

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 IX of XXII**

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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
---	--

/s/ Richard D. Chavez

An Employee of the
Federal Public Defender

Deposition of:

Detective Jesus Prieto (Retired)

Case:

Rickie Slaughter v. Renee Baker, et al.
3:16-CV-00721-RCJ-WGC

Date:

02/22/2018



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1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA
3

4 RICKIE SLAUGHTER,)
5 Petitioner,) Case No.
6 vs.) 3:16-cv-00721-RCJ-WGC
7 RENEE BAKER, et al.,)
8 Respondents.)
9 _____)

10

11

12 VIDEOTAPED DEPOSITION OF

13 DETECTIVE JESUS PRIETO (RETIRED)

14 Taken on Thursday, February 22, 2018

15 By a Certified Court Reporter and Legal Videographer

16 At 8:54 a.m.

17 At 411 East Bonnevillle Avenue, Suite 250

18 Las Vegas, Nevada

19

20

21

22

23

24 Reported by: Janet C. Trimmer, NV CCR 864, RPR, CRR

25 Job No. 26043

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24
25

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23			Rickie"
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25			Nevada vs. Rickie Slaughter,
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1	EXHIBITS (CONTINUED):	
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		Lineup Identification Evidence,"
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6	Exhibit 11	63 "North Las Vegas
7		Detention/Corrections Mugshot
		Profile"
8	Exhibit 12	64 Copy of photo titled "Richard,
9		Jacquan Lee"
10	Exhibit 13	70 Copy of photo - "Robinson,
		Marvin Alonzo"
11	Exhibit 14	- "North Las Vegas
12		Detention/Corrections Mugshot
		Profile"
13	Exhibit 15	70 North Las Vegas Police Witness
14		Photo Lineup Identification,
		Case #: 04-15160
15	Exhibit 16	73 North Las Vegas Police Witness
16		Photo Lineup Identification,
		Case #: 04-15160
17	Exhibit 17	88 Copy of photo lineup, same as
18		page 3 of Exhibit 7
19	Exhibit 18	- Document titled "This Page
		Intentionally Left Blank"
20	Exhibit 19	89 "State of Nevada Department of
21		Motor Vehicles and Public Safety
		Certificate of Title"
22	Exhibit 20	104 Transcript of jury trial,
23		Thursday, May 19, 2011
24	Exhibit 21	105 North Las Vegas Police
		Department Police Report, Case:
		04015160, Date: 8/12/04
25	//	

1	EXHIBITS (CONTINUED):		
2	Exhibit 22	106	North Las Vegas Police
3			Department
4			Pre-Booking/Declaration of
5			Arrest
6	Exhibit 23	109	North Las Vegas Police
7			Department Police Report, Case:
8			04015160, Date: 8/12/04
9	Exhibit 24	110	Copies of photos introduced at
10			Rickie Slaughter's trial
11	Exhibit 25	112	Transcript of conversation
12			between Detective Prieto and
13			Tiffany Johnson on 6-28-04
14	Exhibit 26	119	Transcript of conversation
15			between Detective Prieto and
16			Tiffany Johnson on 6-29-04
17	Exhibit 27	138	North Las Vegas Police
18			Department Police Report, Case:
19			04015160, Date: 8/12/04
20	Exhibit 28	92	North Las Vegas Police
21			Department Police Report, Case:
22			04015160, Date: 6/30/04
23	Exhibit 29	135	Transcript of conversation
24			between Detective Prieto and
25			Tiffany Johnson
	Exhibit 30	-	"Interview of Jacquan Richard 02
			DR #04-1160"
	Exhibit 31	-	Transcript of jury trial dated
			Tuesday, May 17, 2011
	Exhibit 32	156	Copy of crime scene photo
	Exhibit 33	157	Copy of photos - defense
			exhibits of car marked at trial
	Exhibit 34	158	"Application and Affidavit For
			Search Warrant"
	//		

1	EXHIBITS (CONTINUED):		
2	NUMBER	PAGE	DESCRIPTION
3	Exhibit 35	-	"North Las Vegas Police
4			Department Police Report, Case:
			04015160, Date: 6/30/04"
5	Exhibit 36	165	Copy of photo - shoes
6	Exhibit 37	165	Copy of photo - closeup of shoe
7	Exhibit 38	167	North Las Vegas Police
8			Department Police Report, Case:
			04015160, Date: 8/12/04
9	Exhibit 39	167	"Application and Affidavit For
10			Search Warrant"
11	Exhibit 40	-	Transcript of proceedings dated
			Monday, May 16, 2011
12	Exhibit 41	186	Newspaper article titled "A year
13			after being freed from jail,
14			teen deals with PTSD-like
			symptoms"
15	Exhibit 42	-	News article titled "DA drops
16			murder charge against Mojave
			High student"
17	Exhibit 43	99	"Incident Description For
			Ticket/Date: 589729/20040626"
18	Exhibit 44	139	"LMPD - Communication Center
19			Event Search"
20	Exhibit 45	-	Blank page titled "911 Call"
21	Exhibit 46	122	Records from an investigator
22			that prior defense counsel for
			Mr. Slaughter hired
23	Exhibit 47	57	Transcript of Proceedings,
			Wednesday, May 18, 2011, Case
24			No. C204957
25	Exhibits 48	151	Copies of photos - State's
	to 51		exhibits submitted at trial that
			correspond to photo lineups

1	INDEX (CONTINUED) :	
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1 P R O C E E D I N G S

2

3 THE VIDEOGRAPHER: Good morning. This is
4 digital media number 1 in the deposition of Jesus
5 Prieto.

6 Today's date is February 22nd, 2018. The
7 time is 8:54 a.m.

8 We are located at 411 East Bonnevillle,
9 Suite 250, in Las Vegas, Nevada.

10 This case is entitled Rickie Slaughter versus
11 Renee Baker, et al. The case number is
12 3:16-cv-00721-RCJ-WGC, in the District Court,
13 Clark County, Nevada.

14 My name is Dawn Beck, legal videographer.
15 Your court reporter is Janet Trimmer. We represent
16 Oasis Reporting Services.

17 Would counsel please state your appearances
18 for the record and whom you represent.

19 MR. BARON: My name is Jeremy Baron. I'm
20 from the Office of the Federal Public Defender. I'm
21 here with my colleague, Ken Lee, and Terri Lewis, and
22 we represent Rickie Slaughter.

23 MR. BONGARD: Michael Bongard with Natasha
24 Gebrael from the Nevada Attorney General's Office for
25 Renee Baker, respondents.

1 THE VIDEOGRAPHER: The court reporter will
2 please administer the oath.

3 THE REPORTER: Raise your right hand, please.

4
5 DETECTIVE JESUS PRIETO (RETIRED),
6 having been first duly sworn to testify to the truth,
7 was examined and testified as follows:

8

9 EXAMINATION

10

11 BY MR. BARON:

12 Q. Good morning, Detective Prieto.

13 A. Good morning.

14 Q. Do you still prefer to go by "Detective" or
15 is "Mr. Prieto" better?

16 A. "Jesse" is fine, or however you want to do
17 it.

18 Q. I might stick with "Detective," if that's all
19 right with you.

20 A. Yeah, that's fine.

21 Q. Have you ever been deposed before?

22 A. You know what? I can't even remember. I
23 couldn't tell you. I went to so many things over my
24 career, I suppose I may have been.

25 Q. You've testified at trial before?

1 A. Yes.

2 Q. Well, in case you haven't been deposed
3 before, let me go over some ground rules with you.

4 A. Okay.

5 Q. Like with trials, your testimony today is
6 sworn. We're in an office building, obviously, not a
7 courtroom, but it is sworn testimony and it serves the
8 purposes of trial testimony in many ways.

9 Do you understand that?

10 A. Yes.

11 Q. Okay. Like with trials, let's try our best
12 not to talk over one another. Let me ask my question,
13 and then I'll let you answer the question, and we'll
14 move on.

15 But the court reporter is trying to make a
16 record of this, so if we're talking over one another,
17 it's going to make things very confusing.

18 Is that all right?

19 A. Yes.

20 Q. And if I ask you a question and you don't
21 understand it, please ask to clarify the question, and
22 I'll try and ask you a better question.

23 A. Okay.

24 Q. And like with trials, please answer with an
25 audible "yes" or a "no." Don't just shake your head

1 up and down or left or right, that sort of thing.

2 Unlike with trials, however, objections are
3 just for the record. So if opposing counsel makes an
4 objection, I might try and ask a better question, but
5 it's not like a trial where you have to wait for the
6 judge to resolve the objection.

7 If I ask a question, opposing counsel
8 objects, and I ask you to answer the question, you can
9 go ahead and answer the question.

10 And then, unlike with trials, please feel
11 free to ask for a break whenever you want. We don't
12 have to wait for the judge to let us take a break, so
13 if you need to break for any reason, please let me
14 know.

15 Does that all make sense to you?

16 A. Yes.

17 Q. Do you have any questions about that?

18 A. No.

19 Q. Is there any reason why you can't testify
20 under oath today?

21 A. No.

22 Q. Not under any medications or any other things
23 that might interfere with your ability to answer
24 questions?

25 A. No.

1 Q. I'd like to talk a little bit about your
2 background, if that's all right. I understand you are
3 currently retired from the North Las Vegas Police
4 Department. Is that correct?

5 A. Yes.

6 Q. When did you retire?

7 A. June 6th -- no, June 14th, 2016 -- no, wait.
8 January 14, 2016.

9 Q. So about --

10 A. Two years.

11 Q. -- two years at this point?

12 A. Yeah.

13 Q. Why did you retire?

14 A. Because I had my time for my pension,
15 everything was -- I was done.

16 Q. Did anyone ask you to retire?

17 A. No.

18 Q. Did anyone tell you that if you didn't retire
19 you would be fired?

20 A. No.

21 Q. Are you currently employed in any capacity?

22 A. No.

23 Q. So you are just retired?

24 A. I'm just retired.

25 Q. What's the highest level of education you

1 received?

2 A. High school.

3 Q. And when did you -- where did you go to
4 high school?

5 A. Vo Tech in Henderson.

6 Q. In Henderson?

7 A. Yeah.

8 Q. You've been in Clark County your whole life?

9 A. Since I was 8, '65.

10 Q. Where were you before that, just out of
11 curiosity?

12 A. I was in California.

13 Q. Southern California?

14 A. Yes. I was born in Redland- -- Loma Linda.
15 I lived in Redlands and San Bernardino, and then
16 family moved here.

17 Q. When did you first become a police officer?

18 A. I started in the reserves in 1985.

19 Q. What are the "reserves"?

20 A. It was a reserve for the North Las Vegas
21 Police Department, where if you went through the
22 training, you would work as a reserve officer. You
23 got to come and work with police and go out on calls
24 with them.

25 Q. Is that like a full-time job or like a

1 part-time --

2 A. No. It was just -- you know, just a part --
3 not -- yeah, whenever they needed you or whenever you
4 wanted to ride. It was like a ride-along, but as a
5 reserve.

6 And soon after, it was May 14th, 1986, I
7 started working in the jail, and I worked there for
8 three years.

9 Q. As a corrections officer?

10 A. As a -- for North Las Vegas corrections.

11 Q. For the North Las Vegas jail?

12 A. Correct.

13 And in 1989 I switched over to
14 police officer.

15 Q. So you started in 1989. What was your
16 initial position as a police officer?

17 A. Police officer.

18 Q. That's just the title that you had?

19 A. Yeah.

20 Q. So you are starting out, like you have a
21 beat, a patrol beat?

22 A. Yes.

23 Q. Okay. And are you promoted over the years?

24 A. I was promoted to detective in 1999, but
25 during the interim I worked in a gang task force.

1 It's not like a promotion. It's just you put in for
2 positions, and they either give them to you or they
3 don't. But that was my first promotion, in 1999, to
4 detective.

5 Q. So in '89 you started out as patrol. At some
6 point you start working with the gang unit?

7 A. Yes.

8 Q. What time period is that in?

9 A. It was 1991, I believe, and it was a gang
10 task force. It was started with Metro -- NDI, ATF,
11 DEA, and Metro; five, I believe, groups, and they
12 started in the building across the street, the brown
13 building that's being under construction.

14 Q. Uh-huh.

15 A. And we worked there, I worked there for one
16 year as a gang task force officer.

17 Q. So that's five different entities that are
18 all collaborating together --

19 A. Yes.

20 Q. -- to share information?

21 A. Yes, working together against gangs in the
22 Valley.

23 Q. What's the goal of the collaboration?

24 A. I guess, to put our thoughts in our work, you
25 know, directed toward certain gangs, you know, as a

1 whole instead of individually.

2 Q. And you said you worked in that building for
3 a year?

4 A. Yes, it was a year, and then they pulled us
5 out. They left other people that were transferred
6 over there in there for a short time longer, and then
7 North Las Vegas totally pulled out.

8 Q. So at that point, North Las Vegas is no
9 longer collaborating with those other four entities?

10 A. I don't say they are not collaborating, but
11 not in the gang task force. I don't think we stayed
12 in there but a year or two afterwards.

13 Q. Did you stay in touch with any of the people
14 you met during that year?

15 MR. BONGARD: Objection. Relevance.

16 BY MR. BARON:

17 Q. You can answer the question.

18 A. I don't stay in touch with anyone.

19 Q. Were there people you met in that year, from
20 Metro, that you would continue to have contact with in
21 your capacity as a police officer?

22 MR. BONGARD: Objection --

23 THE WITNESS: No.

24 MR. BONGARD: -- relevance.

25 THE WITNESS: No.

1 BY MR. BARON:

2 Q. So in, you said, 1999 you're -- in 1999 you
3 are promoted to detective?

4 A. Yes.

5 Q. What do you have to do in order to be
6 promoted to detective?

7 A. You have to take a test. You've got to put
8 in for it, then they test you and they do interviews,
9 and then they put you on a list and they promote you
10 if you are high enough.

11 Q. Tell me more about that test.

12 MR. BONGARD: Objection. Relevance.

13 BY MR. BARON:

14 Q. You can answer.

15 A. Yeah, I -- it's just your knowledge of what
16 detective work would be. I mean, there is a
17 literature that you study. It's just like taking an
18 exam for Metro when people get on. There's books you
19 study, and that's what I did and --

20 Q. Are you studying best practices as a
21 detective?

22 A. No. Just maybe certain laws, procedures.
23 You know what? I couldn't tell you. Just all I can
24 remember.

25 Q. What sort of training did you have to take

1 either to become a detective or once you are promoted?
2 Is there separate training you have to take?

3 A. I took many classes. There was interview
4 classes. There was crime scene investigation classes.
5 There were homicide classes. There were just -- I
6 think I had 2,000 hours, but I couldn't tell you in
7 particular the names or anything of any of them now.

8 Q. Is that training just around the time period
9 that you're promoted to detective, or is it ongoing --

10 A. No, it's an ongoing thing. You'll see
11 classes. They have training that comes out. They
12 will send out either -- e-mails telling you what's
13 available, and then you can select from the training
14 that you like or that you think you need.

15 Q. Once you became a detective, was there an
16 immediate supervisor who trained you?

17 A. Yeah. You're paired up with a senior
18 detective, and then you just ride with him and he
19 grades you and he determines, I guess, if you stay or
20 not stay.

21 Q. Who was that person for you?

22 A. There was a Jimmy Jackson, but I couldn't
23 tell you if I was switched around. I may have been
24 switched around. But I can recall his name.

25 Q. You become a detective in '99. Do you have

1 any other promotions from then until 2016?

2 A. No.

3 Q. Different titles?

4 A. No.

5 Q. Just detective the whole way through?

6 A. Yes.

7 Q. What sort of cases did you work on?

8 A. I worked on crimes against person, everything
9 from little kids fighting at school to murders, to
10 officer-involved shootings, everything, domestic
11 battery -- anything that was crimes against person.

12 And this wasn't like we specialize in murders
13 or we specialize -- we had everything handed to us
14 daily, whatever came in. And when you were on call,
15 you would get the callout for serious crimes like
16 murders or maybe shootings. That's what I did.

17 Q. So there aren't specific homicide detectives
18 at North Las Vegas?

19 A. No.

20 Q. It's just there's crimes against persons, and
21 everyone in that unit covers all those types of
22 crimes?

23 A. That's right.

24 Q. As of 2004, you would have had -- let's do
25 the math -- 15 years of experience as a detective?

1 MR. BONGARD: Objection. Misstates facts.

2 BY MR. BARON:

3 Q. When did you -- remind me when you became --

4 A. '99. That would have gave me like
5 five years; right? 2004.

6 Q. My math is not so good.

7 In 2004, who was supervising you?

8 A. I can't recall.

9 Q. You had mentioned some of the training you
10 got. Were there any manuals or written guidance in
11 North Las Vegas about how to, say, conduct
12 interrogations?

13 A. I can't recall. I went to several classes.

14 Q. You didn't have a library or something like
15 that or --

16 A. No.

17 Q. -- a database on the computer with
18 instructional materials?

19 A. No, that I can recall.

20 Q. Let's talk about police reports for a minute.
21 What's your general practice when it comes to writing
22 police reports?

23 A. I don't know what you are referring to. What
24 do you mean "practice"?

25 Q. What's the purpose of police reports?

1 MR. BONGARD: I'm going to object. Can we
2 put it to a relevant time period?

3 BY MR. BARON:

4 Q. In the year of 2004, what was the purpose of
5 North Las Vegas police detectives drafting police
6 reports?

7 A. To document what happened.

8 Q. How -- if you have an investigation, are you
9 drafting the police report throughout the
10 investigation, or do you wait until the investigation
11 is over to begin drafting the report?

12 A. I would do it as I went. I would start a
13 report, and then if the case was ongoing, then my
14 report would stay in there. I didn't have to approve
15 anything.

16 Q. In your opinion, is that preferable to
17 waiting until the end of the investigation to draft
18 the entire report?

19 A. It was, to me.

20 Q. Why is that?

21 A. Because my memories are more fresh. I would
22 do something, and then I would come back if I have
23 time, because working my cases wasn't like this case
24 was all I was doing. I had a screen and I had -- it
25 could be from 1 to 20 cases. And then I work on this

1 case, and then if nothing is going, if nothing would
2 be going, I would go and work on another case, and I
3 would work on, sometimes, as many as two or three
4 cases, maybe more, in a day. Just working around so
5 that I could keep ahead of the caseload.

6 Q. So the goal -- correct me if I'm wrong. The
7 goal is to memorialize what's going on in your cases
8 around the same time period that it's happening?

9 A. Yes.

10 Q. Do you want your reports to be thorough?

11 A. The best that I could do, I mean.

12 Q. Do you want them to be precise?

13 A. Yes.

14 MR. BONGARD: Objection as to vagueness.

15 BY MR. BARON:

16 Q. Do you want them to be accurate?

17 A. Yes.

18 Q. Were you trained to draft reports to be
19 thorough and accurate?

20 A. Yes.

21 Q. Would you be taking notes throughout your
22 investigation and then incorporate those notes into
23 the reports?

24 A. I wasn't a big note person.

25 Q. Let's talk about how you prepared for this

1 deposition. Did you prepare for this deposition? Did
2 you do anything to prepare for this deposition?

3 A. I got some reports. I don't know if I got
4 all the reports. I just made a call to the office. I
5 was given a stack of reports, so I tried to read
6 through as much of the stuff as I could.

7 Q. Did you speak with anyone from the Attorney
8 General's Office?

9 THE WITNESS: Are you an attorney general?

10 MR. BONGARD: Yes.

11 THE WITNESS: Okay. I -- he -- I talked to
12 him.

13 BY MR. BARON:

14 Q. How many times?

15 A. A few times. He just told me I had -- you
16 know, just filled me in on the -- kind of what you are
17 telling me, what I'm going to have to come down here
18 and do.

19 Q. And how long were those conversations?

20 A. Not long at all. A few minutes.

21 Q. Did you speak to any other attorneys?

22 A. I don't believe I talked to anybody but the
23 girl that served me the subpoena.

24 Q. That's Maribel.

25 A. Yeah, Maribel.

1 Q. Did you do anything else to prepare for
2 today's deposition?

3 A. No.

4 Q. Did you serve as the lead detective with
5 respect to an incident that occurred at 2612 Glory
6 View Lane in North Las Vegas on June 26, 2004?

7 A. I know the street, and I'm not -- but I -- I
8 believe this is -- yes, I was the lead detective on
9 the Slaughter case.

10 (Exhibit 1 was marked for identification.)

11 BY MR. BARON:

12 Q. If you would like, let's look at Exhibit 1 in
13 this binder, what I have marked as Exhibit 1 for the
14 purposes of this deposition. This exhibit is
15 identical to the Exhibit 8, the amended petition in
16 the federal case.

17 If you want to just take a minute and skim
18 through this and confirm whether or not you were the
19 lead detective.

20 A. I was.

21 Q. Do you recall writing this report?

22 A. Yes.

23 Q. You have no reason to doubt that this is your
24 report?

25 A. No.

1 Q. What were your responsibilities as the lead
2 detective on this case?

3 A. To try and find out who did it.

4 Q. Can you be a little more specific about what
5 that involves?

6 A. It can involve any number of things. Look, I
7 could go to the scene and they could have the suspect,
8 and I could arrest them and that would be the end of
9 it, or I would have to follow whatever information
10 that I could get.

11 I'd go there. I'd examine the scene. I'd
12 get information from the officers that were there,
13 because they were there before me and they ultimately
14 know more than I do when I arrive. So I would get
15 information from them, which I believe was Mark Hoyt,
16 was the responding patrol officer, and get whatever he
17 has.

18 Then I examine the scene. I may or may not
19 talk to victims or witnesses that are there, depending
20 on what I get from the officer, because he usually can
21 tell me everything that they've told him.

22 So I'll put everything together, see what we
23 have, and then I'll leave. I mean, there's not --
24 unless it leads me directly to a suspect right from
25 that point.

1 Q. You mentioned you are working with other
2 police officers who are involved in the case?

3 A. I talk to officers that are there. When
4 working as a detective, I have a partner. His name
5 was Melgarejo, Edwing Melgarejo. We go to calls
6 together when we're called out, although after we go
7 to the call, we no longer work that case together,
8 unless there was something I needed him for, because
9 he has his caseload, I have my caseload. So after the
10 initial, you know, call, we go together. I mean, we
11 don't work the cases together, actually.

12 Q. So after your initial visit to the crime
13 scene, you did not have further discussions with your
14 partner, Detective Melgarejo?

15 A. I mean, it might be --

16 MR. BONGARD: Objection. That misstates the
17 testimony.

18 BY MR. BARON:

19 Q. You visited the crime scene with
20 Detective Melgarejo?

21 A. Yes.

22 Q. After that visit, did you have any further
23 discussions with him about the case?

24 A. I can't recall. I may or may not have. But
25 as far as him working the case with me, unless I ask

1 him to do certain things, he goes back to work in his
2 caseload. This is my case.

3 Q. So as a general practice, after the initial
4 visit to the crime scene with your partner, you
5 wouldn't continue to have discussions with him about
6 the case?

7 MR. BONGARD: Objection. Asked and answered.

8 BY MR. BARON:

9 Q. You can answer.

10 A. I think I just told you. I mean, we go, and
11 on occasion if I need something I'll ask him, but
12 other than that it's my case and I do it.

13 Q. Are other police officers generating reports
14 with respect to this incident?

15 A. Yeah, of course. There's -- might have
16 several.

17 Q. There are already some in here.

18 A. Yeah, I know there's several people that were
19 -- I know that the one that responds, the primary
20 officer, and then ID techs, and then usually people
21 that contact certain people that they get certain
22 information, they'll make a report.

23 But I don't think Edwing made -- or
24 Detective Melgarejo ever wrote a report.

25 Q. The officers who did draft reports, would you

1 receive those?

2 A. Yes.

3 Q. Would you read them?

4 A. Yes.

5 Q. Would you consider yourself the person
6 responsible for knowing everything that the police
7 office knows about the case?

8 MR. BONGARD: Objection.

9 BY MR. BARON:

10 Q. You can answer.

11 A. I'd read what they have and then I'd continue
12 to work the case. And then if it's something that I
13 did, I missed or it would help, then I incorporate it,
14 but if it's -- it all depends.

15 Q. Do you recall the names of the victims and
16 the eyewitnesses in this case?

17 A. I read over it. I know a couple of the
18 names.

19 (Exhibit 2 was marked for identification.)

20 BY MR. BARON:

21 Q. Let's turn to what I have marked as Exhibit 2
22 for the purposes of this deposition, which is also
23 Exhibit 50 to the amended petition in the federal
24 case. This is the third amended information filed
25 against Mr. Slaughter. And if you look at the last

1 page of it, page 8, it has a list of witnesses known
2 to the D.A.'s office.

3 Starting with the name Ivan Young, if you can
4 read the seven names including Ivan Young, and let me
5 know if that refreshes your recollection as to the
6 victims and eyewitnesses in this case.

7 A. It's Ivan Young, the victim that got shot;
8 Jennifer Dennis, his girlfriend; Jermaun Means, I
9 believe he was someone that came over to the house
10 during the incident, he had a car getting worked on;
11 John, Ryan, lived across the street; Jose Posada was
12 one of the kids that were there; Aaron Dennis was
13 another kid; Destinee Waddy, I can't recall;
14 Tammy Posado, can't recall.

15 Q. That's fine.

16 Did you create a notebook or a file of some
17 sort with respect to this case?

18 A. No.

19 Q. As a general practice, did you create -- did
20 you create notebooks or files on your cases?

21 A. Only on murders.

22 Q. Did you prepare photographic lineups in this
23 case?

24 A. Yes.

25 Q. How many?

1 A. I don't recall. Let's see. I showed one to
2 Ivan. I showed one to Dennis.

3 Q. Let me rephrase the question. When I'm
4 referring to "photo lineups," I'm referring not to
5 different variations of the same six-pack, but I am
6 referring to lineups that have totally different cases
7 in them.

