CHAIREZ: I'm going to ask one more question
9 about the marijuana [inaudible] that expression.

10 MS. BLUTH: [inaudible.]

11 It just puts the State in a very uncomfortable
12 position because now I've objected because of rape shield it
13 looks like we are hiding it. The truth of the matter is he's
14 only ever kissed another girl. So if I ask him a -- you know,
15 Isn't it true that you only ever kissed another girl, is that
16 opening the door for Mr. Chairez to --

17 MS. HOLTHUS: [inaudible.]

18 THE COURT: [inaudible.]

19 MR. CHAIREZ: I know, Your Honor. This is his fourth
20 version of the facts of which we're hearing for the first time
21 today. Okay.

22 THE COURT: [inaudible.]

23 MR. CHAIREZ: I don't have any evidence. I'm not
24 even going to say --

25 MS. BLUTH: Well then I'm going to --

1 MR. CHAIREZ: Okay. I just want -- I was using that
2 as a way to build into the thing about, how did you know about
3 a blunt because I don't know what a blunt is.

4 MS. BLUTH: Okay. But that's prior bad act.

5 MS. HOLTHUS: That should have been a motion.

6 [inaudible.]

7 MR. CHAIREZ: Well he said he's seen people smoking
8 marijuana before. Okay.

9 (End of bench conference.)

10 THE COURT: Ladies and gentlemen of the jury, we're
11 going to give you a break. Please come back at approximately
12 ten until 3:00. Until I see you then, you're admonished not
13 to converse amongst yourselves or with anyone on any subject
14 connected with the trial, to read, watch or listen to any
15 report of or commentary on the trial by any medium of
16 information, including without limitation television,
17 newspaper, radio, Internet. Do not form or express an opinion
18 on this case until it's submitted to you. We'll see you
19 shortly.

20 (Jurors recessed at 2:37 p.m.)

21 THE COURT: And if the media could please also step
22 out. Thank you.

23 AJ, why don't you step down, sir, and go to the room
24 where you were, okay?

25 THE WITNESS: Okay.

1 THE COURT: You're his advocate, right?

2 UNKNOWN SPEAKER: Yes.

3 THE COURT: Okay. So do you want to go in there with
4 him?

5 (Witness steps down and exits the courtroom.)

6 THE COURT: All right. So the media's out of the
7 room and the witness is also out of the room. The reason we
8 are having this conference right now is because there is an
9 objection raised by the State to a line of questioning that --
10 by Mr. Chairez. We had some discussion up here at the bench,
11 but it appeared to be quite lengthy, so I think we need to
12 make more of a formal record.

13 It was something along the lines of AJ's prior sexual
14 conduct as relayed by him to the police, and had something to
15 do with him having sex before. And the State objected on the
16 line of questioning pursuant to the rape shield law.

17 MS. BLUTH: It just puts -- I'm sorry, Your Honor.
18 Did -- were you going to say something else?

19 THE COURT: No.

20 MS. BLUTH: It puts the State in a really awkward
21 situation, because obviously I'm going to object pursuant to
22 the statutes pursuant to rape shield. Then it looks to the
23 jury as if I'm hiding something, when the truth to that answer
24 is that AJ has never had sex with anyone else. He's -- the
25 farthest he's ever gone with a girl is kissed a girl on the

1 lips.

2 But Mr. Chairez knew he could not go into that line
3 of questioning, as well as he knew specifically he couldn't go
4 into the line of questioning about AJ's prior drug use. I
5 mean, we had an hour argument on Friday about those types of
6 questions and all parties were clear. And then we walk in
7 here today and we're dealing with both of these issues.

8 MS. HOLTHUS: And I specifically asked him before
9 court, Mr. Chairez, none of us got an OB -- an other bad acts
10 motion by way of email this weekend. We waited for it, we
11 looked for it. The understanding was that would be litigated
12 before we ever get -- go down this road. And now he's
13 indicated at the bench he wants to talk to AJ about what are
14 blunts and have you seen it before and all that other. And
15 there's been no motion filed with the court.

16 THE COURT: All right. Mr. Chairez.

17 MR. CHAIREZ: It's simply, Your Honor, first off, I'm
18 not going into any prior bad acts. I'm just using the line of
19 questioning that Detective Christensen had with him when she
20 was questioning him.

21 I mean, they're the ones that say AJ has changed his
22 story. They are the -- and so I basically used the same
23 questions that Detective Christensen used, you know, do you
24 like girls more than boys; yes, I do, blah, blah, blah. Have
25 you ever used marijuana; no, I haven't. Those were his

1 answers.

2 And so then the only other question I was going to do
3 as a follow-up is to say, But you know kids or you know people
4 that have used marijuana; for instance, you -- when you
5 described what Mazen had, you said that -- or the people in
6 the room, you said that they had a blunt. Okay. That's the
7 only other question I wanted to ask, so the jury would know in
8 their mind it's not a -- necessarily a naive kid.

9 He understands marijuana well enough that he can
10 smell it. He understands marijuana well enough that he refers
11 to a certain type of way of smoking it as a blunt. That was
12 my only purpose. And I wanted to use the prior inconsistent
13 statement, I guess, just to reinforce what he said. But I
14 don't know anything about him ever having sex before and I
15 wasn't even going to go into that.

16 THE COURT: Well, my concern with respect to the
17 blunt is the next question of how do you know what a blunt is.

18 MR. CHAIREZ: Right. And I think he's going to say,
19 hey, I have friends at school that do that. That's what I'm
20 assuming he's going to say.

21 THE COURT: What is he going to say, I've smoked a
22 blunt before?

23 MS. BLUTH: He's smoked marijuana before, which
24 and -- which is in his statement, and Mr. Chairez knows he
25 smoked marijuana before. Just because someone --

1 MR. CHAIREZ: I don't -- Your Honor, I don't know
2 that he smoked marijuana before. They know that he smoked
3 marijuana before, but I don't.

4 MS. BLUTH: He told the defendant he smoked marijuana
5 three times a day. That came from your defendant --

6 MR. CHAIREZ: Well, yeah.

7 MS. BLUTH: -- the defendant's mouth. Just because
8 something is in someone's statement, it doesn't mean it comes
9 in. I mean, there's all sorts of bad act evidence on both
10 sides in people's statement. Just because they say it to the
11 police doesn't mean it's admissible in court. It still
12 requires an other bad act motion, which is not done in this
13 case.

14 THE COURT: Mr. Chairez, we did discuss this at
15 length. And I indicated that the prior bad acts would require
16 more findings by the Court before they'd be admissible.

17 MR. CHAIREZ: Your Honor, I'm not doing anything in
18 terms of a prior bad act. I'm not doing anything in terms of
19 a subsequent bad act. Okay.

20 THE COURT: But I think the concern is by the State
21 that you know what the response is going to be, of yes, I've
22 smoked a blunt before, and then we get into the issue that
23 we're having.

24 MR. CHAIREZ: No. I just -- I'm just using the
25 statements that he gave to Detective Christensen, you know, to

1 see how much he's changed his story from then to now. Okay.

2 THE COURT: The problem is not all those statements
3 are admissible given the limitations specifically on this type
4 of case. I'm not inclined to allow the question regarding the
5 blunt, because I think that both -- everyone there expects the
6 same response the Court does of AJ saying yes, because I
7 smoked pot before.

8 MR. CHAIREZ: No. Well, they can -- they can -- Your
9 Honor, they can coach him to say don't say I've smoked pot
10 before or whatever. I just want -- but it -- I don't need it,
11 Your Honor.

12 THE COURT: Well, they can't tell him to lie.

13 MR. CHAIREZ: Pardon?

14 THE COURT: They can't tell him to lie.

15 MR. CHAIREZ: No, and they won't tell him.

16 THE COURT: And that would be a lie.

17 MS. HOLTHUS: I don't think we have an objection to
18 the word "blunt." I mean, I think he's entitled, if the kid
19 refers to it as a blunt, that's one thing, without going --

20 THE COURT: Why don't you just ask him how do you
21 know what a blunt is?

22 MS. HOLTHUS: Well, but he -- that's --

23 MR. CHAIREZ: No.

24 THE COURT: And he's going to say --

25 MR. CHAIREZ: I just want him to say -- and you also,

1 when you were describing the marijuana that was being used by
2 the gentlemen in Room 631, you said they were smoking it as a
3 blunt is --

4 THE COURT: And you're going to leave it with that?

5 MR. CHAIREZ: Huh?

6 THE COURT: And you're leaving it with that?

7 MR. CHAIREZ: And that's what I would -- that's what
8 I would -- yeah. That's all I wanted. That's what I was
9 trying to get to.

10 MS. BLUTH: So as a yes or no question?

11 MR. CHAIREZ: Because see, the bottom line, Your
12 Honor, is there was no marijuana found in the room. I
13 basically --

14 MS. HOLTHUS: There was.

15 MR. CHAIREZ: Well, no burned --

16 MS. HOLTHUS: Actually, there was a pile of marijuana
17 and the little bit in the jar.

18 MR. CHAIREZ: There was a bottle or jar of marijuana,
19 but there was no burned marijuana found.

20 MS. HOLTHUS: There was stuff all around, and it took
21 about two to four minutes before security was allowed into the
22 room --

23 MR. CHAIREZ: Well --

24 MS. HOLTHUS: -- banging, so.

25 MR. CHAIREZ: And they can argue that in closing

1 argument. But I just wanted to get him to say, yes, I saw the
2 men in the room smoking and they were smoking a blunt, and I'm
3 just going to put --

4 THE COURT: What's the purpose of that question?

5 MR. CHAIREZ: Well, because it's going to show that
6 no, it's not the truth. He was trying to disparage them and
7 make them look bad because they're smoking marijuana in a
8 blunt. But I can't even go into it, and it's a prior
9 inconsistent statement based upon what he said today. But
10 it's -- I don't want to belabor the point, Your Honor.
11 There's much more...

12 MS. HOLTHUS: Like I said, I think he is entitled to
13 get in what was going on in the room, including the language
14 used by the kid with reference to this, as long as he's not
15 going to go into prior bad acts or subsequent bad acts. Now,
16 if we need to caution AJ outside the presence, just an -- or
17 however he needs to get that out there, but the fact that the
18 kid has used it before I don't think has been ruled
19 admissible. And the other big concern we have is the rape
20 shield issue --

21 THE COURT: I was getting to that next.

22 MS. HOLTHUS: -- of him talking about --

23 THE COURT: Hold on. Let's do one at a time. As far
24 as that, if you're going to ask it the way you're indicating,
25 I think the State is agreeable to that --

1 MR. CHAIREZ: Right.

2 THE COURT: -- as far as it's a very narrow yes/no
3 response --

4 MR. CHAIREZ: Right.

5 THE COURT: -- right?

6 MR. CHAIREZ: Correct.

7 THE COURT: And you don't go into any specific acts
8 involving the victim.

9 MR. CHAIREZ: Right. I have no knowledge, Your
10 Honor, that AJ has ever had sex before, and I'm not going to
11 go into it. And I've already received your order last Friday
12 we can't go into prior bad acts, we can't go into subsequent
13 bad acts. So I don't agree with all of that, but I'm willing
14 to live with your ruling, so.

