

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. 11 OF 14)

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1361 Babbling Brook Court
Mesquite, Nevada 89034
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Attorneys for Appellant

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JURY TRIAL (DAY 3)-RT	02-13-2020	1727	007
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JURY TRIAL (DAY 4)-RT	02-14-2020	2121	009
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MARKED EXHIBIT

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MARK # CASE





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Ex: 1

Se: 23/20

Im: 1/1

Mag: 0.7x

Lat: U

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VALENZUELA, GABRIEL

M 17-08259

Acc:

2017 Aug 09

Acq Tm: 09:49:11.223

Lin:DCM / Lin:DCM / Id:ID
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MARKED RE-EXHIBIT

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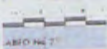


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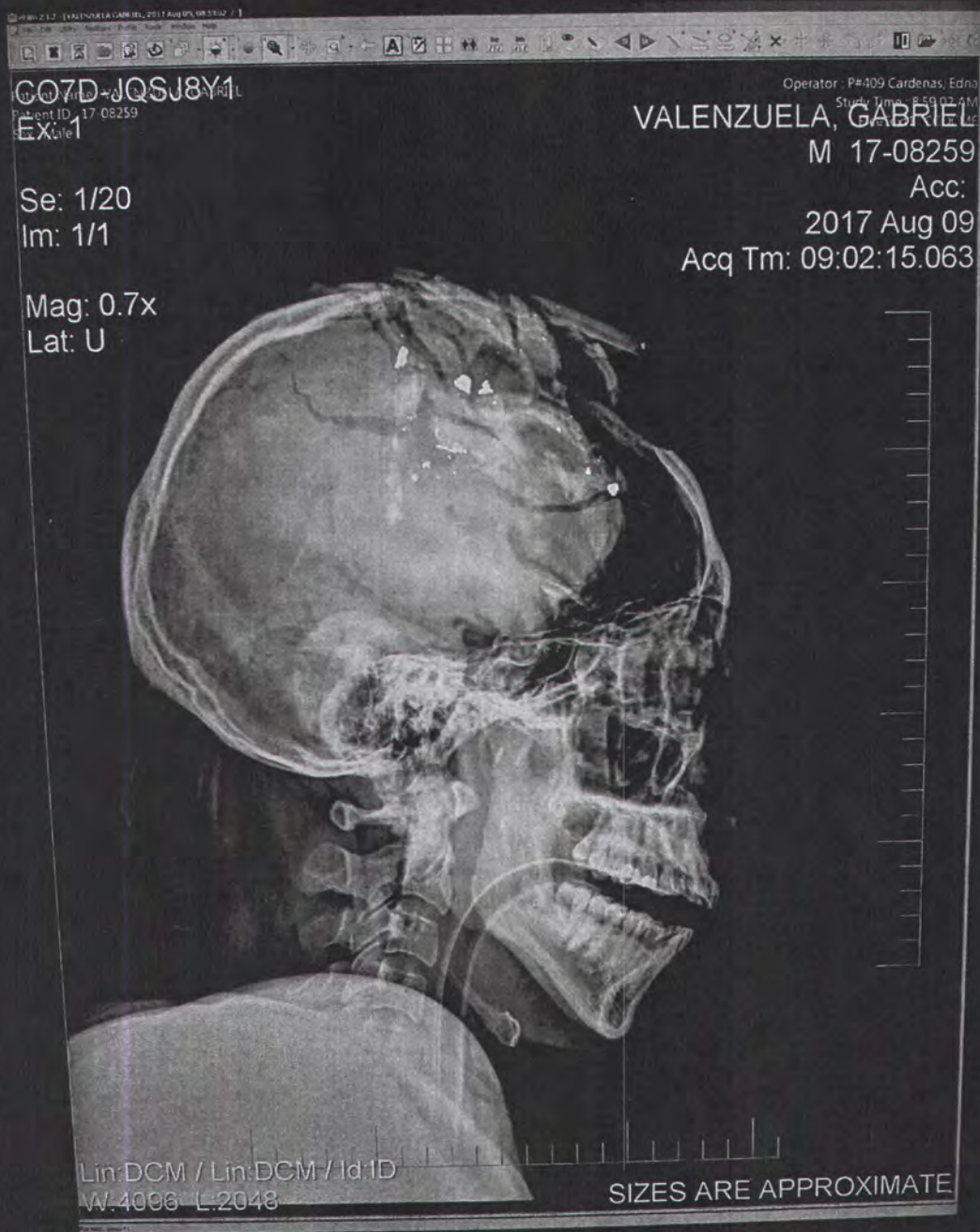
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Mag: 0.6x

Lat: L

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Acc:

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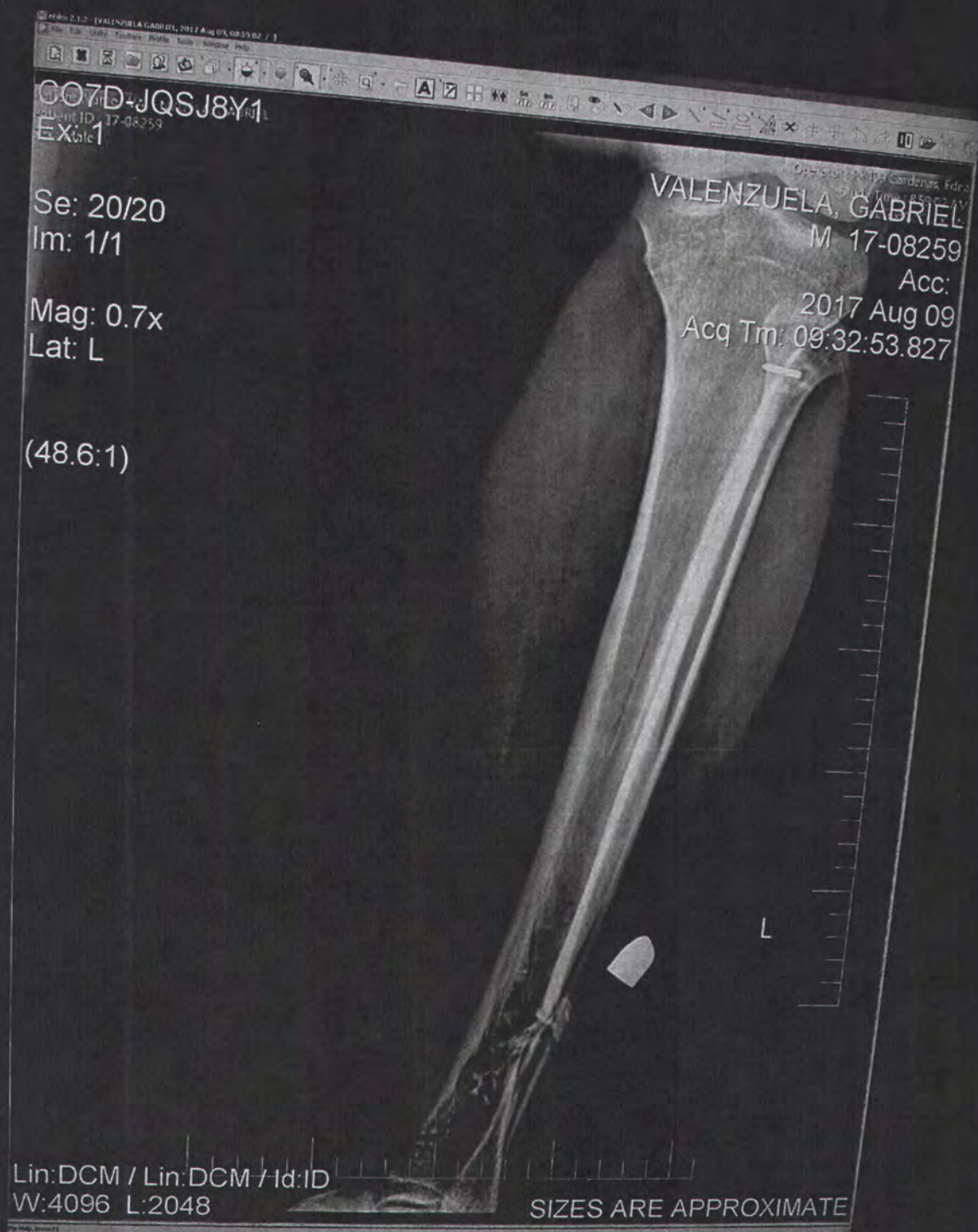
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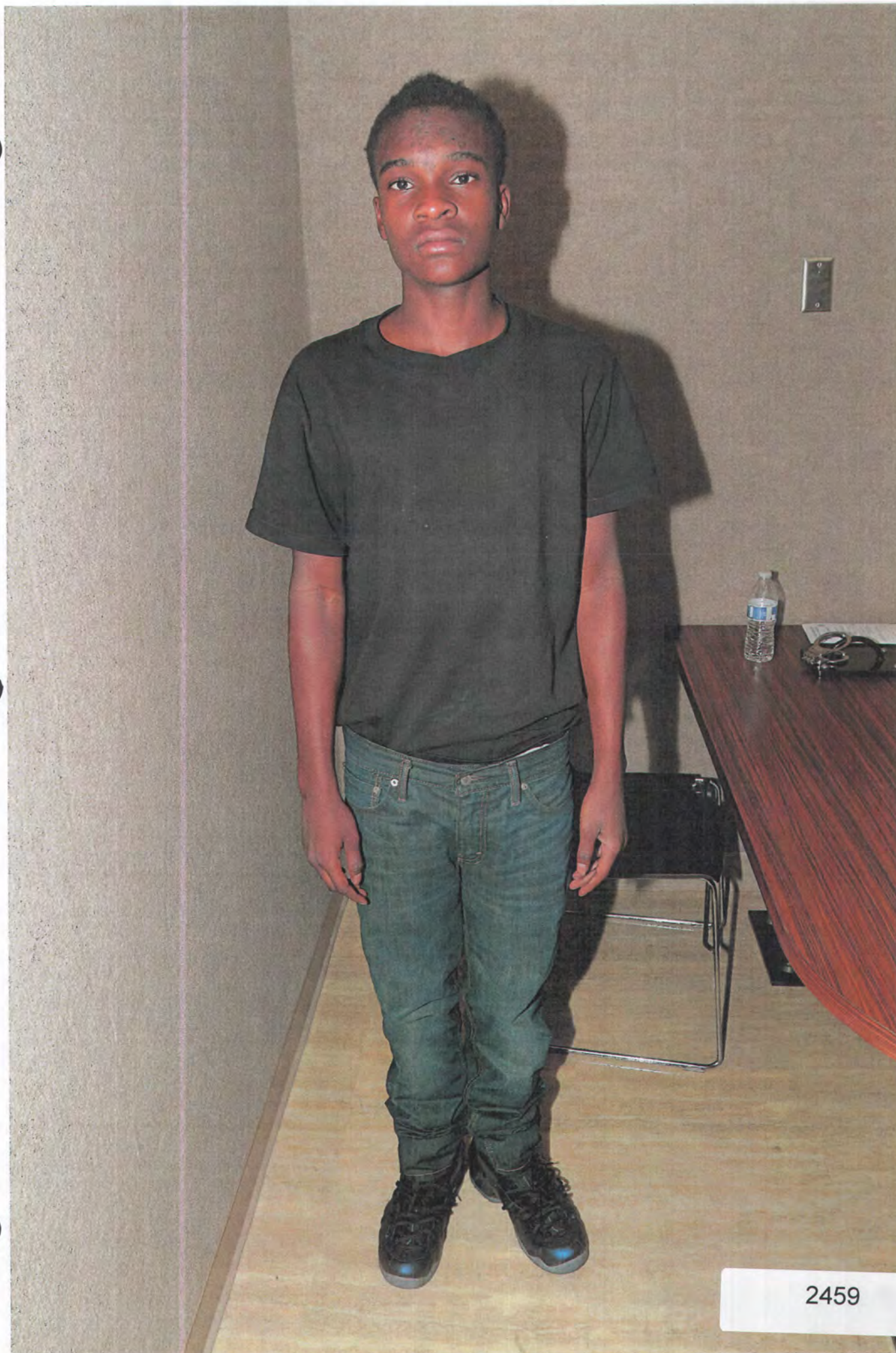
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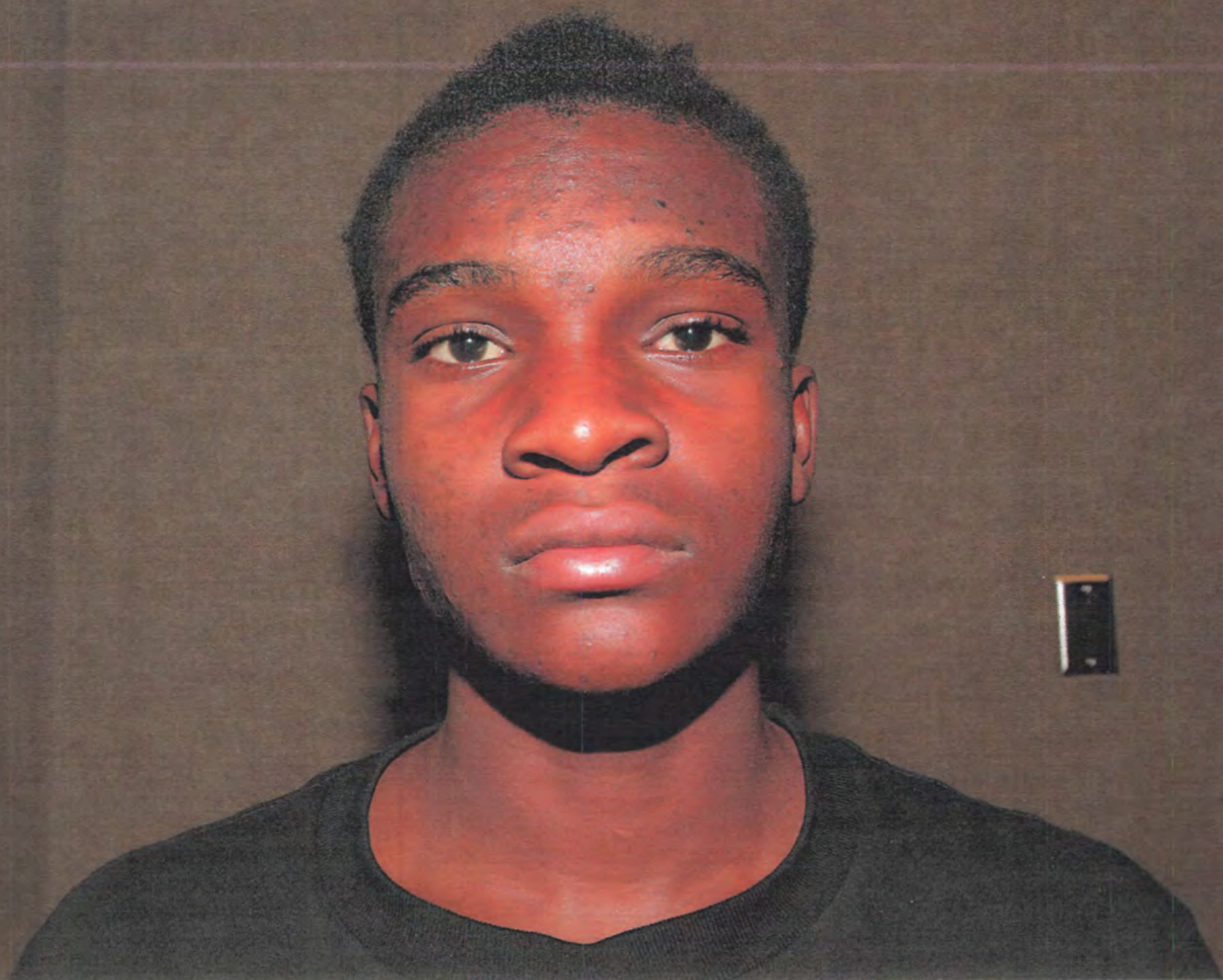
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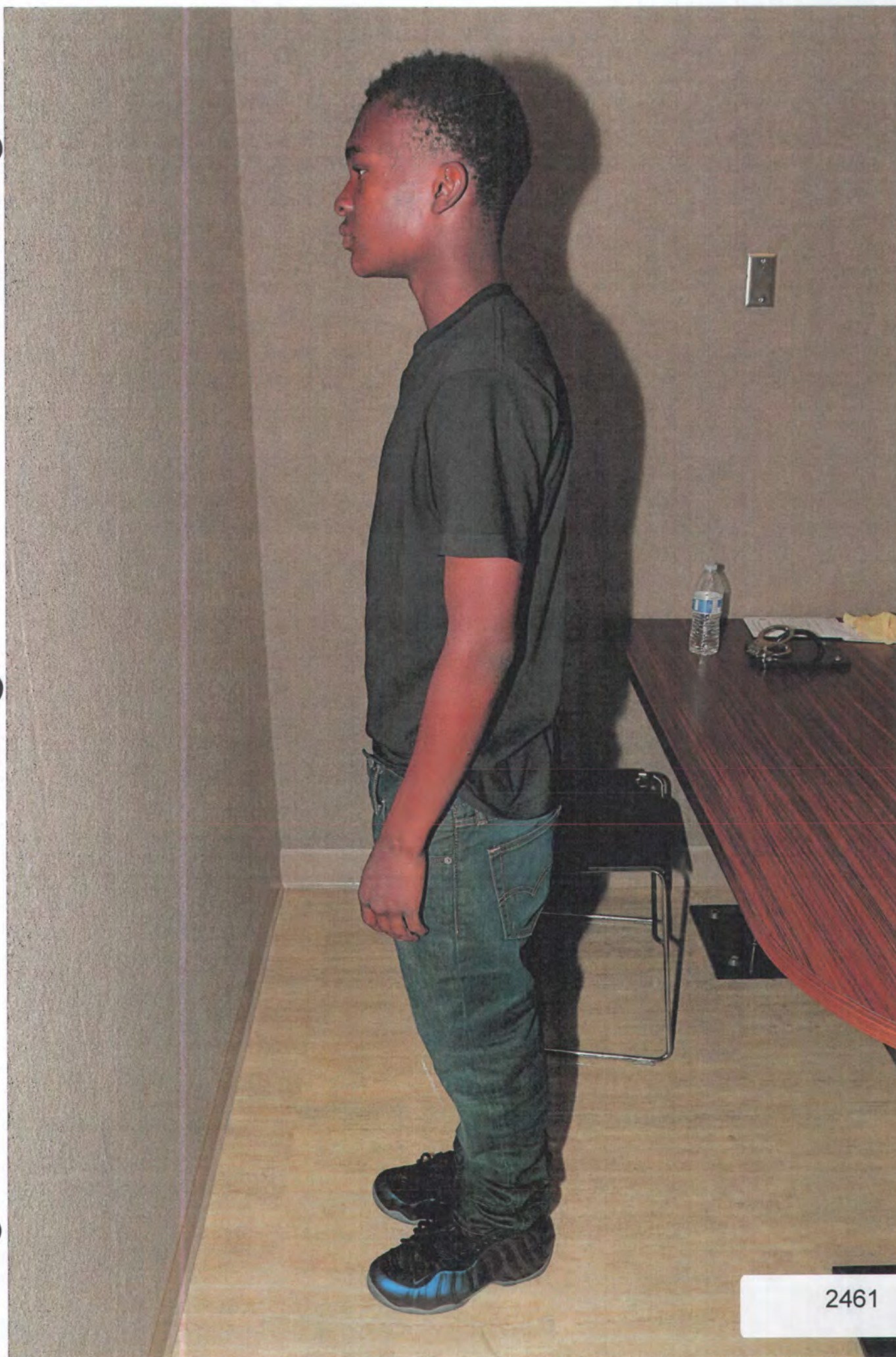
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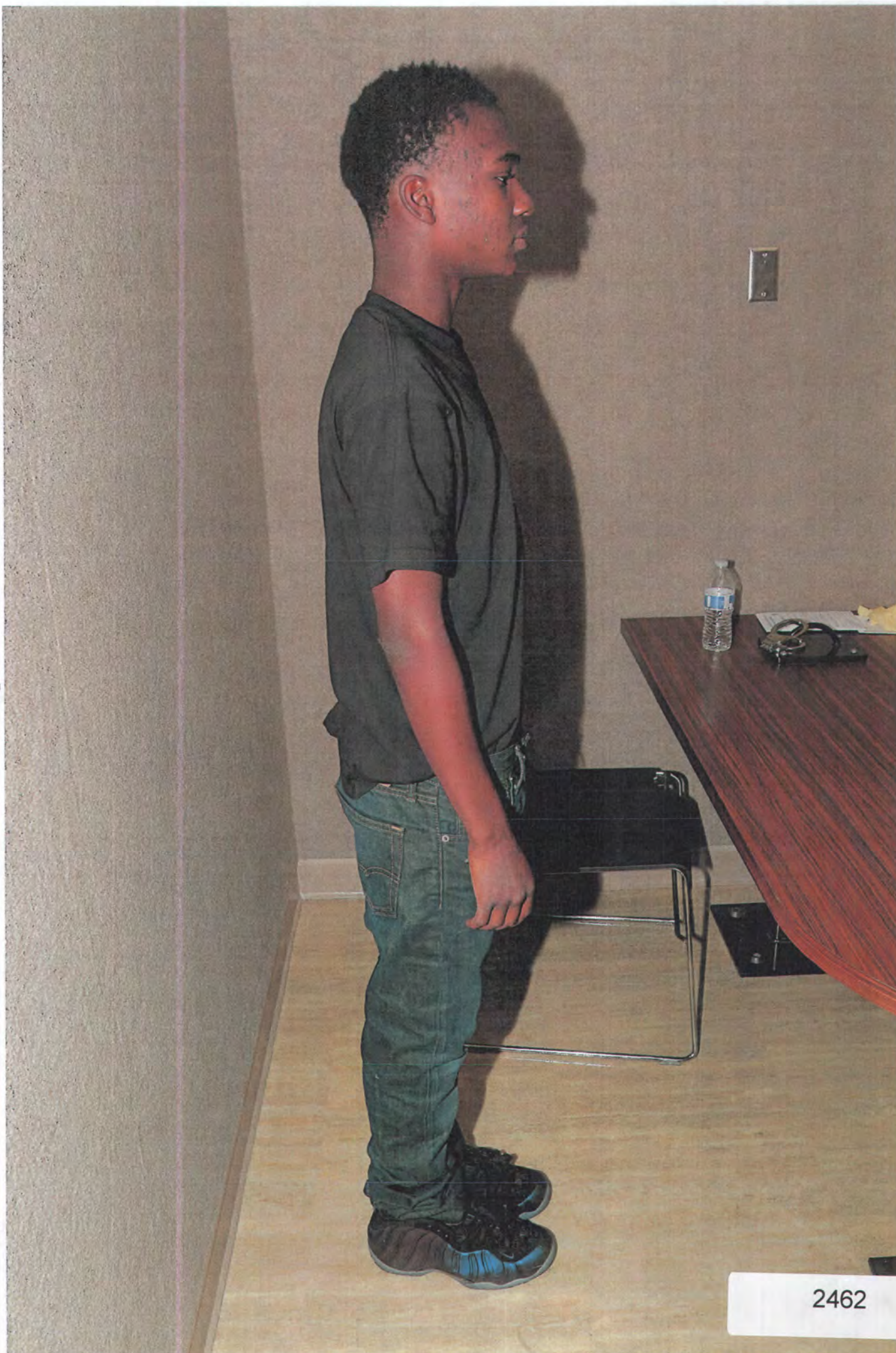
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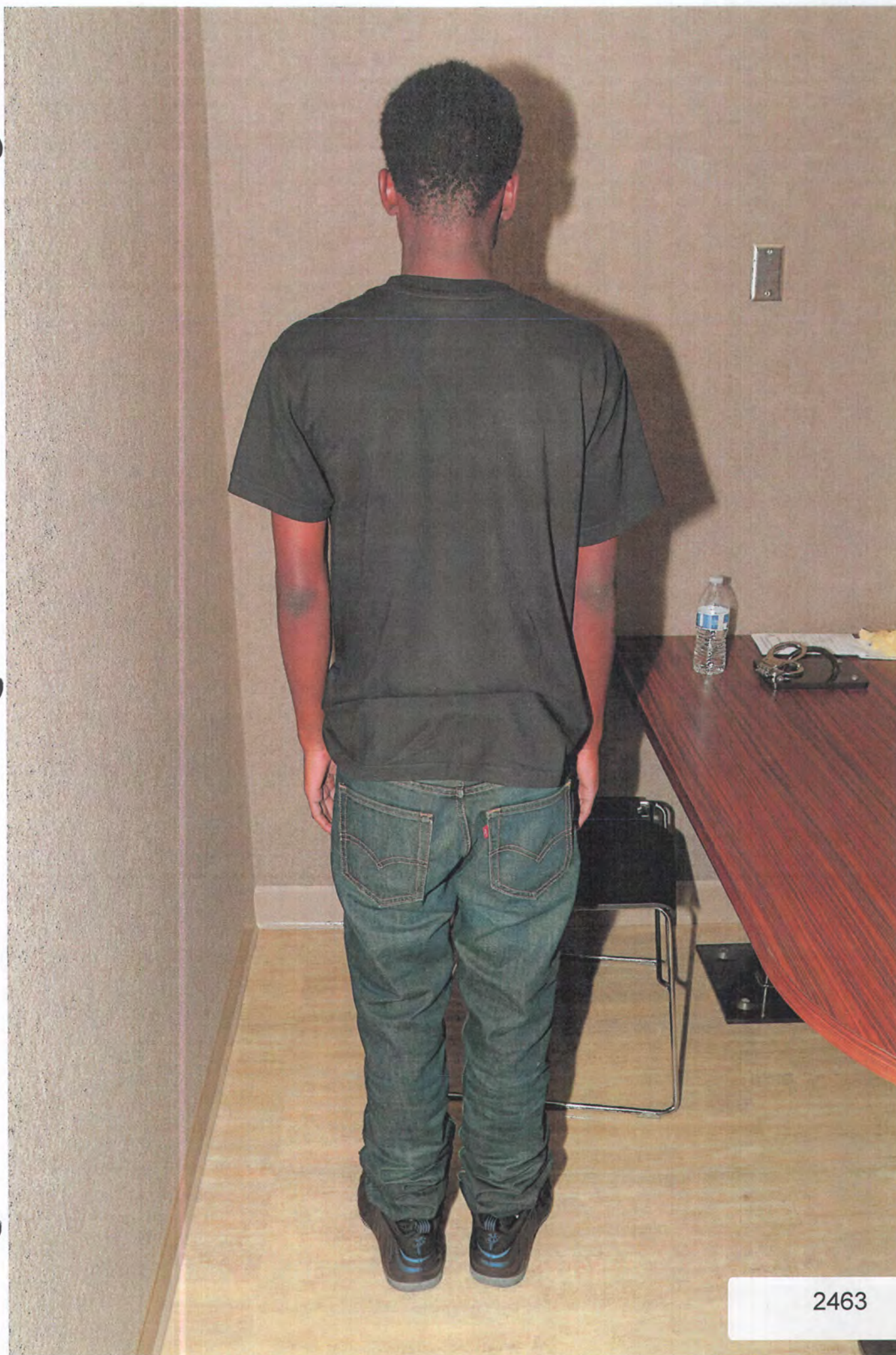
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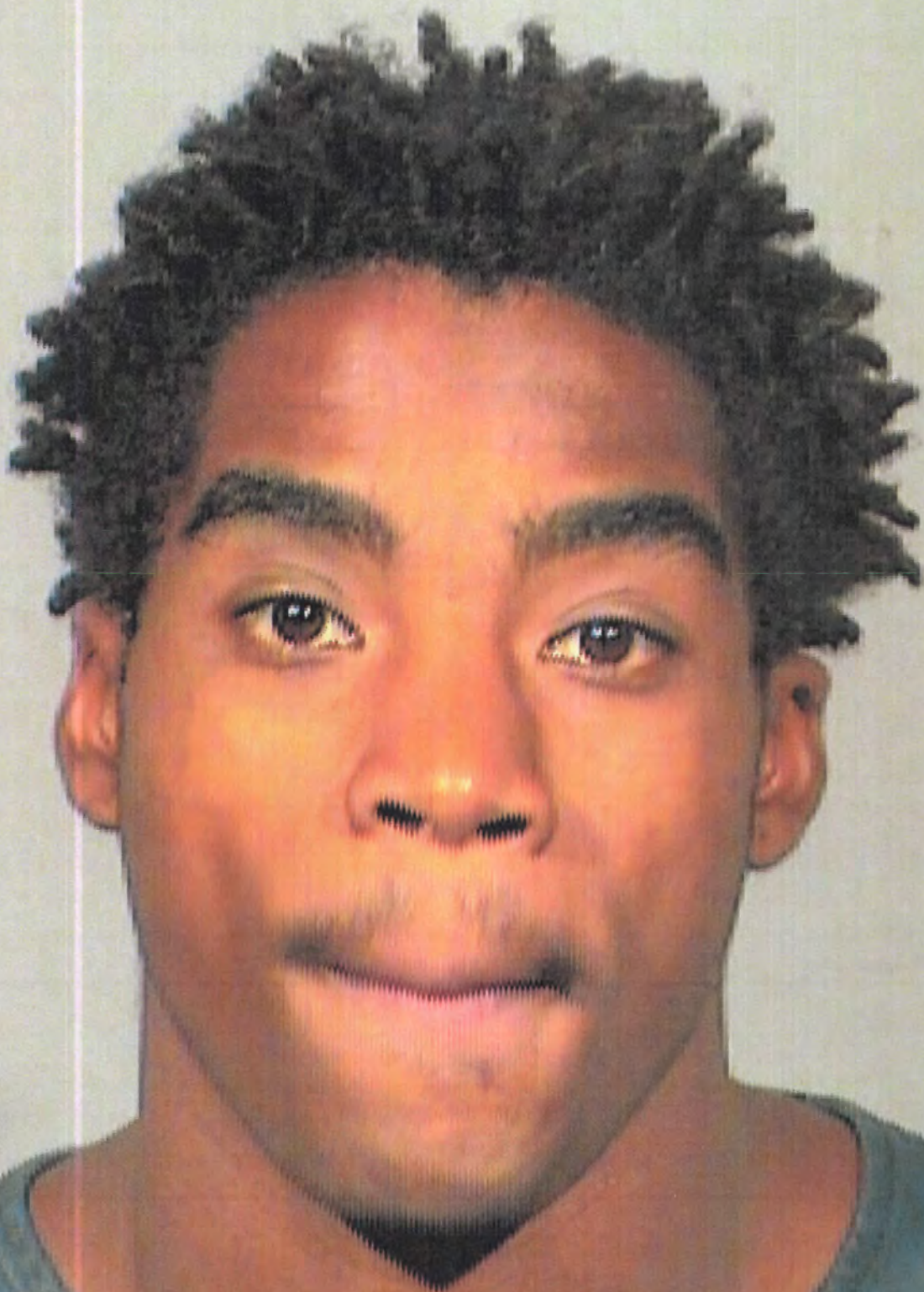
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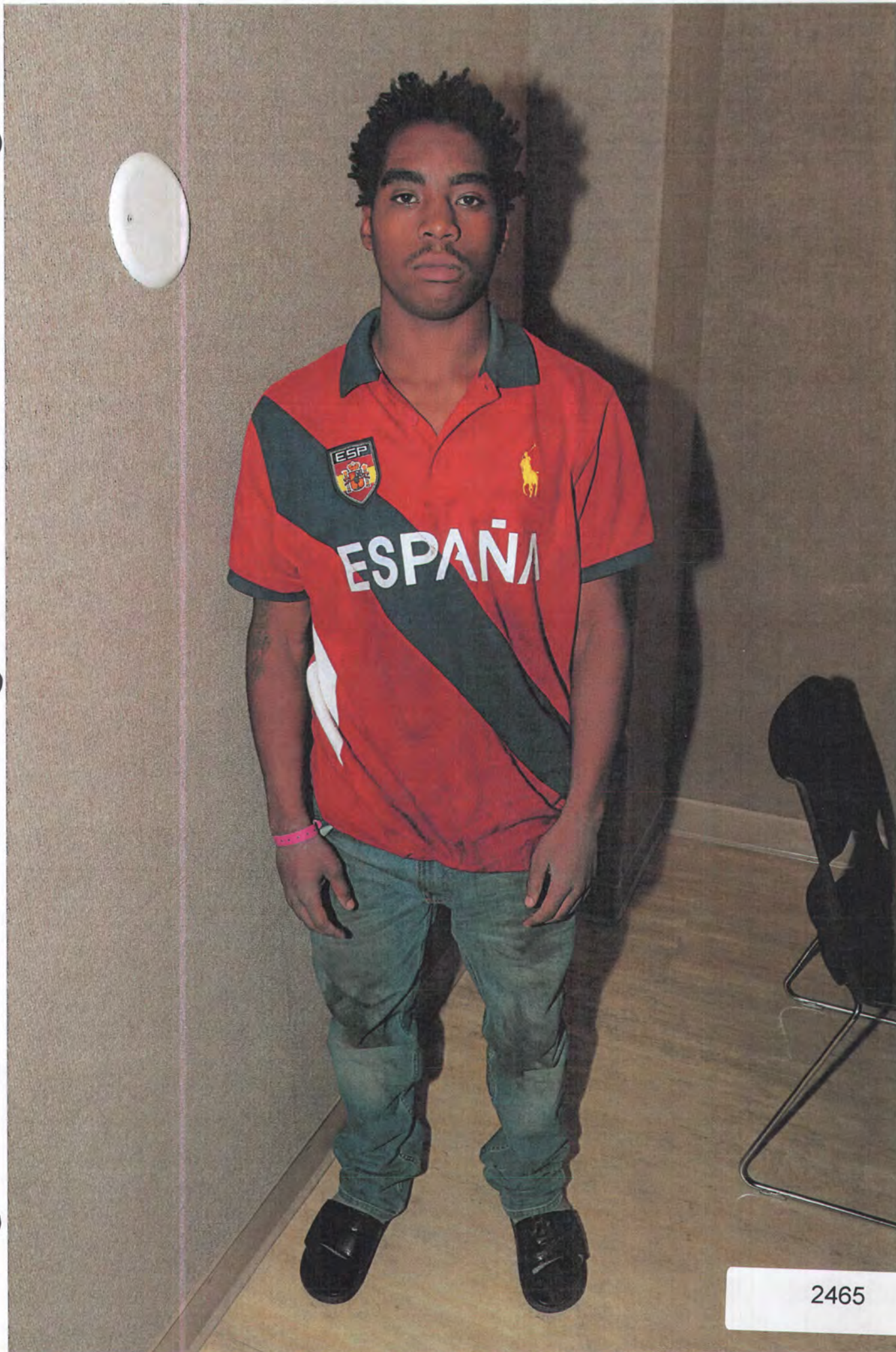


