

IN THE SUPREME COURT OF THE STATE OF NEVADA

LARRY BROWN

Appellant,

vs.

THE STATE OF NEVADA

Respondent.

Docket No. 81962

Direct Appeal From A Judgment of Conviction
Eighth Judicial District Court
The Honorable Valerie Adair, District Judge
District Court No. C-17-326247-1

APPELLANT'S APPENDIX VOLUME 9 OF 18

Navid Afshar
State Bar #14465
Deputy Special Public Defender
JoNell Thomas
State Bar #4771
Special Public Defender
330 South 3rd Street
Las Vegas, NV 89155
(702) 455-6265
Attorney for Larry Brown

<u>VOLUME</u>	<u>PLEADING</u>	<u>PGS</u>
14	Amended Fourth Superseding Indictment (1/20/19)	2728-30
18	Amended Judgment of Conviction (10/20/2020).....	3431-33
13	Amended Jury List (12/19/19)	2520
18	Amended Notice of Appeal (11/18/2020).....	3451-52
5	Amended Third Superseding Indictment (12/9/19)	960-62
18	Criminal Court Minutes (unfiled)	3460-3518
13	Defendant's Objections to State's Proposed Jury Instructions (12/19/19)	2521-32
4	Defendant Larry Brown's Motion for Disclosure of Corrective Action Reports (11/18/19).....	808-16
3	Defendant Larry Brown's Motion for Disclosure of Favorable Evidence (7/31/19)	479-509
3	Defendant Larry Brown's Motion in Limine Requesting This Court Preclude The State and its Witnesses from Referring To the Decedent as "The Victim" (8/9/19)	668-72
3	Defendant Larry Brown's Motion in Limine Requesting This Court Preclude The State from Presenting as Evidence Specific Items Recovered from the Search of Angela Ryder's Residence On March 20, 2017 (8/9/19).....	654-59
4	Defendant Larry Brown's Motion in Limine to Preclude All Cell Phone Information Obtained by Cellebrite and Response to State's Motion in Limine to Address Cellebrite Testimony Pertaining To Advanced Proprietary Software (8/12/19).....	723-39

4	Defendant Larry Brown’s Motion in Limine to Preclude the State from Presenting as Evidence Unclear Video Surveillance Of What Appears to be a White SUV (8/9/19)	673-716
3	Defendant Larry Brown’s Motion in Limine to Preclude the State from Presenting Details of the Condition of Decdent’s Nissan Altima Located in a Business Complex at 7495 Azure Drive and Motion to Strike Experts L.Brown, H. Jarrad, S. Saucedo, and J. Sypniewicz (8/9/19)	572-614
3	Defendant Larry Brown’s Motion in Limine to Preclude the State from Presenting to the Jury any Evidence That Suggests Flight Prior to this Court Ruling on Whether to Allow a Flight Instruction (8/9/19)	615-53
3	Defendant Larry Brown’s Motion in Limine to Preclude the State from Presenting Unduly Prejudicial and/or Cumulative Photographs to the Jury (8/9/19)	660-63
3	Defendant Larry Brown’s Motion in Limine to Preclude the State from Referring to the Trial Phase as the “Guilt” Phase” (8/9/19)	664-67
4	Defendant’s Motion to Declare the Court’s Order Finding that The State May Present Footwear Impression Evidence to the Jury Through Lay Witnesses Void as it Violates Mr. Brown’s Due Process and Fair Trial Rights (11/15/19)	873-79
4	Ex Parte Motion for Clark County Detention Center Records (8/12/19)	717-22
4	Ex Parte Order for Clark County Detention Center to Produce Records Related to Defendant Anthony Carter (8/26/19).....	767-68
15	Exhibit List and Exhibits by Court (unfiled).....	2799-2912
15	Exhibit List and Exhibits by Defendant (unfiled).....	2913-15

16	Exhibit List and Exhibits by State (unfiled) [CONTINUED IN NEXT VOLUME].....	2916-3151
17	Exhibit List and Exhibits by State (unfiled) [CONTINUATION].....	3152-3359
14	Guilty Plea Agreement (12/20/19)	2731-40
1	Indictment (9/6/17).....	62-65
15	Instructions to the Jury (12/20/19)	2741-82
18	Judgment of Conviction (Plea of Guilty-Alford) (9/23/2020) ..	3425-28
7	Jury List (12/11/19).....	1443
1	Motion for Order to Show Cause (2/21/18)	199-219
1	Motion to Compel Compliance with Subpoena (1/18/18)	182-98
2	Motion to Join Co-Defendant Anthony Carter's Motion to Sever And Defendant's Motion to Sever Co-Defendants (4/16/18)	261-70
1	Motion to Place on Calendar and Motion to Reduce Bail (10/5/17)	101-08
18	Motion to Unseal Minutes and Portion of Sealed Part of the Testimony on December 13, 2019 (10/21/2020)	3434-42
2	Motion to Withdraw as Attorney of Record (4/11/18)	255-60
18	Notice of Appeal (10/19/2020)	3429-30
3	Notice of Defendant's Expert Witnesses (8/2/19)	514-15
4	Notice of Defendant's Expert Witnesses (11/08/19)	817-35

4	Notice of Defendant’s Witnesses (8/16/19)	746-47
5	Notice of Defendant’s Witnesses (11/26/19)	943-44
5	Notice of Motion and Motion to Suppress Information Obtained By a Constitutionally Deficient Warrant (12/3/19).....	956-59
2	Opposition to State’s Motion to Compel Defendant Brown’s Cellular Phone Passcode, or Alternatively, to Compel Fingerprint (5/18/18)	378-99
5	Order Denying Defendant Larry Brown’s Motion in Limine to Preclude the State from Presenting as Evidence Specific Items Recovered from the Search of Angelisa Ryder’s Residence on March 20, 2017 (11/27/19).....	948-50
5	Order Denying Defendant’s Motion to Declare the Court’s Order Finding that the State May Present Footwear Impression Evidence to The Jury Through Lay Witnesses Void as it Violates Mr. Brown’s Due Process and Fair Trial Rights (11/27/19).....	945-47
17	Order for JAVS via CD (1/17/2020)	3362
18	Order Granting Defendant’s Motion to Unseal Minutes and Portion of Sealed Part of the Testimony on December 13, 2019 (11/6/2020)	3447-50
4	Order Granting Defendant Larry Brown’s Motion For Disclosure Of Corrective Action Reports (11/21/19)	880-82
2	Order Granting State’s Motion to Compel Fingerprint and Denying State’s Motion to Compel Defendant’s Cellular Phone Passcode (5/31/18)	404-05

5	Order Reserving Ruling Until the Time of Trial for the State’s Motion In Limine to Address Cellebrite Testimony Pertaining to Advanced Proprietary Software, and the Defendant Larry Brown’s Motion in Limine to Preclude all Cell Phone Information Obtained by Cellebrite And Response to State’s Motion in Limine (11/27/19).....	951-53
1	Petition for Writ of Habeas Corpus and Motion to Dismiss (10/3/17)	76-86
18	Second Amended Judgment of Conviction (12/2/2020).....	3453-57
18	Second Amended Notice of Appeal (12/10/2020).....	3458-59
1	Second Superseding Indictment (10/11/17).....	126-130
5	Second Supplemental Notice of Defendant’s Witnesses (12/9/19)	963-64
18	Sentencing Memorandum (9/17/2020)	3369-97
1	State’s Motion and Notice of Motion to Revoke Bail (10/5/17)	109-18
3	State’s Notice of Motion and Motion in Limine to Address Cellebrite Testimony Pertaining to Advanced Proprietary Software (8/2/19).....	516-23
2	State’s Notice of Motion and Motion to Compel Defendant Brown’s Cellular Phone Passcode, or Alternatively, to Compel Fingerprint (4/23/18)	283-95
2	State’s Notice of Witnesses and/or Expert Witnesses (5/8/18) ..	321-77
3	State’s Opposition to Defendant’s Motion to Compel Production of Discovery and Brady Material (8/2/19)	524-52

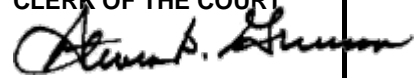
4	State’s Opposition to Defendant’s Motion to Preclude the State And Witnesses from Referring to Kwame Banks as “The Victim” (8/22/19)	758-61
4	State’s Opposition to Defendant’s Motion to Preclude the State From Presenting Evidence of Arson (9/3/19)	769-73
4	State’s Opposition to Defendant’s Motion to Preclude the State From Presenting Evidence of Flight (9/3/19).....	774-79
4	State’s Opposition to Defendant’s Motion to Preclude the State From Presenting Evidence of Shoes and Brass Knuckles (9/3/19)	780-82
4	State’s Opposition to Defendant’s Motion to Preclude the State From Presenting Unduly prejudicial and/or Cumulative Photographs to the Jury (8/22/19)	755-57
4	State’s Opposition to Defendant’s Motion to Preclude the State From Using the Term “Guilty Phase” (8/22/19)	753-54
3	State’s Supplemental Notice of Witnesses and/or Expert Witnesses (6/7/19).....	467-74
5	State’s Tenth Supplemental Notice of Witnesses and/or Expert Witnesses (11/25/19).....	933-42
6	Stipulation and Order to Waive Penalty Hearing (12/9/19).....	1248-49
3	Supplement to Notice of Defendant’s Expert Witnesses (8/7/19)	553-71
4	Supplemental Notice of Defendant’s Expert Witnesses (11/15/19)	869-72
5	Supplemental Notice of Defendant’s Witnesses (12/2/19)	954-55
1	Superseding Indictment (10/4/17).....	97-100

1	Third Superseding Indictment (12/13/17).....	167-71
1	Transcript of Hearing Grand Jury Vol 1 August 29, 2017 (9/9/17)	1-19
1	Transcript of Hearing Grand Jury Vol 2 September 5, 2017 (9/12/17)	20-61
1	Transcript of Hearing September 6, 2017 (12/1/2020)	66-70
1	Transcript of Hearing September 14, 2017 (11/19/2020)	71-75
1	Transcript of Hearing Grand Jury Superseding Proceedings October 3, 2017 (10/17/17)	87-92
1	Transcript of Hearing October 4, 2017 (12/1/2020)	93-96
1	Transcript of Hearing Grand Jury Second Superseding Proceedings October 10, 2017 (10/24/17)	119-25
1	Transcript of Hearing October 11, 2017 (12/1/2020)	131-134
1	Transcript of Hearing October 19, 2017 (11/19/2020)	135-46
1	Transcript of Hearing October 31, 2017 (11/20/2020)	147-51
1	Transcript of Hearing Grand Jury Third Superseding Proceedings December 12, 2017 (12/28/17)	152-66
1	Transcript of Hearing December 13, 2017 (12/1/2020)	172-75
1	Transcript of Hearing December 19, 2017 (11/20/2020)	176-81
1	Transcript of Hearing February 27, 2018 (11/20/2020)	220-24
1	Transcript of Hearing March 6, 2018 (11/20/2020)	225-29

1	Transcript of Hearing March 20, 2018 (10/22/2020).....	230-37
2	Transcript of Hearing April 3, 2018 (11/20/2020).....	238-54
2	Transcript of Hearing April 17, 2018 (11/20/2020).....	271-82
2	Transcript of Hearing April 24, 2018 (11/20/2020).....	296-309
2	Transcript of Hearing April 26, 2018 (11/20/2020).....	310-15
2	Transcript of Hearing May 8, 2018 (11/20/2020).....	316-20
2	Transcript of Hearing May 22, 2018 (11/20/2020).....	400-03
2	Transcript of Hearing May 31, 2018 (11/20/2020).....	406-27
2	Transcript of Hearing June 7, 2018 (11/20/2020).....	428-32
2	Transcript of Hearing August 9, 2018 (11/20/2020).....	433-38
2	Transcript of Hearing August 30, 2018 (11/20/2020).....	439-42
2	Transcript of Hearing November 27, 2018 (11/20/2020)	443-49
2	Transcript of Hearing January 17, 2019 (11/20/2020).....	450-54
2	Transcript of Hearing March 21, 2019 (11/20/2020).....	455-58
2	Transcript of Hearing April 25, 2019 (11/20/2020).....	459-62
2	Transcript of Hearing May 30, 2019 (11/20/2020).....	463-66
3	Transcript of Hearing June 27, 2019 (11/20/2020).....	475-78
3	Transcript of Hearing August 1, 2019 (11/20/2020).....	510-13
4	Transcript of Hearing August 15, 2019 (11/20/2020).....	740-45

4	Transcript of Hearing August 20, 2019 (11/20/2020).....	748-52
4	Transcript of Hearing August 22, 2020 (11/20/2020).....	762-66
4	Transcript of Hearing October 29, 2019 (11/20/2020)	783-803
4	Transcript of Hearing November 5, 2019 (11/20/2020)	804-07
4	Transcript of Hearing November 14, 2019 (11/20/2020)	836-58
5	Transcript of Hearing November 21, 2019 (11/25/2019)	883-932
5	Transcript of Jury Trial Day 1 December 9, 2019 Pages 1-55 (12/9/2020) [CONT'D IN NEXT VOLUME]	965-1019
6	Transcript of Jury Trial Day 1 December 9, 2019 Pages 56-283 (12/9/2020) [CONTINUATION]	1020-1247
7	Transcript of Jury Trial Day 2 December 10, 2019 (12/9/2020)	1250-1442
8	Transcript of Jury Trial Day 3 December 11, 2019 (12/9/2020)	1444-1625
9	Transcript of Jury Trial Day 4 December 12, 2019 (12/9/2020)	1626-1784
10	Transcript of Jury Trial Day 5 December 13, 2019 EXCERPT (12/9/2020)	1785-1995
11	Transcript of Jury Trial Day 5 December 13, 2019 EXCERPT (12/9/2020)	1996-2066
11	Transcript of Jury Trial Day 6 December 17, 2019 (12/9/2020)	2067-2231
12	Transcript of Jury Trial Day 7 December 18, 2019 Pages 1-173 (12/9/2020) [CONT'D IN NEXT VOLUME] .	2232-2404

13	Transcript of Jury Trial Day 7 December 18, 2019 Pgs 174-288 (12/9/2020) [CONTINUATION].....	2405-2519
14	Transcript of Jury Trial Day 8 December 19, 2019 (12/9/2020)	2533-2727
15	Transcript of Jury Trial Day 9 December 20, 2019 (12/9/2020)	2783-98
17	Transcript of Hearing August 6, 2020 (11/20/2020).....	3363-68
18	Transcript of Hearing September 18, 2020 (11/3/2020)	3398-3424
18	Transcript of Hearing November 5, 2020 (12/5/2020)	3443-46
17	Verdict (12/20/19)	3360-61



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,)	
)	
Plaintiff,)	CASE NO. C-17-326247-1
)	DEPT NO. XXI
vs.)	
)	
LARRY DECORLEON BROWN,)	TRANSCRIPT OF
)	PROCEEDINGS
Defendant.)	

BEFORE THE HONORABLE VALERIE ADAIR, DISTRICT COURT JUDGE

THURSDAY, DECEMBER 12, 2019

JURY TRIAL - DAY 4

APPEARANCES:

FOR THE STATE:	JOHN L. GIORDANI III, ESQ. Chief Deputy District Attorney MICHAEL DICKERSON, ESQ. Deputy District Attorney
FOR THE DEFENDANT:	MONICA R. TRUJILLO, ESQ. W. JEREMY STORMS, ESQ. Chief Deputy Special Public Defenders

RECORDED BY: ROBIN PAGE, COURT RECORDER
TRANSCRIBED BY: JD REPORTING, INC.

I N D E X
W I T N E S S E S

WITNESSES FOR THE STATE:

MITCHELL DOSCH

Direct Examination by Mr. Giordani	22
Cross-Examination by Ms. Trujillo	88
Follow-Up Examination by Mr. Giordani	122
Follow-Up Examination by Ms. Trujillo	125

ROY WILCOX

Direct Examination by Mr. Giordani	129
Cross-Examination by Mr. Storms	141

JEFFREY LOMAS

Direct Examination by Mr. Giordani	145
Cross-Examination by Mr. Storms	152

E X H I B I T S

STATE'S EXHIBITS ADMITTED:

6	25
8	25
9-63	29
98-99	75
117-139	53
240-281	144
282-285	136
304	80

1 LAS VEGAS, CLARK COUNTY, NEVADA, DECEMBER 12, 2019, 12:39 P.M.

2 * * * * *

3 (Outside the presence of the jury.)

4 (Pause in the proceedings.)

5 THE COURT: All right. We're on the record.

6 Are we on the record?

7 THE COURT RECORDER: Yes, ma'am.

8 THE COURT: We're on the record out of the presence
9 of the jury, and I understand there's some matters that need to
10 be brought to the Court's attention.

11 MR. GIORDANI: I think it's just one matter, Your
12 Honor.

13 If you'll recall, initially the State had indicated
14 that we had scheduled all of our out-of-state witnesses for
15 next Monday, which I think is the 16th. We subsequently, you
16 know, learned we were going to be dark.

17 THE COURT: Right.

18 MR. GIORDANI: We rescheduled the majority of those.
19 We also stipulated to some records to eliminate a few of those,
20 but we're having a major issue with the Cellebrite witness.

21 THE COURT: Okay.

22 MR. DICKERSON: If you'll recall, that's the person
23 from New Jersey.

24 THE COURT: No. No, I know.

25 MR. GIORDANI: It's my understanding that -- well,

1 long story short, I believe if the Court allows it that we can
2 have that person available via Skype tomorrow. That's the hope
3 of the parties. I want -- I mean of the State.

4 MR. STORMS: Yeah.

5 MR. GIORDANI: I went and looked at the audiovisual,
6 you know, statute where it says audiovisual testimony is
7 favored for judicial resources, blah, blah, blah. There's a
8 notice requirement of two days prior to the proceeding unless
9 good cause is shown. I think it's appropriate at this point.
10 Our good cause would be to allow that witness to testify via
11 Skype and audiovisual.

12 In addition, it's been the State's position all along
13 that this is a chain of custody issue and that really the
14 question at issue with this witness is, is the evidence what we
15 purport it to be.

16 THE COURT: Right.

17 MR. GIORDANI: Is the copy of the phone a copy of the
18 phone? And I think that that can be satisfactorily determined
19 based upon audiovisual testimony from the witness.

20 THE COURT: Okay. And then what's the issue with --
21 I'm assuming he's refusing to travel?

22 MR. GIORDANI: Well, the --

23 THE COURT: I mean, what's the difference between
24 being here Monday and being here Tuesday?

25 MR. GIORDANI: In speaking with the lawyer for them,

1 not speaking with the witness himself, but the lawyer is the
2 one who we had on Court Call.

3 THE COURT: Right.

4 MR. GIORDANI: And who I've been communicating with.
5 Cellebrite has -- is a private company. They have very few
6 employees who do what these witnesses -- what the witness does.
7 He informed me that they have a hundred or so pending contracts
8 to be closed out by the end of the year. So moving a day --

9 There's also someone who's on vacation for one of the
10 days. I can't remember which one.

11 He informed me that moving the day would be an undue
12 burden on their business. And in addition to that, they sent
13 us a bill after I told them, hey, you know, we're trying to fly
14 this person in on Tuesday instead. That bill was for 10 grand,
15 \$10,000. I ran that bill up my chain in the event we had to do
16 it. They weren't happy about it, but I think that ultimately I
17 could get approval, but I think it's --

18 THE COURT: And that's what, like a witness fee or
19 what's the \$10,000 for?

20 MR. GIORDANI: 2,500 of it was delineated for travel
21 expense. 7500 was witness fee. It's like hourly, but we then
22 reached out back to them and said, well, hey, if we do approve
23 this, we're going to need an itemized breakdown of this.

24 THE COURT: Right.

25 MR. GIORDANI: So that's kind of suspended because at

1 the end of the day, again, I don't think it serves any purpose
2 to fly this guy across the country that couldn't be served with
3 having him under oath over Skype.

4 THE COURT: Okay. And are they still billing you
5 even if he just appears --

6 MR. GIORDANI: No.

7 THE COURT: Oh, so it's free for the State if --

8 So the issue is whether or not he can effectively
9 testify over Skype.

10 What's the defense's position?

11 MR. STORMS: Well, Judge, you know, our position
12 previously with the Cellebrite folks will --

13 THE COURT: Right. Well, I understand you don't --

14 MR. STORMS: Well, can I -- if I can just --

15 THE COURT: Oh.

16 MR. STORMS: You know, with our Crawford objection to
17 having this outside the presence hearing, we'd like to have
18 them live obviously and testify before the jury and let us
19 cross-examine there. Under the circumstances for this
20 (indiscernible) limited hearing we're having, we'll do that via
21 Skype if that's what's necessary.

22 THE COURT: Okay.

23 MR. STORMS: Okay. But I would say, you know, this
24 was a -- to me somewhat predictable by the way they approached
25 this from the very beginning when we had them on the call.

1 They weren't really inclined to come in the first place from
2 the motion that they had the State file, whenever we talked on
3 the phone, they were reluctant to do it.

4 You know, a company that is in the business of law
5 enforcement essentially needs to come to court, period. And
6 what they're doing is inappropriate. I mean, you can't
7 outsource -- it can't be that my client's rights are violated
8 by their money, their bottom line, and that's what's happening
9 here, and that, you know, and that's a real problem for us.
10 But it's --

11 THE COURT: Well, I mean, here's the issue. I'm
12 not --

13 MR. STORMS: Yeah. And so you know you understand
14 that I'm saying that if you do rule that this is something the
15 jury hears, we obviously want him here for the jury to have
16 live testimony.

17 THE COURT: Right. Here's the issue. You don't
18 agree with the way we're proceeding, and that's all been
19 litigated. So the issue today is whether or not he can
20 effectively testify over Skype. Now, sometimes a witness
21 cannot effectively testify over Skype if there's a lot of
22 documents to look at and things of that nature. You have to
23 show somebody something, and in this case, I think that's
24 unlikely that that would be occurring. So I don't know why he
25 can't testify over Skype as effectively as he could here.

1 So I'm going to allow him to testify over Skype.
2 Like I said, if it was somebody where you're showing a lot of
3 documents, that kind of thing, you can't do it. You know, like
4 medical records, a physician. Sometimes it's impossible. But
5 this kind of a witness I think is fine.