15 THE COURT: Well, there's a little bit more to the
16 ruling than that. It had a lot to do with the fact that the
17 pretrial foundations were not made. We do need to address the
18 issue as far as the prior sexual conduct of the victim. I
19 mean, the statute, in my reading, is clear as to what can be
20 asked, and I don't think in this particular case the victim's
21 put his sexual background at issue.

22 MS. HOLTHUS: Or his sexual preference, if that's
23 where he's going for the next question. Detective Christensen
24 may have asked some questions, but those questions don't
25 necessarily follow that they're admissible at a trial. I

1 think he said something about does he like boys or girls.

2 MS. BLUTH: Were you intending on asking that,
3 Mr. Chairez?

4 MR. CHAIREZ: No. I mean, I was just going to go
5 with the answers that he had, but I just want to get to the
6 part about the guy smoking the blunt. I mean, if I can ask
7 those two questions, then I'll be able to move on.

8 MS. BLUTH: What -- which two questions?

9 MR. CHAIREZ: Well, the question and when you were
10 also talking to Detective Christensen, you mentioned that when
11 you saw these gentlemen smoking the marijuana, she asked you
12 whether it was in a pipe or not and you said, no, they were
13 smoking it in a blunt. Okay. And that's all I need to ask.

14 THE COURT: And he'd respond yes.

15 MR. CHAIREZ: And he responded yes -- or he said that
16 they were smoking it in a blunt. Then I don't know what
17 Detective Christensen asked thereafter.

18 THE COURT: Okay. So but we just talked about this.
19 You're going to move on after that question, right?

20 MR. CHAIREZ: Yeah. I'll move on after that.

21 THE COURT: Okay. Not go into any details.

22 MS. HOLTHUS: We talked about the facts with respect
23 to if Ms. Bluth cleans it up with the, well, if you were asked
24 about, you know --

25 MR. CHAIREZ: Right.

1 MS. HOLTHUS: -- have you had sex before, if she were
2 to clear it up with, but the truth is you've only ever -- you
3 told them you'd only ever kissed a girl, the State doesn't
4 want to be --

5 THE COURT: You don't want to open the door.

6 MS. BLUTH: Correct.

7 MS. HOLTHUS: Correct. We didn't open this door on
8 purpose. We're really just trying to minimally respond to it
9 to quite frankly, rectify the wrong as far as we're concerned
10 he's done in front of the jury, but we don't want to
11 exacerbate it either.

12 THE COURT: Again, I mean, there's a couple ways we
13 can handle -- I think that question specifically violated the
14 rape shield statute. But the question is how should we
15 rectify the prejudice, you know, in the least obvious -- I
16 mean, I don't want to draw the jury's attention to it too
17 much.

18 So that's a question I can either, number one,
19 admonish the jury to disregard the prior question regarding
20 sexual conduct of the boy, but that may draw attention to it,
21 or I would be inclined to allow the very limited question by
22 the State, and it'd be the Court's position that it's more
23 curative versus opening the door.

24 MS. BLUTH: I was just going to lead, if the Court
25 would permit it, if I would just lead him through the

1 questioning, you were asked that question, isn't it true the
2 only thing you've ever done is kissed a girl, and then I was
3 just going to move on. I feel that's the only way to
4 correctly rectify him bringing up things that are in clear
5 violation of the rape shield.

6 MR. CHAIREZ: Well, first off, Your Honor --

7 THE COURT: Okay. Mr. Chairez.

8 MR. CHAIREZ: -- I disagree. There is no violation
9 of the rape shield law. The rape shield law is to talk about
10 a victim's prior conduct, a woman who was a prostitute, a
11 woman who was a whore, a woman who was a loose woman, et
12 cetera, et cetera. We haven't gone into any of that and we
13 haven't even made that implication.

14 THE COURT: Wouldn't whether or not he's had sex
15 before --

16 MR. CHAIREZ: Well, no.

17 THE COURT: -- fall within that?

18 MR. CHAIREZ: We basically said, when you were
19 sitting there talking to Detective Christensen these were the
20 series of questions, and I'm just using it as the prior
21 inconsistent statement. So I don't care about his prior
22 history. I don't even know anything about it. I'm not going
23 to go into it. So --

24 MS. BLUTH: But you did go into it.

25 MR. CHAIREZ: I did not go into it, Your Honor. But

1 if she wants to do something like with a follow-up, that's
2 fine. I don't care. Because it's not -- it's not a big issue
3 for me at all.

4 THE COURT: Okay. So at this point again, I stand by
5 my ruling because I think that it did improperly put the
6 victim's sexual history at issue, and but the defense
7 improperly did it and the State did not. I will allow a very
8 limited curative line of questioning by Ms. Bluth, but it's
9 the Court's position that it's curative only and it's not
10 opening the door to further questions with respect to the
11 victim's prior sexual history or conduct.

12 So anything else you want to put on the record either
13 side?

14 MS. BLUTH: Not on behalf of the State, Your Honor.

15 MR. CHAIREZ: No, Your Honor.

16 THE COURT: All right. Thanks. We'll see you in a
17 second.

18 (Court recessed at 2:50 p.m. until 2:58 p.m.)

19 (Outside the presence of the jury.)

20 THE COURT: Now, just so we're clear, I'm not going
21 to mention anything further about that to the jury.

22 MS. BLUTH: Okay. I'll rectify it.

23 THE COURT: Okay. And that's more because I think
24 everyone's agreed that it kind of draws more attention to the
25 question.

1 MS. BLUTH: Yes.

2 THE COURT: Could you guys hear AJ okay? I had some
3 difficulty.

4 MR. CHAIREZ: I can't hear him at all.

5 THE COURT: I can't hear him very well. You can't
6 hear him either?

7 UNKNOWN SPEAKER: [Inaudible] hear him at all, Judge.

8 THE COURT: Maria, what can we do?

9 THE COURT RECORDER: He needs to speak louder.

10 MS. BLUTH: I'll talk to him.

11 THE COURT RECORDER: I can hear him. I can hear him.

12 THE COURT: Yeah, but she picks -- you pick up stuff
13 that we don't. I couldn't hear him and he's right here.

14 MS. BLUTH: I'll talk to him.

15 (Pause in proceeding.)

16 (Witness enters the courtroom.)

17 THE COURT: AJ, come on up, right here.

18 And Maria, you're on, right?

19 THE COURT RECORDER: Yes, ma'am.

20 THE COURT: All right. Make yourself comfortable.

21 AJ, you have a really soft voice. I know that it's very
22 difficult to have to talk here in court with people watching
23 you. You have a really soft voice. I need for you to speak
24 up as loudly as you can, because it's very important that all
25 these recording devices hear what you're saying. Okay?

1 THE WITNESS: [No audible response.]

2 THE COURT: Okay. And the other thing is you were
3 placed under oath before, when you first started testifying.
4 Remember you're still under oath at this time. It means you
5 have to tell the truth.

6 THE WITNESS: [Inaudible.]

7 THE COURT: All right. Sit down and make yourself
8 comfortable, please.

9 (Witness resumes the stand.)

10 THE COURT: Do you want to bring the news in and get
11 them situated, and I'll bring the jury in?

12 MS. BLUTH: Did you talk to him about speaking up,
13 Your Honor? I'm sorry. I was --

14 MR. CHAIREZ: Yes, she did.

15 THE COURT: I just did.

16 MR. CHAIREZ: She did.

17 MS. BLUTH: You did. Okay. Thank you.

18 (Pause in proceeding.)

19 THE COURT: Okay. Jason, please bring in the jury.

20 (Jurors reconvene at 3:02 p.m.)

21 THE COURT: Welcome back, ladies and gentlemen of the
22 jury. Mr. Chairez, if you'd like to continue, sir.

23 CROSS-EXAMINATION (continued)

24 BY MR. CHAIREZ:

25 Q AJ, I'll be done in less than five minutes.

1 Okay. And I just -- we need you to speak up. All right. And
2 I just want to -- I just want to make clear, when you were
3 talking with Detective Christensen at the very beginning in
4 all of this, did you tell her that you saw the men in the room
5 smoking marijuana?

6 A Yes.

7 Q Okay. And were they smoking marijuana the first
8 time that you went up there, or the second time that you went
9 up there?

10 A The first time.

11 Q The first time. And did you see more than one
12 person smoking marijuana?

13 A I don't know if there were, but I saw one
14 person.

15 Q Did you see anybody drinking beer or alcohol?

16 A No.

17 Q And when you first spoke with Detective
18 Christensen about this, you mentioned that Mazen used some
19 kind of hotel lotion or hotel shampoo, correct?

20 A No.

21 Q Okay. What did you tell Detective Christensen?

22 A That he was using a type of lotion or cream.

23 Q Okay. Say that again.

24 A That he was using a type of lotion.

25 Q All right. And when we saw the picture of the

1 green shampoo bottle, that's not a hotel lotion bottle, is it?

2 A Yes.

3 Q It is or isn't?

4 A It isn't.

5 Q It is?

6 A It isn't.

7 Q It is not. Okay. And once again, when you and
8 him were in the elevator and he came down on you, you felt he
9 was touching you in a sexual manner, correct?

10 A Yes.

11 Q And yet despite that, you didn't run away?

12 A Yes.

13 Q And you say when you were outside in the alley,
14 he was discussing sex with you, correct?

15 A He wasn't really discussing it, but he was...

16 Q What was he discussing?

17 A He was actually acting like --

18 Q What?

19 A He was actually doing it, like he was touching
20 me.

21 Q He was touching --

22 THE COURT: AJ, can you lean closer to your
23 microphone, please.

24 THE WITNESS: [Complies.]

25 THE COURT: Thank you.

1 THE WITNESS: He was like touching me, and like he
2 wasn't saying anything, but he was actually doing something.

3 BY MR. CHAIREZ:

4 Q He was touching you outside in the alley?

5 A Yes.

6 Q Okay. And that's where you were taking hits of
7 marijuana from him?

8 A Yes.

9 Q And after these encounters where he's touching
10 you outside in the alley, you came back with him into the
11 elevator voluntarily, correct?

12 A Yes.

13 Q And he didn't use any type of weapon and he
14 didn't use any kind of force to get you to come with him, did
15 he?

16 A No.

17 Q And when you went up to the room again -- when
18 you went up to the room, he didn't use any force to drag you
19 there?

