

IN THE NEVADA SUPREME COURT

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Elizabeth A. Brown
Clerk of Supreme Court

Rickie Slaughter,

Petitioner-Appellant,

v.

Charles Daniels, et al.,

Respondents-Appellees.

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

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

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ALPHABETICAL INDEX

1.	Additional Exhibits Attached to Deposition of Detective Jesus Prieto 2199 02/22/2018
2.	Amended Criminal Complaint 0057 09/01/2004
3.	Amended Information..... 0083 09/28/2004
4.	Appellant's Opening Brief 3911 11/08/2019
5.	Appellant's Reply Brief..... 4320 02/20/2020
6.	Application and Affidavit for Search Warrant 0650 11/05/2009
7.	Attorney General's Response to Nevada Supreme Court's July 24, 2007, Order 0337 11/09/2007
8.	Criminal Complaint..... 0051 07/01/2004
9.	Declaration of Jennifer Springer 2442 11/13/2018
10.	Declaration of Maribel Yanez..... 2441 11/01/2018
11.	Declaration of Maribel Yanez..... 3907 10/24/2019
12.	Declaration of Osvaldo Fumo 3894 10/16/2019
13.	Defendant's Motion for a Continuance 0155 04/01/2005
14.	Defendant's Motion for Disclosure of all Brady and Giglio Material and Request for An In Camera SCOPE Review ... 1179 07/22/2011
15.	Defendant's Motion to Withdraw a Guilty Plea 0230 08/08/2005

16.	Defendant's Motions Transcript0667 12/01/2009
17.	Defendant's Reply to the State's Opposition to Defendant's Motion to Reveal Confidential Informant.....0131 03/18/2005
18.	Defendant's Request for Amended Plea Agreement0207 06/27/2005
19.	Deposition Transcript of Marc DiGiacomo2789 07/26/2019
20.	District Court Minutes on Writ of Habeas Corpus4504 06/11/2020
21.	Evidentiary Hearing Transcript0407 06/19/2008
22.	Exhibits Attached to Deposition of Detective Jesus Prieto .1881 02/22/2018
23.	Exhibits to Deposition of Marc DiGiacomo Part 1 of 63028 07/26/2019
24.	Exhibits to Deposition of Marc DiGiacomo Part 2 of 63224 07/26/2019
25.	Exhibits to Deposition of Marc DiGiacomo Part 3 of 63335 07/26/2019
26.	Exhibits to Deposition of Marc DiGiacomo Part 4 of 63529 07/26/2019
27.	Exhibits to Deposition of Marc DiGiacomo Part 5 of 63643 07/26/2019
28.	Exhibits to Deposition of Marc DiGiacomo Part 6 of 63852 07/26/2019
29.	Guilty Plea Agreement0162 04/04/2005
30.	Guilty Plea Transcript.....0171 04/04/2005
31.	Index of Exhibits in Support of Motion for the Court to Stay Entry of It's Written Order and for Leave to Request Reconsideration.....2744 04/04/2019

32.	Index of Exhibits in Support of Opposition to the State's Motion to Dismiss 2702 01/03/2019
33.	Index of Exhibits in Support of Petition for Writ of Habeas Corpus (Post-Conviction) 4439 03/27/2020
34.	Index of Exhibits in Support of Petition for Writ of Habeas Corpus (Post-Conviction) Part 1 of 2 2515 11/20/2018
35.	Index of Exhibits in Support of Petition for Writ of Habeas Corpus (Post-Conviction) Part 2 of 2 2519 11/20/2018
36.	Information 0074 09/28/2004
37.	Jail Call Transcript..... 0040 06/29/2004
38.	Judgment of Conviction (Jury Trial) 1264 10/22/2012
39.	Judgment of Conviction (Plea of Guilty)..... 0234 08/31/2005
40.	Jury Trial Transcript at 1:30 p.m. 0843 05/13/2011
41.	Jury Trial Transcript at 11:00 a.m. 1102 05/20/2011
42.	Jury Trial Transcript at 5:15 p.m. 1165 05/20/2011
43.	Jury Trial Transcript at 9:00 a.m. 0770 05/13/2011
44.	Jury Trial Transcript..... 0869 05/16/2011
45.	Jury Trial Transcript..... 0935 05/17/2011
46.	Jury Trial Transcript..... 1006 05/18/2011
47.	Jury Trial Transcript..... 1043 05/19/2011

48.	Las Vegas Metropolitan Police Department (LVMPD) Communication Center Event Search 0001 06/03/2004
49.	MANUALLY FILED EXHIBIT 4533
50.	MANUALLY FILED EXHIBIT 4534
51.	MANUALLY FILED EXHIBIT 4535
52.	Motion for Leave to Conduct Discovery and for Court Order to Obtain Documents and Depositions 1620 08/02/2017
53.	Motion for the Court to Stay Entry of Its Written Order and For Leave to Request Reconsideration 2739 04/04/2019
54.	Motion for the Court to Take Judicial Notice of the Filings in Mr. Slaughter's Criminal Case Number 2708 01/04/2019
55.	Motion for the Court to Take Judicial Notice of the Filings in Mr. Slaughter's Prior Cases 4364 03/27/2020
56.	Motion to Dismiss Case for Failure to Preserve or Destruction of Exculpatory Photo Lineup Identification Evidence 0578 10/27/2009
57.	Motion to Expand the Record of Appeal and/or to Remand 4053 02/20/2020
58.	Motion to Preserve Evidence and Request to Inspect Original Photo Lineups 0101 02/28/2005
59.	Motion to Reveal Confidential Informant 0110 02/28/2005
60.	North Las Vegas Detention Center/Corrections Mugshot Profile for Rickie Lamont Slaughter 0047 06/29/2004

61.	North Las Vegas Police Department Police Report0008 06/26/2004
62.	North Las Vegas Police Department Police Report0019 06/26/2004
63.	North Las Vegas Police Department Police Report0021 06/26/2004
64.	North Las Vegas Police Department Police Report0033 06/29/2004
65.	North Las Vegas Police Department Police Report0048 06/30/2004
66.	North Las Vegas Police Department Police Report0053 07/29/2004
67.	North Las Vegas Police Department Police Report (Ivan Young).....0003 06/26/2004
68.	North LVMPD Incident Description (Jennifer Dennis).....0002 06/26/2004
69.	Notice of Appeal0319 01/11/2007
70.	Notice of Appeal2785 05/06/2019
71.	Notice of Appeal4530 03/05/2021
72.	Notice of Entry of Decision and Order.....0321 01/30/2007
73.	Notice of Entry of Decision and Order.....0565 08/12/2008
74.	Notice of Entry of Findings of Fact, Conclusions of Law and Order4520 02/12/2021
75.	Notice of Entry of Findings of Fact, Conclusions of Law and Order1504 07/24/2015
76.	Notice of Entry of Findings of Fact, Conclusions of Law and Order1597 06/13/2016

77.	Notice of Entry of Findings of Fact, Conclusions of Law and Order 2754 04/15/2019
78.	Notice of Motion for the Court's to Take Judicial Notice of the Filings in Mr. Slaughter's Criminal Case Number 2705 01/04/2019
79.	Opposition to Defendant's Motion to Reveal the Confidential Informant 0123 03/01/2005
80.	Opposition to Petitioner's Motion for Withdrawal of Guilty Plea 0376 04/18/2008
81.	Opposition to the State's Motion to Dismiss 2670 01/03/2019
82.	Opposition to the State's Motion to Dismiss 4475 05/07/2020
83.	Order Affirming In Part, Vacating in Part and Remanding 0328 07/24/2007
84.	Order Denying Motion 4362 03/11/2020
85.	Order of Affirmance 1269 03/12/2014
86.	Order of Affirmance 1612 07/13/2016
87.	Order of Affirmance 1615 04/19/2017
88.	Order of Affirmance 4505 10/15/2020
89.	Order of Reversal and Remand 0569 03/27/2009
90.	Order 1633 11/20/2017
91.	Order 2729 03/29/2019

92.	Petition for Writ of Habeas Corpus (Post-Conviction Relief) Transcript.....	1460
	06/22/2015	
93.	Petition for Writ of Habeas Corpus (Post-Conviction)	0236
	08/07/2006	
94.	Petition for Writ of Habeas Corpus (Post-Conviction)	1275
	03/25/2015	
95.	Petition for Writ of Habeas Corpus (Post-Conviction)	1516
	02/12/2016	
96.	Petition for Writ of Habeas Corpus (Post-Conviction)	2443
	11/20/2018	
97.	Petition for Writ of Habeas Corpus (Post-Conviction)	4369
	03/27/2020	
98.	Petition for Writ of Habeas Corpus Transcript (Post-Conviction).....	2713
	03/07/2019	
99.	Petitioner's Exhibits for Petition for Writ of Habeas Corpus (Post-Conviction)	1358
	03/25/2015	
100.	Petitioner's Exhibits for Petition for Writ of Habeas Corpus (Post-Conviction)	1555
	02/12/2016	
101.	Petitioner's Opening Brief in Support of His Request to Withdraw his Guilty Plea.....	0350
	03/28/2008	
102.	Petitioner's Reply to State's Response to Pro Per Petition for Writ of Habeas Corpus	1475
	07/15/2015	
103.	Petitioner's Reply to the State's Opposition to Withdrawal of Guilty Plea	0392
	05/12/2008	
104.	Petitioner's Response to the State's Opposition to Petitioner's Petition for Writ of Habeas Corpus/Request for Evidentiary Hearing/Exhibits.....	0262
	12/13/2006	

105.	Remittitur 0336 08/28/2007
106.	Remittitur 4514 11/09/2020
107.	Reply in Support of Motion for the Court to Stay Entry of It's Written Order and for Leave to Request Reconsideration .. 2780 04/15/2019
108.	Reply to State's Opposition to Dismiss Case for Failure to Preserve or Destruction of Exculpatory Photo Lineup Identification Evidence..... 0662 11/17/2009
109.	Reporter's Transcript..... 0709 05/12/2011
110.	Respondents' Answering Brief 3993 12/20/2019
111.	Response to Defendant's Motion to Preserve Evidence and Inspect Original Photo Line-Ups 0120 03/01/2005
112.	Second Amended Criminal Complaint 0065 09/20/2004
113.	Second Amended Information 0092 12/13/2004
114.	Sentencing Transcript 0211 08/08/2005
115.	Sentencing Transcript 1199 10/16/2012
116.	State's Opposition to Defendant's Motion for Leave to Supplement Petition for Writ of Habeas Corpus (Post-Conviction); Appointment of Counsel and Motion for Court Minutes and Transcripts At State Expense..... 0254 09/11/2006
117.	State's Opposition to Defendant's Motion to Stay..... 2747 04/08/2019

118.	State's Opposition to Dismiss Case for Failure to Preserve or Destruction of Exculpatory Photo Lineup Identification Evidence 0659 11/09/2009
119.	State's Response to Defendant's Petition for Writ of Habeas Corpus (Post-Conviction) 2523 12/19/2018
120.	State's Response to Defendant's Pro Per Petition for Writ of Habeas Corpus 1444 06/02/2015
121.	State's Response to Petition for Writ of Habeas Corpus (Post-Conviction) and Motion to Dismiss Petition Pursuant to NRS 34.800 4442 04/29/2020
122.	Subpoena Duces Tecum to Clark County Detention Center 0692 02/01/2010
123.	Supplemental Index of Manually Filed Exhibits in Support of Petition for Writ of Habeas Corpus (Post-Conviction) 4472 04/30/2020
124.	Surveillance Still Shots at 7-Eleven 0027 06/26/2004
125.	Third Amended Information 0147 03/21/2005
126.	Transcript of Deposition of Detective Jesus Prieto 1635 02/22/2018
127.	Transcript Re: Hearing 4516 11/16/2020
128.	Unsigned Declaration of Rickie Slaughter 2788 (undated)
129.	Verdict 1175 05/20/2011
130.	Writ of Habeas Corpus Transcript 0300 12/18/2006

CHRONOLOGICAL INDEX

VOLUME I

1.	Las Vegas Metropolitan Police Department (LVMPD) Communication Center Event Search 0001 06/03/2004
2.	North LVMPD Incident Description (Jennifer Dennis)..... 0002 06/26/2004
3.	North Las Vegas Police Department Police Report (Ivan Young)..... 0003 06/26/2004
4.	North Las Vegas Police Department Police Report 0008 06/26/2004
5.	North Las Vegas Police Department Police Report 0019 06/26/2004
6.	North Las Vegas Police Department Police Report 0021 06/26/2004
7.	Surveillance Still Shots at 7-Eleven 0027 06/26/2004
8.	North Las Vegas Police Department Police Report 0033 06/29/2004
9.	Jail Call Transcript..... 0040 06/29/2004
10.	North Las Vegas Detention Center/Corrections Mugshot Profile for Rickie Lamont Slaughter..... 0047 06/29/2004
11.	North Las Vegas Police Department Police Report 0048 06/30/2004
12.	Criminal Complaint..... 0051 07/01/2004
13.	North Las Vegas Police Department Police Report 0053 07/29/2004
14.	Amended Criminal Complaint 0057 09/01/2004
15.	Second Amended Criminal Complaint 0065 09/20/2004

16.	Information 0074 09/28/2004
17.	Amended Information..... 0083 09/28/2004
18.	Second Amended Information 0092 12/13/2004
19.	Motion to Preserve Evidence and Request to Inspect Original Photo Lineups 0101 02/28/2005
20.	Motion to Reveal Confidential Informant..... 0110 02/28/2005
21.	Response to Defendant's Motion to Preserve Evidence and Inspect Original Photo Line-Ups 0120 03/01/2005
22.	Opposition to Defendant's Motion to Reveal the Confidential Informant 0123 03/01/2005
23.	Defendant's Reply to the State's Opposition to Defendant's Motion to Reveal Confidential Informant..... 0131 03/18/2005
24.	Third Amended Information 0147 03/21/2005
25.	Defendant's Motion for a Continuance 0155 04/01/2005
26.	Guilty Plea Agreement 0162 04/04/2005
27.	Guilty Plea Transcript..... 0171 04/04/2005
28.	Defendant's Request for Amended Plea Agreement 0207 06/27/2005
29.	Sentencing Transcript 0211 08/08/2005
30.	Defendant's Motion to Withdraw a Guilty Plea 0230 08/08/2005
31.	Judgment of Conviction (Plea of Guilty)..... 0234 08/31/2005

VOLUME II	
32.	Petition for Writ of Habeas Corpus (Post-Conviction)..... 0236 08/07/2006
33.	State’s Opposition to Defendant’s Motion for Leave to Supplement Petition for Writ of Habeas Corpus (Post-Conviction); Appointment of Counsel and Motion for Court Minutes and Transcripts At State Expense..... 0254 09/11/2006
34.	Petitioner’s Response to the State’s Opposition to Petitioner’s Petition for Writ of Habeas Corpus/Request for Evidentiary Hearing/Exhibits..... 0262 12/13/2006
35.	Writ of Habeas Corpus Transcript..... 0300 12/18/2006
36.	Notice of Appeal 0319 01/11/2007
37.	Notice of Entry of Decision and Order..... 0321 01/30/2007
38.	Order Affirming In Part, Vacating in Part and Remanding 0328 07/24/2007
39.	Remittitur 0336 08/28/2007
40.	Attorney General’s Response to Nevada Supreme Court’s July 24, 2007, Order 0337 11/09/2007
41.	Petitioner’s Opening Brief in Support of His Request to Withdraw his Guilty Plea..... 0350 03/28/2008
42.	Opposition to Petitioner’s Motion for Withdrawal of Guilty Plea 0376 04/18/2008
43.	Petitioner’s Reply to the State’s Opposition to Withdrawal of Guilty Plea 0392 05/12/2008

VOLUME III	
44.	Evidentiary Hearing Transcript 0407 06/19/2008
45.	Notice of Entry of Decision and Order..... 0565 08/12/2008
46.	Order of Reversal and Remand..... 0569 03/27/2009
47.	Motion to Dismiss Case for Failure to Preserve or Destruction of Exculpatory Photo Lineup Identification Evidence 0578 10/27/2009
48.	Application and Affidavit for Search Warrant 0650 11/05/2009
VOLUME IV	
49.	State’s Opposition to Dismiss Case for Failure to Preserve or Destruction of Exculpatory Photo Lineup Identification Evidence 0659 11/09/2009
50.	Reply to State’s Opposition to Dismiss Case for Failure to Preserve or Destruction of Exculpatory Photo Lineup Identification Evidence..... 0662 11/17/2009
51.	Defendant’s Motions Transcript 0667 12/01/2009
52.	Subpoena Duces Tecum to Clark County Detention Center 0692 02/01/2010
53.	Reporter’s Transcript..... 0709 05/12/2011
54.	Jury Trial Transcript at 9:00 a.m. 0770 05/13/2011
55.	Jury Trial Transcript at 1:30 p.m. 0843 05/13/2011

VOLUME V	
56.	Jury Trial Transcript..... 0869 05/16/2011
57.	Jury Trial Transcript..... 0935 05/17/2011
58.	Jury Trial Transcript..... 1006 05/18/2011
59.	Jury Trial Transcript..... 1043 05/19/2011
VOLUME VI	
60.	Jury Trial Transcript at 11:00 a.m. 1102 05/20/2011
61.	Jury Trial Transcript at 5:15 p.m. 1165 05/20/2011
62.	Verdict 1175 05/20/2011
63.	Defendant’s Motion for Disclosure of all Brady and Giglio Material and Request for An In Camera SCOPE Review ... 1179 07/22/2011
64.	Sentencing Transcript 1199 10/16/2012
65.	Judgment of Conviction (Jury Trial) 1264 10/22/2012
66.	Order of Affirmance 1269 03/12/2014
VOLUME VII	
67.	Petition for Writ of Habeas Corpus (Post-Conviction) 1275 03/25/2015
68.	Petitioner’s Exhibits for Petition for Writ of Habeas Corpus (Post-Conviction) 1358 03/25/2015
69.	State’s Response to Defendant’s Pro Per Petition for Writ of Habeas Corpus 1444 06/02/2015

70.	Petition for Writ of Habeas Corpus (Post-Conviction Relief) Transcript..... 1460 06/22/2015
71.	Petitioner's Reply to State's Response to Pro Per Petition for Writ of Habeas Corpus 1475 07/15/2015
72.	Notice of Entry of Findings of Fact, Conclusions of Law and Order 1504 07/24/2015
VOLUME VIII	
73.	Petition for Writ of Habeas Corpus (Post-Conviction)..... 1516 02/12/2016
74.	Petitioner's Exhibits for Petition for Writ of Habeas Corpus (Post-Conviction)..... 1555 02/12/2016
75.	Notice of Entry of Findings of Fact, Conclusions of Law and Order 1597 06/13/2016
76.	Order of Affirmance 1612 07/13/2016
77.	Order of Affirmance 1615 04/19/2017
78.	Motion for Leave to Conduct Discovery and for Court Order to Obtain Documents and Depositions 1620 08/02/2017
79.	Order 1633 11/20/2017
VOLUME IX	
80.	Transcript of Deposition of Detective Jesus Prieto..... 1635 02/22/2018
VOLUME X	
81.	Exhibits Attached to Deposition of Detective Jesus Prieto . 1881 02/22/2018

VOLUME XI	
82.	Additional Exhibits Attached to Deposition of Detective Jesus Prieto 2199 02/22/2018
83.	Declaration of Maribel Yanez..... 2441 11/01/2018
84.	Declaration of Jennifer Springer 2442 11/13/2018
VOLUME XII	
85.	Petition for Writ of Habeas Corpus (Post-Conviction) 2443 11/20/2018
86.	Index of Exhibits in Support of Petition for Writ of Habeas Corpus (Post-Conviction) Part 1 of 2 2515 11/20/2018
87.	Index of Exhibits in Support of Petition for Writ of Habeas Corpus (Post-Conviction) Part 2 of 2 2519 11/20/2018
88.	State’s Response to Defendant’s Petition for Writ of Habeas Corpus (Post-Conviction) 2523 12/19/2018
VOLUME XIII	
89.	Opposition to the State’s Motion to Dismiss 2670 01/03/2019
90.	Index of Exhibits in Support of Opposition to the State’s Motion to Dismiss 2702 01/03/2019
91.	Notice of Motion for the Court’s to Take Judicial Notice of the Filings in Mr. Slaughter’s Criminal Case Number 2705 01/04/2019
92.	Motion for the Court to Take Judicial Notice of the Filings in Mr. Slaughter’s Criminal Case Number 2708 01/04/2019

93.	Petition for Writ of Habeas Corpus Transcript (Post-Conviction).....	2713
	03/07/2019	
94.	Order	2729
	03/29/2019	
95.	Motion for the Court to Stay Entry of Its Written Order and For Leave to Request Reconsideration	2739
	04/04/2019	
96.	Index of Exhibits in Support of Motion for the Court to Stay Entry of It's Written Order and for Leave to Request Reconsideration.....	2744
	04/04/2019	
97.	State's Opposition to Defendant's Motion to Stay.....	2747
	04/08/2019	
98.	Notice of Entry of Findings of Fact, Conclusions of Law and Order	2754
	04/15/2019	
99.	Reply in Support of Motion for the Court to Stay Entry of It's Written Order and for Leave to Request Reconsideration ..	2780
	04/15/2019	
100.	Notice of Appeal	2785
	05/06/2019	
VOLUME XIV		
101.	Unsigned Declaration of Rickie Slaughter	2788
	(undated)	
102.	Deposition Transcript of Marc DiGiacomo	2789
	07/26/2019	
VOLUME XV		
103.	Exhibits to Deposition of Marc DiGiacomo Part 1 of 6	3028
	07/26/2019	
VOLUME XVI		
104.	Exhibits to Deposition of Marc DiGiacomo Part 2 of 6	3224
	07/26/2019	

VOLUME XVII	
105.	Exhibits to Deposition of Marc DiGiacomo Part 3 of 6 3335 07/26/2019
VOLUME XVIII	
106.	Exhibits to Deposition of Marc DiGiacomo Part 4 of 6 3529 07/26/2019
VOLUME XIX	
107.	Exhibits to Deposition of Marc DiGiacomo Part 5 of 6 3643 07/26/2019
VOLUME XX	
108.	Exhibits to Deposition of Marc DiGiacomo Part 6 of 6 3852 07/26/2019
109.	Declaration of Osvaldo Fumo 3894 10/16/2019
110.	Declaration of Maribel Yanez..... 3907 10/24/2019
111.	Appellant's Opening Brief 3911 11/08/2019
112.	Respondents' Answering Brief 3993 12/20/2019
VOLUME XXI	
113.	Motion to Expand the Record of Appeal and/or to Remand 4053 02/20/2020
VOLUME XXII	
114.	Appellant's Reply Brief..... 4320 02/20/2020
115.	Order Denying Motion..... 4362 03/11/2020

116.	Motion for the Court to Take Judicial Notice of the Filings in Mr. Slaughter's Prior Cases 4364 03/27/2020
117.	Petition for Writ of Habeas Corpus (Post-Conviction) 4369 03/27/2020
118.	Index of Exhibits in Support of Petition for Writ of Habeas Corpus (Post-Conviction) 4439 03/27/2020
119.	State's Response to Petition for Writ of Habeas Corpus (Post-Conviction) and Motion to Dismiss Petition Pursuant to NRS 34.800 4442 04/29/2020
120.	Supplemental Index of Manually Filed Exhibits in Support of Petition for Writ of Habeas Corpus (Post-Conviction) 4472 04/30/2020
121.	Opposition to the State's Motion to Dismiss 4475 05/07/2020
122.	District Court Minutes on Writ of Habeas Corpus 4504 06/11/2020
123.	Order of Affirmance 4505 10/15/2020
124.	Remittitur 4514 11/09/2020
125.	Transcript Re: Hearing 4516 11/16/2020
126.	Notice of Entry of Findings of Fact, Conclusions of Law and Order 4520 02/12/2021
127.	Notice of Appeal 4530 03/05/2021
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129.	MANUALLY FILED EXHIBIT 4534
130.	MANUALLY FILED EXHIBIT 4535

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
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/s/ Richard D. Chavez

An Employee of the
Federal Public Defender

FILED

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Ann L. L...
CLERK COURT

1 TRAN

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4 IN THE EIGHTH JUDICIAL DISTRICT COURT
5 CLARK COUNTY, NEVADA

6

7

 ORIGINAL

8 THE STATE OF NEVADA,)

9 Plaintiff,)

10 vs.)

11 RICKIE SLAUGHTER,)

12 Defendant.)

Case No.
C204957
Dept. No. 3

13 -----

14

JURY TRIAL

15

16 Before the Honorable Douglas W. Herndon
17 Friday, May 20, 2011, 11:00 a.m.

18

Reporter's Transcript of Proceedings

19

20

APPEARANCES:

21

22

For the State: Marc DiGiacomo, Esq.
Michelle Fleck, Esq.
Deputy District Attorneys

23

24

For the Defendant: Osvaldo Fumo, Esq.
Dustin Marcello, Esq.

25

REPORTED BY: ROBERT A. CANGEMI, CCR No. 888

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CLERK OF THE COURT

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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
16 Before the Honorable Douglas W. Herndon
17 Friday, May 20, 2011, 11:00 a.m.
18 Reporter's Transcript of Proceedings
19

20 APPEARANCES:
21 For the State: Marc DiGiacomo, Esq.
22 Michelle Fleck, Esq.
23 Deputy District Attorneys
24 For the Defendant: Osvaldo Fumo, Esq.
25 Dustin Marcello, Esq.
26 REPORTED BY: ROBERT A. CANGEMI, CCR No. 888

1 INDEX 2
2
3 Closing arguments: State Defendant
4
5 6 83
6 129
7
8
9
10
11
12
13
14
15
16
17
18
19
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1 Las Vegas, Nevada, Friday, May 20, 3
2 2011
3 * * * * *
4 (Thereupon, the following proceedings
5 were had in open court and in the
6 presence of the jury.)
7 - - - - -

8 THE COURT: I hate to use the
9 term cursed, but sometimes you just
10 throw up your hands and give up on
11 the idea that things are going to go
12 smoothly.

13 We are back here where you
14 are comfortable. I apologize for
15 your delays in trying to get started
16 this morning. We couldn't get hooked
17 up.

18 We will be on the record in
19 204957, State of Nevada versus Rickie
20 Slaughter, who is present with his
21 attorneys.

22 The State's attorneys are
23 present.

24 We are in the presence of our
25 jurors.

1 Does everybody have a copy of 4
2 the instructions in your chair?
3 As we discussed last week,
4 there comes a time where I give you
5 the law that applies to the case, the
6 law that you are to use as you go
7 back into your deliberations and
8 deliberate and come up with a just
9 verdict here.

10 The law does require me to
11 read the instructions to you, so I
12 will try do it as quickly as I can,
13 since you all have the packet to read
14 along.

15 I think it is a good idea, so
16 you can see things, and hearing them
17 at the same time gives you the
18 ability to absorb it a lot
19 quicker.

20 You will be able to take
21 your individual packet back with you
22 when you go to deliberate, so feel
23 free to write notes on the packet as
24 I am reading it to you.

25 You all will be at the big

1 table back there, so you may scribble
2 your name on the front page so your
3 packet doesn't get mixed up with
4 anybody else's.

5 There's a lot of
6 instructions. Obviously there's a
7 lot of concepts and things within the
8 law that have to be defined. Most of
9 them are not too lengthy, other than
10 the one that deals with the reading
11 of the charges.

12 So, as I said, I will try to
13 read through these as quickly as I
14 can.

15 - - - - -

16 (Thereupon, the jury instructions were read
17 to the jury, both the State and the Defense
18 waiving the reporting of the jury
19 instructions.)

20 - - - - -

21 THE COURT: I appreciate your
22 time and patience. You probably
23 should all have a copy of the verdict
24 form attached to the pages of the
25 instructions. That's pretty self-

1 explanatory.

2 The attorneys may discuss
3 that with you further during their
4 closing argument.

5 So I will turn it over to
6 Ms. Fleck for the argument on behalf
7 of the State.

8 - - - - -

9 CLOSING ARGUMENT - STATE

10 - - - - -

11 MS. FLECK: Thank you, Judge.
12 Turn around and look at this gun.
13 This is the gun that's going to kill
14 you, as Ivan Young laid face down on
15 the floor of his own home, bound
16 by cords ripped from his own
17 property.

18 He looked up at the Defendant
19 and saw a weapon. At that point in
20 time Ivan made one simple request of
21 the Defendant; please, please don't
22 shoot me.

23 Please don't kill me in front
24 of the kids, but in Rick Slaughter's
25 game called murder, he would decide

1 when and he would decide where his
2 victim would be shot.

3 I've got a Magnum and that
4 Magnum is going to leave a large hole
5 in your face. With that the
6 Defendant unloaded one bullet from a
7 357 Magnum into Ivan Young's face,
8 tearing through his nose, ripping
9 through his lips and ultimately
10 leaving what will forever be a large
11 hole where Ivan Young's right eye
12 once lay.

13 Because of the Defendant's
14 actions on June 26, 2004, we have all
15 spent the last week or so looking at
16 evidence and hearing testimony.

17 Through that evidence and
18 testimony it has been the State's job
19 to prove to you beyond a reasonable
20 doubt a couple of things.

21 First, that crimes were
22 committed; and, second, that the
23 Defendant, Rickie Slaughter, committed
24 those crimes.

25 So, let's talk about what

1 crimes were committed on June 26,
2 2004 at Ivan Young's home located at
3 2612 Glory View.

4 My guess, ladies and
5 gentlemen, is that no one is going to
6 stand before you today and tell you
7 that these crimes didn't occur, that
8 Ivan Young wasn't shot, that the
9 members of his family and friends
10 weren't tied up, kidnapped, robbed.

11 However, I still need to go
12 through the law and show you why in
13 the State of Nevada the Defendant is
14 guilty of the crimes, and this is the
15 place in the trial where you are
16 going to look back on the notes you
17 have written, recall the testimony,
18 recall the evidence; and that,
19 coupled with the law that Judge
20 Herndon just read to you, along
21 with your common sense, that will be
22 the tool that you use when you go
23 back to deliberate in order to come
24 to the appropriate verdict in this
25 case.

The Defendant has been charged with 14 counts.

Count 1, conspiracy to commit kidnapping.

Count 2, conspiracy to commit robbery.

Count 3, attempt murder with the use of a deadly weapon.

Count 4, battery with use of a deadly weapon.

Count 5, attempt robbery with use of a deadly weapon.

Count 6, robbery with use of a deadly weapon.

Count 7, burglary while in the possession of a firearm.

Count 8, burglary.

Count 9, first degree kidnapping with use of a deadly weapon.

Count 10, first degree kidnapping with use of a deadly weapon.

Counts 11, 12, 13 and 14, all first degree kidnapping with use of a

deadly weapon for all 6 victims that fell prey to the Defendant, Rickie Slaughter.

So, let's start with one of the first concepts that the Judge read the law to you and that we have in this case, and that is a conspiracy.

A conspiracy is an agreement between 2 or more persons for an unlawful purpose. And to be guilty of a conspiracy, a Defendant must intend to commit or aid in the commission of the specific crime that is agreed upon.

A person who normally does an act to further an object, to further the object of that conspiracy, is as liable as a conspirator.

What is important about a conspiracy is that the crime is the agreement itself. The crime of the conspiracy is not the robbery or the kidnapping, but it is the agreement between the 2 people to come together

to do those crimes.

What do we have here, we have Rickie Slaughter, who has come together with a co-conspirator, and they agreed to commit a robbery. They agreed to commit a kidnapping.

Now, in order to determine whether or not there's a conspiracy, you look at the coordinated series of acts in furtherance of that underlying charge.

You are clearly not going to get some kind of a formal agreement; I, Rickie Slaughter, agree to engage in a robbery, signed by Rickie Slaughter and his co-conspirator.

So what do you do, you look at the circumstances surrounding the crime and the event in order to determine whether or not there was an agreement to come together.

What is also important about a conspiracy is that each member is liable for each act and bound by each declaration of every other member of

the conspiracy, if the act or the declaration is in furtherance of that conspiracy.

So, if one person is responsible for tying up a certain victim and another person in that conspiracy is responsible for tying up a different victim, they are both responsible for the acts of each other, because they have come together.

They decided they are going to do this crime together. They are each responsible.

That makes sense, right; one person shouldn't get off because while they are going to engage in the crime, probably share in the proceeds, that they should get off because they weren't the person that did a specific act.

So, what do we have here, conspiracy to commit robbery. What circumstances do we have surrounding this to show that the Defendant is

1 guilty of the conspiracy to commit
2 robbery?

3 Well, he and his
4 co-conspirator came to 2612 Glory
5 View in what we know as Tiffany
6 Johnson's green Ford Taurus. They
7 parked the Taurus 2 to 3 houses away
8 from the scene of the crime.

9 They come over, into the
10 house, pretending to inquire about
11 cars. We know now they had no
12 intention of getting a car painted,
13 doing any legitimate kind of business
14 at Ivan Young's home.

15 They used fake accents. You
16 have heard from a number of victims
17 in this case. Ivan Young said it
18 appeared they were trying to talk
19 Jamaican.

20 Ryan John said it sounded
21 like a fake accent; and Jennifer said
22 it sounded like they were putting on
23 an act. So, using a different voice
24 to disguise their identify.

25 They brought gloves with

1 them; how do we know, because Ivan
2 Young told you that when they first
3 came into the house they are not
4 wearing gloves. Clearly they are not
5 going to walk into a house pretending
6 to have legitimate business in June
7 wearing gloves.

8 We know from the witnesses in
9 the case and from the forensic
10 evidence they were wearing gloves.
11 They bring that with them in order to
12 ensure that they don't leave forensic
13 evidence at the scene.

14 They start asking for money
15 and for guns. It isn't an element of
16 a conspiracy to have finished the
17 crime. Again, sense the conspiracy
18 is just the agreement itself, they
19 don't have to the finish the crime.

20 They do. They go on to
21 commit a robbery and an attempt
22 robbery. How about the conspiracy to
23 commit the kidnapping; what did they
24 do, what series of events and acts
25 did Rickie Slaughter and his

1 co-conspirator go through in order to
2 commit the kidnapping; they knew that
3 they were going to have to control
4 everyone in the house.

5 There's 4 people in the home,
6 and then 2 more come over. So they
7 cutoff all of the cords and go
8 through the house together and they
9 find fans, a television, lamps,
10 cutoff all of the cords and bind
11 everyone up; all acts in furtherance
12 of the conspiracy, making the
13 Defendant also guilty of conspiracy
14 to commit kidnapping.

15 Conspiracy is a theory of
16 liability. There's a number of
17 theories of liability that you are
18 going to see when you go back to
19 deliberate that you heard the judge
20 talk about specifically when he read
21 the information to you.

22 Theories of liability,
23 meaning that the Defendant can be
24 found guilty, held liable in a number
25 of ways, depending on how you believe

1 he participated in the crime.

2 And the first obviously is by
3 directly committing the crime and the
4 attempt murder, when he points the
5 gun at Ivan's face and shoots it into
6 his face.

7 He is directly guilty of
8 committing that crime because he is
9 the sole person that committed that
10 crime.

11 Additionally there is
12 conspiracy to commit a crime. We
13 went through that in a conspiracy
14 where each conspirator is liable for
15 the acts of the other conspirator.
16 The act of one is the act of all.

17 And, finally, aiding and
18 abetting; the Defendant can be found
19 guilty of aiding and abetting. That
20 is where a person aids and abets
21 through the commission of a crime as
22 he knowingly with criminal intent
23 aids, promotes, encourages or
24 instigates by act or device the
25 commission of such crime with the

intention that the crime be committed; and, again, equal guilt between all parties.

Another concept, another charge in this case is burglary. The Defendant and his co-conspirator, they conspired together to commit these crimes.

As soon as they get over to Ivan's house, they go into his garage, they enter that structure. Why did they go, they entered with the intent to commit a larceny and/or a robbery.

A larceny is basically stealing, taking another person's property with intent to permanently deprive that person of it.

We will get to what a robbery is. With a burglary, the actual crime is the intent, what Mr. Slaughter went into the home with the intent to do.

In this case he has been charged with burglary while in

possession of a firearm. That is where every person who is committing a burglary either has a weapon with them, in this case 3 weapons, or who gains possession during the course of that crime, then they are guilty of burglary while in possession of a firearm.

And, again, the important aspect of a burglary is intent. How do we know that the Defendant had the intent to commit a larceny and/or a robbery.

Why else was he there; he was not there on legitimate business. He was not invited to the home. He was not a friend of Ivan Young's or Jennifer's.

He came with a disguise. He came with the sole reason of victimizing these people, terrorizing these people, of getting anything that he could from the people in the home and from any property that was in the house.

He came solely with the intent to commit these crimes and to victimize this family, because he had not one, not 2, but 3 weapons with him. He is guilty of burglary while in possession of a firearm for entering 2612 Glory View with the intent to commit these crimes.

What is a robbery; once the Defendant gets inside the house, once he commits that burglary, he is inside, he holds Ivan Young at gun point. He takes him inside and starts his course of terror.

He commits a robbery on Ryan John, an attempt robbery on Ivan; so, what is a robbery; it is an unlawful taking of personal property from the person of another or in the person's presence against his or her will by means of force or violence or fear of injury, immediate or future to his or her property.

Now, that fear and that force that must be used to obtain or retain

the property or to prevent or overcome resistance, or to facilitate escape. The degree of force is not important. Pointing a gun at a person, not actually even firing it, being physically intimidating, hitting, punching, pretending like you have a weapon; the degree of force is not what is important, it is; did that person give up their personal property that they owned, that they worked for, against their will, because you, in this case, Rickie Slaughter, were using force and fear in order to obtain that property or to retain it.

Again, it was a deadly weapon used during the robbery. Now, this count is pled as robbery with use of a deadly weapon; what is a deadly weapon; it seems obvious it is the firearm.

In the State of Nevada, the instruction is that -- or the law is that any instrument which if used in

the ordinary manner contemplated by its design and construction will or is likely to cause substantial bodily harm or death; or if any weapon, device, instrument, material or substance which under the circumstances in which it is used attempted to be used or threatened to be used is readily capable of causing substantial bodily harm or death.

In that instance a baseball bat can be used in a game or to beat someone to death. The law in Nevada goes on one step further and makes it real easy in the case of a firearm and just tells you straight away that a firearm is a deadly weapon.

Therefore, in this case, you are going to have a number of counts that will include with a deadly weapon. First degree kidnapping with use of a deadly weapon.

Robbery with use of a deadly weapon. Attempt murder with use of a deadly weapon. If you find the

Defendant guilty of those various crimes, you will then have to go on the determine whether or not he was in possession of a deadly weapon.

You know in this case that there was again 3 deadly weapons, because there were 3 firearms. So, any time you are faced with that, when you go back to deliberate, if you find the Defendant guilty, the appropriate verdict would be guilty of the crime with use of a deadly weapon for having possession of those firearms.

It is important to know that with a deadly weapon, that the State is not required to have recovered the deadly weapon used to establish that it was used.

We know in this case that Ivan Young was shot in the face with a 357 Magnum.

We know the Defendant had access to a 357 Magnum. We will look at that evidence later, but we know

there was a cartridge, a bullet core. We know we have the fragments.

The fact that we don't have the actual weapon, that we have the .22 and the .25, but not the 357, the Defendant doesn't get the benefit of getting rid of that weapon, of us not finding it.

That also makes sense. The law accounts for that. Someone is not going to be able to use a firearm in the commission of a crime, hide it, get rid of it, give it away and then say the State didn't find it, so you can't prove that I used it.

We can absolutely prove that it was used. We don't have to bring it to you to show that it was used.

Additionally, if more than one person commits a crime and one of them uses a deadly weapon in the commission, each may be convicted with use of a deadly weapon, even though he did not personally himself

use the weapon.

We know that Rickie Slaughter used a weapon in all of these crimes. We know that each of the individuals, Rickie Slaughter and the co-conspirator, had 3 guns, that each of them had access to at least one, and oftentimes one of them would have 2 at a time.

But, again, with the conspiracy, one person has the gun and the other person is liable for the acts of that person and the use of that weapon.

So, what do we have, we have a robbery with use of a deadly weapon; victim, Ryan John.

Ryan John gets called over to the Glory View home. He is visiting his girlfriend at Kenny Marks' house. He gets called over.

The Defendant brings him into the house. He uses fear. He uses force. He is tied up. He is kicked. He is beaten. He is told

that he is going to die, that he is going to be shot.

Based upon that, he relinquished his property. That's his phone, his credit cards, and ultimately his Wells Fargo credit card that he has to give the pin for that the Defendant later goes on and uses.

So, the Defendant is guilty of robbery with use of a deadly weapon for using a weapon to obtain Ryan John's property against his will, using fear and force.

We know at about 8:07 p.m. none other than the Defendant comes into 7-Eleven and he uses that credit card. The proceeds from the robbery that he just participated in.

We also have the attempt robbery. That count is for the victim, Ivan Young. Attempt is an act done with the intent to commit the crime intending, but failing to accomplish it.

So, basically a robbery that he is not quite successful in getting the property that he wants and the property that he is demanding.

What evidence do we have of an attempt robbery with victim Ivan Young; well, the Defendant comes in the house and he is immediately asking where is the money, where is the money; give me the money, et cetera.

He is also demanding other property; where are the guns. He is attempting through fear and force to get that property from Ivan Young.

We all know what happened when Rickie Slaughter didn't get what he wanted. There are 6 counts of first degree kidnapping, all with use of a deadly weapon in this case, one count for each and every victim.

First degree kidnapping is where every person who willfully sees it, confines, inveigles, entices,

decoys, abducts, conceals, kidnaps or carries away any person by any means whatsoever with the intent to hold or detain or who holds or detains a person for ransom or reward or for the purpose of committing robbery on that person is guilty of kidnapping in the first degree; a long, wordy instruction.

Basically it is a person who confines a person in some way or takes them away with the purpose of doing something against them.

In this case it is for the purpose of doing a robbery. This must be done with a specific intent, which is more than a general intent to commit the acts, and to establish specific intent, we must prove that the Defendant knowingly did the act which was forbidden, and purposely intended to violate that law.

An act is knowingly done if it is done voluntarily, intentionally and not because of some kind of

mistake or accident, or some innocent reason.

Now, in order for you to find the Defendant guilty of both first degree kidnapping and robbery, you must find beyond a reasonable doubt one of a number of factors, and this will pertain to Ivan, and this will pertain to John, the 2 victims that were victimized of the robbery.

So, in order to find that the Defendant with those 2 victims committed both the robbery and a kidnapping, you must find either that any movement of the victim was not incidental to the robbery, that the person was moved, and that it was not incidental to the fear and the force of the taking of the property in that robbery.

That any incidental moving substantially increased the risk of harm to the victim over and above that necessary to commit the robbery; that any incidental movement of the

1 victim exceeded that required to
2 complete the robbery.

3 That the victim was
4 physically restrained and that
5 such restraint substantially
6 increased the risk of harm to the
7 victim, or that the movement or the
8 restraint had an independent purpose
9 or significance.

10 Number 4 of that was that the
11 victim was physically restrained,
12 that he was tied, bound, taped and
13 that that binding of that person
14 substantially increased the risk
15 of harm that they were already
16 under.

17 Well, we know that Ryan
18 John and Ivan were both bound.
19 Everyone in this case was bound.
20 Everyone of the victims was
21 confined.

22 They were bound. They were
23 tied up with cords in order to
24 perpetrate the robbery. The first
25 victim was Jennifer Dennis.

1 She told you she came home
2 that day, that she thought that the
3 Defendant and his friends were maybe
4 friends of her husband's, that she
5 was in the house, and her husband
6 came in and told her please just
7 listen to anything that the men told
8 her to do.

9 She was then tied up, put
10 face down, and that these cords were
11 used to confine her. We saw evidence
12 of that on her wrists, that she was
13 clearly tightly bound with the cords
14 of property that was found within her
15 own home.

16 The reason she was bound and
17 confined was so that the Defendant
18 could commit a robbery on her, so
19 that he could try to get her
20 property, her money, guns, anything
21 else that he felt could be of value
22 to him.

23 While she was bound, the
24 Defendant decided to go the extra
25 mile to humiliate her, degrade her in

1 front of her husband and son, nephew,
2 by spraying Clorox all over her.

3 Clearly he had watched too
4 many episodes of the CSI shows that
5 we talked about, thinking that he
6 could get any evidence off of her,
7 fingerprints and cleanup her
8 body.

9 She was bound for the purpose
10 of committing a robbery on her. We
11 also had, not so little now, but at
12 the time, 10-year-old Aaron Dennis,
13 he was also bound up.

14 He had to watch while his mom
15 and while his dad were tied up, were
16 hit, were threatened. He is tied in
17 the corner with his 12-year-old
18 cousin again for the purpose of
19 committing that robbery.

20 We know that he was
21 also tied up and confined because
22 we saw evidence of that on his
23 wrists.

24 Joey Posada, 12 years old
25 at the time was bound with his

1 cousin for the purpose of committing
2 the robbery.

3 Jermaun Means was just in the
4 wrong place at the wrong time. This
5 guy comes over to the house to pickup
6 his rims and pay Ivan for work that
7 he has done, and he gets pulled into
8 this mess.

9 He too is tied up. They
10 demand his money and property. They
11 end up getting a large amount of cash
12 from Jermaun. He too was tied up for
13 the purpose of committing a robbery
14 upon him.

15 Ryan John is brought from
16 across the street. Now, when I read
17 you the instruction on first degree
18 kidnapping, there was a weird word,
19 inveigle, which basically means to
20 move somebody, get somebody by
21 trickery.

22 And in this case that's
23 exactly what we had. The Defendant
24 inveigled Ryan John. He is across
25 the street at his girlfriend's

house.

The Defendant yells over, Mark come on over here, Ivan wants to talk to you, and based upon that and that representation from the Defendant, Ryan John unwittingly goes across the street and gets pulled into this mess.

He is tied up, robbed. His Wells Fargo credit card is taken from him, as well as some other cards. Now, this movement clearly increased the chance of harm to him. It put him in a situation where it significantly increased his risk of harm.

He is at Kenny Marks' home across the street, and by tricking him to come over clearly put him in a position where he could be harmed, shot. It increased substantially his risk of harm, making that movement not incidental to the robbery.

We also know he was tied up. There were marks on his wrists, and

you could see from just the cord when the crime scene analyst arrived, he is still holding the cord that they used to tie him up.

Finally we have the final victim in the slue of first degree kidnapping with use of a deadly weapon, Ivan Young; was the fact that he was tied up and bound, did that increase his risk of harm when a gun is pointed at his face, and he is told that he is going to get shot and this is the weapon that is going to kill him, because he is bound up, he doesn't have the opportunity to cover his face.

He doesn't have the mobility to be able to roll out of the way. He doesn't have the option to try to defend himself against the Defendant, to make a move, a strategic move to get to safety.

He is laying there helpless, bound up and at this man's mercy. That binding substantially increased

his risk of harm, and we know that based upon the injuries that he received, and the fact that that bullet was able to go directly through his face, literally tearing it apart.

We know a weapon was used in this case, a weapon was used in all of the first degree kidnapping counts; just because Ivan was the only person that was shot doesn't mean a weapon wasn't used in the rest of the cases.

Just by brandishing that weapon, using that weapon to threaten people to get them to move around the house, a weapon was used in all of the counts of the first degree kidnapping.

In Ivan's count, when you are asked to deliberate, if you find that the Defendant is guilty of this count, first degree kidnapping with use of a deadly weapon, then you will also be asked to determine whether or

not you believe that there was substantial bodily harm; that is bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ, or prolonged pain and suffering.

A bullet rips through his nose, tears his lips apart. Ultimately he loses his right eye, no question that there is substantial bodily harm in this case, harm that Ivan Young will have to live with for the rest of his life.

Ivan Young, besides being the victim of a first degree kidnapping with the use of a deadly weapon and attempt robbery, he was also the victim of attempt murder with use of a deadly weapon.

We saw this was robbery, but an intent is an act done with intent to commit a crime, intending but

1 failing to accomplish it.

2 The 3 elements of the attempt
3 then would be the intent to commit
4 that crime, some performance or
5 performance of some act towards the
6 commission and then failure to
7 consummate it.

8 Attempted murder is the
9 performance of an act or an act which
10 tends but failed to kill a person, to
11 kill a human being, when such acts
12 are done with express malice, with a
13 deliberate intention unlawfully to
14 kill a person.

15 How do we know that the
16 shooter, Rickie Slaughter had the
17 deliberate intention to kill. In
18 order to determine intent, you look
19 at a number of things.

20 You look at the facts and
21 circumstances surrounding the crime
22 and surrounding the person's actions
23 to determine what their state of mind
24 was.

25 What the intent was, was when

1 they perpetrate this crime, you look
2 at whether or not a deadly weapon was
3 used.

4 In this case we know there
5 was, because we know a firearm was
6 used, a 357 Magnum.

7 Additionally, you look at the
8 manner in which it was used. It was
9 used to deliver a single bullet
10 directly into his face; and you look
11 at the circumstances of the act,
12 again delivering that shot into his
13 face, circumstances of the act using
14 that weapon, you can determine that
15 his intent was to kill him.

16 Why else would you deliver a
17 bullet into a human being's face if
18 not to kill them.

19 Additionally we don't have to
20 look solely at the facts and
21 circumstances, because we can take
22 the Defendant at his own word. He is
23 playing a game called murder.

24 He brought these guns, told
25 Ivan Young this is the gun that is

1 going to kill you. His intention was
2 to kill him.

3 As Mr. DiGiacomo told you in
4 opening, it was the luckiest day of
5 Ivan Young's life. He was not
6 killed, but it wasn't for the lack
7 of trying on the part of the
8 Defendant.

9 Obviously he used a deadly
10 weapon in the case. He is guilty of
11 attempt murder with use of a deadly
12 weapon, trying his damndest to kill
13 Ivan Young.

14 And finally there's an
15 additional count of burglary. We
16 know again that is entering the
17 structure with the intent to commit a
18 larceny.

19 After the reign of terror at
20 2612 Glory View, the Defendant with
21 not another thought in the world, he
22 goes on to try to get money. He is
23 additionally successful in getting
24 the money from Ryan John's Wells
25 Fargo.

1 He enters the 7-Eleven with
2 the intent to commit larceny, with
3 the intent to steal or take personal
4 property -- sorry, with the intent to
5 take that property with the intention
6 of keeping it, permanently depriving
7 the person of it.

8 He went to the 7-Eleven at
9 8:07. He went straight to the ATM
10 machine. Look at his actions to
11 determine his intent, and he stayed
12 at the ATM machine for about 3
13 minutes, and he took that money and
14 immediately left the store.

15 Based upon that, we know
16 that's the only reason that he
17 entered that 7-Eleven. He didn't
18 shop for anything. He never went up
19 to the teller.

20 The only reason that he was
21 there was to get that money, to
22 commit that larceny; therefore, he
23 is guilty of that burglary.

24 So I told you at the
25 beginning of the case that the State

1 had to prove 2 things, that the
2 actual charges in the case really
3 weren't at issue.

4 So, let's look at the second
5 issue that the State through our
6 evidence has to prove to you, that is
7 it that the Defendant committed all
8 14 of those crimes.

9 While talking on the phone to
10 his friend J.R., kind of trying to
11 determine what was going on on the
12 outside, J.R. asks the Defendant,
13 well they got evidence, they got a
14 witness or what; yeah, they got
15 both.

16 They got plenty of evidence,
17 plenty of witnesses. There's 2
18 different kinds of evidence in cases,
19 the Judge told you about this;
20 there's direct evidence and
21 circumstantial evidence.

22 Direct evidence is something
23 like an eyewitness, somebody who has
24 direct knowledge of a crime.

25 Here we have a number of

1 witnesses who had direct knowledge of
2 this crime, direct evidence, able to
3 come in and testify for you.

4 There is also circumstantial
5 evidence, and that is a string of
6 acts or pieces of evidence which
7 together infer the guilt of the
8 Defendant and show you the guilt of
9 the Defendant.

10 And the Judge told you that
11 direct evidence and circumstantial
12 evidence is the same weight.

13 So, let's look at the direct
14 evidence that we have; Jermaun Means
15 comes over to get his rims. He is
16 able to have a -- he comes up to the
17 door.

18 Before he gets to the door,
19 he is brought into the house by the
20 Defendant. He is kidnapped. His
21 property is taken, and after the case
22 Jermaun Means is able to go down and
23 do a photo lineup, just a few days
24 after the crime.

25 He looks at the lineup and

1 picks out the person, number 4;
2 direct evidence that the Defendant,
3 Rickie Slaughter, is the person who
4 perpetrates all of these crimes, one
5 of the people that perpetrates these
6 crimes.

7 He says, the face just stood
8 out to me. Additional direct
9 evidence, Ryan John. Ryan John gets
10 brought over to the house, comes
11 inside. He is kidnapped, robbed.

12 Afterwards he is able to have
13 the opportunity to go down to the
14 detective and do a photo lineup, and
15 he too choose -- in this lineup he
16 happens to be number 6. He too chose
17 none other than the Defendant, Rickie
18 Slaughter.

19 He says this is the guy that
20 I think that called me over to Ivan's
21 house and tied me up, and shot Ivan.
22 He testified to you not only was he
23 able to identify him a couple of days
24 later in the photo lineup, he
25 testified at a prior hearing and he

1 identified him then.

2 He sat before you on the
3 witness stand, and he looked at the
4 Defendant and said he is the guy that
5 robbed me, and he is the guy that
6 shot Ivan.

7 Not one, not 2, but 3
8 eyewitnesses. Joey Posada, a
9 12-year-old at the time. Joey
10 Posada, he has an opportunity on
11 July First to go down and participate
12 in a photo lineup, and what does he
13 say; he says the guy, number 5, we
14 know is Rickie Slaughter, is the
15 person who was in the house.

16 He said, I saw him next to my
17 uncle, this man had a gun. Whatever
18 attempts that the Defendant had made
19 through his wig, through a fake
20 accent, whatever attempts he had made
21 to conceal his identity, even
22 12-year-old Joey Posada was able to
23 say that's the guy.

24 Additionally he testified
25 before you. He told you that at a

1 prior hearing he was able to identify
2 the Defendant.

3 As he sat before you just a
4 couple of days ago, he was able to
5 tell you that Rickie Slaughter is the
6 person that he saw perpetrate these
7 crimes, tie him up, tie his family
8 up, that he had a gun.

9 Finally, Ivan Young. Ivan
10 Young is in the hospital. He has
11 lost his eye. He can't even write,
12 but with the use of his one
13 functioning eye just days after this
14 horrific crime is committed and
15 perpetrated upon him, he is able to
16 initial on somebody within the 6
17 photographs who he believes is the
18 person that he believed perpetrated
19 the crimes on him, and it is the
20 Defendant, Rickie Slaughter.

21 Not one, 2, not 3, but 4
22 individuals, separate positive
23 eyewitness identification in this
24 case, all direct evidence that Rickie
25 Slaughter is the person who

1 perpetrated these crimes.

2 What kind of circumstantial
3 evidence do we have showing that the
4 Defendant is guilty; well, there was
5 a car at the scene. It was described
6 by Jennifer, she thought it was blue
7 or teal, a Ford or a Mercury.

8 Ivan Young, who deals in
9 cars, whose entire business is cars,
10 looked down the street when his wife
11 gets home and sees 2 men in a car,
12 and it is in fact a teal green Ford
13 Taurus, exactly what he said it was,
14 and exactly what he testified that
15 that car was.

16 Well, what do we know about
17 that green teal Ford Taurus, that it
18 belongs to none other than the
19 Defendant's girlfriend, Tiffany
20 Johnson.

21 A search warrant is
22 ultimately served on the home of the
23 Defendant and Ms. Johnson, and that
24 car is searched, circumstantial
25 evidence that the Defendant was

1 there, that this car that he had
2 access to, that we know now that he
3 was driving that night is seen at the
4 scene of the crime.

5 The car is of course
6 searched, and within the trunk of
7 that car officers find a cartridge to
8 a 357. They also find a bullet core
9 to a 357.

10 The car is further searched
11 and not only are a number of latex
12 gloves found, but a couple of
13 firearms are found, so the Defendant
14 asks Tiffany in the first few calls
15 when he is in custody, did they find
16 anything in the car; ask yourselves
17 why is he worried about it; he is
18 worried about it because they did
19 find some stuff in the car.

20 The found a .22,
21 coincidentally one of the firearms
22 described by the victims as being
23 used in the perpetration of these
24 crimes, and they find a .25, a small
25 black revolver also described as a

1 small silver semi-automatic.

2 We know from the victims, and
3 the testimony and evidence that there
4 was 3 firearms used in this case, a
5 small black revolver described as
6 .22, a small silver semi-automatic,
7 and a 357 also at the scene of the
8 crime. The Defendant referred to it
9 as a Magnum.

10 The small revolver was
11 found. The semi-automatic was found,
12 and then what else do we know, we
13 know that in the back of the car they
14 found the cartridge to a 357, a
15 bullet core that is consistent with a
16 357.

17 And we know there were a
18 number of fragments found in Ivan
19 Young's face after the bullet went
20 into his face, and some from his
21 clothes. Those fragments were
22 selected and later given to Angle
23 Moses, a firearms identification
24 scientist with LVMPD.

25 She analyzed it, talked about

1 the difference between a revolver and
2 a semi-automatic. She talked to you
3 about cartridges in revolvers, that
4 they must be removed, but that in a
5 semi-automatic the cartridges would
6 be expelled and oftentimes they would
7 be left then at the crime scene.

8 She was given the weapons to
9 analyze, the .22 calibre revolver and
10 .25 calibre semi-automatic found in
11 the back of Tiffany Johnson's and the
12 Defendant's green Ford Taurus; and
13 she was also given that Magnum
14 cartridge case.

15 She talked to you about the
16 head stamp markings, the factor and
17 the caliber. She said that that
18 could not be fired out of either of
19 the other guns and could not be fired
20 out of the .22 or the .25, it is
21 fired out of a revolver.

22 She also told you that no
23 casing would be found at the crime
24 scene with a revolver. You have to
25 physically remove those.

1 She talked to you about the
2 bullet core found in the trunk. It
3 had to be larger than a .22 or a
4 .25. Because of the size, it was
5 consistent with a 357 round,
6 consistent with fragments found in
7 Ivan Young's face.

8 The ridging pattern that was
9 found on the core, that's consistent
10 with a 357 -- I am sorry, the ridging
11 pattern found on the bullet core,
12 consistent with those fragments that
13 were impounded and found in Ivan's
14 face and body.

15 We know that a Magnum was
16 used in this case because of what the
17 Defendant told Ivan Young, that he
18 had a Magnum and that it was going
19 to leave a large hole in his
20 face.

21 Additionally we know a 357
22 was used at the scene. He told Ryan
23 John that he would shoot him with a
24 357.

25 We know, ladies and

1 gentlemen, circumstantial evidence
2 that the Defendant committed this
3 crime, because there were 2 weapons
4 found, both consistent with the
5 weapons used at the scene.

6 Additionally we know beyond a
7 reasonable doubt, any doubt, that the
8 Defendant also had access to the
9 357. We talked earlier about the
10 fact that the deadly weapon doesn't
11 have to be found in order to prove
12 that it was used.

13 It is ironic that the one
14 weapon that isn't found is the weapon
15 that was used for the attempt
16 murder. It illustrates why the State
17 doesn't have to provide that.

18 Obviously one weapon was
19 hidden. The Defendant got rid of it.
20 Who knows where it is or where he put
21 it, but that just happens to be the
22 weapon that was used to shoot Ivan
23 Young in the face.

24 More circumstantial evidence
25 that the Defendant is guilty of these

1 crimes, the gloves. We know that he
2 was not wearing gloves when he first
3 came into the garage.

4 Then we know from Jennifer
5 that he was wearing gloves in the
6 house; and Joey, Joey described them
7 as like exercise gloves.

8 There were cloth patterns at
9 the scene of the crime, evidence
10 corroborating what those witnesses
11 told you, cloth patterns found on the
12 Clorox bottle, on the Bugs Bunny
13 card.

14 What do we know from the
15 search warrant and the results of
16 that search warrant, that when the
17 officers went over to 3801 East
18 Charleston, Apartment 114 and
19 conducted that search, 2 different
20 kinds of gloves were found.

21 You can see the Nike logo
22 on one of the gloves, the exercise
23 type gloves, more circumstantial
24 evidence leading the Defendant to
25 this crime, the evidence described

1 by witnesses later found at the
2 Defendant's home.

3 What else do we know, what
4 other circumstantial evidence do we
5 have. This, you know, is actually
6 the video, direct evidence. You
7 can look at it. You can see the
8 Defendant coming into the 7-Eleven at
9 8:07.

10 Rickie Slaughter makes an
11 attempt to disguise himself. We
12 know he is prone to do that. He had
13 worn a wig. He covers his head and
14 face.

15 If you look at the facial
16 structure of this person, it is
17 absolutely clearly Rickie Slaughter,
18 his nose, eyes, the structure of his
19 cheek bones.

20 He went into the 7-Eleven at
21 8:07 and used the proceeds of the
22 robbery that he perpetrated on Ryan
23 John.

24 What other circumstantial
25 evidence do we have; well, when he

1 came into that 7-Eleven, when he
2 was videoed, he is wearing tennis
3 shoes. His shoes are later taken
4 from him.

5 If you look at the shoes and
6 look closely on the video from
7 7-Eleven, you can even see the little
8 pattern that is also on the
9 Defendant's shoes.

10 What other circumstantial
11 evidence do we have; well, let's look
12 at the testimony of Jeff Arbuckle,
13 who is the manager of the Eldorado
14 Cleaners. He was Tiffany Johnson's
15 boss at the time.

16 He testified, he told you
17 that Tiffany Johnson drove a green
18 Ford Taurus, that on Saturday, June
19 26, 2004 the Eldorado Cleaners store
20 closed at 7:00 o'clock p.m.

21 He remembered that evening
22 because Tiffany didn't have a car
23 that night. She was waiting. He
24 waited with Tiffany for at least 30
25 minutes because her ride wasn't

1 there.

