

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. 12 OF 14)

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1 Q Okay. And then, this particular firearm, when you
2 impound it, what physically do you do?

3 A First, when we collect the firearm, we take a photo
4 of where it is to show its location. After that, we take a
5 closer photo of the item so that we can show exactly what the
6 item is. After that, we take it, and then we go ahead and put
7 it in a bag where we impound it later.

8 Q Okay. And when you put it in a bag, in this
9 particular case, did you package it under your P number, your
10 personnel number?

11 A Yes.

12 Q And is your personnel number 15709?

13 A Yes, it is.

14 Q All right. So your Package 1, Item 1, was it in
15 fact that semiautomatic Taurus P22 handgun?

16 A Correct.

17 Q All right, and it has serial number ANC29177?

18 A Correct.

19 Q Okay. Did you have a second package, which was
20 where you had the cartridges from that item?

21 A Yes.

22 Q Okay. So in one package, it was the firearm; in a
23 second package, it was the cartridges you had taken out?

24 A Correct.

25 Q All right. Now, did you at this particular scene

1 process this firearm for fingerprints?
2 A I did not.
3 Q Did you process it for DNA?
4 A I did not.
5 Q Okay. By putting it in the package, was it
6 preserved so that that could be done later?
7 A Yes.
8 Q In fact, it could be done back at the lab?
9 A Yes, it can be.
10 Q All right. So, by not doing it at the scene, that
11 doesn't stop anybody down the road from processing for
12 fingerprints and/or DNA?
13 A Correct.
14 Q Okay.
15 MR. PESCI: I'll pass the witness, Your Honor.
16 THE COURT: Cross-examination?
17 CROSS-EXAMINATION
18 BY MR. SANFT:
19 Q Detective, how does that work in terms of processing
20 for, say, fingerprints? Because fair to say, of course, that
21 when you're processing for fingerprints, you're taking some
22 type of dust and you're -- I'm being very, very simplistic
23 about it -- but you're coating it over a surface to determine
24 whether you see ridges, something that would tell you there's
25 fingerprints in them, and you lift those fingerprints using

1 some type of adhesive; is that a fair way of putting it?

2 A There are different ways to -- to process for latent
3 prints. In that case, you can use powder and lift it that
4 way, or you can use chemicals as well.

5 Q Okay. Now, when you are at the scene, like in this
6 case, you're at a scene where there's items that potentially
7 could be items where you could lift fingerprints, right? The
8 firearm you've been shown a picture of, showing you what's
9 been admitted as State's Exhibit 246, there were other items
10 besides that firearm that was located in that same vicinity as
11 the firearm, fair?

12 A Those items? Yes.

13 Q Yeah. Okay.

14 A Yes.

15 Q You have items here that potentially could be items
16 that could render fingerprints, right? You have flat
17 surfaces; you've got boxes; you've got plastic box; looks like
18 cardboard box; flat surfaces on this plastic over here that
19 I'm pointing to; even potentially surfaces on the firearm
20 itself. You could have done those things, right?

21 A Correct.

22 Q But was it a decision on your part not to test on
23 that point, leaving it for somebody else to do? Or, I mean,
24 what was the reason for not, you know, at least lifting prints
25 at that particular point?

1 A At that point, we can go ahead and, by impounding
2 it, the items can be processed later at the lab, or they could
3 have been processed there, but we can still preserve the
4 evidence just by impounding it.

5 Q So there was just a conscious decision at that point
6 to not do anything other than to capture the evidence in its
7 current state, put it into bags so that it could not be
8 contaminated, and then give it to somebody else to handle
9 that, fair?

10 A Correct.

11 MR. SANFT: Okay, all right. I have no further
12 questions. Thank you.

13 THE COURT: Mr. Ruggeroli?

14 MR. RUGGEROLI: No questions. Thank you.

15 THE COURT: Okay. Any redirect?

16 MR. PESCI: No. Thank you, Your Honor.

17 THE COURT: Okay, thank you very much for your
18 testimony here today. You may step down, and you are excused.
19 Thank you for being here.

20 THE WITNESS: Thank you.

21 THE COURT: You may call your next witness.

22 MR. PESCI: State calls Jamelle Shannon.

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

1 JAMELLE SHANNON, STATE'S WITNESS, SWORN

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

4 THE WITNESS: My name is Jamelle Shannon.
5 J-a-m-e-l-l-e, S-h-a-n-n-o-n.

6 DIRECT EXAMINATION

7 BY MR. PESCI:

8 Q Ma'am, how are you?

9 A I'm good. How are you?

10 Q Good, thank you. I want to direct your attention
11 back to August, specifically the 9th, of 2017. Were you
12 working back then for the Metropolitan Police Department?

13 A Yes, I was.

14 Q In what capacity?

15 A I was a crime scene analyst.

16 Q How long have you been with Metro?

17 A At that particular moment, I had been with Metro for
18 nine years, working as a crime scene analyst for almost two.

19 Q Okay. Your first involvement in this particular
20 case -- and your involvement was under Event Number -- correct
21 me if I'm wrong -- 170809-0029?

22 A Yes, that's correct.

23 Q Is that a unique, specific number to this case?

24 A Yes, it is.

25 Q Okay. Were you first called out to UMC?

1 A Yes, I was.

2 Q I'm sorry, University Medical Center, the hospital?

3 A Yes.

4 Q Okay. And where in the hospital did you go to?

5 A I went to the quiet room that's located at the

6 Trauma section of UMC.

7 Q And was that at about 1:08 A.M. on -- the early

8 morning hours of August the 9th, 2017?

9 A Yes, it was.

10 Q And what were you asked or tasked with doing there?

11 A I was tasked with taking photographs of the victim.

12 Q Okay. I want to show you a photograph.

13 MR. PESCI: May I approach the witness?

14 THE COURT: You may.

15 BY MR. PESCI:

16 Q It's been previously admitted into evidence, and ask

17 you -- (indiscernible) whole body. Showing you State's

18 Exhibit 94, do you recognize that?

19 A I do not.

20 Q Okay, because you didn't go to the autopsy itself?

21 A I did not.

22 Q All right. Showing you State's 96, does that -- do

23 you recognize that?

24 A That's another autopsy photo. I do not.

25 Q Okay. The person involved, do you recognize?

1 A I do, yes.

2 Q Okay. I was just trying not to show these
3 particular photos.

4 A Gotcha.

5 Q All right. So the person in those photographs from
6 the autopsy photographs, you recognize that?

7 A Yes.

8 Q All right. You didn't go to autopsy, but you went
9 to the hospital?

10 A Yes, that's correct.

11 Q So, in the timeline, your dealing with the body at
12 UMC is prior to it getting to the autopsy?

13 A Yes, that's correct.

14 Q All right, just so we know we're dealing with the
15 same person. When you were there, did you take some
16 photographs of the decedent in the quiet room?

17 A Yes, I did.

18 Q And I just said decedent. Was he in fact deceased
19 when you arrived?

20 A Yes, he was.

21 Q Okay. And were you asked to take photographs of how
22 he appeared at that time?

23 A Yes, I was.

24 Q Okay. Were you also tasked with recovering anything
25 from him?

1 A No, I was not.

2 Q Okay. So, as far as buccal swab, was that taken at
3 the coroner's office later?

4 A Yes, that's correct.

5 Q And that being from the decedent?

6 A Yes.

7 Q Okay. So you take photographs, and then you're done
8 with this particular portion of the investigation?

9 A Yes.

10 Q All right. And then, that same day, August the 9th,
11 2017 at about 11:27 P.M., did you respond to Metropolitan
12 Police Department headquarters?

13 A Yes, I did.

14 Q And where is that located?

15 A It's on 400 Martin Luther King Boulevard.

16 Q Okay. Were you asked to take some photographs
17 there?

18 A Yes, I was.

19 Q Do you recall who you took photographs of?

20 A I took photographs of four individuals: DeMario
21 Lofton-Robinson, DeShawn Robinson, Anthony Robinson, and
22 Johnquiel Brown, I believe.

23 Q Okay. And those photographs have already been
24 admitted. Do you take photographs of the individual kind of
25 showing all the different angles of the person?

1 A Yes, I do.

2 Q Okay. And were you also tasked with obtaining

3 what's referred to as buccal swabs?

4 A Yes, I was.

5 Q They've heard a lot about buccal swabs already. So

6 who did you take buccal swabs from?

7 A I took buccal swabs of all four of those

8 individuals.

9 Q Including DeShawn Robinson?

10 A Yes.

11 Q And DeMario Lofton-Robinson?

12 A Yes, that's correct.

13 Q Okay.

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

15 THE COURT: Cross?

16 MR. SANFT: No cross, Your Honor. Thank you.

17 MR. RUGGEROLI: Thank you, Your Honor.

18 CROSS-EXAMINATION

19 BY MR. RUGGEROLI:

20 Q Ms. Shannon?

21 A Hello.

22 Q Who directed you to take the buccal swabs of those

23 four individuals?

24 A I believe the homicide detectives that were there.

25 Q Do you recall which?

1 A I think it might have been Lora Cody, but I don't
2 recall.
3 Q Okay. And there were four individuals, you said?
4 A Yes.
5 Q DeMario?
6 A Yes.
7 Q DeShawn?
8 A Yes.
9 Q Anthony Robinson?
10 A Yes.
11 Q And Johnquiel Brown?
12 A Yes.
13 Q Not an Adrian Robinson?
14 A No, I believe it was Anthony.
15 Q Okay.
16 MR. RUGGEROLI: Thank you. I have nothing further.
17 THE COURT: Any redirect?
18 MR. PESCI: No, Your Honor.
19 THE COURT: Okay. Thank you very much for your
20 testimony here today. You may step down, and you are excused.
21 You may call your next witness.
22 MR. BROOKS: Your Honor, the State calls Jessica
23 Flink.
24 THE MARSHAL: If you'll please remain standing,
25 raise your right hand, and face the Clerk.

1 DETECTIVE JESSICA FLINK, STATE'S WITNESS, SWORN

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

4 THE WITNESS: Jessica Flink. J-e-s-s-i-c-a,
5 F-l-i-n-k.

6 DIRECT EXAMINATION

7 BY MR. BROOKS:

8 Q Ms. Flink, how are you employed?

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

11 Q And how long have you been so employed?

12 A Just started my 22nd year.

13 Q And what capacity are you a detective in?

14 A I'm currently assigned to a Digital Investigations
15 Unit.

16 Q And give us a little bit about what your day-to-day
17 duties would be and what that unit does.

18 A We do the analysis of digital media, so computers,
19 phones, video, infotainment centers, any type of digital
20 recording.

21 Q And what education, training, and experience do you
22 have that allows you to have this position?

23 A Well, once I went to the unit, I was sent to several
24 different schools, to include the Secret Service's Computer
25 Forensic Institute. I've been there on six -- six, maybe

1 seven times, as well as we are trained in each of the tools we
2 use. We have to hold tested certifications, and we have to
3 maintain those certifications.

4 Q What certifications do you hold?

5 A I hold 11. I'd have to look at my phone to give you
6 all the names, but particular to this exam, I'm a Cellebrite
7 certified mobile examiner.

8 Q And when you say particularly this exam, do you
9 recall a Las Vegas Metropolitan Police Department event number
10 that brings us here to court today?

11 A Yes.

12 Q And is that Event Number 170809-0029?

13 A Yes.

14 Q Tell me a little bit about how you would get
15 involved in a case like this.

16 A Well, on this particular occasion, Detective --
17 Homicide Detective Dosch brought it to our lab for analysis.

18 Q And when you say brought it to your lab, what is --
19 what is he --

20 A Brought phones. He brought phones to our lab for
21 analysis.

22 Q In this case, did you do one report or two?

23 A Two.

24 Q So let's start with just that first report then.

25 A Okay.

1 Q The first report, do you recall when Detective Dosch
2 brings you the phones?
3 A I believe it was August 12th.
4 Q And when he brings you the phones, is it pursuant to
5 a search warrant?
6 A Yes.
7 Q On that search warrant, does it give you kind of
8 like the scope of what you're allowed to look in and what
9 they --
10 A What they're looking for, yes.
11 Q What was the scope of the examination for this first
12 report?
13 A It would have been a -- I don't remember everything,
14 there's quite a few things, but it would have been call logs,
15 SMS's, GPS locations, pictures, videos.
16 Q So when he brings you the phone, how does he -- how
17 does it come?
18 A On this particular occasion, he brought them in our
19 evidence envelopes with a label on the front, but they weren't
20 sealed.
21 Q So it's in an evidence impound thing?
22 A Correct. Envelope, yes.
23 Q Envelope? Does it have his name and P number on it?
24 A The front is filled out. Yes, it does.
25 Q So when he brings it to you, tell me about what you

1 do to start your process.

2 A Well, I'll photograph the package, and I'll
3 photograph -- then take the phone out and photograph the
4 pieces and parts of the phone.

5 Q And with regard to this first report, did you do
6 that for two different phones?

7 A Yes.

8 Q Would it have been Package 1, Item 1; Package 2,
9 Item 1?

10 A Yes.

11 Q Or is it Package 2, Item 2? How do you do it?

12 A I thought it -- I think they came in two separate
13 packages. Is that -- am I correct on that? I don't remember
14 specifically if they were in one. But it would have been --
15 if they were in one package, it would have been Package 1,
16 Item 1; Package 1, Item 2. If it was in two, Package 1, Item
17 1; Package 2, Item 2.

18 Q Okay. And you took photos of these two phones?

19 A Yes.

20 Q Initially, in the envelopes, and then with them out
21 of the envelopes?

22 A Yes.

23 MR. BROOKS: Your Honor, permission to approach the
24 witness?

25 THE COURT: You may.

1 BY MR. BROOKS:

2 Q I want to start specifically with Package 1, Item 1.
3 Would you recognize some photos if I showed you --

4 A Yes.

5 Q -- State's Proposed Exhibit 338 through 344?

6 A These were pictures that I took of a ZTE phone that
7 was brought to the lab.

8 Q And do they fairly and accurately depict the phone
9 as you got it that day?

10 A Yes.

11 MR. BROOKS: Your Honor, State moves for admission
12 of those particular exhibits.

13 MR. SANFT: No objection, Your Honor.

14 MR. RUGGEROLI: No objection.

15 THE COURT: Okay, they're admitted, 338 through 344.

16 (State's Exhibits 338 through 344 are admitted)

17 BY MR. BROOKS:

18 Q Showing you State's Proposed Exhibit 348, 349, 350,
19 351, and 352, do you recognize these?

20 A Yes. Photos I took of a Samsung phone brought to
21 the lab.

22 Q And is that the second package --

23 A Yes.

24 Q -- that we referred to?

25 A Yes.

1 Q Even though it's the first report?
2 A Yes.
3 Q Okay.
4 MR. BROOKS: Your Honor, move for admission of those
5 particular exhibits.
6 MR. SANFT: No objection.
7 MR. RUGGEROLI: No objection.
8 THE COURT: They're admitted.
9 (State's Exhibits 348 through 352 are admitted)
10 BY MR. BROOKS:
11 Q So take us through the process. I want to start
12 initially --
13 MR. BROOKS: Permission to publish, Your Honor?
14 THE COURT: You may.
15 BY MR. BROOKS:
16 Q Exhibit 338. Is that kind of the package that you
17 were discussing?
18 A Yes.
19 Q Eventually, do you open it up?
20 A Yes.
21 Q State's Exhibit 340, and then State's Exhibit 341.
22 Why do you take that -- that one?
23 A I just take a picture of the front and the back.
24 Q Now, now that you have the phone out of the package,
25 what's the first step in your process?

1 A Would be to remove it from the network. So I'm
2 going to either remove the SIM or I'm going to put it into a
3 Ramsey box and power on to see if it's even got power at this
4 point.
5 Q So explain that to us though. I don't know what a
6 SIM or a Ramsey box is.
7 A A SIM is the -- it's the subscriber identity module.
8 It's the little card that's in -- that is your account for
9 that particular phone that's going to be inside the phone.
10 Q So where's the data stored that you're trying to get
11 to?
12 A It's on the chip -- on the hardware of the phone;
13 not the SIM.
14 Q Oh, it's on the hardware? Okay.
15 A Yeah.
16 Q So what are you doing when you take the SIM out?
17 A The SIM is -- will be the phone number.
18 Q Okay. And in this particular case, the Package 1,
19 Item 1, do you recall the phone number for that?
20 A No, I would have to review my report. I don't
21 remember the phone numbers for any of the phones.
22 Q Would it refresh your recollection to look at your
23 report?
24 A Yes.
25 MR. BROOKS: Your Honor, may I approach?

1 THE COURT: You may.

2 THE WITNESS: So the phone number attached to this
3 is 702-619-7426.

4 BY MR. BROOKS:

5 Q So after you get that from the SIM card, what's the
6 next step in the process?

7 A To make sure the battery's charged up, and that it
8 is in some way disconnected from the network, the phone.

9 Q And what do you mean by disconnected from the
10 network?

11 A Well, taking the SIM out will take it away from the
12 data network, which means it doesn't have the capability of
13 potentially being remote-wiped, for somebody to be able to
14 send signals to it, which is why we put it into the Ramsey box
15 before we power it on. It's an aluminum box that I stick my
16 hands through some aluminum-lined gloves and power it on in
17 the box with the intention of determining, is it already in
18 airplane mode? Is it -- or to put it in airplane mode.

19 Q Why would you put it in airplane mode?

20 A To prevent the ability for any type of -- well, one,
21 so new data doesn't come in, so we're not getting calls and
22 we're not getting texts, for one. And then, two, again, to
23 prevent the possibility of a remote wipe command.

24 Q And so how are you charging the battery? Are you
25 charging the --

1 A If it's -- the battery will come out, I will take
2 the battery out and put it into a universal charger, separate
3 from the phone.

4 Q Once it's charged, what do you do with it?

5 A Then I'll put it back into the phone, and then make
6 -- again, make sure it's powered on in the box, put it in
7 airplane mode, and then take the phone out of the box.

8 Q Okay. So now that we have that, what's your next
9 step?

10 A Then take it and connect it to a device called
11 Cellebrite 4PC, which will extract the data in a digital form,
12 a file form. And then I take that file and I will process it
13 in another program called Cellebrite Physical Analyzer, which
14 will then give me the data in a readable form.

15 Q Do you get all the data; do you get some of it? How
16 does it work?

17 A No. What is extracted is dependent on what the tool
18 supports; in other words, what Cellebrite supports. So at
19 this time, this particular model phone would only give me
20 what's called a partial logical extraction; logical being the
21 data that, if you turn on the phone, anybody can see. It's
22 not deleted data.

23 But this didn't even pull out all of that. It just
24 supported a partial, which I think it was just like the
25 default stuff; call history, SMS, and I believe some pictures.

1 Q Okay. Sorry, I don't really know phones. So back
2 up --
3 A Okay.
4 Q -- and take me through partial and logical
5 extraction.
6 A So a logical -- when you say, I have a logical
7 extraction of a phone, it means that I have, if you turn on a
8 phone, what anybody can see drilling through the phone. I can
9 see the call history on the phone, you can see the SMS's or
10 the texts that are on the phone, the pictures that are on the
11 phone. It's nothing that's deleted, it's no databases. It's
12 just the information that people are used to dealing with on
13 their phones is a logical, as opposed to a physical
14 extraction, which would get you some deleted data, some apps,
15 databases, and some system stuff that's on the phone.
16 This particular model phone was only supported for a
17 partial logical, which means not even -- not even everything
18 that you would see if you turned it on, just certain -- it
19 looked to me like just the default stuff.
20 Q And that's what you could, I guess, extract?
21 A Correct.
22 Q And put into a report?
23 A Correct.
24 Q And who would get that report once you do that?
25 A Detective Dosch.

1 Q The detective? So if something had been deleted on
2 this phone prior to you being -- prior to it being impounded
3 and then you getting it, you would not get to --

4 A No.

5 Q -- get that information?

6 A I -- no, I don't have access to deleted data at that
7 time.

8 Q Exhibit 342. What are we looking at?

9 A That's just the screen. It was unlocked, so I just
10 took a picture of the opening screen.

11 Q Now, would the process be different if the phone had
12 like a passcode or if it was locked?

13 A Well, it would -- again, that's just another
14 obstacle you have to hurdle to determine if the -- we do have
15 some password bypassing and breaking abilities. Fortunately,
16 this was not, so I didn't have to encounter any of that. This
17 was not passcoded.

18 Q So when Detective Dosch brings you this phone on
19 August 12th, if it had been -- just ballpark it for me. If it
20 had been passcode or locked, would you have been able to do
21 this extraction on the same day?

22 A Again, that -- being able to get into a locked phone
23 is going to be dependent on the profile that's supported and
24 the tool. Being that I was only able to get a logical -- a
25 partial logical with it even open tells me that, no, there

1 would not -- this particular phone would not have been
2 supported had it been locked, and I wouldn't have gotten any
3 data.

4 Q And Exhibit 344, what is that?

5 A That's the SIM card.

6 Q All right. And then, Exhibit 343, what are you
7 doing there?

8 A Looks like I just took a picture of the screen
9 again.

10 Q Just the clean screen?

11 A Yeah, the clean screen.

12 Q Okay. So once you start taking photos of the
13 screens, in this case, did Detective Dosch request something
14 specific, or what kind of information do you have when you're
15 looking at a phone?

16 A Well, personally, he had asked me if I would check
17 for a -- something like a "Sace" or an "Ace" person, a
18 contact, and then a phone number that began like 702-934.

19 Q And so did you start your search there?

20 A Yes. I can do word searches and phone number
21 searches just over the whole phone without having to drill
22 through everything, and so that's -- I started there.

23 Q So that -- that phrase, "Sace," do you recall how
24 it's spelled?

25 A S-a-c-e.

1 Q So did you find any related information in this
2 phone, which is the ZTE 981 Max Pro?
3 A It was a saved contact.
4 Q It was?
5 A Yes.
6 Q Were there any text messages?
7 A There was text messages and call history.
8 Q So it was a saved contact in this phone of the Sace?
9 A Yes.
10 Q And the call history, do you recall what the call
11 history was like?
12 A I believe it was in the -- like 20-plus calls.
13 Q 20-plus calls --
14 A Back and forth.
15 Q But for all of history, or was it a truncated time
16 period?
17 A I believe I put in the report the time frame. I
18 don't remember it off the top of my head.
19 Q Would it refresh your recollection to look at that
20 report?
21 A Yes.
22 MR. BROOKS: Permission to approach, Your Honor?
23 THE COURT: You may.
24 THE WITNESS: So there were 29 calls between this
25 phone and Sace from 8/2/17 at 1:43 to 8/9/17 at 1:41.

1 BY MR. BROOKS:
2 Q So, 29 calls during that kind of week of August that
3 you looked at?
4 A Yes.
5 Q Do the 29 calls, do they include the text message,
6 or is the text message that you talked about --
7 A They would be separate.
8 Q Separate?
9 A They would be listed separately, yeah.
10 Q And the Sace that was the saved contact, does the
11 phone number 702-801-0516 sound correct?
12 A Yes.
13 Q Was that the number that you were -- you were told
14 to look for some names and a number. Was that the number?
15 A No, that wasn't the number.
16 Q So that wasn't the number? Okay.
17 A No.
18 Q Do you do any web history extraction on this phone?
19 A This particular phone did not extract with the tool
20 the web history, so I did look at it manually.
21 Q I want to direct your attention to August 4th or 5th
22 of a time period on the web search. Do you recall something
23 of evidentiary value that was being searched for?
24 A I believe it was extensive searches for guns and
25 gun-type accessories.

1 Q Now, I want to move forward to around that August
2 9th, 2017 date.
3 A Um-hum.
4 Q Do you recall something of evidentiary value of the
5 web history on this phone?
6 A It was searches for shootings.
7 Q And when you said you couldn't get it to extract,
8 did you do something different then?
9 A I took pictures.
10 MR. BROOKS: Your Honor, may I approach?
11 THE COURT: You may.
12 BY MR. BROOKS:
13 Q Detective Flink, showing you State's Proposed
14 Exhibits 345, 346, and 347, do you recognize these?
15 A Yes, these are pictures I took.
16 Q And the 345, what was that, and why were you taking
17 it?
18 A That's a text picture -- a picture of a text with
19 Sace.
20 Q And then, 346 and 347, why were you taking those?
21 A This is some of the web history of the -- the
22 shooting.
23 Q The news searches?
24 A News. Yeah, news searches of shootings.
25 MR. BROOKS: Your Honor, State moves for admission

1 of 345, 346, and 347.

2 MR. SANFT: No objection, Your Honor.

3 MR. RUGGEROLI: Judge, could I see those, please?

4 THE COURT: Of course.

5 MR. RUGGEROLI: No objection.

6 THE COURT: They're admitted.

7 (State's Exhibits 345, 346, and 347 are admitted)

8 BY MR. BROOKS:

9 Q Detective, 345. So this telephone that you were
10 examining, is this text messages to Sace and from Sace?

11 A Yes.

12 Q And then tell us, on 346, what are you doing?

13 A That is the Chrome history for this phone.

14 Q So is this what this phone was searching?

15 A Yes.

16 Q And you said, "Chrome." Is --

17 A Yeah.

18 Q Do we use another word?

19 A Google.

20 Q Google?

21 A Yeah.

22 Q So these are Google searches?

23 A Yes.

24 Q On this phone?

25 A Yes.

1 Q So see this Saturday, August 12th?

2 A Yes.

3 Q Is that you doing that, or --

4 A No.

5 Q Okay. So that -- is that you going into Google to

6 start the search, is what I mean?

7 A No, I'm not accessing Google because the phone is in

8 airplane mode; it's not connected to the network. So I don't

9 have -- this is -- I just hit the little three little buttons

10 up there and went to the history that's already cached onto

11 the phone. I'm not accessing websites.

12 Q So this Wednesday, August 9th, what are you seeing

13 here?

14 A Google searches for news.

15 Q And then, do you kind of scroll down and take more

16 photos?

17 A Yes.

18 Q Exhibit 347?

19 A Just more news searches.

20 Q Okay. And were these -- some of these what caused

21 you, I guess, to -- to take photographs of this and --

22 A Yes.

23 Q -- capture it?

24 A Yes.

25 Q Would you have relayed this information then to

1 Detective Dosch?

2 A Yes, it was put in my report.

3 Q So I want to stay with that first phone -- or sorry,
4 that first report, but move to the second phone. Do you
5 recall the Samsung Galaxy that you examined?

6 A Yeah, J7.

7 Q And was the phone number associated with that J7
8 702-338-4380?

9 A Yes.

10 Q Showing you State's Exhibit 41. Is that kind of a
11 blurry picture?

12 A Yeah, it's my bad picture-taking.

13 Q And then, is the process with this phone kind of
14 similar to the last one?

15 A Yes.

16 Q So, showing you State's Exhibit 352, what are you
17 about to do to the phone in there?

18 A I'm -- this is a picture of the battery taken out,
19 and the picture of the model sticker that's underneath the
20 battery.

21 Q I'm sorry, I missed that.

22 A The battery is taken out of this phone, and that's
23 the picture of the model and just identifying information on
24 the phone itself underneath the battery, and the SIM card is
25 still in.

1 Q Showing you State's Exhibit 333. Is that the phone?
2 A Yes.
3 Q So, after you kind of document this, do you turn it
4 off?
5 A Do I -- I'm sorry?
6 Q Do you turn the phone off?
7 A Well, it goes into the box.
8 Q Same process with the --
9 A Same process, yeah.
10 Q -- Ramsey box?
11 A Correct.
12 Q And same Cellebrite situation?
13 A Correct.
14 Q So, once using Cellebrite, do you recognize 3 --
15 335?
16 A That would be the screen; it was also unlocked.
17 Q It was also unlocked?
18 A Yes.
19 Q I want to turn your attention to the app here on the
20 top left. Do you go into Facebook Messenger?
21 A Correct.
22 Q While in there, did you find some communication of
23 interest?
24 A Yes.
25 Q Showing you State's Exhibit 336, did you take that

1 photo?

2 A I did.

3 Q And was that with this phone --

4 A With the Samsung, yes.

5 Q -- talking to another Facebook account?

6 A Correct.

7 Q All right. And what Facebook account was that?

8 A Ray Logan.

9 Q Do you at that point document all that in your

10 report?

11 A Yes.

12 Q Do you recall the phone number that Detective Dosch

13 told you to look for initially?

14 A It began 702-934.

15 Q When reviewing these Facebook messages, did you find

16 something that you alerted Detective Dosch to?

17 A The note of the number of 934-4851 provided.

18 Q Now, did -- was this phone able to extract all the

19 web data and all the texting data?

20 A No, I believe this was just a partial as well, so I

21 took pictures. A partial logical.

22 Q Partial logical?

23 A Yeah.

24 Q And so is that why you took the photos?

25 A Correct.

1 Q Do you search -- do you go through the web history
2 search of this phone?
3 A I believe I did, yes.
4 Q And when you do, do you, I guess, screenshot it the
5 same way as last time?
6 A With a camera, yeah.
7 Q Okay.
8 MR. BROOKS: Your Honor, permission to approach?
9 THE COURT: You may.
10 BY MR. BROOKS:
11 Q When you do that, do you document some of the
12 searches in your report?
13 A Yes.
14 Q Do you recognize State's Proposed Exhibit 353?
15 A Yes, and it looks like this actually extracted
16 because this is me screenshotting; my tool, my software. So
17 this -- it looks like the history came out on this one.
18 Q So that history did come out?
19 A Yeah, this would have been from the Cellebrite
20 program, Physical Analyzer.
21 Q And does it fairly and accurately depict the web
22 history that you pulled off this phone?
23 A Yes.
24 MR. BROOKS: Your Honor, State moves for admission
25 of Exhibit 353.

