

IN THE SUPREME COURT OF THE STATE OF NEVADA

KATHERINE DEE FLETCHER

Appellant,

v.

STATE OF NEVADA

Respondent.

CASE NO. 82047

Appeal from a Judgment of Conviction After Jury Verdict
in Case CR17-0690A
Second Judicial District Court of the State of Nevada, Washoe County
Honorable Egan Walker, District Judge

APPELLANT'S APPENDIX VOLUME 7

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1 4185
2 STEPHANIE KOETTING
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5 RENO, NEVADA
6

7 IN THE SECOND JUDICIAL DISTRICT COURT
8 IN AND FOR THE COUNTY OF WASHOE
9 THE HONORABLE EGAN WALKER, DISTRICT JUDGE

10 --oOo--

11 STATE OF NEVADA,)	
)	
12 Plaintiffs,)	
)	
13 vs.)	Case No. CR17-0690
)	
14 KATHERINE DEE FLETCHER,)	Department 7
)	
15 Defendant.)	
_____)	

16
17
18 TRANSCRIPT OF PROCEEDINGS

19 TRIAL VOLUME IV

20 January 30, 2020

21 9:00 a.m.

22 Reno, Nevada
23

24 Reported by: STEPHANIE KOETTING, CCR #207,
Computer-Aided Transcription

1 APPEARANCES:

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1 RENO, NEVADA, January 30, 2020, 9:00 a.m.

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3 --oOo--

4 THE COURT: This CR17-0690, State of Nevada versus
5 Katherine Dee Fletcher. Ms. Fletcher is present. She's
6 accompanied by her attorney. Mr. Stege is here on behalf of
7 the State.

8 I want to place some procedural information into
9 the record, which I hope will be useful to both the
10 attorneys, and to you in particular on behalf of
11 Ms. Fletcher, Mr. Edwards, because the conversation yesterday
12 about custody, I fear I confused or conflated. When you
13 asked a question about TPR at the end, I'm not sure I
14 understood what you were asking. So I just want to make sure
15 for purposes of our record in this case that we're all on the
16 same sheet of music.

17 This connects to the conversation that was had
18 without you, Mr. Edwards, when the Alternate Public
19 Defender's Office represented Ms. Fletcher and the Alternate
20 Public Defender's Office and Mr. Stege all said to me, judge,
21 we need to and open the child dependency file. We need to
22 wade in, if you will, to those child dependency issues.

23 I believe what I'm about to place in the record is
24 connected to that and connected to information you need to

1 have as you advise you client about whether or not she
2 testifies, the State may need to have before they close their
3 case and you may need to have as you present your case.

4 Let's clarify a few things. First, there are two
5 children born to Ms. Fletcher, Bay Trask, who was born
6 June 29th, 2011, and Max who is older than Bay, who testified
7 here.

8 Custody is both a term of description and term of
9 art. And so understandably when Mr. Stege was examining the
10 social worker yesterday, he asked her about terms such as
11 full custody and legal custody and sole custody. And I'm
12 going to reiterate or cover some ground I covered yesterday,
13 but I hope to place it into context better today.

14 As to the who Bay lives with idea of custody,
15 children aren't possessions, but who is responsible day to
16 day for Bay, that is Michael and Brandi Jorgenson in the
17 guardianship case GR15-00192. And I want to explain a
18 concept that may be helpful as we talk about the defendant's
19 rights.

20 So guardianship over Bay Trask does nothing to
21 affect Ms. Fletcher's parental rights except interrupt them.
22 I always say the guardianship lays like a blanket over any
23 custody rights Bay's mother or father may have. It just
24 interrupts them, if you will, and that is the status.

1 Complicating Bay's life is the fact that
2 Mr. Trask -- she bears Mr. Trask's name, but at least in the
3 Social Services file she is not biologically connected to
4 Mr. Trask. His name may appear on her birth certificate. If
5 it does, that became a judgment 60 days after either
6 Ms. Fletcher or Mr. Trask or both of them signed an affidavit
7 of paternity. But she may not in fact be connected
8 biologically to Mr. Trask.

9 That matters not in this case, but it's why, I
10 think, Mr. Stege was confused by your comment about one
11 family unit, as it were, in your opening statement, which is
12 an understandable good faith mistake.

13 The guardianship case and custody of Bay, we all
14 agree, is not relevant in this case, save and except for
15 inadvertent slips that bring Bay into conversations about
16 what this nuclear family was or what the conflict within the
17 family may have been.

18 As to Max Trask, I gave information to the
19 attorneys before and I reiterate it now, Max came into the
20 care, custody and control of Social Services in 2010. That
21 resulted from a criminal incident that Ms. Fletcher was
22 involved in, which included her conviction for abusing or
23 neglecting Max while he was in the car at that time.

24 She was probated in this department for that

1 criminal conviction and once violated her probation and Max
2 was then again removed again, but the reason the child
3 welfare case has a 10 number as it began in 2010 with a first
4 removal.

5 At the time of the killing in this case, killing
6 is a killing, I'm not identifying a blame related to that,
7 Max was in the custody of his father by Judge Gardner's order
8 in FE12-01228. That order described two kinds of custody,
9 legal custody and physical custody.

10 Yesterday, I made an offhand comment that there's
11 no such thing as sole legal custody. What I meant by that is
12 because it happens unusually. It's relatively rare to have
13 sole legal custody. But you can in fact have either sole
14 legal custody or joint legal custody.

15 You can also have different kinds of physical
16 custody. Physical custody, again, is where the child goes.
17 Judge Gardner had ordered that Max was in the sole legal
18 custody and sole physical custody of Robert Trask, his
19 father, and Ms. Fletcher had designated visitation at the
20 Family Peace Center and that order was promulgated on the
21 date I indicated yesterday.

22 When the killing occurred, because the accusation
23 lodged against Ms. Fletcher, by statute Social Services took
24 custody of Max again. Max is in the legal custody of Social

1 Services right now. Legal and physical custody really
2 resides with Social Services. Now, he is placed. He was
3 originally placed with Michael and Brandi Jorgenson. That
4 placement disrupted. And then he was placed in his current
5 placement with his paternal relatives in Utah, who I believe
6 were here with him yesterday.

7 So when we talk about custody in this case, we
8 have to be careful. For example, this is not a criticism,
9 it's an observation, and I don't think it negatively affects
10 the record, but there was a conversation with a social worker
11 yesterday about so-called full custody. Parents sometimes
12 use that term as well, understandably. There is no legal
13 term of full custody. It is either joint, primary or sole
14 physical custody or sole legal and/or joint legal custody.

15 So there's no such thing as full custody and I
16 just wanted you to be aware of it. I'm not sure it means a
17 whole lot, but at the heart of the State's claim in this case
18 for motive, motive is not an element of a crime, is this
19 custody issue. And I suspect at the heart of the defense are
20 going to be conversations about custody.

21 So I just wanted to make sure you all had all the
22 information. The child welfare case is closed. Any of the
23 facts I've recited come from the criminal case, not the child
24 welfare case, except comments about process.

1 The final thing I wanted to make clear, because I
2 can understand how it might not be clear to the jury or to
3 either of you, Mr. Stege, or you, Mr. Edwards, Debbie Lumkes
4 has been referred to as a judge, and I have no quarrel with
5 that in this case, but she was never an elected judge. Great
6 lady, great attorney.

7 She acted as an administrative judge in the child
8 welfare case, because Social Services as an administrative
9 process makes an evaluation of whether or not to substantiate
10 claims or investigations they've made. In the case involving
11 Max and Ms. Fletcher, they have substantiated child abuse
12 and/or neglect against Ms. Fletcher, which she has disputed
13 more than once.

14 So any order that has been made reference to by
15 Ms. Lumkes was an order from a hearing master. I have no
16 quarrel her being referred to as a judge, but it wasn't in a
17 case lodged in this district in a formal adjudicated way. It
18 was an administrative hearing order related to Ms. Fletcher's
19 desire to have Social Services withdraw or change an
20 administrative substantiation against her.

21 I just think the record needs to have that
22 clarity, because I fear I may have confused or confabulated
23 it and I think there is some confusion or confabulation about
24 it. Any questions for purposes of the record, Mr. Stege?

1 MR. STEGE: Only if you're asking for questions, I
2 have none. The explanation for that, your Honor, this area
3 is fraught with land mines and sort of an agreement, you
4 know, talk about only in its most general terms without
5 diving too deep. I'm aware of the sort that that's an
6 administrative appeal, the various FE, JV cases.

7 And it grated on Ms. Williamson, I know, and on
8 the Court to hear talked about in such loose and inaccurate
9 terms. But from my perspective, it was sort of a middle road
10 to stray away from too much process, prejudice from, right,
11 it's a substantiation of abuse or neglect. That's a nice
12 fact for me, but highly prejudicial and sort of a land mine
13 to stay away from.

14 THE COURT: I think you did good job of it. My
15 comments are in no way meant as a criticism or otherwise.
16 Anyone reading this record, though, I think, hopefully, will
17 find these comments helpful to them about what's behind
18 decisions made to, as it were, gloss over certain procedural
19 matters. Any questions or comments you wanted to make,
20 Mr. Edwards?

21 MR. EDWARDS: No. I understand, your Honor.

22 THE COURT: Anything we need to bring up outside
23 the presence of the jury from your perspective, Mr. Stege?

24 MR. STEGE: No, thank you.

1 THE COURT: Mr. Edwards.

2 MR. EDWARDS: No.

3 THE COURT: Let's go ahead and invite the jury in.

4 (The following proceedings were had in the
5 presence of the jury.)

6 THE COURT: This is case number CR17-0690, State
7 of Nevada versus Katherine Dee Fletcher. Ms. Fletcher is
8 here with her attorney. I show the appearance of Mr. Stege.
9 I show the appearance of the jury and the alternates. We
10 remain in your case, sir. Your next witness, please.

11 MR. STEGE: Scott Johnson.

12 (One witness sworn at this time.)

13 THE COURT: Good morning, Officer Johnson. Go
14 ahead and pull that microphone over in front of your face.
15 Give your attention to Mr. Stege.

16 SCOTT JOHNSON

17 called as a witness and being duly sworn did testify as
18 follows:

19 DIRECT EXAMINATION

20 BY MR. STEGE:

21 Q. Hello. Please state and spell your name.

22 A. Scott Johnson, S-c-o-t-t, J-o-h-n-s-o-n.

23 Q. How are you currently employed?

24 A. I'm with the Reno Police Department.

1 Q. In July of 2016, what part of the police
2 department did you work in?

3 A. I was assigned as a robbery/homicide detective.

4 Q. And as it relates to the case of Ms. Fletcher,
5 what was your role in the investigation?

6 A. I was what our unit called a lead detective.

7 Q. What does that mean to be a lead detective?

8 A. A lead detective was the person that was basically
9 in charge of the investigation.

10 Q. And coordinate the investigative efforts in the
11 case?

12 A. That's correct.

13 Q. I'm going to start, maybe jump around a little
14 bit, but were you ever involved in the search of the home on
15 War Paint?

16 A. Yes, sir.

17 Q. And, specifically, were you present or did you go
18 into the laundry room area of the home?

19 A. Yes, I did.

20 Q. Do you recognize what's depicted in proposed
21 Exhibit 57, please?

22 A. That is the laundry room of the home there on War
23 Paint.

24 Q. And are those two pages in that exhibit a true and

1 accurate depiction of the laundry room area?

2 A. Yes, sir.

3 MR. STEGE: Move in 57 containing two pages.

4 THE COURT: Any objection?

5 MR. EDWARDS: No objection.

6 THE COURT: 57 is admitted.

7 BY MR. STEGE:

8 Q. What's at page one?

9 A. That is just an overall photo of the laundry room
10 there.

11 Q. Where is the laundry room in relation to the room
12 identified as Ms. Fletcher's?

13 A. It's just down the hall within a few feet of her
14 doorway and I believe to the right.

15 Q. And page two?

16 A. That is a faded black, I think it might have been
17 even leather purse. It was hanging there on the door in the
18 laundry room.

19 Q. And we heard some testimony yesterday about a
20 purse within the room of Ms. Fletcher. Do you recall that?

21 A. Yes, sir. There was a denim type purse that was
22 hanging in the room there.

23 Q. That being depicted here at Exhibit 8?

24 A. Yes, sir. The blue color purse there on the left.

1 Q. And further depicted hanging near that hat?

2 A. Correct.

3 Q. In the area where the bikini was found?

4 A. Yes, sir.

5 Q. Did you, as the case agent, have occasion to
6 review the Little Caesar's surveillance video?

7 A. I did, sir.

8 Q. In the course of the investigation, did you come
9 into contact with Katherine Fletcher?

10 A. Yes, sir.

11 Q. You spent some time with her?

12 A. I did, sir.

13 Q. And having seen her in person and reviewed the
14 Little Caesar's surveillance, did you recognize the person
15 depicted in the surveillance?

16 A. I did.

17 Q. Who is in the surveillance?

18 A. Katherine Fletcher.

19 Q. Is Katherine Fletcher in the courtroom today?

20 A. She is.

21 Q. Would you identify her, please, for the record?

22 A. Yes, sir. She has the black sweater on next to
23 Mr. Edwards.

24 MR. STEGE: May the record reflect the

1 identification of Katherine Fletcher?

2 THE COURT: He has indeed identified her.

3 BY MR. STEGE:

4 Q. Again, I'm jumping around before we get into some
5 other things. Do you recognize proposed Exhibit 45?

6 A. Yes, sir. This is the dress, white dress that she
7 was wearing in the Little Caesar's video.

8 Q. And, in fact, where was that dress recovered from?

9 A. From the home.

10 Q. In fact, was there a point during the
11 investigation during your interview where her clothes were
12 taken?

13 A. Yes, sir.

14 Q. Is that from the home or are those clothes from
15 the --

16 A. Yes, sir. This is the dress that she was wearing
17 in the interview and we had to seize it due to the
18 investigation and so we seized it there at the station.

19 Q. At the station?

20 A. Yes, sir.

21 Q. The clothing she was wearing?

22 A. Yes, sir.

23 Q. And how is it that you recognize it?

24 A. The label on here, the item description, says a

1 white two-piece dress cover-up and that's the dress that she
2 puts on in the interview room.

3 Q. And that was recovered by who?

4 A. It's recovered by Detective Sergeant Ron Chalmers
5 according to the evidence package.

6 Q. And you were present at the station when this
7 occurred?

8 A. Yes, sir, I was with him.

9 Q. And, in fact, Chalmers assisted you during the
10 course of the interview with Ms. Fletcher?

11 A. That's correct.

12 MR. STEGE: Move to introduce the exhibit.

13 MR. EDWARDS: No objection.

14 THE COURT: It's admitted.

15 THE CLERK: Exhibit 45, your Honor?

16 THE COURT: Yes.

17 BY MR. STEGE:

18 Q. Let's move to your contact with Ms. Fletcher. How
19 did that come about?

20 A. Through the course of the initial investigation,
21 we were able to locate her at the War Paint address. A stop
22 was made on her and I was contacted by the detectives there
23 to go make contact with her at the traffic stop.

24 Q. So you drove out there in your car to where

1 Ms. Fletcher was?

2 A. Yes, sir.

3 Q. And what happened then?

4 A. I made an initial contact with Ms. Fletcher,
5 explained to her what I was doing and I would like to talk
6 with her.

7 Q. And asked her to go to the station?

8 A. Yes, sir.

9 Q. Did she agree to go to the station?

10 A. She did.

11 Q. And once at the station, what happened?

12 A. At the station, a series of interviews were
13 conducted and further follow-up investigation took place.

14 Q. Focusing here on the interview, where did the
15 interview take place?

16 A. In one of the interview rooms, specifically,
17 victim advocate room. It's a room set up for victims. It's
18 got a couch and a chair in there, kind of a comfortable
19 place.