2 Eventually he has to leave,
3 and he tells you that's close to
4 7:30. As he is leaving, he sees her
5 Taurus drive in and he notices who is
6 driving that vehicle at 7:30 p.m. on
7 June 26, 2004; and, of course, it is
8 none other than the Defendant,
9 Tiffany Johnson's boyfriend, Rickie
10 Slaughter, arriving late to pick her
11 up on the evening of June 26th.

12 Let's look at Rickie
13 Slaughter, what his own words
14 were, his own frame of mind,
15 showing his consciousness of guilt
16 regarding where he was that
17 evening.

18 You heard the jail calls,
19 and Tiffany Johnson says he was like,
20 referring to the detective, was he
21 there to pick you up early, was he
22 there on time to pick you up; well,
23 I got off a few minutes early,
24 so he was there before 7:30, you
25 know.

1 And the Defendant says; what
2 did you say, you got off what, not
3 understanding at this point in time
4 what the Defendant is saying, I had
5 got off a few minutes early. We
6 closed a few minutes early.

7 He said, you told them I was
8 there before 7:30; yeah, she says.
9 Why did she say that, because we know
10 that's what happened.

11 He says, man, tell that Nigga
12 I was there at 7:00. Don't tell him
13 that shit cuz, do you feel me, you
14 don't -- you choose your right to
15 remain silent.

16 I was there, Nigga, at mother
17 fucking 7:00 o'clock. I didn't do
18 shit. I don't know what they are
19 talking about. Quit talking to that
20 mother fucker; hear me, hear me,
21 telling his girlfriend, Tiffany
22 Johnson, not to talk to the police,
23 and that if she talked to the police
24 to absolutely tell them that he was
25 there at a time when we know he

1 wasn't.

2 Yeah, he says, they tried to
3 pull me into a little bit of
4 bullshit, cuz and that Nigga, talking
5 to that Nigga is going to get me put
6 in prison for the rest of my mother
7 fucking life. Quit talking to that
8 Nigga. You don't have to talk to
9 him, do you hear me; yeah.

10 What is the Defendant so
11 scared about, why doesn't he want
12 Tiffany Johnson to talk to the
13 police.

14 He said, no, I don't think
15 you are actually hearing me, you
16 ain't feelings me, cuz. You ain't
17 hearing me, cuz. She says yeah.
18 Cuz, cuz, tell them you choose to
19 exercise your right to remain
20 silent.

21 You don't know shit. You
22 don't have to answer none of these
23 questions. Why do you think that
24 they tell you, you have a right to a
25 lawyer when he is talking to you and

1 shit; do you hear me?

2 She says, yeah, I ain't
3 planning to talk to them no more.
4 Well, you know from her testimony
5 that she in fact did talk to them
6 again, and that at that point
7 in time she tried to change her
8 story.

9 But we also know from Jeff
10 Arbuckle that the Defendant and
11 Tiffany Johnson at this point
12 in time are trying to make-up a
13 story, trying to create an alibi for
14 the Defendant, trying to prove that
15 he couldn't possibly be where we all
16 know from the other evidence in the
17 case that he was on the evening of
18 the 26th.

19 What else did we hear from
20 Mr. Slaughter; he says to her in
21 another call, because you can't talk
22 to the police, cuz, so you are sure
23 that's all they asked you; yeah, huh,
24 all he asked me what did I do on the
25 Saturday, again obsessing on what the

1 officers know, what they are asking
2 Tiffany, and what she is telling
3 them in response, trying to gather
4 as much information as he can
5 about what evidence the officers
6 already have against him.

7 Another call, the Defendant,
8 he said; this is fucked up, cuz, but
9 it is going to be all right as long
10 as I stick to the script.

11 As long as I get a lawyer, I
12 will be cool, cuz. I don't know,
13 cuz, a whole lot of years. Try to
14 hang in there, I am going to need
15 you. I'm going to need your support,
16 you hear me?

17 Everything is going to be all
18 right as long as they stick to the
19 script. The problem in this case is
20 that he, Tiffany Johnson and now,
21 adding Monique, didn't have the same
22 script, a lot of different stories,
23 and lot of the Defendant and Tiffany
24 Johnson trying to cover up what
25 happened on the evening of the

1 26th, and where the Defendant
2 was.

3 His own words, his own
4 statements, his own frame of mind,
5 showing his consciousness of guilt,
6 that he knew at that point in time
7 that he was guilty of each and
8 everyone of these crimes.

9 So, ladies and gentlemen of
10 the jury, based on all of this
11 evidence in the case that you already
12 heard, and also of the testimony, you
13 will be asked to go back to
14 deliberate and to come to a number
15 of verdicts.

16 Count 1, conspiracy to commit
17 kidnapping for the Defendant coming
18 together with an unknown
19 co-conspirator and agreeing to do a
20 crime in this case, kidnapping; the
21 appropriate verdict would be guilty
22 of conspiracy to commit kidnapping.

23 Count 2, for the Defendant
24 agreeing with another person to
25 commit a robbery, guilty of

conspiracy to commit robbery.

Count 3, the Defendant is guilty of the attempt murder with use of a deadly weapon for firing his gun into face of Ivan Young with the intent to kill him and to take his life; and for that he is guilty of attempt murder with use of a deadly weapon.

Count 4, battery with a deadly weapon for beating, stomping on Ryan John, he is guilty of battery with a deadly weapon.

Count 5, attempt robbery with use of a deadly weapon. He is guilty of attempt robbery with use of a deadly weapon, using a gun in order to produce fear and force, in order to try to get Ivan Young's property.

He is guilty of attempt robbery with use of a deadly weapon.

Count 6, the Defendant is guilty of robbery with use of a

deadly weapon for successfully through that fear and force taking Ryan John's property. Your appropriate verdict in that case should be guilty of robbery with use of a deadly weapon.

Count 7, the Defendant is guilty of burglary while in possession of a deadly weapon for the property, 2612, for coming over there with the intent and the sole intent of committing robbery, or a larceny on Ivan Young and his family.

And Count 8, he is guilty of burglary for entering that 7-Eleven with the sole intention of committing larceny.

Additionally he is guilty of first degree kidnapping with use of a deadly weapon for Ivan Young, for binding him up, tying him up, for the purpose of committing a robbery upon him, using that deadly weapon. He is guilty of that.

This is the count where you must decide whether or not there's substantial bodily harm.

Clearly your appropriate verdict should be yes, that there was substantial bodily harm.

Count 10, first degree kidnapping with use of a deadly weapon for Ryan John, for inveigling him, for tricking him to come over to Ivan Young's home and tying him up and binding him, and committing a robbery on him, using weapons in order to induce all of this, he is guilty of first degree kidnapping with use of a deadly weapon for victim Ryan John.

He is guilty of Count 11, first degree kidnapping with use of a deadly weapon for tying up Joey Posada with the intent to commit a robbery, using weapons; he is guilty of that count.

Count 12, first degree kidnapping with use of a deadly

weapon for victim Aaron Dennis, he is guilty of that count.

Count 13, first degree kidnapping with use of a deadly weapon, victim Jermaun Means. The appropriate verdict in this count is guilty of first degree kidnapping with use of a deadly weapon.

And, finally, Count 14, first degree kidnapping with use of a deadly weapon for Ivan's wife, Jennifer Dennis; the appropriate verdict in this case with this count is guilty of first degree kidnapping with use of a deadly weapon.

Ladies and gentlemen, based on all of the evidence in this case and based on all of the testimony in this case, based upon the idea that each and every victim in this case deserves justice and deserves a finding of justice, Mr. DiGiacomo and I on behalf of the State of Nevada will ask that you return a verdict of guilty on each and every

1 count against Rickie Slaughter in
2 this case.

3 THE COURT: Thank you,
4 Ms. Fleck.

5 All right. Ladies and
6 gentlemen, we are going to take a
7 short recess before we move over to
8 Mr. Fumo's closing.

9 - - - - -

10 (Thereupon, the jury was admonished by
11 the Court.)

12 - - - - -

13 (Thereupon, the following proceedings
14 were conducted in open court and
15 outside the presence of the jury.)

16 - - - - -

17 THE COURT: Do you guys have
18 anything outside the presence?

19 MR. DiGIACOMO: No from the
20 State.

21 I know that Mr. Slaughter
22 said he can make a record at the
23 break.

24 MR. MARCELLO: This break?

25 THE COURT: What's the

1 issue?

2 THE DEFENDANT: I just wanted
3 to, when my attorneys presented the
4 case yesterday, the other day, I
5 begged them not to close the case
6 before presenting the evidence of
7 Destinee Waddy, Mark Hoyt and
8 others not here to identify the
9 vehicle.

10 According to the police
11 officer who took Destinee Waddy's
12 statement, who ID'd the vehicle as a
13 Pontiac Grand Am, I was the last one
14 to present evidence of the original
15 descriptions provided from Ivan
16 Young, from Officer Anthony
17 Bailey.

18 I asked them to present a
19 trajectory analysis from our expert,
20 Lance Martini, which there were
21 bullet holes shot into my car
22 which I believe the core came from
23 that.

24 He substantiates that. We
25 have the pictures of the bullet

1 holes, the trajectory analysis to
2 indicate the bullet hole came from
3 that.

4 They are saying the bullet
5 hole goes to these fragments.

6 THE COURT: You wanted them
7 to present evidence that your
8 car was involved in some other
9 shooting?

10 THE DEFENDANT: That I was
11 shot at, the victim of a
12 shooting.

13 Those are in the crime scene
14 photos. I wanted them -- I asked
15 them before they sat down, there was
16 2 stores next to my house. We took
17 photos of these by an investigator at
18 Circle-K, Am-Pm, one to the left,
19 one to the right, less than 300 feet
20 from my door, with ATM machines in
21 there.

22 Why wouldn't I go there. I
23 asked them to present those photos. I
24 asked them --

25 THE COURT: That's in the

1 aerial photographs and your attorney
2 discussed that in the opening
3 statement.

4 All of that was in evidence.

5 THE DEFENDANT: I also asked
6 Mr. Fumo not to present
7 Ms. Westbrook. I told him he needs
8 to present Mr. Hoyt, Ms. Waddy and
9 things like that. But he told me he
10 was in control. He said he was
11 running the show; he is.

12 But there was a number of
13 evidentiary items, a bunch of other
14 things that should have been
15 presented.

16 I just wanted to make that
17 record. I'm not asking you to make a
18 ruling. I just wanted to make a
19 record.

20 THE COURT: Mr. Fumo,
21 Mr. Marcello, do you have any
22 anything?

23 MR. FUMO: Judge, I don't
24 want to dignify it with a response,
25 but I think I am.

1 The strategy of calling
2 witnesses was my decision.
3 Mr. Slaughter begged me to find
4 Monique Westbrook, which we did
5 through our investigator.

6 It took us months to do that,
7 at great expense to do that. Never
8 once did we have a conversation about
9 not having her testify.

10 The only conversation that
11 Mr. Slaughter and I had yesterday was
12 whether or not he was going to
13 testify.

14 We have closed our case. We
15 called our witnesses. We brought in
16 the evidence that we thought was
17 relevant.

18 We brought in the pictures of
19 the other 2 stores. As far as the
20 7-Eleven goes, Mr. Judge, when he was
21 on the stand, even acknowledged that
22 there's not only 2 other stores in
23 walking distance of Rickie's house.

24 He bolstered what we wanted
25 to put into evidence. So I didn't

1 feel there was any need to present
2 other pictures of stores just for
3 him to look at them and say, yeah,
4 that's the store 2 blocks from
5 mine.

6 THE COURT: As I understood
7 it, I will say this for the record,
8 it was apparent to me that there was
9 a belief from the defense that
10 Ms. Westbrook was saying things
11 with a lot greater specificity
12 outside of Court than when she was
13 saying them when she took the stand
14 and testified.

15 There was an inter-mix
16 between -- that her testimony and
17 Ms. Johnson's weren't necessarily
18 exclusive of each other. They could
19 have co-existed based upon what she
20 provided to you outside of Court, in
21 terms of where Mr. Slaughter may have
22 been prior to 7:00 o'clock, and where
23 he was picking up Ms. Johnson
24 thereafter.

25 Is that an accurate

1 characterization?

2 MR. FUMO: That's right, Your
3 Honor.

4 In my opening I said
5 Mr. Slaughter was with Ms.
6 Westbrook from 4:00 o'clock in the
7 afternoon until 7:00 o'clock in the
8 evening.

9 That's what she told me when
10 we pre-trialed her several months ago
11 and even before Court, when she took
12 the stand.

13 That's what Mr. Slaughter
14 told me, that he was with her from
15 about 4:00 o'clock to about 7:00
16 o'clock. That was consistent.

17 She told me she remembered it
18 was a Saturday, because it was about
19 a week before the July 4th weekend,
20 which happens to be 9 days apart.

21 She remembers that an
22 investigator, whether it was an
23 investigator of the State, a police
24 officer or a defense investigator,
25 someone talked to her around that

1 time. She recalled exactly what it
2 was.

3 Mr. Slaughter left from there
4 to Ms. Johnson's house. That was
5 what the testimony was going to be.
6 Their statements were consistent with
7 each other.

8 THE COURT: Okay. Well,
9 Mr. Slaughter, obviously --

10 MR. DiGIACOMO: Can I add one
11 thing?

12 THE COURT: Sure.

13 MR. DiGIACOMO: The car, the
14 vehicle, there are 2 bullet holes in
15 the car -- one bullet hole and the
16 bullet strike mark on the car;
17 although when I looked at it, it
18 appeared that those shots came from
19 inside the vehicle, not outside the
20 vehicle.

21 I am aware that the day
22 before this takeover robbery that
23 occurred at 2612 Glory View, just
24 down the street at Germ's house,
25 there was a drive-by shooting in

1 which Mr. Slaughter was accused of
2 being the one that shot at Germ's
3 house from some vehicle.

4 It appeared that these
5 shots that were fired in the car
6 probably occurred during that
7 incident, because Mr. Arbuckle said
8 the day he sees Rickie drive into the
9 parking lot that he saw bullet holes
10 in the car, and that was the first
11 time he had seen bullet holes in the
12 car.

13 As well as the fact that a
14 casing from a revolver cannot get
15 into the trunk of his car from any
16 action that occurred outside the
17 vehicle with a firearm, that it
18 had to have occurred from someone
19 removing that from the firearm.

20 Because of all that, the
21 photographs that I admitted into
22 evidence, I did not put in any
23 photographs that showed those bullet
24 holes, because I felt like that was
25 potentially a bad act that I would

1 be accusing the Defendant of, as
2 well as on the jail phone calls
3 itself, Mr. Slaughter acknowledges
4 himself that the confidential
5 informant he believes it is Germ,
6 because Germ believes that Rickie
7 Slaughter shot up his house
8 the day before in a drive-by
9 shooting.

10 THE DEFENDANT: That's a
11 lie.

12 MR. DiGIACOMO: And all of
13 those phone calls I didn't put into
14 evidence. I felt those were a bad
15 act.

16 So, the fact that Mr. Fumo
17 may have chose not to go into that
18 was because if you go into those
19 bullet holes, I was going to go into
20 the drive-by and the jail phone
21 calls.

22 So, that was all kind of a
23 strategy decision, I am sure on
24 Mr. Fumo's part, whether or not he
25 did or did want to go into those

1 bullet holes, and what the testimony
2 was as it relates to the bullet
3 holes.

4 THE COURT: Here is the thing,
5 Mr. Slaughter, obviously the decision
6 whether to take the stand lies with
7 you.

8 The calling of witnesses and
9 arguing the defense on your behalf
10 and arguing the case, the attorneys
11 obviously have certain rights and
12 an ethical obligation to put
13 together what they believe is the best
14 defense for you.

15 That in large part depends
16 on what witnesses are telling them
17 outside of Court.

18 Obviously, from a tactical
19 standpoint, in a case in which the
20 basis of the case is eyewitness
21 testimony, not really a dispute as
22 to whether a pretty horrific crime
23 occurred in this guy's house, putting
24 on some evidence that involved you
25 in the shooting of a car, whether you

1 are the victim or not, that's a dicey
2 proposition at best, from my
3 standpoint.

4 So I can see where your
5 attorneys might think they don't want
6 to tie you into something else
7 involving a shooting around the time
8 that this occurred.

9 In any event, the record has
10 been made.

11 THE DEFENDANT: Can I make
12 one response, he said --

13 THE COURT: You are not the
14 attorney.

15 I let you make a record. You
16 wanted to raise some issues, so
17 everybody has had a chance to speak,
18 and a record has been made.

19 MR. FUMO: I want to put one
20 more thing on the record, Your
21 Honor.

22 Mr. Slaughter had every
23 opportunity to ask every single
24 witness questions that he wanted to
25 ask.

1 THE COURT: I will make
2 the record reflect that you all
3 conferred with him a great many
4 times during the trial with just
5 about every witness before
6 completing cross-examination, during
7 cross-examination, notes, comments,
8 all kinds of things.

9 He has been actively
10 involved.

11 MR. FUMO: Thank you, Your
12 Honor.

13 THE COURT: We are in
14 recess.

15 - - - - -

16 (Recess taken.)

17 - - - - -

18 (Thereupon, the following proceedings
19 were conducted in open court and
20 outside the presence of the jury.)

21 - - - - -

22 MR. DiGIACOMO: Judge, just
23 for the record, I object to the first
24 line saying before 7:11. I don't
25 think there is any testimony as to

1 what time that call came in.

2 MR. MARCELLO: It is time
3 stamped.

4 What time --

5 THE COURT: I will let you
6 make the statement since you are
7 relying on what you believe the
8 evidence to show.

9 I don't recall specifically
10 what time it was reflected on the 911
11 call.

12 MR. DiGIACOMO: There is no
13 time on the 911 call.

14 MR. MARCELLO: We can't
15 authenticate when the call was made,
16 what time it was made.

17 THE COURT: The 911 call that
18 was made was Mr. Means' call, I
19 think, when he was on the stand.
20 There wasn't any dispute that he was
21 the one that called 911.

22 I don't recall whether
23 there was and if there was, what
24 was said about the time of the
25 call.

1 MR. DiGIACOMO: There isn't
2 anything. The call goes to Metro
3 first. Metro takes the information,
4 then Metro calls.

5 THE COURT: Are you thinking
6 this came off like a call log?

7 MR. DiGIACOMO: North Las
8 Vegas. There is a dispatch report
9 that shows the time the call was
10 transferred from Metro to North Las
11 Vegas.

12 There is not a report that
13 shows what time the call went into
14 Metro, and neither of those are in
15 evidence.

16 I know where he got the 7:11
17 from. There is no evidence in the
18 record as to 7:11 anywhere, that that
19 was the time the call was made to
20 911.

21 THE COURT: You think you got
22 it off of a report?

23 MR. MARCELLO: Jermaun
24 Means' 911 call was made at 7:11
25 o'clock.

1 THE COURT: Where do you get
2 that information?

3 MR. MARCELLO: I am getting
4 it from the call itself.

5 THE COURT: From what was
6 introduced into evidence?

7 MR. MARCELLO: If the
8 recording says --

9 THE COURT: Where is the
10 recording?

11 MR. DiGIACOMO: The
12 recording says the call time right
13 before it comes on. He might be
14 right.

15 Is that true?

16 MR. MARCELLO: That was my
17 assumption.

18 MR. DiGIACOMO: Sometimes
19 these recordings do say the date
20 and time when they first start
21 playing.

22 THE COURT: I don't know what
23 evidence number it is.

24 MR. DiGIACOMO: It says 911
25 on it.

THE COURT: No transcripts of Mr. Slaughter's call from the jail. The State's objection is there is no time stamp, as the Defense seemed to believe, on there that says anything about a time that the suspects left the house.

You need to delete that off the slide.

MR. FUMO: The jury can rely on their own recollection.

THE COURT: It has to be based on the evidence. I didn't recall a time.

Now listen to it. There is no time on there. If there was something that you all are thinking of that commonly happens from reading reports from a case, it has to be something introduced into evidence or that you can make a reasonable inference based upon what people testified about.

You can make an argument that such and such said this, started

around whatever time. It had to have taken X-amount of minutes for this to have occurred.

You can make the inference that it wouldn't have been until such and such a time that somebody left to make a factual ascertain.

MR. DIGIACOMO: I have no problem to say it was about 7.

MR. MARCELLO: Just about 7:00 o'clock is fine.

MR. DIGIACOMO: I think we are ready to go, Judge.

THE COURT: Put about 7:00 p.m.

(Thereupon, the following proceedings were had in open court and in the presence of the jury.)

THE COURT: We are back on the record in 204957, State of Nevada versus Rickie Slaughter, who is present with his attorneys.

The State's attorneys are

present.

Our jurors are present.

We will proceed with the Defense's closing.

Mr. Marcello.

DEFENDANT'S CLOSING ARGUMENT

MR. MARCELLO: Good morning ladies and gentlemen.

Ms. Fleck just told you about a terrible tragedy that occurred on that day. She's correct. What happened in that house is an absolute tragedy, probably one of the most terrible things I can imagine.

If somebody came to my house, put a gun to my head and threatened my family, I can't imagine what I would do to that person.

Therein exactly lies the problem. It is that desire to make sure that somebody pays for the

crimes that are committed against you. That fueled this entire case.

Now, the State has shown you -- done their best to show you every piece of evidence that they think could tie Mr. Slaughter to the case.

We are going to go through and see exactly what did they show you. Now, the suspects left about 7:00 o'clock. I believe Ryan John, as well as Jermaun Means said they called the police approximately at that time.

We don't have the exact time, but they called them approximately after 7:00 p.m. Now, in order for Mr. Slaughter to have committed this crime and also have picked up Tiffany Johnson, who worked at Eldorado Cleaners, he would have had to have traveled a distance of approximately 10 miles.

Now, you are allowed to use

1 your common sense, as well as your
2 life experiences to understand that a
3 trip in Las Vegas of 10 miles would
4 take -- I will leave it to you to
5 decide how long that trip would
6 take in Las Vegas with normal
7 traffic from 6:00 o'clock to 7:00
8 o'clock to 8:00 o'clock p.m.

9 At 7:00 p.m., taking a trip
10 10 miles across the Las Vegas valley,
11 as the aerial photos show, this is
12 2612 Glory View, he would have had to
13 have gone from here to the Eldorado
14 Cleaners located on Bonanza and
15 Nellis.

16 That was the testimony of how
17 far he would have to have gone. Now,
18 during this time -- now, you have
19 heard Tiffany Johnson testify that
20 Rickie picked her up between 7:15 and
21 7:20.

22 I know it was between 7:15
23 and 7:20, because if he had been
24 later than that, I would have
25 killed him. I worked 12 hours that

1 day.

2 During that time, the way the
3 State's case would have to play out,
4 he would have had to have dropped off
5 the second suspect, got rid of
6 evidence, and make sure he doesn't
7 have a single trace of forensic
8 evidence in his vehicle, on him,
9 around him, anywhere, in order for
10 him to get there by 7:20, for a 10
11 mile drive.

12 Now, the simple case is
13 that Rickie simply was not there.
14 The first thing to take into account
15 for this, this was a very bloody
16 crime.

17 How many pictures did the
18 State show you, blood all over his
19 face, clothing, the floor.
20 Everywhere you looked in that house
21 there was blood.

22 People were tracking
23 through the blood, walking around the
24 blood. Not one drop blood was found
25 on anything that Mr. Slaughter

1 owned.

2 You heard the SWAT detective
3 who went into the house, not a
4 single item of clothing was found
5 with any type blood on it. No fiber,
6 trace evidence on it. At the house
7 they walked all around the house.

8 You saw the ligature marks,
9 where they tied up all of the
10 victims. They had been all over that
11 house. They ransacked the place.

12 You are telling me that
13 during that they didn't drop one
14 piece of hair follicle or one piece
15 of DNA evidence, one drop of blood or
16 get blood on him; it just doesn't
17 seem likely.

18 The suspect who shot Ivan
19 did it at close range. After they
20 shot him, they continued to ransack
21 the house for 15 minutes.

22 Now, you are allowed to use
23 common sense when you go into that
24 jury room. You are allowed to use
25 what items that you know to be true

1 and how you think things should
2 work.

3 Now, there is no fingerprints
4 in the place. We clearly established
5 there's gloves. The State made
6 mention about what type of gloves,
7 that they were some type of sporting
8 gloves, baseball gloves.

9 I would gather to venture
10 that pretty much everybody in this
11 jury has a pair gloves in their
12 house.

13 Now, trace fibers from the
14 wig, you heard evidence that the wig
15 had dreadlocks. It was either real
16 dreadlocks or a wig.

17 There were no fibers from a
18 wig, or maybe it was made out of
19 horse hair. There was no fiber
20 evidence indicating that there was a
21 wig used or hair evidence, or any
22 type of hair follicle evidence
23 anywhere in the house that could be
24 traced back or tied to
25 Mr. Slaughter.

Hair fibers from one of the perpetrators from 3 of the 5 people who were in the house. The reason why this is important is because the hair follicles look different among each of the victims.

They would be differentiated from the ones, if there was hair just generally in the house. They knew where the suspects went around. They went all over the house.

You heard from Mr. Marion Brady and from Patrick Fischer that they looked everywhere in that house, that they were charged with gathering all of the forensic evidence they felt was important, relevant to this investigation.

They didn't find any of this evidence anywhere. More importantly, you heard from the SWAT officer that there is absolutely no evidence found at the house of any of these things; no wigs, no blood, no trace evidence, fiber evidence, DNA, no evidence of

any kind.

Now, the first thing they tried to tie to this case is that they say that there is a fully intact 38 calibre silver tip hollow point bullet that if you take various pieces from various places makes an entire bullet.

They said that was the bullet that went through Ivan Young. But the 2 guns that were identified, the .22 and the .25, she indicated that forensically they had nothing to do with this crime.

They had nothing to do with the crime. She also indicated handguns normally only come in 2 things, revolvers or semi-automatic.

They say, the State will tell you these were the guns used in the crime. They said they were a revolver and a semi-automatic. That's what Angel Mosley testified to.

The lead core fragment found

in the back of the trunk that the State pointed out had no trace of biological material. Now, if that bullet went through Ivan Young, it should have traces of biological material.

The other pieces of bullet they pulled out of him did. There is no reason why that one wouldn't, if that was going to support the State's case.

The lead core fragment had no trace of the unique elements that make up the bullet fragments. The trace elements that were on the bullet fragments were very unique. They were copper, zinc and nickel -- nickel over brass, copper plating.

They were zinc, copper and -- nickel, zinc and copper. The jacketing is important, she testified; the reason why I then contacted Winchester was to see what type of product line they had that had this composition.

They said we make silver tip hollow point bullets that have this composition.

That composition is found nowhere on the lead core fragment in the back of the car. That lead core was a separate bullet that was in the back of the trunk that had been fired either at the car or was in the back of the trunk.

The shell casing that was found says Winchester 357 Magnum. Now, the uniqueness of the bullet that was pulled out of Ivan Young was a silver tip hollow point bullet.

This special unique bullet, she indicated, was marketed to law enforcement and had none of those markings around the bottom.

She indicated this could be for a variety of reasons. It could have been hand loaded. It could have been created at a different time from a different factory.

We even indicated what factory it may have come from. That bullet, that shell casing that they found were 2 different types of bullets. Then, more importantly, she did 3 reports.

The first reports says 2 guns are not forensically linked to the crime. The second report, that the fragments found in Ivan Young are unique elements.

This power point went from 2 different versions, some words, letters, symbols got changed or turned around.

There may be misspellings. I apologize to you for that right now. The second report that the fragments found in Ivan Young contained unique copper, zinc and nickle, as well as lead and biological material.

There was pieces of lead with unique materials inside Ivan Young. There was no unique

materials with the lead that was found at 3801 Charleston.

Now, the third report, she said; well, I had access to a new technology that allowed me to forensically link those altogether.

The way I link those altogether is that I am going to take a look at the train tracks that go across the bullet. Those existed when she did her second report, and those train tracks existed on the fragments when she did her second report.

There was no new technology that allowed her to do that particular aspect of her analysis. What made it unique in her new analysis was being able to tell what the elements were in there, but those elemental analyses didn't connect all of the items.

It was the train tracks she said connected the items. That

existed when she did her second report, yet she didn't come to that conclusion at that time.

There's no way to know. There is no way to know whether the molten lead core that she showed, if there were any more canolures before the bullet was shot.

She indicated that different manufacturers will leave different types of canolures at different locations to distinguish their bullets.

She can't be sure if there is another canolure that got molded into it after it got shot.

That would completely change what type of bullet it is. Take that into consideration when you consider that there is 6 different types of calibers that she indicated, 9 millimeter, 10 millimeter, a 38 special that all contained the type canolure that would be consistent with the lead core that they

found.

She indicated that the 4 major manufacturers make tens of millions of bullets that use a lead core, and that there are at least 10 different calibers across those 4 manufacturers that make those bullets that would result in a lead core being left, that that may or may not have a canolure, or may have a different canolure.

So there's nothing unique about the lead core that was in the back of that trunk.

None of the things that make the bullet found in Ivan Young was unique was found in the lead core. The lead core that went through Ivan Young had no biological material.

Here is the more important thing, in order for the State's case to make sense, if they are saying that Rickie shot Ivan Young in the face, he would have had to shoot him

1 in the face, look for the lead core,
2 find that, take that lead core with
3 him, throw it into his trunk.

4 It seems highly unlikely. He
5 would have had to be aware there's a
6 lead core inside of the bullet he is
7 firing.

8 There's 6 different kinds of
9 ammunition in the back of them, all
10 kinds of different bullets. This
11 doesn't appear to be someone that
12 knows how to handle that type of
13 gun.

14 On that specific point,
15 there hasn't been any evidence that
16 Mr. Slaughter ever handled or knew
17 about those guns.

18 But I think a reasonable
19 inference could be made that you
20 heard from Tiffany Johnson that he
21 got jumped about 2 months before
22 this happened, got beat so bad he got
23 put in the hospital.

24 He had stitches on his face.
25 He had a black eye. I don't think it

1 would be unreasonable if I lived on
2 Bonanza and Nellis that I would have
3 2 guns in the back of my trunk if I
4 got beat up that bad and put in the
5 hospital.

6 The practical matter that
7 this was at the house, he would have
8 had to go around, find that lead core
9 in the house after it had gone
10 through Ivan Young, or wherever it
11 went, take it with him, throw it into
12 the back of his trunk.

13 This all has to be done
14 as he is leaving the house and
15 getting ready to go pickup Tiffany
16 Johnson.

17 Rickie, according to Tiffany
18 Johnson, picked her up from work at
19 7, 7:15. She would have remembered
20 if Rickie was late. She worked 12
21 hours.

22 The State has made a large
23 portion of what her testimony is,
24 tried to be discredited by the fact
25 that Rickie had talked to her, that

1 he was manipulating her.

2 She testified that she never
3 even got to talk to him before she
4 made those 2 statements about what
5 time she got picked up. What the
6 State played, tell them I was there
7 at 7:00 o'clock.

8 That's when she actually said
9 7:30. She got threatened being put
10 in jail if she didn't. She told them
11 the truth, that he picked her up at
12 7, 7:15. That's what time it was,
13 because that's when she recalled
14 him picking her up. She didn't know
15 what he was in custody for at that
16 time.

17 She had not had a chance to
18 talk to him, no chance to manipulate
19 her testimony. Her testimony changed
20 to hurt him only after she was
21 threatened with going to jail.

22 You heard what he was talking
23 about and why he called Tiffany
24 Johnson. I want to make sure you are
25 okay, you just had your house raided,

1 is everything all right.

2 Obviously he is concerned
3 about the mother of his child at that
4 time. She testified that she's
5 married now. She has a different
6 last name.

7 She has no vested interest
8 in whether he gets out. It would
9 probably hurt her because now she
10 would have to share custody of her
11 child and all kinds of issues.

12 She has no vested interest in
13 lying for him 7 years later. She
14 remembered that time to be 7:00,
15 7:15. That's what time she was
16 picked up.

17 She was coerced, intimidated
18 and arrested for trying to tell the
19 truth.

20 Another thing about Tiffany
21 Johnson, it didn't appear that Rickie
22 seemed to be in any hurry. He wasn't
23 acting erratically. He didn't squeal
24 his tires. He didn't smell like
25 Clorox or bleach. That's a pretty

1 unique smell.

101

2 She didn't indicate that he
3 smelled funny, that anything seemed
4 out of the ordinary. He showed up.
5 He seemed calm, collected, picked her
6 up. She got in the car and they
7 left.

8 You heard testimony from Jeff
9 Arbuckle, I stood out there with her
10 until 7:30. He couldn't recognize
11 Rickie in the courtroom.

12 You are allowed to assess
13 the credibility of a witness and the
14 observations he made based on his
15 ability to recall events.

16 He supposedly knew Tiffany
17 was his girlfriend at the time. He
18 didn't recognize him in court
19 today.

20 More about Arbuckle, he
21 tells you I am the manager of that
22 store.

23 There's no time cards, sign
24 out sheets or other ways to track
25 employees' time. It just seems

1 unlikely that there wouldn't be some
2 way to know what time she left, and
3 no evidence was presented that there
4 was any way to tell what time she
5 left there.

102

6 In her first statement she
7 indicated; well, I think I got off a
8 few minutes early. That put her
9 around 6:55, somewhere in there.
10 Then she said he had shown up some
11 time after that, that's why I said
12 7:00, 7:15.

13 The other point to make about
14 Jeff Arbuckle, he said I am a manager
15 standing outside with an employee
16 rather than closing or doing any
17 finishing duties.

18 Now, in my experience,
19 anywhere that I worked, the managers
20 had to stay after the employees,
21 because they have to double check
22 what the employee was doing that
23 day.

24 He said, I went out there and
25 stood with her. She tells us she was

1 sitting in the Chinese restaurant
2 across the way. She doesn't know
3 this guy well enough where he could
4 even recognize her boyfriend in
5 court.

6 It seems unlikely that he
7 would stand out there and say now
8 that it is getting later, let me take
9 off and leave you here alone. He was
10 never standing with her. He doesn't
11 know what time she left.

12 Tiffany Johnson knows what
13 time she left. She left at 7:15.
14 That's when Rickie Slaughter picked
15 her up.

16 Take a look at that car.
17 You have seen many pictures of that
18 vehicle. The car was cluttered, a
19 mess. There was no attempt to wipe
20 it down or get rid of any evidence.

21 This is from a guy that goes
22 and finds the lead core of the bullet
23 to put it in his trunk. He is
24 spraying down Clorox on the victims
25 in some attempt to destroy

103

1 evidence.

2 And suddenly he doesn't go
3 into his car and wipe it down. It
4 seems unlikely that somebody that
5 had just committed this crime doesn't
6 have blood on him.

7 He doesn't make some
8 attempt to say, geez, I might have
9 something that may tie me to this
10 crime.

11 According to the State's
12 theory, he went straight from the
13 crime to pick up Tiffany Johnson at
14 the Eldorado Cleaners.

15 If he did that, he would have
16 to try to get rid of any of that
17 evidence. There is no attempt
18 to clean anything out of the
19 vehicle.

20 The other thing, what Tiffany
21 Johnson said, this is a junker Ford
22 Taurus. It has holes in the roof.
23 It required Rickie to put water in
24 it. He has to make it 10 miles to
25 pick her up immediately after leaving

104

Ivan's house.

It just doesn't seem to make sense. Now, Monique Westbrook, was her testimony the clearest in the world; she went up there and tried to say what she remembered 7 years later.

I had sex with this guy one time. I know it was before the Fourth of July. In 2004 the Fourth of July was one weekend after June 26th. It was 9 days that the Fourth of July fell on in that particular year.

MR. DIGIACOMO: I apologize. I object. There's absolutely no evidence of an investigation prior to 2005.

MR. MARCELLO: I am making a reasonable inference that if he would have been assigned a Public Defender, they would have had investigators at their office.

THE COURT: There is no evidence that he was assigned a

Public Defender.

I am going to sustain the objection.

MR. MARCELLO: Now, you are going to take a look at your instructions. Most of them have everything to do with the elements of the crime.

For the purpose of our case, Rickie simply wasn't there. So I think the most important instruction for you to look at it is instruction number 37; what capacity did the witnesses have to view the suspect.

If you have your jury instructions, I would like you to look at it right now. It gives you instructions on how to view the testimony of eyewitnesses.

Now, when Ms. Fleck was interviewing Geoffrey Loftus up there, she said all across this country crimes are being upheld and crimes are being proven with eyewitness testimony. She is

correct, they sure are.

You know from your own experience and training those aren't always correct. Everybody here has read stories of that happening. Everybody here knows where a friend of a friend, where some of those turned out to be incorrect.

I believe that Mr. Loftus indicated that 75 percent of the cases that were exonerated by DNA --

MR. DIGIACOMO: Objection.

THE COURT: That was all stricken by the Court.

MR. MARCELLO: I thought he followed up with it.

THE COURT: Sustain the objection.

MR. MARCELLO: What are the factors that he said about recalling memory. This was a high stress situation.

Ryan John had even said I was constantly waiting for them to leave,

find a way out, wait until they go into another room.

He was worried about his own safety long before he tried to look at the suspects. Ivan, all he said was I wanted my family to get down. I didn't want anything to happen.

Jennifer Dennis, the same thing. All of the witnesses were constantly prevented from looking directly at the suspects.

Even when they did look directly at the suspects, Ryan John, he said the guy put the gun right to my face and I looked him right in the eye.

There is no testimony about anybody seeing black eyes. You saw the booking photo that Tiffany Johnson remembered Rickie to look like at the time.

He had a black eye in the photo. He doesn't remember seeing anybody with black eyes. He had stitches at the time. He had just

1 been jumped.

2 There is no testimony that
3 anybody recognized any type of scar,
4 healing or fresh stitches in his face
5 at the time.

6 This goes into factor number
7 one, for the person to look at, get
8 the opportunity to view the suspect.
9 And we are going to look more
10 importantly at factor number 6,
11 whether the identification was the
12 product of the witness' own
13 recollection or was the result of
14 subsequent influence or suggestion.

15 If somebody came to your
16 house, robbed you, tied up your
17 entire family, took everything that
18 you had, and the police call you and
19 say we got a suspect in custody, we
20 think that he did it. We need you to
21 come down here and point out the
22 suspect that is in this lineup.

23 You heard both Joey Posada
24 and Ryan John. You heard that they
25 were then contacted and told that the

1 suspect was in the lineup.

2 You know that if you make the
3 wrong pick, that suspect is going to
4 go free. And if the police are
5 saying that they think he did it, he
6 is probably the one that did it.

7 You are going down there with
8 the expectation that you are going to
9 point out the guy that did it. Yet
10 at the same time they are telling
11 you, he is in this lineup, if you
12 don't pick him out, the person that
13 did this to your family is going to
14 go free.

15 You are sitting in the
16 hospital and you are told that the
17 suspect is in this lineup, that they
18 caught the guy, and you take a look
19 at these pictures and say do you
20 recognize him.

21 Looking at that lineup,
22 there's no way that I would think
23 that Rickie Slaughter's picture
24 matches those other 5 ones.

25 We have been talking about a

1 blue background. You can see what
2 else it does, it creates a halo
3 effect on his face.

4 Detective Loftus testified
5 that when I viewed this lineup, it
6 appeared that his picture was taken
7 at a different time.

8 He looks like somebody that
9 is freshly in custody, compared to
10 the other 5. That's the guy who did
11 this to me.

12 They asked Jermaun Means the
13 same thing, we have the suspect in
14 custody, the guy that did it. We
15 need you view this lineup.

16 Jermaun Means says, writes on
17 the bottom of the statement, the face
18 just stands out to me. He doesn't
19 write, this is the guy that did
20 this. This is the man I think had
21 the gun.

22 This is the guy that just
23 stands out to me. This face just
24 stands out to me. The reason why
25 that face stands out to him is

1 because it looks completely different
2 than the other 5 pictures.

3 The gentleman is wearing a
4 yellow shirt. You can't control what
5 clothing they are wearing or what the
6 picture looks like.

7 You haven't heard any
8 evidence about how these photo
9 lineups are created. You are
10 allowed to use your inference, that
11 just viewing this in and of itself
12 indicates there is something
13 incorrect about this lineup.

14 Now, for Ryan John, he
15 testifies I am 100 feet away from
16 the house. The guy calls me over.
17 He goes into the house before I
18 do.

19 He turns around and puts a
20 gun under my chin. I look him in the
21 eye. I don't remember his clothing.
22 I remember his face. That's what he
23 said, I remember his face.

24 I don't remember any black
25 eyes. I don't remember stitches. I

1 don't remember any tattoos.

2 Tiffany Johnson testified he
3 had tattoos up and down his arms, a
4 black eye, stitches at the time. He
5 looks at this picture, this is the
6 guy I think that called me over.

7 He is told that from the time
8 that he gets called in that they had
9 the suspect in custody. He is in
10 this lineup, pick him out.

11 This is what we have to deal
12 with when we talk about accuracy
13 versus certainty. Ms. Fleck pointed
14 out, he had come to subsequent
15 hearings. Ryan John pointed him
16 out.

17 Again, that reinforces the
18 belief that this is the person.
19 Look at the layout of this
20 courtroom. There is 2 signs,
21 plaintiff and defendant. You don't
22 think that's going to help him point
23 out, that's the guy again.

24 So every time he shows up in
25 Court, he becomes more certain that

1 that's the guy. It doesn't make
2 him anymore accurate about who it
3 is.

4 Again, you got to ask
5 yourself, why didn't anyone see
6 any tattoos. Why didn't anyone see
7 scars, black eyes, stitches on the
8 person's face.

9 Why can they be so sure it
10 is Rickie, yet no one person can
11 agree what the real perpetrators were
12 wearing.

13 Ivan Young's description, 2
14 black males, one bald with a blue
15 shirt and the other one had a red
16 basketball jersey, dreadlocks, spoke
17 with a Jamaican accent. He said he
18 wanted to go back Belize.

19 Dinnah said these fucking
20 Americans prefer to carry credit
21 cards over cash.

22 If what the State is saying
23 is true, that Rickie Slaughter is
24 using a fake Jamaican accent, why
25 would he go through the extra step of

1 the Belize and the fucking Americans,
2 why do you have to go through these
3 extra steps.

4 The conversation started
5 off with Ivan Young about painting
6 cars just before the robbery took
7 place.

8 Why would anybody remember
9 that; that's why he didn't remember
10 his face right at that particular
11 time. He has people sent to him to
12 paint cars all the time.

13 Jermaun Means was coming to
14 pay him right at that time. Ryan John
15 initially told the police that he
16 cannot identify the suspects. His
17 statement of identification says, I
18 think, I think this is the guy.

19 When the suspect found the
20 credit card, he says fucking
21 American. He doesn't see any black
22 eyes, tattoos, stitches. He sees
23 white shoes, and you heard testimony
24 that the white pair of shoes, this
25 is a brand new white pair of shoes,

1 brand new looking, that were tested
2 for blood, not a drop of blood on
3 them.

4 You have seen track marks
5 with blood all over the place.
6 They were walking all around the
7 place. He shot them at more or less
8 point blank range, but not a single
9 drop of blood on those brand new
10 looking white shoes.

11 Joey Posada doesn't remember
12 anyone speaking with an accent. This
13 fits together with what Loftus said,
14 and that over time formulates our
15 memory of what occurred.

16 One of the suspects had
17 braided hair and the other having
18 dreadlocks. He originally thought it
19 was an Afro, and one of the suspects
20 was wearing a tuxedo or a dress
21 shirt.

22 We have a basketball jersey,
23 a blue shirt, some type of dress
24 shirt, a beige jacket now.
25 Essentially these individuals are

1 under a high stress situation. They
2 are trying to remember any major
3 detail, and looking at the major
4 details, they get them wrong. The
5 exact face, shape, height, things
6 like that, they can't put it
7 together.

8 I don't think their memory is
9 useful for saying that's the guy that
10 did it. Jermaun Means cannot
11 identify the suspect.

12 You heard testimony from
13 Jennifer Dennis who was at the
14 house. There was a number of other
15 individuals at the house.

16 The get away car is described
17 from green, green-blue to blue. We
18 are later on told it is a Ford. We
19 are going to get to the slide in a
20 minute. I don't see any reason why
21 it couldn't have been a green Chevy
22 Malibu.

23 As to the number of people in
24 that house, half of them say it was
25 Rickie and half have no clue. That

1 is 50/50. It doesn't sound like a
2 positive identification to me.

3 Again, all of these witnesses
4 were told the suspect was in custody,
5 present in a lineup. If they don't
6 pick out the right person, the person
7 that did this to your family goes
8 free.

9 Low and behold there is
10 somebody that looks like, that the
11 police think did it, that is good
12 enough for me. I rather they get
13 somebody than nobody.

14 And this kind ties in. I
15 know this is a very weird
16 proceeding. It is weird that we have
17 to segment out the testimony. You
18 don't get to hear a nice
19 chronological sequence of events.

20 You have to hear from
21 different witnesses and piece it
22 altogether. It makes it difficult to
23 tell a nice, long, continuous story.

24 The story that we have is
25 Mr. Slaughter dropped off Tiffany at

1 7:00 o'clock in the morning at her
2 work, obtained a car sometime later,
3 went to see Monique Westbrook, had
4 sex with her, hung out with her, and
5 went to pickup Tiffany at 7:00, 7:15,
6 took her back to their house, she
7 took her car and left.

8 And according to the State's
9 case, Mr. Slaughter then walks down
10 the street to a 7-Eleven to use the
11 ATM card. This is another one that
12 doesn't fit in with the State's
13 case.

14 He goes to his apartment at
15 3801 East Charleston. The way the
16 State tells you, he goes to the
17 7-Eleven and said, hey, he has the
18 same height, facial features, it
19 looks like him.

20 To me, the person in that
21 video looks more stout, thicker,
22 heavier set. That's my personal
23 opinion.

24 Their view is he has the
25 same facial features and structure,

1 but it is up to you to view that
2 picture and decide what you want to
3 do with it.

4 As far as I am aware, there's
5 no scientific evidence saying it is
6 him. It is up to your judgement as
7 to how you view that photo. He looks
8 too thick for that video.

9 Why go to that 7-Eleven in
10 the first place. You heard the store
11 clerk that had the videotape, he says
12 there's 4 stores on this route from
13 3801 Charleston to 3051 Charleston, 4
14 other stores, including one that he
15 owns.

16 Why would he go that far to
17 use that ATM. There is a Circle K,
18 Am Em, another store that he owns,
19 and yet he goes the extra distance to
20 walk that distance to use that card
21 by 7:00 o'clock.

22 Now that we have got a
23 certain timeline here, he supposedly
24 commits this crime at 7:00 o'clock
25 and picks up Tiffany Johnson, a 10

1 mile trip. He has to park, get her
2 out of the vehicle, not appear
3 nervous or weird in any way, then he
4 has to let her leave and then
5 suddenly walk all the way up
6 Charleston past 4 other stores to
7 go to that 7-Eleven and use the
8 ATM.

9 It doesn't seem likely. It
10 doesn't seem to fit into any of the
11 type of actual events that would have
12 occurred. It does not support the
13 State's case.

14 The lineups themselves, these
15 are not randomly generated pictures.
16 You heard Mr. Loftus that the other 5
17 pictures look like they were
18 generated by a computer program.
19 This one looks different.

20 This was an intentionally
21 created lineup. This was made by an
22 individual. The State does not
23 provide any evidence why this lineup
24 was created in the manner that it
25 was.

1 Why did this line up have to
2 look like this; why couldn't it have
3 had a blue background for
4 everybody. You know, this doesn't
5 really seem right, let me make
6 another one, so I am not trying to
7 influence the witnesses.

8 Rickie's picture has no
9 background. It seems to have a halo
10 effect on his face. It was made to
11 make Rickie get selected.

12 How can you not become
13 certain that that was the right guy,
14 especially after you pick out that
15 right guy, they arrest him, go
16 through the Court process.

17 He comes to court, picks him
18 out in court because he is sitting at
19 the table that has the picture that
20 says Defendant.

21 Every time you come to court
22 you are going to look at the photo,
23 and see him sitting in Court and say
24 that's the guy. You are going to
25 become more certain over time than

1 the exact moment you had it.

2 Ryan John, I am not sure I
3 can identify the suspects. I am
4 positive now, 100 percent sure. It
5 is your job to make sure that's the
6 right person.

7 Now, again, we are going
8 to look at this lack of evidence.
9 There is no forensic corroborating
10 evidence that Rickie committed this
11 crime, some of the things we expect
12 to confirm, if Rickie did it.

13 They had his vehicle, why not
14 compare the tire tracks left at the
15 scene with the tire tracks on the
16 bottom of the car.

17 That would have confirmed
18 that that was the vehicle that was
19 there. It was never done. There is
20 no evidence to that effect.

21 You heard testimony from Jeff
22 Arbuckle. They had the security tape
23 from 7-Eleven, why not have it from
24 Albertsons. The State presented no
25 evidence as to why reasonable

1 investigations were not done.

2 The jail calls. Jail calls,
3 as the custodian of records
4 indicated, you can never tell the
5 intention of what somebody says, nor
6 can you tell what kind of language
7 that was used in general.

8 Rickie repeatedly states his
9 innocence. He is just standing in
10 jail, repeating what he has already
11 been told when he got taken in, they
12 booked me on this and that. I am
13 looking at some serious charges.

14 If you got booked in and saw
15 those charges, attempted murder,
16 kidnapping, battery with a deadly
17 weapon, second degree murder, that
18 would immediately trigger in you,
19 what the hell is going on.

20 I am going to talk to one
21 the person that might know what is
22 going on. Let me ask her what is
23 going on.

24 He was a 19-year-old black
25 male from a bad neighborhood. Stick

1 to the script. I can think of a
2 millions versions as to what that
3 means besides let's stick to some
4 made-up story that we even haven't
5 made up yet.

6 You have already told the
7 cops what happened, stick to the
8 script. 7:00 o'clock, you told them
9 it was 7 to 7:15. You told them
10 exactly what the truth was as
11 to what time you picked me, 7:00,
12 7:15.

13 You heard no Jamaican
14 accent. You heard, cuz, cuz, cuz,
15 again the crackers, that type of
16 language is just to show that he is a
17 19-year-old black male from a bad
18 neighborhood, therefore that guy is a
19 bad guy.

20 That's the whole idea behind
21 those particular jail calls.

22 Tom Winter, this was a little
23 strange. Mr. Winter tells you he is
24 a concerned citizen, he calls the
25 police the day that he sees the news

1 on television.

2 He doesn't say I saw Rickie
3 Slaughter's picture on the
4 television. He saw the news footage
5 of the robbery taking place.

6 MR. DIGIACOMO: I object. I
7 thought he said I saw Eric Hawkins
8 on the video, is what I thought he
9 said.

10 THE COURT: Ladies and
11 gentlemen you rely on what you
12 recall Mr. Winter testifying to,
13 what you remember as to the
14 testimony.

15 MR. MARCELLO: I will rely on
16 your recollection of which news
17 broadcast he watched. This is before
18 Rickie is listed as a suspect, before
19 any news story that Rickie is
20 connected to this crime.

21 He tells you Eric Hawkins
22 spoke with a Jamaican accent. He
23 moved out one month before the crime
24 occurred.

25 He didn't tell you where that

1 accent was, but he had been around
2 the country, and my inference is that
3 that accent may be and where he might
4 have moved back to would be Belize.
5 The Jamaican accent, the suspects
6 were overheard that they wanted to go
7 back to Belize.

8 These robbers show and they
9 don't say, give me money. They say;
10 give me the money, where are the
11 guns. Jermaun Means shows up to
12 house with \$1,500 in his pocket.

13 At the same time they are
14 walking around the house, give me the
15 money. They don't say give me any
16 money, do you have any money. The
17 guns, they say give me the guns.
18 That implies they were there
19 expecting money and guns to be at
20 the house.

21 Jermaun Means shows up to the
22 house with \$1,500 in his pocket. We
23 haven't heard any evidence that in
24 anyway that Mr. Slaughter somehow has
25 knowledge of Jermaun Means.

1 If that was him being at the
2 house, he would have to know that
3 Jermaun Means was showing up at the
4 house. I think that those particular
5 robbers were expecting money to be
6 there, that it was somebody that knew
7 to go there at that particular time
8 when Jermaun Means showed up to that
9 house.

10 They referred to Ryan John
11 and the others as fucking Americans.
12 Rickie could not have committed this
13 crime. He didn't have the time.

14 There's absolutely no
15 corroborating evidence indicating
16 Rickie committed this crime; no
17 blood, fiber, hair, fingerprints, no
18 evidence that he committed this crime
19 to corroborate what the witnesses'
20 recollection of the events are.

21 The detective conducted a
22 basic investigation of some
23 information that confirmed Rickie is
24 innocent. The 4 eyewitnesses, they
25 are wrong about what they saw. They

1 were manipulated by detectives to
2 pick the wrong person.

3 Rickie is not guilty. Thank
4 you.

5 THE COURT: Thank you,
6 Mr. Marcello.

7 Mr. DiGiacomo.

8 - - - - -

9 STATE'S FINAL CLOSING ARGUMENT

10 - - - - -

11 MR. DIGIACOMO: Thank you.
12 Every trial, a criminal trial, a
13 civil trial that happens in the Court
14 house is all about one thing. It is
15 all about the truth.

16 At the end of the day, what
17 is the truth; it doesn't matter what
18 type of proceeding it is, where it is
19 occurring in America, the one thing
20 that matters is what is the truth.

21 Now, we already know and
22 they conceded, Ms. Fleck said they
23 would concede it, every crime
24 listed in this indictment, this
25 information was committed, no

1 question about it.

2 The only question is, is that
3 the guy, did this man right here,
4 Rickie Slaughter, did he, was he one
5 of the 2 individuals that entered the
6 house. If he is one of the 2, he is
7 guilty.

8 If he is present, he is
9 guilty, right, because each of those
10 guys acted together. The real
11 question, the question about it is,
12 this man put a 357 to a guy's face
13 that he shot. There is no question
14 about that.

15 The question becomes, as I
16 stand here every time, like maybe we
17 should be in an era of CSI, there's a
18 lot of rules that we live by. The
19 most fundamental rule is you don't
20 ever believe anything a lawyer says
21 to you.

22 You shouldn't believe
23 anything I say to you or anything
24 Ms. Fleck says to you, or anything
25 certainly Mr. Fumo said in his

1 opening, because God knows none of
2 that panned out.

3 And you shouldn't believe
4 most of what Mr. Marcello talked to
5 you about either. They weren't
6 quite exactly the way you heard it,
7 right.

8 I was surprised to hear
9 Mr. Marcello get up and say to you
10 guys, Monique Westbrook said she was
11 at home with the Defendant. He left
12 at 7:00. That is when he went to go
13 pick her up.

14 What I remember Monique
15 saying is that if she was with him,
16 it was between 7 and 10:00 o'clock at
17 night. I can't tell you the day of
18 the week.

19 We know it had to be the year
20 2005, a full year after Mr. Slaughter
21 was arrested for the crime.

22 There is no way she's an
23 alibi witness for him. You have to
24 believe Tiffany Johnson, you mean the
25 woman that was convicted of

1 obstruction of justice in this case.
2 It was this case in which she
3 obstructed justice.

4 You have to find her
5 credible. They said we tell you that
6 you have to find her credible. No,
7 you don't. We didn't call Tiffany
8 Johnson.

9 Let's see, Tiffany Johnson,
10 the first thing she tells the police
11 is 7:30 at night or before 7:30 at
12 night. I am not telling you you
13 should believe her. I think you
14 should believe Mr. Arbuckle, who has
15 no reason to lie, who says it was a
16 half hour. I don't get out until
17 7:00

18 I agree with Mr. Marcello
19 that if he is the manager, he might
20 lock the door at 7, but he probably
21 doesn't get out until 7, 7:10. And
22 he said I waited a half hour for
23 her.

24 What tells you he is telling
25 the truth is the one thing Tiffany

1 Johnson made a mistake about is, when
2 Jeff was leaving, pulling out of the
3 parking lot, Rickie was pulling in,
4 what is what Jeff Arbuckle told you;
5 when I was leaving, Rickie was
6 pulling in the parking lot, which
7 tells you what, between 7:30, 7:40,
8 somewhere in that range, Rickie
9 Slaughter came with his green
10 car.

11 Then they tell you
12 Mr. Slaughter had to get rid of all
13 the evidence before that. We know he
14 didn't, because he only got rid of
15 one of the guns.

16 Why did he have to get rid of
17 it before then; he had to get rid of
18 it before 2 days later. Do you
19 honestly think that Tiffany Johnson
20 doesn't know that he is guilty beyond
21 any shadow of a doubt.

22 That her behavior with the
23 police officer, with the police
24 officer that night, her behavior on
25 the stand, he doesn't have a job. He

1 had extra money. Maybe he got it
2 from his mother.

3 I don't know any of his
4 friends. If you could figure out who
5 his the best friend is, you would
6 know who the second suspect was,
7 which leaves you with this
8 inescapable conclusion.

9 I hear there is no forensic
10 evidence. There should have been
11 blood, and despite the 4 ID's with
12 the picture being in 4 different
13 spots, that somehow it was a big
14 suggestion as to who it is that these
15 guys should have picked out of the
16 photo lineups.

17 Let's start with something.
18 Set all 4 photo lineups to the side
19 and decide is Rickie Slaughter
20 guilty. Let's start with this, you
21 know that Rickie Slaughter has
22 connection to that neighborhood,
23 indisputable.

24 Kenny Marks said he brings
25 the license with his signatures on it

1 or title. We know that somehow this
2 neighborhood that he has no other
3 link to, that he has been in this
4 neighborhood a number of times, which
5 tells you another thing, that he
6 knows that Ivan, who happened to be
7 standing next to Kenny one time, and
8 Ivan probably doesn't remember this,
9 why would he pay attention to a
10 conversation that Ivan is having; he
11 knows what Ivan does, which is paint
12 cars, which means he knows that Ivan
13 probably gets paid in cash.

14 It is not exactly a business
15 that has a storefront and a credit
16 card machine. He knows that Ivan got
17 money, so he knows that's a place
18 where he can make some money from.

19 What else do you know, you
20 know there is no disputing there's 3
21 guns used in this crime. You know
22 that it is a .22 calibre revolver,
23 black with a brown handle; opps
24 Rickie has one of those.

25 You know there is a small

1 silver semi-automatic firearm; wait,
2 Rickie has one of those.

3 You know there's a 357 used.
4 I know there's a big long discussion
5 about that little piece of a bullet
6 in the trunk of the car. Maybe I was
7 somewhat confusing during my opening,
8 or maybe Mr. Marcello didn't
9 understand what we are saying.

10 What that means is Rickie
11 Slaughter had access to a 357. There
12 wasn't any dispute that the bullet
13 that hit Ivan in the face was a 357
14 silver tipped bullet.

15 They didn't dispute that.
16 That's what all of the outside of the
17 bullet was with the canolure. She's
18 able to determine on its chemical
19 composition that the jacketing that
20 was in Ivan's face was a 357, and it
21 was manufactured by Winchester.

22 We know he has a little
23 casing to a Winchester 357 in the
24 trunk of his car. That bullet,
25 whether that's the bullet that was

1 fired in the house, we will talk
2 about that shortly, and somehow he
3 wound up either getting it into the
4 tread of his shoe, or winding up in
5 the trunk of his car, or picking it
6 up because he was running around the
7 house looking for the money and saw
8 it and thought, hey, I can get rid
9 of evidence that would link it to
10 me, or it was from a whole separate
11 incident where he was tinkling with
12 his gun out in the desert.

13 It doesn't matter. What
14 matters is, is that there's a bullet
15 core with a canolure consistent with
16 the fragments found inside our crime
17 scene, which tells you that not only
18 does he have access to a Winchester
19 357 Magnum gun, but the type of
20 Winchester ammunition is consistent
21 with the Winchester ammunition that
22 hit Ivan in the face.

23 Now, what do you mean, he has
24 all 3 guns. What are the odds of
25 that. You haven't had a single ID at

1 this point.

2 MR. FUMO: Your Honor,
3 objection, that misstates the
4 testimony.

5 She couldn't tell if
6 that lead core was a Winchester or
7 not.

8 THE COURT: The same thing,
9 ladies and gentlemen, you will recall
10 the testimony of the witnesses and
11 make your own decisions based on
12 that.

13 MR. DiGIACOMO: Now, you take
14 all of that information and you
15 haven't yet got to an ID yet.

16 What else do you know, I
17 know there has been a lot of
18 discussion, Ivan said a green Ford 7
19 years later. He didn't say until way
20 back when, and Jennifer said blue,
21 teal, not green.

22 There is no discussion of a
23 Ford, no discussion of a Ford. You
24 didn't hear it but once, but listen
25 to the 911 call.

1 The 911 call comes out,
2 someone says what kind of car were
3 you driving, you will hear Jennifer
4 say blue, someone correct her, no
5 green, and someone in the background
6 yells a Ford.

7 Listen to the call. The
8 first thing that comes out of
9 anyone's mouth is it is a green Ford
10 that is the suspect vehicle in this
11 case.

12 What do you know, the guy
13 with the 3 guns who happens to be
14 linked to that neighborhood just
15 happens to be driving a green Ford.
16 Who knew, right, and you still don't
17 have a single identification in this
18 case.

19 And that information you
20 have, and you would be considering to
21 yourself, it is looking pretty bad
22 for you, Rickie Slaughter.

23 Now the cops come in. They
24 take Mr. Slaughter into custody and
25 throw Mr. Slaughter into jail. You

1 haven't heard any information that he
2 knows why he went to jail other than
3 he knows what his charges are.

4 I have to ask this question,
5 he goes to jail. You can look at his
6 booking sheet. He is booked in at
7 1:33 in the morning, and despite the
8 rolling up of the sleeves here in the
9 courtroom, that booking sheet doesn't
10 say he has any tattoos.

11 And while it does have a
12 little mark there where this black
13 dot is, you should look at that,
14 because when you pull up that video
15 of Mr. Slaughter at 7-Eleven, you can
16 see that little mark on his eye in
17 the videotape itself.

18 He is booked in at 1:33, and
19 at 1:45 in the morning he calls his
20 girlfriend; the first call, he asked
21 her what happens. What does she say;
22 I told them you picked me up at
23 7:30. You got to tell them 7 or I am
24 going to prison for life.

25 My question to you is, from

1 the evidence you have heard here, how
2 does he know he needs to alibi
3 himself for 7:30 at night.

