

IN THE SUPREME COURT OF THE STATE OF NEVADA

COLE DUANE ENGELSON

Appellant,

vs.

THE STATE OF NEVADA

Respondent.

Docket No. 82691

Appeal From A Judgment of Conviction (Jury Trial)
Fifth Judicial District Court
The Honorable Robert Lane, District Judge
Court No. CR9226

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1 No. CR-9226

2 Dept. No. 2

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FIFTH JUDICIAL DISTRICT

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Nye County Clerk
Deputy

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5 IN THE FIFTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
6 IN AND FOR THE COUNTY OF NYE

7 THE HONORABLE ROBERT W. LANE, DISTRICT JUDGE

8 -oOo-

ORIGINAL

9 THE STATE OF NEVADA,)

10 Plaintiff,)

11 vs.)

12 COLE D. ENGELSON,)

13 Defendant.)

TRANSCRIPT OF PROCEEDINGS
JURY TRIAL - DAY 2

NOVEMBER 5, 2020

8:35 A.M.

PAHRUMP, NEVADA

14 APPEARANCES:

15 For the State:

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23 Pahrump, Nevada 89048

24 The Defendant:

COLE D. ENGELSON

25 Reported by: CECILIA D. THOMAS, RPR, CCR No. 712

1 PAHRUMP, NYE COUNTY, NEVADA, THURSDAY, NOVEMBER 5, 2020

2 8:35 A.M.

3 -oOo-

4 P R O C E E D I N G S

5
6 (We are in chambers at Commissioner's
7 Office, outside the presence of the jury.)

8 THE COURT: Okay. We're on Day 2 of State
9 versus Engelson. We're outside the presence of the
10 jury.

11 MR. ARABIA: Your Honor, I apologize. Do
12 you mind if we wait? Kirk forgot his notes.

13 THE COURT: Oh, yeah.
14 That's fine.

15 MR. ARABIA: Thank you.

16 (A short pause in the proceedings.)

17 THE COURT: Twenty-eight jurors have shown
18 up that we picked yesterday, and by stipulation of the
19 parties, we kicked the third panel of 50 loose. We
20 sent them back home. We now have 28 jurors.

21 The State stipulated that even though each
22 side has ten peremptory challenges, that they will
23 forgo eight of theirs and only use two of their
24 peremptories. And I just want the record to reflect
25 that we all agreed a few days ago that we were going

1 to have four alternates.

2 So we are now going to begin the peremptory
3 challenges, and we're going to begin with the State
4 may exercise their first peremptory.

5 MR. ARABIA: Pass.

6 THE COURT: Waive the first peremptory.

7 The Defense can exercise their first.

8 MS. BOSKOVICH: We'll do the peremptory on
9 Tracy Thorp.

10 THE COURT: All right. Tracy is No. 16.

11 And the State can exercise their second.

12 MR. ARABIA: Pass.

13 THE COURT: They waive their second.

14 The Defense can exercise your second.

15 MS. BOSKOVICH: We will use a peremptory on
16 Linda VanHuisen.

17 THE COURT: Okay. Where's Linda?

18 MR. MARTINEZ: No. 8, Judge.

19 THE COURT: No. 8. Okay. Linda is gone.

20 The State may exercise their third.

21 MR. ARABIA: Pass.

22 THE COURT: Okay. They waive their third.

23 The Defense may exercise their third.

24 MS. BOSKOVICH: Daryl Fernandez.

25 THE COURT: Okay, No. 1. Daryl Fernandez,

1 No. 1.

2 MR. VITTO: That was such a surprise.

3 THE COURT: State may exercise their
4 fourth.

5 MR. ARABIA: Pass.

6 THE COURT: They'll waive their fourth.

7 The Defense may exercise your fourth.

8 MS. BOSKOVICH: Nancy Bieberdorf.

9 THE COURT: No. 3.

10 The State may exercise their fifth.

11 MR. VITTO: Pass.

12 THE COURT: They waive their fifth.

13 Defense can exercise their fifth now.

14 MS. BOSKOVICH: Curtis Perry.

15 THE COURT: All right. No. 11, Curtis
16 Perry is out.

17 The State may exercise their sixth.

18 MR. ARABIA: Pass.

19 THE COURT: The Defense can exercise their
20 sixth.

21 MS. BOSKOVICH: Jana Oxborrow.

22 THE CLERK: Five.

23 THE COURT: Which one?

24 THE CLERK: Five. Five is out.

25 We will now go to the state exercising

1 their seventh.

2 MR. VITTO: Judge, can we have a minute?

3 THE COURT: Sure. Off the record.

4 (A short pause in the proceedings.)

5 THE COURT: Okay. Where did we leave off?

6 We're back on the record. We're going to ask the

7 State to exercise their seventh peremptory.

8 MR. ARABIA: Your Honor, who was the

9 Defense's No. 6.

10 THE COURT: Juror No. 5, Jana Oxborrow.

11 MR. ARABIA: Oh, that's right. Okay. We

12 would like to exercise our seventh on Dana Hall,

13 No. 6.

14 THE COURT: All right. No. 6, Dana Hall.

15 The Defense can exercise their seventh.

16 MS. BOSKOVICH: Karen Crawford.

17 THE COURT: No. 27, Karen Crawford is out.

18 And that takes us to the State's eighth.

19 MR. ARABIA: Your Honor, for the State's
20 eighth, we would like to go with No. 7, Gregory Dann.

21 THE COURT: Gregory Dan, No. 7. That was
22 the State's final; is that right?

23 MR. ARABIA: Yes.

24 THE COURT: Okay. And then the Defense can
25 do their final.

1 MR. MARTINEZ: We should have two more,
2 Judge.

3 THE COURT: Okay. I'm confused; so let's
4 get it straightened out right now. We said ten
5 peremptories each; right?

6 MR. ARABIA: Yeah. We've gone through
7 eight. They've gone through seven.

8 MR. MARTINEZ: I'm sorry. We have three.

9 MR. ARABIA: But we're waiving our last
10 two.

11 MS. BOSKOVICH: Our No. 7; right?

12 THE COURT: Eight.

13 MS. BOSKOVICH: Our No. 8 is
14 Brittany Dunlap.

15 THE COURT: That was a comedy of errors we
16 all just did. Twenty-four, Brittany Dunlap is the
17 eighth for the Defense.

18 The State's ninth is waived?

19 MR. ARABIA: Yes.

20 THE COURT: All right. And the Defense
21 ninth?

22 MS. BOSKOVICH: I'm sorry, Defense's ninth
23 is Terri Cogburn.

24 THE COURT: No. 19, Terri Cogburn.

25 The State's final tenth is waived. Yes.

1 And then the Defense's tenth and final is?

2 MS. BOSKOVICH: Rayan De Pierro.

3 THE COURT: No. 21, Rayan De Pierro.

4 And you all got the sheet from the clerk?

5 MS. BOSKOVICH: We did.

6 MR. ARABIA: Yes.

7 THE COURT: Okay. So as they remain now on
8 the sheet, we're going to number them one, two, three,
9 and so forth. So No. 1 will be Jeffrey. No. 2 will
10 be Karen. No. 3 will be Richard, and so forth.

11 And we're going to go back in the
12 courtroom -- call them up to have their seats, release
13 the rest of them. Then we're going to head -- we'll
14 close up and head over to the other courthouse. Staff
15 asked me what time we were going to begin in the other
16 courthouse, and I said ten o'clock to give them time
17 to get set up and organized.

18 MR. VITTO: Works for me.

19 THE COURT: Okay. We'll head back to the
20 courtroom.

21 (Proceedings conclude at the
22 Commissioner's Chambers Office. Back in the
23 presence of the jurors, 8:50 a.m.)

24 THE COURT: We're on the record. This is
25 Day 2 of the State versus Engelson trial.

1 We stipulated to the 28 jurors that were
2 called yesterday and sent the third panel of 50 home.
3 The attorneys -- the attorneys met with me in
4 chambers. And we exercised our peremptory challenges,
5 and we put those on the record separately. So now
6 we're going to call the names of the 16 jurors, and 12
7 of you will be able to go home today.

8 Juror No. 1 is Jeffrey Ranowel. You can
9 come up and have a seat here in Seat No. 1.

10 Juror No. 2 is Karen Jack.

11 Juror No. 3, Richard Sandoval, Jr.

12 Juror No. 4, Rowena A Charfauros-Spadt.

13 Juror No. 5, Blaise Fernandez.

14 Juror No. 6, Kay Payton.

15 Juror No. 7, Virginia Sells.

16 Juror No. 8, Lori Barton.

17 Juror No. 9, Rita Rippon.

18 Juror No. 10, Janice Schmeski.

19 Juror No. 11, Jennifer Leonard.

20 Juror No. 12, David Gelineau.

21 Juror No. 13, Robert Nitting (pronounces
22 Knit-ing/Night-ing).

23 Juror No. 14, Helene Campton.

24 Juror 15, Diane Kennedy.

25 And Juror No. 16, Vicki Fordice.

1 We thank the rest of you for appearing
2 today. You can be excused. Thank you for your
3 patience. And when you walk out and talk about us,
4 remember this isn't how we normally do trials. This
5 is all new for us too.

6 All right. All the peremptory challenges
7 having been exercised and waived. We'll now ask the
8 jurors to stand, and we'll administer the oath of
9 service to the jury.

10 THE BAILIFF: Raise your right hand.

11 THE COURT: Thank you, Jamele.

12 Whereupon,

13 THE JURY PANEL,
14 is sworn/affirmed to well and truly try the case now
15 pending before the court and render a true verdict
16 according to the evidence given.