20 Q. Where else did any interview or conversation take
21 place?

22 A. During the course of our interviews, we took a few
23 breaks and we went outside so Katherine could smoke a
24 cigarette.

1 Q. The first interview room indoors, is that area
2 audio and video recorded?

3 A. Yes, sir.

4 Q. And the second area?

5 A. The areas outside where she had a smoke break, I
6 recorded on my digital recorder.

7 Q. So a voice recorder?

8 A. Yes, sir.

9 Q. Do you recognize proposed Exhibit 20?

10 A. Yes, sir. This is a drive with my interviews on
11 it and that's my signature with the case number.

12 Q. And you signed it indicating it is a true and
13 accurate copy of the original recording?

14 A. Yes, sir.

15 MR. STEGE: I'd move in 20.

16 THE COURT: Any objection to 20?

17 MR. EDWARDS: No objection.

18 THE COURT: Exhibit 20 is admitted.

19 BY MR. STEGE:

20 Q. There appear to be a number of files here. Where
21 shall we begin? Can you see that?

22 A. These are fairly in order as to how they go from
23 top to bottom, but like that first one is labeled there, that
24 is my first contact with Ms. Fletcher.

1 (Audio played at this time.)

2 Q. Now, we hear this sort of your narrative beginning
3 with Fletcher. What was the reason for this sort of, we can
4 help you or are you okay narrative or approach?

5 A. Sure. Two things, number one, I was concerned for
6 her. She's a human being. Two, it's a tactic we use to try
7 to open up someone's conversation and interview with us.

8 Q. And at this point in the interview -- or in the
9 investigation, who had been interviewed so far, specifically,
10 by you?

11 A. At that time, I'd been interviewing Eric Preciado.

12 Q. And so did you have much of an understanding of
13 what had happened at the park or what the evidence was
14 looking like?

15 A. Sure, pretty good understanding.

16 (Audio played at this time.)

17 Q. Before we go on, who are the other voices we hear
18 besides you and Fletcher?

19 A. The other voice that you hear is my sergeant, Ron
20 Chalmers. And then the very first voice in the introduction
21 to us is Ben Russell from the Sparks Police Department.

22 (Audio played at this time.)

23 Q. We'll here pause at 10 minutes 20 seconds into
24 this. Sort of jumping ahead or referencing the police

1 station interview, do you have -- is it true there's a series
2 of outbursts by the defendant?

3 A. Yes, sir.

4 Q. And how is Ms. Fletcher's demeanor in this car
5 ride to the police station?

6 A. Very calm.

7 Q. So in the interests of time, might you suggest we
8 go to the video portion?

9 A. Yes, sir.

10 Q. Which will be part 1 of 4 Katherine Fletcher?

11 A. That's correct.

12 MR. STEGE: Happens once in every trial, your
13 Honor, despite my best efforts. May I have a brief recess?

14 THE COURT: It's been seamless thus, far so you're
15 allowed one for sure to remedy that.

16 Please go ahead and step forward, sir, or out as
17 it case. Do you want to move to another topic or what would
18 you like to do?

19 MR. STEGE: I would like to remedy this and us
20 stay in chronological order.

21 THE COURT: Do you think we can do it in a few
22 minutes?

23 MR. STEGE: Yes.

24 THE COURT: Okay. Just be patient, folks. Take a

1 moment, if you would like to stand up and stretch, you're
2 certainly welcome to do that. You managed, Mr. Stege.

3 BY MR. STEGE:

4 Q. We'll begin, detective.

5 (Video played at this time.)

6 So here is a restroom break?

7 A. Yes, sir.

8 (Video played at this time.)

9 Q. Here we have Fletcher alone in the room, what is
10 happening outside?

11 A. We're getting information about where other
12 detectives are, directing them to look at other items and
13 other interviews are taking place as well.

14 Q. Sort of coordinating the investigation?

15 A. Yes, sir.

16 Q. Let's watch this for a little bit.

17 This behavior, this laying on the couch and
18 talking to herself, did you see any of that in the car, those
19 sort of --

20 A. No.

21 Q. Let's continue to 12:13.

22 (Video played at this time.)

23 Detective, are we going to have to suffer your
24 ring tone?

1 A. It's terrible. I'm sorry.

2 Q. So this is the beginning of the interview and you
3 mentioned sort of a softer approach to Ms. Fletcher.

4 A. Yes, sir.

5 Q. And what's the reason for that?

6 A. It's a tactic we use and also it's the kind of
7 person I am.

8 Q. And throughout this, are we going to see that sort
9 of soft versus a hard style of police interview?

10 A. Yes, sir.

11 Q. Let's go to example -- let's start at 16.

12 (Video played at this time.)

13 Any vomiting or retching in the car ride to the
14 police station?

15 A. No, sir.

16 Q. Let's move from 18:46. Let's go to 20:40. How
17 did you characterize or what are you doing here in the
18 interview?

19 A. You can see by her demeanor, she's crossed all up.
20 She's very guarded. So I'm just talking to her about her --
21 trying to let her guard down.

22 Q. Maybe establish a rapport?

23 A. Absolutely.

24 Q. Or get her talking about sort of easier stuff?

1 A. Absolutely.

2 (Video played at this time.)

3 Q. Let's pause here at 28:24. You just suggested
4 accident or defense, protecting yourself. Why are you
5 suggesting those particular things?

6 A. Again, trying to get her to open up. That's a
7 tactic that we're using to see if she can give us some more
8 information.

9 Q. And so you also mentioned perhaps being a victim.
10 Do you find in interrogation sometimes that's effective?

11 A. Yes, sir.

12 Q. Sort of placing blame on the person that was
13 killed or shot?

14 A. That's correct.

15 Q. So let's go to the response.

16 (Video played at this time.)

17 Q. So here you go looking for?

18 A. Cigarettes.

19 Q. She wants to smoke?

20 A. Yes, sir.

21 Q. That white stuff that just came out of the bag,
22 what is that?

23 A. That's the clothing that was in the evidence bag
24 you showed me earlier.

1 Q. It does take you a little bit to find a lighter.
2 Let's go to once that happens. Try 34. Let's go to the
3 first smoke break. And is it true that these sort of
4 overlap, there's the recording before the portion we just
5 saw?

6 A. Yes, sir.

7 Q. Let's go to seven minutes.

8 (Audio played at this time.)

9 So we have Fletcher talking about visiting the
10 doctor earlier that day. How is this important or why is
11 this important in the interview?

12 A. She's not mentioning that she's injured other than
13 just what she says about her hip.

14 Q. As well as being able to recount things earlier in
15 the day?

16 A. Absolutely.

17 Q. So we see additional sort of rapport building
18 here. Would you put that under that category?

19 A. Yes, sir.

20 Q. You frequently sort of ask people to go through
21 their day in an interview?

22 A. Yes.

23 Q. Why is that?

24 A. That gives us a good understanding of not only

1 what they've done through the day, but their knowledge of
2 events before and after the event we're investigating.

3 Q. Okay. Let's move to 12:34.

4 (Audio played at this time.)

5 Here you're suggesting the rationale of defending
6 the child?

7 A. Yes, sir.

8 Q. As another sort of tactic against the defendant?

9 A. That's correct.

10 (Audio played at this time.)

11 Q. So we've seen you return to the question of her
12 day earlier asking about the doctor?

13 A. Yes, sir.

14 Q. And why did you go back to that when you weren't
15 getting a response about sort of more pressing matters?

16 A. We start redirecting the conversation. It was
17 obvious to me that any time I got close to the truth, she
18 would create these outbursts.

19 Q. Or close to the park as well?

20 A. Yes, sir.

21 Q. Or had what happened. So we just paused on your
22 question, you got to be able to walk me through it a little
23 bit.

24 (Audio played at this time.)

1 Who is this person we're referring to there on the
2 phone?

3 A. Lieutenant Rua came outside at that point and was
4 talking on the phone.

5 THE COURT: Mr. Stege, let's go ahead and take a
6 break. We'll take the morning recess, ladies and gentlemen.
7 During the recess, it's your duty not to converse among
8 yourselves or with anyone else on any subject connected with
9 this trial, or to read, watch or listen to any commentary on
10 the trial by any person connected with the trial or by any
11 medium of information, including, without limitation,
12 newspaper, television, radio, Internet or smart phones.
13 You're not to form or express an opinion on any subject
14 connected to this case until it is finally submitted to you
15 after the presentation of evidence and arguments of counsel
16 are concluded. We'll be in recess until about 10:50.

17 (A short break was taken.)

18 THE COURT: This is CR17-0690, State of Nevada
19 versus Katherine Dee Fletcher. Ms. Fletcher is here with her
20 attorney, Mr. Edwards. Mr. Stege is here for the State.

21 Mr. Stege, I interrupted your examination. Please
22 resume.

23 (Audio played at this time.)

24 BY MR. STEGE:

1 Q. Here we are the first suggestion of a memory
2 problem or one suggestion of a memory problem?

3 A. Yes, sir.

4 Q. Move to 26:14.

5 With relation to this memory, as we saw earlier,
6 returning to the doctor's appointment, what are you observing
7 here and sort of as you're thinking this through with
8 Ms. Fletcher?

9 A. My observations are I'm having to ask a lot of
10 questions to get the right answers, but she's getting there.

11 Q. This indicating having a memory problem, but here
12 she's saying she's in her car, son car in the car and
13 specificity in the front seat?

14 A. Yes, sir. She's giving me details about the
15 situation.

16 Q. And from your understanding is after the shooting,
17 right?

18 A. Yes, sir.

19 Q. Because you've interviewed Preciado?

20 A. That's correct.

21 (Audio played at this time.)

22 Q. Here we have Lieutenant Rua suggesting that you go
23 back inside?

24 A. Yes, sir.

1 Q. Which in the meantime, this is recording, so we'll
2 go to about 1:08.

3 (Video played at this time.)

4 Let's pause briefly here at 1:10:26. Do you
5 notice any change in demeanor moving from outside the audio
6 recorder to the inside video and audio recording?

7 A. Yes, sir. When we were outside, her demeanor was
8 very calm, she didn't have the same outbursts that she has
9 when we're in the recording room.

10 Q. And she immediately lays on the couch and are her
11 eyes open or closed?

12 A. Right now, her eyes are closed, but she does
13 continue to talk and she does change her demeanor as we go
14 along.

15 (Video played at this time.)

16 Q. Here we're getting some detail from Kat Fletcher
17 leading up to the shooting?

18 A. Yes, sir.

19 Q. Is it much information?

20 A. It's not much.

21 Q. The gentleman in the red shirt, who is that?

22 A. That's Lieutenant Rua.

23 Q. Let's move to about 1:23. Pick up here.

24 (Video played at this time.)

1 We caught the end of a statement by Fletcher
2 indicating she was running from something. If you could sort
3 of summarize who she said she was running from?

4 A. Sure. She eventually is admitting that Eric
5 Preciado is there and is running down her vehicle.

6 Q. And she doesn't know Mr. Preciado, but describing
7 Preciado?

8 A. Sure. She describes him as this gentleman with a
9 mustache.

10 Q. We see another gentleman come in, who is that?

11 A. That is my sergeant, Ron Chalmers.

12 Q. The gentleman from the first contact?

13 A. The good looking bald man, yes, sir.

14 (Video played at this time.)

15 Q. So here we have Sergeant Chalmers suggesting a
16 rationale of protection to Kat to sort of get her to talk?

17 A. Again, that same tactic we used before.

18 Q. With no effect?

19 A. Right.

20 (Video played at this time.)

21 Q. So here Chalmers is seeking consent to search
22 Fletcher's car. Let's move to a few minutes ahead.

23 (Video played at this time.)

24 We heard this question from Chalmers on the gun.

1 Did you hear Kat's response?

2 A. It sounded to me like she said no.

3 Q. And then Chalmers is saying, do you not, sort of
4 as an affirmative?

5 A. That's correct.

6 (Video played at this time.)

7 Q. Let's move to part two. During the entirety, the
8 course of this early morning, were there multiple bathroom
9 breaks and other breaks where Ms. Fletcher was not in the
10 room?

11 A. Yes, sir.

12 Q. Let's go to 22.

13 (Video played at this time.)

14 So here we're seeing a different, more aggressive
15 tactic from you or more aggressive questioning?

16 A. Yes, sir.

17 Q. Does Fletcher come around and ever give you detail
18 about what happened in the shooting?

19 A. No.

20 Q. Or admit culpability for it?

21 A. No, sir.

22 Q. You had earlier suggested accident. We've seen
23 you and Detective Chalmers suggesting sort of a defensive
24 type of situation. Does Ms. Fletcher ever give any such

1 rationale for the shooting?

2 A. She never gives an explanation as to what
3 happened.

4 Q. So if we were to watch this during breaks, would
5 we see more of this sleeping type behavior and talking to
6 herself, et cetera?

7 A. Yes, sir.

8 Q. In the interest of the lunch hour, let's move to
9 part three.

10 So in the meantime, in fact, Max has been
11 interviewed?

12 A. Yes, sir.

13 Q. As well as Karen or Jeannie Jorgenson?

14 A. Yes, sir.

15 Q. And after Karen's interview, what becomes of her?

16 A. Karen or Ms. Fletcher?

17 Q. Karen.

18 A. We have Karen go into the room. She actually
19 requested to talk to Katherine, so we allowed that to happen.

20 Q. Okay. Let's go to that. Up until then, Fletcher
21 is laying on the couch with a blanket?

22 A. Yes, sir.

23 (Video played at this time.)

24 Q. Detective, are you watching this as it occurs from

1 another room?

2 A. Yes, sir.

3 Q. And did you notice any of the outbursts,
4 sleepiness, crying out for mother or lack of memory?

5 A. No. All of that is gone when she talks with her
6 mother.

7 Q. With her mother, a noted change in demeanor?

8 A. Absolutely.

9 (Video played at this time.)

10 Q. Let's move to 35:24.

11 (Video played at this time.)

12 Let's move to a section about a gun. Moving to
13 39:50 or so.

14 (Video played at this time.)

15 Let's move to 42:30-ish.

16 (Video played at this time.)

17 Detective, let's talk about, so this concludes and
18 then later another a CPS worker goes in there and has a
19 conversation with Fletcher regarding custody of Max?

20 A. Yes, sir.

21 Q. And then part four entails detectives off doing
22 other work and Fletcher goes in or her clothes are taken from
23 her and processed by FIS?

24 A. That's correct.

1 Q. And we also have the second smoke break. With the
2 eyes of the Court on me --

3 THE COURT: Take the time you need.

4 BY MR. STEGE:

5 Q. Let's go to 1:38.

6 (Audio played at this time.)

7 Q. I missed it. So in this second smoke break, we
8 see a change in tactics from you, right?

9 A. Yes.

10 Q. More aggressive?

11 A. Yes.

12 Q. And also suggesting the possibility of defending
13 someone as a reason?

14 A. Yes.

15 Q. And does Fletcher ever sort of endorse that
16 rationale or adopt that rationale?

17 A. No. She never admitted.

18 Q. Let's go to, for example, 6:07.

19 (Audio played at this time.)

20 Q. Are you successful in these more aggressive
21 efforts with Fletcher?

22 A. Confronting her with the facts, we weren't
23 successful either.

24 (Audio played at this time.)

