

IN THE NEVADA SUPREME COURT

Electronically Filed  
Jul 21 2021 03:41 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

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**Rickie Slaughter,**

Petitioner-Appellant,

**v.**

**Charles Daniels, et al.,**

Respondents-Appellees.

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On Appeal from the Order Denying Petition  
For Writ of Habeas Corpus (Post-Conviction)  
Eighth Judicial District, Clark County  
(A-20-812949-W | 04C204957)  
Honorable Tierra Jones, District Court Judge

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**Petitioner-Appellant's Appendix to the Opening Brief  
Volume V of XXII**

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Dated July 21, 2021.

Respectfully submitted,

Rene L. Valladares  
Federal Public Defender

/s/ *Jeremy C. Baron*  
Jeremy C. Baron  
Assistant Federal Public Defender

## CERTIFICATE OF SERVICE

I hereby certify that on July 21, 2021, I electronically filed the foregoing with the Clerk of the Nevada Supreme Court by using the appellate electronic filing system.

Participants in the case who are registered users in the appellate electronic filing system will be served by the system and include: Alexander Chen.

I further certify that some of the participants in the case are not registered appellate electronic filing system users. I have mailed the foregoing document by First-Class Mail, postage pre-paid, or have dispatched it to a third party commercial carrier for delivery within three calendar days, to the following person:

Rickie Slaughter NDOC #85902 High Desert State Prison P.O. Box 650 Indian Springs, NV 89070	Erica Berrett Deputy Attorney General Office of the Attorney General 555 E. Washington Ave. Suite 3900 Las Vegas, NV 89101
---	--

/s/ Richard D. Chavez  
An Employee of the  
Federal Public Defender

FILED

JUL 12 12 55 PM '11

CASE NO. C204947  
DEPT. NO. III

STATE OF NEVADA  
CLARK COUNTY  
CLERK OF THE

ORIGINAL

STATE OF NEVADA,

Plaintiff,

vs.

RICKIE LAMONT SLAUGHTER,

Defendant.

CASE NO. C204957

04C204957  
TRANS  
Transcript of Proceedings  
1618443



BEFORE THE HON. DOUGLAS W. HERNDON, DISTRICT JUDGE

MONDAY, MAY 16, 2011

10:46 a.m.

APPEARANCES:

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MICHELLE FLECK, ESQ  
Deputy District Attorney

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Reported by: CHERYL GARDNER, RMR-RPR  
CCR NO. 230

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<p>1</p> <p>2 CASE NO. C204947</p> <p>3 DEPT. NO. III</p> <p>4 STATE OF NEVADA</p> <p>5 CLARK COUNTY, NEVADA</p> <p>6 STATE OF NEVADA, }</p> <p>7 Plaintiff, }</p> <p>8 vs. } CASE NO. C204957</p> <p>9 RICKIE LAMONT SLAUGHTER, }</p> <p>10 Defendant. }</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15 BEFORE THE HON. DOUGLAS W. HERNDON, DISTRICT JUDGE</p> <p>16 MONDAY, MAY 16, 2011</p> <p>17 10:46 a.m.</p> <p>18</p> <p>19 APPEARANCES:</p> <p>20 For the State: MARC DIGIACOMO, ESQ.</p> <p>21 Chief Deputy District</p> <p>22 Attorney</p> <p>23 MICHELLE FLECK, ESQ.</p> <p>24 Deputy District Attorney</p> <p>25 For the Defendant: OSWALD E. FUMO, ESQ.</p> <p>26</p> <p>27 Reported by: CHERYL GARDNER, RMR-RPR</p> <p>28 CCR NO. 230</p>	<p>1 LAS VEGAS, CLARK COUNTY, NV, MONDAY, MAY 16, 2011</p> <p>2 10:46 a.m.</p> <p>3 -oOo-</p> <p>4 THE COURT: Let's go ahead and go on</p> <p>5 the record State versus Rickie Slaughter. He's</p> <p>6 present with his attorney Mr. Fumo. State's</p> <p>7 attorneys are present outside the presence OF the</p> <p>8 jury. Mr. Fumo.</p> <p>9 MR. FUMO: Judge, we had some things</p> <p>10 we wanted to bring up. One is regarding our</p> <p>11 challenge on Kendra Rhines. We had Ms. Rhines was</p> <p>12 nodding her head with one of the other jurors.</p> <p>13 There was a factual dispute. I don't know if the</p> <p>14 Court has video.</p> <p>15 THE COURT: I don't. We run court</p> <p>16 reporter, not recorder. All I can say to that is I</p> <p>17 wasn't looking at her so I never saw one way or the</p> <p>18 other. I do know that during the subsequent</p> <p>19 questioning that issue was raised directly to her</p> <p>20 were you not nodding along with Mr. Doxie so it was</p> <p>21 not just brought up during the argument. It was</p> <p>22 brought up in actual argument.</p> <p>23 MR. DIGIACOMO: She acknowledged that</p> <p>24 she was in fact nodding during that subsequent</p> <p>25 question. You then made a decision on the record</p>

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<p>1 I N D E X</p> <p>2 STATE'S WITNESSES PAGE</p> <p>3 JERMAUN MEANS</p> <p>4 Direct Examination by Mr. DiGiacomo 25</p> <p>5 Cross-Examination by Mr. Fumo 33</p> <p>6 Redirect Examination by Mr. DiGiacomo 34</p> <p>7 Recross-Examination by Mr. Fumo 37</p> <p>8 IVAN YOUNG</p> <p>9 Direct Examination by Ms. Fleck 40</p> <p>10 Cross-Examination by Mr. Fumo 66</p> <p>11 MARION BRADY</p> <p>12 Direct Examination by Mr. DiGiacomo 73</p> <p>13 Cross-Examination by Mr. Fumo 109</p> <p>14 Redirect Examination by Mr. DiGiacomo 114</p> <p>15 Recross-Examination by Mr. Fumo 117</p> <p>16 JENNIFER DENNIS</p> <p>17 Direct Examination by Mr. DiGiacomo 120</p> <p>18 Cross-Examination by Mr. Fumo 135</p> <p>19 JAKE HICKMAN</p> <p>20 Direct Examination by Mr. DiGiacomo 144</p> <p>21 Cross-Examination by Mr. Fumo 149</p> <p>22 RUBEN LUEVANO</p> <p>23 Direct Examination by Mr. DiGiacomo 153</p> <p>24 Cross-Examination by Mr. Fumo 179</p> <p>25</p>	<p>1 when she was released it was a race neutral</p> <p>2 determination.</p> <p>3 THE COURT: Yes. What's the second?</p> <p>4 MR. FUMO: Judge, the second thing --</p> <p>5 I think this one isn't going to be a problem -- but</p> <p>6 we wanted to preclude any mention of confidential</p> <p>7 informant during the State's opening. It's kind of</p> <p>8 a Crawford issue for Mr. Slaughter.</p> <p>9 MR. DIGIACOMO: Judge, the way I was</p> <p>10 going to deal with that the person that</p> <p>11 Mr. Slaughter thinks is the CI I don't think is and</p> <p>12 I in fact don't know the name of the confidential</p> <p>13 informant. Police went to a certain location based</p> <p>14 on information received. I wasn't going to mention</p> <p>15 what the actual CI said.</p> <p>16 THE COURT: Okay.</p> <p>17 MR. FUMO: Additionally, Judge, we</p> <p>18 want to preclude any mention of things found in</p> <p>19 Tiffany Johnson's vehicle. We think it would be</p> <p>20 bad acts. The victims in the case I think stated</p> <p>21 that she saw a .38, a .9 millimeter, a 357 and/or a</p> <p>22 380 and in the car was a .25 and a .22 so</p> <p>23 mentioning those I think would be tantamount to</p> <p>24 bringing in bad acts.</p> <p>25 THE COURT: Just simply somebody was</p>

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1 in possession. The simple presence of a weapon  
2 isn't a bad act I mean unless somehow it's implied  
3 it's a stolen weapon, an unregistered weapon, or an  
4 ex-felon in possession of a firearm. Unless that  
5 is brought in, then mentioning it isn't a bad act.

6 MR. FUMO: We're saying it's not  
7 relevant.

8 MR. DIGIACOMO: I assume there will be  
9 some dispute as to what the nature of the gun is.  
10 The witnesses all describe a black revolver, a .22  
11 caliber that is located in the trunk of the  
12 vehicle. They also describe a small silver some  
13 people call it a 380 but it's in fact a 380 Raven  
14 Arms.

15 The last witness is described as a big  
16 gun or something to that effect but Mr. Slaughter  
17 himself during the course of the crime called it a  
18 Magnum and in the trunk of the vehicle there is a  
19 casing for a 357 Winchester Magnum round so those  
20 are all described by the witnesses and consistent  
21 with the witnesses' description even though there  
22 is no 380 found, the description of 380 comes from  
23 a word that the perpetrator used which they either  
24 may be confusing as the descriptions themselves  
25 match the weapons in the vehicle.

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1 THE COURT: So which are you saying is  
2 irrelevant?

3 MR. FUMO: What they describe is  
4 different than what's found in the car.

5 THE COURT: Well, they described three  
6 guns.

7 MR. FUMO: Just because a gun is  
8 silver or black or a revolver doesn't have any  
9 relevance. All guns are going to be silver or  
10 black or chrome. I don't think it implies anything  
11 to Mr. Slaughter.

12 THE COURT: I think it certainly  
13 will. How much weight the jury gives to it and  
14 whether they think the witness is mistaken about  
15 the caliber of a gun or whatever is a little  
16 different than whether or not finding multiple guns  
17 in the car where multiple guns are described I  
18 think it's certainly relevant for the jury to  
19 describe what way or inference so I'll allow you to  
20 make reference to the guns.

21 (Remarks off the record.)

22 MR. FUMO: Just so we're clear, the  
23 State will not mention the word CI but will just  
24 say information received.

25 THE COURT: Let me ask this. Are you

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1 trying to prohibit the use of the word or the  
2 information that you can't cross-examine about?  
3 There's nothing wrong with saying, look, we  
4 utilized a confidential informant. If they're  
5 saying we're not going to go into the information  
6 you received from anybody, that's the basis of  
7 where your Crawford objection would come in. Using  
8 information but we don't have the ability to talk  
9 or cross-examine that person. When you call  
10 somebody a CI or a witness or a victim or  
11 detective, whatever, it's simply calling somebody a  
12 name I don't think is something that -- it's just  
13 that the information you're more concerned with.

14 MR. FUMO: Thank you, Your Honor.

15 MR. DIGIACOMO: This one works on her  
16 computer.

17 (Whereupon a recess was  
18 taken at 10:52 a.m. and  
19 the proceedings resumed  
20 at 11:03 a.m. in the  
21 presence of the jury.)

22 THE COURT: We will be on the record  
23 in 204957 State of Nevada versus Rickie Slaughter.  
24 Mr. Slaughter is present with his attorney  
25 Mr. Fumo. The State's attorneys are present. Our

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1 jury is present.

2 THE COURT: Good morning, ladies and  
3 gentlemen. I apologize for getting started late  
4 this morning. Technology is great but a lot of  
5 times getting all the computers and screens to  
6 communicate with each other sometimes is at least  
7 beyond my expertise.

8 I can tell you that so we had a little  
9 bit of a problem. At the end of the day whenever  
10 we have delays in getting started whether it's  
11 after recesses, that's all on me. Don't hold it  
12 against the attorneys if we're delayed in getting  
13 started. That's all my fault.

14 Parking was better, yes? As you'll  
15 recall we discussed when I was reading at the  
16 beginning kind of road map information to you and  
17 kind of the preliminary issues to you we talked  
18 about -- so that's the time we are at. The State  
19 will have an opportunity to make their opening  
20 statement, so Mr. DiGiacomo.

21 MR. DIGIACOMO: Thank you, Judge.  
22 June 26, 2004, was Ivan Young's luckiest day of his  
23 life. Now, you kind of heard what the allegations  
24 are in this case. You may think to yourself how is  
25 that humanly possible that it was his luckiest

1 day.

2 Well, he had no idea when he started  
3 working on the cars he paints in his garage for  
4 people who want to have a different paint job on  
5 their vehicle that that day Rickie Slaughter would  
6 fire a single 357 silver tipped Winchester round  
7 into his face and the reason why he's lucky is  
8 because despite the damage that was done to him, he  
9 lived.

10 He lost an eye. He lost his teeth.  
11 He's had a number of reconstructive surgeries on  
12 his face. He remains to have a hairlip and when  
13 you hear Ivan Young talk to you, you're going to  
14 realize he's a very very lucky man. June 26th  
15 started like any other day. That -- house at 2612  
16 Gloryview. It's in a neighborhood that's on Cary  
17 just short of kind of where we are right now.

18 He's working in his garage that -- he  
19 lives in this house with his now wife who was his  
20 wife then. Her name is Jennifer Dennis and his  
21 stepson or her son Aaron Dennis and playing with  
22 Dennis who is about ten years old at the time is  
23 Joey Posada, a nephew of theirs.

24 Right across the street from this  
25 house right here is Kenny Marks' house. Kenny

1 Marks is another guy who deals with cars. He buys  
2 cars. He fixes them up. He sells them. He's  
3 always tinkering with cars, and there is another  
4 guy in the neighborhood you're going to hear of, a  
5 guy by the name of Jeremy McCoy who goes by the  
6 nickname Germ.

7 Ivan Young has no connection to Rickie  
8 Slaughter, doesn't really know Rickie Slaughter,  
9 you'll hear that both Kenny and Germ do and that's  
10 the reason that Rickie Slaughter is in the  
11 neighborhood that day.

12 See, Kenny originally one time sold a  
13 car to Mr. Slaughter and he took the cars off of it  
14 Mr. Slaughter drove off with the car and he had a  
15 number of problems with the car so eventually so  
16 Kenny wouldn't have any problems Kenny buys the car  
17 back from Mr. Slaughter and during that time period  
18 Mr. Slaughter got a ticket for not having insurance  
19 on the car and not having registration on the car  
20 and he wanted to borrow Kenny Marks' registration  
21 and insurance in order to get rid of the ticket and  
22 Kenny didn't like the way Rickie was treating him  
23 so Kenny said no so there's an ongoing dispute in  
24 the neighborhood between Kenny and Rickie that goes  
25 on for a period of time.

1 After Rickie gets the car back to  
2 Kenny he has the car from Germ that he purchases  
3 from Germ. He has that car for a brief period of  
4 time and that car gets impounded and it remains in  
5 the impound for a long period of time and it's  
6 still titled to Jeremy McCoy so eventually Jeremy  
7 goes to get the car and he sells the car to pay off  
8 the impound fees he has and he returns the  
9 remainder of the money to Mr. Slaughter's  
10 girlfriend.

11 Mr. Slaughter returns to the neighbor  
12 and he wants a car from Germ. Germ agrees and he  
13 gets a Lincoln. This day in question Mr. Slaughter  
14 comes in the neighborhood and neither Kenny Marks  
15 or Jeremy McCoy are home and he's hanging out by a  
16 mailbox down in this area when eventually he walks  
17 into Ivan Young's garage with his partner, his  
18 coconspirator, another African-American male. They  
19 engage Mr. Young in a short conversation in this  
20 garage about what he did with cars and eventually  
21 both of them pull out firearms.

22 You'll hear testimony about three  
23 separate firearms in this case, a .22 caliber  
24 revolver black, a small silver semiautomatic  
25 firearm some of which the witnesses may even

1 describe as a 380 but it turns out to be a .25  
2 caliber Raven Arms, and then you're going to hear  
3 what Mr. Slaughter describes as a very big gun, a  
4 Magnum. You will learn that's a 357 firearm.

5 He forces Ivan Young inside with his  
6 partner. They take him inside the house. They tie  
7 up Ivan. They tie up Jennifer. They tie up both  
8 little kids in the house and face the wall. They  
9 put jackets over Ivan and Jennifer's face. They  
10 call from someone from across the street who is  
11 over at Ivan's house to get his pants a guy by the  
12 name of Ryan John who is going out on a date. They  
13 put him on the ground. They tie him up.

14 During the time period they're  
15 captured inside the house and they're ransacking  
16 the house looking for guns, money, anything of  
17 value to take, another friend of Ivan comes to the  
18 door by the name of Jermaun Means. He's knocking  
19 on the door. These two guys as they're coming out  
20 from the crime grab Jermaun, throw him on the  
21 floor.

22 You'll hear during the course of the  
23 crime that Rickie is taunting Ivan Young. Ivan is  
24 begging for his life. He's saying please don't  
25 shoot me, please don't shoot me. You'll hear

1 Slaughter fires the gun directly into his face. It  
2 goes inside his eye, out his mouth, and it -- the  
3 ground.

4 After all six victims have been robbed  
5 the two of them that's where Ivan lay. The  
6 witnesses or the victims in the case get themselves  
7 untied. They contact the police and they give a  
8 description of the perpetrators and the description  
9 of the vehicle that was seen leaving the area.

10 Jennifer has marks on her wrists  
11 consistent with the description provided by her as  
12 to what happened to her including a Lysol can has  
13 been sprayed upon her for fingerprints and she'll  
14 tell you I didn't know you can get a fingerprint  
15 off a body and you'll hear that's actually very  
16 rare that that can happen.

17 Mr. Means is actually a young kid. He  
18 has marks on his wrists consistent as if he was  
19 kidnapped and robbed. John Ryan, he's still  
20 holding the cord in his hand. Little Aaron Dennis  
21 marks on his wrists and Joey Posada with the marks  
22 on his wrist.

23 You will hear that a number of  
24 witnesses in this case see the car that involved  
25 the two perpetrators parked down the street a

1 parking lot? A green Ford Taurus, and based on  
2 that information they get a search warrant for the  
3 Ford Taurus and the apartment. Ivan Young based on  
4 the information from the CI they get a photo lineup  
5 together for Ivan. They take a photo lineup for  
6 him and with one eye in the hospital just two days  
7 after the shooting he identifies Rickie Slaughter  
8 as the person who shot him in the face.

9 They do a search warrant on the room.  
10 When the search warrant is executed on the room,  
11 the SWAT team executes it because of the violent  
12 nature of the crime. The SWAT posted this one room  
13 apartment there's guys on the door. There's guys  
14 in the window. They knock and announce their  
15 search warrant.

16 Mr. Slaughter doesn't come to the  
17 door. Mr. Slaughter as opposed to coming and  
18 opening the door for the police, runs and drives  
19 and hides behind a kitchen counter inside the  
20 apartment and eventually SWAT has to enter and blow  
21 out these windows and take him into custody.

22 They go to Jermaun Means. Mr. Means  
23 identifies Rickie Slaughter as one of the  
24 perpetrators. They go to Ryan John and John  
25 identifies Rickie Slaughter as one of the

1 little bit here. They'll be described to you as a  
2 green Ford, a green Ford Taurus and there may be  
3 some description of one of the witnesses saying  
4 Ford or Grand Am or something to that.

5 You'll hear it's down the street in  
6 this area down here. You'll hear that John Ryan  
7 immediately gets on the phone with his card company  
8 concerning the robbery. They took his ATM card,  
9 told them that they needed the PIN number. They  
10 took his driver's license to identify where he  
11 lived and told him if he didn't give him the right  
12 number, they're going to come back and kill him so  
13 he gave them the number. As soon as the police  
14 arrived he calls his credit card company and finds  
15 out that at 8:00 o'clock his card was utilized at  
16 the 7-Eleven at 305 East Charleston.

17 You'll see the individual that enters  
18 into the location wearing kind of a mask over his  
19 face, a bandana on his head and white tennis shoes,  
20 jean shorts and a white shirt from another angle.  
21 From another angle. The police receive a tip from  
22 a confidential informant and based on that tip they  
23 go down to the apartment complex at 301 East  
24 Charleston, apartment number 114.

25 Who do they find sitting in the

1 perpetrators. They go to Joey Posada, a ten year  
2 old kid was tied up and told to face the wall while  
3 his uncle was shot in the face. That's right. He  
4 picks out Rickie Slaughter.

5 What about that green car? In the  
6 trunk of the car underneath some carpet is an  
7 expended casing and a bullet core. There's also  
8 two more firearms found hidden in the wheel well  
9 underneath the carpet of that car. The forensic is  
10 done. There's your black revolver, .22 caliber.  
11 There's your small cylinder semiautomatic firearm.  
12 And right there that casing, that bullet core and  
13 all these fragments out of the face of Ivan Young  
14 make up a single silver tip Winchester 357 round.

15 Three guns. Four I.D.s and  
16 Mr. Slaughter using that credit card. There will  
17 be no question at the end of this case that he's  
18 guilty. Thank you.

19 THE COURT: Thank you, Mr. DiGiacomo.  
20 Mr. Fumo.

21 MR. FUMO: Thank you, Your Honor.  
22 Ladies and gentlemen of the jury, at the conclusion  
23 of this case I'm going to ask you to find Rickie  
24 Slaughter not guilty not just because they didn't  
25 prove each and every element of the charge beyond a

1 reasonable doubt but because he's factually  
2 innocent of these charges.

3       What happened to Ivan Young on  
4 June 26, 2004, and his family and friend make no  
5 mistake about it, it was a tragedy but  
6 Mr. Slaughter did not do it.

7       One of the witnesses that is going to  
8 come in and testify is a woman named Monique  
9 Westbrook. She will testify to you on June 26,  
10 2004, she called Rickie at about 2:00 p.m. She'll  
11 testify to you that at 2:00 o'clock they scheduled  
12 an appointment to meet together and they got  
13 together about 4:00 o'clock that afternoon.

14       She'll testify that where she lived at  
15 that time was an apartment complex on Bonanza and  
16 Lamb where Ivan Young was shot was by the Fiesta  
17 Casino way past Rancho almost to Lake Mead  
18 approximately ten miles from that location.  
19 Westbrook will testify that she lived in this  
20 apartment. It's called the Vera Johnson Manor  
21 located at -- she'll testify that she and Rickie  
22 were together from 4:00 o'clock that afternoon  
23 until 7:00 p.m. when he left to go pick up his  
24 girlfriend at the time roommate Tiffany Johnson.

25       He left there. He drove from Bonanza

1 and Lamb to Bonanza and Nellis where Tiffany  
2 Johnson worked. Tiffany Johnson will come into  
3 this court. She will testify at the time she  
4 worked there at the Bonanza and -- she was at a  
5 cleaners called El Dorado cleaner. She's going to  
6 tell you she worked from 7:00 in the morning till  
7 7:00 that evening. She's going to testify her car  
8 had problems that day. It had a leaky radiator.  
9 It needed to be fixed. It needed to have water in  
10 it all the time so she brought it home to Rickie  
11 and asked him to look at the car and he brought her  
12 back to her car and she'll tell you the car  
13 couldn't go very far without needing water.

14       She'll tell you that at the time  
15 Rickie had two black eyes. She got off work. He  
16 picked her up somewhere around 7:00. She'll be the  
17 first person to tell you that Rickie Slaughter  
18 isn't the most punctual guy in the world. He  
19 wasn't there at 7:00 o'clock although at the time  
20 she was interviewed she told the detectives that's  
21 the time he picks her up.

22       The detectives tell her she's going to  
23 lose her child. She says pick me up about 7:00  
24 o'clock maybe as late as 7:15 but it was nowhere  
25 near 7:30. There's no way he can drive from the

1 Fiesta Casino all the way to where she worked in  
2 four minutes. It just doesn't possible.

3       The victims in this case -- each one  
4 of them like I said it's a tragedy but each one of  
5 them remembers this case differently. Each one of  
6 them remembers the perpetrators differently. We're  
7 going to bring in a defense expert Gregory Loftus  
8 and he's going to tell you why people feel  
9 compelled to pick someone out of a lineup. The  
10 brain tells you he's in there.

11       Ivan Young testifies he's in his  
12 garage and two black males approach. One of them  
13 was wearing blue jeans and a blue shirt. Another  
14 one of the gentleman has long hair in dreadlocks  
15 but he remembers one of them speaking with a  
16 Jamaica accent, and Tiffany Johnson and Monique  
17 Westbrook will tell you Rickie Slaughter doesn't  
18 speak in a Jamaica accent.

19       Ivan Young told the police the person  
20 with the Jamaican accent is the one who shot him in  
21 the face. He'll tell you they were talking about  
22 going back to Belize. They kept talking about  
23 going back to Belize. Ivan Young paints cars for a  
24 living or did at the time. She said that the  
25 individuals were talking about a green Pontiac

1 during this robbery and the suspects were talking  
2 about Ivan charging too much money to paint that  
3 car.

4       Ryan John I think he testifies that he  
5 couldn't identify either one of them but somebody  
6 had long dreadlocks spoke with a Jamaican accent.  
7 Jermaun Means says he had \$1300 taken from his  
8 person and he remembers one of them wearing a beige  
9 jacket. One of the boys remembers one of them  
10 wearing a tuxedo shirt. Everybody has a different  
11 recollection of what happened.

12       Typically someone who is working off a  
13 criminal case someone in the criminal justice  
14 system and this person says something about a green  
15 Ford. Well, nobody at the scene described a green  
16 Ford. There was one witness who was outside. Her  
17 name is Destiny Wily (phonetic). She writes in her  
18 statement what she saw.

19       MR. DIGIACOMO: Objection, hearsay.

20       MR. FUMO: It's not expected  
21 testimony.

22       THE COURT: Just what's in response to  
23 the hearsay.

24       MR. FUMO: If she's going to testify,  
25 it's what I expect the evidence will show.



1 THE COURT: You're right. You can  
2 continue.  
3 MR. FUMO: That she saw a green  
4 Pontiac Grand Am. Nobody mentions it before that  
5 this person who claims they -- gave permission --  
6 the detective uses that in his affidavit to go  
7 search the home and when they do search Rickie's  
8 home what the State said was a 300 square foot  
9 house. It's midnight, 1:00 o'clock in the  
10 morning. The reason they didn't answer the door  
11 was because they were sleeping. The concussion  
12 grenades went off. The windows were blown off.  
13 The doors were blown off the hinges. Rickie and  
14 Tiffany are in the home. They both separated.  
15 That's when Tiffany tells Detective Prieto 7:00  
16 o'clock. Detective Prieto gets another tip from a  
17 gentleman named Tom Winters and Tom Winters is  
18 going to come in this court. He's going to tell  
19 you --  
20 MR. DiGLACOMO: I object once again.  
21 Tom Winters has no personal knowledge.  
22 MR. FUMO: He's going to testify as to  
23 what he told detective --  
24 THE COURT: I'll overrule the  
25 objection. He said this is what the evidence is

1 Rickie's apartment and look to your left you'll see  
2 a AM/PM the evidence will show which has an ATM  
3 machine. If you go to your right, you have to pass  
4 a Circle K to go to the 7-Eleven. It doesn't make  
5 sense he used that.  
6 Tiffany Johnson will testify she  
7 dropped Rickie off at the apartment. He doesn't  
8 have a car. There was a mile up and back and he  
9 was without a car.  
10 The State brings in this gun expert.  
11 Three witnesses say they saw guns there; a small  
12 black handgun, a silver handgun. All small  
13 handguns are either going to be black or silver.  
14 The guns are fingerprinted. None of Rickie's  
15 fingerprints are on there. None of the bullets  
16 could have been fired from those two guns. What  
17 happened the defense believe so the gun wasn't  
18 fired directly into Ivan Young's face but into the  
19 ground at the -- event ripped off and that's what  
20 went into his face.  
21 The two guns are found to be similar  
22 in nature to what people have seen but all handguns  
23 will either be black or silver and the composition  
24 of the bullets all are made with lead so the bullet  
25 made of lead is also the -- the composition of the

1 going to show. The words of the attorneys aren't  
2 evidence. This is what they expect the evidence to  
3 show.  
4 MR. FUMO: Winters will come into this  
5 court and he'll tell you that he talked to  
6 Detective Prieto and he told them he rents an  
7 apartment to a man name Eric Dawkins. Eric Dawkins  
8 is known by him to drive a green Chevy Malibu.  
9 General Motors makes Chevy. General Motors makes  
10 Pontiac. He's going to tell you that Eric Dawkins  
11 is a tenant known him to do these kind of things  
12 and he speaks with a Jamaican accent but Detective  
13 Prieto with all this information doesn't go down  
14 there and get a search warrant on Eric Dawkins'  
15 home doesn't get a lineup for the victims to  
16 identify by the suspect.  
17 He just -- him on the phone and asks  
18 where were you. Of course he has an alibi. He  
19 says he was with his grandmother. They call. The  
20 grandmother tells them he was with her all the  
21 time. Her name is Christmas, a Jamaican last  
22 name.  
23 Let me stop there. The State told you  
24 that the card was used at a 7-Eleven that was on  
25 Charleston. The 7-Eleven if you were to leave

1 bullet found in Ivan in the hospital was made of  
2 lead and there was a lead fragment found in his  
3 car. That doesn't tell us anything unless you put  
4 the two things together.  
5 So at the end of the case I'm going to  
6 ask you to find him not guilty not because they  
7 didn't prove it beyond a reasonable doubt but  
8 because he's in fact not guilty. There's nothing  
9 at Rickie's house that ties him to the crime. They  
10 find no \$1300. There was no ATM card. There's no  
11 dreadlock wig. There's no blood on any of Rickie's  
12 items of clothes or in his car that you think would  
13 be on a person who had done their car. There is  
14 nothing that physically ties Rickie Slaughter to  
15 what happened here.  
16 THE COURT: Thank you, Mr. Fumo. All  
17 right. The State may call their first witness.  
18 MR. DiGLACOMO: Jermaun Means.  
19  
20 JERMAUN MEANS,  
21 having been first duly sworn to testify to the  
22 truth, the whole truth and nothing but the truth,  
23 was examined and testified as follows:  
24  
25 THE CLERK: You may be seated. Please

1 state and spell your name for the record.  
 2 THE WITNESS: Jermaun Means,  
 3 J-E-R-M-A-U-N, M-E-A-N-S.  
 4 THE COURT: All right.  
 5 Mr. DiGiacomo.  
 6  
 7 DIRECT EXAMINATION  
 8 BY MR. DIGIACOMO:  
 9 Q. Jermaun, how old are you?  
 10 A. 34.  
 11 Q. And I'll direct your attention back to  
 12 June of 2004. Did you know a guy by the name of  
 13 Ivan Young?  
 14 A. Yes.  
 15 Q. How did you know Ivan?  
 16 A. Paints cars.  
 17 Q. And why is it that you know him if he  
 18 paints cars?  
 19 A. He was going --  
 20 Q. What do you do related to cars?  
 21 A. I fix cars and build cars.  
 22 Q. Through who? That's my question.  
 23 How did you first meet Ivan?  
 24 A. Through a car club.  
 25 Q. Were you a member of the car club?

1 Q. And how much were you going to have to  
 2 pay him?  
 3 A. Well, he was doing another car too but  
 4 he was going to paint the rims first to see if the  
 5 color would work but I can't remember exactly how  
 6 much it was. It was like a thousand bucks or  
 7 something.  
 8 Q. Did you bring any money with you over  
 9 to Ivan's house?  
 10 A. Yes.  
 11 Q. And how much did you have with you?  
 12 A. 1500 bucks.  
 13 Q. And how much of that was for Ivan?  
 14 A. About a thousand of it.  
 15 Q. About a thousand of it?  
 16 A. Yes.  
 17 Q. Did you go over by yourself or with  
 18 anybody else?  
 19 A. Me and my girlfriend at the time.  
 20 Q. And what was her name?  
 21 A. Destiny Waft (phonetic).  
 22 Q. Does Destiny live in the state any  
 23 longer?  
 24 A. No.  
 25 Q. When you go over there, what do you

1 A. Yes.  
 2 Q. And was he a member of the car club?  
 3 A. Yes.  
 4 Q. How long do you think you had known  
 5 Ivan before he got shot?  
 6 A. Maybe a couple years maybe, maybe a  
 7 year maybe.  
 8 Q. On June 26th of 2004 did you go over  
 9 to Ivan's house?  
 10 A. Yes.  
 11 Q. And what was the reason for you going  
 12 over to Ivan's house?  
 13 A. To look at some rims that he was  
 14 painting for me.  
 15 Q. So you had asked him to paint some  
 16 rims.  
 17 A. Uh-huh.  
 18 Q. Is that a yes?  
 19 A. Yes.  
 20 Q. She's going to type down everything  
 21 you say. Okay?  
 22 Okay. So you asked him to type some  
 23 rims, I mean paint some rims. And did you have to  
 24 pay him for that?  
 25 A. Yes.

1 do?  
 2 A. I walk to the door.  
 3 Q. And you walk to the door, tell us what  
 4 happened.  
 5 A. I was grabbed by two guys.  
 6 Q. Can you describe the guys at all for  
 7 us.  
 8 A. Two black males.  
 9 Q. Two black males. Anything else you  
 10 remember seven years later about their clothing,  
 11 their hairstyle, anything else like that?  
 12 A. At the time -- well, now?  
 13 Q. Yeah.  
 14 A. I mean I don't remember much of it  
 15 now.  
 16 Q. At the time did you describe them --  
 17 do you remember what your description was at the  
 18 time?  
 19 A. Two black males. It appeared that one  
 20 had I don't know if it was a wig on or a dread wig  
 21 or had dreads. I seen dreads. How about that?  
 22 Q. Do you remember describing it as a  
 23 dreadlock wig back in 2004?  
 24 A. Yes.  
 25 Q. When you get to the door, did you get

1 the chance to knock on the door?  
 2 A. No.  
 3 Q. When you get to the door, tell us what  
 4 happens.  
 5 A. I was grabbed, brought in the house  
 6 and tied up and robbed I guess.  
 7 Q. So you were grabbed. You were brought  
 8 in the house. You were tied up. Do you remember  
 9 what you were tied up with?  
 10 A. No. I think it was speaker wire  
 11 maybe. I'm not sure.  
 12 Q. Some sort of wire. Is that a yes?  
 13 A. Yes.  
 14 Q. And you said you were robbed. How  
 15 were you robbed?  
 16 A. Took everything out of my pockets,  
 17 took my phone, my wallet.  
 18 Q. Did they get the \$1500?  
 19 A. Yeah. That was in my pocket. Yes.  
 20 Q. What about the cellular phone, did  
 21 they do something about the cellular phone?  
 22 A. After later I found out it was broken.  
 23 Q. At the time you didn't realize it was  
 24 being broken but later you found out it was being  
 25 broken.

1 A. Yes.  
 2 Q. After they took that from you, what  
 3 happened to these two individuals?  
 4 A. They left.  
 5 Q. Did you ever hear a shot?  
 6 A. No.  
 7 Q. Did you see anybody else inside this  
 8 house as you were put down on the floor?  
 9 A. I think about three or four people  
 10 tied up.  
 11 Q. Did you recognize where Ivan was?  
 12 A. Next -- I don't know exactly the room  
 13 next to the door where you came in. It was off to  
 14 the side.  
 15 Q. Was there anything about Ivan, was  
 16 there anything about Ivan?  
 17 A. He was laying on the floor bleeding.  
 18 Q. So he was injured before you even came  
 19 into the house?  
 20 A. Yes.  
 21 Q. So these two individuals leave. What  
 22 do you do?  
 23 A. I got up when I finally got my phone  
 24 out of the car, my girlfriend's car, I called  
 25 9-1-1.

1 Q. You know cars pretty well, right?  
 2 A. Yes.  
 3 Q. How about your girlfriend Destiny, how  
 4 well does she know cars?  
 5 A. She had no clue.  
 6 Q. When you called 9-1-1 eventually did  
 7 you talk to a North Las Vegas 9-1-1 operator?  
 8 A. Whoever. I guess, I guess whoever was  
 9 on the phone.  
 10 Q. And did you try to get help for your  
 11 friend Ivan and get the police there?  
 12 A. Yes.  
 13 Q. On Friday did you come down to my  
 14 office and did you listen to the 9-1-1 call that  
 15 you had made?  
 16 A. Yes.  
 17 Q. And did it appear to be your voice  
 18 that you were listening to on that 9-1-1 call?  
 19 A. Yes.  
 20 MR. DIGIACOMO: Judge, I'm having  
 21 marked as State's proposed Exhibit No. 108 which is  
 22 a copy of the 9-1-1 call. I move to admit.  
 23 THE COURT: Any objection?  
 24 MR. FUMO: No objection.  
 25 THE COURT: All right. That will be

1 admitted. Thank you.  
 2 MR. DIGIACOMO: May I publish, Judge?  
 3 THE COURT: Yes. Is it appropriate?  
 4 MR. DIGIACOMO: It is. Thank you.  
 5 (C.D. played.)  
 6 MR. DIGIACOMO:  
 7 Q. The second voice we heard after yours,  
 8 do you know who the woman was that was on the phone  
 9 providing information to the police?  
 10 A. I think it's his wife.  
 11 Q. Ivan's wife?  
 12 A. Yes.  
 13 Q. When these two individuals -- when you  
 14 first get to the door and these two individuals  
 15 grab you and throw you on the ground, did they have  
 16 any weapons?  
 17 A. Yeah.  
 18 Q. Okay. How many -- did both of them  
 19 have weapons?  
 20 A. I'm not sure.  
 21 Q. You're not sure. How many guns do you  
 22 remember seeing?  
 23 A. When they grabbed me just the one.  
 24 Q. What did it look like, do you  
 25 remember? Was it black or silver or anything you

1 can remember about the gun?  
 2 A. I can't, no.  
 3 MR. DiGIACOMO: Judge, I pass the  
 4 witness.  
 5 (Whereupon Mr. DiGiacomo  
 6 concluded this portion of  
 7 his examination at 11:40 a.m.)  
 8 THE COURT: Okay. Mr. Fumo.  
 9  
 10 CROSS-EXAMINATION  
 11 BY MR. FUMO:  
 12 Q. Jermaun, when you got there on that  
 13 day, it was about 7:00 o'clock, correct?  
 14 A. I'm not sure. I don't know. About  
 15 give or take. I don't know.  
 16 Q. It was between 6:45 and 7:00 o'clock  
 17 would you say?  
 18 A. I have no idea on the time.  
 19 Q. Was it after dinner?  
 20 A. Not my dinner, no.  
 21 Q. Was the sun still up?  
 22 A. Well, kind of, not really. I don't --  
 23 Q. Okay. I'm not trying to trick you.  
 24 Do you remember giving a statement to the police?  
 25 A. Yes.

1 Do you recall that sometime after the crime the  
 2 press came to you and showed you a variety of photo  
 3 lineups, a variety of pictures in a photo lineup?  
 4 A. Yes.  
 5 Q. After showing you the pictures in the  
 6 photo lineup, did you have an opportunity to pick  
 7 one of those individuals out?  
 8 A. Yes.  
 9 MR. FUMO: Judge, I'm going to  
 10 object. It's beyond the scope of the cross.  
 11 THE COURT: Overruled.  
 12 MR. DiGIACOMO: Judge, I just had this  
 13 marked. I'm going to have to have it opened,  
 14 though.  
 15 Q. I've just opened what's been  
 16 previously marked as State's proposed Exhibit  
 17 No. 109. I'm going to pull out the contents of  
 18 what we'll eventually mark as 109-A and ask you do  
 19 you recognize that?  
 20 A. The paper, yes.  
 21 Q. And whose writing is on that paper?  
 22 A. Mine I guess, yeah, mine.  
 23 Q. Is that your signature next to a  
 24 picture?  
 25 A. My initials, yes.

1 Q. Do you remember saying that one of the  
 2 persons had a beige suit jacket on?  
 3 A. Yes.  
 4 Q. Do you recall that now?  
 5 A. Vaguely.  
 6 Q. You said that one of them had dreads  
 7 but you said was possibly a wig; is that correct?  
 8 A. Yes.  
 9 Q. Was it a long long wig?  
 10 A. No.  
 11 Q. That's all you can remember?  
 12 A. Yes.  
 13 Q. Your cell phone was taken and \$1500?  
 14 A. Yes.  
 15 MR. FUMO: Thank you. I'll pass the  
 16 witness, Your Honor.  
 17 (Whereupon Mr. Fumo concluded  
 18 this portion of his examination  
 19 at 11:41 a.m.)  
 20 THE COURT: Mr. DiGiacomo.  
 21  
 22 REDIRECT EXAMINATION  
 23 BY MR. DiGIACOMO:  
 24 Q. Mr. Fumo just asked you questions  
 25 about the description of one of the perpetrators.

1 Q. And is that your signature down there  
 2 with the date and time you conducted the photo  
 3 lineup?  
 4 A. Yes.  
 5 Q. Is that the photo lineup where the  
 6 police showed you where you were able to make an  
 7 identification?  
 8 A. Yes.  
 9 MR. DiGIACOMO: Move to admit 109.  
 10 THE COURT: Any objection?  
 11 MR. FUMO: No objection, Your Honor.  
 12 THE COURT: That will be admitted.  
 13 Thank you.  
 14 MR. DiGIACOMO:  
 15 Q. I'll put this on the overhead for  
 16 you. Mr. Means, can you tell me the date and time  
 17 that you did this photographic lineup?  
 18 A. 6/28/04.  
 19 Q. At 12:30 in the day. And then can you  
 20 tell me -- I'll back up just a little bit. Can you  
 21 read what you wrote in the witness comments.  
 22 A. The face just stands out to me.  
 23 Q. Let me back up. Can you point to --  
 24 on that screen if you actually touch that screen,  
 25 can you point to me which photograph stood out to

1 you?  
 2 THE COURT: You can just touch the  
 3 screen and draw on it.  
 4 MR. DiGIACOMO:  
 5 Q. Now, I know it's been seven years  
 6 since you did this photo lineup. Do you think  
 7 you'd have the ability to recognize this person if  
 8 you saw them again?  
 9 A. As far as the picture?  
 10 Q. Well, as far as --  
 11 A. If I seen him right now probably not,  
 12 no.  
 13 Q. That's my question.  
 14 A. No.  
 15 MR. DiGIACOMO: All right. Thank you  
 16 very much. Pass the witness.  
 17 (Whereupon DiGiacomo concluded  
 18 his examination at 11:44 a.m.)  
 19 THE COURT: Mr. Fumo.  
 20  
 21 RECROSS-EXAMINATION  
 22 BY MR. FUMO:  
 23 Q. I'm going to draw your attention to  
 24 the person in No. 1, Mr. Means. Do you see him?  
 25 A. Yes.

1 Young.  
 2 MR. FUMO: May we approach, Your  
 3 Honor?  
 4 THE COURT: Yes.  
 5 (Whereupon, counsel approached  
 6 the bench, and after a  
 7 discussion outside the hearing  
 8 of the court reporter, the  
 9 following proceedings took  
 10 place:)  
 11  
 12 IVAN YOUNG,  
 13 having been first duly sworn to testify to the  
 14 truth, the whole truth and nothing but the truth,  
 15 was examined and testified as follows:  
 16  
 17 THE COURT: All right. Mr. Young, if  
 18 you could state your name and spell it for the  
 19 record if you would, please.  
 20 THE WITNESS: Ivan Young, I-V-A-N,  
 21 Y-O-U-N-G.  
 22 MS. FLECK: Thank you, Your Honor.  
 23 ///  
 24 ///  
 25 ///

1 Q. Do you see he's got a blue background  
 2 there?  
 3 A. Yes.  
 4 Q. There and No. 2, 3, 5, and 6 they also  
 5 have a blue background, correct?  
 6 A. Yes.  
 7 Q. I don't see a blue background behind  
 8 the one you picked, No. 4, do you?  
 9 A. No.  
 10 MR. FUMO: Nothing further. Thank  
 11 you.  
 12 (Whereupon Mr. Fumo concluded  
 13 his examination at 11:44 a.m.)  
 14 THE COURT: Mr. DiGiacomo, anything  
 15 further?  
 16 MR. DiGIACOMO: No, Judge.  
 17 THE COURT: Anything from our jurors?  
 18 All right. Mr. Means, thank you very much for your  
 19 time. You may be excused.  
 20 (Whereupon Jermaun Means was  
 21 excused from the witness stand  
 22 at 11:45 a.m.)  
 23 THE COURT: The State may call their  
 24 next witness.  
 25 MS. FLECK: The State calls Ivan

1 DIRECT EXAMINATION  
 2 BY MS. FLECK:  
 3 Q. Good morning, Mr. Young.  
 4 A. Good morning.  
 5 Q. I'd like to direct your attention back  
 6 to June of 2004. Where were you living at that  
 7 time?  
 8 A. At 2112 Gloryview.  
 9 Q. 2612 Gloryview?  
 10 A. Or 2612 Gloryview.  
 11 Q. I know. It's been a long time. And  
 12 that's in North Las Vegas?  
 13 A. Yes.  
 14 Q. Here in Clark County?  
 15 A. Yes.  
 16 Q. Who did you live at the Gloryview  
 17 address with?  
 18 A. My wife and my kid.  
 19 Q. What's your wife's name?  
 20 A. Jennifer.  
 21 Q. And was Jennifer your wife at the time  
 22 or have you since married her?  
 23 A. We were married.  
 24 Q. And then you said your son. What's  
 25 his name?

1 A. Aaron.  
2 Q. How old is he now?  
3 A. 17.  
4 Q. About ten years old then?  
5 A. Yes.  
6 Q. And the three of you lived at that  
7 house together?  
8 A. Yes.  
9 Q. I want to direct your attention then  
10 specifically to June 26th of 2004. Were you home  
11 that day?  
12 A. Yes.  
13 Q. And into the early evening hours,  
14 where were you?  
15 A. Working in the garage.  
16 Q. What kind of work did you then and do  
17 you now do?  
18 A. Paint cars.  
19 Q. Like remodel the cars?  
20 A. Paint custom cars like low riders,  
21 cars on big wheels, you name it.  
22 Q. Okay. And when you did this work, did  
23 you do it at or on the property of the Gloryview  
24 house?  
25 A. Yes.

1 Q. Where did you do your work?  
2 A. In my garage.  
3 Q. Often times then would you be found in  
4 your garage with the door open and you kind of  
5 tinkering around in the garage?  
6 A. Yes.  
7 MS. FLECK: Judge, may I approach?  
8 THE COURT: Yes.  
9 MS. FLECK:  
10 Q. Mr. Young, I'm showing you what's been  
11 marked as State's proposed Exhibit 1. Do you  
12 recognize what's depicted in this photograph?  
13 A. Yes.  
14 Q. And what is it?  
15 A. My house.  
16 Q. Okay. Is it an overview of 2612  
17 Gloryview?  
18 A. Yes.  
19 Q. This photograph fairly and accurately  
20 depicts the neighborhood and the surrounding area  
21 of your home.  
22 A. Yes.  
23 MS. FLECK: Judge, I move for the  
24 admission of this exhibit.  
25 MR. FUMO: None.

1 THE COURT: Very well. It will be  
2 admitted. Thank you.  
3 MR. FUMO: May I approach just to look  
4 at it?  
5 MS. FLECK: Sorry, I forgot to show  
6 Mr. Fumo.  
7 Q. And now having shown defense counsel  
8 State's proposed 5 through 10, Mr. Young showing  
9 you State's proposed 5 through 10, just flip  
10 through those and generally tell me if you  
11 recognize them. Just flip through the stack.  
12 A. Yes.  
13 Q. And how do you recognize them?  
14 A. That's my house and them were all the  
15 cars I was working on.  
16 Q. And do these photographs fairly and  
17 accurately depict the way your home looked, your  
18 garage looked on June 26th of 2004?  
19 A. Yes.  
20 MS. FLECK: Move for admission of  
21 State's proposed Exhibit 5 through 10.  
22 MR. FUMO: No objection.  
23 THE COURT: Those will be admitted.  
24 Thank you.  
25 MS. FLECK: Thank you, Your Honor.

1 Q. Showing you State's --  
2 THE COURT: If anybody asks you to,  
3 you can just draw on the screen with your finger to  
4 identify things.  
5 MS. FLECK:  
6 Q. -- overview of your home?  
7 A. Yes.  
8 Q. Okay. So early evening then directing  
9 your attention to around 6:30 that evening, were  
10 you out in your garage?  
11 A. Yes.  
12 Q. And what were you doing?  
13 A. Buffing out, working on a blue Monte  
14 Carlo about to buff it out.  
15 Q. When you were working in your garage  
16 that evening, was the garage door open or closed?  
17 A. Open.  
18 Q. And who, if anyone, was home?  
19 A. My wife just got home with my son and  
20 her nephew.  
21 Q. What is her nephew's name?  
22 A. Joey.  
23 Q. When she got home, did she come into  
24 the garage to greet you?  
25 A. No. She went through the front door.

1 When she got home she rolled up and she said she  
2 seen two guys get out of the car and she said, I  
3 think your friends are here.  
4 Q. Okay. Did she direct you then to  
5 where she thought these guys were, your friends?  
6 A. No. She said they were walking out so  
7 I just looked out the garage, you know, looked out  
8 the garage real quick, you know, and then I seen  
9 two guys walking up.  
10 Q. Okay. I'm showing you State's Exhibit  
11 5. Do we see the garage and your front door?  
12 A. Yes.  
13 Q. When you came out then of the garage,  
14 that's obviously the garage you came out of to look  
15 down the street.  
16 A. Yes.  
17 Q. So which way -- do you remember now  
18 which way you looked down the street?  
19 When you came out of the garage, did  
20 you look to the right or left?  
21 A. It would be to my left.  
22 Q. And what did you see?  
23 A. I seen Rickie and some other guy  
24 walking up.  
25 Q. Now, you see two guys coming up. What

1 said yeah, you guys can come look at it or  
2 whatever. We were just talking about painting and  
3 stuff.  
4 Q. Were Jennifer, Aaron, and Joey outside  
5 in the garage with you or had they already gone  
6 inside the house?  
7 A. They were in the house.  
8 Q. Showing you State's Exhibit 6, do you  
9 see the blue Monte Carlo in State's Exhibit 6?  
10 A. Yes.  
11 Q. So did you all go inside the house,  
12 the three of you, you and the two men who  
13 approached?  
14 A. Just me and Rickie.  
15 Q. And again the person that you now know  
16 to be Rickie?  
17 A. Yes.  
18 Q. Can you just draw on the screen  
19 showing the area kind of where inside the garage  
20 you were.  
21 A. I was standing in between this car and  
22 the Monte Carlo and Rickie was over there in the  
23 corner. The other guy was standing out front.  
24 Q. Sorry. I interrupted you. And the  
25 other gentleman that came up with Rickie, where was

1 do they look like?  
2 A. Just black males.  
3 Q. Two black males?  
4 A. Yes.  
5 Q. Did you see whether or not they came  
6 in a car?  
7 A. Yes, they came from a car.  
8 Q. And what kind -- I mean you know cars  
9 pretty well. Did you know what kind of car it was?  
10 A. I believe it was a green Ford -- what  
11 was it? Like Taurus.  
12 Q. Okay. Now, today you say you saw  
13 Rickie coming up. Going back to June 26th of 2004,  
14 did you know one of the two men approaching you to  
15 be Rickie?  
16 A. No.  
17 Q. At that time did you recognize either  
18 of the men that were coming up to you?  
19 A. No.  
20 Q. So tell us what happened once the two  
21 men approached you at your house.  
22 A. Once they approached me at the house,  
23 they were just asking me questions about paint and  
24 stuff and one of them asked me if they could come  
25 in the garage where I had the blue Monte Carlo. I

1 he standing?  
2 A. Pretty much like about right here in  
3 front of the garage.  
4 Q. Okay.  
5 THE COURT: In front of the car that  
6 you drew on.  
7 THE WITNESS: Yeah, in front of the  
8 Cadillac just right in front of the garage. He  
9 wasn't quite in the garage.  
10 MS. FLECK:  
11 Q. We keep saying Rickie or the person  
12 that approached you that day, do you see -- the  
13 person that approached you on the 26th of June that  
14 came inside the garage with you, do you see him  
15 inside the courtroom today?  
16 A. Yes.  
17 Q. Can you please point to him and  
18 describe something he's wearing.  
19 A. Glasses and a suit.  
20 Q. Long hair or short hair?  
21 A. Long.  
22 MS. FLECK: Let the record reflect the  
23 identification of the defendant.  
24 THE COURT: The record will so  
25 reflect.

1 MS. FLECK: Thank you, Your Honor.  
 2 Q. Once you guys were inside the garage,  
 3 what happened?  
 4 A. He was asking me questions about paint  
 5 then he asked me if I had a phone number and I said  
 6 yeah and I turned around 'cause I had some cards  
 7 sitting inside this car right here so when I turned  
 8 around to get the cards, they walked up on me and  
 9 put a gun to my head.  
 10 Q. Did you notice anything about what the  
 11 defendant was wearing that day when he came in the  
 12 garage?  
 13 A. It looked like they were wearing like  
 14 hats and wigs 'cause they kept on talking like in  
 15 Jamaica accents and stuff.  
 16 Q. Now, were both of them talking in a  
 17 Jamaican accent or just one of them?  
 18 A. I believe both of them were.  
 19 Q. I mean how did the accent, what did it  
 20 seem like to you? You say kind of Jamaica.  
 21 A. They were saying they were from Belize  
 22 and stuff.  
 23 Q. So you said that the defendant pulled  
 24 a gun on you. What did the gun look like?  
 25 A. At that point I really don't know

1 and stuff in the house.  
 2 Q. So it was things they found within  
 3 your home not things that you noticed they had with  
 4 them?  
 5 A. Yes.  
 6 Q. Where did you get tied up?  
 7 A. I got tied up in the livingroom.  
 8 Q. Where did your wife Jennifer get tied  
 9 up?  
 10 A. She got tied up in the kitchen.  
 11 Q. How about your son Aaron?  
 12 A. Aaron and Joey got tied up in kind of  
 13 like a loft.  
 14 Q. Could you see where everyone else in  
 15 your family was while you were tied up?  
 16 A. Yes.  
 17 Q. At some point did they block your line  
 18 of sight by putting something over your head?  
 19 A. Yes.  
 20 Q. And when did that happen?  
 21 A. While I was tied up they threw a  
 22 blanket or something over my head.  
 23 Q. At some point did they remove you or  
 24 did you remain in the same spot the entire time?  
 25 A. No. They moved me.

1 'cause they pointed the gun to my head and told me  
 2 to get in the house. At that moment I didn't  
 3 really pay attention to the gun.  
 4 Q. You say "they," did both the defendant  
 5 and the other man that he came in the garage with,  
 6 did they both have weapons?  
 7 A. Yes.  
 8 Q. Did you notice whether or not they  
 9 were wearing gloves at that time?  
 10 A. No.  
 11 Q. Once you got the gun pointed at your  
 12 head, what did you do?  
 13 A. I went into the house like they told  
 14 me to go.  
 15 Q. Once you got inside, your wife, your  
 16 son and your nephew were inside?  
 17 A. Yes.  
 18 Q. Okay. So what happened?  
 19 A. Once we were inside the house, they  
 20 was asking about all kind of things, where's the  
 21 money at, where's the drugs, guns, all that stuff  
 22 and started tying all of us up.  
 23 Q. Did you know what they were using to  
 24 tie you up with?  
 25 A. Just were just cutting cords off TVs

1 Q. How did that occur?  
 2 A. They dragged me into the kitchen.  
 3 Q. Was your head covered by that point?  
 4 A. Yes.  
 5 Q. Once you got into the kitchen, what  
 6 kind of stuff were they asking you for and what  
 7 were they doing to you?  
 8 A. They was asking me all kind of  
 9 different questions, where is the money at, if I  
 10 had guns, just all kind of random questions.  
 11 Q. Were they touching you in any way  
 12 besides tying you up?  
 13 A. No, not really.  
 14 Q. Were they -- did they ever hit you or  
 15 kick you or do anything like that?  
 16 A. Yeah. They were kicking me and stuff  
 17 a little bit like that.  
 18 Q. Okay. And was that in response to  
 19 anything or --  
 20 A. Yeah, just asking me questions, I  
 21 wouldn't tell them nothing so, you know, they would  
 22 kick me or hit me or whatever.  
 23 Q. Before your head got covered, did you  
 24 have an opportunity to get a closer look at the  
 25 weapons that the defendant and the other gentleman



1 brought into the house with them?  
 2 A. Yes.  
 3 Q. How many weapons did you see in total?  
 4 A. Three.  
 5 Q. Did you see one of them with one  
 6 weapon the whole time or were they changing them  
 7 around?  
 8 A. They were changing them around but  
 9 before when I first got tied up, one of them put  
 10 both guns in front of my face.  
 11 Q. Okay. So describe the weapon. You  
 12 said that there were three weapons.  
 13 A. Yeah, one was like a little black  
 14 handgun and one was like a revolver.  
 15 Q. And how about the third?  
 16 A. I'm not quite sure what the third one  
 17 was.  
 18 Q. You said one was black.  
 19 A. Yeah.  
 20 Q. Do you remember what color the second  
 21 one was?  
 22 A. Chrome or nickel plated.  
 23 Q. And then the third gun, bigger or  
 24 smaller than the other two?  
 25 A. About the same.

1 that's going to kill you, did he do anything with  
 2 that weapon?  
 3 A. He just told me to look up at him and  
 4 then that's all I remember. The next thing I heard  
 5 a gunshot and I was laying on the floor.  
 6 Q. And is that the defendant that pointed  
 7 that gun at you?  
 8 A. Yes.  
 9 Q. And then went on to fire it?  
 10 A. Yes.  
 11 Q. Once he fired it, you said that you  
 12 heard it and what's the next thing that you  
 13 remember?  
 14 A. The next thing I remember is hearing  
 15 him trying to get out the house and that's it.  
 16 Q. Do you remember at some point someone  
 17 else besides your family coming into the house?  
 18 A. Yes.  
 19 Q. When did that happen?  
 20 A. I'm not quite sure when that happened  
 21 but I remember my friend was coming over so he  
 22 ended up coming into the house.  
 23 Q. Okay. So sequence of events is a  
 24 little bit foggy as to what happened when?  
 25 A. Right after I got shot.

1 Q. You said that before you got tied up,  
 2 they showed you these weapons. Did they say  
 3 anything to you when they showed you these weapons?  
 4 A. When -- they start confronting me when  
 5 I was tied up. They was like what are you going to  
 6 do now, whatever, you know what I mean. Just  
 7 sticking in front of my face, like, hey, what are  
 8 you going to do. You're tied up. You can't do  
 9 nothing. We got the guns. What can I do when I'm  
 10 tied up.  
 11 Q. Kind of taunting you with the weapons?  
 12 A. Yeah.  
 13 Q. Once you get then drug into the  
 14 kitchen area, what happened?  
 15 A. Once I got drug into the kitchen, I  
 16 remember one of them told me to look up and this is  
 17 the gun that's going to kill you.  
 18 Q. Do you remember what that gun looked  
 19 like?  
 20 A. Yes.  
 21 Q. What did that one look like?  
 22 A. That was the silver or the chrome 380.  
 23 Q. What happened after that?  
 24 A. I blacked out.  
 25 Q. Okay. When he said this is the gun

1 Q. At some point you said that one of  
 2 your friends came over. Who was that?  
 3 A. Jermaun.  
 4 Q. And do you know why he was coming  
 5 over?  
 6 A. Actually I painted some wheels for him  
 7 so I called him earlier to come look at them, make  
 8 sure they were the right color and exactly how he  
 9 wanted them done.  
 10 Q. So you were expecting him to come that  
 11 day?  
 12 A. Yeah.  
 13 Q. You saw him come in or you heard him  
 14 come in?  
 15 A. I heard him come in.  
 16 Q. Once that happened, did you overhear  
 17 the defendant or the other man say anything to him?  
 18 A. Yeah, they asked him for money and  
 19 stuff like that and tied him up.  
 20 Q. So the same kind of questions that he  
 21 was asking you and your family.  
 22 A. Yeah.  
 23 Q. At some point did a second man come  
 24 into the house that you also knew?  
 25 A. Yes.

1 Q. And who was that?  
 2 A. Ryan.  
 3 Q. Do you know his last name?  
 4 A. No.  
 5 Q. How did you know Ryan?  
 6 A. I just knew him 'cause he was my  
 7 neighbor.  
 8 Q. And what happened when he came into  
 9 the house?  
 10 A. They tied him up. I heard them  
 11 kicking him, beating him up and I heard him scream  
 12 one time. I guess they jumped on his head or  
 13 whatever.  
 14 Q. Asking the same kind of questions that  
 15 he'd ask you and Jermaun and the rest of your  
 16 family?  
 17 A. Yeah.  
 18 Q. When you -- after you get shot, you  
 19 said the next thing that you remember is what?  
 20 A. I remember Jermaun coming in and after  
 21 that I really don't remember too much, just really  
 22 waking up inside the ambulance.  
 23 Q. Okay. Do you remember officers and  
 24 members of medical unit coming into the home?  
 25 A. Like in and out, yes.

1 A. Yes.  
 2 Q. That was your right eye?  
 3 A. Yes.  
 4 Q. And how about other parts of your  
 5 face?  
 6 A. I lost like five or, four or five of  
 7 my front teeth so I had to get a bridge done in it.  
 8 Q. Okay. While you were at the hospital,  
 9 do you remember members of Metro or I'm sorry of  
 10 the North Las Vegas Police Department coming to  
 11 talk to you?  
 12 A. Yes.  
 13 Q. And do you remember when that was?  
 14 A. I believe it was Sunday.  
 15 Q. And so right in the, just the  
 16 following day --  
 17 A. Yeah.  
 18 Q. -- that this had happened?  
 19 A. Yeah, like the next day or whatever  
 20 when I woke up the detective was there.  
 21 Q. And did you have an opportunity to  
 22 tell officers or detectives everything that you  
 23 told the jury today about what had happened?  
 24 A. Yeah. He showed me a photo lineup and  
 25 told me to pick out a suspect.

1 Q. It's all kind of foggy?  
 2 A. Yeah, 'cause they asked me questions  
 3 and I just wanted to like go to sleep.  
 4 Q. Okay. So you come to kind of in the  
 5 ambulance and do you remember getting transported  
 6 to a hospital?  
 7 A. Yes.  
 8 Q. And where was that?  
 9 A. UMC.  
 10 Q. While you were at UMC I imagine you  
 11 underwent a number of medical procedures that day  
 12 and then after that.  
 13 A. Yes.  
 14 Q. What happened to you? I mean knowing  
 15 obviously that you were shot, what did you learn  
 16 had happened to you as a result of that shooting?  
 17 A. Losing my right eye.  
 18 Q. Did you learn, you know, that a bullet  
 19 went into your face?  
 20 A. Not at the moment, no.  
 21 Q. But after that what kind of medical  
 22 issues have you had?  
 23 A. I get real bad migraines, I get real  
 24 sharp pains to the right side of my face.  
 25 Q. Okay. You lost your eye?

1 Q. Okay. Now, you say that he showed you  
 2 a photo lineup. Is that the first member of law  
 3 enforcement that you remember coming to talk to  
 4 you?  
 5 A. Yes.  
 6 MS. FLECK: Okay. Judge, may I  
 7 approach.  
 8 THE COURT: Yes.  
 9 MS. FLECK:  
 10 Q. Showing you what's been marked as  
 11 State's proposed Exhibit 111 and 111-A, do you  
 12 recognize this?  
 13 A. Yes.  
 14 Q. How do you recognize it?  
 15 A. That's the photo lineup they showed  
 16 me.  
 17 Q. Okay. Were you able at the time to  
 18 write for yourself?  
 19 A. Not really.  
 20 Q. Okay. So any writing that's on here,  
 21 is that yours or is that the detective's?  
 22 A. The detective's or my wife's, one of  
 23 the two. I couldn't really write 'cause I couldn't  
 24 really see good.  
 25 Q. Okay. But this is the same photo

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1 lineup that you saw on June 28th of 2004?  
 2 A. Yes.  
 3 MS. FLECK: All right. Move for  
 4 admission of State's proposed 111 and 111-A COURT:  
 5 MR. FUMO: May I approach, Your  
 6 Honor?  
 7 THE COURT: Yes.  
 8 MR. FUMO: No objection.  
 9 THE COURT: All right. That will be  
 10 admitted. Thank you.  
 11 MS. FLECK: Permission to publish,  
 12 Judge.  
 13 THE COURT: Yes.  
 14 MS. FLECK:  
 15 Q. State's 111-A. Is this the photo  
 16 lineup that you saw?  
 17 A. Yes.  
 18 Q. Okay. So seeing that over here, we  
 19 see the date of June 28th of 2004 so just a couple  
 20 days after you were shot.  
 21 A. Yes.  
 22 Q. And below it we see some writing  
 23 indicating that this was your identification of the  
 24 suspect but that the, that you were only able to  
 25 initial. Do you remember then that you were able

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1 to draw some initials onto the photo lineup  
 2 indicating who you recognized as the person who  
 3 came into your house but that you weren't able to  
 4 fully make a signature?  
 5 A. Yes.  
 6 Q. Okay. And then who was it, Mr. Young,  
 7 that you recognized as the person who shot you?  
 8 A. Rickie.  
 9 Q. And do you see him in that photo  
 10 lineup?  
 11 A. Yes.  
 12 Q. Can you please circle on the screen  
 13 the person that you indicated. Thank you.  
 14 Now, we kind of see some -- thanks,  
 15 Judge. We kind of see some initials on the  
 16 defendant's face. Were those the initials that you  
 17 used to indicate --  
 18 A. Yes.  
 19 Q. -- who he was. Okay. Thank you.  
 20 Now, Rickie, I'd like to -- I'm  
 21 sorry. Ivan, I'd like to go back to the -- back  
 22 inside the house to the descriptions of some of the  
 23 weapons. You said that the -- when you first saw  
 24 the weapons in the garage --  
 25 A. Yes.

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1 Q. -- remember anything about the kind of  
 2 weapons that you saw in the garage?  
 3 A. I believe one was a 380.  
 4 Q. And what color was that?  
 5 A. I believe it was black.  
 6 Q. Okay. Anything else about the other  
 7 weapons?  
 8 A. I just remember the other two were --  
 9 I just remember there was two black ones and one  
 10 chrome one and one nickel plated one.  
 11 MS. FLECK: Court's indulgence.  
 12 Q. Ivan, do you remember testifying at a  
 13 prior hearing in this case?  
 14 A. Yes.  
 15 MS. FLECK: And I'm showing defense  
 16 counsel page 89 of a prior hearing.  
 17 Q. If you saw a transcript of that  
 18 hearing, may it refresh your memory as to the kind  
 19 of weapons that you saw that day?  
 20 A. Yes.  
 21 MS. FLECK: Okay. Judge, may I  
 22 approach?  
 23 THE COURT: Just for the record,  
 24 what's the date of the transcript?  
 25 MS. FLECK: The hearing was on

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1 September 21st of 2004 and it's page 8. If you can  
 2 just read this portion to yourself. Okay.  
 3 Q. Does that help refresh your memory?  
 4 A. Yes.  
 5 Q. Okay. So you said that there was a  
 6 small gun and was it then that that gun was --  
 7 A. 380.  
 8 Q. -- 380. And what color was that?  
 9 A. I believe it was black.  
 10 Q. Okay. And a revolver or  
 11 semiautomatic?  
 12 A. Revolver.  
 13 Q. Now, that was one weapon. Now, you  
 14 said that there was another that you described as a  
 15 small silver gun.  
 16 A. Yeah.  
 17 Q. Do you know what caliber you thought  
 18 that was?  
 19 A. I'm not quite sure what caliber that  
 20 was.  
 21 Q. Okay. But that was a small silver  
 22 gun?  
 23 A. Yeah.  
 24 Q. And then the third weapon do you  
 25 remember was that was like?

1 A. I believe that was -- there was a  
2 little gun too. I just don't know what caliber  
3 that was.  
4 Q. Okay. And do you remember telling --  
5 or do you remember having an interview with a  
6 detective in this case and where that interview was  
7 recorded?  
8 A. Yes.  
9 Q. And if you saw a transcript of that,  
10 may it refresh your memory as to what the third gun  
11 was like?  
12 A. Yes.  
13 MS. FLECK: I'm showing defense  
14 counsel Mr. Young's prior transcript. Okay.  
15 THE COURT: The date of the interview.  
16 MS. FLECK: Judge, thank you. It was  
17 July 15th of 2004.  
18 Q. If you can just read that to  
19 yourself. Okay. Does that refresh your memory as  
20 to the other weapon?  
21 A. Yes.  
22 Q. And what was that?  
23 A. A .9 millimeter.  
24 Q. And did you think that was bigger or  
25 smaller than the other?

1 Q. What time was the car club meeting?  
2 A. 8:00 o'clock.  
3 Q. So it was prior to the car club  
4 meeting before 8:00?  
5 A. Yeah, it was way before 8:00.  
6 Q. And you testified on direct exam that  
7 you were in the garage at the time these two black  
8 males approached you?  
9 A. Yes.  
10 Q. You saw them walking on the street?  
11 A. Yes.  
12 Q. You don't remember mentioning that  
13 before at any prior hearing?  
14 A. I don't remember.  
15 Q. But you remember today them coming up  
16 the street?  
17 A. Yeah. My wife said I think your  
18 friends are here. My friend just left, you know  
19 what I'm saying. I was trying to figure out who  
20 was it.  
21 Q. You testified previously one of them  
22 was wearing a baseball hat.  
23 A. Yes.  
24 Q. One of them had dreadlocks.  
25 A. Yes.

1 A. Bigger.  
2 Q. Okay. That blue Monte Carlo that we  
3 originally saw in State's Exhibit 5 I believe, 5 or  
4 6 --  
5 A. Yes.  
6 Q. -- who was that?  
7 A. Max.  
8 Q. Who is Max?  
9 A. A friend of mine.  
10 MS. FLECK: Okay. I'll pass the  
11 witness, Judge.  
12 (Whereupon Ms. Fleck concluded  
13 this portion of her examination  
14 at 12:11 p.m.)  
15 THE COURT: Mr. Fumo.  
16  
17 CROSS-EXAMINATION  
18 BY MR. FUMO:  
19 Q. Mr. Young, do you recall what time it  
20 was when this occurred?  
21 A. It was late in the afternoon.  
22 Q. Was it after 6:00 o'clock?  
23 A. I'm saying 5:30, 6:00, somewhere  
24 around there 'cause I know pretty soon I had to go  
25 to my car club meeting.

1 Q. Do you recall saying one of them was  
2 dressed in blue and white?  
3 A. Yes.  
4 Q. Do you recall telling the police  
5 officer the one who shot you definitely spoke with  
6 a Jamaican accent?  
7 A. Yeah, they both did.  
8 Q. And you're positive of that?  
9 A. And they were talking about going to  
10 Belize.  
11 Q. One of them mentioned hating it here  
12 in America.  
13 A. Yes.  
14 Q. Do you remember saying that to the  
15 detectives?  
16 A. Yes.  
17 Q. Do you own guns yourself?  
18 A. Now I do, yes.  
19 Q. But at the time you didn't?  
20 A. No.  
21 Q. But at the time you were making those  
22 statements to the police you knew one was black and  
23 one was silver; is that correct?  
24 A. Yes.  
25 Q. One was a smaller caliber weapon?

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1 A. Yes.  
 2 Q. You're positive the weapon that shot  
 3 you was a 380?  
 4 A. That's what he told me it was.  
 5 Q. You keep mentioning Rickie by name.  
 6 Did you know him at the time?  
 7 A. No.  
 8 Q. When did you learn his name?  
 9 A. A couple days when I was in the  
 10 hospital.  
 11 Q. Did the detectives tell you?  
 12 A. No.  
 13 Q. Who told you?  
 14 A. One of my friends.  
 15 Q. The police while you were in the  
 16 hospital brought you a photo lineup to view.  
 17 A. Yes.  
 18 MR. DIGIACOMO: Is that the actual  
 19 exhibit?  
 20 MR. FUMO: It's not the one you have.  
 21 MR. DIGIACOMO: Let's use the original  
 22 photo.  
 23 MR. FUMO:  
 24 Q. Can you see those six individuals  
 25 clearly?

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1 A. Yes.  
 2 Q. The person in No. 1, you didn't  
 3 recognize him, did you, right?  
 4 A. No.  
 5 Q. You can see his background is kind of  
 6 bluish.  
 7 A. Yes.  
 8 Q. And the person 3, 4, 5 and 6, their  
 9 background is kind of bluish. Can you see that?  
 10 A. Yeah.  
 11 Q. Do you see the person in No. 2, you  
 12 see how that's a little lighter, almost white?  
 13 A. Yeah.  
 14 Q. And that's the person you picked out,  
 15 right?  
 16 A. Correct.  
 17 MR. FUMO: Court's indulgence, Your  
 18 Honor. Pass the witness.  
 19 (Whereupon Mr. Fumo concluded  
 20 his examination at 12:14 p.m.)  
 21 THE COURT: Ms. Fleck.  
 22 MS. FLECK: Court's indulgence.  
 23 Nothing further, Your Honor.  
 24 THE COURT: Anything from our jurors?  
 25 Yes, sir. Approach, please.