6 MR. GIORDANI: Are we starting --

7 MR. STORMS: And, Judge --

8 MR. GIORDANI: I'm sorry.

9 MR. STORMS: Oh, I had a record to make too about an
10 issue. Did you want to --

11 MR. GIORDANI: Oh, I was just going to say are we
12 still planning on starting at 9:00 tomorrow?

13 THE COURT: Yep.

14 MR. GIORDANI: Okay.

15 THE COURT: I was planning on starting at
16 12:30 today, meaning whenever the jurors decide to show up.

17 MS. TRUJILLO: And we've been --

18 MR. STORMS: That's been the story of our lives;
19 right?

20 MS. TRUJILLO: -- the habitually late one.

21 THE COURT: All right. And, yes, Mr. Storms.

22 MR. STORMS: I wanted to make an objection as far as
23 authentication goes with respect to the cell phone network cell
24 tower pinging that's going to be a lot of the substance it
25 seems of the testimony here today. You know, they had to

1 establish the relevancy of these cell phones and their use to
2 the case meaning they have to identify the people using the
3 phones as the people they are arguing are using the phones.

4 Now, we obviously had Kwame Banks's girlfriend here
5 yesterday talking about him using that phone. I'm not talking
6 about that. I'm talking about Anthony Carter establishing that
7 he is POE ATL, that that phone -- you know, she saw POE ATL
8 come upon Banks's phone. She doesn't know who that is. She
9 doesn't recognize his voice. We're going to -- so how are we
10 establishing that that is actually Mr. Carter?

11 Additionally, how are we establishing that these
12 phone calls and these communications and these cell phone
13 pings that -- or they're saying are Mr. Carter's and
14 Mr. Brown's, how are they establishing that those two sets of
15 data essentially are connected to people involved in the case
16 that would allow for this evidence to come in, you know, under
17 the rules about coconspirator statements and so on and so
18 forth.

19 THE COURT: Right.

20 MR. STORMS: And, you know, so I think there's a
21 real -- there's a serious issue with that. I know that part of
22 their evidence today is going to be that when they searched
23 Anthony Carter's home they find a box for the phone that's
24 missing, that Anthony Carter was using at the time of the
25 incident that's in his -- that's in the room where he was

1 staying. What looks like the room where he was staying
2 essentially.

3 But again, I mean, think about this. If it was the
4 1980s, and we're having anonymous letters and phone calls
5 between places that are, you know, the phone is registered to a
6 man's name, and it's the address is his. I mean, that would
7 not be evidence that he's the one that actually made those
8 phone calls and so on. If other people lived at that address,
9 which is the case here, there is some evidence that -- I mean,
10 there's arguably a third person here. I mean, he's got --
11 Anthony Carter has a cousin that comes up as someone who's
12 involved with him as well. So I think that they need to
13 establish the ownership of this phone by Mr. Carter was some
14 circumstantial evidence that's greater than the fact that the
15 phone is registered to him. There's a box in his room.

16 There's a case called *Rodriguez versus State*. It was
17 128 Nevada 155 that dealt with this issue, and, of course, it's
18 referencing older cases where you have things like deeds of
19 trust that aren't certified and so on trying to be brought in
20 for their contents, but we don't have a certified copy and no
21 way of verifying it.

22 In this case of the cell phone, you need to be able
23 to identify that the phone itself is being used by the user
24 that is the target of investigation, or it's the State's theory
25 of the case in this instance, and we don't have any of that

1 evidence for the jury yet. So to have this cell phone stuff
2 brought up before the jury before they establish any of this --
3 and I don't know that they are because in their opening
4 statement they didn't really talk about Anthony Carter being in
5 the other man's apartment and so on when this is happening.
6 They didn't really get into all of those things.

7 I just don't see how they're going to establish this
8 properly, establish that the phone number they say is Anthony
9 Carter's is, in fact, his. And if we let all this in right now
10 without establishing all this stuff, it's obviously prejudicial
11 to us. It gives it the impression that it is, in fact, his,
12 that we don't need to question this. I mean, this is not a
13 situation like a Judge where a Judge can hear some evidence and
14 then decide whether or not it will be admitted later on, you
15 know, having evidence presented out of order and being able to
16 kind of exclude those things as a Judge and a lawyer, and it's
17 a confrontation clause issue that we object to as well. And
18 that's more or less my record on that.

19 THE COURT: Mr. Giordani.

20 MR. GIORDANI: Thank you, Your Honor. And the
21 evidence that we are proffering or planning on putting forth
22 today -- which just for the record, I've been keeping the
23 defense updated as to which witnesses we're going to call. So
24 I refer -- I mean, I assume they're referring to Detective
25 Dosch and Geno Basilotta. We have four exhibits that were

1 previously discussed. That was 2, 3, 4 and I believe 5 that I
2 thought were stipulated to.

3 MS. TRUJILLO: Well, remember we reserved the right
4 to object to authenticity.

5 THE COURT: On relevancy.

6 MR. STORMS: Yes.

7 MS. TRUJILLO: Yes, but --

8 MR. GIORDANI: Relevance.

9 MS. TRUJILLO: But authenticity of content as well.
10 We made that record.

11 THE COURT: No. That's what the custodian of
12 records. Your object -- my understanding was you were
13 stipulating that they were authentic business records --

14 MS. TRUJILLO: Correct.

15 THE COURT: -- but you can still object that it
16 wasn't made by your client; it wasn't relevant --

17 MR. GIORDANI: Yeah. Yeah. Okay.

18 MS. TRUJILLO: Right. That's --

19 MR. STORMS: Yeah. And that's -- and that's the
20 authentication -- authentication we're talking about is that
21 the records are the production of our client or Mr. Carter's
22 use of the phone that says it's --

23 THE COURT: Right. So it's really relevance that
24 they -- oh, and foundation that they --

25 MR. STORMS: Yes.

1 THE COURT: -- haven't laid a foundation. So you're
2 really not objecting on authenticity --

3 MR. STORMS: Well --

4 MS. TRUJILLO: The actual breakdown --

5 THE COURT: -- you're objecting that foundational
6 that they haven't --

7 MR. STORMS: Well, it --

8 THE COURT: -- that they're not linking it into your
9 client, and you're objecting on relevance that it's not
10 relevant because we don't know whose phone it is --

11 MR. STORMS: I'm objecting under NRS 52.015, which is
12 the requirement of authentication or identification as a
13 conditional precedent to admissibility being satisfied with the
14 evidence. So --

15 THE COURT: But I thought that's what you were
16 stipulating to, that they're authentic business records.

17 MS. TRUJILLO: Saying they're authentic business
18 records from a company is different from saying that the
19 content is authentic by the user. It's two different things.

20 THE COURT: Yeah. But that's not authentic by the
21 user --

22 MS. TRUJILLO: Under --

23 THE COURT: -- that's like relevancy --

24 MS. TRUJILLO: No. Under *Rodriguez* it is.

25 THE COURT: -- and the foundation --

1 MR. STORMS: The phone is only relevant if it's being
2 used by a member of the conspiracy.

3 THE COURT: That's what I'm saying. It's only
4 relevant if it's being used by your client. They're authentic
5 business records, and they're accurate business records --

6 MR. STORMS: And I'm not challenging --

7 THE COURT: -- but they're not relevant unless it's
8 being used by your client.

9 MR. STORMS: Uh-huh.

10 THE COURT: Right. So --

11 MR. STORMS: And they need to establish --

12 THE COURT: -- and they have to lay a foundation that
13 it's relevant and being used by your client. So to me your
14 objection is really relevance and foundation, not --

15 MR. STORMS: I can say, Judge, that -- all I can say
16 is these are the statutes that the Supreme Court of Nevada
17 cited in *Rodriguez* is why -- why you need to establish this.
18 So I'm just following --

19 THE COURT: Well, we're saying the same thing.

20 MR. STORMS: -- what they say.

21 THE COURT: We're using different language. Because
22 they have to lay a foundation that it's linked to the client or
23 linked to the case in some way --

24 MS. TRUJILLO: Which that is the authentication
25 (sic) prong is what we're talking about.

1 THE COURT: And then they have to establish relevancy
2 before -- or relevance before they can admit it. So --

3 MR. GIORDANI: And I --

4 THE COURT: Mr. Giordani, do you want to respond?

5 MR. GIORDANI: Yes, as to that. I believe the phones
6 that were just referenced are the phone associated with Larry
7 Brown, and the phone associated with Anthony Carter, and those
8 would be Exhibits 2 and 3.

9 Included in the records from the cell phone companies
10 are subscriber information, the first one, Exhibit 2, the
11 Sprint phone is subscribed to Larry Brown.

12 The second one, Exhibit 3, the phone is subscribed to
13 Anthony Carter through T-Mobile. That in and of itself is
14 sufficient to establish that those phones are not -- are
15 registered to them, but not that they are being used by them.
16 Right. The way to authenticate say a text message includes
17 content --

18 THE COURT: Content.

19 MR. GIORDANI: Right. And all of these other things.

20 THE COURT: Identification if somebody says, hey,
21 it's, you know, whatever.

22 MR. GIORDANI: Right. And --

23 THE COURT: Phil.

24 MR. GIORDANI: What?

25 THE COURT: Right. I said in case if somebody says,

1 hey, it's Phil, then you're establishing it's Phil. Or
2 somebody by the content says, you know, hey, you know, whatever
3 or something reflecting, hey, cousin, and you're the cousin,
4 right, that's how you do it. So we're in agreement there.

5 MR. GIORDANI: Okay. The phones that we just
6 discussed or that I just discussed, Exhibit 2 and 3, Larry
7 Brown and Anthony Carter, those phones are -- well, one of them
8 was DFL examined, and that gets with this Cellebrite issue.
9 Larry Brown's phone was dumped. The content of the text
10 messages communicating with POE ATL, which is Anthony Carter's
11 known alias.

12 MR. STORMS: And based upon what; right? I mean,
13 that's what we're -- what evidence has the jury heard that POE
14 ATL is Anthony Carter? What have they presented so far in this
15 case that says that? That's my issue.

16 MR. GIORDANI: So far? Nothing.

17 MR. STORMS: Yeah. There's no -- I mean, we're just
18 going to get into POE ATL is doing all this stuff, and you
19 haven't established that they're one and the same person as
20 Anthony Carter.

21 THE COURT: Well, he's going to have to --
22 How are you going to link it up?

23 MR. GIORDANI: Why do I have to disclose that now? I
24 mean, I'm trying -- we're talking about foundation. When --
25 when they come in and say --

1 THE COURT: Okay.

2 MR. GIORDANI: -- we are objecting that it's our
3 client using this phone, that's great argument for closing.

4 THE COURT: Yeah.

5 MR. GIORDANI: Foundation is, is the phone subscribed
6 to Larry Brown; was it left at the crime scene; was Larry
7 Brown's DNA also at the crime scene? I mean --

8 THE COURT: Right. I mean, a lot of this goes not to
9 admissibility, but to weight. I mean, any time there's always
10 the argument somebody else was using the phone.

11 MR. GIORDANI: Yeah.

12 THE COURT: This phone was stolen. Somebody borrowed
13 it or whatever, but that goes more to weight than whether or
14 not it's admissible.

15 MR. STORMS: If I could just read from *Rodriguez*, it
16 says,

17 We thus conclude that when there has
18 been an objection to the admissibility of a
19 text message, the proponent of the evidence
20 must explain the purpose for which the text
21 message is being offered and provide
22 sufficient direct or circumstantial
23 corroborating evidence of authorship in order
24 to authenticate the text message as a
25 conditional precedent to its admission.

1 And they cite NRS 52.015 --

2 THE COURT: Okay. I'm sorry to interrupt you, but
3 refresh my memory. In that case, was the text message being
4 sent from the defendant's phone, or are you using the
5 recipient's phone to introduce the text message?

6 MR. STORMS: In that case, there was a phone that had
7 been taken from someone that was texting to a contact --

8 THE COURT: Right. So it's a stolen phone
9 essentially.

10 MR. STORMS: Yeah. It was a stolen phone. And there
11 were something like 12 texts admitted, and they were -- and the
12 Supreme Court said that only 2 of them should have been allowed
13 because they could only establish in two of them that the
14 person they admitted it against was sitting in a bus with a man
15 who was texting and seemed to be involved in the composition.
16 Okay.

17 THE COURT: Right. Well, that to me is a different
18 situation because you don't have other indicia of ownership use
19 and control in that case, whereas in this case you do have
20 indicia of --

21 MR. STORMS: But --

22 THE COURT: -- ownership and control by virtue of the
23 bills themselves that say it's the defendant's phone.

24 MR. GIORDANI: In addition, I think that respect --

25 THE COURT: So to me those two cases are totally

1 different. It's just like if I from a burner phone send
2 Mr. Giordani a text, right, and you try to admit it against me,
3 well, now it's his phone. How the heck do we know it's me
4 unless you go to content, like, I'm the Judge on this murder
5 trial, Mr. Giordani, and I'm tired of your behavior. Okay.
6 That may be indicia of content, but otherwise if it's my phone
7 number, and he has the bill, and I'm sending a text message,
8 Mr. Giordani, you know, knock it off in trial, I'm the Judge
9 here, right. Okay. The argument is it could have been Tiffany
10 the law clerk sending the text message, and that's an argument.
11 But it's still enough of a foundation that it's my phone
12 because I'm subscribed to that number.

13 Now, again if there's other -- if it's a burner
14 phone, then you have to go to content. Or if it's a stolen
15 phone, or if I'm using Susie Schofield's phone, and you want to
16 admit it against me, now you have a second prong.

17 But I think my opinion is the fact that he's the
18 subscriber is indicia of ownership and control, and so that is
19 the first prong. That's the step. That's the --

20 MR. GIORDANI: In addition to that, I think,
21 respectfully, that the defense is conflating two issues here.
22 What we're dealing with today is not content. We're talking
23 about the records that came from the cell company that show an
24 outgoing call was made. An incoming call. A text was placed.
25 A text was received, not content of any of that.

1 THE COURT: Not the content of the texts.

2 MR. GIORDANI: So the foundation for these records
3 that we're dealing with today, now I'm sure we'll have this
4 argument again tomorrow, but today the foundation for these
5 records is sufficient.

6 THE COURT: Okay.

7 MR. GIORDANI: The relevant --

8 THE COURT: I think, look, I'm satisfied you have
9 enough of a foundation. We're all going around and around
10 here.

11 Kenny, are the jurors here?

12 THE MARSHAL: They should be.

13 THE COURT: All right. We'll get started in a
14 minute.

15 (Pause in the proceedings.)

16 THE COURT: Everybody ready?

17 MR. GIORDANI: Yeah.

18 THE COURT: Are they here finally?

19 THE MARSHAL: We should be set. We're ready.

20 THE COURT: Mr. Giordani, I really wasn't criticizing
21 your behavior.

22 MR. GIORDANI: Oh, thank you.

23 THE COURT: I was saying that illustratively.

24 MR. GIORDANI: I appreciate it.

25 THE COURT: Just in case there was any doubt.

1 MR. GIORDANI: I don't take things personally.

2 THE COURT: What's that?

3 MR. GIORDANI: I don't take anything personal.

4 THE COURT: No. I meant --

5 MS. TRUJILLO: Except Batson issues.

6 THE COURT: -- I was just being illustrative.

7 MR. GIORDANI: Except that.

8 (Jurors entering 1:04 p.m.)

9 THE COURT: All right. Court is now back in session.

10 The record should reflect the presence of the State through the
11 deputy district attorneys, the presence of the defendant along
12 with his counsel, the officers of the court and the ladies and
13 gentlemen of the jury.

14 And is the State ready to call its next witness?

15 MR. GIORDANI: Yes, Your Honor. The State calls
16 Detective Mitchell Dosch.

17 **MITCHELL DOSCH**

18 [having been called as a witness and being first duly sworn,
19 testified as follows:]

20 THE CLERK: Thank you. Please be seated. State and
21 spell your first and last name for the record.

22 THE WITNESS: Thank you. My name is Mitchell,
23 M-i-t-c-h-e-l-l. Dosch, D-o-s-c-h.

24 THE COURT: All right. Thank you.

25 Mr. Giordani, you may proceed.

1 MR. GIORDANI: Thank you, Your Honor.

2 DIRECT EXAMINATION

3 BY MR. GIORDANI:

4 Q And good afternoon, sir.

5 A Good afternoon.

6 Q What do you do for a living?

7 A I'm a detective with the Las Vegas Metropolitan
8 Police Department, currently assigned to the homicide section.

9 Q How long have you been with the homicide section?

10 A It'll actually be seven years this next February.

11 Q What were you doing before the homicide section?

12 A I spent approximately five and a half years working
13 for the LVMPD Robbery Section which preceded my time in
14 homicide. And then before that, I spent approximately three
15 years in patrol, another two years in a pseudo-detective
16 position known as the problem-solving unit, and then I spent
17 about five years with the Nevada Highway Patrol before I
18 started with Las Vegas Metropolitan Police Department,
19 concluding my time with the Nevada Highway Patrol as a fatal
20 investigator.

21 Q As a homicide detective, can you describe what your
22 general duties and responsibilities are to the jury.

23 A Yes. It's not just limited to homicide
24 investigations. It is also any suspicious deaths, fire deaths.
25 We had the responsibility in Metro's jurisdiction to respond to

1 any death that's deemed suspicious. Obviously a homicide
2 investigation would be considered suspicious.

3 Q I want to bring you back to February 21st of 2017.
4 Did you along with detective or retired Detective Darin Cook
5 respond to a homicide that occurred at approximately 10:47 p.m.
6 at 5850 Sky Pointe Drive?

7 A Yes, I did.

8 Q Can you tell the ladies and gentlemen of the jury the
9 details of the call that you received and how you responded to
10 the scene.

11 A Yes. How it works, and just to give you some
12 background with the Las Vegas Metropolitan Police Department
13 Homicide Section is that there are multiple squads within the
14 unit, and then there's multiple teams within each squad. So at
15 the time, I don't know if we were at full capacity with having
16 24 detectives, but if it was, it was -- that breaks down to 12
17 teams.

18 And we work as in a, to use baseball parlance, we
19 work off of somewhat of a batting rotation so that there is the
20 up-team. There is a team that's in the hole, and then there's
21 a team that's on deck. So the next murder investigation that
22 comes out, the up-team will take responsibility for that, and
23 then the on-deck team, if you will, becomes the up-team, and
24 then that process repeats itself however many times throughout
25 the year that it needs to go.

1 And on that particular night, then partner, Detective
2 Cook and I were partners, and we were called to respond to the
3 scene and take investigatory responsibility.

4 Q Are you part of the up-team right now as we speak?

5 A Yes.

6 Q Do you have coverage in case your phone goes off
7 while you're testifying?

8 A I have a little bit of a reprieve being in trial, but
9 eventually I'll have to get to those duties.

10 Q Thank you, Detective.

11 Showing you State's 6, do you recognize what we're
12 looking at there?

13 A Yes. It's an aerial view.

14 Q And does it show generally the crime scene and then a
15 couple of, I guess, secondary scenes that you ultimately
16 responded to in the area of 5850 Sky Pointe Drive?

17 A Yes, it does.

18 Q And does that map fairly and accurately depict how
19 those areas looked back then when you responded in February
20 of 2017?

21 A Yes, it does.

22 Q Thank you.

23 MR. GIORDANI: I'd move for the admission of 6.

24 THE COURT: Any objection?

25 MS. TRUJILLO: No objection.

1 THE COURT: That'll be admitted.

2 (State's Exhibit Number(s) 6 admitted.)

3 MR. GIORDANI: Thank you.

4 BY MR. GIORDANI:

5 Q Is your screen on there, Detective, at your witness
6 stand?

7 A It is.

8 Q I'm going to zoom in here. Is this 5850 Sky Pointe
9 Drive where you responded that evening?

10 A It is.

11 Q And what is located at that address?

12 A It's actually an apartment complex that's divided
13 into two halves, an A and B half, if you will.

14 Q I want to show you State's 8.

15 MR. GIORDANI: The parties would stipulate to the
16 admission of 8, Your Honor.

17 THE COURT: Is that right?

18 MS. TRUJILLO: That's correct.

19 THE COURT: All right. 8 is admitted.

20 (State's Exhibit Number(s) 8 admitted.)

21 BY MR. GIORDANI:

22 Q What are we looking at here, Detective?

23 A This is the A portion of the apartment complex at
24 5850 Sky Pointe Drive.

25 Q And is the A portion the portion at which we're about

1 to discuss?

2 A It is.

3 Q Okay. Is this, what I'm pointing at where it says
4 you are here, is this the main entry to the apartment complex
5 off of Sky Pointe?

6 A Yes, it is.

7 Q And the name of the apartment complex did you say was
8 Sky Pointe Landing?

9 A No, I did not, but that's at the time is what it was
10 known as.

11 Q Okay. Thank you.

12 Once you enter into this main entry off Sky Pointe,
13 where do you go on that date?

14 A On that particular night, the crime scene was the
15 area in front of Building 21, which if you'll note is at the
16 bottom of that picture to the left.

17 Q Let's see if I can get this --

18 Is that Building 21 there?

19 A It is.

20 Q Big old 21 in the center of it?

21 A Correct.

22 Q When you responded to that location, Detective, was
23 the crime scene already secure and static?

24 A Yes.

25 Q What does that mean, "static," for the ladies and

1 gentlemen of the jury?

2 A So with the responding patrol officers and then
3 sometimes patrol detectives, they are the ones responsible for
4 going to the scene, conducting a preliminary investigation.
5 And if additional units or specialized units are needed, such
6 as in the case of homicide, it is incumbent upon the patrol
7 officers to secure the scene, identify witnesses and when he
8 refers to static is to insure that there aren't any additional
9 threats to additional law enforcement. Obviously that is going
10 to be one of the priorities as well as attending to any victims
11 that might be in that particular area.

12 Q So when you arrive, it's already static, and can I
13 presume that there were several Metro personnel on scene, black
14 and whites and tan uniforms?

15 A Yes. And then one step further is that the area that
16 the patrol officers had deemed incorporate into the crime scene
17 is marked with what is known as yellow crime scene tape. And
18 then they'll post uniformed patrol officers so it's clear to
19 the other citizens that these are patrol units. These are
20 Metro officers inside the -- inside the area that's been
21 cordoned off for scene security.

22 Q And you're the first law enforcement officer that the
23 jury is hearing from. Can you tell the ladies and gentlemen of
24 the jury what an event number is.

