

**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  
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**APPELLANT'S APPENDIX**

**VOLUME II OF VII**

BATES NOS. AA00213 – AA00387

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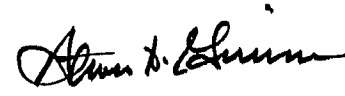
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**APPELLANT'S APPENDIX**

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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,	)	<b>TRANSCRIPT OF</b>
	)	<b>PROCEEDINGS</b>
Defendant.	)	
_____	)	

BEFORE THE HONORABLE STEFANY MILEY, DISTRICT COURT JUDGE

**JURY TRIAL - DAY 4**

TUESDAY, OCTOBER 15, 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:	Mohammad A. Taha, Interpreter Saad Musa, Interpreter
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AA00213

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1 LAS VEGAS, NEVADA, TUESDAY, OCTOBER 15, 2013, 1:20 P.M.

2 \* \* \* \* \*

3 (Outside the presence of the jury.)

4 THE COURT: State of Nevada vs. Mazen Alotaibi, Case  
5 C287173. Before we bring the jurors in, Mr. Chairez,  
6 Ms. Holthus, Ms. Bluth, is there anything we need to put on  
7 the record?

8 MS. HOLTHUS: The only thing I want to do, Judge, is  
9 the first two witnesses that we're going to be calling are  
10 AJ's family members, and just to remind the Court and the  
11 defense of the ruling regarding nothing has been presented  
12 with respect to other bad acts. We anticipate nobody's going  
13 to get into any. I'm not going anywhere beyond essentially  
14 the trip to Vegas. And so I would just ask that that be  
15 respected.

16 THE COURT: Mr. Chairez, would you like to respond?

17 MR. CHAIREZ: I'll respect the Court's order.

18 THE COURT: Are you talking about the prior, the  
19 school -- the incident that occurred at the school? Is that  
20 the -- the event that Ms. Holthus is referencing?

21 MR. CHAIREZ: Well, I guess they want me to -- they  
22 don't want any other bad act that AJ has done or subsequently  
23 has done. So, you know, the long and short of it is we'll  
24 limit our questionings to what happened on the day of --

25 MS. HOLTHUS: And let me clarify. It's not what I

1 want or don't want. There may or may not be acts out there.  
2 To the extent that they're relevant or admissible, they need  
3 to be litigated outside the presence of the jury prior  
4 generally to trial, but certainly outside the presence.

5 No motion has been made either in writing or oral to  
6 go into that information, so I am assuming that there is no  
7 intention to. If the intention is otherwise, then we need to  
8 proceed in a different way.

9 THE COURT: Well, I don't want to issue a blanket  
10 order like that. We had very -- I mean, I issued a finding  
11 with respect to the school record -- well, the alleged  
12 incident in the school and, you know, the Court didn't allow  
13 it for a multitude of reasons, but one big one was relevance,  
14 since he did concede that he went to the room to buy  
15 marijuana --

16 MR. CHAIREZ: Right.

17 THE COURT: -- and that he smoked marijuana with the  
18 defendant in this particular case.

19 So but I don't want to just have a blanket ruling out  
20 there. I want to make sure you at least have a chance to  
21 address each -- if there are other things you want to bring  
22 up, then that needs to be specifically brought up.

23 MR. CHAIREZ: Well, no, I don't want to bring  
24 anything else up, Your Honor. I just want the Court to know  
25 the reason we couldn't do a motion, we couldn't do the

1 Petrocelli hearing and all these other things is Ms. Holthus  
2 just found out about it two days before the trial started, and  
3 I was told about it after the jury was already selected.

4 THE COURT: Are you talking about the incident at  
5 school?

6 MR. CHAIREZ: The September incident, yes.

7 THE COURT: You know, let's go back. I mean, again,  
8 it was the relevance more because -- well, at that time we  
9 weren't exactly sure how the victim would testify. You know,  
10 there was speculation by the State. They were intending to  
11 bring out the testimony, which they did, that the victim went  
12 to the room to smoke marijuana --

13 MS. HOLTHUS: Judge, can we just approach briefly?

14 THE COURT: Yeah.

15 (Bench conference transcribed as follows.)

16 MS. HOLTHUS: My understanding was the media was  
17 going to be out on breaks. What I don't want to do is get  
18 into a discussion off the record in front of the jury -- not  
19 off the record, but on the record but outside the presence of  
20 the jury that these folks are going to go home and report on  
21 that, you know, we're keeping stuff --

22 THE COURT: No problem. I should have let them  
23 [inaudible]. And that was --

24 MS. HOLTHUS: Okay. We should what?

25 THE COURT: -- a bad call for me. But I think that I



1 don't want to just issue a blank ruling. I want to make sure  
2 you get a chance to make a record. But I need to make a  
3 clarification --

4 MR. CHAIREZ: We've already made the record. I mean,  
5 it's --

6 MS. HOLTHUS: And all I'm saying is if he feels  
7 something becomes relevant during the testimony, rather than  
8 just putting it out there, I would request that he request to  
9 approach and say I think the door is opened or I think this is  
10 relevant now, I'd like to make an offer or something, so that  
11 you can rule on it before it just gets in front of the jury.

12 THE COURT: Well, I think -- I guess where I was  
13 going is given the fact he conceded --

14 MR. CHAIREZ: [Inaudible] the mother testifies the  
15 morning of the incident, they give two or three different  
16 addresses as to where they live in Sacramento. Now, that may  
17 be the grandmother's fault because she doesn't know exactly  
18 where Tina lives or this and that.

19 I mean, those are things I thought of and I don't  
20 know if that's a prior bad act or not, et cetera. Because it  
21 took us months and thousands of dollars to locate where they  
22 were, because even the State didn't know what address they  
23 had, and that kind of thing.

24 THE COURT: But what was that going to show?

25 MR. CHAIREZ: Well, perhaps deception. Why aren't

1 they being totally honest with the State, you know, back when  
2 all of this happened?

3 MS. HOLTHUS: I don't know that --

4 MR. CHAIREZ: I don't need to -- my other philosophy,  
5 Your Honor, is I don't think jurors like mean people. So with  
6 AJ I'm very delicate, I'm very diplomatic. If anything, I'm  
7 too nice. Okay. And I'll be the same with the mother and the  
8 grandmother. Okay. Maybe Detective [inaudible] or Detective  
9 Christensen, I can be a little bit tougher. But my default  
10 instincts are to be a nice guy.

11 I used to be on Mary Kay's team and they used to  
12 admonish me for being too nice. So the bottom line is it's  
13 just a matter of what is your personal style, and I think nice  
14 is better than a jerk.

15 MS. HOLTHUS: And I'm fine with all of that. All I'm  
16 saying is, I mean, we haven't heard the statements that we all  
17 have. Mom says that he was too much for her to handle, so she  
18 sent him to Dad.

19 MR. CHAIREZ: Right.

20 MS. HOLTHUS: AJ himself says, I'm a bad kid. I say,  
21 AJ, why are you bad, or they say why are you bad. And he  
22 says, Well, I fight, I do this, I do that.

23 MR. CHAIREZ: Well, he didn't say that yesterday.

24 MS. HOLTHUS: But we didn't open that door. We  
25 didn't go down that road.

1 MR. CHAIREZ: Yeah.

2 MS. HOLTHUS: And so our position is you can't.

3 MR. CHAIREZ: I know. And she made a ruling --

4 MS. HOLTHUS: And so --

5 MR. CHAIREZ: -- so I'm going to live with it.

6 MS. HOLTHUS: And I just want to say that I've told  
7 the grandmother --

8 MR. CHAIREZ: I don't want to go join AJ -- I mean, I  
9 don't want to go join Mazen in the courtroom.

10 MS. BLUTH: I don't want to what?

11 MS. HOLTHUS: I've told the grandparents --

12 MR. CHAIREZ: Huh?

13 MS. BLUTH: What'd you say?

14 MR. CHAIREZ: I don't want to go join Mazen in the  
15 court for being held in contempt.

16 MS. BLUTH: Oh.

17 MS. HOLTHUS: I told Grandma and Mom that as of this  
18 moment we're going to focus on basically the trip. But I'm  
19 not looking to say --

20 MR. CHAIREZ: And that's okay.

21 MS. HOLTHUS: -- is he a bad kid. I don't want to  
22 know anything about his school problems. I don't want to know  
23 that he was hard to control and he had to live with his dad,  
24 or that he got kicked out last week for marijuana unless  
25 that's the question.

1           And I've also instructed her if she perceives that  
2   you're asking her that, she can hesitate and we'll kind of  
3   approach, because it's my take that's been ordered out for the  
4   moment and it doesn't come in unless and until you raise it.

5           THE COURT: And here's my only predicament. I mean,  
6   for the purposes of the record, I need to put on the record  
7   what you want to bring up [inaudible].

8           MR. CHAIREZ: Okay.

9           THE COURT: And when we do discuss the event at  
10   school and it's more of a relevancy, and what I tried to  
11   clarify is even more -- and I will finish up, is even more so  
12   now because he did in fact concede during the testimony.

13          MR. CHAIREZ: Right.

14          THE COURT: So, you know, we know he smokes pot. But  
15   if there's something [inaudible] you do need to bring it up,  
16   because I don't want it kind of out there like I didn't let  
17   you even make a record, because that's not proper.

18          MR. CHAIREZ: Well, I mean, I just wanted to make  
19   sure I'm not agreeing with what they did, but I understand  
20   Mary Kay's predicament. If you find out about something two  
21   days before the trial starts or a day before the trial starts,  
22   it's just kind of hard. Okay.

23          MS. HOLTHUS: Well, here's the thing though, Don. In  
24   terms of the Petrocelli hearing, if you believe that it's  
25   relevant -- I'm probably going to concede clear and

1 convincing. I can give you the witnesses. Mom said he was.  
2 As far as I know AJ's not going to dispute that.

3 MR. CHAIREZ: Right.

4 MS. HOLTHUS: So in terms of him having weed in his  
5 pocket, we probably meet the standard. So if you're saying  
6 it's delayed disclosure that's hampering your ability to do  
7 that, you can still -- you could still have challenged it.  
8 You could still have raised it.

9 But you still have to get to the relevance and  
10 probative versus prejudicial, which is, I think, where we're  
11 saying it's not probative at all because you've already got  
12 him agreeing to the weed, it's highly prejudicial, and it's  
13 not relevant.

14 MR. CHAIREZ: But I don't want you guys to argue at  
15 the end, oh, he came to Las Vegas on New Year's Eve, he wanted  
16 to experiment with marijuana just like everybody else comes to  
17 Sin City, you know.

18 MS. HOLTHUS: Oh, no.

19 THE COURT: You know, you can do the Petrocelli in  
20 the middle of the trial though.

21 MS. HOLTHUS: Mm-hmm.

22 MR. CHAIREZ: You can?

23 THE COURT: Yeah.

24 MR. CHAIREZ: Okay.

25 THE COURT: So if -- do you --

1 MR. CHAIREZ: Don't worry. I just want to be --

2 THE COURT: But I can't just leave it out there. I  
3 know, that's my problem. Because looking back at the  
4 transcript, I have to show that -- if it's brought up by you,  
5 that I've ruled on it and addressed it.

6 MR. CHAIREZ: Okay.

7 THE COURT: So let me finish making the record. If  
8 you want to bring it back up --

9 MR. CHAIREZ: Because I don't even know what  
10 happened. Because see, I thought Jim Sweetin told me that --  
11 well, I mean, I don't even know whether he was expelled from  
12 school or arrested.

13 MS. BLUTH: Jim didn't know.

14 MS. HOLTHUS: Jim didn't even know. This happened --

15 MS. BLUTH: This came up in a pretrial --

16 MR. CHAIREZ: Jim didn't know. Okay.

17 MS. HOLTHUS: This literally came up Wednesday. No,  
18 Wednesday before Thursday. Remember, we told you Thursday we  
19 heard it Wednesday.

20 MR. CHAIREZ: So that's why I said --

21 THE COURT: Okay. Then why don't we do this. Let me  
22 finish making the record. I am going to tell you that if you  
23 want a Petrocelli hearing, we can do it.

24 MR. CHAIREZ: I'm not going to go into it.

25 THE COURT: You --

1 MR. CHAIREZ: Just I mean, she can put on the --  
2 well, let her put the stuff on the record and just, you know,  
3 I'll just say I think it's important --

4 MS. HOLTHUS: Aren't we on the record right here?

5 THE COURT: Yeah, but it's --

6 MS. BLUTH: Maria, are you picking everything up that  
7 we're saying? Okay.

8 THE COURT: Well, let me make -- go ahead and make a  
9 complete record.

10 MR. CHAIREZ: Yeah. Okay.

11 THE COURT: If you want to redo that and ask for a  
12 Petrocelli hearing because you think that it's still relevant  
13 to your case, we can do that. We can start the trial a little  
14 bit later tomorrow and do that.

15 MR. CHAIREZ: Well, the only thing that worries me,  
16 Your Honor, is the theme that they're using is the reason he  
17 didn't -- well, the reason he didn't report what really  
18 happened is because he was ashamed and he was embarrassed.  
19 All right. And my position is he didn't want his mother to  
20 find out that he was there to buy marijuana --

21 MS. HOLTHUS: Oh, same thing.

22 MR. CHAIREZ: -- because she's warned him and all  
23 that other kind of stuff.

24 Now, yesterday they mentioned that one of the  
25 security officers said, oh, he did tell me he went to the room

1 voluntarily to get marijuana, and now we're [inaudible] with  
2 the detectives he's telling a different story, he's telling I  
3 was dragged and this and that, et cetera, et cetera. So I  
4 don't know --

5 THE COURT: Well, I will put it out to you and you  
6 can make a renewed motion for a Petrocelli hearing, which we  
7 could grant if you think as the case goes on --

8 MR. CHAIREZ: Well, let's do it at the end --

9 MS. HOLTHUS: Well, we could have it --

10 MR. CHAIREZ: Okay.

11 MS. HOLTHUS: I mean, it doesn't need to be -- I  
12 mean, we can do it by way of offer of proof. I don't think  
13 that we disagree with the facts in terms of -- because I just  
14 want to caution you, because Petrocelli hearing or whatnot,  
15 you know, at some point AJ and his folks are going to be gone,  
16 and so --

17 MR. CHAIREZ: Right. Right.

18 MS. HOLTHUS: -- that may be this afternoon, so.

19 MR. CHAIREZ: Right.

20 THE COURT: And if you want to recall -- well,  
21 let's --

22 MS. HOLTHUS: And with candor --

23 THE COURT: Hold on. That's a question [inaudible].

24 MS. HOLTHUS: But like I said, I don't think the  
25 facts are at dispute. My understanding is that he had



1 marijuana on him. No, actually, they smelled it on him, they  
2 checked him and they kicked him out. And he's going to be  
3 going to live with his dad because he wants to be with his  
4 dad.

5 THE COURT: We can do the Petrocelli hearing now. I  
6 mean, I see where you're going. I told you my reasons for not  
7 letting -- as far as relevance, but you're kind of -- as the  
8 case has evolved, you're kind of going with a little bit  
9 different theory. And I mean, arguably there's some  
10 relevance. He just needs to put up --

11 MR. CHAIREZ: Well, is she willing to stipulate or  
12 put that on the record, that he was expelled from school?

13 MS. BLUTH: Absolutely not.

14 MR. CHAIREZ: Okay.

15 THE COURT: Well, it sounds like it would be relevant  
16 to show something. So I guess your line, your theory would be  
17 it's relevant to show he wasn't in fact -- well, he wasn't in  
18 fact embarrassed because he smoked pot before.

19 MR. CHAIREZ: Right. Well, he told -- he told Mazen  
20 he smoked it two to three times a week. Okay.

21 MS. HOLTHUS: And that's going to come in.

22 MR. CHAIREZ: So see, if --

23 MS. BLUTH: How?

24 MS. HOLTHUS: Through his statement.

25 MR. CHAIREZ: Well, no. I mean --

1 MS. HOLTHUS: Did we take that up?

2 THE COURT: Well, why don't we do this back there so  
3 we can get --

4 MS. HOLTHUS: Did he testify?

5 THE COURT: -- make sure the record's really good.

6 MR. CHAIREZ: Okay.

7 MS. HOLTHUS: I thought you said it was.

8 THE COURT: Ms. Holthus, let's do it back at the  
9 tables.

10 MS. HOLTHUS: Sure.

11 (End bench conference.)

12 THE COURT: All right. What I started to address  
13 before the bench conference and what was continued during the  
14 bench conference is a discussion on the Court's prior ruling  
15 regarding a school incident where AJ was apparently smoking  
16 marijuana. It was previously not allowed at that time --

17 MS. HOLTHUS: Can I just clarify, Judge? My  
18 understanding of the facts are not that he was smoking, but  
19 that he may have had it on him.

20 THE COURT: Then I misspoke. So somehow he was in  
21 possession of marijuana and there was a school event. And at  
22 that time I did allow it on the grounds of relevant in that  
23 we -- at that point we weren't really sure how the testimony  
24 would play out.

25 I thought at that point there would be relevance if

1 he denied it, but ultimately he did not deny it at the time of  
2 trial. He conceded that he was -- did go to the defendant's  
3 room for the purpose of smoking marijuana and that he actually  
4 did smoke marijuana with the -- with the defendant in this  
5 particular case.

6           However, Mr. Chairez has made a renewed motion  
7 pursuant to Petrocelli to have that information introduced.  
8 And so please, you kind of have a different spin on how you  
9 want to use it.

10           MR. CHAIREZ: Well, my only concern, Your Honor, and  
11 the reason we've renewed the motion is I understand on  
12 Wednesday, the day before trial started, when Ms. Holthus was  
13 preparing AJ for his testimony here in court, that's when he  
14 disclosed that he had been kicked out of school for being  
15 suspected of having marijuana or smelling of marijuana.  
16 Ms. Holthus disclosed it to me the following day.

17           At that point -- and she also felt that it was a  
18 prior bad act or something like that, and I'm not going to  
19 disagree with her. I do believe -- and that's why I mentioned  
20 that case to you, Davis vs. Alaska. If a juvenile defendant  
21 has a criminal record, in a criminal case our right to  
22 confront and cross-examine the witnesses would include the  
23 right to look at their juvenile record, which is normally  
24 privileged.

25           And I think would allow us -- if we're allowed to

1 look at a criminal record, we should even be allowed to look  
2 and mention prior bad acts. Because it goes to the, you know,  
3 our theory as to whether or not this is an isolated incident  
4 when AJ goes to a -- to the defendant's room in order to  
5 purchase marijuana. And I don't know that they're going to  
6 argue that in closing argument, that it was just the one-time  
7 event, et cetera, et cetera.

8           So I don't need to prejudice, you know, AJ, but by  
9 the same token, I'm sure they're going to prejudice my client  
10 to say, oh, well, he bought the marijuana and he did this and  
11 he did that and all those other things. And so my sense is,  
12 in the spirit of full disclosure, I believe that we -- and I  
13 don't even intend to ask the mother about, you know, does your  
14 son regularly use marijuana.

15           I just kind of think that the fact that ten months  
16 later, or nine months after the incident AJ again is found  
17 with marijuana, AJ -- the school decided to do something about  
18 it and to kick him out of school. I somehow think that that's  
19 important information. So obviously the State won't stipulate  
20 to it. I don't know whether I should ask the mother about it.

21           And as I told you, in terms of psychology, I don't  
22 want to create too much sympathy for the mother, even though  
23 it's a sad situation that she -- I mean, I just don't want to  
24 come across overly harsh. So at any rate, I would rather have  
25 the State stipulate that this is what happened, or they go

1 into it and ask it and I don't need to go into it.

2 MS. HOLTHUS: I guess my question is, I don't know  
3 what he wants to go into. We had talked before about  
4 subsequent, and the Court found it wasn't relevant at all, the  
5 fact that because, I mean, the argument could be that the  
6 defendant exposed him to the marijuana and so ten months later  
7 him being caught with marijuana, I'm not -- it kind of cuts  
8 both ways. I don't see where that's relevant.

9 THE COURT: Was there an event prior to though?

10 MS. HOLTHUS: And I'm not even sure. I believe he  
11 had said -- it's in the statement, right? There was some  
12 exposure to marijuana. There was something about marijuana.  
13 He was holding it for someone.

14 MR. CHAIREZ: Who, AJ?

15 MS. HOLTHUS: Yeah.

16 MR. CHAIREZ: No. No.

17 MS. HOLTHUS: He had smelled it before?

18 MS. BLUTH: No. He said --

19 THE COURT: Because where I would see the relevance,  
20 to be very frank, given how the testimony played out with the  
21 child, is AJ testified that his embarrassment in not wanting  
22 his parents to know was part of the reason he reported the way  
23 he did to the police, which is he really did not give -- the  
24 reason why his story kind of changed, because he was  
25 embarrassed, he didn't want his mother to find out and

1 everything else.

2           So it explains his actions with respect to reporting  
3 to the police. I mean, that came out during his testimony.  
4 So I can see some relevance if it was an event before that  
5 would kind of go to show, hey, you know what, he wasn't really  
6 embarrassed this time because, you know, he's been caught  
7 smoking pot before and this wasn't the first time he's smoking  
8 pot. But I'm not sure about the same to be said with  
9 subsequent events.

10           MS. BLUTH: Your Honor, even if he was caught with  
11 marijuana before, he did say he was embarrassed. He was  
12 embarrassed about what was done to him. He was scared to tell  
13 his mom and his grandma because he didn't want to get in  
14 trouble for smoking pot. But if you're a child and you're  
15 caught ten times, say he was caught ten times smoking pot and  
16 he got in trouble every time, the 11th time, if he gets  
17 caught, he's still going to be scared of getting in trouble.