1 MR. SANFT: No objection, Your Honor.

2 MR. RUGGEROLI: No objection.

3 THE COURT: It's admitted.

4 (State's Exhibit 353 is admitted)

5 BY MR. BROOKS:

6 Q So this web history search on August 9th, what time
7 would that have been?

8 A At 7:22 P.M.

9 Q And how did you do that? So take us through the
10 UTC.

11 A Well, we are -- here in Pacific, we are negative 7
12 or negative 8, depending on daylight savings. So the fact
13 that it says here "UTC negative 7" tells you that it's
14 displaying it in Pacific Time, as opposed to, if it was in
15 UTC, it would say, "UTC 00."

16 Q Oh, okay, so --

17 A So the math is already done.

18 Q So one more time. Sorry. In real people time, what
19 is that 19:22?

20 A 7:22 P.M.

21 Q 7:22 P.M. And what is being searched for?

22 A It's news again, and it's, "Young Man Shot in
23 Driveway by Four People in Hoodies." "Man Shot, Killed in
24 Driveway by Four People in Hoodies," just a longer version of
25 that at a different -- I think that might be the same because

1 that's the same time. And then you have a different time
2 here, again, the same, "Young Man Shot in Driveway by Four
3 People With Hoodies." News.

4 Q I want to move now to your second report. Do you
5 recall, around August 18th, Detective Dosch brought you
6 something else?

7 A I thought it was September. What does my report
8 say? It was later. I don't think it was --

9 Q Would you have conducted the actual examination in
10 possibly September?

11 A Yeah.

12 Q Could Detective Dosch have drafted a search warrant
13 earlier?

14 A Yes, he could have.

15 Q So if Detective Dosch drafts a search warrant in
16 August, sometimes you won't get it?

17 A We won't get it for a little bit, yes.

18 Q So that September 2017 time period, I want to
19 discuss the Samsung Emerge telephone, Package 1, Item 1.

20 A Okay.

21 Q Do you recall that?

22 A Yes.

23 Q And the phone number for that one, does it sound
24 correct, 702-801-0516?

25 A Yes.

1 Q Do you recall what you went through to get into this
2 phone?

3 A It would have been the same process of removing the
4 SIM, putting it into the Ramsey box, charging the battery,
5 connecting it to the 4PC, analyzing it in the Cellebrite.

6 Q No password or passcode on this one?

7 A I don't think so, no.

8 MR. BROOKS: Your Honor, may I approach?

9 THE COURT: You may.

10 BY MR. BROOKS:

11 Q Detective, I'm going to show you State's Proposed
12 Exhibits 354 through 361. Did you take photographs of this
13 phone in the entire process similar to the last two?

14 A Yes.

15 Q Will you flip through those and see if they fairly
16 and accurately depict the process you went through and what
17 you uncovered when you went into the phone?

18 A Yes.

19 MR. BROOKS: Your Honor, State moves for admission
20 of these particular exhibits.

21 MR. SANFT: No objection, Your Honor.

22 MR. RUGGEROLI: No objection.

23 THE COURT: Okay, they're admitted.

24 (State's Exhibits 354 through 361 are admitted)

25 BY MR. BROOKS:

1 Q Showing you 354. Do you recognize that?
2 A Yes.
3 Q Is that just the same case?
4 A Yes. Same event, yes.
5 Q Eventually, did you take the phone out?
6 A Yes.
7 Q Exhibit 356. In Exhibit 359, what are you
8 depicting?
9 A That's the -- the identifying label underneath the
10 battery and the SIM card.
11 Q What was the Gmail account associated with this
12 particular phone?
13 A I remember it was "Davontae.Wheeler," and I think
14 there were some numbers, "@Gmail.com."
15 Q Would "62" sound correct?
16 A Yes.
17 Q And what were you searching for when you started
18 looking through the phone?
19 A More or less, the same data. Ties to the other two
20 phones, and --
21 Q At this point in time, did you have full names and
22 the similar, I guess, Facebook handles that you had earlier?
23 A Yeah -- well, yes. I looked in the Facebook to see
24 if anything matched from the other phones, yes.
25 Q And because we're in September, you've already at

1 least done two phones --

2 A Correct.

3 Q -- and had other feedback?

4 A Correct.

5 Q And I guess, feedback, I meant interaction with the
6 detective?

7 A Correct.

8 Q Showing you Exhibit 360, do you find some Facebook
9 messages in this phone with an account you had seen earlier?

10 A Yes.

11 Q And what account was that?

12 A Ray Logan.

13 Q Additionally, did you have a chance to look at the
14 Facebook Messenger in this phone and kind of see whose it was?

15 A You mean the logged in account?

16 Q Yes.

17 A Yes.

18 Q Do you recall the name?

19 A Young Sace Versace.

20 Q And so, in 361, would that kind of fairly and
21 accurately depict the Facebook Messenger account --

22 A Yes.

23 Q -- associated with this phone, which is the --

24 A Samsung.

25 Q -- Samsung Emerge?

1 A Yes.

2 Q Detective, you remember the first -- very first
3 phone we talked about?

4 A Yes.

5 Q When you analyzed that phone number, and you
6 analyzed the name that you were given for that particular
7 phone --

8 A Yes.

9 Q -- did you search the last phone we just talked
10 about for contacts or interaction saved from that first phone?

11 A I would have, yes.

12 Q Do you recall if you found any?

13 A I believe I did, and I thought it was extensive, so
14 I would need to look at my report to be able to -- because we
15 got a lot of names and a lot of numbers rolling at this point.

16 Q Would it refresh your recollection to look at your
17 report?

18 A Yes. So in the Emerge, I found call history with
19 Ray Logan, DeShawn Robinson, and DeMario Lofton. Logan is
20 saved as "Ray Login." DeMario Lofton is saved as "Lil Homey
21 DeMario." And Robinson is not saved as a -- as a contact, but
22 there was -- it was -- his number was identified, but not a
23 saved contact.

24 MR. BROOKS: Nothing further. Pass the witness,
25 Your Honor.

1 THE COURT: Cross-examination?
2 MR. SANFT: No cross, Your Honor.
3 THE COURT: Mr. Ruggeroli?
4 CROSS-EXAMINATION
5 BY MR. RUGGEROLI:
6 Q Detective, I'm going to go back over a couple of
7 things --
8 A Okay.
9 Q -- so you can clarify them. You had two reports,
10 correct?
11 A Correct.
12 Q The first report you did, I believe you testified to
13 longer than the second one. Your first report involved two
14 phones; is that right?
15 A Correct, uh-huh.
16 Q Are you familiar with the individuals who those
17 phones are alleged to be from or through?
18 A What do you mean? Do I know them personally, or do
19 you mean --
20 Q No, just the names.
21 A I would have to look at the labels. I don't
22 remember off the -- they were -- they were each labeled. Each
23 of the envelopes that were given to me were labeled with
24 names.
25 MR. RUGGEROLI: Judge, if I could have the Court's

1 indulgence for a moment?

2 THE COURT: Sure.

3 MR. RUGGEROLI: Thank you.

4 BY MR. RUGGEROLI:

5 Q I'm going to jump ahead --

6 A Okay.

7 Q -- to the second report, the third phone. That was
8 the one that you were talking about --

9 A The Emerge?

10 Q That's the one, yes --

11 A Yes.

12 Q -- that you were talking about most recently?

13 A Yes.

14 Q That one is -- it goes back to Mr. Wheeler?

15 A Correct.

16 Q Okay. Now, on that phone, you don't have any
17 specific messages other than the photos that you provided us
18 with, and they were rather limited. And showing you State's
19 360.

20 A This is the Facebook.

21 Q Okay.

22 A Yeah.

23 Q That's one of the things. If you found something
24 important or noteworthy for this event and case, you would
25 have documented that by taking a photo?

1 A Yes.

2 Q Okay, so that was 360. State's 360 was one, and it
3 had Ray Logan?

4 A Correct.

5 Q No content to that?

6 A I don't -- there's more pictures than this in my
7 final report, so what's being shown to me, I -- it's being
8 shown to me.

9 Q And I'm showing you 361. And that's the individual
10 name that this Facebook account was --

11 A Is logged into.

12 Q Yes, okay. Other than those photos, do you have
13 anything specific with that phone connecting or making any
14 messages, text messages to the other two phones?

15 A Yeah, I thought we discovered that.

16 Q Okay.

17 A Yeah.

18 Q And what was that though?

19 A I thought it was they were saved contacts, and I
20 believe -- and I'm sorry, I don't recall specifically. Other
21 than what's in my report, I don't recall as I sit here.

22 Q Saved contacts, but no specific texts or messages
23 from Facebook for that phone?

24 A Not that I can recall without looking at my -- the
25 pictures. This is not them in their entirety.

1 Q Okay, now I'm going to go back to the first report
2 that had the other two phones. You indicated that there were
3 29 calls between August 2nd, 2017 and August 9th, 2017?

4 A Correct.

5 Q But you don't have any indication of how long those
6 were?

7 A Well, those would be in the digital report. I did
8 note that in my report, but two reports are provided; the
9 report from Cellebrite, which I generate, and then my written
10 report. So the durations would be in those.

11 Q Going back to the phone with Mr. Wheeler. You had
12 looked specifically for texts between that phone and a Ray
13 Logan, correct?

14 A Correct.

15 Q And you did find a couple of texts hours before the
16 crime, and hours after, but there was no mention of any crime
17 in those texts?

18 A Correct.

19 Q And also, the Facebook Messenger, the phone was not
20 connected to the network, correct?

21 A Correct.

22 Q And so that particular phone, you did not have the
23 dates and times, only the days of the week; is that correct?

24 A Correct.

25 Q For the phone with Mr. Wheeler, you were asked a

1 question about an article -- a news article. That was sent to
2 him from somebody else, correct?

3 A I don't recall. I just have it -- it shows up in
4 the web history.

5 Q So just dealing with that third phone that we were
6 talking about, Mr. Wheeler's, most recent that you had
7 testified about, I just want to hit on this one last time.
8 Although there was some communication with Ray Logan, there's
9 nothing about a crime --

10 A Correct.

11 Q -- that crime? And there's a limited amount of
12 information that you had as far as dates and times? You were
13 really looking at days of the week, not specific times?

14 A Right. Well, when it's disconnected from the
15 network and you're looking at Facebook Messenger, I don't get
16 a date if it's within a day or two of when it's removed from
17 the network. So say I'm looking at it on a Wednesday, and I
18 look at the Messengers and it says Tuesday, it's going to be
19 the Tuesday previous to that Wednesday, or the Monday, or the
20 Sunday. And I believe after about a week, then it will start
21 putting in dates.

22 Q And that third phone, you did that analysis in
23 September --

24 A Correct.

25 Q -- 2017?

1 A Well, but it would have been disconnected whenever
2 it was -- yeah.

3 Q Okay, thank you.

4 MR. RUGGEROLI: Court's indulgence, Judge.

5 (Pause in the proceedings)

6 MR. RUGGEROLI: Thank you, Judge. I have nothing
7 further.

8 THE COURT: Thank you. Any redirect?

9 MR. BROOKS: Judge, can we take a brief break?

10 THE COURT: Sure, sure. During this recess, you're
11 admonished not to talk or converse amongst yourselves or with
12 anyone else on any subject connected with this trial, or read,
13 watch, or listen to any report of or commentary on the trial,
14 or any person connected with this trial, by any medium of
15 information, including, without limitation, newspapers,
16 television, the internet, or radio, or form or express any
17 opinion on any subject connected with this trial until the
18 case is finally submitted to you.

19 We'll be in recess for 15 minutes. Thank you.

20 THE MARSHAL: Thank you. All rise for the exiting
21 jury, please. Jurors.

22 (Outside the presence of the jurors at 2:46 p.m.)

23 THE MARSHAL: Thank you. Please be seated.

24 THE CLERK: Did you need Judge?

25 MR. BROOKS: Yeah.

1 THE CLERK: Oh, you got to say that.

2 THE MARSHAL: I'll grab her.

3 (Pause in the proceedings)

4 THE COURT: Sorry about that.

5 MR. BROOKS: I'm sorry, I should have been more
6 clear. I just didn't want to have this up while the jury was
7 still in the room.

8 THE COURT: Okay, so the record will reflect that
9 the hearing is taking place outside the presence of the jury
10 panel. And do you want the witness in here still?

11 MR. BROOKS: Probably not.

12 THE COURT: Okay. Okay, and the witness has left
13 the courtroom.

14 MR. BROOKS: Judge, here's my problem. Mr.
15 Ruggeroli just got up during cross and put up Exhibit 360, and
16 showed Mr. Ray Logan's -- just, it's kind of the screen name
17 on Facebook Messenger -- and said, "Other than this, you
18 didn't find any contacts between the two?" And then kind of
19 tried to correct himself, and then said, "Limited contacts,"
20 and then went so far as to say, "Do you have anything
21 connecting these two? There's nothing about a crime?" And
22 then he catches himself and said --

23 THE COURT: Yeah, the text messages.

24 MR. BROOKS: And then he said, "Nothing about this
25 crime." Here's the problem. So I intentionally only did

1 Exhibit 360 just to show that Mr. Wheeler and Ray Logan were
2 in each other's phone, and you know, they talked over Facebook
3 Messenger.

4 THE COURT: Um-hum.

5 MR. BROOKS: I didn't include any of the texts on
6 purpose, and it was in her report because when she's making
7 the report she doesn't know what is and isn't evidentiary
8 value here or what can be admitted. The problem is that there
9 are texts between Ray Logan and Davontae Wheeler.

10 THE COURT: Okay.

11 MR. BROOKS: Ray Logan is sending Davontae Wheeler a
12 link to the "Two Suspects in a West Valley Armed Robbery,"
13 then they're sending each other a photo of a new gun that's --
14 a picture of the gun, and then, "Do you think they make
15 extendos? It only holds eight." Send the barrel to see the
16 size. "Oh, nigga, my hope you not doubting if the .45 bigger.
17 LOL, I'll show you tonight, bros. I got my shells so we can
18 go shooting if y'all want, but don't tell nobody what I got.
19 Low key. I want to stop showing my heats. That I see if that
20 got extendo" (sic). Should I -- can I -- should I put them up
21 here so you can kind of --

22 THE COURT: Sure. And what are the dates of these?

23 MR. BROOKS: This would have been the week before
24 our incident. So --

25 THE COURT: Okay.

1 MR. BROOKS: This is essentially them communicating
2 -- Mr. Ray Logan, or Raekwon Robertson, and Young Sace
3 Versace, who's Davontae Wheeler, sending each other those
4 messages. And see this -- see that Monday?

5 THE COURT: Uh-huh.

6 MR. BROOKS: That Monday is the Monday right before
7 our Tuesday and Wednesday of this incident. So, like, this
8 Monday is screenshots of them talking to another guy. They're
9 going to meet up at that guy's apartment later on; I can't
10 remember if it's Nellis or something like that. Then they
11 meet together on Monday night, even before they meet together
12 on Tuesday night and commit this.

13 So the jury is left with this impression that
14 there's no -- real little contact between the two, no evidence
15 of a crime, or I should say this crime, and it's just not
16 actually what the phones show.

17 THE COURT: What do you want to do? I mean, do you
18 want to follow up questioning? What is it you want to do?

19 MR. PESCI: So, Judge, we need to cure the
20 impression that's been put in front of this jury.

21 THE COURT: Um-hum.

22 MR. PESCI: And we purposely avoided this because
23 the reference to that other incident is the earlier charges
24 that were severed out.

25 THE COURT: Right.

1 MR. PESCI: And so this jury's been painted with the
2 impression that there is nothing going on between these two
3 when they're referencing a prior criminal act. And the
4 specific question was, "There's nothing about a crime," and
5 then followed up, "This crime," and that there's no
6 interaction between these two when there are, and they're
7 talking about guns and ammunition.

8 And so we just -- we can't allow that falsity to be
9 put in front of the jury. So we need to cure that, and I'm
10 open or we're open to ways of doing it in a somewhat sanitized
11 fashion, but it can't be so sanitized that it seems completely
12 innocuous.

13 MR. RUGGEROLI: Thank you, Judge. Your Honor, I did
14 correct myself because I wasn't thinking of the other crime; I
15 was thinking of this crime, because specifically contained
16 within her report, it says there are texts between this phone
17 and Ray Logan. She answered my question about that, and I
18 said that there were texts, but here was the point of it:
19 there are texts a couple hours before the crime, and several
20 hours after, but no mention of the crime. And that, after
21 clarifying it, is exactly what I asked her and exactly what
22 she answered.

23 So I think what the State is suggesting is that I
24 somehow opened the door to uncharged crimes or to other
25 discussions that had to do with things that are not relevant

1 to this event at all. They can clean this up without going
2 into any of those details. I never misled the jury with a
3 question saying, "There are no other contacts." My point was
4 about this particular event. And I even used that phrase,
5 "This event," and then I did clarify, "This crime."

6 And so this is taken directly from her report, and
7 that was the gist of it. This should not in any way open the
8 door to the State, and they can cure any inference, and that's
9 all it would be. They can cure any inference that there was
10 limited contact by either focusing on this particular 24 to
11 36-hour period of time that is specifically noted in the
12 report, or they can do it by much less extensive means than to
13 go into unrelated prejudicial information that I didn't in any
14 way open the door to and suggest there's no communication. I
15 was talking about this event.

16 THE COURT: Okay. What is your suggestion?

17 MR. BROOKS: My suggestion would be to let me ask
18 three leading questions to the effect of, "Isn't it true that
19 when looking at Facebook Messenger between Ray Logan and
20 Davontae Wheeler, within three days prior to this incident,
21 they are communicating about various things, some of which are
22 guns, the caliber of guns, and possibly going out shooting
23 together?" So it doesn't -- you know, there's no crime to go
24 shoot together. They are talking about guns, they are talking
25 about different caliber of guns, and it is --

1 THE COURT: But why do you have to get in what they
2 were talking about?

3 MR. BROOKS: Well, because the jury was left with
4 this impression that, oh, and there's -- they're not talking
5 about any criminal activity and it's such minimal. I mean,
6 that's not what actually was going on in this text thread.

7 THE COURT: Yeah.

8 MR. RUGGEROLI: Judge, I --

9 THE COURT: I'm not sure it opens up the door for
10 you to talk about other criminal activity.

11 MR. RUGGEROLI: And that's the thing, Judge, is I
12 heard it without thinking I'm referencing it at all, and I
13 caught it within a second of, "This crime," because that is
14 the exact language of this report. So if I unintentionally
15 opened a door, I immediately shut it. And I limited my
16 question to this particular event, which is exactly what the
17 report referenced.

18 So if there were any suggestion, number one, I think
19 I closed my own door to the extent that that might be an idea
20 that the jury would gather from this. But I think that if
21 they wanted to follow up, it should be limited to this period
22 of time because I didn't even go down the path of anything
23 beyond this event. I'm talking about -- she used the exact
24 words, "There are also texts with Lofton, but nothing
25 logically around the time of this crime."

1 And then, before that, there are texts a couple of
2 hours before the crime, and several hours after, but no
3 mention of the crime. And that's why we're here. I don't
4 think there's been any taint to the jury that they would think
5 -- because those things are not relevant, and they're
6 certainly prejudicial.

7 Going out shooting, that's going to have a big
8 impact in this kind of case, and I didn't reference that at
9 all. It was catching my word "crime" and linking it
10 specifically to this crime, and I did that intentionally. And
11 so they've been limited, and their attention was directed to
12 this particular event and the report that she made these
13 findings regarding.

14 MR. PESCI: So, Judge, to follow up, specifically,
15 the language that I wrote as I was trying to write this down
16 was, the question by Mr. Ruggeroli, "There was limited contact
17 between Wheeler's phone and the other phones, other than these
18 photos?" So he's saying that these photos is the limited
19 contact. So there clearly is contact.

20 THE COURT: Right.

21 MR. PESCI: And we sanitized it because it
22 referenced these other situations. So we need to be able to
23 go back and say, "Detective, isn't it true that there is
24 actual contact other than this photo? There are these other
25 instances where there's contact between these individuals,

1 right?"

2 And then, the question was, "Do you have anything
3 connecting this phone, Wheeler's phone, to the other phones?"
4 Again, there are these text messages back and forth. He said
5 specifically, "There's nothing about a crime," then did, I
6 agree, quickly went up and said, "This crime," right?

7 THE COURT: Uh-huh.

8 MR. PESCI: So it's in front of this jury that
9 there's really little to connect these guys, and there's
10 nothing about crimes. Now, I understand he's not trying to
11 open the door to any other crimes, we're not trying to do
12 propensity, but if there's some sort of an argument made later
13 on, like, there's nothing about this crime, I get that, right?
14 But if he says, there's nothing about any crimes, that's a big
15 problem.

16 So at a minimum, we have the ability and the right
17 to say there is actual connection between these two. And I
18 think what we should do is get the detective back in here
19 after you make your ruling and lead her as to what she can and
20 cannot say, because we've been very careful to exclude these
21 things, and that's exactly what these texts and communications
22 are about; that earlier crime that's been severed. So we need
23 to be able to show they are.

24 And why is it not relevant that they're talking
25 about firearms with each other? They're trying to say that

1 there isn't a connection between these two individuals and a
2 firearm. This is specifically talking about firearms.
3 They're trying to say he's got nothing to do with this, Mr.
4 Wheeler's got nothing to do with this, it's not his ammunition
5 that was fired, but you have connections between these two
6 defendants talking about firearms in anticipation -- prior to
7 the actual connection. If you want to exclude the --

8 THE COURT: And this is three -- three days before?

9 MR. BROOKS: 18 hours, actually. It's -- Your
10 Honor, these texts begin Monday around 11:00 A.M. The
11 incident happens as Tuesday turns into Wednesday, so --

12 THE COURT: Oh, okay, so it's just the day before?

13 MR. BROOKS: Yes.

14 MR. PESCI: Correct.

15 MR. BROOKS: And when I say texts, it's extensive,
16 Your Honor. I only read a few, but it goes -- you know,
17 there's seven pages in that Monday/Tuesday time frame.

18 THE COURT: Between those two phones?

19 MR. BROOKS: Between Ray Logan and Davontae
20 Wheeler's phone, yes.

21 THE COURT: Okay. I don't think there's any problem
22 with asking her that, but my concern is if you're going to ask
23 her the content of those text messages. That's my concern.

24 MR. BROOKS: Yeah, no. No.

25 THE COURT: But you want to redirect her that there

1 actually was contact between these two on Monday and that it
2 was extensive?

3 MR. BROOKS: Yes.

4 THE COURT: Okay.

5 MR. RUGGEROLI: And if they wanted to --

6 THE COURT: I don't see any problem with that.

7 MR. RUGGEROLI: -- prep her up beforehand, I would
8 only follow up by just clarifying -- and I'll read it from the
9 report rather than paraphrase it. I just want it acknowledged
10 again, quote, "There are also texts between this phone and Ray
11 Logan. There are texts a couple of hours before the crime,
12 and several hours after, but no mention of the crime. There
13 are also texts with Lofton, but nothing logically around the
14 time of the crime."

15 And honestly, I mean, I think that kind of says
16 everything, but if you're going to limit it without content,
17 that would be certainly the defense's preference, and that
18 will probably be the gist of my recross.

19 MR. BROOKS: Am I allowed to ask if they were
20 discussing firearms?

21 MR. RUGGEROLI: Judge, I just think that --

22 THE COURT: Well, what would be the objection?

23 MR. RUGGEROLI: That -- well, the time frame. Is he
24 talking about the day --

25 THE COURT: The day -- well, they said these text

1 messages were the day before, because it happened Tuesday
2 night going into Wednesday morning, correct?

3 MR. BROOKS: Yes.

4 MR. PESCI: Judge, you can see it, maybe that's a
5 little better, because the actual firearm is right there in
6 the text. So you've got the time frame, and you've got a gun,
7 so you got these two talking about guns. We can keep out the
8 shooting part, but they keep trying to distance,
9 understandably, Mr. Wheeler from guns, and here you've got a
10 conversation between these two defendants about guns in the
11 hours preceding this crime.

12 MR. RUGGEROLI: Judge --

13 THE COURT: I mean, I understand that this, I guess,
14 news story wouldn't be relevant, but I'm not sure why the -- a
15 day before, there's communication and actually photos of
16 firearms.

17 MR. RUGGEROLI: It's because --

18 THE COURT: How is that not relevant?

19 MR. RUGGEROLI: The prejudicial impact outweighs any
20 relevance because that discussion I don't think has anything
21 to do with what happened later. The fact -- I didn't open the
22 door to this, and the State did not go into this
23 intentionally.

24 So what they're doing is they're suggesting that
25 because I said, "a crime," and within a fraction of a second

1 corrected it to, "the crime," because that's what's written in
2 the report, that somehow that now gives them the ability to go
3 back through things that they very wisely, I think, originally
4 did not go into. That is because of the prejudicial impact
5 that this would have. There's no reason to do that. It's --
6 I quoted in a paraphrase rather than directly from the report,
7 but I didn't allow or open the door to go into anything that
8 would be that prejudicial that doesn't have anything to do
9 with this event.

10 The things that are important for this event are
11 exactly what's contained in the report, because it references
12 the time frame of the murder and it references the time frame
13 of any conversations. That was the whole point of what I
14 said. And so there's no reason to give them the ability to go
15 any further than that because all it does is it makes it look
16 prejudicial. Here's gun talk, here's shooting talk, or -- you
17 know, I don't have those in front of me right now.

18 But anything connected to firearms in that time
19 frame doesn't correspond with her report, because what I read
20 to you earlier that I want to clarify with her and limit it
21 to, it was limited specific to this time frame. That's all
22 I'm trying to get out on that questioning, and now what we're
23 doing is we're opening it up to the State because it will be
24 prejudicial.

25 MR. BROOKS: Your Honor, one more thing. And I

1 don't know if you heard this, and I don't know if I heard this
2 correctly, but the part that struck me was when Mr. Ruggeroli
3 put Exhibit 360 on the screen and said -- I believe he said
4 even something to the effect of, "And you don't have any
5 screenshots of texts or communication between these two?" He
6 said something to that effect, and, "There's very limited
7 contact between these two?" And that's when I looked at Mr.
8 Pesci and was like --

9 THE COURT: Well, clearly, there was contact between
10 the two of them, and I think it's totally appropriate for you
11 to now go into that --

12 MR. BROOKS: Right.

13 THE COURT: -- so the jury's not left with the
14 impression that there wasn't contact. My only concern is the
15 substance of the contact.

16 MR. BROOKS: It would just be: extensive, the time
17 frame, and about firearms.

18 THE COURT: Why do you have to -- why do you have to
19 say it's about firearms?

20 MR. BROOKS: Because that is really relevant to why
21 we're here. We're here because they used a firearm to rob
22 people and it turned into a murder.

23 MR. PESCI: And the question was, "Do you have
24 anything connecting Wheeler's phone to the other phone?" You
25 have a photograph of a firearm. That's the connection. It's

1 not the one question; there's three questions that bring --

2 MR. RUGGEROLI: Were you done?

3 THE COURT: Okay, so you want to be able to ask,

4 "There was extensive contact between the two, and the contact
5 included discussions regarding firearms?"

6 MR. BROOKS: Yes.

7 MR. RUGGEROLI: Judge, this is why we're here.

8 THE COURT: And this was the day before?

9 MR. BROOKS: Yes.

10 THE COURT: Correct?

11 MR. RUGGEROLI: Okay, but this again -- I'm going to
12 quote it because this is why we're here, and this is what she
13 testified to. "There are texts a couple of hours before the
14 crime, and several hours after, but no mention of the crime.
15 There are also texts with Lofton, but nothing logically around
16 the time of the crime." That was my time frame. And I
17 understand that if the State says, well, you know, now we're
18 going to broaden the time frame, then allow them the
19 opportunity to say there were --

20 THE COURT: Well, I think the inference here is that
21 there was no contact between these two when that's just not
22 true.

23 MR. RUGGEROLI: I don't have a problem with them
24 saying that there were contacts. The content of what they
25 want to open this up to is what I very strenuously would

1 object to, because they can clean it up without going into
2 talking about things that are really unrelated, because it's
3 the time of this crime, and that's why she wrote the report
4 the way she did. That's where my focus was.

5 So, if you allow them to cure this, it doesn't need
6 to go beyond establishing there were extensive contacts, but
7 we don't need to go into the details of that. And then I
8 would clean it up by going and reiterating word-for-word what
9 the report says, and I'm going to limit it to that, and it's
10 going to be her own language, and that's all I want to get.

11 But I really think the damage, if you open this up
12 to firearms -- if that was important, then she should have put
13 it in her report as well, and she didn't. What she put in the
14 report was limited to this period of time, and that's why I
15 quoted, and I -- I didn't read it word-for-word, but I did
16 catch myself very quickly. Again, this is only coming up
17 because of the change almost instantaneously from "a crime" to
18 "the crime," and that is because that's what's in her report.

19 So I would object. I don't think they need to go
20 into content. It's too prejudicial. They can clarify, the
21 point is, there were contacts, there were other contacts, but
22 there's no need to go into prejudicial information.