25 A Yes. At the time -- currently, Metro's event number,

1 the anatomy of Metro's current event number is different than
2 what it was back then, but in 2017, the first six digits of the
3 event number actually corresponded to the date that the
4 incident occurred on. So in that case it was 17, 2017; zero
5 two, February; and 21, the 21st of February. The last four
6 numbers correspond with whatever number of police activity
7 throughout the day, meaning that every day it starts all over
8 with Number 1. So it would be 0001. And then if it's a busy
9 day, then it can get up into the five thousands or higher.

10 Q And in this particular case, our event number is
11 170221-4563; is that right?

12 A That's correct, sir.

13 So the 4563 is the number of transactions for the
14 21st of February of 2017.

15 Q Showing you already admitted State's 7. Where is our
16 main crime scene located on this map?

17 A So this is a satellite view of that same apartment
18 complex. Obviously it includes a lot of vegetation and the
19 buildings, but in -- about centrally located to your photo
20 you'll see the two adjacent carports. We want to go to the
21 northern or the one on top, and it's going to be right under
22 the middle of that carport.

23 Q Just before you walked in, did you have an
24 opportunity to glance through Exhibits 9 through 63?

25 A Yes, I did.

1 MR. GIORDANI: Just give us your brief indulgence.

2 (Pause in the proceedings.)

3 MR. GIORDANI: Can we approach briefly, Your Honor?

4 THE COURT: Sure.

5 (Conference at the bench not recorded.)

6 BY MR. GIORDANI:

7 Q Detective, did you, when you reviewed these outside,
8 9 through 63, recognize them?

9 A I do.

10 Q And were they all fair and accurate depictions of the
11 crime scene that we're about to discuss and have discussed so
12 far?

13 A Yes, they were.

14 Q As it appeared on February 21st, 2017, in the late
15 evening hours and early morning of February 22nd?

16 A That's correct.

17 MR. GIORDANI: And I'd move for the admission of
18 those, Your Honor.

19 THE COURT: All right. Subject to the record, those
20 will be admitted.

21 (State's Exhibit Number(s) 9-63 admitted.)

22 MR. GIORDANI: Thank you.

23 MS. TRUJILLO: Thank you.

24 BY MR. GIORDANI:

25 Q Starting with 9, pretty obvious, but please tell us

1 what that is.

2 A That's the address marquee that is in front of the
3 apartment complex adjacent to the front entrance from Sky
4 Pointe Drive.

5 Q And I'm going to show you State's 10. What are we
6 looking at here?

7 A That is a rendering of Building 21 just to involve
8 Building 21 and then the parking lot to the east.

9 Now, if I may, Sky Pointe Drive in the area of the
10 crime scene runs a century -- excuse me, essentially southeast
11 to northwest. That road parallels U.S. 95 in that particular
12 area. The building, Building 21 thus parallels the road in
13 that. So while the building is oriented to a southeast to
14 northwest, for purposes of explanation, if it would just be
15 easier, like assume that the building runs south to north, and
16 then we can just orient north, south, east and west if you
17 don't mind.

18 Q Understood. Now, this eventually, once you respond,
19 you have a briefing and meeting with crime scene analysts; is
20 that right?

21 A Yes.

22 Q And are there several crime scene analysts that
23 respond to an individual homicide scene?

24 A Many.

25 Q As opposed to a single one that might respond to a

1 residential burglary, whatever it may be?

2 A That's correct.

3 Q In this particular case, did -- were one of the crime
4 scene analysts Gabrielle Guerrero?

5 A Yes, that was her name, her last name at the time. I
6 believe it's since changed.

7 Q Okay. And is this a diagram that was ultimately
8 created once she walked through, documented the crime scene
9 along with other crime scene analysts?

10 A A portion of the crime scene. Understand that
11 there's going to be a section to the north that's not depicted.
12 I'm assuming it's going to be covered on another diagram or
13 another picture, but that is most of the crime scene.

14 Q Got it. So when I go back to my map -- I don't mean
15 to be redundant, but I just want to be clear -- we're looking
16 at State's 7. We're talking about this awning here?

17 A Yes. It's actually for a carport. So there's two
18 carports there with a small break in between the two of them.

19 Q Got it. And the one we're referring to in the
20 diagram is this one on top?

21 A Yes. And again that's the more northern of the two
22 carports.

23 Q Got it. Just so the jury is clear, we're talking
24 about Building 21 and the carport would be here?

25 A Yes. They have just -- for purposes of the

1 illustration, know that the carport has been removed to show
2 that.

3 Q Got it. Thank you.

4 I'm going to show you a first look at the crime scene
5 itself, State's 12. Just describe what we're looking at there.

6 A So this is a photograph taken from the east side of
7 the parking lot toward the west, and that would be -- the
8 backdrop is the east facing side of Building 21, a small
9 landscaped area, a sidewalk and then the aforementioned
10 northern carport. And then in between the two vehicles -- one
11 is blue and one is white -- is our victim.

12 Q And what was the victim's name?

13 A Kwame Banks.

14 Q I want to ask you about this orange cone that's just
15 to the left of the victim's body. What is that depicting?

16 A So as part of patrol, patrol officers' response to
17 crime scenes, part of their securing of the crime scene
18 sometimes will include the officers placing cones down as a
19 reminder to other patrol officers and responding detectives
20 that there's evidence in that particular area and be aware. So
21 in that case --

22 And what you'll see is, as we get into this a little
23 bit deeper, is that the crime scene analysts use much smaller
24 cones with numbers typically. The patrol officers, just as a
25 friendly way of marking evidence, they'll put out the much

1 larger cones, which you can tell is actually a traffic cone.

2 Q And then I'm going to show you State's 13. There's
3 actually several cones in addition to that first one we saw in
4 the last photo; is that right?

5 A That's correct.

6 Q Where did -- well, let me show you 14. Where did
7 that trail of cones lead to?

8 A So this is now from the north part of that parking
9 lot looking toward the south. Those lights that you see in the
10 distant area is a dealership, a former Dodge dealership that no
11 longer is active, but what you're seeing is the cones go in a
12 southerly direction toward that second, the southern carport
13 area.

14 Q And what is represented by each one of those orange
15 cones?

16 A The evidence that the patrol officers were trying to
17 bring awareness to was actually footwear and apparent blood.

18 Q I'm going to show you State's 15. On the bottom
19 right here, do you see this blood pooling?

20 A Correct.

21 Q Would that mean that we're very near Mr. Banks's
22 body?

23 A Yes. We are literally feet away.

24 Q And is this the first of the series of footprints
25 that was being documented by the crime scene analysts?

1 A It is.

2 Q Zoom in there. As we move down, State's 19, is this
3 the second of the series of bloody prints, footprints?

4 A Yes, footwear and apparent blood, yes.

5 Q And just for reference, State's 17, you can see the
6 white vehicle Toyota there. And then going back, does that
7 appear to be the same vehicle so that would be the second
8 footwear impression?

9 A Yes.

10 Q State's 21, are we continuing to follow the path away
11 from the body here?

12 A So we're just moving in a southerly direction, but
13 these photographs are being taken from the east side facing
14 west.

15 Q And then State's 25, is this the last of those series
16 of cones depicting the trail?

17 A It was. It appeared to end at carport Space 301. If
18 you'll notice that the carports are marked.

19 Q And 301 is obviously empty; correct?

20 A It's vacant, yes.

21 Q Due to the fact that you had apparent bloody
22 footprints at the scene, did you along with crime scene
23 analysts document a fire department employee who had gone to
24 check on Kwame to see if he was still alive?

25 A Yes.

1 Q Showing you State's 29, is that the fire personnel
2 that's back there? But is that -- can you tell? Is that the
3 fire personnel that you took prints from?

4 A It is.

5 Q Showing you State's 30, is that the bottom of one of
6 his boots or one of the photos taken of his boots?

7 A Yes. So when he's referring to taking prints of --
8 taking photographs to try to line up the treadwear of the
9 footwear to see if, in fact, it was emergency responding
10 personnel that had stepped in the blood.

11 Q Okay. Now, I'm going to show you 31, and if you
12 could, just reorient the jury where we're looking now.

13 A So again going to the south, looking in a northerly
14 direction, just to the left above the cars that are -- there's
15 a couple cars that are backed in. That's that southern
16 carport. Just north of that there's a slight break, and then
17 you can pick up with the cones and then that northern carport.
18 So we're just at the south end of the scene looking
19 north.

20 Q So just to be clear, this cone here by the empty car
21 Space 301 was the end of the trail, and now we're looking back
22 in the direction of where Kwame was; correct?

23 A Yes.

24 Q And in the distance there, there are three additional
25 cones that weren't included in the trail; is that right?

1 A That's correct. And that's what I was referring to
2 is additional points of emphasis or areas of concern.

3 Q State's 32, are those those same three cones?

4 A Yes.

5 Q And to the left of those cones, is that the
6 entrance-exit that we just referenced earlier with the map?

7 A Yes. Unfortunately it's a little washed out because
8 of the white light.

9 Q Showing you State's 33, is that just a different
10 angle but showing those same three cones in the foreground
11 here?

12 A Again, this is on the east side of that front
13 entryway looking toward the west. You'll see the sound wall in
14 the distant, which -- or that separates Sky Pointe Drive from
15 U.S. 95. And the entrance and the exit sides of that front
16 entryway are marked by a median with trees.

17 Q I'm just trying to fix that glare. Bear with me a
18 second. Well, that's the best I can do.

19 What do those three cones in the foreground
20 represent, Detective?

21 A So the three counts -- excuse me, the three cones in
22 the foreground are three parts of the same cell phone.

23 Q Was that of interest to you?

24 A Indeed.

25 Q And why is that?

1 A Because it's potential evidence.

2 Q Showing you State's -- well, before I move on, in
3 that same photo there appears to be two additional cones
4 further down the driveway; is that right?

5 A Correct.

6 Q Does that mark two additional pieces of evidence?

7 A It did.

8 Q State's 37, is that those same cones?

9 A Yes.

10 Q State's 39, what are we looking at here?

11 A So that the red curve that you see at the top of the
12 photo, that is the median that I had referenced in separating
13 the entrance and exit from the main entrance. Just a few
14 inches away, it's not the flossing device. We're focused on
15 the black nitrile glove.

16 Q And that is a torn latex glove, correct, not a
17 complete --

18 A Yes. It may not be quite visible in this photo, but
19 the glove itself is actually torn.

20 Q And then State's 42, is that the other cone?

21 A It is.

22 Q Well, you know what that is; right?

23 A A \$10 bill folded in half.

24 Q Yeah. You can't really see the 10 on there. There
25 we go.

1 Now I want to bring you back to Mr. Banks's body in
2 the main crime scene. Showing you State's 43, is this how
3 Mr. Banks appeared when you arrived on scene?

4 A Yes.

5 Q Was there anything of evidence you value above his
6 body?

7 A As it relates to the carport --

8 Q State's 44?

9 A Yes. You see that little red evidence marker, that
10 was placed there by the crime scene analyst, and it's basically
11 a sticker that has an arrow and then a place for the crime
12 scene analyst to denote it with a letter designation. What you
13 just -- forward of that sticker is actually an apparent bullet
14 hole to the roof or the ceiling, if you will, of the carport.

15 Q Moving back to Mr. Banks's body, State's 45, based
16 upon your experience, years in the robbery section as well as
17 the homicide section, what initially stood out to you when you
18 looked at Mr. Banks's body?

19 A It appeared that someone had gone through his
20 pockets.

21 Q And can you see that in this photo?

22 A Unfortunately it's not very clear. I am very aware
23 of these photos.

24 But centrally located to that photo is a -- is the
25 right pants pocket, and the internal portion of the pocket has

1 been removed, rabbit eared, if you will for an explanation.
2 And then just forward of the pocket are a lighter and a
3 Chapstick.

4 Q Okay. I want to zoom in here a moment, and bear with
5 me here.

6 Do you see this little tab here?

7 A I do.

8 Q Is that his front pocket, meaning like his thigh?

9 A Yeah. I guess I would describe it as right front
10 pants pocket.

11 Q Okay. And then this zipper pocket is a little more
12 on his back or his hip; is that right?

13 A I thought that that portion had come out from within
14 that right front pants pocket.

15 Q Okay. And looking at this portion here, can you see
16 that there is some U.S. currency that appears to be behind like
17 a film or a -- some form of material?

18 A Yeah. It looks -- it's a little subdued, but that's
19 actually U.S. currency. It's a pocket within a pocket.

20 Q And a zipper as well?

21 A Yeah. And that mesh is what's used to contain the
22 hidden pocket.

23 Q Okay. Now, just in the foreground, you indicated
24 there was a lighter and Chapstick; right?

25 A Correct.

1 Q And as I zoom out -- well, let me just move on to the
2 next photo, and you can orient us.

3 State's 46, what are we looking at here?

4 A A cartridge case.

5 Q Was that just down under where that Chapstick and
6 lighter were located?

7 A Yes.

8 Q Just near Mr. Banks's body?

9 A Yes.

10 Q And what was the caliber of that cartridge case?

11 A .40 caliber.

12 Q Now we're going to go to State's 48. We're back to
13 Mr. Banks's right pocket area, right hip area. Is that right?

14 A Correct.

15 Q Just for the record.

16 I don't know if this will help you.

17 In this photo can you see the front pocket --

18 A Yes.

19 Q -- and the side pocket?

20 And then within the side pocket is the zipper
21 portion; correct?

22 A Correct.

23 Q Okay. What is this right here in the waistband?

24 A It's not very clear, but it's -- you can actually see
25 the torso of Mr. Banks and then the waistband of his pants.

1 But that little red item that's poking out is actually a
2 folding knife, and it's clipped to his waistband, the front
3 portion of his waistband.

4 Q And it's clearly not open?

5 A No, it is not open. It is folded and inside the
6 waistband.

7 Q Okay. There's one more of these with the right side,
8 and I'll move on.

9 State's 49, let me back out. Now, we're still on the
10 right side of Mr. Banks's body; correct?

11 A Correct.

12 Q This would be the front pocket on the top right here,
13 and then it appears now we've moved the U.S. currency to the
14 left, and what are we looking at here?

15 A Jewelry and coins.

16 Q Within that what you referred to as a hidden pocket?

17 A It's in that same area of the pocket.

18 Q Understood.

19 Now, State's 51, we have now moved to the other side
20 of Mr. Banks's body.

21 A Yes. We are on the west side of his body.

22 Q What are we looking at here?

23 A There is a torn black nitrile glove adjacent to the
24 left side of his body.

25 Q And is Mr. Banks's left pocket a little bit rabbit

1 eared as well?

2 A Yes.

3 Q Okay. That torn latex or nitrile is the proper term,
4 I guess, glove that we see here, is that the same color as the
5 one or the portion of the one that we saw out by the exit?

6 A Yes.

7 Q State's 52, what did you note at Kwame's lower
8 portion of his belly?

9 A Well, what -- first off is that his right shoe is
10 missing.

11 And on the backside of his left leg, you can see some
12 dots. They're actually apparent blood drops.

13 Q Before I move on, typically, where there is a
14 decedent at a crime scene, would crime scene analysts be either
15 directed by you or on their own accord bag that body along with
16 coroner personnel as it is and then transport it for an
17 autopsy?

18 A Yes, that's the protocol.

19 Q In this particular case, did you and crime scene
20 personnel make the decision to remove the pants from Mr. Banks
21 before placing him into the sealed bag for the autopsy?

22 A Yes, we did.

23 Q And was that based upon these blood spots that were
24 of interest to you?

25 A Absolutely based upon those. We were trying to

1 preserve that evidence ensuring that there's not going to be
2 commingling of biological material in the chance that the
3 aforementioned blood drops belonged to a suspect and not the
4 victim.

5 Q Okay. In addition to your decision to remove the
6 pants before transporting Mr. Banks, showing you State's 53,
7 did you and crime scene analysts not want to disturb any
8 potential biological materials from the pockets who were
9 obviously disturbed?

10 A Yes. And in that particular matter, if, in fact,
11 somebody had gone into the pants pockets, in this case
12 Mr. Banks, is that there can be a transfer of skin cells from
13 the suspect to the victim's pocket. So again another potential
14 area for evidence.

15 Q Moving now to State's 56, what are we looking at
16 here?

17 A This large structure is actually a support beam for
18 the carport, and then just off to the right and forward, the
19 right front wheel of the aforementioned Toyota Solara is the
20 front portion of Kwame's other shoe.

21 Q State's 57, what are we looking at here?

22 A Now, this is the -- in the top left corner of this
23 particular photograph is the same Toyota -- white Toyota
24 Solara. Just between the front-end of that car and the curb to
25 the sidewalk in front of Building 21, there is a black Hardy

1 cloth glove.

2 Q And surrounding the glove are all of these...

3 A The little dots, not very clearly represented in that
4 photo, but what they actually are are the pea-sized rocks that
5 the then apartment complex used to occupy their landscaped
6 areas, and --

7 Q I'll show you another photo.

8 A -- which is just a short distance away.

9 Q State's 59. That is really washed out. I apologize.
10 Give me your indulgence.

11 Was there anything of evidentiary note for you in
12 this foreground of this photograph?

13 A Very much so. So this photo is taken in front of
14 Building 21 looking to the east, and in the bottom of that
15 photograph where the landscape area meets the sidewalk are
16 those small rocks that the apartment complex had used to fill
17 in their landscaped areas. So these small rocks that you see
18 on the asphalt portion are a continuation from the rocks in the
19 landscaped area.

20 What's extremely noteworthy to me as a detective, as
21 an investigator, is that those rocks also appear to be on the
22 sidewalk suggesting that there was some kind of recent
23 disturbance in the rocks that caused those rocks to move from
24 where they were originally located on to the sidewalk.

25 Q State's 61, is that that area we were just

1 describing?

2 A Yes. So we're just turning that photograph around,
3 looking sort of east to west and at the base of that tree and
4 the rocks that surround that tree.

5 Q And is there something right smack in the middle of
6 that that was of evidentiary concern for you?

7 A Yes. This will be the second of three cell phones
8 recovered from there. That is a cell phone that's in a case.

9 Q You indicated that's the second of three cell phones,
10 and I believe earlier we saw the one phone broken into three
11 pieces at the front entrance.

12 A Correct.

13 Q Would that be Cell Phone 1?

14 A It is.

15 Q And then the phone in the rocks is the second of
16 three?

17 A We just viewed, yes.

18 Q And where was the third cell phone?

19 A So the third one, if we could go back to the left
20 side of Mr. Banks's body, there was an opportunity that I had
21 to discuss a torn nitrile glove. Well, just forward of that
22 glove, underneath Mr. Banks's left arm was a third black cell
23 phone.

24 Q I was hoping I didn't have to go back, but I will.

25 A Sorry.

1 Q No, it's -- one second.

2 For now, Detective, let me refer you to 51. Can you,
3 even if you can't see it in this photo, was the cell phone
4 tucked under Mr. Banks's body, kind of near his arm pit area?

5 A It was.

6 Q Okay. And I apologize. I think it's in another
7 stack, and I want to save some time.

8 All of those items of evidentiary value that you just
9 referenced, were those collected by a crime scene analyst and
10 impounded under Event Number 1702214563?

11 A Most of them were. The cell phones were actually
12 collected by my partner, Detective Cook.

13 Q And what was the purpose of collecting those
14 separately from the other evidence at the crime scene?

15 A So part of our process as homicide detectives is that
16 we come out, and there is a division of labor that occurs on
17 these scenes. And what I mean by that is that after we receive
18 a briefing from the patrol officers and the patrol detectives
19 of the preliminary investigation, we respond as many detectives
20 as our sergeant or our supervisor deems necessary for that
21 particular investigation.

22 And then amongst the detectives, as instructed by
23 Detective Cook and myself, is that we give different people
24 assignments.

25 In this particular case, I wanted to take possession

1 of those cell phones, as did Detective Cook, so that we could
2 start on a forensic examination of them immediately.

3 Q And we've discussed everything that's been taken from
4 the crime scene. Were there a couple items that were not at
5 the crime scene that you thought might or should have been
6 there? And I'll refer you to a car key or car keys.

7 A One of the things that we did not find spilled out,
8 and then subsequently at autopsies we never found a key fob,
9 you know, at that particular moment with the possibility that
10 Mr. Banks had a vehicle.

11 Q Okay. So at the time, just so the jury is clear,
12 when you're looking at this crime scene, you don't know one way
13 or another if Mr. Banks had arrived in a vehicle. Fair enough?

14 A That is correct.

15 Q Okay. And I want to bring you kind of into the next
16 morning. And you're at the scene for several hours. Is that
17 fair?

18 A Yes.

19 Q Do you, after looking at the initial crime scene,
20 then canvass the area for potential video surveillance around
21 the apartments?

22 A Not just additional sources of video surveillance,
23 but also other witnesses.

24 Q Let's refer to video surveillance first. With regard
25 to that, did you locate any video surveillance cameras within

1 our area?

2 A Yes. The video surveillance that we did recover from
3 5850 Sky Pointe Drive was limited to the office, which as it
4 relates to the crime scene is east and north of it, and it's
5 actually in line with the front entryway.

6 The front office I believe had two cameras. One
7 depicted the interior of their office and directed its view, if
8 you will, to the front door. And then the second one I believe
9 was an exterior camera, but unfortunately it only depicted the
10 rear looking to the east, which is the pool area. So areas of
11 potential liability to the apartment complex.

12 Q With regard to the one camera that faced toward the
13 entrance area, was that an interior camera?

14 A Yes. It's an interior camera with a primary focus of
15 the interior of the front office.

16 Q But in the backdrop can you see kind of the front
17 door which would point towards the entry exit of the apartment
18 complex?

19 A Yes. But unfortunately there's a slight elevation
20 change. So its job is to depict the front door, people coming
21 in and out. Sometimes in cases like that we believe that it
22 will overshoot, especially if there's glass in the door and
23 allow us to depict some of the exterior portion, but it is
24 limited, especially at night.

25 Q And unfortunately in this case, did that basically

1 not give you anything of evidentiary value?

2 A There was nothing to be gleaned from it.

3 Q No other cameras in the area that you found or
4 anything such as that?

5 A Unfortunately, no.

6 Q You indicated that you canvassed the area for
7 witnesses as well?

8 A Correct.

9 Q What, just generally, what is a witness canvass?
10 Meaning you're knocking on doors?

11 A That's what we're doing, and unfortunately sometimes
12 it happens at 2:00 or 3:00 in the morning.

13 Q Okay. Were there numerous ear witnesses to this
14 event?

15 A Yes. And what that means is witnesses that heard,
16 but didn't see what had happened.

17 Q Some that did see it a little bit or a portion of the
18 event?

19 A Correct.

20 Q And then I want to draw your specific attention to
21 Apartment 2003, going back to State's 8. Did you and other
22 officers attempt to make contact with the occupant or occupants
23 of 2003?