1 MR. STEGE: I believe I'm prepared to pass the
2 witness.

3 THE COURT: Let's go ahead and take the noon
4 recesses, ladies and gentlemen. During this recess, it's
5 your duty not to converse among yourselves or anyone else on
6 any subject connected with this trial or to read, watch or
7 listen to any report of or commentary on the trial by any
8 person connected with the trial or by any medium of
9 information, including, without limitation, newspaper,
10 television, radio, Internet or smart phones. You're not to
11 form or express an opinion on this case until it is finally
12 submitted to you after the presentation of evidence and
13 arguments of counsel are concluded. We'll be in recess for
14 your purposes, ladies and gentlemen, until 1:30.

15 (The following proceedings were had outside the
16 presence of the jury.)

17 THE COURT: Detective, you may step down. During
18 the recess, I ask that you not discuss this case with any
19 other witness.

20 THE WITNESS: Yes, your Honor.

21 THE COURT: Thank you. We are outside the
22 presence of the jury in CR17-0690. Mr. Stege, I know you
23 passed the witness. How many more witnesses do you
24 anticipate, sir?

1 MR. STEGE: Three or four.

2 THE COURT: It sounds as though, I'm not pressing,
3 you would likely close today?

4 MR. STEGE: Yes. And a little disappointed at the
5 1:30 start. I do intend to close this afternoon.

6 THE COURT: What do you mean by disappointed?

7 MR. STEGE: If it was 1:00, I might have rested my
8 case earlier.

9 THE COURT: I understand. Well, given that, I'm
10 going to have a dialogue with your client now about the
11 Carter versus Kentucky canvass. I'm not going to ask her to
12 make a decision right now, but I want to begin.

13 Ms. Fletcher, I'm going to ask you, ma'am to
14 please stand only so that I'm sure I have your full attention
15 in this very important dialogue. What I would like to
16 discuss with you is rights you have.

17 Under the Constitution of the United States and
18 the Constitution of the State of Nevada, you cannot be
19 compelled to testify in this case. No one can make you take
20 the witness stand and no one can comment on it if you don't
21 take the witness stand. Do you understand this right?

22 THE DEFENDANT: Yes.

23 THE COURT: You may at your own request give up
24 your right to remain silent and take the witness stand to

1 testify in this case. If you do, you will be subject to
2 cross examination by the prosecutor, and anything you say on
3 either direct or cross examination will be the subject of
4 comment by the prosecutor during closing arguments in this
5 matter. Do you understand that?

6 THE DEFENDANT: Yes.

7 THE COURT: If you choose not to testify, I will
8 not permit Mr. Stege or anyone to comment on your choice not
9 to testify. Do you understand that?

10 THE DEFENDANT: Yes.

11 THE COURT: If you elect not to testify, I'll
12 instruct the jury, but only if you and your attorney ask me
13 to instruct the jury as follows: The law does not compel a
14 defendant in a criminal case to take the stand and testify
15 and no presumption may be raised and no inference of any kind
16 may be drawn from the failure of the defendant to testify.
17 Do you have any questions about your right to remain silent
18 and the choice about whether or not to testify?

19 THE DEFENDANT: Yes.

20 THE COURT: What questions do you have?

21 THE DEFENDANT: Oh, I meant no.

22 THE COURT: I know you will already have talked
23 about this with Mr. Edwards. I invite you to consider your
24 conversations. When the State rests, I'm likely going to

1 take a break and ask you if you have a decision about whether
2 or not you intend to testify. Do you understand that?

3 THE DEFENDANT: Yes.

4 THE COURT: Thank you very much for your time.
5 You may be seated. Is there anything else we need to discuss
6 outside the presence of the jury, Mr. Stege?

7 MR. STEGE: When do we anticipate settling of
8 instructions?

9 THE COURT: Well, if you rest this afternoon, do
10 you know, other than your client, whether or not you intend
11 to call any witnesses, Mr. Edwards?

12 MR. EDWARDS: Yes, I know and the answer is no.

13 THE COURT: I suspect we may close the case this
14 afternoon or early tomorrow morning. I'm not trying to put
15 time limits on any examination or cross examination. I'm
16 just communicating the process information to you.

17 Let's just say that the case closes on both sides
18 this afternoon. I would anticipate, then, bringing the jury
19 back, perhaps, a little bit later tomorrow morning, that
20 would be Friday morning, settling the instructions with both
21 of you tomorrow morning before we bring the jury back, or we
22 can begin that this afternoon.

23 But in any event, settling the jury instructions,
24 I would anticipate closing arguments and sending the case to

1 the jury tomorrow. Does that answer your question?

2 MR. STEGE: Yes, it does.

3 MR. EDWARDS: That's great, your Honor.

4 MR. STEGE: One additional matter, we have the
5 Hensley material witness warrant outstanding. Building on
6 the Court's accurate observation of living, breathing trials,
7 I believe his testimony is -- while still material, I no
8 longer would use it in my case. So I would ask to quash that
9 outstanding warrant.

10 THE COURT: I quash the warrant for the material
11 witness arrest of Jesse Hensley. Thank you for that. Please
12 direct your investigator to communicate that as may be the
13 case through NCIC and otherwise so he's not inadvertently
14 picked up while the paper trails, as it were. Anything else
15 we need to discuss?

16 MR. STEGE: No, your Honor.

17 (A lunch break was taken.)

18 THE COURT: This is CR17-0690, the State of Nevada
19 versus Katherine Dee Fletcher. Ms. Fletcher is present with
20 her attorney. I show the appearance of Mr. Stege on behalf
21 of the State. And the jurors and the alternates are present.
22 I believe it's your opportunity to cross examine Detective
23 Johnson if you would like.

24 MR. EDWARDS: Thank you, your Honor.

CROSS EXAMINATION

BY MR. EDWARDS:

Q. Detective, I'd like to ask you a little bit about this concept aggressive interrogation technique. Do you mean by that you are allowed to say things that aren't true to the person you're interrogating?

A. True.

Q. You can basically -- lie is a strong word, but you can lie to them about things?

A. From time to time, yes, sir.

Q. And you make this lie in an attempt to elicit truth, I guess?

A. Yes, sir.

Q. Okay. So here's some examples that I think I noticed in the interview that you just watched. You told Ms. Fletcher, my client, that Max told you his mom had shot Robert Trask. Is that right?

A. Yes, sir.

Q. At that point in time, at least, that wasn't a true statement?

A. That's correct.

Q. Would the same be true with when you told her that you had technology, video, showing what happened in the park, and that wasn't true either?

1 A. At that time, I didn't know that. Actually, there
2 were some cameras and things and we didn't know that at that
3 time.

4 Q. You didn't have the video, because we still don't
5 have video, right?

6 A. No, sir.

7 Q. So that wasn't true. And the same thing about the
8 forensics, right, that hadn't been developed --

9 A. That's correct.

10 Q. -- at the point in time that you did the
11 interviews?

12 A. Yes, sir.

13 Q. So her responses to you, particularly with some of
14 these, you know, not true, at least at the time things, were,
15 hey, that's not true, right?

16 A. Yes, sir.

17 Q. That's what she said back to you?

18 A. Yes.

19 MR. EDWARDS: Thank you. That's all I have?

20 THE COURT: Mr. Stege, redirect.

21 REDIRECT EXAMINATION

22 BY MR. STEGE:

23 Q. Do you always go right to sort of fabricated facts
24 or trying to use ruses to elicit information?

1 A. Not right to it, sir.

2 Q. In fact, you didn't do that in this interview
3 until when?

4 A. Until some of the facts and circumstances in the
5 course of the interview had gone to where it had.

6 Q. Your first approach was very nice, soft, trying to
7 simply elicit the truth?

8 A. Yes, sir.

9 Q. When that didn't work, you used -- did you do it
10 all at once, here's three or four things?

11 A. No. It was a course of throughout the whole
12 interview.

13 Q. And the same on these sort of -- these ruses, the
14 idea that you have been a victim and your son has been a
15 victim, that can also be a ruse?

16 A. Absolutely.

17 Q. To get a suspect or a person to be -- start
18 talking about it and you can develop the facts with them?

19 A. Yes, sir.

20 MR. STEGE: Nothing further.

21 THE COURT: Recross.

22 MR. EDWARDS: No, thank you.

23 THE COURT: May this witness be excused?

24 MR. STEGE: Yes.

1 THE COURT: Detective Johnson, thank you for your
2 time. You may step down, sir. Mr. Stege, your next witness,
3 please.

4 MR. STEGE: Ms. Springer.

5 THE COURT: Ms. Springer, then.

6 (One witness sworn at this time.)

7 THE COURT: Good afternoon, ma'am.

8 THE WITNESS: Good afternoon.

9 THE COURT: Once you're comfortably seated
10 there --

11 THE WITNESS: I have to unpack here.

12 THE COURT: I understand. Because I noticed you
13 brought some items with you, I'll just ask, Ms. Springer,
14 you've done nothing wrong, that you not make reference to any
15 item that hasn't been marked. And it's common for people to
16 bring items with them, that sort of thing. Just please don't
17 make reference to anything that's not been marked as a result
18 of any of the questions.

19 Go ahead and pull the microphone in front of your
20 face, if you would. I want to close that, please, and put it
21 down below.

22 THE WITNESS: That includes notes, then.

23 THE COURT: Yes, ma'am, it does.

24 THE WITNESS: All right.

1 THE COURT: And if you would, please, give your
2 attention to Mr. Stege.

3 FAYE SPRINGER

4 called as a witness and being duly sworn did testify as
5 follows:

6 DIRECT EXAMINATION

7 BY MR. STEGE:

8 Q. Would you please state and spell your name?

9 A. Faye, F-a-y-e, Springer, S-p-r-i-n-g-e-r.

10 Q. How are you currently employed?

11 A. I'm employed a contract employee with Sacramento
12 County Forensic Services Laboratory.

13 Q. And what sort of work do you specialize in at that
14 forensics laboratory in Sacramento?

15 A. Most of the time, it's trace evidence and gunshot
16 residue.

17 Q. On the question of gunshot residue, what sort of
18 training and experience do you have in that field?

19 A. Well, my training and experience starts in 1970.
20 In the early 1970s, gunshot residue was tested by just a
21 color screening test. And towards the end of the 1970s,
22 then, instrumentation became available to actually try to
23 test components, different components of gunshot residue.
24 And this was the first time we were looking at the elements

1 within gunshot residue. So I was part of that process.

2 Over the next 40 some years, the type of
3 instrumentation has evolved into what we've been using for
4 about the past 20 years, which is scanning electron
5 microscopy with energy and dispersive spectrometry for the
6 detection of gunshot residue. I've had experience with all
7 of those.

8 And then specific training included some training
9 by the instrument companies in the use of the instrument for
10 doing these detections. The FBI sponsored a gunshot residue
11 class. I don't remember what year without looking at my
12 notes, but it was a long time ago.

13 And then I was part of the technical working
14 group. It was an international technical working group to
15 set standards for gunshot residue and that is now under the
16 NIST, the federal government national standards in
17 technology.

18 Q. You helped develop the standards in the field?

19 A. The original ones, yes.

20 Q. And have you always been at the Sacramento office?

21 A. No.

22 Q. Where else have you worked?

23 A. My first job was with Santa Clara County in
24 San Jose and that was from 1970 to 1972. And then in 1972, I

1 took a position as a criminalist with the State of California
2 Department of Justice. I worked for about 16 to 18 years in
3 Southern California. And then I transferred to the
4 Sacramento California Department of Justice. I worked there
5 until 1996. And then from 1996 to today, I actually had
6 retired from the county, but I retired on a Friday, went back
7 to work on Monday either as a retired or a contract employee.

8 Q. And you were asked by the authorities here in
9 Washoe County to examine or look at some evidence in our
10 case?

11 A. Yes.

12 Q. And have you brought or provided a Power Point
13 presentation to explain and aid us in your testimony?

14 A. Yes.

15 MR. STEGE: Your Honor, may I with this exhibit
16 use that Power Point, which is marked as 29?

17 THE COURT: Any objection to the use of 29 for
18 demonstrative purposes to aid in this witness' testimony?

19 MR. EDWARDS: No, your Honor.

20 THE COURT: 29 is admitted.

21 BY MR. STEGE:

22 Q. Here is a clicker. So what is GSR?

23 A. Well, basically, GSR is the product, the chemical
24 product of what happens when you discharge a cartridge in a

1 firearm. Can I just go ahead?

2 Q. I believe so.

3 A. And go on here. So it's -- the chemical materials
4 is formed during this discharge. In this case, we're
5 targeting what we call primer components. So the primer is
6 different than gunpowder. The primer is an explosive mixture
7 that in center fire ammunitions, a little cup at the base of
8 the round of ammunition and that is what initiates the firing
9 or the burning of the gunpowder and the firing of the bullet.

10 But what's unique about the primer residue, it has
11 elements in there when combined together is very
12 characteristic of gunshot residue. In other words, we don't
13 really see it where else, as far as we know. If we do see
14 it, usually there's other elements that tell us it's not
15 gunshot residue. So this is what we're targeting in this
16 analysis.

17 The other types of things that are formed when you
18 fire a gun, which is partially burned or burned gunpowder.
19 That's the majority of what you see when you see the smokey
20 deposits that come out of the muzzle of a gun or cylinder
21 area of the gun.

22 In addition, we also see traces of the cartridge
23 case itself, the bullet and sometimes trace elements from
24 other parts of that cartridge case, like what we call the

1 anvil is kind of where the firing pin crushes against in
2 order to ignite the primer residue. All of these things are
3 made of metals and we sometimes will see the traces from
4 these metals in the gunshot residue. So just to give you a
5 little perspective, there's a little dot.

6 Q. The magnifier.

7 A. No pointer on this.

8 Q. I think if you point it at the television screen,
9 it ought to magnify.

10 THE COURT: I'll get out of your line of fire.

11 THE WITNESS: I think I can explain. So this is
12 just the anatomy of a cartridge case. In the mouth of that
13 case is the bullet. That's the projectile that comes out of
14 the end of the barrel when you fire this round. The greatest
15 majority of the rest of it is gunpowder and it's an organic
16 component for the most part.

17 And then the part that we're interested in today
18 is this primer mixture and that sits down at the base of that
19 case in a little cavity, usually like a little cup, and it
20 sits in there. It's put in there by the manufacturer. And
21 it ignites or deflagrates when the firing pin strikes that
22 primer cup and that crushes that mixture against the anvil
23 and sends a flash up. You can see there's a little hole
24 between the primer cup --

1 THE COURT: I'm so sorry to interrupt. You can
2 actually circle it on the screen in front of you.

3 THE WITNESS: I can?

4 THE COURT: Yes.

5 THE DEFENDANT: I love you, mom.

6 MR. EDWARDS: What is this?

7 THE COURT: Ladies and gentlemen, let's take a
8 quick recess. I apologize for the interruption. During this
9 recess, it is your duty not to converse among yourselves or
10 with anyone else on any subject connected with this trial or
11 to read, watch or listen to any report of or commentary on
12 the trial by any person connected with the trial, or by any
13 medium of information, including, without limitation
14 newspaper, television, radio, Internet or smart phones.
15 You're not to form or express an opinions on any subject
16 connected with this case until it is finally submitted to you
17 after the presentation of evidence and the arguments of
18 counsel are concluded. We'll take a recess, ladies and
19 gentlemen. I ask you to step into the jury room.

20 (The following proceedings were had outside the
21 presence of the jury.)

22 THE COURT: Ma'am, thank you very much. If you
23 wouldn't mind stepping down for a moment, I'll ask you to
24 step out in the hallway. Please don't discuss your testimony

1 with any other witness.

