

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVONTAE WHEELER,)	SUPREME COURT NO. 81374
)	
Appellant,)	
)	
vs.)	APPEAL
)	
STATE OF NEVADA,)	
)	
Respondent.)	
)	DISTRICT COURT NO. C-17-328587-3
)	
)	

APPELLANT'S APPENDIX

(VOL. 9 OF 14)

SANDRA L. STEWART
Attorney at Law
Nevada Bar No.: 6834
1361 Babbling Brook Court
Mesquite, Nevada 89034
(702) 363-4656
Attorneys for Appellant

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EXHIBITS	02-14-2020	2385	010
JURY TRIAL (DAY 5)-RT	02-18-2020	2611	011
EXHIBITS	02-18-2020	2814	012
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JURY TRIAL (DAY 8)-RT	02-24-2020	3266	014

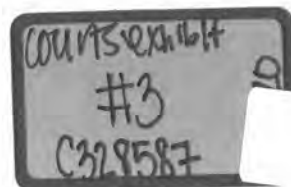
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JUDGMENT OF CONVICTION	06-17-2020	3318	014
NOTICE OF APPEAL	06-18-2020	3321	014

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handgun?

~~The~~ The .45 millinium or
PT22 .22



1991

2-13-20



Rd

S Lindell Rd

S Lindell Rd

S Lindell Rd

Rd

5536 West Dewey Drive

W Dewey Dr

W Dewey Dr

W Dewey Dr

W Dewey Dr

Google

1992

2-13-20

MARK

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CASE



EXHIBIT



1993

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CAS



EXHIBIT



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1994

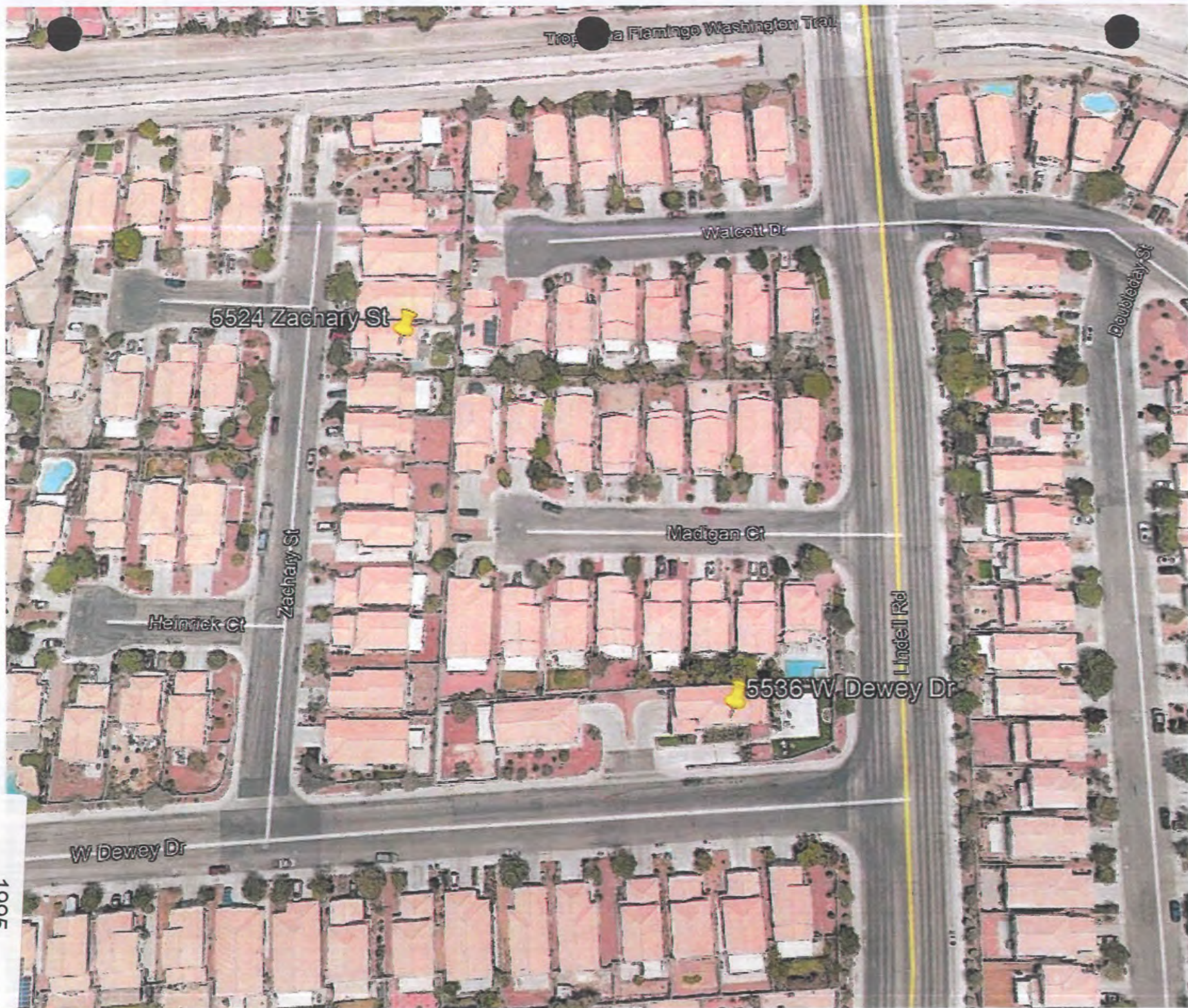
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Doubleday St

Heinrich Ct

Zachary St

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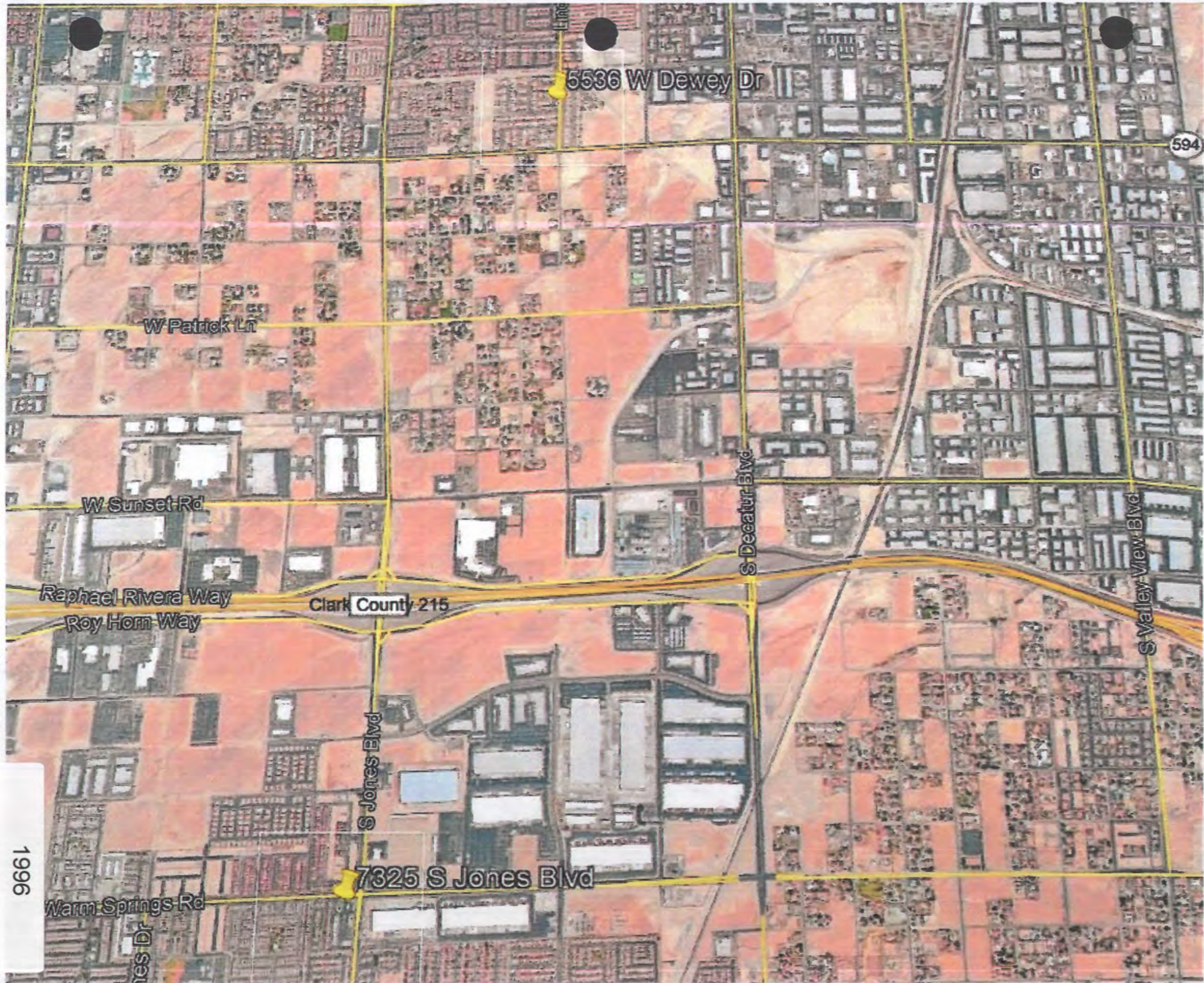
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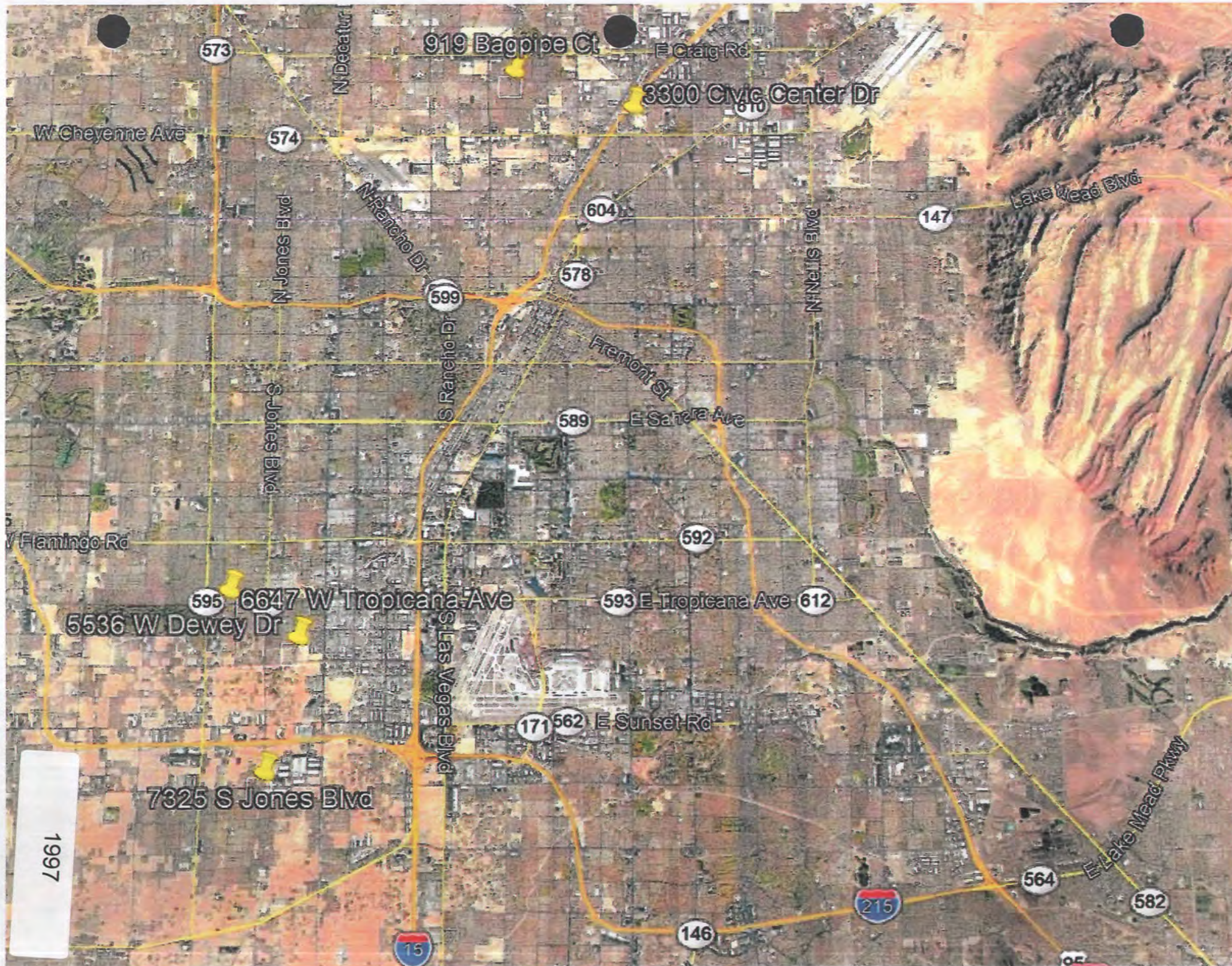
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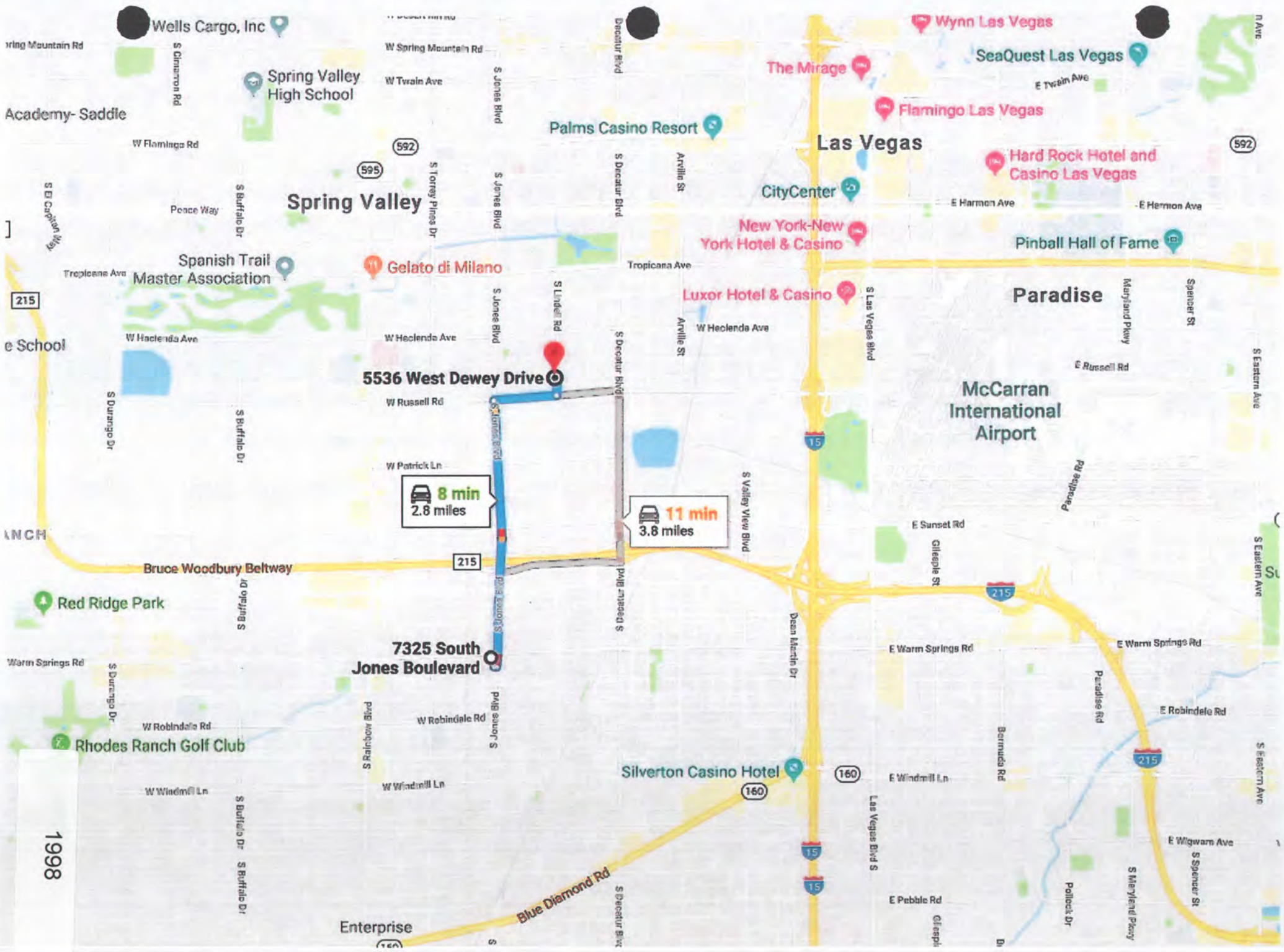
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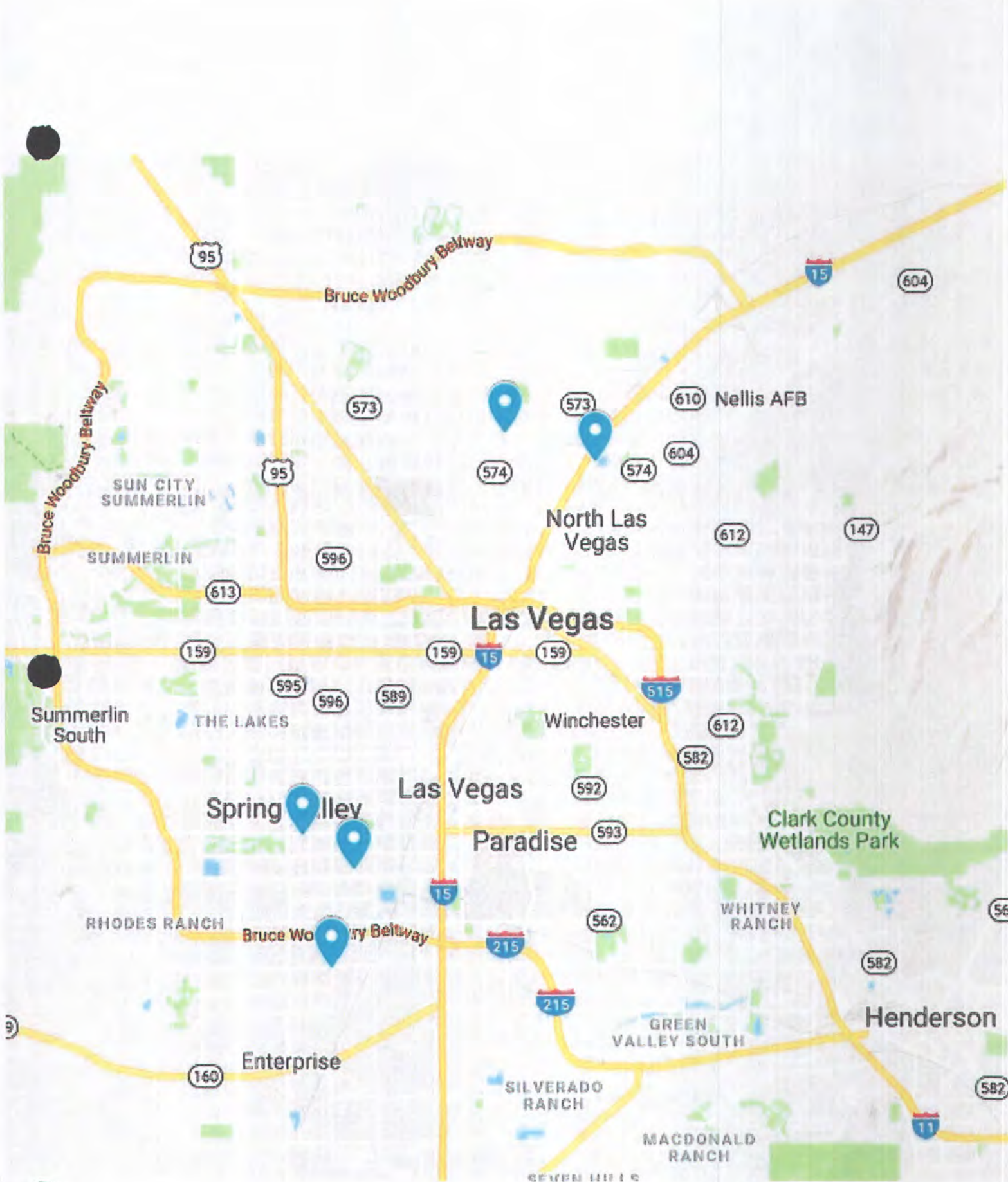
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EXHIBIT



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EXHIBIT



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EXHIBIT



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EXHIBIT



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EXHIBIT



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EXHIBIT



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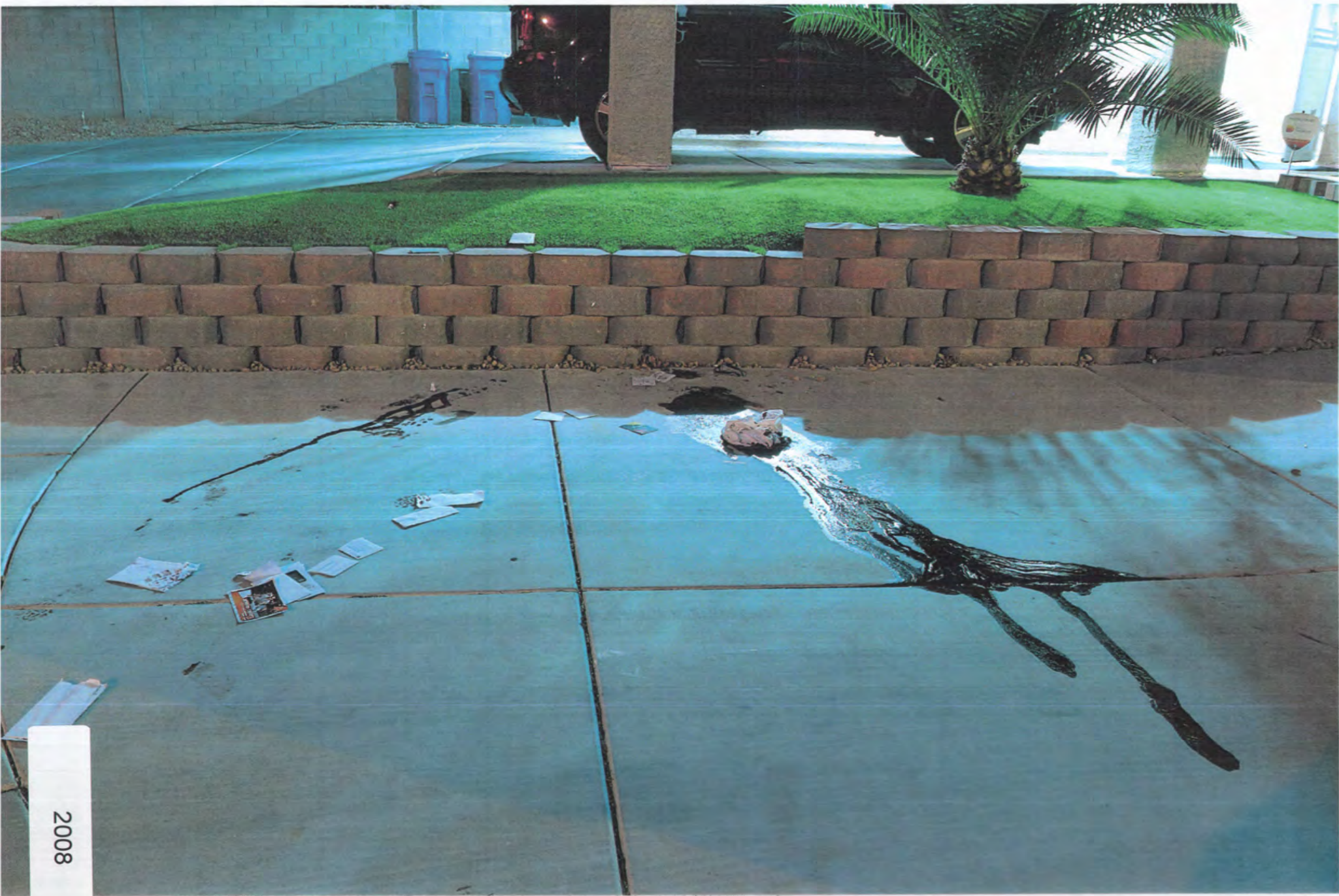
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EXHIBIT

2009



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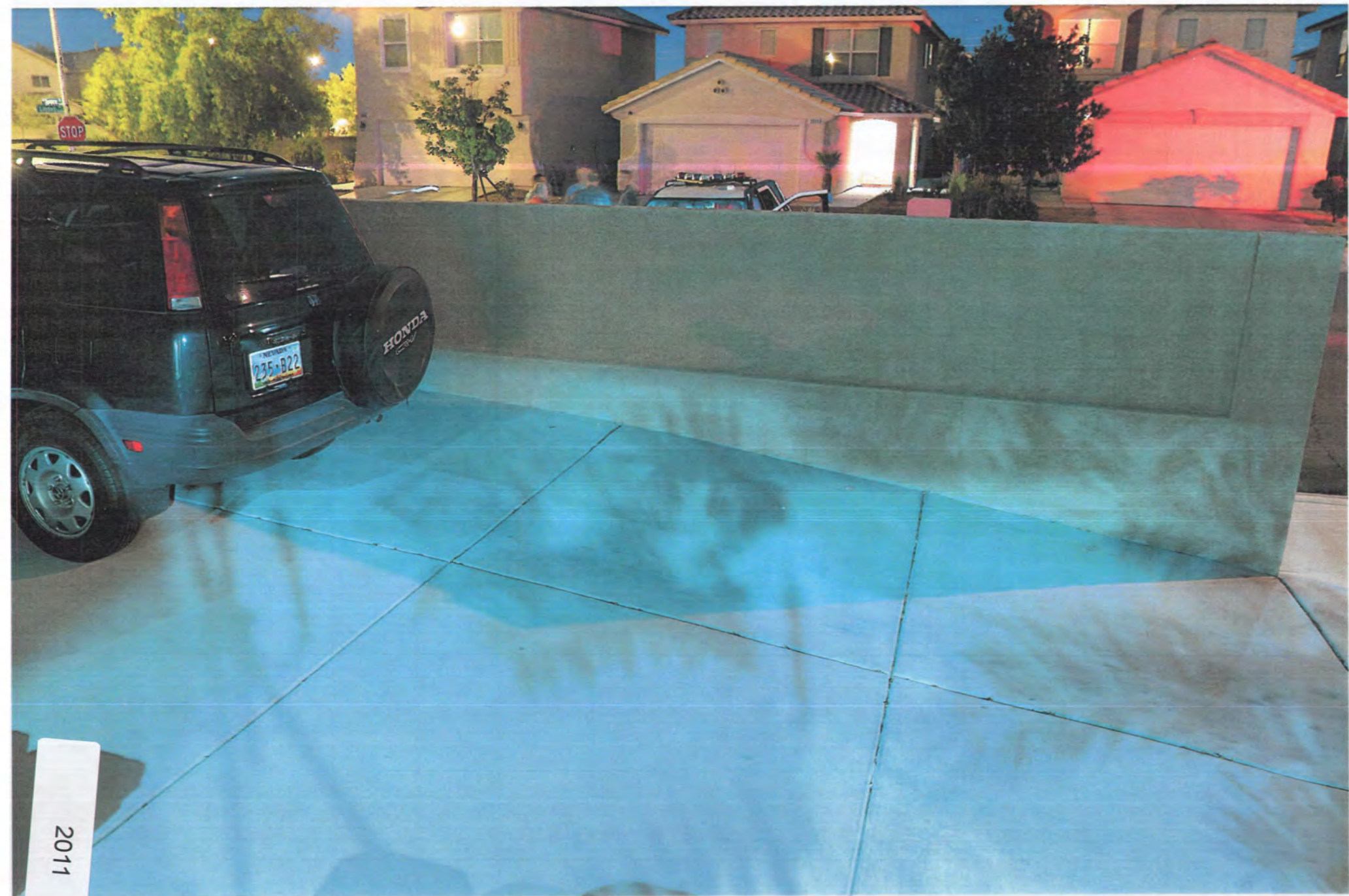
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2010



MARK # CASE # HIBIT





2011

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CASE



EXHIBIT



2012

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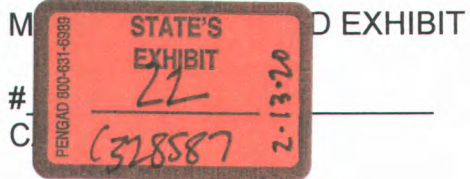
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CA