18           THE COURT: Well, but there's also some, you know,  
19 testimony as far as, you know, he initially said that he was  
20 pulled into the room and then the testimony comes out that no,  
21 that wasn't in fact what happened, that he had gone with this  
22 defendant and he had smoked marijuana. You know, the  
23 marijuana kind of, at least in the Court's opinion, that it  
24 kind of came out as part of the reason why he perhaps was not  
25 as forthright at the very beginning as he subsequently was.

1 MS. BLUTH: Absolutely.

2 THE COURT: So, you know, I can see some kind of  
3 relevance. But really, Mr. Perez [sic], I mean, if you want  
4 to do an offer of proof, make a renewed motion for a  
5 Petrocelli hearing on that. On the subsequent, I think you're  
6 probably going to have to make an offer as to why any  
7 subsequent events would be relevant other than to show he's  
8 just a bad kid that smokes pot.

9 MR. CHAIREZ: Well, and I think Ms. Holthus --

10 THE COURT: Which would be character.

11 MR. CHAIREZ: -- admonished me earlier don't refer to  
12 him as a bad kid. But, you know, I'm willing to -- I live  
13 with the Court's orders.

14 THE COURT: But I mean, I wouldn't allow it in either  
15 situation, whether it's before or after, to show, hey, he's a  
16 bad kid --

17 MR. CHAIREZ: Right.

18 THE COURT: -- because he smoked pot, because I think  
19 that's clearly not permissible. But like I said, with the  
20 prior event, I think that it could potentially be relevant,  
21 from what I'm hearing from you, to show something other than  
22 he's just a bad person. On the subsequent, I'm not sure --

23 MR. CHAIREZ: I'm not going --

24 THE COURT: -- what it would show.

25 MR. CHAIREZ: I'm not going into anything prior. I'm

1 just saying Ms. Holthus found out the day before trial. She  
2 told me the first day of trial, and I thought it was relevant.  
3 I thought it was important. But that's okay. It's a  
4 subsequent bad act and --

5 MS. HOLTHUS: If I just can interrupt. I just had  
6 Ms. Bluth go check with Mom. There is no -- to the extent  
7 he's making the relevance that he got in trouble with Mom  
8 before, there has never been any problems with AJ and  
9 marijuana prior to the date in Circus Circus.

10 THE COURT: Okay. So then on the subsequent event,  
11 and that's the one at the school where he was somehow in  
12 possession of the marijuana, so what would that be relevant to  
13 show other than that he's a bad kid?

14 MR. CHAIREZ: Well, I mean, it goes to why did he not  
15 tell the truth with the police on the morning of the incident.  
16 And, you know, the long and short of it is, I guess, as long  
17 as I'm allowed to argue he was more worried about getting in  
18 trouble with his mother, he wasn't -- I'm not going to say he  
19 wasn't embarrassed. Obviously if this happened he would be  
20 embarrassed. But he was willing to lie, et cetera, et cetera.

21 So my sense is on -- I mean, if you feel it's not  
22 relevant, Your Honor, it's okay with me. I just put it down  
23 on the record like saying given the late circumstances under  
24 which everybody found this out, I'm not going to go into it.

25 MS. HOLTHUS: And let me just clarify.



1 THE COURT: Okay.

2 MS. HOLTHUS: It has nothing to do with timing of  
3 disclosure about it last Wednesday. It's -- because it's not  
4 relevant because of the timing with respect to the offense.  
5 And I think, with all due respect, Mr. Chairez's whole  
6 argument is bad kid character evidence. He hasn't really  
7 articulated anything under the bad act rule that would allow  
8 it to come in for anything other to say he's a bad kid.

9 He can say he was a bad kid for what happened on that  
10 day. He simply can't bring in everything this kid has done in  
11 the last 13 years that was bad and say, look, he's a bad kid,  
12 so I don't know, he wanted it, he deserved it, he liked it, he  
13 started it. I don't know what the next step is, but --

14 MR. CHAIREZ: Your Honor, we don't know --

15 MS. HOLTHUS: -- that's not proper.

16 MR. CHAIREZ: We don't know any of the things that  
17 he's done in the last 13 years, so we're not going to go  
18 into it.

19 THE COURT: Okay. So just to make sure I'm clear, at  
20 this point you're not making a renewed motion pursuant to  
21 Petrocelli to bring in a subsequent event at the school?

22 MR. CHAIREZ: Well, I'm just, Your Honor, I'm not  
23 bringing a renewed motion. I just thought that Ms. Holthus  
24 was characterizing my position as we were stipulating -- and  
25 we are based upon your order. We're stipulating we're not

1 going to go into any of it. And so I didn't want her to think  
2 I'm going to say anything about it to the mother, when we  
3 cross-examine the mother, et cetera, et cetera.

4 So we've already gone into yes, it's a subsequent bad  
5 act, not a prior bad act, and I don't want to disparage the  
6 kid and just say he's a bad kid. So at any rate, no, I don't  
7 intend to do that. But, you know, the kid himself said he was  
8 a bad kid. The kid himself told the detectives, My mother  
9 couldn't handle me, that's why she sent me down to live with  
10 my father, so.

11 MS. HOLTHUS: And that's why I keep asking.  
12 Mr. Chairez says he's not going to get into it, then he says  
13 subsequent. My question is, and my under -- I needed  
14 clarification. My position is it's all character evidence,  
15 it's bad kid evidence, and he hasn't put forth a relevant  
16 appropriate basis for that to come in, in the trial. If he's  
17 agreeing, then fine.

18 But if he's saying that because the detective said it  
19 or because the kid said it it's fair game, I mean, just  
20 because a witness has said something previous doesn't make it  
21 admissible in the trial. I mean, we -- that happens all the  
22 time. So I need -- that's what I'm trying to get Mr. Chairez  
23 to commit to, where he's going.

24 If he -- is he going to say that AJ, or to the  
25 detective or somebody, did you say you were a bad kid? He

1 didn't say it to AJ, so I'm assuming he's not going down that  
2 road.

3 THE COURT: Look, I would allow -- if you make the  
4 appropriate offer of proof and request a Petrocelli hearing, I  
5 mean, if you can demonstrate to me that it can be something  
6 used for a purpose other than show, hey, he's a bad kid  
7 because he keeps smoking pot or he lies to his parents,  
8 whatever, that would be one thing. Just at this point I don't  
9 hear anything other than that.

10 Is that correct? Would that be the only -- I mean,  
11 the only reason that would be used is he's a bad kid for  
12 smoking pot in the future at school, or possessing pot?

13 MR. CHAIREZ: Well, the problem, Your Honor, is  
14 until a week ago we were always under the impression, and all  
15 of our cross-examination and all of our preparation went into  
16 showing that AJ was not telling the truth because the video  
17 shows he wasn't dragged down the hall. The video shows he  
18 doesn't have a knapsack, and he specifically tells Detective  
19 Christensen he has a knapsack.

20 And so when this change of story came about, you  
21 know, on the eve of trial, I mean, and we don't even have a  
22 written statement, so we didn't know what AJ was going to say  
23 until he said it yesterday, so.

24 THE COURT: Well, I think you -- you were -- you went  
25 into that information. You went into the inconsistencies

1 yesterday upon cross --

2 MR. CHAIREZ: Okay.

3 THE COURT: -- if I recall correctly.

4 MS. BLUTH: Yeah. Well, we -- we need to make a  
5 correction. That is incorrect on the record.

6 MR. CHAIREZ: Okay.

7 MS. BLUTH: Before this trial began we told -- we  
8 took Mr. Chairez outside and we told him yesterday in our  
9 pretrial AJ had said some things that were inconsistent with  
10 his prior story. We told Mr. Chairez what those  
11 inconsistencies were. So the State obviously has an  
12 obligation to do that and we did that before trial.

13 We took you outside in the -- after we met with him,  
14 out of those doors and we told you the inconsistencies, that  
15 he had come forward and in fact stated that he had made an  
16 agreement with the defendant, sex for money, sex for weed, and  
17 that his plan was to go up there, take the weed and run. And  
18 we disclosed that inconsistency to you before the trial,  
19 correct? I just want -- is that correct?

20 MR. CHAIREZ: When was that? I mean, I don't recall,  
21 but that's -- I mean, I recall, you know, talking to  
22 Mr. Sweetin a couple weeks ago and then --

23 MS. BLUTH: I'm not talking about that. I'm talking  
24 about before this trial started we --

25 MR. CHAIREZ: You mean you're talking on Thursday,

1 or --

2 THE MARSHAL: Mr. Chairez, hold on.

3 THE COURT: We're having interpreting difficulties.

4 MS. BLUTH: Okay.

5 THE COURT: Is it the machine that's broken, sir,

6 Mr. Interpreter? Okay. Please interpret, sir.

7 THE INTERPRETER: It's good now.

8 THE COURT: Good now. Okay. Thank you.

9 Mr. Alotaibi, have you understood what's just been  
10 going on, sir?

11 THE DEFENDANT: Yes.

12 THE COURT: We've been talking. Have you understood  
13 everything?

14 THE DEFENDANT: No. English or Arabic?

15 THE COURT: Sorry?

16 THE DEFENDANT: In English or Arabic?

17 THE COURT: Were they translating to you in Arabic?

18 THE DEFENDANT: Yeah.

19 THE COURT: Okay.

20 THE DEFENDANT: Yeah. I understand them very well.

21 THE COURT: Okay. Because what I'm asking is if  
22 there's something you have not -- I was not aware that they  
23 were having difficulty with the translating machine or the  
24 microphone, so is there anything that we need to go back over?  
25 I want to make sure you didn't miss anything.

1 THE DEFENDANT: No.

2 THE COURT: Okay. All right.

3 MS. BLUTH: I just want to make sure, Your Honor,  
4 that that record is clear, because it's an obligation that the  
5 State has to provide defense with inconsistent statements.  
6 And as soon as the State learned of those inconsistencies, we  
7 spoke with Mr. Chairez the following day.

8 MR. CHAIREZ: Was this after trial began, or before  
9 trial began?

10 MS. HOLTHUS: No.

11 MS. BLUTH: This was before trial began. We stepped  
12 outside and told you.

13 MS. HOLTHUS: We said, Come out here, in that little  
14 box [indicating].

15 MR. CHAIREZ: I must be having a senior moment, Your  
16 Honor. I don't dispute that they -- I don't dispute that and  
17 I mean, I just know everything has been told to me just in the  
18 last week. So for the State's benefit, I will say they've  
19 disclosed it to me in enough time for me to think about, okay,  
20 well, we need to change our strategy on how we want to  
21 question AJ. And again, we didn't know what he was going to  
22 say until he said it yesterday, so.

23 THE COURT: Okay. So I seem to remember this coming  
24 up before, because I had the same question before that I have  
25 now, which is are you alleging the State violated Brady?

1 MR. CHAIREZ: No. No, I'm not. No, I'm not, Your  
2 Honor.

3 THE COURT: Okay.

4 MS. HOLTHUS: And he didn't at that time request a  
5 continuance.

6 MR. CHAIREZ: No. Right.

7 MS. HOLTHUS: I don't think it changes anything.

8 MR. CHAIREZ: I did not request a continuance. That  
9 is correct, Your Honor.

10 MS. HOLTHUS: And just to clarify, those two  
11 differences on Wednesday, when we learned that AJ was now  
12 acknowledging the marijuana portion, that I think was always  
13 everybody's -- anyway, he was acknowledging that and also the  
14 fact that he had been kicked out of school.

15 MR. CHAIREZ: We didn't know that, Your Honor,  
16 until --

17 MS. BLUTH: Right.

18 MS. HOLTHUS: Neither one of us.

19 MR. CHAIREZ: Right. Okay.

20 MS. HOLTHUS: So those are both things that we  
21 learned Wednesday afternoon.

22 MR. CHAIREZ: Right.

23 MS. HOLTHUS: And they're both things that we  
24 admonished Mr. Chairez before we began trial.

25 MR. CHAIREZ: That is --

1 MS. HOLTHUS: Previous to that, when Mr. Sweetin and  
2 I had met with AJ, and Mr. Chairez knows this, he recanted, if  
3 you will, or changed his story about being dragged into the  
4 room very soon, very soon. That was almost immediate that he  
5 acknowledged. And Mr. Chairez's position was that's because  
6 he saw it on the video, but no.

7 MR. CHAIREZ: Well, I don't know when she says AJ  
8 recanted his story. The first I heard of it was like, I can  
9 even look at my cellphone to see what day Mr. Sweetin called  
10 me, but it just seems like it was two or three weeks ago. So  
11 that's the first that I heard --

12 MS. HOLTHUS: Well, we're thinking a month ago, but  
13 that could be.

14 MR. CHAIREZ: Okay. Recanted his story. So --

15 MS. BLUTH: But you were aware of that, I guess, is  
16 what we're trying to acknowledge.

17 MR. CHAIREZ: Yes. No, no. Mr. Sweetin called, Mary  
18 Kay was present and -- and yes, they disclosed that AJ is  
19 going to admit he was going to the room to smoke marijuana  
20 with Mr. Alotaibi, so that he was not dragged and all that  
21 other kind of stuff. So I never saw a written statement and  
22 they didn't have a written statement, but they told me that  
23 that's what AJ -- AJ's new position was, so.

24 THE COURT: Okay. Is there anything else before I  
25 bring the jury back in? Is there anything else that you



1 believe or you're claiming that the State did not timely  
2 provide you as far as discovery?

3 MR. CHAIREZ: Well, no. I mean, I'm saying they  
4 didn't timely provide me anything because AJ didn't timely  
5 tell them. So if she -- if Ms. Holthus and Ms. Bluth just  
6 heard about it on Wednesday and they tell me on Thursday, I  
7 think that that's okay. I'm just saying I don't want to be  
8 held to, oh, why didn't you do this and that prior to trial  
9 and all those other things. It's hard to do that after you've  
10 already selected a jury, so.

11 MS. HOLTHUS: And I think the record has been made,  
12 to the extent that he needs to do something, he's free to do  
13 that. I think we even discussed filing something over the  
14 weekend. The Court has said he can do a Petrocelli hearing or  
15 whatever he needs in the middle of trial anytime he wants to,  
16 just to raise it and ask for it.

17 THE COURT: Yes. That's correct. We can always do  
18 it before the jury comes in. All right. Is there anything  
19 else we need to address? I'm going to run and get water real  
20 quick and use the restroom, and then I'll be back within a few  
21 seconds. Is there anything else we --

22 MS. HOLTHUS: So we do have the clear parameters. At  
23 this point he's not going into anything.

24 MR. CHAIREZ: I'm not going to go into AJ being a bad  
25 kid. I'm not going to go into AJ being kicked out of school

1 because of marijuana. I'm not going to go into AJ using  
2 marijuana prior to all of this, so.

3 THE COURT: All right. I'll be right back.

4 (Court recessed at 1:50 p.m. until 1:52 p.m.)

5 (Outside the presence of the jury.)

6 THE COURT: Mr. Alotaibi, just real quick. If  
7 sometime during the course of the trial either the interpreter  
8 is not interpreting, you can't hear because of the equipment,  
9 please let me know. Okay. Unless you let me know, I'm going  
10 to assume that you're understanding everything, okay? Yes?  
11 Can you say it?

12 THE DEFENDANT: Yes.

13 THE COURT: Okay. Thank you, Mr. Alotaibi.

14 All right. We're going to bring the jury in now.

15 (Pause in proceedings)

16 THE COURT: Actually, you're right. We do need to --  
17 we got a new interpreter. Let's swear -- Mr. Interpreter in  
18 the red, could you please stand up to be sworn in.

19 (Interpreter sworn by the clerk.)

20 THE COURT: All right. And Mr. other interpreter,  
21 I'm sorry, I don't remember your name --

22 THE INTERPRETER: I did that last time.

23 THE COURT: Yeah. I was going to say, remember  
24 you're still under oath at this time.

25 THE INTERPRETER: Okay.

1 THE COURT: Thank you. All right. The jury, please.

2 MS. HOLTHUS: Is it my understanding that the  
3 cameras -- the next two witnesses are Mom and Grandma. You  
4 guys aren't filming her?

5 (Negative response.)

6 MS. HOLTHUS: Okay.

7 MR. CHAIREZ: What's the date today?

8 MS. HOLTHUS: Thank you.

9 (Pause in proceeding.)

10 (Jurors reconvene at 1:55 p.m.)

11 THE COURT: Welcome back, ladies and gentlemen of the  
12 jury. Okay. Would the State like to present its next  
13 witness?

14 MS. HOLTHUS: Tina Dang, please.

15 THANH NGUYEN, STATE'S WITNESS, SWORN

16 THE CLERK: State and spell your first and last name  
17 for the record, please.

18 THE WITNESS: My name is Thanh Nguyen. First name  
19 spelled T-h-a-n-h. Last name, N-g-u-y-e-n.

20 THE COURT: Whenever you're ready.

21 DIRECT EXAMINATION

22 BY MS. HOLTHUS:

23 Q Thanh, do you have children? How many?

24 A Three.

25 Q Names and ages?

1           A     AJ is the oldest. He's now 14. And Taylor  
2 [phonetic] is 11, that's the girl. And then I just had a  
3 baby, Jaden [phonetic], who is six months.

4           Q     And AJ's birthday?

5           A     It's 9/25/99.

6           Q     And his last name is?

7           A     Dang, D-a-n-g.

8           Q     You live in?

9           A     Sacramento.

10          Q     You've flown in for purposes of this trial with  
11 your son and mother?

12          A     Yes.

13          Q     And you basically know what we're here about,  
14 right?

15          A     Yes.

16          Q     Around New Year's of last year, did there come a  
17 time when AJ came to Las Vegas?

18          A     Yes.

19          Q     When was that?

20          A     He came December 30, with my mom.

21          Q     Is that 2012?

22          A     Yes.

23          Q     And your mom's name is?

24          A     Mai Le.

25          Q     Do you live with your mom?

1 A No, I don't.

2 Q What was the purpose of the trip?

3 A AJ was living with his dad, and my mom had  
4 picked him up for New Year's vacation and took him to Vegas.

5 Q Just the two of them?

6 A I believe so.

7 Q Does your mom come to Vegas frequently?

8 A Yes.

9 Q She play the slots and stuff?

10 A Yeah.

11 Q Does she have a favorite casino?

12 A No. No.

13 Q For New Year's, she was coming for how long?

14 A I wasn't sure. Maybe for a few days, because I  
15 know she had to book the hotel for a few days for just the New  
16 Year's.

17 Q So December 30 through New Year's Day, January  
18 1?

19 A 1st or 2nd, somewhere, but no longer than the  
20 2nd, I don't think.

21 Q And so did she have your permission to bring AJ  
22 to Las Vegas?

23 A Yes, she did.

24 Q And did you stay in touch with them while they  
25 were here?

1           A     Yes.

2           Q     They shared a room and whatnot?

3           A     Yes.

4           Q     Did AJ have a cellphone?

5           A     Yes, he did.

6           Q     Did you stay in contact with him on the  
7 cellphone?

8           A     Yes.

9           Q     Did he also have music on his cellphone?

10          A     Yes, he does.

11          Q     Would he listen to music on it?

12          A     Yes.

13          Q     Do you know what kinds of music?

14          A     He listened to everything. He likes everything.

15          Q     And would he do that with a headphone, or just  
16 holding it?

17          A     Sometimes he has headphones, sometimes he  
18 doesn't. He'll play loud music on his phone.

19          Q     Just walking around with it up to his ear?

20          A     Mm-hmm.

21          Q     Is that yes?

22          A     Yes.

23          Q     Did you talk to him on December 30, check in  
24 that they had arrived and whatnot?

25          A     December 30, yes, that night I did.

1 Q Did you speak to him on the 31st?

2 A Yes, I did.

3 Q Tell me the circumstances. About what time was  
4 that?

5 A If I remember correctly, it was around early,  
6 between 7:30, 8:30 in the morning, because I had to get my  
7 blood test done when I was pregnant, and I had to sat [sic]  
8 and wait for my blood to be -- the results.

9 Q This was that like a sugar test, diabetes test?

10 A Yes.

11 Q And how pregnant were you at the time? Well,  
12 the baby's six months, right?

13 A He's six months. I was -- had him -- I was  
14 about eight, yeah.

15 Q In there?

16 A Yeah.

17 Q All right. So you went to the doctors  
18 [inaudible] where you go, and you drink the thing and then sit  
19 and wait?

20 A Yes. I had to drink the sugar drink and then  
21 sat there and wait for three blood tests done.

22 Q So during the course of that, that's when you  
23 put in a call to AJ?

24 A Yes. I called him in the morning to see how he  
25 was doing.

1 Q And you don't recall exactly what time it was?

2 A I don't know. It's between 7:30, 8:30 in the  
3 morning. I don't remember exactly.

4 Q And tell me just about the conversation.

5 A Well, I just called him in the morning to see  
6 what he was doing, and he told me he was going to go eat  
7 breakfast with his friends. And I asked him, well --

8 Q [Inaudible.]

9 A I'm sorry?

10 Q How did he sound when he answered the phone?

11 A When he -- at first he sounded fine, and then he  
12 was rushing me to talk to get me off the phone. And I go, Did  
13 Grandma know that you're going with your friends to eat, and  
14 he said, Yes, I already told Grandma. And he was like, Okay,  
15 well, I got to go, I'm going to go eat with my friends, and  
16 then we just hung up.

17 Q So how long was the phone call would you say?

18 A Maybe like five minutes.

19 Q Was it -- was he unusually rushed? Was there  
20 anything unusual about it?

21 A It just seemed like he was in a rush to go see  
22 his friends. It wasn't anything that I was concerned with.

23 Q And what happened after that?

24 A I sat there. I was still waiting for the  
25 diabetes thing, and then about 30 minutes later, somewhere



1 around there my mom called me and said AJ had gotten into some  
2 trouble, and that's when the hotel security got on the phone  
3 and told me what happened.