23 THE COURT: Okay. Mr. Brooks, I am going to allow
24 you to redirect her, and you can ask her, and she can discuss
25 that there was extensive contact. I'm not going to allow you

1 to go into the substance of the contact --
2 MR. BROOKS: Okay.
3 THE COURT: -- and that it was the day before. I
4 think these are yours.
5 MR. BROOKS: Thank you.
6 MR. PESCI: And can we talk with her before --
7 MR. BROOKS: And can we --
8 MR. PESCI: -- so we can make it clear to her --
9 THE COURT: Sure.
10 MR. PESCI: -- to not do that?
11 THE COURT: Sure.
12 MR. PESCI: May I approach to retrieve that?
13 THE COURT: Absolutely.
14 MR. PESCI: Thank you.
15 THE COURT: Right. Why don't we take about five
16 minutes --
17 MR. RUGGEROLI: Thank you, Judge.
18 THE COURT: -- and then we'll come back in.
19 MR. PESCI: Thank you, Your Honor.
20 (Court recessed at 3:06 P.M. until 3:18 P.M.)
21 (Outside the presence of the jurors)
22 MR. PESCI: Your Honor, may the witness return to
23 the stand?
24 THE COURT: Absolutely, yes. Thank you.
25 MR. PESCI: Thank you. And Judge, while we're here,

1 as far as scheduling, so we have the detective to finish with
2 cross, we have the fingerprint expert outside, I believe the
3 firearms expert is outside.

4 THE COURT: Okay.

5 MR. PESCI: We have a detective that was involved in
6 the search trying to get daycare resolved to get here, but
7 then the last witness would be Detective Dosch, but he's not
8 really available until tomorrow because he was in California
9 until 2:00 A.M. on another case.

10 THE COURT: Okay.

11 MR. PESCI: So we've got, in essence, two, maybe
12 three left for today.

13 THE COURT: Okay.

14 MR. RUGGEROLI: Judge --

15 THE COURT: It's almost 3:30.

16 MR. RUGGEROLI: For tomorrow morning, I do have a
17 number of things at around 9:00 to 9:30, 9:45.

18 THE COURT: I have a homicide calendar, so --

19 MR. RUGGEROLI: Thank you.

20 THE COURT: -- we're not going to be able to start
21 until about 10:30 anyways.

22 MR. SANFT: Okay.

23 THE COURT: Is that going to be enough time?

24 MR. RUGGEROLI: It should be, yes. Thank you.

25 THE COURT: Okay.

1 THE MARSHAL: All rise for the entering jury,
2 please. Jurors.

3 (Within the presence of the jurors at 3:20 p.m.)

4 THE MARSHAL: Thank you. Please be seated.

5 THE COURT: Does the State stipulate to the presence
6 of the panel?

7 MR. PESCI: Yes, Your Honor.

8 THE COURT: Mr. Sanft?

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

10 THE COURT: Mr. Ruggeroli?

11 MR. RUGGEROLI: Yes, Your Honor.

12 THE COURT: Thank you. You may continue with your
13 redirect.

14 REDIRECT EXAMINATION

15 BY MR. BROOKS:

16 Q Detective Flink, do you remember the questions about
17 the limited nature of the contacts between Davontae Wheeler's
18 phone and Ray Logan via Facebook Messenger?

19 A Yes.

20 Q Isn't it true that Davontae Wheeler's phone and Ray
21 Logan via Facebook Messenger actually had quite extensive
22 communication?

23 A Yes.

24 Q Back and forth?

25 A Yes.

1 Q And although there are no texts a couple hours
2 before the time period of this crime, and no texts several
3 hours after -- and although there are texts several hours
4 after, there's no mention of the crime?

5 A Correct.

6 Q What about with regard to DeMario Lofton-Robinson?
7 Was there any texts relating to this crime around that time
8 period?

9 A No.

10 Q And what was DeMario Lofton-Robinson saved as in
11 Davontae Wheeler's phone?

12 A "Little Homey DeMario."

13 MR. BROOKS: Thank you. Nothing further.

14 THE COURT: Mr. Sanft, do you have any recross?

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

16 THE COURT: Mr. Ruggeroli, go ahead.

17 MR. RUGGEROLI: Just briefly.

18 RECCROSS-EXAMINATION

19 BY MR. RUGGEROLI:

20 Q Detective, from your report, you indicated that
21 there are also texts between this phone and Ray Logan
22 regarding Mr. Wheeler's phone, correct?

23 A Correct.

24 Q Correct?

25 A Correct.

1 Q And there are texts a couple hours before the crime
2 and several hours after, but no mention of the crime?
3 A Correct.
4 Q And there are also texts with Lofton, but nothing
5 logically around the time of the crime?
6 A Correct.
7 MR. RUGGEROLI: Thank you. I have nothing further.
8 THE COURT: Thank you. Anything else for this
9 witness?
10 MR. BROOKS: No, Your Honor.
11 THE COURT: Okay. Thank you very much --
12 THE WITNESS: Thank you.
13 THE COURT: -- for your testimony here today. You
14 may step down, and you are excused from your subpoena. You
15 may call your next witness.
16 MR. BROOKS: Your Honor, the State calls Linda
17 Manigault.
18 THE MARSHAL: If you'll please step up into the
19 witness stand. Remain standing, raise your right hand, and
20 face the Clerk.
21 LINDA MANIGAULT, STATE'S WITNESS, SWORN
22 THE CLERK: You may be seated. Please state and
23 spell your first and last name for the record.
24 THE WITNESS: My first name is Linda, L-i-n-d-a. My
25 last name is Manigault, -a-n-i-g-a-u-l-t.

1 THE COURT: Thank you.

2 DIRECT EXAMINATION

3 BY MR. BROOKS:

4 Q Ms. Manigault, how are you employed?

5 A I'm employed by the Las Vegas Metropolitan Police
6 Department in their forensic laboratory, specifically in the
7 Latent Print Detail.

8 Q And how long have you been there?

9 A I've been working there for approximately four years
10 now.

11 Q What are your primary duties and responsibilities?

12 A I analyze and I compare latent print evidence.

13 Q And what training, education, experience do you have
14 that enables you to be able to do that?

15 A I've been doing it for approximately nine years now.
16 I was trained initially when I used to live in New York for
17 the Suffolk County Police Department. I also graduated
18 college with a Bachelor in Science in forensic science.

19 Q And do you have to keep up-to-date on certain
20 certifications and continuing legal -- or continuing
21 education?

22 A Yes, I do. In order for me to even start casework,
23 particularly with the Las Vegas Metropolitan Police
24 Department, I have to pass a competency test, as well as
25 finish their training program successfully. And then, each

1 year, I have to complete a proficiency test which allows me to
2 continue doing casework for the following year.

3 Q Now, we previously had a DNA person from your lab
4 come in and testify during this trial. Do you do DNA-type
5 stuff, or do you only do what you refer to as fingerprints?

6 A I only do what I refer to as fingerprints.

7 Q Okay. So take us through, what is a fingerprint?

8 A Well, if you notice the skin on your hand, it's very
9 different from the skin on the rest of your body. So that
10 palmar surface of your hand, that specialized skin is called
11 friction ridge skin. And it has raised portions and lowered
12 portions, and so when we come into contact with an object, an
13 impression that we leave behind would leave a fingerprint. So
14 that's what a fingerprint is.

15 Q What is it that leaves that impression?

16 A It's usually the residues that -- from either your
17 body or from sweating that leave that impression.

18 Q And tell us a little bit about -- every time I touch
19 something, am I going to leave a print? Or what causes prints
20 to be left, and sometimes, what causes them not to be left?

21 A Generally, when somebody comes into contact with an
22 object, there's a chance that they can leave that residue
23 behind, but there's also a chance that they may not leave that
24 residue behind. And some of the reasons for that is because a
25 person just could have very dry hands in general, so they

1 don't have a lot of residue on their hands. Maybe they just
2 washed their hands.

3 Also, the environment can have an impact. So a
4 person can touch something, a residue could be there, but the
5 environment, if it's a hot environment or if it's a cold
6 environment, it could make it very fragile.

7 Another reason is some objects are textured. So if
8 it has a rough texture, or a lot of the newer appliances these
9 days have anti-fingerprint coatings. So there are several
10 reasons why an object might not be left behind even though
11 it's been touched by a person.

12 Q So right now, if I'm nervous questioning you, and I
13 touch this table, is that kind of a good way to leave prints,
14 or no?

15 A Usually, the best surfaces to leave prints are
16 really flat, smooth surfaces. Whether a person leaves some
17 residue behind or not, it could depend on if they're sweating
18 a lot. That can also make a print not suitable as well
19 because it's too much sweat. So it depends. There are some
20 good situations, and there are of course some bad ones.

21 Q When we talk about suitability, like, I've been
22 obviously using my iPhone all day and touching it. Is this a
23 good surface, and if so, are there some reasons it would also
24 be a bad surface?

25 A Yeah. There are some reasons that, like, something

1 like a smooth cell phone surface would be a good surface,
2 because it's smooth. One of the reasons why it might be a bad
3 surface is because it's constantly touched, so you can
4 inadvertently wipe away that fragile fingerprint residue.

5 Q Does the environment that the object or the print
6 would be on have anything to do with whether you could process
7 it or find it and compare it?

8 A Yes, the environment also plays a role. For
9 instance, fingerprint residues are very fragile. They're made
10 up of mostly water and some other constituents, so you can
11 imagine, if it's in a very hot environment, it would evaporate
12 away. If it's in a cold environment, that would make it
13 brittle. Depending on the types of residues and the type of
14 process that's going to be used, it might be that there's not
15 enough residue to make a print visible to the naked eye.

16 Q Okay, so what is an exemplar or a known print?

17 A An exemplar or a known print is a situation where
18 the fingerprint of a specific individual is taken, usually
19 using ink or an electronic means, and also, the rest of their
20 -- excuse me -- identifying information is also placed along
21 with that record. So, for instance, I've had my fingerprints
22 taken for job employment. So they would roll all ten of my
23 fingers onto a fingerprint card, possibly my palms, but they
24 would also put my name, possibly my date of birth.

25 Q And so, what we sometimes refer to then as latent

1 prints, is that what you've been discussing previously?

2 A So a latent print would be a print that's not
3 readily seen by the naked eye, so some other form of -- some
4 further form of processing has to be done to make it visible
5 to the naked eye. Some of those forms could be either
6 physical or chemical. A physical process might be something
7 simple like fingerprint powder, and then there are chemical
8 processes as well that make that visible to the naked eye.

9 Q So how would you -- how do you go about comparing
10 then a known or an exemplar with a latent print after it's
11 been processed?

12 A Well, generally speaking, when I start my analysis,
13 I'm looking for that detail in that print that is suitable;
14 but first, I would be looking at the overall aspects of, are
15 there any suitable prints? And so some of the things I'm
16 looking for are, is there an overall pattern? There are three
17 general pattern types to fingerprints, and it's how they're
18 categorized.

19 So that first type of pattern is what we call an
20 arching pattern, and it's a pattern where the friction ridge
21 flow comes in one side, rises slightly, and goes out the
22 opposite side, sort of like a wave. The second type of
23 pattern is a circular pattern; it's sort of like maybe a
24 bull's eye. And then the third type of pattern we call a
25 looping pattern, and it's where the ridge flow rises up, and

1 then actually recurves, and exits out the same side that it
2 came in.

3 So some of those -- that's some of the general
4 features. There are some other type of features like deltas,
5 which are features that are triangular in shape, so the ridge
6 flows are converging, making that triangle-type shape, and
7 then I would be looking for the center of the pattern.

8 In order to have enough information to make an
9 identification, what I would be looking for is actually some
10 smaller-type details. We call them minutia, sometimes you may
11 hear me say points, and those are what happens along an actual
12 ridge path.

13 So an actual ridge path can do one of two things.
14 It could stop abruptly or it can split into two, and we call
15 those points -- you might hear me say ridge ending also, or
16 bifurcations, which is when it splits into two. So I would be
17 looking at all that information, and I would be looking to see
18 if I had enough of that information that I could say this is
19 suitable for me to possibly make a comparison or possibly put
20 it into a latent fingerprint database.

21 Q And what is it about the nature of fingerprints that
22 makes them suitable or good for identification purposes?

23 A The reason why we're able to take fingerprints and
24 use them for identification purposes, one is that, when you're
25 born, that arrangement of the friction ridges on the fingers

1 and the palms of the hands, and also the soles of the feet as
2 well, that arrangement stays with you throughout your
3 lifetime, barring any permanent scarring to that skin.

4 The other thing is that they -- they're easily
5 accessible, which means we constantly come into contact with
6 objects, so therefore, it's something useful that we can use.
7 And that -- so that arrangement, you're born with it, it stays
8 in place, and it lasts throughout your lifetime. So as you
9 get older and older, that arrangement is not going to change.

10 Q Are they unique to an individual?

11 A They're also distinguishable to each individual.
12 They're actually even distinguishable from finger to finger;
13 each arrangement of friction ridge detail is different. And
14 even identical twins do not have the same friction ridge
15 detail.

16 Q So did you conduct some print -- latent print
17 comparisons in this case --

18 A Yes, I did.

19 Q -- that brings us here to court today? Was that
20 under Las Vegas Metropolitan Police Department Event Number
21 170809-0029?

22 A Yes, it was.

23 Q And do you guys have like a different lab number
24 that corresponds with --

25 A Yes, we do.

1 Q Okay, and is that 17-07217?
2 A Yes.
3 Q Why? What's the difference?
4 A Well, the difference is, when a case starts, and
5 police officers, possibly, or CSA respond to a scene, an event
6 number, which was that first number, it is uniquely tied to
7 that case. But when it comes to my specific lab, we tie -- we
8 tie a unique lab case number to it, and then we might put a
9 record identifier on the end, and that helps us distinguish
10 that that work is being done on it in our specific lab.
11 Q And fair to say your report's quite lengthy?
12 A Yes.
13 Q Nine pages?
14 A Yes.
15 Q Have you memorized all of it?
16 A No, I have not.
17 Q Would it refresh your recollection to be able to
18 look at your report while I ask you these questions?
19 A Yes.
20 MR. BROOKS: Your Honor, with defense permission,
21 could she look at her report while I --
22 MR. SANFT: No objection, Your Honor.
23 MR. RUGGEROLI: No objection.
24 THE COURT: Go ahead. You can approach and hand her
25 her -- or does she already have her report?

1 MR. BROOKS: I believe --

2 THE WITNESS: Yes, I do.

3 THE COURT: Okay, all right.

4 BY MR. BROOKS:

5 Q So, Ms. Manigault, fair to say that different things
6 were impounded by different CSAs in this case?

7 A That's correct.

8 Q So I want to start by asking you about the items
9 impounded by P number 5221.

10 A Okay.

11 Q How do you know it was impounded by that P number?

12 A That P number would be listed on the latent print
13 packet which that CSA signed into or impounded into our
14 evidence -- secure evidence location.

15 Q And what's a Q card?

16 A A Q card is an actual lift card, and so the letter Q
17 designates that that lift card was generated from a crime
18 scene analyst.

19 Q Is that a term that the lab uses, or is that a term
20 that crime scene analysts use?

21 A It's actually a term that the lab uses.

22 Q Oh, okay, so they don't use that term?

23 A No.

24 Q Then I want to specifically ask you about -- did you
25 make some comparisons on Q Card 4 and Q Card 5, numbers 4 and

1 5 that were impounded by P number 5221?

2 A Yes, I did.

3 Q And were you able to come to any results?

4 A With Q Card 4, yes, I did; and also Q Card 5. Do
5 you want me to list them one at a time?

6 Q Could you -- yeah. Could you tell me what those Q
7 cards -- where they were from and what the results were?

8 A Sure. So, Q Card 4, it came from the exterior
9 driver's door of a 2003 Mercury Grand Marquis with a Nevada
10 license plate of 473, Y as in yellow, Z as in Zebra, and B as
11 in boy, and it was also marked number 4. And there were two
12 suitable latent prints that I marked on that card. I marked
13 each one A and B. So the one that I marked A was identified
14 to the right index finger of DeMario Lofton-Robinson, and then
15 the latent print that I marked B was identified to the right
16 middle finger of DeMario Lofton-Robinson.

17 Q And so, in this situation, you've identified it as
18 DeMario Lofton-Robinson. How did you identify it to him? Did
19 you have any exemplars with him?

20 A Yes, I did.

21 Q Okay. And so, when you make identifications that we
22 talk about from your report, are they all from known exemplars
23 that you had?

24 A Yes, generally, it will be.

25 Q And Q Card 5, is it fair to say from the same

1 vehicle?

2 A Yes.

3 Q And what were the results?

4 A I had one suitable latent print marked A, and that

5 was identified to the right ring finger of DeMario

6 Lofton-Robinson.

7 Q And where was the location on that vehicle?

8 A The exterior driver's door.

9 Q Now, did you receive some items impounded by P

10 number 15291?

11 A Yes.

12 Q So I want to turn your attention to Q Card 13,

13 Latent Print 6.

14 A Okay.

15 Q Did you come to any conclusions as to that latent

16 print?

17 A I'm sorry, hold on a second. I don't see Lift Card

18 6.

19 Q Oh, sorry. Q Card 13, Latent Print 6. So, Q Card

20 13.

21 A Yes, okay. That Q Card 13 came from the exterior

22 right rear quarter panel of the vehicle.

23 Q And can we just use "vehicle"?

24 A Yes.

25 Q And what was your results?

1 A It was identified to the left palm of DeShawn
2 Robinson.

3 Q Could you go to Q Card 20 for me?

4 A Yes.

5 Q What were -- what did you examine, and what were the
6 results?

7 A Q Card 20 came from the exterior right rear window,
8 and there were two suitable prints marked A and B on that
9 card. A was identified to the left middle finger of DeShawn
10 Robinson, and B was identified to the left ring finger of
11 DeShawn Robinson.

12 Q Did you do some comparisons with Q Card 23?

13 A Yes, I did.

14 Q What were your results, and what did you compare?

15 A Q Card 23 came from the exterior right front window
16 of the vehicle. There were three suitable latent prints
17 marked A, B, and C. A was identified to the left ring finger
18 of DeShawn Robinson, B was identified to the left middle
19 finger of DeShawn Robinson, and C was identified to the left
20 index finger of DeShawn Robinson.

21 Q So I want to talk about that one just briefly. See
22 how you've identified a left ring finger, a middle finger, and
23 index finger? Are you able to tell whether that was a
24 simultaneous touch or not, or is that something that you
25 wouldn't even put in the report?

1 A It is something that I'm able to discern sometimes,
2 depending on how much connectivity there is. So it did appear
3 to be a simultaneous. It's not something we generally state
4 in the report, but it would be something that I would state in
5 my notes, possibly.

6 Q Could you go to Q Card 26 for me? Did you make some
7 comparisons, and what were the results?

8 A Yes. Q Card 26 came from the exterior right front
9 window of the vehicle. It was one suitable print that I
10 marked and labeled A, and it was identified to the right index
11 finger of Davontae Wheeler.

12 Q Q Card 27?

13 A Q Card 27 also came from the exterior right front
14 door -- I'm sorry, right door frame, not window. It was
15 marked A, and it was identified to the right palm of DeShawn
16 Robinson.

17 Q So we've talked about fingerprints. Are palm prints
18 similar?

19 A Yes. So the friction ridge skin that's on your
20 fingers also extends throughout the rest of your hand, which
21 would be the rest of the palm of the hand.

22 Q Would you need a more extensive known or exemplar in
23 order to make some comparisons with palm prints?

24 A To make comparisons with palm prints, I would
25 generally need a palm print known exemplar record to do that.

1 Q So you couldn't just have fingerprints of someone
2 and identify a palm print?

3 A That would be correct.

4 Q Okay. Q Card 30, please?

5 A Q Card 30 came from the exterior front hood of the
6 vehicle. There were two suitable prints that I marked and
7 labeled A and B. A was identified to the right palm of
8 Davontae Wheeler, and B was also identified to the right palm
9 of Davontae Wheeler.

10 Q So could you look at Q Cards 34 through 38, and tell
11 me about those, please?

12 A Yes. So Q Card 34, I'll start with. It came from
13 the exterior front hood of the vehicle. There were three
14 suitable prints that I labeled A, B, and C. A was identified
15 to the left palm of Davontae Wheeler, B was also identified to
16 the left palm of Davontae Wheeler, and C was also identified
17 to the left palm of Davontae Wheeler.

18 Q Card 35 came from the exterior front hood of
19 Vehicle 1 as well. There was one suitable print that I marked
20 and labeled A, and that was identified to the left palm of
21 Davontae Wheeler.

22 Q 36 as well came from the exterior front hood of
23 Vehicle 1. There was one suitable print that I marked and
24 labeled A, and that was also identified to the left palm of
25 Davontae Wheeler.

1 Q And Ms. Manigault, I apologize.
2 A Um-hum.
3 Q I realize we've been using "Q card" references.
4 A Um-hum. Oh, yes. But you would also like the
5 latent print references?
6 Q Because if you had been looking at, let's say
7 photographs of this car, Q Card wouldn't be on that, correct?
8 A That's correct.
9 Q It would be -- when a CSA pulls a print, they would
10 have a --
11 A Yes.
12 Q -- latent print --
13 A They would have a -- in this case, an LP number.
14 Q Okay. So could you give me the LP numbers that
15 correspond with those Q cards you just read out, 34 to 38?
16 A Sure, I can. So, Q 34 is LP 27. Q 35 is LP 28. Q
17 36 is LP 29. Q 37 is LP 30. And then, Q 38 is LP 31, and I
18 don't think I got a chance to read off that one yet.
19 Q Okay, so what was the results on that one?
20 A So that was -- Q 38 was also from the exterior front
21 hood of Vehicle 1. There were two suitable prints that I
22 marked A and B, and the A was identified to the left ring
23 finger of Davontae Wheeler, and B was identified to the left
24 middle finger of Davontae Wheeler.
25 Q Now, if you could tell us your results on Q Card 39,

1 Latent Print 32.

2 A That also came from the exterior front hood of the
3 vehicle. Two suitable latent prints were marked and labeled A
4 and B. A was identified to the right ring finger of DeMario
5 Lofton-Robinson, and B was identified to the right little
6 finger of DeMario Lofton-Robinson.

7 Q Q 40, Latent Print 33, please?

8 A That came from the exterior front hood of the
9 vehicle. Two suitable latent prints were marked and labeled A
10 and B. A was identified to the right ring finger of DeMario
11 Lofton-Robinson, and B was identified to the right index
12 finger of DeMario Lofton-Robinson.

13 Q Q Card 41, Latent Print 34, please?

14 A This came from the exterior front hood of the
15 vehicle. There was one suitable latent print labeled and
16 marked -- excuse me, and labeled A, and it was identified to
17 the right palm of DeMario Lofton-Robinson.

18 Q Could you tell us what your results were for Q Card
19 42, Latent Print 35, please?

20 A It came from the exterior front hood of the vehicle.
21 There was one suitable latent print labeled A, and that was
22 identified to the left palm of Davontae Wheeler.

23 Q If you could tell us what your results were for Q
24 Card 44, Latent Print 37, please.

25 A There was one lift card from the exterior front hood

1 of the vehicle again, one suitable latent print marked and
2 labeled A, and that was identified to the left palm of Raekwon
3 Robertson.

4 Q Q Card 50, Latent Print 43, please?

5 A That lift card came from the exterior top edge of
6 the left rear door of the vehicle. It was one suitable latent
7 print marked and labeled A, and that was identified to the
8 left palm of Raekwon Robertson.

9 Q And Q Card 51, Latent Print 44, please?

10 A That came from the exterior left rear window of
11 Vehicle 1. There was one suitable latent print marked and
12 labeled A.

13 Q And so, just -- did you get results for that?

14 A Yes. That was identified to the left index finger
15 of Raekwon Robertson.

16 Q And lastly, did you examine something that was
17 impounded by P number 13572?

18 A Yes.

19 Q And was there something different about the way this
20 was processed as opposed to what you just discussed?

21 A Yes. So this was not actually a lift card; it was a
22 photograph. It was processed by the CSA that collected this
23 piece of evidence. And the photograph was of the -- from the
24 side of a Taurus weapon magazine, and it was labeled number 1.

25 Q And is -- are photographs, if done correctly, any

1 worse or any better than doing processing any other way?

2 A No, they're actually totally appropriate pieces of
3 evidence. They are done a specific way. For instance, a
4 label would be placed in the photograph so that I could -- if
5 I needed to print out or look at this piece of evidence, which
6 was a latent print on the magazine, on the screen, I could
7 make it a one-to-one or life size, and it would just have to
8 be in focus, basically.

9 Q And what were the results of the photograph of that
10 Taurus weapon magazine?

11 A There was one suitable latent print in the
12 photograph. It was marked and labeled A, and it was
13 identified to the left thumb of Davontae Wheeler.

14 Q And you said that's from the magazine?

15 A Yes.

16 Q So is there something -- what is the policy for
17 let's just say a handgun as far as swabbing for DNA versus
18 doing fingerprint processing? Can you do both? Can you do
19 both at the same time? Tell me a little bit about that.

20 A Well, our policy is that we would swab for DNA. I'm
21 sorry, excuse me. I would not swab for DNA, but it would be
22 swabbed for DNA. They would generally try and swab it in
23 areas where it's generally -- they know the hands would have
24 touched it, but they would try to also be careful, if there is
25 latent print evidence there, not to destroy that evidence by

1 rubbing a cotton swab through it.

2 So in this case, that -- you know, it was swabbed
3 for DNA prior to when I got it. This photograph was taken
4 from the CSA, and I only handled the photograph part of it.

5 Q Is there something about the way handguns are made
6 that makes certain parts more suitable for DNA, and certain
7 parts more suitable for fingerprint processing?

8 A Yes, there is. There are parts of the gun that are
9 textured, and those are excellent areas for DNA because you
10 can imagine skin cells might be getting rubbed off in those
11 areas; whereas there are parts of the gun that are smooth, and
12 those are good for latent prints because a smooth surface is
13 normally the best surface that you can leave a latent print
14 behind. And also, it's not textured in that area, so it makes
15 it kind of nice sometimes.

16 Q So where does a magazine fit in?

17 A Well, a magazine has at least two smooth sides of
18 it, and it's generally handled by the hands, so it tends to be
19 a good place to find latent print evidence if there is some.

20 MR. BROOKS: Thank you. Pass the witness, Your
21 Honor.

22 THE COURT: Mr. Sanft, any cross?

23 CROSS-EXAMINATION

24 BY MR. SANFT:

25 Q Ma'am, your testimony with regard to fingerprints

1 and how they're found, do you know how they're -- like, can
2 you date a fingerprint?

3 A No, you cannot.

4 Q All right. So -- and once again, I think you had
5 told the jury earlier that it does depend on certain things,
6 like environment, for instance, right? If you're in an
7 environment that's, say, rainy or snow, that could have an
8 effect on how long a fingerprint remains on a surface, fair?

9 A That's fair to say, yes.

10 Q Okay. I'm sure you're aware that this is a
11 fingerprint that took place -- or fingerprints that you
12 analyzed in this case were all fingerprints that were found in
13 the State of Nevada, roughly around August of 2017?

14 A Okay.

15 Q Not necessarily the worst time, but not necessarily
16 the best time with regards to fingerprints because it's dry or
17 hot? How does that -- how would that work?

18 A Well, it depends. Like you said, August can be kind
19 of hot. It would depend on when -- on several factors; when
20 it was placed, the type of surface. It depends on many of
21 those things. But fingerprints can also survive those things
22 too, so, you know, it really depends.

23 Q Okay. Now, when you receive a case and an
24 assignment to do fingerprint analysis, it's a package of
25 information that you receive? Like, these Q cards that we've

1 been talking about, you just receive those Q cards, you then
2 receive an exemplar, and then you compare those items to each
3 other? Is that how it works?

4 A Yeah. So, generally speaking, I would receive a
5 packet, like you said, that contains these lift cards or --
6 which I then label as Q cards, and I might receive some names
7 that I am to compare.

8 Q Okay. But you don't do any additional work outside
9 of analyzing the fingerprints, right? Meaning, you don't look
10 at that and say, you know what, I need more fingerprint
11 analysis; can someone go back to the evidence and pull
12 additional fingerprints from this or that? That's not your
13 job, fair?

14 A No, I'm not at the crime scene, so I'm just
15 receiving that packet.

16 Q Okay. And that's -- that's somebody else's decision
17 to make, not yours? You're just there specifically to compare
18 apples and apples, and oranges to oranges?

19 A Yeah, to compare what was collected and submitted.

20 MR. SANFT: All right. I have no further questions,
21 Your Honor.

22 THE COURT: Mr. Ruggeroli?

23 MR. RUGGEROLI: Just one.

24 CROSS-EXAMINATION

25 BY MR. RUGGEROLI:

1 Q The Taurus that you examined that was 56, that was
2 the .45 caliber Taurus?

3 A Um-hum.

4 Q Yes?

5 A I'm sorry, let me look and make sure. I'm not that
6 familiar with guns. It doesn't say that it's a .45. It just
7 says, "A Taurus weapon magazine."

8 Q Okay, and --

9 A So I'm not sure about the rest.

10 Q The CSA that -- or that collected this would
11 probably be the better witness --

12 A Yeah.

13 Q -- for that item?

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

15 THE COURT: Thank you. Any redirect?

16 MR. BROOKS: Briefly, Your Honor.

17 REDIRECT EXAMINATION

18 BY MR. BROOKS:

19 Q Ms. Manigault, do you recall the CSA P number that
20 impounded that fingerprint that we were just discussing, the
21 magazine?

22 A That P number -- excuse me -- was 13572.

23 Q And showing you State's Exhibit 307, do you see that
24 P number here?

25 A Yes.

1 Q And is this the photograph you used to make a
2 comparison?
3 A It is.
4 Q And what was the result?
5 A The result was it was identified to the left thumb
6 of Davontae Wheeler.
7 MR. BROOKS: Thank you. Sorry, nothing further.
8 THE COURT: You're done?
9 MR. BROOKS: Yes, sorry.
10 THE COURT: Okay. Mr. Sanft?
11 MR. SANFT: No cross, Your Honor.
12 THE COURT: Mr. Ruggeroli?
13 MR. RUGGEROLI: No cross.
14 THE COURT: Okay. Thank you very much for your
15 testimony here today. You may step down, and you are excused
16 from your subpoena. You may call your next witness.
17 MR. PESCI: State calls Anya Lester. May I approach
18 your Clerk?
19 THE COURT: Yes.
20 THE MARSHAL: Straight ahead, please. And if you'll
21 please step up into the witness stand, remain standing, raise
22 your right hand, and face the Clerk.
23 ANYA LESTER, STATE'S WITNESS, SWORN
24 THE CLERK: You may be seated. Please state and
25 spell your first and last name for the record.

