

IN THE SUPREME COURT OF THE STATE OF NEVADA

RALPH EDMOND GOAD,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

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Elizabeth A. Brown
Clerk of Supreme Court
No. 79977

**Appeal from a Judgment of Conviction in Case CR19-0999
The Second Judicial District Court of the State of Nevada
Honorable David Hardy, District Judge**

JOINT APPENDIX VOLUME SIX

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6 SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR THE COUNTY OF WASHOE

8 THE HONORABLE DAVID A. HARDY, DISTRICT JUDGE

9 ---oOo---

10 STATE OF NEVADA,) Case No. CR19-0999
11)
12 Plaintiff,) Dept. No. 15
13 vs.)
14 RALPH EDMOND GOAD,) TRANSCRIPT OF PROCEEDINGS
15 Defendant.)

16 JURY TRIAL - DAY 4
17 AUGUST 8, 2019, RENO, NEVADA

18 APPEARANCES:

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Computer-Aided Transcription

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I N D E X

EXAMINATION

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1 RENO, NEVADA; WEDNESDAY, AUGUST 8, 2019; 9:00 A.M.

2 ---o0o---

3
4 THE COURT: We'll go on the record. As Mr.
5 Goad is in the well of the court to say good morning,
6 Mr. Goad is present.

7 To State's attorney, be seated, if you would,
8 please.

9 To the defense, is there anything you wish to
10 say?

11 MR. SLOCUM: Yes, your Honor.

12 THE COURT: Okay.

13 MR. SLOCUM: I've got some concerns this
14 morning with regard to Mr. Goad. But what I'm going to
15 ask the Court to do is somewhat unorthodox, but I think
16 that it's appropriate in this circumstance because I've
17 spent a lot of time with Mr. Goad, and I truly believe
18 that his desire is to have a trial, he has been adamant
19 about this.

20 THE COURT: Do you know who this gentleman is?

21 MR. STEGE: That is my father, your Honor.

22 THE COURT: Oh, Mr. Stege. Welcome to the
23 Second Judicial District Court.

1 MR. SENIOR STEGE: Thank you.

2 THE COURT: All right. Carry on.

3 MR. SLOCUM: Thank you, your Honor. So that's
4 a -- that's a firm belief that I have that he wants to
5 have a trial and that he wants to go forward.
6 Throughout the entire course of my representation that
7 has been the case.

8 This morning he's -- he's not been responsive
9 to the attorneys. However --

10 THE COURT: What does that mean exactly?

11 MR. SLOCUM: He -- he doesn't actually
12 acknowledge us at all.

13 THE COURT: So his responses are not
14 meandering and not responsive. There is no audible.

15 MR. SLOCUM: No, there is no response. In
16 fact, there's not even looking at us. However, that
17 being said, I've spoken with the deputies and they
18 indicated that he has been responsive, we were able to
19 get him down to the courtroom. However, it's basically
20 when we try to talk with him he doesn't even address us.

21 When I say address I mean even look at us,
22 even when we request that of him. So with that being
23 said I don't know if it's an authority sort of thing
24 because of the deputies he's willing to respond to them.

1 So what I would be interested in this morning is just
2 the Court to ask Mr. Goad if he understands why we're
3 here and what we're doing. And if he could acknowledge
4 that to the Court I would feel comfortable going
5 forward. But I don't feel comfortable right now because
6 I can't get any sort of response from him. So if the
7 Court would be willing to do that.

8 THE COURT: Well, I'm not going to -- do you
9 wish to be heard?

10 MR. STEGE: No.

11 THE COURT: I'm not going to conduct some form
12 of informal mini mental examination from the bench.
13 This trial is going to proceed with or without Mr.
14 Goad's presence or participation. I want Mr. Goad to be
15 present. But if Mr. Goad, for example, chose not to
16 accept the transport I'd quickly do some legal research
17 but I -- I have a sense that without any competent jury
18 this trial proceeds.

19 So I'm going to ask Mr. Goad about being here,
20 I'm going to acknowledge him, express my gratitude that
21 he's here, my hope that he remains, but I'm not going to
22 make any findings about his cog nature.

23 MR. SLOCUM: And your Honor, I'm okay with
24 that. I did want to make it clear that I do believe

1 that I have an obligation if Mr. Goad is not able to aid
2 and assist counsel, to make a record with respect to
3 that.

4 As I said, I have now spent quite a bit of
5 time with Mr. Goad. I do believe that he wants to go
6 forward, and he's been consistent about that, however --

7 THE COURT: And Mr. Goad just nodded
8 affirmatively --

9 MR. SLOCUM: Yes, sir.

10 THE COURT: -- and raised his hand when he
11 heard you say Mr. Goad wants to go forward.

12 MR. SLOCUM: So that's been the first that
13 we've gotten any acknowledge of anything he said.

14 THE COURT: Mr. Goad, good morning. And
15 you've just raised your hand to say hello to me in
16 gesture. Are you having a hard time speaking?

17 THE DEFENDANT: (Nods head.)

18 THE COURT: Yes, you're nodding your head yes.
19 The record will reflect that I'm looking directly at Mr.
20 Goad and he is looking at me as I speak to him. Our
21 eyes are communicating with each other, and he's nodding
22 his head yes. But you're not able to speak this
23 morning; is that correct?

24 THE DEFENDANT: (No audible response.)

1 THE COURT: So Mr. Goad has attempted to make
2 noise with his throat and he's held his hand up to his
3 throat indicating there may be some problem with his
4 ability to use words this morning.

5 Mr. Goad, do you know who I am? Not my name,
6 but do you know what I do? Yeah, you're nodding your
7 head yes. And these are your two attorneys. And you're
8 nodding your head and saying yes and waving to them.

9 Are you able to write at all? Yes? So what
10 I'll do is at defense counsel's request, if at any time
11 you want to communicate with your attorneys, just let
12 Ms. Mayhew know, she'll stand and let me know, and we'll
13 take a recess out of the jury's presence and we'll let
14 you write a note to them. I'm not sure what's going on.

15 Has Mr. Goad been medically cleared from the
16 infirmary? The deputies are answering yes, he has, and
17 he is nodding his head yes.

18 Mr. Goad, is it -- will you just raise your
19 hand if you want this trial to proceed? Yes. He's
20 raising his hand immediately.

21 All right. That's enough of a canvass for me.

22 Good morning. Thank you for being here.

23 We'll all stand for our jury. Hold on. Do we have all
24 of our jury?

1 DEPUTY: Yes, your Honor.

2 THE COURT: okay. We had one late arrival.
3 Make sure Mr. Goad has at least a paper and a pen
4 available so he can make some note to Ms. Mayhew.

5 (Jury returns to courtroom.)

6 THE COURT: Good morning. The entire jury
7 present. If you'll be seated, please.

8 To the attorneys and Mr. Goad, if you ever
9 want water, I think there are cups and water.

10 As we begin our fourth day, Ladies and
11 Gentlemen, I think we have coffee for you, at least we
12 should. Do we have coffee this morning? Deputy Coss
13 has answered with a nod. I see one or two water
14 bottles. I'll be certainly responsive to your needs to
15 refreshment breaks or to stand.

16 Mr. Stege, on behalf of the State call your
17 next witness.

18 MR. STEGE: Amanda Arrascada, please.

19 COURT CLERK: Please raise your right hand.

20

21 AMANDA ARRASCADA,

22 called as a witness herein, being first

23 duly sworn, was examined and testified

24 as follows:

1 COURT CLERK: Thank you.

2 THE COURT: To the State, you may begin.

3 MR. STEGE: Thank you. Ma'am, get seated,
4 yes, take a seat.

5 DIRECT EXAMINATION

6 BY MR. STEGE:

7 Q Would you please state and spell your name.

8 A Amanda Arrascada. A-m-a-n-d-a. Arrascada's
9 A-r-r-a-s-c-a-d-a.

10 Q And how are you currently employed?

11 A I'm the owner and director of Nevada
12 Fiduciary Solutions.

13 Q What is Nevada Fiduciary Solutions?

14 A We are a representative payee provider.

15 Q And we've heard from another payee provider.
16 How long have you been in business?

17 A It will be five years in October.

18 Q We heard from Becky Korn that towards the end
19 of 2018 she transferred some clients to you.

20 A Correct.

21 Q And can you tell us about how that process
22 worked once you had the referrals from Ms. Korn.

23 A So she closed her office, she gave notice to
24 Social Security, I think, sometime around September or

1 October of 2018, um, and we had to treat each new client
2 as if it were a new case. Social Security didn't just
3 transfer everybody over to our office, we had to meet
4 with each person individually as if it were a brand new
5 client, do a new intake, a new application with the
6 Social Security office.

7 Q And the clients, they go to your office to
8 work with Social Security to get their service or their
9 funds transferred to your business.

10 A They typically. Do in this case with the
11 transfer because we had so many people transferring over
12 to our office, we were meeting with everybody at Social
13 Security and doing both our intake that we would
14 normally do at our office, and then Social Security
15 appointment, we were doing them all at Social Security
16 to kind of save time.

17 Q And How long does that process take? So
18 suppose you meet at Social Security with the client,
19 yourself to transfer over, how long does that process
20 take to get from the old payee to you?

21 A Social Security has cutoffs each month so
22 usually it's around the middle of the month so we were
23 to meet with them before the 15th usually. We would get
24 their funds for the following month.

1 Q And what if it was after the 15th?

2 A Then it would be the month, the following
3 month,

4 Q Were there clients who were referred to you
5 who did not end up signing up with you?

6 A No, none of the clients were really formally
7 referred to our office. My understanding was is that
8 Becky was just handing out a flyer saying we're closing,
9 here's another payee that you can go to.

10 Q Theodore Gibson, is that a person who
11 transferred his payee service to you?

12 A He was.

13 Q And was able to get set up.

14 A Correct.

15 Q And how do -- at your business how do people
16 get their remainder funds, the funds that aren't used
17 towards their bills that you pay, how do they get the
18 remainder of those funds?

19 A Their personal spending funds are disbursed
20 one of two ways. We either cut paper text, and they
21 come in and pick them up or we mail them to them, or we
22 have a debit card that most of our clients choose to
23 utilize. And we load the debit card either once a week
24 or once every two weeks, it's just based off of their

1 preference.

2 Q And as it relates to Mr. Gibson, do you
3 remember as you sit here today which option he chose?

4 A He had a debit card with our office.

5 Q And as part of that, having the debit card,
6 do you have a record of when that debit card is used?

7 A Yes.

8 Q And is that information go into your file at
9 your office?

10 A It's an online database through the debit
11 card company so we can log in at any time regardless if
12 the card is active or inactive, and view the
13 transactions on the card.

14 Q And in this case were you -- did you, in
15 fact, look to see what the transactions were as it
16 relates to Mr. Gibson's debit card --

17 A I have not, no. There was no reason for us
18 to look at his transaction record or his transaction
19 history until notice of his passing.

20 Q At which point you did and provided that
21 document to the police.

22 A Correct.

23 Q So you were able to log on and see the
24 transaction history.

1 A Correct.

2 Q Separately is there a computer log of the
3 client's statement for all the transactions that include
4 getting the money deposited from Social Security, your
5 fees, and then the disbursements?

6 A There is, yeah, we have a system that's
7 called Representative Payee Manager, RPM for short, we
8 use and it's an accounting software that logs every
9 ingoing and outgoing transaction for each individual
10 client.

11 Q And was that statement also provided in this
12 case after Mr. Gibson's passing?

13 A It was.

14 MR. STEGE: I'd like to approach the witness
15 with proposed Exhibit Number 20.

16 THE COURT: Yes.

17 BY MR. STEGE:

18 Q Ask you first to review -- well, the front
19 sheet of that proposed exhibit, do you recognize that?

20 A I do.

21 Q And what -- that appears to be a custodian of
22 records affidavit completed by someone in your office.

23 A It was. It was completed by me.

24 Q Indicating that the attached file or

1 paperwork from the file is a true and accurate copy of
2 the original held at your office.

3 A Correct.

4 Q And that file contains, among other things,
5 the two things we talked about, history of the debit
6 card transactions, and the second was the log of all the
7 payments.

8 A Correct.

9 Q And do you see -- there's a post-it note, on
10 the first post-it note do you recognize that document?

11 A I do. It's a-print out from our system RPM,
12 that's a client statement from start to finish with Mr.
13 Gibson's account with us.

14 Q And the second one?

15 A Is his debit card transactions from the time
16 his card was opened until it was closed.

17 MR. STEGE: I'd move to introduce these two
18 portions of Exhibit 21 related to the two logs.

19 THE COURT: So I anticipate the defense
20 objection. Mr. Slocum is about to stand. Let me see if
21 I can fix it and then I'll hear from Mr. Slocum.

22 I haven't seen the exhibit, it's not in my
23 hand, I presume it's similar to yesterday. If there are
24 specific pages -- I am satisfied by the foundation and

1 evidentiary authenticity. You may argue the weight.
2 I'm not vouching for the contents, I'm just determining
3 that it may be admitted. And with that, I think it's
4 important that we admit only those pages that are
5 referenced to the testimony, subject to any clean up you
6 wish to pursue after the fact.

7 And so Ms. Clerk, if you'll pay attention, the
8 Bates stamp references of the documents that are
9 broadcast on the screen, those will be admitted.

10 Mr. Slocum?

11 MR. SLOCUM: Thank you. That is what we would
12 ask.

13 THE COURT: Thank you.

14 BY MR. STEGE:

15 Q Make this easier. I'll remove the stapled,
16 client's stapled record, which is a two-page document.
17 It should be on the monitor in front of you, ma'am, to
18 the -- this first document.

19 This appears to begin November 6th with a
20 deposit of \$2,012. Where did that come from?

21 A That came from his former payee with the
22 counseling services.

23 Q And so when was the first payment that he got
24 to you?

1 A The first one was on November 14th from
2 Social Security, the 607-dollar deposit.

3 Q And then from there I also see on November
4 30th a V.A. entry of \$495.

5 A Correct. He was a veteran so he received a
6 small V.A. benefit.

7 Q So he received two benefits, the V.A. plus
8 the Social Security.

9 A Correct.

10 Q And then you would pay the rent in the amount
11 of \$490?

12 A Uh-hum. Correct.

13 Q And the remainder goes to personal needs, for
14 example, at December 17th you have \$250 personal needs.

15 A Correct. So Mr. Gibson had elected to have
16 his personal spending allotments once -- excuse me,
17 every two weeks, he got a deposit onto his debit card.

18 Q Onto the debit card. And this continues,
19 apparently, after his death, right? We have into March,
20 April and on to page 2.

21 THE COURT: So are you going to hand to the
22 clerk every document that you've broadcast on this
23 screen so that she can separately mark it?

24 MR. STEGE: Yes.

1 THE COURT: If not, then refer to the Bates
2 stamp, please, so she --

3 MR. STEGE: This is not a Bates-stamped
4 document.

5 THE COURT: So then just compile all of the
6 documents that you've broadcast to the jury, we'll cause
7 that to be separated.

8 BY MR. STEGE:

9 Q Which continues into page 2 of this document.
10 Right?

11 A Correct. Yes. His benefits continued on
12 because his death hadn't been reported to Social
13 Security until it was reported to us. It takes Social
14 Security and the V.A. some time to stop benefit.

15 Q And is that -- would you agree the Social
16 Security as a general principal moves slow?

17 A Yes.

18 Q Now, there are a number of -- in fact, we
19 have the history of all the transactions related to the
20 debit card, but let's focus here on one from January
21 18th, which will be on the monitor. It's a two-page
22 document stapled together. What does this indicate?

23 A So on the 17th here we deposited 250 -- \$250,
24 and then there was a transaction on January the 4th for

1 \$253.74 at Wal-Mart. And then subsequently all of the
2 transactions on the 18th -- let's see here.

3 Q Right.

4 A They were attempted transactions using the
5 card that were declined.

6 Q And then ultimately it was -- it went
7 through.

8 A It did go through, that \$253 transaction went
9 through.

10 Q And before that you have a deposit on January
11 3rd and another one on the 17th --

12 A Right.

13 Q -- each of 250.

14 A Correct.

15 Q That being the remainder of his benefit.

16 A Right.

17 Q On the second page of this document lists the
18 balance history, indicating that on January 17th, was
19 that the ending balance of 3430?

20 A Repeat that. I'm sorry.

21 Q Can you explain this -- these dates down here
22 we have?

23 A So this is just the balance of the card, what
24 the dollar amount that was on the card as of that date.

1 Q Okay. Was Ralph Goad ever a client of yours?

2 A He was not.

3 Q Do you know the process if you -- if your
4 payee goes out of business and you do not get a new
5 payee?

6 A So typically the individual has two options.
7 They can either go down to Social Security and apply to
8 become their own payee. Social Security ultimately
9 makes that decision if they think the person is capable
10 of managing benefits. If they're -- Social Security
11 felt they're not capable and says that still need a
12 payee, they would refer them to another payee
13 organization. And then our normal intake process would
14 then occur, the individual would come in, we'd do an
15 intake with them, and then go down to the Social
16 Security office and apply to be the payee.

17 MR. STEGE: Thank you. I'll pass the witness.

18 THE COURT: Thank you. To the defense.

19 CROSS-EXAMINATION

20 BY MR. SLOCUM:

21 Q Good morning.

22 A Good morning.

23 Q I just wanted to talk with you first about
24 what you understood the process was when Becky Korn shut

1 down her business.

2 A Okay.

3 Q So your understanding was that she had just
4 posted a flier or she had given out fliers to people --
5 there were multiple different payees that her clients
6 could then use once she was shut down?

7 A So while Becky's office was still in -- was
8 still open and operational there were three payees
9 including our office, her office, and then there's one
10 other. When Becky and I had met prior to her getting
11 her notice to Social Security Administration she
12 shutting her business, she had indicated to me I'm just
13 going to tell everybody to go see you. I'm going to
14 hand out your information and have all of our clients go
15 and talk to you.

16 I don't know -- the other payee provider here
17 in town, I don't know what the infrastructure is, and
18 their ability to absorb a large amount of clients was,
19 they provide other services aside from just payee
20 services. We strictly do payee services so I think we
21 had the capability of on boarding more clients at one
22 time.

23 Q Okay.

24 A But she had -- people were coming into our

1 office with a piece of paper that she was handing out
2 saying my payee told me to come here.

3 Q Okay. So no actual information was forwarded
4 to you. If somebody was with Becky Corn, would come to
5 you, you would take all of their information yourself.
6 You didn't have any information beforehand that, for
7 example, Joe Smith, we've got his information here, we
8 just need him to come in and verify that information in
9 order to start receiving benefits.

10 A Right. So they come in and we would do our
11 normal intake process. If we had questions regarding
12 other bills or their housing situation, whatever it may
13 be related to that specific client, we would contact
14 Becky's office and request any type of supporting
15 documentation that might help us move their case along a
16 little bit quicker, but that didn't happen in every
17 case.

18 Q Okay. But you didn't have any information
19 beforehand.

20 A No.

21 Q At all.

22 A No.

23 Q Okay. Now, I want to talk to you about Ted
24 Gibson's setup with you. Is it accurate that he

1 received two different forms of income, income stream?

2 A Correct. He got V.A. and Social Security.

3 Q And is it -- is it correct that you set both
4 of those up for him with your payee service?

5 A Correct.

6 Q Now, was it your understanding that before
7 Mr. Gibson had come to you that he actually received a
8 paper check and a direct deposit to a payee?

9 A I -- clarify that.

10 Q Okay. So we talked about two different
11 forms, income stream, you talked about the V.A. and
12 Social Security?

13 A Correct.

14 Q Was it your understanding that before he had
15 come to you that he used to receive a paper check and
16 also a direct deposit for the Social Security?

17 A I would have to look at my initial note. I
18 -- for some reason I think he may have been getting one
19 source of his income directly to him and then one source
20 of income may have been going to payee counseling
21 services which is not uncommon.

22 Q Okay.

23 A But I couldn't be a hundred percent sure
24 without looking at my case notes.

1 Q Okay. Did you provide those kind of notes to
2 the District Attorney?

3 A I don't believe so. They're -- they're
4 interoffice office, really, that just type up saying
5 note to document our encounter with individuals. I
6 don't know that those were provided.

7 Q So as you sit here today and even with the
8 documents that you have you are not in a position to be
9 able to answer that particular question.

10 A No.

11 Q Okay. Now, with respect to the process with
12 the payee, there's an automatic deposit, you said, to
13 the debit card as the -- as the client sets up with you.

14 A Correct.

15 Q So money can be then withdrawn once it's
16 deposited.

17 A Correct.

18 Q And that provides the ability for -- for
19 necessary other expenses that someone might have so that
20 they have money to afford those.

21 A Right. That money that goes onto the debit
22 card is their personal spending money to spend however
23 they choose.

24 MR. SLOCUM: I don't have any further

1 questions. Thank you.

2 THE COURT: Any redirect?

3 MR. STEGE: Court's indulgence, please.

4 May I see the -- no further questions.

5 THE COURT: Thank you. You're free to step
6 down and leave the courtroom.

7 To the State, your next witness, please.

8 MR. STEGE: Trevor Vaught, please.

9 DEPUTY: Stand on this platform, face the
10 clerk.

11 COURT CLERK: Please raise your right hand.

12

13 TREVOR VAUGHT,

14 called as a witness herein, being first

15 duly sworn, was examined and testified

16 as follows:

17

18 COURT CLERK: Thank you.

19 THE COURT: Be seated and remember to speak
20 into the microphone.

21 THE WITNESS: Yes, sir.

22 THE COURT: To the State.

23 MR. STEGE: Thank you.

24 DIRECT EXAMINATION

1 BY MR. STEGE:

2 Q Sir, please state and spell your name.

3 A Trevor Vaught. T-r-e-v-o-r V-a-u-g-h-t.

4 Q How are you currently employed?

5 A Wal-Mart.

6 Q How long have you worked at Wal-Mart?

7 A Eleven years.

8 Q Is there a specific Wal-Mart that you work
9 at?

10 A Second Street Wal-Mart.

11 Q And what is your role there, what's your --

12 A I'm an asset protection manager.

13 Q What does that mean?

14 A Basically secure assets, merchandise, I --
15 other --

16 Q Other duties?

17 A Fraud-type incidents, whatever.

18 Q Maybe try to catch shoplifters?

19 A Shoplifters, yes.

20 Q Internal fraud?

21 A Internal fraud.

22 Q All sorts of stuff.

23 A Yes, sir.

24 Q Do you have access to the surveillance of

1 Wal-Mart?

2 A I do.

3 Q And you're familiar with how the system
4 works.

5 A I am.

6 Q And have you been using surveillance in your
7 duties in the time you've worked there?

8 A Yes, sir.

9 Q Were you asked in this case to specifically
10 look for some surveillance by the detectives?

11 A I was.

12 Q And were you able to locate that
13 surveillance?

14 A I was.

15 Q And prior to testifying today were you able
16 to review a thumbdrive with some surveillance on it?

17 A Yes.

18 Q And did you recognize the surveillance on the
19 thumbdrive?

20 A I did.

21 Q You recognize it to be an authentic copy of
22 -- that you had provided?

23 A Yes, sir.

24 Q Which is a copy of the original at Wal-Mart.

1 A Yes.

2 Q And after recognizing it as authentic, did
3 you initial the tag on the said thumbdrive?

4 A I did.

5 MR. STEGE: Can I approach the witness?

6 THE COURT: Yes.

7 BY MR. STEGE:

8 Q Handing you proposed 51. Do you recognize
9 that thumbdrive?

10 A Yes, I do.

11 Q Do you recognize the initials on that
12 thumbdrive?

13 A Yes. Those are mine.

14 Q Is this the thumbdrive you reviewed?

15 A Yes.

16 MR. STEGE: Move to introduce 51.

17 MR. SLOCUM: No objection, your Honor.

18 THE COURT: 51 is admitted, Ms. Clerk.

19 COURT CLERK: Thank you.

20 (Exhibit 51 is admitted into evidence.)

21 BY MR. STEGE:

22 Q I'm going to ask you about you did mention
23 doing fraud investigations. Are you familiar with the
24 cash drawers --

1 A Yes.

2 Q -- at Wal-Mart? In the farthest left -- oh,

3 where are the hundred dollar bills?

4 A The hundreds are on the left. Twenties,

5 tens, fives and ones.

6 Q And that is standard throughout Wal-Mart.

7 A Yes. Every drawer is exactly the same.

8 Q Including at the service desk.

9 A Yes, sir.

10 MR. STEGE: I'll pass the witness.

11 THE COURT: To the defense.

12 MR. SLOCUM: I don't have any questions.

13 Thank you.

14 THE COURT: All right. Thank you. You're

15 free to step down and leave the courtroom.

16 THE WITNESS: Thank you.

17 THE COURT: Mr. Stege, your next witness,

18 please.

19 MR. STEGE: Dave Nevills, please.

20 DEPUTY: Please stand on the platform, face

21 the clerk.

22 THE COURT: So this witness has previously

23 been sworn. He will not be resworn, but I admonish you

24 that you remain under oath.

1 THE WITNESS: Yes.

2 THE COURT: Thank you. Please be seated.

3 CONTINUATION OF DIRECT EXAMINATION

4 BY MR. STEGE:

5 Q Welcome back, Detective. We had briefly
6 mentioned before the Wal-Mart surveillance that was
7 recovered by Mr. Vaught.

8 A Yes.

9 Q Did you, yourself, have an opportunity to
10 review that surveillance?

11 A Yes.

12 Q And did you -- were you able to review the
13 transaction that occurred during that surveillance?

14 A Yes.

15 Q And who conducted the transaction?

16 A Mr. Napier and Mr. Gibson.

17 Q And did you -- you were aware that Mr. Gibson
18 had withdrawn \$253.74.

19 A Yes.

20 Q And with that knowledge did you watch the
21 transaction as it related to the cash drawer?

22 A Yes.

23 Q And what did you notice?

24 A It appeared to me that he got two one hundred

1 dollar bills in regards to the exchange, as well as some
2 additional monies, and then he returned one 100 dollar
3 bill back in and received five bills for that.

4 MR. STEGE: I would like to publish from
5 Exhibit 51.

6 (Publishing Exhibit 51.)

7 BY MR. STEGE:

8 Q So this surveillance begins?

9 A It's on January 18th, 2019, and the time, it
10 looks like around 7:20. It's kind of cut off there.

11 Q So show us what -- tell us what you just saw
12 there.

13 A The exchange two the bills from the far left,
14 which I believe are two 100-dollar bills. He returns
15 one of those back in, and then she pulls out five bills
16 from that location which I believe to be 20s.

17 Q At which point -- well, in your review of the
18 surveillance what happens next?

19 A They ultimately -- well, I didn't watch them
20 throughout the store. A short time later they left. I
21 didn't follow them through the store to do shopping or
22 anything like that.