24 A Yes.

25 Q Where is that located on this diagram?

1 A And if I can draw your attention back to Building 21.
2 Building 21, it consists of almost two halves. The southern
3 half of it covers Apartments 1001 -- or correction, 1001, 1002,
4 1003, 1004.

5 And then repeating that process for the second floor.
6 So 2003 is located on the second floor of that southern portion
7 of 21, so just below the actual number of 21. And the
8 apartment is west facing. So it faces -- windows or the
9 balcony portion of that particular apartment faces Sky Pointe
10 Drive.

11 Q Okay. So it doesn't face our crime scene, but you
12 did canvass it, tried to make contact with the witnesses there;
13 correct?

14 A Yes. Because that building is the building that
15 presents itself to where our victim was shot. So that would be
16 the most likely source of potential witnesses.

17 Q Did anyone answer the door at Apartment 2003?

18 A No, no one did.

19 Q And later in your investigation, did you learn that a
20 person by the name of Carnell Cave lived at that apartment?

21 A We did.

22 Q There were two witnesses who were interviewed in the
23 early morning hours named Dereka Nelson and Jakhai Smith?

24 A Correct.

25 Q And real briefly, they were the occupants of 2008,

1 and I'm showing you State's 64; and 2005, State's 68?

2 A Correct.

3 Q And did you glean information from those two folks?

4 A Yes.

5 Q Did that support your theory that a robbery had
6 potentially occurred?

7 A Yes.

8 Q Based upon what you had at that point in time, did
9 you attempt to make contact with or identify the victim's next
10 of kin or decedent's next of kin?

11 A As we are now transitioning into the next day?

12 Q Okay. Yes.

13 A Yeah. Yes, that will take place.

14 Q Okay. And did you make contact with a person by the
15 name of Tiffany Seymour?

16 A I did not, but going back to the delegation of work,
17 that division of labor, is one of my co-detectives met with her
18 and conducted an interview.

19 Q I assume that when you're delegating that other
20 detectives are conveying information back to you, and your -- I
21 mean, you're having an open line of communication with other
22 detectives working your case; correct?

23 A Oh, without a doubt. And sometimes that
24 communication is realtime.

25 Q Did you learn through the course of your fellow

1 detective's interview of Tiffany that Kwame had sold marijuana?

2 A Yes.

3 Q And that's kind of what he did.

4 Did you learn that a person by the name or a phone
5 contact by the name of POE ATL had placed an order with Kwame
6 that -- earlier that evening?

7 MS. TRUJILLO: Objection, Judge.

8 THE COURT: Approach.

9 (Conference at the bench not recorded.)

10 BY MR. GIORDANI:

11 Q And, Detective, do you recall my question, or should
12 I restate it?

13 A I do recall. And that's correct.

14 Q So you learn through Tiffany that Kwame sold
15 marijuana. This person or contact by the name of POE ATL had
16 placed an order and that Kwame had left their home to meet POE
17 ATL at approximately 10:15?

18 A That's correct.

19 Q Did you also learn he had driven -- Kwame had driven
20 a vehicle?

21 A Yes.

22 Q Is that the first time that you realize there
23 should've been a vehicle associated with him at the scene?

24 A Indeed.

25 Q Based upon all that information you received, did

1 you, yourself, attempt to locate the victim's vehicle?

2 A That's correct.

3 Q And did Ms. Seymour give you the make and model so
4 you could know what you're looking for?

5 A Yes.

6 Q While we're going through these photos, Detective,
7 did you learn that Mr. Banks drew -- drove a Nissan Altima
8 bearing California plates 7PME614?

9 A Yes. And it's black in color.

10 MR. GIORDANI: I believe by stipulation we are going
11 to move to admit 117 through 139.

12 MS. TRUJILLO: That's correct.

13 THE COURT: All right. Those will all be admitted.

14 (State's Exhibit Number(s) 117-139 admitted.)

15 BY MR. GIORDANI:

16 Q And before I publish those, Detective, I think I
17 skipped a step. Before going to canvass for the victim's
18 vehicle, did you attend the autopsy of Kwame Banks?

19 A I did.

20 Q During the course of attending that autopsy, did you
21 see the bullet holes or apparent bullet holes to his chest?

22 A Yes.

23 Q And then did you obtain, you and crime scene analysts
24 obtain a buccal swab from Kwame Banks?

25 A Yes.

1 And a buccal swab is a way that we get our DNA
2 samples.

3 Q So crime scene analysts would have swabbed the inside
4 of Kwame's cheek?

5 A Correct.

6 Q Now, moving to February 23rd, so the following day,
7 did you go out and basically drive around and look for that
8 vehicle?

9 A That's what we did.

10 Q Show you State's 6. Did your canvass for the vehicle
11 include what's depicted in the aerial map here?

12 A Yes.

13 Q And where did you ultimately locate that vehicle?

14 A So we located the vehicle at the top of this map,
15 almost centrally located. It's denoted as 7495 West Azure
16 Drive.

17 Q And that general area, is that kind of a business
18 center?

19 A I would describe it as like a business complex, yes.

20 Q And is that adjacent to houses?

21 A There appears to be a residential area to the south.

22 Q All right. And just for the jury's reference,
23 approximately how far away is where the victim's vehicle
24 located from 5850 Sky Pointe?

25 A I'd say that's less than half a mile.

1 Q Okay. I want to show you State's 117. What are we
2 looking at here?

3 A So where I located the vehicle or where Darin and I
4 located the vehicle, 7495 West Azure Drive, the particular
5 building that it's next to, this is the west side of that
6 building. So we are almost at the western end of this business
7 complex.

8 And that first parking spot where you see the black
9 sedan that does not appear to have license plates, that's the
10 victim's vehicle.

11 Q Okay. I'm going to back up to State's 6. Just
12 generally, are we talking about the left side of this building
13 on the map?

14 A Yes. The left side of the west side of that building
15 where you're marking with your pen.

16 Q Got it. This business complex here, is there one
17 main thoroughfare for vehicles or more than one?

18 A No. You can actually access this business complex
19 from multiple locations along Azure Drive.

20 Q Then there's one thoroughfare entryway just to the
21 right of the building in the map?

22 A That's correct.

23 Q When you came upon the victim's vehicle, you
24 indicated it did not have plates on it at that time; correct?

25 A Correct.

1 Q State's 118. Is that how it appeared when you came
2 upon it?

3 A Yes. And not just to the rear of the vehicle. There
4 wasn't a license plate on the front end of the vehicle either.

5 Q Okay. Immediately upon observing this vehicle, did
6 you make some observations?

7 A Yes. Well, as you -- it's not necessarily -- I mean,
8 other than the fact that these license plates are removed from
9 the vehicle and you can see that typically this vehicle has a
10 license plate on it because there's so much residue and dirt
11 behind there, so that's not typically how the vehicle is going
12 to present itself.

13 Then as you get closer, you begin to see, in my case
14 that day was that there was areas of like almost for lack of a
15 better term, scorch marks along the top roofed portion where
16 the doors connected with the roof.

17 Q And showing you State's 121, what are we looking at
18 here?

19 A So this is actually the left front or driver's door,
20 and it's closed. And at the bottom there appears to be
21 remnants of some kind of liquid or something that's dripped to
22 the ground.

23 Q 122, what have we got there?

24 A This is the rear end of the vehicle and that same
25 dripping of sorts.

1 Q Could you see inside the vehicle?

2 A No. At certain parts of the windows were smoked.
3 There was actually obstructed by apparent smoke.

4 Q Okay. As a result of your observations on the scene
5 and the scorch marks, did you and crime scene analysts cause
6 that car to be towed back to the crime scene lab?

7 A Correct.

8 Q Just real briefly, 123, is that the vehicle back at
9 the lab?

10 A Yes. So this vehicle is now inside the LVMPD crime
11 lab parking area.

12 Q State's 124, is that a better shot of the scorch
13 marks you were referring to earlier?

14 A Yes. And this is going to be the right side of that
15 vehicle.

16 Q Okay. Was that vehicle thoroughly searched by crime
17 scene analysts?

18 A And myself and Detective Cook.

19 Q And in addition, did you enlist arson investigators?

20 A Yes. And because the -- where the vehicle was
21 located, we enlisted the help of the Las Vegas Fire and Rescue
22 Investigators.

23 Q Did you ever locate a key fob anywhere within that
24 vehicle?

25 A There was pretty significant damage in the interior

1 of the vehicle, and we never located an apparent fob.

2 Q And did you also check the trunk of that vehicle?

3 A Yes. As part of the search of the entire vehicle, we
4 would be remiss if we didn't look in the trunk.

5 Q State's 125, is that the trunk as it appeared when
6 you opened it, or you and crime scene analysts opened it?

7 A Yes.

8 Q A couple, like, kids toys down here. There's a
9 football and then an old salad in the back?

10 A And a frisbee and a bag of bags.

11 Q Okay. Excuse me. And then State's 126, that's the
12 other angle, the left side of the trunk?

13 A Correct.

14 Q Fair to say that this particular bag didn't contain a
15 large quantity of marijuana?

16 A No.

17 Q And there was, in fact, no bags of marijuana found
18 within the vehicle?

19 A We recovered no marijuana from the vehicle.

20 Q Just real briefly, State's 127, is that the interior
21 of the vehicle of the front?

22 A With the driver's door open.

23 Q State's 128, the interior driver compartment?

24 A Yes.

25 Q State's 129, more of the front seat of the driver

1 compartment?

2 A And the right front passenger seat as well.

3 Q State's 130, the right passenger seat?

4 A Correct.

5 Q And then 133, the rear seating area?

6 A Correct.

7 Q Detective, what is an off-line search?

8 A And off-line search as through the Las Vegas
9 Metropolitan Police Department is that we can reach out to our
10 communications bureau and ask them has a particular item or in
11 some cases a person been run or checked through law enforcement
12 records within a particular date range.

13 Q Did you ultimately conduct an off-line search to
14 determine whether that vehicle had been run at some point?

15 A Yes.

16 Q Did you learn that it had been run by a black and
17 white -- well, by a police officer?

18 A Yes. We learned that it was run by a Metro employee.

19 Q And was that -- the time that he ran that close in
20 time -- well, when was it?

21 A It was actually on February 21st, 2017, right
22 before midnight.

23 Q Okay.

24 A Or actually, you know what, take that back. I
25 believe it was into the 22nd, minutes into the 22nd of

1 February.

2 Q Okay. Either way, very close in time to when the
3 9-1-1 call is out -- calls came out?

4 A Indeed.

5 Q At that point in time, obviously there would be no
6 notification that there's a vehicle involved in this case;
7 right?

8 A Yeah. Unfortunately, it took us, you know, almost 24
9 hours to find out that there was a vehicle in play.

10 Q When you learned that there was a vehicle in play,
11 you ultimately would have entered that vehicle into your
12 databases so other officers who pull it over could -- would be
13 aware it might be involved in a homicide?

14 A Not only would we, but we did.

15 Q Okay. But at the point in time when this patrol
16 officer comes upon this vehicle, you hadn't done that yet?

17 A No.

18 Q Did you go out, learn who that officer was and
19 conduct an interview with him?

20 A Yes. It was a K-9 unit by the name of Mel English.

21 Q And did Mr. -- Officer English --
22 Now retired; correct?

23 A He is.

24 Q Did retired Officer English indicate that when he
25 came upon the vehicle there was a black male that he saw near

1 the vehicle?

2 A Yes.

3 Q But when he proceeded to the vehicle, there was a
4 white SUV leaving?

5 A Correct.

6 Q As a result of those statements, did you pull video
7 from -- let me go back to State's 6 -- all of these locations
8 that are marked with yellow dots? And I'm excluding the crime
9 scene 5850 at the bottom here, but all of these locations here?

10 A Yes. If I could -- if I could just make one
11 correction though.

12 Q Sure.

13 A The seeking out of the video surveillance wasn't
14 because of finding out the information on the off-line search.

15 Q Okay.

16 A When Darin and I found that vehicle, the first thing
17 that we did after ensuring that it was unoccupied was to go to
18 that neighboring building where it's parked next to and look
19 for sources of video surveillance. Unfortunately, none of the
20 businesses had video that depicted any portion of the parking
21 lot from that business.

22 So the next best thing is across the street we have
23 two very sizable car dealerships, a Volkswagen dealership and a
24 Honda dealership, and we believed that it would be likely that
25 those companies would actually have cameras that would probably

1 catch Azure and just beyond perhaps into the business complex.

2 So sorry about that little note. I just wanted to
3 make sure that we clarify that.

4 Q No, I appreciate that. And the one that you said
5 unfortunately didn't have cameras is the building that's
6 actually right next to the vehicle; correct?

7 A Yeah. So 7495 at that particular time was devoid of
8 any video surveillance, again, which depicted the parking lot,
9 especially that west side parking lot. There are other
10 businesses within the complex that have video, but would not
11 have depicted that portion because it is a fairly lengthy
12 business complex.

13 Q And that vehicle, although it did not have plates on
14 it, the registered owner of that vehicle was, in fact, Kwame
15 Banks; correct?

16 A It is, yes.

17 Q Without going into too much detail because we have
18 another witness for videos, but did you review the majority --
19 or the entirety of the videos that were obtained from those
20 locations?

21 A Yes.

22 Q And did you develop a suspect vehicle at that point
23 in time?

24 A Yes.

25 Q What kind of vehicle was that?

1 A It appeared to be a white newer model, almost a
2 midsize SUV.

3 Q Okay. Based upon what you saw in the video, did you
4 have a -- or did you form the conclusion that whoever was in
5 that SUV had picked up the black male adult who had dropped off
6 that vehicle?

7 A Correct.

8 Q So did you then attempt to at a later time, I mean,
9 identify that video -- vehicle?

10 A Yes.

11 Q I'm stepping over my words here. I'm sorry.

12 I want to move now to the following day, February
13 24th of 2017. On that date did you receive the phone
14 examination information for those three phones you referenced
15 that were found at the scene?

16 A Yes.

17 Q The phone in the rocks that's, like, 5 or 6 feet away
18 from the body, was that phone at that time determined to be
19 locked and was unable to be accessed?

20 A Yes. The technicians were unable to get into the
21 phone because of its encryption device.

22 Q Okay. As a result of that, were you or DFL
23 detectives able to just pop the little SIM card out of the
24 phone and at least get an ID number for the phone?

25 A All of the forensic examinations occurred by the DFL.

1 At the time it was CFL, the computer forensics lab, which has
2 just changed to the digital forensics lab.

3 But, yes, the technicians there were able to access
4 what is known as an ICC ID, which is the integrated circuit
5 card identifier which is basically the serial number to a SIM
6 card. So although they couldn't get into the actual device
7 itself, they were able to access the SIM card, get the serial
8 number for that, which was extremely useful in this
9 investigation.

10 Q Equipped with that information, the ICC ID, did you
11 also know the phone company associated with that particular
12 phone?

13 A I did.

14 Q And would that be stamped on the SIM card as well?

15 A I'd have to -- I mean, every one might be a little
16 bit different, but I believe it's denoted somewhere on the card
17 itself.

18 Q Well, let me just ask you this: As a result of the
19 ICC ID that was initially pulled from that phone from the
20 rocks, did you cause subpoenas or search warrants to be issued
21 for phone numbers associated with that ICC ID?

22 A Yes.

23 Q Did you receive back during the course of your
24 investigation Sprint cell phone records associated with that
25 ICC ID and a particular phone number?

1 A Yes. Basically the subscriber information.

2 MR. GIORDANI: May I approach?

3 THE COURT: You may.

4 BY MR. GIORDANI:

5 Q I'm showing you State's 2, but just the second and
6 third page, not the disc. Does that appear to be a portion of
7 what you received back from Sprint, reference that ICC ID we
8 just talked about?

9 A Yes.

10 Q And is that a phone that's registered to a particular
11 person?

12 A Yes.

13 Q And who is that?

14 A Larry Brown.

15 Q And is there an Atlanta, Georgia, address associated
16 with Mr. Brown there?

17 A There is.

18 Q With regard to -- well, I'm sorry. Before I move on,
19 let me show you State's 2, page 2 of the written document.
20 Sorry, page 2. Is this the subscriber info sheet associated
21 with phone number (404) 808-2233?

22 A Yes.

23 Q And then is this the account billing address and
24 subscriber you just referenced?

25 A Yes.

1 Q Now, there were two other phones that were taken from
2 the crime scene, one underneath the victim's body and one
3 broken in the driveway; correct?

4 A Correct.

5 Q Did you receive information back with regard to those
6 from your DFL detectives?

7 A Yes.

8 Q And just for the record, DFL, digital forensic lab?

9 A Correct.

10 Q Did the digital forensic lab detectives convey the
11 information or the cell phone numbers associated with those two
12 phones to you as well?

13 A Yes, they did.

14 Q And then did you ultimately cause subpoenas or search
15 warrants to issue to Verizon?

16 A Correct.

17 Q And were those phones (702)277-4856 and
18 (702)755-2805?

19 A Yes.

20 Q And were those phones during the course of your
21 investigation connected to the victim Kwame Banks?

22 A Yes, they were.

23 Q Did you review the DFL returns or the reports
24 associated with those two phones?

25 A I did.

1 Q Did both of those phones have a contact saved in them
2 by the name of POE ATL?

3 A Yes.

4 Q And that contact, was that associated with phone
5 number (702) 510-2072?

6 A Yes.

7 Q As a result of finding that in the victim's phones,
8 did you cause subpoenas and/or search warrants to be issued to
9 T-Mobile?

10 A Yes.

11 Q And was T-Mobile the company that was associated with
12 the POE ATL 510-2072 number?

13 A It was.

14 Q Showing you State's 3, but I'm showing you the second
15 page, not the disc, for the record, is that the T-Mobile return
16 that you received in response to your request?

17 A Yes, showing subscriber information.

18 Q And is that -- who is the subscriber for this phone?

19 A Anthony Carter.

20 Q And does that have a Las Vegas address associated
21 with it?

22 A It does.

23 Q Page 2, this is a T-Mobile record we're referring to
24 now. The last one was Sprint; right?

25 A Correct.

1 Q This is the record for, bear with me, (702)581-2072?

2 A Yes.

3 Q And then the subscriber, you indicated Anthony Carter
4 just under that?

5 A Yes.

6 Q Did you also learn during your course of requesting
7 records from Verizon, which is the third company associated
8 with the victim's phones, that he had a third phone,
9 (702)786-9811?

10 A Yes.

11 Q And did you also follow your procedures we've been
12 talking about for those phones from Verizon?

13 A Yes.

14 Q With regard to the (702)510-2072 associated with
15 Anthony Carter, did you ever locate the actual physical device?

16 A No. And just as a matter of note that the subscriber
17 paperwork you just showed me I believe was the 581 number, not
18 the 510 number.

19 Q Let me back up.

20 The T-Mobile, Detective?

21 A Yes.

22 Q State's Exhibit 3, that's the 581 number you said?

23 A Yeah. I thought we were -- sorry. I'm just trying
24 to make sure that I've got all my numbers right.

25 Q I understand.

1 A Sorry. The 581-2072 does come back to an Anthony
2 Carter.

3 Q Okay. We're on the same page here?

4 A Yes. Sorry about that.

5 Q That's all right.

6 A There's a lot of numbers.

7 Q I'm with you.

8 So to be clear, the phone associated with Anthony
9 Carter, the physical device, you never located that in the
10 course of your investigation?

11 A No. Unfortunately it has never been located.

12 Q Okay. Did you, however, ultimately execute a search
13 warrant on Anthony Carter's residence?

14 A Yes.

15 Q And during the course of the execution of that search
16 warrant, was there a box for a cell phone with the same make
17 and model as the records that we have just referenced?

18 A It appeared to be the same make and model, but
19 unfortunately the box was empty.

20 Q Got it. Did you also make efforts to obtain cell
21 phone records associated with Carnell Cave?

22 A Yes.

23 Q And so the jurors recall, is that the individual
24 associated with Apartment 2003?

25 A Yes. So it's in the same building, Apartment 21,

1 just on the southern half if you will.

2 Q Showing you State's 4, page 2, not showing you the
3 disc contained on page 1, is that the records returned
4 associated with Carnell Cave from T-Mobile?

5 A Yes, it is.

6 Q And just so the record is clear, we're talking about
7 T-Mobile return for phone number (702)517-3499; is that right?

8 A Correct.

9 Q And that's Carnell Cave with a Las Vegas address as
10 the subscriber?

11 A Yes.

12 Q Once you received all these various phone records
13 back, do you, as a homicide detective, along with your partner
14 look at those records and attempt to find associations between
15 the various numbers?

16 A Yes.

17 Q During the course of that review -- can I assume it
18 took a while?

19 A There was quite a bit of data.

20 Q Okay. Can we, just to kind of streamline things, can
21 you confirm the victim's phones had no communication with the
22 phone associated with Larry Brown, the 404 number?

23 A Yes. In the date range that the records were sought,
24 there did not appear to be any communication between the
25 phones, the two, the 755 and the 277 number with Larry Brown's

1 number.

2 Q Okay. And I apologize. I'm going to step back a
3 moment. I may have misspoken earlier. You indicated you were
4 having some issues with the number associated with Anthony
5 Carter.

6 A I was, yes.

7 Q To be clear, the contact saved in the victim's phone
8 says POE ATL?

9 A Correct.

10 Q That would have been the same number that you saw the
11 records for?

12 A Yes.

13 Q So if I misspoke and said 510, I was wrong?

14 A Yeah, I'm sorry. It was just --

15 Q No. Thank you for catching that.

16 A -- turning it around in my mind, and there was
17 something that wasn't right.

18 Q Thank you for catching that.

19 To be clear, the contact saved in the victim's phone
20 as POE ATL was (702)581-2072?

21 A Yes.

22 Q Thank you.

23 During the -- so you've clarified that the victim's
24 records don't have communication with Larry, with the Larry
25 Brown associated phone; correct?

1 A That's correct.

2 Q Did you also look to see if the phone associated with
3 Anthony Carter had contacts with any other people?

4 A Yes.

5 Q And what were you kind of focusing on? What time
6 frame are you focusing on when you're looking at this?

7 A In terms of the date range?

8 Q Yes.

9 A Or -- obviously at the day of the 21st because when
10 the murder occurs, it's at the, pretty much the end of the day.
11 So we as detectives are interested in the days leading up that
12 day, and, of course, even afterward.