4 Q And essentially they told you?

5 A They told me that AJ came running to him and  
6 told him that he was raped.

7 Q What did you do as a result of that?

8 A After that I was -- I said, Let me talk to my  
9 mom, and then my mom's like, Yeah, that's what they are  
10 saying. And then they're -- they were on their way to the  
11 hospital to see if he was -- if he had been raped.

12 Q That's what your mom told you?

13 A Yes.

14 Q What did you do then?

15 A I got off the phone and I went home -- and I  
16 told them I couldn't finish my blood testing, and I went home  
17 and I sat until my mom called me to tell me if it was true  
18 that AJ was raped. And once they confirmed it, I got in the  
19 car and came to Vegas.

20 Q By confirm it, you mean you got results of the  
21 medical testing?

22 A The -- the medical -- yeah, the medical tests  
23 from the hospital.

24 Q Did you at any point during that talk directly  
25 to AJ?

1           A     I did, but he didn't really want to talk to me  
2 at that time.

3           Q     So you got in your car about how long after that  
4 initial phone call?

5           A     In the morning -- I left around maybe 2:00 or  
6 3:00 in the afternoon.

7           Q     And you arrived in Vegas about what time?

8           A     About an hour -- I'd say an hour before  
9 midnight.

10          Q     So an eight-hour drive; is that what it is?

11          A     Yeah.

12          Q     Okay. So AJ was already back at the hospital, I  
13 assume, by then -- or not hospital, hotel?

14          A     Yes.

15          Q     And did you have an opportunity to talk to him  
16 about what happened?

17          A     I tried to, but he wasn't really talking to me  
18 about the whole thing. He just told me that it happened, that  
19 the guy grabbed him, took him in and then that's what  
20 happened.

21          Q     Grabbed him, took him in and -- is that what he  
22 said, "Then that's what happened," or did he tell you more  
23 detail than that?

24          A     He didn't tell -- he didn't go into details with  
25 me. He just told me they grabbed -- that he went into the

1 bathroom and the guy raped him and that was it. He didn't go  
2 into details of how it happened or anything.

3 Q And you have brought AJ back to Las Vegas  
4 pursuant to this case a couple of times now; is that correct?

5 A Yes.

6 Q And specifically to testify in this trial; is  
7 that right?

8 A Yes.

9 Q And can you tell me how he feels or what's his  
10 demeanor about testifying at the trial?

11 A He's -- he's not happy about it. He's -- he's  
12 upset that he has to. But other than that, he's hanging in  
13 there.

14 Q Is he scared?

15 A Yes, he is.

16 Q He's aware of all the potential media involved  
17 and everything else?

18 A Yes.

19 Q Is he embarrassed?

20 A Yes, he is.

21 Q Did you -- do you know either of these gentlemen  
22 at the table next to me?

23 A No, I don't.

24 Q Did either of them have any permission to have  
25 your son with them anywhere in December of 2012?

1 A No.

2 MS. HOLTHUS: Pass the witness.

3 THE COURT: Cross.

4 MS. HOLTHUS: And for the record, I was indicating  
5 defense counsel and the defendant.

6 THE COURT: All right. Mr. Chairez, sir.

7 CROSS-EXAMINATION

8 BY MR. CHAIREZ:

9 Q How long have you lived in Sacramento, Ms.  
10 Nguyen? Do you want Dang or Nguyen?

11 A Nguyen.

12 Q Nguyen. All right.

13 A I lived in Sacramento since 2009. About 2009,  
14 yes.

15 Q And have you only lived at one house, or have  
16 you lived at several houses there in Sacramento?

17 A I've lived at two different houses.

18 Q Okay. And is one on Burdett Way and the other  
19 one on Rockhurst?

20 A Yes.

21 Q And when did you move to the --

22 MS. HOLTHUS: Oh, objection. Her address would be  
23 relevant why?

24 THE COURT: Are we moving on now?

25 MR. CHAIREZ: Well, on how -- I'm not asking what her

1 address was. I want to ask how long she's lived at her  
2 current house.

3 MS. HOLTHUS: I thought I heard an address coming in.

4 MR. CHAIREZ: No.

5 THE COURT: You can use it to show any  
6 inconsistencies, as we previously discussed.

7 MR. CHAIREZ: No. I am just wondering on the morning  
8 when they went to the hospital they gave one address --

9 THE COURT: I'll allow it for that limited purpose.

10 MR. CHAIREZ: Yeah. That's -- okay.

11 THE COURT: The objection's overruled for that  
12 limited purpose.

13 BY MR. CHAIREZ:

14 Q Is the Burdett Way address the address where you  
15 lived at on let's say December 31, 2012?

16 A Yes.

17 Q And when did you move to the Rockhurst address?

18 A In February.

19 Q And that's where you currently live, correct?

20 A Yes.

21 Q Now, and on the morning of this incident, you  
22 say you spoke with AJ for about four or five minutes?

23 A Yes.

24 Q And he seemed like he was in a hurry?

25 A Yes.

1 Q And he said he was going to meet some friends  
2 for breakfast?

3 A Yes.

4 Q And would you say that AJ is afraid of you?

5 A Yes.

6 Q Because you're a strict mother?

7 A Yes.

8 Q And did AJ tell you that he had gone to the  
9 defendant's room or the room where the defendant was because  
10 he was trying to buy marijuana?

11 A No.

12 Q And he hasn't -- he hasn't told you even up to  
13 now?

14 A No.

15 Q Now, is it possible, Ms. Dang or Ms. Nguyen,  
16 that instead of calling AJ at 7:30 or 7:40, you actually  
17 called him at 9:04?

18 A At what?

19 Q That you actually called him at 9:04, not at  
20 7:30 or 7:40?

21 A Okay.

22 Q Is that possible?

23 A No. It's around 7:00-something in the morning,  
24 because that's my appointment time.

25 Q Okay. Now, did you tell me you were a strict

1 mother?

2 A Yes.

3 Q Do you know for instance, do you allow AJ to  
4 have a Facebook account?

5 A Yes.

6 Q Okay. And does he have a Facebook account?

7 A Yes.

8 Q And you help monitor it with adult controls, et  
9 cetera, et cetera, correct?

10 A Yes.

11 Q And is that Facebook account up now?

12 A I believe so.

13 MS. HOLTHUS: I'm going to object to the relevance.

14 THE COURT: Offer of proof?

15 MS. HOLTHUS: If we're going to do that --

16 MR. CHAIREZ: I'm just -- I've already established my  
17 point, Your Honor.

18 THE COURT: Okay. Next question, please.

19 BY MR. CHAIREZ:

20 Q And Ms. Nguyen, have you hired a lawyer for AJ,  
21 not a criminal lawyer, but a civil lawyer to bring a lawsuit  
22 based upon this incident?

23 A Yes.

24 Q And that lawyer is what, Mr. Ellison [phonetic]  
25 there in Sacramento?

1 A Yes.

2 Q And --

3 MR. CHAIREZ: All right. Nothing further, Your  
4 Honor.

5 THE COURT: All right. Redirect.

6 REDIRECT EXAMINATION

7 BY MS. HOLTHUS:

8 Q Ms. Nguyen, did you give a statement to a  
9 Detective Christensen?

10 A Yes.

11 Q That was recorded?

12 A Yes.

13 Q Do you recall telling her that you had woke up  
14 early to get your blood work done because I'm pregnant, and  
15 the process was about two hours or so, and then I got my blood  
16 sugars drawn, I was waiting for a little bit, I sat around  
17 anywhere between 8:30 and 9:00 o'clock, I called AJ to see  
18 what he was doing in the morning, checking up on him?

19 A Yes, I did.

20 Q So if you had said -- and that statement would  
21 have been given back January 8th of 2013. Do you think your  
22 time was more accurate then than it would be now?

23 A It was then, because I didn't remember it was in  
24 the morning. My appointment was like around 7:30-ish. I  
25 didn't get in until about 8:00, and I remembered after the



1 blood work was drawn I sat down. So the time frame is about  
2 that time.

3 Q So you believe you called AJ between 8:30 and  
4 9:00 o'clock?

5 A Yes.

6 MS. HOLTHUS: Thank you.

7 THE COURT: Mr. Chairez.

8 MR. CHAIREZ: Hold on.

9 (Pause in proceedings)

10 RECROSS-EXAMINATION

11 BY MR. CHAIREZ:

12 Q Ms. Nguyen, I'm looking at a T-Mobile cellphone  
13 record with two numbers being referenced. (626)328-5628, I  
14 believe that was AJ's phone number, correct?

15 A Okay. Yes.

16 Q And I see another one. (714)326-9380, was that  
17 your phone number back then?

18 A Yes.

19 Q Okay. And all I'm showing, and I don't know --  
20 I'm just trying to do this to help refresh your recollection,  
21 but I see an incoming phone call at 9:04 from (714)326-9380,  
22 on December 31, 2012. So is it possible that maybe the phone  
23 call came at 9:04 --

24 A No.

25 Q It's not?

1           A     No. Because I think I called him again  
2 afterwards too, but that was after I found out what had  
3 happened.

4           Q     And the (714)274-3466, is that your mother's  
5 phone number?

6           A     Yes.

7           Q     Okay. And I show that that was being made at  
8 9:23 a.m. But all right. I mean, it's not that it's that  
9 important. I just wanted to show you what the phone records  
10 indicated.

11          A     Okay.

12          MR. CHAIREZ: All right. Nothing further.

13          THE COURT: All right. Is she free to go?

14          MS. HOLTHUS: As far as we're concerned, yes.

15          THE COURT: All right. Thank you, ma'am, for your  
16 time. You're free to go. Thank you.

17          The next witness by the State.

18          MS. HOLTHUS: Judge, I'm going to call Mai Le, with  
19 the understanding that we believe she can go without an  
20 interpreter. She's indicated that she might prefer one, but  
21 there's not one available today. So I think if we speak  
22 slowly she'll be okay, but just warning you.

23          THE COURT: Okay. So if she doesn't understand,  
24 we'll just have to call her on another day once we get an  
25 interpreter. Any problems with that, Mr. Chairez?

1 MR. CHAIREZ: We'll work with her, Your Honor.

2 THE COURT: All right. Thank you.

3 MAI LE, STATE'S WITNESS, SWORN

4 THE COURT: Ma'am, you have a very soft voice. You  
5 need to speak up. Okay. Right in front of you there's going  
6 to be a microphone. See it's on top of the books. Make sure  
7 you speak into it. Please give me your first and last name  
8 and spell them. You can make yourself comfortable. Your  
9 first and last name, ma'am.

10 THE WITNESS: My first name Mai, M-a-i.

11 THE COURT: A little bit louder.

12 THE WITNESS: And my --

13 THE COURT: A little bit louder, please.

14 THE WITNESS: My first name is Mai, M-a-i. And my  
15 last name Le, L-e.

16 THE COURT: Okay. It's been expressed to me that  
17 your first language is Vietnamese, correct?

18 THE WITNESS: Yes.

19 THE COURT: Okay. I know that you do understand and  
20 speak some English. The question is going to be in English  
21 right now because we don't have an interpreter. If at any  
22 point you feel like you don't understand, you need to let us  
23 know. And if that happens, we can just call you to testify  
24 another time when we can bring in a Vietnamese interpreter.

25 THE WITNESS: Yes.

1 THE COURT: Yes?

2 THE WITNESS: Yes.

3 THE COURT: Okay. As long as you're answering the  
4 questions though, I'm going to assume that you understand  
5 them. So do you understand what I'm saying?

6 THE WITNESS: Yes.

7 THE COURT: Okay. So it's on you to make sure you  
8 tell me if you don't understand at some point.

9 THE WITNESS: Yes.

10 THE COURT: All right. Ms. Holthus.

11 DIRECT EXAMINATION

12 BY MS. HOLTHUS:

13 Q Ms. Le, you've lived in the States for how long?

14 A Thirty-first year.

15 Q And do you work?

16 A Yes.

17 Q Where do you work?

18 A I worked at McDonald before when I got here --

19 Q At where?

20 A -- in the United States. McDonald.

21 Q McDonald's?

22 A Yes.

23 Q Okay.

24 A But I live in Little Saigon. I work the  
25 restaurant, a Vietnamese restaurant. That's why, you know, I

1 don't speak English well, but I understand some.

2 Q So you've been here and you've worked in some  
3 English-speaking establishments, but I assume the restaurant  
4 you work in is Vietnamese-speaking; is that right?

5 A Yes.

6 Q Your family does speak English?

7 A Well, [unintelligible] speak English.

8 Q And you speak to them?

9 A I talk to them Vietnamese.

10 Q Okay. So they speak both?

11 A Yes.

12 Q You have -- you are AJ's grandmother; is that  
13 right?

14 A Yes.

15 Q You have other grandchildren?

16 A Excuse me?

17 Q Do you have other grandchildren?

18 A Yes.

19 Q How many?

20 A I have three.

21 Q How old is AJ?

22 A AJ now is 14.

23 Q Are you and he close? Are you close?

24 A Pardon me? Pardon me?

25 Q Does he spend time with you, AJ?

1 A Yes.

2 Q In December of last year, New Year's Eve time,  
3 did you come to Las Vegas?

4 A Yes.

5 Q And you two live in California?

6 A Yes.

7 Q What were you coming to Las Vegas for?

8 A I try for the new year. I take AJ with me.

9 Q And you were bringing him just to bring him?

10 A Yeah, I bring him with me.

11 Q Where were you staying?

12 A Circus Circus.

13 Q Well, what day did you get here?

14 A I get there the day before, like December 30.

15 Q Do you know about what time you got there?

16 A I think 2:00, 3:00 o'clock.

17 Q Would that be in the afternoon?

18 A Yes.

19 Q When you got to the casino, what did you do?

20 Did you check in?

21 A I check in.

22 Q And then what?

23 A And I stayed there with AJ and I walk around  
24 with him in the casino. And he hang around there, then I tell  
25 him to stay in the casino, don't go out. Then he stayed

1 there.

2 Q You told him to stay where?

3 A In the Circus Circus.

4 Q In the Circus Circus Hotel?

5 A Yes.

6 Q Did you leave him in the casino? Where did you

7 leave him?

8 A Pardon me?

9 Q Where -- you said you told him to stay. Did you

10 guys --

11 A Yeah. But he see his friend and then he go with

12 his friend.

13 Q Do you know his friend's name?

14 A No.

15 Q Was it a girl or a boy?

16 A A girl.

17 Q Did you meet her?

18 A Yes.

19 Q And so did you know that he was going off with

20 his friend?

21 A Excuse me?

22 Q Did you know he was going off with that friend?

23 A Yes.

24 Q And he had permission to do that?

25 A Yes.

1 Q So where did you go while he went off with his  
2 friend?

3 A And he say he go with his -- with her mom, the  
4 girl, his friend, with her mom, and she take them go around --  
5 I don't know, to play.

6 Q Where did you go?

7 A I stayed in the Circus Circus.

8 Q But where in the Circus Circus were you?

9 A In the casino.

10 Q Were you playing?

11 A Yeah.

12 Q Do you play slots?

13 A Yeah.

14 Q How about did you meet up with AJ for dinner?

15 A Yeah. I already took him dinner.

16 Q You took him to dinner before he met his friend?

17 A Yes.

18 Q When you -- when he left to go with his friend,  
19 did you give him money?

20 A After that he asked me to give him money, he got  
21 to play in there, and then I give him 20. But I tell him I  
22 give him 10, give me \$10 back. Then he say okay. After that,  
23 you know, like in that night he didn't give me, but in the  
24 morning he asked me he go to eat breakfast with his friend, he  
25 had \$10, would he keep it. I say okay, I'll give him 10, that



1 \$10.

2 Q So what time did he get in that night?

3 A Pardon me?

4 Q You said he went out with his friend. What time  
5 did he get home? Did he get home before or after you?

6 A He -- after me. I got in the room before him.

7 Q Do you know what time it was when he got in the  
8 room?

9 A I think it was about 11:00, 10:00 or 11:00.

10 Q At night?

11 A Around there, yeah.

12 Q And then you said in the morning he asked about  
13 going to have friend with his -- or go to have breakfast with  
14 his friend?

15 A Yes.

16 Q And did he still have the money?

17 A Yes.

18 Q Did you say okay?

19 A Yes.

20 Q So you gave him permission to go have breakfast  
21 with his friend?

22 A Yes.

23 Q What's the next, next you hear?

24 A Excuse?

25 Q What do you hear from next? When do you see AJ

1 again?

2 A Then, you know, after that I go down to play,  
3 but he called me. He in the security room and then I run  
4 there.

5 Q And what did you do when you got there?

6 A When I got there I don't know nothing. I just  
7 called his mom and his mom talked to them.

8 Q Did AJ have permission to be with anybody other  
9 than his little friends?

10 A Can you say it again?

11 Q Did you tell AJ it was okay to go with anybody,  
12 or just his friends?

13 A Just his friend.

14 Q So then what did you do then? You're down in  
15 security, you talk to security.

16 A Yeah. I come to the security, you know, then  
17 they talk to me. But I so nervous and I just cried and I  
18 called his mum.

19 Q And then where did you go from there?

20 A After that they take me to the hospital with AJ.

21 Q Was AJ -- did he go to the hospital with you, or  
22 is he already at the hospital?

23 A Excuse me?

24 Q Was AJ in security when you got there?

25 A Yeah.

1 Q So did the two of you went to the hospital?  
2 A Yes.  
3 Q And then he was examined there?  
4 A Yes.  
5 Q Then you called his mother?  
6 A I called his mother when I was in the security  
7 room.  
8 Q And eventually his mom came?  
9 A And after that his mom still [unintelligible]  
10 call in the hospital to talk to the doctor.  
11 Q Did you ever talk with AJ about what happened to  
12 him?  
13 A I just ask him some, but he didn't say. And  
14 then, you know, I afraid to ask him because he didn't want to  
15 say anything.  
16 Q Do you know anybody sitting over here  
17 [indicating]? These two gentlemen at the table, do you know  
18 either of these guys?  
19 A Him [indicating].  
20 Q Do you know them?  
21 A I don't remember.  
22 Q Did you give these men permission to be with  
23 your grandson, either one?  
24 A I don't know.  
25 Q I can't hear you.

1           A     I don't know. I don't --

2           THE COURT: Do you not understand the question, or  
3 you don't know?

4           THE WITNESS: Understand, but I don't remember I meet  
5 him or not.

6           THE COURT: Okay.

7           MS. HOLTHUS: It's -- I'll rephrase it.

8 BY MS. HOLTHUS:

9           Q     As far as you were concerned that morning, AJ  
10 was going with his friend, right?

11          A     Yes.

12          Q     The friend that you met the day before?

13          A     Yes.

14          Q     You didn't say it was okay for him to go with  
15 any grown --

16          A     No. Because I see that the girl, that's what he  
17 asked me to go do. That's where I said okay.

18          Q     Thank you.

19          MS. HOLTHUS: Pass the witness.

20          THE COURT: Mr. Chairez.

21                   CROSS-EXAMINATION

22 BY MR. CHAIREZ:

23          Q     Ms. Le, you've lived in the United States for 31  
24 or 32 years?

25          A     Yes.

1 Q And most of that time you lived in Southern  
2 California?

3 A Yes.

4 Q Garden Grove or Little Saigon; is that correct?

5 A Yes, and in Anaheim.

6 Q Anaheim. All right. And there's a lot of  
7 Vietnamese people that live in that area, correct?

8 A Yes.

9 Q And how many children do you have?

10 A I have three.

11 Q Three. And Tina is the oldest, the youngest,  
12 the middle child?

13 A She the older.

14 Q And when your children were younger, you  
15 encouraged them to speak English in the home, correct?

16 A Yes. I speak English to them, but I want them  
17 to understand Vietnamese. I talk Vietnamese to them.

18 Q And so Tina just testified. It sounded like she  
19 spoke very, very good English. So that's based upon what you  
20 wanted for her, correct?

21 A Pardon me?

22 Q I mean, you wanted Tina and your other children  
23 to learn English and Vietnamese, correct?

24 A Yes.

25 Q All right. With respect to gambling on New

1 Year's Eve, when you arrived December 30, was that a Sunday or  
2 a Monday? Do you remember?

3 A I don't -- I think Monday.

4 Q Okay. And when you arrived, did you take AJ out  
5 to see the Venetian or any of the other hotels?

6 A Not yet. I just got to Circus Circus.

7 Q Just Circus Circus?

8 A Yeah.

9 Q Okay. And what time did you guys arrive from  
10 California here in Las Vegas?

11 A I arrive -- I get in the Circus Circus about  
12 2:00 o'clock.

13 Q Okay. And did they let you check in early, or  
14 did they hold you to the 3:00 o'clock check-in time?

15 A No. I check in early.

16 Q And did you say you and AJ went to eat, or that  
17 you just gave him \$10 so he could go eat?

18 A No. That I gave him after.

19 Q You gave him money. All right. And then you  
20 went to the casinos to play the slots or to gamble?

21 A Yes.

22 Q All right. And you let AJ go with his friend,  
23 Mary; is that correct?

24 A Yes.

25 Q And do you recall what time you came home to

1 your room after gambling that night?

2 A Yes.

3 Q What time was that?

4 A I came home -- I came to the room about 9:00,  
5 9:00 o'clock, you know, [unintelligible].

6 Q And did you call AJ to see where he was?

7 A Yes. I called him but he didn't answer me.

8 Q He didn't answer you. Okay. And what time do  
9 you think approximately he came back from -- to the room to  
10 check in for the night?

11 A He come up by 11:00, because I still awake to  
12 wait -- waiting for him.

13 Q Okay. And who woke up first on the morning of  
14 the 31st, you or AJ?

15 A Pardon me?

16 Q Who woke up first, you or AJ?

17 A AJ wake up first.

18 Q He woke up first. And did he wake you up and  
19 ask you for more money?

20 A No, he didn't ask me more money, because he  
21 asked me go to eat breakfast. I asked him where the \$10 I  
22 give you last night.