20 A No.

21 Q And he didn't use any force to get you to go
22 inside of the room?

23 A No..

24 Q You did all of that on your own, correct?

25 A Yes.

1 Q And lastly, when you were fighting him or trying
2 to force him off, you didn't scratch his face?

3 A No.

4 Q You didn't scratch his arms?

5 A No.

6 Q You didn't scratch any part of his body?

7 A No.

8 Q Did you see anything in the hotel room that
9 could have been used as a weapon to help hit him or fight him?

10 A Nothing really hard, but...

11 Q Okay. And you didn't bite him while any of this
12 was going on, correct?

13 A No.

14 Q You didn't bite him on the hand?

15 A No.

16 Q You didn't bite him on the arm?

17 A No.

18 Q You didn't bite him on his body?

19 A No.

20 Q You didn't bite his penis?

21 A No.

22 Q And while this was going on, he didn't take his
23 penis to rub or fondle your buttocks area, correct?

24 A No.

25 Q And he didn't take his penis to --

1 THE COURT: Hold on a second. I guess it was the way
2 it was phrased. I wasn't sure on the answer.

3 MR. CHAIREZ: Okay.

4 THE COURT: No, he did not do it, or...

5 THE WITNESS: No, he didn't do it.

6 THE COURT: Okay.

7 BY MR. CHAIREZ:

8 Q He didn't touch you with his penis in your
9 buttocks area, correct?

10 A As in like?

11 Q Before he forced it in.

12 A No.

13 Q Okay. And he didn't take his penis to rub or
14 fondle your mouth before he forced it down your throat?

15 A No.

16 Q And when all of this happened, AJ, you were
17 living with your father, correct?

18 A Yes.

19 Q And your mother and father are divorced?

20 A They were never married.

21 Q Okay. And so most of your life you lived with
22 your mother?

23 A Grandmother.

24 MS. BLUTH: I'm sorry. I didn't hear the question,
25 Mr. Chairez.

1 MR. CHAIREZ: Pardon?

2 MS. BLUTH: I didn't hear the question.

3 THE COURT: I'm sorry.

4 BY MR. CHAIREZ:

5 Q Most of your life you've lived with your mother?

6 A Grandmother.

7 Q With your grandmother. Okay. And where does
8 your grandmother live?

9 A Anaheim, California.

10 Q So and when your mother called on the phone, you
11 didn't want to tell her anything?

12 A Yes.

13 Q And you never met Mary that morning, did you?

14 A No.

15 Q So you didn't meet her at Krispy Kreme's?

16 A No.

17 Q Did you go to Krispy Kreme at all that morning?

18 A No.

19 Q So you never had a donut?

20 A Yes.

21 Q You never did or you did?

22 A I never did.

23 Q I guess I'm using a double negative. You never
24 did?

25 A Yes.

1 Q Okay. Now --

2 MR. CHAIREZ: All right. That's my five minutes,
3 Your Honor.

4 THE COURT: Thank you. Redirect.

5 REDIRECT EXAMINATION

6 BY MS. BLUTH:

7 Q AJ, when your grandma comes to Las Vegas, is she
8 a gambler?

9 A Yes.

10 Q She plays the slots?

11 A Yes.

12 Q Were you bored that -- that weekend when your
13 grandma was playing the slots the whole time?

14 A No. She was in the room sleeping.

15 Q And then the night before when you were hanging
16 out with Mary --

17 A Yes. She was --

18 Q -- was your grandma playing slots, or was she
19 in --

20 A She was playing slots.

21 Q When you got into the elevator with the
22 defendant on the sixth floor the very first time, when you
23 guys are going down, Mr. Chairez keeps stating that the
24 defendant was touching you. Was he touching you or was he
25 kissing you on your neck?

1 A He was kissing me.

2 MS. BLUTH: Maria, may I please -- can I flip over,
3 please. Thank you.

4 (Pause in proceeding.)

5 MS. BLUTH: And again, Your Honor, this is State's
6 Exhibit 116.

7 THE COURT: Mr. Chairez, any objections?

8 MR. CHAIREZ: What's the number, Your Honor?

9 MS. BLUTH: It's the one that we had stipulated to
10 admit.

11 MR. CHAIREZ: Oh, okay. Yeah, no objection.

12 MS. BLUTH: I believe it's 116.

13 THE COURT: And permission to publish. It will be
14 admitted and permission to publish.

15 MS. BLUTH: One of us is going to need to rewind just
16 a little bit.

17 BY MS. BLUTH:

18 Q Do you see yourself in the bottom left corner,
19 AJ?

20 A Yes.

21 Q Is that the defendant with you?

22 A Yes.

23 Q Is that what you're referring to, when he kissed
24 your neck?

25 A Yes.

1 Q Did you see it?

2 That's when he was kissing your upper left neck?

3 A Yes.

4 Q When you were downstairs in the alley and the
5 defendant kept coming on to you, did you repeatedly tell him
6 that you would buy the marijuana --

7 A Yes.

8 Q -- and that you didn't need to do any of that
9 other stuff?

10 A Yes.

11 Q You were asked some questions before we went on
12 break about any type of previous sexual contact you've ever
13 had. Isn't it true that you've only ever kissed a girl?

14 A Yes.

15 Q You were asked some questions by Mr. Chairez in
16 regards to whether or not the defendant rubbed or fondled his
17 penis around your mouth. Do you remember those questions?

18 A Yes.

19 Q He didn't rub or fondle. He forcefully shoved
20 it in your mouth; is that correct?

21 A Yes.

22 Q And he didn't rub and fondle your butt with his
23 penis. He forcefully shoved it in your anus; is that correct?

24 A Yes.

25 Q AJ, can you stand up for me?

1 A [Complies.]

2 Q And today you said that you're five-eight?

3 A Yes.

4 MS. BLUTH: Your Honor, can he stand down on the real
5 ground for the jury to see?

6 THE COURT: That's fine.

7 (Witness steps down.)

8 BY MS. BLUTH:

9 Q So you're five-eight. If I take off my 6-inch
10 heels and I'm five-three, you were five-three at the time,
11 right?

12 A [No audible response.]

13 Q And I'm 110 pounds and you were 108 pounds.
14 Let's go back to that. So if I'm five-three right now, I'm
15 basically your size [inaudible], right?

16 A Yes.

17 Q Okay.

18 (Witness resumes stand.)

19 BY MS. BLUTH:

20 Q And the nurse during your sexual assault nurse
21 examination, she took your height and weight?

22 A Yes.

23 Q Isn't it true that shortly after -- you spoke to
24 detectives and you told them that the defendant grabbed you
25 and forcefully took you to the room?

1 A Yes.

2 Q Now, isn't it true shortly thereafter, when you
3 were confronted with the video, you came clean and said you
4 went into the room willingly?

5 A Yes.

6 Q That wasn't last Wednesday. That was a long
7 time ago?

8 A [Inaudible.] I thought like -- I'm kind of
9 confused.

10 Q Okay. Shortly after you spoke to detectives,
11 you came clean with the real story about him not physically
12 grabbing you. You told individuals that you had gone into the
13 room willingly?

14 A Yeah.

15 Q And last Wednesday is when you came clean to the
16 whole idea of going to the room to smoke marijuana and that
17 agreement; is that correct?

18 A Yes.

19 Q But in fact, you had told security that day,
20 before you ever spoke to police, that you had gone there
21 willingly with him?

22 A Yes.

23 Q And this is the first time that you're ever
24 testifying under oath and swearing to tell the truth and
25 nothing but the truth?

1 A Yes.

2 Q And are you doing that?

3 A Yes.

4 Q Thank you, AJ.

5 MS. BLUTH: Pass the witness.

6 THE COURT: Mr. Chairez.

7 MR. CHAIREZ: No further questions, Your Honor.

8 THE COURT: All right. Is he free to go?

9 MS. BLUTH: Yes, Your Honor.

10 THE COURT: Thank you. You're free to go, sir. You
11 can step down. Step down and go out there.

12 (Witness is excused and exits the courtroom.)

13 THE COURT: Is the State ready to call its next
14 witness?

15 MS. BLUTH: Yes, Your Honor. The State calls
16 Security Officer Laskin.

17 ERIC LASKIN, STATE'S WITNESS, SWORN

18 THE CLERK: State and spell your first and last name
19 for the record, please.

20 THE WITNESS: My name is Eric Laskin, E-r-i-c,
21 L-a-s-k-i-n.

22 THE COURT: Whenever you're ready.

23 DIRECT EXAMINATION

24 BY MS. HOLTHUS:

25 Q Mr. Laskin, you're in uniform. What do you do?

1 A I'm a security officer at Circus Circus.

2 Q How long have you been doing that?

3 A Twenty-eight years.

4 Q What are your -- generally your duties as a
5 security officer there?

6 A Patrol and ensure the safety of our guests, and
7 to protect the interests of the corporation.

8 Q And directing your attention to December 31st of
9 2012, last New Year's Eve, were you on duty?

10 A Yes, I was.

11 Q What shift were you working?

12 A Excuse me?

13 Q What shift?

14 A A day shift, 8:00 to 4:00.

15 Q And were you assigned any particular area?

16 A Well, we rotate from position to position. At
17 that time of what's in question, I was on the security podium
18 in the main casino.

19 Q And you know what we're here about, when you say
20 what's in question?

21 A Exactly, yes.

22 Q Okay. And tell me kind of what your involvement
23 was.

24 A Well, I was the first contact officer that AJ
25 had approached.

1 Q And can you describe your setup where you are?
2 You said you're at the security podium in the casino?

3 A Yes. The main casino next to the main cashier
4 cage.

5 Q Is that like an elevated --

6 A Yes. It's about the same height as this desk
7 here.

8 Q And is it clearly marked that it's a security
9 area?

10 A Yes. Security, lost and found.

11 Q And approximately what time was it?

12 A It was approximately about 9:15 in the morning.

13 Q And what happened?

14 A Well, a boy came up to the security podium.

15 Q Was there anybody else around?

16 A For a couple minutes there was some guests that
17 came up over there.

18 Q Was there anybody else in the booth with you?

19 A No. I was there by myself. And I leaned over
20 and he said, Can I talk to you? And I says, Yes, you can.

21 Q Let me ask you, the guests, the guest that came
22 up before, do you recall what that was about?

23 A No, I don't.

24 Q Was he still there when you were approached by
25 the boy?

1 A No. Basically the guest left after he stood
2 there for, I think, a couple of minutes.

3 Q Who stood there for a couple minutes?

4 A The guest that came up for information.

5 Q And where was the boy while the guest was at the
6 podium?

7 A He was to the left.

8 Q He was standing there while you were talking to
9 this other guest?

10 A Yeah. The guests came up. He -- they wanted
11 some information. I gave him some information and then they
12 left, and he was still standing there and he asked me, Can I
13 talk to you. And I says, Sure, what's the problem? And then
14 he stated the problem that he was having, and I immediately
15 called my dispatch and --

16 Q How did he describe the problem?

17 A Well, when I leaned over the desk, because he
18 was standing down below, I says, "What's the problem?" He
19 actually said, "Well, can I talk to you in private?" I said,
20 "You can talk to me here." He says he was raped.

21 Q Did you have any other further conversation with
22 him at that moment?

23 A No, I didn't. Immediately I contacted my
24 dispatch and the -- and he in turn contacted our security
25 supervisor, and he wanted him to be brought to the security

1 office.