13 Q Okay. When looking at the victim's phones, was it
14 apparent to you that he was frequently communicating with
15 Anthony Carter in the moments leading up -- I mean, in the
16 hours leading up to his death?

17 A Indeed.

18 Q Were there, upon review of Mr. Carter's records,
19 other contacts with another number that kind of intermingled
20 with the contacts with the victim?

21 A Yes.

22 Q And was that the phone (404) 808-2233?

23 A Yes, which was Larry Brown's number.

24 Q Okay. Did you also note, armed with the information
25 that Carnell Cave didn't answer his door, that Mr. Carter had

1 some communications with Carnell Cave in his phone records?

2 A That's correct.

3 Q Based upon what you reviewed in the phone records,
4 and I'm not going to go into detail of the calls and the texts,
5 but did you obtain search warrants from a Judge, not
6 necessarily this Judge, but from a Judge in Clark County for
7 three different residences?

8 A Yes.

9 Q And were those residences 6828 Rosinwood?

10 A Yes.

11 Q And whose residence was that?

12 A Anthony Carter.

13 Q During the course of the execution of that search
14 warrant, were there items of potential evidentiary value found?

15 A Yes.

16 Q And what were those items generally?

17 A Namely marijuana and a 9 millimeter semiautomatic
18 handgun.

19 Q Okay. You had indicated earlier that there weren't
20 9 millimeter cartridge cases found at the scene; correct?

21 A No. They were .40 caliber.

22 Q Okay. So when you find that firearm at Mr. Carter's
23 residence, you're not concerned it's the murder weapon; fair?

24 A Yes, but, you know, we have to make sure that we take
25 a double look at that. That's important.

1 Q Of course. Of course. And let me back up a minute
2 because I think I skipped over something, and correct me if I'm
3 wrong.

4 I showed you a photo earlier of a single cartridge
5 case at the scene near Mr. Banks's body?

6 A Correct.

7 Q Was there another cartridge case that was found?

8 A Yes.

9 Q I apologize. Where was that located?

10 A It was caught up in his clothing, and it wasn't until
11 later on that we were able -- when he was moved that we were
12 able to locate it. It's a -- it's a different head stamp,
13 meaning it's a different manufacturer of ammunition, but it's
14 the same caliber, .40 caliber.

15 One was Winchester, and then the other one was
16 Federal.

17 Q I apologize.

18 MR. GIORDANI: Should we approach? Can we approach?

19 THE COURT: Sure.

20 (Conference at the bench not recorded.)

21 MR. GIORDANI: May I approach the witness?

22 THE COURT: You may.

23 BY MR. GIORDANI:

24 Q Showing you State's 98 and 99, do you recognize
25 those?

1 A I do.

2 Q And what are we looking at there?

3 A So one is a 90-degree photograph to Mr. Banks's torso
4 from a little higher elevation.

5 And then the other one is a closer photograph
6 depicting a cartridge case -- that means a spent round --
7 that's on his chest.

8 MR. GIORDANI: Okay. I'd move for the admission of
9 those.

10 THE COURT: Subject to the record, those will be
11 admitted.

12 (State's Exhibit Number(s) 98-99 admitted.)

13 MR. GIORDANI: Thank you.

14 MS. TRUJILLO: Thank you, Judge.

15 BY MR. GIORDANI:

16 Q State's 98. Describe what we're looking at here.

17 A So this is a 90 degree photograph of Mr. Banks's
18 torso, his shirt, undershirt, jacket lifted up to expose the
19 torso. On the left and right-hand side you have his nipples.
20 In between there you have an apparent gunshot wound. And then
21 in between the gunshot wound and the left nipple is a cartridge
22 case.

23 Q State's 99, that's a close-up of that cartridge case
24 with evidence marker?

25 A Correct.

1 Q Just to be clear, Mr. Banks obviously was found face
2 down at the scene?

3 A Yes, he was.

4 Q And ultimately his body is flipped, and then you
5 locate this second cartridge case; correct?

6 A Yes.

7 Q You indicated previously that these two cartridge
8 cases at the scene were the same caliber. What was that
9 caliber?

10 A .40.

11 Q And you indicated also that they were of different
12 head stamps. What does that mean, briefly?

13 A So a head stamp on ammunition, where the primary is,
14 is the manufacturer of the ammunition and then the caliber of
15 the ammunition. So in this case, the two cartridge cases that
16 are found, one is Federal; so the manufacturer is Federal. The
17 other one was Winchester; so the manufacturer is Winchester.
18 And then below is the caliber because firearms come in multiple
19 calibers.

20 Q Got it. So essentially these were made by different
21 companies, but they're the same size?

22 A Yes.

23 THE COURT: Are we done with the picture?

24 MR. GIORDANI: Yes. I apologize.

25 / / /

1 BY MR. GIORDANI:

2 Q So you had indicated earlier that a search warrant
3 was executed on Anthony Carter's residence. There was
4 marijuana found and then a 9mm firearm found at his residence;
5 correct?

6 A Correct.

7 Q In addition to that was a buccal swab taken from
8 Mr. Carter's cheek?

9 A Yes.

10 Q Did you also execute a search warrant at 5850 Sky
11 Pointe Drive, Building 21, Apartment 2003?

12 A Yes.

13 Q Was that -- was Carnell Cave home when that warrant
14 was executed?

15 A He was.

16 Q Okay. Within that apartment, was there marijuana as
17 well?

18 A Marijuana was recovered.

19 Q And was a buccal swab or a cheek swab taken from
20 Mr. Carnell Cave as well?

21 A Yes.

22 Q Did you also execute a search warrant on 2520 Sierra
23 Bello Avenue, Unit 103?

24 A Yes.

25 Q And did you associate that residence with Mr. Larry

1 Brown?

2 A Yes.

3 Q As well as a person by the name of Angelisa Ryder?

4 A Yes.

5 Q When that search warrant was executed, was Ms. Ryder
6 home at the time?

7 A She was.

8 Q Was Mr. Brown home at the time?

9 A He was not.

10 Q Okay. Within the driveway of the Sierra Bello
11 address, what did you find?

12 A A white 2015 Jeep Compass, which is a midsize SUV.

13 Q Okay. As a result of your investigation in May
14 of 2017, did you issue arrest warrants for Larry Brown and
15 Anthony Carter?

16 A Yes, for Larry Brown. I can't remember when it was
17 done for Anthony Carter. I don't -- well, go ahead.

18 Q Ultimately, with regard to Mr. Brown, did you enlist
19 the services of the FBI to attempt to locate him?

20 A Yes.

21 Q To take him into custody.

22 And ultimately did you learn the FBI took him into
23 custody on June 29th, 2017, in Georgia?

24 A Yes.

25 Q Once you have Mr. Brown and Mr. Carter in custody, do

1 you do what we refer to as forensic follow-up requests?

2 A Yes.

3 Q Did you do requests on various items of evidence
4 collected from various scenes for fingerprints?

5 A Yes.

6 Q Ultimately, is the only fingerprint that comes back a
7 victim fingerprint?

8 A Yes. Unfortunately the only suitable latent print
9 came back to Mr. Banks.

10 Q And was that from his vehicle, the burnt vehicle?

11 A Yes, it was.

12 Q So not much evidentiary value from prints.

13 Did you cause requests to go to the DNA forensic lab
14 of Metro for DNA examination on several items of evidentiary
15 value?

16 A Yes.

17 Q Ultimately -- well, that initial request, at the time
18 you made the initial DNA request, did you only have the DNA or
19 buccal swab of Mr. Carter and the victim Mr. Banks?

20 A That is correct.

21 Q Once Mr. Brown is arrested in Georgia, do you
22 ultimately make contact with him to obtain a buccal swab?

23 A Yes.

24 MR. GIORDANI: May I approach?

25 THE COURT: Sure.

1 BY MR. GIORDANI:

2 Q Showing you State's 304, who is that?

3 A Larry Brown.

4 MR. GIORDANI: And I'd move for the admission is 304.

5 THE COURT: Any objection?

6 MS. TRUJILLO: No objection.

7 THE COURT: All right. 304 is admitted.

8 (State's Exhibit Number(s) 304 admitted.)

9 MR. GIORDANI: Do you --

10 THE COURT: This might be a good time --

11 MR. GIORDANI: I have, like, three questions left.

12 THE COURT: Okay. Sure.

13 MR. GIORDANI: I can just wrap it up.

14 THE COURT: We'll finish up, and then before cross
15 we'll take a break.

16 MR. GIORDANI: Okay.

17 BY MR. GIORDANI:

18 Q Do you see Mr. Larry Brown here in the courtroom?

19 A I do.

20 Q Can you please point to that person and describe an
21 article of clothing he's wearing today.

22 A Yes. He's wearing a black suit, blue shirt and a
23 multicolored tie.

24 MR. GIORDANI: Would the record reflect
25 identification of the defendant?

1 THE COURT: It will.

2 BY MR. GIORDANI:

3 Q And you indicated that you obtained and impounded a
4 buccal swab from his cheek as well?

5 A Yes.

6 Q After doing that and obtaining a buccal swab from
7 Mr. Cave, did you submit a subsequent request to the DNA lab
8 for further DNA comparison?

9 A Yes.

10 Q In addition, did you submit a firearm examinations
11 request, or was one submitted for the two cartridge cases found
12 at the scene to compare them with one another?

13 A Yes.

14 Q And did you ultimately submit for an additional
15 search warrant and search of that phone that was found in the
16 rocks with the (404)808-2233 number?

17 A Yes.

18 Q And was that done through the digital forensics lab
19 at Metro?

20 A It was.

21 MR. GIORDANI: Thank you, Detective.

22 And at this time I'll pass.

23 THE COURT: All right. Before we go into cross,
24 let's go ahead and take our afternoon recess.

25 Ladies and gentlemen, we'll go ahead and take a

1 recess, just about to 2:45.

2 During the brief recess, you're all reminded you're
3 not to discuss the case or anything relating to the case with
4 each other or with anyone else. You're not to read, watch or
5 listen to any reports of or commentaries on the case, person or
6 subject matter relating to the case. Do not do any independent
7 research by way of the Internet or any other medium, and please
8 don't form or express an opinion on the trial.

9 Please leave your notepads in your chairs and follow
10 the bailiff through the double doors.

11 And then, Detective, please don't discuss your
12 testimony with anybody else during the break.

13 (Jury recessed at 2:31 p.m.)

14 THE COURT: As soon as the door shuts.

15 MS. TRUJILLO: I'd like to make a record --

16 THE COURT: I know. I'm waiting for the door to
17 shut.

18 MS. TRUJILLO: No. I meant without the presence
19 of --

20 THE COURT: What?

21 MS. TRUJILLO: Without the presence of...

22 THE COURT: Okay. The detective can stay. We're not
23 really going to be talking about you. So you can stay.

24 THE WITNESS: If Monica wants to kick me out, I'll
25 leave.

1 MS. TRUJILLO: You can hang out all day.

2 THE COURT: All right. I wanted to put on the record
3 there was an objection to some of the photos made by the
4 defense.

5 I think you were objecting to the two with the
6 cartridge casing.

7 MS. TRUJILLO: Well, I'm going to start from my -- my
8 first.

9 THE COURT: Okay.

10 MS. TRUJILLO: So my first objection was to the big
11 group of photos involving the crime scene, and it's kind of the
12 same objection. I think it's cumulative, and they're pretty
13 gruesome. I understand that we are desensitized, but they
14 still are pictures of a dead body with blood, and I think that
15 some of them portray, you know, just different angles of other
16 things that are zoomed in. But I understand the Court said
17 that there needs to be context. So that was my first
18 objection.

19 The second objection was for that this detective
20 learned information from Detective Cook that was relayed to
21 Detective Cook by Tiffany Seymour. So my objection obviously
22 was hearsay and, in fact, double hearsay. And then the State
23 said it wasn't offered for the truth of the matter asserted,
24 but instead for what happened next in the investigation. And
25 then the Court ruled that it was admissible.

1 And then my third --

2 THE COURT: For that purpose only.

3 MS. TRUJILLO: Correct.

4 And then my -- oh --

5 MR. STORMS: And just for the record, Judge, on that
6 issue, ultimately, after that happened, they went into the
7 search for the car, and the POE ATL was who was involved really
8 didn't have much to do with what they were going towards.
9 There's a case -- there was a unpublished case by the Nevada
10 Supreme Court, *Santana versus State*, Number 655144, citing
11 *Ocampo versus Vail*, 649, F.3D 1098, which is a Ninth Circuit
12 case saying the confrontation applies to out-of-court
13 statements when the jury can infer facts from them like this.
14 And, you know, the idea of using what happens next for that
15 when it ultimately wasn't a significant fact is prejudicial to
16 us.

17 THE COURT: And didn't -- didn't -- we already had a
18 witness though that testified live about the same information.

19 MR. GIORDANI: Yes.

20 THE COURT: So they'd already heard it. You'd
21 already had a right to confront the original source of the
22 information and cross-examine the original source of the
23 information, and it was offered just with this detective to say
24 what he did next.

25 On the photos, anything else on the photos?

1 MS. TRUJILLO: And then my third objection was to
2 State's 98, which depicted the cartridge case on Kwame Banks's
3 stomach which I thought was excessively gruesome.

4 THE COURT: Well, first of all, I don't think the
5 photos were very gruesome. Most of the crime scene body photos
6 were taken at some distance, and you couldn't really see much
7 blood or anything.

8 The one more gory photo, I don't recall the number,
9 but where you can see the blood trail, Mr. Giordani said the
10 point of that was that's where you had the footprints. So you
11 have to establish the proximity through the blood and the
12 location of the body. So to me that seemed relevant.

13 On the cartridge casing and location of the cartridge
14 casing is, of course, relevant, and it is what it is. I mean,
15 he happened to be on top of the cartridge casing. So it's
16 going to be embedded into his stomach. I mean, you can't
17 change the way the evidence comes out. And like I said, you
18 know, that's unusual, yes. Usually they're scattered about,
19 but the fact that he happened to be on top of it and it kind of
20 pushed into his stomach, that's how it was.

21 And again, I didn't find the, you know, as murder
22 cases go, these pictures were not unduly gory or gruesome in
23 any way. There's not a lot of blood.

24 And as I already said, Mr. Giordani pointed out the
25 relevance of the blood is to put proximity for the footprint

1 that's going to come up later over defense's objection, but,
2 you know, it's coming in, and so they get to show where it is.

3 Anything else the State wants to say about the
4 photos?

5 MR. GIORDANI: Three quick points. Murder is
6 gruesome. It is what it is.

7 Second, I have already narrowed down the photographs
8 substantially, and I think I made that record earlier, but I
9 just want to be clear. There are, you know, hundreds of crime
10 scene photos that show different angles of the victim's body,
11 and I narrowed it down to as many as I thought was appropriate
12 to show the evidence was scattered around him.

13 Third, the two photos that do show the cart case in
14 his chest, one shows the location of it. It's a further out
15 photo.

16 THE COURT: Right.

17 MR. GIORDANI: The second one has the evidence marker
18 on it that shows close up with measurements on the -- on the
19 cartridge case.

20 THE COURT: Right. Okay. Let's take our --
21 Yes.

22 MS. TRUJILLO: I have one more issue. I would
23 request that the Court or the State admonish the decedent's
24 family. They were crying earlier. I was going to approach. I
25 let it go. But then there was a big -- they've been talking

1 and making comments throughout the testimony.

2 THE COURT: Okay.

3 MS. TRUJILLO: One of the comments was when the
4 detective testified identifying the white SUV at the Sierra
5 Bello residence. The comment was, Boom. Okay. I don't really
6 need any commentary from the galley, from the decedent's
7 family, especially if jurors can hear.

8 THE COURT: Yeah. I didn't hear the commentary. I
9 know Mr. Giordani has said that he's admonished them. I'd ask
10 him to admonish them again, and I can tell them they can't make
11 comments.

12 MR. GIORDANI: Yeah --

13 THE COURT: -- about the evidence, and they really
14 shouldn't be nodding and all of that kind of thing.

15 MR. GIORDANI: I will. Just for the record, I didn't
16 hear it, and Mr. Dickerson says he didn't hear it.

17 THE COURT: I didn't hear it.

18 MR. GIORDANI: They have been very controlled
19 throughout this whole day. So, but I will tell them again.

20 THE COURT: Okay.

21 MS. TRUJILLO: Thank you.

22 (Proceedings recessed at 2:37 p.m. until 2:43 p.m.)

23 (Pause in the proceedings.)

24 (Jury entering at 2:52 p.m.)

25 THE COURT: All right. Court is now back in session.

1 And, Ms. Trujillo, you may begin your questioning of
2 the detective.

3 MS. TRUJILLO: Thank you. Thank you.

4 CROSS-EXAMINATION

5 BY MS. TRUJILLO:

6 Q Good afternoon, Detective Dosch.

7 A Good afternoon.

8 Q How are you today?

9 A I'm well.

10 Q Good. So you just testified a little bit about some
11 of the basics when homicide detectives arrive on the scene;
12 right?

13 A Correct.

14 Q And one of the initial things you said was that you
15 are briefed by a crime scene analyst?

16 A Not necessarily the crime scene analyst, but we
17 receive a briefing from the patrol officers and occasionally
18 patrol detectives if they happen to go to that particular
19 scene.

20 Q Okay. So your -- and you mentioned that patrol
21 officers' main duty when they start is, one, to secure the
22 scene; right?

23 A Correct.

24 Q And then to contact witnesses?

25 A Correct.

1 Q And so they already begin documenting statements, for
2 example?

3 A Yes.

4 Q So when you arrive, they're relaying witness
5 information to you?

6 A Correct.

7 Q Fair to say you're the lead detective in this case,
8 or are you co-lead detective?

9 A Co-leads.

10 Q And you're co-lead was Detective Cook; right?

11 A Yes.

12 Q Okay. So as part of your -- you arrive on the scene.
13 You're gathering information. Your specific duties in this
14 case were to determine and talk to witnesses; correct?

15 A It was kind of as a dual role. Unfortunately, at
16 that particular time, but you can't just give somebody
17 experience, Detective Cook was relatively new to the section,
18 and he -- we had just been made partners back in December. So
19 just a couple months prior to that. So Darin, Detective Cook
20 was new to the unit and new to homicide investigations as a
21 full-time assignment.

22 Q Okay. So you didn't, and you used the word division
23 of labor. So you detectives did not divide the labor, or did
24 you?

25 A We did.

1 Q Okay. And so what was your division of labor?

2 A So my role was to conduct interviews as well as have
3 constant interaction with Detective Cook to insure that when he
4 is documenting the crime scene in conjunction with the crime
5 scene analyst that he is seeing frankly all the things that I'm
6 seeing as well.

7 Q And in this particular case, when you arrived, were
8 there already some crime scene analysts on the scene?

9 A You know what, I do not recall if they had arrived at
10 that point.

11 Q Okay. If they have not arrived when you arrive to a
12 homicide scene, is it part of your duty to call crime scene
13 analysts?

14 A Yes. But that role is typically fulfilled by the
15 supervisor to insure that they are, in fact, en route.

16 Q But you mentioned that all of you kind of communicate
17 with each other relaying information about what has occurred;
18 right?

19 A As it relates to the detectives, yes, absolutely.

20 Q Okay. So you and Detective Cook are gathering
21 information from not only patrol officers, but also crime scene
22 analysts?

23 A Correct.

24 Q Okay. And part of the crime scene analyst's duty is
25 to document evidence; right?

1 A Correct.

2 Q And they're documenting what they collect?

3 A Correct.

4 Q And that could be through notes or reports; is that
5 right?

6 A Yes.

7 Q And that information, you often co-author or author
8 what's called an officer's report; right?

9 A Well, there's only one -- one of the two of us is
10 going to author that particular report, but obviously it has
11 the input from the other detectives as well as and myself.

12 Q And what is included in the officer's report?

13 A There's -- the detective -- or excuse me. It's
14 almost like an investigative outline of all the steps that we
15 took from the moment that in this case Detective Cook and I
16 were assigned investigatory responsibility to ultimately the
17 conclusion. Unfortunately, some murders don't get solved, and
18 they'll end up at a point where essentially all of the
19 investigative leads have been exhausted, and there's really
20 nothing more to do. But on most cases, it's an outline of the
21 entire events, people contacted, people interviewed.

22 Q Okay. And so you mentioned on direct examination
23 that one of your duties is also to request forensic testing;
24 correct?

25 A Yes.

1 Q And you did that in this case in several areas?

2 A Yes.

3 Q And you also mentioned you attended the autopsy in
4 this case.

5 A I did.

6 Q And was that performed by Dr. Olson?

7 A Without looking at my notes, I couldn't tell you who
8 the medical examiner is.

9 Q Okay. You don't recall.

10 But while you were at the autopsy, did you notice
11 that Mr. Banks's hands were bagged?

12 A Oh, yes.

13 Q And do you recall requesting forensic testing on his
14 fingernail clippings?

15 A I believe that was done, but, yes, that's -- the bags
16 are to protect any potential forensic evidence that may exist
17 on the decedent's hands.

18 Q You believe that was done. So you're not sure?

19 A Without looking at the notes, I believe in the most
20 recent report that I had received from the DNA biological unit
21 is that it does make reference to the fingernails.

22 Q Okay. And then at that autopsy, you also -- you
23 personally witnessed the autopsy; correct?

24 A Yes.

25 Q So also the recovery of evidence; is that right?

1 A Correct.

2 Q And there was \$1900 found at the autopsy on Kwame
3 Banks?

4 A I think it was a little bit more, but around there,
5 yes.

6 Q Around \$1900. Yes?

7 A Yes.

8 Q Okay. And so you also mentioned obviously as part of
9 your job in interviewing witnesses at the Sky Pointe Apartments
10 that day, you mentioned on direct that you met with a witness
11 named Jakhai Smith; is that right?

12 A I didn't do the interview with Jakhai Smith. That
13 was performed by Detective Fred Merrick.

14 Q Okay. Were you privy to the information that
15 Mr. Smith provided?

16 A Yes.

17 Q And did you include that in your officer's report?

18 A I did not author of this particular officer's report.
19 This was conducted by Detective Cook.

20 Q I apologize. Was it included in the officer's
21 report?

22 A A summary of it, yes.

23 Q Okay. And you also mentioned you're aware of a
24 witness that was located at Sky Pointe Apartments by the name
25 of Dereka Nelson?