2 Go ahead and be seated, folks. So, deputy, please
3 pronounce your name.

4 DEPUTY MARTINEZ: Martinez.

5 THE COURT: Deputy Martinez, did you see what
6 happened that resulted in --

7 DEPUTY MARTINEZ: No. I just heard a noise and it
8 looked like she was over him and startle him and she said,
9 mom.

10 THE COURT: Deputy, did you see what led to the
11 disruption that just happened to the courtroom?

12 DEPUTY VIETTI: I saw the same thing, your Honor.
13 She popped up standing in the direction over the back of
14 Mr. Edwards and said, mom.

15 THE COURT: So I heard an exclamation from
16 Ms. Fletcher. I did not hear what the exclamation was. My
17 attention was focused on the witness. When I turned,
18 Ms. Fletcher was standing over Mr. Edwards. Mr. Edwards,
19 excitedly, understandably exclaimed, what was going on, and
20 Ms. Fletcher was, for lack of a better term, facing the jury
21 over Mr. Edwards. At that juncture, I decided to undertake a
22 recess.

23 The investigator from the District Attorney's
24 Office rushed into the well of the court as did both of the

1 deputies and this, of course, all happened in the presence of
2 the jury.

3 I think in my view it's my incumbent as a judge,
4 while I am a neutral in the case, to describe for the benefit
5 of the record what seems to have occurred. Candidly, to my
6 eye, what seems to have occurred is Ms. Fletcher has
7 manufactured a disturbance in the middle of the trial.

8 I'm going to allow, Mr. Stege, to make any other
9 record you like, and I'll give you the same opportunity,
10 Mr. Edwards. We need to discuss what, if anything, I should
11 say to the jury about the disturbance. Your thoughts,
12 Mr. Stege.

13 MR. STEGE: I hate to defer, your Honor, but I
14 don't know what we should do. I don't know that we want to
15 draw attention to it, although it was a startling moment to I
16 think all here. So I might suggest we continue at pace and
17 hope against further interruptions, at which point that might
18 warrant some instruction.

19 THE COURT: Okay.

20 MR. STEGE: Of course, I could be completely
21 wrong. I don't know.

22 THE COURT: Mr. Edwards, it's incumbent upon me,
23 first, to ensure that you are okay.

24 MR. EDWARDS: I was surprised, your Honor. There

1 was some contact with the top of my head, which is what
2 brought my attention to it.

3 THE COURT: It was, whatever the contact, it did
4 not injure you?

5 MR. EDWARDS: No. I'm not injured, your Honor.

6 THE COURT: Are you comfortable continuing to
7 proceed?

8 MR. EDWARDS: Yes, I am.

9 THE COURT: So I think the record bears this
10 observation as well. It's about 1:50 or 1:51 p.m.. We just
11 came back from the recess, but immediately prior to the lunch
12 recess, Mr. Stege had played a telling incident. That
13 incident was, for lack of a better word, a dialogue between
14 mother and Ms. Fletcher in which Ms. Jorgenson suggested to
15 her daughter, you're going to have to play the crazy card, or
16 words to that effect. That's exactly what Ms. Fletcher just
17 did in my view.

18 I don't intend to draw attention to it with the
19 jury by a curative instruction or any other instruction,
20 because I think by doing so I will draw attention to it more
21 than was already the case. It was a startling event in the
22 middle of the trial. It seems manufactured to have been a
23 startling event in the middle of the trial.

24 I would just caution you in this way,

1 Ms. Fletcher. I had occasion to say in different cases to
2 you and I'll reiterate again to you now, everything each of
3 us says and does in this room is on stage. The jury sits
4 where they sit with the view they have of all of us for a
5 reason. It is so they can see and observe how you act, how
6 the witnesses act, how I act and how everyone in the room
7 acts. The stage is literally set for them to observe what
8 happens in this room.

9 Everything you say and do and don't say and don't
10 do is in their line of sight. And I can assure you, if you
11 do something unusual or untoward, they will notice it. They
12 clearly noticed what you did. And I would suggest to you
13 that you be very cautious about your behavior, because your
14 behavior can and might be used against you by the jury in
15 their deliberations. I instruct you not to engage in any
16 verbal outbursts or any physical outbursts anymore in this
17 trial. Do you have any questions about that instruction,
18 Ms. Fletcher?

19 You're making eye contact with me. You're
20 obviously moving and aware of my words. Do you have any
21 question about my direction to you? You're just shaking your
22 head no. Would you please answer with your voice?

23 THE DEFENDANT: No.

24 THE COURT: Thank you. I would suggest we invite

1 the jury back in and resume at pace. Any other record you
2 would like to make, Mr. Edwards?

3 MR. EDWARDS: No, thank you, your Honor. Thank
4 you for addressing the situation.

5 THE COURT: You're welcome.

6 Deputy Vietti, if you would be kind enough to
7 invite the jury back in, please.

8 (The following proceedings were had in the
9 presence of the jury.)

10 THE COURT: This is again CR17-0690, the State of
11 Nevada versus Katherine Dee Fletcher. Ms. Fletcher is
12 present with her attorney, Mr. Edwards. I show the
13 appearance of Mr. Stege, the jurors and the alternates.
14 Deputy, would you please invite the witness back to the
15 witness stand.

16 DEPUTY VIETTI: Yes, your Honor.

17 THE COURT: Thank you very much, ma'am. I remind
18 you of the oath you took. Please be comfortably seated.
19 Give your attention to Mr. Stege.

20 BY MR. STEGE:

21 Q. I think you were describing the -- between the
22 primer and the gunpowder?

23 A. Right. So the firing pin strikes that primer cup,
24 it crushes against that anvil and that will send a flash up

1 that hole that I circled into the gunpowder ring, which will
2 ignite the gunpowder and force the bullet out of the barrel.

3 Q. To clear is bottom left of the screen, but I will
4 do that right now.

5 A. So this is just a cutaway to illustrate what
6 happens as it sits in a firearm, as a round of ammunition
7 sits in a firearm in a chamber area. So there's a green
8 rectangle that designates where a firing pin would be. When
9 you pull the trigger, the firing pin will propel forward,
10 strike the base of the cartridge. In this case, it's a
11 little brass colored cavity at the base of the cartridge,
12 crushes the primer mixture, sends a flame up and then all the
13 gunpowder is ignited and forces the bullet out of the barrel.

14 So what you actually see if you're looking at a
15 gun being fired is you'll see kind of a plume of smoke that
16 comes out of the muzzle of the gun, and depending on what
17 type of weapon it is, you may see a plume of smoke coming
18 from like a cylinder area. If it's a semi-automatic, it's
19 probably might not going to be this dramatic. You might see
20 a little puff of smoke as the chamber opens.

21 Q. You're comparing a firearm -- a revolver being in
22 that first group and a semi-automatic being in the second,
23 sort of less visible?

24 A. Yes. So gunshot residue is emitted, then, from

1 these areas of the gun. Most of it comes out of the muzzle
2 of the gun. So this is a little deceiving as far as
3 photograph goes, because it looks like a lot comes out of the
4 cylinder. It's much less comes out of the cylinder area.
5 That will settle on the hands of the shooter.

6 Q. Okay. And so there is this cloud, for lack of a
7 better term, and as it settles on hands, can it settle on
8 anywhere else?

9 A. Yes. Anywhere in the vicinity of the muzzle of
10 the gun. Mostly gets propelled forward, so it will just fall
11 to the ground after a few feet or a couple of yards. You may
12 have some that carries on a little bit further, depending on
13 how powerful a weapon it is.

14 Q. Okay.

15 A. But most of it will, you know, just kind of settle
16 out of the air and on to the ground.

17 Q. And pardon me if I'm jumping ahead, but in a
18 semi-automatic firearm -- I am jumping ahead. Please
19 continue.

20 A. This kind of describes the plume that you might
21 see. The left hand picture is --

22 THE COURT: Again, you can circle on the screen if
23 that will be of use to you.

24 THE WITNESS: The revolver is this one over here.

1 It doesn't like my finger.

2 THE COURT: Use your fingernail, so if you drag it
3 across the surface.

4 THE WITNESS: I see, yes. So this is the revolver
5 and you can see there's some smokey deposit that comes out of
6 the front of the cylinder, not too much in the back, but in
7 front of the cylinder and it's just going to -- once it's
8 fired and it loses a little momentum, it's just going to
9 settle and so that's why it settles on the hands.

10 BY MR. STEGE:

11 Q. And this right here the front of the cylinder?

12 A. Yes.

13 Q. More or less?

14 A. Yes.

15 Q. Please continue?

16 A. And then with a semi-automatic, this is like two
17 different photographs, this is a very high speed camera so
18 these are stop actions, most of the residue is going to come
19 out of the muzzle of the gun with the bullet and you may see
20 a little plume of smoke come from the cylinder as it cycles
21 the cartridge after it's fired and ejected. So when that
22 opens, depending on how quickly that happens, you'll see a
23 little puff of smoke, usually.

24 Q. Let's continue.

1 A. So gunshot residue as we're testing today, we're
2 looking at the elements within the primer mixture. And the
3 primary elements that we target are lead, barium and
4 antimony. Not lead, barium and antimony by themselves, but
5 in a combination within a particle, within a single particle.

6 So what happens is you have chemicals within the
7 primer mixture that have lead in it, chemicals that have
8 antimony and chemicals that have barium. When they are
9 detonated, they will combine and form a single particle with
10 a combination of these materials.

11 So that's what we're looking at, taking these
12 individual elements, detonating or deflagrating them and the
13 resulting discharge, then, will be combinations of these
14 materials, sometimes in varying amounts. But, you know, the
15 thing that we target, the elements that we target are lead,
16 barium and antimony in a single particle.

17 Q. Pardon me if you said this already, but within
18 this plume or cloud of discharge, is the majority of that
19 gunpowder versus primer or is that understood?

20 A. It's the decomposition of gunpowder. So most of
21 the smokey deposit, the black sooty material is carbon.
22 Gunpowder is an organic material and just decomposes to
23 carbon and water, basically.

24 Q. Please continue.

1 A. This describes how we collect samples from gunshot
2 residue. With this type of testing, because of the type of
3 instrumentation we use, we have to have the particles on a
4 metallic disk. And in order to collect them onto a metallic
5 disk, there's an adhesive that is carbon coated. In other
6 words, it's carbon impregnated adhesive. If it's not carbon
7 impregnated, we have to coat it manually before we can put it
8 on an electron microscope.

9 That's what the sample looks like, the sample
10 collection device. There's a little pin underneath the disk.
11 Here's the aluminum disk with the adhesive on it. If you
12 turn that upside down, there's just a little pin that comes
13 out of it and that sits in this plastic container here. So
14 it has a receptacle to hold that pin in place. And then over
15 the top of this is a clear plastic top.

16 Q. And you indicate here, GSR kits are commercially
17 available. What does that mean?

18 A. Yes. That means that we don't provide them to our
19 agencies, we ask them to buy them and they can purchase them
20 from most forensic or crime scene suppliers. The only
21 requirement is that they be aluminum disk with the
22 eighth-inch pin on it.

23 Q. And your agency in fact does work for outside
24 agencies such as ours?

1 A. We do.

2 Q. And so in this case, that is what happened, you
3 had a mixture of evidence being sent directly to you as well
4 as GSR collection kits?

5 A. Yes.

6 Q. Commercial ones. It's been described in this
7 trial that those are sort of like sticky, that they're
8 sticking on surfaces?

9 A. Yes.

10 Q. Is this related to what you were just talking
11 about?

12 A. Yes. That black surface, that's just like double
13 stick tape, but it's carbon impregnated.

14 Q. Please continue.

15 A. So the analysis is done with a scanning electron
16 microscope and on the side of the microscope would be right
17 in here is something that we call an energy dispersive
18 spectrometer. This is one of three instruments that we have
19 that are in the laboratory. This is not necessarily -- this
20 is not the one I used in this particular case, but it's one
21 of three of the instruments that we have.

22 The instrument's automated. So the disks go in a
23 chamber. In this case, the chamber would be here in front of
24 the instrument, is pulled like a drawer, looks like a drawer,

1 you pull it out and there's a holder that we put these stubs
2 in, then we close the drawer, we pull a vacuum. And then the
3 electron microscope, it's a microscope, but you don't use
4 light to view the surface, you use an electron beam. That's
5 why it has to be carbon impregnated, otherwise, you get all
6 of these electrons building up on the surface and they would
7 be drowned out so we don't want that to happen.

8 The microscope is used to visualize where the
9 particles are. It's a surface analysis. It looks at the
10 surface of the disk and elements that are what we call high
11 in atomic number. In other words, if you remember high
12 school chemistry, it's kind of towards the back or the bottom
13 of the chart, they're bigger atoms, they look brighter on an
14 electron microscope.

15 So what happens here is we have a certain detector
16 in there that we can tune how bright a particle we want to be
17 able to detect. And we do that and then it stops at every
18 bright particle and analyzes the elements within it.

19 So the electron microscope that is used to search
20 the disk, stop, analyze anything that is bright, acquire what
21 we call an energy dispersive spectrum, which tells us what
22 elements are in there, it stores where that particle is, it
23 stores the spectra and it stores an image of that element.
24 So the analyst will come in the next day and look at these

1 particles and we revisit each one that we're going to call
2 and then we write the report.

3 These things are so automated today, I could even
4 look at it on my cell phone and control the electron
5 microscope from my cell phone.

6 Q. So the data coming from this tells you if there's
7 GSR in the sample?

8 A. Tells us what candidate particles there are. The
9 analyst is the one that tells you that there's GSR there.

10 Q. Which is you?

11 A. Right.

12 Q. Are you prepared to tell us what is there or what
13 was there in this case?

14 A. Yes. If you want to erase my little circles?

15 Q. Yes.

16 A. This is just an illustration of what the particles
17 look like on the electron microscope and what the spectra
18 looks like. So the spectra is each of these peaks on this
19 line represent a certain energy that is emitted by that atom.
20 So like lead here, there's three of them labeled, that's
21 unique to lead. And the antimony has three labels, those are
22 unique to antimony, the combination of those three. The
23 barium, there's four marked, there's actually more there that
24 are minor components or minor lines, but those are also

1 unique to that element. So every element has a unique
2 pattern in the spectra.

3 So we get a pretty good idea what it is before we
4 even revisit it. And you can see the particle is brighter
5 than the background and they tend to be circular or kind of
6 like they've been exposed to heat and then condensed. I
7 think this is where we left off.

8 Q. Yes.

9 A. So by definition, then, the particles that have
10 lead, barium and antimony are considered characteristic of
11 gunshot residue particles. Particles that have lead and
12 barium, barium and antimony, barium and alluminum are
13 considered consistent with, but not necessarily unique to
14 gunshot residue or characteristic.

15 And then most of the time when you fire a weapon,
16 if it has a lead exposed bullet or is not fully -- it's not a
17 full metal jacket, we'll see a lot of lead or lead antimony.
18 Again, that is commonly associated with gunshot residue, but
19 it occurs other places also.

20 Q. And in this case, I'll sort of group the types of
21 evidence. You were asked to look at -- look for the presence
22 of gunshot residue or analyze samples from a car described as
23 a Dodge Neon, as well as some clothing items?