8 A. No.

9 Q. Does that make sense?

10 A. Yes.

11 Q. How many --

12 A. One.

13 Q. One.

14 Tell me generally how you prepare photo
15 lineups. Walk me through the procedure.

16 A. I -- I would try to find the latest or the
17 most recent arrest of the person, by whatever agency,
18 then I would order that photo. Then we -- I believe
19 there was a way we could stick it into our computer
20 system. I think it was called Printrak or something,
21 then we would stick the photo in there. Then I was
22 able to generate all pictures from everybody that's
23 been arrested, and then I could pick people that
24 looked similar.

25 Q. Do you always use the most recent arrest of a

1 person?

2 A. Yes.

3 Q. You can't recall any times when you didn't
4 use the photo?

5 A. I can't recall. I just know I would always
6 go for the most recent, unless I didn't find it.

7 Q. And then you would, through the computer,
8 pick five images of other people who look similar to
9 the suspect?

10 A. Correct.

11 Q. Are you attempting to get those other five
12 photos to look as close to the suspect as possible?

13 A. I mean, as close as -- I mean, for me, I'm
14 just looking. I said, "yeah, it looks close," and
15 then I pick them.

16 Q. Is your goal to minimize variation among the
17 photos?

18 A. My goal is to make them all look similar. I
19 don't know what you want. I mean...

20 Q. Are you -- do you try to create a lineup so
21 that it doesn't emphasize a particular photo?

22 A. Right --

23 MR. BONGARD: Objection. Vague.

24 BY MR. BARON:

25 Q. Do you try to create a lineup so that no

1 particular photo stands out to the viewer?

2 A. I tell you, if it's a white guy, I try to
3 pick all white males that look similar. If my suspect
4 or my person that was the suspect in the case had a
5 red shirt on, and everybody else had a white shirt on,
6 then I would try to get multicolored shirts that would
7 make him look more like everybody else. The faces, I
8 tried to keep generally the same. If he had a face
9 with a moustache, I would try to pick people with -- I
10 want to make it similar.

11 Q. What's the goal of that?

12 A. So that it didn't --

13 MR. BONGARD: Objection. Vague.

14 BY MR. BARON:

15 Q. You can answer.

16 A. So that the suspect didn't stand out.

17 Q. When you say the "suspect didn't" -- so that
18 the suspect doesn't stand out, is that to minimize the
19 chance that a witness will make a false
20 identification?

21 A. Yes.

22 MR. BONGARD: Asked and answered.

23 BY MR. BARON:

24 Q. How do you document the outcome of showing
25 lineups to witnesses?

1 A. I show them the lineup. I tell them to
2 circle, put their initials, if I recall right. And
3 then sometimes at the bottom they'll write something
4 in if they feel like they want to do that. And then
5 they sign it.

6 Q. What happens if a witness is unable to make
7 an identification from the lineup?

8 A. Then I'll document that they didn't make an
9 identification, in my report.

10 Q. Would you always -- would you document it on
11 the lineup itself?

12 A. Not usually, no.

13 Q. Was there a time that North Las Vegas Police
14 Department changed its policy with respect to that?

15 MR. BONGARD: Objection. Relevance as to
16 time frame.

17 BY MR. BARON:

18 Q. When you were serving as a detective, were
19 you aware of any changes in policy with respect to
20 documenting a witness's inability to make an
21 identification?

22 MR. BONGARD: Again, objection as to
23 relevance to the time frame with this incident.

24 BY MR. BARON:

25 Q. Go ahead.

1 A. I don't recall. I documented it in my
2 report, so it was documented. I don't know what --
3 the documentation you want. Do you say you want me to
4 say that they had to do it on the photo lineup itself?

5 Q. I'm asking whether there was a change in
6 policy with respect to that.

7 A. I don't recall.

8 (Exhibit 3 was marked for identification.)

9 BY MR. BARON:

10 Q. Let's take a look at what I've marked as
11 Exhibit 3 for the purposes of this deposition, which
12 is also Exhibit 9, filed along with the amended
13 petition in the federal case.

14 Do you recognize this document?

15 A. Only because my name's on it.

16 Q. What is this document?

17 A. It's a photo lineup.

18 Q. Do you recognize anyone in the photo lineup?

19 A. Yeah, just Rickie Slaughter.

20 Q. And which position is he in?

21 A. Six.

22 Q. Do you recall which witness you showed this
23 particular version of the lineup to?

24 A. It says "John, Ryan." Ryan John.

25 Q. Take a look at the background on image 1.

1 Can you describe that to me?

2 MR. BONGARD: Objection. Vague.

3 BY MR. BARON:

4 Q. You can answer.

5 A. I don't know. It's blue.

6 Q. Look at image number 2.

7 A. Blue.

8 Q. Number 3?

9 A. Blue.

10 Q. Number 4?

11 A. Blue.

12 Q. Number 5?

13 A. A little bit gray.

14 Q. Number 6?

15 A. Lighter, a lot lighter, but -- a lighter
16 gray, real light, so...

17 Q. Is that background different from the other
18 backgrounds --

19 A. Yes.

20 Q. -- in this lineup?

21 A. Yes. Yes.

22 THE REPORTER: Wait for the end of the
23 question, please.

24 THE WITNESS: Oh, I'm sorry.

25 THE REPORTER: Appreciate it.

1 BY MR. BARON:

2 Q. I'm going to ask you about the lighting on
3 position 1. Do you see any bright spots on the face
4 in position 1?

5 A. Yes.

6 Q. Where are those bright spots?

7 A. On the nose and on the forehead.

8 Q. How about position 2?

9 A. Nose and forehead.

10 Q. Position 3?

11 A. Nose and forehead.

12 Q. Position 4?

13 A. Same.

14 Q. Position 5?

15 A. None.

16 Q. Position 6?

17 A. None.

18 Q. I'd like you to take a look at the shadows on
19 the jawline and neck on position 1.

20 A. Can I interject here for just a moment? I
21 don't know how this was copied, and I don't know --
22 with your copy machine, because this is a copy, and I
23 don't know how your copy -- just because you are
24 bringing out shading on faces and stuff like that and
25 shading on backgrounds, there is a lot of difference

1 in what you made a copy of and what the originals
2 were. And I'm not saying that the originals were just
3 like this, but I mean, you are putting a lot of
4 emphasis on this, when it's a copy.

5 Q. Understood.

6 With that said, please take a look at the
7 shadows on the jawline and neck in position 1. And I
8 don't want you to describe them, just take a look at
9 them.

10 A. Yes.

11 Q. Take a look at them for 2, 3, 4, and 5.

12 A. Yes.

13 Q. And then take a look at the shadow on the
14 neck and the jawline of position 6.

15 A. I see it.

16 Q. Can you describe the shadow on the neck and
17 jawline on position 6?

18 A. It appears to go to a point.

19 Q. Do you see a similar shadow in the other five
20 positions?

21 A. No.

22 Q. Did you choose the photos for this lineup?

23 A. I did.

24 Q. Did you choose the -- so, necessarily, you
25 chose the photo of Rickie Slaughter?

1 A. I did.

2 Q. Do you know where that photo was taken?

3 A. I think it was Metro, but I'm not sure.

4 Q. When you say "Metro," just for the record,
5 you mean Las Vegas Metropolitan Police Department?

6 A. Yes.

7 Q. So it did not come from North Las Vegas?

8 A. I'm not sure. I believe it came from Metro.
9 I think they had the most recent arrest.

10 Q. Was it a booking photo?

11 A. Yes.

12 Q. Is it possible it wasn't a booking photo?

13 A. No, because that's where we -- that's our
14 database. We call for -- you know, when they -- I
15 couldn't tell you hundred percent sure, because they
16 could have taken a picture in some other area in their
17 department and, you know, just put it in their
18 database.

19 Q. So --

20 A. This was the most recent one that I got.

21 Q. So as a North Las Vegas police detective, you
22 have access to all the photos in the Las Vegas Metro
23 Police Department's --

24 A. No. I said, I don't know if they combined
25 pictures. Maybe this picture was taken in the lab for

1 photo IDs for ex-felons. Maybe it was taken in some
2 other area, but they all put them in the same database
3 as arrests. I'm not sure.

4 It appears to be that, because it looks like
5 he's wearing maybe a -- some kind of a suit that he
6 might have been handed. I'm not sure.

7 Q. As a North Las Vegas Police Department
8 detective, you have access to a database of photos
9 that Las Vegas Metropolitan Police Department
10 maintains?

11 A. I can't recall if we did or not. I called,
12 and I don't know how I got the photo.

13 Q. Is it --

14 A. I think we do have a database. I just don't
15 remember if we had it then.

16 Q. So would you go on your computer, like log in
17 through the Internet, and looked through Metro's
18 photos? Would you call someone at Metro and ask for
19 photos?

20 A. I don't remember.

21 MR. BONGARD: Objection. The question is
22 compound.

23 MR. BARON: Let's break it up.

24 BY MR. BARON:

25 Q. Would you go on your computer and log into a

1 database and look for photos there?

2 A. At one time. I'm not sure if that was
3 available then.

4 MR. BONGARD: I'm going to object, actually,
5 as to relevance as to time period.

6 BY MR. BARON:

7 Q. When you selected this photo, do you recall
8 how you got -- if you got -- you said you got it from
9 Metro?

10 A. Yeah, I think I recall getting it from Metro.
11 But here's what I would do: I would go into SCOPE,
12 then I would look up the person I'm looking for, and
13 then I would find the most recent arrest.

14 If it was in North Las Vegas, I would go into
15 our database. If it was Metro and I couldn't get
16 it -- I recall having access to their database. I'm
17 not sure if I had it then, 2004. I would either order
18 it, I would have one of the girls do it for me, the
19 secretaries that worked in our office, and then I
20 would get the photo.

21 Q. Before you had -- let's assume you didn't
22 have access to the database in 2004. How would you
23 get the photo?

24 A. I would print it. It would come up on a --
25 we could put in a name, and then it would pull up the

1 picture, booking photos and everything about the
2 person, then their picture would come in there. From
3 what I can recall, then we could just print it out on
4 our printer there in the office.

5 Q. That was through the database?

6 A. Yeah, you could select photos of -- booking
7 photos of people that had been in custody and you
8 could print them out.

9 Q. Before you had the database, how did it work?

10 A. I think they would send it to us, an e-mail
11 or -- but I'm telling you, I really can't recall how.
12 I know there was a database, but I go back a lot
13 of years, so it's hard to remember.

14 Q. Did you alter the photograph in position 6 in
15 any way before you included it in the lineup?

16 A. No.

17 Q. You didn't Photoshop it?

18 A. No.

19 Q. Do you know, if images -- are images 1
20 through 5 booking photos?

21 A. Yeah. That's the only place I pulled stuff
22 from.

23 Q. Did you have -- were there other photos of
24 Rickie Slaughter available that you could have used?

25 A. I don't recall, but I know I take the latest

1 that I can get, the most up-to-date photo.

2 (Exhibit 5 was marked for identification.)

3 BY MR. BARON:

4 Q. Let's look at the document that I've marked
5 Exhibit 5 for the purposes of this deposition.

6 Can you tell me what this exhibit is?

7 A. I don't know. It's a picture.

8 Q. Who is it of?

9 A. I don't know.

10 Q. Do you see on the top bar it says "Slaughter,
11 Rickie"?

12 A. Yes, I see it, yep.

13 Q. The font on this is a little small, but
14 directly below the picture itself there is a blue bar
15 on the left. Do you see a date on there?

16 A. On the very bottom?

17 Q. Right above where it says "Reset size" on the
18 left.

19 A. No. I don't know what you're talking about.

20 Q. You don't see a date that says February 13,
21 2004? This is on the left side, the bottom left,
22 above a box that says "Reset size."

23 A. No. It's kind of faint, in the blue.

24 Q. It is.

25 A. Okay, "02/13/2004."

1 Q. Right.

2 A. Yes.

3 (Exhibit 6 was marked for identification.)

4 BY MR. BARON:

5 Q. Let's look at Exhibit -- what I've marked as
6 Exhibit 6 for the purposes of this deposition. This
7 is a response to a subpoena that one of
8 Mr. Slaughter's prior attorneys issued. And if you
9 scroll through the first initial pages of it, you'll
10 begin to see some photos.

11 A. Where are you --

12 Q. This is Exhibit 6 --

13 A. Okay.

14 Q. -- what I've marked as Exhibit 6 for the
15 purposes of this deposition.

16 A. Okay.

17 Q. Do you see that, at the bottom right of each
18 of these photos, there is a date?

19 A. Yes.

20 Q. Do all of those dates predate June 26, 2004?

21 A. (Witness examined documents.) Yes.

22 Q. Could you have used the photos in Exhibit --
23 what I've marked for the purposes of this deposition
24 as Exhibits 5 and 6, could you have used those photos
25 in the photo lineup you generated that I've marked as

1 Exhibit 3 for the purposes of this deposition?

2 MR. BONGARD: Speculation and lack of
3 foundation.

4 BY MR. BARON:

5 Q. Would you have had access to the photos in
6 what I've marked as Exhibits 5 and 6 for the purposes
7 of this deposition?

8 MR. BONGARD: Speculation and lack of
9 foundation.

10 BY MR. BARON:

11 Q. You had access to various photos of Rickie
12 Slaughter at the time you generated this lineup that's
13 in Exhibit 3?

14 A. I don't recall seeing these pictures, but
15 when I pulled it up, our -- I really can't tell you.
16 That I try to get the most recent one. If I get a
17 picture and it looks like a good picture of the
18 person, then if he has a funny hairdo or something,
19 then I try to pick all my people to look similar.

20 So that was a good picture that I found, then
21 that's what I did. I picked everybody that kind of
22 looked similar to Rickie Slaughter.

23 Q. Let's look at Exhibit 5.

24 A. Yes.

25 Q. Let's assume that this is a booking photo

1 from the North Las Vegas Detention Center taken on
2 February 13, 2004.

3 A. Uh-huh.

4 Q. Do you have any reason to dispute that?

5 A. No, if it's from North Las Vegas, I don't
6 have any reason to dispute it.

7 Q. Would you have had access to this photo on or
8 about June 26, 2004?

9 MR. BONGARD: Calls for a legal conclusion.

10 BY MR. BARON:

11 Q. You can answer.

12 A. No, I don't recall. I just -- the way I look
13 up photos, I would look them up, I'd just pick a
14 picture. Maybe it could have been something the
15 family said. Maybe it could have been something the
16 officers gave me that said, "hey, he -- this person
17 looked like this," "he looked like this," "he might
18 have had hair like this." I'll find the most thing
19 that looks like that suspect would have looked on that
20 night, and then I would pick them.

21 I don't know how I did this, because I can't
22 remember.

23 Q. On or about June 26, 2004, did North
24 Las Vegas Police Department have a database of photos
25 you could use for the purposes of generating photo

1 lineups?

2 A. I don't recall. I imagine so, but I'm not a
3 hundred percent sure. I believe I made this photo
4 lineup, so we had to be able to make photo lineups.

5 Q. What about the pictures in Exhibit 6? These
6 are booking photos from the Clark County detention
7 center.

8 A. Right.

9 Q. Would you have had access to these photos for
10 the purposes of generating the photo lineup?

11 MR. BONGARD: Objection. Asked and answered.

12 BY MR. BARON:

13 Q. Go ahead.

14 A. I just don't know how far I went into getting
15 it. If I got a good picture and it was the most
16 recent, that I told you I was trying to find, which I
17 usually do, I don't know if these would have ever came
18 into play. I mean, if I would have said, "hey, give
19 me every photo," then I would have probably got every
20 photo.

21 Q. So you found the most recent arrest?

22 A. I think I believe that's what I was shooting
23 for. That's what I usually do.

24 Q. And you used that photo in the lineup?

25 A. Like I said, I can't recall how I did this,

1 you know, because it could have been somebody said,
2 "hey, this guy was" -- "he looked like this" or "his
3 hair was like this." And I would say, "oh, this was a
4 good" -- "this might be a good picture," and then I
5 would put it in a lineup, and then I would try to pick
6 people that fit that description too.

7 So I mean, if you go to a crime scene and
8 somebody describes your suspect as, "hey, his hair was
9 blue" or "his hair was all a certain way," then I
10 would pick -- I would say, "oh, look, I found a photo
11 that looked like that," then I will get people that
12 look like him, and then I'd put it in a lineup. I
13 don't know how I selected this one.

14 It's been a lot of years, and I couldn't tell
15 you.

16 Q. If the first photo you come across, which --
17 usually the most recent arrest, if that's a good
18 photo, do you continue looking for other photos, or do
19 you just use that photo?

20 A. I'll just use the most recent.

21 Q. I would like to know the circumstances under
22 which you showed the -- let me start that over.

23 Let's turn back to what I've marked as
24 Exhibit 3 for the purposes of this deposition.

25 This is a photo lineup you showed to

1 Ryan John; correct?

2 A. Yes.

3 Q. Did you show additional versions of this
4 photo lineup to the other witnesses?

5 A. I can't recall.

6 Q. Did you show it to -- did you show a version
7 of this lineup to Ivan Young?

8 MR. BONGARD: Objection. Asked and answered.

9 BY MR. BARON:

10 Q. Go ahead.

11 A. I did.

12 Q. Where did you show it to him?

13 A. I believe it was in the hospital.

14 Q. Why did you show it to him in the hospital?

15 A. Because that's where he was.

16 Q. Why was he in the hospital?

17 A. Because the suspect shot him.

18 Q. What kind of treatment was he receiving in
19 the hospital, if you know?

20 A. I didn't ask.

21 Q. Do you know if he had had surgery recently?

22 A. Didn't ask.

23 Q. Do you know if he was on medication at the
24 time?

25 A. No, I don't.

1 Q. Do you know if he was able to see well?

2 A. I didn't ask, but I asked him if he was -- if
3 he would look at a photo lineup.

4 Q. Where was -- you said Ivan Young was shot.
5 Do you know where he was shot?

6 A. In the face.

7 Q. Was it near the eye?

8 A. I don't recall. I know that he had a
9 deformed lip, so I don't know where it hit him
10 exactly.

11 Q. If you have a witness who has recently gone
12 through trauma, are you more or less likely to trust
13 his identification?

14 MR. BONGARD: Calls for speculation.

15 MR. BARON: That was not a good question.
16 I'll ask a better one.

17 BY MR. BARON:

18 Q. If you have a witness who has recently had
19 surgeries to the face, are you more or less likely to
20 trust his identification?

21 A. I've been to the hospital when people have
22 been shot several times, laying on a bench in a room
23 getting treatment on them, asking them questions,
24 because it's all I had. So would I trust their -- it
25 would depend on how I felt when I showed them the

1 picture, how they were answering. I mean, nothing's
2 for sure.

3 Q. All else equal, comparing a suspect -- excuse
4 me -- comparing a witness like Ivan Young to a witness
5 who is not in the hospital, has not gone through
6 traumatic violence, between those two types of
7 witness, whose identification would you think would be
8 more reliable?

9 MR. BONGARD: Objection. Vague.

10 BY MR. BARON:

11 Q. Go ahead.

12 Did you understand the question?

13 A. Yeah, of course.

14 I would trust -- it could go either way. I
15 believe the guy did, sitting there -- like I said, in
16 that point in his life, he is sitting there; he could
17 have picked any one of six, but if he picks the exact
18 one that was identified through a portion of my
19 investigation, I put a lot of value on that.

20 Q. Were there any other police officers with you
21 when you showed this lineup to Ivan Young?

22 A. No, I don't believe so. I can't recall if my
23 partner was even with me. He may have been, but I
24 can't recall.

25 Q. Was anyone else in the room at the time?

1 A. I don't recall.

2 Q. What did you tell Ivan Young about the
3 lineup?

4 A. I can't recall. I usually say "can you
5 recognize anybody from the night" --

6 Q. Did you tell him that -- sorry.

7 A. No. I said -- I usually tell them, I said,
8 "Can you recognize anybody from the night which --
9 when this incident occurred or the robbery occurred?"
10 I don't know how I worded it, but...

11 Q. Did you tell Ivan Young that there was a
12 suspect in the lineup?

13 A. No. I tell them, "Can you see anybody from
14 this lineup that you recognize from the night that it
15 occurred?"

16 Q. Did you mention Rickie Slaughter's name?

17 A. I did not.

18 Q. Was the door to the hospital room closed at
19 the time you showed this to Ivan Young?

20 A. I don't recall.

21 Q. How about Jennifer Dennis; did you show this
22 lineup or a version of this lineup to Jennifer Dennis?

23 A. I did.

24 Q. Where did you show it to her?

25 A. I believe it was in the hallway.

1 Q. The hallway --

2 A. Of the hospital. I walked out. I think she
3 stepped out. I think she was there. She stepped out
4 in the hallway. I asked her to leave. She stepped
5 out. Then when I left the room I showed her --

6 Q. Sorry. Let me interrupt for a minute. You
7 asked her to leave when?

8 A. Before I showed him the lineup.

9 Q. Before you showed Ivan Young the lineup?

10 A. Yes.

11 Q. You asked -- Jennifer Dennis was in the room
12 when you first came in?

13 A. I believe so. And I asked her to step out.

14 Q. Before you showed the lineup to Ivan Young?

15 A. Yes.

16 Q. And then after you showed the lineup to
17 Ivan Young, you showed the lineup to Jennifer Dennis?

18 A. Yes. And I believe it was in the hallway.
19 It wasn't in the room with him.

20 Q. Were there any other police officers with you
21 in the hallway?

22 A. No.

23 Q. What did you -- do you remember what you told
24 her about the lineup?

25 A. I can't recall. It's probably the same

1 thing, "Do you recognize anybody from the night of the
2 robbery or the incident that occurred?"

3 Q. Did you tell her there was a suspect in the
4 lineup?

5 A. No. And I don't believe she picked the
6 suspect.

7 Q. Did you mention Rickie Slaughter's name?

8 A. No.

9 Q. Was there anybody else in the hallway?

10 A. I couldn't tell you. There could have been
11 anybody in the hallway, but not directly with me.

12 Q. And you said she didn't pick the suspect.
13 Did she pick anyone from the lineup?

14 A. No.

15 Q. Did you show a version of this lineup to
16 Jermaun Means?

17 A. I believe so.

18 Q. Where did you show it to him?

19 A. I can't recall.

20 Q. Let's look at what I've marked as Exhibit 1
21 for the purposes of this deposition. Let's look at
22 what's marked as page 6. And it's the third
23 paragraph from the bottom, if you want to read that to
24 yourself, the paragraph starting, "I later contacted
25 victim Jermaun Means."

1 A. Okay. You said it is on page --

2 Q. This is on page 6 of what I've marked as
3 Exhibit 1. And the page numbers are in the upper
4 right-hand corner of the document.

5 A. (Witness examined document.) I'm sorry,
6 dude. I can't... (Witness examined document.)

7 Q. It's the second-to-last page --

8 MR. BONGARD: Can I find it for him?

9 MR. BARON: Yes, sure.

10 MR. BONGARD: (Indicating.)

11 THE WITNESS: It's not the third paragraph.

12 BY MR. BARON:

13 Q. Third paragraph from the bottom.

14 A. Okay. I was going from the top. Sorry. I
15 said, "I later contact-" -- (witness examined
16 document.) Okay. "At his residence."

17 Q. You showed it to Jermaun Means at his
18 residence?

19 A. Yes.

20 Q. Were there any other police officers with you
21 at the time?

22 A. Probably not. I don't take -- I told you, we
23 worked the cases by ourselves. Once we split, I don't
24 call officers unless I think I'm going to go arrest a
25 suspect. I don't recall anybody -- sometimes I go and

1 arrest suspects by myself.

2 It's that we were too -- we weren't that
3 overloaded on people. We had detectives, and, of
4 course, I'm like, okay, if my partner was there, I
5 would say, "Hey, you want to come with me to do this?"
6 He couldn't come because he had his caseloads. So it
7 was just me.

8 Q. Sure. I understand that. I'm not trying to
9 hide the ball. I'm going to ask that question for
10 every one of these witnesses.

11 A. Okay. That's fine.

12 Q. But I totally -- I understand.

13 What did you tell Jermaun Means about the
14 lineup?

15 A. It says right here. I said, "I asked him if
16 he recognized anyone in the pictures from the night of
17 the robbery."

18 Q. Did you tell him there was a suspect in the
19 lineup?

20 A. No.

21 Q. Did you mention Rickie Slaughter's name?

22 A. No.

23 Q. Who else was in the residence at the time?

24 A. I don't even recall.

25 Q. How about Ryan John; did you show a version

1 of this to Ryan John?

2 A. Yes. I've already been shown. Yes, I did
3 show it.

4 Q. Where did you show it to him?

5 A. I don't recall that either.

6 Q. If you look at the next paragraph on that
7 same page, does that refresh your recollection about
8 where you --

9 A. Yes. He came into the police department to
10 view the lineup.

11 Q. Were any other police officers with you at
12 the time?

13 A. Not -- I mean, they are all over the place.
14 I mean, but were they with me there? No.

15 Q. Were you doing it in a room, or just out in
16 the open?

17 A. I probably took him into a room, because we
18 had interview rooms, and I showed him the lineup.

19 Q. And there weren't any other police officers
20 in the room?

21 A. Not that I can recall.

22 Q. Did you tell Ryan John that there was a
23 suspect in the lineup?

24 A. No.

25 Q. Did you mention Rickie Slaughter's name?

1 A. No.

2 Q. What did you tell Ryan John about the lineup?

3 A. I usually tell them the same thing I told the
4 other guys. I said, "Hey, look at the lineup. See if
5 you recognize anybody from the night of the robbery or
6 the incident."