2013





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EXHIBIT



2016

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EXHIBIT



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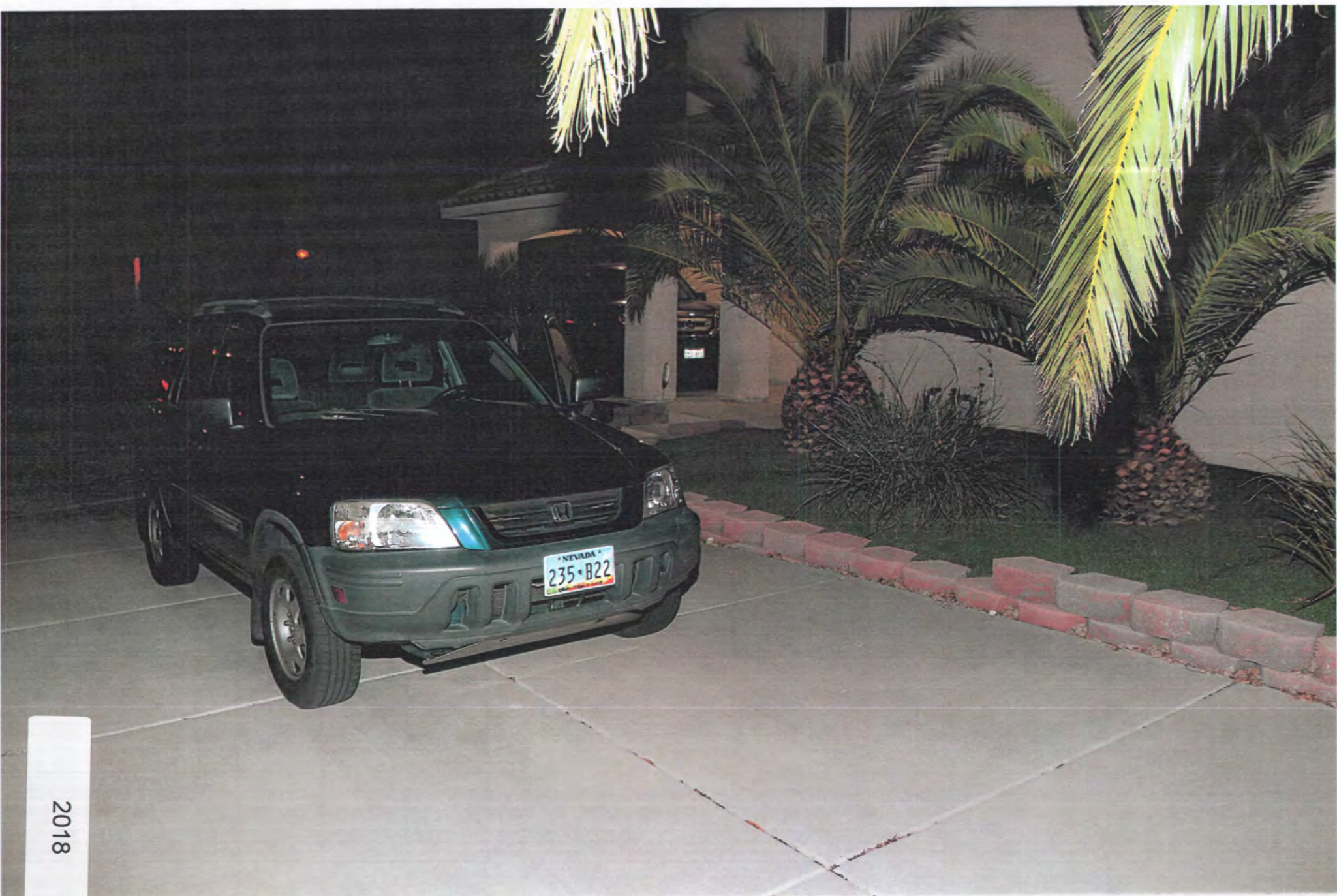
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EXHIBIT



2019



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D EXHIBIT



2020

MARK # CASE



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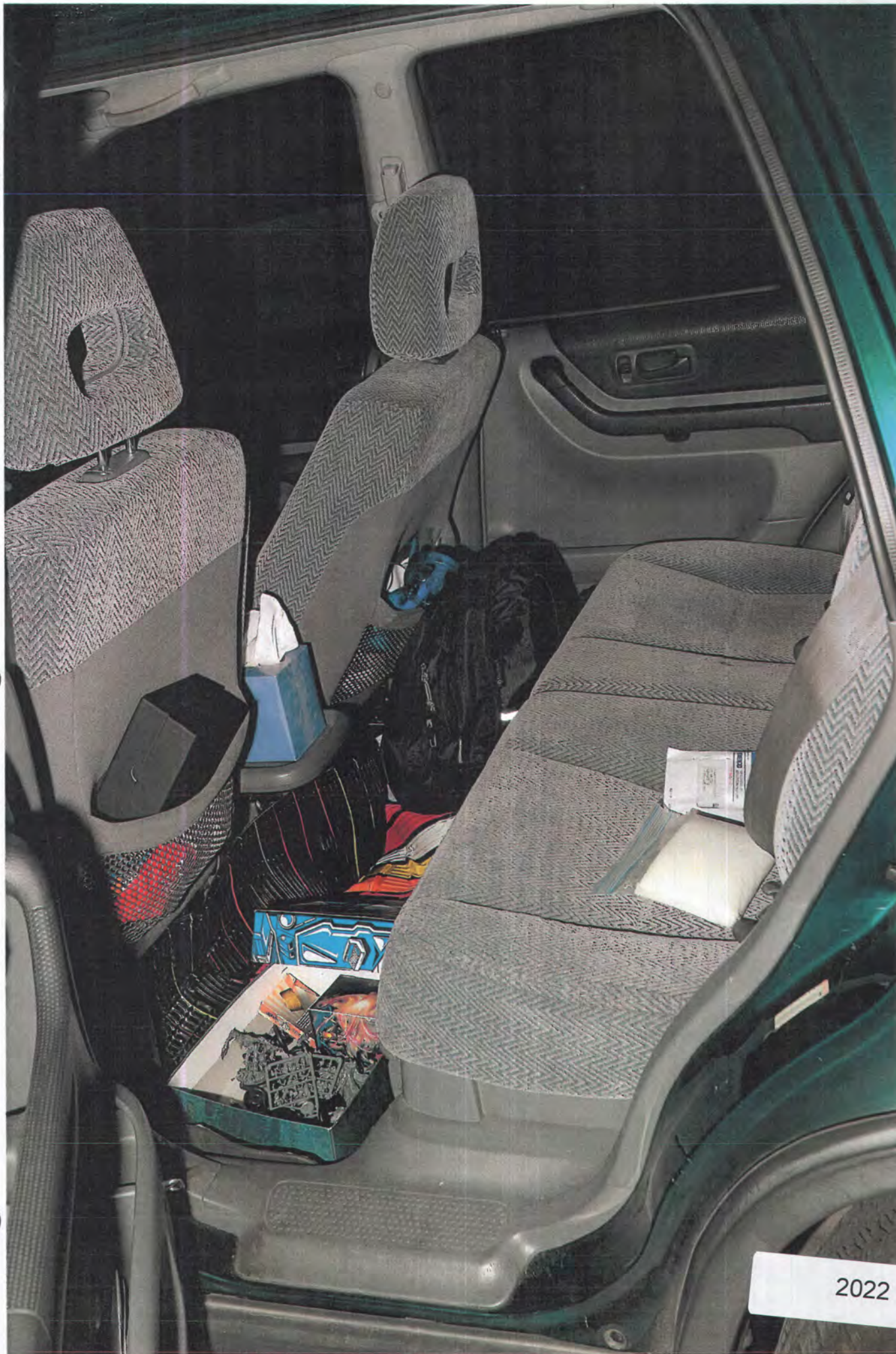
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CASE NO.



EXHIBIT



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XHIBIT



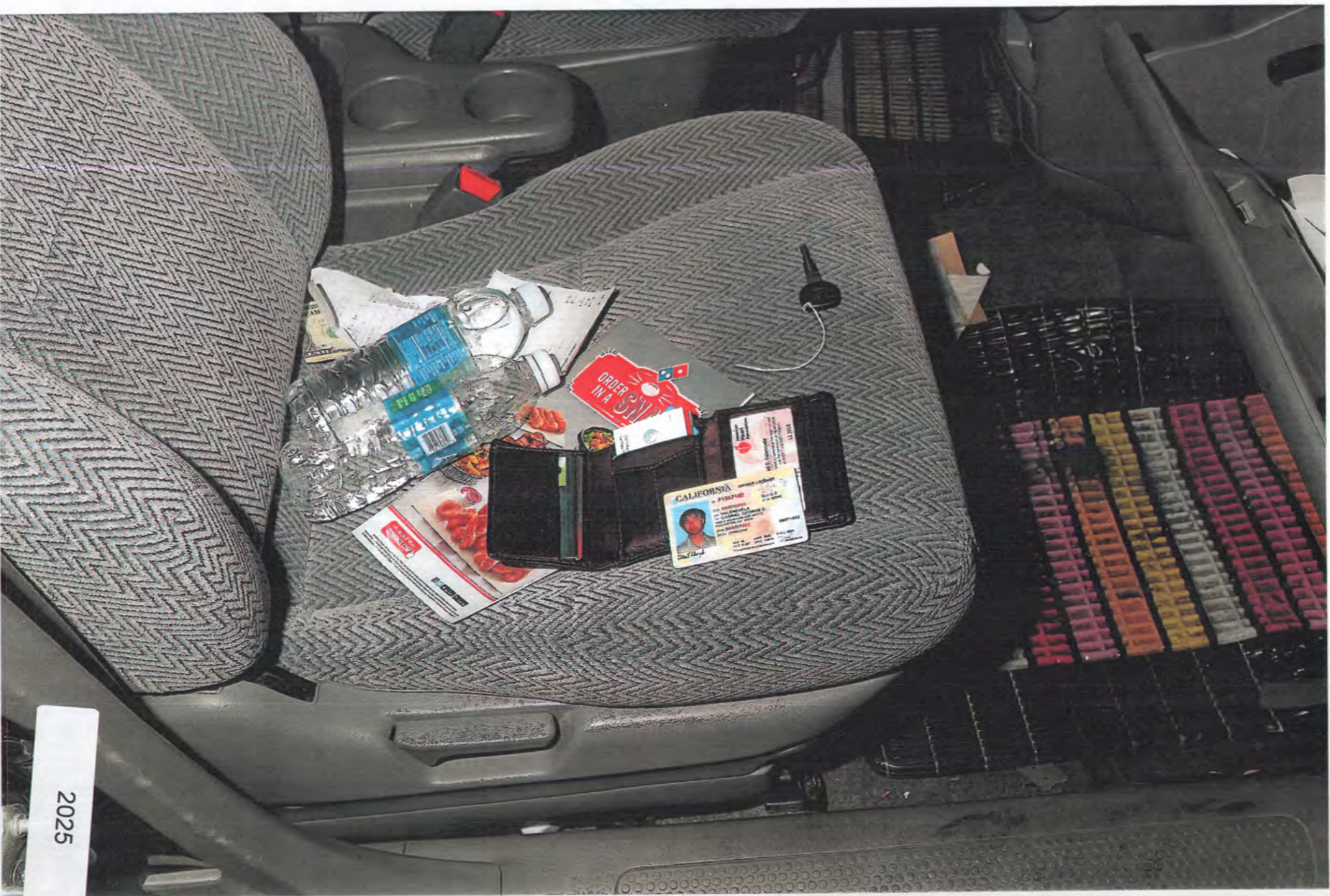
2024

MARKED EXHIBIT

#

CASE #





2025

M

CA



D EXHIBIT

CALIFORNIA USA

DRIVER LICENSE



DL **F1567482**

EXP **09/07/2019**

CLASS C

END NONE

LN VALENZUELA

FN GABRIEL GEORGE D

1550 S HIGHLAND AVE UNIT O
FULLERTON, CA 92832

DOB **09/07/1992**

RSTR CORR LENS

09071992

Gabriel Valenzuela

SEX M

HAIR BLK

EYES BRN

HGT 5'-06"

WGT 140 lb

DD 03/09/2010637RB/DDFD/19

ISS 08/09/2014

MARK

#

CASE



EXHIBIT

Fukumimi Ramen
4860 S EASTERN AVE STE 2
LAS VEGAS, NV 89119
(702) 631-2933

Dine In

Server: Fukumimi R.

Aug 8, 2017

Receipt: 2BY3-86

8:59 PM

Ticket #: 86

Table: T1

Item(s)

Position 3:

Fukumimi \$9.50

Coke \$1.00

Subtotal \$10.50

Sales Tax (Incl. 8.25%) \$0.87

Total \$11.37

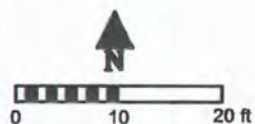
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MARK # CASE NO. EXHIBIT

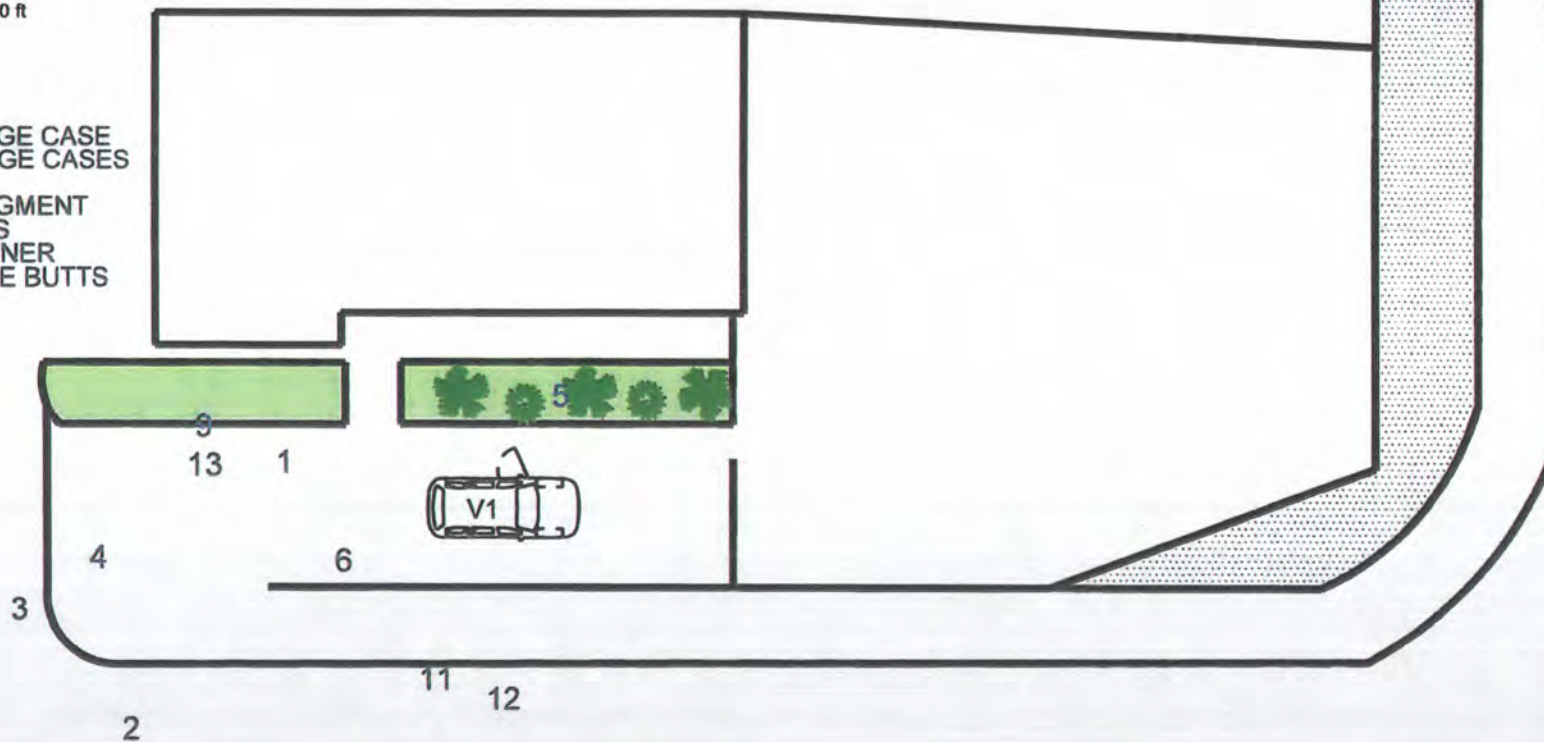


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170809-0029
5536 W. DEWEY DR.
08/09/17
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2028

Crime Scene Analyst Supervisor

P#

5413

Date Approved

9-2-17

Crime Scene Analyst

E. STEPHENS

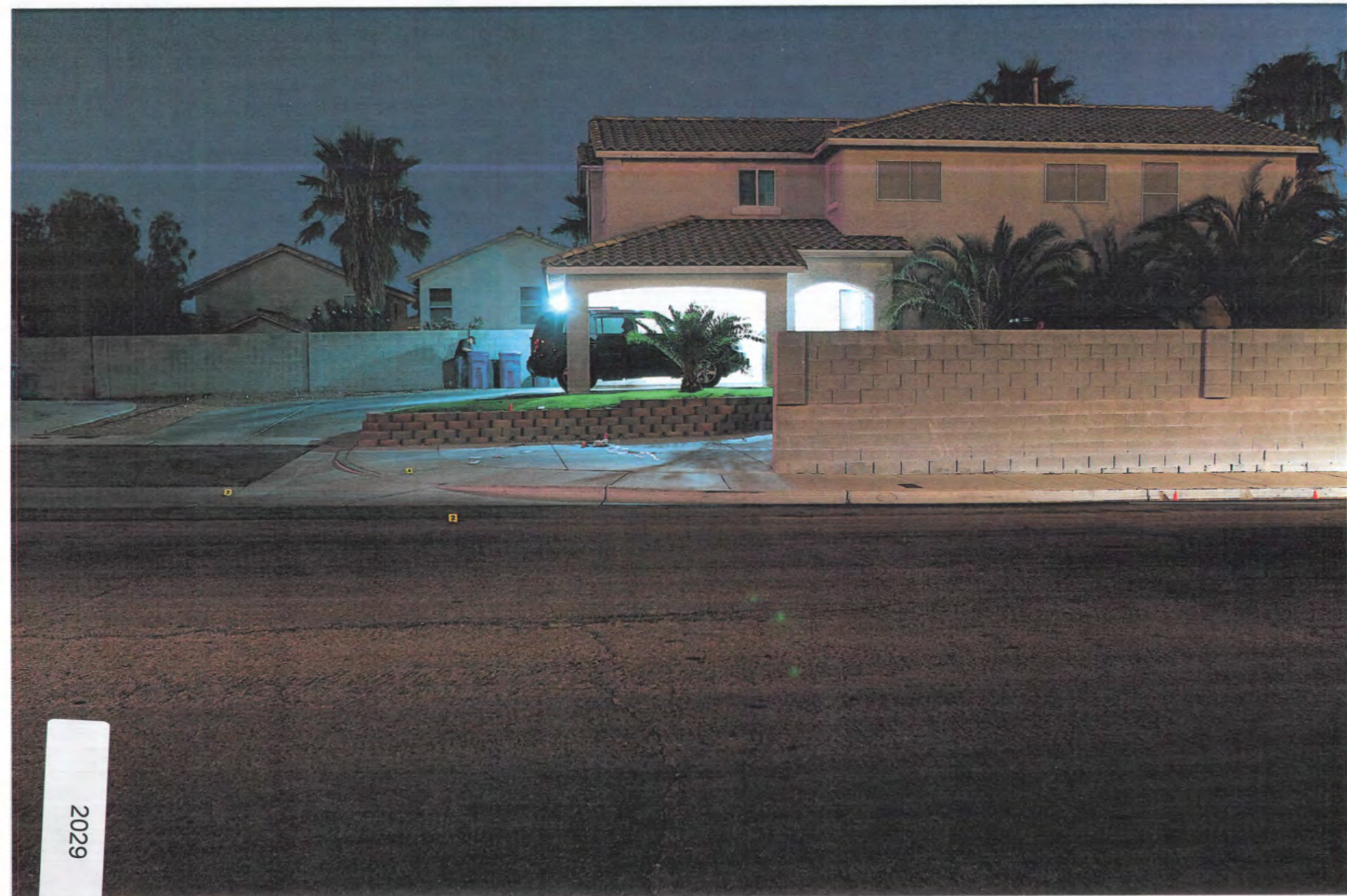
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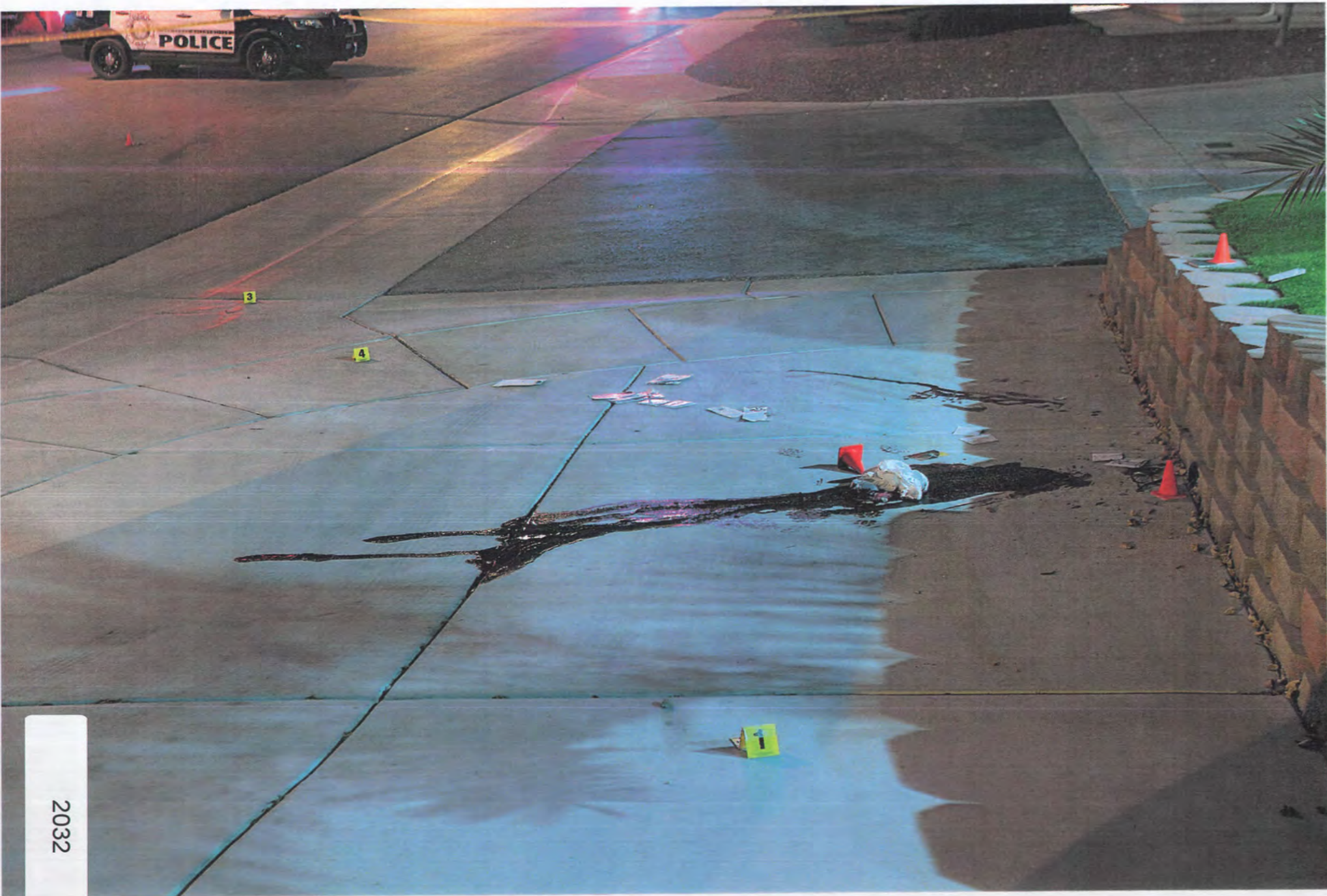
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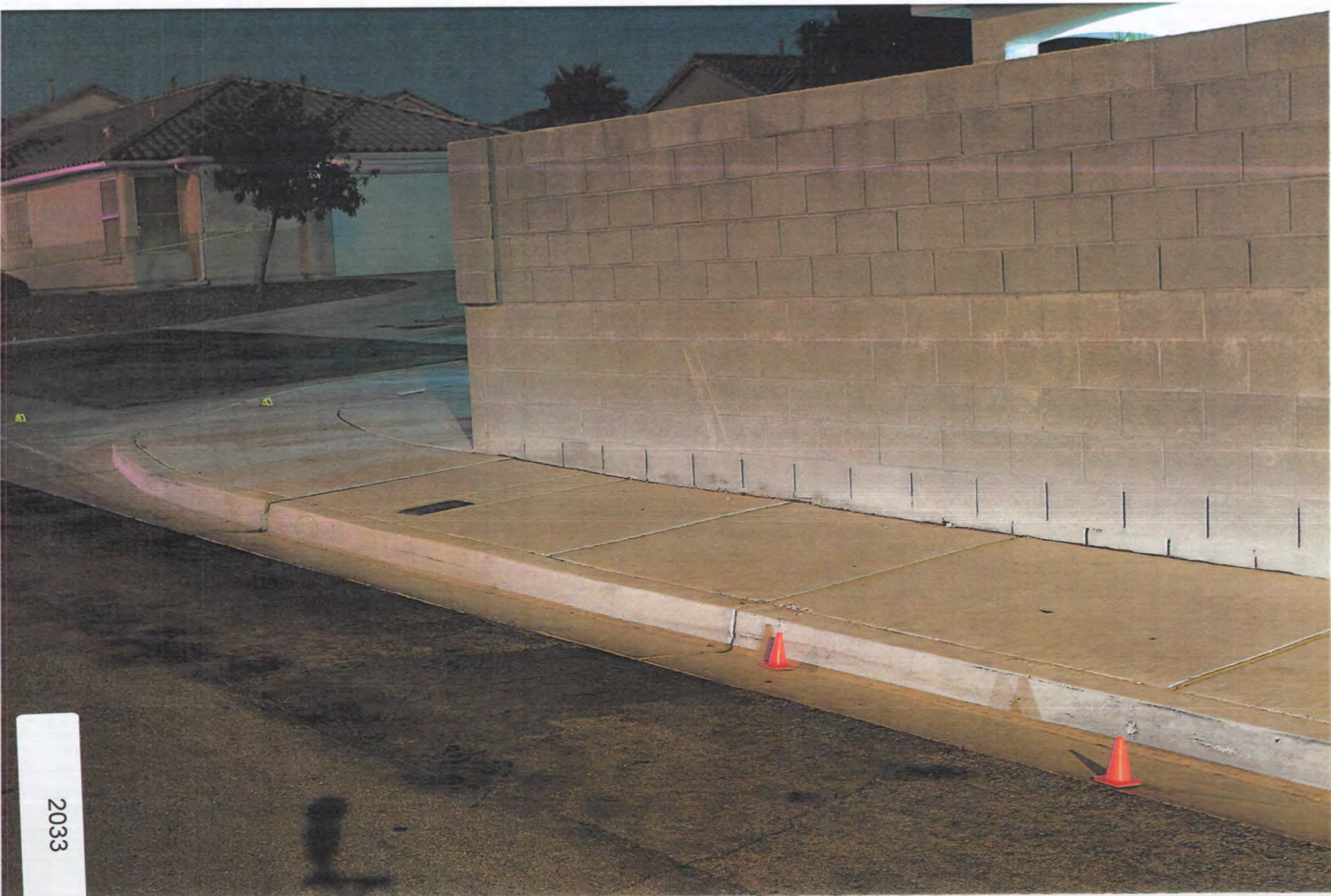
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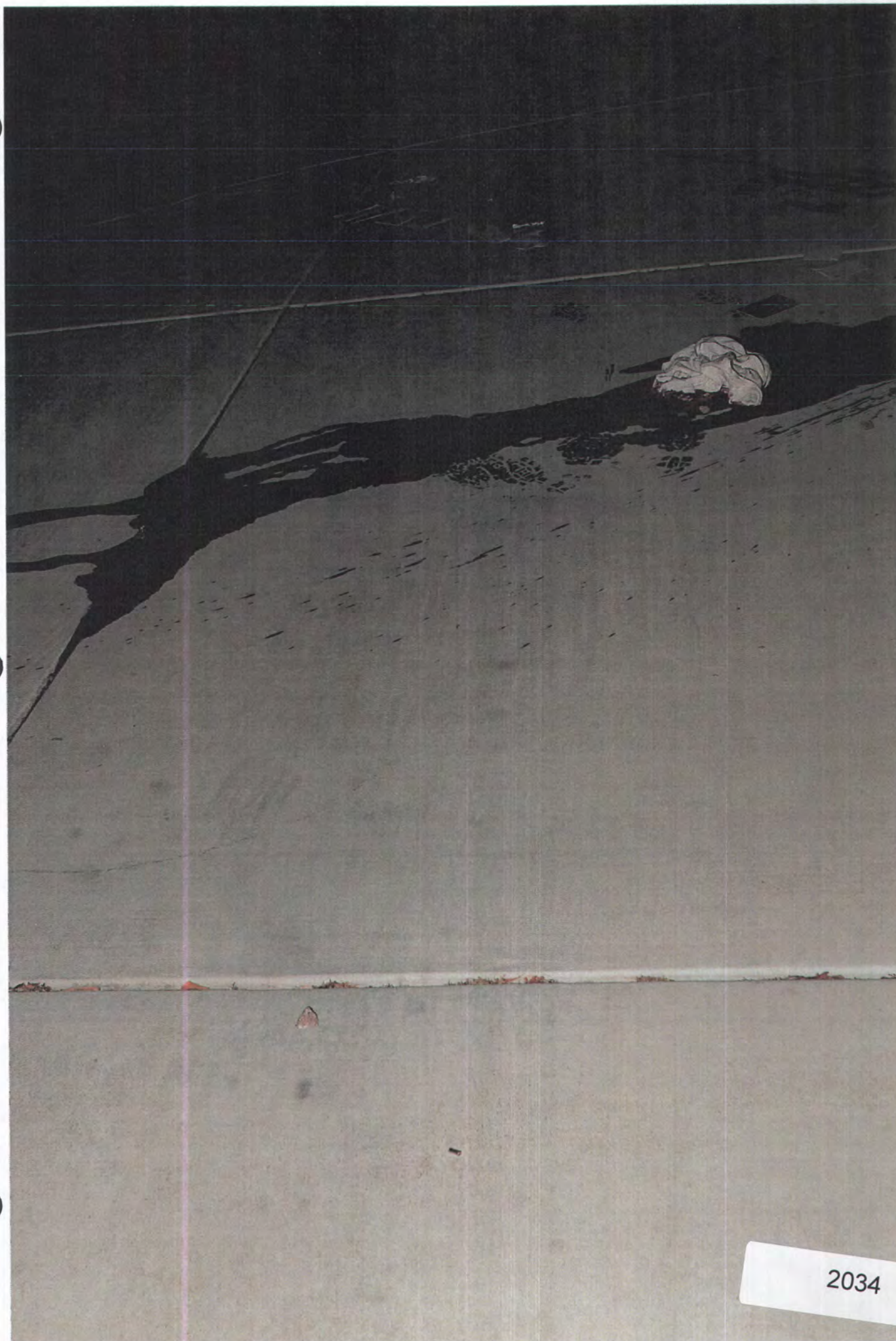