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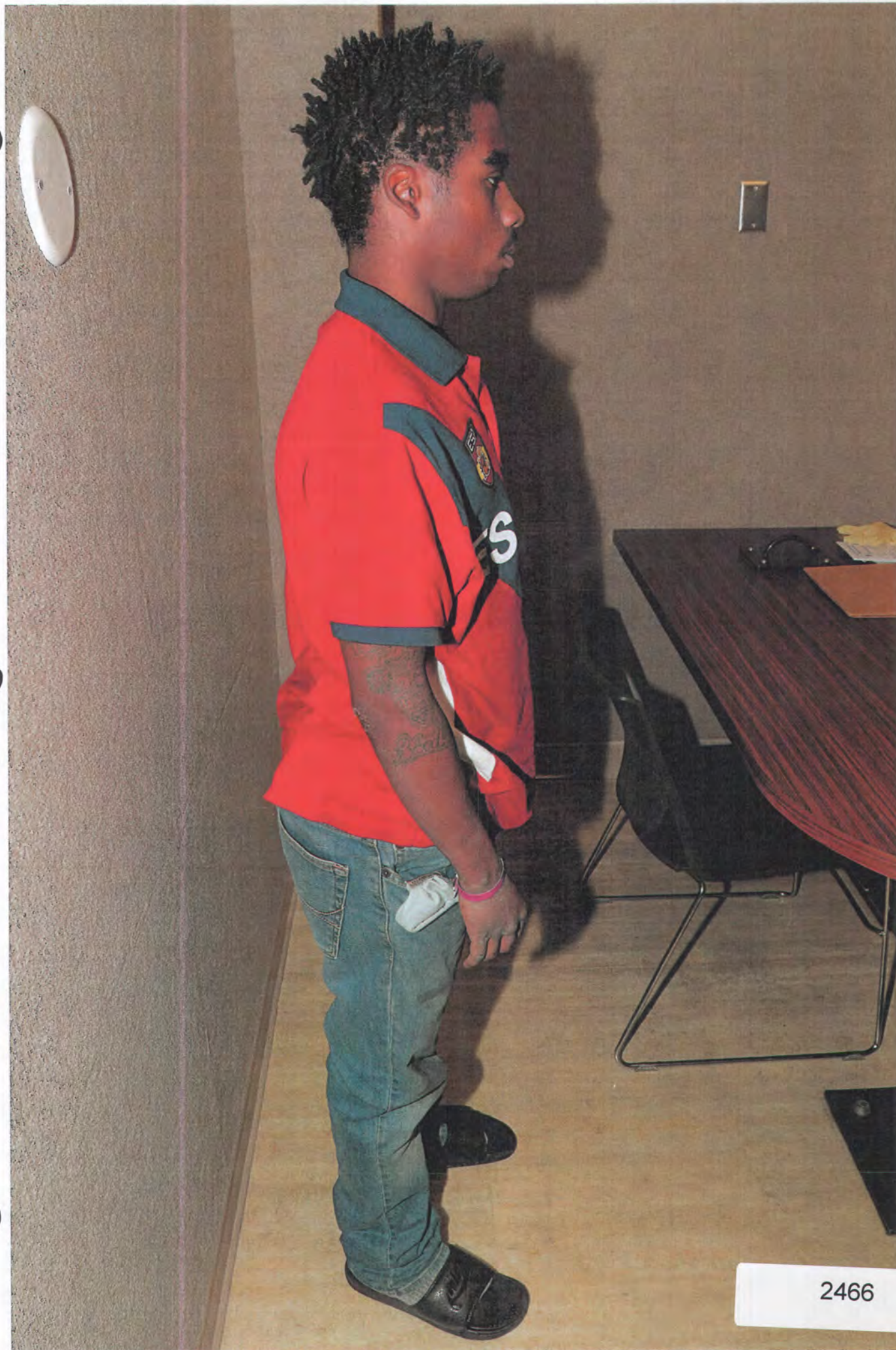
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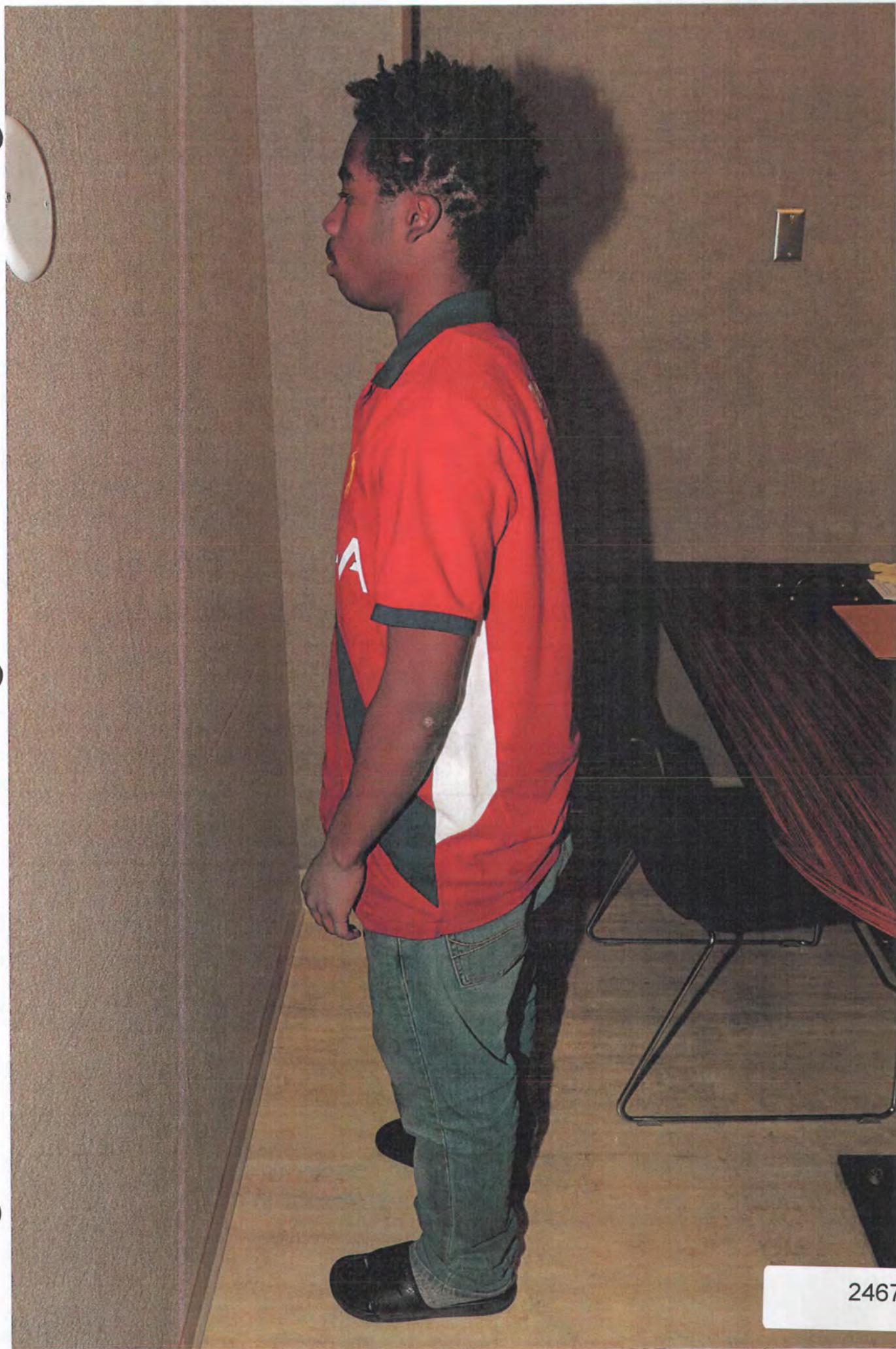
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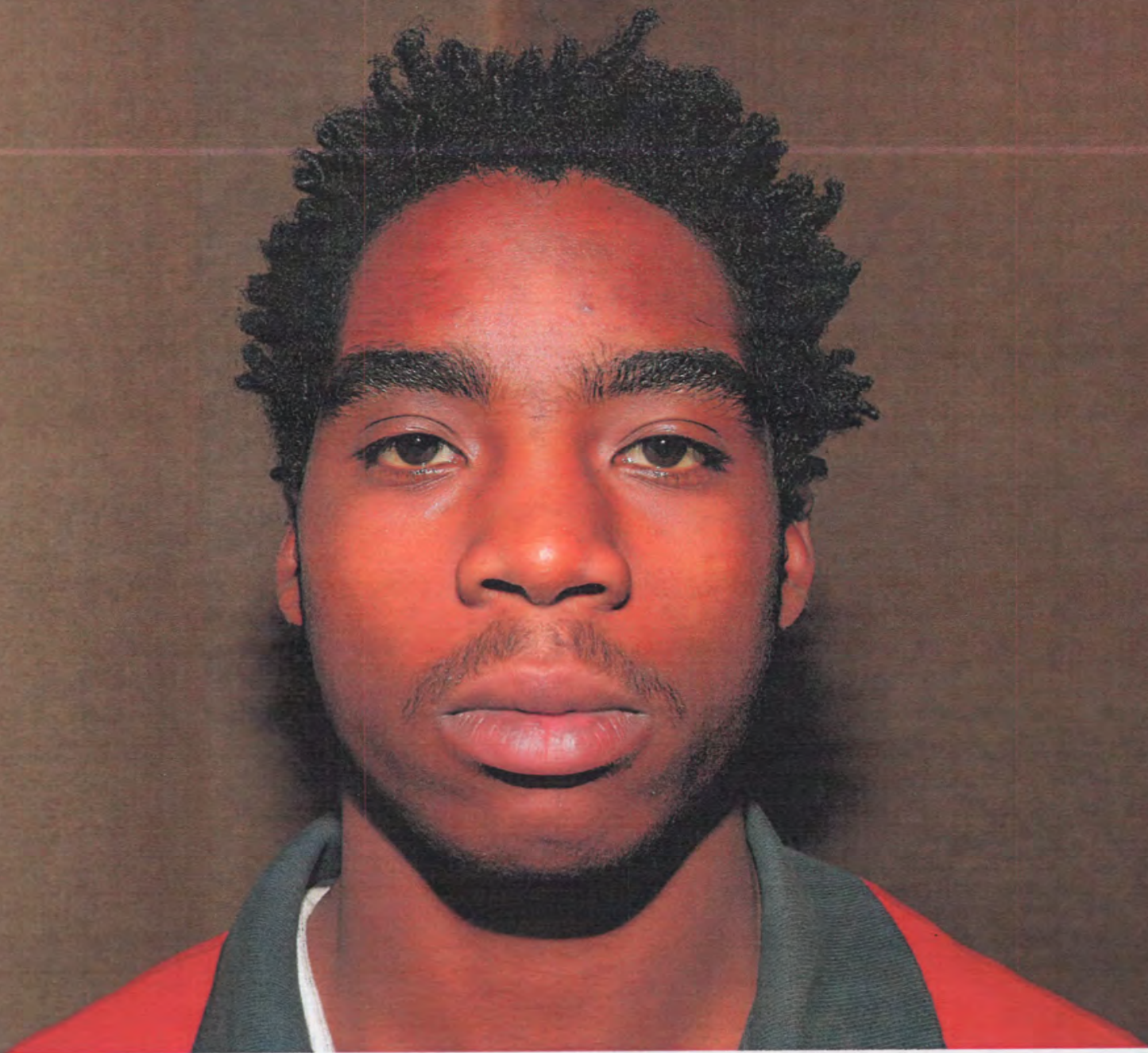
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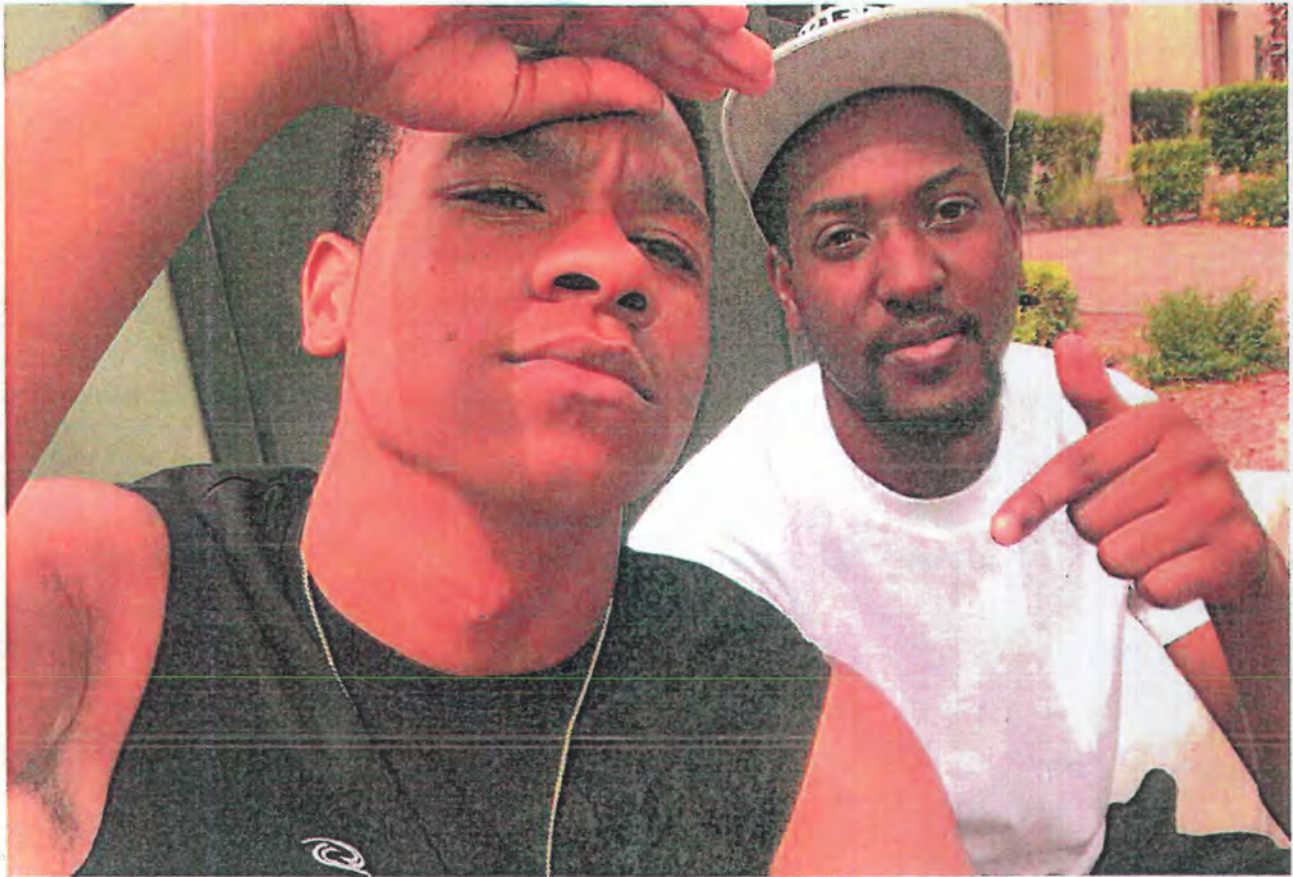
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dispensaries



Gaming

Play
VIDEO
POKER

OPEN
ALL
DAY



2470

MARK

CASE



EXHIBIT



2471

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CAS



EXHIBIT

boost
mobile

ALL SEATING
CAPABLE

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2472

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EXHIBIT

2473



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EXHIBIT



2474

MARKER

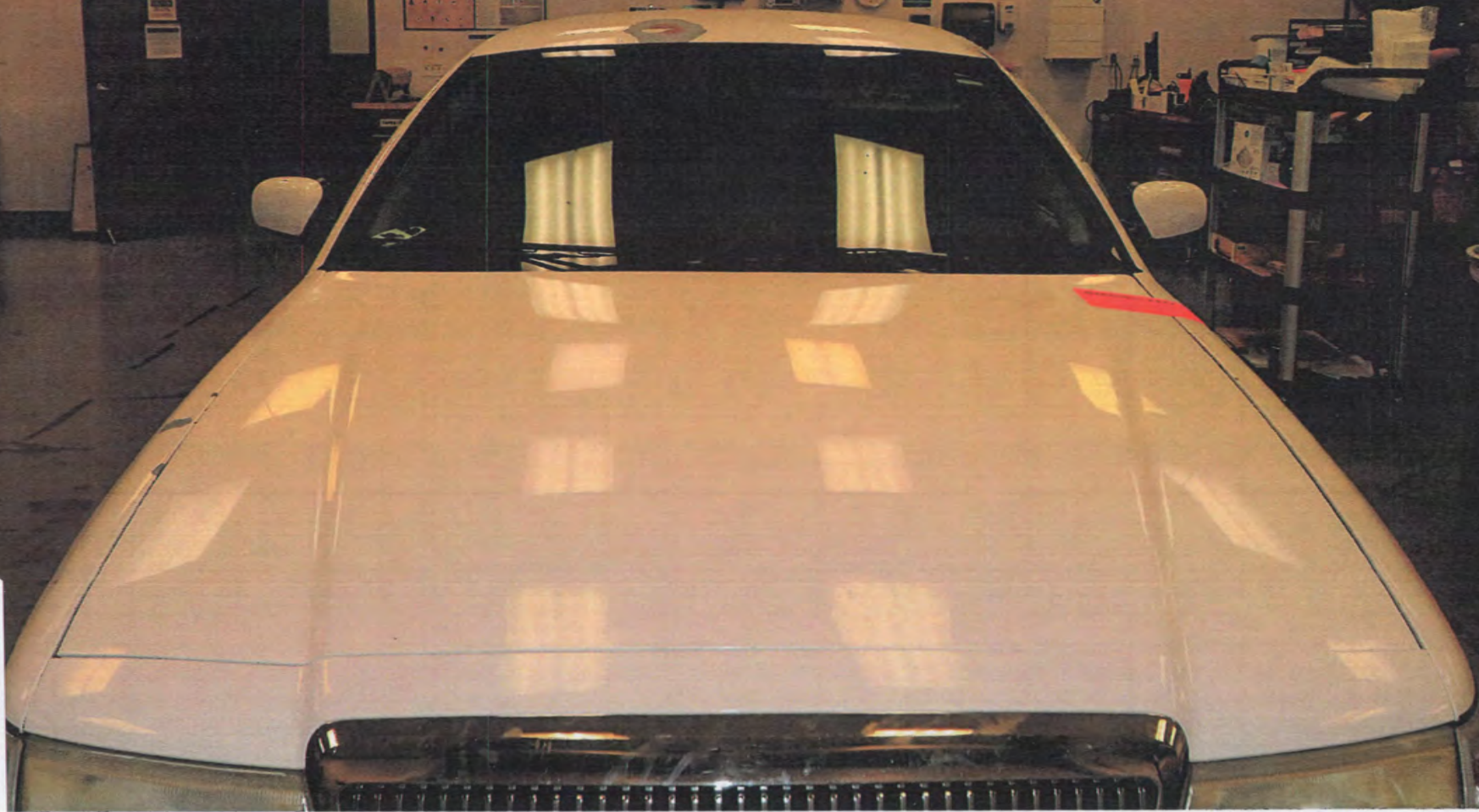
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CASE N