7 Q. Did you show a version of this lineup to
8 Joey Posada?

9 A. Yes. One of the kids.

10 Q. Where did you show it to him?

11 A. I can't recall.

12 Q. Were any other police officers with you at
13 the time?

14 A. No.

15 Q. Did you tell him there was a suspect in the
16 lineup?

17 A. No.

18 MR. BARON: Bear with me for a moment.

19 (Pause in the proceedings.)

20 (Exhibit 47 was marked for identification.)

21 BY MR. BARON:

22 Q. I'd like to direct your attention to what
23 I've marked as Exhibit 47 for the purposes of this
24 deposition. It's also Exhibit 167 to the amended
25 petition we filed in the federal case.

1 A. Okay.

2 Q. This document is a transcript of one of the
3 trial days in the trial of Rickie Slaughter in this
4 case.

5 A. Okay.

6 Q. I'd like to first direct your attention to
7 page 32. This is a quad transcript, so I'm referring
8 to the page numbers of each of the four pages on
9 the --

10 A. Okay, 32.

11 Q. On page 32, you see Joey Posada is sworn as a
12 witness?

13 A. That's right.

14 Q. Let's look at page 53. This is the
15 cross-examination of Joey Posada. I would like you to
16 look at the question and answer, from lines 8 through
17 11 of page 53. And you can read whatever else from
18 that page or the surrounding pages for context, if you
19 would like.

20 A. (Witness examined document.) Okay. I read
21 it.

22 Q. Did you tell Joey Posada that there was a
23 suspect in the lineup when you showed it to him?

24 MR. BONGARD: Objection. Assumes facts not
25 in evidence. There is no identification. At 52, it

1 talks about "a detective."

2 BY MR. BARON:

3 Q. You showed this lineup to Joey Posada?

4 A. Yes, I was the one that showed the lineups.

5 Q. Was there any other detectives in the room
6 when you showed it to him?

7 A. I don't recall. I usually do everything
8 myself. I mean, I wouldn't call anybody in there to
9 do that.

10 Q. Assuming that there was another detective in
11 the room, did you or another detective tell
12 Joey Posada that there was a suspect in the lineup
13 that you showed him?

14 A. No. It's not what I would say. It's not
15 something I would say.

16 Q. We had mentioned Destinee Waddy before. I'll
17 represent to you that she was outside the residence in
18 a car at the time of the incident, and she saw the
19 suspects flee. Does that refresh your recollection
20 about who Destinee Waddy is?

21 A. Not really. Maybe. I mean, if this -- it
22 says the officer probably said it. It's probably
23 noted in one of his reports or he --

24 Q. Do you recall ever talking to Destinee Waddy
25 in the course of this investigation?

1 A. No, I don't recall. And I may have, but I
2 don't recall.

3 Q. Did you show the lineup to Destinee Waddy?

4 A. No.

5 (Exhibit 7 was marked for identification.)

6 BY MR. BARON:

7 Q. Let's turn to what I've marked as Exhibit 7
8 for the purposes of this deposition. Take a look at
9 the different pages on this exhibit.

10 A. (Witness examined documents.)

11 Q. Ignoring the first two pages of this exhibit
12 for now, can you tell me what this exhibit is?

13 A. Photo lineups.

14 Q. Do you recall the names of any of the
15 individuals in this photo lineup?

16 A. Yeah. It looks like Rickie Slaughter.

17 Q. And let's stick with page 3, the first lineup
18 in this exhibit for the purposes of reference. What
19 position is Rickie Slaughter in?

20 A. Four.

21 Q. Do you recognize anyone else in this lineup?

22 A. No.

23 Q. Did you generate this lineup?

24 A. I believe so. I would have been the only one
25 that would have done it.

1 (Exhibit 9 was marked for identification.)

2 BY MR. BARON:

3 Q. And just for the purposes of the record, I
4 would like to turn your attention to Exhibit 9, what
5 I've marked as Exhibit 9 for the purposes of this
6 deposition. These are versions of --

7 A. Can I interject right here, again? You see
8 the shiny spots, depending on your copies, how the
9 forehead, nose, forehead, nose is in all of these.
10 Depending on the copy that's made from whatever
11 copier, they might be different. Like you pointed
12 out, you emphasized the shiny nose, the shiny face,
13 but this one has the shiny nose, the shiny face.

14 Q. Yes.

15 If I can direct your attention to what I've
16 marked as Exhibit 9 for the purposes of the
17 deposition. For the record, these are different
18 copies of the same photo lineup that's in Exhibit 7.
19 These were actually marked as court exhibits at trial,
20 but in my opinion, copies at Exhibit 7 are better
21 quality, so I'm going to refer to those.

22 A. All right.

23 (Exhibit 10 was marked for identification.)

24 BY MR. BARON:

25 Q. If I can also direct your attention for the

1 moment to what I've marked as Exhibit 10 for the
2 purposes of this deposition, which is also Exhibit 113
3 to the amended petition.

4 And specifically, if I could direct your
5 attention to page 55 of that exhibit. And there are
6 Bates numbers at the bottom of the -- bottom
7 right-hand corner of the exhibit.

8 A. Okay, 55.

9 Q. Just for the purposes of the record,
10 Exhibit [sic] 55 is a version of the same photo lineup
11 that has faces in a position that is unique when
12 compared to what I've marked as -- the versions in
13 what I've marked in Exhibits 7 and 9. So this
14 particular combination, arrangement of faces, is not
15 in the other two exhibits that I've shown you. So for
16 the purposes of the record, I just want to point that
17 out.

18 So let's turn back to Exhibit 7 again.

19 And again, let's look at page 3 so that we
20 are literally on the same page.

21 You had mention- --

22 A. Hang on. I messed up.

23 Q. Sorry. I'm looking at Exhibit 7.

24 A. Okay. But what's your -- oh, you're on
25 Exhibit 7. My bad. (Witness examined document.)

1 Okay.

2 Q. You had already mentioned that there are
3 bright spots on the faces of each of the photos in
4 this photo lineup.

5 A. Right.

6 Q. And I understand that it's hard to tell,
7 because this is black and white and not in color, but
8 do each of these photos appear to have an identical
9 background?

10 A. Yeah, they look -- they look pretty close. I
11 mean, it could be the shading from the copier machine.
12 I don't know. I mean...

13 Q. Again, I know it's hard to tell because it's
14 a black-and-white copy and not a color copy, but do
15 you see any photos that have a, what I'll refer to as
16 a "sharp-angled shadow" below the chin, similar to the
17 one that is below Rickie Slaughter's chin in the photo
18 lineup that's in Exhibit 3? Did you follow that
19 question?

20 A. From the original?

21 Q. Right.

22 A. Yes.

23 No, I don't see -- even Rickie Slaughter
24 doesn't.

25 (Exhibit 11 was marked for identification.)

1 BY MR. BARON:

2 Q. All right. Let's look at what I've marked as
3 Exhibit 11 for the purposes of this deposition. This
4 was a State's exhibit at trial. You see this is a
5 color version of the -- is this a color version of the
6 photo of Rickie Slaughter that is in Exhibit 7?

7 A. It appears to be.

8 Q. The photo in Exhibit 11, does it have a blue
9 background? -- I'm sorry -- Exhibit 11, the color
10 version.

11 A. Yeah, it does.

12 Q. Does it have the same bright spots on the
13 forehead and the nose?

14 A. Yes.

15 Q. Does it have a dark, angled shadow on the
16 neck or jawline?

17 A. No.

18 (Exhibit 12 was marked for identification.)

19 BY MR. BARON:

20 Q. Let's look at what I've marked as Exhibit 12
21 for the purposes of this deposition. What does this
22 exhibit look like to you?

23 A. Like a picture.

24 Q. Who is it of?

25 A. It's Jacquan Richard? Richard, Jacquan?

1 Jacquan [pronouncing]?

2 Q. I think it's Jacquan [pronouncing].

3 A. Yeah.

4 Q. Let's look back at what I've marked as
5 Exhibit 7, page 3.

6 A. Okay.

7 Q. Having reviewed Exhibit 12, can you tell me
8 the names of anyone else in this photo lineup besides
9 Mr. Slaughter?

10 A. Yeah, Jacquan.

11 Q. In looking at page 3, the one that's
12 horizontally laid out, just so we are on the same
13 version...

14 A. Where is it at?

15 Q. I think if you turn one back.

16 A. (Witness complies.) Okay.

17 Q. On page 3, which position is Jacquan Richards
18 [sic] in?

19 A. One.

20 Q. Let's turn back to Exhibit 12.

21 A. Okay. I'm here.

22 Q. What color is the background?

23 A. Blue.

24 Q. Do you see bright spots on the face and nose?

25 A. Yes.

1 Q. Do you see a dark, angled shadow under the
2 neck or jawline?

3 A. Yes.

4 Q. Is it a similar shadow to the one that Rickie
5 Slaughter has in Exhibit 3?

6 A. No. His is more like a little diamond.

7 Q. And by "his," you mean Mr. Slaughter's?

8 A. Yes.

9 Q. Mr. Slaughter's is more like a little
10 diamond?

11 A. Yeah, like a little point.

12 Q. The shadow on Mr. Richard is not similar to
13 the one you just described?

14 A. It almost looks like a beard, to me.

15 Q. The one on Jacquan Richard?

16 A. On Jacquan. It could be -- it appears -- it
17 could be a beard.

18 (Exhibit 8 was marked for identification.)

19 BY MR. BARON:

20 Q. Let's look at what I've marked as Exhibit 8
21 for the purposes of this deposition. Do you recognize
22 this document?

23 A. Yes.

24 Q. What is it?

25 A. It's a report I wrote.

1 Q. Let's turn to page 4.

2 And the second paragraph from the top, could
3 you please read that to yourself?

4 A. Says the "photo line ups of" --

5 Q. You can just read it to yourself.

6 A. (Witness examined document.) I said the
7 "photo lineups of Richard." So I read it. So...

8 Q. Turning back to Exhibit 7.

9 Again, ignoring the first two pages, focusing
10 on the actual lineups, are these the lineups you are
11 referring to in that paragraph in Exhibit 8?

12 A. From 7?

13 Q. Yes. The lineups in Exhibit 7, are those the
14 lineups you are referring to in Exhibit 8 when you
15 write "photo lineups of Richard were made and shown to
16 all of the victims"?

17 A. Can't recall.

18 Q. Did you have -- did you create any other
19 photo lineups --

20 A. I can't --

21 Q. -- in this case that included Jacquan
22 Richards?

23 A. I can't recall. I can't even remember doing
24 this.

25 Q. If --

1 A. I know this is -- is mine if it says I did
2 it, but I can't recall doing this at all. I didn't
3 read anything that refreshed my memory of this. I
4 never -- I told you, I just called my office. I said,
5 "Hey, I need the reports on this." They gave me a
6 stack of stuff. I don't know if everything was
7 included in the stack. It's a long time ago. I went
8 through the stuff the best I could to try to get --
9 refresh my memory a little, but everything may not
10 have been there.

11 And so I wasn't supplied anything from your
12 office or anybody's office, so I went on my own and
13 went to North Las Vegas and I tried to get something
14 that would refresh my memory, 15 years. So I don't
15 even recall doing this or making this photo lineup or
16 this guy's name.

17 Q. In Exhibit 8, you write:

18 "Photo line ups of Richard were made and
19 shown to all of the victims. None of the
20 victims were able to identify Richard as a
21 suspect."

22 Did I read that correctly?

23 A. Yes.

24 Q. But you don't recall those lineups or showing
25 those lineups to anyone?

1 A. No.

2 Q. Do you have any reason to dispute where --
3 the report says that you showed these -- you generated
4 these photo lineups and you showed them to the
5 witnesses. Do you have any reason to think that's not
6 accurate?

7 A. No, I --

8 MR. BONGARD: Object. I think it misstates
9 the testimony.

10 BY MR. BARON:

11 Q. I'm going to read that paragraph one more
12 time for the record:

13 "Photo line ups of Richard were made and
14 shown to all of the victims. None of the
15 victims were able to identify Richard as a
16 suspect."

17 Did I read that correctly?

18 A. Yes.

19 Q. Do you have any reason to think that's not
20 true?

21 A. No.

22 Q. Again, I'm reading from Exhibit 8, what I've
23 marked as Exhibit 8 for the purposes of this
24 deposition.

25 I'm going to come back to this photo lineup

1 in a minute, but I just want to focus on a couple of
2 others before I get there.

3 (Exhibit 13 was marked for identification.)

4 BY MR. BARON:

5 Q. Let's look at what I've marked as Exhibit 13
6 for the purposes of this deposition.

7 Can you tell me what this is?

8 A. Marvin Robinson, a picture.

9 Q. What does the background look like?

10 A. Blue, light blue.

11 Q. Do you see bright spots on the forehead and
12 nose?

13 A. Yes.

14 Q. Is there any shadows under the jawline or on
15 the neck?

16 A. No.

17 (Exhibit 15 was marked for identification.)

18 BY MR. BARON:

19 Q. Let's look at what I've marked as Exhibit 15
20 for the purposes of this deposition. Do you recognize
21 this exhibit?

22 A. Only that it's a photo lineup.

23 Q. Did you generate this photo lineup?

24 A. Yes, I had to have.

25 Q. Did you show this photo lineup or versions of

1 this photo lineup to the victims and eyewitnesses in
2 this case?

3 A. I can't recall.

4 BY MR. BARON:

5 Q. Let's turn back to Exhibit 8, what I've
6 marked as Exhibit 8 for the purposes of this
7 deposition, page 5, and actually the
8 paragraph beginning at the end of page 4, moving over
9 to the top of page 5.

10 A. Okay.

11 Q. This report says you showed a lineup with
12 Marvin Robinson's photo in it to Ivan Young. Is that
13 correct?

14 A. Yes.

15 Q. Turning back to Exhibit 15 for a moment. Is
16 this a copy of the photo lineup that you showed to
17 Marvin Robinson -- I'm sorry -- that you showed to
18 Ivan Young?

19 A. Yeah, it would have to be. But I can't
20 recall doing this and I can't even recall this report,
21 because this wasn't in the group that I received. And
22 so I -- in trying to refresh my memory of all of this,
23 I didn't get this, and I don't remember any of it.

24 Q. Let's turn back to Exhibit 8. Again, I'm
25 looking at that same paragraph --

1 A. Okay.

2 Q. -- that's at the bottom of page 4 --

3 A. Right.

4 Q. -- going over onto page 5.

5 That paragraph starts -- I'm going to read:

6 "After the hearing I showed each of the
7 victims the photo line ups that I had
8 prepared."

9 Are you referring to the photo lineups in
10 which Marvin Robinson is included?

11 A. It has to be. It says it.

12 Q. Do you recall showing those lineups to any of
13 the victims or eyewitnesses?

14 A. No.

15 Q. Turning back to Exhibit 15 for a moment.

16 Aside from Marvin Robinson, are there any suspects in
17 this photo lineup?

18 A. Not that I know of. I completely, like --
19 I'd lost Marvin Robinson in this whole thing. I'm
20 like looking at him, and I just can't...

21 Q. Is this Ivan Young's signature on Exhibit 15,
22 on the bottom right?

23 A. I just know what I've seen, just like you, on
24 these pictures, that it looks like it could be.

25 Q. But you don't recall showing this lineup

1 to --

2 A. No, I don't.

3 Q. -- Ivan Young?

4 (Exhibit 16 was marked for identification.)

5 BY MR. BARON:

6 Q. Let's turn to what I've marked as Exhibit 16
7 for the purposes of this deposition.

8 MR. BONGARD: Sixteen? I'm sorry.

9 MR. BARON: Yes, 16.

10 MR. BONGARD: Thank you.

11 BY MR. BARON:

12 Q. Can you tell me what this exhibit is?

13 A. It's a photo lineup.

14 Q. Did you generate this photo lineup?

15 A. I generated everything in this case. Nobody
16 worked on this case but me, unless -- and I would have
17 been the one that said "this is good" or -- in most
18 cases. And I can't recall everything, but on occasion
19 I would ask the girl at the desk, I would say, "Hey,
20 can you put this guy in a photo lineup?" And then I
21 would, you know, assist in the pictures, but usually
22 everything that was done was me.

23 Q. Do you recall generating the lineups in
24 Exhibit 16?

25 A. No.

1 Q. Do you recognize any of the people in
2 Exhibit 16?

3 A. No.

4 Q. Do you see Rickie Slaughter's photo in any of
5 the six positions?

6 A. No.

7 Q. Do you see Jacquan Richard's photo in any of
8 the six?

9 A. I would have to look at Jacquan again, but...

10 Q. Feel free to do that. He's at Exhibit 12.

11 A. Okay. (Witness examined document.)

12 No, I don't believe so.

13 Q. Do you see Marvin Robinson's photo in any of
14 the positions in Exhibit 16?

15 A. (Witness examined document.) I don't believe
16 he's here either.

17 You know, excuse me, but when I first got my
18 group of stuff, my reports from the office, I thought
19 it was a little light, because I -- I looked at just
20 overview and I saw that there was more I had done, but
21 I didn't -- there was no way. I called the office too
22 many times, and then it's not like, "hey, we're going
23 to run out and do what you want us to do right this
24 minute," and it's not like that.

25 So I was lucky I got that packet, but I

1 recall -- I just know I did more than what I read, but
2 it's very possible, you know, I -- on all this stuff,
3 that I know I would have made these, but I don't
4 recall these other guys.

5 Q. Normally when you generate photo lineups, is
6 it because -- let me think a minute how I want to
7 phrase this question.

8 When you generate photo lineups, it's
9 normally to identify a suspect; correct?

10 A. Yes. It could be somebody that said, "hey,
11 this guy could have been somebody" or somebody says,
12 or somebody calls, or some information came in, and
13 just to eliminate it, you know, so that I can -- so
14 somebody can say, "You know what? Somebody says that
15 this guy was involved." And if I didn't do anything,
16 then I would be -- you know, it be on my back.

17 So instead, I'll make a photo lineup and then
18 I'll go and show my victims, just to say, "okay, I got
19 information from a caller," or "something came in,"
20 that I did something on that person, you know, and I
21 just didn't say -- shrug it off.

22 And a lot of things maybe like -- like I
23 said, I can't recall how these came into play, because
24 I didn't read it and I don't remember, but that could
25 have very well been the case, you know. Because I can

1 recall one where I called some kid's mom, or his aunt
2 or something, went over some of my notes, but he was
3 at a family gathering. But I still checked it out,
4 because I don't want to miss something that could have
5 been there.

6 Q. Does the name Eric Hawkins ring a bell in
7 connection with this case?

8 A. I think I might have read something in mine.
9 I think that might be the kid, that his aunt --

10 Q. We'll talk a little more about him later, but
11 with that in mind, is Eric Hawkins in any of the
12 photos in Exhibit 16?

13 A. Not unless I wrote it down and it's in one of
14 my reports.

15 Q. If it's not in -- if this photo -- I'll
16 represent to you that, in the reports of yours that
17 I've read, I have not seen a reference to this photo
18 lineup.

19 Do you have any explanation for why that
20 might be?

21 A. Yeah, because in this instance I talked to
22 him and then I did talk to his aunt or family. They
23 told me that he was at a gathering, and I took that
24 for enough for that, for him not being there.

25 And so I didn't generate -- I wasn't able to

1 maybe talk to anybody on these other ones that were
2 just random people or something that came up in the
3 case. Maybe I had no one to talk to to verify
4 somebody's story. So instead I'll make a photo lineup
5 and I'll just show it to the victims, just so I can
6 eliminate a name that came up or a name -- so that
7 would be the reason. And I'm not sure that's the way
8 it took place, but...

9 Q. But sitting here, you don't know, one way or
10 another, whether Eric Hawkins is in this photo lineup?

11 A. No.

12 Q. And you don't remember showing this to any of
13 the victims or eyewitnesses?

14 A. No.

15 Q. Were there any other suspects in the case
16 besides Rickie Slaughter, Marvin Robinson, Jacquan
17 Richard, or Eric Hawkins?

18 A. I don't remember the other name -- I know
19 Slaughter. I got information on Hawkins. I can
20 recall that. But the others, I don't remember.

21 MR. BARON: We're about an hour and a half
22 in. This might be a good time for a break. Do you
23 all want a break?

24 Let's go off the record.

25 THE VIDEOGRAPHER: This is the end of digital

1 media number 1 in the continuing deposition of Jesus
2 Prieto. We're going off the record at 10:21 a.m.

3 (Recess taken.)

4 THE VIDEOGRAPHER: This is the beginning of
5 digital media number 2 in the continuing deposition of
6 Jesus Prieto. We are back on record at 10:33 a.m.

7 BY MR. BARON:

8 Q. Detective Prieto, before the break we were
9 talking about a photo lineup in Exhibit 15 which has
10 the photo of Marvin Robinson, and then photo lineups
11 in Exhibit 16, which we're not totally sure what they
12 are.

13 Going back to Exhibit 8, which is the police
14 report, it says -- again, this is the bottom of page 4
15 going over to page 5 -- that you showed each of the
16 victims the photo lineups that you had prepared.
17 Young looked at the lineup, and then -- I'm skipping
18 over a few words, but he ultimately picked Robinson.

19 If one of the other victims to whom you
20 showed this lineup identified Marvin Robinson, would
21 you have made a note of that in your report?

22 A. Yes.

23 Q. And I'd explained that, at least as far as I
24 know, the lineups in Exhibit 16 aren't referenced in
25 any of your reports.

1 If you had shown those lineups to witnesses
2 and they had identified someone, would you have made a
3 note of that in your report?

4 A. Yes.

5 Q. I'd like to go back to what I'm referring to
6 as the "second photo lineup," which is Exhibit 7. And
7 let's look at page 3, which is -- you are on it.
8 That's the one.

9 A. Okay.

10 Q. You see how it's laid out differently from
11 the other four copies of this photo lineup?

12 A. I don't know what you mean. Oh, you mean the
13 positions?

14 Q. I would call page 3 "horizontal" --

15 A. Yes, yes.

16 Q. Do you know why that is?

17 A. Okay. If I recall, one of these was made
18 from when I asked the girls to put these photos in it,
19 and one of these I was able to make through our photo
20 lineup machine. I couldn't tell you. I mean, like
21 I'm thinking that that's what it was, because we had
22 the ability to make them at -- and I'm not sure if
23 this was the time, but sometimes the girls would make
24 a photo lineup and it would be like the one copy, and
25 then if we made it it would be like this, but I'm not

1 totally sure.

2 Q. Why would it be that you would create it one
3 way and you would have your staff create it a
4 different way?

5 A. Because it's not me creating it. It's the
6 way the program created it. You know, some -- I can't
7 recall, because I know that there was two different
8 ways the photo lineups would come out. On occasion,
9 you asked a girl, they had a different format, and
10 that's the way the photo lineup was made. And I
11 didn't see any problems with it because it didn't
12 matter anyway. As long as I had my six people and
13 the -- it has basically the same, you know, it has the
14 same information, so it doesn't really matter to me
15 that every one was the same.

16 All I was doing was working the case. You
17 know, "give me a photo lineup," then I had it, I was
18 there.

19 Q. We had discussed previously -- and I'm
20 looking at the horizontal one that's at page 3 -- how
21 Jacquan Richard is in position 1 and Rickie Slaughter
22 is in position 4.

23 Are there any other suspects in this photo
24 lineup?

25 A. I don't know, because I can barely remember.

1 I don't even remember this guy. I don't know any
2 other suspects.

3 Q. Why are Jacquan Richards and Rickie Slaughter
4 in the same photo lineup?

5 A. I don't know how that happened.

6 Q. The photo in this photo lineup is different
7 from the photo in the photo lineup that's at
8 Exhibit 3, the one -- what I'm calling the "first
9 photo lineup." Is that --

10 A. Okay. There was -- this might be the case,
11 but there was a case, but I can't remember it, where
12 the people looked so different. Like if I showed you
13 10 pictures of Jacquan Richards or 10 pictures of
14 Rickie Slaughter and I mixed them all up, you would
15 possibly say, "hey, these two guys aren't the same."

16 But that happened to me, and it might have
17 been this case, but I don't recall, where I picked the
18 suspect and I put him in a photo lineup, but it was a
19 different picture of him, so it didn't look the same
20 as the -- you know, the original picture that I had
21 been using, so it didn't -- it wasn't the same
22 suspect, to me.

23 So I put him in a photo lineup, and it was --
24 and I don't remember if this was the case, but in
25 any -- at the end, the victim picked the suspect

1 anyway, even though the two -- they still picked the
2 one that I was -- you know what I mean? It's just
3 like every picture doesn't look -- and when we get a
4 databank, we don't get names on the pictures, there is
5 no name, there's just hundreds and hundreds of
6 pictures.

7 So you pick them up and then you just start
8 looking through the photos, and you pick the one you
9 want, and you can drag it over, or however we did it,
10 to the photo lineup. But you didn't get a name, you
11 didn't get anything else.

12 So that's when you asked if anybody was to
13 ask me who are the rest of these guys, I'm like, I
14 don't know. I just picked them out of a databank of
15 photos, booking photos in the jail.

16 Q. Did you intentionally put both Jacquan
17 Richards and Rickie Slaughter in this lineup?

18 A. No.

19 Q. Did you intentionally put Jacquan Richards in
20 it?

21 A. I don't even remember. I didn't -- I'd never
22 put two suspects in a lineup together in a case. So
23 what happens is sometimes you are going through
24 photos. I put the same -- oh, this is one case where
25 I had -- this is what happened:

1 On a case I had a group of photos, thousands
2 of photos you're looking through, and then you are
3 going to try to pick people that look like people, and
4 you can actually, because they're so much different,
5 pick the same guy for the same lineup and not even
6 know it. Because the pictures are so different in
7 there, you might think that you can tell that they are
8 the same and it's not that, because you don't have a
9 name.