17 THE COURT: Thank you. Have a seat.

18 Okay. Now we start the trial. There's a
19 pile of stuff I need to read to you, and then the
20 attorneys are going to do opening arguments and start
21 calling witnesses. I spoke with the attorneys this
22 morning, and they said rather than doing it here,
23 we're ready to head over to the other courthouse.

24 We're going to give staff time to get over
25 there and get everything set up. It's nine o'clock

1 right now. So we're going to start at ten o'clock in
2 the other courthouse. If any of you need directions
3 on how to get there, talk with my staff who will tell
4 you where it is.

5 Yes, sir?

6 JUROR FERNANDEZ: I have no idea where it
7 is.

8 THE COURT: It's in Pahrump.

9 JUROR FERNANDEZ: I also have to ride my
10 board there.

11 THE COURT: Okay. If you start jogging
12 now, you can make it by 10:00. How about we give you
13 a ride, Blaise; how's that?

14 JUROR FERNANDEZ: That will help.

15 THE BAILIFF: I will give him one.

16 THE COURT: Somebody will, yeah.

17 Anybody else, any questions or comments?

18 Okay. We'll meet you over at the
19 courthouse. We'll get started at ten o'clock.

20 THE BAILIFF: All rise.

21 THE COURT: Court's adjourned.

22 (Proceedings commence at the courthouse
23 at 10:25 a.m.)

24 THE BAILIFF: All rise.

25 THE COURT: Thank you. Please be seated.

1 To the staff and attorneys, welcome home.
2 To the jurors, welcome. Sorry for the hecticness.
3 The next part of the jury trial is me reading you how
4 everything works. And I didn't do that before we left
5 the commissioners chambers; so I know that some of you
6 were running around saying, "What's going on, and how
7 does this work?" And that's what this next part of
8 the jury trial is about, to tell you how everything
9 works.

10 I was informed that Blaise is concerned --
11 there he is -- is concerned because he skateboards
12 around town; so he wants to know for the next three
13 weeks how he's getting back and forth to the
14 courthouse.

15 Go ahead, Blaise.

16 JUROR FERNANDEZ: Not only that, I work a
17 minimum wage job. I don't feel that I'm financially
18 stable enough to handle this for the next three weeks.
19 I support me and my mom, and my mom barely makes it by
20 as well. And I help my sister too. I just don't feel
21 as if I am ready to do this trial.

22 THE COURT: And I know what you're
23 thinking. You're sitting there thinking, "Maybe I
24 should have told them this yesterday."

25 JUROR FERNANDEZ: I just don't feel -- I'm

1 not comfortable enough (inaudible).

2 THE COURT: All right. It's too late now,
3 Blaise, you're on the jury. But we'll see as time
4 goes on what we can do to -- if enough time goes by
5 and we have more jurors than we need, we'll see what
6 we can do to help you out. Meanwhile, we'll see if
7 anybody can help you out, find out what part of town
8 you live in, hitch rides from people that live nearby,
9 or something. We'll talk about it and try and figure
10 out an answer for you.

11 All right. You're not going to be
12 sequestered. Raise your hands if you need a break.
13 We'll take regular breaks, but the next one is not
14 going to be until we take a lunch break. The bailiff
15 is going to show you the jury rooms. They put your
16 books in there, 1 through 8 and 9 through 16. There's
17 no hard fast rule. You're allowed to go around, but
18 we're trying to do the social distancing thing.
19 Otherwise, we'd have all of you in the jury room.

20 Let's see, what else? You can bring things
21 to read or eat or drink, but during the trial you
22 can't read or eat anything because we need you paying
23 attention to the witnesses. You can't wear sunglasses
24 during court. Anybody got sunglasses on? All right.
25 I like when you say, "Anybody got sunglasses on?"

1 Everybody who had glasses on went up and felt their
2 glasses.

3 All right. Let's read the Court's opening
4 instructions to you. This will only take a minute.

5 You have been selected as the jury in this
6 case, and I will now take a few minutes to talk to you
7 about what to expect in this case. My comments are
8 intended to serve as an introduction to the trial. At
9 the end of the trial, I will give you more detailed
10 instructions called "jury instructions" that will
11 control your deliberations, and you'll take those into
12 the jury room and deliberate.

13 This is a criminal case brought by the
14 State of Nevada against the defendant. The case is
15 based on an Information. I think the Information was
16 read to everybody on the jury; correct? The clerk of
17 the court read it to both the panels. And basically,
18 it's one count of First Degree Murder: "That on or
19 about July 15th, 2017, here in Pahrump Township,
20 Nye County, Nevada, the defendant did, without
21 authority of law, willfully and unlawfully and with
22 malice aforethought, either express or implied, kill
23 and murder a three-year-old female child; said murder
24 being committed during the perpetration of child
25 abuse, to wit: by beating the child on the head

1 and/or neck and/or body."

2 You should distinctly understand that the
3 Information just read to you is simple a description
4 of the charge made by the State against the Defendant.
5 It is not evidence of anything. It does not prove
6 anything. Therefore, the defendant starts out with a
7 clean slate. The defendant has pled not guilty and is
8 presumed innocent.

9 The function of the jury is to try the
10 issue of facts that are presented by the allegations
11 in the Information filed in this court and the
12 defendant's plea of not guilty. This duty you should
13 not perform influenced by pity for the defendant or by
14 passion or prejudice against him. You must not allow
15 yourselves to be biased against the defendant because
16 he has been brought before the court to stand trial.
17 None of these facts are evidence of his guilt, and you
18 are not permitted to infer or to speculate from any or
19 all of them that he is more likely to be guilty than
20 innocent. You are to be governed solely by the
21 evidence introduced in this trial and the law as
22 stated to you by the Court.

23 This is a criminal case, and there are two
24 basic rules you must keep in mind. First, the
25 defendant is presumed innocent unless and until proved

1 guilty beyond a reasonable doubt. The defendant is
2 not required to present any evidence or prove his
3 innocence. The law never imposes upon a defendant in
4 a criminal case the burden of calling any witnesses or
5 introducing any evidence. Second, to convict, the
6 State must prove beyond a reasonable doubt the crime
7 was committed and the defendant is the person who
8 committed the crime.

9 It will be your duty to decide from the
10 evidence to be presented whether the defendant is
11 guilty or not guilty. You are the sole judges of the
12 facts. You will decide what the facts are from the
13 evidence which will be presented.

14 The evidence will consist of testimony of
15 witnesses and documents and other things received into
16 evidence as exhibits. You must apply the facts to the
17 law which we will give you at the end of the trial,
18 and in that way, reach your verdict. It is important
19 that you perform your duty in determining the facts
20 diligently and conscientiously, for ordinarily there
21 is no way of correcting an erroneous determination of
22 facts by the jury.

23 You should not take anything that I may say
24 or do during the course of the trial as indicating my
25 opinion as to how you should decide the case or to

1 influence you in any way in your determination of the
2 facts. An example I always give at trial is we'll
3 have a very important witness on testifying about
4 something very important. You guys will look over at
5 me, and you'll see me going (gesturing), and you'll
6 think, "Oh, the Judge doesn't believe the witness,"
7 when in fact, what I'm thinking is, "We're having
8 meatloaf again tonight." So don't look at me to get
9 any indications of what's going on.

10 At times I may ask questions of the
11 witnesses. If I do so, it is for the purpose of
12 bringing out matters which should be brought out, but
13 are not in any way to indicate my opinion about the
14 facts or to indicate the weight or value you should
15 give to the testimony of a witnesses.

16 In deciding the facts of this case, you may
17 have to decide which witnesses to believe and which
18 witnesses not to believe. You may believe everything
19 a witness says or only part of it or none of it. In
20 considering the weight or value of the testimony of
21 any witness, you may consider the appearance, attitude
22 and behavior of the witness when testifying, and a
23 number of other things, including the witness's
24 ability to see or hear or know of the things the
25 witness testifies to; the quality of the witness's

1 memory; the inclination of the witness to speak
2 truthfully; whether or not the witness has any
3 interest in the outcome of the case or any motive,
4 bias, or prejudice; whether the witness is
5 contradicted by anything the witness said or wrote
6 before the trial; how reasonable is the witness's
7 testimony when considered with other evidence which
8 you believe, and so forth.

9 In deciding whether or not to believe a
10 witness, keep in mind that people sometimes forget
11 things. You need to consider whether a contradiction
12 is an innocent lapse of memory or an intentional
13 falsehood, and that may depend on whether it has to do
14 with an important fact or only with a small detail.
15 The weight or value of evidence does not necessarily
16 depend on the number of witnesses testifying for one
17 or the other side. You must consider all of the
18 evidence, and you may decide the testimony of a
19 smaller number of witnesses on one side has more
20 weight or value than that presented by a larger number
21 of witnesses on the other side.

22 There are two kinds of evidence: direct
23 and circumstantial. Direct evidence is testimony
24 about what the witness personally saw, heard, or did;
25 a person who claims to have personal knowledge of an

1 incident such as an eyewitness. Circumstantial
2 evidence is indirect evidence. It is proof of one or
3 more facts from which you can find another fact. The
4 common example we give in court is direct evidence is
5 when you look out your window at night and you see
6 rain falling from the sky and everything getting wet.
7 That's direct evidence. Circumstantial evidence is
8 you don't see the rain at night falling and so forth,
9 but you get up in the morning and you see the ground,
10 the trees, the street, everything is wet, maybe water
11 is flowing down the curb, and so forth. You didn't
12 see it rain, but by looking at the circumstantial
13 evidence, you know it rained. It's proof of one or
14 more facts from which you can find another fact.

