

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

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| <u>VOLUME</u> | <u>PLEADING</u> | <u>PGS</u> |
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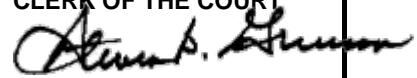
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TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

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

BEFORE THE HONORABLE VALERIE ADAIR, DISTRICT COURT JUDGE

FRIDAY, DECEMBER 13, 2019

JURY TRIAL - DAY 5

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.

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1 LAS VEGAS, CLARK COUNTY, NEVADA, DECEMBER 13, 2019, 9:05 A.M.

2 * * * * *

3 (Proceedings from 9:05:54 to 10:48:45 transcribed
4 and filed under seal.)

5 (Excerpt begins at 10:48 a.m.)

6 (Outside the presence of the jury.)

7 THE COURT: All right. We'll just -- Kenny, if no
8 one has anything else, you can bring the jurors in.

9 (Jury entering 10:48 a.m.)

10 THE COURT: All right. Court is now back in session.
11 The record should reflect the presence of the State through the
12 deputy district attorneys, the presence of the defendant along
13 with his counsel, the officers of the court and the ladies and
14 gentlemen of the jury.

15 And, ladies and gentlemen, the State's next witness
16 is appearing remotely over the video conferencing system
17 because this witness is located in another state, and because
18 of some scheduling issues he's appearing this way. Obviously,
19 you're supposed to listen and take notes as you would with any
20 other witness and consider his testimony just like you would
21 the testimony of any other witness.

22 So we can administer the next witness is --

23 MR. GIORDANI: Brian Stofik.

24 THE COURT: All right. Mr. Stofik, if you would
25 please rise, the court clerk is going to administer the oath to

1 you.

2 **BRIAN STOFIK**

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

5 THE CLERK: Please state and spell your first and
6 last name for the record.

7 THE WITNESS: Brian Stofik. B-r-i-a-n, Stofik,
8 S-t-o-f-i-k.

9 THE COURT: All right. Thank you, sir, you may be
10 seated.

11 All right. Thank you. And the State may proceed
12 with its direct examination.

13 MR. GIORDANI: Thank you.

14 **DIRECT EXAMINATION**

15 BY MR. GIORDANI:

16 Q Good morning, sir. What is it you do for a living?

17 A I work at Cellebrite as a technical forensic
18 specialist.

19 Q And what is Cellebrite generally?

20 A Cellebrite is a mobile forensic company.

21 Q And by mobile forensic company can I -- I guess
22 summarize it -- do -- does your company access mobile devices
23 that are locked?

24 A We do offer a service for law enforcement where we do
25 get into locked devices and provide them with forensic data.

1 Q Okay. And you indicated law enforcement, is that
2 your primary or only customer is various law-enforcement
3 agencies?

4 A Yes.

5 Q What is your exact title with Cellebrite?

6 A Technical forensic specialist.

7 Q And as a technical forensic specialist, are you the
8 person who actually puts hands on the evidence device and
9 accesses it using proprietary software of Cellebrite?

10 A Yes, I'm one of the people who hold -- physically
11 touch the phone.

12 Q I want to refer you to a device, Samsung SM G920P
13 Galaxy S6 with IMEI Number 256691573506447512. Are you the
14 analyst that performed an extraction on that device?

15 A Yes, I am.

16 Q When it comes to receiving evidence from
17 law-enforcement agencies and particularly in this case where
18 we're in Las Vegas and you're in what, New Jersey?

19 A Uh-huh. Yes.

20 Q Do you receive evidence frequently from out of state?

21 A Yes.

22 Q And when you receive that evidence, does it remain in
23 the custody and control of Cellebrite throughout the course of
24 your work?

25 A Yes.

1 Q As a result of what you do on your end, does
2 Cellebrite provide a certification and business record
3 associated with that particular device?

4 A Yes.

5 Q And does that provide a CBFL case number with it?

6 A Yes.

7 Q Would that be an internal Cellebrite case number?

8 A Yes, it's an internal audit number for us to identify
9 our cases.

10 Q And with -- with regard to this particular phone
11 we're dealing with CBFL Case Number 00186567; is that accurate?

12 A Yes.

13 Q Did you have an opportunity to review your business
14 records and determine that at a prior point in time before you,
15 yourself, received the device another analyst with Cellebrite
16 received the device under Cellebrite Case Number 00129990?

17 A Yes.

18 Q That first time, understanding you're not the person
19 who handled the phone, based upon your review of the business
20 records, is it your understanding that Cellebrite was unable to
21 access the phone at that time?

22 A Yes.

23 Q And based upon your review of the business records,
24 was that phone resealed and sent back to the Las Vegas
25 Metropolitan Police Department?

1 A Yes.

2 Q And to be clear, we're talking about the same phone,
3 the same actual physical device that you ultimately examined;
4 correct?

5 A Yes.

6 Q Okay. Referring back to your work on the case, did
7 you receive the device forensically packaged from Las Vegas to
8 Cellebrite?

9 A Yes. I received the phone and it would -- our normal
10 practice would be to send out an evidence bag, and the customer
11 would put the phone in an evidence bag, seal it up, and then
12 when we receive it, we check to make sure nothing happened to
13 the evidence bag and everything. We do an integrity check to
14 make sure nothing happened to the device while shipping to us.

15 Q Understood. And once you yourself receive the
16 device, do you use your advanced proprietary software in order
17 to access the device?

18 A I would change the word access or to say the user
19 brought forth to extract the data on the device.

20 Q Understood. Can you tell the ladies and gentlemen of
21 the jury what you -- what the difference is between access and
22 extract generally?

23 A For me access would mean, like, accessing the device,
24 opening it up, getting into the device normally. Extraction, I
25 use the term extraction because we are not turning on the

1 device or doing it -- anything. We're doing a forensic image
2 of the device. So it's more so extraction versus accessing,
3 trying to get it on and, like, copying stuff over; this is more
4 of a forensic extraction.

5 Q Thank you, sir. And did you conduct a forensic
6 extraction on the device that I previously referenced?

7 A Yes.

8 Q When you conduct that forensic extraction, are you
9 creating essentially an exact duplicate of what is on that
10 device and placing it on to a separate what I'll refer to as a
11 thumb drive?

12 A So we're creating a duplicate of what's on the device
13 at that time of when we do the extraction, and we do move the
14 extraction on to a thumb drive.

15 Q And is that thumb drive the item that is sent back
16 along with the evidence phone sealed and sent back to the
17 law-enforcement agency that was -- that submitted it?

18 A Yes.

19 Q Is there a manner in which you can confirm that what
20 was extracted from the device is what is exactly on the thumb
21 drive or external hard drive, and hashing is what I'm --

22 A Yeah. The process is as soon as the extraction's
23 done, we hash the extraction. We move the extraction on to the
24 thumb drive, and we hash the thumb drive to make sure that
25 no -- nothing happened in the middle of moving the image to the

1 thumb drive, like, no data corruption or anything like that.

2 Q And was that done on this particular phone?

3 A Yes.

4 Q So the thumb drive or external hard drive that was
5 sent back is confirmed via hash to be the same data that was
6 extracted from the phone, the physical phone itself; is that
7 right?

8 A Yes. It's confirmed to be the dump at the time of
9 when the phone was on and we dumped it; it matched what was --
10 what we dumped on our computer and moved to the flash drive.

11 Q Okay. You indicated that when it was on; you don't
12 actually manually turn the phone on; correct?

13 A No.

14 Q Would that in fact kind of change the data on the
15 phone? Just by turning it on, do you change data in some way,
16 shape, or form?

17 A Yeah. When you turn the device on, there's logs in
18 the background. Some devices we'll call them power-on events
19 so as soon as you turn it on, it registers a power-on event so
20 that it will change theoretically the hash value of the phone
21 if anything like that was done to it. So that's why it's --
22 it's the hash value on the phone in the current state of when
23 it was hashed --

24 Q Okay.

25 A -- or when it was dumped.

1 Q And is that dump essentially a fingerprint -- I'm
2 sorry, that hash essentially a fingerprint in order to make
3 sure that you can double check that everything is accurate as
4 to the external hard drive?

5 A It's -- it's a unique identifier so it's referred to
6 as a fingerprint. So basically it's something that can't --
7 it's unique identifiers so it's unique to that hash. If any
8 data manipulation happens, the hash will change so, yes, it's
9 in a sense a fingerprint.

10 Q Understood. Did you, yourself as the analyst
11 manipulate, change, access or analyze the data on the phone
12 itself in any way?

13 A No.

14 Q Did you do what you've just described as the hash
15 process on this particular phone and then send it back to the
16 Las Vegas Metropolitan Police Department?

17 A Yes.

18 Q And during the course of all of your work, does
19 Cellebrite prepare what's referred to as a certification and
20 business record of Cellebrite in order to document essentially
21 what is done with the phone?

22 A Yes.

23 Q And was that done here?

24 A Yes.

25 Q And is that a business record that is kept within the

1 ordinary course of your business of regularly conducted
2 activity by Cellebrite?

3 A Yes.

4 MR. GIORDANI: And I'd move for the admission of 300
5 here.

6 THE COURT: Subject to the record, that is admitted.

7 (State's Exhibit No. 300 admitted.)

8 MR. GIORDANI: Thank you, sir. I have no further
9 questions for you. We're going to pass you over to the defense
10 attorneys.

11 THE COURT: All right. Cross?

12 MS. TRUJILLO: Court's indulgence.

13 CROSS-EXAMINATION

14 BY MR. STORMS:

15 Q Good morning, Mr. Stofik. Can you hear me okay?

16 A Yeah. I don't see you though.

17 Q I can go back to my seat if that's easier.

18 A It's not pointed out -- the camera's not on you.
19 There you go.

20 THE RECORDER: I'll change it.

21 MR. STORMS: Okay. Great.

22 THE RECORDER: I have had it on him.

23 THE COURT: Oh, okay.

24 Can you see him now, sir?

25 THE WITNESS: Yeah, the camera's going back and

1 forth, but, yeah, I can see him.

2 MR. STORMS: Hopefully once I start talking it will
3 focus on me, and you can see me. Is that working?

4 THE WITNESS: Okay.

5 MR. STORMS: Okay. Great.

6 THE WITNESS: Yes, it is.

7 BY MR. STORMS:

8 Q So I wanted to talk to you about some of the contents
9 of this certification business records of Cellebrite that we --
10 that was received in this case, okay?

11 A Okay.

12 Q Oh, excuse me. That was signed by a man named Joe
13 Raspante?

14 A Yes.

15 Q And he signed that back in December of 2018?

16 A Yes.

17 Q And that document is one that's signed under the
18 penalty of perjury; are you aware of that?

19 A Yes.

20 Q Okay. And in that document it says, quote, "that
21 Cellebrite did not examine the applications on or the data of
22 the device nor did Cellebrite alter any of the applications on
23 or the data of the device", unquote. Is that correct? Is that
24 your understanding of what you guys do?

25 A Yes.

1 Q Okay. So we talked -- you talked a little bit with
2 the State about comparing hash values; correct?

3 A Yes.

4 Q Okay. And you were talking about comparing the hash
5 values of a forensic image that you made of the device to
6 the -- to the hash values of an image that you put on a thumb
7 drive that was provided to Las Vegas Metropolitan Police
8 Department; is that fair to say?

9 A Yes.

10 Q Okay. But the device itself was never examined;
11 correct?

12 A We don't, like, examine data on the device or
13 anything like that if that's what you mean by it, no.

14 Q Okay. The -- the letter that was provided by
15 Mr. Raspante does not mention any passcode for the device; is
16 that correct?

17 A Yes.

18 Q And so when you're comparing hash values, you're
19 comparing the hash values on the forensic image that was made
20 in-house to the forensic image that you provided to the thumb
21 drive to the Las Vegas Metropolitan Police Department; right?

22 A Yes. Yes.

23 Q Were those -- are those hash values documented by you
24 in any report that was provided to the State?

25 A To my knowledge, no.

1 Q Okay. What identifying information for the physical
2 phone itself is provided in the forensic copy that you make?

3 A Are you talking about how you identify that the phone
4 is the forensic unit of the --

5 Q Correct. How can you identify that the data comes
6 from that physical cellular device? What --

7 A Because I'm doing the extraction I basically see it,
8 but if a forensic examiner gets the device, depending on the
9 device the report might have an IMEI number in it where in the
10 forensic school identify that IMEI is this number, and they can
11 compare it to the back of the phone 'cause the IMEI physically
12 on the phone is also software stored in it. They can also
13 identify it via the SIM card. There's a unique identifier in
14 the SIM card so when they extract the data they should have --
15 they might be able to find the SIM card.

16 Another method that a forensic examiner may do is
17 just physically look at the phone and look at text messages and
18 also compare them to the extraction they have, but we don't --
19 since we don't look at the data or anything like that, we don't
20 do any of those.

21 Q So in this instance the letter provided Las Vegas
22 Metropolitan Police Department did not give the password to the
23 physical phone itself; we already talked about that; correct?

24 A Yes, we don't put the passcode in the letters.

25 Q Okay. So without that they couldn't get into the

1 device to see if the text message on the physical device
2 matched the imaging that you provided Las Vegas Metropolitan
3 Police Department; right?

4 A Yes.

5 Q Okay. And then just breaking down what an IMEI
6 number is a little bit more, that is an International Mobile
7 Station Equipment identity number; is that right?

8 A Yes.

9 Q And that's essentially a serial number, a specific
10 number that identifies a particular piece of cellular
11 equipment; right?

12 A Yes.

13 Q And then you also mentioned you might be able to tell
14 a phone by the unique number for the SIM card; correct?

15 A Yes.

16 Q And that's number is called the ICC ID which is the
17 integrated circuit card identifier which is what is the unique
18 number for a particular SIM card?

19 A Yes.

20 Q And that -- but SIM cards of course can be removed
21 from phones and placed in other phones?

22 A Altered, yes.

23 MR. STORMS: Court's indulgence.

24 Thank you, sir, for your testimony.

25 THE WITNESS: Thank you.

1 THE COURT: All right. Do we have any redirect?

2 MR. GIORDANI: I don't believe so, Your Honor.

3 THE COURT: Do we have any --

4 MR. GIORDANI: If I could have the Court's -- one
5 second, brief indulgence.

6 THE COURT: Okay.

7 MR. GIORDANI: Excuse me. Oh, no further questions.
8 Thank you.

9 THE COURT: All right. Do we have any juror
10 questions for the witness? All right. I see no additional
11 questions.

12 Sir, thank you for your testimony. You are excused
13 at this time. Thank you.

14 THE WITNESS: Thank you.

15 THE COURT: Okay. It's switched over, and the State
16 may call its next witness.

17 MR. GIORDANI: Kristi Thomas.

18 **KRISTINA THOMAS**

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

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

23 THE WITNESS: Kristina Thomas. K-r-i-s-t-i-n-a,
24 Thomas, T-h-o-m-a-s.

25 THE COURT: All right. Thank you.

1 Mr. Giordani, you may proceed.

2 MR. GIORDANI: Thank you.

3 DIRECT EXAMINATION

4 BY MR. GIORDANI:

5 Q Good morning, ma'am.

6 A Good morning.

7 Q What is it that you do for a living?

8 A I'm a senior crime scene analyst with the Las Vegas
9 Metropolitan Police Department.

10 Q How long have you been so employed?

11 A Eleven years.

12 Q What does a senior crime scene analyst do on a daily
13 basis?

14 A It's our job to document a crime scene. So we go out
15 we take the photos. We do the notes. We create the written
16 reports. It's also our job to identify, collect and preserve
17 any evidence that might be on that scene.

18 Q How long have you been a crime scene analyst?

19 A Eleven years.

20 Q Oh, did you say that?

21 A I did.

22 Q I apologize. I want to bring your attention to
23 February 21st of 2017. On that particular date did you
24 respond to a crime scene -- a homicide crime scene at 5850 Sky
25 Pointe Drive?

1 A I did.

2 Q Was the main focus of that scene just outside of
3 Building 21?

4 A It was.

5 Q Essentially under a carport area?

6 A Correct.

7 Q Do you recall around what time you responded to that
8 scene?

9 A I worked graveyard so it was late in the evening.

10 Q Okay. What is graveyard just for the record?

11 A Graveyard begins at 10:00 at night and goes till 8:00
12 o'clock in the morning.

13 Q Got it. I want to show you an aerial map already
14 Admitted 6, do you see 5850 Sky Pointe Drive on this map?

15 A I do.

16 Q And did you enter through the main entrance here off
17 of Sky Pointe?

18 A Yes, I did.

19 Q And Sky Pointe essentially is adjacent to the
20 freeway, is that the 95 freeway?

21 A That's correct.

22 Q So Sky Pointe's just a little side street here; is
23 that right?

24 A That's correct.

25 Q When you responded to the scene, were there already

1 Las Vegas Metropolitan Police Department personnel on scene?

2 A Yes, there where.

3 Q And had the scene been sealed at that point in time?

4 A It had been secured, yes.

5 Q Are you briefed when you arrive?

6 A Yes.

7 Q And who briefs you typically?

8 A In this case it was a patrol detective.

9 Q Okay. After your briefing do you learn kind of the
10 general outline of the scene so you know how to approach it?

11 A That's correct.

12 Q I want to show you some photographs, and I'm gonna --
13 I'm not going to show you all your hundreds of photographs
14 because we went through some of them yesterday, but I will show
15 you State's 12; do you recognize this, ma'am?

16 A Yes, I do.

17 Q And is this the main thrust of our crime scene?

18 A Yes.

19 Q Was there anything of note specific -- with specific
20 regard to this orange cone near the decedent's body?

21 A When patrol officers arrive, they'll mark things that
22 they think might be of evidentiary value basically to make sure
23 nobody accidentally drives on them or steps on them. So you're
24 going to see several cones that are marking areas of bloodstain
25 patterns, in that case it's a partial footwear impression.

1 Q Showing you State's 14, is that the basically the
2 trail of those footwear impressions?

3 A Drops of blood and footwear impressions, yes.

4 Q Okay. Does each cone there represent a different
5 either a drop of blood or a footwear impression?

6 A It's the general pathway so it's showing that whole
7 area so no one walks or drives there.

8 Q Understood. I'm going to show you State's 15. Did
9 you as a crime scene analyst document the various blood
10 patterns as they appeared through the course of those cones
11 there that we saw?

12 A I did.

13 Q Did you also take illumination prints from a first
14 responder?

15 A Illuminations were taken, yes.

16 Q Illumination photographs?

17 A I took photographs of the first responder and then
18 there was a lift taken of their shoe.

19 Q Oh, okay. Let me show you State's 29, is that the
20 first responder?

21 THE COURT: Well, it's his jacket possibly.

22 MR. GIORDANI: I'm backing out of here so.

23 THE WITNESS: Yes.

24 BY MR. GIORDANI:

25 Q And State's 30, is that the bottom of that first

1 responder's shoe or one of them?

2 A It is.

3 Q And is the kind of the gist of an illumination print
4 to show that whatever might be evidence is not Metro
5 personnel's print?

6 A Metro or the fire department for somebody from an
7 ambulance crew, we try to rule out everybody that we know was
8 there that might have inadvertently altered something.

9 Q Understood. Now I'm going to show you State's 31.
10 Is this series of cones starting where that empty parking space
11 is all the way up to the front, is this -- I'm sorry, all the
12 way up to Mr. Banks' body, is this the series of cones we just
13 looked at in the last photo?

14 A It is, from the opposite direction.

15 Q And then there's additional cones up here near the
16 entrance?

17 A That's correct.

18 Q Showing you State's 32, are those the cones near the
19 entrance?

20 A Yes, they are.

21 Q What is contained in this first set of cones here?

22 A Those are pieces of a damaged cell phone.

23 Q And there are two other cones in the backdrop there?

24 A That's correct.

25 Q State's 37, does that represent those two additional

1 cones?

2 A Yes, it does.

3 Q State's 39, is this in the bottom right one of those
4 two cones?

5 A Yes, it is.

6 Q And what are we looking at here?

7 A That's a black exam glove. It's actually a torn exam
8 glove.

9 Q I'm going back to State's 37. Just so we're oriented
10 here and the jury understands, is this the exit if you go right
11 off of this photograph?

12 A It is.

13 Q The exit of the apartment complex?

14 A It is.

15 Q So essentially this glove is on the driver's side of
16 an exiting vehicle?

17 A That's the median that's at the apartment complex.
18 Like most complexes they do that landscaping in the median in
19 the middle. So the far side of the median is where you would
20 drive in, and then you're looking at the side where
21 traditionally you would drive out --

22 Q Okay. So there is another --

23 A -- so yes, it would be a driver's side.

24 Q I'm sorry. There is another street on the other side
25 of this median?

1 A Correct.

2 Q Okay. State's 41, is this that other cone?

3 A It is.

4 Q And what is represented by that cone?

5 A There is a \$10 bill in paper currency.

6 Q State's 42, same \$10 bill?

7 A That's correct.

8 Q Okay. I'm going to bring you back to Mr. Banks'
9 body, State's 43. You'd indicated this is the main focus of
10 the crime scene essentially; right?

11 A That's correct.

12 Q Are there various items of potential evidentiary
13 value surrounding Mr. Banks' body?

14 A Yes, there were.

15 Q I want to go above him, State's 44; what are we
16 looking at there?

17 A That is an apparent bullet hole.

18 Q And let me step back for a moment. When you first
19 arrived since you're the first crime scene analyst talking
20 about this scene, do you take overall photographs before you
21 start doing things like marking potential evidence?

22 A Absolutely.

23 Q And what is the purpose of overall photographs?

24 A Those we take before anything's been altered. So it
25 shows the scene exactly as it was when we arrived so we can

1 always backtrack. Anytime we add or take something away from
2 the scene we're also going to photograph it so that we can
3 document everything we've done.

4 Q Understood. Real briefly here State's 45, that's
5 Mr. Banks' body as it appeared in these overall photos; is that
6 right?

7 A That's correct.

8 Q And then eventually you process -- do you go back
9 through the scene and draw evidence columns on the various
10 pieces of evidence that are recovered?

11 A We do.

12 Q Showing you State's 70 through 103; I'll have you
13 look through those.

14 A (Witness complies.)

15 Q Do you recognize all those, ma'am?

16 A I do.

17 Q And are all those fair and accurate depictions of the
18 crime scene as it appeared once you dropped the evidence cones?

19 A Yes, they are.

20 MR. GIORDANI: Let me have the Court's brief
21 indulgence.

22 And I'd move for the admission of 70 through 103, two
23 of which have previously been admitted.

24 MS. TRUJILLO: No objection.

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

1 So it's Number 70 through 103.

2 MR. GIORDANI: Correct.

3 THE COURT: All right.

4 MR. GIORDANI: And I believe Athena knows which ones
5 were already admitted.

6 THE COURT: All right. The rest of those will be
7 admitted.

8 (State's Exhibit No. 70-103 admitted.)

9 BY MR. GIORDANI:

10 Q You've already referenced the apparent bullet hole to
11 the carport. I'll just show you State's 71 and have you
12 describe what we're looking at here.

13 A That's just a closer picture so you can see what
14 we're looking at. We always put a scaled marker on it so you
15 have an idea of the size of the whole. And that's just a
16 portion of the carport that's over that parking space that the
17 victim was in.

18 Q When you're working this scene and pretty much any
19 homicide scene, are there multiple CSI personnel at the scene?

20 A Yes, there are.

21 Q And are you working in conjunction throughout most of
22 the process?

23 A We are.

24 Q And in this particular case did Gabby or Gabrielle
25 Guerrero create what's referred to as a crime scene diagram?

1 A Yes, she did.

2 Q Showing you State's 10. Can you describe for the
3 ladies and gentlemen what we're looking at here in the top
4 left; what does all of this represent?

5 A The entire thing is a diagram of Building 21. On the
6 top left corner you're going to see a listing of the vehicles
7 we're dealing with and the evidence that correspond with all of
8 the numbers you see in the picture.

9 Q Okay. So, for example, under evidence Number 1 is a
10 cartridge case. There would be a Number 1 that corresponds
11 with that on the diagram; correct?

12 A Correct.

13 Q And this in the center obviously is Kwame's body --
14 or Mr. Banks' body where all the evidence was around him?

15 A Correct.

16 Q So the one with the arrow pointing is where that
17 particular item of evidence was found?

18 A That's correct.

19 Q And then I'll show you State's 72, that would
20 correspond in these evidence photos with the little tent,
21 evidence tent or marker Number 1; correct?

22 A That's correct.

23 Q And would that be consistent throughout this diagram
24 for all these other pieces of evidence that are in evidence?

25 A Yes.

1 Q Just real briefly, State's 11, is that the second, I
2 guess, portion of the diagram?

3 A The first diagram's a little messy; it's very hard to
4 read the numbers, so when that happens, we will do a second
5 diagram that's just a closer depiction so you can actually make
6 out the numbers and the pictures and everything else a little
7 bit better.

8 Q Okay. V1 and V2 are vehicles that are referenced on
9 this diagram; correct?

10 A That's correct.

11 Q And over to the left it has the make and the plate
12 and the year; correct?

13 A Correct.

14 Q And then it appears there are plate numbers
15 associated with these additional vehicles; is that right?

16 A That's correct.

17 Q And then it's you documenting basically what vehicles
18 were in the area at the time?

19 A Correct.

20 Q I'll walk you through the items of evidence, and as
21 you indicated earlier, there are multiple people working this
22 scene -- the crime scene?