10 Q. The picture that's in this lineup of Rickie
11 Slaughter is different from the picture that's in
12 what's the Exhibit 3; is that right?

13 A. Yeah. They are all different. There's --
14 like all the pictures you showed me look a little
15 different. And I don't know if anybody would say that
16 they are the same person on several of the pictures.
17 (Witness examined.)

18 Yeah, it's a different -- looks like a
19 different look, totally.

20 Q. Do you recall showing the second photo lineup
21 to the seven witnesses?

22 A. This one (indicating)?

23 Q. Yes, or any of the other versions of it.

24 A. I don't recall showing it.

25 Q. So if I were to ask you, do you recall

1 showing it to Ivan Young --

2 A. I don't recall.

3 Q. You don't recall any of the circumstances of
4 showing it to Ivan young?

5 A. (Witness shakes head side to side.)

6 Q. How about Jennifer Dennis?

7 A. No.

8 Q. Jermaun Means?

9 A. No.

10 Q. Ryan John?

11 A. I don't recall any of them.

12 Q. I'll just go through the rest.

13 Joey Posada?

14 A. No.

15 Q. Aaron Dennis?

16 A. No.

17 Q. Or Destinee Waddy?

18 A. No.

19 Q. The versions that you showed the victim,
20 would they have been these black-and-white versions or
21 would they have been color versions?

22 A. Sometimes when you make a black-and-white
23 version as opposed to a color, you know that shining
24 that you are seeing, it will go away in a
25 black-and-white version.

1 Or certain things like colors of shirts,
2 which would stand out, like a red shirt or a blue
3 shirt or a pink shirt, it would go away if I make it a
4 black-and-white, and then I would show a
5 black-and-white photo. If the faces -- the faces are
6 more important to me than the clothing, and then I
7 would show -- it would depend.

8 Q. Would there be an original of this photo
9 lineup where the faces are in color?

10 A. No.

11 Q. So the only --

12 A. No, no, no. I'm sorry. It may have been,
13 when I made it, but then I wouldn't use it because of
14 the colors, and then I wouldn't have it -- you know,
15 changed to black and white or the girls would change
16 it, and then...

17 Q. What would you do with the original -- in
18 that circumstance, what would you do with the original
19 color version?

20 A. If I didn't need it, I would toss it.

21 Q. Do you think that happened in this case?

22 A. It's a good possibility, because if I wasn't
23 going to use it, I just was like, I already have
24 enough papers in the case, and as long as I have my
25 suspect in a good picture, in a good photo lineup,

1 then I'm good.

2 Q. What was the purpose of creating this photo
3 lineup and showing it to the victims or eyewitnesses?

4 A. It would be to --

5 MR. BONGARD: Objection. Assumes facts not
6 in evidence.

7 BY MR. BARON:

8 Q. Let's look back at Exhibit 8. Let's look at
9 page 4 again, and I will again direct your attention
10 to the second paragraph, which reads:

11 "Photo line ups of Richard were made and
12 shown to all of the victims. None of the
13 victims were able to identify Richard as a
14 suspect."

15 A. It would be to identify a suspect.

16 Q. The purpose of these lineups was to identify
17 Richard?

18 A. Yes.

19 Q. Was the purpose of the lineups also to
20 identify Slaughter?

21 A. That particular photo lineup?

22 Q. This photo lineup, Exhibit 7.

23 A. I don't know. It wouldn't be in the same
24 photo lineup, though. That must have been -- it must
25 have been that the picture didn't register in my head

1 that I had picked the same guy.

2 Look, I'm telling you, look, when I was
3 working, I was working cases and cases, so maybe at
4 that time I picked the photo lineup and I included the
5 person, because there are so many photos and you
6 just -- by mistake I might have put him in the photo
7 lineup that I was showing. But it's never where I
8 would include two suspects in the same crime in the
9 same photo lineup.

10 Q. According to your report, you showed this
11 lineup to all of the victims. Do you have any reason
12 to dispute that?

13 A. No.

14 Q. Did any of the victims identify anyone from
15 these lineups?

16 A. If my report reflects that they didn't, then
17 they didn't.

18 Q. So to the best of your knowledge, none of the
19 victims or witnesses identified Rickie Slaughter from
20 this second photo lineup in Exhibit 7?

21 A. No. I showed you, or you have the ones that
22 they identified him from.

23 Q. Did any of the witnesses or victims to whom
24 you showed the second photo lineup fill out anything
25 or write anything on any of the forms that you gave

1 them in connection with this lineup?

2 A. No. If they say they didn't, they are not
3 able to pick anything, I just notate it in my report.

4 Q. In your report you don't have a separate --
5 you don't list out each of the victims separately and
6 say whether they did or did not identify anyone --

7 A. No.

8 Q. -- you just say -- this is not a good
9 question. Give me one moment.

10 You wouldn't -- would you have had another
11 police officer or detective with you when you showed
12 this second lineup to the victims or witnesses?

13 A. I don't recall having anybody with me.

14 Q. Are you aware of any other police reports or
15 other documentation, aside from your report that's
16 Exhibit 8, that discusses or references this second
17 photo lineup?

18 A. No.

19 (Exhibit 17 was marked for identification.)

20 BY MR. BARON:

21 Q. Again, this is just to complete the record,
22 but if you'd turn your attention to Exhibit 17.

23 Is this a -- aside from the date and
24 signature, is this the same copy of the photo lineup
25 that's on page 3 of Exhibit 7?

1 A. It appears to be.

2 Q. Who is it in -- did you show this lineup to
3 someone in connection with the case?

4 A. I don't recall.

5 Q. Do you know whose initials those are?

6 A. No, I don't.

7 (Exhibit 19 was marked for identification.)

8 BY MR. BARON:

9 Q. Let's look at Exhibit 19, what I've marked as
10 Exhibit 19 for the purposes of this deposition. It's
11 also a State's exhibit at trial.

12 MR. BONGARD: I'm sorry. Nineteen?

13 MR. BARON: Yes.

14 BY MR. BARON:

15 Q. What is this?

16 A. I have no idea.

17 Q. Do you see the name "Kenneth Marks" on here?

18 A. I do.

19 Q. If you turn the page, do you see
20 Kenneth Marks's name and Rickie Slaughter's name?

21 A. Yes, I do.

22 Q. Do you have any recollection of who
23 Kenneth Marks was?

24 A. No, I don't.

25 Q. I'll represent to you that there are

1 allegations in this case that Kenneth Marks sold a car
2 to Rickie Slaughter within a few months or so
3 preceding the incident at 2612 Glory View. Actually,
4 the date on the back of this is January 14th, 2003, so
5 maybe it was more than a few months ago.

6 Do you recall any issues involving someone
7 who lived in the neighborhood of 2612 Glory View
8 potentially selling a car to Rickie Slaughter?

9 A. No.

10 Q. Even with that information, are you still
11 unable to tell me whose initials are on Exhibit 17?

12 A. I still don't remember this at all.

13 Q. You don't know if that's Kenneth Marks's
14 initials?

15 A. I do not know, and I don't remember showing
16 this photo lineup. I don't see how Kenneth Marks
17 would have even been involved in the case.

18 Q. I'm going to change subjects. Let's talk
19 about alibis for a minute.

20 If you are investigating a case and a suspect
21 claims an alibi, would you investigate that alibi?

22 A. Yes.

23 Q. What would you do?

24 A. I'd go and see who his alibi was, what his
25 alibi was. I would try to confirm it or, you know,

1 dispute it. I don't...

2 Q. Let's assume, as a hypothetical, a suspect
3 has an alibi. The alibi is, when the incident took
4 place he was somewhere else.

5 A. I know what you're referring to, and it's the
6 "Rickie Slaughter picked me up at 7:00." That's the
7 only alibi in this case, that I could see, that I even
8 referenced in the report, that I know of that I looked
9 at.

10 Q. So if Rickie Slaughter's alibi is he was
11 somewhere else when the incident took place --

12 A. Right.

13 Q. -- would it be important to figure out
14 exactly when the incident took place?

15 A. Yes.

16 Q. Would it be important to figure out exactly
17 when Mr. Slaughter was in the other location?

18 A. Yes, but I have a timeline on that too.

19 Q. Would it be important to figure out how long
20 it would take to get from the location of the incident
21 to the location of the alibi? By car, walking,
22 whatever.

23 A. Yeah. Yes.

24 Q. When did the incident at 2612 Glory View take
25 place, and specifically when did it stop?

1 A. I don't know when it started. I know about
2 the time of the call was around seven o'clock.

3 Q. What call is that?

4 A. That was the call, it should have been from
5 the victims, or when the officers got dispatched, or
6 from the victims to dispatch, to the officers, with
7 some around on -- and it should be noted in
8 Mark Hoyt's report.

9 (Exhibit 28 was marked for identification.)

10 BY MR. BARON:

11 Q. Well, let's look at Exhibit 28, which is also
12 Exhibit 2 to the amended petition filed in this case.

13 Is that the report from Mark Hoyt that you
14 are referring to?

15 A. Yes.

16 Q. Having reviewed that, does that refresh your
17 recollection about when the incident at 2612 Glory
18 View Lane stopped, by which I mean, when the suspects
19 left the scene?

20 A. I don't see times here.

21 Q. If you look at about two or three inches from
22 the top of the first substantive page after the slip
23 sheet, the first box has "Incident Original,"
24 "Classification," it says "investigative bureaus."

25 Are you following along?

1 A. Yes, 9 -- 7:11.

2 Q. Is that when the incident stopped?

3 A. That would have been when -- see, it's hard
4 for me to tell how the officers do their reports,
5 because I used to get dispatched on a call and then,
6 for the date and time that they say it occurred, some
7 officers will use the time dispatch sends them, and
8 then some officers will go there and they will say,
9 "hey, what time did this happen," and they might be
10 more detailed. Each one is different.

11 Like I would be -- when I went on calls, if I
12 got dispatched on that call, I would put -- that would
13 be -- just generally would say "the time it started
14 was 9:19. That's when the people called." But some
15 guy might estimate it as, "well, they called me at
16 9:19, it took them a few minutes to get to the phone,"
17 they might say "7:00," so they might write a different
18 time in there.

19 But I wouldn't say that time is exact. It
20 might be the dispatch time, but then when did the
21 officer get it? It might have been a few minutes
22 earlier, or it might have been a few minutes -- you
23 know what I mean? It's not -- for exact times, I
24 wouldn't use that.

25 So that would be 7:11. So that could have

1 been the time they got the call.

2 Q. What do you -- can you be more precise about
3 what you mean --

4 A. That could have been a time that the people
5 called.

6 Q. Uh-huh.

7 A. And then they call the officer, "hey, we got
8 a call," and this is the call they write down, because
9 that's the only reference they have, the people
10 calling. So that would have probably been the time
11 that they got the call from -- but then, you know
12 what? It's -- I just put "around seven o'clock" for
13 the time of the incident.

14 Q. If you are investigating an alibi, is it
15 important to be precise about that?

16 A. You know what? I was precise. When she said
17 he came at 7:00, which I knew he couldn't have been
18 there at 7:00, and then I checked further because I
19 checked -- because I recall this, because this was in
20 some of my notes. Coworkers saw her standing out
21 there at 7:15, and it wasn't 7:00, and then later on
22 she said it was more towards 7:30 that he came.

23 So -- and even that, I couldn't be sure
24 because I wasn't there. But I have doubts that it was
25 even then, because if you know the distance, it was

1 somewhere on Nellis. I believe I can recall -- and
2 I'm not -- I'm just pulling this from -- I didn't even
3 read this. I believe it was somewhere on Nellis, but
4 it was quite a distance from the North Las Vegas
5 airport or where the incident occurred, to where her
6 business place was, because I can vaguely remember
7 Bonanza and Nellis, somewhere in that area or
8 something out there.

9 So for that time span, for him to even get
10 there, it wouldn't have been 7:00. It just didn't
11 fit. And that's why I posed that question to her,
12 when that -- and I even recall reading in my notes
13 that a detective at the jail had phone calls, that she
14 had -- he had made to her, and he said, "Tell them I
15 picked you up at 7:00." Okay? I recall that from a
16 detective, and it was in some of the notes that I
17 remembered.

18 Okay? So I don't know. You could say, "hey,
19 this is all wrong." Maybe he came at seven o'clock.

20 Q. What are these notes that you are referring
21 to?

22 A. What do you mean "notes"?

23 Q. A few times in that --

24 A. It's in a report. I mean, a report.

25 Q. You are not talking about separate

1 handwritten notes you have?

2 A. No, no, I didn't take notes. I'm talking
3 about a report I read. I went over, a detective from
4 the jail called me and said, "Hey, I listened to
5 phone calls, and Rickie Slaughter was telling Dennis
6 to say 'I was there at seven o'clock.'"

7 Q. So when Mark Hoyt's report says 7:11, you
8 don't know whether that's when the 911 call took
9 place --

10 A. I --

11 Q. -- or whether that's the time --

12 A. They didn't get the 911 -- on murders, I'll
13 normally get all the dispatch calls, everything. But
14 on robberies and things like this, I didn't go that
15 deep, because time. I was like, "Okay, I got this, if
16 this is what I need, I got it." And so 7:11 would
17 have been the time I believed the call came in.

18 Q. But you didn't --

19 A. I didn't verify it.

20 (Exhibit 4 was marked for identification.)

21 BY MR. BARON:

22 Q. Let's look at what I've marked as Exhibit 4
23 for the purposes of this deposition. This is
24 Exhibit 19 to the amended petition. This is the
25 preliminary hearing -- a transcript of the preliminary

1 hearing in Rickie Slaughter's case.

2 Do you recall testifying at the preliminary
3 hearing?

4 A. Yes.

5 Q. Let's look at page 113. Starting on
6 page 112, you are asked by the district attorney --
7 this is at line 22:

8 "Detective, do you know what time the
9 police responded to the victim's house after
10 they were robbed and kidnapped and if you saw
11 the report?"

12 And you ultimately answer, 7:11.

13 A. Right.

14 Q. And then at the start of recross examination,
15 the defense attorney asks if that was the time you
16 were dispatched or when officers were dispatched to
17 the scene.

18 You answer:

19 "That's the time the officer put as time
20 of crime, so it would probably be about
21 five minutes before that. The actual time of
22 dispatch would have been a couple minutes
23 before the time they indicated of the crime."

24 A. Yeah, but see, I said nothing -- I don't know
25 how every officer does it, because it could -- the

1 only way that you'll know exactly what time, because
2 dispatch -- you can call dispatch, you can say "what
3 was the time of the call," and they will tell you the
4 exact time.

5 So if he said 7:11, that might have been the
6 time he got the exact call, and he verified that,
7 because some officers do that.

8 I was like, I got -- I would put in my
9 report, I would put it around seven o'clock. But that
10 would probably be the time that he got the dispatch
11 call, and it would probably be the time right after
12 they left the crime scene, but I couldn't be sure
13 about that either.

14 Q. In your preliminary hearing testimony, you
15 are suggesting that the time listed in the report is a
16 couple of minutes after the actual time of dispatch;
17 is that what you are saying in this testimony?

18 A. Well, I would just judge it by what time --
19 like if somebody just shot me and had my family tied
20 up and I got untied, then I would estimate, okay, they
21 didn't get to the phone as soon as the people left.
22 I'd just say it would have been a couple of minutes,
23 maybe, around, before they actually could get to a
24 phone. I would just kind of like put it like that in
25 my mind.

1 I don't know if it's exact. That's why
2 usually I put "about" a time.

3 Q. But in your preliminary hearing testimony on
4 pages 112 to 113, you are being asked about the time
5 of the crime; correct?

6 A. Yes.

7 Q. And you are being asked about the 7:11 time
8 that's on the report; correct?

9 A. Correct.

10 Q. In the answer, that's from lines 10 through
11 15 on page 113, you are suggesting that 7:11 -- that
12 the actual time of dispatch would have been a couple
13 of minutes before 7:11. Is that the substance of that
14 testimony?

15 A. Well, I don't think it's actually -- I'm
16 thinking in my mind that the time of crime would have
17 been a couple minutes before the dispatch. You know
18 what I mean? It's not the time that they get
19 dispatched. The crime would have to be a few minutes
20 before, because it doesn't make sense that, hey, I
21 just got shot, and I have the phone in my hand. It
22 takes a couple of minutes to get to the phone. That's
23 what I'm thinking.

24 (Exhibit 43 was marked for identification.)

25 //

1 BY MR. BARON:

2 Q. Let's take a look at what I've marked as
3 Exhibit 43 for the purposes of this deposition.
4 Can you tell me what this exhibit is?

5 A. Time received call, dispatch, 1911.

6 Q. What does that mean?

7 A. That's when dispatch dispatched the officers,
8 or the time received. They probably did it in --
9 okay. They arrived at -- okay, 1915. They received a
10 call at 1911. So the officer did call dispatch and he
11 said "what was the time of dispatch" or "what was the
12 time of the call," and that would be the time that the
13 people got to the phone and were able to call
14 dispatch. Relatively, within seconds after that, they
15 got an officer on the line and they sent Hoyt right
16 after the call.

17 Q. Does this exhibit suggest that the time that
18 the 911 call was picked up by the North Las Vegas
19 Police Department was --

20 A. Was 9:11.

21 Q. -- 7:11?

22 A. Yeah, 7:11.

23 Q. Let's look under "Description." Three lines
24 down it says "T/L 5 min," m-i-n, "ago." Do you see
25 that?

1 A. Yes, yes.

2 Q. Okay. What does that mean to you?

3 A. T/L 5 minutes ago, that they left
4 five minutes before the call.

5 Q. And --

6 A. So I would have put it like 7 -- if it was
7 five minutes before that, then we're looking at 7:06.

8 Q. I'll represent to you that -- we have the 911
9 call, we can play it for you, but I'll represent to
10 you --

11 A. Uh-huh.

12 Q. -- that at the 1-minute-and-38-second mark of
13 the 911 call, the dispatcher asks the caller, who I
14 believe is Jermaun Means, "How long ago did this
15 happen?" And Means responds, "Five minutes ago."

16 Do you want me to play that call for you
17 or --

18 A. No, you don't have to play it.

19 Q. All right. If -- you had just estimated 7:06
20 in one of your previous answers. If Means reports
21 "five minutes ago" 1 minute 38 seconds into the 911
22 call, does that affect your estimate?

23 A. I don't know. You're talking seconds. I
24 don't know. It could go either way. Look, at the
25 end, I showed that he didn't pick her up at 7:00. She

1 was standing out in front of her business at 7:15.
2 That's what her coworker or manager or somebody at the
3 store said, and she later said, "closer to 7:30."

4 So despite what time this happened, whether
5 it was 7:00 or 7:11 or 7:06, the time of his arrival
6 didn't mat- -- the time of his arrival wasn't 7:00.
7 It wasn't 7:00.

8 So despite how many times you try to
9 rearrange these minutes, it's still the same. It
10 wasn't -- it wouldn't matter if the crime happened at
11 10 till 7:00, because she said he didn't get there
12 until 7:30, and his manager said she was still
13 standing in front of her business at 7:15, and he said
14 "7:00."

15 Q. So as a detective, it did not matter to you
16 whether the incident ended at 6:50 or 7:10?

17 A. If I get the suspect, the only thing that
18 matters is that I investigate the crime, I identify
19 who did the crime, and then I take action.

20 Q. My question was, as a detective, it did not
21 matter to you whether the incident ended at 6:50 or
22 7:10. Can you answer that yes or no?

23 A. No, it matters, but it's just like you are
24 hassling over a minute and 30 seconds from when
25 Jermaun said something, and it was a minute into the

1 conversation and it didn't really matter. It was
2 only seconds.

3 Q. Let's do a little math anyway. Let's assume
4 for the sake of argument that Means placed the call at
5 7:11 and zero seconds precisely. What time would it
6 be 1 minute and 38 seconds into that call?

7 A. 12:38.

8 Q. If at 7:12:38 Means said "the incident took
9 place about five minutes ago," what time does that
10 suggest?

11 MR. BONGARD: Objection. That misstates
12 facts in evidence.

13 BY MR. BARON:

14 Q. I have represented to you that, at the
15 1-minute-and-38-second mark of the 911 call, the
16 dispatcher asks Jermaun Means "how long ago did this
17 happen?" And Means responds "about five minutes ago."
18 Would you like me to play that call for you, or are
19 you willing to accept that representation?

20 A. I'll accept it.

21 Q. If at the 7:12:38 minute mark -- and I know
22 we're assuming 7:11:0 is when the call is placed, but
23 let's just operate under that assumption for now. One
24 minute and 38 seconds into that call would put you at
25 7:12:38; is that correct?

1 A. Correct.

2 Q. What is five minutes before 7:12:38?

3 A. 7:07:38.

4 Q. Do you recall speaking to Tiffany Johnson in
5 connection with your investigation in this case?

6 A. Yes.

7 Q. Who is Tiffany Johnson?

8 A. His girlfriend.

9 Q. How old was she at the time?

10 A. I don't recall.

11 (Exhibit 20 was marked for identification.)

12 BY MR. BARON:

13 Q. If I could direct your attention to what I've
14 marked as Exhibit 20 for the purposes of this
15 deposition. This document is also Exhibit 174 to the
16 amended petition. This is one of the transcripts of
17 one of the days of trial in this case. Page 61 is
18 Tiffany Johnson's testimony. By that time, she had
19 changed her last name, but I'm going to stick with
20 "Tiffany Johnson."

21 On page 61 at line 7 she is asked, "How old
22 you were in 2004?" She says she was about to turn 20.
23 Do you have any reason to dispute that?

24 A. No, I have no reason to dispute it. You said
25 it was in 61?

1 Q. Page 61 of what I've marked as Exhibit 20 for
2 the purposes of this deposition, line 8.

3 A. No, I have no reason to dispute it.

4 Q. She seems teenaged to you?

5 A. I don't even remember.

6 MR. BONGARD: Can you flesh that out a little
7 bit, what "teenaged" means to you?

8 BY MR. BARON:

9 Q. Well, you spoke to her.

10 A. I did.

11 Q. Did she seem young to you, or old?

12 A. Everybody is young to me.

13 Q. How many times did you talk to Tiffany?

14 A. A few times.

15 Q. What was the first time you talked to her?

16 A. At the -- when we served the search warrant,
17 I believe.

18 Q. Do you remember when you served the search
19 warrant?

20 A. 28th, I believe.

21 Q. Do you remember what time it was?

22 A. I read it. Eight o'clock-something, maybe
23 later.

24 (Exhibit 21 was marked for identification.)

25 //

1 BY MR. BARON:

2 Q. Let's look at what I have marked as
3 Exhibit 21 for the purposes of this deposition. This
4 is also Exhibit 13 to the amended petition.

5 If you look at the very last page of that --
6 that says June 28th.

7 (Exhibit 22 was marked for identification.)

8 BY MR. BARON:

9 Q. Let's turn the page -- turn to the next
10 exhibit. What I've marked as Exhibit 22 for the
11 purposes of the deposition is also Exhibit 6 to the
12 amended petition.

13 Do you see a time of arrest?

14 A. Yes.

15 Q. And that's for Rickie Slaughter?

16 A. Yes.

17 Q. On the 28th of June?

18 A. Yes.

19 Q. Is that the time that you served the search
20 warrant, executed the search warrant?

21 A. I don't recall.

22 Q. Is that the time that he is booked, or is
23 that the time that he is arrested at his apartment?

24 A. I don't recall. Could have been when I --
25 after I interviewed him. It's just -- it all depends

1 what time I put for the time for arrest. It could
2 have been after I took him down to the station and we
3 talked, I say, "You're under arrest," and it was
4 closer to 2300 and I put 2300 as the time of arrest.
5 Doesn't mean I took him from the apartment. He was a
6 suspect. I took him to the station. And I don't
7 remember the exact time, but that's the time I put as
8 the time of arrest.

9 Q. You served the search warrant at night?

10 A. Yes.

11 Q. Where was Tiffany when the SWAT team first
12 executed the search warrant?

13 A. She was in the apartment, I believe.

14 Q. Let's look --

15 A. I wasn't there.

16 Q. Let's look back at what I've marked as
17 Exhibit 20 for the purposes of this deposition. Let's
18 look at pages 10 to 11.

19 On page 10, line 14, she's asked -- excuse
20 me -- line 6 she's asked, "Can you describe the
21 circumstances of the raid as you remember it?"

22 She answers, "Well, I was in the shower."
23 There is some more discussion of that over the next
24 few lines on that page.

25 Do you remember her being in the shower at

1 the time you served the search warrant?

2 A. I didn't serve it. SWAT team serves it. I
3 stay way back in my car and they call me when they say
4 I could come.

5 Q. So you aren't in the apartment with the SWAT
6 team --

7 A. No.

8 Q. -- when they first go in?

9 A. No.

10 Q. When do you go on?

11 A. When they call me. They call me when
12 everything is done and everything is safe and they've
13 clear everything, then they call me.

14 Q. Where did you see Tiffany when you went into
15 the apartment?

16 A. I don't even remember if it was even in the
17 apartment.

18 Q. If you look at the bottom of 10, she is
19 asked, at line 24:

20 "Where did he" -- I assume "he" is one
21 of the SWAT team officers -- "Where did he
22 take you next?"

23 "Answer: He then handcuffed me while I
24 was in the comforter and took me outside and
25 sat me on the ground outside by the door."