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1 (Whereupon, counsel approached  
 2 the bench, and after a  
 3 discussion outside the hearing  
 4 of the court reporter, the  
 5 following proceedings took  
 6 place:)  
 7 THE COURT: A couple questions for  
 8 you, Mr. Young. To begin with, was the green car  
 9 that you mentioned the defendant walked out of  
 10 parked far away or close to your house?  
 11 THE WITNESS: It was about two houses  
 12 away.  
 13 THE COURT: Two houses away.  
 14 THE WITNESS: Yeah.  
 15 THE COURT: Okay. And when you were  
 16 asked earlier about wearing gloves, I think you  
 17 said no. Was it no to wearing gloves or no to  
 18 recalling whether they were wearing gloves?  
 19 THE WITNESS: No to recalling if they  
 20 had gloves on or not.  
 21 THE COURT: You don't recall whether  
 22 or not either were wearing gloves.  
 23 THE WITNESS: No.  
 24 THE COURT: Mr. DiGiacomo, any  
 25 questions?

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1 MR. DIGIACOMO: No.  
 2 THE COURT: Ms. Fleck, any questions  
 3 regarding mine?  
 4 MS. FLECK: No.  
 5 THE COURT: Mr. Fumo.  
 6 MR. FUMO: No, Your Honor.  
 7 THE COURT: Mr. Young, you're excused,  
 8 sir. Thank you very much for your time.  
 9 THE WITNESS: Thank you.  
 10 (Whereupon Ivan Young was  
 11 excused from the witness stand  
 12 at 12:16 p.m.)  
 13 MR. DIGIACOMO: Judge, can we  
 14 approach.  
 15 (Whereupon, counsel approached  
 16 the bench, and after a  
 17 discussion outside the hearing  
 18 of the court reporter, the  
 19 following proceedings took  
 20 place:)  
 21 THE COURT: Go ahead and call your  
 22 next witness. We will get started.  
 23 MR. DIGIACOMO: The State calls Marion  
 24 Brady.  
 25 ///

1 MARION BRADY,  
2 having been first duly sworn to testify to the  
3 truth, the whole truth and nothing but the truth,  
4 was examined and testified as follows:

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

8 THE WITNESS: Marion Brady,  
9 M-A-R-I-O-N, Brady, B-R-A-D-Y.

10  
11 DIRECT EXAMINATION

12 BY MR. DiGIACOMO:

13 Q. Ma'am, how are you employed?

14 A. With the police department, Las Vegas  
15 Police Department.

16 Q. In what capacity?

17 A. I'm a police officer assigned to the  
18 CSI bureau.

19 Q. Does that mean you're a peace officer?

20 A. Yes.

21 Q. But you're also assigned to the CSI  
22 bureau?

23 A. I've been a police officer come July  
24 it will be a 24 years. The last 15 I've been in  
25 the crime scene bureau for North Las Vegas. I

1 victims or all the victims I guess at that  
2 particular time when you arrived?

3 A. Yes.

4 Q. When you first arrived, did you in  
5 fact photograph an individual who was identified to  
6 you as Ivan Young?

7 A. Yes.

8 Q. And where is it that you were able to  
9 photograph Mr. Young?

10 A. I arrived at the scene as they were  
11 getting ready to transport him to the hospital so I  
12 ran in real quick and snapped a couple photos of  
13 him.

14 Q. Showing you what's been marked as  
15 State's proposed Exhibit No. 3 and 4, do you  
16 recognize the person depicted in that photograph?

17 A. Yes.

18 Q. And who is that?

19 A. Mr. Young.

20 MR. DiGIACOMO: Move to admit 3 and 4.

21 THE COURT: Any objection?

22 MR. FUMO: No, Your Honor.

23 THE COURT: That will be admitted.

24 Thank you.

25 ///

1 process the crime scenes.

2 Q. So your duties are to document,  
3 collect evidence, those types of things?

4 A. Correct.

5 Q. In order to do that, do you have  
6 certain training and experience that you've learned  
7 how to properly document and process a crime scene?

8 A. Yes. Other than hundreds of hours of  
9 training, I'm the only person in the State of  
10 Nevada to go to the National Forensic Academy which  
11 is in Knoxville, Tennessee, where the body farm  
12 is. I have my bachelor's in criminal justice. I  
13 am certified by the IAI, International Academy for  
14 Identification, basically like getting your college  
15 degree for CSI.

16 Q. And how many crime scenes do you think  
17 that you've been to in the I don't know 24-year  
18 career?

19 A. Oh, God, well, I usually break them  
20 down by homicides or shootings or suicides and all  
21 that and a thousand.

22 Q. I'm going to direct your attention to  
23 June 26th of 2004. Were you tasked the assignment  
24 of processing not only the crime scene at 2612  
25 Gloryview but also photographing some of the

1 MR. DiGIACOMO:

2 Q. So No. 3 Mr. Young and No. 4 is  
3 without the medical apparatus on his face.

4 A. Yes.

5 Q. Now, after you're able to  
6 photograph Young, did you go about and attempt to  
7 process the crime scene both with documents and  
8 photographs as well as collecting physical items of  
9 the evidence that you located at the scene?

10 A. Correct, yes.

11 Q. I'm going to show you what's been  
12 marked for identification and if you have -- these  
13 are probably already in but I'm going to give them  
14 all to you to make it easier so 5 through 50 and  
15 just briefly flip through those and tell me if  
16 those appear to be the photographs that you took at  
17 the crime scene.

18 A. Yes. These are my photos.

19 Q. And do they truly and accurately and  
20 fairly depict the crime scene as you were there on  
21 June 26th of 2004?

22 A. Yes.

23 MR. DiGIACOMO: Move to admit 5  
24 through 50.

25 MR. FUMO: Can I see.

1 THE COURT: Yeah.  
 2 THE WITNESS: Do you want me to go  
 3 through all of them? I'm starting to get the  
 4 doubles.  
 5 MR. FUMO: No objection, Your Honor.  
 6 THE COURT: Okay. 5 through 50 will  
 7 be admitted. Thank you.  
 8 MR. DIGIACOMO: All right. Ma'am, I'm  
 9 not going to go through every one of these but I'm  
 10 going to ask you when I put a photo up here for the  
 11 record to describe what it is we're looking at, the  
 12 view of what we're looking at and then if there's  
 13 anything of evidentiary value that you see in the  
 14 photograph.  
 15 Q. Okay?  
 16 A. Okay.  
 17 Q. State's Exhibit No. 5. Let me back up  
 18 a little bit. If you touch that screen up there if  
 19 you need to for anything, it will actually write on  
 20 the photograph itself. Okay. Obviously this is  
 21 just a frontal view of the house showing both the  
 22 garage as well as the front door.  
 23 A. Yes, and to show the address numbers.  
 24 Q. The jury's already seen this, but this  
 25 is the interior of the garage which is State's

1 Exhibit No. 7.  
 2 A. Yes. When I first go to a scene, I  
 3 take photos to show how the scene looked when I  
 4 first got there before anybody touches anything or  
 5 anything is moved or anything like that so these  
 6 are my overall photos to show the condition of the  
 7 garage and then of the interior of the house.  
 8 Q. And then after you do these overall  
 9 photos, do you then identify various objects and  
 10 then photograph those objects in place so we know  
 11 where those objects were found?  
 12 A. Correct, yes.  
 13 Q. I'm going to show you State's Exhibit  
 14 No. 11 and then I'm going to zoom in on a portion  
 15 of 11 which is in State's Exhibit No. 12. Is this  
 16 speaker wire, telephone wire, whatever it is, wire  
 17 sitting at a location just inside the front door  
 18 when you arrived?  
 19 A. Yes.  
 20 Q. 13, front entrance?  
 21 A. Yes, front door.  
 22 Q. And then 14.  
 23 A. This is just inside the front door  
 24 looking out to start my photos going all the way  
 25 around in a 360.

1 Q. So this would be the kitchen area or  
 2 the kind of dinette area where the table is and then  
 3 the kitchen's back over to your right?  
 4 A. Yes, right.  
 5 Q. Sitting on the floor here State's  
 6 Exhibit No. 15, what is that?  
 7 A. Clorox spray can.  
 8 Q. It's an aerosol spray can?  
 9 A. Yes.  
 10 Q. State's Exhibit No. 16.  
 11 A. This is going into the livingroom area  
 12 to show the front door and you can still see the  
 13 Clorox can on the right side of the photo.  
 14 Q. And then if you just turn it around,  
 15 State's Exhibit No. 17 goes the opposite  
 16 direction.  
 17 A. Right, correct.  
 18 Q. On the floor there State's Exhibit  
 19 No. 19, what are these items sitting on the ground  
 20 there?  
 21 A. They're cut up cords. They're broken  
 22 cords and just like this pet gate on the ground,  
 23 just like the lamp was knocked over, to show the  
 24 condition of the livingroom area.  
 25 Q. And State's Exhibit No. 21 I guess we

1 do have a close up here. Is there also a broken  
 2 phone sitting there on the floor as well?  
 3 A. Yes.  
 4 Q. Then from the opposite direction,  
 5 State's Exhibit No. 22. This is now a shot from  
 6 the inside of the livingroom toward the kitchen  
 7 area?  
 8 A. Correct, yes.  
 9 Q. Sitting on the floor next to the  
 10 aerosol can, State's Exhibit No. 23, it's a large  
 11 amount of what appeared to be blood?  
 12 A. Yes.  
 13 Q. State's Exhibit No. 25 near the blood  
 14 there appears to be some sort of jacket or  
 15 something as well as more cord and jacket and/or  
 16 blanket back in the kitchen area as well?  
 17 A. Yes.  
 18 Q. State's Exhibit No. 30, do you recall  
 19 generally where in the house State's Exhibit No. 30  
 20 is?  
 21 A. I believe that's the livingroom or not  
 22 the livingroom, the bedroom area.  
 23 Q. The area by a back bedroom?  
 24 A. Yes.  
 25 Q. And is there an item of evidentiary

1 value down here on the bottom?

2 A. There's like a cord, another cord.

3 Q. Now, did you collect all the items of  
4 evidentiary value?

5 Do you collect all the items and take  
6 them to the evidence vault for whatever purposes  
7 they're needed at a later point in time?

8 A. Yes.

9 Q. And prior to collecting them, do you  
10 do anything to mark them in the photographs?

11 A. Yes. Once I get done doing my overall  
12 photos, anything that appears to be evidence is  
13 marked with numbers. If it's something that I  
14 cannot collect, say a bullet hole in a wall or  
15 something, then it's a letter, however it would be  
16 an evidence number so that if you have like say two  
17 Styrofoam cups, one would be 1 and one would be 2  
18 and that way I would know which one was actually in  
19 which room or where they were located at.

20 Q. And that number, the placard that's  
21 sitting on the ground so the jury knows what we're  
22 talking about, State's Exhibit No. 5 for example  
23 that cord that's outside the front door has a  
24 placard that's marked 1.

25 A. Yes.

1 Q. Does that become No. 1 under impound  
2 or is it not associated?

3 A. No. Item No. 1 is my evidence item  
4 No. 1.

5 Q. So each of the items of evidence that  
6 we're going to talk about there should be a  
7 photograph that marks it as to where it is found in  
8 the crime scene?

9 A. Correct.

10 Q. Going back to the photographs, did you  
11 also process certain items for evidentiary value to  
12 see if there would be fingerprints or anything like  
13 that?

14 A. Yes.

15 Q. I'm going to show you what's been  
16 marked as State's proposed Exhibit No. 51 and 52  
17 and just in case maybe I should make sure that  
18 Mr. Fumo has seen these before.

19 State's Exhibit No. 51 and 52, are  
20 those photographs of an item that you processed for  
21 fingerprints?

22 A. Yes.

23 Q. And why is it that you processed --  
24 well, let me ask you this.

25 When you go to a crime scene, do you

1 process the entire crime scene in the sense that

2 you throw powder and spray items all over

3 somebody's house or do you make some sort of  
4 independent decision as to what should or should  
5 not be done?

6 A. I guess I use a little bit

7 discrimination. If somebody breaks into somebody's  
8 house and the only room that looks like it got  
9 ransacked was the master bedroom, I wouldn't throw  
10 it in the garage and laundry room. When I arrive,  
11 I get a little bit of a story so I would go by what  
12 I see at the scene and then I would expand from my  
13 experience this needs to be done, this needs to be  
14 done and this needs to be done.

15 Q. I'm showing you 51 and 52. I'm sorry  
16 if you already answered this. Does this appear to  
17 be an item that you photographed for process?

18 A. Yes.

19 Q. Why did you do that?

20 A. Because I was told the suspects  
21 touched it.

22 Q. When you process it -- let me ask you  
23 this. What method did you use to process this  
24 particular item?

25 A. Fingerprint powder and what we call a

1 wand which is a magnetic wand. It doesn't make as  
2 much of a mess as a regular fiberglass brush.

3 Q. And when you did that, did you get a  
4 result that you felt was important in your  
5 interpretation of the crime scene and your  
6 collection of evidence there?

7 A. Yes. I processed several items for  
8 fingerprints then I kept coming up with this cloth  
9 type pattern and it showed up fairly well on that  
10 credit card thing so I took a photo to show what I  
11 was getting at the scene.

12 MR. DiGIACOMO: So move to admit 51  
13 and 52, Judge.

14 THE COURT: Any objections?

15 MR. FUMO: No.

16 THE COURT: Those will be admitted.  
17 Thank you.

18 MR. DiGIACOMO:

19 Q. So you're saying you found this in  
20 numerous areas in the crime scene or this pattern  
21 in various items of the crime scene and you  
22 photographed one for example for the ladies and  
23 gentlemen of the jury.

24 A. Yes.

25 Q. So I'm going to zoom in here. You



1 said this is some sort of credit card type item.

2 A. Yeah.

3 Q. Okay. And then --

4 A. I don't know what else to call it.

5 THE COURT: I didn't know you can get  
6 Bugs Bunny on your VISA card.

7 MR. DIGIACOMO: Authorized signature.

8 Q. I'll zoom in here. Describe for the  
9 ladies and gentlemen of the jury what it is that  
10 we're looking at on 51.

11 A. If you look at the reason I call it a  
12 cloth pattern is think of cloth. It's  
13 symmetrical. It's like either a wave, you know how  
14 everything is all even like that or if it's saying  
15 like a rubber glove it has little polka dots and  
16 they're all kind of evenly spaced.

17 Fingerprints are totally different.  
18 There's only three patterns in the whole world but  
19 they don't look like this. I mean the shape of  
20 this pattern looks like a finger however -- can I  
21 draw on this?

22 Q. Sure.

23 A. Like for instance say this was one of  
24 the -- like a bullseye like this.

25 THE COURT: Tell the jury, when you

1 say a whirl, you're talking about a fingerprint  
2 pattern, right?

3 THE WITNESS: Three in the whole world  
4 loops, arches, and whirls. That's it. That's all  
5 anybody has. Over a trial I don't know  
6 fingerprints have been compared and nobody, not  
7 even identical twins have the same fingerprint.  
8 They have the same DNA but they do not have the  
9 same fingerprint so you have what they call an arch  
10 which kind of goes like this. Sorry. My pattern's  
11 not doing very well. The whirl which would be  
12 around and around and then what it would do is go  
13 up and out. And then a loop. What a loop does it  
14 loops in one side, goes around and goes right back  
15 out the other side. That's a loop.

16 MR. DIGIACOMO:

17 Q. So let me stop you for just a second.  
18 When you process an item that somebody has  
19 touched -- for example, if I pick up my mouse here  
20 and I do leave a fingerprint because I recognize  
21 that that may not necessarily occur, but if I do,  
22 you process this with your powder. You're going to  
23 see those kind of patterns from my fingers.

24 A. Yes. One of them.

25 Q. Merely because you have ridge patterns

1 does that necessarily mean you make an

2 identification to any particular person?

3 A. No.

4 Q. Let me just stop you and then I'll let  
5 you answer some questions. What kind of problems  
6 do you run into for when even though you know that  
7 I touched the surface that maybe you don't get my  
8 fingerprint off.

9 A. Fingerprints are made up of 99 percent  
10 water 1 percent debris, lotion, grease, chocolate,  
11 whatever you would have on your fingers so when you  
12 touch something, you notice how whenever you would  
13 touch something it looks like your fingerprints  
14 evidence accurate that's all the water is leaving  
15 and then it just leaves behind that little bit of  
16 debris.

17 Depending on someone who really sweats  
18 a lot or it's summertime, then you might leave a  
19 very good print or if you're nervous. If you wash  
20 your hands a lot like I do, you touch stuff, you  
21 don't really leave very many prints because there's  
22 no oils or anything on your fingers to leave  
23 behind.

24 A latent fingerprint is a chance  
25 impression left on a surface and they're very

1 fragile and depending on if they're exposed to  
2 weather or anything they can be removed.

3 Q. Now, you said you didn't find items  
4 that are identified to you what appeared to be  
5 ridge detail but you found this pattern that we're  
6 looking at in State's Exhibit No. 51.

7 What about this particular pattern,  
8 what kind of information could you gather from it?

9 A. The way it is -- now, I don't know if  
10 I can do it with my finger but you can see how it  
11 has all these little like islands. It's kind of  
12 hard for me to touch them in the right place. It  
13 keeps going on the same spot but if you look at  
14 that pattern, you can kind of -- at the very  
15 bottom. I think that other picture is a little  
16 darker. It would probably be better.

17 Q. I'll take it back from the clerk up  
18 here. This is State's Exhibit 52. Let me zoom  
19 out.

20 A. Yeah. So can you see how that has  
21 this pattern on it. It's not quite -- it's not  
22 fingerprint pattern. It's more of a cloth 'cause  
23 you can see where it's just, it's the same little  
24 thing over and over again. They're like little  
25 circles and rings. Kind of like you would have on

1 say a work glove or something like that that have  
2 the little grips or the dishwashing gloves.

3 Q. Now, is this something, a similar  
4 pattern that you've seen at other scenes where the  
5 perpetrators have worn gloves.

6 A. Yes.

7 Q. Okay. Based upon what you found at  
8 the crime scene, is it your opinion that either one  
9 or both of the perpetrators were wearing gloves at  
10 the time of trial?

11 A. A cloth over their hands, yes.

12 Q. Okay. When you say that, why do you  
13 qualify gloves versus a cloth over their hands?

14 A. 'Cause I had one suspect who wore  
15 socks, took his shoes off and put his socks over  
16 his hand then I had his bare footprint.

17 Q. So there's some intermediary over  
18 what's on the hand whether it be socks or gloves?

19 A. Right.

20 Q. Now, in addition did you document the  
21 other victims as well as Ivan but did you document  
22 the other victims as well as the condition that  
23 they were in when you arrived on the scene?

24 A. Yes.

25 Q. I'm showing you what's been marked as

1 State's proposed Exhibits No. 53 through 62 and ask  
2 you if those appear to be photographs of the other  
3 victims that you found at the scene.

4 A. Yes.

5 MR. DIGIACOMO: Move to admit 53  
6 through 62.

7 THE COURT: Any objection?

8 MR. FUMO: No objection.

9 THE COURT: Okay. Those will be  
10 admitted. Thank you.

11 MR. DIGIACOMO:

12 Q. State's Exhibit 53 is a photograph of  
13 Jennifer Dennis.

14 I'll show you State's Exhibit No. 54  
15 which is a closeup. What is it that you're  
16 attempting to document? I don't know if it's going  
17 to come through on the Elmo here.

18 A. There were marks on the wrist of the  
19 victims so they're like -- sorry. I can't get this  
20 to work. But there were marks around their wrists  
21 so the first one I would take is a picture of their  
22 face to show who they are and then a closeup of  
23 their wrist.

24 Q. And is that to establish that they had  
25 marks consistent with ligatures that they were

1 describing being tied up with?

2 A. Yes.

3 Q. I don't want to go through each. In  
4 fact, one of these people State's Exhibit No. 58  
5 Mr. Young, he's in fact holding one of the  
6 ligatures with him as well.

7 A. Correct.

8 Q. You also -- did you photograph two  
9 young boys as well, Aaron Dennis which is State's  
10 Exhibit No. 59, and Joey Posada which is State's  
11 Exhibit No. 61?

12 A. Yes.

13 Q. And each of them all had injuries or  
14 marks consistent with ligature marks on their  
15 arms.

16 A. Yes.

17 MR. DIGIACOMO: Judge, now might be a  
18 good time to break.

19 THE COURT: Okay. Ladies and  
20 gentlemen, we're going to recess at this time.  
21 During this recess, it is your duty not to converse  
22 among yourselves or with anyone else on any subject  
23 connected with the trial or to read, watch or  
24 listen to any report of or commentary on the trial  
25 by any person connected with the trial or by any

1 medium of information, including, without  
2 limitation, newspaper, television, radio, and the  
3 internet, and you are not to form or express an  
4 opinion on any subject connected with this case  
5 until it is finally submitted to you, under  
6 instructions by me.

7 Just leave your clipboards and  
8 notepads in your chairs. It is coming up on 12:45  
9 or a little thereafter so we will start back up at  
10 2:00 o'clock. Okay. Enjoy your lunch. Thank you  
11 very much.

12 (Whereupon, the jury  
13 retired from the courtroom  
14 at 12:43 p.m. and the following  
15 proceedings took place outside  
16 their presence.)

17 THE COURT: Anybody have anything  
18 outside the presence?

19 MR. FUMO: No, Your Honor.

20 THE COURT: State?

21 MR. DIGIACOMO: No, Your Honor.

22 THE COURT: We'll be in recess then.

23 (Whereupon a recess was  
24 taken at 12:44 p.m. and  
25 the proceedings resumed

1 at 2:15 p.m.)  
 2 THE COURT: Do you guys have anything  
 3 outside the presence?  
 4 MR. FUMO: Nothing from the defense.  
 5 THE COURT: The State doesn't have  
 6 anything outside the presence either.  
 7 MR. DiGIACOMO: No, Your Honor.  
 8 THE COURT: Okay.  
 9 (Whereupon the jury  
 10 entered the courtroom  
 11 at 2:17 and the following  
 12 proceedings took place.)  
 13 THE COURT: All right. We will be  
 14 back on the record in 204957, State of Nevada  
 15 versus Rickie Slaughter. He's present with his  
 16 attorney. The district attorneys are present. Our  
 17 jury is present.  
 18 We're going to continue on with the  
 19 State's case in chief with the testimony of  
 20 Ms. Brady. Ms. Brady, I will remind you that  
 21 you're still under oath. Okay?  
 22 THE WITNESS: Yes.  
 23 THE COURT: All right. Mr. DiGiacomo.  
 24 MR. DiGIACOMO:  
 25 Q. Investigator Brady, I believe we left

1 in the bag, is it in the same condition as when you  
 2 impounded it in the evidence vault?  
 3 A. Yes.  
 4 Q. Inside you'd expect to find the cord  
 5 that was outside the front door in your placard  
 6 No. 1. Is 113-A the wire cord that was outside the  
 7 front door?  
 8 A. Yes.  
 9 Q. I'm going to go through each of  
 10 those. I don't believe I asked you to bring the  
 11 aerosol can down. I'll put on the overhead 113-A.  
 12 I didn't bring -- I didn't ask you to bring the  
 13 aerosol can which is item No. 2 so let's move on to  
 14 item No. 3 being once again --  
 15 I guess I didn't move to admit 113 and  
 16 113-A, Judge, did I?  
 17 MR. FUMO: No objection.  
 18 THE COURT: That will be admitted.  
 19 Thank you.  
 20 MR. DiGIACOMO: Okay.  
 21 Q. Now, showing you 114 and 114-A. Once  
 22 again is this the evidence bag associated with your  
 23 item No. 3 which was the black cord located in the  
 24 kitchen?  
 25 A. Yes.

1 off we had gone through some of the photographs so  
 2 at lunch the clerks were kind enough to mark each  
 3 one of our exhibits here so I'd like to go through  
 4 some of these with you. I'm going to show you  
 5 what's been marked as State's proposed Exhibit  
 6 No. 113 and 113-A and let's just start with 113 so  
 7 you can explain to the ladies and gentlemen.  
 8 What exactly is that bag itself? What  
 9 is that?  
 10 A. This is my evidence bag. Any time I  
 11 get evidence depending on how big it is it goes  
 12 either in a lunch bag or it can go in an envelope.  
 13 It's sealed with evidence tape and I put my big  
 14 initials across it. It's got all the information  
 15 where it was collected and everything. For  
 16 instance remember the No. 1 was outside the front  
 17 door so this says black wires located outside near  
 18 front door.  
 19 Q. So that evidence bag prior to -- the  
 20 clerk's cutting it open -- was sealed and it's  
 21 sealed in such a manner if somebody cuts it open  
 22 you'll be able to know that and you'll be able to  
 23 determine if anybody else has gone in there.  
 24 A. Yes.  
 25 Q. Absent the big cut the clerk has put

1 Q. Is the bag in the same or similar  
 2 condition as it was when you entered it into the  
 3 vault except for the cut by the clerks?  
 4 A. Yes.  
 5 Q. And is that the cord you had by  
 6 placard 23?  
 7 A. Yes.  
 8 MR. DiGIACOMO: Move to admit.  
 9 MR. FUMO: No objection.  
 10 THE COURT: Admitted. Thank you.  
 11 MR. DiGIACOMO:  
 12 Q. Showing you what's been marked for  
 13 purposes of identification as State's Exhibit  
 14 proposed No. 115 and 115-A, once again is 115 your  
 15 evidence package?  
 16 A. Yes.  
 17 Q. And does it represent the evidence  
 18 package associated with No. 4 being the black cord?  
 19 A. Yes.  
 20 Q. Is it in the same or similar with the  
 21 exception of the slice on the back from the clerk?  
 22 A. Yes.  
 23 MR. DiGIACOMO: Move to admit 115 and  
 24 115-A.  
 25 MR. FUMO: No objection.

1 THE COURT: Those two will be  
2 admitted. Thank you.  
3 MR. DiGIACOMO:  
4 Q. So the record's clear 115-A is a black  
5 cord that's found inside the residence that's  
6 marked by your placard No. 4.  
7 A. Yes.  
8 Q. Showing you 116 and 116-A. Once again  
9 is 116 the evidence package for your item No. 5?  
10 A. Yes.  
11 Q. And is it in the evidence package with  
12 the exception of the cut from the clerk in  
13 substantially the same or similar condition as when  
14 it was impounded?  
15 A. Yes.  
16 Q. And once again is 116-A another black  
17 cord that was located inside the residence?  
18 A. Yes.  
19 MR. DiGIACOMO: Move to admit 116 and  
20 116-A.  
21 MR. FUMO: No objection.  
22 THE COURT: Those will be admitted as  
23 well. Thank you.  
24 MR. DiGIACOMO:  
25 Q. Showing you 117 and 117-A. Is that

1 117, is that the evidence bag associated with your  
2 placard No. 6 being a black power cord?  
3 A. Yes.  
4 Q. And that 117 the package itself in  
5 substantially the same or similar condition as when  
6 you impounded it in the vault with the exception of  
7 the cut?  
8 A. Yes.  
9 Q. And then what you'd expect to find in  
10 there is what has now been marked as 117-A as a  
11 plug and power cord?  
12 A. Yes.  
13 MR. DiGIACOMO: Move to admit 117 and  
14 117-A.  
15 MR. FUMO: No objection.  
16 THE COURT: They will be admitted.  
17 Thank you.  
18 MR. DiGIACOMO:  
19 Q. 118 and 118-A, once again is 118 the  
20 evidence package or evidence package associated  
21 with placard No. 7 being a black cord and is it in  
22 substantially the same or similar condition with  
23 the exception of what the clerk cut as when you  
24 impounded it into the evidence vault?  
25 A. Yes.

1 Q. And when you opened that you'd expect  
2 to find what is 118-A which is a black kind of  
3 knotted up cord.  
4 A. Yes.  
5 MR. DiGIACOMO: Move to admit 118 and  
6 118-A.  
7 MR. FUMO: No objection.  
8 THE COURT: Admitted. Thank you.  
9 MR. DiGIACOMO:  
10 Q. Showing you State's proposed No. 119  
11 and 119-A. Once again that 119 an evidence package  
12 with your placard No. 8 being a black cord taken  
13 out of the house in substantially the same or  
14 similar condition as when you impounded it in the  
15 vault?  
16 A. Yes.  
17 Q. And is 119-A in fact the black cord  
18 that came out of 119?  
19 A. Correct.  
20 MR. DiGIACOMO: Move to admit 119 and  
21 119-A.  
22 MR. FUMO: No objection.  
23 THE COURT: So admitted. Thank you.  
24 MR. DiGIACOMO:  
25 Q. 120 and 120-A. Is 120 a gray cord

1 which is located inside the house in substantially  
2 the same or similar condition as when it was  
3 impounded into the vault?  
4 A. Yes.  
5 Q. And then 120-A, is that the cord which  
6 was actually taken from inside the house?  
7 A. Yes.  
8 MR. DiGIACOMO: Move to admit 120 and  
9 120-A.  
10 MR. FUMO: No objection.  
11 THE COURT: It's admitted. Thank you.  
12 MR. DiGIACOMO:  
13 Q. 121-A and 121. Is 121 in fact the  
14 evidence bag for your item No. 10 being a white  
15 cord located inside the house and is it in  
16 substantially the same or similar condition as when  
17 you impounded it into the vault?  
18 A. Yes.  
19 Q. And is 121-A the cord itself?  
20 A. Yes.  
21 MR. DiGIACOMO: Move to admit 121 and  
22 121-A.  
23 MR. FUMO: No objection.  
24 THE COURT: Admitted. Thank you.  
25 ///

1 MR. DiGIACOMO:  
2 Q. Lastly is 122 and 122-A, 122 being the  
3 evidence package or placard No. 11 the brown cord  
4 obtained from the hand of John Ryan?  
5 A. Yes.  
6 Q. Is that evidence package in  
7 substantially the same condition as when you  
8 impounded it into the vault?  
9 A. Yes.  
10 Q. And is 121-A in fact the brown cord  
11 itself recovered from Mr. Ryan?  
12 A. Yes.  
13 MR. DiGIACOMO: Move to admit 122 and  
14 122-A.  
15 MR. FUMO: No objection.  
16 THE COURT: Those will be admitted as  
17 well. Thank you.  
18 MR. DiGIACOMO:  
19 Q. At the time you were at the crime  
20 scene, were officers dispatched to the UMC medical  
21 center in order to contact Ivan Young and recover  
22 any physical evidence that might be present during  
23 the medical intervention of Mr. Young?  
24 A. Yes.  
25 Q. Eventually did Officer Bailey come

1 back and provide you certain items that were  
2 recovered from the face of Ivan Young?  
3 A. Yes.  
4 Q. Showing you what's been marked as  
5 State's proposed Exhibit 123 and 123-A, first of  
6 all 123, is that the evidence package of two  
7 fragments collected at the hospital from Mr. Young  
8 which you note to be item 12 in your report, and is  
9 that package in substantially the same or similar  
10 condition as when you impounded it into the vault?  
11 A. Yes, for the Metro stuff.  
12 Q. That's what I'm going to ask you  
13 about. Let's start with -- let's stay with 123,  
14 123 being the evidence envelope. You said as  
15 opposed to the rest of the items that we've talked  
16 about today that the evidence envelope had an  
17 additional seal on it or actually two seals maybe  
18 that you associated with something other than your  
19 evidence vault.  
20 A. Yes.  
21 Q. Do you recognize what the blue seals  
22 are?  
23 A. Yes, that's Metro. Ours are red.  
24 Metro is blue.  
25 Q. And the Metro, does that indicate

1 there has been some sort of forensic testing on the  
2 items that were contained inside 123?  
3 A. Yes. It says LVMPD forensic lab on  
4 the evidence, you know, the evidence tape and then  
5 their chain of custody has been signed by Metro.  
6 Q. So with the exception of the cut by  
7 the clerk as well as the blue evidence seal which  
8 was placed on there by the Las Vegas Metropolitan  
9 Police Department, is this evidence envelope in  
10 substantially the same or similar condition as when  
11 you impounded it?  
12 A. Yes.  
13 Q. Now I'm going to show you what's been  
14 marked as 123-A which appears to be two vials and  
15 ask you if you recognize what's contained inside  
16 those two vials?  
17 A. Yes. These are bullet fragments  
18 obtained at the hospital. They have, you know when  
19 you go to the hospital and they have your name  
20 thing on there and it would make all the labels  
21 with your name printed on it. It's got the name on  
22 here for Mr. Young and these are the fragments that  
23 they got from -- this one's from his clothing and  
24 this one is if his face. It says right on there.  
25 Q. And then you impounded these items

1 after Officer Bailey provided them to you.  
2 A. Yes.  
3 Q. Subsequently it looks like someone  
4 from the Metro forensic lab thereafter did some  
5 sort of analysis of these items.  
6 A. Yes.  
7 MR. DiGIACOMO: Move to admit 123 and  
8 123-A.  
9 MR. FUMO: No objection.  
10 THE COURT: They'll be admitted.  
11 Thank you.  
12 MR. DiGIACOMO:  
13 Q. Now, I'm not going to grab the other  
14 items out now because we have another witness who  
15 will testify to the actual items themselves, but  
16 did there come a point in time when you were  
17 requested to do some forensic testing upon some  
18 firearms that were recovered during the course of  
19 the investigation by a crime scene investigator by  
20 the name of Luevano?  
21 A. Yes.  
22 Q. And how many firearms did you process?  
23 A. Two.  
24 Q. And can you describe to the ladies and  
25 gentlemen of the jury what it is you did to process

1 those firearms.  
 2 A. For firearms what we do is we first  
 3 fume the firearm with Super Glue basically. The  
 4 Super Glue will stick to any parts of a fingerprint  
 5 that might be left on a gun and then after you get  
 6 that Super Glue fuming stuck on there, it's almost  
 7 like a rubber stamp so you can put powder on it and  
 8 try to get it to come off or maybe dye the Super  
 9 Glue and use an alternate light source like a laser  
 10 to make it glow. There were two guns that I  
 11 processed for prints.  
 12 Q. Now, is one of these guns a .22  
 13 caliber black or blue steel revolver?  
 14 A. Yes.  
 15 Q. And was the second firearm a .25  
 16 caliber chrome or silver Raven semiautomatic?  
 17 A. Yes.  
 18 Q. After you fume it and then thereafter  
 19 attempt to lift any fingerprints -- let's start  
 20 with first. Did you find any ridge details like  
 21 you drew for this jury before lunch with the swirls  
 22 and the loops and those types of things?  
 23 A. I found several smudges on the gun and  
 24 I found one little partial fingerprint. I believe  
 25 it was on the magazine. I'd have to refer to my

1 A. Right.  
 2 Q. Now, were these smudges associated  
 3 with actual fingerprints or was it associated with  
 4 cloth patterns like you talked about before or  
 5 could you really tell?  
 6 A. The smudges you couldn't really tell.  
 7 You could just tell it was touched there. I mean  
 8 it was some kind of smudge there. That's the only  
 9 way to put it, I don't know -- a mark.  
 10 Q. You don't know whether or not it was  
 11 with a grove or not a glove or with fingers or not?  
 12 A. Look it.  
 13 Q. You said on the magazine you found one  
 14 tiny piece of ridge detail.  
 15 A. Right.  
 16 Q. Did you try and recover that?  
 17 A. Yes.  
 18 Q. When you do that, after you recover it  
 19 do you make some sort of analysis whether or not  
 20 there's going to be sufficient information to  
 21 compare it against anybody let alone a particular  
 22 person?  
 23 A. It would be like taking this Styrofoam  
 24 cup and instead of having maybe just half of it,  
 25 that's all I got to compare this whole cup to and

1 report. But there was not enough of the finger  
 2 there, the fingerprint to actually compare it to  
 3 somebody.  
 4 Q. So there was some smudges on the gun.  
 5 Now, let me ask you this. Is getting a fingerprint  
 6 from a gun something that routinely can be done or  
 7 is it more difficult with firearms?  
 8 A. Very difficult. A lot of people think  
 9 you can, you know, just take a bullet and get a  
 10 fingerprint off the casing when somebody shoots it,  
 11 but remember, fingerprints are 99 percent water so  
 12 and that 1 percent debris so when you shoot a gun  
 13 that's burning hot so when that casing gets lighted  
 14 up from the powder, you know, hot enough to make  
 15 that bullet shoot out the barrel, that instantly  
 16 cooks the print.  
 17 Sometimes you can get prints off of  
 18 the magazine because it's kind of protected in the  
 19 grip. That way your hand doesn't burn but a lot of  
 20 times fingerprints because of gun powder residue,  
 21 the cleaners that you use to clean guns are, are  
 22 very acidic and it kind of just takes care of  
 23 everything.  
 24 Q. Now, you said there was smudges that  
 25 you found.

1 it's not enough to say it came from this cup or it  
 2 came from that cup or that cup over there.  
 3 Q. So you didn't have sufficient  
 4 information in order to do a comparison to any  
 5 particular person?  
 6 A. No.  
 7 Q. And that was the only print you ever  
 8 found on the gun?  
 9 A. Correct.  
 10 MR. DiGIACOMO: May I have the Court's  
 11 indulgence.  
 12 Q. Ms. Fleck just reminded me, now that  
 13 we're still on kind of the fingerprint, we talked  
 14 about the cloth pattern on the Bugs Bunny card that  
 15 we saw before, the credit card or at least it's  
 16 authorized signature sort of like a credit card.  
 17 Did you also when you processed that  
 18 Clorox can that was found there, your item No. 2,  
 19 when you processed that as well did you also find  
 20 evidence of fingerprints on that cloth pattern as  
 21 well?  
 22 A. Yes. That was taken back to the lab.  
 23 Instead of processing something like that at the  
 24 scene we actually bring that back to the lab and  
 25 process it the same way that I will have the gun

1 and came up with the same thing, the same cloth  
2 type pattern.  
3 MR. DiGIACOMO: Thank you very much.  
4 I pass the witness.  
5 (Whereupon Mr. DiGiacomo  
6 concluded this portion of  
7 his examination at 2:34 p.m.)  
8 THE COURT: Mr. Fumo.  
9 MR. FUMO: Thank you, Your Honor.  
10  
11 CROSS-EXAMINATION  
12 BY MR. FUMO:  
13 Q. Ms. Brady, that cloth type pattern  
14 that you found on the Bugs Bunny credit card, was  
15 it the same cloth card pattern as on the can?  
16 A. It was very similar. You can't really  
17 compare cloth I guess.  
18 Q. You couldn't tell that it was the  
19 exact same cloth that touched the can and touched  
20 the card?  
21 A. Correct. The patterns were similar  
22 but you couldn't say it was exactly the same.  
23 Q. So it has no evidentiary value here.  
24 Both were touched by a cloth is all you can say.  
25 A. Yes.

1 Q. Mr. DiGiacomo went through all the  
2 cords with you, about nine cords, right?  
3 A. Yes.  
4 Q. No prints found on those cords.  
5 A. They were not processed for prints.  
6 Q. You didn't look for the prints on  
7 those.  
8 A. No.  
9 Q. Anything of evidentiary value?  
10 A. A cord is for -- I mean if -- I can  
11 swab them for DNA and probably the only DNA I would  
12 get would be the victim's 'cause they had them on.  
13 Q. Did you swab them for DNA?  
14 A. No.  
15 Q. And you didn't take them for  
16 fingerprints?  
17 A. No.  
18 Q. So we have nothing of evidentiary  
19 value for Mr. Slaughter as to those cords, correct?  
20 A. Correct.  
21 Q. You also went out to the scene and you  
22 took several pictures, right, about 50 pictures  
23 inside the house, outside the house. You took some  
24 on the street, right? You took some -- in the  
25 street do you recall that?

1 A. Yes.  
2 MR. FUMO: If I could show the State  
3 what's been marked as Defendant's A, B, and C.  
4 May I approach the witness, Your  
5 Honor?  
6 THE COURT: Yes.  
7 MR. FUMO:  
8 Q. I show you what's been marked as  
9 defense A, B, and C. Just look at those. Do you  
10 recall taking those pictures?  
11 A. Yes.  
12 Q. Do they appear the same?  
13 A. One's an overall, once medium shot and  
14 once like a closeup.  
15 Q. And they're all the same tire marks?  
16 A. Yes.  
17 Q. Could you tell the jury exactly what  
18 they are.  
19 A. It's an acceleration mark, tire mark.  
20 Q. Was that brought to you by one of the  
21 officers?  
22 A. I believe so.  
23 Q. Do you recall any of the witnesses  
24 pointing those out to you or was it an officer if  
25 you recall?

1 A. I don't recall.  
2 Q. But you recall taking these pictures?  
3 A. Yes.  
4 Q. They appear the same to you as when  
5 you took them?  
6 A. Yeah.  
7 MR. FUMO: Move for the admission.  
8 THE COURT: Any objection?  
9 MR. DiGIACOMO: No.  
10 THE COURT: Those will be admitted.  
11 Thank you.  
12 MR. FUMO: May I show these to the  
13 jury, Your Honor?  
14 THE COURT: Yes, you may.  
15 MR. FUMO:  
16 Q. I show you what's been marked as  
17 Defendant's Exhibit A. You say those were  
18 acceleration marks, correct?  
19 A. Yes.  
20 Q. Did you later compare those to tire  
21 marks on Mr. Slaughter's green Ford Taurus?  
22 A. Nope. I'm not a tire expert. That I  
23 cannot do.  
24 Q. You never compared them to any other  
25 vehicle.

1 You took pictures but you never  
2 compared them to any other vehicle?  
3 A. No.  
4 MR. FUMO: Court's indulgence, Your  
5 Honor.  
6 Q. You said you took fibers or you found  
7 fibers at the house. Did you take any fibers from  
8 that credit card, the Bugs Bunny credit card?  
9 A. I don't --  
10 Q. Did you retrieve any fibers I guess is  
11 my question?  
12 A. No.  
13 Q. So there's no fibers at the house that  
14 you actually took?  
15 A. No.  
16 Q. Just prints on the card?  
17 A. Yes.  
18 MR. FUMO: Pass the witness, Your  
19 Honor. Thank you.  
20 (Whereupon Mr. Fumo concluded  
21 this portion of his examination  
22 at 2:39 p.m.)  
23 THE COURT: Mr. DiGiacomo.  
24 ///  
25 ///

1 REDIRECT EXAMINATION  
2 BY MR. DIGIACOMO:  
3 Q. You said in Defendant's A, B, and C  
4 that you photograph from kind of far away and kind  
5 of medium range and then kind of close up some  
6 acceleration marks. Do you remember just talking  
7 about that?  
8 A. Yes.  
9 Q. Now, one you photographed State's  
10 (sic) Exhibit No. B. What was the purpose in  
11 photographing this particular item?  
12 A. Because it's been so long I can't  
13 exactly remember who pointed that out but they  
14 thought it was significant so I photographed it and  
15 that's all I can do. I can't collect it off the  
16 street.  
17 Q. Right. And that photograph in fact  
18 documents that in fact a tire track or there was an  
19 acceleration mark kind of consistent with somebody  
20 fleeing the scene, correct?  
21 A. Correct.  
22 Q. Okay. Now, there are times you said  
23 when -- you said you're not a tire track  
24 comparison, that's not your expert, correct?  
25 A. Correct.

1 Q. Do you remember testifying to that?  
2 Now, you're aware there are times when  
3 there are very unique identifying -- of a tire  
4 track that an expert can be consulted, correct?  
5 A. Yes.  
6 Q. You've been trained I assume in  
7 documenting when you find very unique tire Treads  
8 the ability to document it so there can be a future  
9 comparison of those tire tracks to a particular  
10 tire, correct?  
11 A. Correct.  
12 Q. Now, did you do that kind of work here  
13 where there are really identifiable marks or are  
14 these just acceleration marks where you're trying  
15 to establish that a vehicle left the scene?  
16 A. Just to establish that someone peeled  
17 out from the scene. There was nothing -- it wasn't  
18 like there was a tire that was rolled through the  
19 mud or dirt that had left a nice stamped look. It  
20 was a spine.  
21 Q. I heard mentioned previously DNA and I  
22 guess seven years later I guess it's a little  
23 different. Seven years later I guess if you had  
24 gone to this crime scene theoretically you said you  
25 couldn't process the cord itself for fingerprints

1 because of the nature of the cord you wouldn't be  
2 able to get anything to compare, correct?  
3 A. Correct. Back in '04 that DNA wasn't  
4 very popular and fingerprint were taken from large  
5 objects, not a little tiny cord which wouldn't hold  
6 much anyway.  
7 Q. Well, you said back popular. Back in  
8 2004 was the science of touch DNA something that  
9 we've heard about in the more recent couple years,  
10 did the North Las Vegas Police Department or  
11 anybody really utilize touch DNA seven years ago?  
12 A. No.  
13 Q. As opposed to the advances in  
14 technology now which allow us to do touch DNA.  
15 A. Right. Touch DNA is recent like the  
16 last year or two. That's it.  
17 Q. Additionally if you're going to do  
18 touch DNA on an item, that item has to be handled  
19 in such a manner as to not affect the DNA, correct?  
20 A. Correct.  
21 Q. And so in 2011 when you recover a  
22 firearm, before you said for fingerprinting you do  
23 the touch DNA, correct?  
24 A. Correct. The firearm would be swabbed  
25 for DNA prior to being processed for fingerprints.



1 Q. And likewise before you put an item in  
2 a plastic bag which has a tendency to destroy DNA,  
3 anything that you might use DNA would be kept  
4 solely in a paper bag?  
5 A. Paper bag and double bag so that you  
6 would have the original bag that you put it and  
7 then you would have an evidence envelope or bag on  
8 the outside so people can touch that and it doesn't  
9 soak in or whatever.  
10 Q. Go through the bag itself?  
11 A. Right.  
12 Q. So those are all advances that have  
13 occurred long since 2004?  
14 A. Yes.  
15 MR. DiGIACOMO: Thank you very much.  
16 Pass the witness.  
17 (Whereupon Mr. DiGiacomo  
18 concluded his examination  
19 at 2:43 p.m.)  
20 THE COURT: Mr. Fumo.  
21  
22 RECROSS-EXAMINATION  
23 BY MR. FUMO:  
24 Q. Ms. Brady, what you're saying you  
25 can't do touch DNA after seven years has passed,

1 matched up to that?  
2 A. Yes.  
3 Q. And did anybody else?  
4 A. The little boy.  
5 Q. One of the children, his son.  
6 A. Yes, on a piece of paper.  
7 Q. Is there any shoe prints that didn't  
8 match up, any design in the blood that didn't match  
9 up with one of the shoes you saw?  
10 A. No.  
11 Q. Back to that tire question, has  
12 anybody ever since 2004 asked you to compare those  
13 photographs to other photographs of other tires?  
14 A. No.  
15 MR. FUMO: Pass the witness, Your  
16 Honor.  
17 (Whereupon Mr. Fumo concluded  
18 his examination at 2:45 p.m.)  
19 THE COURT: Mr. DiGiacomo.  
20 MR. DiGIACOMO: Nothing further.  
21 THE COURT: Anything from our jurors.  
22 No. Ms. Brady, thank you so much for your time. I  
23 appreciate you coming back. You may be excused.  
24 (Whereupon Marion Brady was  
25 excused from the witness stand

1 correct?  
2 A. Since they're in plastic the chances  
3 of obtaining it is slim to none.  
4 Q. Has anybody asked you to do it in the  
5 last two years since it's been available?  
6 A. No.  
7 Q. Mr. DiGiacomo never requested you to  
8 do this touch DNA.  
9 A. No.  
10 Q. None of the detectives on the case.  
11 A. No.  
12 Q. So we don't know.  
13 A. No.  
14 Q. You also took pictures of the pool of  
15 blood, correct?  
16 A. Correct.  
17 Q. And you took pictures, there was a  
18 shoe print in the blood.  
19 A. Yes.  
20 Q. And you took pictures of everyone's  
21 shoes that was in the scene.  
22 A. Yes.  
23 Q. Did any of them match up?  
24 A. Yes.  
25 Q. Was Ivan's shoe one of the ones that

1 at 2:45 p.m.)  
2 THE COURT: State, call your next  
3 witness.  
4 MR. DiGIACOMO: The State calls  
5 Jennifer Dennis.  
6  
7 JENNIFER DENNIS,  
8 having been first duly sworn to testify to the  
9 truth, the whole truth and nothing but the truth,  
10 was examined and testified as follows:  
11  
12 THE CLERK: Please state and spell  
13 your full name for the record.  
14 THE WITNESS: Jennifer Dennis,  
15 J-E-N-N-I-F-E-R, D-E-N-N-I-S.  
16 THE COURT: Mr. DiGiacomo.  
17 MR. DiGIACOMO: Thank you, Judge.  
18  
19 DIRECT EXAMINATION  
20 BY MR. DiGIACOMO:  
21 Q. Ma'am, do you know Ivan Young?  
22 A. Yes.  
23 Q. How do you know Ivan?  
24 A. He's my husband.  
25 Q. How long have you and Ivan been

1 together?  
 2 A. 18 years.  
 3 Q. How long have you been married?  
 4 A. Seven.  
 5 Q. I direct your attention back to  
 6 June 26th of 2004. Were you living with Ivan on  
 7 Gloryview?  
 8 A. Yes.  
 9 Q. And who else was living there with  
 10 you?  
 11 A. Our son Aaron.  
 12 Q. Now, sometime in the early evening  
 13 hours did you -- were you out away from the house  
 14 and coming home to the house?  
 15 A. Yes.  
 16 Q. And do you recall where you were  
 17 coming from?  
 18 A. My sister's.  
 19 Q. Did you have Aaron with you or was  
 20 Aaron already at the house?  
 21 A. I had Aaron and my nephew Joey.  
 22 Q. Is that a nephew?  
 23 A. Uh-huh.  
 24 Q. Is that a yes?  
 25 A. I'm sorry. Yes.

1 Q. There's no uh-huh or huh-uh because  
 2 it's hard to read it later on.  
 3 When you came home, did you notice  
 4 anybody outside the area of where your house was?  
 5 A. Yes.  
 6 Q. Could you describe that to the ladies  
 7 and gentlemen of the jury.  
 8 A. I went to check the mail and I noticed  
 9 two black gentlemen parking a vehicle and getting  
 10 out and standing by the mailbox.  
 11 Q. How far down the street was this  
 12 vehicle parked from your house?  
 13 A. Like two houses.  
 14 Q. And where was the mailbox in  
 15 association with your house?  
 16 A. Two houses down.  
 17 Q. Do you remember anything about the  
 18 vehicle that these individuals were driving?  
 19 A. It had to be either a Mercury Topaz or  
 20 maybe a Ford Tempo teal or maybe blue four door.  
 21 Q. Okay. What about the two individuals  
 22 that you saw getting out of this vehicle?  
 23 A. It was just two black men. I didn't  
 24 really pay attention. I didn't make eye contact.  
 25 I didn't even know who they were. I just wanted to

1 check my mail and walk back to the house.  
 2 Q. When you walked back to the house, did  
 3 you have a conversation with Mr. Young?  
 4 A. Yeah. I came into the garage and I  
 5 said I think somebody's here to see you, maybe one  
 6 of your friends, a couple of your friends, and then  
 7 I went into the house.  
 8 Q. Now, inside the house when you first  
 9 went in, it was just you Aaron and Joey.  
 10 A. Yes.  
 11 Q. How long after the house did you next  
 12 see Ivan?  
 13 A. It was just minutes. I went in the  
 14 house, put the dogs outside to go to the bathroom  
 15 and then Ivan came in.  
 16 Q. When Ivan came in, was he alone or did  
 17 he have somebody else with him?  
 18 A. He had two men behind him.  
 19 Q. Were they the same two men that you  
 20 saw outside the house earlier?  
 21 A. Yes.  
 22 Q. Okay. Do you remember anything about  
 23 these two men? You already said they were  
 24 African-American. Anything else you can recall  
 25 specifically about the two of them?

1 A. One had dreads, little short dreads.  
 2 He was dark, and then the other one like a light --  
 3 medium dark. I didn't really get a look at them  
 4 that much 'cause they said not to look at them and  
 5 get on the ground.  
 6 Q. Do you recall at all what either one  
 7 of them were wearing?  
 8 A. I know at the time I did. I want to  
 9 say one was wearing a blue shirt maybe some jeans,  
 10 New Balance shoes.  
 11 Q. New Balance.  
 12 A. I know 'cause I was looking down.  
 13 When they said don't look at me, I noticed the  
 14 shoes.  
 15 Q. You said New Balance. Do you know  
 16 what color they were?  
 17 A. I want to say white. I don't know if  
 18 they had any markings on them. The other one was  
 19 wearing a dark blue -- I can't recall now. I know  
 20 at the time I described what they were wearing.  
 21 Q. In your handwritten statement if you  
 22 wrote one black male from CA -- I'm guessing that's  
 23 California -- blue shirt five ten. Does that sound  
 24 right to you?  
 25 A. I don't know where I would come up

1 with California but that sounds like something I  
 2 would come up with.  
 3 Q. The next one says blue shirt five ten  
 4 190. Does that sound right to you?  
 5 A. Yeah.  
 6 Q. When Ivan came through the door, did  
 7 you hear Ivan say anything?  
 8 A. Yes.  
 9 Q. What did he say?  
 10 A. He told me to get down. Get down,  
 11 babe, and I didn't know what was going on so I just  
 12 was looking and I thought somebody was shooting  
 13 outside or something and then I seen the men with  
 14 the guns and then that's when I got down.  
 15 Q. So you see the men with the guns. How  
 16 many guns do you think you saw?  
 17 A. At that time I don't remember. I want  
 18 to say three.  
 19 Q. And if you described it to the police  
 20 that it was three, does that sound right to you?  
 21 A. Yes.  
 22 Q. Do you remember anything about any of  
 23 the guns specifically that you saw?  
 24 A. Silver, one of them was silver and  
 25 they weren't the kind that you see in the old

1 western movies. They were more like the kind you  
 2 just load at the bottom. The other ones I'm not  
 3 sure, maybe black or grayish, dark gray.  
 4 Q. So now you're down on the ground and  
 5 you hear or what do you hear going on?  
 6 A. I just -- there was a lot of things  
 7 going on. I mean they wanted money and we didn't  
 8 have any money, you know.  
 9 Q. What do you have over your head at  
 10 this point?  
 11 A. At the end is when they had put a coat  
 12 over my head.  
 13 Q. At some point do they spray anything  
 14 or pour anything on you?  
 15 A. Yeah.  
 16 Q. What is that?  
 17 A. They sprayed Lysol.  
 18 Q. Did they say why they were spraying  
 19 Lysol?  
 20 A. To cover up fingerprints which is  
 21 stupid but . . .  
 22 Q. Well, when you say they said they were  
 23 going to cover up fingerprints, do you recall  
 24 whether or not these individuals when you finally  
 25 see them whether they're wearing gloves at that

1 point?  
 2 A. They were wearing gloves.  
 3 Q. Do you remember at all what kind of  
 4 gloves they were wearing?  
 5 A. I know they were dark. I don't know  
 6 what kind or if they were leather or anything like  
 7 that.  
 8 Q. They were dark gloves, not like latex  
 9 gloves or bright yellow.  
 10 A. No. They were actual gloves. They  
 11 weren't like examining gloves.  
 12 Q. So they were like regular gloves that  
 13 someone would wear?  
 14 A. Right, to ride a motorcycle or  
 15 something.  
 16 Q. What did they do with your son and  
 17 Joey?  
 18 Could you see what happened to them?  
 19 A. They -- one of the men took them to  
 20 like our dinette area and had them over there  
 21 separated from us and they were I guess tied them  
 22 up. I really couldn't see 'cause they said not to  
 23 look up or anything but I know where they were  
 24 'cause that's where they were when they came.  
 25 Q. Do you recall any interaction between

1 either of these men and your husband or what  
 2 they're saying to your husband?  
 3 A. That he charged too much for a Buick  
 4 or that he -- I don't know what that meant but  
 5 just -- I just remember just -- I couldn't really  
 6 recall what they were saying to him. I know that  
 7 they were, you know, hitting him with a gun.  
 8 Q. They were hitting him. You said that  
 9 they were yelling at him for charging too much for  
 10 something for a car or a statement given or an  
 11 estimate that they had given or something?  
 12 A. Right.  
 13 Q. Do you remember telling the police  
 14 that they indicated they had a Magnum gun and there  
 15 would be a big hole in Ivan?  
 16 Do you remember making that statement  
 17 to the police?  
 18 A. I don't remember it but that sounds  
 19 like something they said.  
 20 Q. It sounds like it was said but you  
 21 don't have a specific memory whether you told the  
 22 police officer that.  
 23 A. Right.  
 24 Q. What about we're going to play a game  
 25 of murder, do you remember that kind of

1 conversation happening between the suspects and  
 2 your husband?  
 3 A. Yeah.  
 4 MR. FUMO: Judge, I'll object. He's  
 5 been leading the last two or three questions.  
 6 THE COURT: I'll sustain the  
 7 objection.  
 8 MR. DIGIACOMO:  
 9 Q. Well, do you remember specifically  
 10 what it is that you told the officer when they  
 11 first arrived on the scene? And if you don't,  
 12 that's fine.  
 13 Do you or do you not specifically  
 14 remember?  
 15 A. I remember something like me saying  
 16 something like that. The reason I remember is  
 17 because I remember my 12 year old nephew and my 10  
 18 year old son screaming no when they said that. I  
 19 remember something like that.  
 20 Q. Was it a fairly emotional situation  
 21 going on inside your house when this was going on?  
 22 Scary?  
 23 A. Oh, yeah.  
 24 Q. Were your children upset?  
 25 A. Oh, yeah.

1 Q. Ivan ultimately gets shot but he must  
 2 be pretty upset prior to the firing of the shot.  
 3 A. Yeah, yes.  
 4 Q. At some point -- let me ask you this.  
 5 When police finally arrived and talked to you, I  
 6 assume you told them as much information as you  
 7 could about what happened inside the house.  
 8 A. Yes.  
 9 Q. And you would have told them the  
 10 truth, right?  
 11 A. Yes.  
 12 Q. You had no reason to lie to them about  
 13 it, right?  
 14 A. No.  
 15 Q. At some point does anybody else come  
 16 over to the house other than your family and your  
 17 nephew that's inside the house?  
 18 A. I can't really remember what order but  
 19 I know one of his friends. I don't really know his  
 20 name but he came over.  
 21 Q. Was he African-American?  
 22 A. He's African-American. I think he  
 23 came over first and then at the time I thought  
 24 Martin but I found out his name is actually Ryan.  
 25 I don't know why I thought his name was Martin but

1 he came. He's friends with one of the maybe  
 2 neighbors or I don't know how they're related but I  
 3 know how they came over.  
 4 Q. Is this the Caucasian male that also  
 5 came in?  
 6 A. Yeah.  
 7 Q. So during that period two people came  
 8 to your house and wound up becoming victims of this  
 9 crime also?  
 10 A. Yes.  
 11 Q. Now, was there anything of your  
 12 personal property or your family's personal  
 13 property excluding what Jermaun and John Ryan lost  
 14 but did they ever get anything of yours to take  
 15 guns or money or anything out of your house, was  
 16 there anything missing?  
 17 A. They wore suits, jackets.  
 18 Q. Suits and jackets?  
 19 A. The reason why I know 'cause they  
 20 weren't in the closet after this had happened so  
 21 I'm assuming they took like, you know, gray suits,  
 22 three-piece suit.  
 23 Q. So there was some items missing from  
 24 your house like clothingwise that appeared to have  
 25 been taken sometime during this robbery.

1 A. Right.  
 2 Q. Anything else that you can remember  
 3 that were taken during the crime?  
 4 A. We didn't really have anything. I  
 5 mean they broke my phone. They broke our cell  
 6 phones so I don't really remember them getting  
 7 anything.  
 8 Q. Eventually there comes a point in time  
 9 when Ivan gets shot.  
 10 A. Yes.  
 11 Q. Can you tell me what was said or do  
 12 you recall what was said before Ivan was shot.  
 13 A. He told him to look at the gun, they  
 14 had them on the floor.  
 15 Q. Do you remember what Ivan's response  
 16 was looking at the gun? Was he saying anything?  
 17 A. I don't remember what he said. I just  
 18 know after that I heard a pop.  
 19 Q. And after you heard a pop, what  
 20 happened?  
 21 A. The kids were screaming. I was  
 22 thinking, oh my God, they're going to kill us, you  
 23 know.  
 24 Q. Was your head still undercover at this  
 25 point?

1 A. At that point they had put jackets  
2 over our heads.  
3 Q. Did you hear anyone make any other  
4 statements at that point?  
5 A. No, not that I remember.  
6 Q. How does this thing end?  
7 A. It was all -- I can't really tell  
8 you. All I know is at some point they left. You  
9 know, the kids weren't tied very tight so they got  
10 out and they helped, you know, untie us and stuff  
11 because we were -- I was tied behind my back with  
12 some extension cord or some type of cord that was  
13 cut off something maybe a TV or a fan really super  
14 tight. I couldn't get out and my nephew had to cut  
15 it off with the kitchen knife.  
16 Q. Eventually did the police arrive?  
17 A. The police came.  
18 Q. After taking a statement from you, do  
19 you wind up going down to the hospital?  
20 I want to direct your attention kind  
21 of a couple days farther than that. Did there come  
22 a point in time when there's a clean up crew in  
23 your house to clean up some of the blood and some  
24 of the items in your house?  
25 A. Nobody cleaned it up. I cleaned it

1 up. I had to clean up my husband's blood and  
2 teeth.  
3 Q. During the course of you cleaning up  
4 that blood spot and his teeth, did you find  
5 something that caused you to call the police back,  
6 a bullet strike on the floor?  
7 A. I think. I remember seeing -- yeah, I  
8 don't know if I remember calling them but I know  
9 they came back.  
10 Q. Showing you what's proposed Exhibit  
11 No. 87 and 88. Is that a picture of the inside of  
12 your house after the clean up?  
13 A. Yes.  
14 Q. Okay. And that nick that's in the  
15 floor there that's in those two photographs, was  
16 that there prior to the gunmen coming in and  
17 shooting your husband in the face?  
18 A. No.  
19 Q. Is that in the area right underneath  
20 that big pool of blood that you had to clean up?  
21 A. Yes.  
22 MR. DiGIACOMO: Move to admit Exhibit  
23 87 and 88.  
24 MR. FUMO: No objection.  
25 THE COURT: They will both be

1 admitted. Thank you.  
2 MR. DiGIACOMO: That's it, Judge. I  
3 pass the witness.  
4 (Whereupon Mr. DiGiacomo  
5 concluded his examination  
6 at 3:02 p.m.)  
7 THE COURT: Mr. Fumo.  
8  
9 CROSS-EXAMINATION  
10 BY MR. FUMO:  
11 Q. Jennifer, you lived at 2612 Gloryview  
12 on June 26, 2004.  
13 A. Yes.  
14 Q. Could you tell this jury the major  
15 cross streets out there.  
16 A. Lake Mead and Simmons.  
17 Q. Kind of by the Fiesta Casino.  
18 A. Yes.  
19 Q. Past where that is.  
20 A. By the North Las Vegas airport.  
21 Q. And on that day you said you came back  
22 from your sister's house.  
23 A. Yes.  
24 Q. And you had your son and your nephew  
25 with you.

1 A. Yes.  
2 Q. Do you recall what time it was when  
3 you came back?  
4 A. It was about close to 6:00.  
5 Q. Close to 6:00 o'clock. And then  
6 shortly after those people come in you said to Ivan  
7 there's some guys out there that want to talk to  
8 you.  
9 A. They didn't say they wanted to talk to  
10 him. I just assumed they were coming to talk to  
11 him.  
12 Q. At the time your husband Ivan was  
13 painting cars out of the house?  
14 A. Yes.  
15 Q. His business was called Dub Life  
16 (phonetic).  
17 A. No. He didn't have no business. He  
18 did side work for his friend.  
19 Q. Did he have a partner that he did it  
20 with?  
21 A. No.  
22 Q. It was just a business he did for  
23 himself. People would come to the house and get  
24 estimated.  
25 A. They were friends or people that he

1 knew from the car club.  
 2 Q. Okay. So he painted for a hobby or  
 3 was it a business?  
 4 A. I wouldn't say it was a business  
 5 'cause he didn't really make a lot of money. More  
 6 of a hobby.  
 7 Q. More of a hobby but he charged a  
 8 little bit.  
 9 A. Yes.  
 10 Q. When the car pulled up, you said it  
 11 was blue or teal, right?  
 12 A. Teal or blue, I wouldn't say green.  
 13 Q. You wouldn't say green.  
 14 A. No.  
 15 Q. Did you say that one of the men wore  
 16 blue jeans and a blue shirt?  
 17 A. I really don't remember right now what  
 18 they were wearing, but I'm sure when I wrote it  
 19 down that's exactly what they were wearing at the  
 20 time. Right now I couldn't tell you. I mean it's  
 21 been seven years.  
 22 Q. So what you're saying is at the time  
 23 you wrote the statement your memory is much fresher  
 24 than it is today.  
 25 A. Oh, yes.

1 back?  
 2 A. I don't really recall that. I know  
 3 they sprayed stuff on me.  
 4 Q. You didn't write that in your report  
 5 though?  
 6 A. I could have said it but I don't -- I  
 7 don't -- I didn't write it down.  
 8 Q. Later you gave or you told the police  
 9 what happened, correct?  
 10 A. Yes.  
 11 Q. Do you recall telling them that the  
 12 people were talking about how Ivan charges too  
 13 much? I think you said that on your direct.  
 14 A. Yeah.  
 15 Q. Ivan charges too much was it for a  
 16 Buick?  
 17 A. I don't know if it's anything he did,  
 18 maybe just an estimate.  
 19 Q. Was it a Pontiac he said he charged  
 20 too much for or an estimate he said he had charged  
 21 too much for?  
 22 A. I'm not sure what kind of car.  
 23 Q. Him charging too much for the work he  
 24 does.  
 25 A. Right.

1 MR. FUMO: Your Honor, may I approach.  
 2 THE COURT: Yes.  
 3 MR. FUMO:  
 4 Q. Just go ahead and read that to  
 5 yourself. Do you recognize the signature on the  
 6 bottom?  
 7 A. Yes.  
 8 Q. Is that your signature?  
 9 A. Yes.  
 10 Q. Go ahead and read it to yourself and  
 11 I'll just ask a couple questions. Does that  
 12 refresh your recollection?  
 13 A. Yes.  
 14 Q. So at the time when you wrote the  
 15 statement out, one of them was wearing blue jeans  
 16 and a blue shirt; is that correct?  
 17 A. Yes.  
 18 Q. And the other was wearing blue jeans  
 19 and a red shirt?  
 20 A. Yes, that sounds right.  
 21 Q. I'm sorry.  
 22 A. Yes, that sounds right.  
 23 Q. When Mr. DiGiacomo was asking you  
 24 questions, you said that one of them was talking  
 25 about pouring water or pouring something on your

1 Q. So they were angry at him specifically  
 2 for that.  
 3 A. I don't know if it was for them. I  
 4 just thought it was something they were throwing  
 5 out there.  
 6 Q. Okay. Do you recall either of the two  
 7 people having an accent, Jamaican accent?  
 8 A. Yeah, but then I don't know if it was  
 9 something they were putting on.  
 10 Q. But you do recall.  
 11 A. As far as to disguise their voice or  
 12 if they were just --  
 13 Q. You do recall something like that.  
 14 A. Yes. I recall.  
 15 Q. You said on your direct you recall one  
 16 of them wearing blue or white shoes.  
 17 A. Yes.  
 18 Q. And you recall they were New Balance.  
 19 A. Yes.  
 20 Q. Is that because you have a pair of New  
 21 Balance and you know what the symbol looks like?  
 22 A. Yes.  
 23 Q. After the incident occurred, you were  
 24 taken out of the house, correct? Police came and  
 25 you were removed from the house. You eventually

1 went to the hospital.  
 2 A. Right.  
 3 Q. Before you did that, you said the  
 4 people in the house were covering your head with  
 5 coats?  
 6 A. Yeah.  
 7 Q. And everybody else in the house had  
 8 their head covered with coats?  
 9 A. I don't know. I mean I'm assuming.  
 10 They did mine so . . . .  
 11 Q. Could it be when you said the coats  
 12 were missing from the closet, they used those to  
 13 cover your head with. They didn't bring coats with  
 14 them.  
 15 A. No, because they were different  
 16 coats. They were leather coats.  
 17 Q. So they brought the coats with them?  
 18 A. No. They were my coats.  
 19 Q. Could it be that the police processed  
 20 those coats as evidence after the crime?  
 21 A. I don't know. I don't remember what  
 22 happened.  
 23 Q. When you were at the hospital you were  
 24 with Ivan, and do you recall the detective showing  
 25 you a photo lineup with some individuals in it?

1 earlier, but you testified that the folks that were  
 2 in your home were wearing gloves.  
 3 THE WITNESS: Yes.  
 4 THE COURT: Do you have any idea, any  
 5 recollection as to the material of the gloves?  
 6 THE WITNESS: No.  
 7 THE COURT: Okay. Mr. DiGiacomo, any  
 8 questions based on mine?  
 9 MR. DiGIACOMO: No.  
 10 THE COURT: Mr. Fumo.  
 11 MR. FUMO: No. Thank you, Your Honor.  
 12 THE COURT: All right. Now you are  
 13 excused. Thank you very much.  
 14 (Whereupon Jennifer Dennis was  
 15 excused from the witness stand  
 16 at 3:14 p.m.)  
 17 THE COURT: The State may call their  
 18 next witness.  
 19 MR. DiGIACOMO: Officer Hickman.  
 20  
 21 JAKE HICKMAN,  
 22 having been first duly sworn to testify to the  
 23 truth, the whole truth and nothing but the truth,  
 24 was examined and testified as follows:  
 25

1 A. Yes.  
 2 Q. You couldn't pick out any of the  
 3 individuals in the photo lineup, could you?  
 4 A. No.  
 5 MR. FUMO: Pass the witness, Your  
 6 Honor.  
 7 THE COURT: Mr. DiGiacomo.  
 8 MR. DiGIACOMO: Nothing.  
 9 THE COURT: Anything from our jurors?  
 10 No. Ms. Dennis, thank you so much for your time.  
 11 UNIDENTIFIED JUROR: I have one  
 12 question.  
 13 THE COURT: Oh, you do. I'm sorry.  
 14 UNIDENTIFIED JUROR: I don't know if  
 15 it can be asked.  
 16 THE COURT: Go ahead and write it  
 17 down. Approach.  
 18 (Whereupon, counsel approached  
 19 the bench, and after a  
 20 discussion outside the hearing  
 21 of the court reporter, the  
 22 following proceedings took  
 23 place:)  
 24 THE COURT: Okay. Quick question for  
 25 you and I think you may have referred to this

1 THE CLERK: Would you please state and  
 2 spell your name for the record.  
 3 THE WITNESS: Jake Hickman, J-A-K-E,  
 4 H-I-C-K-M-A-N.  
 5  
 6 DIRECT EXAMINATION  
 7 BY MR. DiGIACOMO:  
 8 Q. Sir, how are you employed?  
 9 A. With the City of North Las Vegas  
 10 Police Department.  
 11 Q. And how long have you been with the  
 12 City of North Las Vegas?  
 13 A. Just under ten years.  
 14 Q. And back in June of 2004 what was your  
 15 assignment back then?  
 16 A. Patrol officer.  
 17 Q. I direct your attention to June 26th  
 18 of 2004 near 7:00 p.m. at night. Did you have an  
 19 opportunity to respond to an address on Gloryview  
 20 related to the shooting of Ivan Young in his home?  
 21 A. Yes, I did.  
 22 Q. And when you got there -- well, were  
 23 there other officers as well that arrived at the  
 24 scene?  
 25 A. Yes, there was.

1 Q. Can you describe for us kind of the  
2 situation when you first showed up.  
3 A. I arrived and there was people  
4 standing outside, people at the house. Officer  
5 Hoyt also arrived at about the same time I did, a  
6 little bit after. As I arrived to the house I was  
7 shown to a bedroom in the back where Ivan was  
8 laying on the bed.  
9 Q. Do you remember at that point if Ivan  
10 is making any statement or is he in medical  
11 distress at this point?  
12 A. Basically he was in distress. He was  
13 murmuring and gurgling a little bit but I don't  
14 recall what he was saying.  
15 Q. Once medical is called for Ivan, do  
16 you have an opportunity to interview Jennifer  
17 Dennis as to what happened?  
18 A. Yes.  
19 Q. Could you briefly describe for us what  
20 it is that she informed you.  
21 A. She explained that she had let the  
22 dogs out back and Ivan had came in through the  
23 garage door on the inside of the house and told her  
24 that she needs to lay on the ground and that he  
25 sounds scared. She then described two black males

1 several years ago talking to you?  
2 A. Yes, it will.  
3 Q. If I could ask you to look at page 4  
4 or 5 about the one, two, three, fourth paragraph  
5 down.  
6 MR. FUMO: Could I approach just to  
7 see the report to make sure I've got the same.  
8 THE COURT: Sure.  
9 MR. DiGIACOMO:  
10 Q. If you can read to yourself the  
11 portion that starts with while Dennis was on the  
12 floor.  
13 A. Out loud or to myself?  
14 Q. Just to yourself the first time.  
15 A. Okay. Sure.  
16 Q. Are you ready?  
17 A. Yes.  
18 Q. Do you recall now off the top of your  
19 head or do you have to refer to the report to get  
20 the exact verbiage that Ms. Dennis used?  
21 A. I think I'm good. They told her --  
22 they said out loud to her Ivan or whoever was in  
23 the room she didn't know exactly who -- they were  
24 saying it to someone -- one of the suspects said,  
25 we're going to play a game of murder.

