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IN THE SUPREME COURT OF THE STATE OF NEVADA

* * * * *

CLEMON HUDSON,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

S.C. CASE NO. 82231

Electronically Filed
Aug 06 2021 05:24 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

**APPEAL FROM A JUDGMENT OF CONVICTION PURSUANT
TO LOZADA V. STATE AND DENIAL OF PETITION
FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)
EIGHTH JUDICIAL DISTRICT COURT THE HONORABLE
JUDGE CARLI KIERNY, PRESIDING**

~~~~~  
**APPELLANT'S APPENDIX TO THE OPENING BRIEF  
VOLUME VI**  
~~~~~

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IN THE SUPREME COURT OF NEVADA

CLEMON HUDSON,
Appellant,
vs.
THE STATE OF NEVADA
Respondent.

CASE NO. 82231

APPELLANT'S APPENDIX

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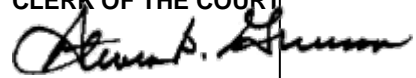
7 CLARK COUNTY DISTRICT ATTORNEY'S OFFICE

8 CHRISTOPHER R. ORAM, ESQ.

9 BY:

10
11 /s/ Nancy Medina
12 An Employee of Christopher R. Oram, Esq.

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DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)
)
) Plaintiff(s),)
)
) vs.)
)
) STEVEN TURNER AND CLEMON)
) HUDSON,)
)
) Defendant(s).)

Case No. C-15-309578-1 and
Case No. C-15-309578-2
DEPT. XVIII

BEFORE THE HONORABLE MARK B. BAILUS,
DISTRICT COURT JUDGE

FRIDAY, APRIL 20, 2018

**TRANSCRIPT OF PROCEEDINGS RE:
JURY TRIAL - DAY 5**

(Appearances on page 2.)

RECORDED BY: ROBIN PAGE, COURT RECORDER

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APPEARANCES:

For the Plaintiff(s):

LEAH C. BEVERLY, ESQ.
(Deputy District Attorney)
JOHN L. GIORDANI III, ESQ.
(Deputy District Attorney)

For the Defendant
Steven Turner:

TEGAN C. MACHNICH, ESQ.
(Deputy Public Defender)
ASHLEY L. SISOLAK, ESQ.
(Deputy Public Defender)

For the Defendant
Clemon Hudson:

CLAY PLUMMER, ESQ.

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For the State

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For the Defendants

None offered.

1 **LAS VEGAS, NEVADA, FRIDAY, APRIL 20, 2018**

2 [Proceedings commenced at 11:10 a.m.]

3
4 [Outside the presence of the jury.]

5 THE COURT: Good morning, ladies and gentlemen. Please
6 be seated.

7 MS. SISOLAK: Morning, Your Honor.

8 THE COURT: This is the continuation of the trial in Case No.
9 C-15-309578-1 and -2, *Plaintiff, State of Nevada vs. Defendants, Steven*
10 *Turner and Clemon Hudson*. The record will reflect the presence of
11 counsel for the State, counsel for the defendants, and the presence of
12 the defendants.

13 Counsel, are you prepared to go forward?

14 MR. GIORDANI: Yes.

15 MS. MACHNICH: Yes, Your Honor.

16 MR. PLUMMER: Yes, Your Honor.

17 THE COURT: At this time I'm going to bring the jury in.

18 [Jury reconvened at 11:11 a.m.]

19 THE COURT: You may be seated. Will the parties stipulate
20 to the presence of the jury?

21 MR. GIORDANI: Yes, Your Honor.

22 MS. MACHNICH: Yes, Your Honor.

23 MR. PLUMMER: Yes, Your Honor.

24 THE COURT: State, call your next witness.

25 MR. GIORDANI: State would call Stephanie Fletcher.

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STEPHANIE FLETCHER,

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

THE CLERK: Please be seated. Would you please state and spell your name for the record?

THE WITNESS: Stephanie Fletcher, S-T-E-P-H-A-N-I-E F-L-E-T-C-H-E-R.

MR. GIORDANI: May I?

THE COURT: You may.

MR. GIORDANI: Thank you.

DIRECT EXAMINATION

BY MR. GIORDANI:

Q Good morning, ma'am.

A Good morning.

Q What do you do for a living?

A I am employed as a senior crime scene analyst with the Las Vegas Metropolitan Police Department.

Q How long have you been a crime scene analyst with Metro?

A Approximately 17 and a half years.

Q And as a senior crime scene analyst, is it your duty and responsibility to respond and process crime scenes?

A Yes.

Q During the course of your years on the Metro Police Department, can you estimate generally how many scenes that you've responded to and processed?

1 A At last count, approximately 4,500 crime scenes.

2 Q Okay. Are you a statistical type of person?

3 A I am.

4 Q Okay. So you keep track of the scenes that you have
5 responded to?

6 A I do, yes.

7 Q I want to talk to you about a specific scene, an officer-involved
8 shooting that occurred on Oveja Circle back in September of 2015.

9 A Okay.

10 Q Do you know what I'm talking about?

11 A I do.

12 Q When was it that you responded to that scene, if you recall?

13 A I responded that morning approximately 7:00 in the morning.
14 And I responded to the command post, which was set away from the
15 scene.

16 Q And the command post, was that on the cul-de-sac or --

17 A At the time of my response, it was located near the
18 intersection of Rainbow and Westcliff.

19 Q All right. When you respond to that command center -- center,
20 what goes on?

21 A At that point I meet with the supervisor that's handling the
22 scene from my section, from the crime scene investigation section. And
23 then I am told, assigned a specific duty as to what they need me to
24 complete.

25 Q Okay. What was your specific duty on this particular scene?

1 A I had two duties. The first one was to respond to a scene a
2 little bit away from the command post where they had a subject in
3 custody that needed to be photographed. And then I responded to the
4 main scene where the shooting had taken place and I was tasked with
5 doing the shooting trajectory documentation.

6 MS. MACHNICH: Your Honor, at this point, can we please
7 approach?

8 THE COURT: I'm sorry?

9 MS. MACHNICH: May we please approach?

10 THE COURT: Yes.

11 MS. MACHNICH: Thank you.

12 [Bench conference transcribed as follows.]

13 MS. MACHNICH: I'm sorry. Your Honor, we have no
14 objection to the first area, the first photography of the subject. However,
15 with regard to the second area that she just mentioned that she'd be
16 testifying to with regard to trajectory, we would be objecting to her
17 testifying as to trajectory in this case, given the fact that she was
18 disclosed as an expert witness, and trajectory is not within the area of
19 lay testimony pursuant to NRS 50.265. I can make a further record as
20 well. I have a case.

21 THE COURT: I'm sorry?

22 MS. MACHNICH: Also pursuant to *Burnside v. State*, I would
23 like to make a record both of what we would have done had she been
24 disclosed as an expert in this case, and also to clarify why we believe
25 that she would be testifying to an expert -- an area of expert testimony if

1 she testified to trajectory.

2 THE COURT: State?

3 MR. GIORDANI: She's not being presented as an expert
4 witness and will not be asked to render any expert testimony
5 whatsoever. She is going to render her testimony on her observations
6 on the day, measurements made on the scene. And any opinion, if an
7 opinion is asked, is going to be a lay opinion, simply rationally based on
8 the perception of the witness pursuant to 50.265. We're not going to ask
9 her --

10 THE COURT: Counsel, also be -- has to be helpful to the trier
11 of fact.

12 MR. GIORDANI: Right.

13 THE COURT: How is it going to be helpful to the trier of fact if
14 all she's -- aren't the photographs going to depict what she's going to
15 testify to?

16 MR. GIORDANI: Right. But she's also going to add -- the
17 photographs don't say this bullet was 6 feet off the ground, or 1 foot off
18 the ground. She took a tape measure and measured it.

19 THE COURT: Okay. I'll let her -- I'll let her testify as to what
20 she did and the measurements and --

21 MR. GIORDANI: That's all --

22 THE COURT: -- things of that nature. If she can say, I
23 measured it and it was 6 feet from the ground, but I'm not convinced at
24 this point she needs to give an opinion --

25 MR. GIORDANI: She's not going to.

1 THE COURT: -- as to what -- you know, I'll let her -- I'll let her
2 testify as to perception, her observations. Okay. But I'm not going to let
3 her give an opinion --

4 MS. MACHNICH: Thank you.

5 THE COURT: -- as to what the --

6 MR. GIORDANI: We're not going to ask her to give an
7 opinion.

8 THE COURT: Okay.

9 MR. GIORDANI: I'm just going to ask her --

10 THE COURT: I think counsel, it's more in a in limines type of
11 situation, where she wants to -- rather than wait to hear the objection,
12 she wants to bring it in as --

13 MR. GIORDANI: Sure.

14 THE COURT: -- an oral in limine type of motion, I assume.

15 MS. MACHNICH: Yes, Your Honor. Only because at this
16 point she had stated that she did work on the trajectory. And at that
17 point, I believe that my objection would be ripe for consideration.

18 THE COURT: Okay.

19 MR. GIORDANI: Yeah. And anything with regard to
20 trajectory, Your Honor, I'm not asking her any opinion whatsoever.

21 THE COURT: Okay. She can -- she can give her
22 measurements and testify as to the --

23 MR. GIORDANI: The things she did and --

24 THE COURT: -- photographs. Right.

25 MS. MACHNICH: Yeah. No objection to that.

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THE COURT: Okay.

MS. MACHNICH: Thank you.

MR. PLUMMER: Thank you.

THE COURT: Okay.

[End of bench conference.]

MR. GIORDANI: Thank you.

BY MR. GIORDANI:

Q All right, ma'am. So you were -- you indicated that you were assigned various limited responsibility, and that was for the firearms evidence that was located all over the scene, correct?

A Correct.

Q You also indicated that you responded to photograph a suspect that was in custody?

A Correct.

Q And do you know that suspect's name?

A I believe his last name was Turner.

Q Okay. Where did you respond to do that?

A I responded to Westcliff Drive. I was just east of Antelope, right there on the side of the street.

Q Okay. So actually on the side of the road?

A Yes.

Q And when you arrived, what did you observe?

A I made contact with the officers that were out there with the subject. They had a black male in custody. He was in handcuffs at the time of my arrival. And I was asked to document his overall appearance,

1 as well as any injuries that were present.

2 Q Okay. Showing you now already admitted 28; is that the
3 subject that you photographed?

4 A It is, yes.

5 Q Did you -- before looking at any injury, did you do observations
6 of his external appearance and clothes?

7 A I did. I took note of the clothing that he was wearing, as well
8 as the bloodstains that were present, apparent bloodstains that were
9 present on the pant legs, and also the defects that were present on the
10 pant legs.

11 Q You reference defects. I'm showing you 29; were there
12 defects on the left pant leg?

13 A Yes. I observed three small defects on the inner portion of the
14 pant leg.

15 Q Showing you State's 30; are those three defects you observed
16 visible in this photograph?

17 A They are.

18 Q Can you point those out to the jury?

19 A Sure. One here -- oops, here and here.

20 Q Thank you, ma'am. Did you observe any defects to the right
21 pant leg?

22 A I did.

23 Q Showing you now 32. Let me flip that upside down. Is that
24 visible in this photograph?

25 A Yes, it is.

1 Q Can you circle that --

2 A Sure.

3 Q -- or point to it?

4 A There's one.

5 Q Thank you.

6 MR. GIORDANI: I forgot to ask, can the jury see this now?

7 There's one saying no.

8 Can I move this, Your Honor?

9 THE COURT: You may.

10 MR. GIORDANI: Thanks. Everybody good? Okay.

11 BY MR. GIORDANI:

12 Q You indicated that you also photographed his injury?

13 A Yes, I did.

14 Q Showing you now State's 35; is that the injury you're
15 describing?

16 A Yes, it is.

17 Q Zoom back out. Okay. Right or left leg?

18 A That would be the inner left leg.

19 Q What was the location of the injury?

20 A It was right along where the calf muscle sits, right towards -- a
21 little bit forward of center a little bit, right whether the calf muscle is.

22 Q What you say forward of center, do you mean the center line
23 running down the inside of the leg?

24 A Correct.

25 Q It was just forward of that?

1 A Just forward of that, yes.

2 Q Did you, if you recall, document anything that was taken from
3 this man's pockets or anything like that?

4 A I did not, no.

5 Q Okay. So your secondary assignment was going to the home
6 on Oveja Circle?

7 A Yes.

8 Q When you arrived, what personnel was already there?

9 A When I arrived there were several police officers and
10 detectives, detectives from our Force Investigation Team, uniform police
11 officers on scene. There were supervisors from my section, Kristen
12 Gramas [phonetic] was there. Jeff Smink was there. They're both
13 supervisors, as well as Robbie Dahn, another senior crime scene
14 analyst, and Jeff Smith, another crime scene analyst as well as. And
15 Kristen Meckler was there as well.

16 Q So several crime scene analyst personnel in addition to the
17 detectives and officers that are all on scene?

18 A Yes.

19 Q With regard to the crime scene personnel, did each of you
20 have kind of individual assignments or responsibilities that you focused
21 on?

22 A Yes, we did.

23 Q Who did the general overall photographs of the scene?

24 A That would be Robbie Dahn.

25 Q Okay. And Ms. Dahn testified for what felt like 10 hours

1 yesterday, so I'm not going to go through all her photographs. I want to
2 go specifically to what you observed --

3 A Okay.

4 Q -- on the scene and what you documented, and how you
5 documented. Okay?

6 A Okay.

7 Q I'm going to start with already admitted 7; it's a crime scene
8 diagram, right?

9 A Yes.

10 Q And would you agree with me, this depicts the general area of
11 where it was believed the shooting had occurred?

12 A That is correct, yes.

13 Q Okay. In the dining room area, do you know how many
14 casings were found?

15 A We recovered 12 cartridge cases.

16 Q And what type of cases were those?

17 A Those were Speer .9mm cartridge cases.

18 Q Speer .9mm, is that the brand that's used across the board
19 with Metro?

20 A It is.

21 Q Okay. So when you see a Speer .9mm, you're -- you're
22 making a presumption, you don't know for sure, but that's a Metro
23 round?

24 A Correct.

25 Q Okay. So there's 12 cartridge cases from a Speer in the living

1 room area?

2 A In the dining room area, yes.

3 Q I mean, dining room area.

4 A Yes.

5 Q Right?

6 A That's correct.

7 Q Any cartridge cases, Speer .9mm cartridge cases found
8 anywhere else, either outside or anywhere else, other than that kitchen
9 area?

10 A No.

11 Q And I mean -- when I say kitchen, I -- I mean the dining room.
12 So they're all focused in one general area, correct?

13 A They are, yes.

14 Q With regard to this little covered patio area in the backyard,
15 were there cartridge cases found out there?

16 A Yes, there were.

17 Q What types?

18 A There were rifle cartridge cases that were consistent with rifle
19 rounds, and there were three of those.

20 Q Okay. Are those the 7.62 that we -- we've heard referred to
21 as 7.6-something?

22 A Correct.

23 Q Okay. And you said those appeared consistent with rifle
24 rounds; and were those all located in one general area?

25 A They were.

1 Q Where was that?

2 A They were located at the south end of the covered patio area.

3 Q Okay. So this is a compass at the bottom of this diagram.

4 North is up, south is down. Do you, on this diagram, see those three
5 cartridge cases documented?

6 A I do.

7 Q And can you just tell us the numbers? I don't think you're
8 going to be able to do it --

9 A Yeah. I won't be able -- it's -- the items numbers that were
10 designated as the rounds on the patio, or the cartridge cases on the
11 patio, would be Items 25, 26, and 27.

12 Q Okay. So three rifle cartridges cases on the patio. Are there
13 any -- I don't mean to be repetitive. Any .9mm's found anywhere on the
14 patio?

15 A There are not.

16 Q Okay. Is there any 25 small-caliber cases -- cases found
17 anywhere?

18 A No.

19 Q Is there -- are there any shotgun -- expended shotgun shells
20 found anywhere?

21 A No.

22 Q Okay. So we're dealing with a total of 12 cases in the dining
23 room, three cases on the patio, and that's the extent of the cases on the
24 scene?

25 A Correct.

1 Q And if the jury hasn't heard this already, cases are expended
2 rounds, correct?

3 A That's correct.

4 Q Okay. I want to move out on to the patio. Did you document
5 apparent defects in several different areas of the backyard?

6 A I did, yes.

7 Q I'm going to start with State's 294; is this your documentation
8 of the crime scene?

9 A It is.

10 Q See if I can zoom in. How many defects did you find in this
11 screen-type area?

12 A There were total of 12 defects through the metal sheeting, as
13 well as the screen.

14 Q Okay. So does this photograph encompass the 12 defects in
15 that area?

16 A It does, yes.

17 Q Okay. And what are those marked as with your little evidence
18 markers there?

19 A A through, I believe, L.

20 Q Okay. So on the -- on the side of the screen closest to the
21 house, those would be A through L. Did you document on the other side
22 of that screen?

23 A Yes, I did.

24 Q Showing you 267; does that appear to be the other side of the
25 screen?

1 A It is, yes.

2 Q And did you document 12 corresponding defects on the other
3 side of that screen?

4 A I did.

5 Q What are those documented as?

6 A Those are documented as A1 through L1.

7 Q Did you go further -- oh, I'm sorry, and let me stop there with
8 that and ask you: Did you measure the heights of those various 12
9 defects?

10 A I did. I measured the height of each individual defect as well
11 as its distance away from the -- one of the poles that's holding up the
12 screen.