1 THE WITNESS: My name -- my name is Anya, A-n-y-a.
2 Lester, L-e-s-t-e-r.

3 MR. PESCI: May I proceed?

4 THE COURT: Um-hum.

5 MR. PESCI: Thank you.

6 DIRECT EXAMINATION

7 BY MR. PESCI:

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

9 A I am the manager of the Firearms Detail at the Las
10 Vegas Metropolitan Police Department Forensic Laboratory.

11 Q And what do you do in that capacity?

12 A In that capacity, I am in charge of 14 people, their
13 annual reviews, their training. I do administrative reviews
14 of their casework, and a lot of quality control and technical
15 manual writing --

16 Q Prior --

17 A -- procedure writing.

18 Q Sorry to interrupt you. Prior to being the manager,
19 what did you do?

20 A I was a forensic scientist in the Firearms Detail.

21 Q And what brings you to this job? What training and
22 experience do you have?

23 A I have a Bachelor of Science Degree in forensic
24 science from Michigan State University, and I was hired by the
25 LVMPD actually in December of 2008 as a forensic lab aid. I

1 did that position for about ten months. I learned a lot about
2 the lab as a whole. I did a lot of quality control work, a
3 lot of support staff work, things like washing dishes, doing
4 laundry, doing ordering.

5 And from there, I promoted into the forensic
6 scientist position. Once I did that, I underwent an extensive
7 training program; lasted 18 to 24 months. I got my first
8 competency at 18 months, my last one at 24. It entailed about
9 2,500 hours of training. I did both in-house training and
10 external training. I trained on firearms, ammunition,
11 ammunition components, microscopic comparisons. I went to
12 various manufacturing facilities for both firearms and
13 ammunition. Did a series of mock cases, supervised cases.

14 And then, at the end of that extensive training, I
15 took a series of competency exams, which allowed me to begin
16 my own supervised casework, and then proceed into independent
17 casework, and that was in the spring of 2011 when I started
18 doing that.

19 Q So if I heard you correctly, you said that you have
20 training and experience when it deals with firearms and
21 ammunition?

22 A Yes.

23 Q And have you testified in this capacity in courts of
24 law?

25 A Yes.

1 Q Now, kind of the anatomy of a firearm and
2 ammunition. Let's start with ammunition, for those that are
3 not as familiar with firearms. I want to show you State's
4 Exhibit 228. Do you recognize what's depicted there?
5 A I recognize it's a firearm.
6 Q Okay.
7 A Semiautomatic pistol.
8 Q And there's a mouse to the right, and I think if you
9 click at the bottom, you might get -- and see if that mouse
10 will move up above.
11 A Not getting anything on the screen though.
12 Q Well, let's do this. As we start --
13 THE MARSHAL: Oh, I'm sorry. You know what? That
14 mouse might not be on.
15 MR. PESCI: I apologize.
16 THE WITNESS: Oh, it's probably on at the bottom.
17 Ah. Thank you. Oh, there we go.
18 MR. PESCI: Thank you very much.
19 THE WITNESS: Okay.
20 BY MR. PESCI:
21 Q So let's start with ammunition on the lefthand side.
22 Tell us, in essence, the anatomy of what sometimes people
23 refer to as a bullet, and what do you refer to it as?
24 A So all of these here, we refer to these as
25 cartridges. Some people do refer to it as a bullet; however,

1 the correct term is cartridge. It's a single unit of
2 ammunition. Cartridge contains a case that holds everything
3 together; also contains powder. That's what burns and creates
4 gas that pushes the bullet, which is the projectile, this part
5 right here, down the barrel and out of the muzzle of the gun.

6 Here in this rear area, there's also contained a
7 chemical compound called a primer. It's a chemical --
8 chemically sensitive compound that when you pull the trigger
9 on a gun, and the firing pin hits it, that's what creates a
10 spark that ignites that powder inside that cartridge case,
11 causing it to burn, which liberates the gas, and that's what
12 pushes the bullet down the barrel and out of the muzzle.

13 Q All right. Now, as we're looking at this firearm,
14 do we have a magazine depicted in the photograph?

15 A Yes.

16 Q Could you show that, please?

17 A Um-hum. So this here would be the magazine.

18 Q And also, the firearm itself, could you point to
19 that?

20 A Um-hum. So you have your firearm over here.

21 Q Okay. And in particular, is this a Star .45 caliber
22 and firearm?

23 A Unfortunately, I can't see the manufacturer in this
24 view. I do see it says, "Caliber .45 ACP here."

25 Q Okay.

1 A But I -- I don't see the -- it's I think on the
2 other side.

3 Q All right. But as we look at this, can you tell us
4 what will happen to a cartridge when it's fired in a firearm;
5 in particular, this firearm?

6 A Um-hum. So these cartridges here, they get loaded
7 into this magazine. This here is your source of ammunition.
8 It's got the spring inside here; it has a follower up here at
9 the top. It acts kind of like a Pez Dispenser. It actually
10 pushes these cartridges up by the spring and this follower
11 here to cycle them into a firearm in order to fire the
12 firearm.

13 Q And --

14 A This -- oh, sorry.

15 Q Oh, I cut you off.

16 A This magazine here, once you've loaded it with
17 cartridges, you insert it here. This is a magazine well;
18 inserts into this firearm. This firearm here, this part is
19 called a slide. In order to load one of these cartridges out
20 of the top of the slide here into the chamber, which is the
21 rear part of the barrel -- you see the barrel right here --
22 you would have to close this slide.

23 So the slide has a lever -- I think it's on the
24 other side, you can't see it -- that if you release that, this
25 slide will spring forward. There's a spring inside here right

1 now; it's compressed. When you spring that slide forward,
2 what it does is it strips the top cartridge off this magazine
3 here, loading it into the gun, and readying for it to fire.

4 Q Showing you State's 227, is that that same firearm
5 with the slide moved forward?

6 A Appears to be so, yes.

7 Q Okay. So what are we looking at, that silver part
8 at the top?

9 A Um-hum, so this right here?

10 Q Yes.

11 A This piece? So this is the barrel here. You see
12 this cut-out in the slide. This part that I formally referred
13 to here was the slide. This is a cut-out. This is called the
14 ejection port. So this is after the firearm has fired that
15 the expended cartridge case can be ejected out of the firearm
16 through this port.

17 Q So is this a semiautomatic firearm?

18 A Yes.

19 Q Okay. Is that based on the fact that it will expel
20 the cartridge case after it's been fired out of the firearm?

21 A The definition of semiautomatic is just like what it
22 sounds. "Semi" means partial, and "automatic" is like the gun
23 does something for you. So this gun does part of the cycle of
24 operation for you. Normally, on a semiautomatic pistol, what
25 it does is the extracting, ejecting, and loading process.

1 So what happens is, here, we have this magazine
2 inserted; the slide is closed. If you have a cartridge here
3 in the chamber, you pull this trigger -- this -- this hammer
4 would need to be cocked. You pull this hammer -- this
5 trigger, excuse me. The hammer would fall forward, hitting
6 the firing pin, which hits the primer, which is on the rear of
7 that cartridge like I explained before, detonating that
8 chemical compound, lighting that powder, creating the gas
9 which pushes the bullet down the barrel and out of the muzzle.

10 For every action, you have an equal and opposite
11 reaction, so that bullet's going forward. What happens is
12 that cartridge case that's left in here is pushed backwards,
13 back against the rear part of that slide, and that drives this
14 slide backwards like we saw in the previous photo where the
15 slide was in the rearward position. When that slide goes
16 backwards, there's a little hook here, which is the extractor,
17 this piece here. It's a little hook that hooks on the rim of
18 that cartridge case, pulls it backwards out of the chamber.

19 There's a piece called the ejector here in the back
20 breechface of the slide, which actually kicks that cartridge
21 case out. When the slide goes forward, it will strip the next
22 cartridge off the top of that magazine, and loading it into
23 the chamber. So that's the semiautomatic part. You as the
24 operator, you have to pull the trigger for each shot, but the
25 firearm does that unloading and loading process for you.

1 Q Now, if we compare this to a revolver, how would
2 that be different for a revolver?

3 A So this firearm here, it just has one chamber here
4 at the rear of the barrel. A revolver, like you've seen in
5 old westerns, it has a cylinder that actually rotates, so
6 there's multiple chambers inside there. So instead of having
7 a magazine, you load your cartridges into those chambers in
8 that cylinder. And then when you pull the trigger, the same
9 type of action happens. You have a firing pin, you have a
10 detonation of a cartridge, but then, to get to the next
11 cartridge to fire, when you pull the trigger, that cylinder
12 rotates to the next one that's in the cylinder as opposed to
13 that extraction and ejection motion like what happens in a
14 pistol such as this.

15 Q So if you fire a revolver, it will not automatically
16 extract and expel the cartridge case?

17 A That's correct.

18 Q All right. Now, looking at this same exhibit,
19 State's 227, you talked about how a bullet will be projected
20 out of the firearm, down the barrel, correct?

21 A Yes.

22 Q What happens to the bullet as it travels through the
23 barrel?

24 A So, inside the barrel, there's these grooves that
25 are cut spiral into the barrel, and they're like -- what they

1 look like is like stripes on a candy cane. So that's called
2 riffling. So they're cut with a tool; spiral grooves inside.
3 The area in between those grooves is called the lands.

4 When the bullet goes from the end of -- excuse me --
5 the end of that chamber here and it starts to travel down the
6 barrel, it engages with those grooves and lands, and those
7 impart a spin upon the bullet, and that's to give it stability
8 when it comes out of the muzzle and it flies through the air.
9 So the bullet's actually spinning when it comes out of the
10 muzzle of the gun.

11 Q Does that imprint something unique on the bullet
12 based on that barrel?

13 A Yes.

14 Q Explain that to us.

15 A Yes. So those grooves that I talked about, they're
16 made by a cutting tool. So a cutting tool, what it's doing is
17 -- what you have is a harder object is always going to leave a
18 mark or act on a softer object. So the harder object is the
19 cutting tool, and it has to be in order to cut those spirals
20 into the barrel.

21 So what happens when you're cutting, every time that
22 tool goes either down or forward in the barrel, depending on
23 what their process is, it's microscopically changed a little
24 bit. So that tool is constantly changing every single time
25 it's cutting those grooves in there.

1 Also, every time it cuts, that's a unique event. So
2 when you're cutting, you're removing pieces of material, like
3 small little chips. You know how like if you grate cheese,
4 you get those small little chips, it's like sawdust? So those
5 chips that are cut out are different every single time and
6 random. And when those are cut out, they actually even build
7 up along the edge of the tool and they're scraped along as
8 that tool moves either forward or backwards in the barrel.

9 And all of those things contribute to those marks
10 that are inside the barrel that are unique to that barrel, and
11 that's what we use as firearms examiners when we're comparing
12 a bullet to a particular firearm.

13 Q Now, that's dealing with a bullet. How about a
14 cartridge case? Is there something unique that happens or is
15 imprinted on the cartridge case?

16 A So a cartridge case -- any surface here on this gun
17 that the cartridge case interacts with can leave an
18 impression. And I've talked about some different things; how
19 when you have the bullet going forward, the cartridge case
20 goes backwards.

21 The cartridge case here, when it slams up against
22 the rear of the slide here -- this is called the breechface --
23 you can get impressed marks there. We call those breechface
24 marks. When the firing pin hits the primer and it makes a
25 little divot in there, we call that that firing pin

1 impression. You can get marks in there.

2 That extractor, that hook that I talked about to
3 remove the cartridge case from the chamber, that can leave a
4 mark. The ejector that actually kicks the cartridge case out
5 of the firearm can leave a mark. And when it's here inside
6 this chamber, when the cartridge is detonated, when that
7 firing pin hits that primer and you have that gas burning, the
8 edges of the walls of the cartridge case actually swell
9 against the inside of the chamber, and any marks from inside
10 of the chamber, those get imparted on the cartridge case.

11 So all of those different types of marks are marks
12 that we can use as a firearms examiner to compare an expended
13 cartridge case to a firearm.

14 Q And do you compare that microscopically?

15 A Yes.

16 Q Okay. So if you have a firearm, let's say the one
17 that's in this picture, and you test fire it, can you then
18 make determinations as far as what the barrel will imprint and
19 what -- as you've talked about, what could happen to a
20 cartridge case; how that will be imprinted with this unique
21 particular firearm?

22 A Yes. So when I'm asked to examine a firearm and to
23 perform a comparison, I have to test fire the firearm, and I
24 use the actual firearm that's provided to me. I use the
25 magazine, if it is provided to me. Normally, we use

1 ammunition from our reference collection.

2 We test fire the firearm. We can do that a couple
3 of different ways. Normally, it's done into a water tank.
4 It's a large, stainless steel tank; it has about 600 gallons
5 of water. It has a port that we can shoot into, and when we
6 shoot into it, the bullet goes into the water, travels through
7 the water, falls down to the bottom. There's a net around
8 that port that catches the extracted and ejected cartridge
9 cases.

10 Once I'm done test firing it, I can open that tank
11 up, retrieve the bullets out, and then I have pristine
12 samples. I have samples of bullets and of cartridge cases
13 that are from that gun, and I know they're from that gun
14 because I fired them myself.

15 So then I compare those to each other to look for
16 the types of marks that that gun is leaving. I'm looking for
17 the quality of marks, quantity of marks. I'm looking for the
18 reputability between the marks on those test items before I
19 ever take one of those to compare it to an evidence item.

20 Q Okay. So you will generate, in essence, examples
21 from test firing the particular firearm?

22 A Yes, that's correct.

23 Q And then you can compare that to question evidence
24 or evidence from a particular case?

25 A Yes.

1 Q All right. So in this case, let's kind of focus on
2 the particular evidence that you had in question. Did you
3 generate a report in this case under Event Number 170809-0029?

4 A Yes.

5 Q Do you have that report with you for reference
6 purposes?

7 A Yes.

8 Q Okay.

9 A May I refer to it?

10 MR. PESCI: Any objection?

11 MR. SANFT: No.

12 MR. RUGGEROLI: No, Your Honor.

13 THE COURT: Okay, you may.

14 MR. PESCI: Thank you, Your Honor.

15 BY MR. PESCI:

16 Q So I want to kind of go over, first, the items of
17 evidence that you utilized, and then we'll talk about your
18 results. Is that okay?

19 A Yes.

20 Q Okay. Starting off with what you referred to as a
21 lab item number, is that a number that you assigned to this
22 particular report that you did?

23 A Yes. We have a computer system; it's called the
24 LIMS. It's our Laboratory Information Management System, and
25 it automatically generates a lab item number for every item of

1 evidence that we analyze in a case, so that way, even if a
2 latent print analyst, firearms analyst, DNA analyst examines
3 the same piece of evidence, it has one unique number that's
4 assigned by the computer.

5 Q And that's the unique number for your lab report?

6 A Yes, correct.

7 Q But that corresponds to a unique number from, let's
8 say, the crime scene analyst that impounded it?

9 A Yes, correct.

10 Q And in this particular situation, we have four
11 pieces of evidence -- well, let me see. 1, 2, 3, 4. Yes,
12 four pieces of evidence impounded by P number 5158; is that
13 correct?

14 A Yes.

15 Q And that would be Ebony Stephens, her Impound
16 numbers 1 through 4?

17 A Yes.

18 Q Okay. Now, your Lab Item 1, Ebony Stephens's number
19 1, was that a .22 Long Rifle cartridge case?

20 A It was a .22 Long/Long Rifle cartridge case.

21 Q Was there a headstamp on it?

22 A Yes.

23 Q What is a headstamp?

24 A Headstamp is -- either it can be letters or numbers
25 that are stamped into the head or the base area of the

1 cartridge by the manufacturer. It's usually an identifying
2 mark. It can either have the -- say, the manufacturer's
3 initials or name might be there, or often, the caliber is also
4 stamped in there.

5 Q In this particular situation, this item, was it
6 headstamped with the letter C?

7 A Yes.

8 Q Now, you talked about how it was .22 caliber
9 Long/Long Rifle cartridge case. Does this mean it goes into a
10 rifle, or can it be fired by a handgun?

11 A So a couple-part question there.

12 Q Sorry.

13 A It can be fired by a handgun, pistol, revolver, or a
14 rifle. The term .22 Long or .22 Long Rifle just refers to the
15 name of the cartridge. For this particular cartridge case,
16 the same cartridge case is used by manufacturers when they
17 manufacture .22 Long and when they manufacture .22 Long Rifle.

18 So when I just got the cartridge case, all I can say
19 is this is a cartridge case from a cartridge that was either a
20 .22 Long or a .22 Long Rifle. The Long Rifle does not refer
21 to the fact that it could only be fired in a rifle; it's just
22 the name of the cartridge.

23 Q Okay, so one cartridge case was to a .22?

24 A That's correct.

25 Q Were there three .45 cartridge cases?

1 A Yes.

2 Q Corresponding to Ebony Stephens, P number 5158, her
3 Impound Items 2, 3, and 4?

4 A Yes.

5 Q And did they have different headstamps on them?

6 A Different from each other?

7 Q Yes.

8 A Yes.

9 Q Okay. Now, is that different manufacturers?

10 A Yes.

11 Q Okay. So number 2, your Lab Item 2, Ebony
12 Stephens's Impound Item number 2, was that an R-P .45 Auto
13 cartridge?

14 A Yes.

15 Q And then your Lab Item 3, Ebony Stephens's Item 3,
16 was that a FCNR .45 Auto cartridge?

17 A Cartridge case, yes.

18 Q I'm sorry, I keep saying that. And then the last
19 one, your number 4, Ebony's number 4, was that a Winchester
20 .45 Auto cartridge case?

21 A Yes.

22 Q All right. So three .45 cartridges, all from
23 different manufacturers?

24 A Cartridge cases, yes.

25 Q Someday, I won't say that. All right. So moving

1 onto your Lab Item 11, was impounded under P number 15709,
2 Item 1. What was that item?

3 A So that was a Taurus Model PT22. It was a .22 Long
4 Rifle caliber, semiautomatic pistol.

5 Q Okay. And that particular item, did you test fire
6 that?

7 A Yes.

8 Q All right. What did you do with that particular
9 item before you test fired it?

10 A So for that particular item, that firearm and the
11 magazine, I swabbed those both for DNA prior to my test firing
12 them.

13 Q Okay. How did you go about that?

14 A Um-hum. So to swab for DNA, we have to make sure
15 that our surfaces are completely decontaminated, so we
16 actually have a separate room that we swab for DNA in. I --
17 first, I'll put on a lab coat, gloves, a mask, and I use a
18 disinfectant spray; it's like a commercial bleach-type spray.
19 Spray on the surface, wipe it off, and then I'll put down a
20 clean white paper, like butcher block paper.

21 Then I'll take that evidence, I'll set it on the
22 paper. I'll make sure that I have everything I need to
23 perform my swabbing all set and ready to go. I'll have my
24 swabs ready. I have molecular grade water; that's water that
25 is tested by our DNA Section to make sure there's no

1 contaminants in it. I have my booking materials, like the
2 envelope, the sticker, everything I need to book the swabs
3 after I've done the swabbing, get that all ready to go. Then
4 I'll take some of that bleach, put it on my gloves, make sure
5 my gloves are all clean.

6 Then I go ahead and open the package, and I'll
7 remove the firearm. I do each one separately; I'll do the
8 firearm likely first. Firearm from the package. I'll take
9 one of those swabs, put a drop or two of that water on it, and
10 then I just swab the entire surface of the firearm. So I
11 usually concentrate on the ridged areas, so that would be the
12 grip areas, the trigger, maybe the slide serrations, but our
13 policy is that we do a swab of the entire surface area of the
14 firearm.

15 Q Okay.

16 A Then I'll take that swab, go ahead and put it in the
17 envelope, seal it up so that it gets booked. And then I'll
18 change out my gloves, make sure everything's clean, maybe put
19 on a new mask if I think it got contaminated. Then I'll go
20 ahead and make sure my gloves are clean before I take the next
21 item, which is the magazine, then I'll repeat the same
22 process. I'll take a different swab, different clean swab,
23 put some of that water on it, swab the entire surface of that
24 magazine, and then go ahead and book that swab.

25 Q Showing you State's 250. You followed this

1 procedure that you just said for the Taurus Model PT22 .22
2 Long Rifle caliber semiautomatic pistol with serial number
3 ANC29177?

4 A Yes.

5 Q All right. So that was done before you test fired?

6 A Yes.

7 Q All right. So after you got those swabs, did you
8 impound those swabs?

9 A Yes.

10 Q Okay, so now DNA could work on that down the road?

11 A Yes.

12 Q All right. Now, turning to this particular firearm
13 and test firing it, did you do the procedure that you told us
14 earlier about firing into the thing of water?

15 A Water tank?

16 Q Yes.

17 A Yes. Let me just -- if I may refer to my notes
18 really quick.

19 Q Please.

20 A So I did -- I did test fire this gun three times,
21 and I did fire those three test fires into our water tank like
22 I described.

23 Q Okay. And so you had that particular item that was
24 your number 11, and you also had your number 12, which was the
25 magazine associated with this firearm?

1 A Yes.

2 Q All right. In addition to that firearm, looking at
3 State's Exhibit 295, did you also examine a Taurus Model PT145
4 Pro Millennium .45 caliber semiautomatic pistol, serial number
5 NCY05584?

6 A Yes.

7 Q Was that your Lab Item 14?

8 A Yes.

9 Q Impounded by P number 13572, Impound Item 1?

10 A Yes.

11 Q All right. Did you follow that same procedure there
12 as far as getting some test fires to use for comparison
13 purposes?

14 A Yes. I also test fired that firearm three times
15 into our water tank.

16 Q And did it have a magazine associated with it?

17 A Yes, it did.

18 Q Which is your Item 15?

19 A Yes.

20 Q Earlier, I said that there were four items from P
21 number 5158. Was there in fact another item, your Lab Item
22 17, P number impounder was 5158, and that was her Item 5,
23 which is one bullet?

24 A Yeah, and that was in a separate package. So her
25 Package 2, and that was one bullet.

1 Q All right. So we had cartridge cases and in fact
2 one bullet from that same CSA?

3 A Yes.

4 Q All right. And then, did you also have items given
5 to you that were impounded by P number 9618, which were metal
6 fragments and bullets?

7 A Yes.

8 Q Corresponding to your Items 22, 23, and 24?

9 A Yes.

10 Q Which correspond to P number 9618, Items 12, 13, and
11 14?

12 A Yes.

13 Q All right. So tell us about the -- the three
14 different firearms. And specifically, starting with the Ruger
15 .22, what did you learn about the functionality of that item?

16 A The Taurus .22?

17 Q Yeah, sorry.

18 A Okay. So the Taurus pistol, Lab Item 11, I did
19 examine it, test fire it. I did test fire it into the water
20 tank as I had described. I did find that gun was operational,
21 and I did not note that there were any malfunctions.

22 Q Okay. And then, as far as the Taurus pistol, which
23 was the .45 depicted in State's 295, what did you find out
24 about that?

25 A So that pistol, I did the same procedure; examined

1 it, test fired it, and I did find it to be operational, and I
2 did not note any malfunctions.

3 Q And then circling back to State's Exhibit 227, did
4 you examine and test fire the one Star, unknown model, .45
5 caliber semiautomatic pistol?

6 A Yes.

7 Q All right. Now, there is a serial number associated
8 with this particular item, correct?

9 A Yes.

10 Q And in your report, what did you notate that number
11 was?

12 A In the report, I notated that the number was
13 1949428.

14 Q All right. But then, when you looked at it
15 up-close, did you figure out that there was a number that was
16 transposed?

17 A Yeah, so -- whoops. If you see this last digit
18 right here, this digit is actually a 9, it's not an 8, but you
19 can almost see how it sort of looks like an 8 because the tail
20 of the 9 came up really high right here.

21 Q All right.

22 A So I do believe this is actually a 9. It was typed
23 on my report as an 8.

24 Q Okay, but we know we're dealing with a -- that's the
25 same firearm?

1 A Yes.

2 Q It's just that last number was just transposed as
3 far as an 8 versus a 9?

4 A Correct.

5 Q All right. And you said that this one was
6 functional?

7 A Yes. This firearm, I did test fire it, and I did
8 find it to be operational, and I did not note any
9 malfunctions.

10 Q All right. So after test firing all three of those
11 and getting some known samples, did you compare it to the
12 various pieces of evidence that had been impounded,
13 specifically cartridge cases, and bullets, and bullet
14 fragments?

15 A Yes.

16 Q And did you come to some conclusions?

17 A Yes, I did.

18 Q So specifically, looking at your first conclusion
19 referring to Lab Item 1, which would be the headstamped C .22
20 Long/Long Rifle cartridge case, correct?

21 A Yes.

22 Q And what did you find out about that?

23 A For that cartridge case, I identified it as having
24 been fired by the Taurus pistol, which was my Lab Item 11.
25 That was the PT22 pistol.

1 Q All right. So the cartridge case that had headstamp
2 C impounded by Ebony Stephens was fired by the .22 Taurus?

3 A I identified it as so, yes.

4 Q Okay. And is that based on those unique imprints
5 that are done going -- or when it's fired?

6 A Yeah, it's based on my microscopic comparison, my
7 observation of those -- those individual microscopic marks,
8 and I'm looking for sufficient agreement in the number, in the
9 quantity, the quality of those marks for me to make that
10 determination that it is an identification.

11 Q Okay. Then, shifting away from the .22 caliber
12 cartridge case, the three .45 caliber cartridge cases all
13 impounded by Ebony Stephens, did you come to a conclusion on
14 those?

15 A Yes.

16 Q What did you conclude?

17 A I identified the three cartridge cases, my Lab Items
18 2 through 4, as having been fired by the submitted Star
19 pistol, which was my Lab Item 20.

20 Q Okay. So the -- all three of those .45 caliber
21 cartridge cases impounded by Ebony Stephens all came back to
22 having been fired by that particular Star .45 firearm?

23 A I identified them as so, yes.

24 Q Okay. And then, as far as Lab Items 17, which
25 corresponds to one bullet impounded by Ebony Stephens, and

1 your Lab Item 24, which corresponds to one bullet impounded by
2 Crime Scene Analyst Jeffrey Scott with P number 9618, what did
3 you conclude?

4 A The two bullets, those two Lab Items 17 and 24, I
5 identified those as having been fired also by the submitted
6 Star pistol.

7 Q Okay, so that same firearm we just spoke of a moment
8 ago?

9 A Yes.

10 Q Then your Lab Item 23, which would correspond to a
11 bullet recovered by P number 9618, Jeffrey Scoot, what could
12 you determine based on that bullet?

13 A So that particular bullet, it did share similar
14 general riffling characteristics with the Taurus pistol, my
15 Lab Item 11, the PT22. However, there was some damage to this
16 bullet, and that caused -- there was a lack of microscopic
17 marks due to that damage. And because of that, I could not
18 make an identification to or an elimination from that
19 particular pistol.

20 Q Okay. However, sometimes, are you able to make an
21 elimination?

22 A Yes.

23 Q In this case, you were not able to eliminate or
24 identify?

25 A That's correct.

1 Q Okay. And then, the last items, the metal
2 fragments, were you able to do anything with those?

3 A No. The metal fragments had no riffling
4 impressions, and were therefore of no value for microscopic
5 comparisons.

6 Q All right. Now, when you test fire a firearm into
7 the tank of water, is there damage to that bullet?

8 A There's usually not. Some bullets, if we have a
9 real high-speed -- like a high-speed rifle, like a .223 rifle,
10 some of those bullets might break apart when they hit that
11 water in the tank.

12 But normally for a handgun, if we use a full metal
13 jacket type bullet or a jacketed hollow point, when it goes
14 into the water, water is denser than air, so it goes into that
15 water, and it just flows down, and then just falls down onto
16 the bottom of the water tank when it loses its velocity. So,
17 like I said earlier, it's basically a pristine sample that
18 came from that gun.

19 Q Okay. In your experience, have you seen bullets
20 that have passed through objects like bodies?

21 A Yes.

22 Q Have you reviewed pieces of bullets or fragments of
23 bullets that have come from autopsies?

24 A Yes.

25 Q And in your experience, can the bullet traveling

1 through let's say a skull damage the bullet itself?

2 A It's possible, yes.

3 Q Okay. If the bullet is damaged to such a point, is
4 it impossible to make a comparison?

5 A Completely depends on what the condition of the
6 bullet is, and that would depend on the caliber, the type of
7 firearm it was fired from, how far away the shot was fired
8 from, you know, what velocity it was going when it impacted.
9 I've -- I've seen bullets in all kinds of different conditions
10 when I've been asked to examine them.

11 MR. PESCI: Okay, thank you very much. Pass the
12 witness.

13 THE WITNESS: Thank you.

14 THE COURT: Cross-examination?

15 MR. SANFT: Yes, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. SANFT:

18 Q Ms. Lester, can you determine who fires a gun or --

19 A I cannot, no.

20 Q Okay, and that's really not the scope of what you
21 do. You just want to determine whether or not a certain
22 firearm at some point causes a bullet to be fired, right?

23 A Whether or not a certain bullet was fired from a
24 particular firearm --

25 Q Yes.

1 A -- or a certain cartridge case, yes.

2 Q Yes, both of those things, right?

3 A Yes.

4 Q Okay. And with regards to your work that you do,

5 it's -- I'm guessing that's probably going to be under a

6 microscope, because you said it's microscopic in terms of what

7 you're looking for --

8 A Yes.

9 Q -- with regard to a known sample versus whatever it

10 is that you're examining comparatively, correct?