24 A. Correct.

1 Q. And you did that?

2 A. I did.

3 Q. Without looking at your notes, can you recite the
4 results of that?

5 A. No.

6 MR. STEGE: My approach Ms. Oates?

7 THE COURT: Certainly.

8 THE CLERK: Exhibit 58 marked for identification.

9 BY MR. STEGE:

10 Q. And, ma'am, it sounds like this is a rather
11 voluminous amount of data that is produced?

12 A. Yes. It can be. If there's no particles, it's
13 not.

14 Q. But in this case, is this a no results case?

15 A. No. It's not a no results case.

16 Q. So there's a voluminous amount of evidence that
17 ends up getting summarized into your report?

18 A. Yes.

19 Q. Do you recognize proposed Exhibit Number 58?

20 A. That's my report.

21 Q. And that report contains a summary of this
22 voluminous data, is that correct?

23 A. Yes.

24 Q. As well as your opinion?

1 A. Yes.

2 MR. STEGE: I would move to introduce the exhibit.

3 THE COURT: Any objection to 58?

4 MR. EDWARDS: No objection.

5 THE COURT: 58 is admitted.

6 BY MR. STEGE:

7 Q. Which page should I go to here?

8 A. If you want a summary, then just read the summary.
9 If you want detailed data, then I would need the middle two
10 pages.

11 Q. Okay. I'll put it on the screen in front of you.
12 Let's go to -- I guess I'll start with page two related to
13 the clothing. What are we seeing here?

14 A. You're seeing a table that I made that summarizes
15 the type of particles that I found that are of significance.

16 Q. And so here we have in rows, if I remember my high
17 school, blouse, skirt, bikini top, bikini bottom, right?

18 A. Well, it's a column. From there, it's close.

19 THE COURT: Ma'am, it's appropriate to offer some
20 light-hearted commentary. You need to be a little more
21 gentle with Mr. Stege.

22 BY MR. STEGE:

23 Q. That left column, that being the items of evidence
24 examined?

1 A. Yes.

2 Q. Okay. And going across being the particles found
3 on them?

4 A. Yes, found and confirmed.

5 Q. Okay. What do these results indicate as to the
6 clothing?

7 A. Okay. The blouse, which is the first row in
8 there, the first column after the item is lead, barium and
9 antimony particles. The second column is also as
10 significant, because it has lead, barium and antimony, and in
11 addition, there's some particles that pop up in this analysis
12 that have tin on it.

13 Now, tin can occur because some foreign ammunition
14 uses a tinfoil over their anvil and so sometimes with foreign
15 ammunition, we'll see tin come out. Occasionally, we'll see
16 it if somebody is making bullets and they have tin in their
17 bullet or something like that. Most of the time, it's pretty
18 indicative of a foreign brand of ammunition.

19 Q. Are there also domestic brands of ammunition?

20 A. With tin?

21 Q. No, without tin. As a general principle, you're
22 referring to foreign brands?

23 A. With tin, yes.

24 Q. Have the tin?

1 A. Yes.

2 Q. Those without tin tend to be domestically
3 produced?

4 A. Correct. Now, there are always a few exceptions
5 to the general. But the most typical that we see with center
6 fire ammunition, American made center fire ammunition is
7 lead, barium and antimony.

8 Q. And so those with tin tending to show foreign
9 brand?

10 A. That's typically where we see it, yes.

11 Q. On the commercial market, is foreign made
12 ammunition cheaper than domestic?

13 A. Well --

14 Q. Is that a bad question?

15 A. I don't really -- I'm not a pricing expert.

16 Q. Please continue.

17 A. So the first column is 26 particles of lead,
18 barium and antimony. Now, some of these are in clusters and
19 fairly large clusters. These clusters can have anywhere from
20 ten to hundreds of particles in them. But I always count
21 them as one, because I can't sit there and count these
22 clusters. It's too difficult to count how many are in there.
23 So a cluster means a grouping of particles and you just count
24 it as one.

1 The next column is lead, tin, antimony and barium
2 and there was one particle of that.

3 Q. 26 is the highest number here, does that mean it's
4 a lot?

5 A. Especially -- it's a lot, especially since some of
6 them are large clusters of particles.

7 Q. Because it's the second highest number, does that
8 mean --

9 A. It's the most.

10 Q. The most?

11 A. Yes.

12 Q. I'll go over to the far right column, the lead
13 particles, we have a 31 indicating being from the skirt?

14 A. Yes.

15 Q. Is that significant?

16 A. I don't know since I don't know what the
17 projectile looks like.

18 Q. Okay. If it were a jacket, a hollow point, how
19 does that affect?

20 A. Well, you have to kind of look at them altogether.
21 So, like with the blouse, you have the more unique particles,
22 but only two leads. With the skirt, you have 31 leads. Now,
23 some of those could be from gunshot residue from the bullet,
24 especially if there's exposed lead and if there's a hollow

1 point, a lot of times there's exposed lead. But it a lot of
2 that might not be. Lead is not unique enough that if it's by
3 itself that you can say it's gunshot residue.

4 So sometimes they don't necessarily follow one
5 another and so we just kind of call those particles that are
6 commonly seen with gunshot residue, but not unique to gunshot
7 residue. I wouldn't put too much in store in what that
8 means.

9 Q. Is there a takeaway from this information about
10 the clothing that you might offer?

11 A. There's gunshot residue present on the clothing.

12 Q. And that on the blouse is with or without tin or
13 some of both?

14 A. Well, most of it is not with tin. I found one
15 particle that had some tin in it.

16 Q. As to page two, this being the results related to
17 the vehicle samples, does the presence of tin here mean the
18 same thing it meant as to the previous page?

19 A. Yes, but it's present in a greater proportion of
20 the particles in the vehicle.

21 Q. Is that more consistent with foreign ammunition?

22 A. Yes, at least some of it. I mean, the lead,
23 barium and antimony by itself is more typical of the typical
24 the American center fire ammunition.

1 Q. Now, you examined a cartridge case in this case?

2 A. I did.

3 Q. Describe that process.

4 A. Because the results weren't -- kind of indicated
5 more than one type of ammunition, I thought it would be
6 useful to make sure that it was similar to the ammunition in
7 question in the case. So I asked the cartridge case to be
8 sent and I tested the cartridge case.

9 Q. And the cartridge case is described as a Hornady
10 brand plus P. I'm missing a part of that.

11 A. Yeah, it's a nickel-plated brass case. I just
12 looked on the website and it looked like to be critical duty.
13 I don't know that it would be unique to a critical duty, but
14 that would be -- the only reason I looked on the website is
15 because I wanted to test fire some and just see the sampling
16 on the hands in addition to sampling the case from the scene.

17 Q. Because you have samples of ammunition within the
18 lab?

19 A. Yeah. And we had that ammunition.

20 Q. And what were the results of that testing?

21 A. That the Hornady round that was sent that was
22 described as from the scene had the same elements that the
23 lead, barium and antimony profiles have. In other words,
24 there was no tin in it. I also test fired some of the rounds

1 we had at the laboratory that looked similar and they also do
2 not have tin.

3 Q. Indicating they are a domestically produced
4 ammunition?

5 A. Well, some foreign -- a lot of foreign ammunition
6 also only have lead, barium and antimony. It depends on
7 where it comes from and who is making it and whether or not
8 there's tin there.

9 Q. And dare I ask, do you know if Hornady is domestic
10 or foreign?

11 A. That's hard to say. I've been to the Hornady
12 factory in Southern California and they were making bullets
13 there. So, you know, these things can come from anywhere.
14 So I wouldn't -- you would have to ask them exactly where
15 they get their primer cups and their cartridge cases.

16 Q. But the important piece from that is that the test
17 fired ammunition that you have in your lab was similar to
18 what was in the submitted cartridge case from the scene?

19 A. Yes.

20 Q. Leading you to the conclusion that there were two
21 types fired?

22 A. Yes.

23 Q. Let's go to the conclusion portion.

24 A. So these are kind of our standard conclusions. It

1 says, characteristic gunshot residue particles containing
2 lead, barium and antimony and characteristic gunshot residue
3 particles containing lead, barium, antimony and tin.

4 THE COURT: I'm so sorry, ma'am. I do a terrible
5 job of this, so please understand this is the pot calling the
6 kettle black, but particularly as you read, could you slow
7 down a little bit?

8 THE WITNESS: Sure.

9 THE COURT: Or we'll overload poor Ms. Koetting's
10 fingers.

11 THE WITNESS: So characteristic gunshot residue
12 particles containing lead, barium and antimony, along with or
13 and characteristic gunshot residue particles containing lead,
14 barium, antimony and tin were found on the samples collected
15 from the clothing and samples collected from the vehicle.

16 And then the conclusion that I formed was that
17 gunshot residue particles are usually deposited on clothing
18 or a vehicle by firing a gun near these objects or touching
19 them with an object contaminated with gunshot residue such as
20 a fired gun or fired ammunition.

21 BY MR. STEGE:

22 Q. If it's on your hands, you could transfer it to
23 something else?

24 A. Yes, a small portion. So if you have, you know, a

1 hundred particles on your hand, from experiments that we do,
2 we've done and literature, it's usually 30 percent or less
3 that gets transferred. And it depends on what you're doing.
4 If you're just touching something, it's going to be less. If
5 you're rubbing your hands or doing this where you're scraping
6 your hands against the surface, it might be a little more.

7 Q. Explaining why it might be we have gunshot residue
8 results on parts of the car that are frequently touched?

9 A. Yes, because the car doesn't fire a gun.

10 Q. Please continue.

11 A. The presence of two different types of
12 characteristic particles, one with tine and one without tin,
13 along with the differences of the distribution of these
14 particles on different sample surfaces is indicative of two
15 types of ammunition being discharged and subsequently
16 deposited on these surfaces.

17 The characteristic particles without tin could be
18 the result of firing a nine millimeter Luger plus P Hornady
19 critical duty ammunition or another ammunition with similar
20 components resulting in gunshot residue of a similar
21 elemental profile upon discharge.

22 Q. So those without tin consistent with the Hornady
23 round?

24 A. Correct.

1 Q. And going back here to the blouse, this second
2 largest number of particles on the blouse, how does that
3 relate to this issue of the Hornady round?

4 A. Well, the particles that are in the second column,
5 all of those could be from a Hornady type round. The next
6 column over, the third column where it says lead, barium,
7 antimony and tin, those would not be from Hornady rounds. It
8 has to be another type of ammunition.

9 Q. So am I interpreting this right that there are a
10 lot of Hornady consistent gunshot residue particles on the
11 blouse?

12 A. Yes.

13 Q. Is that consistent with a person holding -- firing
14 such a round while wearing the blouse?

15 A. Yes.

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

17 THE COURT: Cross examination.

18 CROSS EXAMINATION

19 BY MR. EDWARDS:

20 Q. Ms. Springer, let's see how I've done here
21 listening to you. Are you saying that the blouse, the skirt,
22 the bikini top and bottom all contain uniquely gunshot
23 residue?

24 A. We don't call them unique, we call them

1 characteristic particles of gunshot residue.

2 Q. Back in the beginning of your Power Point, you had
3 three different categories, right?

4 A. Correct.

5 Q. And you had I think you said uniquely was one
6 category, right?

7 A. Characteristic.

8 Q. Characteristic. So nothing but gunshot residue?

9 A. Well, those particles are characteristic of
10 gunshot residue. If you're asking me, is there something
11 else that could have lead, barium and antimony, the answer is
12 yes, but usually there are other elements in there like a lot
13 of iron or elements that tend to tell us it's not gunshot
14 residue.

15 Q. So are there any elements like that in this chart?

16 A. No.

17 Q. Okay. So you call it gunshot residue?

18 A. We call it characteristic of gunshot residue.

19 Q. And it was on all four items?

20 A. On four items, yes.

21 Q. And on three of the items, there's the presence of
22 tin, is that right?

23 A. On all four items, there's a presence of tin. On
24 three items, there's lead, barium and antimony without tin.

1 Q. And the tin would not be from the same cartridge
2 that was submitted to you for comparative analysis, right?

3 A. That's correct.

4 Q. So it had to be something else?

5 A. Yes.

6 Q. Can you tell what it would have been?

7 A. Where I tend to see it in this type of analysis is
8 some type of foreign made ammunition. The only other
9 exception would be if somebody is making bullets, in other
10 words, they're melting lead and making their own bullets and
11 they use something like tire weights or fishing weights that
12 have tin in them, then up might see it and it's been
13 reloaded. We don't see that very often.

14 Typically, we see it with foreign ammunition,
15 especially Eastern Block ammunition, Czechoslovakia, Russian,
16 East Germany.

17 Q. So that would be the kind of shell casing we were
18 looking for here, this testing, and it reveals this presence
19 of tin?

20 A. Yes.

21 Q. It doesn't match up with the Hornady plus P?

22 A. That's true, it does not.

23 Q. But you can't tell what it matches up?

24 A. No, not without having a cartridge to compare it

1 to.

2 Q. And it could have been foreign or domestically
3 produced in somebody's --

4 A. Garage.

5 Q. -- garage?

6 A. That's true.

7 Q. Can you tell what kind of cartridge gunshot
8 residue comes from?

9 A. Only in terms of what I've been talking about
10 today, in other words, there are elements that vary between
11 manufacturers, like it does matter if it's a lead bullet
12 versus a copper jacketed bullet, or, you know, if there's
13 sometimes it might be more potassium in the gunshot residue
14 than in other rounds.

15 So we can compare ammunition, but we can't
16 necessarily say what ammunition it is without doing a 1-to-1
17 comparison.

18 Q. I see. So you're doing it by process of
19 elimination? This gunshot residue profile does not match the
20 shell casing that we had in this case?

21 A. Correct.

22 Q. And in a general sense, that's what you do with
23 all gunshot residue?

24 A. Well, that's what we do in cases where the results

1 are a little different, where in this case there's an
2 indication of more than type of ammunition, or the ammunition
3 that we're picking up has elements that are not the usual,
4 typical profile, then we ask the cartridge cases to come in
5 to compare.

6 Q. I see. And what you did here?

7 A. Yes.

8 Q. Can you tell what caliber of the bullet the
9 gunshot residue came from?

10 A. No.

11 Q. Can you tell at what point in time the gunshot
12 residue was deposited on the material in this case, the
13 blouse, the skirt, the bikini?

14 A. The only thing I can say about the clothing items
15 is it would be sometime before they were laundered. In other
16 words, laundering will remove almost all of the residue. So
17 if it hasn't been laundered in six months, it could be six
18 months ago.

19 Q. I see or even longer?

20 A. Or even longer if you don't wash your clothes very
21 often.

22 Q. Does it last pretty much forever?

23 A. Yes. There's no --

24 Q. As long as it's not laundered?

1 A. Correct. Yes. I mean, if you put a disk and sit
2 it on a shelf for 30 years, you'd still have the same
3 particles on it.

4 Q. So bottom line here, can you say to some
5 scientific certainty that the gunshot residue, that the
6 characteristic testing showed the gunshot residue on these
7 items of clothing came from the bullet -- the shell casing
8 that we were talking about?

9 A. All I can say is it's consistent with that shell
10 casing or any other shell casing of similar composition.

11 Q. Cannot be eliminated?

12 A. Cannot be eliminated.

13 MR. EDWARDS: Thank you.

14 THE COURT: Redirect?

15 REDIRECT EXAMINATION

16 BY MR. STEGE:

17 Q. The conclusion indicates there's two separate
18 rounds fired?

19 A. At some time.

20 Q. At some point, right. So might that be consistent
21 with wearing an item or wherever the GSR is at one point in
22 time and then later firing another type of ammunition?

23 A. Yes.

24 Q. And how does having examined the cartridge case or

1 casing in this case aid in your conclusion or conclusions?

2 A. Only to the extent that the one profile lead,
3 barium and antimony is consistent with that type of round of
4 ammunition. There's a couple of other things within that
5 chemistry. All the particles pretty much have copper and
6 zinc, which is present in the cartridge case. And they also
7 have a fairly elevated level of potassium, which is also in
8 the cartridge case.