1 entered the house and started yelling and screaming  
2 at them asking her where the money was at. She  
3 didn't have any idea what they were talking about  
4 at the time.  
5 They tied her up on the floor along  
6 with the other children and the people in the  
7 house. As it went on she could hear him yelling at  
8 Ivan asking him questions about money. She  
9 described it. If he didn't answer correctly, they  
10 would get mad and they could hear him hitting or  
11 kicking is what it sounded like Ivan.  
12 MR. FUMO: Judge, I'll object. At  
13 this point it's a narrative.  
14 MR. DiGIACOMO:  
15 Q. When that happened as they're hitting  
16 and kicking Ivan at some point does she describe to  
17 you kind of a taunting situation that the  
18 perpetrators did to Mr. Young while they're trying  
19 to get him to identify the location of his  
20 valuables in the home?  
21 A. Yes. If I can refer to my report.  
22 Q. Do you have that with you up there?  
23 A. Yes, I do.  
24 Q. And would it refresh your recollection  
25 to find out exactly the words that she utilized

1 Q. And after the game of murder, did she  
2 reference any type of gun?  
3 A. Yes, one of the suspects said that he  
4 had a Magnum gun and it would leave a large hole in  
5 his head.  
6 Q. And I don't want to go through kind of  
7 the rest of this but she provided you then the rest  
8 of kind of the story that happened ultimately Ivan  
9 getting shot and the two suspects leaving the  
10 premises, correct?  
11 A. Correct.  
12 Q. If you could just go to the end of  
13 your report, I'm going to ask you questions about  
14 near the end of your report. At some point did you  
15 question Ms. Dennis about why her house might be  
16 targeted or if she had any reason to believe her  
17 house would be targeted?  
18 A. Yes. She stated that she didn't --  
19 that Ivan wasn't into narcotics or drugs per se but  
20 he does paint cars and that's the only reason she  
21 could think of.  
22 Q. And did she indicate to you that one  
23 of the suspects was talking about something related  
24 to his graphics on a car?  
25 A. Yes. She said that Ivan charged him



1 too much.  
 2 Q. The suspect was talking about a  
 3 Pontiac and that Ivan charged too much money for  
 4 it?  
 5 A. Correct.  
 6 MR. DiGIACOMO: Thank you very much,  
 7 Judge. I pass the witness.  
 8 (Whereupon Mr. DiGiacomo  
 9 concluded his examination  
 10 at 3:17 p.m.)  
 11 THE COURT: Mr. Fumo.  
 12  
 13 CROSS-EXAMINATION  
 14 BY MR. FUMO:  
 15 Q. Okay. So you have your notes up there  
 16 to refer to.  
 17 A. Yes, sir.  
 18 Q. And Ms. Dennis said one of them was  
 19 about five ten 190 pounds?  
 20 A. Yes, sir.  
 21 Q. Jeans and blue shirt; is that correct?  
 22 A. If I can refer back.  
 23 Q. Suspect one.  
 24 A. Five ten, 170.  
 25 Q. 170 and blue jeans blue shirt.

1 No. Thank you, Officer. I appreciate your time.  
 2 (Whereupon Jake Hickman was  
 3 excused from the witness stand  
 4 at 3:19 p.m.)  
 5 THE COURT: State may call their next  
 6 witness.  
 7 MR. DiGIACOMO: May we approach just a  
 8 second.  
 9 (Whereupon, counsel approached  
 10 the bench, and after a  
 11 discussion outside the hearing  
 12 of the court reporter, the  
 13 following proceedings took  
 14 place.)  
 15 THE COURT: All right. Ladies and  
 16 gentlemen, before we start the next witness we're  
 17 going to go ahead and take a short recess now so we  
 18 don't have to break during the witness. During  
 19 this recess, it is your duty not to converse among  
 20 yourselves or with anyone else on any subject  
 21 connected with the trial or to read, watch or  
 22 listen to any report of or commentary on the trial  
 23 by any person connected with the trial or by any  
 24 medium of information, including, without  
 25 limitation, newspaper, television, radio, and the

1 A. Yes, sir. Blue shirt and jeans it  
 2 says.  
 3 Q. Blue shirt and jeans. I'm sorry. And  
 4 the second one was red shirt, jeans.  
 5 A. Yes.  
 6 Q. Five ten, 190.  
 7 A. Yes.  
 8 Q. And the car she was describing,  
 9 Ms. Dennis was describing to you the suspect said  
 10 that Ivan charged too much for was a Pontiac,  
 11 correct?  
 12 A. If I can look back.  
 13 Q. Second page?  
 14 A. Yes. Correct.  
 15 Q. Those are specific cars she told you  
 16 about.  
 17 A. Correct.  
 18 MR. FUMO: Pass the witness, Your  
 19 Honor. Thank you.  
 20 (Whereupon Mr. Fumo concluded  
 21 his examination at 3:18 p.m.)  
 22 THE COURT: Mr. DiGiacomo.  
 23 MR. DiGIACOMO: Nothing further,  
 24 Judge.  
 25 THE COURT: Anything from our jurors?

1 internet, and you are not to form or express an  
 2 opinion on any subject connected with this case  
 3 until it is finally submitted to you, under  
 4 instructions by me.  
 5 (Whereupon a recess was  
 6 taken at 3:19 p.m. and  
 7 the proceedings resumed  
 8 at 4:00 p.m. in the presence  
 9 of the jury.)  
 10 THE COURT: All right. We will be  
 11 back on the record in 204956, State of Nevada  
 12 versus Rickie Slaughter who is present with his  
 13 attorney Mr. Fumo. The State's attorneys are  
 14 present and the jury present. We will continue  
 15 with the case in chief. The State may call your  
 16 next witness.  
 17 MS. FLECK: Thank you, Your Honor.  
 18 The State calls Ruben Luevano.  
 19  
 20 RUBEN LUEVANO,  
 21 having been first duly sworn to testify to the  
 22 truth, the whole truth and nothing but the truth,  
 23 was examined and testified as follows:  
 24  
 25 THE CLERK: Please be seated and state

1 your full name spelling your name for the record.  
 2 THE WITNESS: My name is Ruben  
 3 Luevano, R-U-B-E-N, last name is L-U-E-V-A-N-O.  
 4 THE COURT: Ms. Fleck.  
 5 MS. FLECK: Thank you, Your Honor.  
 6  
 7 DIRECT EXAMINATION  
 8 BY MS. FLECK:  
 9 Q. Good afternoon, sir. How were you  
 10 employed back in June of 2004?  
 11 A. I was a crime scene analyst with the  
 12 City of North Las Vegas Police Department.  
 13 Q. And how long had you been a crime  
 14 scene analyst with North Las Vegas?  
 15 A. I started in '03 and left last year.  
 16 Q. Okay. So at that point in time you'd  
 17 been there for about a year.  
 18 A. Correct.  
 19 Q. What kind of training and experience  
 20 did you have in order to do your job with North Las  
 21 Vegas as a crime scene analyst?  
 22 A. I was recruited from the Tucson Police  
 23 Department where I had served five years and I was  
 24 a certified crime scene technician and had received  
 25 all my training in Arizona through their law

1 crime?  
 2 A. Correct.  
 3 Q. So on June 28, 2004, were you asked to  
 4 do some additional follow-up processing of places  
 5 of interest that detectives or officers had found?  
 6 A. Correct.  
 7 Q. Okay. So what was the nature of you  
 8 getting called out on June 28th of 2004?  
 9 A. I was called out to a search warrant  
 10 on East Charleston that Sgt. DiMartino (phonetic)  
 11 and Detective Melody Graho (phonetic) were serving.  
 12 Q. Okay. Detective Prieto, was he also  
 13 involved in that?  
 14 A. Yes, he was.  
 15 Q. And was that at 3801 Charleston?  
 16 A. Yes, that's correct.  
 17 Q. What did you find once you got to that  
 18 area?  
 19 A. I had been informed by the  
 20 investigators on scene that there was a casing and  
 21 a projectile that had been found in a green Ford  
 22 Taurus I believe.  
 23 Q. When you get to an either a crime  
 24 scene or in this case a follow-up search warrant,  
 25 what's the first thing that you do?

1 enforcement agencies and certifications.  
 2 Q. Is it fair to say that your job as a  
 3 crime scene analyst is to document and preserve  
 4 evidence?  
 5 A. Correct.  
 6 Q. And the ladies and gentlemen of the  
 7 jury have already had an opportunity to hear from  
 8 Marion Brady. Are you familiar with Ms. Brady?  
 9 A. Yes, I am.  
 10 Q. When you were working with North Las  
 11 Vegas with the crime scene department, did you work  
 12 with Ms. Brady?  
 13 A. Yes, I did.  
 14 Q. One of the reasons that you document  
 15 and preserve evidence or I guess something that  
 16 occurs after that is that you may come in and kind  
 17 of re-create the crime scene for the ladies and  
 18 gentlemen of the jury.  
 19 A. Correct.  
 20 Q. Were you asked to document and  
 21 preserve a crime scene on June 28th of 2004?  
 22 A. Yes, I was.  
 23 Q. And I'm sorry. I guess not  
 24 necessarily a crime scene but at times might you be  
 25 called out by officers to do follow-up after a

1 A. I meet with investigators on the scene  
 2 for instructions. In addition to that I take  
 3 photographs of the scene and anything else that  
 4 might be requested by other investigators on the  
 5 scene.  
 6 Q. When you get a briefing from officers  
 7 that are at the scene as to what crimes have  
 8 occurred and what pieces of evidence may or may not  
 9 be of evidentiary value --  
 10 A. Correct.  
 11 Q. -- then do you also use your own  
 12 training and experience to determine whether or not  
 13 other things are of evidentiary value?  
 14 A. Yes, ma'am.  
 15 MS. FLECK: Judge, may I approach the  
 16 witness.  
 17 THE COURT: Yes.  
 18 MS. FLECK: I've already shown  
 19 defendant's counsel State's proposed 72 through  
 20 99.  
 21 Q. Sir, if you could just kind of briefly  
 22 run through those and let me know if you generally  
 23 recognize what it depicted in those photos.  
 24 A. Yes. This is the vehicle that I  
 25 photographed.

1 Q. Okay. And how about these.  
 2 A. This is the apartment where the search  
 3 warrant was held.  
 4 Q. Okay. These are all the photographs  
 5 that you took?  
 6 A. Yes.  
 7 MS. FLECK: Move for admission of  
 8 State's proposed 63 through 99.  
 9 MR. FUMO: No objection, Your Honor.  
 10 THE COURT: They will be admitted.  
 11 Thank you.  
 12 MS. FLECK: Permission to publish,  
 13 Judge.  
 14 THE COURT: Yes.  
 15 MS. FLECK:  
 16 Q. So when you first got to the scene,  
 17 you said that there was a car that officers  
 18 directed you to. Do you remember what kind of car  
 19 that was?  
 20 A. A green Ford Taurus sedan.  
 21 Q. Showing you State's Exhibit 63. Is  
 22 that what we see in this photograph?  
 23 A. Yes, ma'am.  
 24 Q. And what is it that was of interest to  
 25 the officers and that you went on to further

1 document in this automobile?  
 2 A. A casing and a projectile found in the  
 3 vehicle.  
 4 Q. Where in the vehicle?  
 5 A. The trunk area.  
 6 Q. Okay. Showing you State's  
 7 Exhibit 69. When you got to the 3801 Charleston  
 8 that evening, was the trunk open or did you go  
 9 ahead and open it?  
 10 A. The trunk was open.  
 11 Q. Okay. And then what did you do?  
 12 A. I took over all photos of the vehicle  
 13 and location and detailed shots of the casing and  
 14 bullet or projectile.  
 15 Q. There is a overall photograph of the  
 16 car and then more specific photographs within the  
 17 car.  
 18 A. Yes, ma'am.  
 19 Q. Now, showing you State's Exhibit  
 20 No. 70. We see a No. 1 placard in State's Exhibit  
 21 70. What does that signify to you?  
 22 A. That was the casing and projectile  
 23 that was found in the vehicle.  
 24 Q. Do you remember the type of casing  
 25 that was found?

1 A. I'd have to refer to my report for  
 2 that specific information.  
 3 Q. Okay.  
 4 A. May I do so?  
 5 Q. Yes. And in fact when you make a  
 6 report, do you delineate by number and matching  
 7 things that go into impound?  
 8 Is that a yes?  
 9 A. Yes.  
 10 Q. Okay.  
 11 A. It was a Winchester 357 magnum casing.  
 12 Q. Okay. And there's a casing now  
 13 showing you State's Exhibit 71. That's closer up  
 14 of that casing.  
 15 A. Yes, ma'am.  
 16 Q. If you could just circle for the  
 17 ladies and gentlemen of the jury just in case they  
 18 can't see where it is in that photograph but if you  
 19 touch on the screen, your finger will actually draw  
 20 on the screen. So that's the 357 casing that you  
 21 found.  
 22 A. Yes.  
 23 Q. Now, next to it there's a small -- we  
 24 see a small metal object. What's that?  
 25 A. That's a projectile.

1 Q. And if you could again just -- for the  
 2 jurors. Okay. Thank you. What did you do with  
 3 the casing and that projectile after you took the  
 4 photographs of it?  
 5 A. I collected it as evidence and secured  
 6 it.  
 7 Q. And then what do you do with it once  
 8 it's collected?  
 9 A. It is brought back to the police  
 10 department where it is secured in the evidence bay  
 11 or vault section.  
 12 MS. FLECK: Okay. And, Judge, may I  
 13 approach?  
 14 THE COURT: Yes.  
 15 MS. FLECK:  
 16 Q. Showing you State's proposed Exhibit  
 17 125 and 125-A. Do you recognize these pieces of  
 18 evidence?  
 19 A. Yes.  
 20 Q. How do you recognize it?  
 21 A. It is what I photographed and  
 22 collected and it also bears my signature and P  
 23 number.  
 24 Q. Okay. Is there also something on here  
 25 indicating to you that this piece of evidence is

1 linked to the evidence and the search warrant at  
2 3801 East Charleston?  
3 A. Yes. It indicates the address and the  
4 date and time.  
5 Q. Okay. When you take that evidence,  
6 you put it into this envelope and then you sale it  
7 up. We see some different colored tapes on here.  
8 What do those tapes signify?  
9 A. This is my signature and when I sealed  
10 this piece of evidence, these other signatures and  
11 seals are from other investigators who may have  
12 checked out this piece of evidence for further  
13 processing at a later date.  
14 Q. Okay. So we see the red evidence tape  
15 and that's what you put on there?  
16 A. Yes, ma'am.  
17 Q. Now, the blue, that goes on at a later  
18 date?  
19 A. Yes, ma'am.  
20 Q. Except for the blue, this evidence  
21 appears to be in substantially the same condition  
22 it was in when you impounded it on June 28, 2004.  
23 A. Yes.  
24 MS. FLECK: Move for the admission of  
25 125 and 125-A.

1 MR. FUMO: No objection.  
2 THE COURT: Admitted. Thank you.  
3 MS. FLECK:  
4 Q. And so the blue, does that indicate  
5 some testing was done by a different forensic  
6 laboratory?  
7 A. Correct.  
8 Q. Okay. And now showing you what's in  
9 State's 125, is that the 357 casing that you found  
10 within the trunk?  
11 A. Yes, ma'am.  
12 Q. And is this the bullet that you found  
13 also that was in the trunk?  
14 A. Yes.  
15 Q. Okay. After you did the initial  
16 search of -- well, let me ask you.  
17 Besides just as an initial view of the  
18 back of that trunk, did you find anything else of  
19 evidentiary value before you went into the house?  
20 A. No.  
21 Q. Okay. Any gloves or anything found in  
22 the trunk at that point in time?  
23 A. No, ma'am.  
24 Q. What did you do then at 3801  
25 Charleston after you did the initial processing?

1 A. I was asked to photograph the damage  
2 to the window and door of the apartment, also take  
3 over all photos of the interior of the apartment,  
4 and I was asked to collect items of evidence for  
5 the other investigators.  
6 Q. When you got there, clearly the  
7 apartment had already been breached.  
8 A. Correct.  
9 Q. Did you learn that SWAT had come and  
10 breached that apartment?  
11 A. Yes, ma'am.  
12 Q. And you were not present during that?  
13 A. No.  
14 Q. Do you remember the apartment number  
15 that you were asked to process?  
16 A. It was 114 and I'm verifying that on  
17 my report.  
18 MS. FLECK: May I approach?  
19 THE WITNESS: Yes, it's 114.  
20 MS. FLECK: Okay.  
21 Q. I'm now showing you State's proposed  
22 90 through 99 again the same routine and ask you  
23 generally if you recognize what's depicted in them?  
24 A. Yes. I took those photographs.  
25 Q. What do they depict?

1 A. The exterior of the apartment and the  
2 interior of the apartment as I found it.  
3 MS. FLECK: Move for admission of  
4 State's proposed 90 through 99.  
5 MR. FUMO: No objection, Your Honor.  
6 THE COURT: They will be admitted.  
7 Thank you.  
8 MS. FLECK:  
9 Q. Showing you State's 90 -- actually I  
10 think I had already admitted these but at any rate,  
11 what do we see in State's 90?  
12 A. The door and window area of the  
13 apartment 114.  
14 Q. We see some glass kind of on the side  
15 of the window. Did you learn that that was from  
16 officers breaching that during the search warrant?  
17 A. Yes, ma'am.  
18 Q. I'm now showing you State's  
19 Exhibit 92. The door leading into the apartment.  
20 A. Correct.  
21 Q. Now, showing you State's Exhibit 93.  
22 What do we see in State's Exhibit 93?  
23 A. The interior of the apartment.  
24 Q. State's Exhibit -- in State's Exhibit  
25 93 we see kind of in the far corner placard 5

1 and -- I'm sorry. Actually -- close to -- I'm  
2 going to show you State's 97. What do we see in  
3 this exhibit?  
4 A. Placard No. 6 next to a black glove.  
5 Q. Okay. I'm now showing you State's  
6 Exhibit 98 another glove.  
7 A. Correct.  
8 Q. And did you learn or did you -- well,  
9 did you learn from officers that these gloves maybe  
10 have evidentiary value?  
11 A. Yes, I did.  
12 Q. What did you do with them?  
13 A. I photographed them and collected them  
14 as evidence.  
15 Q. Now showing you State's Exhibit 94 we  
16 see placard 2 and 3. What was significant about  
17 those items of evidence?  
18 A. I was asked to collect items 2 and 3.  
19 2 is the tee-shirt, the blue tee-shirt and 3 is the  
20 disposable --  
21 Q. In item No. 2 did you learn that one  
22 of the suspects may have been wearing a blue  
23 tee-shirt?  
24 A. Yes.  
25 Q. And with item No. 3 that small Kodak

1 disposable camera why did you impound that?  
2 A. I was asked to by investigators I  
3 assume.  
4 Q. Okay. Showing you now State's Exhibit  
5 126 and 126-A and B and 127 and 127-A. Do you  
6 recognize these pieces of evidence?  
7 A. Yes, I do.  
8 Q. Similar evidence bags?  
9 A. Yes.  
10 Q. And, again, have you notated these  
11 with your P number, with the case number indicating  
12 to you that these are the pieces of evidence that  
13 were impounded from that scene at 3801 East  
14 Charleston?  
15 A. Correct.  
16 Q. With regard to item 127 and 127-A  
17 appear to be in substantially the same condition as  
18 it was in when you impounded it?  
19 A. Yes.  
20 MS. FLECK: Okay. Move for admission  
21 of State's 127 and 127-A.  
22 MR. FUMO: No objection, Your Honor.  
23 THE COURT: Those will be admitted.  
24 Thank you.  
25 ///

1 MS. FLECK:  
2 Q. The same with 126 and 126-A and B, do  
3 you recognize that?  
4 A. Yes.  
5 Q. And is this evidence that you  
6 impounded from 3801 East Charleston?  
7 A. Yes.  
8 Q. Does it appear to be in substantially  
9 the same condition that it was in when you  
10 impounded it?  
11 A. Yes, ma'am.  
12 MS. FLECK: Move for the admission of  
13 State's proposed Exhibit 126 and 126-A.  
14 MR. FUMO: No objection.  
15 THE COURT: That will be admitted.  
16 Thank you.  
17 MS. FLECK: Okay.  
18 Q. On 127-A glove that we saw in the  
19 photographs, that was found at the scene?  
20 A. Yes, ma'am.  
21 Q. And 126-B another glove that was found  
22 at the scene?  
23 A. Correct.  
24 Q. Now, on 126-A we see a number of small  
25 almost Petri dishes. What were those?

1 A. I believe those were some of the --  
2 found on the Velcro area of the --  
3 Q. Okay. So just you went ahead and took  
4 any hairs that may have been attached and went  
5 ahead and impounded those as well?  
6 A. Correct.  
7 Q. Okay. Sir, once the car -- once the  
8 officers had found and you had gone on to impound  
9 that casing and the bullet that was found in the  
10 back of the or the projectile that was found in the  
11 trunk of that Taurus, what happened to the Taurus?  
12 A. I was asked to secure it and have it  
13 towed back to the crime scene investigation bureau  
14 for later process.  
15 Q. So once these items were found in the  
16 car it was determined that that automobile would go  
17 on to be impounded?  
18 A. Correct.  
19 Q. And where were back in 2004 cars taken  
20 upon impound?  
21 A. They were taken to the main police  
22 station, 1301 Lake Mead. I believe it's east.  
23 Q. Once the car gets to impound or got to  
24 the impound in this case, what is it that you do  
25 then back at the police department?

1 A. Once the search warrant was obtained,  
2 it would be requested that that vehicle be  
3 processed.  
4 Q. Thank you. Showing you now State's  
5 proposed 73 through 86. Do you recognize these?  
6 A. Yes.  
7 Q. And what are they?  
8 A. Photographs that I took of the vehicle  
9 back after processing at the police station.  
10 MS. FLECK: Okay. Move for admission  
11 of State's proposed 73 through 86.  
12 MR. FUMO: No objection.  
13 THE COURT: That will be admitted.  
14 Thank you.  
15 MS. FLECK:  
16 Q. Now showing you State's Exhibit 73, is  
17 this that same green Ford Taurus that we saw back  
18 at 3801 East Charleston now in impound?  
19 A. Yes.  
20 Q. So what did you do in order to process  
21 this car back at impound?  
22 A. I believe the next day after they  
23 obtained the search warrant they asked me to look  
24 for firearms evidence, gloves and blood evidence in  
25 the vehicle.

1 Q. Now that it's back at impound, you  
2 have an opportunity to do a more thorough search of  
3 this vehicle.  
4 A. Correct.  
5 Q. Okay. What, if anything, did you  
6 find?  
7 A. I found two pistols that were hidden  
8 in the trunk lining of the vehicle, multiple  
9 gloves.  
10 Q. Okay. Showing you State's  
11 Exhibit 75. There we see just a kind of floorboard  
12 or mat lining I guess in the trunk of the car. Is  
13 that the condition that the trunk was in when you  
14 first searched it?  
15 A. Yes.  
16 Q. You went on to lift that floorboard or  
17 that mat?  
18 A. Correct.  
19 Q. And what did you find?  
20 A. Two pistols hidden underneath.  
21 Q. State's Exhibit 66, what do we see  
22 there?  
23 A. The lining being removed.  
24 Q. Now State's Exhibit 77, what do you  
25 see in State's Exhibit 77?

1 A. A placard No. 9 and multiple latex  
2 gloves.  
3 Q. Now showing you State's Exhibit 87,  
4 what do we see there?  
5 A. We have two pistols.  
6 Q. Now, again this is all -- I mean a few  
7 exhibits earlier the ladies and gentlemen of the  
8 jury saw that being lifted up. This was all right  
9 beneath that lining.  
10 A. That's correct.  
11 Q. I'm showing you Exhibit 79, another  
12 photograph of those firearms.  
13 A. Correct.  
14 Q. What did you do when you found those  
15 two guns underneath the lining of that trunk?  
16 A. They were collected as evidence and  
17 photographed one more time.  
18 Q. State's Exhibit 129 and 129-A, 128 and  
19 128-A and B. Do you recognize -- let's start with  
20 128. Do you recognize 128?  
21 A. Yes, I do.  
22 Q. All of your identifiers?  
23 A. All of my identifiers.  
24 Q. And what does your -- what does the  
25 evidence bag tell you about when this piece of

1 evidence was obtained?  
2 A. It has the marking of the date and  
3 case number and location.  
4 Q. Okay. So on June 29th of 2004 now we  
5 see 2001 LMPT?  
6 A. That stands for Lake Mead Boulevard  
7 east which is the police station address.  
8 Q. Okay. Where the cars are impounded.  
9 A. Yes.  
10 Q. Does this object appear in  
11 substantially the same condition as it was in on  
12 June 29, 2004?  
13 A. Yes, it does.  
14 MS. FLECK: Move for admission of  
15 128-A and B.  
16 MR. FUMO: No objection.  
17 THE COURT: They are admitted. Thank  
18 you.  
19 MS. FLECK:  
20 Q. 129 and 129-A appear to be in  
21 substantially the same condition that it was in the  
22 day you impounded it on June 29, 2004?  
23 A. Yes.  
24 MS. FLECK: Move for the admission of  
25 129.

1 MR. FUMO: No objection.  
 2 THE COURT: They are admitted. Thank  
 3 you.  
 4 MS. FLECK:  
 5 Q. Now showing you State's proposed 130.  
 6 Do you recognize this box?  
 7 A. Yes, I do.  
 8 Q. How do you recognize this?  
 9 A. It's the box I used to secure and  
 10 collect the two pistols.  
 11 Q. Okay. And why do you use a box in  
 12 this case instead of a bag?  
 13 A. The box better protects the evidence  
 14 or in this case the pistol.  
 15 Q. Okay. Do you in fact go on to zip tie  
 16 the firearms into the box?  
 17 A. Yes.  
 18 Q. Does this piece of evidence appear to  
 19 be in substantially the same condition that it was  
 20 in when you impounded it on June 29, 2004?  
 21 A. Yes, it does.  
 22 Q. And State's proposed -- piece of  
 23 evidence do we have here?  
 24 A. It appears to be the pistol.  
 25 Q. And again does it appear to be in

1 A. Those photographs were taken on the  
 2 29th.  
 3 Q. Where, the same place where you went  
 4 and impounded these?  
 5 A. Yeah, the processing place of the  
 6 station.  
 7 Q. What do we see?  
 8 A. We see the revolver.  
 9 Q. And what about 11?  
 10 A. We see the semiautomatic on pistol.  
 11 Q. Showing you State's Exhibit 83. What  
 12 do we see here?  
 13 A. The cylinder on the revolver with  
 14 cartridges.  
 15 Q. And State's Exhibit 85. What do we  
 16 see here?  
 17 A. The cartridges that were in the clip  
 18 of the semiautomatic pistol.  
 19 Q. Okay. Within State's Exhibit 130  
 20 there's a small -- it's 130-A.  
 21 Judge, permission to publish 130 to  
 22 the jurors.  
 23 THE COURT: Yes.  
 24 MS. FLECK:  
 25 Q. So tell the ladies and gentlemen of

1 substantially the same condition that it was in  
 2 when you impounded it on June 29, 2004?  
 3 A. Correct.  
 4 MS. FLECK: Move for the admission of  
 5 130 and 131.  
 6 MR. FUMO: No objection.  
 7 THE COURT: They are admitted. Thank  
 8 you.  
 9 MS. FLECK:  
 10 Q. Showing you now State's proposed or  
 11 now into evidence State's 129-A. I see a number of  
 12 Latex gloves.  
 13 A. Yes, ma'am.  
 14 Q. And were those the gloves that you  
 15 found in the back of the Taurus?  
 16 A. Yes, ma'am.  
 17 Q. 128-B, what do we see here?  
 18 A. A work glove, leather work glove.  
 19 Q. Okay. And that was also found in the  
 20 trunk of the car.  
 21 A. Yes, ma'am.  
 22 Q. Okay. Now, you said that there were  
 23 two weapons found in the back. I'm showing you  
 24 State's Exhibit 80. When was this photograph  
 25 taken?

1 the jury what is found in State's Exhibit 130.  
 2 A. That is the revolver that was found in  
 3 the trunk of the green Taurus.  
 4 Q. Okay. What is the make and model of  
 5 this then?  
 6 A. Let me refer to my report for that.  
 7 It's an LJA and CWKS eight shot revolver serial  
 8 number M59842, black.  
 9 Q. Okay. We see a chamber or a round  
 10 like a circular thing that's also attached. What  
 11 is that?  
 12 A. That's the cylinder of the revolver.  
 13 Q. Okay. And then in 130-A there are a  
 14 number of bullets, correct?  
 15 A. Correct.  
 16 Q. And where did those bullets come from?  
 17 A. Those came from the cylinder of the  
 18 revolver.  
 19 Q. Okay. They were all inside when you  
 20 found that weapon, took it apart and you took all  
 21 those bullets out.  
 22 A. Correct.  
 23 Q. But in fact when you found them, they  
 24 were all live in that chamber.  
 25 A. Correct.

1 Q. And then the other firearm that was  
2 found was what?  
3 A. It was a Raven pistol, semiautomatic.  
4 Q. State's Exhibit 130, what was found  
5 within State's Exhibit 130 or within that pistol  
6 what was found?  
7 A. Live cartridges in the magazine.  
8 Q. That little clip thing, that's called  
9 the magazine.  
10 A. Correct.  
11 Q. Okay. Does that go into the bottom of  
12 the weapon?  
13 A. It goes into the bottom of the weapon.  
14 Q. And all of those bullets that we found  
15 or we see, where did those come from?  
16 A. Those came from the inside of the  
17 magazine that were inside the weapon.  
18 Q. Okay. So you took the bullets out of  
19 the magazine. You took the magazine out of the  
20 weapon.  
21 A. Correct.  
22 MS. FLECK: Okay. If I didn't move to  
23 admit the contents of 130, I would move to admit  
24 the proposed 130-A into evidence.  
25 THE COURT: That's the revolver.

1 were later processed by someone else within North  
2 Las Vegas?  
3 A. Correct.  
4 MS. FLECK: Okay. I'll pass the  
5 witness.  
6 (Whereupon Fleck concluded  
7 this portion of her examination  
8 at 4:31 p.m.)  
9 THE COURT: Mr. Fumo.  
10 MR. FUMO: Thank you.  
11  
12 CROSS-EXAMINATION  
13 BY MR. FUMO:  
14 Q. Sir, you got called out that night it  
15 was about 11:00 o'clock; is that correct?  
16 A. Yes, 11:00 o'clock.  
17 Q. And you were asked to process the  
18 vehicle first, correct, if you recall. I notice  
19 you're looking at your notes for the record.  
20 But do you recall what you processed  
21 first? Was it the home?  
22 A. It was the vehicle. I was asked to  
23 prove and collect the evidence that was found in  
24 the vehicle.  
25 Q. And that night you never started that

1 MS. FLECK: Yes.  
2 THE COURT: The box and contents will  
3 be admitted together because the guns are inside  
4 the containers.  
5 MS. FLECK: That's the same or the  
6 other one as well, Judge.  
7 THE COURT: Yes.  
8 MS. FLECK: Okay. Thank you.  
9 Q. Sir, did you ever go on to process the  
10 Taurus for fingerprints?  
11 A. No, ma'am.  
12 Q. And why not?  
13 A. It was not called for by the lead  
14 investigators.  
15 Q. Okay. Often times if officers know  
16 whose vehicle it is, ownership is not at issue,  
17 will you take that additional step to go on and  
18 process a car for fingerprints when you already  
19 know the owner?  
20 A. No, not if that's in question or not  
21 in question.  
22 Q. Were you asked to process the firearm  
23 in this case?  
24 A. No, ma'am.  
25 Q. Did you impound them and then they

1 car, did you?  
2 A. No, sir.  
3 Q. You never drove the car?  
4 A. Never.  
5 Q. The truck you said was already open  
6 when you got there?  
7 A. Correct.  
8 Q. Do you know if it was forced open or  
9 if keys were used?  
10 A. I don't know.  
11 Q. You were told to look for blood in the  
12 vehicle, though, weren't you?  
13 A. I was asked to look for blood when I  
14 received the process request on the following day.  
15 Q. Okay. And when you wrote your report,  
16 you checked on the floormats on the front.  
17 A. I'm sorry.  
18 Q. Did you check under the floormats on  
19 the front seat of the car?  
20 A. Everywhere.  
21 Q. Checked the steering wheel?  
22 A. Correct.  
23 Q. You checked it for every little speck  
24 of blood you could find. There was no blood in  
25 that car at all, was here?



1 A. I looked and did a visual inspection  
2 and I didn't see any.  
3 Q. According to your report no blood  
4 found inside the vehicle during your examination;  
5 is that correct?  
6 A. Correct.  
7 Q. You found two weapons the next day  
8 inside the trunk area of the car?  
9 A. Yes, sir.  
10 Q. And the first one, the silver one that  
11 was a .25 caliber; is that correct?  
12 A. The Raven Arm?  
13 Q. Yes.  
14 A. Yes, sir.  
15 Q. And the other one was a .22?  
16 A. Revolver?  
17 Q. Yes, sir.  
18 A. .22 caliber, correct.  
19 Q. Okay. After you processed the car,  
20 found no blood, you went inside the house, the SWAT  
21 team had already breached the home. The windows  
22 were broke in. The door was off its hinges; is  
23 that correct?  
24 A. The vehicle wasn't processed until the  
25 following day.

1 A. Yes.  
2 Q. Did you process the hair to see if  
3 they matched Mr. Slaughter or anybody else?  
4 A. I did not.  
5 Q. Nothing else?  
6 A. I don't know what other reports were  
7 generated.  
8 Q. You were never even asked to match  
9 them up. You have no report saying that matches  
10 anybody at that home, do you?  
11 A. Correct.  
12 Q. The other glove, any evidentiary value  
13 on any of the gloves?  
14 Was there any blood on the gloves?  
15 A. No visible blood that I saw.  
16 Q. Any blood on the tee-shirt?  
17 A. Not that I can recall.  
18 Q. Any blood in the home at all?  
19 A. I don't recall.  
20 Q. Did you find an ATM card from a person  
21 named Ryan John inside the house?  
22 A. Did I find an ATM card?  
23 Q. Yes.  
24 A. Not that I recall. I don't believe  
25 so.

1 Q. After you took pictures that night,  
2 you went in and took pictures of the home.  
3 A. Correct.  
4 Q. The doors were blown off the pinnings.  
5 A. The door looked like it was damaged  
6 and the windows were broken.  
7 Q. The inside of the house was a complete  
8 mess.  
9 A. Yes, sir.  
10 Q. You could assume SWAT had already done  
11 their search.  
12 A. Yes, sir.  
13 Q. Of all the clothes that were found  
14 they told you to take a picture of one blue  
15 tee-shirt; is that correct?  
16 A. Yes.  
17 Q. And the camera, did you take that into  
18 evidence?  
19 A. The point and the shoot.  
20 Q. Correct.  
21 A. That was collected into evidence.  
22 Q. Did you process the pictures inside  
23 that?  
24 A. No.  
25 Q. Did you take hairs?

1 Q. Inside the car did you find any wig  
2 like a Jamaican looking wig?  
3 A. No, sir.  
4 Q. Inside the home did you find a wig?  
5 A. No, sir.  
6 Q. Did you test the gloves for any DNA at  
7 all?  
8 A. I did not.  
9 Q. Any of the shoes, did you test any  
10 shoes for DNA?  
11 A. No, sir.  
12 Q. No blood on the bottoms of any shoes?  
13 A. No, sir.  
14 MR. FUMO: Nothing further, Your  
15 Honor.  
16 (Whereupon Mr. Fumo concluded  
17 his examination at 4:35 p.m.)  
18 THE COURT: Ms. Fleck.  
19 MS. FLECK: Nothing further.  
20 THE COURT: Thank you. Anything from  
21 our jurors? No. All right. Mr. Luevano, I  
22 appreciate your time, sir. You are excused. Thank  
23 you very much.  
24 (Whereupon Ruben Luevano was  
25 excused from the witness stand

1 at 4:35 p.m.)  
 2 THE COURT: That was the last witness  
 3 for today.  
 4 MS. FLECK: Yes, Your Honor.  
 5 THE COURT: Ladies and gentlemen, we  
 6 are going to go ahead and take the evening recess  
 7 at this time. During this recess, it is your duty  
 8 not to converse among yourselves or with anyone  
 9 else on any subject connected with the trial or to  
 10 read, watch or listen to any report of or  
 11 commentary on the trial by any person connected  
 12 with the trial or by any medium of information,  
 13 including, without limitation, newspaper,  
 14 television, radio, and the internet, and you are  
 15 not to form or express an opinion on any subject  
 16 connected with this case until it is finally  
 17 submitted to you, under instructions by me. We're  
 18 shooting for 10:30 tomorrow morning so I will see  
 19 you then.  
 20 (Whereupon, the jury  
 21 retired from the courtroom  
 22 at 4:36 p.m. and the following  
 23 proceedings took place outside  
 24 their presence:)  
 25 THE COURT: Does anybody have anything

1 done at 5:00 o'clock or whatever, we'll stay here  
 2 for a little bit and talk about them. Do you have  
 3 transcripts?  
 4 MR. DiGIACOMO: I do. I can e-mail  
 5 them in my computer. I have hard copies as well.  
 6 What I thought I would do is I'm not going to play  
 7 all of it. I thought what I'd do is tonight I  
 8 could highlight in red kind of the sections that we  
 9 think are relevant maybe I'll highlight in red what  
 10 we think is not relevant as opposed to what is  
 11 relevant and see if there's anything they want in  
 12 addition to that. I can mail them over to Mr. Fumo  
 13 in case he wants to see it.  
 14 (Whereupon the proceedings  
 15 adjourned at 4:39 p.m.)  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

1 outside the presence?  
 2 MR. DiGIACOMO: Just maybe very  
 3 briefly. After Mr. Fumo's opening statement I told  
 4 the Court if they put on the alibi, I would put  
 5 jail calls in. We intend to put some of those in.  
 6 We gave him 12 disks. If there's anything in the  
 7 transcript he feels we shouldn't be able to play,  
 8 we may have to have some argument outside the  
 9 presence of the jury as to -- there are certain  
 10 things Mr. Slaughter says that are clearly  
 11 admissible, but there are also intermixed with  
 12 certain things that the Court may feel are not  
 13 necessarily admissible. Maybe we should address  
 14 those before we actually play them for the jury.  
 15 THE COURT: Well, why don't you guys  
 16 go through them. Whatever you agree upon obviously  
 17 I'll abide by. If there are some things that we  
 18 need to take up that are not in agreement, we won't  
 19 get to play them until after the case, right.  
 20 MR. DiGIACOMO: No. We may play  
 21 something in the case in chief based on his  
 22 statements -- Mr. Slaughter made statements  
 23 inconsistent with what he told the jury in opening.  
 24 THE COURT: So go through them and see  
 25 what kind of agreement can be made and after we get

1 AFFIRMATION  
 2 Pursuant to NRS 239B.030  
 3  
 4 The undersigned does hereby affirm that the  
 5 preceding transcript of trial testimony filed in  
 6 District Court Case No. C204957 does not contain  
 7 the social security number of any person.  
 8  
 9  
 10  
 11  
 12  
 13 Dated this 5th day of July, 2011.  
 14  
 15  
 16 *Cheryl Gardner*  
 17  
 18  
 19 Cheryl Gardner, CCR 230, RPR, RMR  
 20  
 21  
 22  
 23  
 24  
 25

## 1 REPORTER'S CERTIFICATE

2

3 STATE OF NEVADA )

4 ) ss

5 COUNTY OF CLARK )

6

7 I, Cheryl Gardner, RMR-RPR, CCR 230,  
8 do hereby certify that I took down in Stenotype all  
9 of the proceedings had in the before-entitled  
10 matter at the time and place indicated and that  
11 thereafter said shorthand notes were transcribed  
12 into typewriting by me and that the foregoing  
13 transcript constitutes a full, true, and accurate  
14 record of the proceedings had.

15 IN WITNESS WHEREOF, I have hereunto  
16 set my hand and affixed my official seal of office  
17 in the County of Clark, State of Nevada, this 5th  
18 day of July, 2011.

19

20

21

22

23

24 CHERYL GARDNER, RMR-RPR, CCR 230

25



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IN THE EIGHTH JUDICIAL DISTRICT COURT  
CLARK COUNTY, NEVADA  
CLERK OF THE COURT

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TRAN  
Reporters Transcript  
1558537



STATE OF NEVADA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
RICKIE SLAUGHTER, )  
 )  
Defendant. )

Case No. C204957  
Dept. No. 3

JURY TRIAL

Before the Honorable Douglas Herndon  
Tuesday, May 17, 2011, 10:00 a.m.

Reporter's Transcript of Proceedings

APPEARANCES:

For the State: Marc DiGiacomo, Esq.  
Michelle Fleck, Esq.  
Deputies District Attorney  
Las Vegas, Nevada

For the Defendant: Osvaldo Fumo, Esq.  
Dustin Marcello, Esq.  
Attorneys at Law  
Las Vegas, Nevada

REPORTED BY: BILL NELSON, RMR, CCR No. 191

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IN THE EIGHTH JUDICIAL DISTRICT COURT  
CLARK COUNTY, NEVADA

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STATE OF NEVADA, )

Plaintiff, )

vs. )

RICKIE SLAUGHTER, )

Defendant. )

Case No. C204957  
Dept. No. J

11

JURY TRIAL

12

Before the Honorable Douglas Herndon  
Tuesday, May 17, 2011, 10:00 a.m.

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Reporter's Transcript of Proceedings

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APPEARANCES:

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Las Vegas, Nevada, Tuesday, May 17, 2011

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\* \* \* \* \*

(Thereupon, the following proceedings were had out of  
the presence of the jury.):

THE COURT: Anything outside the presence right  
now?

MR. DI GIACOMO: No.

MR. MARCELLO: There is one objection to the  
7-Eleven tape, Your Honor.

Basically we have an authentication and best  
evidence issue here.

The custodian of records originally testified  
during the preliminary hearing they installed a new  
camera system and that the time stamp the system puts on  
the cam review was off, and the way that they determined  
that is because when the ATM was accessed, it did not  
line up with the timing of the camera of when he watched  
the individual use the ATM, and they tried to explain  
why exactly did those not match up, because as you can  
imagine ATMs are pretty precise what time they are  
accessed, and so basically he said, well, we installed  
the new system, and there was some type of delay between

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WITNESS	DR	CR	RDR	RCR
Kenny Marks	12	22		
Inderdeep Judge	27	35	38	38
Jeffrey Arbuckle	40	44		
Ryan John	49	65	77	79
Christopher Corrado	82	88		
Patrick Fischer	106	109		
Angel Moses	111	133	158	161
		168	169	

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the time stamp placed on it and the actual time it was  
occurring.

So we don't have any way to authenticate that the  
time that is stamped on the bottom running during the  
whole time of the type actually corresponds with the  
actual time this was occurring.

Additionally, in the videotape that we received  
there was actually two additional time stamps on the  
tape.

There was a time stamp on the actual footage, and  
another second running time stamp at the bottom of the  
footage of the video.

When we sent that to our expert to have them look  
at that, again he indicated to me that there was no way  
a video would have two time stamps without being  
manipulated, and/or altered.

That doesn't mean the video itself was altered,  
or what was in it was altered, just the software they  
used to keep it, alter it to put in a later time stamp  
at a letter date, or a different time stamp at the time.

MR. DI GIACOMO: I have the custodian of records  
for 7-Eleven, actually the owner of the 7-Eleven  
actually downloaded the video.

He said the video was off by an hour because it  
doesn't change to daylight savings.

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**App. 0936**

1 There is a separate digital time stamp on the  
2 Intelx (Phonetic), so there is video where you are  
3 actually watching and a time stamp embedded in the video  
4 itself, and then there is the Intelx program that has  
5 its own clock, and that Intelx program actually has  
6 about an hour later as the time stamp, so that is the  
7 difference between the two time stamps, but certainly  
8 they can cross-examine him.  
9 THE COURT: So your position is that one of the  
10 time stamps on the video is correct, and one of them is  
11 off by an hour because of daylight savings?  
12 MR. DI GIACOMO: Approximately.  
13 If you want to watch it, Judge, it's actually  
14 queued up.  
15 If you notice, see these time stamps, 20:07:14,  
16 8:30 at night, which is when the transaction occurs,  
17 those time stamps appear to be correct.  
18 THE COURT: Those are the Intelx?  
19 MR. DI GIACOMO: Those are the Intelx, the  
20 systems itself, is the program.  
21 THE COURT: Okay.  
22 MR. DI GIACOMO: If you notice the actual video  
23 itself, that clock is off by about an hour.  
24 THE COURT: An hour and change.  
25 MR. DI GIACOMO: An hour and change.  
  
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1 MR. MARCELLO: Your Honor, that is where the  
2 change is, where our issue lies, because we have a  
3 precise time of exactly when the ATM is accessed.  
4 I believe that time is the correct time, and that  
5 this tape does not accurately reflect --  
6 THE COURT: How does that compare to these two  
7 times, the ATM time?  
8 MR. MARCELLO: When they show the video, when  
9 they show that person going up to the video, accessing  
10 it, there is actually a five minute difference, and the  
11 custodian will tell you our system was in the  
12 neighborhood of five minutes off at the time.  
13 Now, I know five minutes in the world of the  
14 entire point of the tape is, we don't have the full  
15 tape, don't have the full time when the individuals  
16 entered the store, we don't have a clear idea who  
17 exactly it is that is in the video.  
18 I mean, I know who they are going to allege it  
19 is, but if we can't tell what time it is, basically that  
20 provides them with five extra minutes for a time line if  
21 they want to try to put him anywhere.  
22 We can't place him at any given point in time  
23 within five minutes.  
24 We have a close case here about exact what times  
25 everything occurred.  
  
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1 The call comes in at 7-Eleven.  
2 He goes to this point and this point, and as far  
3 as five minutes in this case would be quite a big deal,  
4 and not to mention it simply does not show what the  
5 State's intending it to show, which is an individual  
6 walked in at this particular time and accessed this ATM  
7 at this particular time, and they have other evidence to  
8 show what time that person was in the store, the ATM  
9 records.  
10 THE COURT: Well, that is all fodder for  
11 cross-examination of the custodian of records, or for  
12 argument about what evidence they could have produced,  
13 or the ATM receipt or ATM records.  
14 I don't think that takes away from the  
15 admissibility of the video.  
16 You can just ask questions about the  
17 unreliability at the time, to the extent it's  
18 unreliable, and how much weight the jury should give to  
19 whatever time they are alleging it was that the  
20 individual went to the ATM machine.  
21 Now, is there something from the ATM machine that  
22 is being introduced as well, or just this video showing  
23 the individual come in?  
24 MR. DI GIACOMO: Well, at this moment I don't  
25 necessarily know that we'll put in the actual physical  
  
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1 document from the custodian of records from Wells Fargo.  
2 But it's the videotape that they are arguing  
3 over, the admissibility of it.  
4 Detective Corrado is what the argument is about,  
5 wasn't the custodian of records.  
6 It was Detective Corrado went out there, compared  
7 the time to the real time on the video, and determined  
8 this was the time of the transaction that occurred, and  
9 as such that is why he had them download this video.  
10 THE COURT: Okay.  
11 MR. DI GIACOMO: So I don't know -- or think it  
12 affects the admissibility of the videotape itself.  
13 It goes to the weight when they cross-examine, or  
14 if they want to get into that particular information.  
15 MR. MARCELLO: Just to make it clear for the  
16 record, for the record, for what we have, I'm saying  
17 that it can't be authenticated because it's does not  
18 show what the State is intending or purports it says it  
19 shows.  
20 It shows --  
21 THE COURT: You are -- Your own admission a  
22 moment ago, you said, we are not challenging the  
23 authenticity of the video.  
24 MR. MARCELLO: No, we are.  
25 That was the time stamp when anything happened.  
  
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9

1 I think he has given a reasonable explanation why  
2 there is two times.  
3 I'm saying, the State is purporting the person  
4 walked in this time, left at this time, accessed the ATM  
5 somewhere in that period.  
6 It it doesn't show that --  
7 THE COURT: What challenge to the authenticity of  
8 the video now, other than the time?  
9 MR. MARCELLO: None, but that is the whole point  
10 of the video.  
11 They are saying this person walked into this  
12 store during this time period.  
13 If you want to redact the time stamp from it, and  
14 not have anybody testify to the time that just somebody  
15 walked into that store, I think we're fine.  
16 THE COURT: No, I am going to deny your  
17 challenge.  
18 It's admissible, and you guys will cross-examine.  
19 I view it as something not being admitted just  
20 for purposes of time.  
21 This store, this location, this individual, this  
22 ATM, doing an ATM transaction, and then whatever hay can  
23 be made of what the apparent time is based upon whatever  
24 evidence you guys provided, make an arrangement about,  
25 but it doesn't challenge the authenticity or validity of  
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10

1 the video itself, just as to whatever the time stamp is  
2 supposed to mean, which in my mind doesn't go towards  
3 admissibility, just the weight to be given to whatever  
4 argument you make about time.  
5 Okay. Anything else?  
6 MR. MARCELLO: No.  
7 Thank you.  
8 MR. DI GIACOMO: No.  
9 THE COURT: All right.  
10 MR. MARCELLO: Well, Your Honor, we do have an  
11 objection.  
12 I'm only going to do this early, so we don't have  
13 to have the jury going in and out.  
14 Miss Angel Moses will be testifying today.  
15 THE COURT: Is that going to be before we take  
16 our lunch break?  
17 MR. DI GIACOMO: No.  
18 THE COURT: Let's do it after.  
19 MR. MARCELLO: Let's do it after.  
20 THE COURT: I kept them for so long already.  
21 MR. MARCELLO: Thank you.  
22 MR. DI GIACOMO: Judge, we can take it off  
23 because it's not going to be the first witness that  
24 watches the video.  
25  
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11

1 (Thereupon, the following proceedings were had in open  
2 court and in the presence of the jury.):  
3 THE COURT: We're back on the record in State of  
4 Nevada versus Rickie Slaughter, who is present with his  
5 attorney.  
6 The State's attorneys are present.  
7 The jurors are present.  
8 We're going to continue on with the State's case  
9 in chief.  
10 Mr. DiGiacomo, call your next witness.  
11 MR. DI GIACOMO: Thank you.  
12 The State calls Kenny Marks.  
13 THE BAILIFF: Go ahead, take the stand, and  
14 remain standing while the clerk swears you in.  
15  
16 KENNY MARKS,  
17  
18 who, being first duly sworn to tell the truth, the whole  
19 truth, and nothing but the truth, was examined and  
20 testified as follows:  
21 THE CLERK: Please be seated.  
22 And if you, would state and spell your name for  
23 the record.  
24 THE WITNESS: Kenneth Marks, K-e-n-n-e-t-h  
25 M-a-r-k-s.  
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12

1 - - - -  
2 **DIRECT EXAMINATION OF KENNY MARKS**  
3 BY MR. DI GIACOMO:  
4 Q. Mr. Marks, I want to direct your attention back  
5 to 2004.  
6 Did you know an individual by the name of Ivan  
7 Young.  
8 A. Ivan Young, yes.  
9 Q. How did you know him?  
10 A. He was my neighbor.  
11 Q. And which -- in relationship to his house, where  
12 did you live?  
13 A. Directly across the street.  
14 Q. I'm going to put on the overhead there.  
15 Do you have that screen on right next to you?  
16 A. Yes.  
17 Q. If you look at this, and you see Ivan's house  
18 there marked on the State's Exhibit Number 1, do you see  
19 it right here?  
20 A. Yes.  
21 Q. That's Ivan's house.  
22 Would you just point on the screen and make a  
23 mark there for the jury where your house is?  
24 Can you see it?  
25 A. Yes.  
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13

1 I am the corner house here.

2 Q. That's your house right there?

3 A. Yes.

4 THE COURT: Why don't you make a circle, so we

5 can see it a little better.

6 THE WITNESS: All right.

7 THE COURT: Thank you.

8 BY MR. DI GIACOMO:

9 Q. Now, the guy directly behind your house, did you

10 know who that was?

11 A. Yes.

12 Q. Who is that?

13 A. That was a friend of mine named Jeremy.

14 Q. Jeremy?

15 A. Uh-huh

16 Q. Also known as Jerm?

17 A. Yeah, Jerm.

18 I didn't really know his last name.

19 Q. Okay. Did there ever come a point in time when

20 you met an individual who identified themselves to you

21 as Rickie Slaughter?

22 A. Yes.

23 Q. How did that come about?

24 A. It was one night me and a couple friends were

25 outside working on a car, and they had went to a

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14

1 7-Eleven to pick up some items for the rest of the

2 night, and I guess Rickie might have been at the

3 7-Eleven, and he was looking to buy a car.

4 Q. So eventually does Rickie come back with your

5 friends to your house?

6 A. Exactly.

7 They brought him back to the house because I

8 happened to have a Monte Carlo for sale.

9 Q. So you owned a Monte Carlo?

10 A. Yes.

11 Q. And do you fix up cars?

12 A. Yes, I do.

13 Q. Is that kind of how you kind of know Ivan as

14 well, does he do some work on any of your cars or

15 anything?

16 A. Yeah, exactly.

17 He did some work on a couple of my cars.

18 Q. So Rickie comes back to the house, and you have

19 this Monte Carlo.

20 What happens with the Monte Carlo?

21 A. It was the one -- I was kind of working on it for

22 myself, but, you know, it was also for sale if anyone

23 wanted it, and I did end up selling it to him.

24 Q. Okay. Did the transaction happen right there,

25 did he come right from 7-Eleven?

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15

1 A. Right there on the spot.

2 Q. And handed you cash?

3 A. Cash money right on the spot.

4 Q. What did you do when he handed you cash, did you

5 give him the title to the car?

6 A. Gave him the title, sign it over, and that was

7 it.

8 Q. Did there come a point in time that you had a

9 further discussion with Mr. Slaughter about this

10 particular Monte Carlo?

11 A. Yeah, after that same night I got a couple calls

12 from him after he bought the car from me.

13 Q. And was he having some sort of issues with it?

14 A. He had a couple problems with it.

15 I ended up helping him with it a couple times,

16 and then probably about toward the end of the night,

17 going into the next morning, he kind of decided he

18 didn't want the car anymore.

19 Q. And when you let Mr. Slaughter take this car off

20 your driveway, was it at your house at the point he gets

21 it?

22 A. Yes.

23 Q. When you let him take this car, did you leave

24 your plates on the car and your registration in the car?

25 A. No, I took my plates.

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16

1 Q. Okay. Eventually does Mr. Slaughter, do you work

2 out some arrangements with Mr. Slaughter over the

3 vehicle?

4 A. Yes, that same night I guess he was having a

5 couple problems with the car, so I -- or we just -- I

6 told him, you know what, let's just -- I'll give you

7 your cash back, I'll take my car back.

8 Q. Did you in fact get your car back?

9 A. Yes, I did.

10 Q. Did you get your car title back?

11 A. Yes, I did.

12 Q. Did you ever have any further contact with Mr.

13 Slaughter?

14 A. After that, I did see him the next day, and he

15 had actually purchased another car from Jerm, who lived

16 directly behind me.

17 Q. All right. And did there come a point in time

18 when you had some discussions about a no insurance

19 ticket of Mr. Slaughter's?

20 A. Yeah, actually I kind of heard that through the

21 grapevine, and he actually came to me about that.

22 THE COURT: Hold on one second.

23 Objection.

24 MR. MARCELLO: Hearsay.

25 THE COURT: I heard something through the

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17

1 grapevine?

2 MR. MARCELLO: Yes.

3 THE COURT: I'll order that to be stricken and

4 sustain that objection.

5 BY MR. DI GIACOMO:

6 Q. Did you eventually have a conversation with Mr.

7 Slaughter about it?

8 A. Yes, I did, directly with him also.

9 Q. How long after the purchase of the car do you

10 think you had this conversation -- or the time you gave

11 back the car, you think you had the first conversation

12 with Mr. Slaughter?

13 A. About the ticket?

14 Q. The ticket.

15 A. I'll say, it was a couple days.

16 It wasn't even a week.

17 Q. What did Mr. Slaughter want from you?

18 A. He wanted proof of my insurance and proof of my

19 registration.

20 Q. To do what?

21 A. He wanted to take care of his ticket because I

22 actually didn't give him that the night he got the car,

23 and I didn't cancel it right away either because I got

24 the car back the next day, so it was still valid.

25 Q. Did you agree to give Mr. Slaughter your --

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18

1 A. No, I didn't.

2 Q. Why not?

3 A. I just didn't really like his attitude and how he

4 was demanding, and I just didn't want anymore -- or

5 anything to do with him anymore.

6 Q. Was that the last time you talked to Mr.

7 Slaughter, or did you have other discussions with Mr.

8 Slaughter about this problem related to the insurance,

9 the ticket and everything else?

10 A. He might have I'm pretty sure stopped by one more

11 time.

12 It was a --

13 MR. FUMO: Judge I'll object to speculation.

14 THE COURT: Do you recall him stopping by?

15 THE WITNESS: Yeah, I do.

16 He did stop by one more time.

17 THE COURT: Go ahead.

18 THE WITNESS: And me and Ivan were actually

19 outside of the house talking, and he pulls up, and he

20 walks over to me and says, are you going to give me that

21 insurance and registration, so I can take care of my

22 ticket, and I told him no, an --

23

24

25

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19

1 BY MR. DI GIACOMO:

2 Q. This is a conversation he's having with you.

3 Where is Ivan when he's having this conversation,

4 by his car, by his house?

5 A. He's right next to me.

6 We're in my driveway.

7 Q. Okay. And you tell him, no?

8 A. Yeah, I told him, no.

9 Q. And how long before Ivan getting shot was this?

10 A. This was a little bit before.

11 I'm not sure.

12 It was a good while before.

13 Q. Okay. A while before?

14 A. Yeah.

15 Q. Is that the last time you remember having a

16 conversation with Mr. Slaughter?

17 A. That's the last time I talked to him.

18 Q. Had you ever seen Mr. Slaughter in the

19 neighborhood after that last conversation?

20 A. Yeah, actually, yes, I have.

21 Q. And where would you see Mr. Slaughter?

22 A. Just driving through.

23 Q. Just driving through your neighborhood?

24 A. Yeah, driving through the neighborhood, not

25 actually seeing his face, but seeing his vehicle.

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20

1 I knew his vehicle.

2 Q. At that time what kind of vehicle was it?

3 A. I'm not sure of the year, but I want to say it

4 was a Chevy, like a Blazer, like a Chevy Blazer, could

5 have been in the '80s, '8 -- I'm not sure, '82, '83,

6 like a mini Chevy Blazer.

7 Q. Okay. And how long do you think was the last

8 time you saw Mr. Slaughter before the incident with Mr.

9 Young?

10 A. It's hard to say.

11 It was a few months, was a few months.

12 MR. DI GIACOMO: May I approach, Judge?

13 THE COURT: Yeah.

14 BY MR. DI GIACOMO:

15 Q. Did there come a point in time when you learned

16 obviously Ivan was shot, were you home when Ivan was

17 shot?

18 A. No, I wasn't.

19 Q. After Ivan was shot, did there come a point in

20 time when you had a discussion with him at all about him

21 getting shot, or anything to that effect?

22 A. A discussion with who, Ivan?

23 Q. Yes.

24 A. No.

25 Q. Showing you what has been marked as State's

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21

1 Proposed Exhibit number 135, do you recognize that?  
 2 A. Yeah, it's a car title, my car title.  
 3 Q. About 2005 were you contacted by the office of  
 4 the district attorney based open information that Ivan  
 5 had provided us?  
 6 A. Yeah, I believe so, yeah, I was.  
 7 Q. And were you asked whether or not you maintained  
 8 that title?  
 9 A. Yeah.  
 10 Q. And you said you had?  
 11 A. I kept it, yes.  
 12 Q. Okay. And is that the title that was signed by  
 13 yourself and Mr. Slaughter for the sale of this  
 14 particular Monte Carlo?  
 15 A. That's my signature, yes.  
 16 MR. DI GIACOMO: Move to admit.  
 17 BY MR. DI GIACOMO:  
 18 Q. What about Mr. Slaughter's signature as well?  
 19 A. Yes.  
 20 MR. DI GIACOMO: Now, I know it's been seven  
 21 years now.  
 22 Do you see Mr. Slaughter here in Court today?  
 23 THE WITNESS: I don't recognize him if I do.  
 24 MR. DI GIACOMO: I move to admit 135, Judge.  
 25 MR. FUMO: No objection, Your Honor.

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22

1 THE COURT: 135 will be admitted.  
 2 BY MR. DI GIACOMO:  
 3 Q. Let me ask you, after you got this Monte Carlo  
 4 back, what happened to it?  
 5 A. I kept it for myself.  
 6 Q. Did Ivan ever paint it?  
 7 A. Ivan painted it.  
 8 Q. What color is it?  
 9 A. It was kind of a dark blue, dark bluish purple,  
 10 had some -- he painted some Chevy signs in the side of  
 11 it, little flames on it.  
 12 Q. I'm showing you State's Exhibit Number 7.  
 13 Is that your Monte Carlo in this garage, or a  
 14 different one he was painting.  
 15 A. That's a different one.  
 16 MR. DI GIACOMO: I pass the witness, Judge.  
 17 THE COURT: Mr. Fumo.  
 18 MR. FUMO: Yes, sir.  
 19 ---  
 20 **CROSS-EXAMINATION OF KENNY MARKS**  
 21 BY MR. FUMO:  
 22 Q. Mr. Marks, you still live on Glory View?  
 23 A. Yes.  
 24 Q. What are the major cross streets there?  
 25 A. Lake Mead and Simmons there.

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23

1 Q. By the Fiesta Casino?  
 2 A. Right down the street.  
 3 The Fiesta and the Texas.  
 4 Q. Okay. And you said you met Mr. Slaughter -- or  
 5 brought to you, you met him at 7-Eleven?  
 6 A. On Simmons.  
 7 Q. A 7-Eleven on Simmons?  
 8 A. Yes.  
 9 Q. Close by your house?  
 10 A. Right, two minutes.  
 11 Q. And Mr. Slaughter came over there and actually  
 12 paid cash for the car?  
 13 A. Yes, he did.  
 14 Q. Mr. Slaughter had the car for one day, correct?  
 15 A. One day, yeah.  
 16 Q. And this transaction didn't occur around June  
 17 26th, 2004, did it?  
 18 A. I --  
 19 Q. With the car?  
 20 A. No.  
 21 Q. In fact, that was the year before in 2003 when  
 22 this car sale went down, correct?  
 23 A. Yeah, it was a little ways before, yeah.  
 24 Q. It was way before 2003, correct?  
 25 A. I'm not sure of the exact year.

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24

1 MR. FUMO: Your Honor, may I approach the  
 2 witness?  
 3 THE COURT: Sure.  
 4 BY MR. FUMO:  
 5 Q. I'll show you the signature and the date on the  
 6 title.  
 7 Read that to yourself, and see if that refreshes  
 8 your recollection.  
 9 A. Right.  
 10 Okay.  
 11 Q. And that was 2003?  
 12 A. Yes.  
 13 Q. Okay. And Mr. Slaughter had the car for one day?  
 14 A. Yes.  
 15 Q. And so when he came over that day in 2003, was it  
 16 evening time or daytime?  
 17 A. It was afternoon.  
 18 Q. Afternoon?  
 19 A. Yeah.  
 20 Q. So you didn't have time to register and insure it  
 21 in that time?  
 22 A. No, no way.  
 23 Q. And he came back to you the next day and asked if  
 24 you could provide a source he could get the ticket  
 25 dismissed, right?

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25

1 A. Right, yeah, you are right, yes.  
 2 Q. He never threatened you to get the insurance and  
 3 registration, you just didn't like his attitude, is that  
 4 right?  
 5 A. No, he never threatened me, no.  
 6 Q. When you were standing there with Ivan, he never  
 7 had any words with Ivan, did he?  
 8 A. No, he was -- Everything was directed toward me.  
 9 Q. Do you remember the exact date you sold him that  
 10 car?  
 11 A. No.  
 12 MR. FUMO: May I approach again, Your Honor?  
 13 THE COURT: Sure.  
 14 MR. FUMO: I want to get that on the record.  
 15 BY MR. FUMO:  
 16 Q. Okay. There --  
 17 A. January 14th.  
 18 Q. What date was that, sir?  
 19 A. It says, January 14th.  
 20 Q. January 14th, what year?  
 21 A. '03.  
 22 Q. 2003?  
 23 A. Yes.  
 24 Q. A year-and-a-half before Ivan got shot, correct?  
 25 A. Yeah.

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26

1 MR. FUMO: Pass the witness, Your Honor.  
 2 Thank you.  
 3 THE COURT: Mr. DiGiacomo.  
 4 MR. DI GIACOMO: Nothing.  
 5 THE COURT: Mr. Marks, thank you so much for your  
 6 time.  
 7 You are excused.  
 8 THE WITNESS: Thank you.  
 9 THE COURT: The State may call their next  
 10 witness.  
 11 MS. FLECK: Thank you, Your Honor.  
 12 The State calls Inderdeep Judge.  
 13 THE COURT: Say it again.  
 14 MS. FLECK: Inderdeep Judge.  
 15 THE BAILIFF: If you can, take the stand and  
 16 remain standing, while the clerk swears you in.  
 17  
 18 INDERDEEP JUDGE,  
 19  
 20 who, being first duly sworn to tell the truth, the whole  
 21 truth, and nothing but the truth, was examined and  
 22 testified as follows:  
 23 THE CLERK: Can you state your name, and spell it  
 24 for the record?  
 25 THE WITNESS: My name is Inderdeep Judge,

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1 I-n-d-e-r-d-e-e-p J-u-d-g-e.  
 2 - - - -  
 3 **DIRECT EXAMINATION OF INDERDEEP JUDGE**  
 4 BY MS. FLECK:  
 5 Q. Good afternoon -- or I guess maybe -- yes, good  
 6 afternoon.  
 7 Sir, I want to direct your attention back to June  
 8 of 2004.  
 9 Where were you working at that time?  
 10 A. The convenient store 7-Eleven, located 30051 East  
 11 Charleston Boulevard.  
 12 MS. FLECK: Your Honor, may I approach?  
 13 THE COURT: Yes.  
 14 MS. FLECK: I am showing Defense counsel what has  
 15 been marked as State's Proposed Exhibit 2.  
 16 BY MS. FLECK:  
 17 Q. Mr. Judge, do you recognize what is depicted in  
 18 this exhibit?  
 19 A. Right here?  
 20 Q. The overhead map of that area of Las Vegas.  
 21 A. Yes.  
 22 Q. And this is the surrounding area of that  
 23 7-Eleven?  
 24 A. Yes.  
 25 Q. And is this a fair and accurate map depicting

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1 that area?  
 2 A. Yes.  
 3 MS. FLECK: Move for admission of State's  
 4 Proposed Exhibit 2.  
 5 MR. FUMO: No objection.  
 6 THE COURT: It will be admit it.  
 7 MS. FLECK: Permission to publish.  
 8 THE COURT: Yes.  
 9 BY MS. FLECK:  
 10 Q. So the 7-Eleven is at 3051 East Charleston?  
 11 A. That's correct.  
 12 Q. Directing your attention then to June 29th of  
 13 2004, were you approached by detectives from the North  
 14 Las Vegas Police Department reference an ATM transaction  
 15 that occurred just after 8 p.m. on June 26th of 2004?  
 16 A. Yes.  
 17 Q. And they came to the 7-Eleven to talk to you?  
 18 A. Yes, they came in 7-Eleven asking about that.  
 19 Q. And based upon that request, did you go and look  
 20 through some video that you have?  
 21 A. Yes, I did.  
 22 Q. And at that 7-Eleven in the ordinary course of  
 23 your business did you keep surveillance video?  
 24 A. Like now or --  
 25 Q. At that time.

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1 A. Yes, we did.  
 2 Q. Okay. And would you at times maintain that video  
 3 and pull the video for various purposes?  
 4 A. We gave it to the detective.  
 5 That's about it.  
 6 Q. Okay. So in this particular case then you went,  
 7 and you looked for a video that corresponded to the ATM  
 8 transaction which occurred just after 8 p.m. on the  
 9 26th?  
 10 A. Yes.  
 11 Q. And were you able to find some video that  
 12 corresponded to that ATM transaction?  
 13 A. Yes.  
 14 Q. Did you pull that tape for the detectives?  
 15 A. Yes, I did.  
 16 Q. And did you give them a copy of it?  
 17 A. Yes, I did.  
 18 Q. Additionally, have you had an opportunity since  
 19 then to review that video?  
 20 A. No.  
 21 Q. No.  
 22 Okay.  
 23 A. I mean, actually I came and did it today.  
 24 Q. Okay.  
 25 A. Yes, since I did.

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1 Q. Okay. I was going to see if that would refresh  
 2 your recollection.  
 3 A. I looked at it.  
 4 Q. So you had an opportunity to see the video again?  
 5 A. Yes, today.  
 6 Q. Okay. Thank you.  
 7 MS. FLECK: I have State's Proposed Exhibit 112,  
 8 the video that you watched earlier today.  
 9 BY MS. FLECK:  
 10 Q. Is that right?  
 11 A. Yes.  
 12 Q. Okay.  
 13 MS. FLECK: Judge, I move to admit State's 112.  
 14 THE COURT: Any objection?  
 15 MR. MARCELLO: Subject to our --  
 16 THE COURT: Subject to the earlier objection, it  
 17 will be admitted.  
 18 MR. DI GIACOMO: Judge, we need to click it over  
 19 onto us.  
 20 (Video now played for the jury.)  
 21 BY MS. FLECK:  
 22 Q. So we see on the green now a couple of  
 23 side-by-side shots.  
 24 Reference the one to the upper right, what do we  
 25 see in that screen?

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1 A. On the upper right it's where the counter is, the  
 2 front door, and where the main counter is.  
 3 Q. Okay. So that is the front door entrance and  
 4 exit area?  
 5 A. Yes.  
 6 Q. If you were to walk in that front door, and make  
 7 a sharp right, what would you go to?  
 8 A. The ATM.  
 9 Q. Okay. And then to the still screen to the left  
 10 of that, what do we see in that shot?  
 11 A. That is the slot machines on the left-hand side.  
 12 Q. Additionally, do we see some time stamps on the  
 13 right side on the lower left portion of this screen?  
 14 A. Yes, it's only -- the reason is because when the  
 15 saving time, we never -- or it never automatically  
 16 changes the time on the screen.  
 17 You can see one of the screens have the right  
 18 time, and the other one has one hour difference.  
 19 It's only because the savings time.  
 20 Q. Okay. If you could, because I mean, I can hardly  
 21 see it here, if you could circle it for the ladies and  
 22 gentlemen of the jury, can you touch on the screen?  
 23 It's going to actually make a mark.  
 24 THE COURT: Any way you can make it bigger?  
 25 MR. DI GIACOMO: I can make one or the other one

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1 bigger, Judge.  
 2 THE COURT: Make the one on the right bigger.  
 3 BY MS. FLECK:  
 4 Q. Just circle the whole date area, please.  
 5 Thank you.  
 6 So do we see it's June 26th of 2004, correct?  
 7 A. Yes.  
 8 Q. And that's a Saturday?  
 9 A. Yes.  
 10 Q. And that portion is correct?  
 11 A. Yes, that's correct.  
 12 Q. And then we see 18:56:11. What does that tell  
 13 you?  
 14 A. That is the 6:56.  
 15 Q. So what we're seeing here is that actually at  
 16 6:56 --  
 17 A. No, it's the other time actually. It never  
 18 changed it.  
 19 Q. So because of daylight savings, it's off an hour?  
 20 A. Yes.  
 21 Q. So was it actually off an hour or hour and a few  
 22 minutes?  
 23 A. It's probably hour and a few minutes.  
 24 Q. So what time is it that we're actually seeing  
 25 this video?