HIBIT

2475



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CASE



HIBIT



2476

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EXHIBIT



2477

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D EXHIBIT



2478

MARK # CASE NO. EXHIBIT





2479

M

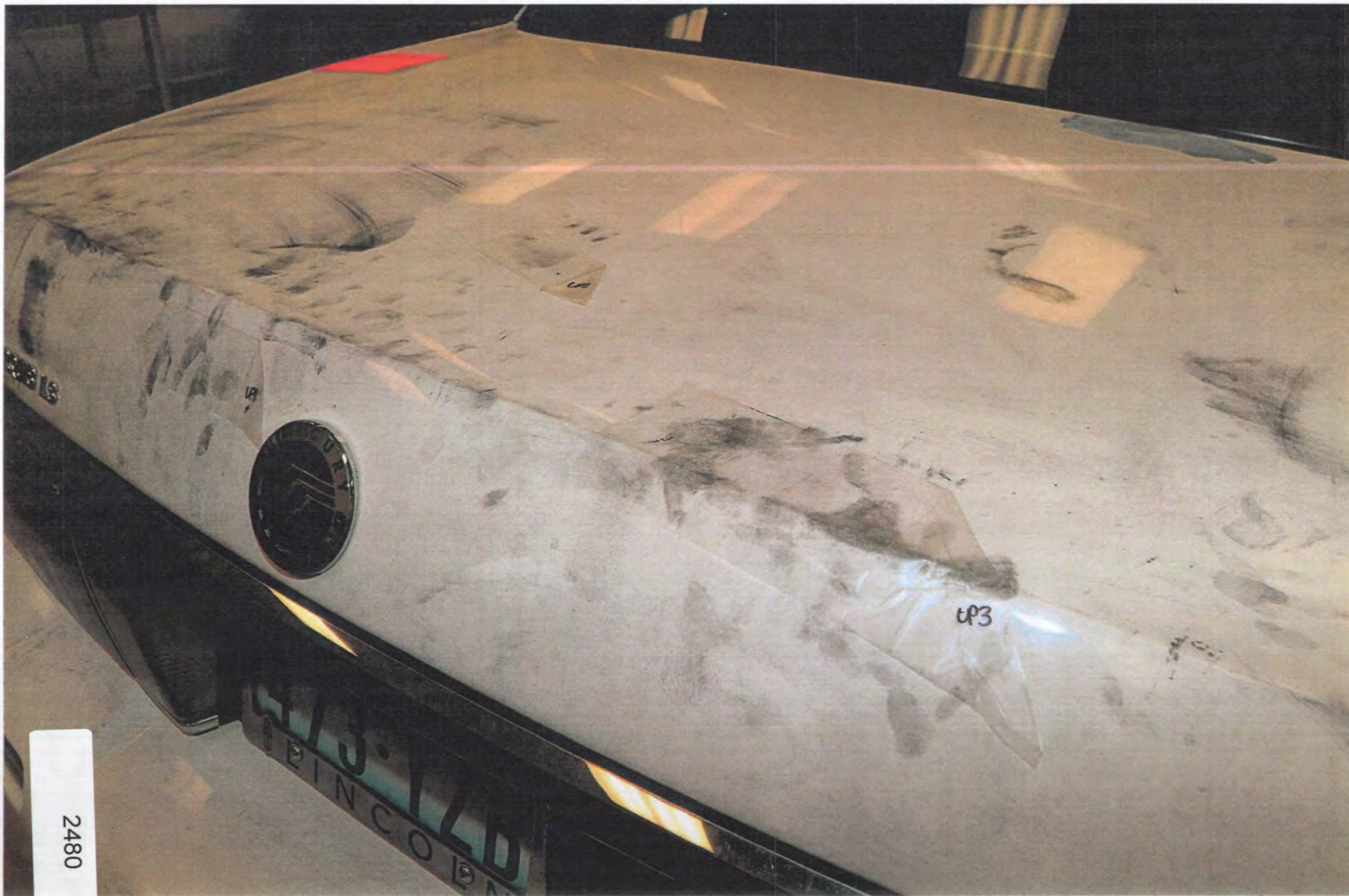
CA

STATE'S
EXHIBIT

160
C328587

2/13/10

D EXHIBIT



2480

MAR

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CAS



EXHIBIT



2481

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CASE



EXHIBIT



LP4

LP5

2482

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XHIBIT



CP7

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2483

MARKED PROPOSED EXHIBIT

CAS



CRIME SCENE

2484

MARKED PROPOSED EXHIBIT

CASE

PENGAD 800-631-0999	STATE'S	2-14-20
	EXHIBIT	
	165	
0328587		

CRIME SCENE
PHOTOGRAPHS

2485



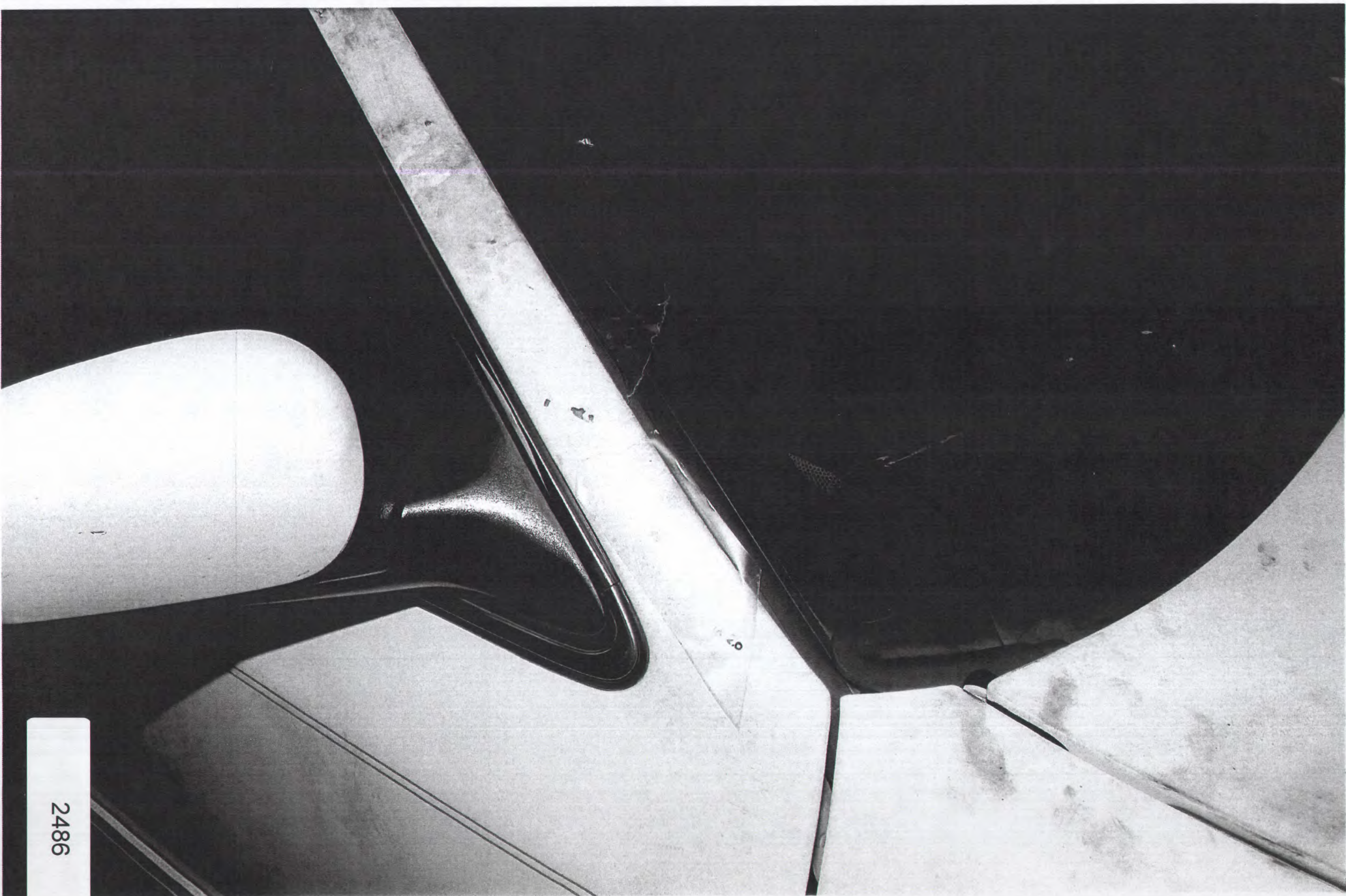
MAR EXHIBIT

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CAS



2486



MARKED PROPOSED EXHIBIT

CA

PENGAD 800-631-6969	STATE'S EXHIBIT	2/4/10
167		
C328581		



2487

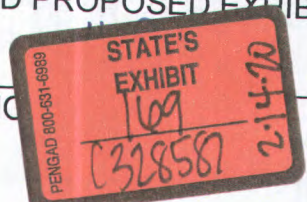
MADE IN CHINA
C
PENGAD 800-631-6889
STATE'S
EXHIBIT
168
C328587
2.14.20
ED EXHIBIT

2488



MARKED PROPOSED EXHIBIT

CASE NO



2489



MARK

CASE



EXHIBIT



2490

MARKED

CASE NO.



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2491

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CAS



EXHIBIT

WARNING! KEEP OUT!
NOT TO BE ENTERED OR TOUCHED
UNDER ANY CIRCUMSTANCES
UNLESS AUTHORIZED BY THE
POLICE DEPARTMENT
11/20/01 00:27

2492

MARI

CASE



XHIBIT



2493

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CASE NO



EXHIBIT


2494

UPAT

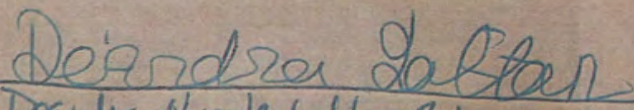
MADE
CA
STATE'S
EXHIBIT
175
0328587
2-14-20
D EXHIBIT

I, Daniel R sold my STAR PD SN: 1949429 ON 8/4/2017
to Dandra Nycole Lotton Robinson. Buyer stated can legally own
Firearms and has NV id # 1405466738 dob 12/29/1998

Seller


Daniel R

Buyer


Dandra Nycole Lotton Robinson

(702) 619-7426

MAI

CA



EXHIBIT

INTERARMS



STAR MODEL PD AUTO PISTOL .45



2496

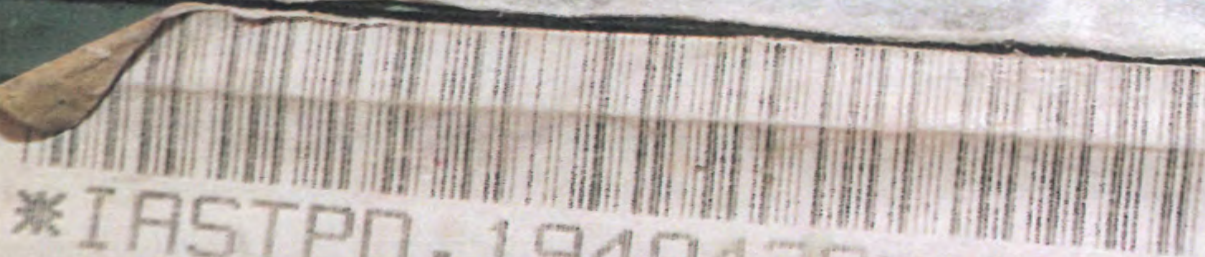
MARK

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CASE NO.



EXHIBIT



※IASTPD, 1949429※

2497

MAR

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CAS



EXHIBIT

ALUMINUM


FEDERAL[®]
AMMUNITION


CHAMPION[®]

50
CENTERFIRE
PISTOL CARTRIDGES
CARTOUCHES



2498

MARKER

#

CASE



HIBIT

2499



MARKER

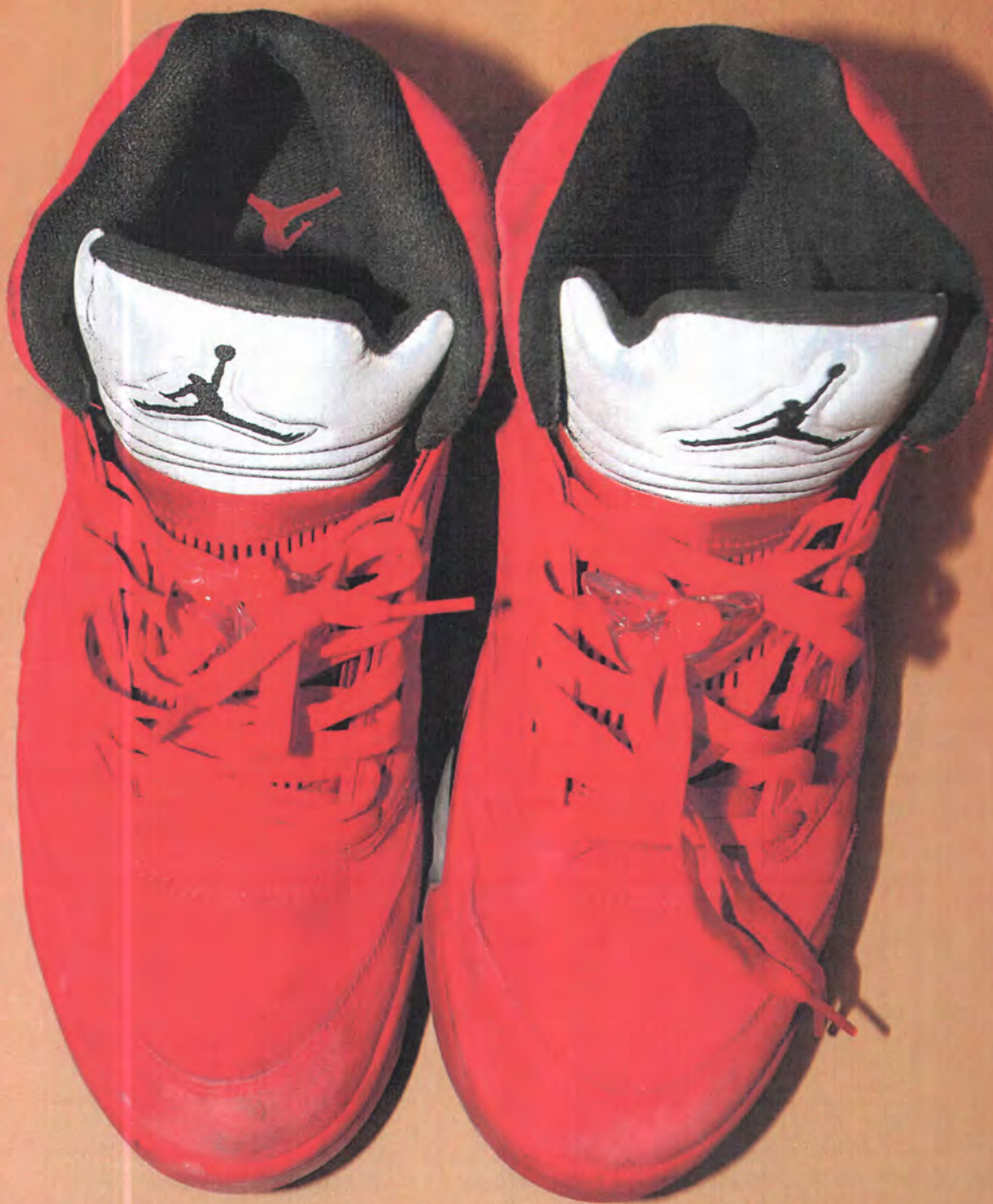
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CASE N



HIBIT

[Handwritten signature]



MAR # CAS EXHIBIT

PENGAD 800-631-6989
STATE'S
EXHIBIT
181
C328587 2:14:70



2501

MAF

CAS



EXHIBIT



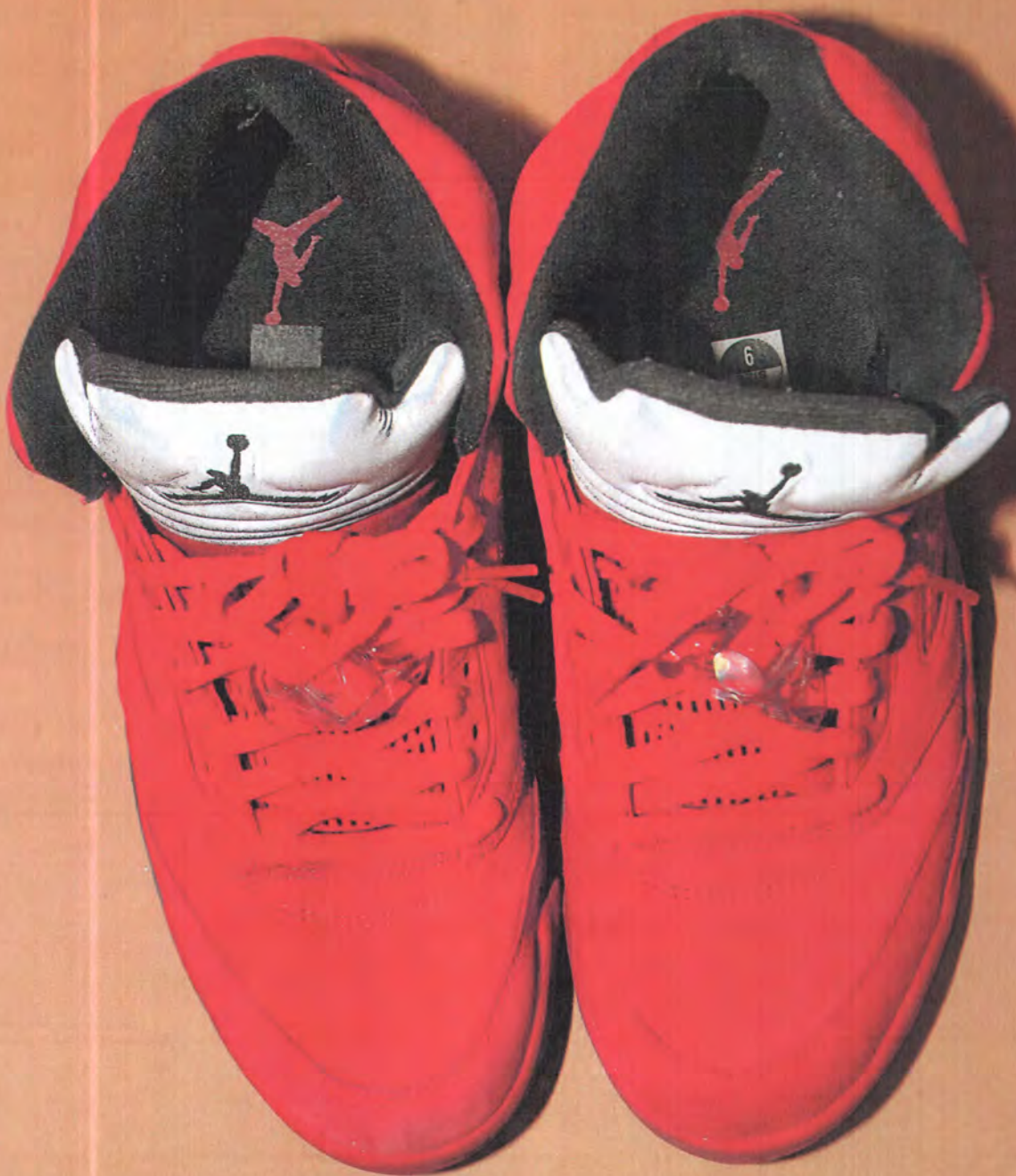
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EXHIBIT



2503

MARK

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CASE



EXHIBIT



2504

MA

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CAS



EXHIBIT



2505

MAR # CAS EXHIBIT





2506

MA

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CAS

PENGAD 800-631-5589

STATE'S
EXHIBIT

187

0328587

2-14-20

EXHIBIT



2507

MAR

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CAS



XHIBIT

RECEIPT

DATE 7-02-14

No. **495923**

RECEIVED FROM James Newman

\$ 60.-

DOLLARS

☐ FOR RENT
☒ FOR

Tax 2013

ACCOUNT	
PAYMENT	<u>60.-</u>
BAL. DUE	

☒ CASH
☐ CHECK
☐ MONEY ORDER
☐ CREDIT CARD

FROM Sandra to 7l
BY

3-11

MAF

CAS



EXHIBIT

DRIVER'S
VISOR



Department of Motor Vehicles
555 Wright Way
Carson City, NV 89711-0625
(775) 684-4368

2017 EXPIRES
10/21/2017

LICENSE NUMBER 473YZB	YEAR 2003	NAME MERC	TYPE P4D	CYL 08	MSRP 29180.00	FUEL G	AXLE 2	DECLARED WEIGHT 0	UNLOADED WEIGHT 3958
VEHICLE IDENTIFICATION NUMBER 2MEFM7SW23X675311			MODEL NAME GRAND MARQUIS LS			COUNTY BASED CLARK			
EXPIRATION DATE 10/21/2016	FLEET NUMBER		TRAILER NUMBER	FARM/POWDER VEHICLE N		DECAL NUMBER 473YZB	PLATE BACKGROUND SUNSET		

NEWMAN, JAMES (REGD)

NEWMAN, JAMES
1327 H ST APT 431
LAS VEGAS NV 89106-2982



Instructions for applying the
decal to the rear license plate are
on the reverse of this form.

PLATES AND REGISTRATION MUST BE RETURNED WHEN NOT OPERATING THE VEHICLE

NEVADA LIABILITY EVIDENCE OF INSURANCE		
This evidence of insurance must be carried in the insured motor vehicle for production upon demand.		
AMERICAN ACCESS CASUALTY COMPANY		COMPANY #50730 2211 BUTTERFIELD RD, SUITE 200 DOWNERS GROVE, ILLINOIS 60515 (630) 645-7750
Policy Number	Effective Date	Expiration Date
27AU000096491	10/21/2016 2:05PM PT	4/2/2017
Year	Make/Model	VIN
2003	MERCURY/GRAND MARQUIS	2MEFM7SW23X675311
AGENCY INSURANCE CO. ISSUING CARD		
EPICOR INSURANCE SOLUTIONS, LLC - Charleston 702-315-4567		
INSURED		
JAMES NEWMAN		
ADDRESS		
1327 H ST APT 431		
CITY, STATE, ZIP		
LAS VEGAS, NV 89106		
DRIVER(S) COVERED		
JAMES NEWMAN, LAWANDA SIMMONS, LATRISE NEWMAN, ERICK SCHAFFER		
SEE IMPORTANT INFORMATION ON REVERSE SIDE		

2509

MARK

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CASE



EXHIBIT



2510

MARK

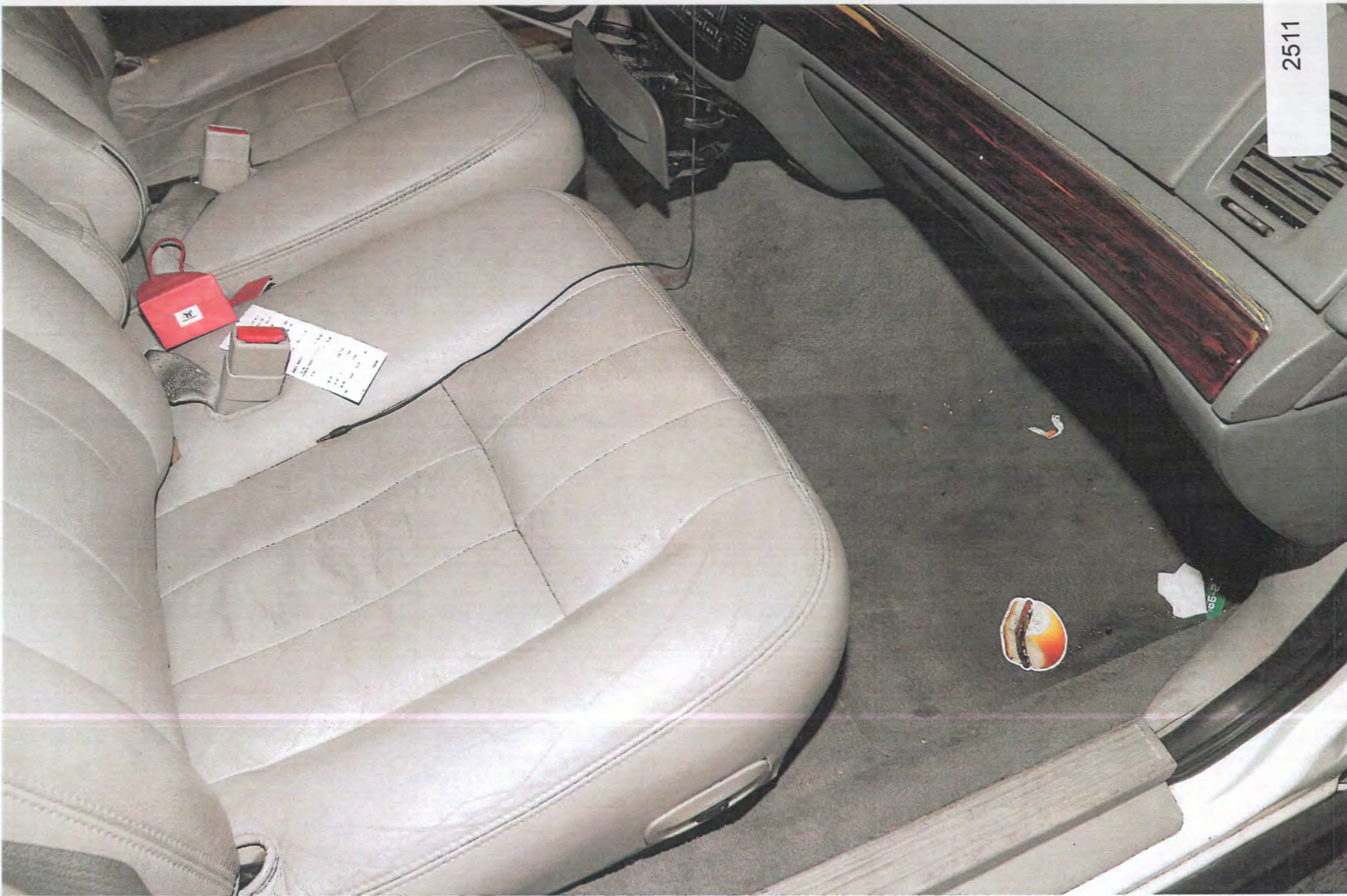
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CASE



EXHIBIT

2511



MAR

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CASE



XHIBIT



2512

MAR

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CASE



XHIBIT



MA

CAS



EXHIBIT



2514

MA

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CA



EXHIBIT

MAR

CASE



EXHIBIT

2516



MARK

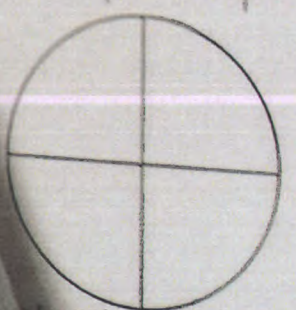
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CASE



EXHIBIT

ABFO No. 2



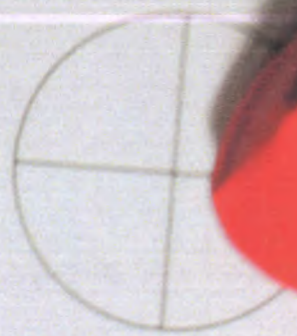
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2517

MAR

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CASE



EXHIBIT



2518

MARK

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CASE NO.