1 Do you recall if she was outside by the door
2 when you went up to the apartment?

3 A. I don't recall.

4 Q. Do you recall whether she was clothed when
5 you saw her?

6 A. I'm sure she was clothed, because I would
7 have remembered, I suppose, that.

8 Q. If you look again, line 10 -- I'm sorry --
9 page 10, line 21, she's gotten out of the shower. The
10 officer, the SWAT team officer -- says "gave me the
11 comforter off the bed," after she got out of the
12 shower. Do you recall her being wrapped in a
13 comforter when you saw her?

14 A. I do not.

15 Q. Did the SWAT team damage the apartment when
16 they executed the search warrant?

17 A. I can't recall.

18 (Exhibit 23 was marked for identification.)

19 BY MR. BARON:

20 Q. Let's look at what I marked as Exhibit 23 for
21 the purposes of this deposition. This is not your
22 report. This is another officer's report.

23 Third paragraph, and this is the last page,
24 says the search warrant was served at approximately
25 2315 hours. They fired breaching rounds at the door.

1 Do you recall the -- do you recall how the
2 door looked when you got to the apartment?

3 A. No.

4 (Exhibit 24 was marked for identification.)

5 BY MR. BARON:

6 Q. Let's look at what I've marked as Exhibit 24
7 for the purposes of the deposition. These are
8 photographs that were introduced at Mr. Slaughter's
9 trial.

10 The first photo here, do you see the broken
11 window?

12 A. Yes.

13 Q. Do you recall the condition of the window
14 when you went into the apartment?

15 A. No.

16 Q. If you go forward a couple more photos, you
17 will see a photo of the door.

18 A. Yes.

19 Q. Can you describe the condition of the door in
20 that photo?

21 A. Yeah. It looks like somebody forced entry.

22 Q. Do you recall the door looking like that when
23 you got to the apartment?

24 A. No.

25 Q. Once you got into the apartment, do you start

1 talking to Tiffany?

2 A. I don't recall.

3 Q. Let's look back to Exhibit 20, page 12.

4 On page 12, Tiffany is describing an
5 interaction with an officer in which the officer is
6 telling her -- I'm looking at line 5 -- "I need to
7 tell them the truth. I know things that I am not
8 trying to tell him," meaning the officer. "He," the
9 officer, "told me I was a liar."

10 Is she referring to you there?

11 A. No, I don't think so.

12 Q. Do you recall calling her a liar at the
13 apartment?

14 A. No. You know, a lot of times, before we get
15 in -- I mean, they have interaction with other
16 officers. I don't know what takes place before I get
17 there.

18 Q. Did you bring Tiffany down to the station to
19 speak with her that night?

20 A. I don't know how she got there. I don't
21 know -- yeah, I believe we took them to the station,
22 but I don't remember how she was transported.

23 Q. Did you speak to Tiffany at the apartment?

24 A. I may have, briefly, but I don't know. It's
25 not where I would normally conduct an interview,

1 but...

2 Q. Do you recall having what I'm going to call a
3 "substantive conversation" with her at the apartment?

4 A. No, I don't.

5 Q. You spoke to her on the night of June 28th at
6 the station?

7 A. I believe so.

8 Q. Do you recall recording that conversation?

9 A. Yes.

10 (Exhibit 25 was marked for identification.)

11 BY MR. BARON:

12 Q. Let's look at Exhibit -- what I've marked as
13 Exhibit 25 for the purposes of this deposition.
14 Please take a look at this, and tell me if this is a
15 transcript of the conversation you had with Tiffany
16 Johnson on June 28th.

17 A. Yes.

18 Q. And I have the audio. If, at any point, you
19 think the transcript is inaccurate, I am happy to play
20 the audio for you.

21 Did you Mirandize Tiffany Johnson?

22 A. I don't recall even Mirandizing her. I
23 didn't think she was a suspect. I thought she was
24 more of a witness. But I could have possibly
25 Mirandized her. I just don't know how we got her

1 there, if she came with me, if I transported her. I
2 don't know how.

3 Q. Did you have any conversation with Tiffany
4 that occurred before the recording started, before
5 what we have here in this transcript?

6 A. It appears that I did, but I don't know
7 where, if it was in a car, driving, or if I had said
8 something to her at the scene briefly, I don't know,
9 because it looks like I'm picking up on something
10 here.

11 Q. Do you recall what you discussed with her
12 before this transcript starts?

13 A. No.

14 Q. Let's look at line 9 on page 1. You say:

15 "And hey look at me Tiffany did you want
16 to be in trouble for something that you
17 didn't do?"

18 Why did you say that?

19 A. I don't know. Because I didn't think she did
20 it.

21 Q. Let's look at line 14:

22 "You guys planned it together? Were you
23 sitting in the car waiting for him out
24 there?"

25 Are you referring to Mr. Slaughter?

1 A. Yes.

2 Q. What are you asking there?

3 A. Look, I used a lot of different things to get
4 people to tell the truth or to tell me what happened,
5 and I'll try to put her as a suspect. I'll try to
6 place her in the car. I'll do a lot of things to
7 where I can get her, if she had any connection with
8 it, to tell me the truth.

9 Q. You are accusing her there of being a getaway
10 driver?

11 A. Yes.

12 Q. Do you have any reason to believe she was the
13 getaway driver?

14 A. No.

15 Q. Let's look at page 3, lines 61:

16 "If you know about a crime that has been
17 committed and you don't report it to the
18 police you are just as guilty as the ones
19 that did it."

20 What did you mean by that?

21 A. Just another way of me trying to get her to
22 tell the truth.

23 Q. Is that accurate, as far as you know, that
24 statement?

25 A. Yeah, failure to report a crime, I believe

1 it's a misdemeanor if you know direct knowledge, but
2 I'm not really sure -- and I -- you know what? Like I
3 said, I used a lot of things, and it's to get the
4 truth of what happened, so...

5 Q. Let's look at page 4. Starting on page
6 [sic] 102 you talked to her about her being in school.
7 She tells you she's in school for medical billing and
8 coding. And then at line 111 -- excuse me -- line 110
9 you say:

10 "You've got a baby right. Would you
11 like -- would you like all of this - just
12 would you like everything that you've worked
13 for kind of like just go down the drain?"

14 What did you mean by that?

15 A. Like she -- I'm trying to put this in the
16 right context. Like she's siding with a guy that just
17 shot somebody, she's trying to keep information that
18 she knows about from the police, and she's wasting
19 herself on somebody that's not -- to me, wasn't worth
20 her to do that, that she would throw it all away for
21 that.

22 Q. Let's look at what I've marked as Exhibit 21
23 for the purposes of this deposition. It's also
24 Exhibit 13 to the amended petition.

25 A. I'm sorry. Go to...

1 Q. Exhibit 21.

2 A. Okay.

3 Q. This is -- well, tell me what this document
4 is?

5 A. It's a report I wrote.

6 Q. It says -- this is the second paragraph:

7 "After the arrest Johnson was
8 interviewed at her apartment," has the
9 address.

10 "During the interview Johnson told us
11 that Slaughter had come to pick her up on the
12 day of the incident at 7 PM."

13 Does that refresh your recollection about
14 whether you spoke to Tiffany Johnson at her apartment
15 after the execution of the search warrant?

16 A. The only thing that it would do is tell me I
17 did it. I don't recall.

18 Q. The report continues on that paragraph:

19 "She was transferred to the police
20 department and she continued to tell me the
21 same story."

22 A. Right.

23 Q. If you look at Exhibit 25, which is again a
24 transcript of your interrogation with Ms. Johnson that
25 night, do you see anywhere in this where she again

1 says he came to pick her up at 7:00? If you can skim
2 through it.

3 A. To?

4 Q. I'm on Exhibit 25.

5 A. Okay, 25. In that same one, in 222? Is it
6 222? Let's see. We're on page 5 -- oh, I'm sorry.
7 122. (Inaudible - sotto voce.) Hold on. No. Okay.
8 (Witness examined document.)

9 I don't see it in this. It must have been
10 something she told me on the way. I don't know.

11 Q. So that would have been during a portion of
12 your interrogation with her that was not reported?

13 A. Good possibility. Either that or on the way,
14 because I seem to put a lot of emphasis on the times
15 here.

16 Q. But according to your report in Exhibit 21,
17 on June 28th she consistently told you that
18 Mr. Slaughter picked her up on the day of the incident
19 at 7:00 p.m.; is that right?

20 A. Yes.

21 Q. When did that interrogation end?

22 A. Which one?

23 Q. On June 28th, the one beginning on June 28th,
24 your interrogation of Ms. Johnson. What time did you
25 finish up?

1 A. I don't know. Probably later in the evening.

2 Q. Could it have been early in the morning of
3 June 29th?

4 A. No. There's two -- I can't recall, but there
5 was like two or three...

6 Got the booking sheet for Slaughter in here?

7 Q. I'm not sure what you mean by the "booking
8 sheet," but let me try and ask you the question in a
9 different way.

10 A. All right.

11 Q. Your first interrogation of Ms. Johnson on
12 the record began on the evening of June 28th?

13 A. Right.

14 Q. Did it end -- if Ms. Johnson testified that
15 the interrogation ended in the early morning hours of
16 June 29th, would you agree or disagree with that?

17 A. She -- it could be. I'm just not sure.

18 Q. When is the second time that you interrogated
19 Ms. Johnson on the record?

20 A. I can't recall, but there's two more.

21 Q. Let's look at your -- the report that we're
22 already on, which is Exhibit 21, the third paragraph.

23 Did you have your second recorded
24 interrogation with her on June 29th?

25 A. It appears so, 29th.

1 (Exhibit 26 was marked for identification.)

2 BY MR. BARON:

3 Q. Let's look at Exhibit 26, what I've marked as
4 Exhibit 26 for the record. Is this a transcript of
5 that interview?

6 A. Yes.

7 Q. Did you have any conversation with
8 Ms. Johnson in between when the first interrogation
9 ended on or about the evening of the 28th, and when
10 this second interrogation on June 29th began?

11 A. I don't believe so.

12 Q. Why did you bring her back the next day?

13 A. To keep getting as much information as I
14 could. If I didn't believe he came at seven o'clock,
15 and he was identified as a suspect, and she said he
16 was there at seven o'clock, and he couldn't have been
17 according to witnesses and everything that I had so
18 far, then she would have to be the one that would
19 say -- or any following information that I got from
20 her employer or where she worked would have to dispute
21 what she said, and it would either be her or that.

22 Q. At this point in time, what evidence did you
23 have that Mr. Slaughter did not pick her up at about
24 7:00 p.m.?

25 A. On the 28th I got the phone call from the

1 Metro detective, the CI information.

2 Q. By "CI" you mean?

3 A. Confidential informant.

4 He said that his confidential informant had
5 heard Rickie Slaughter bragging about committing that
6 crime. If the crime happened at seven o'clock, and
7 she said he picked her up at 7:00, there was no way
8 that Slaughter could have picked her up at seven
9 o'clock.

10 So my further talking with her, after the
11 first night that I talked to her and he said he picked
12 her up at 7:00, was to get her to tell me the time
13 that he did pick her up, because it couldn't have been
14 seven o'clock.

15 Q. Because the confidential informant had told a
16 different detective that Mr. Slaughter committed the
17 crime?

18 A. Because I verified it -- no, exactly. I
19 believed that he was -- at that point he was a
20 suspect. I believed that he was a suspect. The
21 information that he had previously got from his
22 confidential informant was good. So I used the
23 probable cause -- and I actually showed the picture to
24 Jermaun Mean- -- I mean, Ivan before talking to her.

25 Q. Do confidential informants ever lie?

1 A. Yeah, of course.

2 Q. Do witnesses ever make false identifications?

3 A. Of course.

4 Q. Let's look back at Exhibit 26, the transcript
5 of your discussion with Ms. Johnson.

6 On that first page, you are again -- the
7 first and second page, you are talking about the time
8 Mr. Slaughter picked her up from work; is that right?

9 A. Of interview 2?

10 Q. Yes, this is Exhibit 26.

11 A. (Witness examined document.) Yes.

12 Q. Where did she work?

13 A. I want to say it was a cleaners or something.
14 I'm not really sure. I think it was. I think it was
15 on Nellis or something, but I know it was way out.

16 Q. Let's look at Exhibit 21 again, and the last
17 page of that, the paragraph in the middle, starting on
18 July 6th. You reference contacting Johnson at 715
19 North Nellis.

20 A. Yes.

21 Q. Is that her workplace?

22 A. Yes.

23 Q. If I told you that's the Eldorado Cleaners,
24 does that sound right to you?

25 A. Vaguely. I think it's a cleaners.

1 Q. Let's look back at Exhibit 26. On page 2, at
2 the top, she says she got off about 8 minutes early,
3 and she says she was waiting about 15 minutes for
4 Mr. Slaughter to pick her up.

5 A. Uh-huh.

6 Q. If she gets off work at 7:00, gets off
7 8 minutes early and waits 15 minutes, what time would
8 that put it at?

9 A. Seven after.

10 Q. If she was truthfully telling you
11 Mr. Slaughter picked her up at 7:07, could
12 Mr. Slaughter have committed the crime at 2612
13 Glory View?

14 A. I don't believe so.

15 Q. Did you investigate how long it takes to get
16 from 715 -- excuse me -- to get from 2612 Glory View
17 Lane to 715 North Nellis?

18 A. No.

19 Q. Would that be important in confirming or
20 denying Mr. Slaughter's alibi?

21 A. Yeah, if I wouldn't have got her to tell me
22 that he came closer to 7:30, probably would have been.

23 (Exhibit 46 was marked for identification.)

24 BY MR. BARON:

25 Q. Let's take a look at what I have marked as

1 Exhibit 46 for the purposes of this deposition. These
2 are records from an investigator that prior defense
3 counsel for Mr. Slaughter hired.

4 He looked into the distance between
5 2612 Glory View Lane and 715 North Nellis. His notes
6 appear to suggest that the minimum amount of time it
7 would take to get from one place to the other would be
8 about 20 minutes.

9 Based on your knowledge of the geography of
10 the Valley, does that sound about right to you?

11 A. You know, it would, in like -- and I've done
12 this before -- in perfect conditions. Look, if I got
13 every light green, if nobody blocked me, if the
14 traffic -- there was no traffic on the street, if it
15 was like a freeway condition, but --

16 Q. Empty roads?

17 A. Wait.

18 It come -- it will play into that, and I've
19 done it, but it's not always perfect, and it's not
20 always I got all the green lights, and it's not all
21 the stop signs and I was the first one and I got to
22 go. It doesn't work like that. And you can say
23 20 minutes, but in reality you would be looking at 30
24 or something like that, because the perfect condition
25 never happens. It only happens when you want your

1 time to be closer. When you want the time to be on
2 your side, in a perfect condition, your time can be
3 smaller, but in my perfect condition, it isn't that
4 way. Mine came further. There is a lot of instances
5 that I wouldn't have arrested Rickie Slaughter without
6 people saying, victims saying. There's a lot more
7 into it than you just driving a distance from a house.

8 Q. What time do you believe Rickie Slaughter
9 picked up Tiffany Johnson?

10 A. I wouldn't be sure, but I know it wasn't at
11 7:00. I believe it was a lot later.

12 Q. If it was 7:30, and if it takes 30 minutes to
13 get from the crime scene to her workplace, could
14 Mr. Slaughter have committed the crime?

15 A. I -- it's possible. I believe so. It could
16 have been later that he picked her up, but I could
17 only get her to say -- I could only get her to agree
18 to that time, but I don't believe -- I couldn't say
19 either time was correct.

20 Q. We spoke earlier about the incident ending at
21 7:07. Do you remember that?

22 A. Yes.

23 Q. Let's assume, for the sake of this question,
24 that Mr. Slaughter picked up Tiffany Johnson at 7:30.
25 Let's also assume it would take 30 minutes to get from

1 the crime scene to 715 North Nellis.

2 Given those assumptions, would it be possible
3 for Mr. Slaughter to have committed the crime?

4 A. Yes.

5 Q. How?

6 A. I believe he committed the crime. I've got
7 the witnesses that said he committed the crime.

8 Q. If the incident ended at 7:07 and it takes
9 30 minutes to get from the crime scene to 715 North
10 Nellis, what is the earliest possible time
11 Mr. Slaughter could have picked up Ms. Johnson?

12 MR. BONGARD: Objection. Calls for
13 speculation, and, again, you are assuming facts not in
14 evidence as well.

15 BY MR. BARON:

16 Q. You can answer the question.

17 A. I can't answer the question the way you want
18 me to answer. I don't know exactly what time he got
19 there. She said closer to 7:30, after saying 7:00,
20 and it doesn't -- I believe it was later, but it
21 doesn't matter, because the only times we have is
22 what -- at the end, what she finally agreed to say,
23 that he was at 7:30 or closer to that. And the time
24 that he got there, you are not going to be sure
25 anyway. We don't know, in a perfect situation, how

1 long it took him to get there.

2 Q. Let's look again at Exhibit 26 on page 2.

3 She starts off, as we already discussed, telling you

4 she got off about 8 minutes early and waited

5 15 minutes, which would be about 7:07. You ask her:

6 "Was it more toward the middle of the

7 hour, was it more toward 7:30 was it more

8 toward 8?"

9 She, on line 44, says: 7:30?

10 You respond: "So closer to 7:30 - yes

11 or no?"

12 She says, "Probably before 7:30."

13 You say, "A little bit before 7:30?"

14 Did I get that right?

15 A. Yes.

16 Q. She says, "Probably before 7:30."

17 You say, "A little bit before 7:30?"

18 Is that actually what she said?

19 A. No, that's what I said.

20 Q. What were you trying to do in this exchange?

21 A. Trying to get her to tell the truth.

22 Q. Let's turn to page 5. On line 130 --

23 starting on line 133 --

24 MR. BONGARD: I don't have that. I'm sorry.

25 MR. BARON: Of Exhibit 26?

1 MS. GEBRAEL: We only have pages 1 and 2.

2 MR. BARON: Oh. Give me one moment. Sorry
3 about that.

4 MR. LEE: It's page 5 he's referring to.

5 MR. BONGARD: Well, I would like to get the
6 other pages in case he references those two.

7 MR. LEE: All right. I'm sorry.

8 BY MR. BARON:

9 Q. So on page 5, starting at line 133, you are
10 characterizing her as having told you he actually came
11 more like 7:30, and she says, "A little bit before."

12 If you turn back to page 2 of this, line 47,
13 you had ended that colloquy by saying "a little bit
14 before 7:30?"

15 A. Uh-huh.

16 Q. On page 5, line 135, she says "a little bit
17 before," referring to 7:30; is that right?

18 A. Uh-huh.

19 THE REPORTER: Yes?

20 THE WITNESS: Yes. I'm sorry.

21 BY MR. BARON:

22 Q. You ask, "Closer to 7:30 than 7 right?"

23 And she answers, "Yes."

24 A. Yes.

25 Q. On page 6, line 177, you say "they're," by

1 which I assume you are referring to either the police
2 or the District Attorney's Office, or perhaps the
3 suspects, "they're going to try to put you into the
4 middle of this."

5 What exactly do you mean by that?

6 A. I don't know. I'm just like you, whatever
7 works. I -- sometimes I talk faster than my brain
8 works when I'm like the -- I could have meant -- I'm
9 thinking that they're us. The legal system or the
10 justice system, we're -- "they're" going to try to put
11 you in the middle of this because of her involvement,
12 her seven o'clock, her now at 7:30. Because she's
13 covering up for something. Well, it's her boyfriend.
14 But then, that's what I probably meant.

15 Q. Did you Mirandize her before this interview?

16 A. No. I wasn't going to arrest her.

17 Q. Did you believe she was a suspect at the
18 time?

19 A. No. No.

20 Q. Let's look back at Exhibit 21, the last page.
21 The third paragraph discusses your interrogation of
22 her on June 29th. The fourth paragraph says: "I
23 believe that Johnson is somehow involved in the
24 attempt [sic] murder and robbery."

25 But you decided not to arrest her at that

1 time; is that right?

2 A. Right.

3 Q. On June 29th, did you believe that he was
4 involved in the attempt to murder and robbery?

5 A. I don't know. By either -- by concealing it,
6 I maybe -- the fact that she knew about it. She could
7 have been involved with just, "Hey, we're going to rob
8 this place," part of a conspiracy, but I didn't know.

9 Q. Did you have any evidence that she was
10 involved in the conspiracy --

11 A. No.

12 Q. -- to commit the crime?

13 A. No.

14 Q. You thought about arresting her at the
15 time --

16 A. No.

17 Q. -- but you didn't?

18 A. No, I mean I -- if I could have found
19 something to arrest her, which I eventually did.

20 Q. You say you thought about arresting her,
21 decided not to, hoping to get further information so
22 that you could connect her with the crime?

23 A. Yeah, that was for -- I believe that was, in
24 my mind, was thinking to arrest her for lying, because
25 I eventually did do that, but I was trying to get all

1 the information I could before I did that, because I
2 knew that would close it totally.

3 Q. Did you think she was actually present at the
4 crime scene?

5 A. No.

6 Q. Between June 29th and your next interrogation
7 of her, which took place on July 6th, did you have any
8 additional contact with her?

9 A. I don't believe so.

10 Q. Let's look at Exhibit 20 again, page 18. And
11 feel free to read the surrounding pages for context,
12 but on 17 and 18, she says, "He" -- I believe she's
13 referring to you -- contacted her by phone, kept
14 telling her that she needed to talk to you. I'm
15 changing the pronouns there but --

16 A. Okay, then I could have.

17 Q. Starting at line 3, she testifies that you
18 told her that if she didn't tell you what you wanted
19 to know, "then he can come arrest me," you can come
20 arrest her.

21 A. Right.

22 Q. Did you tell her that?

23 A. I don't know. I don't know if I --

24 MR. BONGARD: Objection. I think that
25 misstates the exhibit.

1 BY MR. BARON:

2 Q. Let me read the exact words. "He," and by
3 "he" I believe she is referring to you, Detective
4 Prieto --

5 MR. BONGARD: Objection. That misstates the
6 exhibit.

7 BY MR. BARON:

8 Q. On page 17, line 18, the question is:

9 "As far as the detective that questioned
10 you, did you have any contact with him
11 subsequent to the interview that you had with
12 him at the police station?"

13 Could that question be referring to anyone
14 other than you?

15 A. Where -- I'm sorry. Where did you read that?

16 Q. I'm looking at Exhibit 20, page 17, line 18.
17 Did anyone else --

18 A. No.

19 Q. Did anyone else interrogate Tiffany
20 Johnson --

21 A. No.

22 Q. -- in connection with this case?

23 A. No, no. It would be me.

24 Q. She then says, "He" -- referring to the
25 detective that questioned her, which would be you.

1 A. Yes.

2 Q. (Reading):

3 "He had contacted me by phone when I was
4 at my grandfather's house and he kept telling
5 me I need to talk to him. He kept telling me
6 I know more than I am telling him. I need to
7 tell him. He was like, if I don't tell him
8 what he wanted to know" --

9 MR. BONGARD: Objection. That misstates the
10 exhibit.

11 MR. BARON: What did I misstate? I'm sorry.
12 I thought I got it right.

13 MR. BONGARD: Line 6 is a question from the
14 attorney. It is not an answer from Tiffany.

15 BY MR. BARON:

16 Q. Did you tell her that -- did you threaten to
17 arrest her between June 29th or July 6th?

18 A. I don't recall that. I told you at first I
19 didn't know I called her. I didn't know I had any
20 conversation with her. I know that I made
21 arrangements for interviews with her, but I don't
22 recall talking to her before or in between these.
23 So...

24 Q. Let's look at Exhibit 21, and the last
25 page of that.

1 A. Uh-huh.

2 Q. Midway, more toward the bottom:

3 "On July 6," I assume that's 2004, "I
4 contacted Johnson at 715 North Nellis and
5 placed her under arrest for obstructing a
6 police officer."

7 Do you recall doing that?

8 A. Yes.

9 Q. Why did you feel you had probable cause that
10 she had committed that crime?

11 A. Because she lied to me. She obstructed my
12 investigation. Instead of just telling me he came to
13 pick her up when he did pick her up, she made me
14 extend, she put -- she delayed my investigation by
15 doing this. She had me going to her job, going --
16 following up on other leads, instead of just saying,
17 "hey, he came to pick me up at this time."

18 Q. What evidence did you have that he did not
19 pick her up at the time she said he picked her up?

20 A. Because she finally told me, and there was no
21 way he could have picked her up at that time. I don't
22 believe he picked her up at that time. Even though
23 she finally stretched it to 7:30, I don't believe he
24 made it then. And her boss said she was out there
25 standing in front of the business at 7:15 when he

1 left, or one of the workers there.

2 Q. On June 29th she told you it was -- she was
3 not precise about the time, but she told you it was
4 more towards 7:30. Is that an accurate
5 characterization of that --

6 A. Something like that, yeah.

7 Q. -- second interrogation?

8 A. Yes.

9 Q. And remind me, what evidence did you have
10 that that wasn't true?

11 A. I don't have any evidence. I just have what
12 I believe the times were.

13 Q. Was that the lie for which you arrested her
14 for obstruction?

15 A. No, I --

16 MR. BONGARD: Objection. Relevance.

17 THE WITNESS: I arrested her for lying to me
18 initially.

19 BY MR. BARON:

20 Q. On June 28th?

21 A. Yes, for seven o'clock.

22 Q. How often do you arrest -- how often -- how
23 many times have you arrested a witness for
24 obstruction?

25 MR. BONGARD: Objection. Goes beyond the

1 scope of the deposition.