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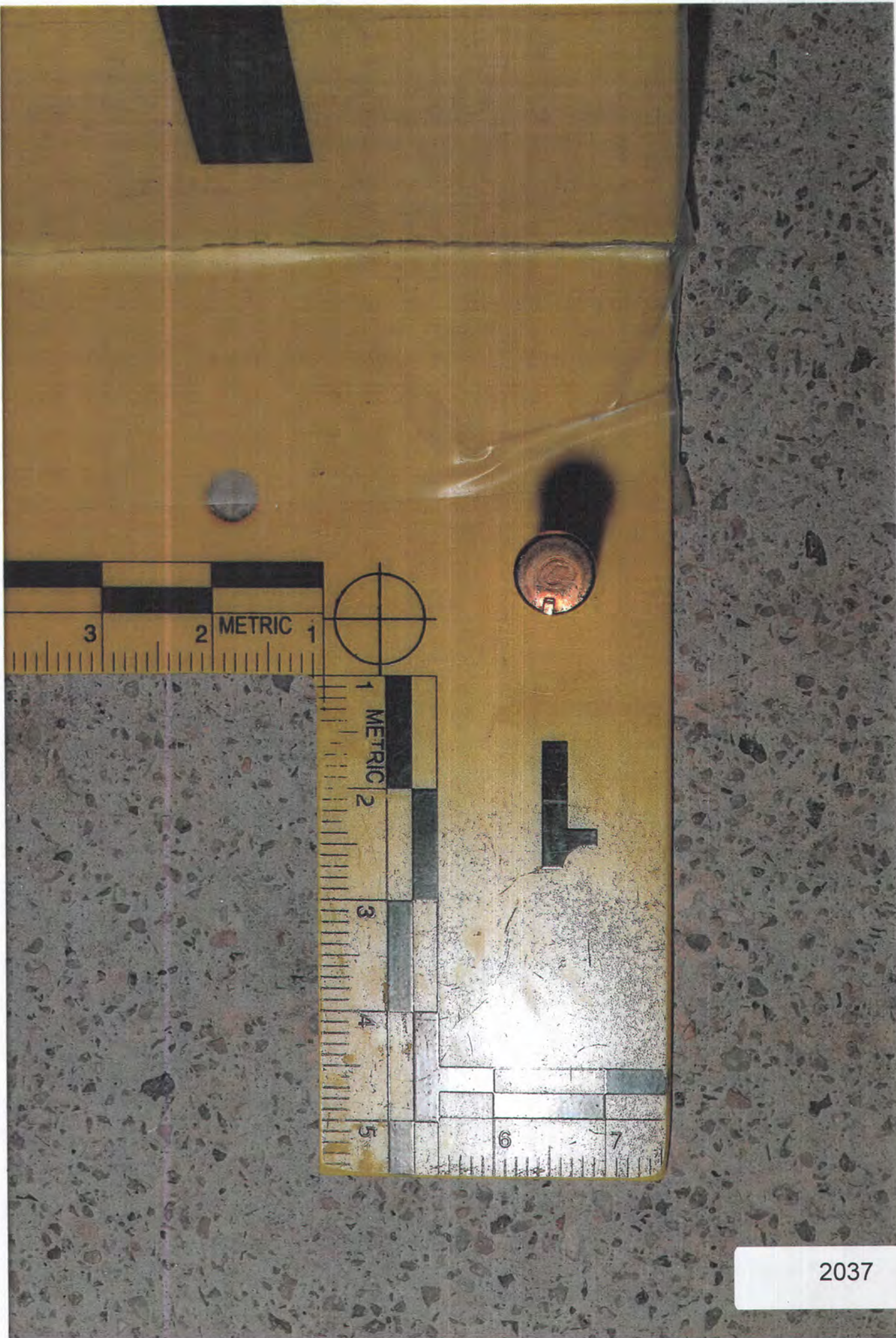
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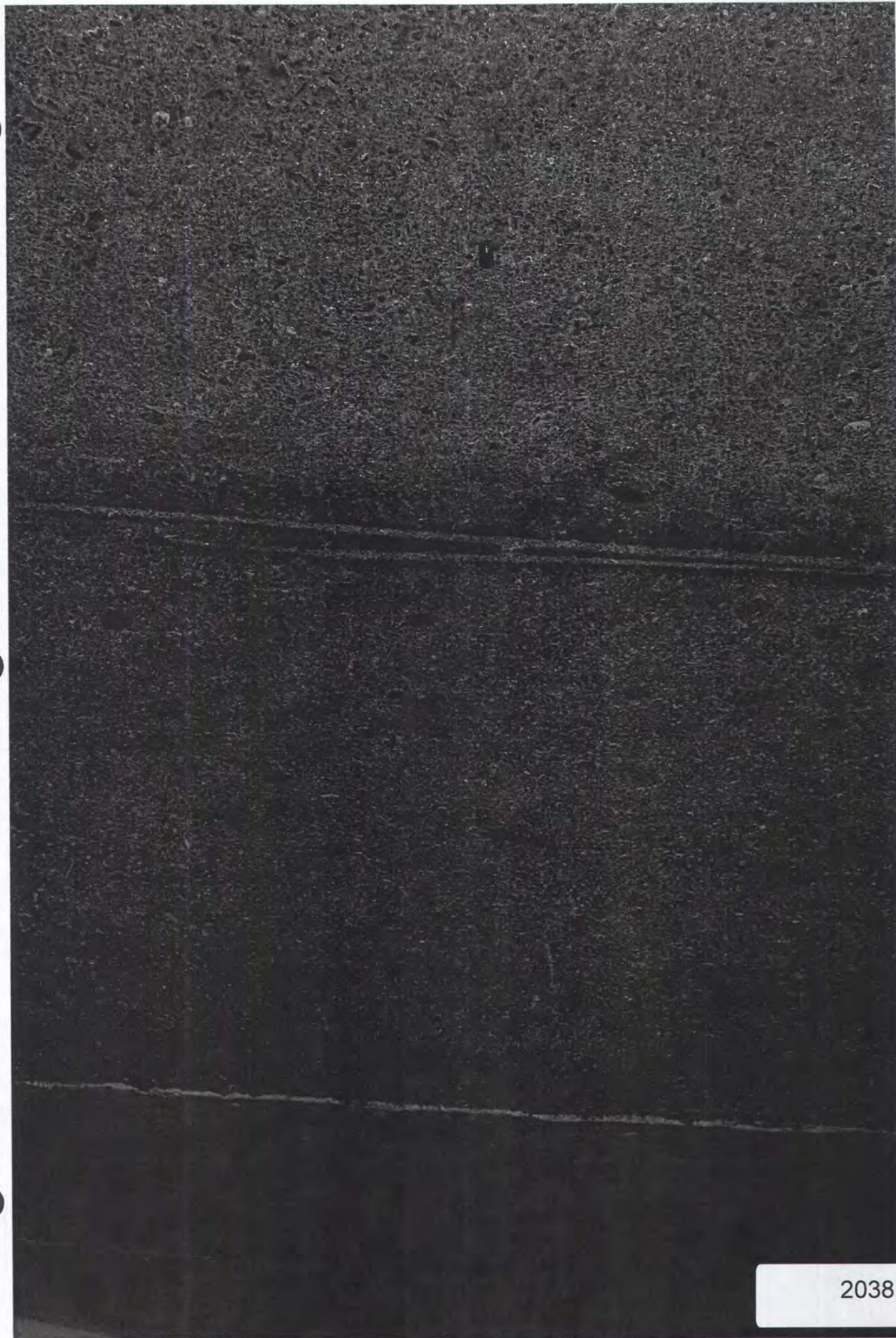
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STATE'S
EXHIBIT
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2-13-20

EXHIBIT



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CASE NO.

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EXHIBIT
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C328581
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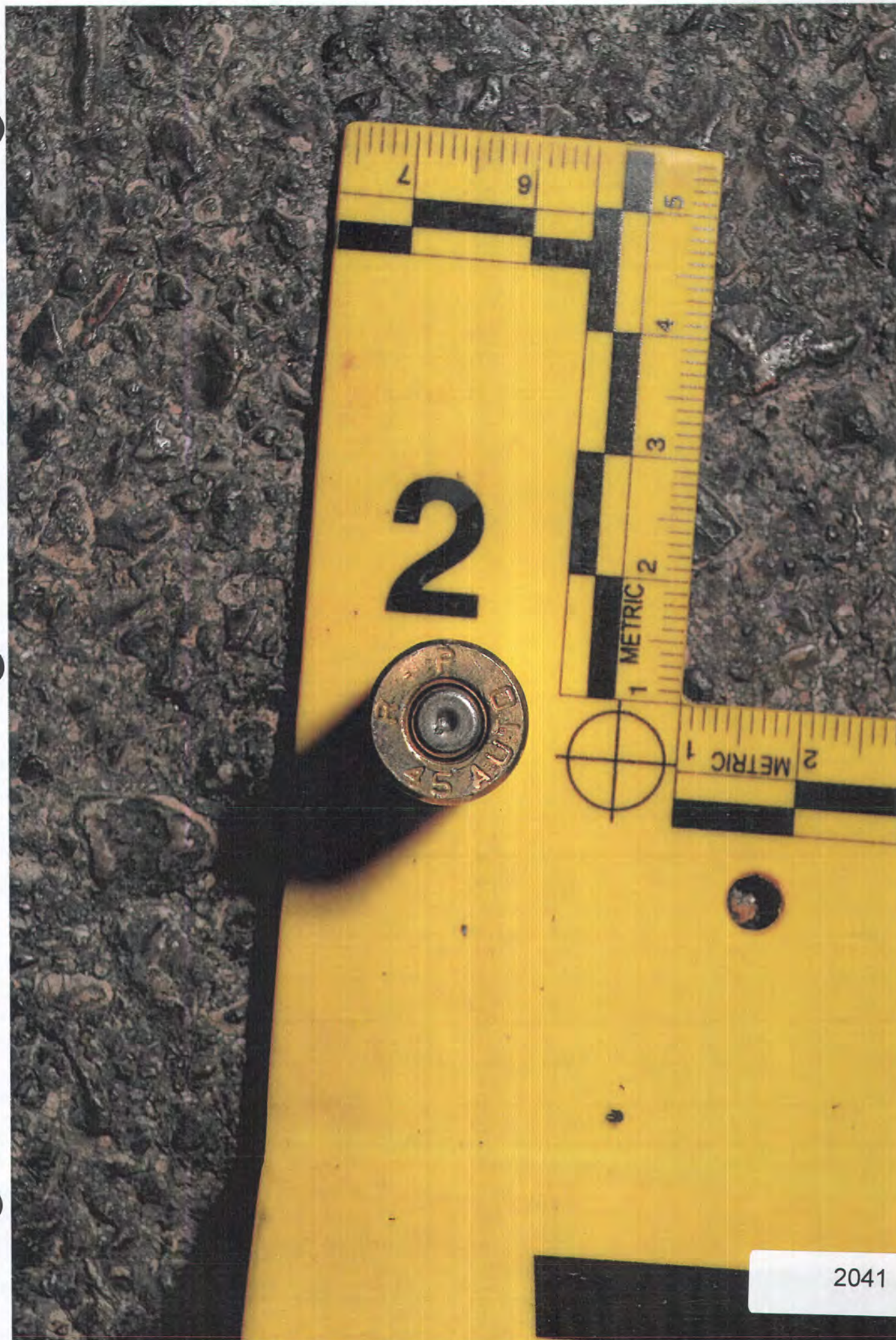


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EXHIBIT
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PENGAD 800-631-6289
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	EXHIBIT
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C328587	

2-13-20

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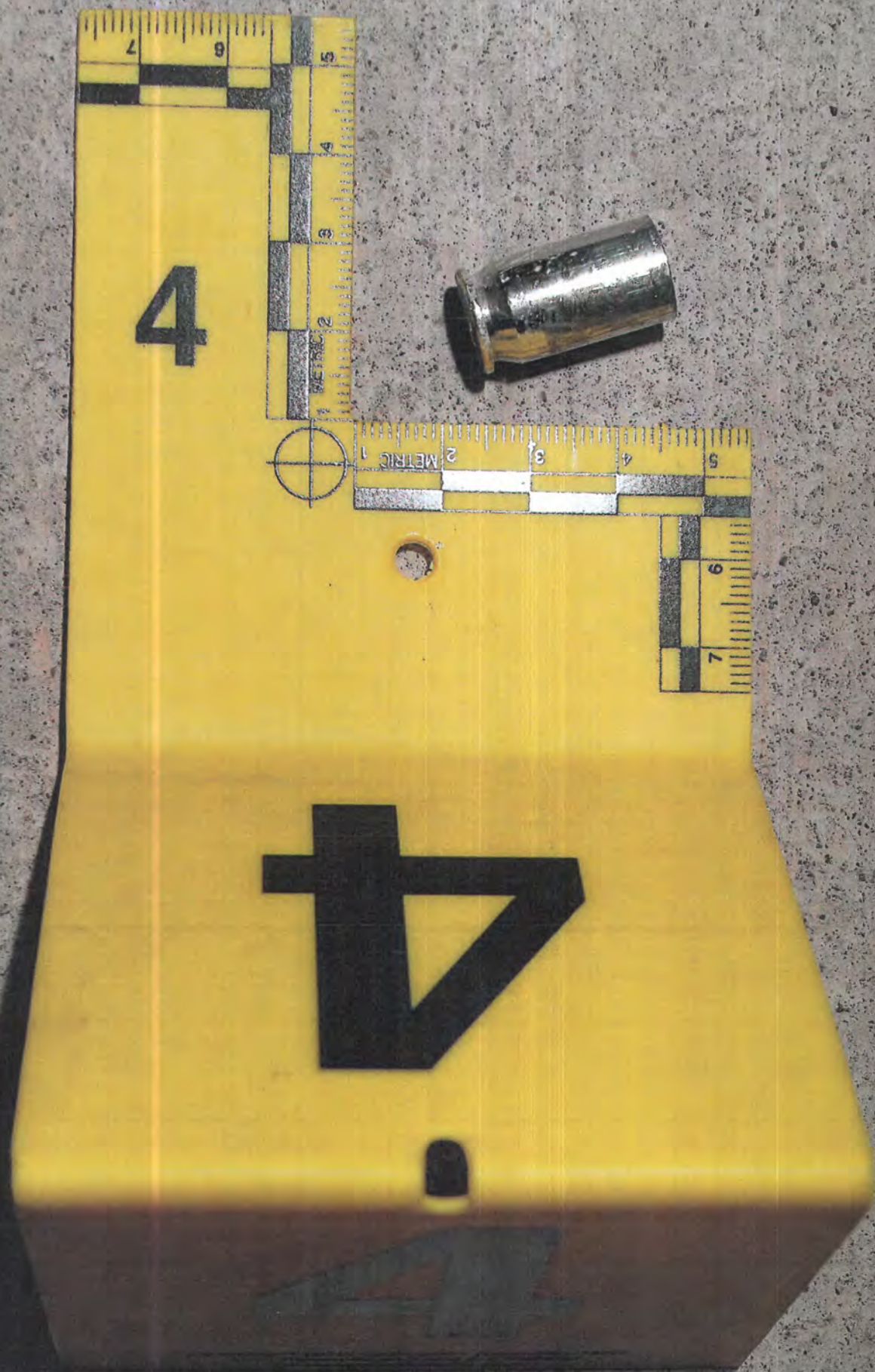
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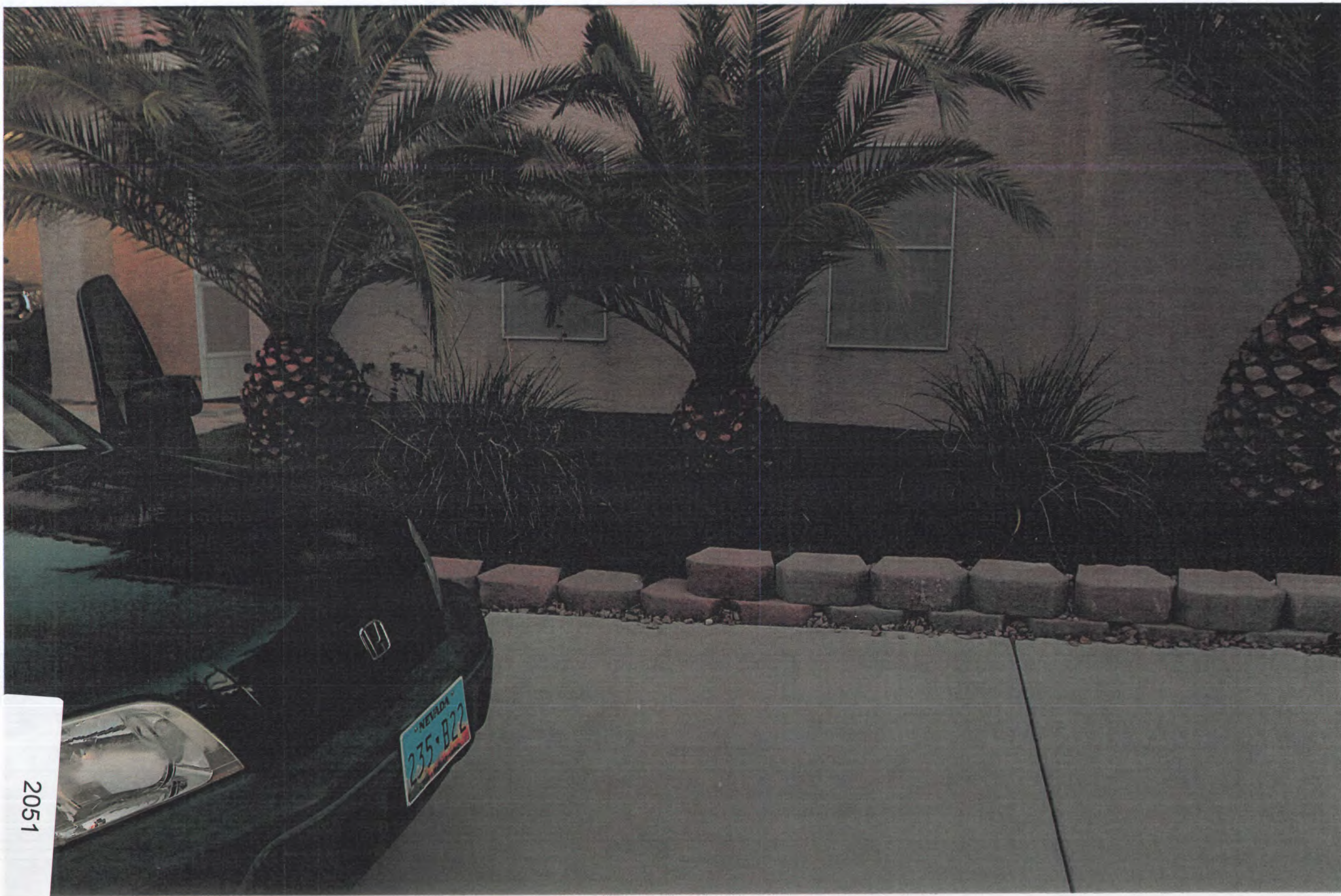
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Wednesday, August 9



MANGA ROCK

12:50 AM

MangaFox just added Chapter 3 The
Secret Wish for Nagareboshi Ni Negau
Hodo Bokura Wa Sunao Ja Nai