13 Q Okay. Would you have measured from this side or from the
14 other side?

15 A I believe I measured from the side facing the house.

16 Q Facing the house?

17 A Yes.

18 Q We'll go back to 294. Can you tell us the range of heights off
19 of the ground that these encompass?

20 A For that I would be more comfortable referring to my report --

21 Q Would that --

22 A -- if I could.

23 Q -- refresh your memory, ma'am?

24 A It would, yes. Thank you.

25 Q And let me lay a little foundation. Robbie Dahn, Crime Scene

1 Analyst Dahn, created a -- a very lengthy crime scene report; is that
2 right?

3 A Correct.

4 Q You've had an opportunity to review that before today?

5 A I have, yes.

6 Q Does part of that report encompass something you wrote
7 yourself and then sent to her to add to her general report?

8 A Yes, it does.

9 Q Okay. And just to remind you, the question: I don't need the
10 heights of each one, I just need the range from the lowest one to the
11 highest one.

12 A Sure.

13 MR. GIORDANI: And, counsel, I'm showing page 5 of
14 Ms. Dahn's report.

15 MS. SISOLAK: Thank you.

16 THE WITNESS: So the shot that was lowest to the ground --

17 THE COURT: Ma'am, I --

18 THE WITNESS: I'm sorry, the -- the defect. I apologize. The
19 defect that was lowest from the ground --

20 MR. GIORDANI: Hold -- hold on. Hold on a second.

21 THE COURT: Ma'am, I don't want you to read the report to
22 the jury. What I'd like you to do is refresh your recollection --

23 THE WITNESS: Okay.

24 THE COURT: -- by reviewing the report. And then with your
25 refreshed recollection, testify to the jury.

1 THE WITNESS: Testify, okay. Sorry about that, Judge.

2 THE COURT: That's fine.

3 BY MR. GIORDANI:

4 Q Just with what you remember --

5 A So the range was between 3'3" inches, and 6' high. So the
6 lowest was at 3' -- 3', and the highest measured at about 6' high.

7 Q Okay. So 3'3" would be the lowest on the screen, and the
8 highest would be up on the corrugated plastic or metal?

9 A Correct.

10 Q Did you then proceed further into the yard, past that screen?

11 A I did, yes.

12 Q Did you observe apparent defects in anything out -- further out
13 in the yard?

14 A Yes, I did.

15 Q Showing you 271; what are we looking at here?

16 A This is a wicker patio set that was positioned near the center
17 of the yard west of that covered patio. So it was between the covered
18 patio and the perimeter wall.

19 Q Thank you. I'm going to briefly go back to 294; is that the
20 patio set we see here in the background?

21 A It is, yes.

22 Q How many apparent defects did you observe to the patio
23 furniture?

24 A To the patio furniture we observed four.

25 Q Were those labeled with a particular letter or number?

1 A Yes, they were.

2 Q What were those?

3 A The letter N -- or M, I'm sorry. Correction, M.

4 Q Okay. M, as in Michael?

5 A M as in Michael. Yes.

6 Q Showing you State's 275; are those two of the four that you
7 just referenced?

8 A They are, yes.

9 Q Can you kind of describe your -- your observation? Just what
10 are we looking at?

11 A This is just a little bit closer view of the cushions that are
12 positioned on that love seat pad -- piece of furniture. The defect labeled
13 M is the pillow that's set up in -- the loose pillow that's set up in front on
14 the love seat. And the defect labeled M2 would be the stationary
15 cushion that is along the back edge of the love seat.

16 Q Did you find what appeared to be a corresponding defect on
17 the back side of the love seat?

18 A Yes.

19 Q What was that labeled?

20 A That would be labeled M1.

21 Q On the back side?

22 A On the back -- are you talking about on the back of the love
23 seat?

24 Q Let me show you 277, and see if that's what we're -- we're
25 talking about the same thing.

1 A Oh, I'm sorry. M3 would be the backside of the stationary
2 cushion.

3 Q Okay. And to be clear, is that the only defect that was found
4 on the backside of the cushion?

5 A Yes.

6 Q Okay. You said there was an M4; where is that located?

7 A M4 was located on the perimeter wall, along the backside of
8 the property.

9 Q Okay. I want to move on to, were there any other items in the
10 central area of that backyard that were -- were -- had apparent defects to
11 them?

12 A Yes. We located a trash can, a plastic trash can that was
13 positioned just behind with couch with two additional defects.

14 Q Okay. Showing you State's 298; is that the trash can there
15 behind that love seat?

16 A Yes.

17 Q And what were those -- did you label those defects?

18 A Yes, we did.

19 Q What did you label those with?

20 A Those were labeled using the letter N.

21 Q N, as in Nancy?

22 A Yes.

23 Q Okay. Showing you 272; is that the defect on the front side of
24 the closest side of the trash can?

25 A Yes.

1 Q That's the N. Was there an N1 and N2?
2 A There would have been an N, an N1, and then an N2.
3 Q Where was --
4 A But N and N1 were on the trash can.
5 Q Okay. So N1 would be a corresponding defect on the other
6 side of the trash can?

7 A Correct.

8 Q And then N2, where was that located?

9 A That was located adjacent to the M defect on the wall along
10 the backside of the property.

11 Q Okay. Now, you referenced earlier trajectory. I don't want to
12 ask any opinion whatsoever on trajectories. I want to ask you very
13 specifically, what is a trajectory?

14 A A trajectory, in simplest terms, is just the flight path of a bullet.

15 Q Okay. And no disrespect meant by this, but when you use
16 trajectory rods, do you just stick a stick through a hole, basically?

17 A Basically, yes.

18 Q Okay. I want to start with 284. What are we looking at here?

19 MS. MACHNICH: Your Honor, I'm going to renew my
20 objection. This is not an expert witness.

21 MR. GIORDANI: And again, I'm not asking for an expert
22 opinion in any way. It's just the observations that she made.

23 THE COURT: She can testify as to her observations.

24 MR. GIORDANI: Thank you, Your Honor.

25 BY MR. GIORDANI:

1 Q What are we looking at here, ma'am?

2 A This was -- this is a photograph of a rod that was placed
3 through the defects in the couch.

4 Q Okay. And that -- that rod doesn't have a label to it. The M is
5 pointing to the defect, right?

6 A Correct.

7 Q Okay. Showing you 287; what are we looking at here?

8 A This is a view of the rod in place from the backside of the
9 couch.

10 Q Okay. Same rod we saw previously?

11 A It is, yes.

12 Q All right. You mentioned several defects to the back wall of
13 the property; is that right?

14 A Correct.

15 Q How many defects did you observe and then label to the wall?

16 A Just counting, I want to give an accurate counting.

17 Q Okay. Thank you.

18 A There were seven defects to the back wall.

19 Q Okay. I'm showing you now 348; what are we looking at
20 here?

21 A This is a view of the marked defects along the back wall.

22 Q Okay. Do you recall the letters that those would have been
23 marked with?

24 A I do. We started with M, and I believe we ended with S.

25 Q S, okay. So -- okay. Showing you 302; is that just a closer-up

1 shot of a couple of those defects in the wall?

2 A It is, yes.

3 Q Without opining in any way, can you describe the defect that
4 you observed?

5 A There was a few that appeared to be holes.

6 Q Okay. And I -- just, are you referring to P and O at least?

7 A P and O appeared to be holes. And then they were a few that
8 appeared to not fully perforate the wall.

9 Q Okay. At the very top of this photograph, what are we looking
10 at?

11 A That is a set of barbed wire.

12 Q Okay. So there was barbed wire on the top of this back wall?

13 A There was.

14 Q Did that run the length of the back wall?

15 A It did.

16 Q Okay. Showing you 301; is that that same back wall?

17 A It is.

18 Q You can barely see that barbed wire running the length, right?

19 A Yes.

20 Q There's a lot of vegetation and stuff at the bottom of this wall,
21 correct?

22 A Correct.

23 Q All right. Before I move on, real quickly, I want to go to
24 State's 6, already admitted. This is a different diagram, correct?

25 A Correct.

1 Q And that has some labels along the back wall, right?

2 A Yes.

3 Q Did those correspond with what you just testified to, M through
4 S, on the back wall?

5 A It does, yes.

6 Q Okay. And then up here, so I don't have to go back to it, there
7 are several letters where it appears that screen is on the patio?

8 A Correct.

9 Q Same thing, do those correspond with what you just testified
10 to, the defects that you saw there?

11 A They do, yes.

12 Q Okay. And this is diagram six of seven, correct?

13 A Correct.

14 Q Okay. Did you then turn around, turn your attention back
15 towards the home?

16 A Yes.

17 Q Okay. Want to start with 318; did you observe any defects in
18 any of the items on the patio?

19 A Yes.

20 Q What are we looking at in this exhibit?

21 A This is a chair that is positioned just along the south end of the
22 patio in front of the entry door into the dining room.

23 Q And showing you now 317; is that just a different angle or
24 close-up of that same chair?

25 A It is, yes.

1 Q And what were your observations of this chair and the labels
2 that you added?

3 A In this chair, we observed four defects. There were two
4 present in the cushion and there were two present in the metal side arm
5 of the chair adjacent to the cushion.

6 Q And what were those four labeled?

7 A We have T, T1, and then in -- those were in the cushion. And
8 then T Frag 1, and T Frag 2 are going to be into the arm portion,
9 armrest.

10 Q Okay. So for the record, the two that you referenced to the
11 cushion are T and T1?

12 A T1, yes.

13 Q Okay. And again, for the record, what is this material here on
14 T1?

15 A That would be the cotton stuffing that's inside the cushion.

16 Q Okay. And then you indicated two separate little defects to the
17 metal part?

18 A Yes.

19 Q The arm of the chair? What is this right here?

20 A That appears to be a fifth defect that we did not label on the
21 scene.

22 Q Okay. Let me give you a very close-up shot of T in State's
23 already admitted 316. So T was the very large one on the backside of
24 the cushion, correct?

25 A Correct.

1 Q What's -- what are we looking at in this photograph?

2 A It appears to be part of the metal construction of the chair, the
3 inner workings of the chair.

4 Q Okay. So --

5 A Inside the cushion.

6 Q Metal within the cushion?

7 A Yes.

8 Q Okay. And then real quickly, 323; is that T1, which was the
9 corresponding defect on the other side of the chair?

10 A It is, yes.

11 Q Did you take one of your yellow sticks and put it through that
12 chair?

13 A We did not.

14 Q I want to show you now 188; what are we looking at here?

15 A This is a metal fragment that was on top of the patio table that
16 appears to have some sort of cotton material stuck to it.

17 Q Okay. And 324, that's the T1 defect. Was that T1 portion or
18 side of the chair close to the table that we just saw?

19 A It was nearby, yes.

20 Q Okay. And then 187; what is that?

21 A That's a view of that metal fragment on the -- on the table.

22 Q Okay. Did you observe other defects to different furniture on
23 that patio?

24 A Yes.

25 Q Showing you now 357; what is this piece of furniture here?

1 A That was a wooden entertainment unit that was along the
2 south end of the patio just in front of the entry door into the dining room.
3 It contained a television.

4 Q Okay. 165, were there any apparent defects to the television?

5 A They were, yes.

6 Q And were there any apparent defects to the entertainment
7 center that housed the television?

8 A Yes, they were.

9 Q Have your indulgence for a moment. Do you recall labeling
10 the various defects in that TV and entertainment center?

11 A Yes.

12 Q What were your labels for that?

13 A We utilized the letter U.

14 Q U. Showing you 337; what are we looking at here?

15 A Here you can see a defect to the front top edge of that
16 television.

17 Q Okay.

18 A There is a second defect that is labeled U1 along the -- the
19 top -- U is on the front-facing side, and U1 is on the top edge. There's
20 another --

21 Q Okay. For the record -- I'm sorry to cut you off.

22 A Yes.

23 Q The one that's just out of frame here, is that the U?

24 A That's U, yes. Correct.

25 Q Okay. And that would correspond with the hole?

1 A Yes.

2 Q Then U1 would be -- is that more on the top of the television?

3 A That is, yes.

4 Q Okay. Then up underneath this shelf that abuts the television,
5 is there a label or tag there?

6 A There is, yes.

7 Q What would that be?

8 A That would be U2.

9 Q Do you like them?

10 A U2.

11 Q Up on top of that shelf --

12 A Uh-huh.

13 Q -- is there then another label on top?

14 A There is.

15 Q What would that be?

16 A That one was labeled U3.

17 Q Okay. So showing you now -- oh, here we go. 338, let me
18 zoom in. Describe what we're -- you observed here.

19 A So this is the shelf that's positioned just along the topside of
20 the television, or above the television.

21 Q Okay. And just real briefly, circle U2 and then U3.

22 A Okay. U2 is right here. U3 is here.

23 Q Okay. And then there's a U4 obviously up at the top there?

24 A That's correct.

25 Q There also is, like, a metal can there?

1 A Yes.

2 Q Whatever that is, aerosol or something?

3 A I believe it's a can of sunscreen.

4 Q Did there appear to be any defects or issues with that?

5 A There were. There was damage to that can, yes.

6 Q Okay. When you did this documentation, was the can as is,
7 as it is in this photo, standing right there?

8 A I don't recall specifically where it was.

9 Q Okay. Did you then take one of your sticks and put it through
10 the TV?

11 A I did, yes.

12 Q Showing you now 307; is that the stick you placed through the
13 TV?

14 A It is, yes.

15 Q Did it go up through the wood that -- shelf that's on top of that?

16 A It did, yes.

17 Q And then did it come to rest on this side wall of the wood?

18 A It did, yes.

19 Q Showing you State's 239, zoom back out. The left entry door
20 is in this photo, correct?

21 A Correct.

22 Q That would go into the home?

23 A Yes, it does.

24 Q And then this is that same stick you placed through the TV,
25 correct?

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A Yes.

Q All right. It looks like there's sunscreen, as well as a -- the aerosol can or a aerosol can. Does that appear to be consistent with how it was originally?

A It does appear that way, yes.

Q Okay. And then showing you 310. In this one, you can see those -- those items had been moved where they were laying; is that right?

A That's correct, yes.

Q Okay. Does that make sense to you?

A Yes.

Q Is that something you would typically do?

A Yes.

Q Okay. I want to move back into the home briefly. Show you State's already admitted 5. Okay. This is yet another diagram, correct?

A Correct.

Q And this one I've zoomed in enough that it's showing the totality of the home, correct?

A Correct.

Q Did you make observations through this dining room and back into the living room?

A I did, yes.

Q And there's a big -- or a small number 20 in the center of the living room, correct?

A Correct.

1 Q What did that correspond with?

2 A 20 corresponded with shotgun pellets, or shot.

3 Q Okay. Showing you now already admitted 83; what are all

4 these little specks all around this rug?

5 A Those are the shotgun pellets, or the shotgun shot.

6 Q Okay. I'm going to go to State's 84 just real quick to get

7 perspective. This is Evidence Marker 20, right?

8 A Correct.

9 Q Those -- those pellets are real tiny, correct?

10 A They're -- they're very small. Yes.

11 Q Okay. Did you count all the pellets, or no?

12 A No.

13 Q Okay. Can you estimate how many there were in that living

14 room area?

15 A There were numerous.

16 Q Okay.

17 A Several dozen.

18 Q Did you find some shotgun pellets in a different location?

19 A Yes.

20 Q Showing you now 263; what are we looking at here?

21 A This is the living room window.

22 Q Okay. What are we -- what are the yellow things across the

23 window?

24 A The yellow tape is just adhesive measuring tape that we utilize

25 to give a photographic representation of the measurements.

1 Q Okay. Within that -- let me go to 264. Within that square that
2 you've made with the tapes, are there several more what appear to be
3 defects?

4 A Yes, they are.

5 Q In the blinds?

6 A Yes.

7 Q Showing you now 344; what are we looking at here?

8 A This is the window sill -- sill of the living room window after
9 we've pulled the blinds up. And there are pieces of a shotgun round
10 located on top of the window sill.

11 Q Okay. I'm showing you now 345; that's Evidence Marker 22,
12 right?

13 A Yes.

14 Q What is that documenting?

15 A That is a piece of wadding from inside the shotgun shell.

16 Q Showing you State's 347. That's Evidence Marker 23; what is
17 that documenting?

18 A That is also a piece of the wadding from inside the shotgun
19 shell.

20 Q Okay. How high off the ground was that bulk of defects in the
21 drapes or the --

22 A I'd have to refer to my report to refresh my memory, if that's
23 okay.

24 Q Okay. If that would refresh your memory --

25 A Yes.

1 Q -- go ahead and do so.

2 A Yes, please.

3 Q Oh, you don't have it.

4 A I do -- you took it.

5 Q Sorry.

6 A Yeah.

7 Q Page, I believe, 6.

8 A Yes.

9 Q There you go. Does that refresh your memory?

10 A Yes, it did.

11 Q Go ahead. How high?

12 A It was approximately 3'10" up from the ground.

13 Q Before I move on to my last little area of inquiry, I want to go
14 back to State's 7. Between that front area of the home, which is
15 actually -- I apologize. Let me give you a different diagram.

16 State's 3. All -- all the testimony you just gave about apparent
17 defects in the drapes and the broken window and the shotgun wadding,
18 those would be documented on this as well, correct?

19 A Correct.

20 Q And is that 21, 22, 23?

21 A It is.

22 Q And then 20 was all the pellets we saw earlier?

23 A Yes.

24 Q Okay. Now, from that patio area to that area where you find
25 the shotgun wadding in the window, are there any holes in the wall

1 between the patio and the kitchen?