11 A Yes, that's done under a microscope.

12 Q Okay. And is that something that you take pictures

13 of to at some point show a jury what you're looking for in

14 terms of the grooves, or the microscopic details that you are

15 examining with your own eye through this microscope?

16 A Yes.

17 Q Okay. With regards to the examination of the

18 firearms that you've been asked to in this case, were

19 photographs of those things taken in terms of your

20 observations of each of those things?

21 A Yes.

22 Q Okay. In addition to that, are you aware of any

23 studies in the last ten years or so with regards to the

24 concern of false positives?

25 A Yes.

1 Q Okay. With regards to the -- let me ask you this.
2 The National Institute of Standards and Technology, are you
3 aware of what that is?

4 A The NIST?

5 Q Yes.

6 A Yes.

7 Q Are you certified at all through NIST?

8 A I am not.

9 Q Okay. And are you aware that NIST can perform the
10 study with regard to that specific issue of false positives in
11 terms of firearms and so forth?

12 A I am not aware of what specific study you're
13 referring to. I try to keep up and read the studies that are
14 out there. I know there are studies that have been done about
15 false positives, false negatives, et cetera, in firearms.

16 Q Okay. And would it be fair to say though that that
17 would be one of the things of concern that you would always
18 have as someone who potentially could come across a false
19 positive in your line of work?

20 A So I know in most of the studies that are done, the
21 errors where there's false positives on known samples are
22 usually just limited to a particular scientist or a particular
23 laboratory. In our laboratory, we have layers of precautions
24 that we use to prevent things like false positives, false
25 identifications, false eliminations, and that is all of our

1 identifications are independently verified by a second trained
2 examiner, and all of our case files go through a technical
3 review process and an administrative review process.

4 Q Okay, so --

5 A And that's -- oh, sorry.

6 Q I'm sorry, go ahead. I didn't mean to interrupt
7 you.

8 A No, I was going to -- that's -- since we're an
9 accredited lab, those are standards that we have to adhere to.

10 Q All right. And when you say you're accredited, my
11 guess is, at some point, you have to renew that accreditation
12 with whatever the institute is that you've been accredited by?

13 A Yeah, the accrediting body. We do an internal
14 re-accreditation audit every year, and I think the body comes
15 in -- I think it's every three years and renews our
16 accreditation.

17 Q All right. And with regards to that accreditation,
18 do you know who it's through?

19 A It's through ANAB.

20 Q What is that? We don't know.

21 A Yeah, so I believe it's the ANSI National
22 Accrediting body. I don't want to say the wrong thing, so.

23 Q That's --

24 A It's quite a long acronym.

25 Q That's all right. But as far as you know, are there

1 multiple accreditation type of organizations out there besides
2 that one ANSI, or is ANSI the national standard?

3 A For forensic labs, I'm not sure if there is another
4 one other than that one. I don't actually know.

5 Q Okay. So for instance, if I'm quoting to and
6 referring you to the National Institute of Standards and
7 Technology, that's not an accreditation?

8 A I don't believe that NIST accredits forensic
9 laboratories.

10 Q Okay. So, and once again, you're not an expert with
11 that, you don't know for sure, you're just saying that's what
12 you believe, right?

13 A I -- that's correct, yeah.

14 Q Okay. Finally, in terms of the item that you
15 observed in this case, which was the spent bullet, the one
16 that you said that you saw had some markings on it but you
17 couldn't determine at this particular point where that bullet
18 was fired from -- the particular gun that I'm concerned with,
19 which is the Taurus P2 -- or PT22, the markings that are on
20 there --

21 A Yeah. Sorry, was there a question?

22 Q Yeah, well, I'm getting to it.

23 A Oh, sorry.

24 Q I'm just winding it up here.

25 A Okay.

1 Q In terms of that particular bullet, you took
2 pictures of it, right?

3 A Yes.

4 Q All right. And once again, that would have been
5 part of your report that you used that you've talked about
6 here today in court?

7 A So it's not part of my report; it's actually part of
8 my notes --

9 Q I see.

10 A -- in my case file.

11 Q I see. So the notes that you have in front -- or
12 the report you have in front of you is just a written report,
13 but with regards to what you actually observed, that would
14 have been part of your case file and your notes during the
15 course of your work?

16 A Yes, and I have that all in front of me as well.

17 Q Okay.

18 MR. SANFT: And Your Honor, may I approach?

19 THE COURT: You may.

20 BY MR. SANFT:

21 Q Can I see that?

22 A The picture of that particular bullet?

23 Q Yeah.

24 A Sure. Getting there. Okay, that's this one right
25 here.

1 Q Okay.

2 MR. SANFT: And I don't know how to do this.

3 (Pause in the proceedings)

4 BY MR. SANFT:

5 Q Is this a copy?

6 A Yes, you may have that one.

7 Q Okay.

8 A Yeah.

9 Q Well, thank you.

10 A You're welcome.

11 MR. SANFT: Your Honor, I do have a document here.

12 I'm going to show defense counsel as well.

13 THE COURT: Sure.

14 MR. SANFT: I'm probably going to propose this as a

15 defense exhibit to be admitted at this point.

16 MR. PESCI: No objection from the State.

17 THE COURT: Sure. Go ahead and show Mr. Ruggeroli.

18 So it will be marked as B1.

19 MR. SANFT: B1?

20 THE COURT: Any objection?

21 MR. RUGGEROLI: No, Your Honor.

22 THE COURT: Okay, and there's no objection from the

23 State. It's admitted.

24 (Defendant Robertson's Exhibit B1 is admitted)

25 MR. SANFT: Thank you, Your Honor. May I publish?

1 THE CLERK: Can I please mark it so it doesn't get
2 lost? Thanks.

3 BY MR. SANFT:

4 Q Showing you what's been marked and admitted as
5 Defense Exhibit B1. Ma'am, the item that we are talking about
6 is specifically this item number 23; is that correct?

7 A Just let me make sure 100 percent. I do believe so.
8 Yes. So, Item 23, it's this one here. So this is the one
9 that I testified to that I could not identify or eliminate it
10 as having been fired from the submitted Taurus pistol.

11 Q Okay.

12 MR. RUGGEROLI: Judge, could we just clarify the
13 Taurus .22, please?

14 THE WITNESS: Oh, yeah. The Taurus .22. The PT22.

15 MR. SANFT: All right, thank you.

16 BY MR. SANFT:

17 Q And in terms -- did you have any other photographs
18 that helped you with that determination outside of this
19 photograph that we're showing the jury identifying Item 23?

20 A I don't believe so.

21 MR. SANFT: Okay. I have no further questions, Your
22 Honor.

23 THE COURT: Thank you. Mr. Ruggeroli?

24 MR. RUGGEROLI: Thank you, Your Honor.

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CROSS-EXAMINATION

BY MR. RUGGEROLI:

Q Good afternoon, Ms. Lester.

A Good afternoon.

Q I'm going to try and simplify my portion.

A All right.

Q You were shown a number of pictures. The -- this is State's 250. That's that Taurus .22, correct?

A The one that I've been referring to, yes.

Q Yes. Okay, and the .22 is a small caliber firearm, correct?

A Yes.

Q The size of the bullet is quite small in comparison to other types of -- other calibers of firearms, correct?

A So what a .22 is, it refers to the diameter of the base of that bullet. So it's actually .22 inches, so it's less than one quarter inch in diameter. I'm -- yeah, one quarter inch. Less than .25.

Q Thank you.

A Yeah.

Q I'm also showing you State's 227. That's the Star?

A Yes.

Q .45?

A Yes.

Q Similar-type designation. Can you give the jury a

1 little information --

2 A Um-hum.

3 Q -- about how that's designated as .45?

4 A Um-hum. Same thing that I just said. The .45

5 refers to .45, which is the diameter of the base of that

6 bullet. So that bullet is .45 inches across the base, so it's

7 more than double what the .22 is.

8 Q Okay. Now I'm going to show you the State's 295.

9 Now, that's also a .45 caliber, correct?

10 A Yes.

11 Q But I only represent Mr. Wheeler, okay? And so I'm

12 concerned with this one. This is the Taurus PT145 Pro

13 Millennium .45 caliber pistol, correct?

14 A Yes.

15 Q You determined, after going through all the things

16 that you were questioned about previously, that in comparison

17 and reviewing all the evidence that you had, none of the

18 bullets or cartridge cases were fired from this particular

19 firearm?

20 A None of the bullets or cartridge cases that I

21 examined under this particular case did I identify as having

22 been fired from that firearm. That is correct.

23 Q Thank you.

24 A You're welcome.

25 MR. RUGGEROLI: I have nothing further.

1 THE COURT: Thank you. Any redirect?

2 MR. PESCI: Yes.

3 REDIRECT EXAMINATION

4 BY MR. PESCI:

5 Q For purposes of the swab that you took on the .22,
6 State's 250, the .22 caliber Taurus, is your P number 13771?

7 A Yes, it is.

8 Q Okay. So for reference purposes, for a DNA report
9 down the road, if it's referencing your P number, that's the
10 number there?

11 A Yes. It would be my P number, my package number,
12 whatever that was -- it was probably 1 -- and then my item
13 numbers of the swab from the gun and from the magazine.

14 Q All right. So the item that you swabbed, State's
15 250, is the Taurus .22, correct?

16 A And the magazine.

17 Q I'm sorry, and the magazine.

18 A Yes.

19 Q You did not swab the .45 Star or the .45 Taurus
20 Millennium?

21 A I did not.

22 Q Okay. And then, defense counsel asked you some
23 questions about what's now B1, and specifically, focusing in
24 on this bullet here. Do you remember those questions?

25 A I do.

1 Q All right. Now, if I've understood your testimony
2 earlier, you said that that bullet actually did share similar
3 general riffling characteristics with --

4 A With -- yes.

5 Q -- the Taurus pistol, Item 11. The Taurus pistol,
6 Item 11 is the Taurus .22, correct?

7 A Yes.

8 Q All right. So there are some similarities; you just
9 cannot identify it as coming from there?

10 A Yes. Remember when I talked about the riffling? So
11 when the manufacturer cuts that riffling into the barrel, it
12 puts a certain number of grooves in there, so the manufacturer
13 might put five of them or six of them in there. Those grooves
14 might be spiraled to the right or spiraled to the left. Those
15 things are called general riffling characteristics. Also, the
16 width of those grooves that are cut into there, those are
17 general riffling characteristics.

18 Those are class characteristics, things that can
19 like restrict something down to a certain group, but not
20 individualize it. In order to individualize it, I need those
21 small microscopic individual characteristics. So for this
22 particular bullet, it did share those general riffling
23 characteristics. The number of land impressions, direction of
24 twist, and width of those impressions shared that with that
25 Taurus pistol -- the Taurus .22 pistol.

1 Q What do you mean, the number of land impressions?
2 What is that?

3 A Um-hum. So, like I talked about earlier with the
4 manufacturer cutting those spiral grooves into that barrel, as
5 I just said, the manufacturer chooses how many of those to put
6 in there, so it might be -- there might only be three. You
7 know, I said it's like stripes on a candy cane. So there
8 might only be three, or there might be four, or five, or six.
9 Just -- it's just based upon the manufacturer's choice.

10 So here, the number of grooves -- and then,
11 correspondingly, in between those grooves, like I said before,
12 is what's called a land. So the number of grooves, the number
13 of lands on this particular bullet was the same number of land
14 and grooves that is in the Taurus .22 caliber pistol.

15 Q And then you talked something about directionality
16 of those lands and grooves?

17 A Um-hum.

18 Q What's that?

19 A So remember how I said when the bullet goes down the
20 barrel, it has as spin imparted upon it; that's to give it
21 that stability? It's kind of like when a football player
22 throws a football through the air. You know, if I throw it,
23 it's going to go like -- go, you know, off-center; but if a
24 football player puts a spin on it, it gives it stability as it
25 flies through the air.

1 So the manufacturer, as it's imparting those grooves
2 in there, it can twist to the right or twist to the left.
3 It's just based on manufacturer's preference. It doesn't
4 matter if it's twisting to the -- you know, clockwise or
5 counter-clockwise; that's just based on a manufacturer's
6 preference. So here in this particular case, that twist that
7 was imparted upon that bullet also was the same as the twist
8 that was exhibited in the barrel of the Taurus .22 pistol.

9 Q So those are all similar?

10 A Yes, that's correct.

11 Q But you did not make an identification?

12 A I did not.

13 Q But you also said that you could not eliminate it?

14 A Yes, that's correct.

15 Q All right. So, being as you were asked questions
16 about false positives, you didn't make a positive on that
17 particular item?

18 A I did not.

19 Q All right. And you talked about layers of
20 precaution, and explain that to me again. You have --

21 A Um-hum.

22 Q What are those layers of precaution that you have in
23 your lab?

24 A So anytime that an analyst does a microscopic
25 comparison, like I said, an individual qualified analyst, a

1 second analyst, does have to verify that. So if I have my
2 microscope and I'm doing a comparison, I have a test fired
3 bullet on one side, I have an evidence bullet on the other
4 side, I do my comparison, take my photographs, make my
5 decision as to whether or not it's an identification, an
6 elimination, or an inconclusive, then I have to take that
7 evidence and give it to another qualified analyst.

8 They do that same microscopic examination. They do
9 it independently and they make their own independent
10 conclusion, and that is to help prevent what was alluded to
11 earlier with false positives or false negatives. It's a
12 second independent examination and independent conclusion.

13 Q That's Layer 1?

14 A That's Layer 1, yes.

15 Q What's the next layer?

16 A So the next layer is what I alluded to earlier,
17 which is a technical review. So a technical review is where
18 your entire case file is reviewed by a second qualified
19 analyst. They are looking at everything that the first
20 analyst did, making sure that you follow all the technical
21 procedures correctly from our technical manual, that you're
22 following the accreditation procedures, and that you
23 basically, you know, did your case following our correct
24 procedures.

25 They look and see what was requested in the case,

1 make sure you've performed all of the examinations, and they
2 give you suggestions; if you've missed anything, look out for
3 anything, and just double-check what you did.

4 Q That's Layer number 2?

5 A That's correct.

6 Q You had a Layer number 3?

7 A Yeah, Layer number 3 is an administrative review.

8 So administrative review is, after all that's done, that
9 review is for accuracy for things such as typos, numbers,
10 letters, page numbers, things like that. However, that's also
11 done by someone who is a qualified analyst, so it's kind of
12 impossible to do that review without looking at everything
13 technically as well.

14 Q And then, the lab's accredited?

15 A Yes, that's correct.

16 Q That's another layer of protection, correct?

17 A Yes.

18 MR. PESCI: Thank you.

19 THE COURT: Any recross?

20 MR. SANFT: Yes, Your Honor.

21 RECROSS-EXAMINATION

22 BY MR. SANFT:

23 Q So I want to make sure we're clear. Could you take
24 a look at the -- when we talk about riffling, we're talking
25 about the inside of the barrel, right?

1 A Yes.

2 Q Is riffling specific or unique to a manufacturer?

3 Meaning, would a Glock manufacturer have certain riffling

4 that's different from, say, in this case, the Taurus versus a

5 Smith and Wesson, for instance?

6 A So a Glock does have different riffling than a

7 Taurus, yes.

8 Q Okay. So you could take a look inside, say, just --

9 if you were tested and shown the inside of a barrel, you could

10 say, oh, that's a Glock riffling versus this is a Smith and

11 Wesson or some other manufacturer?

12 A So --

13 Q Is that what you're telling us?

14 A I usually don't observe that from looking down the

15 barrel. I would do a test fire, and then I would observe it

16 on the test fired bullet.

17 Q Okay. So -- okay, let's make it that way then.

18 Just by looking at a bullet that's been fired in the water,

19 and you pick it up, that's a pristine sample --

20 A Um-hum.

21 Q -- you would be able to determine the manufacturer

22 of the riffling of the barrel that it came shooting out of?

23 A So it's a little bit of a long answer.

24 Q Yeah.

25 A So what we actually do is we look under the

1 microscope, look at those number of lands and grooves that I
2 talked about, the direction of twist, and we also measure the
3 width of those land impressions and those groove impressions
4 on that bullet.

5 Then we can put that information into a database,
6 it's an FBI database, and that can give you a list of possible
7 manufacturers that make firearms with those similar riffling
8 characteristics so that we can provide a list of possible
9 manufacturers that make guns that could have fired that
10 bullet.

11 Q So there's not a unique fingerprint for this
12 riffling; it could be a number of different manufacturers that
13 produce that same sort of riffling distance or whatever the
14 case is, right?

15 A Right. So that's why I said it's the general
16 riffling characteristics, and I said those are class
17 characteristics, not those individual characteristics. So if
18 this was six land and grooves, and a right-handed twist, and
19 you know, whatever the width measurement was, there may be
20 multiple manufacturers that make guns that are six land and
21 grooves, right-handed twist, with those similar measurements,
22 yes.

23 Q Okay. So going back again to Defense Exhibit B1,
24 Item number 23 that we're showing the jury at this particular
25 point, fair to say that it could have come from a whole group

1 of potential manufacturers out there; you just don't know?

2 A Ones that share those same general riffling
3 characteristics, yes.

4 Q Right.

5 A Um-hum.

6 MR. SANFT: Okay, no further questions.

7 THE COURT: Thank you. Any recross?

8 MR. RUGGEROLI: Just one point of clarification for
9 that same exhibit number and that item number.

10 THE COURT: Are you talking about B1?

11 MR. RUGGEROLI: Yes.

12 THE COURT: Okay.

13 RECROSS-EXAMINATION

14 BY MR. RUGGEROLI:

15 Q This Item 23, your testimony is that's fired from a
16 .22 caliber?

17 A It's consistent with .22 caliber, yes.

18 Q All right. Silly question, but a .45 caliber
19 firearm could not fire a .22 caliber cartridge case?

20 A Not without an adapter or some other type of
21 modification, no.

22 MR. RUGGEROLI: Thank you. Nothing further.

23 THE COURT: Okay. Anything else for this witness?

24 MR. PESCI: No, thank you.

25 THE COURT: Okay. Thank you very much for your

1 testimony here today. You may step down --
2 THE WITNESS: Thank you.
3 THE COURT: -- and you are excused. Are -- did we
4 get through?
5 MR. PESCI: We do have another one.
6 THE COURT: Sure, call your next witness.
7 MR. PESCI: State calls Adrian Sandoval.
8 THE MARSHAL: If you'll please remain standing,
9 raise your right hand, and face the Clerk.
10 HECTOR ADRIAN SANDOVAL, STATE'S WITNESS, SWORN
11 THE CLERK: You may be seated. Please state and
12 spell your first and last name for the record.
13 THE WITNESS: Yes. First name is Hector,
14 H-e-c-t-o-r. Last name is Sandoval, S-a-n-d-o-v-a-l.
15 DIRECT EXAMINATION
16 BY MR. PESCI:
17 Q Sir, do you go by something other than Hector?
18 A Adrian.
19 Q Okay. Sir, I want to direct your attention back to
20 August of 2017. Where did you work by then?
21 A I was assigned to the Major Violators Section in --
22 for LVMPD.
23 Q And then, did you work with dogs?
24 A Yes, I did. I was a K-9 handler and a trainer.
25 Q Okay, and tell us a little bit about that, what you

1 would do with a K-9.

2 A For about nine years, I was actually a narcotics
3 detective dog handler. About three years before the end of my
4 career, I became the trainer for the Narcotics Section. And
5 the last two years, we began a pilot program where we put a
6 firearms detection dog into service, so I put together the
7 protocol and the training program for that.

8 Q And do you know a dog named Trigger?

9 A Yes.

10 Q Did you work with Trigger back in August of 2017?

11 A Yes.

12 Q What type of dog was Trigger?

13 A Trigger was a Springador, and she was a firearms
14 detection dog.

15 Q Okay, so what does that mean? How could she be a
16 firearms detection dog?

17 A Well, what Trigger was trained to find is the odor
18 of the burnt nitrates that occurs when a firearm is
19 discharged, so nitroglycerin, nitrocellulose, the burnt
20 residue left over after a firearm is fired.

21 Q Were you a part of Trigger's training?

22 A Yes.

23 Q Okay. And were you asked by other detectives to
24 respond to a 919 Bagpipe address back on August the 15th of
25 2017?

1 A Yes, I was.

2 Q Showing you State's Exhibit 215, do you have a
3 recollection of responding out to this scene?

4 A Yes.

5 Q Okay. Now, this was pursuant to a search warrant?

6 A Correct.

7 Q Okay. Now, was it the policy or was it -- I should
8 say -- not policy. Often, would SWAT be the first individuals
9 from the Metropolitan Police Department to go inside of a
10 house?

11 A That's correct.

12 Q And did SWAT go in first?

13 A Yes.

14 Q And then, after SWAT, did you go in with Trigger?

15 A Typically, I would -- I would walk through to make
16 sure there was nothing -- without Trigger, make sure there was
17 nothing out in the open that she could get into and injure
18 herself, and at that point, then I would bring Trigger in.

19 Q Okay. And then, looking at State's 216, did you
20 make your way towards the front door of this particular
21 residence?

22 A Yes.

23 Q And State's 217, did you walk around and go
24 throughout the residence with Trigger?

25 A Yes.

1 Q Specifically, 218, did you eventually make your way
2 to some bedrooms?

3 A Correct. If I remember correctly, I actually
4 started my deployment of Trigger at the second floor of the
5 house.

6 Q Okay. And then, looking at State's 219, were there
7 two different bedrooms that you entered?

8 A That's correct.

9 Q And State's 220. Did you see anything that Trigger
10 -- or did Trigger alert on anything?

11 A Yes, sir. There's -- in this picture, on the
12 mattress, there's a pink backpack, a smaller one.

13 Q 221, is that a better picture?

14 A Yes.

15 Q Okay. And how does Trigger alert or point that out
16 to you?

17 A Trigger puts her nose to source. So basically,
18 she'll -- you know, she'll sniff the area. Once she locates
19 the odor she was looking for, she'll place her nose as close
20 to the item as she can get it to, and she stands stationary.

21 Q And showing you State's 22, is that a close-up of
22 the backpack that Trigger alerted on?

23 A That appears to be to me, yes.

24 Q Okay, and then did you open that backpack?

25 A No.

1 Q All right. Did you then inform other officers and
2 detectives, hey, Trigger alerted on this particular backpack?

3 A Yes. I normally would complete my sniff of the
4 house, and when I leave, I'd contacted whatever detective was
5 in charge. In this particular one, I believe I spoke to
6 Sergeant Luzignot (phonetic) from Homicide to let him know the
7 results of my deployment.

8 Q Okay, and then those detectives then continue on
9 with their search?

10 A That's correct.

11 MR. PESCI: Pass the witness.

12 THE COURT: Cross-examination?

13 MR. SANFT: Yes, Your Honor, one question.

14 CROSS-EXAMINATION

15 BY MR. SANFT:

16 Q Trigger's not here today to be subject to his
17 cross-examination?

18 A Unfortunately, no.

19 Q All right. Just real quick, with regard to how
20 Trigger is able to detect --

21 A Yes.

22 Q -- you said something about the nitrates. How does
23 that work?

24 A So typically, most modern gun powders have one or
25 two components, nitrocellulose and nitroglycerin, whether

1 they're single-base or double-base. Rifle rounds as opposed
2 to handgun rounds -- handgun rounds would be double-base;
3 usually, rifle rounds are single-base. So obviously, when a
4 firearm's discharged, the powder burns, and what's left over
5 is the burnt odor of those two components. So that's what she
6 was trained to find as opposed to let's say the metal that's
7 in the gun itself.

8 Q I see. So if a gun has never been fired, for
9 instance, would that be something that would hamper her
10 ability to locate it?

11 A It would depend on the time frame. Typically, every
12 gun is fired at the manufacturer. Usually, if you buy a gun,
13 you get some -- there's usually some spent casings with the
14 gun that shows that the gun was fired and it worked. I have
15 had guns that were only fired by the manufacturer, maybe I
16 obtained them two or three months later, that she could still
17 alert on, depending on how well they were hidden. If we're
18 talking in terms of years, probably not.

19 MR. SANFT: Okay. I have no further questions.
20 Thank you.

21 MR. RUGGEROLI: No questions, Your Honor. Thank
22 you.

23 THE COURT: Okay, anything else?

24 MR. PESCI: No.

25 THE COURT: Okay. Thank you very much --

1 THE WITNESS: Thank you.

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

4 THE WITNESS: Thank you.

5 THE COURT: You got through them all?

6 MR. PESCI: We don't have any more for today, Your
7 Honor.

8 THE COURT: Okay.

9 MR. PESCI: Sorry.

10 THE COURT: Can I just have the attorneys approach
11 for a moment?

12 (Bench conference)

13 THE COURT: I think it's just Detective Dosch. So
14 you just have the detective left?

15 MR. PESCI: Yes.

16 THE COURT: So he's going to be a long witness?

17 MR. PESCI: He'll be long, not outrageously long
18 because we're not introducing statements, so that's not going
19 to be coming in.

20 THE COURT: Okay. Well, if we start tomorrow at
21 10:30, we'll probably have the detective done by lunch. So
22 you guys have to, if you're going to call witnesses, be ready
23 to call witnesses.

24 MR. RUGGEROLI: And it's just --

25 THE COURT: Okay?

1 MR. RUGGEROLI: -- one, Detective Dosch?
2 MR. PESCI: That's who we're planning on, yeah,
3 Detective Dosch.
4 THE COURT: And that's your final witness?
5 MR. PESCI: Unless something changes over the night,
6 but we expect that Dosch will be able to do the things that we
7 want to go over.
8 THE COURT: Okay.
9 MR. SANFT: Can we advise our clients tonight about
10 the right to testify so they can think about it over the night
11 before tomorrow?
12 THE COURT: Sure, I'm happy to do that.
13 MR. SANFT: Thank you.
14 MR. PESCI: What time are we starting tomorrow?
15 THE COURT: 10:30.
16 MR. PESCI: Okay.
17 THE COURT: Okay, thank you.
18 (End of bench conference)
19 THE COURT: Okay. At this time, ladies and
20 gentlemen, we are going to conclude for the evening. We're
21 going to start tomorrow morning at 10:30.
22 During this recess, you're admonished not to talk or
23 converse amongst yourselves or with anyone else on any subject
24 connected with this trial, or read, watch, or listen to any
25 report of or commentary on the trial, or any person connected

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

5 Have a good night. We'll see you tomorrow morning.

6 THE MARSHAL: Thank you. All rise for the exiting
7 jury, please. Jurors.

8 (Outside the presence of the jurors at 4:55 p.m.)

9 THE COURT: Okay. The record will reflect that the
10 hearing is taking place outside the presence of the jury
11 panel.

12 Mr. Robertson and Mr. Wheeler -- Mr. Robertson and
13 Mr. Wheeler, your attorneys have asked me to advise you of
14 your right to testify. I will advise you, you can have
15 overnight, but you don't have to tell me whether you're going
16 to testify or not until tomorrow.

17 So, Mr. Robertson and Mr. Wheeler, you understand,
18 under the Constitution of the United States and the
19 Constitution of the State of Nevada, you cannot be compelled
20 to testify in this case? Do you understand that, Mr.
21 Robertson?

22 DEFENDANT ROBERTSON: Yes, I understand.

23 THE COURT: Mr. Wheeler?

24 DEFENDANT WHEELER: Yes, ma'am, I do.

25 THE COURT: Okay. You may at your own request give

1 up this right and take the witness stand and testify. If you
2 do, you'll be subject to cross-examination by the deputy
3 district attorney, and anything that you may say, be it on
4 direct or cross-examination, will be the subject of fair
5 comment when the deputy district attorney speaks to the jury
6 in his final argument. Do you understand that, Mr. Robertson?
7 DEFENDANT ROBERTSON: Yes, I do.
8 THE COURT: And Mr. Wheeler?
9 DEFENDANT WHEELER: Yes, ma'am, I do.
10 THE COURT: Okay. If you choose not to testify, I
11 will not permit the deputy district attorney to make any
12 comments to the jury because you have chosen not to testify.
13 Do you understand that, Mr. Robertson?
14 DEFENDANT ROBERTSON: Yes.
15 THE COURT: And Mr. Wheeler?
16 DEFENDANT WHEELER: Yes, I do.
17 THE COURT: Okay. And if you elect not to testify,
18 I will instruct the jury, but only if your attorneys
19 specifically request, as follows: "The law does not compel a
20 defendant in a criminal case to take the stand and testify,
21 and no presumption may be raised and no inference of any kind
22 may be drawn from the failure of a defendant to testify." Do
23 you understand these rights so far, Mr. Robertson?
24 DEFENDANT ROBERTSON: Yes, I understand.
25 THE COURT: And Mr. Wheeler?

1 DEFENDANT WHEELER: Yes, ma'am, I do.

2 THE COURT: Okay. And you are further advised that
3 if you have a felony conviction, and more than ten years has
4 not elapsed from the date that you've been convicted or
5 discharged from prison, parole, or probation, whichever is
6 later, and the defense has not sought to preclude that from
7 coming before the jury, and you elect to take the stand and
8 testify, the deputy district attorney, in the presence of the
9 jury, will be permitted to ask you the following: have you
10 been convicted of a felony, what was the felony, when did it
11 happen; however, no details may be gone into. Do you
12 understand that, Mr. Robertson?

13 DEFENDANT ROBERTSON: Yes.

14 THE COURT: And Mr. Wheeler?

15 DEFENDANT WHEELER: Yes.

16 THE COURT: Okay. And if you have any questions
17 about that, Mr. Ruggeroli can answer those, or I'm happy to
18 answer any of your questions.