23 Q Let's talk about we have now had introduced
24 the -- surveillance from the Cal-Neva.

1 A Yes.

2 Q I'd like to publish some from there, but if
3 you give us a -- did you, yourself, watch the Cal-Neva
4 surveillance?

5 A Yes, I did.

6 Q And in relation to -- well, when does it
7 start?

8 A About 17:47 hours on the 22nd.

9 Q And how does that relate to the video review
10 of Camera 10 from Park Manor Apartments?

11 A It's approximately ten minutes after Mr. Goad
12 leaves Mr. Gibson's apartment, apartment complex.

13 Q And how does it relate to on Camera 10 his
14 return to Park Manor?

15 A He returns to the apartment complex around
16 14:47, just 2:47 p.m., and he leaves the Cal-Neva on the
17 23rd and he leaves the Cal-Neva, around 2:30 p.m. on the
18 23rd.

19 Q So you used 14 something on the --

20 A 2:47 p.m

21 Q Okay. So from a short amount of time from
22 leaving the Cal-Neva to Park Manor?

23 A Yes.

24 Q And a short amount of time, ten minutes or so

1 I think you said, from leaving Park Manor on the 22nd to
2 get to the Cal-Neva?

3 A Correct.

4 Q And what does he do in the Cal-Neva?

5 A He visits the cage several -- on several
6 occasions, and then he gambles.

7 Q But he stays there essentially overnight and
8 into the afternoon of the next day.

9 A Approximately 21 hours, yeah.

10 Q And in your review of the surveillance what,
11 in particular, were you looking for in terms of Mr.
12 Goad?

13 A What clothing he was wearing, if it was
14 consistent with what he was wearing at the Park Manor
15 Apartments.

16 Q And did you spot such clothing?

17 A Yes. He had the same ball cap on with the
18 letter B. The jacket was consistent with what he was
19 wearing. Also, there's a couple views where you can
20 see, like, a crew neck sweatshirt gray color, it's
21 consistent with what --

22 MR. STEGE: Can I approach the witness with
23 proposed 16?

24 THE COURT: Yes. Did you say 16, 1-6?

1 MR. STEGE: 1-6, your Honor.

2 THE COURT: Yes.

3 BY MR. STEGE:

4 Q Detective, will you please review the
5 contents of proposed 16? Do you recognize Exhibit 16?

6 A Yes.

7 Q And how is it that you recognize it?

8 A Those are still photographs from the
9 surveillance video at the Cal-Neva.

10 MR. STEGE: Move to introduce Exhibit 16 which
11 is a 24-page document.

12 MR. SLOCUM: No objection, your Honor.

13 THE COURT: 16 is admitted, Ms. Clerk.

14 COURT CLERK: Thank you.

15 (Exhibit 16 is admitted into evidence.)

16 MR. STEGE: And I move to publish.

17 THE COURT: Yes, you may.

18 BY MR. STEGE:

19 Q Can you walk us through, please, page 1 of
20 Exhibit 16.

21 A This is January 22nd, it says 5:37 p.m.

22 Q You're reading that from the upper left-hand
23 portion of this exhibit.

24 A Correct.

1 Q So this is at sort of ten-minute time frame
2 you mentioned before.

3 A Correct.

4 Q Who do we see here?

5 A Mr. Goad entering the casino.

6 Q Page 2 of Exhibit 16.

7 A Mr. Goad at the cage window making a
8 transaction.

9 Q And what, I guess, stuck out to you in this
10 cage shot?

11 A Specifically -- specifically the ball cap and
12 the jacket.

13 Q The ball cap was --

14 A The same as what he's seen wearing on Camera
15 10 at the apartment complex.

16 Q And so he had this initial transaction here
17 at the cage that looks like 5:38 p.m. on January 22nd.

18 A Yes.

19 Q Page 5 of Exhibit 16 we then have Mr. Goad
20 gambling.

21 A Yes.

22 Q In a separate part of the casino.

23 A Yes. This is the west building.

24 Q He gets up and leaves. Let's talk about this

1 cage shot at 3:38 a.m. on the 23rd. What, if anything,
2 stuck out to you in this shot?

3 A The same ball cap, the jacket's consistent,
4 and then this specific one you can actually see the gray
5 sweatshirt and the neck line.

6 Q In terms of the transaction that he completes
7 here at 3:30 in the morning, did you take note of that?

8 A Yes. He turns in one bill and gets five in
9 the re -- five in return.

10 Q And do you recall which drawer the cashier
11 took the bill from Mr. Goad and -- to make change?

12 A The bill he changes this with come from -- if
13 it's left to right it's ones, fives, tens and -- be the
14 20 slot, which is the slot farthest -- not farthest to
15 the right, second one farthest to the right.

16 Q But then -- but the bill he gives over, does
17 that go to the far --

18 A Yes.

19 Q -- right-hand slot? Observing it did you
20 have a theory or an idea of what this bill might be?

21 A A hundred dollar bill.

22 Q So here we have that, the one bill for the
23 five bills.

24 A Correct.

1 Q And this is still part of that 3:30 a.m.
2 transaction.

3 A Yes.

4 Q And from there what?

5 A He takes his bills and then he goes to
6 another part of the casino and gambles.

7 Q Which is depicted at Page 11.

8 A Yes. And he's now in the east building which
9 is -- and basically right across from the cage where he
10 just did the transaction. He came in this upper
11 left-hand corner in here.

12 Q So here we have him until 5:00 in the
13 morning. Let's talk specifically about the 5:01 a.m.
14 transaction. What, if anything, caught your attention
15 about this transaction or this?

16 A He has no injuries to his face or hands.

17 Q And are you able to tell in a bit more detail
18 on what he's wearing?

19 A Yes. He's got a jacket on, consistent with
20 before. You can still see the gray sweatshirt, and he
21 still has a baseball cap on even though you can't see
22 the letter B on it.

23 Q Right. And doesn't this compare -- another
24 shot we had was sort of from the left, doesn't this one

1 give you a better view of that gray sweatshirt?

2 A Yes.

3 Q And at this point in your -- when you're
4 reviewing this had you yet recovered or -- the
5 sweatshirt from the apartment of Mr. Goad?

6 A No.

7 Q Is that -- have you seen the sweatshirt from
8 Mr. Goad's room?

9 A Yes.

10 Q Is this consistent with that sweatshirt?

11 A Yes.

12 Q Is this consistent with on Camera 10, the
13 22nd, you see him walk outside with a bowl and he's
14 wearing a sweatshirt.

15 A Yes, it is.

16 Q Is this consistent?

17 A Yes.

18 Q 15 is the further still shot from this 5:01
19 transaction?

20 A Yes. And you can see sweatshirt there, a
21 little bit more.

22 Q From there continues to gamble into the
23 morning. Continuing. Here we have him at six in the
24 morning back at the cage, perhaps his jacket's

1 unbuttoned or zipped down a little bit more.

2 A Yes.

3 Q This transaction, do you recall what it was?

4 A Appears to be a voucher, which is something
5 that the machine spits out when you win and you can turn
6 that in and cash it out.

7 Q And ultimately we have him leaving on 2:28
8 p.m.

9 A Yes.

10 Q On the 23rd, the next day.

11 A Correct.

12 Q Ultimately Mr. Goad was taken into custody in
13 Sacramento, California; is that right?

14 A Yes.

15 Q And when was that?

16 A March 7th.

17 Q And did you, yourself, travel to Sacramento?

18 A I did.

19 Q And did you recover the clothing worn by Mr.
20 Goad when he was booked?

21 A I recovered a ball cap at that time.

22 Q Was there also a jacket?

23 A Yes, but I did not recover those clothings at
24 that particular time.

1 Q That's right. Okay. The ball cap that he
2 was wearing at booking, you recovered that?

3 A Correct.

4 Q And what kind of ball cap was it?

5 A Matched the description you saw there, blue
6 ball cap with a red letter B on it.

7 THE COURT: Ladies and Gentlemen, let's all
8 stand for just a minute, and stretch.

9 (Short pause.)

10 THE COURT: All right, Mr. Stege.

11 BY MR. STEGE:

12 Q What'd you do with the ball cap?

13 A I collected it and later booked it into
14 evidence.

15 MR. STEGE: May I approach the witness with
16 Exhibit proposed 38?

17 THE COURT: Yes.

18 BY MR. STEGE:

19 Q Do you recognize proposed 38?

20 A Yes.

21 Q How do you recognize it?

22 A Says right on it. Yeah, a ball cap with the
23 letter B.

24 Q Is that your handwriting?

1 A Yes.

2 Q Is that indicate you're the person who booked
3 that piece of evidence into the evidence vault?

4 A Yes, sir.

5 Q If we were to open that you'd expect to find
6 the blue ball cap --

7 A Yeah.

8 Q -- we were just talking about.

9 MR. STEGE: We'll move Exhibit 38.

10 MR. SLOCUM: No objection, your Honor.

11 THE COURT: 38 is admitted.

12 (Exhibit 38 is admitted into evidence.)

13 COURT CLERK: Thank you.

14 BY MR. STEGE:

15 Q There appears to be some staining here on
16 this bag. Would you advise opening this bag?

17 A Not really, no.

18 Q What condition is the ball cap in?

19 A It's disheveled.

20 Q Is it dirty --

21 A Yes.

22 Q -- is this staining from the ball cap?

23 A Yes.

24 Q But you did document it by photographing it.

1 A Yes.

2 Q It appeared consistent with both the Camera
3 10 surveillance as well as the Cal-Neva surveillance we
4 just saw stills.

5 A Yes.

6 Q A jacket, did you recover a jacket worn by
7 Mr. Goad?

8 A Yes.

9 Q Was that also in Sacramento?

10 A No.

11 Q Where was that?

12 A Washoe County.

13 Q And where -- I'm talking about a blue and
14 black parka.

15 A Yes.

16 Q Where was that recovered?

17 A Washoe County.

18 Q Where in Washoe County?

19 A Oh, I'm sorry. Washoe County Jail.

20 Q Okay. Is that also part of the booking
21 property?

22 A Yes.

23 Q That had come with him from Sacramento.

24 A Correct.

1 Q And did you also recover a pair of sneakers?

2 A Yes.

3 Q Where did you recover those?

4 A Washoe County. Parr Boulevard, jail.

5 Q Similar to the jacket.

6 A Yes.

7 Q Those came with him from Sacramento.

8 A Yes.

9 Q Did you recognize anything about the jacket?

10 A It was consistent with what was seen on the

11 video, the Cal-Neva video, the blue and black. It was

12 also consistent with what he's wearing at the apartment

13 complex.

14 Q And as to the shoes, do you recognize them?

15 A Yes, the soles had, like, a neon green sole

16 which is consistent with the video in the Cal-Neva, as

17 well as the video at the apartment complex.

18 Q You mentioned the disheveled nature of the

19 hat. What was the condition of both the shoes and the

20 jacket?

21 A The same, they were both disheveled.

22 Q Were they all dirty?

23 A Yes.

24 Q But you did photograph all three of those

1 items; is that correct?

2 A Yes.

3 MR. STEGE: Approach the witness with proposed
4 11?

5 THE COURT: Yes.

6 BY MR. STEGE:

7 Q Recognize proposed -- whoops. Let's have it
8 -- a page got stuck here.

9 A Yes. Yes, I recognize them.

10 Q How do you recognize them?

11 A They're the photographs I took of the
12 property at the station. And I recognize the carpet in
13 the station as well.

14 MR. STEGE: Move to introduce the 11 series,
15 which is a four-page document.

16 MR. SLOCUM: Your Honor, we've already
17 stipulated to those.

18 THE COURT: There's a stipulation for
19 admission. If not already admitted, it is now admitted,
20 Ms. Clerk.

21 COURT CLERK: Thank you.

22 (Exhibit 11 is admitted into evidence.)

23 MR. STEGE: I may publish it?

24 THE COURT: Yes.

1 (Publishing Exhibit 11 to the jury.)
2 BY MR. STEGE:
3 Q Here we have the ball cap?
4 A Yes.
5 Q The inside of it?
6 A Yes.
7 Q Jacket?
8 A Yes.
9 Q And the shoes.
10 A Yes.
11 Q Did you also when Mr. Goad was in Sacramento
12 obtain a buccal swab from him?
13 A Yes.
14 Q What is a buccal swab?
15 A It's a -- it's a -- like a large Q-tip only
16 it has a swab only at one end. It has a wooden handle.
17 Q And what did you collect with this wooden
18 handle Q-tip?
19 A Samples of saliva and skin cells.
20 Q All right. A person's DNA.
21 A Correct.
22 Q And you collected that from what part of Mr.
23 Goad?
24 A Between his cheek and gum.

1 MR. STEGE: Court's indulgence.

2 THE COURT: Yes.

3 (Short pause.)

4 MR. STEGE: I'll pass the witness. Thank you.

5 THE COURT: To the defense.

6 MR. SLOCUM: Thank you, your Honor.

7 CROSS-EXAMINATION

8 BY MR. SLOCUM:

9 Q Good morning.

10 A Good morning. How are you?

11 Q Fine. So the District Attorneys showed you
12 some surveillance of Wal-Mart. Correct?

13 A Yes.

14 Q And you had an opportunity previously to
15 review that surveillance; is that right?

16 A Yes.

17 Q And how was it that you -- that you
18 recognized the two individuals that were depicted in the
19 surveillance that you reviewed from Wal-Mart?

20 A Well, there's not just that view, there's
21 additional views that I was able to identify Mr. Gibson.
22 I'd already seen Mr. Scott Napier before so I was able
23 to recognize Mr. Napier as well.

24 Q Okay. So Mr. Napier you had met with before

1 because you did an interview with him?

2 A I did not interview him, but I saw him that
3 day.

4 Q So you had physically seen him.

5 A Right.

6 Q And as far as identifying Mr. Gibson in the
7 video, how did you do that?

8 A He had -- when I initially responded to the
9 scene there was Nevada identification cards, and I had
10 seen his face. He was recognizable to me in the
11 Wal-Mart video.

12 Q Okay. So the identification card that you
13 had seen in his room.

14 A Uh-hum.

15 Q Which was on the 13th of February?

16 A Correct.

17 Q And then when did you review the surveillance
18 video from the Wal-Mart?

19 A A day later or two, I believe. I don't
20 recall. No. I'm sorry, I don't recall. I believe I
21 obtained that video on the 14th.

22 Q So you believe on the 14th is when you went
23 to Wal-Mart?

24 A I believe that's when I obtained the Wal-Mart

1 video, yes, on the 14th.

2 Q So the next day after having looked at the --
3 at the ID card you recognized Mr. Gibson in the video.

4 A Yes. It looked like the same person to me,
5 sir.

6 Q Okay. And then at that time you reviewed the
7 surveillance and you indicated that a purchase was made;
8 is that right?

9 A There's a transaction made, yes.

10 Q Well, it's a purchase; isn't that correct?

11 A I don't know if it's a purchase or just cash.

12 Q So if I were to show you a copy of your
13 report would that assist you --

14 A Sure.

15 Q -- in remembering? So I'm going to show you
16 page 6 of Supplement 9, that's Bates stamp page 70.

17 If I may approach, your Honor?

18 THE COURT: Yes.

19 MR. SLOCUM: Thank you.

20 BY MR. SLOCUM:

21 Q I'm going to have you take a look at that.

22 A Yeah. Indicated here that I received
23 information from Detective Smith that that was the last
24 purchase that Mr. Gibson had made for 253.74.

1 Q Okay. So you received information that a
2 purchase had been made --

3 A Yes.

4 Q -- correct?

5 A Yes, sir.

6 Q But then you went ahead and reviewed the
7 surveillance. Right?

8 A Correct.

9 Q And at that time you indicate that the video
10 depicted a purchase that occurred on January 18th at
11 7:22. Correct?

12 A Yes.

13 Q And then you indicated that you were able to
14 location Mr. Gibson on video making the purchase.
15 Correct?

16 A Right.

17 Q And then you received video depicting Gibson
18 arriving at the store, making his purchase, and leaving
19 the store.

20 A Yes, sir.

21 Q Now, you indicated that you recognized Mr.
22 Gibson as having partially gray hair, wearing a brown
23 jacket and tan pants and brown shoes. Correct?

24 A Yes.

1 Q And that's just in your report to
2 differentiate him from Mr. Napier.

3 A Yes.

4 Q Now, you indicated that on the video you saw
5 that Mr. Napier assisted Mr. Gibson in using his debit
6 card. Now, we saw that depicted on the video. Do you
7 remember that?

8 A Yes.

9 Q Mr. -- Mr. Napier's actually holding the
10 phone?

11 A Yes.

12 Q In his hand?

13 A Yes.

14 Q And would you agree that it appears that he's
15 got Mr. Gibson's pin number on his phone and he's
16 attempting to enter it on that key pad?

17 A It appears that way, yes.

18 Q But they're having some kind of difficulty
19 actually getting the transaction to go through.
20 Correct?

21 A Correct.

22 Q And, in fact, it's -- it is Mr. Napier who is
23 standing at the -- at the station inputting the numbers;
24 is that right?

1 A Yes.

2 Q But then you indicate that Mr. Napier
3 assisted Mr. Gibson in using the debit card at which
4 time Mr. Gibson made a purchase in the amount of 253.74;
5 is that correct?

6 A Correct.

7 Q The purchase was processed at 07:22 hours.
8 Correct?

9 A Yes.

10 Q This transaction is always described as a
11 purchase in your report; isn't that correct?

12 A Correct.

13 Q You testified about the surveillance that you
14 were able to view at the Cal-Neva; is that right?

15 A Yes.

16 Q And there was some discussion about the
17 surveillance that you had observed previously at the
18 Park Manor Apartments. Correct?

19 A Yes.

20 Q And as I understood your testimony, the last
21 -- the last thing that -- or the last room from which
22 Mr. Goad leaves is from Mr. Gibson's room; is that
23 correct?

24 A Before he gets to the Cal-Neva?

1 Q Correct.

2 A Yes.

3 Q So before he leaves he doesn't go back to his
4 room, he actually leaves from Mr. Gibson's room.

5 A Yes.

6 Q That's 2:05. Correct?

7 A Correct.

8 Q So he leaves from 2:05 and he proceeds
9 directly to the Cal-Neva as you understand it?

10 A Yes, sir.

11 Q And do you know how long that takes to walk
12 from the Park Manor Apartments to Cal-Neva?

13 A No.

14 Q You didn't check on that?

15 A No.

16 Q So you don't know, for example, if Mr. Goad
17 went somewhere else before he went to the Cal-Neva?

18 A True. Yes, I do not know that.

19 Q But you know that he does arrive at the
20 Cal-Neva, and you said you made some observations the
21 fact that he did not appear to have any injuries on him;
22 is that right?

23 A That's correct.

24 Q And he didn't seem to have any blood on him;

1 is that right?

2 A Correct.

3 Q And it did not -- it did not appear to you
4 that there was anything that stood out to you with
5 respect to any -- any injuries. Is that fair to say?

6 A Correct.

7 Q And then you said he spent about 21 hours in
8 the casino?

9 A Yes.

10 Q And then he leaves the casino presumably.
11 Correct?

12 A Yes.

13 Q And then were you able to view the
14 surveillance from the Park Manor Apartments when he goes
15 back?

16 A Yes, sir.

17 Q Do you know how long it takes him to get from
18 the Cal-Neva to the Park Manor?

19 A Um, time stamp on the Cal-Neva is 2:28 p.m.
20 And he arrives back at the Park Manor Apartments on that
21 time stamp at about 2:47 p.m.

22 Q Now, when you say that are we assuming that
23 the time stamps are correct?

24 A We know that time stamps at Cal-Neva is

1 correct. The time stamp at the Park Manor Apartments is
2 about ten minutes fast. So that would mean that Mr.
3 Goad should have arrived around 2:37 p.m. at the Park
4 Manor Apartments.

5 Q Okay. So do you -- when you say we know that
6 the Cal-Neva is correct, how do we know that?

7 A We checked it. I checked it. I verified it.

8 Q And how do you do that?

9 A With my work iPhone. So I watch the active
10 surveillance and then compare it to my work iPhone. And
11 it's the same.

12 Q Okay. So when you mean you veri -- you
13 verified on the day that you go the surveillance is
14 correct today.

15 A Yes.

16 Q But you don't think the surveillance is
17 correct on the day that the recording was made.
18 Correct?

19 A True. Yes.

20 Q But it was brought to your attention that
21 there is a discrepancy in the time stamp with respect to
22 the Park Manor Apartments.

23 A Yes, sir.

24 MR. SLOCUM: No further questions, your Honor.

1 Thank you.

2 THE COURT: Redirect.

3 REDIRECT EXAMINATION

4 BY MR. STEGE:

5 Q Is there a way to know how fast Mr. Goad
6 could make the trip from Park Manor to the Cal-Neva?

7 A No, sir.

8 Q Is that roughly 10, 15 minutes consistent
9 with your understanding of the location of the Cal-Neva
10 which is about right here (indicating) and Park Manor
11 which is by your police station?

12 A Yes, sir.

13 Q It's about consistent.

14 A Sure.

15 Q Would -- if it took ten minutes longer or 20
16 minutes longer would that cause you suddenly to not
17 suspect or believe that Mr. Goad was the killer of Mr.
18 Gibson?

19 MR. SLOCUM: Objection, your Honor.

20 THE COURT: As to the word killer?

21 MR. SLOCUM: Yes.

22 THE COURT: It is overruled.

23 BY MR. STEGE:

24 Q Would it change?

1 A No.

2 Q You called it a purchase in your report.

3 A Yeah.

4 Q Why did you call it a purchase as opposed to
5 a transaction?

6 A Just a choice of words. Maybe I should have
7 said transaction.

8 Q And a part of -- it wasn't just that you
9 thought that was Mr. Gibson on the video based on the
10 ID, did you have other circumstantial evidence which
11 might tell you that that was him?

12 A Yes. The information that Detective Smith
13 provided me regarding the last four digits of the card
14 and the amount and time the transaction occurred.

15 Q You mean the date and time of the transaction
16 and the amount.

17 A Yes.

18 Q And you knew that he had gotten -- Mr. Napier
19 was a person who took him shopping.

20 A Correct.

21 Q Would you suspect that Mr. Napier would have
22 been able to identify his friend, Mr. Gibson, on the
23 Wal-Mart --

24 A Yes.

1 Q -- surveillance? The issue of -- well, did
2 you see anything nefarious in Mr. Napier's actions on
3 the Wal-Mart surveillance?

4 A No.

5 Q Who walks away with the money on this
6 transaction?

7 A Mr. Gibson.

8 Q Now, we've talked about he gets a
9 hundred-dollar bill up front. He's -- stays in the --
10 doesn't leave the apartment after the 18th. Then we see
11 him in the Cal-Neva. Is there a way to be certain that
12 that hundred-dollar bill is the same hundred-dollar
13 bill?

14 A No.

15 Q Mr. Slocum referred to the leaving on camera
16 10 and arriving on Cal-Neva, then returning. The
17 clothing being worn upon exit, is that consistent with
18 the clothing he's worn -- wearing on Cal-Neva?

19 A Yes.

20 Q And by the same token when he returns is the
21 clothing he's wearing when he leaves Cal-Neva consistent
22 with what you see him on camera 10?

23 A Yes.

24 Q On the question of injuries or blood observed

1 on the Cal-Neva surveillance, what was the significance
2 of, I guess, the lack of injuries to Mr. Goad?

3 A Well, he had no injuries, then -- if he's in
4 an altercation it doesn't mean -- if he has no injuries,
5 even if he is in an altercation doesn't necessarily mean
6 he wasn't in an altercation. He could still have
7 injuries, or he could not have injuries, but it's
8 something to note.

9 Q And in the surveillance would you have seen
10 blood on the sleeves or arms of the sweatshirt of Mr.
11 Goad?

12 A No, it was covered by the jacket.

13 MR. STEGE: No further questions.

14 THE COURT: Recross.

15 MR. SLOCUM: Thank you, your Honor.

16 RECROSS EXAMINATION

17 BY MR. SLOCUM:

18 Q So as you recall from the surveillance did
19 Mr. Goad have the jacket on when he went in to 205 on
20 the 22nd of January?

21 A Initially he had the jacket on, I believe so.

22 Q But you can't state for certain right now.

23 A This case encompassed such a large amount of
24 video, no. I would have -- I would have to review it.

1 Q Now, with respect to the purchase, again,
2 your word, that -- that Mr. Gibson made, there's no
3 indication in your report about withdrawing any money;
4 isn't that correct?

5 A Correct.

6 Q And there's no discussion about a
7 hundred-dollar bill and turning a hundred-dollar bill in
8 and getting five 20s back, that's not in your report, is
9 it?

10 A No.

11 Q Now, with respect to the time that it took to
12 get from the Park Manor Apartments to the Cal-Neva, you
13 indicated to me you were not sure how long that took;
14 isn't that right?

15 A Correct.

16 Q And then Mr. Stege asked you well, isn't
17 there a way to know how long it takes? That was his
18 question. Right?

19 A Yes. It would depend on a lot of things.

20 Q So your answer to me now is it would depend
21 on a lot of things.

22 A Yeah, that's what I said. I don't know -- I
23 don't know how long it would take to get to the
24 Cal-Neva.

1 Q That's not the sort of thing you could, for
2 example, look up on Google Maps?

3 A Well, you could, but I've actually done that
4 in the past. However, there-again, there's so many
5 other different things that allow me to how fast does he
6 walk and so on.

7 Q So the short answer is you could have some
8 information about it but you just don't have the
9 information today.

10 A It would be all speculation.

11 Q Well, then Mr. Stege said well, we know how
12 long it takes, right, because you know where Park Manor
13 Apartments is and you know where the Cal-Neva is so you
14 know long how long it takes. Right

15 A We could guesstimate how long it takes. You
16 know, the distance between Park Manor Apartments and the
17 Cal-Neva and myself, I could probably walk that within
18 10, 15 minutes I would guess.

19 Q What's the distance?

20 A I know in my mind the distance where Park
21 Manor are is compared to the Cal-Neva. I don't know the
22 distance. When I say that I say I know in my mind how
23 far it is I can picture in my mind where Park Manor is
24 and where the Cal-Neva is.

1 Q Okay. So what's the distance, then, in your
2 mind?

3 A Ten to 15-minute walk.

4 Q For you?

5 A Yes.

6 MR. SLOCUM: No further questions.

7 Thank you, your Honor.

8 THE COURT: All right. Thank you. You're
9 free to step down and leave the courtroom.

10 Is this witness subject to recall?

11 MR. STEGE: Yes.

12 THE COURT: All right. Ladies and Gentlemen,
13 during this recess please do not discuss this case
14 amongst yourselves. Please do not form or express any
15 opinion about this matter until it has been submitted to
16 you.

17 We will stand for our jury. I intend to
18 return to the courtroom in 15 minutes.

19 (Jury leaves courtroom.)