9 So everything is -- everything that I see
10 chemically in these particles can be explained by a Hornady
11 round or anything that has similar chemistry. I can't tell
12 you how many, you know, rounds will have elevated potassium.
13 The only one I remember seeing fairly often is a Winchester.
14 But a lot of them have copper, zinc, if they're a brass case
15 or have copper zinc bullets.

16 Q. In any event, at some point, the clothing was near
17 a cloud of gunshot residue?

18 A. It was either near a cloud of gunshot residue or
19 contacted some object with gunshot residue on it.

20 Q. Very good.

21 THE COURT: Recross.

22 RECROSS EXAMINATION

23 BY MR. EDWARDS:

24 Q. I just have one question. Am I correct that you

1 state this profile represents two different kinds of
2 ammunition?

3 A. Yes. That's correct.

4 Q. Two separate, not --

5 A. Yes.

6 MR. EDWARDS: Thank you.

7 THE COURT: May this witness be excused?

8 MR. STEGE: Yes, with my thanks.

9 THE COURT: Thank you for your time, ma'am. You
10 may be excused. Your next witness, Mr. Stege.

11 MR. STEGE: Steve Shimnei, please.

12 (One witness sworn at this time.)

13 THE COURT: Once you're comfortably seated there,
14 pull the microphone in front of you and give your attention
15 to Mr. Stege.

16 STEVE SHIMNEI

17 called as a witness and being duly sworn did testify as

18 follows:

19 DIRECT EXAMINATION

20 BY MR. STEGE:

21 Q. Hello. Please state and spell your name.

22 A. Steve Shimnei, S-h-i-m-n-e-i.

23 Q. Where are you currently employed?

24 A. I'm employed at the Washoe County Sheriff's

1 Office.

2 Q. In what capacity?

3 A. I work in the forensic science division as a
4 firearm and tool mark examiner.

5 Q. How did you become a firearm and tool examiner?

6 A. The training process at the sheriff's office is a
7 two-year program. It includes training within the sheriff's
8 office, as well as outside entities. My personal training, I
9 attended the National Firearm Academy -- excuse me -- the
10 National Firearms Examiners Academy, which is a year-long
11 program conducted by the ATF. And that included four months
12 of training at ATF's national laboratory in Maryland. After
13 I completed the academy, I did a little over another year of
14 exercises with my trainer at the sheriff's office.

15 Q. You have to have pass those exercises to continue,
16 is that right?

17 A. Yes.

18 Q. Which you did?

19 A. Yes.

20 Q. Before starting, what is your educational
21 background?

22 A. I have a bachelor degree in physiology from UCLA.

23 Q. After completing your training and in addition to
24 the year-long review process, I'm using the wrong word, did

1 you begin doing cases?

2 A. Yes.

3 Q. Case work?

4 A. Yes.

5 Q. And how long have you been doing case work?

6 A. Approximately eight years.

7 Q. What sorts of disciplines, excluding tool marks,
8 if relevant, what sorts of disciplines are within firearms
9 examination?

10 A. Within firearm examination, the main discipline is
11 firearms identification and that is determining if a specific
12 bullet or cartridge case was fired from a specific firearm.

13 I also conduct other tests such as distance
14 determination, we do trajectory analysis, serial number
15 restoration, among others.

16 Q. As it relates to this case, were you assigned to
17 conduct any work in this case?

18 A. Yes, I was.

19 Q. And can you summarize your work in this case?

20 A. For this particular case, I was asked to look at a
21 fired bullet, a fired cartridge case, and compare those to
22 two firearms that were submitted. And I was also asked to
23 look at an article of clothing for gunshot residues.

24 Q. Starting with the last, the article of clothing

1 for gunshot residue, what was that?

2 A. It was a sleeveless T-shirt.

3 Q. Identified as having come from autopsy?

4 A. Yes.

5 Q. And what were the results of that?

6 A. I did not detect any gunshot residues associated
7 with a close range firearm discharge on that article of
8 clothing.

9 Q. We've just heard from Ms. Springer. What's the
10 distinction between her discipline and what you're doing in
11 this case?

12 A. What we do in our laboratory and what I did in
13 this particular case was look for gunshot residues and try to
14 determine a muzzle-to-target distance.

15 Q. Okay. You're not necessarily concerned with
16 trying to identify which particular particles they are, but
17 looking to aid you in distance determination?

18 A. That's correct.

19 Q. And what were the results of that?

20 A. Again, the results were I did not detect any
21 gunshot residues on the article of clothing associated with a
22 close range firearms discharge.

23 Q. Is close range a term of art within your field?

24 A. We do say that when we actually do not see gunshot

1 residues. Basically, we're at a distance where those
2 residues are not being deposited on the particular article.

3 Q. And what range is that?

4 A. It will depend on the firearm and the ammunition,
5 but generally what I've seen in other cases for a handgun,
6 it's generally between four and six feet.

7 Q. Okay. So within four to six feet, you would
8 expect to see gunshot residue on a shirt?

9 A. I would expect to see it if you're closer than
10 that particular range.

11 Q. So that's really close?

12 A. Yes.

13 Q. So under four feet?

14 A. Yes.

15 Q. Beyond that, is there any way to tell distance?

16 A. No, there really isn't. If it's not being
17 deposited, I cannot make any determinations on distance when
18 I do not see any of those residues.

19 Q. And to clarify, this is the sleeveless shirt
20 recovered at autopsy?

21 A. Yes.

22 Q. And you're looking at, as to the business end of
23 that, the back where it appeared the bullet entered?

24 A. Yes. There was a single defect in the back of the

1 shirt.

2 Q. You also looked at a number of firearms?

3 A. Yes.

4 Q. Well, perhaps the first category is the best one
5 to start with, the shell casing, as well as the recovered
6 bullet or missile from the autopsy.

7 A. Yes.

8 Q. What were those results?

9 A. I test fired both of the firearms that were
10 submitted, compared those test fired bullets and cartridge
11 cases to the submitted bullet and fired cartridge case and
12 determined that neither of those two firearms fired the
13 bullet or the cartridge case that were submitted.

14 Q. And to clarify, the two submitted were identified
15 as having been recovered from an address on War Paint Circle?

16 A. I believe so.

17 Q. Okay. Neither of those were the gun that fired
18 the shell casing?

19 A. That's correct.

20 Q. What information could you tell from looking at
21 the shell casing about the gun that fired it?

22 A. It was a nine millimeter Luger in caliber. It was
23 fired from a gun that has a particular unlocking mechanism
24 and I could tell that from where the marks on it was, it's

1 going to eject to the right side of the firearm.

2 Q. As most semi-automatic firearms do?

3 A. Yes.

4 Q. We skipped over the question of revolvers, because
5 this does not involve a revolver?

6 A. No, it does not.

7 Q. You can tell from the marks on the casing it is a
8 right hand eject?

9 A. Yes.

10 Q. Nine millimeter Hornady in brand, plus P load?

11 A. That's correct.

12 Q. Anything else you can tell from the casing
13 portion?

14 A. I think that's about it.

15 Q. Okay. And that is casing that was sent to
16 Ms. Springer for her analysis?

17 A. I don't know if that was actually sent or not. I
18 returned the evidence to the evidence section and I don't
19 actually know what happened to it after that.

20 Q. There was a bullet, what's the terminology,
21 recovered from the body of Mr. Trask?

22 A. Yes. There was one fired bullet that I examined.

23 Q. What could you tell about the bullet?

24 A. It was a nominal 38-caliber, which includes nine

1 millimeter Luger, it was a hollow point bullet and it also
2 was submitted with an elastomer tip.

3 Q. Okay. Perhaps let's find the exhibit to aid in
4 this. I don't know if that's been admitted yet. Hollow
5 point, you can tell it's a hollow point?

6 A. Yes.

7 Q. How can you tell?

8 A. It was expanded.

9 Q. What does a hollow point look like when it
10 expands?

11 A. Some people refer to it as mushrooming at the tip.

12 THE COURT: Mr. Stege, for purposes of simply good
13 process in the case, I think you were looking for Exhibit 37,
14 which has been admitted.

15 MR. STEGE: Thank you. This is an exhibit I do
16 not wish to open.

17 THE COURT: I leave to you how you handle it, but
18 that is what is admitted as a projectile recovered from
19 Mr. Trask's body.

20 MR. STEGE: Yes.

21 BY MR. STEGE:

22 Q. The bullet mushrooms, meaning it changes shape?

23 A. Yes.

24 Q. What is the purpose of a hollow point or what is

1 the design behind a hollow point?

2 A. It is designed when it hits soft targets to
3 expand.

4 Q. This is a jacketed hollow point?

5 A. Yes.

6 Q. What does jacketed mean?

7 A. Jacketed means it has an outer covering.

8 Generally, bullets will have an inner core made of usually
9 lead and some type of jacket material, generally, made out of
10 some type of copper.

11 Q. Is there anything unique to this particular
12 recovered bullet?

13 A. The bullet was recovered with an elastomer or like
14 a plastic tip. Also, it was printed with the letter H on it.

15 Q. Are you familiar or have you ever seen such a
16 thing?

17 A. Yes.

18 Q. And what is it?

19 A. It's synonymous with Hornady. Hornady uses that
20 type of tip in their bullets.

21 Q. And do you know at least stated rationale or the
22 commercial rationale for it, the PR for it, the advertising
23 for it at least?

24 A. For the tip?

1 Q. Yes, for the tip?

2 MR. EDWARDS: Objection, relevance, your Honor.

3 MR. STEGE: It's poorly worded.

4 THE COURT: I'll give you some latitude. I'll
5 sustain the objection, but just rephrase.

6 BY MR. STEGE:

7 Q. What's the purpose of the plastic tip within the
8 hollow point?

9 A. It will prevent the hollow tip from being clogged
10 by clothing, for instance, and also aids in the expansion of
11 the bullet.

12 Q. And this is a commercially available round?

13 A. Yes.

14 Q. You indicated there was an H on the elastomer tip?

15 A. Yes.

16 Q. What is the significance of that?

17 A. That is the marking that Hornady uses on their
18 elastomer tips.

19 Q. Are there any other rounds to your knowledge
20 manufactured with that tip, that plastic tip?

21 A. There are other manufacturers that use elastomer
22 tips, but I do not believe any of them mark them with an H.

23 Q. None of them put the H in there?

24 A. As far as I know, yes.

1 Q. Are you able to, can you tell if that bullet that
2 was in the body came from the round on -- that was recovered
3 on scene?

4 A. If it came from the fired cartridge case?

5 Q. Yes.

6 A. I was not able to determine if it was from that
7 particular cartridge case. That is actually a very difficult
8 match to do.

9 Q. But it is consistent being Hornady brand casing
10 and the H and the design being on the recovered bullet?

11 A. Yes.

12 Q. Upon further examination of the bullet, did you
13 learn anything about the firearm that fired it?

14 A. Yes. We will look at the rifling pattern on it,
15 so the lands and groves, we will measure those, and we can
16 put the measurements in the database, which will return
17 possible guns that may have fired that bullet.

18 Q. That is a national database?

19 A. Yes, it is.

20 Q. And you did that examination and what were the
21 results?

22 A. I did return a list of possible firearm models or
23 manufacturers that could have fired that particular bullet.

24 Q. If, for example, in a hypothetical, you did have

1 -- let me start over. Can you talk about what plus P means?

2 A. Plus P stands just for over pressure. It's a
3 cartridge that is loaded usually with more propellant powder
4 to increase the velocity of the projectile.

5 Q. What is the effect of increased velocity on a
6 projectile?

7 A. Generally, it's to increase it's penetration, and,
8 therefore, it's incapacitation of a target.

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

10 THE COURT: Cross examination.

11 CROSS EXAMINATION

12 BY MR. EDWARDS:

13 Q. Mr. Shimnei, am I to take it that your results are
14 that the firearm in this case that we haven't yet found or
15 determined, was fired at a distance greater than four to
16 six feet away?

17 A. I didn't see any gunshot residues on the article
18 of clothing to indicate any closer than that, that's correct.

19 Q. So it had to be greater?

20 A. It could have been greater barring any intervening
21 objects. I didn't know if there was some object in the way
22 that could have prevented those particles from landing on the
23 article of clothing.

24 Q. So it would have to go through something?

1 A. If there was something intervening, yeah, then,
2 again, I wouldn't have seen gunshot residues on the article
3 of clothing.

4 Q. Could it be plant matter?

5 A. It could have been anything.

6 Q. Anything?

7 A. Yes.

8 Q. Other than air?

9 A. That's correct.

10 Q. The bullet recovered from the body did not match
11 the shell casing on the bridge?

12 A. I didn't really try to match the cartridge to the
13 cartridge case. That particular comparison is very, very
14 difficult. And, generally, if there are any marks from the
15 cartridge case on the bullet, they're obliterated as the
16 bullet goes down the barrel of the firearm.

17 Q. As the bullet mushrooms?

18 A. Generally, yes. Also, if it strikes something
19 hard that can happen as well.

20 Q. And, finally, the guns seized from War Paint
21 Circle, the Norinco and the Luger, I believe do not match the
22 shell casing that was found on the bridge?

23 A. That's correct.

24 MR. EDWARDS: Thank you.

1 REDIRECT EXAMINATION

2 BY MR. STEGE:

3 Q. How do you know they don't match?

4 A. I did test fire both of the firearms and I
5 compared both the bullets and cartridge cases to the
6 submitted bullet and cartridge case and determined it was an
7 elimination.

8 Q. So within your discipline, if you have, as you did
9 here, a suspected or a possible firearm, you can fire a round
10 through it?

11 A. Yes.

12 Q. And look at the, what, cartridge case?

13 A. Yes. I can look at both the cartridge case and
14 the fired bullet comparing those on a microscope to the
15 submitted bullet and cartridge case and determining if they
16 were fired from the same firearm.

17 Q. And can you, like even between the same
18 manufacturers, like, say, you have two Glock nine
19 millimeters, can you tell the difference from looking at the
20 cartridge case which of those two fired it?

21 A. Yes.

22 Q. And how or why is that?

23 A. When the manufacturing process of a particular
24 firearm, shaping those pieces of metal will impart

1 microscopic marks on those parts and these marks are placed
2 on those randomly. It's something that is not done on
3 purpose. Just during the manufacturing process, microscopic
4 marks are imparted on to those parts.

5 Those are then imparted on to the fired bullet and
6 cartridge cases when the actual bullet is fired and those are
7 what I use to make our identifications.

8 Q. And which allow you to eliminate the two submitted
9 firearms?

10 A. I actually used something called class
11 characteristics, which is a little bit -- it's a little bit
12 different than individual characteristics. These are more
13 gross marks on the cartridge cases.

14 Q. As between this cartridge case and the submitted
15 ones, they were so grossly different you could tell it wasn't
16 fired?

17 A. Yes.

18 Q. But, alas, without the gun, you cannot compare it.
19 Well, you need a submitted gun to compare the casing to?

20 A. Yes.

21 MR. STEGE: Thank you. Nothing further.

22 MR. EDWARDS: That doesn't raise anything for me.

23 THE COURT: May this witness be excused?

24 MR. STEGE: Yes. Thank you.

1 THE COURT: Thank you very much for your time,
2 officer. Ladies and gentlemen, we're going to take the
3 afternoon recess. During this recess, it is your duty not
4 converse among yourselves or with anyone else on any subject
5 connected with this trial, or to read, watch or listen to any
6 report of or commentary on the trial by any person connected
7 with the trial or by any medium of information, including,
8 without limitation, newspaper, television, radio, Internet or
9 smart phones. You're not to form or express an opinion on
10 any subject connected with this case until it is finally
11 submitted to you after presentation of evidence and arguments
12 of counsel are concluded. We'll be in recess until
13 approximately 3:15.