PHONE

12:30 AM

Tita
Missed Call



PHONE

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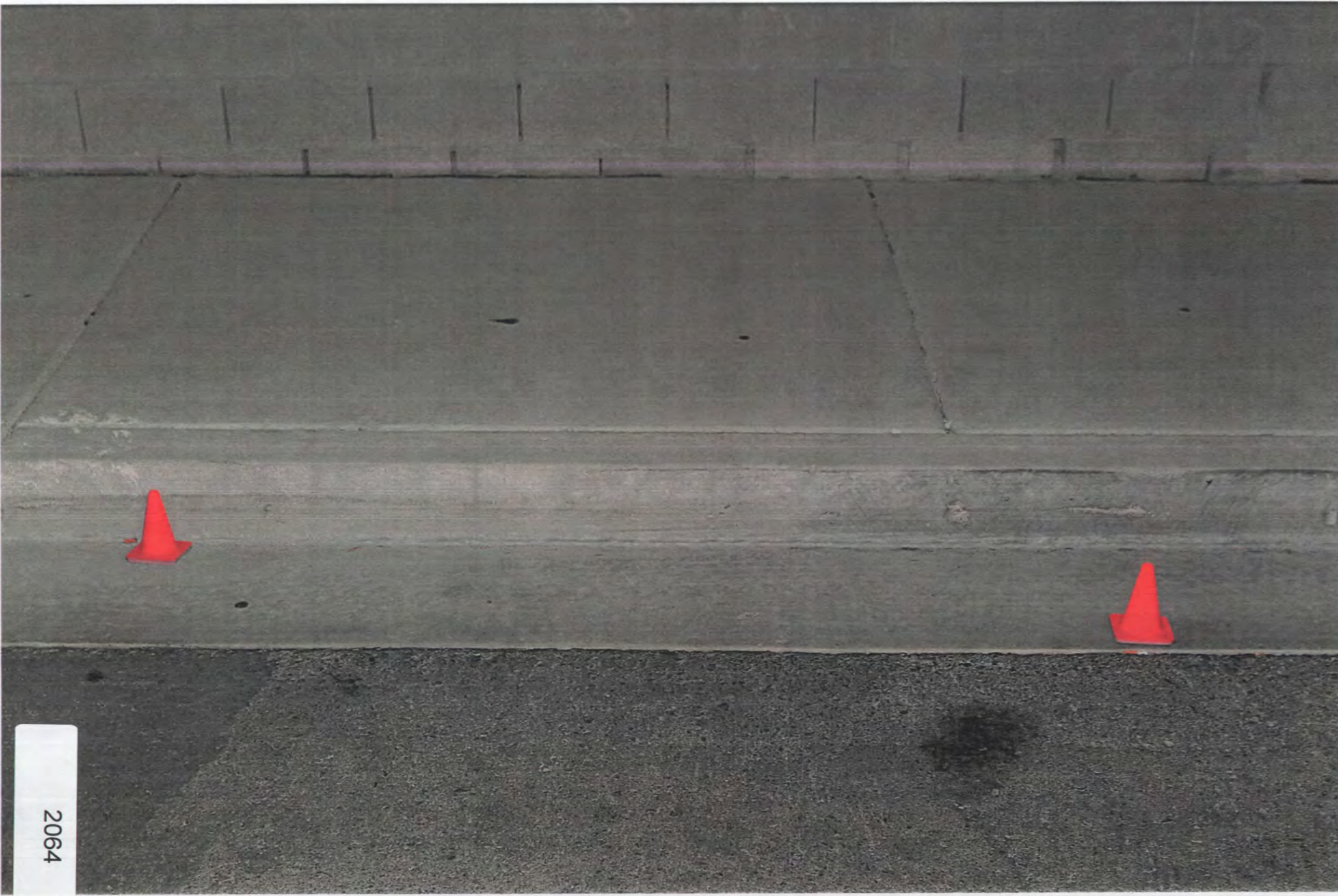
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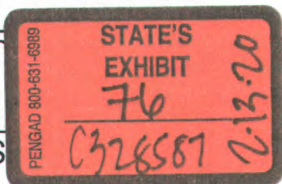
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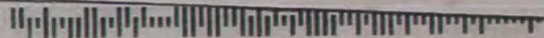
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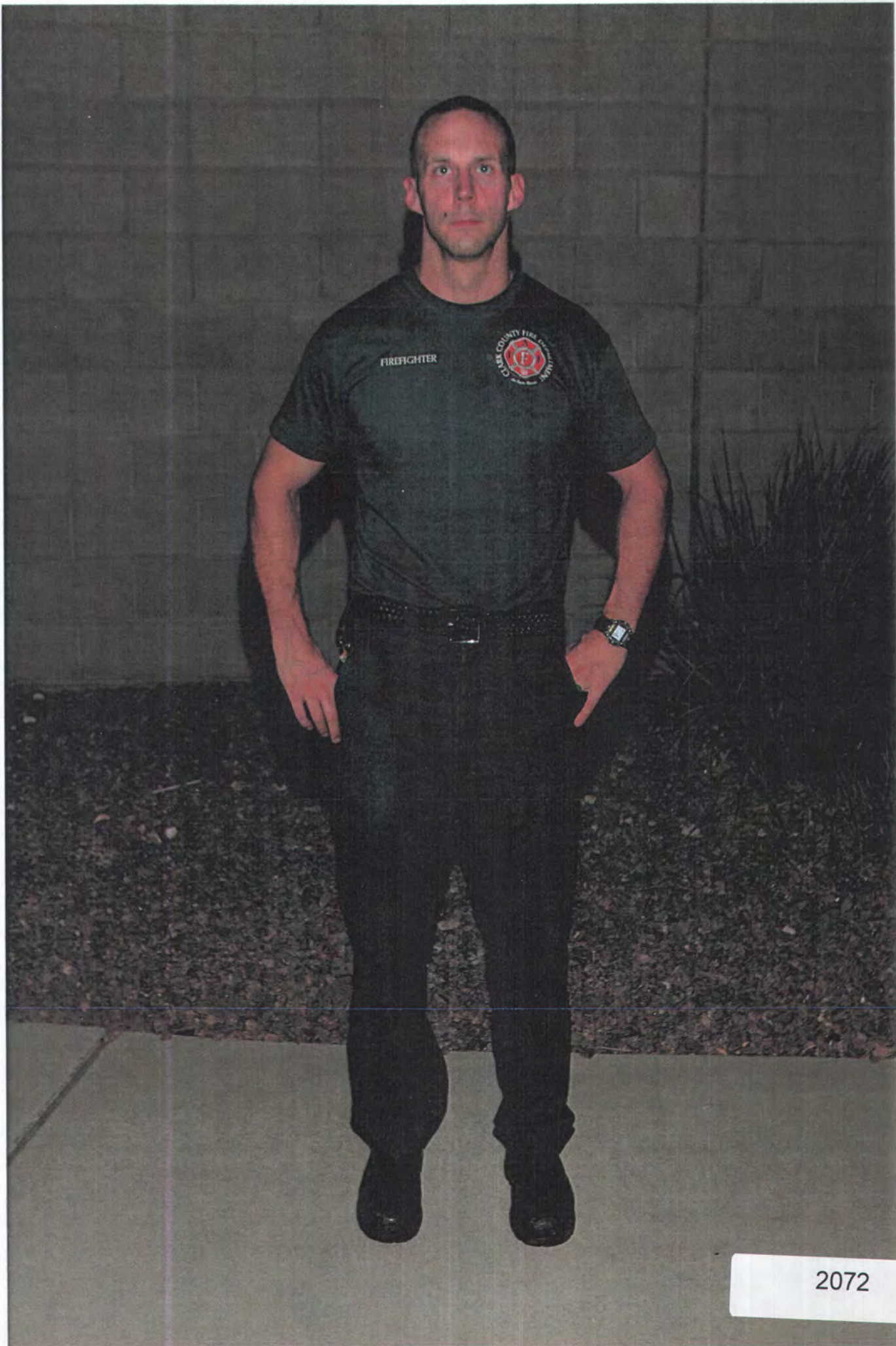
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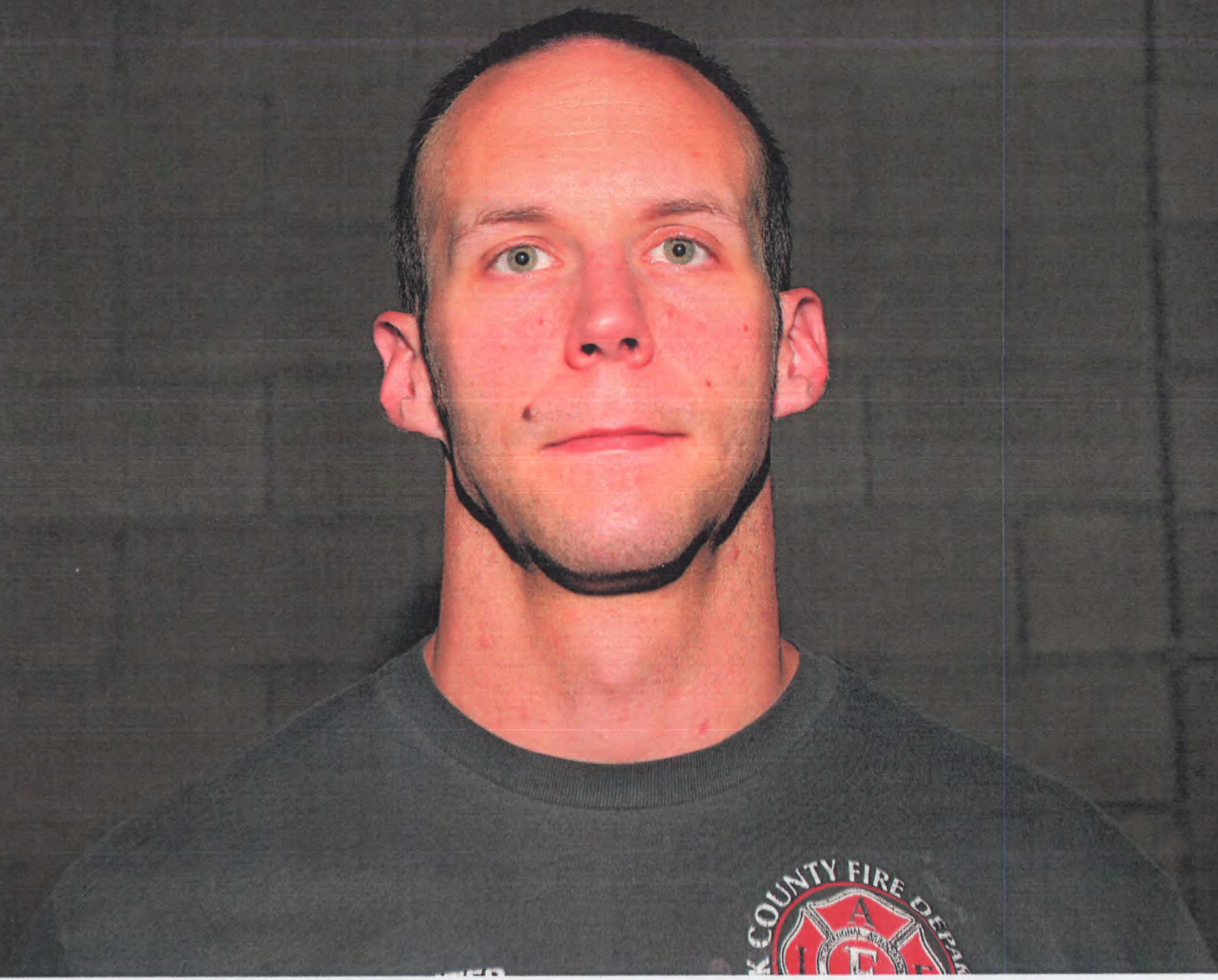
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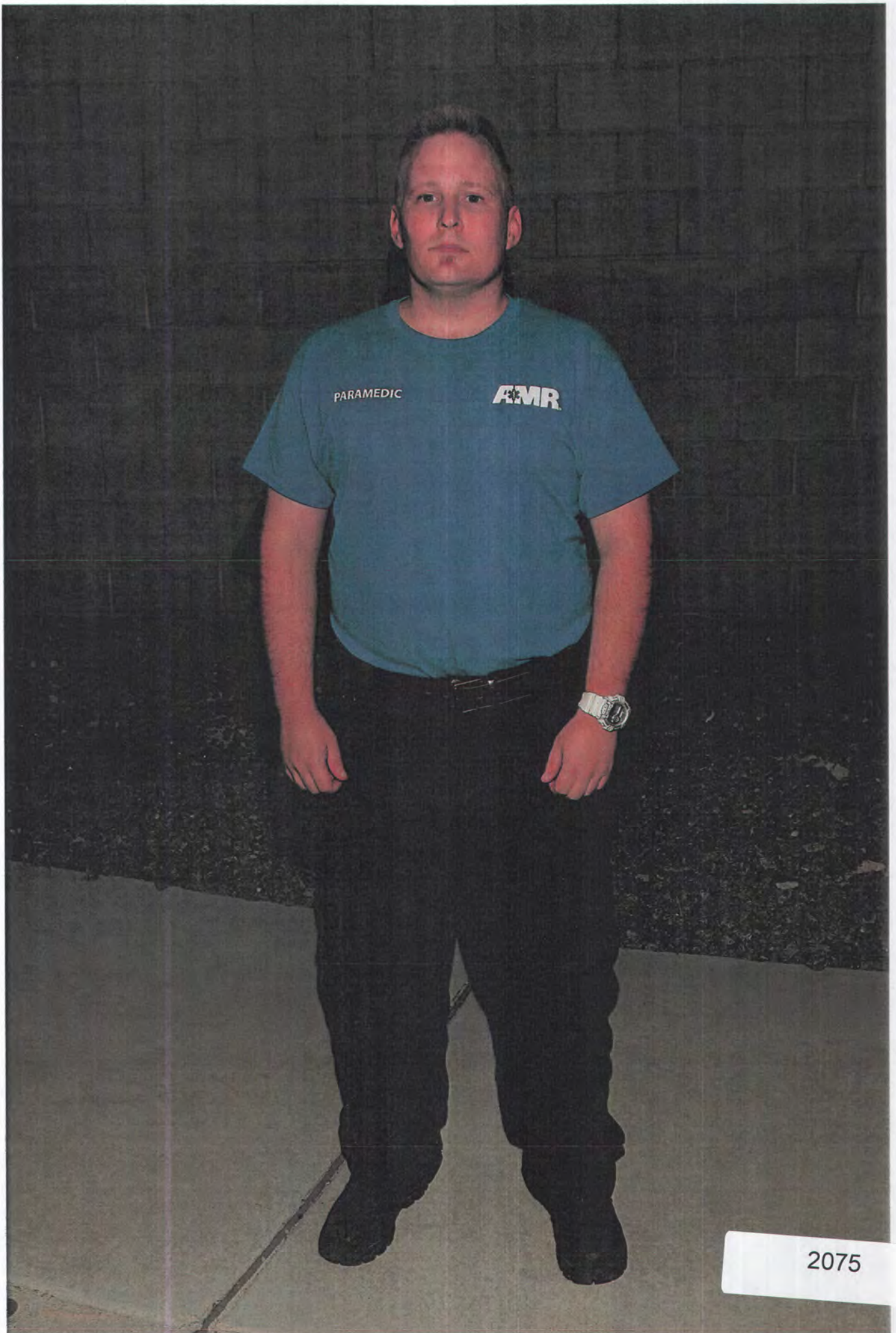


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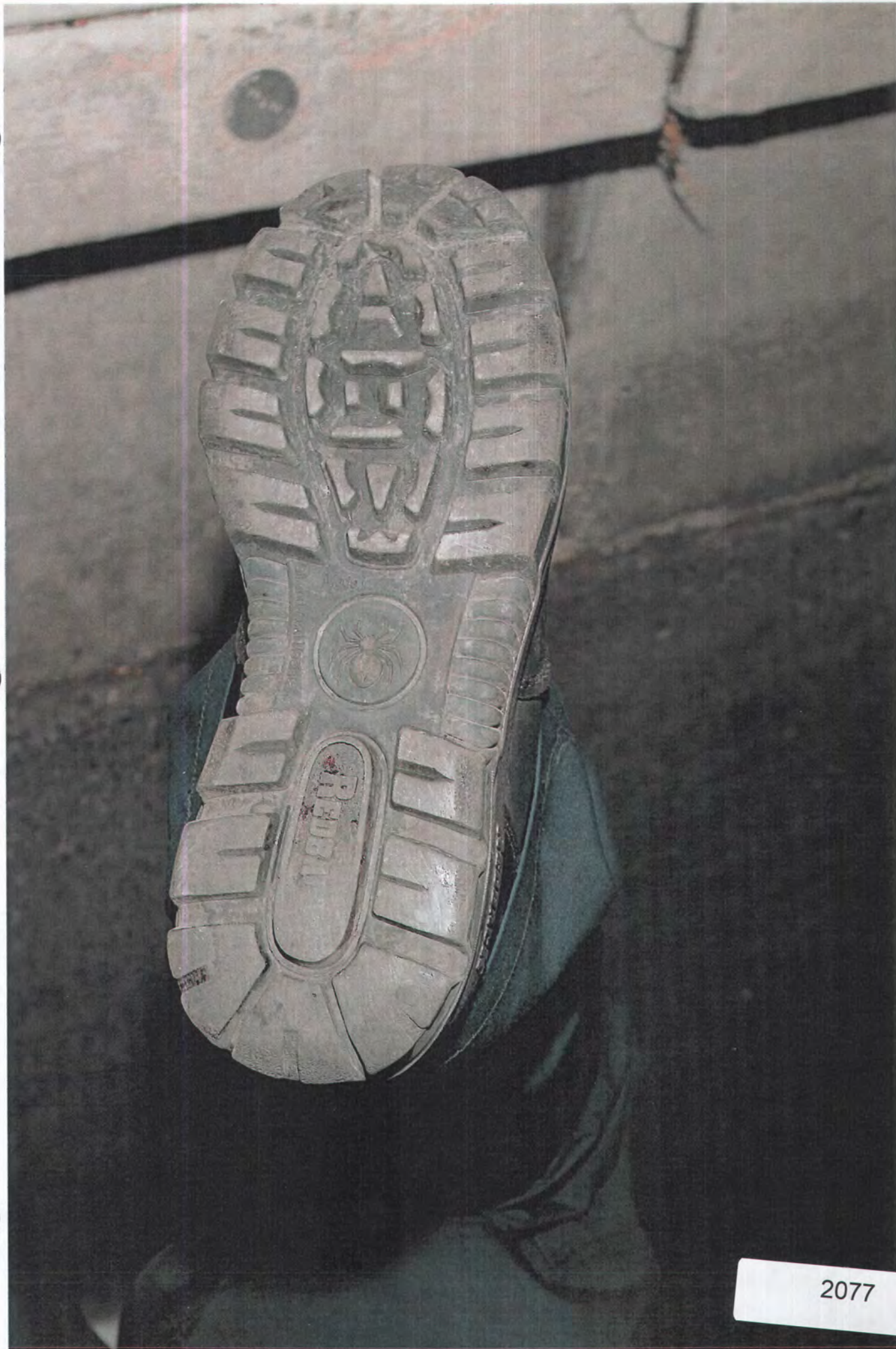
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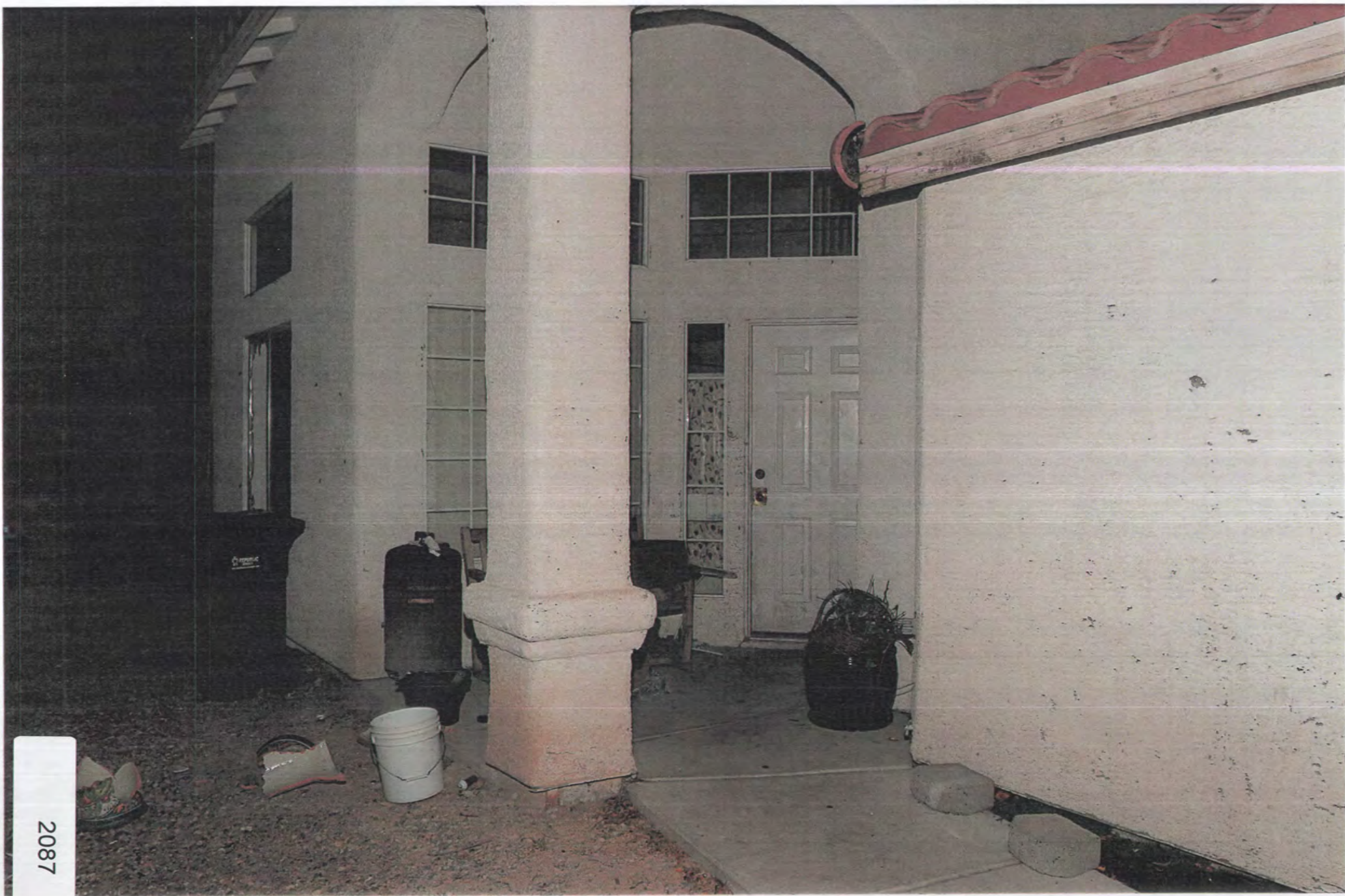
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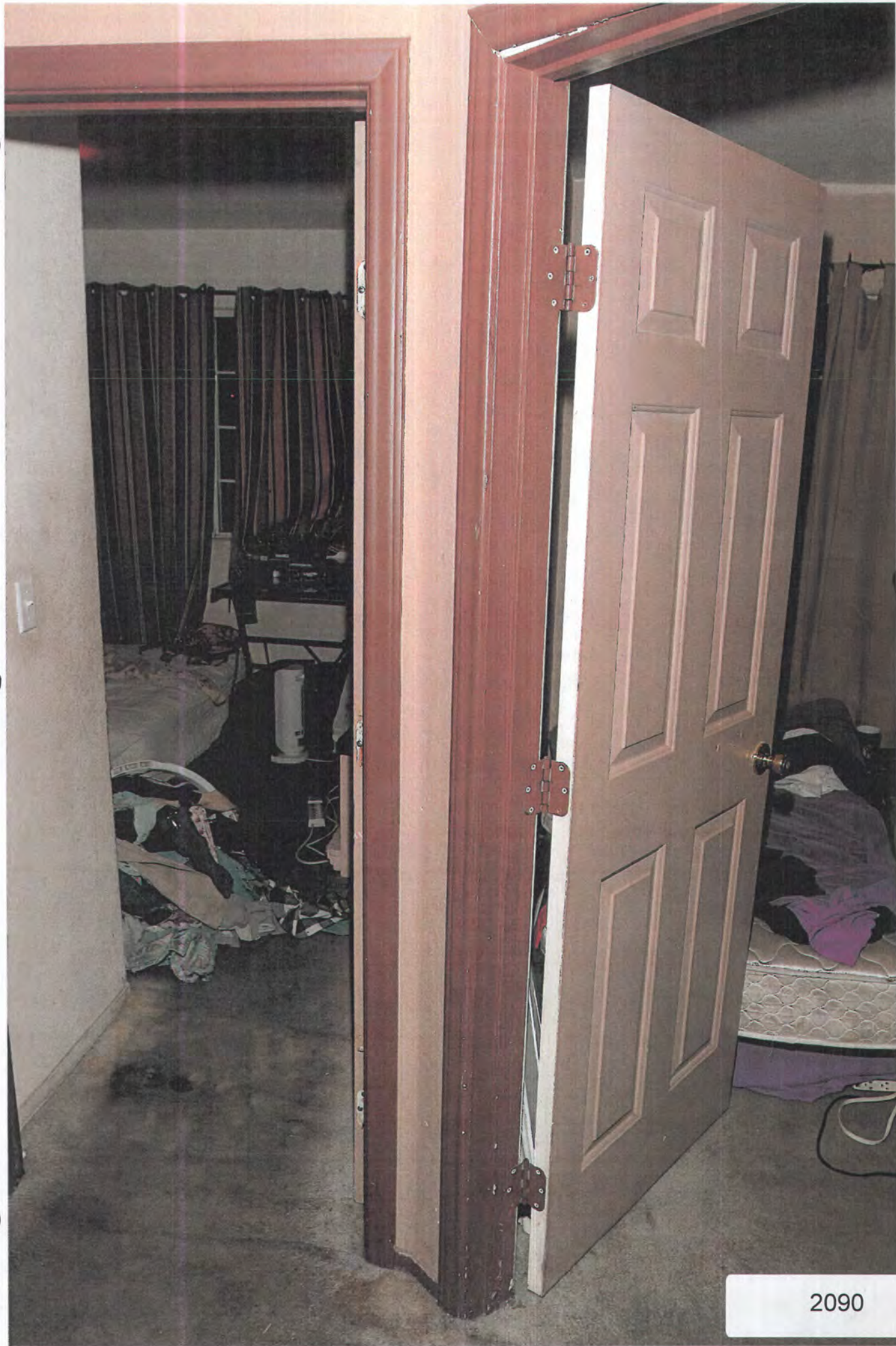
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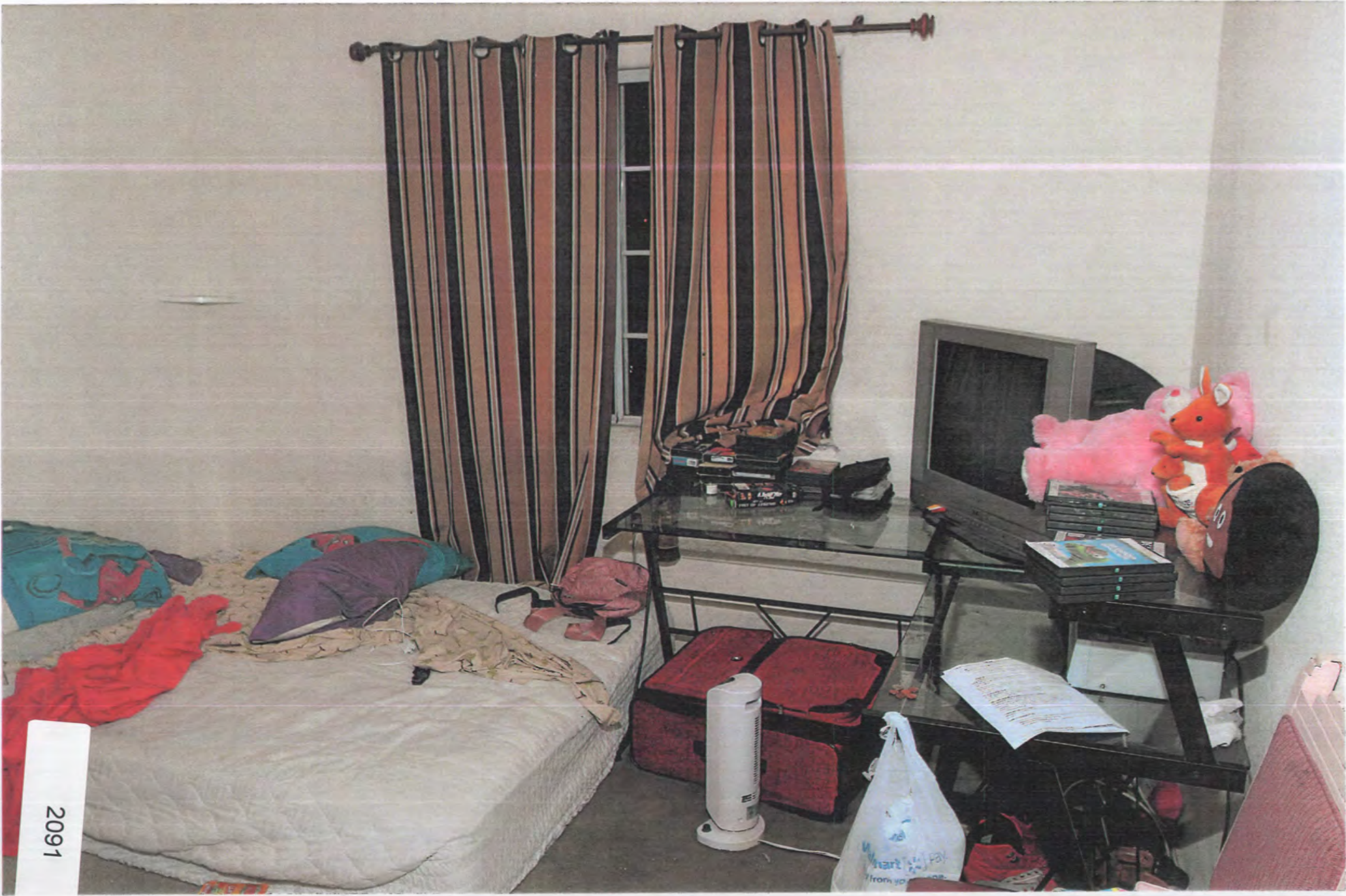
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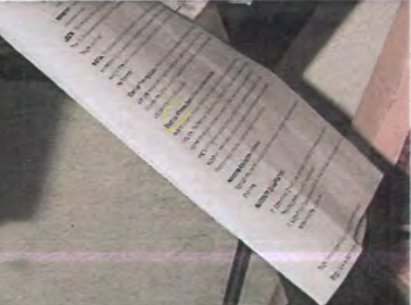
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STATE'S
EXHIBIT
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CASE

PENGAD 000-531-6993	STATE'S
	EXHIBIT
	230
C328587	

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STATE'S
EXHIBIT
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328587 2-13-10

EXHIBIT



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PENGAD 800-631-6989	STATE'S
	EXHIBIT
	232
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MARK # CASE

STATE'S
EXHIBIT
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0328587

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PENGLAD 800-631-6369	STATE'S
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**DISTRICT COURT
CLARK COUNTY, NEVADA**

STATE OF NEVADA)	
)	
)	
Plaintiffs,)	
vs.)	Case No.: C-17-328587-2
)	C-17-328587-3
RAEKWON SETREY ROBERTSON,)	
DAVONTAE AMARRI WHEELER,)	Dept. No. XII
)	
Defendant.)	

JUROR NOTEBOOK

Courts Exhibit
#2
C328587
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**DISTRICT COURT
CLARK COUNTY, NEVADA**

DEPARTMENT XII

Michelle Leavitt
District Court Judge
(702) 671-4372

Pamela Rocha
Judicial Executive Assistant
(702) 671-4372

David Stern
Law Clerk
(702) 671-4369

Haly Pannullo
Court Clerk
(702) 671- 0760

Sara Richardson
Court Recorder
(702) 671-4368

Randy Hawkes
Court Marshal
(702) 671-4372

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PRELIMINARY INSTRUCTIONS TO JURY

This case is based on an Amended Superseding Indictment which has been read to you by the Clerk. You should distinctly understand that the Indictment is simply a charge and it is not, in any sense, evidence of the allegations it contains. The Defendants entered pleas of *not guilty* to the Indictment. The State therefore has the burden of proving each of the material elements as alleged in the Indictment by proof beyond a reasonable doubt. As the Defendants sit there now, they are presumed innocent. The purpose of this trial is to determine whether the State of Nevada will meet their burden of proof. It is your primary responsibility as jurors to find and determine the facts. Under our system of criminal procedure, you are the sole judge of the facts. You are to determine the facts from the testimony you hear and the other evidence, including exhibits introduced in court. It is up to you to determine the inferences which you feel may be properly drawn from the evidence. The parties may sometimes present objections to some of the testimony or other evidence. It is the duty of a lawyer to object to evidence which he/she believes may not properly be offered, and you should not be prejudiced in any way against the lawyer who makes objections on behalf of the party he/she represents. At times the Court may sustain objections or direct that you disregard certain testimony or exhibits. You must not consider any evidence to which an objection has been sustained or which the Court has instructed you to disregard. Anything you may have seen or heard outside the courtroom is not evidence and must also be disregarded. Remember, statements,

1 arguments and opinions of counsel are not evidence in the case. However, if the
2 attorneys stipulate as to the existence of a fact, you must accept the stipulation as
3 evidence and regard that fact as proved.
4

5 You must not speculate to be true any insinuations suggested by a question
6 asked the witness. A question is not evidence and may be considered only as it
7 supplies meaning to the answer. You must not be influenced in any degree by any
8 personal feeling of sympathy for or prejudice against the State or the Defendants.
9 Both sides are entitled to the same fair and impartial consideration. In considering
10 the weight and value of the testimony of any witness, you may take into
11 consideration the appearance, attitude and behavior of the witness, the interest of the
12 witness in the outcome of the case, if any, the relation of the witness to the
13 Defendants or the State, the inclination of the witness to speak truthfully or not, and
14 the probability or improbability of the witnesses' statements, and all of the facts and
15 circumstances in evidence. Thus, you may give the testimony of any witness just
16 such weight and value as you believe the testimony of the witness is entitled to
17 receive.
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20

21 There are two kinds of evidence: direct and circumstantial. Direct evidence is
22 testimony by a witness about what that witness personally saw or heard or did.
23 Circumstantial evidence is testimony or exhibits which are proof of a particular fact
24 from which, if proven; you may infer the existence of a second fact.
25

26 You may consider both direct and circumstantial evidence in deciding this
27
28

1 case. The law permits you to give equal weight to both, but it is for you to decide
2 how much weight to give to any evidence.
3

4 Opening statements and closing arguments of the attorneys are intended to
5 help you in understanding the evidence and applying the law, but they are not
6 evidence.
7

8 No statement, ruling, remark or comment which the Court may make during
9 the course of the trial is intended to indicate the Court's opinion as to how you
10 should decide the case or to influence you in any way in your determination of the
11 facts. At times, the Court may even ask questions of witnesses. If the Court does so,
12 it is for the purpose of bringing out matters which the Court feels should be brought
13 out and not in any way to indicate the Court's opinion about the facts or to indicate
14 the weight the Court feels you should give to the testimony of the witness. The Court
15 may also find it necessary to admonish the lawyers and if the Court does so, you
16 should not show prejudice against a lawyer or his/her client because the Court has
17 found it necessary to admonish him/her.
18

19 Until this case is submitted to you, you must not discuss it with anyone, even
20 with your fellow jurors. After it is submitted to you, you must discuss it only in the
21 jury room with your fellow jurors. It is important you keep an open mind and not
22 decide any issue in the case until the entire case has been submitted to you under
23 instructions from the Court.
24

25 The Court may, during the trial, take notes of the witness's testimony. You
26
27
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1 are not to make any inference from that action. The Court is required to prepare for
2 legal arguments of counsel during this trial and, for that reason, the Court may take
3 notes. The jury will not have a transcript to consult at the close of the case.
4

5 However, the jury will be furnished note paper and pens and will be allowed to take
6 notes.
7

8 The trial will proceed in the following manner. The Deputy District Attorney
9 will make an opening statement, which is an outline to help you understand what the
10 State expects to prove. Next, the defense attorneys may, but do not have to, make an
11 opening statement. Opening statements serve as an introduction to the evidence,
12 which the party making the statement intends to prove.
13

14 The State will the present its evidence and counsel for the Defendants may
15 cross examine the witnesses. Following the State's case, the Defendants may present
16 evidence and the Deputy District Attorney may cross examine the witnesses.
17 However, as the Court has said, the Defendants are not obligated to present any
18 evidence.
19

20 After all of the evidence has been presented, the Court will instruct you on the
21 law. After the instructions on the law have been read to you, each side has the
22 opportunity to present oral argument. What is said in closing argument is not
23 evidence. The arguments are designed to summarize and interpret the evidence.
24 Since the State has the burden of proving the Defendants guilty by proof beyond a
25 reasonable doubt, the State has the right to open and close the arguments.
26

1 After the arguments have been completed, you will retire to deliberate on your
2 verdict.
3

4 Again, let me remind you that until this case is submitted to you:

5 1. Do not talk to each other about it or about anyone who has anything to do
6 with it, until the end of the case when you go to the jury room to decide on your
7 verdict.
8

9 2. Do not talk with anyone else about this case or about anyone who has
10 anything to do with it until the trial has ended and you have been discharged as
11 jurors. Anyone else includes members of your family and your friends. You may tell
12 them you are a juror in a criminal case, but don't tell them anything else about it until
13 after you are discharged by the Court.
14

15 3. Do not let anyone talk to you about the case or about anyone who has
16 anything to do with it. If someone should try to talk to you, please report it to the
17 Court immediately by contacting the Court Marshal.
18

19 4. Do not read any news stories or articles or listen to any radio or television
20 reports about the case or about anyone who has anything to do with it.
21
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23 MICHELLE LEAVITT
24 DISTRICT COURT JUDGE
25 DEPARTMENT XII
26 EIGHTH JUDICIAL DISTRICT COURT
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JUROR QUESTIONS

Jurors are permitted to ask written questions during trial. You are not encouraged to ask large numbers of questions, because that is the primary responsibility of counsel.