1 A Yes.

2 Q Okay. But, in fact, there were several other
3 witnesses interviewed; correct?

4 A Correct.

5 Q I'm going to just go down the list and identify them.
6 Do you recognize the name Victoria Nordstrom?

7 A I do.

8 Q And she was interviewed at the Sky Pointe Apartments?

9 A She was.

10 Q And the name Alex Turner?

11 A That name doesn't sound familiar.

12 Q Do you not remember?

13 A Yeah, I'm not remembering. That person could have
14 been, but I'll need to see --

15 Q Would it help if I approached with his witness
16 statement?

17 A Please.

18 MS. TRUJILLO: Judge, may I approach?

19 THE COURT: You can move freely.

20 THE WITNESS: Yes. Alex Turner.

21 BY MS. TRUJILLO:

22 Q Okay. So Alex Turner also gave a written statement?

23 A Correct.

24 Q And then a witness by the name of Brandon Kohler?

25 A Yes.

1 Q And he also gave a statement?

2 A Correct.

3 Q And a witness by the name of Aireonte Reed?

4 A That name does sound vaguely familiar.

5 Q Would it help if I provided you with his statements?

6 A Please.

7 Yes.

8 Q So Aireonte Reed actually provided two statements;

9 correct?

10 A Correct.

11 Q And do you recall that he is the security officer at

12 Sky Pointe?

13 A Yes.

14 Q Do you recognize the name Chaz Shoenbeck?

15 A No.

16 Q Would it help if I provided you with his statement?

17 A Please. Thank you.

18 Yes.

19 Q So Mr. Shoenbeck provided two statements; correct?

20 A Correct.

21 Q Do you recognize the name Kelly Kohler?

22 A Yes.

23 Q And do you recall that she was interviewed?

24 A Yes.

25 Q Do you recognize the name Steven Wallace?

1 A No.

2 Q Would it help if I provided you with his statement?

3 A Please.

4 MS. TRUJILLO: Court's indulgence.

5 May I approach?

6 THE COURT: You may move freely.

7 MS. TRUJILLO: You said that already.

8 THE WITNESS: Yes.

9 BY MS. TRUJILLO:

10 Q So Steve Wallace also provided two statements?

11 A Correct.

12 Q Do you recognize the name Eric Smith?

13 A Yes.

14 Q And he also provided a statement?

15 A Yes.

16 Q What about Landen Davenport?

17 A That name also sounds familiar.

18 Q Would it help to refresh your recollection with a
19 copy of your officer's report?

20 A Please.

21 Q Let me just get the page so I can tell Mr. Giordani.

22 MR. GIORDANI: I trust you. I'll stipulate.

23 BY MS. TRUJILLO:

24 Q [Inaudible] officer's report.

25 A Smith and then Davenport, yes.

1 Q So Mr. Davenport was also interviewed?

2 A Contacted.

3 Q Okay. So is your testimony that he wasn't
4 interviewed?

5 A As it relates to -- that falls under the witness
6 canvass where I think I had made reference to it as going door
7 to door trying to locate additional information, additional
8 witnesses, perhaps even sources of video surveillance. In that
9 case, those two last individuals, I believe it was Mr. Smith
10 and Davenport, those individuals were contacted during the
11 canvass. So it is a conversation that takes place at the
12 doorway.

13 Q Nonetheless, he provided information to Metro
14 relative to the incident?

15 A Oh, yes.

16 Q Okay. And then what about Nelson Gonzalez?

17 A Yes.

18 Q He also provided information?

19 A Correct.

20 Q And Stephanie Morton?

21 A Yes.

22 Q Also provided information?

23 A Correct.

24 Q And all those witnesses live at Sky Pointe; correct?

25 A If there was some --

1 Q Well, at the time?

2 A At the time, that's what I would believe unless they
3 were visitors.

4 Q Okay. They were at least contacted and interviewed
5 by Metro at Sky Pointe?

6 A Correct.

7 Q Okay. And you weren't present, as you've already
8 testified, to all the interviews; right?

9 A That is correct.

10 Q But you are receiving the information; you indicated
11 on direct?

12 A Yes.

13 Q And as a lead detective, to conduct a thorough
14 investigation, that's the reason they tell you what the
15 witnesses are saying?

16 A Yes.

17 Q Because it's an ongoing investigation; correct?

18 A Correct.

19 Q Especially when there's not a suspect at the scene?

20 A A named suspect that's correct.

21 Q Correct. So you're trying to get information to find
22 out who the suspect is?

23 A Yes.

24 Q And in gathering that information, it often leads you
25 to new information; right?

1 A Yes.

2 Q And possibly evidence?

3 A Correct.

4 Q Okay. So you were actually present for Victoria
5 Nordstrom's statement. Do you recall that?

6 A I'd have to take a look at the transcript, but the
7 name sounds familiar.

8 Q Let me grab it. She actually provided two. So let
9 me give you the second one.

10 MS. TRUJILLO: Court's indulgence and jurors'
11 indulgence.

12 THE WITNESS: Yes, I did do this interview.

13 BY MS. TRUJILLO:

14 Q So Ms. Nordstrom actually provided two separate
15 pieces of information; right?

16 A Correct.

17 Q And one is a handwritten statement?

18 A Yes.

19 Q And the second is a transcribed statement which you
20 were present for?

21 A Yes.

22 Q Sorry about that.

23 Do you recall that she told you the suspect who
24 walked away --

25 MR. GIORDANI: Objection. Objection.

1 MS. TRUJILLO: Can we approach?

2 THE COURT: Sure.

3 (Conference at the bench not recorded.)

4 MS. TRUJILLO: Sorry about that, Detective.

5 So we were talking about your interview with Victoria
6 Nordstrom.

7 A We were.

8 Q And that happened on February 22nd?

9 A Correct.

10 Q And as a result of that interview, did you learn that
11 a suspect walked away, on his phone?

12 A I believe that was what she had stated, but I'd like
13 to review the transcript if that's okay.

14 Q Sure.

15 A Thank you, Counselor. I'm on page 11 --

16 MS. TRUJILLO: 11 and 13 for counsel.

17 THE WITNESS: What would you like me to pay attention
18 to?

19 I read the portion.

20 BY MS. TRUJILLO:

21 Q Thank you. So you just reviewed a copy of Victoria
22 Nordstrom's transcribed statement; right?

23 A I did.

24 Q As a result of that interview, did you learn that a
25 suspect had walked away, on his phone?

1 A In the course of that interview is that she had made
2 reference to an individual walking in that same parking lot
3 where the murder took place and who appeared to be on their
4 phone.

5 Q Okay. What did you do as a result of that
6 information?

7 A Well, the -- the process is the gathering of
8 information, and we don't know how many witnesses that we're
9 going to spend down there interviewing, reinterviewing
10 potentially, also comparing their written voluntary statements
11 to that which they provide us in the course of a recorded
12 interview. So you never want to rush to judgment on these
13 things.

14 That scene is secure. We have these witnesses. We
15 know how to contact them. We know how to recontact them, but
16 it's just constantly taking the information back and discussing
17 it amongst the detectives. This is what I just heard.

18 Now, unfortunately, sometimes people are spot on
19 accurate, and sometimes they are not.

20 Q And so in this case, when you received that
21 information, what did you do next?

22 A It was a matter of documenting that information and
23 then moving on to the next series of witnesses.

24 Q So is it my understanding you did nothing to follow
25 up with that information?

1 A Oh, no. I can tell you that that whole entire
2 parking lot from the south end to the north end where the
3 entrance is was cordoned off and that we were able to walk that
4 way.

5 Part of the process is also identifying all of the
6 vehicles that are in there. Granted, we have some vacant spots
7 as depicted in those photographs, but there's cars left there,
8 and we don't know whose belongs to who. So it's important that
9 we document those, at least through the course of photographs.

10 Q Were you able to recover a fourth cell phone?

11 A At the scene?

12 Q Yes.

13 A No.

14 Q Did you receive information from other witnesses that
15 were there that night that a person was walking away on his
16 phone?

17 A Yes. We heard it from that particular witness that
18 you were just referring to.

19 Q In addition to Ms. Nordstrom, did you find out that a
20 suspect was walking away on his phone?

21 A I don't recall the person that would have provided
22 that information.

23 Q Okay. So you don't recall Brandon Kohler making the
24 same statement?

25 A Did -- was I the one that interviewed Brandon Kohler?

1 Q No.

2 A Then, no.

3 Q Okay. But as lead detective, you just testified
4 multiple times that you are given witness information to
5 conduct your investigation; right?

6 A Yes.

7 Q So are you familiar with Brandon Kohler's statement?

8 A I was after the fact, yes. Correct.

9 Q Okay. May I approach with the statement in case you
10 need to review it?

11 A You may.

12 Okay. Thank you.

13 Q So Mr. Kohler also indicated that he saw a person
14 walking away, on his cell phone; correct?

15 A Correct.

16 Q And he also -- Court's indulgence.

17 Do you recall receiving information about Aireonte
18 Reed's statement?

19 A I have -- I have reviewed his statement, but as far
20 as the exact moment, I do not recall it, no.

21 Q Would you like a copy of his statement?

22 A I would.

23 Q Can I bring you both the handwritten and the
24 transcribed?

25 A Thank you. Where do you want me to go on this one?

1 Q [No audible response.]
2 A Thank you.
3 Q 7.
4 A 7?
5 Q Uh-huh.
6 [Inaudible.]
7 A What's that?
8 Q [Inaudible] portion.
9 A I know, but I've got to -- I have to understand the
10 context.
11 Q I know. I was just giving you --
12 A I appreciate it.
13 Okay.
14 Q Thank you. Did you have an opportunity to review
15 Aireonte Reed's two statements?
16 A I did in the area that you had mentioned.
17 MS. TRUJILLO: Okay. Page 7 for counsel.
18 BY MS. TRUJILLO:
19 Q Do you recall that Aireonte Reed, who was a security
20 guard at Sky Pointe told the officers that he did not think the
21 suspect had on boots?
22 A Correct.
23 Q And, in fact, he said he believed the suspect wore
24 tennis shoes?
25 A Correct.

1 Q What did you do as a result of that information?

2 A If there was evidence, like for instance in the case
3 where Mr. Banks had fallen out of a -- or he'd come out have
4 his shoe, we collected that shoe. In the apparent footwear --
5 or excuse me, blood or footwear in apparent blood, we want to
6 document those. If another shoe had turned up in that
7 particular crime area that was cordoned off, we would have
8 collected it. If there was more apparent -- footwear in
9 apparent blood or even in soft material that we could recover
10 and document, we absolutely would. But unfortunately we're
11 limited to the evidence that was present that night.

12 Q So your testimony is there were no additional tennis
13 shoes at the scene?

14 A Correct.

15 Q And then as a result of the three search warrants
16 that you executed -- well, Metro personnel, did you find or
17 recover any tennis shoes?

18 A Are you talking about at the -- on the 20th of March
19 when we do our search warrants?

20 Q Correct.

21 A Um --

22 Q And let me -- that was a bad question.

23 At the search of -- at Rosinwood, which is Anthony
24 Carter's residence, did you recover any tennis shoes?

25 A No.

1 Q At the search of Sierra Bello, which you associate
2 with Larry Brown, did you recover any tennis shoes?

3 A I guess it depends on your definition of tennis
4 shoes.

5 Q Okay.

6 THE COURT: Footwear.

7 BY MS. TRUJILLO:

8 Q What did you --

9 THE WITNESS: Yes.

10 BY MS. TRUJILLO:

11 Q I was going to just say what did you recover?

12 A Yes. Footwear was recovered from Mr. Brown's
13 residence.

14 Q Can you describe the footwear.

15 A I believe that there were -- one pair was in the
16 garage, and they almost looked like thicker black boots that
17 had a high ankle. I don't know what the proper nomenclature.
18 So forgive me, but a high up on the ankle. And then another,
19 they were Polo, Ralph Lauren Polo. And then another pair that
20 we documented within the house, they were a lower type of shoe,
21 not like a -- for lack of a better term, a high top, but again
22 also with apparently the same treadwear, a Polo, Ralph Lauren
23 Polo I believe.

24 Q Thank you. And we also talked about a Steve Wallace
25 who was also interviewed by Metro that night. Do you remember

1 that?

2 A Yes. You did bring his name up.

3 Q Do you recall that he told officers that the person
4 he saw walk away went northbound?

5 A What officers?

6 Q Let me provide you with the statement -- two
7 statements.

8 A So referring to the written voluntary statement?

9 Q Correct.

10 A Okay. So the written voluntary statement, just as a
11 matter of note, these are actually completed by the witnesses
12 as presented to them by responding patrol officers and patrol
13 detectives. So typically these are done in advance of the
14 homicide section, in our case, arriving.

15 Yes.

16 Q So that statement that you just indicated was made
17 prior to your arrival; right?

18 A Correct.

19 Q It indicates that a suspect went northbound?

20 A A subject went northbound, yes.

21 Q Okay. And just for orientation, we talked about --
22 you previously testified that the suspect went southbound;
23 correct?

24 A The -- what I testified to was the footwear in
25 apparent blood lead from where Mr. Banks's body was to the

1 south. It looks like it ended somewhere near space Number 301.

2 Q Thank you. And I apologize if I mischaracterized
3 your testimony. I didn't mean to do that.

4 And you also collected video surveillance; right?

5 A From which location?

6 Q From Sky Pointe Apartments.

7 A Yes.

8 Q And you indicated, I believe your direct quote was,
9 there was no information to be gleaned from the video?

10 A Unfortunately it did not -- it did not show any
11 relevant aspects of the murder.

12 Q Is it your testimony that the -- did you view the
13 video?

14 A I have.

15 Q Is it your testimony that there was not a large black
16 male suspect in one of the videos provided by Sky Pointe
17 Apartments that night?

18 A Is it inside the office? No.

19 Q Outside of the office.

20 A Yes. At a different location a large frame black
21 male was depicted.

22 Q A different location being?

23 A The 76 gas station which is actually on Sky Pointe
24 Drive, north of the apartment complex in between where the
25 apartment complex is and Azure Drive.

1 Q Okay. So I'm going to repeat my question. Is it
2 your testimony that the video from Sky Pointe Apartments does
3 not depict a large black male?

4 A I don't recall ever seeing a large black male in the
5 Sky Pointe Apartment footage.

6 Q Okay. Thank you. Now, as part of your investigation
7 in this case, you just testified that Larry Brown became a
8 suspect; correct?

9 A Correct.

10 Q And as part of the investigation, you being Metro and
11 as lead detective initiated surveillance on Mr. Brown?

12 A At one point, yes, surveillance was initiated.

13 Q Okay. And what was the purpose of that surveillance?

14 A The purpose of that surveillance -- and it wasn't
15 just on Mr. Brown; it involved another individual as well, but
16 in that particular case was to marry individuals to a
17 particular residence and/or vehicles.

18 Q And when did that surveillance take place?

19 A I don't recall the exact date that it was initiated
20 by the surveillance detail.

21 Q Would it help refresh your memory if I provided you
22 with your officer's report?

23 A Please.

24 MS. TRUJILLO: Page 20 for counsel.

25 MR. GIORDANI: Thank you.

1 THE WITNESS: Yes.

2 BY MS. TRUJILLO:

3 Q So you reviewed a copy of your officer's report?

4 A I did.

5 Q And what was the date of that surveillance?

6 A So the initiation, if you will, of the surveillance
7 or the request of it was performed on March 7th. The actual
8 detectives that performed the surveillance went out and started
9 that process on the 8th of March, 2017.

10 Q And that was after the day of Kwame deaths -- Kwame
11 Banks's death? I apologize?

12 A Yes.

13 Q And that was here in Las Vegas?

14 A It was.

15 Q And do you recall where Mr. Brown was when he was
16 being followed?

17 A I can't because I did not perform the actual
18 surveillance of him, but it's -- we were -- well, how do I want
19 to say this?

20 That information was brought to us by the
21 surveillance detail. You'd have to review their logs to see
22 exactly where they were in their documentation of individuals.

23 Q Okay. Understood. If you don't have personal
24 knowledge, it's fine.

25 Okay. So I want to go back to the actual processing

1 at the scene which is at Sky Pointe Apartments; right?

2 A Correct.

3 Q Okay. You were actually present with a CSA
4 K. Thomas. Do you recall that?

5 A Krissy Thomas, yes.

6 Q Okay. So that's one of the crime scenes (sic) that
7 was called there to do the scene processing?

8 A Correct.

9 Q And that's to collect evidence; right?

10 A Correct.

11 Q And to your knowledge, if you know personally, was
12 there \$256.85 recovered at the scene?

13 A Yes.

14 Q Was there also a metal chain with a lion pendant
15 recovered at the scene?

16 A Yes.

17 Q Was there also a yellow metal ring recovered from the
18 scene?

19 A Yes.

20 Q Was there also two Visa debit credit cards in the
21 name of Kwame Banks recovered at the scene?

22 A I believe we got into the cards the following day
23 during the autopsy.

24 Q Okay. You were also present at the autopsy?

25 A I was.

1 Q So your recollection is two Visa debit cards in the
2 name of Kwame Banks were recovered at some point in those two
3 days?

4 A The U.S. currency, yes. The gold chains, yes. I
5 believe some loose change as well. All were taken within the
6 pants. I guess that the cards would have been in those pants
7 as well.

8 Q Okay. So I want to move to the so-called, I guess,
9 second scene on Azure where the black Altima was found. Okay,
10 you recall testifying about that?

11 A I do.

12 Q And you were present there?

13 A Yes.

14 Q And the vehicle was actually moved, you testified, to
15 the CSI garage; correct?

16 A Yes.

17 Q And you, maybe you didn't go with the vehicle, but at
18 some point you arrived at the CSI garage?

19 A I did.

20 Q And part of that, the reason that it was at the
21 garage was for evidence collection; right?

22 A Yes.

23 Q And processing?

24 A Correct.

25 Q And to follow up with forensic testing?

1 A Well, the forensic testing that they may perform as
2 part of their duties utilizing chemicals, that's all
3 potentially going to occur, but the crime scene analyst, that's
4 their area of expertise, and they don't know what they're going
5 to do until they're evaluating the object in front of them.

6 Q But you can direct them to do forensic testing;
7 correct?

8 A I guess I could, but again, that is their area of
9 expertise. So while I might be familiar with some of the
10 chemical applications, I couldn't tell them when they need to
11 apply one technique versus the alternate light source versus
12 the luminol. So it's not -- it would not be appropriate for me
13 to give them direction.

14 Now, the searching of the vehicle, we would assist
15 them in that process. You bet.

16 Q Okay. So in this case, did you assist them with the
17 processing of the vehicle?

18 A Not necessarily the processing, no. But if we -- we
19 stand in close proximity listening to what they're saying.

20 Q So fair to say if they -- if a CSA, and I'm talking
21 about in this case, was grabbing evidence from the video --
22 sorry, from the car, you were there watching?

23 A Yes.

24 Q Okay. So you're aware of the things that were
25 recovered from that video -- from that car?

1 A I know that there were items of evidence that were
2 recovered from the vehicle, but I couldn't tell you exactly
3 without looking at a list of them.

4 Q Okay. Let me grab that list.

5 MS. TRUJILLO: Court's indulgence.

6 BY MS. TRUJILLO:

7 Q And you said that was K. Thomas; correct?

8 A I don't know if --

9 Q Actually, Claire Browning.

10 A -- Krissy was two days. I think that might have been
11 Claire Browning.

12 Q I believe it was actually Fletcher. I'm going to
13 approach. Would it help you remember if I approached with
14 Fletcher's CSA report?

15 A It is, but I think she worked in concert with Claire.

16 MS. TRUJILLO: Okay. Page 2, Counsel.

17 MR. GIORDANI: Thank you.

18 THE WITNESS: Okay. I can see it on page 2. Yes.

19 BY MS. TRUJILLO:

20 Q So the following evidence was collected from the
21 Altima at the CSA -- CSI garage:

22 Samples of charred seat cushion. Do you recall that?

23 A Yes.

24 Q Burnt fabric towels?

25 A Yes.

1 Q A beanie from the trunk?

2 A Yes.

3 Q A baseball cap?

4 A Yes.

5 Q Lighters?

6 A Yes.

7 Q Swisher Sweets wrapper with green leafy substance?

8 A Yes.

9 Q Swabs of blood from the accelerator pedal and the
10 brake?

11 A Yes.

12 Q And finally, DNA swabs from several bottles?

13 A Yes.

14 Q To your knowledge, was there any forensic testing
15 done on any of these items?

16 A No.

17 Q Throughout your investigation and as you were
18 gleaning information from the witnesses at Sky Pointe, was it
19 always your opinion that there was only one suspect?

20 A Oh, at that point I'd be speculating. I can tell you
21 that based on much of the witness testimony is that there were
22 two people involved in a physical altercation that resulted in
23 one person losing their life.

24 As a detective in the homicide section and with the
25 robbery section before is it's possible that somebody else

1 could be working in concert with the suspect. So the mind has
2 to be open for the possibility of one, two, three, four or more
3 suspects.

4 But in this case that we know absolutely that we have
5 one suspect. But now that's in the infancy in this
6 investigation.

7 Q Right. So you -- it's your testimony that at the
8 time you were receiving information, and I'm talking about a
9 day or two within the incident?

10 A Yes.

11 Q You only understood there to be one suspect?

12 A In using the information based on the witnesses, at
13 that point, yes, but the potential exists that there were other
14 people involved.

15 Q Okay. Let me ask it this way. At any point in your
16 investigation, did you take measures with the mindset that
17 there were more than one suspect?

18 A Yes.

19 Q Okay. What did you do?

20 A We delved into those phone records.

21 Q Okay. I mean more than one suspect at the actual
22 scene?

23 A I'm not following your question.

24 Q So we talked about witness testimony, and many
25 witnesses testified that there was only one suspect; right?

1 You just indicated a person died, and then there was one
2 suspect.

3 A Well, as a matter of note, all they're talking --
4 they're not going to speak necessarily to how many suspects.
5 They're just going to reiterate what they saw.

6 Q Right.

7 A So using and not -- and wanting to avoid them
8 speculating about what happened before or after, we want to be
9 limited to what did you see, hear, taste, smell and touch. And
10 using that information is initially we've got one suspect, but
11 a good investigator keeps his or her mind open that there are
12 potential suspects who may have been worked -- and that could
13 be before the incident happened. It was in a conspiracy. Then
14 and possibly after, say the disposal of evidence.