2 Q He being who was the supervisor?

3 A Jeff Jefferson.

4 Q He is the one that wanted the boy --

5 A Me to bring AJ to the security office.

6 Q Did you do that?

7 A Yes. I escorted him. I was relieved on the
8 security booth. I escorted him to the security office.

9 Q Did the two of you engage in any further
10 conversation about what happened?

11 A No. We didn't have any further conversation.

12 Q And that was intentional on your part?

13 A Well, it was in public and just that one word in
14 itself was confidentiality, and it had to be done in an office
15 manner to where there was nobody around in the public.

16 Q So you -- where did you escort AJ?

17 A To the main security office holding room.

18 Q When you got there, who did -- did you find
19 anybody who was there?

20 A My security supervisor, Jeff Jefferson, had met
21 me over there.

22 Q Did you basically turn AJ over to him at that
23 point?

24 A Well, I was sitting in the processing room and
25 Jeff Jefferson, I told him, I briefed him on, you know, what

1 he had told me, and then Jeff Jefferson went ahead and asked
2 him a few questions. And then he instructed some security
3 officers to go to the room where the defendant was allegedly
4 staying, and we contacted EMS and we contacted Metro at that
5 time.

6 Q How is it you determined where the defendant was
7 allegedly staying?

8 A Well, AJ had told us.

9 Q He gave you a room number?

10 A Yes.

11 Q Did you take any other action?

12 A No, I didn't. And basically we had asked AJ who
13 is he here with. He said the grandmother, and so we tried to
14 contact the grandmother. We put a page out for her, and she
15 arrived at the security podium. I don't know exactly how much
16 time, but we were notified there was somebody at the security
17 podium and I went out there to escort her back to the security
18 office.

19 Q And did you take any other action in this?

20 A No, I didn't.

21 Q You took Grandma back and then basically went
22 back to work?

23 A Then it was turned over. Metro had arrived.
24 EMS came shortly after.

25 MS. HOLTHUS: Thank you. I'll pass the witness.

1 THE COURT: Cross.

2 CROSS-EXAMINATION

3 BY MR. CHAIREZ:

4 Q Officer Laskin, you say you've worked at Circus
5 Circus for 28 years?

6 A Yes, I have.

7 Q Okay. And my curiosity is killing me, but it
8 seems to me that you speak with some kind of East Coast
9 accent; is that correct?

10 A That's correct.

11 Q What part of the East Coast are you from?

12 A Brooklyn, New York.

13 Q Okay. And I'm assuming you're rooting for the
14 Dodgers as opposed to the Cardinals tonight?

15 A Well, I'm a New York Mets fan, so.

16 Q Okay. All right. I just have a few questions.
17 When AJ approached you that morning around 9:15 or so, he
18 wasn't crying, was he?

19 A No.

20 Q And did you see any cuts or bruises or blood on
21 his face or on his arms?

22 A No.

23 Q And did he seem -- how would you describe his
24 emotional state?

25 A He was quiet.

1 Q So cool, calm and collected, considering what he
2 was telling you?

3 A Yeah, it appeared that way.

4 Q And so you immediately, and the video will show
5 later on, as soon as you realize what he was telling you, got
6 on the phone, called your supervisors and took the appropriate
7 action?

8 A Right.

9 Q And it was you that went out and got the
10 grandmother and brought her back to the security office?

11 A Yes. Yes.

12 Q And did AJ or the grandmother say anything else
13 other than --

14 MS. HOLTHUS: Objection to any statements made.
15 Hearsay.

16 THE COURT: Do you want to rephrase it?

17 MR. CHAIREZ: I mean -- nothing further, Officer.

18 THE COURT: All right. Anything else of this witness
19 by the State?

20 MS. HOLTHUS: No, thank you.

21 THE COURT: Is he free to go?

22 MS. HOLTHUS: He is.

23 THE COURT: All right. Sir, thank you for your time.
24 You're free to go.

25 THE WITNESS: Thank you.

1 THE COURT: Next witness, please.

2 MS. BLUTH: The State calls Jeffrey Jefferson.

3 JEFFREY JEFFERSON, STATE'S WITNESS, SWORN

4 THE CLERK: State and spell your first and last name
5 for the record, please.

6 THE WITNESS: Jeffrey Jefferson, J-e-f-f-r-e-y,
7 J-e-f-f-e-r-s-o-n.

8 THE COURT: Whenever you're ready.

9 MS. BLUTH: Thank you.

10 DIRECT EXAMINATION

11 BY MS. BLUTH:

12 Q Good afternoon, sir. How are you employed?

13 A I'm a security manager at Circus Circus.

14 Q And is that the Circus Circus located here in
15 Clark County, Las Vegas, Nevada?

16 A Yes, it is.

17 Q What's the physical address of that?

18 A 2880 South Las Vegas Boulevard.

19 Q And how long have you been in that position?

20 A Approximately 20-plus years.

21 Q And what -- just briefly, what are your job
22 duties in that position?

23 A I oversee the daily operation of the security
24 staff, approximately 45 to 50 individuals.

25 Q I'd like to turn your attention to December 31st

1 of 2012. Were you working on that day?

2 A I was.

3 Q And were you called by Security Officer Laskin,
4 who just left the courtroom, in regards to an event that
5 happened at the casino?

6 A Yes.

7 Q What time do you think that call came in, if you
8 can remember?

9 A Approximately 9:10 in the morning.

10 Q And did you give Officer Laskin any instructions
11 of where you would meet him?

12 A I did.

13 Q What did you tell him?

14 A I told him to come to the security processing
15 room.

16 Q And where is the security processing room
17 located within the Circus Circus?

18 A It's down a back hall, back-of-house hall next
19 to the donut shop there.

20 Q But it's in a more private area than just out in
21 the casino where the security booth is located?

22 A Yes.

23 Q And when you met Officer Laskin, did he have an
24 individual with him?

25 A Yes.

1 Q Who was that?

2 A AJ Dang.

3 Q That's a 13-year-old child; is that correct?

4 A Yes.

5 Q And did you have conversation with Officer
6 Laskin and AJ?

7 A We spoke on the telephone prior to Laskin
8 bringing him to the office.

9 Q When you say you spoke on the telephone, with
10 Laskin or with AJ?

11 A With Laskin.

12 Q And once they met you at the security holding
13 area, did you speak with AJ?

14 A I did.

15 Q And did AJ tell you what happened to him?

16 A Yes, he did.

17 Q And what did he say happened to him?

18 A He said he was on the sixth floor of our main
19 hotel tower and an Arabic male asked him to come into his
20 room, Room 631 in the main tower, and get high. And then he
21 said once he was in the room the male took him in the bathroom
22 and removed his clothing and sodomized him.

23 Q So AJ told you that he went into the Room 631
24 willingly?

25 A Yes, he did.

1 Q Never said anything that the adult male grabbed
2 him and drug him to the room?

3 A No.

4 Q Did he give you the room number? I'm sorry.
5 Did you say the room number?

6 A He did.

7 Q What room?

8 A Six, thirty-one.

9 Q And did he give you a description of the
10 suspect?

11 A He did.

12 Q What was that?

13 A He described the subject as an Arabic male, dark
14 hair, said a red T-shirt with a crown on the front, and I
15 believe he said black underwear.

16 Q After speaking with AJ and after AJ told you
17 what happened to him, what did you do next?

18 A I contacted emergency medical services and the
19 Las Vegas Metropolitan Police.

20 Q How would you characterize AJ's demeanor as he
21 was telling you what happened to him?

22 A He seemed quiet, shy.

23 Q Was he timid in telling you these things?

24 A He was.

25 Q And after EMS and Metro is called, do you do

1 anything else in regards to this investigation at that point?

2 A No. We stand by and wait for the paramedics and
3 the fire department and the metropolitan police.

4 Q You knew you had a room number that the child
5 had given you. So were there any instructions given out to
6 other security officers about what should be done to Room 631?
7 Was that your job or someone else's?

8 A There were. I instructed my lead security
9 officer, Daniel Goodwin, to go up and just maintain a presence
10 in the area, wait for Metro police to arrive.

11 Q So kind of keep that area somewhat secure --

12 A Exactly.

13 Q -- before Metro arrived?

14 A Yes.

15 MS. BLUTH: Thank you. I'll pass the witness.

16 THE COURT: Cross.

17 CROSS-EXAMINATION

18 BY MR. CHAIREZ:

19 Q Officer Jefferson, did you make any kind of
20 written report regarding this incident and the things you just
21 testified to?

22 A I did.

23 Q All right. And with respect to the description
24 of my client, did you describe the red T-shirt?

25 A Excuse me?

1 Q Did you write about the red T-shirt in the
2 written report that you made?

3 A I did.

4 Q Did you write about the black boxers in the
5 written report that you made?

6 A I did.

7 Q You didn't bring a copy of that report with you,
8 did you?

9 A No, sir.

10 Q And your testimony is you felt that AJ -- I
11 wasn't quite sure. I didn't hear the word. Tentative, or you
12 thought he was shy; is that correct?

13 A Yes, sir.

14 Q All right. And how else did you describe his
15 demeanor?

16 A Timid.

17 Q Timid. All right. And when you looked at him,
18 did you see any bruises or scratches or any type of wounds on
19 his face or on his body?

20 A No, sir.

21 Q And basically your responsibility was to get
22 medical help and to call Metro, correct?

23 A Yes, sir.

24 Q And also to identify the room that all of this
25 had taken place?

1 A Yes, sir.

2 Q And that's what you did?

3 A Yes, sir.

4 MR. CHAIREZ: No further questions.

5 THE COURT: Anything else?

6 MS. BLUTH: No, Your Honor.

7 THE COURT: Sir, you're free to go. Thank you for
8 your time.

9 THE WITNESS: Thank you.

10 THE COURT: Next witness.

11 MS. BLUTH: The State calls Dave Garner.

12 DAVID GARNER, STATE'S WITNESS, SWORN

13 THE CLERK: State and spell your first and last name
14 for the record, please.

15 THE WITNESS: David Garner, D-a-v-i-d, G-a-r-n-e-r.

16 THE COURT: Whenever you're ready.

17 MS. BLUTH: Thank you.

18 DIRECT EXAMINATION

19 BY MS. BLUTH:

20 Q Good afternoon, Mr. Garner. How are you
21 employed?

22 A How am I employed? Circus Circus.

23 Q What do you do for the Circus Circus?

24 A I'm the security investigator manager.

25 Q How long have you been in that position?

1 A Fourteen years. Well, six years, but 14 years
2 total there.

3 Q And when -- what's the six years?

4 A That was the starting from security officer --
5 security officer, and then going into, in 2006, starting for
6 investigations.

7 Q And if you can explain to the ladies and
8 gentlemen of the jury what you do, you know, as part of
9 investigations, what your job duties are.