2 A No.

3 Q Are there any holes in the door that goes from the patio area?

4 A No.

5 Q Okay. And there's obviously an open door when you're there,
6 correct?

7 A Correct.

8 Q An open door leading from the patio to the dining room and
9 vice versa?

10 A That's correct, yes.

11 Q Did you observe any apparent defects to the front door of the
12 home?

13 A Yes.

14 Q Still have that Exhibit 3 up. The door to the front of the home,
15 did that have a -- a security gate as well?

16 A Yes, it did.

17 Q Showing you State's 304; what are we looking at there?

18 A This is a view of the security, the metal security door that's on
19 the exterior side of the front entrance to the house.

20 Q Okay. And it appears that security door is closed, correct?

21 A Correct.

22 Q Did you document any apparent defects in that?

23 A I did, yes.

24 Q Is that your little evidence tag at the very top there?

25 A It is.

1 Q Well, not at the very top, but three-quarters of the way up?

2 A Yes.

3 Q Showing you 303; what are we looking at there?

4 A This is a closer-up view of that defect that was located into
5 the -- through the door.

6 Q Okay. That's a -- what size was that defect? It looks a little
7 larger than the others.

8 A Based on the scale that's in the photograph, I'd say it's a little
9 bit larger than two centimeters.

10 Q Okay. And that's on which side of the door? Would it be the
11 inside of the home or the outside of the home?

12 A That was on the in -- interior side of the home.

13 Q Okay.

14 A So inside.

15 Q And the interior defect is marked with a V?

16 A Correct.

17 Q Did you also mark and observe the other side of the door,
18 being the outside?

19 A I did, yes.

20 Q State's 305; what are we looking at there?

21 A That's the exterior side. And that was marked as V1.

22 Q V1?

23 A Yes.

24 Q Okay. What is this here?

25 A The -- that's a piece of metal at the bottom of the defect that's

1 bent downward and out.

2 Q Okay. Downward and out, from the inside of the home?

3 A Correct.

4 Q Meaning if you're inside, that hanging piece of metal would be
5 outside?

6 A Correct.

7 Q Okay. Did you do any forensic testing on 303 V1 -- or V?

8 A Yes, we did.

9 Q What type of testing was that?

10 A We utilized a presumptive test for lead and for copper using
11 two different chemicals for each, resulting in positive results on -- for
12 both lead and copper on that hole.

13 Q What is the purpose of that test?

14 A We utilize this test to try to determine if a defect is, in fact,
15 related to a bullet, since a bullet is primarily composed of lead and
16 sometimes copper, depending on how it is made up. So if we are able
17 to test for that and get a positive result, we can presume that it is
18 possibly going to be related to a bullet. However, if we get a negative
19 result, doesn't preclude it from being involved with a bullet, but that will --
20 that helps us determine if something is possibly related to the shooting.

21 Q Thank you, ma'am.

22 MR. GIORDANI: Can I have the Court's brief indulgence?

23 Q Real briefly, ma'am, do you know the distance from the -- the
24 patio door to the front door?

25 A I could only approximate it. I don't have that distance. I did

1 not measure that or complete the diagram so I --

2 Q Okay.

3 A -- don't know that for a fact.

4 Q Understood. Up at the top here along with the compass
5 needle, there's a little scale underneath and it says, Approximate scale?

6 A Correct.

7 Q So that's not to the inch, correct?

8 A Correct.

9 Q Okay. So that would apply though -- that scale would apply
10 both across the doors and back through the backyard, correct?

11 A Correct.

12 Q Okay. All right. Thank you, ma'am.

13 MR. GIORDANI: I'll pass the witness, Your Honor.

14 THE WITNESS: Thank you.

15 THE COURT: Defense?

16 MS. MACHNICH: I do need to go through some of the
17 exhibits just quickly to prepare, so Court's brief indulgence.

18 [Pause in proceedings.]

19 MS. MACHNICH: Your Honor, may I proceed?

20 THE COURT: You may.

21 MS. MACHNICH: Thank you.

22 **CROSS-EXAMINATION**

23 BY MS. MACHNICH:

24 Q All right. Ma'am, let's discuss just a few things. So you noted
25 that at the top of the rear wall -- and I'm referencing now State's 349 --

1 there was some barbed wire along the top?

2 A Yes.

3 Q And you also took some photographs of a subject in this
4 case?

5 A Yes, I did.

6 Q Okay. And that was a subject wearing orange pants, correct?

7 A Correct.

8 Q Okay. And I am now referencing State's Exhibit 30; recall on
9 direct, you noted that there were several defects to the material of the
10 pants?

11 A Correct.

12 Q All right. And now referencing State's 29; the defects are also
13 depicted in this, just zoomed out further?

14 A Yes.

15 Q All right. And you do not know exactly what caused those
16 defects, correct?

17 A I do not.

18 Q Okay. But there were several of them in the fabric?

19 A Four total, yes.

20 Q Now, with regard to the screen discussed, that's right-side up.
21 Referring to State's 267, you testified on direct that there were 12
22 defects in the screen or surrounding metal area?

23 A Correct.

24 Q You also testified -- and I'm now referencing State's 349 -- you
25 recognize this as part of the rear wall, correct?

1 A Correct.

2 Q Okay. You noted that there were -- let me see, M, N, O, P, Q,
3 R, and S defects in the wall?

4 A Yes.

5 Q So that would be seven defects in the wall?

6 A Correct.

7 Q All right. Additionally, with regard to the defects in the rear
8 wall, some of the them you noticed were full holes into the wall, correct?

9 A Yes.

10 Q Okay. And several of them were more of -- more of, like, an
11 impact or different type of defect in the wall?

12 A They -- they didn't fully perforate the wall, so they didn't go all
13 the way through.

14 Q Okay. And specifically, M4 was one of these perforated
15 impacts?

16 A I believe so, yes.

17 Q Okay. M2 was one of these perforated impacts?

18 A So perforating meaning going all the way through?

19 Q Oh --

20 A Or are you in -- in referring to, like, a penetrating one where it
21 just goes in and bounces off? Or goes all the way through?

22 Q So we have the type -- the two types of holes. We have the
23 hole and will we call the other one an impact?

24 A Okay. That's fine.

25 Q All right. So we're using the two different terminologies.

1 A Okay.

2 Q So M4 was an impact?

3 A Okay. Yes.

4 Q And that's one that did not go through?

5 A Correct.

6 Q Okay. N2 was an impact?

7 A Correct.

8 Q O was a hole?

9 A Hole, yes.

10 Q All right. P was a hole?

11 A Yes.

12 Q And Q, R, and S were impacts?

13 A Correct.

14 Q Okay. Making sure I had that clear. Were you in charge of

15 impounding or retrieving any bullets from the backyard area?

16 A No. I did not recover any evidence from the scene.

17 Q Okay. Obviously I don't want to ask you about it if it wasn't

18 your job, so I appreciate that.

19 Okay. So now turning our attention inside to talk about the

20 house just very briefly. You identified -- and I'm referring to State's 84 --

21 that you found several of these metal pellets inside the interior living

22 room area?

23 A Yes.

24 Q Okay. And again, State's Exhibit 82, you recognize this as

25 part of that interior area, a zoom-out on the Evidence Marker 20?

1 A Yes.

2 Q Are all of -- are some of these other specks on the floor, are
3 those also some of the pellets, or are they other things?

4 A They could be other things. I don't know specifically, but I do
5 know there were several dozen of the pellets in -- in the living room
6 throughout.

7 Q Okay. And, ultimately, your testimony is the -- there were also
8 pellets up through the front window of the house?

9 A We had some that were on the sill of the window. Yes.

10 Q Okay. Was the window broken?

11 A Yes.

12 Q Okay. And were there any defects in the blinds prior to you
13 pulling the blinds up?

14 A Yes.

15 Q Okay. Now, so we can use one of diagrams. Referring to
16 State's 3. Let me just zoom this in a little bit. See, if we can make sure
17 we identify the -- okay. So and Mr. Giordani went through a few of these
18 areas with you already, but I -- I just want to make sure we have a
19 complete record on it.

20 Referring to an apparent wall area between -- it looks like the
21 numbers that you'll see on here are 19 and 11. There were no impacts
22 of the -- there -- there were no defects in -- located in that wall area,
23 correct?

24 A No. There were not.

25 Q And there were no defects in this wall area between the edge

1 of the master bedroom wall and the door?

2 A No, there were not.

3 Q Fair to say there were no -- there were no defects in the door
4 itself?

5 A There were none.

6 Q Now, specifically to the type of defect that you noted with
7 regard to the pellets that were located, there were none of those defects
8 in, say, the table outside?

9 A Outside or inside? You're pointing to the inside.

10 Q Oh, out -- outside?

11 A No.

12 Q I'll get inside in a second as well.

13 A Okay. There were none outside, no.

14 Q Okay. And this would include anywhere in the patio area?

15 A That you're asking specifically related to what's matches into
16 the living room, those type of defects?

17 Q Correct.

18 A Correct.

19 Q Okay. And also, moving -- well, also with the exterior area,
20 there were no pellets located in that exterior area?

21 A No, there were not.

22 Q Now moving into the interior area, were there any defects
23 relating to the pellets in the dining room area?

24 A No.

25 Q So that would include the dining room table?

1 A Correct.

2 Q Okay. And then moving further along, you started finding the
3 actual pellets themselves in the eastern half of the living room, would
4 you say?

5 A Yes.

6 Q All right. So we see what is apparently a table in the middle of
7 the living room in the diagram. Would you say that the pellets were
8 located to the right or to the left of that table?

9 A I'd say roughly most of them were located to the right. I don't
10 remember, specifically, if we had any to the left or underneath, but the
11 majority were to the right side.

12 Q Okay. And then moving back, so we have a full record on it,
13 referring to what is apparently a couch, were there any pellets located to
14 the left of the couch at all?

15 A I don't believe so.

16 Q Thank you.

17 MS. MACHNICH: Court's very brief indulgence.

18 Thank you, ma'am. I very much appreciate your time.

19 THE WITNESS: Thank you.

20 **CROSS-EXAMINATION**

21 BY MR. PLUMMER:

22 Q Good morning.

23 A Morning.

24 Q So the pellets were, basically, everywhere?

25 A Spread throughout the living room, yes.

1 Q In the living room?

2 A Yes.

3 Q All over the floor?

4 A Yes.

5 Q In little markings in the wall at around the 3'10" mark?

6 A Right. The 3'10" mark is measuring the hole in the window.

7 Q Perfect. Thank you.

8 A You're welcome.

9 THE COURT: State, any redirect?

10 MR. GIORDANI: No, Your Honor. Thank you.

11 THE COURT: Can this witness be excused?

12 MR. GIORDANI: Yes.

13 THE COURT: I'm sorry, there is a question.

14 Counsel approach.

15 [Bench conference transcribed as follows.]

16 THE COURT: The first question is from Juror No. 1 and the
17 question is: Is there any blood evidence on back wall or barbed wire?

18 MS. BEVERLY: Okay.

19 THE COURT: Does anybody have any objection to me asking
20 that question?

21 MS. MACHNICH: No.

22 MR. GIORDANI: No.

23 THE COURT: Then the second question is from Juror No. 3,
24 and the question is: By using trajectory, are you able to identify what
25 kind of weapon was used?

1 MS. BEVERLY: She couldn't use trajectory regardless.

2 MR. GIORDANI: She's going to -- I think the answer to that is
3 no. So we don't have a -- I don't really have an objection to the
4 question, but --

5 MS. MACHNICH: No.

6 THE COURT: No? There's no -- there's no objection being
7 heard by either party. I'm going to ask those -- both questions.

8 MS. MACHNICH: Okay.

9 MS. SISOLAK: Thank you, Your Honor.

10 THE COURT: Thank you.

11 [End of bench conference.]

12 THE COURT: Ma'am, I should say Officer, is there any blood
13 evidence on brick wall or barbed wire?

14 THE WITNESS: No.

15 THE COURT: By using trajectory, are you able to identify
16 what kind of weapon was used?

17 THE WITNESS: No.

18 THE COURT: Any follow-up questions by either the State or
19 the defense?

20 MR. GIORDANI: Just briefly, Your Honor.

21 **FURTHER EXAMINATION**

22 BY MR. GIORDANI:

23 Q Very briefly, you were asked by a juror whether there was any
24 blood found on the wall, right?

25 A Yes.

1 Q Let me just grab my diagrams here. Showing you State's 3;
2 this is one of the overall diagrams, right?

3 A Yes.

4 Q This one doesn't depict the bullet impacts that you were
5 primarily -- or the defects that you were primarily responsible for, but it
6 does depict all the evidence that we went through earlier, correct?

7 A Correct.

8 Q You -- there's no blood on the back wall where the barbed
9 wire is or anything like that, correct?

10 A That's correct.

11 Q And then there was a couple of areas that were swabbed for
12 blood in the home and on the patio, correct?

13 A Correct.

14 Q Those are represented by AB2 and AB3?

15 A That's correct. Yes.

16 Q And they say Swab next to them?

17 A Yes.

18 Q AB2 is on the patio?

19 A Yes, it is.

20 Q AB3 is on the other side of the screen in that little walkway?

21 A Yes, it is.

22 Q And then no other areas of blood that were depicted in any of
23 the crime scene analyst diagrams, correct?

24 A Correct.

25 Q Did you yourself observe any -- any other blood throughout

1 this area?

2 A The only other area that I recall is where the officer was found
3 injured.

4 Q Okay. And that would have been within the dining room,
5 correct?

6 A Yes. That's correct.

7 Q But any other area where you depict -- or observed blood in
8 any way?

9 A No.

10 Q And any other area in the backyard where you observed
11 blood?

12 A No.

13 Q Okay. All right. Thank you, ma'am.

14 A Thank you.

15 MR. GIORDANI: Pass the witness.

16 MS. MACHNICH: Yes. Just to follow up.

17 **FURTHER EXAMINATION**

18 BY MS. MACHNICH:

19 Q Ma'am, was it your -- one of your jobs on this scene to swab
20 for blood?

21 A No.

22 Q So that was somebody else who was tasked with locating and
23 swabbing apparent blood?

24 A Correct.

25 Q And when we talk about apparent blood, what are we talking

1 about?

2 A We're talking about a substance that has the appearance of
3 blood. We are not saying that it is most definitely blood. That's up to the
4 scientists in the forensic lab to determine that.

5 Q And it would need to be enough to be visual to the eye?

6 A Yes.

7 Q Additionally, are you aware if the back wall was swabbed for
8 blood or tested for blood in any way?

9 A It was examined, but it was not swabbed or tested in any way.

10 Q Okay. And, additionally, the barbed wire?

11 A We did look -- yeah, we looked at the -- the wall and the top of
12 the wall as well, the barbed wire very carefully. Yes.

13 Q Okay. Did you personally do that?

14 A Yes, I did.

15 Q Okay. Thank you.

16 A Thank you.

17 THE COURT: Any questions? Mr. Plummer?

18 MR. PLUMMER: Yes, Your Honor.

19 **FURTHER EXAMINATION**

20 BY MR. PLUMMER:

21 Q Officer, just so we're clear, when you call something an
22 apparent defect, you're not saying that that's a bullet hole, you're just
23 calling it a defect; you don't know what it is, correct?

24 THE COURT: Any redirect?

25 MR. GIORDANI: Briefly.

1 **ADDITIONAL EXAMINATION**

2 BY MR. GIORDANI:

3 Q When you're calling something a defect, you can't say what it
4 is exactly because you weren't there when it happened, right?

5 A Correct.

6 Q Are there traits and characteristics that can be consistent with
7 bullet holes?

8 A Yes.

9 MR. PLUMMER: Objection, Your Honor.

10 MR. GIORDANI: I don't hear a basis for the objection.

11 THE COURT: Well, that's a -- what's the basis of the
12 objection?

13 MR. PLUMMER: Basis is on what I believe the follow-up
14 question will be, and this witness is not a qualified expert.

15 MR. GIORDANI: You don't need to be an expert to testify to
16 observations and characteristics consistent with 4000-some-odd scenes
17 that you have.

18 THE COURT: She can -- she can testify as -- based on her
19 experience as to observations and characteristics.

20 MR. GIORDANI: Thank you, Your Honor.

21 BY MR. GIORDANI:

22 Q Just based on your observations --

23 THE COURT: Your objection is overruled.

24 MR. GIORDANI: Thank you, Your Honor.

25 BY MR. GIORDANI:

1 Q Based upon your observations, did several, if not all, of those
2 things I've been referring to as defects have characteristics similar to
3 bullet holes you've seen previously?

4 A Yes, they have.

5 Q Thanks.

6 MR. GIORDANI: Pass the witness.

7 MS. MACHNICH: Nothing further, Your Honor.

8 MR. PLUMMER: Nothing further, Your Honor.

9 THE COURT: Thank you. Can this witness be excused?

10 MR. GIORDANI: Yes, Your Honor.

11 THE COURT: Thank you --

12 THE WITNESS: Thank you.

13 THE COURT: -- for coming here today. And you are
14 excused.

15 Ladies and gentlemen, I have a matter that I have -- another
16 matter I have to take care of at 12:30, so we're going to take our lunch
17 break a little earlier than I previously planned. And then we'll resume at
18 approximately 1:45. So initially, I was going to take our lunch break
19 at 12:30 and resume at 2:00, and we're going to take our lunch break
20 now and resume at 1:45.

21 Ladies and gentlemen, we're going to take a lunch recess.
22 During this recess, your duty not to converse among yourselves or with
23 anyone else on any subject connected with the trial, or to read, watch, or
24 listen to any report of or commentary on the trial by any person
25 connected with the trial or by any medium of information, including

1 without limitation, newspaper, television, and radio. And you are not to
2 form or express an opinion on any subject connected with this case until
3 it is finally submitted to you.

4 We'll be in our lunch recess.

5 [Jury recessed at 12:16 p.m.]