HIBIT

ABFO No. 2[©]

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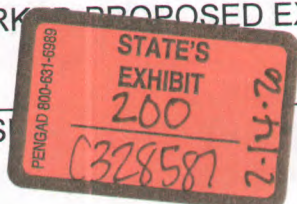
4

217

2519

MARK PROPOSED EXHIBIT

CASE





2520

MARKET

#

CASE



EXHIBIT



2521

MARK EXHIBIT

CAS





2522

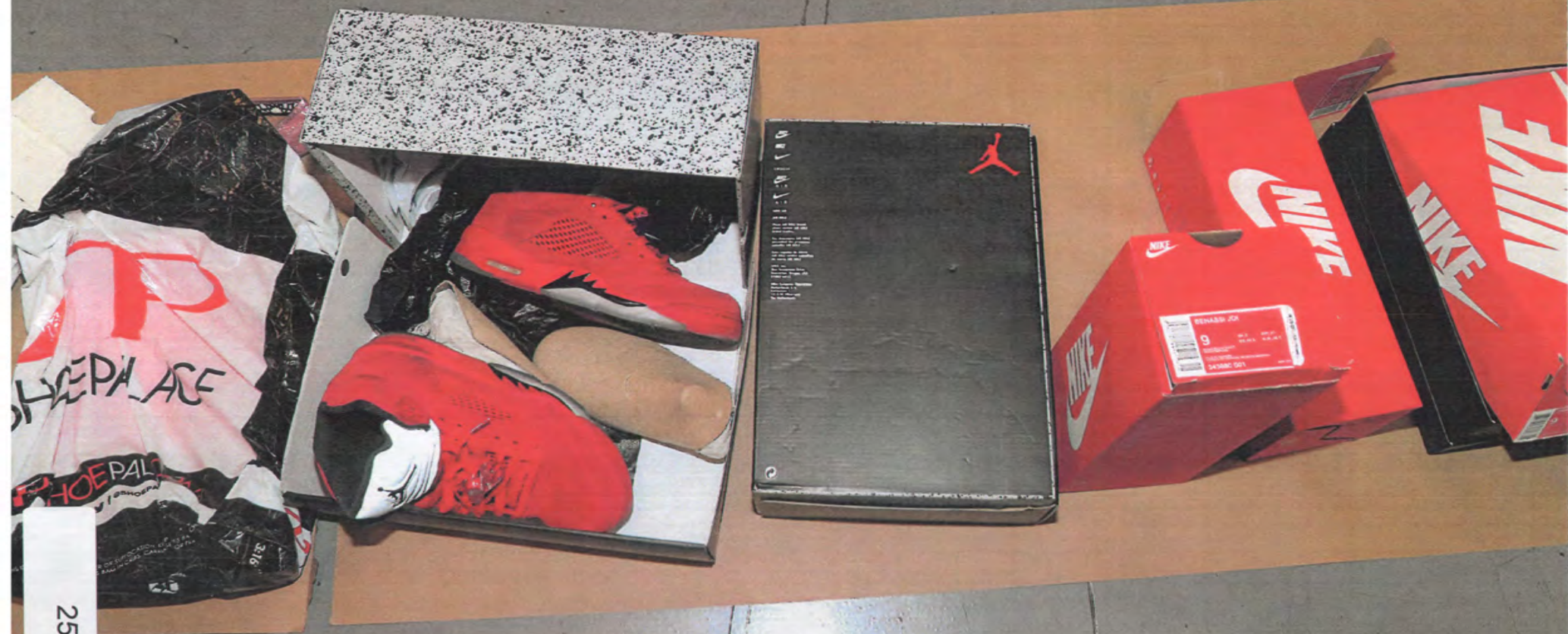
MARKED PROHIBIT

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CASE N



2523



MAR

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CAS



EXHIBIT

2524



MARKE

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CASE N



HIBIT



2525

MARK

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CASE

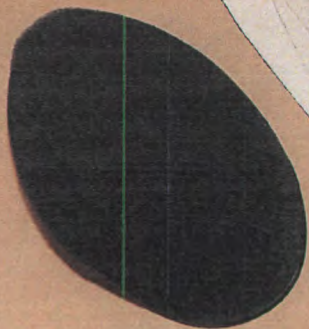


EXHIBIT

DRIVER

REAR

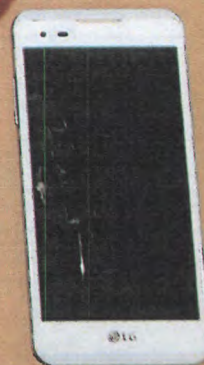
SEAT



Driver's seat
rear pocket



under
driver's
seat



2526

MARK

#

CASE



HIBIT

LR FLOOR



2527

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#

CAS



EXHIBIT

RF Heat
rear pocket

PASSENGER

REAR

HEAT



2528

MARK

#

CASE



HIBIT

RR Floor

RF Seat
rear pocket



2529

MAR

#

CASE



XHIBIT

AutoZone 2241

840 N LAMB BLVD
LAS VEGAS, NV
(702) 438-0427

#427019 550044965	24.99
Quaker State	
5W-20 Motor Oil, 5 QT	
#337832 S2	4.69 P
S2 STP	
Oil Filter, EA	
#547034 PRA003	16.99 P
Peak Full Strength	
Antifreeze/Coolant, 1 GAL	
SUBTOTAL	46.67
Quake Conv/STP Fltr Disc	9.69-
NEW SUBTOTAL	36.98
TOTAL TAX @ 8.250%	3.05
TOTAL	40.03
CASH	40.03

REG #03 CSR #75 RECEIPT #036276
STR. TRANS #744354
STORE #2241
DATE 08/08/2017 14:02
OF ITEMS SOLD 3



* 2241744354080817 *

Quake Conv/STP Fltr-\$19.99 OCS 5Qts or 5
Qt Jug of Quaker State Conv Motor Oil &
an STP Filter upto \$5.99. If fltr>\$5.99,
\$19.99+diff betwn fltr price & \$5.99
Deal 86297: Total Savings 9.69

**Take a survey for a
chance to win \$10000**

at www.autozonecares.com
or by calling 1-800-598-8943.
No Purchase Necessary. Ends 8/31/17.
subject to Entry Periods.
Subject to full Official Rules
at www.autozonecares.com.

Ref No:
2241-744354-170808-3

Complete una encuesta para entrar
al sorteo de 10.000 \$ en
www.autozonecares.com o llamando
al 1-800-598-8943.
No es necesario comprar nada.
Termina el 31/8/17, sujeto a los
Periodos de Inscripcion. Sujeto a las
Reglas Oficiales completas en

Ref No:
2241-744354-170808-3



MAR _____ EXHIBIT

CASE NO.

TERMINALS #263
528 N EASTERN AVE
LAS VEGAS, NV 89101
08/06/2017
MID: 00144141
TID: 0000003922344
84072062 08102524

EBT FOOD & AMP SALE

CARD: XXXX: XXXXXX4897
INVOICE
Batch #: 0013
APP Code: 000767
Entry Mode: 670779
Mode: Swiped
Online

SALE AMT \$2.99

BALANCE INFORMATION
FS BEGINNING BALANCE:
\$16.63
FS AVAILABLE BALANCE:
\$13.64

CUSTOMER COPY

MA

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CAS



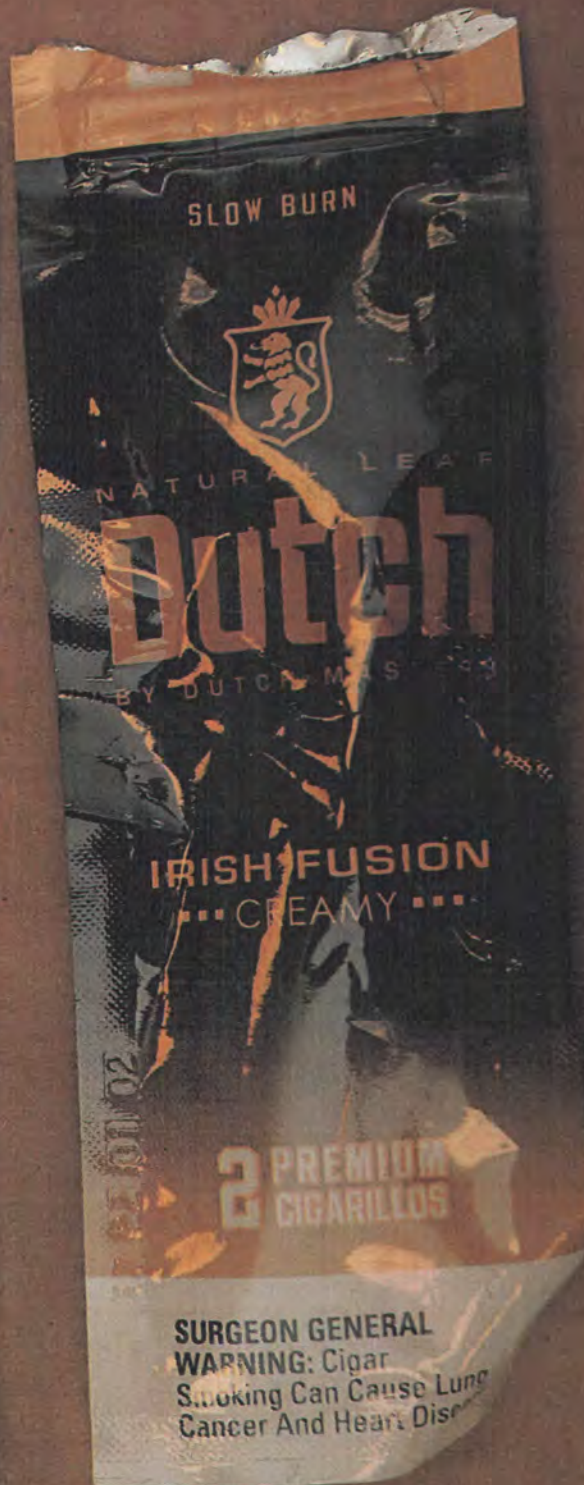
EXHIBIT

MARK

CASE



EXHIBIT



MARKED

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CASE NO.



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2534

MARKE

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CASE NO.



HIBIT

2535



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CAS



EXHIBIT

2536



MARKET

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CASE NO.



HIBIT



2537

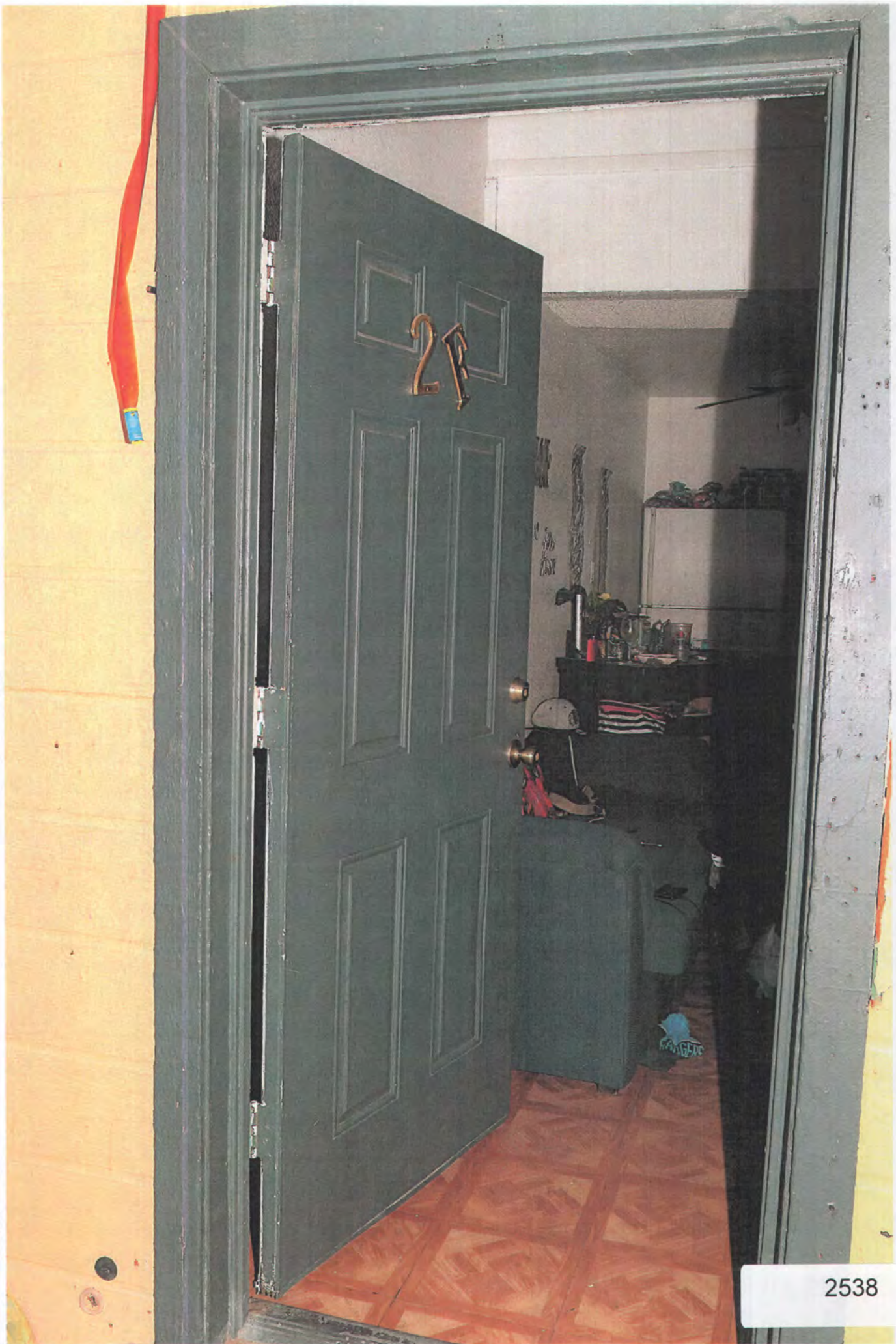
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CASE NO.



EXHIBIT



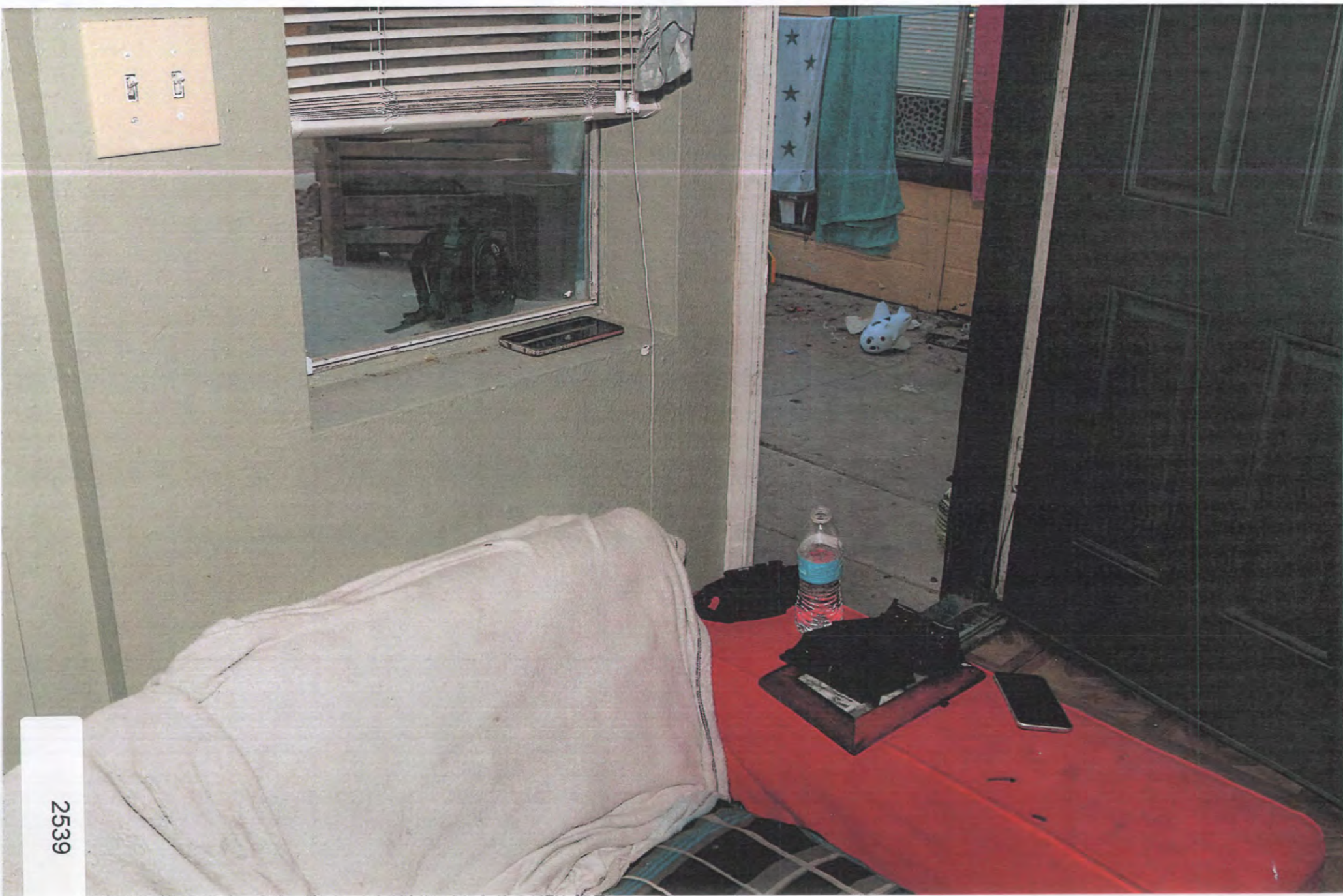
2538

MARK _____ EXHIBIT

CAS _____



2539



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EXHIBIT

2540



MARKER

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CASE N



HIBIT



2541

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EXHIBIT



2542

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EXHIBIT

2543



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EXHIBIT

2545



MARKE

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CASE NO.



HIBIT

2546



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CASE NO.



HIBIT



2547

MAR # CASE XHIBIT



2548



MARK # CAS



EXHIBIT



2549

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CASE NO.



EXHIBIT



N13572C

2550

MARKER HIBIT

#

CASE N





2551

MARKER

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CASE



HIBIT



NCY05584

NCY05584

TAURUS INT. MFG.-MIAMI, FL.-USA

PT 145 PRO

CAL .45 ACP
MADE IN BRAZIL

2552



OPTIRECTILINEAR®

USA

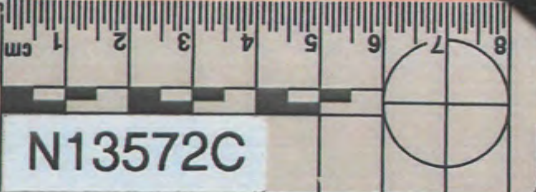
MARK

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CASE



HIBIT



2553

MARK _____ EXHIBIT

CASE _____



ARROWHEAD FORENSICS

OPTIRECTILINEAR®

USA

cm 1 2 3 4 5 6 7 8

N13572C

cm 1 2 3 4 5 6 7 8

2554



MARKED

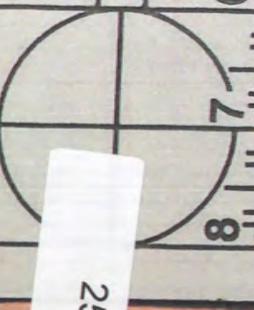
CASE



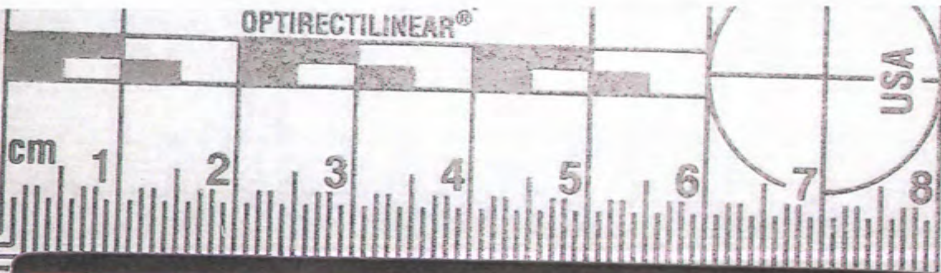
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N13572C



2555



MARK # CASE N



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2556

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EXHIBIT



2557

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CASE



XHIBIT



2558

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**STATE'S
EXHIBIT**

300

C328587

2-114-20

EXHIBIT



2559

MARKED EXHIBIT

CASE



2560



MARKER

CASE NO



EXHIBIT



2561

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2562



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MARK # CASE HIBIT





2564

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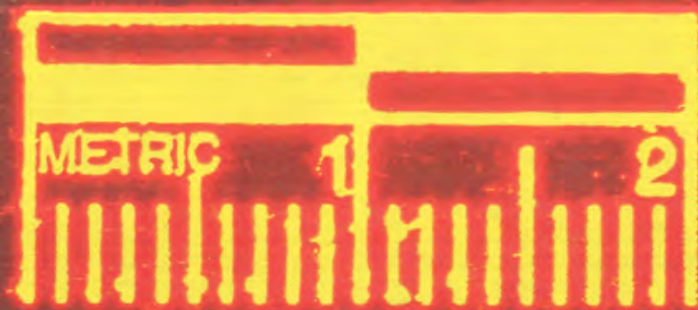
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EXHIBIT

170809-0029
N13572C #1



45ACP-MAD

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D EXHIBIT



2566

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CASE NO.



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CASE N



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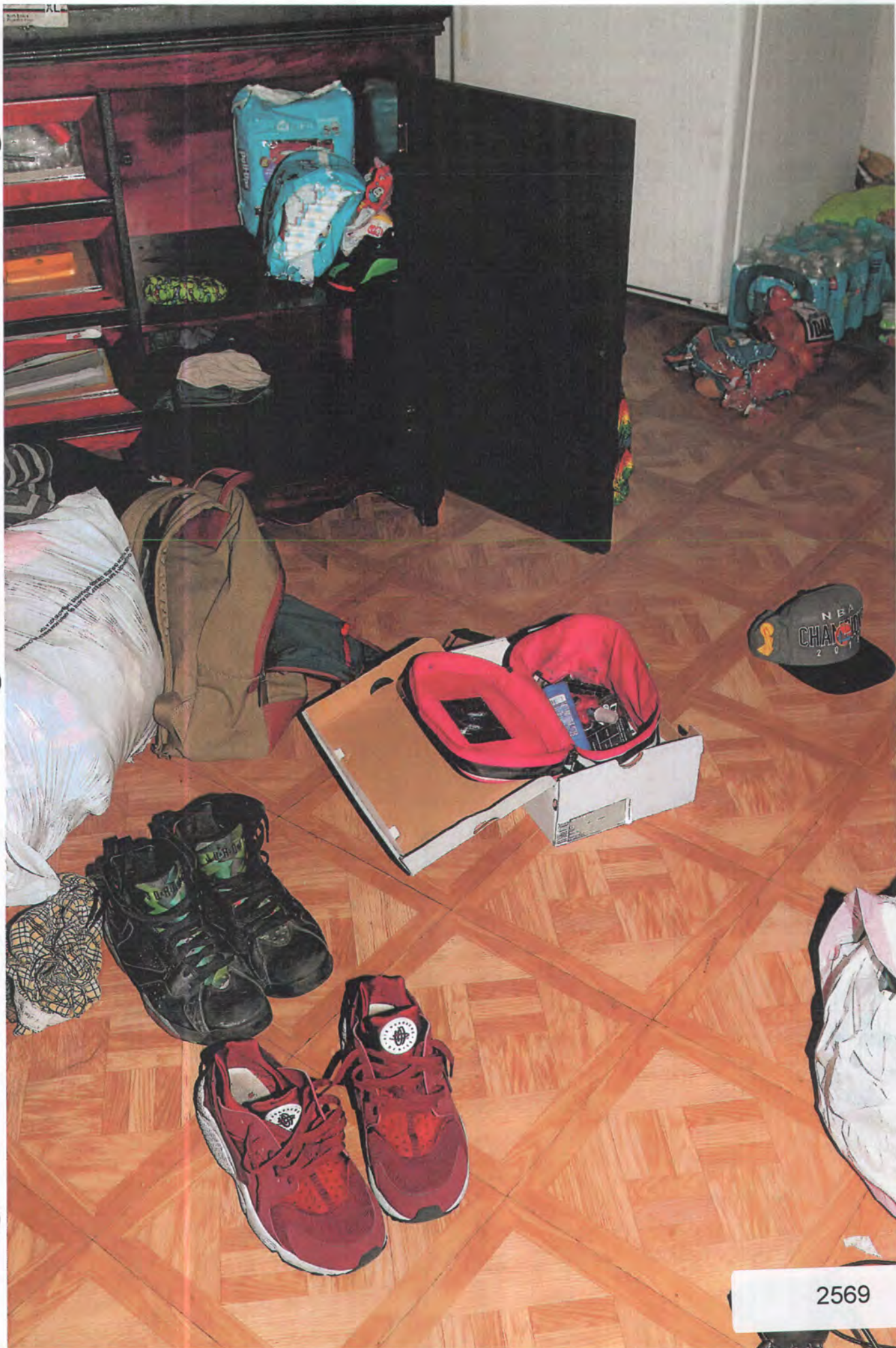