4 How does he know that fact
5 that that's when the crime occurred.
6 Ask yourself that question. It is
7 answerable.

8 He can't possibly know he has
9 to alibi himself for 7:00 o'clock at
10 night. He would have no idea that
11 this crime was committed at that
12 time.

13 So now when he says to you,
14 if you don't tell them 7, I am going
15 to prison for life, that tells you
16 one thing, he is scared of a crime
17 that occurred at 7:00 o'clock on a
18 Saturday.

19 I am assuming there wasn't
20 some other crime committed with a
21 green Ford with 3 guns that he needs
22 to worry about on a Saturday, June
23 26, 2004.

24 What else do you know; well,
25 as he goes on, now he has to

1 manufacture an alibi, and his first
2 story is you heard in the first jail
3 call, I am home alone playing Play
4 Station.

5 It is a little bit farther
6 along, not what Monique says, I think
7 maybe J.R. was there. Maybe J.R. is
8 going to alibi me. Then later he
9 decides he needs to get some woman to
10 come in and say she's with him,
11 Monique Westbrook, remember playing
12 that call, I need to alibi myself.

13 If he had not been doing
14 something wrong at 7:00 o'clock at
15 night, he wouldn't need anybody to
16 come in here and lie for him. That
17 alone would make him guilty.

18 Then you get to the last
19 phone call, which was from July of
20 2004, and you have to ask yourself
21 this; he says I just got my
22 discovery, will you help me get a
23 lawyer.

24 I might go to trial if they
25 are going to keep at 18 to life, but

1 if they offer me a plea of 8 to 9
2 years, I might take it.

3 Guilty people don't, in the
4 first week say, you know what, I am
5 going to go do the next decade of my
6 life in jail for something I didn't
7 do.

8 I got to tell Mr. Slaughter
9 this, too, you shoot a guy in the
10 face, you don't just get 10 years.
11 Now you are left with the fact that
12 you have all of this evidence piled
13 up and you wind up with 4 ID's.
14 Notice what he talked about with
15 those 4 ID's.

16 They have to come up with a
17 reason why those 4 ID's are not
18 admissible. They talked about, they
19 tried to get the experts to say ID's
20 can be wrong.

21 There are times, I am sure,
22 that a photo lineup is wrong, you
23 want corroborating evidence,
24 multiple photo lineups, physical
25 evidence.

1 Now you have to believe all
2 of these facts. You already know,
3 that all 4 people picked out the
4 wrong guy. How could all 4 people
5 pick out the wrong guy.

6 Nobody picked out a false
7 positive. You heard from Jennifer, I
8 couldn't identify anybody. She
9 didn't pick somebody, no pick
10 whatsoever.

11 Now, all 4 people have to be
12 making an identification, and they
13 all have to get the same
14 identification. Go back and look at
15 the photo lineups. They couldn't
16 have talked to each other and said
17 pick number one 2, 3, 4.

18 At each and every positive
19 identification, Rickie Slaughter is
20 in a different position on the photo
21 lineup. He is in 3, 4, 5 or 6, so
22 the witnesses couldn't say, pick
23 that one, pick this one, pick that
24 one.

25 So they pay \$6,500 to the

1 eminent Professor Loftus from MIT,
2 and he comes in here for \$6,500 and
3 tells you, there has to be some sort
4 of suggestion, and I have seen copies
5 of the photo lineup and the white
6 background. That would have stood
7 out to him.

8 With all due respect to
9 Professor Loftus, everybody in
10 today's society uses a high
11 lighter. If somebody is going to
12 falsely identify somebody in this
13 lineup and pick the wrong guy, how
14 about the guy who has the highlight
15 in the yellow shirt.

16 You guys were sitting through
17 the trial. You saw it on here. It
18 was all bled out, or you saw the
19 photocopies. He saw the photocopies
20 of it. When you actually look at
21 this photo lineup like you are
22 holding it in your hand, that
23 background looks no different than
24 anybody else's.

25 The only guy that is

1 highlighted is the guy in yellow.
2 When you hold it in your hand and
3 look at it to pick it out, so that
4 can't be the reason for the false
5 ID.

6 So now they go with; well,
7 they were told there was a suspect in
8 the lineup. They were told there was
9 a suspect in the lineup and he was
10 already in custody.

11 Ivan Young, how does Ivan
12 Young hit the right person if he is
13 not the person; why does Ivan Young
14 pick the right person, it is because
15 it is Rickie Slaughter.

16 But more importantly, it is
17 also why Ivan got shot, the whole
18 case; haven't you been sitting here,
19 why did poor Ivan, the guy who got
20 the bullet in the face, why did that
21 happen.

22 Let's talk first about what
23 happened with the crime. Here's the
24 perpetrator, Mr. Slaughter, who has
25 seen Ivan in the neighborhood before,

1 you know that at least once before,
2 while Ivan doesn't remember him,
3 potentially, he knows that's a
4 place where he can get money.

5 Ivan is the one who had
6 contact with him in the garage,
7 had a conversation with him in the
8 garage. Let's talk about a few
9 things before I get too far into that
10 about the booking photo, and what
11 they saw.

12 Look at the booking photo. I
13 don't see any stitches in the booking
14 photo. I don't know what the
15 discussion was about stitches in this
16 particular case.

17 The accents, let me get this
18 straight, some guy is going to make a
19 false accent to -- or during the time
20 that he is in there with a real
21 accent, he is going to give more
22 identifying information about
23 himself, saying I am going to go
24 back to Belize.

25 He is going to provide more

1 information during this crime, or do
2 you think it is Mr. Slaughter trying
3 to throw the other people in the
4 house off the scent.

5 He can't leave Ivan Young
6 alive. He knows he can't, because he
7 knows the kind of contact he has had
8 with Ivan Young up to this point.
9 That's why he has got to shoot
10 him.

11 What happens when he gets
12 shot, why does Ivan Young live, not
13 because Rickie missed, Ivan
14 flinched. You can look and see
15 exactly what happened in this case
16 with that bullet. It traversed down
17 his nose, through his lip, hit that
18 spot on the floor that you saw the
19 picture of, separated, and all of
20 that shrapnel came back into his
21 face, because none of that bullet
22 core is left inside.

23 It skidded off somewhere, or
24 at least portions of it skidded off,
25 whether it wound up in the traction

1 of the shoe or wound up in the
2 clothing of Rickie, or whatever; but
3 look at the way that the crime was
4 committed.

5 This isn't CSI. You won't
6 see any blood splatters on the wall
7 or across the floor. You will see a
8 few footprints in blood, all of which
9 the crime scene analyst told you were
10 the victim's shoe print.

11 You will see a pile of blood
12 where he bled out on the floor.
13 There isn't any splatter in this
14 house in order to get on the
15 suspects.

16 They said you would have
17 thought they would have found black
18 hair or evidence of false hair.
19 There wasn't any hair found in the
20 house, so what is the relevance of
21 that.

22 The only thing that would
23 mean is 2 individuals didn't go in
24 this house and shoot Ivan in the
25 house, something they are not

1 disputing.

2 That doesn't somehow
3 exonerate Rickie Slaughter. The fact
4 that Ivan Young was shot tells you
5 that he knew his perpetrator.

6 When he was able to readily,
7 quickly identify Rickie Slaughter as
8 the perpetrator, when Rickie
9 Slaughter gets on a phone and says I
10 will do the 8 or 9 years, there isn't
11 any question, ladies and gentlemen,
12 who the shooter in this case is.

13 There isn't any question who
14 robbed, who terrorized, who
15 kidnapped, who brutalized this
16 family. There's at least one person
17 in this room that knows beyond any
18 shadow of a doubt who committed this
19 crime.

20 I suggest to you, if you are
21 doing the job, 12 of you will go back
22 in that room, you will talk about it
23 and come back here and tell him you
24 know, too.

25 Thank you.

1 THE COURT: Thank you.
2 Mr. DiGiacomo.

3 All right. You will swear
4 the officer to take charge of the
5 jury.

6 - - - - -

7 (Thereupon, the officer was sworn
8 in to take charge of the jury.)

9 - - - - -

10 THE COURT: All right.
11 Ladies and gentlemen, go with
12 Leslie. She'll get all of the
13 exhibits back to you so that you can
14 begin your deliberation.

15 Mr. Servoss and Ms. Di Pol,
16 you are going to go with Molly. You
17 are the alternates. You are going to
18 be released.

19 You can't talk about the case
20 until we call you and let you know
21 the jury has finally concluded their
22 service.

23 I will take my directions
24 from you all as to how long we go for
25 today.

1 Go ahead, take all of your
2 stuff. Head back with Leslie.

3 You guys can go back there
4 and Molly will pick you up in a
5 moment.

6 - - - - -

7 (Thereupon, the following proceedings
8 were conducted in open court and
9 outside the presence of the jury.)

10 - - - - -

11 THE COURT: Does anyone
12 have anything outside the presence?

13 MR. DIGIACOMO: No, Your
14 Honor.

15 THE COURT: Give the Clerk your
16 contact information.

17 MR. DIGIACOMO: All right.

18 MR. FUMO: Yes.

19 THE COURT: I don't intend on
20 keeping them long into the evening.
21 I don't really ever do that.

22 I would imagine by no later than
23 6:00 o'clock, if they don't have a verdict,
24 I will let them go.
25

" (Proceedings concluded.)

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 7th day
of August, 2011.



Robert A. Cangemi, CCR 888

Certified Court Reporter

Las Vegas, Nevada

A	albertsons (123:24)
* (3:2)	alibi (58:13) (131:23) (141:2) (141:9) (142:1) (142:8) (142:12)
	alive (148:6)
aaron (64:1)	all (4:13) (4:25) (5:23) (7:14) (9:24) (10:1) (15:7) (15:10) (15:11) (16:16) (17:3) (24:3) (26:16) (26:19) (31:2) (35:8) (35:17) (41:7) (43:4) (45:24) (58:15) (58:23) (58:24) (59:9) (59:17) (60:10) (63:14) (64:17) (64:18) (65:5) (68:4) (73:20) (74:12) (74:22) (77:2) (77:8) (81:17) (86:18) (87:7) (87:9) (87:10) (89:11) (89:16) (94:23) (95:23) (97:9) (98:13) (100:1) (100:11) (106:22) (107:14) (108:5) (108:9) (115:12) (116:5) (116:6) (118:3) (121:5) (129:14) (129:15) (133:12) (134:18) (136:16) (137:24) (138:14) (143:12) (144:1) (144:3) (144:4) (144:11) (144:13) (145:8) (145:18) (148:19) (149:8) (151:3) (151:10) (151:12) (151:24) (152:1) (152:17)
abducts (27:1)	allowed (84:25) (87:22) (87:24) (94:5) (94:17) (101:12) (112:10)
abets (16:20)	alone (103:9) (142:3) (142:17)
abetting (16:18) (16:19)	along (4:14) (8:20) (142:6)
ability (4:18) (101:15)	already (29:15) (59:6) (60:11) (124:10) (125:6) (129:21) (144:2) (146:10)
able (4:20) (23:12) (34:18) (35:4) (42:2) (42:16) (42:22) (43:12) (43:23) (44:22) (45:1) (45:4) (45:15) (94:20) (136:18) (150:6)	also (11:22) (15:13) (23:10) (25:20) (26:12) (31:11) (31:13) (31:21) (33:24) (35:25) (36:20) (42:4) (47:8) (47:25) (48:7) (49:13) (49:22) (51:8) (54:8) (58:9) (60:12) (68:5) (84:20) (90:16) (146:17)
above (28:23)	alternates (151:17)
absolute (83:15)	although (72:17)
absolutely (23:17) (53:17) (56:24) (89:22) (105:16) (128:14)	altogether (94:7) (94:9) (118:22)
absorb (4:18)	always (107:4)
accent (13:21) (44:20) (114:17) (114:24) (116:12) (125:14) (126:22) (127:1) (127:3) (127:5) (147:19) (147:21)	america (129:19)
accents (13:15) (147:17)	american (115:21)
access (22:24) (24:7) (47:2) (51:8) (94:4) (136:11) (137:18)	americans (114:20) (115:1) (128:11)
accident (28:1)	ammunition (97:9) (137:20) (137:21)
accomplish (25:25) (37:1)	among (89:5)
according (66:10) (98:17) (104:11) (119:8)	amount (32:11)
account (86:14)	am-pm (67:18)
accounts (23:11)	analyses (94:22)
accuracy (113:12)	analysis (66:19) (67:1) (94:18) (94:20)
accurate (70:25) (114:2) (154:12)	analyst (34:2) (149:9)
accused (73:1)	analyze (49:9)
accusing (74:1)	analyzed (48:25)
acknowledged (69:21)	and/or (17:13) (18:12)
acknowledges (74:3)	angel (90:23)
across (32:16) (32:24) (33:7) (33:18) (85:10) (94:11) (96:6) (103:2) (106:22) (149:7)	angle (48:22)
act (10:17) (11:24) (12:1) (12:21) (13:23) (16:16) (16:24) (25:23) (27:20) (27:23) (36:24) (37:5) (37:9) (38:11) (38:13) (73:25) (74:15)	another (12:6) (17:4) (17:16) (19:19) (39:21) (58:21) (59:7) (60:24) (95:15) (100:20) (108:2) (119:11) (120:18) (122:6) (135:5)
acted (130:10)	answer (57:22)
acting (100:23)	answerable (141:7)
action (73:16)	anthony (66:16)
actions (7:14) (37:22) (40:10)	any (13:13) (18:24) (20:25) (21:4) (22:8) (27:2) (28:15) (28:21) (28:25) (31:6) (36:7) (51:7) (68:21) (70:1) (73:15) (73:22) (76:9) (77:25) (78:20) (87:5) (88:21) (89:19) (89:23) (90:1) (95:7) (97:15) (100:22) (102:4) (102:16) (103:20) (104:16) (109:3) (112:7) (112:24) (113:1) (114:6) (115:21) (117:2) (117:20) (121:3) (121:10) (121:23) (126:19) (127:15) (127:16) (127:23) (133:21) (134:3) (136:12) (140:1) (140:10) (147:13) (149:6) (149:13) (149:19) (150:11) (150:13) (150:17)
actively (77:9)	anybody (5:4) (108:18) (108:24) (109:3) (115:8) (142:15) (144:8) (145:24)
acts (11:10) (12:9) (14:24) (15:11) (16:15) (24:13) (27:18) (37:11) (42:6)	anymore (114:2)
actual (17:20) (23:5) (41:2) (121:11)	anyone (114:5) (114:6) (116:12) (152:11)
actually (20:5) (53:5) (57:15) (99:8) (145:20)	anyone's (139:9)
add (72:10)	anything (18:22) (30:7) (30:20) (40:18) (47:16) (65:18) (68:22) (79:2) (81:5) (86:25) (101:3) (104:18) (108:7) (130:20) (130:23) (130:24) (152:12)
adding (59:21)	anyway (127:24)
additional (39:15) (43:8)	anywhere (79:18) (86:9) (88:23) (89:20) (102:19)
additionally (16:11) (23:20) (38:7) (38:19) (39:23) (44:24) (50:21) (51:6) (62:19)	apart (35:6) (36:11) (71:20)
admissible (143:18)	apartment (52:18) (119:14)
admitted (73:21)	apologize (3:14) (93:17) (105:15)
admonished (65:10)	apparent (70:8)
aerial (68:1) (85:11)	appear (97:11) (100:21) (121:2)
afro (116:19)	appearances (1:19)
after (39:19) (42:21) (42:24) (45:13) (48:19) (84:18) (87:19) (95:16) (98:9) (99:20) (102:11) (102:20) (104:25) (105:11) (122:14) (131:20)	appeared (13:18) (72:18) (73:4) (111:6)
afternoon (71:7)	applies (4:5)
afterwards (43:12)	appreciate (5:21)
again (14:17) (17:2) (18:9) (20:17) (22:6) (24:10) (31:18) (38:12) (39:16) (58:6) (58:25) (113:17) (113:23) (114:4) (118:3) (123:7) (125:15)	
against (19:20) (20:12) (25:13) (27:13) (34:20) (59:6) (65:1) (84:1)	
ago (45:4) (71:10)	
agree (11:14) (114:11) (132:18)	
agreed (10:14) (11:5) (11:6)	
agreeing (60:19) (60:24)	
agreement (10:9) (10:22) (10:24) (11:13) (11:21) (14:18)	
ahead (152:1)	
aid (10:13)	
aiding (16:17) (16:19)	
aids (16:20) (16:23)	
ain't (57:16) (58:2)	

appropriate (8:24) (22:11) (60:21) (62:4) (63:4) (64:6) (64:12)
 approximately (84:14) (84:17) (84:23)
 arbuckle (54:12) (58:10) (73:7) (101:9) (101:20) (102:14) (123:22) (132:14) (133:4)
 are (3:11) (3:13) (3:14) (3:22) (3:24) (4:6) (5:9) (8:15) (11:12) (12:8) (12:12) (12:13) (12:17) (14:3) (14:4) (15:17) (18:6) (21:19) (22:8) (26:13) (26:18) (35:20) (37:12) (47:11) (47:13) (54:3) (56:18) (57:15) (58:12) (58:22) (59:1) (65:6) (67:4) (67:13) (72:14) (75:16) (76:1) (76:13) (77:13) (78:6) (79:5) (79:14) (81:17) (82:13) (82:21) (82:25) (83:2) (84:1) (84:9) (84:25) (87:12) (87:22) (87:24) (93:8) (93:10) (96:5) (96:23) (99:24) (101:12) (106:4) (106:23) (106:24) (107:1) (107:20) (109:9) (110:4) (110:7) (110:8) (110:10) (110:15) (110:16) (112:5) (112:9) (116:25) (117:2) (117:18) (117:19) (121:15) (122:22) (122:24) (123:7) (127:10) (127:13) (128:20) (128:25) (136:9) (137:24) (140:3) (142:25) (143:11) (143:17) (143:21) (145:21) (149:25) (150:20) (151:16) (151:17)
 aren't (107:3)
 arguing (75:9) (75:10)
 argument (6:4) (6:6) (6:9) (81:24) (83:7) (129:9)
 arguments (2:3)
 arms (113:3)
 around (6:12) (35:16) (71:25) (76:7) (82:1) (86:9) (86:23) (87:7) (89:10) (92:20) (93:15) (98:8) (102:9) (112:19) (116:6) (127:1) (127:14) (137:6)
 arrest (122:15)
 arrested (100:18) (131:21)
 arrived (34:2)
 arriving (55:10)
 ascertain (82:7)
 ask (47:16) (64:24) (76:23) (76:25) (114:4) (124:22) (140:4) (141:6) (142:20)
 asked (35:21) (35:25) (58:23) (58:24) (60:13) (66:18) (67:14) (67:23) (67:24) (68:5) (111:12) (140:20)
 asking (14:14) (26:9) (59:1) (68:17)
 asks (41:12) (47:14)
 aspect (18:10) (94:18)
 assess (101:12)
 assigned (105:21) (105:25)
 assuming (141:19)
 assumption (80:17)
 atm (40:9) (40:12) (67:20) (119:11) (120:17) (121:8)
 attacked (5:24)
 attempt (9:7) (9:11) (14:21) (16:4) (19:16) (21:24) (25:20) (25:22) (26:6) (36:20) (36:21) (37:2) (39:11) (51:15) (53:11) (61:3) (61:8) (61:14) (61:16) (61:21) (103:19) (103:25) (104:8) (104:17)
 attempted (21:8) (37:8) (124:15)
 attempting (26:14)
 attempts (44:18) (44:20)
 attention (135:9)
 attorney (68:1) (76:14)
 attorneys (1:22) (3:21) (3:22) (6:2) (66:3) (75:10) (76:5) (82:24) (82:25)
 august (154:17)
 authenticate (78:15)
 aware (72:21) (97:5) (120:4)
 away (13:7) (21:16) (23:14) (27:2) (27:12) (112:15) (117:16)

B

back (3:13) (4:7) (4:21) (5:1) (8:16) (8:23) (15:18) (22:9) (48:13) (49:11) (60:13) (82:21) (88:24) (91:1) (92:6) (92:8) (92:9) (96:14) (97:9) (98:3) (98:12) (114:18) (119:6) (127:4) (127:7) (138:20) (144:14) (147:24) (148:20) (150:21) (150:23) (151:13) (152:2) (152:3)
 background (111:1) (122:3) (122:9) (139:5) (145:6) (145:23)
 bad (73:25) (74:14) (97:22) (98:4) (124:25) (125:17) (125:19) (139:21)
 bailey (66:17)
 bald (114:14)
 baseball (21:11) (88:8)
 based (25:3) (33:4) (35:2) (40:15) (60:10) (64:16) (64:18) (64:19) (70:19) (81:13) (81:22) (101:14) (138:11)
 basic (128:22)
 basically (17:15) (26:1) (27:10) (32:19)

basis (75:20)
 basketball (114:16) (116:22)
 bat (21:12)
 battery (9:9) (61:10) (61:12) (124:16)
 beat (21:12) (97:22) (98:4)
 beaten (24:25)
 beating (61:11)
 because (7:13) (12:10) (12:16) (12:20) (14:1) (16:8) (19:3) (20:13) (22:7) (27:25) (31:21) (34:14) (35:10) (38:5) (38:21) (47:18) (50:4) (50:16) (51:3) (54:22) (54:25) (56:9) (58:21) (71:18) (73:7) (73:20) (73:24) (74:6) (74:18) (85:23) (89:4) (99:13) (100:9) (102:21) (112:1) (122:18) (130:9) (131:1) (133:14) (137:6) (140:14) (146:14) (148:6) (148:13) (148:21)
 become (122:12) (122:25)
 becomes (113:25) (130:15)
 been (7:18) (9:1) (17:24) (68:14) (70:22) (76:10) (76:18) (77:9) (82:5) (85:23) (87:10) (92:8) (92:23) (92:24) (97:15) (105:21) (109:1) (110:25) (117:21) (124:11) (127:1) (134:10) (135:3) (138:17) (142:13) (146:18)
 before (1:15) (8:6) (42:18) (44:2) (44:25) (45:3) (55:24) (56:8) (65:7) (66:6) (67:15) (71:11) (71:19) (72:22) (74:8) (77:5) (77:24) (80:13) (95:7) (97:21) (99:3) (105:9) (108:4) (112:17) (115:6) (126:17) (126:18) (126:23) (132:11) (133:13) (133:17) (133:18) (146:25) (147:1) (147:9) (154:14)
 begged (66:5) (69:3)
 begin (151:14)
 beginning (40:25)
 behalf (6:6) (64:23) (75:9)
 behavior (133:22) (133:24)
 behind (125:20)
 behold (118:9)
 beige (116:24)
 being (20:6) (36:17) (37:11) (47:22) (73:2) (94:20) (96:9) (99:9) (106:23) (106:24) (128:1) (134:12)
 being's (38:17)
 belief (70:9) (113:18)
 believe (15:25) (36:1) (66:22) (75:13) (78:7) (81:5) (84:12) (107:9) (130:20) (130:22) (131:3) (131:24) (132:13) (132:14) (144:1)
 believed (45:18)
 believes (45:17) (74:5) (74:6)
 belize (114:18) (115:1) (127:4) (127:7) (147:24)
 belongs (46:18)
 benefit (23:7)
 besides (36:17) (125:3)
 best (75:13) (76:2) (84:5) (134:5)
 between (10:10) (10:25) (17:3) (49:1) (70:16) (85:20) (85:22) (131:16) (133:7)
 beyond (7:19) (28:6) (51:6) (133:20) (150:17)
 big (4:25) (134:13) (136:4)
 bind (15:10)
 binding (29:13) (34:25) (62:22) (63:12)
 biological (91:3) (91:5) (93:22) (96:19)
 bit (57:3) (142:5)
 black (47:25) (48:5) (97:25) (108:18) (108:22) (108:24) (112:24) (113:4) (114:7) (114:14) (115:21) (124:24) (125:17) (135:23) (140:12) (149:17)
 blank (116:8)
 bleach (100:25)
 bled (145:18) (149:12)
 blocks (70:4)
 blood (86:18) (86:21) (86:23) (86:24) (87:5) (87:15) (87:16) (89:24) (104:6) (116:2) (116:5) (116:9) (128:17) (134:11) (149:6) (149:8) (149:11)
 bloody (86:15)
 blue (46:6) (111:1) (114:14) (116:23) (117:17) (122:3) (138:20) (139:4)
 bodily (21:3) (21:10) (36:2) (36:3) (36:8) (36:14) (63:3) (63:6)
 body (31:8) (50:14)
 bolstered (69:24)
 bonanza (85:14) (98:2)
 bones (53:19)
 booked (124:12) (124:14) (140:6) (140:18)
 booking (108:19) (140:6) (140:9) (147:10) (147:12) (147:13)
 boss (54:15)
 both (5:17) (12:8) (28:4) (28:13) (29:18) (41:15) (51:4)

(109:23)
bottle (52:12)
bottom (92:20) (111:17) (123:16)
bound (6:15) (11:24) (29:12) (29:18) (29:19) (29:22)
 (30:13) (30:16) (30:23) (31:9) (31:13) (31:25) (34:9) (34:14)
 (34:24)
boyfriend (55:9) (103:4)
brady (89:13)
braided (116:17)
brand (115:25) (116:1) (116:9)
brandishing (35:14)
brass (91:18)
break (65:23) (65:24)
bring (14:11) (23:18)
brings (24:22) (134:24)
broadcast (126:17)
brought (13:25) (32:15) (38:24) (42:19) (43:10) (69:15)
 (69:18)
brown (135:23)
brutalized (150:15)
bugs (52:12)
bullet (7:6) (23:1) (35:4) (36:10) (38:9) (38:17) (47:8)
 (48:15) (48:19) (50:2) (50:11) (66:21) (66:25) (67:2) (67:4)
 (72:14) (72:15) (72:16) (73:9) (73:11) (73:23) (74:19) (75:1)
 (75:2) (90:6) (90:8) (90:9) (91:4) (91:7) (91:14) (91:16)
 (92:7) (92:13) (92:16) (92:17) (93:3) (94:11) (95:8) (95:18)
 (96:16) (97:6) (103:22) (136:5) (136:12) (136:14) (136:17)
 (136:24) (136:25) (137:14) (146:20) (148:16) (148:21)
bullets (92:2) (93:5) (95:13) (96:4) (96:7) (97:10)
bullshit (57:4)
bunch (68:13)
bunny (52:12)
burglary (9:15) (9:17) (17:5) (17:20) (17:25) (18:3) (18:7)
 (18:10) (19:5) (19:11) (39:15) (40:23) (62:8) (62:16)
business (13:13) (14:6) (18:15) (46:9) (135:14)
but (3:9) (6:24) (10:24) (19:4) (22:25) (23:6) (24:10)
 (25:24) (31:11) (36:23) (36:25) (37:10) (39:6) (44:7) (45:12)
 (45:21) (47:12) (49:4) (51:21) (58:9) (59:8) (68:9) (68:12)
 (68:25) (84:17) (90:10) (94:22) (97:18) (116:8) (120:1)
 (127:1) (132:20) (137:19) (138:24) (142:25) (146:16) (149:2)

C

caliber (49:17)
calibers (95:21) (96:6)
calibre (49:9) (49:10) (90:5) (135:22)
call (58:21) (59:7) (78:1) (78:11) (78:13) (78:15) (78:17)
 (78:18) (78:25) (79:2) (79:6) (79:9) (79:13) (79:19) (79:24)
 (80:4) (80:12) (81:2) (109:18) (132:7) (138:25) (139:1)
 (139:7) (140:20) (142:3) (142:12) (142:19) (151:20)
called (6:25) (24:18) (24:21) (38:23) (43:20) (69:15)
 (78:21) (84:14) (84:17) (99:23) (113:6) (113:8)
calling (69:1) (75:8)
calls (47:14) (55:18) (74:2) (74:13) (74:21) (79:4)
 (112:16) (124:2) (125:21) (125:24) (140:19)
calm (101:5)
came (13:4) (14:3) (18:19) (18:20) (19:1) (30:1) (30:6)
 (52:3) (54:1) (66:22) (67:2) (72:18) (78:1) (79:6) (83:18)
 (109:15) (133:9) (148:20)
can (4:12) (4:16) (5:14) (15:23) (16:18) (21:12) (23:17)
 (38:14) (38:21) (52:21) (53:7) (54:7) (59:4) (65:22) (72:10)
 (76:4) (76:11) (81:10) (81:21) (81:24) (82:4) (83:16) (111:1)
 (114:9) (114:10) (122:12) (123:3) (124:4) (124:6) (125:1)
 (135:18) (137:8) (140:5) (140:15) (143:20) (147:4) (148:14)
 (151:13) (152:3)
cangemi (1:25) (154:9) (154:20)
cannot (73:14) (115:16) (117:10)
canolure (95:15) (95:24) (96:10) (96:11) (136:17) (137:15)
canolures (95:7) (95:11)
can't (23:16) (45:11) (58:21) (78:14) (83:20) (95:14)
 (112:4) (117:6) (131:17) (141:8) (146:4) (148:5) (148:6)
 (151:19)
capable (21:9)
capacity (106:13)
car (13:12) (46:5) (46:11) (46:15) (46:24) (47:1) (47:5)
 (47:7) (47:10) (47:16) (47:19) (48:13) (54:22) (66:21) (67:8)
 (72:13) (72:15) (72:16) (73:5) (73:10) (73:12) (73:15)
 (75:25) (92:6) (92:9) (101:6) (103:16) (103:18) (104:3)

(117:16) (119:2) (119:7) (123:16) (133:10) (136:6) (136:24)
 (137:5) (139:2)
card (25:7) (25:18) (33:10) (52:13) (115:20) (119:11)
 (120:20) (135:16)
cards (25:5) (33:11) (101:23) (114:21)
carries (27:2)
carry (114:20)
cars (13:11) (46:9) (115:6) (115:12) (135:12)
cartridge (23:1) (47:7) (48:14) (49:14)
cartridges (49:3) (49:5)
case (1:10) (4:5) (8:25) (10:7) (13:17) (14:9) (17:5)
 (17:24) (18:4) (20:13) (21:15) (21:18) (22:5) (22:20) (26:21)
 (27:14) (29:19) (32:22) (35:8) (36:14) (38:4) (39:10) (40:25)
 (41:2) (42:21) (45:24) (48:4) (49:14) (50:16) (58:17) (59:19)
 (60:11) (60:20) (62:4) (64:13) (64:17) (64:19) (64:20) (65:2)
 (66:4) (66:5) (69:14) (75:10) (75:19) (75:20) (81:19) (84:3)
 (84:8) (86:3) (86:12) (90:3) (91:11) (96:22) (106:9) (119:9)
 (119:13) (121:13) (132:1) (132:2) (139:11) (139:18) (146:18)
 (147:16) (148:15) (150:12) (151:19)
cases (35:13) (41:18) (107:11)
cash (32:11) (114:21) (135:13)
casing (49:23) (73:14) (92:11) (93:3) (136:23)
caught (110:18)
cause (21:3)
causes (36:5)
causing (21:9)
ccr (1:25) (154:9) (154:20)
certain (12:5) (75:11) (113:25) (120:23) (122:13) (122:25)
certainly (130:25)
certainty (113:13)
certified (154:21)
certify (154:10)
cetera (26:11)
chair (4:2)
chance (33:13) (76:17) (99:17) (99:18)
change (58:7) (95:17)
changed (93:14) (99:19)
characterization (71:1)
charge (11:11) (17:5) (151:4) (151:8)
charged (9:2) (17:25) (89:15)
charges (5:11) (41:2) (124:13) (124:15) (140:3)
charleston (52:18) (94:2) (119:15) (120:13) (121:6)
check (102:21)
cheek (53:19)
chemical (136:18)
chevy (117:21)
child (100:3) (100:11)
chin (112:20)
chinese (103:1)
choose (43:15) (56:14) (57:18)
chose (43:16) (74:17)
chronological (118:19)
circle (120:17)
circle-k (67:18)
circumstances (11:18) (12:24) (21:7) (37:21) (38:11)
 (38:13) (38:21)
circumstantial (41:21) (42:4) (42:11) (46:2) (46:24)
 (51:1) (51:24) (52:23) (53:4) (53:24) (54:10)
citizen (125:24)
civil (129:13)
clark (1:4) (154:4)
clean (104:18)
cleaners (54:14) (54:19) (84:22) (85:14) (104:14)
cleanup (31:7)
clearest (105:4)
clearly (11:12) (14:4) (30:13) (31:3) (33:12) (33:19)
 (53:17) (63:4) (88:4)
clerk (120:11) (152:15)
clorox (31:2) (52:12) (100:25) (103:24)
close (55:3) (66:5) (87:19)
closed (54:20) (56:6) (69:14)
closely (54:6)
closing (2:3) (6:4) (6:9) (65:8) (83:4) (83:7) (102:16)
 (129:9)
cloth (52:8) (52:11)
clothes (48:21)
clothing (86:19) (87:4) (112:5) (112:21) (149:2)

clue (117:25)
 cluttered (103:18)
 co-conspirator (11:4) (11:16) (13:4) (15:1) (17:6) (24:6) (60:19)
 coerced (100:17)
 co-existed (70:19)
 coincidentally (47:21)
 collected (101:5)
 come (4:8) (8:23) (10:25) (11:3) (11:21) (12:10) (13:9) (15:6) (33:3) (33:19) (42:3) (60:14) (63:10) (90:17) (93:2) (95:2) (109:21) (113:14) (122:21) (139:23) (142:10) (142:16) (143:16) (150:23)
 comes (4:4) (25:16) (26:7) (32:5) (42:15) (42:16) (43:10) (80:13) (122:17) (139:1) (139:8) (145:2)
 comfortable (3:14)
 coming (53:8) (60:17) (62:10) (115:13)
 comitted (7:23) (149:4)
 comments (77:7)
 commission (10:13) (16:21) (16:25) (23:13) (23:23) (37:6)
 commit (9:3) (9:5) (10:13) (11:5) (11:6) (12:23) (13:1) (14:21) (14:23) (15:2) (15:14) (16:12) (17:7) (17:13) (18:12) (19:2) (19:8) (25:23) (27:18) (28:24) (30:18) (36:25) (37:3) (39:17) (40:2) (40:22) (60:16) (60:22) (60:25) (61:1) (63:21)
 commits (19:11) (19:15) (23:21) (120:24)
 committed (7:22) (8:1) (16:9) (17:2) (28:13) (41:7) (45:14) (51:2) (84:1) (84:19) (104:5) (123:10) (128:12) (128:16) (128:18) (129:25) (141:11) (141:20) (150:18)
 committing (16:3) (16:8) (18:2) (27:6) (31:10) (31:19) (32:1) (32:13) (62:12) (62:17) (62:23) (63:12)
 common (8:21) (85:1) (87:23)
 commonly (81:18)
 compare (123:14)
 compared (111:9)
 complete (29:2)
 completely (95:17) (112:1)
 completing (77:6)
 composition (91:25) (92:3) (92:4) (136:19)
 computer (121:18)
 conceal (44:21)
 conceals (27:1)
 concede (129:23)
 conceded (129:22)
 concept (17:4)
 concepts (5:7) (10:5)
 concerned (100:2) (125:24)
 concluded (151:21) (153:2)
 conclusion (95:3) (134:8)
 conducted (52:19) (65:14) (77:19) (128:21) (152:8)
 conferred (77:3)
 confidential (74:4)
 confine (30:11)
 confined (29:21) (30:17) (31:21)
 confines (26:25) (27:11)
 confirm (123:12)
 confirmed (123:17) (128:23)
 confusing (136:7)
 connect (94:23)
 connected (94:25) (126:20)
 connection (134:22)
 consciousness (55:15) (60:5)
 consider (95:19)
 consideration (95:19)
 considering (139:20)
 consistent (48:15) (50:5) (50:6) (50:9) (50:12) (51:4) (71:16) (72:6) (95:24) (137:15) (137:20)
 conspiracy (9:3) (9:5) (10:8) (10:9) (10:12) (10:18) (10:21) (10:23) (11:8) (11:23) (12:1) (12:3) (12:7) (12:23) (13:1) (14:16) (14:17) (14:22) (15:12) (15:13) (15:15) (16:12) (16:13) (24:11) (60:16) (60:22) (61:1)
 conspirator (10:19) (16:14) (16:15)
 conspired (17:7)
 constantly (107:25) (108:10)
 construction (21:2)
 consummate (37:7)
 contact (147:6) (148:7) (152:16)
 contacted (91:23) (109:25)
 contained (93:20) (95:23)

contemplated (21:1)
 continued (87:20)
 continuous (118:23)
 control (15:3) (68:10) (112:4)
 conversation (69:8) (69:10) (115:4) (135:10) (147:7)
 convicted (23:23) (131:25)
 cool (59:12)
 coordinated (11:9)
 copies (145:4)
 copper (91:17) (91:18) (91:19) (91:20) (93:20)
 cops (125:7) (139:23)
 copy (4:1) (5:23)
 cord (34:1) (34:3)
 cords (6:16) (15:7) (15:10) (29:23) (30:10) (30:13)
 core (23:2) (47:8) (48:15) (50:2) (50:9) (50:11) (66:22) (90:25) (91:12) (92:5) (92:6) (95:6) (95:25) (96:5) (96:8) (96:13) (96:17) (96:18) (97:1) (97:2) (97:6) (98:8) (103:22) (137:15) (138:6) (148:22)
 corner (31:17)
 correct (83:13) (107:1) (107:4) (139:4)
 corroborate (128:19)
 corroborating (52:10) (123:9) (128:15) (143:23)
 could (18:23) (30:18) (30:19) (30:21) (31:6) (33:20) (34:1) (49:18) (49:19) (70:18) (84:7) (88:23) (92:21) (92:22) (92:23) (97:19) (103:3) (128:12) (134:4) (144:4)
 couldn't (3:16) (58:15) (101:10) (117:21) (122:2) (138:5) (144:8) (144:15) (144:22)
 count (9:3) (9:5) (9:9) (9:11) (9:13) (9:15) (9:17) (9:18) (9:21) (20:19) (25:21) (26:21) (35:20) (35:23) (39:15) (60:16) (60:23) (61:2) (61:10) (61:14) (61:24) (62:7) (62:15) (63:1) (63:7) (63:18) (63:23) (63:24) (64:2) (64:3) (64:6) (64:9) (64:13) (65:1)
 country (106:23) (127:2)
 counts (9:2) (9:24) (21:19) (26:18) (35:10) (35:18)
 county (1:4) (154:4)
 couple (7:20) (43:23) (45:4) (47:12)
 coupled (8:19)
 course (18:5) (19:14) (47:5) (55:7)
 court (1:4) (3:5) (3:8) (5:21) (9:7) (65:3) (65:11) (65:14) (65:17) (65:25) (67:6) (67:25) (68:20) (70:6) (70:12) (70:20) (71:11) (72:8) (72:12) (75:4) (75:17) (76:13) (77:1) (77:13) (77:19) (78:5) (78:17) (79:5) (79:21) (80:1) (80:5) (80:9) (80:22) (81:1) (81:12) (82:14) (82:18) (82:21) (101:18) (103:5) (105:24) (107:14) (107:15) (107:18) (113:25) (122:16) (122:17) (122:18) (122:21) (122:23) (126:10) (129:5) (129:13) (138:8) (151:1) (151:10) (152:8) (152:11) (152:15) (152:19) (154:15) (154:21)
 courtroom (101:11) (113:20) (140:9)
 cousin (31:18) (32:1)
 cover (34:15) (59:24)
 covers (53:13)
 crackers (125:15)
 create (58:13)
 created (92:24) (112:9) (121:21) (121:24)
 creates (36:3) (111:2)
 credibility (101:13)
 credible (132:5) (132:6)
 credit (25:5) (25:6) (25:17) (33:10) (114:20) (115:20) (135:15)
 crime (10:14) (10:21) (10:22) (11:19) (12:13) (12:18) (13:8) (14:17) (14:19) (16:1) (16:3) (16:8) (16:10) (16:12) (16:21) (16:25) (17:1) (17:21) (18:6) (22:12) (23:13) (23:21) (25:24) (34:2) (36:25) (37:4) (37:21) (38:1) (41:24) (42:2) (42:24) (45:14) (47:4) (48:8) (49:7) (49:23) (51:3) (52:9) (52:25) (60:20) (67:13) (75:22) (84:20) (86:16) (90:14) (90:16) (90:21) (93:9) (104:5) (104:10) (104:13) (106:8) (120:24) (123:11) (126:20) (126:23) (128:13) (128:16) (128:18) (129:23) (131:21) (135:21) (137:16) (141:5) (141:11) (141:16) (141:20) (146:23) (148:1) (149:3) (149:9) (150:19)
 crimes (7:21) (7:24) (8:1) (8:7) (8:14) (11:1) (17:8) (19:2) (19:8) (22:2) (24:4) (41:8) (43:4) (43:6) (45:7) (45:19) (46:1) (47:24) (52:1) (60:8) (84:1) (106:23) (106:24)
 criminal (16:22) (129:12)
 cross-examination (77:6) (77:7)
 csi (31:4) (130:17) (149:5)
 cursed (3:9)

custodian (124:3)
 custody (47:15) (99:15) (100:10) (109:19) (111:9) (111:14)
 (113:9) (118:4) (139:24) (146:10)
 cutoff (15:7) (15:10)
 cuz (56:13) (57:4) (57:16) (57:17) (57:18) (58:22) (59:8)
 (59:12) (59:13) (125:14)

D

dad (31:15)
 damndest (39:12)
 date (80:19)
 dated (154:16)
 day (30:2) (39:4) (66:4) (72:21) (73:8) (74:8) (83:13)
 (86:1) (102:23) (125:25) (129:16) (131:17) (154:16)
 days (42:23) (43:23) (45:4) (45:13) (71:20) (105:12)
 (133:18)
 deadly (9:8) (9:10) (9:12) (9:14) (9:19) (9:22) (10:1)
 (20:17) (20:20) (21:17) (21:20) (21:22) (21:23) (21:25)
 (22:4) (22:6) (22:12) (22:16) (22:18) (23:22) (23:24) (24:16)
 (25:11) (26:20) (34:7) (35:24) (36:19) (36:22) (38:2) (39:9)
 (39:11) (51:10) (61:4) (61:8) (61:11) (61:13) (61:15) (61:17)
 (61:22) (62:1) (62:6) (62:9) (62:21) (62:24) (63:8) (63:16)
 (63:20) (63:25) (64:4) (64:8) (64:11) (64:15) (124:16)
 deal (113:11)
 deals (5:10) (46:8)
 death (21:4) (21:10) (21:13) (36:4)
 decade (143:5)
 decide (6:25) (7:1) (63:2) (85:5) (120:2) (134:19)
 decided (12:12) (30:24)
 decides (142:9)
 decision (69:2) (74:23) (75:5)
 decisions (138:11)
 declaration (11:25) (12:2)
 decoys (27:1)
 defend (34:20)
 defendant (1:12) (1:23) (2:3) (6:18) (6:21) (7:6) (7:23)
 (8:13) (9:1) (10:2) (10:12) (12:25) (15:13) (15:23) (16:18)
 (17:6) (18:11) (19:10) (22:1) (22:10) (22:23) (23:7) (24:22)
 (25:8) (25:10) (25:16) (26:7) (27:20) (28:4) (28:12) (30:3)
 (30:17) (30:24) (32:23) (33:2) (33:6) (34:20) (35:22) (38:22)
 (39:8) (39:20) (41:7) (41:12) (42:8) (42:9) (42:20) (43:2)
 (43:17) (44:4) (44:18) (45:2) (45:20) (46:4) (46:23) (46:25)
 (47:13) (48:8) (50:17) (51:2) (51:8) (51:19) (51:25) (52:24)
 (53:8) (55:8) (56:1) (56:4) (57:10) (58:10) (58:14) (59:7)
 (59:23) (60:1) (60:17) (60:23) (61:2) (61:24) (62:7) (66:2)
 (67:10) (68:5) (74:1) (74:10) (76:11) (113:21) (122:20)
 (131:11)
 defendant's (7:13) (46:19) (49:12) (53:2) (54:9) (83:7)
 defender (105:22) (106:1)
 defense (5:17) (70:9) (71:24) (75:9) (75:14) (81:4)
 defense's (83:4)
 defined (5:8)
 degrade (30:25)
 degree (9:18) (9:21) (9:25) (20:3) (20:8) (21:21) (26:19)
 (26:23) (27:8) (28:5) (32:17) (34:6) (35:9) (35:18) (35:23)
 (36:18) (62:20) (63:7) (63:15) (63:19) (63:24) (64:3) (64:7)
 (64:10) (64:14) (124:17)
 delays (3:15)
 delete (81:8)
 deliberate (4:8) (4:22) (8:23) (15:19) (22:9) (35:21)
 (37:13) (37:17) (60:14)
 deliberation (151:14)
 deliberations (4:7)
 deliver (38:9) (38:16)
 delivering (38:12)
 demand (32:10)
 demanding (26:4) (26:12)
 dennis (29:25) (31:12) (64:1) (64:12) (108:8) (117:13)
 depending (15:25)
 depends (75:15)
 deprive (17:18)
 depriving (40:6)
 dept (1:11)
 deputy (1:22)
 described (46:5) (47:22) (47:25) (48:5) (52:6) (52:25)
 (117:16)
 description (114:13)

descriptions (66:15)
 desert (137:12)
 deserves (64:21)
 design (21:2)
 desire (83:24)
 despite (134:11) (140:7)
 destinee (66:7) (66:11)
 destroy (103:25)
 detail (117:3)
 details (117:4)
 detain (27:4)
 detains (27:4)
 detective (43:14) (55:20) (87:2) (111:4) (128:21)
 detectives (129:1)
 determine (11:7) (11:20) (22:3) (35:25) (37:18) (37:23)
 (38:14) (40:11) (41:11) (136:18)
 device (16:24) (21:5)
 dicey (76:1)
 did (12:21) (14:23) (14:25) (17:12) (20:10) (23:25) (27:20)
 (34:9) (47:15) (47:18) (56:2) (56:9) (58:5) (58:19) (58:24)
 (69:4) (69:8) (73:22) (74:25) (84:10) (86:17) (87:19) (91:8)
 (93:6) (94:12) (94:14) (95:1) (104:15) (106:13) (108:12)
 (109:20) (110:5) (110:6) (110:9) (110:13) (111:10) (111:14)
 (111:19) (117:10) (118:7) (118:11) (122:1) (123:12) (130:3)
 (130:4) (133:16) (146:19) (146:20)
 didn't (8:7) (23:15) (26:17) (40:17) (54:22) (56:17)
 (59:21) (69:25) (74:13) (81:13) (87:13) (89:19) (94:22)
 (95:2) (99:10) (99:14) (100:21) (100:23) (100:24) (101:2)
 (101:18) (108:7) (114:5) (114:6) (115:9) (126:25) (128:13)
 (132:7) (133:14) (136:8) (136:15) (138:19) (138:24) (143:6)
 (144:9) (149:23)
 die (25:1)
 difference (49:1)
 different (12:8) (13:23) (41:18) (52:19) (59:22) (89:5)
 (92:24) (92:25) (93:4) (93:13) (95:9) (95:10) (95:11) (95:20)
 (96:6) (96:11) (97:8) (97:10) (100:5) (111:7) (112:1)
 (118:21) (121:19) (134:12) (144:20) (145:23)
 differentiated (89:7)
 difficult (118:22)
 digiacomo (1:21) (39:3) (64:22) (65:19) (72:10) (72:13)
 (74:12) (77:22) (78:12) (79:1) (79:7) (80:11) (80:18) (80:24)
 (82:8) (82:12) (105:15) (107:13) (126:6) (129:7) (129:11)
 (138:13) (151:2) (152:13) (152:17)
 dignify (68:24)
 dinnah (114:19)
 direct (41:20) (41:22) (41:24) (42:1) (42:2) (42:11)
 (42:13) (43:2) (43:8) (45:24) (53:6)
 directions (151:23)
 directly (16:3) (16:7) (35:4) (38:10) (108:11) (108:13)
 discovery (142:22)
 discredited (98:24)
 discuss (6:2)
 discussed (4:3) (68:2)
 discussion (136:4) (138:18) (138:22) (138:23) (147:15)
 disfigurement (36:6)
 disguise (13:24) (18:19) (53:11)
 dispatch (79:8)
 dispute (75:21) (78:20) (136:12) (136:15)
 disputing (135:20) (150:1)
 distance (69:23) (84:23) (120:19) (120:20)
 distinguish (95:12)
 district (1:4) (1:22) (154:14)
 dna (87:15) (89:25)
 dna (107:11)
 does (4:1) (4:10) (10:16) (44:12) (111:2) (121:12) (121:22)
 (135:11) (137:18) (140:11) (140:21) (141:2) (141:4) (146:11)
 (146:13) (148:12) (152:11)
 doesn't (5:3) (23:7) (34:15) (34:17) (34:19) (35:11)
 (51:10) (51:17) (57:11) (86:6) (87:16) (97:11) (103:2)
 (103:10) (104:2) (104:5) (104:7) (105:2) (108:23) (111:18)
 (114:1) (115:21) (116:11) (118:1) (119:12) (121:9) (121:10)
 (122:4) (126:2) (129:17) (132:21) (133:20) (133:25) (135:8)
 (137:13) (140:9) (147:2) (150:2)
 doing (13:13) (27:13) (27:15) (102:16) (102:22) (142:13)
 (150:21)
 done (25:23) (27:16) (27:23) (27:24) (32:7) (36:24) (37:12)
 (84:5) (98:13) (123:19) (124:1)

don't {6:21} {6:23} {14:12} {14:19} {23:4} {23:18} {38:19}
 {56:12} {56:14} {56:18} {57:8} {57:14} {57:21} {57:22}
 {59:12} {68:23} {76:5} {77:24} {78:9} {78:22} {80:22} {84:16}
 {97:25} {110:12} {112:21} {112:24} {112:25} {113:1} {113:21}
 {117:8} {117:20} {118:5} {118:18} {127:9} {127:15} {130:19}
 {132:7} {132:16} {134:3} {139:16} {141:14} {143:3} {143:10}
 {147:13} {147:14} {152:19} {152:21} {152:23}
 door {42:17} {42:18} {67:20} {132:20}
 dot {140:13}
 double {102:21}
 doubt {7:20} {28:6} {51:7} {133:21} {150:18}
 douglas {1:15} {154:14}
 down {6:14} {30:10} {42:22} {43:13} {44:11} {46:10} {67:15}
 {72:24} {103:20} {103:24} {104:3} {108:6} {109:21} {110:7}
 {113:3} {119:9} {148:16}
 dreadlocks {88:15} {88:16} {114:16} {116:18}
 dress {116:20} {116:23}
 drive {55:5} {73:8} {86:11}
 drive-by {72:25} {74:8} {74:20}
 driving {47:3} {55:6} {139:3} {139:15}
 drop {86:24} {87:13} {87:15} {116:2} {116:9}
 dropped {86:4} {118:25}
 drove {54:17}
 due {145:8}
 during {6:3} {18:5} {20:18} {73:6} {77:4} {77:6} {85:18}
 {86:2} {87:13} {136:7} {147:19} {148:1}
 dustin {1:23}
 duties {102:17}

E

each {11:23} {11:24} {12:9} {12:14} {16:14} {23:23} {24:4}
 {24:6} {26:21} {60:7} {64:20} {64:25} {70:18} {72:7} {89:6}
 {130:9} {144:16} {144:18}
 earlier {51:9}
 early {55:21} {55:23} {56:5} {56:6} {102:8}
 east {52:17} {119:15}
 easy {21:15}
 effect {111:3} {122:10} {123:20}
 eighth {1:4}
 either {18:3} {28:14} {49:18} {88:15} {92:9} {131:5} {137:3}
 eldorado {54:13} {54:19} {84:21} {85:13} {104:14}
 element {14:15}
 elemental {94:22}
 elements {37:2} {91:13} {91:15} {93:11} {94:21} {106:7}
 else {18:14} {30:21} {38:16} {48:12} {53:3} {58:19} {76:6}
 {111:2} {135:19} {138:16} {141:24}
 else's {5:4} {145:24}
 eminent {145:1}
 employee {102:15} {102:22}
 employees {102:20}
 employees' {101:25}
 encourages {16:23}
 end {32:11} {129:16}
 enforcement {92:19}
 engage {11:14} {12:17}
 enough {103:3} {118:12}
 ensure {14:12}
 enter {17:11}
 entered {17:12} {40:17} {130:5}
 entering {19:7} {39:16} {62:16}
 enters {40:1}
 entices {26:25}
 entire {46:9} {84:2} {90:8} {109:17}
 episodes {31:4}
 equal {17:2}
 era {130:17}
 eric {126:7} {126:21}
 erratically {100:23}
 escape {20:3}
 especially {122:14}
 esq {1:21} {1:23}
 essentially {116:25}
 establish {22:18} {27:18}
 established {88:4}
 ethical {75:12}
 even {20:5} {23:24} {44:21} {45:11} {54:7} {69:21} {71:11}
 {93:1} {99:3} {103:4} {107:24} {108:12} {125:4}

evening {54:21} {55:11} {55:17} {58:17} {59:25} {71:8}
 {152:20}
 event {11:19} {76:9}
 events {14:24} {101:15} {118:19} {121:11} {128:20}
 eventually {55:2}
 ever {97:16} {130:20} {152:21}
 every {11:25} {18:2} {26:21} {26:24} {64:20} {64:25}
 {76:22} {76:23} {77:5} {84:6} {113:24} {122:21} {129:12}
 {129:23} {130:16} {144:18}
 everybody {4:1} {76:17} {88:10} {107:4} {107:6} {122:4}
 {145:9}
 everyone {15:4} {15:11} {29:19} {29:20} {60:8}
 everything {59:17} {100:1} {106:7} {109:17}
 everywhere {86:20} {89:14}
 evidence {7:16} {7:17} {8:18} {14:10} {14:13} {22:25}
 {26:5} {30:11} {31:6} {31:22} {41:6} {41:13} {41:16} {41:18}
 {41:20} {41:21} {41:22} {42:2} {42:5} {42:6} {42:11} {42:12}
 {42:14} {43:2} {43:9} {45:24} {46:3} {46:25} {48:3} {51:1}
 {51:24} {52:9} {52:24} {52:25} {53:4} {53:6} {53:25} {54:11}
 {58:16} {59:5} {60:11} {64:17} {66:6} {66:14} {67:7} {68:4}
 {69:16} {69:25} {73:22} {74:14} {75:24} {78:8} {79:15}
 {79:17} {80:6} {80:23} {81:13} {81:21} {84:6} {86:6} {86:8}
 {87:6} {87:15} {88:14} {88:20} {88:21} {88:22} {89:16}
 {89:20} {89:22} {89:24} {89:25} {97:15} {102:3} {103:20}
 {104:1} {104:17} {105:17} {105:25} {112:8} {120:5} {121:23}
 {123:8} {123:10} {123:20} {123:25} {127:23} {128:15}
 {128:18} {133:13} {134:10} {137:9} {141:1} {143:12} {143:23}
 {143:25} {149:18}
 evidentiary {68:13}
 exact {84:16} {117:5} {123:1}
 exactly {32:23} {46:13} {46:14} {72:1} {83:23} {84:10}
 {125:10} {131:6} {135:14} {148:15}
 exceeded {29:1}
 exclusive {70:18}
 exercise {52:7} {52:22} {57:19}
 exhibits {151:13}
 existed {94:11} {94:13} {95:1}
 exonerate {150:3}
 exonerated {107:11}
 expect {123:11}
 expectation {110:8}
 expecting {127:19} {128:5}
 expelled {49:6}
 expense {69:7}
 experience {102:18} {107:3}
 experiences {85:2}
 expert {66:19}
 experts {143:19}
 express {37:12}
 extra {30:24} {114:25} {115:3} {120:19} {134:1}
 eye {7:11} {36:12} {45:11} {45:13} {97:25} {108:16}
 {108:22} {112:21} {113:4} {140:16}
 eyes {53:18} {108:18} {108:24} {112:25} {114:7} {115:22}
 eyewitness {41:23} {45:23} {75:20} {106:25}
 eyewitnesses {44:8} {106:19} {128:24}

F

face {6:14} {7:5} {7:7} {16:5} {16:6} {22:21} {30:10}
 {34:11} {34:16} {35:5} {38:10} {38:13} {38:17} {43:7} {48:19}
 {48:20} {50:7} {50:14} {50:20} {51:23} {53:14} {61:5} {86:19}
 {96:25} {97:1} {97:24} {108:15} {109:4} {111:3} {111:17}
 {111:23} {111:25} {112:22} {112:23} {114:8} {115:10} {117:5}
 {122:10} {130:12} {136:13} {136:20} {137:22} {143:10}
 {146:20} {148:21}
 faced {22:8}
 facial {53:15} {119:18} {119:25}
 facilitate {20:2}
 fact {23:4} {34:8} {35:3} {46:12} {51:10} {58:5} {73:13}
 {74:16} {98:24} {141:4} {143:11} {150:3}
 factor {49:16} {109:6} {109:10}
 factors {28:7} {107:21}
 factory {92:25} {93:2}
 facts {37:20} {38:20} {144:2}
 factual {82:7}
 failed {37:10}
 failing {25:24} {37:1}
 failure {37:6}

fake (13:15) (13:21) (44:19) (114:24)
 false (144:6) (146:4) (147:19) (149:18)
 falsely (145:12)
 family (8:9) (19:3) (45:7) (62:14) (83:20) (108:6) (109:17)
 (110:13) (118:7) (150:16)
 fans (15:9)
 far (69:19) (85:17) (120:4) (120:16) (147:9)
 fargo (25:6) (33:10) (39:25)
 farther (142:5)
 fear (19:21) (19:24) (20:15) (24:23) (25:14) (26:14)
 (28:18) (61:18) (62:2)
 features (119:18) (119:25)
 feel (4:22) (56:13) (70:1)
 feelings (57:16)
 feet (67:19) (112:15)
 fell (10:2) (105:13)
 felt (30:21) (73:24) (74:14) (89:17)
 few (42:23) (47:14) (55:23) (56:5) (56:6) (102:8) (147:8)
 (149:8)
 fiber (87:5) (88:19) (89:25) (128:17)
 fibers (88:13) (88:17) (89:1)
 figure (134:4)
 final (34:5) (129:9)
 finally (16:17) (34:5) (39:14) (45:9) (64:9) (151:21)
 find (15:9) (21:25) (22:10) (23:15) (28:3) (28:6) (28:11)
 (28:14) (35:21) (47:7) (47:8) (47:15) (47:19) (47:24) (69:3)
 (89:19) (97:2) (98:8) (108:1) (132:4) (132:6)
 finding (23:9) (64:22)
 finds (103:22)
 fine (82:11)
 fingerprints (31:7) (88:3) (128:17)
 finish (14:19)
 finished (14:16)
 finishing (102:17)
 firearm (9:16) (18:1) (18:8) (19:6) (20:22) (21:15) (21:17)
 (23:12) (38:5) (73:17) (73:19) (136:1)
 firearms (22:7) (22:14) (47:13) (47:21) (48:4) (48:23)
 fired (49:18) (49:19) (49:21) (73:5) (92:8) (137:1)
 firing (20:5) (61:4) (97:7)
 first (7:21) (9:18) (9:21) (9:25) (10:5) (14:2) (16:2)
 (21:21) (26:19) (26:23) (27:8) (28:4) (29:24) (32:17) (34:6)
 (35:9) (35:18) (35:23) (36:18) (44:11) (47:14) (52:2) (62:20)
 (63:7) (63:15) (63:19) (63:24) (64:3) (64:7) (64:9) (64:14)
 (73:10) (77:23) (79:3) (80:20) (86:14) (90:2) (93:7) (102:6)
 (120:10) (132:10) (139:8) (140:20) (142:1) (142:2) (143:4)
 (146:22)
 fischer (89:13)
 fit (119:12) (121:10)
 fits (116:13)
 fleck (1:21) (6:6) (6:11) (65:4) (83:11) (106:20) (113:13)
 (129:22) (130:24)
 flinched (148:14)
 floor (6:15) (86:19) (148:18) (149:7) (149:12)
 follicle (87:14) (88:22)
 follicles (89:5)
 followed (107:17)
 following (3:4) (65:13) (77:18) (82:17) (152:7)
 footage (126:4)
 footprints (149:8)
 for (1:21) (1:23) (3:14) (6:6) (10:1) (10:10) (11:24) (12:5)
 (12:7) (12:9) (14:14) (14:15) (16:14) (19:6) (20:12) (22:13)
 (23:11) (24:12) (25:7) (25:12) (25:21) (26:21) (27:5) (27:14)
 (28:3) (31:9) (31:18) (32:1) (32:6) (32:12) (36:15) (39:6)
 (40:12) (40:18) (42:3) (51:15) (54:24) (57:6) (58:13) (60:17)
 (60:23) (61:4) (61:7) (61:11) (62:1) (62:9) (62:10) (62:16)
 (62:21) (62:22) (63:9) (63:10) (63:16) (63:20) (64:1) (64:11)
 (70:2) (70:7) (75:14) (77:23) (82:2) (83:25) (84:18) (86:9)
 (86:10) (86:15) (87:21) (92:22) (93:17) (96:22) (97:1)
 (99:15) (100:13) (100:18) (106:9) (106:12) (107:25) (109:7)
 (112:14) (116:2) (117:9) (118:12) (120:8) (122:3) (131:21)
 (131:23) (132:22) (137:7) (139:22) (140:24) (141:3) (141:9)
 (141:15) (142:16) (143:6) (145:2) (146:4) (151:24)
 forbidden (27:21)
 force (19:21) (19:24) (20:3) (20:9) (20:14) (24:24) (25:14)
 (26:14) (28:18) (61:18) (62:2)
 ford (13:6) (46:7) (46:12) (46:17) (49:12) (54:18) (104:21)
 (117:18) (138:18) (138:23) (139:6) (139:9) (139:15) (141:21)

foregoing (154:10)
 forensic (14:9) (14:12) (86:7) (89:16) (123:9) (134:9)
 forensically (90:13) (93:8) (94:6)
 forever (7:10)
 form (5:24)
 formal (11:13)
 formulates (116:14)
 found (15:24) (16:18) (30:14) (47:12) (47:13) (47:20)
 (48:11) (48:14) (48:18) (49:10) (49:23) (50:2) (50:6) (50:9)
 (50:11) (50:13) (51:4) (51:11) (51:14) (52:11) (52:20) (53:1)
 (86:24) (87:4) (89:22) (90:25) (92:4) (92:12) (93:4) (93:10)
 (93:19) (94:2) (96:1) (96:16) (96:17) (115:19) (137:16)
 (149:17) (149:19)
 fourth (105:10) (105:12)
 fragment (90:25) (91:12) (92:5)
 fragments (23:3) (48:18) (48:21) (50:6) (50:12) (67:5)
 (91:14) (91:16) (93:10) (93:19) (94:14) (137:16)
 frame (55:14) (60:4)
 free (4:23) (110:4) (110:14) (118:8)
 fresh (109:4)
 freshly (111:9)
 friday (1:16) (3:1)
 friend (18:17) (41:10) (107:6) (107:7) (134:5)
 friends (8:9) (30:3) (30:4) (134:4)
 from (6:16) (7:6) (13:8) (13:16) (14:8) (14:9) (18:23)
 (18:24) (19:18) (25:18) (26:15) (32:12) (32:15) (33:5)
 (33:10) (34:1) (39:24) (48:2) (48:20) (52:4) (52:14) (54:4)
 (54:6) (58:4) (58:9) (58:16) (58:19) (65:19) (66:15) (66:16)
 (66:19) (66:22) (67:2) (67:20) (70:4) (70:9) (71:6) (71:14)
 (72:3) (72:18) (73:3) (73:14) (73:15) (73:18) (73:19) (75:18)
 (76:2) (79:10) (79:17) (80:4) (80:5) (81:2) (81:19) (85:7)
 (85:13) (88:13) (88:17) (89:1) (89:2) (89:8) (89:12) (89:13)
 (89:21) (90:7) (92:24) (93:2) (93:12) (97:20) (98:18) (101:8)
 (103:21) (104:12) (107:2) (108:10) (112:15) (113:7) (117:12)
 (117:17) (118:20) (120:12) (123:21) (123:23) (124:25)
 (125:17) (134:2) (135:18) (137:10) (140:25) (142:19) (144:7)
 (145:1) (151:24)
 front (5:2) (6:23) (31:1)
 fucked (59:8)
 fucker (56:20)
 fucking (56:17) (57:7) (114:19) (115:1) (115:20) (128:11)
 fueled (84:2)
 full (131:20)
 fully (90:4)
 fumo (1:23) (68:6) (68:20) (68:23) (71:2) (74:16) (76:19)
 (77:11) (81:10) (130:25) (138:2) (152:18)
 fumo's (65:8) (74:24)
 function (36:7)
 functioning (45:13)
 fundamental (130:19)
 funny (101:3)
 further (6:3) (10:17) (21:14) (47:10)
 furtherance (11:10) (12:2) (15:11)
 future (19:22)