15 You may consider both direct and
16 circumstantial evidence in deciding this case. The
17 law makes no distinction between the weight to be
18 given either direct or circumstantial evidence. But
19 it is for you to decide how much consideration or
20 weight to give to any evidence. You are may return a
21 verdict based on direct evidence or circumstantial
22 evidence or both, a combination of both.

23 Certain things are not evidence, and you
24 must not consider them evidence in deciding the facts
25 of this case: statements and arguments by the

1 attorneys, questions and objections of the attorneys,
2 testimony that I instruct you to disregard, and
3 anything you may see or hear if the court is not in
4 session, even if what you see or hear is done or said
5 by one of the parties or one of the witnesses.

6 Remember, evidence is sworn testimony by a
7 witness while court is in session and subject to
8 cross-examination, and documents and other things
9 received into evidence as exhibits.

10 There are rules of law which control what
11 can be received into evidence. That's the law behind
12 me, the Constitution, and so forth. When a lawyer
13 asks a question or offers an exhibit into evidence,
14 and the lawyer on the other side thinks it's not
15 permitted by the rules, that lawyer may object. If I
16 overrule the objection, the question can be answered
17 and the exhibits received. If I sustain the
18 objection, the question cannot be answered, the
19 exhibit cannot be received. Whenever I sustain an
20 objection to a question, ignore the question and do
21 not guess what the answer might have been.

22 Sometimes I may order evidence stricken
23 from the record and tell you to disregard or ignore
24 such evidence. That means when you are deciding the
25 case and deliberating, you must not consider the

1 evidence which I have told you to disregard. It is
2 the duty of a lawyer to object to evidence which the
3 lawyer believes is not permitted under the
4 Constitution or the rules. You should not be
5 prejudiced in any way against the lawyer who makes
6 objections on behalf of the party the lawyer
7 represents. Also, I may find it necessary in the
8 course of a trial to admonish a lawyer. If I do so,
9 you should not be prejudiced towards the lawyer or the
10 client because I have found it necessary to do so.

11 You are not to concern yourselves in any
12 way with the sentence -- who's doing the sentencing,
13 me or the jury?

14 MR. MARTINEZ: You are, Your Honor.

15 THE COURT: Me? All right. I'm asking
16 because it's a category A felony, and there are some
17 exceptions to category A felonies. But the good news
18 is you are not to concern yourselves in any way with
19 the sentence which the defendant might receive if you
20 should find the defendant guilty. Your function is to
21 decide whether the defendant is guilty or not guilty
22 of the charge. If and only if you find the defendant
23 guilty, then it becomes the duty of the Court to
24 pronounce sentence.

25 Until this case is submitted to you, do not

1 talk to each other about it or about anyone who has
2 anything to do with it until the end of the case when
3 you go to the jury room to deliberate and decide on
4 your verdict. Do not talk with anyone else about this
5 case or anyone who has anything to do with it until
6 the trial has ended and you have been discharged as
7 jurors. That includes members of your family and your
8 friends. You may tell them you're a juror in a
9 criminal case, but don't tell them anything about it
10 until after you have been discharged.

11 Do not let anybody talk to you about the
12 case or about anyone who has anything to do with it.
13 If someone tries to talk to you out in the hallway or
14 somewhere, report it to us immediately. Contact the
15 bailiff and let him know.

16 Do not read any news stories, listen to any
17 radio broadcasts, watch any television reports, or
18 look at the Internet about the case or about anyone
19 who has anything to do with it. Do not do any
20 research or make any investigation about the case on
21 your own.

22 You may be tempted to visit crime scene.
23 Please do not do so. In view of the time that has
24 elapsed since this case has come to trial, substantial
25 changes may have occurred at the location in question.

1 Also, in making an unauthorized visit without the
2 benefit of explanation, cross-examination, and so
3 forth, you can get an erroneous impression.
4 Therefore, please avoid going near or past the
5 location until after this case has been completed. If
6 in the course of the trial, either of the attorneys
7 feel it's necessary to go see a place and I agree with
8 them, then we'll set it up with the court reporter and
9 everybody to go visit the place together.

10 You as jurors are not to conduct any form
11 of independent research, investigation, or experiments
12 prior to doing jury deliberations. You should not
13 communicate with anyone in any way regarding the case
14 or its merits, either by phone, email, text, Internet,
15 or other means. You shouldn't read, watch, or listen
16 to any news report, media accounts, commentary. Do
17 not do any research, such as consulting dictionaries,
18 using the Internet, or using reference material; make
19 any investigation. Don't test the theory of the case,
20 recreate any aspect of the case, or in any other way
21 investigate or learn about the case on your own.

22 You have to remember that evidence that
23 you're supposed to be deliberating about is sworn
24 testimony, with exhibits admitted, and so forth. If
25 you go and do research on your own, Wikipedia is not

1 always real correct and accurate and so forth. And we
2 have to have cross-examination and look into it. Even
3 a witness outside the building who is yelling out
4 testimony isn't testimony, because they're not in here
5 being cross-examined under oath.

6 At the end of the trial, you'll have to
7 make your decision based on what you recall of the
8 evidence. You will not have a written transcript to
9 consult, and it is difficult and time consuming for
10 the court reporter to read back lengthy testimony.
11 You will be allowed to make notes. I urge you to pay
12 close attention to the testimony as it is given, and
13 use the notes to help you remember things.

14 If you do take notes, please keep them to
15 yourselves until you go back into deliberate. Do not
16 let note taking distract you from hearing what the
17 witnesses have to say. Also, you should rely on your
18 own memory of what was said and not be overly
19 influenced by somebody taking notes. They might have
20 wrote it down wrong. I wrote down the answer was yes,
21 and 12 of you say, "No. I remember the answer was
22 no." So go by your own memory, and don't give too
23 much emphasis to notes.

24 A juror may not declare to a fellow juror
25 any fact relating to this case of which the juror has

1 knowledge. If any juror discovers during the trial,
2 or after the jury has retired, that the juror or other
3 juror has personal knowledge of any fact in
4 controversy in this case, the juror shall disclose
5 such situation to me in the absence of the other
6 jurors by informing the bailiff that you need to tell
7 me something. This means if you learn during the
8 course of the trial you have personal knowledge of any
9 fact which is not presented by the evidence in this
10 case, you must declare that fact to me by
11 communicating through the bailiff.

12 During the course of the trial, the
13 attorneys for both sides, all court personnel,
14 witnesses, nobody is supposed to talk to you except
15 the bailiff. If we walk by you in the hallway, we're
16 allowed to say, "Hi. How are you doing?" and that
17 kind of thing; we can be polite. But we're not
18 allowed to talk with you because if you're down at the
19 other end of the hallway talking with one of the
20 attorneys and you say to them, "How are the Dodgers
21 doing?" and they say "You know, the Dodgers won," and
22 you guys start chatting, people at the other end of
23 the hallway look down and think, "Oh, you're talking
24 about the case. You're trying to curry favor," and so
25 forth. So the rule just is you're not allowed to talk

1 to the jurors, except "Hi. How are you doing?" and be
2 quiet as you walk by them.

3 We don't mean to be rude or antisocial.
4 After the trial, we're allowed to talk to you all we
5 want to, including about the trial. The attorneys
6 frequently like to talk to jurors after the trial to
7 say, "How did I do? What could I have done better?"
8 and so forth. But you don't have to talk to them
9 after the trial either. You're allowed to just say,
10 "I'm going home. See you later." But anyway, they're
11 bound by the rules of ethics and the law not to talk
12 to you.

13 During the course of the trial -- it's
14 complex. We all got our bachelor's degree and then
15 our law degree and then we've been practicing law for
16 years and years. And we're still learning, and it's
17 still hard. Legal issues come up, different legal
18 points and arguments. Sometimes when it happens, we
19 ask the jury to step out of the courtroom while we
20 spend 10, 15 minutes arguing the law. Sometimes we
21 just do a sidebar, because it's faster there and we
22 don't have to remove you guys and we can decide real
23 quick. We don't mean to make you guys frustrated and
24 delay the trial; that's not the purpose. We're going
25 to be in here hours before you guys arrive, and we're

1 going to leave after you guys leave; keep working on
2 the case and get as much accomplished as we can while
3 you're not here. But we don't want you to be upset
4 that you're in the jury room wait and waiting. What's
5 going on? I promise you we're not playing video
6 games.

7 The trial will proceed in the following
8 manner. The Deputy DA is going to begin by making an
9 opening statement, which is an outline to help you
10 understand what the State expects to prove. Next, the
11 Defense attorney may, but does not have to, make an
12 opening statement. Opening statements serve as an
13 introduction to the evidence which the party making
14 the statement intends to prove.

15 After they finish their opening statements,
16 the State will then begin its case in chief and
17 presents it's direct evidence and call witness.
18 They'll bring their witness up to the stand, ask the
19 witness questions, and when they're done asking
20 questions, the Defense is allowed to cross-examine the
21 witness and ask question. Then the State, then the
22 Defense until we're done with that witness. Then
23 we'll call the next witness.

24 When the State's done presenting all of
25 their witnesses, they will rest their case; they're

1 done. Then it's the Defense's turn. As I've told
2 you, the Defense doesn't have to call anybody, but
3 they're allowed to if they want to.

4 After all of the evidence has been
5 presented and both sides have rested their case, I
6 will instruct you on the law. After the instructions
7 on the law have been read to you, the jury
8 instructions, each side has the opportunity to present
9 closing arrangements at the end. The arguments are
10 designed to summarize and interpret the evidence.
11 Since the State has the burden of proving the
12 defendant guilty beyond a reasonable doubt, the State
13 has the right to go last in the closing arguments.
14 After the closing arguments are done, you will then
15 retire to deliberate on your verdict.