20 THE COURT: I'll just note for the record that
21 I have observed during this first session of trial that
22 Mr. Goad is drinking water, there have been nominal
23 interactions with counsel. He stands with us as
24 appropriate, just waved at me, and appears to be

1 participating in some measure in this proceeding.

2 See you in 15 minutes.

3 (Short break.)

4 THE COURT: Let's begin writing. We just had
5 an off-the-record quick conversation about the schedule
6 of witnesses and how long lunch should be and when lunch
7 should begin.

8 And then to the defense you mentioned
9 something about the Court's canvass of Mr. Goad, and I
10 do want to capture this on the record. My practice is
11 after the State rests, I excuse the jury, and I canvass
12 the accused out of the jury's presence, of course.

13 Are you suggesting something different?

14 MR. SLOCUM: Your Honor, my concern is only to
15 give Mr. Goad the opportunity, should he wish to have it
16 after your canvass, about whether or not he should
17 testify.

18 THE COURT: Oh, 100 percent. After I canvass
19 Mr. Goad I will give you time to consult with him
20 privately and I will give him time to reflect.

21 MR. SLOCUM: Thank you very much.

22 THE COURT: Okay.

23 MR. STEGE: And the schedule thereafter,
24 whenever both sides rest, are we going to close tomorrow

1 morning?

2 THE COURT: Depends on what happens this
3 afternoon with the defense case and what time -- let me
4 just think for a moment, because I want to -- I want to
5 think about why you've asked the question which is I
6 presume time to prepare the closing?

7 MR. STEGE: Prepare the closing, argue, if
8 necessary, instructions.

9 THE COURT: Is your preference that regardless
10 of what time we finish this afternoon we instruct and
11 argue tomorrow morning?

12 MR. STEGE: Yes.

13 MR. SLOCUM: That's fine, your Honor.

14 MR. STEGE: It's a better product on all
15 sides.

16 THE COURT: All right. I'll certainly
17 consider that as the afternoon unfolds.

18 The jury, please.

19 (Jury returns to the courtroom.)

20 THE COURT: The jury is present. And to the
21 State, you may continue.

22 MR. STEGE: Elvira Koeder.

23 DEPUTY: Stand up there, face the clerk.

24 COURT CLERK: Please raise your right hand.

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ELVIRA KOEDER,
called as a witness herein, being first
duly sworn, was examined and testified
as follows:

COURT CLERK: Thank you.

THE COURT: Counsel.

DIRECT EXAMINATION

BY MR. STEGE:

Q Hello. Please state and spell your name.

A Elvira Koeder. E-l-v-i-r-a K-o-e-d-e-r.

Q How are you currently employed?

A I'm employed at the Forensic Science Division
in the Washoe County Sheriff's Office.

Q And what do you do within the Forensic
Science Division?

A I'm a criminalist who performs duties such as
processing crime scenes and latent print processing, I
do examinations as well as I'm also cross-referencing in
the DNA section. And there I process anything that has
to do with biological material for the presence of
certain biological material.

Q And how would you -- what training and

1 experience do you have in this field?

2 A I have a Bachelor's and a Master's in
3 Biotechnology from the University of Nevada, Reno. In
4 my training in the crime lab included the DNA training
5 portion, and there was training in the primary
6 examination specifically where I had to perform
7 successfully oral and written examination and a
8 competency testing in the disciplines, and also in the
9 forensic investigation section where I had to complete
10 the same written, oral and -- written, oral and
11 competency testing.

12 Q And is that -- is your training since you've
13 been in the division ongoing? Do you have periodic
14 trainings within the field?

15 A Yes. Since I've been employed since 2009 in
16 the crime lab anyway we had a proficiency test that all
17 the analysts had to compete in their qualified
18 discipline.

19 Q You said since 2009 --

20 A Yes.

21 Q -- you've been. Did you respond to 33 Park
22 Street on February 13th of 2019?

23 A Yes, I did.

24 Q We've heard from Detective Kazmar about his

1 observations and the collection of evidence within
2 Apartment 205. Did you have a role in that?

3 A Yes, I was requested at the scene of 33 Park
4 Street Apartment 205 to process the hallway and the
5 interior of the Apartment 205.

6 Q And part of the processing is the taking the
7 photographs of the scene.

8 A Yes. That includes the photography of the
9 scene and preservation, evidence collection at the
10 scene, as well as diagramming and -- and certain testing
11 like latent processing or presumptive testing.

12 Q And so we've seen in this trial a number of
13 exhibits that have yellow placard numbers within them.
14 Are you the person who marks all the placards?

15 A Yes. And I use the placards to identify
16 certain items and it will be easier than later in the
17 diagram, or also in the photographs to identify certain
18 items.

19 Q And so the photographs we saw with Detective
20 Kazmar, they were likely yours.

21 A Yes.

22 Q Right. Because Detective Kazmar's not taking
23 photographs at the same time you are, your -- one of
24 your primary duties is photographing the scene.

1 A Yes. The process for me as I take overalls
2 of the initial crime scene, and then I place the
3 placards as identified -- as identification markers next
4 to items that I'm interested in in collecting or
5 processing, and then I'll take those orders again with
6 the placards on them.

7 Q And so you -- in this case Detective Kazmar
8 and you were working together on the scene or sort of
9 have concurrent roles.

10 A Yes.

11 Q Let's move beyond photographs. Was there
12 evidence that you collected in this scene? And let's
13 talk in broad materials as, like, tangible items from
14 within the apartment that you took and bagged up and
15 booked into evidence.

16 A Yes. There were red stains that I collected.
17 There were a pair of scissors that I collected,
18 actually, a few pair of scissors because they were in
19 different locations, a pair of knife, a towel, cigarette
20 butts, ashtray, beer cans.

21 Q Were there some, like, cards or ID-type
22 cards, business cards?

23 A Yes. There were business cards or ID,
24 identification cards, yes.

1 Q And tell us about the process of -- once you
2 collect those, what happens to them?

3 A So once they're photographed and collected,
4 you mean at the scene?

5 Q At the scene, right. So you photograph it in
6 place.

7 A Uh-hum.

8 Q Then you collect it. And how does it get
9 into evidence, into the evidence vault?

10 A I place the item into a clean packaging
11 material, and it depends what the item is, for example,
12 the business cards I would place them in clean envelope,
13 mark the envelope with identification marker or the
14 placard number, my initials, the agency, the date I
15 collected it, and then I would transport all those
16 evidence items collected in clean packaging into the
17 crime lab where I would seal them and enter them into
18 our database system, and then transfer them into a
19 secured storage area either within the forensic
20 investigation section garage or our evidence section in
21 the lab.

22 Q And so, for example, you mentioned a towel.
23 Was that a -- there is a towel hanging in the bathroom
24 or a towel, sorry, underneath the sink that appeared to

1 have red/brown staining, that item you collected?

2 A Yes, I did.

3 Q Booked it into evidence?

4 A Yes, I did.

5 Q A number of pairs scissors collected and
6 booked into evidence?

7 A Yes.

8 Q Including the ones by the body?

9 A Yes.

10 Q And cigarette butts and these remaining items
11 you talked about were all physically taken and booked
12 into evidence.

13 A Yes.

14 Q You mention staining. It's true there was --
15 you've seen photographs of some red/brown staining or
16 blood red staining within the apartment.

17 A Yes. There was significant staining around
18 the decedent, on the wall, on the dresser, and
19 throughout the apartment, in the bathroom, and also in
20 the hallway across the Apartment Number 205.

21 Q And so within the photographs of the scene we
22 see little tape flags or colored flags with numbers or
23 letters written on them. Are you the person who places
24 those there?

1 A I did. I call them markers. And I numbered
2 certain red staining on the walls and the dresser that I
3 observed. And the reason why I mark them differently or
4 with different numbers was because they were -- because
5 of their directionality, they were going in different
6 directions, and they were of different sizes, so I would
7 select or mark them and first photograph them in place,
8 and then select a certain area or representative area
9 and swab those stains.

10 Q And what does it mean to swab the stains?

11 A So in this case the red staining was dry, so
12 I applied a wet -- one wet and one dry sterile swab to
13 the area of interest, and I swabbed them simultaneously,
14 the stain, and then I collected it and I used a clean
15 sterile swab box.

16 Q And that swab then --

17 A To preserve the swabs.

18 Q And the swab then goes into evidence in case
19 -- or in the event that it's used for further testing.

20 A Yes.

21 Q So these areas you've testified about were
22 the red -- blood red staining was observed, those were
23 collected, swabbed and collected for evidence?

24 A That's correct.

1 Q Were you also looking for the question of
2 residual swab? What's a residual swab?

3 A So residual swabs are the term that we use to
4 collect touch DNA. And when a person touches an object,
5 a residual or a residue is left behind, and this is what
6 we refer to as residue swabs.

7 When I go in and swab that area, for example,
8 in this case, I swabbed the exterior and interior of
9 front door handles, the exterior and interior bathroom
10 handles, as well as the dial knob off the AC unit, and
11 the handle off the bathroom faucet.

12 Q And you -- in touching, you don't always know
13 if someone touches something if their DNA is going to be
14 left behind?

15 A No, I -- you can't see DNA visibly on a door
16 handle but, yes, I did swab it because I didn't know if
17 somebody -- if that door knob was touched or not.

18 Q And this is the similar process as the blood
19 red staining, you swab it, collect the swabs, preserve
20 them and book them into evidence for --

21 A Yes.

22 Q -- potential future testing.

23 A Yes, a method system.

24 Q Also collected at the scene was a cigarette

1 packet; is that right?

2 A That's correct.

3 Q And why was that collected or?

4 A That cigarette packet was collected because
5 it had also red staining, and not only red staining but
6 it also had a visible patent print. And a patent print
7 is a fingerprint left in a material, either a liquid,
8 paint, or something oily. And in this case I collected
9 it because I noticed the patent print on the exterior of
10 the cigarette pack.

11 Q And just because you observe one doesn't
12 necessarily mean that that patent print is of suitable
13 quality to be tested against other fingerprints. Right?

14 A Yeah, that is a possibility.

15 Q Did you also use a Hemastix?

16 A Yes. A Hemastix is a presumptive test that
17 we use to test possible, the possible presence of blood.

18 Q Is it conclusive as to whether the substance
19 is blood?

20 A No, it's not conclusive. There is a
21 confirmation test done at the lab. But at the scene
22 this is the easiest and quickest test for me to guide me
23 in the right direction to say okay, I am -- this is a
24 positive for possible blood, and I will collect this

1 item, and then further analysis will be done at the lab.

2 Q And so, for example, in this case at marker 7
3 you use a red stain on the southeast corner of wall
4 under the bedroom dining area you've performed a
5 Hemastix on that.

6 A Yeah. And the reason why I performed the
7 Hemastix that the special red stain is because it didn't
8 look similar to the other ones it, was a little bit out
9 of place as well because most the stains were observed
10 on the dresser and this was in the corner of the
11 southeast wall of the bedroom and the living room area.
12 And I photographed it, I tested with a Hemastix test,
13 and I collected it.

14 Q And it was -- the result was what, positive
15 or negative?

16 A It was positive for Hemastix for the possible
17 presence of blood.

18 Q You also performed Hemastix on the red
19 staining of the bathroom sink countertop.

20 A Yes, I did.

21 Q And what was the result of that?

22 A The result was positive for the possible
23 presence of blood.

24 Q And so all the evidence collected ultimately

1 went up to the vault at the crime lab.

2 A To the evidence section of the crime lab,
3 yes.

4 Q Evidence section, okay. You also -- once you
5 got to the lab was there additional work you did on some
6 of the evidence?

7 A Yes. Once it is packaged, properly sealed
8 and entered into our database system and submitted to
9 the evidence section, I also do further analysis, for
10 example, latent fingerprint processing, and this was
11 done in some -- for some items.

12 Q Right. So you mentioned the primary
13 examination in DNA. Can you tell us what that is?

14 A The primary examination in our crime lab
15 includes the processing of any biological fluids that
16 are present on an object of evidentiary item.

17 Q Did you process a pair of black-handled
18 scissors with red staining located at Placard 5 near the
19 body of the deceased?

20 A I did.

21 Q And what processing did you conduct?

22 A I started with a visual examination and I
23 observed red staining on the tip of the scissors, of the
24 blade of the scissors, and I processed -- or I swabbed

1 that area.

2 I also processed the scissors for latent
3 processing on the blade of the scissors and the handle
4 of the scissors. And also I collected residual swabs
5 from the blade of the scissors and the handle of the
6 scissors.

7 Q Okay. Let's talk about those separately.
8 Which occurs first, fingerprint processing or residual
9 DNA or the DNA portion?

10 A So in this case I actually collected the red
11 staining on the tip of the scissors first because the
12 red -- the red staining was flaky and I didn't want to
13 lose any evidence so I only swabbed the red staining
14 before -- for any latent print processing so -- and then
15 I have to perform latent print processing first because
16 once I swab -- swab an area I can eliminate some
17 possible fingerprints on the item. So in this case I
18 process the latent print -- the scissors for latent
19 prints first, and then swabbed it for residual DNA.

20 Q And the latent print processing, does that
21 disturb in any way the DNA portion of the item of
22 evidence?

23 A No, it does not. It does not take anything
24 away.

1 Q What is the process for the DNA or, I'm
2 sorry, the fingerprint development? Was it done?

3 A So after visual examination I processed it
4 with a method called cyanoacrylate glue, and which is
5 also commonly known as the super glue method. And it's
6 a method that combines the fuming or the vapor of the
7 super glue and humidity, and the reaction causes it to
8 adhere to the amino acids, fatty acids or proteins in
9 the fingerprint possibly located on the item.

10 Q So you did that process on the scissors with
11 red staining?

12 A I did.

13 Q And did you also do that with respect to the
14 knife located on the bathroom counter?

15 A Yes, I did.

16 Q So after the fingerprint processing, you then
17 do the DNA section portion.

18 A Yes.

19 Q Let's talk first -- let's go back to the
20 scissors. What areas -- you had already swabbed the red
21 blood -- blood red tip.

22 A Uh-hum.

23 Q What do you do to process the rest?

24 A So after that I processed it via the

1 cyanoacrylate esters fume method. And then I took
2 photograph of what I observed, if something was
3 observed. In this case I did not observe any ridge
4 detail.

5 Q And what does that mean to observe no ridge
6 detail?

7 A So I didn't -- I didn't find any -- so ridge
8 detail or fingerprint is the finger skin ridge detail
9 that you see on your fingertips or the palm of your
10 hand. And I did not see any of the ridge detail on the
11 -- on the blades or the handle of the scissors.

12 Q But then you process it for DNA.

13 A So yes. This part I process for residual
14 swabs and in this case I take, once again, a sterile wet
15 and dry swab and apply to the area of interest, in this
16 case it was the scissors blades that I swabbed
17 separately avoiding the red staining, and then I did the
18 same thing with the ham of the scissors also avoiding
19 the red staining, and then just trying to collect
20 possible residual DNA.

21 Q What about the knife, what were the results
22 of the super glue fuming with respect to the knife?

23 A So I did not observe any fingerprints of
24 value for comparison on the knife as well.

1 Q And so then you move to the DNA portion of
2 the knife. What areas did you swab on the knife?

3 A I swabbed the red staining separate on the
4 knife which was between the blade and the handle of the
5 knife. And then also I swabbed the blade of the knife
6 separately for residual DNA, as well as the handle of
7 the knife for residual DNA.

8 Q And so one portion you're looking at the
9 apparent blood and swabbing that. The next portion
10 you're doing the part without blood that's the blade.

11 A Yes.

12 Q And the third being the handle.

13 A Yes.

14 Q And the handle being for residual.

15 A Yes.

16 Q And those swabs and samples were all further
17 booked into evidence and by you.

18 A Yes.

19 Q And is there a -- I use a term primary DNA.
20 Is that a secondary DNA section?

21 A Yes. This is where the -- the DNA profile
22 will be established, so I'm not qualified to speak to
23 that.

24 Q Right. But you do the first process, then

1 the samples are preserved and go to the second process.

2 A Yes.

3 Q In this case, Ms. Siewertsen.

4 A Yes.

5 Q The business -- there were three business
6 cards and two ID cards in the name of Mr. Gibson with
7 red staining. Were those similarly swabbed?

8 A Yes. May I refer to my report?

9 Q Would it refresh your recollection?

10 A Yes, it will.

11 THE COURT: So the witness may refer to it
12 privately but not testify directly from it or be
13 examined upon it until further order of the Court.

14 THE WITNESS: Thank you.

15 BY MR. STEGE:

16 Q If you'll review that. Does that refresh
17 your recollection?

18 A Yes.

19 Q Did you do a swabbing of those cards?

20 A I swabbed to the Veterans ID card because it
21 was a laminated card so I did swab that one. The other
22 business cards were the paper product so I had to use a
23 different method. I did not swab those, I chemically
24 processed them with a hydrogen which is a similar method

1 like I described before where the chemical adheres to
2 the amino acids in the fingerprint.

3 Q Okay. So you were looking in both of those
4 cases for fingerprints and collecting DNA swabs.

5 A Yes.

6 Q Did any of the items -- well, similar to the
7 DNA having a two-step process does the fingerprint
8 process have the same two-step process or a similar one?

9 A Yes. There is a latent print processing
10 method which I did in this case and there's also latent
11 fingerprint examination or confirmation.

12 Q And on the majority of the items were, were
13 there latent impressions that were of value for
14 comparison?

15 A On the -- on the porous business cards, I
16 mean the porous paper of the business cards they were
17 possible fingerprints of value for comparison, but they
18 were forwarded to the comparison section.

19 Q And are you aware of the results of whether,
20 in fact, they were able to be compared?

21 A I can not speak to the latent print
22 examiner's report on this.

23 Q But you have seen it.

24 A I have seen it, yes.

1 Q And you're aware that --

2 MR. SLOCUM: I'm going to object, your Honor.

3 She just said --

4 THE COURT: Sustained.

5 BY MR. STEGE:

6 Q The cigarette packet, was that also swabbed
7 for potential DNA, residual DNA?

8 A May I refer to my report for this?

9 Q If it refreshes your recollection.

10 A Yes, it will. Thank you.

11 Q Does that refresh your recollection?

12 A Yes. So the cigarette pack was swabbed for
13 red staining.

14 MR. STEGE: May I approach the witness?

15 THE COURT: Yes.

16 BY MR. STEGE:

17 Q Ma'am, I'm handing you proposed Exhibit 36.

18 A Okay.

19 Q Do you recognize that item?

20 A Yes, I do. Sorry.

21 Q How is it that you recognize it?

22 A I initialed the packaging with my initials,
23 and this was collected by me on February 13th at 33 Park
24 Street, Apartment 205.

1 Q And the handwriting being yours?

2 A Yes, that's my handwriting.

3 Q Indicating that you are the person who
4 collected it --

5 A Yes.

6 Q -- and booked it. There's some red tape on
7 that box. Tell us about what kind of red tape is.

8 A So this is red evidence seal tape and I seal
9 the box to prevent anything from either escaping or
10 entering the box. And then I initial the label or the
11 -- sorry, the seal.

12 Q If anyone else had opened that it would have
13 a broken seal and that would be visible.

14 A That's correct.

15 MR. STEGE: And move to introduce this
16 exhibit.

17 MR. SLOCUM: No objection.

18 THE COURT: It is admitted, Ms. Clerk.

19 COURT CLERK: Thank you.

20 (Exhibit 36 is admitted into evidence.)

21 BY MR. STEGE:

22 Q Within this box what would you expect to --
23 what's in the box?

24 A So in this box there is one pair of Office

1 Depot scissors of black handle with red staining, and it
2 was collected from the bedroom dining area.

3 Q From the placard near the body.

4 A Yes. Placard Number 5.

5 Q You put on gloves before handling that box.
6 Why did you do that?

7 A Because I labeled it with a biohazardous
8 label when I packaged it and I know that there is red
9 staining, so possible blood on the scissors.

10 Q You don't want to touch the blood.

11 A And I don't want to add my fingerprints to
12 the scissors, either.

13 Q Okay. Is there -- the chemical process you
14 used, is there a residual super glue on that as well?

15 A Yes. There is a label saying "Caution
16 evidence chemically treated, handle with gloves." And
17 this is because I did treat it with chemicals during the
18 latent print processing examination.

19 Q And so in its state if you were to touch it
20 with your bare hand would it -- what would happen?

21 A You could just get chemicals transferred onto
22 your skin.

23 Q Okay. Maybe best not to open it --

24 A Yes.

1 Q -- unless you're wearing gloves.
2 Do you recognize Exhibit 37?
3 A Yes, I do.
4 Q You recognize it?
5 A Yes. It is the one knife with a black handle
6 with red staining, and was collected from top of the
7 bathroom countertop. And it has my initials on it, the
8 date I collected it, February 13th of 2019, and the
9 address is 33 Park Street, Apartment Number 205, and the
10 Reno PD agency case number 19-3098.
11 Q Okay. It bears the evidence seals as well.
12 A Yes. It has -- I sealed it and I initialed
13 it. I also added the biohazardous label and the
14 chemical treated label on the packaging.
15 Q For the same reasons?
16 A For the same reasons.
17 Q And this is the fixed blade knife that we --
18 that was recovered from the -- from that counter.
19 A That's correct.
20 MR. STEGE: I move to introduce this exhibit.
21 THE COURT: Would you tell me the number,
22 please.
23 MR. STEGE: 37, your Honor.
24 MR. SLOCUM: No objection.

1 THE COURT: 37 is admitted, Ms. Clerk.

2 COURT CLERK: Thank you.

3 (Exhibit 37 is admitted into evidence.)

4 MR. STEGE: I'll pass the witness.

5 THE COURT: To the defense.

6 CROSS-EXAMINATION

7 BY MR. SLOCUM:

8 Q Good morning.

9 A Good morning.

10 Q So you actually went out to the scene to --
11 to perform your duties; is that right?

12 A That's correct, yes.

13 Q And it's fair to say when you entered the
14 apartment that there's a fair bit of blood that you're
15 able to see strewn on the wall?

16 A Yes.

17 Q Did you make note of the carpeting that was
18 -- upon which the body was laying?

19 A I documented it in my photographs, yes.

20 Q But I'm not talking about the photographs,
21 now, I'm interested to find out your observations
22 personally.

23 A Okay.

24 Q Okay? Did you observe the carpeting to

1 actually be saturated and wet?

2 A Yes, it was because once the decedent was
3 moved, I collected red staining from underneath the
4 decedent as well.

5 Q Okay. Now I'm asking a slightly different
6 question. So I'm talking about with the body laying on
7 the carpet --

8 A Uh-hum.

9 Q -- did you observe the area around the body
10 to be wet?

11 A I did not test it for wetness or dryness. I
12 can go by the documentation through my photographs.

13 Q Okay. But I'm asking here about your
14 observation that it was so saturated that you would have
15 been concerned about spreading the blood even further.

16 A I wasn't concerned about spreading the blood
17 because I tried to avoid the -- you know, stepping into
18 evidence, so no, I wasn't concerned about that.

19 Q Okay. So -- and this is what you do, right?
20 I mean --

21 A Yes.

22 Q -- your job is to preserve the evidence and
23 the scene as it is. Correct?

24 A Yes.

1 Q So you would want to, of course, know if the
2 -- if the carpet is saturated because if you -- if you
3 note that the carpet's saturated you're not going to
4 want to step there. Right?

5 A That's correct.

6 Q But in this case you didn't have any concern
7 about that, is that fair to say, because the carpet
8 really wasn't saturated?

9 A I don't know if the carpet was not saturated
10 or not because I didn't remove the carpet to see what's
11 underneath the carpet.

12 Q Right. And I'm not -- I'm not asking for --
13 for you to tell us today about if this was saturated.
14 I'm actually interested in your testimony regarding
15 whether or not you made note of it. And that's the sort
16 of thing that you would have made note of.

17 MR. STEGE: Objection to the form of the
18 question.

19 THE COURT: Question's pretty complex. I'm
20 going to overrule and determine if the witness is under
21 -- the witnesses understands enough to answer. If not,
22 I'm going to refuse it.

23 MR. SLOCUM: All right.

24 THE COURT: Ma'am, do you understand the

1 question?

2 THE WITNESS: I understand. I believe I
3 answered it.

4 THE COURT: All right. But I'm going to have
5 you answer it again to the defense satisfaction. Go
6 ahead, please.

7 THE WITNESS: Okay. So when I enter a crime
8 scene, I -- of course I observe everything, but I also
9 document everything through my photographs, so it should
10 be documented in my photographs.

11 BY MR. SLOCUM:

12 Q Okay. So -- so if someone were, for example,
13 to say oh, you can't see this really in the photograph
14 but it was really saturated there, you would have issue
15 with that?

16 A Well, the saturation also is -- if it seeped
17 through the carpet, that's what you're talking about,
18 right?

19 Q Well, I'm talking specifically about -- your
20 job is to document the evidence and you've been very
21 clear about that.

22 A Yes.

23 Q And so to the extent that your job is to
24 document evidence, it would not be a fair statement to

1 saw you can't really see this, however, this carpet was
2 really -- was really saturated.

3 A So I observed red staining around the
4 decedent on the carpet, yes, but I can not speak to the
5 saturation because I did not remove the carpet and look
6 to see how -- how saturated it was.

7 Q Okay. Was the blood dry on the carpet?

8 A I don't recall.

9 Q Is that the sort of thing that you would have
10 made note of?

11 A No, not necessarily because it depends -- I
12 don't know how long the body or the red stain was there,
13 so not necessarily.

14 Q So you didn't know how long it was there.

15 A No.

16 Q Would whether or not the blood was dry or not
17 assist you in making that determination?

18 A The blood stains that I observed throughout
19 the apartment were dry. When the body was removed by
20 the medical examiner, yes, the blood staining, or the
21 red staining, sorry, red staining underneath the body
22 was wet.

23 Q And I'm speaking now about the before you
24 removed the body. So we're not talking about where the

1 body was found, but around the body on the carpet, and
2 the question is --

3 A Okay.

4 Q -- whether or not that was dry or not.

5 A That area was dry, yes.

6 Q Now, I also want to ask you about some --
7 some red staining that was actually out in the hallway.

8 A Okay.

9 Q You also made some -- some observations about
10 some red staining in the hallway; is that right?

11 A Yes. There were some red staining on the
12 wall across from Apartment Number 201, across from
13 Apartment 203, and across from Apartment 205. And there
14 was along the north wall of the hallway.

15 Q And are these the sorts of stains where you
16 would have used a Hemastix?

17 A No, not necessarily because they looked
18 consistent with the red staining that is consistent with
19 dried -- the color of dried blood so I did not
20 necessarily have to test it with -- with the Hemastix
21 presumptive test.

22 Q Okay. So with the naked eye you can see
23 whether or not that's blood or not?

24 A No. I can see if it's red staining that is

1 consistent with possible blood, the color of possible
2 blood.