G

gains (18:5)
 game (6:25) (21:12) (38:23)
 garage (17:11) (52:3) (147:6) (147:8)
 gather (59:3) (88:9)
 gathering (89:15)
 geez (104:8)
 general (27:17) (124:7)
 generally (89:9)
 generated (121:15) (121:18)
 gentleman (112:3)
 gentlemen (8:5) (51:1) (60:9) (64:16) (65:6) (83:10)
 (126:11) (138:9) (150:11) (151:11)
 geoffrey (106:21)
 germ (74:5) (74:6)
 germ's (72:24) (73:2)
 get (3:15) (3:16) (5:3) (11:13) (12:16) (12:19) (17:9)
 (17:19) (23:7) (23:14) (26:15) (26:17) (30:19) (31:6) (32:20)
 (34:12) (34:22) (35:16) (39:22) (40:21) (42:15) (57:5)
 (59:11) (61:19) (73:14) (80:1) (86:10) (87:16) (103:20)
 (104:16) (108:6) (109:7) (117:4) (117:16) (117:19) (118:12)
 (118:18) (121:1) (122:11) (131:9) (132:16) (132:21) (133:12)

(133:16) (133:17) (137:8) (142:9) (142:18) (142:22) (143:10)
 (143:19) (144:13) (147:4) (147:9) (147:17) (149:14) (151:12)
gets (19:10) (24:18) (24:21) (32:7) (33:7) (42:18) (43:9)
 (46:11) (100:8) (113:8) (135:13) (148:11) (150:9)
getting (13:12) (18:22) (23:8) (26:2) (32:11) (39:23)
 (80:3) (98:15) (103:8) (137:3)
girlfriend (24:20) (46:19) (56:21) (101:17) (140:20)
girlfriend's (32:25)
give (3:10) (4:4) (20:10) (23:14) (25:7) (26:10) (127:9)
 (127:10) (127:14) (127:15) (127:17) (147:21) (152:15)
given (48:22) (49:8) (49:13)
gives (4:17) (106:17)
glory (8:3) (13:4) (19:7) (24:19) (39:20) (72:23) (85:12)
gloves (13:25) (14:4) (14:7) (14:10) (47:12) (52:1) (52:2)
 (52:5) (52:7) (52:20) (52:22) (52:23) (88:5) (88:6) (88:8)
 (88:11)
god (131:1)
goes (21:14) (25:8) (33:6) (39:22) (67:5) (69:20) (79:2)
 (103:21) (109:6) (112:17) (118:7) (119:14) (119:16) (120:19)
 (140:5) (141:25)
going (3:11) (6:13) (7:4) (8:5) (8:16) (11:12) (12:12)
 (12:17) (14:5) (15:3) (15:18) (21:19) (23:12) (25:1) (25:2)
 (34:12) (34:13) (39:1) (41:11) (50:18) (57:5) (59:9) (59:14)
 (59:15) (59:17) (65:6) (69:12) (72:5) (74:19) (84:9) (91:10)
 (94:9) (99:21) (106:2) (106:5) (109:9) (110:3) (110:7)
 (110:8) (110:13) (113:22) (117:19) (122:22) (122:24) (123:7)
 (124:19) (124:20) (124:22) (124:23) (140:24) (141:14)
 (142:8) (142:25) (143:5) (145:11) (147:18) (147:21) (147:23)
 (147:25) (151:16) (151:17)
gone (85:13) (85:17) (98:9)
good (4:15) (83:9) (118:11)
got (7:3) (41:13) (41:14) (41:16) (51:19) (55:23) (56:2)
 (56:5) (79:16) (79:21) (86:5) (93:14) (95:15) (95:16) (97:21)
 (97:22) (98:4) (99:3) (99:5) (99:9) (101:6) (102:7) (109:19)
 (114:4) (120:22) (124:11) (124:14) (133:14) (134:1) (135:16)
 (138:15) (140:23) (142:21) (143:8) (146:17) (146:19) (148:9)
grand (66:13)
great (69:7) (77:3)
greater (70:11)
green (13:6) (46:12) (46:17) (49:12) (54:17) (117:17)
 (117:21) (133:9) (138:18) (138:21) (139:5) (139:9) (139:15)
 (141:21)
green-blue (117:17)
guess (8:4)
guilt (17:2) (42:7) (42:8) (55:15) (60:5)
guilty (8:14) (10:11) (13:1) (15:13) (15:24) (16:7) (16:19)
 (18:6) (19:5) (22:1) (22:10) (22:11) (25:10) (27:7) (28:4)
 (35:22) (39:10) (40:23) (46:4) (51:25) (60:7) (60:21) (60:25)
 (61:3) (61:7) (61:12) (61:15) (61:21) (61:25) (62:5) (62:8)
 (62:15) (62:19) (62:25) (63:15) (63:18) (63:22) (64:2) (64:7)
 (64:14) (64:25) (129:3) (130:7) (130:9) (133:20) (134:20)
 (142:17) (143:3)
gun (6:12) (6:13) (16:5) (19:12) (20:4) (24:11) (34:10)
 (38:25) (44:17) (45:8) (61:4) (61:17) (83:19) (97:13)
 (108:14) (111:21) (112:20) (137:12) (137:19)
guns (14:15) (24:6) (26:13) (30:20) (38:24) (49:19) (90:11)
 (90:20) (93:7) (97:17) (98:3) (127:11) (127:17) (127:19)
 (133:15) (135:21) (137:24) (139:13) (141:21)
guy (32:5) (43:19) (44:4) (44:5) (44:13) (44:23) (103:3)
 (103:21) (105:8) (108:14) (110:9) (110:18) (111:10) (111:14)
 (111:19) (111:22) (112:16) (113:6) (113:23) (114:1) (115:18)
 (117:9) (122:13) (122:15) (122:24) (125:18) (125:19) (130:3)
 (139:12) (143:9) (144:4) (144:5) (145:13) (145:14) (145:25)
 (146:1) (146:19) (147:18)
guys (65:17) (130:10) (131:10) (134:15) (145:16) (152:3)
guy's (75:23) (130:12)

H

had (3:5) (13:11) (18:11) (19:3) (22:23) (24:6) (24:7)
 (29:8) (31:3) (31:11) (31:14) (32:23) (37:16) (41:1) (42:1)
 (44:17) (44:18) (44:20) (45:8) (47:1) (50:3) (50:18) (51:8)
 (53:12) (56:4) (69:11) (73:11) (73:18) (76:17) (76:22) (82:1)
 (82:18) (84:22) (85:12) (85:23) (86:4) (87:10) (88:15)
 (90:13) (90:15) (91:2) (91:12) (91:24) (91:25) (92:8) (92:19)
 (94:4) (96:19) (96:25) (97:5) (97:24) (97:25) (98:8) (98:9)
 (98:25) (99:17) (99:25) (102:10) (102:20) (104:5) (105:8)
 (105:22) (107:24) (108:22) (108:24) (108:25) (109:18)

(111:20) (113:3) (113:8) (113:14) (114:15) (116:16) (119:3)
 (120:11) (122:3) (123:1) (123:13) (123:22) (127:1) (131:19)
 (133:12) (133:17) (134:1) (136:11) (137:25) (142:13) (147:5)
 (147:7) (148:7)
hair (87:14) (88:19) (88:21) (88:22) (89:1) (89:5) (89:8)
 (116:17) (128:17) (149:18) (149:19)
half (117:24) (117:25) (132:16) (132:22)
halo (111:2) (122:9)
hand (92:23) (145:22) (146:2)
handguns (90:17)
handle (97:12) (135:23)
handled (97:16)
hands (3:10)
hang (59:14)
happen (108:7) (146:21)
happened (26:16) (56:10) (59:25) (83:14) (97:22) (125:7)
 (135:6) (146:23) (148:15)
happening (107:5)
happens (43:16) (51:21) (71:20) (81:18) (129:13) (139:13)
 (139:15) (140:21) (148:11)
harm (21:4) (21:10) (28:23) (29:6) (29:15) (33:13) (33:16)
 (33:22) (34:10) (35:1) (36:2) (36:14) (63:3) (63:6)
harmed (33:20)
has (7:18) (9:1) (11:3) (17:24) (18:3) (24:11) (25:7) (32:7)
 (41:6) (41:23) (44:10) (45:10) (55:2) (76:9) (76:17) (76:18)
 (77:9) (81:12) (81:20) (84:4) (88:11) (98:13) (98:22) (100:5)
 (100:7) (100:12) (104:22) (104:24) (107:4) (115:11) (119:17)
 (119:24) (121:1) (121:4) (122:8) (122:19) (124:10) (127:24)
 (132:14) (134:21) (135:2) (135:3) (135:15) (135:24) (136:2)
 (136:22) (137:23) (138:17) (140:10) (141:8) (141:25) (145:3)
 (145:14) (146:24) (148:7) (148:9) (151:21)
hasn't (97:15)
hate (3:8)
have (4:1) (4:13) (5:8) (5:23) (7:14) (8:17) (10:6) (11:2)
 (12:10) (12:22) (12:24) (13:16) (14:6) (14:16) (14:19) (15:3)
 (20:8) (21:19) (22:2) (22:17) (23:2) (23:4) (23:5) (23:18)
 (24:8) (24:15) (25:20) (26:5) (34:5) (34:15) (34:17) (34:19)
 (36:15) (38:19) (41:25) (42:14) (42:16) (43:12) (46:3)
 (49:24) (51:11) (51:17) (53:5) (53:25) (54:11) (54:22) (57:8)
 (57:22) (57:24) (59:6) (59:21) (65:17) (66:25) (68:14)
 (68:21) (69:8) (69:14) (70:19) (70:21) (73:18) (74:17)
 (75:11) (82:1) (82:3) (82:5) (82:8) (84:16) (84:19) (84:20)
 (84:22) (85:12) (85:13) (85:17) (85:18) (85:24) (86:3) (86:4)
 (86:7) (91:5) (92:2) (92:23) (93:2) (96:10) (96:25) (97:5)
 (98:2) (98:7) (98:19) (100:10) (102:21) (103:17) (104:6)
 (104:8) (104:15) (105:21) (105:22) (106:6) (106:14) (106:15)
 (110:25) (111:13) (113:11) (115:2) (116:4) (116:22) (117:21)
 (117:25) (118:16) (118:20) (118:24) (120:22) (121:11)
 (122:1) (122:2) (122:9) (123:17) (123:23) (125:6) (127:4)
 (127:16) (128:2) (128:12) (128:13) (131:23) (132:4) (132:6)
 (133:16) (133:25) (134:10) (134:15) (137:18) (139:17)
 (139:20) (140:4) (140:11) (141:1) (141:10) (142:20) (143:12)
 (143:16) (144:1) (144:11) (144:13) (144:16) (145:4) (145:6)
 (149:16) (149:17) (152:12) (152:23)
haven't (112:7) (125:4) (127:23) (137:25) (138:15) (140:1)
 (146:18)
having (22:13) (69:9) (116:17) (135:10)
hawkins (126:7) (126:21)
head (49:16) (53:13) (83:19) (152:2)
healing (109:4)
hear (56:20) (57:9) (58:1) (58:19) (59:16) (118:18)
 (118:20) (131:8) (134:9) (138:24) (139:3)
heard (13:16) (15:19) (55:18) (60:12) (85:19) (87:2)
 (88:14) (89:12) (89:21) (97:20) (99:22) (101:8) (109:23)
 (109:24) (112:7) (115:23) (117:12) (120:10) (121:16)
 (123:21) (125:13) (125:14) (127:23) (131:6) (140:1) (141:1)
 (142:2) (144:7)
hearing (4:16) (7:16) (43:25) (45:1) (57:15) (57:17)
hearings (113:15)
heavier (119:22)
height (117:5) (119:18)
held (15:24)
hell (124:19)
help (113:22) (142:22)
helpless (34:23)
her (19:20) (19:23) (30:4) (30:5) (30:6) (30:8) (30:11)
 (30:12) (30:14) (30:18) (30:19) (30:20) (30:25) (31:1) (31:2)

(31:6) (31:7) (31:10) (54:25) (55:4) (55:10) (58:4) (58:7)
 (58:20) (69:9) (70:16) (71:10) (71:14) (71:25) (85:20)
 (94:12) (94:14) (94:17) (94:18) (94:19) (95:1) (98:18)
 (98:23) (98:25) (99:1) (99:11) (99:14) (99:19) (100:9)
 (100:10) (101:5) (101:9) (102:6) (102:8) (102:25) (103:4)
 (103:10) (103:15) (104:25) (105:4) (119:1) (119:4) (119:6)
 (119:7) (121:1) (121:4) (124:22) (131:13) (132:4) (132:6)
 (132:13) (132:23) (133:22) (133:24) (139:4) (140:21)
here (3:13) (4:9) (11:2) (12:22) (33:3) (41:25) (66:8)
 (75:4) (85:13) (96:21) (103:9) (107:4) (107:6) (109:21)
 (120:23) (130:3) (130:16) (140:8) (141:1) (142:16) (145:2)
 (145:17) (146:18) (150:23)
hereby (154:10)
here's (146:23)
herndon (1:15) (8:20) (154:14)
hey (119:17) (137:8)
hidden (51:19)
hide (23:13)
high (107:22) (117:1) (145:10)
highlight (145:14)
highlighted (146:1)
highly (97:4)
him (19:5) (19:13) (24:22) (30:22) (32:14) (33:11) (33:13)
 (33:14) (33:19) (34:4) (34:14) (38:15) (39:2) (43:23) (44:1)
 (44:16) (45:7) (45:15) (45:19) (50:23) (54:4) (56:12) (57:9)
 (59:6) (61:6) (62:22) (62:24) (63:10) (63:11) (63:12) (63:13)
 (68:7) (70:3) (77:3) (85:25) (86:8) (86:9) (86:10) (87:16)
 (87:20) (91:8) (96:25) (97:3) (98:11) (99:3) (99:14) (99:18)
 (99:20) (100:13) (101:18) (104:6) (108:15) (110:12) (110:20)
 (111:25) (112:20) (113:10) (113:15) (113:22) (114:2)
 (115:11) (115:14) (119:19) (120:6) (122:15) (122:17)
 (122:23) (128:1) (131:15) (131:23) (142:10) (142:16)
 (142:17) (145:7) (147:2) (147:6) (147:7) (148:10) (150:23)
himself (23:25) (34:20) (53:11) (74:4) (141:3) (141:9)
 (147:23)
his (3:20) (6:15) (6:16) (7:1) (7:8) (7:9) (8:9) (11:16)
 (13:3) (14:25) (16:6) (17:6) (17:10) (19:14) (19:20) (19:22)
 (24:20) (25:4) (25:5) (25:6) (25:13) (30:3) (31:14) (31:15)
 (31:17) (31:22) (31:25) (32:6) (32:10) (32:25) (33:9) (33:15)
 (33:21) (33:25) (34:10) (34:11) (34:16) (35:1) (35:5) (36:10)
 (36:11) (36:12) (36:16) (38:10) (38:12) (38:15) (38:22)
 (39:1) (39:12) (40:10) (40:11) (41:10) (42:15) (42:20)
 (44:19) (44:21) (45:7) (45:11) (45:12) (46:10) (48:20)
 (50:19) (53:13) (53:18) (54:3) (55:13) (55:14) (55:15)
 (56:21) (60:3) (60:4) (60:5) (61:4) (61:6) (62:13) (73:15)
 (74:7) (82:24) (86:8) (86:18) (97:3) (97:24) (98:12) (100:3)
 (100:24) (101:14) (101:17) (103:23) (104:3) (108:3) (109:4)
 (111:3) (111:6) (112:21) (112:22) (112:23) (113:3) (115:10)
 (115:16) (119:14) (122:10) (123:13) (124:8) (127:12)
 (127:22) (130:25) (133:9) (134:2) (134:3) (134:5) (134:25)
 (136:24) (137:4) (137:5) (137:12) (140:3) (140:5) (140:16)
 (140:19) (142:1) (148:17) (148:20) (150:5)
hit (31:16) (136:13) (137:22) (146:12) (148:17)
hitting (20:7)
hold (27:3) (146:2)
holding (34:3) (145:22)
holds (19:12) (27:4)
hole (7:4) (7:11) (50:19) (67:2) (67:5) (72:15)
holes (66:21) (67:1) (72:14) (73:9) (73:11) (73:24) (74:19)
 (75:1) (75:3) (104:22)
hollow (90:5) (92:2) (92:15)
home (6:15) (8:2) (13:14) (15:5) (17:22) (18:16) (18:24)
 (24:19) (30:1) (30:15) (33:17) (46:11) (46:22) (53:2) (63:11)
 (131:11) (142:3)
hon (154:14)
honestly (133:19)
honor (71:3) (76:21) (77:12) (138:2) (152:14)
honorable (1:15)
hooked (3:16)
horrific (45:14) (75:22)
horse (88:19)
hospital (45:10) (97:23) (98:5) (110:16)
hour (132:16) (132:22)
hours (85:25) (98:21)
house (13:10) (14:3) (14:5) (15:4) (15:8) (17:10) (18:25)
 (19:10) (24:20) (24:23) (26:8) (30:5) (32:5) (33:1) (35:17)
 (42:19) (43:10) (43:21) (44:15) (52:6) (67:16) (69:23) (72:4)

(72:24) (73:3) (74:7) (75:23) (81:7) (83:14) (83:19) (86:20)
 (87:3) (87:6) (87:7) (87:11) (87:21) (88:12) (88:23) (89:3)
 (89:9) (89:11) (89:14) (89:23) (98:7) (98:9) (98:14) (99:25)
 (105:1) (109:16) (112:16) (112:17) (117:14) (117:15)
 (117:24) (119:6) (127:12) (127:14) (127:20) (127:22) (128:2)
 (128:4) (128:9) (129:14) (130:6) (137:1) (137:7) (148:4)
 (149:14) (149:20) (149:24) (149:25)
houses (13:7)
how (14:1) (14:22) (15:25) (18:10) (37:15) (85:5) (85:16)
 (86:17) (88:1) (97:12) (106:18) (112:8) (120:7) (122:12)
 (141:1) (141:4) (144:4) (145:13) (146:11) (151:24)
however (8:11)
hoyt (66:7) (68:8)
huh (58:23)
human (37:11) (38:17)
humiliate (30:25)
hung (119:4)
hurry (100:22)
hurt (99:20) (100:9)
husband (30:5) (31:1)
husband's (30:4)

I

id'd (66:12)
idea (3:11) (4:15) (64:19) (125:20) (141:10)
identification (45:23) (48:23) (109:11) (115:17) (118:2)
 (139:17) (144:12) (144:14) (144:19)
identified (44:1) (90:11)
identify (13:24) (43:23) (45:1) (66:8) (115:16) (117:11)
 (123:3) (144:8) (145:12) (150:7)
identifying (147:22)
identity (44:21)
id's (134:11) (143:13) (143:15) (143:17) (143:19)
illustrates (51:16)
i'm (59:15) (68:17)
imagine (83:17) (83:21) (152:22)
immediate (19:22)
immediately (26:8) (40:14) (104:25) (124:18)
impairment (36:7)
implies (127:18)
important (10:20) (11:22) (18:9) (20:4) (20:9) (22:15)
 (89:4) (89:17) (91:21) (96:21) (106:11)
importantly (89:20) (93:5) (146:16)
importantly at (109:10)
impounded (50:13)
incident (73:7) (137:11)
incidental (28:16) (28:18) (28:21) (28:25) (33:23)
include (21:20)
including (120:14)
incorrect (107:8) (112:13)
increase (34:10)
increased (28:22) (29:6) (29:14) (33:12) (33:15) (33:21)
 (34:25)
independent (29:8)
indicate (67:2) (101:2)
indicated (90:12) (90:16) (92:18) (92:21) (93:1) (95:9)
 (95:21) (96:2) (102:7) (107:10) (124:4)
indicates (112:12)
indicating (88:20) (128:15)
indictment (129:24)
indisputable (134:23)
individual (4:21) (121:22)
individuale (24:5) (45:22) (116:25) (117:15) (130:5)
 (149:23)
induce (63:14)
inescapable (134:8)
infer (42:7)
inference (81:22) (82:4) (97:19) (105:20) (112:10) (127:2)
influence (109:14) (122:7)
informant (74:5)
information (15:21) (59:4) (79:3) (80:2) (128:23) (129:25)
 (138:14) (139:19) (140:1) (147:22) (148:1) (152:16)
initial (45:16)
initially (115:15)
injuries (35:2)
injury (19:22) (36:3)
innocence (124:9)

innocent (28:1) (128:24)
 inquire (13:10)
 inside (19:10) (19:12) (19:13) (43:11) (72:19) (93:24)
 (97:6) (137:16) (148:22)
 instance (21:11)
 instigates (16:24)
 instruction (20:24) (27:9) (32:17) (106:11) (106:12)
 instructions (4:2) (4:11) (5:6) (5:16) (5:19) (5:25)
 (106:6) (106:16) (106:18)
 instrument (20:25) (21:5)
 intact (90:4)
 intend (10:12) (152:19)
 intended (27:22)
 intending (25:24) (36:25)
 intent (16:22) (17:13) (17:17) (17:21) (17:23) (18:10)
 (18:12) (19:2) (19:8) (25:23) (27:3) (27:16) (27:17) (27:19)
 (36:24) (37:3) (37:18) (37:25) (38:15) (39:17) (40:2) (40:3)
 (40:4) (40:11) (61:6) (62:11) (62:12) (63:21)
 intention (13:12) (17:1) (37:13) (37:17) (39:1) (40:5)
 (62:17) (124:5)
 intentionally (27:24) (121:20)
 interest (100:7) (100:12)
 inter-mix (70:15)
 interviewing (106:21)
 intimidated (100:17)
 intimidating (20:6)
 into (4:7) (7:7) (13:9) (14:3) (14:5) (16:5) (17:10) (17:22)
 (24:22) (25:17) (32:7) (33:8) (38:10) (38:12) (38:17) (42:19)
 (48:20) (52:3) (53:8) (53:20) (54:1) (57:3) (61:5) (66:21)
 (69:25) (73:8) (73:15) (73:21) (74:13) (74:17) (74:18)
 (74:19) (74:25) (76:6) (79:13) (80:6) (81:20) (86:14) (87:3)
 (87:23) (95:16) (95:19) (97:3) (98:11) (104:3) (108:2)
 (109:6) (112:17) (121:10) (137:3) (139:24) (139:25) (147:9)
 (148:20) (152:20)
 introduced (80:6) (81:20)
 inveigle (32:19)
 inveigled (32:24)
 inveigles (26:25)
 inveigling (63:9)
 investigation (89:18) (105:17) (128:22)
 investigations (124:1)
 investigator (67:17) (69:5) (71:22) (71:23) (71:24)
 investigators (105:23)
 invited (18:16)
 involved (67:8) (75:24) (77:10)
 involving (76:7)
 ironic (51:13)
 isn't (14:15) (51:14) (79:1) (149:5) (149:13) (150:10)
 (150:13)
 issue (41:3) (41:5) (66:1)
 issues (76:16) (100:11)
 item (87:4)
 items (68:13) (87:25) (94:23) (94:25)
 its (21:2) (136:18)
 itself (10:22) (14:18) (74:3) (80:4) (112:11) (140:17)
 ivan (6:14) (6:20) (7:7) (7:11) (8:2) (8:8) (13:14) (13:17)
 (14:1) (18:17) (19:12) (19:16) (22:21) (25:22) (26:6) (26:15)
 (28:8) (29:18) (32:6) (33:3) (34:8) (35:10) (36:15) (36:17)
 (38:25) (39:5) (39:13) (43:21) (44:6) (45:9) (46:8) (48:18)
 (50:7) (50:17) (51:22) (61:5) (61:19) (62:13) (62:21) (63:11)
 (66:15) (87:18) (90:10) (91:4) (92:14) (93:10) (93:19)
 (93:24) (96:16) (96:19) (96:24) (98:10) (108:5) (114:13)
 (115:5) (135:6) (135:8) (135:10) (135:11) (135:12) (135:16)
 (136:13) (137:22) (138:18) (146:11) (146:13) (146:17)
 (146:19) (146:25) (147:2) (147:5) (148:5) (148:8) (148:12)
 (148:13) (149:24) (150:4)
 ivan's (16:5) (17:10) (35:20) (43:20) (50:13) (64:11)
 (105:1) (136:20)
 i've (7:3)

J

jacket (116:24)
 jacketing (91:21) (136:19)
 jail (55:18) (74:2) (74:20) (81:2) (99:10) (99:21) (124:2)
 (124:10) (125:21) (139:25) (140:2) (140:5) (142:2) (143:6)
 jamaican (13:19) (114:17) (114:24) (125:13) (126:22)
 (127:5)

jeff (54:12) (58:9) (101:8) (102:14) (123:21) (133:2)
 (133:4)
 jennifer (13:21) (29:25) (46:6) (52:4) (64:12) (108:8)
 (117:13) (138:20) (139:3) (144:7)
 jennifer's (18:18)
 jermaun (32:3) (32:12) (42:14) (42:22) (64:5) (79:23)
 (84:13) (111:12) (111:16) (115:13) (117:10) (127:11)
 (127:21) (127:25) (128:3) (128:8)
 jersey (114:16) (116:22)
 job (7:18) (123:5) (133:25) (150:21)
 joey (31:24) (44:8) (44:9) (44:22) (52:6) (63:20) (109:23)
 (116:11)
 john (13:20) (19:16) (24:17) (24:18) (28:9) (29:18) (32:15)
 (32:24) (33:6) (43:9) (50:23) (53:23) (61:12) (63:9) (63:17)
 (84:12) (107:24) (108:13) (109:24) (112:14) (113:15)
 (115:14) (123:2) (128:10)
 john's (25:13) (39:24) (62:3)
 johnson (46:20) (46:23) (54:17) (55:19) (56:22) (57:12)
 (58:11) (59:20) (59:24) (70:23) (84:21) (85:19) (97:20)
 (98:16) (98:18) (99:24) (100:21) (103:12) (104:13) (104:21)
 (108:20) (113:2) (120:25) (131:24) (132:8) (132:9) (133:1)
 (133:19)
 johnson's (13:6) (49:11) (54:14) (55:9) (70:17) (72:4)
 judge (6:11) (8:19) (10:5) (15:19) (41:19) (42:10) (68:23)
 (69:20) (77:22) (82:13) (154:15)
 judgement (120:6)
 judicial (1:4)
 july (44:11) (71:19) (105:10) (105:11) (105:13) (142:19)
 jumped (97:21) (109:1)
 june (7:14) (8:1) (14:6) (54:18) (55:7) (55:11) (105:11)
 (141:22)
 junker (104:21)
 jurors (3:25) (83:2)
 jury (1:14) (3:6) (5:16) (5:17) (5:18) (60:10) (65:10)
 (65:15) (77:20) (81:10) (82:19) (87:24) (88:11) (106:15)
 (151:5) (151:8) (151:21) (152:9)
 just (3:9) (4:8) (8:20) (14:18) (21:16) (25:19) (30:6)
 (32:3) (34:1) (35:10) (35:14) (42:23) (43:7) (45:3) (45:13)
 (51:21) (66:2) (68:16) (68:18) (70:2) (72:23) (77:4) (77:22)
 (82:10) (83:11) (87:16) (89:8) (99:25) (101:25) (104:5)
 (105:2) (108:25) (111:18) (111:22) (111:23) (112:11) (115:6)
 (124:9) (125:16) (139:14) (142:21) (143:10)
 justice (64:21) (64:22) (132:1) (132:3)

K

keep (142:25)
 keeping (40:6) (152:20)
 kenny (24:20) (33:17) (134:24) (135:7)
 kicked (24:25)
 kidnapped (8:10) (42:20) (43:11) (150:15)
 kidnapping (9:4) (9:19) (9:22) (9:25) (10:24) (11:6)
 (14:23) (15:2) (15:14) (21:21) (26:19) (26:23) (27:7) (28:5)
 (28:14) (32:18) (34:7) (35:9) (35:19) (35:23) (36:18) (60:17)
 (60:20) (60:22) (62:20) (63:8) (63:15) (63:19) (63:25) (64:4)
 (64:7) (64:10) (64:14) (124:16)
 kidnaps (27:1)
 kids (6:24)
 kill (6:13) (6:23) (34:14) (37:10) (37:11) (37:14) (37:17)
 (38:15) (38:18) (39:1) (39:2) (39:12) (61:6)
 killed (39:6) (85:25)
 kind (11:13) (13:13) (27:25) (41:10) (46:2) (74:22) (90:1)
 (118:14) (124:6) (139:2) (148:7)
 kinds (41:18) (52:20) (77:8) (97:8) (97:10) (100:11)
 knew (15:2) (60:6) (89:9) (97:16) (101:16) (128:6) (139:16)
 (150:5)
 know (13:5) (13:11) (14:1) (14:8) (18:11) (22:5) (22:15)
 (22:20) (22:23) (22:25) (23:2) (24:2) (24:4) (25:15) (26:16)
 (29:17) (31:20) (33:24) (35:1) (35:7) (37:15) (38:4) (38:5)
 (39:16) (40:15) (44:14) (46:16) (47:2) (48:2) (48:12) (48:13)
 (48:17) (50:15) (50:21) (50:25) (51:6) (52:1) (52:4) (52:14)
 (53:3) (53:5) (53:12) (55:25) (56:9) (56:18) (56:25) (57:21)
 (58:4) (58:9) (58:16) (59:1) (59:12) (65:21) (79:16) (80:22)
 (85:22) (87:25) (95:4) (95:5) (99:14) (102:2) (103:2)
 (103:11) (105:9) (107:2) (110:2) (118:15) (122:4) (124:21)
 (128:2) (129:21) (131:19) (133:13) (133:20) (134:3) (134:6)
 (134:21) (135:1) (135:19) (135:20) (135:21) (135:25) (136:3)
 (136:4) (136:22) (138:16) (138:17) (139:12) (141:2) (141:4)

{141:8}{141:24}{143:4}{144:2}{147:1}{147:14}{150:24}
{151:20}
knowingly (16:22){27:20}{27:23}
knowledge (41:24){42:1}{127:25}
knows (51:20){97:12}{103:12}{107:6}{131:1}{135:6}
{135:11}{135:12}{135:16}{135:17}{140:2}{140:3}{147:3}
{148:6}{148:7}{150:17}

L

lack (39:6){123:8}
ladies (8:4){50:25}{60:9}{64:16}{65:5}{83:10}{126:10}
{138:9}{150:11}{151:11}
laid (6:14)
lamps (15:9)
lance (66:20)
language (124:6){125:16}
larceny (17:13){17:15}{18:12}{39:18}{40:2}{40:22}
{62:13}{62:18}
large (7:4){7:10}{32:11}{50:19}{75:15}{98:22}
larger (50:3)
las (3:1){79:7}{79:10}{85:3}{85:6}{85:10}{154:16}
{154:22}
last (4:3){7:15}{66:13}{100:6}{142:18}
late (55:10){98:20}
later (22:25){25:8}{43:24}{48:22}{53:1}{54:3}{85:24}
{100:13}{103:8}{105:7}{117:18}{119:2}{133:18}{138:19}
{142:8}{152:22}
latex (47:11)
law (4:5){4:6}{4:10}{5:8}{8:12}{8:19}{10:6}{20:24}
{21:13}{23:11}{27:22}{92:18}
lawyer (57:25){59:11}{130:20}{142:23}
lay (7:12)
laying (34:23)
layout (113:19)
lead (90:25){91:12}{92:5}{92:6}{93:21}{93:23}{94:1}
{95:6}{95:25}{96:4}{96:8}{96:13}{96:17}{96:18}{97:1}
{97:2}{97:6}{98:8}{103:22}{138:6}
leading (52:24)
least (24:7){54:24}{96:5}{147:1}{148:24}{150:16}
leave (7:4){14:12}{50:19}{55:2}{85:4}{95:10}{103:9}
{107:25}{121:4}{148:5}
leaves (134:7)
leaving (7:10){55:4}{98:14}{104:25}{133:2}{133:5}
left (40:14){49:7}{67:18}{72:3}{81:6}{82:7}{84:11}
{96:9}{101:7}{102:2}{102:5}{103:11}{103:13}{119:7}
{123:14}{131:11}{143:11}{148:22}
legitimate (13:13){14:6}{18:15}
lengthy (5:9)
leslie (151:12){152:2}
less (67:19){116:7}
let (76:15){78:5}{103:8}{121:4}{122:5}{124:22}
{147:17}{151:20}{152:24}
let's (7:25){10:4}{41:4}{42:13}{54:11}{55:12}{125:3}
{132:9}{134:17}{134:20}{146:22}{147:8}
letters (93:14)
liability (15:16){15:17}{15:22}
liable (10:19){11:24}{15:24}{16:14}{24:12}
license (134:25)
lie (74:11){132:15}{142:16}
lies (75:6){83:23}
life (36:16){39:5}{57:7}{61:7}{85:2}{140:24}{141:15}
{142:25}{143:6}
ligature (87:8)
lighter (145:11)
like (13:21){13:22}{20:7}{41:23}{52:7}{55:19}{68:9}
{73:24}{79:6}{100:24}{106:16}{108:21}{111:8}{112:6}
{117:6}{118:1}{118:10}{119:19}{121:17}{122:2}{130:16}
{145:21}
likely (21:3){87:17}{121:9}
line (77:24){91:24}{122:1}
lineup (42:23){42:25}{43:14}{43:15}{43:24}{44:12}
{109:22}{110:1}{110:11}{110:17}{110:21}{111:5}{111:15}
{112:13}{113:10}{118:5}{121:21}{121:23}{143:22}
{144:21}{145:5}{145:13}{145:21}{146:8}{146:9}
lineups (112:9){121:14}{134:16}{134:18}{143:24}
{144:15}
link (94:6){94:8}{135:3}{137:9}

linked (93:8){139:14}
lip (148:17)
lips (7:9){36:11}
listed (126:18){129:24}
listen (30:7){81:15}{138:24}{139:7}
literally (35:5)
little (31:11){54:7}{57:3}{125:22}{136:5}{136:22}
{140:12}{140:16}{142:5}
live (36:15){130:18}{148:12}
lived (98:1)
loaded (92:23)
located (8:2){85:14}
locations (95:12)
lock (132:20)
loftus (106:21){107:9}{111:4}{116:13}{121:16}{145:1}
{145:9}
log (79:6)
logo (52:21)
long (27:8){59:9}{59:11}{59:18}{85:5}{108:4}{118:23}
{136:4}{151:24}{152:20}
look (6:12){8:16}{11:9}{11:17}{22:24}{37:18}{37:20}
{38:1}{38:7}{38:10}{38:20}{40:10}{41:4}{42:13}{53:7}
{53:15}{54:5}{54:6}{54:11}{55:12}{70:3}{89:5}{94:10}
{97:1}{103:16}{106:5}{106:12}{106:17}{108:4}{108:12}
{108:20}{109:7}{109:9}{110:18}{112:20}{113:19}{121:17}
{122:2}{122:22}{123:8}{140:5}{140:13}{144:14}{145:20}
{146:3}{147:12}{148:14}{149:3}
looked (6:18){44:3}{46:10}{72:17}{86:20}{89:14}
{108:15}
looking (7:15){108:10}{110:21}{116:1}{116:10}{117:3}
{124:13}{137:7}{139:21}
looks (42:25){111:8}{112:1}{112:6}{113:5}{118:10}
{119:19}{119:21}{120:7}{121:19}{145:23}
loses (36:12)
loss (36:6)
lost (45:11)
lot (4:18){5:5}{5:7}{59:13}{59:22}{59:23}{70:11}
{73:9}{130:18}{133:3}{133:6}{138:17}
low (118:9)
luckiest (39:4)
lvmpd (48:24)
lying (100:13)

M

machine (40:10){40:12}{135:16}{154:12}
machines (67:20)
made (6:20){44:18}{44:20}{76:10}{76:18}{78:15}{78:16}
{78:18}{79:19}{79:24}{88:5}{88:18}{94:19}{97:19}
{98:22}{99:4}{101:14}{121:21}{122:10}{125:5}{133:1}
made-up (125:4)
magnum (7:3){7:4}{7:7}{22:22}{22:24}{38:6}{48:9}
{49:13}{50:15}{50:18}{92:12}{137:19}
major (96:3){117:2}{117:3}
make (34:21){65:22}{68:16}{68:17}{68:18}{76:11}
{76:15}{77:1}{78:6}{81:21}{81:24}{82:4}{82:7}{83:24}
{86:6}{91:14}{92:1}{96:3}{96:7}{96:15}{96:23}{99:24}
{102:13}{104:7}{104:24}{105:2}{110:2}{114:1}{122:5}
{122:11}{123:5}{135:18}{138:11}{142:17}{147:18}
makes (12:15){21:14}{23:10}{53:10}{90:7}{118:22}
make-up (58:12)
making (15:12){33:22}{105:19}{144:12}
male (124:25){125:17}
males (114:14)
malibu (117:22)
malice (37:12)
man (44:17){56:11}{111:20}{130:3}{130:12}
manager (54:13){101:21}{102:14}{132:19}
managers (102:19)
manipulate (99:18)
manipulated (129:1)
manipulating (99:1)
manner (21:1){38:8}{121:24}
man's (34:24)
manufacture (142:1)
manufactured (136:21)
manufacturers (95:10){96:3}{96:7}
many (31:4){77:3}{86:17}{103:17}

marc (1:21)
marcello (1:23) (65:24) (68:21) (78:2) (78:14) (79:23)
(80:3) (80:7) (80:16) (82:10) (83:5) (83:9) (105:19) (106:4)
(107:16) (107:20) (126:15) (129:6) (131:4) (131:9) (132:18)
(136:8)
marion (89:12)
mark (33:3) (66:7) (72:16) (140:12) (140:16)
marketed (92:18)
markings (49:16) (92:20)
marks (33:25) (87:8) (116:4) (134:24)
marks' (24:20) (33:17)
married (100:5)
martini (66:20)
matches (110:24)
material (21:5) (91:3) (91:6) (93:22) (96:20)
materials (93:24) (94:1)
matter (98:6) (129:17) (137:13)
matters (129:20) (137:14)
may (1:16) (3:1) (5:1) (6:2) (23:23) (70:21) (74:17) (93:2)
(93:16) (96:9) (96:10) (104:9) (127:3)
maybe (30:3) (88:18) (130:16) (134:1) (136:6) (136:8)
(142:7)
mean (35:12) (131:24) (137:23) (149:23)
meaning (15:23)
means (19:21) (27:2) (32:3) (32:19) (42:14) (42:22) (64:5)
(84:13) (111:12) (111:16) (115:13) (117:10) (125:3) (127:11)
(127:21) (127:25) (128:3) (128:8) (135:12) (136:10)
means' (78:18) (79:24)
member (11:23) (11:25) (36:8)
members (8:9)
memory (107:22) (116:15) (117:8)
men (30:7) (46:11)
mention (88:6)
mercury (46:7)
mercy (34:24)
mess (32:8) (33:8) (103:19)
metro (79:2) (79:3) (79:4) (79:10) (79:14)
michelle (1:21)
might (76:5) (80:13) (104:8) (124:21) (127:3) (132:19)
(142:24) (143:2)
mile (30:25) (86:11) (121:1)
miles (84:24) (85:3) (85:10) (104:24)
millimeter (95:22)
millions (96:4) (125:2)
mind (37:23) (55:14) (60:4)
mine (70:5)
minute (117:20)
minutes (40:13) (54:25) (55:23) (56:5) (56:6) (82:2)
(87:21) (102:8)
missed (148:13)
misspellings (93:16)
misstates (138:3)
mistake (28:1) (133:1)
mit (145:1)
mixed (5:3)
mobility (34:17)
molded (95:15)
molly (151:16) (152:4)
molten (95:6)
mom (31:14)
moment (123:1) (152:5)
money (14:14) (26:9) (26:10) (30:20) (32:10) (39:22)
(39:24) (40:13) (40:21) (127:9) (127:10) (127:15) (127:16)
(127:19) (128:5) (134:1) (135:17) (135:18) (137:7) (147:4)
monique (59:21) (69:4) (105:3) (119:3) (131:10) (131:14)
(142:6) (142:11)
month (126:23)
months (69:6) (71:10) (97:21)
more (10:10) (15:6) (23:20) (27:17) (51:24) (52:23) (58:3)
(76:20) (89:20) (93:5) (95:7) (96:21) (101:20) (109:9)
(113:25) (116:7) (119:21) (122:25) (146:16) (147:21) (147:25)
morning (3:16) (83:9) (119:1) (140:7) (140:19)
moses (48:23)
mosley (90:23)
most (5:8) (83:16) (106:6) (106:11) (130:19) (131:4)
mother (56:16) (56:20) (57:6) (100:3) (134:2)
mouth (139:9)

move (32:20) (34:21) (35:16) (65:7)
moved (28:17) (126:23) (127:4)
movement (28:15) (28:25) (29:7) (33:12) (33:22)
moving (28:21)
much (59:4) (88:10)
multiple (143:24)
murder (6:25) (9:7) (16:4) (21:24) (36:21) (37:8) (38:23)
(39:11) (51:16) (61:3) (61:8) (124:15) (124:17)
must (10:12) (19:25) (27:16) (27:19) (28:6) (28:14) (49:4)
(63:2)
myself (142:12)

N

name (5:2) (100:6)
necessarily (70:17)
necessary (28:24)
need (8:11) (59:14) (59:15) (70:1) (81:8) (109:20) (111:15)
(142:12) (142:15)
needs (68:7) (141:2) (141:21) (142:9)
neighborhood (124:25) (125:18) (134:22) (135:2) (135:4)
(139:14) (146:25)
neither (79:14)
nellis (85:15) (98:2)
nephew (31:1)
nervous (121:3)
nevada (1:4) (1:8) (3:1) (3:19) (8:13) (20:23) (21:13)
(64:24) (82:22) (154:2) (154:16) (154:22)
never (40:18) (69:7) (99:2) (103:10) (123:19) (124:4)
new (94:4) (94:16) (94:19) (115:25) (116:1) (116:9)
news (125:25) (126:4) (126:16) (126:19)
next (44:16) (67:16) (135:7) (143:5)
nice (118:18) (118:23)
nickel (91:17) (91:18) (91:20)
nickle (93:21)
nigga (56:11) (56:16) (57:4) (57:5) (57:8)
night (47:3) (54:23) (131:17) (132:11) (132:12) (133:24)
(141:3) (141:10) (142:15)
nike (52:21)
nobody (118:13) (144:6)
none (25:16) (43:17) (46:18) (55:8) (57:22) (92:19) (96:15)
(131:1) (148:21)
nor (124:5)
normal (85:6)
normally (10:16) (90:17)
north (79:7) (79:10)
nose (7:8) (36:11) (53:18) (148:17)
not (5:9) (10:23) (11:8) (11:12) (11:20) (14:3) (14:4)
(18:15) (18:16) (18:17) (19:4) (20:3) (20:5) (20:9) (22:3)
(22:17) (23:6) (23:8) (23:12) (23:25) (26:2) (27:25) (28:15)
(28:17) (31:11) (33:23) (36:1) (38:2) (38:18) (39:5) (39:21)
(43:22) (44:7) (45:21) (47:11) (49:18) (49:19) (52:2) (56:2)
(56:22) (63:2) (66:5) (66:8) (68:6) (68:17) (69:9) (69:12)
(69:22) (72:19) (73:22) (74:17) (74:24) (75:21) (76:1)
(76:13) (79:12) (86:13) (86:24) (87:3) (93:8) (96:9) (99:17)
(116:2) (116:8) (121:2) (121:12) (121:15) (121:22) (122:6)
(122:12) (123:2) (123:13) (123:23) (124:1) (128:12) (129:3)
(132:12) (135:14) (137:17) (138:7) (138:21) (142:6) (142:13)
(143:17) (146:13) (148:12) (149:25)
notes (4:23) (8:16) (77:7) (154:13)
nothing (90:13) (90:15) (96:12)
notice (143:14)
notices (55:5)
now (11:7) (13:11) (19:24) (20:18) (28:3) (31:11) (32:16)
(33:12) (47:2) (59:20) (81:15) (84:4) (84:11) (84:18) (84:25)
(85:17) (85:18) (86:12) (87:22) (88:3) (88:13) (90:2) (91:3)
(92:13) (93:18) (94:3) (100:5) (100:9) (102:18) (103:7)
(105:3) (106:4) (106:17) (106:20) (112:14) (116:24) (120:22)
(123:4) (123:7) (129:21) (137:23) (138:13) (139:23) (141:13)
(141:25) (143:11) (144:1) (144:11) (146:6)
number (13:16) (15:16) (15:24) (21:19) (28:7) (29:10)
(37:19) (41:25) (43:1) (43:16) (44:13) (47:11) (48:18)
(60:14) (68:12) (80:23) (106:13) (109:6) (109:10) (117:14)
(117:23) (135:4) (144:17)

O

object (10:17) (10:18) (77:23) (105:16) (126:6)
objection (81:3) (106:3) (107:13) (107:19) (138:3)

obligation (75:12)
 observations (101:14)
 obsessing (58:25)
 obstructed (132:3)
 obstruction (132:1)
 obtain (19:25) (20:15) (25:12)
 obtained (119:2)
 obvious (20:21)
 obviously (5:6) (16:2) (39:9) (51:18) (72:9) (75:5) (75:11) (75:18) (100:2)
 occur (8:7)
 occurred (72:23) (73:6) (73:16) (73:18) (75:23) (76:8) (82:3) (83:12) (116:15) (121:12) (126:24) (141:5) (141:17)
 occurring (129:19)
 o'clock (54:20) (56:17) (70:22) (71:6) (71:7) (71:15) (71:16) (79:25) (82:11) (84:12) (85:7) (85:8) (99:7) (119:1) (120:21) (120:24) (125:8) (131:16) (141:9) (141:17) (142:14) (152:23)
 odds (137:24)
 off (12:16) (12:19) (31:6) (55:23) (56:2) (56:5) (79:6) (79:22) (81:8) (86:4) (102:7) (103:9) (115:5) (118:25) (148:4) (148:23) (148:24)
 offer (143:1)
 office (105:23)
 officer (66:11) (66:16) (71:24) (89:21) (133:23) (133:24) (151:4) (151:7)
 officers (47:7) (52:17) (59:1) (59:5)
 oftentimes (24:8) (49:6)
 okay (72:8) (99:25)
 old (31:24)
 once (7:12) (19:9) (19:10) (69:8) (138:24) (147:1)
 one (5:10) (6:20) (7:6) (8:5) (10:4) (12:4) (12:15) (16:16) (19:4) (21:14) (23:21) (24:7) (24:8) (24:11) (26:21) (28:7) (43:4) (44:7) (45:12) (45:21) (47:21) (51:13) (51:18) (52:22) (66:13) (67:18) (67:19) (72:10) (72:15) (73:2) (76:12) (76:19) (78:21) (83:15) (86:24) (87:13) (87:14) (87:15) (89:1) (91:9) (105:8) (105:11) (109:7) (110:6) (114:10) (114:14) (114:15) (116:16) (116:19) (119:11) (120:14) (121:19) (122:6) (124:20) (126:23) (129:14) (129:19) (130:4) (130:6) (132:25) (133:15) (135:7) (135:24) (136:2) (141:16) (144:17) (144:23) (144:24) (147:5) (150:16)
 ones (89:8) (110:24)
 only (35:11) (40:16) (40:20) (43:22) (47:11) (69:10) (69:22) (90:17) (99:20) (130:2) (133:14) (137:17) (145:25) (149:22)
 open (3:5) (65:14) (77:19) (82:18) (152:8)
 opening (39:4) (68:2) (71:4) (131:1) (136:7)
 opinion (119:23)
 opportunity (34:15) (43:13) (44:10) (76:23) (109:8)
 opps (135:23)
 option (34:19)
 order (8:23) (11:7) (11:19) (14:11) (15:1) (20:15) (28:3) (28:11) (29:23) (37:18) (51:11) (61:17) (61:18) (63:14) (84:18) (86:9) (96:22) (149:14)
 ordinary (21:1) (101:4)
 organ (36:8)
 original (66:14) (154:12)
 originally (116:18)
 osvaldo (1:23)
 other (5:9) (11:25) (12:10) (16:15) (24:12) (25:16) (26:12) (33:11) (43:17) (46:18) (49:19) (53:4) (53:24) (54:10) (55:8) (58:16) (66:4) (67:8) (68:13) (69:19) (69:22) (70:2) (70:18) (72:7) (91:7) (101:24) (102:13) (104:20) (110:24) (111:10) (112:2) (114:15) (116:17) (117:14) (120:14) (121:6) (121:16) (135:2) (140:2) (141:20) (144:16) (148:3)
 others (66:8) (128:11)
 our (3:24) (41:5) (66:19) (69:5) (69:14) (69:15) (83:2) (106:9) (116:14) (137:16)
 out (34:18) (43:1) (43:8) (49:18) (49:20) (49:21) (86:3) (88:18) (91:2) (91:8) (92:14) (100:8) (101:4) (101:9) (101:24) (102:24) (103:7) (104:18) (107:8) (108:1) (109:21) (110:9) (110:12) (111:18) (111:23) (111:24) (111:25) (113:10) (113:14) (113:16) (113:23) (118:6) (118:17) (119:4) (121:2) (122:14) (122:18) (126:23) (131:2) (132:16) (132:21) (133:2) (134:4) (134:15) (137:12) (139:1) (139:8) (144:3) (144:5) (144:6) (145:7) (145:18) (146:3) (149:12)
 outside (41:12) (65:15) (65:18) (70:12) (70:20) (72:19)

(73:16) (75:17) (77:20) (102:15) (136:16) (152:9) (152:12)
 over (6:5) (13:9) (15:6) (17:9) (24:18) (24:21) (28:23) (31:2) (32:5) (33:2) (33:3) (33:19) (42:15) (43:10) (43:20) (52:17) (62:10) (63:10) (65:7) (86:18) (87:10) (89:11) (91:18) (112:16) (113:6) (114:21) (116:5) (116:14) (122:25)
 overcome (20:2)
 overheard (127:6)
 own (6:15) (6:16) (30:15) (38:22) (55:13) (55:14) (60:3) (60:4) (81:11) (107:2) (108:3) (109:12) (138:11)
 owned (20:11) (87:1)
 owns (120:15) (120:18)

P

packet (4:13) (4:21) (4:23) (5:3)
 page (5:2)
 pages (5:24)
 paid (135:13)
 pain (36:9)
 paint (115:12) (135:11)
 painted (13:12)
 painting (115:5)
 pair (88:11) (115:24) (115:25)
 panned (131:2)
 park (121:1)
 parked (13:7)
 parking (73:9) (133:3) (133:6)
 part (39:7) (74:24) (75:15)
 participate (44:11)
 participated (16:1) (25:19)
 particular (94:18) (105:13) (115:10) (125:21) (128:4) (128:7) (147:16)
 parties (17:3)
 past (121:6)
 patience (5:22)
 patrick (89:13)
 pattern (50:8) (50:11) (54:8)
 patterns (52:8) (52:11)
 pay (32:6) (115:14) (135:9) (144:25)
 pays (83:25)
 people (10:25) (15:5) (18:21) (18:22) (18:23) (35:16) (43:5) (81:23) (86:22) (89:2) (115:11) (117:23) (143:3) (144:3) (144:4) (144:11) (148:3)
 percent (107:10) (123:4)
 performance (37:4) (37:5) (37:9)
 permanent (36:5)
 permanently (17:17) (40:6)
 perpetrate (29:24) (38:1) (45:6)
 perpetrated (45:15) (45:18) (46:1) (53:22)
 perpetrates (43:4) (43:5)
 perpetration (47:23)
 perpetrator (146:24) (150:5) (150:8)
 perpetrators (89:2) (114:11)
 person (10:16) (12:4) (12:6) (12:16) (12:20) (16:9) (16:20) (17:18) (18:2) (19:19) (20:5) (20:10) (23:21) (24:11) (24:12) (24:13) (26:24) (27:2) (27:5) (27:7) (27:10) (27:11) (28:17) (29:13) (35:11) (37:10) (37:14) (40:7) (43:1) (43:3) (44:15) (45:6) (45:18) (45:25) (53:16) (60:24) (83:22) (109:7) (110:12) (113:18) (114:10) (118:6) (119:20) (123:6) (124:21) (129:2) (146:12) (146:13) (146:14) (150:16)
 personal (19:18) (20:11) (40:3) (119:22)
 personally (23:25)
 persons (10:10)
 person's (17:16) (19:19) (37:22) (114:8)
 pertain (28:8) (28:9)
 phone (25:5) (41:9) (74:2) (74:13) (74:20) (142:19) (150:9)
 photo (42:23) (43:14) (43:24) (44:12) (108:19) (108:23) (112:8) (120:7) (122:22) (134:16) (134:18) (143:22) (143:24) (144:15) (144:20) (145:5) (145:21) (147:10) (147:12) (147:14)
 photocopies (145:19)
 photographs (45:17) (68:1) (73:21) (73:23)
 photos (67:14) (67:17) (67:23) (85:11)
 physical (143:24)
 physically (20:6) (29:4) (29:11) (49:25)
 pick (55:10) (55:21) (55:22) (104:13) (104:25) (110:3) (110:12) (113:10) (118:6) (122:14) (129:2) (131:13) (144:5) (144:9) (144:17) (144:22) (144:23) (145:13) (146:3) (146:14) (152:4)

picked (84:20) (85:20) (98:18) (99:5) (99:11) (100:16)
 (101:5) (103:14) (125:11) (134:15) (140:22) (144:3) (144:6)
 picking (70:23) (99:14) (137:5)
 picks (43:1) (120:25) (122:17)
 pickup (32:5) (98:15) (119:5)
 picture (110:23) (111:6) (112:6) (113:5) (120:2) (122:8)
 (122:19) (126:3) (134:12) (148:19)
 pictures (66:25) (69:18) (70:2) (86:17) (103:17) (110:19)
 (112:2) (121:15) (121:17)
 piece (84:6) (87:14) (118:21) (136:5)
 pieces (42:6) (90:7) (91:7) (93:23)
 pile (149:11)
 piled (143:12)
 pin (25:7)
 place (8:15) (32:4) (87:11) (88:4) (115:7) (116:5) (116:7)
 (120:10) (126:5) (135:17) (147:4) (154:13)
 places (90:7)
 plaintiff (1:9) (113:21)
 planning (58:3)
 plating (91:18)
 play (86:3) (142:3)
 played (99:6)
 playing (38:23) (80:21) (142:3) (142:11)
 plea (143:1)
 please (6:21) (6:23) (30:6)
 pled (20:19)
 plenty (41:16) (41:17)
 pocket (127:12) (127:22)
 point (6:19) (19:13) (56:3) (58:6) (58:11) (60:6) (90:5)
 (92:2) (92:15) (93:12) (97:14) (102:13) (109:21) (110:9)
 (113:22) (116:8) (138:1) (148:8)
 pointed (34:11) (91:2) (113:13) (113:15)
 pointing (20:4)
 points (16:4)
 pol (151:15)
 police (56:22) (56:23) (57:13) (58:22) (66:10) (71:23)
 (84:14) (109:18) (110:4) (115:15) (118:11) (125:25) (132:10)
 (133:23)
 pontiac (66:13)
 poor (146:19)
 portion (98:23)
 portions (148:24)
 posada (31:24) (44:8) (44:10) (44:22) (63:21) (109:23)
 (116:11)
 position (33:20) (144:20)
 positive (45:22) (118:2) (123:4) (144:7) (144:18)
 possession (9:16) (18:1) (18:5) (18:7) (19:6) (22:4)
 (22:13) (62:9)
 possibly (58:15) (141:8)
 potentially (73:25) (147:3)
 power (93:12)
 practical (98:6)
 prefer (114:20)
 presence (3:6) (3:24) (19:20) (65:15) (65:18) (77:20)
 (82:19) (152:9) (152:12)
 present (3:20) (3:23) (66:14) (66:18) (67:7) (67:23) (68:6)
 (68:8) (70:1) (82:24) (83:1) (83:2) (118:5) (130:8)
 presented (66:3) (68:15) (102:3) (123:24)
 presenting (66:6)
 presiding (154:15)
 pretending (13:10) (14:5) (20:7)
 pre-trialed (71:10)
 pretty (5:25) (75:22) (88:10) (100:25) (139:21)
 prevent (20:1)
 prevented (108:10)
 prey (10:2)
 print (149:10)
 prior (43:25) (45:1) (70:22) (105:17)
 prison (57:6) (140:24) (141:15)
 probably (5:22) (12:18) (73:6) (83:15) (100:9) (110:6)
 (132:20) (135:8) (135:13)
 problem (59:19) (82:9) (83:24)
 proceed (83:3)
 proceeding (118:16) (129:18)
 proceedings (1:17) (3:4) (65:13) (77:18) (82:17) (152:7)
 (153:2) (154:11)
 proceeds (12:19) (25:18) (53:21)

process (122:16)
 produce (61:18)
 product (91:24) (109:12)
 professor (145:1) (145:9)
 program (121:18)
 prolonged (36:8)
 promotes (16:23)
 prone (53:12)
 property (6:17) (17:17) (18:24) (19:18) (19:23) (20:1)
 (20:11) (20:16) (25:4) (25:13) (26:3) (26:4) (26:13) (26:15)
 (28:19) (30:14) (30:20) (32:10) (40:4) (40:5) (42:21) (61:20)
 (62:3) (62:10)
 proposition (76:2)
 protracted (36:6)
 prove (7:19) (23:16) (23:17) (27:19) (41:1) (41:6) (51:11)
 (58:14)
 proven (106:24)
 provide (51:17) (121:23) (147:25)
 provided (66:15) (70:20)
 public (105:21) (106:1)
 pull (57:3) (140:14)
 pulled (32:7) (33:7) (91:8) (92:14)
 pulling (133:2) (133:3) (133:6)
 punching (20:7)
 purpose (10:11) (27:6) (27:12) (27:15) (29:8) (31:9)
 (31:18) (32:1) (32:13) (62:23) (106:9)
 purposely (27:21)
 put (30:9) (33:13) (33:19) (51:20) (57:5) (69:25) (73:22)
 (74:13) (75:12) (76:19) (82:14) (83:19) (97:23) (98:4) (99:9)
 (102:8) (103:23) (104:23) (108:14) (117:6) (130:12)
 puts (112:19)
 putting (13:22) (75:23)

Q

question (36:13) (130:1) (130:2) (130:11) (130:13)
 (130:15) (140:4) (140:25) (141:6) (150:11) (150:13)
 questions (57:23) (76:24)
 quicker (4:19)
 quickly (4:12) (5:13) (150:7)
 quit (56:19) (57:7)
 quite (26:2) (131:6)