19 Okay. Now, the decision as to whether you should
20 testify or not obviously should be made after consultation and
21 discussion with your lawyers, but whatever your lawyers say
22 and any advice you get, I just want to make sure you
23 understand, Mr. Robertson, that it is your decision and your
24 decision alone as to whether to testify. Do you understand
25 that?

1 DEFENDANT ROBERTSON: Yes, I understand.
2 THE COURT: And Mr. Wheeler, you understand that?
3 DEFENDANT WHEELER: Yes, I do.
4 THE COURT: Okay. And tomorrow, it's my
5 understanding the State has one more witness, and then you
6 will have heard all of the evidence that's coming in against
7 you. And so, at that time, Mr. Robertson and Mr. Wheeler, I
8 will ask you if you're going to testify or not.
9 DEFENDANT ROBERTSON: Okay.
10 THE COURT: And if you have any questions, I'm happy
11 to ask them either today or tomorrow -- answer them.
12 DEFENDANT ROBERTSON: Okay.
13 DEFENDANT WHEELER: Yes, ma'am.
14 THE COURT: Do you have any questions?
15 DEFENDANT ROBERTSON: No, I don't.
16 THE COURT: Mr. Wheeler?
17 DEFENDANT WHEELER: No, I don't.
18 THE COURT: Okay.
19 MR. SANFT: And Your Honor, just for the record as
20 well with regard to my client's criminal history, what the
21 State could comment on if --
22 THE COURT: Okay.
23 MR. SANFT: -- he was thinking about testifying, in
24 speaking with the State, I don't recall there being a criminal
25 history.

1 DEFENDANT ROBERTSON: No, I've never been arrested.
2 MR. SANFT: Okay.
3 MR. PESCI: I don't recall any --
4 THE COURT: Okay.
5 MR. PESCI: -- prior felony convictions.
6 THE COURT: For either?
7 MR. PESCI: I don't believe for either.
8 THE COURT: Okay, so --
9 MR. PESCI: But I'll double-check and --
10 MR. SANFT: Yeah.
11 THE COURT: The district attorney has indicated that
12 you would not be subject to cross-examination about any prior
13 felonies. You understand that, Mr. Robertson?
14 DEFENDANT ROBERTSON: Yes, yes, I understand.
15 THE COURT: And Mr. Wheeler?
16 DEFENDANT WHEELER: Yes, ma'am, I do.
17 THE COURT: Okay, thank you very much.
18 MR. PESCI: So, Judge, as far as scheduling
19 tomorrow, if I've understood correctly, we will come in at
20 10:30, we'll rest, and then defense is instructed if they have
21 any witnesses, to have them prepared for tomorrow, correct?
22 THE COURT: Yes.
23 MR. PESCI: And in the spirit of what we've been
24 doing so far, will the defense tell us who they're going to
25 call? Because we've been telling them who we're calling.

1 THE COURT: Absolutely. I like --
2 MR. RUGGEROLI: Judge, I've subpoenaed one witness.
3 That did not include Mr. Mason, the jogger. So, Marcell
4 Solomon is the one that I intend to call, and we would have
5 him here. I'm not sure if you'd like him here before lunch or
6 after, but --
7 THE COURT: How long do you think the detective will
8 last?
9 MR. PESCI: I don't know if he'll go all the way
10 until noon.
11 THE COURT: Okay.
12 MR. PESCI: So I would say probably have someone
13 here by 11:00.
14 THE COURT: By 11:00?
15 MR. PESCI: Just to be safe.
16 THE COURT: Okay.
17 MR. PESCI: What do you think? How long?
18 THE COURT: Well, it doesn't hurt --
19 MR. BROOKS: Yeah, sure.
20 THE COURT: -- if you have a witness here early,
21 right?
22 MR. PESCI: Yeah, right. And then, as far as
23 instructions, Your Honor, I've never received from the defense
24 any proposed instructions. So, you know, what we've sent over
25 the weekend was kind of a rudimentary beginning of it.

1 THE COURT: Okay.

2 MR. PESCI: And I still don't know. Like, I asked
3 them if they wanted voluntary; if they want self-defense.
4 I've been given nothing and I know nothing. All I've been --
5 all I've given is what we have put forth, which is first and
6 second.

7 THE COURT: Okay.

8 MR. SANFT: That's strategic, Your Honor.

9 THE COURT: What is strategic?

10 MR. PESCI: Not giving it. Sorry.

11 THE COURT: Not -- oh, okay. A little joke? Okay.

12 MR. SANFT: It's a little joke. I thought it was a
13 big joke, but it was a little joke. I will speak with Mr.
14 Ruggeroli. Because there's -- we have potentially separate
15 conflicting interests with regard to what my client should
16 have versus what Mr. Ruggeroli, I'll speak with Mr. Ruggeroli,
17 and whatever we propose, we'll give to Giancarlo.

18 MR. PESCI: So, Judge, we would ask though if we'd
19 get that tomorrow because we need to settle them tomorrow.

20 THE COURT: Sure. We'll need to settle instructions
21 tomorrow, so if you have any instructions you want to propose,
22 you need to --

23 MR. SANFT: We'll do it tonight.

24 THE COURT: -- submit them tomorrow.

25 MR. SANFT: Yeah. Okay.

1 THE COURT: Okay?
2 MR. SANFT: Yes, Your Honor.
3 THE COURT: All right.
4 MR. PESCI: We'll have some tweaks on ours, because
5 I was just going through it. There's not -- all of our
6 experts are females, so I need to switch that expert
7 instruction to "female."
8 THE COURT: Okay. All right, thank you.
9 MR. PESCI: Thank you.
10 MR. SANFT: Thank you, Your Honor.
11 (Court recessed at 5:01 P.M., until Wednesday,
12 February 19, 2020, at 10:43 A.M.)
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ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual proceedings in the above-entitled case to the best of my ability.

Julie Lord

JULIE LORD, COURT TRANSCRIBER
VERBATIM DIGITAL REPORTING, LLC

EXHIBIT(S) LIST

Case No.: C328587-2&3

Hearing / Trial Date: 02/11/20

Dept. No.: XII

Judge: MICHELLE LEAVITT

Court Clerk: HALY PANNULLO

Plaintiff: STATE OF NEVADA

Recorder / Reporter: SARA RICHARDSON

Counsel for Plaintiff: GIANCARLO PESCI &

PARKER BROOKS

Defendant: RAEKWON ROBERTSON &

**Counsel for Defendant: MICHAEL SANFT
(ROBERTSON)**

DAVONTAE Wheeler

JAMES RUGGEROLI (WHEELER)

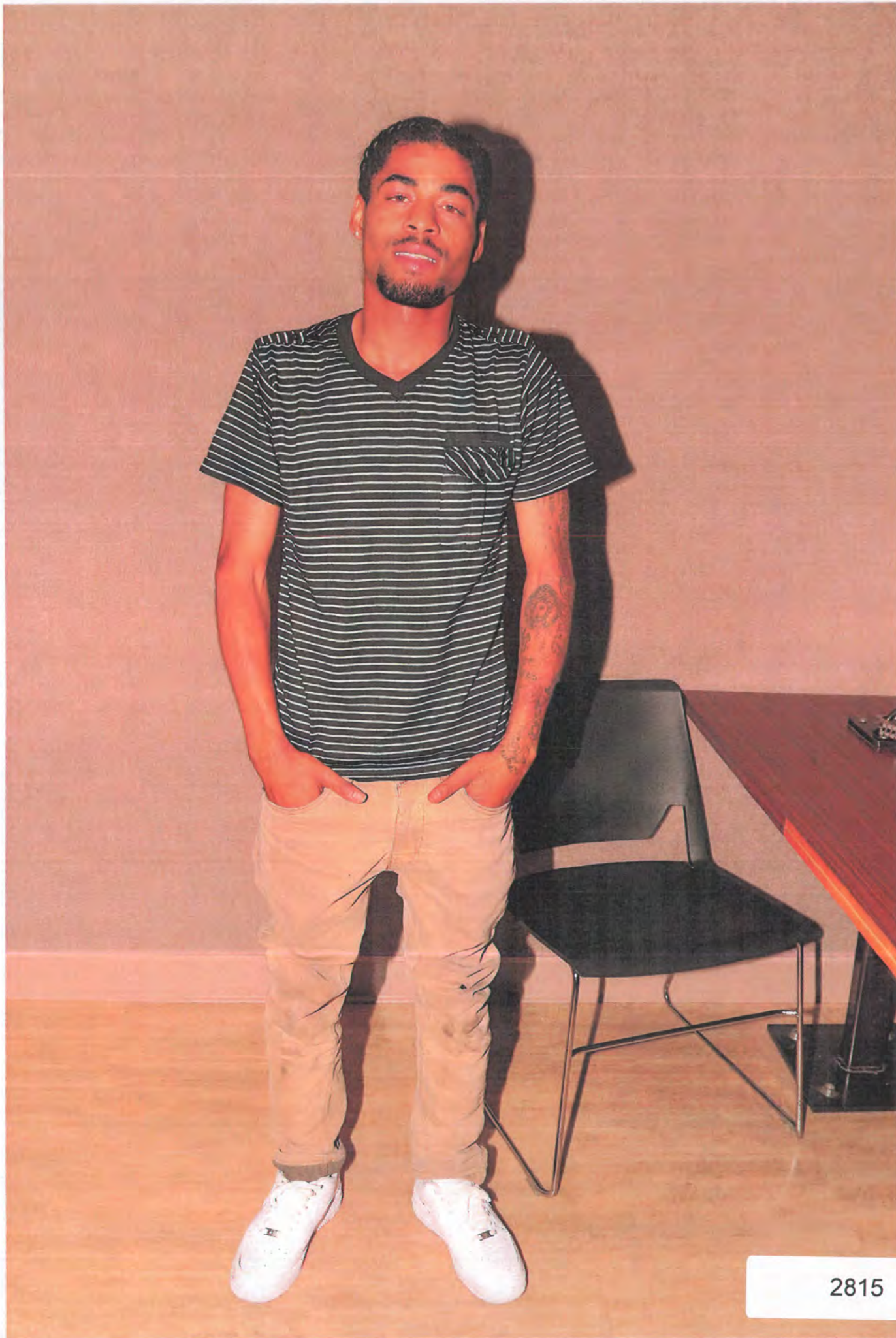
vs.

HEARING / TRIAL BEFORE THE COURT

DEFENDANT'S (ROBERTSON)

EXHIBITS (B)

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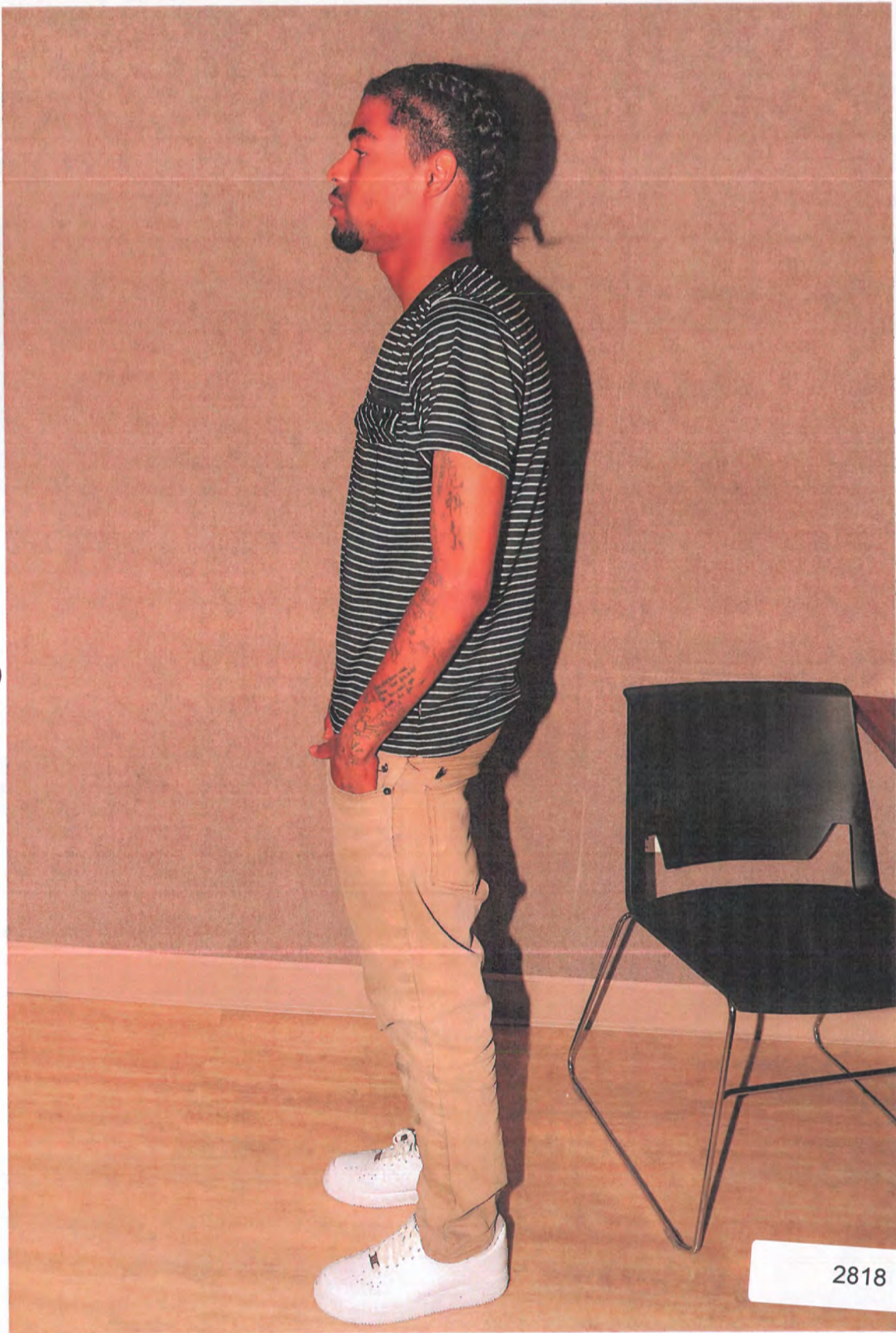
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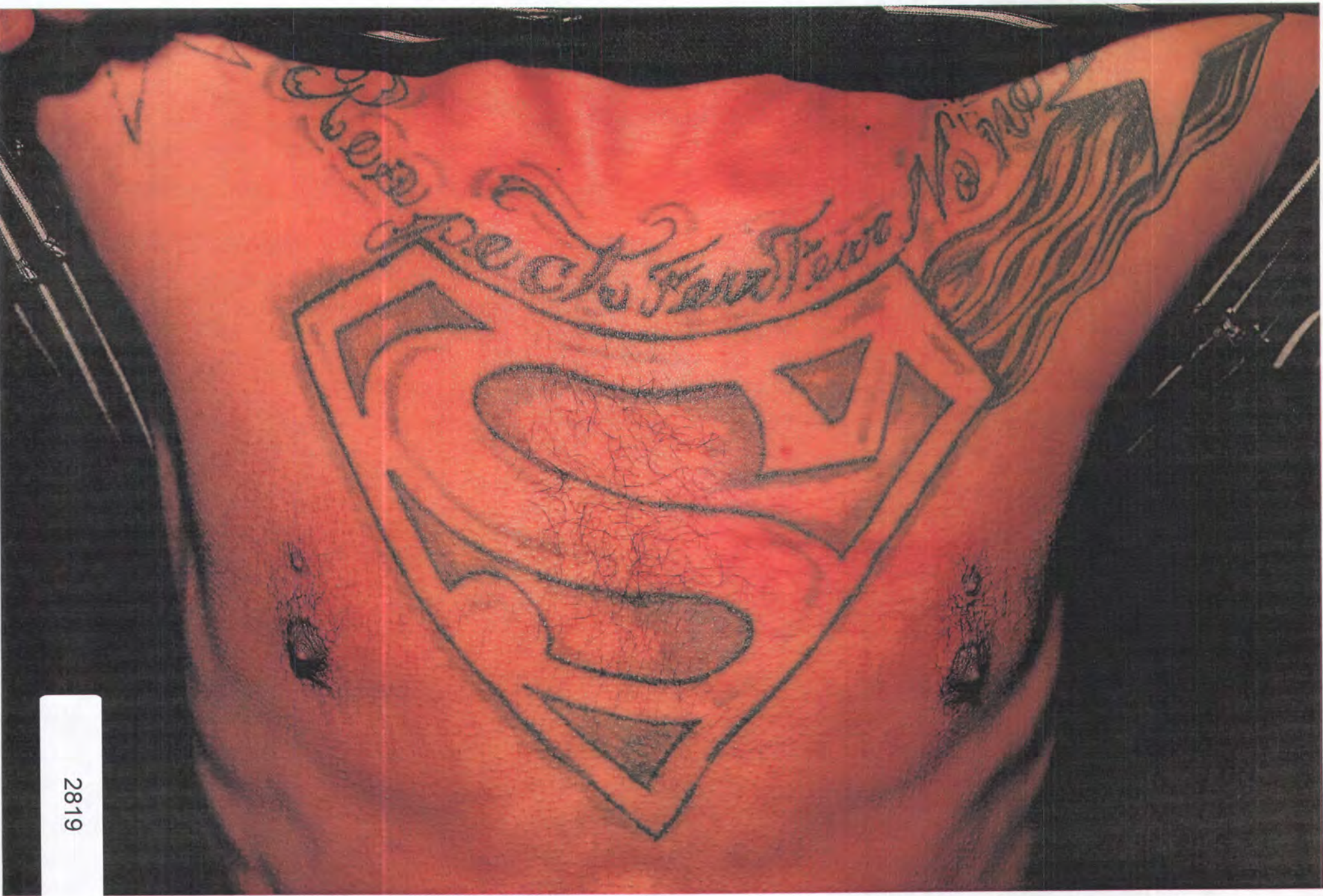


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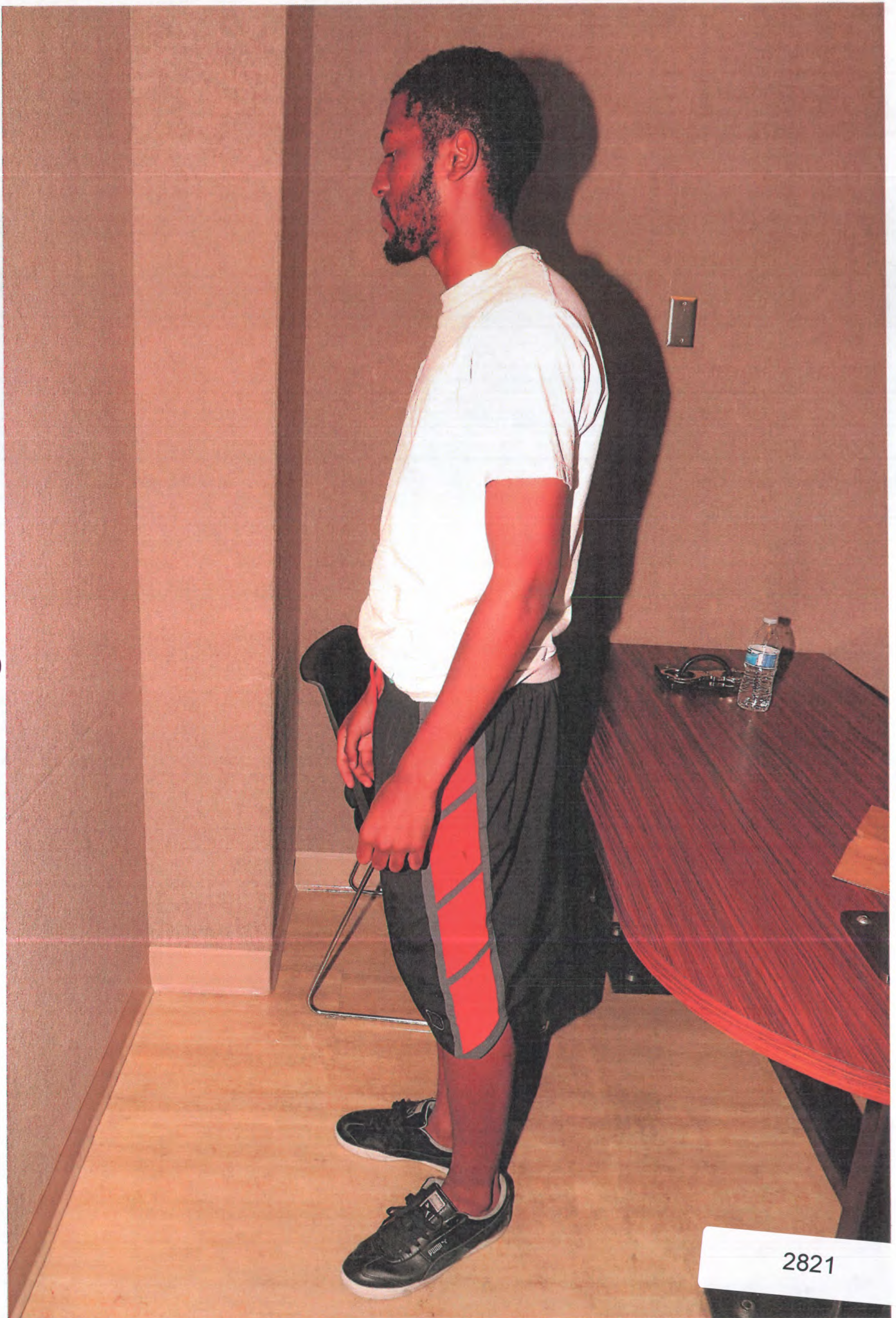
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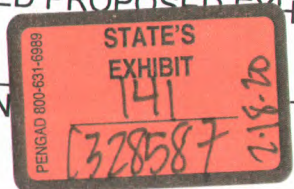


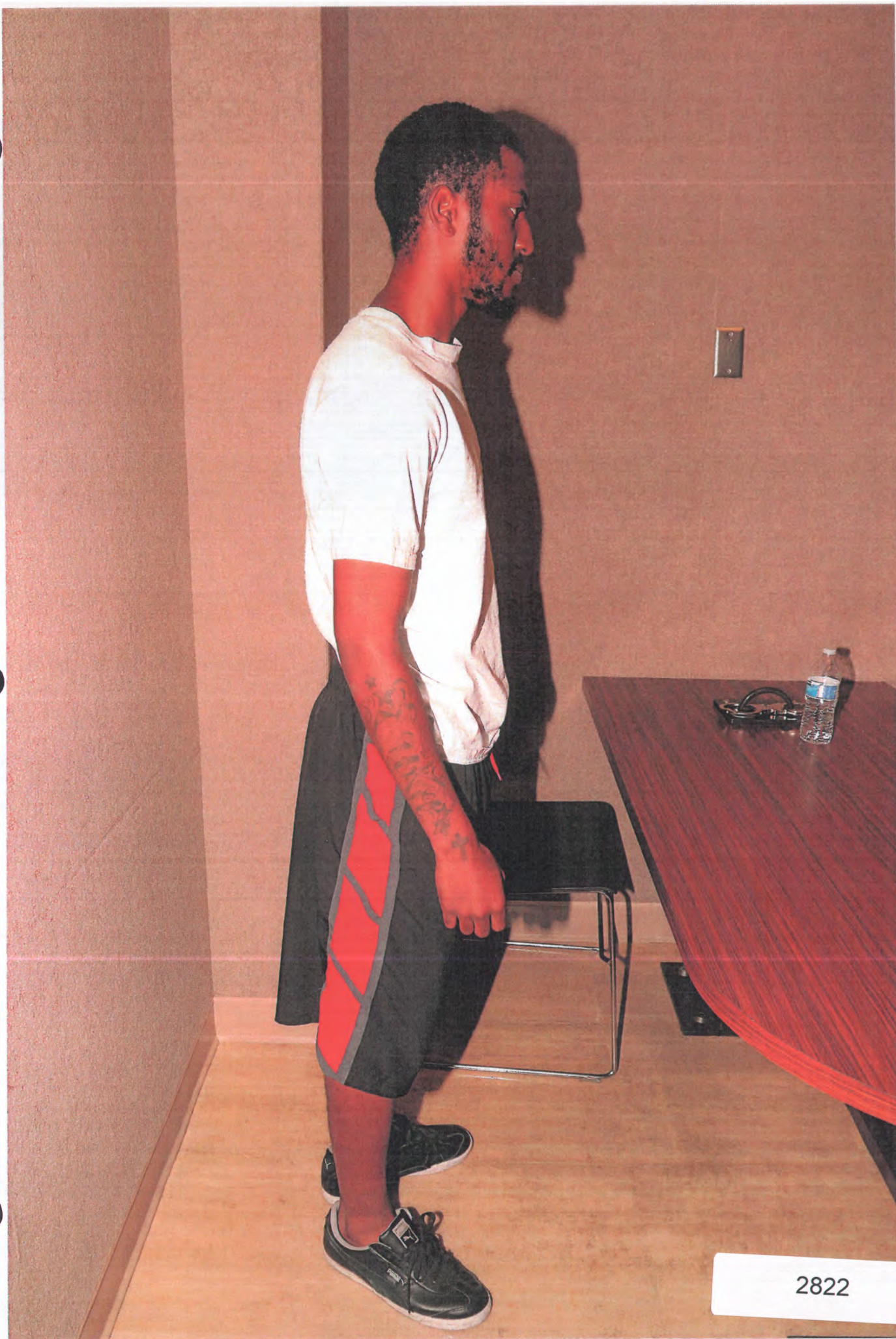
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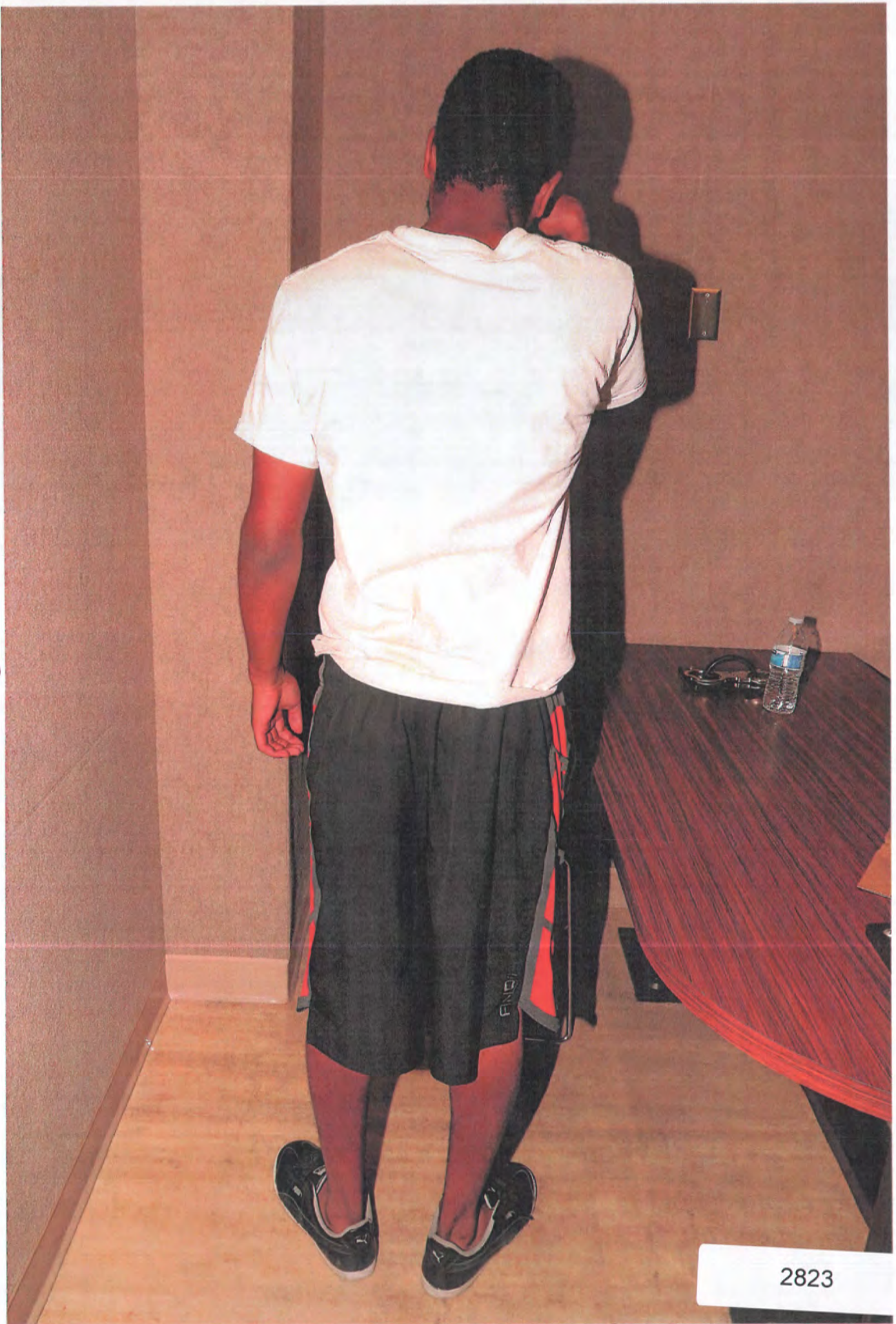
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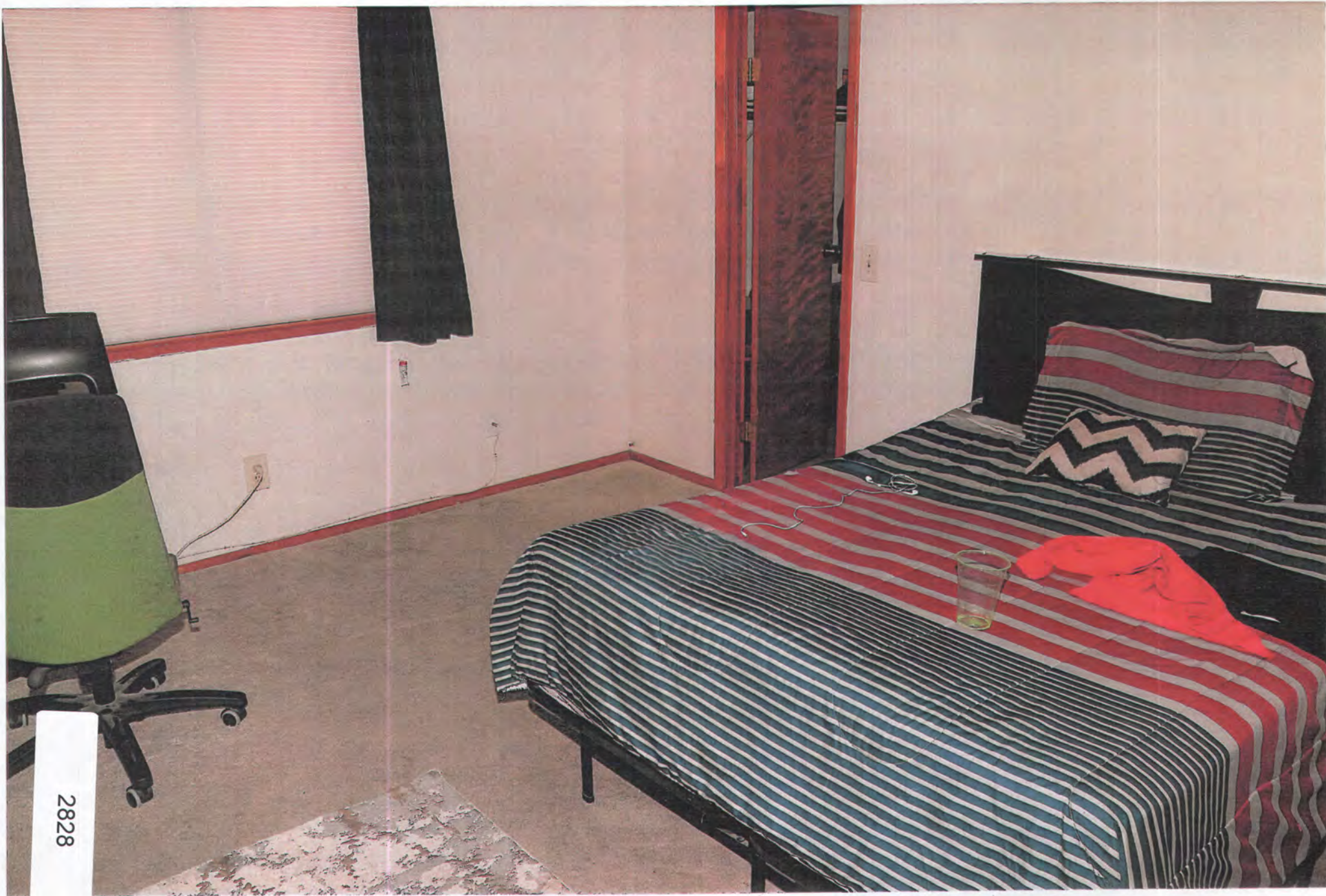
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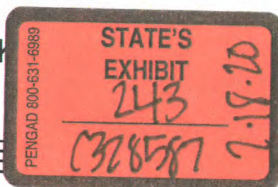