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1 A. 8:07.  
 2 MS. FLECK: Okay.  
 3 Thank you.  
 4 Permission to publish, Judge.  
 5 THE COURT: Just for the record, the 6:26:04,  
 6 Saturday, 18 hours, 56 minutes, 11 seconds, that is one  
 7 time stamp on here, and then there is a second one  
 8 because you just said 8:07, there is a second time stamp  
 9 on here that says 20 hours, 07 minutes, 14.66 seconds.  
 10 THE WITNESS: Yes.  
 11 THE COURT: Okay. You can go ahead.  
 12 BY MS. FLECK:  
 13 Q. Well --  
 14 THE COURT: No, you can't leave yet.  
 15 She can go ahead and turn it on.  
 16 Good try though.  
 17 THE WITNESS: All right.  
 18 (Video now played for the jury again.)  
 19 MS. FLECK: I'm showing Defense counsel what is  
 20 marked as State's Proposed 105, 106 and 107.  
 21 BY MS FLECK:  
 22 A. Showing you, sir, what has been marked as State's  
 23 105, 106, 107, do you recognize these?  
 24 A. Yes, I do.  
 25 Q. Still shots of that video that we just watched?  
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1 A. Yes.  
 2 Q. Are they fair and accurate shots of the video we  
 3 just watched that you gave the detectives?  
 4 A. Yes.  
 5 MS. FLECK: Move for admission of State's  
 6 proposed 105, 6 and 7.  
 7 MR. MARCELLO: No objection.  
 8 THE COURT: Those will be received.  
 9 MS. FLECK: Permission to publish, Judge.  
 10 THE COURT: Yes.  
 11 BY MS. FLECK:  
 12 Q. Showing you State's Exhibit 105, back by the  
 13 front doors we see a man with a mask over his face, over  
 14 a part of his face, and his head slightly covered.  
 15 When he is walking in, he's going to the right,  
 16 you say he's going down to the ATM?  
 17 A. ATM, yes.  
 18 MS. FLECK: Pass the witness, Judge.  
 19 THE COURT: Mr. Fumo, Mr. Marcello.  
 20  
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1  
 2  
 3 **CROSS-EXAMINATION OF INDERDEEP JUDGE**

3 BY MR. MARCELLO:  
 4 Q. How do I say your name, so I don't say it  
 5 incorrectly?  
 6 A. Inderdeep.  
 7 Q. You indicated that the system was an hour and a  
 8 couple minutes off?  
 9 A. Yes.  
 10 Q. And that was because you installed a relatively  
 11 new system at that time?  
 12 A. My system still works the same, never  
 13 automatically changed the time.  
 14 Q. Okay. I understand.  
 15 And so this tape could have been taken it a  
 16 couple minutes earlier than, or a couple minutes later?  
 17 A. Just -- Yeah.  
 18 Q. Now, when the officer asked you for the tape, did  
 19 he give you a particular time frame he wanted the tape?  
 20 A. Yeah, he told me about 8:00, that's about it.  
 21 He said, we need to look roughly about 8:00.  
 22 He actually gave me a time, but it's about eight  
 23 years, so I don't recall.  
 24 Q. Do you recall if he said, give me the tape all  
 25 the way from 7, all the way to 9:00?  
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1 A. No, we checked -- We sat there, and because we  
 2 couldn't figure it out, that's the day we actually  
 3 figured out it was however wrong.  
 4 Q. But sitting here today, the only portion they  
 5 actually took was -- is the five minute portion?  
 6 A. Yes.  
 7 Q. So we don't know what was on the tape before this  
 8 or after this, correct?  
 9 A. Yes.  
 10 Q. Then you said --  
 11 MR. MARCELLO: May I approach the witness, Your  
 12 Honor?  
 13 THE COURT: Yes.  
 14 BY MR. MARCELLO:  
 15 Q. The State has just shown you, this is an aerial  
 16 shot of the area where your store is?  
 17 A. Yes.  
 18 Q. And this is your store at 3051 East Charleston?  
 19 A. That's correct.  
 20 Q. And there is another address listed on here as  
 21 well, right, 3801 East Charleston?  
 22 A. Yes.  
 23 Q. Now, how long have you owned this store at East  
 24 Charleston?  
 25 A. Probably about eight years.  
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1 Q. Eight years.  
2 And in that time that you have been there  
3 approximately how many convenient stores do you think  
4 there are from 3851 East Charleston to 3801 East  
5 Charleston?

6 A. How many more?

7 Q. Yes, either AM/PM, Circle K?

8 A. Probably I would say about -- See, I opened up  
9 down the street.

10 Probably about four or five more.

11 Q. Four or five more?

12 A. Yeah, convenient stores that opened up.

13 Q. So between 3081 East Charleston and 3051 East  
14 Charleston there is approximately four stores, including  
15 one you own?

16 A. Yes.

17 MR. MARCELLO: No further questions.

18 THE COURT: Anything else?

19 MS. FLECK: Yes.

20 One, Judge.

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1 - - - -

2 **REDIRECT EXAMINATION OF INDERDEEP JUDGE**

3 BY MS. FLECK:

4 Q. You said you realized on that day the detective  
5 came, that is when you finally realized the time stamp  
6 on your video was wrong?

7 A. Yes.

8 Q. And is that because you realized the time of the  
9 ATM transaction, and so you were able to then coordinate  
10 it, the exact time, based upon the ATM transaction?

11 A. That's correct.

12 MS. FLECK: Thank you.

13 - - - -

14 **RECROSS-EXAMINATION OF INDERDEEP JUDGE**

15 BY MR. MARCELLO:

16 Q. Just one last question.

17 You opened up another store in this area?

18 A. Yes.

19 Q. And it's a pretty busy area, correct?

20 A. Yes, pretty busy.

21 Q. Approximately how many residents do you think  
22 live within a one mile radius of that area?

23 A. I don't know, probably --

24 Q. A hundred thousand?

25 A. Probably close to that, I mean.

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1 MR. MARCELLO: No further questions.

2 THE COURT: Ms. Fleck, no?

3 MS. FLECK: Nothing further, Your Honor.

4 Thank you.

5 I'm sorry.

6 THE COURT: Anything from our jurors?

7 Yes. Okay.

8 (Thereupon, a discussion was had between Court and  
9 Counsel at sidebar.)

10 THE COURT: All right. Mr. Judge, I have a  
11 question for you.

12 Did you ever try to calibrate the time on the  
13 cameras?

14 THE WITNESS: We tried, but we couldn't really do  
15 it.

16 THE COURT: Okay. Ms. Fleck, any questions based  
17 upon that?

18 MS. FLECK: I don't, Your Honor.

19 Thank you.

20 THE COURT: Mr. Marcello?

21 MR. MARCELLO: No, Your Honor.

22 THE COURT: Sir, I appreciate your time.

23 Thank you very much for coming in.

24 You are excused now.

25 The State may call their next witness.

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1 MR. DI GIACOMO: Jeff Arbuckle.

2 THE BAILIFF: If you will, go ahead and take the  
3 stand.

4 Remain standing while the clerk swears you in.

5  
6 JEFFREY ARBUCKLE,  
7

8 who, being first duly sworn to tell the truth, the whole  
9 truth, and nothing but the truth, was examined and  
10 testified as follows:

11 THE CLERK: Please state your full name, and  
12 spell your name for the record.

13 THE WITNESS: Jeffrey Arbuckle, J-e-f-f-r-e-y  
14 A-r-b-u-c-k-l-e.

15 - - - -

16 **DIRECT EXAMINATION OF JEFFREY ARBUCKLE**

17 BY MR. DI GIACOMO:

18 Q. Sir, back in June of 2004 where did you work?

19 A. At Eldorado Cleaners.

20 Q. What was your position at the Eldorado Cleaners?

21 A. I was the manager.

22 Q. Did you have an employee that worked there by the  
23 name of Tiffany Johnson?

24 A. Yes.

25 Q. And how long had you worked with her prior to

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1 Saturday, June 26th of 2004?

2 A. For a good year or two.

3 Q. During that time period that you worked with her,

4 did you notice what kind of car she drove?

5 A. Yes, a green Ford Taurus.

6 Q. Green Ford Taurus?

7 A. Yes.

8 Q. Do you recall that in 2004 the police came and

9 asked you questions about a particular Saturday in June,

10 June 26th of 2004, do you remember the police coming to

11 you about that?

12 A. Yes.

13 Q. When I asked you questions about that particular

14 Saturday?

15 A. Okay.

16 Q. What time did the store close on that Saturday?

17 A. 7:00.

18 Q. 7 p.m.?

19 A. Yes.

20 Q. And was Miss Johnson working at the time of

21 closing?

22 A. Yes.

23 Q. And were you working at the time of closing?

24 A. Yes.

25 Q. After you closed up at 7 p.m., did you

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1 immediately leave the area?

2 A. No.

3 Q. Why not?

4 A. Because her ride wasn't there for her yet.

5 Q. Did Miss Johnson not have her car that day?

6 A. No, she didn't.

7 Q. Did you wait with her?

8 A. Yes.

9 Q. How long would you say that you waited with Miss

10 Johnson?

11 A. For at least 30 minutes.

12 Q. For at least 30 minutes?

13 A. Yes.

14 Q. And eventually did you have to leave, or did you

15 remain until her ride got there?

16 A. I had to leave soon after though.

17 I was pulling out of the parking lot, and her

18 ride did come.

19 Q. So as you were leaving, her ride arrived in the

20 parking lot?

21 A. Yes.

22 Q. Did you see what car it was?

23 A. A green Taurus.

24 Q. Did you see who was driving the --

25 A. Her boyfriend.

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1 Q. Did you know her boyfriend at the time?

2 A. Not personally.

3 Q. Had you ever met him before, or seen him before?

4 A. Yes.

5 Q. Did you know who he was?

6 A. Rickie Slaughter.

7 Q. How many times do you think you had seen him

8 prior to this occasion where he was driving in the

9 parking lot at least a half hour after closing on

10 Saturday night?

11 A. Quite a few.

12 Q. Quite a few times?

13 A. Yeah.

14 Q. I know it's been seven years, but do you see Mr.

15 Slaughter here in court today?

16 A. Nope.

17 Q. No?

18 A. No.

19 Q. When you left, and you saw Mr. Slaughter in this

20 car, this green Ford Taurus, was he alone, or did you

21 notice if anybody else was inside the vehicle?

22 A. He was alone.

23 Q. He's alone and, he's driving to pick up Tiffany?

24 A. Yes.

25 MR. DI GIACOMO: Thank you, sir.

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44

1 I pass the witness, Judge.

2 THE COURT: Mr. Fumo.

3 -----

4 **CROSS-EXAMINATION OF JEFFREY ARBUCKLE**

5 BY MR. FUMO:

6 Q. Mr. Arbuckle, your mother owned the store?

7 A. Yes.

8 Q. And you worked for your mom?

9 A. Yes.

10 Q. You were the manager of the store?

11 A. That's correct.

12 Q. And do you recall exactly what time you guys left

13 that day?

14 A. It had to be after 7:30.

15 Q. I mean, when you left the store?

16 A. When we actually left?

17 Q. Right, when you closed shop.

18 A. We close at 7:00.

19 Q. Did you close exactly at 7, or let everybody out

20 a little early that day?

21 A. No, we don't.

22 We close at 7:00.

23 Q. At 7:00 you close, and you said you recall this

24 day very well -- or just because the police talking go

25 to you, you remember it?

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1 You, you remember it?

2 A. No, I recall that day.

3 I don't recall the actual date or anything.

4 Q. Okay.

5 A. Any specifics.

6 Q. The store is the Eldorado Cleaners on the corner  
7 of Bonanza and Nellis?

8 A. Yes.

9 Q. Inside there was a shopping center?

10 A. Yes.

11 Q. And Albertson's was in there?

12 A. I believe at the time it was.

13 Q. That Eldorado Cleaners isn't there anymore, is  
14 it?

15 A. Yes, it's still there.

16 Q. Still there on Bonanza and Lamb?

17 A. Yes.

18 It's been sold though.

19 Q. There is a cleaners, but not Eldorado Cleaners?

20 A. Yes.

21 Q. Did you guys have security cameras in the store?

22 A. Not in our store.

23 Q. The Albertson's did at the time though?

24 A. If it was still there.

25 Q. It's gone now?

1 A. Yes, it went out of business.

2 Q. And you waited for about a half hour?

3 A. At least.

4 Q. How do you know that?

5 A. Because I had other priorities, family at home  
6 waiting for me.

7 Q. Pardon?

8 A. I had priorities at home.

9 I tried to wait as long as I could though.

10 Q. Do you recall talking to a Detective Corrado?

11 A. I don't recall his name.

12 I know he was a North Las Vegas detective.

13 Q. A tall gentlemen?

14 A. Yes.

15 Q. Probably about six foot five?

16 A. Pretty tall.

17 Q. Do you recall telling him you waited with Tiffany  
18 until 7:15?

19 A. No, I waited for about 30 minutes.

20 Q. Okay. So if he wrote down in his report you  
21 waited until 7:15, he's mistaken?

22 MR. DI GIACOMO: Objection, Judge.

23 Assumes a fact not in evidence, first of all.

24 THE COURT: I'll sustain the objection.

25

1 BY MR. FUMO:

2 Q. Did you get the opportunity to write a  
3 handwritten report?

4 A. I do not recall.

5 I believe it was questioning.

6 Q. You never had the opportunity to write out your  
7 report yourself, right?

8 A. Not that I recall.

9 MR. FUMO: Court's indulgence, Judge.

10 THE COURT: Okay.

11 BY MR. FUMO:

12 Q. You said on direct you don't recall the actual  
13 date, but you just remember the time?

14 A. Yes.

15 Q. And did you guys use time cards or anything,  
16 stamp out time cards?

17 A. No, we didn't.

18 Q. So you just let everybody go at 7:00, no actual  
19 punching in or out?

20 A. Employees left afterwards because after we left,  
21 they have to count down their drawers themselves.

22 Q. You have no actual time cards?

23 We don't know exactly what time you guys left?

24 A. That's correct.

25 MR. FUMO: Nothing further.

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**DIRECT EXAMINATION OF RYAN JOHN**

1 BY MS. FLECK:

2 Q. Good afternoon, Mr. John.

3 I'd like to direct your attention back to June of  
4 2004, specifically June 26th of 2004.

5 On that day did you have an opportunity to go  
6 over to your girlfriend's house on Glory View?

7 A. Yes.

8 Q. Who was your girlfriend at the time?

9 A. Nicole.

10 Q. And where did she live?

11 A. On Glory View at Kenny's house.

12 Q. Who is Kenny?

13 A. A friend.

14 Q. A friend of?

15 A. Mine.

16 Q. Okay. And did Kenny have any relationship to  
17 your girlfriend?

18 A. He goes out with her mom.

19 Q. Okay.

20 MS. FLECK: Permission to publish, Judge.

21 THE COURT: Yes.

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1 BY MS. FLECK:

2 Q. Mr. John, I'm showing you State's Exhibit 1.

3 Here we see an address, 2612 Glory View.

4 Do you see Kenny Mark's home on that map?

5 A. Yeah, right here on this corner.

6 Q. Okay. You see how it just kind of comes up blue?

7 A. Yes.

8 Q. Can you just circle it?

9 THE COURT: Circle it if you would, please.

10 Thank you.

11 BY MS. FLECK:

12 Q. Okay. About what time did you go over to see  
13 your girlfriend on the 26th?

14 A. I do not remember the exact time.

15 Q. Afternoon, evening?

16 A. Say, afternoon.

17 Q. Okay. At some point then do you get called over  
18 to another house on Glory View?

19 A. Yes.

20 Q. And how did that happen?

21 A. I was walking out to my car, and then they came  
22 out and called me Mark, and I was like, my name ain't  
23 Mark, and he was like, Ivan needs to talk to you,  
24 someone across the street.

25 So I was like, all right.

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1 I walked in there, go in the garage, and as soon  
2 as I go through the door in the garage where the laundry  
3 room is, he pushes the door closed and puts a gun  
4 underneath my throat like right here.

5 And then I was like, quit messing around. I  
6 thought he was playing around.

7 And he's like, I ain't fucking around, get on the  
8 ground, and pushed me in the kitchen.

9 And then Ivan's wife was laying there tied up.

10 He put me on my stomach and took my cell phone  
11 out of the pocket, broke it, and started going through  
12 all my pockets.

13 They tied me up, and then started like pistol  
14 whipping me, kicking me, hitting me, and walking through  
15 the cabinets, stepping on me, all kinds of weird stuff  
16 like that.

17 Q. So let me take you back then to when you get  
18 called over.

19 You say, they, and they called you over.

20 Where did they call you over to?

21 A. To Ivan's house.

22 Q. And when you say, they, how many guys were there?

23 A. One guy came out.

24 Q. One guy came outside of Ivan's house?

25 A. Yes.

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1 Q. Had you ever been in Ivan's house?

2 A. No, I never been in Ivan's house.

3 I thought it was weird he wanted somebody to go  
4 in his house.

5 Q. Did you know Ivan from being outside at your  
6 girlfriend's, and sometimes being outside his house?

7 A. Yes.

8 Q. So you were somewhat familiar with him?

9 A. Yeah.

10 Q. The people that called you over, men, women, what  
11 did they look like?

12 A. They were black, had like accents.

13 Q. What kind of accents did you hear?

14 A. Like a Jamaican accent.

15 Q. Did you -- or was there anything unusual about  
16 the accent?

17 A. I really wasn't like paying attention to it, but  
18 I just didn't -- or went over there to see what he  
19 wanted, and I don't know.

20 Q. Okay. You get called over, and you said you went  
21 there to the garage first?

22 A. Yes.

23 Q. And did you still just see one person?

24 A. When I walked in, there was another person in  
25 there.

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1 Q. Inside the garage?

2 A. No, inside the house.

3 Q. When you got through the garage -- or when you  
4 get into the garage, did the person say anything else to  
5 you once you were in the garage?

6 A. When I went in the garage, I walked -- that's  
7 when I walked to the door, walked straight in, and the  
8 other, he was like, shut the door, and put the gun up to  
9 my throat.

10 Q. The other person that had not called you over?

11 A. The one called me over -- like the laundry room  
12 is really small, so the door, as soon as he stepped  
13 around, he pushed it shut, and I couldn't do nothing,  
14 was stuck in there.

15 Q. Okay. Did you happen to see the gun that was put  
16 up against your throat?

17 A. A little bit, just like a black gun.

18 And then there was another gun, was like a little  
19 revolver, once they put me on the ground.

20 MR. FUMO: Objection.

21 Nonresponsive.

22 THE COURT: Go ahead.

23 MR. FUMO: Nonresponsive.

24 She asked for the one, and he said, yes, and --

25 THE COURT: Why don't you go ahead, follow-up

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1 with another question.

2 BY MS. FLECK:

3 Q. You saw the gun put to your throat?

4 A. Yes.

5 Q. What did that one look like?

6 A. Just a black gun.

7 Q. You said you went on to see another gun?

8 A. Yeah, that's when they tied me up, put me on the  
9 ground, and then put the gun by my face, and he's like,  
10 take the gun.

11 I have my hands tied up.

12 I was like, I don't see how that is possible.

13 Anyways, he's like, take it, take it, smell that.

14 He said, if you try to touch that gun, I'll blow  
15 your fucking brains out.

16 And I was like, whatever, how the hell am I  
17 supposed to touch it anyway, I got my hands tied up.

18 And just I was like, I want to get out of there,  
19 and every time we tried to talk, they would like kick us  
20 or hit us with the gun and that.

21 Q. When you first came in, the gun is put to your  
22 throat, and then you said you went on to get tied up.

23 How is it you got tied up.

24 A. They got like extension cords, I guess taking  
25 cords off all the stuff around the house, like

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1 appliances and TVs and fans and stuff like that and  
2 tying everybody up with them.

3 Q. What room were you in when you got tied up?

4 A. The kitchen.

5 Q. Did you see anyone else in the house, besides the  
6 two black men tying you up and holding you at gunpoint?

7 A. Just like Ivan's wife, and they were laying like  
8 through the kitchen, and Ivan's son were in the other  
9 room.

10 Q. When you saw Ivan, where was he?

11 A. He was like laying on the ground, already tied  
12 up.

13 So we were just like, you could hear him talking,  
14 and -- but you couldn't really see him from where I was  
15 laying.

16 Q. Did you see whether his head was covered or  
17 uncovered at the time?

18 A. It was uncovered, but they didn't cover everybody  
19 until they shot him.

20 Q. And you could see Ivan.

21 Could you also see his wife, Jennifer?

22 A. She was laying right next to me.

23 Q. And how about any children, did you see any kids  
24 in the house?

25 A. Yeah, there was a little girl came over there,

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1 knocked on the door, and they put her in there.

2 And his son was in there, and I think their  
3 nephew.

4 Q. Okay. And were the kids also tied up?

5 A. I believe so.

6 I didn't -- or don't know what they did with the  
7 girl.

8 I was laying face down at the time when she came  
9 in.

10 I looked up and seen her walk in, and you could  
11 hear it.

12 Q. Once you got tied up, you said you were face  
13 down?

14 A. Yeah, they put us face down on the ground.

15 Q. So once you got tied up face down, what happened?

16 A. They made us put our heads down.

17 Every time we tried to lift our heads up they  
18 would stomp the back of my head into the ground and then  
19 just kept making us put our heads down, and --

20 Q. Were they asking you for anything?

21 A. They were just -- I guess wanted money and stuff,  
22 so they went through our pockets, got my bank card, and  
23 then used my debit card at the ATM.

24 Q. Okay. So you said they were asking for money, at  
25 some point they go through your pockets?

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1 A. Yeah.

2 Q. And what all did they get?

3 A. Got my debit card and my ID, and I don't know,

4 probably some other cards I had in there too, but the

5 only one they used was the bank card.

6 Q. And what bank was that through?

7 A. Wells Fargo.

8 Q. So they got some property from you.

9 You had said earlier that at some point a gun was

10 put out in front of you.

11 What happened?

12 Tell us again, what happened when the gun was put

13 in front of you?

14 A. He told me to try to grab it, and then I had my

15 hands tied, and he had a gun to my head, so if I tried

16 to grab it, what is going to happen anyways, but he told

17 me he's going to blow my brains out.

18 Q. Now, that gun in front of you, that --

19 A. It was a different one, looked like kind of like

20 a smaller gun.

21 Q. How many guns did you see total?

22 A. I seen two total.

23 Q. Okay. And at some point did someone else come

24 into the house?

25 A. Yeah, the little girl came in after a while, and

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1 then I don't know his name, he came in.

2 Q. What happened when he came in?

3 A. They got him, and then they asked who's in the

4 car, and I guess his girlfriend was out there, and they

5 went out, I guess went out, both of them went out there

6 to get her or something.

7 I got my hands out.

8 Q. Okay. At some point then before you get your

9 hands out do you hear any shots being fired?

10 A. No, there was no shots after that.

11 Q. But --

12 A. When I was in there, I heard them shoot Ivan, and

13 one of the guys said, oh, you just shot him.

14 I told him to shut the fuck up, that's what he

15 said after he shot him.

16 Q. So once you are tied up, they are rummaging

17 through all of your pockets and get your property.

18 At some point do you hear a shot being fired?

19 A. Yes.

20 Q. When did that happen?

21 A. Probably say, hard to keep exact time, maybe 20

22 minutes after I was in there, 30 minute after I was in

23 there.

24 Q. And could you see these guys while -- I mean,

25 while you are hearing the shot being fired, can you see

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1 them, or just hearing what they are saying?

2 A. You could see them because I was like watching,

3 trying to see what was going on because I was trying to

4 get out of there, and I was waiting for both of them to

5 go in the other room again.

6 Q. What did you see?

7 A. Walking around, going through everything, like

8 spraying Lysol on everything, or something all over the

9 house, I don't know why, but after they shot him, that's

10 when they started covering everybody's heads up, so I

11 couldn't see nothing after that.

12 Q. Tell us what you see before Ivan gets shot.

13 A. Them walking around, going through everything,

14 going through everybody's pockets.

15 Like the other guy that came in, I guess they

16 took money out of his pockets.

17 Q. And then at some point they go over to Ivan, like

18 right before he gets shot.

19 What happens?

20 A. Well, he's like, don't shoot me in front of my

21 kid. I don't want to die in front of my son.

22 And then you just hear a gunshot go off.

23 Q. Did you actually see that?

24 A. And he got quiet.

25 Q. You didn't see it?

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1 A. No, I didn't see it.

2 Q. You just heard it?

3 A. Yes.

4 Q. After the gunshot, you said everything got quiet,

5 and what did the guys do?

6 A. I guess started freaking out like, and that's

7 when they went outside to get the girl, and I just got

8 out.

9 Q. So at some point you break free from the binding?

10 A. Yeah.

11 Q. And then what did you do?

12 A. Went out the window and ran through the backyard,

13 and then hopped through another backyard, and then it

14 was like a street, and across the street, and ran

15 through somebody's house, and they were sitting there

16 watching TV, and I had one tie still on my wrist, and

17 they didn't speak English, and one guy was on the cell

18 phone, so I took the phone out of his hand and then

19 called 911.

20 Q. You said, you ran north?

21 A. It was through the backyard.

22 So this would be his house right here.

23 So I went over this wall and went through that

24 one, and then there is a street right here, like out

25 here, and then the next neighborhood.

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1 When I came out, I was on Carey.  
 2 Q. At some point do you make your way back to 2612  
 3 Glory View?  
 4 A. Yeah.  
 5 I came up, went all the way up Carey, then back  
 6 down Simmons, and came down the street this way, and  
 7 they had the street, like the tape going off on the  
 8 street, and I went right through the tape and was in the  
 9 cop car like right around this area right there.  
 10 Q. So when you get back to the scene, officers are  
 11 already there?  
 12 A. Yes.  
 13 Q. And did you have an opportunity at that point in  
 14 time to tell them what happened to you?  
 15 A. Yes.  
 16 Q. You said you had a number of cards taken from you  
 17 and other pieces of property, your cell phone.  
 18 At some point that evening did you make some  
 19 calls and learn that your Wells Fargo card had been used  
 20 at a 7-Eleven just after 8 p.m. that evening?  
 21 A. Yes.  
 22 Q. Did you relay that then to the officers?  
 23 A. Yes.  
 24 Q. And did you find out how much money had been  
 25 taken out approximately at that ATM transaction?  
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1 A. I think it was 300.  
 2 I'm not exact.  
 3 MS. FLECK: Judge, may I approach?  
 4 THE COURT: Yes.  
 5 BY MS. FLECK:  
 6 Q. You had an opportunity to speak with officers  
 7 that evening at some point after this event.  
 8 Were you also in contact with a detective from  
 9 the North Las Vegas Police Department who asked you if  
 10 maybe you could participate in a line-up and see if you  
 11 could identify anybody?  
 12 A. Yes.  
 13 Q. And that was just a few days after this occurred?  
 14 A. Yes.  
 15 MS. FLECK: I'm showing Defense counsel what has  
 16 been marked as State's Proposed Exhibit 133 and 133-A.  
 17 May I approach, Judge?  
 18 THE COURT: Yes.  
 19 BY MS. FLECK:  
 20 Q. Showing you what has been marked as State's  
 21 Proposed 133 and 133-A, do you recognize this document?  
 22 A. Yes.  
 23 Q. How do you recognize it?  
 24 A. I have my initials right here, and that's him.  
 25 Q. Is this the photo line-up that you participated  
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1 in, and that you filled out on June 29th of 2004?  
 2 A. Yes.  
 3 MS. FLECK: Move for admission of State's 133 and  
 4 133-A.  
 5 MR. FUMO: No objection.  
 6 THE COURT: That will be admitted.  
 7 MS. FLECK: For the record, I'm showing 133-A.  
 8 BY MS. FLECK:  
 9 Q. Sir, is this a photo line-up you went through  
 10 with a detective?  
 11 A. Yes.  
 12 Q. Before you did this photo line-up, were you given  
 13 a number of instructions of how to go about identifying  
 14 somebody, whether you could identify someone or not?  
 15 A. Yes, he put it down, and as soon as I looked at  
 16 it I seen him.  
 17 Q. Okay. Is this your signature in the lower right?  
 18 A. Yes.  
 19 Q. That you did this just after, in the early  
 20 afternoon on June 29th of 2004?  
 21 A. Yes.  
 22 Q. And what is it then that you said in your witness  
 23 comments?  
 24 A. This is the guy I think that called me over to  
 25 Ivan's house and tied me up and shot Ivan.  
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1 Q. So the person you identified is the person that  
 2 called you over and that went on to shoot Ivan?  
 3 A. Yes.  
 4 Q. And who is it then?  
 5 If you could, circle on there the person you  
 6 identified as the shooter.  
 7 The person in the number six photo?  
 8 A. Yes.  
 9 Q. Those are your initials?  
 10 A. Yes.  
 11 Q. Mr. John, did you actually come down to a prior  
 12 hearing in this case a number of years ago?  
 13 A. Yeah.  
 14 Q. Testified in a similar way, a jury wasn't here,  
 15 but you testified in a similar way?  
 16 A. Yes.  
 17 Q. At that hearing were you also asked if you could  
 18 identify the person who shot Mr. Ivan?  
 19 A. Yes.  
 20 Q. And were you able to at that point?  
 21 A. Yes.  
 22 Q. Did you identify the Defendant?  
 23 A. Yes.  
 24 Q. Do you see the person that shot Ivan that you  
 25 previously identified, do you see him in the courtroom  
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1 today?  
 2 A. Yes.  
 3 Q. And can you please point to him, and describe  
 4 something he's wearing for the record?  
 5 A. A suit, tie, glasses.  
 6 Q. Longer hair?  
 7 A. Yes.  
 8 MS. FLECK: Let the record reflect the  
 9 identification of the Defendant.  
 10 THE COURT: The record will so reflect.  
 11 Thank you.  
 12 MS. FLECK: Now I pass the witness.  
 13 THE COURT: All right. Mr. Marcello.

14 - - - -  
 15 **CROSS-EXAMINATION OF RYAN JOHN**

16 BY MR. MARCELLO:  
 17 Q. Good afternoon, Mr. John.  
 18 You were going to visit your girlfriend -- or  
 19 across the street?  
 20 A. Yes.  
 21 Q. And while you were walking out of the house, a  
 22 black male told you to come over to the house because  
 23 Ivan wanted to talk to you?  
 24 A. Yes.  
 25 Q. He referred to you as Mark?  
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1 A. Yes.  
 2 Q. And you were about a hundred feet away, is that  
 3 about how far the house or garage is?  
 4 A. The length of the street.  
 5 Q. And you walked over to Ivan's house?  
 6 A. Yes.  
 7 Q. You had previously known Ivan, correct?  
 8 A. Yes.  
 9 Q. And how do you know Ivan?  
 10 A. Hanging out over there, working on cars, go over  
 11 there to talk to him.  
 12 Q. You know he ran a business in his garage?  
 13 A. Yes.  
 14 Q. And the business was called Dub Life?  
 15 A. I don't know what it was called.  
 16 Q. And he had a partner in that business.  
 17 Do you remember the partner in the business?  
 18 A. No, I don't.  
 19 Q. Now, Dub Life was to paint vehicles, correct?  
 20 A. Yes, I guess.  
 21 I thought it was like a car club or something  
 22 like that, but I'm not sure what it was.  
 23 Q. Are you a member of a car club too?  
 24 A. No.  
 25 Q. I see the 6651 Customs.  
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1 A. No.  
 2 Q. And the person now after you already gone over to  
 3 the house, did you notice any cars that you didn't  
 4 recognize normally being on the street?  
 5 A. No.  
 6 Q. So while you were walking across the street,  
 7 there was no cars you had not normally seen there in  
 8 front of the house, or in your vicinity that you would  
 9 notice?  
 10 A. No.  
 11 Q. And now the individual that called you over,  
 12 walked into the house before you did, correct?  
 13 A. When -- walked into the laundry room before I  
 14 did.  
 15 Q. And then they walked into the house before you  
 16 walked into the door?  
 17 A. They closed the door, standing in the laundry  
 18 room, and that's when they put the gun to my throat and  
 19 walked in and got down on the ground.  
 20 Q. So they basically waited for you to come in, and  
 21 more or less ambushed you, put the gun to your throat?  
 22 A. Yes.  
 23 Q. Okay. Now, the person that called you over  
 24 covered your head and kicked you when you tried to look  
 25 up, correct?  
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1 A. Yes.  
 2 Q. Throughout this whole thing?  
 3 A. Yes.  
 4 Q. And your face was down, but you were able to get  
 5 a look at somebody's shoes, correct?  
 6 A. Yeah, some.  
 7 I couldn't remember shoes now, no way I would  
 8 remember exactly what they looked like.  
 9 Q. Would it refresh your recollection at all to look  
 10 at your statement, or item you wrote at the time  
 11 indicating what type of shoes they were wearing?  
 12 A. I could look at it, but I don't know.  
 13 Q. I'm going to come back to that in just a moment.  
 14 However, the person that called you over, how  
 15 would you describe their hair?  
 16 A. Kind of longer.  
 17 I don't know if it was a wig or kind of like how  
 18 it is right there, like how he has it, but I don't know  
 19 if it was real hair, or just a disguise.  
 20 Q. So it seemed to you to either be long braided  
 21 hair, or some type of wig?  
 22 A. Yes.  
 23 Q. And they had a Jamaican accent, correct?  
 24 A. Yes.  
 25 Q. And now you come face-to-face with him as they  
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- 1 put the gun to your head, right?  
 2 A. Yes.  
 3 Q. Do you recall seeing -- Their skin was exposed,  
 4 correct?  
 5 A. Yes, their face was exposed.  
 6 Q. Do you recall seeing any tattoos?  
 7 A. No, I don't remember any tattoos.  
 8 Q. Did you see any scars on their face, markings,  
 9 black eyes, anything like that?  
 10 A. No.  
 11 Q. But do you remember being face-to-face with the  
 12 individual that put the gun to your throat?  
 13 A. Yes.  
 14 Q. Now, while you were on the ground, the individual  
 15 went through your pockets, correct?  
 16 A. Yes.  
 17 Q. And they found your ATM card?  
 18 A. Yes.  
 19 Q. And when they found your ATM card, instead of  
 20 cash, do you recall them uttering the phrase, fucking  
 21 American?  
 22 A. No, I don't.  
 23 Q. Now, as Miss Fleck just indicated, you testified  
 24 previously, correct?  
 25 A. Yes.

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- 1 Q. You were under oath during that testimony?  
 2 A. Yes.  
 3 Q. And you were told to tell the truth, the whole  
 4 truth, and nothing but the truth?  
 5 A. Yes.  
 6 Q. And would it refresh your recollection if I  
 7 showed you your testimony during that time indicated  
 8 that the person that -- with the gun to your head and  
 9 took your card said the phrase, fucking Americans?  
 10 A. Yeah, it was I guess seven years ago, so it's  
 11 really hard to remember exactly everything that was  
 12 said, but could you put it on there, and I'll look at  
 13 it?  
 14 Q. Okay.  
 15 Fair enough.  
 16 MR. MARCELLO: May I approach the witness, Your  
 17 Honor?  
 18 THE COURT: Yes.  
 19 BY MR. MARCELLO:  
 20 Q. What I'm going to show you right now is -- this  
 21 is a condensed version of the transcript of the  
 22 preliminary hearing.  
 23 I'd like you to read from the bottom of 68 to the  
 24 top of 69, and just look up, so I know you are finished.  
 25 A. Top of 69?

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- 1 Q. Yeah, the top of 69.  
 2 A. Yeah, I guess I said it.  
 3 Q. Okay. And would it be reasonable to assume that  
 4 your memory at that time, since it was closer to the  
 5 incident, is probably better than your memory is today,  
 6 now it's been seven years since it happened?  
 7 A. Yeah, probably a little better, but I still  
 8 remember what happened.  
 9 Q. I'm not saying you didn't, but it's more likely  
 10 in fact the person that did go through your pockets did  
 11 say the phrase, fucking Americans?  
 12 A. Yes.  
 13 Q. And then probably due to the fact they found a  
 14 credit card, instead of cash?  
 15 A. Yes.  
 16 Q. The person that took it demanded your pin number  
 17 as well?  
 18 A. Yes.  
 19 Q. And you had told him what your pin number was?  
 20 A. Yes.  
 21 Q. And after doing so, you can hear Ivan nearby and  
 22 the individuals yelling at him?  
 23 A. Yes.  
 24 Q. And then you heard the gun go off and Ivan  
 25 scream?

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- 1 A. No, I don't think he screamed.  
 2 He just was quiet after that, I guess didn't want  
 3 the get shot again.  
 4 Q. And approximately how much time between the time  
 5 Ivan is shot, and the time you were able to leave the  
 6 residence?  
 7 A. I don't remember exactly the time.  
 8 Q. Can you give an approximate time?  
 9 Ten minutes?  
 10 A. I --  
 11 Q. 15 minutes?  
 12 A. Ten to twenty, I'll go with that, because I don't  
 13 remember.  
 14 Q. During that time, were they still continuing to  
 15 ransack the house?  
 16 A. Yes.  
 17 That's when they started covering everybody's  
 18 heads.  
 19 Q. So they were still moving around the residence,  
 20 doing things?  
 21 A. Yes.  
 22 Q. Now, a minute or two after the suspects left you  
 23 jumped out and were able to call 911 immediately,  
 24 correct?  
 25 A. Yeah, after I ran through the neighborhood, went

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1 through that house.

2 Q. And a police officer arrived, you spoke with

3 officers, correct?

4 A. Yes.

5 Q. And at the time you indicated that -- Do you

6 recall speaking to a Detective Hoyt (Phonetic)?

7 A. I don't remember the name.

8 Q. A taller white guy.

9 A. I don't remember his name.

10 Q. Now, the taller white guy, do you remember

11 indicating to him you couldn't identify the suspects?

12 A. Yeah, like right there I couldn't give a

13 description, but as soon as I seen the picture.

14 Q. So you don't recall what clothing they were

15 wearing?

16 A. Not right now I don't.

17 Q. But I mean, at the time either?

18 A. Yeah.

19 Q. He asked if you could identify any clothing?

20 A. No, I didn't really try to pay attention to that

21 too much.

22 Q. And another thing in giving the statement, any

23 descriptive characteristics, clothing they were wearing,

24 jewelry, facial features, or any tattoos?

25 A. Facial features, I remember what he looks like.

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1 Q. But I mean, anything distinctive as in scars,

2 black eyes?

3 A. No, I had a gun in my throat.

4 Q. Something out of the ordinary?

5 A. No.

6 Q. Now, when you received a call from Detective

7 Corrado, he indicated to you they had taken a suspect

8 into custody?

9 A. Yes.

10 Q. And he asked you to come down and identify the

11 suspect they had in custody?

12 A. Yes.

13 Q. And prior to going down to the station, did you

14 get a chance to see Ivan, to make sure he was all right?

15 A. Yeah, at the hospital.

16 Q. So you guys got to talk about what happened

17 before you went down?

18 A. No.

19 When I seen him, he couldn't talk. His head was

20 all bandaged up and was pretty bad. I didn't talk to

21 him.

22 Q. Did you have an opportunity to talk to anybody

23 else, his wife, Jennifer?

24 A. A little bit, but --

25 Q. And then in your written statement identifying

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1 Rickie, you identified Rickie as the person called you

2 over, correct?

3 A. Yes.

4 Q. And the person that had held the gun to your

5 throat?

6 A. Yes.

7 Q. And had the braided wig?

8 A. Yes.

9 Q. Now, I'd like to show you State's Exhibit 133 --

10 I apologize, I'm not great with the Elmo here.

11 Now, the State indicated you had selected Mr.

12 Slaughter from this photographic line-up.

13 A. Yes.

14 Q. Okay. And as we indicated before, Detective

15 Corrado indicated the person that had committed the

16 crime was in custody?

17 A. Yes.

18 Q. Now, as part of your statement --

19 A. No, I don't think he was in custody at the time.

20 I think after I did this, they went and got him.

21 I don't know the details, but --

22 Q. Okay. Now, this guy -- in your statement you

23 put, this is the guy that I think called me over?

24 A. Uh-huh.

25 Q. Is that because you were unsure if it was the guy

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1 that actually called you over?

2 A. No, I shouldn't have wrote, I think.

3 I see that, but that's what I wrote, so --

4 Q. Okay. But you wrote, I think that's the guy that

5 called me over to Ivan's house and tied me up and shot?

6 A. Yeah, but I'm sure that is the guy that called me

7 over.

8 Q. Now, looking at these pictures, all the

9 individuals either have some type of braiding to their

10 hair -- correct?

11 A. Uh-huh.

12 Q. And the individual in the middle is wearing a

13 yellow shirt?

14 A. Yes.

15 Q. Now, do you notice behind each of the backgrounds

16 of the individuals there is a blue border?

17 A. Yes.

18 Q. Okay. And do you notice that blue border behind

19 Mr. Slaughter?

20 A. No.

21 Q. So his picture looks different than the other

22 four or five pictures in this photographic line-up?

23 A. Yes.

24 MR. MARCELLO: No further questions.

25 THE COURT: Miss Fleck.

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MS. FLECK: Court's indulgence.

**REDIRECT EXAMINATION OF RYAN JOHN**

BY MS. FLECK:

Q. Mr. John, you referenced there was a time when you gave Mr. Slaughter, the Defendant, your pin number. How did that happen?

A. He told me to give him the PIN number, and if it's wrong, that he was going to kill me, and then I didn't really care about that -- The whole thing was, if he did kill me, he had my PIN number, so he would have seen him using the card because the person that took my card was going to use it and have a picture of him, so that's why I gave him the correct PIN.

Q. So you did in fact give him the correct PIN number?

A. Yes, I did.

Q. For Wells Fargo?

A. Yes.

Q. You referenced that you saw two different kinds of guns.

What was the first kind of gun that you saw, the one they held in front of your face and kind of held in front of your nose, asking you to grab it, what kind of weapon was that?

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A. They said it was a .357, that's what he was saying.

Q. Now, you referenced there was two. Do you remember there was one in front of your nose?

A. Yes.

Q. And do you remember that as the .357?

A. Yeah, the one they put up through -- the one they laid on the ground was little -- a little revolver, was like a .22 or something like that, I don't remember what that was, but he had a .357 to my head because he said he would blow my brains out with that.

Q. So the one that was in front of your nose, you don't remember what kind that one was?

A. It was a little revolver with like a wooden grip.

Q. Do you remember that you testified -- You recalled that already you testified at a prior hearing in this case?

A. Yes.

Q. You testified in a similar fashion?

A. Yes.

Q. And do you remember that at that hearing you said, yeah, I laid on the ground when they put me on the ground, they had a .22, he did, and he laid it next to my nose, told me to grab the gun, then he held the gun

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to my temple.

I was right there laying. The gun was to my nose. It was a revolver -- Sorry. It was a .22. It was loaded.

Remember testifying to that?

A. Yeah, because he had one in his hand and laid the other gun on the ground.

Q. Okay. And then the one that was put to your face when they told you they would blow your brains out, what kind of weapon was that?

A. He said, a .357, and that's when he said he will blow my brains out.

MS. FLECK: Okay. Thank you.

Nothing further.

THE COURT: Anything?

**RECROSS-EXAMINATION OF RYAN JOHN**

BY MR. MARCELLO:

Q. Mr. John, before testifying today, did you talk to any detectives, either Detective Corrado or Detective Mark Quata (Phonetic) -- the individual you indicated was tall?

A. Today?

Q. Just before testifying today, between the last time you testified and this time you testified.

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A. No.

I talked to the DAs office when they told me I had to come down for I don't know what it's called, the pre-trial hearing or something, I don't know what it's called.

Q. And if you could, tell me what was discussed during that hearing with regards to your testimony today.

A. What was discussed with it?

Q. Yes.

A. They just told me what I was going to do when I come in here, and asked me if how my memory is on it, and I told them what happened, and that's it.

Q. And as far as what Miss Fleck asked you about with regards to the gun, you indicated one was a .22, do you have much experience with guns?

A. Yeah, a little bit.

Q. And what are the predominant two colors that guns come in, black and silver, would that be correct?

A. Yes.

Q. Not very many purple guns, correct?

A. No.

MR. MARCELLO: No further questions.

MS. FLECK: Nothing further, Your Honor.

Thank you.

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1 THE COURT: Anything from the jurors?  
 2 Yes.  
 3 Please approach.  
 4 (Thereupon, a discussion was had between Court and  
 5 Counsel at sidebar.)  
 6 THE COURT: All right. I got a couple questions  
 7 for you, Mr. John.  
 8 To begin with, did you see whether the two men in  
 9 Mr. Young's house were wearing gloves or not?  
 10 THE WITNESS: No, I didn't see it.  
 11 THE COURT: And then was the person that called  
 12 you into the garage the same person that was searching  
 13 your pockets and took your cards?  
 14 THE WITNESS: Yes.  
 15 THE COURT: Okay. Miss Fleck, any questions  
 16 based upon mine?  
 17 MS. FLECK: I do not, Judge.  
 18 Thank you.  
 19 THE COURT: Mr. Marcello.  
 20 MR. MARCELLO: No, Your Honor.  
 21 THE COURT: Mr. John, you are excused. I  
 22 appreciate your time today.  
 23 THE WITNESS: Thank you.  
 24 THE COURT: The State may call their next  
 25 witness.  
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1 MR. DI GIACOMO: Lieutenant Corrado.  
 2 THE MARSHAL: Step up to the witness stand.  
 3 Remain standing, and the clerk will swear you in.  
 4  
 5 CHRISTOPHER CORRADO,  
 6  
 7 who, being first duly sworn to tell the truth, the whole  
 8 truth, and nothing but the truth, was examined and  
 9 testified as follows:  
 10 THE CLERK: You may be seated.  
 11 Would you please state and spell your name for  
 12 the record?  
 13 THE WITNESS: Christopher, Corrado.  
 14 Last name, C-o-r-r-a-d-o.  
 15 - - -  
 16 **DIRECT EXAMINATION OF CHRISTOPHER CORRADO**  
 17 BY MR. DI GIACOMO:  
 18 Q. Sir, what agency are you employed?  
 19 A. With the North Las Vegas Police Department.  
 20 Q. And what is your current capacity?  
 21 A. I'm a lieutenant in charge of the narcotics  
 22 division.  
 23 Q. I direct your attention back to June of 2004.  
 24 What was your assignment back then?  
 25 A. I was a sergeant assigned to the special  
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1 operation division, which is also our SWAT unit.  
 2 Q. I'll direct your attention to about 11:15 at  
 3 night on November -- or I'm sorry, on June 28th of 2004.  
 4 Did you take part in an operation to execute a  
 5 warrant at an apartment located at 3801 East Charleston,  
 6 Apartment Number 114, here in Clark County, Las Vegas,  
 7 Nevada?  
 8 A. Yes, I did.  
 9 Q. Now, as part of that operation were you working  
 10 as part of the SWAT unit?  
 11 A. Yes, I was.  
 12 Q. Could you explain to the ladies and gentlemen of  
 13 the jury -- or let me ask you this:  
 14 Let me first put this on the overhead, State's  
 15 Exhibit Number 2 here.  
 16 If you would, look at State's Exhibit Number 2  
 17 here. Do you see the apartment complex identified that  
 18 you executed the warrant on?  
 19 A. Yes, it's the one labeled 3801 East Charleston,  
 20 Apartment 114.  
 21 Q. Can you explain to the ladies and gentlemen of  
 22 the jury kind of what the procedure is when SWAT is  
 23 going to execute a warrant for an apartment like this,  
 24 what kind of plans do you go through?  
 25 A. Well, traditionally we'll do a pre-scout of the  
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1 location to get an idea what we're dealing with,  
 2 tactical obstacles we'll have to deal with to keep both  
 3 the occupants of the apartment as well as my team safe,  
 4 and put a plan together to serve that warrant as safely  
 5 as possible.  
 6 And obviously that plan would include a breaching  
 7 plan and so forth, to take the folks into custody in a  
 8 safe manner.  
 9 Q. And you said, breaching plans.  
 10 For those of us that aren't police officers, what  
 11 does a breach mean?  
 12 A. Basically, the tactics that you are going to use  
 13 to -- if entry is not provided to you by the occupants,  
 14 to force your way inside of the location.  
 15 Q. Now, Apartment 114 on East Charleston here, how  
 16 big of an apartment is this?  
 17 A. A little over 300 square feet.  
 18 Q. Is it a single room apartment with like a  
 19 kitchenette?  
 20 A. All studio apartments, yeah.  
 21 Q. And so we got an idea what 300 feet is, do you  
 22 think the distance is from that wall to --  
 23 A. You are talking maybe from here to the jury box  
 24 and maybe three -- not even -- maybe two jurors over.  
 25 Q. So a fairly small area?  
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1 A. Yeah.

2 Q. Now, when you execute a warrant, before you

3 execute the breach as you put it, do you announce your

4 presence and -- knock and announce your presence?

5 A. Absolutely.

6 Q. So if you can explain to the ladies and

7 gentlemen, I'll put this on the overhead for you, this

8 is State's Exhibit Number 90, does this appear to be the

9 apartment door and window that you approached?

10 A. Correct.

11 Q. If you could, what was your position during the

12 time period of the knock and announce that is going on?

13 A. I was actually positioned at the window that is

14 broken in, the window here.

15 Q. When you arrived on the scene, was that window --

16 was it broken, or a regular window?

17 A. No, it was intact.

18 We broke it.

19 Q. And when the knock and announce occurs, are there

20 other officers standing at the door knocking and

21 announcing your presence?

22 A. Yes.

23 Q. Did anybody answer the knock and announce?

24 A. No.

25 Q. Once nobody answers the knock and announce, what

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1 is your procedure at that point?

2 A. Well, at that point we will force entry into the

3 targeted location.

4 Q. When you force entry, do you do anything to allow

5 the safety of the officers, any sort of distraction from

6 people inside?

7 A. Yes.

8 This picture is a little hard to see. There is

9 -- actually, this is a ground floor apartment, but there

10 is actually a railing that runs the distance on the

11 backside, if you look to the left of the picture here,

12 so actually it was like being on a landing, which the

13 landing was only maybe three, three-and-a-half feet

14 wide.

15 Now, you are trying to move a bunch of 250 pound

16 guys with 50 pounds of gear down into this breezeway

17 area, so tactically it's a little unforgiving.

18 So the game plan was, obviously we posted folks

19 at the door, so the team members, including myself,

20 could move past the door safely.

21 So after we did the knock and announce, we could

22 breach the window, and then my job was to basically peek

23 through the blinds with my gun, because the room is so

24 small you could exercise a lot of control over that room

25 just from standing outside the doorway, if that makes

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1 sense.

2 Basically, it controls the room quickly, and

3 realistically we got the railing that really limits our

4 mobility, and we have got glass, drywall and stucco

5 standing between myself and the folks inside.

6 Q. The knock announce occurs.

7 Nobody answers.

8 You guys do the breach.

9 Do you after that window is broken, do you enter

10 yourselves in the room and take control of the room with

11 your firearm?

12 A. Correct.

13 Q. And when you do that, did you see anybody inside

14 the room?

15 A. Yes, there was a female still on the bed, and I

16 saw a male subject basically diving behind the

17 kitchenette counter area, which would have been directly

18 to my left and forward.

19 Q. At that point does SWAT enter the room and take

20 the suspect into custody?

21 A. We took the occupants in the room in custody,

22 yes.

23 Q. And at the time the occupants were identified as

24 Rickie Slaughter and Tiffany Johnson?

25 A. Correct.

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1 MR. DI GIACOMO: Thank you very much.

2 I pass the witness.

3 THE COURT: Mr. Fumo.

4 - - -

5 **CROSS-EXAMINATION OF CHRISTOPHER CORRADO**

6 BY MR. FUMO:

7 Q. Officer Corrado, are you still in SWAT?

8 A. No, sir.

9 Q. Where are you at now?

10 A. I'll in the narcotics division.

11 Q. In North Las Vegas?

12 A. Yes.

13 Q. Sir, do you remember this date very well, June

14 26th, 2004?

15 A. I remember it reasonably well, yes.

16 Q. You didn't write a report though, did you?

17 A. No, I did not, sir.

18 Q. Did you read anybody else's report before you

19 came to court today?

20 A. Yes, I did.

21 Q. Was that Dwayne Emon's (Phonetic) report?

22 A. Correct, it was -- He was the other team leader

23 on the scene.

24 Q. He was the only one from SWAT that wrote a report

25 that night?

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1 A. To my understanding, yes.  
2 Q. The only report you read before testifying today?  
3 A. Correct.  
4 Q. This is a 300 square foot unit?  
5 A. Sorry?  
6 Q. This apartment was a 300 square foot unit?  
7 A. Approximately, yeah.  
8 Q. And the front door that we see in that picture,  
9 the green door there, is that the only entrance?  
10 Is there a back door, or the only way to get in  
11 and out?  
12 A. No back door.  
13 Q. So when you guys are standing there, there is  
14 about what, eight or twelve of you?  
15 A. Yes.  
16 Q. How many, eight or twelve?  
17 A. On that day our team consisted of was I would say  
18 closer to twelve.  
19 Q. Twelve people to get into a 300 square foot  
20 apartment?  
21 A. Yes, sir.  
22 Q. And you broke the doors off the hinges?  
23 A. I'm sorry?  
24 Q. You broke the doors on the hinges, correct?  
25 A. The door was broken open with a ram.

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1 Q. And smashed the windows?  
2 A. Yes, sir.  
3 Q. And there was two occupants in the house?  
4 A. Yes, sir.  
5 Q. They didn't resist at all, did they?  
6 A. No, sir.  
7 Q. Came right into custody with you?  
8 A. I'm sorry --  
9 Q. You took Rickie into custody?  
10 A. I did not take Rickie into custody.  
11 I stayed at the window the entire time.  
12 Q. Did you ever speak with Mr. Slaughter?  
13 A. No, sir.  
14 Q. There was no resistance now?  
15 A. None.  
16 Q. Did you find any bloody clothes in there?  
17 A. Did I?  
18 No, sir.  
19 Q. A Jamaican looking wig?  
20 A. I did not, sir, no.  
21 I did not search the apartment.  
22 Q. Nothing to your knowledge from the report you  
23 read in there that indicated any Jamaican looking wig  
24 was found, or any bloody clothes were found, right?  
25 A. No, sir.

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1 Q. What were you wearing that night?  
2 A. My duty uniform.  
3 Q. Could you describe it for the jury?  
4 A. It basically looks like army fatigues, a green  
5 uniform with a heavy ballistic vest, ballistic helmet.  
6 Q. Did you have a mask on covering your face?  
7 A. No, sir.  
8 Q. Just a helmet?  
9 A. Yes, sir.  
10 Q. Boots?  
11 A. Yes, sir.  
12 Q. Guns drawn?  
13 A. Yes, sir.  
14 Q. All twelve of you had your guns drawn?  
15 A. Oh, yeah.  
16 Q. What kind of gun did you have?  
17 A. I had my Glock .45 on my hip, which was my  
18 handgun, and my primary weapon was an M-4, looks like an  
19 M-16.  
20 MR. FUMO: We're good.  
21 Thank you, Your Honor.  
22 THE COURT: Mr. DiGiacomo.  
23 MR. DI GIACOMO: Nothing further.  
24 THE COURT: Any questions by the jurors?  
25 Lieutenant Corrado, I appreciate your time.

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1 You are excused.  
2 Thank you very much.  
3 We will go ahead and take our lunch recess at  
4 this time.  
5 (Jury admonished by the Court.)  
6 THE COURT: Be back at 2:30.  
7 (Jury excused from the courtroom.)  
8 (Thereupon, the following proceedings were had out of  
9 the presence of the jury.):  
10 THE COURT: Anything outside the presence?  
11 MR. FUMO: Not from the Defense.  
12 MR. MARCELLO: You want to do that thing now, or  
13 after?  
14 THE COURT: You want to chat about whatever it  
15 was you wanted to bring up?  
16 MR. MARCELLO: We'll do it when we get back, I  
17 guess.  
18 MR. DI GIACOMO: Okay.  
19 THE COURT: Okay.  
20 (Thereupon, a luncheon recess was had.)  
21 - - -  
22  
23  
24  
25

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1 (Thereupon, the following proceedings were had out of  
2 the presence of the jury.):

3 MR. MARCELLO: Your Honor, we have one issue  
4 outside the presence of the jury.

5 THE COURT: What do you got?

6 MR. MARCELLO: Your Honor, we're seeking to  
7 disqualify Miss Moses, who is also designated -- How do  
8 you pronounce her last name Calu (Phonetic), now known  
9 as Angel Moses, on a number of bases, basically, Your  
10 Honor, that essentially in order for her to testify, she  
11 must have qualified in the area of scientific technical  
12 knowledge, specialized knowledge consisting of the trier  
13 of fact, and must be limited to matters that are within  
14 the scope of her expertise.

15 Miss Calu's testimony violates at least three of  
16 these principles.

17 Number one, her opinion does not satisfy the  
18 assistance requirement. It is outside the limited scope  
19 of her specialized knowledge.

20 THE COURT: Let's back up.

21 Who is she, and what is she going to be  
22 testifying about?

23 MR. MARCELLO: She is a ballistic and tool mark  
24 examiner.

25 Now, her testimony is going to have nothing to do  
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1 with ballistics, and instead be discussing the  
2 metallurgical components of bullet fragments that were  
3 found at the scene of Glory View, as well as a spent  
4 lead core, I guess -- I don't know, just considered a  
5 lead core, that would be the technical thing of the way  
6 you think of a bullet in the back of Mr. Slaughter's  
7 car.

8 Essentially, her testimony consists of that  
9 elemental composition of the bullet fragments that were  
10 found in Glory View and in Ivan Young can be narrowed  
11 down to a specific caliber class and maker of  
12 manufacturer of a particular type of bullet,  
13 specifically a silver tip .357 hollow point bullet.

14 Now, the issue we have with this case is that  
15 there is no indication she has any specialized knowledge  
16 in metallurgical properties, either the elemental  
17 make-up of the bullet fragments she found, whether the  
18 particular elemental composition was either a  
19 manufacturer's defect, a trace element that was mixed in  
20 with the process, or an intentional component of the  
21 bullet that is made of the particular fragments  
22 themselves.

23 Additionally, as it relates to the bullets  
24 themselves, there has not been any showing from any of  
25 the evidence that either I looked at or Mr. Slaughter's  
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1 looked at, or been provided to us, that indicates that  
2 the particular testimony they are going to give has  
3 sufficient reliability to allow her to assist the jury,  
4 offer assistance to the jury.

5 Essentially, under Hallmark what is required is  
6 some type of showing this is a scientific field, some  
7 measure of reliability, as well as known error rates.

8 Already we have three examinations conducted by  
9 Miss Calu where she says it can't be a certain type of  
10 gun, I'm okay with this, she says it can't be this gun,  
11 because of these reasons.

12 But the second testimony is, there isn't any  
13 microscopic ability to compare any of the bullets found  
14 in either Mr. Slaughter's car, as well was the one in  
15 Glory View.

16 But then she makes a third report, says, I can  
17 make a microscopic examination, and I actually find  
18 there is certain elemental traits, if they let me narrow  
19 it down to a specific caliber type of gun, and so the  
20 way that testimony actually is presented that way is  
21 that I want to make sure I say this right, the original  
22 report that she generated in 2004 indicated trace  
23 elements that were different that she found at later  
24 date, so at some point she at least made one error with  
25 regards to what elements were present and in the known  
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1 samples she tested at two different times.

2 One point she said, trace elements aluminum  
3 number, and then she said later, it's actually not  
4 aluminum, it's nickel and brass, so we know there is at  
5 least some amount of error along these lines, and she  
6 did indicate in an e-mail, I want to get the officials  
7 right, a national firearm testing organization, or an  
8 organization dedicated to testing firearms, and in their  
9 own manual it says that this particular portion where  
10 they take, when they go past caliber size and siding  
11 marks, which is her specialty, ballistic tool marks,  
12 looking for certain markings left by the machines that  
13 made the bullet to go into, well suddenly we're going to  
14 say that the presence of a particular molten piece of  
15 lead shot out of a gun used to exist in this position or  
16 that position suddenly goes from, well from the  
17 objective we have empirical data to show these are the  
18 elements present, and now to a subjective I think it may  
19 have been in this location or that location, we have no  
20 way to test that reliability of that statement, and we  
21 don't know the error rates of what is the possibility  
22 she would be wrong, and no objective standards to  
23 compare that to.

24 So if we let her testify, it's not something I  
25 can get out on cross-examination because there is no  
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1 outside judging authority, other than her own subjective  
2 belief that this is the way that it is, and I believe  
3 that would violate both the scope -- and the scope  
4 requirement, as well as the assistance requirement.  
5 And then on the final and last point, because of  
6 those particular issues, the danger of prejudicial  
7 effect, the potential to cause undue confusion that  
8 she's going to essentially say that, well, A is related  
9 to B, and B may be related to C, so therefore A, B and C  
10 are all the same thing, and that is going to have a very  
11 detrimental effect with the confusion of the issues when  
12 A and B may be very scientific these elements are  
13 present in it, these elements are present in this  
14 sample, they match, but then they go to C and say,  
15 although this third sample doesn't have this element, it  
16 has something that I believe subjectively seems to look  
17 like this picture over here, which the jury can do  
18 themselves.  
19 There is markings on the lead core that look --  
20 the technical definition is a neuro cannular (Phonetic),  
21 and they can look at the neuro cannular on the bullet  
22 fragment and say for themselves, those look like similar  
23 neuro cannulars.  
24 To have an expert come in and say, I'm an expert,  
25 I lend credence to this, these are in fact the same  
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1 thing, when it actually is just a subjective view with  
2 no external standards to compare it to, violates both of  
3 those requirements, and on that basis she should be  
4 disqualified as an expert.  
5 THE COURT: Okay.  
6 MR. DI GIACOMO: A couple things.  
7 One is, I appreciate before we call the witness  
8 that we could have had motion in limine, since the  
9 report that we are referring to was filed in February  
10 4th of 2010, and I dispute the factual assertions of Mr.  
11 Marcello.  
12 There is certainly what he is saying is not borne  
13 out by the information that the expert is going to  
14 provide.  
15 Angel Moses is probably the most qualified  
16 firearms expert in the jurisdiction. She testifies to  
17 firearms and firearms-related information.  
18 When she initially got this case, she looked at  
19 certain evidence, and then I asked her to look at some  
20 additional evidence, and she looked at some additional  
21 evidence, and in 2009 or so when this case was set for  
22 trial I asked her, is there anything else we can do to  
23 look at the fragments that were found and determine  
24 whether or not they are consistent or inconsistent with  
25 the Winchester silver tip, she said, yes.  
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1 In fact, we have new technologies since this case  
2 came in in 2004, we have got a mass spectrograph or  
3 something like that, that I've been trained on and am  
4 qualified to use, and based on that, we get certain  
5 information out of the mass spectrograph, and the  
6 companies keep information on what the compositions are  
7 of the outside of their bullets, and I can make a  
8 comparison, so then -- from the inside of this bullet  
9 from the company's records what they put in it, and make  
10 a determination as an expert in this field as to whether  
11 or not these are consistent or inconsistent with silver  
12 tipped Winchester .357 rounds, and I expect that is what  
13 her testimony will be.  
14 I expect, one, she would be qualified.  
15 Two, I don't think there is any dispute her  
16 information is based on information that the average  
17 juror isn't going to be able to testify to.  
18 And three, his argument isn't that it's not  
19 scientific. His argument is, that ultimately her  
20 conclusion is going to be an opinion, and under Hallmark  
21 and all of those cases, so long as the process is  
22 scientific, then it's appropriate for the admission of  
23 the evidence.  
24 Much like a fingerprint, the ultimate conclusion  
25 of the fingerprint examiner, while it's based on  
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1 scientific method, the ultimate conclusion is an opinion  
2 by an expert saying the firearms analysis, whether or  
3 not a particular bullet came out of a gun, or  
4 consistency or inconsistencies, it is all based on the  
5 scientific methodology. Although, the ultimate  
6 conclusion is one of an opinion, which is admissible  
7 before the jury.  
8 And I will submit it, Judge.  
9 MR. MARCELLO: One quick point.  
10 He's correct, we didn't do a motion in limine.  
11 We received the underlying reports and the case  
12 notes, which enabled our expert to even explain how this  
13 even works in the first place, just a week before trial,  
14 and that explains why we're making the motion now,  
15 because now I understand what the particular issue is  
16 with the test.  
17 I don't think there is too much scientific issue  
18 with the fact if you take ballistics testing, this  
19 bullet was fired from this gun and left grooves on the  
20 bullet, I believe they are consistent with each other.  
21 That is much different than what we have here  
22 where we say, I'm taking a sample that may or may not be  
23 representative of the whole sample, I'm taking a piece  
24 of it, and as Mr. DiGiacomo indicated, these bullets are  
25 made more -- have a inside core made of a certain  
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1 element, as well as the outside core made of a different  
2 make-up, and we can't tell whether we have the entire  
3 sample for them to come to a reliable conclusion to say  
4 that it's a reliable conclusion, to say it's any  
5 particular anything for that matter, and because we  
6 don't have any type of outside reference source to say  
7 this is the scientific method that you can make this  
8 conclusion from these particular empirical results --

9 THE COURT: I'm not really sure what you keep  
10 talking about in terms of challenging the scientific  
11 method.

12 All they are doing is looking to see if certain  
13 elements are in a piece of the sample.

14 What is the scientific method challengeable  
15 there?

16 We are not talking about the science of  
17 handwriting analysis, or voice recognition analysis, or  
18 some other new kind of science.

19 Looking at a sample to tell its elemental  
20 composition has been around for hundreds of years.

21 You may not like that she's doing that, but --

22 MR. MARCELLO: That is not the actual problem.

23 The problem is not so much, here's how much  
24 nickel is in it, here's how much copper, here's how much  
25 zink, that is not the problem.

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1 The problem is, when you go on to say that based  
2 on those elemental analyses, I'm going to go ahead and  
3 say that certain manufacturers, without any outside  
4 reference source used, this particular proportion of  
5 those particular elements to make up a particular  
6 bullet, and when we have no outside reference source  
7 that says that is even allowable, or more importantly --

8 THE COURT: Do we, or do we not, have the  
9 companies keeping records of what the elements are in  
10 the composition of their ammunition?

11 MR. MARCELLO: We do, but it's a full intact  
12 ammunition.

13 What we have here are various small, ratios and  
14 fractions.

15 THE COURT: Can you not testify a drop of blood  
16 contains DNA of somebody, without having that person's  
17 entire body?

18 MR. MARCELLO: You can, but with bullet  
19 samples --

20 THE COURT: Hold on.

21 Can you not view a partial fingerprint, assuming  
22 it has enough points of origin, and determine it belongs  
23 to somebody, even if you don't have the entire finger  
24 print?

25 MR. MARCELLO: We can, and that's exactly my  
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1 point.

2 THE COURT: So the dispute that you have is with  
3 her opinion and attacking whether you think it is a  
4 credible opinion or not, not that the science behind it  
5 is problematic in any way, shape or form as far as I  
6 see.

7 MR. MARCELLO: Exactly on that point we have a  
8 known reference standard, you need a certain amount of  
9 points to make a fingerprint analysis.

10 THE COURT: Not the entire fingerprint.

11 MR. MARCELLO: But we have no outside reference to  
12 say that what amount of the sample do you need before  
13 you can come to a conclusion that says that this is a  
14 deliberate result, a trace element impurity, there is no  
15 outside resource says how much of a fingerprint do you  
16 need, there is no outside source that says how much of a  
17 fragment do you need.

18 THE COURT: I'm going to overrule your objection.

19 I do think it should have been raised by motion  
20 in limine, but that doesn't preclude you from bringing  
21 it up at the time of trial before the witness testifies,  
22 and more importantly I think this is an issue goes to  
23 the weight to be afforded to the testimony.

24 I don't think it's a science issue, and I  
25 certainly think we've had time and again testimony from  
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1 ballistics and firearms experts that not only deals with  
2 the marks on the bullet, or inside of the barrel, but to  
3 composition of certain types of ammunition, and the  
4 jackets of ammunition, and the break down of the bullets  
5 and so forth, so I think her testifying about the  
6 elements contained within the lead jacket, or the core  
7 of the bullet, or whatever it may be, is appropriate  
8 testimony.

9 Thereafter, testifying that these certain  
10 elements are within this piece of a fragment, and that  
11 is consistent with this type of ammunition, I think is  
12 okay, and I think by the argument that you make here you  
13 got ample things to be able to cross-examine her on it,  
14 but it is appropriate for the jury to consider and  
15 decide what evidentiary value it has.

16 MR. MARCELLO: Understood, Your Honor.

17 THE COURT: Okay. Anything further outside the  
18 presence?

19 MR. MARCELLO: Your Honor, Mr. Slaughter would  
20 like me to -- We had one prepared, just on this  
21 particular issue to submit, I don't think it has to be  
22 considered because you made your ruling, a trial brief  
23 on this particular issue, and I do have a copy for the  
24 State as well.

25 THE COURT: Okay. You can go ahead and submit  
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1 it.  
 2 MR. MARCELLO: Thank you, Your Honor.  
 3 THE COURT: All right. Leslie, can you get them  
 4 in.  
 5 The record will reflect Mr. Fumo's now present as  
 6 well.  
 7 (Thereupon, the following proceedings were had in open  
 8 court and in the presence of the jury.):  
 9 THE COURT: We are back on the record in C204957,  
 10 State of Nevada versus Rickie Slaughter, who is present.  
 11 That State's attorneys are present.  
 12 The Defense attorneys are present.  
 13 The jurors are present.  
 14 We will continue on with the State's case in  
 15 chief.  
 16 MR. DI GIACOMO: The State calls Patrick Fischer.  
 17 THE MARSHAL: Take the stand.  
 18 Remain standing, while the clerk swears you in.  
 19  
 20  
 21  
 22  
 23  
 24  
 25

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1 PATRICK FISCHER,  
 2  
 3 who, being first duly sworn to tell the truth, the whole  
 4 truth, and nothing but the truth, was examined and  
 5 testified as follows:  
 6 THE CLERK: Please state your full name, spelling  
 7 your name for the record.  
 8 THE WITNESS: My name is Patrick Fischer,  
 9 P-a-t-r-i-c-k F-i-s-c-h-e-r.  
 10 THE COURT: Mr. DiGiacomo.  
 11 MR. DI GIACOMO: Thank you, Judge.  
 12 - - -  
 13 **DIRECT EXAMINATION OF PATRICK FISCHER**  
 14 BY MR. DI GIACOMO:  
 15 Q. Mr. Fischer, how are you employed?  
 16 A. I work for North Las Vegas as a CSI.  
 17 Q. And we've had Marianne Brady (Phonetic) in here  
 18 previously.  
 19 Do you have similar training and experience as  
 20 Miss Brady, as relates to the processing of crime scenes  
 21 and the collection of evidence from the crime scenes?  
 22 A. I do.  
 23 Q. At some point after June 26th of 2004 were you  
 24 requested to respond back to the Glory View address and  
 25 photograph what appeared to be an apparent bullet strike

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1 on the ground at that residence?  
 2 A. Yes, I was.  
 3 Q. Did you do any other forensic analysis or  
 4 documentation at that scene, other than photographing  
 5 that bullet strike?  
 6 A. No, I didn't.  
 7 Q. Did there also come a point in time when the  
 8 detectives requested from you that you respond down to  
 9 the North Las Vegas Jail and collect an item of clothing  
 10 or shoes out of the personal property of Rickie  
 11 Slaughter?  
 12 A. Yes, sir.  
 13 Q. Apparently these are all admitted. Although, I  
 14 don't think we had testimony about 89, but --  
 15 THE COURT: Mr. Fumo is trying to look over your  
 16 shoulder.  
 17 MR. FUMO: Thank you, Your Honor.  
 18 BY MR. DI GIACOMO:  
 19 Q. State's Exhibit Number 87, does that appear to be  
 20 a photograph of the bullet strike that you took?  
 21 A. Yes.  
 22 Q. And then 88, is that a close-up?  
 23 I guess I should turn it, so people can read it.  
 24 Is that a close-up of where the bullet strike is?  
 25 A. Yes, it is.