23 Q Okay.

24 A You still have \$10. He said he keep it. I  
25 said, Okay, you take \$10, go eat.

1 Q So did you give him an extra \$10?

2 A No. Nothing than the \$10 he keep from the  
3 night.

4 Q He kept the \$10 from the night before?

5 A Yes.

6 MR. CHAIREZ: All right. No further questions.

7 THE COURT: Any redirect?

8 MS. HOLTHUS: No. Thank you.

9 THE COURT: Ma'am, thank you for your time. You're  
10 free to go. Thank you.

11 THE WITNESS: Okay. Thank you.

12 THE COURT: The next witness, please.

13 MS. HOLTHUS: Judge, I need to recall Tina Nguyen for  
14 a question.

15 THE COURT: All right.

16 THANH NGUYEN, STATE'S WITNESS, RESUMES THE STAND

17 THE COURT: Ma'am, you were previously placed under  
18 oath. You are still under oath at this time. Thank you.

19 MS. HOLTHUS: And I apologize. There were a couple  
20 of questions I had wanted to ask you as follow-up.

21 FURTHER REDIRECT EXAMINATION

22 BY MS. HOLTHUS:

23 Q You indicated on cross that you had retained  
24 counsel in this case?

25 A Counseling for AJ?



1 Q Where you put him in counseling?

2 A Yes.

3 Q Have you -- but also that you've retained an  
4 attorney?

5 A Yes.

6 Q And I think you even gave us the name of that  
7 attorney.

8 A Yes.

9 Q What was the purpose in talking to a lawyer?

10 A Because I've never had anything like this  
11 before, and I wasn't getting the full, you know, of what's  
12 going on and I was just worried. So I asked somebody for  
13 advice and help, and they were just telling me what was going  
14 to happen and what, you know, what I should do.

15 Q So this was for the purposes of going through  
16 the criminal process?

17 A Not for the -- well, for the whole thing,  
18 because I just didn't understand what I was supposed to do  
19 because I've never had anything like this or anything -- deal  
20 with anything in general going to court.

21 Q So it was because you were coming to court here  
22 on this?

23 A Yes.

24 MS. HOLTHUS: That's all. Thank you.

25 THE COURT: Mr. Chairez, anything else on that note?

1                               FURTHER RECROSS--EXAMINATION

2       BY MR. CHAIREZ:

3               Q     This lawyer in Sacramento that you hired, did  
4       you pay him money so he could give you advice?

5               A     No, I didn't.

6               Q     Did he say he'd represent you and say anything  
7       about taking something out of the winnings?

8               A     No, he didn't.

9               Q     Okay. So he's working for free as far as you  
10      know?

11              A     Yes.

12              Q     All right. And he has no intention to sue  
13      anybody, my client or the hotel?

14              A     He -- well, I don't know, because he said that  
15      if I, you know, if once the criminal case is over, then we can  
16      do a civil suit. So I'm assuming it's towards the defendant.

17              Q     Okay. And so but he didn't -- he didn't tell  
18      you how he was going to charge you or what he was going to  
19      charge you once you filed a civil suit, correct?

20              A     He -- we signed a contract, yes, we did.

21              Q     Okay. And was it -- did he call it a contingent  
22      fee contract, like saying he would take 35 percent or 25  
23      percent, or 40 percent? Do you remember what numbers?

24              A     I don't remember exactly what number, because it  
25      was a while back. I have the contract at home.

1 Q Okay.

2 MR. CHAIREZ: All right. Nothing further.

3 THE COURT: All right. Anything else for the State?

4 MS. HOLTHUS: No, thank you.

5 THE COURT: Is she free to go?

6 MS. HOLTHUS: [No audible response.]

7 THE COURT: Thank you, ma'am, for your time. You're  
8 free to go.

9 Next witness, please.

10 MS. HOLTHUS: Gertrude Pina.

11 GERTRUDE PINA, STATE'S WITNESS, SWORN

12 THE CLERK: State and spell your first and last name  
13 for the record, please.

14 THE WITNESS: Gertrude Pina.

15 THE CLERK: Can you spell that for me, please, ma'am.

16 THE WITNESS: G-e-r-t-r-u-d-e, and P like Paul, I, N  
17 like Nancy, A.

18 THE COURT: Whenever you're ready.

19 DIRECT EXAMINATION

20 BY MS. HOLTHUS:

21 Q Ms. Pina, what do you do?

22 A I'm the manager of hotel operations for Circus  
23 Circus.

24 Q And as part of that, your duties, do they  
25 include custodian of record duties?

1 A Yes. Correct.

2 Q Are you familiar with the records kept in the  
3 ordinary course of business at Circus Circus?

4 A Yes.

5 Q And particularly those that are kept in the  
6 ordinary course of business and relied on in generally  
7 conducting the business?

8 A Yes.

9 Q And have you reviewed some records in this case  
10 pursuant to our request?

11 A Yes.

12 Q Showing you what we've had marked as State's  
13 Proposed 168 --

14 THE COURT: Did you show Mr. Chairez?

15 MS. HOLTHUS: Yeah, I showed him earlier.

16 MR. CHAIREZ: Yeah. No objection, Your Honor.

17 THE COURT: Okay.

18 MS. HOLTHUS: Okay. I'll just move them all in.

19 MR. CHAIREZ: Yeah, that's fine.

20 MS. HOLTHUS: 168, 169 and 170.

21 MR. CHAIREZ: Move them all in.

22 THE COURT: All right. Admitted.

23 (State's Exhibit 168, 169, 170 admitted.)

24 MS. HOLTHUS: Permission to publish?

25 THE COURT: Yes.

1 BY MS. HOLTHUS:

2 Q Can you see this on your thing?

3 A Yes.

4 Q Is it big enough?

5 A That's good. That's better.

6 MR. CHAIREZ: Ours is not on, Your Honor.

7 THE COURT: Yours isn't?

8 MR. CHAIREZ: All right.

9 MS. HOLTHUS: Good?

10 MR. CHAIREZ: It's good.

11 BY MS. HOLTHUS:

12 Q Showing you what's now State's Exhibit 168.

13 What is that?

14 A That is reservation screen.

15 Q For -- you've looked at these records before,  
16 right?

17 A Correct.

18 Q A couple times?

19 A Yes.

20 Q And so this indicates a reservation for who?

21 A Mr. Alshahrani.

22 Q This name?

23 A Correct.

24 Q First name of Saeed, and then Alshahrani?

25 A Yes, ma'am.

1 Q Indicating a reservations check-in when and...

2 A It was checked in. That's a copy of a check-in  
3 reservation, because you have the I on the status.

4 Q And checked in when?

5 A December 28, 2012.

6 Q At what time?

7 A At --

8 Q Is that right here?

9 A No. It's where it says check-in. It's December  
10 29, at 1:22 a.m.

11 Q That's check-in?

12 A Correct.

13 Q What is December 28?

14 A It was -- they modified. They made a key or  
15 they did something to the reservation.

16 Q So the official check-in was --

17 A Was December 29, at 1:22 a.m.

18 Q Okay. And can you tell me how long the  
19 reservation was for?

20 A It was arrival the 28th, and departure January  
21 1st of 2013.

22 Q And are you aware, did this party actually check  
23 out on January 1?

24 A That's the -- the room was penned out before. I  
25 don't know the date.

1 Q Before the reservation expired. And what does  
2 penned out mean?

3 A Security pens it out and nobody can go in except  
4 security.

5 Q What room was Saeed Alshahrani checked into on  
6 December 29, at 1:22?

7 A Room 631.

8 Q And what am I looking at?

9 A That's a registration card.

10 Q Indicating what?

11 A It has his check-in date, his check-out date,  
12 the number of people, and his address.

13 Q How many people?

14 A Two.

15 Q And this page?

16 A That's for notes for us. It says in there that  
17 the clerk checked his Air Force ID.

18 Q When checking in?

19 A Checking in.

20 Q Are you able to tell what kind of Air Force ID  
21 that was?

22 A No, I can't.

23 Q I'm showing you State's 169, and what is that?

24 A That's a registration card for Mai Le, or Lee  
25 [phonetic].

1 Q Indicating Mai Le arrived when?

2 A December 30, 2012, and departure date was  
3 originally January 2, 2013.

4 Q And are you able to tell the room?

5 A It's Room 9829.

6 Q Can you see that one?

7 A Yes. That was for Aurelio [phonetic]  
8 Candelario.

9 Q And what room was that?

10 A 625.

11 Q Do you know, were there two rooms attached to  
12 that reservation?

13 A Yeah. That's 627. They had two under the same  
14 name.

15 Q And were they checked in under the same name?

16 A Correct. Aurelio.

17 Q And the length of that stay was?

18 A December 29 arrival, and departure January --  
19 December 31, I'm sorry.

20 Q Christmas -- or New Year's Eve?

21 A New Year's Eve, correct.

22 Q For both rooms?

23 A Well, for that one. I presume both. Yes, they  
24 both -- yes.

25 Q They were both registered to Aurelio Candelario?



1 A Yes.

2 Q [Inaudible.]

3 A Correct.

4 MS. HOLTHUS: Thank you. I'll pass the witness.

5 THE COURT: Cross.

6 CROSS-EXAMINATION

7 BY MR. CHAIREZ:

8 Q Just two questions. With respect to the room of  
9 Mr. Candelario, if he would have switched to another room,  
10 would you still would have checked him out as December the  
11 30th or 31st?

12 A I'm sorry. Can you --

13 Q Well, if they would have -- if they would have  
14 wanted another room and they would have wanted to stay a  
15 couple extra days, would this record have just transferred  
16 over, or would they have to do a new reservation and a new  
17 check-in?

18 A No. It would transfer over.

19 Q It would transfer over.

20 MR. CHAIREZ: All right. Nothing further.

21 THE COURT: Anything else?

22 MS. HOLTHUS: No. Thank you.

23 THE COURT: Thank you, ma'am, for your time. You're  
24 free to go.

25 Next witness.

1 THE WITNESS: Thank you.

2 MS. BLUTH: Thank you, Your Honor. The State calls  
3 Dennis Duran.

4 DENNIS DURAN, STATE'S WITNESS, SWORN

5 THE CLERK: State and spell your first and last name  
6 for the record, please.

7 THE WITNESS: Dennis Duran, D-e-n-n-i-s, D-u-r-a-n.

8 THE COURT: Whenever you're ready.

9 MS. BLUTH: Thank you, Your Honor.

10 DIRECT EXAMINATION

11 BY MS. BLUTH:

12 Q Good afternoon, Mr. Duran. How are you  
13 employed?

14 A Circus Circus Hotel & Casino, security officer.

15 Q Thank you. And how long have you been employed  
16 with the Circus Circus as a security officer?

17 A Thirty years.

18 Q Thirty years?

19 A Yes, ma'am.

20 Q What are your job duties as a security officer  
21 with Circus Circus?

22 A To control and keep people safe, guests,  
23 tourists.

24 Q Okay. And --

25 A That's just a basic --

1 Q Sure. And in those job duties, do you often  
2 police the casino floors?

3 A I police casino floors, also hotel rooms,  
4 floors, stairwells.

5 Q I'd like to speak to you specifically about  
6 December 31st of 2012. Were you working in that capacity at  
7 the Circus Circus on that day?

8 A Yes, I was.

9 Q And did you receive orders to respond to Room  
10 631?

11 A Yes. I was dispatched.

12 Q And when you were dispatched, what type of  
13 information did you get?

14 A The only information was that they needed me as  
15 backup. I didn't --

16 Q And where --

17 A I didn't know what was possibly happening.

18 Q And where -- when you say you were dispatched,  
19 the person who calls you and let's you know where you're  
20 going, who is that?

21 A That was our dispatch officers.

22 Q And so when you get to Room 631, what was going  
23 on upon your arrival?

24 A At the time was other fellow officers were there  
25 in the hallway.

1 Q Besides other security officers that you know  
2 and recognize from working at Circus Circus, was there anyone  
3 else outside the room at that point?

4 A No.

5 Q So upon your arrival, are you briefed on what's  
6 going on, or what happens next?

7 A I was only briefed on actually what was going to  
8 go -- what was going to happen --

9 Q And what was going to happen?

10 A -- is we were going to wait for certain guests  
11 that were in the room to come out.

12 Q So basically you received orders or  
13 communications from the other security officers that you were  
14 to stay in the hallway until other -- until the room occupants  
15 came out?

16 A Yes.

17 Q And did room occupants come out of Room 631?

18 A Yes, they did.

19 Q Can you explain to me what happened as they came  
20 out?

21 A What I saw was the first male, there was only  
22 one, came out, and two officers, my supervisor and another  
23 officer, which I believe was a bike unit at the time, detained  
24 him in the hallway right outside the door.

25 Q And after that individual was detained outside

1 of the hallway, what happened next?

2 A We were told by our supervisor to go in and  
3 secure it, secure the rest of the room. But at the time we  
4 didn't know how many were in the room at the time. And I was  
5 told to detain the one that -- one guest was laying down on  
6 the bed on the -- it would be the west bed. It was a twin --  
7 twin beds -- queen beds, two beds.

8 And I asked him to get up. He did with no problem.  
9 We walked over by the window with the west wall, and I patted  
10 him down to make sure everything was safe for him and me and  
11 everybody else in the room, no weapons.

12 Q Okay.

13 A And I did ask him if he had any weapons, knives,  
14 needles, things like that before I patted him down.

15 Q Okay. So I just want to break this down. You  
16 and the other security officers make the decision to enter the  
17 room?

18 A We were told to go in the room.

19 Q And there were multiple occupants inside of the  
20 room?

21 A Yes, there were.

22 Q And the individual that you spoke with or that  
23 you detained, was he able to understand what you were saying  
24 to him?

25 A Yes, he did.

1 Q And did he do what you told him to do?  
2 A Yes, he did.  
3 Q Did he have any problems talking with you?  
4 A No, he didn't.  
5 Q And once you detained him, did you then walk him  
6 out of the room?  
7 A We walked him out of the room.  
8 Q Did he have any problems walking?  
9 A No.  
10 Q Did you have a chance to observe the other  
11 occupants within the room?  
12 A No, I didn't. I was just with mine.  
13 Q And once you detained yours and move outside of  
14 the room --  
15 A Yes.  
16 Q -- did you have then opportunity to observe some  
17 of the other occupants in the room?  
18 A Yes.  
19 Q And did you recognize whether or not any of  
20 those individuals had problem speaking?  
21 A No. No.  
22 Q They did not have problems speaking?  
23 A No.  
24 Q Did they have problems understanding commands  
25 that were being --

1 A No, they didn't have any problems with that.

2 Q Did they have any problems walking?

3 A No.

4 Q Did you believe any of those individuals to be  
5 drunk or inebriated?

6 A No.

7 Q You said that you have -- you've been a security  
8 officer for 30 years.

9 A Yes, ma'am.

10 Q I would imagine in those 30 years you've gone to  
11 many a hotel rooms where people are sloppy drunk.

12 A Oh, yes, I have.

13 Q And those individuals have problems speaking?

14 A Oh, yes, I have.

15 Q They have problems walking?

16 A Yes.

17 Q They have problems understanding?

18 A Yes.

19 Q Was that the case in any of the -- with any of  
20 the occupants in Room 631?

21 A No.

22 Q After everyone in the room is detained, are they  
23 then taken to a different location?

24 A No. We walked down the hallway to the elevators  
25 to our security office holding room.

1 Q And you take the elevators --

2 A Down.

3 Q -- down to security?

4 A Yes, ma'am.

5 Q Were you in the same elevator as a security  
6 officer by the name of Haros?

7 A I don't remember.

8 Q Did you recognize any of the occupants to have  
9 any problems walking to the elevator?

10 A No, I didn't.

11 Q Did you observe any problems in the elevator  
12 with anyone being able to stand up?

13 A No.

14 Q Did you observe any problems with walking from  
15 the elevator down to security holding?

16 A No.

17 Q Thank you, Mr. Duran.

18 MS. BLUTH: I'll pass the witness.

19 THE COURT: Cross.

20 CROSS-EXAMINATION

21 BY MR. CHAIREZ:

22 Q Mr. Duran, when you went inside the room, did  
23 you look around to see what was inside the room?

24 A No.

25 Q Okay. So you didn't see one bottle of whiskey



1 or two bottles of whiskey in there?

2 A No, I didn't.

3 Q Okay. And basically do you recognize my client  
4 as one of the individuals that came out of the room?

5 A No, I don't.

6 Q Okay. But there was four or five Arabic looking  
7 guys?

8 A I couldn't -- I don't -- there could have been  
9 four or five. My focus was on my one on the bed that I was  
10 told to detain.

11 Q All right. So you didn't smell an odor of  
12 alcohol on the individual that you were with?

13 A No, I didn't.

14 Q All right. And in your opinion he didn't have  
15 slurred speech?

16 A No, he didn't.

17 Q And in your opinion he didn't walk with an  
18 unsteady gait?

19 A No, he didn't.

20 Q But it wasn't my client?

21 A No.

22 MR. CHAIREZ: Okay. Nothing further.

23 THE COURT: All right. Anything else?

24 REDIRECT EXAMINATION

25

1 BY MS. BLUTH:

2 Q But you -- like you stated, you did observe all  
3 the occupants from the room?

4 A The ones that I -- were walking down the  
5 hallway.

6 Q So the ones that were taken from the room --

7 A Yes.

8 Q -- you did -- you were able to observe them?

9 A Yes.

10 Q And so all your answers are still in line with  
11 you didn't recognize to be anyone drunk?

12 A No.

13 Q Or excuse me. Didn't recognize anyone to be  
14 drunk?

15 A No, or intoxicated, no.

16 MS. BLUTH: Thank you.

17 THE COURT: All right. Is he free to go?

18 MS. BLUTH: By the State, Your Honor.

19 MR. CHAIREZ: Thank you.

20 THE COURT: All right. Thank you, sir.

21 Next witness.

22 MS. BLUTH: The State calls Daniel Goodwin.

23 DANIEL GOODWIN, STATE'S WITNESS, SWORN

24 THE CLERK: State and spell your first and last name  
25 for the record, please.

1 THE WITNESS: Daniel Goodwin, D-a-n-i-e-l,  
2 G-o-o-d-w-i-n.

3 THE COURT: Whenever you're ready.

4 DIRECT EXAMINATION

5 BY MS. BLUTH:

6 Q Good afternoon, Mr. Goodwin. How are you  
7 employed?

8 A Circus Circus Hotel.

9 Q What position do you hold within the Circus  
10 Circus?

11 A A security supervisor.

12 Q And how long have you been employed in that  
13 position at Circus Circus?

14 A That position, I've been with security since  
15 '03, but supervisor since -- for three years now.

16 Q And what does a supervisor of security do?

17 A Run the shift, put the officers out on the  
18 floor, respond to calls. The same thing as our manager does,  
19 just not on that level.

20 Q So basically you -- you supervise or are in  
21 charge of a certain shift; would that be correct, of the  
22 security officers?

23 A Yes.

24 Q I'd like to turn your attention specifically to  
25 December 31st of 2012. Were you working on that day?

1           A     Yes, I was.

2           Q     And at some point did you become aware that a  
3 child had been sexually assaulted on the premises?

4           A     Yes.

5           Q     How did you become aware of that?

6           A     I was with the assistant manager, Jeff  
7 Jefferson, and when he got the call from Eric, the officer, he  
8 told me about it and I went to the office with him.

9           Q     So when you refer to Eric, are you referring to  
10 Eric Laskin?

11          A     Eric Laskin, yeah.

12          Q     So Eric Laskin calls Mr. Jefferson?

13          A     Yes.

14          Q     And you're with Mr. Jefferson during that phone  
15 call?

16          A     Yes.

17          Q     So after Mr. Laskin calls Mr. Jefferson, where  
18 do you go?

19          A     We go to the main security office where we take  
20 all -- any incidents we have, we take everything there.

21          Q     So you and Mr. Jefferson respond to the security  
22 office?

23          A     Yes.

24          Q     And once there, do you make contact with the  
25 child and Mr. Laskin?

1           A     I didn't speak directly to him, but yes, he was  
2 in there. Jefferson was the one talking to him.

3           Q     And when the child was speaking to Mr.  
4 Jefferson, were you present for a portion of that  
5 conversation?

6           A     Yes.

7           Q     And during that conversation, did the child  
8 state -- or what did the child state of what you heard?

9           A     He said he'd been sexually assaulted and he gave  
10 us the room number, 631, and then he gave us the description  
11 of the person who did it to him.

12          Q     Did he state whether or not he had gone to the  
13 room willingly?

14          A     Yes, he did.

15          Q     He stated that he did go to the room willingly?

16          A     Yes. He went in there willingly.

17          Q     Now that you have the room number as being  
18 identified as Room 631, what do you do with that information?

19          A     I take another security officer, Eugene Brown,  
20 we go up to 631, just stand by to wait for Metro to come up.  
21 As we're standing in the hallway we notice there is more than  
22 two voices in there, so I called for backup.

23          Q     So is it normal policy for you to wait for Metro  
24 to arrive?

25          A     Something like that, yes.

1           Q     So you're going up there with the idea of kind  
2 of holding out outside the room and making sure no one leaves;  
3 would that be correct?

4           A     Correct.

5           Q     And when you get up there initially it's just  
6 you and Mr. Brown?

7           A     Yes.

8           Q     And then you hear several voices coming from the  
9 hotel room?

10          A     Yes.

11          Q     So you make the decision to order more backup?

12          A     Yes.

13          Q     And so do other individuals respond?

14          A     Yes, they do.

15          Q     At any point in time do any individuals leave  
16 the room?

17          A     Yes. When the rest of the officers got there,  
18 two individuals exited the room. We pulled them off to the  
19 side. We put them on the wall. We patted them down for  
20 weapons. At that point I told officer -- Security Officer  
21 Haros to make contact with the room and go inside, so they  
22 wouldn't -- when we made contact they would not answer the  
23 door.