16 Let me make sure I've covered everything.
17 I will take a moment. All right. Ladies and
18 gentlemen, the State is entitled to present the first
19 opening arguments. So we're going to ask Mr. Vitto to
20 go ahead for the State.

21 MR. VITTO: Thank you, Your Honor.

22 THE COURT: You're welcome.

23 Blaise, what side of town do you live on?

24 JUROR FERNANDEZ: I'm on 372 and Red Butte.

25 THE COURT: Okay. I can't hear you. Did

1 you guys hear him?

2 UNIDENTIFIED JUROR: Red Butte by Big O.

3 THE COURT: Red Butte by Big O Tire, that
4 side of town?

5 JUROR FERNANDEZ: (Inaudible) down Bourbon.

6 THE COURT: All right. If any jurors live
7 in that neck of the woods and can pick up Blaise on
8 the way, arrange with him, talk with him during the
9 break, and meet him someplace and pick him up and
10 bring him on in and take him home.

11 UNIDENTIFIED JUROR: What part of town?

12 THE COURT: During the next recess. Kirk
13 is waiting.

14 MR. MARTINEZ: Judge, I apologize. Before
15 Mr. Vitto gets going, I just want to double-check.
16 We're far more spread out with the jurors than we
17 normally are. We just want to double-check, make sure
18 everyone in the back has been able to hear you okay.

19 THE COURT: That's a good idea. Can you
20 hear us okay in the back?

21 (The jurors nod.)

22 THE COURT: Okay. Thank you.

23 MR. MARTINEZ: Thanks, Judge.

24 MR. VITTO: Good morning, ladies and
25 gentlemen of the jury. Welcome to this the American

1 system for justice, justice for all. We're here for
2 justice for the defendant; justice for the great State
3 of Nevada, Nye County, your community; justice for a
4 little girl, three-year-old Yessenia Camp. Born
5 January 6th, 2014, she would be six now, almost seven,
6 but she's dead.

7 The State has alleged that she was murdered
8 on July 15th, 2017, almost three-and-a-half years ago
9 by Cole Engelson. You will hear testimony from
10 medical personnel, the first to respond to 911
11 emergency calls for service at East Manse Road here in
12 Pahrump. Yessenia was found at that time to be cold
13 and without any sign of life. July 15, 2017, was a
14 typically bright, sunshiny Saturday in Pahrump. Not
15 for Yessenia. Based on the evidence you will hear
16 over the course of this trial, she was beaten to
17 death.

18 Nye County Sheriff's Deputy James Burke was
19 the first law enforcement officer to the scene at
20 1911 hours, 7:11 p.m. The medical first responders
21 were still on scene. Yessenia had already been
22 transported to Desert View Hospital at the time he
23 arrived. While at Desert View Hospital, Yessenia was
24 officially pronounced deceased. You will hear from
25 the first doctor to see Yessenia, Dr. Ahmed Moussa.

1 You will hear testimony from the doctor that performed
2 her autopsy at the Clark County Coroner's Office,
3 Dr. Leonardo Roquero. You will have and be able to
4 read for yourself the Autopsy Report. The cause of
5 death was multiple blunt force injuries. The manner
6 of death was determined to be a homicide. A homicide
7 is the deliberate act whereby one human being kills
8 another.

9 What Dr. Roquero observed was a little
10 girl's body beaten from stem to stern, front to back,
11 top to bottom, one end to the other causing injury
12 inside and outside her little body. Yessenia was
13 struck multiple times in the beating, endured until
14 death was described by Dr. Roquero as constellations
15 of the injuries indicating that Yessenia was beaten
16 multiple times and that there was no scarring present
17 to all of these lesions, indicating that the child was
18 assaulted recently. Constellation of injury.
19 Yessenia's body was the night sky, and the injury and
20 bruising as numerous as the stars therein, so to
21 speak.

22 Her skull was fractured. Her
23 cervical spinal cord nerve root and ganglion had
24 hemorrhaged. Internally, she had bleeding from
25 multiple locations. Externally, her little body bore

1 the evidence of multiple injuries, as will be
2 described by Dr. Roquero and other experts from
3 various locations in America that individually
4 examined her eyes, brain, and spinal cord as their
5 specialty.

6 So how will this trial play out? How does
7 this process work? What does a jury trial look like?
8 This is obviously the State's opening statement. As
9 the Judge just told you, nothing I'm saying is
10 evidence. I am giving you a roadmap of what to
11 expect, what the State expects the evidence to show.
12 You are going to hear and see evidence; listen to the
13 Judge explain the controlling law, as he mentioned;
14 and true justice rendered by way of verdict. How does
15 this work?

16 When I'm through, as the Judge told you,
17 the Defense will have opportunity to make an opening
18 statement. After that, the case-in-chief from the
19 prosecution will thereafter commence. Your
20 Nye County District Attorney Mr. Chris Arabia and
21 myself will be presenting the prosecution's case
22 against the defendant to you. When we are finished,
23 the Defense case-in-chief can commence. There may be
24 an opportunity for rebuttal and surrebuttal. And you
25 will then have the facts of a case comprised of all

1 the evidence, the testimony of all the witnesses, and
2 all the exhibits that will have been admitted into
3 evidence as a part of the case for your review during
4 deliberation.

5 The Judge will read to you the law of the
6 case prior to your deliberation, the law that you have
7 taken an oath to follow and apply to the facts that
8 you will have been provided over the course of these
9 proceedings. You will hear closing argument from both
10 sides. The Prosecution will be asking you to find the
11 defendant Cole Duane Engelson guilty of the
12 First Degree Murder of Yessenia Camp by Child Abuse.

13 You will then retire to deliberate and
14 return a verdict based on that evidence, the evidence
15 that is admitted at trial and nothing else. The
16 evidence you will hear includes hearing from
17 Yessenia's mother, Victoria, maybe today, maybe
18 tomorrow. She will testify about that day, Saturday,
19 July 15, 2017, three-and-a-half years ago.

20 Their morning together started with the
21 defendant arriving home from work, having driven to
22 Pahrump from Las Vegas after his shift as a DJ at
23 Little Darlings. They went out for a breakfast buffet
24 at the Pahrump Nugget. The event was captured by
25 surveillance camera. It was a normal Saturday morning

1 for everyone involved -- the defendant; his girlfriend
2 Victoria; Cole Jr., the defendant's son from a
3 previous relationship; Nickole, Yessenia's older half
4 sister, 14 years old at the time; and little sweet
5 Yessenia.

6 As a family, they went shopping after
7 breakfast. A family friend, Steve Kafton, who you
8 will hear testify, had picked up Dwight before
9 breakfast. And Steve and Dwight went to Las Vegas for
10 most of the rest of that day.

11 The defendant, Victoria, Yessenia, Nickole,
12 and Cole Jr. then returned home around noonish.
13 Cole Jr. left to go camping with his grandmother.
14 Victoria left Yessenia with the defendant while she
15 and Nickole went to have their nails done, a girl's
16 day. Yessenia cried to go with them. Victoria tucked
17 her into bed for a nap with, from her recollection,
18 either Big Hero 6 and/or Wreck-It Ralph playing; she
19 was obsessed with both movies at the time. The
20 defendant was encouraging them to go, and Yessenia
21 would be fine.

22 Based on the evidence, Yessenia was not
23 going to be fine. Based on the evidence, you will see
24 and hear her little body got wrecked, and there was no
25 hero to rescue her. The nail appointment was made for

1 around 4:00 or 4:30. Victoria and Nickole left the
2 residence on East Manse at around 1:30 or so, ate at
3 Subway, had ice cream at Sonic. Victoria called the
4 defendant around 6:00. He had to go to work that
5 evening. She'll testify about those phone calls, two
6 or three. "Everything is fine. She's sleeping."
7 Then there was a phone call from the defendant to
8 Victoria, "You need to come home. It's an emergency."
9 Victoria immediately paid and left. Based on the
10 evidence, somewhere within that time frame when
11 Victoria left until the call that there was an
12 emergency and you need to come home, a little light
13 was snuffed.

14 You will hear what happened when Dwight got
15 home between 5:00 and 5:30 that afternoon, probably
16 closer to the latter. Based on what you will hear and
17 see, it will not be difficult to discern who did what
18 and when and where and how it was done. As I said
19 previously, you will hear that Yessenia's brother
20 Dwight arrived home closer to 5:30 after being gone
21 all day with Steve Kafton in Las Vegas. He was the
22 first family member to see Yessenia. Dwight saw
23 Yessenia in bed. You see, the defendant asked him to
24 wake her. Dwight nudged her. She didn't wake.
25 Dwight had come home and began playing video games,

1 not knowing his little sister was lying in bed cold,
2 based on the evidence, without sign of life.

3 So what happened? You will hear from
4 several members of the Nye County Sheriff's Office.
5 You will hear the defendant tell them in his
6 interviews he doesn't remember much. You'll also hear
7 that there was quite a bit, and he remembers some
8 details, quite a bit of detail. The evidence will
9 show that he remembers different things with different
10 people, that his recollection or memory is better with
11 some than others. You will hear that -- very clear
12 that Yessenia was unhurt, uninjured when he gave her a
13 shower. Yessenia was upset when her mother left.
14 They had gone outside. Yessenia tumbled out of a
15 chair into the dirt. The defendant decided she needed
16 a shower. She was unhurt and uninjured going into the
17 shower.