3 Q And you can see that with the naked eye.

4 A Yes, because I've been doing this for quite
5 sometime.

6 Q Okay. I just want to make sure we're clear
7 about this. So when you looked at those stains,
8 although you marked them, you looked at them and said
9 that's -- that can't be blood because it doesn't have
10 the right color.

11 A Yes. If it's like orange in color or pink in
12 color, then I would not even collect that, or test it.

13 Q You would --

14 A Because it's not consistent with the color of
15 possible blood.

16 Q Okay. So you would mark it on the wall, you
17 would photograph it.

18 A Uh-hum.

19 Q But then you wouldn't do any type of further
20 testing.

21 A Yeah, I would take -- I would probably take a
22 picture, a photograph, yes.

23 Q Do you recall if you did that in this case?

24 A In this case in the hallway specifically?

1 Q Yes.

2 A I saw that the red staining and I marked it,
3 photographed it, and also collected it.

4 Q Okay. So those stains you did -- you did
5 collect.

6 A I did.

7 Q Okay. But the question I was asking was
8 whether or not you would have used Hemastix to determine
9 whether or not that was blood.

10 A No because I did not -- I only used Hemastix
11 on something is not consistent with what I'm seeing, and
12 I try to, you know, collect it or test it, and it's
13 presumptive test. If it's -- if the result would be
14 negative, then I would not collect it, but in this case
15 it looked consistent with, which in my experience I
16 believed to be possible bloodstains in the hallway so I
17 did collect them.

18 Q Okay. So if I'm understanding what you said
19 correctly, if -- if the naked eye, to you with the naked
20 eye you look at it and it appears to be blood, you've
21 been doing this a long time so you're gonna collect it.

22 A Yes, that's correct.

23 Q But you're gonna use Hemastix when what --
24 what you're seeing is not consistent with what?

1 A With the color. So sometimes it's more blood
2 can appear in color more brownish, or -- or more on the
3 red side. And the areas that I tested in the apartment,
4 inside the apartment I wasn't sure so I went ahead and
5 tested this with the presumptive test.

6 Q Okay. So -- and just to make sure that I'm
7 understanding your testimony correctly, there's a range
8 of colors. There's some at the far, the far end, and
9 you can identify them with your naked eye and say that's
10 not blood.

11 MR. STEGE: Objection, form of the question.

12 THE COURT: I'm going to overrule it. Your
13 questions do become complex and multidivergent.

14 MR. SLOCUM: This witness has been doing this
15 a long time, though.

16 THE COURT: So just remember to always tighten
17 your questions and wait, let the witness answer. But it
18 is overruled.

19 BY MR. SLOCUM:

20 Q So if I'm understanding your testimony
21 correctly there's a range, correct? Of colors.

22 A Yes.

23 Q Okay. At one end with the naked eye you can
24 look at this and say this is not consistent with blood,

1 I've been doing this a long time. Is that fair to say?

2 A Yes. I would say red staining, yes.

3 Q At the other end are colors that are to you
4 so clear that they're blood that you don't have to test
5 them, you're gonna go ahead and collect them; is that
6 right?

7 A Yes. I'm going to collect them, but at the
8 lab we can still do confirmatory testing. So I'm not
9 just blindly collecting something and then we're saying,
10 you know, this is blood. There will be other tests
11 available that can be done in the laboratory.

12 Q And, ma'am, honestly I just want you to
13 answer my question.

14 MR. STEGE: Argumentative.

15 THE COURT: Overruled.

16 BY MR. SLOCUM:

17 Q In the middle between the two ranges are
18 these areas where you use the Hemastix; is that right?

19 A Yes.

20 Q And that's the point of using the Hemastix.
21 Is that fair to say?

22 A Yes. I could have used it throughout the
23 whole apartment, but I would be wasting my time testing
24 every single little stain that I see.

1 Q Okay. Why do you say that would be a waste
2 of time?

3 A Because there were so many stains, and I know
4 some stains were definitely consistent with -- with red
5 staining that look, in my experience, from my work
6 experience, similar to the color of red staining of
7 blood.

8 MR. SLOCUM: Okay. If I could just have the
9 Court's indulgence.

10 No further questions. Thank you.

11 THE COURT: Thank you. You may redirect.

12 REDIRECT EXAMINATION

13 BY MR. STEGE:

14 Q Well, and part of the reason it's a waste of
15 time is because all the swabs you collect can be
16 examined at the lab.

17 A Exactly.

18 Q In what way?

19 A So we do a presumptive testing which is also
20 called the Kastle-Meyer or phenolphthalein test that is
21 more specific than the Hemastix test. The Hemastix
22 test, like I said before, is just a quick and easy test,
23 a presumptive test to do in the field. And then when we
24 bring back the evidence into the lab, we do another

1 presumptive test which is a Kastle-Meyer or a
2 phenolphthalein test. And also then we can do a
3 confirmatory test which is the Hemastix test, and that
4 specifically tests for human blood, for the presence of
5 human blood.

6 Q So you have a, sounds like a wide range of
7 tests available to determine if a stain is, in fact,
8 human blood.

9 A Yes.

10 Q And the Hemastix, is that of the ones you
11 mention, on the lower end of a reliability or lower end
12 of use?

13 A Yes. But it's -- in the field it's the most
14 convenient because it's portable, it's easy and quick to
15 test in the field, whereas, all the other chemicals or
16 presumptive tests are confirmatory tests, they need --
17 there's a process involved with those tests and they
18 take longer. To do those kind of tests in the field
19 would take a lot of time.

20 And if I may add, in the testing in the
21 laboratory it's a controlled environment, sterile
22 environment. In the field I can not perform these tests
23 necessary with possibly contaminating something.

24 Q Within the layers of questioning I missed if

1 there were any stains that you observed or suspected
2 were blood that were not collected. Like were there any
3 of these close-in-color ones that weren't tested or
4 weren't collected?

5 A I don't recall if I saw anything that was
6 pink or orange that I did not collect, but I collect --
7 I decided to collect these stains that I collected at
8 the scene and then bring them back rather than not
9 collecting them at all and then not having the evidence
10 available, the possible evidence available.

11 Q Right. Rather err on the side of caution,
12 collect it, and then do further testing if necessary.

13 A That's correct.

14 Q The -- as to the stains in the hallway that
15 -- those were collected.

16 A Those were collected, yes.

17 Q Saturation, on cross-examination that term
18 saturation was used quite a bit.

19 A Uh-hum.

20 Q Is that a term you use within your field?

21 A Not necessarily, but I would use it to
22 describe the condition of something if I had removed it
23 and examined it or if the carpet was not -- not examined
24 by me in detail. I did not cut out a piece of carpet

1 and looked under the carpet to see what's.

2 Q You've been doing this a while. Have you
3 ever been on any other murder scenes or scenes with a
4 corpse?

5 A Yes, I have.

6 Q Is it more than you can count?

7 A Yes.

8 Q Would you expect underneath a body with
9 apparent stab wounds there to be fluid or blood?

10 A Yes.

11 Q Given the amount of blood that you saw on
12 this scene would you have expected there to be blood
13 under the body?

14 A Yes.

15 Q And I think you did say that blood underneath
16 the body was wet.

17 A Yes. When the medical examiner removed the
18 body I photographed the area of the body, and that area
19 was, was wet.

20 Q On the -- back to the saturation issue. As a
21 matter of course do you make it -- when you're on a
22 scene do you prefer to step in blood or step around
23 blood?

24 A I prefer to step around blood.

1 Q And that's what you try to do.

2 A Yes.

3 MR. STEGE: Okay. Nothing further. Thank
4 you.

5 THE COURT: Recross.

6 RECROSS EXAMINATION

7 BY MR. SLOCUM:

8 Q So if I understood your testimony correctly,
9 you had the option to cut out a piece of the carpet and
10 you chose not to do that. Is that fair to say?

11 A That's fair to say, yes.

12 MR. SLOCUM: No further questions, your Honor.

13 THE COURT: All right. Thank you. You're
14 free to step down and leave the courtroom.

15 THE WITNESS: Thank you.

16 THE COURT: Ladies and Gentlemen, will you
17 stand for a moment and relax while I have a side bar
18 with counsel?

19 (Side bar not reported.)

20 THE COURT: Your next witness.

21 MR. STEGE: Madison Dahlquist.

22 COURT CLERK: Please raise your right hand.

23 MADISON DAHLQUIST,

24 called as a witness herein, being first

1 duly sworn, was examined and testified
2 as follows:

3
4 COURT CLERK: Thank you.

5 THE COURT: Be seated, please, and remember to
6 speak into the microphone.

7 THE WITNESS: Yes.

8 DIRECT EXAMINATION

9 BY MR. STEGE:

10 Q Good morning. Please state and spell your
11 name.

12 A It's Madison Dahlquist. M-a-d-i-s-o-n
13 D-a-h-l-q-u-i-s-t.

14 Q How are you employed?

15 A The Washoe County Sheriff's Office, Forensic
16 Science Division.

17 THE COURT: So let me return to this
18 microphone. Either amplify your voice, we won't think
19 you're yelling at us, or speak into the microphone,
20 please. You have a soft voice and everyone in this room
21 needs to be able to hear you.

22 BY MR. STEGE:

23 Q We've heard testimony from Ms. Koeder. Is
24 she a colleague of yours?

1 A Yes, she is.

2 Q How long have you worked at the Forensic
3 Science Division?

4 A I've been with the Forensic Science Division
5 just over two years. I started in June of 2017 and I've
6 been with FIS, which is the Forensic Investigation
7 Section, since April of 2018.

8 Q Were you involved in the -- did you do some
9 work in -- at Apartment 213 of 33 Park Street?

10 A Yes, I did.

11 Q Along with Detective Kazmar.

12 A Yes, I did.

13 Q Did you collect evidence from that location?

14 A Yes, I did.

15 Q Now, we have seen in this trial the
16 photographs taken during that process, but -- and we've
17 heard testimony about the process of booking evidence or
18 collecting evidence. Could you tell us about what
19 specific evidence was taken and booked into evidence by
20 you from 213?

21 A There were numerous items of evidence. There
22 were some residual swabs. There was a towel with brown
23 staining. There --

24 Q Let's start with -- well, let's put to the

1 side swabs for now. Let's talk about tangible items
2 like things you might put in a bag.

3 A There was a pair of black Wrangler pants that
4 had brown and red staining. There was a gray sweatshirt
5 that had red staining. I did some singular track
6 samples. There was a baseball style hat, and another
7 jacket as well.

8 Q I'm going to ask you to speak up a little
9 bit.

10 A Okay.

11 Q Have you ever testified in district court
12 before?

13 A No, I have not.

14 Q Well, welcome. It's a please raise your
15 voice. A brown towel, where was -- I'm sorry, green
16 towel with brown stain. Where was that?

17 A That was collected in the back room in the
18 towel rack.

19 Q A gray in color weather-proof jacket, size
20 medium. Where was that collected?

21 A That was collected from atop a chair in the
22 living area.

23 Q A brown cigarette butt.

24 A That was from inside. That was on the

1 nightstand.

2 Q Gillette razor?

3 A That was in the bathroom on top of the
4 counter.

5 Q Why the razor?

6 A It could have possible DNA on it.

7 Q From the shaver?

8 A That's correct.

9 Q A pair of -- I want to draw your attention
10 specifically to a pair of black Wrangler pants, size
11 34/32. Where were those found?

12 A Those were found -- they were inside on the
13 top of a blue laundry-style bag, and that bag was next
14 to the dresser in the living area.

15 Q What did you do with the pants when you
16 collected them?

17 A I collected them with clean gloves and
18 handled the item as little as possible. I placed them
19 into a paper bag and took it back to the lab.

20 Q What did you do with it when you got back to
21 the lab?

22 A Once at the lab inside the FIS secure garage
23 there are cabinets which I only have the key to. I
24 finished the package, sealed the item up, and entered

1 into our lab management system. This process gives it a
2 unique item number that is specific to each item in that
3 case. And at this point the item was then released to
4 the agency.

5 MR. STEGE: Can I approach the witness?

6 THE COURT: Yes.

7 BY MR. STEGE:

8 Q I'm holding here for you proposed Exhibit 34.
9 Do you recognize this proposed exhibit?

10 A Yes, I do.

11 Q How?

12 A That's my handwriting. It's my item
13 description.

14 Q Item description being the pants.

15 A That's correct, black Wrangler pants.

16 Q What is the condition or, I guess,
17 cleanliness of these particular pants?

18 A They have red and brown staining.

19 Q Do you advise opening it in court?

20 A I mean, it could be a potential biohazard.

21 Q And where is the brown staining?

22 A Brown staining is at the top of the pants
23 more on the inside kind of like where you would find a
24 tag.

1 MR. STEGE: Move to introduce Exhibit 34.

2 MR. SLOCUM: No objection.

3 THE COURT: 34 is admitted, Ms. Clerk.

4 COURT CLERK: Thank you.

5 (Exhibit 34 is admitted into evidence.)

6 BY MR. STEGE:

7 Q At the crime lab did you further document the
8 condition of those pants?

9 A Yes, I did.

10 Q How?

11 A On February 26, 2019, inside the secure FIS
12 garage I took photographs of the pants, showing the
13 general condition and staining of the item.

14 MR. STEGE: I move to introduce Exhibit 6
15 which has been admitted by stipulation, which it is a --

16 THE COURT: It has not been previously been
17 admitted, Ms. Clerk; is that correct?

18 COURT CLERK: Negative.

19 THE COURT: It is now admitted by stipulation
20 Exhibit Number 6.

21 COURT CLERK: Thank you.

22 (Exhibit Number 6 is admitted into evidence.)

23 MR. STEGE: May I publish --

24 THE COURT: Yes.

1 MR. STEGE: -- the exhibit?

2 BY MR. STEGE:

3 Q What do we see at page 1 of Exhibit 6?

4 A This is the pair of black Wrangler pants with
5 the brown and red staining.

6 Q Where do you see -- are you able to see the
7 red staining from this particular view?

8 A It's quite hard to see in this particular
9 view.

10 Q Oh, the brown staining.

11 A You can. It's at the top kind of underneath
12 where the scale is.

13 Q Can you circle it?

14 A (Witness circling Exhibit y.)

15 Q Let's go to page 2. What are we seeing here?

16 A That is the pants opened up so that you can
17 see the tag as well as that brown staining.

18 Q Do you know how to clear?

19 A I do not.

20 Q Bottom left corner. I can do it.

21 A My screen is now black.

22 Q Okay. Why did you document this particular
23 area of the pants?

24 A Just so that you could see that it is a pair

1 of Wrangler pants in the size, as well as that brown
2 stain.

3 Q Page 3, looks like we're moving down here.

4 A That is correct.

5 Q Showing the right pant leg.

6 A Yes.

7 Q Are you able to see in this photograph the
8 red staining?

9 A Yes, you are.

10 Q Could you indicate that, please, for the
11 jury?

12 A (Witness circling Exhibit 6.)

13 Q Was this -- going back to the scene was this
14 blood red staining visible at the scene?

15 A Yes, the red staining was visible at the
16 scene.

17 Q And I guess a better way to ask that is that
18 visible to the naked eye?

19 A Yes, it was.

20 Q Moving down to page 4. What is this?

21 A It's just further down a close-up view of
22 that same pant leg.

23 Q So a detail indicating the blood red stain?

24 A Yes, it is.

1 Q Is that -- that's in the middle of the
2 photograph here. Right?

3 A It's almost as full -- here.

4 Q Let's move to 5. It appears as though we're
5 transitioning to the left leg, front of the left leg.

6 A That is correct.

7 Q Page 6. We're now at a detail of the left,
8 front of the left leg.

9 A That is correct.

10 Q Was blood red staining visible to the naked
11 eye?

12 A Yes, it was.

13 Q Do you see it here?

14 A I do.

15 Q Would you indicate it, please.

16 A (Witness circling Exhibit 6.)

17 Q Now, we have -- I'm going to pause here for
18 sort of procedural question. We've heard about primary
19 DNA and secondary DNA. We've heard a presumptive
20 testing for suspected blood. Did you do any of that
21 process with respect to these pants?

22 A No, I did not.

23 Q But was that process ordered or was that --
24 was this item of evidence forwarded for that process?

1 A Yes, it was.

2 Q Page 7. What are we seeing here?

3 A That's the back view pants and overall view.

4 Q And are we, again, see detail both of the

5 left and right leg?

6 A Yes, you will.

7 Q Let's then go ahead to 9. The back of the

8 right leg.

9 A That's correct.

10 Q Was there blood red staining visible to the

11 naked eye?

12 A Yes, there was.

13 Q Do you see it here?

14 A Yes, I do.

15 Q Can you indicate it, please?

16 A (Witness circling Exhibit 6.)

17 Q Okay. Was there -- maybe an omission here

18 but was there -- do you recall there being blood red

19 staining on the back of the right leg?

20 A This is the back of the right leg.

21 Q I'm sorry. The back of the left leg.

22 A I do not recall. I'd have to see my

23 photographs.

24 Q Okay. Did you do a similar process with a

1 sweatshirt?

2 A Yes, I did.

3 Q Where did you find the sweatshirt?

4 A The sweatshirt was on top of a chair in the
5 living area of the residence.

6 Q Was that item also booked into evidence?

7 A Yes, it was.

8 Q Was it later photographed at the lab?

9 A Yes, it was.

10 Q Do you recognize what is Exhibit 35, which
11 I'm holding in front of you?

12 A Yes, I do.

13 Q How do you recognize it?

14 A It's the gray hooded sweatshirt.

15 Q And it's sealed with evidence tape?

16 A That is correct.

17 MR. STEGE: Move to introduce 35.

18 MR. SLOCUM: No objection.

19 THE COURT: 35 is admitted, Ms. Clerk.

20 COURT CLERK: Thank you.

21 (Exhibit 35 is admitted into evidence.)

22 BY MR. STEGE:

23 Q This also a biohazard?

24 A Yes, it is.

1 Q Why?

2 A There was red staining on the item.

3 Q You commented on the condition or cleanliness
4 of the pants. What about the sweatshirt?

5 A The sweatshirt had red staining on it so it
6 was further photographed at the lab just like the pants
7 were.

8 MR. STEGE: Move to introduce, your Honor,
9 Exhibit 7 which is -- we have a stipulation.

10 THE COURT: 7 is admitted, Ms. Clerk, by
11 stipulation.

12 COURT CLERK: Thank you.

13 (Exhibit 7 is admitted by stipulation.)

14 MR. STEGE: May I publish it?

15 THE COURT: Yes.

16 BY MR. STEGE:

17 Q Can you walk us through page 1 of this
18 exhibit?

19 A This is an overall photograph of the gray
20 hooded sweatshirt with red staining.

21 Q You used the term overall photo. What is an
22 overall photo?

23 A It just shows the entirety of the item.

24 Q Page 2.

1 A Zoomed in of the collar area to show that
2 it's a Hanesbrand.

3 Q Page 3?

4 A That is the right arm of the sweatshirt and
5 part of the body.

6 Q Was there -- you mentioned blood red staining
7 visible on this. Do you see that in this picture or do
8 we need to look at the close-ups?

9 A I can see it in this picture.

10 Q Will you indicate, please.

11 A (Witness circling spot in picture.)

12 Q Let's move to the next page, page 4. This is
13 a close-up, is that the term used?

14 A Yes, it is.

15 Q Of the right sleeve.

16 A That's correct.

17 Q With the visible blood red staining.

18 A Yes.

19 Q At 5. Where are we -- from the previous
20 picture, where are we?

21 A It's the same size just a little bit zoomed
22 out from the previous picture to include the upper arm
23 area.

24 Q Was there blood red staining on the upper arm

1 area?

2 A Yes.

3 Q Can you indicate, please?

4 A (Witness circling spot on picture.)

5 Q Let's move to 6. Are we now at a detail of
6 that upper arm area?

7 A Yes, we are.

8 Q 7 it appears we're transitioning to the left
9 arm?

10 A That is correct.

11 Q Was there on left arm blood red staining
12 visible?

13 A Yes, there is.

14 Q 8, is 8 a detail of that blood red staining?

15 A Yes, it's a detail of the red staining.

16 Q 9, orient us here as to 9.

17 A This is a flipped-over overall photograph of
18 the back of the sweatshirt.

19 Q Was there -- on the back of the sweatshirt
20 was there visible red staining?

21 A Yes, there was.

22 Q Now it looks like we're to now the back of
23 the left arm?

24 A That is correct.

1 Q And is 11 a detail of that?

2 A Yes, it is.

3 Q Do you see the blood red staining?

4 A Yes, I do.

5 Q And can you indicate it, please.

6 A (Witness circling spot on picture.)

7 Q I want you to try to clear again.

8 A Okay. With the reset button?

9 Q No, bottom left of the screen.

10 A Got it.

11 Q Thank you. Let's go to 12.

12 A That is the right side of the back of the

13 sweatshirt.

14 Q Well, where is there blood red staining on

15 this?

16 A There is red staining on this area. (Witness

17 circling spot in picture.)

18 Q Is that further indicated at page 13?

19 A Yes, it does.

20 Q After photographing this what did you do with

21 it?

22 A I packaged the item up, sealed it, entered it

23 into the lab management system, like I said, assigns it

24 a unique item number within a case, and then the item is

1 returned to the agency.

2 Q But did this item, in fact, go to further DNA
3 testing?

4 A Yes, it was submitted for testing.

5 Q You also -- the other items you collected at
6 the scene, they were all stored at the lab and available
7 for testing.

8 A That's correct.

9 Q As well as the swabbing?

10 A That is correct.

11 Q I think we had sort of moved past that. Can
12 you tell us briefly about the swabbing done or less
13 tangible evidence collection?

14 A At the scene I swabbed possible areas for
15 residual DNA so that would be touch DNA left on a
16 surface or an object. So I did the exterior and the
17 interior front door handles and locks, and then the back
18 room, exterior and interior door handles as to the water
19 control spot as well.

20 Q You also had -- let's transition to other
21 duties. Did you have any duties during the autopsy that
22 was performed on Mr. Gibson?

23 A Yes, I did.

24 Q And what were those?

1 A My duty I had at autopsy is to shadow the
2 doctor with photographs and take photographs at her
3 direction.

4 Q Do you also at the same time is there a staff
5 or a person from the Coroner's Office that is also
6 taking photographs?

7 A Yes, there is.

8 Q You brought evidence that comes out of
9 autopsy. What becomes of that?

10 A Some items of evidence I receive from the
11 technicians, other items of evidence I collect myself,
12 and then I take them back to the lab and do the same
13 packaging that I spoke of earlier.

14 Q And to be clear, you're in the room when the
15 autopsy is occurring.

16 A That is correct.

17 Q And in this case, you recall what items you
18 specifically collected? At autopsy.

19 A Personally, myself, the only item I collected
20 was the left and right thumb print castings.

21 Q Of the deceased?

22 A That is correct.

23 Q Which is a way of saying you take
24 fingerprints from the corpse.

1 A Yes, that is correct.

2 Q But you observe the technicians and the staff
3 of the coroner or medical examiner's office collect it,
4 take evidence from the body.

5 A Yes, that's correct.

6 Q That you then take from them and impound at
7 the sheriff's office.

8 A Yes. I receive those items from the tech and
9 take it into my custody.

10 Q Do you recall which items you received from
11 the tech and took into your custody?

12 A That would be the left and right hand bags at
13 the scene. There was a pair of pants with a belt
14 attached with a defect in it and red staining. There
15 was a pair of boxers with red staining. There's a tan
16 Hanes T-shirt with multiple defects and red staining.
17 There is a black Mountain Club jacket with multiple
18 defects and red staining. There was a pen, and their
19 autopsy samples that I received from them as well.

20 Q And those are all removed from the body of
21 Mr. Gibson.

22 A That's correct.

23 Q You used the term defects. We talked about a
24 T-shirt that has defects. What sort of defect are you

1 talking about?

2 A So a defect is a general term that I use.
3 It's to do -- or explain any void in an object so in
4 this case there were quite a few voids that could be a
5 cut, a tear, something that I am not determining because
6 I'm not comparing it to anything else, but they were
7 linear voids throughout the object.

8 Q The shirt.

9 A Yes.

10 Q And how do you document those defects?

11 A They are documented via photography.

12 Q Did you do anything to enhance the visibility
13 of the defects?

14 A At the discretion of the medical examiner or
15 the technician they can put cold Whypall, which is
16 basically thick paper towel in between the clothing so
17 if you've got a piece of, like, a T-shirt on top of each
18 other you might not be able to see all the way through,
19 so it's just basically paper towel that's put in between
20 the layers so that you can see the void in the shirt.

21 Q As well a blood spot card was that collected?

22 A Yes, it was.

23 Q What's a blood spot card?

24 A It's basically just a piece of paper that a

1 blood sample goes onto.

2 Q In this case the blood sample from Mr.
3 Gibson.

4 A Yes, that's correct.

5 Q You went also into 205 as well. Right?

6 A Yes, that's correct.

7 Q So we've heard testimony that Detective
8 Kazmar after being in 213 went back to 205.

9 A Yes, that's correct.

10 Q And the items of evidence found in there were
11 collected by you and booked into evidence.

12 A Yes.

13 MR. STEGE: Thank you. Pass the witness.

14 THE COURT: To the defense.

15 CROSS-EXAMINATION

16 BY MR. SLOCUM:

17 Q Good morning, what's left of it.

18 A Good morning.

19 Q So I want to talk to you a little about the
20 staining. Are you able to come to any conclusion of how
21 long a stain has been on a particular piece of clothing?

22 A No, I am not. I document it upon my arrival.

23 Q What do you document upon your arrival?

24 A The stain.

1 Q Okay. So the question I'm asking you, ma'am,
2 is are you able to determine how long a stain has been
3 on this clothing?

4 A No, I am not.

5 Q The extent of what you can do, as I
6 understand it, is to document that there is a stain.

7 A That is correct.

8 Q You're not able to say, for example, this
9 stain is fresh?

10 A That is correct.

11 Q Or this stain has been there for a long time.

12 A Yes, that's correct.

13 Q Now, with respect to the items that you did
14 collect you had said that the sweatshirt was found where
15 exactly?

16 A The gray sweatshirt was found atop a chair in
17 the living area.

18 Q And when you say atop a chair what do you
19 mean?

20 A It was on top of the seat bottom of the
21 chair, so it would be -- if you can see my chair it
22 would be, like, right here (indicating).

23 Q Unfortunately I can't see that, so.

24 A So if you've got a seat, here's the back,

1 here's the bottom. It was on top of that.