6 THE COURT: Counsel, I intend to go to 5:00 today and start
7 at 11:00 on Monday.

8 MS. MACHNICH: Okay.

9 THE COURT: I took a little bit earlier -- I do have to take care
10 of another matter at 12:30. I was going to go right until 12:30, but I
11 thought this would be a natural break, rather than have somebody on
12 for 5 or 10 minutes and then -- so --

13 MR. GIORDANI: No problem.

14 THE COURT: -- so we'll resume -- go ahead.

15 MR. GIORDANI: So the Court is aware, we have the two
16 officers planned. We expect them to be very long, obviously. So those
17 are the only two we have scheduled for the afternoon and they'll be here
18 at 1:45 sharp.

19 THE COURT: Right. It -- it can be 1:45. I mean, we're not
20 getting done sharp.

21 MR. GIORDANI: Okay.

22 THE COURT: I mean, we're -- you know, because of
23 sometimes having to bring them in. So try to be back by 1:45. We'll
24 start as soon thereafter as we can. We'll go to 5:00. We'll take one
25 break, one afternoon break. And then it's my -- anticipating starting

1 at 11:00 on Monday.

2 MR. GIORDANI: Thank you.

3 MS. SISOLAK: Your Honor, just to clarify, will we be in this
4 courtroom next week as well?

5 THE COURT: Probably not.

6 MS. SISOLAK: Okay.

7 THE COURT: I -- I -- if they have finished with the other
8 courtroom, I intend to move down to Judge Scotti's courtroom, unless
9 there's an objection. Unless you --

10 MS. SISOLAK: No, no.

11 THE COURT: -- you know, have any problem. They are
12 doing something with JAVS and that's why his courtroom was
13 unavailable. It's my understanding they're going to be finished this
14 week, and it will be available next week.

15 MS. MACHNICH: Our only concern, Your Honor, would be
16 that there's a separate defense table for each codefendant as we can --

17 THE COURT: And I'm discussing that. I believe that's not
18 going to be an issue.

19 MS. MACHNICH: Okay.

20 MS. SISOLAK: Wonderful. Thank you.

21 MS. MACHNICH: Thank you.

22 THE COURT: Thank you, counsel. We'll be in recess
23 until 1:45.

24 MR. GIORDANI: Thank you.

25 [Court recessed at 12:19 p.m., until 2:03 p.m.]

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[Outside the presence of the jury.]

MR. GIORDANI: This is the continuation of the trial in Case No. C-15-309578-1 and -2, *State of Nevada vs. Steven Turner and Clemon Hudson*. Let me the record reflect the presence of counsel for the State, counsel for the defendants, and the presence of the defendants. I with -- I am going to bring the jury in and let the jury -- all right. I'll -- let's bring the jury in.

MS. MACHNICH: Thank you, Your Honor.

[Jury reconvened at 2:03 p.m.]

THE COURT: You may be seated. Will the parties stipulate to the presence of the jury?

MS. MACHNICH: Yes, Your Honor.

MS. BEVERLY: Yes.

MR. PLUMMER: Yes, Your Honor.

THE COURT: State, call your next witness.

MS. BEVERLY: State calls Officer Grego-Smith.

MALIK GREGO-SMITH,

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

THE CLERK: Please be seated. Please state and spell your name for the record.

THE WITNESS: First name is Malik, M-A-L-I-K. Last name, Grego-Smith, G-R-E-G-O, hyphen, S-M-I-T-H.

MS. BEVERLY: May I proceed, Your Honor?

THE COURT: You may.

1 **DIRECT EXAMINATION**

2 BY MS. BEVERLY:

3 Q Sir, how are you currently employed?

4 A Employed with the Las Vegas Metropolitan Police
5 Department.

6 Q How long have you been with Metro?

7 A Approximately 10 years.

8 Q And what is your current assignment with Metro?

9 A Patrol.

10 Q Okay. Can you explain for the members of the jury what a
11 patrol officer at Metro does?

12 A Patrol officer responds to calls for service, as well as
13 investigative work.

14 Q Do you drive a typical black-and-white vehicle?

15 A Yes.

16 Q And are you assigned a certain P number?

17 A Yes.

18 Q What's a P number?

19 A P number is your identification number, basically, to let people
20 know that you're an officer.

21 Q Do you currently work a particular shift?

22 A Yes.

23 Q What shift do you work?

24 A Graveyard.

25 Q What time is graveyard shift at Metro?

1 A Graveyard starts at 2200, which is 10:00 p.m.

2 Q And goes to what time?

3 A To 08, which is 8:00 in the morning.

4 Q Now, is Metro broken up into area commands?

5 A Yes.

6 Q What, can you explain to the jury, is an area command?

7 A Area command is certain area with -- that borders -- basically
8 just breaks the city into different areas.

9 Q And do you -- are officers assigned to a particular area
10 command as they're employed with Metro?

11 A Yes.

12 Q Okay. What area command are you currently assigned to?

13 A Northwest Area Command.

14 Q What's kind of the border of the Northwest Area Command?

15 A Northwest Area Command is everything north of Charleston,
16 and everything west of Decatur.

17 Q Okay. I want to direct your attention back to September
18 the 4th of 2015. Okay. Were you working on that day?

19 A Yes.

20 Q What shift were you working at that time?

21 A Graveyard.

22 Q Can you explain for the jury what a typical night is like for you
23 on graveyard?

24 A Graveyard is long. It consists of certain -- numerous calls,
25 domestic violence calls, burglary calls, stolen vehicle.

1 Q So those are the types of calls that is frequent on a -- a
2 graveyard shift?

3 A Yes.

4 Q Is that fair to say?

5 A Yes.

6 Q Okay. What about prowler calls?

7 A Those calls, every so often.

8 Q What -- what is a prowler call, based on your experience on
9 graveyard?

10 A Prowler call, when a homeowner calls and says there's
11 somebody that they don't recognize on their property.

12 Q Is there a certain number or numbers that are associated with
13 various crimes when they come across dispatch?

14 A Yes.

15 Q Okay. What is the number for a prowler call?

16 A 403.

17 Q Okay. And each crime has its own kind of numbering --

18 A Yes.

19 Q -- correct? So tell us how it is that you get assigned calls as a
20 patrol officer.

21 A If you're clear, meaning you're not on any calls, not doing
22 anything, if a call pops up, then dispatch will assign you. Or you can
23 self-assign, basically, just get on the radio and tell dispatch, Hey, assign
24 me to whatever call.

25 Q Would it be fair to say as a patrol officer, you're kind of the first

1 response of Metro? And if something further needs to be done, then
2 maybe detectives show up?

3 A Yes.

4 Q Okay. So we were talking a little bit about prowler calls, and
5 you were saying that's when someone calls and says there's someone
6 around that they don't know; is that fair to say?

7 A Yes.

8 Q Okay. In your experience on graveyard, what's typically the
9 result of a prowler call?

10 A Normally it will be somebody that's drunk at the wrong house.

11 Q Okay. So do you treat prowler calls different than, say, a
12 active burglary call?

13 A Yes.

14 Q Okay. What's your typical response when there's a prowler
15 call? What do you typically do?

16 A Usually park down the street, which is how we tactically
17 approach the house, try and find the address. And if anybody's outside,
18 then just talk to them and figure out where they're trying to go, if they're
19 supposed to be at that house.

20 Q Okay. Why is it that you choose to park several houses down
21 from an address where a prowler call is coming out?

22 A It's a tactical advantage to us; don't want to give our position
23 away.

24 Q Okay. So typically you go up there, ends up really not being
25 anything; is that fair to say?

1 A Yes.

2 Q Okay. If you go up to a prowler call and there's nobody out
3 front, do you continue to look around the area or do you just leave?

4 A No. We'll talk to the homeowner, get further information, the
5 last time they saw the person. If they saw them leave, last direction of
6 travel. And if they want us to check the backyard, we'll check the
7 backyard, check surrounding areas, check the surrounding
8 neighborhoods.

9 Q Okay. Is a prowler call different than prowler with a gun call?

10 A Yes.

11 Q Okay. How are those going to be different?

12 A The severity -- the severity of the call.

13 Q Is it going to change how you approach a situation?

14 A Yes.

15 Q Okay. Tell us -- well, let's start with this: If you hear that that
16 is prowler with a possible weapon versus prowler with a definite weapon,
17 is there a difference in that?

18 A Yes.

19 Q Tell us about what the difference is for -- in your approach.

20 A Possible firearm, still approach it tactically. Try not to give our
21 position away. If it's a hundred percent that they have a firearm, we'll
22 get more units, get the area -- get the air unit, and tactically approach
23 that way.

24 Q Okay. So definitely a difference between somebody might
25 possibly have a gun, versus they have a gun; is that correct?

1 A Yes.

2 Q Okay. Is it fair to say that sometimes a homeowner or
3 somebody calling out a prowler call might say there's a gun, but really
4 it's, like, a stick or something?

5 A Yes.

6 Q Okay. Does dispatch, Metro dispatch, if somebody says
7 there's a gun, try to get more information about the weapon?

8 A Yes.

9 Q Okay. Is that because dispatch needs to relay that to you or
10 fellow officers so you can know how to approach a situation?

11 A Yes.

12 Q Okay. All right. So going back to September the 4th of 2015,
13 you indicated that you were on call that day -- or you were working that
14 day?

15 A Yes.

16 Q And working a graveyard shift, right?

17 A Yes.

18 Q Okay. Were you still at that time, or were you then at that
19 time, working in the Northwest Area Command?

20 A Yes.

21 Q Okay. I am going to publish up here, grand jury -- I keep
22 saying grand jury, I'm sorry. State's Exhibit No. 117, can you see that on
23 your screen, Officer?

24 A Yes.

25 Q Does this look like the area of Rainbow, and on the top,

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Westcliff?

A Yes.

Q Okay. Back around three -- approximately 3:30 in the morning on September the 4th, did you receive a dispatch call regarding a prowler at 6729 Oveja Circle?

A Yes.

Q Okay. Where were you when you received that dispatch?

A I was at the Northwest Area Command.

Q Like, the -- the station or something?

A At the station, yes.

Q Okay. How far is the station from Oveja Circle approximately?

A Approximately six miles maybe.

Q Okay. So you're at the station. And tell us what you hear over the radio.

A There was -- there was an alert call for a prowler and Officer Robertson was clear, so dispatch assigned him. And he was at the station. I was at the station doing a report. And everybody -- all the other officers were occupied doing other things. So I self-dispatched myself to back Officer Robertson.

Q When you do that, do you and Officer Robertson get in the same car or you guys in different cars?

A Separate cars.

Q Okay. Both black-and-white vehicles --

A Yes.

Q -- though; is that right? Okay. And then do you start heading

1 over to Oveja Circle?

2 A Yes.

3 Q As you're heading over in your vehicle, are you getting
4 updates about -- from dispatch from -- I guess from dispatch getting that
5 from the homeowners?

6 A Yes.

7 Q Okay. So the homeowner is telling dispatch something, and
8 dispatch is relaying that you and Officer Robertson; is that correct?

9 A Correct.

10 Q Okay. Approximately how long does it take you to get over to
11 Oveja?

12 A Approximately eight, nine minutes.

13 Q Okay. Do you recall what you were hearing over the radio
14 traffic or the dispatcher was telling you as you're driving over to Oveja?

15 A The subject's location at the house was changing from the
16 backyard to the front door to the backyard, and that the homeowner said
17 the subject possibly had a gun.

18 Q Okay. So when you hear that word or you hear from
19 dispatch -- I guess let me ask you this: You're not hearing directly from
20 the homeowner, are you, as you're driving over?

21 A No.

22 Q You're hearing from dispatch; is that correct?

23 A Yes.

24 Q So are you relying on what dispatch is telling you about the
25 call?

1 A Yes.

2 Q Okay. So over dispatch, you hear that there's possibly a gun;
3 is that correct?

4 A Yes.

5 Q And we talked about possibly versus definitely there's a gun,
6 correct?

7 A Yes.

8 Q You never heard that there was definitely a gun there, did
9 you?

10 A No.

11 Q If you had heard that, would there have been more officers
12 who would have actually responded to Oveja?

13 A Yes.

14 Q Do you and -- what time -- well, do you an Officer Robertson
15 get there approximately the same time?

16 A Yes. We left the station at the same time, arrived at the same
17 time.

18 Q I'm going to publish what's been admitted as State's
19 Exhibit No. 247; can you see that on your screen?

20 A Yes.

21 Q Okay. Does this area look familiar to you as the area of Oveja
22 Circle?

23 A Yes.

24 Q You can actually draw on that screen. Can you draw for us on
25 the screen where you parked your vehicle upon arriving at the area?

1 A No. That's not it.

2 Q Clear that.

3 A There.

4 Q Okay. Okay. So kind of farther back -- well, from the target
5 residence; is that correct?

6 A Yes.

7 Q The target residence being the 6729 Oveja?

8 A Yes.

9 Q Why is it that you parked back towards the bottom of the
10 street?

11 A So we could have a tactical advantage, tactical approach.

12 Q Fair to say you don't want to pull up right on the house; is that
13 correct?

14 A Correct.

15 Q And is it pretty dark outside?

16 A Yes.

17 Q Now, do you know where Officer Robertson parked his
18 vehicle?

19 A Directly in front of me.

20 Q Okay. Kind of see -- let me -- do you see where my pen is
21 pointed with these two vehicles?

22 A Yes.

23 Q Would that be you and Officer Robertson's vehicles?

24 A Yes.

25 Q Okay. So tell us what happens after you arrive in your vehicle.

1 A We start walking on the sidewalk towards the end of the
2 cul-de-sac. It's an older neighborhood, so the address isn't lit up on the
3 house like normal. So we were trying to find the address.

4 Q Okay. And I forgot to ask you this, I'm sorry, but when you
5 guys -- you and Officer Robertson were coming from the station house,
6 did you put on lights and sirens to come to Oveja?

7 A No.

8 Q Okay. Why not?

9 A Because it -- the 403 call doesn't warrant Code 3 driving.

10 Q Okay. So it's not like every time Metro gets a call, they're
11 putting on lights and sirens; is that correct?

12 A Correct.

13 Q Is it certain calls that require lights and sirens?

14 A Yes.

15 Q And there are other calls that don't require lights and sirens?

16 A Yes.

17 Q Okay. And a prowler call, a 403, doesn't necessarily require
18 lights and sirens; is that correct?

19 A Correct.

20 Q Okay. So you start walking on the sidewalk. Can you actually
21 maybe on the photo draw for the jury your path where you went after you
22 exited your vehicle?

23 A It's not -- it's -- yeah, it's --

24 Q It's not working? Okay. How about you --

25 A It's a little off.

1 Q -- actually step down for me for a second? On this larger
2 screen, can you kind of, just with your finger, it's not going to show up,
3 but show the jury.

4 A Other here, walked on the sidewalk, all the way down. So we
5 walked from the cars, south side on the sidewalk, follow the sidewalk all
6 the way down until we got to the driveway.

7 Q Okay. Thank you. As you are -- as you and Officer Robertson
8 are walking up that path, are you looking for anything, or are you just
9 straight walking to the house?

10 A I'm looking to see if there's anybody on foot anywhere in the
11 immediate area, looking for cars that might be running with lights off, as
12 well as looking for the address.

13 Q Okay. From dispatch, did you kind of have a generic
14 description of some suspects?

15 A Yes.

16 Q Nothing very specific; is that fair to say?

17 A Correct.

18 Q Now, what do you do when you actually get up to the target
19 house?

20 A I get to the driveway. Jeremy walks up the driveway. I pretty
21 much stay on the sidewalk in front of the house. Jeremy walks up the
22 driveway to the left, I guess to see if there was a way into the backyard.
23 I noticed there was a gate in front of me to the right of the house. And I
24 heard something in the backyard and I tried to relay that to Officer
25 Robertson.

1 Q Okay. So let's publish Exhibit No. 253. This is going to be the
2 target house, is that correct, where my pen is?

3 A Yes.

4 Q Okay. And so you're saying Officer Robertson walked up the
5 driveway and to the left of the house; is that correct?

6 A Correct.

7 Q And then you stayed on the sidewalk by the driveway?

8 A Correct.

9 Q And then I believe you said that you went over to the right side
10 to see that there was a gate over there?

11 A Yes.

12 Q Okay. Showing you grand jury exhibit -- I keep saying grand
13 jury; I'm sorry, Your Honor -- 367. Do you see this white vehicle in this
14 photo?

15 A Yes.

16 Q Was that vehicle in the driveway when you walked up to
17 Oveja?

18 A Yes.

19 Q State's Exhibit No. 59. You were indicating that there was
20 an -- a gate that you were possibly trying to get through; is that correct?

21 A Yes.

22 Q Okay. And this is the gate that we're talking about?

23 A Yes.

24 Q Could you get through this gate?

25 A No.

1 Q All right. Did you try to enter and it was just locked or what?

2 A The first thing I saw was the glass on the top. And when I
3 heard the noise in the back, I didn't walk any further.

4 Q Okay. Do you -- you indicated that you tried to communicate
5 with Officer Robertson that you heard someone in the back?

6 A Yes.

7 Q Okay. How did you try to communicate with him?

8 A Nonverbally, with hand signals.

9 Q Okay. What's the next thing after that that happened?

10 A Jeremy got on the radio, asked dispatch to ask the
11 homeowner to open the front door so that we could enter the house to
12 get to the backyard.

13 Q We were talking -- well, let me ask you this: From what you
14 were hearing over the radio prior to getting to the residence, did this
15 prowler call sound like anything unusual or different than typical prowler
16 calls you hear on the graveyard shift?

17 A No.

18 Q Okay. Was there any mention about maybe someone
19 knocking on the door or something?

20 A Yes.

21 Q Other than that, nothing else was unusual?

22 A No.

23 Q Okay. The fact that somebody was knocking on the door, did
24 that make you think that maybe somebody might still be out there?