10 A My job duties is to -- we work with outside law
11 enforcement internal. We pull -- we interview, interrogate.
12 We pull video coverage to conduct investigations for the
13 property.

14 Q And at the Circus Circus, are there multiple
15 video cameras?

16 A Yes.

17 Q Are there parts of the hotel for instance, like
18 hallways, are there videos in the hallways?

19 A Yes.

20 Q Are there certain parts of the hotel or casino
21 that there are no video tapes, where you wouldn't be able to
22 go back and look at areas?

23 A Yes.

24 Q And where are those areas?

25 A Those would be inside the -- the hotel lobbies

1 going up to the rooms.

2 Q So if I'm staying on the sixth floor and I'm
3 going to my room, would there be video of me in the hallway
4 going into my room?

5 A No.

6 Q You said that part of your job duties consist of
7 working with law enforcement and giving them video. Is that
8 something that you do -- do you keep the videos in the normal
9 and ordinary scope of your business?

10 A Yes, we do.

11 Q And you know what you're here to testify about
12 today?

13 A Yes.

14 Q Were you in charge of pulling those videos and
15 piecing them together?

16 A Yes.

17 Q When you have an event like this event, are you
18 given a description of the individuals that you're looking
19 for?

20 A Not given. We -- I review the report, then
21 we -- then the pictures along with the report. I look at what
22 they're wearing, you know, what -- then we go from there as
23 I'm pulling video.

24 Q Okay. So you know what the individuals look
25 like, you have either seen them or you have pictures of them?

1 A Correct.

2 Q And then what -- how do you utilize that picture
3 when you're looking through the video?

4 A I utilize what he's wearing. It would be shoes
5 to jacket to color of shirts, hairstyle, the -- you'll use the
6 last statement to follow where that last person was at, then
7 you would pull the general location of that camera coverage,
8 then you start looking for what he was wearing that, you know,
9 to see if you can catch him in the video.

10 Q And then once you find the person in your
11 surveillance system, do you then -- do you follow them
12 throughout the course of whatever it is that you're needing to
13 look at?

14 A Best as I can, yes.

15 Q And then you make a CD or a DVD comprised of all
16 the videos throughout the hotel or casino that you found?

17 A Yes.

18 Q And did you do that in this case?

19 A Yes, I did.

20 Q I'm going to ask you to walk us through the
21 video. We already have this DVD in evidence as State's
22 Proposed 116. There will be a monitor on in front of you
23 where you'll be able to see the video. Tell me when it's up
24 on your screen.

25 A Yeah, I can see it.

1 Q I'm going to start it from the beginning. One
2 second. So what are we looking at here?

3 A What you're looking at here is the west hallway
4 of Circus Circus.

5 Q And before I ask you anymore questions, it looks
6 in the bottom right-hand screen that we have a date and time;
7 is that correct?

8 A Yes, there is.

9 Q And it says December 30, 2012, 12:00, 12:30; is
10 that correct?

11 A Yes.

12 Q And then it also has a time of 23 hours, 29
13 minutes, 21 seconds?

14 A Yes, it is.

15 Q And are these -- is the system regular --
16 regularly calibrated so that you know that the timing is
17 accurate?

18 A This is -- our surveillance technician is the
19 one that obtains it. This is the DVR system, this video.

20 Q But I'm asking you the surveillance system, it's
21 regularly calibrated so you know that the correct timestamps
22 are on videos?

23 A Yes.

24 Q Now, I've stopped the video at 19 seconds in.
25 Do you see the minor, AJ Dang, in this, or would you like me

1 to hit play?

2 A No. I see him.

3 Q Okay. Can you circle him, please?

4 A Circle. Just put a finger --

5 Q Yeah.

6 A Really?

7 Q Yeah.

8 A Oh, okay. Nice.

9 Q And he's wearing a white baseball cap; is that
10 correct?

11 A A cap, yes, and a jacket hoodie.

12 Q And so is this on the main casino floor?

13 A This is the main floor west hallway, yes.

14 Q And so what time is it in real time?

15 A Here it would be 23:29:21. That's what I --

16 Q So this is around 11:30 on the --

17 A Oh, real time. This is 11:29:21 p.m.

18 Q On the night of the 30th; is that correct?

19 A Yes.

20 Q AJ and his friend seem to be talking to some
21 males; would that be correct?

22 A Yeah, two males -- persons.

23 Q In which direction would they be walking now?

24 A They'll be heading west.

25 Q So do you see AJ now? Where is he in the group?

1 A He'll be coming into view here. It's just the
2 crowd is -- there it is. Yeah, he's right by the elevator by
3 the white sign.

4 Q Okay. Can you circle again in the general area?

5 A Yeah. Oh, I just covered the -- covered his
6 head.

7 Q That's okay. But in that general area?

8 A Yes.

9 Q Okay. Let me see if I can get this a little bit
10 bigger for you.

11 A There.

12 Q There we go. Sorry about that. Are they still
13 in by the little elevator bay right there?

14 A Yes, they are. They're still standing there.

15 Q And the elevator bay that they're staying at
16 right there, where will that take you?

17 A That will take you to floors -- of course this
18 is the bottom floor. It would be one, and at the very top is
19 the 15th floor.

20 Q Of rooms where?

21 A But this goes to one through 10, these four
22 elevators, the bank he's at.

23 Q Just for the record, it's 11:32, and they're
24 still staying -- they're still outside down by the elevators,
25 correct, in that same area?

1 A Yes. The people are ready to leave. Now
2 they're going inside the elevator.

3 Q So what are we looking at in this screen?

4 A This is our four -- these are the elevator
5 cameras to the lower level of the casino. These are what's
6 called a quad shot. What you're looking at is the bottom
7 right, that's the elevator that they just walked into.

8 Q And when you say they, you're referring to AJ
9 and the younger girls?

10 A Yes.

11 Q The juvenile girls.

12 And then at about 11:32:24, do you see AJ exiting
13 with the females?

14 A Yes, I do.

15 Q And what floor are they exiting on?

16 A It should be the sixth floor.

17 Q Now the timestamp, we've jumped to 11:38:58; is
18 that correct?

19 A Yes.

20 Q And AJ re-entered onto the elevator?

21 A Yes.

22 Q Do you see him in the elevator?

23 A Go ahead and let it play back. Yes. He's on
24 the upper left camera shot.

25 Q And if you can circle him, please.

1 A [Complies.]

2 Q Thank you. The rest of the occupants exit the
3 elevator at about 11:39:23; would that be correct?

4 A Yes.

5 Q AJ is now exiting at 11:39:35; would that be
6 correct?

7 A Yes.

8 Q And do you know what floor he exited on?

9 A That would be the ninth floor.

10 Q Now, we saw the screen just go kind of gray and
11 fuzzy. Is that all of the video you have from the night
12 before this incident, so the 30th?

13 A Yes. That was changing over, yes.

14 Q And so now we're looking and it says 7:43:19.
15 So would that be 7:00 a.m., 7:43 a.m.?

16 A 7:43 a.m.

17 Q And this is December 31, 2012, so the following
18 day?

19 A Yes.

20 Q Do you see AJ in the screen shot now?

21 A Yes, I do.

22 Q And can you please circle him?

23 A [Complies.]

24 Q So we have AJ entering the elevator about
25 7:43:23?

1 A Yes.

2 Q And what floor did he just exit onto?

3 A Sixth floor.

4 Q And that would be at 7:43 in the morning and 39
5 seconds?

6 A Yes.

7 Q Now the timestamp just switched to 7:51, and we
8 see AJ back on the elevator?

9 A Yes.

10 Q And he's still on the sixth floor?

11 A He's going to the elevator off the sixth floor,
12 yes.

13 Q And he is by himself; is that correct?

14 A Yes, he is.

15 Q So now we're going to watch, there's about ten,
16 nine to ten minutes of video where we watch AJ, and what is he
17 doing? If you could walk us through where he's walking within
18 the casino as it's going on, please.

19 A He's exiting -- at 7:51:20, he's exiting. He
20 just took a right going to the -- he's on the third floor.
21 The next shot, you're going to be looking at the lower right
22 corner, the darker one where the -- that's the elevator lobby
23 of the west tower. He will walk past that camera view.
24 That's the third floor to the Adventuredome. The third floor,
25 it goes all the way through where the elevator banks where he

1 came out at.

2 Q Let me know when you see him.

3 A Yeah. Right there, 7:51, or 7:52:02, he walks
4 by the camera view.

5 Q Okay.

6 A The next shot here, this is the promenade. This
7 is our -- this is -- he'll be coming on the, say the center
8 upper right or upper left. He's going to come around the
9 corner and that's at 07, right there, 07:53:54. He's walking
10 towards the escalators off the promenade.

11 Q Okay.

12 A What you're looking at here is a quad shot of
13 our upper and lower. There's AJ there at 7:52:28.

14 Q And that would be in the upper right-hand corner
15 where my cursor is moving?

16 A Yes. That's the upper floor of the escalator
17 going down to the west main hallway, west hallway we call it.
18 7:53:03, he's in the lower left.

19 Q So lower left quadrant again?

20 A Yes.

21 Q And that's 7:53 in the morning. So he's
22 basically just kind of walking around?

23 A Yeah, he's walking.

24 Q What are we look --

25 A This is kind of bright, but you're looking at

1 the lower right, the 7:53:52, he's walking towards the camera.
2 That's the west hallway.

3 Q Where are we looking now?

4 A What you're looking at is west hallway, Camera
5 70, facing east, the buffet. He's walking past the buffet.
6 He's walking towards the main casino where the midway's at.

7 Q And that's at 7:55 in the morning?

8 A Yes, it is, 7:55.

9 What you're looking at here is a still camera that
10 faces the upper elevator -- elevators going to the upper
11 levels, 10 through 15. AJ is in the -- walking past the
12 camera. So you're at 7:54.

13 This one is Camera 74, west hallway, the main west
14 hallway. He'll be walking towards us here heading towards the
15 main casino.

16 Q Heading towards the main casino; is that what
17 you said?

18 A Yeah. That's what we consider the main casino.
19 It's where the midway's at. That's at 7:57 even.

20 This one's another still camera for the elevators
21 lower levels. There's AJ at 7:55:21, heading east in the west
22 hallway to the main casino.

23 What you're looking at here is a quad. This is the
24 security booth. The upper -- upper left and upper right is
25 our security booth. There's AJ in the upper left at 7:55:04,

1 it was.

2 Q Can you circle him for me?

3 A Yeah.

4 Q And where is that security booth located?

5 A That's located in the main casino by the main
6 cage.

7 Q And we're still about 7:55 in the morning; is
8 that correct?

9 A Yes.

10 Q We're still in that same general area. It's now
11 7:56 in the morning, 30 seconds?

12 A Yes.

13 There's AJ.

14 Q Back in that same upper left quadrant?

15 A Yes.

16 Q Which location is this?

17 A This is looking at the lower bank elevators in
18 the west hallway. That's that still camera. There's AJ
19 walking towards us at 07:59:17.