24          Q     When -- so you were giving directions to  
25 Security Officer Haros?

1           A     Yes.

2           Q     And when you say for him to make contact, how  
3 did he attempt to make contact with the rest of the occupants  
4 in the room?

5           A     To knock on the door first.

6           Q     And when Security Officer Haros knocked on the  
7 door, did anyone respond?

8           A     No.

9           Q     When you are working security in your position,  
10 are you in plain clothes or are you in uniform --

11          A     I'm in plain clothes like I'm dressed now.

12          Q     And the security officers who are not in a  
13 managerial or a supervisory position, what do they wear?

14          A     A uniform. A blue uniform. And then our bike  
15 officers wear yellow with black.

16          Q     So it would be clear to someone that this  
17 individual would be security?

18          A     Yes.

19          Q     And Officer Haros was in that type of uniform?

20          A     Yes.

21          Q     So after Mr. Haros knocked on the door and no  
22 one would answer, what did -- what happened next?

23          A     I told him to go ahead and make entry, and at  
24 that time they opened -- he used his room key to open the  
25 door.

1 Q And do you go into the room?

2 A No. I stayed outside with Officer Brown, with  
3 the other two suspects we had.

4 Q The individuals that you made contact with  
5 outside, so those -- I believe you said there were two; is  
6 that correct?

7 A Two, yes.

8 Q You stayed out with them while the other  
9 security officers went inside?

10 A Yes.

11 Q Did those two individuals that were outside, did  
12 they seem drunk to you?

13 A No.

14 Q Were they having any problems standing?

15 A No.

16 Q Any problems walking?

17 A No.

18 Q Any problems talking?

19 A No.

20 Q Any problems understanding any of the commands  
21 that you were giving them?

22 A No.

23 Q After other security officers went into that  
24 room, did they begin to bring occupants out?

25 A Yes.



1 Q And were you outside when those other  
2 individuals were coming out of the hotel room?

3 A Yes, I was. I was between the suspect and  
4 the -- the guys we had outside and the door.

5 Q You were, I'm sorry? Say that again.

6 A In the hallway between the two guys we had  
7 outside and then the door from the room they were in.

8 Q And were you able to observe the other occupants  
9 coming out of the room?

10 A Yes.

11 Q Did you observe any of those people to have  
12 problems walking?

13 A No.

14 Q Have any problems speaking?

15 A No.

16 Q Have any problems understanding any commands  
17 that were being given to them?

18 A No.

19 Q You said that -- earlier there's a security  
20 holding room, correct?

21 A Correct.

22 Q And where is that located?

23 A In the -- our main casino area downstairs, first  
24 floor.

25 Q Were the individuals that were taken from Room

1 631, were they taken via elevator downstairs?

2 A Yes, they were.

3 Q How many elevators did it take to get the group  
4 downstairs?

5 A We took two separate elevators.

6 Q And which elevator were you in?

7 A In the second elevator that went down with  
8 Officer Brown.

9 Q So were you in the same elevator as Officer  
10 Haros, or a different elevator?

11 A A different elevator.

12 Q When you were in the elevator with Officer Brown  
13 and it's -- is it the two occupants that originally came out?

14 A Yes.

15 Q Did you recognize them to have any issues in the  
16 elevator with --

17 A No.

18 Q -- either standing or walking?

19 A No. It was quiet. Nobody spoke to anybody.

20 Q When you leave the area of 631, is that room  
21 then secured by another security officer?

22 A Yes.

23 Q And which officer was that?

24 A That was Adrian Zeigler.

25 Q And what I mean by secured, did Officer Zeigler

1 physically stand outside Room 631 and make sure that no one  
2 was able to enter?

3 A Yes. He used his -- we have a black key that  
4 locks the door so only security can get in, and he stood  
5 outside.

6 Q When the occupants were taken down into the  
7 holding area, was the main suspect held in a separate room or  
8 a separate area from the other occupant?

9 A Yes, he was.

10 Q And when I say suspect, was that the individual  
11 in the red shirt with the gold crown?

12 A Yes, it was.

13 Q And that was the description that the child had  
14 given of the individual who had assaulted him?

15 A Yes.

16 Q When there is a crime committed or you're having  
17 issues with individuals within the casino, is it your -- is it  
18 your protocol to take pictures of those individuals and get  
19 them -- take down their personal information?

20 A Yes.

21 Q And what is the point of that?

22 A So we can -- when we trespass [unintelligible],  
23 we have the information so if they come back, we'll call Metro  
24 out to cite them for trespassing. And it also helps the rest  
25 of the MGM properties. They're trespassed from all of them.

1 So they have the same information we have.

2 Q So if an individual comes on property, gets in  
3 trouble with you guys and they're trespassed, you take a  
4 picture of them; is that yes?

5 A Yes.

6 Q And then you document their personal  
7 information?

8 A Yes.

9 Q Is that then implemented into a computer system?

10 A Yes.

11 Q And are those kept as part of your records in  
12 the ordinary course of your business?

13 A Yes.

14 Q And are those shared with all the other MGM  
15 properties?

16 A Yes, it is.

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

18 BY MS. BLUTH:

19 Q I am approaching you with what's been marked for  
20 purposes of identification as State's Proposed Exhibit 1, as  
21 well as State's Proposed Exhibits 150 through 154. Do you  
22 recognize these exhibits?

23 A Yes.

24 Q Okay. And are these the type of documents that  
25 I was discussing with you earlier?

1           A     Yes, it is.

2           Q     And are these the individuals that were taken  
3 from Room 631?

4           A     Yes, they are.

5           Q     And were there pictures taken and was their  
6 personal information documented within your security system?

7           A     Yes, it was.

8           Q     And are these fair and accurate depictions of  
9 the copies that were provided by your office?

10          A     Yes.

11          MS. BLUTH: Your Honor, at this time I'd move into  
12 evidence State's Proposed 1, as well as State's Proposed 150  
13 through 154.

14          MR. CHAIREZ: No objection.

15          THE COURT: All right. Admitted.

16          (State's Exhibit 1 and 150 through 154 admitted.)

17          THE COURT: Permission to publish granted.

18          MS. BLUTH: Thank you.

19 BY MS. BLUTH:

20          Q     Showing you State's -- what's now in evidence as  
21 State's 1, and I'm going to zoom in. And what's now the  
22 State's Exhibit 1, the name here is Mohammed Jafaari, and then  
23 information is taken such as his date of birth, his age,  
24 height, hair color, eye color, his race and his place of  
25 birth; would that be correct?

1           A     Yes.

2           Q     Showing you now State's Proposed Exhibit 150,  
3 name, Mazen Mozen [phonetic] Alotaibi, again, same types of  
4 identifiers, date of birth, age, height, hair color, eye  
5 color; is that correct?

6           A     Correct.

7           Q     And you would agree with me that in this picture  
8 the individual is wearing a red shirt with a gold crown on it?

9           A     Yes.

10          Q     151, Adel Hassan [phonetic] Alharbi. And again,  
11 just those same identifiers?

12          A     Yes.

13          Q     And is this the normal -- I mean, probably since  
14 given, but is it the normal policy and procedure to get this  
15 type of personal information when someone is being trespassed?

16          A     Yes.

17          Q     Is that also part of the procedure?

18          A     Yes.

19          Q     Showing you State's -- what's in evidence as  
20 State's 152, Saeed Jurban [phonetic] Alshahrani, the same  
21 identifying information was given and placed into the system?

22          A     Yes.

23          Q     State's 153, Emad Saeed Alshehri, same  
24 identifying information implemented into the system?

25          A     Yes.

1 Q As well as the picture.

2 And lastly, State's 154, Rashad Hassan and I  
3 apologize if that last name is Riyadh [phonetic], same again,  
4 identifying information?

5 A Yes.

6 Q And that would be six individuals in total?

7 A Yes.

8 Q Thank you, Mr. Goodwin.

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

10 THE COURT: Cross.

11 CROSS-EXAMINATION

12 BY MR. CHAIREZ:

13 Q Mr. Goodwin, when you -- when you made the  
14 decision to trespass these individuals, you knew that only one  
15 person had been accused of sexually assaulting the young boy,  
16 correct?

17 A Yes.

18 Q Yet you decided to trespass all of them?

19 A That's a normal procedure we have.

20 Q So if you're hanging out with people that do  
21 something wrong, everybody gets punished?

22 A At the discretion of the manager on duty.

23 Q And so this Rashed -- the last individual  
24 mentioned, he was trespassed, correct?

25 A Yes.

1           Q     And we don't know whether he did anything wrong  
2 or not?

3           A     No.

4           Q     And when you found Rashed, he had no weapons on  
5 him, did he?

6           A     No.

7           Q     And he had -- didn't act violent?

8           A     No.

9           Q     Didn't fight with any of the security officers?

10          A     No.

11          Q     Okay. And with respect to the other three or  
12 four individuals, nobody got in any fights with any security  
13 officers?

14          A     Everybody was cooperative.

15          Q     Everybody was cooperative. Okay. And did you  
16 observe all -- was it four or five individuals we're talking  
17 about here?

18          A     It was six total.

19          Q     Six total individuals. As far as you could  
20 tell, nobody was drunk?

21          A     As far as I could, no.

22          Q     And as far as you could tell -- well, I guess my  
23 question is, what is your definition of drunk?

24          A     If I smell alcohol, there's trouble speaking,  
25 slurring words, stumbling.



1 Q So somebody you wouldn't let get in a car and  
2 drive away, correct?

3 A Correct.

4 Q And in the 10 or 12 years that you worked as a  
5 security officer, you mentioned you saw some people unable to  
6 control themselves because they were so drunk, correct?

7 A Yes.

8 Q And but that to you did not seem to be the  
9 situation this morning with these individuals, correct?

10 A Correct.

11 Q And do you recall whether it was approximately  
12 9:30 when you guys went to secure the room?

13 A It was approximately 9:30.

14 Q So that would have been about 20 minutes after  
15 the boy first reported this incident to you, correct?

16 A Correct.

17 Q And did you say you were the one that confronted  
18 the two individuals that were leaving to go to a restaurant or  
19 something?

20 A They came out the room and all the security  
21 officers in the hallway, we stopped them, yes.

22 Q So they didn't tell you they were going to get  
23 breakfast or going to eat?

24 A They didn't speak to us.

25 Q And my client was not one of those two, correct?

1           A     No.

2           Q     And when you went inside the room, you didn't  
3 see people packing things up, looking like they're getting  
4 ready to take off, correct?

5           A     I never entered the room.

6           Q     Okay. All right. And when you say you  
7 identified these individuals, not that it's important, but the  
8 three individuals in the middle, right after Mr. Alotaibi and  
9 Mr. Jafaari, and not including Rashed, so the one that you  
10 identified as Emad, Saeed and Adel, how was it that you  
11 identified them?

12          A     Me personally didn't identify them. When we  
13 brought them downstairs, Metro police were there and they did  
14 the identify.

15          Q     All right. Did they take their Air Force  
16 identification or passport or anything or --

17          A     I was not in the office at the time.

18          Q     Okay. So you don't know whether these are the  
19 correct names or not?

20          A     No.

21          MR. CHAIREZ: All right. Nothing further.

22          THE COURT: All right. Redirect.

23          MS. BLUTH: Nothing, Your Honor.

24          THE COURT: Thank you, sir, for your time. You're  
25 free to go.

1 I'm going to give the jury a brief ten-minute break,  
2 let them stretch, use the restroom. All right. Ladies and  
3 gentlemen of the jury, can you come back actually a little bit  
4 more than that, at about 20 after.

5 Ladies and gentlemen of the jury, you're admonished  
6 not to converse amongst yourselves or with anyone on any  
7 subject connected with the trial, to read, watch or listen to  
8 any report of or commentary on the trial by any medium of  
9 information, including without limitation television,  
10 newspaper, radio, Internet. Do not form or express an opinion  
11 on this case until it's submitted to you. See you very soon.

12 (Jurors recessed at 3:05 p.m.)

13 THE COURT: Okay. The jury's out of the room.  
14 Anything we need to address before you go on break?

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

16 THE COURT: Okay. Thanks.

17 (Court recessed at 3:06 p.m. until 3:36 p.m.)

18 (Outside the presence of the jury.)

19 THE COURT: Are we ready to go back on the record,  
20 and are we ready to bring the jury in? Mr. Alotaibi, I don't  
21 know if he's -- hold on, Jason. He's talking to Mr. Chairez.  
22 Are you ready?

23 MR. CHAIREZ: Pardon?

24 THE COURT: Do you need a little more time to talk to  
25 your client, or are you ready to start?

1 MR. CHAIREZ: We're ready.

2 THE COURT: Okay. Wonderful. Thank you.

3 (Jurors reconvene at 3:37 p.m.)

4 THE COURT: Welcome back, ladies and gentlemen of the  
5 jury. By the State, please call your next witness.

6 MS. HOLTHUS: Jose Haros.

7 JOSE HAROS, STATE'S WITNESS, SWORN

8 THE CLERK: State and spell your first and last name  
9 for the record, please.

10 THE WITNESS: Jose Haros, J-o-s-e. Last name,  
11 H-a-r-o-s.

12 THE COURT: Whenever you're ready.

13 DIRECT EXAMINATION

14 BY MS. HOLTHUS:

15 Q Mr. Haros, what do you do?

16 A I'm a security officer at Circus Circus.

17 Q And how long have you been with Circus Circus?

18 A This time three years, last time 4 1/2 years.

19 Q What's your background in security?

20 A I've been doing it since I'm -- was 18. I'm 38  
21 now.

22 Q So 20 years in security?

23 A Just about.

24 Q Yes?

25 A Yes.

1 Q Different -- different kinds of properties?

2 What kinds of --

3 A I've done downtown security at casinos. I've  
4 done regular security in projects, stores, just about you name  
5 it, I've been there.

6 Q Have any other jobs?

7 A I also work as a correctional officer. I'm a  
8 senior correctional officer at Nevada Department of  
9 Corrections in High Desert State Prison out in Indian Springs.

10 Q What are your duties out there?

11 A I oversee about 168 inmates and I have two  
12 officers under me.

13 Q And your duties over at Circus Circus include  
14 what?

15 A Just watch the property and make sure nobody's  
16 getting too rowdy, kick out drunks, stuff like that.

17 Q Has that pretty much been what you've done with  
18 security at least with Circus Circus both go-arounds?

19 A Yeah.

20 Q Do you have training in the area of, as you call  
21 it, kicking out drunks, observing drunks?

22 A Yeah. They give us yearly training, and before  
23 that we used to have a lot more training when it was a  
24 different company. It used to be Mandalay Bay Resorts. Now  
25 it's MGM. But yeah, we get trained.

1           Q     Okay. And are you assigned to any particular, I  
2 don't know whether you call them detail or...

3           A     I do different things. I do like bike officers  
4 when they need me outside on the property, and then I do  
5 inside casino in the blues that I got on today.

6           Q     So if you're working inside, that's what you  
7 wear is the -- it looks like basically a uniform?

8           A     Yes.

9           Q     Directing your attention to December 31, 2012,  
10 were you on duty?

11          A     Yes, I was.

12          Q     What were you assigned?

13          A     Bike officer from 8:00 to 4:00.

14          Q     8:00 in the morning?

15          A     8:00 in the morning until 4:00.

16          Q     So does that mean bikes are all outdoor?

17          A     Yes.

18          Q     Just on property?

19          A     Yes.

20          Q     Parking lots?

21          A     Parking lots, garages, that's it. Going around  
22 the building checking the exterior of the doors, making sure  
23 nobody's breaking into the cars while people are gambling.

24          Q     Did you -- did you get a call that morning --  
25 you know why we're here, right?

1           A     Yeah. My supervisor two, two, Daniel Goodwin  
2 called, said he needed backup to the sixth floor of the main  
3 tower for a lot of people in a room.

4           Q     So did you go to the lot of people in the room,  
5 room?

6           A     Yes, I did.

7           Q     Now, just what room number?

8           A     I believed that it was 621, but I saw it was  
9 631.

10          Q     So what did you -- what did you find when you  
11 got to 631?

12          A     There was a lot of officers standing outside in  
13 the hallways being really quiet, and they were waiting for  
14 Metro to show up so that --

15          Q     So when you say officers out there, you're  
16 talking about security officers?

17          A     Security officers, yes.

18          Q     What's a lot, like give or take?

19          A     Maybe --

20          Q     Two, four, six, eight, ten?

21          A     Six maybe.

22          Q     Okay. So are they all in uniform or...

23          A     There was -- I believe all of them had blues. I  
24 think there was maybe another bike officer there too.

25          Q     So the ones that you saw had blues, that same

1 uniform that you have on?

2 A Same as me, yes.

3 Q So what did you do?

4 A We were waiting for Metro to show up and two  
5 individuals came out of the room. We went ahead and detained  
6 them. They were kind of surprised and they were asking why  
7 and making some noise.

8 Q By detaining them, is that a quiet process?

9 A Well, we were trying to be quiet, but, you know,  
10 when they'd come out of a room they're wondering why we're out  
11 there and they're wondering why we're, you know, patting them  
12 down real quick. But I was told there was a felony committed,  
13 so that's why we were making sure they had no weapons.

14 Q And when you detain them, are you cuffing them,  
15 handcuffing?

16 A Yes.

17 Q Do you put them up against the wall?

18 A Yeah. Real quick you spin them around, pat them  
19 down, check for guns or knives not going in their pockets,  
20 just, you know, patting down.

21 Q And then you'd handcuff them?

22 A Yes.

23 Q And put them to the side?

24 A Pass them over and other officers watch them.

25 Q And what noise was being created by this?



1           A     They were asking why, what's going on, kind of  
2 being loud about it. So we figured that the people inside the  
3 room must have heard us.

4           Q     Let me stop you. Before the people came out of  
5 the room, did you have a chance to stand out by the room?

6           A     Yeah. We were standing out there maybe three,  
7 four minutes when I got there. The other officers had been  
8 there for awhile, I guess.

9           Q     Do you know about what time that was?

10          A     I believe maybe around 9:30.

11          Q     While -- could you hear any noise from in the  
12 room?

13          A     Yeah. There was a lot of noise. I would say  
14 like they were having a little party.

15          Q     Voices?

16          A     Voices, yes.

17          Q     Party voices?

18          A     Just a lot of noise. More than one.

19          Q     More than one. Could you tell if it was men or  
20 women?

21          A     No.

22          Q     Could you tell what they were saying?

23          A     No.

24          Q     Just the noise of voices?

25          A     Yeah. Just responding to a room, a lot of

1 noises in the room.

2 Q And that was your -- that's what you understood  
3 the room to be. Okay. So you're out there four or five  
4 minutes and then the two guys come out, you detain them, it  
5 gets loud. Then what happens?

6 A Then Officer Goodwin says, We're going to have  
7 to go in now, so we started knocking on the door really --  
8 well, I started knocking on the door.

9 Q Who knocks?

10 A I did.

11 Q Okay. Did you have to knock more than one time?

12 A Yes, several times.

13 Q Did you identify yourself?

14 A Several times.

15 Q Can you show us how -- about how loud you would  
16 have knocked and how you would have identified yourself?

17 A Can I do it here?

18 Q Sure.

19 A [Indicating.] Security. Casino security, open  
20 up. [Indicating.] Security. [Indicating.] Security. Then  
21 someone came to the door, yelled something and like, you know,  
22 what's going on or who is it, and we just kept saying  
23 security. By that time the other officer opened the door and  
24 we went in.

25 Q So at no time did anybody inside open the door?

1 A No.

2 Q And you had your blues on, so if anybody were  
3 looking out the peephole --

4 A No.

5 Q -- they would have seen your badge like we see  
6 there?

7 A I had my real bright yellow shirt on, bike  
8 officer.

9 Q Oh, that's right. And it says -- it's clearly  
10 marked as --

11 A It says security and security in the back.

12 Q So nobody's opening the door. About how long  
13 would you say from your initial knock until the time that you  
14 decide to go in?

15 A About as long as I did right now.

16 Q All right. And could you hear any noises within  
17 the room during that?

18 A Somebody came to the door, but, you know, they  
19 didn't open the door.

20 Q Then what did you do?

21 A The other officer put his key card in the door,  
22 we opened the door. I went in first yelling to everybody let  
23 me see your hands, let me see your hands. And there was four  
24 individuals inside. One guy on the bed covered himself in the  
25 sheets [indicating] and --

1 Q Like hiding?

2 A Yeah. Like a child would do if, you know, you  
3 were playing or something. The guy that covered himself in  
4 the sheets was in --

5 Q Was he in the bed closest to the door or  
6 furthest from the door?

7 A Closest to the door.

8 Q And you said there were four individuals, one in  
9 the bed --

10 A One in the bed covering himself in the sheets.  
11 Another guy in the other bed, he was crashed out sleeping.  
12 The subject here [indicating], Mr. Alotaibi, I believe, was in  
13 front of the guy that was sleeping next to the desk.

14 Q Would that be the far corner of the room?

15 A The far corner of the room.

16 Q And you were pointing to somebody in the  
17 courtroom. Do you see somebody you believe to be somebody  
18 from the room that you referred to as Mr. Alotaibi, do you see  
19 him here in the courtroom?

20 A Yes. He's right there [indicating].

21 MS. HOLTHUS: Will the record reflect the indication  
22 of the defendant?

23 THE COURT: It will.

24 BY MS. HOLTHUS:

25 Q So he was at the furthest distance, and what was

1 he doing?

2 A He was standing.

3 Q Was he doing anything? Was he saying anything?

4 A At the time when I came in, I was worried about  
5 weapons, you know, somebody pull a gun on you when you go  
6 inside. So I just kept yelling, Let me see your hands, let me  
7 see your hands. And I kept scanning the room for weapons or  
8 seeing if they had anything in their hands.

9 And Mr. Alotaibi there kept digging in his pockets,  
10 so I told him, Get your hands out your pockets. And when I  
11 approached him I pushed his hands up and kind of held them  
12 like this [indicating] and patted him down.