R

raided (99:25)
 raise (76:16)
 randomly (121:15)
 range (87:19) (116:8) (133:8)
 ransack (87:20)
 ransacked (87:11)
 ransom (27:5)
 rather (102:16) (118:12)
 read (4:11) (4:13) (5:13) (5:16) (8:20) (10:6) (15:20)
 (32:16) (107:5)
 readily (21:9) (150:6)
 reading (4:24) (5:10) (81:19)
 ready (82:13) (98:15)
 real (21:15) (88:15) (114:11) (130:10) (147:20)
 really (41:2) (75:21) (122:5) (152:21)
 reason (18:20) (28:2) (30:16) (40:16) (40:20) (89:3) (91:9)
 (91:22) (111:24) (117:20) (132:15) (143:17) (146:4)
 reasonable (7:19) (28:6) (51:7) (81:22) (97:18) (105:20)
 (123:25)
 reasons (92:22)
 recall (8:17) (8:18) (78:9) (78:22) (81:14) (101:15)
 (126:12) (138:9)
 recalled (72:1) (99:13)
 recalling (107:21)
 received (35:3)
 recess (65:7) (77:14) (77:16)
 recognize (101:10) (101:18) (103:4) (110:20)
 recognized (109:3)
 recollection (81:11) (109:13) (126:16) (128:20)
 record (3:18) (65:22) (68:17) (68:19) (70:7) (76:9) (76:15)
 (76:18) (76:20) (77:2) (77:23) (79:18) (82:22)
 recording (80:8) (80:10) (80:12)
 recordings (80:19)
 records (124:3)

recovered (22:17)
 red (114:15)
 referred (48:8) (128:10)
 referring (55:20)
 reflect (77:2)
 reflected (78:10) (154:12)
 regarding (55:16)
 reign (39:19)
 reinforces (113:17)
 relates (75:2)
 released (151:18)
 relevance (149:20)
 relevant (69:17) (89:17)
 relinquished (25:4)
 rely (81:10) (126:11) (126:15)
 relying (78:7)
 remain (56:15) (57:19)
 remember (108:23) (112:21) (112:22) (112:23) (112:24)
 (112:25) (113:1) (115:8) (115:9) (116:11) (117:2) (126:13)
 (131:14) (135:8) (142:11) (147:2)
 remembered (54:21) (71:17) (98:19) (100:14) (105:6)
 (108:20)
 remembers (71:21)
 remove (49:25)
 removed (49:4)
 removing (73:19)
 repeatedly (124:8)
 repeating (124:10)
 report (79:8) (79:12) (79:22) (93:9) (93:18) (94:3) (94:12)
 (94:15) (95:2)
 reported (1:25) (154:10)
 reporter (154:21)
 reporter's (1:17)
 reporting (5:18)
 reports (81:19) (93:6) (93:7)
 representation (33:5)
 request (6:20)
 require (4:10)
 required (22:17) (29:1) (104:23)
 resistance (20:2)
 respect (145:8)
 response (59:3) (68:24) (76:12)
 responsible (12:5) (12:7) (12:9) (12:14)
 rest (35:12) (36:16) (57:6)
 restaurant (103:1)
 restrained (29:4) (29:11)
 restraint (29:5) (29:8)
 result (96:8) (109:13)
 results (52:15)
 retain (19:25) (20:16)
 return (64:24)
 revolver (47:25) (48:5) (48:10) (49:1) (49:9) (49:21)
 (49:24) (73:14) (90:22) (135:22)
 revolvers (49:3) (90:18)
 reward (27:5)
 rick (6:24)
 rickie (1:11) (3:19) (7:23) (10:2) (11:3) (11:14) (11:15)
 (14:25) (20:14) (24:2) (24:5) (26:17) (37:16) (43:3) (43:17)
 (44:14) (45:5) (45:20) (45:24) (53:10) (53:17) (55:9) (55:12)
 (65:1) (73:8) (74:6) (82:23) (85:20) (86:13) (96:24) (98:17)
 (98:20) (98:25) (100:21) (101:11) (103:14) (104:23) (106:10)
 (108:20) (110:23) (114:10) (114:23) (117:25) (122:11)
 (123:10) (123:12) (124:8) (126:2) (126:18) (126:19) (128:12)
 (128:16) (128:23) (129:3) (130:4) (133:3) (133:5) (133:8)
 (134:19) (134:21) (135:24) (136:2) (136:10) (139:22)
 (144:19) (146:15) (148:13) (149:2) (150:3) (150:7) (150:8)
 rickie's (69:23) (122:8)
 rid (23:8) (23:14) (51:19) (86:5) (103:20) (104:16)
 (133:12) (133:14) (133:16) (133:17) (137:8)
 ride (54:25)
 ridging (50:8) (50:10)
 right (7:11) (12:15) (36:12) (56:14) (57:19) (57:24) (59:9)
 (59:18) (65:5) (67:19) (71:2) (80:12) (80:14) (93:17) (100:1)
 (106:17) (108:14) (108:15) (115:10) (115:14) (118:6) (122:5)
 (122:13) (122:15) (123:6) (130:3) (130:9) (131:7) (139:16)
 (146:12) (146:14) (151:3) (151:10) (152:17)
 rights (75:11)

rime (32:6) (42:15)
 ripped (6:16)
 ripping (7:8)
 rips (36:10)
 risk (28:22) (29:6) (29:14) (33:15) (33:22) (34:10) (35:1)
 (36:4)
 robbed (8:10) (33:9) (43:11) (44:5) (109:16) (150:14)
 robbers (127:8) (128:5)
 robbery (9:6) (9:11) (9:13) (10:23) (11:5) (11:15) (12:23)
 (13:2) (14:21) (14:22) (17:14) (17:19) (18:13) (19:9) (19:15)
 (19:16) (19:17) (20:18) (20:19) (21:23) (24:16) (25:11)
 (25:18) (25:21) (26:1) (26:6) (27:6) (27:15) (28:5) (28:10)
 (28:13) (28:16) (28:20) (28:24) (29:2) (29:24) (30:18)
 (31:10) (31:19) (32:2) (32:13) (33:23) (36:20) (36:23)
 (53:22) (60:25) (61:1) (61:14) (61:16) (61:22) (61:25) (62:5)
 (62:12) (62:23) (63:13) (63:22) (72:22) (115:6) (126:5)
 robert (1:25) (154:9) (154:20)
 roll (34:18)
 rolling (140:8)
 roof (104:22)
 room (87:24) (108:2) (150:17) (150:22)
 round (50:5)
 route (120:12)
 rule (130:19)
 rules (130:18)
 ruling (68:18)
 running (68:11) (137:6)
 ryan (13:20) (19:15) (24:17) (24:18) (25:13) (29:17)
 (32:15) (32:24) (33:6) (39:24) (43:9) (50:22) (53:22) (61:12)
 (62:3) (63:9) (63:17) (84:12) (107:24) (108:13) (109:24)
 (112:14) (113:15) (115:14) (123:2) (128:10)

S

safety (34:22) (108:4)
 said (5:12) (13:17) (13:20) (13:21) (44:4) (44:16) (46:13)
 (49:17) (56:7) (57:14) (59:8) (65:22) (68:10) (71:4) (73:7)
 (76:12) (78:24) (81:25) (84:13) (90:9) (90:21) (92:1) (94:4)
 (94:25) (99:8) (102:10) (102:11) (102:14) (102:24) (104:21)
 (106:22) (107:21) (107:24) (108:5) (108:14) (112:23)
 (114:17) (114:19) (116:13) (119:17) (126:7) (126:9) (129:22)
 (130:25) (131:10) (132:5) (132:22) (134:24) (138:18)
 (138:20) (144:16) (149:16) (154:13)
 same (4:17) (42:12) (59:21) (108:8) (110:10) (111:13)
 (119:18) (119:25) (127:13) (138:8) (144:13) (154:11)
 sat (44:2) (45:3) (67:15)
 saturday (54:18) (58:25) (71:18) (141:18) (141:22)
 saw (6:19) (30:11) (31:22) (36:23) (44:16) (45:6) (73:9)
 (87:8) (108:18) (124:14) (126:2) (126:4) (126:7) (128:25)
 (137:7) (145:17) (145:18) (145:19) (147:11) (148:18)
 say (23:15) (44:13) (44:23) (56:2) (56:9) (70:3) (70:7)
 (80:19) (82:9) (90:4) (90:19) (103:7) (104:8) (105:6)
 (109:19) (110:19) (117:24) (122:23) (126:2) (127:9) (127:15)
 (127:17) (130:23) (131:9) (138:19) (139:4) (140:10) (140:21)
 (142:10) (143:4) (143:19) (144:22)
 saying (56:4) (67:4) (70:10) (70:13) (77:24) (96:23)
 (110:5) (114:22) (117:9) (120:5) (131:15) (136:9) (147:23)
 says (43:7) (43:19) (44:13) (55:19) (56:1) (56:8) (56:11)
 (57:2) (57:17) (58:2) (58:20) (80:8) (80:12) (80:24) (81:5)
 (92:12) (93:7) (111:16) (115:17) (115:20) (120:11) (122:20)
 (124:5) (130:20) (130:24) (132:15) (139:2) (141:13) (142:6)
 (142:21) (150:9)
 scar (109:3)
 scared (57:11) (141:16)
 scars (114:7)
 scene (13:8) (14:13) (34:2) (46:5) (47:4) (48:7) (49:7)
 (49:24) (50:22) (51:5) (52:9) (67:13) (123:15) (137:17)
 (149:9)
 scent (148:4)
 scientific (120:5)
 scientist (48:24)
 scribble (5:1)
 script (59:10) (59:19) (59:22) (125:1) (125:8)
 search (46:21) (52:15) (52:16) (52:19)
 searched (46:24) (47:6) (47:10)
 second (7:22) (41:4) (86:5) (93:9) (93:18) (94:12) (94:14)
 (95:1) (124:17) (134:6)
 security (123:22)

see (4:16) (15:18) (34:1) (52:21) (53:7) (54:7) (76:4)
 (84:10) (91:23) (111:1) (114:5) (114:6) (115:21) (117:20)
 (119:3) (122:23) (132:9) (140:16) (147:13) (148:14) (149:6)
 (149:7) (149:11)
 seeing (108:18) (108:23)
 seem (87:17) (105:2) (121:9) (121:10) (122:5)
 seemed (81:4) (100:22) (101:3) (101:5)
 seems (20:21) (97:4) (101:25) (103:6) (104:4) (122:9)
 seen (47:3) (73:11) (103:17) (116:4) (145:4) (146:25)
 sees (26:24) (46:11) (55:4) (73:8) (115:22) (125:25)
 segment (118:17)
 selected (48:22) (122:11)
 self-explanatory (6:1)
 semi-automatic (48:1) (48:6) (48:11) (49:2) (49:5) (49:10)
 (90:18) (90:22) (136:1)
 sense (8:21) (12:15) (14:17) (23:10) (85:1) (87:23) (96:23)
 (105:3)
 sent (115:11)
 separate (45:22) (92:7) (137:10)
 separated (148:19)
 sequence (118:19)
 series (11:9) (14:24)
 serious (36:5) (124:13)
 served (46:22)
 service (151:22)
 servoss (151:15)
 set (119:22) (134:18)
 several (71:10)
 sex (105:8) (119:4)
 shadow (133:21) (150:18)
 shape (117:5)
 share (12:18) (100:10)
 she (30:1) (30:2) (30:4) (30:9) (30:12) (30:16) (30:23)
 (31:9) (46:6) (48:25) (49:2) (49:8) (49:13) (49:15) (49:17)
 (49:22) (50:1) (54:23) (56:8) (56:9) (56:23) (57:17) (58:2)
 (58:5) (58:7) (59:2) (70:12) (70:13) (70:19) (71:9) (71:11)
 (71:17) (71:21) (72:1) (90:12) (90:16) (91:21) (92:18)
 (92:21) (93:5) (94:3) (94:12) (94:14) (94:24) (95:1) (95:2)
 (95:6) (95:9) (95:14) (95:21) (96:2) (98:19) (98:20) (99:2)
 (99:3) (99:5) (99:8) (99:9) (99:10) (99:13) (99:14) (99:17)
 (99:20) (100:4) (100:5) (100:7) (100:9) (100:12) (100:13)
 (100:15) (100:17) (101:2) (101:6) (102:2) (102:4) (102:6)
 (102:10) (102:25) (103:2) (103:11) (103:13) (105:5) (105:6)
 (106:22) (106:25) (119:6) (131:10) (131:15) (132:2) (132:10)
 (138:5) (140:21) (144:8)
 sheet (140:6) (140:9)
 sheets (101:24)
 shell (92:11) (93:3)
 she'll (151:12)
 she's (83:13) (100:4) (131:22) (136:17) (142:10)
 shirt (112:4) (114:15) (116:21) (116:23) (116:24) (145:15)
 shit (56:13) (56:18) (57:21) (58:1)
 shoe (137:4) (149:1) (149:10)
 shoes (54:3) (54:5) (54:9) (115:23) (115:24) (115:25)
 (116:10)
 shoot (6:22) (50:23) (51:22) (96:25) (143:9) (148:9)
 (149:24)
 shooter (37:16) (150:12)
 shooting (67:9) (67:12) (72:25) (74:9) (75:25) (76:7)
 shoots (16:5)
 shop (40:18)
 short (65:7)
 shorthand (154:13)
 shortly (137:2)
 shot (7:2) (8:8) (22:21) (25:2) (33:21) (34:12) (35:11)
 (38:12) (43:21) (44:6) (66:21) (67:11) (73:2) (74:7) (87:18)
 (87:20) (95:8) (95:16) (96:24) (116:7) (130:13) (146:17)
 (148:12) (150:4)
 shots (72:18) (73:5)
 should (5:23) (12:19) (62:5) (63:5) (68:14) (88:1) (91:5)
 (130:17) (132:13) (132:14) (134:10) (134:15) (140:13)
 shouldn't (12:16) (130:22) (131:3)
 show (8:12) (12:25) (23:19) (42:8) (68:11) (78:8) (84:5)
 (84:10) (85:11) (86:18) (125:16) (127:8)
 showed (73:23) (95:6) (101:4) (128:8)
 showing (46:3) (55:15) (60:5) (128:3)
 shown (84:4) (102:10)

shows (31:4) (79:9) (79:13) (113:24) (127:11) (127:21)
 shrapnel (148:20)
 side (134:18)
 sign (101:23)
 signatures (134:25)
 signed (11:15)
 significance (29:9)
 significantly (33:15)
 signs (113:20)
 silent (56:15) (57:20)
 silver (48:1) (48:6) (90:5) (92:1) (92:15) (136:1) (136:14)
 simple (6:20) (86:12)
 simply (86:13) (106:10)
 since (4:13) (78:6)
 single (38:9) (76:23) (86:7) (87:4) (116:8) (137:25)
 (139:17)
 sitting (103:1) (110:15) (122:18) (122:23) (145:16)
 (146:18)
 situation (33:14) (107:23) (117:1)
 size (50:4)
 skidded (148:23) (148:24)
 slaughter (1:11) (3:20) (7:23) (10:3) (11:3) (11:14)
 (11:16) (14:25) (17:22) (20:14) (24:2) (24:5) (26:17) (37:16)
 (43:3) (43:18) (44:14) (45:5) (45:20) (45:25) (53:10) (53:17)
 (55:10) (55:13) (58:20) (65:1) (65:21) (69:3) (69:11) (70:21)
 (71:5) (71:13) (72:3) (72:9) (73:1) (74:3) (74:7) (75:5)
 (76:22) (82:23) (84:7) (84:19) (86:25) (88:25) (97:16)
 (103:14) (114:23) (118:25) (119:9) (127:24) (130:4) (131:20)
 (133:9) (133:12) (134:19) (134:21) (136:11) (139:22)
 (139:24) (139:25) (140:15) (143:8) (144:19) (146:15)
 (146:24) (148:2) (150:3) (150:7) (150:9)
 slaughter's (6:24) (81:2) (110:23) (126:3)
 sleeves (140:8)
 slide (81:9) (117:19)
 slue (34:6)
 small (47:24) (48:1) (48:5) (48:6) (48:10) (135:25)
 small (100:24) (101:1)
 smelled (101:3)
 smoothly (3:12)
 society (145:10)
 sole (16:9) (18:20) (62:11) (62:17)
 solely (19:1) (38:20)
 some (11:13) (27:11) (27:25) (28:1) (33:11) (37:4) (37:5)
 (47:19) (48:20) (67:8) (73:3) (75:24) (76:16) (88:7) (93:13)
 (102:1) (102:10) (103:25) (104:7) (107:7) (116:23) (123:11)
 (124:13) (125:3) (128:22) (135:18) (141:20) (142:9) (145:3)
 (147:18)
 somebody (32:20) (41:23) (45:16) (82:6) (83:18) (83:25)
 (104:4) (109:15) (111:8) (118:10) (118:13) (124:5) (128:6)
 (144:9) (145:11) (145:12)
 somehow (127:24) (134:13) (135:1) (137:2) (150:2)
 someone (21:13) (23:11) (71:25) (73:18) (97:11) (139:2)
 (139:4) (139:5)
 something (27:13) (41:22) (76:6) (81:17) (81:20) (104:9)
 (112:12) (134:17) (142:14) (143:6) (149:25)
 sometime (119:2)
 sometimes (3:9) (80:18)
 somewhat (136:7)
 somewhere (102:9) (133:8) (148:23)
 son (31:1)
 soon (17:9)
 sorry (40:4) (50:10)
 sort (145:3)
 sound (118:1)
 sounded (13:20) (13:22)
 speak (76:17)
 speaking (116:12)
 special (92:17) (95:23)
 specific (10:14) (12:21) (27:16) (27:19) (97:14)
 specifically (15:20) (78:9)
 specificity (70:11)
 spent (7:15)
 splatter (149:13)
 splatters (149:6)
 spoke (114:16) (126:22)
 sporting (88:7)
 spot (148:18)

spots {134:13}
 spraying {31:2} {103:24}
 squeal {100:23}
 stamp {49:16} {81:4}
 stamped {78:3}
 stand {8:6} {44:3} {69:21} {70:13} {71:12} {75:6} {78:19}
 {103:7} {130:16} {133:25}
 standing {102:15} {103:10} {124:9} {135:7}
 standpoint {75:19} {76:3}
 stands {111:18} {111:23} {111:24} {111:25}
 start {10:4} {14:14} {80:20} {134:17} {134:20}
 started {3:15} {81:25} {115:4}
 starts {19:14}
 state {1:8} {1:21} {2:3} {3:19} {5:17} {6:7} {6:9} {8:13}
 {20:23} {22:16} {23:15} {37:23} {40:25} {41:5} {51:16}
 {64:23} {65:20} {71:23} {82:22} {84:4} {86:18} {88:5} {90:19}
 {91:2} {98:22} {99:6} {114:22} {119:16} {121:22} {123:24}
 {154:2}
 statement {66:12} {68:3} {78:6} {102:6} {111:17} {115:17}
 statements {60:4} {72:6} {99:4}
 states {124:8}
 state's {3:22} {7:18} {81:3} {82:25} {86:3} {91:10} {96:22}
 {104:11} {119:8} {119:12} {121:13} {129:9}
 station {142:4}
 stay {102:20}
 stayed {40:11}
 steal {40:3}
 stealing {17:16}
 step {21:14} {114:25}
 steps {115:3}
 stick {59:10} {59:18} {124:25} {125:3} {125:7}
 still {8:11} {34:3} {139:16}
 stitches {97:24} {108:25} {109:4} {112:25} {113:4} {114:7}
 {115:22} {147:13} {147:15}
 stomping {61:11}
 stood {43:7} {101:9} {102:25} {145:6}
 store {40:14} {54:19} {70:4} {101:22} {120:10} {120:18}
 storefront {135:15}
 stores {67:16} {69:19} {69:22} {70:2} {120:12} {120:14}
 {121:6}
 stories {59:22} {107:5}
 story {58:8} {58:13} {118:23} {118:24} {125:4} {126:19}
 {142:2}
 stout {119:21}
 straight {21:16} {40:9} {104:12} {147:18}
 strange {125:23}
 strategic {34:21}
 strategy {69:1} {74:23}
 street {32:16} {32:25} {33:7} {33:18} {46:10} {72:24}
 {119:10}
 stress {107:22} {117:1}
 stricken {107:15}
 strike {72:16}
 string {42:5}
 structure {17:11} {39:17} {53:16} {53:18} {119:25}
 stuff {47:19} {152:2}
 subsequent {109:14} {113:14}
 substance {21:6}
 substantial {21:3} {21:10} {36:2} {36:4} {36:13} {63:3}
 {63:6}
 substantially {28:22} {29:5} {29:14} {33:21} {34:25}
 substantiates {66:24}
 successful {26:2} {39:23}
 successfully {62:1}
 such {16:25} {29:5} {37:11} {81:25} {82:6}
 suddenly {104:2} {121:5}
 suffering {36:9}
 suggest {150:20}
 suggestion {109:14} {134:14} {145:4}
 support {59:15} {91:10} {121:12}
 supposedly {101:16} {120:23}
 sure {58:22} {72:12} {74:23} {83:25} {86:6} {95:14} {99:24}
 {107:1} {114:9} {123:2} {123:4} {123:5} {143:21}
 surprised {131:8}
 surrounding {11:18} {12:24} {37:21} {37:22}
 suspect {86:5} {87:18} {106:14} {109:8} {109:19} {109:22}
 {110:1} {110:3} {110:17} {111:13} {113:9} {115:19} {117:11}

{118:4} {126:18} {134:6} {139:10} {146:7} {146:9}
 suspects {81:6} {84:11} {89:10} {108:5} {108:11} {108:13}
 {115:16} {116:16} {116:19} {123:3} {127:5} {149:15}
 sustain {106:2} {107:18}
 swat {87:2} {89:21}
 swear {151:3}
 sworn {151:7}
 symbols {93:14}

T

table {5:1} {122:19}
 tactical {75:18}
 take {4:20} {38:21} {40:3} {40:5} {61:6} {65:6} {75:6}
 {85:4} {85:6} {86:14} {90:6} {94:9} {95:18} {97:2} {98:11}
 {103:8} {103:16} {106:5} {110:18} {138:13} {139:24} {143:2}
 {151:4} {151:8} {151:23} {152:1}
 taken {33:10} {42:21} {54:3} {77:16} {82:2} {111:6}
 {124:11} {154:13}
 takeover {72:22}
 takes {19:13} {27:12} {79:3}
 taking {17:16} {19:18} {28:19} {62:2} {85:9} {126:5}
 talk {7:25} {13:18} {15:20} {33:4} {56:22} {57:8} {57:12}
 {58:3} {58:5} {58:21} {99:3} {99:18} {113:12} {124:20}
 {137:1} {146:22} {147:8} {150:22} {151:19}
 talked {31:5} {48:25} {49:2} {49:15} {50:1} {51:9} {56:23}
 {71:25} {98:25} {131:4} {143:14} {143:18} {144:16}
 talking {41:9} {56:19} {57:4} {57:7} {57:25} {99:22}
 {110:25}
 tape {123:22}
 taped {29:12}
 tattoos {113:1} {113:3} {114:6} {115:22} {140:10}
 taurus {13:6} {13:7} {46:13} {46:17} {49:12} {54:18} {55:5}
 {104:22}
 teal {46:7} {46:12} {46:17} {138:21}
 tearing {7:8} {35:5}
 tears {36:11}
 technology {94:5} {94:16}
 television {15:9} {126:1} {126:4}
 tell {8:6} {45:5} {56:11} {56:12} {56:24} {57:18} {57:24}
 {90:19} {94:20} {99:6} {100:18} {102:4} {118:23} {124:4}
 {124:6} {126:25} {131:17} {132:5} {133:11} {138:5} {140:23}
 {141:14} {143:8} {150:23}
 teller {40:19}
 telling {56:21} {59:2} {75:16} {87:12} {110:10} {132:12}
 {132:24}
 tells {21:16} {55:3} {101:21} {102:25} {119:16} {125:23}
 {126:21} {132:10} {132:24} {133:7} {135:5} {137:17} {141:15}
 {145:3} {150:4}
 tends {37:10}
 tennis {54:2}
 tens {96:3}
 term {3:9}
 terms {70:21}
 terrible {83:12} {83:16}
 terror {19:14} {39:19}
 terrorized {150:14}
 terrorizing {18:21}
 tested {116:1}
 testified {43:22} {43:25} {44:24} {46:14} {54:16} {70:14}
 {81:23} {90:23} {91:22} {99:2} {100:4} {111:4} {113:2}
 testifies {112:15}
 testify {42:3} {69:9} {69:13} {85:19}
 testifying {126:12}
 testimony {7:16} {7:18} {8:17} {48:3} {54:12} {58:4}
 {60:12} {64:18} {70:16} {72:5} {75:1} {75:21} {77:25} {85:16}
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 {138:10}
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 {122:25} {140:2} {145:23} {152:22}
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 (87:18) (87:21) (88:4) (88:5) (88:13) (88:14) (88:23) (89:1)
 (89:2) (89:3) (89:4) (89:6) (89:8) (89:9) (89:10) (89:11)
 (89:16) (89:21) (89:23) (90:2) (90:9) (90:11) (90:12) (90:16)
 (90:19) (90:20) (90:25) (91:1) (91:7) (91:10) (91:12) (91:13)
 (91:14) (91:15) (91:20) (91:22) (92:5) (92:6) (92:7) (92:8)
 (92:9) (92:10) (92:11) (92:13) (92:20) (93:7) (93:8) (93:9)
 (93:18) (94:1) (94:3) (94:8) (94:10) (94:11) (94:13) (94:21)
 (94:23) (94:24) (94:25) (95:5) (95:8) (95:23) (95:25) (96:2)
 (96:13) (96:15) (96:16) (96:17) (96:18) (96:21) (96:22)
 (96:24) (97:1) (97:6) (97:9) (97:23) (98:3) (98:4) (98:6)
 (98:7) (98:9) (98:12) (98:14) (98:22) (98:24) (99:5) (99:11)
 (100:3) (100:18) (101:4) (101:6) (101:11) (101:13) (101:17)
 (101:21) (102:13) (102:19) (102:20) (102:22) (103:1) (103:2)
 (103:18) (103:22) (103:24) (104:11) (104:12) (104:14)
 (104:18) (104:20) (104:22) (105:4) (105:9) (105:10) (105:12)
 (105:24) (106:2) (106:7) (106:8) (106:9) (106:11) (106:13)
 (106:14) (106:18) (107:10) (107:14) (107:15) (107:18)
 (107:20) (108:5) (108:8) (108:9) (108:11) (108:13) (108:14)
 (108:15) (108:19) (108:21) (108:22) (108:25) (109:5) (109:7)
 (109:8) (109:11) (109:12) (109:13) (109:18) (109:21)
 (109:25) (110:1) (110:2) (110:4) (110:6) (110:8) (110:9)
 (110:10) (110:12) (110:15) (110:16) (110:18) (111:10)
 (111:12) (111:13) (111:14) (111:17) (111:19) (111:20)
 (111:21) (111:22) (111:24) (112:2) (112:3) (112:5) (112:16)
 (112:17) (112:20) (113:4) (113:5) (113:7) (113:9) (113:17)
 (113:18) (113:19) (113:23) (114:1) (114:7) (114:11) (114:15)
 (114:22) (114:25) (115:1) (115:4) (115:6) (115:12) (115:15)
 (115:16) (115:18) (115:19) (115:24) (116:5) (116:6) (116:16)
 (116:17) (116:19) (117:3) (117:4) (117:9) (117:11) (117:13)
 (117:15) (117:16) (117:19) (117:23) (118:4) (118:6) (118:10)
 (118:17) (118:24) (119:1) (119:8) (119:10) (119:12) (119:15)
 (119:16) (119:17) (119:20) (119:24) (120:10) (120:11)
 (120:19) (121:2) (121:5) (121:7) (121:10) (121:12) (121:14)
 (121:16) (121:22) (121:24) (122:7) (122:13) (122:16)
 (122:19) (122:22) (122:24) (123:1) (123:3) (123:5) (123:11)
 (123:14) (123:15) (123:16) (123:18) (123:22) (123:24)
 (124:2) (124:3) (124:4) (124:19) (124:21) (125:1) (125:6)
 (125:7) (125:10) (125:15) (125:20) (125:24) (125:25) (126:3)
 (126:4) (126:5) (126:8) (126:10) (126:13) (126:23) (127:2)
 (127:5) (127:10) (127:13) (127:14) (127:16) (127:17)
 (127:20) (127:21) (128:1) (128:3) (128:11) (128:13) (128:19)
 (128:20) (128:21) (128:24) (129:2) (129:5) (129:13) (129:15)
 (129:16) (129:17) (129:19) (129:20) (130:2) (130:3) (130:5)
 (130:6) (130:10) (130:11) (130:15) (130:18) (131:6) (131:11)
 (131:17) (131:18) (131:19) (131:21) (131:24) (132:10)
 (132:19) (132:20) (132:25) (133:2) (133:6) (133:13) (133:15)
 (133:22) (133:23) (133:25) (134:5) (134:6) (134:11) (134:12)
 (134:15) (134:18) (134:25) (136:6) (136:12) (136:13)
 (136:16) (136:17) (136:19) (136:23) (136:25) (137:1) (137:3)
 (137:5) (137:6) (137:7) (137:12) (137:16) (137:19) (137:21)
 (137:22) (137:24) (138:3) (138:8) (138:10) (138:25) (139:1)

(139:5) (139:7) (139:10) (139:12) (139:13) (139:23) (140:7)
 (140:8) (140:17) (140:19) (140:20) (141:1) (141:5) (142:2)
 (142:18) (143:3) (143:5) (143:9) (143:11) (143:19) (144:3)
 (144:5) (144:13) (144:15) (144:20) (144:22) (144:25) (145:5)
 (145:13) (145:14) (145:15) (145:17) (145:18) (145:19)
 (145:25) (146:1) (146:4) (146:8) (146:9) (146:12) (146:13)
 (146:14) (146:17) (146:19) (146:20) (146:23) (146:25)
 (147:5) (147:6) (147:7) (147:10) (147:12) (147:13) (147:14)
 (147:17) (147:19) (148:3) (148:4) (148:7) (148:18) (148:25)
 (149:1) (149:3) (149:6) (149:7) (149:9) (149:10) (149:12)
 (149:14) (149:19) (149:20) (149:22) (149:24) (150:3) (150:8)
 (150:10) (150:12) (150:21) (151:1) (151:4) (151:7) (151:8)
 (151:10) (151:12) (151:17) (151:19) (151:21) (152:7) (152:9)
 (152:11) (152:12) (152:15) (152:19) (152:20) (154:10)
 (154:11) (154:14)
their (6:3) (13:24) (20:10) (20:12) (37:23) (72:6) (81:11)
 (84:5) (88:11) (95:12) (105:23) (117:8) (119:6) (119:24)
 (151:21)
them (4:16) (5:9) (14:1) (14:11) (18:4) (23:22) (24:7)
 (24:8) (27:12) (27:13) (35:16) (38:18) (52:6) (56:7) (56:24)
 (57:18) (58:3) (58:5) (59:3) (66:5) (66:18) (67:6) (67:14)
 (67:15) (67:23) (67:24) (70:3) (70:13) (75:16) (84:17) (97:9)
 (99:6) (99:10) (106:6) (107:25) (116:3) (116:7) (117:4)
 (117:24) (125:8) (125:9) (140:22) (140:23) (141:14) (152:20)
 (152:24)
themselves (121:14)
then (15:6) (18:6) (22:2) (23:15) (30:9) (35:24) (37:3)
 (37:6) (44:1) (48:12) (49:7) (52:4) (79:4) (91:22) (93:5)
 (102:10) (109:25) (119:9) (121:3) (121:4) (133:11) (133:17)
 (142:8) (142:18)
theories (15:17) (15:22)
theory (15:15) (104:12)
there (4:4) (5:1) (11:20) (16:11) (18:14) (18:15) (22:6)
 (22:7) (23:1) (26:18) (32:18) (33:25) (34:23) (36:1) (36:13)
 (38:4) (40:21) (42:4) (46:4) (47:1) (48:3) (48:17) (51:3)
 (52:8) (55:1) (55:21) (55:22) (55:24) (56:8) (56:12) (56:16)
 (56:25) (59:14) (62:11) (63:5) (66:20) (67:15) (67:21)
 (67:22) (68:12) (70:1) (70:8) (70:15) (72:3) (72:14) (72:25)
 (77:25) (78:12) (78:20) (78:23) (79:1) (79:8) (79:12) (79:17)
 (81:3) (81:5) (81:15) (81:16) (86:10) (86:13) (86:21) (88:3)
 (88:17) (88:19) (88:20) (89:8) (89:22) (90:4) (91:8) (93:16)
 (93:23) (93:25) (94:16) (94:21) (95:5) (95:7) (95:14) (95:20)
 (96:5) (97:15) (99:6) (101:9) (102:1) (102:3) (102:5) (102:9)
 (102:24) (103:7) (103:19) (104:17) (105:5) (105:24) (106:10)
 (106:22) (108:17) (109:2) (110:7) (112:12) (113:20) (117:14)
 (118:9) (120:17) (123:9) (123:19) (127:18) (128:6) (128:7)
 (130:13) (131:22) (134:9) (134:10) (135:20) (135:25)
 (136:11) (138:17) (138:22) (140:12) (141:19) (142:7)
 (143:21) (145:3) (146:7) (146:8) (147:20) (149:13) (149:19)
 (150:10) (150:13) (152:3)
thereafter (70:24)
therefore (21:18) (40:22) (125:18)
therein (83:23)
there's (5:5) (5:6) (11:8) (15:5) (15:16) (39:14) (41:17)
 (41:20) (63:2) (69:22) (88:5) (95:4) (96:12) (97:5) (97:8)
 (101:23) (105:16) (110:22) (120:4) (120:12) (128:14)
 (130:17) (135:20) (136:3) (136:4) (137:14) (150:16)
thereupon (3:4) (5:16) (65:10) (65:13) (77:18) (82:17)
 (151:7) (152:7)
these (5:13) (8:7) (17:8) (18:21) (18:22) (19:2) (19:8)
 (24:3) (30:10) (38:24) (43:4) (43:5) (45:6) (46:1) (47:23)
 (51:25) (57:22) (60:8) (67:5) (67:17) (73:4) (80:19) (89:23)
 (90:20) (110:19) (112:8) (114:19) (115:2) (116:25) (118:3)
 (121:14) (127:8) (134:14) (144:2)
they (11:5) (11:6) (12:8) (12:10) (12:12) (12:13) (12:17)
 (12:19) (12:20) (13:6) (13:9) (13:11) (13:15) (13:18) (13:22)
 (13:25) (14:2) (14:3) (14:4) (14:10) (14:11) (14:12) (14:14)
 (14:18) (14:20) (14:23) (15:2) (15:3) (15:6) (15:8) (17:7)
 (17:9) (17:10) (17:11) (17:12) (18:6) (20:11) (20:12) (29:15)
 (29:22) (32:9) (32:10) (34:3) (38:1) (41:13) (41:14) (41:16)
 (47:8) (47:15) (47:18) (47:24) (48:13) (49:4) (49:6) (56:18)
 (57:2) (57:24) (58:23) (59:1) (59:18) (67:4) (67:15) (70:18)
 (75:13) (76:5) (80:20) (84:6) (84:10) (84:13) (84:17) (87:7)
 (87:9) (87:10) (87:11) (87:13) (87:19) (87:20) (88:7) (89:7)
 (89:9) (89:11) (89:14) (89:15) (89:16) (89:19) (90:2) (90:4)
 (90:9) (90:13) (90:15) (90:19) (90:21) (91:8) (91:17) (91:19)
 (91:24) (92:1) (93:3) (95:25) (96:23) (101:6) (102:21)

(105:22) (107:1) (108:1) (108:12) (109:24) (110:5) (110:10)
 (110:17) (111:12) (112:5) (113:8) (114:9) (116:6) (117:1)
 (117:4) (117:6) (118:5) (118:12) (121:17) (122:15) (123:13)
 (123:22) (124:11) (127:6) (127:8) (127:9) (127:13) (127:15)
 (127:17) (127:18) (128:10) (128:24) (128:25) (129:22)
 (131:5) (132:5) (133:11) (136:15) (139:23) (142:24) (143:1)
 (143:16) (143:18) (144:12) (144:15) (144:25) (146:6) (146:7)
 (146:8) (147:11) (149:16) (149:17) (149:25) (152:23)
thick (120:8)
thicker (119:21)
thing (72:11) (75:4) (76:20) (86:14) (90:2) (96:22)
 (100:20) (104:20) (108:9) (111:13) (129:14) (129:19)
 (132:10) (132:25) (135:5) (138:8) (139:8) (141:16) (149:22)
things (3:11) (4:16) (5:7) (7:20) (37:19) (41:1) (68:9)
 (68:14) (70:10) (77:8) (83:16) (88:1) (89:23) (90:18) (96:15)
 (117:5) (123:11) (147:9)
think (4:15) (43:20) (57:14) (57:23) (68:25) (76:5) (77:25)
 (78:19) (79:21) (82:12) (84:7) (88:1) (97:18) (97:25) (102:7)
 (106:11) (109:20) (110:5) (110:22) (111:20) (113:6) (113:22)
 (115:18) (117:8) (118:11) (125:1) (128:4) (132:13) (133:19)
 (142:6) (148:2)
thinking (31:5) (79:5) (81:18)
third (94:3)
this (3:16) (6:12) (6:13) (8:14) (8:24) (10:7) (12:13)
 (12:25) (13:17) (17:5) (17:24) (18:4) (19:3) (20:13) (20:18)
 (21:18) (22:5) (22:20) (26:20) (27:14) (27:15) (28:7) (28:8)
 (29:19) (32:4) (32:8) (32:22) (33:8) (33:12) (34:13) (34:24)
 (35:8) (35:22) (36:14) (36:23) (38:1) (38:4) (38:25) (41:19)
 (42:2) (43:15) (43:19) (44:17) (45:13) (45:23) (47:1) (48:4)
 (50:16) (51:2) (52:25) (53:5) (53:16) (56:3) (58:11) (59:8)
 (59:19) (60:10) (60:20) (63:1) (63:14) (64:6) (64:13) (64:17)
 (64:19) (64:20) (65:2) (65:24) (70:7) (72:22) (75:23) (76:8)
 (79:6) (81:25) (82:2) (84:2) (84:19) (85:11) (85:18) (86:15)
 (88:10) (89:4) (89:17) (89:19) (90:3) (90:14) (91:25) (92:2)
 (92:17) (92:21) (93:12) (97:10) (97:22) (98:7) (98:13)
 (103:3) (103:21) (104:5) (104:9) (104:21) (105:8) (106:22)
 (107:22) (109:6) (109:22) (110:11) (110:13) (110:17) (111:5)
 (111:11) (111:15) (111:19) (111:20) (111:22) (111:23)
 (112:11) (112:13) (113:5) (113:10) (113:11) (113:18)
 (113:19) (115:18) (115:24) (116:12) (118:7) (118:14)
 (118:15) (119:11) (120:12) (120:24) (121:19) (121:20)
 (121:21) (121:23) (122:1) (122:2) (122:4) (123:8) (123:10)
 (124:12) (125:22) (126:17) (126:20) (128:12) (128:16)
 (128:18) (129:24) (130:3) (130:12) (132:1) (132:2) (134:7)
 (134:20) (135:1) (135:3) (135:8) (135:21) (138:1) (139:10)
 (139:17) (140:4) (140:12) (141:11) (142:21) (143:9) (143:12)
 (144:23) (145:12) (145:21) (147:15) (147:17) (148:1) (148:8)
 (148:15) (149:5) (149:13) (149:24) (150:12) (150:15)
 (150:17) (150:18) (154:16)
those (7:24) (11:1) (22:1) (22:13) (28:12) (41:8) (48:21)
 (49:25) (50:12) (52:10) (67:13) (67:23) (72:18) (73:23)
 (74:13) (74:14) (74:18) (74:25) (79:14) (92:19) (94:6) (94:8)
 (94:11) (94:13) (94:22) (96:6) (96:7) (97:17) (99:4) (107:3)
 (107:7) (110:24) (116:9) (124:15) (125:21) (128:4) (130:9)
 (135:24) (136:2) (143:15) (143:17)
though (23:25)
thought (30:2) (39:21) (46:6) (69:16) (107:16) (116:18)
 (126:7) (126:8) (137:8) (149:17)
threaten (35:15)
threatened (21:8) (31:16) (83:20) (99:9) (99:21)
through (5:13) (7:8) (7:9) (7:17) (8:12) (15:1) (15:8)
 (16:13) (16:21) (26:14) (35:5) (36:10) (41:5) (44:19) (62:2)
 (69:5) (84:9) (86:23) (90:10) (91:4) (96:18) (98:10) (114:25)
 (115:2) (122:16) (145:16) (148:17)
throw (3:10) (97:3) (98:11) (139:25) (148:3)
tie (34:4) (45:7) (76:6) (84:7) (90:3) (104:9)
tied (8:10) (24:24) (29:12) (29:23) (30:9) (31:15) (31:16)
 (31:21) (32:9) (32:12) (33:9) (33:24) (34:9) (43:21) (87:9)
 (88:24) (109:16)
ties (118:14)
tiffany (13:5) (46:19) (47:14) (49:11) (54:14) (54:17)
 (54:22) (54:24) (55:9) (55:19) (56:21) (57:12) (58:11) (59:2)
 (59:20) (59:23) (84:20) (85:19) (97:20) (98:15) (98:17)
 (99:23) (100:20) (101:16) (103:12) (104:13) (104:20)
 (108:19) (113:2) (118:25) (119:5) (120:25) (131:24) (132:7)
 (132:9) (132:25) (133:19)
tightly (30:13)

time (4:4) (4:17) (5:22) (6:20) (22:8) (24:9) (31:12)
 (31:25) (32:4) (44:9) (54:15) (55:22) (56:3) (56:25) (58:7)
 (58:12) (60:6) (72:1) (73:11) (76:7) (78:1) (78:2) (78:4)
 (78:10) (78:13) (78:16) (78:24) (79:9) (79:13) (79:19)
 (80:12) (80:20) (81:4) (81:6) (81:14) (81:16) (82:1) (82:6)
 (84:15) (84:16) (85:18) (86:2) (92:24) (95:3) (99:5) (99:12)
 (99:16) (100:4) (100:14) (100:15) (101:17) (101:23) (101:25)
 (102:2) (102:4) (102:11) (103:11) (103:13) (105:9) (108:21)
 (108:25) (109:5) (110:10) (111:7) (113:4) (113:7) (113:24)
 (115:11) (115:12) (115:14) (116:14) (122:21) (122:25)
 (125:11) (127:13) (128:7) (128:13) (130:16) (135:7) (141:12)
 (147:19) (154:13)
timeline (120:23)
times (77:4) (135:4) (143:21)
tinkling (137:11)
tip (90:5) (92:1) (92:15)
tipped (136:14)
tire (123:14) (123:15)
tires (100:24)
title (135:1)
today (8:6) (101:19) (151:25)
today's (145:10)
together (10:25) (11:4) (11:21) (12:11) (12:13) (15:8)
 (17:7) (42:7) (60:18) (75:13) (116:13) (117:7) (130:10)
told (14:2) (24:25) (30:1) (30:6) (30:7) (34:12) (38:24)
 (39:3) (40:24) (41:19) (42:10) (44:25) (49:22) (50:17)
 (50:22) (52:11) (54:16) (56:7) (68:7) (68:9) (71:9) (71:14)
 (71:17) (83:11) (99:10) (109:25) (110:16) (113:7) (115:15)
 (117:18) (118:4) (124:11) (125:6) (125:8) (125:9) (133:4)
 (140:22) (146:7) (146:8) (149:9)
tom (125:22)
too (5:9) (31:3) (32:9) (32:12) (43:15) (43:16) (120:8)
 (143:9) (147:9) (150:24)
took (40:13) (66:11) (67:16) (69:6) (70:13) (71:11)
 (109:17) (115:6) (119:6) (119:7)
tool (8:22)
towards (37:5)
trace (86:7) (87:6) (88:13) (89:24) (91:2) (91:13) (91:15)
traced (88:24)
traces (91:5)
track (101:24) (116:4)
tracking (86:22)
tracks (94:10) (94:13) (94:24) (123:14) (123:15)
traction (148:25)
traffic (85:7)
tragedy (83:12) (83:15)
train (94:10) (94:13) (94:24)
training (107:3)
trajectory (66:19) (67:1)
tran (1:1)
transcript (1:17)
transcripts (81:1)
transferred (79:10)
traveled (84:23)
traversed (148:16)
tread (137:4)
trial (1:14) (8:15) (77:4) (129:12) (129:13) (142:24)
 (145:17)
trickery (32:21)
tricking (33:18) (63:10)
tried (57:2) (58:7) (90:3) (98:24) (105:5) (108:4) (143:19)
trigger (124:18)
trip (85:3) (85:5) (85:9) (121:1)
true (80:15) (87:25) (114:23) (154:11)
trunk (47:6) (50:2) (73:15) (91:1) (92:8) (92:10) (96:14)
 (97:3) (98:3) (98:12) (103:23) (136:6) (136:24) (137:5)
truth (99:11) (100:19) (125:10) (129:15) (129:17) (129:20)
 (132:25)
try (4:12) (5:12) (30:19) (34:19) (39:22) (59:13) (61:19)
 (104:16)
trying (3:15) (13:18) (39:7) (39:12) (41:10) (58:12)
 (58:13) (58:14) (59:3) (59:24) (100:18) (117:2) (122:6)
 (148:2)
turn (6:5) (6:12)
turned (93:15) (107:8)
turns (112:19)
tuxedo (116:20)

tying (12:5) (12:7) (62:22) (63:11) (63:20)
type (52:23) (87:5) (88:6) (88:7) (88:22) (91:24) (95:18)
 (95:23) (97:12) (109:3) (116:23) (121:11) (125:15) (129:18)
 (137:19)
types (93:4) (95:11) (95:20)

U

ultimately (7:9) (25:6) (36:12) (46:22)
uncle (44:17)
under (21:6) (29:16) (112:20) (117:1)
underlying (11:11)
understand (85:2) (136:9)
understanding (56:3)
understood (70:6)
unique (91:13) (91:16) (92:17) (93:11) (93:20) (93:24)
 (93:25) (94:19) (96:12) (96:17) (101:1)
uniqueness (92:13)
unknown (60:18)
unlawful (10:11) (19:17)
unlawfully (37:13)
unlikely (97:4) (102:1) (103:6) (104:4)
unloaded (7:6)
unreasonable (98:1)
until (71:7) (82:5) (101:10) (108:1) (132:16) (132:21)
 (138:19) (151:20)
unwittingly (33:6)
upheld (106:23)
upon (10:15) (25:3) (32:14) (33:4) (35:2) (40:15) (45:15)
 (62:23) (64:19) (70:19) (81:22)
use (3:8) (4:6) (8:22) (9:8) (9:9) (9:12) (9:13) (9:19)
 (9:22) (9:25) (20:19) (21:22) (21:23) (21:24) (22:12) (23:12)
 (23:24) (24:1) (24:13) (24:16) (25:11) (26:20) (34:7) (35:24)
 (36:19) (36:21) (39:11) (45:12) (61:3) (61:8) (61:15) (61:16)
 (61:22) (61:25) (62:5) (62:20) (63:8) (63:16) (63:19) (63:25)
 (64:4) (64:8) (64:10) (64:15) (84:25) (87:22) (87:24) (96:4)
 (112:10) (119:10) (120:17) (120:20) (121:7)
used (13:15) (19:25) (20:18) (20:25) (21:7) (21:8) (21:9)
 (21:12) (22:18) (22:19) (23:16) (23:18) (23:19) (24:3)
 (30:11) (34:4) (35:7) (35:8) (35:12) (35:17) (38:3) (38:6)
 (38:8) (38:9) (39:9) (47:23) (48:4) (50:16) (50:22) (51:5)
 (51:12) (51:15) (51:22) (53:21) (88:21) (90:20) (124:7)
 (135:21) (136:3)
useful (117:9)
uses (23:22) (24:23) (25:9) (25:17) (145:10)
using (13:23) (20:14) (25:12) (25:14) (35:15) (38:13)
 (61:17) (62:24) (63:13) (63:22) (114:24)

V

valley (85:10)
value (30:21)
variety (92:22)
various (22:1) (90:6) (90:7)
vegas (3:1) (79:8) (79:11) (85:3) (85:6) (85:10) (154:16)
 (154:22)
vehicle (55:6) (66:9) (66:12) (72:14) (72:19) (72:20)
 (73:3) (73:17) (86:8) (103:18) (104:19) (121:2) (123:13)
 (123:18) (139:10)
venture (88:9)
verdict (4:9) (5:23) (8:24) (22:11) (60:21) (62:4) (63:5)
 (64:6) (64:13) (64:25) (152:23)
verdicts (60:15)
versions (93:13) (125:2)
versus (3:19) (82:23) (113:13)
very (86:15) (91:16) (118:15)
vested (100:7) (100:12)
victim (7:2) (12:6) (12:8) (24:17) (25:22) (26:6) (26:22)
 (28:15) (28:23) (29:1) (29:3) (29:7) (29:11) (29:25) (34:6)
 (36:18) (36:21) (63:17) (64:1) (64:5) (64:20) (67:11) (76:1)
victimize (19:3)
victimized (28:10)
victimizing (18:21)
victims (10:1) (13:16) (28:9) (28:12) (29:20) (47:22)
 (48:2) (87:10) (89:6) (103:24)
victim's (149:10)
video (53:6) (54:6) (119:21) (120:8) (126:8) (140:14)
videod (54:2)
videotape (120:11) (140:17)

view (8:3) (13:5) (19:7) (24:19) (39:20) (72:23) (85:12)
 (106:14) (106:18) (109:8) (111:15) (119:24) (120:1) (120:7)
viewed (111:5)
viewing (112:11)
violate (27:22)
violence (19:21)
visiting (24:19)
voice (13:23)
voluntarily (27:24)

W

waddy (66:7) (68:8)
waddy's (66:11)
wait (108:1) (136:1)
waited (54:24) (132:22)
waiting (54:23) (107:25)
waiving (5:18)
walk (14:5) (120:20) (121:5)
walked (87:7)
walking (69:23) (86:23) (116:6) (127:14)
walks (119:9)
wall (149:6)
want (57:11) (68:24) (74:25) (76:5) (76:19) (99:24) (108:7)
 (120:2) (143:23)
wanted (26:18) (66:2) (67:6) (67:14) (68:16) (68:18)
 (69:24) (76:16) (76:24) (108:6) (114:18) (127:6)
wante (26:3) (33:3)
warrant (46:21) (52:15) (52:16)
was (11:20) (18:14) (18:16) (18:24) (20:17) (22:3) (22:6)
 (22:19) (22:21) (23:1) (23:18) (23:19) (27:21) (28:15)
 (28:17) (29:3) (29:10) (29:11) (29:12) (29:19) (29:20)
 (29:25) (30:5) (30:9) (30:12) (30:14) (30:16) (30:17) (30:23)
 (31:9) (31:13) (31:20) (31:25) (32:3) (32:12) (32:18) (33:24)
 (34:8) (34:9) (35:4) (35:7) (35:8) (35:10) (35:11) (35:17)
 (36:1) (36:20) (36:23) (37:24) (37:25) (38:2) (38:5) (38:8)
 (38:15) (39:1) (39:4) (39:5) (40:20) (40:21) (41:11) (43:22)
 (44:15) (44:22) (45:1) (45:4) (46:4) (46:5) (46:6) (46:13)
 (46:15) (46:25) (47:3) (48:4) (48:10) (48:11) (49:8) (49:13)
 (50:4) (50:8) (50:15) (50:18) (50:22) (51:12) (51:15) (51:18)
 (51:22) (52:2) (52:5) (54:2) (54:14) (54:23) (55:16) (55:19)
 (55:20) (55:21) (55:24) (56:7) (56:12) (56:16) (56:24)
 (58:17) (60:2) (60:7) (63:5) (65:10) (66:13) (67:8) (67:10)
 (67:15) (68:4) (68:10) (68:12) (69:2) (69:11) (69:12) (69:16)
 (69:20) (70:1) (70:8) (70:10) (70:12) (70:15) (70:23) (71:5)
 (71:14) (71:16) (71:18) (71:22) (72:2) (72:4) (72:5) (72:25)
 (73:1) (73:10) (73:24) (74:18) (74:19) (74:22) (75:2) (78:10)
 (78:15) (78:16) (78:18) (78:19) (78:20) (78:23) (78:24)
 (79:9) (79:19) (79:24) (80:5) (80:16) (81:16) (82:9) (85:16)
 (85:22) (86:13) (86:15) (86:21) (86:24) (87:4) (88:15)
 (88:18) (88:19) (88:20) (89:8) (89:17) (90:9) (91:10) (91:23)
 (92:7) (92:9) (92:11) (92:14) (92:15) (92:18) (93:23) (93:25)
 (94:1) (94:16) (94:20) (94:24) (95:8) (96:13) (96:16) (96:17)
 (98:7) (98:20) (99:1) (99:6) (99:12) (99:15) (99:20) (99:22)
 (100:15) (100:17) (101:17) (102:3) (102:4) (102:22) (102:25)
 (103:9) (103:18) (103:19) (105:3) (105:9) (105:11) (105:12)
 (105:25) (106:20) (107:14) (107:22) (107:24) (108:3) (108:6)
 (109:11) (109:13) (110:1) (111:6) (115:13) (116:19) (116:20)
 (117:13) (117:14) (117:24) (118:4) (121:20) (121:21)
 (121:24) (121:25) (122:10) (122:13) (123:18) (123:19)
 (124:7) (124:24) (125:9) (125:10) (125:22) (127:1) (128:1)
 (128:3) (128:6) (129:25) (130:4) (131:8) (131:10) (131:15)
 (131:16) (131:21) (131:25) (132:2) (132:15) (133:2) (133:3)
 (133:5) (134:6) (134:13) (136:6) (136:13) (136:17) (136:20)
 (136:21) (136:25) (137:6) (137:10) (137:11) (138:6) (141:11)
 (142:7) (142:19) (145:18) (146:7) (146:8) (146:9) (147:15)
 (149:3) (150:4) (150:6) (151:7)
wasn't (8:8) (35:12) (39:6) (54:25) (57:1) (78:20) (100:22)
 (106:10) (136:12) (141:19) (149:19)
watch (31:14)
watched (31:3) (126:17)
water (104:23)
way (27:11) (34:18) (86:2) (94:8) (95:4) (95:5) (102:2)
 (102:4) (103:2) (108:1) (110:22) (119:15) (121:3) (121:5)
 (131:6) (131:22) (138:19) (149:3)
ways (15:25) (101:24)
weapon (6:19) (9:8) (9:10) (9:12) (9:14) (9:20) (9:23)
 (10:1) (18:3) (20:8) (20:17) (20:20) (20:21) (21:4) (21:17)

(21:21) (21:22) (21:24) (21:25) (22:4) (22:13) (22:16)
 (22:18) (23:5) (23:8) (23:22) (23:24) (24:1) (24:3) (24:14)
 (24:17) (25:12) (26:20) (34:8) (34:13) (35:7) (35:8) (35:12)
 (35:15) (35:17) (35:24) (36:19) (36:22) (38:2) (38:14)
 (39:10) (39:12) (51:10) (51:14) (51:18) (51:22) (61:4) (61:9)
 (61:11) (61:13) (61:15) (61:17) (61:23) (62:1) (62:6) (62:9)
 (62:21) (62:24) (63:9) (63:16) (63:20) (64:1) (64:5) (64:8)
 (64:11) (64:15) (124:17)
weapons (18:4) (19:4) (22:6) (49:8) (51:3) (51:5) (63:13)
 (63:22)
wearing (14:4) (14:7) (14:10) (52:2) (52:5) (54:2) (112:3)
 (112:5) (114:12) (116:20)
week (4:3) (7:15) (71:19) (131:18) (143:4)
weekend (71:19) (105:11)
weight (42:12)
weird (32:18) (118:15) (118:16) (121:3)
well (13:3) (26:7) (29:17) (33:11) (41:13) (46:4) (46:16)
 (53:25) (54:11) (55:22) (58:4) (72:8) (73:13) (74:2) (84:13)
 (85:1) (93:21) (94:4) (102:7) (103:3) (141:24) (146:6)
wells (25:6) (33:10) (39:24)
went (16:13) (17:22) (40:8) (40:9) (40:18) (48:19) (52:17)
 (53:20) (79:13) (87:3) (89:10) (89:11) (90:10) (91:4) (93:12)
 (96:18) (98:11) (102:24) (104:12) (105:5) (119:3) (119:5)
 (131:12) (140:2)
were (3:5) (5:16) (7:21) (8:1) (13:18) (13:22) (14:10)
 (15:3) (20:14) (22:7) (28:10) (29:15) (29:18) (29:22) (30:3)
 (30:10) (31:15) (31:16) (33:25) (48:17) (48:21) (50:13)
 (51:3) (52:8) (52:20) (55:14) (65:14) (66:20) (72:6) (73:5)
 (74:14) (77:19) (82:18) (86:22) (88:7) (88:17) (89:3) (89:15)
 (90:11) (90:20) (90:21) (91:15) (91:16) (91:17) (91:19)
 (93:4) (94:21) (95:7) (107:11) (108:9) (109:25) (114:11)
 (116:1) (116:6) (118:4) (121:17) (124:1) (127:6) (127:18)
 (128:5) (129:1) (139:2) (145:16) (146:7) (146:8) (149:9)
 (152:8)
weren't (8:10) (12:20) (41:3) (70:17) (131:5)
westbrook (68:7) (69:4) (70:10) (71:6) (105:3) (119:3)
 (131:10) (142:11)
what (7:10) (7:25) (10:20) (11:2) (11:17) (11:22) (12:22)
 (12:23) (13:5) (14:23) (14:24) (17:19) (17:21) (19:9) (19:17)
 (20:9) (20:20) (24:15) (26:5) (26:16) (26:18) (32:23) (37:23)
 (37:25) (41:11) (41:14) (44:12) (46:2) (46:13) (46:14)
 (46:16) (48:12) (50:16) (52:10) (52:14) (53:3) (53:24)
 (54:10) (55:13) (56:1) (56:2) (56:4) (56:10) (56:18) (57:10)
 (58:19) (58:24) (58:25) (59:1) (59:2) (59:5) (59:24) (69:24)
 (70:19) (71:9) (71:13) (72:1) (72:5) (75:1) (75:13) (75:16)
 (78:1) (78:4) (78:7) (78:10) (78:16) (78:23) (79:13) (80:5)
 (80:22) (81:22) (83:13) (83:21) (84:10) (87:25) (88:6)
 (90:23) (91:23) (93:1) (94:19) (94:21) (95:18) (98:23) (99:4)
 (99:5) (99:12) (99:15) (99:22) (100:15) (102:2) (102:4)
 (102:22) (103:11) (103:12) (104:20) (105:6) (106:13)
 (107:20) (111:1) (112:4) (112:5) (112:22) (113:11) (114:11)
 (114:22) (116:13) (116:15) (120:2) (124:5) (124:6) (124:10)
 (124:19) (124:21) (124:22) (125:2) (125:7) (125:10) (125:11)
 (126:8) (126:11) (126:13) (128:19) (128:25) (129:16)
 (129:17) (129:20) (131:4) (131:14) (132:24) (133:4) (133:7)
 (135:11) (135:19) (136:9) (136:10) (136:16) (137:13)
 (137:23) (137:24) (138:16) (139:2) (139:12) (140:3) (140:21)
 (141:24) (142:6) (143:4) (143:14) (146:22) (147:10) (147:14)
 (148:11) (148:15) (149:20)
whatever (44:17) (44:20) (82:1) (149:2)
what's (65:25)
whatsoever (27:3) (144:10)
when (4:22) (7:1) (8:22) (14:2) (15:18) (15:20) (16:4)
 (22:9) (26:17) (32:16) (34:1) (34:10) (35:20) (37:11) (37:25)
 (46:10) (47:15) (52:2) (52:16) (53:25) (54:1) (56:25) (57:25)
 (66:3) (69:20) (70:12) (70:13) (71:9) (71:11) (72:17) (78:15)
 (78:19) (80:20) (87:23) (94:12) (94:14) (95:1) (95:19) (99:8)
 (99:13) (103:14) (106:20) (108:12) (111:5) (113:12) (115:19)
 (124:11) (128:8) (131:12) (133:1) (133:5) (138:20) (140:14)
 (141:5) (141:13) (145:20) (146:2) (148:11) (150:6) (150:8)
where (3:13) (4:4) (7:1) (7:11) (8:15) (16:14) (16:20)
 (18:2) (26:9) (26:13) (26:24) (33:14) (33:20) (51:20) (55:16)
 (58:15) (60:1) (63:1) (70:21) (70:22) (76:4) (79:16) (80:1)
 (80:9) (87:9) (89:10) (92:5) (103:3) (107:6) (107:7) (126:25)
 (127:3) (127:10) (129:18) (135:18) (137:11) (140:12) (147:4)
 (149:12)
wherever (98:10)

whether (11:8) (11:20) (22:3) (35:25) (38:2) (63:2) (69:12)
 (71:22) (74:24) (75:6) (75:22) (75:25) (78:22) (95:5) (100:8)
 (109:11) (136:25) (148:25)
which (20:25) (21:6) (21:7) (27:17) (27:21) (32:19) (36:3)
 (36:4) (37:9) (38:8) (42:6) (66:20) (66:22) (69:4) (71:20)
 (73:1) (75:19) (126:16) (132:2) (133:6) (134:7) (135:4)
 (135:11) (135:12) (137:17) (142:19) (149:8)
while (9:15) (12:17) (17:25) (18:7) (19:5) (30:23) (31:14)
 (31:15) (41:9) (62:8) (140:11) (147:2)
white (115:23) (115:24) (115:25) (116:10) (145:5)
who (3:20) (10:16) (11:3) (18:2) (18:4) (26:24) (27:4)
 (27:10) (41:23) (42:1) (43:3) (44:15) (45:17) (45:25) (46:8)
 (51:20) (54:13) (55:5) (66:11) (66:12) (82:23) (84:21) (87:3)
 (87:18) (89:3) (111:10) (114:2) (117:13) (132:14) (132:15)
 (134:4) (134:6) (134:14) (135:6) (139:13) (139:16) (145:14)
 (146:19) (146:24) (147:5) (150:12) (150:13) (150:14)
 (150:15) (150:18)
whole (59:13) (125:20) (137:10) (146:17)
whose (46:9)
why (8:12) (17:12) (18:14) (38:16) (47:17) (51:16) (56:9)
 (57:11) (57:23) (67:22) (89:4) (91:9) (91:22) (99:23)
 (102:11) (111:24) (114:5) (114:6) (114:9) (114:24) (115:2)
 (115:8) (115:9) (117:20) (120:9) (120:16) (121:23) (122:1)
 (122:2) (123:13) (123:23) (123:25) (133:16) (135:9) (140:2)
 (143:17) (146:13) (146:17) (146:19) (146:20) (148:9) (148:12)
wife (46:10) (64:11)
wig (44:19) (53:13) (88:14) (88:16) (88:18) (88:21)
wigs (89:24)
will (3:18) (4:12) (4:20) (4:25) (5:12) (6:5) (7:10) (8:21)
 (17:19) (19:20) (20:13) (21:2) (21:20) (22:2) (22:24) (25:14)
 (28:8) (35:24) (36:15) (59:12) (60:13) (64:24) (70:7) (77:1)
 (78:5) (83:3) (85:4) (90:19) (95:10) (126:15) (137:1) (138:9)
 (139:3) (142:22) (149:7) (149:11) (150:10) (150:21) (150:22)
 (151:3) (151:23) (152:4) (152:24)
willfully (26:24)
winchester (91:23) (92:12) (136:21) (136:23) (137:18)
 (137:20) (137:21) (138:6)
wind (143:13)
winding (137:4)
winter (125:22) (125:23) (126:12)
wipe (103:19) (104:3)
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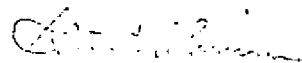
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 3 IN THE EIGHTH JUDICIAL DISTRICT COURT
 4 CLARK COUNTY, NEVADA

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8 THE STATE OF NEVADA,)

9 Plaintiff,)

10 vs.)