18 The defendant told Deputy Burke what
19 happened, but as you will hear, what he told
20 Deputy Burke and Victoria is not all that he said to
21 Alexandra Fernandes, a detective with the Nye County
22 Sheriff's Office. When Detective Fernandes arrived on
23 scene, the water in the shower was still running after
24 7:00 in the evening. At the close of this case, you
25 will be able to draw conclusions, reasonable

1 inferences about why, if four or more hours lapsed
2 between when Yessenia got out of the shower, the water
3 would still be running. The defendant told
4 Detective Fernandes that Yessenia needed a shower
5 because she was sticky.

6 That's not everything he told Wes Fancher,
7 a detective with the Nye County Sheriff's Office.
8 It's not everything he told Alex Cox, at that time a
9 detective with the Nye County Sheriff's Office; and
10 Logan Gibbs, a detective with the Nye County
11 Sheriff's Office, in an interview which lasted
12 approximately four hours or almost four hours.

13 You will hear witness by witness tell you
14 what the defendant told them. And bit by bit, piece
15 by piece, it will become very, very clear. Based on
16 what you will hear and see, there will be doubt about
17 how Yessenia, excuse me, died and who did it. The
18 State will prove this case to you beyond a reasonable
19 doubt. You've heard that phrase before. Does it seem
20 mysterious?

21 What does that phrase mean? The Judge will
22 give you final instructions and will tell you what it
23 means. And I'm going to read it to you now. Because
24 this is what it means, and this is all that it means.
25 This is the instruction for reasonable doubt. "A

1 reasonable doubt is one based on reason. It is not
2 mere possible doubt, but is such a doubt as would
3 govern or control a person in the more weighty affairs
4 of life. If the minds of the jurors, after the entire
5 comparison and consideration of all the evidence, are
6 in such a condition that they can say they feel an
7 abiding conviction of the truth of the charge, there
8 is not a reasonable doubt. Doubt to be reasonable
9 must be actual, not mere possibility or speculation.
10 If you have a reasonable doubt as to the guilt of the
11 defendant, he is entitled to a verdict of not guilty."
12 You have been entrusted with an awesome power.

13 The Judge will also tell you that there's
14 something you do not check at the doors. What you do
15 not check at the door is your common sense. You will
16 be read this instruction, "Although you are to
17 consider only the evidence in the case in reaching a
18 verdict, you must bring to the consideration of the
19 evidence your everyday common sense and judgment as
20 reasonable men and women. Thus, you are not limited
21 solely to what you see and hear as the witnesses
22 testify. You may draw reasonable inferences from the
23 evidence which you feel are justified in the light of
24 common experience, keeping in mind that such
25 inferences should not be based on speculation or

1 guess."

2 As you listen to the evidence put forth,
3 you might wonder why, as the evidence is being
4 presented. That would be a normal, natural thought to
5 ponder, but as it crosses your mind, remember that the
6 prosecution is not required to prove anything at all
7 as it pertains to motive. The Judge will read you an
8 instruction regarding motive. "Motive is not an
9 element of the crime charged, and the State is not
10 required to prove a motive on the part of the
11 defendant in order to convict. However, you may
12 consider evidence of motive or lack of motive as a
13 circumstance in the case." Motive is not something
14 the State is required to prove.

15 What motivated a person to do what the
16 evidence will undeniably establish? Why ask why? We
17 look around this more often than not beautiful but
18 sometimes startlingly crazy world and ponder why. Why
19 would this person do that? How and why did that
20 happen? The fact is that often irrespective of why
21 someone did something, generally speaking, they did
22 it. We can't see a person's heart, the mind, the
23 feelings, or the thought, but we can see the evidence,
24 the results of actions taken and choices made.

25 The Judge talked about rain; I like to use

1 snow. We don't see -- we don't need to see the snow
2 fall to awake and enjoy a snow blanketed wintry morn
3 to know that it snowed while we slept. No one will be
4 asking you to judge the person. The prosecution will
5 be asking you to determine whether by his conduct, his
6 actions, the defendant murdered Yessenia.

7 As you listen to the State's case-in-chief
8 witness after witness, as you focus on the time frame
9 in question between when Victoria and Nickole left for
10 a girls' afternoon out, and when the defendant called
11 Victoria, those four hours -- four or five hours or
12 so, the last hours of Yessenia's life, what does her
13 dead body tell you?

14 According to the defendant in conversations
15 with law enforcement, there was a struggle in the
16 shower. You will hear the defendant characterize it
17 as they were going at it, he and Yessenia. The
18 three-year-old little girl against a grown male more
19 than 300 pounds of him at the time. Yessenia can't
20 take the stand and testify, but she left evidence
21 behind that you will see, her dead body. She can't
22 personally tell you, but her dead body was screaming
23 from the autopsy table, as you will hear and see.

24 It is important; so you will hear both
25 Dwight and Nickole tell you about what they recall the

1 last time they saw their little sister. Dwight's last
2 memory of his little sister will be trying to nudge
3 her cold, lifeless body awake.

4 You will hear from law enforcement, several
5 members of Pahrump Valley Fire & Rescue, the very
6 first non-family individuals at the scene, the people
7 interacting with the defendant in a close proximity to
8 him. He told law enforcement he had been drinking.
9 He was observed walking, talking, relating, recalling,
10 not recalling, thinking. He explained his difficulty
11 recalling to law enforcement. You will hear all of
12 that. You will hear about falling from a chair, not
13 liking the water hitting her face, toweling her off,
14 and then she just goes limp, completely
15 non-responsive.

16 This murder case in context is legally
17 treated a little differently, special as a First
18 Degree Murder trial. This case is alleged as a
19 First Degree Murder charge on the basis of the child
20 dying as a result of Child Abuse. That is a very
21 salient and significant fact, the importance of which
22 will be explained in definite detail after the jury
23 instructions are read and during closing arguments.

24 Based on the evidence you will hear, listen
25 to discern, you are the fact finder. Every fact in

1 this case that has to be proved as an element of the
2 crime is decided by you as a finder. Listen whether
3 the version of events provided in recorded interviews
4 with law enforcement are selectively incomplete, but
5 perhaps otherwise self-serving. You get to decide
6 that. You can 100 percent completely believe him,
7 everything he says; that's within your province.

8 I'm giving you a thumbnail sketch and
9 examples of what you will hear so that as evidence is
10 presented, you will be able to hone in and focus just
11 like I mentioned in regard to the injuries to
12 Yessenia's body. So that when you see the
13 photographs, it will come together.

14 This is a First Degree Murder charge. It's
15 a big deal. Both sides to this dispute, in an
16 adversarial system of justice, appreciate your
17 devotion at task. But the two most important aspects
18 of this trial, the injury to Yessenia and what the
19 defendant said about that injury. You will hear that
20 the defendant asked Alexandra Fernandes if it was okay
21 to shut off the still running shower. At one point,
22 the defendant -- you will hear it -- told
23 Detective Fernandes there was something wrong, and I
24 did it.

25 You will hear many times, many times he

1 can't remember. I didn't do anything. I didn't hit
2 her. I didn't strike her. I don't remember. But
3 then he remembers this and he remembers this, and he
4 remembers this and this, but he doesn't remember that.
5 "I don't remember. Maybe I whipped her and put her to
6 bed." Maybe he lost his temper. Maybe he hit her too
7 hard too many times. These are all things that are
8 discussed in these interviews. He must have because
9 he was the only person present. He comes back with
10 that recollection.

11 He remembers that Yessenia was fighting and
12 here's how he describes it, like a cat thrown in the
13 bathtub. He remembers that she was crying and
14 screaming the whole time in the shower. He remembers
15 that he doesn't think there was a problem after the
16 shower. "I'm pretty sure we laid down together after
17 the shower."

18 In his interview with Detective Fancher,
19 that we anticipate playing in its entirety, he was
20 concerned about what was going to happen going
21 forward. He was concerned with the fact that somebody
22 he cared for so much was gone because of "my hands,
23 literally my hands." You will hear that in the
24 interview, and he explained that. "I'm saying
25 literally my hands, because I did something to

1 this -- I'm the one who did this." But you will get
2 to see and hear his explanations, based on the
3 evidence, draw conclusions and reasonable inferences.

4 He remembers a lot of detail about
5 everything leading up to the shower. Yessenia was
6 fine going into the shower. She was fine coming out
7 of the shower. You will hear all the times he said,
8 "I don't know," when asked what happened. But every
9 kid does the same thing. A majority of you probably
10 have children. Each of you was a child. You all
11 lived with two little ghosts -- "Not me, and "I don't
12 know." Who made this mess? Not me, I don't know.
13 Who broke this? Not me, I don't know. Who killed
14 Yessenia? Not me, I don't know.

15 In these interviews you will hear the
16 defendant basically tell all four detectives that he
17 spoke with that he was responsible because no one else
18 was there. She was fine, and then she was dead. No
19 one else was in the house. It wasn't "not me" and it
20 wasn't "I don't know." Based on the evidence, this is
21 not a "who done it." Based on the evidence, the State
22 will prove to you that he done it, the defendant
23 Cole Duane Engelson.

24 If this was innocent, if this was a health
25 concern, if this was a slip or a fall, if this was

1 anything other than what the evidence will undeniably
2 show, what do you do immediately without any
3 hesitation? She's limp and non-responsive, out of the
4 shower, wiped with a towel. You call for help. You
5 dial 911. A child knows that. The defendant's
6 response? Lay her naked little body in bed. Who does
7 that? Well, the defendant did that, and that's what
8 you're going to hear. How many hours, based on the
9 evidence -- two? three? four? five?