23 A That's correct.

24 Q Did -- ultimately did Bill Speas impound the items of
25 evidence that we're about to go through?

1 A Yes, he did.

2 Q State's 72, that's the overall showing of various
3 tents; is that right?

4 A That's correct.

5 Q Showing you State's 1; what are we looking at here?

6 A We are looking at a cartridge case.

7 Q What type of cartridge case?

8 A It's .40 caliber.

9 Q Okay. State's 2, what is that?

10 A It's a lip balm canister.

11 Q State's 3?

12 A It's a lighter.

13 Q Oh, that's not State's 3. The -- the -- I'm sorry,
14 the Exhibit Number is 75.

15 THE COURT: Oh, okay.

16 BY MR. GIORDANI:

17 Q And now I'm showing you State's 76. What are we
18 looking at here?

19 A We have two different things, and they're a little
20 hard to see. Number 4 is --

21 Q I'm going to flip this, I apologize.

22 A Number 4 is a torn black exam glove. And Number 5
23 there's actually a cell phone that's partially under the
24 victim's arm right there.

25 Q Okay. Is that the little -- the edge of the phone

1 that you see there?

2 A It is.

3 Q Showing you State's 77, is that a closer view of the
4 cell phone at the bottom?

5 A It's a different angle so you can see it a little bit
6 better, yes.

7 Q State's 78, are we continuing past the victim's body
8 now and towards the sidewalk?

9 A Yes.

10 Q State's 79, what's represented by Evidence Marker 6?

11 A That is a shoe.

12 Q And while we're on this photo, what's represented by
13 Evidence Marker 9?

14 A It's an area of apparent blood.

15 Q State's 80, what are we looking at here?

16 A That is a fabric glove.

17 Q A fabric glove represented by Evidence Marker 7?

18 A That's correct.

19 Q And where was that located?

20 A That is going to be south and west of the victim; so
21 towards the front of those parking spaces.

22 Q Did you document an area of rocks near the victim's
23 body which appeared to be disturbed?

24 A I did, yes.

25 Q State's -- I believe it's 81, is that the rock area?

1 A It is.

2 Q And what's represented in State's 82, by the Number 8
3 evidence marker?

4 A That's a black Samsung cell phone.

5 Q Showing you State's 83, what's represented by
6 Evidence Marker 11?

7 A That's another area of apparent blood.

8 Q Okay. State's 84, Evidence Marker 12?

9 A That again is an area of apparent blood, but as you
10 can tell it has a pattern to it; so that's part of a footwear
11 impression.

12 Q State's 85, Evidence Marker 13?

13 A Again, it has an area of apparent blood, and there's
14 a bit of a pattern to it. It's going to be a footwear
15 impression.

16 Q State's 86 you see 14 here. Can you see that?

17 A Yes.

18 Q What does that represent?

19 A That's another area of apparent blood. It also has a
20 bit of a pattern to it. It is a footwear impression. It's not
21 as nice as the other two.

22 Q State's 87, is that a closer view of that impression?

23 A It is.

24 Q State's 88, what's represented by Evidence Marker 15?

25 A That's an area of apparent blood.

1 Q And to the -- well, towards the bottom of the photo
2 there's an empty parking space there; correct?

3 A Correct.

4 Q And then obviously a vehicle in the background of the
5 photo in the next parking space; correct?

6 A That's correct.

7 Q State's 90, Evidence Marker 16, does that represent
8 multiple evidence -- of evidence?

9 A It does.

10 Q Why is that?

11 A That's the cell phone that we talked about before
12 that was damaged and was in multiple pieces. So the pieces are
13 moderately close to one another. We can tell it's the same
14 cell phone; we gave it all the same number, but it's actually
15 in three different pieces.

16 Q And State's -- I'll go through this real quickly.
17 91, 92 and 93, are those all the pieces of the cell phone?

18 A Yes.

19 Q And back to 92 that shows the IMEI number for that
20 cell phone and various identifying information on that?

21 A That's correct.

22 Q State's 94, item 17 and 18 are that -- are those the
23 \$10 bill and the other portion -- or the torn latex glove near
24 the exit?

25 A That's correct.

1 Q Obviously we saw photographs of Kwame's body as it
2 appeared when you arrived.

3 A Yes.

4 Q Ultimately once the scene has been processed, do you
5 remove his body?

6 A Yes.

7 Q Once his body is moved, do you discover another item
8 of evidentiary value?

9 A Yes, we did.

10 Q State's 97, is that Mr. Banks' body once he's
11 flipped?

12 A It is.

13 Q State's 98 already admitted; is there an item of
14 evidentiary value here?

15 A You can see there's another cartridge case that's
16 setting on his chest.

17 Q Okay. You can also see in this photograph that his
18 hands were bagged; is that right?

19 A That's correct.

20 Q Who's doing that at the crime scene?

21 A I believe it was CSA Guerrero.

22 Q And is that because you can see her?

23 A I can see her initials and P number.

24 Q All right.

25 A Whoever does it is going to put their marking on it

1 so that way we know who actually put the bags there.

2 Q And were both of the victim's hands bagged at the
3 scene?

4 A Yes, they were.

5 Q Showing you State's 102, did you also remove the
6 pants of the victim?

7 A Yes, we did.

8 Q Okay. On the right side of those pants is there
9 multiple pockets?

10 A There are. There was a normal pocket and then almost
11 an interior pocket as well that was a little bit harder to get
12 into, but it was, I don't know how to describe it better than
13 it's a dual pocket; so you can actually reach in and get into
14 two different areas.

15 Q And within that enclosed pocket, State's 103, did you
16 find various items depicted in this photograph?

17 A Yes, we did.

18 Q There's three cell phones that we've seen on the
19 scene; correct?

20 A That's correct.

21 Q And were those three cell phones processed in
22 anything?

23 A They were either swabbed for DNA or a swab of blood
24 was taken whichever was most appropriate given that cell phone.

25 Q Okay. Describe what you mean by that.

1 A One of the cell phones -- actually that broken one
2 had quite a bit of blood on it. When there's a lot of blood on
3 an item, it's very hard to get other pieces of DNA; it's all
4 overwhelmed by that blood. So that particular cell phone they
5 took a swab from two different pieces of it, and they have a
6 swab of the blood to preserve that. The other two cell phones
7 were not completely bloodied so they actually did a swab for
8 DNA. It will normally be the face of the cell phone right
9 where you'd expect somebody to be speaking into it and where
10 you expect their ear to be.

11 Q And the bloody cell phone, can we presume that's the
12 one that's found under Mr. Banks' body?

13 A I'm not a hundred percent sure --

14 Q Okay.

15 A -- I'm not the one who swabbed them so.

16 Q Okay. Fair enough. Was there also latent
17 fingerprint processing done on the scene?

18 A Yes, there was.

19 Q And was -- what is latent fingerprint processing for
20 the jury?

21 A It's a black powder we use and it adheres to
22 moisture, and we can put it on a nice flat smooth surface and
23 the hope is that if somebody's touched it the residue from the
24 fingers which is mostly oils and water, that black powder would
25 stick to it, and we'll be able to see what that print looks

1 like, and we can actually lift and recover that.

2 Q Was that conducted in this particular case on three
3 separate vehicles?

4 A Yes, it was.

5 Q Why -- why the three separate vehicles?

6 A It's the vehicle that's parked on either side of
7 where the victim was found. And then if you remember, there
8 was a photo that there was some blood next to a vehicle. That
9 vehicle was damaged on the side, the mirror was hanging. That
10 seemed a little odd to us like something had happened there, so
11 we also went ahead and processed that one.

12 Q And when you process for fingerprints, do you always
13 necessarily get something from a lift?

14 A No, we do not.

15 Q In this particular case, did you receive negative
16 results except for one particular latent lift?

17 A There were no prints found on two of the vehicles,
18 and there was a lift from the trunk of the third vehicle.

19 Q Okay. You indicated previously that all the items
20 found in this -- we're about to discuss were impounded under
21 Event No. 1702214563; is that right?

22 A That's correct.

23 Q I just wanted to look through those real briefly and
24 then I'll let you go.

25 Do you recall the item numbers of the various pieces

1 of evidence that were impounded in this case?

2 A Some of them I specifically remember the item
3 numbers, on others I do not.

4 Q Okay. Would it help to walk through this process if
5 you had your report -- or the evidence impounded for the claim?

6 A It would.

7 Q Do you have one of those?

8 A I do.

9 Q Can you --

10 MR. GIORDANI: Judge, permission to have her -- well,
11 let me add this.

12 / / /

13 BY MR. GIORDANI:

14 Q Are these impound reports created during the course
15 of or immediately after the processing in order to memorialize
16 what was impounded?

17 A Yes, they are.

18 MR. GIORDANI: Can I have permission to have the
19 witness read from the impound report?

20 THE COURT: No objection?

21 MS. TRUJILLO: No objection.

22 THE COURT: She can read from the report.

23 BY MR. GIORDANI:

24 Q Before we get into it, are there various packages
25 which contain more than one item?

1 A Yes, there are.

2 Q Okay. So let's start with Package Number 1, Item

3 Number 1, what was impounded?

4 A It was a cartridge case.

5 Q And with the head stamp?

6 A Winchester .40 S&W.

7 Q And where was that located?

8 A That was the one that was next to the victim's body.

9 Q Package 1, Item 19?

10 A It was a cartridge case with a head stamp Federal .40

11 S&W.

12 Q And where was that located?

13 A That was the one that we saw on the victim's chest.

14 Q Package 2, Item 2?

15 A Was the lip balm dispenser that was next to the

16 victim.

17 Q Okay. Package 3, Item 3?

18 A The lighter.

19 Q Package 4, Item 4?

20 A That was a torn black colored exam glove.

21 Q Where was that? Which one was that?

22 A That was the one that was on the ground next to the

23 victim.

24 Q Package 4, Item 18?

25 A That was the other piece of black exam glove.

1 Q Which was located where?

2 A So that was the one that was up by the exit of the
3 complex.

4 Q Package 5, Item 6?

5 A That was the right sneaker.

6 Q And was that the right sneaker that was not on the
7 victim's body?

8 A That's correct.

9 Q Item -- I'm sorry, Package 5, Item 25?

10 A That was the left sneaker that was still on the
11 victim's foot.

12 Q Package 6, Item 7?

13 A That was the fabric glove that was in that parking
14 space.

15 Q Package 7, Item 9?

16 A That is a swab of apparent blood.

17 Q And I don't -- I don't know if you've discussed that
18 yet, but what do you mean by a swab of apparent blood? What
19 are you actually doing?

20 A It's a sterile oversized Q-tip. We put a drop of
21 water on it, you rub it against the area we believe it to be
22 blood. It comes besides being sterile itself, it's a little
23 plastic piece that goes around that cotton, and then a lid that
24 goes over it so it's preserved and protected forever.

25 Q And where was that particular swab located?

1 A That was one that was by the pillar that was holding
2 up the awning. So it was in the corner of this parking space.

3 Q Package 8, Item 13?

4 A That's also a swab of apparent blood.

5 Q Where was that located?

6 A That was from one of the footwear impressions.

7 Q Near the end of covered parking spot 307?

8 A Correct.

9 Q Package 8, Item 14?

10 A It's a swab of apparent blood as well.

11 Q Where was that located?

12 A It's covered from one of the footwear impressions,
13 and that one is on the north side of Space 304, so further away
14 from the victim.

15 Q Package 8, Item 15?

16 A It's also a swab of apparent blood.

17 Q Where was that located?

18 A That was the one that was next to the vehicle that
19 had that damaged side mirror.

20 Q Package 9, Item 17?

21 A That's the \$10 bill that was at the complex exit.

22 Q Was that \$10 bill processed in any way?

23 A It was chemically processed for latent prints.

24 Q Was there any -- was there a positive result or a
25 negative result?

1 A It was negative results.

2 Q Meaning no latent prints popped up from it?

3 A Correct.

4 Q Package 10, Item 20?

5 A That was the pants that the victim was wearing.

6 Q Package 11 -- 11, Item 21?

7 A That was \$256.85 in US currency, and that was in that

8 inner pocket of the pants.

9 Q And that's referred to as a right front, inner pocket

10 of Item 20; correct?

11 A That's correct.

12 Q Package 12, Item 22?

13 A Yellow metal chain necklace with a lion's head

14 pendant.

15 Q Package 12, Item 23?

16 A Yellow metal ring.

17 Q Package 13, Item 24?

18 A It's a Nevada driver's license and two Visa debit

19 cards with the name Kwame Banks on them.

20 Q Do you mean Nevada?

21 A Sorry, yes, thank you.

22 Q Package 14, Item 26?

23 A That is a swab of DNA.

24 Q From?

25 A That's from the cell phone that was underneath the

1 victim.

2 Q Package 14, Item 27?

3 A That is also a swab of DNA, and that's from the cell
4 phone that was in that rock landscaping area between the
5 parking spaces and the building.

6 Q Package 15, Item 28?

7 A It's a swab of apparent blood, and that's from the
8 broken Verizon cell phone that was near the entrance.

9 Q Package 15, Item 29?

10 A That's also a swab of blood, and it's from a separate
11 piece of that damaged cell phone.

12 Q Package 16, Item 30?

13 A That's the footwear eliminations from a paramedic
14 that was on the scene.

15 Q Package 17, Item 31?

16 A That is a box cutter. It was a folding box cutter,
17 and it was tucked into the waist -- the waistband of the
18 victim's pants.

19 Q Were the three cell phones that were located at the
20 scene turned over to Homicide Detective Darin Cook --

21 A Yes, they were.

22 Q -- after they were processed by crime scene analysts?

23 A Yes, they were.

24 Q And then to your knowledge were those taken into the
25 DFL or Digital Forensics Lab afterwards or separate from?

1 A That we wouldn't know.

2 MR. GIORDANI: Okay. Thank you, ma'am, I appreciate
3 it.

4 I'll pass the witness, Your Honor.

5 THE COURT: All right. Thank you.

6 Cross?

7 CROSS-EXAMINATION

8 BY MS. TRUJILLO:

9 Q Good morning.

10 A Good morning.

11 Q So I'm going to go ahead and start with the long list
12 we just went through since we went through a long itemized
13 list. You didn't actually collect the evidence yourself;
14 right?

15 A I did not.

16 Q But you were present when it was collected?

17 A I was.

18 Q And to your knowledge, the swabs of apparent blood
19 that we just went through, those were all submitted for
20 forensic testing?

21 A That's correct.

22 Q Okay. And then the swabs of possible DNA, those were
23 also submitted for testing?

24 A Those are all impounded; they can be requested later,
25 but yes, they were impounded with the intention of them being

1 tested.

2 Q To your knowledge in this case were those tested?

3 A I don't know.

4 Q Okay. I want to talk to you about Item 16. You
5 indicated that that was a vinyl lift; what is a vinyl lift?

6 A It's sticky plastic, is the best way to describe it.
7 It's tacky, but it's not as much as duct tape or scotch tape
8 would be. So when they put it against something it will
9 actually pick up and hold stuff. In this case we're putting it
10 against a shoe. So since we walk on our shoes all the time
11 they always have a lovely film of dirt and what have you on the
12 bottom of them. So we rub this sticky plastic against the
13 bottom of the shoe, and what we're left with is a depiction of
14 what the bottom of that shoe looked like.

15 Q And what is the purpose of that?

16 A That is to show if that paramedic's shoes were the
17 same as the footwear impressions we were looking at on the
18 scene.

19 Q And so in this case, are those the only vinyl prints
20 that you are aware of that were taken?

21 A Yes.

22 Q So only the paramedic's shoe?

23 A That's the person who walked into the scene that we
24 would not be able to account for otherwise.

25 Q Okay. And as far as the actual apparent blood and

1 impression on the pavement, was there any way to preserve that
2 aside from photography?

3 A No, photography was the best option.

4 Q The best option. Was it the only option?

5 A There are other options that most likely would not
6 have worked.

7 Q What are those options?

8 A You can put a chemical on blood. We use dye stains
9 that can help you visualize them better. The most appropriate
10 dye stain is amido black. As you can tell, when it dyes with a
11 name like amido black, it actually turns it a dark color. So
12 any hope of being able to better see that is lost in the fact
13 that the background is also black.

14 Q You said options, is that the only option or are
15 there other options?

16 A We could have tried a vinyl lifter, but again you're
17 probably just going to be picking up the debris from the
18 pavement not the actual pattern.

19 Q And in this case how many actual blood impressions
20 did you see?

21 A There were a minimum of three. I don't remember how
22 many there were.

23 Q So was your job there, fair to say were you the head
24 crime scene analyst or you all work together?

25 A We all work together.

1 Q But did you have a specific duty or title that day?

2 A I was the person who was doing the photography and
3 taking the notes.

4 Q Taking the notes, field notes?

5 A Yes.

6 Q And what are field notes?

7 A Basically it's what I'm going to use to later write
8 my report.

9 Q And as you're gathering information, are you also
10 providing information to the lead detective and/or other
11 detectives associated with this case?

12 A We share information throughout our time at the
13 scene.

14 Q And fair to say that your field notes are you're
15 writing them as you are receiving the information?

16 A We're trying to.

17 Q Okay. Maybe not at the same exact time, but while
18 you're on the scene?

19 A We try to, yes.

20 Q And the purpose is to refer back to them when you're
21 authoring the report that you have?

22 A That is correct.

23 Q Okay. Do you recall that in your field notes you
24 indicated, see suspect walk away on north to on a cell phone?

25 A If I wrote it, then that's what I told at the time.

1 Q Do you not remember?

2 A I do not.

3 Q Would it help if I provided you a copy of your field
4 notes?

5 A I do have a copy here.

6 Q Okay. Would you refer to page 3 of 16.

7 A Okay.

8 Q Do you recall writing, see suspect walk away to north
9 on cell phone?

10 A Yes.

11 Q Do -- what did you do with that information?

12 A That's information that's given to us generally
13 during the briefing. We file it away in the back of our head.
14 We're going to walk that way and see if we can find evidence,
15 but for us we're concerned with the forensic aspects and the
16 scene. So any information that can help us find evidence we'll
17 gladly listen to and file it away, but it doesn't necessarily
18 change anything that we do.

19 Q In this specific case do you recall doing anything
20 with that piece of information?

21 A On this scene we were looking for several different
22 types of evidence that we were hoping to find. So we actually
23 did a search that was incredibly large. It went in all
24 directions around the Building 21 and around that entrance. So
25 it would have been covered within that to see if we could find

1 any more footwear or if we could find a cell phone, if it
2 looked like something was altered, which is when we came across
3 a car that had some damage to it, but we don't do anything
4 necessarily because of one piece of information. We're always
5 searching the scene for additional evidence.

6 Q Understood. Do you recall giving that piece of
7 information to any detective in this case?

8 A That information was given to us.

9 Q Okay. But you then did not relay that information to
10 anyone else?

11 A They should have been there when it was relayed to
12 us.

13 MS. TRUJILLO: Okay. Thank you.

14 No further questions.

15 THE COURT: All right. Any redirect?

16 MR. GIORDANI: No, Your Honor.

17 THE COURT: Any juror questions for the witness?

18 All right. I see no additional questions.

19 Thank you for your testimony. Please don't discuss
20 your testimony with anyone else who may be a witness in the
21 case. Thank you. And you are excused.

22 And the State may call its next witness.

23 MR. DICKERSON: The State calls Erik Tufteland.

24 THE MARSHAL: What was the last name?

25 MR. DICKERSON: Tufteland.

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ERIK TUFTELAND

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

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

THE WITNESS: My name is Erik. First name is
E-r-i-k. And my last name is Tufteland, and that's T-u-f, as
in Frank, t-e-l-a-n-d.

THE COURT: All right. Thank you.
You may proceed.

MR. DICKERSON: Thank you, Your Honor.

/ / /

DIRECT EXAMINATION

BY MR. DICKERSON:

Q What do you do for a living, sir?

A I'm employed as a crime scene analyst, the senior
level.

Q And how long have you been employed as a crime scene
analyst?

A Just almost six years now.

Q Okay. And that's with the Las Vegas Metropolitan
Police Department?

A That's correct.

Q What's your training experience to hold that
particular position?

1 A Oh, I have a Bachelor's of History from UNLV which
2 allowed me to enter into the Crime Scene Analyst Academy. I
3 completed the academy, and then I went on to complete the
4 field-training program that was after that. They were both
5 about 13 weeks long. In addition, all crime scene analysts
6 have hundreds of hours of additional training in different
7 disciplines of crime scenes whether it's fingerprint
8 processing, shooting reconstructions, bloodstain documentation,
9 post-bomb blast investigations and so on. And then basically
10 at this point now in my career, I've approximately processed
11 around 1600 crime scenes.

12 Q Okay. I want to draw your attention to March 20th,
13 2017, around approximately 9:26 in the morning. Were you
14 working at that time?

15 A Yes, I was.

16 Q And were you called upon to assist homicide
17 detectives with a search warrant?

18 A Yes, I was.

19 Q Specifically was that at 6828 Rosinwood Street?

20 A Yes, I was.

21 Q An address that you learned had been associated with
22 the name -- who by the name Anthony Carter; is that correct?

23 A I don't know if I knew of any known individual at
24 that address; that's not terribly something that has a big
25 impact on sweeps. We respond to wherever when asked.

1 Q Okay. Ultimately during your processing of that
2 particular address you find items belonging to Anthony Carter
3 including his Nevada ID; right?

4 A That's true, yes.

5 Q Okay. When you arrived at that scene, had entry
6 already been made by Las Vegas Metropolitan Police Department
7 officers?

8 A Yes.

9 Q And including the SWAT team?

10 A Yes.

11 Q So then you come in and you document that particular
12 residence and what's inside as well as what's outside?

13 A Yes, and in addition to that, as it is upon my
14 arrival.

15 Q Okay. So some of the things that we may end up
16 seeing here are things that were done by the SWAT officers --

17 A Yes.

18 Q -- like damage to particular things including garage
19 doors?

20 A Oh, yes.

21 Q Okay. When you arrived on that scene, were you the
22 only crime scene analyst?

23 A At that particular scene, yes.

24 Q Okay. And what was your process for actually
25 addressing that scene?

1 A Well, upon my arrival I'll meet with the
2 investigating detectives that have authority at that scene
3 which would be homicide detectives and their sergeant. I
4 discuss with them kind of the ins and outs of the case and
5 basically what they expect to find there and what they need
6 from me.

7 Q Okay. And then do you end up taking photographs and
8 documenting the scene as you find it?

9 A Yes.

10 Q And you took photographs of this particular residence
11 6828 Rosinwood?

12 A Yeah, I think I took about 235 photographs.

13 Q Okay. And we're going to look at some of those
14 today.

15 MR. DICKERSON: May I have permission to publish,
16 Your Honor.

17 THE COURT: Sure, as long as it's admitted.

18 MR. DICKERSON: Yes, Your Honor, all of these
19 exhibits have been admitted by stipulation.

20 BY MR. DICKERSON:

21 Q I'm going to first show you State's Exhibit 240. Do
22 you recognize what we're looking at there?

23 A Yes, I do.

24 Q And what is that?

25 A That's what we call an overall photograph basically

1 showing just the front of the residence.

2 Q State's 241, what is this?

3 A This is a photograph showing the corner of the
4 driveway front yard area. And then there's an address marker
5 at the top of the photo.

6 Q Is that 6828?

7 A Correct.

8 Q There's also some items down there at the bottom?

9 A Yes.

10 Q I'm going to show you State's 242, is that a
11 photograph of those items?

12 A Yes.

13 Q And these particular items were just outside when you
14 arrived; is that right?

15 A Yes, that's correct. All of the notes I take and all
16 of the photographs I take are of my observations as I see them
17 upon my arrival.

18 Q Okay.

19 A So that's how that was upon my arrival.

20 Q And what are we seeing there?

21 A This is a pair of shoes, a cell phone, a cigarette
22 lighter, and a pack of cigarettes.

23 Q Showing you 243; what are we seeing here, sir?

24 A This is the backside of a cell phone.

25 Q Okay. And is that that cell phone that was out there

1 in the grass?

2 A Yes.

3 Q Now, we talked about the SWAT team being there at the
4 scene; is that right?

5 A Yes.

6 Q Prior to your arrival?

7 A Yes, thankfully.

8 Q Can I show you here 244, what is it were seeing
9 there?

10 A This is the rolling garage door leading from the
11 driveway into the garage.

12 Q Okay. And it looks like there's a hole cut out?

13 A Yes.

14 Q Is that something that SWAT would have done?

15 A Yes.

16 Q Okay. And the inside of that, 245, is that what
17 we're seeing here?

18 A That's correct.

19 Q 246, what is that?

20 A This is a shot from that -- in that entryway of the
21 damaged garage door looking in towards the interior of the
22 garage.

23 Q And then 247?

24 A This is back outside by the front walkway, going
25 towards the front door of the residence.

1 Q And 248?

2 A This is a shot showing the interior of the residence
3 from that doorway.

4 Q 249?

5 A This is a shot of a sofa in the living room.

6 Q And that's on the couch; is that right?

7 A I'm sorry?

8 Q And that's on the couch; is that correct?

9 A What's on the couch?

10 Q The cell phone?

11 A Yeah, I don't think I said cell phone yet.

12 UNIDENTIFIED SPEAKER: He said sofa.

13 BY MR. DICKERSON:

14 Q Oh, sofa, I apologize.

15 A I said -- yeah, I'm sorry, I said sofa.

16 Q Sofa. All right. I'm showing you here 250?

17 A Yeah, this is a close-up picture of the base of the
18 sofa with a cell phone.

19 Q This was a two-story house; is that correct?

20 A Yes. That's correct.

21 Q Ultimately you go upstairs?

22 A Yes.

23 Q Showing you 251, what is it we're seeing here?

24 A This is an overall picture from the corner of the
25 upstairs loft.

1 Q And 252?

2 A This is a different picture showing the stairway and
3 then going towards the north bedroom otherwise known as bedroom
4 Number 1.