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1 Q. Now, in addition to the two items, you said you  
 2 went down to the jail, State's Exhibit previously  
 3 admitted 89, are those the white shoes, the white  
 4 sneakers that you took out of the property of Rickie  
 5 Slaughter at the North Las Vegas Detention Center?  
 6 A. They are.  
 7 Q. After you did so, did you find what appeared to  
 8 be a reddish brown stain on the shoe?  
 9 A. Yes, on the soles of the shoe in the crevasse.  
 10 Q. And did you do anything in order to test to  
 11 determine anything presumptive, to determine whether or  
 12 not that was or wasn't blood?  
 13 A. Yes.  
 14 I used a chemical trace kit, which is a  
 15 presumptive test for human blood to test.  
 16 Q. And at the conclusion of that did you get a  
 17 positive or a negative result?  
 18 A. I got a negative result.  
 19 MR. DI GIACOMO: Thank you very much.  
 20 I pass the witness.  
 21 THE COURT: Mr. Fumo.  
 22  
 23  
 24  
 25

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**CROSS-EXAMINATION OF PATRICK FISCHER**

1 BY MR. FUMO:  
 2 Q. So there is a reddish brown stain on the shoe?  
 3 A. There was.  
 4 Q. But you tested it, and it is not blood?  
 5 A. Yes.  
 6 Q. You know that for a fact?  
 7 A. Yes.  
 8 MR. FUMO: Thank you.  
 9 THE COURT: Mr. DiGiacomo.  
 10 MR. DI GIACOMO: Nothing further, Judge.  
 11 THE COURT: Anything by the jurors?  
 12 All right. Mr. Fischer, thank you for your time.  
 13 I appreciate you coming in.  
 14 The State may call their next witness.  
 15 MR. FUMO: I'm sorry.  
 16 One more question.  
 17 THE COURT: Hold on.  
 18 BY MR. FUMO:  
 19 Q. Just as to the date when you did that test -- I  
 20 apologize.  
 21 A. I believe it's June 29th, I believe.  
 22 Q. 2004?  
 23 A. 2004.  
 24 Q. And did you keep the shoes, or you put the shoes  
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1 back in the evidence vault?  
 2 A. Yes.  
 3 Q. And you sealed them back in the evidence vault  
 4 and signed your name on the package where the shoes were  
 5 kept?  
 6 A. Yeah, I put them back into the evidence packaging  
 7 and sealing it again, and sign it to show that it's the  
 8 shoes that I got, and it's the ones I'm putting back.  
 9 Q. Other than writing your report, is there anything  
 10 you would do to indicate you tested these shoes?  
 11 Other than drafting your report, is there  
 12 anything to indicate you tested the shoes, any reports  
 13 to anybody else, or any markings on the envelope,  
 14 anything else we would need to know about?  
 15 A. Not that I know of.  
 16 MR. FUMO: We're finished.  
 17 Thank you.  
 18 THE COURT: You say you initially took them,  
 19 impounded them into evidence originally?  
 20 THE WITNESS: Yes, sir.  
 21 THE COURT: All right. Mr. DiGiacome, anything  
 22 further?  
 23 MR. DI GIACOMO: No.  
 24 THE COURT: All right. You are excused.  
 25 Thank you.  
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1 All right. The State may call their next  
 2 witness.  
 3 MR. DI GIACOMO: Angel Moses.  
 4 THE MARSHAL: Please step forward to the witness  
 5 stand.  
 6  
 7 ANGEL MOSES,  
 8  
 9 who, being first duly sworn to tell the truth, the whole  
 10 truth, and nothing but the truth, was examined and  
 11 testified as follows:  
 12 THE CLERK: Please state your name, and spell  
 13 your name for the record.  
 14 THE WITNESS: Dinnah, D-i-n-n-a-h, then I have a  
 15 middle name Angel, A-n-g-e-l, last name Moses,  
 16 M-o-s-e-s.  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25  
**DIRECT EXAMINATION OF ANGEL MOSES**  
 BY MR. DI GIACOMO:  
 Q. Ma'am, how are you employed?  
 A. I'm employed with the Las Vegas Metropolitan  
 Police Department, assigned to the forensic lab.  
 My specialty is in firearms identification.  
 Q. And how long have you been with the Las Vegas  
 Metropolitan Police Department?  
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1 A. Approximately eight years now.  
 2 Q. And how long have you been in firearm  
 3 identification, or that field?  
 4 A. About twelve-and-a-half years.  
 5 Q. In order to hold the position you do at the Las  
 6 Vegas Metropolitan Police Department, did you have  
 7 certain education, training and experience in the area  
 8 of firearms analysis?  
 9 A. Yes, I did.  
 10 Q. Can you explain that to the ladies and gentlemen  
 11 of the jury?  
 12 A. I earned my Bachelors of Science degree from the  
 13 University of Illinois.  
 14 I completed a two-year training course that  
 15 included extensive microscopic examination of fired  
 16 ammunition components and functions of weapon analysis.  
 17 I am also a member of the Association Of Firearm  
 18 And Tool Mark Examiners. This association informs  
 19 members of new methods and technical advances in our  
 20 field.  
 21 Q. Now, have you ever testified before as an expert  
 22 here in Clark County related to firearms analysis?  
 23 A. Yes, I have.  
 24 Q. And do you recall approximately how many times?  
 25 A. Over sixty times.  
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1 Q. Did there come a point in time when the North Las  
2 Vegas Police Department requested assistance in some  
3 firearms analysis under their case number 04-15160?  
4 A. Yes, they did.  
5 Q. And you talked about this a little bit just now,  
6 you said that you keep up to date in the firearms  
7 analysis technology.  
8 In the course of this case from the first time  
9 you looked at the evidence, until the most recent time  
10 you looked at the evidence, were there certain advances  
11 in techniques that are used to do a firearms analysis?  
12 A. There were some advances, particularly in our  
13 lab, in that we acquired a new instrumentation that gave  
14 me a little bit more information than I previously had  
15 in my first examination of the evidence.  
16 Q. Let's talk first about a little bit about  
17 firearms themselves.  
18 I'm sure there is members of this jury who have  
19 firearms, and I'm sure everybody's probably seen some on  
20 TV, but I want to get into a little bit of specifics.  
21 I'm going to talk solely about handguns, leave  
22 rifles aside, I'll discuss solely handguns.  
23 A. Okay.  
24 Q. Are there two different types of handguns in the  
25 sense of semi-auto versus revolver?  
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1 A. Yes, there are.  
2 Q. Can you explain the differences to the ladies and  
3 gentlemen of the jury?  
4 A. In the semi-automatic and revolver they are both  
5 essentially handguns, as Mr. DiGiacomo says, in that  
6 they are meant to be held with in the hand.  
7 Both of these will fire with a single pull of the  
8 trigger.  
9 The differences between the two is that with a  
10 revolver where the pull of the trigger there is a  
11 cylinder that rotates around and that has multiple  
12 chambers in there, with the pull of the trigger it will  
13 rotate the chamber, fire a bullet from the end of the  
14 gun, also called the muzzle, and remain in that  
15 position.  
16 If you pull another trigger, it will rotate that  
17 cylinder again to the next chamber and make the gun fire  
18 once again.  
19 The cartridge cases will actually remain in the  
20 cylinder, must manually be removed.  
21 With a semi-automatic pistol what happens with a  
22 pull of the trigger, a cartridge will actually be  
23 expelled -- or I'm sorry, the gun will fire, a bullet  
24 will come from the muzzle of the gun, and a cartridge  
25 case will be extracted and ejected from the chamber and  
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1 kind of thrown out from the gun, and another one would  
2 be placed inside of the chamber.  
3 So every time that gun is fired for a  
4 semi-automatic the cartridge case is expelled and  
5 extracted, are usually left at a crime scene.  
6 Q. Now, you just used some terms, cartridge,  
7 cartridge case, bullet.  
8 Do you have anything of demonstrative purposes  
9 with you where you can explain the differences in the  
10 various parts of a full bullet or full cartridge?  
11 A. Yes, I do.  
12 Q. Would you pull that out for us?  
13 Can you explain to the ladies and gentlemen of  
14 the jury basically the functioning parts of a cartridge?  
15 A. This actually represents a cartridge or in other  
16 words a live ammunition. It consists of a case that  
17 holds everything together, a primer at the back, gun  
18 powder inside, and a bullet seated within the mouth of  
19 the cartridge case. This is before it's fired.  
20 Once it's fired, mechanisms within the gun will  
21 actually impact the primer, get the gun powder burning,  
22 which then causes the bullet to be removed from the  
23 mouth of the cartridge case, and goes down into the  
24 barrel of the gun.  
25 This cartridge case, depending if it's a revolver  
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1 or a semi-automatic, will either remain in the gun, or  
2 be extracted and ejected.  
3 With a revolver it will stay in the gun.  
4 With a semi-automatic it will be extracted and  
5 ejected from the gun.  
6 Once again, you will actually have a cartridge  
7 full, and a cartridge case, once it's fired, and a  
8 bullet, once it's fired --  
9 Q. Hold that up.  
10 Are all bullets manufactured in the same way in  
11 the sense, so they are all one solid piece, other other  
12 different ways bullets are manufactured?  
13 A. Bullets can actually be configured in different  
14 ways, just depends on what the manufacturer's trying to  
15 design with the bullet.  
16 The most simple type of bullet is a lead bullet,  
17 which means it's completely made of lead, a solid chunk,  
18 and that's all there is.  
19 The manufacturers have then decided to make it a  
20 little bit stronger because lead is very soft, they  
21 decided to coat it with a copper coating on there, so  
22 they will encase the lead inside with copper around it.  
23 This copper coating or jacket can either be  
24 enclosed in the bottom, open in the bottom, have a whole  
25 tip, lot of different design features of a bullet.  
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1 This jacket material, most of it is commonly  
2 copper, but you can actually have different materials  
3 such as what is called silver tip or aluminum. Some of  
4 them will coat it with plastic.

5 So a lot of different design features with  
6 bullets themselves.

7 Q. So silver tip can have aluminum, and can it also  
8 have nickel as well?

9 A. Yes, they actually can be composed of different  
10 materials. Although, the look pretty similar, the  
11 silver tips will have a silver color to them, although  
12 they don't have any silver inside of them, they have  
13 that shiny metallic look to them. They can be either  
14 made of aluminum, or nickel, copper-type materials.

15 Q. Now, you also said that there is a jacket on the  
16 outside of the bullet.

17 So the inside of the bullet would be lead, and  
18 the outside would be this layer of whatever, a copper  
19 element, nickel, whatever it is on the outside, to keep  
20 it hard?

21 A. That's correct.

22 Q. When a gun is fired, the bullet is expelled from  
23 the end of the gun, and that bullet hits something,  
24 whether it be a person, bone, cement, whatever, does it  
25 have a tendency to separate?

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1 A. It can either fragment into different pieces,  
2 very small or very large, depends on how it decides to  
3 break apart.

4 But yes, the jacket can separate, or it can stay  
5 together.

6 I've seen it do both.

7 Different ones will also have different -- or  
8 different manufacturers will also have different ways of  
9 placing that jacket around there. Some of them are a  
10 little bit stricter, in which they adhere (sic) them and  
11 glue them onto there, so that when they do fragment, you  
12 will get a combination of lead and that jacket material.

13 But some of them are meant to completely  
14 separate, and you will have two different pieces, some  
15 composing completely of the core, which is lead, or the  
16 jacket material, and have a bunch of little pieces  
17 there.

18 Q. Eventually throughout your time you have worked  
19 on this case were you supplied two types of ammunition  
20 associated with those two firearms, as well as some  
21 spent ammunition to look at those, to see if you could  
22 draw any conclusions as to their characteristics?

23 A. I was.

24 Q. Let's talk first about the firearms themselves,  
25 and I'm going to put -- or start with State's Exhibit

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1 Number 130, which I believe is in, but doesn't have it  
2 marked it's in.

3 If not, I will move to admit 130, since we had  
4 testimony as to it.

5 MR. MARCELLO: No objection.

6 THE COURT: I think we already did.

7 MR. MARCELLO: He's holding the model 689.

8 The .22 is actually in evidence.

9 THE COURT: It's in.

10 BY MR. DI GIACOMO:

11 Q. I'm going to show you what has been marked as  
12 State's Exhibit Number 130, being a .22 caliber firearm,  
13 and some live rounds.

14 Is that a firearm that you actually looked at and  
15 did any sort of testing with?

16 A. Yes, I did.

17 Q. And how do you know you actually handled this  
18 particular weapon?

19 A. I actually have some of my unique markings and  
20 the evidence case number that is placed on the gun  
21 itself.

22 Q. I'm going to put this on the overhead here.

23 The gun, I guess it's just the chamber itself  
24 still locked in here, and the live rounds, but this  
25 particular weapon, what's it's caliber?

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1 A. It's a .22 long rifle revolver.

2 Q. When you say, long rifle, what does that refer  
3 to?

4 A. The actual ammunition size in there is called the  
5 caliber, or nomenclature of that round.

6 There are different rounds that can be placed, or  
7 different calibers of ammunition.

8 By saying, .22 long rifle, it gives me certain  
9 dimensions of what the cartridge will look like, and  
10 also what it can be fired in.

11 Q. So a .22 caliber bullet would be utilized in --  
12 or cartridge would be utilized in this particular gun?

13 A. That's correct.

14 Q. And it's a revolver, so if you pull the trigger,  
15 the casing, the piece there, that piece would remain  
16 inside the gun after it's fired?

17 A. Actually, it remains in this cylinder portion  
18 here, the cartridge case, and that actually would  
19 revolve along that rod as an access around it.

20 Q. Now, the live rounds that were found in this gun  
21 that are also in here, they fit this particular weapon?

22 A. That --

23 Q. These are .22 caliber rounds, so they are fairly  
24 small in relationship to handgun rounds?

25 A. They are one of the smaller ones of the handgun  
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121

1 rounds.

2 Q. Okay. Let me ask you this:

3 Did you test to see if that .22 caliber was

4 actually a functioning .22 firearm?

5 A. Yes, I did test fire that gun.

6 Q. Did it actually work, and was it a usable

7 firearm?

8 A. Yes, it was.

9 Q. I'm going to show you what has been admitted as

10 State's Exhibit Number 131, which is a silver

11 semi-automatic firearm.

12 Is this a firearm, as well as some live rounds,

13 that you utilized, or that you looked at?

14 A. Yes, it is.

15 Q. And I'm going to put this one on the overhead as

16 well.

17 Can you tell us what type of weapon State's

18 Exhibit Number 131 is?

19 A. This is a semi-automatic pistol, so you can see

20 it's actually pulled back a little bit, and this top

21 portion here is what is called the slide, and will move

22 back and forth.

23 And the cartridge case will actually be extracted

24 and ejected where that orange piece right here is at.

25 So a cartridge case will be extracted and ejected

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122

1 with each pull of the trigger.

2 Q. Now, I think you probably already said, but what

3 type of caliber weapon is this firearm?

4 A. This particular one is a .25 auto.

5 Q. Does that mean the bullet is larger?

6 And if so, how much larger than a .22?

7 A. This one will actually be a little bit longer and

8 wider in width, so the .22, when you look at it, will be

9 approximately 22 around the bullet, and the .25 will be

10 25, which is about a quarter of an inch, so the .25

11 would look to be wider, a long the bullet diameter, as

12 well as the cartridge itself will be a little bit taller

13 for the .25 auto than the .22.

14 Q. Did you actually fire this weapon?

15 A. Yes, I did.

16 Q. Can you tell me, was it a working weapon?

17 A. Yes, it was.

18 Q. Can you tell me what the capacity was of the

19 magazine that is in this weapon?

20 A. If I may take a look at my notes.

21 Q. Sure.

22 A. For this particular one it has a capacity of six

23 cartridges in the magazine.

24 Q. So a fully loaded cartridge would be six?

25 A. Six in the magazine, and if you topped it off,

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123

1 which means to add one into the chamber, and have a

2 fully loaded magazine, would be seven total.

3 Q. Now, if you fired this particular weapon, with

4 those .25 caliber rounds, would you expect the casing to

5 be ejected and left wherever the gun was fired from?

6 A. That's correct.

7 Q. I'm going to show you three items.

8 MR. DI GIACOMO: Judge, the witness that will

9 admit this is not here until tomorrow, but Mr. Fumo

10 allowed Miss Calu to talk about the contents of it

11 during her testimony.

12 THE COURT: Okay.

13 BY MR. DI GIACOMO:

14 Q. I'm going to show you State's Proposed 124, and

15 Exhibit Number 123, and Exhibit Number 125, and ask you

16 if you had an opportunity to look at all of those items

17 during the course of your testing?

18 A. Yes, I have.

19 Q. And how is it that you know you looked at all

20 three of those?

21 A. I actually signed the chain of custody for each

22 one of these packages.

23 Q. Then you put your blue seal back on?

24 A. That's correct.

25 Once I'm done analyzing it, I'll place evidence

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124

1 blue tape and initial and date that.

2 Q. We're not going to open 124.

3 On the on side it said, one clear plastic

4 container containing bullet fragments taken from Ivan

5 Young.

6 A. Okay.

7 Q. When you opened this package and looked inside

8 it, was that in fact what it is?

9 A. Yeah, it had a plastic container that contains

10 some fragments I looked at.

11 Q. Okay. I want to show you now State's Exhibit

12 Number 125-A.

13 Is that the cartridge case and portion of a

14 bullet that you looked at?

15 A. Yes, it is.

16 Q. And then 125 -- or 123-A, are those portions of

17 bullets and bullet fragments that you looked at during

18 your testing?

19 A. Yes, they are.

20 Q. Now, you also photographed those items when you

21 did your analysis?

22 A. Yes, I did.

23 Q. I'm going to show you what has been marked as

24 State's Proposed Exhibit 100 to 104, and ask you to look

25 at those, and ask you if those are photographs that you

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125

1 took?

2 A. Yes, these are photographs that I took.

3 Q. Are they true, fair and accurate depictions of

4 the items when you were testing them?

5 A. That's correct.

6 MR. DI GIACOMO: Move to admit 100 to 104.

7 MR. FUMO: No objection.

8 THE COURT: Those will be admitted.

9 BY MR. DI GIACOMO:

10 Q. Now, is the cartridge case the only item out of

11 123, 4 and 5 that is not depicted in photographs 100

12 through 104?

13 A. The cartridge case?

14 If I may take a look at them again.

15 Q. Okay.

16 A. I'll make sure.

17 That's correct, the only one that does not have a

18 picture of it is the cartridge case.

19 Q. I'm going to take this with me, but I'll ask

20 you, first of all, I'll put it on the overhead, if you

21 could, looking at the cartridge case, which was in

22 125-A, zoom in on the cartridge case itself, what is it

23 that you could determine from your analysis of that

24 particular cartridge case?

25 A. This cartridge case, what is common with

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126

1 ammunition manufacturers is that they will place what is

2 called a head stamp on the cartridge, and that area is

3 this portion here is oriented the same way as the

4 cartridge case on your screen.

5 The head stamp markings will be placed right

6 around here, and what it will actually have is

7 information that says usually who makes it, the

8 manufacturer, and also the caliber that this cartridge

9 is.

10 So this particular one says, Winchester .357

11 Magnum. So that tells me that the manufacturer is

12 considered to be Winchester, and the caliber of this

13 cartridge is a .357 Magnum.

14 Q. Maybe somewhat self-explanatory, but I'm going to

15 assume the Winchester .357 Magnum couldn't have been

16 fired out of either this .25 caliber semi-automatic or

17 this .22 caliber revolver?

18 A. That's correct, this .357 Magnum is way too big

19 to be fired in either of those two guns.

20 Q. Now, let me ask you this:

21 Do .357 Magnums come in both semi-automatic and

22 revolver form?

23 A. This is the only form that it comes in because of

24 the fact that that is part of the design of it.

25 When I say .357 Magnum, the cartridge case is

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1 going to look like this particular design. This design

2 is -- or is predominantly for handguns, particularly

3 revolvers.

4 There are a couple of semi-automatic guns that

5 can use this particular cartridge, but that is not very

6 common.

7 The most common gun used for this is a revolver.

8 Q. Now, when a gun is fired, are there certain marks

9 left on the cartridge case to determine whether or not

10 it was fired from a revolver, versus a semi-automatic,

11 or can you make that determination from the marks on the

12 casing itself?

13 A. If I were to look for extractor and ejector

14 marks, if they were there, I could then assume it was

15 fired from a semi-automatic weapon.

16 In this particular one I do not recall having

17 seen an extractor/ejector, which means its motion likely

18 going to be from that revolver.

19 Q. The fact that a casing is not found at the scene

20 either is suggestive of a revolver as well, correct?

21 A. That's correct.

22 Q. Now, let's go -- I'm not going to pull up each

23 one of those, but what has been marked as 125-A, the

24 second item other than the cartridge case, is what is

25 depicted in your photograph 100, State's Exhibit 100, is

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1 that correct?

2 A. That's correct.

3 Q. Okay. What is it you can tell from State's

4 Exhibit Number 100?

5 A. First off, this is a lead piece of metal, it's

6 predominantly what I would consider to be a core, so

7 it's that inside portion of a bullet.

8 There is a couple of things to note on here.

9 One is, this cannular, or these kind of railroad

10 looking type things right there, this is a design

11 feature that you see predominantly with revolver-type

12 bullets, that's bullet designs. It's also larger

13 amount than what you would find in a .22 or .25.

14 So it has to be a larger caliber than either of

15 those two.

16 Q. So this bullet has to -- or this portion of the

17 bullet has to be larger than a .22 or .25 because it's

18 only a portion of a bullet, you can't exactly say what

19 caliber it was?

20 A. That --

21 Q. Is it consistent -- or could it be consistent as

22 being a piece of a .357, or a normal .38 round?

23 A. Yes, it is.

24 Q. Now, I want to put up photographs of the

25 fragments, and I guess I should ask you before I come up

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1 there, how many different items do these four  
2 photographs represent?

3 This is just one side of those?

4 A. This is actually three different items.  
5 These two are the same ones.  
6 This is before I cleaned it, and this is after.  
7 So this had a lot of biological material on it.  
8 Q. Okay. So you cleaned some of the biological  
9 material off of it, and this is 103 is with the blood on  
10 it, or biological material?

11 A. Yes.

12 Q. And 104 is without it?

13 A. That's correct.

14 Q. Okay. State's Exhibit Number 104, can you tell  
15 the ladies and gentlemen what we're looking at?

16 A. These are fragments that I looked at,  
17 particularly -- Can you move it up?

18 I can't see the numbers below it.

19 Q. How about I back it out for you.

20 A. Thank you.

21 These are ones that were from the package -- This  
22 is from the one with the clear plastic container.

23 Q. Is that the one unopened?

24 A. Yes, it is, exhibit 124 Proposed Exhibit.

25 Q. Proposed 124.

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1 And what information -- First of all, what type  
2 -- There seems to be different fragments in there.

3 What type of fragments are we looking at?

4 A. The three fragments here, this one, this one and  
5 this one, are lead fragments, so that is predominantly  
6 going to be from the core itself, and the other two are  
7 pieces of what would be the bullet jacket, so that is  
8 what goes around the core.

9 Q. And then let's look at State's Exhibit Number  
10 102.

11 What are we looking at.

12 A. The same thing.

13 The larger piece is a bullet jacket, and the  
14 smaller two pieces are actually lead, and I think  
15 another piece is just the biological material that  
16 really isn't of concern.

17 Q. Is there anything about as we look in here that  
18 is kind of the striped area on the jacketing that was  
19 relevant to your analysis as relates to the bullet core  
20 that was found on 125?

21 A. This is that same type of cannulars, those  
22 railroad marks I talked about in the bullet core.

23 This is also in the jacket.

24 What does tend to happen, since the lead core is  
25 very soft, if a material is placed around it, and then

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131

1 you place these cannulars on there, it gets imprinted  
2 with that lightly onto the bullet core.

3 So they both have features that are consistent  
4 with the same type of bullet, which is that cannular.

5 Q. State's Exhibit Number 101 -- I'll move that out,  
6 so you can see the number.

7 A. This is a bullet jacket portion.

8 It's a little dirty.

9 It also has some biological material on there.

10 Q. Now, did you do any analysis or testing to try  
11 and determine whether or not the jackets, the bullet  
12 core, and that cartridge case were all consistent with a  
13 single type of ammunition?

14 A. I did do some testing.

15 I looked at the design features, and then I used  
16 their new instrumentation that gives us an elemental  
17 analysis of the materials that are used for each of  
18 these pieces of metals in there.

19 Q. And when you did that, what information were you  
20 able to gather?

21 A. With the lead cores aside, all of the bullet  
22 jackets had design features -- or were consistent in  
23 materials that they are made of and composed of that  
24 were consistent with a Winchester .357 Magnum silver tip  
25 hollow point.

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1 Q. And the cartridge case, would that be the type of  
2 cartridge case -- or could that be the type of cartridge  
3 case that a Winchester .357 silver tip bullet may be  
4 loaded into?

5 A. Yes, it can be.

6 Q. And that bullet core, would that be -- I think  
7 you already said this, but that could be consistent with  
8 the larger portion of the core of the missing piece of  
9 the bullet that we have basically jacket small pieces  
10 and missing some of the core, correct?

11 A. That's correct.

12 Q. Resulting in one silver tip Winchester .357  
13 Magnum round?

14 A. All of these fragments can be in one round.

15 The weights of the silver tip can range anywhere  
16 from 95 grains to approximately 170 grains, and all of  
17 these fragments were within.

18 If you add them all together, they are  
19 approximately 95 grains, approximately.

20 MR. DI GIACOMO: Thank you very much.

21 Judge, I pass the witness.

22 THE COURT: Mr. Marcello.

23  
24  
25

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**CROSS-EXAMINATION OF ANGEL MOSES**

BY MR. MARCELLO:

Q. Good afternoon, Miss Moses?

A. Yes.

Q. Now, you prepared three reports in this matter, is that correct?

A. That's correct.

Q. And in your first report your conclusion was the Rasen Johnson (Phonetic) model and the Ivan Johnson (Phonetic) model, the .22 and .25 caliber were not involved in the robbery.

That is not what I said.

I actually said, the bullet fragments could not have been fired from those particular weapons.

Q. There is no scientific or empirical evidence connecting them to the bullet fragments you analyzed as well?

A. That's correct.

Q. Now, as far as you indicated, there was a new technology created to allow you to analyze the elemental composition that did not exist back in 2004, is that correct?

A. Not that it didn't exist, but we didn't have this instrumentation, and it wasn't really widely used within  
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our field because it was something that was unknown to us.

It's been around and used in other different sciences and different implementations, but just not within ours.

Once we discovered it and found it affordable, that we could purchase it and obtain it, then we did have it.

Q. So prior to that, you had to more or less eyeball the elemental composition as in if something appeared silver, you would say it could be aluminum, silver, nickel, or anything like that, right?

A. Yes, I was looking at some of the other characteristics of the metals itself.

Q. Correct.

So in 2004 as part of your report -- Where did those exhibits go, are they are still up there, the photographs?

A. Yes, they are up here.

Q. All right. In 2004 -- I'm showing you State's Exhibit 104.

In 2004 you initially thought that was some type of aluminum, correct?

A. I actually had placed in my notes aluminum slash nickel because I couldn't really tell the color of it,

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it could have indicated either one at that time.

Q. And then later in 2004 you had conducted a second test, and the conclusion of that again had to do with the elemental analysis of the bullet fragments that were found at Glory View and taken out of Mr. Ivan Young, correct?

A. I believe in 2004 what I was looking at one, there was one evidence package that wasn't given to me initially, so I wanted to look and see if there was anymore characteristics from the gun itself, such as a rifling features, to see if I could do comparisons on that, which there wasn't.

So I wasn't specifically looking for as far as elemental analysis, since we didn't have that, but was asked to see if there was design features of the bullets characteristics I could look at.

Q. Okay. And then in August of 2004 you had prepared a -- or I'm sorry, not August -- December of 2004 you prepared a second report?

A. Yes.

Q. In that report you indicated that there was insufficient detail for microscopic comparison, correct?

A. That's correct.

Q. But that the bullet fragments that were found in Mr. Ivan Young, or taken from Mr. Ivan Young -- I'm  
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sorry. This is the one that still has biological samples on it.

The bullet fragments taken from Mr. Young, and that the bullet fragment jacket portions that were discovered at Glory View, had the same design features or the same elemental analysis that enabled you to say, they were the same type of bullet.

MR. DI GIACOMO: I apologize, Judge.

That just slightly misstates the evidence.

All the fragments came out of Mr. Young. I don't think there is any fragments located at Glory View.

MR. MARCELLO: There is designated a -- one bullet fragment from 2612 Glory View, the designated item 12-A and 12-B.

MR. DI GIACOMO: Correct, because that Mary Sims (Phonetic) testified Officer Bailey came back from the hospital while she was at Glory View, provided her the fragments.

MR. FUMO: I'll designate them as 12-A and 12-B for identification.

THE COURT: Thank you.

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1 BY MR. MARCELLO:

2 Q. So I have sample 12-B here.

3 And that sample did have the design  
4 characteristics consistent with item 5.1, correct?

5 A. That's correct.

6 Q. Now, the bottom portion of this is actually the  
7 base of the bullet, would that be correct?

8 A. That's correct.

9 Q. And that would actually be the outside jacketing  
10 portion of the bullets?

11 A. That's correct.

12 So essentially the base is at the bottom of the  
13 bullet right here, and then the areas with the cannulars  
14 would be what is along the side of the bullet itself.

15 With a silver tip hollow point there is actually  
16 a cavity in the nose that is what is considered a hollow  
17 point because it's hollow there, but some of the bullets  
18 will have what is called an enclosed base, or exposed  
19 base, meaning there is a metal jacketing around the  
20 base, and others won't have that, it will be exposed,  
21 you can actually see the head core inside of it.

22 Q. And at that time it was unable to have a  
23 microscopic comparison, correct?

24 A. That's correct.

25 Q. And it was unable to have a microscopic

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1 comparison to the lead core fragments that were  
2 discovered in Mr. Slaughter's vehicle, correct?

3 A. If I can explain it, microscopic comparisons,  
4 essentially what I predominantly do is actually look at  
5 the markings transferred from the gun onto the areas of  
6 the cartridge case or a bullet.

7 So as I said before, when this is placed in the  
8 gun, certain mechanisms will touch parts of these  
9 ammunition components and leave marks on there.

10 My job is predominantly to look at these marks  
11 and determine if those marks are what I would get from a  
12 particular gun, looking at test bullets and cartridge  
13 casings.

14 Since I didn't have a gun for this particular  
15 one, there wasn't anything for me to compare.

16 But what microscopic comparison means to me is, I  
17 would actually be able to place it underneath a  
18 comparison microscope and look at these marks that are  
19 microscopic in nature side-by-side with either a test or  
20 other evidence.

21 So when I say there is insufficient microscopic  
22 detail, meaning if I put it under there, there just  
23 isn't enough due to damage mutilation, or I'm getting  
24 portions of the jacket that has none of these markings  
25 transferred from the gun.

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1 Q. Understood.

2 Now, the samples that are designated as 51, and  
3 the sample designated as 121-B, now those have a unique  
4 jacketing to them, correct?

5 A. What do you mean by, unique?

6 Q. In that it's a nickel plated glass jacket?

7 A. Yes.

8 Q. And that is consistent with .357 silver tip  
9 hollow point bullets?

10 A. That's correct.

11 Q. That was part of the basis as far as the  
12 elemental analysis, correct?

13 A. That's correct.

14 Q. So in relationship to this lead core, there isn't  
15 any elemental analysis connecting it to the other two,  
16 it's just believed that that is the lead core covered by  
17 this particular jacket, correct?

18 A. It could have been covered by that or a different  
19 one.

20 It does have the cannular on there, so it would  
21 have to at least be a jacket with a cannular on it.

22 Q. Now, let's go over the cannular.

23 It's important to know the placement of that  
24 cannular, correct?

25 A. Yes.

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1 Q. And in this photo you can feel where the cannular  
2 is in relationship to top and bottom roughly of the  
3 bullet, correct?

4 A. That's correct.

5 Q. Now, out of this molten lead are you able anymore  
6 -- that is just in this molten lead form to tell where  
7 it was at originally before it was fired?

8 A. Well, this is a significant distance from the  
9 base when you look at it.

10 Q. Just real quick, in this molten core that is top  
11 to bottom how can you tell where the base is anymore?

12 A. The base is actually at the bottom of this  
13 portion here, it's what is touching on the paper.

14 Q. Just for the jury's edification, how can you tell  
15 that is the back and not where it made contact with  
16 whatever it made contact with?

17 A. I have looked at a lot of fragments that have hit  
18 a lot of different things, and there is characteristics  
19 I'll look at to be able to tell me if it's the base or  
20 the nose or a portion I just can't tell. A lot of it  
21 for the base is either there is a cut-out that let's me  
22 know there is a jacket imprint on there, or that there  
23 is a ledge that you would typically see at the bottom of  
24 the base of it.

25 Q. Now, this particular lead core, you said it's a  
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1 subjective belief of what you are looking at, it didn't  
2 make contact with something else to flatten it out, to  
3 make it appear like the base?

4 A. That's correct, it looks to me like most of the  
5 impact was at the nose and kind of smoothed it out on  
6 that.

7 It's deformed a little bit because it is a soft  
8 piece of metal.

9 But to me the cannular, the base of it, would  
10 mean the bottom of it.

11 Q. Now, let's talk about real quick the diameter of  
12 the bullet. That tells you something about the caliber  
13 size right, helps you determine it was not a .22 or .25?

14 A. Along with the weight itself, yes.

15 Q. Now, the caliber of that particular bullet was  
16 approximately how large?

17 A. If I may take a look at my notes.

18 Q. Sure.

19 A. Are you referring to the lead core itself?

20 Q. Yes, just the lead core itself.

21 A. Okay. So I know.

22 Actually with the damage that occurred to it I  
23 wasn't able to take a very diameter measurement on  
24 there, but I was able to get a weight of 80.8 grains.

25 Q. Okay. And as far as the grains, you said it was

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1 damaged to a sufficient degree, you can't be sure about  
2 the exact weight, when it was impacted, correct?

3 A. The exact measurement at the base of the bullet.

4 Q. At that particular weight, and/or diameter of the  
5 size, that would include other calibers as well,  
6 correct?

7 A. Yes.

8 Q. That would include a .357, a .38 Special, a .380  
9 auto?

10 A. Yes, it could be any of those.

11 What I would call those are medium caliber, so  
12 any of those particular ones it would fit.

13 Q. And maybe even slightly larger, since it it may  
14 have their -- lost some of its grains, a nine  
15 millimeter, a .45, or ten millimeter as well?

16 A. That's correct.

17 Q. You indicated the reason they started using the  
18 special jacketing is because a large portion of  
19 ammunition uses lead core, correct?

20 A. There are just different reasons that ammunition  
21 companies make different bullets, just it also is to a  
22 piece of the commercial market.

23 So they haven't stopped making lead bullets.

24 It's just another form they started using after they  
25 realized you can place metal on there and create a

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1 better bullet in a sense that it's stronger.

2 Q. So a large number of manufacturers still make  
3 bullets that have -- will be of those particular  
4 calibers I still named, correct?

5 A. Yes.

6 Q. And will contain a lead core inside of them?

7 A. They will either be lead bullets or lead core  
8 with a jacketing around it, yes.

9 Q. Now, just to be clear, the lead core that was  
10 discovered was in a different place than the jacketing  
11 fragments found, correct?

12 A. I believe so.

13 I just get them all together.

14 Q. You performed a trace elemental analysis on both  
15 the jacketing as well as the lead core, correct?

16 A. Yes.

17 Q. Was there any trace of any of the elements you  
18 found in the faceting on the lead core as in any nickel,  
19 copper, zinc?

20 A. All of the pieces that I had were just straight  
21 lead, so there wasn't any transfer materials that I  
22 could tell from those.

23 Q. And what I'm going to show you as State's Exhibit  
24 104, this was actually a sample of the bullet that  
25 contained the base as well?

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1 A. That's correct.

2 Q. And also contained portions of lead, correct?

3 A. Yes.

4 Q. So this sample has portions of lead along with  
5 the nickel, and/or copper jacketing?

6 A. Yes.

7 Q. Okay. And the lead core however doesn't have any  
8 of those trace elements with it?

9 A. That's correct.

10 Q. Now, as far as I want to get back to the  
11 cannulars real quick, various manufacturers can use more  
12 than one cannular in a bullet, correct?

13 A. Yes, they can.

14 Q. And that can be there for cosmetic purposes,  
15 performance purposes, other reason than just because,  
16 right?

17 A. There is usually a reason for the design  
18 features.

19 For revolvers they use cannulars a lot because  
20 they like to lubricate the bullet, place a little  
21 lubrication around there, and you will find that  
22 predominantly with revolvers because they tend to have  
23 better contact in feeding through there.

24 Q. Go ahead.

25 A. The semi-automatics with advancement in how they  
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1 make it, the bullet designs, they typically don't have  
2 cannulars as much because they don't need as much  
3 lubrication.  
4 Q. Okay. Now, as far as the number of cannulars,  
5 you indicated this was a deformed bullet, lost part of  
6 it's grainage, is that correct?  
7 A. Yes.  
8 Q. Is it possible there might have been another  
9 round of cannulars on the bullet before it was fired?  
10 A. That is possible.  
11 Q. And that would make it consistent with another  
12 caliber, or actually another manufacturer, as far as the  
13 lead core itself?  
14 A. That's correct, yes.  
15 Q. Now, the definitive portion of the bullet  
16 jacketing that included sample 5.1, sample 12-B, this is  
17 nickel plated over brass jacketing, correct?  
18 A. Well --  
19 Q. Is that unique to the silver tip hollow point  
20 line?  
21 A. I wouldn't say, it's unique.  
22 It is the same thing that Winchester hollow  
23 points use.  
24 I don't like to use, unique, because to me that  
25 means only one person or only one source creates that.  
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1 I can't tell you that.  
2 What I'm saying is, that it's consistent with  
3 what Winchester uses.  
4 Q. Okay. And as far as the jacketing, again I guess  
5 I should just want to make this more clear on this one,  
6 can you tell how high up the cannular it is from the  
7 base of the bullet, or an approximation, correct?  
8 A. Approximately, yes.  
9 Q. But in this bullet you have to use your  
10 subjective belief of where you believe the base of this  
11 molten lead is of what the bullet looked like before it  
12 was fired, correct?  
13 A. If I may take a look at my notes.  
14 Q. This is sample 1-A, the lead core?  
15 A. Yes.  
16 Actually there was another picture that I had  
17 taken in February, in my report for February of 2010,  
18 that shows a little bit better angle of that same lead  
19 core that will show a better representation of where  
20 it's at.  
21 Q. And that would be -- So there was a better  
22 picture that hasn't been produced to show you -- let you  
23 know where the cannular existed on the bullet itself?  
24 A. That's correct.  
25 Q. But it's clear the cannular could have been in a  
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1 different position, either at the bottom possibly,  
2 containing two cannulars, or farther up the bullet when  
3 it was fully intact?  
4 A. Because, yeah, this has a little damage and  
5 deformation to it.  
6 It's kind of difficult to see where it really  
7 laid in its original form.  
8 Q. Understood.  
9 And as far as the silver tip hollow point line  
10 goes, are you aware of what grainage it comes in?  
11 A. I do have that in my notes as well.  
12 For the -- Just talking about the .38 and the  
13 .357, according to my notes the .357 comes in 145  
14 grains, the .38 comes in 95, 110 and 125 grains.  
15 Q. Just for clarification for the jury, when you  
16 added up all the grainage weight of the bullets you  
17 sampled, what was the total grainage weight?  
18 A. Approximately 90 to 95 grains.  
19 Q. And the .357 that they listed in your e-mail was  
20 145?  
21 A. That's correct.  
22 Q. So there is approximate grainage missing of  
23 around 60 grains?  
24 A. That's correct.  
25 Q. Now, as far as the silver tip hollow point one,  
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1 that is considered a more expensive line of ammunition,  
2 correct?  
3 A. You know, I don't really look at the prices on  
4 ammunition.  
5 I don't know how that compares to other  
6 manufacturers in that caliber.  
7 Q. Do you know whether it's usually marketed to law  
8 enforcement in general?  
9 A. It is commercially available, as well as I do  
10 know that some law enforcements use it.  
11 So it's not one that is specifically and only  
12 available to law enforcement.  
13 Q. Right.  
14 But it's marketed to them for I guess it's known  
15 stopping power, things like that?  
16 A. Sure, yes.  
17 Q. Now, as far as you indicated, you had done a  
18 report in December of 2004 and a second report in  
19 February of 2010?  
20 A. Actually a third report.  
21 Q. A third report.  
22 Thank you.  
23 And a third report in 2010.  
24 And the change in technology was this elemental  
25 -- the ability to do this elemental analysis, correct?  
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1 A. But the ability to determine cannulars and neuro  
2 cannulars existed back in 2004, is that correct?

3 A. That is more of a visual thing, so there wasn't a  
4 technology advancement I needed for that particular  
5 portion.

6 Q. But in 2004 you did not come to a conclusion the  
7 neuro cannulars were consistent between -- I got to  
8 publish these again -- At that time you had not made a  
9 decision that this cannular on this bullet fragment was  
10 consistent with the cannular of the fragment that is  
11 shown in this picture as well?

12 A. Actually, no.

13 What I am saying is, not that they're one and the  
14 same.

15 I'm saying, they are the same type of cannular.

16 There is a couple different cannulars.

17 This is a neuro one that makes kind of a railroad  
18 track, and then there is also called a smooth cannular,  
19 which is pretty much a deep-lined gouge in the bullet or  
20 the lead core.

21 So I'm not even making a correlation between the  
22 two items, except that they both have the same type of  
23 cannular.

24 Q. What I'm saying, that conclusion wasn't made back  
25 in 2004, correct?

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1 A. It wasn't something I placed in a report, but I  
2 did make that observation in my notes, yes.

3 Q. Can you show me where in your notes you made that  
4 observation that that cannular was consistent, the  
5 cannular -- I'm sorry -- on this lead core fragment was  
6 consistent with the cannular on the 12-B fragment?

7 A. It's just a note that I say they both have a  
8 cannular that is neuro.

9 Q. Understood.

10 And then later essentially the conclusion that  
11 you made in 2010 breaks down to two conclusions, that  
12 the elemental composition of item 51 and 12-B are  
13 consistent with each other, and with silver tip hollow  
14 point bullets, correct?

15 A. That's correct.

16 Q. And then the second conclusion that you make in  
17 2010 is that this lead fragment that doesn't have any  
18 trace elements of the elements that were in 12-B and 51  
19 simply exhibits a cannular that may be consistent with  
20 12-B, correct?

21 A. That actually isn't in my report, the cannular.

22 To me the reason I didn't put that in my report  
23 is because that is just something that I observed. It's  
24 not really something to me that is information that I  
25 can give, and everyone will understand it, so it's

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1 something that I just have in my notes that if I am  
2 asked in court, I can better explain things, what the  
3 design feature is, so just to be specific, it's not in  
4 my actual report, it's my last report just has that  
5 elemental analysis on there.

6 Q. So there is no special elemental analysis of  
7 sample 1-A that connects it to any of the other bullets,  
8 correct?

9 A. That's correct.

10 Q. And is simply the design feature of the cannular  
11 on it?

12 A. That's correct.

13 I can't even tell you it's Winchester that had  
14 loaded that because a lot of manufacturers will use lead  
15 core, and all that is is lead.

16 Q. Correct.

17 And again, because we can't be sure that there  
18 may have been another cannular, the exact position of  
19 the cannular, that would also be consistent with other  
20 manufacturers and caliber grades from the range that we  
21 had previously discussed?

22 A. And that's correct.

23 And that I don't know what other design features  
24 because it may have been obliterated, and also the fact  
25 that another manufacturer can also use that cannular,

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1 the neuro feature on their bullets, it's not saying that  
2 it's specific to Winchester, but I'm saying there is a  
3 correlation with the Winchester silver tip.

4 It could be a lot of different manufacturers with  
5 similar features.

6 Q. Understood.

7 And as far as Exhibit 51, now this is before you,  
8 I don't know another way to describe it, some type of  
9 sonic cleaning machine, prior to you putting it into  
10 that machine, correct?

11 A. Yes.

12 Q. And these bullets had fragmented biological  
13 material on them?

14 A. That's correct.

15 Q. And the lead core did not exhibit any biological  
16 material, correct?

17 A. Let me take a look at my notes again.

18 Q. Sure.

19 A. I did not note any biological material on there,  
20 no.

21 Q. And just for the record, that is Exhibit 100, the  
22 lead core that did not exhibit any biological material  
23 on it?

24 A. Okay.

25 Q. Now, as far as the shell casing that was found in

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1 the back, that you had identified and indicated there is  
2 a head stamp on it, 125, now there is no way for the  
3 jury to show this -- how do we show it to the jury?

4 A. Place it on there.

5 Q. Now, on the shell casing of that Winchester  
6 ammunition --

7 MR. MARCELLO: Can I take it out of this to show  
8 the jury the head stamps on the back of the shell  
9 casing?

10 MR. DI GIACOMO: I think I already took it out  
11 and did that.

12 MR. MARCELLO: I wanted to make sure.

13 I didn't want to be the first one touching it.

14 THE COURT: The bullet core or the casing?

15 MR. MARCELLO: The casing.

16 THE COURT: Yeah, go ahead.

17 BY MR. MARCELLO:

18 Q. You previously been shown this by Mr. DiGiacomo,  
19 the markings on it.

20 Everybody can see it now. It indicates  
21 Winchester .357 Mag, correct?

22 A. That's correct.

23 Q. It uses the alphanumeric Winchester, rather than  
24 with -- or some type of symbol, correct?

25 A. Yes.

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1 Q. Did you inquire from Winchester Manufacturing  
2 about what that particular head stamp is in reference  
3 to?

4 A. No, I did not.

5 Q. Okay. So it indicates it may have been produced  
6 by a particular manufacturer for Winchester?

7 A. Yes, that sounds correct.

8 Q. And as far as the stamping, I don't see anything  
9 in relation to I guess Super X or any other type of  
10 designation, other than the .357 Mag, is that correct?

11 A. That's correct.

12 Q. And generally with specialized bullets, like for  
13 instance the .45 caliber ACP there will be an extra Plus  
14 P to the end of it, indicating it's pressurized or  
15 something of that nature?

16 A. Telling there is a specific difference between  
17 .45 auto or ATP to a .45 ATP Plus P, so there are slight  
18 differences they place with a head stamp.

19 As far as the Winchester, or WW, that  
20 predominantly tells you what factory it was made at or  
21 things of that nature, but not really anything else of  
22 specifics.

23 Q. But this particular one doesn't have any  
24 designation of S the for silver tip, STHP for silver tip  
25 hollow, point anything of that nature?

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1 A. That's correct.

2 With silver tip hollow points they don't place  
3 anything on the head stamp itself.

4 Q. And instead it just says .357 Mag, correct?

5 A. That's correct.

6 Q. Did you inquire from -- Let me stop moving before  
7 I ask you.

8 Did you inquire from Winchester whether during  
9 their production runs prior to 2004, whether they did  
10 use a head stamp to designate silver tip hollow point?

11 A. That I did not ask, and what I understand from  
12 their practices is, a lot of times they will just use  
13 what is available for that particular round.

14 So whether they have different head stamps for  
15 that, it's completely separate to what bullet they load  
16 into there.

17 Q. Understood.

18 And they authorize other manufacturers to  
19 actually manufacture the bullets for them, correct?

20 A. That would -- I'm not quite sure. I'm not sure  
21 if they are proprietary to making their own bullets, or  
22 subcontract with somebody else to make them.

23 Q. And approximately how many different types of  
24 .357 calibers with the casing could be used for?

25 A. Are you asking what could be loaded in there as

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1 far as the bullet?

2 Q. I apologize.

3 You indicated that when these -- there are loads,  
4 many different kinds of rounds, into a general .357 Mag  
5 casing.

6 Would other manufacturers as well do the same  
7 thing as in reloaders or hand-crafted ammunition, things  
8 like that?

9 A. Any hand loader or reloader could use spent  
10 ammunition made by a different company and then place  
11 whatever bullet they wanted to put in there.

12 So that is correct, when you are going outside of  
13 the ammunition manufacturing, and start talking about  
14 reloading, that is completely different characteristics  
15 that you then have to understand and realize that you  
16 can't always research those things.

17 Q. Understood.

18 Now, as far as sample 51, and in sample 12-B, now  
19 there is sufficient material there -- I'm sorry.

20 I got it zoomed in.

21 I'll zoom back out.

22 For the record, those are Exhibit 102 and Exhibit  
23 104.

24 Now, this gives you sufficient information to  
25 tell the base of the bullet, the approximate diameter of

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1 the bullet, because you have the base, correct?

2 A. That's correct.

3 If I could get a good measurement, I will.

4 Let me take a look and see real quick.

5 It does not look like I was still able to get one

6 because it was still folded enough that it would be

7 deformed.

8 Q. And you wouldn't be able to get a true diameter?

9 A. That's correct.

10 Q. There is sufficient information, considering this

11 one and 102, to determine both the elemental make-up,

12 again where the cannular's placed, as well as the

13 elemental composition, correct?

14 A. That's correct.

15 Q. And those are consistent with silver tip hollow

16 point bullets?

17 A. That's correct.

18 Q. Now, sample 1-A, which is for the record Exhibit

19 100, that does not have the elemental composition that

20 you determined to be silver point?

21 A. That's correct.

22 Q. And does not have the certainty with relation to

23 where the cannulars are located at to make a definitive

24 determination?

25 A. That's correct.

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1 Q. And there was no elemental composition of the

2 jacketing found with this particular sample as far as

3 you are aware?

4 A. That's correct.

5 MR. MARCELLO: No further questions.

6 THE COURT: Mr. DiGiacomo.

7 MR. DI GIACOMO: Very briefly, Judge.

8 - - -

9 **REDIRECT EXAMINATION OF ANGEL MOSES**

10 BY MR. DI GIACOMO:

11 Q. You said that there was a photograph of the

12 cannular that wasn't included in 1200 to 104.

13 Do you remember that?

14 A. Yes.

15 Q. That's in your notes, right?

16 A. Yes.

17 Q. Obviously Mr. Marcello and I've been looking at

18 it here while you have been testifying.

19 Let me just approach.

20 It's on your number 2, and it's page -- four

21 pages in.

22 Is that the photograph we're talking about?

23 A. Yes, it is.

24 Q. Okay. You can actually see the cannular, but I

25 don't know we need the photograph.

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1 You can actually pull the little piece of bullet

2 out here and actually see on that piece of bullet where

3 the cannular is?

4 A. Yes, you can.

5 Q. So what I'm going to do is, put the bullet on the

6 overhead and zoom in on that cannular for just a second.

7 Q. Okay?

8 A. Actually, if you can zoom back a little bit, that

9 way you can look at where the base is.

10 If you turn it around, you will see that ledge

11 that I was talking about to help you determine that

12 base.

13 Q. I have no idea.

14 MR. DI GIACOMO: Judge, can she step down?

15 THE COURT: Absolutely.

16 MR. DI GIACOMO: Come on down here and tell them

17 where it is.

18 THE WITNESS: So this ledge right here where my

19 fingernail is, is kind of at an angle and at a corner of

20 what you can see.

21 Usually when you have impact damage, you don't

22 get edges like that, so this to me is something that it

23 was prior to being hit, and that indicates a base

24 because when you look at a bullet, you will have an

25 angle like that, so when you look at that portion, which

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1 is this again the base, and then you can look at the

2 cannular, which is now up here, so your base is back

3 down here now right here where my fingernail is, and

4 here is the cannular feature, so you can see the

5 approximate distance between those.

6 BY MR. DI GIACOMO:

7 Q. If I got this right, in 2004 you were able to

8 look at the jacket, the stuff that came off the bullet

9 when it hit Mr. Young, the nickel copper jacket, and say

10 that this appears to be consistent with the silver

11 tipped .357 Magnum, and then in 2010 you were able to

12 use a little machine to tell you exactly what the

13 composition is and say, these jackets appear to be

14 consistent with what Winchester used on their silver tip

15 .357 Magnum bullets, correct?

16 A. Actually what I did in 2004, I said it was

17 consistent with a Winchester hollow point, didn't give a

18 caliber, and 2010 I said, they were more specific to

19 .357 because now there was additional information I can

20 look at and design features for me to be more

21 conclusively identify the caliber.

22 Q. Okay. And if I got this right, so now we have

23 all those jackets appeared to be .357 silver tipped,

24 manufactured by Winchester, and we have a cartridge

25 case, which is what would have been left behind, appears

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1 to be fired out of a revolver that was made by  
 2 Winchester for a .357 caliber, correct?  
 3 A. Yes.  
 4 Q. And then we have a bullet core, the soft lead  
 5 interior of a bullet, that would have had a jacketing  
 6 around it, and just happens to have the same sort of  
 7 design cannular feature that you found on the jacket  
 8 that goes around the bullet core?  
 9 A. That's correct.  
 10 MR. DI GIACOMO: I have nothing further.  
 11 MR. MARCELLO: Your Honor, I just have a  
 12 question.

13 - - - -

14 **RE-CROSS-EXAMINATION OF ANGEL MOSES**

15 BY MR. MARCELLO:  
 16 Q. Now, just a couple questions for you.  
 17 As far as you are aware, the 51, this is Exhibit  
 18 104, and --  
 19 THE COURT: You got to zoom it out. They can't  
 20 see it like that.  
 21 MR. MARCELLO: Tricky.

22  
 23  
 24  
 25  
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1 BY MR. MARCELLO:  
 2 Q. Exhibit 51 -- or I'm sorry, Exhibit Number 104,  
 3 designated by yourself as 51, and Exhibit 102, that is  
 4 designated by the number 12-B, those were recovered  
 5 either from Glory View, or from the person of Mr. Ivan  
 6 Young?  
 7 A. That's what the package indicates, yes.  
 8 Q. And as we indicated, that at least as it is as to  
 9 the samples, that there was biological materials on the  
 10 samples, correct?  
 11 A. That's correct.  
 12 Q. Now, would you expect to see a biological sample  
 13 on the core as well, if it had gone through a person?  
 14 A. It would depend on whether it was separated, if  
 15 there was anything that was protecting it around it to  
 16 keep the biological material from being on it, or it  
 17 could have been wiped off.  
 18 All I can say is that, when I looked at it, I  
 19 didn't notice any biological material.  
 20 Q. And there was no -- This is the sample actually  
 21 found at 3801 East Charleston, according to your report?  
 22 A. That's correct.  
 23 Q. So this wasn't the sample found anywhere at Glory  
 24 View or Mr. Ivan Young?  
 25 A. That's correct.

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1 Q. And you indicated you can tell to some degree an  
 2 item hit, when it comes into contact after it's been  
 3 fired, that you can tell between the base and the top?  
 4 A. Not that I can tell what it hit, but I've seen a  
 5 lot of impact damage in that area where I was talking  
 6 about with the base wasn't a damaged area with the  
 7 angle.  
 8 Q. According to the deformation this makes, because  
 9 it makes a pretty strong deformation as you indicated,  
 10 lost a substantial amount of grain, this one did not  
 11 appear to actually enter a human being?  
 12 A. That, I cannot tell you.  
 13 Q. I guess just to make it clear, there is no  
 14 indication there was any biological material to support  
 15 the theory that it hit a human being, correct?  
 16 A. I did not notice there was any biological  
 17 material.  
 18 What it hit or did not hit, I couldn't tell you  
 19 specifically. That is outside of anything that I would  
 20 know how to test.  
 21 MR. MARCELLO: No further questions, Your Honor.  
 22 THE COURT: Mr. DiGiacomo.  
 23 MR. DI GIACOMO: Nothing further.  
 24 THE COURT: Questions from the jurors?  
 25 Yes.

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1 MR. MARCELLO: Your Honor, if I can approach the  
 2 witness, I need to give her this sample back.  
 3 THE COURT: Sure.  
 4 (Thereupon, a discussion was had between Court and  
 5 Counsel at sidebar.)  
 6 THE COURT: All right. I got a couple of  
 7 questions for you, but I kind of got to clarify a couple  
 8 things first.  
 9 Actually, I'll ask you this question:  
 10 The core that you described in 1-A, are you sure  
 11 that that is just a core, or could it be a whole bullet?  
 12 THE WITNESS: I'm sure it's a core.  
 13 If it were a whole bullet, it would actually have  
 14 rifling characteristics I did see from the gun itself.  
 15 If I may, when the bullet goes down the barrel of  
 16 the gun, it picks up rifling characteristics from that  
 17 gun, and you would see it.  
 18 THE COURT: Why don't you tell them what rifling  
 19 is.  
 20 THE WITNESS: Rifling characteristics, I was  
 21 looking around this room, it's similar to the walls here  
 22 where you have a raised portion and a pressed portion,  
 23 so that is called lands and grooves.  
 24 If you look down the barrel, it would be a  
 25 cylinder, and you have raised portions in there, you

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1 have what looks like lands and grooves impressions,  
2 almost like a candy cane down the barrel of this gun, so  
3 when the bullet actually goes through through, it will  
4 pick up these impressions, the land and groove  
5 impression, and place it on to the sides of that bullet.

6 When you see a lead bullet, it will have these  
7 impressions on there, but since with a jacketed type  
8 bullet the core is inside, that land and groove  
9 impression will actually be on the jacket and not on the  
10 lead core, because the lead core doesn't touch the side  
11 of the barrel.

12 Looking at that lead 1-A, which is that lead  
13 chunk of metal, it's a core because it doesn't have any  
14 of those rifling characteristics on there.

15 THE COURT: Okay. Your report also made  
16 reference to fragments, and I think at one part of your  
17 report it says, collected at the Glory View address, and  
18 one report says collected at UMC.

19 You don't actually do the collecting, so you are  
20 relying on the crime scene analyst's notes where things  
21 were collected?

22 THE WITNESS: That's correct.

23 The most that I do is record the information on  
24 the package, so I can relate items, and which particular  
25 package, if I had multiple items, number one, I can look  
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1 at the location to be more specific on which ones we're  
2 looking at.

3 THE COURT: And with regard to the fragments, the  
4 two sets of fragments, were they each compatible to the  
5 bullet and casing found in the green car?

6 THE WITNESS: Can you repeat that?

7 THE COURT: Yes.

8 The fragments that you found -- or the fragments  
9 that you examined, were they compatible to the bullet  
10 and casing found in the green car?

11 THE WITNESS: Well, in the green car, I assume  
12 that is the one with the cartridge case, there was a  
13 bullet fragment, that lead core that we talked about,  
14 which I can't specifically say a particular brand of who  
15 made that lead core, just that it was pretty -- too  
16 generic.

17 But as far as the other fragments that I looked  
18 at, what I'm saying is, their design features and  
19 elemental analysis are consistent with a Winchester type  
20 silver type hollow point bullet, and that the cartridge  
21 case itself is also Winchester.

22 Now, can I relate those bullet fragments back to  
23 that cartridge case?

24 Not specifically, because there is nothing in  
25 there to tell me what was loaded in that particular

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1 cartridge case.

2 That cartridge case could have multiple types of  
3 bullets loaded in there.

4 The only thing I am saying is, that they both  
5 came from the same manufacturer, which is Winchester.

6 THE COURT: Okay. And as to the other part of  
7 the question I have to ask, to kind of clarify your  
8 question for me, it says, is this revolver, don't you  
9 answer anything, is this revolver the same unit used as  
10 in the green car found, and -- I don't understand the  
11 question.

12 UNKNOWN JUROR: When they found the car, the  
13 green car, with the revolver, does the same one, same  
14 unit that was found, is this the same unit, is that unit  
15 compatible to the ones found by the house?

16 THE COURT: Is the revolver found in the car the  
17 same as what?

18 UNKNOWN JUROR: The ones found inside where the  
19 shooting occurred.

20 THE COURT: Is that revolver from the car  
21 compatible with the bullet and the casing --

22 UNKNOWN JUROR: They took a picture on that  
23 floor.

24 Is it the same?

25 THE COURT: So is the revolver found in the car  
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1 compatible with the alleged bullet hole in the floor of  
2 the house?

3 UNKNOWN JUROR: Yes.

4 THE COURT: I don't think that was anything of  
5 your analysis.

6 THE WITNESS: That, I didn't do anything to test  
7 that.

8 THE COURT: Okay. Mr. DiGiacomo, any questions  
9 based upon mine?

10 MR. DI GIACOMO: I want to clear up one thing.

11 - - -

12 **REDIRECT EXAMINATION OF ANGEL MOSES**

13 BY MR. DI GIACOMO:

14 Q. You can't tell us to a scientific degree of  
15 certainty whether or not those fragments, the bullet  
16 core and the casing, all make up one cartridge, correct?

17 A. That's correct.

18 Q. But that casing, that core, and all those  
19 fragments, could make up one silver tipped Winchester  
20 .357 Magnum round?

21 A. Yes.

22 MR. DI GIACOMO: Nothing further.

23 THE COURT: Mr. Marcello.

24  
25

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**RECROSS-EXAMINATION OF ANGEL MOSES**

BY MR. MARCELLO:

Q. As far as just for the lead core, we have indicated before the diameter was consistent with a large range caliber of ammunition, correct?

A. Yes.

Q. And to your knowledge just about every American manufacturer and foreign manufacturer market some type of hollow point with lead cores inside of them?

A. Not all foreign, but I would say, American.

A lot of foreign will use steel, which this didn't have any steel magnetic property, so I would have to say, American, South American, and some European.

Q. So approximately across eight different calibers and approximately how many American manufacturers do you estimate there are, major manufacturers?

A. There is probably, major manufacturers, probably about ten or so.

Q. And how many ammunitions, across those ten manufacturers, do you think are produced per year?

A. A lot, too many for me.

Q. Across all those calibers, across all these manufacturers, and across all these particular types, they all use lead core, that would be consistent with

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the lead core that was discovered at 3801 East Charleston?

A. Yes, except with the exception or caveat that if it was -- had a bullet with a cannular on there, not all bullets have cannulars.

Q. And without consulting the manufacturer, any other manufacturers, we don't know exactly across those calibers, across those many types of bullet, which ones have cannulars, multiple cannulars, or anything of that nature?

A. That's correct.

Q. And we also can't be sure that this particular bullet didn't have more cannulars or other types of characteristics that become deformed when it was fired?

A. The bullet core, that's correct.

Q. So this essentially could be millions of types -- or I should say, millions of types of combinations of manufacturer calibers and bullet types?

A. I wouldn't say, millions, but I would say, it's a numerous amount.

It's a generic feature that can be used by a lot of different manufacturers, that's correct.

MR. MARCELLO: No further questions, Your Honor.

THE COURT: Mr. DiGiacomo.

MR. DI GIACOMO: Nothing further, Judge.

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THE COURT: Thank you very much for your time.

Miss Moses. I appreciate it.

You are excused.

THE WITNESS: Thank you.

THE COURT: All right. Ladies and gentlemen, at this time we're going to take our evening recess.

(Jury admonished by the Court.)

THE COURT: The good news is, that despite our delays in getting started the last couple days, we're actually pretty far ahead of where we are supposed to be on schedule.

In order to avoid this kind of delay again tomorrow, because I have kind of a lengthy morning calendar, we're going to start at 1:30.

So I don't want you sticking around here all morning, having me run late, and get started, so go to lunch, come back outside the courtroom, and we'll get started at 1:30 tomorrow.

I think that will still keep us on time about right where I expect to it be.

(Jury excused from the courtroom.)

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(Thereupon, the following proceedings were had out of the presence of the jury.):

THE COURT: Anything outside the presence?

MR. DI GIACOMO: I have told them that I intend to play 1 through 4 in their entirety.

I don't have any information they want anything redacted.

I need to know if they do.

MR. MARCELLO: There are some things we'd like to redact we noticed now, but would like to take the time tonight to review them.

MR. DI GIACOMO: I don't know when I'm going to redact them then.

MR. MARCELLO: You are correct.

THE COURT: That was supposed to be done last night to rule on it today, if there was anything in question about what should or should not come out.

I'm going to take a recess right now, and you guys chat for a little bit, but I'll come back in and we'll --

MR. MARCELLO: We want to confer with our client.

Everything was redacted, that was the issue.

THE COURT: Sure.

(Thereupon, a recess was had.)

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1 (Thereupon, the following proceedings were had out of  
2 the presence of the jury.):

3 THE COURT: Let's go back on the record.

4 Mr. Slaughter is present with his attorney.

5 The State's attorneys.

6 We are outside the presence of the jury.

7 Okay. Let's go through the one that is the  
8 number 1, what is the agreement or disagreement as to  
9 that one?

10 MR. MARCELLO: I'm sorry, Your Honor.

11 Number 1 --

12 THE COURT: The first one, 62904148.

13 MR. MARCELLO: I guess the first thing I would  
14 like the cut off is just the opening invitation that  
15 says, inmate from North Las Vegas Detention Center. I  
16 would like to cut that portion off. I think it's pretty  
17 easy just to start the tape at, hello, the next line  
18 down underneath that.

19 MR. DI GIACOMO: The basis being?

20 MR. MARCELLO: Basically it reflects on his  
21 custody status.

22 THE COURT: Well, he has a right to appear at  
23 trial he's not in custody, but there is nothing  
24 prohibits a jury from knowing that somebody was arrested  
25 and was in custody at some time, especially since the  
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1 calls are all recorded in the detention center.

2 MR. DI GIACOMO: It's an hour and 50 minutes  
3 after he was taken into custody.

4 THE COURT: I'm going to leave in, the part that  
5 informs them of it is North Las Vegas Detention Center  
6 call, and that I think part of that that gets played or  
7 recorded how you accept the calls, things like that.

8 So okay, the next thing.

9 MR. MARCELLO: Again, this is going to apply to  
10 all four of them, so make a ruling on that, the use of  
11 the moniker Cuz, that indicates some type of gang  
12 involvement. I've seen it used for the prosecution to  
13 include gang enhancements, as it used for gang  
14 enhancement, implies prior bad acts, as well as prior  
15 bad associations, both of which I don't think should be  
16 reflected in the statements, as well as the use of the  
17 colloquial nigga, with n-i-g-g-a, to be in the same  
18 light as well.

19 Based on that, we'll submit it to Your Honor's  
20 discretion.

21 MR. DI GIACOMO: With all due respect, I can't  
22 choose Mr. Slaughter's verbiage. I'm not sure anybody  
23 will relate to Cuz at all. It's a term of endearment,  
24 his calling this guy Cuz, his saying, Cuz, that is  
25 throughout these calls, there is a hundreds of

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1 references to Cuz and nigga. It's impractical to go  
2 through each call and take that out, or you know what  
3 I'm saying, I don't know how many times I heard that  
4 listening to these particular calls, and I don't know  
5 what exactly the basis for argument is that I choose to  
6 use this, and therefore it may imply that I used some  
7 sort of slang in my language, I'm not sure that that  
8 qualifies as something to exclude it.

9 THE COURT: Well, you don't really have a right  
10 to have transcripts or anything cleaned up in terms of  
11 the type of language you choose.

12 It's whether it's curse words or other kinds of  
13 things.

14 It's really what I was really saying is, was  
15 there anything in there that talks about other crimes or  
16 anything in there that talks about any other type of  
17 stuff that somehow would prejudice Mr. Slaughter, and it  
18 wasn't come in, other bad acts, that kind of thing, as  
19 opposed to whether he's cussing at people, or calling  
20 them names, or referring to them as Cuz, or whatever it  
21 may be, I don't think it's really appropriate to go  
22 through and take all that out to try and make somebody's  
23 language look like it's more acceptable to somebody that  
24 is on the jury, so I'm not going to remove all those  
25 things.

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1 MR. MARCELLO: Understood, Your Honor.

2 Your Honor, we had discussed -- we did have an  
3 issue with how are you designating the numbers at the  
4 top, 141560, or which set of numbers?

5 THE COURT: I was looking at the date and time of  
6 the call to be honest.

7 I assume 1504, 1506 is a Las Vegas event number  
8 because that is on every one of these.

9 MR. MARCELLO: This is on 11/17/2009.

10 I don't know another way to designate it.

11 THE COURT: I'm looking right underneath.

12 MR. DI GIACOMO: It's TJC-3.

13 THE COURT: Right underneath the 041560 is a date  
14 and time of the call.

15 MR. DI GIACOMO: June 29th, 2004 at 14:48.

16 THE COURT: Okay. That is TJC-3.

17 MR. MARCELLO: Yes, Your Honor, we would indicate  
18 that we did have issues with it.

19 However, they have been remedied by the State.

20 They are going to begin their tape on page 7 at  
21 the second a. That would alleviate our concerns of  
22 issues we had prior in that same transcript.

23 THE COURT: So they will begin with, yes, sir,  
24 yes, sir, he was --

25 MR. DI GIACOMO: I might grab the last line  
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1 before that, but their concern is several pages prior.  
 2 Basically, he's discussing where he is on  
 3 Saturday at the time of the crime, so I might grab the  
 4 first or last thing that they say.  
 5 THE COURT: Starting at the first or second --  
 6 MR. DI GIACOMO: I started the question, since  
 7 that, Mr. Slaughter, somewhere within that question they  
 8 said they took a nigga by surprise and shit, I'm just  
 9 trying to figure out a way I could, you know what I'm  
 10 saying, where I could pull these crackers off my nigga,  
 11 and the answer is, all you got to do is find out when  
 12 you were jacked, on Saturday I was sitting at my house  
 13 playing play station.  
 14 THE COURT: Okay. So that was three separate  
 15 parts that you just read part of a question, part of an  
 16 answer, part of a question, so where in there are you  
 17 proposing to start?  
 18 MR. DI GIACOMO: I'm going to start at, they said  
 19 they took a nigga by surprise.  
 20 His objections come in several pages prior, which  
 21 Mr. Slaughter talks about invoking his right to counsel.  
 22 THE COURT: You are going to start at the bottom  
 23 of page 6 then?  
 24 MR. DI GIACOMO: He has printed on this one top  
 25 of page 7, Judge.  
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1 MR. MARCELLO: I apologize.  
 2 THE COURT: That's okay. With, they said?  
 3 All right.  
 4 Gotcha.  
 5 MR. DI GIACOMO: Yeah.  
 6 Somewhere in that general area.  
 7 It's not an exact science doing these redactions.  
 8 THE COURT: Okay.  
 9 MR. MARCELLO: And this is another one that we  
 10 were going to ask to redact is, personal information of  
 11 other individuals, including phone numbers and social  
 12 security numbers.  
 13 THE COURT: Okay. That is within the --  
 14 MR. MARCELLO: It's within I believe there is --  
 15 within 3.  
 16 Let me take a look.  
 17 MR. DI GIACOMO: If it's in 3, it's after -- or  
 18 before I cut it.  
 19 MR. MARCELLO: I apologize.  
 20 No, it's not in 3, Your Honor.  
 21 It would be in 2 and 1, and all it is is phone  
 22 numbers, a cousin of Tiffany Johnson.  
 23 THE COURT: Let me ask you this:  
 24 The phone numbers I'm not worried about at all.  
 25 To the extent he's providing people with phone  
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1 numbers, we can leave the phone numbers in there.  
 2 Whose social security number is it?  
 3 MR. DI GIACOMO: Tiffany Johnson.  
 4 MR. MARCELLO: It would be a little more pointed  
 5 to just ask to get rid of her social off of there. That  
 6 would be just two lines it looks like.  
 7 MR. DI GIACOMO: With all due respect, at 5:00  
 8 on today I'm going to play them, I don't know what the  
 9 basis to object to having the social security number is.  
 10 This isn't a publicly file document.  
 11 THE COURT: Generally we don't put social  
 12 security numbers in documents accessible to the public.  
 13 MR. DI GIACOMO: This is not a document  
 14 accessible to the public per se.  
 15 It's an exhibit admitted to the Court. In fact,  
 16 the transcript doesn't even go back with the jury for  
 17 them, only Court records.  
 18 This isn't like a file stamped copy of something,  
 19 Judge.  
 20 That is a lot of work to put in to cut out a  
 21 short little segment.  
 22 MR. MARCELLO: I guess there is a couple issues.  
 23 I would be remiss if one of the jurors were to  
 24 write it down, this information they thought was  
 25 important, or just some other way to get out there, I'm  
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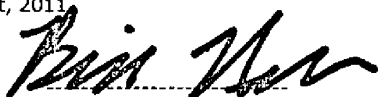
1 more concerned about the distribution of her  
 2 information.  
 3 THE COURT: I understand that concern, but I  
 4 don't really think there is a reason to keep it out of  
 5 the transcript. I think it goes right along, and so  
 6 we'll leave that in there.  
 7 All right. What else do we got?  
 8 MR. MARCELLO: Your Honor, we're just going to  
 9 make a general objection that there is nothing that  
 10 stands out to me, but any reference to his right to  
 11 counsel or reference to any prior bad acts.  
 12 THE COURT: All right. There is nothing -- A  
 13 general objection to what?  
 14 MR. MARCELLO: To any references to his right to  
 15 counsel, or to generally to bad acts.  
 16 THE COURT: Well, is there anything about bad  
 17 acts in here I'm not aware of?  
 18 MR. MARCELLO: Nothing we redacted to this point.  
 19 THE COURT: Okay. So that's what I'm saying,  
 20 specifically is there an objection to anything else in  
 21 any of these?  
 22 MR. MARCELLO: No, Your Honor.  
 23 THE COURT: All right. Then we're good.  
 24 We'll see everybody tomorrow at 1:30.  
 25 You have more witnesses for the State?  
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1 MS. FLECK: We have three or four more witnesses.  
 2 THE COURT: Okay.  
 3 MR. DI GIACOMO: One of them almost doesn't count  
 4 as a witness, the person that collected the thing.  
 5 THE COURT: But you are anticipating being done  
 6 tomorrow?  
 7 MR. DI GIACOMO: Before 3 my guess would be.  
 8 THE COURT: Don't you have some witnesses  
 9 available?  
 10 MR. FUMO: I have a hearing at federal court at  
 11 1:30, so I believe the witness that the State is putting  
 12 on Mr. Marcello can handle, and I'll be back by 2:30 at  
 13 the latest.  
 14 THE DEFENDANT: Your Honor, I mean, I'd like my  
 15 counsel to be present anytime we're doing anything.  
 16 He's my counsel of record, Mr. Fumo, not Mr. Marcello,  
 17 even though he's a good attorney.  
 18 THE COURT: Then he needs to be here at 1:30  
 19 then.  
 20 MR. FUMO: I'll see if Mr. Marcello can head over  
 21 to federal court, if the Judge will be amenable to that.  
 22 THE COURT: Okay.  
 23 (Proceedings concluded for the evening.)  
 24  
 25

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CERTIFICATE

1  
 2  
 3  
 4 STATE OF NEVADA )  
 5 ) ss.  
 6 CLARK COUNTY )  
 7  
 8  
 9 I, Bill Nelson, RMR, CCR 191, do hereby certify  
 10 that I reported the foregoing proceedings; that the same  
 11 is true and correct as reflected by my original machine  
 12 shorthand notes taken at said time and place before the  
 13 Hon. Douglas Herndon, District Court Judge, presiding.  
 14 Dated at Las Vegas, Nevada this 1st day of  
 15 August, 2011



Bill Nelson, RMR, CCR 191,  
 Certified Court Reporter  
 Las Vegas, Nevada

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CASE NO. C204947  
DEPT. NO. III

STATE OF NEVADA  
CLARK COUNTY, NEVADA

*Ann L. Schum*  
CLERK OF THE COURT

ORIGINAL

STATE OF NEVADA,

Plaintiff,

vs.