2 Q Okay. On the seat portion of where the -- of
3 where the seat is. Where you would sit.

4 A That's correct.

5 Q Was it folded?

6 A It was just placed. I'm not sure.

7 Q Well, what do you mean by you're not sure?

8 A I don't -- I don't know if it was actually
9 folded. It was upon my arrival on top of the chair.

10 Q Well, was it bunched up or was it set neatly?

11 A It was lying in place.

12 Q Well, would you say it was set there or it
13 was thrown there?

14 MR. STEGE: Objection, speculation.

15 THE COURT: Overruled.

16 THE WITNESS: I would say that it wasn't in a
17 ball, it was laying.

18 BY MR. SLOCUM:

19 Q Okay. But the question, ma'am, was whether
20 or not it looked at if it was set there or if it was
21 thrown there.

22 MR. STEGE: Asked and answered.

23 THE COURT: Overruled.

24 THE WITNESS: I would say that it was set

1 there.

2 BY MR. SLOCUM:

3 Q Now, you also spoke to the pants that were
4 located, the Wrangler jeans?

5 A Yes, that's correct.

6 Q And you said that those were actually in a
7 laundry bag?

8 A It's a laundry-style bag.

9 Q What else was found in that laundry-style
10 bag?

11 A There were multiple items of clothing.

12 Q Such as?

13 A I would have to refer to my photographs.

14 Q To your photographs or your report?

15 A My photographs.

16 Q Okay. Why would they not be documented in
17 your report?

18 A Because I did not feel that they had
19 evidential value, there was no staining on those items.

20 Q Okay. So you made a determination that they
21 didn't have evidentiary value?

22 A That's correct, between my training and
23 experience.

24 Q And the decision that you made was because

1 you did not observe any staining on these other items?

2 A That's correct, I did not see any staining.

3 Q And you can't tell us what those item even
4 were today based on your report.

5 A That's correct. They were multiple items of
6 clothing.

7 Q How many do you mean by multiple?

8 A I would say under ten.

9 Q So of these items of clothing are you able to
10 be more specific about what they were?

11 A Unfortunately, no. I would have to refer to
12 my photographs.

13 MR. SLOCUM: I don't have any further
14 questions. Thank you.

15 THE COURT: Thank you. Any redirect?

16 REDIRECT EXAMINATION

17 BY MR. STEGE:

18 Q You said a number of times that you have to
19 refer to the photographs, not your report, to refresh
20 your recollection about the clothes.

21 A That is correct.

22 Q So you agree that the photographs do depict
23 the condition of the clothes in the laundry bag, for
24 example.

1 A That is correct. The photos do depict the
2 items in the laundry bag.

3 Q Was it just you who is looking at the
4 clothing in the bag?

5 A No. So I work with -- in conjunction with
6 detectives so there were three other detectives on scene
7 as well as another criminalist.

8 Q And so three detectives, is that other
9 criminalists senior or junior to you?

10 A More senior.

11 Q So all of you look at the clothing in the
12 laundry bag.

13 A That is correct.

14 Q And no staining observed on those.

15 A That is correct. We're also using a
16 flashlight at the time with opening glide so that's kind
17 of using a flashlight at an angle, so you can see maybe
18 something that you might not catch in normal light.

19 Q Okay. So eight items or so. Is that the
20 same case for the rest of the apartment?

21 A Yes, it is.

22 Q So everyone's sort of making observations and
23 looking for potential evidence.

24 A That's correct.

1 MR. STEGE: Thank you. No further questions.

2 THE COURT: Recross.

3 RECROSS EXAMINATION

4 BY MR. SLOCUM:

5 Q Ma'am, you mentioned you're working with
6 another criminalist?

7 A That is correct.

8 Q And who was that?

9 A That was criminalist S. Braly.

10 Q I'm sorry, what's the name?

11 A S., Shaun Braly.

12 Q Can you spell that so the court reporter can
13 take that down?

14 A It's S-h-a-u-n. And Braly is B-r-a-l-y.

15 Q Now, as part of your report you indicate who
16 was present at the scene. Correct?

17 A That is correct.

18 Q Okay. Would there be a reason why that
19 individual's name is not here?

20 A It is in my report, it's in a case summary.
21 It should say that Criminalist S. Braly and I arrived.

22 Q Do you note on your report an area that says
23 "present at scene"?

24 A Yes, I do.

1 Q Is there a reason why Ms. Braly's name is not
2 present at scene?

3 A It could have been redundant. He's already
4 mentioned in the case summary.

5 Q Okay. So although it specifically indicates
6 who's present at the scene, you don't put that
7 information in there?

8 A No, because in the case summary it states
9 that S. Braly and I arrived at that location.

10 Q You'd agree with me, though, that it's
11 possible that you could arrive and criminalist could go
12 somewhere else, that's why it's important to document
13 who's actually at the scene when you're doing your
14 investigation. Isn't that true?

15 A Yes, that's why I put him in my case summary
16 to show that he was at the scene with me.

17 Q Okay, ma'am, you need to answer the question
18 I'm asking you.

19 MR. STEGE: Objection. It's asked and
20 answered.

21 THE COURT: Overruled.

22 BY MR. SLOCUM:

23 Q The question I'm asking you is isn't it
24 important to know, because you're gonna arrive at the

1 scene and perhaps go to two different places, who is
2 actually present at the scene where you're doing your
3 processing?

4 A Yes, it is.

5 Q Okay. So would you agree with me then that
6 it would be important to differentiate between those
7 people that simply arrived with you and those people
8 that were present at the scene doing the evaluation and
9 trying to determine what is of evidentiary value.

10 A Yes, I do. It does also say that you were
11 requested to further process the scene. It's in the
12 case summary as well.

13 Q Is it your training, experience which leads
14 you to only put a name in the case summary but not in
15 the area of the -- that talks about who was present at
16 the scene?

17 A Yes, it is.

18 Q Okay. And that's done did you say because of
19 redundancy reasons?

20 A That is correct.

21 Q So it should be -- it should be clear that --
22 that when someone arrives that they're present even if
23 they go and do something else at the scene?

24 A That is correct.

1 Q So you'd agree with me, then, that you don't
2 know at the other end whether or not the person was
3 actually present at the scene or whether they had gone
4 somewhere else.

5 A Can you rephrase that question?

6 Q Absolutely. So you'd agree with me, then,
7 that you don't know after looking at this report whether
8 or not someone arrives somewhere, but then went to a
9 different place so, for example, a different room at the
10 -- at the place to which you were going.

11 A I could say that it might be that way.

12 MR. SLOCUM: No further questions. Thank you.

13 THE COURT: Redirect.

14 MR. STEGE: Yes.

15 FURTHER REDIRECT EXAMINATION

16 BY MR. STEGE:

17 Q This is your report, as you sit here today,
18 list the people who were on there on the scene.

19 A It was criminalist S. Braly, myself, Reno
20 Police Department Detectives Kazmar, Nevills, and Smith,
21 as well as Sergeant Meyers.

22 Q And all those names are in the report.

23 A That is correct.

24 MR. STEGE: Nothing further.

1 THE COURT: Recross.

2 MR. SLOCUM: No, thank you.

3 THE COURT: All right. Thank you. You're
4 free to step down and leave the courtroom.

5 THE WITNESS: Thank you.

6 THE COURT: Ladies and Gentlemen, during this
7 noon recess please do not discuss this case amongst
8 yourselves. Please do not form or express any opinion
9 about this matter until it's submitted to you.

10 I'll see you in the courtroom at 1:40, which
11 is one hour and 35 minutes from now.

12 We'll stand for our jury.

13 (Jury leaves courtroom for lunch recess.)

14 THE COURT: On the record we discussed the
15 Court's canvass of Mr. Goad at the conclusion of the
16 State's case-in-chief. And by agreement we discussed
17 whether it might occur simply before the State rested.

18 Then at side bar off the record, defense
19 counsel indicated preference for canvassing Mr. Goad
20 before the noon hour to reflect his circumstances as set
21 forth in the record over the past few days. Do you
22 agree with that, defense counsel?

23 MR. SLOCUM: Yes, your Honor.

24 THE COURT: Everyone be seated. Mr. Goad, I'm

1 going to have you be seated, too. Typically the
2 defendant would stand while the Court addresses him or
3 her, but I want you to be comfortable. Okay?

4 When I use the word canvass, I'm referring to
5 a series of questions that I ask. Those questions are
6 based upon information that I give.

7 I'll note in our record that Mr. Goad is
8 looking at me and appears engaged in my words. Do you
9 agree with that? He's shaking his head yes and raising
10 his hand indicating so.

11 We are out of the jury's presence. The State
12 will soon rest its case-in-chief which means that it
13 will complete all of the evidence it intends to present
14 to the jury.

15 After the State rests its case, the defense
16 may present a case. The defense has no burden to
17 present the case because it is the State's burden to
18 prove guilt beyond a reasonable doubt.

19 Under the Constitution of the United States
20 and the Constitution of the State of Nevada you have the
21 right to present defensive evidence if you wish. Your
22 attorneys will provide defensive arguments. However,
23 under no circumstance, Mr. Goad, can you be compelled to
24 testify. You can not be called as a witness by the

1 State.

2 You may at your own request give up that
3 Constitutional right to remain silent, and your
4 attorneys may call you as a witness, but you alone will
5 make that decision. Do you understand so far?

6 THE DEFENDANT: (Nods head.)

7 THE COURT: And you are shaking your head yes.
8 If you choose to testify, I will make reasonable
9 accommodations for your communication with the jury.
10 And I'm not sure what those accommodations will look
11 like. You're shaking your head yes that you understand.
12 You're shrugging your shoulders and even looking up at
13 the ceiling a little bit in a form of eye communication,
14 now you're smiling at me. I don't know what those
15 reasonable accommodations will look like, but I will
16 strive to make them so that you can communicate
17 effectively with the jury, if you choose.

18 You should know, Mr. Goad, that if you choose
19 to testify, you will be subject to cross-examination by
20 the State's attorney.

21 Mr. Goad looked at the State's attorney when I
22 referenced him and even raised his hand in
23 acknowledgment to the State's attorney.

24 I'm adding these comments just so our record

1 will create a full story of our exchange with each
2 other, Mr. Goad.

3 Now, if the State cross-examines you, he will
4 do so with his own attempt to prove his case. So he's
5 not -- he won't always be coming, all the attorneys will
6 be coming and dignified. But his purpose is not to help
7 you in any way, but to use your testimony against you
8 before this jury.

9 Any testimony you provide will be subject to
10 fair comment during closing arguments. And the State
11 will attempt to impeach you through cross-examination, I
12 presume, at least he is authorized to do so. Do you
13 understand what I'm saying so far?

14 THE DEFENDANT: (Nods head.)

15 THE COURT: You are emphatically shaking your
16 head yes.

17 If you choose not to testify, you will be
18 exercising your Constitutional Right. I will not allow
19 the State to comment upon your silence.

20 And, at your attorney's request, I will
21 instruct the jury that they shall not consider your
22 choice to remain silent, and they shall not discuss your
23 choice to remain silent. Do you understand?

24 THE DEFENDANT: (Nods head.)

1 THE COURT: To the State, do you have
2 impeachment material through prior histories?

3 MR. STEGE: No.

4 THE COURT: Okay. What that means is that if
5 you have a series of prior felonies, I would allow the
6 State to introduce their existence, and it appears that
7 there is no such criminal history.

8 MR. STEGE: Within the statutory frame.

9 THE COURT: Within the statutory frame. So
10 they would inadmissible --

11 MR. STEGE: I agree.

12 THE COURT: -- if Mr. Goad chooses to
13 testify. So if you choose to testify the State will not
14 be permitted to ask you about or discuss any prior
15 criminal history that you have. Do you understand that?

16 THE DEFENDANT: (Nods head.)

17 THE COURT: Okay. To the State, are you
18 satisfied with the Court's canvass of Mr. Goad?

19 MR. STEGE: The canvass, yes. The
20 circumstances are quite unique.

21 THE COURT: And I prefer that the defense
22 attorneys introduce those circumstances after they've
23 had time to consult with Mr. Goad privately. After the
24 lunch hour.

1 MR. STEGE: Okay.

2 THE COURT: I think that the comments they
3 make will be subject to your comments about the
4 proceeding and the record that's created.

5 MR. STEGE: Okay.

6 THE COURT: Did I cut you off, Mr. Stege?

7 MR. STEGE: No.

8 THE COURT: Because I've attempted to recite
9 what the Court observes.

10 MR. STEGE: Well, right. The question is how
11 is a man gonna -- who is not today speaking going to
12 testify?

13 THE COURT: I don't know. I mentioned
14 reasonable accommodations. And if Mr. Goad chooses to
15 testify, again out of the jury's presence we will
16 formulate those mechanism.

17 MR. STEGE: I'm less concerned about the
18 question -- of course, I'm not concerned about the
19 question whether he does or not. I see in the future
20 the question of could the man effectively waive that
21 right and exercise the opposite right in the State he's
22 been in this morning. It may be a bridge that we're not
23 to yet, but that would be a concern if we go towards the
24 route of testimony.

1 THE COURT: Counsel, the State's being guarded
2 as it contemporaneously puts a point on the record. You
3 understand that what Mr. Stege has said, I don't invite
4 you to respond, I just want to make sure that through
5 your deliberations in the lunch hour you're prepared to
6 respond to Mr. Stege with something.

7 MR. SLOCUM: And your Honor, I have the same
8 concerns as well, that it may well be that -- that Mr.
9 Goad is precluded due to his current circumstances from
10 testifying if he were to choose to do so.

11 And I'm understanding Mr. Stege's concern to
12 be that the down the line, should he be convicted, that
13 it could be raised that he -- he did not have the
14 ability to testify that he's foreclosed from testifying
15 because of his current situation.

16 I understand that the Court has indicated it
17 would make all reasonable accommodations for him,
18 although we're all in agreement that it's unclear
19 exactly what that would mean. And certainly Mr. Stege
20 is right to be concerned that someone could raise that
21 issue down the line.

22 THE COURT: So I understand. But the
23 predicate question to the answer is yes, I want to
24 testify, or no, I do not. If the answer is no, then we

1 move forward. If the answer is yes, I think a second
2 question is can there be an effective form of
3 communication with this jury. But I prefer to answer
4 that after Mr. Goad makes his decision.

5 MR. SLOCUM: Right. And I think for the
6 record, to be clear we just have to ask a question that
7 we normally don't ask which is is the reason that you're
8 not testifying because of some concern you have about
9 the man or in which you would do it.

10 THE COURT: That's a good suggestion.

11 MR. SLOCUM: Thank you.

12 THE COURT: See you at one -- what time did I
13 say?

14 COURT CLERK: 1:40.

15 THE COURT: See you at 1:40. Court will be in
16 recess.

17 (Lunch break.)

18 THE COURT: I do not intend to -- we're back
19 off the lunch hour. Out of the jury's presence counsel,
20 Mr. Goad, I do not intend to elicit any further comments
21 from Mr. Goad or his attorneys until after the State has
22 rested. I think that they have the right to review the
23 rest of the evidence.

24 All right. Anything before I bring the jury?

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MR. STEGE: No.

THE COURT: All right. Join me in standing
for our jury at this point.

(Jury returns to the courtroom.)

THE COURT: Please be seated. For the State,
call your next witness.

MR. STEGE: Ms. Monica Siewertsen.

DEPUTY: Stay standing. Face the clerk.

COURT CLERK: Please raise your right hand.

MONICA SIEWERTSEN,
called as a witness herein, being first
duly sworn, was examined and testified
as follows:

COURT CLERK: Thank you.

THE COURT: Counsel, you may begin.

MR. STEGE: Thank you.

DIRECT EXAMINATION

BY MR. STEGE:

Q Please state and spell your name.

A Monica Siewertsen. M-o-n-i-c-a
S-i-e-w-e-r-t-s-e-n.

Q And how are you employed?

1 A I'm currently employed as a criminalist with
2 the Washoe County Sheriff's Office, in the Forensic
3 Biology Unit.

4 Q Within the Forensic Biology Unit, what
5 specifically are your duties or tasks that you perform?

6 A The Forensic Biology Unit is made up of two
7 sections; the primary examination section and the DNA
8 analysis section. The primary examination section is
9 responsible for receiving items of evidence and
10 documenting the condition, color, brand, size, and then
11 attempting to locate biological stains, and performing
12 presumptive tests on those biological stains,
13 determining which ones might be useful for DNA typing
14 analysis, and then taking a sample of those potentially
15 useful stains for DNA typing analysis.

16 And then the DNA typing analysis area actually
17 performs DNA typing analysis, which is a comparison of
18 the DNA profiles obtained from questioned or unknown
19 items, and comparing it to the DNA profiles obtained
20 from reference samples. And I perform and do all of
21 those duties within the section.

22 Q And how long have you been doing this work?

23 A This type of work overall? Over 20 years.

24 Q And can you tell us about your training and

1 experience and education.

2 A Yes. I have an Honor's Bachelor of Science
3 from the University of Waterloo in Waterloo, Canada. I
4 have approximately six years of research experience in
5 the area of molecular biology, which is using DNA
6 analysis techniques in order to attempt to answer
7 research questions. Three of those years with the
8 hospital for sick children in Toronto, Canada, and three
9 with the King Faisal Specialist Hospital & Research
10 Centre in Riyadh, Saudi Arabia. And as mentioned, I
11 have over 20 years of experience in the area of forensic
12 biology.

13 I worked for the Royal Canadian Mounted Police
14 in Edmonton, Alberta, for the Mesa Police Department in
15 Mesa, Arizona, for the San Bernardino County Sheriff's
16 Office Forensic Science Division, and most recently with
17 the Washoe County Sheriff's Office.

18 Q Can you tell us about the general types of, I
19 guess, sources of DNA that the lab looks for?

20 A Yes. I mentioned biological materials. So
21 biological materials are things that originate from the
22 body; blood, semen, saliva, and potentially DNA from
23 skin cells that may be left behind from the individual
24 who touches an object, or an individual who wears an

1 item, and we often refer to that as residual DNA.

2 Q Can you tell us more about residual DNAs for,
3 what surfaces you'll examine for that in your experience
4 working with residual DNA?

5 A So residual DNA is sort of a catch-all phrase
6 for a nonimmediately obvious staining, so blood or semen
7 are often things that we'll look at in the course of an
8 investigation. But different investigations may be
9 interested in who might have handled an item, or who,
10 perhaps, may have worn that item. So as a result of
11 that, both of those are often referred to as residual
12 DNA. So if you were to handle a pen, the longer you
13 handle a pen, the more potential there is to leave
14 behind skin cells, and those skin cells contain DNA.

15 If an individual wears an item, then the areas
16 that rub against their skin, inside of the collar, the
17 inside of the cuffs, perhaps underneath the underarm,
18 you'll be rubbing against that material and potentially
19 leave skin cells behind. So we may be able to take a
20 sample of that area and perform DNA typing analysis to
21 attempt to determine the source of the cells that are
22 present.

23 Q Is it understood with respect to skin cells
24 residual DNA field, the degree to which skin cells

1 contain DNA may or may not be present as it varied
2 between people?

3 A Yeah. So an individual -- one individual may
4 handle an item for a period of time and leave behind a
5 small number of skin cells. Another individual may
6 handle an item for a long period of time and not leave
7 behind very many. An individual may handle an item for
8 a short period of time and leave behind a large number,
9 so there's no real automatic way to determine how many
10 skin cells are left behind.

11 Some of the factors that determine how many
12 are how the smoothness or roughness of the surface that
13 an individual handles, or an item that an individual
14 wears, perhaps the last time that an individual has
15 washed their hands. If you've just washed your hands,
16 then there may not be very many cells left to be able to
17 deposit on a surface.

18 A good visual example of this is if I were to
19 hand a glass to a number of individuals who come to my
20 residence for a party, and I ask them to handle that
21 glass for the duration of the evening, and then collect
22 that glass at the end of the evening, some individuals
23 their glass may appear clean like they hardly held it
24 all night. And other individuals the glass is almost

1 cloudy because they've left so much oil behind. So
2 that's sort of the same type of skin cells. Some
3 individuals leave a large number and some don't leave
4 very many at all. The only way to perform the analysis
5 is to swab the item or take out a cutting if it's a
6 garment, and then just determine how much DNA is present
7 and perform the DNA typing analysis.

8 Q Going back to your -- the party example, if
9 multiple people were to handle that glass would you
10 necessarily expect DNA to be left by every person?

11 A I'm not sure that I would say I would expect
12 to. So every time an individual touches something, they
13 do transfer cells, and they may take some cells with
14 them when they let go of that item. The factor that
15 comes into play is, is the cells that they left at the
16 limit of detection for our particular technology.

17 So residual -- our technology right now is
18 quite sensitive, so a small number of cells are required
19 in order for us to determine that an individual may be
20 present. But a larger amount of DNA needs to be present
21 in order to actually determine the individual's DNA
22 profile.

23 So your example of a number of individuals
24 handling an item, if one person handled the item for a

1 long period of time or shed a large number of cells, and
2 five or six other people held it and left a small
3 number, what may happen during my analysis is that I end
4 up with what we call a dominant contributor. That's a
5 person that left the most cells and the most amount of
6 DNA. And quite often, although I can say it's a mixture
7 of a large number of individuals, I can pull out the
8 dominant component and determine their DNA typing
9 profile.

10 Or if all the individuals shed approximately
11 the same number of cells, then I may only be able to say
12 that it's a mixture, and I can't make any conclusions
13 because there's just not enough information for me to
14 pull out a dominant component.

15 Q Is the -- you mentioned sensitivity of the
16 technology used. Is the sensitivity such that in
17 passing around that glass, say, the second or third
18 person may, if tested, get the DNA of the first person
19 transferred onto their skin if you were to test their
20 finger?

21 A It's possible but, again, the only way to
22 answer the question is to actually perform the testing
23 and see what the DNA typing analysis results are.

24 Q Did you do any such testing in this case?

1 A Handling items, I did do some residual DNA
2 testing, yes.

3 Q And did you do other types of DNA testing?

4 A Yes.

5 Q And have you prepared a slide show to
6 summarize and aid you in explaining the results to the
7 Court and Jury?

8 A Yes. The presentation is a summary of the
9 report that I authored for the analysis.

10 MR. STEGE: May I publish the slide show, your
11 Honor.

12 THE COURT: Right. Are you going to invite
13 this witness to give a free-flowing narrative as the
14 slides progress?

15 MR. STEGE: I will intersperse --

16 THE COURT: Not necessary.

17 MR. STEGE: Okay.

18 THE COURT: If so, I want your cadence to
19 slow--

20 THE WITNESS: Yes.

21 THE COURT: -- as if there were natural
22 breaks between you and counsel, and just think about the
23 reporter, please.

24 THE WITNESS: Yes.

1 THE COURT: Go slow.

2 BY MR. STEGE:

3 Q Please begin.

4 A Okay. As mentioned, this is a -- these
5 slides are a summary of the analysis that I performed
6 and the report that I authored. The slide -- each of
7 the slides follows the same format so I'll explain that
8 format initially so that it makes it a little bit easier
9 for you to follow.

10 On the left-hand side is the item number that
11 the laboratory has so in this instance item 43. In
12 parenthesis is the item number of the submitting agency.
13 Then there is a description of the actual item that I
14 examined.

15 Initially I will give the presumptive testing
16 results so in this instance I'm testing for possible
17 blood, so I would be locating biological or red/brown
18 staining, and then performing this presumptive test in
19 order to give me an idea of whether that red/brown
20 staining may be blood. And then I will follow it with
21 the DNA typing analysis results.

22 So in this instance item 43 is a pair of black
23 Wrangler pants that were removed from a blue bag near
24 the dresser in Apartment 213. I obtained positive

1 results for the presumptive presence of blood from the
2 following red/brown stains. Five of seven tested small
3 to medium sized stains that I observed on the exterior
4 lower front left and right legs, a medium-sized stain on
5 the exterior right thigh, a large stain on the exterior
6 lower back of the right leg, a very large stain on the
7 exterior low back left leg, and a very large stain on
8 the interior right leg extending from the top to the
9 bottom, and then a large stain on the interior front
10 crotch area.

11 Of a portion of one of the five smaller stains
12 that I obtained a positive presumptive presence of
13 blood, I removed a portion of that and designated as
14 43.1. I removed a portion of the large stain on the
15 exterior lower back of the right leg as 43.2. And then
16 I swabbed the front button hole area and the interior of
17 both front pockets together for possible residual DNA as
18 43.3, the interior of the left thigh area, again, for
19 possible residual DNA as 43.4. And then I removed a
20 portion of the interior Wrangler tab, again, for
21 possible residual DNA.

22 Q If I might interrupt you. As to the removing
23 the Wrangler tab on the interior of the pants, the
24 button hole, which of these are you focused more on

1 residual DNA as opposed to your testimony about a
2 red/brown staining presence of blood?

3 A Okay. So the top two, 43.1 and 43.2, were
4 both red/brown stains that tested presumptively positive
5 for blood. And the last three, 43.3, 43.4 and 43.5,
6 were all collected or removed for possible residual DNA.

7 Q And why choose, for example, the button hole,
8 the thigh, and the Wrangler tag on the interior?

9 A The button hole and the inside of the
10 interior front pockets are areas that an individual
11 would touch potentially when they're wearing so in order
12 to put on your pants you would button up the pants.
13 Often individuals stand with their hands in their front
14 pockets. On the interior tag area, that is -- that was
15 located on the interior of the fly so that also may be
16 an area that might -- may have rubbed against the skin
17 of the individual that wore it. And the interior of the
18 left thigh, that's an area if you're walking, the front
19 of your pants may rub against your thigh, or if you're
20 sitting it may rub against so the potential for
21 obtaining skin cells from an individual that wore the
22 item is there.

23 Q As opposed to the exterior where the
24 potential may be for -- it might capture or gather DNA

1 not only that the person -- from the wearing person but
2 maybe a person who had touched or otherwise got DNA on
3 the exterior of the clothing.

4 A Yes. So if I were -- if I were looking to
5 obtain the cells and the DNA profile of an individual
6 that wore an item, I would want to sample from the
7 interior as opposed to the exterior.

8 Q Please continue.

9 A The one of the five presumptively positive
10 stains that I removed as 43.1, the DNA results indicate
11 a mixture. I was able to pull out a male dominant DNA
12 profile from that mixture so, again, I talked about
13 sometimes in a mixture I'm able to pull out a dominant
14 component. That is an individual that has contributed
15 more DNA than the other contributors for the mixture.
16 And this is the sample, a sample that was red/brown in
17 color and presumptively positive for the presence of
18 blood. Theodore Gibson is the source of the male
19 dominant DNA profile. And this is going to be the same
20 in all the slides. So underneath in parenthesis there
21 is an estimated frequency of occurrence number.

22 So in DNA typing analysis, a full profile is a
23 large number of areas, and we would not expect that DNA,
24 full DNA profile would be present or would be possessed

1 by any other individual in the population except for an
2 identical twin.

3 But not all DNA profiles are full DNA
4 profiles. Sometimes we only obtain results from a
5 portion of the areas, or a number of the areas that we
6 look at on the DNA molecule. So if an individual, a
7 reference sample matches a question sample need to give
8 some idea of how common or rare that match is or that
9 profile is in order to give an idea of whether it's
10 something that everybody in the population would have or
11 whether it's something that's unique.