10 The point is that he knew something was
11 wrong when she went limp. He laid her in bed and did
12 nothing. He took no life-saving step or measure
13 whatsoever. Who does that? The defendant did that
14 based on the evidence that you will hear. He knew
15 Yessenia was limp and non-responsive, that something
16 was wrong, but he never called for help. Didn't do
17 anything until asking Dwight to wake up his little
18 sister.

19 At the close of this case, the State will
20 be asking you to draw reasonable inferences that are
21 based on the evidence you will see and hear. You are
22 to consider only the evidence. This is another jury
23 instruction. "You are to consider only the evidence
24 in the case. But in your consideration of the
25 evidence, you are not limited to the bald statements

1 of the witnesses. On the contrary, you are permitted
2 to draw from the facts in which you find have been
3 proved such reasonable inferences as seem justified in
4 the light of your own experience."

5 You alone, collectively, have the power and
6 the authority to make that determination. It's an
7 amazing responsibility. You have the authority to let
8 him go, acquit him, not guilty, walk out the door a
9 free man. But both sides want you to listen to both
10 sides and all of the evidence. Both sides to this
11 dispute trust that we will have your attention over
12 the course of these proceedings having taken an oath
13 of being trusted with such a decision.

14 The first witness will be the person
15 receiving the 911 call. You will hear that call. And
16 we will go from there. And after the close of the
17 evidence, if you think the State hasn't proven this
18 case beyond a reasonable doubt, then let him go. No
19 consequences. Acquit him. You alone as a body have
20 that power and that authority.

21 The Judge will instruct you as a matter of
22 law that voluntary intoxication is no defense to the
23 crime alleged. Generally speaking, a person can't
24 beat a child to death and say, "I was drunk. I get to
25 go home now." Detective Alexandra Fernandes will

1 testify, the defendant not only told her how much he
2 had to drink, but he showed her the glass that he
3 drank from. You'll see the glass. You'll actually
4 see his hand in the photograph as he shows on the
5 glass how much vodka he put in the glass and how much
6 water.

7 These are all things to remember when it
8 comes time to deliberate. Who had motive to remember
9 or not what happened, how it happened, and what the
10 evidence clearly shows what must have actually
11 happened?

12 The Judge talked to you a little bit about
13 circumstantial evidence. Here's a part of that
14 instruction. "There are two types of evidence, direct
15 and circumstantial. Direct evidence is the testimony
16 of a person who claims to have personal knowledge of
17 an incident or event, such as an eyewitness.
18 Circumstantial evidence is the proof of a chain of
19 facts and circumstances which tend to prove whether or
20 not an incident or event occurred or a fact exists.
21 The law makes no distinction between the weight to be
22 given either direct or circumstantial evidence.
23 Therefore, all of the evidence in this case, including
24 circumstantial evidence, should be considered by you
25 in arriving at your verdict. You may return a verdict

1 based upon direct evidence, circumstantial evidence,
2 or a combination of both direct and circumstantial
3 evidence."

4 You don't have to see -- like the rain, you
5 don't have to see its fall to know it rained. It's
6 like the snow, you don't have to see it fall to know
7 it snowed. You don't have to see the beating
8 administered to know that a beating took place.

9 If at the close of this case after hearing
10 all of the evidence and being instructed on the law
11 from the Judge you want to acquit the defendant, go
12 ahead, you can do that. You have that power. You
13 have that authority. You can let him go.

14 I want to remind you of this: That
15 whatever you hear about a sexual assault kit or
16 preliminary test results, the Prosecution is not
17 trying to show or otherwise convince you that the
18 defendant raped Yessenia. Only two people were in the
19 house when Yessenia became limp and non-responsive
20 after coming out of the shower, according to the
21 defendant. One of them, Cole Duane Engelson, is on
22 trial because the other one is dead.

23 At the close of this trial, the
24 Prosecution, on behalf of the great State of Nevada
25 will be asking you to convict the defendant, find the

1 defendant guilty of First Degree Murder for the child
2 abuse and murder of little three-year-old
3 Yessenia Camp.

4 Thank you very much, ladies and gentlemen
5 of the jury.

6 THE COURT: Thank you, sir.

7 Ms. Boskovich.

8 MS. BOSKOVICH: "I don't know. I don't
9 remember." Throughout all of the testimony, you will
10 hear during this trial, that will be the common
11 saying. Cole Engelson told every single person he
12 spoke to, "I don't know. I don't remember what
13 happened." At the conclusion of this trial, you still
14 won't know what happened. You're going to hear from
15 dozens of witnesses. You're going to hear from
16 experts that have been flown in from across the
17 country. But none of them will be able to tell you
18 what happened on July 15th, 2017, in that house.

19 Around 7:00 p.m., Cole Engelson woke up in
20 a drunken stupor to find three-year-old Yessenia Camp
21 unresponsive, covered in bruises, lying in the bed
22 next to him. At first he thought she was still
23 sleeping. He was still drunk and half asleep himself.
24 But then he noticed one of her eyelids was slightly
25 opened. At that realization, he was immediately

1 jolted awake with a panic. He tried to wake her, but
2 she wasn't responding. He was terrified. He didn't
3 know what happened.

4 Crying, he called Victoria, Yessenia's
5 mother, and told him -- told her, excuse me -- "You
6 need to come home immediately. There's something
7 wrong with Yessenia. She won't wake up." Victoria
8 raced home. She ran inside into the master bedroom
9 where she found Yessenia unresponsive. She began
10 yelling for somebody to call 911 as she started to
11 perform CPR on Yessenia. She started screaming at
12 Cole, "What did you do?" Cole told her, "I don't know
13 what happened."

14 A few minutes later, Pahrump Valley Fire &
15 Rescue arrived on scene and began treating Yessenia.
16 They loaded her in the ambulance and took her to
17 Desert View Hospital. Victoria followed the
18 ambulance, but before she left the scene, she told
19 several Pahrump Valley Fire & Rescue personnel that he
20 killed her. A few minutes after that, the
21 Nye County Sheriff's Office arrived.

22 Over the next 24 hours, Cole Engelson will
23 have spoken to six different law enforcement
24 officials. He'll have given roughly six hours worth
25 of interviews with very little sleep, food, or water.

1 During his first two interviews, he was still
2 extremely intoxicated. And by the time he gave his
3 last four, he was sobering up, but he was still
4 dealing with a ferocious hangover.

5 While on scene, Cole Engelson spoke with
6 Deputy Burke and Detective Alexandra Fernandes. They
7 both asked him what happened, and he told them both,
8 "I don't know. I don't remember anything after giving
9 Yessenia a shower." Detective Fernandes walked with
10 Cole through the house, hoping that she could get some
11 more answers out of him, but he still couldn't
12 remember anything after giving Yessenia a shower.

13 A half-an-hour later, Detective Fernandes
14 told Cole the heartbreaking news that Yessenia Camp
15 had been pronounced deceased at Desert View Hospital.
16 He immediately began sobbing, crushed with heart break
17 and anguish. He loved that little girl as if she were
18 his own. Detective Fernandes continued asking him
19 what happened. She applauded him for being truthful
20 thus far, but he needed to tell her what happened to
21 Yessenia. In between sobs, he continued to tell her,
22 "I don't know. I don't remember what happened."

23 At that point, Cole was taken to jail. He
24 was thrown in a tiny cell by himself, stripped of all
25 of his clothing and placed in a suicide smock. He

1 wasn't able to sleep for more than a few hours before
2 he was taken over to the Sheriff's Office and placed
3 in a tiny room where he would then be interviewed by
4 his second, third, and fourth detective.

5 At 5:36 a.m., Detective Alexander Cox began
6 his interview with Cole. In an attempt to jog his
7 memory, Detective Cox asked Cole to run through his
8 day with him. Cole got off work from Little Darlings
9 in Las Vegas where he worked as a DJ around 6:00 a.m.
10 He got home just a little after 7:00 a.m., and instead
11 of going to sleep, he decided to take his family out
12 to breakfast. Cole, Victoria, Yessenia, Victoria's
13 oldest daughter Nickole, and Cole's son Little Cole,
14 all got to the Nugget for breakfast around 9:00 a.m.
15 After breakfast, he took them shopping, and then they
16 went home.

17 A little later in the afternoon, around
18 1:30 or so, Victoria and Nickole left for a girls'
19 day. They were going to go have lunch and get their
20 nails done. Victoria's son, Dwight, was already gone
21 for the day. He went with a family friend that
22 morning before breakfast, and after they got back from
23 breakfast, Little Cole went to go camping with his
24 grandma. Cole stayed home with his little minion.
25 That's what Victoria called Yessenia, Cole's little

1 minion, because she followed him around all over the
2 place and even started taking up a bunch of his
3 mannerisms.

4 After Victoria and Nickole left, Cole and
5 Yessenia were outside. She had fallen off of a chair,
6 got a little dirty, so Cole decided to give her a
7 quick shower before he put her down for a nap. And in
8 that shower, she was squirming and fussing like most
9 toddlers do because she didn't like to get her face
10 wet.

11 And that shower is the last thing that Cole
12 remembers. Because what Victoria didn't know is when
13 they got home from breakfast, Cole started sneaking
14 drinks. You see, Cole Engelson is an alcoholic. He's
15 been an alcoholic for a very long time to the point
16 that he's even been prescribed Antabuse, which as you
17 will here is often prescribed to chronic alcoholics in
18 an effort to help them stop drinking. Because if you
19 have any amount of alcohol when there's Antabuse in
20 your system, it causes a pretty bad reaction,
21 oftentimes causing a lot of people to throw up. So
22 that's the kind of alcoholic was. That's the kind of
23 alcoholic Cole was, excuse me.