20 Q And he just walked across the screen?

21 A Yes.

22 What you're looking at here is Camera 74, just
23 another shot of the west hallway. He's heading west.

24 This is the fixed camera. This is the upper elevator
25 lobby as he's walking past, still heading west.

1 Q So would he be heading towards the hotel rooms
2 where he's staying?

3 A Yes. He'll be passing the buffets heading up
4 that way. This is Camera 70. He would be walking towards us,
5 and the buffet is off to the left.

6 Q And now the timestamp is 8:00, 8:00 o'clock
7 straight on; is that correct?

8 A Yes.

9 Q And we see AJ walking towards us on the screen?

10 A Yes.

11 Would be the lower, lower right. He's walking away.

12 Quad shot of our escalators. AJ lower left heading
13 up the escalator to the promenade. He'll be entering the
14 camera frame upper right. That's the promenade. [Inaudible.]

15 Promenade shot going to the west. There's AJ right
16 there at 08:01.

17 Q Which of the shots on the quad should we be
18 looking?

19 A This is the quad shot of the elevator lobby west
20 tower. He's -- AJ's in the lower right.

21 Q And those elevators would take you to where he
22 was staying?

23 A His room. That's the west tower elevators.

24 Q So we have him entering about 8:00 o'clock?

25 A Yes.

1 Q And this is the quad of the elevator, the actual
2 elevators?

3 A Of the bank, yeah, him entering the west tower
4 elevators.

5 Q And he's going to take this elevator to what
6 floor?

7 A To the sixth floor.

8 Q And he exits the elevator at 8:01. You say he
9 went to the sixth floor?

10 A Yes.

11 Q And he exited which direction?

12 A He exited to the right. That would lead to the
13 hallway that connects to the main tower, the casino tower and
14 the main tower.

15 Q And would the -- would that connect to the rooms
16 where he or whoever he's going to see would be staying?

17 A Yes.

18 Q And what are we looking at here?

19 A This is a quad shot of the main tower elevators.
20 At 8:02:16, you're looking at the upper, upper left, upper
21 left. That would be the defendant and two other guys. As
22 you're looking at -- they exit out onto the west casino west
23 hallway main floor. This is Camera 74.

24 Q Do you see the defendant in this screen?

25 A Yes, I do.

1 Q And can you circle him, please?

2 A [Complies.]

3 Q Thank you. He appears to be talking to another
4 male, the male who's pointing down the hallway --

5 A Yes.

6 Q -- would that be correct?

7 A Yes.

8 Q And which way would they be heading?

9 A They would be heading into the -- that's called
10 the west casino area where the slots are at.

11 Q And what's being seen? It looks like someone's
12 manipulating the computer. That's not me, correct?

13 A That is me. That's me doing that, because this
14 DVR, what I was trying to do was get that bar for the
15 timestamp, because it was on top and it dropped the video
16 farther than you can see the timestamp, so I moved it over to
17 the side.

18 Q And the timestamp shows 8:05 in the morning?

19 A Yes, it does.

20 Q And what -- which area are we looking at here?

21 A This is the west hallway camera shot looking at
22 the lower elevator banks.

23 Q We're still on this same slide. From which
24 direction should we be looking?

25 A You're looking -- if you're still on Camera 74

1 facing west, the west hallway, we should be looking like the
2 upper, upper center, upper middle.

3 Q Let me know when the defendant comes onto the
4 screen.

5 A Okay.

6 Q At the bottom of the screen it says, "74 west
7 hallway at Steak House." Where is The Steak House in regards
8 to this area?

9 A There's the defendant at 8:08, 8:09.

10 Q Over by the elevator bay?

11 A Yes. The Steak House is -- if you're looking at
12 the -- what we're looking at here, The Steak House is off to
13 your left-hand side.

14 What you're looking at here is just another shot of
15 the west hallway looking east. This is Camera 70, by the
16 buffet. You're going to see the defendant walk into camera
17 view. Right here, 8:08 -- eight --

18 Q Can you --

19 A Hang on.

20 Q That would be at 8:08, and can you circle him,
21 please?

22 A [Complies.]

23 Q Thank you.

24 A What you're looking at here is the main
25 elevators again.

1 Q And the time just skipped to -- it's still about
2 eight minutes -- or I'm sorry, 8:08.

3 A Yeah. This is them -- the shot you just saw of
4 them going, this is them going in the elevator. Lower right
5 of the quad.

6 Q In the lower right quadrant would be the
7 defendant and another male he's with?

8 A Yes.

9 Q Which one is the defendant?

10 A He's the one that just lifted up his leg.

11 Q And what floor would they be exiting onto?

12 A The sixth floor.

13 Q And that is where we saw AJ exit during the same
14 time period when we were watching video of AJ; is that
15 correct? I believe it was 8:01 when he got off the elevator
16 on the sixth floor?

17 A Yes, from the west tower elevators.

18 Q The time frame just jumped to 8:15?

19 A Yes.

20 Q And which elevators would these be?

21 A These are still the main tower elevators, one
22 through ten.

23 Q Do you see AJ on the screen?

24 A Yes, I do.

25 Q Do you see the defendant on the screen?

1 A Yes, I do.

2 Q And which quadrant are they in?

3 A They would be in the lower left box corner.

4 Q And they're alone in the elevator?

5 A Yes.

6 Q And that's off the sixth floor that they
7 entered?

8 A They entered off the sixth floor.

9 Q It appears as though the defendant leaned into
10 AJ?

11 A Yes.

12 Q They're now exiting at 8:15:47. Where are they
13 exiting onto?

14 A That is the main tower, or the main west hallway
15 floor? They just exited. This is Camera 74, by The Steak
16 House.

17 Q Which view is this?

18 A This is the stationary camera for the banks.
19 That's defendant and AJ, 8:16:31, heading east by The Steak
20 House, going by The Steak House doors.

21 Q Now, if they wanted -- if AJ and the defendant
22 wanted to exit the hotel, slash, casino and go into an alley,
23 would that have been an appropriate avenue to take?

24 A Not -- not -- not that way, no.

25 Q Okay. Where would they have been going at that

1 point?

2 A They're going to, that's called the -- we call
3 that the old baggage doors, where it used to be for valet and
4 the bellman years --

5 Q So I guess I should -- it leads outside of the
6 hotel and casino?

7 A Yes. Yes, it does.

8 Q Is this that same viewpoint?

9 A Yes, it is. The stationary camera to the main
10 tower elevators.

11 Q Mr. Garner, a quick question. You created a
12 timeline when you were making this video, correct?

13 A Yes.

14 Q And on the timeline they don't come back into --
15 into sight on the camera until 8:27. Is this going to run on
16 real time for eight minutes --

17 A Yes, it is.

18 Q -- just this camera?

19 A It's going to run just like that, yeah --

20 MS. BLUTH: The Court's indulgence.

21 THE WITNESS: -- until they come back.

22 (Pause in proceedings)

23 MS. BLUTH: Judge, Mr. Chairez and I have agreed to
24 just skip it to 8:27, so we don't sit here for eight minutes
25 with nothing on the screen.

1 THE COURT: That's fine. Thank you.

2 (Pause in proceeding.)

3 MS. BLUTH: I fast-forwarded it to 8:26:39.

4 THE WITNESS: They're in camera view.

5 BY MS. BLUTH:

6 Q Excuse me?

7 A They're in camera view. What you're looking at
8 here is Camera 74, by The Steak House.

9 Q Is that the defendant and AJ that just came onto
10 the screen?

11 A Yes.

12 Q The defendant appears to be on -- not on his
13 phone, but utilizing his phone?

14 A Yes.

15 Q So they're back inside at 8:27 a.m.?

16 A Yes.

17 Q And these would be those same elevators that you
18 would utilize to get up to the sixth floor?

19 A Yes. Upper left, they just entered the
20 elevator, the main tower elevators.

21 Q And would that be the sixth floor?

22 A Yes.

23 Q And did they get off on the elevator in the
24 direction of going to Room 631, would you take that avenue?

25 A Yes, you would.

1 Q And the computer just flipped to 9:03. In the
2 bottom right corner, what did you just see?

3 A I just seen AJ enter the lower, lower right
4 elevator camera.

5 Q Was he walking or running?

6 A He was running in a -- well, in a fast manner
7 entering the elevator.

8 Q Would that be the sixth floor again?

9 A Yes.

10 Q He's now exiting at 9:03, or no, excuse me.
11 He's actually not. He's staying on the elevator. And he
12 appears to be on the phone in the lower right, right quadrant;
13 would that be correct?

14 A Yes.

15 Q And he exits at 9:04.

16 A Yes.

17 Q Is that onto the main floor of the casino?

18 A Yes, it is. It's the west hallway again by The
19 Steak House, Camera View 74.

20 Q And would that be AJ in the top center?

21 A Yes, walking towards the camera.

22 Q Still on the phone?

23 A Yes.

24 Q Showing 9:04, what are we looking at now, what
25 screen?

1 A AJ walking away from the camera. This is the
2 fixed camera for the elevator banks.

3 Q So just a different view of what we just saw?

4 A Yes.

5 This is the quad of the security booth again in the
6 main casino.

7 Q Okay. So the security booth would be up in this
8 left-hand corner?

9 A It's in that quadrant, yes.

10 Q And who is that individual sitting there at the
11 booth? Do you recognize him?

12 A That's Eric, Officer Eric Laskin.

13 Q The individual who testified earlier, before
14 you?

15 A Yes.

16 Q Did you see AJ in the top left quadrant?

17 A Walking by the booth, yep. He's in the -- just
18 walking past it now, at 9:05.

19 Q And what's in that general area by the security
20 booth?

21 A The way he -- where he just walked out of camera
22 is the main casino cage going that way, and you can walk
23 around. There's stairs going up to the midway. There's a
24 McDonald's up there, and outside. You can go outside.

25 Q Do you see AJ in the screen shot right now?

1 A Yes, I do.

2 Q And that's 9:06 -- 9:06 in the morning?

3 A 9:06 in the morning, yes, upper --

4 Q And that's --

5 A Go ahead.

6 Q That's that same security booth, he's just
7 walking the opposite way now?

8 A He's heading west, yeah, walking past it.

9 Q Still on the phone; would that be correct?

10 A Yes.

11 Q And now the clock's at 9:08, we're still in the
12 upper left quadrant where Officer Laskin is at the security
13 booth?

14 A Yes.

15 Q And now Security Officer Laskin appears to be
16 talking to a male adult; would that be correct?

17 A Yes.

18 Q AJ enters the screen at 9:10:11; is that right?

19 A Yes, he did.

20 Q Security Officer Laskin appears to be leaning
21 forward talking to AJ?

22 A Yes, he did.

23 Q The male adult just leaves the area, correct?

24 A Yes.

25 Q Security Officer Laskin just grabbed the phone

1 in order to, it looks like he's making a phone call?