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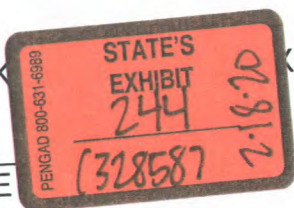
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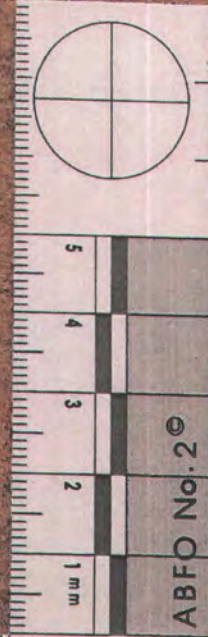
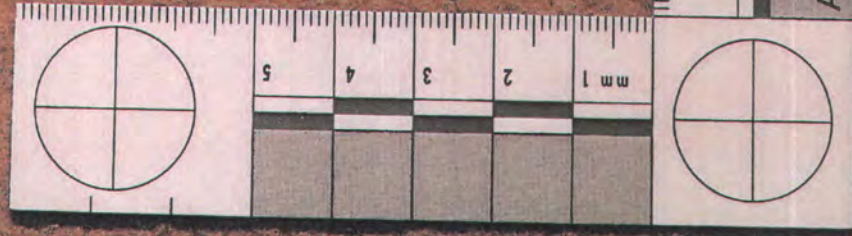
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FEDERAL
AMMUNITION

CHAMPION®

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CENTERFIRE
PISTOL CARTRIDGES
CARTOUCHES



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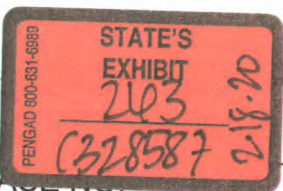




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170809-0029 Evidence Photos

Package 1 Item 1 ZTE981 Z Max Pro SN-320475031455

LAS VEGAS METROPOLITAN POLICE DEPARTMENT EVIDENCE					
Date of Impound 08-01-17	Time of Impound 2000	Event # 170809-0029			
<input type="checkbox"/> EVIDENCE: <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Gross Misd. <input type="checkbox"/> Misd.	<input type="checkbox"/> NO EVIDENTIARY VALUE: <input type="checkbox"/> No Owner Identified <input type="checkbox"/> Destroy <input type="checkbox"/> Return to DMV	<input type="checkbox"/> SAFEKEEPING:			
Impounded Vehicle # M19078	Signature of Impounding Officer <i>[Signature]</i>				
Subsequent (Last Owner for Safekeeping) LOFTON-ROBINSON, DEMARIO/ROBINSON, DESHAUN					
Charge(s) MURDER 1st D					
Location of Recovery 1366 W. CHEVY AVE. NW, NV 89030					
ITEM	IMPOUNDED ITEM DESCRIPTION				
# 1	BLACK ZTE 981 CELL PHONE				
#	S# 320475031455				
#					
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CHAIN OF CUSTODY (SIGNATURE)					
LVMPD 133 (Rev 9-13)		Stock No. 102021			

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CASE # _____

STATE'S
EXHIBIT
338
C328587 2-18-20



MAF 339 EXHIBIT

CA





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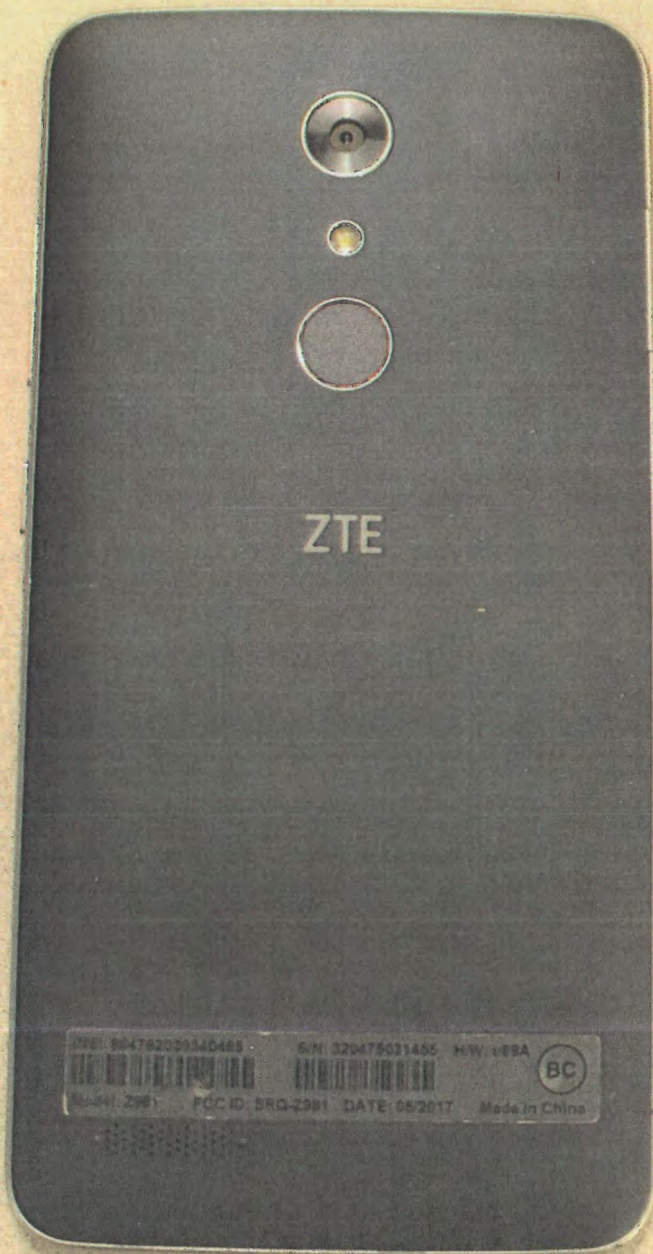
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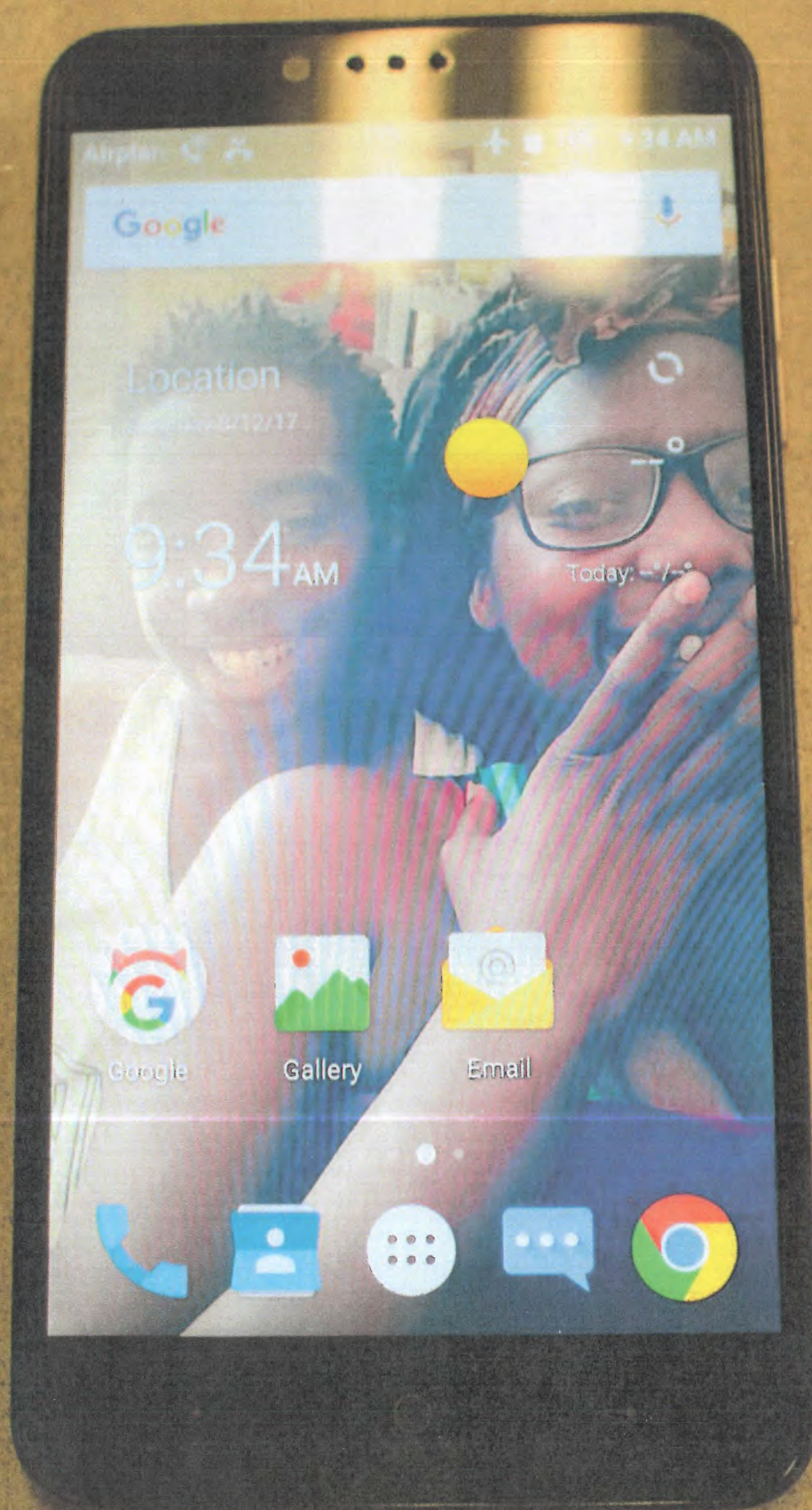
EXHIBIT



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Model: Z981 FCC ID: SRQ-Z981 DATE: 05/2017 Made in China

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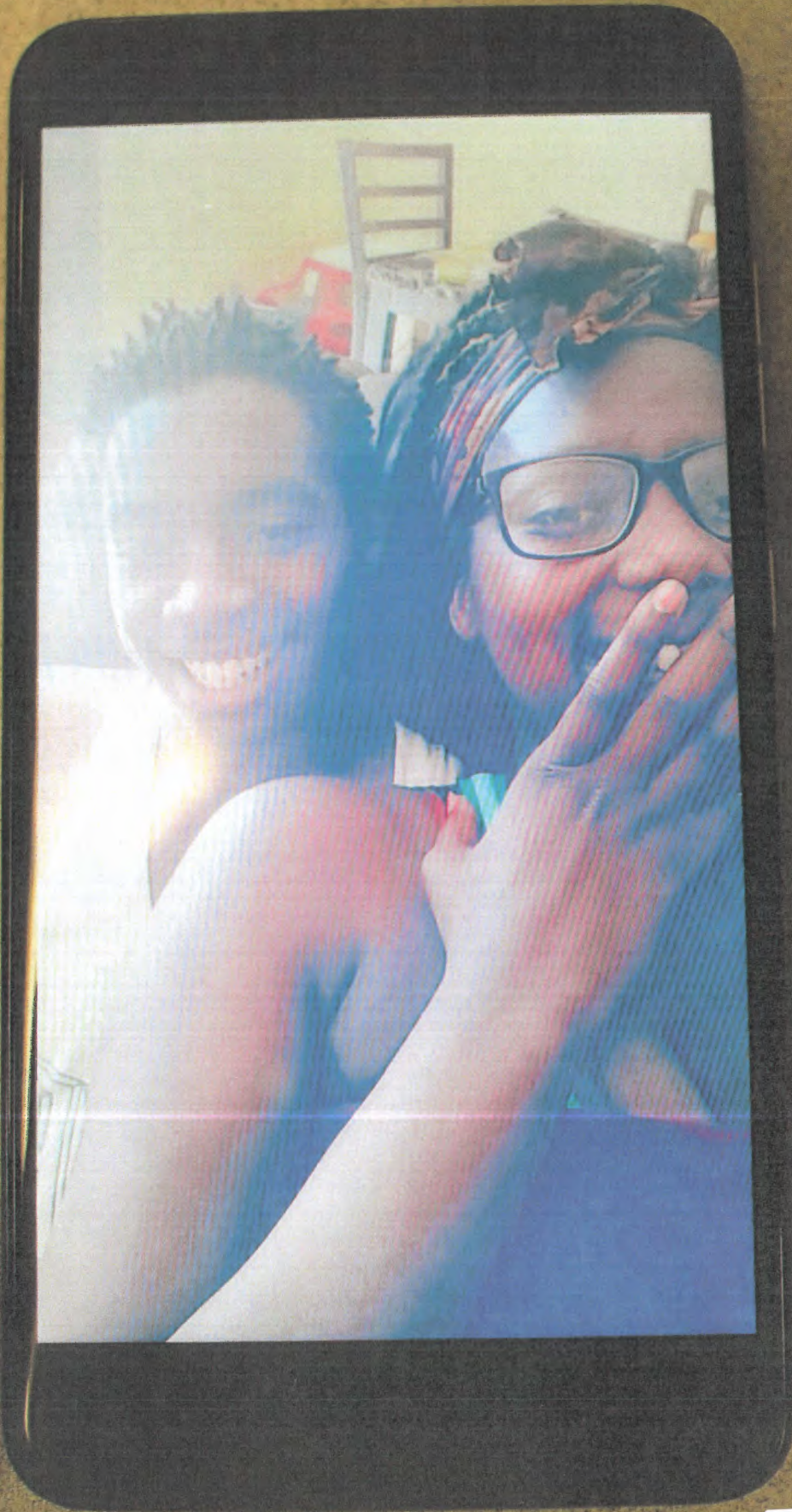




2859

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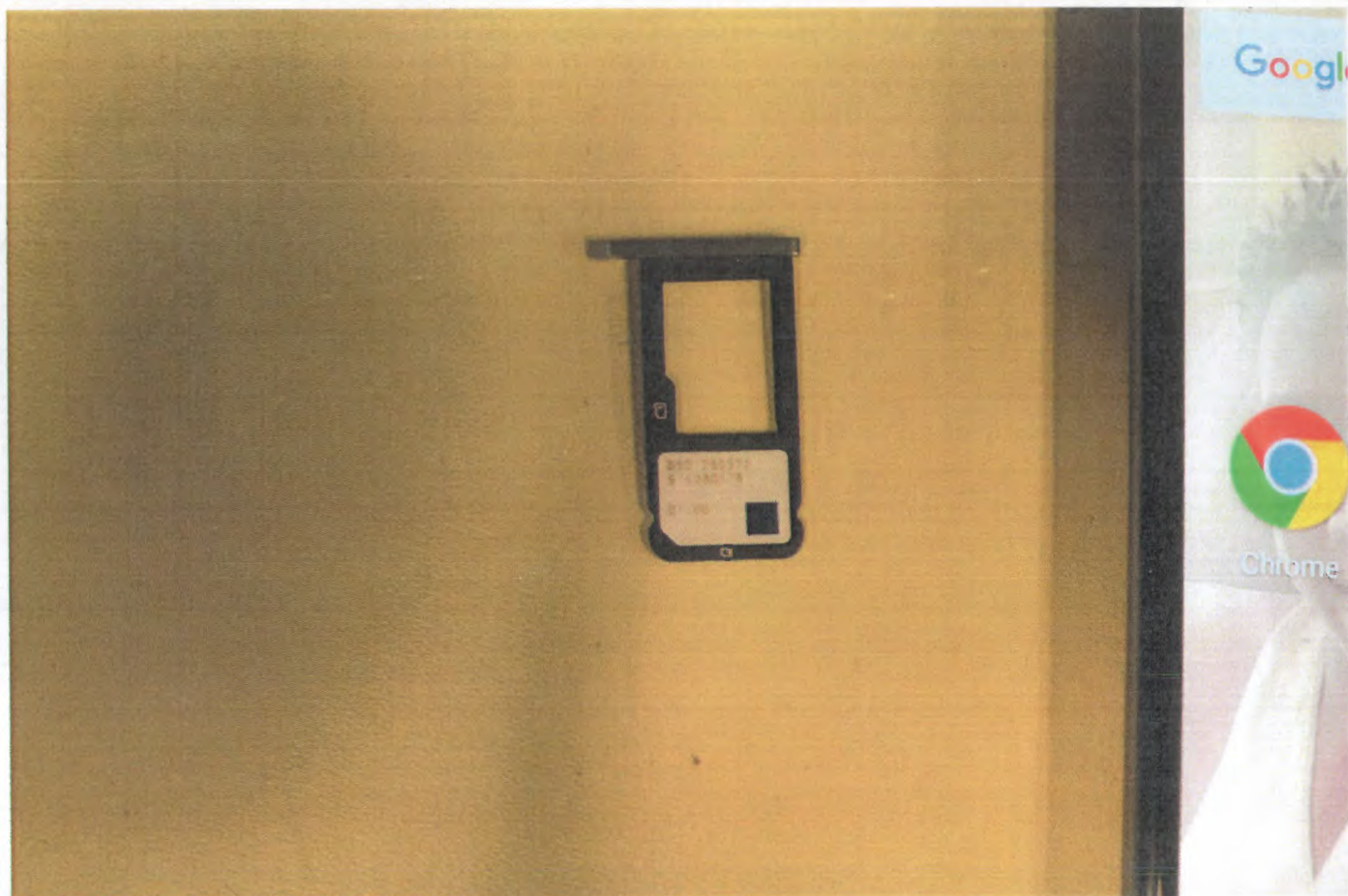




2860

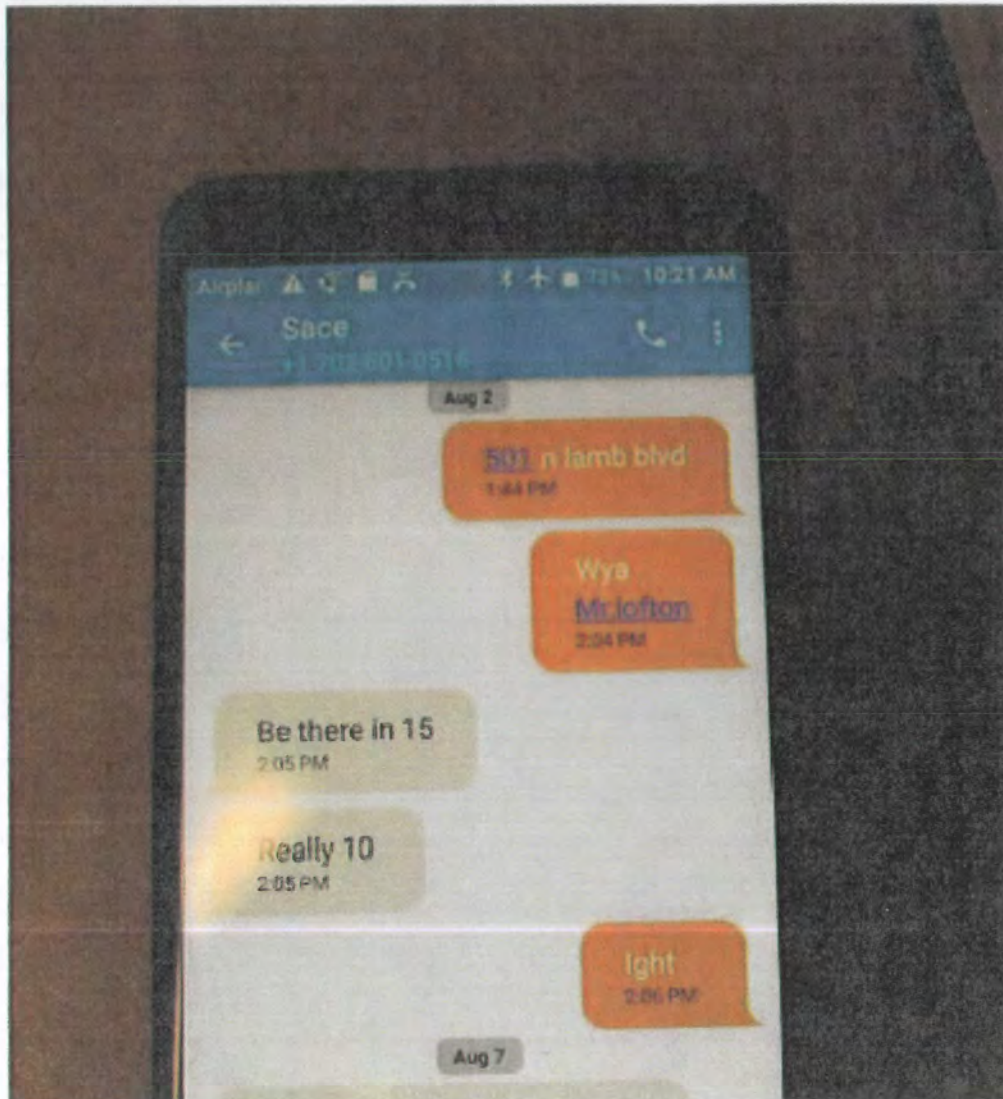
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MARK # CASE STATE'S EXHIBIT
344
C328587 7-18-20
PENGLAD 800-631-6989

Texts with Sace






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CASE N



HIBIT

Airplan      70% 10:52 AM



chrome://history

3



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Search history

Today - Saturday, August 12, 2017



<https://www.google.com/search...>

www.google.com



Wednesday, August 9, 2017



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www.google.com



Las Vegas, NV News, Weather, En...



CLEAR BROWSING DATA...

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CASE NO



Airplan

70% 10:52 AM



chrome://history

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fox 5 news las vegas - Google Se...

www.google.com



Las Vegas, NV News, Weather, En...

www.fox5vegas.com



Early morning shooting leaves 1 d...

www.fox5vegas.com



Las Vegas, Nevada News and We...

www.ktnv.com



Young man shot, killed in drivewa...

www.ktnv.com



UPDATE: Man caught in love trian...

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Woman says Southern Highlands ...

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Las Vegas, Nevada Live Streamin...

www.ktnv.com



Nissan owners could be entitled t...



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MARK _____ EXHIBIT

CASE _____

STATE'S
EXHIBIT
347
C328587 2-18-20

PEINGAD 800-631-5889

LABORATORY RECEIPT, THE POLICE DEPARTMENT
EVIDENCE

DATE: 10-25-17 TIME: 10:30 AM SN: 170809-0024

TO: [] FROM: []

BY: []

Q19270

LOAN - [] / [] / []

MURDER (W/ID)

9-9 BUREAU CO NEW NY 89032

QTY	DESCRIPTION
1	White Samsung Galaxy S
1	Cell Phone

NO	DATE SEALED	TIME SEALED
1		
2		
3		
4		
5		
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8		
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10		

MARKER

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CASE NO.