25 A Yes.

1 Q And then you indicated you heard noise in the backyard when
2 you actually got there?

3 A Yes.

4 Q So Officer Robertson gets on the radio and says -- asks them
5 to tell the homeowner to open the door; is that right?

6 A Yes.

7 Q And showing you grand jury Exhibit No. 374; is this the front,
8 kind of, patio area of that residence?

9 A Yes.

10 Q And then Exhibit No. 372; is this more towards the left of the
11 house, front of the house?

12 A Yes.

13 Q Okay. And was there a gate or anything for you to try to get
14 through on this side of the house?

15 A No.

16 Q All right. Do the homeowners come and open the door?

17 A Yes.

18 Q Okay. What do you do once they open the door?

19 A Jeremy goes through the front door. The homeowner is still
20 standing at the front door. As I walk through, quickly ask the
21 homeowner where is the last place he saw the person. And he said in
22 the backyard. And I told the homeowner to stay at the front door and I
23 continued through the house.

24 Q Were there any lights on in the house?

25 A No.

1 Q So, I'm sorry, maybe I missed this: Do you go in first or does
2 Jeremy go in first?

3 A Jeremy goes in first.

4 Q Okay. And then you follow behind him?

5 A Yes.

6 Q And where is it that you go once you get in the house?

7 A Enter the house. There's a living room to the right. Continue
8 through the house. There's a dining room area, and then the kitchen.

9 Q I'm going to now put on the screen Exhibit No. 88; would this
10 be a view from the front door of the house looking towards the back of
11 the house?

12 A Yes.

13 Q Okay. And actually going to show you Exhibit No. 134; is this
14 a closer-up view, now going through the living room, looking out the
15 back?

16 A Yes.

17 Q So if you can, hopefully you can mark it on here, where do you
18 go when you first get to the back portion of the home?

19 A It's going to be -- I'm going to talk it through first. It's going to
20 be the corner of the table. It's going to be pretty much right here.

21 Q And do you know where Officer Robertson went?

22 A Officer Robertson continued through -- I can't see it here
23 really, but he goes that way.

24 Q Let me see if there's a better photo of that. Let's show
25 Exhibit No. 127. Can you see better in this photo where you were and

1 where Officer Robertson was?

2 A Yes.

3 Q Okay. How about you put up a mark for us there?

4 A So I was standing here. Officer Robertson was in this area.

5 Q So that would have been the original location of the TV -- I

6 mean of the -- excuse me, of the table?

7 A Yes.

8 Q What happens next, once you get to those -- those locations?

9 A Jeremy looks through the window to see if any -- if he can see
10 anybody in the backyard. And I asked him if he could see anybody, and
11 he said no.

12 Q Okay. Any indication that there's somebody out there with a
13 gun?

14 A Absolutely not.

15 Q If there was, would that have changed your approach or
16 anything like that?

17 A Definitely.

18 Q Okay. What do you and Officer Robertson decide to do?

19 A Decided to clear the backyard.

20 Q Can you explain for the jury what it means to clear a
21 backyard?

22 A Basically, do a search, see if anybody is back there that's not
23 supposed to be back there.

24 Q Is it similar to you looking in the front yard to see if anybody's
25 there?

1 A Yes.

2 Q As well as looking in the surrounding area as you're walking
3 up to the house?

4 A Yes.

5 Q Did you turn on any lights when you went into the house
6 originally?

7 A No.

8 Q And why not?

9 A Working graveyard, you learn about light discipline.

10 Q What's light discipline?

11 A If it's dark outside or dark inside of a room, you turn the light
12 on, your pupils constrict and if you turn the lights off, it makes it harder to
13 see in the dark. Also light discipline, don't want to give away where you
14 are.

15 Q Okay. So you and Officer Robertson decide that you're going
16 to clear the backyard; is that right?

17 A Yes.

18 Q What is the plan? Who is going to do what?

19 A Officer Robertson was going to open the door. As he opened
20 the door, I was going to go through and he was going to follow me.

21 Q Now, do you carry a -- a duty weapon?

22 A Yes.

23 Q What kind of weapon is that?

24 A It's a Glock 17.

25 Q What kind of bullets does a Glock 17 have for those of us who

1 don't --

2 A I shoot a .9mm.

3 Q .9mm. Okay. And do you carry any extra magazines on you
4 or anything?

5 A Yes.

6 Q How many bullets does a magazine in the Glock hold, yours
7 personally?

8 A My magazine holds 17.

9 Q And is this one in the, I guess, the chamber?

10 A Yes.

11 Q Okay. So total of, like, 18?

12 A 18, yes.

13 Q How many extra magazines do you typically carry on you?

14 A Three.

15 Q Okay. So one in the gun and then three extra ones on your
16 duty belt?

17 A Yes.

18 Q All right. When the decision is made that you're going to go
19 through first to start clearing the backyard, do you take your weapon
20 out?

21 A Yes.

22 Q Why is that?

23 A Because you don't want to be caught off guard. You want to
24 try and stay -- stay one step ahead.

25 Q Let me ask you -- so I'm going to put up Exhibit No. 89. Is this

1 the door to -- where my pen is, the back patio?

2 A Yes.

3 Q Okay. And when you were there though, was this door
4 closed?

5 A Yes.

6 Q Could you see through either of the two, kind of, French-type
7 doors?

8 A No.

9 Q All right. Do you know if any lights were on, on that back
10 portion outside of the house?

11 A There was not.

12 Q Okay. So why don't you -- let's do this. Can you point for us
13 on, let's see, grand jury -- trial Exhibit No. 134 where you're standing and
14 where Officer Robertson is standing when the decision is made you're
15 going to clear the backyard, or you're getting ready to clear the
16 backyard?

17 A Door was closed. Robertson was standing here. It's -- it's not
18 going to let me, because I was a little bit more to the left here.

19 Q Okay. Let's see, let's try this with Exhibit No. 133. Does that
20 show --

21 A Yeah.

22 Q -- better where your position would be?

23 A Yeah. So my position was pretty much right here.

24 Q Okay. Prior to actually clearing the backyard, do you get on
25 the radio and ask for a Code Red?

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A Yes.

Q What's a Code Red?

A Code Red is for emergency radio traffic only.

Q Okay. Why would you be asking for a Code Red when you're about to clear the backyard?

A Because I knew there was still somebody in the backyard. And if we came in contact with them, in case anything happened, we needed clear air.

Q Just for -- just as a precaution; is that fair to say?

A Yes.

Q So why don't you walk us through what happens when -- well, why don't you walk us through from the time the decision is made to clear the backyard to what ends up happening.

A So Jeremy had to unlock the door. And as soon as he unlocked it, he swung the door open. And I started taking one step to walk outside the door and heard two shots.

Q Okay. Where were those shots coming from?

A From the outside.

Q What are you -- what happens when you hear those shots?

A I take one step back behind cover and drop to one knee and return fire.

Q Where is Officer Robertson when this happens?

A He's behind me. And I heard him fall, so he's on the ground behind me.

Q Okay. The shots that came from the patio, did they come into

1 the home?

2 A Yes.

3 Q Okay. Could you hear anything -- well, let me ask you this:

4 Are you familiar with firearms?

5 A Yes.

6 Q Have you ever shot a rifle before?

7 A Yes.

8 Q Describe the sound for the jury of what you heard coming from
9 that patio.

10 A Just a loud -- a loud boom. It's -- I mean, I could -- I knew it
11 was a high-powered rifle.

12 Q Okay. From the time you -- the door opens, to the shots
13 coming in, to you taking a knee, to returning fire, how long are we talking
14 about?

15 A Seconds.

16 Q When you heard the shots coming from the patio, you said
17 you heard two shots; is that correct?

18 A Yes.

19 Q Do you hear any more shots coming from the patio?

20 A I don't. All I hear is my firearm going off.

21 Q Okay. So this is all happening, like, kind of back to back to
22 back; is that fair to say?

23 A Yes.

24 Q Okay. When you heard the shots coming from the patio and
25 you returned fire, are you shooting back towards the patio?

1 A Yes.

2 Q Okay. Through an open door; is that right?

3 A Yes.

4 Q Okay. Do you see -- when you're looking at the patio, do you
5 see anyone with a weapon?

6 A No.

7 Q Okay. Do you see anyone in front of you?

8 A I saw a blurred vision of somebody in front of me, yes.

9 Q Okay. Any description about the person that you saw?

10 A What I recall is it looked like a light-skinned black male with no
11 shirt and purple basketball shorts.

12 Q How long of a period of time did you observe this person in
13 front of you?

14 A A half a second, if that.

15 Q Okay. So no other facial descriptions, anything like that?

16 A No.

17 Q In fact, you couldn't even see a gun anywhere --

18 A No.

19 Q -- is that correct? Okay. But you heard shots being fired; is
20 that right?

21 A Yes.

22 Q Okay. What do you do -- well, how many shots do you believe
23 that you were able to return?

24 A I thought I only shot seven or eight.

25 Q Did you learn later that that was different?

1 A Yes.

2 Q Okay. Tell us what -- what's happening next.

3 A Once I stopped shooting, I stood up in the doorway to assess
4 to see if anybody was outside. I didn't see anybody outside and I wasn't
5 sure if anybody was out there, so I just started calling out. Hopefully
6 somebody was out there, but I just started calling out to whoever was
7 out there to stay down, don't move.

8 Q And when you're actually returning fire, are you returning fire
9 like boom, boom, boom, boom, boom or like is one shot, break, one
10 shot, break?

11 A It's rapid.

12 Q Okay. So all the shots you fired were in rapid succession; is
13 that fair to say?

14 A Yes.

15 Q Okay. I mean, can you just kind of describe for us what is
16 going through your mind? What are you feeling when you hear these
17 shots come through this house?

18 A One is -- the first one was actually anger. Angry that
19 somebody was shooting at us, angry that my partner got hit, and pretty
20 much survival mode after that.

21 Q At the time, did you know, like, immediately know whether or
22 not Officer Robertson had been hit or not?

23 A I knew he was hit because I heard him fall. Shortly after I
24 stopped shooting, Jeremy said out loud he was hit.

25 Q So you indicated that you start calling out to the back patio,

1 seeing if anybody will respond?

2 A Yes.

3 Q Do you remember calling out anything specific or --

4 A Yeah. I said, Don't move, keep your hands up, don't move or
5 I'll fucking shoot you.

6 Q Okay. Is there a point in time when you get on the radio to
7 dispatch?

8 A Yes.

9 Q Okay. What are you telling dispatch?

10 A Shots were fired, officer was down and we needed -- we
11 needed units there.

12 Q Approximately -- did other units begin to arrive?

13 A Yes.

14 Q How long did it take other units to arrive?

15 A Approximately four and a half minutes.

16 Q Okay. So for four and a half minutes, are you and Officer
17 Robertson alone, excluding the homeowners, alone in the house -- or
18 are you alone in the house?

19 A Yes.

20 Q The whole time that you're -- you and Officer Robertson are
21 alone in the house, are you still calling out to someone you think might
22 be in the backyard?

23 A Yes.

24 Q Could you see anybody in the backyard?

25 A No.

1 Q What's the lighting conditions like in the backyard as you're
2 waiting?

3 A There's no light, except my flashlight.

4 Q Had you turned -- when did you turn on your flashlight?

5 A Right when I started shooting.

6 Q Okay. So you can't see anyone? You're waiting for other
7 officers to arrive, correct?

8 A Yes.

9 Q What -- what's Officer Robertson doing, if you know?

10 A He was giving some radio traffic. He was giving radio traffic
11 that he actually saw two suspects.

12 Q So you learned from Officer Robertson that, in fact, he saw
13 two suspects; is that right?

14 A Yeah. Yes.

15 Q Okay. Is there a point in time where you call out to the
16 backyard, Where's your boy at?

17 A Yes.

18 Q Okay. Is that after learning that there were potentially two
19 suspects back there?

20 A Yes.

21 Q Okay. What happens when other officers start to arrive?

22 A They do an officer down rescue. They take Jeremy out front
23 and units start showing up inside the house.

24 Q What do you do once they take -- start to take Officer
25 Robertson out?

1 A I still stay. Well, actually, after they took him out of the house,
2 I moved a little bit behind cover.

3 Q Okay. At -- was it -- is there a point in time shortly after that
4 that K-9 officers arrive?

5 A Yes.

6 Q And do K-9 officers kind of push you guys to the side to be
7 able to get through?

8 A Yes.

9 Q Now, the whole time -- from the time of the shooting until the
10 time K-9 gets there, at any point can you see anything in the backyard?

11 A No.

12 Q Okay. When K-9 arrived, do they end up going into the
13 backyard and finding someone?

14 A Yes.

15 Q Okay. What do you do at that point?

16 A I follow K-9 and the other officers outside. And as the other
17 officers were taking the suspect into custody, I was holding ground,
18 keeping an eye out for anybody else outside.

19 Q I asked you earlier about the first two shots that came through,
20 correct?

21 A Yes.

22 Q And I asked you if you heard any other shots that came
23 through, right?

24 A Yes.

25 Q Is the sound kind of muffled after these two shots?

1 A Yes.

2 Q What do you mean by muffled?

3 A Sounds like you have hearing protection on, just a muffled
4 sound.

5 Q So after the first two shots come through and you begin to
6 return fire, is everything kind of going on at the same time and sounding
7 the same?

8 A Yes.

9 Q Is -- after you finish going through the backyard after K-9 and
10 everything gets there, are you taken away from the scene?

11 A Yes.

12 Q All right. And do you go to what we've heard about is a
13 command post?

14 A Yes.

15 Q Okay. And wait for other, like, FIT detectives to arrive?

16 A Yes.

17 Q Okay. After FIT detectives arrive, do you do what is known as
18 a walkthrough of the scene?

19 A Yes.

20 Q Okay. And you're familiar that a walkthrough is done
21 whenever there's an officer who discharges his weapon; is that fair to
22 say?

23 A Yes.

24 Q All right. And what do we do in a walkthrough?

25 A Basically, tell the detectives where you were standing, what

1 you saw, what you did. That's pretty much it.

2 Q As you're doing the walkthrough, do -- do you place, like,
3 paper bags or cones in locations where you're standing or where you
4 saw somebody else standing?

5 A Yes.

6 Q So let's start with what's been admitted as Exhibit No. 90.
7 Can you see where my finger is? My pen is pointed right here.

8 A Yes.

9 Q Is this your location --

10 A Yes.

11 Q -- from this incident?

12 A Yes.

13 Q Okay. And that would be something that you would have told
14 officers, right?

15 A Yes.

16 Q The detective, I'm sorry.

17 A Detectives, yes.

18 Q Let's do Exhibit No. 91. Again, that's a closer-up of that, and
19 does that have, like, your name on it?

20 A Yes.

21 Q I don't know if you can see that. Okay. And then there's
22 another paper bag on the outside of the patio; do you see that?

23 A Yes.

24 Q Okay. Is that -- did you tell officers that's where you saw this
25 flash of a person?

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A Yes.

Q Okay. Exhibit No. 196, again, this is you; is that right?

A Yes.

Q And this is where you told detectives was the person you saw?

A Yes.

Q Okay. This other cone back here, you're not sure who put that there; is that right?

A Correct.

Q You just put these two?

A Yes.

Q All right. How far are we talking about from where you are to the person that you put down?

A Approximately 3 to 4 feet.

Q And even at that distance, you couldn't even see a gun?

A No. It was all happening too fast.

Q Couldn't see any descriptive facial features or anything like that?

A No.

Q Okay.

MS. BEVERLY: Court's indulgence.

I'll pass the witness, Your Honor.

THE COURT: Defense, cross-examination?

MS. SISOLAK: Briefly, Your Honor.

1 **CROSS-EXAMINATION**

2 BY MS. SISOLAK:

3 Q Good afternoon, Officer. I'll be brief, I promise. I -- I just want
4 to clarify: Two shots were fired, correct?

5 A Correct.

6 Q You returned fire?

7 A Yes.

8 Q At that time, did you turn the flashlight on on your handgun?

9 A Right when I started shooting, that's when I turned the
10 flashlight on.

11 Q Perfect. And at that point you saw what -- what's been
12 referred to as a flash of a person, correct?

13 A Yes.

14 Q Black male?

15 A Yes.

16 Q No shirt?

17 A Correct.

18 Q Basketball shorts?

19 A Yes.

20 Q That was not the person who was later taken into custody,
21 correct?

22 A Correct.

23 MS. SISOLAK: Okay. Nothing further. Thank you.

24 THE COURT: Counsel?

25 MR. PLUMMER: Yes, Your Honor.

1 **CROSS-EXAMINATION**

2 BY MR. PLUMMER:

3 Q Officer, 413 is code for a weapon?

4 A Yes.

5 Q Specifically a gun?

6 A Yes.

7 Q And -- and you did receive radio traffic from the homeowner
8 that the people there possibly had a gun?

9 A From dispatch, yes.

10 Q From dispatch. So you knew that was a possibility on the
11 drive over?

12 A Yes.

13 Q Now, when you arrived, said you could hear somebody in the
14 backyard?

15 A Yes.

16 Q You didn't yell to the backyard, hey, the police are here, we're
17 out front, you need to come out with your hands up?