12 So the number that the Washoe County Sheriff's
13 Office utilizes is the number one in eight trillion
14 individuals. So if the profile is more rare than one in
15 eight trillion, then my statement will be that the
16 individual is the source of that particular stain or
17 sample.

18 If the resulting match has less areas and is
19 more common than one in eight trillion, then the
20 statement would be that that individual can not be
21 excluded, and then the number would reflect would also
22 be present. So for brevity sake, the number is there,
23 but if the number is more rare than one in eight
24 trillion the statement is is that individual is the

1 source of that sample. Okay.

2 And for the end of this particular mixture,
3 due to the low level of DNA, no conclusions can be
4 offered for the trace results that I obtained from this
5 mixture.

6 Q Can you speak about low level DNA? Is it an
7 appropriate metaphor, say, if you're able to get the DNA
8 to the size that would fit in a vial, that low level
9 would mean the dominant profile would nearly fill the
10 vial, yet the low level would be a very small portion of
11 that.

12 A That's one example. Sometime --

13 Q Okay. Can you think of a better one?

14 A No, no, that is a -- that's a great example.
15 But it doesn't always have to be 90 percent dominant and
16 ten percent minor or trace, it can be 60 or 70 percent
17 dominant and 30 percent trace. It depends on the
18 profiles of the individuals present and the overall
19 level of the amount of DNA.

20 The laboratory has set up thresholds that must
21 match in order to be confident that the results we've
22 obtained are interpretable and that they can be
23 reproducibly interpreted. And so the more dominant a
24 profile is, the more obvious it is. The less dominant a

1 profile is, that either it's not as obvious and requires
2 more interpretation, or it may be that the individuals
3 the mixture may be of almost equal components from all
4 individuals, and the mixture can't be interpreted.

5 Q Let's continue to slide 5 if you're ready.

6 A This is discussing 43.2, which was a portion
7 of the large stain on the exterior lower back of the
8 right leg. The DNA results that I obtained indicate a
9 mixture of at least three individuals, assuming three
10 contributors, a mixed dominant DNA profile was
11 determined from this mixture. So to carry on from the
12 example we just talked about, one individual
13 contributing 90 percent and another individual
14 contributing ten percent.

15 When we have a mixed dominant component, we
16 have two individuals that have contributed approximately
17 equal quantities of DNA. But they contributed enough
18 DNA that I can actually -- I'm confident that the
19 results that I've obtained are true results, but I can't
20 determine which individual or which of the two profiles
21 how they come together, okay?

22 But I can determine that there are two
23 individuals and that they are dominant components. So
24 I'm going to try to explain that a little better. If I

1 give numerical results at one location of one, two,
2 three and four, if I have a dominant component that is
3 90 percent of mixture, and that individual is one and
4 two, I'm easily able to see that. And then I'm easily
5 able to see that the component three and four is the
6 minor or trace. Okay?

7 But if I have the mixture of one, two, three,
8 and four, and they're all approximately equal, then I
9 don't know if the individual contributing to the mixture
10 is one and two, or one and three, or one and four, or
11 two and three, or two and four, or three and four.

12 So all of those possibilities could have
13 contributed to that mixture and been a part of it, okay?
14 So -- but I'm able to determine that the one, two,
15 three, four are part of the dominant component, okay?

16 So in this instance I have a dominant
17 component, it's made up of into individuals, and it
18 contains the fragments that are represented in the DNA
19 profiles that I obtained from the reference samples of
20 Theodore Gibson and Ralph Goad.

21 Based on these results, Gibson and Goad can
22 not be excluded as the sources of the mixed dominant DNA
23 profile. And the approximate estimated frequency of
24 occurrence of the individuals that could have

1 contributed to that mixture are approximately one in
2 2.786 trillion individuals, okay? Due to the low level
3 of DNA, no conclusions can be offered for the trace
4 contributor.

5 Q Are you ready to proceed to slide 6?

6 A The front button hole area and the interior
7 of both pockets, that was the two areas that I swabbed
8 together for possible residual DNA, and a portion of the
9 interior Wrangler tag, that was another area that I had
10 for possible residual DNA, the DNA results from both of
11 these indicate mixtures. A male dominant partial DNA
12 profile was determined from each mixture, so previously
13 I talked about we attempt to obtain results from all of
14 the areas on the DNA molecule that we look at, but
15 sometimes we don't get results from all of the areas, so
16 a partial profile means that I did not obtain
17 interpretable results from each of the areas.

18 In this instance Ralph Goad is the source of
19 the male dominant partial DNA profiles. And again, the
20 estimated frequencies of occurrence are over one in
21 eight trillion so that's why the statement is the
22 source.

23 I can not make any conclusions on the trace
24 results from this mixture, or both mixture. The

1 interior of the left thigh area that was swabbed as 43.4
2 for possible residual DNA also indicated a mixture, a
3 male dominant DNA profile was determined from that
4 mixture. Ralph Goad is the source of that male dominant
5 DNA profile. And due to a low level of DNA, no
6 conclusions can be offered for the trace results.

7 Q So is another wearer sample or result looking
8 for wearer DNA.

9 A So I swabbed the interior of the pants for
10 residual DNA, yes.

11 Q Residual. Please continue.

12 A This is a new item, item 5.1, these were
13 swabs that were collected from the scissors that were
14 located at Placard Number 5. 5.1.1 is red staining from
15 the tip of the scissors, and that gave me a positive
16 result for the presumptive presence of blood. 5.1.2
17 were the blades of the scissors swabs which were for
18 possible residual DNA so unstained area, and black
19 handle of scissors also for possible residual DNA
20 profile. Gesundheit.

21 THE COURT: Thank you.

22 THE WITNESS: The DNA results that I obtained
23 from the 5.1.2 which were the blades of the scissors for
24 possible residual DNA indicate a mixture. A male

1 dominant DNA profile was determined from that mixture.
2 Theodore Gibson is the source of that male dominant DNA
3 profile that I determined from the blades of the
4 scissors swabs, and the source of the DNA profile that I
5 obtained from the scissors stained swab which was the
6 5.1.1, which had tested presumptively positive for
7 blood.

8 Q So both on the red staining Mr. Gibson as
9 well as the unstained portion of the scissors blade also
10 was of Mr. Gibson.

11 A Yes.

12 Q Please continue.

13 A Due to the low level of DNA, I could not make
14 any conclusions on the trace results that were present
15 in this mixture. The same item, the third set of swabs
16 were the swabs collected from the black handle the
17 scissors for possible residual DNA. The DNA results
18 that I obtained indicate a mixture of at least three
19 individuals, so assuming three individuals, a male
20 dominant DNA profile was determined from that mixture.
21 Ralph Goad is the source of the male dominant DNA
22 profile. Due to the low level of DNA no conclusions can
23 be offered for the trace results for that mixture.

24 This is a new item, item 9.1, which were swabs

1 that were collected from a knife that was located at
2 Placard Number 10. 9.1.1 was the red staining collected
3 from the area between the blade and the knife handle,
4 and that staining tested presumptively positive for the
5 presence of blood. 9.1.2 was red staining that was
6 collected from the handle of the knife. That also
7 tested presumptively positive for the presence of blood.
8 9.1.3 were swabs that were collected from the blade of
9 the knife for possible residual DNA. And 9.1.4 were
10 swabs that were collected from the handle of the knife
11 for possible residual DNA. The red staining collected
12 from the -- let me stop and start again.

13 The DNA results obtained from the red staining
14 collected from the handle, the blade of the knife
15 possible residual DNA swabs, and the handle of the knife
16 possible residual DNA swabs each indicate a mixture.
17 The same male dominant DNA profile was obtained from
18 each of those mixtures. Theodore Gibson is the source
19 of the male dominant DNA profile determined from those
20 three swabs, as well as the DNA profile obtained from
21 the red staining collected from the area between the
22 blade and the knife handle.

23 Okay. And then due to a low level of DNA, I
24 could not make any conclusions on the trace results that

1 were present in the three mixed samples.

2 This is a new item, item 47, which was one
3 blue Hanes sweatshirt size extra large with red/brown
4 staining collected from atop a chair in Apartment 213.
5 Red/brown staining was observed on the exterior lower
6 back portion of both sleeves and the interior of the
7 right cuff. Positive presumptive presence of blood was
8 obtained from each of the six stains that I tested. A
9 portion of one of the positive presumptive stains was
10 collected as 47.1. The interior of the entire collar of
11 that sweatshirt was swabbed for possible residual DNA as
12 47.2.

13 Q On the swabbing of the interior of the collar
14 do you go all the way around the collar or how do you do
15 that?

16 A Yes, the entire interior. If there's no
17 staining, then the entire interior of the collar.
18 Sorry. What's going on here? Sorry. I'm technically
19 challenged.

20 The DNA results that I obtained from the
21 portion of one of the presumptively positive stains
22 indicates a mixture. A male dominant partial DNA
23 profile was determined from that mixture. Theodore
24 Gibson is the source of the male dominant partial DNA

1 profile obtained from the portion of the presumptively
2 positive red/brown stain on the sweatshirt. Due to the
3 low level of DNA no conclusions can be offered for the
4 trace results in that sample.

5 The interior of the entire collar swabbed for
6 possible residual DNA, the DNA results indicate a
7 mixture. Assuming a total of three contributors, a male
8 dominant partial DNA profile was determined from the
9 mixture. Ralph Goad is the source of the male dominant
10 partial DNA profile. And due to a low level of DNA, no
11 conclusions can be offered for the trace results.

12 Q So even these trace results given the
13 sensitivity of the equipment, you can not analyze them
14 or not interpret the results.

15 A In this particular instance there was not
16 enough information to give additional conclusions. And
17 I think that's been pretty apparent throughout the whole
18 of the slides that I have presented. Most of the
19 samples are mixtures, and a dominant or partial dominant
20 is able to be determined, but the trace results are
21 generally so low that there's just no conclusions.
22 There's not enough information.

23 Q Please continue.

24 A This is a new item, item 2. These were swabs

1 with red staining collected from inside Apartment Number
2 205, and in the envelope that I obtained there were a
3 number of sets of swabs, and I examined three of them.
4 A marker 5, which was the middle drawer of the dresser,
5 marker number 10, which was the southeast wall edge,
6 marker 14, which was inside the bathroom sink, and the
7 remaining 11 sets of swabs in that item were not
8 examined at this time.

9 Each of those was positive for the presumptive
10 presence of blood, and I performed a DNA analysis on
11 those three swabs. The DNA results I obtained from
12 marker 10 and marker 14 swabs each indicate a mixture.
13 The same male dominant DNA profile was determined from
14 those mixtures. Theodore Gibson is the source of the
15 male dominant DNA profile, and the source of the DNA
16 profile obtained from marker 5, which was not a mixture,
17 that was a single source sample. Due to the low level
18 of DNA, I could not make any conclusions on the trace
19 results for marker 10 and marker 14.

20 Item 3, which were swabs collected from inside
21 Apartment 205, the ones that I did not examine in this
22 particular item were the exterior front door handle, the
23 interior front door handle, the exterior/interior
24 bathroom door handles, and the bathroom sink faucet.

1 The dial or blue button on the cooling/heating
2 unit, those sets -- or that set of swabs I did analyze.
3 The DNA results indicate a mixture. Theodore Gibson is
4 the source of the male dominant DNA profile determined
5 from that mixture from the dial or blue button swabs.
6 And due to the low level of DNA, no conclusions can be
7 offered for the trace results from this mixture.

8 Q On this question -- the left-hand portion
9 indicates items not examined. Can you tell us about
10 that process? You have a large number of samples and
11 how is it determined to test particular ones?

12 A Generally ones that may be able to answer the
13 -- a specific question asked at that point or in an
14 investigation usually in consultation with the
15 investigating officers, with potential DA assigned to
16 the case. Also we're -- we want to look at items that
17 are most likely to provide a useful piece of
18 information.

19 So in this instance, door handles, large
20 individuals don't necessarily have contact with them for
21 that length for a very long period of time so they may
22 not provide useful information. I believe in this
23 instance that the dial on the cooling/heating unit was
24 potentially a source of information because the

1 temperature was adjusted in the apartment, so that was
2 the reason for looking at this particular item.

3 Q And -- okay. Please continue.

4 A Item 8 was one dirty blue towel, an unknown
5 brand, collected from the bathroom of Apartment 205. A
6 negative result for the presumptive presence of blood
7 was obtained from each of the numerous tested large
8 brown stains that were observed on the towel. A large
9 unstained area of the towel was swabbed for possible
10 residual DNA. Theodore Gibson is the source of the DNA
11 profile obtained from the residual DNA swabs.

12 Q And so the staining did not test positive for
13 blood.

14 A Correct.

15 Q Visually did it have an appearance -- are you
16 able to say what it was if it wasn't blood?

17 A Not in any expert capacity, no.

18 Q Okay.

19 A Item 13.2 were swabs of red staining from the
20 exterior of a cigarette pack, a positive result for the
21 presumptive presence of blood was obtained from these
22 swabs. The DNA results that I obtained from this
23 mixture indicate at least two individuals, assuming two
24 contributors, a male dominant DNA profile and a male

1 minor partial DNA profile were determined from this
2 mixture. Theodore Gibson is the source of the male
3 dominant DNA profile determined from the cigarette pack
4 stains.

5 Q Are you able to say anything or interpret any
6 further the male minor partial DNA profile?

7 A By pulling out the male minor partial profile
8 I'm able to compare it to the reference samples that I
9 have, yes.

10 Q Please continue.

11 A An unknown male is the source of the male
12 minor partial DNA profile determined from the cigarette
13 pack swabs. Ralph Goad is excluded as the source of
14 that unknown male profile, so I have partial results but
15 enough information, and the amount of DNA was enough
16 that I could actually interpret the profile as opposed
17 to most of the other ones where it was just too low or
18 not enough information. And in this instance I was able
19 to exclude Ralph Goad as the possible source.

20 Q Might you expect on a cigarette packet that,
21 say, a clerk or other worker who handles the cigarettes,
22 the packet, to potentially leave DNA?

23 A I wouldn't say necessarily expect it, but it
24 is absolutely a possibility. Obviously every time you

1 handle something, as we talked about earlier, you may
2 leave cells behind. You may leave enough behind in
3 order to be detected and interpreted so that is a
4 possible explanation, yes.

5 Q So going back to your glass of water example,
6 there could be a person who handles it leaving no DNA on
7 it.

8 A Correct.

9 Q Let's continue.

10 A Item 33 were samples that were collected from
11 Theodore Gibson at autopsy. And we have interior neck
12 swabs, left fingernail swabs, right fingernail swabs,
13 left fingernail clippings, package that was labeled as
14 fingernail clippings right, but found to contain hairs
15 from the right hand, a package that was labeled hairs
16 from the right hand, but was found to contain fingernail
17 clippings, possible tissue from the clippings, and nasal
18 swabs. The nasal swabs were the sample that I used as
19 my reference sample from Theodore Gibson.

20 Additional items that were present in this --
21 additional samples were present in this item that I did
22 not examine were scalp, pubic, and axillary hair
23 samples, hair from the left hand, penile, oral and
24 rectal swabs, left and right palmer swabs, left and

1 right posterior hand swabs, fingernail clippers, and a
2 seal.

3 A positive result for the presumptive presence
4 of blood were obtained from anterior neck swabs, the
5 left fingernail swabs, the right fingernail swabs, one
6 of the clippings tested from the left fingernail clips
7 sample, and one clipping tested from the item labeled as
8 hairs from right hand, but was found to contain the
9 fingernail clippings.

10 Q Can you tell us about the idea behind
11 fingernail clippings in your field?

12 A Yes. If there is direct contact between two
13 individuals in a struggle or something, then that
14 individual may attempt to scratch or fight off an
15 individual, so there is the potential for possible skin
16 cells or tissue underneath fingernails during that.

17 The DNA results that I obtained from the left
18 fingernail swabs indicate contributions from at least
19 one individual foreign to Theodore Gibson. Due to the
20 low level of DNA I could not make any conclusions on
21 those results. And no DNA foreign to Theodore Gibson
22 was obtained from the anterior neck swabs, the right
23 fingernail swabs, or the possible tissue that was
24 removed from the right hand fingernail clippings. So

1 remember, each of these items originated from Theodore
2 Gibson so I am looking for potential DNA that is not
3 his.

4 Item 39 was a dirty green towel, the brand was
5 Cannon, collected from the bathroom of Apartment 213. A
6 negative result for the presumptive presence of blood
7 was obtained from each of the numerous tested large
8 brown stains that were observed on the towel. A large
9 unstained area of the towel was swabbed for possible
10 residual DNA.

11 The DNA results that I obtained from those
12 swabs were a mixture. A male dominant DNA profile was
13 determined from that mixture, and Ralph Goad is the
14 source of the male dominant DNA profile. And due to a
15 low level of DNA, no conclusions can be offered for the
16 trace results obtained from that mixture.

17 Item 40 was one gray weather-proof jacket,
18 size medium, that was collected from atop a chair. In
19 item 213 no apparent bloodstains were observed to be
20 associated with the jacket, there was no further
21 analysis. Item 50 were items collected from the ground
22 of Apartment 205. There was a Department of Veterans'
23 Affair card with the name Gibson, red stain swabs that
24 were collected from the front side of that card, and

1 front and back of the card for possible residual DNA, so
2 nonstained areas.

3 There were also three business cards. One of
4 these cards was selected, and the front and back of that
5 card was swabbed for possible residual DNA. There was
6 also a Medicare card with the name Theodore Gibson.
7 That was not examined.

8 A positive result for the presumptive presence
9 of blood was obtained from the red staining that I
10 collected that was collected from the Department of
11 Veterans' Affairs card. The DNA results that I obtained
12 from the red/brown staining swabs and from the residual
13 swabs from the front and back of that card each indicate
14 a mixture. A male dominant DNA profile was determined
15 from the red stain swabs, and a male dominant partial
16 DNA profile was obtained from the possible residual DNA
17 swabs. Theodore Gibson is the source of the male
18 dominant and the male dominant partial DNA profile
19 obtained from the red stain swabs collected from the
20 Department of Veterans' Affairs card and from the
21 possible residual DNA swabs collected from the front and
22 back of that card. And due to a low level of DNA no
23 conclusions could be offered for the trace results in
24 each of those mixtures.

1 The one business card that had the front and
2 back swabbed for possible residual DNA, I obtained a
3 mixture from that -- that set of swabs, and due to the
4 low level of DNA I could make no conclusions as to the
5 possible source of that DNA.

6 And the item 53 was a reference select sample,
7 and that was what was used as the reference sample from
8 Ralph Goad.

9 Item 42 was an additional item submitted which
10 was a black Gillette razor. This item was not examined.
11 And that's it.

12 Q There was -- in your report I think it was
13 number 7, report number 7, and then you issued an
14 amended report.

15 A Yes.

16 Q Can you talk to us about that?

17 A Yes. The over -- the general -- so the
18 amended report is something that after the -- so once a
19 case package analysis is completed by myself, then that
20 completed packet goes to a second qualified individual
21 that reviews the analysis that was performed and the
22 conclusions that are drawn in order to ensure that the
23 technical part is correct and that they agree with the
24 conclusions that are put in a summary table.

1 The file is then administratively reviewed,
2 and then the report leaves the building. If an error in
3 the report is discovered after the report leaves the
4 building, then an amended report is issued. And that
5 can be anything from a grammatical error to an actual
6 error in conclusion to in this instance a name, a name
7 change, so there's two individuals that I had reference
8 samples for in this particular case and I inadvertently
9 used the wrong name in one of my conclusions. The
10 actual DNA results were the amended individual's name.
11 The results in the table were the amended individual's
12 name, however, the actual report used the incorrect
13 name. I would have to refer to my report for the exact
14 conclusion.

15 Q Right. But -- and to help us understand the
16 process, your results, you get your results, then you
17 issue a narrative report that also contains a chart or
18 description of the evidence examined.

19 A A narrative, yes.

20 Q Right.

21 A Generally any DNA results that are obtained
22 in the file are -- they are summarized in a table that
23 is included in the packet of my analysis.

24 Q So that people who aren't proficient in

1 reading DNA tables may understand the results.

2 A Partially, but also to summarize the actual
3 conclusions for each of the analysis for each sample.

4 MR. STEGE: Thank you. I'll pass the witness.

5 THE COURT: To the defense.

6 MR. SLOCUM: If I could just have the Court's
7 indulgence for a moment.

8 (Colloquy between defense attorneys.)

9 THE COURT: Ladies and Gentlemen, why don't we
10 stand for a moment.

11 (Short pause.)

12 THE COURT: And to the defense.

13 MR. SLOCUM: Thank you, your Honor.

14 CROSS-EXAMINATION

15 BY MR. SLOCUM:

16 Q Good afternoon.

17 A Good afternoon.

18 Q So to start out with the last point that we
19 were talking about, there's a subsequent report that's
20 issued, and it's an amendment to the report but the
21 report itself just changes a name.

22 A Correct. So that is -- that was the
23 correction. One name was inserted in a paragraph and it
24 should have been the opposite name.

1 Q Okay. I just want to make sure we were clear
2 on the use of the word amendment. So I think an
3 amendment as something that comes afterwards that you're
4 adding to the report --

5 A Okay.

6 Q -- but --

7 A I believe the term is amended.

8 MR. SLOCUM: If I may approach, your Honor.

9 THE COURT: Yes.

10 BY MR. SLOCUM:

11 Q So would it be helpful to you if you could
12 look at --

13 A Sure.

14 Q -- the paperwork? I'll approach. This is
15 Bates stamp number 2361.

16 A It does say amendment, this particular one.
17 I use the term amended. So yes, it does not have
18 additional information, it has a correction to
19 information that was present.

20 Q Okay. I just wanted to make sure we were --

21 A Sorry.

22 Q No problem. Now, you would agree with me
23 that in your presentation you presented a lot of
24 information to the jury.

1 A I did present a lot of information.

2 Q So what I wanted to go over with you are some
3 of those to make sure that I'm clear and that the jury's
4 clear on what your results were. But first I'd like to
5 ask you we didn't hear anything about any -- any items
6 that were collected outside of either of the apartments.
7 Is that accurate that you didn't do any examination of
8 anything that's collected outside of the apartment?

9 A I'm thinking. I don't believe that any items
10 that I examined were collected outside of those two
11 apartments.

12 Q And do you know who made the decision not to
13 analyze the -- the items that were collected outside of
14 the apartment?

15 A No.

16 Q Now, I want to talk you about item number 3.
17 So item number 3 consisted of various swabs. And the
18 only item -- the only swab that you conducted analysis
19 on was the button of the cooling heating unit?

20 A Yes.

21 Q And that came back to Ted Gibson; is that
22 right?

23 A The dominant component, yes. It was a
24 mixture, and the dominant component of that mixture was

1 Mr. Gibson, and I could make no conclusions for the
2 minor component.

3 Q But part of item number 3 was also a swab of
4 the exterior front door handle. Correct?

5 A I believe so, yes.

6 Q But we heard that there was no analysis
7 conducted on the exterior front door handle swab.

8 A Correct.

9 Q Do you know why that particular item was not
10 analyzed?

11 A I believe when I had the slide up that I
12 mentioned that that is an area where a number of
13 individuals may have touched that item and different
14 individuals over a period of time. Also the individual
15 that uses the apartment on a regular basis would have to
16 open and close it every time they entered or left the
17 apartment, so a possibility of obtaining a minor amount
18 of DNA result was relatively limited. The heating
19 cooling unit button, although the possible obtaining a
20 profile was also potentially slim, the temperature of
21 the room was altered, and it seemed a good set of swabs
22 to look at.

23 Q I very much appreciate the answer you gave,
24 but the question was who made the decision not to

1 analyze that particular swab?

2 A I'm sorry, I did not hear that, but I heard
3 it this time. I do not know.

4 Q It wasn't you?

5 A No. The --

6 Q So somebody tells you which items to analyze.

7 A So as I mentioned earlier, often the decision
8 of which items to analyze is in conjunction with the
9 investigating officers for a particular situation, as
10 well as a District Attorney if they are assigned, and
11 individuals from the Forensic Science Division who can
12 offer information as to the items that may or may not
13 give potentially good results. So I'm not sure I know
14 who made the final decision for which swabs in this
15 particular instance, but it was not me.

16 Q Okay. Because you're not in a position to
17 make a determination about what might be valuable or
18 not. Is that fair to say, you rely upon others to give
19 you that information?

20 A I -- in conjunction with other individuals, I
21 give my -- my input is based on my experience as to what
22 may or may not give potentially good DNA typing result,
23 but it's in conjunction with other individuals.

24 Q Okay. Who in your estimation, though, makes

1 that final decision? Who is the one who finally decides
2 this gets analyzed or this doesn't get analyzed?

3 A That just depends on a particular situation.
4 Sometimes it may be the supervisor of the biology unit.
5 Sometimes it may be the analyst. Sometimes it may be
6 the investigating officer. And sometimes it may be the
7 District Attorney.

8 Q And in this case you just don't recall which
9 of those it was.

10 A I don't.

11 Q Okay. I want to talk to you now about item
12 5.1. These are swabs that were collected from some
13 scissors that were found at placard number 5?

14 A Yes.

15 Q So in this case as I understand, the black
16 handle of the scissors you were able to identify three
17 separate profiles; is that right?

18 A So I would -- I don't recall off the top of
19 my head. I would have to refer to the summary slide or
20 the report.

21 Q Okay.

22 A Can I -- is the slide okay?

23 Q We can put the slide back up, or if you have
24 a copy of the --

1 A The slide is probably the -- be easier. So
2 the handle, the DNA results were from three individuals,
3 so I can explain sometimes a mixture it is easy to
4 determine how many individuals are contributing, and
5 sometimes it's not easy depending. On the level of DNA,
6 if you're able to pull out a dominant component, then
7 that individual is -- there is clearly one, but if the
8 additional contributions are very low, then sometimes
9 it's not clear whether there is another one additional
10 individual, two additional individuals, three, four, on
11 this particular instance the indications were that there
12 were at least three individuals, so I made my
13 conclusions and interpretations assuming that the
14 results were from three individuals.

15 Q Thank you. And then I want to talk to you
16 about item 9.1. So these are the swabs with regard to
17 the knife?

18 A Yes.

19 Q So with respect to the knife, you were only
20 able to get results that come back to Ted Gibson; is
21 that correct?

22 A So from the red stain on the handle, the
23 possible residual DNA from the blade, and the possible
24 residual DNA from the handle, I obtained mixtures from

1 each of those. I was only able to pull out a dominant
2 component and make interpretations on those dominant
3 components. Each of those, as well as the single source
4 profile from the red/brown staining on the blade did
5 come back to Theodore Gibson. I was unable to make
6 conclusions regarding the minor components of those
7 three mixtures.