5 Q 253?

6 A This is a shot of the -- from the corner looking in
7 towards the bedroom towards the north.

8 Q Is that from the doorway of the doorway we just saw
9 on the last photograph?

10 A Yeah, it's from the doorway or beside the doorway,
11 but, yeah, from the general vicinity of the doorway.

12 Q Show you here of just in this photograph we see a bed
13 in the middle; is that correct?

14 A Yeah, that's at the north wall.

15 Q And then in this particular photograph, can you just
16 point out any items of furniture that become relevant to your
17 particular search in that room.

18 A Yeah. Directly ahead you can see there's a
19 nightstand that I refer to as the west nightstand. There's two
20 bed -- there's two nightstands at the bed, a west and then
21 east.

22 Q So this would be the west nightstand?

23 A That's correct, yeah.

24 Q And this would be the east nightstand?

25 A Yes.

1 Q And then over here is this a dresser?

2 A Yes.

3 Q I want to show you 269; what are we seeing here, sir?

4 A This is another corner of the bedroom. This would be
5 the southeast corner where we see a love seat underneath the
6 window and a small desk area and then a small hallway leading
7 towards the bathroom and closet.

8 Q Showing you 254, what is it we're seeing here?

9 A This is the northeast corner of the bedroom that
10 shows partially the bed, a small white plastic bag. There's
11 the east nightstand and east dresser.

12 Q And ultimately on that east nightstand right here,
13 were there some items of interest that were located?

14 A Yeah, that's the east dresser.

15 Q Oh, I'm sorry the east dresser. Yes.

16 A Yeah.

17 Q This right here the east dresser?

18 A So the east dresser had -- you can see there's
19 numerous piles of clothing there and then, yes, there was a
20 Nevada driver's license on that east dresser.

21 Q I'm going to show you State's Exhibit 273. What is
22 it that we're seeing here?

23 A That's a Nevada driver's license -- oh, I'm sorry,
24 this is a Nevada identification card.

25 Q It's okay. For Mr. Anthony Carter?

1 A Yes.

2 Q And is this the item the Nevada identification card
3 that was found on that east dresser?

4 A Yes.

5 Q And going back to 254, and then this other item here,
6 this piece of furniture, that's the east nightstand; is that
7 right?

8 A That's correct.

9 Q Showing you 255, what is it we're seeing here?

10 A This is a closer photograph of the east nightstand.

11 Q And what is it we're seeing on that particular
12 nightstand?

13 A On top of the nightstand is -- there are two cell
14 phones and a cell phone box.

15 Q That cell phone box, does it appear to be an HTC
16 Desire?

17 A Yes.

18 Q Is that cell phone box empty?

19 A I looked -- I don't know about empty, but there was
20 no cell phone inside the box.

21 Q Understood. Showing you 257, what are you seeing
22 there?

23 A This is one of the cell phones on top of the
24 nightstand, the east nightstand.

25 Q And 258?

1 A This is the other cell phone.

2 Q That was also on that nightstand?

3 A Yes.

4 Q In addition to items that were on the nightstand,
5 were there other items found around that nightstand?

6 A Yes, there was. On the floor underneath the
7 nightstand was a Springfield pistol as well as two pistol
8 magazines -- excuse me -- and a pistol paddle holster on the
9 floor below or beside the east nightstand.

10 Q Okay.

11 A But the pistol and two magazines were underneath the
12 nightstand.

13 Q Okay. I'm going to show you here State's
14 Exhibit 270; what is that?

15 A This is a photograph showing the floor of the bedroom
16 one side removed the east -- one side moved the east nightstand
17 away.

18 Q And what do we see in this photograph?

19 A We see the black paddle holster over there to the
20 right, some US currency, two pistol magazines, a black pistol,
21 part of a white plastic bag, it looks like a lighter and
22 another plastic bag by the north wall, and it looks like part
23 of the bed.

24 Q Ultimately you impound this firearm, magazine --
25 magazines and the holster?

1 A Not the holster.

2 Q Okay.

3 A Yeah, the paddle holster we didn't collect, but the
4 pistol -- there's a pistol magazine inside the well of the
5 pistol, and the two empty pistol magazines that are on the
6 floor beside it I collected those.

7 Q Okay. The magazine that was inside of that
8 particular firearm was that also empty?

9 A Correct.

10 Q And were you able to determine the caliber of that
11 firearm when you impounded it?

12 A Yes, it was a .9mm.

13 Q What are we seeing here to the left of this
14 particular photograph?

15 A This is a white Walmart plastic bag.

16 Q And where was that located in relation to that east
17 nightstand?

18 A It's on the floor between the bed and the east
19 nightstand.

20 Q Okay. I'm going to show you here State's 259. What
21 are we seeing there?

22 A This is just another photograph of that same plastic
23 bag.

24 Q And 260?

25 A This is a closer photograph of the same plastic bag.

1 Q 261?

2 A Again, this is another closer photograph. The
3 handle's a little bit more open so you can see it has some
4 contents to it.

5 Q Okay. And what did those contents appear to be?

6 A Those contents are numerous plastic bags with
7 markings, and they contained what crime scene analysts refer to
8 as a dried green leafy substance.

9 Q Okay. Showing you here State's 262, what is it we're
10 seeing there?

11 A These are the contents of the Walmart plastic bag as
12 I described them.

13 Q That's the several bags of green leafy substance?

14 A Correct.

15 Q And then showing you 263, what is it we're seeing
16 here?

17 A This is a close-up of one of the bags.

18 Q What are we seeing there at the bottom of the bag?

19 A It's -- it appears to be handwriting and a black
20 marker.

21 Q And did you also document that handwriting?

22 A I documented the writing.

23 Q The writing?

24 A Yes.

25 Q And what does it say?

1 A It's kind of tricky from here, but it looks like -- I
2 believe it's Jager, J-a-g-e-r.

3 Q Do you recall documenting it as Jack H?

4 A Oh, okay, yes, I do.

5 THE COURT: There's also it on the monitor there if
6 that's --

7 THE WITNESS: Oh, this isn't on.

8 THE COURT: Oh, it's not on?

9 THE WITNESS: It's not on.

10 MR. DICKERSON: It was on.

11 THE COURT: I wondered why nobody was looking at the
12 monitor.

13 THE WITNESS: Yeah.

14 THE COURT: Counsel, how much more do you have?

15 MR. DICKERSON: Probably about five minutes.

16 THE COURT: We're going to finish up with this
17 witness and then I believe take our lunch break.

18 MR. DICKERSON: Thank you, Your Honor.

19 BY MR. DICKERSON:

20 Q There's also a number on there; is that right?

21 THE COURT: Well, counsel approach for a moment.

22 (Conference at the bench not recorded.)

23 THE COURT: Ladies and gentlemen, we're just going to
24 take a quick break, just 10 minutes, put us at 12:10. We'll
25 finish up with this witness. I believe there's one other

1 witness, and then we'll take our lunch break. So just quick 10
2 minute break.

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

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

12 And, sir, do not discuss your testimony with anyone
13 during the break.

14 THE WITNESS: Yes, Your Honor.

15 (Proceedings recessed 12:01 p.m. to 12:14 p.m.)

16 (In the presence of the jury)

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

18 And, Mr. Dickerson, you may resume your direct
19 examination of the witness.

20 MR. DICKERSON: Thank you, Your Honor.

21 BY MR. DICKERSON:

22 Q This particular bag of what you described as a green
23 leafy substance, it also had a number on it; correct?

24 A Yes.

25 Q And that's 113?

1 A Yes.

2 Q Ultimately you impounded and weighed this particular
3 bag; is that right?

4 A Yes, I did.

5 Q And you determined it weighed 121.2 grams?

6 A Yes.

7 Q Is that with the bag?

8 A Correct.

9 Q Okay. Showing you here State's Exhibit 264, what is
10 it we're seeing here?

11 A These are two more bags that were out of the Walmart
12 bag.

13 Q And what do these appear to be?

14 A These are similar, these are containing what we call
15 the dried green leafy substance.

16 Q These bags also have markings on them; is that
17 correct?

18 A Yes.

19 Q Both of them being Liberty Bell 113?

20 A Yes, and like a little star icon or something.

21 Q Ultimately you also impounded both of these bags; is
22 that correct?

23 A Yes.

24 Q And weighed both of these bags?

25 A Yes.

1 Q The dried green leafy substance as you described it
2 and the bag itself; correct?

3 A Correct.

4 Q One of them weighing 122.4 grams; is that correct?

5 A Yes.

6 Q And the other one 121.1 grams?

7 A Yes.

8 Q Showing you here State's Exhibit 265, what is it
9 we're seeing here?

10 A This is another large bag containing a dried green
11 leafy substance that was from the Walmart bag.

12 Q And this also had a marking on it; correct?

13 A Yes, it did.

14 Q And you documented that as well?

15 A Yes.

16 Q And that was J-a-g-e-r 2lbs and then 926 plus?

17 A Correct.

18 Q And is this 926 plus at the end of that?

19 A Correct.

20 Q You weighed this bag as well?

21 A Yes.

22 Q And you weighed that with the green leafy substance
23 in the bag?

24 A Correct.

25 Q You ultimately determined that that weighed

1 350.7 grams?

2 A Yes.

3 Q I'm showing you here again, not the same exhibit, but
4 the same thing 272, this is the .9mm firearm; correct?

5 A Yes. That's correct.

6 Q Showing you the magazine that was inside?

7 A Correct.

8 Q Empty?

9 A Yes. The -- both the firearm and the magazine were
10 empty. There's no cartridge in the chamber of the firearm.

11 Q Okay. I'm going to show you 253 again. Here we're
12 seeing that what you've described as the west nightstand; is
13 that right?

14 A Yes.

15 Q You also looked at that particular nightstand?

16 A Yes, myself and homicide detectives performing a
17 search warrant, yes.

18 Q So you're performing the search warrant, executing
19 the search warrant and the search in conjunction with the
20 homicide detectives?

21 A Yeah, the search warrant is their, like, authority.
22 It's their responsibility. It's really -- it's their search.
23 I'm there to document the items they find in the condition in
24 which the search is conducted. So it's their search; I
25 document it.

1 Q Understood. Showing you here State's 256, what is it
2 we're seeing here?

3 A This is a close-up of the top drawer of that west
4 nightstand.

5 Q It appears that we also see a small bag of green
6 leafy substance here?

7 A Yes. That's correct.

8 Q And then zoom in there. What is it that we're seeing
9 there?

10 A This is the label of a prescription bottle.

11 Q Are you able to read the name on that?

12 A Yes, the name is Tiffany Carter.

13 Q Okay. In addition to that you documented some empty
14 jars; is that right?

15 A (No audible response.)

16 Q And this is going to be State's Exhibit 266.

17 A Yes.

18 Q And where were those located?

19 A These were also in the north bedroom, the same
20 bedroom.

21 Q Okay.

22 MR. DICKERSON: State will pass the witness.

23 THE COURT: All right. Cross?

24 MR. STORMS: Thank you, Judge.

25 CROSS-EXAMINATION

1 BY MR. STORMS:

2 Q Mr. Tufteland, why did you document those Mason jars?

3 A Because they were there and a lot of times when we
4 come across items that we believe may or may not be narcotics,
5 we'll look for other items that may be used in conjunction a
6 lot of times with narcotics, such as glass Mason jars, digital
7 scales, numerous plastic baggies, these kinds of things
8 basically referred to as paraphernalia.

9 Q They would suggest taking those larger bags of
10 marijuana and putting them in smaller items for transport or
11 containment or whatnot?

12 A Possibly.

13 Q Okay. You mentioned earlier that this was a search
14 done by homicide?

15 A Correct.

16 Q And so you had homicide detectives doing the actual
17 physical search; right?

18 A Right. The search -- they're primarily responsible
19 for the search, and a lot of times I'll assist searching, but
20 my primary focus and responsibility is documenting the scene
21 through my notes and photographs --

22 Q Uh-huh.

23 A -- so I'm quite busy myself.

24 Q So the search is being conducted by -- in this case
25 there was a number of homicide detectives; correct?

1 A I believe there was two with me and their sergeant,
2 and then I had several what we call patrol detectives who are
3 localized to the area command of the region that we're in of
4 the valley. From -- so this is in the northwest. So we had
5 northwest patrol detectives out as well.

6 Q Okay. You weren't -- so there are people searching
7 the house all at the same time essentially, different rooms?

8 A Yes.

9 Q Okay. And you're documenting and then retaining and
10 properly preserving whatever evidence you're directed to
11 preserve?

12 A Yes.

13 Q Or what you think or see as something that would be
14 of evidentiary value based upon that briefing that you talked
15 about getting earlier at the beginning of the execution of the
16 search warrant?

17 A Correct.

18 Q Okay. I'm going to show you what's been previously
19 marked as State's Exhibit 241.

20 Zoom out here.

21 These were a pair shoes that were found -- they were
22 outside the house whenever you arrived at the property?

23 A That's correct.

24 Q Did you -- you did not retain those as evidence?

25 A No, I did not.

1 Q Okay. And then when we -- when we talk about that
2 bedroom where a lot of this evidence was found, there was an
3 identification card that was on a dresser; right?

4 A Correct.

5 Q And then there was also those bags of marijuana on
6 the same side of the bed as that identification card; is that
7 fair to say?

8 A Yes, but again I can't refer to them as marijuana
9 myself.

10 Q Of course. The green leafy substance, excuse me.

11 A Dried green leafy substance.

12 Q Dried. I forgot. Dried green leafy substance.

13 A And I'm sorry what was the question?

14 Q That those were found on the same side as the bed as
15 that dresser that had the identification card?

16 A Four of the bags were.

17 Q Uh-huh.

18 A Yeah, the four that were marked with a black marker,
19 you mean?

20 Q That's correct. That's --

21 A Those were all from, yeah, the bag beside the east
22 nightstand?

23 Q Yes.

24 A Yeah. And there was one bag from the west
25 nightstand.

1 Q That's right. I'm talking about the larger bags,
2 excuse me.

3 A Okay. Yeah, so all the larger bags were from the
4 east side, yes.

5 Q And then that handgun that you talked about was also
6 under that nightstand that those larger bags of marijuana were
7 next to?

8 A That's correct.

9 Q Thank you. No, more questions.

10 THE COURT: All right. Any redirect?

11 MR. DICKERSON: No, Your Honor.

12 THE COURT: Any juror questions for the witness? All
13 right. I'll see counsel at the bench, please.

14 (Conference at the bench not recorded)

15 MR. DICKERSON: Okay to provide him this?

16 THE COURT: Oh, sure.

17 MR. DICKERSON: Providing the witness State's
18 Exhibit 273.

19 THE COURT: All right. And then you might need to
20 reference that.

21 What was the weight and height of Anthony Carter as
22 shown in the driver's license image that Mr. Dickerson put in
23 front of you?

24 THE WITNESS: So according to the identification card
25 for Anthony Carter the height is listed as 6 feet 1 inches and

1 the weight is listed as 217 pounds.

2 THE COURT: All right. Thank you.

3 Were their clothes documented at the residence?

4 THE WITNESS: No.

5 THE COURT: And another juror asks, why didn't you
6 pick up the shoes for testing?

7 THE WITNESS: I'm not sure what testing they're
8 referring to. But testing in general, had homicide detectives
9 deemed that those shoes were important or critical to the case,
10 they would have been collected by me, photographed further and
11 impounded. However in this case, a lot of times when we have
12 search warrants, the homicide detectives know what they're
13 looking for. If they know they're looking for shoes, we'll
14 know what type of pattern on the bottom or the outsole that
15 we're looking for, kind of like the weight, the color, the size
16 of the [indiscernible]. And so in this case they determined
17 that these shoes and other shoes and other clothing on the
18 scene wasn't relevant and wasn't worth collecting. There was
19 no need, no evidentiary value to any clothing that we located
20 at the residence.

21 THE COURT: So is it fair to say, had you been
22 directed to impound the shoes you would have?

23 THE WITNESS: Absolutely.

24 THE COURT: Follow-up by the State?

25 MR. DICKERSON: No, Your Honor.

1 THE COURT: Follow-up by the defense?

2 FOLLOW-UP EXAMINATION

3 BY MR. STORMS:

4 Q We were just discussing that the -- just now the
5 detectives didn't think it had evidentiary value or words to
6 that effect, do you understand what I'm talking about here?

7 A Yes.

8 Q Is this something that they told you specifically, or
9 is this -- you're just explaining what you understand to be
10 their process?

11 A No, I'm explaining what I understand to be their
12 process --

13 Q Okay.

14 A -- they didn't -- I don't recall any specific
15 conversations regarding clothing --

16 Q Okay.

17 A -- or these shoes in particular.

18 Q Okay. So you're -- so you didn't have a discussion
19 about clothing or shoes with the detectives?

20 A Not that I recall.

21 Q You have the ability to make your decisions about
22 what things to impound at a scene?

23 A Absolutely. If there's things that I believe are
24 important, I'll -- we have frequent discussions throughout the
25 time that we're with homicide detectives or any search warrant;

1 it doesn't have to be homicide detectives, that I feel is
2 important or this should be collected this particular item or
3 not. I have full rein to collect the item if I need to. If
4 the detectives feel it's important and needs to be collected,
5 we'll have that discussion, but at the end of the day I'm going
6 to go along with them and collect what they believe should be
7 collected.

8 Q So you're going -- you're collecting evidence or
9 looking for evidence based upon what the detectives tell you
10 when you get on the scene and they're saying here's the
11 situation in this case; fair to say?

12 A Yes, that's fair to say because what happens a lot of
13 times is that I may come in this particular case to a follow-up
14 on a search warrant where I wasn't at the original scene --

15 Q Uh-huh.

16 A -- you know, another analyst was so I have no
17 firsthand knowledge or previous knowledge of the event or
18 frankly any details of the case.

19 Q And that was the situation here?

20 A That's correct.

21 MR. STORMS: Thank you.

22 THE COURT: Any follow-up?

23 FOLLOW-UP EXAMINATION

24 BY MR. DICKERSON:

25 Q Fair to say, yeah, Anthony Carter wasn't on scene

1 when you arrived; correct?

2 A Not to my knowledge.

3 Q Okay. And so you don't know if those were Tiffany
4 Carter's shoes?

5 A I have no idea.

6 Q Okay.

7 MR. DICKERSON: Nothing further.

8 THE COURT: Anything else, Mr. Storm?

9 FOLLOW-UP EXAMINATION

10 BY MR. STORMS:

11 Q That was Anthony Carter's house though; correct?

12 A I don't know that. That's not knowledge that I know.

13 Q You did -- you found his identification card in the
14 bedroom of that house; correct?

15 A That's correct.

16 MR. STORMS: Okay. Thank you.

17 THE COURT: Anything else, State?

18 MR. DICKERSON: Nothing further.

19 THE COURT: Any additional juror questions?

20 Oh, counsel approach.

21 (Conference at the bench not recorded)

22 THE COURT: All right. We have a juror question
23 here.

24 Were shoe prints taken or anything like that?

25 THE WITNESS: I -- I'm not sure that means -- like,

1 you mean of --

2 THE COURT: Well, did you examine -- let me -- I
3 mean, did you document any shoe prints?

4 THE WITNESS: At the residence?

5 THE COURT: Right.

6 THE WITNESS: No.

7 THE COURT: Did you look at any of the shoes and
8 photograph the soles to, you know, get the tread or to look at
9 what the soles look like --

10 THE WITNESS: No.

11 THE COURT: -- of any of the shoes there?

12 THE WITNESS: No, at search warrants, CSAs are, like,
13 incredibly busy because I have five detectives and a sergeant
14 going through an entire residence, the backyard, the front
15 yard, the garage, attics, pulling everything out for me to
16 document and note. And so unless it gets to a point where
17 unless they were bringing me things, like, pointing things out
18 to me that we need photos of this, then, no, I'm not actively
19 going through closets and photographing all sides of every
20 piece of footwear I find or every article of clothing I come
21 across, no.

22 THE COURT: Okay. And at this particular search
23 warrant none of the detectives asked you to do that; is that
24 fair to say?

25 THE WITNESS: That's correct. Yes, Your Honor.

1 THE COURT: Okay. State, follow-up?

2 MR. DICKERSON: No, Your Honor.

3 THE COURT: Defense, follow-up?

4 MR. STORMS: No, thank you.

5 THE COURT: All right. Sir, thank you for your
6 testimony. Please do not discuss your testimony with anybody
7 else who may be a witness in this case.

8 THE WITNESS: Okay. Thank you, Your Honor.

9 THE COURT: Thank you, and you are excused.

10 And the State may call its next witness.

11 MR. GIORDANI: Moretta McIntyre.

12 **MORETTA MCINTYRE**

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

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

17 THE WITNESS: Moretta McIntyre. M-o-r-e-t-t-a,
18 M-c-I-n-t-y-r-e.

19 THE COURT: All right. Thank you.

20 Mr. Giordani, you may proceed.

21 DIRECT EXAMINATION

22 BY MR. GIORDANI:

23 Q Good afternoon, ma'am. What do you do for a living?

24 A I am currently employed as a crime scene analyst
25 supervisor with the Las Vegas Metropolitan Police Department.

1 Q And the jury's heard from several crime scene
2 analysts already, and we won't belabor the point. Does a crime
3 scene analyst supervisor do the same things essentially that a
4 crime scene analyst does?

5 A No, we have a little bit different of a job.

6 Q Okay. Go ahead.

7 A We supervise the crime scene analysts.

8 Q I want to bring you back to -- excuse me, March
9 20th of 2017; at that time were you a crime scene analyst?

10 A Yes, I was.

11 MR. GIORDANI: And, Your Honor, by stipulation I
12 believe we're going to admit 274 through 281.

13 MS. TRUJILLO: That's correct.

14 THE COURT: All right. Those will be admitted at
15 this time, 274 through 281.

16 (State's Exhibit Nos. 274-281 admitted.)

17 MR. GIORDANI: Thank you.

18 BY MR. GIORDANI:

19 Q Ma'am, back on that date did you respond to what I'm
20 going to refer to as three different scenes?

21 A Yes, I did.

22 Q In the course of a single investigation under LVMPD
23 event number 1702214563?

24 A That is correct.

25 Q Did you respond to all of those three scenes on the

1 same day?

2 A Yes, I did.

3 Q I want to kinda go in reverse order for a second.
4 Did you respond to Las Vegas Metropolitan Police Department
5 headquarters later in the day?

6 A Yes, I did.

7 Q And did you document a person by the name of Anthony
8 Carter?

9 A Yes, I did.

10 Q State's 274, is that Mr. Carter?

11 A Yes.

12 Q State's 275, what are we looking at here?

13 A This is a view of the bottom sole of his right shoe.

14 Q State's 276, what are we looking at here?

15 A This is a view of the left -- the sole of the left
16 shoe.

17 Q State's 277, what are we looking at here?

18 A This is a view of his back including a photo of a
19 tattoo that is on his back.

20 Q And what does that tattoo appear to say?

21 A Poke.

22 Q Did he have -- Mr. Carter have US currency on him?

23 A He did not have it on him. There was a wad of cash
24 that was in the room with him.

25 Q Okay. Presumably -- well, it's not the detectives'

1 cash I would presume?

2 A Correct.

3 Q So would that have been removed potentially from
4 Mr. Carter's person?

5 A I believe it was.

6 Q 278, is that a wad of cash?

7 A Yes.

8 Q Did he also have a cell phone on him, ma'am?

9 A Yes, he did.

10 Q State's 281, is that what we're looking at here?

11 A Yes.

12 Q Did you also respond to document two separate search
13 warrants that were executed on two separate residences?

14 A Yes, I did.

15 MR. GIORDANI: Start with 5850 Sky Pointe
16 Number 2003.

17 Your Honor, by stipulation we're going to move to
18 admit 217 through 239.

19 MS. TRUJILLO: That's correct.

20 THE COURT: All right. Those will all be admitted at
21 this time.

22 (State's Exhibit Nos. 217-239 admitted.)

23 BY MR. GIORDANI:

24 Q At 5850 Sky Pointe that's an apartment complex?

25 A That is.

1 Q And you responded to Apartment 2003?
2 A Yes, I did.
3 Q To your knowledge did SWAT execute that warrant
4 before your arrival?
5 A Yes.
6 Q State's 217, is that the front door of 2003?
7 A I believe it is, yes.
8 Q State's 218, is that that same front door?
9 A Yes.
10 Q Significant damage to the door?
11 A Yes.
12 Q State's 220, is that the door from the inside?
13 A Yes, that is.
14 Q And you can see 2003 on the top there?
15 A Correct.
16 Q State's 221, what are we looking at here?
17 A This is a view from the -- or from the corner of the
18 living room -- of the living room, excuse me.
19 Q Is there a outdoor patio associated with this
20 apartment?
21 A Yes, there is.
22 Q And did you proceed on to that patio?
23 A Yes, I did.
24 Q 222, what are we looking at here?
25 A This is a view from the corner of the patio looking

1 towards a storage shed.

2 Q And 223, what are we looking at here?

3 A This is a view of a cell phone that was on the ground
4 of that patio.

5 Q State's 224, back inside the living room now?

6 A Yes.

7 Q State's 225, what are we looking at here?

8 A This is a view of a cell phone that was on that
9 entertainment center.

10 Q State's 226, what are we looking at here?

11 A This is a view of the kitchen or the countertop and
12 the cabinets in the kitchen.

13 Q State's 227?

14 A This is a bag containing a green leafy substance.

15 Q Dried green leafy substance?

16 A Correct.

17 Q All right. State's -- and was that on the kitchen
18 counter?

19 A That is.

20 Q What's this back here? Supreme Weigh?

21 A That was a digital scale that was also on the
22 counter.

23 Q State's 228, what are we looking at here?

24 A This is a view of a plastic knotted -- I'm sorry,
25 piece of plastic that's knotted that is also containing the

1 dried green leafy substance.