RICKIE LAMONT SLAUGHTER,

Defendant.

CASE NO. C204957

04C204957  
TRANS  
Transcript of Proceedings  
1518446



BEFORE THE HON. DOUGLAS W. HERNDON, DISTRICT JUDGE

WEDNESDAY, MAY 18, 2011

1:48 p.m.

APPEARANCES:

For the State: MARC DiGIACOMO, ESQ.  
Chief Deputy District  
Attorney  
MICHELLE FLECK, ESQ.  
Deputy District Attorney

For the Defendant: OSWALD E. FUMO, ESQ.  
DUSTIN R. MARCELLO, ESQ.

Reported by: CHERYL GARDNER, RMR-RPR  
CCR NO. 230

PURSUANT TO NRS 239.053 AND 3.370.6, ILLEGAL TO COPY  
WITHOUT PAYMENT TO CHERYL GARDNER, CCR 230

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CLERK OF THE COURT

37

Page 1

1  
2 CASE NO. C204947  
3 DEPT. NO. III

4 STATE OF NEVADA  
5 CLARK COUNTY, NEVADA

6 STATE OF NEVADA, )  
7 Plaintiff, )  
8 vs. ) CASE NO. C204957  
9 RICKIE LAMONT SLAUGHTER, )  
10 Defendant. )

11  
12  
13  
14  
15 BEFORE THE HON. DOUGLAS W. HERNDON, DISTRICT JUDGE  
16 WEDNESDAY, MAY 18, 2011  
17 1:48 p.m.

18  
19 APPEARANCES:

20 For the State: MARC DIGIACOMO, ESQ.  
21 Chief Deputy District  
22 Attorney  
23 MICHELLE FLECK, ESQ.  
24 Deputy District Attorney

25 For the Defendant: OSWALD E. FUMO, ESQ.  
DUSTIN R. MARCELLO, ESQ.

Reported by: CHERYL GARDNER, RMGR-RPR  
CCR NO. 230

Page 3

1 LAS VEGAS, CLARK COUNTY, NV, WED., MAY 18, 2011  
2 1:48 p.m.  
3 -oOo-  
4 THE COURT: Let's go on the record in  
5 204957. Mr. Slaughter is present, Mr. Marcello.  
6 We're outside the presence of the jury. State's  
7 attorneys are present, Mr. DiGiacomo.  
8 MR. DIGIACOMO: Thank you, Judge.  
9 Last night we kind of addressed TJC3. I said I was  
10 going to start at the answer which was yeah. I  
11 actually started two sentences before at  
12 Mr. Slaughter when he said I'm just trying to  
13 figure out a way I could, you know, what I'm  
14 saying, where I could pull these crackers on my  
15 nigga'. That's the beginning of that subject  
16 matter so that's where I actually started the  
17 recording on the third jail call. I also --  
18 THE COURT: Okay. Hold on. You're  
19 not starting above that where it says they said --  
20 by surprise and shit. You're starting right there.  
21 MR. DIGIACOMO: Right at the end of  
22 shit.  
23 THE COURT: Okay. Got you.  
24 MR. DIGIACOMO: And what I did so the  
25 record will be clean is I printed the three phone

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1 calls the transcriptions in the manner in which  
2 they're going to be played for the jury. I thought  
3 for court purposes and court exhibit we should mark  
4 the four of these as a court exhibit so if there's  
5 any issue on appeal that will be clear as opposed  
6 to having your handwriting.  
7 THE COURT: I don't ever admit the  
8 transcript. I do allow the jury to get copies of  
9 them to read along.  
10 MR. DIGIACOMO: It's going to roll  
11 along with the audio.  
12 THE COURT: Are those the same four as  
13 yesterday?  
14 MR. DIGIACOMO: Yes, Judge.  
15 THE COURT: Just with the redaction.  
16 MR. DIGIACOMO: Okay. Would you like  
17 to look at the four?  
18 THE DEFENDANT: Yes.  
19 MR. MARCELLO: Can I please look at  
20 the four to make sure they're the same four we  
21 looked at yesterday?  
22 THE COURT: Yes. Let's mark them as  
23 exhibits first. Mark them as Court exhibits  
24 starting at the top 1 through 4.  
25 MR. MARCELLO: While they're doing

1 that for just a second I would like to make an  
2 objection to the added motion that's going to be  
3 added with the racial slur regarding white people  
4 regarding crackers essentially that the use of that  
5 term may prejudice the jury against him.  
6 THE COURT: That's not being  
7 redacted. That was in there yesterday. Actually  
8 from what was being told to me yesterday they  
9 deleted a couple of sentences.  
10 MR. MARCELLO: But I believe before  
11 the tape was going to be started after the term  
12 crackers.  
13 THE COURT: That's what I'm saying.  
14 The tape was going to start one sentence above that  
15 yesterday.  
16 MR. MARCELLO: Okay. Mr. Slaughter  
17 would still like to raise the objection regarding  
18 that it may prejudice the jury against him as being  
19 that he's prejudiced against Caucasian individuals  
20 may prejudice the jury to believe that he is racist  
21 and he believes the probative value of that  
22 particular sentence is outweighed by its  
23 prejudicial value.  
24 THE COURT: Well, like I said  
25 yesterday, I'm not going to clean up all the

1 THE COURT: No, no, not on the spot.  
2 You have to do things. I told you guys the day  
3 before yesterday look at those overnight, tell me  
4 everything you have an objection to and I'll rule  
5 on the record so that the tapes can be prepared to  
6 be played in court.  
7 You don't just do this on the spot,  
8 sometimes on the spot. You review these things.  
9 You do your job you raise the objections. I rule  
10 on them. Now, which thing are you talking about in  
11 No. 2?  
12 MR. MARCELLO: It's No. 4, Judge.  
13 THE COURT: He said No. 2 so that's  
14 where I'm starting. Is it No. 2 or not?  
15 MR. MARCELLO: No, Your Honor. It's  
16 in No. 4 time stamped 1839 at the top and it is in  
17 the middle of page 3 on my notes. It begins right  
18 after I might get a deal or I might blank and then  
19 the answer to it is right and the question is then  
20 you know what I'm saying if they don't offer me no  
21 deal better than this 18 to life I'm going to trial  
22 over it but if it ain't I go to trial you you know  
23 what I'm saying -- eight, nine years or something.  
24 THE COURT: Okay. So was there a deal  
25 offered 18 to life way back then?

1 language he uses. There's no way to take that word  
2 out without expressing what the sentiment is in  
3 there that he's trying to put something together.  
4 You can't insert another word in there. If you  
5 take his word out, then the sentence is kind of  
6 without meaning not that the sentence is specific  
7 to some kind of slur but what the sentence is  
8 prejudice. You can't take the word out and leave a  
9 big blank there so I'll note the objection.  
10 MR. MARCELLO: All right. And then as  
11 it relates to the discussion about and this is on  
12 tape I believe two, two and three, there is  
13 discussions with regards to what type of offer and  
14 whether Mr. Slaughter will be pleading guilty and  
15 what type of offer that he's considering that was  
16 discussed between him and the State at that point.  
17 Mr. Slaughter believes that this is a  
18 violation of 48.125 and makes it inadmissible any  
19 evidence of a plea of guilty or of a negotiation  
20 that was taking place at the time.  
21 THE COURT: All right. Let's back  
22 up. Why the hell wasn't any of this brought up  
23 last night when we were discussing that?  
24 MR. MARCELLO: Understood, Your Honor,  
25 but sometimes on the spot --

1 THE DEFENDANT: Yes.  
2 MR. DiGIACOMO: No. Mr. Slaughter is  
3 somewhat confused. This is prior to his first  
4 preliminary hearing. If you were to listen to all  
5 the phone calls, there was no offer made to him.  
6 Him and his coconspirator Jajuan (phonetic) Richard  
7 the perpetrator that committed the crime are  
8 discussing the total number of years possible for  
9 the crime that he's originally charged with in the  
10 criminal Complaint and they add that all up to 18  
11 to life and this call is made on July 16th of  
12 2004.  
13 His preliminary hearing happened on  
14 July 22nd of 2004 and even according to  
15 Mr. Slaughter he doesn't have a lawyer although the  
16 record shows he has a public defender, but no offer  
17 was made to Mr. Slaughter prior to July 22nd of  
18 2004 so this cannot be a discussion of a plea  
19 negotiation but even if it was, the statute  
20 wouldn't preclude it.  
21 The statute precludes statements made  
22 during the course of a negotiation. This isn't  
23 it. This is him talking to his coconspirator or  
24 accessory after the fact about a number of things  
25 both before, during, and after this discussion

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1 which are inconsistent with being innocent and  
2 that's admissible so there is nothing about that  
3 particular statement which is violative of a  
4 statute or any other rule that would preclude the  
5 statement of the defendant from coming in.  
6 MR. MARCELLO: And, Your Honor, I  
7 guess in response at that time that particular  
8 charge that he was charged with carried a four to  
9 20. Susan Krisko was actually the one that was  
10 engaged in negotiations with Mr. -- who is the  
11 public defender and that was the subject of the  
12 negotiations that he was discussing.  
13 THE COURT: I agree when you're  
14 talking about a civil case or criminal case,  
15 settlement negotiations aren't admissible. You  
16 can't go in front of a jury and say, hey, we had  
17 discussions with Mr. Slaughter about ten to life  
18 and somehow found him guilty. That's like saying  
19 they offered us hundred thousand dollars and they  
20 rejected so here we are at trial.  
21 What he discusses about what they're  
22 willing to do or not to do are separate and apart  
23 from settlement negotiations. Those are just  
24 defendant making a mistake, having a conversation  
25 with somebody on the phone so I'm not going to rule

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1 that that's inadmissible under the statute.  
2 MR. MARCELLO: One last issue is  
3 related to the calls in general which is  
4 authentication. We do not have any testimony about  
5 who the people on the other end are talking. We  
6 don't have anybody to identify either their voices,  
7 anybody to identify who is speaking on the phone.  
8 I understand that North Las Vegas  
9 their system is basically that you push in a code  
10 for your -- that way it gets charged to your books  
11 and your money account, but it is a routine  
12 practice to have other individuals when they've run  
13 out of money borrow your PIN number to bill it  
14 against your books and I don't believe we have any  
15 testimony.  
16 What we were expecting is actually  
17 Officer Brato (phonetic) who interviewed everybody  
18 who actually was speaking on those tapes. He's  
19 indicated he's not going to be called so we don't  
20 have any way to identify the people speaking who in  
21 fact are those individuals.  
22 MR. DIGIACOMO: Officer Williams who  
23 is the officer at the North Las Vegas jail is here  
24 to testify. He's the one who did the research and  
25 identified the phone call. One is by a list of

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1 phone numbers brought up by the detective. Two is  
2 by listening to -- the phone call comes out of the  
3 holding cell that Mr. Slaughter was originally  
4 booked to which the first three calls are in fact,  
5 three is number of ones that he's heard.  
6 Mr. Slaughter has to identify himself  
7 and he identifies himself who is calling,  
8 Slaughter. Four, is that as to the identification  
9 in the transcript as to Tiffany Johnson from the  
10 other evidence in the case and what they're  
11 discussing he says they took your car. They found  
12 guns in the car.  
13 There's any number of discussions with  
14 this particular individual so we'll be able to link  
15 up who the other person is but identifying  
16 Mr. Slaughter's voice on there while there may not  
17 be someone who says I have previously spoken to  
18 Mr. Slaughter which would be one way to prove it,  
19 Detective Williams or intel Officer Todd Williams  
20 will be able to say by reviewing the phone cards  
21 assigned to Mr. Slaughter, by listening to the  
22 various phone calls to the admission of his speaker  
23 as being Slaughter and through various other means  
24 I was able to identify all of the hundreds of phone  
25 calls associated with this case and these are phone

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1 calls associated with Mr. Slaughter out of our  
2 jail.  
3 THE COURT: Well, obviously that  
4 foundation will have to be laid before any of them  
5 come in. If you feel that the foundation that you  
6 laid is insufficient, you can raise the objection  
7 at that time. I would agree that usually jail  
8 personnel come in and a lot of times they haven't  
9 talked to the person who makes the calls but  
10 there's a lot of ways to narrow it down as to who  
11 it was that made the call.  
12 Separate and apart to the occasions  
13 where he referred to himself as Rick or the person  
14 on the other line it sounds like to me it's going  
15 to be a sufficient foundation but obviously you can  
16 raise the objection once we get there. All right.  
17 Anything further?  
18 MR. MARCELLO: One last thing that  
19 Mr. Slaughter would like to put on the record is  
20 that while he was having his shackles taken off, an  
21 individual peeked into the courtroom, saw him in  
22 his shackles. He would just like to make the Court  
23 aware.  
24 THE COURT: Who was it?  
25 MR. MARCELLO: We have no idea. It's

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1 according to Mr. Slaughter. I did not actually  
2 witness it. Mr. Slaughter said he had seen someone  
3 poke their head into the courtroom.

4 THE DEFENDANT: The bailiff told him  
5 to kick off but the guy kept coming back looking in  
6 the window. I was getting my shackles removed  
7 right in front of the window, the door.

8 THE COURT: I didn't see anybody come  
9 into the courtroom. I didn't see anybody peeking  
10 through the windows.

11 A MARSHAL: All the jurors are kept  
12 down by the other courtroom and they don't come  
13 down until I get them. Nobody connected to the  
14 trial.

15 THE COURT: Okay.

16 A MARSHAL: I brought the gentleman --  
17 he had him turn around and I heard the door open.  
18 There was a gentleman that walked over here jeans,  
19 vest, older gentleman, older than 60. I said you  
20 have to leave, sir, turned around and left. This  
21 gentleman was here. You couldn't see his waist  
22 restraint, the fact it was underneath his jacket.

23 MR. DIGIACOMO: This person wasn't a  
24 juror.

25 THE COURT: Obviously it wasn't a

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1 juror. The courtroom is generally open to the  
2 public. If this juror came in --

3 THE DEFENDANT: This was somebody who  
4 came back. I don't know if it was the same guy but  
5 he came in and peeked.

6 THE COURT: I'm satisfied it isn't any  
7 of our jurors.

8 MR. MARCELLO: The last particular  
9 issue, Judge, just to place on the record, we had  
10 filed a motion originally to preclude the  
11 photographic lineup that was shown to each of the  
12 witnesses. We didn't make a specific objection at  
13 the time specifically because we assumed that those  
14 would be subject to our motion that had been  
15 previously denied.

16 We just want to make it clear that in  
17 no way were we just simply stipulating to the  
18 admissibility of those. We were just subject to  
19 your ruling you had already made.

20 THE COURT: I understand. I don't  
21 know what the appellate court will say or not say  
22 about whether there's a failure to object at the  
23 time they're being brought in at trial, but I do  
24 acknowledge this is the subject of a pretrial  
25 ruling where I said they would be admissible.

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1 MR. MARCELLO: We just want to place  
2 that on the record and I believe we are ready to  
3 proceed.

4 THE COURT: What about Mr. Fumo, when  
5 is he going to be able --

6 MR. MARCELLO: He is over in federal  
7 court on a calendar call. I can send him a text.

8 THE COURT: Mr. Slaughter said he  
9 wanted him here and I told him he had to be here at  
10 1:30.

11 MR. MARCELLO: I believe we're ready.

12 THE COURT: Mr. Slaughter, I was  
13 prepared to wait for Mr. Fumo. You asked for him  
14 yesterday and you have that right. If you're okay  
15 since the first witness is Mr. Marcello's for  
16 cross-examination, we'll get started. If you want  
17 Mr. Fumo, we're going to wait for Mr. Fumo.

18 A MARSHAL: Judge, I would appreciate  
19 it very much if Mr. Slaughter used the pencil that  
20 was provided and not keep taking the attorney's  
21 ballpoint pens. He was provided a pencil Monday  
22 and I provided another one today.

23 THE COURT: There are certain rules  
24 and regulations which have been established over  
25 the course of time. There's good reasons for them

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1 so just kind of restrict yourself to the pencil  
2 and, Mr. Marcello, make sure --

3 THE DEFENDANT: Your Honor, can I get  
4 one that's not broken. It doesn't look like I  
5 broke the pencil.

6 THE COURT: Here. I got a pencil.  
7 Here's a pencil.

8 A MARSHAL: Half pencil. It has --

9 THE COURT: Oh, I got you.

10 A MARSHAL: Three and a half inch  
11 pencil.

12 THE COURT: I have a felt tip pen.

13 A MARSHAL: Pencil, sir.

14 THE COURT: Okay. Got to use the  
15 pencil. All right. Anything else?

16 MR. DIGIACOMO: No, Judge.

17 THE COURT: Are we okay to start?

18 MR. MARCELLO: I actually texted  
19 Mr. Fumo just to get an ETA.

20 THE COURT: Mr. Slaughter.

21 THE DEFENDANT: Go ahead.

22 THE COURT: Okay. All right.

23 Anything further from the State?

24 MR. DIGIACOMO: No.

25 (Whereupon the jury



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1 entered the courtroom  
 2 at 2:05 p.m. and the following  
 3 proceedings took place.)  
 4 THE COURT: All right. We'll be back  
 5 on the record in 204957 State of Nevada versus  
 6 Rickie Slaughter. Mr. Slaughter is present with  
 7 Mr. Fumo and Mr. Marcello. And State's attorneys  
 8 are present. We will continue on with the State's  
 9 case in chief, Mr. DiGiacomo and Ms. Fleck.  
 10 MR. DIGIACOMO: Yes, Judge, Officer  
 11 Toms.  
 12  
 13 STEVEN TOMS,  
 14 having been first duly sworn to testify to the  
 15 truth, the whole truth and nothing but the truth,  
 16 was examined and testified as follows:  
 17  
 18 THE CLERK: State your name for the  
 19 record spelling your first and last name.  
 20 THE DEFENDANT: Steven Toms,  
 21 S-T-E-V-E-N, T-O-M-S.  
 22  
 23 DIRECT EXAMINATION  
 24 BY MR. DIGIACOMO:  
 25 Q. Officer, how are you employed?

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1 A. With the City of North Las Vegas.  
 2 Q. Back in June 27th of 2004 what was  
 3 your assignment?  
 4 A. In 2004 I was assigned to --  
 5 Q. So you were a patrol officer?  
 6 A. I was a patrol officer, yes.  
 7 Q. On June 27, 2004, were you requested  
 8 to respond to the UMC hospital to collect some  
 9 additional bullet fragments that had been taken out  
 10 of the face of Ivan Young?  
 11 A. Yes, I was.  
 12 Q. Showing you what's been marked as  
 13 State's proposed Exhibit No. 124 and what will  
 14 eventually be marked 124-A, does that appear to be  
 15 the evidence package as well as the vial and the  
 16 little pieces of bullet that you collected at UMC  
 17 which was provided to you from Ivan Young's face?  
 18 A. Yes.  
 19 MR. DIGIACOMO: Move to admit 124 and  
 20 124-A.  
 21 MR. MARCELLO: No objection.  
 22 THE COURT: They will be admitted.  
 23 Thank you.  
 24 MR. DIGIACOMO: Pass the witness,  
 25 Judge.

Page 19

1 (Whereupon Mr. DiGiacomo  
 2 his examination at 2:07 p.m.)  
 3 THE COURT: Mr. Fumo or Mr. Marcello.  
 4 MR. FUMO: No questions, Your Honor.  
 5 Thank you.  
 6 THE COURT: Anything from our jurors?  
 7 Officer Toms, thank you so much for your time.  
 8 (Whereupon Steven Toms was  
 9 excused from the witness stand  
 10 at 2:07 p.m.)  
 11 THE COURT: The State may call their  
 12 next witness.  
 13 MR. DIGIACOMO: Officer Todd  
 14 Williams.  
 15  
 16 TODD WILLIAMS,  
 17 having been first duly sworn to testify to the  
 18 truth, the whole truth and nothing but the truth,  
 19 was examined and testified as follows:  
 20  
 21 THE CLERK: Please be seated. State  
 22 your name for the record spelling your first and  
 23 last name.  
 24 THE WITNESS: Todd Williams, T-O-D-D,  
 25 W-I-L-L-I-A-M-S.

Page 20

1 DIRECT EXAMINATION  
 2 BY MR. DIGIACOMO:  
 3 Q. Good afternoon, Officer. How are you  
 4 employed?  
 5 A. With the City of North Las Vegas  
 6 Police Department.  
 7 Q. And what's your current assignment?  
 8 A. I'm just a line officer.  
 9 Q. A line officer in what facility?  
 10 A. The detention center North Las Vegas.  
 11 Q. If I could have you keep your voice up  
 12 for the ladies and gentlemen of the jury. How long  
 13 have you been a police officer either in the  
 14 detention or out on the street?  
 15 A. 19 years.  
 16 Q. And back in 2004 did you have a  
 17 special designation at the detention center in  
 18 North Las Vegas as it relates to telephone calls?  
 19 A. Yes, I was a detective in internal  
 20 affairs and special investigations.  
 21 Q. In June of 2004 and all the way  
 22 through December of 2004, did North Las Vegas  
 23 detectives request you to research, identify, and  
 24 download phone calls of an individual that was in  
 25 the custody of the North Las Vegas detention center

1 by the name of Rickie Slaughter?  
 2 A. Yes.  
 3 Q. Now, when you gave a request from  
 4 detectives to download phone calls for a particular  
 5 inmate, are there a number of different ways you  
 6 can identify phone calls related to that particular  
 7 inmate?  
 8 A. Yes, there's three different ways.  
 9 Q. Could you describe that to the ladies  
 10 and gentlemen of the jury.  
 11 A. One way being in the holding cell up  
 12 front. I can find out a specific phone, the time  
 13 that they're using it and I can pull up their  
 14 information that way or if they're down in the unit  
 15 I can -- they purchase phone cards.  
 16 When they purchase the phone cards, we  
 17 can use the numbers, put those in the system. It  
 18 will print out all the numbers that they used for  
 19 the phone card or I can get a number from the phone  
 20 card they used and cross reference that and get it  
 21 that way.  
 22 Q. Now, if an individual makes a collect  
 23 call, for example, let me ask you this. If they  
 24 have a phone card, the person on the other end  
 25 doesn't have to pay, right? It's the phone card

1 Q. Was that yesterday?  
 2 A. Yes.  
 3 Q. I'll show you what's been marked as  
 4 State's Exhibit No. 16 and ignore the disk for just  
 5 a moment and just look at the four phone calls  
 6 here. That has certain information. When you  
 7 download a phone call, does information like what  
 8 phone is being used, the date, the time, and the  
 9 file number that's associated with that particular  
 10 phone, does that get downloaded into some sort of  
 11 document?  
 12 A. Yes.  
 13 Q. Okay. And are those four phone calls  
 14 excluding some of the other stuff that's written on  
 15 there, but are those four phone calls, phone calls  
 16 or information related to phone calls that you  
 17 would download related to Mr. Slaughter?  
 18 A. Yes.  
 19 MR. DiGIACOMO: Judge, I've had those  
 20 four disks based on a prior ruling of the Court  
 21 marked as State's proposed Exhibit No. 136 and then  
 22 it's attached to the record of the North Las Vegas  
 23 detention center. I'd move to admit.  
 24 THE COURT: Any objection?  
 25 MR. FUMO: Subject to our prior

1 that's paying from inside the jail, correct?  
 2 A. Yes.  
 3 Q. And those phone cards are individually  
 4 identified to the inmates inside the jail?  
 5 A. Yes.  
 6 Q. If for example somebody calls collect,  
 7 does the inmate have to provide his name as well?  
 8 A. Yes.  
 9 Q. And then you said if he's in the  
 10 holding cell, you can see the phone card he's using  
 11 and the time of day he's using it and you can cross  
 12 reference that as well.  
 13 A. Yes.  
 14 Q. Did you in your investigation download  
 15 lots and lots of phone calls of Mr. Slaughter?  
 16 A. Yes.  
 17 Q. And did you listen to any number of  
 18 them if not all of them?  
 19 A. Some.  
 20 Q. The other day did you come down to my  
 21 office and did I play little snippets of four  
 22 separate phone calls to kind of identify for you  
 23 kind of the phone calls that they were going to  
 24 play here in court today?  
 25 A. Yes. That was yesterday.

1 objection no.  
 2 THE COURT: I'll overrule the  
 3 objection and go ahead and admit them.  
 4 MR. DiGIACOMO: You know what, let me  
 5 just get 16, what I'll ask you to do for each one  
 6 of these phone calls -- Judge, may I publish these  
 7 phone calls.  
 8 THE COURT: Yes.  
 9 MR. DiGIACOMO: What I'm going to do  
 10 for phone call No. 1 I'm going to ask you the  
 11 location of the phone, the number called, the date,  
 12 the time. You don't have to read the file number  
 13 into the record.  
 14 Q. So for call No. 1, could you tell me  
 15 where the location of the phone was in the North  
 16 Las Vegas detention center.  
 17 A. It was holding cell S1 phone number 2.  
 18 Q. And what was the date and time of the  
 19 phone call?  
 20 A. The date was June 29, 2004.  
 21 Q. And time?  
 22 A. 0148.  
 23 Q. So that's 1:48 in the morning?  
 24 A. Yes.  
 25 Q. So just after midnight 28th into the

Page 25

1 29th, correct?

2 A. Yes.

3 Q. All right. And then the phone number

4 if you could just read that into the record.

5 A. 702 area code 352-7213.

6 Q. For the ladies and gentlemen of the

7 jury the recording is going to play but on that

8 screen over there a transcript will roll with the

9 recording. Maybe I can swing this out just a

10 little bit more for them.

11 (Phone call played.)

12 MR. DiGIACOMO: We just lost our

13 screen.

14 THE COURT: Was it ever up there?

15 MR. DiGIACOMO: It was, Judge.

16 THE COURT: Okay. Try it again.

17 (Phone call played again.)

18 MR. DiGIACOMO:

19 Q. Officer Williams, if you could, could

20 you read me what the second phone call, what

21 location is he inside the detention center?

22 A. The same place holding cell S1 phone

23 number 2 same phone number (702)352-7213.

24 Q. And the date?

25 A. Same date, June 29, 2004, at 2117 this

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1 time, 1419.

2 Q. 2:19 in the afternoon?

3 A. Yes.

4 Q. So approximately 12 hours after the

5 last one.

6 A. Yes

7 (Phone call played.)

8 MR. DiGIACOMO:

9 Q. Officer Williams, can you tell me what

10 the location of the third phone call is.

11 A. Same place holding S1, phone No. 2.

12 Q. Was it a different phone number this

13 time?

14 A. Yes.

15 Q. And what's that phone number?

16 A. (702) 352-7543.

17 Q. Can you give me the date and time of

18 the call?

19 A. June 29, 2004, at 1448.

20 Q. So 2:48 in the afternoon so sometime

21 shortly after the last phone call we listened to?

22 A. Yes.

23 (Phone call played.)

24 MR. DiGIACOMO: Judge, I think a juror

25 just asked what time it is. Can I have him give

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1 the time again.

2 THE WITNESS: 1448.

3 (Phone call played.)

4 MR. DiGIACOMO:

5 Q. Officer Williams, can you tell me on

6 the sheet there what the fourth phone call we're

7 going to play for the jury is.

8 A. That's in Charlie 1, C1, phone number

9 2, phone number 4 it says P-2.

10 Q. What's the phone number?

11 A. 702 33 3059.

12 Q. And the date and time of the call?

13 A. July 16, 2004.

14 Q. And the time?

15 A. 1839 -- 6:39 at night.

16 Q. At night. This is now July 15th. So

17 this is a different date than those other phone

18 calls, correct?

19 A. Yes.

20 (Phone call played.)

21 MR. DiGIACOMO: Thank you, Officer.

22 Judge, I pass the witness.

23 (Whereupon Mr. DiGiacomo

24 concluded his examination

25 at 2:46 p.m.)

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1 THE COURT: Mr. Fumo or Mr. Marcello.

2

3 CROSS-EXAMINATION

4 BY MR. FUMO:

5 Q. As far as the North Las Vegas

6 detention center, how long did you say that you've

7 been employed with them as far as under this

8 capacity?

9 A. 19 years.

10 Q. And you reviewed these jail calls

11 before you had come in today?

12 A. No.

13 Q. I mean you listened to them?

14 A. Yesterday at his office.

15 Q. Okay. And you listened to them right

16 now in court?

17 A. Right.

18 Q. Did you hear any of the callers

19 exhibit any type of Jamaican accent, anything that

20 you would describe as a Jamaican accent?

21 A. No.

22 Q. Okay. And have you listened or

23 testified to jail calls in the past?

24 A. Yes.

25 Q. And I guess it goes without saying

1 that jail calls don't actually capture the intent  
2 or what somebody means by a particular statement,  
3 correct? It just captures their words.  
4 A. Whatever they say.  
5 Q. Right. It just captures what they  
6 say.  
7 A. Right.  
8 Q. And it's up to us to interpret what  
9 they mean by those particular words, the jury, me,  
10 you.  
11 A. Okay.  
12 Q. Now, as far as the timing of these  
13 calls, I just want to make sure that the jury has  
14 it clear. Call one was at one time and the exact  
15 date.  
16 MR. FUMO: Your Honor, if I may, I'm  
17 just going to move the -- out of the way.  
18 THE WITNESS: June 29, 2004.  
19 THE COURT: What was the time, sir?  
20 THE WITNESS: 0148, 1:48 in the  
21 morning.  
22 MR. FUMO:  
23 Q. And then for call 2, what was the date  
24 and time of that call?  
25 A. It was the same a date, June 29, 2004,

1 the holding tank.  
2 A. Correct.  
3 Q. Could there occasionally be up to 20  
4 people in there?  
5 A. Sometimes.  
6 Q. And many of the individuals may or may  
7 not have phone cards in the holding tank.  
8 A. They don't have phone cards in the  
9 holding tank.  
10 Q. And finally the fourth call was at a  
11 later time. That was 1839. Just for the jury's  
12 edification if they don't do military time that  
13 is --  
14 A. 6:39 at night.  
15 Q. 6:39. Thank you. Now, as far as the  
16 timing of the calls, there wasn't anything else  
17 recorded contemporaneously like what was going on  
18 with the case at the time the calls were made,  
19 correct?  
20 A. I'm not understanding what you --  
21 Q. I guess there's nothing to indicate  
22 what upcoming court dates are coming up that are  
23 called with the calls?  
24 A. I didn't listen to his calls at all.  
25 I just made the tapes and the disks and gave them

1 at 1419 which is 2:19 in the evening.  
2 Q. And then for call three, the same  
3 thing, date and time.  
4 A. June 29, 2004, at 1448 which is 2:48  
5 in the evening.  
6 Q. Okay. And then finally for the fourth  
7 call.  
8 A. That's in Charlie one which is a dorm  
9 number podium No. 2 phone number 4 which is on  
10 July 16, 2004, at 1839 which is 6:39 at night.  
11 Q. And do you happen to know either  
12 offhand or your review through coming here today  
13 when Mr. Slaughter was booked into the North Las  
14 Vegas detention center?  
15 A. I have no idea.  
16 Q. At least three of these calls, the  
17 June 29th call, were made all in a three-hour  
18 period after 1:00 o'clock in the morning.  
19 A. Yes from 1:48 to 1448.  
20 Q. Okay. And this is while Mr. Slaughter  
21 would have been in the holding tank; is that  
22 correct?  
23 A. Yes.  
24 Q. In the holding tank -- I can hear in  
25 the background there's more than one individual in

1 to the lawyer so I didn't review any of the  
2 content.  
3 Q. And again I guess just for the jury  
4 you did not detect what you would describe as a  
5 Jamaican accent on any of those tapes that you just  
6 listened to.  
7 A. No.  
8 MR. FUMO: Nothing further.  
9 (Whereupon Mr. Fumo concluded  
10 his examination at 2:50 p.m.)  
11 THE COURT: State.  
12 MR. DiGIACOMO: Nothing.  
13 THE COURT: Anything from our jury.  
14 Okay. Sir, I appreciate your time. You may be  
15 excused. Thank you.  
16 (Whereupon Todd Williams was  
17 excused from the witness stand  
18 at 2:50 p.m.)  
19 THE COURT: The State may call their  
20 next witness.  
21 MS. FLECK: Thank you, Judge. The  
22 State calls Joey Posada.  
23  
24 JOSE POSADA,  
25 having been first duly sworn to testify to the

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1 truth, the whole truth and nothing but the truth,  
2 was examined and testified as follows:  
3  
4 THE CLERK: Please be seated. State  
5 your full name for the record spelling your first  
6 and last name.  
7 THE WITNESS: Jose, Posada, J-O-S-E,  
8 P-O-S-A-D-A. I go by Joey.  
9 THE COURT: All right. Thank you.  
10 Ms. Fleck.  
11 MS. FLECK: Thank you, Your Honor.  
12  
13 DIRECT EXAMINATION  
14 BY MS. FLECK:  
15 Q. Good morning, Joey, or good  
16 afternoon. I'm sorry. Joey, I want to direct your  
17 attention back to June 26th of 2004. Do you  
18 remember that day?  
19 A. I do.  
20 Q. Okay. Where were you in the early  
21 evening hours of June 26th of 2004?  
22 A. I was at my Aunt Jennifer's and Uncle  
23 Ivan's house.  
24 Q. And do you have a cousin that also  
25 lived at that house?

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1 A. I do. Aaron Dennis.  
2 Q. Okay. You're related to Jennifer  
3 through family?  
4 A. My mother's side.  
5 Q. And sometimes you would go over to the  
6 house to play. How old were you back in June of  
7 2004?  
8 A. I was 12 years old.  
9 Q. And how old was Aaron?  
10 A. Ten.  
11 Q. Okay. Just a little bit younger.  
12 What were the two of you doing that evening  
13 June 26th of 2004?  
14 A. My cousin and I were in his bedroom.  
15 We were playing with toys and pretty much just  
16 talking.  
17 Q. Was anyone else at the house?  
18 A. My uncle and my aunt.  
19 Q. Had you just gotten there in the early  
20 evening or had you spent most of the day there?  
21 A. I barely got there. We were at my  
22 house having a party for my aunt and we decided to  
23 go to her house.  
24 Q. So who all came with you?  
25 A. Me, my cousin, my aunt and my uncle --

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1 or, my uncle was there. He was at the house. My  
2 Aunt Jennie and I and my cousin went from my mom's  
3 house to their house.  
4 Q. Okay. And, Joey, you're just a little  
5 bit soft spoken so if you can just make sure you  
6 talk into the microphone that's right in front of  
7 you.  
8 A. Okay.  
9 Q. Thank you. When you and your aunt and  
10 your cousin got to the house, was anyone else  
11 there?  
12 A. My uncle was.  
13 Q. Do you remember where he was?  
14 A. He was in the garage.  
15 Q. Sometimes would he be out in the  
16 garage doing his work?  
17 A. His car work, yes.  
18 Q. Okay. While you and Aaron were in the  
19 bedroom, at some point your uncle came in.  
20 A. Yes.  
21 Q. And what happened?  
22 A. He asked me to come out because my  
23 cousin was out of the room already and he asks me  
24 to come out and he says, listen to what they say,  
25 and so I come out and his hands are up and then I

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1 come out and then they tell me to get on the floor.  
2 Q. Okay. When he comes in, what is his  
3 attitude? How is he acting?  
4 A. He's just very serious and he wants --  
5 he just wanted everything to go. Like he didn't  
6 want anything to happen. Just like come out. He  
7 was really serious.  
8 Q. Okay. And you say that he had his  
9 hands up. Both of his hands.  
10 A. Yes.  
11 Q. Okay. Then you said that they were  
12 there. Who is "they"?  
13 A. Two black men.  
14 Q. Had you ever seen either of these  
15 people before?  
16 A. No.  
17 Q. What did they look like?  
18 A. One had braids and another had  
19 dreadlocks.  
20 Q. What happened then once you got into  
21 the main part of the house?  
22 A. I got down and laid on the floor.  
23 Q. At this point did you see any weapon?  
24 A. I did.  
25 Q. What kind?

1 A. Guns. I saw two guns and each man had  
2 one.  
3 Q. Do you remember what the guns looked  
4 like?  
5 A. One was silver and another was black.  
6 Q. Did you notice whether or not one or  
7 either of the men were wearing gloves?  
8 A. They both did have gloves.  
9 Q. And what kind?  
10 A. A type of sport glove possibly  
11 baseball.  
12 Q. Once you got out, then you said that  
13 you got down on the ground, what room were you in?  
14 A. I was in like near the entrance to the  
15 front door.  
16 Q. And where was Aaron?  
17 A. Aaron was in the kitchen.  
18 Q. And how about Jennifer?  
19 A. She was in the kitchen as well.  
20 Q. And Ivan?  
21 A. He was sort of -- he was next to me  
22 like near the front door.  
23 Q. Was everyone else still standing  
24 upright?  
25 A. No.

1 Q. At some point did they take anyone's  
2 cell phone?  
3 A. Yes. They asked if there was any  
4 phones, where the phones were and then they took my  
5 aunt's phone and my uncle's phone and then they  
6 smashed them on the floor.  
7 Q. At some point did you get tied up?  
8 A. Yes.  
9 Q. Tell us how that happened.  
10 A. They started pulling the cords off of  
11 appliances such as lamps and then they used those  
12 to tie us up.  
13 Q. Did you get tied up?  
14 A. Yes.  
15 Q. And how did you get tied up?  
16 A. With my hands behind my back connected  
17 with my cousin.  
18 Q. Okay. Where were you?  
19 A. They placed us in the den facing the  
20 wall.  
21 Q. So describe how you were tied up with  
22 Aaron.  
23 A. My hands were behind my back and my  
24 cousin, his hands was behind his back too. Only  
25 one of his hands were tied up along with mine.

1 Q. Everyone was on the ground?  
2 A. Uh-huh.  
3 Q. Okay. So once you got on the ground,  
4 what happened?  
5 A. They started asking my uncle and my  
6 aunt where the money was and then they started  
7 beating on my uncle and they were kicking him on  
8 the floor practically.  
9 Q. When you say they were beating him,  
10 they were kicking him did you say off the floor?  
11 A. Uh-huh.  
12 Q. And then what else were they doing to  
13 beat him?  
14 A. I only remember kicking and they were  
15 yelling.  
16 Q. Okay. What less were they saying  
17 besides where's the money?  
18 A. I don't recall.  
19 Q. Were they doing anything then besides  
20 beating your uncle?  
21 What were they doing throughout the  
22 house?  
23 A. They were walking throughout the  
24 kitchen and asking my aunt also where the money  
25 was, but they were mainly asking my uncle.

1 Q. So you each had one hand tied together  
2 and then one hand free?  
3 A. He had one free. I had both hands  
4 tied up.  
5 Q. Okay. And then how about your aunt  
6 Jennifer, did you ever see her get tied up?  
7 A. Yes.  
8 Q. And where was she compared to where  
9 you were?  
10 A. She was in the kitchen still.  
11 Q. Did they use the same type of  
12 materials to tie her up?  
13 A. Yes.  
14 Q. How about your uncle Ivan, did you see  
15 him get tied up?  
16 A. I don't remember him being tied up.  
17 Q. From where you and Aaron were tied up,  
18 could you see your Aunt Jennifer?  
19 A. Yes.  
20 Q. And then how about your Uncle Ivan,  
21 did you have eyesight to where he was?  
22 A. Yes.  
23 Q. At some point did he go out of your  
24 eyesight or was he always in your eyesight?  
25 A. My uncle was always in my eyesight.

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1 Q. At any point did the two men cover  
2 your head?  
3 A. No.  
4 Q. How about your cousin Aaron?  
5 A. No.  
6 Q. Jennifer?  
7 A. Yes.  
8 Q. They covered her head.  
9 A. Yes.  
10 Q. With what?  
11 A. With clothing. I think a jacket.  
12 Q. And how about your Uncle Ivan, did you  
13 see his head get covered?  
14 A. No.  
15 Q. At some point did somebody else come  
16 over to the house?  
17 A. Yes.  
18 Q. And how did that occur?  
19 A. Through the garage. They pulled in,  
20 the two black men pulled in one of my uncle's  
21 friends I think and they placed him in the kitchen  
22 as well and then another friend of my uncle's, he  
23 was black, they pulled him in. I'm not sure the  
24 time but he came in as well.  
25 Q. Okay. Let's talk about the first

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1 man. Well, you referenced that the second man was  
2 black. The first man that came white, black,  
3 Hispanic, what did he look like?  
4 A. He was white.  
5 Q. What did they do with him?  
6 A. They told him to get on the floor and  
7 they asked him for his wallet.  
8 Q. Did you see whether or not he got tied  
9 up?  
10 A. No. I didn't see that.  
11 Q. And then you said that they were  
12 asking him for his wallet.  
13 A. Yes.  
14 Q. And money.  
15 A. Yes.  
16 Q. Okay. Same kind of question that he'd  
17 been asking your Uncle Ivan.  
18 A. Yes.  
19 Q. Now, the second guy that came in, you  
20 said that he was black.  
21 A. Yes.  
22 Q. And what happened when he came in the  
23 house?  
24 A. He was placed more in the livingroom  
25 and I don't recall them asking him the same

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1 things.  
2 Q. Was he -- do you remember whether or  
3 not he was also tied up?  
4 A. I don't remember.  
5 Q. So now all six of you are at the house  
6 or inside the house. What happened?  
7 A. Me and my -- my cousin and I were  
8 sitting in the den and they kept asking my uncle  
9 for money and then I hear a gunshot and then I  
10 looked over and nothing was wrong and then I faced  
11 the wall again and then a couple seconds later I  
12 look over and there's a pool of blood by my uncle's  
13 head.  
14 Q. Okay. What did you do?  
15 A. I told my cousin not to look and then  
16 I was trying to comfort him.  
17 Q. And what were you thinking when you  
18 saw that blood by your uncle?  
19 A. I thought he was dead.  
20 Q. When you -- you heard the shot, did  
21 you ever see somebody shooting or did you just hear  
22 it?  
23 A. I heard it.  
24 Q. After you looked over, did you see  
25 anyone with weapons at that point?

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1 A. Yes, the two black men still had the  
2 guns.  
3 Q. Were they saying anything while they  
4 were, you know, while the shot was being fired?  
5 A. Yes. I heard, you shot him, and I  
6 think they said, why did you shoot him?  
7 Q. Okay. Do you remember anything else?  
8 A. No.  
9 Q. After the shot's fired, what happened?  
10 A. I remember them leaving the house and  
11 then my uncle starts to get up and then I told him  
12 to lay back down because they might come back in  
13 they said and then he laid back down and then the  
14 two black men came back in again and I don't recall  
15 what happened right when they came back in.  
16 I do remember my aunt telling them  
17 that they could take her credit card and she kept  
18 saying that over and over again and they kept  
19 getting mad. They wanted cash, and then finally  
20 they accepted the credit card and then they left  
21 again, and then that's when I got up and I got one  
22 of my hands free and then I got up and pulled my  
23 cousin along with me and then I went to go lock the  
24 door.  
25 Q. So as soon as they left for the final

1 time, you locked that front door?

2 A. Yes.

3 Q. Then did you help everyone else get  
4 untied?

5 A. Yes. Well, my aunt.

6 Q. You helped your aunt?

7 A. Uh-huh.

8 Q. Okay. Then what did you do?

9 A. She wanted my cousin to do it and he  
10 couldn't so I tried cutting the cord from her  
11 wrists and I couldn't so I untied them.

12 Q. Once she got untied, what did you guys  
13 do?

14 A. We were all standing at that point and  
15 she looked out the window and then she mentioned a  
16 blue car that left and then we waited a second to  
17 see if it was safe to leave the house.

18 Q. At some point does your Uncle Ivan get  
19 untied?

20 A. I don't recall him being tied up.

21 Q. Okay. Do you remember then where he  
22 went -- did he go someplace after he'd been shot?

23 Did he ever get up off the floor?

24 A. No. He stayed laying down.

25 Q. At some point you get out of the

1 write a statement down.

2 Q. Okay. After that day did you have an  
3 opportunity to again meet with the police and do a  
4 photo lineup to see if you can identify anyone as  
5 one of the two men that was at your aunt and  
6 uncle's that day?

7 A. Yes.

8 MS. FLECK: Judge, may I approach your  
9 clerk.

10 THE COURT: Yes.

11 MS. FLECK: And the witness.

12 THE COURT: Pardon?

13 MS. FLECK: And the witness.

14 THE COURT: Yes.

15 MS. FLECK:

16 Q. Showing you what's been marked as  
17 State's proposed Exhibit 134 and 134-A. Do you  
18 recognize 134-A?

19 A. Yes.

20 Q. How do you recognize it?

21 A. I recognize No. 5.

22 Q. First just -- do you recognize this  
23 whole document?

24 A. Oh, yes, yes, I do.

25 Q. And how do you recognize it?

1 house?

2 A. Yes.

3 Q. And where did you go?

4 A. I went out into the front yard and  
5 then I went -- I took a right down the street and I  
6 went to the neighbors, tried to get a phone, then I  
7 looked back and then the -- my uncle's black  
8 friend, he was on a cell phone and then I went to  
9 the neighbors to try to get a phone and she shut  
10 the door on me and then I turned around again and  
11 there was a cop at the house so then that's when I  
12 went to another neighbors' house to try to get a  
13 hold of my mother.

14 Q. Okay. Did you get a hold of your mom?

15 A. Yes.

16 Q. And then do you go back to your aunt  
17 and uncle's house once the police were there?

18 A. I remember walking down a little bit  
19 and the cop -- there was a cop that asked me and my  
20 cousin to come to the cop car.

21 Q. So at that time then did you have an  
22 opportunity to speak with the police and tell them  
23 what had happened?

24 A. The officer just said to write a  
25 statement and he gave my cousin and I papers to

1 A. The officer placed it in front of me  
2 and he asked me to identify.

3 Q. So that's the lineup that you  
4 participated in in this case?

5 A. Yes.

6 MS. FLECK: Move for admission of  
7 State's proposed 134 and 134-A.

8 MR. FUMO: No objection, Your Honor.

9 THE COURT: Okay. That will be  
10 admitted.

11 MS. FLECK:

12 Q. Your signature?

13 A. Yes.

14 Q. From 2004?

15 A. Yes.

16 Q. So on July 1st then of 2004 you're  
17 asked to do this lineup?

18 A. Yes.

19 Q. And if you can just read what it is  
20 that you wrote for your comments.

21 A. I saw him next to my uncle. This man  
22 had a gun.

23 Q. And then if you could just circle on  
24 the screen the person that you identified as the  
25 person next to your uncle that had the gun.



1 THE COURT: You can just touch the  
2 screen with your finger.  
3 MS. FLECK: Thank you.  
4 Q. And then those are your initials next  
5 to that?  
6 A. Yes.  
7 Q. Okay. Thank you. And just for the  
8 record it was No. 5 in State's Exhibit 14.  
9 Joey, at some point after you  
10 participated in that lineup did you come to court  
11 and participate in a hearing similar to today, no  
12 jury but a prior hearing?  
13 A. Yes.  
14 Q. And at that point in time were you  
15 asked if you can identify anyone in court that had  
16 been at your aunt and uncle's on the 26th?  
17 A. Yes.  
18 Q. And were you able to do that?  
19 A. Yes.  
20 Q. Today do you see the person who was at  
21 your aunt and uncle's, one of the men with a gun,  
22 do you see in court today?  
23 A. Yes.  
24 Q. Can you please point to him and  
25 describe something he's wearing.

1 Q. And do you remember saying the other  
2 man had dreadlocks of some sort.  
3 A. Yes. Was dreadlocks and it was poofy.  
4 Q. Do you previously recall speaking to  
5 an officer or a detective at the scene after this  
6 incident occurred?  
7 A. I do not recall.  
8 Q. Do you recall filling out a witness  
9 statement?  
10 A. I do.  
11 Q. And in that witness statement do you  
12 recall indicating one of the men had shoulder  
13 length hair and the other had a dark Afro?  
14 A. I do.  
15 Q. But the way you remember it today was  
16 that it was actually dreadlocks?  
17 A. Yes.  
18 Q. Now, neither of them were wearing a  
19 baseball cap, correct?  
20 A. They weren't, no.  
21 Q. Both of them were wearing gloves.  
22 A. Yes.  
23 Q. And neither of them were bald I  
24 assume.  
25 A. Uh-huh.

1 A. He's wearing glasses and braided hair.  
2 MS. FLECK: Thank you.  
3 Let the record reflect the  
4 identification of the defendant.  
5 THE COURT: The record will so  
6 reflect.  
7 MS. FLECK: I have nothing further.  
8 (Whereupon Ms. Fleck concluded  
9 this portion of her examination  
10 at 3:08 p.m.).  
11 THE COURT: Mr. Marcello.  
12  
13 CROSS-EXAMINATION  
14 BY MR. MARCELLO:  
15 Q. Good afternoon, Joey.  
16 A. Good afternoon.  
17 Q. Now, you were at your uncle's house on  
18 the day that this occurred June 26th.  
19 A. Yes.  
20 Q. And you remember two men coming in the  
21 house.  
22 A. Yes.  
23 Q. And you remember one of the men having  
24 shoulder length braided hair.  
25 A. Yes.

1 Q. When you heard them around the house,  
2 they kept saying where's the money?  
3 A. Yes.  
4 Q. So they didn't ask do you have any  
5 money, they just asked where's the money?  
6 A. I do not recall but they asked similar  
7 questions and many questions about where money was  
8 located.  
9 Q. And as far as you could tell they  
10 wanted cash, not credit card?  
11 A. Uh-huh, yes.  
12 Q. And they had you at some point get on  
13 the ground when they initially came in, correct?  
14 A. Yes.  
15 Q. And then they put you up against the  
16 wall, had you face the wall.  
17 A. Yes.  
18 Q. And you were next to your cousin  
19 Aaron.  
20 A. Yes.  
21 Q. And then a few days later as we  
22 discussed you did speak to a detective about  
23 identifying somebody that they had arrested.  
24 A. Yes.  
25 Q. Okay. And he told you to come down

<p style="text-align: right;">Page 53</p> <p>1 and identify a suspect that they had in custody.  2 A. Yes.  3 Q. And he provided you with -- pardon me  4 just a moment and I'll change that question --  5 what's been marked as State's Exhibit 134 and this  6 is the lineup that you viewed.  7 A. Yes.  8 Q. And the detective had indicated that  9 one of the individuals was in custody and could  10 have possibly committed the crime.  11 A. Yes.  12 Q. Okay. And looking at this picture,  13 there's a number of individuals in the lineup.  14 A. Yes.  15 Q. Now, the individual that you  16 identified as No. 5, is there a difference in the  17 background between that picture and the other five  18 pictures that is visible in the picture that you're  19 looking at right now?  20 A. Yes.  21 Q. And what is the difference as you can  22 tell?  23 A. A white background.  24 Q. And what do the other individuals have  25 behind their background?</p>	<p style="text-align: right;">Page 55</p> <p>1 Q. Okay. But you remember seeing three  2 guns total.  3 A. Yes.  4 MS. FLECK: Thank you. Nothing  5 further.  6 (Whereupon Ms. Fleck concluded  7 this portion of her examination  8 at 3:13 p.m.)  9 THE COURT: Mr. Marcello.  10 MR. MARCELLO: Just real quick.  11  12 RECROSS-EXAMINATION  13 BY MR. MARCELLO:  14 Q. Were they wearing long sleeves that  15 you could tell?  16 A. I remember the one with dreadlocks  17 having like a suit jacket.  18 Q. Okay. How about like a dress shirt or  19 anything like that or a tuxedo shirt?  20 A. Yeah. It was like a tuxedo dress up  21 suit.  22 Q. Did the other individual have long  23 sleeves as well?  24 A. I don't recall.  25 Q. Do you recall anything about the face,</p>
<p style="text-align: right;">Page 54</p> <p>1 A. Gray and blue.  2 Q. Gray and blue.  3 A. Yes.  4 Q. To you, underneath you said I saw this  5 guy standing next to my uncle. He had a gun.  6 A. Yes.  7 MR. MARCELLO: I have no further  8 questions, Your Honor.  9 (Whereupon Mr. Marcello  10 concluded  11 this portion of his examination  12 at 3:12 p.m.)  13 THE COURT: Ms. Fleck.  14  15 REDIRECT EXAMINATION  16 BY MS. FLECK:  17 Q. You testified that there were two guns  18 then you also testified about your giving a  19 statement. If you look at your statement, might it  20 refresh your memory as to actually how many guns  21 there were?  22 A. I remember there being three guns but  23 I remember them holding one each and I do not  24 recall where the other one was, possibly in their  25 jeans.</p>	<p style="text-align: right;">Page 56</p> <p>1 any scars, tattoos, markings, anything like that?  2 A. I do not recall.  3 MR. MARCELLO: No further questions.  4 (Whereupon Mr. Marcello  5 concluded his examination  6 at 3:13 p.m.)  7 THE COURT: Ms. Fleck.  8 MS. FLECK: Nothing.  9 THE COURT: Anything from our jurors?  10 (Whereupon, counsel approached  11 the bench, and after a  12 discussion outside the hearing  13 of the court reporter, the  14 following proceedings took  15 place:)  16 THE COURT: Who wrote did you see the  17 blue car? Okay. Who wrote did you see who shot  18 your uncle? Okay. Thank you.  19 All right. Mr. Posada, I got a few  20 questions for you. First what I just said. Of the  21 two gentlemen that were in your aunt's house, did  22 you see who shot your uncle?  23 THE WITNESS: I didn't.  24 THE COURT: Thank you. Did you see  25 the car at all? You said your aunt mentioned</p>

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1 seeing a car drive away. Did you see the car?  
 2 THE DEFENDANT: I did not.  
 3 THE COURT: Okay. Do you recall if  
 4 either of the men with the guns used the slang word  
 5 cuz while yelling at your aunt or uncle?  
 6 THE DEFENDANT: I do not recall.  
 7 THE COURT: Okay. Do you recall what  
 8 kind of clothes the two men were wearing? I know  
 9 there were some questions there at the end about  
 10 long sleeves and a suit jacket. Other than that do  
 11 you remember anything about the clothing?  
 12 THE WITNESS: Other than that and the  
 13 sport gloves, no.  
 14 THE COURT: What do you mean by sport  
 15 gloves?  
 16 THE WITNESS: They had gloves on and  
 17 they looked like baseball gloves.  
 18 THE COURT: Okay. Both of them were  
 19 wearing them.  
 20 THE WITNESS: Both.  
 21 THE COURT: Do you recall the two men  
 22 having any kind of an accent?  
 23 THE WITNESS: No.  
 24 THE COURT: And did you see their  
 25 shoes at all?

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1 THE WITNESS: No.  
 2 THE COURT: Okay. And I think  
 3 Mr. Marcello asked you a question right at the end  
 4 about whether you saw any kind of marks or anything  
 5 on their faces. You don't recall anything about  
 6 that.  
 7 THE WITNESS: I do not.  
 8 THE COURT: Do you recall did either  
 9 of them have a mustache?  
 10 THE WITNESS: I do not recall.  
 11 THE COURT: Okay. Anything else about  
 12 their profiles or their height, face, forehead, any  
 13 of that kind of thing that you have any specific  
 14 recollection about.  
 15 THE WITNESS: No.  
 16 THE COURT: Okay. All right.  
 17 Ms. Fleck, do you have any questions based upon  
 18 mine?  
 19 MS. FLECK: No Judge. Thank you.  
 20 THE COURT: Mr. Marcello.  
 21 MR. MARCELLO: Just one quick  
 22 question. How old were you when this occurred?  
 23 THE WITNESS: 12.  
 24 MR. MARCELLO: Okay. No further  
 25 questions.

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1 THE COURT: All right. Mr. Posada,  
 2 you are excused. I appreciate your time.  
 3 (Whereupon Jose Posada was  
 4 excused from the witness stand  
 5 at 3:15 p.m.)  
 6 THE COURT: The State may call their  
 7 next witness.  
 8 MR. DiGIACOMO: Judge, at this time  
 9 reserving the right to make sure everything is  
 10 admitted, the State would rest.  
 11 THE COURT: Okay. Ladies and  
 12 gentlemen, we're going to take a short recess.  
 13 During this recess, it is your duty not to converse  
 14 among yourselves or with anyone else on any subject  
 15 connected with the trial or to read, watch or  
 16 listen to any report of or commentary on the trial  
 17 by any person connected with the trial or by any  
 18 medium of information, including, without  
 19 limitation, newspaper, television, radio, and the  
 20 internet, and you are not to form or express an  
 21 opinion on any subject connected with this case  
 22 until it is finally submitted to you, under  
 23 instructions by me. We'll be in recess 15  
 24 minutes.  
 25 (Whereupon, the jury

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1 retired from the courtroom  
 2 at 3:18 p.m. the following  
 3 proceedings took place outside  
 4 their presence.)  
 5 THE COURT: Anybody have anything  
 6 outside the presence?  
 7 MR. MARCELLO: Yes, Your Honor. We do  
 8 have one issue now that the State has rested.  
 9 Essentially, Your Honor, we have actually two  
 10 issues; the one I'm going to raise and there's  
 11 another issue.  
 12 There's a number of lineups that were  
 13 testified to at some point that were presented to  
 14 witnesses in which at least one, two, three,  
 15 four -- actually all four of them actually  
 16 contained a picture of Mr. Slaughter that no  
 17 witness identified Mr. Slaughter, however we do not  
 18 know who presented these lineups to, who they were  
 19 presented to, what officer presented them and what  
 20 discussions were made about any of them.  
 21 A couple of lineups also contained  
 22 Mr. Jajuan Richards as well as Marvin Robinson I  
 23 believe. Basically our issue was we were going to  
 24 wait until the State closed. We're not sure. One  
 25 of the officers presented this and gave testimony

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1 about it but they were significant in the fact that  
2 Mr. Slaughter's pictures was contained in them.  
3 They were shown -- well, it's not  
4 known whether they were shown prior to the lineups  
5 in which they were selected and he says essentially  
6 now that they can't be admitted because they don't  
7 know who they were shown to, how they were shown,  
8 what witnesses saw them, and now we're precluded  
9 from entering them based on the fact that the  
10 detective who would have had any information about  
11 that is not being presented.

12 THE COURT: I guess I'm not  
13 understanding what the issue, what the request is.

14 MR. MARCELLO: I apologize. I forgot  
15 to preface it with what we were looking for is the  
16 jury instructions that these lineups were in fact  
17 selected and nobody selected Mr. Slaughter on them.

18 THE COURT: Jury instructions are  
19 based on the evidence presented at trial. I mean  
20 to the extent that no witness come in to testify  
21 about that, both sides are free to call witnesses  
22 and ask witnesses questions I'm not going to  
23 instruct the jury on something that isn't in  
24 evidence in the trial to show that there was a  
25 lineup that was proposed and shown to somebody they

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1 didn't identify so it's not kind of a phantom jury  
2 instruction unless there's testimony about it.

3 MR. MARCELLO: I understand, Your  
4 Honor.

5 THE COURT: Anything else?

6 MR. MARCELLO: Your Honor, we're just  
7 going to at this time since the State has closed  
8 we're going to move to dismiss. This is actually  
9 based on a prior issue that was raised for failure  
10 to preserve or instruction of exculpatory  
11 photographic lineup evidence including the fact  
12 that these photographic lineups were never  
13 identified who they were shown to.

14 They were shown to somebody by some  
15 officer but it is never identified pursuant to what  
16 I will assume is standard procedure which is to  
17 identify who a lineup is shown to, what officer  
18 presented that lineup to them, and basically that  
19 evidence has been destroyed and/or lost through  
20 carelessness to determine who, if anybody, did not  
21 identify Mr. Slaughter.

22 THE COURT: What lineups are you  
23 talking about so I know?

24 MR. MARCELLO: If I may approach.

25 THE COURT: Sure.

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1 MR. MARCELLO: Let me show you.

2 MR. DiGIACOMO: No. You can give  
3 him -- I think what Mr. Slaughter seems to fail to  
4 realize I recognize his lawyers you are making a  
5 record for him who is not a lawyer there's a  
6 witness who can testify what happened at those  
7 lineups. In fact many of those witnesses came in  
8 here to testify and they chose not to ask that  
9 question because they were afraid of what the  
10 answer would be.

11 The report indicates they didn't pick  
12 out Jajuan Richards. What it does say is they did  
13 pick out Rickie Slaughter. They're free to ask the  
14 witnesses those questions. They're free to call  
15 Detective Prieto and I don't think they can get  
16 into those because the statute requires them to  
17 previously talk to the witness themselves, have  
18 them ask about the identification and then the  
19 detective could testify about those but they  
20 certainly have the right to ask those witnesses  
21 about the identification and there was a report  
22 relating to each one of those identifications.

23 THE COURT: Which one of these is  
24 Mr. Slaughter in?

25 MR. MARCELLO: We should be in all

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1 five.

2 THE COURT: I only have four to begin  
3 with.

4 MR. DiGIACOMO: The one that looks  
5 different than those.

6 THE COURT: The older photo.

7 MR. DiGIACOMO: The one that looks  
8 different is his booking photo. He's not in this.

9 THE COURT: With no beard or no  
10 mustache.

11 MR. DiGIACOMO: He's in No. 4 in this  
12 one.

13 THE COURT: No. 4.

14 MR. DiGIACOMO: No. 4 in that one.

15 THE COURT: 4.

16 MR. DiGIACOMO: Can we mark this as a  
17 court exhibit because technically the photograph's  
18 not in.

19 THE COURT: We'll mark them as court  
20 exhibits.

21 THE COURT: Anything further,  
22 Mr. Marcello?

23 MR. MARCELLO: No, Your Honor.

24 Actually I shouldn't say no. As far as those that  
25 were presented, we know that there's at least four

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1 of the lineups that were there. We know that they  
2 must have been shown to at least four people. We  
3 know that one of them is different than the other  
4 three so at the very least they were shown to two  
5 people because you have two different lineups; one  
6 in a horizontal and one in a vertical position.  
7 I believe that the instruction of the  
8 information indicating who they were shown to, how  
9 they were shown, what the circumstances were,  
10 whether they were prior to the identification  
11 lineups and the circumstance of it warrant a motion  
12 to dismiss.  
13 THE COURT: Mr. DiGiacomo, anything  
14 further?  
15 MR. DIGIACOMO: No. Just the fact  
16 that there's a police report that clearly  
17 identifies what happened with the photo lineups.  
18 They are all the same photo lineup. It's just when  
19 the system prints multiple ones so if you go to  
20 multiple people, you can show them.  
21 There's no indication as to how many  
22 photographs were shown to how many people but  
23 there's a police report that talks about the Jajuan  
24 Richards photo lineups and what happens with the  
25 Jack -- as far as the Marvin Roberts lineups. They

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1 chose not to go into that and they chose to do so.  
2 THE COURT: I certainly don't think it  
3 warrants a motion to dismiss so that will be  
4 denied, but I will have the four xeroxed copies of  
5 lineups that were provided to me. Each one of them  
6 I believe has not only Mr. Slaughter's booking  
7 photo which is a booking photo for this case,  
8 correct?  
9 MR. MARCELLO: Yes.  
10 MR. DIGIACOMO: Correct.  
11 THE COURT: It also has the photo of  
12 Jajuan Richards in each of them.  
13 MR. DIGIACOMO: Correct.  
14 THE COURT: Those four Xerox copies of  
15 lineups appear none of them have witness  
16 information on them indicating anything and as well  
17 as the color booking photo of Mr. Slaughter in this  
18 case and then this color photo of Mr. Richards, all  
19 of those will be marked as court exhibits.  
20 MR. MARCELLO: And because ones that  
21 are xeroxed copies I just want to make clear for  
22 the record in case it should ever become necessary  
23 that the photograph lineups we're alluding to were  
24 contained in Mr. Slaughter's motion to dismiss for  
25 failure to preserve -- that was in October 27,

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1 2009. They were contained in his index so they are  
2 part of the record. Those are the same questions  
3 we had in our file.  
4 THE COURT: The only reason I was  
5 saying Xerox, the other two are in color but those  
6 will be marked as court exhibits. Anything  
7 further?  
8 MR. MARCELLO: No, Your Honor.  
9 THE COURT: All right. How about we  
10 take our recess since we're going to be moving to  
11 the defense case. Mr. Slaughter, I need to just  
12 kind of advise you of a couple things, that under  
13 the Constitution of the United States and under the  
14 Constitution of the State of Nevada you cannot be  
15 compelled to testify in this case. That means  
16 nobody can force you to take the stand and  
17 testify. You understand that.  
18 THE DEFENDANT: yes.  
19 THE COURT: You may, however, at your  
20 own request give up this right and take the witness  
21 stand and testify. If you do testify, you'll be  
22 subject to cross-examination by the State's  
23 attorneys. Anything that you say whether it's on  
24 direct examination by your attorneys or  
25 cross-examination by the State's attorneys will be

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1 the subject of fair comment when the attorneys make  
2 their closing arguments. That means they can  
3 comment on whatever it is you testified about.  
4 Do you understand that?  
5 THE DEFENDANT: Say it again.  
6 THE COURT: That's okay. That means  
7 anybody that testifies whatever they say the  
8 attorneys are free to talk about when they make  
9 their closing arguments. Okay? You understand  
10 that.  
11 THE DEFENDANT: All right. Yes.  
12 THE COURT: If you choose not to  
13 testify, the Court will not permit the attorneys to  
14 make any comment to the jury about the fact that  
15 you have not testified. So that means if you don't  
16 testify, the attorneys cannot get up there and say,  
17 hey, Mr. Slaughter did not testify. You're  
18 probably wondering what he had to say. Hold it  
19 against him. Anything like that. Okay?  
20 They can't comment at all on the fact  
21 that you did not testify. Do you understand that?  
22 THE DEFENDANT: Understood.  
23 THE COURT: Furthermore if you want me  
24 to, you and your attorneys, I'll give the jury a  
25 written jury instruction that tells them,

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1 essentially that tells them that the law does not  
2 compel a defendant in a criminal case to take the  
3 stand and testify.

4 In fact, let me see if I have the  
5 exact instruction. All right. The written  
6 instruction would read it is a constitutional right  
7 of a defendant in a criminal trial that he may not  
8 be compelled to testify thus the decision as to  
9 whether he should testify is left to the defendant  
10 on the advice and counsel of his attorneys.

11 You must not draw any inference of  
12 guilt from the fact that he does not testify nor  
13 should this fact be discussed by you or enter into  
14 your deliberations in any way. Okay?

15 Do you have any questions about any of  
16 those rights?

17 THE DEFENDANT: No, I do not.

18 THE COURT: Okay. You're further  
19 advised that if you have a felony conviction and  
20 more than ten years has not elapsed from the date  
21 you were convicted or the date you were discharged  
22 from prison, parole or probation, whichever is  
23 later, if you elect to take the stand and testify,  
24 the prosecutors would be allowed to ask you in the  
25 presence of the jury have you been convicted of a

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1 felony, what was the felony and when did that  
2 felony occur or felonies depending upon whether you  
3 have one or more felonies that fall within that  
4 ten-year time period.

5 They cannot go into the details of any  
6 felony convictions unless some other thing acts to  
7 open the door up to that kind of information but  
8 they could ask you about have you been convicted,,  
9 what was the felony or felonies, and when did they  
10 occur.

11 Do you understand that?

12 THE DEFENDANT: I have a question  
13 about that.

14 THE COURT: Okay.

15 THE DEFENDANT: I'm not sure of the  
16 alternate juror but the elderly lady said if  
17 anything to do with drugs she would be violently  
18 against it because of one of her family members  
19 that died. I have a drug conviction.

20 THE COURT: When was that? I don't  
21 really recall. I know we had PSI and everything  
22 before but I don't recall.

23 THE DEFENDANT: My drug conviction?  
24 At least 2003. It didn't expire until 2007.

25 MR. DiGIACOMO: It's admissible.

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1 THE COURT: If it's within the  
2 ten-year time period, then it's admissible so if  
3 you have a conviction that occurred any time from  
4 2001 forward or if it's older than 2001 but you  
5 were still on probation or parole up and through  
6 2001 forward, then those convictions if they're  
7 felonies are admissible to have you questioned  
8 about it if you take the stand.

9 THE DEFENDANT: Here's the thing. I  
10 feel like I'm kind of forced because she'd  
11 automatically be biased against that drug  
12 conviction.

13 THE COURT: All I can say is you guys  
14 and the State's attorneys chose the jurors the way  
15 you chose them. She's an alternate but nonetheless  
16 that's still -- if it's within the time period,  
17 it's still going to be admissible for somebody to  
18 question you about it.

19 MR. MARCELLO: One of Mr. Slaughter's  
20 questions was whether or not she goes with them.  
21 She would be left out of the room.

22 THE COURT: She's an alternate  
23 so . . .

24 MR. DiGIACOMO: I'd be more worried  
25 about his burglary conviction.

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1 THE COURT: He's right to ask the  
2 question about it though so in any event do you  
3 have any other questions about any of the other  
4 things we discussed?

5 THE DEFENDANT: Can I ask a question  
6 about the alternate. Do they only sit in -- how  
7 does that work?

8 THE COURT: What will happen is once  
9 we get to the point the jury deliberates, the  
10 alternates are sent home. They have the same  
11 admonishment not to discuss with anybody but  
12 they're sent home.

13 The only time the alternate becomes  
14 part of the deliberating body for whatever reason  
15 if they die or get excused, somebody becomes ill or  
16 something happens that they have to be removed,  
17 then one of the alternate would go on and they  
18 would start their deliberations all over so as it  
19 sits right now the alternates don't have any  
20 decision making or any input. They don't get to  
21 comment or anything about the deliberations.  
22 Okay.

23 We'll be in recess then and we'll  
24 start back up in a few minutes.

25 (Whereupon a recess was

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1 taken at 3:33 p.m. and  
 2 the proceedings resumed  
 3 at 3:58 p.m. in the presence  
 4 of the jury.)  
 5 THE COURT: We will be back on the  
 6 record in 204957 State of Nevada versus Rickie  
 7 Slaughter. He's present with his attorneys,  
 8 State's attorneys are present. The jurors are  
 9 present. We're going to move now to the defense  
 10 case. Mr. Fumo.  
 11 MR. FUMO: Yes, Your Honor. The  
 12 defense first witness is going to Noyan Monique  
 13 Westbrook.  
 14  
 15 NOYAN MONIQUE WESTBROOK,  
 16 having been first duly sworn to testify to the  
 17 truth, the whole truth and nothing but the truth,  
 18 was examined and testified as follows:  
 19  
 20 THE CLERK: Please be seated. State  
 21 your name and spell your first and last name for  
 22 the record.  
 23 THE WITNESS: My name is Noyan Monique  
 24 Westbrook and the spelling is N-O-Y-A-N last name  
 25 Westbrook W-E-S-T-B-R-O-O-K.

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1 THE COURT: Mr. Fumo.  
 2  
 3 DIRECT EXAMINATION  
 4 BY MR. FUMO:  
 5 Q. Ms. Westbrook, where do you live  
 6 today?  
 7 A. I live in Marvin, Arkansas.  
 8 Q. Did you used to live in Las Vegas,  
 9 Nevada?  
 10 A. Yes.  
 11 Q. Did you live here in 2004?  
 12 A. Yes.  
 13 Q. Did you live here in June of 2004?  
 14 A. Yes.  
 15 Q. Did you live here June 26, 2004?  
 16 A. Yes.  
 17 Q. Can you tell the jury where you  
 18 lived.  
 19 A. On Bonanza and Lamb, Vera Johnson,  
 20 with my friend.  
 21 Q. Who is your friend?  
 22 A. Shamika (phonetic) Brown.  
 23 Q. Do you still know her today?  
 24 A. Yes.  
 25 Q. Do you still talk to her?

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1 A. Yes.  
 2 Q. How long did you live at Vera Johnson?  
 3 A. I moved over there when I was 17. I  
 4 moved when I was about 14.  
 5 Q. Seven or eight years?  
 6 A. Uh-huh.  
 7 Q. Is that a yes?  
 8 A. Yes.  
 9 Q. The court reporter can't take nods.  
 10 You need to say yes or no.  
 11 Do you know a man named Rickie  
 12 Slaughter?  
 13 A. Yes, sir.  
 14 Q. When is the last time you laid eyes on  
 15 Rickie Slaughter?  
 16 A. Like six years ago, '04.  
 17 Q. Did you know him back in '04?  
 18 A. Yes.  
 19 Q. And did you have occasion to spend  
 20 some time with him back then?  
 21 A. Yes.  
 22 Q. When was that?  
 23 A. Around June or July.  
 24 Q. Okay. Do you recall if it was a  
 25 weekend or weekday?