2568

MARK _____ EXHIBIT

CASE _____





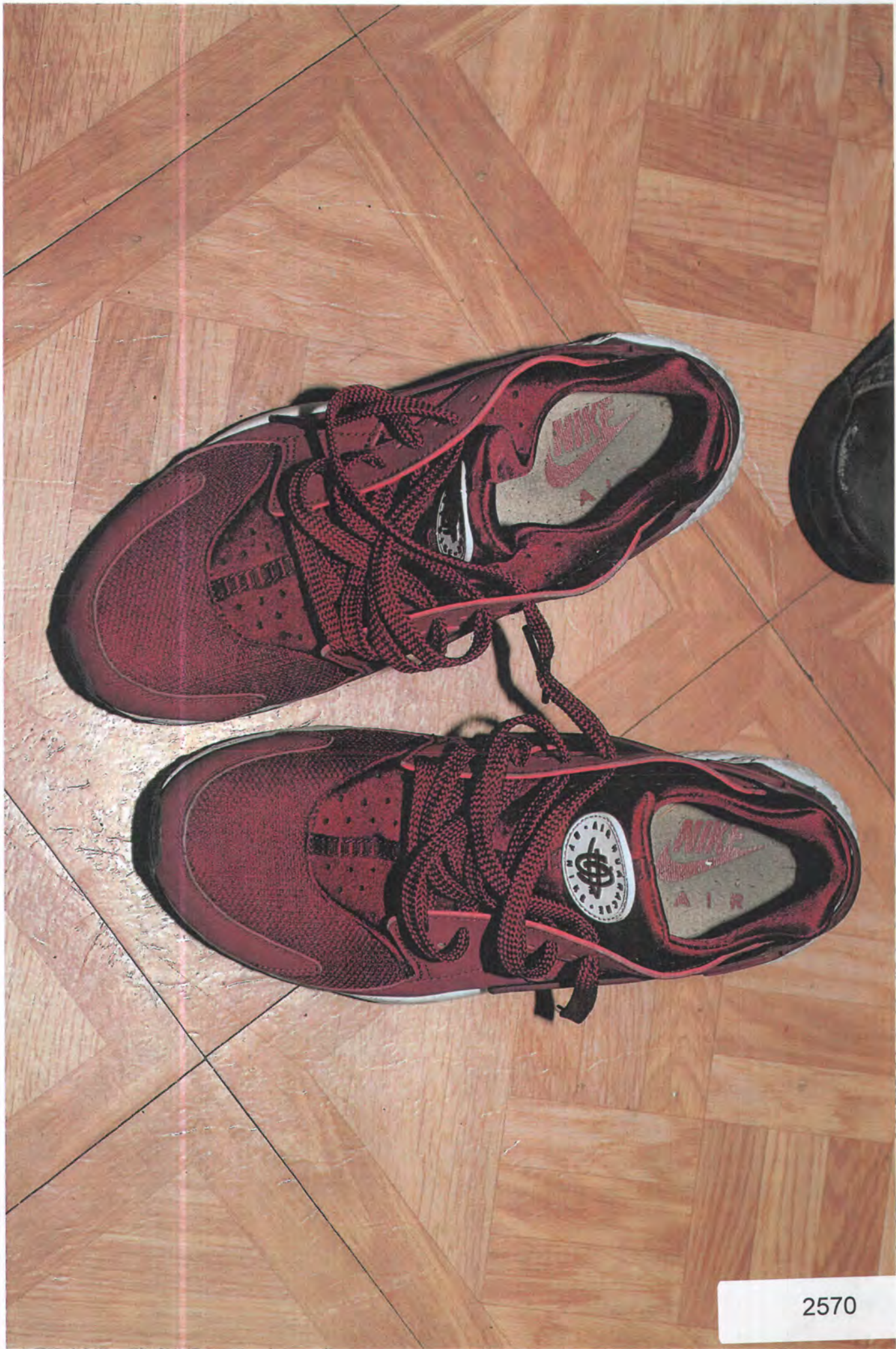
2569

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CASE



EXHIBIT

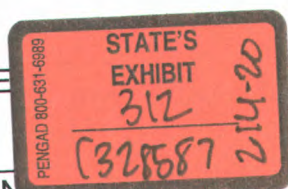


2570

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CASE N



HIBIT



2571

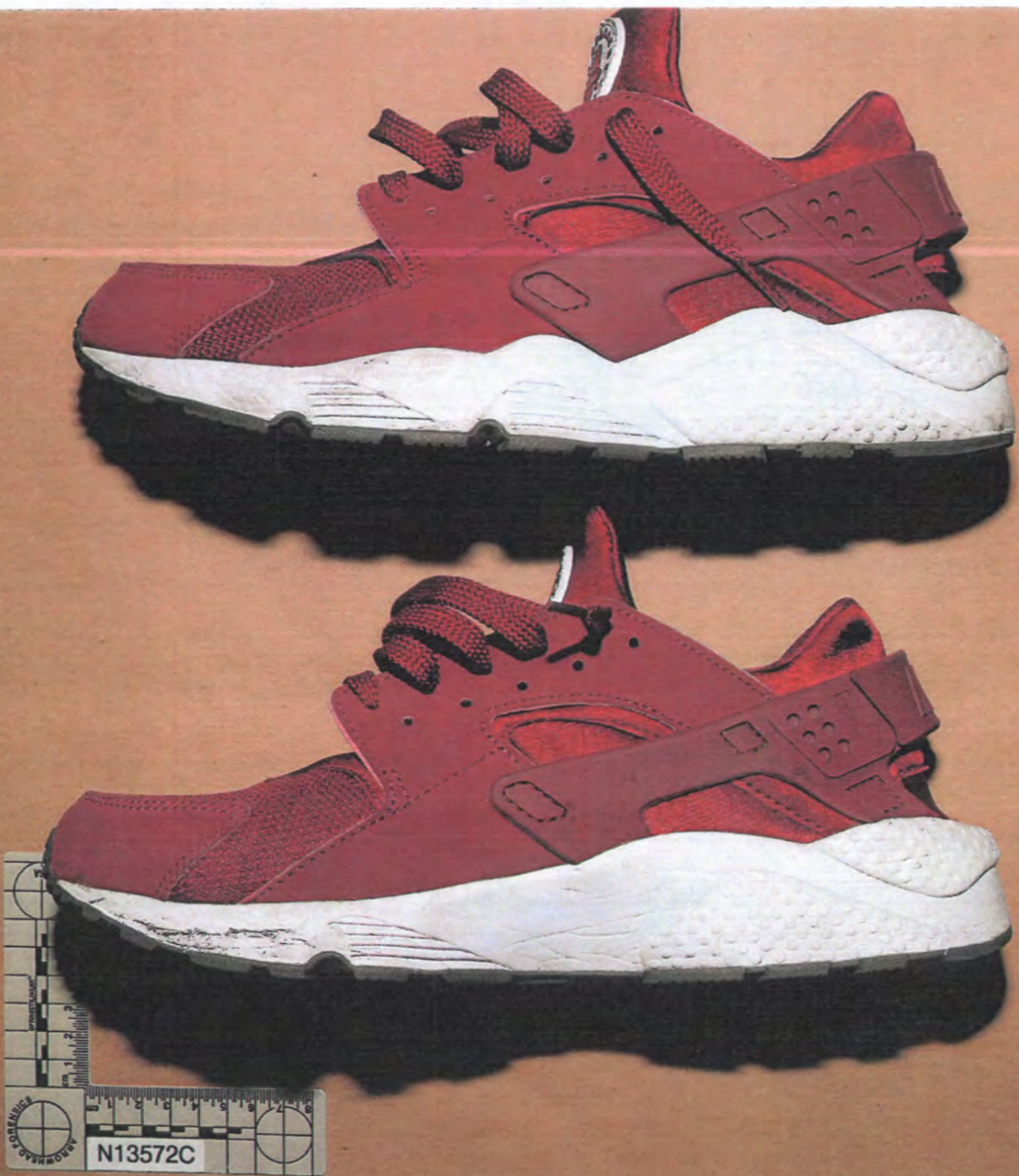
MARKED

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CASE NO.



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2572

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CASE



EXHIBIT



N13572C

2573

MARK

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CASE NO.



EXHIBIT



2574

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CASE



EXHIBIT

2575

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CASE



HIBIT



2576

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CAS



XHIBIT

2577



MARK # CASE HIBIT



STATE OF NEVADA
DEPARTMENT OF MOTOR VEHICLES
CENTRAL SERVICES - RECORDS DIVISION
555 Wright Way
Carson City, Nevada 89711-0250
(775) 684-4590

REQUEST DATE : 02/04/2020

SUP. TRAN. ID : 136749395

CLARK CO DISTRICT ATTORNEY
200 LEWIS AVE
LAS VEGAS NV 89101-6300

VEHICLE REGISTRATION DATA

I - VEHICLE DATA

YEAR : 2003 MAKE : MERC MODEL : GRAND MA CYL : 08
VIN : 2MEFM75W23X675311 VEHCL TYPE : VEH-SEDAN 4 DR

II - REGISTRATION INFORMATION

SUSPENSION : NONE
EXPIRATION DATE : 10/21/2017 REG STATUS : SURRENDERED
PLATE NUMBER : 473YZB DECAL NUMBER : 473YZB

CURRENT INDIVIDUAL &/OR BUSINESS ADDRESSES:

OWNER TYPE : REGISTERED COMBN TYPE : NONE
NAME : JAMES NEWMAN
MAIL ADDRESS : 1327 H ST APT 431
CITY/STATE : LAS VEGAS NV 89106-2982
PHYS ADDRESS : 1327 H ST APT 431
CITY/STATE : LAS VEGAS NV 89106-2982

LAST TRANSACTION DATE: 08/10/2017

NAME &/OR ADDRESS ON REGISTRATION

NAME : JAMES NEWMAN
MAIL ADDRESS : 1327 H ST APT 431
CITY/STATE : LAS VEGAS NV 89106-2982

PAGE NO: 1** LAST PAGE **

I hereby certify that this report is a
true copy of the original on file in
the Department of Motor Vehicles
of the State of Nevada.

STATE OF NEVADA
DEPT. OF MOTOR VEHICLES

By:


Custodian of the files

6796 2/4/20

MAR

CAS



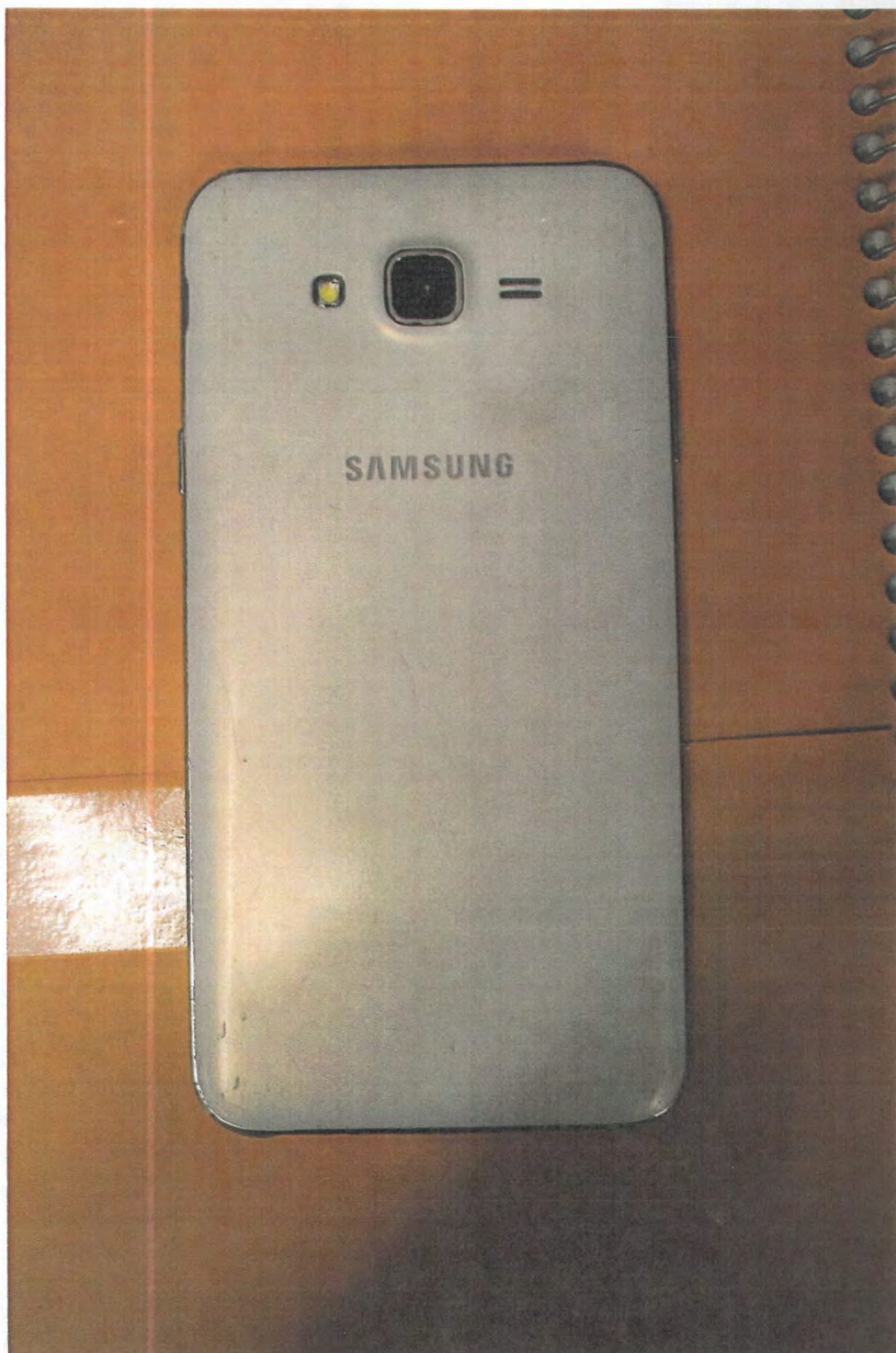
EXHIBIT



MARK # CASE



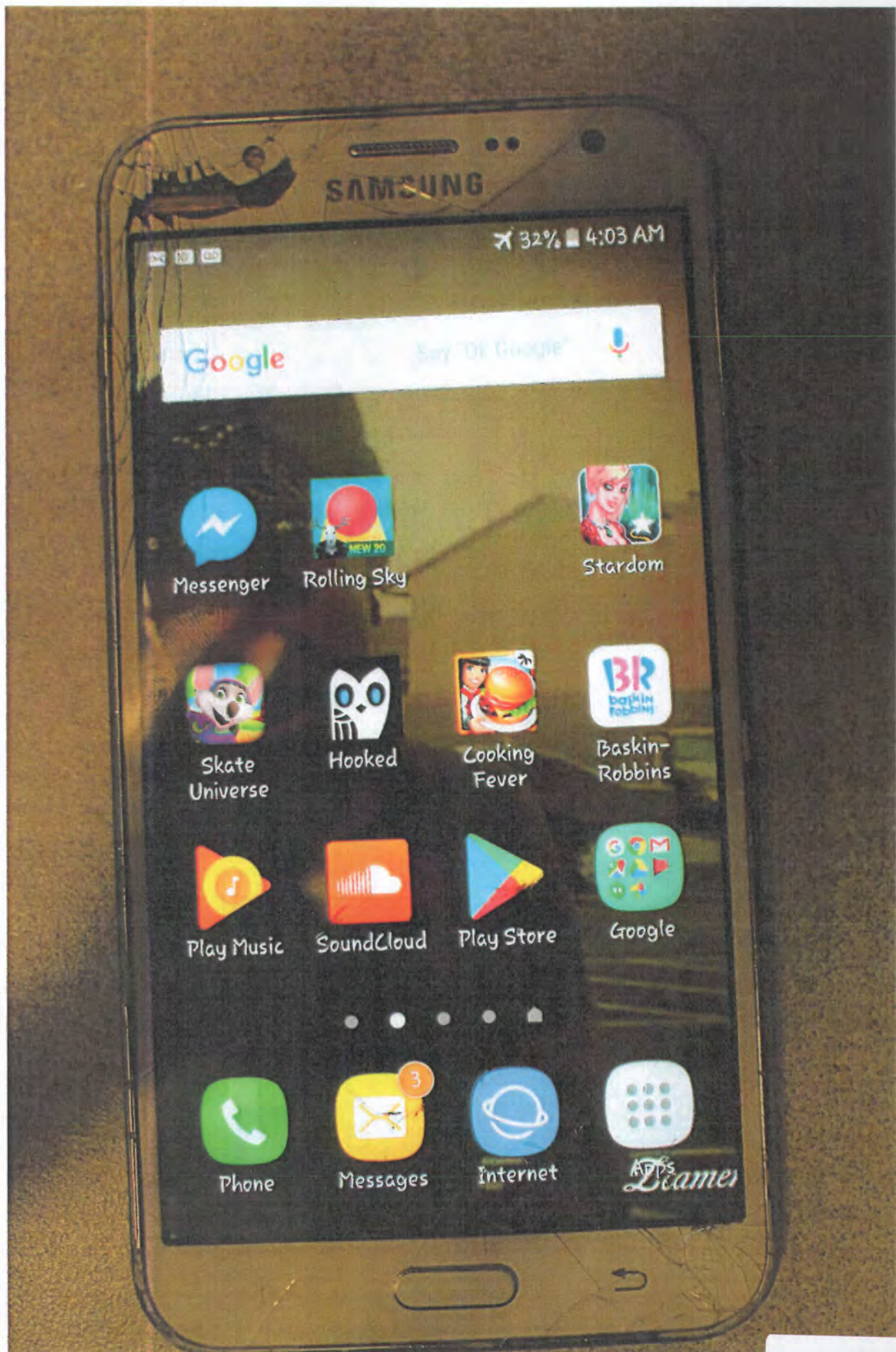
EXHIBIT



MAR 2008 EXHIBIT

CAS





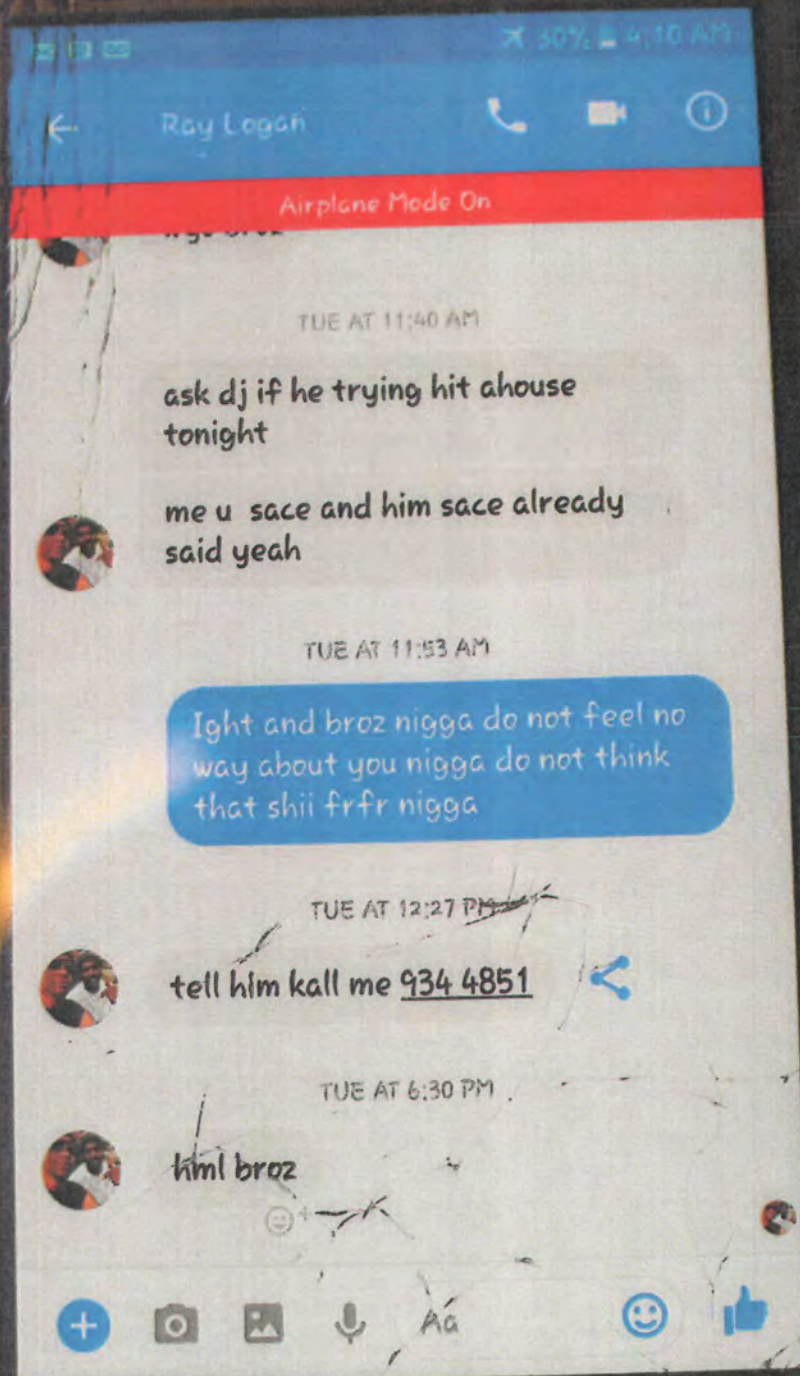
MA

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CAS



EXHIBIT



MARKET

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CASE N



HIBIT

ORIGINAL

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

FUS

OCT 22 2018
BY. *[Signature]*
SUSAN BOTZENHART, DEPUTY

1 GPA
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 GIANCARLO PESCI
6 Chief Deputy District Attorney
7 Nevada Bar #007135
8 200 Lewis Avenue
9 Las Vegas, NV 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

12 THE STATE OF NEVADA,

13 Plaintiff,

14 -VS-

15 DESHAWN ROBINSON,
16 #8241769

17 Defendant.

CASE NO: C-18-335287-1

DEPT NO: III

Pursuant to Alford *GP*
GP
DP

18 GUILTY PLEA AGREEMENT FILED UNDER SEAL

19 I hereby agree to plead guilty to: COUNT 1 - CONSPIRACY TO COMMIT
20 ROBBERY (Category B Felony - NRS 200.380, 199.480 - NOC 50147) and COUNT 2 -
21 ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony -
22 NRS 200.380, 193.330, 193.165 - NOC 50145), as more fully alleged in the charging
23 document attached hereto as Exhibit "1".

24 My decision to plead guilty is based upon the plea agreement in this case which is as
25 follows:

26 The State retains the right to argue. Additionally, as part of this negotiation, the
27 Defendant will also enter a plea to his juvenile charges. Lastly, the Defendant agrees to testify
28 pursuant to the Agreement to Testify as more fully set forth in Exhibit "2" attached hereto,
incorporated by reference as if fully set forth herein.

///

///

C-18-335287-1
FUS
Filed Under Seal
4790552



1 I agree to the forfeiture of any and all weapons or any interest in any weapons seized
2 and/or impounded in connection with the instant case and/or any other case negotiated in
3 whole or in part in conjunction with this plea agreement.

4 I understand and agree that, if I fail to interview with the Department of Parole and
5 Probation, fail to appear at any subsequent hearings in this case, or an independent magistrate,
6 by affidavit review, confirms probable cause against me for new criminal charges including
7 reckless driving or DUI, but excluding minor traffic violations, the State will have the
8 unqualified right to argue for any legal sentence and term of confinement allowable for the
9 crime(s) to which I am pleading guilty, including the use of any prior convictions I may have
10 to increase my sentence as an habitual criminal to five (5) to twenty (20) years, life without
11 the possibility of parole, life with the possibility of parole after ten (10) years, or a definite
12 twenty-five (25) year term with the possibility of parole after ten (10) years.

13 Otherwise I am entitled to receive the benefits of these negotiations as stated in this
14 plea agreement.

15 CONSEQUENCES OF THE PLEA

16 I understand that by pleading guilty I admit the facts which support all the elements of
17 the offense(s) to which I now plead as set forth in Exhibit "1".

18 AS TO COUNT 1 - I understand that as a consequence of my plea of guilty the Court must
19 sentence me to imprisonment in the Nevada Department of Corrections for a minimum term
20 of not less than ONE (1) year and a maximum term of not more than SIX (6) years. The
21 minimum term of imprisonment may not exceed forty percent (40%) of the maximum term of
22 imprisonment. I understand that I may also be fined up to \$5,000.00. I understand that the law
23 requires me to pay an Administrative Assessment Fee.

24 I understand that I am eligible for probation for the offense to which I am pleading
25 guilty. I understand that, except as otherwise provided by statute, the question of whether I
26 receive probation is in the discretion of the sentencing judge.

27 AS TO COUNT 2 - I understand that as a consequence of my plea of guilty Court must
28 sentence me to imprisonment in the Nevada Department of Corrections for a minimum term

1 of not less than ONE (1) year and a maximum term of not more than TEN (10) years for the
2 Attempt Robbery, PLUS a consecutive ONE (1) to TEN (10) years for the Deadly Weapon
3 enhancement. The minimum term of imprisonment may not exceed forty percent (40%) of
4 the maximum term of imprisonment. I understand that the law requires me to pay an
5 Administrative Assessment Fee.

6 I understand that I am eligible for probation for the offense to which I am pleading
7 guilty. I understand that, except as otherwise provided by statute, the question of whether I
8 receive probation is in the discretion of the sentencing judge.

9 I understand that, if appropriate, I will be ordered to make restitution to the victim of
10 the offense(s) to which I am pleading guilty and to the victim of any related offense which is
11 being dismissed or not prosecuted pursuant to this agreement. I will also be ordered to
12 reimburse the State of Nevada for any expenses related to my extradition, if any.

13 I understand that I must submit to blood and/or saliva tests under the Direction of the
14 Division of Parole and Probation to determine genetic markers and/or secretor status.

15 I understand that if I am pleading guilty to charges of Burglary, Invasion of the Home,
16 Possession of a Controlled Substance with Intent to Sell, Sale of a Controlled Substance, or
17 Gaming Crimes, for which I have prior felony conviction(s), I will not be eligible for probation
18 and may receive a higher sentencing range.

19 I understand that if more than one sentence of imprisonment is imposed and I am
20 eligible to serve the sentences concurrently, the sentencing judge has the discretion to order
21 the sentences served concurrently or consecutively.

22 I understand that information regarding charges not filed, dismissed charges, or charges
23 to be dismissed pursuant to this agreement may be considered by the judge at sentencing.

24 I have not been promised or guaranteed any particular sentence by anyone. I know that
25 my sentence is to be determined by the Court within the limits prescribed by statute.

26 I understand that if my attorney or the State of Nevada or both recommend any specific
27 punishment to the Court, the Court is not obligated to accept the recommendation.

28 ///

1 I understand that if the offense(s) to which I am pleading guilty was committed while I
2 was incarcerated on another charge or while I was on probation or parole that I am not eligible
3 for credit for time served toward the instant offense(s).