13 Q [Unintelligible], patted him down?

14 A Yeah. Yes.

15 Q You held his hands above his head?

16 A Yes.

17 Q And the fourth subject was where?

18 A He was in front of the guy that covered himself.  
19 So basically, one guy in the bed covered himself with the  
20 sheet was wide awake. The other guy was standing in front of  
21 him by the TV. The other guy that was crashed out sleeping  
22 was in the other bed, and Mr. Alotaibi was in front of him by  
23 the desk.

24 Q Okay. So when you say the one guy, Alotaibi  
25 was -- defendant was in the back corner like at the foot of

1 the guy that was sleeping?

2 A Farthest right corner.

3 Q Off the foot of that bed though?

4 A Yes. Maybe about 4 feet.

5 Q The guy that wasn't Alotaibi, the other guy that  
6 was awake, where was he? You said he was in front of the guy  
7 that hid?

8 A He was in same --

9 Q The foot of the bed or side of the bed?

10 A The first bed at the end of the bed close to the  
11 TV.

12 Q Okay. And so what did you do then?

13 A When I first went in, the first guy covered  
14 himself. The guy in front of him was looking at me. Right  
15 away I put his hands up in the air, patted him down, passed  
16 him to the other officer. He started searching him. Pulled  
17 the sheet off of the guy that was covering himself, and  
18 another officer took care of him.

19 And the other guy that was crashed out hadn't moved  
20 at all, so I left him alone. He wasn't covered up or nothing.  
21 He was just crashed out. And I went straight for Mr. Alotaibi  
22 that had his hands in his pockets.

23 Q And then what did you do?

24 A I told him to keep his hands up in the air and  
25 pulled -- moved his hands up, put them behind his back here,

1 held them and patted him down real quick for guns or knives,  
2 and then went to arrest him.

3 Q What observations did you make of him as you  
4 were doing this, if any?

5 A Well, he didn't -- he didn't follow the first  
6 order when I told him let me see your hands. He dug in his  
7 pockets.

8 Q Did you ever determine what he was digging for?

9 A No.

10 Q Then what, what other observations? Did you  
11 notice did he smell like anything?

12 A No. I didn't smell nothing at the time.

13 Q Did you form any opinion -- based on your  
14 experience and training with dealing with drunks, did you form  
15 any opinion regarding his intoxication?

16 A He wasn't smashed beyond, you know, how some  
17 people get. He was still somewhat following directions. He  
18 wasn't slurring his words. He followed directions when I told  
19 him walk this way and told him be quiet.

20 Q What about his gait or the way he walked?

21 A Oh, he was walking fine.

22 Q And no, any indication to you that he didn't  
23 know where he was or what was going on?

24 A No.

25 Q Did you actually speak to him? Did he speak to

1 you?

2 A Other than telling him to keep his hands out of  
3 his pockets and did he have ID when we were in the elevator,  
4 that was about it.

5 Q Okay. Before you go, did you observe the other  
6 individuals that had been in the room as well?

7 A Yes.

8 Q Did anybody seem to be extremely intoxicated?

9 A No. They were all following directions. I  
10 don't think they were intoxicated to the fullest as, you know,  
11 you would believe someone would get really drunk, drunk, I  
12 don't think so.

13 Q What was your impression then of what was going  
14 on there?

15 A I think they'd been up all night and they had  
16 drank a little, but I don't think that they were so far gone  
17 they didn't know where they were at or who we were.

18 Q And why do you say that they had been up all  
19 night?

20 A Because it was 9:30 in the morning and it sounds  
21 like a party going on.

22 Q So because basically of the hour and it appears  
23 that they're still partying, you figure they've been partying  
24 all night?

25 A [No audible response.]



1 Q Yes?

2 A Yes.

3 Q Okay. So now, do you -- where do you go from  
4 there?

5 A From there it came over the radio to bring  
6 everybody downstairs for Metro. Metro had arrived.

7 Q So as part of your job, do you do any of the  
8 looking around the room to see what's there, or is that --  
9 you're just focusing on the people?

10 A I'm just worried about them pulling a gun on me.  
11 That's my main focus right there.

12 Q So you're told to bring them down to security?

13 A Bring them down to security. We lined them up  
14 and went to the elevator and --

15 Q And who has -- or do you have all of them, or  
16 have you broken them down? Was that a total of six, right?

17 A Yeah, six.

18 Q And where do we -- how does that get divided up?

19 A All I know is I took the lead with Mr. Alotaibi  
20 there, and after I placed the handcuffs on him, I held on  
21 to --

22 Q Didn't you have information that he was your  
23 primary suspect?

24 A They told me that -- they told me that a felony  
25 had been committed, that's all I knew.

1           Q     So you had no idea which one of the six  
2 individuals was the focus, or did you?

3           A     No. Not at the time, no.

4           Q     So you strictly by happenstance took custody of  
5 Mr. Alotaibi?

6           A     Yes, because he had his hands in his pockets.

7           Q     What was he -- do you recall what he was  
8 wearing?

9           A     I think a red shirt.

10          Q     So what did you do then?

11          A     We lined them up, walked them to the elevator,  
12 put them in the elevator. When I put him in the elevator, I  
13 took control of the elevator, which means I told each subject  
14 that was in mechanical restraints to stand against the far  
15 wall of the elevator in a row and --

16          Q     And at that point they're all handcuffed behind  
17 their backs?

18          A     Yes. Yes.

19          Q     And when you're walking down the hallway, is  
20 anybody tripping, stumbling, falling?

21          A     No. No.

22          Q     If they had been extremely inebriated, would you  
23 be careful cuffing them like that?

24          A     Well, I was taking the lead with the first guy,  
25 but, you know, as I was walking him, I did not notice nobody

1 else falling. I mean --

2 Q And he was fine, your guy was fine?

3 A Yeah. I do a couple scans back and forth to  
4 make sure the other officers are okay. But I didn't see none  
5 of that, no.

6 Q Okay. So you get on the elevator. Do all the  
7 officers get on, or just you, or...

8 A I know the elevator was full, but there was a  
9 lot of us, so I don't know.

10 Q So do you know if all six subjects get on?

11 A No, I don't recall.

12 Q You just know your guy, the defendant --

13 A I know we filled up the whole back wall there,  
14 so I don't know.

15 Q With guys from the room?

16 A Yes. Everybody that was arrested.

17 Q So you take control of the elevator. What  
18 happens then?

19 A I tell everybody to face the wall.

20 Q Did they all turn and face the wall?

21 A Yes, they all followed directions clearly.

22 Mr. Alotaibi I was holding on to there. He turns around to  
23 the other buddies of his and he says something in his  
24 language. I don't know what it was, but it was like he's  
25 giving a command or something. And I --

1 Q It sounded -- the tone of it was command-like?

2 A Yes.

3 Q You didn't understand the actual words he was  
4 using?

5 A No.

6 Q Was it -- can you -- obviously you don't have  
7 any words, but can you kind of give me the tone or the way in  
8 which he was talking?

9 A I'll try my best, but I don't know what he was  
10 saying.

11 Q Right.

12 A But it was -- I was holding on to him and he  
13 turned to his buddies and he said [unintelligible], something  
14 like that. And I said, Hey, no talking. And he's like, Okay,  
15 okay.

16 Q Did he say okay, okay?

17 A [Unintelligible.]

18 Q Did he say okay, okay in English?

19 A Yeah. He nodded his head like yeah, okay, okay.

20 Q Okay.

21 A And then he turns around and says it again, so I  
22 tell him again be quiet.

23 Q The same commanding tone?

24 A The same thing whatever it was. I don't know  
25 what it was.

1 Q Did the -- were the -- did the other individuals  
2 respond to him at all?

3 A They just kept quiet.

4 Q Did he appear to be in command, or not in  
5 command, but --

6 A Yeah. I would say he was their leader, I guess.  
7 I don't know. The alpha male of the group, I guess.

8 Q And nobody -- none of them argued with him?

9 A No. They didn't say nothing. They followed  
10 directions. They kept facing forward.

11 Q And then what? After that second --

12 A After that --

13 Q -- time, did he finally --

14 A -- second time, yeah, he started being quiet  
15 after that. We walked them out of the elevator, paraded them  
16 down in a single file line down to the security office. When  
17 we got to the security office, my supervisor patted him down  
18 again and then they, I believe it was Metro, took him into the  
19 holding room, and they just told me to stand by with the other  
20 guys.

21 So in the processing room, I told the other guys to  
22 sit down, put their feet out and cross them, and I just  
23 watched them. And they tried to talk too and I just told them  
24 to be -- I kept telling them to be quiet.

25 Q Did you ever speak -- were you speaking to them

1 in English?

2 A Yes.

3 Q And were they all following your English orders?

4 A Yes. They understood.

5 Q Except when they decided to not follow them?

6 A Yes. But it seemed to me that they knew exactly  
7 what I was saying.

8 Q And essentially you held them there until Metro  
9 came; is that pretty much --

10 A Yes. Metro, I believe, was already there.

11 Q And the entire time the defendant, Mr. Alotaibi,  
12 he was kept separate from the other individuals; is that  
13 right?

14 A Yes. Yes.

15 Q I'm going to show you what's been marked as  
16 State's Proposed 155 through 167. And just flip through them  
17 and tell me if they appear to accurately represent what they  
18 appear to. Keep them kind of in order, just --

19 A This is the outside of the room. We're --

20 Q Just flip through them and tell me if they all  
21 look accurate, and then we'll talk about what's in them.

22 MS. HOLTHUS: And for the record, these photographs  
23 were not taken the day of the incident. These were subsequent  
24 to show the layout of the rooms. And then these others,  
25 Room 627 down the hallway, to show the distance between the

1 two.

2 THE WITNESS: Yeah. These are Circus Circus hotel  
3 rooms.

4 BY MS. HOLTHUS:

5 Q Does it appear to be Room 631?

6 A This one does, yes.

7 Q Do they all fairly and accurately depict the  
8 Room 631 --

9 A Yes.

10 Q -- and then the outside of these, 627?

11 A Yeah, that's the room layout.

12 MS. HOLTHUS: Move to admit.

13 MR. CHAIREZ: No objection.

14 THE COURT: Okay. Admitted.

15 (State's Exhibit 155 through 167 admitted.)

16 THE COURT: You can publish.

17 MS. HOLTHUS: May I publish, permission?

18 THE COURT: Yes.

19 BY MS. HOLTHUS:

20 Q Okay. There's just a wall placard, right?

21 A Yes, right outside the room.

22 Q That's kind of a backup. That's that wall  
23 placard that we talked about.

24 A Yeah, coming in.

25 Q So this is being take -- this is right through

1 the door, right?

2 A Yes.

3 Q So you can see in here the two beds?

4 A Yes.

5 Q Off to the right would be the bathroom?

6 A Yes.

7 Q And there's kind of a closet entryway there?

8 A Yeah, where the safe is at, yes.

9 Q That was 156. 157, that's kind of a shot across  
10 the -- around the corner to the bathroom, right?

11 A Yes, the front of the safe.

12 Q And the safe would be here?

13 A Yes.

14 Q 158, there's the safe. This is the bathroom  
15 door?

16 A Yes.

17 Q Here's another kind of view of the setup?

18 A Yes.

19 Q Was this kind of a little closet anteroom  
20 separating the bathroom from the actual guest room?

21 A Yes, there is.

22 Q And just for perspective now, here's the safe  
23 and [unintelligible]?

24 A Yeah. That first bed is where the guy covered  
25 himself with the sheet.



1 Q This one?

2 A Yes. And the other bed's where the other guy  
3 was crashed out.

4 Q Okay. Here's just a slightly different angle.

5 A That would be where if Alotaibi was taking the  
6 picture, that's where -- what it would look like where he's  
7 standing at.

8 Q Where he was standing?

9 A Yes.

10 Q Same thing here?

11 A Yes.

12 Q And so it would be his angle to the door would  
13 be here to here?

14 A Yes.

15 Q And this was just kind of outward?

16 A Yes.

17 Q Looking here's your bathroom, here's your  
18 hallway door?

19 A Yeah. That's across the room, across.

20 Q And same here. This is from the other side of  
21 the room, just kind of showing into the bathroom. Isn't it  
22 about here --

23 A Yes, where --

24 Q That's Officer Garner, right?

25 A Yeah. Where Investigator Garner's at, a little

1 bit more in front of the mirror would be the other guy.

2 Q Right there?

3 A Yeah.

4 Q Again, here this just shows you the tub and the  
5 layout of the toilet, right?

6 A Yes.

7 Q And lastly, placard for Room 627 down the  
8 hallway?

9 A Okay.

10 Q If this is 627, is that about the approximate  
11 distance between 627 and 631 down the hall?

12 A Yeah. But these are only about halfway, because  
13 this room is a mirror of this one, but it's the opposite. So  
14 in other words, if you were to go into this room over here, to  
15 your left would be the bathroom.

16 Q Got you.

17 MS. HOLTHUS: Pass the witness. Thank you.

18 THE COURT: Cross.

19 (Pause in proceeding.)

20 CROSS-EXAMINATION

21 BY MR. CHAIREZ:

22 Q Officer Haros.

23 A Yes, sir.

24 Q When you had these four or five individuals with  
25 you, nobody was found with weapons, correct?

1 A No.

2 Q There were no knives?

3 A No.

4 Q There were no guns?

5 A No.

6 Q Anything that could be classified as a weapon?

7 A No.

8 Q And when you took the individuals and detained  
9 them, nobody tried to escape, did they?

10 A No.

11 Q And other than my client saying something in  
12 Arabic to the other guys, they essentially were cooperative,  
13 correct?

14 A Yes. Yes.

15 Q You don't know what my client was saying to the  
16 other guys, because it was all in Arabic, correct?

17 A Correct.

18 Q So he could have just said, hey, calm down,  
19 relax, everything is going to be okay; is that possible?

20 A Could be.

21 Q Or he could have said, keep your mouth shut?

22 A Yes.

23 Q But as far as you could tell, it didn't seem  
24 like my client had been drunk or under the influence of  
25 alcohol, correct?

1 A Yes.

2 Q Now, when you searched the room, did you look  
3 and see whether or not there were any bottles of liquor?

4 A I never searched the room.

5 Q Okay. Did you see whether or not there were any  
6 bottles of liquor?

7 A I believe there was hard liquor, but that's just  
8 from a quick scan?

9 Q All right. Would you consider whiskey hard  
10 liquor?

11 A Yeah.

12 Q Okay. So and did you see whether or not there  
13 was any marijuana in the room?

14 A No.

15 Q And this individual that was covering himself  
16 with the sheet, did he have any clothes on?

17 A Yes, I believe he did.

18 Q Okay. So he was covering himself even though he  
19 was fully clothed?

20 A Yes.

21 Q And you don't remember the name of that  
22 particular individual?

23 A I didn't detain him, no.

24 Q And with my client, he was standing in the  
25 corner, correct?

1 A Yes.

2 Q And you said his hands were in his pocket?

3 A Yes.

4 Q Both hands were in each pocket?

5 A No. He had his hands out. When I said  
6 everybody let me see your hands, he went to put his hands in  
7 his pockets.

8 Q He went to put his hands into the pocket?

9 A Yes.

10 Q So is it possible -- okay. Tell me again how  
11 you said it; let me see everybody's hands?

12 A Let me see your hands, and I had my hand on my  
13 weapon, and I'm telling everybody, let me see your hands, let  
14 me see your hands.

15 Q All right. And rather than stick his hands up,  
16 he stuck his hands in the pocket?

17 A Yes.

18 Q So is it possible that maybe he just  
19 misunderstood --

20 MS. HOLTHUS: Objection. Calls for speculation.

21 THE COURT: Sustained.

22 BY MR. CHAIREZ:

23 Q And afterwards, did you ask him again and did he  
24 take his hands out of the pocket?

25 A Yes.

1           Q     And did you search his pockets to see what was  
2 inside of them?

3           A     I patted his pockets down.

4           Q     So you didn't see whether he had a wallet in his  
5 pocket?

6           A     No.

7           Q     You didn't see whether he had any money in his  
8 pocket?

9           A     My concern was a knife or a gun.

10          Q     All right. And you didn't find either?

11          A     No.

12          Q     Now, you stated, and of course you were  
13 speculating and I didn't object, but it sounded like people  
14 were partying in that room?

15          A     Yes.

16          Q     Okay. And this is New Year's Eve, correct?

17          A     Yes.

18          Q     And isn't one of the functions of the City of  
19 Las Vegas to encourage people to come here for New Year's  
20 because we put on a better party than anybody else?

21          A     Yes.

22          Q     So did that seem unusual that people might be  
23 partying on New Year's Eve?

24          A     Only because it was 9:30 in the morning.

25          Q     Okay.

1           A     Usually you wait until the nighttime to party.

2           Q     Well, do some people start partying two or three  
3 days beforehand?

4           A     I would say yes.

5           Q     And the more they party, the more they spend,  
6 correct?

7           A     Yes.

8           Q     And that's good for the business of Las Vegas?

9           A     Yes, it is.

10          Q     All right. And some of these people drink  
11 alcohol when they party, correct?

12          A     Yes.

13          Q     So the main thing that we're concerned about is  
14 the safety of all of the citizens, making sure nobody gets  
15 hurt?

16          A     Yes, and our children too.

17          Q     Okay. So and other than the fact that my guy  
18 may have given some kind of command in Arabic, it didn't seem  
19 like there was anything unusual about the way they were  
20 behaving, correct?

21          A     No. They followed all directions.

22          Q     And as far as you could tell based upon your  
23 many years in law enforcement and security work, you didn't  
24 believe he was under the influence of alcohol, correct?

25          A     No. I believe he might have been up all night,

1 he might have had a couple beers or something, but he didn't  
2 appear smashed.

3 Q Okay. And but you don't know how much he  
4 actually had drank, correct?

5 A No, I do not.

6 Q And you don't know if he drank beer or hard  
7 liquor?

8 A No, I do not.

9 MR. CHAIREZ: Nothing further, Your Honor.

10 THE COURT: Redirect.

11 MS. HOLTHUS: Nothing. Thank you.

12 THE COURT: Does the State have more witnesses?

13 MS. BLUTH: Yes, Your Honor.

14 THE COURT: Okay. Next one, please.

15 MS. BLUTH: The State calls Robert Williams.

16 ROBERT WILLIAMS, STATE'S WITNESS, SWORN

17 THE CLERK: State and spell your first and last name  
18 for the record, please.

19 THE WITNESS: Detective Robert Williams, R-o-b-e-r-t,  
20 W-i-l-l-i-a-m-s.

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

22 THE COURT: Yes.

23 DIRECT EXAMINATION

24 BY MS. BLUTH:

25 Q Good afternoon, sir. How are you employed?



1 A Las Vegas Metropolitan Police Department.

2 Q And how long have you been with the department?

3 A Fourteen and a half years.

4 Q In December of 2012, what section were you  
5 assigned to?

6 A The sexual assault detail.

7 Q And you are a detective. And what -- within the  
8 sexual assault detail, what are the common duties of a sexual  
9 assault detective?

10 A We perform -- basically what happens is when  
11 there's a crime that's been reported, after patrol goes out  
12 and they believe the crime did take place, they give us a  
13 call. We go out and we start a preliminary investigation to  
14 where we gather evidence. We do the interviews of the victim,  
15 suspects, witnesses, anybody.

16 Q And how many members or how many detectives are  
17 on a given squad within the detail?

18 A On my squad alone there's a total of four  
19 detectives.

20 Q So when a call comes in and a sexual assault has  
21 been committed, how is it assigned? Who investigates that  
22 crime?

23 A During our regular work hours we have what we  
24 call -- it's called a bucket list which our sergeant puts out.  
25 You have a primary officer and you have a secondary officer, a

1 detective. So whoever's the primary actually will take the  
2 case, and the secondary's job is to do whatever the primary  
3 requests.

4 Q I'd like to turn your attention now specifically  
5 to December 31st of 2012. Does a call come in to the sexual  
6 assault detail in reference to a sexual assault on a juvenile?

7 A Yes, it did.

8 Q And at that point in time who was in the bucket?  
9 Who was primary?

10 A Detective Christensen.

11 Q And does Detective Christensen work with --  
12 commonly work with another individual?

13 A Yes, she does. Usually Detective Pool.

14 Q And then so on that day she was what we call  
15 primary?

16 A Yes, she was.

17 Q So she was assigned this case?

18 A Yes.

19 Q And does that make you and your partner  
20 secondary?

21 A At that day Sergeant Comiskey had me be  
22 secondary.

23 Q So what were the rules of Detective Christensen  
24 in regards to getting the investigation going? Where did she  
25 respond first?

1           A     She responded to UMC.

2           Q     Who was at UMC?

3           A     The victim.

4           Q     And as secondary, what were your duties?

5           A     I was told by Detective Christensen to go to the  
6 scene, which was Circus Circus.

7           Q     And did you go to the scene?

8           A     Yes, I did.

9           Q     And when you went to the scene, did you have any  
10 other officers with you?

11          A     Yes. Detective Beza.

12          Q     And on the way to Circus Circus, are you given  
13 any details about, you know, what's going to be at the scene,  
14 what are you responding to?

15          A     We were told that there was a sexual assault of  
16 a 13-year-old that occurred into a room, and that all parties  
17 involved were in the security office.

18          Q     When you respond to Circus Circus, do you and  
19 Detective Beza go to the security holding room?

20          A     Yes, we do.

21          Q     And what's going on there at that time when you  
22 arrive?

23          A     When we arrive, patrol officers were already  
24 there for Metro and also security officers. We entered the  
25 security room. Right off to the left there was another room

1 where the defendant was sitting inside the room, and other  
2 individuals that were occupants out of that room were sitting  
3 outside in front of -- in the other security spot.