2 BY MR. BARON:

3 Q. You can answer.

4 A. I can answer, or I -- do I have -- yes, I
5 have arrested people for obstructing me. I -- do I --
6 that's the answer: I have arrested people for
7 obstructing me.

8 Q. How many times?

9 A. I couldn't tell you, but it wouldn't be
10 uncommon for me. If you obstruct me in any way in my
11 investigation, then if you do it, then you have a
12 possibility of getting arrested.

13 Q. Have you done it more than 100 times?

14 A. No. It's -- I did -- it's only been a few.

15 Q. Is there any guidance from the North
16 Las Vegas Police Department about when it's
17 appropriate to arrest a witness for obstruction?

18 A. No. I've never been called on anything I've
19 done.

20 (Exhibit 29 was marked for identification.)

21 BY MR. BARON:

22 Q. Let's turn to Exhibit 29. Can you tell me
23 what this exhibit is?

24 A. Yeah, it's a third interview with Tiffany.

25 Q. And when did that take place?

1 A. I don't know.

2 Q. Was it after you arrested her on July 6th?

3 A. I don't recall.

4 Q. I'm on Exhibit 21, if you turn back to
5 Exhibit 21.

6 A. Yes.

7 Q. And again, the last page of that exhibit. On
8 July 6th, you contacted Johnson and placed her under
9 arrest.

10 A. Okay. Yes, I see that.

11 Q. The interview, interrogation that's -- for
12 which there is a transcript in Exhibit 29, is that the
13 one that took place on July 6th?

14 A. Yes, I believe so.

15 Q. On page 2, line 46 -- actually, let's go to
16 line 49. You ask her:

17 "What do you think this would be when
18 you go to get a job later on and then you put
19 in application and they say hey Tiffany what
20 was this about. What is this arrest about?"

21 What do you mean by that?

22 A. I have no idea. I told you, I just --
23 sometimes I ramble, so...

24 Q. On page 6, line 164, you say:

25 "I still think you are involved in

1 this."

2 Did you think that she was involved in the
3 crime?

4 A. No. I'm just trying to prod for information,
5 and once I arrested her, I was almost sure she would
6 give me everything she did -- she had.

7 Q. On page 9, line 272, you say:

8 "You think that people deserved to be
9 tied up in their house and shot."

10 What did you mean by that?

11 A. Just what I said. The people that got robbed
12 that night were tied up in their house and shot and
13 robbed, and she tried to cover it up, because she knew
14 about it. If she didn't know before, she knew about
15 it after, immediately following.

16 Q. Now, you talked a little bit about Tiffany's
17 boss. Do you remember that?

18 A. Vaguely. I wrote a little bit in here about
19 it. I -- did I talk about it?

20 Q. You may have mentioned it, or I may be making
21 that up.

22 A. I don't know. I know that I contacted
23 somebody at her work, said that she got there -- she
24 was still standing out there at 7:15, I believe.

25 Q. When you speak to witnesses generally, is it

1 important to figure out if they are biased in any way
2 toward any of the suspects or the victims?

3 A. In regards to her boss?

4 Q. Just as a general matter. You are talking to
5 a witness --

6 A. No. I really never even -- doesn't come into
7 play. I just start going with my case, and then I'll
8 pick up on things as I go.

9 Q. If a witness implicates a suspect and then
10 you find out that the witness has a grudge against the
11 suspect, does that impact your investigation?

12 A. I haven't ran into that, I mean, to where
13 anybody would do that, and it's not come up in any of
14 my cases, but I guess it would have an impact.

15 (Exhibit 27 was marked for identification.)

16 BY MR. BARON:

17 Q. Let's look at Exhibit 27, which is also
18 Exhibit 14 to the amended petition. At the bottom of
19 page 3, you write -- first, what is this exhibit?

20 A. It's a report.

21 Q. Who wrote it?

22 A. I wrote it.

23 Q. You write:

24 "During the investigation I contacted
25 one of Johnson's coworkers, Jeff Arbuckle, at

1 Eldorado Cleaners."

2 Do you recall doing that?

3 A. Yes.

4 Q. Arbuckle told you when he left work it was
5 7:15 p.m. and Johnson was still waiting outside the
6 business for her ride?

7 A. Yes.

8 Q. To your knowledge, had Mr. Arbuckle and
9 Mr. Slaughter met before?

10 A. I had no idea. I didn't ask him that.

11 (Exhibit 44 was marked for identification.)

12 BY MR. BARON:

13 Q. Let's take a look at Exhibit 44. Based on
14 its appearance, can you tell me what this document is?

15 A. I can only read, at the top, it says "LVMPD -
16 Communication Center Event Search." That's all I -- I
17 don't recognize it as any of our stuff.

18 Q. Do you see on the top left it says "LOC:
19 Eldorado Cleaners"?

20 A. Yes.

21 Q. Do you see below that it says "715 North
22 Nellis Bl"?

23 A. Yes.

24 Q. Do you see it says "CNAM: JEFF/MNGR"?

25 A. Yes.

1 Q. What would that mean to you?

2 A. Other than -- Jeff, manager, is what I see.
3 I don't know what "CNAM" means.

4 Q. Below those columns, do you see a row that
5 says "in F-R-N-T of B-I-Z R-E-F-S-G to leave," "RIKI
6 SLAUGHTER"?

7 A. Yeah, I see that.

8 Q. Is it fair to say that this document
9 memorializes someone named Jeff at the
10 Eldorado Cleaners calling Metro, complaining about
11 Rickie Slaughter being in front of the business,
12 refusing to leave?

13 A. I imagine, if this is what it is in reference
14 to, but when I went to ask about her and the time she
15 got off of work that day, I just asked him, "When did
16 Tiffany get off? When did she leave?"

17 And he said, "I left at 7:15 and she was
18 still standing out here." I didn't mention Rickie
19 Slaughter.

20 Q. Do you see a date on the left, the upper left
21 column, it says "date, 2004/06/03"?

22 A. 2004? (Witness examined document.) Yes, I
23 see that.

24 Q. What day did you talk to Jeffrey Arbuckle?

25 A. I don't recall.

1 Q. Was it before or after Mr. Slaughter's
2 arrest?

3 A. (No response.)

4 Q. And if you want to refer back to Exhibit 27,
5 which is your report, maybe that will assist you.

6 A. Yeah. (Witness examined document.)
7 June 26th.

8 Q. You spoke to Jeff Arbuckle on June 26th?

9 A. Yeah, that's what it looks like. It says,
10 "during the investigation" -- "Arbuckle said" -- yeah:

11 "On June 26, 2004, Arbuckle said that he
12 was working when Johnson got off work. He
13 said when he left work it was 7:15."

14 Q. What day was the incident at 2612 Glory View?

15 A. (No response.)

16 Q. If I told you it was June 26, do you have a
17 reason to dispute that?

18 A. No, I don't.

19 Q. Let's look at the paragraph right above the
20 paragraph for -- that's referring to Jeff Arbuckle.
21 That paragraph begins:

22 "During the investigation, the North
23 Las Vegas Detention Center monitored
24 Slaughter's phone calls."

25 A. Yes.

1 Q. And let's actually jump up to the first
2 paragraph and the third and fourth paragraph on this
3 page. One starts "on July 1, 2004"; the third starts
4 "on July 2nd, 2004"; the third [sic] starts "on
5 July 20th, 2004."

6 A. Yeah, but it's because the dates are off.

7 Q. What do you mean by that?

8 A. Well, because the crime was on --

9 Q. June 22nd -- I'm sorry -- June 26th.

10 A. -- June 26th, so there is no way I contacted
11 Arbuckle on the 26th -- oh, he said, "On the 26th
12 Arbuckle said." No, he's talking about that date.

13 Q. Right.

14 A. Yes, I got -- my mind kind of flipped out for
15 a second, and I was like I messed up the whole report
16 with my times.

17 Q. I hear you.

18 A. Okay. So go back to your question.

19 Q. My question is, did you speak with Jeffrey
20 Arbuckle before or after Mr. Slaughter's arrest?

21 A. After.

22 Q. Did you attempt to get any records from the
23 Eldorado Cleaners that would verify when Tiffany
24 Johnson left work that day?

25 A. No. I asked him, the manager.

1 Q. Did you attempt to pull surveillance video
2 from nearby shopping centers to determine when
3 Mr. Slaughter came to pick up Tiffany?

4 A. No.

5 Q. Could you have done that?

6 A. Yes, I could have.

7 Q. Why didn't you do that?

8 A. Because I had her tell me it was -- the times
9 were off. She verified the times were off, her
10 manager said the times were off. That was enough for
11 me. I wasn't going to arrest her. All I was doing
12 was confirming that he did not pick her up at seven
13 o'clock, which I knew he didn't.

14 Q. Could surveillance -- if the surveillance
15 video --

16 A. Yes.

17 Q. -- was trained on the outside of the
18 building --

19 A. Yes.

20 Q. -- could that have given you a precise time
21 at which Mr. Slaughter picked up Tiffany Johnson?

22 A. Yes. And I could have done that, and I
23 didn't.

24 Q. Do you recall speaking to Mr. Slaughter after
25 his arrest?

1 A. Yes.

2 Q. Let's look back at what I've marked as
3 Exhibit 1 to this deposition, and you can refer to
4 page 6.

5 Do you recall your conversation with
6 Mr. Slaughter?

7 A. No, I don't.

8 Q. Looking at page 6, in the middle of the
9 page there is a paragraph that begins:

10 "I again spoke with Slaughter and told
11 him that Johnson told me Slaughter dropped
12 her off at work. I reminded him that he had
13 her vehicle during the time of the robbery."
14 Do you recall that conversation?

15 A. I don't, but if it says that, I said it
16 and...

17 Q. Did you record that conversation?

18 A. I don't know. It might be in the interview
19 if I didn't say it on the way, or if I didn't say -- I
20 don't know. It might be in the interview.

21 Q. It might be in the interview?

22 A. Yeah. I did an interview with him.

23 Q. Was it recorded?

24 A. Yes.

25 Q. Was there a transcript prepared?

1 A. I believe that it's -- I have the transcript
2 with Slaughter.

3 Q. You have the transcript?

4 A. I think. I don't -- no, wait, wait. Let me
5 just -- wait. Let's see. I don't know.

6 Do you have a transcript?

7 Q. As far as I know, I don't.

8 A. Okay. Then maybe that's just something
9 that's in my head. No, I didn't record this. It was
10 just he asked for an attorney. I think that's what it
11 was, when I told him something. I guess I Mirandized
12 him and I started to question him. I don't recall.

13 Q. It looks like there is a paragraph saying,
14 before questioning Slaughter you Mirandized him.
15 Jumping two paragraphs forward, there is a section I
16 read where you are talking with Mr. Slaughter. At
17 that point he said that he wanted his attorney.

18 Would you have recorded the conversation that
19 preceded him asking for his attorney?

20 A. No. I don't --

21 Q. Why not?

22 A. I don't know how this happened.

23 Because I don't remember. I don't remember
24 what happened in this instance. I...

25 Q. Do you usually record interrogations of

1 suspects?

2 A. Yes.

3 Q. Do you have any explanation why you didn't in
4 this case?

5 A. Can I -- can we take a break?

6 Q. Sure.

7 A. Okay. Just give me a second.

8 Q. Actually, this is the end of my line of
9 questioning.

10 We can go off the record?

11 THE VIDEOGRAPHER: This is the end of digital
12 media number 2 in the continuing deposition of Jesus
13 Prieto. We are going off the record at 12:09 p.m.

14 (Lunch recess taken.)

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1 Las Vegas, Nevada; Thursday, February 22, 2018

2 Afternoon Session

3

4 THE VIDEOGRAPHER: This is the beginning of
5 digital media number 3 in the continuing deposition of
6 Jesus Prieto. We are back on record at 12:45 p.m.

7

8 EXAMINATION (CONTINUING)

9

10 BY MR. BARON:

11 Q. Detective Prieto, before the break we talked
12 for a bit about your interrogation of Rickie Slaughter
13 upon his arrest. Do you remember that?

14 A. Yes.

15 Q. I asked you if the interrogation had been
16 recorded.

17 A. It was not.

18 Q. Why wasn't it recorded?

19 A. Because I apparently talked to him, and then
20 when he asked for an attorney at the start, I don't
21 keep anything like that. If it just starts like that
22 and then they ask for their attorney, I don't keep it,
23 because there is no recording.

24 Q. But you did have some substantive
25 conversation with him before he invoked his right to

1 an attorney; correct?

2 A. I don't recall. All I know is that...

3 Q. Let's look back at Exhibit 1, page 6. You
4 have a paragraph starting with "before questioning"
5 that discusses giving Miranda warnings to
6 Mr. Slaughter.

7 A. Yeah, I see that.

8 Q. A couple of paragraphs later, you say you
9 again spoke with Slaughter, you describe your
10 conversation. At that point you said that he wanted
11 his attorney?

12 A. But, see, on some instances -- and I'm not
13 sure. I might not start questioning. I might
14 Mirandize him, and then I might come back, because
15 it's like Mirandize is too close to the questioning,
16 even though it's like right before, you know, I'll
17 walk away, then I -- and it even looks like I
18 interviewed somebody else in between. You know what I
19 mean?

20 So I had them both there, and maybe I change
21 my path, was to get her before getting him, to get
22 whatever I could get from her for information.
23 Because it's always good to have more information when
24 you approach a suspect than less.

25 So what I believe I did here was I started,

1 and then thought to myself, no, I'd rather do her
2 first, then I switch, then I came back with the
3 information. That's what I think happened.

4 Q. So you have Slaughter and Tiffany in two
5 different --

6 A. Rooms.

7 Q. -- interview rooms --

8 A. Yeah, they're interview rooms.

9 Q. -- at the same time?

10 A. They are both in the same -- down -- right
11 around the corner in a hallway.

12 Q. So you go in and you give Miranda warnings to
13 Mr. Slaughter. That's unrecorded; correct?

14 A. Right.

15 Q. Do you generally record when you Mirandize a
16 suspect?

17 A. Yeah, but if I do Mirandize them -- yes, I
18 record it. But if I did Mirandize them and they wind
19 up asking for an attorney, I won't keep anything,
20 because it's of no value, nothing. I mean, it shows I
21 Mirandized him, but then he didn't say nothing anyway,
22 so I just -- I usually don't even keep the recordings
23 on those. It would have to turn into an interview to
24 where there was something substantive there. I mean,
25 at least a few words but --

1 Q. Sorry. Did you finish?

2 A. Like I said, I can't recall, but it wasn't --
3 if we don't have an interview here, I didn't interview
4 him and I didn't do it.

5 Q. So do you think that you recorded it and
6 then, because the interrogation was so brief before he
7 invoked, you deleted it, or do you think that you
8 didn't record it at all?

9 A. I'm not sure. I couldn't tell you a
10 hundred percent sure what I did.

11 Q. Did you testify at Rickie Slaughter's trial?

12 A. No.

13 Q. Did you go to the courtroom during
14 Rickie Slaughter's trial?

15 A. No. I think I was gone. I think I was out
16 of town or something. I'm not sure, though.

17 Q. You don't remember being present in the
18 courtroom?

19 A. No.

20 Q. You don't recall being told to leave based on
21 the exclusionary rule?

22 A. No.

23 Q. Did you have any conversations with anyone in
24 the District Attorney's Office about whether you would
25 testify?

1 A. I don't recall.

2 Q. I've printed out another set of exhibits that
3 were not in this binder originally. Let me take a
4 moment to organize them.

5 Earlier today we spoke about Exhibit 3, which
6 is a copy of the first photo lineup. Do you recall
7 that discussion?

8 A. Yes.

9 Q. I believe you had made a remark regarding
10 perhaps this is not the best copy of the photo lineup.

11 (Exhibits 48 to 51 marked for identification.)

12 BY MR. BARON:

13 Q. What I've marked as Exhibits 48, 49, 50, and
14 51 are copies of the State's exhibits that were
15 submitted at trial that correspond to these photo
16 lineups and the four witnesses who identified
17 Mr. Slaughter on those photo lineups. Do those appear
18 to be those copies of those lineups?

19 A. Yes.

20 Q. If you would, please compare Exhibit 3 to
21 Exhibits 49 -- excuse me -- 48 through 51.

22 A. (Witness examined documents.)

23 Q. Have you looked at them?

24 A. Yeah.

25 Q. Do you recall we had discussions about the

1 appearance and composition of the photos in Exhibit 3?

2 A. Yes.

3 Q. Would any of your answers be different if you
4 had been looking at Exhibits 48 through 51, as opposed
5 to Exhibit 3?

6 A. As far as the (indicating) --

7 Q. The shadow?

8 A. -- the shadow underneath the chin, it appears
9 these are equal to this one (indicating), although the
10 shininess appears to be somewhat more equal than some
11 of these pictures. You know what I mean? The
12 shininess on his face here (indicating) and...

13 Q. Can you just identify which exhibits you are
14 pointing at?

15 A. Okay. On Exhibit 50, he's more -- like you
16 said, there was no shiny spots on his head like on the
17 other ones in --

18 Q. Uh-huh.

19 A. -- in Exhibit 3, although it looks like
20 he's -- more has the shiny spots on some of these,
21 equal to the others.

22 Q. Let's -- you were pointing to Exhibit 50?

23 A. Exhibit 50 (indicating), Exhibit 48
24 (indicating) appear to have more of the glare or the
25 little shine on the head equal to the others in these

1 pictures in Exhibit 3.

2 Q. Let's look at Exhibit 48.

3 Is the shininess on the forehead more or less
4 pronounced than the shininess -- is the shininess on
5 the forehead of position 4, which is Mr. Slaughter,
6 more or less pronounced than the shininess on the
7 forehead of the other five photos?

8 A. Yeah, it's more than Exhibit 3 that you
9 showed me, with the blue backing.

10 Q. But just looking at 48?

11 A. Yeah, 48.

12 Q. Comparing 4, which is Mr. Slaughter, to 1
13 through 3 and 5 and 6, is --

14 A. Yeah, it looks like he's more shiny than
15 49...

16 Q. Well, let's just look at 48 for now.

17 A. Okay. I would say he's more shiny in 48. It
18 has considerably more than 3.

19 Q. But just looking at 48, not looking at 3, not
20 looking at anything else, what I would like you to do
21 is compare the photo of position 4 to the other five
22 photos.

23 Does the photo in Exhibit 4 -- I'm sorry.

24 Does the photo at position 4 of Exhibit 48
25 have more or less shininess than the other five photos

1 on Exhibit 48?

2 A. More and less.

3 Q. How so?

4 A. More than Exhibit 3 and --

5 Q. Sorry. Let me just start over one more time.

6 Let's just look at 48. I don't --

7 A. Oh, you mean, then, just these?

8 Q. Just looking at this --

9 A. Oh, in these pictures?

10 Q. -- document by itself.

11 A. Yeah. Okay. Yeah, I understand what you are
12 saying.

13 Q. Okay.

14 A. Okay. Yeah, I'm fine.

15 Yeah, he has -- no, they are pretty equal.

16 Q. Four is equal to -- the amount of shininess
17 on the forehead in 4 is equal --

18 A. Yes.

19 Q. -- to the amount of shininess on 1 through 3
20 and 5 and 6?

21 A. Yeah, they all look pretty much the same.

22 Q. How about Exhibit 49?

23 A. (Witness examined document.) Two and five
24 pictures -- the 2 and 5 look closer, and the other
25 four look like they have more shininess.

1 Q. How about 50?

2 A. They appear to be equal in 50 as well.

3 Q. In 50, your testimony is that every photo has
4 the same level of shininess on the forehead?

5 A. Not exactly. I would say that 5 and 6 are
6 less than the rest, but they do have shininess on
7 their -- it appears to me.

8 Q. And how about 51?

9 A. 51. (Witness examined document.) It looks
10 like Slaughter would have some, but not -- and it
11 looks like 5 and 6 on that is a little less than the
12 rest.

13 Q. We spoke about the backgrounds on Exhibit 3?

14 A. Yes.

15 Q. And we spoke about how exhibit -- I'm
16 sorry -- position 6 on Exhibit 3 is the lightest
17 background in the group; is that right?

18 A. Yes.

19 Q. Is that -- would you characterize Exhibits
20 48, 49, 50, and 51 similarly?

21 A. Yes.

22 Q. When you file an affidavit in support of a
23 search warrant, is it important to be truthful in the
24 affidavit?

25 A. Yes.

1 Q. Did you believe that Rickie Slaughter drove
2 his girlfriend's car to and from the crime scene?

3 A. Yes.

4 Q. Do you recall whether one of the culprits
5 left a shoe print in blood at the crime scene?

6 A. I don't recall that.

7 (Exhibit 32 was marked for identification.)

8 BY MR. BARON:

9 Q. Let's look at what I've marked as Exhibit 32
10 for the purposes of this deposition. This is a crime
11 scene photo that was introduced into evidence at --

12 A. You said 32?

13 Q. 32; correct. It's a crime scene photo that
14 was introduced into evidence at Mr. Slaughter's trial.

15 What is this a photo of?

16 A. I believe that's blood on the floor.

17 Q. Do you remember seeing that at the crime
18 scene when you were there?

19 A. I -- I can't remember the crime scene at all.

20 Q. Does there appear to be a shoe print in this
21 photo?

22 A. You could say that was a shoe print. I
23 couldn't tell you if it was.

24 Q. If one of the culprits stepped in blood at
25 the crime scene, could they have tracked blood into

1 the car they used?

2 A. Yes.

3 Q. Do you recall how Tiffany Johnson's car
4 looked when it was impounded?

5 A. No.

6 (Exhibit 33 was marked for identification.)

7 BY MR. BARON:

8 Q. Let's look at what I've marked as Exhibit 33
9 for the purposes of this deposition. These were
10 defense exhibits, photographs, marked at trial, of the
11 car. Please take a look at these photos, flip through
12 and take a look at them.

13 A. Oh, sure. (Witness examined documents.)

14 Okay.

15 Q. Does that car look clean or messy to you?

16 A. Messy.

17 Q. Do you recall any evidence that Mr. Slaughter
18 cleaned the car after the incident?

19 A. No.

20 Q. Would you have expected the culprits to have
21 cleaned the car after the incident?

22 A. I don't know what they would have done.

23 Q. Did you find any blood in the car?

24 A. I was told there was none.

25 Q. Did you write an affidavit in support of an

1 arrest warrant for Mr. Slaughter?

2 A. No. I arrested him. I didn't do an
3 affidavit.

4 (Exhibit 34 was marked for identification.)

5 BY MR. BARON:

6 Q. Let's look at Exhibit 34, which I've marked
7 for the purposes of this deposition.

8 A. For a search warrant?

9 Q. Sorry. For a search warrant, not an arrest
10 warrant.

11 A. Yeah.

12 Excuse me one second. Do you know that the
13 suspects weren't the only people in that house?

14 Q. Who are you referring to?

15 A. I'm talking about the whole family of people
16 running through the house, if in fact that was a shoe
17 print. Sometimes other people step in crime scenes
18 before the police get there, and they might not say or
19 do -- and I'm not saying that's what happened, and I'm
20 not saying that that's even a footprint, but there's a
21 lot of things that happen before the police arrive
22 that other people could do that we don't -- you know,
23 even victims and witnesses and -- could do things. I
24 mean, they distort scenes before you get there, even
25 step in blood. So I'm not saying that's a footprint,

1 but I never heard that until now, that that was a
2 footprint.

3 Q. I'm going to ask you some questions about
4 that in a minute.

5 A. Okay.

6 Q. But before I get there, let's turn to page 3
7 of Exhibit 34. Can you just again explain what this
8 exhibit is?

9 A. Search warrant.

10 Q. And who drafted it?

11 A. Me.

12 Q. It's a search warrant for?

13 A. The residence and -- I believe there's two in
14 one -- and the vehicle, yeah; 3801 East Charleston,
15 Apartment 114, and the vehicle, 1997 Ford Taurus.

16 Q. Is that Mr. Slaughter's apartment and
17 Ms. Johnson's car?

18 A. That's their apartment and his -- her car.

19 Q. On page 3 -- sorry. The copy of this that I
20 have is already highlighted.

21 Toward the bottom, do you see it says:

22 "During Hoyt's initial investigation
23 witnesses at the scene identified the
24 suspect's vehicle as a green Grand Am or a
25 green Ford."

1 A. Yes.

2 Q. Let's look at what I've marked for the
3 purposes of this deposition as Exhibit 28, which is --

4 MR. BONGARD: I'm sorry?

5 MR. BARON: Exhibit 28.

6 BY MR. BARON:

7 Q. We discussed this exhibit before. This is
8 Mark Hoyt's report. I'd like you to look at page 10,
9 paragraph at the bottom of the page. Do you see where
10 it says, "Waddy said the vehicle was possibly a
11 Pontiac Grand Am"?

12 A. Yeah.

13 Q. To your knowledge, did Ms. Waddy ever say the
14 vehicle could have been a Ford?

15 A. I don't -- I don't know. I didn't write
16 this, and if they would have said "green," just green,
17 and I found him with a girlfriend that had a green
18 car, then it would have been enough for me, you know,
19 just being green, because how many people actually
20 know a Ford -- the cars all look the same.

21 Q. Mark Hoyt's report references a Pontiac
22 Grand Am. Does it reference a Ford?

23 A. If he doesn't reference a Ford, then they
24 must have told me that. I don't -- something I heard
25 from somebody. I just...