14 (The following proceedings were had outside the
15 presence of the jury.)

16 THE COURT: We remain outside the presence of the
17 jury. All parties and counsel are present. Mr. Stege, where
18 are we have at in your case?

19 MR. STEGE: The end is near. The autopsy,
20 Dr. Knight, I intend to call. There's one matter, one
21 potential additional witness. Mr. Edwards and I have been
22 working on some redactions or I have some proposed redactions
23 on this exhibit to be a jail phone call that I want to
24 review, but make sure is accurate before that would happen.

1 THE COURT: Who is the phone call between, please?

2 MR. STEGE: Ms. Fletcher, her initial booking call
3 to Ms. Jorgenson.

4 THE COURT: And what of relevance is in it just
5 generally?

6 MR. STEGE: As a general rule, rebutting this idea
7 of memory block, a maybe slip of the tongue of the defendant
8 indicating to her mom, and she gets interrupted, well, at
9 least Max is at CPS and not -- and then becomes interrupted,
10 leading me to inference that, well, she's fine with the guy
11 getting -- with him being at CPS as long as he's not with the
12 dad.

13 There's a discussion of this purse question, kind
14 of a debate. Ms. Jorgenson asked, what purse did you have
15 with you that day? Katherine says, the white one. And then
16 she says, the white one? Ms. Fletcher comes back and says,
17 no, the blue one, trying to convince her mom it's the blue
18 one that she took with her, not the white one.

19 As well as an admission to, mom asked something
20 like, did you really lose your purse and phone? And she
21 said, yes. And as a tactical matter of trial tactics, I
22 will, even though I don't have to, tell the Court I have been
23 wrestling with the question of whether to do this or not.
24 That's why I want a little extra time to do that.

1 THE COURT: I leave that to you. I only want a
2 sense, and, again, I'm not going to hold you to it, do you
3 anticipate closing before 5:00?

4 MR. STEGE: Oh, yes.

5 THE COURT: All right. Here's why I asked.
6 Resting before 5:00.

7 MR. EDWARDS: Closing before 5:00?

8 MR. STEGE: Resting.

9 THE COURT: Resting, that's what I meant, resting
10 his case. If he does, I intend to ask you if you intend to
11 put on a case. Do you?

12 MR. EDWARDS: No, your Honor.

13 THE COURT: Is your client going to testify?

14 MR. EDWARDS: No, she's not.

15 THE COURT: Ms. Fletcher, have you made a decision
16 in this case not to testify?

17 THE DEFENDANT: Yes.

18 THE COURT: Have you had adequate time to discuss
19 your decision not to testify with Mr. Edwards?

20 THE DEFENDANT: I guess so.

21 THE COURT: Is there anything else you feel you
22 need to discuss with him before the final decision about your
23 testimony is made?

24 THE DEFENDANT: I'm sorry?

1 THE COURT: Is there anything else you need you
2 need to discuss with him before the final decision about your
3 testimony is made? You've had many months, many weeks, many
4 days, many hours to discuss it.

5 THE DEFENDANT: The case or my testimony?

6 THE COURT: I'm sorry?

7 THE DEFENDANT: To discuss the case further or my
8 testimony?

9 THE COURT: Your testimony and the case, of
10 course. The one is tied in with the other. I just want to
11 make sure there's no other question mark in your mind as you
12 make this decision about whether or not to testify.

13 THE DEFENDANT: Well, we certainly haven't talked
14 enough about the case.

15 THE COURT: Well, that wasn't my question.

16 THE DEFENDANT: Oh.

17 THE COURT: Are you satisfied with your decision
18 in this case at this time not to testify?

19 THE DEFENDANT: Yes.

20 THE COURT: Thank you. Let me discuss one other
21 matter, then, before I poll counsel. I want to first make a
22 request, because I think it may aid the record in this
23 matter. There are two deputies in the courtroom who are
24 within my jurisdiction, that's Deputy Marteniez and Deputy

1 Vietti. Without direction to either of you as to the content
2 or the form, I would ask that each of you author a witness
3 statement as to what you observed when Ms. Fletcher chose to
4 interrupt the proceedings in this case so that those
5 statements might be recorded in the file of this trial for
6 any future reference.

7 From the State's perspective, you have an
8 investigator present in the courtroom. He is not -- he's
9 within my jurisdiction in the sense that he's in the
10 courtroom, but I'm very reluctant to order anyone not an
11 officer of the Court to do anything.

12 I might request and only request that you ask your
13 agent to do the same thing, because the deputies are in a
14 different perspective than he was. He clearly physically
15 reacted to what it was he saw in terms of approaching into
16 the well of the court to perhaps restrain Ms. Fletcher if it
17 became necessary or otherwise. So if you think it
18 appropriate and in your chain of command thinks it
19 appropriate, I would ask him to author a letter.

20 MR. STEGE: If the Court asks, I will make it so.

21 THE COURT: Thank you. I want now to have a more
22 detailed conversation with you, Ms. Fletcher. There's a case
23 that we call Collins versus State, 133 Nevada 717. What
24 Collins does, Ms. Fletcher, is talk about how I am to handle

1 a disruption when it happens by a defendant in a criminal
2 case.

3 I want to set the table for our conversation in
4 this way: I've had the privilege of spending many hours in
5 court with you in this case and in other cases across several
6 years, as a matter of fact. I have never before seen you to
7 engage in an intentional disruption as you did today. There
8 have been ultimate and nerve-racking issues for you, I am
9 sure. You and I have had discussions about the permanency
10 plan, for example, related to Max and that permanency I know
11 much to your heartbreak is the termination of your parental
12 rights and you and I have had discussions in that context.

13 My point is very, very intense, very nerve-racking
14 circumstances and never before have I seen you behave in the
15 way you chose to behave today. I emphasize that, because my
16 assessment as the officer required to maintain the peace and
17 dignity of these proceedings is that you made a decision to
18 engage in an intentional distraction that included
19 potentially battering your attorney.

20 Now, fortunately, the contact seemed minor and
21 more in the nature of a touch as opposed to a strike or
22 something intended to harm. And you know I say that
23 recognizing I didn't actually see the contact, so I can't
24 describe it.

1 MR. EDWARDS: That's the way it felt to me.

2 THE COURT: Thank you. I don't want to
3 overemphasize it. I'm not suggesting or deciding whether or
4 not a criminal battery occurred, but it appeared to me from
5 all the facts and circumstances in this case and the timing
6 of the evidence as it's come that you elected for whatever
7 reason to put on a show for lack of a better term.

8 And I want you to understand some things. First,
9 if that kind of behavior occurs again, you should know I have
10 a variety of options and I will undertake some or all of the
11 options if it happens again.

12 Those options could include shackling you in the
13 presence of the jury. You know and I know and we in this
14 room know that you are in custody, but we have disguised that
15 intentionally from the jury. If you were to jump up and make
16 an exclamation or touch anyone else in this case
17 unnecessarily or in a surprising, disruptive way, I might
18 have you shackled in front of the jury.

19 Alternatively to that, depending on what the
20 disruption is and if the conduct were to persist, I might
21 remove you from the courtroom. In general, a criminal
22 defendant has a constitutional right to be present at all
23 critical stages. Certainly, trial is a critical stage. But
24 there is a large number of case precedence which allow me to

1 remove a disruptive defendant from the courtroom if their
2 conduct is so disruptive as to interrupt the dignity of the
3 proceedings.

4 You should know if I were required to remove you
5 from the courtroom, I don't have a way to let you watch the
6 trial. I can't put you in another room and give you a video
7 feed of what's going on in the trial. I also can't easily
8 let you pass notes back and forth as you've done throughout
9 this trial to Mr. Edwards suggesting to him or asking him
10 questions that are appropriate for you to suggest and ask
11 him.

12 I do not want to either shackle you in front of
13 the jury or remove you from the courtroom or chastise you in
14 front of the jury. You'll note I said nothing to the jury
15 about what you chose to do, because I don't want to emphasize
16 it any more.

17 I just want you to understand that what you did in
18 my view was contempt in my presence, which I can punish if I
19 choose to punish, and more important than whether or not it
20 was any contempt, disruptive to these proceedings, and in the
21 final analysis, very prejudicial to you. It looked very bad
22 for you.

23 I beseech you not to do it again, but I warn you
24 if you do, I will act and act decisively and that might

1 include removing you from the courtroom or shackling you or
2 other things I might be required to do. Do you have any
3 questions about the admonition I've just given you, ma'am?
4 You can choose to answer or not if you want. I know you're
5 making eye contact with me and hearing what I'm saying. Your
6 body language is demonstrating you're aware of what I'm
7 saying. I give you an opportunity again, do you have any
8 questions about the warnings for lack of a better term that
9 I've just given you, Ms. Fletcher?

10 THE DEFENDANT: I don't have any questions.

11 THE COURT: Thank you for responding. What I
12 intend to do, then, after the break is return, offer the
13 stage to you again, Mr. Stege, as you see fit. If in fact we
14 close today, gentlemen, I would suggest -- if we close today,
15 I suggest we spend time, you all and I, Ms. Fletcher can join
16 us if it's her desire, settling jury instructions.

17 My hope would be that we would settle all of the
18 instructions before we would leave the Courthouse this
19 evening. I'll instruct the jury and I'm open to your
20 suggestions, counsel, to return at 10:00 a.m. tomorrow. I'm
21 asking you when I make that suggestion, gentlemen, do you
22 think you can close on both sides and have a rebuttal by the
23 State in about two hours?

24 I know you don't control the length of

1 Mr. Edwards' statements. I'll tell you my experience with
2 him is he's short and to the point in his closing arguments.

3 MR. STEGE: I wish I had the self-awareness to
4 know the length of my closing. My suspicion is it's on the
5 shorter side.

6 THE COURT: It sounds like you might agree with
7 me, 10:00 would be adequate to the task?

8 MR. STEGE: I privately lobbied with Ms. Oates for
9 perhaps 10:30. But, yes, that is the time I sort of raised
10 with the Court earlier. I like that time.

11 THE COURT: All right. Do you have any quarrel
12 with that, Mr. Edwards?

13 MR. EDWARDS: No, your Honor. You're correct,
14 I'm -- I say what I have to say and that's all.

15 THE COURT: All right. Thank you, then, for
16 bearing with me, counsel, as I had a direct conversation with
17 Ms. Fletcher. Is there anything else you'd like to raise
18 outside the presence of the jury, Mr. Stege?

19 MR. STEGE: No.

20 THE COURT: Or Mr. Edwards?

21 MR. EDWARDS: No, thank you.

22 THE COURT: We'll be in recess.

23 (A short break was taken.)

24 THE COURT: This is CR17-0690, the State of Nevada

1 versus Katherine Dee Fletcher. I show the appearance of
2 Ms. Fletcher and her attorney. Mr. Stege is here. The
3 jurors and alternates are present. Mr. Stege, we remain in
4 your case. Your next witness or evidence?

5 MR. STEGE: John Gurriere, please.

6 (One witness sworn at this time.)

7 THE COURT: Go ahead and pull that microphone over
8 there, Mr. Gurriere, and give your attention to Mr. Stege.

9 JOHN GURRIERE

10 called as a witness and being duly sworn did testify as
11 follows:

12 DIRECT EXAMINATION

13 BY MR. STEGE:

14 Q. Please state and spell your name.

15 A. John Gurriere, G-u-r-r-i-e-r-e.

16 Q. How are you employed?

17 A. I'm a supervising investigator for the Washoe
18 County District Attorney.

19 Q. Are you a sworn peace officer?

20 A. I am.

21 Q. You're assigned to this case?

22 A. I am.

23 Q. As part of your duties, are you privy to or aware
24 of phone calls made at booking, sort of your first call from

1 jail?

2 A. Yes.

3 Q. And you are able to access those and download
4 those from the jail at 911 Parr Boulevard?

5 A. Yes.

6 Q. Do you recognize proposed Exhibit 59?

7 A. I do.

8 Q. How do you recognize it?

9 A. It's a flash drive of a phone call that I reviewed
10 today and I signed and dated it.

11 Q. Such a phone call as I just mentioned?

12 A. Yes.

13 Q. From what date?

14 A. The call was made on July 29th, 2016.

15 Q. At what time?

16 A. I believe it was 1800, so 6:00, 1800 hours in the
17 evening.

18 Q. Phone call between who?

19 A. Phone call between Ms. Fletcher and her mother
20 Karen Jorgensen.

21 Q. Is that a fair -- have you ever heard Katherine
22 Fletcher's voice?

23 A. Yes.

24 Q. Are you familiar with it?

1 A. Yes.

2 Q. Are you familiar with Ms. Jorgenson's voice?

3 A. Yes.

4 Q. Is that how you identified them?

5 A. Yes.

6 Q. At least one of the ways?

7 A. One of the ways, yes.

8 Q. Is that a fair and accurate copy of the original,
9 which is held at the sheriff department?

10 A. Yes.

11 MR. STEGE: Move in 59.

12 THE COURT: Any objection?

13 MR. EDWARDS: No, your Honor.

14 THE COURT: 59 is admitted.

15 (Audio played at this time.)

16 BY MR. STEGE:

17 Q. I might add, Mr. Gurriere, people at the jail are
18 made aware that their phone calls are subject to recording?

19 A. Yes.

20 Q. By signage and/or other admonishments?

21 A. Yes.

22 (Audio played at this time.)

23 Q. What was the statement just made before 7:10?

24 A. I believe it was, I'm just glad he'll be somewhere

1 else, to that effect.

2 (Audio played at this time.)

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

4 THE COURT: Cross examination.

5 MR. EDWARDS: I have no questions.

6 THE COURT: May this witness be excused?

7 MR. STEGE: Yes.

8 THE COURT: You may step down.

9 THE WITNESS: Thank you.

10 THE COURT: You're welcome.

11 MR. STEGE: Dr. Laura Knight.

12 THE COURT: Thank you.

13 (One witness sworn at this time.)

14 THE COURT: Welcome back. Please go ahead and
15 pull that microphone in front of your face. Give your
16 attention to Mr. Stege.

17 LAURA KNIGHT

18 called as a witness and being duly sworn did testify as
19 follows:

20 DIRECT EXAMINATION

21 BY MR. STEGE:

22 Q. Please state and spell your name.

23 A. Dr. Laura Knight, L-a-u-r-a, K-n-i-g-h-t.

24 Q. What type of a doctor are you?

1 A. I'm a forensic pathologist.

2 Q. What is a forensic pathologist?

3 A. A forensic pathologist is a medical doctor that
4 has training and expertise at the intersection of medicine
5 and the law and my primary job is to perform autopsies in
6 order to determine the cause and manner of death.

7 Q. And how does one and in particular you become a
8 forensic pathologist?

9 A. I became a forensic pathologist through my
10 education and training. I have a bachelors degree in
11 chemistry, a bachelor of science from Murray State University
12 that was obtained in 1997. I then went on to medical school
13 and obtained my medical doctorate degree at the University of
14 Louisville School of Medicine in 2001.

15 Following that, I completed a five-year post
16 graduate residency training in anatomic and clinical
17 pathology and then I completed a one-year fellowship in
18 forensic pathology. My residency training was at Medical
19 University of South Carolina and my fellowship training in
20 forensic pathology was at the Office of the Medical
21 Investigator in New Mexico.

22 Following my training, I then sat for board
23 examinations from the American Board of Pathology and I am
24 board certified in the areas of anatomic pathology, clinical

1 pathology and forensic pathology.