2 Q And inside the ashtray those little roaches?

3 A Yes.

4 Q Excuse me. State's 229, what are we looking at here?

5 A This is a view inside of a cabinet with a jar
6 containing a green leafy substance.

7 Q State's 230?

8 A Again, just more views of a cabinet containing jar
9 and what appeared to be narcotics paraphernalia.

10 Q State's 231, where are we here?

11 A This is the floor of the sofa -- I'm sorry, the floor
12 of the living room after the sofa was removed.

13 Q And is there another cell phone that you documented
14 there?

15 A That is correct.

16 Q State's 232, is that that same scale that was on the
17 kitchen counter?

18 A Yes.

19 Q State's 233, is that the same scale that opened up?

20 A Correct.

21 Q With apparent dried green leafy substance on it?

22 A Yes.

23 Q State's 234, what are we looking at here, ma'am?

24 A This is the inside of a box containing two cell
25 phones.

1 Q State's 235, what are we looking at here?

2 A This was a view of the drawer in the kitchen
3 containing I believe two cell phones; it's hard to see.

4 Q Okay. State's 236, what are we looking at here?

5 A This is paperwork that was on the dining room table
6 in a wallet.

7 Q State's -- excuse me, 237, was that one of those
8 items of paperwork?

9 A That is correct.

10 Q With the name Carnell Cave and the 5850 Sky Pointe
11 address on it?

12 A Yes.

13 Q State's 238, is that Mr. Carnell Cave?

14 A Yes.

15 Q As he appeared when SWAT busted his door in?

16 A It's how he appeared when I saw him that day.

17 Q Okay. State's 239, is that Mr. Cave from behind?

18 A Yes.

19 Q As to both the individuals we just discussed,
20 Mr. Carnell Cave and Mr. Anthony Carter, did you obtain buccal
21 swabs from both of those individuals?

22 A Yes, I did.

23 Q And were those impounded under event 1702214563?

24 A That is correct.

25 Q I now want to bring you to the third and final scene

1 I guess you responded to that day, 2520 Sierra Bello.

2 MR. GIORDANI: Do you want to approach real quick?

3 Can we approach, Judge?

4 THE COURT: Sure.

5 (Conference at the bench not recorded)

6 BY MR. GIORDANI:

7 Q All right, ma'am, let me place these back in order
8 and I'm going to show you --

9 THE COURT: Sorry about that.

10 MR. GIORDANI: That's all right.

11 THE COURT: Pick on the one who messed them up.

12 MR. GIORDANI: That's all right.

13 Okay. Those should be in order. And I'm showing the
14 witness State's 172 through 216.

15 BY MR. GIORDANI:

16 Q Can you glance through those, please.

17 A (Witness complies.)

18 Q Do you recognize all those, ma'am?

19 A Yes, I do.

20 Q Are those all fair and accurate depictions of the
21 photographs of 2520 Sierra Bello Avenue, Number 103 that you
22 documented on that particular day?

23 A Yes, they are.

24 MR. GIORDANI: I move for the admission of all those,
25 Your Honor.

1 THE COURT: All right. Those will be admitted at
2 this time.

3 (State's Exhibit Nos. 172-216 admitted.)

4 MS. TRUJILLO: Over this objection.

5 THE COURT: Right. Subject to the record.

6 BY MR. GIORDANI:

7 Q Showing you State's 172, what are we looking at here?

8 A This is a front view of the townhouse that I
9 responded to at that address.

10 Q And the townhouse would be Number 103, the one on the
11 left?

12 A That is correct.

13 Q So that's basically an adjoining home with the one on
14 the right?

15 A Yes.

16 Q And the subject is the one on the left?

17 A Correct.

18 Q Was there a vehicle in the driveway?

19 A Yes, there was.

20 Q State's 173, what is that?

21 A That is the vehicle; it's a white Jeep Compass.

22 Q It's a midsize SUV?

23 A Yes.

24 Q State's 174, did it have a plate on the back?

25 A Yes, it did.

1 Q And what are we looking at there?

2 A 385AUE Nevada.

3 Q State's 175, what are we looking at here?

4 A This is a view of a piece of -- connected lanyard
5 with keys on it.

6 Q And for the jurors who may not know, is that in
7 Atlanta Falcons emblem?

8 A Yes.

9 Q State's 176, what are we looking at here?

10 A This is a view inside the vehicle, and there is a
11 lanyard hanging from the rearview mirror of that vehicle.

12 Q Okay. Is that also an Atlanta Falcons lanyard?

13 A Yes, it is.

14 Q Did it appear to be the other portion of what was on
15 the keys?

16 A Yes, it did.

17 Q In the background here a couple of our esteemed
18 homicide detectives?

19 A Yes.

20 Q And then is that Angelisa Ryder in the far back?

21 A Yes.

22 Q Showing you State's 177, what are we looking at here?

23 A This is a view of the front door and the damage to
24 the front door.

25 Q And was that caused by SWAT's entry to this location

1 as well?

2 A Yes, it was.

3 Q State's 178, what are we looking at here?

4 A This is a view from the living room looking towards
5 the kitchen area.

6 Q On the dining table there -- is there another Atlanta
7 Falcons, it looks like a bucket?

8 A I'm sorry, I can't really see it in this.

9 Q Oh, let me zoom in, I apologize.

10 A It's okay.

11 Q Do you see that?

12 A Yes, I do.

13 Q Did you enter into the garage?

14 A Yes, I did.

15 Q State's 179, is that the overall shot of the garage?

16 A Yes.

17 Q Did you find items of potential evidentiary value
18 within the garage?

19 A Yes, I did.

20 Q And I'm going to start with -- I'm just going to
21 go -- State's 180, was there something of potential evidentiary
22 value in those buckets there?

23 A Yes, there was.

24 Q State's 181, is that the inside of one of those
25 buckets?

1 A That is correct.

2 Q And what are we looking at here?

3 A There is some packaging and the dried green leafy
4 substance.

5 Q State's 182, what are we looking at here?

6 A This is a box on the floor of the garage containing a
7 cell phone.

8 Q State's 183, what are we looking at here?

9 A This is a photo of a digital scale that was on a
10 table in the garage.

11 Q State's 184, what are we looking at here, this black
12 bag here?

13 A Yes. There was a black bag on the floor containing a
14 laptop.

15 Q State's 185, is that just documenting what's inside
16 the bag?

17 A Yes.

18 Q State's 186, what are we looking at here?

19 A There's -- there was various items on the floor, but
20 in particular there was a pair of running black shoes on the
21 floor.

22 Q Okay. State's 187, is that those shoes?

23 A Yes.

24 Q State's 188, is that those shoes again, but showing
25 the tread wear?

1 A Yes.

2 Q And let me show you State's 189 --

3 A This is --

4 Q -- is that those shoes again?

5 A Yes.

6 Q With the V-like tread on the front?

7 A Yes.

8 Q Was there an upstairs portion of this townhouse?

9 A Yes, there was.

10 Q How many bedrooms were there?

11 A There were three bedrooms.

12 Q I'm going to start with 190, is that one of those

13 bedrooms?

14 A Yes, this is the southeast bedroom.

15 Q 191, is there another cell phone in the upper dresser

16 drawer?

17 A Yes.

18 Q State's 192, is this a different bedroom?

19 A Yes, it is. This is the southwest bedroom.

20 Q Fair to say there's blue paint on the walls here?

21 A Yes.

22 Q Within this bedroom there's a small refrigerator?

23 A That is correct.

24 Q Did you open that up?

25 A Yes, I did.

1 Q State's 193, is that that same fridge --
2 refrigerator?

3 A Yes.

4 Q State's 194, what are we looking at here?

5 A This is a view of the jars that were inside of that
6 refrigerator.

7 Q Fair to say there's writing on at least two of these
8 jars, the one on the left says 15.3 and then the other one says
9 1 zero something?

10 A That is correct.

11 Q State's 195, what are we looking at here?

12 A This is a view of the inside of the door of the
13 fridge -- of the mini refrigerator.

14 Q That thing in the center is what?

15 A Is a jar containing dried green leafy substance.

16 Q Did you remove that Coke can and find something else?

17 A I did not.

18 Q Okay. Let's go 196.

19 A Oh, I'm sorry -- yes, did open the Coke can and there
20 was a package inside.

21 Q Oh, did -- open it or just move it?

22 A (No audible response.)

23 Q Is -- well, let me go back to this. What is that --
24 what --

25 A Maybe -- maybe it was just moved, I'm sorry.

1 Q That's, okay. I want to be clear.

2 A Yeah.

3 Q We're looking at the same area here; right?

4 A That is correct, yes.

5 Q Okay. So this in 196, this little green bag of

6 seeds, would that be this little tiny green thing back here?

7 A Yes.

8 Q And I can zoom in if that helps.

9 A Yes.

10 Q 196, are those the little seeds?

11 A Correct.

12 Q 197, what are we looking at here?

13 A This is a view of the top of the mini refrigerator.

14 Q And is this a Tupperware with a red cap?

15 A That is correct.

16 Q Did you open that and document it in 198?

17 A Yes, I did.

18 Q Are those basically little roaches and marijuana

19 cigarettes?

20 A Yes.

21 Q State's 199, are we in a different room now?

22 A Yes, we are. We're in the -- this is a view of the

23 master bedroom.

24 Q State's 200, what are we looking at here?

25 A This is a view of the cell phone that was on the bed

1 in the master bedroom.

2 Q Okay. Was there a closet associated with that master
3 bedroom?

4 A Yes, there was.

5 Q Did you proceed inside?

6 A Yes, I did.

7 Q State's 201, what are we looking at here?

8 A This is a view of a shoe rack that was inside of the
9 closet.

10 Q Was your attention drawn to State's 202 a particular
11 pair of shoes?

12 A Yes.

13 Q State's 203, were those shoes removed?

14 A Correct.

15 Q State's 204, were those shoes documented?

16 A Yes.

17 Q On the bottom portion of the tread with this kind of
18 unique in V here at the toe area --

19 A Yes.

20 Q -- as well as the, I guess, the arch area?

21 A That is correct.

22 Q State's 205, what are we looking at here?

23 A This is the view of the nightstand with paperwork and
24 a card on top of it.

25 Q State's 206, is that that same card?

1 A That is correct.

2 Q And does that say Larry Brown on it?

3 A Yes.

4 Q State's 207, is that that same piece of paper, and
5 does that say Larry Brown?

6 A Yes.

7 Q And it also says under that 2520 Sierra Bello Ave?

8 A That is correct.

9 Q Did you take some of those items to impound and
10 document them further?

11 A I did.

12 Q And process them for any potential evidence?

13 A I did.

14 Q State's 208, is that the pair of shoes from the
15 garage area?

16 A That is correct.

17 Q Where is this photo taken?

18 A This was -- photo was actually taken at the CSI lab
19 when I returned back to.

20 Q State's 209, is that the left shoe?

21 A That is correct.

22 Q Do you recall the size of the shoe?

23 A I do, it was 13D.

24 Q State's 210, is that the right shoe?

25 A That is correct.

1 Q State's 211, are we back to the left shoe -- I'm
2 sorry, this is the right shoe?

3 A Yes.

4 Q What are we looking at in this photo?

5 A In this photo as I was looking over the shoe I
6 noticed some reddish-brown stains on the bottom of the shoe, so
7 those arrows are designating the areas that the reddish-brown
8 stains were observed.

9 Q State's 212, is that one of the reddish-brown stains?

10 A Yes. This is a close-up view of one of them.

11 Q State's 213 -- oops -- is that a couple more of the
12 reddish-brown stains?

13 A Yes.

14 Q State's 214, is that the other pair of shoes that was
15 found in the master closet?

16 A Yes.

17 Q Did you document the bottom of those as well?

18 A Yes.

19 Q State's 215, is that the left shoe?

20 A Yes.

21 Q State's 216, is that the right shoe?

22 A Yes.

23 Q And once again with the V tread in the front and in
24 the heel and in the arch?

25 A That is correct.

1 Q What size were those?

2 A Those were also 13D.

3 MR. GIORDANI: I'll pass the witness. Thank you very
4 much.

5 THE COURT: All right. Thank you.

6 Cross?

7 MS. TRUJILLO: Thank you.

8 CROSS-EXAMINATION

9 BY MS. TRUJILLO:

10 Q Let's talk about those three stains you found. You
11 actually tested those for blood; right?

12 A I did.

13 Q And what was -- or let's talk about with the first
14 stain; what was the result of that?

15 A That was negative.

16 Q The second stain?

17 A Negative.

18 Q The third stain?

19 A Negative.

20 Q You went to Carnell Cave's house at Apartment 2003;
21 correct?

22 A That is correct.

23 Q And that was Sky Landing Apartments?

24 A Yes.

25 Q And did you impound any shoes from his apartment?

1 A No, I did not.

2 Q Okay. You also went to Rosinwood; right?

3 A No, I did not.

4 Q You didn't go to Anthony Carter's house?

5 A No, I did not.

6 Q Okay. Are you aware whether any shoes were impounded
7 from there?

8 A I am not aware.

9 MS. TRUJILLO: That's it, Judge.

10 THE COURT: All right.

11 MS. TRUJILLO: May we approach before we take the
12 next --

13 THE COURT: Sure.

14 MR. GIORDANI: Well, I have another question
15 before --

16 MS. TRUJILLO: Oh, I apologize.

17 THE COURT: Well --okay. She, I mean, I --

18 MS. TRUJILLO: No, it's unrelated to --

19 THE COURT: Okay. All right.

20 MR. GIORDANI: Okay.

21 REDIRECT EXAMINATION

22 BY MR. GIORDANI:

23 Q And, ma'am, when Ms. Trujillo just asked you did you
24 process those, do you do what's called a presumptive test for
25 blood?

1 A Yes, I do.

2 Q What does that mean?

3 A So the test that we use is called phenolphthalein,
4 and it is looking for hemoglobin and blood, and we generally
5 get positive results if there is either hemoglobin or something
6 in a substance that might react the same as hemoglobin. We can
7 get false positives and -- but if it is negative, it's
8 generally going to be negative.

9 MR. GIORDANI: Thank you very much, ma'am.

10 I'll pass the witness.

11 THE COURT: Any follow-up?

12 MS. TRUJILLO: Nothing further. If we need --

13 THE COURT: Any juror questions for the witness?

14 No? I see no questions.

15 Counsel, approach.

16 (Conference at the bench not recorded)

17 THE COURT: All right. We have a couple of juror
18 questions up here.

19 A juror asks, does a negative test on the stain mean
20 that it is definitely not blood or that it had deteriorated to
21 the point where it couldn't be determined.

22 THE WITNESS: So when we say we're using a
23 presumptive test, that is not a confirmatory test for blood.
24 So it's basically letting us know that, you know, there might
25 be hemoglobin. Again, when I was talking about the false

1 positive, there could be that as well and a confirmatory test
2 would then be done. If it was coming back as positive, then a
3 confirmatory test for blood would be done. I don't necessarily
4 know -- what you're asking when it's saying it's deteriorated
5 to the point of that blood doesn't generally deteriorate on its
6 own. So I hope that answers that question.

7 THE COURT: All right. And then how long would
8 hemoglobin be detected? Similar question. How long would
9 hemoglobin be detectable on a shoe? How long does that last?

10 THE WITNESS: So that depends on environmental
11 factors. If that shoe has been worn multiples times, if
12 there's a potentially a long period of time between blood
13 getting on the bottom of that shoe and then it being tested at
14 a later point in time. It also could be because of the shoe --
15 the bottom of the shoe could have been potentially been cleaned
16 as well.

17 THE COURT: And then another juror asks, did the
18 footwear undergo any other testing for chemicals or other
19 materials on the tread?

20 THE WITNESS: No, we did not.

21 THE COURT: State, follow-up?

22 MR. GIORDANI: Very briefly.

23 FOLLOW-UP EXAMINATION

24 BY MR. GIORDANI:

25 Q If our murder occurred on February 21st of 2017, is

1 it fair to say you were at that residence where those shoes
2 were impounded approximately 30 days later?

3 A That is correct.

4 MR. GIORDANI: Thank you.

5 I'll pass.

6 THE COURT: Ms. Trujillo, any follow-up?

7 MS. TRUJILLO: No follow-up, Judge.

8 THE COURT: Any additional juror questions for the
9 witness? All right. I see no questions.

10 Ma'am, thank you for your testimony. Please do not
11 discuss your testimony with anyone else who may be a witness in
12 this case. And you are excused at this point.

13 THE WITNESS: Thank you.

14 THE COURT: Thank you.

15 All right. Ladies and gentlemen, we're going to go
16 ahead and take our lunch break. We'll be in recess for the
17 lunch break until 2:15, 2:15 for the lunch break.

18 During the lunch recess you're all reminded that
19 you're not to discuss the case or anything relating to the case
20 with each other or with anyone else. You're not to read, watch
21 or listen to any reports of or commentaries on the case, person
22 or subject matter relating to the case. Do not do any
23 independent research by way of the Internet or any other
24 medium. Do not visit the locations at issue, and please do not
25 form or express an opinion on the case.

1 Please leave your notepads in your chairs and follow
2 the bailiff through the double doors.

3 (Jury exiting 1:02 p.m.)

4 THE COURT: Before we break --

5 The family needs to go in the hallway.

6 Before we take our lunch break, Ms. Trujillo had
7 objected to some of the photos at the bench. Basically the
8 kind of distant shots of some of the messy areas in the
9 apartment and in the garage. The State said, no, those areas
10 were like the broader shot of where specific items and evidence
11 were located. Ms. Trujillo felt like it just gratuitously
12 showed that the defendant had a messy apartment.

13 And the Court said, no, the State as long as it's
14 specific items of evidence that were photographed and impounded
15 and/or impounded, they are allowed to show the broader location
16 within the apartment or the garage of those items. And he
17 said --

18 MS. TRUJILLO: That's correct.

19 THE COURT: -- that that does. Does that accurately
20 summarize the objections at the bench?

21 MS. TRUJILLO: Yes. The only follow-up was that I
22 said that the zoomed in pictures were sufficient to show the
23 evidentiary value of the items.

24 THE COURT: Right. And I felt like the State was
25 entitled to show the proximity with respect to other items in

1 the apartment.

2 So, Mr. Giordani, is that a fair synopsis of what the
3 State argued and what the Court's ruling was at the bench?

4 MR. GIORDANI: Yes, Your Honor.

5 THE COURT: All right. Moving on. Earlier today a
6 civil attorney got my bailiff's attention while we were all in
7 session here and relayed the following information.

8 So, Officer Hawkes, would you tell us who it was and
9 tell us what he told you.

10 THE MARSHAL: Yeah, attorney Adam Ellis, Bar
11 Number 14514, said he rode up in the elevator today with two of
12 our jurors on our panel. He overheard them stating that
13 yesterday those possible jurors were in the elevator with
14 family members of the victim and that they were speaking about
15 the case. He did not indicate details of what they were
16 stating; he just noticed that they had juror badges on and felt
17 that it was his obligation to inform us of that matter.

18 THE COURT: All right. And the defense has indicated
19 they want to inquire further of the jurors that were involved
20 in the conversation which may lead --

21 MS. TRUJILLO: As well as the civil attorney.

22 THE COURT: -- to other jurors.

23 MS. TRUJILLO: As well as the civil attorney.

24 THE COURT: All right. And then --

25 MR. STORMS: Again, Judge --

1 Officer Hawkes, did they indicate which jurors they
2 thought they were?

3 THE COURT: Yeah.

4 THE MARSHAL: I had him try to identify them from the
5 door. He said it was potentially jurors -- a combination of
6 Juror 4, 1, and 2. He doesn't know; they all seemed kind of
7 familiar to him.

8 MR. STORMS: Okay.

9 THE MARSHAL: But he said it was only two jurors.

10 MR. STORMS: Thank you.

11 THE COURT: Okay. So I guess maybe the way to do it
12 is we'll try to get a hold of the civil lawyer at defense's
13 request and either he can appear in person or he can appear
14 telephonically and tell us what exactly what he heard. And
15 then since we don't know for sure which jurors it is, we'll
16 call in those three separately and say did you ride in the
17 elevator with any of the family members yesterday, and then if
18 they say no, then that's it, but if they say, yes, what did you
19 hear, and then did you discuss that this morning with another
20 juror. And then --

21 MS. TRUJILLO: Judge, since we're calling --

22 THE COURT: -- that may open it up to other jurors
23 because if they say yes, they did ride with the family members,
24 I'm going to say, well, were any other jurors in the elevator
25 with you, and then depending on the answer we may have to call

1 in other jurors individually depending on how they answer that
2 question.

3 MS. TRUJILLO: I would just request since we're not
4 sure which ones they are that rather than, you know, give them
5 the idea, just say have you spoken with anyone who's been in a
6 courtroom rather than saying, you know, victim's family, right?

7 THE COURT: Well, I don't think they spoke with
8 anybody. Why don't I just hear did you overhear anybody
9 talking about this case when you were not in the courtroom,
10 how's that?

11 MR. GIORDANI: That's fair.

12 THE COURT: Is that better?

13 MR. GIORDANI: Yeah.

14 THE COURT: That way --

15 MS. TRUJILLO: And I'm sorry, maybe I misunderstood.
16 I thought he did say they spoke with the family.

17 THE MARSHAL: No, they were in the elevator while the
18 family members were speaking amongst themselves.

19 MS. TRUJILLO: Okay.

20 THE COURT: All right. So I'll ask generically, at
21 any point when you were not in the courtroom have you overheard
22 anyone talking about this case --

23 MS. TRUJILLO: Right.

24 MR. GIORDANI: Fair enough.

25 THE COURT: -- that way we're not identifying

1 anybody, okay.

2 MS. TRUJILLO: Okay.

3 MR. GIORDANI: Can I just -- oh, I'm sorry -- ask one
4 thing, this FBI agent flew out for the day --

5 THE COURT: Okay.

6 MR. GIORDANI: -- and he's landed at 11:00, and he's
7 been waiting. Can we put -- he has to fly out tonight because
8 he has --

9 THE COURT: Do you want to put him on after the lunch
10 break --

11 MR. GIORDANI: Yeah.

12 THE COURT: -- and then we'll do this whole
13 questioning after that?

14 MS. TRUJILLO: That's fine with the defense.

15 THE COURT: So how long do we anticipate for the FBI
16 agent?

17 MR. GIORDANI: I was going to be very quick with him.

18 MS. TRUJILLO: Same.

19 MR. GIORDANI: No more than --

20 MR. STORMS: Ditto.

21 THE COURT: And then who's after the FBI agent?

22 MR. GIORDANI: The CSA that's been pushed back a
23 couple of times.

24 MR. DICKERSON: Yeah, 2:00.

25 MR. STORMS: 2:00 is --

1 MS. TRUJILLO: That's not happening.

2 MR. GIORDANI: So she might be showing up too.

3 Her -- her -- her role was just the vehicle --

4 THE COURT: Okay.

5 MR. GIORDANI: -- so that would be quick too.

6 MS. TRUJILLO: Not for us. We think we're going to
7 be a little more thorough on that one.

8 THE COURT: Okay. Well, we have to see -- we can do
9 the lawyer whenever he's available, and then kind of table it
10 until we have a better break to do the jurors, right, because
11 the lawyer might not be available all day at any time.

12 MR. GIORDANI: Yeah. Yeah.

13 THE COURT: So, okay. And then the only other -- so
14 we'll do that with the FBI agent, possibly the lawyer briefly
15 right after lunch; it will only take 5 or 10 minutes --

16 MR. GIORDANI: Okay.

17 THE COURT: -- if he's available right after lunch
18 because, like I said, he might -- he may not be available all
19 afternoon to just sit around waiting for us. And then we'll
20 finish the witnesses, and then we'll do the questioning of the
21 jurors.

22 And did the State have an opportunity to remind the
23 victim's family that they can't talk about the case when
24 they're --

25 MR. GIORDANI: Yes, I did as they were -- well, when

1 I first got the information from Kenny, I went out and got a
2 little angry with them because I've told them that before. Not
3 that they've done it before, but I reminded them repeatedly
4 there could be jurors that you don't even recognize that might
5 be on the elevator. They all looked shocked, and they were
6 like I don't think we were talking around jurors, oh, my God,
7 but I guess we'll figure that out later. They are -- they
8 completely understand.

9 THE COURT: Who left their coat?

10 MS. TRUJILLO: One of the family members.

11 MR. GIORDANI: One of the older ladies.

12 THE COURT: Okay. All right. Go to lunch.

13 MS. TRUJILLO: What time, Judge, are we going to?

14 MR. GIORDANI: 2:15.

15 MS. TRUJILLO: 2:15.

16 THE COURT: What did I say, 2:15?

17 MS. TRUJILLO: Okay. Thank you.

18 (Proceedings recessed 1:10 p.m. to 2:15 p.m.)

19 (Outside the presence of the jury.)

20 THE COURT: You guys can bring the defendant in.

21 Thanks. Yeah.

22 You guys, we're starting. The lawyer's available
23 right now --

24 MS. TRUJILLO: Okay.

25 MR. GIORDANI: Okay.

1 THE COURT: -- and he has a meeting. So as soon as
2 defendant gets here we're going to go on the record with the
3 lawyer.

4 MS. TRUJILLO: Okay.

5 MR. STORMS: Okay.

6 THE COURT: What's his name again, Adam Ellis?

7 All right. We are in session out of the presence of
8 the jury. And my bailiff was contacting attorney Adam Ellis
9 who indicated over the lunch break to my bailiff that he would
10 be available telephonically, but not available to drive down
11 because his office I guess is --

12 MS. TRUJILLO: Okay.

13 THE COURT: -- on the west side of town so.

14 MR. GIORDANI: We have the FBI agent and the crime
15 scene analyst.

16 THE COURT: What?

17 MR. GIORDANI: We have our FBI agent and our crime
18 scene analyst.

19 THE COURT: Well, he's -- he has a meeting so let's
20 do this now with the lawyer.

21 THE MARSHAL: Good afternoon, Mr. Ellis, this is the
22 court.

23 MR. ELLIS: Hi there.

24 THE COURT: Hello, Mr. Ellis. This is Judge Adair
25 speaking. We're here out of the presence of the jury with the

1 defendant and his lawyers Mr. Storm and Ms. Trujillo and the
2 prosecutors Mr. Giordani and Mr. Dickerson.