4 Q Do you make contact with the individuals that  
5 are the occupants from that room?

6 A Yes.

7 Q And I believe you just said they're in a  
8 different room than where the defendant's being held?

9 A Yes.

10 Q And you do make contact with them?

11 A Yes, we do.

12 Q And are they able to answer any questions you  
13 pose towards them?

14 A Yes, there was. It was just brief questions of  
15 name, date of birth, where do they live.

16 Q And were you -- were they able to answer those  
17 questions?

18 A Yes, they were.

19 Q Were they able to speak with you? Were they  
20 having any problems communicating?

21 A No, they did not.

22 Q Were they having -- were they sitting or  
23 standing?

24 A They were all sitting.

25 Q Were they having any trouble sitting upward?

1           A     No, they were not.

2           Q     Did any of them appear to be inebriated or  
3 intoxicated to you at that point?

4           A     No.

5           Q     And you stated that you got their personal  
6 information; would that be --

7           A     Yes.

8           Q     -- is that correct?

9           A     It would be correct.

10          Q     And what type of information is it that you got  
11 from them?

12          A     ID.

13          Q     What type of identifiers? I apologize.

14          A     Sorry. Oh, usually name, date of birth, Social  
15 Security number if they have one, where do they live.

16                     (Pause in proceeding.)

17          MS. BLUTH: May I approach the witness, Your Honor?

18          THE COURT: You may.

19          BY MS. BLUTH:

20                Q     Showing you what's been marked for purposes of  
21 identification is State's Proposed Exhibit 171 and State's  
22 Proposed Exhibit 172. Do you recognize what's being depicted  
23 in these papers?

24                A     Yes. That is my handwriting.

25                Q     And what is this, for the ladies and gentlemen

1 of the jury?

2 A These are basically their name, date of birth,  
3 their physical description, their addresses and birthplaces.

4 Q And that is your handwriting?

5 A Yes, it is.

6 Q And these were the identifiers you took on  
7 December 31st of 2012, when you responded to the Circus  
8 Circus?

9 A Yes, it was.

10 Q And are these a fair and accurate copy of the  
11 information you took down on that date?

12 A Yes, it is.

13 MS. BLUTH: Your Honor, I'd move to admit this into  
14 evidence at this time.

15 MR. CHAIREZ: I have no objection, but can I see it  
16 again quickly, Your Honor?

17 THE COURT: You may.

18 (Pause in proceeding.)

19 MS. BLUTH: May I approach and publish at this time?

20 THE COURT: Anything else, Mr. Chairez?

21 MR. CHAIREZ: No objection, Your Honor.

22 THE COURT: All right. Yes, you may. And yes, it's  
23 admitted.

24 (State's Exhibit 171 and 172 admitted.)

25

1 BY MS. BLUTH:

2 Q So showing you State's -- what's now in evidence  
3 as State's 171 -- before I get to any questions on this paper,  
4 is it normal when you respond to a scene of a crime that you  
5 take down personal information from all those that are  
6 involved in that crime, or witnesses?

7 A Yes, it is.

8 Q And then are those kept in the personal record  
9 in the case file?

10 A Yes, they are.

11 Q Is that part of the ordinary scope and course of  
12 your business as a detective?

13 A Yes, it is.

14 Q And so the first individual is identified as  
15 Mazen Alotaibi; is that correct?

16 A Yes.

17 Q And you're given -- or you gave -- or you placed  
18 down on the paper date of birth, as well as the description,  
19 his height and weight, as well as an address?

20 A Yes.

21 Q And then down below there's two other  
22 individuals, Mohammed Jafaari, same type of identifying  
23 information?

24 A Yes.

25 Q And Emad Alshehri, same type of identifying

1 information?

2 A Yes.

3 Q And all of these individuals were able to give  
4 you this information?

5 A Yes, after I verified it, because I believe they  
6 did have a type of identification with them. And what common  
7 practice for us is, I'll actually look at the ID to compare it  
8 with them and also ask the questions.

9 Q And so they were able to provide you with ID?

10 A Yes.

11 Q And they were able to understand the questions  
12 you posed and answer them?

13 A Yes.

14 Q And on this document, the first individual is  
15 Adel Hassan Alharbi, same type of personal identifying  
16 information, date of birth, birthplace, height, weight?

17 A Yes.

18 Q Second, Saeed Jubran Alshahrani, same type of  
19 identifying information?

20 A Yes.

21 Q And Rashed Alshehri?

22 A Yes.

23 Q The first individual on the paper, Mazen  
24 Alotaibi, those were the first questions that I asked you, he  
25 was being held, like you said, in a different room?



1           A     Yes, he was.

2           Q     And you made contact with him?

3           A     Yes, I did.

4           Q     Do you see him here in the courtroom today?

5           A     Yes.

6           Q     Can you please point to him and describe an  
7 article of clothing?

8           A     Sitting to the [indicating] -- it would be to  
9 his right of the defense attorney. He's currently wearing a  
10 black suit, maroon tie. He's a Middle-Eastern male, black  
11 hair, sideburns, appears to look -- he has a little goatee  
12 underneath.

13          Q     All right. Thank you.

14          MS. BLUTH: Your Honor, may the record reflect that  
15 the witness had identified the defendant?

16          THE COURT: It will.

17          MS. BLUTH: Thank you.

18 BY MS. BLUTH:

19          Q     And so when you were speaking with the  
20 defendant, was he able to provide identification to you?

21          A     Yes, he was.

22          Q     Was he able to understand your questions?

23          A     Yes, he was.

24          Q     Was he able to answer your questions?

25          A     Yes, he was.

1 Q Did he have any difficulties with any of that?

2 A No, he did not.

3 Q After you make contact with all of the occupants  
4 that were brought down into the secured security holding area,  
5 what's your next step at the Circus Circus?

6 A Our next stop, it was decided by our sergeant to  
7 bring everybody down to the headquarters building, to where  
8 interviews would be conducted.

9 Q Was there ever a search warrant conducted at the  
10 Circus Circus?

11 A Yes, there was.

12 Q And that was done in Room 631?

13 A Yes, it was.

14 Q And whose decision was that?

15 A The decision was we needed to gather evidence  
16 out of the room, so it was the lead detective's decision to  
17 obtain the search warrant.

18 Q Which would be Detective Christensen?

19 A Yes, it would be.

20 Q And did you make contact with her in regards to  
21 some of the details that were surrounding the case at that  
22 time?

23 A Yes, I did.

24 Q Had she briefly spoken to the victim at the  
25 hospital?

1           A     I believe she just conducted her preliminary  
2 investigation with the victim, just enough to provide me so I  
3 could obtain a search warrant.

4           Q     And then did she provide you, like you said,  
5 those limited details in order for you to apply for the search  
6 warrant?

7           A     Yes, she did.

8           Q     And did you do so?

9           A     Yes, I did.

10          Q     And did you then execute a search warrant on  
11 Room 631 at the Circus Circus?

12          A     Yes, I did.

13          Q     Did you know what items you were looking at --  
14 for specifically, and did you know what room within the room  
15 you would be looking at?

16          A     It was told -- it was related to me by -- in the  
17 bathroom, and we were looking for towels, lotions, used  
18 condoms.

19          Q     And as part of the search warrant process, do  
20 you also apply to get what's called a buccal swab for the  
21 defendant?

22          A     Yes, we do.

23          Q     And can you explain to the ladies and gentlemen  
24 of the jury what a buccal swab is?

25          A     Yes. Basically a buccal swab is it's two Q-Tips

1 are in a package for us. They're long Q-Tips. We put one  
2 Q-Tip on either the left side or the right side of your mouth.  
3 We basically rub it around to try and get cells off of your  
4 skin area, which is then for DNA, where it will be analyzed.

5 Q And was that done in this case?

6 A Yes, it was.

7 Q And is that often done in sexual assault cases?

8 A Yes, it is.

9 Q And is the purpose of that for later any ability  
10 to conduct DNA testing?

11 A Yes, it is.

12 Q When you got up to Room 631, was there a  
13 security guard on duty securing that area?

14 A Yes, there was.

15 Q And at any point in time was a crime scene  
16 analyst called to respond to document the inside of the room?

17 A Yes. We called her.

18 Q When you get to Room 631, what's the first thing  
19 that is done?

20 A The first thing that's done is when we get there  
21 we have CSI with us -- criminalistics, excuse me. Sorry.  
22 What they do is they take photographs before we enter the  
23 room. At that time, after the photographs are taken, CSI  
24 enters the room and takes photographs to make sure we can  
25 document the way it looked when we went into the room prior to

1 searching.

2 Q And was that done in this case?

3 A Yes, it was.

4 Q After the crime scene analyst went in and  
5 documented with photography the state of the room, what's the  
6 next step?

7 A The next step was after CSI did that we started  
8 looking in the area to search. We started looking in the  
9 restroom for any of the towels or anything that was -- was  
10 told to me by Detective Christensen.

11 Q And did you find any, I'll call them items of  
12 interest within the bathroom?

13 A Yes, there was.

14 Q What was that?

15 A There was towels, there was lotion, and I  
16 believe shampoo, and I believe there was a used condom that  
17 CSI had located in a trash can.

18 Q Once items like that are found, what process do  
19 you guys go through collecting the evidence, impounding it, et  
20 cetera?

21 A As a detective we do not touch any of the items.  
22 We have criminalistics retrieve the items for us.

23 Q Were there any narcotics found inside the room?

24 A Yes, there was. We located a small bottle of --  
25 it looked like it was a prescription bottle of marijuana on a

1 dresser.

2 Q And was it collected into evidence?

3 A No, it was not.

4 Q And why not?

5 A Reason being is I had limited information prior  
6 to going in that -- and also you have a misdemeanor crime, and  
7 it wasn't going to -- we were concentrating more on the sexual  
8 assault of a 13-year-old.

9 Q When you say you had limited information, what  
10 information if any did you have revolving around some  
11 marijuana?

12 A Basically that the victim just observed people  
13 smoking marijuana in a room.

14 Q Smoking marijuana within the room?

15 A Yes.

16 Q When you have a -- I think you said you had a  
17 violent sexual assault, that was the investigation that you  
18 were working on at that point?

19 A That's what we were working on, yes.

20 Q And so were you more concerned with the details  
21 revolving around that assault at that time?

22 A Yes, I was.

23 Q Furthermore, was the marijuana documented in  
24 your report?

25 A Yes. The marijuana was documented by CSI. She

1 took photographs of the marijuana and documented where the  
2 location was.

3 Q We spoke a little bit earlier about the buccal  
4 swab, and at -- I don't remember if I asked you or not. Were  
5 penile swabs taken as well?

6 A Yes. Penile swabs, yes.

7 Q And those were taken at what location?

8 A At the headquarters building of Metro.

9 Q So --

10 MR. CHAIREZ: Your Honor, I'm going to object.  
11 Speculation. He has no knowledge of this. He wasn't present,  
12 unless they lay that foundation.

13 THE COURT: Lay a foundation, please.

14 BY MS. BLUTH:

15 Q Were you present when the swabs were taken?

16 A I was present right outside the room, yes.

17 Q Okay. So after this search is conducted, then  
18 you stated that the decision is made to move everyone down to  
19 headquarters?

20 A Yes.

21 Q And that is Mr. Alotaibi as well as the other  
22 room occupants?

23 A Excuse me. After the search warrant? Sorry.  
24 Excuse me. What is the question? Sorry.

25 Q So after the search warrant was conducted, the

1 next decision was to move everyone down to headquarters?

2 A The search warrant was conducted after everybody  
3 moved down to the headquarters building.

4 Q Okay. So everyone is moved to headquarters, and  
5 then --

6 A Then we conducted the search warrant.

7 Q I apologize. Thank you. But I do want to talk  
8 about headquarters. At some point everyone, the defendant,  
9 including the other -- and the other occupants moved to  
10 headquarters?

11 A Yes, they did.

12 Q And were they transferred by patrol vehicles?

13 A Yes. They were transported by patrol.

14 Q And at headquarters, that is when the buccal  
15 swab as well as the penile swabs were taken from the  
16 defendant?

17 A Yes.

18 Q And who was it that physically did that?

19 A The buccal swab was actually conducted by the  
20 CSI. And the penile swab was actually conducted, Detective  
21 Beza actually assisted in taking the penile swab.

22 Q With the crime scene analyst?

23 A Yes, with the crime scene analyst.

24 MS. BLUTH: I'll pass the witness.

25 CROSS-EXAMINATION



1 BY MR. CHAIREZ:

2 Q Just a couple questions, Detective. The last  
3 name is Williams?

4 A Yes, it is.

5 Q All right. Detective Williams, do you recall at  
6 what time you obtained the search warrant to go in and search  
7 the room?

8 A It would be most likely on my search warrant. I  
9 don't recall what time.

10 Q Did you say it was an hour or two after you  
11 first arrived at Circus Circus?

12 A Most likely it was an hour or two after.

13 Q And do you remember whether or not it was a  
14 telephonic search warrant, or somebody went down to talk to  
15 the judge?

16 A It was a telephonic search warrant.

17 Q And is that common practice and procedure  
18 nowadays, or was there a special circumstance for that to  
19 happen that way?

20 A I believe that day was a weekend. I believe it  
21 was a Sunday, the 31st. I don't recall. But usually if we're  
22 on scene and we need to get a search warrant right then and  
23 there, we do conduct a telephonic search warrant for the  
24 judge.

25 Q All right. And the information that you had

1     been given was given to you by Detective Christensen?

2             A     Yes.

3             Q     And so based upon the information given to you  
4     by Detective Christensen, you look for wash cloths, you look  
5     for towels, you look for lotions and all that other kind of  
6     stuff, correct?

7             A     Yes, I do.

8             Q     All right. And you say the CSI crime scene  
9     people came and actually took possession of all of that?

10            A     Yes, they did.

11            Q     All right. And did you yourself see the medical  
12   marijuana that was in the room?

13            A     Yes, I saw the marijuana.

14            Q     And you didn't grab it?

15            A     No, I did not.

16            Q     Because essentially it was just, as far as you  
17   could understand, no more than misdemeanor behavior here in  
18   the State of Nevada, correct?

19            A     Yes. And also, it appeared to be medical  
20   marijuana.

21            Q     So at the time, just looking at the marijuana,  
22   it didn't seem like there was anything wrong with having it?

23            A     At that time, no. That's why we just documented  
24   it with photographs.

25            Q     And you don't know what happened to that

1 marijuana?

2 A Don't know what happened to it. No, I do not,  
3 sir.

4 Q We don't know if Circus Circus security got it  
5 or somebody else from Metro, it just disappeared, correct?

6 A That I do not know.

7 Q And we know that my client or his friends, none  
8 of them took it, correct?

9 A I can't answer for them. I don't know.

10 Q Well, you say you took them into custody and  
11 took them down to headquarters, correct?

12 A Yes. When we left the room, sir, the room was  
13 secured and a copy of the search warrant and the return was  
14 left in that room and photographed. When we left that room,  
15 the room was secured and the marijuana stayed right where it  
16 was at.

17 Q And did anybody from Circus Circus tell you that  
18 they had trespassed these individuals, so theoretically they  
19 couldn't even go back to the room?

20 A They didn't tell me that they trespassed them at  
21 that time.

22 Q In the information you received from Detective  
23 Christensen, did she tell you what the story of the boy was as  
24 to how he got into the room?

25 A It was just a preliminary investigation I

1 believe she conducted. She said that he was walking on the  
2 floor when he was approached by the defendant, and the  
3 defendant asked him for sex for \$200.

4 Q All right. Okay. Did she say whether or not  
5 the defendant forcibly took him down to the room?

6 A She said that he was walking by the room, at  
7 that time he was pushed into the room.

8 Q All right. But she didn't tell you that the boy  
9 had gone to the room voluntarily to get marijuana, correct?

10 A At that point she didn't tell me because I don't  
11 know if she conducted a full interview at that time, sir.

12 Q And the interview that Detective Christensen  
13 conducted was approximately 10:30 or 10:45?

14 A That I do not know, sir.

15 Q But it was before you got the search warrant?

16 A The original preliminary investigation, to me,  
17 that was related to me was prior to me getting the search  
18 warrant. As far as her doing a full-blown -- doing a  
19 full-blown interview with the victim, I couldn't tell you what  
20 time because I wasn't present at the hospital.

21 Q But she would have done her interview after the  
22 boy had already reported everything to Circus Circus security,  
23 correct?

24 A Yes.

25 MR. CHAIREZ: All right. Nothing further.

1 THE COURT: Redirect.

2 MS. BLUTH: Nothing, Your Honor.

3 THE COURT: Thank you, sir, for your time. You're  
4 free to go.

5 THE WITNESS: Thank you, Your Honor.

6 THE COURT: Is there anymore witnesses for the day?

7 MS. BLUTH: Yes, Judge.

8 THE COURT: All right. Next witness, please.

9 MS. BLUTH: The State calls Kristen Tucker. Can we  
10 approach, Your Honor?

11 THE COURT: You may.

12 (Bench conference transcribed as follows.)

13 MR. CHAIREZ: We're only going to object to one  
14 picture. It's basically the picture of Mazen, pants pulled  
15 down, penis and everything, et cetera, et cetera. So for --

16 THE COURT: [Inaudible.]

17 MR. CHAIREZ: Pardon? Here. It's Number 92. I  
18 mean, it's essentially more for religious reasons than  
19 anything else, Your Honor. Yeah. Okay.

20 THE COURT: All right.

21 MS. HOLTHUS: Are -- can we see his underwear in  
22 another picture?

23 MR. CHAIREZ: Yeah. There's lots of pictures of the  
24 underwear. Everything else we have no objection to.

25 MS. BLUTH: The reason why it's important is because

1 the victim says he doesn't have hair on his chest, but he has  
2 hair on his penis, but I don't know [inaudible].

3 THE COURT: So it's just that one photograph?

4 MS. BLUTH: Yes.

5 MR. CHAIREZ: Just the one photograph.

6 THE COURT: [Inaudible.]

7 MS. HOLTHUS: [Inaudible] AJ describes hair on his  
8 chest, but not -- I mean, hair on his penis, but not his  
9 chest.

10 MS. BLUTH: That's why it was documented.

11 MR. CHAIREZ: Well, I think most men have hair on  
12 their penis, Your Honor.

13 MS. BLUTH: Not if you get waxed.

14 MR. CHAIREZ: Waxed? Oh, okay. I guess I'm showing  
15 my age.

16 THE COURT: [Inaudible.]

17 MR. CHAIREZ: We'll stipulate he has hair on his  
18 penis.

19 MS. BLUTH: [Inaudible.] I will talk to the crime  
20 scene analyst, what she did, if it was documented.

21 MR. CHAIREZ: Yeah. That's fine.

22 MS. BLUTH: But I don't [inaudible].

23 THE COURT: [Inaudible] by way of testifying  
24 [inaudible].

25 MR. CHAIREZ: Objectionable.

1 THE COURT: Objectionable [inaudible].

2 MS. HOLTHUS: Very squeamish in a sex assault trial.

3 THE COURT: Well, I just didn't expect it to be right  
4 there.

5 MR. CHAIREZ: Yeah.

6 MS. BLUTH: [Inaudible.]

7 THE COURT: So this one, I think, is just too  
8 prejudicial, especially since we can bring out [inaudible]  
9 there's no objection to.

10 MR. CHAIREZ: Right. No objection.

11 THE COURT: All right.

12 MR. CHAIREZ: Okay.

13 (End bench conference.)

14 THE COURT: And we can make a fuller record at the  
15 break.

16 KRISTEN TUCKER, STATE'S WITNESS, SWORN

17 THE CLERK: State and spell your first and last name  
18 for the record, please.

19 THE WITNESS: Kristen Tucker, K-r-i-s-t-e-n,  
20 T-u-c-k-e-r.

21 THE COURT: Whenever you're ready.

22 MS. BLUTH: Thank you.

23 DIRECT EXAMINATION

24 BY MS. BLUTH:

25 Q Good afternoon, Ms. Tucker. How are you

1 employed?

2 A I work for -- I'm a crime scene analyst with the  
3 Las Vegas Metropolitan Police Department.

4 Q And can you explain to the ladies and gentlemen  
5 of the jury the training and the education that you went  
6 through in order to obtain that employment?

7 A Yes. I have a degree in forensic technology  
8 from Grossmont College in San Diego. I completed a two-year  
9 internship as a forensic specialist with the Chula Vista  
10 Police Department crime lab in San Diego County, and I have  
11 over a thousand hours of training in crime scene investigation  
12 related topics.

13 Q And what are the job duties of a crime scene  
14 analyst within the metropolitan police department?

15 A As a crime scene analyst, I am responsible for  
16 documenting crime scenes through note taking, photography,  
17 location, evidence collection, preservation of evidence,  
18 latent print processing, writing reports and ultimately  
19 testifying in court.

20 Q I'd like to turn your attention to December 31st  
21 of 2012. On that day were you called to the Circus Circus to  
22 document Room 631, in reference to an investigation on a  
23 sexual assault on a minor?

24 A Yes.

25 Q When you arrived or actually on your way to



1 Circus Circus, were you briefed on any of the details, or how  
2 did you know what you were responding to?

3 A Well, I was dispatched to the call that there  
4 was a sexual assault at Circus Circus, so I went in route on  
5 that call.

6 Q And upon arrival, who did you make contact with?

7 A I met with Detectives Beza and Williams.

8 Q And was that Detective Williams that just left  
9 the courtroom?

10 A Yes.

11 Q When you make contact with Detective Williams  
12 and Detective Beza, are you briefed more on the situation?

13 A Yes. They gave me an idea of what I'm there  
14 for. We were conducting a search warrant. They gave me  
15 victim information.

16 Q And did the three of you then together go up to  
17 Room 631?

18 A Yes. I met them at the room, outside the room.

19 Q With the information that you were given, did  
20 you know where in the room you would be focusing or what types  
21 of things you would be focusing for?