11 RICKIE SLAUGHTER,)

12 Defendant.)

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Case No.

C204957

Dept. No. 3

JURY VERDICT

 Before the Honorable Douglas W. Herndon
 Friday, May 20, 2011, 5:15 p.m.

Reporter's Transcript of Proceedings

APPEARANCES:

 For the State: Marc DiGiacomo, Esq.
 Chief Deputy District
 Attorney
 Michelle Fleck, Esq.
 Deputy District Attorney

 For the Defendant: Osvaldo Fumo, Esq.
 Dustin Marcello, Esq.

REPORTED BY: ROBERT A. CANGEMI, CCR No. 888

04C204957

TRAN

Reporters Transcript

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IN THE EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)
Plaintiff,)
vs.) Case No.
RICKIE SLAUGHTER,) C204957
Defendant.) Dept. No. 3

JURY VERDICT

Before the Honorable Douglas W. Herndon
Friday, May 20, 2011, 5:15 p.m.

Reporter's Transcript of Proceedings

APPEARANCES:

For the State: Marc DiGiacomo, Esq.
Chief Deputy District
Attorney
Michelle Fleck, Esq.
Deputy District Attorney

For the Defendant: Osvaldo Fumo, Esq.
Dustin Marcello, Esq.

REPORTED BY: ROBERT A. CANGEMI, CCR No. 888

Las Vegas, Nevada, Friday, May 20,
2011

* * * * *

(Thereupon, the following proceedings
were had in open court and in the
presence of the jury.)

THE COURT: We will back on
the record in 204957, State of Nevada
versus Rick Slaughter.

He is present with his
attorneys.

The State's attorneys are
present.

Our jurors are present.

Mr. Hoeft, are you the
foreperson?

MR. HOEFT: I am.

THE COURT: Has the jury
reached a verdict?

MR. HOEFT: We have.

THE COURT: If you would hand
the verdict form to the marshal,
please.

All right. The verdict

form:

We the jury in the above
entitled case find the Defendant
Rickie Slaughter as follows:

Count 1, conspiracy to commit
kidnapping.

Guilty of conspiracy to
commit kidnapping.

Count 2, conspiracy to commit
robbery.

Guilty of conspiracy to
commit robbery.

Count 3, attempt murder with
use of a deadly weapon, victim Ivan
Young.

Guilty of attempt murder with
use of a deadly weapon.

Count 4, battery with a use
of a deadly weapon, victim Ryan
John.

Guilty of battery with a
deadly weapon.

Count 5, attempt robbery with
use of a deadly weapon, victim Ivan
Young.

Guilty of attempt robbery
with use of a deadly weapon.

Count 6, robbery with use
of a deadly weapon, victim, Ryan
John.

Guilty of robbery with use of
a deadly weapon.

Count 7, burglary while in
possession of a deadly weapon at the
Glory View address.

Guilty of burglary while
in the possession of a deadly
weapon.

Count 8, burglary, 7-Eleven.

Guilty of burglary.

Count 9, first degree
kidnapping with use of a deadly
weapon, victim Ivan Young.

Guilty of first degree
kidnapping with use of a deadly.

As to the special question
related to Count 9; did Ivan Young
suffer substantial bodily harm
during the kidnapping; the jury
checked yes.

7 15 **A** Count 10, first degree
 2 kidnapping with use of a deadly
 3 weapon, victim, Ryan John.
 4 Guilty of first degree
 5 kidnapping with use of a deadly
 6 weapon.
 7 Count 11, first degree
 8 kidnapping with use of a deadly
 9 weapon, victim Jose Posada.
 10 Guilty of first degree
 11 kidnapping with use of a deadly
 12 weapon.
 13 Count 12, first degree
 14 kidnapping with use of deadly weapon,
 15 victim Aaron Dennis.
 16 Guilty of first degree
 17 kidnapping with use of a deadly
 18 weapon.
 19 Count 13, first degree
 20 kidnapping with use of a deadly
 21 weapon, victim Jermaun Means.
 22 Guilty of first degree
 23 kidnapping with use of a deadly
 24 weapon.
 25 Count 14, first degree

5

1 3, are those our verdicts as
 2 read?
 3 JUROR NUMBER 3: Yes, sir.
 4 THE COURT: Juror Number
 5 4, are those your verdicts as
 6 read?
 7 JUROR NUMBER 4: Yes.
 8 THE COURT: Juror Number
 9 5, are those oath verdicts as
 10 read?
 11 JUROR NUMBER 5: Yes.
 12 THE COURT: Juror Number
 13 6, are those your verdicts as
 14 read?
 15 JUROR NUMBER 6: Yes.
 16 THE COURT: Juror Number
 17 7, are those your verdicts as
 18 read?
 19 JUROR NUMBER 7: Yes.
 20 THE COURT: Juror Number
 21 8, are those your verdicts as
 22 read?
 23 JUROR NUMBER 8: Yes.
 24 THE COURT: Juror Number
 25 9, are those your verdicts as

7

1 kidnapping with use of a deadly
 2 weapon, victim Jennifer Dennis.
 3 Guilty of first degree
 4 kidnapping with use of a deadly
 5 weapon.
 6 Dated this 20th day of May
 7 2011, signed by the foreperson,
 8 Justin Hoeft.
 9 Ladies and gentlemen of the
 10 jury, is that your verdict as read,
 11 so say you one, so say you all?
 12 ALL OF THE JURORS AS A GROUP:
 13 Yes.
 14 THE COURT: Does either side
 15 wish to have the jury polled?
 16 MR. FUMO: Yes.
 17 THE COURT: Juror Number
 18 1, are those your verdicts as
 19 read?
 20 JUROR NUMBER 1: Yes, sir.
 21 THE COURT: Juror Number
 22 2, are those your verdicts as
 23 read?
 24 JUROR NUMBER 2: Yes.
 25 THE COURT: Juror Number

6

1 read?
 2 JUROR NUMBER 9: Yes, Your
 3 Honor.
 4 THE COURT: Juror Number
 5 10, are those your verdicts as
 6 read?
 7 JUROR NUMBER 10: Yes.
 8 THE COURT: Juror Number
 9 11, are those your verdicts as
 10 read?
 11 JUROR NUMBER 11: Yes.
 12 THE COURT: And Juror Number
 13 12, are those your verdicts as
 14 read?
 15 JUROR NUMBER 12: Yes.
 16 THE COURT: We will record
 17 the verdict and the findings with the
 18 minutes of the Court.
 19 Ladies and gentlemen, that
 20 concludes your jury service, so you
 21 have the great thanks of the Court
 22 for your time, patience and
 23 understanding.
 24 THE DEFENDANT: He hide
 25 evidence from the jury.

8

9
1 THE COURT: Take him out.

2 - - - - -
3 (Thereupon, the Defendant was removed
4 from the courtroom.)
5 - - - - -

6 THE COURT: Again, you have
7 the great thanks of the Court for
8 your patience and your time over the
9 last week and a half.

10 It is rare that a case goes
11 as planned in terms of timing. I
12 will tell you, it is also rare that
13 we have a case in which we start
14 as late as we did on so many
15 occasions.

16 I hope you don't have a
17 bad taste in your mouth from that
18 aspect of how we have gone about
19 things.

20 I am happy for you that
21 we were able to finish it up this
22 week, since it took longer than
23 expected.

24 Nonetheless, it takes a lot
25 of time out of your lives to spend a

10
1 little over a week with us; so, on
2 behalf of myself, and my staff, and
3 the entire Court system, you have the
4 thanks of us for your duty to us over
5 the last week and a half.

6 I am not going to read that
7 admonition, which simply means you
8 are now free to talk to whoever you
9 want to about the case, but you
10 certainly don't have to talk to
11 anybody if you don't want to.

12 If somebody persists in
13 trying to talk to you after you
14 leave here today, and you tell them
15 you do not wish to talk to them, then
16 pickup the phone and call my
17 chambers, and I will do whatever I
18 can to alleviate that problem for
19 you.

20 That be being said, I will be
21 available to talk you and answer any
22 questions you have for me.

23 I am going to have Leslie
24 take you down to the third floor, so
25 that you can get your vouchers

11
1 paid and processed, and be done with
2 us.

3 I always tell the attorneys,
4 just the attorneys, that if they want
5 to try to have a conversation with
6 you, that they can meet you down on
7 the third floor.

8 If you have a few minutes of
9 time to talk to them, I know it is
10 very valuable to them to be able to
11 talk to the people who sat in
12 judgement to find what you did or
13 didn't like about the process;
14 anything from jury services, to jury
15 selection, to the presentation of
16 evidence and argument; what it is
17 about how they did things personally
18 that you can give them advice on,
19 because that's very available to a
20 trial attorney as well.

21 On the other hand, I know it
22 is Friday evening, and you are
23 eager to get on your way, so if you
24 need to go, I perfectly understand
25 that.

12
1 With that I will go ahead and
2 excuse and you can head out with
3 Leslie.

4 - - - - -
5 (Thereupon, the following proceedings
6 were had in open court and outside the
7 presence of the jury.)
8 - - - - -

9 THE COURT: Does
10 anybody have anything outside the
11 presence?

12 MR. FUMO: No, Your Honor.

13 MR. DiGIACOMO: The
14 sentencing date.

15 THE COURT: Mr. Slaughter will
16 be remanded without bail pending
17 sentencing.

18 The record will reflect he
19 was removed during the discussion
20 with the jury because of his
21 outburst.

22 The sentencing date will be
23 in 60 days.

24 MR. DiGIACOMO: Judge, do we
25 need a new PSI?

13

1 THE COURT: Well, you know,
2 I am guessing like any PSI that
3 the recommendations in that PSI are
4 based solely on what he had pled
5 guilty to, as opposed to what all
6 the charges are, and whatever effect
7 that has on their recommendation,
8 so I am going to send it back to
9 them.

10 I can probably set it in less
11 than the 60 days, since they really
12 don't need to do an amendment to
13 --

14 MR. DiGIACOMO: If you send it
15 back, I think it should be 60 days.

16 MR. MARCELLO: Judge, I have to
17 put on the record that he requested
18 that we file a motion for a new
19 trial.

20 I think we are going to be
21 obligated to do it. I know normally it
22 is 7 days.

23 I think, since the trial just
24 finished, we are going to probably need
25 more days to decide whether he wants us

14

1 doing it, for one.

2 THE COURT: You guys are
3 the attorneys of record for right
4 now.

5 You are going to have to talk
6 to him and see what he wants to do to
7 meet your statutory requirement as to
8 filing it, and then we will take it from
9 there.

10 Sentencing date is going to be
11 -- I am going to go a little longer
12 than 60 days, just because I am going
13 to be out of the jurisdiction for part
14 of July.

15 I am going to set it for the
16 middle of August, the 16th or the 18th,
17 somewhere around there.

18 August 16th at 9 a.m.
19 Anything further from anybody?

20 MR. FUMO: No, Your Honor, Thank
21 you.

22 MR. DiGIACOMO: No, Your Honor.
23 MS. FLECK: No, Judge.
24
25

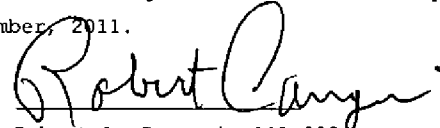
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1 -----
2 (Proceedings concluded.)
3 -----
4
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1 C E R T I F I C A T E
2 STATE OF NEVADA)
3) ss.
4 CLARK COUNTY)
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9 I, Robert A. Cangemi, CCR 888, do
10 hereby certify that I reported the foregoing
11 proceedings, and that the same is true and
12 accurate as reflected by my original machine
13 shorthand notes taken at said time and place
14 before the Hon. Douglas Herndon, District
15 Court Judge presiding.

16 Dated at Las Vegas, Nevada this 2nd day
17 of September, 2011.

18 
19 Robert A. Cangemi, CCR 888
20 Certified Court Reporter
21 Las Vegas, Nevada
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21
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23
24
25

<p>*</p> <p>(2:2)</p>	<p>(12:9) (12:15) (13:1) (14:2) (16:15) (16:21)</p> <p>courtroom (9:4)</p>
<p>A</p> <p>aaron (5:15)</p> <p>able (9:21) (11:10)</p> <p>above (3:2)</p> <p>accurate (16:12)</p> <p>address (4:10)</p> <p>admonition (10:7)</p> <p>advice (11:18)</p> <p>after (10:13)</p> <p>again (9:6)</p> <p>ahead (12:1)</p> <p>all (2:25) (6:11) (6:12) (13:5)</p> <p>alleviate (10:18)</p> <p>also (9:12)</p> <p>always (11:3)</p> <p>amendment (13:12)</p> <p>answer (10:21)</p> <p>any (10:21) (13:2)</p> <p>anybody (10:11) (12:10) (14:19)</p> <p>anything (11:14) (12:10) (14:19)</p> <p>appearances (1:18)</p> <p>are (2:13) (2:15) (2:16) (6:18) (6:22) (7:1) (7:5) (7:9)</p> <p>(7:13) (7:17) (7:21) (7:25) (8:5) (8:9) (8:13) (10:8) (11:22)</p> <p>(13:3) (13:6) (13:20) (13:24) (14:2) (14:5)</p> <p>argument (11:16)</p> <p>around (14:17)</p> <p>aspect (9:18)</p> <p>attempt (3:13) (3:16) (3:23) (4:1)</p> <p>attorney (1:21) (1:22) (11:20)</p> <p>attorneys (2:12) (2:13) (11:3) (11:4) (14:3)</p> <p>august (14:16) (14:18)</p> <p>available (10:21) (11:19)</p>	<p>D</p> <p>date (12:14) (12:22) (14:10)</p> <p>dated (6:6) (16:16)</p> <p>day (6:6) (16:16)</p> <p>days (12:23) (13:11) (13:15) (13:22) (13:25) (14:12)</p> <p>deadly (3:14) (3:17) (3:19) (3:22) (3:24) (4:2) (4:4) (4:7)</p> <p>(4:9) (4:12) (4:17) (4:20) (5:2) (5:5) (5:8) (5:11) (5:14)</p> <p>(5:17) (5:20) (5:23) (6:1) (6:4)</p> <p>decide (13:25)</p> <p>defendant (1:11) (1:23) (3:3) (8:24) (9:3)</p> <p>degree (4:16) (4:19) (5:1) (5:4) (5:7) (5:10) (5:13) (5:16)</p> <p>(5:19) (5:22) (5:25) (6:3)</p> <p>dennis (5:15) (6:2)</p> <p>dept (1:10)</p> <p>deputy (1:20) (1:22)</p> <p>did (4:22) (9:14) (11:12) (11:17)</p> <p>didn't (11:13)</p> <p>digiacomo (1:20) (12:13) (12:24) (13:14) (14:22)</p> <p>discussion (12:19)</p> <p>district (1:3) (1:20) (1:22) (16:14)</p> <p>does (6:14) (12:9)</p> <p>doing (14:1)</p> <p>done (11:1)</p> <p>don't (9:16) (10:10) (10:11) (13:12)</p> <p>douglas (1:14) (16:14)</p> <p>down (10:24) (11:6)</p> <p>during (4:24) (12:19)</p> <p>dustin (1:23)</p> <p>duty (10:4)</p>
<p>B</p> <p>back (2:8) (13:8) (13:15)</p> <p>bad (9:17)</p> <p>bail (12:16)</p> <p>based (13:4)</p> <p>battery (3:18) (3:21)</p> <p>be (14:10)</p> <p>because (11:19) (12:20) (14:12)</p> <p>before (1:14) (16:14)</p> <p>behalf (10:2)</p> <p>being (10:20)</p> <p>bodily (4:23)</p> <p>burglary (4:8) (4:11) (4:14) (4:15)</p> <p>but (10:9)</p>	<p>E</p> <p>eager (11:23)</p> <p>effect (13:6)</p> <p>eighth (1:3)</p> <p>either (6:14)</p> <p>entire (10:3)</p> <p>entitled (3:3)</p> <p>esq (1:20) (1:21) (1:23)</p> <p>evening (11:22)</p> <p>evidence (8:25) (11:16)</p> <p>excuse (12:2)</p> <p>expected (9:23)</p>
<p>C</p> <p>call (10:16)</p> <p>can (10:18) (10:25) (11:6) (11:18) (12:2) (13:10)</p> <p>cangemi (1:25) (16:9) (16:20)</p> <p>case (1:9) (3:3) (9:10) (9:13) (10:9)</p> <p>ccr (1:25) (16:9) (16:20)</p> <p>certainly (10:10)</p> <p>certified (16:21)</p> <p>certify (16:10)</p> <p>chambers (10:17)</p> <p>charges (13:6)</p> <p>checked (4:25)</p> <p>chief (1:20)</p> <p>clark (1:3) (16:4)</p> <p>commit (3:5) (3:8) (3:9) (3:12)</p> <p>concluded (15:2)</p> <p>concludes (8:20)</p> <p>conspiracy (3:5) (3:7) (3:9) (3:11)</p> <p>conversation (11:5)</p> <p>count (3:5) (3:9) (3:13) (3:18) (3:23) (4:3) (4:8) (4:14)</p> <p>(4:16) (4:22) (5:1) (5:7) (5:13) (5:19) (5:25)</p> <p>county (1:3) (16:4)</p> <p>court (1:3) (2:5) (2:8) (2:19) (2:22) (6:14) (6:17) (6:21)</p> <p>(6:25) (7:4) (7:8) (7:12) (7:16) (7:20) (7:24) (8:4) (8:8)</p> <p>(8:12) (8:16) (8:18) (8:21) (9:1) (9:6) (9:7) (10:3) (12:6)</p>	<p>F</p> <p>few (11:8)</p> <p>file (13:18)</p> <p>filing (14:8)</p> <p>find (3:3) (11:12)</p> <p>findings (8:17)</p> <p>finish (9:21)</p> <p>finished (13:24)</p> <p>first (4:16) (4:19) (5:1) (5:4) (5:7) (5:10) (5:13) (5:16)</p> <p>(5:19) (5:22) (5:25) (6:3)</p> <p>fleck (1:21) (14:23)</p> <p>floor (10:24) (11:7)</p> <p>following (2:4) (12:5)</p> <p>follows (3:4)</p> <p>for (1:20) (1:23) (8:22) (9:7) (9:20) (10:4) (10:18) (10:22)</p> <p>(13:18) (14:1) (14:3) (14:13) (14:15)</p> <p>foregoing (16:10)</p> <p>foreperson (2:17) (6:7)</p> <p>form (2:23) (3:1)</p> <p>free (10:8)</p> <p>friday (1:15) (2:1) (11:22)</p> <p>from (8:25) (9:4) (9:17) (11:14) (14:8) (14:19)</p> <p>fumo (1:23) (6:16) (12:12) (14:20)</p> <p>further (14:19)</p>
	<p>G</p> <p>gentlemen (6:9) (8:19)</p> <p>get (10:25) (11:23)</p> <p>give (11:18)</p> <p>glory (4:10)</p> <p>goes (9:10)</p>

going (10:6) (10:23) (13:8) (13:20) (13:24) (14:5) (14:10)
 (14:11) (14:12) (14:15)
 gone (9:18)
 great (8:21) (9:7)
 group (6:12)
 guessing (13:2)
 guilty (3:7) (3:11) (3:16) (3:21) (4:1) (4:6) (4:11) (4:15)
 (4:19) (5:4) (5:10) (5:16) (5:22) (6:3) (13:5)
 guys (14:2)

H

had (2:5) (12:6) (13:4)
 half (9:9) (10:5)
 hand (2:22) (11:21)
 happy (9:20)
 harm (4:23)
 has (2:19) (13:7)
 have (2:21) (6:15) (8:21) (9:6) (9:13) (9:16) (9:18) (10:3)
 (10:10) (10:22) (10:23) (11:5) (11:8) (12:10) (13:16) (14:5)
 head (12:2)
 here (10:14)
 hereby (16:10)
 herndon (1:14) (16:14)
 hide (8:24)
 him (9:1) (14:6)
 his (2:11) (12:20)
 hoefft (2:16) (2:18) (2:21) (6:8)
 hon (16:14)
 honor (8:3) (12:12) (14:20) (14:22)
 honorable (1:14)
 hope (9:16)
 how (9:18) (11:17)

I

ivan (3:14) (3:24) (4:18) (4:22)

J

jennifer (6:2)
 jermaun (5:21)
 john (3:20) (4:5) (5:3)
 jose (5:9)
 judge (12:24) (13:16) (14:23) (16:15)
 judgement (11:12)
 judicial (1:3)
 july (14:14)
 jurisdiction (14:13)
 juror (6:17) (6:20) (6:21) (6:24) (6:25) (7:3) (7:4) (7:7)
 (7:8) (7:11) (7:12) (7:15) (7:16) (7:19) (7:20) (7:23) (7:24)
 (8:2) (8:4) (8:7) (8:8) (8:11) (8:12) (8:15)
 jurors (2:15) (6:12)
 jury (1:13) (2:6) (2:19) (3:2) (4:24) (6:10) (6:15) (8:20)
 (8:25) (11:14) (12:7) (12:20)
 just (11:4) (13:23) (14:12)
 justin (6:8)

K

kidnapping (3:6) (3:8) (4:17) (4:20) (4:24) (5:2) (5:5)
 (5:8) (5:11) (5:14) (5:17) (5:20) (5:23) (6:1) (6:4)
 know (11:9) (11:21) (13:1) (13:21)

L

ladies (6:9) (8:19)
 las (2:1) (16:16) (16:22)
 last (9:9) (10:5)
 late (9:14)
 leave (10:14)
 leslie (10:23) (12:3)
 less (13:10)
 like (11:13) (13:2)
 little (10:1) (14:11)
 lives (9:25)
 longer (9:22) (14:11)
 lot (9:24)

M

machine (16:12)
 many (9:14)

marc (1:20)
 marcello (1:23) (13:16)
 marshal (2:23)
 may (1:15) (2:1) (6:6)
 means (5:21) (10:7)
 meet (11:6) (14:7)
 michelle (1:21)
 middle (14:16)
 minutes (8:18) (11:8)
 more (13:25)
 motion (13:18)
 mouth (9:17)
 murder (3:13) (3:16)
 myself (10:2)

N

need (11:24) (12:25) (13:12) (13:24)
 nevada (1:3) (1:7) (2:1) (2:9) (16:2) (16:16) (16:22)
 new (12:25) (13:18)
 nonetheless (9:24)
 normally (13:21)
 not (10:6) (10:15)
 notes (16:13)
 now (10:8) (14:4)
 number (6:17) (6:20) (6:21) (6:24) (6:25) (7:3) (7:4) (7:7)
 (7:8) (7:11) (7:12) (7:15) (7:16) (7:19) (7:20) (7:23) (7:24)
 (8:2) (8:4) (8:7) (8:8) (8:11) (8:12) (8:15)

O

oath (7:9)
 obligated (13:21)
 occasions (9:15)
 one (6:11) (14:1)
 open (2:5) (12:6)
 opposed (13:5)
 original (16:12)
 osvaldo (1:23)
 other (11:21)
 our (2:15) (7:1)
 out (9:1) (9:25) (12:2) (14:13)
 outburst (12:21)
 outside (12:6) (12:10)
 over (9:8) (10:1) (10:4)

P

paid (11:1)
 part (14:13)
 patience (8:22) (9:8)
 pending (12:16)
 people (11:11)
 perfectly (11:24)
 persists (10:12)
 personally (11:17)
 phone (10:16)
 pickup (10:16)
 place (16:13)
 plaintiff (1:8)
 planned (9:11)
 please (2:24)
 pled (13:4)
 polled (6:15)
 posada (5:9)
 possession (4:9) (4:12)
 presence (2:6) (12:7) (12:11)
 present (2:11) (2:14) (2:15)
 presentation (11:15)
 presiding (16:15)
 probably (13:10) (13:24)
 problem (10:18)
 proceedings (1:16) (2:4) (12:5) (15:2) (16:11)
 process (11:13)
 processed (11:1)
 psi (12:25) (13:2) (13:3)
 put (13:17)

Q

question (4:21)

questions (10:22)	(13:2) (13:3) (13:7) (13:17) (13:18) (16:10) (16:11)
R	that's (11:19)
rare (9:10) (9:12)	the (1:3) (1:7) (1:14) (1:20) (1:23) (2:4) (2:5) (2:6) (2:8)
reached (2:20)	(2:9) (2:13) (2:16) (2:19) (2:22) (2:23) (2:25) (3:2) (3:3)
read (6:10) (6:19) (6:23) (7:2) (7:6) (7:10) (7:14) (7:18)	(4:9) (4:12) (4:21) (4:24) (6:7) (6:9) (6:12) (6:14) (6:15)
(7:22) (8:1) (8:6) (8:10) (8:14) (10:6)	(6:17) (6:21) (6:25) (7:4) (7:8) (7:12) (7:16) (7:20) (7:24)
really (13:11)	(8:4) (8:8) (8:12) (8:16) (8:17) (8:18) (8:21) (8:24) (8:25)
recommendation (13:7)	(9:1) (9:3) (9:4) (9:6) (9:7) (9:8) (10:3) (10:5) (10:9)
recommendations (13:3)	(10:16) (10:24) (11:3) (11:4) (11:7) (11:11) (11:13) (11:15)
record (2:9) (8:16) (12:18) (13:17) (14:3)	(11:21) (12:5) (12:6) (12:7) (12:9) (12:10) (12:13) (12:15)
reflect (12:18)	(12:18) (12:19) (12:20) (12:22) (13:1) (13:3) (13:6) (13:11)
reflected (16:12)	(13:17) (13:23) (14:2) (14:3) (14:13) (14:15) (14:16) (16:10)
related (4:22)	(16:11) (16:14)
remanded (12:16)	their (13:7)
removed (9:3) (12:19)	them (10:14) (10:15) (11:9) (11:10) (11:18) (13:9)
reported (1:25) (16:10)	then (10:15) (14:8)
reporter (16:21)	there (14:9) (14:17)
reporter's (1:16)	thereupon (2:4) (9:3) (12:5)
requested (13:17)	they (11:4) (11:6) (11:17) (13:11)
requirement (14:7)	things (9:19) (11:17)
rick (2:10)	think (13:15) (13:20) (13:23)
rickie (1:10) (3:4)	this (10:24) (11:7)
right (2:25) (14:3)	this (6:6) (9:21) (16:16)
robbery (3:10) (3:12) (3:23) (4:1) (4:3) (4:6)	those (6:18) (6:22) (7:1) (7:5) (7:9) (7:13) (7:17) (7:21)
robert (1:25) (16:9) (16:20)	(7:25) (8:5) (8:9) (8:13)
ryan (3:19) (4:4) (5:3)	time (8:22) (9:8) (9:25) (11:9) (16:13)
S	timing (9:11)
said (10:20) (16:13)	today (10:14)
same (16:11)	took (9:22)
sat (11:11)	tran (1:1)
say (6:11)	transcript (1:16)
see (14:6)	trial (11:20) (13:19) (13:23)
selection (11:15)	true (16:11)
send (13:8) (13:14)	try (11:5)
sentencing (12:14) (12:17) (12:22) (14:10)	trying (10:13)
september (16:17)	U
service (8:20)	understand (11:24)
services (11:14)	understanding (8:23)
set (13:10) (14:15)	use (3:14) (3:17) (3:18) (3:24) (4:2) (4:3) (4:6) (4:17)
shorthand (16:13)	(4:20) (5:2) (5:5) (5:8) (5:11) (5:14) (5:17) (5:20) (5:23)
should (13:15)	(6:1) (6:4)
side (6:14)	V
signed (6:7)	valuable (11:10)
simply (10:7)	vegas (2:1) (16:16) (16:22)
since (9:22) (13:11) (13:23)	verdict (1:13) (2:20) (2:23) (2:25) (6:10) (8:17)
sir (6:20) (7:3)	verdicts (6:18) (6:22) (7:1) (7:5) (7:9) (7:13) (7:17)
slaughter (1:10) (2:10) (3:4) (12:15)	(7:21) (7:25) (8:5) (8:9) (8:13)
solely (13:4)	versus (2:10)
somebody (10:12)	very (11:10) (11:19)
somewhere (14:17)	victim (3:14) (3:19) (3:24) (4:4) (4:18) (5:3) (5:9) (5:15)
special (4:21)	(5:21) (6:2)
spend (9:25)	view (4:10)
staff (10:2)	vouchers (10:25)
start (9:13)	W
state (1:7) (1:20) (2:9) (16:2)	want (10:9) (10:11) (11:4)
state's (2:13)	wants (13:25) (14:6)
statutory (14:7)	was (9:3) (12:19)
substantial (4:23)	way (11:23)
suffer (4:23)	weapon (3:14) (3:17) (3:19) (3:22) (3:24) (4:2) (4:4) (4:7)
system (10:3)	(4:9) (4:13) (4:18) (5:3) (5:6) (5:9) (5:12) (5:14) (5:18)
T	(5:21) (5:24) (6:2) (6:5)
take (9:1) (10:24) (14:8)	week (9:9) (9:22) (10:1) (10:5)
taken (16:13)	well (11:20) (13:1)
takes (9:24)	were (2:5) (9:21) (12:6)
talk (10:8) (10:10) (10:13) (10:15) (10:21) (11:9) (11:11)	what (11:12) (11:16) (13:4) (13:5) (14:6)
(14:5)	whatever (10:17) (13:6)
taste (9:17)	whether (13:25)
tell (9:12) (10:14) (11:3)	which (9:13) (10:7)
terms (9:11)	while (4:8) (4:11)
than (9:22) (13:11) (14:12)	who (11:11)
thank (14:20)	whoever (10:8)
thanks (8:21) (9:7) (10:4)	will (2:8) (8:16) (9:12) (10:17) (10:20) (12:1) (12:15)
that (6:10) (8:19) (9:10) (9:12) (9:17) (9:20) (10:6)	(12:18) (12:22) (14:8)
(10:18) (10:20) (10:25) (11:4) (11:6) (11:18) (11:25) (12:1)	wish (6:15) (10:15)

with

your

21

with (2:11) (3:13) (3:16) (3:18) (3:21) (3:23) (4:2) (4:3)
(4:6) (4:17) (4:20) (5:2) (5:5) (5:8) (5:11) (5:14) (5:17)
(5:20) (5:23) (6:1) (6:4) (8:17) (10:1) (11:1) (11:5) (12:1)
(12:2) (12:20)
without (12:16)
would (2:22)

Y

yes (4:25) (6:13) (6:16) (6:20) (6:24) (7:3) (7:7) (7:11)
(7:15) (7:19) (7:23) (8:2) (8:7) (8:11) (8:15)
you (2:16) (2:22) (6:11) (8:20) (9:6) (9:12) (9:16) (9:20)
(10:3) (10:7) (10:8) (10:9) (10:11) (10:13) (10:14) (10:15)
(10:19) (10:21) (10:22) (10:24) (10:25) (11:6) (11:8) (11:12)
(11:18) (11:22) (11:23) (12:2) (13:1) (13:14) (14:2) (14:5)
(14:21)
young (3:15) (3:25) (4:18) (4:22)
your (6:10) (6:18) (6:22) (7:5) (7:13) (7:17) (7:21) (7:25)
(8:2) (8:5) (8:9) (8:13) (8:20) (8:22) (9:8) (9:17) (9:25)
(10:4) (10:25) (11:23) (12:12) (14:7) (14:20) (14:22)

1 VER

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STEVEN D. GRIERSON
CLERK OF THE COURT

MAY 20 2011

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6 DISTRICT COURT
7 CLARK COUNTY, NEVADA

BY: *Linda Denman*
LINDA DENMAN, DEPUTY

5:30 pm

8 THE STATE OF NEVADA,
9 Plaintiff,

CASE NO: C204957

10 -vs-

DEPT NO: 3

11 RICKIE SLAUGHTER,
12 Defendant.

04C204957
VER
Verdict
1425741



13 **VERDICT**

14 We, the jury in the above entitled case, find the Defendant RICKIE SLAUGHTER, as
15 follows:

16
17 **COUNT 1** – Conspiracy To Commit Kidnapping

18 *(please check the appropriate box, select only one)*

- 19 ☒ Guilty of Conspiracy To Commit Kidnapping
20 ☐ Not Guilty
21

22 **COUNT 2** – Conspiracy To Commit Robbery

23 *(please check the appropriate box, select only one)*

- 24 ☒ Guilty of Conspiracy To Commit Robbery
25 ☐ Not Guilty
26
27
28

1 **COUNT 3** – Attempt Murder With Use Of A Deadly Weapon (Ivan Young)

2 *(please check the appropriate box, select only one)*

- 3 ☒ Guilty of Attempt Murder With Use Of A Deadly Weapon
4 ☐ Guilty of Attempt Murder
5 ☐ Guilty of Battery With Use Of A Deadly Weapon
6 ☐ Not Guilty
7

8 **COUNT 4** – Battery With A Deadly Weapon (Ryan John)

9 *(please check the appropriate box, select only one)*

- 10 ☒ Guilty of Battery With A Deadly Weapon
11 ☐ Not Guilty
12

13 **COUNT 5** – Attempt Robbery With Use Of A Deadly Weapon (Ivan Young)

14 *(please check the appropriate box, select only one)*

- 15 ☒ Guilty of Attempt Robbery With Use Of A Deadly Weapon
16 ☐ Guilty of Attempt Robbery
17 ☐ Not Guilty
18

19 **COUNT 6** – Robbery With Use Of A Deadly Weapon (Ryan John)

20 *(please check the appropriate box, select only one)*

- 21 ☒ Guilty of Robbery With Use Of A Deadly Weapon
22 ☐ Guilty of Robbery
23 ☐ Not Guilty
24
25
26
27
28

1 **COUNT 7** – Burglary While In Possession Of A Deadly Weapon (2612 Glory View)

2 *(please check the appropriate box, select only one)*

3 ☒ Guilty of Burglary While In Possession Of A Deadly Weapon

4 ☐ Guilty of Burglary

5 ☐ Not Guilty

6
7 **COUNT 8** – Burglary (7-11)

8 *(please check the appropriate box, select only one)*

9 ☒ Guilty of Burglary

10 ☐ Not Guilty

11
12 **COUNT 9** – First Degree Kidnapping With Use Of A Deadly Weapon (Ivan Young)

13 *(please check the appropriate box, select only one)*

14 ☒ Guilty of First Degree Kidnapping With Use Of A Deadly Weapon

15 ☐ Guilty of First Degree Kidnapping

16 ☐ Not Guilty

17
18 *(If you find the Defendant guilty of Count 9 above, please answer the following question)*

19 Did Ivan Young suffer Substantial Bodily Harm during the Kidnapping?

20 ☒ Yes

21 ☐ No

22
23 **COUNT 10** – First Degree Kidnapping With Use Of A Deadly Weapon (Ryan John)

24 *(please check the appropriate box, select only one)*

25 ☒ Guilty of First Degree Kidnapping With Use Of A Deadly Weapon

26 ☐ Guilty of First Degree Kidnapping

27 ☐ Not Guilty

1 **COUNT 11** – First Degree Kidnapping With Use Of A Deadly Weapon (Jose Posada)

2 *(please check the appropriate box, select only one)*

3 ☒ Guilty of First Degree Kidnapping With Use Of A Deadly Weapon

4 ☐ Guilty of First Degree Kidnapping

5 ☐ Not Guilty

6
7 **COUNT 12** – First Degree Kidnapping With Use Of A Deadly Weapon (Aaron Dennis)

8 *(please check the appropriate box, select only one)*

9 ☒ Guilty of First Degree Kidnapping With Use Of A Deadly Weapon

10 ☐ Guilty of First Degree Kidnapping

11 ☐ Not Guilty

12
13 **COUNT 13** – First Degree Kidnapping With Use Of A Deadly Weapon (Jermaun Means)

14 *(please check the appropriate box, select only one)*

15 ☒ Guilty of First Degree Kidnapping With Use Of A Deadly Weapon

16 ☐ Guilty of First Degree Kidnapping

17 ☐ Not Guilty

18
19 **COUNT 14** – First Degree Kidnapping With Use Of A Deadly Weapon (Jennifer Dennis)

20 *(please check the appropriate box, select only one)*

21 ☒ Guilty of First Degree Kidnapping With Use Of A Deadly Weapon

22 ☐ Guilty of First Degree Kidnapping

23 ☐ Not Guilty

24
25 DATED this 20 day of May, 2011

26
27 
28 FOREPERSON

Original please return file &
stamped copy!!

Rickie Slaughter #1896569
330 S. Casino Center Blvd.
Las Vegas, Nevada 89101
Defendant in proper person

FILED

JUL 22 2011

John T. Johnson
CLERK OF COURT

04C204957

MOT

Motion

1539876



District Court
Clark County, Nevada

The State Of Nevada,
Plaintiff,

Case No: C204957

vs.

Dept. No: 111

Rickie Slaughter,
Defendant.

Hearing Date: 8-2-11

Hearing Time: 9 AM

Defendants Motion For Disclosure Of All
Brady And Giglio Material And Request For
An In Camera S.C.O.P.E. Review

Comes now, the defendant Rickie Slaughter
in proper person and would hereby move this honorable
court to enter a court order compelling the state to
disclose all exculpatory information, and for this court
to conduct an in camera review of the S.C.O.P.E. records
pertaining to the states witnesses. This motion is based
upon all papers and documents on file.

RECEIVED

JUL 21 2011

CLERK OF THE COURT

Notice Of Motion

To: The State Of Nevada, Plaintiff
To: The Clark County District Attorney's
Office

You will please take notice, that the undersigned will bring the forgoing motion on for hearing on the ___ day of ___ 2011, in Department 3, at 9:00am or as soon as counsel may be heard there after.

Dated this ___ day of ___ 2011



Rickie Slaughter #1896569
Defendant in Proper Person

Points And Authorities

The defendant, Rickie Slaughter ("Mr. Slaughter"), request that this honorable court issue a court order requiring the state to disclose and turn over any and all "Brady / Giglio" material that is within it's possession, including but not limited to the

following:

1) Certified Copies of all police dispatch records relating to the 911 calls made by Jermain Means and Ryan John in this case, including all records in the possession of the North Las Vegas Police Department ("NLVPD"), as well as, The Las Vegas Metropolitan Police Department ("LVMPD").

2) A copy of the audio recording of Ryan John's 911 call.

3) Certified "Color" copies of the original photographic line-up arrays, which contain both Jacquan Richard and Rickie Slaughters photos.

4) Certified Copies of all records relating to the criminal convictions regarding untruthfulness, or felony convictions sustained against any of the witnesses who testified on behalf of the state at trial.

5) Certified copies of all records relating to any criminal cases which were pending, (before or during the time of Mr. Slaughters trial), against any of the witnesses who testified

on behalf of the state.

6) All other Brady or Giglio information that is within the possession of the state which has not been turned over and disclosed to Mr. Slaughter.

This Motion is made pursuant to the authority of Brady v. Maryland, 373 U.S. 83 (1963); Giglio v. United States, 405 U.S. 150 (1972); Kyles v. Whitley, 514 U.S. 419 (1995); and Jimenez v. State, 112 Nev. 610, 918 P.2d 687 (1996). In this motion, Mr. Slaughter is requesting several specific items of evidence as well as, any other Brady and impeachment material which may exist, but remains unknown to him. Mr. Slaughter makes this Brady request post-trial. Although a typical Brady request is usually made before trial, the Supreme Court of Nevada has held that a prosecutor has a continuing duty to disclose Brady material to the defense even after trial concludes. See, Mazzan v. Warden, Ely State Prison, 116 Nev. 48, 73 (Nev. 2000) (holding that a prosecutors "post-trial refusal also constitutes a Brady violation in

its own right").

Therefore, the prosecution's duty to provide exculpatory information and impeachment evidence is an obligation that must be continuously fulfilled, even long after the jury trial phase of the proceedings has concluded. See Osborne v. Dist. Attorney's Office, 521 F.3d 1118, at 1132 (9th Cir. 2008) (Recognizing "Brady as a post-conviction right in a habeas proceeding based on the requirements of fundamental fairness"); see also, Pennsylvania v. Ritchie, 480 U.S. 39, 60 (1987).

Under the prevailing law in Nevada, evidence "must be disclosed if it provides grounds for the defense to attack the reliability, thoroughness, and good faith of the police investigation, to impeach the credibility of the state's witnesses, or to bolster the defense case against prosecutorial attacks. . . ." Mazzan, supra, 116 Nev. 48, at 67. All of the requested items of information within this motion fit squarely within the ranks outlined by the Mazzan Court. Mr. Slaughter accordingly request that these items be disclosed immediately.

For the purposes of any potential appeal,

Mr. Slaughter also informs this court that it is believed that at least some of the state's witnesses, (for example: "Jeff Arbuckle," see Exhibit "A", attached), may have possessed past felony convictions or even "pending" criminal cases against them during the time of Mr. Slaughter's trial. Both before, and during the time of trial, defense counsel was unable to confirm or even obtain complete and accurate information regarding the criminal histories of the state's witnesses for two reasons: 1) Because Law enforcement departments/agencies refused to answer and comply with many of defense counsel's subpoena request; and 2) Because the state completely failed to disclose any of this potential information to defense counsel by means of its "open-file policy" or otherwise. Thus, without this court's assistance Mr. Slaughter is left without any means of confirming or obtaining such Brady material.

As is obvious, any information concerning a state witnesses past felony conviction, or even pending criminal cases could have been used by defense to undermine or "impea-

ch the credibility of the states witnesses". Id.

As to Mr. Slaughters request for the 911 dispatch records, defense counsel was never provided this information either. In fact, the defense was not made aware by the state until the middle of trial that there were (2) different 911 calls made in this case. Further thwarting, and hindering defense counsels ability to discover the relevant dispatch records and the fact that there was (2) different 911 calls made, is that the police reports and witnesses voluntary statements only indicate that state witness Ryan John made a 911 call. See Exhibit "B", Police Report by Officer Mark Hoyt. However, the state produced a 911 call made by Jermain Means, (another state witness), at trial. Jermain Means' 911 call has been produced to the defense, however the 911 call made by Ryan John has never been produced or heard; thus defense counsel could not reasonably search for the complete records without knowing what records actually exist. Further, the confusion spawned by officer Hoyt's police report caused counsel to believe that the 911 caller, ~~who~~ was

Ryan John, when it was actually Jermaun Means. This also misled defense counsel to believe that there was only one 911 call made period, and to mis-judge the significance of it.

The 911 dispatch records are relevant to establishing the exact time that the 911 calls were received by dispatch. The precise time that dispatch received the 911 calls would have been critical to providing defense counsel an evidentiary foundation, from which counsel could argue the approximate time that the perpetrators actually fled the crime scene in this case. A key dispute at trial, was whether or not, it was even possible for the perpetrators to cross the almost (10) mile stretch of distance between the crime scene, and Mr. Slaughters then girl friends' workplace, within the time frame that the state alleged. Mr. Slaughter argued and theorized that the states theory was incredible and factually impossible. Further more, details from Officer Hoyt's police report indicate that Jermaun Means may have been able to make his (undisclosed) 911 call "within

seconds" of the perpetrators departure from the crime scene. See Exhibit "B"

Thus, the dispatch information could have been used to "bolster the defense case against prosecutorial attacks" Mazzan, supra, id. at 116 Nev. 67

Request For In Camera S.C.O.P.E. Review

In the instant motion, Mr. Slaughter also request that this honorable court conduct an in-camera review of the S.C.O.P.E. records of the witnesses who testified on behalf of the state at trial. This request is made with the hope to ensure that all relevant arrest, and criminal history / conviction information is disclosed to Mr. Slaughter, regarding the states witnesses who testified at trial. As was previously indicated, Mr. Slaughter believes that some of the states witnesses may have had criminal records or a history of repeated incarcerations.


This, the courts assistance in obtaining this information in the least intrusive means

possible is necessary to uphold Mr. Slaughters due process right to discover impeachment evidence pursuant to Pennsylvania v. Ritchie, 480 U.S. 39, 61 (1987) (Where-in the court held that an in camera review of the states children and youth services file was the appropriate method, to balance out the states interest in confidentiality and the defendants right to be informed of impeachment evidence).

Conclusion And Relief Warranted

Based upon the above facts, Mr. Slaughter respectfully request that this honorable court order the state to immediately disclose and turn over all Brady and impeachment evidence that is within the states possession to Mr. Slaughter. Additionally, Mr. Slaughter also request that this court conduct a SCORE search (in camera) of all witnesses who testified on behalf of the state at trial to ensure that all existing criminal history or criminal conviction information is turned over to Mr. Slaughter.

Respectfully submitted,


Mr. Rickie Slaughter #1896569
Clark County Detention Center
330 S. Casino Center Blvd.
Las Vegas, Nevada 89101
Defendant in Proper Person

Certificate Of Mailing

I hereby certify that the attached
"Motion For Disclosure of All Brady And Giglio
Material" was mailed to the below address, by
placing a true and correct copy of this motion in
the Clark County Detention Centers mail box for
legal mail first-class postage fully prepaid
to:

The Clark County District Attorney
David Roger
200 Lewis Avenue
LV. NV. 89155-2212

The Clark County Clerks Office
200 Lewis Ave, 3rd floor
LV. NV. 89155-1160

Dated this 17th day of July 2011



Rickie Slaughter #1896569

Clark County Detention Center

330 S. Casino Center Blvd.

LV. NV. 89101

Defendant in Proper Person

Exhibit-A

Nevada Investigative Group, LLC

PILB#1496
8414 W. Farm Rd #180-505
Las Vegas, NV 89131
(702) 296-5005

Case Investigation

Case #C204957 / Rickie Slaughter

Date: 04/26/11

Times: 9:30am - 2:30pm

Locations: See details

Attorney/Client
Privilege

Persons Involved: Ira Shirvani
715 N. Nellis
Las Vegas, Nevada 89103

Investigator Craig Retke

Synopsis:

On the above date and time, an investigation was conducted regarding the shopping complex in the 700 block of North Nellis. Subpoenas were also served at several locations in the Las Vegas valley.

Details:

Subpoenas were prepared by Attorney Osvaldo Fumo and I served them at Fox 5 News station located at 25 TV5 Drive, Henderson, Nevada. Another Subpoena was served at 3355 S. Valley View Boulevard Las Vegas, Nevada. Another Subpoena was served at 1500 Foremaster Lane Las Vegas, Nevada.

At approximately 12:30 pm, I contacted Ira Shirvani, the new owner of Eldorado Cleaners located at 715 N. Nellis Las Vegas, Nevada. I explained to Shirvani that I would like to talk to the previous owner, Sharon Sineas and her son Jeff Arbuckle. Shirvani stated he purchased the cleaners from Sineas on 11/17/08 and has not seen her since that date. Shirvani stated that Arbuckle is a bad individual and was in constant trouble and getting put in jail. Shirvani has not seen Arbuckle since the time he was buying the store. I asked Shirvani if the store had surveillance cameras installed when he bought the store and he stated they didn't.

An overview of the entire strip mall complex at 700 N. Nellis reveals that now opposed to 2004, that only three businesses exist out of ten. Eldorado Cleaners, a Thai restaurant and a State of Nevada Welfare office where an Albertsons once was located. I attempted to talk to the owners of the Thai restaurant but they were not in and the two male employees inside were very uncooperative. Numerous photographs were taken of the area and surrounding businesses. No surveillance cameras were located, on the tops of the roofs, under the eaves or coming from inside the businesses pointed towards the complex. (see photographs).

I drove from Eldorado Cleaners to the 2600 block of Glory View North Las Vegas, Nevada exactly reversing my previous route taken (see previous Google map). The route took approximately 24 minutes.

Craig Retke
Nevada Investigative Group LLC
PILB #1496

Exhibit - B

CASE: 04015160 -----NORTH LAS VEGAS POLICE DEPARTMENT----- REF: ORIGINAL
 DATE: 8/13/04 -----POLICE REPORT----- PAGE: 9
 TIME: 7:17 -----NARRATIVE PORTION----- OF: 15

ON SATURDAY, 06-26-04 AT 1911 HOURS, OFFICERS WERE DISPATCHED TO 2612 GLORY VIEW IN REFERENCE TO A SHOOTING VICTIM INSIDE THE RESIDENCE. OFFICER HICKMAN WAS THE FIRST OFFICER TO ARRIVE WITH OFFICER COON ARRIVING SHORTLY AFTER OFFICER HICKMAN. WHEN I ARRIVED, I WALKED INTO THE FRONT DOOR. THE FRONT DOOR OPENS TO A LARGE LIVING ROOM WITH A DINING AREA TO THE LEFT OF THE FRONT DOOR AND THE KITCHEN ON THE OTHER SIDE OF THE DINING AREA. THERE WAS A LARGE POOL OF BLOOD ON THE FLOOR IN THE DINING AREA AND A LAMP WAS TIPPED OVER IN THE LIVING ROOM. OFFICER COON WAS TALKING TO A FEMALE TRYING TO PLACE DOGS IN THE BACKYARD. OFFICER COON TOLD ME SHE WAS A WITNESS AND THE VICTIM, IVAN YOUNG WAS IN A BEDROOM ON THE EAST SIDE OF THE RESIDENCE. OFFICER HICKMAN WAS TALKING TO YOUNG GETTING HIS PERSONAL INFORMATION. YOUNG WAS LAYING ON A BED ON HIS BACK WITH HIS HANDS AGAINST HIS FACE. I COULD SEE A LOT OF BLOOD ON YOUNG'S NOSE AND CHIN AREA. YOUNG TOLD ME HE GOT SHOT BY TWO GUYS HE DID NOT KNOW WHILE HE WAS IN THE GARAGE. YOUNG BEGAN TO YELL SAYING THAT HIS FACE HURTS. AT THIS TIME, NORTH LAS VEGAS FIRE DEPARTMENT RESCUE UNIT #53 AND SOUTHWEST AMBULANCE UNIT #524 ARRIVED TO TREAT YOUNG. AS PARAMEDICS ROLLED YOUNG OUT OF THE RESIDENCE ON A GURNEY, I NOTICED THAT A SCREEN TO A WINDOW LOCATED ON THE WEST SIDE OF THE RESIDENCE WAS PULLED FROM THE WINDOW FRAME AND HANGING FROM THE TOP. AS PARAMEDICS LOADED YOUNG INTO THE AMBULANCE, OFFICERS WERE SEPARATING WITNESSES.

IVAN YOUNG'S WIFE WAS AT THE RESIDENCE WHEN IVAN WAS SHOT. OFFICER HICKMAN INTERVIEWED HER. REFER TO OFFICER HICKMAN'S FOLLOW-UP REPORT FOR FURTHER INFORMATION.

I THEN SPOKE TO A WHITE MALE, IDENTIFIED AS RYAN JOHN. JOHN TOLD ME HE WAS VISITING HIS GIRLFRIEND AT 2613 GLORY VIEW WHICH IS DIRECTLY ACROSS THE STREET FROM 2612 GLORY VIEW. JOHN LEFT HIS GIRLFRIENDS HOUSE AND STARTED TO WALK TO HIS VEHICLE THAT WAS PARKED IN FRONT OF 2613 GLORY VIEW. A BLACK MALE YELLED TO JOHN FROM THE GARAGE OF 2612 GLORY VIEW THAT IVAN WANTED TO TALK TO HIM. BECAUSE JOHN KNEW IVAN AND WAS FRIENDS WITH HIM, HE WALKED ACROSS THE STREET. THE UNIDENTIFIED BLACK MALE OPENED THE HOUSE DOOR INSIDE THE GARAGE THAT OPENS TO A LAUNDRY ROOM SO JOHN COULD WALK INSIDE. AS JOHN WALKED INTO THE LAUNDRY ROOM, THE SUSPECT PUT A PISTOL TO JOHN'S THROAT AND TOLD HIM TO GET ON THE GROUND IN THE KITCHEN AND PLACE HIS HANDS BEHIND HIS BACK. THERE IS ANOTHER DOOR THAT OPENS INTO THE KITCHEN FROM THE LAUNDRY ROOM. JOHN LAID ON THE FLOOR WITH HIS HEAD TOWARDS THE SINK AND HIS FEET AT THE REFRIGERATOR. THE SUSPECT TIED JOHN'S HANDS BEHIND HIS BACK AND STOMPED ON JOHN'S HEAD. THE SUSPECT THEN PLACED A BLACK JACKET OVER HIS HEAD. THE SUSPECT THEN PLACED A GUN TO JOHN'S HEAD AND TOLD HIM THAT IF HE MOVES, HE WAS GOING TO BLOW HIS BRAINS OUT. THE SUSPECT THEN WENT INTO JOHN'S POCKETS AND FOUND AN AUTOMATIC TELLER MACHINE (ATM) CARD IN A FRONT POCKET. THE SUSPECT THEN TOLD JOHN TO TELL HIM HIS PERSONAL PIN NUMBER TO HIS ATM. JOHN TOLD HIM. THE SUSPECT THEN TOLD JOHN THAT IF THE NUMBER WAS WRONG, HE WOULD COME BACK AND KILL HIM. THE SUSPECT THEN WALKED AWAY. JOHN HEARD TWO MALES TALKING TO IVAN. JOHN SAID THAT IVAN WAS

records bureau processed
 SCARFF/DENISE

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 1259 !

ser no

supervisor approving
 NOWAKOWSKI/DENNIS

ser no : officer reporting
 1225 : HOYT/MARK

ser no
 1334

CASE: 04015160
DATE: 8/13/04
TIME: 7:17

-----NORTH LAS VEGAS POLICE DEPARTMENT----- REF: ORIGINAL
-----POLICE REPORT----- PAGE: 10
-----NARRATIVE PORTION----- OF: 15

CLOSE TO HIM, NEAR THE DINING ROOM AREA. JOHN HEARD IVAN ASKING A MALE NOT TO SHOOT HIM. THEN JOHN HEARD A GUN SHOT AND IVAN SCREAM. JOHN THEN HEARD ONE OF THE SUSPECTS ASK THE OTHER SUSPECT IF HE SHOT HIM. THE OTHER MALE, IN A JAMAICAN ACCENT SAID, YES I SHOT HIM. JOHN THEN HEARD THE SUSPECT LEAVE THROUGH THE FRONT DOOR. ABOUT ONE TO TWO MINUTES LATER, JOHN STOOD UP, TAKING THE JACKET OFF OF HIS HEAD. JOHN RAN TO THE LAUNDRY ROOM, PULLING ONE OF HIS HANDS FROM BEHIND HIS BACK AND JUMPED OUT OF A WINDOW THAT FACES NORTH TO THE REAR YARD. JOHN JUMPED SEVERAL YARDS NORTHBOUND, RUNNING AWAY FROM THE RESIDENCE. JOHN THEN CALLED THE POLICE FROM A CELLULAR TELEPHONE FROM AN UNKNOWN ADDRESS. JOHN HAD SEVERAL MARKS ON BOTH WRIST FROM BEING TIED UP AND WAS TREATED AT THE SCENE BY MEDICAL PERSONNEL. JOHN TOLD ME THAT HE COULD NOT IDENTIFY ANY OF THE SUSPECTS AND WAS UNSURE HOW MANY WERE THERE. JOHN CALLED WELLS FARGO BANK WHICH ISSUED THE ATM CARD. THEY TOLD JOHN THAT AN ATM WITHDRAWAL FOR \$201.50 WAS JUST TAKEN FROM AN UNKNOWN ATM MACHINE. WELLS FARGO WOULD NOT KNOW THE EXACT LOCATION UNTIL MONDAY BECAUSE IT WAS PAST NORMAL BUSINESS HOURS. JOHN COMPLETED A WITNESS STATEMENT AT THE SCENE.

ANOTHER VICTIM, JERMAUN MEANS TOLD ME THAT HE WENT OVER TO 2612 GLORY VIEW BECAUSE IVAN WAS PAINTING HIS VEHICLE. APPARENTLY, IVAN PAINTS VEHICLES OUT OF HIS HOME. AS MEANS WALKED UP TO THE FRONT DOOR, TWO UNKNOWN MALES OPENED THE DOOR AND BEGAN TO WALK OUT. ONE OF THE MALES WAS WEARING A BEIGE SUIT JACKET AND THE OTHER HAD DREAD LOCKS. MEANS BELIEVED THE MALE WITH THE DREAD LOCKS WAS WEARING A WIG. THE SUSPECTS GRABBED ONTO MEANS'S ARM AND PULLED HIM INTO THE RESIDENCE. THEY FORCED HIM TO THE FLOOR JUST INSIDE THE FRONT DOOR AND TIED HIS HANDS BEHIND HIS BACK. MEANS TOLD ME THAT BOTH MALES HAD GUNS IN THEIR HANDS BUT HE COULD NOT DESCRIBE THE WEAPONS. ONE OF THE SUSPECTS ASKED MEANS IF HE HAD ANY MONEY. MEANS TOLD HIM YES. ONE OF THE SUSPECTS REMOVED ABOUT \$1,300.00 DOLLARS FROM MEANS'S FRONT PANTS POCKET. MEANS REMEMBERED HAVING SEVEN \$100.00 BILLS. THE SUSPECT ALSO TOOK MEANS'S CELLULAR TELEPHONE. MEANS TOLD ME THAT THE SUSPECTS THEN LEFT OUT OF THE FRONT DOOR. AFTER A FEW SECONDS, MEANS GOT UP, BROKE THE WIRES THE SUSPECTS TIED HIM UP WITH AND RAN OUTSIDE TO HIS VEHICLE. MEANS'S GIRLFRIEND, DESTINEE WADDY WAS WAITING INSIDE THE VEHICLE. MEANS TOLD ME THAT HE DID NOT HEAR ANY GUN SHOTS SO HE BELIEVED IVAN WAS ALREADY SHOT BEFORE HE GOT THERE. MEANS RECEIVED MEDICAL ATTENTION AT THE SCENE AND HE COMPLETED A WITNESS STATEMENT. MEANS TOLD ME HE COULD NOT IDENTIFY THE SUSPECTS.

WADDY TOLD ME THAT SHE SAW TWO UNIDENTIFIED MALES WALK OUT OF THE RESIDENCE AND GOT INTO A DARK GREEN VEHICLE. WADDY SAID THE VEHICLE WAS POSSIBLY A PONTIAC GRAND AM. THE VEHICLE WAS LAST SEEN WESTBOUND ON GLORY VIEW. WADDY DESCRIBED THE MALES AS ONE WEARING A WIG, ABOUT 5'8" TALL. THE OTHER MALE WAS ABOUT 5'11" TALL. BOTH WERE WEARING BLUE AND WHITE CLOTHING. WADDY TOLD ME THAT SHE HAS NEVER SEEN THE TWO MALES BEFORE. WADDY ALSO COMPLETED A WITNESS STATEMENT AT THE SCENE.

records bureau processed
SCARFF/DENISE

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1259 !

ser no

supervisor approving
NOWAKOWSKI/DENNIS

ser no ! officer reporting
1225 ! HOYT/MARK

ser no
1334

CASE: 04015160
DATE: 8/13/04
TIME: 7:17

-----NORTH LAS VEGAS POLICE DEPARTMENT-----
-----POLICE REPORT-----
-----NARRATIVE PORTION-----

REF: ORIGINAL
PAGE: 11
OF: 15

IVAN'S SON, AARON DENNIS WAS ALSO AT THE RESIDENCE WHEN HE WAS SHOT. DENNIS SAID THAT HIS FATHER CAME INTO THE HOUSE AND TOLD HIM, HIS MOTHER AND HIS COUSIN TO DO WHAT THEY SAY. TWO BLACK MALES WERE WALKING BEHIND IVAN. ONE WAS WEARING A BLACK JACKET. THE TWO MALES DEMANDED EVERYONE TO GET ON THE GROUND. ONE OF THE SUSPECTS TIED DENNIS'S HANDS BEHIND HIS BACK. DENNIS THEN ONLY REMEMBERED ONE OF THE MALES ASKING FOR MONEY AND SHOOTING IVAN. DENNIS COMPLETED A WITNESS STATEMENT AND HE WAS TREATED BY PARAMEDICS AT THE SCENE.

IVAN'S NEPHEW, JOSE POSADA TOLD ME TWO UNIDENTIFIED BLACK MALES WERE THREATENING IVAN FOR MONEY. THE SUSPECTS MADE POSADA AND DENNIS FACE A WALL AND ASKED THEM WHERE ALL THE TELEPHONES WERE. POSADA TOLD THE MALES AND THE SUSPECTS BROKE ALL OF THE TELEPHONES AND CELLULAR PHONES. POSADA SAID THE SUSPECTS TIED EVERYONE UP WITH WIRES FROM THE FLOOR LAMPS IN THE LIVING ROOM. POSADA THEN SAID HIS UNCLE IVAN WAS SHOT IN THE HEAD. POSADA DESCRIBED ONE OF THE MALES AS A BLACK MALE WITH BRAIDS. THE OTHER MALE WAS A BLACK MALE WITH A DARK AFRO. ONE OF THE SUSPECTS WAS WEARING A TUXEDO SHIRT. POSADA ALSO SAID THAT HE SAW THREE GUNS. THE TWO MALES THEN WALKED OUT OF THE FRONT DOOR. POSADA COMPLETED A WITNESS STATEMENT AT THE SCENE AND WAS TREATED BY PARAMEDICS.