3 And thank you for bringing the matter to my bailiff's
4 attention first of all. But can you tell us what you overheard
5 in the elevator earlier today.

6 MR. ELLIS: Absolutely. So -- and I'm sorry if I
7 tell you more than necessary. I was headed to another hearing.
8 I got into the elevator; I was headed up to the 16th floor. It
9 was myself, two jurors and then another person. I don't know
10 if they were an attorney or whatnot. And I don't know, halfway
11 up the elevator ride I heard the juror, she was blonde, the
12 blonde female say to the brunette female, and I don't know if
13 this is an exact quote, it's something to the very close effect
14 of, I was on this elevator yesterday, and the victim's family
15 was also in this elevator, and they were talking about the case
16 the whole way up. And I believe that was all that was said
17 and, you know, we reached the 11th floor and the jurors both
18 exited. And on the way out I just looked up to see the
19 department number and that's how I knew where the jurors were
20 from.

21 THE COURT: Okay. And then did the brunette juror
22 say anything to the blonde juror?

23 MR. ELLIS: I don't recall anything. I don't recall
24 anything. I think if she said anything it was maybe
25 acknowledging that. Like, you know, saying, like, oh, but that

1 would be speculation. I don't recall the brunette saying
2 anything.

3 THE COURT: Okay. And my understanding is you took a
4 look earlier in the courtroom while we were in session, and you
5 tried to identify the jurors; is that right? And the one you
6 weren't sure between the two women who might have been the
7 brunette juror and you were able to identify the blonde juror;
8 is that right?

9 MR. ELLIS: Yes. That's correct. I believe I
10 identified the blonde juror. She was the blonde female in her
11 I would say late 30s to mid 40s. She was sitting in the
12 front row towards the middle --

13 THE COURT: Okay.

14 MR. ELLIS: -- and then the brunette, yeah, was
15 furthest away from the door. There were two brunettes about
16 seemingly about the same height and age sitting next to each
17 other, and I pointed them out to your marshal.

18 THE COURT: Okay. All right. Thank you, sir.

19 MR. GIORDANI: Thank you.

20 THE COURT: And thank you for reporting that. Before
21 we -- I let you go, does the State have any follow-up
22 questions?

23 MR. GIORDANI: No.

24 THE COURT: Does the defense have any questions?

25 MS. TRUJILLO: Just one.

1 Hi, Adam, it's Monica, how are you?

2 MR. ELLIS: Hi. I'm doing well. How are you?

3 MS. TRUJILLO: Good, thank you. I just want to make

4 sure, so they just said the victim's family was talking about

5 the case the whole way up, you heard no other details?

6 MR. ELLIS: Exactly. That's correct.

7 MS. TRUJILLO: Okay. That's it.

8 THE COURT: All right. Thank you so much for

9 reporting that us and being available for the call.

10 MR. ELLIS: Uh-huh. No problem. Thank you, Your

11 Honor.

12 THE COURT: All right. Thank you.

13 MR. ELLIS: All right. Bye-bye.

14 THE COURT: All right. If the jury is back, we can

15 start with the FBI agent, get him done. And then we can --

16 Did they seat back up or what?

17 UNIDENTIFIED SPEAKER: I'm not really here.

18 THE COURT: And then when we take a break we'll

19 question the jurors starting with Ms. Wallace, Juror Number 4.

20 MS. TRUJILLO: Okay.

21 THE COURT: All right. Kenny, if --

22 MR. GIORDANI: Judge, I would ask if we could to do

23 the crime scene analyst too because she's been waiting, but if

24 you --

25 THE COURT: Okay. Well, we can do this at any time

1 really with the jurors, so that's fine, and the defense doesn't
2 care.

3 We'll start with Ms. Wallace and find out what she
4 heard from the family as well as who else was in the elevator
5 with her the day she, I guess it would have been yesterday that
6 she rode with the family, and based on what she says that may
7 identify other jurors that we need to question.

8 All right. Kenny, bring them in.

9 (Jury entering 2:21 p.m.)

10 THE COURT: All right. Court is now back in session.
11 The record should reflect the presence of the State, the
12 presence of the defendant along with his counsel, the officers
13 of the court and the ladies and gentlemen of the jury.

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

15 MR. GIORDANI: Yes, Your Honor. The State calls Chad
16 Fitzgerald.

17 **CHAD FITZGERALD**

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: It's Chad Fitzgerald. C-h-a-d,
23 F-i-t-z-g-e-r-a-l-d.

24 THE COURT: All right. Thank you.

25 Mr. Giordani, you may proceed.

1 MR. GIORDANI: Thank you.

2 DIRECT EXAMINATION

3 BY MR. GIORDANI:

4 Q Good afternoon, sir.

5 A Hi.

6 Q What do you do for living?

7 A I'm a special agent with the Federal Bureau of
8 Investigation or the FBI.

9 Q And where are you based out of, sir?

10 A Currently I'm assigned to Washington, DC, but prior
11 to that, the prior 21 years, 22 years before that I was in
12 Atlanta, Georgia.

13 Q What are your duties and responsibilities as an FBI
14 Special Agent?

15 A Currently I'm a supervisory special agent in DC, part
16 of the program management of our CAST team or Cellular Analysis
17 Survey Team. I was a member of that when I was in Atlanta
18 prior to going to DC about 18 months ago.

19 Q I want to bring you back to approximately June 27th
20 of 2017, I'm sorry, June 29th, 2017. Around that time were
21 you enlisted in order to locate and apprehend a murder suspect
22 out of Las Vegas?

23 A Yes. I was actually contacted by a friend in the Las
24 Vegas division about a murder fugitive that was in Atlanta
25 where I was assigned.

1 Q And did you, yourself enlist the assistance of local
2 police in order to apprehend and locate that individual?

3 A Eventually, yes.

4 Q And was that a person by the name of Larry Brown?

5 A Yes.

6 Q And when you first were notified of this murder
7 suspect in Atlanta, Georgia, do you attempt to locate potential
8 addresses or locations for him?

9 A Yes. I was called actually the day before or
10 e-mailed or called on the 28th, the day before, and was
11 provided some general information as well as, you know,
12 provided pictures and photos and other information that I was
13 used -- I used to help investigate and eventually locate a car
14 at a house and set up a surveillance there and saw Larry Brown
15 come out of the house.

16 Q Was that house -- well, the initial house that you
17 set up surveillance on, was that 4642 Cedar Ridge Trail in
18 Stone Mountain, Georgia?

19 A It was, yes.

20 Q Just for the ladies and gentlemen of the jury who may
21 not be familiar with Georgia, how far is that from Atlanta?

22 A It's in the Metro -- the greater Metro Atlanta area
23 and it would be out to the east.

24 Q At that point in time with your intelligence
25 gathering did you have Mr. Brown linked to a gray Hyundai

1 Sonata?

2 A Yes.

3 Q And at that point in time where you began
4 surveillance, did some point during that did you observe
5 Mr. Brown exit that residence?

6 A Yes. So another agent and myself were sitting in a
7 car down the street and exactly like you said we witnessed him
8 come out of the house and get into that vehicle.

9 Q And you said, we were sitting in a car, would that be
10 a plain vehicle?

11 A Right. Just a regular typical FBI car.

12 Q What happens after he exits that residence, sir?

13 A We watched him go out of -- go towards the exit of
14 the neighborhood, waited for little bit and then we also
15 followed behind pretty far -- what we thought was pretty far
16 behind -- behind him exiting the neighborhood.

17 Q When you say when -- what we thought was pretty far
18 behind, why do you say that, sir?

19 A I think there was some traffic so he couldn't get out
20 the neighborhood right away so we ended up -- he pulled out to,
21 I assume he made us or made us right after he pulled out of the
22 neighborhood 'cause as soon as he got out of the neighborhood
23 and we pulled out of the neighborhood he did a quick -- couple
24 quick U-turns, ran some red lights and the chase was on.

25 Q And did you continue that chase?

1 A Yes.

2 Q And where did you end up?

3 A In a neighborhood not too far away. So where we --
4 in Cedar Ridge Trail that -- the original neighborhood where we
5 saw the -- had the surveillance set up, there's a -- if you go
6 to the major road, the neighborhood that he ended up in was
7 across the street, and I guess a little bit to the south to
8 that -- he came out of the neighborhood to the right.

9 Q During the course of that vehicle chase did Mr. Brown
10 maintain a high rate of speed?

11 A Yes.

12 Q Did he run additional red lights, make illegal
13 U-turns?

14 A Yes.

15 Q Ultimately, do you lose him in that neighborhood
16 area?

17 A I did, yes.

18 Q And what happened from there?

19 A When we pulled in -- because of the high rate of
20 speed and the erratic driving, I called the local police
21 department for assistance, the DeKalb County Police Department
22 to -- by that time -- by the time we were able to relay where
23 we were, we had already lost sight of him, and we didn't have
24 the car in sight anymore. And I just -- I provided a
25 description of the vehicle with the license plate as well as

1 the area where we were just saying that this was the last known
2 area -- last place we saw him.

3 Q And did plainclothes -- I'm sorry, marked units from
4 the local sheriffs or police department show up and assist in
5 the location of Mr. Brown?

6 A They did. And they actually found the car and
7 relayed that to us. So we had marked units as well as a
8 helicopter eventually and a K-9.

9 Q And a K-9 as well?

10 A Yes.

11 Q Ultimately, does it come to your attention that
12 Mr. Brown is inside or near another residence?

13 A It was -- the car was empty, just on a street, just
14 parked on the side of the street just like if you pulled into a
15 neighborhood area. I believe there were like townhomes over in
16 that one particular area, and it was just like it was pulled
17 against the curb. When we got there it was locked up. So we
18 started doing a canvass from there looking from that area
19 looking for Mr. Brown.

20 Q And were you on foot at that point?

21 A Yes.

22 Q During the course of that canvas did you become aware
23 that Mr. Brown had exited a residence?

24 A Yes. So myself and a few other people we let the
25 dog, the K-9 dog try to get a track from the car. They

1 attempted to locate, you know, get a scent. They did not have
2 any success. So a couple of us went behind one row of houses
3 where there was a golf -- like, I don't even think -- it's like
4 a golf course that's no longer operational so it's just clear
5 ground for lack of a better term, and we started looking back
6 there to see if we could find him anywhere back there. And
7 while we were back there --

8 MR. STORMS: Judge, can we approach?

9 THE COURT: Sure.

10 (Conference at the bench not recorded)

11 BY MR. GIORDANI:

12 Q Thank you, Agent Fitzgerald. During the course of
13 looking through that golf course or that grass area, without
14 saying what any folks told you specifically, did it come to
15 your attention that Mr. Brown might be over near a house?

16 A Yes. One of the neighbors alerted us to where he
17 was.

18 Q And did you go in that direction?

19 A I did.

20 Q Did you issue commands to Mr. Brown on foot?

21 A I did.

22 Q And did he essentially stop at that point and
23 cooperate?

24 A Yes. So I was in the -- like I mentioned we were
25 behind these houses, alerted that he was in the front, and when

1 I ran around to the front he was walking down the street. I
2 issued some commands to him to get on the ground. He laid on
3 the ground and then I placed him in custody.

4 MR. GIORDANI: Thank you, sir.

5 And I'll pass the witness, Your Honor.

6 THE COURT: All right. Cross?

7 MR. STORMS: Thank you, Judge.

8 CROSS-EXAMINATION

9 BY MR. STORMS:

10 Q Good afternoon, Agent Fitzgerald.

11 A Hi.

12 Q So when you came into contact with Mr. Brown that
13 day, you were conducting a surveillance operation; right?

14 A Yeah. So -- well, I mean, we were doing -- we
15 started as surveillance and in anticipation that we would be
16 making an arrest hopefully.

17 Q So you were conducting a surveillance operation?

18 A Yes.

19 Q Okay. And you mentioned that you were -- you were
20 sitting in a vehicle with your partner?

21 A Yes.

22 Q And this vehicle you said was a typical FBI car?

23 A Right. Just an assigned FBI car, an unmarked.

24 Q And this would be -- it was an unmarked car?

25 A Yes.

1 Q So it's like a civilian's car essentially?

2 A Yeah, it was like a Ford Taurus no -- just regular
3 old Ford Taurus.

4 Q Okay. And so then you say that you're following this
5 vehicle in this unmarked car; is that fair to say?

6 A That's correct.

7 Q Your vehicle doesn't say FBI on it?

8 A No.

9 Q It doesn't have sirens or lights or anything like
10 that?

11 A It has lights and sirens, but they're covert.

12 Q And they weren't engaged at this point in time?

13 A At the start of the surveillance?

14 Q Yes.

15 A No.

16 Q And then you say you eventually arrest Mr. Brown?

17 A Yes.

18 Q And you arrest him when he's walking away from you?

19 A That's correct, yes.

20 Q And he complied with your commands and stopped and
21 let you arrest him?

22 A He did.

23 MR. STORMS: Court's indulgence.

24 THE COURT: Uh-huh.

25 MR. STORMS: Thank you.

1 THE COURT: Any redirect from the State?

2 MR. GIORDANI: No, Your Honor.

3 Thank you for flying out.

4 THE COURT: Any juror questions for the witness?

5 All right. I'll see counsel at the bench.

6 (Conference at the bench not recorded)

7 THE COURT: Wait come back.

8 THE MARSHAL: Judge, we have two more questions.

9 (Conference at the bench not recorded)

10 THE COURT: Counsel, approach.

11 (Conference at the bench not recorded)

12 THE COURT: All right. We have some juror questions
13 here in no particular order.

14 A juror asks, did you create a timeline to determine
15 when Mr. Brown arrived in Georgia?

16 THE WITNESS: We did have information on when he
17 arrived. I do not remember off the top of my head. It was
18 fairly recently to -- in the end of June as I remember.

19 THE COURT: All right. On the chase were the -- were
20 your lights and sirens or were there lights and sirens?

21 THE WITNESS: Once we saw him start driving
22 erratically he made several quick U-turns all, you know, in
23 fairly quick succession, we did turn on or activate our lights
24 and sirens and gave chase with those for a while into off the
25 main street into the neighborhood, and then that's when we lost

1 him.

2 THE COURT: A juror asks, Mr. Brown was described as
3 a fugitive, when was a warrant first issued for his arrest?

4 THE WITNESS: I believe it was also in the month of
5 June, but I don't remember specifically, but it was not too far
6 ahead of when I got the call from Las Vegas.

7 THE COURT: All right. When he drove through the red
8 lines were your sirens engaged at that time?

9 THE WITNESS: When I drove through them?

10 THE COURT: Mr. Brown.

11 MR. GIORDANI: Red lights.

12 THE COURT: What? Red lights, I'm sorry. When
13 Mr. --

14 Counsel, approach.

15 (Conference at the bench not recorded)

16 THE COURT: All right. Let me ask it this way. When
17 Mr. Brown drove through the red lights, were your sirens
18 engaged at that time?

19 THE WITNESS: Yes. I believe after he made the
20 several quick U-turns we knew that he was trying to get away
21 from us. We turned on the lights, and I think he even went
22 into oncoming traffic, but our lights were on, and we had to
23 get through the red light too so we had our lights on at that
24 point.

25 THE COURT: All right. State, do you have any

1 follow-up to those last juror questions?

2 MR. GIORDANI: No, Your Honor. Thank you.

3 THE COURT: Does the defense have any follow-up?

4 MR. STORMS: No, thank you, Your Honor.

5 THE COURT: Any additional juror questions?

6 All right. Sir, I see no additional questions.

7 Thank you for your testimony. Please do not discuss your
8 testimony with anyone else who may be a witness in this matter.

9 THE WITNESS: All right. Thank you.

10 THE COURT: Thank you. And you are excused.

11 And the State may call its next witness.

12 MR. GIORDANI: Claire Browning.

13 THE COURT: All right.

14 **CLAIRE BROWNING**

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

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

19 THE WITNESS: My name is Claire Browning. First name
20 is C-l-a-i-r-e. Last name is B-r-o-w-n-i-n-g.

21 THE COURT: All right. Thank you.

22 Mr. Giordani.

23 MR. GIORDANI: Thank you.

24 DIRECT EXAMINATION

25 BY MR. GIORDANI:

1 Q Ma'am, what do you do for living?

2 A I'm employed as a crime scene analyst for the Las
3 Vegas Metropolitan Police Department.

4 Q How long have you been doing that?

5 A About four and a half years.

6 Q I want to bring your attention back to February
7 23rd of 2017. On that particular date were you called out to
8 7495 West Azure Drive?

9 A That's correct.

10 Q And were you called out to document and process a
11 vehicle that was located at that location?

12 A Yes, I was.

13 Q Is that a 2015 Nissan Altima with no plates on it at
14 the time?

15 A Yes.

16 Q When you arrived on scene, was there other Las Vegas
17 Metro personnel on the scene?

18 A Yes, there was.

19 Q Who was there if you recall?

20 A Sorry. Detectives Cook and Dosch.

21 Q Okay. Are those homicide detectives associated with
22 this case?

23 A Yes.

24 Q I'm showing you already admitted State's 117. Is
25 your screen on, ma'am?

1 A Yes, it is.

2 Q Is this the vehicle that you were brought to
3 document?

4 A Yes.

5 Q Showing you State's 118, was there ever anything that
6 you noted about the vehicle as it's shown in this picture?

7 A As you can see, there's no plates on the vehicle.
8 The vehicle also had some extensive burn damage. You can see
9 some of it from the exterior of the vehicle, to include the
10 passenger side of the vehicle you can see some burn damage
11 along the roof. There was also a portion of the roof near the
12 windshield that was peeled back. The windows were covered with
13 soot, you couldn't see into the vehicle. And then there was
14 some dark staining on the cement around the vehicle.

15 Q Was the vehicle locked or unlocked?

16 A It was unlocked.

17 Q Showing you State's 121, what are we looking at in
18 this photograph?

19 A This is the dark staining that I was just describing
20 around the vehicle.

21 Q Okay. Did you also note drip and wipe marks on the
22 vehicle?

23 A Yes.

24 Q Where were those wipe marks?

25 A The wipe marks were on the exterior of the doors.

1 Q State's 122, is that more of those drip marks that
2 you had referenced previously?

3 A That's correct.

4 Q When you come upon this vehicle and you take your
5 documentary photos of the exterior, do you learn that it was
6 unlocked -- oh, and did you also note all the doors and windows
7 were closed?

8 A Yes.

9 Q Okay. Excuse me. Did you call out a tow truck at
10 that point in time?

11 A We did. Yes.

12 Q Did you seal the vehicle at that point?

13 A No, we did not seal the vehicle. We put the car on
14 the tow truck and actually followed the vehicle all the way
15 back to our CSI lab where we could do further processing; so I
16 had my eye on the vehicle the entire time.

17 Q So rather than sticking tape or stickers on the
18 vehicle to seal it up, you keep your visual on it the entire
19 time until your back to the garage; is that right?

20 A That's correct.

21 Q Once you're back at the garage, do you again
22 photograph the exterior of the vehicle?

23 A Yes. The vehicle is photographed again once we get
24 it back to the CSI garage to show that it's in the same
25 condition that it was when I first picked it up.

1 Q And State's 123, is that the crime scene
2 investigation's garage?

3 A Yes, it is.

4 Q Okay. State's 124, what are we looking at here?

5 A So this is some of that damage that I was describing
6 earlier. There was a little bit of burn damage along the roof
7 line of the vehicle. And then you can see in this back window
8 there's a little bit of bubbling to the tint.

9 Q Okay. Did you document the trunk as well?

10 A Yes.

11 Q State's 125, is that the trunk?

12 A Yes, it is.

13 Q State's 126, is that a different angle of the trunk?

14 A Yes.

15 Q Fair to say there was no marijuana located in that
16 trunk?

17 A Not that I recall.

18 Q State's 127, what are we looking at here?

19 A This is the interior side of the, it appears the left
20 front door of the vehicle.

21 Q Did you collect various items of evidence from this
22 vehicle?

23 A Yes, we did.

24 Q What did you collect from the vehicle?

25 A We collected several items of evidence. There were

1 areas -- we had an arson investigation team come out and point
2 out areas of interest within the vehicle. So we noticed that
3 there was some what appeared to be burned rag on a couple of
4 surfaces to include the left front seatback, the right side of
5 the front right seat and then the left rear seat bottom. So we
6 collected samples of all of those. There was a baseball cap in
7 the backseat.

8 Q Let me -- let me stop you for a moment.

9 A Okay.

10 Q I apologize. I'm going to show you State's 133, fair
11 to say there's some significant burn damage to the backseat as
12 well?

13 A Yes.

14 Q And all the items contained therein?

15 A Yes.

16 Q Is this red item here the baseball cap that you just
17 referenced?

18 A Yes, it is.

19 Q Did you also collect various plastic bottles and cans
20 and stuff that were scattered about?

21 A We did not collect the bottles themselves --

22 Q Okay.

23 A -- but we actually took swabs of possible DNA from
24 each of the bottles and then processed them for any latent
25 prints.

1 Q Okay. Showing you State's 130, if you want to zoom
2 in here. Can you see a kind of a melted Dasani bottle and then
3 what appears to be a Red Bull can here?

4 A Yes.

5 Q State's 131 -- back out. Can you see these kind of
6 charred or brownish of a couple water -- plastic water bottles?

7 A Yes.

8 Q We're in the front passenger seat now?

9 A Yes.

10 Q State's 136, is this the back passenger seat?

11 A Yes, this is the -- sorry, right rear seat.

12 Q Right rear -- I forget, right rear seat, thank you.

13 It's like a little Ninja Turtle toy?

14 A It appears so.

15 Q And then State's 139, is this the backseat?

16 A Yes, it is.

17 Q More kind of melted or just deformed bottles?

18 A Yes.

19 Q Did you swab those for potential DNA evidence?

20 A Yes, we did.

21 Q You can obviously observe that they're damaged in
22 some way. Is there a potential that heat could destroy the DNA
23 on there?

24 A Yes.

25 Q But out of an abundance of caution you swab them just

1 to be safe?

2 A That's correct.

3 Q In addition, did you collect a floor mat from the
4 vehicle?

5 A We did. We collected the driver's side floor mat; so
6 it's going to be the left front floor mat.

7 Q Okay. And would you have done that due to
8 information you received from detectives or crime scene
9 analysts from the initial scene?

10 A Yes.

11 Q Okay. Did you also take swabs from the brake and
12 accelerator here?

13 A Yes, we did.

14 Q Was there any visual blood on those?

15 A There was no original blood, the pedals were covered
16 in soot at the time.

17 Q But again you swabbed the -- I'll go to 127,
18 accelerator and brake just out of an abundance of caution?

19 A Yes.

20 Q Did you also process a portion or I guess the vehicle
21 for latent fingerprints?

22 A Yes. We actually processed those water bottles that
23 I was talking to about before. And then also I think there was
24 like a sunflower seed package that we processed. There was a
25 cigarillo package that was actually in the gas cap that we

1 packaged for latent prints and then also the entire exterior of
2 the vehicle.

3 Q Did you get any positive prints that you were able to
4 lift?

5 A Yes, we lifted to prints from the edge of the trunk
6 lid.

7 Q Were those items impounded under Event
8 Number 1702214563?

9 A Yes. That's correct.

10 MR. GIORDANI: Thank you.

11 And I'll pass the witness at this time.

12 THE COURT: All right. Cross.

13 CROSS-EXAMINATION

14 BY MR. STORMS:

15 Q Good afternoon, CSA Browning. How are you?

16 A Good afternoon. How are you?

17 Q Good. Good. So you have impounded a number of items
18 that looked like they had evidentiary value to you in this
19 particular scene; fair to say?

20 A That's fair to say.

21 Q Whenever you're a CSA working a scene, you're going
22 off the direction of the detective, but ultimately you're the
23 one that's looking and determining what you're saving to test;
24 is that fair to say?

25 A That's fair to say.

1 Q Sorry. You're the one that determines -- or that
2 decides what looks like it might be evidentiary value and
3 should be tested later on?

4 A We don't decide what is tested later on. Ultimately
5 the detectives decide what they will and will not test. But we
6 just collect everything in the assumption --

7 Q That looks like --

8 A -- that it would be tested.

9 Q Okay. And in this case you collected a swab of DNA,
10 possible DNA from a Snapple bottle that was on the right front
11 floorboard?

12 A As far as I recall, yes, we did.

13 Q Are you aware if that was ever tested?

14 A No, I have no idea.

15 Q You are -- you also collected a swab of DNA from an
16 Arrowhead water bottle that was under the right front seat?

17 A Yes.

18 Q Are you aware if that was ever tested for DNA?

19 A No.

20 Q You also collected a Dasani water bottle that was
21 under the right front seat, and you swabbed that for DNA?

22 A Yes.

23 Q Are you aware if that was ever tested?

24 A No.

25 Q How about the Great Value water bottle that was under

1 the right front seat, did you swab that for DNA?

2 A As I recall, yes.

3 Q Okay. Are you aware if that was tested?

4 A No.

5 Q How about the Gatorade bottle that was under the
6 right front seat, did you swab that for DNA?

7 A Yes.

8 Q Again, was it tested to your knowledge?

9 A To my knowledge I do not know.

10 Q And then there was also you mentioned you had swabbed
11 the accelerator and brake pedal of this vehicle for possible
12 DNA?

13 A For the presence of possible blood, yes.

14 Q Okay. So and you noted in your report that it was
15 possible blood and soot?

16 A Yes.

17 Q Okay. And then you also had another diluted water
18 bottle that was on the left rear floorboard that you swabbed
19 for DNA?