8 Q Okay. Now I want to talk to you about item
9 13.2.1. This is a cigarette pack that there were some
10 swabs done on?

11 A Yes.

12 Q And in this case you were able to determine
13 that there was DNA present that was an individual --
14 that was certainly not Mr. Goad; is that correct?

15 A Correct.

16 Q You were able to say definitively there's
17 another set of DNA here, however, we know that it is not
18 Mr. Goad.

19 A Correct. The mixture was two individuals, a
20 dominant component, and a minor component. The dominant
21 component matched Mr. Gibson, the minor component did
22 not match Mr. Goad. He was excluded.

23 MR. SLOCUM: I don't have any further
24 questions of this witness.

1 THE COURT: Thank you. Any redirect?

2 REDIRECT EXAMINATION

3 BY MR. STEGE:

4 Q Starting at the end there, the cigarette
5 packet where you are able to exclude Mr. Goad, the blood
6 is source Mr. Gibson?

7 A So there was a swab that was collected
8 presumptively positive for the presence of blood. Blood
9 is an excellent source of DNA. It has large amount of
10 DNA per amount that you see. The dominant component in
11 this instance of the mixture was or matched Mr. Gibson,
12 but I can't say for sure that that profile came from the
13 blood -- from the possible red/brown staining, but it is
14 the thing that has the most DNA as opposed to residual
15 DNA, but I -- there's no way for me to look at the
16 profile and say this profile definitely came from the
17 red/brown staining. But red/brown staining that is
18 presumptively positive for blood generally gives more
19 DNA than residual DNA.

20 Q And I did notice that was the -- of all these
21 minor or trace contributors that is the, I think, the
22 sole time you're able to exclude Ralph Goad from these
23 minor or trace portions of the samples.

24 A It was the only one where I was able to make

1 a conclusion about the minor component, yes.

2 Q Okay. So some of these other -- the minor
3 contribution or the trace that's not identified could be
4 anyone.

5 A I can make no conclusion so yes, it could be
6 anybody.

7 Q Okay.

8 A I can't make a conclusion.

9 Q It could be anyone. Could also that anyone
10 include Mr. Goad himself?

11 A I can't make any conclusions so it could be
12 anybody.

13 Q I don't in the entire world.

14 A Yes. Because I can't make any conclusions.

15 MR. STEGE: I have no further questions.

16 THE COURT: Any recross?

17 MR. SLOCUM: Yes, please, your Honor.

18 RECROSS EXAMINATION

19 BY MR. SLOCUM:

20 Q So on this question about it could be anybody
21 in the entire world, that's really not entirely
22 accurate, is it?

23 A So the minor component that's present does
24 not contain enough information for me to make any

1 conclusions about. So I could have a reference sample
2 from every individual in the world and I could not make
3 any conclusions as to whether they are included or
4 excluded. That's what I meant by that statement.

5 Q Okay. But the significance of that is not
6 that we should think that there's no information at all
7 there just because you wouldn't make a conclusion as a
8 -- as a scientist that there's -- that there's a
9 possibility that it could be anyone, that in and of
10 itself doesn't mean that there's not information there
11 to have. Correct? You're just as a scientist saying I
12 can't -- I can't make a determination on this with any
13 degree of scientific certainty.

14 A I'm afraid I don't quite know how to answer
15 the question. As I mentioned during the initial part of
16 my talking, the laboratory has through validation
17 determine specific thresholds and criteria that DNA
18 typing results is needed to meet before we consider them
19 reliable. So if those results don't meet that point
20 where we deem them reliable, then we make no
21 interpretation on them. So based on the thresholds and
22 criteria that the laboratory has, there is something
23 there because I can say that it's a mixture of
24 individuals, but I can't make any conclusions about it.

1 So I hope that answers your question.

2 Q Well, it does. I've seen this presentation
3 given that was a little more technical and you've
4 addressed some things, but I think we need to be on the
5 same page about you have some -- a threshold where you
6 say hey, we're not gonna analyze things below that
7 threshold. Correct?

8 A Correct. But they're not just arbitrary
9 values, they are determined --

10 THE COURT: So hold on, you're in
11 cross-examination. You were given a full opportunity to
12 say whatever you wanted. I just want you to focus on
13 the question and answer and we'll see what proceeds from
14 there.

15 MR. SLOCUM: Thank you very much, your Honor.

16 THE WITNESS: Sorry.

17 THE COURT: That's okay.

18 BY MR. SLOCUM:

19 Q So there's threshold but there's information
20 that exists below that threshold; is that correct?

21 A There is information, yes.

22 Q All right. As a scientist, you've got a
23 threshold, you've made a determination you're not gonna
24 look below that threshold.

1 A Based on -- that threshold is not an
2 arbitrary value. It's based on a large number of -- a
3 large amount of testing within the actual laboratory to
4 determine at what point is the information above this
5 level interpretable and reliable. And at a point below
6 this threshold, based on the way the testing is
7 performed in this particular laboratory, that value,
8 anything below that is not reliable.

9 THE COURT: Ms. Reporter, could you read back
10 the last question, please.

11 (Record read.)

12 (Q As a scientist, you've got a threshold,
13 you've made a determination you're not gonna look below
14 that threshold.)

15 THE COURT: So when we -- careful how I do
16 this because I don't want to ever affirm or disaffirm
17 any witness, my opinion is not relevant, but I am
18 required to manage this proceeding. I think the State's
19 witness, scientific witnesses from time to time
20 misunderstand the role of testimony because they've
21 given such carte blanche unrestricted direct testimony,
22 they can just editorialize whatever information they
23 believe is appropriate. On cross-examination this
24 witness is not allowed to travel into areas that she

1 wants, she must answer the questions directly. Mr.
2 Stege.

3 MR. STEGE: So long as the question can be
4 asked yes or no, you know, pursuant to a leading
5 question.

6 THE COURT: Right.

7 MR. STEGE: It's not so much editorializing as
8 attempting to answer the question in the State's view.

9 THE COURT: Right. So I never confine counsel
10 to yes or no questions. Thematically you are correct.
11 It needs to be tight in its form so the witness can
12 answer it or not answer it, a full understanding of what
13 you're seeking.

14 MR. SLOCUM: Thank you, your Honor.

15 THE COURT: Go ahead.

16 MR. SLOCUM: Thank you.

17 BY MR. SLOCUM:

18 Q So to come back, there's a threshold that is
19 determined where you're going to start your measurement.
20 Is that fair to say?

21 A Yes.

22 Q There's information that exists below that
23 threshold. Correct?

24 A There is data.

1 Q Okay. There's data that exists below that
2 threshold. Correct?

3 A Correct.

4 Q Now, if I were to take a low level of DNA,
5 and I were to go below that threshold, I could actually
6 include people, couldn't I?

7 A Not if you are wishing to make conclusions
8 based on reliable data.

9 Q Okay. So let me come back. Below the
10 threshold there's data. Right? That data could operate
11 to exclude someone if you chose to do that.

12 A Not -- me personally? No, because it is
13 below the threshold of being reliable.

14 Q Okay. But the question has to do with
15 whether or not there is data there that exists that
16 could exclude someone. I understand that there's a
17 threshold that you use. But the question is isn't there
18 information that exists, or data, to use your word, that
19 exists under that threshold which could actually be used
20 to exclude someone because it doesn't match up to the
21 data that you have information on; isn't that correct?

22 A So the reason for the threshold is that I
23 can't distinguish between what is data and what is
24 background. So there may be information below that

1 threshold, but if it is not data, if it is background,
2 then I can't use it to -- it shouldn't be used to
3 include or exclude an individual.

4 Q Okay. So -- so your concern is with regard
5 to what would be described as background. But isn't it
6 accurate that there are times where that data can be
7 identified as actual data, and we don't have to be
8 concerned about it being background even if it is below
9 that threshold.

10 A I do not make interpretations below the
11 threshold.

12 Q And the question has to do with whether or
13 not you can identify data that's below that threshold.
14 And that's true you can do that, correct?

15 A No, I can not distinguish between data and
16 background, potential.

17 Q I want to make sure we're on the same page.
18 Your testimony today is anything below that threshold
19 can not be identified always as data or background. Is
20 that fair to say?

21 A It can not always be, no, that is correct.

22 Q Right. Can it ever be?

23 A I can't answer the question of whether it can
24 ever be.

1 Q Why not?

2 A Because I don't know what may happen down the
3 road. I can only answer the question that I do not make
4 interpretations on data below the thresholds that are in
5 place.

6 Q Okay. And so regardless of what -- of what
7 information or data, to use your word, exists below that
8 threshold, you will never be willing to use that data to
9 exclude someone.

10 A Again, I can't -- I don't like to use the
11 word never or always. I follow the protocols of
12 interpretation that are currently present at the Washoe
13 County Sheriff's Office.

14 Q Well, and this comes back around to the
15 fundamental question of the idea that if the DNA level
16 falls below this threshold, that you can never exclude
17 someone and it could truly be anyone in the world.
18 That's a concern I have. Do you really believe that
19 idea that it could be anyone in the world?

20 A I believe that it is below the threshold and
21 I can make no interpretations, that's --

22 Q Okay. So the question you were asked is
23 whether or not it could be anyone in the world you would
24 not phrase it that way. Is that fair to say?

1 A That's correct.

2 MR. SLOCUM: Okay. I don't have any further
3 questions.

4 THE COURT: Thank you for your testimony. You
5 can step down --

6 MR. STEGE: Whoa, whoa, whoa.

7 THE COURT: I thought have you already had
8 redirect?

9 MR. STEGE: Yes, but this whole thresholds and
10 accuracy and that the Court --

11 THE COURT: I understand.

12 MR. STEGE: -- the form of the question
13 issue.

14 THE COURT: I understand. Ladies and
15 Gentlemen, during this recess please do not form
16 anything about this matter. Please do not discuss it
17 with each other, express any opinions. We'll be in
18 recess for 15 minutes until 3:15.

19 The witness is excused. You may leave the
20 podium. There will be no further redirect.

21 MR. STEGE: No, that was my -- no, I wish to
22 have further examination of the witness --

23 THE COURT: I know.

24 MR. STEGE: -- on those two issues.

1 Will the Court give it to me?

2 THE COURT: We'll certainly talk out of the
3 jury's presence.

4 Ladies and Gentlemen, you're free to step out.

5 (Jury leaves courtroom.)

6 THE COURT: I have to be very careful what I
7 say in front of the jury because they watch judges and I
8 don't ever want to suggest credibility, lack of
9 credibility. I didn't mean by my comments to personally
10 respond to this particular witness when I said about
11 scientific witnesses who on direct examination --

12 MR. STEGE: Right.

13 THE COURT: -- they get a very broad
14 latitude. On cross-examination you need to bring them
15 back into the normal colloquy of attorney and witness.
16 I didn't mean it personally against you, it's just the
17 style that I've observed.

18 MR. STEGE: Right.

19 THE COURT: You do want a third redirect.

20 MR. STEGE: I do want a third redirect.

21 THE COURT: You may be heard, bearing in mind
22 that at the beginning of this trial I looked at both you
23 in the eyes and I said there will be nothing past second
24 cross.

1 MR. STEGE: I know you did, but Mr. Slocum
2 respectfully went way -- went quite beyond what the
3 State's redirect was and left this rather, I'll use the
4 term fuzzy question out there about the standards such
5 that the witness was unable to answer that where the
6 standards come from and how they're comprised.

7 And adding to that, I appreciate what the
8 Court was doing, but I was rather taken aback by it by
9 the Court sort of --

10 THE COURT: I was taken aback by the serial
11 attempts by defense counsel to elicit a simple answer.
12 She would turn to the jury and carry on a lengthy
13 response that was nonresponsive and I could think of no
14 way to correct that except subtly doing it.

15 MR. STEGE: I'm not -- I'm not pushing back
16 here on your Honor, but we have technology that was the
17 first time that happened and in this case -- this trial
18 and it is unusual in my experience for the Court to do
19 that. So that's the fullness of my request for
20 additional questions.

21 MR.. SLOCUM: And your Honor, if I may respond
22 to that. In fact, it was Mr. Stege's question which was
23 the entirety my recross-examination. And that's this
24 idea that it could be anybody in the world. And that

1 was -- that was the substance of it. That was Mr.
2 Stege's question. He didn't far exceed anything. It
3 was really to get to the bottom of if this -- is this
4 accurate to say it could be anyone in the world.

5 And beyond that the Court did attempt with
6 this particular witness to say please answer the
7 question as directed, and it was only after this was
8 repeatedly done that the Court did have to intervene to
9 say you really do have to focus on -- on the question on
10 cross-examination, this isn't the opportunity to get an
11 editorial.

12 THE COURT: Criminal justice attorneys are the
13 most experienced trial attorneys in our county. But not
14 all of what they do is reflective of the Court's entire
15 experience. I regularly am asked to instruct a witness
16 who's being nonresponsive. I don't think I do it on my
17 own, as you just saw, but I agree with Mr. Slocum that
18 the first time I didn't, and only after the second time
19 did I choose to do so.

20 I don't want to burden the entire break on the
21 record. We have a question, counsel, that I'll need you
22 to look at and we'll respond. There will not be a third
23 redirect on the record. This witness is able to leave.

24 If you'll approach, please. First of all,

1 that question is marked and made part of Court's record.
2 The attorneys have seen it. I intend to answer it
3 generally as the afternoon unfolds. I'm not responding
4 right now. Ten minutes for all of us.

5 (Short break.)

6 MR. SLOCUM: If we could have a moment out of
7 the presence?

8 THE COURT: Yes, go ahead.

9 MR. SLOCUM: My understanding, your Honor, is
10 that he's preparing to call the ME. There were some
11 photos that we had talked about at a pretrial hearing.
12 It is not entirely clear that at least one of those
13 pictures, that is, one depicting the shirt, not the
14 actual autopsy itself, but the body itself, what the
15 issue or the reason why that was going to be necessary
16 for the ME. We dealt with this somewhat at the pretrial
17 hearing in front of Judge Steinheimer, but we have a
18 continuing objection to these photos. I just want to
19 make sure that the record was clear on that piece.

20 THE COURT: So I typically hear objections as
21 to the cumulative effect of prejudicial images. When
22 you're talking about a T-shirt, is that still the basis
23 for your concern is that it's cumulative in its --

24 MR. SLOCUM: So here's what happened at the

1 pretrial hearing. It's been my experience that we will
2 file a motion for excessively gruesome photos. We will
3 have a hearing at which the ME will testify I need this
4 photo for this reason, I need this photo for this
5 reason, I need this photo for this reason, and also give
6 reasons why this will help inform the jury. And I think
7 that's important if there are two photos that are gonna
8 be admitted they should have separate explanatory value
9 for the examining.

10 THE COURT: Understood.

11 MR. SLOCUM: Which was okay. What ended up
12 happen, the ME didn't testify at that hearing but these
13 were photographs which had been used at grand jury and
14 so Mr. Stege was able to look to the testimony of the
15 grand jury to say why these particular photos were
16 necessary to help the jury understand her testimony.

17 But there was this issue of the T-shirt and
18 how the T-shirt is in that way necessary to explain --

19 THE COURT: So is your objection limited to
20 the T-shirt photo?

21 MR. SLOCUM: Correct. I believe that we are
22 satisfied with regard to the explanatory value of the
23 other photo.

24 MR. STEGE: I would disagree, I'd say,

1 strongly with Mr. Slocum's assessment that we dealt with
2 this somewhat at pretrial hearing. I would say we dealt
3 with it, and the ruling was these 13 photographs are
4 admissible on the grounds of gruesomeness. I also --

5 THE COURT: Admissible on the grounds of
6 gruesomeness.

7 MR. STEGE: The Court, Judge Steinheimer
8 rejected the claim that these photographs were gruesome
9 as a matter of law, right? She denied their motion. I
10 also --

11 THE COURT: Is Mr. Slocum renewing an
12 objection --

13 MR. STEGE: Yes.

14 THE COURT: -- previously made to which there
15 was a response and he's just preserving it? Or --

16 MR. STEGE: That's what I believe and that's
17 what I -- I'm loathe to tell the Court about what
18 counsel talk about because --

19 THE COURT: Yeah, please don't.

20 MR. STEGE: -- it's often in confidence and--

21 THE COURT: Yeah, please.

22 MR. STEGE: -- it helps things go along. But
23 my impression was we're going to have that preserved
24 here today. I would -- I don't like the idea they get a

1 second chance at this photograph.

2 I also push back on the idea that as a matter
3 of course the coroner or ME should have to testify
4 before trial absent a specific objection. So what I did
5 was if the Court cares about what happened in that
6 hearing.

7 THE COURT: I really don't because I'm not
8 going to make a decision, I'm just giving the defense
9 the opportunity to lodge its objection for future
10 review, if necessary.

11 MR. STEGE: Very good.

12 MR. SLOCUM: Thank you, your Honor.

13 THE COURT: The photographs are coming in as
14 presented to Judge Steinheimer.

15 MR. SLOCUM: Thank you.

16 THE COURT: All right. The jury, please.

17 (Jury returns to courtroom.)

18 THE COURT: All right. Please be seated.
19 Ladies and Gentlemen, we're approaching the end of our
20 Thursday. Some of you are undoubtedly thinking about
21 what the schedule looks like. We are still set to
22 tender the case to you for deliberations tomorrow, and I
23 will have more information about that probably by the
24 end of the day. Our trial day today will end at 4:40.

1 To the State, you may call your next witness.

2 MR. STEGE: Katherine Callahan.

3 COURT CLERK: Please raise your right hand.

4

5 KATHERINE CALLAHAN, M.D.

6 called as a witness herein, being first

7 duly sworn, was examined and testified

8 as follows:

9

10 COURT CLERK: Thank you.

11 THE COURT: Remember speak in the microphone,

12 please. Counsel, you may begin.

13 MR. STEGE: Thank you.

14 DIRECT EXAMINATION

15 BY MR. STEGE:

16 Q Please state and spell your name.

17 A Katherine Callahan. K-a-t-h-e-r-i-n-e, last
18 name is C-a-l-l-a-h-a-n.

19 Q How are you currently employed?

20 A I'm an Assistant Medical Examiner at the
21 Washoe County Regional Medical Examiner's Office here in
22 Reno, Nevada.

23 Q You hold any special degrees or training to
24 hold that position?

1 A Yes. I'm a forensic pathologist. So to
2 become a forensic pathologist I got my Bachelor of
3 Science at University of New Mexico. I then completed
4 four years of medical school at the University of New
5 Mexico.

6 After that I completed four years of residency
7 in anatomic and clinical pathology at Stanford
8 University. After residency I completed a one-year
9 fellowship in forensic pathology at New Mexico Office of
10 Medical Investigator.

11 After that I started working as a Deputy
12 Medical Examiner at the Travis County Medical Examiner's
13 Office in Austin, Texas, where I worked for about three
14 and a half years. And then I started working here,
15 where I've been for about two and a half years now.

16 Q And so you've been working full time as a
17 forensic pathologist for sometime.

18 A Yes, since August, 2013.

19 Q And what does a forensic pathologist do?

20 A So a forensic pathologist is a physician who
21 investigates deaths, which may include performing
22 autopsies, to determine cause of death and manner of
23 death.

24 Q There are different causes and manners of

1 death.

2 A Yes, there are.

3 Q Did you perform an autopsy upon the body of
4 Theodore Gibson?

5 A Yes, I did.

6 Q Can you tell us about that process?

7 A Yes. So Theodore Gibson came to our office
8 in a sealed body bag. I removed the seal and found that
9 he was clothed in a black jacket, a tan shirt, brown
10 pants with a black belt and plaid boxer-style
11 underpants.

12 The jacket and the shirt were blood soiled.
13 There was also some dried blood on the pants.

14 He had multiple injuries of his body including
15 his face and his torso. And he also had what we call
16 mild decomposition, so he had been dead for a period of
17 time.

18 Q Is it understood with -- in the field
19 decomposition?

20 A Decomposition is understood but,
21 unfortunately, it doesn't happen at the same rate for
22 everybody. There are a lot of variables that have to be
23 taken into account. It would be really nice if everyone
24 decomposed at the same rate. The biggest factor is

1 environmental so what's the temperature. If it's hot
2 outside you're going to decompose a lot faster than if
3 you're in the snow frozen.

4 Your body habitus also plays a factor, so if
5 you're obese, fat serves as an insulator so you're gonna
6 to decompose faster than maybe a thin person would.

7 There are also certain medications that can
8 accelerate decomposition. So it's really difficult for
9 us to say based on decompositional pattern exactly how
10 long someone has been deceased.

11 Q So in the pop culture you might see a
12 detective or someone observe a body be able to state
13 with pretty ease of level decomposition. Is that simply
14 not the case in the field?

15 A It's not the case.

16 Q You did observe some decompositional changes.

17 A Yes, I did.

18 Q And can you summarize those, please.

19 A Yes. So he had green discoloration of his
20 abdomen. And the green discoloration comes about from
21 bacteria. So we normally have bacteria in our guts, and
22 after anyone dies they just go crazy and they start
23 proliferating. And so they produce several gasses
24 including hydrogen sulfide which makes the skin turn

1 green.

2 The other things he had were a drying of hands
3 or desiccation, it's like a mummification. So he had
4 drying of his hands and he had some skin slippage so the
5 surface of his skin was starting to slip off from the
6 underlying dermis layer.

7 Q And so let's walk us through the first
8 portion of the autopsy. How does the examination begin?

9 A So an autopsy consists of both an external
10 examination and an internal examination. During the
11 external examination, we collect evidence if it's needed
12 for the case. Evidence includes things like fingernail
13 clippings, swabs of the body. We also look for any
14 trace evidence so if there's some hairs there where
15 there shouldn't be hairs like on hands or on the body,
16 we'll collect those. We measure the length of the body
17 and we weigh the body.

18 We document what clothing is on the body and
19 remove it. We also document any medical intervention
20 that might be on the body. Sometimes people have had
21 emergency medical personnel perform resuscitation
22 efforts on them so they'll have different medical
23 intervention on them, so we'll remove that.

24 We document and photograph any injuries that

1 would be on the external surface of the body. We
2 document characteristics including hair color, eye
3 color, any tattoos or scars that are on the body. And
4 if you need it we'll perform radiographs or x-rays,
5 particularly in cases where there's penetrating injuries
6 including gunshot wounds, we're looking for bullets,
7 stab wound, we're looking for anything for any retained
8 knife tips.

9 Then we start the internal examination which
10 is done by making a Y-shaped incision from shoulder to
11 shoulder midline chest down to pubic bone. We reflect
12 the skin and subcutaneous tissue in the muscle. We cut
13 the ribs to remove the chest plate so now we have
14 exposure of the abdominal cavity and the chest cavity.

15 We collect blood, vitreous fluid from the eye,
16 and urine from the urinary bladder if there is any
17 that's present. We do further studies including
18 toxicology testing. We then remove all organs from the
19 chest in the abdominal cavity and we assemble them for
20 any injuries, any actual disease, any congenital
21 abnormalities and tumors.

22 We then examine the head by making an incision
23 from ear to ear over the top of the head, we reflect the
24 front of the scalp forward, back of the scalp backward

1 that expose the top of the skull.

2 Q I don't know if the court reporter can keep
3 up with your --

4 A Okay.

5 Q -- rather enthusiastic pace.

6 A Sorry. Sorry.

7 Q The head.

8 A The head. Sorry, I will slow down. So now
9 we have the skull exposed. We use a bone saw, and we
10 cut open the top of the head, and that allows us to see
11 the brain. We remove the brain and we assess for any
12 injuries, natural disease, tumors, congenital
13 abnormalities.

14 After the brain is examined we then turn our
15 efforts to the neck. We look at all the muscles in the
16 front of the neck. We look at structures including the
17 hyoid bone, is a bone right under you jaw, the thyroid
18 gland, the thyroid cartilage and gain assess --

19 Q The pace.

20 A Sorry.

21 Q Thyroid.

22 THE COURT: The reporter's fingers are smoking
23 steadily fast.

24 THE WITNESS: Sure.

1 THE COURT: When there is the normal question
2 and answer colloquy it gives pause and we can kind of
3 take cues.

4 THE WITNESS: Right.

5 THE COURT: It's appropriate that you provide
6 this -- I do not -- I'm not concerned about the
7 testimony you're providing but I'm very concerned about
8 the pace.

9 THE WITNESS: Okay. Sorry.

10 THE COURT: And so because Mr. Stege can see
11 the witness and I can't, you just stand in front and
12 wave your hands.

13 MR. STEGE: I'm trying to.

14 THE WITNESS: Yeah. Yeah.

15 BY MR. STEGE:

16 Q You're doing great. I think you were --

17 A Yeah, structures of the neck. So we look for
18 any injuries. Sometimes you can have hemorrhage in the
19 muscles. You can have fractures of the hyoid bone,
20 fractures of the thyroid cartilage, and we assess the
21 thyroid gland for any tumors.

22 After we've examined all of these organs we
23 place them back in the body cavity and the body is then
24 released to the funeral home.

1 Q And in this case did you select a number of
2 photographs to help you explain your testimony in the
3 case?

4 A Yes, I did.

5 Q I'm going to hand you what's been marked as
6 proposed 15. Would you review those briefly?

7 Do you recognize those photographs?

8 A Yes, I do.

9 Q Are these a true and accurate depiction of
10 the body of Mr. Gibson at autopsy?

11 A Yes, they are.

12 MR. STEGE: Move to introduce 15.

13 MR. SLOCUM: Subject to my objection, your
14 Honor.

15 THE COURT: Thank you. 15 is admitted, Ms.
16 Clerk, without contemporaneous objection noted.

17 COURT CLERK: Thank you.

18 (Exhibit 15 is admitted into evidence.)

19 MR. STEGE: May I publish the exhibit, your
20 Honor.

21 THE COURT: Yes.

22 BY MR. STEGE:

23 Q Doctor, did the previous witness leave a
24 clicker at your -- okay. would you like to use it?

1 A Sure.

2 Q That's -- let me get there.

3 Okay. What are we seeing at page 1 on this
4 exhibit?

5 A So this is a photograph, a taking of Mr.
6 Gibson's face after his body has been cleaned so prior
7 to the internal examination. Is it a pointer or?

8 Q No. It should be opt to click. The middle
9 button looks like a right arrow.

10 A Yeah, this one (indicating)?

11 Q Yeah.

12 A Oh, sorry.

13 Q The bottom one being back.

14 A Do you want me to go through them?

15 Q Yes, I do want you to go through them.

16 A Okay. Great. So what you can see here is
17 this dark discoloration. Those are all areas of injury.

18 Q In addition, I don't know if you've been in
19 this particular courtroom, the screen, if necessary, you
20 can use your finger to draw on it.