18 A No.

19 Q When you were in the house, first walked in, you talked to one
20 of the homeowners?

21 A Yes.

22 Q And Officer Robertson talked to another homeowner?

23 A I don't believe so.

24 Q One of the homeowners -- you weren't there listening to one of
25 the homeowners tell him how to unlock the door?

1 A To one of the homeowners?

2 Q Yes.

3 A Correct. Yes.

4 Q Officer Robertson --

5 A Yes. Yes.

6 Q And so one of the homeowners tells Officer Robertson how to
7 unlock the door to the backyard?

8 A Yes.

9 Q The other homeowner tells you where the light switch is to the
10 back patio?

11 A I don't recall.

12 Q You don't recall the homeowner telling you where the light
13 switch was?

14 A No.

15 Q When you get to the back of the house where the door --
16 before Officer Robertson opens the door, you're standing to the left of
17 the door?

18 A Yes.

19 Q He's standing at the door?

20 A Just to the right of the door.

21 Q Well, is he -- the door is here. Is he to the right of the door
22 trying to open it? Or is he in front of the door trying to open it?

23 A He's not standing in front of the door.

24 Q All right.

25 A He's standing to the right of the door.

1 Q And reaching over to unlock it?
2 A Yes.
3 Q The -- just so we're clear, he's stretching over, grabbing a key,
4 unlocking the door?
5 A Yes.
6 Q And he opens the door?
7 A Correct.
8 Q Does he do this?
9 A He opens the doors and walks around as he's opening the
10 door.
11 Q So as he opens the door, you see him walk around like this?
12 A Yes.
13 Q And as he's opening the door, you're behind the wall and you
14 step forward?
15 A Yes.
16 Q And as you step forward, that's when you hear a shot?
17 A I hear two shots.
18 Q Two shots. And Officer Robertson, he's behind you when this
19 happens?
20 A Yes.
21 Q Now, at that point -- moment in time that you had stepped
22 forward, did you see a person?
23 A No.
24 Q So then there's a shot, two shots, and you step back and take
25 a knee?

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A Yes.

Q Right? And the edge of the door, so you come out around the edge of the door?

A Yes.

Q Do you actually look out?

A Yes.

Q And you start firing?

A Yes.

Q And it was at that moment in time that you saw a flash of a person when you -- 3 to 4 feet away?

A Yes.

Q So this flash of a person 3 to 4 feet away, you unload 12 shots in succession, correct?

A Yes.

Q But you're not seeing the person you're shooting at?

A No.

Q Now, this type of firing is -- you refer to it as suppressive fire?

A Yes.

Q And suppressive fire is, in essence, you're not really trying to shoot at a target, you're just trying to blanket an area to make sure they can't shoot at you?

A Correct.

Q And your firing is in the area where you thought you saw the person?

A Yes.

1 Q Now, after you're done firing, you start communicating,
2 throwing out verbal commands to the person in the backyard, or to
3 anybody who might be in the backyard?

4 A Yes.

5 Q And you're getting responses to those verbal commands?

6 A Yes.

7 Q At that point in time, you're just in a holding position, right?

8 A Yes.

9 Q You're not going outside?

10 A No.

11 Q Radio traffic?

12 A Yes.

13 Q Waiting on additional officers to arrive?

14 A Yes.

15 Q At some point, additional officers do arrive?

16 A Yes.

17 Q And when they first arrive, you're still in communication with
18 the person in the backyard?

19 A Yes.

20 Q You're throwing out commands. The person is responding to
21 those commands verbally?

22 A Yes.

23 Q And at some point, air arrives?

24 A I'm sorry?

25 Q Air unit arrives?

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A Yes.

Q And this air unit that arrives, you're in communication with them?

A Yes.

Q And the -- they're looking at the backyard?

A Yes.

Q There's no indication that there's a second subject in the backyard?

A Not from what they can see.

Q They just see the one subject?

A Yes. But there was a lot of stuff in the backyard, so I remember him saying he couldn't tell.

Q Granted, but the information you're receiving from the air unit is that there -- they see one subject --

A Yes.

Q -- in the backyard? And the information you have at that moment is that subject is in the prone position with his hands above his head?

A Yes.

Q And a weapon at his feet?

A Yes.

Q Now, at that moment in time right there -- and I'm just talking about that moment in time where the air unit is on site, additional officers have arrived, at that moment in time, you had no idea that a shotgun was even involved?

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A No.

Q In your mind, there had been two shots fired?

A Yes.

Q You didn't have body cam that night, did you?

A No.

Q When the other units arrived -- when I say other units, I'm talking about other officers and the K-9 units that -- they basically did a -- what you would call a stack?

A Yes.

Q To where the -- one of the K-9 unit person had a shield in front?

A Yes.

Q There was seven or eight people kind of stacked up going into the dining room area?

A Yes.

Q And K-9 unit released the dog?

A Yes.

Q And once the dog had a hold of the subject, the stack moved forward?

A Yes.

Q You were part of that stack, weren't you?

A Yes.

Q So you witnessed Mr. Hudson being taken into custody?

A Yes.

Q Did you also go out front when they brought him out to

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medical?

A No.

Q You stayed in the back?

A I believe I left before that.

Q Okay. But you saw him being taken into custody?

A Yes.

Q And he had basketball shorts on?

A I don't recall.

Q You don't recall what he was wearing?

A No.

Q Do you recall that he had a shirt on?

A I honestly don't recall.

Q But he didn't meet the description of the person that you had a blurry vision on?

A I don't recall.

Q And then you left the scene for the CP?

A Yes.

Q Thank you, Officer.

MR. PLUMMER: Pass the witness.

THE COURT: Thank you. State, any redirect?

REDIRECT EXAMINATION

BY MS. BEVERLY:

Q Officer, this event was about two and a half, almost three years ago, right?

A Yes.

1 Q Okay. Is this a pretty significant event in your life?
2 A Very.
3 Q Okay. This something that you still think about frequently?
4 A Yes.

5 MR. PLUMMER: Objection, Your Honor.

6 MS. BEVERLY: What's the -- what's the objection?

7 THE COURT: What's the objection?

8 MR. PLUMMER: Relevance. Bolstering. Improper.

9 THE COURT: Counsel, approach.

10 [Bench conference transcribed as follows.]

11 THE COURT: Whenever there's a relevancy objection, I allow
12 speaking objections. That's why I had you approach.

13 MR. PLUMMER: I'm sorry, Your Honor.

14 THE COURT: Your objection --

15 MS. BEVERLY: Oh. Okay.

16 THE COURT: Your objection is relevance; is that correct?

17 MR. PLUMMER: That is one of the objections.

18 MS. BEVERLY: What's another one?

19 THE COURT: I'm sorry?

20 MR. PLUMMER: One is relevancy. The other is it's
21 bolstering. Another, is they're trying to get into his current feelings of
22 being upset and, you know, causing sympathy in the minds of the jurors.

23 MS. BEVERLY: Judge?

24 THE COURT: What is the relevancy? Has to go to credibility.

25 MS. BEVERLY: Well, he's -- first of all, he's a named victim in

1 this case.

2 MR. PLUMMER: That's in sentencing.

3 MS. BEVERLY: Can -- am I allowed to finish?

4 THE COURT: Stop. Let her make her argument.

5 MS. BEVERLY: Thank you.

6 THE COURT: What's the relevancy, counsel?

7 MS. BEVERLY: The relevance is I'm going down a line of
8 questioning to see things that he remembered, that he still thinks about
9 this, that remembers, that -- there were questions about things that he
10 remembered or not, so --

11 THE COURT: Okay. That has to do with the credibility. In
12 other words, you're questioning -- is this -- is your questioning of the --
13 his memory is somehow affected --

14 MS. BEVERLY: No. I -- I'm going to move on, but I -- I hadn't
15 finished my line of questioning, so -- but it goes --

16 THE COURT: But what is your line of questioning?

17 MS. BEVERLY: Is there anything else you remember about
18 this incident?

19 THE COURT: Okay. That's fine.

20 MS. BEVERLY: Okay.

21 THE COURT: Your objection is overruled.

22 MR. PLUMMER: I don't mind that question. Thank you, Your
23 Honor.

24 MS. SISOLAK: Thank you, Your Honor.

25 THE COURT: Thank you.

1 [End of bench conference.]

2 BY MS. BEVERLY:

3 Q You were asked some questions about the description of the
4 person that you saw for that brief moment in time --

5 A Yeah.

6 Q -- do you recall those questions on cross-examination?

7 A Yes.

8 Q Okay. Is there anything specific that you remember about
9 clothing or color or anything else that comes to mind?

10 A The flash of the person that I saw, light skin, no shirt, purple
11 basketball shorts.

12 Q Okay. You were asked a question about you don't know if a
13 shotgun was involved in this incident or not?

14 A Correct.

15 Q Okay. The two shots that came through the house, could you
16 tell the caliber of those shots?

17 A It sounded like a high-powered rifle, 223 probably.

18 Q Okay. So you just, basically, heard weapons coming at you; is
19 that fair to say?

20 A Yes.

21 Q At -- at -- I mean, how quick is this happening?

22 A It's very quick.

23 Q All right. And then you were asked a question about you
24 weren't wearing body cam?

25 A Correct.

1 Q Okay. This was -- this happened back in 2015?

2 A Yes.

3 Q At the time in 2015, were officers mandated to wear body
4 cams?

5 A No.

6 Q At the time, was it still, like, a developing program?

7 A Correct.

8 Q Okay. You were asked some questions about whether the
9 person in the backyard was responding to commands or not. Is that --
10 do you remember those questions?

11 A Yes.

12 Q Okay. At any point during the whole time you're waiting for
13 other officers, waiting for K-9, can you see any person back there?

14 A No.

15 Q Okay. So you've heard shots come towards you. And now
16 you can't see a person back there; is that correct?

17 A Correct.

18 Q Okay. So whether someone's responding to commands or
19 not, are you going to go back there and put yourself in further danger?

20 A No.

21 MS. BEVERLY: I'll pass the witness.

22 THE COURT: Defense, any recross?

23 MS. SISOLAK: Nothing on behalf of Mr. Turner, Your Honor.

24 MR. PLUMMER: Yes, Your Honor.

25 THE COURT: You may proceed.

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MR. PLUMMER: Thank you, Your Honor.

RECROSS EXAMINATION

BY MR. PLUMMER:

Q Officer, the -- the commands that were sending at were commands like, don't fucking move, correct?

A Yes.

Q If you move, I will kill you?

A Yes.

Q Correct? So and in addition to verbal responses, you -- no -- you weren't seeing anybody move?

A No.

MR. PLUMMER: Thank you, Your Honor. Thank you.

THE COURT: Thank you. May this witness be excused?

MS. BEVERLY: Yes, Your -- oh, I don't know if the jury has any questions.

THE COURT: Oveja, I'm sorry. Seeing no hands.

May this witness be excused?

MS. BEVERLY: Yes, Your Honor.

THE COURT: Defense?

MR. PLUMMER: Yes, Your Honor.

THE COURT: Thank you.

Sir, thank you and you are excused.

State, call your next witness.

MS. BEVERLY: Judge, we only have one more witness this afternoon, so if we're going to take a break, can we take it now and then

1 just finish up with our last witness?

2 THE COURT: Okay.

3 MS. BEVERLY: Thank you.

4 THE COURT: Ladies and gentlemen, we're going to take
5 a 15-minute recess.

6 During this recess, it is your duty not to converse among
7 yourselves or with anyone else on any subject connected with the trial or
8 to read, watch, or listen to any report of or commentary on the trial by
9 any person connected with the trial or by any medium of information,
10 including without limitation, newspaper, television, and radio. And you
11 are not to form or express an opinion on any subject connected with this
12 case until it is finally submitted to you.

13 We will be in recess for 15 minutes.

14 [Court recessed at 3:03 p.m., until 3:19 p.m.]

15 [Outside the presence of the jury.]

16 THE COURT: We're back on the record in C-15-309578-1
17 and -2, *State of Nevada vs. Steven Turner and Clemon Hudson*. Let the
18 record reflect the presence of counsel for the State, counsel for the
19 defendants, and the presence of the defendants.

20 You may bring the jury in at this time. Bring the jury in,
21 please.

22 [Jury reconvened at 3:20 p.m.]

23 THE COURT: You may be seated. Will the parties stipulate
24 to the presence of the jury?

25 MS. BEVERLY: Yes, Your Honor.

1 MS. SISOLAK: On behalf -- on behalf of Mr. Turner, we will,
2 Your Honor.

3 MR. PLUMMER: Yes, Your Honor.

4 THE COURT: Thank you. State, call your next witness.

5 MS. BEVERLY: State calls Officer Jeremy Robertson.

6 **JEREMY ROBERTSON,**

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

9 THE CLERK: Please be seated. Would you please state and
10 spell your name for the record?

11 THE WITNESS: Jeremy Robertson, J-E-R-E-M-Y
12 R-O-B-E-R-T-S-O-N.

13 MS. BEVERLY: May I proceed, Your Honor?

14 THE COURT: You may.

15 **DIRECT EXAMINATION**

16 BY MS. BEVERLY:

17 Q Sir, how are you currently employed?

18 A I'm employed with the Las Vegas Metropolitan Police
19 Department.

20 Q How long have you been with Metro?

21 A 16 years.

22 Q And what is your current assignment today?

23 A Right now, I work in the community oriented policing
24 department.

25 Q What is -- what does that entail?

1 A Basically, I wear plain clothes most the time. I go out and do
2 community events, go to schools, do things for the community, work with
3 the churches, faith-based programs, school programs. We do clean-ups
4 in the neighborhood, some of our rough neighborhoods, and reach out.
5 We work with problem houses, such as squatters. Basically, anything
6 that we get complaints from at our substation, we work on and try to
7 make it -- make it the best we can.

8 Q And when did you start working in that division?

9 A I started working there, it was last May.

10 Q And prior to that, were you on what is known as light duty?

11 A Yes.

12 Q What does light duty entail?

13 A Anytime an officer is injured or hurt on duty or even off duty,
14 they can be placed on light duty until their injury allows them to get back
15 to full duty.

16 Q And prior to that, were you actually off from work for
17 approximately a year?

18 A Yes.

19 Q Okay. I want to direct your attention to September the 4th
20 of 2015. Okay. Were you working on that day?

21 A Yes, I was.

22 Q What shift were you working?

23 A Graveyard.

24 Q Okay. What time is graveyard?

25 A 10:00 p.m. to 8:00 a.m.

1 Q And were you working in a special unit, or were you on patrol?

2 A Patrol.

3 Q What area command were you a part of at that time?

4 A Northwest Area Command.

5 Q Do you know an Officer Grego-Smith?

6 A Yes.

7 Q Was he also working in the Northwest Area Command at the
8 time?

9 A Yes.

10 Q So graveyard, what kind of calls do you get on graveyard in
11 your experience?

12 A It ranges from domestic violence, burglaries, robberies,
13 prowler calls, petty larceny calls from, like, gas stations. It entails a little
14 bit of everything.

15 Q Kind of riffraff of the nighttime?

16 A Yeah.

17 Q Okay. You mentioned prowler call. What does a prowler call
18 mean to you?

19 A Well, prowler calls we get, you know, they range -- it -- a lot of
20 time on windy nights or just on other nights, someone suspects
21 someone's in their yard, that would be a prowler call. So some nights, if
22 someone's, like, jumping someone's wall, they hear them in the
23 backyard, that would be a prowler call.

24 Q Is there a difference between a prowler call and a
25 prowler-with-a-gun call?

1 A They -- they would -- it would be -- for us, I mean, that would
2 be a prowler. And then if they saw a weapon, then they would change
3 the call when -- you know, would no longer be just a prowler call.

4 Q Prior to this incident that we're here to talk about today, how
5 long had you been on graveyard?

6 A I worked graveyard for approximately 12 years.

7 Q Okay. And we're talking about prowler calls, and you
8 responded to multiple prowler calls; is that correct?

9 A Yes.

10 Q Does it typically end up being not that big of a deal?

11 A Majority of the time, it's usually wind, something getting
12 knocked over outside. People hear something, you know, so -- yeah.
13 Most -- majority of the calls are -- end up being nothing.

14 Q What does it mean to you when you hear prowler with a
15 possible gun?

16 A Most of our calls, especially on graveyard, come out with
17 possible weapon, because our dispatchers usually asks if the -- the
18 person saw a weapon. And usually it's so dark, people are usually like,
19 maybe. And then it gets broadcast to us as possible. So we hear that a
20 lot, majority of our calls.

21 Q Okay. And when -- if dispatch hears from, say, someone
22 calling 911 about a gun, do they try to ask follow-up questions about,
23 like, describe the gun or anything like that of the -- the homeowner or
24 anything like --

25 A Usually, yes.

1 Q Okay. So information that you get on your radio is coming
2 from dispatch; is that correct?

3 A Correct.

4 Q You're not directly speaking with the person who is
5 calling 911 --

6 A No.

7 Q -- is that fair to say? Okay. All right. So September the 4th
8 of 2015, you're working and you're working graveyard. And
9 approximately 3:30 in the morning, where are you?

10 A I was up at the Northwest Area Command substation. I had
11 just downloaded camera photos. We called them DIMS photos. And,
12 you know, that was three years ago so we were a little behind, but we
13 used to have to take the computer -- or the -- the memory card from the
14 computer, take it into the substation and plug it into another computer to
15 download photos of -- it was actually a domestic violence call that I was
16 on prior, taking pictures for another unit. And it was a slow night so I
17 ended up going up to the station just to download them right away. And
18 so I just finished that up. I was in my patrol car, getting ready to leave
19 the station when I was dispatched to this call.

20 Q Okay. And did you see Officer Grego-Smith at the station that
21 night too?

22 A Yes. He had -- had a ride-along that night, and it was -- being
23 a slow night the ride-along didn't want to -- to spend the rest of the night
24 and so he asked to be dropped off.