Questions may be asked only in the following manner.

After both lawyers have finished questioning the witness and only at this time, if there are additional questions you would like to ask the witness, you may then seek permission to ask that witness a written question.

Write your question down with your juror number on a full sheet of clean paper and raise your hand. The Marshal will pick up your question and present it to the Judge.

All questions from the jurors must be factual in nature and designed to clarify information already presented. All questions must be directed to the witness and not to the lawyers or to the Judge.

After consulting with counsel, the Judge will then determine if your question is legally proper. If the Judge determines your question may be properly asked, the Judge will ask it. No adverse inference should be drawn by you if the Judge does not allow a particular question. In addition, jurors must not place undue weight on the responses to their questions.

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

ADMONISHMENT

During this recess, you are admonished not to talk or converse among yourselves or with anyone else on any subject connected with this trial; or read, watch or listen to any report of, or commentary on the trial or any person connected with this trial by any medium of information including, without limitation, newspapers, television, the internet or radio; or form or express any opinion on any subject connected with this trial until the case is finally submitted to you.

You are further admonished you may not communicate with anyone, including your fellow jurors, about this case on your cell phone, Blackberry, Iphone, text messaging, e-mail, Twitter, through any blog, website, internet chat room, or by way of any other social networking website, including, but not limited to, Facebook, MySpace, LinkedIn, Instagram, Tumblr, Twitter, and YouTube.

MICHELLE LEAVITT
DISTRICT COURT JUDGE
DEPARTMENT XII

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****February 14, 2020**

C-17-328587-3 State of Nevada
 vs
 Davontae Wheeler

February 14, 2020 08:30 AM Jury Trial

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Pannullo, Haly

RECORDER: Richardson, Sara

REPORTER:

PARTIES PRESENT:

Davontae Amarri Wheeler	Defendant
Giancarlo Pesci	Attorney for Plaintiff
James J. Ruggeroli	Attorney for Defendant
Parker Brooks	Attorney for Plaintiff
State of Nevada	Plaintiff

JOURNAL ENTRIES

Michael Sanft, Esq., present on behalf of Co-Defendant.

OUTSIDE THE PRESENCE OF THE JURY:

Following arguments by counsel regarding the redacted Guilty Plea Agreement, COURT CANVASSED Defendant Robertson and Defendant Wheeler as to waiving the redaction of the Guilty Plea Agreement as to Defendant Robinson. Defendants so agreed.

JURY PRESENT:

Testimony and exhibits presented. (See worksheets)

Mr. Ruggeroli and Mr. Sanft INVOKED the exclusionary rule. COURT SO ORDERED.

Testimony and exhibits presented. (See worksheets)

COURT ORDERED, trial CONTINUED.



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,)	CASE NO. C-17-328587-2
)	CASE NO. C-17-328587-3
Plaintiff,)	
)	DEPT. NO. XII
v.)	
)	
RAEKWON SETREY ROBERTSON,)	
a/k/a RAEKWON ROBERTSON,)	
and DAVONTAE AMARRI WHEELER,)	
)	
Defendants.)	

BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT JUDGE

FRIDAY, FEBRUARY 14, 2020

RECORDER'S TRANSCRIPT OF PROCEEDINGS:
JURY TRIAL - DAY 4

APPEARANCES:

FOR THE STATE:	GIANCARLO PESCI, ESQ. Chief Deputy District Attorney
	PARKER P. BROOKS, ESQ. Deputy District Attorney
FOR DEFENDANT ROBERTSON:	MICHAEL W. SANFT, ESQ.
FOR DEFENDANT WHEELER:	JAMES J. RUGGEROLI, ESQ.

RECORDED BY: SARA RICHARDSON, COURT RECORDER
TRANSCRIBED BY: VERBATIM DIGITAL REPORTING, LLC

1 LAS VEGAS, NEVADA, FRIDAY, FEBRUARY 14, 2020

2 (Case called at 8:46 A.M.)

3 (Outside the presence of the jurors)

4 THE COURT: Where's Mr. Wheeler?

5 THE CLERK: I think in the back. So, Mr. Ruggeroli,
6 there's your proposed exhibit you needed.

7 THE COURT: Okay. The record will reflect that the
8 hearing is take -- okay, are we getting Mr. Wheeler in here?

9 MR. RUGGEROLI: He's just finishing up.

10 THE COURT: Okay.

11 (Pause in the proceedings)

12 THE COURT: Okay. Both defendants are present, and
13 the hearing is taking place outside the presence of the jury
14 panel.

15 Officer Hawkes let me know that Juror number 10
16 approached him this morning and has some concerns about his
17 ability to remain fair and impartial. So I'm going to bring
18 Juror number 10 in and canvass Juror number 10. It is Caesar
19 Castro.

20 (Within the presence of Juror No. 10)

21 THE MARSHAL: Just straight ahead of you.

22 THE COURT: Okay. The record will reflect that Mr.
23 Castro, Juror number 10, is present in the courtroom -- you
24 can go right there at the podium -- and that this hearing is
25 taking place outside the presence of the other jurors.

1 Mr. Castro, it's my understanding that after some
2 evidence came in yesterday, that you now have some concerns
3 about --

4 JUROR NO. 10: Yes.

5 THE COURT: -- whether you can serve. Go ahead.

6 JUROR NO. 10: So during the jury selection, I
7 believe Mr. --

8 THE COURT: One of the DAs? Okay.

9 JUROR NO. 10: Yeah, asked if -- if we would get so
10 mad if we see footage of the victim. And at that time, I -- I
11 thought I would be fine, but after watching the footage
12 yesterday of the victim, that's exactly what happened to me,
13 and I don't think I can be fair and impartial anymore.

14 THE COURT: Okay. Who is it you think you're not
15 going to be able to be fair to?

16 JUROR NO. 10: Both.

17 THE COURT: Both sides?

18 JUROR NO. 10: Yes. Well --

19 THE COURT: Okay, based on the evidence --

20 JUROR NO. 10: The defendant --

21 THE COURT: -- that you saw?

22 JUROR NO. 10: The defendants' side.

23 THE COURT: Okay, based on the evidence that you
24 saw?

25 JUROR NO. 10: Just --

1 THE COURT: Okay, because you understand they're
2 entitled to the presumption of innocence unless and until the
3 State of Nevada can prove --
4 JUROR NO. 10: Yes, I --
5 THE COURT: -- these allegations by proof beyond a
6 reasonable doubt? Do you understand that?
7 JUROR NO. 10: I understand that.
8 THE COURT: Do you agree with that?
9 JUROR NO. 10: I agree with that.
10 THE COURT: Okay.
11 JUROR NO. 10: But after watching the footage, I
12 already formed an opinion.
13 THE COURT: What is that opinion?
14 JUROR NO. 10: Or judgment.
15 THE COURT: What is that judgment?
16 JUROR NO. 10: Guilty.
17 THE COURT: Okay. Just after seeing footage, you've
18 determined that these defendants are guilty?
19 JUROR NO. 10: Yes. I got so -- while watching the
20 footage, I was actually seething.
21 THE COURT: Well, it's okay to get mad.
22 JUROR NO. 10: I know.
23 THE COURT: It's just not okay to, you know, form an
24 opinion already.
25 JUROR NO. 10: But I did.

1 THE COURT: Okay, all right.

2 JUROR NO. 10: I'm sorry. This is the first time

3 I'm doing this, and --

4 THE COURT: Okay. Well, you know what, I appreciate

5 your -- I appreciate you approaching Officer Hawkes. I

6 appreciate you letting me know that. I don't know if either

7 side has any further follow up.

8 MR. PESCI: Not from the State.

9 MR. SANFT: No, Your Honor.

10 THE COURT: Okay.

11 MR. RUGGEROLI: Based on what he said, no.

12 THE COURT: Okay. All right, Mr. Castro, if you

13 just don't mind going outside. Before you do, I'm going to

14 instruct you not to discuss with your fellow jurors anything

15 that we have discussed in here. And if anyone insists on

16 speaking to you about what we discussed in here, I ask that

17 you make that fact known to Officer Hawkes. Have you

18 discussed any of your opinions with any of the other jurors?

19 JUROR NO. 10: No, I have not.

20 THE COURT: Okay. And I would just ask you

21 obviously not to discuss any of those opinions with any of the

22 other jurors, and you will agree to not do that?

23 JUROR NO. 10: I agree.

24 THE COURT: Okay. If you just don't mind waiting

25 outside, Mr. Castro. And again, I appreciate your --

1 JUROR NO. 10: I'm sorry.

2 THE COURT: -- honesty. No, I appreciate it.

3 (Outside the presence of Juror No. 10)

4 THE COURT: Okay, the record will reflect that Mr.
5 Castro has left the courtroom. Based on his representations
6 to the Court, I'm going to excuse Mr. Castro. I'm assuming
7 nobody has any objection?

8 MR. PESCI: Not from the State.

9 MR. RUGGEROLI: No, Your Honor.

10 MR. SANFT: No, Your Honor.

11 THE COURT: Okay. So, Officer Hawkes, you can go
12 out and let Mr. Castro know that he is excused, he can leave
13 the courthouse, and then Roberta Bell will become Juror number
14 10.

15 THE MARSHAL: Yes, Your Honor.

16 THE COURT: It's my understanding you may have some
17 other stuff outside the presence?

18 MR. PESCI: Yes, Judge. In speaking with defense
19 counsel this morning, specifically Mr. Ruggeroli was asking
20 about the Guilty Plea Agreement and the Agreement to Testify.
21 We marked that this morning.

22 We have done numerous efforts to doctor this thing
23 -- and I'm going to say this on the record -- to lie to the
24 jury about what's actually in this thing, and we have cut it
25 out pursuant to the case law. It's my understanding now that

1 defense counsel wants it in, which would have been nice to
2 know, because we spent a lot of time cutting that out, and
3 it's really not easy to do.

4 That being said, if he wants it in -- because the
5 case law says that, pursuant to Sessions, it has to come out;
6 but if during cross-examination there is the allegation of
7 lying, then it can come back in.

8 The problem with that, and since I didn't know this
9 was what was wanted, a completely clean, unredacted version of
10 the Agreement implicates Mr. Robertson in the other three
11 counts that we have severed because -- by implication,
12 arguably, right? Because those counts are not in front of
13 this jury. But when we originally did the deal, it
14 encompassed the case as it was originally charged.

15 THE COURT: Right.

16 MR. PESCI: And so, bringing it back completely
17 unredacted is a problem for Mr. Robertson. So I wanted to
18 bring that to Mr. Robertson's attention, to the Court's
19 attention, and figure out how we want to deal with this,
20 because you can't really just go with the whole unredacted
21 version.

22 THE COURT: Mr. Ruggeroli?

23 MR. RUGGEROLI: Thank you, Judge. Your Honor, the
24 -- the issue is -- and I believe the case law supports that,
25 essentially, if we open the door, if we get into notions of

1 having to testify to a certain version based on the
2 Agreement --

3 THE COURT: Right.

4 MR. RUGGEROLI: -- that we're getting into the
5 language that implicates the notion of what is truth --
6 truthfulness. And the Plea itself has that language, but my
7 understanding is the case law says that that's not originally
8 included. And I think that's to kind of protect defendants --

9 THE COURT: Uh-huh.

10 MR. RUGGEROLI: -- because it gives an overall
11 general idea of, well, this is true, and the State would then
12 have their kind of credibility of their witness bolstered
13 because there's a general notion of truthfulness, and that's
14 all that's being applied.

15 We do intend to attack that, and because of that, I
16 just -- I don't see any way that the State would not be
17 reinvested with the ability to have the actual language saying
18 -- because I think what they're going to argue once we do that
19 is, oh, no, wait a minute, here's what the Plea says, and this
20 is what you're only to do: you're only to testify to what is
21 true; it's not the State's version, it's just what is true.

22 So I -- I just don't see any other way to do it.
23 The problem is that there is that unredacted portion. I know
24 that it's, you know, the day after I found out that they were
25 going to provide a redacted version of that section that is

1 initially required to be taken out.

2 THE COURT: So you don't want it taken out?

3 MR. RUGGEROLI: Well, because I -- I don't want to
4 be limited in our ability to cross-examine Mr. Robinson about
5 --

6 THE COURT: You won't be.

7 MR. RUGGEROLI: Well --

8 THE COURT: I mean, I'm not going to limit your
9 ability to cross-examine a witness that has agreed to testify.

10 MR. RUGGEROLI: Well, so let's say we say, Mr.
11 Robinson, you took this deal because you have to testify
12 against the defendants; you have to say that Mr. Wheeler was
13 one of the people with you at the shooting, or you don't get
14 the benefit of this agreement. I suspect that the State's
15 going to want to say, oh, wait a minute, all you have to
16 testify is to the truthfulness. We don't require --

17 THE COURT: Right. I mean, he's under oath like
18 every other witness.

19 MR. RUGGEROLI: Okay. Well, as long as -- as long
20 as the State then doesn't need it, then we can just use the
21 redacted one.

22 MR. PESCI: No, no, no, no, no, no.

23 THE COURT: Yeah, I mean --

24 MR. PESCI: No.

25 THE COURT: -- I don't understand that.

1 MR. PESCI: You want to attack it --
2 THE COURT: Yeah.
3 MR. PESCI: -- that triggers our chance to go back.
4 We're not going to, in advance, take it away from us to be
5 able to do that because he wants it.
6 THE COURT: Right.
7 MR. PESCI: This is his choice. Like you're saying,
8 you're not impeding him at all.
9 THE COURT: No.
10 MR. PESCI: All I'm saying is, if you do that, we
11 have the added wrinkle and complication that the unredacted
12 version implicates Mr. Robertson on the three or four charges
13 that are not currently before this jury. So I assume --
14 MR. SANFT: I -- we -- and we -- I'm sorry.
15 MR. PESCI: Yeah, let's turn it to you.
16 MR. SANFT: On behalf of Mr. Robertson, with regards
17 to that issue, those factual issues, that would be an issue
18 that we would want to have redacted. Everything else I think
19 is unrelated and should be, you know, fair comment, according
20 to what Mr. Ruggeroli wants. But with regards to the other
21 parts that have been taken out and we're not trying him on
22 these -- on those issues, I think we've got a big issue there
23 with regards to prior bad acts and everything else that's
24 going to come in on this particular --
25 THE COURT: Right. I mean --

1 MR. SANFT: Okay.

2 THE COURT: And they relate to the counts that have
3 been severed, correct?

4 MR. PESCI: Correct, yes.

5 MR. SANFT: We've taken the pains to make sure that
6 that happens. I understand Mr. Ruggeroli's point though. I
7 mean, he wants to be able to have fair comment on anything to
8 do with this event on August 8th, 2017 --

9 THE COURT: Okay.

10 MR. SANFT: -- not about anything --

11 THE COURT: So you don't want that language taken
12 out that Sessions says we should take out?

13 MR. RUGGEROLI: Correct, because I know what the
14 second step will be, is either the State's going to object and
15 say the defense can't ask this line of questions because we
16 can't comment on it --

17 MR. PESCI: No, no, we're not going to say you
18 can't. Not at all. You absolutely can. We're just --

19 THE COURT: Right. I think --

20 MR. PESCI: -- given opportunities and options after
21 you do it.

22 MR. RUGGEROLI: Which would --

23 THE COURT: Exactly.

24 MR. RUGGEROLI: Which would --

25 THE COURT: I mean, the language has to be redacted,

1 okay?

2 MR. RUGGEROLI: Right.

3 THE COURT: I guess if you're waiving that right to
4 have the language redacted --

5 MR. RUGGEROLI: Yes.

6 THE COURT: However, if you during cross-examination
7 suggest to this jury that this witness has to testify to a
8 certain set of facts in order to get the deal, instead of the
9 truth --

10 MR. RUGGEROLI: Right.

11 THE COURT: -- which sounds like that's what you are
12 going to do --

13 MR. RUGGEROLI: We want that ability, yes.

14 THE COURT: Right. Then the State has the right to
15 bring that back in --

16 MR. RUGGEROLI: Exactly.

17 THE COURT: -- that, no, he has to testify as to the
18 truth.

19 MR. RUGGEROLI: And that's why it would need to not
20 be redacted. So I'm getting -- I'm getting ahead because I
21 know where this would ultimately lead. Were it not for the
22 inadmissible information about Mr. Robertson, then I think we
23 wouldn't have a problem.

24 THE COURT: Okay.

25 MR. RUGGEROLI: I -- I --

1 THE COURT: So you don't want the information
2 redacted that he has -- he's under the obligation to tell the
3 truth?
4 MR. RUGGEROLI: Correct.
5 THE COURT: Okay. Mr. Sanft, do you agree with
6 that?
7 MR. SANFT: We will have no objection to that
8 language being included.
9 THE COURT: Included?
10 MR. SANFT: Included. Yes, Your Honor.
11 THE COURT: Okay. Now, how do we get rid of --
12 MR. PESCI: Okay.
13 THE COURT: So we could bring it back in, but we
14 can't --
15 MR. PESCI: Can I interrupt just one second? I
16 apologize.
17 THE COURT: Sure.
18 MR. PESCI: Can you canvass the defendants on that?
19 Because that, sure as anything, is going to be argued by
20 different attorneys that this was a mistake.
21 THE COURT: I'm assuming -- have -- Mr. Ruggeroli,
22 have you spoken to Mr. Wheeler about that?
23 MR. RUGGEROLI: Yeah, I just spoke to him in the
24 back, Judge.
25 THE COURT: And Mr. Sanft, you've spoken to your

1 client about that?

2 MR. SANFT: I have not spoken to my client about it,
3 but I have spoken with Mr. Ruggeroli about this issue. I
4 agree with the strategy as to why it should happen that way.
5 So if I need to canvass my client, then I'll canvass my
6 client, but this was a strategic reason as to why we would
7 allow that language to come in with regards to our ability to
8 cross-examine the --

9 MR. PESCI: Perfect, that's exactly what I was
10 looking for. Thank you.

11 THE COURT: Okay. And Mr. Wheeler, you understand
12 that your attorney is making this decision?

13 DEFENDANT WHEELER: We about to --

14 MR. RUGGEROLI: Stand up, stand up.

15 DEFENDANT WHEELER: We about to --

16 THE COURT: He's asking that this language that
17 you're entitled to have redacted from the Agreement to
18 Testify, he's asking that it be put back in.

19 DEFENDANT WHEELER: Are we going to talk about -- if
20 we can talk a little bit more about the situation.

21 THE COURT: All right.

22 MR. RUGGEROLI: If you could just give me one
23 second, Judge.

24 THE COURT: I'll let you talk to him about it.

25 DEFENDANT WHEELER: All right, thank you.

1 (Pause in the proceedings)
2 THE COURT: So we'd still have to redact some of
3 this?
4 MR. PESCI: Yes, that's --
5 THE COURT: And you've got it highlighted.
6 MR. PESCI: That's the concern. That's why I
7 brought this up --
8 THE COURT: Um-hum.
9 MR. PESCI: -- when I found this out this morning.
10 It's that portion. Now, there are some different options. I
11 can tell you this: I cannot magically have -- make this happen
12 --
13 THE COURT: I understand.
14 MR. PESCI: -- because I've had someone working on
15 this for days. Because it's like really trickery, right? We
16 take a portion --
17 THE COURT: Right.
18 MR. PESCI: -- we cut it out, and we have push
19 pieces together using some sort of --
20 THE COURT: To make it look like we didn't do that.
21 MR. PESCI: Right, exactly. So now our only option
22 really is to Wite-Out and copy another page so no one can see,
23 but there's going to be big holes.
24 MR. RUGGEROLI: And just so that we're clear,
25 because I need to reference this for Mr. Wheeler, the Guilty

1 Plea Agreement itself, if you could direct me to the portion
2 that -- because I thought it was for the actual Agreement to
3 Testify portion.

4 THE COURT: It's in the Agreement to Testify.

5 MR. PESCI: It's in the Agreement to Testify.

6 MR. RUGGEROLI: Okay, and so --

7 THE COURT: I only have the first few pages.

8 MR. RUGGEROLI: So --

9 THE COURT: Or the first couple of pages.

10 MR. PESCI: So the original Agreement to Testify,
11 because --

12 MR. RUGGEROLI: Right.

13 MR. PESCI: -- at the time, they were facing all of
14 the charges, Mr. Robinson's other charges, it references that
15 because he's making an Agreement to Testify about all of the
16 information. So this highlights his charges that are severed
17 and not before this jury, which is why I brought it to Your
18 Honor, so you could see --

19 THE COURT: Right.

20 MR. PESCI: -- which portion.

21 THE COURT: So that part would have to be redacted.

22 MR. RUGGEROLI: Of course. Right.

23 (Pause in the proceedings)

24 (Off the record at 9:04 A.M. until 9:17 A.M.)

25 (Outside the presence of the jurors)

1 THE MARSHAL: Please come to order.
2 MR. SANFT: Your Honor, we're missing Mr. Ruggeroli.
3 THE COURT: Right.
4 MR. SANFT: Okay.
5 THE COURT: I'm assuming he's done though; we're
6 ready?
7 THE CLERK: Yeah.
8 MR. PESCI: We have some more things outside the
9 presence --
10 THE COURT: Okay.
11 MR. PESCI: -- based on this, and so --
12 THE MARSHAL: Have a seat.
13 THE COURT: Okay, go ahead.
14 MR. PESCI: Thank you, Your Honor. So I'm not sure
15 how the defense is intending on doing this. I want to state
16 the State's position on the record.
17 THE COURT: Okay.
18 MR. PESCI: I am going to comply with 175.282 and
19 Sessions v. State. I have marked a redacted version based on
20 the law that exists. If the defense chooses to do something,
21 they can, and then there are different things that are
22 triggered based on that.
23 The last thing I would ask, Your Honor, is if the
24 defendants personally are in agreement with their clients' --
25 their attorneys' strategic decision to do this.

1 THE COURT: Okay. And so you're just going to leave
2 it the way it is?

3 MR. PESCI: I'm not doing anything because I can't
4 until they cross.

5 THE COURT: Well, you're right. You can't, you
6 can't.

7 MR. PESCI: Right. Per the -- per the case law, I'm
8 -- as I read the case law, I'm handcuffed until they attack
9 it.

10 THE COURT: Okay, but it sounds like --

11 MR. PESCI: And I would be happy to be wrong some
12 day down the road if the Supreme Court tells me.

13 MR. RUGGEROLI: Judge, I --

14 THE COURT: And it sounds like you're going to
15 attack it?

16 MR. RUGGEROLI: I am, and I'm --

17 THE COURT: Okay.

18 MR. RUGGEROLI: -- dealing with this because of
19 Sessions and my prior experience in front of Judge Herndon,
20 which we have a lot of respect for Mr. Pesci, because Judge
21 Herndon referenced Mr. Pesci regarding this exact issue. So I
22 have looked at this. That's my reading. And I'm getting in
23 advance in the sense that -- would have preferred yesterday,
24 but today, we're not doing it during cross-examination.

25 I would like the ability to fully cross-examine --

1 one other aspect which is particularly important is that this
2 wound up being an Alford plea. So what we have is, during the
3 canvass, no actual admission; no actual affirmative statement
4 of, "Yes, I did this." So we're relying on the State's
5 recitation of facts to the Court. We're relying on other
6 things that did not actually come from Mr. Robinson.

7 THE COURT: Mr. Robinson's plea was Alford?

8 MR. RUGGEROLI: Yes.

9 MR. PESCI: Yes. That's the second portion,
10 whenever he's done, that I wanted to address.

11 THE COURT: Okay.

12 MR. RUGGEROLI: So the notion of truth is very
13 important. Now, I believe that I have fully explained this,
14 that in the initial instance, the defendant is protected; the
15 State is required to have that portion of the Agreement
16 removed. But in getting ahead, in order for the defense to
17 really kind of have more access to challenge motive, things
18 like that, we will necessarily be implicating the provision
19 that provides for the truthfulness. So I agree with Mr.
20 Pesci.

21 The only other issue is what to do with the language
22 that was unfortunately included, and then redacted, regarding
23 Mr. Robertson's other case. Everybody's in agreement that
24 that shouldn't come in. I mean, honestly, the State -- you
25 put this in Adobe, you take out a couple lines, and print. I

1 don't think this is difficult to redact those lines. I
2 don't --

3 MR. PESCI: Then we invite you to do it.

4 MR. RUGGEROLI: I could download it. I don't have
5 my printer, but --

6 MR. PESCI: A caveat -- I apologize, I'm jumping in.
7 That was flippant, I apologize.

8 The other thing we can do, Your Honor, is before we
9 get to the jury, have that done. It doesn't actually have to
10 be done today if you're not going to literally put it down on
11 the door to show it to him, because we can work on it between
12 now -- I'm not going to work on it, but someone can work on it
13 between now and when it actually goes back as an exhibit for
14 the jury.

15 THE COURT: Okay.

16 MR. SANFT: I guess --

17 THE COURT: So it sounds like the parties -- you
18 have the right to have this language out, okay? The defense
19 is saying, we don't want it out; we want that language in
20 because we're going to fully cross-examine this witness, and
21 we're going to be implicating that clause in the Agreement
22 anyways. Is that --

23 MR. RUGGEROLI: And Mr. Wheeler --

24 THE COURT: Is -- you're shaking your head yes, but
25 I just want you to say yes.

1 MR. RUGGEROLI: Yes, Your Honor, and he's prepared
2 to --

3 THE COURT: Okay.

4 MR. RUGGEROLI: -- put the waiver on the record.

5 THE COURT: And Mr. Sanft, yes?

6 MR. SANFT: Yes, Your Honor. And since the time
7 that we last spoke, I have spoken with Mr. Robertson about it.
8 He also agrees with that strategy.

9 THE COURT: Okay. And Mr. Wheeler, I gave you an
10 opportunity to speak to Mr. Ruggeroli about that strategy as
11 well; is that correct?

12 DEFENDANT WHEELER: Yes, ma'am.

13 THE COURT: And you're in agreement with that?

14 DEFENDANT WHEELER: Yes, ma'am.

15 THE COURT: Okay, thank you. And Mr. Robinson
16 (sic), you're in agreement with that as well, correct?

17 DEFENDANT ROBERTSON: Yes.

18 THE COURT: And you had a chance to speak to Mr.
19 Sanft about it, correct?

20 DEFENDANT ROBERTSON: Yeah, I've spoken to him.

21 THE COURT: Okay.

22 MR. PESCI: Thank you very much, Your Honor. And I
23 totally understand defense counsel's position. It makes all
24 the sense in the world to me. I think this is the unintended
25 consequences of that decision that we've been stuck with, so

1 we're just living with those consequences.

2 However, defense counsel made a comment about Alford
3 and penalties, and that's what I want to talk to you before we
4 brought this jury in.

5 THE COURT: Okay.

6 MR. PESCI: So in the canvass itself, because it's
7 an Alford plea, there's a rendition of facts put forth by the
8 State. So in some senses, I'm asking for an offer of proof of
9 what they want to get into, which is why we were not
10 introducing this in our case-in-chief, because I'm afraid of
11 the argument of witness vouching, being me, because I'm the
12 one making a rendition of facts.