4 I understand that if I am not a United States citizen, any criminal conviction will likely
5 result in serious negative immigration consequences including but not limited to:

- 6 1. The removal from the United States through deportation;
- 7 2. An inability to reenter the United States;
- 8 3. The inability to gain United States citizenship or legal residency;
- 9 4. An inability to renew and/or retain any legal residency status; and/or
- 10 5. An indeterminate term of confinement, with the United States Federal
11 Government based on my conviction and immigration status.

12 Regardless of what I have been told by any attorney, no one can promise me that this
13 conviction will not result in negative immigration consequences and/or impact my ability to
14 become a United States citizen and/or a legal resident.

15 I understand that the Division of Parole and Probation will prepare a report for the
16 sentencing judge prior to sentencing. This report will include matters relevant to the issue of
17 sentencing, including my criminal history. This report may contain hearsay information
18 regarding my background and criminal history. My attorney and I will each have the
19 opportunity to comment on the information contained in the report at the time of sentencing.
20 Unless the District Attorney has specifically agreed otherwise, the District Attorney may also
21 comment on this report.

22 WAIVER OF RIGHTS

23 By entering my plea of guilty, I understand that I am waiving and forever giving up the
24 following rights and privileges:

- 25 1. The constitutional privilege against self-incrimination, including the right
26 to refuse to testify at trial, in which event the prosecution would not be
allowed to comment to the jury about my refusal to testify.

27 ///

28 ///

2. The constitutional right to a speedy and public trial by an impartial jury, free of excessive pretrial publicity prejudicial to the defense, at which trial I would be entitled to the assistance of an attorney, either appointed or retained. At trial the State would bear the burden of proving beyond a reasonable doubt each element of the offense(s) charged.
3. The constitutional right to confront and cross-examine any witnesses who would testify against me.
4. The constitutional right to subpoena witnesses to testify on my behalf.
5. The constitutional right to testify in my own defense.
6. The right to appeal the conviction with the assistance of an attorney, either appointed or retained, unless specifically reserved in writing and agreed upon as provided in NRS 174.035(3). I understand this means I am unconditionally waiving my right to a direct appeal of this conviction, including any challenge based upon reasonable constitutional, jurisdictional or other grounds that challenge the legality of the proceedings as stated in NRS 177.015(4). However, I remain free to challenge my conviction through other post-conviction remedies including a habeas corpus petition pursuant to NRS Chapter 34.

VOLUNTARINESS OF PLEA

I have discussed the elements of all of the original charge(s) against me with my attorney and I understand the nature of the charge(s) against me.

I understand that the State would have to prove each element of the charge(s) against me at trial.

I have discussed with my attorney any possible defenses, defense strategies and circumstances which might be in my favor.

All of the foregoing elements, consequences, rights, and waiver of rights have been thoroughly explained to me by my attorney.

I believe that pleading guilty and accepting this plea bargain is in my best interest, and that a trial would be contrary to my best interest.

I am signing this agreement voluntarily, after consultation with my attorney, and I am not acting under duress or coercion or by virtue of any promises of leniency, except for those set forth in this agreement.

///

///

1 I am not now under the influence of any intoxicating liquor, a controlled substance or
2 other drug which would in any manner impair my ability to comprehend or understand this
3 agreement or the proceedings surrounding my entry of this plea.

4 My attorney has answered all my questions regarding this guilty plea agreement and its
5 consequences to my satisfaction and I am satisfied with the services provided by my attorney.

6 DATED this 21st day of October, 2018.

7
8 X Deshawn Robinson
9 DESHAWN ROBINSON
Defendant

10 AGREED TO BY:

11
12 Giancarlo Pesci #12840
13 GIANCARLO PESCI
14 Chief Deputy District Attorney
Nevada Bar #007135

1 CERTIFICATE OF COUNSEL:

2 I, the undersigned, as the attorney for the Defendant named herein and as an officer of the court
3 hereby certify that:

- 4 1. I have fully explained to the Defendant the allegations contained in the
5 charge(s) to which guilty pleas are being entered.
- 6 2. I have advised the Defendant of the penalties for each charge and the restitution
7 that the Defendant may be ordered to pay.
- 8 3. I have inquired of Defendant facts concerning Defendant's immigration status
9 and explained to Defendant that if Defendant is not a United States citizen any
10 criminal conviction will most likely result in serious negative immigration
11 consequences including but not limited to:
- 12 a. The removal from the United States through deportation;
 - 13 b. An inability to reenter the United States;
 - 14 c. The inability to gain United States citizenship or legal residency;
 - 15 d. An inability to renew and/or retain any legal residency status; and/or
 - 16 e. An indeterminate term of confinement, by with United States Federal
17 Government based on the conviction and immigration status.

18 Moreover, I have explained that regardless of what Defendant may have been
19 told by any attorney, no one can promise Defendant that this conviction will not
20 result in negative immigration consequences and/or impact Defendant's ability
21 to become a United States citizen and/or legal resident.

- 22 4. All pleas of guilty offered by the Defendant pursuant to this agreement are
23 consistent with the facts known to me and are made with my advice to the
24 Defendant.
- 25 5. To the best of my knowledge and belief, the Defendant:
- 26 a. Is competent and understands the charges and the consequences of
27 pleading guilty as provided in this agreement,
 - 28 b. Executed this agreement and will enter all guilty pleas pursuant hereto
voluntarily, and
 - c. Was not under the influence of intoxicating liquor, a controlled
substance or other drug at the time I consulted with the Defendant as
certified in paragraphs 1 and 2 above.

Dated: This 21st day of October, 2018.

ATTORNEY FOR DEFENDANT

18F03869X/saj/MVU

Steven D. Grierson

1 INFM
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 GIANCARLO PESCI
6 Chief Deputy District Attorney
7 Nevada Bar #007135
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

12 I.A. 10/05/2018
13 10:00 AM
14 JD EVANS

DISTRICT COURT
CLARK COUNTY, NEVADA

15 THE STATE OF NEVADA,

16 Plaintiff,

17 -vs-

18 DESHAWN ROBINSON,
19 #8241769

20 Defendant.

CASE NO: C-18-335287-1

DEPT NO: III

INFORMATION

21 STATE OF NEVADA }
22 COUNTY OF CLARK } ss.

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

25 That DESHAWN ROBINSON, the Defendant(s) above named, having committed the
26 crimes of CONSPIRACY TO COMMIT ROBBERY (Category B Felony - NRS 200.380,
27 199.480 - NOC 50147) and ATTEMPT ROBBERY WITH USE OF A DEADLY
28 WEAPON (Category B Felony - NRS 200.380, 193.330, 193.165 - NOC 50145), on or about
the 9th day of August, 2017, within the County of Clark, State of Nevada, contrary to the form,
force and effect of statutes in such cases made and provided, and against the peace and dignity
of the State of Nevada,

COUNT 1 - CONSPIRACY TO COMMIT ROBBERY

did willfully, unlawfully, and feloniously conspire with DEMARIO LOFTON-
ROBINSON and/or DAVONTAE WHEELER and/or RAEKWON ROBERTSON to commit

W:\2018\2018F038V69\18F03869-INFM-(ROBINSON__DESHAWN)-001.DOCX

EXHIBIT "1"

1 a robbery, by the defendant and/or DEMARIO LOFTON-ROBINSON and/or DAVONTAE
2 WHEELER and/or RAEKWON ROBERTSON committing the acts as set forth in Count 2,
3 said acts being incorporated by this reference as though fully set forth herein.

4 **COUNT 2 - ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON**

5 did willfully, unlawfully, and feloniously attempt to take personal property, to wit:
6 U.S. currency and/or other property, from the person of GABRIEL VALENZUELA, or in his
7 presence, by means of force or violence, or fear of injury to, and without the consent and
8 against the will of GABRIEL VALENZUELA, by pointing a firearm at the said GABRIEL
9 VALENZUELA and demanding said U.S. Currency and/or property, with use of a deadly
10 weapon, to wit: a firearm, the Defendant(s) being criminally liable under one or more of the
11 following principles of criminal liability, to wit: (1) by directly committing this crime; and/or
12 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be
13 committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise
14 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this
15 crime, with the intent that this crime be committed, Defendant and/or DEMARIO LOFTON-
16 ROBINSON and/or DAVONTAE WHEELER and/or RAEKWON ROBERTSON aiding or
17 abetting and/or conspiring by Defendant and/or DEMARIO LOFTON-ROBINSON and/or
18 DAVONTAE WHEELER and/or RAEKWON ROBERTSON acting in concert throughout.

19 STEVEN B. WOLFSON
20 Clark County District Attorney
Nevada Bar #001565

21
22 BY /s/ Giancarlo Pesci
23 GIANCARLO PESCI
24 Chief Deputy District Attorney
25 Nevada Bar #007135
26

27 18F03869X/saj/MVU
28 LVMPD EV#1708090029
(TK3)

1 **AGRE**
2 **STEVEN B. WOLFSON**
3 **Clark County District Attorney**
4 **Nevada Bar #001565**
5 **GIANCARLO PESCI**
6 **Chief Deputy District Attorney**
7 **Nevada Bar #007135**
8 **200 Lewis Avenue**
9 **Las Vegas, Nevada 89155-2212**
10 **(702) 671-2500**
11 **Attorney for Plaintiff**

7 **DISTRICT COURT**
8 **CLARK COUNTY, NEVADA**

9 **THE STATE OF NEVADA,**

10 **Plaintiff,**

11 **-vs-**

12 **DESHAWN ROBINSON,**
13 **#8241769**

14 **Defendant.**

CASE NO: C-18-335287-1

DEPT NO: III

15 **AGREEMENT TO TESTIFY**

16 **IT IS HEREBY AGREED** by and between the State of Nevada, by the Clark County
17 **District Attorney** and through the undersigned Deputy, **GIANCARLO PESCI**, and
18 **DESHAWN ROBINSON**, by and through his undersigned defense attorney, **JD EVANS**,
19 **ESQ.:**

20 1. **DESHAWN ROBINSON** will cooperate voluntarily with the Clark
21 **County District Attorney's Office** and the **Las Vegas Metropolitan Police Department**
22 **(LVMPD)** in the investigation and prosecution in Case Number **C-17-328587-1-3**, *State of*
23 *Nevada vs. Demario Lofton-Robinson and/or Davontae Wheeler and/or Raekwon Robertson*,
24 **concerning the Conspiracy To Commit Robbery (Category B Felony); Attempt Robbery With**
25 **Use Of A Deadly Weapon (Category B Felony) and Murder With Use Of A Deadly Weapon**
26 **(Category A Felony) of Gabriel Valenzuela which occurred on August 9, 2017.**

27 **///**

28 **///**

EXHIBIT 2

2. DESHAWN ROBINSON will cooperate voluntarily by providing information and by testifying fully in all court proceedings in the above referenced case against the co-defendants Demario Lofton-Robinson and/or Davontae Wheeler and/or Raekwon Robertson.

3. The full terms of the plea agreement are set forth in the document styled Guilty Plea Agreement, a copy of which is attached hereto and incorporated herein by reference. DESHAWN ROBINSON shall receive the benefits described in this agreement subject to his compliance with all of the terms and conditions contained in this document.

4. It is further understood that as a result of entering this agreement, DESHA WN ROBINSON is waiving all appeal rights with respect to the entry of plea, speedy trial rights, and any other right to appeal any issue as a result of his prosecution in Case Number C-18-335287-1.

ADDITIONAL CONDITIONS

1. It is further agreed that if this agreement is declared null and void as a result of violation of the terms and conditions by DESHAWN ROBINSON, the District Attorney will use any statements made by regarding this investigation against him, in any subsequent criminal trial/prosecution arising in Case Number C-18-335287-1.

2. It is agreed that no interviews or communication with DESHAWN ROBINSON shall be conducted by the District Attorney or its agents unless defense counsel JD EVANS, ESQ. has been notified and JD EVANS, ESQ. agrees to expressly waive his right to be present.

3. Any failure by the Office of the District Attorney and its agents to comply with the above requirements shall render this Agreement null and void and may result in DESHAWN ROBINSON taking any action which would otherwise be available to him, including but not limited to refusing to testify based on his Fifth Amendment right or seeking to withdraw from the plea agreement in Case Number C-18-335287-1.

///

///

1 4. All parties realize and understand their obligations and duties under this
2 Agreement. Each party enters this Agreement with full knowledge of the meaning and effect
3 of such Agreement.

4 5. DESHAWN ROBINSON has discussed this matter fully with his
5 attorney. The parties realize and understand that there are no terms to this Agreement other
6 than what is contained herein and in the Guilty Plea Agreement. DESHAWN ROBINSON
7 fully and voluntarily accepts all the terms and conditions of this agreement and understands
8 the consequences of entering into this agreement.

9
10 10/21/18
DATE

Deshaun Robinson
DESHAWN ROBINSON
Defendant

11
12 10/21/18
DATE

[Signature]
JD EVANS, ESQ.
Attorney for Defendant

13
14
15 10-9-2018
DATE

Paulo J. Pesci #12510
GIANCARLO PESCI
Chief Deputy District Attorney

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MARK # CASE



ORIGINAL

FILED

FEB 12 2020

DISTRICT COURT
CLARK COUNTY, NEVADA

Ch. J. Leavitt
CLERK OF COURT

THE STATE OF NEVADA,

Plaintiff,

vs.

DESHAWN ROBINSON,

Defendant.

CASE NO. C-18-335287-1

DEPT. NO. XII

FILED UNDER SEAL

FUS

BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT JUDGE

MONDAY, OCTOBER 22, 2018

**RECORDER'S TRANSCRIPT OF PROCEEDINGS
ARRAIGNMENT CONTINUED**

APPEARANCES:

For the State:

GIANCARLO PESCI
Chief Deputy District Attorney

For the Defendant:

CHRISTOPHER L. FELLOWS, ESQ.

RECORDED BY: TRISHA GARCIA, COURT RECORDER

C-18-335287-1
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RECEIVED

FEB 12 2020

CLERK OF DISTRICT COURT

1 LAS VEGAS, NEVADA, MONDAY, OCTOBER 22, 2018, 11:07 A.M.

2 * * * * *

3 THE COURT: State of Nevada versus Deshawn Robinson, Mr. Robinson is
4 present and he is in custody. Has the matter been resolved?

5 MR. PESCI: Yes, it has, Your Honor.

6 MR. FELLOWS: Yes, it has, Your Honor.

7 THE COURT: Who wants to state the negotiations?

8 MR. PESCI: Judge, if I could. Today the defendant's pleading guilty to one
9 count of conspiracy to commit robbery and one count of attempt robbery with use of
10 a deadly weapon. Both sides retain the right to argue. Additionally, as a part of this
11 negotiation, the defendant will also enter a plea in his juvenile case in juvenile court.
12 Lastly, the defendant agrees to testify pursuant to the agreement to testify that's
13 been brought to Your Honor's attention.

14 And we're asking that this be done under seal as far as this -- this
15 colloquy and this plea entry. We understand, obviously, I understand, I have to
16 divulge it to the other attorneys and the defendants in the case, but for the purposes
17 of it being in the public arena, we would ask that you would seal this because he's
18 agreeing to testify in the other case, specifically case C328587.

19 THE COURT: Sure. And the proceedings will be sealed and the guilty plea
20 agreement and the agreement to testify will be sealed.

21 MR. PESCI: And, Your Honor, I apologize, there was negotiation that went on
22 after providing the guilty plea agreement to the defense counsel, they have
23 requested to enter this guilty plea agreement pursuant to the *Alford* decision. The
24 plea in front of you, however, does not have the standard language as far as of the
25 caption. With your permission, we have written in "pursuant to *Alford*," I have

1 initialed, defense counsel's initialed, and the defendant has as well. So our intent is
2 that this be an *Alford* plea. The styling of the actual document's not perfect, and I
3 apologize for that, but with your permission we'd like to go forward that way.

4 THE COURT: Okay. And, Mr. Robinson, is that what you want to do?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: And that's your understanding of the negotiations?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: And you had a chance to discuss all this with your lawyer?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: And you got a copy of the information in this case charging you
11 in Count 1 with conspiracy to commit robbery and attempt robbery with use of a
12 deadly weapon?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: You had a chance to read it?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: You had a chance to discuss it with your lawyer?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: How old are you?

19 THE DEFENDANT: 16.

20 THE COURT: And do you read, write, and understand the English language?

21 THE DEFENDANT: Yes.

22 THE COURT: Okay. And so you had a chance to read it, correct?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: You understood it?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: You had a chance to discuss these charges with your lawyer?
2 THE DEFENDANT: Yes, ma'am.
3 THE COURT: How do you plead to the charges in the information?
4 THE DEFENDANT: I plead guilty to -- *Alford*?
5 MR. FELLOWS: Yes.
6 THE DEFENDANT: I plead guilty --
7 THE COURT: Are you pleading guilty pursuant to the *Alford* decision?
8 THE DEFENDANT: Yes, ma'am.
9 THE COURT: Okay. And you're entering into this plea today freely and
10 voluntarily?
11 THE DEFENDANT: Yes, ma'am.
12 THE COURT: Did anybody threaten or coerce you into entering into this
13 plea?
14 THE DEFENDANT: No, ma'am.
15 THE COURT: Other than what's contained in this guilty plea agreement, did
16 anyone make you any promises to get you to enter into this agreement?
17 THE DEFENDANT: No, ma'am.
18 THE COURT: I have before me a guilty plea agreement, is that your
19 signature on page 6?
20 THE DEFENDANT: Yes, ma'am.
21 THE COURT: Did you have a chance to read it before you signed it?
22 THE DEFENDANT: Yes, ma'am.
23 THE COURT: Did you have a chance to discuss it with your lawyer prior to
24 signing it?
25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: Were all your questions answered to your satisfaction prior --
2 THE DEFENDANT: Yes, ma'am.
3 THE COURT: -- to signing it?
4 THE DEFENDANT: Yes, ma'am.
5 THE COURT: Do you have any questions of the Court?
6 THE DEFENDANT: No, ma'am.
7 THE COURT: You understand what the range of punishment is for each
8 offense?
9 THE DEFENDANT: Yes, ma'am.
10 THE COURT: As to Count 1, you're facing 1 to 6 years in the Nevada
11 Department of Corrections as well as a \$5,000.00 fine.
12 THE DEFENDANT: Yes, ma'am.
13 THE COURT: You understand that?
14 And you understand as to Count 2, you're facing 1 to 10 years for the
15 attempt robbery, plus a consecutive 1 to 10 years for the deadly weapon
16 enhancement?
17 THE DEFENDANT: Yes, ma'am.
18 THE COURT: Do you understand that?
19 THE DEFENDANT: Yes, ma'am.
20 THE COURT: And you had a chance to discuss these ranges of punishment
21 with your lawyer, is that correct?
22 THE DEFENDANT: Yes, ma'am.
23 THE COURT: You understand that sentencing is completely within the
24 discretion of the Court, that no one can make you any promises regarding what will
25 happen at the time of sentencing?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Did anybody make you any promises?

3 THE DEFENDANT: No, ma'am.

4 THE COURT: All right. You also understand that you are giving up all your
5 trial rights by entering into this plea today, that you do have a right to a speedy and
6 public trial, that if the matter went to trial the State would be required to prove each
7 of the elements as alleged in their charging document by proof beyond a reasonable
8 doubt. Did your attorney explain to you what the State would have to prove if this
9 matter went to trial?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: You had a chance to discuss any defenses that you would
12 have to these charges?

13 THE DEFENDANT: Yes.

14 THE COURT: You understand at the time of trial you'd have the right to
15 testify, to remain silent, to have others come in and testify for you, to be confronted
16 by the witnesses against you and cross-examine them, to appeal any conviction,
17 and to be represented by counsel throughout all critical stages of the proceedings;
18 do you understand all these trial rights?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: You had a chance to discuss all these trial rights with your
21 lawyer?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: And you understand that by entering into this plea today that
24 you are giving up all of these trial rights?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: Okay. How far did you go in school?

2 THE DEFENDANT: I'm still in school.

3 THE COURT: Okay. What grade are you in?

4 THE DEFENDANT: I'm in the tenth grade.

5 THE COURT: I'm sorry?

6 THE DEFENDANT: The tenth grade.

7 THE COURT: Okay. And you understand that you have pled guilty pursuant
8 to the *Alford* decision?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: And one of the reasons that you decided to enter into that type
11 of plea is to avoid going to trial and facing a harsher penalty if you were convicted
12 on the other charges; is that correct?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: And you understand that I'll be asking the District Attorney
15 what he would be able to prove if this matter went to trial and that I'll be relying on
16 those facts in order to determine whether to accept this plea; do you understand
17 that?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: And so although you're not going to be required to admit guilt,
20 I'll be relying on the facts as stated to me by the District Attorney in determining
21 whether there's a factual basis for this plea; do you understand that?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: Do you have any questions about that?

24 THE DEFENDANT: No, ma'am.

25 THE COURT: And you had a chance to discuss all this with your lawyer; is

1 that correct?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Can the State tell me what you'd be able to prove if this matter
4 went to trial?

5 MR. PESCI: Yes, Your Honor. The State would have proven that on or about
6 August 9th of 2017, here in Clark County, Las Vegas, Nevada, the victim,
7 Gabriel Valenzuela, was shot and killed outside of his home and he was also
8 attempted to be robbed. The factual basis for this case is a little bit different in the
9 sense that at the time this case came into the system, Deshawn Robinson, the
10 defendant before Your Honor, was 14 at the time of the crime. So he went to the
11 juvenile system.

12 So right now you have in front of you a different case, C328587, set for
13 trial I believe in January, that has the three codefendants that are mentioned in the
14 pleadings in this case, that's why they're separate. And so what the State would ask
15 is that you would incorporate by reference the grand jury transcripts from C328587,
16 which has the testimony that was put forth at the grand jury implicating all four of
17 these defendants. At that time this particular defendant was not a part of the case,
18 but there was evidence to support these charges.

19 I would also say, Your Honor, in support of these charges that the State
20 would have been able to prove, as indicated, on August 9th, 2017, at about
21 12:10 a.m., the Las Vegas Metropolitan Police Department dispatch received a call
22 from a Lucy Mendoza who reported her husband was jogging and saw four
23 suspicious males hiding in the shadows on the southwest corner of Dewey Drive
24 and Lindell Road here in Las Vegas. They were described as wearing dark colored
25 hoodies and that they were -- they arrived in the area in a white-in-color Ford Crown

1 Victoria or a car that looked that way. Shortly thereafter there were multiple calls to
2 9-1-1 about shots fired in the area. Police responded and found the decedent in his
3 driveway having been killed when he was returning home from work.

4 Additionally, the investigation continued including going to a
5 convenience store nearby where video surveillance was obtained showing four
6 individuals matching the description given by the jogger who went by inside the
7 convenience store just about a half an hour before the murder occurred, which is
8 just a few miles away, and the individuals are in that video and are seen, one of
9 them actually, with the firearm and the car is actually seen and matches the
10 description and the license plate matches up that's seen in the video surveillance to
11 what the jogger had relayed to the police because he felt it was suspicious that
12 these four individuals were just loitering around at this house.

13 Eventually, the police were able to make contact with the defendants in
14 this case, including Deshawn Robinson. He gave a statement to police
15 post-*Miranda*, and he identified himself in the surveillance video and so he puts
16 himself at least at that scene there. And then he talked about how he was there with
17 his older brother and two other males and that they had gone to this area where this
18 house was around midnight, that they went to the corner store, so he missed being
19 in that store, and that he could describe the clothing that they were wearing.

20 And he then goes on to say he identified himself in the pictures in the
21 video surveillance the police showed him. He told the detectives that he was there
22 and that there was discussion, at least Deshawn heard a male wearing all black
23 talking about a lick or a robbery that was going to happen, not that Deshawn said
24 that, but that he heard one of the other individuals talking about doing a lick or a
25 robbery, and they all drove near a residence and that they got out. There was more

1 discussion, at least this is what the police report's indicated, about a robbery, and
2 that at the location Deshawn saw a male in a red shirt and black shorts outside
3 jogging near where they parked the car, which coincides with the jogger calling up
4 and reporting seeing these individuals. And Deshawn and the males exited the car
5 and stood in front of the house behind a block wall lined up one person behind the
6 other person and moments later Deshawn heard several shots and he knew the
7 gunshots were fired by the people in the car including his brother. And he heard
8 between four and six gunshots. They also then got into the car and fled the scene.

9 And so the State would have proven with this evidence that with
10 conspiracy liability and aiding and abetting, the defendant could have been
11 convicted of the murder with use of a deadly weapon charge which is being
12 negotiated away as a part of this negotiation.

13 THE COURT: And you understand that I'll be relying on those facts as just
14 stated to me by the District Attorney in determining that there's a factual basis for
15 this plea; do you understand that?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: Do you have any questions about that?

18 THE DEFENDANT: No, ma'am.

19 THE COURT: You also understand that you have signed an agreement to
20 testify, correct?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: So you understand part of your plea agreement is that you've
23 agreed to testify at a trial on behalf of the State of Nevada against your
24 codefendants, including your brother?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: Do you understand that?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Okay. And you signed this agreement to testify that's attached
4 as Exhibit 2; is that correct?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: And, again, you had a chance to read it before you signed it?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: You had a chance to discuss it with your lawyer prior to signing
9 it?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: And you understood everything in this document prior to
12 signing it; is that correct?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: And all your questions were answered to your satisfaction prior
15 to signing it; do you -- is that correct?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: And so you understand that you have entered into an
18 agreement to testify and that's part of your agreement including the agreement to
19 testify truthfully?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: Do you understand that?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: And you had a chance to discuss it with your lawyer?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Do you have any questions of the Court regarding that

1 agreement to testify?

2 THE DEFENDANT: No, ma'am

3 THE COURT: Okay. And you understand that you will be testifying in front of
4 this Court and that this Court would also be the one that would probably most likely
5 sentence you and that I'll have an opportunity to hear how you testify, that the State
6 of Nevada will have an opportunity to hear it, and then they'll have a right to argue at
7 the time of sentencing regarding what the appropriate sentence should be?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: You understand that, correct?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: And so you understand the importance of agreeing to testify
12 truthfully?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: That you understand if the State believes that you didn't testify
15 truthfully that that could be used against you?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: And they could argue for a more harsh penalty?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: You understand that?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: Do you have any questions about that?

22 THE DEFENDANT: No, ma'am.

23 THE COURT: Do you have any questions about the rights you're giving up by
24 entering into this plea today?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: If you have any questions, go ahead.

2 THE DEFENDANT: Not really, ma'am.

3 THE COURT: You don't have any questions?

4 THE DEFENDANT: [No audible response]

5 THE COURT: Okay. Do you have any questions about this guilty plea
6 agreement or the agreement to testify?

7 THE DEFENDANT: No, ma'am.

8 THE COURT: Okay. At this time the Court's going to accept your plea, make
9 a finding you've entered into it freely and voluntarily, that you understand the nature
10 of the charges and the consequences of your plea. The matter will be referred to
11 Parole and Probation.