CSI BRADY ARRIVED AND PROCESSED THE SCENE. DETECTIVES PRIETO AND MELGARJEO ALSO ARRIVED ON SCENE. OFFICER BAILEY WENT TO UNIVERSITY MEDICAL CENTER TO CHECK ON IVAN'S INJURIES. IVAN WAS LAST LISTED IN STABLE CONDITION. OFFICER BAILEY ALSO INTERVIEWED IVAN. REFER TO OFFICER BAILEY'S FOLLOW-UP REPORT FOR FURTHER DETAILS. TAMMY POSADA, JOSE'S MOTHER ARRIVED ON SCENE AND TOOK POSSESSION OF THE FOUR DOGS BELONGING TO IVAN. TAMMY ALSO TOOK CUSTODY OF JOSE AND DENNIS UNTIL FURTHER NOTICE. AT ABOUT 2330 HOURS, DISPATCH RECEIVED A TELEPHONE CALL FROM TOM WINTER ABOUT POSSIBLE INFORMATION ON THE SUSPECTS. WINTER TOLD ME HE OWNS SEVERAL PROPERTIES IN THE LAS VEGAS VALLEY. ONE OF HIS EX-TENANTS, ERIC HAWKINS OWNS A DARK GREEN CHEVY MALIBU AND WAS A SUSPECT IN A BURGLARY CASE ABOUT TWO MONTHS AGO. WINTER SAW A NEWS RELEASE AND TOLD ME THAT HAWKINS'S METHOD OF OPERATION MATCHES A BURGLARY TWO MONTHS AGO, 'SIMILAR TO 2612 GLORY VIEW. WINTER TOLD ME HAWKINS SPEAKS WITH A JAMAICAN ACCENT AND HAS A BROTHER-IN-LAW THAT HE IS ALWAYS SEEN WITH. WINTER TOLD ME HAWKINS'S SOCIAL SECURITY NUMBER IS [REDACTED] 6948. A RECORDS CHECK ON HAWKINS REVEALED THAT HE HAS BEEN ARRESTED IN THE PAST FOR NARCOTICS AND WEAPONS CHARGES WITH A D.O.B. OF 072284. HE IS LISTED AS 5'10" TALL AND 140 POUNDS. DISPATCH PROVIDED POSSIBLE ADDRESSES IN LAS VEGAS OF 1904 JOELLA OR 3332 PARAGON DRIVE.

ATTACHMENTS: FIVE WITNESS STATEMENTS.

records bureau processed
SCARFF/DENISE

ser no | detective bureau processed
1259 |

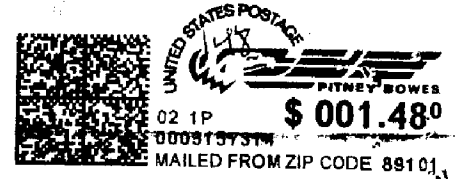
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supervisor approving
NOWAKOWSKI/DENNIS

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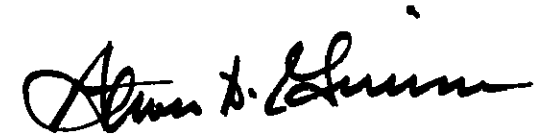
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Mr. Rickie Slaughter #1896569
Clark County Detention Center
330 S. Casino Center Blvd
Las Vegas, NV. 89101
(in Proper Person)



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TRAN
CASE NO. C-204957
DEPT. NO. 3



CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

* * * * *

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

REPORTER'S TRANSCRIPT
OF
SENTENCING

BEFORE THE HONORABLE DOUGLAS HERNDON
DISTRICT COURT JUDGE

DATED: TUESDAY, OCTOBER 16, 2012

REPORTED BY: SHARON HOWARD, C.C.R. NO. 745

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APPEARANCES:

For the State: MARC DIGIACOMO, ESQ.

For the Defendant: PRO PER

* * * * *

1 LAS VEGAS, NEVADA; TUESDAY, OCTOBER 16, 2012

2 P R O C E E D I N G S

3 * * * * *

4
5 THE COURT: Page 4, State of Nevada vs. Rickie
6 Slaughter. Mr. Slaughter is present in custody. This is
7 on for sentencing. Any legal cause or reason why
8 sentencing should not go forward.

9 MR. DIGIACOMO: Not from the State, Judge.

10 THE DEFENDANT: The fact I was wrongly
11 convicted, no.

12 THE COURT: All right. I'm going to go ahead
13 and adjudicate you, pursuant to the jury verdict, for
14 Count (1), conspiracy to commit kidnapping.

15 Count (2), conspiracy to commit robbery.

16 Count (3), attempt murder with use of a deadly
17 weapon.

18 Count (4), battery with use of a deadly weapon.

19 Count (5) attempt robbery with use of a deadly
20 weapon.

21 Count (6), robbery with use of a deadly weapon.

22 Count (7), burglary while in possession of a deadly
23 weapon.

24 Count (8), burglary.

25 Count (9), first degree kidnapping with use of a

1 deadly weapon, with substantial bodily harm.

2 Counts (10) through (14), first degree kidnapping
3 with use of a deadly weapon -- all felonies.

4 Mr. DiGiacomo.

5 MR. DIGIACOMO: Thank you, Judge.

6 Judge did you adjudicate him on Count (4).

7 THE COURT: I believe so.

8 MR. DIGIACOMO: I believe you shouldn't
9 adjudicate him. I believe that's a charge concurrent with
10 the attempt murder with use of the deadly weapon.

11 THE COURT: You're right. I'm sorry.

12 MR. DIGIACOMO: I'd ask you to not adjudicate
13 him on Count (4).

14 THE COURT: There will be no adjudication on
15 Count (4), since it was an alternative to Count (3).

16 All right. Mr. DiGiacomo.

17 MR. DIGIACOMO: Judge, after 8 years I don't
18 have a lot to add. I would note that while he's eligible
19 for life without the possibility of parole because of the
20 nature of the crime he's convicted of, considering the
21 cases you've seen, I've seen, I don't believe Mr.
22 Slaughter has earned the life without the possibility of
23 parole. Although a couple inches to the right or the left
24 on that bullet that hit Ivan's face, we could have been
25 talking about a very good capital case against

1 Mr. Slaughter.

2 So I do believe he has earned a life sentence. And
3 on that kidnapping count, that means a life minimum 15
4 with an equal and consecutive under the old law. So it's
5 30 to life.

6 The Department of Parole and Probation, for whatever
7 reason, decided which ones they were going to make
8 concurrent and consecutive. When I added it up it added
9 up to another 11 years or so on top of the 30 to life.
10 I'm going to suggest to you that those counts that they
11 chose to run consecutive probably aren't the counts, from
12 the way this case worked, that should be consecutive.

13 I'm going to suggest to you that the children in this
14 home that were tied up and robbed in front of their family
15 members, and then watched their family member get shot in
16 the face, that those kids deserve some justice, different
17 then just the justice that Ivan is going to get for
18 getting shot in the face.

19 I'm going to suggest to the court that the counts
20 associated with the children, which I believe are Counts
21 (13) and (14), should run consecutive to the 30 life.
22 Then run the rest concurrent, Judge. I'd ask that you
23 give a life term for all of those.

24 Anybody who would go into a house with guns and can
25 tie up children and shoot their parents in the face, or

1 their uncle in the face, somebody like that deserves a
2 very stiff sentence. And I would urge the court to
3 individualize the justice for each one of the victims.

4 The only last thing, Judge, is it doesn't
5 specifically state, I believe victim one is Ivan Young.
6 And I believe victim 5 for the restitution is Jennifer
7 Dennis.

8 THE COURT: All right. Those amounts -- it's
9 40,500.00 total. The amounts are divided up how.

10 MR. DIGIACOMO: According to the PSI, it's
11 5,500.00 for Jennifer -- hold on. Let me get to that
12 page. Jennifer's amount is 5,500.00. And victims of
13 Crime actually receives the 35,000.00, as they extended it
14 on Ivan Young.

15 THE COURT: All right. Anything further, Mr.
16 DiGiacomo.

17 MR. DIGIACOMO: The only other thing, Judge, is
18 he expired the other terms. His credit was calculated
19 from -- under an understanding that it was consecutive to
20 196399. So I'd ask for an order that those expired and
21 this sentence run consecutive to that one, because it's
22 been going on so long.

23 THE COURT: All right.

24 Mr. Slaughter.

25 THE DEFENDANT: As far as the restitution, I

1 believe before I get to talk about some of the facts and
2 some of the mitigating circumstances, the restitution for
3 victim No. 5, the physical damage and restitution they
4 seem to suggest in here comes from the original PSI in
5 2005. Actually the court has reduced the award, one of
6 the restitution amounts, if you look in that transcript
7 from the original sentencing here because it wasn't
8 verifiable. It was supposed to be damage to property or
9 residence.

10 The Court had only imposed in the original sentence
11 \$35,000.00 for victim's medical expenses and things of
12 that nature. I'll move past that.

13 About allegations, they are terrible, terrible
14 accusations made against me. I have been convicted of.
15 I've known that for a long time. They amount to nothing
16 less than a tragedy. I've known that for the last 8
17 years.

18 Nothing new has come to light in way of the
19 accusations made against me since on the first sentence in
20 August 2005, before we had the reversal and the new trial
21 we had.

22 But there exists a double tragedy in this courtroom
23 today through a series of events and circumstances forever
24 wound up, tied up together, book of fate, all of them
25 equally as tragic as the other.

1 On one hand you have the terrible criminal acts that
2 were committed against these people. I've read this
3 report. I've listened to the testimony. I sat through
4 this case. I feel sad and disturbed at the human
5 suffering. I hope this court wouldn't propose to think I
6 have any less of a warm blooded, soft wounded heart as
7 Mr. DiGiacomo does. I hope this court doesn't think I'm
8 any less of a human being that cringes and is disturbed by
9 the stories of human suffering. Because I am. I am
10 disturbed by them.

11 At the same time I say there's a double tragedy
12 because we have these criminal acts. But on the other
13 hand, you have the horrible fact that I was wrongly
14 convicted for a crime I never committed. I will forever
15 have to carry the cross and the burden. I will deal with
16 the punishment and the suffering for a crime which I'm, in
17 fact, innocent of. But I know there is a jury verdict.
18 And a jury verdict has to be respected, unless it's
19 overturned.

20 In turn, this court therefore has to impose some
21 penalty today. But I think there is a lot of mitigating
22 facts and a lot of mitigating circumstances that weigh in
23 favor of this court not impose in terms or consecutive
24 terms as Mr. DiGiacomo would like to impose. Or the ones
25 recommended by P&P. Because it doesn't matter if it's on

1 the maximum end or on the minimum end of these penalties,
2 there is nothing but darkness. At a minimum 3 decades, 30
3 years, I will stare at and have a sad suffering human
4 prison life. Isolated away from the world.

5 Some of those mitigating circumstances. I'll start
6 with the fact that we are -- the criminal justice system
7 is not perfect. Our trial process sometimes produces
8 wrongful convictions. We know this. We know this because
9 we have people like Barry Scheck, Peter Newfield of the
10 Innocence Project that exonerate innocent defendants who
11 are wrongly convicted and sentenced to massive amounts of
12 time, only to later learn that they were exonerated by
13 science of DNA testing. We know those people were
14 innocent. That they were wrongfully punished.

15 We know that the story was convincing. We know from
16 legendary studies from professionals like Samuel Gross at
17 Michigan University Law School, there are thousands of
18 wrongful convictions. We know that people sometimes get
19 wrongly convicted in this system. We know when you boil
20 down all that data from every wrongful conviction that's
21 ever been studied by man, by human eyes, you boil it down
22 the leading cause is mistaken identification. Eye-witness
23 testimony is the leading cause of wrongful conviction. It
24 plays a part in this case. I think when you measure the
25 unique aspect of culpability, I think you should consider

1 some of these things I speak about.

2 You have this case based primarily on eye-witness
3 testimony. In that testimony you had to pay close
4 attention. You couldn't just give it a first glance. If
5 you scrutinize that testimony, you realize you can see
6 that a lot of the hallmark traditional indications of
7 mistaken identification are in that testimony. Let's
8 start with the beginning.

9 You get descriptions of witnesses. One by one,
10 witness after another. They took the stand. They each
11 testified. We ask them, describe the perpetrators for us.
12 They said it's two black males. Anything further and
13 distinctive about that. They say, yeah. They had
14 accents. The attorney said accents. What kind of accents
15 did you hear. They say Jamaican accents. A Jamaican
16 accent.

17 One after another witnesses testified to this. If you
18 actually look, your Honor, you have to look at page 7.
19 You look under the title of this report called a synopsis,
20 which is a recap of the original police report in this
21 case. The fifth paragraph down says, a detective compiled
22 a photo lineup that included Mr. Slaughter. Victim number
23 one identified Mr. Slaughter as the person who shot him.
24 He added Mr. Slaughter spoke with a Jamaican accent.

25 Even in that original report he had indications there

1 were these perpetrators that had these legitimate Jamaican
2 accents. One of the witnesses even testified they said
3 they were from Beliez.

4 So during the trial we had this problem. We had the
5 jury looking around and scratching their heads and there
6 were a number of questions in the juror questions that
7 were part of court exhibits at trial where they start
8 asking does this Defendant have a Jamaican accent. They
9 finally heard my voice, and they seen the testimony that I
10 didn't have a Jamaican accent.

11 The State had to cover their tails, so they say stuff
12 that wasn't really supported by evidence. They say, well,
13 maybe he faked it. They knew they had a problem.

14 There was big discrepancy that there was no testimony
15 to say it was fake. All indications were that it was a
16 legitimate accent they heard. We asked, are you sure.
17 They said definitely, Jamaican accents. They said they
18 were from Beliez.

19 Look a little further. You look further at that
20 testimony, one by one they took the stand. We asked, did
21 you look into the face of the perpetrator. They say,
22 sure, yeah. What did you see. See any bruises. See any
23 facial scars. See any black eyes. Well, no. We asked
24 each witness the same question. One of the witnesses went
25 as far as to say he was face-to-face with the perpetrator,

1 who he wrongly believes to be me, said he didn't see any
2 facial scars. He didn't see any black eyes. He didn't
3 see any bruises. He said, I looked in his eyes, I
4 absolutely didn't see that.

5 We know that's a big problem and a big discrepancy
6 because we know this that there is indisputable evidence
7 in the form of my UMC medical records that was produced
8 into that trial court of records that showed I was the
9 victim of an assault before the day in question. I was
10 beaten. I had over 6 centimeters worth of facial
11 lacerations. Sutures in my face. Stitches and black eyes
12 as well. We know from photographic evidence produced into
13 the trial record that showed that I had that black eye on
14 the day in question. We know from a witness who testified
15 and described that I had a black eye and facial scaring.
16 I had those stitches freshly removed.

17 So the problem with that is you look at that, you get
18 all these hallmarks, all these indications of mistaken
19 identification because they don't see a guy that has a
20 black eye. Who wouldn't recognize a guy with a black
21 eye.

22 We all say looks like he got his hat hand to him.
23 The guy got his ass kicked. I noticed that before
24 anything when I see somebody.

25 The indication is that they didn't see me. They were

1 seeing someone else, and they'd mistaken me for somebody
2 else.

3 The fact that I don't speak with a Jamaican accent.
4 This court is fully aware, I'm fully aware that it's
5 always been, I never will speak with a Jamaican accent.
6 Never have. I'm a citizen of Las Vegas. I'm a native and
7 a resident.

8 But then look a little further. You get to
9 wondering. You say, well, they pointed him out in a
10 lineup. How did that happen. Well, we know when this
11 case first happened its all over the news. All this news
12 footage of this case, broadcast all on the news.

13 Police get a tip from some unrevealed informant.
14 They get this tip, this informant, according to the police
15 reports, he has warrants for criminal activity. He has
16 some outstanding warrants and he wanted some type of
17 favoritism. It doesn't show up in the PSI, but it's in
18 the police reports and trial record.

19 He asked the cops to squash those warrants so he's
20 not arrested and he'd give them a name, which they can
21 investigate pursuant to case on the news. He gives them
22 my name. When the police compile and do a 6-pack photo
23 lineup of six pictures, you take that 6-pack photo lineup
24 and the problem is they didn't do a fair lineup. They
25 make mine stand out. They alter it. They manipulate it.

1 It looks different than all the other 6 pictures.

2 Witness after witness took the stand and we asked
3 them, do any of the pictures look different in that photo
4 array. They testified under oath, yeah, sure. This
5 picture looks different. There is no background color.
6 The color tone is different. This picture looks
7 different.

8 We put one of the worlds most respected and renowned
9 forensic psychologists on the stand, Professor Loftis
10 (ph). He got up there. And what did he tell us. He
11 looked at those photo lineups. He said that is an
12 improper procedure. He's studied mistaken eye-witness
13 identification for over 60 years almost. He said that is
14 an improper photo lineup. He said you do that, when you
15 make that photo stand out, it's essentially a
16 psychological trick. It is no different then a magician's
17 mentalist trick designed to increase the likelihood that
18 that photo will be selected.

19 What happens is it draws the witnesses' eyes to that
20 picture over, and over, and over. You look at that photo
21 and as their attention is drawn to that photo they start
22 to wondering and are confused. Why does this picture
23 stand out. Why did the police make this picture look
24 different. Oh, this is the guy the police must think it
25 is. This is the one they want me to select. It places

1 influence on their mind, just like that magician's
2 mentalist trick. It increases the likelihood they'll pick
3 a card, any card. Only we know the magician has some
4 trick to suggest what card he wants you to pick. We know
5 that the magician has a trick that increases the
6 likelihood you'll pick the card he wants you to. So they
7 select that photo.

8 The eye-witness testimony is tainted from the
9 beginning of the investigation. Tainted from the
10 beginning. Cause now they got this picture etched in
11 their mind, and at the time you ask him, you see the
12 suspect. You see the guy. They see this picture. They
13 say, yeah. That's the guy that spoke with the Jamaican
14 accent. Only we know I don't have an accent. We know
15 there is no physical evidence in this case, no forensic
16 evidence to link this case to me. The case is built on
17 loose common circumstances and tainted eye-witness
18 testimony that didn't add up.

19 Mr. DiGiacmo would like to say sometimes he's
20 astounded. He'd say, well, he was caught driving the car.
21 The car that was described as the get-away vehicle. Let's
22 be clear about something. When you look at that, you have
23 3 different, very generic, very vague descriptions of the
24 vehicle described by the witnesses in this case. There
25 was no eye-witness that provided a license plate number,

1 or year model number, or the vehicle. There is no
2 eye-witness that provided -- identified any specific car
3 from a picture or anything of that nature. We didn't have
4 a year or model number in which you could identify and
5 narrow down what year or make this car might be.

6 We know a car made in the 90s has a different
7 physical build then a car made in the 80s. We have
8 witnesses, Destiny Waters. She testified she seen the
9 perpetrator leave the crime scene in a green Pontiac Grand
10 AM. No license plate number. No year model.

11 You have yet another witness get on the stand and in
12 the 911 call he said, no, the car is blue. It's a blue
13 Ford Tempo or maybe a Mercury Topaz. That was Jennifer
14 Dennis. When she got on the stand we asked her. Did you
15 see a car. She says, yes. It's blue. Are you sure it
16 wasn't green. Yeah, it was blue, a blue car. We say,
17 what make. She says a Mercury Topaz. Maybe a Ford Tempo.

18 You have another witness acting confused on top of
19 that. He says, well, maybe it was a green Ford. Mr.
20 DiGiacomo -- and say, because I had a girlfriend with a
21 1997, green Ford Taurus that that is the getaway vehicle.

22 No, what that means is there was a common
23 circumstance in my life to match any citizen in this city,
24 thousands, maybe tens of thousands of other citizens that
25 have a cream Pontiac Grand AM, blue Mercury Topaz car,

1 Ford Tempo, a blue or green Ford Taurus. This is the type
2 of evidence that this case is built on, common, loose
3 fitting circumstances.

4 Descriptions that didn't match. Eye-witness
5 testimony that was tainted. No physical evidence. It's
6 exaggerations. We look at every last one of those
7 wrongful convictions that have ever been studied by man, I
8 think even more dangerous than eye-witness testimony,
9 which is the leading cause of wrongful convictions, even
10 more dangerous than that is there's a prosecutor behind
11 that that has these great powers of exaggeration. Great
12 powers.

13 Powers of persuasion. They get up there and they sum
14 up these olympic heights, rhetoric, they make the
15 circumstances sound a little too well. Weave them
16 together just a little too good. They convince and sway
17 some jury into coming back with a verdict that convicts a
18 man. Then they move on to sentencing court. They come,
19 try to persuade the court with those same powers.

20 They get that court to impose some big massive
21 penalty. Some large archaic penalties that I face today.
22 Your Honor sentences. What does it mean. Why do they
23 want all those big sentences for. What could be the
24 purpose of having a person sentenced to consecutive,
25 multiple life sentences, when he can only live one

1 lifetime. What could be the purpose of two lifes without.
2 A case with no human death. Or a bunch of definite terms
3 and life sentences running behind that, when a man can
4 only live once. This is essentially a trophy of terms.
5 Sometimes they go back and celebrate and make jokes about
6 it. The defendant will never get out.

7 Sometimes those big sentences, when they get them,
8 they are looked at like a deer on a mantel over the
9 fireplace, a skin tacked on the wall. Look at my trophy.
10 Look at my hunt. Look at my catch. Look at my kill.

11 You know sometimes it's looked at like that. Like a
12 glorious day for the justice system, when that's the
13 motivating factor that may in turn move a court to impose
14 some big large sentence.

15 You have those facts. You have those questionable
16 facts that raise doubt in mitigation. But you have more
17 then that. There's something I need to speak of.
18 Sometimes I wonder if I'm dreaming when I step in this
19 courtroom. I've felt the dynamic over the last 8 years.
20 It feels like there is a great secret harboring. Nobody
21 else knows about it. Not even Mr. DiGiacomo or this
22 court. I'm going to put it out there. I think it needs
23 to be discussed.

24 April 4, 2005, I previously accepted a plea deal in
25 this case. I accepted a plea deal from Mr. DiGiacomo. He

1 wouldn't let me take an Alford plea, which would allow me
2 to maintain my innocence and accept a lesser benefit of
3 that deal. I accepted that plea deal for the lesser
4 penalty, because I was scared to death of facing the type
5 of same large sentences that I face today.

6 But let me tell you a deeper reason why. I was a
7 20-year-old young man when I elected to represent myself
8 at that time. Didn't feel like anybody in the criminal
9 justice system had my interest at heart. Not even my
10 attorney who was assigned to represent me. A man named
11 Mr. Paul Womer, who now faces a great deal of federal
12 criminal trouble himself right now. He's charged with
13 other crimes.

14 But I was scared. Nobody was looking for my
15 interest. And out of a move of desperation I elected to
16 represent myself. I had to go through the wilderness of
17 the legal process all alone. A stranger in a strange
18 land. Surrounded in all kinds of unfamiliar names,
19 unfamiliar court terminology and legal precepts. I stepped
20 in that role with nothing more than a 9th grade education.
21 So I try to assert my rights, and I try to fight the best
22 I could. I fought for months. I did the best I could.
23 But as the court ruled against me time and time again, I
24 began to feel deterred. Ruling after ruling, I felt a
25 little more diminished. I grew a little more fearful. I

1 grew a little more frightful. I feared that the system
2 could malfunction and I would be wrongly convicted and I
3 would face these kinds of sentences. These kinds of
4 penalties.

5 And the State was like a shark. They zeroed in on
6 that. Right when I was vulnerable. They say we got this
7 deal. Mr. Slaughter you can take this deal. You secure
8 an opportunity some day to possibly be released. Or you
9 can go to trial. There was no chance to be acquitted
10 representing yourself. You'll get convicted. And you'll
11 receive double life without. I remember Mr. DiGiacomo
12 telling me that almost 7 years ago.

13 Need I say 20 years old, all alone in the system.
14 Far away from anything that seemed familiar to me scared
15 the death out of me. Took the life right out of me. It
16 tugged and it pulled on me. That fear beat on me. I
17 submitted. I gave in. Cracked. Gave up and I took that
18 deal. Out of fear of larger penalties. I made a false
19 plea of guilty. I made a false plea so I could accept
20 those lesser sentences.

21 Later on I found out that deal wasn't all it was
22 supposed to be. I spent the next 4 years of my life
23 fighting to give that deal back and reclaim my trial
24 rights. That's what all the appeals, all the successful
25 appeals and two reversals in Nevada Supreme Court that I

1 obtained were about. I was trying to rectify a situation
2 that should have never happened. I was trying to correct
3 a wrong. A thing that occurred that wasn't supposed to
4 occur. I should have never made that plea. I think this
5 court was affected by it. I think Mr. DiGiacomo -- I know
6 for a fact he was affected by it. He said a number of
7 times in different courses of these proceedings he feels I
8 manipulated the legal system by taking actions to withdraw
9 that plea.

10 I think those things somewhat tainted the proceeding.
11 I know I run the risk of alienating this court away from
12 me by asking for the penalties I'm asking for. But I feel
13 this needs to be said. Because I know, as a human being,
14 there is no event I can take in, a witness, and it doesn't
15 affect my mind in some degree. There has never been a
16 word I read that didn't influence me one way or another.
17 There's never been a story I've heard a man recount that
18 hasn't provoked thoughts and feelings inside of me. And I
19 think this court, strong as it is, I think still, as a
20 human being, has affected this court. I think it effected
21 Mr. DiGiacomo. I think this court was a little hesitant
22 to step up and protect my rights when they were being
23 violated at times.

24 Mr. DiGiacomo felt justified in doing some of the
25 things he did. May be considered inappropriate. May be

1 considered appropriate. He felt justified because he felt
2 the means justify the ends, so long as he reclaims that
3 conviction.

4 A strange thing happened out of all of that, all
5 those court battles, years of litigation. I think this
6 should be considered as mitigating circumstances.

7 Obviously, I discovered I have a gift. I discovered
8 I have a talent. I could interpret the law and appreciate
9 the law, and I could craft legitimate legal argument to
10 such a degree that I obtained two reversals. Should it be
11 considered a mitigating circumstance that I have a
12 salvageable mind. Something worthy of service in the
13 community. To be in mitigation that three professionals
14 in this very legal community in which we stand have
15 offered me a job. First was a woman named Stephanie
16 Guise, Guise Law Group (ph). She said she'd waste no time
17 hiring me. She could use my help.

18 The second was my very own trial attorney Mr. Oswaldo
19 Fumo. Ozzy as we all affectionately called him. He even
20 told Mr DiGiacomo during trial, he said I'm going to hire
21 Rickie. He's going to work for my firm. I'd have him
22 write motions and do research all day.

23 Your Honor, this very court's own law clerk, Mr.
24 Steven Clough, told me when the day comes he stops
25 servicing this bench, this court, your Honor, he was going

1 to open a law firm and I should look him up. He'd waste
2 no time. He would hire me in a heartbeat.

3 Steve has told me a number of times he learned a lot
4 from the different legal arguments and briefs and motions
5 and various things I've submitted to the court over the
6 years. Should it be considered in mitigation that a
7 woman, a lawyer in the community Julie Ray, came down here
8 to support me to show moral support for my sentencing.
9 She has nothing to do with the case. But is it a
10 mitigating circumstance that these people don't find me an
11 incorrigible character. That they were willing to accept
12 me to the fold of their professional lives with no fear or
13 threat or danger to them. Does that speak to the
14 characteristics of the man and human being who stands in
15 front of you.

16 A living, breathing human being whose consequences
17 are going to come out from these punishments that come out
18 today. The unfortunate thing about all of that is I
19 probably will never have the opportunity to utilize those
20 legal talents outside the tall walls of High Desert State
21 Prison, or any other gates in Nevada's prison system.
22 Because the most lay sentence I have to ask for that's
23 available at the table today is a minimum of 30 to 80
24 years. But I don't want this court to think that imposing
25 a lenient sentence and the option available is by any

1 means a life sentence. Because it's not. It's
2 sufficient. It's severe. It's enough time. I will
3 suffer greatly.

4 What it means I will suffer and live a life, a sad
5 prison life as a prisoner, isolated away from the world
6 for 3 entire decades. I'll watch my family members die
7 from behind a wall. My child will grow older. I will be
8 brought closer to the end of my life span. Life and time
9 I'll age physically. Physically age my body. I'll spend
10 all my 20s, all my 30s, and all my 40s, trapped inside of
11 a concrete box. The environment of steel doors, shackles,
12 surrounded by prison guards.

13 I'm going to ask this court to sentence me on Count
14 (9) to 15 to 40 years. Because we know I have 14 felony
15 offenses in front of me. The count is a single grade with
16 the potential minimum penalty is Count (9). In that
17 count, legislators authorize 3 potential sentences. The
18 most extreme count in this spectrum is life without a
19 parole option. Life without ever having the possibility
20 of parole. And we know I won't get two of those because
21 I'll have the whole weapon enhancement law in effect here.

22 You have a 15 to life. The most lenient you have is
23 a 15 to 40 term option. Legislatures seen fit to
24 authorize that kind of option. Because they foreseen in
25 their wisdom that there would arise some circumstance,

1 some case will come along some day where that would be a
2 sufficient and appropriate punishment, given the
3 circumstances, and the individual, and the characteristics
4 of the person that stands before this court.

5 I would submit that this is that type of circumstance
6 where that is a sufficient amount of time. Because we
7 know I will get a double consecutive, equal and
8 consecutive two 15 to 40 year terms to run behind that.

9 THE COURT: Not on Count (9). You can only
10 enhance a crime once. So you either enhance it with
11 substantial bodily harm making it a 15 to 40, 15 to life,
12 or life without. Or you enhance it with a weapon, which
13 makes it 5 on the low end enhancement.

14 MR. DIGIACOMO: I apologize. I don't mean to
15 tell the court. It's like battery with substantial, which
16 you can add the deadly weapon to.

17 Battery -- the first degree kidnapping, Mr. Slaughter
18 is correct. The minimum sentence is 30 years on the
19 bottom, because this crime itself is defined as first
20 degree kidnapping. The sentence is 5 to life. With
21 substantial bodily harm, it's 15 to life. Then the deadly
22 weapon enhancement is an equal and consecutive sentence.
23 So it is 30, Judge.

24 THE COURT: Go ahead, Rickie.

25 THE DEFENDANT: I ask this court, let's assume

1 it's all mathematics, all lies for the purpose of what I'm
2 going to describe.

3 I'm going to ask the court to assume that you impose
4 a minimum penalty. Stars just all lined up for me today.
5 I get a 15 to 40 on Count (9). Then you give me equal and
6 consecutive double 15 to 40 for the use of a weapon --
7 deadly weapon enhancement -- excuse me.

8 Let's further assume that on Counts (10) through (14)
9 you sentence me to definite terms of 5 to 15 years, and
10 the equal and consecutive for the weapon enhancement on
11 that.

12 Then let's assume you sentence me to whatever count
13 you find worthy in your discretion in Counts (1) through
14 (8). Then you run all those concurrent. Because you want
15 simple math for the timekeeper, because if you don't give
16 them simple math we know from prior history in this case
17 and issues in the past, that once the timekeeper whips the
18 computation magic on that sentence it may grow and evolve
19 and expand far beyond what this court intended. In which
20 my thinking, and I'll tell this court why that's
21 important. So I have an opportunity to some day be
22 released in my lifetime.

23 But this is what happens. If you give me those
24 sentences, let's assume all of that happens. What happens
25 to all the primary offenses. All the primary offence

1 Count (1) through (14), become one big offence. The
2 biggest potential minimum would be the 15 to 40 year term
3 for first degree kidnapping, with substantial bodily
4 harm.

5 And all the secondary offenses for the weapon
6 enhancements that attach to Counts (1) through (14). They
7 become one, the biggest penalty for the weapon
8 enhancement, which is Count (9), again.

9 So you'd have essentially, for easy math, two, 15 to
10 40 year terms. It means a minimum of 30 years. Which
11 means that I will spend the next 3 decades, and we know
12 that's a lot of time because historically as human beings
13 we have been able to sum up all areas in increments of 10
14 years in this century. You just think about the
15 differences that happened from the 60s to the 70s. And
16 the things that changed in the 70s to the 80. And from
17 the 80s to the 90s and all through the millennium. We
18 know that 30 consecutive human years of time is a lot of
19 time. I don't think anybody in this gallery, anyone of
20 these guys hooked up on this chain gang, or anyone of the
21 court officers, law clerks, who can say that that is a
22 light sentence by any means. That is a harsh and severe
23 arduous punishment for anybody to set their mind about
24 trying to settle up with, trying to serve out.

25 I will age 30 years into the future. I will age into

1 a sad old man. I will be almost 50 years old before I
2 have a chance to beg for parole consideration. 50 years
3 old I will lose all my youth. As I age 30 years into the
4 future my family will age 30 years into the future.

5 I will live in the fear that the message is coming.
6 The fear that some robotic callused prison guard is going
7 to show up with a message and say another one of my
8 relatives has died. While I sat helplessly behind a
9 prison wall. Nothing to console me, powerless to console
10 them in their life. Nothing left but my grief and
11 concrete walls and steel doors.

12 I anticipate my father will die during that time. I
13 anticipate in 30 years I'll get information that my mother
14 died. I will get information that my grandmother and lot
15 of other relatives are dying. I know that because I have
16 already lost relatives in the 8 years I've been
17 incarcerated now.

18 We know that that is the most accurate statistic in
19 the world, 10 out of 10 people die. Nobody beats it. I
20 will live in fear that that message is coming. I will
21 suffer even more in this actuality as it arrives. I
22 didn't have time, I didn't have an opportunity to spend
23 any final moments with those people.

24 As I age 30 years into the further, so will my son.
25 My child, little Rickie. He will age 30 years older too.

1 I will miss all his firsts. I will miss his first days of
2 school. I wasn't there to teach him how to ride a bike.
3 All he had was a substitute dad. His step-father. I will
4 miss much more. I will miss all of those ceremonies he
5 might have with honor role and honor society, because he's
6 a bright boy and he gets As and Bs. I won't be there to
7 guide him through the future and adolescence when he gets
8 older. I'll miss the joy of when he lands his first summer
9 job, or the first time he secures his license and decides
10 he wants to take that care for a spin around the block
11 because he's got a license and legitimately can do so by
12 himself now.

13 I won't be there for his athletic practices, football
14 games. I'll miss all of that. I won't see him off to any
15 proms, homecomings. I'll miss his graduation as he stands
16 up there in that cap and gown, smiles ear to ear, seizing
17 that diploma as the school administrator gives him that
18 diploma and sees him walk on his way. I won't be a part
19 of his selection of colleges or any major area of study
20 that he wishes to do.

21 I won't be there when he makes that serious decision
22 to get engaged to some woman that he feels is the love of
23 his life, and he wants to get married to her. As I age 30
24 years into the future I will likely miss the birth of his
25 first child that would be my grandchild. I will miss all

1 of that and much more.

2 What we see at the end of that 30 years, it is by no
3 means a life sentence just because it is the most lenient
4 available on the table for the court. It does not mean
5 the court is going soft on any crime, or this court is not
6 imposing a sufficient penalty. It was authorized for a
7 reason.

8 We know already I've got to be sentenced on some of
9 more primitive and archaic penalties we have. A weapons
10 enhancement statute that ought to be repealed because the
11 legislature was too primitive and took much discretion out
12 of the court's hands. So this court has to deal with the
13 penalties that are available. This court has the power
14 and discretion to balance out inequities by exercising
15 those things in your power like concurrent sentencing by
16 imposing the lenient sentencing options.

17 Thirty years is sufficient, severe punishment. It's
18 hash. To sentence me to anything other than that and not
19 realize the human consequences of that sentence, I'll
20 submit it to be cruel. It would take a cold blooded and
21 cool premeditated act, you would have to stop regarding me
22 as a living breathing human being right here.

23 You'd have to shut off your heart and your soul and
24 all of the compassion in it and look at me solely as being
25 a target for exterminating any hope, any hope that is left

1 in my whole life as a prisoner for 30 years in prison.
2 You'd have to look at me as I'm not a being, a human
3 being, somebody that only needs to be cast away. It ain't
4 just supersticion that if we give extra large sentences
5 that somebody can serve out we bully and intimidate the
6 world from being a good citizen. I'm not aware of any
7 studies that say that works.

8 I ask this court to not do that. I ask this court
9 consider the humanistic consequences of a sentence that is
10 coming. Thirty years is enough time. It is a serious
11 amount of time. There is no guarantee I will even get out
12 at the end of 30 years. Parole is not guaranteed to any
13 prisoner in Nevada. It only affords me an opportunity as
14 I age to a sad and gray 50-year-old man -- we know I'm
15 closer to the end of my life span, because we know what
16 the average life expectancy in America is for an adult
17 male, Caucasian male is 72 years of age. An
18 African-American, a black man like me, that category is a
19 little shorter. It is a scientific fact the average life
20 expectancy in America for a black man is 68 years of age.
21 68 years of age, and that's not counting what needs to be
22 shaved off because I have to fight high blood pressure,
23 diabetes, pulmonary artery disease that's on both sides of
24 my family.

25 Or any years you might shave off because studies show

1 that a man that is continually isolated, lives a depressed
2 life tend to die earlier then other human beings on this
3 planet from isolation and depression.

4 Such as being trapped in a penitentiary cell for many
5 years, isolated away from your family and exiled from
6 society from a most premature death.

7 At this point, as a matter of fact, I was reading
8 just the other night I came across an article that the
9 former boxing champion of the world Michael Dynamite
10 Dossen (ph) that passed away to his death and died at the
11 age of 58 years old. For people in this gallery that
12 don't know Michael Dossen, he spent the last 14 years of
13 his life in the Nevada prison system. I personally knew
14 him when he was alive. I did time alongside of him. It
15 was at least 2 years ago. The summer of 2010 and lo and
16 behold two years later he's passed on to his death and
17 died at the tender age of 58 years old.

18 I've seen men up there die before they ever even made
19 parole. I have seen men die at 61 years of age. I've
20 seen another man die at 63 years of age. Never made
21 parole. Died on the field trying towards the goal line,
22 so the speak, die a sad and lonely death in prison inside
23 his cell with nothing but concrete walls, steel doors, and
24 no one to console him in his final moments.

25 Those things mean that as I age 30 years into the

1 future, serving that sentence I assume this court imposes,
2 those things mean I will be fully aware, conscious of my
3 mortality. I will stand in darkness for 30 years knowing
4 that I will become an old man, and I'm getting closer to
5 death. Closer to the end of my life span. And by the
6 time I have a chance to beg for the possibility to be
7 released into the community, I may be but a few breaths, a
8 few years before I pass into my death and die, before I
9 have just a few moments to see my son achieve a few extra
10 accomplishments before I go. We know that is a realistic
11 likelihood. We know that is a fact of what is at stake
12 here.

13 It's important for this court to impose concurrent
14 time I speak of before I give it to the court's
15 discretion. The reason it's important is that if I'm ever
16 to have an opportunity to get out, to be released in my
17 lifetime, those sentences must be very simple for the
18 timekeeper. We know from prior experience in this case.
19 Not only that, I want to give this court a unique
20 situation that I encountered when I was in prison on a
21 prior judgment of conviction in this case before we had
22 the new trial we had.

23 I ran into a man named Michael McLamore. A young
24 man. They even tried him as an adult for a crime he was
25 accused of committing at 15 years of age. He was tried in

1 this court and sentenced before this very court right here
2 that I stand before pleading for 30 years. He was
3 convicted for 2 counts of first degree kidnapping with use
4 of a deadly weapon, 2 counts of robbery with use of a
5 deadly weapon, 1 count of burglary while in possession of
6 a firearm, and 3 associated conspiracy offenses.

7 No physical harm to any of the victims from what I'm
8 aware of Mr. McLamores case. Though obviously there's
9 emotional harm because people are in fear of their life in
10 a robbery. There was no physical harm. This court ran
11 the 5 offenses with the deadly weapon concurrent. You
12 then ran 3 of his sentences consecutive. When he came to
13 prison, people told him that I had experience trying to
14 figure out what parole computation was given with the
15 issue we had. So when he came I told him I'd figure it
16 out for you. I took a copy of the judgment of conviction.
17 I attached it to a request and sent it to the prison
18 timekeeper. It came back and what came back horrified me.
19 It said because you ran the three conspiracy offenses
20 consecutive, you already had an automatic double weapon
21 enhancement attached to his sentence, that he was serving
22 in affect 3 consecutive 31 year to life terms. Which
23 means he would have to serve 31 consecutive years in a
24 case where there was no physical harm and was accused of
25 committing a crime at 15 years of age, before he could ask

1 the parole board to serve his second 31 year to life
2 sentence.

3 And before he could move on to the third, which is a
4 combined 93 years -- and I don't think that was this
5 court's intention -- to sentence a kid who committed a
6 crime when he was 15 years old, in which there was no
7 physical harm, to spend the rest of his natural life in
8 prison. So let's cut the BS. We know human beings don't
9 live that long.

10 93 years, the reality of the situation is you die in
11 prison. But I know that case occurred before this court
12 and encountered the problems we encountered with the
13 timekeeper. So I'm asking this court to run those
14 sentences concurrent. Because if you run either one of
15 them consecutive, we already have consecutive automatic
16 equal and consecutive two weapon enhancement statutes that
17 apply to this case that give me an enhanced sentence,
18 consecutive sentences. Once that sentence structure
19 enters that strange Alice In Wonderland world of Nevada
20 Department of Prisons and they whip that computation
21 wizardry on it, that sentence will grow into a crazy maze
22 of time from which I will never have the opportunity to be
23 released.

24 I don't think that's appropriate. I think it would
25 be arbitrary to do that. Sentence me to more time, 30

1 years, in a case where there was no human death. When we
2 have people convicted of intentional killings,
3 particularly those in this court house and courtroom who
4 receive 10 to 25 years for second degree murder every
5 day.

6 I think it would be cruel to go beyond that. Given
7 the circumstances of this case and the fact there are a
8 lot of questions and doubts. The fact that 30 years is a
9 lot of time. This is not a case of human death, and I
10 have unsalvageable characteristics about myself. I ask
11 this court to impose two 15 to 40 year terms for Count
12 (9).

13 I ask this court to impose Counts (10) through (14),
14 definite terms of 5 to 15 years for each one of those
15 counts.

16 I ask this court to impose what it likes in it's
17 discretion on Counts (1) through (8).

18 I ask this court to impose concurrent time in Counts
19 (1) through (14).

20 30 years is sufficient, serious, severe punishment
21 under which I will suffer a great deal.

22 I submit it to this court's discretion.

23 THE COURT: Well, Mr. Slaughter I will tell you,
24 there is not a question in my mind that you have a
25 salvageable mind. You are an intelligent guy, and you've

1 done very well on your behalf.

2 The problem that I think you had in this case is you
3 believe that your case is special, different from
4 Mr. Jones, or Mr. Baker, or anybody else. Different to
5 me. And it's not.

6 You believe yourself to be different in certain ways
7 from all these other people. And you're not. Your case,
8 the fact that it got reversed because the timekeeper
9 didn't do what I ordered them to do, had no bearing
10 whatsoever on how I handled your case. I could care less
11 about that. I tried, and we had this discussion. And you
12 disagreed. I tried to order them to do what you were
13 promised at your sentencing. Repeatedly tried to do that.
14 Ultimately the Supreme Court said, no. The timekeeper is
15 right in how they want to do things. Lower court, you
16 can't order that. So we came back here. I tried to allow
17 time for you and the State to talk about whether there was
18 a way to maintain that original deal to preserve for you
19 the sentence that you had bargained for, the life minimum
20 15. And that didn't come to fruition, so I allowed you to
21 withdraw your plea and we proceeded to trial.

22 The human aspect of things, I have never considered
23 you to be some kind of black hearted antisocial individual
24 who is Hell bent on committing crime after crime, and
25 therefore, deserves no leniency from the court, no

1 consideration from the court.

2 On the other hand, in my mind in this case, there are
3 4 things that occurred here that are worthy of punishment.
4 No matter how many counts there are, there are 4 things.

5 There is -- and we'll set aside for the moment the
6 fact that it's you. I'm talking about what occurred.

7 There is a conspiracy among individuals to agree to
8 commit some horrible acts. There is a decision to follow
9 up on that and go into people's homes to rob them. There
10 is the fact that during that, somebody decides, for
11 whatever reason and under whatever circumstances, to shoot
12 a man in the face. There is a decision as part and parcel
13 of that to kidnap men, women, and children and detain them
14 in their residence, while all these other acts are being
15 done. Each of those things, in my mind, deserves
16 punishment.

17 I understand your position, that you think the
18 sentencing structure set by the legislature is archaic, is
19 overwhelming, is too much. I get that. I know that
20 people die in prison every day serving sentences.

21 On the other hand, those are the sentences that are
22 outlined by our legislature. Those are the sentences I
23 have to work with. And in looking at a case, I'm trying
24 to figure out in my mind, again, regardless of how many
25 counts there are, what is it that occurred. What is it

1 that deserves punishment.

2 I don't think that based on what occurred here, in my
3 mind, punishment running everything concurrent doesn't
4 account for what happened here.

5 In terms of the arguments about who it was. I don't
6 decide who is guilty or not guilty. Just like
7 Mr. DiGiacomo doesn't. You don't. Mr. Fumo, your
8 attorney doesn't. It's people in the jury box. People
9 come in from outside the community that have no other ties
10 to this case. They listen to evidence. They decide
11 whether you are guilty or not. Do I think they had
12 substantial evidence to make that decision in this case in
13 the way that they did, I do.

14 I mean, the legal decisions that you get whether it
15 was early on in the case, whether it was -- I believe it
16 was a Department 16 case originally and I took it out of
17 overflow. The legal decisions you got then and that you
18 got from me were based upon my interpretation of the law
19 and the facts. Not any antagonism towards you or anything
20 else. It's based upon what I perceived to be the law and
21 the facts and what's appropriate to do rulings on motions
22 that come before the court.

23 There has never, either now or any time previously,
24 been any animosity between myself and you on how the case
25 has been handled. Nothing has ever clouded my judgment on

1 how to rule on issues, how to treat you in court, how to
2 have my staff treat you. It's all based upon what I
3 perceive to have occurred here.

4 I don't hold it against you iota to maintain your
5 innocence. I do not think, however, that maintaining ones
6 innocence really acts to mitigate what it is that's
7 alleged to have occurred in the case and what somebody has
8 been convicted of.

9 So all things in mind, I'm trying to fashion a
10 sentence that I think is just, based upon what it was that
11 occurred here, and the various acts and instances of
12 conduct that deserve punishment.

13 For Count (1), conspiracy to commit -- well first
14 off, there's a \$25.00 AA fee, \$150.00 DNA fee -- that's
15 waived if it's collected previously.

16 There is a restitution in the amount of \$35,000.00.
17 I agree with you that back in August 2005, when I
18 originally ordered restitution I did not order if for
19 personal property damage. I didn't feel there was
20 sufficient justification for that provided. So it's just
21 35 that's payable to Ivan, victim number one.

22 For the conspiracy to commit kidnapping charge, Count
23 (1), it's going to be 24 to 60 months in prison.

24 For the conspiracy robbery charge, Count (2),
25 conspiracy to commit robbery, 24 to 60 months in prison.

1 That's consecutive to Count (1).

2 For Count (3), attempt murder with use of a deadly
3 weapon. That sentence is 60 to 180 months, plus an equal
4 and consecutive 60 to 180 months, since this fell under
5 the old law. That's consecutive to Count (2).

6 Count (4), battery with a deadly weapon, there's no
7 adjudication on.

8 Count (5), attempt robbery with use of a deadly
9 weapon. The sentence on that is going to be 48 to 120
10 months, with an equal and consecutive 48 to 120 months.
11 That will run concurrent to Count (3).

12 Count (6), robbery with use of a deadly weapon.
13 That's going to be 48 to 120 months, with an equal and
14 consecutive 48 to 120 months. That will run consecutive
15 to Count (3).

16 Count (7,) burglary while in possession of a firearm.
17 The sentence is going to be 48 to 120 months. That will
18 run concurrent to Count (6).

19 Count (8) burglary, 24 to 60 months. That will run
20 concurrent to Count (7).

21 Count (9), first degree kidnapping with substantial
22 bodily harm, with use of a deadly weapon. Life in Nevada
23 Department of Prisons, with a minimum 15 years before
24 parole eligibility. Plus an equal and consecutive life
25 with minimum of 15 years, for the use of the deadly

1 weapon. That will run consecutive to Count (6).

2 Count (10), first degree kidnapping with use of a
3 deadly weapon. Life in Nevada Department of Prisons, with
4 a minimum 5 years, plus and equal and consecutive life
5 with minimum 5 years.

6 Count (11), first degree kidnapping with use of a
7 deadly weapon. Life in Nevada Department of Prisons, with
8 a minimum 5 years, plus and equal and consecutive life
9 minimum 5 years before parole eligibility.

10 Count (12), first degree kidnapping with use of a
11 deadly weapon. Life, minimum 5 years before parole
12 eligibility. Plus an equal and consecutive life, minimum
13 5 years before parole eligibility.

14 Count (13), first degree kidnapping with use of a
15 deadly weapon. That is a life, minimum 5 years. Plus an
16 equal and consecutive life, minimum 5 years before parole
17 eligibility.

18 That's -- well, Counts (10), (11), (12), (13), and
19 (14) are all running concurrent.

20 Count (14), first degree kidnapping with use of a
21 deadly weapon. Life, minimum 5 years. Plus an equal and
22 consecutive life minimum 5 years before parole
23 eligibility. That runs concurrent as well.

24 I have 2,000 -- what do you all have as credit time
25 served at this point.

1 MR. DIGIACOMO: I have it as 1250 days, because
2 they credited from his original sentencing date of '05, to
3 C-190662, and C-196399. If you look at the way they
4 have -- I'm sorry -- 2,626 days.

5 THE COURT: They covered that, because they
6 couldn't get expiration dates from the prison, so they
7 were giving him all that credit in between there.

8 MR. DIGIACOMO: Correct.

9 THE COURT: It's up and through 2626, up and
10 through today. I have 5/8/6, which was September 6th.

11 Anything about the credit time served. I'll retain
12 jurisdiction to address that issue. I believe they are
13 giving you all the credit that applied while you are on
14 the other case, because they couldn't figure out an
15 expiration date in that case. So they don't want to miss
16 that.

17 THE DEFENDANT: I have nothing.

18 THE COURT: 2,626 days credit time served.

19 MR. DIGIACOMO: Thank you.

20 THE DEFENDANT: There was a motion deferred for
21 appointment of appellate counsel.

22 THE COURT: Mr. Gamage has been appointed as
23 appellate counsel by Mr. Christiansen's office. He called
24 over to let us know that Mr. Gamage would be handling any
25 appeal.

1 THE DEFENDANT: I wanted to make sure that was
2 on the record. I do intend to file an appeal. So if
3 there's a problems giving me the actual JOC transmittal
4 today for him.

5 THE COURT: Have you had any contact with Mr.
6 Fumo's office.

7 MR. GAMAGE: No. I just got a called on
8 Thursday.

9 MR. DIGIACOMO: Does your clerk create the
10 JOC.

11 THE COURT: The Clerk's office does the JOC.

12 MR. DIGIACOMO: Okay.

13 THE COURT: Communicate with Ozzy. You can talk
14 to Marc if you need to get discovery from them as well.
15 Do you want me to have you stay here a little bit to talk
16 to Mr Gamage.

17 THE DEFENDANT: Yes, sir.

18 THE COURT: He should have kept a copy of the
19 file. You can hold on to what you have. You're going to
20 want to keep yours as well. Mr. Gamage can get the same
21 thing from Ozzy and get stuff from the State as well. You
22 can get together and figure out anything either of you has
23 the other doesn't.

24 The order will be to delay transporting Mr. Slaughter
25 up to the prison for two weeks so he can chat with Mr.

1 Gamage.

2 The two week date for the record.

3 THE CLERK: October 30th, Tuesday, 9:00.

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CERTIFICATE
OF
CERTIFIED COURT REPORTER

* * * * *

I, the undersigned certified court reporter in and for the
State of Nevada, do hereby certify:

That the foregoing proceedings were taken before me at the
time and place therein set forth; that the testimony and
all objections made at the time of the proceedings were
recorded stenographically by me and were thereafter
transcribed under my direction; that the foregoing is a
true record of the testimony and of all objections made at
the time of the proceedings.

/s/ Sharon Howard

Sharon Howard
C.C.R. #745

< Dates >.	41:19.	41:19.
April 4, 2005	(8). 26:14.	25 36:4.
18:24.	(9) 3:25, 24:14,	2626 43:9.
August 2005 7:20,	27:8, 36:12,	.
40:17.	41:21.	.
OCTOBER 16, 2012	(9). 24:16, 25:9,	< 3 >.
1:28, 3:1.	26:5.	3 1:3, 9:2, 15:23,
September 6th.	/s/ 46:24.	24:6, 24:17,
43:10.	.	27:11, 34:6,
#745 46:27.	.	34:12, 34:22.
\$150.00 40:14.	< 1 >.	30 5:5, 5:9, 5:21,
\$25.00 40:14.	1 34:5.	9:2, 23:23,
\$35,000.00 7:11.	10 27:13, 28:19,	25:18, 25:23,
\$35,000.00.	36:4.	27:10, 27:18,
40:16.	11 5:9.	27:25, 28:3,
'05 43:2.	120 41:9, 41:10,	28:4, 28:13,
(1) 3:14, 26:13,	41:13, 41:14,	28:24, 28:25,
27:1, 27:6,	41:17.	29:23, 30:2,
36:17, 36:19,	1250 43:1.	31:1, 31:12,
40:13, 40:23,	14 24:14, 32:12.	32:25, 33:3,
41:1.	15 5:3, 24:14,	34:2, 35:25,
(10) 4:2, 26:8,	24:22, 24:23,	36:8, 36:20.
36:13, 42:2,	25:8, 25:11,	30s 24:10.
42:18.	25:21, 26:5,	30th 45:3.
(11) 42:6,	26:6, 26:9,	31 34:22, 34:23,
42:18.	27:2, 27:9,	35:1.
(12) 42:10,	33:25, 34:25,	35 40:21.
42:18.	35:6, 36:11,	35,000.00 6:13.
(13) 5:21, 42:14,	36:14, 41:23,	.
42:18.	41:25.	.
(14) 4:2, 5:21,	15. 37:20.	< 4 >.
26:8, 27:1,	16 39:16.	4 3:5, 20:22,
36:13, 42:19,	180 41:3, 41:4.	38:3, 38:4.
42:20.	196399. 6:20.	40 24:14, 24:23,
(14). 27:6,	1997 16:21.	25:8, 25:11,
36:19.	.	26:5, 26:6,
(2) 3:15, 40:24,	.	27:2, 27:10,
41:5.	< 2 >.	36:11.
(3) 3:16, 41:2,	2 32:15, 34:3,	40,500.00 6:9.
41:11, 41:15.	34:4.	40s 24:10.
(3). 4:15.	2,000 42:24.	48 41:9, 41:10,
(4) 3:18, 4:6,	2,626 43:4,	41:13, 41:14,
4:13, 4:15,	43:18.	41:17.
41:6.	20 20:13.	.
(5) 3:19, 41:8.	20-year-old	.
(6) 3:21, 41:12,	19:7.	< 5 >.
41:18, 42:1.	2005. 7:5.	5 6:6, 7:3, 25:13,
(7) 41:16.	2010 32:15.	25:20, 26:9,
(7) 3:22, 41:20.	20s 24:10.	34:11, 36:14,
(8) 3:24, 36:17,	24 40:23, 40:25,	42:4, 42:5,

42:8, 42:9,	.	41:7.
42:11, 42:13,	< A >.	administrator
42:15, 42:16,	AA 40:14.	29:17.
42:21, 42:22.	able 27:13.	adolescence
5,500.00 6:11.	absolutely 12:4.	29:7.
5,500.00. 6:12.	accent 10:16,	adult 31:16,
5/8/6 43:10.	10:24, 11:8,	33:24.
50 28:1, 28:2.	11:10, 11:16,	affect 21:15,
50-year-old	13:5, 15:14.	34:22.
31:14.	accents 10:14,	affected 21:5,
58 32:11, 32:17.	10:15, 11:2,	21:6, 21:20.
.	11:17.	affectionately
.	accept 13:3, 19:2,	22:19.
< 6 >.	20:19, 23:11.	affords 31:13.
6 12:10, 14:1.	accepted 18:24,	African-american
6-pack 13:22,	18:25, 19:3.	31:18.
13:23.	accomplishments	age 24:9, 27:25,
60 14:13, 40:23,	33:10.	28:3, 28:4,
40:25, 41:3,	According 6:10,	28:24, 28:25,
41:4, 41:19.	13:14.	29:23, 31:14,
60s 27:15.	account 39:4.	31:17, 31:20,
61 32:19.	accurate 28:18.	31:21, 32:11,
63 32:20.	accusations 7:14,	32:17, 32:19,
68 31:20, 31:21.	7:19.	32:20, 32:25,
.	accused 33:25,	33:25, 34:25.
.	34:24.	ago 20:12,
< 7 >.	achieve 33:9.	32:15.
7 20:12.	acquitted 20:9.	agree 38:7,
7. 10:18.	across 32:8.	40:17.
70s 27:15,	act 30:21.	ahead 3:12,
27:16.	acting 16:18.	25:24.
72 31:17.	actions 21:8.	ain't 31:3.
745 1:35.	activity 13:15.	Alford 19:1.
.	acts 8:1, 8:12,	Alice 35:19.
.	38:8, 38:14,	alienating
< 8 >.	40:6, 40:11.	21:11.
8 4:17, 7:16,	actual 44:3.	alive 32:14.
18:19, 28:16.	actuality 28:21.	allegations
80 23:23.	Actually 6:13,	7:13.
80. 27:16.	7:5, 10:18.	alleged 40:7.
80s 16:7, 27:17.	ad 37:24.	allow 19:1,
.	add 4:18, 15:18,	37:16.
.	25:16.	allowed 37:20.
< 9 >.	added 5:8,	almost 14:13,
90s 16:6, 27:17.	10:24.	20:12, 28:1.
911 16:12.	address 43:12.	alone 19:17,
93 35:4, 35:10.	adjudicate 3:13,	20:13.
9:00. 45:3.	4:6, 4:9,	alongside 32:14.
9th 19:20.	4:12.	already 28:16,
.	adjudication 4:14,	30:8, 34:20,

35:15.	around 11:5,	.
alter 13:25.	29:10.	.
alternative	array 14:4.	< B >.
4:15.	arrested 13:20.	back 17:17, 18:5,
Although 4:23.	arrives 28:21.	20:23, 34:18,
America 31:16,	artery 31:23.	37:16, 40:17.
31:20.	article 32:8.	background 14:5.
among 38:7.	aside 38:5.	Baker 37:4.
amount 6:12, 7:15,	aspect 9:25,	balance 30:14.
25:6, 31:11,	37:22.	bargained 37:19.
40:16.	ass 12:23.	Barry 9:9.
amounts 6:8, 6:9,	assault 12:9.	based 10:2, 39:2,
7:6, 9:11.	assert 19:21.	39:18, 39:20,
animosity 39:24.	assigned 19:10.	40:2, 40:10.
antagonism	associated 5:20,	Battery 3:18,
39:19.	34:6.	25:15, 25:17,
anticipate 28:12,	assume 25:25,	41:6.
28:13.	26:3, 26:8,	battles 22:5.
antisocial	26:12, 26:24,	bearing 37:9.
37:23.	33:1.	beat 20:16.
Anybody 5:24,	astounded 15:20.	beaten 12:10.
19:8, 27:19,	athletic 29:13.	beats 28:19.
27:23, 37:4.	attach 27:6.	become 27:1, 27:7,
apologize 25:14.	attached 34:17,	33:4.
appeal 43:25,	34:21.	beg 28:2, 33:6.
44:2.	attempt 3:16,	began 19:24.
appeals 20:24,	3:19, 4:10,	beginning 10:8,
20:25.	41:2, 41:8.	15:9, 15:10.
APPEARANCES 2:1.	attention 10:4,	behalf 37:1.
appellate 43:21,	14:21.	behind 17:10,
43:23.	attorney 10:14,	18:3, 24:7,
applied 43:13.	19:10, 22:18,	25:8, 28:8.
apply 35:17.	39:8.	behold 32:16.
appointed 43:22.	authorize 24:17,	beings 27:12,
appointment	24:24.	32:2, 35:8.
43:21.	authorized 30:6.	believe 4:7, 4:8,
appreciate 22:8.	automatic 34:20,	4:9, 4:21, 5:2,
appropriate 22:1,	35:15.	5:20, 6:5, 6:6,
25:2, 35:24,	available 23:23,	7:1, 37:3, 37:6,
39:21.	23:25, 30:4,	39:15, 43:12.
arbitrary 35:25.	30:13.	believes 12:1.
archaic 17:21,	average 31:16,	Beliez 11:3,
30:9, 38:18.	31:19.	11:18.
arduous 27:23.	award 7:5.	bench 22:25.
area 29:19.	aware 13:4, 31:6,	benefit 19:2.
areas 27:13.	33:2, 34:8.	bent 37:24.
argument 22:9.	away 9:4, 20:14,	best 19:21,
arguments 23:4,	21:11, 24:5,	19:22.
39:5.	31:3, 32:5,	beyond 26:19,
arise 24:25.	32:10.	36:6.