22 A Yes. After talking to them about the search  
23 warrant, we were going to be focusing on the bathroom area.

24 Q In responding to Room 631, what was the first  
25 thing that you did?

1           A     After getting my info from the detectives, I  
2 went in and photographed the hotel room, including the  
3 bathroom as it was when I arrived.

4           Q     And is it important when you're responding to a  
5 scene, for you as the crime scene analyst, to be the first  
6 individual to have access to that scene?

7           A     Yes.

8           Q     And why is that important?

9           A     Because I go in and I photograph to show its  
10 condition as it is at the time that we're arriving, before  
11 detectives or patrol has gone into the room.

12          Q     So basically you preserve the area so those of  
13 us later, when we're looking at the photographs, no one is  
14 able to hamper or get in there and mess things up in one way  
15 or the other --

16          A     Right.

17          Q     -- would that be correct?

18                 And did you do that in this case?

19          A     Yes.

20          Q     And you went in first without anyone else?

21          A     Yes.

22          Q     And you documented the room with photography?

23          A     Yes.

24          Q     And after you did that, what was the next step?

25          A     The detectives came in and we began our search.

1           Q     And you said that there were some specific items  
2 that you were looking for. What did you find?

3           A     In the bathroom there were towels, multiple  
4 towels and wash cloths on the bathroom counter and on the  
5 floor. There was also an open shampoo bottle in there on the  
6 counter.

7           Q     Was there any condoms found?

8           A     Yes. A used condom was found wrapped in tissue  
9 in the trash can in the bathroom.

10          Q     When you go into the bathroom and you discover  
11 these items, do you conduct any testing on any of those items?

12          A     Yes.

13          Q     And what type of testing did you conduct?

14          A     I brought in an alternate light source, which in  
15 this case I used a blue light. That is a tool that aids us in  
16 looking for trace evidence. In this case I used the blue  
17 light to look for bodily fluids. There was an area on one of  
18 the towels that fluoresced with the light, and then also an  
19 area on one of the wash cloths that also fluoresced with the  
20 light.

21                I then tested those unknown stains. I tested them  
22 for semen, which they came back negative. There was another  
23 stain on one of the towels that I tested for blood, which also  
24 came back negative.

25          Q     So basically you have this light, and when you

1 shine it on certain objects like a towel, if it fluoresces,  
2 that you then test that area where it fluoresces?

3 A Yes.

4 Q And when you did that, you tested it for semen  
5 and it came back negative?

6 A Yes.

7 Q And another towel you tested for blood and it  
8 came back negative?

9 A That's correct.

10 Q Did you do any fingerprinting or processing  
11 within the bathroom?

12 A Yes. On the shampoo bottle, that was processed  
13 for latent prints which also came back negative.

14 MR. CHAIREZ: Your Honor.

15 THE COURT: Yes, sir.

16 MR. CHAIREZ: Are we referring to the green shampoo  
17 bottle or the white hotel shampoo bottle?

18 THE COURT: A little more clarification, please,  
19 Counsel.

20 MS. BLUTH: Sure. And in a second I'm going to go  
21 through all of the photographs.

22 BY MS. BLUTH:

23 Q But the shampoo bottle that you processed for  
24 prints, do you remember the color of that at this point?

25 A It was the -- it was white or clear.

1           Q     Now, like I said, in a second I'm going to go  
2 through the photographs in the room. But I want to ask you  
3 also, did you respond to the Las Vegas Metropolitan Police  
4 Department headquarters?

5           A     Yes, I did.

6           Q     And what was the purpose in responding to  
7 headquarters?

8           A     I responded there to photograph the subject that  
9 they had in custody and recover evidence.

10          Q     Do you see that subject in the courtroom today?

11          A     Yes.

12          Q     Can you please point to him and describe an  
13 article of clothing that he's wearing.

14          A     He's sitting at that desk [indicating] with a  
15 maroon tie on.

16          MS. BLUTH: Your Honor, may the record reflect that  
17 the witness has identified the defendant, or would you like --

18          THE COURT: It will.

19          BY MS. BLUTH:

20          Q     So you said it was to document the suspect and  
21 collect any evidence?

22          A     Correct. That's correct.

23          Q     And so how do you document the subject?

24          A     I take overall photographs to show his condition  
25 and the clothes that he's wearing.

1           Q     And when you were taking pictures of him, did  
2 you communicate with him on what you were doing?

3           A     Yes. I would let him know that I'm taking  
4 photographs, which way to turn.

5           Q     Did it appear as though he understood what you  
6 were saying?

7           A     Yes.

8           Q     Did -- was he able to speak with you? Was he  
9 able to communicate back?

10          A     Yes.

11          Q     Did he appear to have any problems understanding  
12 what you were saying?

13          A     No.

14          Q     Did he appear to have any problems standing  
15 upright?

16          A     No.

17          Q     So you documented him with photography?

18          A     Mm-hmm.

19          Q     And did you collect any evidence?

20          A     Yes, I did.

21          Q     And what evidence is that, that you collected?

22          A     I recovered his shirt and boxers. I also  
23 recovered buccal swabs, which are -- we take swabs and scrape  
24 the inside of the cheeks for DNA. I recovered swabs from  
25 right and left hands, and then I recovered swabs from his

1 penis.

2 Q Did you also document the defendant as well as  
3 his body parts with photography?

4 A Yes.

5 Q In regards to the buccal swabs and penile swabs,  
6 once you took those samples, what do you do with them?

7 A The buccal swabs are placed into a small box  
8 that go into a larger envelope that is sealed, and that is  
9 impounded as evidence. And then the penile swabs are -- the  
10 swabs are placed into our DNA envelopes, again placed into a  
11 larger envelope and impounded as evidence.

12 Q And when you say that they are sealed, so  
13 they're in an envelope, which the envelope is closed, correct?

14 A Yes.

15 Q Sealed shut?

16 A The outer envelope is sealed.

17 Q And on the outside of the envelope, is it  
18 documented what case that you had responded to?

19 A Yes.

20 Q And each call that you go out to, so you went  
21 out to a sexual assault, is that call given a specific number?

22 A Yes. That's correct.

23 Q And we refer to that as an event number?

24 A Correct.

25 Q And the event number tells you the date; is that

1 correct?

2 A Yes.

3 Q And then has a specific number showing you  
4 basically what case on that date you were dealing with?

5 A Right.

6 Q And is that information then placed on the  
7 envelope?

8 A Yes.

9 Q And you then impound that into evidence at the  
10 evidence vault?

11 A We impound them at the crime lab. We have a  
12 secure evidence room, and then evidence vault personnel come  
13 and pick it up from there.

14 Q And therefore everyone using or who wants to  
15 come in and get that envelope, if there has to do with there  
16 are any subsequent testing that has to be done, they'll know  
17 what case you were referring to by looking at the event  
18 number?

19 A Right.

20 Q And all that was done in this case?

21 A Yes.

22 Q I'd like to go through some of the --

23 MS. BLUTH: And pursuant to stipulation by the  
24 parties, State's Proposed 36 through 112, with the exception  
25 of 92, is coming into evidence.



1           THE COURT: All right. That's fine. Permission to  
2 publish.

3 BY MS. BLUTH:

4           Q     Showing you State's 36. This is just a placard  
5 for Room -- the lighting is kind of bad -- 631?

6           A     Yeah.

7           Q     Can you see 631? Can you see it? I can  
8 approach.

9           A     Yes, it does.

10          Q     Okay. And that was right outside the hotel  
11 room?

12          A     Correct.

13          Q     And can you give us a brief just layout of the  
14 room as you opened the door and walk in?

15          A     Yes. So when you walk into the hotel room, to  
16 the right is a closet, and through the closet is the actual  
17 bathroom. Then when you go into the main room area, there is  
18 beds on the left side on the wall, a stand between the beds,  
19 and then on the right side is a dresser and then a desk.

20          Q     So in State's 37, this would be the entry to the  
21 room; would that be correct?

22          A     Correct.

23          Q     And then if you walk through you see the beds,  
24 the beginning of one of the beds?

25          A     Yes.

1           Q     State's 38, so where would the bathroom and that  
2 little closet be in reference to this picture?

3           A     This is another view from the entryway, and to  
4 the right is the entrance into the closet bathroom area. It  
5 would be right to the right.

6           Q     And if you could document it on the television  
7 in front of you, on the monitor. Can you actually mark  
8 where -- so right as you enter the door, if you turn right,  
9 that would be the bathroom area?

10          A     Yes.

11          Q     Showing you State's 39, is this the area we were  
12 just discussing if you turned right?

13          A     Yes.

14          Q     And so this would be the -- if you turn right,  
15 this would be the bathroom and in the middle of the picture,  
16 would that be the little closet space area?

17          A     Right.

18          Q     Showing you State's 40, what's being depicted in  
19 that photograph?

20          A     This is a view looking again from the entryway  
21 through the closet into the bathroom.

22          Q     Showing you State's 45, which area is this?

23          A     This is in the closet.

24          Q     Right outside the bathroom?

25          A     Correct.

1 Q There appears to be multiple pairs of shoes?  
2 A Yes.  
3 Q State's 46.  
4 A This is a view of the sink and counter in the  
5 bathroom.  
6 Q Did the bathroom appear to be in somewhat of a  
7 disarray?  
8 A You could say that, yes.  
9 Q And the towels that you referred to and did  
10 testing on, can you see those in this paper?  
11 A Yes.  
12 Q I'm sorry, in this picture?  
13 A There are towels on top of the counter, and  
14 then -- and wash cloths, and towels and wash cloths on the  
15 floor as well.  
16 Q And those are the towels that you did the  
17 processing on?  
18 A Correct.  
19 Q Showing you State's 47, just a close-up of the  
20 towels near the toilet?  
21 A Right. Another view of the floor there.  
22 Q State's 48, same area?  
23 A Yes.  
24 Q State's 55 --  
25 A This is --

1 Q -- what's being depicted in this photograph?

2 A This is a close-up of the countertop next to the  
3 towels.

4 Q And at that point in time, you said that you had  
5 received information about, you know, looking for a  
6 possible -- I'm sorry. Did you say lotion bottle or --

7 A It was a bottle with some kind of substance. I  
8 don't recall if it was particular to lotion or shampoo.

9 Q But you knew you were looking for something like  
10 that, a bottle that would have some type of substance in it --

11 A Right.

12 Q -- that may have been used during sexual  
13 assault?

14 A Right.

15 Q You didn't know what color or how big or small  
16 it was?

17 A No.

18 Q You didn't have that type of information?

19 A No, I didn't.

20 Q Showing you State's 57.

21 A This is a close-up of the open shampoo bottle on  
22 the counter.

23 Q And earlier you testified that you had  
24 conducting some fingerprinting on one of the bottles. Would  
25 this be the bottle that you conducted the printing on?

1 A Yes.

2 Q And that came back with negative results?

3 A That's correct.

4 Q Showing you State's 49.

5 A This is just a view of the bathtub shower.

6 Q Showing you State's 50. So when you went in and  
7 documented everything, it was as we see here in these  
8 photographs, correct?

9 A That's correct.

10 Q So the toilet paper was unwound like that and  
11 kind of all over the floor?

12 A Yes.

13 Q State's 51, is this just a close-up of the  
14 toilet paper?

15 A And towels.

16 Q And towels. State's 52, what's being depicted  
17 in this photograph?

18 A It's another view of the countertop showing the  
19 towels and what else is on the counter.

20 Q State's 54.

21 A This is a view of the trash can that was on the  
22 floor in the bathroom.

23 Q Just a different view in State's 78?

24 A Yes.

25 Q Would that be correct, the same bottle in the

1 bathroom?

2 A Yes. Same trash can.

3 Q But I want to be clear that it's the trash can  
4 in the bathroom.

5 A Correct.

6 Q Showing State's 79.

7 A This was the tissue that was in the trash can.  
8 This is it taken out.

9 Q And State's 80.

10 A And then now showing the tissue opened revealing  
11 a used condom in it.

12 Q State's 59, what's being depicted in this  
13 photograph?

14 A This is a view of the main room area.

15 Q And this white piece of paper we see on top of  
16 the bed, what is that?

17 A That's one of the search warrant documents.

18 Q And when you say it's one of the search warrant  
19 documents, is it part of policy that you leave that there?

20 A Yes.

21 Q And what is it?

22 A That one, I'm not sure unless I see a close-up  
23 of the actual name.

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

25 THE COURT: You may.

1 BY MS. BLUTH:

2 Q Showing you State's 59.

3 A I think that's the affidavit. I have -- I have  
4 other photos with actual like close-ups of the paper, yeah.

5 Q What type of paper do you guys leave behind when  
6 you conduct a search warrant?

7 A We always leave a search warrant return, which  
8 basically states what items we remove from the room.

9 Q Was that done in this case?

10 A Yes.

11 Q Showing you State's 60.

12 A It's another view of the main room area.

13 Q So as you walk in, you know, you bypass the  
14 bathroom, you walk in straight, you hit these beds; would that  
15 be correct?

16 A That's correct.

17 Q And then this wall with this TV would be on my  
18 right?

19 A Yes.

20 Q As well as this small desk behind where someone  
21 [inaudible]?

22 A Yes.

23 Q State's 68, what is this area?

24 A This is a view of the area between the two beds.

25 Q State's 69.

1           A     And then this is the nightstand that's located  
2 between both beds.

3           Q     State's 72.

4           A     This is another view of the main room area  
5 towards the back right corner, where the desk is.

6           Q     State's 73, is that just a close-up of what was  
7 on that desk you were just referring to?

8           A     Yes.

9           Q     State's 76, appear to be some condoms on the  
10 desk?

11          A     Correct.

12          Q     In the blue Trojan packages?

13          A     Correct.

14          Q     State's 77, what area is this?

15          A     That is on the floor by one of the beds.

16          Q     And what is that under the bed?

17          A     It looks like a piece --

18          Q     Is that an American flag or a towel?

19          A     Or a piece of clothing.

20          Q     State's 81, is this the TV area?

21          A     Right. On top of the dresser.

22          Q     Let me get you a close-up of State's 82. What  
23 is the purple container that we see?

24          A     It was a purple tube containing a green leafy  
25 substance.



1 Q I'm going to show you a close-up of that.  
2 That's the same purple container?

3 A Correct.

4 Q And inside was like you said, a green leafy  
5 substance?

6 A Correct.

7 Q It appears that the label states "Medical  
8 cannabis"; is that correct?

9 A That's correct.

10 Q And there's an RX, which commonly stands for  
11 prescription?

12 A Right.

13 Q And it says, "Strain," and then in writing it  
14 says, "Mr. Nice Guy." Can you see that?

15 A Yes.

16 Q And you've documented several photographs, and  
17 84, of the purple bottle?

18 A Correct.

19 Q 85, same thing, purple bottle. 86, close-up of  
20 the label that was on the can?

21 A Right.

22 Q You then discussed that you went to  
23 headquarters, I'm showing you State's 88, and documented the  
24 defendant while at headquarters?

25 A Correct.

1 Q Took a close-up of the face, State's 89?  
2 A Yes.  
3 Q State's 90, would be the defendant's hands?  
4 A Correct.  
5 Q 91 would be the inside of his palms?  
6 A Correct.  
7 Q State's 93, appears to be the defendant's left  
8 wrist?  
9 A And left arm, yes.  
10 Q Left wrist and left arm. State's 95.  
11 A It was another view of his left arm.  
12 Q Did you document -- well, let me ask you, let me  
13 move to State's 96. What was being documented in this  
14 photograph?  
15 A They -- it was told to me that there were  
16 injuries on his arms, and this is depicting what looked like a  
17 scratch on his upper left arm.  
18 Q And State's 97, this appears to be his lower  
19 left wrist?  
20 A Correct. And again, looks like a scratch.  
21 Q I should have asked you. When we see a ruler in  
22 the pictures, what is the [inaudible] of that?  
23 A It's scaling the injury to show the size.  
24 Q Scaling so that you have a reference of size?  
25 A Yes.

1 Q Showing you State's 102.

2 A This is just a view of his chest and stomach.

3 Q Showing State's 103.

4 A And this was the shirt that the subject was  
5 wearing.

6 Q And what was the point in having him take it  
7 off?

8 A At the time, the information I -- I was given  
9 was that the victim had stated there was a red shirt with this  
10 design on the front. So I recovered that as evidence.

11 Q And that was impounded into evidence?

12 A Yes.

13 Q State's 106.

14 A And this is a pair of boxers.

15 Q And whose boxers are these?

16 A The subject's.

17 Q Showing you State's 110, what's being documented  
18 in this photograph?

19 A There was a tear in the boxers.

20 Q And again, using the ruler to show the size of  
21 the tear?

22 A Yes, it is. Correct.

23 Q And State's 111, is that the same tear?

24 A Yes.

25 Q And were the boxers impounded into evidence as

1 well?

2 A Yes.

3 Q And were all of those things impounded the way  
4 we previously discussed, as in packaging, sealed, with the  
5 correct event number corresponding to this case?

6 A Correct.

7 Q And those are then lodged in a vault?

8 A Yes.

9 Q Or within a criminal lab?

10 A Right.

11 THE COURT: Ms. Bluth, we're going to have to start  
12 wrapping it up for the day.

13 MS. BLUTH: Okay. With that, I would pass the  
14 witness. I'm sorry, Mr. Chairez.

15 MR. CHAIREZ: Can I think for a second, Your Honor?

16 THE COURT: You may.

17 (Pause in proceeding.)

18 MR. CHAIREZ: I'll keep it to less than two minutes.  
19 Okay.

20 CROSS-EXAMINATION

21 BY MR. CHAIREZ:

22 Q When you went into Room 631, the gathering of  
23 evidence that you did was pretty comprehensive, correct?

24 A Correct.

25 Q You gathered every piece of possible evidence

1 that you thought might help us lead to what really happened?

2 A Correct.

3 Q And so that included picking up all the shampoo  
4 bottles, any plastic bottle, anything that was found inside of  
5 the bathroom, correct?

6 A Well, I recovered one shampoo bottle.

7 Q Okay. Now, was that the green shampoo bottle in  
8 the trash can, or the white clear one that was on top of the  
9 counter?

10 A It was the white clear one on top of the  
11 counter.

12 Q And so what happened to the green shampoo  
13 bottle?

14 A At the time, the information I was given, I did  
15 not know that that was involved.

16 Q Okay.

17 A And as far as the white shampoo bottle on the  
18 counter, it was opened and shampoo was coming out of it, which  
19 was on the counter.

20 Q So who was the person that gave you the  
21 information about which shampoo bottle to get?

22 A Well, talking to the detectives, going over the  
23 search warrant, we knew we were looking for some kind of  
24 bottle, and with that white shampoo bottle being open on the  
25 counter, not in the shower, with shampoo coming out of it, to

1 me that was the one that I was going to recover.

2 MR. CHAIREZ: Okay. All right. Nothing else, Your  
3 Honor.

4 THE COURT: Are you finished?

5 MR. CHAIREZ: Yeah. It's 5:00 o'clock.

6 THE COURT: Well, Ms. Bluth.

7 MS. BLUTH: I just have one or two questions.

8 REDIRECT EXAMINATION

9 BY MS. BLUTH:

10 Q In State's 73, the green leafy substance that  
11 you discussed before, was that consistent with marijuana?

12 A Yes.

13 Q Would it be consistent with marijuana?

14 A It would be.

15 Q And then was there also some of the same leafy  
16 substance found on the desk?

17 A That is brown. That's a brown leafy substance.

18 Q Okay. So it was a brown leafy substance that  
19 was different than the green leafy substance that you found in  
20 the purple bottle?

21 A Yes.

22 Q And then in regards to Mr. Chairez's questions  
23 involving the white shampoo lotion bottle versus the green, it  
24 wasn't until later that you had information that it was  
25 actually the green bottle, not the white bottle?

1 A Correct.

2 Q But that was -- that green bottle was still  
3 documented in evidence?

4 A Yes. It's shown in the photos in the trash can.

5 Q And that's in the bathroom trash can?

6 A Correct.

7 THE COURT: Is that it?

8 MS. BLUTH: [Inaudible.]

9 MR. CHAIREZ: I just have one follow-up question.

10 THE COURT: All right.

11 RECROSS-EXAMINATION

12 BY MR. CHAIREZ:

13 Q In the photograph where you're looking at the  
14 green leafy substance, did you see a bottle of whiskey in the  
15 corner?

16 A Can I see the photo again?

17 Q I don't know how to do the blow-up, but do you  
18 see it in the left-hand corner?

19 A The Crown Royal bottle?

20 Q Right.

21 A Okay.

22 Q Okay. Can you tell whether or not it's full or  
23 empty?

24 A It appears to be empty.

25 MR. CHAIREZ: All right. Nothing further.

1 THE COURT: All right. Is she free to go?

2 MS. BLUTH: Yes, Your Honor.

3 THE COURT: Ma'am, thank you for your time. You're  
4 free to go.

5 THE WITNESS: Thank you.

6 THE COURT: And ladies and gentlemen of the jury,  
7 it's also a day for you. So we'll see you back, tomorrow is  
8 Wednesday, at 1:00 o'clock.

9 Until we see you tomorrow, you're admonished not to  
10 converse amongst yourselves or with anyone on any subject  
11 connected with the trial, or to read, watch or listen to any  
12 report of or commentary on the trial by any medium of  
13 information, including without limitation television,  
14 newspaper, radio or Internet. Do not form or express an  
15 opinion on this case until it's submitted to you.

16 See you tomorrow at 1:00. Thank you.

17 (Jurors recessed at 5:01 p.m.)

18 THE COURT: Have a good night.

19 (Court recessed for the evening at 5:02 p.m.)  
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23  
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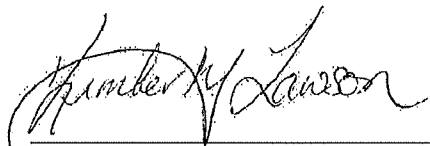
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I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

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