25 Q Okay. Had you worked with Officer Grego-Smith before?

1 A Yes.

2 Q Okay. So you get -- do you get a call over the radio about an
3 incident, or a prowler call, at 6729 Oveja?

4 A Yes.

5 Q And is that here in Clark County?

6 A Yes.

7 Q What are the initial details that you get on the call?

8 A The initial details we get is the PR, which is a person
9 reporting, the person calling in, possibly hear or saw subjects in the
10 backyard or hears a subject in the backyard of their house.

11 Q I'm going to put on the screen Exhibit No. 117. Can you see
12 that on your screen?

13 A Yes.

14 Q Okay. Is this, where my pen is located, be Oveja Circle?

15 A Yes.

16 Q Okay. And does Oveja -- actually, the houses on Oveja in the
17 cul-de-sac back up to Rainbow?

18 A Yes.

19 Q Okay. Are you familiar with this area or were -- at the time,
20 were you pretty familiar with this area?

21 A Yeah. At that time, it was still part of Northwest Area
22 Command, which I've worked in for 12 years. And it's no longer part of
23 that area command anymore. But yes, at that time I was.

24 Q So you hear this information over the dispatch; and what do
25 you decide to do?

1 A So she -- the dispatcher dispatched me to the call. Officer
2 Smith said that he would back me and that he was at the station also.
3 We drive out of the station, and being that it was a low priority call, we
4 drove down Cheyenne. We drove there no lights and siren.

5 Q Let me stop you right there.

6 A Yeah.

7 Q You said it was -- it was a low priority call. Why is a prowler
8 call a low priority call?

9 A It's -- it's low priority in one fact of that it's just a -- a possibility.
10 There's no actual proof at the time when we got the dispatch that there
11 was anything else going on. So that's the reason why we wouldn't roll
12 with our lights and sirens on.

13 Q Okay. Are there certain restrictions or requirements at Metro
14 for you to ride with your lights and sirens on?

15 A Yes.

16 Q So you're not just going to, like, every single call with lights
17 and sirens on --

18 A No.

19 Q -- is that fair to say?

20 A No.

21 Q Okay. Especially on graveyard shift; is that fair to say?

22 A Right.

23 Q Okay. So you start heading towards the address. As you're
24 heading towards the address, are you getting any further information on
25 the -- from the dispatcher?

1 A As we're driving down, we get the -- I believe the radio traffic
2 said that they -- you know, came out with a subject in the backyard,
3 dark, unable to get a description, possibly there's a weapon involved, but
4 we didn't have anything further than that.

5 Q Okay. So you hear possibly had a gun?

6 A Right.

7 Q And that's different for you than hearing definitely has a gun,
8 here's what it looks like?

9 A Right.

10 Q Okay. If you would have heard definitely has a gun, here's a
11 description, would that have changed how many officers responded or
12 anything that you did?

13 A Yes.

14 Q Okay. And how so?

15 A First off, the -- there's a policy, it's called the S.T.A.R.
16 Protocol. Any time there's definite weapon involved, a sergeant, which
17 is a supervisor, has to be acknowledge it over the radio and then has to
18 dispatch himself to the -- himself or herself to the scene. And then you
19 stage up before approaching the house.

20 Q And is it fair to say in -- in this particular incident, you're not
21 hearing directly from the homeowners who have called 911; is that
22 correct?

23 A Correct. They call 911. 911 types information to our
24 dispatcher. Dispatcher types information into our CAD system,
25 computer system, and talks to us on the radio.

1 Q So the information from the homeowner is kind of filtered
2 through the dispatcher prior to it getting to you; is that correct?

3 A Yes.

4 Q And you have to rely on what you're hearing from dispatch,
5 correct?

6 A Right. Correct.

7 Q Okay. So are you and Officer Smith in different vehicles?

8 A Yes.

9 Q All right. Approximately how long does it take you to end up
10 getting to the location of Oveja?

11 A I'm not a hundred percent sure. About five minutes maybe.

12 Q Okay. I'm going to show you Exhibit No. 247 on the screen.
13 You can actually mark on the screen with your finger. Can you point to
14 us where you parked your vehicle when you arrived?

15 A I believe it was -- I'm sorry, down here where these two
16 vehicles are at.

17 Q Kind of where my -- oh, let me --

18 A I would be the first vehicle and Smith -- Officer Smith would be
19 the second vehicle behind it.

20 Q Okay. So right where my pen is? Let me -- let me actually
21 zoom in a little bit so you can see this better. See where my pen is?

22 A Yeah. Those two that are kind of offset off the curb.

23 Q That's not where the house is though; is that right?

24 A Correct.

25 Q Okay. Why is it that you would park a little bit of a distance

1 from the house?

2 A There's a couple reasons why we do that. First reason being
3 it's our tactics not to park right in front of a house, so we can get out of a
4 car without being right in front of somewhere where the threat or a threat
5 might be at.

6 Another reason, dark on graveyard, this is an older
7 neighborhood, they don't have the lit-up addresses. So you can't really
8 see the addresses on these houses. So we decide -- I decided,
9 because Smith followed me, and we just parked down there and decided
10 to walk until we found the house, because we didn't know exactly where
11 it was at at the time when we pulled down the street.

12 Q Okay. So you're familiar with the area, but not with exact
13 houses in the neighborhood?

14 A Correct.

15 Q Okay. When you get out of your vehicle, what do you do?

16 A We get out of the vehicle. We start looking at the addresses
17 as we're moving westbound. I did -- we did notice the first address when
18 we pulled in was a lower number, and the addresses actually gain
19 numbers, bigger numbers, as they move west in that section. So we
20 started looking for the address. And as we approached, we realize it's
21 the house straight ahead of us the whole time, the one at the end of the
22 cul-de-sac.

23 Q Okay. I'm going to show you Exhibit No. 253; do you
24 see 6729 Oveja in this photo?

25 A Yes.

1 Q Can you put a little marking on that? Okay. As you're walking
2 up and -- up the street to get to the target residence, are you kind of
3 generally, for lack of a better term, scoping out the scene?

4 A Yes.

5 Q Okay. What does that kind of entail?

6 A I mean, we're just looking around. As we're walking up, we're
7 looking at the addresses. We're looking to make sure that there's no
8 one running around or hiding as we're moving up towards the front -- or
9 to the house that we're looking for.

10 Q Okay. Had you received any information on the dispatch
11 about maybe someone knocking at the door?

12 A Yes. Prior to us arriving, the dispatcher had updated that
13 there was a knock on their door. I can't remember if it was a just knock
14 or doorbell. I don't remember.

15 Q What did that -- what did that cause you to think, if anything?

16 A You know, it's -- it's very uncommon for someone that's a
17 burglar to -- to spend a lot of time, making a lot of noise, making people
18 aware that they're at a house before they break in. So honestly, it -- it
19 kind of sounded like maybe a friend was at the wrong house. Maybe
20 someone said meet me at my house or something, and it sounded like
21 maybe they were at the wrong house. Like, hey, let me in. Or we do get
22 intoxicated people that walk home or sometimes drive home. And
23 they're at the wrong house, even though it's their house or it's a friend's
24 house, and they -- they're knocking on the door, like, why is no one
25 letting me in. So kind of -- it -- it didn't ring a bell of anything crazy. It

1 sounded more like someone was confused of where they're at or they
2 were intoxicated.

3 Q So any -- prior to actually getting to the house and walking up
4 to the house, anything unusual, out of the ordinary, suspicious about this
5 particular call?

6 A No.

7 Q All right. Showing you Exhibit No. 368. As you get to the
8 house, do you notice this vehicle parked kind of opposite of the house in
9 the cul-de-sac?

10 A I don't remember.

11 Q Was -- didn't register anything to you or anything?

12 A No.

13 Q No movement or anything in the car?

14 A No.

15 Q Okay. So you get up to the home. And what, if anything, do
16 you do?

17 A So as we approached the house, the front of the house once
18 we realize it's the house at the end of the cul-de-sac, things I remember,
19 I remember seeing the front of the house and seeing the -- to the right
20 side of the house there was a, like, a little cutout wash, or maybe used to
21 be a walkway that was fenced off. And then I remember seeing the
22 security gate to the backyard, the side gate to the backyard was on the
23 right side of the house. And Officer Smith went to the right side of the
24 house to take a look over there. I went to the left side of the house. I
25 remember there being, from what I remember, a courtyard near the front

1 of the house or heavy brush.

2 Q Okay. Let's actually look at Exhibit No. 374.

3 A So, yeah, there is a courtyard there.

4 Q Okay.

5 A So as Officer Smith went to the right side of the driveway, I
6 cleared the left side up by the front door where the -- the courtyard is,
7 just making sure there was no one up there. And then I remember
8 looking to the left side of the house to see if there was a gate or anything
9 to get over there. And I just remember -- from what I remember is, it -- it
10 seemed -- it was different than most walls. I -- I think it was tall or there
11 was an obstruction there.

12 Q Let's show Exhibit No. 372. Is this that wall on the left side
13 that you're talking about?

14 A Yes.

15 Q And you said something about you were clearing the front kind
16 of area. What -- what does that mean?

17 A So we're just making sure there's no one up there, because,
18 you know, the -- there's details originally that maybe someone was
19 knocking on the front door or ringing the doorbell. So we just wanted to
20 make sure someone's not just sitting up there by the front door or
21 anything. Even though it's still low priority or nothing's screaming crazy
22 in our minds, we still use tactics to make sure that someone's not going
23 to jump out at us or that we're not missing something. So we're looking
24 all over the front yard before we move.

25 Q I'm going to show you grand -- Exhibit No. 367; do you recall

1 this vehicle being parked in front of the house as you went up the
2 driveway?

3 A I honestly can't remember it.

4 Q No problem. All right. So you end up clearing the front area
5 of the house, and what's the next thing that you do?

6 A So looking at the picture now, I -- I realize that awning is kind
7 of over on that wall, and that's why we didn't decide to try to jump the
8 wall. I remember going back towards the -- the driveway where Smith
9 was, and he had said -- I think he had said that the gate was locked or it
10 was like a security screen, so you can't really see through it. And there
11 was an awning over the -- that gate. I remember seeing that myself, that
12 there was an awning that goes over that security gate, so you can't jump
13 over that gate either.

14 Q Let's show Exhibit No. 59; is this that awning and security gate
15 that you're talking about?

16 A Yes.

17 Q Okay. Okay. Go ahead.

18 A So after we checked the front of the house, I think Officer
19 Smith said he thought he heard something. I can't a hundred percent
20 remember that, but I -- I think he said that to me. But I don't know where
21 he thought he heard it from. And so I got on the radio and asked for -- if
22 we were still on landline with the -- the homeowners. And it's -- the
23 dispatcher said -- you know, I said if we are, have them come to the front
24 door. And then they came to the front door and that's where we met
25 them at.

1 Q Okay. Did the homeowners, in fact, let you into the home?

2 A Yes.

3 Q And what do you do when you get inside the home?

4 A They said that -- I remember going through their -- their --
5 passing them at the front door. And they said the back door was
6 straight -- straight back, and they said you have to open the door. There
7 was a key in the lock. It was one of those -- they have the key side of
8 the -- the lock inside the house, so you had to open -- it wasn't a regular
9 dead bolt. I remember them telling me that.

10 So we -- Officer Smith and I went in. I remember looking out
11 windows. I was in the kitchen. I looked out a -- a small window in the
12 kitchen. And I remember it being really dark. I also looked out another
13 window, I believe it was in the dining room, and we couldn't see
14 anything.

15 Q Okay. So in this dining room/living area, there's a couple of
16 windows; is that right?

17 A Yes.

18 Q Okay. And I'm just going to show up here grand jury --
19 Exhibit No. 88. Would this be a view from the front door of the house
20 looking towards the back of the house?

21 A Yes.

22 Q Okay. And do you see where my pen is?

23 A Yes.

24 Q Is that one of the windows?

25 A Yes.

1 Q Is there also a further -- another window further into the
2 kitchen area?

3 A Yes. I believe it was over the sink.

4 Q Okay. So you look out those windows to see if you can see
5 anything; is that fair to say?

6 A Yes.

7 Q Okay. And you indicate you can't see anything?

8 A Right.

9 Q Had you been able to see anybody with a weapon or anything,
10 would that have changed what happened next?

11 A Yes.

12 Q Okay. What would you have done if you had seen somebody,
13 like, on the backyard or on the patio with a weapon?

14 A If they were in the backyard, we would have immediately
15 backed out to the front of the house. I would have got the homeowners
16 and we would have gone down to the end of the street.

17 Q Okay.

18 A And I would have waited for more officers to arrive.

19 Q And just so we're clear, Exhibit No. 127; here's the first
20 window we were talking about, correct?

21 A Yes.

22 Q And then we can kind of see the second window by the
23 refrigerator?

24 A Yes.

25 Q Do you have any kind of in-depth conversation with the

1 homeowners or anything?

2 A No.

3 Q Okay. What happens when you go towards the back of the
4 home?

5 A So after we looked through the windows, you know, we still
6 used tactics. Officer Smith and I decided that we would clear the
7 backyard of the house.

8 Q Okay. Similar to how you cleared the front yard?

9 A Yes. Kind of like -- even like how we clear a house even.

10 Q Yeah. What do you do when you clear a house?

11 A So, usually, we -- if we're at, like, the front door of a house, we
12 push the door open. We'll announce ourselves and then we make entry
13 to the house. And we -- we clear the house as -- either two-man, or if
14 we get more officers. Usually if it's something that doesn't scream like
15 it's a crazy call, it's usually two officers anyway on calls. You have to
16 have a minimum of two officers to clear, per our policies.

17 Q So do you and Officer Smith develop a plan that you're going
18 to go into the backyard and clear it?

19 A Right.

20 Q Okay. So what's the plan going to be?

21 A So the plan is I'll open the door and Smith stayed on handgun.
22 He was going to be the first one out the door actually. I was going fling
23 the door open. I had to holster my weapon in order to open the door.
24 Again, we want to use tactics. So our jobs -- we're -- we're not trying to
25 scare people away; as a police officer, we're trying to catch people.

1 So just like if I rolled with lights and sirens to a call, I'm not
2 rolling straight up in front of the house with my sirens blaring, like, I'm
3 here. We'll shut them off, especially on graveyard, I don't need lights
4 and sirens. Even walking up to a house, I use light discipline. I don't
5 want people knowing where I'm at. We're trying to catch people that are
6 up to no good, or in this case, we thought maybe someone that was just
7 in the wrong place.

8 Q Okay.

9 A So we come up with the idea that we're just going to clear the
10 backyard, but we're still taking this serious enough. He has his weapon
11 out.

12 Q Let me stop you right there.

13 A Yep.

14 Q When you go through the house initially, are there any lights
15 on in the living room/dining room area of the house?

16 A No.

17 Q Okay. I'm going to show you Exhibit No. 206. This is the door
18 to the back patio; is that correct?

19 A Yes.

20 Q Obviously, when you got there, the door was closed; is that
21 correct?

22 A Correct.

23 Q Could you see out either of those double, kind of, French
24 doors?

25 A I don't remember looking out those doors.

1 Q And again, we're talking around like 3:30, 3:45 in the morning;
2 is that right?

3 A Yes.

4 Q So the plan is Officer Smith is going to go through the door
5 first, you're going to follow him?

6 A Correct. But I'm going to open the door.

7 Q You're going to open the door. So you, if you can on this --
8 let's see, on this exhibit, which is going to be 206, can you put a little dot
9 for the jury where you were standing to open the door?

10 A In -- in my mind, I think it was to the right of the door.

11 Q Okay.

12 A I'm not a hundred percent sure, but I believe I was standing
13 over here. In -- I would have had to be where the door handle was, so I
14 could have been to the left, but in my mind, I was to the right of it.

15 Q And I believe you indicated you had to unlock the door from
16 the inside in order to --

17 A Uh-huh.

18 Q -- turn the knob and open the door?

19 A Right.

20 Q And did the door swing in or did the door swang out?

21 A It swang in.

22 Q Okay. Tell us what happens.

23 A So we come up with the plan. So again, I was -- Officer Smith
24 was going to be on -- on gun. I was going to open the door and then I
25 would pull my weapon out. But we were going to swing open the door

1 and announce, Metro Police, sound off if you're in the backyard. You --
2 that's typical of what we would say. So my goal was to swing the door
3 open, grab my weapon and then we announce, and then we'd go out in
4 the backyard and clear the backyard.

5 Q Okay. And you indicated that in order to open the door, you
6 actually had to holster your weapon?

7 A Yeah. Again, tactic wise, we don't want to give away our
8 positions. So if I'm making a lot of noise trying to open a door, it's
9 unsafe with a handgun in my hand trying to undo a dead bolt and open
10 the door at the same time. Again, we're trying to make the less noise as
11 possible. You know, that's -- that's what we're doing.

12 Q But prior to you holstering it, did you have it out?

13 A I believe I had it out in the front of the yard while we were
14 clearing. That's typical. And then once we were inside, I holstered it to
15 open the back door.

16 Q All right. So tell us what happens as you go to open the door.

17 A So I remember turning the key and knob and swinging the
18 door open. And I didn't have a -- any time, and I would -- I just
19 remember getting shot, or something happened. I didn't know what
20 happened at -- to me at first. It felt like someone hit me with a
21 sledgehammer in my upper thigh. And I just remember time slowed
22 down for me. In my head, I -- I thought I was standing there for, like, 10
23 or 15 seconds and then fell to the ground and I didn't know why. I
24 couldn't hear anything. I had tunnel vision.

25 And then after I landed on the ground, I was on my stomach

1 on the ground with my feet towards the door and my head was facing
2 the front door. And I remember hearing things as soon as I -- I heard
3 Officer Smith returning fire and I could see his shell casings flying over
4 me, but everything was slowed down. It looked like slow motion to me.