13 Additionally, there is not time at an Alford plea to
14 put everything in. So I don't put everything in that is in
15 evidence because Your Honor and every other judge can't sit
16 there for the State to create a trial record for a plea
17 canvass. So I don't want to be accused of an argument's being
18 made that, look at this, this is the real facts that the State
19 believed, because that was just a bare bones or a somewhat
20 fleshed out rendition of facts as opposed to an entire trial's
21 worth of evidence. And so I'm cautious and concerned about
22 that, so I would ask for an offer of proof.

23 Additionally, Mr. Sanft brought up a good point,
24 right? We all signed a waiver. The waiver says, we don't
25 talk about penalties for murder. It is completely appropriate

1 for this witness to be canvassed about the penalties
2 associated with the specific charges that he entered a plea
3 to, and it's completely appropriate for the defense to say,
4 you had a murder charge and it's not here anymore.

5 It is absolutely inappropriate, pursuant to the
6 Agreement we all signed, to say, because you were facing life
7 without -- which he wasn't because he was a juvenile -- but
8 you were facing life, 20, or 50 to 20. Like, can't go into
9 specifics. I think it's appropriate to say, you were facing
10 more time, and maybe even like much more time for a murder
11 charge, but not the specifics.

12 THE COURT: Right. Since, I mean, everybody's
13 waived penalty, I would agree with that.

14 MR. RUGGEROLI: Well, okay. So the penalty --

15 THE COURT: I mean, I think you could say, you were
16 facing a lot more time --

17 MR. RUGGEROLI: Yeah.

18 THE COURT: -- because you were facing a murder
19 charge as well.

20 MR. RUGGEROLI: Yes. I --

21 THE COURT: But even what he was facing wouldn't be
22 the same as these gentlemen because --

23 MR. RUGGEROLI: Right.

24 THE COURT: -- he's a minor.

25 MR. RUGGEROLI: So this is a good time to bring up

1 Defense Proposed Exhibit A. I've had it marked. There is not
2 an agreement. That is the canvass of the entry of this plea.
3 Here's why that's important and I think that it should be
4 admissible. The context -- and you've got to remember what --

5 THE COURT: What is marked as Defense A?

6 THE CLERK: It's A1, just to clarify for the record.

7 MR. RUGGEROLI: Okay. It's right up top there.

8 THE COURT: Okay.

9 MR. RUGGEROLI: The State didn't have this, so I've
10 had it marked.

11 THE COURT: Uh-huh.

12 MR. RUGGEROLI: The likely cross-examination is
13 going to be that DeShawn made statements the next day from the
14 shooting to the officers when he was arrested. Time went on,
15 he entered an agreement, and now it's an Alford plea. The
16 only way he got the benefit of that plea was to agree to
17 testify, which is a huge portion of our argument that he has a
18 motive to say what he's saying.

19 THE COURT: Uh-huh.

20 MR. RUGGEROLI: Because I fully expect that he's
21 going to say, "I was with three other individuals, and we
22 drove to Dewey, and my -- Mr. Wheeler was one of those people,
23 and so-and-so shot so-and-so." That's what I expect the
24 evidence is going to show.

25 So in getting to -- this is not a normal situation

1 where it would be very clean, "You pled guilty on this date
2 and time, and at that time, you admitted that this was your
3 conspiracy; you admitted that you were a part of this
4 attempted robbery."

5 THE COURT: Well, he admitted the State could prove
6 it.

7 MR. RUGGEROLI: That's what he admitted, but he
8 never admitted that -- well, it's an Alford plea. So what we
9 have is, I agree with Mr. Pesci to the extent that I would not
10 need to go into specifically, "You were looking at a life
11 penalty," because there is overlap.

12 THE COURT: Right.

13 MR. RUGGEROLI: That would educate the jury about
14 what the defendants had waived, and it might not even apply to
15 a juvenile. But I do think -- and this is my argument for the
16 admission of 1A -- Defense Proposed 1A -- or is it A1?

17 THE CLERK: A1.

18 MR. RUGGEROLI: Yeah. The context of this plea is
19 very important, and what he said is absolutely relevant; what
20 he did not admit to. It's part of his -- now he's going to
21 stand up, and we're going to object --

22 THE COURT: Let me just say -- did he proffer to
23 you?

24 MR. PESCI: Yes.

25 THE COURT: Okay. That, to me, is more important

1 than what he said during an Alford plea.

2 MR. RUGGEROLI: Okay.

3 THE COURT: I mean, because in a proffer, they
4 proffer to the district attorney --

5 MR. RUGGEROLI: Yes.

6 THE COURT: -- basically everything they know and
7 everything that they will testify to.

8 MR. RUGGEROLI: We don't have any -- anything about
9 -- I know it happened, but I did request, and there's nothing
10 in writing.

11 MR. PESCI: Right. It wasn't recorded.

12 MR. RUGGEROLI: Right.

13 MR. PESCI: It wasn't written down, it wasn't
14 reduced --

15 THE COURT: Okay.

16 MR. RUGGEROLI: So that's why it's even more
17 important that -- he's going to be asked, and he can't be led
18 through this testimony, "Well, what happened?"

19 THE COURT: Right.

20 MR. RUGGEROLI: I went -- okay, and then on cross,
21 "Okay, but you were -- you pled Alford; you did not
22 specifically -- did not admit that you did that."

23 MR. PESCI: I agree with the ability of defense
24 counsel to do that. I'm just saying, admitting the transcript
25 is dangerous, and it has information that is superfluous to

1 the actual proceedings. It has language where I am saying
2 what the case evidence would be.

3 And so I think it's completely appropriate for them
4 to cross-examine him, and talking about Alford, and you didn't
5 admit this or you didn't admit that. But I think admitting
6 the transcript is a time bomb, because, one, it says what I
7 think the case is at a bare minimum's version. And you know,
8 someone could argue that that's witness vouching, because you
9 then accepted -- I'm sorry, you, Your Honor, accepted that
10 proffer, right?

11 And so I think it's appropriate to just go into it.
12 And you can even utilize this, right? Just not admit it as a
13 piece of evidence. That's why we didn't do this, because
14 there are all these issues inside of it. It's --

15 THE COURT: Anything else, Mr. Ruggeroli?

16 MR. RUGGEROLI: Yes. If it's relevant, it's
17 generally admissible -- and it is relevant -- unless there's
18 some portion specifically that would make it inadmissible.
19 These are general principals being applied to, but there's
20 nothing specific. There's no authority to support, well,
21 here's why it's inadmissible. This -- the document speaks for
22 itself, so I don't think it's inadmissible. The question of a
23 time bomb, that remains to be seen. And I would not --

24 THE COURT: Why is it relevant? Why is it relevant
25 what the State said in an Alford plea? Why is that relevant?

1 MR. RUGGEROLI: Well, the most -- the most -- it
2 makes --

3 THE COURT: Why is the transcript relevant if you're
4 going to be able to cross-examine him, like, "You didn't admit
5 that in front of the Court, you didn't" -- I mean, yeah, you
6 can cross-examine him about that, but I mean, this is a
7 formality and it's an Alford plea. I don't understand why a
8 transcript would be relevant.

9 MR. RUGGEROLI: The relevance is that it makes the
10 truthfulness of his statement about there is a conspiracy
11 today less likely because he did not admit to it at the time
12 of the canvass. That provides the actual question and answer.
13 So it is relevant; it's just the State is saying it's not
14 admissible, but -- but why? It doesn't sound good, we think
15 it might --

16 THE COURT: No, because I think it would be very
17 confusing to a jury.

18 MR. PESCI: What I'm saying is I'm not --

19 THE COURT: I mean, it would be very confusing.

20 MR. PESCI: I'm not saying it's a per se
21 inadmissible thing, which is why I asked for the offer of
22 proof, is I'm like, what is this going to be used for?
23 Because if there are going to be arguments -- right? Because
24 that's really what we do. We put a piece of evidence in --

25 THE COURT: Um-hum.

1 MR. PESCI: -- then we argue later on. If there's
2 going to be arguments that somehow this was the four corners
3 of the facts --

4 THE COURT: That's my concern.

5 MR. RUGGEROLI: And I would agree to an instruction
6 that clears -- it just simply explains that the State did not
7 put on the entire trial evidence at the entry of this plea.
8 I'm not going to argue, hey, that's all they -- because my --
9 the importance of what I want to argue is not what the State
10 said at the plea. That's what they're concerned about.

11 I have no intent to say, "Well, they should be
12 limited, ladies and gentlemen of the jury, to what they said
13 at the time." I'm not going to argue that at all. And I
14 would have no problem explaining to the jury in an
15 instruction, or you could admonish the jury, "The State was
16 not required to put their trial on at the time of the entry of
17 plea."

18 The importance for us is not what the State said,
19 other than they had to say it because he wouldn't admit it.
20 That's why it's important, and that's why it's relevant, is
21 because when it came to the time of entering this agreement,
22 he did not admit that he was part of a conspiracy, and that's
23 hugely important.

24 I actually very respectfully disagree with Your
25 Honor. I don't think it will confuse the jury; I think it

1 will help them understand it more, because it lays out line by
2 line, question, answer, this is an Alford plea, you understand
3 you're not admitting guilt, and because of that, there has to
4 be a factual basis. And that's why I think it's admissible,
5 and we would agree to either an admonishment and/or an
6 instruction that says of course the State was not required to
7 put on the whole trial evidence at that time.

8 THE COURT: Okay. So then, again, I'm going to ask
9 you, why is it relevant here?

10 MR. RUGGEROLI: Because --

11 THE COURT: Because this isn't the four corners of
12 his agreement. He proffered to the State of Nevada.

13 MR. RUGGEROLI: Because even in its most simplistic
14 form, he did not agree that he was a part of the conspiracy.
15 He did not admit that. He did not admit that there was an
16 attempt robbery that he was a part of; he did not admit that
17 he was a part of the murder. The fact that he didn't admit
18 it, that's why it's so important.

19 MR. PESCI: And I think it's --

20 THE COURT: Okay.

21 MR. PESCI: -- completely appropriate to be asking
22 him about how he never admitted it, right? If he wants to
23 introduce it, I just think there are a lot of land mines in
24 there, a lot of things that could go sideways, and there are
25 concerns.

1 And it seems as if he's saying he's not going to
2 argue one thing or another, but we're going to have to do an
3 instruction about what an Alford plea is, right? Because I
4 say here that the defendant could have been convicted of the
5 murder, because the concept of an Alford is, you're saying --
6 you're acknowledging the jury could convict you --

7 THE COURT: Right.

8 MR. PESCI: -- so I'm taking this lesser without
9 necessarily admitting to this. We've done this before, Your
10 Honor. We've had a co-defendant testify via an Alford plea,
11 right? And everyone got to cross-examine that witness, and
12 got to flesh out that she didn't say she actually admitted to
13 it, right? That's a completely appropriate line of
14 questioning. I'm just saying I'm a little concerned about
15 that.

16 At least he's told me right now that he's not going
17 to argue some sort of quantitative analysis of what the offer
18 of proof was being the entire amount of the case that the
19 State had. And so, with that, we'll deal with it. I'm just
20 saying that there could be issues that come up later, and
21 especially in closing arguments, depending on how it's argued.

22 THE COURT: Okay. I want to be able to read the
23 transcript in its entirety. When is this witness coming to
24 testify?

25 MR. PESCI: Well, he's supposed to be at 10:00, but

1 we've got other ones in front of him.

2 THE COURT: Pardon?

3 MR. PESCI: We have other ones that are in the hall

4 waiting in front of him.

5 THE COURT: Okay. Can we bring the panel in now?

6 Where is he? I mean, is --

7 MR. PESCI: He's in --

8 THE COURT: He's still in custody, right?

9 MR. PESCI: He's in custody, and so he's going to be

10 transported here. My investigator has spoken with your

11 Marshal to talk about that process of getting him here.

12 THE COURT: Okay. And he's in custody, correct?

13 MR. PESCI: Yes, he's in custody. He's in a

14 juvenile detention facility.

15 THE COURT: All right. Are you going to have him

16 appear in custody?

17 MR. PESCI: We have to.

18 THE COURT: Well, you have the right to have him

19 dressed in normal clothes.

20 MR. PESCI: No, we don't, because that's me making

21 him appear that he's out of custody. I wish you were right.

22 I'm sorry. I apologize. I believe that the case law says

23 that I don't get to dress out my witnesses that are in

24 custody; I have show them as they are.

25 THE MARSHAL: I spoke to his investigator this

1 morning. A juvenile P and P officer, his caseworker, his
2 attorney, and his investigator will be sitting in the jury
3 room, waiting for him to be brought to the stand.

4 THE COURT: Okay.

5 THE MARSHAL: So --

6 THE COURT: So his -- I think his attorney -- Mr.
7 Evans, he's going to be --

8 THE MARSHAL: Yes.

9 MR. PESCI: Yes.

10 THE COURT: He's been notified?

11 MR. PESCI: We've spoken to him; we've notified him
12 of the time. He told me he was going to be here, he asked the
13 specific room, so our expectation is he's going to be here.

14 THE COURT: Okay. All right, we can bring them in.

15 THE MARSHAL: All rise for the entering jurors,
16 please.

17 (Within the presence of the jurors at 9:35 a.m.)

18 THE MARSHAL: Go ahead and have a seat when you get
19 to your chairs. Everybody's standing for you guys, so. Thank
20 you, everyone. Please be seated.

21 THE COURT: Okay. Does the State stipulate to the
22 presence of the panel as now impaneled?

23 MR. PESCI: Yes, Your Honor.

24 THE COURT: Mr. Sanft?

25 MR. SANFT: Yes, Your Honor.

1 THE COURT: Mr. Ruggeroli?
2 MR. RUGGEROLI: Yes, Your Honor.
3 THE COURT: Okay. Ms. Bell, I have excused Juror
4 number 10, so you will now become Juror number 10. You can
5 sit where you are, or you can sit in that seat; it's wherever
6 you're comfortable. I'm okay with wherever you want to sit.
7 I just wanted to make sure you understand you're now Juror
8 number 10.
9 JUROR NO. 10: Okay.
10 THE COURT: Okay?
11 JUROR NO. 10: Will I still be able to not come in
12 on next Friday?
13 THE COURT: I got you covered for next Friday.
14 JUROR NO. 10: Okay, just wanted to make sure that
15 was covered.
16 THE COURT: Okay. Okay, State can call their next
17 witness.
18 MR. PESCI: State calls Detective Lora Cody. May I
19 approach?
20 THE COURT: Uh-huh.
21 THE MARSHAL: If you'll please remain standing,
22 raise your right hand, and face the Clerk.
23 DETECTIVE LORA CODY, STATE'S WITNESS, SWORN
24 THE CLERK: You may be seated. Please state and
25 spell your first and last name for the record.

1 THE WITNESS: It's Lora Cody. L-o-r-a, C-o-d-y.

2 THE COURT: You may --

3 MR. PESCI: Thank you.

4 THE COURT: You may proceed.

5 DIRECT EXAMINATION

6 BY MR. PESCI:

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

8 A I'm a homicide detective with the Las Vegas
9 Metropolitan Police Department.

10 Q How long have you been with Homicide?

11 A About four years.

12 Q Before Homicide, where were you within Metro?

13 A I worked what's called Internet Crimes Against
14 Children, sexual assault, sexual abuse, as a detective.

15 Q And then prior to that?

16 A I was a patrol officer with Metro.

17 Q How long -- I cut you off, I'm sorry. How long have
18 you been with Metro in total?

19 A 18 years.

20 Q Okay. You said, I think it was four years you've
21 been with Homicide?

22 A That's correct.

23 Q Okay. So back in August of 2017, were you assigned
24 with a squad of other detectives to investigate a homicide
25 that had occurred on Dewey Avenue here in Las Vegas?

1 A Yes, I was.

2 Q When you get to a murder scene, as a homicide
3 detective, how does that work? Just so the ladies and
4 gentlemen can understand, are you there right away when the
5 first patrol officers get there, or how does that work?

6 A No. Usually, the patrol officers will get the
7 initial call. They'll respond to the scene and kind of make
8 an assessment as to what resources they need, then they'll
9 usually call in patrol detectives. Patrol detectives then,
10 upon realizing that whatever crime it is requires kind of like
11 a higher level response -- in this case, a homicide had
12 occurred -- they then call Homicide out. So we usually may
13 respond to the scene, it could be anywhere from 15 minutes, 20
14 minutes, to several hours later.

15 Q Can that be sometimes too based on the fact that, if
16 a victim is still alive originally at the scene, then
17 Homicide's not called out?

18 A That is correct.

19 Q So if a victim who's wounded is transported to the
20 hospital, is it until after the hospital notifies of someone
21 actually being deceased that the mechanism then triggers
22 Homicide being involved?

23 A Yes.

24 Q Okay. When you were in fact called on this specific
25 situation, where did you go first?

1 A We went to the Dewey scene.

2 Q All right. I want to show you what's been
3 previously marked as State's Exhibit 11. Do you recognize
4 that?

5 A Yes, I do.

6 Q Okay. Now, I mentioned earlier a squad. Is that a
7 team of detectives?

8 A Yes.

9 Q Who was the group or the team of detectives that you
10 responded with?

11 A I responded there with Detective Mitch Dosch,
12 Detective Ryan Jaeger, myself, eventually Detective Maureen
13 Bogatay, and Detective Fred Merrick.

14 Q And does she sometimes, Detective Bogatay, go by the
15 name Sonny?

16 A Yes, Sonny.

17 Q Okay. Now, when you get to a scene, is there a
18 determination as far as who's going to be doing what pieces of
19 the investigation?

20 A Yes, we respond as a squad. It could be as large as
21 from four to six people, just depending upon the amount of
22 resources that we need. Usually, there's a primary detective.
23 In this case, the primary detective is Detective Mitch Dosch.
24 His partner, Detective Ryan Jaeger, is considered the second.
25 And then we have what's called the third wheel, and that third

1 wheel was myself, and then it goes third, fourth, fifth, six
2 kind of a wheel.

3 The primary detective usually will take the scene.
4 The secondary detective will take kind of like the -- what we
5 call, like, maybe like the more important witnesses or
6 subjects to be interviewed. The third detective kind of picks
7 up the pieces, if you will.

8 Q All right. So if I'm understanding correctly, this
9 is kind of the partnership of Jaeger and Dosch, correct?

10 A Correct.

11 Q All right. And now, was Jaeger assigned to the
12 scene?

13 A I believe he was, yes.

14 Q Okay, so what does that mean?

15 A That means that he will respond out. He will
16 document the scene, along with the crime scene analysts.

17 Q Okay. And then were you, and Detective Dosch, and
18 the others you mentioned assigned to witnesses?

19 A Yes, we were.

20 Q How does that work?

21 A Again, it's kind of up to -- how the primary
22 detective wants to dole out the assignments, if you will.
23 Detective Dosch was assigned some witnesses. I was also
24 assigned a witness, and I was also assigned extra duties as
25 well.

1 Q Okay. So when you're out at this scene, are you
2 getting information from patrol or other officers that were
3 there before you?

4 A Yes. Depending upon who's there, depending upon
5 kind of the level of the response, we all get together, and
6 we'll receive a brief from either patrol or patrol detectives;
7 and in this case, it was patrol detectives.

8 Q So the ladies and gentlemen of the jury saw some
9 body-worn camera of the first responders. Are those the
10 sources of some of that information in that first briefing?

11 A Yes.

12 Q Okay. And while you're at this scene and Detective
13 Jaeger's working the scene, did information come in about a
14 convenience store of interest?

15 A Yes. Prior to the shooting, and I forget if it was
16 an hour or two hours prior to the shooting, there was an
17 incident that had occurred at the Short Line Express, and I
18 believe it was 7325 South Jones.

19 The convenience Clerk was obviously inside the
20 convenience store when four black male adults entered the
21 store and were acting kind of suspicious. One of those black
22 male adults had a gun on his hip in like an open carry
23 fashion, and so that convenience Clerk had called our dispatch
24 to say that he kind of felt maybe he might have -- might be
25 robbed, and he was just kind of, you know, just unsecured. So

1 police officers responded and talked with the convenience
2 store.

3 Q Okay. And then, based on that information that the
4 police officers obtained from talking to that Clerk in the
5 convenience store, did you respond to the convenience store?

6 A Yes, I did.

7 Q I want to show you State's Exhibit 71. Do you
8 recognize that?

9 A Yes, that's the Short Line Express market.

10 Q Okay. And then, based on the information that had
11 been sent from the convenience store, to the other patrol
12 officers, to you, what were you trying to find or locate
13 there?

14 A Some of the information that initial patrol officers
15 received when they respond to the convenience store, that the
16 four black male adults had entered the store, and they were --
17 had actually driven into the -- or driven into the parking lot
18 in the store in like a white Grand Marquis, or like a white
19 kind of a vehicle, and this had matched some information that
20 we had received at the briefing at the homicide scene.

21 Q Speaking of that briefing and the matching of the
22 information, did you have information that there was a white
23 Crown Vic-type car with a specific license plate?

24 A Yes, I did.

25 Q All right. So when you went to this location, were

1 you trying to see if you could see from the surveillance a car
2 that would fit that description?

3 A Yes.

4 Q Okay.

5 MR. PESCI: Your Honor, with your permission, can I
6 publish what's been previously admitted as 328?

7 THE COURT: You may.

8 BY MR. PESCI:

9 Q Detective, were you there when this video
10 surveillance was obtained?

11 A Yes, I was.

12 Q Okay. And was your responsibility, in essence, to
13 try to look at that and retrieve that video surveillance?

14 A Yes.

15 Q Okay. I want to show you a clip, and ask you if you
16 recognize this clip.

17 A Yes, I do.

18 Q Okay. And then, with this clip -- or did you see
19 this clip when you went to that location?

20 A Yes, I did.

21 Q And what did you do -- what was there that piqued
22 your interest?

23 A I noticed, as the vehicle pulled in, you can make
24 out on the bottom lefthand side, the front license plate, the
25 numbers 473.

1 Q Okay, and there's actually a mouse right there. And
2 if you move that mouse, it will correspond to the screen, or
3 at least it should. Let me do this. There we go. Thank you.
4 And did you view that to try to find out about that particular
5 license plate?

6 A Yes, I did.

7 Q Did that match the information that you had received
8 from the briefing?

9 A Yes.

10 Q Okay. And then, also, as far as there being four
11 individuals, was that information that you had?

12 A Yes.

13 Q Did you watch this video surveillance, among other
14 camera angles?

15 A Yes, I did.

16 Q And were you able to see four individuals?

17 A That's correct.

18 Q You mentioned you had some information about the
19 possibility of someone open carrying?

20 A Yes.

21 Q All right. And then, in reviewing that
22 surveillance, did you see things of interest to you?

23 A Yes, there's an individual that is open carrying of
24 a firearm.

25 Q Now, based on that license plate, what did you do,

1 getting that information?

2 A I provided that information, as well as the video
3 surveillance, back to Detective Dosch and Detective Jaeger.

4 Q Okay. And then, was there an effort to, in essence,
5 look up that particular license plate?

6 A Yes.

7 Q Okay. I want to show you what's been marked as
8 State's 332.

9 MR. PESCI: May I approach, Your Honor?

10 THE COURT: You may.

11 MR. PESCI: Which has been previously shown to
12 defense counsel, and I believe there's no objection.

13 MR. SANFT: No objection, Your Honor.

14 MR. RUGGEROLI: No, Your Honor.

15 MR. PESCI: Move for the admission of 332, Your
16 Honor.

17 THE COURT: It's admitted.

18 (State's Exhibit 332 is admitted)

19 BY MR. PESCI:

20 Q Do you recognize what that is?

21 A Yes.

22 Q What is that?

23 A This is the vehicle registration data for that
24 specific license plate.

25 Q Okay. What does that information tell you?

1 A It tells me that this plate was surrendered and
2 actually had belonged to a James Newman (phonetic) at 1327 H
3 Street, Apartment 431.

4 Q Okay, so showing you State's Proposed Exhibit 150.
5 MR. PESCI: Any objection to that one?
6 MR. SANFT: No objection.
7 MR. RUGGEROLI: No objection, Your Honor.
8 THE COURT: 150 is admitted.
9 (State's 150 is admitted)

10 BY MR. PESCI:

11 Q Do you recognize State's 150?
12 THE CLERK: You got to hit the button.
13 MR. PESCI: Oh, goodness. Thanks.

14 BY MR. PESCI:

15 Q Do you recognize State's 150? We got to zoom-out.
16 A Yes, I do.
17 Q Okay. Now, before we get to where you actually saw
18 that, you just talked to us about H Street, the letter H?
19 A Yes.
20 Q Okay. So who is the listed individual as the
21 registered owner of this particular vehicle?
22 A James Newman.
23 Q Okay. And then, James Newman had an address of the
24 H Street?
25 A Yes.

1 Q Okay. And what did you, as a squad or a group, do
2 with that information? Did you go to that location?
3 A Yes, we did.
4 Q Okay. And then, did you make contact with a Mr.
5 Newman?
6 A I did not, but I believe Detective Jaeger and Dosch
7 did.
8 Q Okay.
9 MR. PESCI: Court's indulgence.
10 BY MR. PESCI:
11 Q So did you get information in the course of your
12 investigation that Mr. Newman had sold that vehicle?
13 A Yes.
14 Q Okay. So that car had actually been sold to a
15 DeMario Lofton-Robinson; that's the information that you had
16 received?
17 A There was a -- yes. Eventually, it had been sold to
18 DeMario Lofton-Robinson.
19 Q Right. The information you received is there was
20 kind of a middle person in between that?
21 A Yes.
22 Q Okay. But eventually, that car was sold and
23 purchased by DeMario Lofton-Robinson?
24 A Yes.
25 Q Okay. And then, with that information, did you try

1 to go to an address associated with DeMario Lofton-Robinson?
2 A Yes, we did.
3 Q All right. Showing you State's Exhibit 215, do you
4 recognize that?
5 A Yes, I do.
6 Q Okay. What is that?
7 A That is a residence at 919 Bagpipe in North Las
8 Vegas.
9 Q And did you in your investigation have information
10 associating DeMario Lofton-Robinson with this particular
11 address?
12 A Yes, we did.
13 Q All right. Now, when you respond to a homicide
14 scene, when you start working it, do you remember roughly
15 about what time you got to the scene?
16 A I believe it was about midnight --
17 Q All right.
18 A -- on the 9th.
19 Q Okay, so the early morning hours of the 9th?
20 A Yes.
21 Q You're not exactly sure exactly what time?
22 A Correct.
23 Q Okay. And here's the point I was trying to get to.
24 Do you -- do you go home at that point?
25 A No, we work the scene until all leads are exhausted.

1 Q Okay. Do you stay at a scene or stay talking to
2 witnesses for many hours?
3 A Yes, we do.
4 Q You, as we've heard from your testimony today, went
5 to the Short Line Express?
6 A Yes.
7 Q You actually search for and get information about
8 this car, and then go to that H Street location?
9 A Yes, we did.
10 Q Interviews are done with different individuals to
11 find out about this sale?
12 A Yes.
13 Q Okay. And then, after that, there's still more work
14 to be done?
15 A Yes. Sometimes, there's more follow up to be done.
16 Q All right. Was there a decision at some point to
17 say, okay, we've been at this for a while, let's go home?
18 A Yes, in the evening hours of the 9th.
19 Q About -- do you know -- do you remember about how
20 many hours you'd been working at that point?
21 A Well, almost 24, 30 hours.
22 Q Okay. So was there a decision to go home and get
23 some sleep?
24 A Yes.
25 Q But instead, what did you do?

1 A Instead, on my way home, I drove by the Bagpipe
2 address.
3 Q All right. So when you went by that address, was
4 there anything of interest that you saw?
5 A Yes. I saw the Grand Marquis parked in the -- in
6 front of the Bagpipe address, with the license plate 473YZ
7 Baker.
8 Q And so, at that point, you didn't actually have that
9 car at that address, did you?
10 A No, we did not.
11 Q All right. You had information, but you hadn't
12 physically put eyes on it?
13 A No.
14 Q Was that something important in the process of your
15 investigation?
16 A Yes.
17 Q What did you do?
18 A I basically started to survey the -- surveil the
19 call -- or the car, and I made phone calls into my squad to
20 say that I have located the suspect vehicle.
21 Q So you called them all back out?
22 A Yes.
23 Q Okay. So did you do anything in reference to that
24 vehicle? Did anybody get in; did anybody move? What
25 happened?

1 A Yes. While I was conducting surveillance of the
2 vehicle, two black males adults entered the vehicle, and they
3 resembled the same black male adults that I had seen in the
4 video from the Short Line Express.

5 Q And I wanted to point that out. Like, you had
6 visually watched the video surveillance?

7 A Many times, yes.

8 Q Okay. And so, when you were outside of State's 215,
9 is that where the two individuals that fit the description
10 from the surveillance video that you watched exited from?