24 He had been prescribed Antabuse, and he had
25 stopped taking that Antabuse prescription a few weeks

1 earlier because he wanted to be able to drink over the
2 4th of July holiday. As of July 15th, he had not
3 started taking his Antabuse again. So when he got
4 home, he started sneaking drinks. Half vodka, half
5 water in a pint glass, at least two of those but
6 probably more. He just wanted a little nightcap to be
7 able to sleep before he had to go back to work that
8 night. But as with most alcoholics, once he started,
9 he couldn't stop. And he drank to the point of
10 blacking out.

11 About three or four hours after the shower,
12 he woke up to find Yessenia unresponsive next to him
13 and panic ensued. He didn't know what happened. He
14 didn't know how she became unresponsive. And that is
15 exactly what he told Detective Cox in their interview.

16 About an hour into the interview,
17 Detective Logan Gibbs comes in, starts asking Cole the
18 same questions, and Cole tells Detective Gibbs the
19 same exact things he's told Detective Cox. He doesn't
20 know what happened. He can't remember anything after
21 giving Yessenia a shower.

22 About half an hour later,
23 Detective Wes Fancher comes into the interview and
24 takes his turn talking to Cole. Cole went through the
25 same story again, told him the same exact things he

1 had told Detective Cox and Gibbs. And then
2 Detective Fancher spent the next hour asking Cole what
3 happened over and over and over and over again. Every
4 time Cole told him, "I don't know. I can't remember."

5 Detective Fancher started throwing out a
6 bunch of possible scenarios that could have happened
7 or items that could have caused the injuries to
8 Yessenia. And each time Cole responded with, "Maybe.
9 I don't know. I can't remember. I can't answer the
10 questions because I don't remember."

11 About 7:00 p.m. on July 16th, 2017, a
12 little less than 24 hours since Yessenia had passed
13 away, Cole Engelson was still sitting in a jail cell
14 by himself at the Nye County Detention Center when
15 Lieutenant Boruchowitz pulled him into the
16 Sheriff's Office for another interview. Cole went
17 through the story again for at least the fourth time
18 and told Lieutenant Boruchowitz what happened. He
19 couldn't remember anything after the shower.

20 Lieutenant Boruchowitz, much like
21 Detective Fancher, went through a number of different
22 scenarios, a number of different possible items that
23 could have caused the injuries, scenarios that could
24 have ended up with Yessenia unresponsive, and to each
25 of these Cole said, "Maybe. I don't know. I don't

1 remember what happened. Any number of these things
2 could have happened, but I just don't remember. I
3 can't answer the question."

4 About an hour into their interview,
5 Lieutenant Boruchowitz decides to bring Victoria,
6 Yessenia's mother, into the interview to confront Cole
7 face-to-face. As soon as she walked in, Cole
8 immediately started sobbing, crushed with the fact
9 that he couldn't tell Victoria what happened to her
10 baby. She continued to ask him what happened, but he
11 couldn't answer. He loved Yessenia and Victoria, and
12 if there was any way he could have given Victoria the
13 answers that she so desperately needed that day, he
14 would have. But he just couldn't remember.

15 After about 25 minutes of intense emotional
16 yelling and crying, Lieutenant Boruchowitz escorted
17 Victoria out. He came back into the room, confirmed
18 with Cole that talking to Victoria hadn't jogged his
19 memory any further, and then he left.

20 Throughout all of his interviews with
21 law enforcement, Cole's story never changed. Yes, he
22 remembered some more details here and there as he was
23 sobering up and his head was becoming clearer. But he
24 could never remember the three- or four-hour period
25 between giving Yessenia a shower and waking up to find

1 his little minion unresponsive next to him.

2 Now, I know Mr. Martinez touched on this a
3 little bit yesterday, but I think it's important to
4 touch on again. This is going to be an emotional
5 case. A mother lost her three-year-old daughter, and
6 no one is denying that that is a tragedy. I can
7 almost guarantee that you're going to see people on
8 the stand crying. You're going to see photographs
9 that are not going to be easy to look at. You're
10 going to hear the 911 calls from when Victoria first
11 found Yessenia unresponsive. You're going to hear
12 testimony from medical experts when they talk about
13 blunt force trauma and skull fractures and
14 hemorrhaging.

15 None of this is going to be easy to hear or
16 to see, but you cannot let your emotions control in
17 this case. Emotion alone is not enough to convict
18 Cole Engelson beyond a reasonable doubt. As
19 Cole Engelson sits here today, he is an innocent man.
20 As citizens of these United States and this great
21 State of Nevada, each and every single one of us walk
22 around every day wearing a cloak of innocence. That
23 is our Constitutional right. We are innocent until
24 proven guilty. Even if suspicion is raised or
25 accusations are thrown, we are innocent until proven

1 guilty. We enjoy the right to wear that cloak of
2 innocence every single day. And it is up to the State
3 to remove that cloak of innocence and prove to you
4 that Cole Engelson is guilty beyond a reasonable
5 doubt. That is the single highest burden in our legal
6 justice system, and it is not an easy one for me.

7 At the conclusion of this trial, you'll
8 realize that the State cannot meet that burden. They
9 cannot meet that burden because they don't know what
10 happened in that house. No one does. And because
11 they don't know what happened in that house, they
12 cannot prove to you that Cole Engelson is guilty
13 beyond a reasonable doubt. Thank you.

14 THE COURT: Thank you.

15 Mr. Vitto, I vote for lunch.

16 MR. VITTO: I vote for a ten-minute recess
17 and two witnesses. Anybody want to raise me?

18 THE COURT: All right. The vote is one to
19 one.

20 Ladies and gentlemen, we're going to take a
21 recess. We're going to have you return back here at
22 one o'clock, and we'll begin calling witnesses at that
23 time.

24 During this recess, it's your duty not to
25 converse among yourselves or with anyone else on any

1 subject connected with this trial; or to read, watch,
2 or listen to any report of or commentary on the trial
3 by any person connected with the case or by any medium
4 of information, including without limitation,
5 newspapers, television, Internet, and radio.

6 Do not form or express an opinion on any
7 subject connected with this case until it is finally
8 submitted to you.

9 We're going to have you all go ahead and
10 disperse for lunch, and I'm going to talk to the
11 attorneys for a minute.

12 (Outside the presence of the jurors.)

13 THE COURT: All I wanted to talk to you
14 about was I couldn't hear what Blaise was saying. It
15 was something about his mom and money and so forth.

16 MR. MARTINEZ: Judge, it's -- I'm sorry.
17 It's that he works a minimum wage job so he feels that
18 being here is going to be a financial hardship because
19 he helps support his family. It's also hard for him
20 to get around because he rides a skateboard
21 everywhere; he doesn't drive anywhere. So all things
22 that he probably should have thought of yesterday.

23 THE COURT: And so everybody is comfortable
24 with just leaving him on at least for a while. As the
25 weeks go on --

1 MR. ARABIA: Let's see what happens.

2 THE COURT: Yeah. Like maybe at the end
3 of --

4 MR. VITTO: Maybe Monday.

5 THE COURT: -- next week, we can say,
6 "Okay. We've got enough alternates. We can kick him
7 loose." Okay. I just wanted to check with you all,
8 because I wasn't sure what he said.

9 We'll go ahead and take a lunch recess.
10 Kirk will be ready to go at 1:00.

11 MR. MARTINEZ: Thanks, Judge.

12 MS. BOSKOVICH: Thank you, Judge.

13 THE CLERK: All rise.

14 (A lunch recess is taken. Commencement
15 of proceedings outside the presence of
16 jurors.)

17 THE BAILIFF: All rise.

18 THE COURT: Thank you. Please be seated.
19 I asked Jamele for permission to come in so I can get
20 organized while we're waiting for everybody else.

21 MR. MARTINEZ: Do you want to address
22 Mr. Fernandez, Juror No. 5?

23 THE COURT: I was leaving it up to you
24 guys.

25 MR. MARTINEZ: I think what we've agreed

1 on, that we should cut him loose.

2 THE COURT: All right. So when we bring
3 them all in, I will kick him loose and I'll move 16
4 to 5. Everybody okay with that?

5 MS. BOSKOVICH: Yeah.

6 MR. MARTINEZ: Yeah.

7 THE COURT: I don't want to confuse you
8 with your pieces of paper.

9 MR. MARTINEZ: Sounds good to me, Judge.

10 THE COURT: I don't want him in the middle
11 of a trial to say, "No. 5 you gave me -- oh, shoot
12 that was 16." Bribe. I'm joking.

13 Without anybody objecting, we'll move 16 to
14 5 now.

15 If Juror No. 16 is anything like me, she
16 would say, "No, thank you. I would prefer to remain
17 back here in the corner.

18 (Whereupon State's Proposed Exhibit
19 Nos. 1, 1A, 1B, and 8 are marked for
20 identification.)

21 (The jurors are brought into the courtroom.)

22 THE COURT: We have our 16 jurors. Very
23 good.

24 Blaise, we talked about it at lunchtime
25 while you were gone, and we've all stipulated that we

1 were going to let you go. That's what you wanted;
2 right?

3 Okay. You're off the jury; so you can go.
4 Juror No. 16, which is Vicki Fordice, we would like
5 you to move up to Chair No. 5, if you will. Although,
6 I did tell the attorneys if you're anything like me,
7 you would prefer to remain back in the corner. But if
8 we bring you up to Chair No. 5, it will make it easier
9 for you to see and hear everything.

10 JUROR FORDICE: Okay.

11 (Off the record discussion.)

12 THE COURT: Okay. We're back on the
13 record. We're back in the presence of our 15 jurors.
14 We've excused Blaise Fernandez, Juror No. 5.
15 Vicki Fordice has taken No. 5's place. The State can
16 begin their case in chief now and get their first
17 witness.