1 Q. Then in Exhibit 34, page 3, you mention a
2 Ford?

3 A. Oh, in the search warrant?

4 Q. Exhibit 34, page 3.

5 A. Okay.

6 Q. You mention witnesses at the scene
7 identifying the suspect's vehicle as a green Grand Am
8 or a green Ford.

9 A. Okay.

10 Q. Do you know why you mentioned a green Ford?

11 A. I don't know. I just -- somebody must have
12 said it.

13 Q. Is it possible that that was a mistake in the
14 search warrant?

15 A. No. Somebody must have said it.

16 Q. If none of the police reports in this case --
17 well, let's be fair. Let's go to Exhibit 1. At
18 page 4 --

19 A. Excuse me. That is information from the
20 confidential informant to the detective.

21 Q. The Ford?

22 A. Yeah, I believe so. He said that he
23 identified her -- the information they got. This is
24 before I wrote the search warrant. I believe they
25 said it was a Ford. They identified her car as a

1 Ford, and I believe it was -- yeah, during the call.
2 It must be in my report, because the detective gave a
3 lot of information on the registration of the vehicle,
4 that it had already been completed, that he had
5 already verified the address that they were living at,
6 that he had already done all of the background before
7 he made the call, after getting the information from
8 the confidential informant. He had everything.

9 All I had to do was pull up some photos, show
10 them to my victims, to confirm the information that he
11 got, from my victims. But he is the one that told me
12 that it was the Ford, or whatever the kind of car it
13 was, and he had the license and everything.

14 Q. Let's look at page 4 of Exhibit 1. The
15 bottom paragraph says:

16 "During Hoyt's initial investigation
17 witnesses at the scene identified the
18 suspect's vehicle as a green Grand Am or a
19 green Ford."

20 A. Then they told me that. And I don't know who
21 told me that. One of the people at the scene told me
22 that. Whatever they write is different, or if they
23 wrote it down different, somebody at the Ford told me
24 that exact statement, because I wrote it just like
25 that.

1 Q. It says "during Hoyt's initial
2 investigation"?

3 A. Yeah, there was -- like at the scene. I
4 don't know why he wrote what he wrote, but those are
5 the two things I got.

6 Q. And let's look again at --

7 A. And this is an ongoing document. This isn't
8 just like that one night that I went, I go, okay, I
9 write my whole report.

10 This thing goes until I make an arrest. This
11 is all -- so I don't know how, but I'm almost positive
12 on that night that I got the green Grand Am and the --
13 or whatever, the green Ford, that night, those were
14 the information I got. And it was confirmed after I
15 got the call from the detective that it was, in fact.

16 Q. Let me go through this again.

17 Exhibit 28, page 10, is Mark Hoyt's report.
18 Mark Hoyt references a Grand Am. Mark Hoyt does not
19 reference a Ford in his report; correct?

20 A. All right.

21 Q. Your report, which is Exhibit 1, page 4 says:

22 "During Hoyt's initial investigation
23 witnesses at the scene identified the
24 suspect's vehicle as a green Grand Am or a
25 green Ford."

1 Is there a discrepancy there?

2 A. Yeah, minor, but it's something I heard at
3 the scene, either from him or from somebody else, but
4 I don't know why he -- he could have possibly said
5 "Grand Am," but I also heard "Ford," possibly "Ford"
6 and...

7 Q. Let's go back to that pool of blood. You had
8 mentioned -- in the pictures of Exhibit 32. You had
9 mentioned that sometimes people at the scene, before
10 the police arrive, can step --

11 A. Yeah, they distort scenes, scenes are
12 distorted or...

13 Q. Would you have processed the shoes that the
14 victims and witnesses were wearing to try and see if
15 they matched that shoe print?

16 A. You know what? I wasn't even told about the
17 shoe print until right now. You are telling me right
18 now. I don't remember. I can't remember being told
19 about it. That would be a better way of saying it.

20 Q. As far as you know, did anyone process the
21 shoes of the victims or the eyewitnesses?

22 A. I don't know. It would have been an ID tech.

23 Q. Did the police seize shoes from
24 Mr. Slaughter's apartment?

25 A. I believe we had his shoes.

1 (Exhibit 36 was marked for identification.)

2 BY MR. BARON:

3 Q. Let's look at what I've marked as Exhibit 36
4 for the purposes of this deposition. This was a
5 State's exhibit at trial.

6 Do these appear to be shoes that the police
7 seized from Mr. Slaughter's apartment?

8 A. I can't recall.

9 Q. Do you know why the police seized shoes from
10 the apartment?

11 A. Possibly to check for blood.

12 (Exhibit 37 was marked for identification.)

13 BY MR. BARON:

14 Q. Let's look at what I've marked as Exhibit 37
15 for the purposes of this deposition. This was also
16 marked -- no, it was not marked as an exhibit at
17 trial. But it appears, to me, to be a close-up view
18 of the same shoes that are in Exhibit 36.

19 A. Uh-huh.

20 Q. Does that appear to be something -- bad
21 question.

22 In the center of the photo at Exhibit 37, do
23 you see something that might look like blood?

24 A. Yes.

25 Q. Do you recall asking someone to analyze

1 whether that was blood?

2 A. I never saw that shoe after they took it out
3 of there. I asked -- I believe that the -- our crime
4 scene people went over this stuff, and I think I
5 requested it. I can't remember if I requested it, but
6 they usually do all the examining of the evidence when
7 they take it in. But I was never told, or I can't
8 remember being told.

9 Q. Do you remember analyzing the shoe print on
10 these shoes for comparison against the shoe print
11 found -- what may be the shoe print found in the
12 blood?

13 A. I told you. I didn't -- I wasn't -- I can't
14 remember being told about the shoe print.

15 Q. Let's look at Exhibit 1, page 7, the
16 second-to-last paragraph.

17 You requested that the shoes -- perhaps these
18 were collected from the jail and not the apartment.

19 You requested that the shoes --

20 A. Right, right --

21 Q. -- be checked for blood?

22 A. -- right. Yeah, okay. Yeah, I did that.

23 Q. Do you recall the outcome of that test?

24 A. It should be in a follow-up report from
25 the -- from whoever was working in the ID bureau.

1 (Exhibit 38 was marked for identification.)

2 BY MR. BARON:

3 Q. Let's look at Exhibit 38 --

4 A. Okay.

5 Q. -- page 3. What was the result of that test
6 for blood?

7 A. I think it was negative, if I remember. Let
8 me see. (Witness examined document.)

9 Yeah, it was negative.

10 Q. In 2009, do you recall filing an affidavit in
11 support of a warrant to get a sample of
12 Mr. Slaughter's DNA?

13 A. No.

14 (Exhibit 39 was marked for identification.)

15 BY MR. BARON:

16 Q. Let's look at Exhibit 39.

17 A. (Witness examined document.) I did.

18 All right. I did.

19 Q. Let's look at page 2.

20 A. (Witness examined document.) Yeah, I did.

21 That was because of that.

22 Q. What do you mean?

23 A. Okay. So what do you -- in what instance are
24 you pointing out the...

25 Q. The report says -- the report in Exhibit 38

1 says the tests for blood were negative; correct?

2 A. Right.

3 Q. In Exhibit 39, you say the results were --
4 and I'm summarizing -- but from 2 to 3, you
5 characterize the results as essentially they couldn't
6 conduct the analysis. Is that what --

7 MR. BONGARD: I'm sorry. Which page was the
8 report?

9 MR. BARON: The report is Exhibit 38, and I'm
10 looking at page 3 of the report, the second paragraph.

11 THE WITNESS: Oh, are you saying here because
12 they are "covered by some type of polish, possibly
13 hide the blood-like substance"? Is that what you are
14 referring to?

15 BY MR. BARON:

16 Q. Is that referenced in the report as
17 Exhibit 38? And I'm sorry. You are reading from
18 Exhibit 39; right?

19 A. Yeah, yes.

20 Q. Does Exhibit 38 say something about the
21 technician being unable to analyze the spot due to
22 polish covering it?

23 A. No, but it's in here (indicating). It is in
24 the ID tech's report; right? Isn't it?

25 Q. Exhibit 38 is the report that I have. Maybe

1 there is another report I haven't seen. But this
2 report appears to be --

3 A. Yeah, because, now that you have said that,
4 that's what I remember, but I can't remember -- I
5 remember the ID tech's -- because I asked to process
6 the shoes. And then they said we found something
7 but -- or maybe we looked at that, and we saw this
8 drop on there first, and then I thought maybe, but
9 then they said that they believed that it could have
10 been put -- or covered something. I just can't
11 recall. Because I didn't make this stuff up. This is
12 like something that they've said or -- during the
13 investigation, to which I memorialized it, I'll put it
14 in an affidavit, because I don't have to put things in
15 there that didn't exist.

16 Q. My question is, on Exhibit 38, does this
17 report reference "polish" or some sort of substance
18 covering the spot, that made it unable to be tested?

19 A. (Witness examined document.) No, it doesn't.
20 I think that's a conversation I had with Patrick.
21 When he did the testing, I can't just recall
22 everything because -- maybe he should have put it on
23 here, but to my recollection, we had a conversation
24 about the spot, and he told me the reasons why. And
25 that's why I put it in mine, because I was told that.

1 Otherwise, I wouldn't have put -- that just seems like
2 there is no -- it was something that he told me during
3 our conversation, and I thought he would have put it
4 in, but apparently he didn't.

5 Q. Did you have the house at 2612 Glory View
6 Lane processed for fingerprints?

7 A. Yeah, I told the ID techs to process it. She
8 said that she couldn't find anything. She believed
9 they were wearing gloves.

10 Q. So the police did not find Mr. Slaughter's
11 fingerprints at the scene?

12 A. No.

13 Q. Did the police process the house for DNA?

14 A. I don't recall. I don't believe so, no.

15 Q. If they did, are you aware of them finding
16 Mr. Slaughter's DNA at the scene?

17 A. No.

18 Q. You recall that Ivan Young suffered injuries
19 to the face during the incident?

20 A. Yes.

21 Q. Was it possible that the shooter inflicted
22 those injuries at close range?

23 A. I couldn't tell you the range.

24 Q. Would it be possible that that action could
25 have caused blood to splatter on the shooter?

1 A. I couldn't tell you. It could have.

2 Q. Did anyone test Mr. Slaughter's skin for
3 blood splatter?

4 A. No.

5 Q. Did anyone test his clothes?

6 A. I don't believe so.

7 Q. Did anyone test anything else of
8 Mr. Slaughter's for potential blood splatter from
9 Mr. Young?

10 A. I don't believe so. I wouldn't know for sure
11 because the ID techs, sometimes they will test things
12 and do it their process, but I didn't request it.

13 Q. You were present during the execution of the
14 search warrant on Mr. Slaughter's apartment?

15 A. Yes.

16 Q. Did the police find any wigs in
17 Mr. Slaughter's apartment?

18 A. No.

19 Q. Did the police find any hats in
20 Mr. Slaughter's apartment?

21 A. I don't recall.

22 Q. Did the police find any tuxedo shirts in
23 Mr. Slaughter's apartment?

24 A. I don't recall.

25 Q. If the police reports and other records don't

1 mention the police finding those items, is that an
2 indication that they did not find those items?

3 A. If they don't -- I don't know. I don't
4 believe they -- I believe they would have mentioned
5 them if they found them.

6 Q. Did the police find an ATM card belonging to
7 Ryan John at the apartment?

8 A. No.

9 Q. Did the police find any cash at
10 Mr. Slaughter's apartment?

11 A. No.

12 Q. You have mentioned -- let's look back at
13 Exhibit 37 for a moment.

14 Does it look like there is polish on that
15 spot?

16 A. I don't know. I couldn't tell you what it
17 was.

18 Q. You've mentioned a couple times a
19 confidential informant in this case?

20 A. Yes.

21 Q. Let's look at Exhibit 1, at 5, the very first
22 paragraph. On June 28th, 2004, you were contacted by
23 Detective -- how do you pronounce his name?

24 A. I believe it's "Devore."

25 Q. -- of the Las Vegas Metropolitan Police

1 Department regarding information from a reliable
2 confidential informant. It says:

3 "The informant has been providing
4 assistance to the Las Vegas Metropolitan
5 Police Department in return for favorable
6 consideration for outstanding warrants."

7 Do you see that?

8 A. Uh-huh.

9 Q. What kind of favorable consideration was the
10 confidential informant receiving?

11 A. It says for his "outstanding warrants."

12 Q. What types of outstanding warrants --

13 A. I didn't ask. He just told me on the phone,
14 "I have a CI," he's working for just what I wrote. I
15 didn't ask. All I -- when I'm doing an investigation,
16 all I need is information leading me to a suspect.
17 With the information that I got from him, I have to
18 confirm parts of the information, "oh, it's
19 Rickie Slaughter." I didn't just run out and arrest
20 Rickie Slaughter. I got photo lineups. I showed my
21 victims.

22 Then the car that he gave me happened to be a
23 green car. "Wow, there was a green car at the crime
24 scene." So there's a green car his girlfriend owns.
25 More information that I need.

1 Witness identifies Rickie Slaughter from a
2 photo lineup. More information I -- I put that into a
3 search warrant, and then I make an application.
4 That's what I do.

5 I don't have to know what his CI was -- I
6 have to verify some information that he gave me in
7 order to establish my probable cause. Obviously, that
8 phone call could have come from anybody, and they
9 could have said, "hey, it's Rickie Slaughter," and
10 then I would have done the same thing. I would have
11 got photos, and then I would have, hopefully,
12 identified that, and then I would have went further,
13 and then I would have checked out where he was living,
14 I would have tried to run him down, and then I would
15 have established the same facts that he gave me that
16 he did in order to get my probable cause to get a
17 search warrant.

18 Q. So you didn't ask what the nature of the
19 favorable consideration or the outstanding warrants
20 was?

21 MR. BONGARD: Objection. Asked and answered.

22 BY MR. BARON:

23 Q. Go ahead.

24 A. I told you.

25 Q. Is the answer yes or no? Did you ask?

1 A. I did not ask.

2 Q. Were you told the identity of the
3 confidential informant?

4 A. No. I want to say that I tried to talk to
5 him one time, but just didn't make -- just seemed like
6 it was something wrong with us talking, and I just
7 didn't talk to him anymore, I just discontinued the
8 conversation.

9 Q. What was wrong about it?

10 A. I don't know. He just -- it was either he
11 didn't want to talk to me, which I can expect that,
12 and it just like it was rambling and -- I can't even
13 recall what it was. I just know it just wasn't a
14 conversation that I -- I couldn't get anything more.

15 Q. If you didn't know the identity of the
16 confidential informant, how did you talk to him?

17 A. I don't recall. I just -- I think that I was
18 given a number or I was -- I gave my number or
19 something for him to call. Because I had a phone that
20 I would let people have it that were -- it wasn't my
21 phone. But I don't recall how I did it. But I even
22 think I notate that, that I contacted him. I think I
23 did.

24 Q. Was the tip from the confidential informant
25 the first lead you had in the case?

1 A. Yes.

2 Q. You were told the confidential informant had
3 been assisting the Las Vegas Metropolitan Police
4 Department for over a year; is that right?

5 A. Yes.

6 Q. And he had provided information in connection
7 with two separate armed robberies; is that correct?

8 A. I wrote just what he told me.

9 Q. We discussed Jacquan Richard before. Do you
10 recall that?

11 A. Yes.

12 Q. Was he a suspect in this case at any time?

13 A. I can't recall how he came in. The only way
14 I kind of understand Jacquan Richard right now is "JR"
15 from my reports. And then you show me the photo
16 lineup and Jacquan, and then it's kind of bouncing
17 around that that might have been him, but I can't --
18 and just because he was mentioned in connection, or a
19 friend, or with him or something that night, or a
20 frequent friend, then I would probably pull up his
21 picture just to see if it was him.

22 Q. Do you recall your report says you showed
23 lineups of -- including Jacquan Richard to the
24 victims, and none of them identified Jacquan Richard?
25 Is that correct?

1 A. Yeah, I believe so. I think you pointed that
2 to me earlier.

3 Q. Did you do anything else to investigate
4 Jacquan Richard at that point?

5 A. I don't recall.

6 Q. We also discussed Marvin Robinson and a photo
7 lineup including Marvin Robinson. Do you recall that?

8 A. Yes.

9 Q. Do you recall that Ivan Young identified
10 Marvin Robinson?

11 A. Yes.

12 Q. Did you do anything else to investigate
13 Marvin Robinson after that?

14 A. I don't recall. Is -- Marvin Robinson was
15 the one where you said he picked two, but he wound up
16 picking one. I think that's what you said, that --

17 Q. Let's go to Exhibit 15.

18 A. That was more the -- it was the ID but not --
19 it was like the better of two.

20 Q. This is the photo lineup I'm referring to,
21 with Marvin Robinson in position 3.

22 A. It says that: "I recognize him as one of the
23 guys that robbed me."

24 I don't recall what else I did on him. I
25 don't recall.

1 Q. Do you recall Eric Hawkins as an alternate
2 suspect?

3 A. Unless he's the one that's with his aunt at a
4 get-together.

5 Q. Let's look at Exhibit 28. This is
6 Mark Hoyt's report. If you look at page 11, Mark Hoyt
7 describes receiving a tip from someone named
8 Tom Winter about Eric Hawkins. Do you recall
9 receiving that information?

10 A. Yes, that's how he came in, yeah.

11 Q. Do you recall that he owned a dark green
12 Chevy Malibu?

13 A. No, I don't recall that.

14 Q. Or that Winter reported Hawkins owned a dark
15 green Chevy Malibu?

16 A. Okay. I don't remember. But if it's there,
17 then...

18 Q. We discussed previously Destinee Waddy had
19 told the police the suspects were driving a green
20 Pontiac Grand Am. Do you remember that?

21 MR. BONGARD: Objection. Asked and answered.

22 BY MR. BARON:

23 Q. Go ahead.

24 A. I believe I told you all about the green
25 Pontiac Grand Am and everything that I heard from it.

1 Q. Do you recall whether Pontiac and Chevy are
2 brands both made by General Motors?

3 A. I'm sorry. I don't.

4 Q. Looking again at page 28, the same page, it
5 says:

6 "Winter told me Hawkins speaks with a
7 Jamaican accent and has a brother-in-law that
8 he is always seen with."

9 Do you remember receiving that information?

10 A. It's possible I did, but I don't remember.

11 Q. Was there any evidence in the case that the
12 culprits spoke with Jamaican accents?

13 A. I believe somebody said it.

14 Q. Was that public knowledge at the time?

15 A. I don't believe so.

16 Q. Let's look at Exhibit 27, page 3, the
17 paragraphs beginning with -- there are three
18 paragraphs. The first one begins with "during the
19 initial investigation."

20 Do you see that?

21 A. Yes.

22 Q. The report describes you speaking with Eric
23 Hawkins's aunt. Do you remember doing that?

24 A. Yes.

25 Q. What did she tell you?

1 A. They were at a family function.

2 Q. On June 26, 2004?

3 A. Correct.

4 Q. Did she tell you the exact times that Eric
5 Hawkins was at that family function?

6 A. No, I don't recall. I just know that she
7 gave me the information, and it obviously covered the
8 time that I was looking for, because he was there that
9 evening and then he was there until the morning or
10 late into the night, but I can't recall.

11 Q. Do you remember the exact words that his aunt
12 used?

13 A. No.

14 Q. Did she say whether she had Hawkins in her
15 line of sight for the entire day?

16 A. No.

17 Q. Did you take any additional steps to verify
18 that alibi --

19 A. No.

20 Q. -- for Eric Hawkins?

21 A. No.

22 Q. Why not?

23 A. Because he told me and I -- the way the case
24 was going, I mean, I just -- I think that that's why I
25 showed his picture.

1 Q. Are you referring to Exhibit 16 when you say
2 "I showed his picture"?

3 A. Yeah. I think that's why I got the lineups,
4 I think that's why I used the lineups, and that's what
5 I showed victims, because I don't think I would have
6 just got rid of him. I would have pulled his photos
7 and then I would have showed the victims anyway, just
8 to eliminate him from --

9 Q. Do you know for sure whether you did that?

10 A. I made photo lineups.

11 Q. If your police reports do not mention show --

12 A. I know, I know. And I might have been
13 remiss, because I'm working -- I'm not to say I never
14 made a mistake or I didn't write something down that I
15 did, but I worked a lot of cases and I worked -- a lot
16 of things were going on, and if I didn't notate it, I
17 know that my head was working and that I was -- I
18 wouldn't just toss it.

19 If I made a photo lineup, then I must have
20 shown them to people, because I -- at this point I see
21 a lot of things I've done just by looking -- by you,
22 with -- you know, making me remember.

23 I can't even remember doing these things. I
24 can't remember showing these lineups. I can't
25 remember additional suspects. But if I got a suspect,

1 I wouldn't throw it away.

2 I would always -- because I was that kind of
3 person. I would look for every person that was
4 involved, and I would either clear it through a victim
5 or a witness looking at it and saying, "no, this isn't
6 him," or he didn't fit into -- there was no -- then
7 that's why his picture is in the lineups.

8 Q. On Exhibit 16, with reference to the first
9 page on Exhibit 16, do you know which of these photos
10 is Eric Hawkins?

11 A. I couldn't tell you. It's like it's been so
12 long.

13 Q. Besides speaking to the aunt and possibly
14 showing lineups to the victims, did you do anything
15 else to investigate Eric Hawkins in connection with
16 this case?

17 A. No, not that I can recall.

18 Q. Did you investigate Eric Hawkins'
19 brother-in-law at all?

20 A. No.

21 Q. Did you talk to him?

22 A. No.

23 Q. Did you make a lineup with his photo in it?

24 A. You know what? I can't remember. You have
25 everything that I had, and I can't recall making

1 anything else. I don't even recall half of this
2 stuff.

3 Q. Did you search Eric Hawkins's or Eric
4 Hawkins's brother-in-law's apartment or car?

5 A. No.

6 Q. Were there any alternate suspects in the
7 case?

8 A. Not that I can recall. You do know we found
9 the two guns in that car, that fit the description; in
10 that car, not a Pontiac or a Buick or any other car?
11 We found two -- the ID tech found two guns in that
12 car, and the victim was able to describe what those
13 guns looked like, the same -- and the silver one and a
14 black one. I didn't describe them. He did. And so a
15 Bonneville, Pontiac, whatever, they were found in her
16 Ford at her apartment. Rickie Slaughter was his --
17 her girlfriend [sic], and he used that car, so...

18 Q. Based on the ballistics testing that was done
19 in this case, did the police ever recover a gun that
20 was consistent with the gun that fired the bullet that
21 eventually injured Ivan Young?

22 A. I had it examined. It was too fragmented. I
23 think that's what they said. They couldn't compare
24 it. It was just pieces.

25 Q. Do you recall any exculpatory information in

1 this case that you did not share with the prosecution
2 or that the prosecution did not share with the
3 defense?

4 A. I can't think of anything.

5 Q. Are you aware of any case in which you have
6 been accused of not turning over exculpatory evidence?

7 A. No.

8 Q. Were you ever subject to any disciplinary
9 action --

10 MR. BONGARD: I'm going to object. That gets
11 into personnel matters, and you are not allowed to go
12 into those unless you have a reason to. This isn't a
13 fishing expedition.

14 MR. BARON: What's the basis for that?

15 MR. BONGARD: Personnel records are protected
16 by law.

17 MR. BARON: I'm not asking for personnel
18 records. I'm asking about --

19 MR. BONGARD: Information in personnel
20 records are protected.

21 MR. BARON: Are you instructing the witness
22 not to answer? If I ask him about disciplinary action
23 in the North Las Vegas Police Department, are you
24 instructing him not to answer?

25 MR. BONGARD: I am instructing him not to

1 answer that. I would be happy to get someone to give
2 you a Brady statement or anything -- if there is
3 anything in his record that would be disclosable under
4 Brady, and then from there I think it's fair game for
5 you to go ahead.

6 I can't advise him on that. I'm not his
7 attorney. I'm here defending a deposition. But I
8 think you are getting into an area where he's got some
9 protections, and if you are violating his rights by
10 not telling him that, you are committing an ethical
11 violation.

12 MR. BARON: Well, if you are willing to look
13 at those personnel records, I'm happy to go with that.

14 MR. BONGARD: I have no problem seeing if
15 there is anything in his personnel records which would
16 be disclosable in a criminal case under Brady. Would
17 that satisfy you?

18 MR. BARON: That would satisfy me.

19 MR. BONGARD: All right.

20 BY MR. BARON:

21 Q. To your knowledge, have you ever been accused
22 in any other cases of pressuring witnesses to give
23 accounts that are consistent with your theory of the
24 case, but that ultimately prove not to be true?

25 A. No. I don't -- I don't know -- I've never

1 been accused. I don't know what -- I don't know how
2 this is -- I don't actually know what you're trying
3 to -- what information you're trying to get from me.
4 I don't --

5 MR. BONGARD: Why don't you rephrase the
6 question.

7 (Exhibit 41 was marked for identification.)

8 BY MR. BARON:

9 Q. Let's look at Exhibit 42 -- actually, let's
10 go to 41 first. This is a newspaper article
11 discussing a case in which an individual named Patrick
12 Wayne Harper is a suspect. Do you remember Patrick
13 Wayne Harper?

14 A. Yeah, very well.

15 Q. Can you tell me about this case?

16 A. Yeah. He was -- it was a murder. I can't
17 remember the street. Several kids walked up to a dope
18 seller. They had made a prearranged dope buy.
19 Instead they went up, shot her in her car. There was
20 like as many as four or five kids.

21 During my investigation, I got information
22 from several sources who was there, and then I showed
23 lineups -- I mean, I showed pictures. Because they
24 all knew each other. They identified one guy. This
25 was all gone over by the department, the news,

1 everybody. Every witness pointed to one guy,
2 identified him, and I arrested him.

3 Q. Do you recall if the D.A. prosecuted Patrick
4 Wayne Harper in that case?

5 A. No, they did not. There was -- this is
6 what's relevant when you say how long it takes to
7 drive from one spot to the next, when they say you
8 were in one place, and, okay, I could have been there.