HIBIT

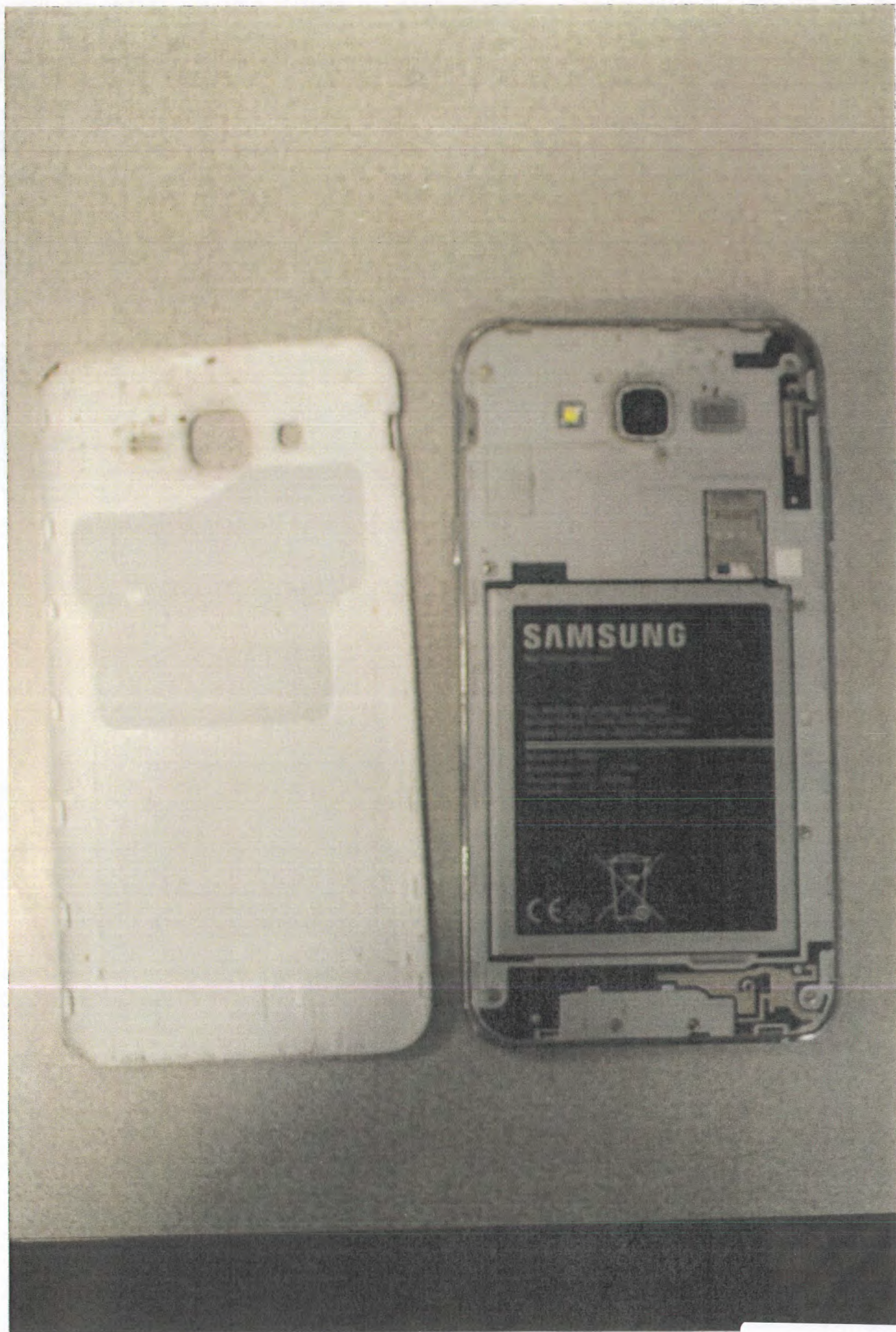


2866

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CASE





MAP # CAS



EXHIBIT



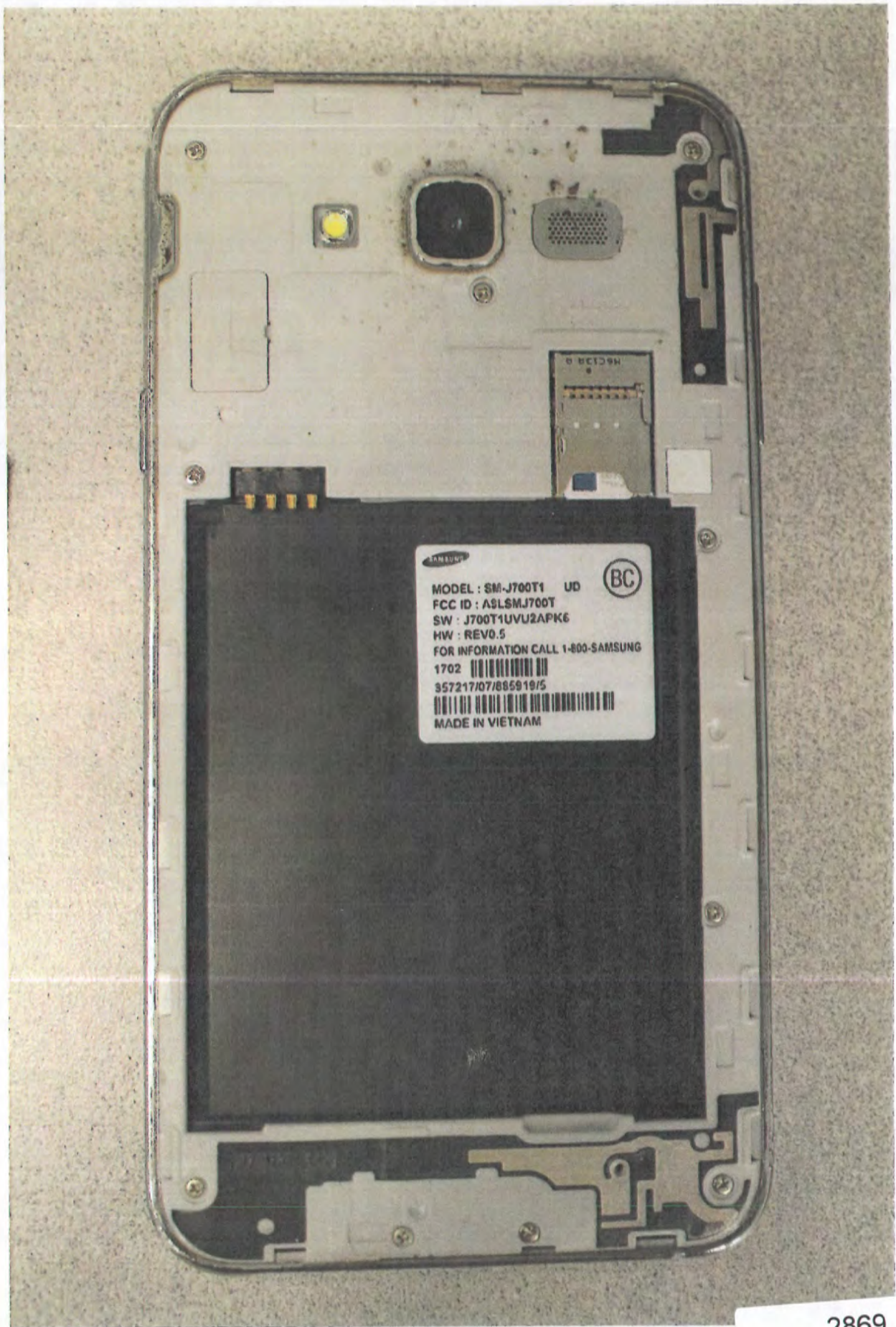
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EXHIBIT



SAMSUNG
MODEL : SM-J700T1 UD (BC)
FCC ID : ASLSMJ700T
SW : J700T1UVU2APK6
HW : REV0.5
FOR INFORMATION CALL 1-800-SAMSUNG
1702
357217/07/885919/5
MADE IN VIETNAM

MA

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CAS



EXHIBIT

Web History

Go to ▾

Title:

Last Visited: 8/9/2017 19:22:14(UTC-7)

Visits:

URL: <https://www.google.com/amp/amp.ktnv.com/2302559119/young-man-shot-killed-in-driveaway-by-4-people-in-hoodies.html>

Source: Chrome

Extraction: Logical

Source file:

Web History

Go to ▾

Title: From cbsnews.com

Last Visited: 8/9/2017 19:22:14(UTC-7)

Visits:

URL: <https://www.google.com/amp/amp.ktnv.com/2302559119/young-man-shot-killed-in-driveaway-by-4-people-in-hoodies.html#ampshare=http://www.ktnv.com/news/crime/young-man-shot-killed-in-driveaway-by-4-people-in-hoodies>

Source: Chrome

Extraction: Logical

Web History

Go to ▾

Title: From cbsnews.com

Last Visited: 8/9/2017 19:24:10(UTC-7)

Visits:

URL: <https://www.google.com/amp/amp.ktnv.com/2302559119/young-man-shot-killed-in-driveaway-by-4-people-in-hoodies.html#ampshare=http://www.ktnv.com/news/crime/young-man-shot-killed-in-driveaway-by-4-people-in-hoodies>

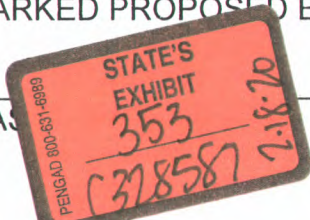
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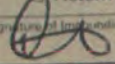
CAS



170809-0029 Evidence Photos

Property Report 1

Package 1 Item 1 Samsung SN-J327P SN-35910208044007

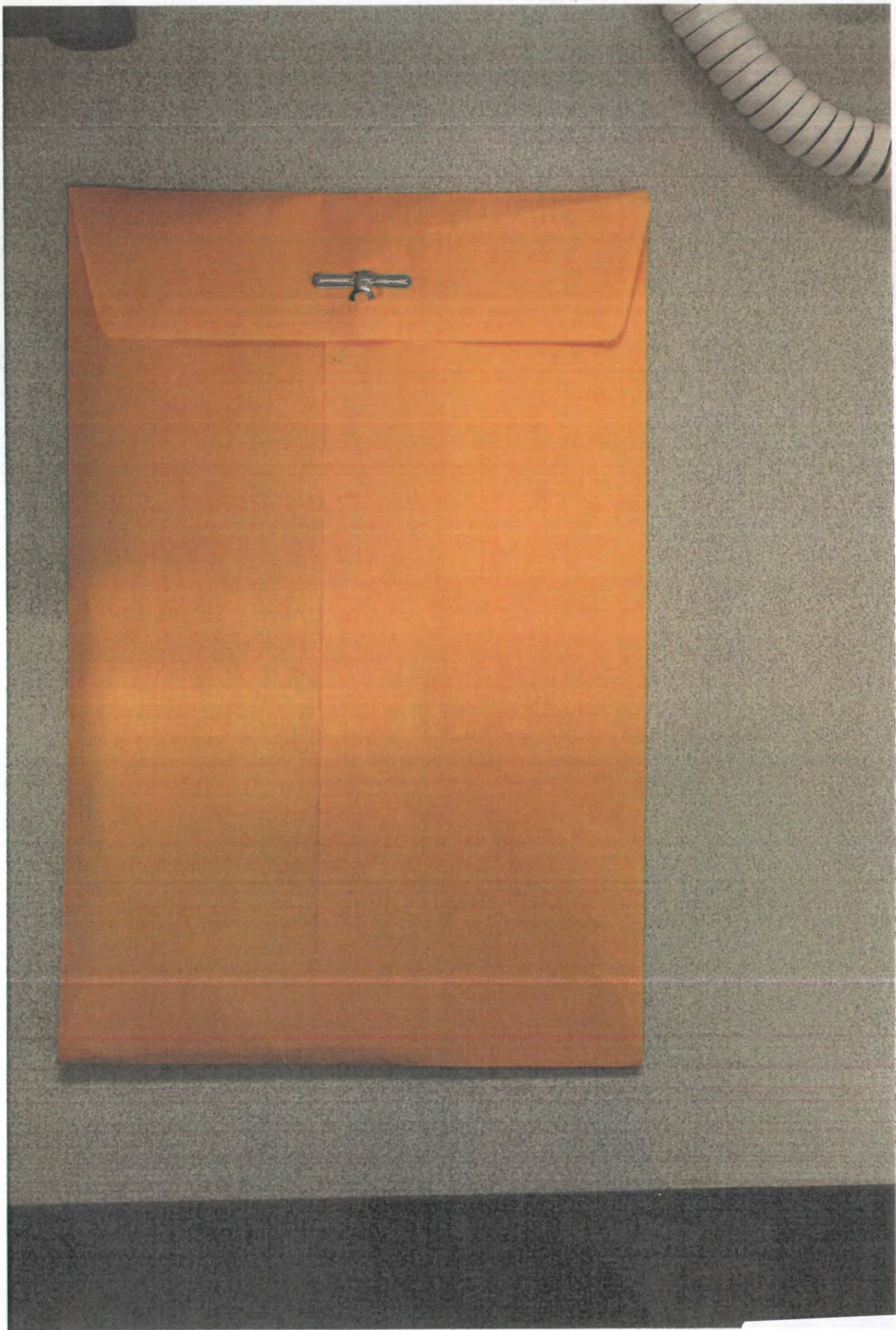
LAS VEGAS METROPOLITAN POLICE DEPARTMENT					
EVIDENCE					
Date of LVMPD Possession	Time of LVMPD Possession	EVENT #			
08-16-17	1800	170809-0029			
<input checked="" type="checkbox"/> EVIDENCE: <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Gross Misd. <input type="checkbox"/> Misd.		<input type="checkbox"/> NO EVIDENTIARY VALUE: <input type="checkbox"/> No Owner Identified <input type="checkbox"/> Destroy <input checked="" type="checkbox"/> Return to DMV		<input type="checkbox"/> SAFEKEEPING:	
Impound Inmate & P#		Signature of Impounding Officer			
M74070					
Subject(s) (LIST OWNER FOR SAFEKEEPING)					
WHEELER, DEVONTE A.					
Charge(s)					
MURDER WDW					
Location of Recovery					
3300 CIVIL CENTER DR #2F NW, NV 89030					
ITEM	IMPOUNDED ITEM DESCRIPTION				
# 1	SILVER SAMSUNG MODEL SM-J327P				
#	CELL PHONE, HEX 35910208044007				
#					
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This Package #		Total # of Packages	P#	DATE SEALED	TIME SEALED
1		4			
CHAIN OF CUSTODY (SIGNATURE)					
LVMPD 133 (Rev 9-13)			Stock No. 106021		

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CASE



EXHIBIT



2872

MARK

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CASE NO.



EXHIBIT

LAS VEGAS METROPOLITAN POLICE DEPARTMENT EVIDENCE

Date of LVMPD
Preparation

Time of LVMPD
Preparation

EVIDENCE

08-16-17

1800

170809-0029

☒ EVIDENCE

☒ Felony

☐ Gross Misd

☐ Misd

☐ NO EVIDENTIARY VALUE:

☐ H: Owner Identified

☐ Destroy

☒ Return to DMV

☐ SAFEKEEPING

Impound Details & Fee

M79075

Subject(s) (LIST)

W

Charge(s)

M

Location of Recovery

3300 C

ITEM

1 C.

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This Package # 1

CHAIN OF CUSTODY
(SIGNATURE)

TIME SEALED

Stock No 108021

LVMPD 133 (Rev 9-13)

MARK

#

CASE



HIBIT

Return to DMV

Signature of Issuing Officer

OWNER FOR

WHEELS

MURDER

Recovery

CIVIL

Silver

ELL PRO

030

27P

SAMSUNG

1 To

IME SEALED

Stock No. 108021

v. 9-13)

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CASE NO



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MARKET # CASE # HIBIT





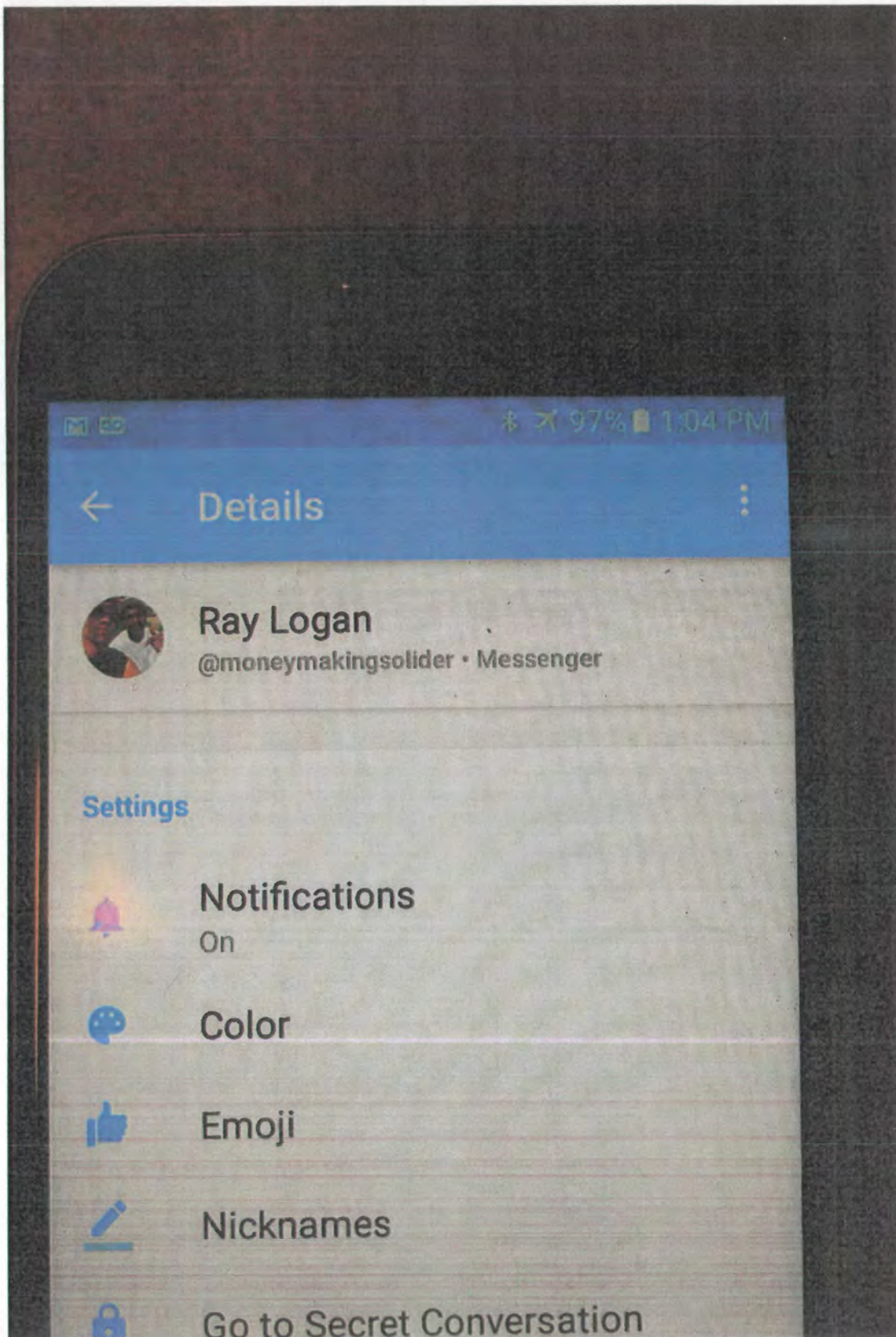
2876

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CASE NO.



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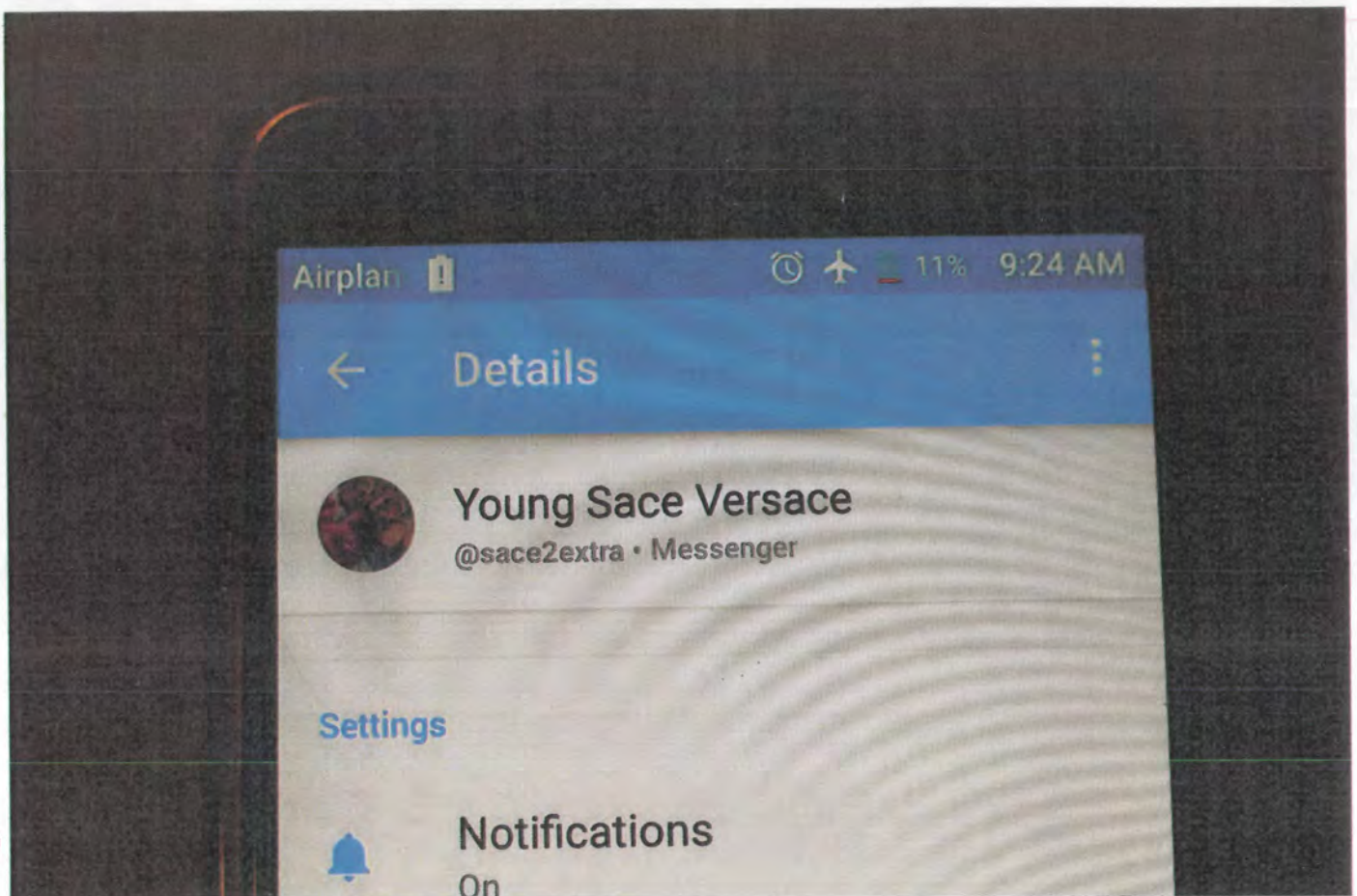
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CASE NO



Facebook Conversation with Young Sace Versace



MARKED

CASE NO.



EXHIBIT

17-07217
Item 17



17-07217
Item 22

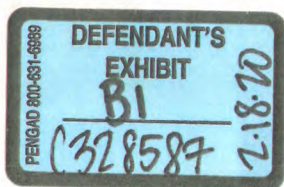


17-07217
Item 23



17-07217
Item 24





Felony/Gross Misdemeanor

COURT MINUTES

February 19, 2020

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

February 19, 2020 10:30 AM Jury Trial

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

COURT CLERK: Pannullo, Haly

RECORDER: Richardson, Sara

REPORTER:

PARTIES PRESENT:

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

JOURNAL ENTRIES

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

JURY PRESENT:

Testimony and exhibits presented. (See worksheets)

OUTSIDE THE PRESENCE OF THE JURY:

Defendant advised of his right not to testify.

Instructions settled.

JURY PRESENT:

Court instructed the jury.

Closing arguments.

At the hour of 6:13 PM, the jury retired to deliberate

OUTSIDE THE PRESENCE OF THE JURY:

Mr. Ruggeroli noted his objection to the State's rebuttal closing arguments.

COURT ORDERED, trial CONTINUED.

CUSTODY



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

WEDNESDAY, FEBRUARY 19, 2020

RECORDER'S TRANSCRIPT OF PROCEEDINGS:
JURY TRIAL - DAY 6

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, WEDNESDAY, FEBRUARY 19, 2020

2 (Case called at 10:43 A.M.)

3 (Outside the presence of the jurors)

4 THE MARSHAL: Please come to order. Court is now in
5 session.

6 THE COURT: Okay. The record will reflect that the
7 hearing is taking place outside the presence of the panel.
8 Mr. Ruggeroli?

9 MR. RUGGEROLI: Good morning, Your Honor.

10 THE COURT: Good morning.

11 MR. RUGGEROLI: Judge, my client informed me this
12 morning that he has a migraine. I've provided him with a
13 glass of water, but I know that the jail has protocols that
14 they have to follow, and --

15 THE COURT: Okay, yeah. The transport officers -- I
16 was told for him to tell the transport officers, and that the
17 transport officers would call for relief.

18 MR. RUGGEROLI: Thank you, Judge.

19 THE COURT: I mean, I don't know -- I just talked to
20 Sandy Molina. She said that's what your policy was, so I
21 assume the transport officers will follow their policy. Okay?

22 MR. RUGGEROLI: Very good.

23 THE COURT: Anything else?

24 MR. SANFT: No, Your Honor.

25 THE COURT: Did you -- did everybody hear me?

1 THE CORRECTIONS OFFICER: Yeah, we weren't aware.
2 He didn't mention anything to us.

3 THE COURT: Okay. I mean, you got to tell the
4 transport officers.

5 THE CORRECTIONS OFFICER: And he's been sitting down
6 there, like, all morning.

7 DEFENDANT WHEELER: Yeah, I basically thought it
8 would be more of an issue, I would bring up to my lawyer and
9 to you more than the COs, because at the same time, I felt
10 like they seem -- it seemed like, in county, if you -- if it's
11 not a real medical reason, then they ain't going to call the
12 medical nurse, which I felt like we in trial, so that's a
13 medical reason. But I felt like it would just be blown over
14 if I just --

15 THE COURT: Okay.

16 DEFENDANT WHEELER: -- if I just --

17 THE COURT: Well, the only thing I can do is tell
18 the transport officers to do what they're supposed to do.

19 DEFENDANT WHEELER: All right.

20 THE COURT: Okay?

21 MR. RUGGEROLI: Thank you, Judge.

22 THE COURT: Anything else? We can bring in the jury
23 panel. I think we have them all here now.

24 THE MARSHAL: All rise for the entering jury,
25 please.

1 (Within the presence of the jurors at 10:47 a.m.)
2 THE COURT: Does the State stipulate to the presence
3 of the panel?
4 MR. PESCI: Yes, Your Honor.
5 THE COURT: Mr. Sanft?
6 MR. SANFT: Yes, Your Honor, we do.
7 THE COURT: Mr. Ruggeroli?
8 MR. RUGGEROLI: Yes, Your Honor.
9 THE COURT: Thank you. State may call their next
10 witness.
11 MR. BROOKS: Your Honor, the State calls Detective
12 Mitch Dosch.
13 THE MARSHAL: And Detective, if you'll please remain
14 standing, raise your right hand, and face the Clerk.
15 DETECTIVE MITCHELL DOSCH, STATE'S WITNESS, SWORN
16 THE CLERK: You may be seated.
17 THE WITNESS: Thank you.
18 THE CLERK: Please state and spell your first and
19 last name for the record.
20 THE WITNESS: My name is Mitchell, M-i-t-c-h-e-l-l.
21 Dosch, D-o-s-c-h.
22 DIRECT EXAMINATION
23 BY MR. BROOKS:
24 Q Detective, how are you employed?
25 A As a detective with the Las Vegas Metropolitan

1 Police Department, currently assigned to the Homicide Section.

2 Q And how long have you been so employed?

3 A With Las Vegas Metro, this March, it will be 17
4 years.

5 Q And how long with Homicide?

6 A Seven years.

7 Q So tell us a little bit about how Homicide's set up;
8 how the detectives on Homicide are set up as opposed to some
9 of the other units in Metro.

10 A The Homicide Section of the Las Vegas Metropolitan
11 Police Department is -- has 24 detectives broken into four
12 different squads, and then there's a sergeant for each one of
13 those squads. Within the squad of six, there are teams of
14 partnerships, and in which case, we work off of -- probably
15 the best way to describe it would be to use some baseball
16 parlance, where we work off of a rotation; basically, a
17 batting order.

18 So if Squad A is the next squad up for the next
19 homicide, then the team designated within that squad will take
20 that next murder or homicide investigation. After that team
21 takes the investigation, it would then drop to the bottom of
22 the order, and then the second team from Squad B, and that
23 repeats the process.

24 Q So were you working on August 8th, August 9th of
25 2017?

1 A Yes, I was.

2 Q And who was your partner at that time?

3 A Ryan Jaeger, J-a-e-g-e-r.

4 Q So at that point in time, were you guys up, for lack
5 of a better word?

6 A Yes. Following the baseball parlance, that we were
7 the up team, then there would be a team that's on-deck, and
8 in-the-hole.

9 Q Do you recall an incident that brings us here to
10 court today?

11 A I do.

12 Q Tell me a little bit about how you initially got
13 involved in this incident.

14 A It was the early morning hours of the 9th of August,
15 2017. We received a call-out from our then-supervisor asking
16 us to respond to 5536 West Dewey Drive to investigate the
17 shooting death of Gabriel Valenzuela.

18 Q And this shooting death, at that point in time, did
19 it have a Las Vegas Metropolitan Police Department event
20 number associated with it?

21 A It did.

22 Q And was that Event Number 170809-0029?

23 A Yes.

24 Q So did Metro used to have a good way of doing event
25 numbers that's since changed?

1 A I would agree with that statement.

2 Q Okay, tell me what the old way of doing -- when this
3 event number was generated.

4 A If you think of the anatomy of the event number that
5 we're dealing with in this case, these first six digits
6 represent the date. 17 would be the year, 08 would be the
7 month, August, and the 9th would be the day of that particular
8 month.

9 The last four digits constitute the amount of
10 activity generated in that 24-hour period of time by Las Vegas
11 Metropolitan Police Department officers, whether it's a
12 proactive or reactive response. But every time the officers
13 are doing something, that is the -- that generates a number:
14 1, 2, 3, 4, and then it concludes at whatever number for the
15 day.

16 Q So if it's the first call after midnight into 911,
17 what would the number be, the last four digits?

18 A 0029 in this particular case.

19 Q I -- okay. I was saying, like, in theory, if it was
20 the very first event that day, would it be 0001?

21 A Yes, it would.

22 Q So this event, you said it was 0029?

23 A Correct.

24 Q Approximately what time does the 911 call come out?

25 A 00:12 hours, which is 12 minutes after midnight.

1 Q Now, was there also initially another event number
2 for a brief period of time that had some association with this
3 case?

4 A There was.

5 Q And what was that, and why did that happen?

6 A So that call was 0027, and it occurred approximately
7 one minute before the 0029 event. So, in essence, there's a
8 0028 being conducted somewhere in Las Vegas Metropolitan
9 Police Department's jurisdiction.

10 Q Did you subsequently merge those two events?

11 A Yes, we became very aware of that first event.

12 Q Now, that first event that caused the 27 call, what
13 was that?

14 A That was a call to Las Vegas Metro regarding a
15 suspicious circumstance in that same general area.

16 Q And for lack of, I guess, a better term, do you
17 subsequently learn that was the jogger's wife?

18 A Yes.

19 Q And when you kind of were putting things together,
20 does everything get merged under that 29 event number?

21 A Yes. Typically, what we would do is we would revert
22 back to the first event; in this case, 0027. But because the
23 officers at the scene had generated so much activity on the
24 0029 event, it just made sense to keep that the event number
25 that we will use for purposes of this investigation.

1 MR. BROOKS: Your Honor, permission to publish
2 exhibits that have previously been admitted freely?

3 THE COURT: Sure, you may.

4 MR. BROOKS: Thank you.

5 BY MR. BROOKS:

6 Q So you mentioned this West Dewey address?

7 A Correct.

8 Q Do you eventually arrive there?

9 A I did.

10 Q I want to show you State's Exhibit 10. Could you
11 set the scene for us as what it looked like when you initially
12 arrived?

13 A So, 5536 West Dewey Drive is a two-story,
14 single-family residence. This particular photo is showing the
15 residence. And normally, what you have -- in this case, this
16 is an east-west street, Dewey is, so you'll have opposing
17 residences. You'll have houses on the south side that
18 typically face north, and conversely, you have houses on the
19 north side that face south.

20 In this particular setting, this residence is
21 rotated 90 degrees, so it's west-facing on -- I don't know
22 what the traffic engineers would refer to that little area
23 that's just off the street, but in my mind, it's similar to
24 like a cul-de-sac, a very small cul-de-sac.

25 Q Let me show you Exhibit 3 and see if that kind of