21 A Oh, okay.

22 Q And bottom left corner if you just press the
23 screen will clear it.

24 A Okay. Thank you. This is a photograph of

1 the right side of Mr. Gibson's face. And what I've done
2 here is provided some labels, just arbitrary labels,
3 labeling injuries. So anywhere you see a number there's
4 at least one injury. Some of the numbers represent more
5 than one injury.

6 Q And they're arbitrary in the sense that the
7 earliest ones don't necessarily indicate the first
8 injury to have occurred.

9 A Correct. So the way I do my numbering is
10 from top of the head to the foot. So the injury that's
11 closest to the top of the head usually starts with one,
12 then I'll choose different sides of the face, I'll do
13 the front of the body, and then I'll do the back of the
14 body.

15 Q Now, you have used the term injuries to the
16 side of the face. Did you investigate what type of
17 injuries they are?

18 A Yes. So these are all sharp force injuries,
19 meaning stab wounds or incised wounds. The majority of
20 these are stab wounds. And the difference between the
21 two are they're both sharp force injuries. Stab wounds,
22 the injury on the skin surface is shorter than the
23 injury, the depth of the wounds. Opposite is true for
24 incised wounds so incised wound the injury on the skin

1 surface is longer than the injury depth.

2 Q Okay. And you've labeled either individual
3 stab wounds or stab wounds with these numbers. Right?

4 A Yes.

5 Q As you're doing this are you counting the
6 number of stab wounds to Mr. Gibson?

7 A Yes. So Mr. Gibson had a total of 250 stab
8 wounds, which included 151 stab wounds of the face, head
9 and neck, 76 stab wounds of the back in the right and
10 left sides of the torso, one stab wound of the left
11 thigh, 17 stab wounds of the right upper extremity,
12 including the hand, the wrist, and the forearm, and five
13 stab wounds of the left hand.

14 Q So a number of those here are depicted in the
15 right-hand view of Mr. Gibson's face.

16 A Yes.

17 Q You may continue to narrate.

18 A So this is a photograph of the opposite side
19 of his face so the left side. You can see the number 2,
20 and then just a lot of dark discoloration here, (marking
21 Exhibit 15.)

22 So because of his decomposition and darkening
23 and drying of the skin, it's kind of hard to make out
24 exactly where -- how many wounds there are and where

1 they start and where they begin. And this decomposition
2 also makes it kind of difficult to do certain
3 characteristics of the stab wounds, but I was able to
4 count how many were there and where they went.

5 These stab wounds, three of them injured the
6 left eyeball, one of them actually fractured the orbital
7 plate which is a thin bone, it's on the surface of the
8 eyeball, and one of them penetrated the middle cranial
9 fossa which is the base of the skull. But it did not
10 injure the brain.

11 Q That last, cranial fossa?

12 A Fossa, yes.

13 Q Is that depicted -- where is that on the
14 body?

15 A It's -- whoops. It's in one of these
16 (indicating).

17 Q Okay.

18 A Yeah.

19 Q What was the result of the injury to the eye?

20 A So the eye is collapsed because of the stab
21 wounds, and hemorrhagic or bloody.

22 This is a photograph of what I call the palmar
23 surface of the hand, so everywhere you see numbers those
24 are areas where there are sharp force injuries.

1 Q And those appear to go up the hand and into
2 the -- I'll use the term the forearm?

3 A Yes.

4 Q The inside of his wrist?

5 A Yes. So there's -- they're on the hand, the
6 wrist, and the forearm.

7 Q Okay. And is -- talk to us about the
8 location of these sharp force injuries as it relates to
9 defensive wounds.

10 A So defensive wounds is not an anatomical
11 diagnosis. But any time we have injuries to the
12 extremities, so hands, arms, feet, legs, they could
13 represent defensive injuries. As people are defending
14 themselves from a perpetrator who's far away they tend
15 to have their hands out, and as they get closer they'll
16 shield themselves so we can see injuries on the arms and
17 the hands, and if the person is laying down and kicking
18 we can see them on the feet or the legs, too.

19 Q And in this case did you see those wounds
20 both to the palm and to the --

21 A Yes.

22 Q -- back of the hand?

23 A On the right, the right hand they were both
24 on the palm and the back of the hand.

1 Q Would you continue.

2 A Yes. So this is the back of the right hand.
3 Again, anywhere you see a number is an area of sharp
4 force injury.

5 Q And again, not necessarily one -- like, for
6 example, 51 could indicate one injury or could it
7 indicate a number of them?

8 A Yes. And then this is the back of the left
9 hand that had five sharp force injuries.

10 Q Continue, please.

11 A This is a photograph of the left side of his
12 body. Here are some stab wounds and what I call
13 puncture wounds. And here is a stab wound. (Witness
14 marking Exhibit 15.)

15 Q The back of that left hand, is that also a
16 wound?

17 A Yes. So that is another angle of the
18 photograph that we just saw. So we looked at this
19 injury in the previous photograph that I -- we went
20 over.

21 Q Did you -- as you're looking at these
22 injuries what is it that you're looking for?

23 A So with stab wounds we look at
24 characteristics that might help us identify maybe what

1 kind of weapon was used so the ends of the stab wound we
2 would look to see if they're what we call sharp or
3 tapered or blunted, meaning they have a squared-off
4 edge. Typically single-edged knives will give you a
5 sharp end and a blunt end. That being said, they can
6 also give you two sharp ends. That can happen if when
7 the knife is inserted the knife moves towards the sharp
8 end so that the blunt end never comes in contact with
9 the skin. It would make a stab wound look like it has
10 two sharp -- it would make it look like a double-edged
11 knife instead of a single-edged.

12 Q And are you also investigating or looking at
13 the depth of the stab wound or injury?

14 A Yes. So we look at the depth, which is an
15 approximation, how far the stab goes into the body, and
16 what organs it injures.

17 Q Please continue if you're ready.

18 A So number 16 is a stab wound on the right
19 side of the chest, which is fairly superficial, doesn't
20 go into the chest cavity. Sorry. You can see here this
21 green discoloration (indicating), that's decomposition.

22 Q Continue when you're ready.

23 A This is a photograph of the jacket that he
24 was wearing. This is the back panel of the jacket. You

1 can see all the blood towards the top and, then these
2 split-like defects here, here (indicating), and these
3 all correspond to the stab wounds, which we will see
4 shortly.

5 This is a shirt that he was wearing. Again,
6 on this side we see a lot of these defects. These
7 split-like defects correspond to stab wounds.

8 Q Okay.

9 A And this is a photograph taken of Mr.
10 Gibson's body. He's now laying on his stomach so,
11 again, you can see all of these injuries of his head and
12 his back that are represented by number labels. And
13 again, the number labels may represent one wound or
14 multiple wounds.

15 Q And can you speak to us about the degree of
16 injury to the back.

17 A Yes. So as I said before the back and the
18 sides of the torso had 76 stab wounds. On the right
19 side of this back six of the stab wounds entered into
20 the right chest cavity and injured the right lung. On
21 the left side of the back, one of the stab wounds
22 entered into the left chest cavity and injured the left
23 lung.

24 Q Injured to what extent as to both of those?

1 A Just penetrated the lung tissue.

2 Q And what happens when you penetrate the lung
3 tissue?

4 A Yeah. So any time you have a penetrating
5 injury to the chest cavity, you can bleed, again, we
6 call it hemothorax, or you can also develop what we call
7 pneumothorax, so it's really important for there to be
8 no air between the chest wall and the lung, we need it
9 that way so that we can breathe. So any time you have a
10 penetrating injury and you're able to introduce air into
11 that space, it can lead to a collapsed lung which puts
12 strain on the heart and can cause you to die.

13 Q Is that what caused Mr. Gibson to die?

14 A It could have, but in this case there's so
15 many stab wounds the most likely mechanism is
16 exsanguination, which means losing blood.

17 Q Blood loss?

18 A Blood loss.

19 Q I'm sorry but this -- back to the head. Talk
20 to us about the existence of those injuries.

21 A So these are all stab wounds on the back of
22 the head. None of the ones on the back of the head
23 injured the skull or entered into the skull and injured
24 the brain. They were all limited to the skin,

1 subcutaneous tissue and the muscle.

2 Q Okay.

3 A On the right side of the head one of the stab
4 wounds, or two of the stab wounds injured the outer
5 surface of the skull, but it didn't injure the brain and
6 didn't go all the way through the skull.

7 Q Page 12 of this, please.

8 A Yeah. So this is just a close-up photo of,
9 excuse me, some of the stab wounds. You can see here
10 what we're talking about kind of the tapered or sharp
11 end and the squared off or blunt ends.

12 Q Are you talking about (indicating)?

13 A Yeah. This one and these ones. (Witness
14 circling spots on Exhibit 15.)

15 So this side is a squared-off end. This side,
16 whoops, is a sharp or tapered end. Same here. (Witness
17 circling spots on Exhibit 15.)

18 On the right-hand side are the blunt or
19 squared-off ends, and the opposite side are the sharp or
20 tapered ends.

21 Q And what does the blunt or -- and tapered
22 end, what does that tell you?

23 A That tells me that this instrument is -- has
24 a single sharp end, and the other end is not sharp,

1 which we can see with some knives. We can also see with
2 scissors if the stab is made with the blades open, stab
3 wounds made by a closed pair of scissors will look
4 different than this, but stab wounds made just a single
5 layer of the scissors could have this appearance.

6 Q Did you see any pared wounds or wounds that
7 seemed to have any other sort of patterning besides the
8 blunt and sharp end?

9 A Yeah. There were some pared wounds on the
10 right upper extremity and on the back, and here's a good
11 example of one. And any time I see pared wounds with a
12 blunt end and a sharp end, I think of scissors. But
13 usually if it's scissors and it's made with a scissors
14 blades open, they'll kind of be an oblique angle and the
15 sharp ends will be facing each other and the blunt ends
16 will be opposite.

17 And so you can see here the blunt ends are on
18 the same side and the sharp ends are on the same side so
19 that is not consistent with scissors -- one pair of
20 scissors, one stab with the blades open, this would have
21 to be the same blade twice.

22 And then here's some examples of two sharp --
23 two sharp ends, or two tapered ends. So here you can
24 see a sharp end on both sides, neither one of those

1 looks like they squared off or tapered. Same with this
2 one. Same with this one. (Witness circling spots on
3 Exhibit 15.)

4 Q And a double-tapered wound can be either from
5 a single end or a double end?

6 A A double -- a double-tapered wound could be
7 from a single edged if it's pushed all the way to what
8 we call the Ricasso, so the end of the blade will have
9 two blunt ends. Double blunted can also be from a
10 screwdriver.

11 Q But double -- double taper could be --

12 A Oh, sorry. Yeah, double tapered -- that's
13 double one. Double taper could be from -- you can see
14 it with the double-edge knife or a single-edge knife
15 from what I described before. But if there's
16 movement kind of forward towards the sharp end and blunt
17 end it never comes in contact with the skin.

18 Q Of the injuries observed to Mr. Gibson, what
19 would be incapacitating?

20 A You mean unconscious or?

21 Q Well, like for the lung -- the injuries to
22 the lungs, would that incapacitate a person?

23 A Okay. Yes, they -- when you develop
24 pneumothorax you actually get shortness of breath. And

1 if you don't have surgery right away, you could die from
2 that.

3 Q And the injury to the eye, and bone, I can't
4 remember the name.

5 A Right. Yeah, the orbital bone. Yeah, those
6 -- I mean, those two, I mean, he's not gonna be able to
7 see. Depending on how much force, which I can't say, I
8 wouldn't be able to say with certainty how much force
9 would be needed to fracture that bone, but if there was
10 enough force to knock him unconscious that's a
11 possibility.

12 Q Can you describe death by exsanguination what
13 happens to the body?

14 A So the body loses blood, at usually the
15 terminal mechanism is a cardiac arrhythmia. So it's
16 losing enough blood to where your heart isn't being --
17 isn't receiving enough blood to profuse itself in the
18 brain, and you usually have a cardiac arrhythmia.

19 Q And in the meantime is your -- as a body
20 loses blood is the heart trying to keep up?

21 A Yes. So with any type of blood loss your
22 sympathetic nervous system is gonna kick in and you're
23 gonna try to pump harder and faster to profuse these
24 organs.

1 Q Did you determine the cause and manner of
2 death?

3 A Yes. So the cause of death is multiple stab
4 wounds. The manner of death is homicide.

5 Q Did you determine in the investigation the
6 age of Mr. Gibson?

7 A So Mr. Gibson was 76 years old.

8 Q The cause and manner, can you tell us about
9 what -- what those terms mean in your field?

10 A Yes. So cause of death is the injury or
11 disease process that initiates the chain of events that
12 leads to death. Manner of death is the circumstance --
13 circumstances surrounding the death. So we have five
14 manners. We have homicide, suicide, natural, accident,
15 and undetermined is a Category if we can't fit into
16 those four.

17 Q Here homicide.

18 A Homicide.

19 MR. STEGE: Thank you. Pass the witness.

20 THE COURT: All right. To the defense.

21 MR. SLOCUM: Thank you.

22 CROSS-EXAMINATION

23 BY MR. SLOCUM:

24 Q Good afternoon.

1 A Good afternoon.

2 Q So you mentioned that Mr. Gibson was 76. Do
3 you know when he was born?

4 A I do not know when he was born.

5 Q Okay. Would that be part of the information
6 that would be in your file?

7 A Yes, it would be on our face sheet.

8 Q When you say face sheet?

9 A Yeah, our investigator face -- sorry, face
10 sheet.

11 Q Okay. I would like to direct you to what I
12 think is the face sheet, but if it's --

13 A Okay.

14 Q -- not then --

15 A Sure.

16 Q -- then please let me know and we can get
17 you a different. I'm looking at 2264 Bates stamp
18 number.

19 MR. STEGE: Thank you.

20 MR. SLOCUM: If I could approach?

21 THE COURT: Yes.

22 BY MR. SLOCUM:

23 Q Is that what you mean by the?

24 A Yes.

1 Q Okay. So when was he born?

2 A He was born July 3rd, 1942.

3 Q And you also have the Social Security number
4 reflected on there. I don't want you to read the whole
5 thing, but do you see his last four?

6 A Yes, I do.

7 Q And what is that?

8 A 2846.

9 Q Okay. Thank you. Again, I just want to make
10 sure that we were clear. As far as the decomposition
11 process you said it's very variables; is that right?

12 A Yes, sir.

13 Q And there are a number of different things
14 that contribute to how fast bodies decompose.

15 A Yes, sir.

16 Q And, in fact, even if you took two bodies and
17 put them in exactly the same environment, one is going
18 to decompose at a different rate than the other.

19 A Yes, sir.

20 Q So we can't really make a conclusion on how
21 long Mr. Gibson was dead before he was discovered. Is
22 that fair to say?

23 A Fair to say.

24 Q You on your direct testimony said he had been

1 dead for a period of time.

2 A Correct.

3 Q And so I wanted -- I wanted to make sure that
4 we could maybe nail that down a little bit better. When
5 you say a period of time what does that mean to you?

6 A Can I explain decomposition and kind of -- do
7 you want, like, a time frame or can I explain why it's
8 difficult?

9 Q So what I'm asking is when you say a period
10 of time I just wanted to make sure that I was clear on
11 what those words mean to you.

12 A Sure. It means days to me, not hours.

13 Q Okay.

14 A Whether that's five days versus ten days, I
15 wouldn't be able to say.

16 Q Okay. So that's exactly the answer that I
17 wanted. In your mind that is days --

18 A Yes.

19 Q -- that's not months. Right?

20 A I would have to know all the variables of how
21 he was found, like what environment he was found in.

22 Q Well, you don't know what environment Mr.
23 Gibson was found in?

24 A I believe he was in his apartment. But I

1 don't know the temperature of the apartment.

2 Q Okay. So I just want to make sure we're
3 clear. You believe that the temperature of the
4 apartment could be so cold that a period of time could
5 be months?

6 A Oh, not months, I'm sorry, I'm thinking like
7 -- to me more than one month, like more than four weeks.
8 Could it be five weeks? Maybe. But months, not like
9 two, three, four, five. But more than one month, sorry,
10 is what months means to me.

11 Q Right. So I get -- I just want to make sure
12 we're on the same page so --

13 A Yes.

14 Q So we said to you a period of time in this
15 case means days.

16 A Days.

17 Q Not hours, we're good on that. Right?

18 A Right.

19 Q And not months, so days.

20 A Yes.

21 Q Okay. Thank you. And you had said actually
22 that fat acts as an insulator which increases the speed
23 at which a body decomposes; isn't that right?

24 A Yes.

1 Q Now, Mr. Stege asked you about a type of
2 injury that would incapacitate someone. Do you remember
3 that question?

4 A Yes, I do.

5 Q But that's not a term that you use in your --
6 in your area of specialization. Is that true?

7 A Not necessarily, no.

8 Q So it's difficult for you to say what
9 particular injury would cause someone not to be
10 conscious. That was one of the options that you gave,
11 right?

12 A Right.

13 Q And it's difficult to know exactly the order
14 in which these injuries occurred. Is that true?

15 A True.

16 Q So we don't know which injury occurred in
17 which order.

18 A Correct.

19 Q So if I understood your testimony, you can
20 identify the injuries but it's difficult for you to
21 establish how much force is necessary to create these
22 injuries; is that right?

23 A Correct. There have -- there have been some
24 studies done on cadavers where they looked at how much

1 force it took to injure skin, subcutaneous fat and
2 muscle, and the average was 11 pounds, but in that study
3 there's no documentation of how big the person was so in
4 forensics unfortunately we can't do a lot of
5 evidence-based medicine because of what we do. So these
6 questions are yes, difficult to answer.

7 Q Which is exactly why it's difficult for us
8 when we use the word incapacitate because clearly the
9 person's already dead by the time you're evaluating
10 them.

11 A Correct.

12 MR. SLOCUM: No further questions. Thank you.

13 THE COURT: All right. Any redirect?

14 REDIRECT EXAMINATION

15 BY MR. STEGE:

16 Q This question of the time, right, that the
17 body may have sat there, how would a -- in February, a
18 cold apartment that was -- let's talk about this -- let
19 me start over. A studio apartment --

20 A Uh-huh.

21 Q -- as a hypothetical. With the window
22 cracked, say, an inch. In February of 2019 that was, in
23 fact, between snow and rain, kind of little drizzle, the
24 air conditioning similar to the one in a -- might find

1 in a hotel, the wall unit?

2 A Uh-hum.

3 Q It has heat, high/low, heat and cold, and a
4 dial to go high/low. In this instance the air
5 conditioner was turned to high for a period of three
6 weeks. How would that affect your -- and how would that
7 affect the decay? Or decomposition.

8 A So decomposition, I can speak to kind of in a
9 temperate environment how it proceeds. Usually around
10 24 hours, and this is just on average, like an average
11 person you get green discoloration of the abdomen. And
12 then 48 hours you start to get bloating of the tissues
13 and that is from gas produced by bacteria. Around 72
14 hours the body turns green, again, that's from the
15 hydrogen sulfide that's made by the bacteria in the gut.
16 And then a couple days later you lose all those gases
17 and the body's not really bloated anymore, and the
18 tissues start to dry.

19 The type of decomposition for Mr. Gibson
20 doesn't follow that pattern. His is more consistent
21 with a cool, dry environment. Another thing to note on
22 him is he didn't have extensive insect activity, which
23 can also change the way decomposition happens. For him,
24 you know, he had the green discoloration of the abdomen

1 and the drying of the hands, so it is consistent with a
2 cool, dry environment.

3 I mean, we keep our coolers at 39 degrees
4 Fahrenheit in the office, and that is to prevent
5 decomposition at an accelerated rate. Bodies will
6 decompose unless they're frozen, but even if they're
7 refrigerated, but it's to slow it down. So that's why
8 its difficult. This could be days, and like I said, it
9 could be five days, ten days, 14 days. You put it into
10 14 days I'm gonna say weeks, so it's two weeks. So it's
11 -- there's so much -- it's possible that it could be two
12 weeks. It's possible it could be, you know, 17 days,
13 ten days. All I know is his -- his pattern of
14 decomposition did not follow what we see with a person
15 in a -- like a setting of 80 degree or ambient
16 temperature environment.

17 Q And I'm sensing in fairness reluctance really
18 to nail down a time frame.

19 A Yeah, I just -- I can't do that with
20 certainty, there's just no way I could say.

21 Q And it's not just you that can't say, it's
22 within the field itself.

23 A Right. We've tried. We have body farms in
24 Texas and in Tennessee where we try to look at

1 decomposition and, you know, I think maybe back in the
2 day we used to be more dogmatic about it, but we've
3 learned that there's so much variation that we can not
4 say with certainty how long. And the longer the period
5 of interval, so the longer between when they die and
6 when they're discovered, the more imprecise it gets.

7 MR. STEGE: Thank you.

8 THE COURT: Recross.

9 MR. SLOCUM: No, thank you, your Honor.

10 THE COURT: All right. Thank you. You're
11 free to step down and leave the courtroom.

12 THE COURT: Ladies and Gentlemen, during this
13 brief recess please do not discuss this case amongst
14 yourselves. Please do not form or express any opinion
15 about this matter until it has been submitted to you.

16 I'm not sure how long you'll be in the jury
17 deliberation room, but you will return into the
18 courtroom before the end of the day. We'll stand for
19 our jury.

20 (Jury leaves courtroom.)

21 THE COURT: Do you wish to rest in the
22 presence of the jury?

23 MR. STEGE: I do. I want to reexamine the 24
24 A that I hadn't marked. It was a certified copy issue

1 as it relates to -- Court's indulgence.

2 Your Honor, I'm prepared to rest.

3 THE COURT: Do you want to do that in the
4 presence of the jury?

5 MR. STEGE: I'm indifferent.

6 THE COURT: Okay. To the defense. Do you
7 have any witnesses to call this afternoon?

8 MR. SLOCUM: The only possible witness would
9 be Mr. Goad. We would ask for a moment to speak with
10 him.

11 THE COURT: I think it's appropriate that you
12 finally confirm his intentions. I'm going to ask that
13 all of the court staff, the District Attorney staff
14 leave the courtroom, only the security staff will
15 remain. We'll be subject to your call.

16 Deputies, if you'll just give sight
17 supervision but give them as much space as possible,
18 please. But not long.

19 MR. SLOCUM: I understand, your Honor.

20 (Short break.)

21 THE COURT: Mr. Slocum or Ms. Mayhew, I would
22 like you to comment about your interactions with Mr.
23 Goad relating to his choice to remain silent. I do not
24 want you to disclose any content of what was said but,

1 instead, the mechanics of that conversation.

2 MR. SLOCUM: Absolutely, your Honor. What I
3 want to let the Court know is it's as if the medication
4 that he was given yesterday has a -- has a time frame in
5 which it actually has its effect. Because I have
6 noticed a marked difference now with respect to Mr. Goad
7 and his ability to communicate with me.

8 THE COURT: Difference of improvement?

9 MR. SLOCUM: Of improvement. That -- that
10 it's as if the medication took a while to have its
11 effect, that this morning it hadn't fully activated, but
12 by this afternoon when I've spoken with him, he's
13 communicating with us, we can have meaningful
14 discussions about the evidence and his decision, the
15 questions that he asked were relevant and helpful in
16 terms of establishing whether or not he wanted to
17 testify, so I feel very confident in his decision and
18 that he understands both the pros and the cons of
19 testifying.

20 THE COURT: I was just concerned with my
21 observation Mr. Goad appears to be interactive, and
22 interactive with counsel and observant of the
23 proceedings in ways that do not concern me.

24 The jury, please.

1 (Jury returns to courtroom.)

2 THE COURT: All right. If everyone will be
3 seated, please.

4 To the State.

5 MR. STEGE: The State rests.

6 THE COURT: Thank you. To the defense.

7 MR. SLOCUM: The defense rests. Thank you.

8 THE COURT: Thank you. Ladies and Gentlemen,
9 that concludes our trial day. During this overnight
10 recess you are admonished not to converse amongst
11 yourselves, or with anyone else on any subject connected
12 with this trial.

13 You will not read, watch, listen to, or listen
14 to any report of or commentary upon the trial by any
15 medium of information including without limitation
16 newspaper, television, radio or internet.

17 You are not to conduct any form of personal
18 investigation or research. No field studies are
19 allowed.

20 We are close to the time when you will
21 deliberate. You are still not allowed to discuss this
22 case amongst yourselves. I also ask that you not form
23 any final opinion about this matter. I know that you've
24 participated as passive observers throughout the trial.

1 You may start to have opinions about what is presented,
2 but it is fair to the State and to Mr. Goad that you
3 await the full presentation of arguments before reaching
4 a final decisions.

5 Tomorrow when you arrive, I will begin by
6 providing instructions of law that will govern your
7 deliberations.

8 The attorneys will then argue the case by
9 summarizing the evidence that's been presented, possibly
10 focusing on the principles of law they wish you to
11 consider.

12 Because the State has the burden of proof it
13 is -- it begins in argument. The defense will argue in
14 opposition, and then the State will have limited
15 rebuttal argument time.

16 After that you will be free to deliberate.
17 There are no rules about the length of deliberations. I
18 have no opinion about how long you will deliberate. But
19 I find it highly unlikely that you will still be in
20 deliberations on Monday. So if you have work
21 commitments on Monday, you should plan on not being at
22 the courthouse. We need to talk about this, counsel.
23 Just think for a moment about -- Ms. Clerk?

24 Ladies and Gentlemen, please return to the

1 courthouse for entry into the courtroom at 9:30 tomorrow
2 morning. We have work to do outside of your presence in
3 settling the jury instructions and then there's just
4 some mechanical work of making copies and so forth, so
5 9:30 tomorrow morning.

6 We'll all stand for our jury.

7 (Proceedings continued until August 9, 2019,
8 at 9:30 a.m.)

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1 STATE OF NEVADA)

2 COUNTY OF WASHOE)

3 I, JULIE ANN KERNAN, official reporter of
4 the Second Judicial District Court of the State of
5 Nevada, in and for the County of Washoe, do hereby
6 certify:

7 That as such reporter I was present in
8 Department No. 15 of the above court on Wednesday,
9 August 8, 2019, at the hour of 9:00 a.m. of said day,
10 and I then and there took verbatim stenotype notes of
11 the proceedings had and testimony given therein upon the
12 Jury Trial of the case of STATE OF NEVADA, Plaintiff,
13 vs. RALPH EDMOND GOAD, Defendant, Case No. CR19-0999.

14 That the foregoing transcript, consisting of
15 pages numbered 1 through 230, both inclusive, is a full,
16 true and correct transcript of my said stenotype notes,
17 so taken as aforesaid, and is a full, true and correct
18 statement of the proceedings of the above-entitled
19 action to the best of my knowledge, skill and ability.

20
21 DATED: At Reno, Nevada, this 25th day of March, 2020.

22
23 /s/ Julie Ann Kernan

24 JULIE ANN KERNAN, CCR #427