9 But that's what I did. I did the drive, from
10 the store where he was supposedly at, to the crime
11 scene. Could he have been the one? Yes, in perfect
12 circumstances where, oh, I caught -- every light was
13 green, there was no traffic on the roads, and
14 everything else, it would have been perfect. But it's
15 not like that.

16 But the witnesses and everybody involved said
17 he was the shooter.

18 Q. Do you know why the D.A. declined to
19 prosecute Patrick Wayne Harper?

20 A. You know, it just came to one thing. It came
21 to, "hey, we got a video," and that's all he ever said
22 to me.

23 Q. A video of what?

24 A. Of Patrick in the store.

25 Q. At the time of the incident?

1 A. No. Minutes before. And the crime scene was
2 not that far -- I would say five or six minutes'
3 driving.

4 Q. I forgot to paginate this, unfortunately. If
5 you can turn to the third piece of paper in
6 Exhibit 41, there is a heading "Video, description
7 don't match." I'd like to look at the second-to-last
8 paragraph under that heading, beginning "Several teens
9 police spoke with."

10 Do you see that paragraph?

11 A. Yes.

12 Q. The article says the classmates, one of
13 Harper's classmates --

14 (Reading):

15 "The classmate told media he was bullied
16 and pressured by Detective Jesus Prieto into
17 implicating Harper while turning off the
18 audio recorder."

19 A. Yeah, they took my recorder and they took it
20 in front of -- and this is -- they had a meeting at my
21 department. They took my recording, and they had the
22 news people there because of these articles, and they
23 set my recorder in there. There were no stops. My
24 questioning was consistent. I never badgered the
25 witness. I never did anything. And then it was done,

1 my department was done with the investigation. There
2 was nothing I did that was incorrect or wrong.

3 Q. So you are disputing the classmates' accounts
4 that he was bullied and pressured by you off the
5 record?

6 MR. BONGARD: Objection. Asked and answered.
7 BY MR. BARON:

8 Q. My question was, you disagree with this
9 classmate who told the media that you pressured him
10 off the record into implicating Harper?

11 A. How would a classmate know anyway? I was at
12 his house, with his mother in the room; her mother,
13 she was there. Nobody ever said a word. I spoke to
14 him. He was on the couch in his house.

15 Q. And you didn't pressure him into implicating
16 Harper?

17 A. I didn't pressure anyone. I just asked him
18 questions.

19 Q. Are you aware of any other cases such as this
20 where -- this is what I mean by an accusation that you
21 bullied or pressured someone into implicating a
22 specific person.

23 Are you aware of any other cases where the
24 media or anyone else has made similar allegations
25 regarding your interrogation techniques?

1 A. I'm not aware. I'm not aware of -- any
2 others, I can't say 100 percent that I didn't -- or
3 somebody said something, but I'm not aware of
4 anything.

5 This is the only case that's ever stood out
6 in my career that went to all this. I mean, people
7 that are suspects might accuse you of things, but I
8 mean, this is part of the job. I mean, it's not like
9 you are out there, "hey, I'm your friend. You know
10 what? You just shot three people. We're going to go
11 have a party today." That's not what it is. I'm out
12 there to get information. I'm out there to solve
13 crimes. That's my job, or it was my job.

14 Q. Have you ever been involved in a case where a
15 confession was suppressed by the Court based on the
16 way you handled the interrogation?

17 A. I don't recall.

18 Q. Have you had any cases in which there was an
19 allegation that you destroyed material evidence?

20 A. No.

21 Q. When you are the lead detective in a case, do
22 you usually testify at trial?

23 A. Yes.

24 Q. How many instances, aside from this case,
25 were you the lead detective on the case that went to

1 trial, but you did not testify?

2 A. I couldn't tell you. I've been to court
3 numerous times, but I couldn't tell you.

4 Q. To your knowledge, were there certain
5 prosecutors in the District Attorney's Office who
6 would not prosecute a case if you were the lead
7 detective?

8 A. No.

9 MR. BARON: Take a break for a minute?

10 MR. BONGARD: Do you want to take a break or
11 do you want to finish up?

12 THE WITNESS: No, I'm good.

13 MR. BARON: If I have a five-minute break, I
14 just want to review my notes for a minute.

15 MR. BONGARD: How much longer are we looking
16 at?

17 MR. BARON: That's why I want to take this
18 break, to determine that. We're pretty close.

19 MR. BONGARD: You gave me short notice again
20 on this, so I wasn't able to arrange travel plans, so
21 I have got to drive back up to Ely when this is done.

22 MR. BARON: Do you mind if I take a minute
23 just to speak with my colleague in the hallway?

24 MR. BONGARD: That's fine.

25 MR. BARON: Let's go off the record.

1 THE VIDEOGRAPHER: We are going off the
2 record at 1:48 p.m.

3 (Brief recess taken.)

4 THE VIDEOGRAPHER: We are back on record at
5 1:49 p.m.

6 MR. BARON: Pass the witness.

7

8 EXAMINATION

9

10 BY MR. BONGARD:

11 Q. Detective Prieto, I want to have you, if you
12 would, refer to Exhibits 48 through 51 and Exhibit 3.
13 And I want to make sure, because it was my
14 understanding from your testimony this morning, before
15 they started asking you more questions about it, that
16 you said there was no shininess on picture number 6 of
17 Exhibit Number 3. Is that -- do you remember, was
18 that your testimony this morning?

19 A. I can't recall, but looking at it now, there
20 is shininess.

21 Q. And where is the shininess?

22 A. On the forehead, on the tip of the nose.

23 Q. How about on the lips?

24 A. That, as well.

25 Q. Okay. And you also noted this morning

1 that -- I believe your testimony or your words were
2 that the background on that one is "light gray." Was
3 that your testimony?

4 A. Yeah, it's like a -- it's like a blue. It's
5 just a little lighter. You can still see the tint.

6 Q. All right. And is that background more or
7 less pronounced than the differences in the
8 backgrounds on the exhibits in 48 through 51?

9 A. It's less pronounced.

10 Q. Less pronounced where?

11 A. In the darkness. It's -- in the pictures, in
12 his, it almost looks like he has no background, in
13 Slaughter's.

14 Q. But I -- okay. Let me re-ask the question:

15 The differences in the background -- on
16 Exhibit 3, you testified to the difference in the
17 backgrounds between pictures 1 and number 6. Do you
18 remember that?

19 A. Yes.

20 Q. All right. Looking at number -- Exhibit
21 Number 3 as a whole, are the differences in those
22 backgrounds more or less pronounced in Exhibit 3
23 compared with Exhibits 48 through 51?

24 A. I don't think they're any different. I just
25 think they --

1 Q. Okay.

2 A. Okay.

3 Q. And again, you don't -- you can't say with
4 any degree of certainty that these copies are fair and
5 accurate representations of what people looked at,
6 because they are photocopies; correct?

7 A. No, I can't.

8 Q. You don't intentionally try to make photo
9 arrays unfair, do you?

10 A. No.

11 Q. How much time do you spend putting a photo
12 array together on average?

13 A. I don't know. It varies. If I can just find
14 the people right away, it will take a few minutes, and
15 it all depends on my selection.

16 Q. And when you are putting a photo array
17 together, what things do you consider?

18 A. Just so they look similar. The hair,
19 whatever, it's outstanding, I try to like match it up.
20 If they have facial hair, I try to put that in there.
21 It's just so they look -- they don't look -- nobody is
22 going to look exact, but I just try to be similar.

23 Q. And you don't try to make your targets stand
24 out --

25 A. No.

1 Q. -- intentionally?

2 A. No, sir.

3 Q. When you talk to -- there were questions
4 asked regarding your contact with the one victim in
5 the hospital.

6 Are your contacts with people in the
7 hospitals determined by the circumstances that you are
8 dealing with? If you need me to explain the question,
9 I will.

10 A. Are you talking about on their health or
11 their well-being or how they could respond?

12 Q. Correct.

13 A. Yeah, it varies. You know what? I'll
14 contact them -- if like -- I've been to the hospital
15 in several different situations, although if I see
16 that they are not capable, when I talk to them, of
17 talking to me, then I'll just do it another time.

18 But if I go in there and they seem coherent
19 and they are able to speak, then I'll talk to them.

20 Q. If it's a life-or-death situation, will you
21 talk with people normally in situations where you
22 wouldn't if there is no life-and-death --

23 A. Yes.

24 Q. -- situation?

25 In those cases, what steps do you take in

1 order to verify the quality and quantity of the
2 information that you get in those circumstances? Do
3 you understand the question?

4 A. Yes.

5 Q. All right.

6 A. It would have to be that, along with my
7 entire investigation --

8 Q. Okay.

9 A. -- in order to, you know, determine how
10 valuable it was.

11 Q. Okay. You were -- referenced -- going --
12 switching to the alibi now, or the questions that were
13 asked you about the alibis --

14 MR. BONGARD: Jeremy, what was the Metro
15 trespass notice, what exhibit number?

16 MR. BARON: Forty-four.

17 BY MR. BONGARD:

18 Q. You can reference Exhibit 44 there for a
19 moment. In Exhibit 44 there is a reference to the
20 name "Jeff"; correct?

21 A. Yes.

22 Q. And coincidentally, the person that you
23 talked to, I believe you said his name was Jeff
24 Arbuckle?

25 A. Yes.

1 Q. Is there any way for you to determine, based
2 on looking at these exhibits, whether Jeff, the
3 manager in Exhibit 44, is the same as Jeff Arbuckle,
4 the person you spoke with?

5 A. No.

6 Q. Realistically, could there have been two
7 people named Jeff working at that place?

8 A. There could have been.

9 Q. Could there have been more than two Jeffs?

10 A. Yes.

11 Q. Okay. You were asked about video or possible
12 video at that place. Did you know if any of the
13 surrounding businesses had video?

14 A. I don't know.

15 Q. Or if they had video, was it operational?

16 A. I don't know.

17 Q. Or in fact, since -- well, the date on the
18 trespass report was -- was June 3rd, correct, of 2004?

19 A. Yes.

20 Q. And you -- I believe you said you made
21 contact with Jeff sometime in the time range of
22 June 28th through the beginning of July.

23 A. Right.

24 Q. Do businesses keep infinite loops and save
25 tapes from their video surveillance?

1 A. No, it's usually, I believe, a week, maybe.

2 Q. So, in other words, in order to get the video
3 from this alleged incident, trespass incident, if
4 there was video, you would have had to have a crystal
5 ball telling you that "I need to go get this because
6 there is going to be something happening in three
7 weeks"?

8 MR. BARON: I'll object to the form.

9 BY MR. BONGARD:

10 Q. Assuming there is a one-week loop, like you
11 testified to --

12 A. Yes.

13 Q. -- even assuming there is a two-week loop,
14 you would have had to have some type of clairvoyant in
15 order to obtain the video that they talked to you
16 about?

17 A. Yes.

18 Q. And three weeks -- so we're talking roughly
19 about three weeks, between the date of the incident
20 and the date that this happened, prior to the
21 incident?

22 A. Correct.

23 Q. All right. And as your job as a detective,
24 you have collected videos from lots of incidences?

25 A. Yes.

1 Q. So is one week a common loop on video
2 surveillance?

3 A. Yes. Some are a day, some -- most are a
4 week. There's very few small businesses that have --
5 or -- they will invest in a quality machine.

6 Q. And that's even assuming cameras would have
7 been pointed at the dry cleaner instead of their own
8 business?

9 A. Correct.

10 Q. There were a number of questions asked you
11 about the report from the telephoning witness. And I
12 believe it was Exhibit 43. If you could turn to that.

13 Were you able to determine from the
14 telephoning -- well, let me ask you this:

15 Did you talk to the witness who called in
16 this incident?

17 A. No. Are you talking about the -- on Morning
18 Glory?

19 Q. Yes.

20 A. No.

21 Q. Okay. Based on your experience as a
22 detective in interviewing suspects or subjects or even
23 witnesses --

24 A. Excuse me one second. Are you talking about
25 the one that reported this?

1 Q. Yes, the one that --

2 A. I thought it --

3 Q. -- spoke with 911.

4 A. I thought it was one of the victims.

5 MR. BARON: Do you want me to answer that?

6 THE WITNESS: No, because I think I, indeed,
7 did eventually. Jermaun Means, I think he was the one
8 that called it in, so I --

9 MR. BONGARD: I think that was the name you
10 used, Counsel; right?

11 THE WITNESS: Yeah.

12 MR. BARON: Correct.

13 MR. BONGARD: All right.

14 THE WITNESS: Yeah, so I did eventually talk
15 to him.

16 BY MR. BONGARD:

17 Q. Do people's perception of time, when they are
18 not looking at a watch -- does everybody have a very
19 identical sense of time?

20 A. No.

21 Q. When people are exposed to stress, does
22 that -- does a person's reference to time change, in
23 your experience interviewing people?

24 A. Yes.

25 Q. Were there any steps taken to determine

1 whether Mr. Means was accurate when he said
2 "five minutes ago this occurred"?

3 A. No.

4 Q. All right. And he never told anyone that he
5 was looking at a clock when this happened?

6 A. No, not that I know of.

7 Q. Do people speak in colloquialisms to you or
8 use -- well, let me backtrack.

9 When people talk with you, do they use
10 specific names in generic ways? Do you understand
11 what I'm asking?

12 A. Like taking the name and -- for -- they're
13 using it as...

14 Q. Like a rum and Coke.

15 A. Yeah.

16 Q. They don't necessarily mean a rum and
17 Coca-Cola --

18 A. Right.

19 Q. -- they mean a rum and cola?

20 A. Do people speak to me like that?

21 Q. Yes.

22 A. Yes.

23 Q. When people say five minutes, do they always
24 mean five minutes, in your experience?

25 A. No.

1 Q. Five minutes could mean different things to
2 different people?

3 A. I mean, it could mean different things. Of
4 course, everything that people say could be taken --
5 or given differently.

6 Q. When somebody says "I'll be ready in
7 five minutes," do they always mean five minutes --

8 A. No.

9 Q. -- in your experience?

10 A. Yes.

11 Q. Counsel asked a series of questions to you
12 about people lying to you and your experience with
13 that.

14 In your experience, do witnesses lie to you?

15 A. Yes.

16 Q. Do suspects lie to you, in your experience?

17 A. Yes. Everybody lies.

18 Q. In your experience, has -- have suspects
19 asked witnesses to lie?

20 A. Yes.

21 Q. In your experience, do witnesses in cases lie
22 to the press?

23 A. Yes.

24 Q. Referring to Exhibit 32, do you remember
25 seeing that? I can't remember your testimony from --

1 A. No.

2 Q. All right. Did anyone tell you that there
3 was a footprint here?

4 A. I can't recall being told that.

5 Q. Okay. And again, you mentioned that crime
6 scenes can be contaminated by people other than -- or
7 unknown people, unknown parties?

8 A. Right.

9 Q. All right. Referencing you to Exhibits 36
10 and 37.

11 A. Oh, sorry.

12 Q. That's okay. We've been here for a while.

13 All right. From -- do you remember those
14 shoes?

15 A. No.

16 Q. Is there any way you can tell from the
17 quality of the photographs in 36 or 37 whether there
18 was a layer of polish that, much like the shine on
19 someone's face, is not detectable because of the
20 quality of the photographs?

21 MR. BARON: Object to the form.

22 MR. BONGARD: I'm going to ask him some other
23 questions, lay some foundation first.

24 BY MR. BONGARD:

25 Q. Did you take the photographs?

1 A. Of these?

2 Q. Of the shoes.

3 A. No.

4 Q. Did you ever examine them after they were
5 taken into evidence?

6 A. No.

7 Q. So the information that is going into your
8 reports regarding those is -- if I can reference --
9 have you turn to Exhibit 38, second paragraph on
10 page 3. Would you go ahead and read that to yourself?

11 A. Yes. (Witness examined document.) Okay.

12 Q. So at some -- if your report says you did a
13 visual inspection, you don't recall that visual
14 inspection?

15 A. No.

16 Q. You don't recall if there was something not
17 reflected in the photographs, as far as the degree of
18 sheen or something, that may have indicated polish?

19 A. No.

20 MR. BONGARD: I don't have any other
21 questions.

22 MR. BARON: Just a few more, and I'll try and
23 be quick.

24 //

25 //

1 FURTHER EXAMINATION

2

3 BY MR. BARON:

4 Q. Let's turn back to Exhibit 3. How does the
5 background on the photo in position 6 compare to the
6 background in the other five photos?

7 A. It's a little lighter.

8 Q. How does the shininess on the forehead and
9 the face, photo in position 6, compare to the
10 shininess on the forehead and the faces of the other
11 five photos?

12 A. 3, 1, and 4 and 2 are the shiniest, with 5
13 being the least amount of shine and 2 being second.
14 So if I was going with -- 1 would be the least, and
15 then 6 has even more shine -- it's hard to --
16 either -- it's the way that you look at it. They've
17 all got a little shine on them. There's more
18 significance on these --

19 Q. By "these" you mean...

20 A. On a couple of others, 3 or 4, but the two
21 down here have the least amount (indicating).

22 Q. By "the two down here" you mean --

23 A. I mean 5 and 6.

24 Q. How about the shadow at the bottom of the
25 face and chin on position 6?

1 A. I don't know how that's there. I just -- I
2 didn't see it there before. I don't know. Maybe it's
3 the photos. I mean --

4 Q. Do any of the other five photos have that
5 shadow?

6 A. No, not like that.

7 Q. Let's look at Exhibit 48 --

8 A. Excuse me. Maybe 2 has a little bit of
9 something, but I can't -- I said that it kind of looks
10 like a beard.

11 Q. Let's look at Exhibit 48, Exhibit 48 alone.
12 It's going to be off to your -- it's not in the
13 binder. It's going to be one of those (indicating).

14 A. Okay. Yes.

15 Q. I'm going to ask you the same series of
16 questions with respect to this. So the background in
17 number 4, how does it compare to the other five
18 backgrounds?

19 A. It's white or light.

20 Q. And the other five backgrounds are?

21 A. Degrees of a little darker shade.

22 Q. What about the shininess on the forehead and
23 face of 4; how does that compare to the shininess on
24 the other five photos?

25 A. It's pretty much -- kind of goes in with the

1 group, if you look at it. It looks like it kind of
2 blends with all of them. I mean, there's a couple
3 that are real shiny, looks like the camera hit them
4 just on their head just right, but he kind of blends
5 in with the others.

6 Q. Which ones do you think are the brightest on
7 that?

8 A. Number 1 and number 3 and maybe 2, but --
9 yeah, and then maybe 5, but the other -- it's like
10 they are brighter, but they all have a glow to them,
11 but just not as significant. And it's hard to tell.

12 You know, you look at the picture, and then
13 somebody else might say they all look -- they look the
14 same to me. I mean, it's -- I don't know if the
15 original ones were like this, but the photos, I mean,
16 you're -- you're looking at a face. I mean, you're
17 not looking at a shine, and I mean, it's not --
18 they're not that much difference in the face, I mean,
19 from the shine. I mean, it's the person.

20 Q. What about the shadow at the bottom of the
21 chin?

22 A. I don't know what that is. I --

23 Q. In position 4, do you see a shadow at the
24 bottom of the chin?

25 A. Yes, I do.

1 Q. Do you see a similar shadow in any of the
2 other five photos?

3 A. Not exactly like that.

4 Q. Let's look at Exhibit 49. And in the
5 interest of time, I would rather not go through the
6 exact same line of questions --

7 A. Okay.

8 Q. -- on each of the next three.

9 So what I would rather ask you is, with
10 respect to those three different things, the
11 background, the shininess on the face, and the shadow
12 under his chin, the answers that you just gave me for
13 48, are your answers going to be materially different
14 with respect to 49?

15 A. You know, I have some question on the quality
16 of the pictures. You see how this one in number 2 on
17 49, it almost looks like there is a shade around his
18 face, almost like hair growing in. Can you see that,
19 on his cheek, underneath his chin? And it kind of
20 carries to the bottom. It's like a black -- I don't
21 even know what it is. This might all be your
22 copy machines, a lot of that, because it looks like
23 they are distorting the pictures.

24 Q. These exhibits we printed out from the
25 exhibits that were in the evidence vault.

1 A. Okay. Well, it's -- then basically it's the
2 same, then.

3 Q. How about 50? Are your answers --

4 A. Yes, yes.

5 Q. Yes, your answers are materially similar?

6 A. Yes.

7 Q. How about 51?

8 A. Yeah, basically the same.

9 Q. As 48?

10 A. Yes.

11 Q. You recall Jeff Arbuckle was Tiffany's boss?

12 A. Yes, I can remember. I...

13 MR. BONGARD: Objection. That misstates the
14 evidence.

15 BY MR. BARON:

16 Q. Was Jeffrey Arbuckle in a management position
17 at --

18 A. From what I can recall, yes.

19 Q. To your knowledge, was there anyone else in a
20 management position at Eldorado Cleaners named Jeff?

21 A. I didn't inquire into anything. He's the
22 person I contacted, and that's why I put his name
23 down.

24 Q. Referring back to -- I'm sorry -- Exhibits 3
25 and then 48 through 51, do you have any reason to

1 believe these are not copies -- they may look a little
2 different, but do you have any reason to believe they
3 are not copies of the first photo lineup --

4 A. No.

5 Q. -- that you showed?

6 Do you recall whether there was an Albertsons
7 store in the vicinity of the Eldorado Cleaners?

8 A. No.

9 Q. If a witness to a crime calls -- or a victim
10 to a crime calls 911 and says "the incident happened
11 five minutes ago, about five minutes ago," could the
12 incident have occurred fewer than five minutes ago?

13 A. Could have happened any time. I wouldn't
14 take anything as concrete, because everything's messed
15 up, everybody just -- I'd say five minutes could have
16 been an hour, could have been 30, could have been --
17 it's just, I wouldn't take it for what they said.

18 Q. If a witness estimates five minutes, could it
19 be three minutes?

20 A. It could be anything.

21 Q. Could it be seven minutes?

22 A. Could be -- look, I just told you. It could
23 be any time. I -- that I wouldn't put a time on it
24 unless they had a timer and they were like timing it
25 right there.

1 Q. If --

2 A. It would be something they said to separate
3 the time they called to when they believe something
4 happened, but five minutes is just...

5 Q. In your experience, in a circumstance in
6 which a victim has suffered facial injuries and there
7 are other victims and witnesses in the vicinity, would
8 they tend to try to call 911 right away?

9 A. I would think so, yeah. It would be as soon
10 as possible. You are looking at medical. Somebody is
11 hurt.

12 MR. BARON: That's all I have.

13 MR. BONGARD: Beginning to quibble about
14 minutia, so I'm done.

15 THE VIDEOGRAPHER: This concludes the
16 video-recorded deposition on February 22nd, 2018, of
17 Jesus Prieto. We are going off the video record, and
18 the time is 2:19 p.m.

19 (Off record.)

20 THE VIDEOGRAPHER: We are back on record at
21 2:19 p.m.

22 MR. BONGARD: Thank you for your indulgence,
23 by the way.

24 Thank you, as well.

25 //

1 FURTHER EXAMINATION

2

3 BY MR. BONGARD:

4 Q. Prior to the lunch break we took, you had
5 thought about -- something that you had seen, a
6 transcript of a conversation that you had had with
7 Rickie Slaughter.

8 A. Yes.

9 Q. Do you remember that?

10 A. Yes.

11 Q. Did you approach me, prior to us restarting,
12 to explain what you had seen that you mischaracterized
13 as a transcript of an interview you had with
14 Slaughter?

15 A. Yes. I -- this is why I initially said,
16 "Hey, can I take a break," because you were talking
17 about a transcript, and it was phone calls that I had
18 seen, that had been transcribed by the jail, and it
19 had "Rickie Slaughter" on the top of it.

20 Q. And they were the phone calls that you
21 discussed -- were they the phone calls that you
22 discussed with Slaughter telling his girlfriend to lie
23 for him?

24 A. Yes.

25 MR. BONGARD: Nothing else.

1 MR. BARON: I'll object to the form of that,
2 but he has already answered.

3 If I could ask one more question myself. I
4 apologize.

5

6 FURTHER EXAMINATION

7

8 BY MR. BARON:

9 Q. Do you have any records in your possession
10 relevant to this case?

11 A. In my possession? Yeah, I got them from
12 work. I have some of my reports, but they are not all
13 of them.

14 Q. Would you be willing to send those to us?

15 MR. BONGARD: He gave them to me. I'll
16 make copies and send them to you.

17 MR. BARON: That's all I have.

18 THE VIDEOGRAPHER: This concludes the
19 video-recorded deposition on February 22nd, 2018, of
20 Jesus Prieto. We are going off record, and the time
21 is 2:21 p.m.

22 (The deposition was concluded.)

23

24 * * * * *

25

1 I, the undersigned, an RPR, CRR, and
2 Certified Shorthand Reporter of the States of Nevada
3 and California, do hereby certify:

4 That the foregoing proceedings were taken
5 before me at the time and place herein set forth; that
6 any witnesses in the foregoing proceedings, prior to
7 testifying, were duly sworn; that a record of the
8 proceedings was made by me using machine shorthand
9 which was thereafter transcribed under my direction;
10 that the foregoing transcript is a true record of the
11 testimony given.

12 Further, that before completion of the
13 proceedings, review of the transcript was not
14 requested.

15 I further certify I am neither financially
16 interested in the action nor a relative or employee
17 of any attorney or party to this action.

18 IN WITNESS WHEREOF, I have this date
19 subscribed my name.

20 Dated: 03-05-2018

21

22

23

24

25

JANET C. TRIMMER
CCR No. 864

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