2 A Yeah. Yes, he is. He's on the phone.

3 Q Is the rest of the video just Security Officer
4 Laskin speaking to AJ until AJ's taken to the back holding
5 room?

6 A Yes.

7 Q In anticipation of your testimony today, did you
8 provide myself or Ms. Holthus with maps of the casino that
9 would help you better describe to the jury the locations?

10 A Yes.

11 Q As well as blueprints of the casino?

12 A Yes.

13 Q Did you also take photos of the sixth and ninth
14 floor and the -- an alleyway in the back of the building to
15 help better describe these areas to the ladies and gentlemen
16 of the jury?

17 A Yes.

18 MS. BLUTH: May I approach, Your Honor?

19 THE COURT: You may. Any objections, Mr. Chairez?

20 MR. CHAIREZ: No, Your Honor.

21 BY MS. BLUTH:

22 Q Showing you State's Proposed Exhibits 114 and
23 115. What do you recognize these to be?

24 A These are blueprints of Circus Circus.

25 Q And are those copies of the blueprints you

1 provided to my office?

2 A Yes.

3 Q And are those fair and accurate depictions of
4 the blueprints that you provided to my office?

5 A Yes.

6 MS. BLUTH: Your Honor, at this time I'd move to
7 admit into evidence State's Proposed 115 and 114.

8 THE COURT: Any objections?

9 MR. CHAIREZ: No, Your Honor.

10 THE COURT: All right. Admitted.

11 (State's Exhibit 114 and 115 admitted.)

12 BY MS. BLUTH:

13 Q Also showing you State's Proposed 149. What is
14 being depicted in this?

15 A This is a color graph of our Circus Circus
16 property, where the buffet's at, main casino, Adventuredome.
17 This is what they give the guests.

18 Q Is that a fair and accurate depiction of the
19 hotel?

20 A Yes, it is.

21 MS. BLUTH: Your Honor, at this time I'd move to
22 admit into evidence State's 149.

23 MR. CHAIREZ: No objection.

24 THE COURT: Admitted.

25 (State's Exhibit 149 admitted.)

1 BY MS. BLUTH:

2 Q Now I'm showing you State's Proposed Exhibits
3 117 through 148. If you could just thumb through those really
4 quickly and let me know what those are.

5 A Ninth floor.

6 Q In looking through these, are these photographs
7 that you took?

8 A Yes, they are.

9 Q And these then provided to my office?

10 A Yes.

11 Q Are those fair and accurate depictions of the
12 hotel and the hallways?

13 A Yes.

14 MS. BLUTH: Your Honor, at this time I'd move to
15 admit into evidence State's 117 through 148.

16 MR. CHAIREZ: No objection, Your Honor.

17 THE COURT: Admitted.

18 (State's Exhibit 117 through 148 admitted.)

19 MS. BLUTH: Permission to publish?

20 THE COURT: Yes.

21 BY MS. BLUTH:

22 Q Just so we can get an idea of how the Circus
23 Circus is set up, I'm going to put on the screen -- let me
24 know if you need me to zoom in to any area. So if you could
25 just explain the layout of the hotel, please.

1 A What you're looking at, where -- what you're
2 looking at here, this is what we give to guests when they
3 check in, when they want to find places at Circus Circus.
4 Where you see off to your right, your right, the green circle,
5 that's the main casino and that's where the midway is at,
6 where the midway acts are at.

7 Q What is the midway?

8 A The midway is where they play games and they
9 have toys and they have the circus acts for the kids and
10 family that come in.

11 Q Okay.

12 A Then if you -- it breaks down like the cafe --
13 well, that's at Rock & Rita's where it says "Casino Cafe."
14 This breaks down the restaurants, the west hallway going up in
15 yellow. Then it says, "Elevators to main." Two to 15, where
16 that little arrow's at, that's the elevators we were watching
17 on Camera 74.

18 Then if you just go up from that, the other set of
19 elevators is in blue there by the Wedding Chapel. There's the
20 other set of elevators going to 15 -- 10 through 15. But you
21 got the buffet in orange, going on up the west hallway. If
22 you go up the escalators that AJ was going up, it takes you to
23 the promenade and -- where you see that little escalator,
24 that's going up to the promenade.

25 Q This right here?

1 A Yes. That's the escalators going up to the
2 promenade. Then the three, then the two, four, six, eight,
3 those eight little black boxes are the elevator lobbies to the
4 main tower, west tower hotel rooms.

5 Q Okay. So if AJ or the defendant wanted to go to
6 their rooms on the sixth floor and ninth floor, which
7 [inaudible] would they take?

8 A If you're staying in the west tower where AJ was
9 staying in the west tower, he would take the bunch that has
10 the eight right there.

11 Q Can you circle it for me, please.

12 A Yeah. This one here, that would lead to --
13 well, that's not doing [inaudible].

14 Q And so when we were watching in the beginning of
15 the film, when we were watching AJ first thing in the morning,
16 after he gets back on the elevators from the sixth floor and
17 then he comes down and he walks around for about ten minutes
18 by himself, which area was he in?

19 A He came -- can I touch the screen?

20 Q Yes.

21 A Oh. He came up the escalator up here. He went
22 around the promenade where we saw him, then he entered the
23 elevator banks for the west tower after he walked around.

24 Q I guess what I'm asking is when he was walking
25 around for that ten minutes and we were, you know, following

1 him through the video cameras, where was he walking around
2 through the casino?

3 A Oh. He was -- what -- this one doesn't have the
4 main tower. The other shot would have their main tower.

5 Q Okay.

6 A But he was walking around -- well, we could use
7 this one.

8 Q Okay.

9 A He came down -- what he did is where the -- how
10 do you clear this thing?

11 Q I'll clear it for you. There you go.

12 A There we go. The promenade area where he was
13 walking around, he would go right -- he would be in the
14 yellow, go down the escalator, down the west hallway all the
15 way down to the main casino area where he passed. Then he
16 comes back into camera view. Then he's back in the yellow, up
17 the west hallway past the buffet, back up the escalator, the
18 yellow again up the escalator. The yellow, that's the
19 promenade area, then back in the elevator lobbies where those
20 eight little squares are at.

21 Q And then the blueprints that you provided --

22 A Turn -- can you turn it the other way? The
23 other way.

24 Q Vertically or --

25 A Like that. Just like that.

1 Q [Inaudible.]

2 A What we're looking at is the same way that you
3 just had that picture, the blueprint off to the -- this is the
4 main casino, the green, so here's the Adventuredome. What
5 you're looking at here is the main casino. This is an aerial
6 one. This is an aerial shot of the property. If you got the
7 other one, the -- where the towers are at.

8 Q State's 115. Let me know how you'd like it
9 situated on the ELMO.

10 A That's good right there. Actually, that's --
11 this is -- the area you're looking at here is the main casino
12 where the midway's at. This is the main casino hotel rooms.
13 These are the main casino hotel rooms, and then you got the
14 west tower that go right here where the elevator banks are at.
15 So it's like a big H, you could say, how these hotel rooms
16 set.

17 Q And so the rooms where AJ and the defendant were
18 staying at, in the sixth and ninth floors, are in the -- which
19 part of the H?

20 A AJ stayed in the west tower. The defendant
21 stayed main tower.

22 Q And just so we can orient ourselves on the
23 way -- in the hotel rooms, showing you 117. Now, you stated
24 you checked all of these photos, correct?

25 A Yes.

1 Q So the ninth floor is where AJ and his
2 grandmother were staying?

3 A You could access to the ninth floor, yes, the
4 west tower main -- the main west tower we call it.

5 Q And so in 117, what's depicted in this
6 photograph?

7 A This is just showing the floor placard when you
8 exit out of the elevator.

9 Q So when you exit out, showing you 119, what
10 direction once you exit the elevator are we looking at here?

11 A When you exit out of the main tower elevator on
12 the ninth floor, if you exit to the right you'll be -- this is
13 considered going to the west tower.

14 Q And 120, what are we looking at here?

15 A That is the hallway looking down to the west
16 tower. At the very far end down here -- in the very far end
17 down here is the west tower. It T's [indicating]. It
18 connects.

19 Q And then did you also take some photos -- before
20 I get to the sixth floor -- of the outside area outside of the
21 hotel casino?

22 A Yes.

23 Q What's being depicted in 123?

24 A What you're looking at, this is the south fire
25 lane. This right here is the old -- old baggage doors I was

1 talking about.

2 Q And when you say the old baggage doors, we saw
3 AJ and the defendant exit a certain door to go outside. Can
4 we see those doors from this picture?

5 A No, you can't.

6 Q Showing you 125, what's being depicted in this
7 photo?

8 A Yes. This is just scooting over farther and
9 looking at the fire doors. These doors, these are the outer
10 doors to the baggage -- leading outside.

11 Q 126?

12 A That's inside the baggage doors, which we're
13 looking north towards the casino. There's two sets of doors
14 like that, then I'm just at the other door taking a shot that
15 way.

16 Q And so if you go through those doors, where are
17 you going to be?

18 A If I keep on going, walking straight, I'll end
19 up where the west hallway, where The Steak House is at.

20 Q And I'm showing you 127.

21 A That one is I just went to the other side of the
22 doors, turned around, took a picture. That leads you outside,
23 what you saw the fire doors at, where you're at.

24 Q Showing you 129.

25 A Where I just took that picture at, if I just

1 open the doors and came in, that's what you're -- that's where
2 I would be at. Those are those doors there. Then that's The
3 Steak House off to the -- to the right.

4 Q 130?

5 A I was standing by The Steak House taking the
6 pictures of the west hallway, what you seen on Camera 74.
7 These are the main tower elevators.

8 Q 131?

9 A Just an aerial shot in front of The Steak House
10 looking down the west hallway.

11 Q Now I want to ask you some questions about the
12 sixth floor, which is 135.

13 A Yes, that's the sixth floor.

14 Q Where are you at spatially when you're taking
15 this photograph?

16 A Coming out of an elevator. When the door opens
17 up, you got your -- your floor placard right in front of you
18 when you step --

19 Q And there's also some couches right at the
20 entryway of the sixth floor elevator?

21 A Yes.

22 Q Showing 136.

23 A That is I've just stepped out of the sixth floor
24 looking west, like a -- like looking going to the west tower.
25 That's what the lobby looks like on the sixth floor. All the

1 lobbies look the same. They're designed the same.

2 Q Showing 138.

3 A That's just going farther down past the couches
4 looking at that little T before you hit the main west tower.

5 Q And this is another photo, 140, of that same
6 kind of elevator lobby at the sixth floor?

7 A Yes. You can see the six off the elevator over
8 there. That's me back over there where I just turned sideways
9 looking at the main tower where the hotel rooms, that's where
10 the guests go in to go to their rooms.

11 Q So when you come out of the elevators in that
12 elevator bay right here, if you wanted to go to Room 631,
13 which direction would you take?

14 A That one there, me taking it, you'd be going
15 back to your -- to your -- to your right behind me, where I'm
16 taking that, back this way. This is going to the west tower.