11 A Yes.

12 Q Okay. And now, when we look at State's 150, is that
13 at the house?

14 A No, it's not.

15 Q Okay. Walk us through what happened.

16 Q So, as I'm surveilling the vehicle, the two black
17 male adults get in the vehicle, and the vehicle becomes
18 mobile. I then made the decision to follow the vehicle. At
19 this time, I'm also calling out to my squadmates and to other
20 patrol officers that I was following the vehicle at some
21 distance, because we wanted to see where the vehicle was
22 heading to, in hopes of eventually stopping the vehicle.

23 Q Okay. And then, was it stopped?

24 A Yes, it was stopped at -- I believe it was 1366 West
25 Cheyenne. It's the Reef Dispensaries.

1 Q Okay. Is there a Dotty's nearby as well?
2 A There is.
3 Q Okay. So when the car is stopped there, the two
4 people that are in the vehicle, what happens with them?
5 A The two people exit the vehicle, and they were
6 stopped and taken into custody.
7 Q Okay. And then, what was done with the car?
8 A The car was then -- we had actually called out crime
9 scene analysts, and we sealed the car, and the car was
10 eventually towed to our crime lab.
11 Q All right. When you say you called out crime scene
12 analysts, does that mean they responded to this particular
13 location?
14 A Yes, they do.
15 Q Okay, which we see in the photograph right now?
16 A Yes.
17 Q Okay. Now, as you're working this car, it's away
18 from the Bagpipe address, correct?
19 A Correct.
20 Q What is done in relation to the Bagpipe address as
21 you and the crime scene analysts are here working this car?
22 A When the vehicle became mobile, some of our criminal
23 intel detectives were actually en route to the Bagpipe address
24 to continue surveillance. They continued surveillance, and at
25 that point, Detective Jaeger obtained a search warrant for

1 that residence.

2 Q Okay. And so, when you peeled off to follow the

3 car, others went back to the house to watch it?

4 A Yes.

5 Q Okay. And then, did someone come out of that house

6 later on that fit the description of someone from the video

7 surveillance?

8 A Yes, eventually.

9 Q And do you remember who that was?

10 A I do not.

11 Q Okay, but was that person also taken into custody?

12 A Yes.

13 Q All right. And then, did you go with the car to the

14 crime lab?

15 A No, I did not.

16 Q Okay.

17 MR. PESCI: Pass the witness.

18 THE COURT: Cross-examination?

19 MR. SANFT: No cross, Your Honor.

20 MR. RUGGEROLI: Thank you, Your Honor.

21 CROSS-EXAMINATION

22 BY MR. RUGGEROLI:

23 Q Morning, Detective.

24 A Good morning.

25 Q You met with the Clerk at the Speedy -- or the Short

1 Line Express?
2 A Yes.
3 Q And that's the early morning hours of August 9th,
4 2017?
5 A That's correct, yes.
6 Q You indicated -- and I think your statement was
7 robbery -- might be a robbery?
8 A Yes.
9 Q Now, you're just remembering this; you didn't put
10 that information in a report or anything like that, correct?
11 A No, I didn't.
12 Q You may be in error about what his actual statements
13 were? I want to be clear. When you spoke to him, that phrase
14 was not used?
15 A I did not speak to the Clerk about the robbery, no.
16 Q Okay, thank you. And there wasn't an actual
17 criminal incident; it was that you had information about the
18 four suspects that may have been at the Short Line Express?
19 A No, the Clerk was unsure. The Clerk felt that he
20 was going to be robbed, so he notified patrol officers.
21 Q But you didn't receive that information?
22 A No, I did not.
23 Q And so what you're saying -- and this is why I'm
24 asking you. That word, "robbed," that was never spoken to
25 you?

1 A To -- to me directly by --
2 Q From the Clerk.
3 A From the Clerk? No.
4 Q And also, the Clerk did not call 911? You went out
5 to the Short Line Express because Sergeant Tromboni had
6 actually gone there, correct?
7 A Yes.
8 Q Thank you.
9 MR. RUGGEROLI: Court's indulgence.
10 (Pause in the proceedings)
11 BY MR. RUGGEROLI:
12 Q Detective, I'm going to show you a portion of
13 State's 328, which you were shown a portion of on direct
14 examination.
15 MR. PESCI: Sorry, it's going to take a second to
16 load.
17 MR. RUGGEROLI: No problem.
18 BY MR. RUGGEROLI:
19 Q While they're loading that up, you had indicated
20 that you watched the surveillance video several times?
21 A Yes.
22 Q You've been trained in firearms?
23 A Yes.
24 Q And I just want to see if you're able to notice
25 something from the video.

1 MR. PESCI: Which one do you want?
2 MR. RUGGEROLI: The fourth one down. Thank you.
3 Just while they walk in.
4 BY MR. RUGGEROLI:
5 Q Do you see the individual that you said had the
6 firearm, and he's adjusting?
7 A Yes.
8 Q Okay. Are you able to tell from that video -- thank
9 you -- if that individual took the magazine out of the
10 firearm?
11 A No, I can't tell.
12 Q Okay. But that is what you were shown on direct
13 examination, that portion of them walking in?
14 A Yes.
15 Q Thank you.
16 MR. RUGGEROLI: That's all I had for that. Thank
17 you.
18 MR. PESCI: Okay.
19 BY MR. RUGGEROLI:
20 Q You had actually also interviewed Mr. Relato, the
21 decedent's cousin; is that correct?
22 A Yes.
23 Q Do you recall that he had given you some information
24 about an iPhone?
25 A I do not recall that, no.

1 Q What about the mail that Mr. Valenzuela had? Do you
2 recall him giving you any information about that?

3 A No, I do not.

4 Q Do you recall him giving you any information or did
5 you learn any information about Mr. Valenzuela's vehicle prior
6 to August 8th, August 9th of 2017 being broke into?

7 A No.

8 Q And did you personally write a report regarding this
9 incident?

10 A Did I personally write a report?

11 Q Yes.

12 A Not that I recall, no.

13 MR. RUGGEROLI: Thank you, Detective. I have
14 nothing further.

15 THE COURT: Any redirect?

16 MR. PESCI: No.

17 THE COURT: Thank you very much for your testimony
18 here today. You may step down --

19 THE WITNESS: Thank you.

20 THE COURT: -- and you are excused from your
21 subpoena. You may call your next witness.

22 MR. BROOKS: Your Honor, the State calls Shawn
23 Fletcher.

24 THE MARSHAL: And if you'll please remain standing,
25 raise your right hand, and face the Clerk.

1 SHAWN FLETCHER, STATE'S WITNESS, SWORN

2 THE CLERK: You may be seated. Please state and
3 spell your first and last name for the record.

4 THE WITNESS: Shawn Fletcher. It's S-h-a-w-n,
5 F-l-e-t-c-h-e-r.

6 DIRECT EXAMINATION

7 BY MR. BROOKS:

8 Q Ms. Fletcher, how are you employed?

9 A I work for Las Vegas Metropolitan Police Department
10 as a senior crime scene analyst.

11 Q And how long have you been so employed?

12 A 23-and-a-half years.

13 Q Do you recall an incident that brings us here to
14 court today?

15 A Yes.

16 Q So I want to turn your attention to that August 9th,
17 2017 incident. How did you first become involved in it?

18 A I got requested by detectives to go out to the scene
19 and seal a vehicle.

20 Q And when you say "scene," do you recall which scene
21 this was?

22 A We were on East Cheyenne at a Dotty -- in a Dotty's
23 parking lot.

24 Q And was this nighttime or morning?

25 A It was nighttime, about 8:30.

1 Q Now, was this the primary scene of the
2 investigation, or was this like a secondary scene?
3 A This was a secondary follow up scene.
4 Q Okay. So when you got there, what did you see?
5 A When I got there, there was a vehicle there, and it
6 was a white four-door Grand Marquis, I believe, and it was in
7 the parking lot in the westbound direction.
8 MR. BROOKS: And Your Honor, I've shown defense some
9 of these exhibits, so going to admit the car photos by
10 stipulation.
11 THE COURT: Okay. Do you want to just state for the
12 record?
13 MR. BROOKS: Yes. Exhibits 150 through 154.
14 THE COURT: Any objection?
15 MR. SANFT: No, Your Honor.
16 MR. RUGGEROLI: No, Your Honor.
17 THE COURT: They're admitted.
18 (State's Exhibits 150 through 154 are admitted)
19 MR. BROOKS: Exhibits 155 through 159.
20 MR. SANFT: No objection, Your Honor.
21 MR. RUGGEROLI: No objection.
22 THE COURT: They're admitted.
23 (State's Exhibits 155 through 159 are admitted)
24 MR. BROOKS: Exhibits 160 through 175.
25 MR. SANFT: No objection.

1 MR. RUGGEROLI: No objection.
2 THE COURT: They're admitted.
3 (State's Exhibits 160 through 175 are admitted)
4 MR. BROOKS: Exhibits 176 through 180.
5 MR. SANFT: No objection, Your Honor.
6 MR. RUGGEROLI: No objection.
7 THE COURT: They're admitted.
8 (State's Exhibits 176 through 180 are admitted)
9 MR. BROOKS: And then, 181 through 214.
10 MR. SANFT: No objection, Your Honor.
11 MR. RUGGEROLI: No objection.
12 THE COURT: They're admitted.
13 (State's Exhibits 181 through 214 are admitted)
14 MR. BROOKS: And Your Honor, may I publish?
15 THE COURT: You may.
16 BY MR. BROOKS:
17 Q So, Ms. Fletcher, is this the vehicle?
18 A Yes, it is.
19 Q Was there something unusual about the vehicle when
20 you arrived that caused you to have to do something?
21 A Yes, the driver's window was down.
22 Q And so what did you do?
23 A Sometimes when -- in this particular case, the
24 battery was dead, so we tried to jump the car so we could get
25 the window up, and that didn't work. So I placed plastic wrap

1 over it after I fingerprint processed it to seal up the window
2 so that we could tow the vehicle without losing anything.

3 Q I'm showing you -- that last one, for the record,
4 was Exhibit 151. Showing you Exhibit 152.

5 A This is -- is this a touch screen, or am I using the
6 mouse?

7 Q The mouse in front of you.

8 A The mouse? Okay.

9 Q Yes.

10 A This -- the black stuff that you see around this
11 window here is my fingerprint powder, and then this is a
12 picture of my actual fingerprint lifts. It's kind of hard to
13 see, but you can see like a number 3 here. These are my
14 fingerprint tape. This is before I put that Saran Wrap, so to
15 speak, over the window.

16 Q So you print it before you put the Saran Wrap?

17 A Yes.

18 Q And how would -- you mentioned the battery had died
19 on this. How would you have transported it after you were
20 done?

21 A We call the tow company that's on-call, and they
22 towed it to our lab.

23 Q And did that happen?

24 A It did.

25 Q Did it happen that night?

1 A It did.

2 Q I want to show you specifically Exhibit 154, and I
3 want to turn your attention to the 4 and 5 pieces of tape.
4 What are those?

5 A These are pieces of my fingerprint tape. You can
6 see the numbers that I gave each one; a 3, a 6, a 7. I'm not
7 sure what that one says, maybe 1. And that's my fingerprint
8 tape that's in place over a developed fingerprint.

9 Q So what are you doing? What does the tape do?

10 A The tape -- basically, when you leave your
11 fingerprint behind, you leave behind residue on something.
12 Our powder will adhere to that residue. And then, this is
13 basically -- it's forensic tape, but it's really just Scotch
14 tape. You put that over the print, and then you can pull it
15 off of there, and that black residue that's adhering to the
16 print is on the tape, and it's placed on a white fingerprint
17 card. So this is just a photo to show the location of those
18 latent prints that I recovered.

19 Q And what's the word "Q card" mean?

20 A I'm sorry?

21 Q What does "Q card" mean?

22 A I don't know.

23 Q Okay. So when you put this tape on something, what
24 do you do with it then?

25 A When it gets put on the latent print card, it gets

1 -- there's a label that's already printed on the card, and
2 it's got the case number, my name and P number, the location,
3 and the area that the fingerprint was pulled off. So these
4 would all say, "Exterior driver's door," and it's got the
5 vehicle information. And then that gets placed into a latent
6 print packet, so basically, it's an evidence envelope that
7 gets sealed, and then that gets sent over to our Latent
8 Fingerprint Detail.

9 Q So, Latent Prints 4 and 5, would they have been
10 impounded into evidence with -- by you and had your P number
11 put on it?

12 A Yes.

13 Q And then that could have been sent to the lab if
14 someone ever wanted to test it?

15 A Yes. I would secure them and send them over to the
16 Latent Print Detail, and then they hold them from then on.

17 Q Do you test it?

18 A I do not.

19 Q Okay. So after you're done at this Dotty's parking
20 lot, do you go with the car back to the CSI lab?

21 A Yes, I followed the car back there.

22 Q Now, I want to show you Exhibit 159. Do you
23 recognize what we're looking at?

24 A I do.

25 Q And I want to turn your attention to that window.

1 What -- what are we seeing there?

2 A The driver's window?

3 Q Yes.

4 A This is just the plastic seal that I put over the
5 window after I processed it, just so that it would secure it
6 up for towing.

7 Q So, now that it's back at the lab, what happens
8 next?

9 A Now that it's back at the lab, you can see the --
10 the seals that we placed on the vehicle, where I talked
11 earlier about sealing the vehicle. And now we're ready to
12 completely process the vehicle and do everything else that we
13 need to do with the vehicle through documenting it with
14 photography and latent print processing.

15 Q Do you do that that night?

16 A No, we did that on the 11th, so two days later.

17 Q Do you wait for a search warrant?

18 A Yes.

19 Q Until you're able to break those seals?

20 A Correct.

21 Q Were those seals intact at the time you broke them?

22 A They were.

23 Q So once you guys execute the search warrant and
24 start documenting what's inside the car, take me through what
25 happens. How does that process work?

1 A It starts out with a photograph like this. So I
2 would have photographed the vehicle, showing it in this state
3 with the seals in place and everything. And then we would
4 photograph -- break the seals, and photograph the entire
5 inside of it.

6 Generally, the order that we work in is we'll do
7 that -- we'll do all the photography first. We'll pull out
8 any evidence, or in this case, I believe we pulled everything
9 out of the car and laid it down on paper on the floor, and
10 photo the contents of the vehicle. And then we'll collect any
11 evidence, or anything that we're going to collect as evidence
12 gets pulled out, and then we usually do the fingerprint
13 processing last.

14 Q You said "we." Who's we?

15 A I worked with another crime scene analyst, Claire
16 Browning.

17 Q And you said you did the fingerprint processing
18 last. Would your fingerprints have been on it? How would you
19 keep your fingerprints from being on it?

20 A No, we are of course wearing gloves and protective
21 gear so that we don't leave any evidence behind.

22 Q So now I want to turn your attention to kind of like
23 inside the car at this point in time; specifically, the glove
24 box. Was there something in the glove box of evidentiary
25 interest to you?

1 A Yes. We had a box of ammunition -- firearms
2 ammunition in the glove box.

3 Q Showing you Exhibit 180. Do you recognize that?

4 A I do. This is the contents of the ammunition box.

5 Q And what kind of ammunition is that?

6 A It's .45 Auto. It's FC, which is Federal, .45 Auto.

7 Q And was there something else related to firearms in
8 the glove box?

9 A I believe there was a firearms box.

10 Q Okay, and is that -- showing you State's Exhibit
11 177, do you recognize that?

12 A Yes, that is the box.

13 Q Okay, and what kind of -- what kind of box is that?

14 A It's an Interarms .45 semiautomatic gun box.

15 Q Now, inside the vehicle, what was -- what was inside
16 the vehicle?

17 A Well, evidentiary-wise, we had a lot of receipts.
18 We recovered a lot of receipts. We did what we call trace
19 acetate lifts or trace evidence lifts on the seats.

20 Q What's that?

21 A A trace evidence lift, sorry, is -- it's a large
22 adhesive -- it's a big piece of Scotch tape that's like
23 eight-and-a-half by 11, and we just use them to -- we tap it.
24 It's kind of like a lint roller effect. We tap it over all of
25 the seats to recover any trace evidence; any hairs or fibers

1 that might be on the seats. So we had that.

2 We did -- also did DNA swabs on all of the door
3 handles, interior and exterior, and then also the steering
4 wheel, the rear-view mirror, and the gear shift, and those are
5 just for any transfer DNA that might be on those items. And
6 then Claire actually did the evidence impound. So it was
7 mostly receipts, the ammunition that you just showed, and
8 clothing; we had shoes that were in the trunk of the vehicle.

9 Q Now, the DNA swabs, where would you do that to and
10 why?

11 A The DNA swabs on a vehicle, we typically will do,
12 like I said, the steering wheel, the rear-view mirror where
13 you would grab the rear-view mirror to adjust the mirror,
14 we'll do the gearshift, and then we do all of the door
15 handles, so every interior door handle and every exterior door
16 handle.

17 Q I want to show you State's Exhibit 191. What is
18 this a photo of and why did you take it?

19 A This is a photo of the right rear of the vehicle,
20 and it's basically just showing the vehicle as -- with the
21 contents as we opened -- as it was when we opened the door.

22 Q And then you guys start taking things out and
23 documenting it?

24 A Correct.

25 Q So, do you see that sweatshirt there --

1 A Yes.

2 Q -- above the trash bag?

3 A Yes.

4 Q So tell me, if I see -- show you Exhibit 187, what
5 happens in between when you see it on the seat to this? What
6 is that?

7 A Normally, the way that we'll -- we'll do evidence is
8 we photo it in place, and then we will pull it out. This is
9 butcher paper that's lying down on the floor of our garage.
10 So we get fresh butcher paper out, we'll lay the item out, and
11 re-photo it for identification purposes.

12 Q Okay. I want to show you some photos in the trunk.
13 193.

14 A We have several -- obviously, several Nike boxes.
15 We've got a red Air Jordan shoe, and then there's a -- there's
16 a lot of other things in there.

17 Q And Exhibit 194, is that just kind of another type
18 view?

19 A Yes, that's a little bit over to the left of the
20 center.

21 Q All right. Did you have some information that those
22 shoes might be of interest?

23 A Yes.

24 Q And so, showing you Exhibit 181.

25 A That's going to be a close-up of one of the pairs of

1 shoes, and it's on the butcher paper now, as you can see in
2 the background.

3 Q And then, why this in 183? What are you doing here?

4 A This is just showing the size. So that's the -- a
5 sticker that's on the -- the insole, showing the size of the
6 shoe.

7 Q And was there more than one type of this shoe?

8 A We had a size 11, and we also had a pair that were
9 size 9.

10 Q So, in Exhibit 184, is that kind of the same shoe,
11 but with --

12 A Yes.

13 Q -- a different size?

14 A Correct.

15 Q And how do you know it's a different size?

16 A The 9 and the -- right in here.

17 Q I want to show you Exhibit 189. At the point in
18 time when you were taking this, did you know why you were
19 taking this, or why was this of interest?

20 A I don't know.

21 Q Okay. And then, showing you Exhibit 195, what are
22 we looking at?

23 A This little spot that is back here, we thought might
24 be a spot of blood, and it -- and it did turn out to be a spot
25 of blood once we did a presumptive test on it.

1 Q What's a presumptive test?

2 A We use a presumptive test called phenolphthalein,
3 and it basically will tell you -- we'll do a small little
4 sample -- take a small little sample with a dampened swab, and
5 then we'll test the swab, and the phenolphthalein will
6 indicate whether it's blood or not.

7 Q Okay. And so then, showing you Exhibit 196, is that
8 a zoomed-in version?

9 A It is.

10 Q Is that your P number?

11 A It is, yes, 5221.

12 Q Okay. So your P number in the photo, does that mean
13 that, when you swabbed that, it would have been impounded
14 under your number, or was it impounded under someone else's?

15 A It was impounded under Claire's -- Claire Browning's
16 P number. She did all the evidence.

17 Q And were there any other areas that you tried to do
18 presumptive blood tests on?

19 A We did. We had some stains on the shoes, both of
20 the pairs of the red shoes that we tested. Those did not come
21 back positive; they were negative. And then we had -- this is
22 on the back of the -- it's on the top of the right front seat.
23 On the interior right rear door, we had a couple of stains,
24 but they were very small, so we just collected those; we did
25 not test them.

1 Q Okay. Would they have been preserved though if
2 someone wanted to test them later?

3 A Yes. And I'm sorry, we also had a red shirt that we
4 tested that was negative as well.

5 Q And Exhibit 201. So now, at this step of the
6 process, what are you doing?

7 A This is kind of the same process I described
8 earlier. We've taken the things out of the trunk and laid
9 them on the butcher paper, and now I'm just kind of
10 photographing them more spread out so that you can see
11 everything.

12 Q All right, I'm going to walk you through kind of a
13 progression of that. 202?

14 A This is another picture kind of going down the line.

15 Q So you just end up going down the line, in like 203,
16 and documenting the various things you took out?

17 A Correct.

18 Q Exhibit 204?

19 A Again, same thing.

20 Q Exhibit 205?

21 A And more of the same.

22 Q And Exhibit 206?

23 A And that's probably the end of it.

24 Q So, after documenting all this, are you present when
25 Ms. Browning begins to process the car for fingerprints, or

1 what are you doing while she's doing that?

2 A Yes, I was present.

3 Q Okay. And does she use a similar type style that
4 you would have used?

5 A She did, yes.

6 Q Once you guys are done documenting everything inside
7 of this, what happens with the car, and then what happens with
8 the evidence that you guys gathered?

9 A The evidence that was gathered, Claire would have
10 processed some of the items. I think -- I can't remember
11 everything that she processed, but she would have processed
12 some of the items for fingerprints, the things that could have
13 been processed. She would have swabbed some of the drink
14 containers for DNA, just like we swabbed the door handles.

15 And then, when we -- when we impound or we recover
16 evidence, it's kind of similar to the fingerprints. We will
17 put it in an interior package that we seal up or staple up
18 with the event number. Claire will put her initials, and P
19 number, and the item number on it.

20 And then, the exterior bag is going to have a label
21 on it that's got a detailed description of exactly what's
22 inside of the bag. That's also going to have the case number,
23 the location. It's going to have Claire's initials and P
24 number; she's going to sign the label. So it's going to have
25 all of the identifiers of the case on that label.

1 And then she's going to seal -- we do what we call
2 seal the evidence, and that's a red piece of tape that's got
3 the Metro stuff on it, and she'll seal it around the -- where
4 she folded over the bag, and then she also initials and writes
5 the date on that, and that shows that the evidence hasn't been
6 tampered with.

7 If the package is opened by somebody after, like a
8 forensics or a latent print examiner, they don't break that
9 seal. They cut the package open, and then they will reseal
10 where they cut the package open so it maintains the integrity
11 of the evidence. And then it will go to the evidence vault at
12 that point.

13 MR. BROOKS: Thank you. Nothing further. Pass the
14 witness.

15 THE COURT: Mr. Sanft?

16 MR. SANFT: No cross, Your Honor.

17 THE COURT: Mr. Ruggeroli?

18 MR. RUGGEROLI: Just one brief question.

19 CROSS-EXAMINATION

20 BY MR. RUGGEROLI:

21 Q I wanted you to just clarify. You did find some
22 evidence of what looked to be potential bloodstains on shoes,
23 but that turned out to be negative; is that correct?

24 A It did.

25 MR. RUGGEROLI: Okay, nothing further. Thank you.

1 THE COURT: Anything else?
2 MR. BROOKS: No, Your Honor.
3 THE COURT: Okay. Thank you very much for your
4 testimony here today. You may step down, and you are excused
5 from your subpoena. You may call your next witness.
6 MR. BROOKS: Your Honor, the State calls Claire
7 Browning.
8 THE MARSHAL: If you'll please step up into the
9 witness stand. Remain standing, raise your right hand, and
10 face the Clerk.
11 CLAIRE BROWNING, STATE'S WITNESS, SWORN
12 THE CLERK: You may be seated. Please state and
13 spell your first and last name for the record.
14 THE WITNESS: My name is Claire Browning. First
15 name is C-l-a-i-r-e. Last name, B-r-o-w-n-i-n-g.
16 DIRECT EXAMINATION
17 BY MR. BROOKS:
18 Q Ms. Browning, how are you employed?
19 A I'm employed as a crime scene analyst with Las Vegas
20 Metropolitan Police Department.
21 Q How long have you been so employed?
22 A A little over four-and-a-half years.
23 Q Did you know the lady who just walked out of the
24 courtroom?
25 A Yes, I do.

1 Q Do you recall an incident that brings us here to
2 court today that you worked with that lady?

3 A Yes.

4 Q So I want to turn your attention to that August 2017
5 time period. How did you first become involved in this
6 investigation?

7 A I was requested to assist on a vehicle that was in
8 the CSI garage that was related to a homicide event.

9 Q So, by the time you get brought on, the vehicle's
10 already in -- at your CSI lab?

11 A That's correct.

12 Q All right. And so, what do you -- what's your first
13 step? How do you guys divide up the labor?

14 A So it was decided that Shawn Fletcher, the last
15 person that testified, she was going to do the photos and the
16 report for this particular incident, and then I was going to
17 collect any latent prints and evidence.

18 Q So what's the first step that you would do then?

19 A So Shawn originally took some photos of the vehicle
20 to show it in the original condition, to include the seals
21 that were affixed on the exterior of the vehicle. We then cut
22 the seals open, and she can photograph all of the interior of
23 the vehicle to show where all of the items of evidence and all
24 the contents, where they were for their original location.

25 Q And then, what is kind of the first step that you

1 would be involved in?

2 A So the first step that I would be involved in, I
3 believe that we latent print processed the exterior of the
4 vehicle, and we pulled all of the items out of the vehicle to
5 see what was pertinent to the case that we were working.

6 Q What's an acetate trace lift?

7 A So an acetate trace lift, it's actually -- think of
8 it as like a really big, sticky sheet of paper. It's clear
9 plastic. We can use it to pick up any trace evidence that
10 might be on the surface. So in this case, we used trace lifts
11 on the seats of the vehicle. We then adhere it to just a
12 piece of clear vinyl -- or, sorry, not clear vinyl -- white
13 vinyl, and submit it for evidence.

14 Q And when you guys swabbed the car for DNA, would
15 that have been impounded under your event number?

16 A It would have been --

17 Q Or, sorry, P number?

18 A Yes. It would have been impounded under my P
19 number.

20 Q And were there three specific things that appeared
21 to be, like, blood?

22 A There were some areas that did appear to be blood,
23 and one area actually tested positive for blood.

24 Q And when you say tested positive, what -- what test?

25 A We did a phenolphthalein presumptive test. It's

1 just a test that could point towards the stain that we found
2 being blood. It's not 100 percent clear-cut, but more than
3 likely, it would be blood.

4 Q And do you recall where that was?

5 A The area that we tested was on the right side of the
6 right front seat back.

7 Q Showing you Exhibit 195, do you recognize that?

8 A Yes, this is the stain that I was talking about.

9 Q And would that have -- what's your P number?

10 A My P number is 15291.

11 Q Would you have impounded that with your P number?

12 A Yes.

13 Q Was that in Package 3, Item 15?

14 A I believe so, yes.

15 Q Were there two other areas of interest that looked
16 similar to that?

17 A Yes. The areas were too small to actually
18 presumptively test, but we did collect them, and they did
19 appear to be blood. They were located on the interior side of
20 the right rear door. I believe it was on the armrest, and
21 then on the interior panel near the handle.

22 Q So showing you Exhibit 199, do you kind of see that
23 from here, or do you want me to give you a closer view?

24 A Yes, I can see it.

25 Q Okay. And so would those have been impounded under

1 your P number in that Package 3, Item 16 and 17?

2 A I believe so, yes.

3 Q Now, let's move to the print processing. Were you
4 the person who did the print processing?

5 A Yeah, I did the majority of the processing on the
6 vehicle. The only area that I personally did not process
7 myself was the, sorry, exterior side of the left front door.
8 I believe that CSA Fletcher had already done that when she had
9 towed the vehicle. But we processed -- or, sorry. I
10 processed the interior and exterior sides of all doors,
11 windows, the hood, the trunk, and several items that were
12 located inside the vehicle.

13 Q All right, I want to walk you through some of those.
14 Forgive me, you guys took a lot of photos here. So I'm going
15 to turn your attention to Latent Print 6 first, so Exhibit
16 164. Where is Latent Print 6, and how would that have been
17 impounded?

18 A So Latent Print 6 looks like it's on the exterior
19 right rear quarter panel, or what's kind of the, I guess, C
20 frame of the vehicle. When we impound a latent print lift, we
21 actually -- if you see the tape here, we peel that piece of
22 tape off of the surface and apply it to a piece of white
23 cardstock so that we can visualize the print.

24 We then label it with the event number, it would be
25 my name and P number, the date that we collected it, what

1 surface we collected it from, and then that designator, so
2 LP6, or Latent Print 6. We then -- for all of the prints that
3 we end up getting, we submit them in a latent print envelope,
4 which details the same information that the card has, and seal
5 it, impound it, and give it to the Latent Print Detail.