15 Q Did you ever receive information that there were
16 multiple people seen leaving the scene from Kwame Banks's body?

17 A The area around his body, yes.

18 Q You did?

19 A Yes.

20 Q How many? How many suspects or people leaving the
21 body were you told about?

22 A There was talk of a car that I believe went
23 southbound, which at the time a car could go southbound and
24 exit out of that southern gate.

25 There was talk of an individual potentially going

1 northbound, as we previously discussed.

2 So the question becomes, and no one at that point can
3 answer that question, you know, of course, absent any video
4 surveillance is, is this a very involved apartment complex with
5 people who are completely oblivious to something bad happening
6 just driving through? Because again that main entrance to get
7 to the back portion, you have to come through off of Sky
8 Pointe. So they either have to elect to go right, or they have
9 to go left.

10 A person now viewing that person driving through has
11 nothing to do with it may not want to leave that out as a
12 detail for law enforcement, but they could be getting it wrong.
13 Like, that person is just driving through. So our minds have
14 to be open.

15 MS. TRUJILLO: Thank you. No further questions.

16 THE COURT: All right. Redirect?

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

18 THE COURT: Any juror questions for the witness?

19 All right. I'll see counsel the bench, please.

20 (Conference at the bench not recorded.)

21 THE COURT: Detective, we have a number of juror
22 questions here, and I'm going to ask these in no particular
23 order.

24 A juror asks, Was the .40 caliber firearm recovered?

25 THE WITNESS: No. A .40 caliber semiautomatic

1 handgun was not recovered during this investigation.

2 THE COURT: What was the approximate distance between
3 the footprints and the blood?

4 THE WITNESS: I just want to clarify. The blood is
5 that the source of the blood?

6 THE COURT: I think we're talking about the blood in
7 the parking area.

8 THE WITNESS: Without being grim in those details --

9 THE COURT: If you don't know...

10 THE WITNESS: It's -- where it appears that an
11 individual had stepped into the blood that was coming from the
12 decedent's body was I would say the first apparent footprint
13 was less than 6 feet.

14 THE COURT: From the body?

15 THE WITNESS: From the body.

16 THE COURT: Okay. And then who were the occupants of
17 apartments 1005 and 1008?

18 THE WITNESS: I don't have that information
19 available.

20 THE COURT: Do you know what compelled Officer
21 English to do an off-line search on the Nissan and not the
22 Jeep?

23 THE WITNESS: The off-line search was performed by
24 me. I initiate the off-line search. The off-line search goes
25 through our communications. They go out, and they find where

1 that particular item, in this case the license plate, has been
2 run.

3 Officer English conducted a -- or he ran the license
4 plate on the Altima. But I would only be speculating as to why
5 he didn't run the one on the SUV.

6 THE COURT: Okay. So you don't know.

7 THE WITNESS: I don't know.

8 THE COURT: All right. Why did detectives subpoena
9 Carnell Cave's phone records?

10 THE WITNESS: Because that was an individual that
11 there was communications with and in Anthony Carter's phone.

12 THE COURT: All right. And could you elaborate or
13 clarify for us: Which phone was found at which location?

14 And if you need the photos to aid you, you can just
15 let the State know.

16 THE WITNESS: Yes. So sort of moving from north to
17 south, on the north end, the phone that's broken into three
18 pieces, like a battery cover, the battery and the actual phone
19 device, that phone, I believe it's the 277 number.

20 And going south, now we're at the body on the left
21 side of Mr. Bank's body, under his left armpit I believe is the
22 755.

23 Both of these are like -- are black LG phones.

24 Now, to the west near the tree, a very large pine
25 tree, is the phone in a case which was Larry Brown's phone with

1 the 404 area code, 808 number.

2 THE COURT: All right. And another juror asks, Was
3 blood found on the larger portion of the latex glove?

4 THE WITNESS: Okay. Because the nitrile glove had
5 been torn into two halves. I don't recall.

6 THE COURT: All right. And that goes right into the
7 next question which is, Did the pieces of the latex gloves or
8 the latex glove match?

9 THE WITNESS: I --

10 THE COURT: Do they appear to be like the same glove
11 or...

12 THE WITNESS: They appeared to be the same glove.

13 THE COURT: All right. And why was no blood analysis
14 on the blood -- I'm sorry. Why was there no blood analysis
15 done of the blood on the car pedal?

16 THE WITNESS: It just was not requested.

17 THE COURT: Okay. State, you may follow up --

18 MS. TRUJILLO: Judge, may we approach first?

19 THE COURT: Sure.

20 (Conference at the bench not recorded.)

21 THE COURT: Mr. Giordani, do you have any
22 follow-up --

23 MR. GIORDANI: Yes. Thank you.

24 THE COURT: -- to the last series of juror questions?

25 MR. GIORDANI: Yes. And I'll try to be brief, Your

1 Honor.

2 FOLLOW-UP EXAMINATION

3 BY MR. GIORDANI:

4 Q One of the jurors asked about the off-line search of
5 the SUV.

6 A Correct.

7 Q I want to clarify just a little bit. I understand
8 you're limited to the question as it comes from the Court.

9 When you receive the information that Officer English
10 had run the plate of the Nissan, that is through an off-line
11 search you're conducting; correct?

12 A Yes.

13 Q Okay. As a result of learning that information, do
14 you then follow up and interview Officer English?

15 A As a matter of note yes, but we were also aware that
16 there was a Metro vehicle in that vicinity where the victim's
17 vehicle was parked because it was depicted on the video
18 surveillance from across the street.

19 Q Thank you. So in addition to reviewing the video
20 surveillance in which you do see a Metro vehicle around that
21 time frame --

22 A Yes.

23 Q -- you learn that Officer English has run the plate,
24 the known plate of the Nissan, which isn't on there later?

25 A Correct.

1 Q And then you interview Officer English?

2 A We did have a communication. I believe it might have
3 been over the phone.

4 Q Okay. Well, interview you spoke to him?

5 A I did.

6 Q And I believe the juror's question was directed at
7 why he wouldn't have run the SUV. So let me clarify something.
8 When you interview Officer English, he indicates to you, as you
9 said earlier, he saw a black male adult near the suspect -- I
10 mean, I'm sorry, the victim's vehicle; correct?

11 A Yes.

12 Q When he saw that, it was from a distance up on that
13 dirt hill; correct?

14 A He's literally on Azure, you know, whatever the
15 distance is from Azure to where that parking lot is.

16 Q Okay. And from Azure you have to drive around, and
17 when he comes down, he sees a white SUV leaving?

18 A Correct.

19 Q Obviously there's no black male adult that he
20 contacts at the victim's vehicle, or that would have been
21 documented?

22 A Yes.

23 Q Did he indicate to you that the white SUV leaving, he
24 didn't see the black male adult in that white SUV?

25 A He did.

1 Q Okay. So did he also indicate to you he didn't get
2 the plate of the white SUV because he was focused on getting to
3 the BMA at the victim's vehicle?

4 A Yes. I have no indication from Officer English that
5 he captured in any way, shape, or form the license plate of the
6 SUV that's literally exiting the business complex as he's
7 entering with intent to go to where the vehicle was.

8 Q Got it. There was another juror question that I
9 should have asked earlier, and it was why a subpoena or why
10 obtain Carnell Cave's phone records. Do you remember that?

11 A I do.

12 Q And I believe your response was it was contacts in --
13 there was contacts with Anthony Carter's phone?

14 A Yes.

15 Q So just to clarify it step by step, you obtained the
16 records associated with Anthony Carter's phone first?

17 A Yes.

18 Q Before Cave's obviously?

19 A Yes.

20 Q And you're reviewing those. You're seeing contacts
21 between Carter and the victim; correct?

22 A Correct.

23 Q Carter and the phone associated with Larry Brown?

24 A Correct.

25 Q And then there's also contacts with a third number

1 that you take interest in?

2 A Yes.

3 Q And that would be the number of Carnell Cave?

4 A Which is later identified to Carnell Cave?

5 Q And you realize obviously Apartment 2003 is Carnell
6 Cave, and you've got some questions; right?

7 A Yes.

8 Q So is that why you ultimately get Mr. Cave's records?

9 A That is correct.

10 MR. GIORDANI: All right. Thank you, Detective.

11 I'll pass, Your Honor.

12 THE COURT: Ms. Trujillo, follow up.

13 MS. TRUJILLO: Thank you, Judge.

14 FOLLOW-UP EXAMINATION

15 BY MS. TRUJILLO:

16 Q So just to stay on the Carnell Cave subject, did you
17 determine during your investigation that Anthony Carter was, in
18 fact, at Carnell's (sic) Cave apartment that night?

19 MR. GIORDANI: We should probably approach.

20 THE COURT: All right.

21 (Conference at the bench not recorded.)

22 MS. TRUJILLO: Sorry about that, Detective.

23 BY MS. TRUJILLO:

24 Q You had an opportunity to interview Carnell Cave;
25 correct?

1 A Correct.

2 Q You were actually present for that interview?

3 A I was not.

4 Q Okay. But you learned the information gleaned from
5 that interview?

6 A Yes.

7 Q Did you determine from Carnell Cave that Anthony
8 Carter was with him that night at Sky Pointe Apartments?

9 A I don't know if the source of that information had
10 come with the interview that Detective Cody did with Mr. Cave
11 or through another source. I don't want to say absolutely and
12 then be wrong on that.

13 Q Would it help if I provided you a copy of Mr. Cave's
14 statement?

15 A Yes, please.

16 MS. TRUJILLO: Court's indulgence. Court's
17 indulgence.

18 BY MS. TRUJILLO:

19 Q So this is a copy of Carnell's Cave statement.

20 So as a result of investigation, you just testified
21 you did learn that he was there. You're just not sure of the
22 source?

23 A I'm not sure of the source. Correct.

24 Q Okay. And then I'm going to go back to the license
25 plate that Officer English ran that night, which I believe you

1 said was the 22nd because it was the early morning; correct?

2 A Yes. If my memory serves me well, it's right at
3 midnight. So it could have tipped into the 22nd.

4 Q So at least on February 22nd, which was shortly
5 after the incident, the license plate was on the Altima?

6 A Presumably.

7 MS. TRUJILLO: Okay. No further -- actually one.
8 Court's indulgence.

9 BY MS. TRUJILLO:

10 Q Just to clarify, there was a juror question about why
11 there was not an off-line search done on the Jeep. But with
12 regard to Officer English, he never identified the make of the
13 white vehicle that he saw that night; right?

14 A I don't recall him giving me the details other than a
15 white SUV.

16 Q Other than a what?

17 A White SUV.

18 Q Okay. So you don't recall him -- would it help if I
19 provided you a copy of your officer's report?

20 A Yes, please.

21 MS. TRUJILLO: Page 20 for counsel.

22 MR. GIORDANI: Thank you.

23 THE WITNESS: Okay.

24 BY MS. TRUJILLO:

25 Q So Officer English never identified the make or model

1 of that car?

2 A No. He did say newer model. I neglected to say
3 that.

4 Q Newer model white SUV?

5 A White SUV, yes.

6 MS. TRUJILLO: Thank you. No further questions.

7 THE COURT: All right. Anything else?

8 MR. GIORDANI: No, Your Honor.

9 THE COURT: Any other juror questions for the
10 witness?

11 (No audible response.)

12 THE COURT: All right, Detective, I see no additional
13 questions. Thank you for your testimony. Please don't discuss
14 your testimony with any other witnesses.

15 THE WITNESS: Thank you.

16 THE COURT: You are excused.

17 And the State may call its next witness.

18 MR. GIORDANI: The State would call Roy Wilcox.

19 **ROY WILCOX**

20 [having been called as a witness and being first duly sworn,
21 testified as follows:]

22 THE CLERK: Thank you. Please be seated. State and
23 spell your first and last name for the record.

24 THE WITNESS: My name is Roy Wilcox. R-o-y,
25 W-i-l-c-o-x.

1 MR. GIORDANI: May I?

2 THE COURT: You may proceed, yes.

3 MR. GIORDANI: Thank you.

4 DIRECT EXAMINATION

5 BY MR. GIORDANI:

6 Q Good afternoon, sir.

7 A Hi.

8 Q Sorry to keep you waiting.

9 A It's okay.

10 Q What you do for a living?

11 A I am a forensic firearms examiner with the Las Vegas
12 Metropolitan Police Department, currently assigned in the
13 firearms detail of the forensics lab.

14 Q And how long have you been with Metro doing that?

15 A I started with Metro in January of 2016.

16 Q Where were you prior to that?

17 A Before then, I went through all my training and then
18 worked for a number of years with Phoenix Police Department in
19 their crime lab doing the very same thing.

20 Q What type of training and experience did you have to
21 go through in order to do what you do with the Metro firearms
22 lab?

23 A I have a Bachelor of Science Degree in Zoology from
24 Brigham Young University. And then when I was hired at
25 Las Vegas -- oh, I'm sorry, at Phoenix Police Department in

1 their crime lab, then I went through approximately two years of
2 very dedicated and specific training on firearms function,
3 ammunition components, tool marking. That is a creation also
4 of manufacturing of these firearms and understanding what these
5 individual marks might mean.

6 I am a member of the Association of Firearms and Tool
7 Mark Examiners, which is AFTE. And I am also AFTE certified,
8 which means I have taken all the proficiency tests, plus some
9 additional testing that AFTE provides, and I am now -- I now
10 have a certification as a firearms examiner with AFTE.

11 Q Thank you, sir. As a result of your work with the
12 firearms lab or the forensic lab at Metro, did you receive some
13 items of evidence under Event Number 1702214563?

14 A Yes, I did.

15 Q Okay. I want to talk to you a little bit about the
16 basics or the general idea behind what we're going to talk
17 about here.

18 A Okay.

19 Q What, sir, is a firearm?

20 A A firearm is an item that is designed to contain
21 pressures and direct them behind a projectile using a variety
22 of mechanisms. In this case, there was a pistol, and that
23 particular type of mechanics involve using the energies from a
24 cartridge, from the gases expanding within a cartridge to
25 propel a bullet down a barrel, and then for a slide to move and

1 creation of tool marks all along the way.

2 Q You referenced a cartridge. Is that the -- or did
3 you bring with you a little model of a cartridge here today?

4 A I did.

5 Q Can you please briefly describe the components of a
6 firearm -- or a cartridge with the [inaudible]?

7 A Sure. This is what we refer to as a cartridge. That
8 is an unfired piece of ammunition. So prior to firing, there's
9 a bullet that's sitting in the top, the mouth of the cartridge
10 case, and inside here behind the bullet is some smokeless
11 gunpowder. That is very inert until intense heat is applied.
12 That heat is provided by means of a primer in the back.

13 And during the functioning of this, of a firearm, of
14 a normally operating and well-designed firearm, a firing pin
15 impacts the primer, presses on a compound, a primer compound,
16 that creates a little burst of flame which starts the burning
17 of the gunpowder inside.

18 And if the firearm is adequately locked up, then
19 those pressures rise very quickly and propel the bullet down
20 and out of the barrel.

21 So the barrel, cartridge case after firing, and then
22 an unfired piece of ammunition here is called the cartridge.

23 Q Okay. So cartridge case is the entire piece, the
24 cart -- I'm sorry.

25 A Cartridge case is what's left over after it gets

1 ejected out of the side of a semiautomatic pistol.

2 The bullet is what has gone down the barrel.

3 And a cartridge is all of it unfired, before firing.

4 Q Thank you. It's been a long day. If I misspeak, I
5 apologize.

6 A Yeah, I understand.

7 Q The cartridge case, is there a difference between
8 what happens with the cartridge case when it comes to a
9 revolver firearm and a semiautomatic firearm?

10 A Yes. A cartridge case in a -- they're designed very
11 similarly for each firearm. A revolver, however, has a number
12 of positions that all act as a chamber for that firearm, and it
13 rotates one position at a time. So with each pull of the
14 trigger you can have multiple shots, but the cartridge case
15 never comes out the side until the firearm is reloaded.
16 However, the difference between the two is with a semiautomatic
17 pistol, then there's only one chamber behind the barrel, and
18 that chamber is actually attached to the barrel. There's no
19 gap like with a revolver, and this cartridge case stays in
20 there until the firing happens, and these intense pressures
21 very quickly and savagely pull this backwards out of the
22 chamber as the bullet has left the barrel.

23 And as this is yanked out of the slide area or from
24 the chamber by means of a slide moving backwards on a firearm,
25 then as it comes back, there are a few parts that hold onto

1 this. And as it comes out, there's a piece called an extractor
2 that extracts it from the chamber, and then there's another
3 piece called an ejector that hits this cartridge case as the
4 side of the slide opens up, and it comes flipping out of the
5 side. As the slide travels forward, the next cartridge, if
6 there is one inside of the magazine, will load into the chamber
7 for the next pull of the trigger.

8 Q And the extractor and the ejector, are those
9 typically metal pieces or components of a firearm?

10 A Yes. What's happening inside of a firearm is there
11 are tool marks being imparted by tools, and so we look at an
12 extractor and an ejector and a firing pin and a breech face and
13 a chamber itself as all different tools that can create marks
14 on the bullet if it's going down the barrel or on the cartridge
15 case, and each one of them has to be very, very hard, harder
16 than this material, or this material would break it. So those
17 are tools within the firearm that leave marks that are very
18 hard, and it's leaving an impression of itself on the cartridge
19 case for me to look at later.

20 Q Okay. So I'm not talking about our evidence quite
21 yet, but in the general scheme, if you have two different
22 cartridge cases that are the same caliber, what is it that you
23 do in order to determine whether or not they're fired from the
24 same firearm?

25 A The first step that I would do is I would have to

1 look at class. You mentioned that it would be the same
2 caliber. That's actually a class that I would look at. I
3 could immediately stop looking if one is a .45 auto and the
4 other is a 9mm.

5 Q Why is that?

6 A Because they are just chambered differently. The
7 chambers have to be a very specific size in order for it to
8 chamber -- the cartridge to chamber -- and lock up and the
9 gases to be contained properly. So that would be a class I
10 would look at.

11 But if they were the same caliber, for example, 9mm,
12 then I can proceed to look at other things, like, for example,
13 the shape of the firing pin. Some firearms, some pistols, some
14 semiautomatic pistols have a round firing pin, and others have
15 more of an oval. Some of them also, as the motion comes back
16 and it unlocks, and there's an additional touch of the firing
17 pin, based on just the design of the pistol.

18 So the pistols themselves impart what we call class
19 characteristics that allow me to start grouping cartridge cases
20 together. So I can look at two cartridge cases and immediately
21 understand that there are two firearms. Or if all the class
22 characteristics are the same, then what I would do is start
23 looking deeper than just class characteristics.

24 Q And again, speaking in general terms, not about our
25 case quite yet, are there times or cases in which officers or

1 detectives have recovered a actual firearm as well as cases and
2 submitted them to you for examination?

3 A Yes. In that case, the only thing that would be
4 different would be that now I have the firearm which holds the
5 tools, like we talked about, the extractor, ejector and the
6 firing pin, and then I would simply do a function test, and
7 part of that would include creating test fires, exemplars, of
8 what marks I can expect to see off of this known firearm.

9 So then once I've created that, I would have a
10 cartridge case, plus an unknown that I've been given, and then
11 I can do a comparison in the very same way that I just
12 described.

13 Q Okay. In the event you don't have a firearm, are you
14 still capable of taking two different cartridge cases and at
15 least saying that they were fired from the same firearm even if
16 you don't know what that firearm specifically is?

17 A Yes, I can. Part of my training is to be able to
18 look at the firearms and understand the value of the marks I'm
19 looking at, the randomness that's there and then the individual
20 separate marks and how they're made on different machines.

21 So if I do not have a firearm, then looking at two, I
22 would need to look at various areas of these two cartridge
23 cases to recognize patterns within various tools that would
24 have been associated with a common firearm.

25 So yes, I can do a comparison without a firearm.

1 Q Thank you. And in this particular case, did you
2 receive two .40 caliber cartridge cases to examine and compare
3 to one another?

4 A Yes, I did.

5 Q Were those two cartridge cases of different makes?

6 A Yes.

7 Q And what were the head stamps on those two different
8 cartridge cases?

9 A One was a Winchester, and the other one was federal.

10 Q Okay. Both .40 caliber obviously?

11 A Yes.

12 Q Once you receive those two items of evidence, did you
13 conduct a microscopic comparison between the two?

14 A Yes, I did.

15 Q And I want to --

16 MR. GIORDANI: Well, Your Honor, I believe by
17 stipulation we're going to move to admit 282 through 285.

18 THE COURT: Is that right?

19 MR. STORMS: That's correct.

20 THE COURT: All right. Those will all be admitted.

21 (State's Exhibit Number(s) 282-285 admitted.)

22 MR. GIORDANI: Thank you, Your Honor.

23 BY MR. GIORDANI:

24 Q Why don't I approach, and you tell me, sir, in which
25 order you'd like to go through these so it's easier.

1 A These are similar. You can just -- either one of
2 them or both of them. That's fine.

3 Q All right. Thank you. What -- when I put this up,
4 and this is 282, how is this image being captured? Describe
5 what we're looking at.

6 A I took this picture through a comparison microscope.
7 Now, the comparison microscope that I use is actually two
8 microscopes that have a optical bridge in the middle that I can
9 look through with eyepieces. And on either side I have one
10 cartridge case and then the other cartridge case. And then
11 using the same magnification -- and lighting has to be the
12 same -- I can start looking for common characteristics within
13 tool marks. So what you see here is a line right down the
14 center which shows the right side and the left side. So the
15 little note at the bottom tells me which one is on either side.
16 And then the line where I orient it is to show me the
17 correspondence between the common tool marks that are made by
18 various tools within the firearm.

19 So these pictures that I took include two cartridge
20 cases. And in this one, this area is out towards the rim. So
21 the value of a picture like this is that it tells me about a
22 movement. As the slide is coming backwards, there's a movement
23 and a touch on this rim area of the breech face as it's either
24 coming undone or coming unlocked and being ejected or as it's
25 loading in. I'm not sure which one. I don't have the firearm

1 to compare. But that is a touch somewhere on the breech face
2 which is a common, which also touched this rim area of this
3 cartridge case.