5 Q Prior to this happening, had Officer Smith got on the radio and
6 asked for a Code Red?

7 A Yeah. I'm sorry, yes. Before we did that, he asked for Code
8 Red on the radio, which indicates that we're asking that -- we're going
9 to -- what -- I think -- I believe he said, give us a Code Red. We're going
10 to clear the backyard. And that allows our dispatch -- there's a -- a
11 beep, beeping sound that goes over the radio, meaning radio silence, for
12 us. So we're the only ones supposed to talk on the radio at that time.
13 So he asked for that prior to me opening the door.

14 Q And just to be clear, when you opened the door, you're still on
15 the inside of the residence; is that correct?

16 A Yes.

17 Q Do you hear anything coming from the outside to the inside
18 when you open the door?

19 A I don't remember hearing anything.

20 Q Okay. You -- do you just feel yourself getting hit?

21 A I'm sorry?

22 Q Do you feel yourself getting hit?

23 A Yes.

24 Q Okay. What's -- what's the next thing that happens?

25 A So I remember laying there, and I -- I realize once I started

1 coming to, once the tunnel vision and everything passed, that -- that I
2 was shot. And I started self-evaluating myself. There was another
3 officer that I knew, he had been shot years prior to me and it had hit his
4 femoral artery. So my concern at that time, knowing I was hit in the
5 upper thigh area, was making my femoral artery wasn't hit.

6 So I started checking my -- myself. I was hit very high in the --
7 the upper hip, one where you can't put a tourniquet on. I do carry a
8 tourniquet on my belt, but the -- the injury was so high, it exited -- the
9 actual bullet exited my -- my rear side. I just remember I -- I knew that
10 my femur had broken because the way I fell. And I looked back and my
11 leg was twisted around. I knew that my leg was -- was broken or
12 shattered.

13 So I'm self-evaluating, making sure I don't -- seeing how much
14 blood I can feel. As I'm doing that, I just remember that other officer that
15 I was telling you about. And I -- I wanted to slow down all my breathing
16 and stuff, because I knew if I -- if it was worse, I don't my heart rate and
17 everything going up to where I would bleed out. So I was trying to calm
18 everything down. And I -- I started talking on the radio. That was one of
19 the things that helped keep me -- gave me something to do while we
20 were waiting for other officers.

21 Q Okay. Do you hear Officer Grego-Smith fire into the
22 backyard?

23 A Yes.

24 Q Okay. At some point, do other officers -- do you need some
25 water?

1 MS. BEVERLY: It's okay. He has it up there.

2 Q You let me know when you're ready. Okay?

3 A I'm ready.

4 Q Okay. At some point, do other officers start arriving?

5 A So I remember looking back and Officer Smith had taken a
6 knee. Sorry.

7 Q That's okay.

8 A He had taken a knee in front of me to make sure that he was
9 protecting me. And I remember him yelling on the radio our code for
10 officer needs help, emergency, is 444. And I remember him screaming
11 that out, and officer -- officer down. And I remember him being there,
12 taking a knee in front of me. At that point, any time shots fired, anything
13 like that, everyone's coming.

14 So I remember him screaming that out. And then I remember
15 him getting on the radio and saying -- because dispatch is asking a lot of
16 questions to him. I remember them ask -- I think they asked him, you
17 know, description of the subjects -- suspects and stuff.

18 Q Do you recall any description, number, anything about
19 anybody?

20 A I'm sorry?

21 Q Do you remember any description, any number?

22 A From what I saw?

23 Q Go ahead.

24 A It -- that's all blocked out in my mind.

25 Q You remember talking on the radio traffic?

1 A I -- I did talk on the radio. And Officer Smith had said that he
2 saw one suspect, and I remember telling him no, there's two. And to this
3 day, I can't process it. From the point of me getting shot and falling on
4 the ground, I don't remember what I saw at that door. All of that has
5 been -- is -- my mind blocked it out.

6 Q Would the radio traffic that was taken at the time be accurate
7 as to what you're relaying to the dispatch?

8 A Yes.

9 Q Okay.

10 MS. BEVERLY: Your Honor, by stipulation, I'm going to -- of
11 the parties, move for the admission of 11B, which is on the CD.

12 THE COURT: Defense, is that correct? It's stipulated to?

13 MS. MACHNICH: Yes, Your Honor. No objection from
14 Mr. Turner.

15 MR. PLUMMER: Yes, Your Honor.

16 THE COURT: Okay. It will be admitted.

17 [State's Exhibit No. 11B admitted.]

18 MS. BEVERLY: Permission to publish?

19 THE COURT: You may publish.

20 [Audio played.]

21 BY MS. BEVERLY:

22 Q Sir, did you just hear the beginning of that radio traffic?

23 A Yes.

24 Q Okay. And do you hear the dispatcher saying there's possibly
25 a gun?

1 A Yes.

2 Q No other information though, is that --

3 A Correct.

4 [Audio played.]

5 Q And Officer, on the radio traffic, there's, like, breaks in time, is
6 that right, where there's no talking?

7 A Right.

8 Q Okay. So it's -- it's not like a -- there's updates, then a further
9 update, but there's time period -- that's time that's going on?

10 A Correct.

11 [Audio played.]

12 Q Was that you -- was that you on there telling dispatch to let the
13 homeowners let me in?

14 A Yeah. And I'm 1Victor22 that night.

15 Q And what is 1Victor22? What does that mean?

16 A That was my call sign. One means it's graveyard hours.

17 Victor is the sector beats that the call is in, or I -- I covered Victor area,
18 which this call was in. And then 22 is just a number behind it.

19 Q Okay. So that is how dispatch is assigning officers calls and
20 using those call signs?

21 A Correct.

22 Q Okay.

23 [Audio played.]

24 Q So is that Officer Grego-Smith yelling out shots fired?

25 A Yes.

1 Q And then did you hear yourself on there?

2 A Yes.

3 [Audio played.]

4 Q Did you just hear yourself right there? Earlier, did you hear --

5 A Yes.

6 Q -- Officer Grego-Smith say you told him there was two
7 suspects?

8 A Yes.

9 Q And then you just indicate on here, I was shot with a
10 high-powered rifle?

11 A Yes.

12 Q Okay. So that would have been your memory at the time?

13 A Yes.

14 [Audio played.]

15 Q Officer, did you hear that?

16 A Yes.

17 Q Okay. Fair to say the radio traffic continues on as this
18 incident -- officers begin to arrive; is that correct?

19 A Yes.

20 Q At some point other officers arrive, and do they take you out of
21 the home?

22 A Yes.

23 Q Okay. Now, what happens when you get taken out of the
24 house, if you remember?

25 A I was on my stomach, again, with my head facing the door, so

1 I saw them coming in. I believe I remember seeing a couple officers
2 step over me and go past me and help Smith cover the backyard. And
3 then I just remember Officer O'Neil coming in. I believe he
4 was 1Victor33 that night. And he -- he came in and he took my gun out
5 of my holster.

6 And the reason for that is if someone were to lose
7 consciousness and then they wake up, it's -- if I was in the fight mode
8 and then I lost consciousness and I woke up again, you're in the fight
9 mode still. And they didn't want me thinking someone, you know,
10 something was wrong and I pull my gun on one of the officers or
11 something. So he took my gun from me that night. And then they --

12 Q Sorry, let me ask you this: Just to be clear, on the radio traffic,
13 there was a bunch of different people talking; is that right?

14 A Uh-huh. Yes.

15 Q There's the air unit. There's maybe some sergeants; is that
16 fair to say?

17 A Yes.

18 Q So everyone's kind of on the same channel talking -- different
19 people are talking though?

20 A Yes.

21 Q Okay. Sorry, I'm sorry. Go ahead. So you get taken out of
22 the house?

23 A Yeah. So Officer O'Neil and then two other officers came in.
24 They rolled me over onto my back and I was telling them that -- that I --
25 my femur was broken and they did what we call a down officer rescue.

1 Officer O'Neil went -- kind of sat me up and kind of bear-hugged me
2 from the back, put his arms under my arms and wrapped them around
3 me. The other officer supported my leg and they lift me up.

4 And, I mean, during the radio traffic, you can hear me
5 screaming in -- in pain when they did that. And then they carried me out
6 of the -- the front door and I was taken to the driveway and -- where they
7 sat me down and then AMR and FD came right up.

8 Q You were taken to the hospital?

9 A Correct.

10 Q All right. How long were you in the hospital for?

11 A 11 days.

12 Q Tell us about your injuries.

13 A So I -- my femur was fractured -- it was basically blown apart.
14 I -- I'm missing the whole upper part of my femur. When I was taken,
15 originally I was taken to trauma. They had to put my leg into traction
16 after I did the MRIs and all that stuff. They stabilized me. They put my
17 leg into traction and then I was taken into surgery shortly -- a short time
18 later.

19 During the surgery, the doctor, the surgeon installed a titanium
20 rods into my leg. I had titanium rod from my ball joint of my femur that
21 connects to the -- to the hip over to where the femur is and then a
22 titanium rod all the way down to my knee.

23 Due to the injury, the way bullets come in -- enter people and
24 exit people, the -- the entrance wound of the -- the gunshot was very
25 small. And it actually sealed itself when it went through, so they didn't

1 even have to stitch that. But when it exited the back end of me, it -- it
2 blew out a lot of -- of flesh with it. So I had a huge hole in the back.

3 My gluteus minimus and medius muscles were detached. My
4 hip flexor muscle was detached. And they -- those -- all those things
5 had to be reattached. And I was told that I would probably have to have
6 surgery again due to the hip flexor muscle, due to not having the top of
7 the -- the femur where it normally attaches.

8 Q Let me ask you this: Do you know how close this shot came
9 to an artery?

10 A Very close. I shouldn't even be here.

11 Q So you were describing -- you were describing for us how the
12 muscles were basically taken apart in your leg?

13 A Yeah.

14 Q You had to put titanium in your leg?

15 A Correct.

16 Q After that surgery, did you have to have ongoing care for
17 your -- your leg and your body as -- as a whole?

18 A So with the wound, being that there's a big, gaping hole, I
19 was -- I had a wound vac attached to me for several months. That's
20 where they -- they pack the wound, they shove foam in there. And,
21 basically, it's like a vacuum and it sucks any moisture out of there, trying
22 to keep to infection away as the -- the wound heals from the inside out. I
23 had to have that changed every three days, which, you know, was the
24 worst part for me. That was painful.

25 Q That affect anything about your personal life?

1 A I had major anxiety from that. So whenever they changed my
2 wound vac, I was thinking three days ahead already to that. It --

3 Q What about your ability to help with your family or kids or
4 anything?

5 A So I wasn't allowed to -- to put any weight on my leg. I
6 couldn't walk for two months. So everything I had to do, I was in a
7 wheelchair, not that I did much. I -- I lived in a hospital bed. I had
8 two-story house, lived downstairs, slept by myself in a hospital bed in the
9 dining room.

10 Q Could you lift anything heavy?

11 A No.

12 Q Did you -- did you have a child at the time?

13 A My son was 18 months old, and my wife was four months
14 pregnant.

15 Q Could you even pick up your son?

16 A No.

17 Q Did you have to go through any rehab, even after this
18 two-month period where you couldn't walk?

19 A So for the -- the first two months, I -- I would -- the only times
20 I'd really go out was to go visit the surgeon for follow-up. They sent
21 home PT to me, but it was more just movement of the leg, just to -- to
22 bend it and stuff. I couldn't do any strengthening or anything. It wasn't
23 until end of October that I was allowed to go -- I think my first day was
24 October 31st on Halloween was my first day of actual going to physical
25 therapy. And going in there, I still had the wound vac attached to me.

1 At that point, I was allowed to walk with a walker, no weight on
2 my leg. But I kind of had to hop with my left leg, move the walker up,
3 hop, and kind of move like that. And that's how I started going to PT.

4 Q How long were you in -- in rehab for?

5 A I did almost a full year, three days a week. And I was there for
6 at least two and a half to three, sometimes longer, hours every time I
7 went. I progressed from, obviously, the wheelchair to the walker, and
8 then walker to the crutches. And then I had to walk with a cane. And I
9 was told by my surgeon that -- to expect that I'd be walking with a cane
10 for the rest of my life.

11 And luckily, my physical therapist didn't want that to be part of
12 my life. And he and I worked together and worked hard to get back to
13 where I was. I still have issues with the rod that was placed in my leg, is
14 an inch short. So my leg is an inch shorter, so --

15 Q Do you actually mind standing up for me and walking down
16 the stairs? On your right side it looks like your shoe is -- is a little bit
17 bigger than the other shoe?

18 A Yes.

19 Q What's -- what's that about?

20 A So --

21 THE COURT: Hold on. Can you hear him?

22 MS. BEVERLY: Maybe if you -- I don't know if the jury can
23 see? Can -- can the jury see what we're talking about?

24 UNIDENTIFIED JUROR: Can we stand?

25 MS. BEVERLY: You can stand up.

1 BY MS. BEVERLY:

2 Q We're talking about your right shoe. Is that --

3 A Right. Correct. Right.

4 Q Why is your right shoe bigger than your left shoe?

5 A Due to the metal rod that they placed in my leg, it's an inch
6 short. So now I have to compensate walking with -- having the -- the
7 soles -- they add lengthening on the soles, so that that way it levels me
8 out.

9 Q Okay. Thank you. You can have a -- a seat.

10 How long were you off work for, sir?

11 A This occurred on September 4th. I was out until June of 2016,
12 at which point where I was able to walk around, I was able to go back to
13 work and work at -- work in a -- in plain clothes, working at, like, the front
14 desk of our substation. And we call that light duty.

15 MS. BEVERLY: Your Honor, by stipulation, I move for the
16 admission of State's Exhibit No. 398, which is Officer Robertson's
17 certified medical records.

18 THE COURT: Defense, is that correct? This is by stipulation?
19 No objection?

20 MS. SISOLAK: No objection on behalf of Mr. Turner.

21 MR. PLUMMER: No objection, Your Honor.

22 THE COURT: It will be admitted.

23 [State's Exhibit No. 398 admitted.]

24 MS. BEVERLY: Pass the witness.

25 THE COURT: Defense, any cross-examination?

1 MS. SISOLAK: Officer Robertson, I'm sorry you had to go
2 through this again today. Nothing further.

3 MR. PLUMMER: Yes, Your Honor.

4 **CROSS-EXAMINATION**

5 BY MR. PLUMMER:

6 Q Good afternoon, Officer Robertson.

7 A Good afternoon.

8 Q I just want to ask you a couple of questions about when you
9 opened up the door. When you opened up the door, you saw two
10 people standing outside?

11 A From what I said on the radio, I must have. But from the
12 trauma of the incident, I -- I can't see it in my mind today.

13 Q This happened on September 4th?

14 A Yes.

15 Q And on September 24th, you talked to a Detective Colon?

16 A Yes.

17 Q Told Detective Colon when you opened up the door you were
18 spooked?

19 A I -- I didn't say I was spooked, I don't believe. I think I said
20 that I think we spooked them, being the suspects, as much as they might
21 have scared us.

22 Q Thank you.

23 MR. PLUMMER: No further questions, Your Honor.

24 THE COURT: Any redirect by the State?

25 MS. BEVERLY: No.

1 THE COURT: Can this witness be excused?

2 MS. BEVERLY: If there's not any questions for the jury.

3 THE COURT: Any questions? No? No questions. No hands.
4 Can this witness be excused.

5 MS. BEVERLY: Yes, Your Honor.

6 THE COURT: Thank you. Sir, thank you. You may be
7 excused.

8 THE WITNESS: Thank you, sir.

9 THE COURT: Counsel approach.

10 [Bench conference transcribed as follows.]

11 THE COURT: It's my understanding you don't have any
12 additional witnesses for today?

13 MS. BEVERLY: Correct. I mean, we're moving very -- much
14 faster than I thought.

15 THE COURT: Okay. Yeah.

16 MS. BEVERLY: Yeah.

17 THE COURT: That's fine. So I'm going to do our evening
18 recess and we'll reconvene at 11:00.

19 MS. BEVERLY: Okay.

20 MS. SISOLAK: Thank you, Your Honor.

21 MR. PLUMMER: Thank you, Your Honor.

22 THE COURT: Thank you.

23 [End of bench conference.]

24 THE COURT: Ladies and gentlemen, at this time we're going
25 to take our evening recess.

1 During this recess, it is your duty not to converse among
2 yourselves or with anyone else on any subject connected with the trial or
3 to read, watch, or listen to any report of or commentary on the trial by
4 any person connected with the trial or by any medium of information,
5 including without limitation, newspaper, television, and radio. And you
6 are not to form or express an opinion on any subject connected with this
7 case until it's finally submitted to you.

8 We're going to be in recess until Monday until 11:00.
9 There's -- this is not normally my courtroom. The courtroom I usually
10 use was being refitted with something. And -- and it's my understanding
11 it's available on Monday. It's actually -- and you can ask my marshal,
12 but it's actually on the same floor, but at the other end of the building.

13 What department is that?

14 THE MARSHAL: 11D.

15 THE COURT: Department 17?

16 THE MARSHAL: No. It's 11D.

17 THE COURT: 11D.

18 THE MARSHAL: Department 2.

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THE COURT: So it's Courtroom 11D. So we're going to go reconvene in that courtroom. Don't be -- it's a little -- set up a little different than this courtroom. But that's where we're going to reconvene on Monday. So 11:00, Courtroom 11D. It's on the 11th floor. It's at the other end of the building. All right. I will see you then.

[Jury recessed at 4:21 p.m.]

THE COURT: We'll be in recess.

[Court recessed at 4:22 p.m., until April 23, 2018, at 11:00 a.m.]

///

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.



Shawna Ortega, CET*562