big 11:14, 12:5, 17:20, 17:23, 18:7, 18:14, 27:1.	burglary 3:22, 3:24, 34:5, 41:16, 41:19.	champion 32:9.
biggest 27:2, 27:7.	.	chance 20:9, 28:2, 33:6.
bike 29:2.	.	changed 27:16.
birth 29:24.	< C >.	character 23:11.
bit 44:15.	C-190662 43:3.	characteristics 23:14, 25:3, 36:10.
black 10:12, 11:23, 12:2, 12:11, 12:13, 12:15, 12:20, 31:18, 31:20, 37:23.	C-196399 43:3.	charge 4:9, 40:22, 40:24.
block 29:10.	C-204957 1:2.	charged 19:12.
blood 31:22.	calculated 6:18.	chat 44:25.
blooded 8:6, 30:20.	call 16:12.	child 24:7, 28:25, 29:25.
blue 16:12, 16:15, 16:16, 16:25, 17:1.	called 10:19, 22:19, 43:23, 44:7.	children 5:13, 5:20, 5:25, 38:13.
board 35:1.	callused 28:6.	chose 5:11.
bodily 4:1, 25:11, 25:21, 27:3, 41:22.	cap 29:16.	Christiansen 43:23.
body 24:9.	capital 4:25.	circumstance 16:23, 22:11, 23:10, 24:25, 25:5.
boil 9:19, 9:21.	car 15:20, 15:21, 16:2, 16:5, 16:6, 16:7, 16:12, 16:15, 16:16, 16:25.	circumstances 7:2, 7:23, 8:22, 9:5, 15:17, 17:3, 17:15, 22:6, 25:3, 36:7, 38:11.
book 7:24.	card 15:3, 15:4, 15:6.	citizen 13:6, 16:23, 31:6.
bottom 25:19.	care 29:10, 37:10.	citizens 16:24.
box 24:11, 39:8.	carry 8:15.	city 16:23.
boxing 32:9.	cases 4:21.	CLARK 1:7.
boy 29:6.	cast 31:3.	clear 15:22.
breathing 23:16, 30:22.	catch 18:10.	CLERK 22:23, 44:9, 44:11, 45:3.
breaths 33:7.	category 31:18.	clerks 27:21.
briefs 23:4.	Caucasian 31:17.	close 10:3.
bright 29:6.	caught 15:20.	Closer 24:8, 31:15, 33:4, 33:5.
broadcast 13:12.	Cause 3:7, 9:22, 9:23, 15:10, 17:9.	clouded 39:25.
brought 24:8.	celebrate 18:5.	Clough 22:24.
bruises 11:22, 12:3.	cell 32:4, 32:23.	cold 30:20.
BS 29:6, 35:8.	centimeters 12:10.	collected 40:15.
build 16:7.	century 27:14.	colleges 29:19.
built 15:16, 17:2.	ceremonies 29:4.	color 14:5, 14:6.
bullet 4:24.	certain 37:6.	
bully 31:5.	CERTIFICATE 46:1.	
bunch 18:2.	CERTIFIED 46:3, 46:8.	
burden 8:15.	certify 46:9.	
	chain 27:20.	

combined 35:4.	22:11, 23:6,	courtroom 7:22,
comes 7:4,	37:22.	18:19, 36:3.
22:24.	considering	cover 11:11.
coming 17:17,	4:20.	covered 43:5.
28:5, 28:20,	console 28:9,	Cracked 20:17.
31:10.	32:24.	craft 22:9.
comitting 37:24.	conspiracy 3:14,	crazy 35:21.
commit 3:14, 3:15,	3:15, 34:6,	cream 16:25.
38:8, 40:13,	34:19, 38:7,	create 44:9.
40:22, 40:25.	40:13, 40:22,	credit 6:18,
committed 8:2,	40:24, 40:25.	42:24, 43:7,
8:14, 35:5.	contact 44:5.	43:11, 43:13,
committing 33:25,	continually	43:18.
34:25.	32:1.	credited 43:2.
common 15:17,	convicted 3:11,	Crime 4:20, 6:13,
16:22, 17:2.	4:20, 7:14,	8:14, 8:16,
Communicate	8:14, 9:11,	16:9, 25:10,
44:13.	9:19, 20:2,	25:19, 30:5,
community 22:13,	20:10, 34:3,	33:24, 34:25,
22:14, 23:7,	36:2, 40:8.	35:6, 37:24.
33:7, 39:9.	conviction 9:20,	crimes 19:13.
compassion	9:23, 22:3,	criminal 8:1,
30:24.	33:21, 34:16.	8:12, 9:6,
compile 13:22.	convictions 9:8,	13:15, 19:8,
compiled 10:21.	9:18, 17:7,	19:12.
computation 26:18,	17:9.	cringes 8:8.
34:14, 35:20.	convicts 17:17.	cross 8:15.
concrete 24:11,	convince 17:16.	cruel 30:20,
28:11, 32:23.	convincing 9:15.	36:6.
concurrent 4:9,	cool 30:21.	culpabiity 9:25.
5:8, 5:22,	cops 13:19.	custody 3:6.
26:14, 30:15,	copy 34:16,	cut 35:8.
33:13, 34:11,	44:18.	.
35:14, 36:18,	Correct 21:2,	.
39:3, 41:11,	25:18, 43:8.	< D >.
41:18, 41:20,	counsel 43:21,	dad 29:3.
42:19, 42:23.	43:23.	damage 7:3, 7:8,
conduct 40:12.	counting 31:21.	40:19.
confused 14:22,	Counts 4:2, 5:10,	danger 23:13.
16:18.	5:11, 5:19,	dangerous 17:8,
conscious 33:2.	5:20, 26:8,	17:10.
consequences	26:13, 27:6,	darkness 9:2,
23:16, 30:19,	34:3, 34:4,	33:3.
31:9.	36:13, 36:15,	data 9:20.
consider 9:25,	36:17, 36:18,	date 43:2, 43:15,
31:9.	38:4, 38:25,	45:2.
consideration	42:18.	DATED 1:28.
28:2, 38:1.	COUNTY 1:7.	dates 43:6.
considered 21:25,	couple 4:23.	day 12:9, 12:14,
22:1, 22:6,	courses 21:7.	18:12, 20:8,

22:22, 22:24,	deferred 43:20.	Died 28:8, 28:14,
25:1, 26:21,	defined 25:19.	32:10, 32:17,
36:5, 38:20.	definite 18:2,	32:21.
days 29:1, 43:1,	26:9, 36:14.	differences
43:4, 43:18.	definitely	27:15.
deadly 3:16, 3:18,	11:17.	Different 5:16,
3:19, 3:21,	degree 3:25, 4:2,	14:1, 14:3,
3:22, 4:1, 4:3,	21:15, 22:10,	14:5, 14:6,
4:10, 25:16,	25:17, 25:20,	14:7, 14:16,
25:21, 26:7,	27:3, 34:3,	14:24, 15:23,
34:4, 34:5,	36:4, 41:21,	16:6, 21:7,
34:11, 41:2,	42:2, 42:6,	23:4, 37:3,
41:6, 41:8,	42:10, 42:14,	37:4, 37:6.
41:12, 41:22,	42:20.	Digiacmo 15:19.
41:25, 42:3,	delay 44:24.	DIGIACOMO 2:2,
42:7, 42:11,	Dennis 6:7,	3:9, 4:4, 4:5,
42:15, 42:21.	16:14.	4:8, 4:12, 4:16,
deal 8:15, 18:24,	Department 5:6,	4:17, 6:10,
18:25, 19:3,	35:20, 39:16,	6:16, 6:17, 8:7,
19:11, 20:7,	41:23, 42:3,	8:24, 16:20,
20:18, 20:21,	42:7.	18:21, 18:25,
20:23, 30:12,	depressed 32:1.	20:11, 21:5,
36:21, 37:18.	depression 32:3.	21:21, 21:24,
death 18:2, 19:4,	DEPT. 1:3.	22:20, 25:14,
20:15, 32:6,	describe 10:11,	39:7, 43:1,
32:10, 32:16,	26:2.	43:8, 43:19,
32:22, 33:5,	described 12:15,	44:9, 44:12.
33:8, 36:1,	15:21, 15:24.	diminished
36:9.	Descriptions 10:9,	19:25.
decades 9:2, 24:6,	15:23, 17:4.	diploma 29:17,
27:11.	Desert 23:20.	29:18.
decide 39:6,	deserve 5:16,	direction 46:15.
39:10.	40:12.	disagreed 37:12.
decided 5:7.	deserves 6:1,	discovered 22:7.
decides 29:9,	37:25, 38:15,	discovery 44:14.
38:10.	39:1.	discrepancy 11:14,
decision 29:21,	designed 14:17.	12:5.
38:8, 38:12,	desperation	discretion 26:13,
39:12.	19:15.	30:11, 30:14,
decisions 39:14,	Destiny 16:8.	33:15, 36:17,
39:17.	detain 38:13.	36:22.
deeper 19:6.	detective 10:21.	discussed 18:23.
deer 18:8.	deterred 19:24.	discussion
DEFENDANT 1:20,	diabetes 31:23.	37:11.
2:4, 3:10, 6:25,	die 24:6, 28:12,	disease 31:23.
11:8, 18:6,	28:19, 32:2,	distinctive
25:25, 43:17,	32:18, 32:19,	10:13.
43:20, 44:1,	32:20, 32:22,	DISTRICT 1:6,
44:17.	33:8, 35:10,	1:26.
defendants 9:10.	38:20.	disturbed 8:4,

8:8, 8:10.	eligible 4:18.	exaggerations
divided 6:9.	emotional 34:9.	17:6.
DNA 9:13, 40:14.	encountered 33:20,	excuse 26:7.
doing 21:24.	35:12.	exercising
done 37:1,	end 9:1, 24:8,	30:14.
38:15.	25:13, 30:2,	exhibits 11:7.
doors 24:11,	31:12, 31:15,	exiled 32:5.
28:11, 32:23.	33:5.	exists 7:22.
Dossen 32:10,	ends 22:2.	exonerate 9:10.
32:12.	engaged 29:22.	exonerated 9:12.
double 7:22, 8:11,	enhance 25:10,	expand 26:19.
20:11, 25:7,	25:12.	expectancy 31:16,
26:6, 34:20.	enhanced 35:17.	31:20.
doubt 18:16.	enhancement 24:21,	expenses 7:11.
doubts 36:8.	25:13, 25:22,	experience 33:18,
DOUGLAS 1:25.	26:7, 26:10,	34:13.
down 9:20, 9:21,	27:8, 30:10,	expiration 43:6,
10:21, 16:5,	34:21, 35:16.	43:15.
23:7.	enhancements	expired 6:18,
drawn 14:21.	27:6.	6:20.
draws 14:19.	enough 24:2,	extended 6:13.
dreaming 18:18.	31:10.	exterminating
driving 15:20.	enters 35:19.	30:25.
during 11:4,	entire 24:6.	extra 31:4,
22:20, 28:12,	environment	33:9.
38:10.	24:11.	extreme 24:18.
dying 28:15.	equal 5:4, 25:7,	eye 12:13, 12:15,
dynamic 18:19.	25:22, 26:5,	12:20, 12:21.
Dynamite 32:9.	26:10, 35:16,	Eye-witness 9:22,
.	41:3, 41:10,	10:2, 14:12,
.	41:13, 41:24,	15:8, 15:17,
< E >.	42:4, 42:8,	15:25, 16:2,
ear 29:16.	42:12, 42:16,	17:4, 17:8.
earlier 32:2.	42:21.	eyes 9:21, 11:23,
early 39:15.	equally 7:25.	12:2, 12:3,
earned 4:22,	ESQ 2:2.	12:11, 14:19.
5:2.	essentially 14:15,	.
easy 27:9.	18:4, 27:9.	.
education 19:20.	etched 15:10.	< F >.
effect 24:21.	event 21:14.	face 4:24, 5:16,
effected 21:20.	events 7:23.	5:18, 5:25, 6:1,
either 25:10,	everything 39:3.	11:21, 12:11,
35:14, 39:23,	evidence 11:12,	17:21, 19:5,
44:22.	12:6, 12:12,	20:3, 38:12.
elected 19:7,	15:15, 15:16,	face-to-face
19:15.	17:2, 17:5,	11:25.
eligibility 41:24,	39:10, 39:12.	faces 19:11.
42:9, 42:12,	evolve 26:18.	facial 11:23,
42:13, 42:17,	exaggeration	12:2, 12:10,
42:23.	17:11.	12:15.

facing 19:4.	field 32:21.	forth 46:12.
fact 3:10, 8:13,	fifth 10:21.	forward 3:8.
8:17, 9:6, 13:3,	fight 19:21,	fought 19:22.
21:6, 31:19,	31:22.	found 20:21.
32:7, 33:11,	fighting 20:23.	freshly 12:16.
36:7, 36:8,	figure 34:14,	frightful 20:1.
37:8, 38:6,	34:15, 38:24,	front 5:14, 23:15,
38:10.	43:14, 44:22.	24:15.
factor 18:13.	file 44:2,	fruition 37:20.
facts 7:1, 8:22,	44:19.	fully 13:4,
18:15, 18:16,	final 28:23,	33:2.
39:19, 39:21.	32:24.	Fumo 22:19, 39:7,
fair 13:24.	finally 11:9.	44:6.
fake 11:15.	find 23:10,	future 27:25,
faked 11:13.	26:13.	28:4, 29:7,
false 20:18,	firearm 34:6,	29:24, 33:1.
20:19.	41:16.	.
familiar 20:14.	fireplace 18:9.	.
family 5:14, 5:15,	firm 22:21,	< G >.
24:6, 28:4,	23:1.	gallery 27:19,
31:24, 32:5.	First 3:25, 4:2,	32:11.
Far 6:25, 11:25,	7:19, 10:4,	Garage 43:22,
20:14, 26:19.	13:11, 22:15,	43:24, 44:7,
fashion 40:9.	25:17, 25:19,	44:16, 44:20,
fate 7:24.	27:3, 29:1,	45:1.
father 28:12.	29:8, 29:9,	games 29:14.
favor 8:23.	29:25, 34:3,	gang 27:20.
favoritism	40:13, 41:21,	gates 23:21.
13:17.	42:2, 42:6,	Gave 20:17.
fear 20:16, 20:18,	42:10, 42:14,	generic 15:23.
23:12, 28:5,	42:20.	get-away 15:21.
28:6, 28:20,	firsts 29:1.	getaway 16:21.
34:9.	fit 24:23.	gets 29:6, 29:7.
feared 20:1.	fitting 17:3.	getting 5:18,
fearful 19:25.	fold 23:12.	33:4.
federal 19:11.	follow 38:8.	gift 22:7.
fee 40:14.	footage 13:12.	girlfriend
feel 8:4, 19:8,	football 29:13.	16:20.
19:24, 21:12,	Ford 16:13, 16:17,	give 5:23, 10:4,
40:19.	16:19, 16:21,	13:20, 20:23,
feelings 21:18.	17:1.	26:5, 26:15,
feels 18:20, 21:7,	foregoing 46:11,	26:23, 31:4,
29:22.	46:15.	33:14, 33:19,
fell 41:4.	forensic 14:9,	35:17.
felonies 4:3.	15:15.	Given 25:2, 34:14,
felony 24:14.	foreseen 24:24.	36:6.
felt 18:19, 19:24,	forever 7:23,	gives 13:21,
21:24, 22:1.	8:14.	29:17.
few 33:7, 33:8,	form 12:7.	giving 43:7,
33:9.	former 32:9.	43:13, 44:3.

glance 10:4.	12:22, 38:2,	homes 38:9.
glorious 18:12.	38:21.	Honor 10:18,
goal 32:21.	handled 37:10,	17:22, 22:23,
gown 29:16.	39:25.	22:25, 29:5.
grade 19:20,	handling 43:24.	HONORABLE 1:25.
24:15.	hands 30:12.	hooked 27:20.
graduation	happen 13:10.	hope 8:5, 8:7,
29:15.	happened 13:11,	30:25.
Grand 16:9,	21:2, 22:4,	horrible 8:13,
16:25.	27:15, 39:4.	38:8.
grandchild	happens 14:19,	horrified 34:18.
29:25.	26:23, 26:24.	house 5:24,
grandmother	harboring 18:20.	36:3.
28:14.	harm 4:1, 25:11,	Howard 1:35,
gray 31:14.	25:21, 27:4,	46:24, 46:26.
Great 17:11,	34:7, 34:9,	human 8:4, 8:8,
18:20, 19:11,	34:10, 34:24,	8:9, 9:3, 9:21,
36:21.	35:7, 41:22.	18:2, 21:13,
greatly 24:3.	harsh 27:22.	21:20, 23:14,
green 16:9, 16:16,	hash 30:18.	23:16, 27:12,
16:19, 16:21,	hat 12:22.	27:18, 30:19,
17:1.	heads 11:5.	30:22, 31:2,
grew 19:25,	hear 10:15.	32:2, 35:8,
20:1.	heard 11:9, 11:16,	36:1, 36:9,
grief 28:10.	21:17.	37:22.
Gross 9:16.	heart 8:6, 19:9,	humanistic 31:9.
Group 22:16.	30:23.	hunt 18:10.
grow 24:7, 26:18,	heartbeat 23:2.	.
35:21.	hearted 37:23.	.
guarantee 31:11.	heights 17:14.	< I >.
guaranteed	Hell 37:24.	identification
31:12.	help 22:17.	9:22, 10:7,
guard 28:6.	helplessly 28:8.	12:19, 14:13.
guards 24:12.	hereby 46:9.	identified 10:23,
guide 29:7.	HERNDON 1:25.	16:2.
guilty 20:19,	hesitant 21:21.	identify 16:4.
39:6, 39:11.	High 23:20,	important 26:21,
Guise 22:16.	31:22.	33:13, 33:15.
guns 5:24.	hire 22:20,	impose 8:20, 8:23,
guy 12:19, 12:20,	23:2.	8:24, 17:20,
12:23, 14:24,	hiring 22:17.	18:13, 26:3,
15:12, 15:13,	historically	33:13, 36:11,
36:25.	27:12.	36:13, 36:16,
guys 27:20.	history 26:16.	36:18.
.	hit 4:24.	imposed 7:10.
.	hold 6:11, 40:4,	imposes 33:1.
< H >.	44:19.	imposing 23:24,
hallmark 10:6.	home 5:14.	30:6, 30:16.
hallmarks 12:18.	homecomings	improper 14:12,
hand 8:1, 8:13,	29:15.	14:14.

in. 20:17.	interest 19:9, 19:15.	jury 3:13, 8:17, 8:18, 11:5, 17:17, 39:8.
inappropriate 21:25.	interpret 22:8.	justice 5:16, 5:17, 6:3, 9:6, 18:12, 19:9.
incarcerated 28:17.	interpretation 39:18.	justification 40:20.
inches 4:23.	intimidate 31:5.	justified 21:24, 22:1.
included 10:22.	investigate 13:21.	justify 22:2.
incorrigible 23:11.	investigation 15:9.	.
increase 14:17.	iota 40:4.	.
increases 15:2, 15:5.	Isolated 9:4, 24:5, 32:1, 32:5.	< K >.
increments 27:13.	isolation 32:3.	keep 44:20.
indication 12:25.	issue 34:15, 43:12.	kept 44:18.
indications 10:6, 10:25, 11:15, 12:18.	issues 26:17, 40:1.	kicked 12:23.
indisputable 12:6.	itself 25:19.	kid 35:5.
individual 25:3, 37:23.	Ivan 4:24, 5:17, 6:5, 6:14, 40:21.	kidnap 38:13.
individualize 6:3.	.	kidnapping 3:14, 3:25, 4:2, 5:3, 25:17, 25:20, 27:3, 34:3, 40:22, 41:21, 42:2, 42:6, 42:10, 42:14, 42:20.
individuals 38:7.	< J >.	kids 5:16.
inequities 30:14.	Jamaican 10:15, 10:24, 11:1, 11:8, 11:10, 11:17, 13:3, 13:5, 15:13.	kill 18:10.
influence 15:1, 21:16.	Jennifer 6:6, 6:11, 6:12, 16:13.	killings 36:2.
informant 13:13, 13:14.	job 22:15, 29:9.	kind 10:14, 24:24, 37:23.
information 28:13, 28:14.	JOC 44:3, 44:10, 44:11.	kinds 19:18, 20:3.
Innocence 9:10, 19:2, 40:5, 40:6.	jokes 18:5.	knowing 33:3.
innocent 8:17, 9:10, 9:14.	Jones 37:4.	known 7:15, 7:16.
inside 21:18, 24:10, 32:22.	joy 29:8.	knows 18:21.
instances 40:11.	Judge 1:26, 3:9, 4:5, 4:6, 4:17, 5:22, 6:4, 6:17, 25:23.	.
intelligent 36:25.	judgment 33:21, 34:16, 39:25.	.
intend 44:2.	Julie 23:7.	< L >.
intended 26:19.	jurisdiction 43:12.	lacerations 12:11.
intention 35:5.	juror 11:6.	land 19:18.
intentional 36:2.		lands 29:8.
		large 17:21, 18:14, 19:5, 31:4.
		larger 20:18.
		Las 3:1, 13:6.

last 6:4, 7:16, 17:6, 18:19, 32:12.	lifetime 18:1, 26:22, 33:17.	19:14, 38:23.
Later 9:12, 20:21, 32:16.	light 7:18, 27:22.	looks 12:22, 14:1, 14:5, 14:6.
Law 5:4, 9:17, 22:8, 22:9, 22:16, 22:23, 23:1, 24:21, 27:21, 39:18, 39:20, 41:5.	likelihood 14:17, 15:2, 15:6, 33:11.	loose 15:17, 17:2.
lawyer 23:7.	likely 29:24.	lose 28:3.
lay 23:22.	likes 36:16.	lost 28:16.
leading 9:22, 9:23, 17:9.	line 32:21.	lot 4:18, 8:21, 8:22, 10:6, 23:3, 27:12, 27:18, 28:14, 36:8, 36:9.
learn 9:12.	lined 26:4.	love 29:22.
learned 23:3.	lineup 10:22, 13:10, 13:23, 13:24, 14:14.	low 25:13.
least 32:15.	lineups 14:11.	Lower 37:15.
leave 16:9.	link 15:16.	.
left 4:23, 28:10, 30:25.	listen 39:10.	.
legal 3:7, 19:17, 19:19, 21:8, 22:9, 22:14, 23:4, 23:20, 39:14, 39:17.	listened 8:3.	< M >.
legendary 9:16.	litigation 22:5.	magic 26:18.
legislators	little 11:19, 13:8, 17:15, 17:16, 19:25, 20:1, 21:21, 28:25, 31:19, 44:15.	magician 14:16, 15:1, 15:3, 15:5.
legislature 30:11, 38:18, 38:22.	live 17:25, 18:4, 24:4, 28:5, 28:20, 35:9.	maintain 19:2, 37:18, 40:4.
Legislatures	lives 23:12, 32:1.	maintaining 40:5.
legitimate 11:1, 11:16, 22:9.	living 23:16, 30:22.	major 29:19.
legitimately	lo 32:15.	male 31:17.
29:11.	Loftis 14:9.	males 10:12.
leniency 37:25.	lonely 32:22.	malfunction 20:2.
lenient 23:25, 24:22, 30:3, 30:16.	long 6:22, 7:15, 22:2, 35:9.	man 9:21, 17:7, 17:18, 18:3, 19:7, 19:10, 21:17, 23:14, 28:1, 31:14, 31:18, 31:20, 32:1, 32:20, 33:4, 33:23, 33:24, 38:12.
less 7:16, 8:6, 8:8, 37:10.	Look 7:6, 10:18, 10:19, 11:19, 11:21, 12:17, 13:8, 14:3, 14:20, 14:23, 15:22, 17:6, 18:9, 18:10, 23:1, 30:24, 31:2, 43:3.	manipulate 13:25.
lesser 19:2, 19:3, 20:20.	looked 12:3, 14:11, 18:8, 18:11.	manipulated 21:8.
license 15:25, 16:10, 29:9, 29:11.	looking 11:5,	mantel 18:8.
lies 26:1.		Marc 2:2, 44:14.
lifes 18:1.		married 29:23.
		massive 9:11, 17:20.
		match 16:23,

17:4.	41:23, 41:25,	22:15, 33:23.
math 26:15, 26:16,	42:4, 42:5,	names 19:18.
27:9.	42:8, 42:9,	narrow 16:5.
mathematics	42:11, 42:12,	native 13:6.
26:1.	42:15, 42:16,	natural 35:7.
matter 8:25, 32:7,	42:21, 42:22.	nature 4:20, 7:12,
38:4.	mistaken 9:22,	16:3.
maximum 9:1.	10:7, 12:18,	Need 18:17, 20:13,
maze 35:21.	13:1, 14:12.	44:14.
Mclamore 33:23.	mitigate 40:6.	needs 18:22,
Mclamores 34:8.	mitigating 7:2,	21:13, 31:3,
mean 17:22, 25:14,	8:21, 8:22, 9:5,	31:21.
30:4, 32:25,	22:6, 22:11,	Nevada 1:7, 1:10,
33:2, 39:14.	23:10.	3:1, 3:5, 20:25,
means 5:3, 16:22,	mitigation 18:16,	23:21, 31:13,
22:2, 24:1,	22:13, 23:6.	32:13, 35:19,
24:4, 27:10,	model 16:1, 16:4,	41:22, 42:3,
27:11, 27:22,	16:10.	42:7, 46:9.
30:3, 34:23.	moment 38:5.	new 7:18, 7:20,
measure 9:24.	moments 28:23,	33:22.
medical 7:11,	32:24, 33:9.	Newfield 9:9.
12:7.	months 19:22,	news 13:11, 13:12,
member 5:15.	40:23, 40:25,	13:21.
members 5:15,	41:3, 41:4,	next 20:22,
24:6.	41:10, 41:13,	27:11.
men 32:18, 32:19,	41:14, 41:17,	night 32:8.
38:13.	41:19.	No. 1:2, 1:3,
mentalists 14:17,	moral 23:8.	1:35, 7:3,
15:2.	mortality 33:3.	11:23, 37:14,
Mercury 16:13,	mother 28:13.	44:7.
16:17, 16:25.	motion 43:20.	Nobody 18:20,
message 28:5,	motions 22:22,	19:14, 28:19.
28:7, 28:20.	23:4, 39:21.	note 4:18.
Michael 32:9,	motivating	Nothing 7:15,
32:12, 33:23.	18:13.	7:18, 9:2,
Michigan 9:17.	move 7:12, 17:18,	19:20, 23:9,
millennium	18:13, 19:15,	28:9, 28:10,
27:17.	35:3.	32:23, 39:25,
mind 15:1, 15:11,	multiple 17:25.	43:17.
21:15, 22:12,	murder 3:16, 4:10,	noticed 12:23.
27:23, 36:24,	36:4, 41:2.	number 10:22,
36:25, 38:2,	myself 19:7,	11:6, 15:25,
38:15, 38:24,	19:16, 36:10,	16:1, 16:4,
39:3, 40:9.	39:24.	16:10, 21:6,
mine 13:25.	.	23:3, 40:21.
minimum 5:3, 9:1,	.	.
9:2, 23:23,	< N >.	.
24:16, 25:18,	name 13:20,	< O >.
26:4, 27:2,	13:22.	oath 14:4.
27:10, 37:19,	named 19:10,	objections 46:13,

46:16.	33:16, 35:22.	29:18, 38:12.
obtained 21:1,	option 23:25,	particularly
22:10.	24:19, 24:23,	36:3.
Obviously 22:7,	24:24.	pass 33:8.
34:8.	options 30:16.	passed 32:10,
occur 21:4.	order 6:20, 37:12,	32:16.
occurred 21:3,	37:16, 40:18,	past 7:12,
35:11, 38:3,	44:24.	26:17.
38:6, 38:25,	ordered 37:9,	Paul 19:11.
39:2, 40:3,	40:18.	pay 10:3.
40:7, 40:11.	original 7:4, 7:7,	payable 40:21.
October 45:3.	7:10, 10:20,	penalties 9:1,
offence 26:25,	10:25, 37:18,	17:21, 20:4,
27:1.	43:2.	20:18, 21:12,
offenses 24:15,	originally 39:16,	30:9, 30:13.
26:25, 27:5,	40:18.	penalty 8:21,
34:6, 34:11,	Oswaldo 22:18.	17:21, 19:4,
34:19.	ought 30:10.	24:16, 26:4,
offered 22:15.	outlined 38:22.	27:7, 30:6.
office 43:23,	outside 23:20,	penitentiary
44:6, 44:11.	39:9.	32:4.
officers 27:21.	outstanding	People 8:2, 9:9,
Okay 44:12.	13:16.	9:13, 9:18,
old 5:4, 20:13,	overflow 39:17.	23:10, 28:19,
28:1, 28:3,	overturned 8:19.	28:23, 32:11,
32:11, 32:17,	overwhelming	34:9, 34:13,
33:4, 35:6,	38:19.	36:2, 37:7,
41:5.	own 22:18,	38:9, 38:20,
older 24:7, 28:25,	22:23.	39:8.
29:8.	Ozzy 22:19, 44:13,	PER 2:4.
olympic 17:14.	44:21.	perceive 40:3.
Once 18:4, 25:10,	.	perceived 39:20.
26:17, 35:18.	.	perfect 9:7.
One 6:3, 6:5,	< P >.	perpetrator 11:21,
6:21, 7:5, 8:1,	P&P 8:25.	11:25, 16:9.
10:9, 10:17,	Page 3:5, 6:12,	perpetrators
10:23, 11:2,	10:18.	10:11, 11:1.
11:20, 11:24,	paragraph 10:21.	person 10:23,
14:8, 14:25,	parcel 38:12.	17:24, 25:4.
17:6, 17:25,	parents 5:25.	personal 40:19.
21:16, 27:1,	Parole 4:19, 4:23,	personally
27:7, 28:7,	5:6, 24:19,	32:13.
32:24, 35:14,	24:20, 28:2,	persuade 17:19.
36:14, 40:21.	31:12, 32:19,	persuasion
ones 5:7, 8:24,	32:21, 34:14,	17:13.
40:5.	35:1, 41:24,	Peter 9:9.
open 23:1.	42:9, 42:11,	ph 14:10, 22:16,
opportunity 20:8,	42:13, 42:16,	32:10.
23:19, 26:21,	42:22.	photo 10:22,
28:22, 31:13,	part 9:24, 11:7,	13:22, 13:23,

14:3, 14:11,	4:22, 24:19,	problems 35:12,
14:14, 14:15,	33:6.	44:3.
14:18, 14:20,	possibly 20:8.	procedure 14:12.
14:21, 15:7.	potential 24:16,	proceeded 37:21.
photographic	24:17, 27:2.	proceeding
12:12.	power 30:13,	21:10.
physical 7:3,	30:15.	proceedings 21:7,
15:15, 16:7,	powerless 28:9.	46:11, 46:13,
17:5, 34:7,	Powers 17:11,	46:17.
34:10, 34:24,	17:12, 17:13,	process 9:7,
35:7.	17:19.	19:17.
Physically 24:9.	practices 29:13.	produced 12:7,
pick 15:2, 15:4,	precepts 19:19.	12:12.
15:6.	premature 32:6.	produces 9:7.
picture 14:5,	premeditated	professional
14:6, 14:20,	30:21.	23:12.
14:22, 14:23,	present 3:6.	professionals
15:10, 15:12,	preserve 37:18.	9:16, 22:13.
16:3.	pressure 31:22.	Professor 14:9.
pictures 13:23,	previously 18:24,	Project 9:10.
14:1, 14:3.	39:23, 40:15.	promised 37:13.
place 46:12.	primarily 10:2.	proms 29:15.
places 14:25.	primary 26:25.	property 7:8,
Plaintiff 1:12.	primitive 30:9,	40:19.
planet 32:3.	30:11.	propose 8:5.
plate 15:25,	prior 26:16,	prosecutor
16:10.	33:18, 33:21.	17:10.
plays 9:24.	Prison 9:4, 23:21,	protect 21:22.
plea 18:24, 18:25,	24:5, 24:12,	provided 15:25,
19:1, 19:3,	28:6, 28:9,	16:2, 40:20.
20:19, 21:4,	31:1, 32:13,	provoked 21:18.
21:9, 37:21.	32:22, 33:20,	PSI 6:10, 7:4,
pleading 34:2.	34:13, 34:17,	13:17.
Plus 41:3, 41:24,	35:8, 35:11,	psychological
42:4, 42:8,	38:20, 40:23,	14:16.
42:12, 42:15,	40:25, 43:6,	psychologists
42:21.	44:25.	14:9.
point 32:7.	prisoner 24:5,	pulled 20:16.
point. 42:25.	31:1, 31:13.	pulmonary 31:23.
pointed 13:9.	Prisons 35:20,	punished 9:14.
Police 10:20,	41:23, 42:3,	punishment 8:16,
13:13, 13:14,	42:7.	25:2, 27:23,
13:18, 13:22,	PRO 2:4.	30:17, 36:20,
14:23, 14:24.	probably 5:11,	38:3, 38:16,
Pontiac 16:9,	23:19.	39:1, 39:3,
16:25.	Probation 5:6.	40:12.
position 38:17.	problem 11:4,	punishments
possession 3:22,	11:13, 12:5,	23:17.
34:5, 41:16.	12:17, 13:24,	purpose 17:24,
possibility 4:19,	37:2.	18:1, 26:1.

pursuant 3:13, 13:21.	regardless 38:24.	rob 38:9.
put 14:8, 18:22.	relatives 28:8, 28:15, 28:16.	robbed 5:14.
.	released 20:8, 26:22, 33:7,	robbery 3:15, 3:19, 3:21,
.	33:16, 35:23.	34:4, 34:10,
< Q >.	remember 20:11.	40:24, 40:25,
question 11:24, 12:9, 12:14,	removed 12:16.	41:8, 41:12.
36:24.	renowned 14:8.	robotic 28:6.
questionable	revealed 30:10.	role 19:20, 29:5.
18:15.	Repeatedly	rule 40:1.
questions 11:6, 36:8.	37:13.	ruled 19:23.
.	report 8:3, 10:19, 10:20, 10:25.	Ruling 19:24.
.	REPORTED 1:35.	rulings 39:21.
< R >.	REPORTER 46:3, 46:8.	run 5:11, 5:21, 5:22, 6:21,
raise 18:16.	REPORTER'S 1:13.	21:11, 25:8,
ran 33:23, 34:10, 34:12, 34:19.	reports 13:15, 13:18.	26:14, 35:13,
Ray 23:7.	represent 19:7, 19:10, 19:16.	35:14, 41:11,
read 8:2, 21:16.	representing	41:14, 41:18,
reading 32:7.	20:10.	41:19, 42:1.
realistic 33:10.	request 34:17.	running 18:3, 39:3, 42:19.
reality 35:10.	research 22:22.	runs 42:23.
realize 10:5, 30:19.	residence 7:9, 38:14.	.
really 11:12, 40:6.	resident 13:7.	.
reason 3:7, 5:7, 19:6, 30:7,	respected 8:18, 14:8.	< S >.
33:15, 38:11.	rest 5:22, 35:7.	sad 8:4, 9:3, 24:4, 28:1,
recap 10:20.	restitution 6:6, 6:25, 7:2, 7:3,	31:14, 32:22.
receive 20:11, 36:4.	7:6, 40:16, 40:18.	salvageable 22:12, 36:25.
receives 6:13.	retain 43:11.	Samuel 9:16.
reclaim 20:23.	reversal 7:20.	sat 8:3, 28:8.
reclaims 22:2.	reversals 20:25, 22:10.	says 10:21, 16:15, 16:17, 16:19.
recognize 12:20.	reversed 37:8.	scared 19:4, 19:14, 20:14.
recommended	rhetoric 17:14.	scaring 12:15.
8:25.	Rickie 1:18, 3:5, 22:21, 25:24,	scars 11:23, 12:2.
record 12:13, 13:18, 44:2, 45:2, 46:16.	28:25.	scene 16:9.
recorded 46:14.	ride 29:2.	Scheck 9:9.
records 12:7, 12:8.	rights 19:21, 20:24, 21:22.	School 9:17, 29:2, 29:17.
recount 21:17.	risk 21:11.	science 9:13.
rectify 21:1.		scientific 31:19.
reduced 7:5.		scratching 11:5.
regarding 30:21.		scrutinize 10:5.

second 22:18, 35:1, 36:4.	set 27:23, 38:5, 38:18, 46:12.	9:18, 15:19, 18:5, 18:7, 18:11, 18:18.
secondary 27:5.	settle 27:24.	somewhat 21:10.
secret 18:20.	severe 24:2, 27:22, 30:17, 36:20.	son 28:24, 33:9.
secure 20:7.	shackles 24:11.	sorry 4:11, 43:4.
secures 29:9.	shark 20:5.	soul 30:23.
seeing 13:1.	Sharon 1:35, 46:24, 46:26.	sound 17:15.
seem 7:4.	shave 31:25.	span 24:8, 31:15, 33:5.
seemed 20:14.	shaved 31:22.	special 37:3.
seen 4:21, 11:9, 16:8, 24:23, 32:18, 32:19, 32:20.	she'd 22:16.	specific 16:2.
sees 29:18.	shoot 5:25, 38:11.	specifically 6:5.
seizing 29:16.	shorter 31:19.	spectrum 24:18.
select 14:25, 15:7.	shot 5:15, 5:18, 10:23.	spend 24:9, 27:11, 28:22, 35:7.
selected 14:18.	shouldn't 4:8.	spent 20:22, 32:12.
selection 29:19.	show 13:17, 23:8, 28:7, 31:25.	spin 29:10.
sent 34:17.	showed 12:8, 12:13.	spoke 10:24, 15:13.
sentenced 9:11, 17:24, 30:8, 34:1.	shut 30:23.	squash 13:19.
sentences 17:22, 17:23, 17:25, 18:3, 18:7, 19:5, 20:3, 20:20, 24:17, 26:24, 31:4, 33:17, 34:12, 35:14, 35:18, 38:20, 38:21, 38:22.	sides 31:23.	staff 40:2.
SENTENCING 1:15, 3:7, 3:8, 7:7, 17:18, 23:8, 30:15, 30:16, 37:13, 38:18, 43:2.	simple 26:15, 26:16, 33:17.	stake 33:11.
series 7:23.	single 24:15.	stand 10:10, 11:20, 13:25, 14:2, 14:9, 14:15, 14:23, 16:11, 16:14, 22:14, 33:3, 34:2.
serious 29:21, 31:10, 36:20.	sir 44:17.	stands 23:14, 25:4, 29:15.
serve 27:24, 31:5, 34:23, 35:1.	situation 21:1, 33:20, 35:10.	stare 9:3.
served 42:25, 43:11, 43:18.	six 13:23.	Stars 26:4.
service 22:12.	skin 18:9.	start 9:5, 10:8, 11:7, 14:21.
servicing 22:25.	Slaughter 1:18, 3:6, 4:22, 5:1, 6:24, 10:22, 10:23, 10:24, 20:7, 25:17, 36:23, 44:24.	State 1:10, 2:2, 3:5, 3:9, 6:5, 11:11, 20:5, 23:20, 37:17, 44:21, 46:9.
serving 33:1, 34:21, 38:20.	smiles 29:16.	statistic 28:18.
	society 29:5, 32:6.	statute 30:10.
	soft 8:6, 30:5.	statutes 35:16.
	solely 30:24.	stay 44:15.
	somebody 6:1, 12:24, 13:1, 31:3, 31:5, 38:10, 40:7.	steel 24:11, 28:11, 32:23.
	someone 13:1.	
	Sometimes 9:7,	

stenographically 46:14.	36:20, 40:20.	27:2.
step 18:18,	suggest 5:10,	terminology
21:22.	5:13, 5:19, 7:4,	19:19.
step-father	15:4.	terms 6:18, 8:23,
29:3.	sum 17:13,	8:24, 18:2,
Stephanie 22:15.	27:13.	18:4, 25:8,
stepped 19:19.	summer 29:8,	26:9, 27:10,
Steve 23:3.	32:15.	34:22, 36:11,
Steven 22:24.	supersticion	36:14, 39:5.
stiff 6:2.	31:4.	terrible 7:13,
Stitches 12:11,	support 23:8.	8:1.
12:16.	supported 11:12.	testified 10:11,
stop 30:21.	supposed 7:8,	10:17, 11:2,
stops 22:24.	20:22, 21:3.	12:14, 14:4,
stories 8:9.	Supreme 20:25,	16:8.
story 9:15,	37:14.	testimony 8:3,
21:17.	Surrounded 19:18,	9:23, 10:3,
strange 19:17,	24:12.	10:5, 10:7,
22:4, 35:19.	suspect 15:12.	11:9, 11:14,
stranger 19:17.	Sutures 12:11.	11:20, 15:8,
strong 21:19.	sway 17:16.	15:18, 17:5,
structure 35:18,	synopsis 10:19.	17:8, 46:12,
38:18.	system 9:6, 9:19,	46:16.
studied 9:21,	18:12, 19:9,	testing 9:13.
14:12, 17:7.	20:1, 20:13,	thereafter
studies 9:16,	21:8, 23:21,	46:14.
31:7, 31:25.	32:13.	therein 46:12.
study 29:19.	.	they'll 15:2.
stuff 11:11,	.	thinking 26:20.
44:21.	< T >.	third 35:3.
submit 25:5,	table 23:23,	Thirty 30:17,
30:20, 36:22.	30:4.	31:10.
submitted 20:17,	tacked 18:9.	Though 34:8.
23:5.	tails 11:11.	thoughts 21:18.
substantial 4:1,	Tainted 15:8,	thousands 9:17,
25:11, 25:15,	15:9, 15:17,	16:24.
25:21, 27:3,	17:5, 21:10.	threat 23:13.
39:12, 41:21.	talent 22:8.	three 22:13,
substitute 29:3.	talents 23:20.	34:19.
successful	tall 23:20.	Thursday 44:8.
20:24.	target 30:25.	tie 5:25.
suffer 24:3, 24:4,	Taurus 16:21,	tied 5:14, 7:24.
28:21, 36:21.	17:1.	ties 39:9.
suffering 8:5,	teach 29:2.	timekeeper 26:15,
8:9, 8:16,	Tempo 16:13,	26:17, 33:18,
9:3.	16:17, 17:1.	34:18, 35:13,
sufficient 24:2,	tend 32:2.	37:8, 37:14.
25:2, 25:6,	tender 32:17.	tip 13:13,
30:6, 30:17,	tens 16:24.	13:14.
	term 5:23, 24:23,	title 10:19.

today 7:23, 8:21, 17:21, 19:5, 23:18, 23:23, 26:4, 43:10, 44:4.	trophy 18:4, 18:9.	.
together 7:24, 17:16, 44:22.	trouble 19:12.	.
tone 14:6.	true 46:16.	< V >.
Took 10:10, 11:20, 14:2, 20:15, 20:17, 30:11, 34:16, 39:16.	try 17:19, 19:21.	vague 15:23.
top 5:9, 16:18.	trying 21:1, 21:2, 27:24, 32:21, 34:13, 38:23, 40:9.	various 23:5, 40:11.
Topaz 16:13, 16:17, 16:25.	Tuesday 1:28, 3:1, 45:3.	Vegas 3:1, 13:6.
total 6:9.	tugged 20:16.	vehicle 15:21, 15:24, 16:1, 16:21.
towards 32:21, 39:19.	turn 8:20, 18:13.	verdict 3:13, 8:17, 8:18, 17:17.
traditional 10:6.	two 10:12, 18:1, 20:25, 22:10, 24:20, 25:8, 27:9, 32:16, 35:16, 36:11, 44:25, 45:2.	verifiable 7:8.
tragedy 7:16, 7:22, 8:11.	type 13:16, 17:1, 19:4, 25:5.	Victim 6:5, 6:6, 7:3, 7:11, 10:22, 12:9, 40:21.
tragic 7:25.	.	victims 6:3, 34:7.
TRAN 1:1.	.	violated 21:23.
transcribed 46:15.	< U >.	voice 11:9.
TRANSCRIPT 1:13, 7:6.	Ultimately 37:14.	vs 1:15, 3:5.
transmittal 44:3.	UMC 12:7.	vulnerable 20:6.
transporting 44:24.	uncle 6:1.	vvctims 6:12.
trapped 24:10, 32:4.	undersigned 46:8.	.
treat 40:1, 40:2.	understand 38:17.	.
trial 7:20, 9:7, 11:4, 11:7, 12:8, 12:13, 13:18, 20:9, 20:23, 22:18, 22:20, 33:22, 37:21.	understanding 6:19.	< W >.
trick 14:16, 14:17, 15:2, 15:4, 15:5.	unfamiliar 19:18, 19:19.	waived 40:15.
tried 33:24, 33:25, 37:11, 37:12, 37:13, 37:16.	unfortunate 23:18.	walk 29:18.
	unique 9:25, 33:19.	wall 18:9, 24:7, 28:9.
	University 9:17.	walls 23:20, 28:11, 32:23.
	unless 8:18.	wanted 13:16, 44:1.
	unrevealed 13:13.	wants 15:4, 15:6, 29:10, 29:23.
	unsalvageable 36:10.	warm 8:6.
	urge 6:2.	warrants 13:15, 13:16, 13:19.
	utilize 23:19.	waste 22:16, 23:1.
		watch 24:6.
		watched 5:15.
		Waters 16:8.
		ways 37:6.
		weapons 30:9.
		Weave 17:15.
		week 45:2.

<p> weeks 44:25. weigh 8:22. whatever 5:6, 26:12, 38:11. whatsoever 37:10. whether 37:17, 39:11, 39:14, 39:15. whip 35:20. whips 26:17. whole 24:21, 31:1. wilderness 19:16. willing 23:11. wisdom 24:25. wishes 29:20. withdraw 21:8, 37:21. without 4:19, 4:22, 18:1, 20:11, 24:18, 24:19, 25:12. Witness 10:10, 11:24, 12:14, 14:2, 16:11, 16:18, 21:14. witnesses 10:9, 10:17, 11:2, 11:24, 14:19, 15:24, 16:8. wizardry 35:21. woman 22:15, 23:7, 29:22. women 38:13. Womer 19:11. wonder 18:18. wondering 13:9, 14:22. Wonderland 35:19. word 21:16. work 22:21, 38:23. worked 5:12. works 31:7. world 9:4, 24:5, 28:19, 31:6, 32:9, 35:19. </p>	<p> worlds 14:8. worth 12:10. worthy 22:12, 26:13, 38:3. wound 7:24. wounded 8:6. write 22:22. wrongful 9:8, 9:18, 9:20, 9:23, 17:7, 17:9. wrongfully 9:14. wrongly 3:10, 8:13, 9:11, 9:19, 12:1, 20:2. . . < Y >. year 16:1, 16:4, 16:5, 16:10, 25:8, 27:2, 27:10, 34:22, 35:1, 36:11. Young 6:5, 6:14, 19:7, 33:23. yourself 20:10, 37:6. youth 28:3. . . < Z >. zeroed 20:5. </p>
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CLERK OF THE COURT

JOC

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

RICKIE LAMONT SLAUGHTER
#1896569

Defendant.

CASE NO. C204957

DEPT. NO. III

JUDGMENT OF CONVICTION
(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of
COUNT 1 – CONSPIRACY TO COMMIT KIDNAPPING (Category B Felony) in
violation of NRS 199.480, 200.320; COUNT 2 – CONSPIRACY TO COMMIT
ROBBERY (Category B Felony) in violation of NRS 200.380, 199.480; COUNT 3 –
ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony) in
violation of NRS 200.010, 200.030, 193.330, 193.165; COUNT 4 – BATTERY WITH
USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.481;
COUNT 5 – ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON (Category B

//

1
2 Felony) in violation of NRS 200.380, 193.330, 193.165, of COUNT 6 – ROBBERY
3 WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.380,
4 193.165; COUNT 7 – BURGLARY WHILE IN POSSESSION OF A FIREARM (Category
5 B Felony) in violation of NRS 205.060; COUNT 8 – BURGLARY (Category B Felony) in
6 violation of NRS 205.060; COUNT 9, – FIRST DEGREE KIDNAPPING WITH
7 SUBSTANTIAL BODILY HARM, WITH USE OF A DEADLY WEAPON (Category A
8 Felony) in violation of NRS 200.310, 200.320, 193.165 and COUNTS 10, 11, 12, 13 &
9 14 – FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON (Category A
10 Felony) in violation of NRS 200.310, 200.320, 193.165, and the matter having been
11 tried before a jury and the Defendant having been found guilty of the crimes of COUNT
12 1 – CONSPIRACY TO COMMIT KIDNAPPING (Category B Felony) in violation of
13 NRS 199.480, 200.320; COUNT 2 – CONSPIRACY TO COMMIT ROBBERY (Category
14 B Felony) in violation of NRS 200.380, 199.480; COUNT 3 – ATTEMPT MURDER
15 WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.010,
16 200.030, 193.330, 193.165; COUNT 4 – BATTERY WITH A DEADLY WEAPON
17 (Category B Felony) in violation of NRS 200.481; COUNT 5 – ATTEMPT ROBBERY
18 WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.380,
19 193.330, 193.165; COUNT 6 – ROBBERY WITH USE OF A DEADLY WEAPON
20 (Category B Felony) in violation of NRS 200.380, 193.165; COUNT 7 – BURGLARY
21 WHILE IN POSSESSION OF A DEADLY WEAPON (Category B Felony) in violation of
22 NRS 205.060; COUNT 8 – BURGLARY (Category B Felony) in violation of NRS
23 205.060; COUNT 9, – FIRST DEGREE KIDNAPPING WITH SUBSTANTIAL BODILY
24 HARM, WITH USE OF A DEADLY WEAPON (Category A Felony) in violation of NRS
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1 200.310, 200.320, 193.165 and 10, 11, 12, 13 & 14 – FIRST DEGREE KIDNAPPING
2 WITH USE OF A DEADLY WEAPON (Category A Felony) in violation of NRS 200.310,
3 200.320, 193.165; thereafter, on the 16th day of October, 2012, the Defendant, acting
4 as his own counsel, was present in court for sentencing, and good cause appearing,
5

6 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense(s) and, in
7 addition to the \$25.00 Administrative Assessment Fee, Restitution in the amount of
8 \$35,000.00, payable to Victims Of Crime and \$150.00 DNA Analysis Fee including
9 testing to determine genetic markers, (waived if previously taken), the Defendant is
10 SENTENCED to the Nevada Department of Corrections (NDC) as follows: AS TO
11 **COUNT 1** - TO A MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole Eligibility
12 of TWENTY-FOUR (24) MONTHS; AS TO **COUNT 2** - TO A MAXIMUM of SIXTY (60)
13 MONTHS with a MINIMUM Parole Eligibility of TWENTY-FOUR (24) MONTHS, Count 2
14 to run CONSECUTIVE to Count 1; AS TO **COUNT 3** - TO A MAXIMUM of ONE
15 HUNDRED EIGHTY (180) MONTHS with a MINIMUM Parole Eligibility of SIXTY (60)
16 MONTHS, plus a CONSECUTIVE term of ONE HUNDRED EIGHTY (180) MONTHS
17 MAXIMUM with a MINIMUM parole eligibility of SIXTY (60) MONTHS for the use of a
18 Deadly Weapon, Count 3 to run CONSECUTIVE to Count 2; AS TO **COUNT 4** – NOT
19 ADJUDICATED AS WAS PLED IN THE ALTERNATIVE TO COUNT 3; AS TO **COUNT**
20 **5** - TO A MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM
21 Parole Eligibility of FORTY-EIGHT (48) MONTHS, plus a CONSECUTIVE term of ONE
22 HUNDRED TWENTY (120) MONTHS MAXIMUM with a MINIMUM parole eligibility of
23 FORTY-EIGHT (48) MONTHS for use of a Deadly Weapon, Count 5 to run
24 CONCURRENT with Count 3; AS TO **COUNT 6** - TO A MAXIMUM of ONE HUNDRED
25 TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of FORTY-EIGHT (48)
26
27
28

1 MONTHS plus a CONSECUTIVE term of ONE HUNDRED TWENTY (120) MONTHS
2 MAXIMUM with a MINIMUM parole eligibility of FORTY-EIGHT (48) MONTHS for use of
3 a Deadly Weapon, Count 6 to run CONSECUTIVE to Count 3; AS TO **COUNT 7** - TO A
4 MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole
5 Eligibility of FORTY-EIGHT (48) MONTHS, Count 7 to run CONCURRENT with Count
6 6; AS TO **COUNT 8** – TO A MAXIMUM of SIXTY (60) MONTHS with a MINIMUM
7 Parole Eligibility of TWENTY-FOUR (24) MONTHS, Count 8 to run CONCURRENT
8 with Count 7; AS TO **COUNT 9** – LIFE with a possibility of parole after a MINIMUM of
9 FIFTEEN (15) YEARS have been served, plus an EQUAL and CONSECUTIVE term of
10 LIFE with a possibility of parole after a MINIMUM of FIFTEEN (15) YEARS have been
11 served for the use of a Deadly Weapon, Count 9 to run CONSECUTIVE to Count 6 ; AS
12 TO **COUNT 10** - LIFE with a possibility of parole after a MINIMUM of FIVE (5) YEARS
13 have been served, plus an EQUAL and CONSECUTIVE term of LIFE with a possibility
14 of parole after a MINIMUM of FIVE (5) YEARS have been served for the use of a
15 Deadly Weapon, Count 10 to run CONCURRENT with Count 9; AS TO **COUNT**
16 **11** – LIFE with a possibility of parole after a MINIMUM of FIVE (5) YEARS have been
17 served, plus an EQUAL and CONSECUTIVE term of LIFE with a possibility of parole
18 after a MINIMUM of FIVE (5) YEARS have been served for the use of a Deadly
19 Weapon, Count 11 to run CONCURRENT with Count 9; AS TO **COUNT 12** - LIFE with
20 a possibility of parole after a MINIMUM of FIVE (5) YEARS have been served, plus an
21 EQUAL and CONSECUTIVE term of LIFE with a possibility of parole after a MINIMUM
22 of FIVE (5) YEARS have been served for use of a Deadly Weapon, Count 12 to run
23 CONCURRENT with Count 9; AS TO **COUNT 13** – LIFE with a possibility of parole after
24 a MINIMUM of FIVE (5) YEARS have been served, plus an EQUAL and

1 CONSECUTIVE term of LIFE with a possibility of parole after a MINIMUM of FIVE (5)
2 YEARS have been served for use of a Deadly Weapon, Count 13 to run
3 CONCURRENT with Count 9; and AS TO **COUNT 14** – LIFE with a possibility of parole
4 after a MINIMUM of FIVE (5) YEARS have been served, plus an EQUAL and
5 CONSECUTIVE term of LIFE with a possibility of parole after a MINIMUM of FIVE (5)
6 YEARS have been served for the use of a Deadly Weapon, Count 14 to run
7 CONCURRENT with Count 9 with TWO THOUSAND SIX HUNDRED TWENTY-SIX
8 (2,626) DAYS credit for time served.
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11

12 DATED this 17 day of October, 2012.

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15 
16 DOUGLAS W. HERNDON
17 DISTRICT JUDGE
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IN THE SUPREME COURT OF THE STATE OF NEVADA

RICKIE LAMONT SLAUGHTER A/K/A
RICKIE LAMONT SLAUGHTER, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 61991

FILED

MAR 12 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. Malone
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of conspiracy to commit kidnapping, conspiracy to commit robbery, attempted murder with the use of a deadly weapon, battery with the use of a deadly weapon,¹ attempted robbery with the use of a deadly weapon, robbery with the use of a deadly weapon, burglary while in the possession of a deadly weapon, burglary, first-degree kidnapping with the use of a deadly weapon causing substantial bodily harm, and five counts of first-degree kidnapping with the use of a deadly weapon. Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge.

On June 26, 2004, appellant and his companion entered the home of Ivan Young and his family armed with guns and restrained Ivan, his wife, his 10-year-old son, and his 12-year-old nephew with electrical cords. The men repeatedly demanded money and drugs from Ivan and his wife. During the event, an acquaintance of Ivan's, Ryan John, was called

¹Appellant was not adjudicated on the offense of battery with the use of a deadly weapon because it was pleaded in the alternative to attempted murder with the use of a deadly weapon.

over to Ivan's house by appellant as John was leaving his girlfriend's house. When John entered Ivan's garage, appellant forced him at gunpoint into the home and restrained him. Ivan's friend, Jermaun Means also arrived at Ivan's house and was forced into the home and restrained. Appellant and his companion took money and wallets from the victims and broke their cell phones. Appellant also took John's Wells Fargo Bank card, demanded the pin number, and threatened John if he provided the wrong pin number. During the robbery, appellant and his companion beat Ivan and John and appellant shot Ivan in the face. The State introduced a surveillance video from a 7-Eleven and testimony that John's Wells Fargo bank card had been used at an ATM in the 7-Eleven to withdraw \$300 an hour after the crimes. Appellant raises three issues on appeal.

First, appellant argues that a suggestive pretrial photographic lineup impermissibly tainted in-court identifications, thereby violating his due process rights. In this, he contends that the photographic lineup was impermissibly suggestive because his photograph had a white background, whereas the other five photographs had a blue background, and his photograph differed from the others in age and condition. In assessing a challenge to a pretrial identification, we consider "(1) whether the procedure is unnecessarily suggestive, and (2) if so, whether, under all the circumstances, the identification is reliable despite an unnecessarily suggestive identification procedure." *Bias v. State*, 105 Nev. 869, 871, 784 P.2d 963, 964 (1989). Considering the totality of the circumstances, a photographic lineup is suggestive when the procedure is so unduly prejudicial as to fatally taint a defendant's conviction. *Thompson v. State*, 125 Nev. 807, 813, 221 P.3d 708, 713 (2009). "[A] photographic identification must be set aside 'only if the photographic identification procedure was so impermissibly suggestive as to give rise to a very

substantial likelihood of irreparable misidentification.” *Cunningham v. State*, 113 Nev. 897, 904, 944 P.2d 261, 265 (1997) (quoting *Simmons v. United States*, 390 U.S. 377, 384 (1968)).

After reviewing the photographic lineup, the district court found that appellant and four of the five remaining persons in the photographs wore black or dark blue shirts, they all had the same hairstyle, facial hair and features, and appeared to be about the same age. The district court further concluded that the background of appellant’s photograph was blue but that it was “just a lot lighter than the background in the others.” Determining that the photographic lineup was proper, the district court denied appellant’s motion to preclude the evidence. We conclude that the district court did not err in this regard.

Second, appellant argues that the district court abused its discretion by admitting the 7-Eleven surveillance video because it was not properly authenticated and its probative value was outweighed by its prejudicial effect because it was confusing and misleading to the jury. Appellant concedes that the 7-Eleven store owner was qualified to authenticate the surveillance video as to the location of the ATM machine, the time the video was recorded, and that the video was kept in the ordinary course of business. He argues, however, that the video surveillance was improperly authenticated because the State failed to establish that it was what the State represented it to be—a video of appellant entering the 7-Eleven and using John’s Wells Fargo bank card to withdraw money. Rather, appellant argues, the State impermissibly authenticated the video through hearsay evidence. We conclude that the surveillance video was properly authenticated under NRS 52.015.

It appears that appellant really takes issue with evidence the State introduced to show that the individual on the video was him, namely the 7-Eleven store owner’s testimony that the police requested him to

retrieve the video surveillance that corresponded to an ATM transaction on June 26, 2004, around 8:00 p.m., and John's testimony that he learned that his bank card had been used at a 7-Eleven ATM to withdraw \$300 around 8:00 p.m. on the evening of the robbery. Because appellant did not object to the admission of this testimony, we review his challenge for plain error affecting his substantial rights. *McLellan v. State*, 124 Nev. 263, 267, 182 P.3d 106, 109 (2008). We conclude that the 7-Eleven manager's testimony was not offered for the truth of the matter asserted, *see* NRS 51.035, but to explain his actions in responding to a police request. *See Wallach v. State*, 106 Nev. 470, 473, 796 P.2d 224, 227 (1990) ("A statement merely offered to show that the statement was made and the listener was affected by the statement, and which is not offered to show the truth of the matter asserted, is admissible as non-hearsay."). And John's testimony was not hearsay because it did not concern an out-of-court statement. *See* NRS 51.035. We also reject appellant's contention that the video was unfairly prejudicial because it was confusing and misleading to the jury, as it was for the jury to decide, based on the evidence presented, whether the man depicted in the surveillance video was appellant.

Finally, appellant argues that the prosecutor engaged in several instances of misconduct. Because appellant did not object to any of the comments he challenges, his claim is reviewed for plain error affecting his substantial rights. *See Valdez v. State*, 124 Nev. 1172, 1190, 196 P.3d 465, 477 (2008). For the following reasons, we conclude that appellant has not established plain error. First, appellant's contention that the prosecutor's comments throughout the trial concerning the connection between the surveillance video and the stolen bank card lacks merit because those comments were reasonable inferences from the evidence presented at trial. *See Truesdell v. State*, 129 Nev. ___, ___, 304 P.3d 396,

402 (2013), *cert. denied*, 571 U.S. ___, 134 S. Ct. 651 (2013). Second, appellant's argument that the prosecutor improperly suggested that two persons had procured a defense witness to testify falsely on his behalf lacks merit where evidence was presented that appellant had attempted to construct an alibi and the prosecutor's comments challenged the witness' credibility in that regard. Third, appellant argues that the prosecutor improperly shifted the burden of proof by commenting that if appellant was not doing anything wrong at the time of the crimes, "he wouldn't need anybody to come in here and lie for him. That alone would make him guilty." Considering the challenged comment in context, *see Hernandez v. State*, 118 Nev. 513, 525, 50 P.3d 1100, 1108 (2002), we conclude that the prosecutor's comments were a permissible response to evidence appellant presented suggesting that he was elsewhere at time the crimes were committed. Fourth, appellant contends that the prosecutor improperly interjected his personal beliefs to inflame the jury by stating, "I got to tell Appellant this, too, you shoot a guy in the face, you don't just get 10 years." *See Aesoph v. State*, 102 Nev. 316, 322, 721 P.2d 379, 383 (1986) ("[P]rosecutors must not inject their personal beliefs and opinions into their arguments to the jury."). To the extent that the comment may be construed as personal opinion, no relief is warranted given the evidence presented. Fifth, appellant contends that the prosecutor's comment that appellant knew he committed the crimes and suggested to the jury that "if you are doing the job, 12 of you will go back in that room, you will talk about it, and come back here and tell him you know, too," suggested to the jury that it had a duty to convict him. To the extent that the comment may be deemed improper, *see Anderson v. State*, 121 Nev. 511, 517, 118

P.3d 184, 187-88 (2005), no relief is warranted considering the evidence presented.²

Having considered appellant's arguments and concluded that no relief is warranted, we

ORDER the judgment of conviction AFFIRMED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Cherry, J.
Cherry

cc: Hon. Douglas W. Herndon, District Judge
Law Offices of Gamage & Gamage
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

²We conclude that any prosecutorial misconduct considered cumulatively does not warrant relief. *See Valdez*, 124 Nev. at 1195, 196 P.3d at 481 (setting forth the factors to be considered in assessing a claim of cumulative error).