6 Q And just so we don't have to go through that step on
7 each one, all the prints that I'm about to talk about, do you
8 do the same thing individually with those prints?

9 A Yes, we do.

10 Q Are some of these fingerprints and some of these
11 palm prints?

12 A I believe so, yeah.

13 Q How do you decide, you know, what to pull?

14 A So there are certain specifications to what we take.
15 Typically, there's got to be a certain number of points in
16 ridge detail that we can identify. There can be a delta --
17 I'm not a latent print examiner, and I'm not an expert by any
18 means, but we look for certain details that are within the
19 print.

20 Q So, Latent Print 13 in Exhibit 165, let me see if I
21 can zoom-in to help you with the number. Do you see it?
22 Wait.

23 A Sorry, repeat the -- the number.

24 Q Latent Print 13, do you see it there?

25 A Oh, 13. Yes, it's on the exterior side of that

1 window.

2 Q And is that the back passenger?

3 A Yes, it is.

4 Q Showing you Exhibit 166, Latent Print 16. Do you
5 see it there?

6 A 16 appears to be at the top edge of the right front
7 window.

8 Q Now, is there also a Latent Print 19? Do you want
9 me to back out of there?

10 A It looks like it's actually on that -- that bottom
11 edge of the window.

12 Q So that's the one on the bottom edge here?

13 A Yes, that's correct.

14 Q Latent Print 20 on Exhibit 167. Do you see it
15 there?

16 A Yes. It looks like it's going to be on the frame of
17 the right front door.

18 Q And where is Latent Print 23 now in Exhibit 169?

19 A It looks like this is the front hood of the vehicle.

20 Q So we've kind of been going up in numbers, and
21 working our way how on the car? How did you do it?

22 A It's hard to say, but based off of the direction
23 that the prints appear to be going, we would have numbered it
24 from the right rear side of the vehicle, around towards the
25 front, towards the left side of the vehicle.

1 Q I'm going to show you kind of a group of different
2 photos -- or I'm going to ask on a group of different prints
3 now. Showing you Exhibit 170. Can you use that mouse in
4 front of you and help identify for us Latent Print 27?

5 A This appears to be Latent Print 27.

6 Q Let me see. Okay, and Latent Print 28?

7 A Is right next to it.

8 Q Latent Print 29?

9 A I believe it's this one.

10 Q And 30?

11 A Latent Print 30 is this one.

12 Q 31?

13 A If I can read it correctly, I believe it's this one
14 right here.

15 Q Okay, and let me show you Exhibit 171. Can you kind
16 of see some of the areas that we were just looking at when we
17 were talking about 31, 29, and 30?

18 A Yes.

19 Q Now, I want to ask you where 32, 33, and 34 are.

20 A These are these three prints right here.

21 Q Right. And showing you Exhibit 172. Do you see
22 where 34 and 35 are?

23 A I believe this is 35, and then -- I feel like my
24 eyesight is failing me. I can't see where 34 is. Oh, 34 is
25 this one right here.

1 Q 37? Do you want me to back -- back out?
2 A You're good. 37 is right here. I just --
3 Q All right.
4 A I think this is still the front hood.
5 Q And were we all -- we're still on the hood for all
6 those, right?
7 A Yes.
8 Q And was the car this dirty, or did you make it that
9 dirty?
10 A I made it that dirty. That is the latent print
11 powder that we were using.
12 Q And I promise, just a last couple. Latent Print 43?
13 A 43 appears to be on the top frame of -- this looks
14 to be the left rear door.
15 Q And do we see 44 in this photo?
16 A I believe this one is 44 on the door -- or, sorry,
17 not the door; on the window.
18 Q Now, were there things that you processed for prints
19 that didn't involve this type of processing that returned
20 negative results?
21 A We actually did powder processing on all the items
22 that we did process. Several of those items were located
23 inside the vehicle, so we processed water bottles, there was a
24 gun box, cigarillo wrappers, things of that nature.
25 MR. BROOKS: Thank you, Your Honor. Pass the

1 witness.

2 THE COURT: Cross-examination?

3 MR. SANFT: No cross, Your Honor.

4 MR. RUGGEROLI: I have no questions. Thank you.

5 THE COURT: Okay. Thank you very much for your
6 testimony here today. You may step down. You are excused
7 from your subpoena.

8 MR. PESCI: Can I approach?

9 THE COURT: Yeah.

10 MR. PESCI: Can we approach?
11 (Bench conference)

12 THE COURT: Is this where you want to call DeShawn?

13 MR. PESCI: Yeah. Yeah, so I don't know if you
14 wanted to take a break.

15 THE COURT: Okay, yeah, we'll take a break.
16 (End of bench conference)

17 THE COURT: Okay. At this time, ladies and
18 gentlemen, we're going to take a short recess.

19 During this recess, you're admonished not to talk or
20 converse amongst yourselves or with anyone else on any subject
21 connected with this trial, or read, watch, or listen to any
22 report of or commentary on the trial, or any person connected
23 with this trial, by any medium of information, including,
24 without limitation, newspapers, television, the internet, or
25 radio, or form or express any opinion on any subject connected

1 with this trial until the case is finally submitted to you.

2 We'll be in recess for at least the next 15 minutes.

3 Thank you.

4 THE MARSHAL: Thank you. All rise for the exiting
5 jury, please. Jurors.

6 (Outside the presence of the jurors at 10:29 a.m.)

7 THE COURT: Okay, the record will reflect that the
8 hearing is taking place outside the presence of the jury
9 panel.

10 MR. PESCI: If I can just make a quick record, Your
11 Honor.

12 THE COURT: Sure.

13 MR. PESCI: During the testimony of Detective Lora
14 Cody, there was evidence admitted regarding the registration
15 of the vehicle, and specifically, it's under the name of James
16 Newman. I was concerned and didn't want there to be the
17 appearance that somehow this was a stolen vehicle because it
18 comes back as the registered owner being James Newman.

19 So I briefly conferred with defense counsel. They
20 agreed with the concept of me utilizing some hearsay evidence
21 to establish that it actually had been sold to DeMario
22 Lofton-Robinson so there was no appearance of some sort of
23 other bad act because of the car being in someone else's name.

24 MR. SANFT: That is correct, Your Honor.

25 MR. RUGGEROLI: Correct.

1 THE COURT: Okay. And we're bringing in DeShawn
2 Robinson, correct? He's here?
3 MR. PESCI: Correct. Yes.
4 THE COURT: Okay.
5 MR. PESCI: That's what I'm told.
6 MR. SANFT: Yeah.
7 THE COURT: Do we have to settle these issues, or
8 did we agree that these exhibits, we would be able to resolve
9 that later? The actual exhibits. That's my concern, because
10 I don't know, Mr. Ruggeroli, if you're going to want to
11 actually use the exhibit.
12 MR. RUGGEROLI: We have multiple exhibits. The only
13 one that I -- I don't know if I would use any right now.
14 THE COURT: The Agreement to Testify.
15 MR. RUGGEROLI: Yeah, I'm not going to use that
16 right now because I know --
17 THE COURT: Okay.
18 MR. RUGGEROLI: -- that it needs to be worked on.
19 THE COURT: Okay.
20 MR. RUGGEROLI: I think you were going to let us
21 know after you had a chance to read the canvass of the entry
22 of plea. And so, at this time, I can't display it, obviously,
23 until you make a ruling on that.
24 THE COURT: And you want to actually admit this?
25 MR. RUGGEROLI: I do. So, it's Defense Proposed A1.

1 THE COURT: Okay. And you've read it in its
2 entirety? Okay, because I'm concerned about page 12, some of
3 the things that I say.

4 MR. SANFT: Yeah.

5 THE COURT: I just want to make sure that -- I mean,
6 page 12 when I say, "And you understand that you'll be
7 testifying in front of this Court, and this Court would also
8 be the one that would probably most likely sentence you, and
9 that I'll have an opportunity to hear how you testify?"

10 MR. RUGGEROLI: Yes.

11 THE COURT: I mean --

12 MR. RUGGEROLI: I know. I did read it, and there's
13 also some other portions on page 12. I --

14 THE COURT: Yeah.

15 MR. RUGGEROLI: I've made my argument.

16 THE COURT: "And you understand the importance of
17 agreeing to testify truthfully, and if the State believes you
18 didn't testify truthfully, it could be used against you and
19 they could argue for a more harsh penalty?" I mean, those are
20 all coming from me.

21 MR. RUGGEROLI: That's true, Judge. I just think
22 that it helps -- it's all true, and because of that, I think
23 that it did play a role in his decision-making, which then
24 should be subject to cross-examination so that we can do our
25 job and attack his credibility and motive.

1 The motive that we're going to be suggesting is that
2 he has received a tremendous benefit, despite the fact that
3 he's denied and did not admit to being involved in any
4 conspiracy; but that he is obligated, in order to receive the
5 benefits of that agreement, to testify. And so, I've asked
6 that that exhibit be admitted.

7 THE COURT: Okay. And on page 8, line 20, it says
8 that on -- that the State would prove that on August 19th -- I
9 think Mr. Pesci meant August 9th.

10 MR. PESCI: Yes.

11 THE COURT: So, again, I just want to make sure you
12 want this in, I mean, because they would be able to read the
13 things that I said to Mr. Robinson as well.

14 MR. RUGGEROLI: Yes, I don't have the desire to
15 redact it. I think it would pretty much be impossible, and it
16 would destroy the context of his answers.

17 MR. PESCI: And Judge, the State's only request is,
18 as you pointed out, I'm not sure if it's misspeaking or the
19 transcription, but obviously, it's 9th.

20 THE COURT: Right.

21 MR. PESCI: So I would ask just that the "1" be
22 redacted.

23 THE COURT: Oh, yeah, we could just do that, right?

24 MR. PESCI: We could do Wite-Out.

25 THE COURT: It's -- do I have the actual exhibit?

1 THE CLERK: Um-hum.

2 THE COURT: Oh, I have the actual one? Oh, I'm so
3 glad I didn't write on it. Oh. Okay, so you just want me to
4 White-Out the "1"?

5 MR. PESCI: Yes, please.

6 THE COURT: Okay.

7 MR. RUGGEROLI: And Judge, just another matter of
8 clarification, if I may.

9 THE COURT: It's line 20 on page 8. It says,
10 "19th." It's supposed to be the 9th.

11 MR. RUGGEROLI: As to Mr. Pesci's point about they
12 did not present all the evidence that they even had at their
13 disposal --

14 THE COURT: Uh-huh.

15 MR. RUGGEROLI: -- at the time, I expressed my -- I
16 do not intend in any way to say, oh, hey, this is all the
17 State had. But also, on page 8, Mr. Pesci did reference the
18 fact that they were incorporating the grand jury transcripts.

19 THE COURT: Grand jury. Um-hum.

20 MR. RUGGEROLI: I don't want the grand jury
21 transcripts to come in, but I think that that would -- and I'm
22 not going to do it, but even if I unintentionally said
23 something, the State could then point out, hey, look, we
24 incorporated this voluminous document, which is the grand jury
25 transcripts, by reference to this plea, and that contained,

1 you know, a lot more specificity and information.

2 But I don't want the grand jury transcripts
3 introduced at all. Just in order to address the State's
4 concern that I would somehow suggest that the only evidence
5 that they had was what Mr. Pesci relayed, they also had the
6 grand jury, even based on the information that was presented
7 in the canvass.

8 THE COURT: And he actually incorporated it --

9 MR. RUGGEROLI: Yes.

10 THE COURT: -- into the transcript.

11 MR. RUGGEROLI: Yes. And I did want to clarify that
12 I don't want to incorporate it into the proposed exhibit.

13 THE COURT: Of course you don't. Mr. Sanft, I just
14 want to make sure you don't have any objection.

15 MR. SANFT: No, Your Honor. Thank you.

16 THE COURT: Okay, and the State has stated all of
17 theirs?

18 MR. PESCI: Yes, Judge. I mean, it depends on what
19 he argues that I might do something from that. So I don't
20 know how he's eventually going to argue that, but my intent is
21 not to say, "I now move to admit the entire grand jury
22 transcript," because it has the other crimes that had been
23 excised out.

24 THE COURT: Okay. So I'm going to allow it, so I
25 can admit it right now. Al.

1 (Defense Exhibit A1 is admitted)
2 THE COURT: Is there anything else before -- because
3 Officer Hawkes is going to have to get that witness in here
4 and get him ready.
5 MR. PESCI: I don't think so.
6 MR. SANFT: Yes, Your Honor.
7 THE COURT: And I saw his attorney, so Mr. Evans is
8 here, right?
9 THE MARSHAL: He's back in the back with him.
10 THE COURT: Okay.
11 MR. PESCI: Yes.
12 THE MARSHAL: Yeah.
13 THE COURT: So we'll just take about ten minutes --
14 MR. RUGGEROLI: Thank you, Judge.
15 THE COURT: -- and then we can get the witness
16 ready.
17 MR. PESCI: Thank you, Your Honor.
18 (Court recessed at 10:36 A.M. until 10:51 A.M.)
19 (Outside the presence of the jurors)
20 THE MARSHAL: Please come to order. Court is now in
21 session.
22 THE COURT: Okay, can we bring the panel in? Bring
23 them in.
24 THE MARSHAL: All rise for the entering jury,
25 please. Oh.

1 (Pause in the proceedings)

2 MR. RUGGEROLI: Your Honor, as we're waiting, I

3 would like to invoke the exclusionary rule. I don't expect

4 anybody's a witness, but in case --

5 THE COURT: Okay, just a minute.

6 THE MARSHAL: All rise for entering jury.

7 THE COURT: Just will you hold Hawkes just for a

8 moment? Okay. You're invoking the exclusionary rule?

9 MR. RUGGEROLI: Yes.

10 THE COURT: Are there any witnesses in here?

11 MR. RUGGEROLI: I don't think so; I'm just being

12 cautious.

13 THE COURT: Okay.

14 MR. PESCI: No. The State's invoking the same

15 thing, and we have been since the beginning.

16 THE COURT: Okay.

17 MR. PESCI: So I don't know -- everybody that's over

18 here, they are not going to testify because they've been in

19 here the whole trial.

20 MR. RUGGEROLI: Correct.

21 THE COURT: And -- because I don't know everybody in

22 the courtroom, so I just -- I'll rely on the attorneys, okay?

23 Sorry about that.

24 THE MARSHAL: No problem.

25 THE COURT: And I also want the record to reflect

1 that Mr. Robinson's attorney, Mr. Evans, is present in the
2 courtroom.

3 MR. PESCI: Thank you, Your Honor. That's what I
4 was just going to say, and we also have some other individuals
5 from the juvenile detention facility. So I'm not sure maybe
6 if that was the concern, but they are associated with the --
7 they have to have someone here with him --

8 THE COURT: Yeah.

9 MR. PESCI: -- because he's in custody.

10 THE COURT: That's fine. Okay, anything else before
11 we bring them in?

12 MR. RUGGEROLI: No, Judge.

13 THE COURT: Okay, thank you. Mr. Evans, you're okay
14 with where you're sitting?

15 MR. EVANS: Yeah, I'm fine. I'm fine here, Judge.
16 If you'd prefer, I'll move somewhere else, but --

17 THE COURT: No, it's your pleasure.

18 MR. EVANS: -- I'm comfortable here and it's a
19 little crowded up there.

20 THE COURT: Okay.

21 MR. EVANS: All right.

22 THE COURT: You can bring them in.

23 THE MARSHAL: Okay, we're ready to roll. All rise
24 for the entering jury.

25 (Within the presence of the jurors at 10:55 a.m.)

1 THE COURT: Does the State stipulate to the presence
2 of the panel?
3 THE MARSHAL: Thank you, everyone. Please be
4 seated.
5 THE COURT: Mr. Pesci, do you stipulate to the
6 presence?
7 MR. PESCI: Yes, Your Honor. Thank you.
8 THE COURT: Mr. Sanft?
9 MR. SANFT: Yes, Your Honor.
10 THE COURT: Mr. Ruggeroli?
11 MR. RUGGEROLI: Yes, Your Honor.
12 THE COURT: Okay. The State of Nevada may call
13 their next witness.
14 MR. BROOKS: Your Honor, the State calls DeShawn
15 Robinson.
16 THE COURT: Mr. Robinson, if you don't mind
17 standing, facing the Clerk, raising your right hand so you can
18 be sworn in. She's over here, Mr. Robinson.
19 DESHAWN ROBINSON, STATE'S WITNESS, SWORN
20 THE CLERK: You may be seated. Please state and
21 spell your first and last name for the record.
22 THE WITNESS: DeShawn Robinson. D-e-s-h-a-w-n.
23 Robinson, R-o-b-i-n-s-o-n.
24 DIRECT EXAMINATION
25 BY MR. BROOKS:

1 Q Mr. Robinson, can I call you DeShawn?
2 A Yes, sir.
3 Q DeShawn, how old are you?
4 A 17.
5 Q And I see you have a handcuff on. Where did you
6 come from today?
7 A Summit View Center.
8 Q Where is that?
9 A I don't know where it's located.
10 Q Is it here in Las Vegas though?
11 A Yes, sir.
12 Q Okay. And I want to turn your attention back to
13 like that 2017 time frame. Can we talk about that time frame?
14 A Yes, sir.
15 Q How old were you then?
16 A 14.
17 Q And were you in high school or were you going into
18 high school?
19 A Going into high school.
20 Q Which high school?
21 A I was out when summertime was -- so I didn't get to
22 sign up for school or anything.
23 Q Oh, I guess I should have worded it better. Which
24 one were you zoned for? Where would you have gone?
25 A I would have gone to Desert Pines High School.

1 Q Desert Pines? And where were you living back then?
2 A I was living with my brother and his girlfriend.
3 Q And what's your brother's name?
4 A DeMario Lofton-Robinson.
5 Q And do you sometimes refer to him by something else?
6 A Yes, sir.
7 Q What do you call him?
8 A DJ.
9 Q DJ? What's DJ short for?
10 A DeMario Lofton -- it's short for DeMario, Jr.
11 because --
12 Q Oh, he's a Junior?
13 A Yes, sir.
14 Q Okay. And where was your -- did you guys have the
15 same mom or same dad? Which one?
16 A Same mom.
17 Q Same mom? And where did she live?
18 A She lived in Texas.
19 Q Did you ever get the chance to kind of go visit her?
20 A Yeah.
21 Q Back before this time frame that we're talking
22 about, had you recently visited her?
23 A Yeah.
24 Q What part of Texas; do you know?
25 A Arlington, Texas.

1 Q And in this 2017 time frame, who were you living
2 with then? Whose house?
3 A I was living with my brother's girlfriend.
4 Q Brother's girlfriend?
5 A Yes, sir.
6 Q Who -- where was your dad living?
7 A I don't know.
8 Q Okay. Do you know if he's in Nevada?
9 A Yeah.
10 Q He's in Nevada. And did you have any other family
11 here in Las Vegas?
12 A My grandma.
13 Q What was her name?
14 A Barbara Barnett (phonetic).
15 Q Where was she -- what was her address?
16 A 919 Bagpipe Court.
17 Q Is that North Las Vegas area?
18 A Yes, sir.
19 Q Did you sometimes stay there?
20 A Yeah.
21 Q Did DJ sometimes stay there?
22 A Yeah.
23 Q Who else lived there?
24 A My grandma, my other brother Adrian, and my sister
25 Nicky (phonetic).

1 Q Does Nicky have another name?
2 A Her first name, DeAndra (phonetic).
3 Q DeAndra? And is she -- is there something special
4 between her and DeMario?
5 A Twins.
6 Q Identical or fraternal?
7 A Identical.
8 Q And so who's the oldest in the family?
9 A My brother, Anthony.
10 Q Anthony? And then who?
11 A Then, Adrian.
12 Q And then who?
13 A My brother, DeMario.
14 Q And then you?
15 A Yes, I'm the youngest.
16 Q You're the youngest? Okay. And what was DeMario or
17 DJ -- I might switch back and forth, sorry. What was
18 DeMario's girlfriend's name?
19 A Katara (phonetic)
20 Q Katara?
21 A Um-hum.
22 Q And did you have a girlfriend at the time?
23 A Yes, sir.
24 Q What was her name?
25 A Aja (phonetic).

1 Q Aja. Primarily, did you guys keep your clothing and
2 sleep at your grandmother's house?

3 A No, she actually kicked us out, so we were living
4 out of his car.

5 Q So if you didn't come out -- come home at night, or
6 if you were, you know, mouthing off, would she tell you --

7 A Yeah.

8 Q Now, I want to kind of specifically turn your
9 attention to like August 9th, 2017. Do you recall an incident
10 that brings us here to court today?

11 A Yes, sir.

12 Q About a week before that, did your brother buy
13 something new?

14 A Yes, sir.

15 Q What did he -- what did he get?

16 A Clothes, shoes.

17 Q Oh, sorry. Did he get a vehicle, I meant?

18 A Yes, sir.

19 Q What kind?

20 A A Grand Marquis.

21 Q What color?

22 A White.

23 Q Would you recognize it if I showed you a photo?

24 A Yes, sir.

25 MR. BROOKS: Your Honor, permission to publish

1 exhibits that have been admitted?

2 THE COURT: You may.

3 BY MR. BROOKS:

4 Q Exhibit 150. Do you recognize that, DeShawn?

5 A Yes, sir.

6 Q And is that the car that your brother had just

7 bought a week before?

8 A Yes, sir.

9 Q And when I say week before, I mean that August 9th

10 time frame.

11 A Yes, sir.

12 Q Had you been inside it?

13 A Yeah.

14 Q Did your brother take you places?

15 A Yeah.

16 Q I want to show you kind of like a view in the back.

17 Exhibit 191. Do you recognize the back seat there?

18 A Yes, sir.

19 Q What is -- what kind of stuff's back there? Do you

20 know?

21 A A black bag, a sweater.

22 Q Had you seen that sweater before?

23 A Yeah.

24 Q Do you know what kind of brand it is?

25 A No, sir.

1 Q I want to show you Exhibit 215. DeShawn, do you
2 recognize what's in this photo?

3 A Yes, sir.

4 Q What is it?

5 A My grandmother's house.

6 Q So this is that 919 Bagpipe?

7 A Yes, sir.

8 Q All right, I'm going to take you through a couple
9 photos. Tell me what we're looking at with regard to this
10 house. 216. What do we see?

11 A The front door.

12 Q 217?

13 A The upstairs.

14 Q And then, tell me what's down this hallway in 218.

15 A It's a room -- it's two rooms and a bathroom.

16 Q Okay. DeShawn, with your right hand, you see that
17 mouse right there?

18 A Yes, sir.

19 Q If you could just -- I'll give you a zoomed-in
20 version of that photo, so 219. Tell me whose room's who.

21 A This is my brother Anthony's room right here.

22 Q Okay.

23 A And this is my sister's room.

24 Q Did you sometimes -- did you get along with Anthony?

25 A Yes, sir.

1 Q And did you get along with your sister?
2 A Yes, sir.
3 Q Who were you closest with though?
4 A My sister.
5 Q And between Anthony and DeMario, who were you
6 closest with?
7 A DeMario.
8 Q I want to show you a photo.
9 MR. BROOKS: Permission to approach, Your Honor?
10 THE COURT: You may.
11 BY MR. BROOKS:
12 Q DeShawn, I want you to look at State's Proposed
13 Exhibits 144, 145, 146, 147, and 148.
14 A Yes, sir.
15 Q Do you recognize who's pictured in these photos?
16 A Yes, sir.
17 Q Who is it?
18 A My brother.
19 Q And would these have been taken a couple years back
20 around August 2017?
21 A Yes, sir.
22 Q And when you say your brother, who -- what -- who
23 specifically?
24 A My brother, DeMario.
25 Q DeMario Lofton-Robinson?

1 A Yes, sir.

2 MR. BROOKS: Your Honor, State moves for admission

3 of these particular exhibits.

4 MR. SANFT: No objection, Your Honor.

5 MR. RUGGEROLI: No objection.

6 THE COURT: They're admitted.

7 (State's Exhibits 144 through 148 are admitted)

8 BY MR. BROOKS:

9 Q DeShawn, I want to show you Exhibit 144. Is that

10 DJ?

11 A Yes, sir.

12 Q And in 145, is that also DJ?

13 A Yes, sir.

14 Q How tall was he?

15 A At least 5'9.

16 Q Okay. And do you recall back then whether he was

17 taller than you, or?

18 A About the same height.

19 Q About the same height? And now who's taller?

20 A I do not know. I don't know.

21 Q I want to show you --

22 MR. BROOKS: Permission to approach, Your Honor?

23 THE COURT: You may.

24 BY MR. BROOKS:

25 Q DeShawn, I want to show you State's Proposed

1 Exhibits 130 through 134. Do you recognize who's pictured in
2 these photographs?

3 A Yes, sir.

4 Q Who is it?

5 A Me.

6 MR. BROOKS: Your Honor, State moves for admission
7 of those particular exhibits.

8 MR. SANFT: No objection.

9 MR. RUGGEROLI: No objection.

10 THE COURT: They're admitted.

11 (State's Exhibits 130 through 134 are admitted)

12 MR. BROOKS: DeShawn -- permission to publish, Your
13 Honor?

14 THE COURT: You may.

15 BY MR. BROOKS:

16 Q DeShawn, showing you Exhibit 130, do you recognize
17 yourself there?

18 A Yes, sir.

19 Q How old were you?

20 A 14.

21 Q And was this taken August 2017?

22 A Yes, sir.

23 Q Was it taken at a police station?

24 A Yes, sir.

25 Q Have you since grown?

1 A Yes, sir.

2 Q DeShawn, when this was taken, did officers also take
3 your cell phone from you?

4 A Yes, sir.

5 Q Now, I want to go back to kind of when we were
6 talking about the car. Do you remember when we were talking
7 about the vehicle?

8 A Yes, sir.

9 Q And I showed you a photo?

10 A Yes, sir.

11 Q I want to show you State's Exhibit 325. Do you see
12 the vehicle that you pointed out in this photograph?

13 A Yes, sir.

14 Q Could you take that mouse for us and point which
15 one? Do you remember which night this was?

16 A Yes, sir.

17 Q And do you remember where you were seated inside
18 that car?

19 A Yes, sir.

20 Q Where?

21 A Right behind the passenger side.

22 Q Behind the passenger side?

23 A Yes, sir.

24 Q So, I want to show you Exhibit 195. Do you see kind
25 of a marking on that seat?

1 A Yes, sir.
2 Q Do you remember that?
3 A No, sir.
4 Q No? Okay. Would you have been sitting behind that
5 seat though?
6 A Yes, sir.
7 Q Now, DeShawn, I want to show you a couple photos
8 from the trunk of that car, okay?
9 A Yes, sir.
10 Q Exhibit 194. Do you recognize that?
11 A Yes, sir.
12 Q And were some of those items in the back of the car
13 yours?
14 A Yes, sir.
15 Q So remember how, earlier, I asked that bad question?
16 I said, you know, did your brother buy some stuff a week
17 earlier, and you said, yes, some clothes?
18 A Yes.
19 Q Okay, and I meant the vehicle, but did he buy some
20 shoes?
21 A Yes, sir.
22 Q Did you get some shoes?
23 A Yes, sir.
24 Q Did you guys get the same shoes?
25 A Um-hum.

1 Q Do you recall what kind?
2 THE COURT: Is that a yes?
3 THE WITNESS: Yes, sir.
4 THE COURT: Thank you.
5 THE WITNESS: Yes, ma'am.
6 BY MR. BROOKS:
7 Q Do you recall what kind?
8 A I can't remember the name.
9 Q Were they Reeboks, Adidas, Nikes?
10 A No, they were Jordans.
11 Q Jordans? Okay. So, showing you Exhibit 181, do you
12 recognize those?
13 A Yes, sir.
14 Q And I'm going to show you Exhibit 182. Is that just
15 kind of like a side shot?
16 A Yes, sir.
17 Q So I'm going to show you two different ones, because
18 there are two different pairs in that trunk, and I want you to
19 explain something to me.
20 MR. BROOKS: So showing you two different photos,
21 Your Honor, at the same time, 186 and 183.
22 BY MR. BROOKS:
23 Q DeShawn, there's a size 9 and a size 11. Whose was
24 whose?
25 A The size 9 was my brother's, and the size 11 was

1 mine.

2 Q So you were the bigger one?

3 A Yes, sir.

4 Q Okay. And do you remember wearing those shoes on

5 the night that we're talking about?

6 A Yes, sir.

7 Q DeShawn, I want to ask about a convenience store.

8 Do you remember a convenience store?

9 A Yes, sir.

10 Q All right. Do you recall going into it?

11 A Yes, sir.

12 Q Do you remember what you were wearing?

13 A A black shirt, believe black Levis, and the shoes in

14 the picture.

15 Q Who were you with?

16 A My brother.

17 Q And do you remember what your brother was wearing?

18 A No, sir.

19 Q Okay. Would you be able to recognize him if I

20 showed you a photo?

21 A Yes, sir.

22 Q I want to show you Exhibit 320. Do you recognize

23 that?

24 A Yes, sir.

25 Q Do you see anyone in there that we just talked