20 A Yes.

21 Q Are you aware if that was tested?

22 A I am not aware, no.

23 Q Okay. And then there was yet another unmarked water
24 bottle that was on the left rear floorboard that you swabbed
25 for DNA?

1 A Yes.

2 Q Was that tested as far as you know?

3 A I do not know.

4 Q Okay.

5 MR. STORMS: Court's indulgence. Court's indulgence.

6 THE COURT: Uh-huh.

7 BY MR. STORMS:

8 Q You also collected charred seat cushions from the
9 front right side of the front seat of the vehicle; is that
10 correct?

11 A Yes. Uh-huh.

12 Q And charred seat cushions from the left front seat of
13 the vehicle?

14 A Yes.

15 Q You collected them from the bottom cushion of the
16 left rear seat belt strap of the vehicle?

17 A Yes.

18 Q And then a black beanie that was soaked in an unknown
19 liquid from the spare wheel well of the trunk of the vehicle;
20 right, you collected that too?

21 A That's correct.

22 Q And then four lighters, one was a Cherry Lips
23 lighter, one was a white -- a Wings lighter, a black Bic
24 lighter and an orange 7-Eleven lighter; you collected all of
25 those and booked them into evidence?

1 A Yes, I did.

2 Q And then a Swisher Sweet wrapper that had a dried
3 grieffy lean substance -- grieffy -- this is a tongue twister,
4 sorry. I keep just calling it marijuana which I'm not supposed
5 to do.

6 THE COURT: The green leafy substance.

7 THE WITNESS: Green leafy.

8 BY MR. STORMS:

9 Q The green leafy substance you collected that as well;
10 right?

11 A Yes, I did.

12 Q And that was inside the actual gas cap of the
13 vehicle?

14 A Yes.

15 Q Are you aware of any testing done on any of those
16 items?

17 A I am not aware of anything, no.

18 MR. STORMS: Thank you.

19 THE COURT: Pass the witness?

20 MR. GIORDANI: Oh, no redirect. Pass the witness.

21 THE COURT: No additional questions.

22 Any juror questions for this witness?

23 All right. Counsel, approach.

24 (Conference at the bench not recorded)

25 THE COURT: Question here. A juror asks, where was

1 the fingerprint found?

2 THE WITNESS: The fingerprints that we found were
3 actually on the exterior of the trunk lid.

4 THE COURT: All right. Any follow-up, State?

5 MR. GIORDANI: No, Your Honor.

6 THE COURT: Any follow-up defense?

7 FOLLOW-UP EXAMINATION

8 BY MR. STORMS:

9 Q And there was no other additional fingerprints found
10 besides the one you just talked about?

11 A No, just those.

12 MR. STORMS: Thank you.

13 THE COURT: Any additional juror questions?

14 All right, ma'am, I see no additional questions.

15 Thank you for your testimony. Please don't discuss your
16 testimony with anyone else who may be a witness in this case.
17 All right. Thank you and you are excused.

18 THE WITNESS: Thank you.

19 THE COURT: All right, ladies and gentlemen, we're
20 just going to take a 10 minute break.

21 During the break you're all reminded you're not to
22 discuss the case or anything relating to the case with each
23 other or with anyone else. You're not to read, watch or listen
24 to any reports of or commentaries in the case, person or
25 subject matter relating to the case. Do not do any independent

1 research by way of the Internet or any other medium, and please
2 don't form or express an opinion on the case.

3 Please leave your notepads in your chairs and follow
4 Officer Hawkes through the double doors.

5 (Jury exiting 2:54 p.m.)

6 THE COURT: Counsel.

7 (Conference at the bench not recorded) --

8 (Pause in the proceedings.)

9 (Outside the presence of the jury)

10 THE COURT: Okay. Kenny, if Ms. Marshal -- oh, I'm
11 sorry, Ms. Wallace, Juror Number 4, you can bring her in out of
12 the presence of the other jurors.

13 MR. GIORDANI: Do you know what you're going to ask
14 her?

15 THE COURT: I was going to say have you overheard
16 anyone talking about this case when court is not in session.

17 MR. GIORDANI: And if the answer is yes --

18 Hold on, Kenny, one sec.

19 If the answer is, yes, do you intend to follow up and
20 say what did you hear --

21 THE COURT: Oh, yeah, of course. What did you hear,
22 who heard it and who else was with you, and did you talk about
23 that with anybody else.

24 MR. GIORDANI: And would it affect you or is it going
25 to affect you.

1 THE COURT: And -- yeah, no --
2 MR. GIORDANI: Okay.
3 THE COURT: -- and then you guys can follow up too.
4 MR. GIORDANI: I'm not going to ask any questions of
5 the juror. Okay.
6 THE COURT: I mean, I allow counsel to ask questions.
7 MR. GIORDANI: Yeah. Okay.
8 THE COURT: Well, I would probably say can you set
9 that aside anything you may have heard and base your verdict on
10 the evidence in the case --
11 MR. GIORDANI: Right.
12 THE COURT: -- is typically what I would ask.
13 MR. GIORDANI: I'm sure Monica is going to ask enough
14 questions for both of us so I'm going to stand silent.
15 MR. STORMS: It's like the opposite of a CSI pick.
16 MR. GIORDANI: Exactly. Or reverse.
17 (Colloquy off the record)
18 (Inside the presence of Juror No. 04, Dawn Wallace)
19 THE COURT: Just have your seat there. And,
20 Ms. Wallace, I called you in out of the presence of the other
21 jurors to inquire as to whether or not you've overheard anyone
22 discussing this case --
23 JUROR NO. 04: Yes.
24 THE COURT: -- in your presence while we weren't in
25 session?

1 JUROR NO. 04: Yes.

2 THE COURT: Can you tell me what you heard and kind
3 of what the circumstances were.

4 JUROR NO. 04: On the elevator yesterday on the way
5 up, I heard the I assume it's the victim's family discussing
6 the case, and they were speaking of things that I had already
7 basically heard except that I heard them say that Anthony
8 Carter had taken a plea deal.

9 THE COURT: Okay. And so when you say on the way up,
10 was that when you were coming up -- we had just had an
11 afternoon session so was that when you were coming up to start
12 the --

13 JUROR NO. 04: That was first thing in the morning.

14 THE COURT: Okay.

15 JUROR NO. 04: So when we first began -- well, I'm
16 sorry, it was --

17 THE COURT: It would have been 12:30.

18 JUROR NO. 04: Right. Exactly. It would have been
19 12 or --

20 THE COURT: So sometime a little bit before 12:30 --

21 JUROR NO. 04: Yeah.

22 THE COURT: -- is that right?

23 JUROR NO. 04: Yeah.

24 THE COURT: Okay. And when you say the victim's
25 family, are you referring to some of the individuals who have

1 been sitting --

2 JUROR NO. 04: Yes.

3 THE COURT: -- in the audience area there behind the
4 prosecutors?

5 JUROR NO. 04: Yes.

6 THE COURT: Do you recall how many of these
7 individuals were in the elevator with you?

8 JUROR NO. 04: There were four of them.

9 THE COURT: Four them?

10 JUROR NO. 04: Uh-huh.

11 THE COURT: And do you recall were they all talking
12 about the case or just one or?

13 JUROR NO. 04: I -- honestly, I didn't look directly
14 at them as they were speaking. The only thing that I heard
15 that I hadn't already heard was the one -- somebody made a
16 comment, a female, made a comment I heard that Anthony Carter
17 took a plea deal.

18 THE COURT: Okay. And what other things that you've
19 already heard in the trial did these individuals talk about in
20 your presence?

21 JUROR NO. 04: They made a comment about the glove
22 found, that there are two pieces of the glove, which I ready
23 knew. I can't really recall anything that stands out because
24 it wasn't relevant to me, I'd already heard it.

25 THE COURT: Okay.

1 JUROR NO. 04: But I -- I -- and I assumed that they
2 didn't realize that I was a jury member --

3 THE COURT: Okay.

4 JUROR NO. 04: -- at the time so the elevator was
5 crowded, but I think I was the only --

6 THE COURT: That was my next question.

7 JUROR NO. 04: Yeah, I think I was the only other
8 juror on the elevator, but there was several other people on
9 the elevator as well.

10 THE COURT: Okay.

11 JUROR NO. 04: They were going to different floors
12 above us.

13 THE COURT: Okay. So as far as you recall, you were
14 the only juror on the elevator the time?

15 JUROR NO. 04: I was, yeah, I'm almost positive,
16 yeah.

17 THE COURT: And have you discussed that with anybody
18 else who's on the jury?

19 JUROR NO. 04: No, I mentioned that somebody had said
20 something to me on the elevator that I -- because we were all
21 riding together that I shouldn't have heard, like I shouldn't
22 hear them talking about it so.

23 THE COURT: Uh-huh. Who did you mention that to?

24 JUROR NO. 04: I can't remember. It was just
25 recently, I mean, it was just --

1 THE COURT: Okay. Man, woman?
2 JUROR NO. 04: No, it was a woman, yeah.
3 THE COURT: Okay. But you don't recall which juror
4 it was?
5 JUROR NO. 04: No, I -- whoever was just sitting next
6 to me several minutes ago.
7 THE COURT: Okay. What does she look like?
8 JUROR NO. 04: I think -- I think it's -- I think
9 it's the older woman who has the -- allergies to nuts.
10 THE COURT: The what?
11 JUROR NO. 04: The woman who has the allergies to
12 nuts.
13 THE COURT: Okay.
14 JUROR NO. 04: Yeah, and I didn't say -- I didn't
15 tell her what was said; I just said, yeah, they said something
16 in elevator I probably shouldn't have heard.
17 THE COURT: Oh, okay, but you didn't tell her what
18 the content --
19 JUROR NO. 04: No, no, I didn't say what -- I did not
20 say what it was.
21 THE COURT: Okay. Is there -- can you set that aside
22 what you heard on the elevator and --
23 JUROR NO. 04: Well, to be honest I'm not really sure
24 what it means so I don't know. I don't --
25 THE COURT: -- and base your verdict only upon the

1 evidence that's presented during the trial, of course, that's
2 the testimony from the witness stand and the exhibits?

3 JUROR NO. 04: Absolutely.

4 THE COURT: Okay.

5 State, do you have any follow-up with this juror?

6 MR. GIORDANI: No, thank you.

7 THE COURT: Does the defense have any follow-up?

8 MS. TRUJILLO: You mentioned, Ms. Wallace, you
9 mentioned that you heard the comment about the two pieces of
10 gloves found --

11 JUROR NO. 04: Uh-huh.

12 MS. TRUJILLO: -- was there a comment about them or
13 just the fact that they were found?

14 JUROR NO. 04: I think just that they were found, and
15 that didn't really stand out to me because it was irrelevant, I
16 already knew that. That's what I think initially got my
17 attention that oh, they're talking about the trial because they
18 were making comments about what I had just learned in the
19 trial.

20 THE COURT: Which was the testimony about gloves?

21 JUROR NO. 04: Right, about the gloves. And that
22 there were two pieces to the glove, and oh, there were two
23 pieces to the glove, and the rest I think I -- it didn't stand
24 out because I already knew what it -- but when they made that
25 one comment I thought, yeah, I shouldn't be on elevator with

1 these people if they're talking about it. And I guess at the
2 time I didn't realize it was something I should have reported.
3 I just made a point not to get on the elevator with --

4 THE COURT: With them again?

5 JUROR NO. 04: -- them again, yeah, so.

6 THE COURT: Okay.

7 MS. TRUJILLO: And that's the only time you've heard
8 anything about the case outside --

9 JUROR NO. 04: That's the -- that's the only thing,
10 yeah, the only thing outside.

11 MS. TRUJILLO: Okay. That's it, Judge.

12 THE COURT: All right. Thank you, ma'am.

13 JUROR NO. 04: Okay.

14 THE COURT: And when you go back out there the other
15 jurors may, you know, say, well, what did they talk about and
16 what did they want to know, what did they ask you, you are
17 instructed that you're not to discuss what's just transpired in
18 this Court with the other jurors --

19 JUROR NO. 04: Okay.

20 THE COURT: -- and then also you are instructed that
21 you are not to discuss the contents of what you overheard in
22 the elevator yesterday with any of the other jurors.

23 JUROR NO. 04: All right.

24 THE COURT: All right. Thank you. And just follow
25 Officer Hawkes through the double doors.

1 (Juror No. 04 exiting 3:13 p.m.)

2 THE COURT: All right. What that juror said,
3 Ms. Wallace, Juror No. 4, is completely consistent with what
4 the attorney Mr. Ellis has said, and so I don't know that
5 there's a need to inquire of any of the other jurors because
6 what she said she said to the other jurors is the same as what
7 Mr. Ellis said she said. So I don't know that we need to
8 inquire further --

9 MR. GIORDANI: I agree with the Court.

10 THE COURT: -- on that topic. I felt like she seemed
11 pretty confident that she could set it aside.

12 MS. TRUJILLO: I disagree, and I don't think that --
13 I think the attorney and I wrote down what he said, I was with
14 her on the elevator, the victim's family was also talking about
15 the case the whole way up. Obviously she's not --

16 THE COURT: That's not what he said.

17 MR. GIORDANI: No, no.

18 MS. TRUJILLO: I wrote it down. It is what he said.
19 She -- that's what she was relating to the juror.

20 THE COURT: Oh, yeah, that's what she was relaying --

21 MR. GIORDANI: Oh, yeah. Right.

22 MS. TRUJILLO: Right.

23 THE COURT: -- I thought you were saying Mr. Ellis
24 said the victim's family was talking about the case --

25 MS. TRUJILLO: No.

1 THE COURT: -- in his presence.

2 MS. TRUJILLO: She said the victim's family was
3 talking about the case the whole way up the elevator with her.

4 MR. GIORDANI: Right.

5 MS. TRUJILLO: And she just indicated she heard more
6 but, you know, she can't remember it. She said it was
7 irrelevant to her. Obviously that's concerning to me. And the
8 fact that she heard a plea deal when she's saying she doesn't
9 know what that is which I -- that just kind of boggles my mind
10 that she doesn't know what a plea is, but this whole case has
11 been Anthony Carter's associated with Larry Brown. I mean, the
12 opening was, and then they called each other this minute and
13 then the next minute there was a text message, and then they
14 called each other. The fact that he took a plea deal it
15 probably indicates to her that Mr. Brown is guilty; so
16 obviously that's prejudicial.

17 THE COURT: Okay. So are you asking me to strike
18 Ms. Wallace and substitute the first alternate Mr. Davis in her
19 place? I can do that.

20 State, what's your position?

21 MR. GIORDANI: I --

22 THE COURT: I mean, out of an abundance of caution.
23 I don't know that I'm going to excuse her right now, but I can
24 certainly make her the second alternate and move Mr. Davis,
25 Juror No. 13 who would be our first alternate and make him a

1 regular juror, and that way she won't be deliberating. I
2 believed her when she said she didn't tell anybody.

3 MR. GIORDANI: Yeah, I have no objection to that.

4 MS. TRUJILLO: We're fine with that, Judge.

5 THE COURT: Okay. So that takes care of that. Would
6 you agree that there's no need to inquire of the woman that she
7 told that she heard the conversation? That was my point that
8 Mr. Ellis said --

9 MR. GIORDANI: Yeah, I --

10 THE COURT: -- that she told him she had overheard
11 conversation and that was consistent with what Ms. Wallace
12 said.

13 MR. GIORDANI: I personally think it would draw more
14 attention to it, but I'll submit to Monica.

15 THE COURT: Right. I mean, I'm saying Mr. Ellis and
16 Ms. Wallace were consistent in what they said.

17 MS. TRUJILLO: No, I'm fine with that.

18 THE COURT: Okay. So we'll substitute Mr. Davis is
19 now a regular juror; fair enough?

20 MS. TRUJILLO: Yes.

21 THE COURT: All right.

22 MR. GIORDANI: But we don't need to move their seats
23 or anything --

24 THE COURT: No. No.

25 MS. TRUJILLO: No.

1 MR. GIORDANI: -- just keep --

2 THE COURT: Because at the very -- I don't need --
3 they don't even know there's alternates --

4 MS. TRUJILLO: Right.

5 MR. GIORDANI: Right.

6 MR. STORMS: Yeah.

7 THE COURT: -- I like the people not even to know
8 there's such a thing as an alternate.

9 MS. TRUJILLO: Right.

10 MR. GIORDANI: Yeah.

11 THE COURT: So everybody pays attention because
12 otherwise the alternates -- sometimes they're almost like
13 second-class citizens; you know what I mean, like, if they're
14 not the regular jurors. So I don't even tell them that there's
15 such a thing as an alternate.

16 MR. STORMS: It's better when we're at the end they
17 look really disappointed and they have to --

18 THE COURT: Oh, I know. I've had alternates cry
19 before.

20 MR. GIORDANI: Yeah, I've had some show-up at
21 sentencing. They call and find out the verdict. They get
22 super interested.

23 THE COURT: I mean, that happens all the time.

24 Kenny, do you want to bring the rest of them in.

25 MR. GIORDANI: Well, not yet. Not quite, Judge.

1 MR. DICKERSON: Can we have 10 minutes, Your Honor,
2 we had an exhibit issue that we had with the video. So it
3 looks like we have eight minutes left of that for that to be
4 corrected.

5 MR. GIORDANI: It's being reburned.

6 THE COURT: Okay. So there's no one to call right
7 now.

8 MR. DICKERSON: Yeah, there's no one to call at this
9 moment.

10 THE COURT: All right. So nothing else for us to do.
11 (Proceedings recessed 3:17 p.m. to 3:34 p.m.)

12 (Outside the presence of the jury)

13 THE COURT: Is this the last witness for today or?

14 MR. GIORDANI: No, there's two.

15 THE COURT: Okay.

16 MR. GIORDANI: There's the video guy who's next and
17 then Mangione is on his way. I believe Ms. Trujillo wants to
18 make a record about the next witness.

19 MS. TRUJILLO: Mr. Giordani's getting me sick
20 firstly.

21 THE COURT: All right. Are we on the record out of
22 the --

23 THE RECORDER: Yes, we are.

24 THE CLERK: Yes, we are.

25 THE COURT: All right. We're on the record out of

1 the presence of the jury.

2 Yes, Ms. Trujillo.

3 MS. TRUJILLO: So the next witness is going to be
4 presenting the video surveillance, and I just want to make my
5 continuing objection to this was a basis for one of my motion
6 in limine about showing the white vehicle because I was saying
7 one, it's speculative; it's not really clear; there's not
8 identifying information so it's going to cause the jury to
9 speculate. You know, we've argued about it, but I --

10 THE COURT: Right.

11 MS. TRUJILLO: -- just want to make this continuing
12 objection.

13 THE COURT: So you just want your continuing
14 objection noted for the record --

15 MS. TRUJILLO: Correct.

16 THE COURT: -- so you don't have to keep popping up
17 during the testimony?

18 MS. TRUJILLO: Correct to all of the videos that
19 depict a white SUV.

20 THE COURT: All right.

21 MR. GIORDANI: And we had made our record last week.

22 THE COURT: Right. I think the record's adequate.

23 MR. GIORDANI: We should all -- if we can save some
24 time, then the witness after this is Mangione --

25 THE COURT: Okay.

1 MR. GIORDANI: -- I think that we already indicated
2 there's an ongoing objection, but are we going to have the
3 same --

4 THE COURT: This is on the phone stuff?

5 MR. GIORDANI: Yeah.

6 MR. STORMS: Yeah, I mean, we -- my understanding of
7 the record is yesterday we said, hey, we've got a continuing
8 objection --

9 MR. GIORDANI: Okay.

10 THE COURT: Right.

11 MR. STORMS: -- to all the contents of the phone and
12 all that jazz --

13 THE COURT: Right.

14 MR. STORMS: -- so I'm not going to --

15 THE COURT: Right.

16 MR. GIORDANI: Okay.

17 MR. STORMS: -- stop about that.

18 THE COURT: Okay.

19 Kenny, bring them in.

20 (Pause in the proceedings.)

21 (Jury entering at 3:37 p.m.)

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

23 And the State may call its next witness.

24 MR. DICKERSON: Thank you, Your Honor. The State
25 calls Andrew Krnjeu.

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ANDREW KRNJEU

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

THE CLERK: Thank you. Please be seated. And state
and spell your first and last name for the record.

THE WITNESS: My first name is Andrew, A-n-d-r-e-w.
My last name is Krnjeu spelled K-r-n-j-e-u.

THE COURT: All right. Thank you.
Mr. Dickerson, you may proceed.

MR. DICKERSON: Thank you, Your Honor.

/ / /
/ / /

DIRECT EXAMINATION

BY MR. DICKERSON:

Q What do you do for living, sir?

A I am currently employed by the Las Vegas Metropolitan
Police Department, and my current assignment is a commissioned
supervisor of the digital forensics lab.

Q Okay. How long have you been employed by the Las
Vegas Metropolitan Police Department?

A Thirteen and a half years.

Q And how long have you been with the digital forensics
lab?

A Over four years.

Q What is the digital forensics lab?

1 A We're responsible for the forensic analysis of
2 digital evidence, storage devices and the recovery of video.

3 Q Okay. So that includes everything from computers to
4 cell phones?

5 A Yes.

6 Q As well as DVR devices for surveillance video?

7 A Yes.

8 Q Okay. What sort of training and experience do you
9 have to hold that position?

10 A I am a certified video and forensic technician
11 through LEVA. It's an industry standard for video forensic
12 recovery. I have a bachelor's degree in systems analysis from
13 Miami University. I have a master's degree from Wilmington
14 University in cybersecurity. And I have taken on numerous
15 other courses regarding computer forensic analysis, network
16 forensic analysis and other digital evidence forensic recovery.

17 Q I want to draw your attention to the events that
18 bring you here today to testify. Were you called upon in your
19 duties as a detective with the digital forensics lab to assist
20 the homicide detectives in an investigation?

21 A Yes.

22 Q Was that related to an investigation of a homicide
23 that had occurred on February 21st, 2017, at 5850 Sky Pointe?

24 A Yes.

25 Q Specifically did the homicide detectives ask you to

1 go out and collect surveillance footage of the area around that
2 particular homicide scene?

3 A Yes.

4 Q As well as later on in the area around as you're
5 aware they found a vehicle that was related to this particular
6 incident?

7 A Yes.

8 Q In the places that you went to collect that
9 particular surveillance footage, did that include the actual
10 apartment complex office at 7850 Sky Pointe?

11 A Yes.

12 Q Specifically from video from inside the office?

13 A Correct.

14 Q As well as some of the back of the office near the
15 pool area?

16 A Yes.

17 Q Did that also include a gas station mixed with a
18 lounge that's kind of down the street from that Sky Pointe
19 apartment complex?

20 A Yes.

21 Q And that particular surveillance for all three of
22 those locations you collected that the day after the homicide?

23 A Yes.

24 Q That was the 22nd of February 2017?

25 A Yes.

1 Q After that were you called upon in March, early
2 March 2017 to then go out to the areas that were there on
3 Azure?

4 A Yes.

5 Q And the places that you went and collected
6 surveillance footage from that the Azure locations, did that
7 include a Finley Volkswagen?

8 A It did.

9 Q As well as a Finley Honda?

10 A Yes.

11 Q As well as a One Stop Auto location?

12 A Yes.

13 Q And all of these locations were on the northern side
14 of Azure; is that right?

15 A Yes.

16 Q In becoming familiar with this investigation for the
17 purpose of collecting the surveillance footage, did you become
18 aware of where the actual vehicle was that was located on
19 Azure?

20 A Yes.

21 Q And that was on the opposite side of the street?

22 A Yes.

23 Q Thank you so much. I'm going to show you here it's
24 been admitted as State's Exhibit 6; do you recognize what it is
25 that we're looking at here?

1 A I do.

2 Q Is this a map that marked all the locations that you
3 had gathered surveillance video from?

4 A Yes.

5 Q As well as the location of the address of where that
6 particular vehicle was that was related to this incident?

7 A Yeah. Yes.

8 Q Okay. Here at the bottom, 5850 Sky Pointe, is this
9 the apartment complex?

10 A Correct.

11 Q And you collected surveillance footage there on the
12 22nd of February 2017?

13 A Correct.

14 Q In collecting that surveillance footage, what process
15 did you use?

16 A We went and made contact with the person that had
17 access, and gave -- we received verbal consent to retrieve the
18 video, and so we used a thumb drive to download the video from
19 the systems on to our systems and verify it worked correctly.

20 Q Okay. So you actually go into their systems?

21 A Yes.

22 Q And you're the one that pulls it, downloads it?

23 A Yes.

24 Q All right. And when you did that, were you able to
25 confirm whether the date and time stamps located on that video

1 were correct?

2 A Yes.

3 Q That gas station mixed with lounge that we had talked
4 about, is that located right here?

5 A Correct.

6 Q And it's marked on the map as Town Center Lounge and
7 76 gas station?

8 A Yeah.

9 Q You used a similar process to collect surveillance
10 footage there?

11 A Yes.

12 Q Ultimately found that there was no evidentiary value
13 to that surveillance footage?

14 A We forwarded it to the detective, but, yes.

15 Q Okay. And then up here at the top of the map we're
16 looking at locations on Azure; is that right?

17 A Correct.

18 Q And do you see Azure marked here on the map?

19 A I do.

20 Q It's a squiggly street?

21 A Yes.

22 Q Marked here at 7495 West Azure, what is that
23 location?

24 A It's a parking lot and an office building.

25 Q Okay. And you became aware of where the actual

1 vehicle was located there for purposes of you collecting the
2 surveillance footage?

3 A That's correct.

4 Q And where was it your understanding that vehicle was?

5 A On the west side of the building that has the
6 yellow -- yellow marker on it --

7 Q Okay.

8 A -- the pointer.

9 Q Okay. You actually have a mouse right there. If you
10 go down to the bottom, click on that red tab with the pen you
11 can indicate.