12 How far do you want to set this off? When is the other one set?

13 MR. PESCI: I believe it's about January 22nd.

14 THE CLERK: I have February 12th.

15 MR. PESCI: Sorry.

16 THE COURT: February 12th? Okay. That's okay.

17 THE CLERK: Sorry.

18 THE COURT: We can do it probably end of February, first of March.

19 THE CLERK: Yes, Your Honor. That'll be March 5, 8:30.

20 MR. PESCI: And, Your Honor, also as a part of the agreement there has
21 been an order to transport brought to Your Honor for signature. The defendant's
22 other case, and we talked about this in the guilty plea agreement, is in juvenile court,
23 and so he is to be remanded back to juvenile court and it's a part of this negotiation
24 he's going to enter a plea there and he'll be in custody within the juvenile system
25 during the pendency of this case waiting for his testimony.

1 THE COURT: Okay. And you understand that, correct?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: And I have already signed that order and I'll have my -- my
4 J.E.A. is going to consult with the jail and they'll start to get that in progress so you'll
5 be transported to a juvenile facility. But you understand you're not getting out of
6 custody, right?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: All right. And so you'll be there and when you need to testify
9 they'll bring you here and then after that you'll come back for sentencing.

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: Do you understand that? And so you understand that the
12 Court will be able to consider everything that happens in between?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: Whether -- because you're going to go to a juvenile facility and
15 I'll know every single thing that happens at that juvenile facility.

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: Do you understand that?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: So you understand how important that is that no reports come
20 back that you had any problems whatsoever at that juvenile facility?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: Do you have any questions about that?

23 THE DEFENDANT: No, ma'am.

24 THE COURT: Okay.

25 MR. PESCI: Thank you, Your Honor.

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THE COURT: Thank you.

MR. FELLOWS: Thank you, Your Honor.

THE COURT: And this -- the hearing today will be sealed as well as the minutes and the documents that have been signed.

MR. PESCI: Thank you very much.

MR. FELLOWS: Thank you, Your Honor.

THE COURT: Thank you.

PROCEEDING CONCLUDED AT 11:23 A.M.

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio-video recording of this proceeding in the above-entitled case.


SARA RICHARDSON
Court Recorder/Transcriber

MA

#

CAS



EXHIBIT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 18, 2020

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

February 18, 2020 01:00 PM Jury Trial

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

COURT CLERK: Pannullo, Haly

RECORDER: Richardson, Sara

REPORTER:

PARTIES PRESENT:

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.

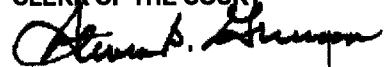
JURY PRESENT:

Testimony and exhibits presented. (See worksheets)

OUTSIDE THE PRESENCE OF THE JURY:

Defendants advised of their right not to testify.

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

TUESDAY, FEBRUARY 18, 2020

**RECORDER'S TRANSCRIPT OF PROCEEDINGS:
JURY TRIAL - DAY 5**

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, TUESDAY, FEBRUARY 18, 2020

2 (Case called at 1:03 P.M.)

3 THE COURT: Anything before we bring the panel in?

4 MR. SANFT: Not from the State.

5 MR. RUGGEROLI: No, Your Honor.

6 THE COURT: Okay, let's bring them in.

7 MR. PESCI: We've got eight witnesses lined up for
8 today, Judge.

9 THE COURT: Okay.

10 MR. PESCI: I'm not sure that we'll get through all
11 that, but.

12 (Pause in the proceedings)

13 THE MARSHAL: All rise for the entering jury,
14 please. Jurors.

15 (Within the presence of the jurors)

16 THE MARSHAL: Thank you, everyone. Please be
17 seated.

18 THE COURT: Does the State stipulate to the presence
19 of the panel?

20 MR. PESCI: Yes, Your Honor.

21 THE COURT: Mr. Sanft?

22 MR. SANFT: Yes, Your Honor. Thank you.

23 THE COURT: Mr. Ruggeroli?

24 MR. RUGGEROLI: Yes, Your Honor.

25 THE COURT: Thank you. The State may call their

1 next witness.

2 MR. PESCI: State calls Detective Sonny Bogatay.

3 May I approach your Clerk?

4 THE COURT: You may.

5 MR. PESCI: Thanks.

6 THE MARSHAL: Please step up into the witness stand.

7 Remain standing, raise your right hand, and face the Clerk,
8 please.

9 OFFICER MAUREEN SONNY BOGATAY, STATE'S WITNESS, SWORN

10 THE CLERK: You may be seated.

11 THE WITNESS: Thank you.

12 THE CLERK: Please state and spell your first and
13 last name for the record.

14 THE WITNESS: My name is Maureen, M-a-u-r-e-e-n. I
15 do go by my middle name, Sonny, S-o-n-n-y. Last name,
16 Bogatay, B-o-g-a-t-a-y.

17 DIRECT EXAMINATION

18 BY MR. PESCI:

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

20 A Presently, I work for the Las Vegas Metropolitan
21 Police Department.

22 Q In what division?

23 A In the Homicide Section.

24 Q How long have you been with homicide?

25 A It will be three years this June.

1 Q Prior to homicide, where did you work within Metro?
2 A In Metro, I worked in Sexual Assault Section for
3 about six-and-a-half years.
4 Q And then, prior to that?
5 A Prior to that, I was a field training officer, where
6 I trained other officers about how to be a good officer.
7 Q So, all told, how long have you been with Metro?
8 A It will be 17 years this August.
9 Q Okay. And so, if I heard you correctly, it's about
10 three years with Homicide?
11 A Yes, almost three years.
12 Q I want to focus your attention to August of 2017.
13 Did you assist in a homicide investigation that was out on
14 West Dewey Avenue?
15 A I did assist in an investigation, yes.
16 Q And did you work with some other detectives in that
17 investigation?
18 A That is correct.
19 Q And do you recall some of their names?
20 A Yes. I worked with Detective Mitch Dosch, Detective
21 Ryan Jaeger, Detective Lara Cody, and others.
22 Q All right. And then, in the course of this
23 investigation, did it take you as a detective to different
24 locations other than just the West Dewey address where the
25 murder actually occurred?

1 A That is correct. We were at multiple locations
2 during that time.

3 Q All right. And specifically, on August the 15th of
4 2017, did you respond with other Metro personnel to 3300 Civic
5 Center Drive, Unit 2F?

6 A Correct.

7 Q Okay, and do you remember a crime scene analyst by
8 the name of Noreen Charlton?

9 A I do.

10 Q Did she work the scene with you?

11 A Yes, she did.

12 Q Now, when you work a scene with crime scene
13 analysts, how do you do that? What's the way that you
14 approach it, meaning you and the crime scene analysts?

15 A Typically, the crime scene analysts will enter first
16 and take photographs, overall photographs of the scene before
17 anybody touches it so that everything is in place and how it
18 is. After they let us know that they are finished, then we
19 will go in, we put on our gloves, and we will systematically
20 start to search pretty much every area in the place that is
21 within the scope of our search.

22 Q Now, as that search is occurring, and during this
23 process, do the crime scene analysts take photographs?

24 A That is correct.

25 Q And are some items of evidence that are found

1 actually impounded or retrieved and taken into evidence?

2 A Yes.

3 Q In this particular case, Ms. Charlton was the
4 individual that took the photographs and impounded the
5 evidence?

6 A That is correct. She did.

7 Q All right. And are you aware of the fact that she's
8 moved out of Las Vegas and is currently working on the east
9 coast?

10 A Yes, she did.

11 Q All right. So, unfortunately, she couldn't see the
12 photographs from her testimony over the computer. We're going
13 to show some photographs to you. Is that okay?

14 A That's fine.

15 Q Showing you State's exhibits which have been
16 admitted 277 to 280, I'm going to ask you if you recognize
17 277.

18 A I do recognize 277.

19 Q And what do you recognize this to be?

20 A That is the -- I'll call it the outer entryway into
21 -- before you enter the apartments. There's two apartment
22 doors there, 2F and 2G.

23 Q And you spoke of kind of overall photographs as
24 kind of showing the scene as it first was when you arrived?

25 A Correct.

1 Q Now, when you get inside that little kind of alcove
2 or entryway, when you look at State's 278, does it show the
3 two different apartments inside that little entryway?
4 A It does.
5 Q And then, on the right, or at least on the left on
6 State's 278, is that Apartment 2G?
7 A It is.
8 Q And then, to the right, which one is it?
9 A That is 2F.
10 Q Okay. Looking at State's 279, was the door open to
11 2F?
12 A Yes, the door is open in that photograph.
13 Q All right. Above the door, do we have some
14 indication as to which particular apartment this is?
15 A Yes. It has a "2F" right at the top of it, which is
16 different than the other door where it said "2G" on the door.
17 Q All right. In 280, is that a close-up of the door
18 so we know which particular apartment we're about to go in?
19 A Correct.
20 Q Okay. And again, this was being done by Noreen
21 Charlton while you're there, correct?
22 A That is true.
23 Q Now, inside of the apartment where the search was
24 occurring -- this was pursuant to a search warrant, correct?
25 A That is correct.

1 Q All right, so a Court had authorized you, and the
2 other detectives, and the crime scene analysts to go in and to
3 look around this area?

4 A Yes, a judge authorized.

5 Q All right. 281, inside of that apartment, or is
6 that actually the door to the outside that we can see here?

7 A Yes. You can see right there the door is standing
8 open, as the last photograph where you saw the door as
9 standing open. Now we're inside. She's taking a picture from
10 the inside.

11 Q All right. So it appears that there's something
12 kind of red along here. Is it a bed or a couch?

13 A I think it's a -- you know, a small couch, small
14 chair. I mean, it's -- or a big chair. It's -- it looks like
15 both. You could sleep on it, but you certainly could sit on
16 it as well.

17 Q So 282, does that help us to orient to know we're
18 looking at that same location, and we still have the door to
19 the outside common area?

20 A Correct.

21 Q Okay. Was a phone located there?

22 A Yes, the phone was right on the armrest --

23 Q Showing you --

24 A -- you see in the photograph.

25 Q -- 283. Is that a close-up of that phone?

1 A Yes, it is.

2 Q Often, will there be photographs taken of the phone,
3 looking at 284, from the opposite side?

4 A Correct.

5 Q Okay. Now, in this particular case, based on the
6 investigation that had already occurred, was there an effort
7 to try to locate some hooded sweatshirts, dark sweatshirts?

8 A There were some efforts. We open drawers, we look
9 for things in bags. We don't just search right -- the
10 surface-level stuff; we do go into things to look for
11 clothing.

12 Q And that was a focus, however, as to what you were
13 looking for?

14 A Yes.

15 Q One of the things?

16 A Yes, there was a focus.

17 Q Showing you State's 285. Was there a hooded black
18 sweatshirt there?

19 A There was.

20 Q All right. And then, State's 286, was there a
21 photograph of a sweatshirt in that location?

22 A Correct, nearby on the blue couch.

23 Q All right. And then, over here on the left, do you
24 see what that is?

25 A That's a tag.

1 Q Okay. Let me just move it in.
2 A I believe.
3 Q See if we can get the -- does that help you a little
4 bit?
5 A I mean, it's called Dutch.
6 Q Okay.
7 A But I don't know if they're those little cigarette
8 wrapper.
9 Q Right. And that's only showing part of the wrapper,
10 correct?
11 A Correct, it's kind of tucked in there. Hard to
12 see --
13 Q All right.
14 A -- from just looking at it like that.
15 Q Staying inside that area of that kind of
16 couch/chair, we talked about the phone. Was there another
17 piece of evidence that was found, State's 287? Was there a
18 holster, or did you see a holster in the area?
19 A There is a holster, which you -- it's hard to see
20 from this angle, but it is on that armrest, the red armrest.
21 Q Showing you State's 288, is it a better view of that
22 holster?
23 A Correct. You can now see that holster on the other
24 side of the water bottle.
25 Q And then, in tight on 289, using that water bottle

1 as a reference point, is that -- is that the same holster?

2 A Yes, it is.

3 Q Okay. Nearby, kind of stuck in between that red
4 edge and the couch, did you find something -- or was something
5 found in State's 290?

6 A Yes. It's very hard to see in that photograph, but
7 under that picture frame, you can see something very small,
8 but it, to us, appeared to be a butt of a gun.

9 Q So, 291, is that a better close-up of that item?

10 A Better --

11 Q All right.

12 A -- close-up.

13 Q So that wasn't in the holster, and it wasn't on top
14 of that little ledge?

15 A Correct, it was not. It was tucked in like that.

16 Q It was wedged down in there?

17 A Correct.

18 Q And then, was that item retrieved, pulled out, and
19 photographed?

20 A It was.

21 Q Showing you State's 292, do you recognize that as
22 being that particular firearm?

23 A That is. That particular firearm was a Taurus
24 Millennium.

25 Q Okay. Showing you State's 293, is it common to show

1 both sides of the firearm when photographs are taken?

2 A Correct, because there's multiple engravings on each
3 side, so you want to make sure it's accurate and you have all
4 the details.

5 Q And speaking of details, in State's 294, are there
6 photographs that show the details of the manufacturer, the
7 serial number, and things of that nature?

8 A Yes, correct.

9 Q Okay. And then, was this -- do you recall the
10 firearm had a magazine in it? Showing you State's --

11 A It had a magazine in it, correct.

12 Q State's 295. Was the magazine then pulled out of
13 the firearm?

14 A It was.

15 Q Okay. As we see it right now with the slide back,
16 what's going on?

17 A With the slide back, it just shows that there's --
18 it's safe, and nothing is chambered, and there's not a bullet
19 in the chamber.

20 Q All right. Can we see, however, a bullet in the top
21 of the magazine?

22 A Correct, you can.

23 Q All right. Was the magazine itself photographed?
24 Showing you State's 296.

25 A Yes, it was.

1 Q And both sides of that, 297?
2 A Correct.
3 Q And then, the projectiles taken from it, 298, were
4 they unloaded from the magazine?
5 A Yes.
6 Q Okay. And then, 299, does that show the headstamp
7 of those particular bullets?
8 A It does.
9 Q Okay. And if we zoom-in, are these R-P .45 Autos?
10 A It is. You can see the stamp, .45 R-P.
11 Q Okay. And again, these are what are retrieved from
12 inside the magazine, which was inside the firearm that was
13 stuffed down in the corner?
14 A Correct.
15 Q Okay. The rest of the apartment, looking at State's
16 300, was that searched as well?
17 A Yes.
18 Q Okay. Were there some bullets that were found
19 outside of the gun itself?
20 A Correct. On the second floor of the apartment, we
21 did find some bullets.
22 Q State's 301. Is that a photograph of one of those
23 bullets?
24 A It is.
25 Q State's 302. Was there another one on the floor,

1 just loose on the floor?

2 A Yes, there was one loose on the floor.

3 Q Okay. And then, was there one -- well, those two

4 that were loose on the floor, looking at State's 303, was a

5 photograph taken of the headstamp of those two projectiles?

6 A Yes, that is a photograph of them.

7 Q Same manufacturer of the R-P .45 Auto?

8 A Yes.

9 Q Okay. And this is at 3300 Civic Center; this is not

10 the Bagpipe address, correct?

11 A Correct, 3300 Civic Center.

12 Q All right. In State's 304, was there another

13 projectile found, not those two on the floor, and not those

14 that were in the firearm, but inside the pockets of some

15 jeans?

16 A Yes, there was. We did find some in a pocket of a

17 jean.

18 Q And then --

19 A Jean shorts.

20 Q State's 305. Was the headstamp again photographed

21 to be able to show manufacturer?

22 A Correct.

23 Q Was it the same manufacturer?

24 A It was.

25 Q All right. Now, Crime Scene Analyst Noreen Charlton

1 also, in addition to photography and impounding the items, she
2 tried to process this item, particularly the firearm; is that
3 correct?

4 A Yes, she did.

5 Q And when we say process, meaning to try to develop
6 any fingerprints, things of that nature?

7 A Yes.

8 Q Showing you State's Exhibit 306, did she work on
9 that magazine to try to develop any latent fingerprints?

10 A Yes.

11 Q State's 307. Do you see that photograph?

12 A I do.

13 Q All right. And is this a part of that process of
14 trying to develop the fingerprints?

15 A That is part of the process to see if you can lift a
16 fingerprint. Correct.

17 Q All right. And then, Noreen Charlton has a unique P
18 or personnel number; is that correct?

19 A Yes, that is hers.

20 Q Many times when you're doing a report, do you put
21 your first initial, your P number, and your last initial?

22 A Yes, we do.

23 Q And does that help show that this is you that's
24 doing this particular action?

25 A Yes.

1 Q In addition to the firearms-related evidence, were
2 there other articles of clothing that were being looked for in
3 this case?

4 A Yes, there were.

5 Q Pursuant to that search warrant?

6 A Yes, we were looking for other articles of clothing
7 and shoes.

8 Q State's 308. Was there a hat of interest?

9 A Yes. There was a hat on -- I didn't know whether to
10 call it a dresser or a stand -- that we were looking at.

11 Q State's 309. Is that a close-up of that hat?

12 A That is the close-up.

13 Q Okay. Now, this is occurring -- again, for the
14 ladies and gentlemen of the jury, this is August the 15th of
15 2017?

16 A Correct, August 15th.

17 Q You said you were working with Detectives Jaeger and
18 Dosch, correct?

19 A Correct.

20 Q Were you aware of the fact that video surveillance
21 from a convenience store had been obtained prior to your
22 search?

23 A Yes.

24 Q And was that surveillance reviewed prior to the
25 search?

1 A It was reviewed, and I had seen it also.

2 Q Okay. And based on that, was that why some of these

3 items were looked at?

4 A Correct.

5 Q State's 310. Is that the same hat we were just

6 looking at in 309, but just turned upside-down?

7 A Yes.

8 Q Okay. And then, in State's 311, were there some

9 shoes that were found and were searched for?

10 A Yes, especially a pair of the red shoes.

11 Q All right, let's focus in on those then. In State's

12 313, are those the red shoes you just referred to?

13 A Correct, they are.

14 Q And then, often, are there different angles of the

15 same set of sneakers to be able to show all sides?

16 A Yes.

17 Q 312, is that the same pair of sneakers?

18 A Yes, it is.

19 Q Okay. And then, specifically, in State's 316, is a

20 photograph taken to be able to show the size of the shoes?

21 A Yes.

22 Q Now, the other apartment -- we were just speaking of

23 2F, correct?

24 A Correct.

25 Q All right. And was there some photography done of

1 2G?

2 A There was.

3 Q Showing you 317, is that the outside portion of that
4 apartment?

5 A It is.

6 Q And then, in State's 318, does this show entering
7 into that apartment?

8 A It does.

9 Q And lastly, State's 319, does that show inside of
10 2G?

11 A That is inside of 2G.

12 MR. PESCI: Okay, thank you very much. Pass the
13 witness, Your Honor.

14 THE COURT: Mr. Sanft, any cross?

15 MR. SANFT: Just a couple questions.

16 CROSS-EXAMINATION

17 BY MR. SANFT:

18 Q Detective, you explained to the jury a little bit
19 earlier that CSAs go into a house first, and then you follow
20 after, or you're with them during that time period?

21 A We do not go in when they're taking the photographs.
22 Sometimes, for -- the reason is that we would accidentally be
23 in a photograph or maybe bump into something. So typically,
24 they go in first, take the photographs of how the area is
25 prior to our entry.

1 Q Now, would it be fair to say, of course, that even
2 prior to crime scene analysts going into some type of place,
3 like in this case, these apartments, that it has to be cleared
4 first to make sure that there's nobody in there that could be
5 of any danger to either crime scene analysts or other people?

6 A There are times when it is cleared before that.

7 Q In this case, were the apartments that you went into
8 cleared prior to you entering into them with CSA?

9 A They were cleared.

10 Q Okay, meaning that police officers went in, they
11 looked through doors or in closets to make sure no one was in
12 there before they --

13 A I can't tell you if they may have went through the
14 closets because I wasn't in there with them. But typically,
15 people go in to make sure that there are not children or other
16 people in there while we're going to conduct the service of
17 our search.

18 Q All right. And during the time that you're in
19 there, fair to say that you wear gloves as kind of standard
20 operating procedure when you're doing that kind of search or
21 that kind of thing?

22 A Correct. We wear gloves.

23 Q And as you're doing and conducting those types of
24 searches, crime scene analysts are the ones rummaging through
25 things, or are you helping them rummage through those things

1 to get things of interest?

2 A Crime scene analysts are not the ones who conduct
3 the service; as he put it, the rummaging. I -- we are
4 searching, so we have our gloves on. They are usually waiting
5 for an announcement that we have located something, or, "Could
6 you photograph this for us?" So typically, it is just us
7 detectives who have the gloves on, and we are the ones going
8 through the property.

9 Q I see. And just, finally, with regards to the
10 gloves, the reason why you wear them is for what reason?

11 A So that we don't leave our own prints, our own DNA,
12 items like that, into a scene.

13 MR. SANFT: No further questions. Thank you.

14 THE COURT: Mr. Ruggeroli?

15 CROSS-EXAMINATION

16 BY MR. RUGGEROLI:

17 Q Good afternoon.

18 A Good afternoon.

19 Q Who did you interview in this case?

20 A In this case, DeShawn Robinson.

21 Q Okay, anybody else?

22 A There were people that were related to Raekwon, but
23 that was at a different address.

24 Q And that would have been prior to the August 15th
25 date, 2017, for the photos we were just looking at, correct?

1 A Yes, especially the DeShawn Robinson interview was
2 prior to that search.

3 Q You were shown a number of photos. One of them --
4 or a couple of them had a sweater; is that right?

5 A Sweater, then hoodie. I mean, I called them black.

6 Q Okay.

7 A Like, black sweater, black hoodies, black --

8 Q You had seen the video from the Short Line Express,
9 correct?

10 A I had.

11 Q And was it your understanding that the Civic Center
12 address was located with the individual that was wearing that
13 white hat on the video?

14 A I understood that some of the information that --
15 during our interview, we discovered that those were one of the
16 addresses involved with one of the people. Exactly who or
17 what, I wasn't sure until we got to the scene.

18 Q And so, the video, you recall because you actually
19 watched the surveillance?

20 A Correct.

21 Q One of the four that were in the store had that hat?

22 A Had a hat on that -- yes, that we thought was
23 similar to that hat.

24 Q And the shoes that were kind of maroon?

25 A Correct. We also saw the person with red shoes on,

1 so we saw red shoes, and we assumed that those could be
2 related.

3 Q Now, in the video, that individual had a maroon top
4 on, correct?

5 A Correct.

6 Q The photo you were shown was black sweater though,
7 right? Just now.

8 A Well, the pictures that we took that were on the
9 ground --

10 Q Right.

11 A -- was of a black sweater. Correct.

12 Q Okay. The Taurus firearm, were you aware that there
13 were two .45 caliber Taurus firearms; one located at this
14 address, and one supposedly located at a different address?

15 A I was not at the other address where search warrants
16 were served and guns were retrieved. I was only at this one
17 where a gun was retrieved.

18 Q Okay. Were you aware that this firearm was excluded
19 as having been the firearm that shot Mr. Valenzuela?

20 A Eventually, I was aware of that.

21 Q And you did testify just now about the magazine that
22 you observed in this firearm located at the Civic Center,
23 correct?

24 A Correct.

25 Q That magazine held ten bullets?

1 A It did.

2 Q And when you retrieved them and laid them out for
3 the photos, there were ten in the magazine itself that you
4 pulled out of it?

5 A Correct, there were ten.

6 Q Did you write any reports for this event?

7 A What we write is part of something called an
8 Officer's Report. So we write our summary; we include it in
9 an Office's Report.

10 Q And that would have probably been reviewed by
11 Detective Jaeger?

12 A Detective Jaeger, Detective Dosch, and ultimately a
13 sergeant, a supervisor.

14 Q Okay.

15 MR. RUGGEROLI: Thank you. I have nothing further.

16 THE COURT: Any redirect?

17 MR. PESCI: Yes, thank you.

18 REDIRECT EXAMINATION

19 BY MR. PESCI:

20 Q Detective, you were just asked questions about
21 gloves. He talked about how you as a detective and the other
22 detectives are the ones doing the actual searching, correct?

23 A Correct.

24 Q All right. Then you said you will sometimes say,
25 hey, we've got something here; could you take a photograph of

1 it or impound it, correct?

2 A Correct.

3 Q All right, and that's the crime scene analyst that
4 does that?

5 A Yes, it's the crime scene analyst.

6 Q And would you agree the crime scene analyst is also
7 wearing gloves when they impound these items?

8 A That is correct. They not only wear gloves; a lot
9 of times, we wear those medical masks so that they don't
10 breathe on anything or get any of their DNA or spit.

11 Q All right. You were asked questions about the video
12 surveillance that you reviewed from the Short Line Express.
13 Do you remember those questions?

14 A I do.

15 Q And do you recall that's from August the 8th of
16 2017?

17 A I do recall.

18 Q And your search is August the 15th of 2017?

19 A Yes, about a week later.

20 MR. PESCI: Thank you very much.

21 THE COURT: Mr. Sanft, any recross?

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

23 THE COURT: Mr. Ruggeroli?

24 MR. RUGGEROLI: No, Your Honor. Thank you.

25 THE COURT: Detective, thank you very much for your

1 testimony here today. You may step down, and you are --
2 THE WITNESS: Thank you.
3 THE COURT: -- excused from your subpoena.
4 THE WITNESS: Thank you.
5 THE COURT: Thank you very much for being here. And
6 you may call your next witness.
7 MR. PESCI: State calls Brooke Cornell.
8 THE MARSHAL: Straight ahead to the witness stand,
9 please. If you'll please step up into the witness stand,
10 remain standing, raise your right hand, and face the Clerk.
11 LAURA BROOKE CORNELL, 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 first name is Laura, L-a-u-r-a. My
15 last name is Cornell, C-o-r-n-e-l-l, but I go by and sign my
16 reports by my middle name of Brooke, B-r-o-o-k-e.
17 MR. PESCI: Thank you.
18 THE COURT: You may proceed.
19 DIRECT EXAMINATION
20 BY MR. PESCI:
21 Q Ma'am, what do you do for a living?
22 A I'm a crime scene analyst with the Las Vegas
23 Metropolitan Police Department.
24 Q How long have you been doing that?
25 A 11-and-a-half years.

1 Q All right. Were you asked to assist in an
2 investigation that was tied to an Event Number 170809-0029?
3 A Yes, I was.
4 Q Specifically, did you respond to 6647 West Tropicana
5 Avenue, Apartment 104 on the 15th of August 2017?
6 A Yes, I did.
7 Q And was that at about 4:00 P.M.?
8 A Yes, it was.
9 Q Okay. Did you respond there with another crime
10 scene analyst?
11 A Yes, I did.
12 Q Who was that?
13 A Glezzelle Tapay.
14 Q Okay. And then, what did the two of you do at the
15 scene?
16 A We were with detectives and conducting a search
17 warrant on the apartment.
18 Q Okay. And when you say you were conducting a search
19 warrant -- is that what you said?
20 A Yes.
21 Q Okay. What does that entail?
22 A The crime scene analyst goes through, takes overall
23 photos of the entire residence. Then the detectives conduct
24 the search, and then we photograph whatever items that they
25 deem interesting and collect the evidence.