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1 A. Not sure about what day. I just know,  
 2 you know, we hung out a couple days.  
 3 Q. Okay. Did you work during that time?  
 4 A. No.  
 5 Q. Do you recall if it was a Saturday or  
 6 Sunday on the weekend?  
 7 A. I'm not actually sure.  
 8 Q. When did you guys get together?  
 9 A. We got together before July 4th  
 10 because I know we were planning a party with my  
 11 friend and it was just like a brief relationship  
 12 maybe a month but it wasn't -- I didn't know him  
 13 like all that long.  
 14 Q. It was about the weekend before the  
 15 4th of July.  
 16 A. Somewhere in there because me and my  
 17 friend were planning a party so that's how I know  
 18 it was around July 4th.  
 19 Q. Your friend you're talking about --  
 20 A. Shamika.  
 21 Q. Did there come an occasion when you  
 22 and Rickie spent a day together?  
 23 A. Yeah, a couple of days.  
 24 Q. Tell the jury about that day.  
 25 A. The first day he came over to my

1 friend house it was about 10:00, 11:00 o'clock in  
2 the morning. We left. We hung out that whole  
3 day. I came back. It was like 11:00,  
4 12:00 o'clock midnight.  
5 Another day we hung out at my friend's  
6 house, she allowed him to come visit me.  
7 Q. Was that Shamika also?  
8 A. Yes.  
9 Q. Was that at Vera Johnson Manor?  
10 A. Yeah.  
11 Q. Did you call him that day or did he  
12 call you or do you recall?  
13 A. I don't recall. I just know he came  
14 over.  
15 Q. Do you know what time of day it was  
16 when he came over?  
17 A. The first was like about dusk like  
18 6:00, 7:00 o'clock in the evening.  
19 Q. Did you spend some time together?  
20 A. Yeah. We had like a sexual encounter  
21 and then he left.  
22 Q. What time was that?  
23 A. Like 8:00 or 9:00, somewhere in there.  
24 Q. What time -- is that the time you had  
25 the sexual encounter or the time he left?

1 A. That was I guess the time we had the  
2 sexual encounter because he got there about 7:00 or  
3 8:00 and he left before 10:00 o'clock, before 9:00.  
4 Q. Do you recall if the sun was still up  
5 when he came over?  
6 A. No. It was like dusk like. The sun  
7 was almost down.  
8 Q. So it was later in the evening when he  
9 came over?  
10 A. Yeah.  
11 Q. Are you sure about that?  
12 A. Yes.  
13 Q. Had you ever had occasion to drive in  
14 his car?  
15 A. Have I been in his car? Yes.  
16 Q. Was that in 2004?  
17 A. Yes.  
18 Q. Do you know the make, model, color  
19 type?  
20 A. It's like a green Taurus four door,  
21 yeah Saturn or a Taurus.  
22 Q. Do you recall anything about its  
23 condition? Did it work real good?  
24 A. He put water in it I don't know like  
25 under the hood. I don't know much about mechanic

1 work. I just know he put water in it.  
2 Q. Anything else you can tell us about  
3 that date.  
4 A. About the vehicle.  
5 Q. The vehicle. I'm sorry.  
6 A. No. Like I say, we didn't hang around  
7 that much but our few occasions one time at a gas  
8 station he had to put water in it.  
9 Q. Did you ever know him to speak with an  
10 accent?  
11 A. No.  
12 Q. Have you ever seen him with a handgun?  
13 A. No.  
14 MR. FUMO: Court's indulgence.  
15 Q. Do you recall Mr. Slaughter's  
16 hairstyle at that time?  
17 A. It was like short. It was short like  
18 no hair like short.  
19 Q. Like Obama 'fro short?  
20 A. Like a fade, yeah, short.  
21 Q. Like it appears in dreadlocks or  
22 anything like that?  
23 A. No, just a fade. I don't remember.  
24 Not any dreads, no.  
25 Q. Okay. Would you know him if you saw

1 him today?  
2 A. Would I know who?  
3 Q. Rickie Slaughter.  
4 A. Yeah.  
5 Q. Do you see him in this courtroom  
6 today?  
7 A. Yeah. He looks a little different.  
8 It's been years.  
9 Q. Can you point to him and describe an  
10 article of clothing he's wearing.  
11 A. Right there. He's wearing a suit and  
12 tie.  
13 MR. FUMO: Nothing further, Your  
14 Honor.  
15 (Whereupon Mr. Fumo concluded  
16 this portion of his examination  
17 at 4:05 p.m.)  
18 THE COURT: All right. Mr. DiGiacomo.  
19 MR. DIGIACOMO: Can I approach your  
20 clerk for a minute.  
21 THE COURT: Yes.  
22  
23 CROSS-EXAMINATION  
24 BY MR. DIGIACOMO:  
25 Q. Ma'am, you say you can't tell us



1 exactly what day it was that you were with Rickie,  
 2 correct, Mr. Slaughter?  
 3 A. Not the exact day.  
 4 Q. Okay. You can't even tell us what day  
 5 of the week it was that you were with  
 6 Mr. Slaughter, correct?  
 7 A. No. I just remember it was directly  
 8 before the investigators came 'cause, see, I didn't  
 9 know anything about the case as far as the news or  
 10 whatever but the investigators came to my mom house  
 11 and that was right before July 4th and that was  
 12 like right after he got locked up.  
 13 Q. Okay. And how is it that you know  
 14 Mr. Slaughter?  
 15 A. We met and we were starting to like a  
 16 relationship somewhat.  
 17 Q. Okay. So you met and you were having  
 18 a relationship with him somewhat.  
 19 A. Yeah.  
 20 Q. How long did this relationship go on  
 21 for?  
 22 A. A few weeks, not even a month. I  
 23 didn't know him like all that long.  
 24 Q. He knew your name, right?  
 25 A. Uh-huh.

1 Q. Yes?  
 2 A. Yes, sir.  
 3 Q. Okay. So he knew that your name was  
 4 Monique or Noyan Westbrook, right?  
 5 A. Yes, sir.  
 6 MR. FUMO: I'm going to object. How  
 7 would the witness know what Mr. Slaughter knew?  
 8 THE COURT: Overruled.  
 9 MR. DiGIACOMO:  
 10 Q. He knew Shamika Brass, correct?  
 11 A. Not by name just by, you know, that's  
 12 my roommate. He didn't know her like that.  
 13 Q. So you and Mr. Slaughter, how many  
 14 times did you hang out?  
 15 A. Total maybe like, maybe three times.  
 16 Q. Three times.  
 17 A. Uh-huh.  
 18 Q. And on these three occasions, you said  
 19 one occasion you had a sexual encounter.  
 20 A. That was the first one, yes.  
 21 Q. The first time?  
 22 A. Yes.  
 23 Q. And then on two other occasions you  
 24 also had some sort of relationship or time with  
 25 him?

1 A. Not sex. We only had sex one time and  
 2 the next time we were at a hotel like all day. He  
 3 picked me up like 11:00 o'clock in the morning and  
 4 I didn't come back home till midnight.  
 5 Q. So you were with him that whole day?  
 6 A. Uh-huh.  
 7 Q. And your recollection is during this  
 8 time period you were with Mr. Slaughter, he had  
 9 like a fade short hair?  
 10 A. Uh-huh.  
 11 Q. Is that a yes?  
 12 A. Yeah, not too much hair. No  
 13 dreadlocks.  
 14 Q. I'm going to show you what's been  
 15 marked as Court Exhibit No. 25 and ask you to look  
 16 at that. You'd agree with me that those are corn  
 17 rows kind of curl down below, not a fade?  
 18 A. Right. It's not a fade but he use to  
 19 wear a do rag so he didn't have no -- he wore a do  
 20 rag.  
 21 Q. Are you telling me he didn't look like  
 22 that when you knew him?  
 23 A. I am sure I know that I didn't see  
 24 dreadlocks but he kept a stocking cap on his head.  
 25 Q. Okay. So I guess my question is

1 earlier when you testified he had a fade, did he  
 2 have a fade or did he have dreadlocks?  
 3 A. His hair appeared to be short because  
 4 he always kept a do rag on so I didn't see any  
 5 dreadlocks.  
 6 Q. So even when you were having sex with  
 7 him or having a sexual encounter --  
 8 THE COURT: You've got to let him --  
 9 finish the question. You've got to let him finish --  
 10 before you start because if you talk over each  
 11 other, the court reporter can't take everything  
 12 down.  
 13 MR. DiGIACOMO:  
 14 Q. Even the times you were having a  
 15 sexual encounter with Mr. Slaughter, he kept his do  
 16 rag on so you're not sure what kind of hair he had?  
 17 A. Right. With the one time we had sex,  
 18 yes, sir.  
 19 Q. Okay. What did he call you when he  
 20 would talk to you, Monique, Noyan?  
 21 A. Monique.  
 22 Q. And you said July 4th you were  
 23 planning a party. Was he at the party?  
 24 A. No. Me and my best friend were  
 25 planning a party and that's how I know it was

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1 around that time because whoever the investigator  
 2 was that came to my mom's house came like right  
 3 July 4th. That's how I know the time frame.  
 4 Q. Investigator from where?  
 5 A. Like a private investigator or  
 6 something.  
 7 Q. Okay. So a private investigator came  
 8 to your house to contact you?  
 9 A. My mom's house, yes, sir.  
 10 Q. Okay. And that would ahve been July  
 11 you're saying of '04 or July of '05?  
 12 A. '04.  
 13 Q. Okay. Now, ma'am, would it surprise  
 14 you if Mr. Slaughter filed a notice of alibi in  
 15 2005 in which he claims he was with Tiffany  
 16 Johnson, not you at the time of the crime?  
 17 MR. FUMO: Objection, Your Honor. How  
 18 would she know that Mr. Slaughter filed a motion?  
 19 THE COURT: Overrled.  
 20 MR. DiGLACOMO: And I'd ask the Court  
 21 to take judicial notice of the fact that he filed a  
 22 notice of alibi saying I was with Tiffany Johnson  
 23 at the time of the crime in 2005.  
 24 Q. He doesn't mention you. He should  
 25 have known who you were, right?

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1 A. Yes.  
 2 Q. He should have known that if you were  
 3 with him on the time and day in question, he would  
 4 have known what your name was in order to say this  
 5 is who my alibi person is, correct?  
 6 A. Yeah.  
 7 Q. And you're saying there's no question  
 8 he knows your name?  
 9 A. He knows my name because how did the  
 10 guy find me?  
 11 Q. Let me play something for you.  
 12 (Phone call played.)  
 13 MR. DiGLACOMO:  
 14 Q. Is that Mr. Slaughter's voice?  
 15 A. I guess I kind of knew.  
 16 Q. I'm going to play a little bit more  
 17 for you. Okay. If you look at that screen, I want  
 18 you to listen to this recording.  
 19 (Phone call played.)  
 20 MR. DiGLACOMO:  
 21 Q. Ma'am, do you know somebody by the  
 22 name of Jajuan Richards?  
 23 A. No, sir.  
 24 Q. Do you know a person named Little  
 25 Marv?

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1 A. No, sir.  
 2 Q. Are you telling me that Jajuan  
 3 Richards didn't come to you and find, quote, a  
 4 bitch to come say they saw Rickie Slaughter at the  
 5 time of the crime?  
 6 A. No, sir. The only person that  
 7 contacted me was a private investigator. That's  
 8 how I knew about it period. That's how I found out  
 9 about the case.  
 10 Q. You're saying the private investigator  
 11 came July 4th so it had to be near July 4th that  
 12 you saw Rickie Slaughter, correct?  
 13 A. Right before that around that time.  
 14 Q. So right before the investigator came  
 15 is when you were with Rickie Slaughter?  
 16 A. Right.  
 17 Q. If I told you that Mr. Slaughter's  
 18 investigator didn't contact you until July of  
 19 2005 --  
 20 MR. FUMO: Objection, Your Honor. How  
 21 would he know when Mr. Slaughter's investigator  
 22 found her?  
 23 MR. DiGLACOMO: It's in the record.  
 24 James Konklin (phonetic).  
 25 THE COURT: Overruled. Go ahead.

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1 MR. DiGLACOMO:  
 2 Q. If there's evidence that  
 3 Mr. Slaughter's investigator contacted you in July  
 4 of 2005, are you saying you would have seen Rickie  
 5 Slaughter right near a couple days prior to that a  
 6 full year before he went to jail?  
 7 A. Did I see him before? Say that one  
 8 more time.  
 9 Q. Well, you just told the ladies and  
 10 gentlemen of this jury that you knew Rickie  
 11 Slaughter. You knew it was a couple days before  
 12 July 4th because you were having a party and the  
 13 investigator came and talked to you before  
 14 July 4th?  
 15 A. Before July 4th, right.  
 16 Q. Right around that time period, right?  
 17 A. Right.  
 18 Q. If I told you that this phone call is  
 19 July 16th of 2004, Mr. Slaughter doesn't have an  
 20 investigator yet. Would you agree with me?  
 21 MR. FUMO: Objection, Your Honor. How  
 22 would she know if Mr. Slaughter had an  
 23 investigator?  
 24 THE COURT: Overruled. Go ahead.  
 25 ///

1 MR. DIGIACOMO:  
2 Q. You will agree with me if  
3 Mr. Slaughter didn't have an investigator until  
4 2005, that it must have been July of 2005 that he  
5 came and saw you, correct?  
6 A. Correct, and you have proof of that  
7 that's when he came, yeah.  
8 Q. But you're positive it's just a couple  
9 of days prior to when the investigator contacted  
10 you that you saw Mr. Slaughter and you had this  
11 relationship.  
12 A. Right, because --  
13 MR. DIGIACOMO: Thank you. I have  
14 nothing further, Judge.  
15 (Whereupon Mr. DiGiacomo  
16 concluded his examination  
17 at 4:16 p.m.)  
18 THE COURT: Mr. Fumo.  
19  
20 REDIRECT EXAMINATION  
21 BY MR. FUMO:  
22 Q. Ms. Westbrook, do you know anything  
23 about Mr. Slaughter's legal defense team?  
24 A. No.  
25 Q. Do you know when he hired an

1 was like so long ago.  
2 Q. So you don't know what Mr. Slaughter  
3 was doing in 2005, 2006, 2007, do you?  
4 A. No. He was there to meet him on his  
5 side or something and he wanted to know the story  
6 if we were together what happened.  
7 Q. And that was in 2004.  
8 A. Right.  
9 Q. And you had no contact with anybody  
10 since then.  
11 A. As far as who?  
12 Q. '05, a year later did anybody contact  
13 you?  
14 A. No, just that one guy and then I was  
15 found on Facebook.  
16 Q. So it was right after you met with  
17 Mr. Slaughter a couple days later that guy comes to  
18 talk to you.  
19 A. Yeah.  
20 MR. FUMO: Thank you. Nothing  
21 further.  
22 (Whereupon Mr. Fumo concluded  
23 his examination at 4:17 p.m.)  
24 THE COURT: Mr. DiGiacomo.  
25 MR. DIGIACOMO: Nothing further.

1 investigator to come out and talk to anybody?  
2 A. No. I just know he showed up out of  
3 the blue.  
4 Q. And you know when that guy showed up  
5 out of the blue it was shortly after you spent time  
6 with Mr. Slaughter?  
7 A. Right.  
8 Q. And you know that was in 2004.  
9 A. Right.  
10 Q. Because you haven't seen him since  
11 2004, have you?  
12 A. Right.  
13 Q. What year did you move to Arkansas?  
14 A. I moved to Arkansas in '07 when I was  
15 like four months pregnant.  
16 Q. So it was way before you moved to  
17 Arkansas.  
18 A. Uh-huh.  
19 Q. You knew it was a couple days, a  
20 couple weeks, and that investigator came to see  
21 you?  
22 A. It's right because I didn't see him  
23 anymore and I was wondering.  
24 Q. Did he leave a card?  
25 A. He probably left my mom one but this

1 THE COURT: Anything from our jurors.  
2 THE COURT: All right. Ma'am, you are  
3 excused. Thank you very much for your time.  
4 (Whereupon Noyan Monique  
5 Westbrook was excused from  
6 the witness stand at 4:17 p.m.)  
7 THE COURT: Defense may call the next  
8 witness.  
9 MR. FUMO: I call Tom Winters.  
10 MR. DIGIACOMO: Judge, may we  
11 approach.  
12 (Whereupon, counsel approached  
13 the bench, and after a  
14 discussion outside the hearing  
15 of the court reporter, the  
16 following proceedings took  
17 place:)  
18  
19 THOMAS WINTER,  
20 having been first duly sworn to testify to the  
21 truth, the whole truth and nothing but the truth,  
22 was examined and testified as follows:  
23  
24 THE CLERK: Please be seated. State  
25 your name for the record and spell your first and

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1 last name.  
 2 THE WITNESS: My name is Thomas  
 3 Winter, W-I-N-T-E-R.  
 4 THE COURT: First name T-H-O-M-A-S.  
 5 THE WITNESS: T-H-O-M-A-S.  
 6 MR. MARCELLO: Just as a housekeeping  
 7 matter so the jury can focus, can I clear the  
 8 screen?  
 9 THE COURT: Yeah.  
 10  
 11 DIRECT EXAMINATION  
 12 BY MR. MARCELLO:  
 13 Q. Good afternoon, Tom. How are you?  
 14 A. Fine.  
 15 Q. The reason why -- do you know why you  
 16 were called in here today?  
 17 A. I'm a previous landlord and apparently  
 18 there was some kind of situation.  
 19 Q. Let me just stop you. Let me just ask  
 20 you. Do you recall June 26th of 2004? Do you  
 21 recall what you were doing on that date?  
 22 A. On what date?  
 23 Q. On June 26th of 2004 just generally at  
 24 the end of June.  
 25 A. I can't recall that.

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1 Q. Okay. Do you recall being made aware  
 2 of an incident on the news near the end of June in  
 3 2004?  
 4 A. I was and I called in I believe it was  
 5 to Crime Stoppers and told them that I recognized  
 6 the individual.  
 7 Q. Hold on just a second. I'm going to  
 8 walk you through it.  
 9 THE COURT: Let me explain to you.  
 10 What I need you to do is to listen to the  
 11 question. That's just a yes or no question.  
 12 They'll ask follow-ups if they need to. I don't  
 13 want you just saying a bunch of things without them  
 14 asking you a question. Okay. Mr. Marcello.  
 15 MR. MARCELLO: Okay.  
 16 Q. You indicated that you were watching  
 17 TV and you had contacted Crime Stoppers.  
 18 A. Yes.  
 19 Q. And you had given them information in  
 20 relation to a something that you had seen on the  
 21 news.  
 22 A. Yes.  
 23 Q. And that what you had seen on the news  
 24 was a robbery that occurred at 2612 Gloryview.  
 25 Does that sound familiar?

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1 A. I don't remember the address but yes.  
 2 Q. A house robbery where people had been  
 3 robbed in the house?  
 4 A. Yes.  
 5 Q. And you'd called and indicated that  
 6 you may have some pertinent information to their  
 7 investigation?  
 8 A. Yes.  
 9 Q. Okay. And you let them know that you  
 10 were renting a house to an individual.  
 11 A. Yes.  
 12 Q. And that you thought maybe he may have  
 13 some involvement in that particular incident, that  
 14 particular robbery incident.  
 15 A. That's correct.  
 16 Q. And you indicated that that individual  
 17 had some type of a foreign dialect or some type of  
 18 strange accent.  
 19 A. It appeared, yes or no.  
 20 Q. That's a yes or no. You can also  
 21 expand if you want to make it more clear what that  
 22 person had what kind of language?  
 23 A. Yes. More or less a Jamaican type  
 24 accent.  
 25 Q. Okay. And in that individual, how did

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1 you know that individual?  
 2 A. The individual was a tenant of mine.  
 3 Q. Okay. And that tenant were you aware  
 4 of what kind of vehicle he drove?  
 5 A. I have it even written here on the  
 6 application. It was a green Chevy Malibu.  
 7 Q. Okay. And how long approximately did  
 8 you rent to this individual?  
 9 A. I rented to him from January until I  
 10 evicted him on May 24th I believe it was of 2004.  
 11 Q. So you had known him for a period of  
 12 about six months?  
 13 A. Roughly a little over four months.  
 14 Q. And did he end up leaving owing you  
 15 money?  
 16 A. Yes.  
 17 MR. MARCELLO: No further questions,  
 18 Your Honor.  
 19 (Whereupon Mr. Marcello  
 20 concluded this portion of  
 21 his examination at 4:23 p.m.)  
 22 THE COURT: Mr. DiGiacomo.  
 23 MR. DIGIACOMO: Thanks, Judge.  
 24 ///  
 25 ///

1 CROSS-EXAMINATION  
2 BY MR. DiGIACOMO:  
3 Q. Good afternoon sir. You testified  
4 that you had a renter by the name of Eric Hawkins,  
5 correct?  
6 A. Yes.  
7 Q. That Eric Hawkins drives a green  
8 vehicle.  
9 A. Yes.  
10 Q. And that Eric Hawkins had some sort of  
11 accent. Did you describe it to my investigator as  
12 like South American or something like that?  
13 A. Yes. It was more or less like I spent  
14 20 years in the Navy so I've been around a lot of  
15 different type languages and it was more or less a  
16 Jamaican accent.  
17 Q. Other than that you don't have any  
18 personal information in the sense that Eric Hawkins  
19 was at the scene of this crime or that he committed  
20 this crime or anything else like that. You have no  
21 idea what actually happened at 2612 Gloryview or  
22 anything like that, correct?  
23 A. I don't know.  
24 Q. You just provided that information to  
25 the police that you needed to provide, correct?

1 State?  
2 MR. DiGIACOMO: No, Judge.  
3 THE COURT: Anything from our jurors.  
4 (Whereupon, counsel approached  
5 the bench, and after a  
6 discussion outside the hearing  
7 of the court reporter, the  
8 following proceedings took  
9 place.)  
10 THE COURT: Mr. Winter, let me ask you  
11 a quick question. If you recall during that time  
12 did you rent a house to a Rickie Slaughter?  
13 THE WITNESS: I went over my  
14 applications. You asked me yes or no on this one  
15 too but they did have an extra person at the  
16 property at the time but I wasn't aware of his name  
17 because his name was never entered onto the  
18 contract but there was an extra individual there  
19 that was not on the contract.  
20 THE COURT: Okay. Mr. Marcello, any  
21 questions based upon that?  
22 MR. MARCELLO: Was that individual  
23 male or female?  
24 THE WITNESS: A male.  
25 MR. MARCELLO: Okay.

1 A. Yes.  
2 Q. And the last time you saw Mr. Hawkins  
3 was in May of 2004 when you evicted him so you have  
4 no idea where he was on June 26th of 2004, correct?  
5 A. Correct.  
6 MR. DiGIACOMO: Nothing further.  
7 (Whereupon DiGiacomo concluded  
8 this portion of his examination  
9 at 4:25 p.m.)  
10 THE COURT: Mr. Marcello.  
11  
12 REDIRECT EXAMINATION  
13 BY MR. MARCELLO:  
14 Q. Just to be clear the news article that  
15 you'd seen when you called Crime Stoppers,  
16 approximately what date, do you recall that?  
17 A. Seven years is a long time ago and I  
18 don't exactly remember.  
19 Q. But it was towards the end of June?  
20 A. Yes.  
21 MR. MARCELLO: No further questions.  
22 (Whereupon Mr. Marcello  
23 concluded his examination  
24 at 4:25 p.m.)  
25 THE COURT: Anything further from the

1 THE COURT: Mr. DiGiacomo.  
2 MR. DiGIACOMO: Nothing further.  
3 THE COURT: Mr. Winter, I appreciate  
4 your time. No.  
5 UNIDENTIFIED JUROR: That was the --  
6 THE COURT: No.  
7 UNIDENTIFIED JUROR: I have a  
8 question.  
9 THE COURT: No. That was the  
10 opportunity. After I ask the questions, the  
11 attorneys have a chance to move on.  
12 (Whereupon Thomas Winter was  
13 excused from the witness stand  
14 at 4:28 p.m.)  
15 THE COURT: The defense may call their  
16 next witness.  
17 MR. FUMO: Judge, that's all the  
18 witnesses we have scheduled for today.  
19 THE COURT: Okay. Why don't you guys  
20 approach the bench again real quick.  
21 (Whereupon, counsel approached  
22 the bench, and after a  
23 discussion outside the hearing  
24 of the court reporter, the  
25 following proceedings took

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1 place:)

2 THE COURT: All right. Ladies and

3 gentlemen, we're going to go ahead and break for

4 the evening. During this recess, it is your duty

5 not to converse among yourselves or with anyone

6 else on any subject connected with the trial or to

7 read, watch or listen to any report of or

8 commentary on the trial by any person connected

9 with the trial or by any medium of information,

10 including, without limitation, newspaper,

11 television, radio, and the internet, and you are

12 not to form or express an opinion on any subject

13 connected with this case until it is finally

14 submitted to you, under instructions by me. 10:30

15 tomorrow morning. I'll see you then. Have a good

16 evening.

17 (Whereupon, the jury

18 retired from the courtroom

19 at 4:29 pm. and the following

20 proceedings took place outside

21 their presence:)

22 THE COURT: All right. Just one thing

23 I wanted to make a record of outside the presence.

24 I believe that all of the jurors' questions that I

25 had asked of witnesses have been agreed upon by

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1 everybody at the bench and the ones that were not

2 agreed upon have not been asked, correct?

3 MR. FUMO: Correct.

4 MR. DiGIACOMO: Correct.

5 THE COURT: Okay. We'll take a short

6 recess and then we'll come back and talk about jury

7 instructions a little bit. We won't make a formal

8 record of them so everybody else is free to go.

9 I'll print out some copies so everybody has

10 copies. You guys don't have copies yet.

11 MR. FUMO: No.

12 MR. DiGIACOMO: There's like three

13 changes in mine. Do you want me to change them and

14 then send them to you?

15 THE COURT: Sure.

16 MR. DiGIACOMO: There's little things

17 like I left out some property, the second degree

18 murder instruction.

19 THE COURT: Yeah. Why don't you go

20 ahead and e-mail them and take out the murder

21 instruction.

22 (Whereupon the proceedings

23 adjourned at 4:31 p.m.)

24

25

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1 AFFIRMATION

2 Pursuant to NRS 239B.030

3

4 The undersigned does hereby affirm that the

5 preceding transcript of proceedings filed in

6 District Court Case No. C204957 does not contain

7 the social security number of any person.

8

9

10

11

12

13 Dated this 5th day of July, 2011.

14

15

16 *Cheryl Gardner*

17

18

19 Cheryl Gardner, CCR 230, RPR, RMR

20

21

22

23

24

25

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1 REPORTER'S CERTIFICATE

2

3 STATE OF NEVADA )

4 ) ss

5 COUNTY OF CLARK )

6

7 I, Cheryl Gardner, RMR-RPR, CCR 230,

8 do hereby certify that I took down in Stenotype all

9 of the proceedings had in the before-entitled

10 matter at the time and place indicated and that

11 thereafter said shorthand notes were transcribed

12 into typewriting by me and that the foregoing

13 transcript constitutes a full, true, and accurate

14 record of the proceedings had.

15 IN WITNESS WHEREOF, I have hereunto

16 set my hand and affixed my official seal of office

17 in the County of Clark, State of Nevada, this 5th

18 day of July, 2011.

19

20

21 *Cheryl Gardner*

22

23

24 CHERYL GARDNER, RMR-RPR, CCR 230

25

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**5/18/11**

## App. 1038

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4 IN THE EIGHTH JUDICIAL DISTRICT COURT  
5 CLARK COUNTY, NEVADA

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 ORIGINAL

8 THE STATE OF NEVADA, )

9 Plaintiff, )

10 vs. )

11 RICKIE SLAUGHTER, )

12 Defendant. )

Case No.  
C204957  
Dept. No. 3

8

13 -----

14

JURY TRIAL

15

16 Before the Honorable Douglas W. Herndon  
17 Thursday, May 19, 2011, 9:00 a.m.

18 Reporter's Transcript of Proceedings

19

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APPEARANCES:

21

22 For the State: Marc DiGiacomo, Esq.  
Michelle Fleck, Esq.  
Deputy District Attorneys

23 For the Defendant: Osvaldo Fumo, Esq.  
Dustin Marcello, Esq.

24

25 REPORTED BY: ROBERT A. CANGEMI, CCR No. 888

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Reporters Transcript  
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C E R T I F I C A T E

STATE OF NEVADA )

) SS.

CLARK COUNTY )

I, Robert A. Cangemi, CCR 888, do

hereby certify that I reported the foregoing proceedings, and that the same is true and accurate as reflected by my original machine shorthand notes taken at said time and place before the Hon. Douglas Herndon, District Court Judge presiding.

Dated at Las Vegas, Nevada this 10th  
day of August, 2011.

August, 2011.

Robert C. Angen

Robert A. Cangemi, CCR 888

Certified Court Reporter

Las Vegas, Nevada

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1 TRAN

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4 IN THE EIGHTH JUDICIAL DISTRICT COURT  
5 CLARK COUNTY, NEVADA  
6  
7

8 THE STATE OF NEVADA, )  
9 Plaintiff, )  
10 vs. ) Case No.  
11 RICKIE SLAUGHTER, ) C204957  
12 Defendant. ) Dept. No. 3  
13

14 JURY TRIAL

15 Before the Honorable Douglas W. Herndon  
16 Thursday, May 19, 2011, 9:00 a.m.  
17 Reporter's Transcript of Proceedings  
18

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REPORTED BY: ROBERT A. CANGEMI, CCR No. 888

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2  
3 Witness: D C RD RC FD  
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5  
6 Geoffrey Loftus 67 101 135  
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1 Las Vegas, Nevada, Thursday, May 19,  
2 2011

3 \* \* \* \* \*

4 (Thereupon, the following proceedings  
5 were conducted in open court and  
6 outside the presence of the jury.)  
7

8 THE COURT: Is there anything  
9 outside the presence?

10 MR. DiGIACOMO: Yes

11 THE COURT: We are on record  
12 State of Nevada versus Rickie  
13 Slaughter, 204957.

14 We are outside the presence  
15 of the jury.

16 Mr. Slaughter is present,  
17 Mr. Marcello.

18 The State's attorneys.

19 I did tell Mr. Fumo that he  
20 could excuse himself if he wasn't  
21 feeling well.

22 Go ahead.

23 MR. DiGIACOMO: Judge,  
24 Dr. Loftus is here. I previously  
25 talked to Mr. Fumo about the nature

1 of Dr. Loftus' testimony and what he  
2 relied upon.

3 Mr. Fumo represented to me it  
4 is just general testimony.  
5 Dr. Loftus was here this morning, so  
6 I asked him; what are you going to  
7 testify about?

8 He told me that not only has  
9 he read through the whole file, but  
10 he has seen all of the photo  
11 lineups.

12 He told me that he had seen  
13 not only the photo lineups admitted  
14 in evidence here, as well as copies  
15 of other photo lineups that have not  
16 been testified to.

17 Now, I believe for the most  
18 party I seen Dr. Loftus testify  
19 before, that he is going to keep his  
20 testimony general.

21 My position is going to be is  
22 the only photo lineup that he can  
23 refer to are the photo lineups that  
24 involve the photo lineups that were  
25 testified to in this case.

5

1 He cannot discuss other photo  
 2 lineups that are not in evidence.  
 3 One, it is not relevant.  
 4 2, it assumes facts not in  
 5 evidence. They would have to have  
 6 somebody else come in and testify to  
 7 those as to the identification, which  
 8 means you would have to bring all of  
 9 the witnesses back on the stand.  
 10 I want to make sure clear  
 11 that that is clear, that he is not  
 12 going to opine whether an  
 13 identification is good or bad.  
 14 I believe Dr. Loftus has been  
 15 good about saying that that is not my  
 16 province. He can talk about factors  
 17 and he can look at the 1 lineup in  
 18 evidence and say there's certain  
 19 factors about this that I find to be  
 20 good or bad without reaching ultimate  
 21 conclusions.  
 22 MR. FUMO: I just jumped in,  
 23 but we are not going to address the  
 24 lineups that were not viewed.  
 25 MR. DiGIACOMO: Then we are

6

1 good.  
 2 THE COURT: Is that only  
 3 thing we had?  
 4 MR. DiGIACOMO: The other  
 5 thing, I marked for purposes of  
 6 identification State's 137, which is  
 7 a copy of that call that was played  
 8 for Ms. Westbrook yesterday, so it is  
 9 marked for identification now, since  
 10 I didn't reference it during the  
 11 testimony.  
 12 THE COURT: That was one of  
 13 ones that was admitted already,  
 14 wasn't it?  
 15 MR. DiGIACOMO: No, it was  
 16 not.  
 17 -----  
 18 (Thereupon, the following proceedings  
 19 were had in open court and in the  
 20 presence of the jury.)  
 21 -----  
 22 THE COURT: All right.  
 23 Be seated. We are on the  
 24 record in 204957, State of Nevada  
 25 versus Rickie Slaughter, who is

7

1 present with his attorneys.  
 2 The State's attorneys are  
 3 present.  
 4 The jurors are present.  
 5 The defense may call their  
 6 next witness.  
 7 MR. MARCELLO: The defense  
 8 would call Tiffany Johnson to the  
 9 stand.  
 10  
 11 TIFFANY HOLLY,  
 12  
 13 who, being first duly sworn to tell the  
 14 truth, the whole truth, and nothing but the  
 15 truth, was examined and testified as  
 16 follows:  
 17  
 18 THE CLERK: State your full name  
 19 spelling your first and last name for  
 20 the record.  
 21 THE WITNESS: My name is  
 22 Tiffany, T-f-f-a-n-y, Holly,  
 23 H-o-l-l-y.  
 24  
 25

8

1 -----  
 2 DIRECT EXAMINATION  
 3 -----  
 4 BY MR. MARCELLO:  
 5 Q Good morning.  
 6 Ms. Holly, did your name used to be  
 7 Tiffany Johnson?  
 8 A Yes.  
 9 Q You have since had your name changed?  
 10 A Yes.  
 11 Q Is that the result of marriage or did  
 12 you change it on your own?  
 13 A Marriage.  
 14 Q You have become married since?  
 15 A Yes.  
 16 Q Recently?  
 17 A Yes.  
 18 Q Okay.  
 19 Do you know an individual by the name  
 20 of Rickie Slaughter?  
 21 A Yes.  
 22 Q And did you know this individual back  
 23 in 2004?  
 24 A Yes.  
 25 Q And did you and Mr. Slaughter have a

9

1 dating relationship at that time?

2 A Yes.

3 Q And were you also dating in June of

4 2004?

5 A Yes.

6 Q At the end June 26, 2004?

7 A Yes.

8 Q If you can tell me, do you recall an

9 incident occurring at the end of June in

10 2004?

11 A I recall that where we were living it

12 got raided.

13 Q When you say where you were living,

14 where were you living at?

15 A We were living off Charleston.

16 Q And you lived with Mr. Slaughter at

17 that time?

18 A Yes.

19 Q And approximately at that time, how

20 long had you been dating?

21 A Dating?

22 Q Or how long had you been in a

23 relationship at that time?

24 A About 2, 3 years. Almost about 3

25 years.

10

1 Q And if you can briefly describe to the

2 jury what is the incident that occurred near

3 the end of June?

4 A Well, where we were staying, our place

5 got raided and they came in.

6 Q Can you describe the circumstances of

7 the raid as you remember it?

8 A Well, I was in the shower.

9 Rickie was playing his video games.

10 I thought it was a gang, when I heard a

11 lot of clashing, then it got louder and the

12 next thing I know a police officer had his

13 gun drawn and I was in the shower.

14 Q Were you just getting out of the

15 shower or were you still in the shower?

16 A Still in the shower.

17 Q And an officer came in and had his gun

18 drawn?

19 A Yes.

20 Q Did he say anything to you?

21 A You need to get out of the shower.

22 And I got out. He gave me the

23 comforter off the bed.

24 Q Then where did he take you next?

25 A He then handcuffed me while I was in

11

1 the comforter and took me outside and sat me

2 on the ground outside by the door.

3 Q Did he tell you or give you any

4 indication of why he was there or why they

5 were going into your house?

6 A No.

7 Q After he sat you down on the step, did

8 any other officer speak with you?

9 A No, not until after they were done

10 searching the place.

11 Q Approximately how long did that take,

12 do you think?

13 A Maybe a good 20 minutes.

14 Q you were sitting outside in the

15 comforter?

16 A Yes.

17 Q In handcuffs?

18 A Yes.

19 Q It was about twenty minutes?

20 A About, yes.

21 Q After the SWAT officers completed

22 their sweep of your apartment, what happened

23 next?

24 A After they were all done, they let me

25 go back in and get dressed and sat me in the

12

1 car with another officer.

2 Q Do you recall who that officer was?

3 A No, I don't.

4 Q Did that officer speak with you?

5 A Yes. He was just telling me that I

6 need to tell them the truth. I know things

7 that I am not trying to tell him.

8 He told me I was a liar.

9 Q Did you have any idea what he was

10 referring to or asking you about?

11 A I kept asking him what are you talking

12 about. He said, you know what I am talking

13 about, don't act stupid.

14 He was cussing.

15 Q Did he say we are investigating

16 Mr. Slaughter or doing any investigation

17 whatsoever?

18 A No.

19 Q He said you are lying, you know

20 something about what I am investigating,

21 I am not going to tell you what exactly that

22 is?

23 A Right.

24 Q After this interview, approximately how

25 long did their interrogation last?

13

1 A In the car?

2 Q Yes.

3 A Maybe about a good 10 minutes.

4 Q After he concluded, what happened

5 next?

6 A Then I was put into another car and

7 then they took me down to the police

8 station.

9 Q They took you down to the police

10 station?

11 A Yes.

12 Q When you were at the police station,

13 did you speak with any officers there?

14 A Then I talked to Detective Prieto.

15 Q And what was the substance of that

16 discussion?

17 A Basically he wanted to know what time

18 he picked me up from work that day.

19 Q Who he is referring to?

20 A Rickie Slaughter.

21 Q What day; do you know what day he was

22 referring to?

23 A All I know is it was a Saturday. He

24 told me it was a Saturday.

25 Q So he said on the Saturday he wanted

14

1 to know what time Mr. Slaughter picked you

2 up?

3 A Yes.

4 Q What did you tell him?

5 A I didn't know really what was going

6 on. I told him that he did pick me up at

7 7:00 o'clock.

8 Q Did he continue to question you

9 about what time Mr. Slaughter picked you

10 up?

11 A Yes.

12 Q And you continued to tell him what

13 time he picked you up.

14 What time was that?

15 A 7:00 o'clock.

16 Q Did you say it could have been slightly

17 after 7:00 between 7:00 and 7:15?

18 A In another discussion, yes.

19 Q Now, at the time that he is questioning

20 you, and you indicated to him that it was

21 7:00 o'clock, had you had any contact with

22 Rickie between that discussion and the first

23 discussion that you had with the first

24 officer?

25 A No.

15

1 Q So you were taken directly from the

2 scene directly to the jail?

3 A Yes.

4 Q Sorry, to the police station?

5 A Yes.

6 Q To be interviewed?

7 A Yes.

8 Q You indicated it was 7:00 o'clock that

9 the Rickie picked you up on that Saturday

10 that he kept referring to?

11 A Yes.

12 Q Do you know approximately what time

13 of day this was that the raid occurred?

14 A It was late in the evening.

15 Q And had you worked that day?

16 A Yes.

17 Q Is it fair to say that you were off

18 work?

19 A Yes.

20 Q You may have been tired?

21 A Yes.

22 Q And when you were taken down to the

23 police station, do you know approximately

24 what time that was?

25 A No, I do not.

16

1 Q It was after the raid, correct?

2 A Yes.

3 Q Now, after you had your discussions

4 with Detective Prieto, what did he tell you

5 when you told him that Mr. Slaughter picked

6 you up at 7:00?

7 A He told me that he couldn't have, he

8 was somewhere else doing a crime, how could

9 he pick me up at 7:00, he was somewhere

10 committing a crime.

11 It would take him 30, 35 minutes to

12 pick me back up.

13 Q He said you were lying about what

14 time Mr. Slaughter picked you up then?

15 A Yes.

16 Q After the interview concluded, what

17 happened next?

18 A Another police officer took me back to

19 the apartment so I can get my stuff.

20 Q And when you arrived back at your

21 apartment, approximately what time was it?

22 A Early in the morning.

23 Q When you arrived at your apartment, can

24 you generally describe what the condition of

25 the apartment was?

17

1 A There was only a door and a window.  
 2 The door was off the hinges.  
 3 The window was shattered. Everything  
 4 was completely gone through.  
 5 Q When say everything was gone  
 6 through, all of your possessions in the  
 7 apartment?  
 8 A Yes. The bed was off the bed frame,  
 9 everything.  
 10 Q And after you arrived at the  
 11 apartment, approximately how long did you  
 12 stay at the apartment?  
 13 A I was there for maybe a good 30 minutes  
 14 until my ride picked me up.  
 15 Q Where did you go next?  
 16 A To my friend Tyson's house, who I  
 17 worked with.  
 18 Q As far as the detective that  
 19 questioned you, did you have any other  
 20 contact with him subsequent to the  
 21 interview that you had with him at the police  
 22 station?  
 23 A He had contacted me by phone when I was  
 24 at my grandfather's house and he kept telling  
 25 me that I need to talk to him.

18

1 He kept telling me I know more than I  
 2 am telling him.  
 3 I need to tell him. He was like, if I  
 4 don't tell him what he wanted to know, then  
 5 he can come arrest me.  
 6 Q He told you that he would arrest you if  
 7 you didn't tell what he wanted you to tell  
 8 him?  
 9 A He wanted me to tell him that Rickie  
 10 picked me up at a later time.  
 11 Q It was your feeling that he may take  
 12 you to jail for lying?  
 13 A Yes.  
 14 Q Now, did he ever make good on that  
 15 threat?  
 16 A Yes.  
 17 Q Can you tell me a little bit about  
 18 that?  
 19 A It was the next day or the day after.  
 20 I had arrived at work. I was there no more  
 21 than about 10 or 15 minutes.  
 22 He showed up with another officer. He  
 23 didn't say anything. He told me to turn-  
 24 around. He read me my rights and arrested  
 25 me.

19

1 Q And placed you in cuffs?  
 2 A Yes.  
 3 Q At your work?  
 4 A Yes.  
 5 Q Did he take you back to interview you a  
 6 third time?  
 7 A While we were in the car driving he  
 8 told me, let me know what he wants to hear.  
 9 We will go to the police station.  
 10 He said I won't go to the police  
 11 station if I told him. I said I  
 12 don't know anything about the situation.  
 13 I don't know what you want me to tell  
 14 you. He kept telling me I am lying, and I  
 15 ended up at the Detention Center.  
 16 Q As part of that interview, at any time  
 17 did you indicate to him that Mr. Slaughter  
 18 may have picked you up at 7:30?  
 19 A Yes.  
 20 Q You said he picked you up at 7:30?  
 21 A Yes.  
 22 Q During that the third interview?  
 23 A Yes.  
 24 Q After he placed you under arrest?  
 25 A Yes.

20

1 Q As far as the issue of why you didn't  
 2 know what occurred on June 26th, were you  
 3 employed at Eldorado Cleaners?  
 4 A Yes.  
 5 Q What shift were you working that  
 6 day?  
 7 Tell me, what time generally did you  
 8 work?  
 9 A I usually worked from 1 to 7 weekdays;  
 10 Saturdays, 7 to 7.  
 11 Q So on that Saturday you would have  
 12 gotten off at 7:00 o'clock?  
 13 A Yes.  
 14 Q And on that particular Saturday, do you  
 15 recall approximately what time you did get  
 16 off?  
 17 A Of the incident?  
 18 Q Yes.  
 19 A I usually get off at 7:00 o'clock. It  
 20 was usually about 5 minutes ahead.  
 21 Q Now, you have heard testimony  
 22 previously from a Mr. Arbuckle; do you know  
 23 who he is?  
 24 A Yes.  
 25 Q Who is he as you know him?

1 A He was the owner's son.  
 2 Q We have heard testimony from him that  
 3 he was waiting outside with you on June 26th,  
 4 does that sound right to you?  
 5 A He wasn't waiting with me.  
 6 Q Why wouldn't he be waiting outside with  
 7 you?  
 8 A I had left the cleaners and I went to,  
 9 I believe, 2 doors down to the Chinese  
 10 restaurant.  
 11 I sat in there waiting for Rickie while  
 12 Mr. Arbuckle was in the cleaners.  
 13 Q Rickie was picking you up from work?  
 14 A Yes.  
 15 Q You just worked a 12-hour shift?  
 16 A Yes.  
 17 Q How can you be sure that he picked up  
 18 between 7:00 and 7:15 on that day?  
 19 A The clock was a little bit fast, so  
 20 when I had left, I know it couldn't have been  
 21 too late.  
 22 He knew I was going to get upset at him  
 23 for picking me up too late. It had to have  
 24 been between 7:00 to 7:15; no later than  
 25 7:20.

1 Q If he would have been any later, you  
 2 would have remembered that?  
 3 A Yes.  
 4 Q When Rickie arrived to pick you up, do  
 5 you remember anything out of the ordinary  
 6 when he picked you up; did he seem nervous,  
 7 loud, in a hurry?  
 8 A No, he was just himself.  
 9 Q Was he squealing his tires coming into  
 10 the parking lot?  
 11 A No.  
 12 Q Doing anything erratic with the  
 13 vehicle?  
 14 A No.  
 15 Q You indicated that you had known  
 16 Mr. Slaughter, been in a relationship with  
 17 him for approximately 3 years?  
 18 A Yes.  
 19 Q Prior to this incident occurring, do  
 20 you recall Mr. Slaughter being injured where  
 21 he ended up in the hospital?  
 22 A Yes.  
 23 Q Can you tell me generally what was that  
 24 about?  
 25 A I was at home. It was late at night.

1 All I know is I got a call.  
 2 I heard that someone --  
 3 MR. DIGIACOMO: Objection as  
 4 to what she heard.  
 5 THE COURT: Hold on.  
 6 MR. MARCELLO: I can ask it a  
 7 different way.  
 8 Q And did you get a call from the  
 9 hospital asking you to come down?  
 10 A No, someone called me that he knew,  
 11 then I went to the hospital. He was in the  
 12 hospital.  
 13 Q What was he in the hospital for?  
 14 A He had got beaten up really bad.  
 15 Q Were you there when he got discharged,  
 16 or did you see him closely after he was  
 17 released from the hospital?  
 18 A I seen him after he was released.  
 19 Q Can you describe generally what his  
 20 condition was?  
 21 A His face was really swollen. He had  
 22 cuts in his face.  
 23 Q Any stitches?  
 24 A Yes.  
 25 Q A couple of stitches on his face?

1 A Yes.  
 2 Q And you said it was swollen; did he  
 3 have any black eyes?  
 4 A Yes.  
 5 Q And approximately when was this, the  
 6 best you can recall, when this hospital  
 7 incident happened?  
 8 A It was before this incident happened.  
 9 Q Before the raid happened?  
 10 A Yes.  
 11 Q But you remember it being in 2004?  
 12 A Yes.  
 13 Q Now, after the raid had occurred and  
 14 they had taken you into custody, you had no  
 15 contact with Mr. Slaughter prior to your  
 16 interview with Mr. Prieto, correct?  
 17 A Yes.  
 18 Q You did talk to him at jail for your  
 19 third interrogation with Mr. Prieto, is that  
 20 correct?  
 21 A Yes.  
 22 Q You indicated that you were in a  
 23 relationship for a long period of time with  
 24 Mr. Slaughter, and the way that you see him  
 25 in the courtroom, has he ever had dreadlocks



25

1 as long as you have known him?

2 A This is the first time I have seen him

3 with dreadlocks.

4 Q It looks good on him?

5 A It is okay.

6 Q Generally, in 2004 what was his hair

7 style?

8 A Clean cut.

9 Q Like a fade of some sort?

10 A Yes.

11 Q Did you ever know him to have long

12 braided hair at all?

13 A No.

14 Q I say long braided hair. He had it

15 nice and neat cut?

16 A Yes.

17 Q I am assuming, knowing Rickie, you have

18 known him a long period of time; over that

19 3-year period, acquainted with a lot of his

20 friends?

21 A No.

22 Q Were you acquainted with generally

23 anybody that would have come over that you

24 would have seen him hanging out with?

25 A No, never. They may have come

26

1 over, but I never sat down and had a

2 discussion with them.

3 Q You never met an individual by the name

4 of Eric Hawkins, correct?

5 A No.

6 Q Ever heard that name Eric Hawkins?

7 A Not that I recall.

8 MR. MARCELLO: No further

9 questions.

10 THE COURT: Mr. DiGiacomo.

11 -----

12 CROSS-EXAMINATION

13 -----

14 BY MR. DiGIACOMO:

15 Q Let's see if I can get this timing

16 straight.

17 You and Mr. Slaughter had a

18 relationship; can you tell me approximately

19 when that relationship began?

20 A Began?

21 Q Yes.

22 A I was a junior high school, I believe.

23 Q About what year?

24 How long before he was arrested

25 in June of 2004 were you with Mr.

27

1 Slaughter?

2 A About 2 years, maybe.

3 Q About 2 years.

4 How long did you live with

5 Mr. Slaughter?

6 A For about a month, maybe 2.

7 Q A month, maybe 2?

8 A Yes.

9 Q Prior to that month, you didn't live

10 with Mr. Slaughter, correct?

11 A Correct.

12 Q Who did Mr. Slaughter live with?

13 A With his aunt.

14 Q On the day in question, June 26, 2006,

15 I want to see if I can get the timeline --

16 2004, I am sorry -- timeline straight.

17 Mr. Slaughter has your green Taurus?

18 A Yes.

19 Q That's the one he took from your

20 apartment there with Mr. Slaughter?

21 A Yes.

22 Q At the time in 2004, Mr. Slaughter

23 doesn't have a job, correct?

24 A Correct.

25 Q He doesn't have any gainful

28

1 employment?

2 A Correct.

3 Q And in the morning time he has like \$70

4 or something like that, correct?

5 A If I can recall correctly, yes.

6 Q If I told you that's what you told the

7 police, does that sound correct?

8 A It sounds about right.

9 Q He drops you off at work.

10 What time did you start work

11 approximately that day?

12 A That Saturday, 7:00 in the morning.

13 Q 7:00 in the morning to 7 at night, 12

14 straight hours?

15 A Yes.

16 Q Arbuckle was your general manager or

17 manager of that store, his mother was the

18 owner, is that correct?

19 A Yes.

20 Q And will admit that Mr. Arbuckle was

21 working at Eldorado Cleaners that day with

22 you, he was there when the shop closed,

23 correct?

24 A Yes.

25 Q And that day Mr. Slaughter came and

29

1 he picked you up, correct?  
 2 A Yes.  
 3 Q And he picked you up in that green Ford  
 4 Taurus, correct?  
 5 A Yes.  
 6 Q There's a 22 caliber black revolver  
 7 with a wood handle and a 25 caliber silver  
 8 semi-automatic Ravens firearm, were any of  
 9 those yours?  
 10 A No.  
 11 Q Are they Rickie's?  
 12 A I don't know whose they are.  
 13 Q You kind of paused and smiled there for  
 14 a moment.  
 15 A No, I said I don't know whose those  
 16 are.  
 17 Q Did you loan your car to anybody  
 18 else?  
 19 A No.  
 20 Q So just you and Rickie, right?  
 21 A Yes.  
 22 Q So he picks you up, and you drive him  
 23 back to the apartment, correct?  
 24 A Yes.  
 25 Q You drop him off?

30

1 A Yes.  
 2 Q And there's multiple other people at  
 3 your apartment at that time, correct?  
 4 A I didn't go in the apartment.  
 5 Q You don't go in, you drop him off and  
 6 take the car with you?  
 7 A Yes.  
 8 Q He is on foot?  
 9 A I dropped him off, yes.  
 10 Q He is on foot. He doesn't have another  
 11 car?  
 12 A No.  
 13 Q You go somewhere and you come back  
 14 about 9:00 o'clock that night?  
 15 A I don't recall what time I came  
 16 back.  
 17 Q You went over to your grandfather's or  
 18 uncle's house?  
 19 A Grandfather's.  
 20 Q And you are talking to your sister  
 21 for a half-hour and then come back home,  
 22 correct?  
 23 A I don't recall if my sister was there.  
 24 I have my son, he was there.  
 25 Q You came home, right?

31

1 A Later on that night.  
 2 Q With your son or by yourself?  
 3 A By myself.  
 4 Q When you come home that night, there's  
 5 other people there with Mr. Slaughter at your  
 6 apartment, correct?  
 7 A Not that I recall, no.  
 8 Q Do you remember telling the police that  
 9 information?  
 10 A No.  
 11 Q We will get to that in a moment. Do  
 12 you know a guy named J.R.?  
 13 A I have heard of him.  
 14 Q When you say you have heard of him,  
 15 where did J.R. live?  
 16 A I don't know.  
 17 Q You don't remember telling the police  
 18 he lived a couple doors down in the apartment  
 19 complex you lived in, or is that a different  
 20 guy?  
 21 A I don't know exactly who you are  
 22 talking about. I don't recall the people  
 23 that lived a few doors down us.  
 24 Q Didn't you tell the police that the  
 25 only person on earth that you knew that

32

1 Rickie hung out with was J.R., who lived a  
 2 couple doors down, you don't know any of his  
 3 other friends, despite fact that you have  
 4 been in relationship with him for years.  
 5 Do you remember making those statements  
 6 to the police?  
 7 A Not that I recall. Probably so.  
 8 Q Have you seen your taped statement in a  
 9 while?  
 10 A A little while back.  
 11 Q I don't want to go through all of the  
 12 taped statement, but I want you to keep this  
 13 up here.  
 14 We are going to talk a little bit now  
 15 about how it is that you wind up getting  
 16 arrested.  
 17 Let's get back to the sequencing of  
 18 events.  
 19 Let me ask you this; does Mr. Slaughter  
 20 have a friend name Qwon or Jaqwon Richards?  
 21 A Probably so.  
 22 Q Probably so.  
 23 I mean you are with him for 3 years,  
 24 you don't know a single friend of his?  
 25 A He really didn't have his friends

33

1 around me like that.

2 Q 'Well, he didn't have his friends

3 around you. Let me ask you a different

4 question.

5 Do you remember when you came home

6 or when he picked you up, he now had \$100 or

7 \$200 more than he had that morning, the

8 \$70?

9 A He had some extra money.

10 Q You have no idea how Mr. Slaughter

11 came into that extra money, if he didn't have

12 a job, right?

13 A Usually he went to his aunt. His

14 family members used to help him out.

15 Q And he got an extra hundred bucks?

16 A I don't recall how much it was.

17 Q We will get to that in a moment, too.

18 All right. Now, you say that you got

19 arrested because you wouldn't tell the police

20 that it was 7:30.

21 Do you remember making that statement?

22 A Yes.

23 Q You testified to that here today,

24 right?

25 A Yes.

34

1 Q Okay.

2 So the cops hit your house, you said

3 you were in the shower, not sitting on the

4 bed with the SWAT officer with his rifle

5 through the window?

6 A I was in the shower.

7 Q You said a police officer took you

8 down, sat you in the car and you said you

9 didn't know nothing about nothing.

10 He didn't tell you what he was there

11 for, correct?

12 A Correct.

13 Q Then you said you went to the police

14 station. So this is the same time that

15 Mr. Slaughter gets arrested, correct?

16 A Yes.

17 Q And you go to the police station and

18 you talk to Detective Prieto and you tell him

19 7:00 o'clock?

20 A Yes.

21 Q Correct?

22 A Yes.

23 Q You get out of the police station,

24 right?

25 A Yes.

35

1 Q You go home, you go over to somebody's

2 house, you stay at somebody else's house and

3 talk to Mr. Slaughter at about 2 o'clock in

4 the afternoon, correct, while you are at

5 work?

6 A I don't recall what time it was.

7 Q Do you remember being at work the next

8 day talking to Mr. Slaughter?

9 A Probably so. I don't recall.

10 Q Let me ask you this; you had this

11 single conversation with Detective Prieto

12 were you claim that you said only 7:00

13 o'clock.

14 And then you go to work, and it is not

15 until days later that you wind up getting

16 arrested, is that correct, for obstructing

17 justice?

18 A It was a few days.

19 Q So on June 29th of 2004, your

20 story is that you were saying 7:00 o'clock,

21 correct?

22 A Yes.

23 MR. DiGIACOMO: Judge, I am

24 going to play a portion of State's

25 136 for the record.

36

1 This is on June 29, 2004,

2 shortly after 2:00 o'clock in the

3 afternoon.

4 (Thereupon the tape was played

5 for the witness and the jury.)

6 Q Did you hear yourself and hear

7 Mr. Slaughter, you told him that I was

8 there before 7:30.

9 Tell 7, did you hear that?

10 A Yes.

11 Q Were you lying to Rickie on this phone

12 call that you told Prieto 7, you are lying to

13 Rickie, you said before 7:30, or are you

14 mixing up your days on what you told

15 Detective Prieto?

16 A I don't recall.

17 Q As you sit here now, can we have the

18 truth; is it 7:00 or 7:30?

19 A It was between 7:00 and about 7:15.

20 Q So now it wasn't at 7:00

21 A Right.

22 Q Now, you said that Detective Prieto

23 arrested you because you wouldn't say 7:30,

24 do you remember that?

25 A Yes.

1 Q Didn't he arrest you because you refuse  
2 to tell him who Rickie's running partner was  
3 so he could figure out who the second person  
4 who shot Ivan was?

5 MR. FUMO: Objection, Your  
6 Honor.

7 THE COURT: Overruled, cross-  
8 examination.

9 Q You don't remember him telling that?

10 A No.

11 Q Do you think this is funny for not  
12 telling him who the other co-conspirators  
13 are?

14 A I don't recall that.

15 Q You don't recall any of that.

16 I want you to go to Tiffany Johnson 3,  
17 the transcript, page 7, counsel.

18 Do you remember the detective asking  
19 you questions; how many other people are  
20 there?

21 How many was there, 1, 2, 3?

22 And your answer being with J.R.

23 probably about 3 other people.

24 Who is J.R.?

25 A I don't remember J.R.

37

1 Q You don't remember J.R.

2 Can you tell me a single friend that  
3 Rickie Slaughter had?

4 A Only his best friend. I could tell you  
5 his best friend.

6 Q Who was that?

7 A Ryan.

8 Q Ryan.

9 A I had not seen Ryan in a while.

10 Q Was Ryan there that day?

11 A No.

12 Q Who is the J.R. guy?

13 A I don't remember J.R.

14 Q You would agree with me through this  
15 statement you refused to provide back  
16 in 2004 any friends of Rickie Slaughter's,  
17 correct?

18 A I didn't deny telling him something  
19 that I couldn't tell him.

20 Q So you just had no ability.

21 You talked about the \$100 before; page  
22 8, counsel.

23 Read the top of page 8 and see if it  
24 refreshes your memory that he had \$300 extra  
25 dollars.

38

1 Q Does that refresh your memory that he  
2 had extra money, he gave you \$100 of  
3 it?

4 MR. MARCELLO: I believe that the  
5 transcript doesn't say anything about \$300.  
6 He had an extra \$100 bill.

7 MR. DiGIACOMO: He can clean it up.

8 Q Line 221, the detective said; if he gave you a  
9 hundred, that means he had closer to \$300, correct?

10 A I don't know how much.

11 Q Did he give you \$100 to the best of your  
12 recollection that day?

13 A He may have. I don't remember.

14 Q He didn't tell you where it came from?

15 A No.

16 Q Okay.

17 So when you say you got arrested because you  
18 wouldn't give him 7:30, look at the bottom of page  
19 8, counsel.

20 The detective tells you; so why don't you come  
21 in here and lie to me, like you come in here each  
22 time and lie to me more.

23 Give me a little more information, okay.

24 I am going to tell you that this time is the  
25 time that I came home.

39

1 I am going to tell a little bit more,  
2 but I am going to tell you everything that I  
3 know, because in fact you know what happened.

4 If you don't know exactly what  
5 happened, you knew something did happen,  
6 because you were with somebody, because he  
7 was with somebody that he did it with, but  
8 you still seem to want to keep the  
9 information from us instead of helping.

10 Do you remember the detective telling  
11 you that?

12 A No.

13 Q We have already decided that you  
14 said on June 29, 2004, that was sometime near  
15 7:30 or before 7:30 that Mr. Slaughter picked  
16 you up.

17 MR. MARCELLO: Your Honor, I  
18 object to that. That misstate the  
19 testimony.

20 She already said it was  
21 between 7:00 and 7:20 is her  
22 timeline.

23 THE COURT: I note your  
24 objection for the record.

25 Overruled.

40

41  
1 Q You say don't remember J.R. In 2004  
2 page<sup>2</sup>-- Tiffany Johnson 3, page 3, do you  
3 remember telling the police that the only  
4 person I talked to is J.R.

5 That's the only person I know. Do you  
6 remember your telling the police that?

7 A Probably so, if that was who lived down  
8 from us, that's the only person I know.

9 Q And that's not Jaqwon Richards, who  
10 Rickie calls him Qwon on the phone call?

11 A I don't recall.

12 Q You indicated that Rickie always had a  
13 fade; do you remember testimony about that?  
14 Maybe that was a misstatement.

15 A He did always keep his haircut  
16 clean.

17 Q I will show you what has been marked as  
18 a Court exhibit, the booking photo of  
19 Mr. Slaughter on the 28th.

20 You recognize Mr. Slaughter, correct?

21 A Yes.

22 Q You would agree with me that those  
23 are corn rows or something similar to that in  
24 his hair, correct?

25 A Yes.

42  
1 Q Not a fade, right?

2 A Right.

3 Q When you were arrested by a police  
4 officer for obstructing justice in this case,  
5 whatever happened to that?

6 A I had time served. I had to pay a  
7 fine.

8 Q You were guilty of obstructing justice  
9 in this case, right?

10 A Yes.

11 Q One last thing.

12 Have you ever seen Rickie with a gun?

13 A I've seen him with one before.

14 Q What did it look like?

15 A I don't remember. It is probably  
16 small.

17 Q Big, small, black, silver, a revolver,  
18 a semi-automatic.

19 Do you remember?

20 A I don't know my guns.

21 MR. DiGIACOMO: You don't  
22 know your guns.

23 I have got nothing further.

24 Judge?

25 THE COURT: Mr. Marcello.

43  
1 -----  
2 REDIRECT EXAMINATION  
3 -----

4 BY MR. MARCELLO:

5 Q Tiffany, the interview that  
6 Mr. DiGiacomo just showed you, those occurred  
7 June 29th, correct?

8 When he showed you the date at the  
9 top?

10 A I didn't look at the date.

11 Q They occurred the same day as the  
12 raid occurred, correct, the first 2  
13 interviews?

14 MR. DiGIACOMO: I object.

15 THE COURT: As to --

16 MR. DiGIACOMO: I don't see  
17 the date that he is necessarily  
18 looking at.

19 MR. MARCELLO: She didn't  
20 remember.

21 THE COURT: Hold on.

22 MR. DiGIACOMO: I have a  
23 date of July 15th and July 20th, so I  
24 am not real sure.

25 MR. MARCELLO: It is the date

44  
1 of the transcription.

2 THE COURT: I will overrule  
3 the objection.

4 You can continue.

5 Q The 2 first interviews that you had  
6 with Detective Prieto, was that the day of  
7 the raid?

8 A The very first one, yes.

9 Q You had one right after the raid,  
10 they take you out of the apartment and  
11 placed you in the car and you had the  
12 interview with Prieto?

13 A Yes.

14 Q At the police station?

15 A Yes.

16 Q That interview was recorded?

17 A Yes.

18 Q At the interview you had not had an  
19 opportunity to speak to Mr. Slaughter before  
20 that interview, correct?

21 A Correct.

22 Q The second interview was right after  
23 they had taken you down to the police  
24 department, correct?

25 A Correct.

45

1 Q You did not have an opportunity to  
2 speak to Mr. Slaughter?

3 THE COURT: Are you talking  
4 about the same interview; she just  
5 said --

6 MR. MARCELLO: There were 2  
7 interviews on the same day. Early in  
8 the morning.

9 THE COURT: At the police  
10 station?

11 MR. MARCELLO: No, she has  
12 one was in the car before the police  
13 station and another one at the police  
14 station.

15 THE COURT: You asked about  
16 the car and she said no at the police  
17 station with regard to the interview  
18 with Detective Prieto.

19 The first interview was not  
20 with Detective Prieto.

21 A I was in a car with another  
22 officer.

23 Q I apologize.

24 The second interview that occurred at  
25 the station, did have you any opportunity

46

1 to speak to Mr. Slaughter before that  
2 interview?

3 A No.

4 Q Now, the third interview occurred  
5 some days later, correct, the third recorded  
6 interview after you were arrested?

7 A Yes.

8 Q In that interview, between the time  
9 of the first 2 interviews and that  
10 interview, you did have an opportunity to  
11 speak with Mr. Slaughter, correct?

12 A Yes.

13 Q And despite being able to speak with  
14 him in the third interview, you had  
15 actually told the Detective what he wanted  
16 to hear, that it could have been 7:30,  
17 correct?

18 A Correct.

19 Q Now, I am also going to show you the  
20 interview that you had with Detective  
21 Prieto, and do you recall as part of that  
22 interview --

23 MR. DiGIACOMO: Which one?

24 MR. MARCELLO: Number 3,  
25 designated DR0415160.

47

1 MR. DiGIACOMO: They used  
2 that for the whole thing.

3 The one dated June 29,  
4 2004.

5 MR. MARCELLO: This is when  
6 she got arrested.

7 Q So this is after you had been arrested;  
8 you do remember another interview with  
9 Detective Prieto, right?

10 A Yes.

11 Q And in the middle of this interview at  
12 the beginning he asks you where you are  
13 working at, correct?

14 He says do you have plans for your  
15 future and you tell him I am going to medical  
16 school.

17 Does that sound correct?

18 A Yes.

19 Q And later on he says; you tell them  
20 that you are enrolled in night school at  
21 college, correct?

22 A I was in morning classes, not night  
23 classes.

24 Q He implied to you this is not good  
25 and I am going to use the exact word;

48

1 what do you think this would do when you get  
2 a job later on and then you put on your  
3 application and they say, hey, Tiffany,  
4 what is this arrest about; what did it have  
5 to do with, and then you are charged with  
6 whatever crime is being committed, and  
7 then you have explain what you do when  
8 you go down for a job interview.

9 Do you remember him asking that you  
10 question?

11 A No.

12 Q It is on here, on this transcription  
13 that you are looking at, correct?

14 A Yes.

15 Q And then --

16 MR. MARCELLO: I apologize,  
17 Court's indulgence.

18 Q Now, as part of this interview that  
19 was in this third interview, did you get  
20 the impression that you were being coerced in  
21 any way?

22 A It felt like it.

23 Q And why did you feel coerced as part of  
24 this interview?

25 A Just because he kept on telling me

1 that -- this is for the interview before I  
 2 was arrested?  
 3 Q What is that?  
 4 A This is the interview before I was  
 5 arrested?  
 6 Q Yes.  
 7 A Because he kept on telling me I need  
 8 to help him. I need to help them with this  
 9 case.  
 10 I kept telling him I didn't know  
 11 anything. He kept on telling me, we will go  
 12 to the police station instead of going down  
 13 to the Detention Center, then I kept on  
 14 telling him, I didn't know anything, like I  
 15 said.  
 16 The next thing I knew, I was at the  
 17 Detention Center.  
 18 Q You had 3 recorded interviews,  
 19 correct?  
 20 A I don't remember if there was 3.  
 21 Q You were also then contacted multiple  
 22 times by the detective and spoke to  
 23 him?  
 24 A Yes.  
 25 Q At any point did you tell him

1 Mr. Slaughter receives money from his auntie?  
 2 A I told him that his mother and auntie  
 3 help him.  
 4 Q They would regularly give him cash?  
 5 A Yes.  
 6 Q Help him with the expenses related  
 7 to your child and housing expenses, things  
 8 like that?  
 9 A Yes.  
 10 Q That portion wasn't recorded,  
 11 correct?  
 12 A I don't remember.  
 13 Q Now, the State, Mr. DiGiacomo, showing  
 14 you the pictures of Rickie's hair that did  
 15 not have a fade cut to it?  
 16 A Correct.  
 17 Q Did that hair still appear to be  
 18 relatively short?  
 19 A Yes, it was short.  
 20 Q He could keep his hair short  
 21 whether it be a direct fade or just a slight  
 22 Afro?  
 23 A Usually it was clean cut. He did  
 24 have the short braids. They were never  
 25 long.

1 Q Tight braids near the skull?  
 2 A Yes.  
 3 Q And in that picture did you notice him  
 4 to have a black eye?  
 5 A I wasn't really looking at the  
 6 picture like that. I was just looking at  
 7 his hair.  
 8 Q Is the picture still up there?  
 9 A No.  
 10 Q Let me show you this picture  
 11 again.  
 12 In this picture his right eye or your  
 13 left appears that he has a black eye?  
 14 A Yes.  
 15 Q That's how you remember him  
 16 approximately about that time he had stitches  
 17 and a black eye?  
 18 A Yes. He was getting over his injuries  
 19 at that time.  
 20 MR. MARCELLO: No further  
 21 questions.  
 22 THE COURT: Mr. DiGiacomo.  
 23 MR. DiGIACOMO: I  
 24 move to admit the Court exhibit.  
 25 THE COURT: Any objection?

1 MR. MARCELLO: Approach, Your  
 2 Honor.  
 3 - - - - -  
 4 (Thereupon, the following proceedings  
 5 were conducted outside the hearing of  
 6 the jury at sidebar.)  
 7 - - - - -  
 8 THE COURT: All right. That  
 9 will be admitted.  
 10 MR. DiGIACOMO: Are we going  
 11 to mark it with the --  
 12 THE COURT: Next in order.  
 13 MR. DiGIACOMO: 137.  
 14 THE CLERK: 138.  
 15 MR. DiGIACOMO: 138.  
 16 - - - - -  
 17 RECROSS-EXAMINATION  
 18 - - - - -  
 19 BY MR. DiGIACOMO:  
 20 Q Now, ma'am, on redirect I think  
 21 your testimony was you felt like you were  
 22 being coerced days later, days later, after  
 23 you first went down to the police station,  
 24 when Detective Prieto was telling you, you  
 25 are not telling us the truth, you don't know

1 who his friends were because you are living  
2 with the guy, and you have been with him for  
3 years.

4 Do you remember that?

5 A Yes.

6 Q Look here at the transcript, June 29,  
7 2004, right; interview conducted with Tiffany  
8 Johnson, right?

9 A Um-hum, yes.

10 Q We are on page 2, and the question;  
11 now, could you give me a variance or at least  
12 just a little timeline of when he got there  
13 to pick you up?

14 Your answer on page 2; before 7:30,  
15 right?

16 A Yes.

17 Q So it wasn't at 7:00 o'clock on the  
18 29th, it was before 7:30, just like you said  
19 to Rickie on the phone.

20 Right?

21 A Yes.

22 MR. DIGIACOMO: Nothing  
23 further.

24 THE COURT: Mr. Marcello?

25 MR. MARCELLO: Just a few

1 questions on that.

2 THE COURT: Yes.

3 - - - - -

4 FURTHER DIRECT EXAMINATION

5 - - - - -

6 BY MR. MARCELLO:

7 Q Now that the jury has seen the  
8 picture, this is what you were referring to,  
9 this dark mark under his eye, that's the  
10 black eye you remember him having?

11 A Yes.

12 MR. MARCELLO: No further  
13 questions.

14 THE COURT: Anything from our  
15 jurors?

16 Approach.

17 - - - - -

18 (Thereupon, the following proceedings  
19 were conducted outside the hearing of  
20 the jury at sidebar.)

21 - - - - -

22 EXAMINATION

23 - - - - -

24 BY THE COURT:

25 Q All right.

1 Ms. Johnson, I have a few questions  
2 for you.

3 To begin with, how long before June  
4 26th of 2004 was it that you said  
5 Mr. Slaughter was in the hospital, days  
6 weeks, months?

7 A I can't recall how long it was.

8 It was a little bit before that  
9 happened.

10 Q Can you give us your best kind of  
11 guesstimate in terms of days, weeks,  
12 months?

13 A It wasn't months. I don't recall the  
14 month. I know it wasn't too long before this  
15 incident.

16 Maybe a few weeks. Maybe close to  
17 almost probably a month.

18 I am not sure.

19 Q Thank you.

20 Do you know of any records related to  
21 him being in the hospital?

22 Did you ever see any records or  
23 anything?

24 A No, I haven't seen any records. I  
25 was there when he was in the emergency

1 room.