12 A Yes. Where the vehicle is parked?

13 Q Yeah.

14 A (Witness complies.)

15 Q Okay. And you're indicating the spot next to that
16 building that is marked as 7495 West Azure?

17 A Correct.

18 Q And then at the top of that we're seeing Finley
19 Volkswagen; is that right?

20 A Yes.

21 Q Okay. And next to that Finley Honda?

22 A Correct.

23 Q And then next to that One Stop Auto; is that right?

24 A Correct.

25 Q Next to One Stop Auto what do we have?

1 A It was just a business complex.

2 Q Okay. A parking lot?

3 A Yes.

4 Q And then do you know what is on the other side of
5 Azure over here?

6 A That's a discount -- Discount Tire.

7 Q Okay. And do you know how many of these are
8 entrances into this -- this business complex at 7495 West
9 Azure?

10 A If you move over to the --

11 Q Yes, sir.

12 A There you go. There's entrance here, entrance here
13 and then this is actually Discount Tire.

14 Q Okay. And it appears you can enter from Discount
15 Tire as well; is that right?

16 A Yes.

17 Q The process for collecting surveillance footage from
18 Finley Volkswagen as well as Finley Honda, what was that?

19 A We got in contact with I believe the general manager
20 of the business and he gave -- gave me consent to actually go
21 in and use their system to download the times requested for the
22 detective.

23 Q Okay. Did you download two different time periods?

24 A Yes.

25 Q One for the time period beginning on February 21st,

1 2017, and ending in the early morning hours of the 22nd?

2 A Yes.

3 Q And then another for a time period in I guess the
4 early morning hours of the 23rd of February 2017?

5 A Yes.

6 Q And both of those locations surveillance footage was
7 that contained in the same place?

8 A Correct.

9 Q So you took it all at one time?

10 A Correct.

11 Q Were you able that time to determine the date and
12 time stamps on those videos was in fact correct?

13 A I did.

14 Q And then as far as One Stop Auto right down the
15 street, what was the process for collecting surveillance
16 footage from there?

17 A We made contact with the business manager and went to
18 them and got consent to be able to download the actual video
19 onto a thumb drive.

20 Q Okay. And did you do that with another detective?

21 A Correct.

22 Q When you downloaded that surveillance footage there,
23 did you also download it for the two aforementioned time
24 periods?

25 A Yes.

1 Q And were you able to determine whether the date and
2 time stamps on not particular surveillance footage were
3 correct?

4 A Yes.

5 Q Okay. I'm going to show you here what's been marked
6 as State's Proposed Exhibits 305, 306, 307 and 308.

7 A Okay.

8 Q First showing you 305, do you recognize what this is
9 generally?

10 A Yes, this is a thumb drive.

11 Q Okay. And this one's marked as West Azure Drive; is
12 that right?

13 A Yes.

14 Q Is this a fair and accurate depiction of the
15 surveillance footage that you collected at the West Azure Drive
16 address there at One Stop Auto?

17 A That is the correct address, yes.

18 Q And is this a fair and accurate depiction of it as
19 it's contained on that surveillance -- on that --

20 A With verification, yes.

21 Q Okay. As well as footage marked as State's Proposed
22 Exhibit 306, do you recognize what is depicted here?

23 A Yes.

24 Q Is this a DVD?

25 A Yes, it is.

1 Q And the DVD is marked for 5850 Sky Pointe; is that
2 right?

3 A Correct.

4 Q Is it a fair and accurate depiction of the
5 surveillance footage you collected at 5850 Sky Pointe?

6 A Yes.

7 Q State's Proposed 307, this is also a DVD; is that
8 right?

9 A Yes.

10 Q Marked for the Finley Honda; is that correct?

11 A Yes.

12 Q Is this a fair and accurate depiction of the
13 surveillance footage you collected at Finley Honda?

14 A Yes.

15 Q And the same for Proposed 308, this here marked for
16 Finley Volkswagen, is this a USB drive?

17 A Yes.

18 Q This a fair and accurate depiction of the
19 surveillance footage that you collected at Finley Honda?

20 A Yes.

21 MR. DICKERSON: State's going to move for the
22 admission of 305 through 308, Your Honor.

23 THE COURT: Subject to the record those will be
24 admitted.

25 (State's Exhibit Nos. 305-308 admitted.)

1 MS. TRUJILLO: Thank you, Judge.

2 MR. DICKERSON: Thank you.

3 BY MR. DICKERSON:

4 Q In addition to that, sir, I'm gonna show you State's
5 Proposed three -- I'm sorry, 140 to 164. Please take a look
6 through those and tell me if those are fair and accurate
7 depictions of screenshots from the surveillance footage that
8 you collected from those aforementioned locations.

9 A Yes, they are.

10 Q Okay.

11 MR. DICKERSON: At this time, Your Honor, the State's
12 going to move for the admission of State's Proposed 140 to 164.

13 MS. TRUJILLO: Same objection.

14 THE COURT: All right. Those will be admitted.

15 (State's Exhibit Nos. 140-164 admitted.)

16 MR. DICKERSON: Thank you, Your Honor.

17 BY MR. DICKERSON:

18 Q So first we're going to turn to the surveillance
19 footage at the 5850 Sky Pointe. Now, some of these particulars
20 from surveillance videos are run on different software
21 programs; is that right?

22 A Correct.

23 Q Some of them take some time to load?

24 A Yes.

25 Q What we're seeing here is that actual software

1 program that runs the surveillance footage for the 5850 Sky
2 Pointe apartment complex; is that right?

3 A Correct.

4 Q And it looks like there's two videos on here?

5 A Yes.

6 Q Are those the two videos that you collected?

7 A Two channels, yes.

8 Q Two channels. Only two in their entire system were
9 collected; correct?

10 A Correct.

11 Q And this one that we're seeing up front, what is
12 this?

13 A It's an indoor view of the main office of the
14 complex.

15 Q All right. Do we see a date and time stamp on here?

16 A We do.

17 Q And where do we see that?

18 A Top -- in the top left-hand corner.

19 Q Am I correct that that's February 21st, 2017?

20 A Correct.

21 Q And the current time is 22:31:02 seconds?

22 A Yes.

23 Q So that would be what time?

24 A That would be 10:31.

25 Q Okay. I'm going to go forward here to approximately

1 10:39; so it's 22:39:17 seconds. Can you describe for the
2 members of the jury what it is that we're actually seeing in
3 this image.

4 A So this is a night vision camera, and it is showing
5 the roadway or driveway that leads actually into the complex,
6 what's from the inside, that's what you can see out the far
7 back doors --

8 Q Okay.

9 A -- in the background of the image.

10 Q So those doors are showing us the front area of the
11 apartment complex?

12 A Correct.

13 Q I'm just going to refer to the map briefly. Looking
14 through 5850 Sky Pointe can you show us where that office is.

15 A (Witness complies.)

16 Q Okay. Does it appear that we see some parking spots
17 out front?

18 A Correct.

19 Q So there's some parking spots that are right in front
20 of that office?

21 A Correct.

22 Q And are we seeing those parking spots outside of the
23 door in the surveillance footage?

24 A Yes.

25 Q But not far behind that; is that right?

1 A Correct.

2 Q All right. Can you indicate on this video where it
3 is that you see those parking spots?

4 A You have one line right here and the line right
5 there.

6 Q Okay. If you could just hit that trash button at the
7 bottom.

8 A Which one?

9 Q To the right, it's like a trash can.

10 A (Witness complies.)

11 Q There you go. Thank you. All right.

12 Playing from that same place 22:39:43 seconds. What
13 is it that we're seeing there, sir?

14 A We're just seeing headlights from -- from a vehicle
15 coming into the complex.

16 Q And which way did it appear that vehicle had turned?

17 A It appeared to turn right, so based off the
18 orientation that would be southeast.

19 Q Okay. Fair to say that in this surveillance footage
20 you don't see any vehicles exit this particular apartment
21 complex until the police arrived?

22 A We would have to verify that it would.

23 Q Still playing from this point currently 22:41:18,
24 what would it appear that we see there?

25 A I'm sorry you'll have to --

1 Q 22:41:19 right there, sir, what is --

2 A It looks like a reflection of some light source going
3 across, and that's reflecting off the doors.

4 Q I'm going to move forward at this point, current
5 time -- I'll move forward at the current time and it's 22:49,
6 and then we're going to skip forward to 22:54. Thank you,
7 22:49:19 seconds. I'm going forward to 22:54 and 25 seconds
8 playing from this point; what does it appear we're seeing here?

9 A The arrival of a Metro police car with lights
10 activated.

11 Q All right. There's a second -- there's a second
12 channel on this; correct?

13 A Correct.

14 Q Let me just jump to that. Are you aware of whether
15 any persons were seen on this particular video?

16 A There's only one person that I recall seeing on this
17 video.

18 Q And this is Channel 6; is that right?

19 A Yes.

20 Q The person that you saw was approximately 22:52; is
21 that right?

22 A Yes.

23 Q Which is 10:52?

24 A Correct.

25 Q We're playing from this 22:52:32; is that the

1 individual you were talking about?

2 A Yes.

3 Q This appears he's casually walking past the camera?

4 A Correct.

5 Q Just for reference, this is the pool area of the
6 apartment complex?

7 A Yes.

8 Q I'm going to show you that area on the map if you
9 could point that out for us.

10 A It would be where the -- where the actual label for
11 the Sky Pointe is it's blocking it.

12 Q Okay. So it's actually behind the office building?

13 A Correct.

14 Q I'm going to move on to the Volkswagen footage that
15 you collected.

16 A Yes.

17 Q And that's Exhibit 308. You collected five camera
18 angles from the Volkswagen dealership; is that right?

19 A Yes.

20 Q And if you could, there's two that are of primary
21 focus for you; is that right?

22 A Correct.

23 Q That would be in the west lot three and the east lot
24 angles?

25 A Yes.

1 Q If you could, please, just indicate what those two
2 angles are attempting to cover.

3 A So the Volkswagen one had a camera right here that
4 was viewing this area. And the other one was the east lot one,
5 and that kind of was in that area depicting straight ahead.

6 Q Okay. First pull this up. Is this the surveillance
7 footage from Volkswagen?

8 A Yes.

9 Q The east lot footage is in the middle; is that right,
10 on the top?

11 A Correct.

12 Q And the west lot three footage that you'd indicated
13 was on the left-hand side of that building that's on the bottom
14 of this video; correct?

15 A Correct.

16 Q Okay. I'm going to take a look at the west lot
17 three. You see collected several hours of surveillance
18 footage?

19 A Yes.

20 Q Beginning on the 21st in the evening and ending in
21 the early morning hours of the 22nd?

22 A Correct.

23 Q So this particular angle that we're looking at right
24 here, does this cover the area where the vehicle was found that
25 belonged to the victim in this case?

1 A Yes.

2 Q And where would we see that?

3 A You would see it in -- behind these in this area over
4 here.

5 Q Okay. Can you move the mouse there.

6 A Yes, sorry about that.

7 Q Thank you. All right. Playing the video here from
8 23:02 or 23:32:01, do we see Azure Road there?

9 A Correct.

10 Q And to the right on Azure Road in this frame what is
11 that area?

12 A To the right of the frame is the elevated roadway by
13 Azure and Sky Pointe.

14 Q Is there an entrance onto Azure road right there?

15 A Yes, it -- it's the road that follows down and goes
16 in front of the vehicle in the [indiscernible].

17 Q Okay. I'm going to play it from this point. Does
18 this particular footage become relevant to you?

19 A Yes.

20 Q Does it depict the victim's vehicle entering?

21 A Yes. Well, the other angle depicts it entering.

22 Q And that right there was the vehicle in question?

23 A Correct.

24 Q Okay. Going to the East Lot 3 or east lot view, what
25 is it that we're seeing in this particular image?

1 A So we're seeing the other side of the building, but
2 this also depicts the driveway on the other side of the parking
3 lot.

4 Q Go to the back real quick and see if you can point
5 that out.

6 A So the second image is this driveway that is depicted
7 in there.

8 Q Okay. We're actually seeing that driveway there?

9 A Correct.

10 Q Now, the point that I've stopped this video switched
11 to the east lot, is that the same exact time spot as we were on
12 the other one the --

13 A Yes.

14 Q -- West Lot 3?

15 A Yes.

16 Q Okay. Playing from that same time 23:32, what are we
17 seeing there?

18 A You're seeing the vehicle turn into down the driveway
19 between those two buildings.

20 Q I'm stopping at that point on the east going back to
21 West Lot 3 playing from that same point 23:32:32 seconds would
22 be 11:32 in the evening?

23 A Yes.

24 Q And so the direction that vehicle went would be to
25 this side of the complex; is that right?

1 A Yes.

2 MS. TRUJILLO: Can we clarify to which side of the
3 complex.

4 THE WITNESS: So on the west side of the building on
5 the opposite side of the road.

6 BY MR. DICKERSON:

7 Q Does it appear we just saw the vehicle lights come
8 into frame there?

9 A Yes.

10 Q Going to timestamp of 23:56:01, this is the same
11 angle the West Lot 3 showing Azure in front of us?

12 A Correct.

13 Q And does it appear there's a vehicle of people
14 exiting onto Azure going eastbound?

15 A I'm sorry, you're gonna have to hit the zoom and try
16 it again.

17 Q Did you see that?

18 A (No audible response.)

19 Q This frame that we're looking at here, is that that
20 intersection at the top of Azure?

21 A Correct.

22 Q On the west side?

23 A Yes.

24 Q And what are we seeing there?

25 A A vehicle turning now eastbound onto Azure.

1 Q All right. I'm stopping the video there at 23:56:20
2 seconds. I'm going to go to the east lot view. Again, this is
3 the entrance to that particular business complex; is that
4 correct?

5 A Correct.

6 Q Playing from that same point 23:56:20, and what do we
7 see there?

8 A A vehicle turning into the same driveway.

9 Q Appears to be a white SUV?

10 A Correct. Or a lighter colored SUV.

11 Q And it turns right, which is west?

12 A Yes.

13 Q Okay. Moving from that image to the West Lot 3 image
14 same time period 23:56:37. Does it appear we just saw that
15 vehicle park?

16 A Yes.

17 Q Do we actually see a light reflecting or some sort of
18 light source from that vehicle?

19 A That wasn't there before, yes.

20 Q Okay. Can you please indicate where that is on the
21 screen.

22 A If you went back it would be easier to show the
23 difference.

24 Q What's that?

25 A If you --

1 Q Can you hit that trash button.

2 A (Witness complies.)

3 Q Thank you. Can you hit that again?

4 A (Witness complies.)

5 Q Okay. From this point --

6 A See, now there's light in the area where it's not
7 before.

8 Q Okay. And if you could hit that trash button again.

9 A (Witness complies.)

10 Q Can you hit it one more time for me.

11 A (Witness complies.)

12 Q Ultimately, yeah, it appears that vehicle based upon
13 that light source stays there for several minutes?

14 A Yes.

15 MS. TRUJILLO: Objection. Can we approach, Judge?

16 THE COURT: Sure.

17 (Conference at the bench not recorded)

18 THE COURT: Go on, Counsel.

19 BY MR. DICKERSON:

20 Q It has actually been playing this entire time; is
21 that correct?

22 A Yes.

23 Q In a minute I'm going to direct your attention at
24 approximately 23 seconds after midnight to the top right of the
25 screen at the Azure intersection.

1 A Okay.

2 Q What do you see up there in the top right corner at
3 31 seconds?

4 A A vehicle now turning south -- eastbound on Azure.

5 Q Okay. Are you able to identify what kind of vehicle?

6 A That's a Metro black and white.

7 Q Okay. This point in time I'm going to go to the east
8 lot view 52 seconds after midnight on February 22nd; is that
9 correct?

10 A Yes.

11 Q And what do you see there?

12 A Vehicle turns right into the driveway into the
13 complex.

14 Q And what is it that you're seeing here one minute --
15 1:39?

16 A Headlights of a vehicle exiting the complex.

17 Q Does that appear to be a vehicle we've seen before?

18 A Yes.

19 Q I'm just going to back it up to one minute and one
20 second after midnight on February 22nd. We're looking at the
21 West Lot View 3; is that right?

22 A Correct.

23 Q And what are you seeing here?

24 A From across the way a light source moving, a vehicle,
25 similar to a vehicle leaving.

1 Q And what are you seeing there, sir?

2 A That's the Metro black and white.

3 Q All right. Going to the file for February 23rd,
4 2017, is -- are we looking at the February 23rd, 2017,
5 surveillance footage from Volkswagen?

6 A Yes.

7 Q Does this contain two of the same images that we were
8 looking at before or two of the same angles with West Lot 3 as
9 well and east lot?

10 A Yeah, same channels.

11 Q Looking to West Lot 3 at 2:42:58 seconds on February
12 23rd, 2017, are we looking at the same area that we were
13 before where those vehicles were?

14 A Correct.

15 Q What does it appear that we're seeing there?

16 A There's a light source coming from on the other side
17 of the road behind the bushes.

18 Q I'm going to take it back to 2:44, and I'm going to
19 skip to back to the east lot. Currently looking at the east
20 lot, that's the entrance to the building complex; is that
21 correct?

22 A Correct.

23 Q And it's 2 -- time stamped 2:44. This is after that
24 you said the light source you had seen emanating?

25 A Yes.

1 Q And what if anything do you see here?

2 A There's a shadow in the background of the image
3 behind -- if you look by the -- if you look around this palm
4 tree, you'll see a shadow in the background of something moving
5 across the screen.

6 Q Okay.

7 A Clear it?

8 Q Yeah, go ahead and clear it.

9 And then going from that same 2:44:02, is that what
10 you're talking about right there?

11 A Correct.

12 Q Still on this I'm going to go forward to 2:49:50
13 seconds playing from this point, and what is it that you're
14 seeing there, sir?

15 A Vehicle coming across traveling westbound on Azure.

16 Q And what does that vehicle appear to be?

17 A Similar to a vehicle from previous videos.

18 Q The light-colored vehicle as you described it?

19 A Correct.

20 Q And playing from West Lot 3 with the same timestamp.
21 Still on West Lot 3, I'm going to skip forward to 2:59:21
22 seconds West Lot 3 video playing from this point; what is it
23 that you're seeing here, sir?

24 A Another light source coming from what appears to be
25 behind the bushes.

1 Q Going forward to 3:05, directing your attention to
2 the top-right corner at the intersection on Azure going to that
3 3:05:33, what does it appear that we're seeing there?

4 A A similar in style vehicle of the vehicle we've
5 previously seen.

6 Q Playing from the east lot view from that same point
7 going forward to 3:16:57 seconds flipping to West Lot 3 playing
8 from this point; what did you see there, sir?

9 A A large light source from the same area we've been
10 looking at already.

11 Q And from this point does it appear that there's a
12 fire going on or some light source emanating?

13 A Yes, there is a continual light source emanating from
14 that area.

15 Q I'm going to go forward to 3:21:04 seconds playing
16 from this point, what is it that you're seeing here?

17 A It looks like a figure that -- figure shadow moving
18 away from the vehicle in question or the light source in
19 question.

20 Q In which direction did it appear?

21 A Traveling -- traveling east.

22 MR. DICKERSON: State will pass the witness.

23 THE COURT: All right. Cross.

24 MS. TRUJILLO: Thank you, Judge.

25 CROSS-EXAMINATION

1 BY MS. TRUJILLO:

2 Q Mr. Krnjeu, how are you?

3 A Good. How are you doing?

4 Q Good. Thank you.

5 So you were just asked the question by the State, and
6 he asked you about a white SUV, and you corrected him and said
7 a lighter color vehicle; is that correct?

8 A Yes.

9 Q Is that because it's a night vision camera?

10 A Yes.

11 Q And what is a night vision camera?

12 A Night vision detects -- night vision detects video
13 and wavelengths that are different from our visible light
14 spectrum, and therefore, what is depicted in night vision is
15 not necessarily the same as being reflected in natural light.

16 Q Okay. Fair to say that all of the video that we just
17 saw you couldn't see a make of the vehicle?

18 A Correct.

19 Q Okay. Let's start with the first vehicle. There was
20 a darker colored vehicle that we saw on the screen. You
21 couldn't tell the make or model of that vehicle; right?

22 A Correct.

23 Q And then let's move to all the video of the lighter
24 color vehicle; you couldn't tell the make of that vehicle?

25 A Correct.

1 Q You couldn't tell the model of that vehicle?

2 A Correct.

3 Q And, in fact, you said the color was lighter; you
4 didn't identify the color?

5 A Correct.

6 Q Thank you. You also -- did you personally go to this
7 location to retrieve the cameras?

8 A Yes.

9 Q Did you happen to go to the area that you keep
10 referring to seeing the light source at?

11 A Yes.

12 Q Are you aware that there's multiple entrances to that
13 complex?

14 A Yes.

15 Q Okay. I want to move to Sky Pointe. You indicated
16 that you saw the person leaving at the main building of the
17 apartments; is that correct?

18 A The pool area?

19 Q Yes.

20 A Yes.

21 Q That's the main building; right?

22 A Yes.

23 Q The leasing office?

24 A Yes.

25 Q Is that north or south of the building where the

1 incident took place?

2 A That I do not know where the incident took place.

3 MS. TRUJILLO: Court's indulgence.

4 BY MS. TRUJILLO:

5 Q Did you actually go to Sky Pointe?

6 A Yes.

7 Q Okay. So do you know where the incident took place?

8 A In the complex; I don't know specifically where it
9 occurred at inside the complex.

10 Q Okay. Do you -- you're not sure what building it
11 occurred in?

12 A No.

13 Q Okay.

14 MS. TRUJILLO: No further questions. Thank you.

15 THE COURT: All right. Any redirect?

16 REDIRECT EXAMINATION

17 BY MR. DICKERSON:

18 Q You discussed that you collected other videos; is
19 that right, sir?

20 A Correct.

21 Q Including the Honda video?

22 A Yes.

23 Q And the Honda video was, in fact, in color?

24 A Yes.

25 Q And a --

1 MS. TRUJILLO: Judge, I'm going to object. May we
2 approach?

3 THE COURT: Sure.

4 (Conference at the bench not recorded)

5 BY MR. DICKERSON:

6 Q And, Detective, that video from Honda is in color;
7 correct?

8 A Some of -- yes.

9 Q And in that video the vehicle appears white?

10 A Yes.

11 THE COURT: Any follow-up from the defense?

12 MS. TRUJILLO: No follow-up.

13 THE COURT: Any juror questions for the witness?

14 All right, sir, I see no additional questions. Thank
15 you for your testimony. Please don't discuss your testimony
16 with any other witnesses. And you are excused.

17 THE WITNESS: Thank you, Your Honor.

18 THE COURT: State, call your next witness.

19 MR. GIORDANI: Michael Mangione.

20 **MICHAEL MANGIONE**

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

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

25 THE WITNESS: It's Michael Mangione. It's

1 M-i-c-h-a-e-l, M-a-n-g-i-o-n-e.

2 THE COURT: You may proceed.

3 DIRECT EXAMINATION

4 BY MR. GIORDANI:

5 Q Good afternoon, sir. What do you do for a living?

6 A I'm a police officer with the Las Vegas Metropolitan
7 Police Department.

8 Q What is your current assignment?

9 A I worked in the Digital Investigation Section.

10 Q How long have you been with Metro?

11 A A little over 11 years.

12 Q And how long have you been in the Digital
13 Investigation Section?

14 A Since February of 2016.

15 Q What do you do in the Digital Investigation Section,
16 sir?

17 A I'm the supervisor over the Cyber Crimes Unit in the
18 Digital Forensics Lab.

19 Q And with specific regard to the Digital Forensics
20 Lab, what types of things do you do within that lab?

21 A So within the Digital Forensics Lab we examine a
22 variety of electronic devices that are capable of storing data.
23 So we examine cell phones, computers, vehicle infotainment
24 systems. We do digital video, and our job is to support
25 investigations that are being conducted across the entire

1 department.

2 Q Under Event No. 17022214563, did you receive -- well,
3 did the Digital Forensics Lab receive a cellular telephone in
4 order to attempt to get into that phone and examine it?

5 A Yes.

6 Q When you initially received it, was that subject to
7 a search warrant authored by detectives and issued by a Court?

8 A Yes.

9 Q When you first received that device, was that back in
10 February 2017?

11 A Yes.

12 Q When that device was first received, did you learn
13 that it was pass code protected?

14 A Yes.

15 Q And did one of your fellow detectives who's
16 previously testified essentially popped the SIM out and get
17 what's called the ICC ID number?

18 A Yes.

19 Q What's the ICC ID number?

20 A The ICC ID number is -- it's Integrated Circuit Card
21 Identifier. Basically what that is is the number that
22 authenticates to the cell phone towers to let the service
23 provider know that you're identified as a subscriber and also
24 that you're authorized to use the cellular network.

25 Q At that point in time since the device was locked,

1 you could not get into it to analyze anything, any contents of
2 that device; is that fair?

3 A That's correct.

4 Q With the ICC ID, did detectives subsequently
5 determine it was a Sprint account associated with
6 (404)808-2233?

7 A Yes.

8 Q And who was the subscriber to that phone?

9 A Larry Brown.

10 Q Initially -- well, once you initially couldn't get
11 into the phone, did you send it off to a company by the name of
12 Cellebrite?

13 A Yes.

14 Q And did shortly thereafter or sometime thereafter did
15 you receive notification Cellebrite couldn't get into that
16 phone?

17 A Yes.

18 Q Was that phone then sent back to you for the Digital
19 Forensics Lab?

20 A Yes.

21 Q After sometime was there a second search warrant
22 authored and authorized for access to that particular phone?

23 A Yes.

24 Q In between the first time Cellebrite can't get into
25 it and the second time, are you notified that there may be new

1 software that Cellebrite has in order to get into that phone?