17 Q Showing 143, what was being depicted in this
18 photograph?

19 A This is the placard showing the guests the lower
20 rooms and the upper rooms.

21 Q So obviously if you're going to Room 631, you're
22 turning left or you're going left?

23 A Yes.

24 Q Showing 144, which hallway is this?

25 A Sixth floor hallway. This is a main tower where

1 all of the guest rooms are at.

2 Q And 147, what are we looking at here?

3 A That is just when you're looking at where the --
4 where the GRA guy is at, the house person, that's looking at
5 the one through ten rooms right here. That's just a little --
6 like a little wing of it. Behind me is the rest of the hotel,
7 what we just saw before this, looking down the hall.

8 Q And when you say one through ten rooms, what do
9 you mean by that?

10 A I mean when you show back to the placard it
11 said, what was it, 603 to 610, that's these rooms right here.
12 Then the other one says 611 to all the way down to 635 is
13 behind me.

14 Q Okay. So 146, would that show the rest of the
15 rooms?

16 A That's why -- yeah. I put the room number down
17 there, 614. I was standing by 614, so that's the even side.
18 So if you're looking at it, on the right side of the hotel is
19 your even numbers, on the left side is your odd numbers. The
20 room numbers, that is.

21 MS. BLUTH: The Court's indulgence, Your Honor.

22 (Pause in proceeding.)

23 MS. BLUTH: I'll pass the witness.

24 MR. CHAIREZ: May I have just five minutes, Your
25 Honor?

1 THE COURT: Sure.

2 MR. CHAIREZ: Okay.

3 CROSS-EXAMINATION

4 BY MR. CHAIREZ:

5 Q I don't want you to have to come back tomorrow,
6 Officer Garner, so we'll just -- we'll make it quick.

7 A Yes, sir.

8 Q When did you create this video to give to the
9 district attorney's office, this latest version?

10 A Created -- created it -- well, let's see.
11 Just -- it was all put together -- it was the -- it's the
12 main -- it's the main video. We just made that a disk, what
13 is it -- made the disk off the tapes and everything. Was it
14 last week?

15 Q Okay. So originally the footage you had was
16 just of AJ and Mazen, correct?

17 A Okay. What -- yes. Of that shots, yes.

18 Q And so the stuff that you made last week
19 included Mazen and his friends and AJ and Mary the day before,
20 correct?

21 A That was made, yes.

22 Q And at 9:05, when AJ walks past Officer Laskin,
23 Officer Laskin was not talking with any guest, he was just by
24 himself, correct?

25 A Yes.

1 Q Okay. And at 9:06, when AJ walks back from the
2 main casino area to wherever he was going, again Officer
3 Laskin is not with anybody, he's by himself and AJ walks right
4 past him, correct?

5 A Yes.

6 Q And it isn't until at 9:10:11, maybe you have
7 it -- no. At any rate, AJ approaches Officer Laskin around
8 9:10, correct?

9 A Yes.

10 Q And that's when there's another guest there
11 talking to Officer Laskin?

12 A Yes, sir.

13 Q And the guest doesn't stay long and he leaves
14 with less than a minute, correct?

15 A Yes, sir.

16 Q And while the guest is there, AJ tells Officer
17 Laskin, I've been raped, or tells him something --

18 MS. BLUTH: Object --

19 MR. CHAIREZ: -- tells --

20 MS. BLUTH: Excuse me. Objection. Hearsay and
21 speculation.

22 MR. CHAIREZ: Okay.

23 THE COURT: Sustained.

24 BY MR. CHAIREZ:

25 Q At 9:10 or 9:11, when AJ approaches, he says

1 something to Officer Laskin and Officer Laskin pays attention
2 to him and immediately responds, correct?

3 A Yes. He picks up the phone.

4 Q Okay. And you say at 9:03 or 9:04, when AJ is
5 getting on the elevator, you say he's running like a fast man,
6 correct?

7 A Yes.

8 Q Now, do you recall whether or not the elevator
9 door was already open?

10 A It opened up.

11 Q Well, do you want to go back and look and be
12 sure?

13 A What are you trying to say, the door was open?

14 Q That the door was already open, so maybe is it
15 possible that AJ was just running to the door to catch it
16 before it closed?

17 A I'm just going off the video. Yeah, it -- he
18 was running inside.

19 Q He was moving quickly?

20 A Quickly, yes.

21 Q Okay. So and one possibility is he's moving
22 quickly because he doesn't want the door to shut on him and he
23 wants to take advantage of the open door, correct?

24 A Well, that's -- if that's what it is, yes.

25 Q Okay. And at 8:08, when you're looking at Mazen

1 and it didn't necessarily -- because we stopped the video.
2 When you're looking at Mazen at 8:08, or when you're looking
3 at Mazen at any of the other times, does it appear that he's
4 walking calmly and tranquil, or does it appear like he
5 stumbles around as he's walking with his friends, or can you
6 tell?

7 A He was just walking. That's -- yeah.

8 Q So as far as you're concerned, there's no
9 indication that Mazen is drunk or intoxicated as he's walking
10 on the casino floor that morning?

11 MS. BLUTH: Your Honor, objection as to speculation.
12 He just did the video. He's had absolutely no contact with
13 the defendant.

14 MR. CHAIREZ: Well --

15 MS. BLUTH: And the video speaks for itself. It's
16 the best evidence.

17 BY MR. CHAIREZ:

18 Q Just can you tell by looking at the video
19 whether or not it looked like he was unsteady on his feet?
20 It's a simple yes or no question.

21 A No.

22 MR. CHAIREZ: All right. Nothing further, Your
23 Honor.

24 THE COURT: Redirect?

25 REDIRECT EXAMINATION

1 BY MS. BLUTH:

2 Q When AJ and the defendant left the hotel at -- I
3 believe it was about for a 12-minute period. It was from 8:15
4 to 8:27 on the timestamps. Do you remember that period of
5 time?

6 A Yes.

7 Q And we saw them walk out the doors that would
8 lead outside?

9 A Walking in that direction of the doors. You can
10 faintly see their feet go that way, that would lead to the
11 pictures you showed me, that outside area.

12 Q And that outside area of the pictures that I
13 showed you, there are no video cameras out there?

14 A No.

15 Q So if they were out there doing something, you
16 would not have video of it?

17 A I would not.

18 Q You on a day later went out and took those
19 pictures with just a camera?

20 A I did.

21 Q Now, Mr. Chairez asked you some questions about
22 when you compiled that video together. As soon as or shortly
23 after this crime occurred you provided video to detectives,
24 correct?

25 A Yes.

1 Q And recent -- more recently you went through and
2 found two additional snapshots; would that be fair?

3 A Two additional small clips, yes.

4 Q And which small clips would those be?

5 A That would be with the -- AJ with the girls.

6 Q So the night --

7 A And I was just redoing it. Yeah, AJ with the
8 girls the night before we saw. And the other one would be the
9 defendant with -- in the elevator coming down in the hallway.

10 Q With his friends?

11 A With his -- yeah, with his friend.

12 Q With his friends, not with AJ?

13 A No.

14 Q So besides those two little snippets that we
15 just spoke about, you had provided the original video months
16 and months ago when this happened back in December?

17 A Yes.

18 Q Mr. Chairez asked you wouldn't it be possible
19 that AJ was running to catch an elevator and that's why he was
20 running, because the elevator door was open. Do you remember
21 that question?

22 A Yeah.

23 Q Could it also be possible that AJ was just
24 sodomized and was running to the elevator to get away from the
25 man who sodomized him?

1 A Absolutely.

2 MS. BLUTH: Nothing further.

3 THE COURT: Mr. Chairez.

4 MR. CHAIREZ: I have one question, but it has nothing
5 to do with what she just mentioned.

6 THE COURT: Is it within the scope of direct?

7 MR. CHAIREZ: It would be within the scope of direct.

8 THE COURT: I'll allow you a little leeway. We have
9 a few minutes. You can clarify if necessary.

10 RECROSS-EXAMINATION

11 BY MR. CHAIREZ:

12 Q I don't recall, Officer Garner, when you were
13 taking pictures on the sixth floor, did you take a picture of
14 Room 631?

15 A No, I did not. I didn't go all the way down
16 there.

17 Q Okay.

18 A It was just a long shot.

19 Q All right. And do you know whether or not the
20 room number on 631 actually appears on the door?

21 A Appears on the door, no. It appears on the
22 wall.

23 Q On the wall.

24 A Yeah.

25 Q All right. And 631 is like the second or third

1 room from the end, correct? It went to six --

2 A It goes to 635, 633, 631, so that's the third
3 room from the north.

4 Q Okay. Thank you very much.

5 A Mm-hmm.

6 THE COURT: Any other questions based upon his
7 question?

8 MS. BLUTH: No, Your Honor.

9 THE COURT: All right. Thank you, sir, for your
10 time. You're free to go.

11 THE WITNESS: Thank you.

12 THE COURT: Have a nice day.

13 All right. It's almost 5:00 o'clock. I think we're
14 going to call it a day. We don't really have time to start
15 with another witness.

16 Ladies and gentlemen of the jury, you're admonished
17 not to converse amongst yourselves or with anyone on any
18 subject connected with the trial, or to read, watch or listen
19 to any report of or commentary on the trial by any medium of
20 information, including without limitation television,
21 newspaper, radio, Internet. Do not form or express an opinion
22 on this case.

23 We'll see you tomorrow at 1:00 o'clock. Thank you.

24 (Jurors recessed at 4:50 p.m.)

25 THE COURT: All right. It appears that the jury is

1 out of the room. Counsel, is there anything we need to
2 address before we call it a night?

3 MS. BLUTH: Not on behalf of the State, Your Honor.

4 THE COURT: Mr. Chairez, sir.

5 MR. CHAIREZ: I'm giving the phone number and address
6 on Jennifer Melendez [phonetic] to Ms. Holthus. She's the
7 individual we discussed earlier.

8 THE COURT: And this is the individual the State said
9 if you wanted to call would not have any objection to her --

10 MR. CHAIREZ: Right.

11 THE COURT: -- taking her out of order?

12 MR. CHAIREZ: That is correct.

13 THE COURT: Or taking her next week, since the State
14 has a witness?

15 MS. HOLTHUS: [Inaudible.]

16 THE COURT: What?

17 MS. BLUTH: We didn't have notice of her on the
18 witness list, but we're fine with him orally amending and
19 adding her.

20 THE COURT: Yeah. We have until the beginning of
21 next week, because the State's expert won't be called until
22 next week, right?

23 MS. HOLTHUS: [Inaudible.]

24 THE COURT: All right. Good night.

25 (Court recessed for the evening at 4:52 p.m.)

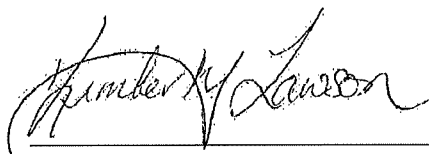
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