2 Q Okay.

3 Do you remember how Mr. Slaughter was  
4 dressed when he picked you up on June 26,  
5 2004?

6 A Normal, regular clothes.

7 Q What would be normal?

8 A Probably some shorts or jeans and a  
9 T-shirt.

10 Q And approximately when did you end  
11 your relationship with Mr. Slaughter date-  
12 wise?

13 A After I would say about 2005,  
14 maybe.

15 Q Okay.

16 Do you know why Mr. Slaughter would  
17 call you at 1:45 a.m. approximately after he  
18 had been arrested and was in detention?

19 A The day of the incident?

20 Q After he was arrested and he was in  
21 detention, do you know, did he tell you why  
22 he was calling you?

23 A No. I know when we were -- when I  
24 was sitting outside, he tried to keep asking  
25 me if I was okay, so he called to see if I



1 was okay.  
 2 Q Did you know the young lady, Monique  
 3 Westbrook, who testified at this trial  
 4 earlier?  
 5 A No.  
 6 Q Do you know approximately how many  
 7 times Mr. Slaughter called you while he was  
 8 in detention?  
 9 A No.  
 10 Q Okay.  
 11 Any estimation 1, 5, 10, anything like  
 12 that?  
 13 A A few times.  
 14 Q When Mr. Slaughter was in custody, did  
 15 he ask you to keep quite with the police and  
 16 not talk to them?  
 17 A He did. He told me I don't have to say  
 18 anything if I don't want to.  
 19 Q What is your general impression in  
 20 general of the police?  
 21 A I mean, they do what they have to  
 22 do.  
 23 Q All right.  
 24 You said you have seen Mr. Slaughter  
 25 with a gun or guns prior, when you testified

1 earlier, do you know are where he would keep  
 2 or store them in your apartment?  
 3 A No.  
 4 Q Not in your apartment or you don't  
 5 know where he stored them?  
 6 A I don't know where he put them.  
 7 Q Okay.  
 8 When you got picked up on June 26,  
 9 2004, what car was Mr. Slaughter  
 10 using?  
 11 A My green Taurus.  
 12 Q Did you notice any kind of  
 13 excessive moisture on Mr. Slaughter's  
 14 skin or change in his mood or behavior when  
 15 he picked you up?  
 16 A No, he was the same.  
 17 Q Did you smell anything unusual in the  
 18 car, cleaning fluid, Clorox, anything like  
 19 that?  
 20 Do you recall?  
 21 A No.  
 22 Q Did he tell you anything about the  
 23 car's involvement with a shooting?  
 24 A No.  
 25 Q Did you notice any changes in the car,

1 dents, anything like that?  
 2 A No.  
 3 Q Okay.  
 4 At the time of your relationship on  
 5 June 26th, were you and Mr. Slaughter both on  
 6 financial need?  
 7 A Not really. I was working.  
 8 Q Was your salary enough for the both  
 9 of you?  
 10 A It paid the bills for the most  
 11 part.  
 12 Q The owner of the store, Mr.  
 13 Arbuckle, stated that you left later than  
 14 7:30 p.m.; did you leave at 7:15 or 7:30, or  
 15 after?  
 16 A I had left before he did out of the  
 17 cleaners.  
 18 Q Well, from the area.  
 19 A He left before me, actually.  
 20 THE COURT: All right.  
 21 Mr. Marcello, Do you have any  
 22 questions based on mine?

23 - - - - -  
 24 FURTHER DIRECT EXAMINATION  
 25 - - - - -

1 BY MR. MARCELLO:  
 2 Q Do you know approximately what time  
 3 Mr. Arbuckle left?  
 4 A I would say a little bit before  
 5 Rickie picked me up.  
 6 When he was leaving the parking lot,  
 7 Rickie was coming in the parking lot.  
 8 Q They had a question about the inside of  
 9 the car.  
 10 What was the general cleanliness of  
 11 the inside of the vehicle?  
 12 A It was the same as it was any other  
 13 day.  
 14 Q Would you characterize it as  
 15 messy?  
 16 A We probably had stuff in there from the  
 17 baby or some personal items.  
 18 Q So generally would you consider it  
 19 cluttered?  
 20 A Maybe a little bit.  
 21 Q Between the time of where they had  
 22 the raid and the time where Mr. Slaughter  
 23 picked you up that Saturday, did  
 24 Mr. Slaughter clean out the car?  
 25 A No.

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1 Q You still would consider it cluttered  
 2 when the police raided it?  
 3 A Yes, it was the same.  
 4 Q And at this time, you were how old at  
 5 this time, 19?  
 6 A I think so.  
 7 Q 2004, how old you were in 2004?  
 8 A Yes, I was about to turn 20.  
 9 MR. MARCELLO: And if I can  
 10 show her pictures of the inside of  
 11 the car, proposed exhibits --  
 12 THE COURT: They have got  
 13 to be admitted before you publish  
 14 them.  
 15 MR. MARCELLO: I am going to  
 16 show you some pictures. These are  
 17 going to be -- could I just do them  
 18 all as one proposed exhibit?  
 19 THE COURT: Is there any  
 20 objection to the photos?  
 21 MR. DiGIACOMO: No, Judge.  
 22 THE COURT: Then they will be  
 23 admitted as defense exhibits,  
 24 whatever is next in order.  
 25 Q What was your impression of

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1 Detective Prieto?  
 2 A He was, I guess, just a person that  
 3 tried to get his point across.  
 4 Q Was he intimidating to you?  
 5 A Yes.  
 6 Q What was his general appearance to you,  
 7 as you recall?  
 8 Was he tall, short, fat?  
 9 A Tall.  
 10 Q How tall?  
 11 A I am not sure, taller than me.  
 12 Q Taller than you?  
 13 A Yes.  
 14 Q Taller than me. That's not very hard  
 15 to do. Maybe taller about 6-2 to 6-3?  
 16 A I am 5-5, so he is maybe about 6 feet,  
 17 maybe, almost.  
 18 Q About those jail calls that the jurors  
 19 asked you about, you didn't have any calls  
 20 with him before your first 2 interviews,  
 21 correct, with Mr. Slaughter.  
 22 The day of the raid you had an  
 23 interview outside in the car, when they had  
 24 taken you out; and you had another interview  
 25 when they took you to the station.

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1 You had no contact with Mr. Slaughter  
 2 before those 2 interviews?  
 3 A No.  
 4 Q And after that, he called you to make  
 5 sure you were okay?  
 6 A Yes.  
 7 MR. MARCELLO: These will be  
 8 proposed Exhibit K -- sorry, D, E, F,  
 9 G, H, I, J and K.  
 10 I just going to go through  
 11 them one at a time.  
 12 THE COURT: Okay.  
 13 Q This appears to be the back seat of  
 14 your vehicle, does that look familiar to  
 15 you?  
 16 Does that look like the inside of your  
 17 vehicle?  
 18 A Yes.  
 19 Q The general trim, I know it is a  
 20 little bit upside down, but that's the back  
 21 seat?  
 22 A Yes.  
 23 Q There's a bunch of clutter there on the  
 24 ground?  
 25 A Yes.

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1 Q This looks like a picture of the  
 2 front seat, the front dashboard, there is  
 3 change on floor and a coat hanger?  
 4 A Yes.  
 5 Q This is the back seat. It looks like  
 6 there is all kinds of stuff.  
 7 I don't know what that is, a flip-flop,  
 8 speakers?  
 9 A A baby sheet.  
 10 Q And that's another picture of the  
 11 back and it looks like a big Coke cup there.  
 12 That is the front seat. Is that  
 13 how you remember it back in 2004, this  
 14 vehicle?  
 15 A Yes.  
 16 Q And another picture of the front seat  
 17 and a side picture, this is all the back  
 18 seat, right there; look familiar?  
 19 A Yes.  
 20 Q 1 final, 1 toilet brush and there is  
 21 clutter in the back?  
 22 A A baby bottle.  
 23 Q A baby bottle cleaner, and that was the  
 24 condition that it looked like at the time  
 25 that they had raided your house?

65

1 A Yes.

2 MR. MARCELLO: And so, Judge,

3 at this time I seek to admit Defense

4 Proposed Exhibits D through K.

5 THE COURT: They are already

6 admitted.

7 Any objection?

8 MR. DiGIACOMO: No.

9 Q So, is it fair to say that

10 Mr. Slaughter didn't clean out the car at

11 any point prior to this raid occurring?

12 A Correct.

13 Q I guess wanted to make it clear about

14 the jail calls.

15 You had no jail calls with him before

16 those first 2 interviews?

17 A Correct.

18 Q Even though you later told the

19 officer 7:30 in the third interview,

20 you talked to Rickie in between that

21 time?

22 A Yes.

23 Q And you still told the officer

24 that it may have been 7:30, that's what he

25 wanted to hear?

66

1 A Yes.

2 MR. MARCELLO: No further

3 questions.

4 THE COURT: Mr. DiGiacomo.

5 MR. DiGIACOMO: Nothing

6 further.

7 THE COURT: Ms., you are

8 excused.

9 Thank you for your time.

10 The defense may call its next

11 witness.

12 MR. FUMO: The defense calls

13 Detective Geoffrey Loftus.

14

15 GEOFFREY LOFTUS,

16

17 who, being first duly sworn to tell the

18 truth, the whole truth, and nothing but the

19 truth, was examined and testified as

20 follows:

21

22 THE CLERK: Please be

23 seated. State your name, spelling

24 your first and last name for the

25 record.

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1 THE WITNESS: My name is

2 Geoffrey, G-e-o-f-f-r-e-y, Loftus,

3 L-o-f-t-u-s.

4 - - - -

5 DIRECT EXAMINATION

6 - - - -

7 BY MR. FUMO:

8 Q What is your occupation?

9 A I am a professor in the Department of

10 Psychology at the University of Washington,

11 Seattle.

12 Q Tell the jurors about your educational

13 background?

14 A I have a Bachelor of Arts degree

15 in Experimental Psychology from Brown

16 University in 1967.

17 Then I got a Ph.D. a doctorate, also

18 in Experimental Psychology from Stanford

19 University in 1971.

20 Then I did a year of postdoctoral

21 work at New York University.

22 I went to the University of

23 Washington as a faculty member in 1972.

24 Q That's good.

25 A Except for a year in the mid-'90s,

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1 where I spent teaching at MIT, I have pretty

2 much been there ever since.

3 Q As a faculty member at the University

4 of Washington, do you do research?

5 A Yes.

6 Q What is your general research

7 area?

8 A My general research area that I have

9 been doing for the last 40, 50 years, has to

10 human perception.

11 That is the study of how people get

12 information from the world into their brains,

13 through their sense organs, their eyes, ears,

14 and the study of human memory, of how

15 information once in your brain is maintained

16 there, transformed, added to, and then later

17 used for any task that you want to do that

18 involves memory, which is most of the things

19 that we do.

20 Q You said you are a experimental

21 psychologist, how does that differ from a

22 clinical psychologist?

23 A Well, as your question suggested, the

24 field of psychology is broadly divided into 2

25 general areas, clinical psychology on the one

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1 hand, and experimental psychology on the  
 2 other.  
 3 A clinical psychologist is probably  
 4 most people's image of a psychologist. A  
 5 clinical psychologist is a practitioner,  
 6 somebody who sees clients to deal with some  
 7 sorts of psychological problem, fear of  
 8 snakes, whatever.  
 9 An experimental psychologist like me is  
 10 not a clinician. We don't see patients.  
 11 Instead, an experimental psychologist is  
 12 fundamentally a scientist, somebody who does  
 13 experiments, collects data, develops theories  
 14 in an effort to understand how normal people  
 15 operate.  
 16 In my case, to understand how people  
 17 get information from the world and store  
 18 it in their brains.  
 19 That's the basic distinction.  
 20 Q Have you ever written a journal  
 21 article?  
 22 A Probably 100 or so and book chapters,  
 23 80 percent of them on my main research area  
 24 of human perception and memory.  
 25 Q Have you been invited to give any

70

1 presentations to say peers?  
 2 A I have been invited probably 120 to 130  
 3 times over the last 30, 40 years by various  
 4 universities and organizations in this  
 5 country and other countries to talk about  
 6 the basic research that I do and applications  
 7 of it to various fields.  
 8 Q In your research, has it been supported  
 9 by any grants?  
 10 A It has. My research has been  
 11 supported by federal agencies, the National  
 12 Science Foundation and the National  
 13 Institute of Health since 1973.  
 14 Q Do you do any journal editing?  
 15 A I do. I spent 4 years as editor of one  
 16 of the major journals.  
 17 I spent another 25 as the associate  
 18 editor of another of our major journals.  
 19 At any given time I am sitting on  
 20 various editorial boards.  
 21 At the moment I am on the editorial  
 22 board of a journal called Psychological  
 23 Review.  
 24 Q Grant reviewing, have you done  
 25 that?

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1 A The same thing, I have consulted for  
 2 the government on a formal basis for 2 4-year  
 3 stints informally in between reviewing grant  
 4 proposals from them that are submitted to  
 5 the various government agencies by people  
 6 who want the agencies to fund their  
 7 research.  
 8 And I, along with other people  
 9 in my field, make recommendations to the  
 10 government agencies about which of the grant  
 11 proposals are worthy of being funded by the  
 12 government.  
 13 Q Have you ever been qualified as an  
 14 expert in perception and memory?  
 15 A I have quite a few time over the past  
 16 30 years.  
 17 Q Where have you testified before?  
 18 A I have testified in Court's like this  
 19 one in a variety of counties in 13 different  
 20 states, I believe.  
 21 I testified in Federal Court in 11  
 22 different cities.  
 23 I have testified in Military Court, at  
 24 U.S. Naval Court Martial in Italy.  
 25 And I have testified in Canadian Court

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1 in Winnipeg, Manitoba.  
 2 Q You testified here in Nevada, you  
 3 said?  
 4 A Yes.  
 5 Q Clark County?  
 6 A Yes.  
 7 Q Have you been deemed an expert here in  
 8 Clark County before?  
 9 A Yes.  
 10 MR. FUMO: Your Honor, I ask  
 11 you to accept Mr. Loftus as an expert  
 12 in his field related to his degrees  
 13 for the jury.  
 14 THE COURT: Mr. DiGiacomo.  
 15 MR. DIGIACOMO: I don't think  
 16 it is appropriate.  
 17 THE COURT: Is there any  
 18 objection to his qualifications to  
 19 offer opinions?  
 20 MS. FLECK: No objection to  
 21 his qualifications.  
 22 THE COURT: I do find  
 23 Dr. Loftus does have the education,  
 24 training, skill and experience,  
 25 ladies and gentlemen, to offer

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1 opinions in his areas of  
2 expertise.  
3 MR. FUMO: Thank you, Your  
4 Honor.  
5 Q Have you testified in criminal cases  
6 before?  
7 A I have, yes.  
8 Q Have you ever testified for the  
9 prosecution in a criminal case?  
10 A In a criminal case I only testified for  
11 the defense.  
12 Q Ever testified for the police or  
13 prosecutors in civil cases?  
14 A I have worked for prosecutors  
15 in civil cases.  
16 I worked for prosecutors offices.  
17 I've worked and testified on behalf of  
18 police officers in a variety of different  
19 place, including here in Las Vegas,  
20 too.  
21 Q In a criminal case would you  
22 testify for the government if they asked you  
23 to?  
24 A Sure. In 2 instances prosecutors  
25 did ask me to work with them on cases.

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1 I agreed in both instances. The  
2 cases settled, disappeared before I had a  
3 chance to testify.  
4 Q You are compensated for your time?  
5 A Yes. I charge \$250 an hour for any  
6 kind of consulting work that I do.  
7 Q I want to talk to you about -- there's  
8 a generally accepted theory of how perception  
9 work?  
10 A Correct.  
11 Q How does memory begin?  
12 A I could lecture on this for weeks.  
13 What I can do instead, if you like,  
14 is to talk about 3 sort of elements of our  
15 general understanding of how memory works  
16 that I think is most relevant to legal issues  
17 like you are dealing with here, okay.  
18 Q Thank you.  
19 A Right.  
20 So, as I said, I will talk about 3  
21 bullet points about our general understanding  
22 of how memory works.  
23 So, to begin with, it is useful to  
24 imagine yourself experiencing some complex  
25 real world event, the details of which it is

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1 going to be important to remember later  
2 on.  
3 This event could be a crime, like the  
4 one that is the focus of this case.  
5 It could be a wedding, a basketball  
6 game, whatever.  
7 So, to begin with, when you are  
8 experiencing this event, it isn't the case  
9 that your brain is recording in a videotape  
10 like fashion all of the information that  
11 comes into it from the world via your sense  
12 organs, eyes, ears.  
13 That's not what happening.  
14 Instead, as you experience an event,  
15 you get fragments, you get disorganized bits  
16 and pieces of information from the event as  
17 it is happening.  
18 So, just to provide an example to make  
19 it concrete, let's imagine that you are  
20 walking along the street and you see a car  
21 accident, 2 cars collide.  
22 As this original accident is taking  
23 place, you will get bits and pieces of  
24 information about what happened.  
25 Maybe you will remember the 2 cars

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1 approached from different directions, right  
2 angles to each other.  
3 Maybe you will remember hearing the  
4 screech of tires, broken glass flying in one  
5 direction or another.  
6 That will basically be it in terms of  
7 your initial information that you get from  
8 the event.  
9 So the point I want to make here is  
10 that any memory begins life as a collection  
11 of disorganized, disjointed, random bits and  
12 pieces of information from the event that you  
13 experienced.  
14 Now, when you think about some event  
15 that you have experienced, when you recall it  
16 to your memory, it doesn't seem as if you are  
17 looking back at random fragments of  
18 information.  
19 In stead it seems as if you are  
20 remembering something a lot more coherent and  
21 organized, and you are, which gets me to my  
22 second point, which is that; again, unlike a  
23 physical display medium, a DVD, a memory  
24 isn't cast in concrete at the time that it  
25 is originally formed.

1 Instead, the memory is something  
2 that changes over time and sometimes it  
3 changes a lot.

4 So, changes take places mostly in the  
5 form of addition to memory of what we refer  
6 to as post-event information.

7 Post-event information as the name  
8 implies, is information that you get about  
9 some event that you have experienced after  
10 the event is over, and then add it to your  
11 memory.

12 So, going back to my car accident  
13 example, let's imagine that the crash  
14 occurred, you are waiting around to see  
15 what is going to happen and you overhear  
16 another witness saying that the driver of the  
17 white car was drunk when the accident  
18 occurred.

19 Well, that's something that is a  
20 piece of post-event information that you  
21 may incorporate into your memory for the  
22 accident.

23 In addition, you may use this piece  
24 of information to make inferences about other  
25 things that may have happened.

1 For example, now rethinking the  
2 accident, you infer that the white car with  
3 the drunk driver ran the stop sign, perhaps  
4 that's what caused the accident.

5 So, information like this get added to  
6 memory as it does, a memory becomes more  
7 complete.

8 It becomes more detailed.

9 It becomes a memory that you express  
10 with a great deal of confidence.

11 And it becomes a memory in short  
12 that may be very different from the  
13 fragmented memory that you started with  
14 initially.

15 Now, the third and final point I want  
16 to make is that although people do develop  
17 these kind of memories that are very  
18 strong, very detailed memories that people  
19 will testify about under oath in a court of  
20 law are not memories that are necessarily  
21 accurate.

22 Again, going back to my car crash  
23 example, although you made an inference that  
24 the car ran the stop sign and stored it in  
25 your memory, where it now becomes an integral

1 part of your memory, maybe it is false.

2 Let's suppose the white car never did  
3 run the stop sign. So, although you will, as  
4 I said, testify that you saw the car run the  
5 stop sign, in a Court of law, you do it  
6 because you honestly believe it happened.

7 It is part of your memory for the  
8 event. It is nevertheless false.

9 A great deal of effort over the last  
10 couple of decades in the field of memory has  
11 gone towards investigating these kind of  
12 memories that people develop that are very  
13 strong, very detailed, real seeming to the  
14 witnesses that have them, memories described  
15 with a great deal of confidence and  
16 conviction; and memories that are false.

17 These are important for understanding  
18 how memory works.

19 They are also important in practical  
20 situations. If you are interested in  
21 something that happened, all you have to  
22 go on is a witness' memory, you want to be  
23 able to make a determination of whether this  
24 memory expressed by the witness, confident  
25 though the witness may be in expressing it,

1 is truly a memory that represents what  
2 actually happened, or whether it is a memory  
3 that is potentially false because it is based  
4 on post-event information that is itself of  
5 dubious accuracy.

6 In a brief nutshell, that's how memory  
7 works.

8 Q Under the right circumstances people  
9 can confidentially remember things as they  
10 actually occurred?

11 A That's correct.

12 Q Under the right circumstances,  
13 would you agree that people can remember  
14 things that differ in important ways from the  
15 event that has actually occurred?

16 A Yes.

17 Q It seems that important consequences,  
18 that witnesses could competently misidentify  
19 say the perpetrator of a crime?

20 A Absolutely.

21 Q Have there been demonstrations of  
22 these kinds of misidentifications in real  
23 crimes?

24 A There have been. The most compelling  
25 demonstrations of these kinds of

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1 misidentification is based on competent yet false  
 2 memories come from cases in which a defendant has  
 3 gone to trial, accused of some crime, has been  
 4 convicted of that crime, sent to jail and  
 5 subsequently exonerated, unequivocally to be  
 6 innocent typically, not always, based on DNA  
 7 comparisons between the convicted person and the  
 8 actual perpetrator.

9 What is interesting and relevant to me  
 10 as a memory researcher, is that the reason the  
 11 majority of these convicted but exonerated  
 12 individuals got convicted to begin with was  
 13 because a witness eyewitness came into Court and  
 14 they very competently identified the Defendant as  
 15 the person they saw commit the crime.

16 These witnesses testified very honestly based  
 17 on a memory that seemed very real to them and  
 18 nevertheless, it was a memory that was false, as  
 19 demonstrated by the fact that the Defendant was  
 20 subsequently discovered to have been innocent of the  
 21 crime for which he was convicted, which means the  
 22 witness was incorrect in his or her identification.

23 Q Witnesses, does that mean that sometimes a  
 24 defendant was incorrectly identified by more than  
 25 one witness?

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1 A It does mean that.

2 There was a guy, whose name I believe  
 3 was Bloodworth, who was convicted of a crime  
 4 based on confident identification of, I  
 5 believe 5 eyewitnesses, all of them turned  
 6 out to be faulty in their memory of what the  
 7 perpetrator looked like.

8 Q And there was an exoneration?

9 A He was subsequently exonerated and  
 10 discovered not to be the person who committed  
 11 the crime, and not to be the person who the  
 12 5 eyewitnesses believed he was.

13 Q How was he exonerated finally?

14 A Based on DNA comparison.

15 Q In most cases do perpetrators leave DNA  
 16 behind?

17 A No.

18 MS. FLECK: I object. It is  
 19 beyond the scope of his expertise as  
 20 to how often criminals leave any kind  
 21 of forensic evidence.

22 THE COURT: Mr. Fumo.

23 MR. FUMO: He studied these  
 24 cases before.

25 THE COURT: Why don't you

83

1 approach the bench quick.

2 - - - - -

3 (Thereupon, the following proceedings  
 4 were conducted in open court and  
 5 outside the hearing of the jury at  
 6 sidebar.)

7 - - - - -

8 THE COURT: Okay. We will  
 9 take a short recess.

10 We are going to try to finish  
 11 Dr. Loftus before we take a lunch  
 12 break.

13 This is going to be about 15  
 14 minutes.

15 - - - - -

16 (Thereupon, the jury was admonished by  
 17 the Court.)

18 - - - - -

19 (Thereupon, the following proceedings  
 20 were conducted in open court and  
 21 outside the presence of the jury.)

22 - - - - -

23 THE COURT: We are outside  
 24 the presence.

25 Do you all have anything

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1 outside the presence that you wanted  
 2 to discuss about what we talked about  
 3 at the bench?

4 MR. DiGIACOMO: Yes. At some  
 5 point he went a little far, when he  
 6 talked about a specific case. I know  
 7 Mr. Fumo wasn't in here.

8 I would also like an  
 9 instruction from the Court that the  
 10 jury is to disregard that testimony.

11 I don't think that he has any  
 12 personal knowledge of facts of that  
 13 case.

14 I hear the term exoneration  
 15 all the time and when you go back and  
 16 look at the information, I am not  
 17 sure that exoneration means actually  
 18 innocent, so I think the Court should  
 19 instruct the jury to disregard any  
 20 testimony considering the pretrial  
 21 ruling of the Court as to any  
 22 specific case and that he is going to  
 23 just get to the general factors that  
 24 affect memory or non-memory.

25 THE COURT: First, I am not

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1 going to find that it is Dr. Loftus'  
2 fault. It is the failure to  
3 communicate.  
4 We discussed Dr. Loftus'  
5 testimony when Mr. Fumo was outside.  
6 Mr. DiGiacomo was raising the issue  
7 of -- my understanding is -- this  
8 will focus itself on generalities and  
9 not discuss specific cases in any  
10 fashion, opinions as to whether other  
11 persons were exonerated or not, so we  
12 are not having to parse through the  
13 facts of identification.  
14 That's when you came in and  
15 you talked with Mr. DiGiacomo about  
16 the separate issue of photo  
17 lineups.  
18 It is probably my fault  
19 Ozzy. I think you said we are not  
20 going to go into the lineup issues.  
21 MR. FUMO: As to the lineup  
22 issues that were never identified in  
23 Court, I do want to discuss the  
24 background of the ones that they did  
25 identify Mr. Slaughter in.

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1 THE COURT: There is a danger  
2 to start going into talking about  
3 other situations in which people may  
4 or may not have been identified and  
5 may or may have not had improper  
6 identification, and may have been  
7 found guilty or not guilty later  
8 on.  
9 These folks don't know  
10 about those cases. Let's go ahead  
11 and move on from there.  
12 MR. FUMO: What I can do is  
13 move on to the next topic.  
14 I can just go into another  
15 generality. I won't discuss other  
16 facts of other cases or anything of  
17 those people that were actually  
18 exonerated by DNA, so we will  
19 move on Mr. Slaughter's part of the  
20 case.  
21 MR. DiGIACOMO: I would still  
22 ask the Court to tell them to  
23 disregard any testimony of that.  
24 THE COURT: I will, about the  
25 last issue about discussing a

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1 particular case.  
2 Now will be in recess.  
3 - - - - -  
4 (Recess taken.)  
5 - - - - -  
6 (Thereupon, the following proceedings  
7 were had in open court and in the  
8 presence of the jury.)  
9 - - - - -  
10 THE COURT: Everybody be  
11 seated.  
12 We are back on the record in  
13 204957, State of Nevada versus Rickie  
14 Slaughter.  
15 Mr. Slaughter is present with  
16 his attorneys.  
17 The state's attorneys are  
18 present.  
19 Our jurors are present.  
20 We are going to continue on  
21 with the testimony of Dr. Loftus.  
22 I remind you that you are  
23 still under oath.  
24 THE WITNESS: Okay.  
25 THE COURT: Ladies and

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1 gentlemen, I also order you to  
2 disregard and ordered stricken, right  
3 before the break Dr. Loftus made  
4 reference to another situation that  
5 he was aware of, another case, in  
6 which he was stating that somebody  
7 had been identified and then had been  
8 exonerated.  
9 I order you to disregard that  
10 statement about some other case and  
11 what occurred there.  
12 Mr. Fumo, you can continue.  
13 Q Doctor, in general, what do scientists  
14 mean by the term attention?  
15 A To tell you what scientists mean  
16 by the term attention, I have to give you  
17 2 pieces of foundational information.  
18 To begin with, everybody is trying at  
19 any given instance to accomplish some task.  
20 This task could be as simple as  
21 holding a cup of water or doing brain  
22 surgery or anything in between, but we are  
23 always trying to do something.  
24 The second thing I have got to tell you  
25 is that any human, at any given moment is



1 being assaulted by an enormous amount of  
2 information from the world entering the brain  
3 through their sense organs, the ears and  
4 eyes, so on.

5 Of this huge amount of information  
6 that is entering the brain any given  
7 instance, only some small portion of it is  
8 ever relevant to the task that we are trying  
9 to accomplish. The vast majority is  
10 irrelevant.

11 What this means is we have to have  
12 some sort of filtering system to screen out  
13 the irrelevant information and through only  
14 the small portion of information that is  
15 relevant.

16 If we didn't have this screening  
17 process, then the irrelevant information  
18 would overwhelm the relevant information  
19 and there would be information  
20 overload.

21 So, when you look at the sense organs,  
22 the eyes, ears, so on, the pieces of the  
23 brain, they are attached to, what you  
24 discover is that there are major design  
25 features, a set of neurological filters

1 designed to screen out information in various  
2 flexible ways, and this collection of filters  
3 is basically what we mean when we refer to  
4 as attention.

5 You can think of attention as like a  
6 spotlight beam that moves from one part of  
7 the world to another.

8 Whatever is in this spotlight beam is  
9 what is being paid continuing to. Whatever  
10 is out this spotlight beam is what isn't  
11 being paid attention to, and that's what we  
12 mean by attention.

13 Q How does attention affect one's  
14 memory?

15 A You will not remember anything that  
16 you don't pay attention to.

17 In other words, paying attention to  
18 something is necessary for remembering it  
19 later on; although, it is not sufficient for  
20 being able to remember something later on.

21 You can pay attention to something and  
22 still not remember it.

23 Q Let me ask you this; under what  
24 general circumstances would you fail to  
25 attend memory?

1 A 2 general circumstances.

2 The first is that something isn't  
3 relevant to what you are trying to do, in  
4 which case you have no reason to pay  
5 attention to it and generally you don't.

6 The second circumstance is sort of the  
7 slip side of the first, and that's when there  
8 are a lot of things going on, competing for  
9 your attention; in this kind of situation,  
10 particularly if you have a relatively limited  
11 amount of time, again thinking of attention  
12 being like a spotlight that moves one thing  
13 in the world to another, if the spotlight  
14 beam is on this thing over here, so you have  
15 to make a decision of whichever of these  
16 things you are going to pay attention to  
17 and might remember later on.

18 Q If you are saying you have no  
19 reason to pay attention to a person's  
20 appearance, then later on something happens  
21 with that person, you might not remember  
22 what they look like, is that what you are  
23 saying?

24 A That's correct.

25 Q Under the second circumstance, what

1 would happen if a witness were suddenly  
2 confronted with 2 robbers, they are engaged  
3 in committing the robbery, were committing  
4 the acts of aggression and violence, such as  
5 tying people up, putting hoods over their  
6 heads, shooting one of them, what  
7 would be the attentional consequences of this  
8 compared to if there was only a single  
9 person present?

10 A In the situation you have described,  
11 violent acts are occurring all over the  
12 place, and the primary goal of a witness to  
13 all of this would be one of safety; would  
14 be trying to do everything possible to make  
15 sure that he or she remains alive and  
16 hopefully unhurt.

17 If you are trying to accomplish this  
18 goal, there would be a large number of  
19 things that would compete for your  
20 attention.

21 What are the escape routes.

22 Where are people that can potentially  
23 come to your aid.

24 Where can you hide.

25 What do the robbers want.

1 How can I deal with their commands  
2 without getting hurt.

3 All of these things would be relevant  
4 to the goal of staying safe and your  
5 attention would likely go to anything that  
6 would be relevant to this goal.

7 Moreover, you said there were 2  
8 robbers, so any attention that you were  
9 willing to pay on the sort of secondary  
10 goal, paying attention to what the robbers  
11 looked like, would have to be split up  
12 between the 2.

13 So, any given robber would only get  
14 about half as much attention, assuming you  
15 are paying attention to their appearance  
16 to begin with compared to if there was only  
17 one.

18 Q Is there a phenomenon related to an  
19 incident like this where robbers have  
20 guns called weapons focus?

21 A Yes. Weapons focus is a label attached  
22 to a phenomenon observed in the real world  
23 and has been observed in the scientific  
24 laboratory which is that if there is a weapon  
25 in the scene, the witnesses will tend to pay

1 attention to the weapon, focus their  
2 attention on the weapon.

3 And if they are focusing their  
4 attention on the weapon, that means their  
5 attention is not on other aspects of the  
6 scene, such as the appearance of the person  
7 who is holding the weapon.

8 Q What you said about attention, is  
9 it relevant in all modalities sight as well  
10 sound?

11 A It is. It can be focused on what you  
12 are listening to, as well as what you are  
13 watching.

14 Q So you listen to the type of speech  
15 patterns they have, accents?

16 A Listening to person, what you will  
17 pay attention to is anything unusual about a  
18 person's speech, such as an accent or a weird  
19 inflection.

20 Q Suppose the suspect did not have an  
21 accent, what would indicate to you if  
22 witnesses said everybody had an accent?

23 MS. FLECK: Judge,  
24 objection.

25 THE COURT: Approach.

1 - - - - -  
2 (Thereupon, the following proceedings  
3 were conducted outside the hearing of  
4 the jury at sidebar.)  
5 - - - - -

6 THE COURT: Mr. Fumo, why  
7 don't you rephrase the question.

8 MR. FUMO: Okay.

9 Q Hypothetically, if one person was  
10 committing a robbery and had an accent, how  
11 would that focus the witness' attention?

12 A People pay attention to whatever is  
13 most unusual. If the accent were unusual  
14 in the culture where the robbery was  
15 occurring, attention would be focused on the  
16 accent, which means the accent would be  
17 something that would be more likely to be  
18 remembered correctly later on than other  
19 aspects of the scene.

20 Q Does the amount of time you have  
21 to experience an event affect one's memory  
22 of the event?

23 A Sure.

24 That all else being equal, the longer  
25 you have to experience some event, the more

1 information you can get from it, and the  
2 better your original memory of the event  
3 will be.

4 Q How about stress?

5 A Stress is something that is difficult  
6 to study in a scientific laboratory.

7 As to high stress, there is obvious  
8 ethical constraints from taking people and  
9 putting them in high stress situations and  
10 see how they behave.

11 Nevertheless, there has been a  
12 variety of experimental techniques that have  
13 allowed us to study the effects of high  
14 stress.

15 And the conclusion that emerges from  
16 these techniques is that when a person  
17 experiences something under conditions of  
18 high stress, their mental functioning is  
19 diminished.

20 Their ability to carry out any sort  
21 of challenging task is worse than it is  
22 under conditions of normal or moderate  
23 stress.

24 Q Let's move on to a phenomenon called  
25 cross-racial identification?

1 A It is again a label applied to  
2 the finding in many scientific studies  
3 which is that people are less able to  
4 recognize, identify members of other races  
5 compared to their ability to recognize,  
6 identify members of their own race.

7 Q I want to talk about other forms of  
8 bias.

9 Suppose a police officer is  
10 administering a photo lineup to a witness and  
11 he knows the suspect is there, could that lead  
12 to a form of lineup bias?

13 A Yes. This is in my business called  
14 lack of double blind procedures.

15 The bottom line is that it is known  
16 from decades of research, that people are  
17 perfectly capable of transmitting information  
18 to other people subtly, non-verbally,  
19 unconsciously.

20 What this means is that if the police  
21 officer who is administering the lineup knows  
22 who the suspect is, then the police officer  
23 is in a position to unconsciously  
24 inadvertently provide information to the  
25 witness about who the suspect is.

1 So if the witness under these  
2 circumstances makes a selection of a suspect  
3 from a lineup, you don't know whether the  
4 identification on the witness' part was made  
5 because the appearance of the suspect  
6 really matched their memory of the  
7 perpetrator, or whether the identification of  
8 the suspect was being made because of  
9 information that was inadvertently,  
10 unconsciously being transmitted to the  
11 witness from the police officer who is  
12 administering the lineup.

13 The only way that you can rule out  
14 the possibility that a witness'  
15 identification of the suspect comes about  
16 because of information that's been  
17 inadvertently provided by the police  
18 officer is to make sure the police  
19 officer who administers the lineup does  
20 not know who the suspect is.

21 This is called use of double blind  
22 procedures.

23 Q How should one go about  
24 constructing a lineup?

25 A There are 2 rules.

1 The first is that all members of the  
2 lineup, that includes the suspect plus the 5  
3 other people who are called fillers in the  
4 lineup should all conform equally to the  
5 witness' description of what the actual  
6 perpetrator looked like.

7 If the witness says that the  
8 perpetrator had a gap between his teeth,  
9 you have a suspect with a gap between the  
10 teeth and put it in a lineup with fillers, 5  
11 fillers, focus on the gap-toothed suspect  
12 and the lineup becomes functionally a one  
13 person lineup rather than a 6-person lineup,  
14 the way it is supposed to be.

15 The second rule is that irrespective of  
16 the witness' description, you should make  
17 sure that the suspect in the lineup does not  
18 stand out in any way compared to the  
19 fillers.

20 So if all the fillers are large and the  
21 suspect's picture is small, or the fillers  
22 are all in an upright position and the  
23 suspect's head is tilted or any number of  
24 other differences.

25 If the construction of the lineup is

1 such that the suspect stands out compared to  
2 the 5 fillers, this will draw the witness'  
3 attention to the suspect and any  
4 identification of the suspect by the witness  
5 may be due to having his attention drawn to  
6 the suspect by the suspect's unusual  
7 characteristics than by what you are really  
8 interested in, namely a high match between  
9 the witness' memory of the perpetrator and  
10 the appearance of the suspect.

11 Q I will show you what was marked and  
12 admitted as State's 109.

13 Can you see that okay?

14 A I can.

15 Q Looking at those 6 pictures, based on  
16 what you talked about bias in a photo lineup,  
17 is there anything unusual about the 6  
18 gentlemen?

19 A Yes. 1, 2, 3, 5 and 6 are  
20 photographed against a light blue  
21 background.

22 Number 4 is photographed against a  
23 lighter background, if not a white  
24 background.

25 That is a feature that would draw the

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1 witness' attention to the individual in  
 2 lineup position number 4.  
 3 MR. FUMO: Thank you,  
 4 Doctor.  
 5 Nothing further.  
 6 THE COURT: Ms. Fleck.  
 7 - - - - -  
 8 CROSS-EXAMINATION  
 9 - - - - -  
 10 MS. FLECK: Judge, may I  
 11 approach witness?  
 12 THE COURT: Yes.  
 13 BY MS. FLECK:  
 14 Q Dr. Loftus, showing you State's 134,  
 15 is that the same lineup that was just  
 16 displayed on the overhead?  
 17 A It appears to be.  
 18 MS. FLECK: Judge, permission  
 19 to publish to the jury.  
 20 THE COURT: Sure.  
 21 Q I would like the jury to see the  
 22 actual -- the overhead has the different  
 23 light on that photo lineup; there's a light  
 24 shining down on that photo lineup, fair?  
 25 A The light on the screen?

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1 Q The Elmo.  
 2 A This thing?  
 3 Q Yes.  
 4 When you are looking on the screen,  
 5 it is not exactly as it appears in the  
 6 actual photo lineup that the jurors now have  
 7 an opportunity to view?  
 8 A Correct.  
 9 Q Let's start where you left off with  
 10 the photo lineup and the filler.  
 11 You said that the fillers should  
 12 look similar and that there shouldn't be  
 13 something about the suspect that stands out  
 14 compared to the fillers.  
 15 A What I said was that all of the  
 16 fillers should conform, as well as does  
 17 the suspect, to the witness' description of  
 18 what the perpetrator looked like.  
 19 I also said that the suspect's picture  
 20 should not physically stand out in any way  
 21 from the fillers.  
 22 MS. FLECK: And, Judge, can I  
 23 approach again?  
 24 THE COURT: Yes.  
 25 Q Showing you State's 109.

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1 Sir, besides the background that you  
 2 have testified to, is there something about a  
 3 person in one of those photos that is  
 4 different than the other 5?  
 5 A There are a couple of things.  
 6 The person in position number 2 has  
 7 little lumps or something on his shoulder  
 8 that the other people don't have.  
 9 Number 6 has -- one side of his shirt  
 10 appears to have sort of a yellowish tinge.  
 11 And the person in position 4, the  
 12 same one who is against the extremely light  
 13 blue background has his undershirt  
 14 showing.  
 15 Q Out of the 6 individuals, 5 are wearing  
 16 a dark colored shirt?  
 17 A Yes.  
 18 Q One, 6, is wearing a bright yellow  
 19 shirt?  
 20 A Yes.  
 21 THE COURT: Go ahead, publish  
 22 that.  
 23 A I am not sure if I would characterize  
 24 it as bright yellow.  
 25 Q Compared to the other 5 photos,

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1 everyone is wearing a dark shirt, and  
 2 that in photo number 6, the person is  
 3 actually wearing a bright yellow shirt?  
 4 A A shirt that is light colored in  
 5 contrast to the other people in the lineup  
 6 who are wearing dark colored shirts.  
 7 Q You would agree in this particular  
 8 lineup, number 6 is a filler?  
 9 A Yes.  
 10 Q Under your theory, Doctor, wouldn't  
 11 you expect everyone to choose the person  
 12 located in position 6, as he is the person  
 13 that stands out, because he is the only  
 14 person wearing something different than  
 15 anybody else in the photographs?  
 16 A You might expect if you are  
 17 witness that people would normally wear  
 18 different kinds of shirts.  
 19 It wouldn't be so odd that some  
 20 people would wear dark shirts and somebody  
 21 else a light shirt.  
 22 However, there's something  
 23 significantly different about the way that  
 24 the photo of the person was constructed, for  
 25 example, if -- I am answering your

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1 question -- if all fillers are photographed  
 2 against one type of background and the  
 3 suspect is photographed against a different  
 4 background, that would allow the witness to  
 5 infer that the police started with a picture  
 6 of the suspect photographed against whatever  
 7 background was handy and then got together a  
 8 collection of fillers acquired from some a  
 9 data base.

10 Q I am not sure if that answered my  
 11 question.

12 You would expect that if a filler stood  
 13 out and that was the only characteristic  
 14 about the person that was different under  
 15 your theory on what you testified to, that's  
 16 the person that more often than not would be  
 17 chosen?

18 A I think I will stand on the answer I  
 19 just gave.

20 Q To put it in a nutshell, the gist of  
 21 your testimony is that memory is fallable?

22 A That's not the gist. It is that under  
 23 the right circumstances people are capable  
 24 of developing strong memories, for example,  
 25 of a suspect or a defendant as the person

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1 they saw commit the crime.

2 And, yet, if the circumstances  
 3 are right, that memory will be false even  
 4 though it didn't seem to be that way to the  
 5 witness.

6 That's how I would characterize the  
 7 gist of my testimony.

8 Q Understood.

9 There's a lot of different factors that  
 10 influence your memory, and influence  
 11 perception and your ability to recall, but  
 12 what you testified to is that memory fails;  
 13 is that correct?

14 A That is certainly is a consequence of  
 15 everything I said.

16 Q That's kind of a common sense  
 17 information that would ly really with anyone,  
 18 that sometimes you remember things, sometimes  
 19 up don't?

20 A What is important is not that memory  
 21 fails, it is the consequences of memories  
 22 failing and the facts that strong memories  
 23 can be constructed that are potentially false  
 24 in important ways.

25 Q You testified, you said about 280

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1 times, a number of those in criminal  
 2 cases?

3 A I said a lot. It is somewhere around  
 4 290 at this point.

5 Q And a number of those have been in  
 6 criminal case, correct?

7 A Yes.

8 Q And never have you testified for the  
 9 prosecution, correct?

10 A Correct.

11 Q Just to be clear, crystal clear, you  
 12 are not here proposing any opinion about any  
 13 of the witnesses, any of the identifications  
 14 that were made in this particular case?

15 A I am not.

16 Q You are not commenting on the  
 17 credibility of any witness that the jurors  
 18 saw testify?

19 A That's correct.

20 Q And you would agree that that job lies  
 21 solely with the ladies and gentlemen of the  
 22 jury?

23 A I would agree.

24 Q In this case you never met with any of  
 25 the victims, correct?

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1 A That's correct.

2 Q You don't know their ability to  
 3 perceive, what their history is, what their  
 4 memory is, their ability to recall, you would  
 5 agree with that?

6 A That's correct.

7 Q You did not watch them testify in this  
 8 case, correct?

9 A I did not.

10 Q You did not watch them during cross-  
 11 examination?

12 A No.

13 Q And you were not in fact present with  
 14 the witnesses in this case when they were  
 15 participating in their individual photo  
 16 lineups?

17 A No.

18 Q So you are making zero presumptions  
 19 or characterizations about any witness or  
 20 opinion that was given in this case?

21 A That's correct.

22 What I have been doing is providing the  
 23 jurors with information about how memory  
 24 works.

25 Q I understand.

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1 We are going to go through the  
 2 factors. I want to make it crystal clear  
 3 that you are not here to lend any  
 4 credence to any of the witnesses that  
 5 testified?  
 6 A No, that's the job of the jury.  
 7 Q When you testify in cases like this  
 8 one, you represented that you make \$250 an  
 9 hour, correct?  
 10 A Yes.  
 11 Q How much, sir, have you made total in  
 12 this particular case?  
 13 A Geez.  
 14 By the time I get back to Seattle, I  
 15 will have probably billed for about maybe 25  
 16 hours.  
 17 Q So how much total have you made?  
 18 A That would be \$6,250.  
 19 Q You made \$6,000 to come in and  
 20 testify that memory is fallible, that there  
 21 are a number of factors that go into  
 22 whether or not a person can remember  
 23 something?  
 24 A I will have made slightly more than  
 25 \$6,000 reviewing the case materials.

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1 Talking to attorneys about the case.  
 2 Writing documents having to do with the  
 3 case.  
 4 And today coming down here to testify,  
 5 yes.  
 6 Q So, I guess my confusion is with any  
 7 prep time you would have in the case.  
 8 Is most of research that you would have  
 9 to do in the case done in the articles that  
 10 you have written, the books you have written,  
 11 you hav agreed that you are not here to opine  
 12 about the case itself, so what prep time did  
 13 you have in order to prep to testify in this  
 14 particular case when you are not lending an  
 15 opinion?  
 16 A I read over the police reports.  
 17 I familiarized myself with the facts  
 18 of the case.  
 19 I did that in this case, as I do every  
 20 case that I am involved with, in order to  
 21 appropriately constrain the factors of memory  
 22 that I was talking about during my  
 23 testimony.  
 24 As I mentioned during direct  
 25 examination, I could lecture for weeks,

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1 months, about how memory works.  
 2 I am sure people want me to talk  
 3 only about whatever factors are relevant to  
 4 the case.  
 5 I familiarize myself with the  
 6 case materials to be able to testify in that  
 7 way.  
 8 Q The factors don't change. The factors  
 9 is the generality of what you were speaking  
 10 about, what affects memory, what affects  
 11 perception, that doesn't change depending on  
 12 the case, correct?  
 13 A What I talk about with respect to  
 14 attention, that's the same with any given  
 15 case.  
 16 Q And the basis of what you testified to  
 17 is the same in every single case, you testify  
 18 about this particular area?  
 19 A Well, to be precise, our knowledge,  
 20 perceptions and memory changes over time.  
 21 The information I give about any  
 22 particular factor regarding perception and  
 23 memory changes over time, but changes  
 24 slowly.  
 25 What I say about a given factor in one

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1 case is pretty much the same as what I have  
 2 said about it in any other case.  
 3 Q Do you give the defense the questions  
 4 they are going to ask you?  
 5 A I provide them with a suggested direct  
 6 examination, with the proviso that they can  
 7 use it anyway they choose.  
 8 They can toss it and construct  
 9 something of their own or anything in  
 10 between.  
 11 Q Those are questions that are asked  
 12 in every case, and you and I had a similar  
 13 edchange and all the same questions were  
 14 asked by the defense in another case?  
 15 A Not all the same, a similar set of  
 16 questions.  
 17 Q Let's get to the elements of what  
 18 you have talked about with memory and  
 19 perception.  
 20 The first element that you discussed  
 21 was that all eyewitness identifications begin  
 22 with the observer's initial perception of the  
 23 event.  
 24 Is that correct?  
 25 A Yes.

1 Q And you named, said there were a number  
2 of physical circumstance that would affect  
3 observation, and a number of psychological  
4 factors that may influence the accuracy of  
5 that initial perception, correct?

6 A You are thinking about the previous  
7 time that I testified, when you were  
8 present.

9 But normally that's something I would  
10 say.

11 Q Well, you talked about lighting,  
12 distance and duration, correct?

13 A No, not distance.

14 Q Those are physical circumstances,  
15 agree?

16 A Sorry.

17 Are you asking about what I just  
18 testified about 20 minutes ago in this  
19 case or what I testified about in other  
20 cases.

21 Q I am not worried about what you  
22 testified in other cases?

23 I am only concerned about what you  
24 testified to in this case.

25 I want to talk about what you have --

1 what you have learned and what you are  
2 here to relay, that there are physical  
3 circumstances which affect an observation,  
4 such as lighting and distance?

5 A Correct.

6 Q And that there are also  
7 psychological factors; you did talk about  
8 stress?

9 A I did.

10 Q So with physical characteristics that  
11 would affect an observation, would you  
12 agree with me that a person's ability to  
13 perceive and later recall would be better if  
14 say the event that they experienced was in a  
15 well-lit, even a daylight kind of setting?

16 A Than if it were in darkness, of  
17 course.

18 Q Do you agree that a person's ability  
19 to recall and perceive would be better if  
20 they were in say close proximity of a home as  
21 opposed to out in an open field or open  
22 stadium?

23 A I guess what you are asking is,  
24 would you be able to perceive and potentially  
25 memorize things better if you are seeing

1 them up close than far away, is that the  
2 sense of your question?

3 A Yes.

4 Q Would you agree with me that the more  
5 interaction you have with a person, the  
6 better your ability to later recall and  
7 perceive will be?

8 A It depends on the nature of the  
9 interaction.

10 If the interaction is benign and  
11 fosters a witness' inclination to pay  
12 attention to and memorize the appearance of  
13 the person they are talking with; then,  
14 yes.

15 If the interaction involves violence,  
16 chaos, fear, then, as I said, the witness'  
17 attention would likely be on things that are  
18 relevant to their safety, rather than on the  
19 appearance of the perpetrators or the  
20 appearance of anything going on at the  
21 scene.

22 Q What if the initial interaction with  
23 the person was normal, that violence came  
24 later; the initial interaction was what you  
25 termed as benign, talking business, talking

1 about exchanging phone numbers, information;  
2 if that initial interaction was not violent,  
3 just a normal, benign interaction, would you  
4 agree that a person's ability to recall later  
5 would be better?

6 A A minute ago I said benign isn't  
7 sufficient.

8 In addition, you to have to be  
9 explicitly paying attention to the person's  
10 appearance to remember them later on.

11 I would be happy to describe an  
12 experiment that demonstrates that to be  
13 true.

14 Q That's okay.

15 A Even in a face-to-face conversation  
16 with somebody isn't sufficient for one  
17 person to be able to remember the other even  
18 a couple of seconds later.

19 Q I understand that these are all just  
20 factors, that not one thing is going to be  
21 conclusive.

22 Certainly if you tested that the  
23 stressfulness of a situation, if somebody is  
24 in a violent situation, that is going to  
25 negative the effects.

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1 And the opposite must be true, that  
 2 if you are in a calm environment and you  
 3 are having normal interaction, your ability  
 4 to recall would be better?

5 A To begin with, you are incorrect in  
 6 saying everything has to combine. It is not  
 7 a situation where one factor can make a  
 8 difference.

9 So, for example, if it were entirely  
 10 dark, a person wouldn't be able to perceive  
 11 or remember everything no matter how good  
 12 everything else was.

13 If a person were not paying  
 14 attention to appearance, they wouldn't be  
 15 able to accurately perceive and remember no  
 16 matter how the rest of the factors are.

17 Human perception memory is a good  
 18 example of a situation where one factor  
 19 can make a difference, one factor being  
 20 bad the whole thing collapses.

21 As to your second point, I did say that  
 22 a chaotic, violent situation is one that  
 23 does not lend itself to witnesses paying  
 24 attention to the appearance of the people who  
 25 are perpetrating the violence.

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1 It is certainly true that if the  
 2 situation were calm and benign, that would  
 3 be a better situations for witnesses being  
 4 able to perceive and memorize anybody who  
 5 they are interacting with looks like, but it  
 6 would not be sufficient.

7 Q Memory is fluid, that there's some  
 8 elements that fade and some elements come and  
 9 become more pronounced.

10 You talked about post-event  
 11 information.

12 Isn't it true that at times through  
 13 post-event information your perception  
 14 can be more accurate as the information is  
 15 added?

16 A Well, no, not your perception, your  
 17 memory.

18 Then as you add it to your memory, your  
 19 memory will be more accurate.

20 Q You say there are times when you  
 21 will have a misidentification in a situation  
 22 because of memory being fluid and getting  
 23 post-event information, and that sometimes it  
 24 is potentially wrong.

25 You would agree and account for the

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1 fact that there are positive identifications  
 2 every single day in courtrooms all across  
 3 America.

4 Would you agree with that?

5 A Of course.

6 Q In this courtroom, every courtroom  
 7 probably that you testified in, there are  
 8 positive identifications being made by  
 9 witnesses?

10 A I am sure there are.

11 Q Retrieval is the third element and that  
 12 is your ability to recall, that would be  
 13 affected by certain factors.

14 Would one of those be the duration  
 15 between time that person perceived something  
 16 or experienced something and then they were  
 17 able to go on and make an identification or  
 18 recall something?

19 A Sure.

20 Generally speaking, the shorter the  
 21 time between when an event happens and when a  
 22 witness is asked to recall something about  
 23 the event, the more reliable the report  
 24 is.

25 The shorter the time, the less

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1 opportunity there is for memory that was  
 2 there to begin with to get forgotten.

3 Q You talked about attention and this  
 4 idea of attention is like a spotlight  
 5 beam, and whatever it is that you find  
 6 relevant that you are focusing on, your  
 7 attention on, that's what you are going to  
 8 remember?

9 A Whatever you are focusing your  
 10 attention on may potentially be  
 11 remembered.

12 Q All of this is potential, you never  
 13 know what somebody is going to remember in a  
 14 certain situation or what they are going to  
 15 forget, you are an experimental scientist, it  
 16 is all potential?

17 A I am not sure what you are asking.

18 Q When you say you will potentially  
 19 remember something or forget something; of  
 20 course, it just goes back to your theory  
 21 in the beginning, memory is fallible,  
 22 sometimes people remember things, sometimes  
 23 they forget, depending on a number of  
 24 factors?

25 A Is there a question?



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1 Q I will move on.

2 'So we talked about attention being the

3 spotlight beam.

4 What if the thing that the person is

5 focusing on is the suspect's face?

6 A Then they will have the potential for

7 them to remember that face compared to if

8 they were not attempting to memorize the

9 appearance of the person.

10 Q You say the person's goal is

11 safety. If you are in a situation with a

12 person with a gun, a person threatening to

13 kill you, to kill people in your family, that

14 person with that weapon, that person is going

15 to be pretty relevant?

16 A The person is relevant but their

17 appearance won't necessarily be relevant.

18 Even if you have a face-to-face

19 conversation with somebody and look at their

20 face, that's not sufficient for being able to

21 remember what they look like even a few

22 seconds later.

23 As I told you, there are experiments

24 that I can describe that demonstrate that to

25 be true.

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1 Q Okay.

2 You talked about the fact that --

3 Mr. Fumo asked you, could an accent be the

4 thing that you -- kind of where your

5 spotlight beam is, the thing that you find

6 to be most relevant that you are paying

7 attention to, somebody has an accent, it

8 would take away from someone's ability to

9 perceive other things that are going on in

10 the room?

11 A What I said was that people by

12 default pay attention to whatever is most

13 unusual in the world.

14 So if somebody is speaking with a

15 peculiar, unusual accent, people will

16 tend to focus attention on that fact and

17 will be likely to remember it correctly later

18 on.

19 Q If somebody was trying to fake an

20 accent, that would be something that was

21 unique and strike people as odd, hearing a

22 fake put upon accent?

23 A You are talking about a situation

24 where a witness hears an accent and says

25 that's a fake accents and later reports they

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1 heard it?

2 Q If they said something unique, it

3 might be somebody trying to pretend to have

4 an accent?

5 A You are talking about a situation where

6 a person pretends to have an accent and

7 interprets it as being whatever accent the

8 pretender is trying to pretend it is; is that

9 right?

10 Q No.

11 If somebody focuses on an accent, you

12 said that it is something that is unique,

13 then their attention may be drawn to that as

14 their spotlight beam, even more if the person

15 appears to be faking that accent, if it

16 doesn't appear to be genuine?

17 A Wait a minute.

18 Q I don't want to confuse you.

19 A You have already.

20 Q To your testimony generally, would you

21 agree that your testimony is that in cases

22 that are relying on a single eyewitness

23 identification, that that would be

24 significantly different than cases that

25 have 2 identifications, the same

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1 identification?

2 If you could just say yes or no, if you

3 would agree with that, that in cases where

4 there's a single eyewitness identification,

5 if these factors would then be different than

6 say if you have multiple eyewitness

7 identifications, say 2?

8 A The factors would be the same no

9 matter how many identifications there

10 are.

11 Q Would you agree that the accuracy of

12 the identifications would grow with the more

13 identifications you had.

14 Say if you had 3, if you had 4, would

15 you then agree that would lend credibility to

16 the other positive identifications that came

17 out in a case?

18 A The duration, attention, stress,

19 whatever if you are trying to make a decision

20 about whether somebody's memory is accurate

21 and you have 4 people saying the same thing

22 as opposed to one, you as an evaluator

23 should be more convinced they are right if

24 4 people say the same thing than if only one

25 person says something.

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1 Is that what you are asking?

2 Q Yes.

3 A Yes, assuming that all the various

4 reports of the witnesses are independent, and

5 there are a variety of ways in which reports

6 from different witnesses can be

7 non-independent.

8 If the witnesses know each other and

9 can interact with each other or if the

10 witnesses have been subject to the same

11 biased memory elicitation procedure.

12 Q Would you agree that in cases where

13 there is no corroborating evidence to that

14 positive identification, that all of these

15 factors, that would it would differ in cases

16 where you have an eyewitness identification

17 and that identification is substantially

18 corroborated by evidence which would give it

19 some independent reliability?

20 A If I trying to decide whether somebody

21 is guilty, I am more convinced if there is an

22 eyewitness identification.

23 Q You would agree that then that

24 identification has more credibility based on

25 all of that corroborating evidence?

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1 A Let's suppose for the sake of

2 arrangement there's a tremendous amount of

3 corroborating evidence, in addition to a not

4 so good eyewitness identification.

5 To begin with, if there's all this

6 great corroborating evidence, it raises the

7 question of why the not so good eyewitness

8 identification would become an issue.

9 Putting that aside, what the

10 corroborating evidence does is increase your

11 belief that the person is guilty to the

12 degree that your belief is increased that the

13 person is guilty, that means that the

14 eyewitness identification must have been

15 correct, that is fine.

16 But you can then take the eyewitness

17 identification as yet more evidence for the

18 guilt of the person, that would be circular

19 reasoning.

20 For example, if you had all of this

21 great corroborating evidence, plus a positive

22 identification on part of the witness in a

23 very biased lineup, and you subsequently

24 discovered that the witness was blind, the

25 witness still would have been accurate in

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1 their identification, you can conclude, but

2 that isn't to say that the blind witness'

3 identification should be given any weight at

4 all in determining whether you should rely

5 on all of this other great corroborating

6 evidence.

7 Q Let's move on to lineups, just

8 briefly.

9 Would you agree that there is a debate

10 among not only people in your line of work,

11 but with law enforcement within your line of

12 work as to how to conduct these lineups, how

13 it works in the real world?

14 A What aspects are you talking

15 about?

16 Q Would you agree that a laboratory

17 setting and a lineup out in the field and

18 real police work are fundamentally

19 different?

20 A Sure.

21 I totally agree that an experiment done

22 using real police lineups would be great as a

23 corroboration of conclusions that people come

24 to by looking at lineups in a scientific

25 laboratory.

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1 Q So, just to be clear, have you ever

2 worked in law enforcement?

3 A No.

4 Q Have you ever been a part of

5 investigation at a crime scene?

6 A No.

7 Q Have you ever conducted an actual

8 lineup with actual victims in an actual

9 case?

10 A I have not. I have read studies that

11 involve such procedures.

12 Q Besides reading about this stuff, in

13 the real world, in real crime scenes with

14 real victims, you have never been involved in

15 that?

16 A No. I am not a police officer.

17 MS. FLECK: Thank you.

18 I pass the witness.

19 THE COURT: Mr. Fumo.

20 MR. FUMO: No redirect, Your

21 Honor.

22 THE COURT: Anything from our

23 jurors?

24 Approach the bench.

25 - - - -

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1 (Thereupon, the following proceedings  
2 were conducted outside the hearing of  
3 the jury at sidebar.)  
4 - - - - -  
5 THE COURT: Ladies and  
6 gentlemen of the jury, before I ask  
7 one of these questions, for the  
8 record, I order you to disregard the  
9 question and answer on cross-  
10 examination about whether witnesses  
11 routinely positively identify people  
12 in cases across the country in  
13 reference to other cases is not  
14 relevant.  
15 - - - - -  
16 EXAMINATION  
17 - - - - -  
18 BY THE COURT:  
19 Q I have a few questions for you,  
20 Doctor.  
21 To begin with, during excessive stress,  
22 one can still remain consistent with answers  
23 as long as the witness is sure of his or her  
24 answer.  
25 Is that correct?

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1 A I am not sure if I fully understand the  
2 question.  
3 Let me try to answer it anyway. There  
4 have been a lot of studies of what happens  
5 when people have experienced something under  
6 extreme stress.  
7 What typically happens is that  
8 following a very stressful experience, people  
9 wind up with a memory of the event that is  
10 very detailed, very real seeming.  
11 It seems almost as if your brain took a  
12 snapshot of the event and recorded it in all  
13 of its detail.  
14 However, as I testified, when I was  
15 talking about stress, people are actually  
16 poor under conditions of high stress of doing  
17 much of anything that requires memorizing how  
18 do we it.  
19 How do we wind up with a strong memory  
20 if we weren't able to memorize things very  
21 well during the stressful event.  
22 The answer to that question is when you  
23 have a very stressful event, it is an event  
24 that is also an important, typically salient  
25 one in your life, one that you will think

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1 about a lot, talk to your friends a lot  
2 about.  
3 It is exactly the sort of event in  
4 which you add by getting post-event  
5 information from other people, making  
6 inferences about what happened yourself,  
7 minute details of the event.  
8 So what you wind up with is a very  
9 strong, detailed memory of the event, but  
10 surprisingly it is a memory that is likely  
11 false with respect to a lot of the details  
12 that you have stored.  
13 It is a perfect example of what I was  
14 describing at the outset, a memory that is  
15 very strong, detailed, been thought about a  
16 lot that had a lot of post-event information  
17 added to it, but a memory that is likely  
18 false in many respects.  
19 Q Would you say that by one victim  
20 saying they heard a Jamaican accent to other  
21 victims at the scene, they can be influencing  
22 the other victims' fragmented memories,  
23 therefore falsely implanting fragmented  
24 memories of the Jamaican accent at the scene  
25 to their memory of the incident?

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1 A Yes, that would be entirely possible.  
2 Q From your experience and studies, is  
3 there scientific evidence that shows the  
4 difference between --  
5 THE WITNESS: Your Honor, can  
6 I go back; can I add just a little to  
7 the answer that I just gave?  
8 THE COURT: The attorneys  
9 will be able to follow-up.  
10 THE WITNESS: Okay.  
11 Q From your experience and studies, is  
12 there information, evidence that shows the  
13 difference between adults and children  
14 regarding how each retain their recall and  
15 memories?  
16 A There are differences between adults  
17 and children. It is long, complicated  
18 issue.  
19 The quick answer is that young  
20 children, by young, less than about 6 or 7,  
21 are both less able to accurately memorize  
22 what is happening to begin with and they are  
23 also more gullible.  
24 They are more prone to accept  
25 suggestive post-event information that is

133

1 provided to them.

2 Q If a criminal is screaming at you

3 threatening your life with a gun, will it

4 improve your memory to recognize?

5 A So, if you have a person screaming at

6 you and it seems likely to you that you are

7 in danger; as I mentioned, your attention

8 will probably be on all kinds of aspects of

9 the scene that are relevant to staying

10 safe.

11 I mentioned some of them before, escape

12 routes, people that come to your aid. The

13 appearance of the person that is threatening

14 you would be low on the list of things that

15 would be immediately relevant to you.

16 So under those circumstances it is less

17 likely that you would recognize the person's

18 appearance and be able to recognize them

19 later on.

20 Q Isn't psychology a psuedo-science,

21 meaning it is based on statistics and not

22 fact?

23 A Any science is based on statistics to

24 one degree or another. That includes

25 chemistry, psychology, any science you can

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1 name.

2 All sciences are also based on facts,

3 you do experiments under controlled

4 circumstances in order to separate what is

5 fact from what is only superficially fact.

6 What makes a science a science and not

7 a psuedo-science is the use by that science

8 of the scientific method.

9 That encompasses a lot of different

10 procedures, centrally controlled,

11 experimental control and measurement.

12 I am sure whoever asked the question

13 will not be surprised to discover that I

14 would say psychology is not a psuedo-science

15 in the sense that it uses the exact same

16 mechanics of the scientific method as does

17 any science that professes to be a

18 science.

19 Q And finally, why do you testify only

20 for the defense?

21 A Very good question.

22 I testify for the defense because it is

23 only defense attorneys who have asked me to

24 testify in general.

25 There have been 2 exceptions, 2

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1 prosecutors over the years asked me to work

2 for them and testify in their behalf.

3 I agreed to testify for these

4 prosecutors, and as I mentioned, in each case

5 the case got settled before I had a chance to

6 testify.

7 I would welcome the chance to testify

8 for prosecutors, because I would very much

9 like to see what a case looks like from the

10 other side of the asile.

11 I have no philosophical or ethical

12 objection whatsoever to testifying for a

13 prosecutor.

14 If one wants me to testify ask me, I

15 will be there.

16 THE COURT: Mr. Fumo,

17 do you have any questions based on

18 that?

19 MR. FUMO: Yes.

20 - - - - -

21 REDIRECT-EXAMINATION

22 - - - - -

23 BY MR. FUMO:

24 Q In follow-up as to testifying for the

25 prosecutors, you testified for the police,

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1 Las Vegas Metropolitan Police in a civil

2 matter?

3 A For individual Las Vegas police

4 officers in civil matters that they have

5 brought forward.

6 Q It wasn't a criminal case, but you

7 testified for the government?

8 A That's correct.

9 I have done that in other cases as

10 well, both for police officers in civil cases

11 in the State of Illinois and police officers

12 in criminal cases in the State of New Jersey

13 and New York.

14 Q One of the questions I asked was

15 whether one of the witnesses told another

16 witness that they heard somebody speaking

17 with a Jamaican accent, would that influence

18 their memory and you wanted to follow-up.

19 A Yes.

20 On cross-examination I was asked

21 whether you believe a memory if it is

22 expressed by multiple people versus if it is

23 expressed by only one person.

24 The answer I gave was that you can,

25 assuming all the memory reports to be

1 independent of one another, and in the  
2 process of answering that question, I said  
3 there are many ways in which memory reports  
4 can be non-independent.

5 This is a great example of that. If  
6 somebody said I heard a Jamaican accent and  
7 spreads that idea to other witnesses, this  
8 would be an instance of multiple reports of  
9 the same thing, but all essentially stemming  
10 from just one person, being non-independent  
11 of one another.

12 MR. FUMO: Thank you.

13 Nothing further.

14 THE COURT: Ms. Fleck.

15 MS. FLECK: I have nothing.

16 THE COURT: Dr. Loftus I

17 appreciate your time.

18 Thank you very much.

19 Folks, we will take a lunch  
20 break.

21 - - - - -

22 (Thereupon, the jury was admonished by  
23 the Court.)

24 - - - - -

25 THE COURT: We will start

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1 rebuttal to a claim of; I didn't do  
2 it, if he said anything inconsistent  
3 with that at sentencing, I am allowed  
4 to cross him on it.

5 I figured he should know that  
6 before he hits the stand and says  
7 something different than what he said  
8 at sentencing. He didn't make  
9 statement in his PSI, but he said I  
10 will be making a statement at  
11 sentencing.

12 MR. FUMO: If he was to cross  
13 him on anything at a previous  
14 hearing --

15 THE COURT: I don't think  
16 that's what Mr. DiGiacomo is  
17 proposing to do.

18 MR. DIGIACOMO: I think I  
19 told them statements themselves would  
20 become admissible.

21 THE COURT: Do you recall  
22 making statements about this case on  
23 such and such date and you stated  
24 blah, blah blah.

25 It can't be in a context it

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1 back up at 3:00 o'clock.

2 - - - - -

3 (Thereupon, the following proceedings  
4 were had in open court and outside the  
5 presence of the jury.)

6 - - - - -

7 MR. DIGIACOMO: We did  
8 research on this. I don't think it  
9 is humanly possible that  
10 Mr. Slaughter would get up there.

11 It happened before, but while  
12 it is true that his plea of guilty is  
13 not admissible, even should he take  
14 the stand and lie or say something  
15 inconsistent about I didn't do it.

16 I was going back to look at  
17 the sentencing transcript to see if  
18 he made any admissions. If he did, I  
19 am going to cross him on what he said  
20 at sentencing, because that is not  
21 covered either by the statute and is  
22 offered in mitigation.

23 If he says something  
24 inconsistent, I can't bring it up in  
25 my case in chief, but certainly in

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1 was at his sentencing or anything  
2 like that.

3 I agree that when you make  
4 statements, oftentimes the trial gets  
5 reversed, whether it is a plea or a  
6 finding of guilt, you testify that  
7 provider testimony is admissible.

8 I believe, as well, under the  
9 law, it would be admissible, not  
10 statements as far as the guilty plea,  
11 but statement at the time of  
12 sentencing.

13 So that's just something for  
14 you to discuss amongst yourselves.  
15 Before we get back, I do want to have  
16 some further discussion to get the  
17 jury instructions settled to the  
18 extent we are going to make it to  
19 argument.

20 MR. DIGIACOMO: I don't think  
21 we will finish by 5.

22 THE COURT: Why wouldn't we  
23 get to argument if Mr. Slaughter does  
24 not testify?

25 MR. DIGIACOMO: The length of

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1 Ms. Fleck's argument is that we will  
2 not finish by 5.  
3 THE COURT: How long are you  
4 going to argue Fleck?  
5 MS. FLECK: If we start at 3  
6 and you instruct the jury, my closing  
7 is an hour.  
8 THE COURT: I rather finish  
9 arguments, but I don't want to go  
10 into the early morning hours or late  
11 into the evening.  
12 Do you have any estimation  
13 how long your argument would be?  
14 MR. FUMO: Half that, Your  
15 Honor.  
16 THE COURT: I don't mind  
17 going past 5.  
18 The jury probably won't mind  
19 to be able to get the case submitted  
20 to them. I couldn't keep them around  
21 to deliberate.  
22 The problem is Judge Sturman  
23 tells me they have a long calander  
24 being heard by a visiting Judge and I  
25 don't anticipate being able to use

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1 our courtroom until noon.  
2 You would not be able to  
3 argue until tomorrow afternoon.  
4 That's part of the reason I would  
5 like to maybe get arguments done to  
6 do so.  
7 Assuming everybody is  
8 prepared for their arguments, we will  
9 go into recess so Mr. Slaughter can  
10 get lunch, as well as we can talk  
11 about the remaining jury instruction  
12 issue.  
13 I won't put it on until after  
14 we come back and then we will decide.  
15 If I can find another courtroom to  
16 use tomorrow morning, I would say  
17 let's just do arguments in the  
18 morning.  
19 MR. MARCELLO: One quick  
20 issue, when we made the discovery  
21 request with regards to the original  
22 audiotape of the various interviews,  
23 I thought I had the audio of Tiffany  
24 Johnson, I don't.  
25 I ask if the State has it, if

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1 I can run to their office and get a  
2 copy.  
3 THE COURT: Do you have the  
4 audio of Tiffany Johnson?  
5 MR. DiGIACOMO: I will look  
6 in here to see if the detective  
7 dropped them off.  
8 I gave them directly to  
9 Mr. Marcello. I don't think that I  
10 have those any longer in my  
11 possession.  
12 I am not going to be able to  
13 get it to him by the time we get back  
14 from lunch.  
15 If he doesn't physically have  
16 them, I don't know what he needs them  
17 for. They were all on the single  
18 disk that comes from the vault.  
19 There were 2 disks. They  
20 were in a round -- the same thing  
21 like those under the folder.  
22 MR. MARCELLO: It was on that  
23 disk, okay.  
24 THE COURT: When we break you  
25 can walk over there and see if they

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1 have other disks.  
2 MR. DiGIACOMO: There isn't  
3 anything else. I am looking to see  
4 if I downloaded it, then I can an  
5 send e-mail.  
6 THE COURT: Okay. We are in  
7 recess.  
8 - - - - -  
9 (Luncheon recess taken.)  
10 - - - - -  
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*Robert Cangemi*  
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