2 A Yes, I was.

3 Q So is that why the second search warrant results?

4 A Yes.

5 Q And then is that phone sent off a second time to
6 Cellebrite?

7 A Yes.

8 Q The phone that we're talking about specifically --
9 excuse me, Samsung SM G920P Galaxy S-6; is that right?

10 A Yes.

11 Q And does that have an IMEI number of 25669157350644
12 ending in 7512?

13 A 7512 sounds correct, yes.

14 Q Thank you. When you sent that phone off to
15 Cellebrite, did it remain in their custody and control for
16 quite some time?

17 A Yes.

18 Q And then ultimately did you receive that phone back?

19 A Yes.

20 Q Showing you State's Proposed 297, 298, 299, do you
21 recognize those, sir?

22 A Yes.

23 Q Do those appear to be fair and accurate depictions of
24 the device as well as the evidence bag containing that device
25 that you received back from Cellebrite?

1 A Yes.

2 Q Was that in April of 2018?

3 A Yes.

4 MR. GIORDANI: Move for the admission of those.

5 THE COURT: Any -- subject to the record that's
6 already been made objection.

7 MR. STORMS: Thank you, Judge.

8 THE COURT: All right. That's overruled and those
9 can be admitted and published.

10 (State's Exhibit Nos. 297-299 admitted.)

11 MR. GIORDANI: Thank you.

12 / / /

13 BY MR. GIORDANI:

14 Q And State's 299 here -- excuse me, is that the
15 evidence bag from Cellebrite?

16 A Yes.

17 Q And does that indicate a essentially chain of custody
18 which means whoever had it, that phone in their possession for
19 whatever period of time?

20 A Yes.

21 Q And let me flip that over State's 297, can you see
22 the security seal -- is this the flip side of that bag?

23 A Yes.

24 Q Can you see the security seal next to it?

25 A Yes.

1 Q And is that device ultimately removed, State's 298,
2 from the evidence bag?

3 A Yes.

4 Q In addition to the device itself, did you also
5 receive a external hard drive or what we've been referring to
6 as a thumb drive in a pelican or hard case?

7 A Yes.

8 Q And was that -- I'm going to call it a thumb drive --
9 was that thumb drive separate and apart from the phone, meaning
10 it wasn't the same -- it wasn't pulled out of the phone or
11 anything?

12 A Separate part of the phone.

13 Q Okay.

14 A I'm sorry, separate, not part of the phone.

15 Q Separate device?

16 A Separate item, yes.

17 Q Got it. With that separate device did you examine
18 it?

19 A Yes, I did.

20 Q And are you actually physically examining the thumb
21 drive?

22 A Yes.

23 Q How do you do that, sir?

24 A So when they send us back information on external
25 media after they were able to access the contents of the

1 device, they send us the files on the external hard drive. So
2 prior to copying those files over to my forensic computer, we
3 do a process called hashing. What a hash is is it's basically
4 a digital fingerprint. Every file has a unique identifier,
5 their hash value. So what I did is I hashed the files on the
6 drive before I copied them over, and once I copied them over to
7 my machine, I hashed them again on my machine to ensure that
8 nothing had changed during the transfer.

9 Q And did anything change during the transfer in this
10 particular case?

11 A No.

12 Q Okay. What types of information are you able to
13 obtain -- well, after you've done the hashing, do you then
14 examine the -- what's on the -- your forensic computer now?

15 A Yes.

16 Q And what types of information can you glean from,
17 incorporate a copy that you have on your computer?

18 A So we use a program called Cellebrite, and what it
19 does is it takes that copy of the data from that phone, and it
20 makes it human readable. So it categorizes all the different
21 items that can normally be found on a cellular phone. So some
22 examples, text messages, call logs, contacts, Internet browsing
23 history, images, videos, et cetera.

24 Q And were all those items on this phone and accessible
25 to you at that point in time?

1 A Yes.

2 Q Did the device have a user name --

3 A Yes.

4 Q -- associated with it? What was that?

5 A I believe either Larry Brown or L Brown.

6 Q L Brown?

7 A L Brown, yes.

8 Q And was that contained within the device?

9 A Yes.

10 Q Was there also multiple user accounts located on the

11 device?

12 A Yes.

13 Q Did those accounts contain names or derivatives of

14 Larry or Larry Decorleon Brown?

15 A Yes.

16 Q Specifically one user account had Decorleon Brown; is

17 that right?

18 A Correct.

19 Q One had L Brown?

20 A Yes.

21 Q And one had Larry Brown spelled?

22 A Yes.

23 Q And then is there also an e-mail account associated

24 with that device?

25 A Yes.

1 Q And was that Decorleon0110@gmail.com?

2 A Yes.

3 Q During the course of examining the contents of that,
4 did you find a login the day before February 21st, 2017?

5 A Yes.

6 Q And did that login reference Larry or Brown?

7 A I believe it said Larry.

8 Q Okay. In addition, did you examine multiple text
9 message threads with multiple different contacts?

10 A Yes.

11 Q And is this in order to establish the user of the
12 phone?

13 A Correct.

14 Q During the course of examining those several text
15 message threads, were there several texts in which someone
16 addressed the receiver as Larry and then the receiver responded
17 in kind?

18 A Yes.

19 Q Did you at detectives and my request look up the
20 three numbers that we have associated with our victim in this
21 case in an effort to determine whether there were any
22 communications with the phone associated with Larry Brown and
23 the three victim's phones?

24 A Yes.

25 Q Were there any contacts between the phone associated

1 with Larry Brown and the three victims?

2 A No.

3 Q Did you also go through and attempt to extract cell
4 phone -- I'm sorry, voice call and text message history between
5 the phone associated with Larry Brown and a contact by the name
6 of Poke?

7 A Yes.

8 Q P-o-k-e?

9 A Yes.

10 Q And would that be phone number (702)581-2072?

11 A Yes.

12 MR. GIORDANI: May I approach?

13 THE COURT: You may move freely.

14 BY MR. GIORDANI:

15 Q Okay. I'm going to first show you State's 301, do
16 you recognize that?

17 A Yes.

18 Q And what does this document contain?

19 A This is call logs from the device just specifically
20 between the contact Poke and the device that I was examining.

21 Q Okay. So this first Exhibit 301 is just calls;
22 correct?

23 A Yes.

24 Q Okay. State's 302, what are we looking at here?

25 A That is just SMS messages between the contact Poke

1 and the device itself.

2 Q Okay. So this one 302 contains just text messages?

3 A Correct.

4 Q 302A, do you recognize that?

5 A Yes.

6 Q And what does this document contain?

7 A That is a timeline view of the contacts that are --
8 I'm sorry, between the contact Poke and the device which also
9 includes SMS messages and the call logs.

10 Q Okay. So we have calls and text on 302A. And are
11 those all in chronological order, but some of them are from a
12 long time ago up until now and then vice versa?

13 A Yes.

14 Q Okay. And I'm going to go through those with you.

15 MR. GIORDANI: But I move to admit those now before I
16 do. 301, 302 and 302A.

17 THE COURT: Objection?

18 MR. STORMS: Yes, Judge.

19 THE COURT: All right. Those will be admitted over
20 defense objection.

21 (State's Exhibit No. 301, 302, 302A admitted.)

22 MR. GIORDANI: Thank you.

23 BY MR. GIORDANI:

24 Q I'm going to start with 301. And moving here, you
25 indicated 301 was just calls; correct?

1 A Yes.

2 Q Okay. First off right under here it says Poke,

3 P-o-k-e; is that right?

4 A Yes.

5 Q And then the phone number (702)581-2072?

6 A Yes.

7 Q And we're in column 3 now. I want to move to column

8 4, what are we looking at here?

9 A That's the timestamp of the call occurring.

10 Q Okay. February 21st, 2017, 10:07 p.m.?

11 A Correct.

12 Q And is that already adjusted away from UTC time?

13 A Yes.

14 Q Meaning 10:07 p.m. local time?

15 A Correct.

16 Q What's this column here?

17 A That's the duration of the call so how long it

18 lasted.

19 Q So that one didn't go through or didn't last --

20 A Correct.

21 Q -- at all or connect? And as we go down, the same

22 information be contained in these same columns?

23 A Yes.

24 Q And just to the left there on the first one, row 1

25 says unknown and then row 2 says incoming, 3 says unknown, 4

1 says incoming. Do you see all that?

2 A Yes.

3 Q Going down, 5 says, incoming, 6 says outgoing?

4 A Correct.

5 Q I presume outgoing means this was a call placed from

6 the device (404)808-2233?

7 A Yes.

8 Q To Poke?

9 A Correct.

10 Q And then the incoming means Poke is no longer on the

11 device?

12 A Correct.

13 Q What does the unknown mean?

14 A Unknown means that when it's parsoned (phonetic)

15 through the database within the phone that stores all these

16 logs of call history that there's not indicator determining or

17 showing whether it's an incoming or an outgoing.

18 Q Okay. I'm going to move out just briefly before I

19 move on. And do you see this far right column here where it

20 says deleted?

21 A Yes.

22 Q And does that mean that whatever that is was deleted

23 from the phone?

24 A Yes, the inside of the database that means that

25 the -- that particular entry was deleted.

1 Q Understood. Now I'm showing you 302A, back out a
2 second, do you recognize this?

3 A Yes.

4 Q And is this essentially a text message history of the
5 contacts between the phone Poke 702-581-2072 and the device?

6 A Yes.

7 Q Also with timestamps?

8 A Correct.

9 Q And date stamps?

10 A Yes.

11 Q I'm going to jump to the second-to-last page -- I'm
12 sorry, third-to-last page towards the bottom here on line 424.
13 Let me zoom in a little bit more.

14 A Perfect. Thank you.

15 Q What is line 424 indicating to you?

16 A That's a incoming text message to the device at -- on
17 the 21st of February of 2017 at -- sorry, it's a little blurry
18 on my end here --

19 Q Nine --

20 A -- 9:37 a.m.

21 Q Okay. And it's a text from Poke saying, tonight the
22 night, my brother?

23 A Correct.

24 Q Okay. I'm going to turn to the next page, line
25 434 -- oops, it's not on the screen. Line 434, do you see

1 that?

2 A Yes.

3 Q And is this an SMS text message?

4 A Yes.

5 Q Outgoing from the device to Poke?

6 A Yes.

7 Q 2-21-17, at 9:38 p.m.?

8 A Yes.

9 Q And is that the device saying how are we looking?

10 A Correct.

11 Q Is there an incoming SMS message at 2-21-17, at

12 9:39 p.m?

13 A Yes.

14 Q From Poke?

15 A Yes.

16 Q He's supposed to be pulling up; my man that want the

17 bags not here either?

18 A Yes.

19 Q We'll go down, 439, do you see that?

20 A Yes.

21 Q An incoming text 9:39 p.m. from Poke, I told him be

22 here at 9:30?

23 A Correct.

24 Q Okay. Down to 441, do we have an outgoing text from

25 the device to Poke?

1 A Yes.

2 Q 9:43 p.m.?

3 A Correct.

4 Q On standby is the content?

5 A Yes.

6 Q Line 447, is that an incoming text message from Poke?

7 A Yes.

8 Q 10:13 p.m.?

9 A Yes.

10 Q His girl he having problem with work at UMC medical?

11 A Yes.

12 Q 449, is that an outgoing text to Poke at 10:14 p.m.

13 that says, now?

14 A Yes.

15 Q Line 451, can you still see that?

16 A Yeah.

17 Q At 10:15 p.m. incoming text it says, yes?

18 A Yes.

19 Q In response to that.

20 Line 453, is that an outgoing text that's sent at

21 10:17 p.m. on to 2-21-17, to Poke it says, but you on the way;

22 right?

23 A Yes.

24 Q And then response an incoming SMS message 2-21 from

25 Poke that says, yes, yes?

1 A Yes.

2 Q And then down the line 457 we have an incoming text
3 at 10:17 p.m. from Poke that says, I'm here?

4 A Yes.

5 Q Line 459, an incoming text from Poke at 10:18 that
6 says, I've been here, fam, he on the way?

7 A Yes.

8 Q Line 460, an outgoing text from the device to Poke at
9 10:18 p.m. that says, yeah, I saw him go in, dot, dot, okay?

10 A Yes.

11 Q And then 461, an incoming text from Poke to -- at
12 10:18 p.m. that says, if you need Nard he on standby?

13 A Yes.

14 Q 463, an incoming text from Poke at 10:19 p.m. that
15 says, at the how?

16 A Yes.

17 Q 465, an outgoing text at 10:21 p.m. to Poke that
18 says, I'm on it?

19 A Yes.

20 Q Line 466, at 10:21 p.m. an incoming text from Poke
21 that says, he have money in middle console too sometime mostly
22 on him and in trunk in bags if he riding heavy. He keeps small
23 pocketknife on right side?

24 A Yes.

25 Q Line 469, an incoming text from Poke that says, okay,

1 fam?

2 A Yes.

3 Q At 10:22. And then at 10:22:42 an outgoing text from
4 the device to Poke that says, okay?

5 A Yes.

6 Q Line 471, an incoming text at 10:40:29 p.m. on
7 February 21st --

8 MS. TRUJILLO: Judge, can we approach?

9 THE COURT: Sure. It's probably time for our recess
10 anyway.

11 MR. GIORDANI: It's my last question.

12 THE COURT: Well, how much cross do they have?

13 Approach.

14 (Conference at the bench not recorded)

15 THE COURT: -- just a couple minutes of 5:00. Oh,
16 okay. Mr. Giordani will finish up direct. We'll take our
17 weekend recess, and then we'll resume cross next week.

18 So finish up.

19 MR. GIORDANI: I just have the one --

20 THE COURT: It's fine.

21 MR. GIORDANI: -- I just wanted to finish the
22 question.

23 BY MR. GIORDANI:

24 Q That very last text message on the device itself
25 between the device and Poke was an incoming at 2-21-17, at

1 10:40 p.m. and 30 seconds from Poke that says, pulling in?

2 A Yes.

3 MR. GIORDANI: Okay.

4 THE COURT: All right. Thank you, Mr. Giordani.

5 Ladies and gentlemen, we're going to go ahead and
6 take our weekend recess. The Court is dark this -- not every
7 Monday, but this particular Monday we will not be in session on
8 the trial so you get a three-day weekend on us. We will
9 reconvene Tuesday at 12:30. The Court has its normal calendar
10 on unrelated matters Tuesday morning, so we'll reconvene at
11 12:30 on Tuesday. Again, because we're not starting until
12 12:30 we won't be taking a lunch break so make sure you eat
13 lunch ahead of time or bring a snack or do whatever you need to
14 do.

15 Before I excuse you for the three-day weekend recess,
16 I must remind you that you're not to discuss the case or
17 anything relating to the case with each other or with anyone
18 else. You're not to read, watch or listen to any reports of or
19 commentaries on the case, person or subject matter relating to
20 the case. Do not do any independent research by way of the
21 Internet or any other medium. Do not visit any of the
22 locations at issue, and please don't form or express an opinion
23 on the case.

24 Please leave your notepads in your chairs and follow
25 Officer Hawkes through the double doors. We'll see you next

1 week.

2 And, Detective, over the break please don't discuss
3 your testimony with anybody else.

4 THE WITNESS: Gotcha.

5 (Jury exiting 4:59 p.m.)

6 THE COURT: Can I excuse the detective?

7 MR. GIORDANI: Oh, yes.

8 THE COURT: And 12:30.

9 MR. GIORDANI: Can you be here at 12:30 on Tuesday?

10 THE WITNESS: Yes.

11 THE COURT: Okay. We'll see you then.

12 THE WITNESS: Thank you.

13 THE COURT: Thanks.

14 And then just to place on the record, at the bench
15 Ms. Trujillo made an objection as exceeding the scope of cross
16 when Mr. Dickerson wanted to get into the surveillance -- or
17 the video from the Honda dealership that showed a white vehicle
18 as exceeding the scope of cross. But I felt like the door was
19 opened because they got into the color of the vehicle as not
20 being white. Ms. Trujillo felt like since it's talking about a
21 different video that it exceeded the scope, but I felt like it
22 didn't because it's still talking about color.

23 So is that accurate?

24 MS. TRUJILLO: No, Judge, I'd like to make my own
25 record. I appreciate it. Thank you.

1 THE COURT: Okay.

2 MS. TRUJILLO: First --

3 THE COURT: I'm sorry, but that's what I recall, and
4 you have an opportunity to --

5 MS. TRUJILLO: I appreciate it.

6 THE COURT: -- did I incorrectly state what was
7 argued at the bench?

8 MS. TRUJILLO: No, but I argued more. So I started
9 with the fact that one, these were the subject of my motions in
10 limine for the very reason that they're speculative, they're
11 prejudicial against my client. I objected to the admission of
12 all of the videos depicting an allegedly white SUV vehicle.

13 The Court obviously saw it differently, allowed the
14 admission over my objection prior to the witness even
15 testifying about every video. During direct examination, the
16 State only questioned about the Volkswagen video and the Sky
17 Pointe videos. So the Court allowed I believe three additional
18 videos that there was not even witness testimony about to go
19 before the jury when the point of that evidence is to aid in
20 its deliberation.

21 Secondly, I did not open any door on my
22 cross-examination because my question out the gate was when the
23 State asked you about the video -- the vehicle in question and
24 said white you corrected him; is that because it's a night
25 vision camera referring to the actual video that was played

1 before this jury. So I don't know how that opens the door.

2 Secondly, the difference between the State made the
3 point of well, crime scene photos are admitted all the time.
4 If you recall I pretty much stipulated to every crime scene
5 photo. I objected to the gruesome ones. Those were actually
6 shown to the jury, that's the difference here. I objected to
7 the messy house photos; those were shown to the jury. That's
8 the difference here.

9 I completely objected to these videos being allowed.
10 The Court allowed the State to nonetheless talk about the Honda
11 video. And if you recall, apparently because he's
12 disingenuous, and I'm sorry but it really makes me angry, we
13 were up there, and he told the Court that was my only question
14 I'm done, and they followed up and asked an additional question
15 about the actual color. So I believe at this point I have to
16 move for a mistrial.

17 THE COURT: Okay. Well, first of all to me the point
18 of your question was to suggest that it wasn't necessarily the
19 white vehicle, that it could have been a tan vehicle or a beige
20 vehicle or a light silver vehicle or some other color that
21 wasn't white. To me that was the point of the question. And
22 so --

23 MS. TRUJILLO: About that specific video that we
24 watched.

25 THE COURT: Yeah, but why do we care if it's not

1 pointing out it's not a white vehicle. That's why I mean it's
2 not --

3 MS. TRUJILLO: We care because it's
4 cross-examination. He has a due process right to a fair
5 trial --

6 THE COURT: Well, Ms. Trujillo --

7 MS. TRUJILLO: -- which is now being violated.

8 THE COURT: Well, Mr. Trujillo, to me the import of
9 the question was that it's not necessarily a white vehicle. So
10 the question is, is it a white vehicle or is it not a white
11 vehicle; that's why I felt like the door was opened. I don't
12 know what other point there is to talk about the color of the
13 vehicle except to suggest it's not a white vehicle --

14 MS. TRUJILLO: Right and --

15 THE COURT: -- that's the whole relevance of this.
16 So you created the suggestion that maybe it wasn't a white
17 vehicle. Maybe it was some other light-colored vehicle. So I
18 felt like then the State could come back in and say it is a
19 white vehicle. The whole point is, is it a white vehicle or is
20 it not a white vehicle? That's the point of all of this as I
21 understand it. That's why I let it in, you know, I think the
22 record's made. If you need to say anything else go ahead and
23 say it. It certainly isn't grounds for a mistrial that they
24 talked about a white vehicle, and he said it wasn't a white
25 vehicle, but now it's a white vehicle. So, I mean, it --

1 MS. TRUJILLO: No, but the grounds for a mistrial,
2 first it's not my job to decide what the State wants to ask.
3 They didn't ask about the Honda video. They didn't get into it
4 is white. We have color video. Let's talk about this video.

5 I restricted my cross to what the State presented,
6 and this Court allowed them to exceed both direct and
7 cross-examination, and that's what the violation is. And it's
8 relevant because those were the videos that we saw, and my
9 question was very specific to that video. I said, he asked you
10 this question about the video surveillance. Did you say this
11 because it was night vision. I don't think that opens the door
12 at all.

13 THE COURT: Well, again the way I interpret it is the
14 relevance of the whole thing is what's the color of the
15 vehicle; is it a white vehicle is it some other casting into
16 question whether or not it's a white vehicle. So you know the
17 whole point is, is it a white vehicle or is it not a white
18 vehicle; is it some other color vehicle and therefore unrelated
19 to the white vehicle --

20 MR. DICKERSON: And State --

21 THE COURT: -- that's the whole point of this as I
22 understand it; otherwise who cares, in my opinion. So, I mean,
23 to me I'm listening to the evidence just like the jury would be
24 listening to it, and then they're thinking oh, it's not a white
25 vehicle. Maybe it's a light-colored vehicle. Maybe it's a tan

1 vehicle. Maybe it's a light silver vehicle based on the night
2 vision. So that's why to me it's relevant.

3 And you know, they could have said may we reopen
4 direct. So I really don't see this as some grievous, you know,
5 miscarriage of justice that they got to ask another question.
6 Like I said, they could always seek to reopen direct even if it
7 does exceed the scope of cross. So I don't --

8 MR. DICKERSON: Right and --

9 THE COURT: -- I don't really see the -- like I said,
10 I don't see the prejudice to your client.

11 MR. DICKERSON: And the State would just add that
12 foundation was laid before all of those videos, both the Honda
13 and the One Stop, and that's what he testified to based upon
14 her bringing up the color of the vehicle that's it.

15 THE COURT: Right, I mean, I think the videos are
16 admissible --

17 MR. DICKERSON: They're all admitted.

18 THE COURT: -- the litigation the record is clear on
19 your opinion that it's too speculative as if it's the same
20 vehicle or not the same vehicle. It's already been litigated.
21 Like I said, I think the door was opened; even if it wasn't,
22 they could have reopened direct, and they've got the video in,
23 which the jury can look at the video and see whether it's a
24 white vehicle or not a white vehicle. So I don't see any
25 prejudice here.

1 The second issue was you approached the bench, and I
2 don't want to put words in your mouth, but it had to do with
3 the family member, one or more family members crying or so say
4 what you want to say.

5 MS. TRUJILLO: And at this point I'd ask that the
6 family be precluded from coming to the trial. This is now the
7 fourth incident that they have caused. They were crying
8 opening statement rightfully so. I'm not saying anything, I
9 don't want anything to prejudice my client. The jurors have
10 looked over to them. They've made commentary. The jurors have
11 looked over to them. I've already made these objections.

12 The third one, speaking about the case in front of a
13 juror, and now we have an alternate juror.

14 And now the fourth issue is they started crying and
15 getting up and moving around to leave because they are crying,
16 which is causing more commotion, and the jurors to look over.
17 So at this point I asked that they be excluded.

18 THE COURT: State.

19 MR. GIORDANI: Yes, if I could respond. The -- what
20 I believe Mr. Trujillo is referring to this afternoon when the
21 texts started getting towards the end, it was the younger
22 female and I believe there was an audible --

23 MS. TRUJILLO: Sigh.

24 THE COURT: Like a gasp or something.

25 MR. GIORDANI: -- sob, sigh or whatever, yes. And

1 the rest of the -- one time and the rest of the family
2 immediately took her out of the room. I think it's perfectly
3 appropriate. I don't think it was intentional in any way, and
4 this is what happens in cases like this. It doesn't prejudice
5 your client. It doesn't say he's guilty. It says that this is
6 a grieving family. I think precluding them from the courtroom
7 is inappropriate and just wouldn't be right. Especially
8 because what they've done so far has not amounted to anything
9 other than showing emotion and maybe negligently talking about
10 the case, but we've addressed that. We've replaced that juror
11 and it's done.

12 MS. TRUJILLO: And in addition to the sigh there were
13 people crying.

14 THE COURT: Anyway, I don't think it rises to --
15 look, it's an open public courtroom. The family of the victim
16 certainly has a right to be here just like the defendant's
17 family or friends have a right to be here. They have a right
18 to be here and to observe the proceedings. So for me to
19 exclude a victim's family, the conduct has to be, you know,
20 deliberate or egregious or overly distracting or something like
21 that. I don't think it rises to that.

22 And I'm more concerned about them talking about the
23 trial in and around the building and in an elevator. At this
24 point, you know, Mr. Giordani uses the word negligent; I'm
25 going to assume for right now it was negligent, but I'm not --

1 you know, again I'm not going to -- one suggestion this Court
2 had made previously is maybe if they're seated in the back --
3 in the second row or the third row they're not right next to
4 the jury. So if somebody does make a noise, it's not as, you
5 know, it's not as audible to the jurors. So maybe that's
6 something we could do because they're still going to be able to
7 hear everything. The pictures on these big monitors can be
8 seen from any row, and that just might, you know, it's a little
9 more distance.

10 MR. GIORDANI: Okay. I'll tell them.

11 THE COURT: So but other than that, I don't -- like I
12 said, their conduct has not been egregious to the point where
13 exclusion is appropriate at this point.

14 Anything else we need to place on the record that
15 happened today?

16 MS. TRUJILLO: Not on behalf of Mr. Brown.

17 MR. GIORDANI: Not on behalf of the State.

18 THE COURT: Okay.

19 MR. GIORDANI: Tuesday, 12:30?

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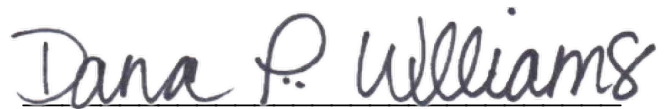
THE COURT: Right.

MR. GIORDANI: Thank you.

(Proceedings recessed for the evening at 5:10 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