2 Q. And you've been working in that field since?

3 A. Yes.

4 Q. And you are the chief or chief medical examiner --
5 your title within the county?

6 A. I'm the Chief Medical Examiner and Coroner for
7 Washoe County.

8 Q. Were you called upon to perform an autopsy on a
9 person identified as Robert Trask?

10 A. Yes.

11 Q. Can you tell us about that process?

12 A. Yes. On July 29th, 2016, I performed an autopsy
13 on Mr. Robert Trask. His body was received in a sealed body
14 bag at my office. The seal on the bag was opened and his
15 body was x-rayed. And then I proceeded to photograph,
16 document evidence, collect evidence and perform the autopsy.

17 Q. Do you recognize what is depicted in proposed
18 Exhibit 18?

19 A. Yes. These are photographs taken during
20 Mr. Trask's autopsy.

21 Q. Are they a true and accurate depiction of the
22 event you described?

23 A. Yes, they are.

24 MR. STEGE: I move in Exhibit 18 containing --

1 MR. EDWARDS: No objection.

2 THE COURT: 18 admitted. How many pages?

3 MR. STEGE: 17.

4 THE COURT: Thank you.

5 BY MR. STEGE:

6 Q. Is a clicker in front of you?

7 A. Yes.

8 Q. Would you please tell us about the narrative and
9 use the exhibit to aid us in understanding?

10 A. Well, the first photograph that we're looking at
11 here is an identification photograph of Mr. Trask's face. On
12 this photo, you can see a tube protruding from his mouth.
13 That was from attempted resuscitation, medical therapy. And
14 there are also two scrapes on his nose.

15 Q. Please continue at your will.

16 A. The next photograph is an overall photograph of
17 Mr. Trask's body as he was received at the medical examiners
18 office. It shows evidence of medical therapy on his body,
19 including EKG tabs and vascular lines. There are also paper
20 bags on his hands for evidence protection. And some of his
21 clothing also remains on his body.

22 The third photograph shows Mr. Trask after his
23 body was cleaned and all of the evidence was collected and
24 evidence of medical therapy was removed. You can see on the

1 front middle of his chest there is a large purple bruise with
2 an area of scraping or abrasion in the center of it and that
3 is the area where a bullet was recovered during the autopsy
4 under the skin in the subcutaneous tissue.

5 Photograph four shows Mr. Trask's legs and we can
6 see several scrapes or abrasions on both of his knees and the
7 small scrape on his right leg. I'm using the touch screen to
8 circle that one so you can see it on his right leg.

9 Photograph five is a close-up of that right leg,
10 again, showing the scraping on the knee and the front of the
11 leg.

12 Photograph six shows the left knee, again, showing
13 the scrapes or abrasions on the knee.

14 Photograph seven shows the back of the right hand
15 showing two scrapes on the area of the knuckles.

16 Photograph eight shows more of the right forearm
17 to right elbow area where there is a large scrape or
18 abrasion.

19 Photograph nine is a close-up of that scrape on
20 the right elbow to forearm.

21 Photograph ten is depicting the back of Mr. Trask.
22 There is a large tattoo towards the upper back. Then below
23 that but above the ruler on his back is an entrance gunshot
24 wound.

1 Q. How do you determine it's an entrance gunshot;
2 wound versus something else?

3 A. Based on my education and training, the appearance
4 of this wound is consistent with an entrance gunshot wound,
5 because it is a round, cookie-cutter like defect. It has an
6 abrasion or scraping of the margin that is caused by the
7 bullet entering the skin and it does not have features of an
8 exit wound, which would be where the bullet exists the body.
9 Those types of wounds have a different appearance where the
10 edges reapproximate neatly together and leave no central
11 cookie-cutter defect. So this is a very typical entrance
12 gunshot wound.

13 Q. I'm sorry to maybe go back a little bit. Any
14 comment, and this will be the wrong terminology, but how
15 fresh were the abrasions that we saw on or the condition of
16 their healing, I guess is better, as the scrapes observed on
17 the knees, legs, et cetera?

18 A. All of the scrapes on Mr. Trask's body feel fresh
19 or acute. They show no evidence of healing.

20 Q. Please continue.

21 A. Photograph 11 is a more close-up view of the
22 entrance gunshot wound on the middle of the back, just to the
23 right of midline. Again, showing the features of a round
24 cookie-cutter punched out entrance defect with scraped edges.

1 And photograph 12 is closer yet on the entrance
2 wound showing very nicely the round cookie-cutter defect with
3 scraping around the edges.

4 Photograph 13 again shows the front of Mr. Trask's
5 body with a closer view of the chest showing the extensive
6 area of bruising in the middle of the chest where a bullet
7 was recovered during the autopsy.

8 Photograph 14 shows a close-up view of the
9 incision on the chest. This is the top part of the typical Y
10 incision made at autopsy. And within that photograph, you
11 can see the bullet within the hemorrhagic or bloody soft
12 tissue. Right in the center of the circle I have drawn is a
13 bullet.

14 Photograph 15 shows the bullet more close up.

15 Photograph 16 shows the bullet from the other
16 side. It is now cleaned and out of the body and photographed
17 separately. To the left of it, there is an orange plastic
18 tip that I also recovered adjacent to the bullet in the body
19 and it was associated with the bullet.

20 Photograph 17 shows the other side of each of
21 those two items, the bullet and the plastic tip.

22 Q. That bullet and plastic tip, is that something
23 familiar to you in the course of your work?

24 A. Yes, it is. There is a particular type of

1 ammunition that has a plastic tip in it and I recognized that
2 at autopsy.

3 Q. Did you do investigation into the path of the
4 bullet?

5 A. Yes.

6 Q. Can you tell us about that, please?

7 A. Yes. The bullet entered Mr. Trask's back through
8 the skin and soft tissue. It passed between the ninth and
9 tenth ribs in the back through the muscle into the diaphragm
10 and right above the liver into the sack around the heart.
11 That's called the pericardium.

12 It then passed through inferior vena cava, which
13 is a large vein leading away from the heart and then passed
14 through the right ventricle of the heart. It then passed
15 through the pericardium or the sack around the heart on the
16 front and through the soft tissue beneath the breast bone and
17 out through the breast bone and into the subcutaneous tissue
18 of the chest where that bullet was recovered.

19 Q. Is this a serious injury?

20 A. Yes. This is a very serious injury with
21 perforation of the heart and a major blood vessel.

22 Q. And what would the immediate affect on the body be
23 or would you expect it to be?

24 A. There would be severe bleeding, and in this case,

1 there was severe bleeding inside the chest cavity and in the
2 sack around the heart that would result in the heart slowing
3 very quickly. A person with an injury like this could
4 perhaps take a few steps, but would very likely be quickly
5 incapacitated.

6 Q. And quickly deceased?

7 A. Yes.

8 Q. You mentioned the path in the anatomical sense,
9 but did you do any other investigation into the path or
10 description of that if that's the right term?

11 A. Yes. In relation to the path, I also described in
12 my report the trajectory that the bullet took, which means
13 the direction, essentially. The direction was from Mr.
14 Trask's back to front, of course, because it entered his back
15 and ended up in his chest.

16 It was also was very slightly upward and it was
17 also very slightly from his right to left. The majority of
18 the trajectory is simply from back to front. It's nearly
19 level, but with a minimal deviation upward and a minimal
20 deviation from the right to left.

21 Q. Were measurements taken in that regard?

22 A. Yes.

23 Q. Like what?

24 A. I measured the location on his body from the top

1 of the head of the entrance wound and the bullet. And
2 speaking of their relations, the entrance wound was 20 inches
3 below the top of the head, while the bullet was only
4 19 inches below the top of the head. Meaning, essentially,
5 the bullet ended up one inch higher than the entrance wound
6 was on the back. So that one inch of deviation is all we're
7 talking about when we're saying it was slightly upward. It's
8 very minimal.

9 Similarly, I measured from the midline of the
10 body. The entrance gunshot wound on the back was about --
11 excuse me -- was measured, not about, was measured as one and
12 one quarter inches to the right of the midline. Whereas the
13 bullet was exactly in the midline. So it traveled about one
14 and one quarter inches from right to left. So, again, a very
15 small deviation from right to left also. So it was nearly
16 level.

17 Q. In examining the body of Mr. Trask, did you look
18 for evidence related to distance of gunshot or close contact
19 gunshot?

20 A. Yes. On every gunshot related case, I look for
21 range determining characteristics. Those would be findings
22 that would help me to know the distance between the gun and
23 the person who was shot. Those findings would be things like
24 soot, gunpowder stippling or gunpowder particles. Those are

1 things that come out of the end of the gun and can be
2 deposited on the clothing or the skin of the person if the
3 gun is close enough.

4 I found none of those things in this case. There
5 were no gunpowder particles, there was no gunpowder stippling
6 and there was no soot on the skin or the clothing that I
7 could see with the naked eye.

8 Q. So within what range is it understood things like
9 soot, gunpowder to be deposited?

10 A. With handguns, it's typically somewhere in the
11 range of less than three feet as a general rule of thumb to
12 get those things deposited. When those things are not on the
13 skin, we simply say that the range of fire cannot be
14 determined for the simple fact that there are scenarios where
15 it could be closer and those things wouldn't be deposited on
16 the skin.

17 For example, if someone is shot through a car
18 window, that prevents those things from getting to them, or
19 if they're shot through a door or some other object, they're
20 shot through particularly thick clothing, those items might
21 not be on the skin, but would only be on the clothing. We
22 call that an intermediate target, something between the gun
23 and the person who was shot. Those can prevent those things
24 from being deposited. So when they're not there on the skin,

1 the range of fire simply can't be determined.

2 Q. But what can be determined as part of your duties
3 is to determine cause and manner of death?

4 A. Yes.

5 Q. What do those terms mean?

6 A. The cause of death is literally what someone died
7 of, whereas the manner of death is how it happened. And
8 those manner of death terms are typically homicide, suicide,
9 accident, natural or undetermined.

10 Q. What was the cause of death in this case?

11 A. The cause of death was a gunshot wound of the
12 chest.

13 Q. And the manner of death?

14 A. The manner of death was homicide.

15 MR. STEGE: Pass the witness.

16 THE COURT: Cross examination.

17 CROSS EXAMINATION

18 BY MR. EDWARDS:

19 Q. Only one question, doctor. You said gunshot wound
20 to the chest, but through the back. Am I correct in that?

21 A. That's right. It's a gunshot wound of the thorax
22 and in layman's terms that would be the chest and he was shot
23 in the back.

24 MR. EDWARDS: Okay. Thank you.

1 THE COURT: Mr. Stege.

2 MR. STEGE: No, thank you.

3 THE COURT: May Dr. Knight be excused?

4 MR. STEGE: Yes.

5 THE COURT: Good day to you. You may step down.

6 Mr. Stege, your next witness.

7 MR. STEGE: Your Honor, the State rests.

8 THE COURT: Thank you, Mr. Stege. Mr. Edwards, do
9 you intend to call any witnesses or present any evidence in
10 this case?

11 MR. EDWARDS: No, we don't, your Honor. We rest
12 as well.

13 THE COURT: That means, ladies and gentlemen, the
14 evidence has now been presented to you. You all are going to
15 be in recess overnight. I'm going to ask you to return at
16 10:00 a.m.. You can expect the progress of things to be
17 this:

18 The attorneys and I have much work to do to settle
19 what are called the jury instructions. When you come back at
20 10:00, we'll begin with me reading those instructions to you.
21 I'd rather not read them to you in a lecture style or talking
22 at you format, but each word is so important that I must read
23 them verbatim to you.

24 The good news is that each of you will have a copy

1 of the instructions to take with you into the jury room. So
2 I invite you to come ready to let the instructions, as it
3 were, wash over you, so you may have a multi-layered
4 understanding of hearing them and then reading them later.

5 The attorneys then will offer argument to you and
6 the case ultimately will be submitted to you tomorrow, I
7 suspect sometime around the noon hour. The reason I tell you
8 that is this: You should come prepared to give up your
9 electronic devices when we retire to deliberate and you
10 should come prepared to stay as long as deliberations need
11 with no end time established. So I just wanted you to have,
12 as it were, an understanding of the progress tomorrow.

13 You are going to be in recess, then, in 10:00 a.m.
14 tomorrow. During this recess, it is your duty not to
15 converse among yourselves or with anyone else on any subject
16 connected with this trial, or to read, watch or listen to any
17 report of or commentary on the trial by any person connected
18 with the trial, or by any medium of information, including,
19 without limitation, newspapers, television, radio, Internet
20 or smart phones. You're not to form or express an opinion on
21 any subject connected with this case until it is finally
22 submitted to you after the presentation of evidence and
23 arguments of counsel are concluded. Again, ladies and
24 gentlemen, we'll see you at 10:00 a.m. tomorrow morning.

1 (The following proceedings were had outside the
2 presence of the jury.)

3 THE COURT: We remain on the record in CR17-0690,
4 the State of Nevada versus Katherine Dee Fletcher.
5 Ms. Fletcher is present with Mr. Edwards. I show the
6 appearance of Mr. Stege. We're outside the presence of the
7 jury. First, Mr. Stege, is there anything else you would
8 like to place into the record?

9 MR. STEGE: No.

10 THE COURT: Mr. Edwards, is there anything else
11 you would like to place into the record?

12 MR. EDWARDS: No, thank you, your Honor.

13 THE COURT: Traditionally, gentlemen, it's now at
14 this juncture that I offer my compliments. It literally
15 matters not to me what the verdict in this case would be, but
16 I want you both to know a couple of things.

17 First, every trial is appropriately named, I think
18 we can all agree. A trial for Ms. Fletcher who has had to
19 listened to difficult evidence and trial for both of you in
20 presenting and examining that evidence. You have acquitted
21 yourself marvelously. It is rare for a jury trial to take
22 less than a week of duration. It's particularly rare for a
23 murder case to take less than a week in duration. It's
24 particularly rare in this case where your estimate,

1 reasonably, was that it would wash into the second week. I
2 can assure you both, I know how much work it takes to be
3 ready, to be prepared, to be concise and to be accurate.

4 You both have acquitted yourselves marvelously and
5 most importantly lived up to the oath you take as officers of
6 the Court. I want you both to know it's been my distinct
7 privilege to try this case with you and I look forward to
8 your closing comments tomorrow.

9 Let us meet now outside the presence of the jury.
10 As I indicated, Ms. Fletcher is welcome to join us. I'll
11 give you gentlemen 20 minutes for necessities and to collect
12 your thoughts. We'll meet in this room at 4:30 and settle
13 the jury instructions. We'll be in recess.

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1 STATE OF NEVADA)
) ss.
2 County of Washoe)

3 I, STEPHANIE KOETTING, a Certified Court Reporter of the
4 Second Judicial District Court of the State of Nevada, in and
5 for the County of Washoe, do hereby certify;

6 That I was present in Department No. 7 of the
7 above-entitled Court on January 30, 2020, at the hour of 9:00
8 a.m., and took verbatim stenotype notes of the proceedings
9 had upon the trial volume IV in the matter of THE STATE OF
10 NEVADA, Plaintiff, vs. KATHERINE DEE FLETCHER, Defendant,
11 Case No. CR17-0690, and thereafter, by means of
12 computer-aided transcription, transcribed them into
13 typewriting as herein appears;

14 That the foregoing transcript, consisting of pages 1
15 through 775, both inclusive, contains a full, true and
16 complete transcript of my said stenotype notes, and is a
17 full, true and correct record of the proceedings had at said
18 time and place.

19
20 DATED: At Reno, Nevada, this 28th day of January 2021.

21
22 S/s Stephanie Koetting
23 STEPHANIE KOETTING, CCR #207
24