4 Q So just real quickly, one of these photos depicts the
5 Winchester, and one of them depicts the Federal; correct?

6 A Yes.

7 Q And obviously because they have different head
8 stamps, the word Winchester is longer than Federal, stuff like
9 this, this is an actual head stamp here in the bottom left;
10 correct?

11 A That's part of the head stamp. I'm not sure what it
12 is. It could be the 40 part of .40 Smith & Wesson, but those
13 can be oriented in any way just simply based on how they were
14 put into the firearm. They have no meaning to me or no value
15 to me in comparison.

16 Q Understood. But there are some things that do have
17 meaning and value to you on this photo; correct?

18 A Yes.

19 Q And what are those?

20 A If you can see the marks in this area, the top, and
21 then just underneath that little void right in the center where
22 the two lines come together, there are some individual
23 characteristics that have value showing the two cartridge case
24 rims touched and moved across a machine surface within a common
25 firearm.

1 Q And that's the center portions here?

2 A Yes. As it goes across the line and then just above
3 that void there's quite a bit more.

4 Q Okay. I'm showing you now State's 283. What are we
5 looking at here?

6 A This particular image is of even more interest to me
7 on this particular kind of firearm. The reason I say that is I
8 don't have a firearm, but this is a Glock-type firing pin. And
9 it's more of a rectangular shape on the aperture that the
10 firing pin comes through. And so this shear, these lines that
11 I've highlighted are on the primer, but what is of interest to
12 me here is they have a great deal of individuality.

13 And the reason for that is during manufacturing there
14 is a machine that creates, within the breech face, it creates a
15 hole for this aperture, for the aperture to exist. So there's
16 a machine that comes in and cuts that rectangular hole. And
17 then there's a different machine that creates a surface of the
18 breech face where that hole is sitting. So with two machines
19 coming together, that edge, which creates that scrape, the
20 scrape on the very soft primer material has a great amount of
21 individuality because there's two tools creating that one area.

22 So for me, when I see this kind of correspondence,
23 that's very helpful for me.

24 Q And I don't want to speak too frankly, but each of
25 these marks are individual, individualized on every single

1 cartridge case; correct?

2 A Well, I don't -- I have not tested and examined every
3 individual cartridge case, but on these two, they share
4 individuality between the two.

5 Q Pretty clear when it comes to at least this portion
6 of the two cartridge cases?

7 A Yes.

8 Q And then State's 285, what are we looking at here?

9 A This is the oval firing pin shape right in the center
10 of the primer. This is the tool that impacted the primer,
11 pressed in and created these -- the initial firing of the
12 firearm. And one of the reasons I look into the firing pin
13 impression is once again it's a harder object hitting a very
14 soft object. And within these two images there's quite a bit
15 of individuality that I can see.

16 Firing pins are, once again, of interest to me
17 because they are another tool, and in this case from a common
18 firearm, made by a completely different machine somewhere else
19 in the factory. So it creates even more individuality to see
20 all of these various individual characteristics coming together
21 in one set of tools, and these are different tools, but they
22 show individuality.

23 And also with firing pins on these Glocks, they are
24 prone to flake and break. So with time they can become even
25 more individualized.

1 Q Fair enough. Now, based upon your examination of all
2 these different individual characteristics, did you come to a
3 conclusion as to the two submitted cartridge cases?

4 A Yes, I did.

5 Q What was your conclusion?

6 A These two cartridge cases were identified as having
7 been fired in a similar firearm, in the same firearm.

8 MR. GIORDANI: Thank you. I'll pass.

9 THE COURT: All right. Cross.

10 CROSS-EXAMINATION

11 BY MR. STORMS:

12 Q Mr. Wilcox, another thing you did with these
13 cartridge cases is run them through the NIBIN network. Is that
14 correct?

15 A Correct. Yes.

16 Q And so NIBIN is a National Integrated Ballistics
17 Information Network?

18 A Yes, it is. Good.

19 Q I just want to make sure I got that right.

20 A You got it.

21 Q And that is essentially firearms that have been
22 confiscated or shell casings from an event like this that have
23 been logged in a network for law enforcement?

24 A Potentially.

25 And just as a correction that I know of, only

1 Item 1 was put into the NIBIN database.

2 Q Okay. But then you -- you determined that
3 Item 1 matched to Item 2?

4 A Later, yes.

5 Q Okay. And nothing came out of that, that search of
6 the network?

7 A I didn't do the results on the search. I simply put
8 it in. So I'm not aware.

9 Q So you don't know of anything?

10 A I do not.

11 Q And then otherwise you don't know the firearm that
12 shot these shells?

13 A I do not.

14 Q And, of course, you wouldn't know who shot the gun
15 that shot these shells?

16 A Correct.

17 MR. STORMS: Thank you.

18 THE COURT: Any redirect?

19 MR. GIORDANI: No, Your Honor.

20 THE COURT: Any juror questions for the witness?

21 (No audible response.)

22 THE COURT: All right, sir, I see no additional
23 questions. Thank you for your testimony. You are excused at
24 this time.

25 Do we need a break?

1 MR. GIORDANI: Break.

2 THE COURT: All right. Ladies and gentlemen, we're
3 just going to take a quick 10-minute break, just a little,
4 right at 4:20.

5 And during the brief break you're all reminded that
6 you're not to discuss the case or anything relating to the case
7 with each other or with anyone else. You're not to read, watch
8 or listen to any reports of or commentaries on the case, person
9 or subject matter relating to the case. Don't do any
10 independent research by way of the Internet or any other
11 medium, and please don't form or express an opinion on the
12 trial.

13 Please leave your notepads in your chairs and follow
14 the bailiff through the double doors.

15 (Jury recessed at 4:12 p.m.)

16 THE COURT: I just wanted to put on the record that
17 Ms. Trujillo objected to the Court rephrasing the juror
18 question about the latex glove, and I overruled it and said I'm
19 allowed to ask questions. So I'll just put that on the record
20 because we approached.

21 MS. TRUJILLO: That's correct. And just to
22 supplement what the Court has already said and my basis for the
23 objection was it appeared because the witness, and it was
24 Detective Dosch, responded exactly how the Court rephrased it.
25 I was -- that's why I wasn't happy with it. So it appeared --

1 THE COURT: I thought it was a little unclear, the
2 question from the juror. So I was just attempting to make the
3 question a little bit clearer. So.

4 MS. TRUJILLO: Understood.

5 THE COURT: All right, then. Take a break.
6 Who's next?

7 MR. GIORDANI: I don't quite know yet. There's two
8 out there. I just need a break for a second.

9 THE COURT: Okay. Okay. We'll go till 5:00.

10 (Proceedings recessed at 4:13 p.m. until 4:17 p.m.)

11 (Pause in the proceedings.)

12 (Outside the presence of the jury.)

13 THE COURT: Is everybody ready?

14 (No audible response.)

15 THE COURT: I mean, if they don't respond, it's
16 like...

17 MR. DICKERSON: Your Honor, for the record, defense
18 counsel has reviewed State's Proposed 240 through 281. At this
19 point in time they're going to be stipulating to their
20 admission.

21 THE COURT: Okay. Is that right, Defense?

22 MS. TRUJILLO: Yes.

23 MR. STORMS: That is correct, Your Honor.

24 (State's Exhibit Number(s) 240-281 admitted.)

25 (Pause in the proceedings.)

1 (Jury entering at 4:21 p.m.)

2 THE COURT: All right. Court is now back in session,
3 and the State may call its next witness.

4 MR. GIORDANI: Jeffrey Lomas.

5 **JEFFREY LOMAS**

6 [having been called as a witness and being first duly sworn,
7 testified as follows:]

8 THE CLERK: Thank you. Please be seated. State and
9 spell your first and last name for the record.

10 THE WITNESS: First name is Jeffrey, J-e-f-f-r-e-y.
11 Last name is spelled Lomas, L-o-m-a-s.

12 THE COURT: All right. Thank you.

13 Mr. --

14 MR. GIORDANI: Giordani.

15 THE COURT: You there, Mr. State. Giordani.

16 DIRECT EXAMINATION

17 BY MR. GIORDANI:

18 Q Good afternoon, sir.

19 A Good afternoon.

20 Q I'm sorry to keep you waiting out there.

21 What do you do for a living?

22 A I am employed with Las Vegas Metropolitan Police
23 Department as a detective. And at the time of this incident, I
24 was a digital forensic examiner.

25 Q And what does a digital forensic examiner do, sir?

1 A It is a personnel within our department that takes
2 digital devices and obtains information, either extracts or
3 analyzes information in a forensic manner.

4 Q And when you say analyzes or extracts in a forensic
5 manner, are there particular tools that you have used within
6 the DFL lab?

7 A Yes. Depending on the type of device, there are
8 tools that we have deemed as our -- well, we have to subscribe
9 to tools every year. And so they're certain tools that we use
10 because they're on a paid basis.

11 Q Would one of those tools be Cellebrite software?

12 A Yes.

13 Q And there are various versions of that software?

14 A Yeah. Cellebrite. It's Cellebrite UFED, which is
15 what we used to extract phones and also Physical Analyze is
16 what we used to analyze phones.

17 Q Okay. Are there situations where detectives,
18 particularly homicide detectives who find phones at a crime
19 scene may get to you pretty quickly and ask for a rush
20 examination on particular items of evidence?

21 A Yes.

22 Q I want to bring you back to February 21st and 22nd
23 of 2017. On that particular date, did you receive three
24 different cell phones under Event Number 1702214563?

25 A Yes.

1 Q Two of those cell phones you ultimately examined
2 using your software. Is that right?

3 A That's correct.

4 Q Was one of the phones essentially locked? You were
5 unable to do anything with it initially?

6 A Yes.

7 Q Okay. The two cell phones that you received, was
8 that two LG VS425PP model devices?

9 A Yes.

10 Q So both of those devices had the same -- they were
11 the same model and make?

12 A Same phone, same model, different serial numbers.

13 Q Okay. And how -- just describe briefly. What is a
14 serial number for a phone and where is it found?

15 A So there's different types of serial numbers and
16 phones, but generally speaking the model number will say what
17 kind of phone it is as to manufacture and type of make, and
18 then also the serial number will be the individual number given
19 by the factory so that when they issue them out to people they
20 can tell the difference for warranty purposes.

21 Q Okay. With regard to these two LG phones, did you
22 label them essentially found in driveway and found under body?

23 A Yes.

24 Q And would that have been information that you
25 received from the case agents involved?

1 A Yes. That would -- that was actually, to my
2 recollection, is what was written on the packages as I had
3 originally received and that's for my own purposes so I could
4 help the detectives understand which phone was which because
5 they were the same model. That's why I had labeled them such.

6 Q Perfect. And to your recollection were -- as to both
7 of those phones, were the screens shattered or cracked pretty
8 extensively?

9 A At least one of them was. I'm not sure about the
10 other.

11 Q Did you author a report in this case?

12 A Yes.

13 Q Would it refresh your memory to look at that?

14 A It would. Thank you.

15 That one's pretty bad. They're both smashed pretty
16 good. Yes, they were both smashed pretty good.

17 Q Thank you. Notwithstanding the fact that they were
18 smashed or the screens were broken on them, are you still able
19 to analyze the contents of the phone, arguably?

20 A In some cases yes, we are able to pull data from the
21 phone without actually interacting with the screen.

22 Q Okay. When you received these two particular phones
23 for examination, do the detectives or investigators in the case
24 provide you maybe subject or -- I'm sorry, suspect phone
25 numbers or things to look at or keep an eye out for during the

1 course of your examination?

2 A Sometimes yes. But usually what we have is either
3 keywords, phone numbers, or we'll have a general idea of when
4 the incident occurred so we have a timeline to look on the
5 phone so we're not looking from maybe two years back. We're
6 looking right around the time of the incident.

7 Q Okay. Did you conduct Cellebrite examinations and
8 extractions from both of these phones I just referenced?

9 A Yes.

10 Q Under this particular event number?

11 A Yes.

12 Q During the course of your extract, did you search
13 both phones for contacts titled POE, or P-O-E A-T-L?

14 A Yes.

15 Q Did both of those phones have contacts inside them
16 associated with POE ATL?

17 A Yes.

18 Q I want to bring your attention to -- oh, I'm sorry.
19 I should reference one of these phone numbers had a phone
20 number (702)277-4856?

21 A Yes. I'd have to look at the report again. I don't
22 have the numbers memorized.

23 Q Okay. Well, does that sound accurate?

24 A Yes.

25 Q And the other one is (702)755-2805?

1 A You're referring to the phone number that belongs to
2 the phone itself?

3 Q Correct.

4 A Yes.

5 Q Okay. Now, during the course of your searches of
6 Cellebrite extractions on these two phones, you found the
7 contact saved as POE ATL in both; correct?

8 A Yes.

9 Q And I want to draw your specific attention to that
10 first phone I referenced. Were you able to extract -- was your
11 attention drawn to the morning of February 21st, 2017?

12 A So just so I understand the context and what you're
13 talking about, you're referring to the phone that was under the
14 body?

15 Q No. The one in the driveway.

16 A The one in the driveway. Okay.

17 Q Yes, sir. Was your attention drawn, did you find
18 text messages from the morning of February 21st, 2017?

19 A Yes.

20 Q And at 9:26 a.m., do you recall extracting a text
21 from that phone in its inbox from phone number (702) 581-2072?

22 A Yes.

23 Q And that phone -- I'm sorry, that text message was in
24 the inbox of phone (702) 755-2805?

25 A Yes.

1 Q And --

2 A So it was located in the phone within the database
3 where SMS messages are stored. Yes.

4 Q Okay. Thank you. And to be clear, when you do an
5 extract on a phone, you can extract call history, text history,
6 sometimes content of text messages, like the words that are
7 texted; correct?

8 A Yes. And so this data is not logical data like a
9 user would see on a phone. The data is coming from the actual
10 databases contained on the phone. So they're in what we call
11 SQLite databases, and so the user doesn't see those databases,
12 but we see those when we do the extractions, and that's where
13 the data actually comes from.

14 Q Understood. And bringing you back to that text
15 message in the inbox at 9:26 a.m. on February 21st, 2017, did
16 that state, Fam Bros --

17 MR. STORMS: Objection.

18 MR. GIORDANI: What's the basis?

19 THE COURT: What's the basis?

20 MR. STORMS: Can we approach?

21 THE COURT: Sure.

22 (Conference at the bench not recorded.)

23 THE COURT: All right. Overruled.

24 Mr. Giordani, you may proceed.

25 MR. GIORDANI: Thank you.

1 BY MR. GIORDANI:

2 Q And, Detective, just to be clear, we're talking about
3 an inbox text at 9:26 a.m. on February 21st, 2017.

4 It said, Fam Bros -- B-r-o-s -- Bros called me for
5 bags still. Should I tell him today or tomorrow, my dawg,
6 d-a-w-g?

7 Do you recall that?

8 A Yes.

9 Q Was there another incoming text from the contact POE
10 ATL at (702)581-2072, at 9:34 a.m. saying, Brodie, B-r-o-d-i-e,
11 he just text me. He get off at 7:30. Then he ready.

12 Do you recall that?

13 A Yes.

14 Q And then an outbox text four minutes later at
15 9:38 a.m. from (702)755-2805, the subject phone, to POE ATL
16 stating, Okay?

17 A Yes.

18 MR. GIORDANI: Thank you, Detective.

19 I'll pass the witness, Your Honor.

20 THE COURT: All right. Cross.

21 MS. TRUJILLO: Court's indulgence.

22 CROSS-EXAMINATION

23 BY MR. STORMS:

24 Q Good afternoon.

25 A Good afternoon.

1 Q Examiner Wilmax, is that --
2 A Lomas, L-o-m-a-s.
3 Q Lomas. Excuse me.
4 A Uh-huh.
5 Q You mentioned this was a rush examination; correct?
6 A I did not say that was a rush examination.
7 Q Oh, the State did. The State called it a rush
8 examination.
9 This happened on February 22nd; is that correct?
10 A Yes.
11 Q And the incident in question was February 21st;
12 correct?
13 A Yes.
14 Q And so you got this phone directly from the
15 detective?
16 A Yes.
17 Q And the phone went from the scene to the detective to
18 you?
19 A Yes.
20 Q So there was no other forensic testing of the phones
21 that you tested, like DNA or fingerprints or anything along
22 those lines?
23 A That's not what I do. No.
24 Q And you're unaware if that happened?
25 A No. I'm not privy to that information. No.

1 Q The detective gave the phone directly to you from
2 taking it from the scene; isn't that true?

3 A So the detective -- so I got the packages, and so I
4 don't know where it was in the middle of that.

5 Q Okay.

6 A I have no idea.

7 MR. STORMS: All right. Well, thank you very much.
8 That's it.

9 THE COURT: Nothing else.

10 Any redirect?

11 MR. GIORDANI: No. Thank you.

12 THE COURT: Any juror questions for the witness?

13 All right, sir, I see no additional questions. Thank
14 you for your testimony. You are excused at this time.

15 THE WITNESS: Thank you, Judge.

16 THE COURT: And the State may call its next witness.

17 MR. GIORDANI: May we approach?

18 THE COURT: Sure.

19 (Conference at the bench not recorded.)

20 THE COURT: All right. Ladies and gentlemen,
21 apparently that's all for today. We're going to go ahead and
22 take our evening recess. We will reconvene tomorrow at
23 10:00 a.m. 10:00 a.m. tomorrow.

24 During the evening recess, you're all reminded that
25 you're not to discuss the case or anything relating to the case

1 with each other or with anyone else. You're not to read, watch
2 or listen to any reports of or commentaries on the case, person
3 or subject matter relating to the case. Do not do any
4 independent research by way of the Internet or any other
5 medium. Do not visit the location at issue, and please do not
6 form or express an opinion on the trial.

7 Please leave your notepads in your chairs and follow
8 Officer Hawkes through the double doors, and we'll see everyone
9 back at 10:00 a.m. tomorrow.

10 (Jury recessed for the evening at 4:35 p.m.)

11 THE COURT: All right. Officers, we are having a
12 hearing at 9:00 on this case. So the defendant needs to be
13 back at 9:00. All right. So 9:00 a.m. for all of us.

14 What?

15 MR. STORMS: Oh, are we still on the record for --

16 THE COURT: Yeah.

17 MR. STORMS: Okay. Great. I want to make a record
18 about that one objection I made, Your Honor, if I can.

19 THE COURT: Okay.

20 MR. STORMS: I made a contemporaneous objection to
21 the examiner talking about the contents of the text messages
22 based upon the authenticity, the *Rodriguez* argument that I made
23 earlier that this quoted, you know, Fam Bros called for a bag
24 and so on and so forth as at this point they haven't
25 established that it's something produced by Anthony Carter and

1 that it's relevant essentially.

2 THE COURT: Except --

3 MR. STORMS: Like I've said before --

4 THE COURT: Except it's his phone. Well, it's
5 someone, a subscriber with the same name. Right. And it could
6 be --

7 MR. STORMS: It's that the case is that he --

8 THE COURT: It could be County Commissioner Larry
9 Brown. It could be any other Larry Brown. I'm just saying
10 it's --

11 MR. STORMS: Well, I'm talking about --

12 THE COURT: -- an individual by the name of Larry
13 Brown.

14 MR. STORMS: Well, it was actually an individual by
15 the name of Anthony Carter --

16 THE COURT: You're right.

17 MR. STORMS: -- texting Kwame Banks or -- excuse
18 me --

19 THE COURT: I just had --

20 MR. STORMS: -- an individual -- the phone is
21 registered to an individual named Anthony Carter texting the
22 Kwame Banks.

23 THE COURT: Right.

24 MR. STORMS: And that the -- who actually sent the
25 text message, you know our position on that.

1 THE COURT: Well, that goes to -- it's just like
2 anything else. You know, who wore the bloody sneaker? I don't
3 know. Well, it's not a sneaker.

4 MR. GIORDANI: No.

5 THE COURT: Actually, it's not a tennis shoe.

6 MS. TRUJILLO: I mean, a witness said it was.

7 MR. DICKERSON: It depends on your definition, I
8 guess.

9 THE COURT: Well, you know, maybe he's being -- you
10 know, some people there's a tennis shoe; there's a running
11 shoe; there's a cross-training shoe. There's, you know,
12 whatever other sport that person might do.

13 Did you need to say anything else on that point,
14 State?

15 MR. GIORDANI: No. I think I made the same record,
16 the response yesterday or --

17 THE COURT: Yeah.

18 MR. GIORDANI: -- whenever that was that we argued
19 this extensively, and I think the same analysis applies.

20 THE COURT: All right. I agree.

21 MR. STORMS: I'm just going to -- when these things
22 come in --

23 THE COURT: Do you want to just say objection, or do
24 you want the record to note --

25 MS. TRUJILLO: Okay. Continuing objection.

1 THE COURT: -- that you have a standing continuing
2 objection --

3 MS. TRUJILLO: Yes.

4 THE COURT: -- to the use of the phone records for
5 content?

6 MS. TRUJILLO: Sure.

7 MR. STORMS: That's fine by me.

8 THE COURT: That way you don't have to keep --

9 MR. STORMS: That would make it easier, and that way
10 we don't have to storm up there and do all that.

11 THE COURT: State, do you care if we just note on the
12 record their ongoing objection?

13 MR. GIORDANI: Not at all.

14 THE COURT: All right. So it's noted.

15 MR. STORMS: Well, I'm storming up there. I'm
16 Storms.

17 THE COURT: No. No. I mean, it's noted on the
18 record you're objecting to all of this, just like you have a
19 continuing objection to anything regarding the footprint.

20 MR. STORMS: Yes.

21 MR. GIORDANI: That's fair.

22 THE COURT: I think it's understood, but that way we
23 don't have to keep popping up and running up and --

24 MR. GIORDANI: Sounds great.

25 MR. STORMS: Sounds good to us.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: All right. 9:00 a.m.

MR. GIORDANI: All right.

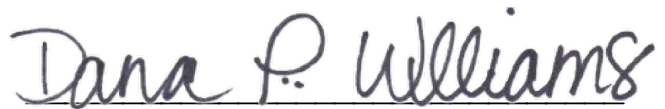
MR. STORMS: Thank you.

MR. GIORDANI: Thank you.

(Proceedings recessed for the evening at 4:39 p.m.)

-oOo-

ATTEST: I do hereby certify that I have truly and correctly
transcribed the audio/video proceedings in the above-entitled
case.

A handwritten signature in dark ink, reading "Dana L. Williams". The signature is written in a cursive style with a horizontal line underneath the name.

Dana L. Williams
Transcriber