1 Q Okay. And then, this was done pursuant to a search
2 warrant?
3 A Yes.
4 Q Meaning that a court had authorized this search?
5 A Yes.
6 Q Okay. I'm going to show you what's been marked as
7 State's Exhibits 235 through 266.
8 MR. PESCI: Any objections to them?
9 MR. SANFT: No objection, Your Honor.
10 MR. RUGGEROLI: No objection, Your Honor.
11 MR. PESCI: Move for their admission.
12 THE COURT: They're admitted.
13 (State's Exhibits 235 through 266 are admitted)
14 MR. PESCI: May I approach?
15 THE COURT: You may.
16 BY MR. PESCI:
17 Q Ma'am, in anticipation of your testimony, did you
18 review the photographs from this particular incident?
19 A Yes, I did.
20 Q And do you recognize these photographs as being the
21 ones that you took?
22 A Yes.
23 Q And I should more specifically say -- do you want it
24 back? Did you -- as far as your responsibilities and duties
25 at that scene between you and Ms. Tapay, what did you do

1 versus Ms. Tapay?

2 A My job was to take photographs, and then write the
3 Crime Scene Report.

4 Q Okay.

5 A And her job was to collect the evidence and impound
6 them.

7 Q So I want to show you those photographs. We'll go
8 through that, and then ask you some follow up questions.
9 Showing you first -- I don't know how to stop that feedback
10 from happening. So do you take some overall photographs of
11 the location before you go inside to search?

12 A Yes, I do.

13 Q Showing you State's 235. What do you recognize that
14 to be?

15 A That's the outside of the apartment with the -- the
16 outside of the building with the building number and street
17 address.

18 Q Do you do that in order to orient within an
19 apartment complex which particular building it is?

20 A We do that just to get the address and building
21 number to match the address that we have in our report.

22 Q All right. State's 236. Did you take a photograph
23 which included the stairs?

24 A Yes.

25 Q And then, was it upstairs, this particular

1 apartment?

2 A It was a downstairs apartment.

3 Q Okay. State's 237. Was that the front door to the
4 apartment?

5 A Yes, it is.

6 Q Now, when you make your way into the apartment,
7 showing you State's 238, do you do an overall kind of upon
8 entry?

9 A Yes.

10 Q And then, do you work your way through the
11 apartment?

12 A Yes.

13 Q Including different bedrooms?

14 A Yes.

15 Q Showing you State's 239, do you recognize this as
16 being an apartment within that particular -- or a bedroom
17 within that apartment?

18 A Yes.

19 Q This particular photograph, State's 239, is inside
20 the apartment, looking to the door to exit the apartment -- I
21 mean, the bedroom?

22 A Yes. That's looking out the bedroom door, and that
23 would be the living room back behind.

24 Q In State's 240, are you photographing the bed, and
25 also a closet area?

1 A Yes.

2 Q In State's 241, inside the closet, was there a
3 bureau or a chest of drawers?

4 A Yes, there was.

5 Q Now, this chest of drawers, in the process of
6 searching this area, was a firearm found?

7 A Yes.

8 Q Showing you State's 242, is this now taken from
9 inside of that closet inside that bedroom?

10 A Yes.

11 Q And the chest of drawers has all of the drawers in
12 it, correct?

13 A Yes, it does.

14 Q However, did you search inside those drawers or pull
15 those drawers out to look underneath?

16 A The detectives did.

17 Q Okay. State's 243. Do you recognize what this is?

18 A Yes, that's the bottom left drawer of that same
19 dresser that's -- the drawer's been pulled out, and then
20 there's a weapon and ammunition underneath.

21 Q State's 244. Is that a closer-up picture to show
22 the weapon?

23 A Yes.

24 Q And then, 245, does that show the ammunition?

25 A Yes.

1 Q Okay. Now, were those items retrieved from that
2 location inside of the chest of drawers and taken outside?

3 A Yes, they were.

4 Q Showing you State's 246, were those items put out so
5 that you could see all of them?

6 A Yes.

7 Q Specifically, State's 247, are those the two boxes
8 of ammunition?

9 A Yes, they are.

10 Q And then -- well, I should say the two Federal boxes
11 of ammunition, correct?

12 A Yes.

13 Q And then, 248, was there another item of note?

14 A Yes. We had another box of .22 caliber ammunition,
15 we had what appeared to be a laser sight possibly, and then
16 there was another box that had a tool and just some
17 miscellaneous cartridges in it.

18 Q Okay. So we're looking at this box with the tool
19 and the miscellaneous cartridges, and then also the laser-type
20 item?

21 A Yes.

22 Q Okay. You mentioned some .22 caliber ammunition,
23 correct?

24 A Yes.

25 Q State's 249. Is that this?

1 A Yes.

2 Q Okay. And then, the firearm itself, State's 250,
3 was that photographed?

4 A Yes.

5 Q And 251, is there a close-up on the manufacturer and
6 the serial number?

7 A Yes, there is.

8 Q And then, is the firearm photographed kind of from
9 all different angles? 252, does it show the other side of
10 that firearm?

11 A Yes.

12 Q And 253, kind of a close-up on that same side?

13 A Yes.

14 Q You talked about some loose ammunition; is that
15 correct?

16 A Yes.

17 Q State's 254. Were those those pieces of loose
18 ammunition that were in that red box earlier?

19 A Yes.

20 Q All right. When I say red box, we're talking about,
21 in State's 249, this red box here?

22 A Yes.

23 Q In fact, you can see some of those bullets?

24 A Yes.

25 Q Okay. And then, was this photograph taken so that

1 you could see the different calibers?

2 A Yes.

3 Q Now, the gun itself, was it disassembled to some

4 degree to take photographs?

5 A Yes.

6 Q Showing you 255, what's gone on here?

7 A We removed the magazine from the gun, and we've

8 opened the barrel, just -- it was just to clear it to make

9 sure it wasn't loaded.

10 Q Speaking of clearing it, State's 256, is that a

11 photograph looking into the barrel to verify that it's in fact

12 cleared?

13 A Yes.

14 Q What does it mean to be cleared?

15 A That there's no ammunition in there.

16 Q Okay. Speaking of ammunition, we saw some red boxes

17 earlier. Looking at State's 257, was that a photograph of

18 some of that ammunition?

19 A Yes, it is.

20 Q All right. Now, this particular box, what kind of

21 ammunition was it?

22 A .45 caliber.

23 Q Okay. And then, can you tell --

24 A And the headstamp says Federal .45 Auto.

25 Q Federal .45 Auto? Okay. I'm going to keep it kind

1 of zoomed-in, show 258. The other box, what type was it?

2 A It's Federal .357 Magnum.

3 Q Okay. And then, 259, we had the .22. Is that what
4 we're looking at as far as the box of ammunition for the .22?

5 A Yes, it is.

6 Q Okay. Put that into perspective. Is that that
7 plastic container opened up?

8 A Yes.

9 Q All right. And those pieces of evidence, were they
10 impounded by Ms. Tapay?

11 A Yes, they were.

12 Q Were there items of clothing that were looked at and
13 photographed inside of this apartment?

14 A Yes, there were.

15 Q Showing you State's 260. Was there a hooded black
16 sweatshirt that was found and photographed?

17 A Yes.

18 Q State's 261. Did you take a photograph of the label
19 of that item?

20 A Yes.

21 Q And then, 262, did you kind of work your way around
22 the closet and different pieces of clothing there?

23 A Yes, we did.

24 Q 263. Were there some hats and other items?

25 A Yes.

1 Q And then, going to 264, is that a black hooded
2 sweatshirt?

3 A Yes.

4 Q All right. Now, there seems to be some hands in
5 this photograph. Do you know whose hands those are?

6 A I can't say. It was probably a detective's.

7 Q All right. Are they gloved?

8 A Or maybe Glezzelle's. Yes, they are gloved.

9 Q Okay. When you were doing all this, were your hands
10 gloved?

11 A Absolutely.

12 Q Okay. Were there some shoes that were found and
13 notated in this investigation?

14 A Yes, there were.

15 Q 265. Did you find some shoes that were of interest?

16 A The detective did, yeah. It was on a shelf in the
17 closet.

18 Q All right. And then, 266. If the detectives ask
19 you to retrieve something, will you take it from that
20 location, and then display it somewhere else where you can
21 take further photographs?

22 A Yes, we do.

23 Q 266. Is that that same pair of shoes that were
24 found in the closet?

25 A Yes, they are.

1 Q Okay. Now, in the course of your time at that
2 particular location, you took the photographs, and Glezzelle
3 Tapay was the one that impounded the evidence?
4 A That is correct.
5 Q All right, and you said that was about 6:00 P.M. on
6 the 15th?
7 A I believe we arrived around 4:00 P.M.
8 Q 4:00 P.M. I apologize. Military time would be
9 16:00?
10 A Yes, it would.
11 Q All right, I apologize. All right. Later that same
12 day, on August the 15th at about 8:00 P.M., did you respond to
13 Metro headquarters?
14 A Yes, I did.
15 Q All right. And when you went to Metro's
16 headquarters, what was your job or your responsibilities?
17 A The detectives had me photograph two males, collect
18 buccal swabs, and they had me collect a pair of shoes from one
19 of the males.
20 Q Okay. When you take the photographs of an
21 individual, do you have them move into different directions,
22 different angles?
23 A Yes, we take all four sides; front, back, and both
24 sides.
25 Q And then, you talked about some buccal swabs; is

1 that correct?

2 A Yes.

3 Q What is a buccal swab?

4 A Buccal swab is a -- it's a cheek swab. You swab the
5 inside of the cheek, and it's a known sample of DNA from a
6 particular person.

7 Q Okay. In this particular case, the two individuals
8 that you took photographs of and buccal swabs from, was that a
9 Raekwon Robertson and a Davontae Wheeler?

10 A Yes.

11 MR. PESCI: Objections?

12 MR. SANFT: No objection.

13 MR. RUGGEROLI: Could you clarify the time? Were
14 they taken on different days?

15 MR. PESCI: Okay.

16 BY MR. PESCI:

17 Q So trying to follow back up, we're still on August
18 the 15th of 2017 at about 8:00, or later in the evening, P.M.;
19 is that correct?

20 A Yes.

21 Q All right. So it's the same day as the search on
22 West Tropicana, but a few hours later?

23 A Yes.

24 Q Is that accurate?

25 A That's accurate.

1 Q All right.

2 MR. PESCI: I'd move for the admission, Your Honor,
3 of State's 135 through 143.

4 MR. SANFT: No objection, Your Honor.

5 MR. RUGGEROLI: No objection.

6 THE COURT: They're admitted.

7 (State's Exhibits 135 through 143 are admitted)

8 BY MR. PESCI:

9 Q The photographs that you said you took of these
10 individuals a moment ago, State's 135, is that the individual
11 Davontae Wheeler that you took photographs of?

12 A I don't remember who was who, but that's one of the
13 males, yes.

14 Q Do you recall taking these photographs?

15 A Yes.

16 Q Okay. State's 2 -- or 136, is that the same
17 individual we just saw a moment ago?

18 A Yes.

19 Q More of a close-up of the face?

20 A Yes.

21 Q State's 137. Are you now taking photographs of the
22 individual from different angles?

23 A Yes, I am.

24 Q State's 138. Does it show the opposite side of that
25 individual?

1 A Yes.

2 Q Sometimes when people have tattoos, will you often
3 take photographs of the tattoos?

4 A Yes, we do.

5 Q Showing you State's 139, was that the chest of the
6 individual we've been seeing other photographs --

7 A Yes, it is.

8 Q All right. Now, you said you took a buccal swab
9 from this individual?

10 A Yes.

11 Q All right. And then, also, you photographed someone
12 by the name of Raekwon Robertson. Looking at State's 140, do
13 you recognize taking a photograph of this person?

14 A Yes.

15 Q Again, did you follow the same procedure as far as
16 in State's 141; different angles of the same person?

17 A Yes, we do.

18 Q State's 142. Is that the same individual?

19 A Yes, it is.

20 Q And then, State's 143?

21 A Yes.

22 Q Okay. And did you take a buccal swab from this
23 particular individual?

24 A Yes, I did.

25 Q All right. Now, when you take a buccal swab from

1 somebody, did you impound it under this particular event
2 number?

3 A Yes, we do.

4 Q All right. And you have a unique personnel number;
5 is that correct?

6 A Yes, I do.

7 Q What is yours?

8 A 13576.

9 Q Okay. And when you impounded these buccal swabs,
10 did you impound them as a Package 1, Item 1 and a Package 2,
11 Item 2?

12 A Yes, I did.

13 Q All right. So that way, when the DNA individual
14 pulls up the evidence and they have those samples, they know
15 it's unique to your personnel number in the way you packaged
16 it?

17 A Yes, it is.

18 Q Okay.

19 A Or yes, they do. Sorry.

20 MR. PESCI: Pass the witness, Your Honor.

21 THE COURT: Mr. Sanft?

22 CROSS-EXAMINATION

23 BY MR. SANFT:

24 Q Ms. Cornell?

25 A Yes.

1 Q We've asked a lot of questions, specifically about
2 the -- or there was one question asked by the State
3 specifically about the use of gloves?

4 A Yes.

5 Q Fair to say that that's to prevent yourself
6 inadvertently contaminating a scene with either DNA or
7 fingerprints?

8 A Yes, it is.

9 Q Okay. And so, when you are handling potential items
10 of evidence, you do not want to put your DNA, because
11 potentially that could happen in a case, right?

12 A It potentially could, yes.

13 Q All right. So fair to say, of course, that that
14 could happen inadvertently as well, meaning that just by being
15 in the area, you know, somebody could spit and it could fall
16 on something, and that could be DNA that was transferred onto
17 something, fair?

18 A Yes, it could.

19 Q Okay. Now, at some point in the future, the items
20 that you see and document, those items are then taken from
21 that location and they're put into an evidence vault, right?

22 A Yes.

23 Q And at some point from that, somebody else comes
24 along and says, okay, I'm going to now do a further
25 investigation of these particular items, looking for things

1 like fingerprints or DNA, fair?

2 A Fair. Yes.

3 Q Are you hesitating about the fingerprints?

4 A Well, I don't know exactly what all the forensic lab
5 does. That's past our -- once we've impounded it, I'm not
6 sure.

7 Q And it's out of your responsibility?

8 A Yes, yes.

9 Q Okay, then I won't ask you any questions about that.
10 But let me ask you this though. In this particular case,
11 there's a firearm that you locate underneath a drawer?

12 A Correct.

13 Q Did you locate that firearm?

14 A No. Either the detectives or Glezzelle did.

15 Q Okay.

16 A The detectives usually do all the searching and say,
17 hey, we found something, and we come in and photograph it.

18 Q Right. So, and I want to make sure the jury
19 understands, when you arrive on the scene, typically, it's a
20 team effort, right? There's detectives and other crime scene
21 analysts that help you do your job in locating and identifying
22 information that may be helpful evidence?

23 A Yes.

24 Q Okay. And in this particular case, you're in charge
25 of photography. Did you ever take pictures of everything

1 prior to the search being conducted?

2 A Yes.

3 Q Okay. So some of the photographs we saw was the
4 ones of the bedroom, and it showed that the bed was made, and
5 everything else was looking normal, right?

6 A Yes.

7 Q But would it be fair to say that once detectives
8 have an opportunity to go through and look for something as
9 small as a bullet or a gun that they're going to be moving
10 things around, right?

11 A Correct.

12 Q They're going to move that mattress; they're going
13 to move all kinds of stuff to try to find potentially where
14 these items may be located?

15 A Yes.

16 Q Okay. Now, with regards to the firearm that you
17 found in there, you laid it out at some point, and you took
18 everything out of the firearm, right?

19 A Correct.

20 Q You were careful not to transfer any of your DNA
21 onto that firearm, meaning you wore gloves, and you weren't
22 spitting, or sneezing, or anything like that, right?

23 A Right.

24 Q Okay. And so, when you laid it out, there was a
25 photograph of the firearms, and it looks like it was laid on

1 some type of paper, like a brown paper bag. Do you recall
2 that?

3 A Could be.

4 Q Here, I'll try to find it for you. Let's see if I
5 can just pull it up here. So, showing you what's been marked
6 and admitted as -- let's see here. State's Exhibit number
7 255, right?

8 A Okay.

9 Q Right. And so that --

10 A Yes.

11 Q -- particular item, my guess is -- and you tell me
12 if I'm wrong -- that would be the evidence bag that it would
13 eventually go into after photographing it, correct?

14 A Yes, correct.

15 Q So evidence bag is a device that you use to document
16 an item, maybe the location where the item's located; it would
17 have somebody's P number on it, either yourself or whoever it
18 is that's capturing this evidence; and then that's given to
19 somebody else in an evidence locker for further discussion,
20 further analysis?

21 A Yes.

22 Q Okay. So in this case, this particular item that we
23 have in here is the firearm that you located in 6647 West
24 Tropicana?

25 A Yes.

1 Q Okay. Now, the items are photographed, and they're
2 photographed every which way, right?

3 A Yes.

4 Q At the scene?

5 A Yes.

6 Q They're not photographed anywhere else besides that?

7 A It depends. In this case, it was photographed at
8 the scene. Sometimes -- depending on what the evidence is,
9 sometimes we'll have to photograph it back at the lab.

10 Q Okay. And once again, the idea is you want to
11 preserve the evidentiary integrity of whatever it is that you
12 find, so you make sure that everything's done in a way where
13 you don't believe there will be any cross-contamination?

14 A Correct.

15 Q Okay. And so this particular item here, when you
16 remove a clip from a firearm like that, how does that work? I
17 mean, do you just grab it; eject the clip out of it? I mean,
18 I'm envisioning what it would look like, maybe a little bit
19 more daintily than that, where you'd just kind of trigger
20 the --

21 A Yes. You hit the release button, and then you hold
22 onto it at the bottom, pull it out, set it down --

23 Q Okay.

24 A -- and take photos.

25 Q And once again, you're doing this in a way that

1 you're trying to preserve the evidentiary integrity of this
2 particular item, right?

3 A Yes.

4 Q Okay. So it's not like you're smearing your gloves
5 all over this thing because you want to make sure that if
6 there's fingerprints or if there's DNA, that you are capturing
7 that --

8 A Yes.

9 Q -- on this particular firearm? Okay. And that
10 would go the same with the boxes of ammunition and so forth
11 that's shown here in State's Exhibit 259?

12 A Yes.

13 Q As well as 258?

14 A Yes.

15 Q So, once again, you're looking for things like DNA,
16 fingerprints, to help you with your investigation?

17 A I don't know if any of that was done on the boxes of
18 ammunition or not, but yes, in general, we try to handle the
19 evidence as little as possible to preserve any evidence.

20 Q Okay. So for instance -- and that's a good point.
21 With these particular boxes, how do you determine what to
22 fingerprint and what not to fingerprint?

23 A Depends on the evidence. On that, if we were to
24 process it, it would probably just be -- the box would
25 probably just be prints. There'd be a better chance of

1 getting prints on that.

2 Q Right. Versus, say, DNA?

3 A Yes.

4 Q Okay. So in this case, as far as you know, was that
5 box dusted for fingerprints?

6 A I do not believe so.

7 Q Okay. And then, there's another box that's on here,
8 this box I'm showing you. Again, this is State's Exhibit 259.
9 Was that dusted for fingerprints as far as you know?

10 A I don't think so.

11 Q So would it be fair to say -- I'm just going to cut
12 to the chase -- that out of all the items that was located in
13 that drawer area, it was the gun and the magazine inside the
14 gun that was at least considered dusting for prints, or was
15 there anything else besides that?

16 A I -- I don't even know if the gun -- you'd have to
17 ask Glezzelle. She was the one in charge of processing any
18 evidence, since she collected it.

19 Q Okay.

20 A But I don't believe she processed the gun either. I
21 don't know.

22 Q All right. And showing you once again, just for
23 clarification for the jury, State's Exhibit number 246, the
24 items that were located inside -- underneath that drawer.

25 A Yes.

1 Q What you're telling the jury now is you don't know
2 for sure if any of these items were dusted for actual
3 fingerprints themselves?

4 A That is correct.

5 Q Okay. But you know for sure -- well, you don't know
6 for sure, but you did capture each item with the understanding
7 that if there was any DNA, that could be tested at some point
8 later down the line, but you don't have anything to do with
9 that?

10 A Correct.

11 Q Okay. Just one moment, please. Okay, one final
12 thing. The buccal swab.

13 A Yes.

14 Q You conducted that?

15 A Yes, I did.

16 Q And just for the jury's edification, this is where
17 you are collecting DNA from an individual that could be used
18 later in comparison for other DNA samples that are found
19 wherever, right?

20 A Correct.

21 Q Okay. Buccal swab is done where you take a -- is it
22 a cotton --

23 A Cotton swab.

24 Q -- swab, and you swab the inside of their mouth?

25 A Yes.

1 Q And then you carefully put that inside a vial of
2 some sort?

3 A Yeah, we have a little box that comes in the kit --

4 Q Okay.

5 A -- and we put the two swabs in the box.

6 Q All right. And the person that's in front of you,
7 you make sure that you document, this is the person that I'm
8 taking the buccal swab from, and it goes into a vial, and that
9 vial is very carefully labeled to make sure that there's no
10 confusion as to whose buccal -- or swab that you've just done
11 or whose DNA is on that buccal swab?

12 A Correct.

13 Q All right. You don't do the DNA analysis of that;
14 that's done by somebody else in the lab?

15 A Yes. That's done by the DNA Section.

16 Q Okay.

17 MR. SANFT: I have no further questions, Your Honor.
18 Thank you.

19 THE COURT: Mr. Ruggeroli?

20 CROSS-EXAMINATION

21 BY MR. RUGGEROLI:

22 Q Afternoon.

23 A Good afternoon.

24 Q Who directed you to take the buccal swabs?

25 A The detectives.

1 Q Which one?
2 A I don't remember.
3 Q You would not do that normally on your own volition;
4 somebody would tell you, this is somebody that I want you to
5 collect a sample from, correct?
6 A Correct.
7 Q And you just don't know which one it was?
8 A I don't remember which detective, no. But yeah, the
9 detectives request us to headquarters, they say they have a
10 search warrant for buccals, and then we go and collect them.
11 Q And the photographs of the individuals that you were
12 shown, there were two, correct?
13 A Correct.
14 Q You don't know who was who just based on name or
15 anything like that?
16 A Correct.
17 Q And you were not present when they were first
18 contacted that day prior to you taking the photographs?
19 A No, I was not.
20 Q You don't know if they were together --
21 A No, I have no idea.
22 Q -- correct?
23 MR. RUGGEROLI: Thank you. Nothing further.
24 THE COURT: Any redirect?
25 MR. PESCI: Thank you.

REDIRECT EXAMINATION

BY MR. PESCI:

Q Ma'am, as you sit here today, you look at these two individuals, and you're telling us you don't know who one is versus the other; is that correct?

A Correct.

Q But your testimony is, is you know these are the two individuals that you responded to headquarters and took photographs and buccal swabs?

A That is correct.

Q And then, you said you generated a report; is that correct?

A Yes, I did.

Q And then, in your report, you designate the particular items from one individual, and particular items from another?

A Yes, I did.

Q Specifically, your Package 1, Item 1 is a buccal swab from Davontae Wheeler? And would your -- looking at your report refresh your recollection?

A Yes, it would.

MR. PESCI: May I approach, Your Honor?

THE COURT: You may.

BY MR. PESCI:

Q Ma'am, do you write the report close in time to when

1 these events occur?

2 A Yes, we do.

3 Q Is it the standard operating practice for you to
4 create a report and notate what you impounded?

5 A Yes, we do.

6 Q Is that so that, later on, you could review it to
7 refresh your recollection?

8 A Yes.

9 Q All right. And as far as Package 1, Item 1, who is
10 that coming back to as far as the buccal swab?

11 A Davontae Wheeler.

12 Q And Package 2, Item 2, who is that coming back from?

13 A Raekwon Robertson.

14 Q All right.

15 MR. PESCI: Nothing further.

16 THE COURT: Any recross?

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

18 MR. RUGGEROLI: No further questions. Thank you.

19 THE COURT: Okay. Thank you very much for your --

20 THE WITNESS: Thank you.

21 THE COURT: -- testimony here today. You may step
22 down, and you are excused from your subpoena.

23 THE WITNESS: Thank you, Your Honor.

24 THE COURT: Thank you for being here. And you may
25 call your next witness.

1 MR. PESCI: State calls Glezzelle Tapay.
2 THE MARSHAL: If you'll please step up into the
3 witness stand. Remain standing, raise your right hand, and
4 face the Clerk.
5 GLEZZELLE TAPAY, STATE'S WITNESS, SWORN
6 THE CLERK: You may be seated. Please state and
7 spell your first and last name for the record.
8 THE WITNESS: My first name is Glezzelle,
9 G-l-e-z-z-e-l-l-e. Last name, Tapay, T-a-p-a-y.
10 MR. PESCI: Thank you.
11 DIRECT EXAMINATION
12 BY MR. PESCI:
13 Q Ma'am, are you a crime scene analyst with the
14 Metropolitan Police Department?
15 A Yes, I am.
16 Q And have you been working with them -- well, how
17 long have you been working for them?
18 A Approximately four years now.
19 Q And focusing your attention to August the 15th of
20 2017, did you respond to 6647 West Tropicana, specifically
21 Apartment 104?
22 A Yes, I did.
23 Q And was that pursuant to a search warrant that
24 detectives had to search that area?
25 A Yes, it was.

1 Q Did you work that scene with another crime scene
2 analyst?
3 A I did work it with another crime scene analyst.
4 Q Who was that?
5 A Brooke Cornell, or Laura Cornell.
6 Q And is Brooke her nickname?
7 A Correct, yes.
8 Q Okay. Is she the woman that just stepped out?
9 A She is.
10 Q Okay. At that particular scene, was Brooke
11 responsible with taking the photographs?
12 A Yes, she was.
13 Q And then, were you responsible for impounding the
14 evidence?
15 A I did impound the evidence, yes.
16 Q Showing you State's Exhibit 250, do you recognize
17 this as the firearm that you impounded at that particular
18 scene?
19 A Yes, that is the firearm.
20 Q All right. Was this particular firearm found in a
21 chest of drawers under the bottom left drawer?
22 A Correct.
23 Q Okay. When you impounded this particular item, did
24 you have your gloves on?
25 A I do wear gloves, yes.