18 MR. VITTO: Thank you, Your Honor. I will
19 get my first witness.

20 THE COURT: What did he say was the name of
21 the witness?

22 MR. VITTO: David Markwell.

23 THE COURT: Thank you.

24 MR. VITTO: State calls David Markwell to
25 the stand. Please step up to the witness chair, sir,

1 and be sworn.

2 Your Honor, I would ask the bailiff to move
3 the podium. Thank you.

4 THE COURT: David, can you raise your right
5 hand and be sworn?

6 Whereupon,

7 DAVID MARKWELL,
8 called as a witness on behalf of the State, was sworn
9 and testified as follows:

10 THE WITNESS: I do.

11 THE COURT: Thank you, sir. Have a seat.
12 Mr. Vitto will ask you some questions, and then the
13 Defense.

14 MR. MARTINEZ: Judge, I apologize before
15 the first question. Are we going to be instructing
16 the witnesses that if they're comfortable, they can
17 remove their mask?

18 THE COURT: We're not only going to
19 instruct them, David, we encourage it so everybody can
20 see your face and hear you clearly. But if you don't
21 want to because of Covid, you can leave it on.

22 THE WITNESS: No. I'm good.

23 MR. MARTINEZ: Thank you, Judge.

24 DIRECT EXAMINATION

25 BY MR. VITTO:

1 Q. Please state your name for the record
2 spelling your last name.

3 A. David Markwell, M-a-r-k-w-e-l-l.

4 Q. What is your occupation, sir?

5 A. Dispatch supervisor for the Nye County
6 Sheriff's Office.

7 Q. I want to direct your attention to July 15,
8 2017, how long had you been with the Nye County
9 Sheriff's Office at that time?

10 A. Two years, seven months.

11 Q. And what are your responsibilities working
12 for Dispatch?

13 A. Responsibilities are to process incoming
14 calls, both non-emergent and 911, and to create calls
15 for service, dispatch appropriate resources to them.

16 Q. Now, specific to the date that I've
17 referenced, do you recall receiving a 911 call as it
18 pertained to a three-year-old child needing medical
19 assistance?

20 A. I do.

21 Q. What was your responsibilities pertaining
22 to that specific call?

23 A. So on that call, I took the initial 911
24 call. It was my responsibility to gather the
25 information from it, ask any appropriate questions,

1 give any appropriate instructions, create a call for
2 service, and dispatch medics to that call.

3 Q. And did you in fact do that?

4 A. I did.

5 Q. Let me show you State's Proposed Exhibit 1.

6 MR. VITTO: Your Honor, permission to
7 approach this witness?

8 THE COURT: Yes.

9 Q. (By Mr. Vitto) Showing you State's
10 Proposed Exhibit 1. Feel free to pick it up, look at
11 it. Do you recognize that?

12 A. I do.

13 Q. How do you recognize it?

14 A. It's a disk containing the recording of the
15 911 call from that day. I recognize it from earlier
16 this morning in which I dated and initialed it.

17 Q. All right. So you've listened to it?

18 A. I have.

19 Q. Is it accurate?

20 A. It is.

21 MR. VITTO: Your Honor, I request that
22 State's Proposed Exhibit 1 be admitted into evidence
23 and published to the jury at this time.

24 MS. BOSKOVICH: No objection.

25 THE COURT: Granted. It's admitted.

1 (Whereupon State's Exhibit No. 1 is
2 admitted into evidence.)

3 MR. VITTO: Your Honor, did you want to
4 introduce Kassie (last name Ward)? She's going to be
5 helping the State with the exhibits.

6 MS. WARD: Do you want me to play it?

7 MR. VITTO: Hit play.

8 (The 911 call is played for the jurors.)

9 MR. VITTO: May I approach the witness,
10 Your Honor?

11 THE COURT: Yes.

12 Q. (By Mr. Vitto) Mr. Markwell, showing you
13 State's Proposed Exhibit 1A, take your time. Go
14 through that exhibit. I'd like to ask you some
15 questions about it. Look up when you've had the
16 opportunity to review it.

17 Do you recognize that?

18 A. I do.

19 Q. How do you recognize it?

20 A. It's a CAD call for service about this
21 event that was made from that 911 call.

22 Q. All right. So it's referred to as a CAD.
23 What does that mean to us?

24 A. CAD stands for computer-aided dispatch.
25 It's basically the program that all calls for service

1 are logged in, all units are kept track in. The unit
2 arrives on a scene; it documents the date and time
3 that that occurred.

4 Q. All the activity relative to that call?

5 A. Correct.

6 Q. And your dispatch as pertaining to that
7 call?

8 A. Correct.

9 Q. I want to direct your attention to four
10 entries. You'll notice an entry at 19:13:45. So it's
11 7:13 p.m. and 45 seconds. Do you see that entry?

12 A. I do.

13 Q. There's an entry that says, quote, it says,
14 Boyfriend hurt her, unquote. Now, this was
15 information that you input into that CAD?

16 A. It is.

17 Q. Okay. And that's information that you got
18 from the call?

19 A. That's correct.

20 Q. And what is your responsibility at that
21 point as it pertains to this call?

22 A. So at that point, my responsibility is to
23 document it, Make sure the appropriate resources are
24 on their way. At that time medics were already on the
25 way. I made sure that the law dispatcher knew what

1 was going on so that a deputy could be sent as well.

2 Q. All right. So you're receiving
3 information, documenting it; you're in communication?

4 A. Uh-huh.

5 Q. The second notation is at 19:14:04. And
6 what entry have you entered at that point in time?

7 A. I put in there "is intox," which is short
8 for is intoxicated.

9 Q. Okay. You were provided that information?

10 A. I was.

11 Q. From the person making the phone call?

12 A. That is correct.

13 Q. The third is at 19:14:32. And what was the
14 entry there?

15 A. That one is "blood coming out of mouth."

16 Q. Okay. And did you hear that in this call?

17 A. I did.

18 Q. And the last or the fourth is it at
19 19:14:39. What entry did you enter?

20 A. "Thinks bf hit her hard."

21 Q. Now, these entries are all from the same
22 person during the 911 emergency call that we just
23 heard?

24 A. That is correct.

25 Q. And all of that is routine; this is

1 protocol for you?

2 A. Yes.

3 MR. VITTO: Your Honor, I request that
4 State's Proposed Exhibit 1B (sic) be admitted into
5 evidence.

6 MS. BOSKOVICH: No objection.

7 THE COURT: It's admitted.

8 (Whereupon State's Exhibit No. 1A is
9 admitted into evidence.)

10 Q. (By Mr. Vitto) Mr. Markwell, who is
11 Roann Hamman? I think I'm saying her name correctly.

12 A. You are. She was a dispatcher that worked
13 for the Nye County Sheriff's Office at the time. She
14 retired later that year.

15 Q. And did you work alongside her?

16 A. I did, yes.

17 Q. Were you working with her during this call?

18 A. I was, along with our supervisor at the
19 time, Tammy Carroll.

20 Q. What was the division of labor between you
21 and Roann?

22 A. So we were both dispatchers. She was my
23 senior by several years. She was responsible for the
24 deputies in the Pahrump area that day. I was
25 responsible for the medical and fire staff.

1 Q. Okay. So you would have been communicating
2 and dispatching medical; she would have been
3 communicating and dispatching law enforcement?

4 A. Correct.

5 MR. VITTO: Your Honor, by stipulation, the
6 State would request that State's Proposed Exhibit 8 be
7 admitted into evidence and published to the jury at
8 this time.

9 MS. BOSKOVICH: Stipulated.

10 THE COURT: It's admitted.

11 (Whereupon State's Exhibit No. 8 is
12 admitted into evidence.)

13 MR. VITTO: For the Court and jury's
14 edification, this is the defendant's call to 911
15 contemporaneous.

16 / / /

17 (Exhibit 8, defendant's call to 911
18 is played for the jurors.)

19 Q. (By Mr. Vitto) And, Mr. Markwell, which
20 call came in first?

21 A. The call from the mother.

22 MR. VITTO: I have no more questions of
23 this witness at this time.

24 THE COURT: Counsel?

25 MS. BOSKOVICH: Thank you, Your Honor.

CROSS-EXAMINATION

BY MS. BOSKOVICH:

Q. So you received training before you became a dispatcher?

A. That is correct.

Q. And you were trained to document certain information?

A. Yes.

Q. What kind of information were you trained to document?

A. Anything that pertains to what is happening, details about what is happening, anything that's officer safety related, basically what we're told.

Q. And the information that you get from the caller, is all of that information then inputted into the CAD report?

A. Yes.

Q. And part of your job duty includes creating calls for service?

A. Yes.

Q. And dispatching law enforcement?

A. Yes.

Q. And dispatching fire and ambulance?

A. Yes.

1 Q. And based on the type of emergency that the
2 caller is discussing, that would then make you decide
3 which departments to dispatch?

4 A. Correct.

5 Q. And you dispatched fire and ambulance to
6 this scene; correct?

7 A. For this one, yes, I did.

8 Q. Did you immediately decide to dispatch law
9 enforcement as well?

10 A. So the call to send law enforcement was
11 ultimately to the law enforcement dispatcher; however,
12 I did request that they send them. And in most CPR
13 calls, we do send law enforcement as well.

14 Q. Just as a precaution?

15 A. As a precaution, yeah.

16 Q. And you said the computer -- I'm sorry, the
17 CAD stands for computer-aided dispatch?

18 A. Correct.

19 Q. So the report is computer generated in
20 part?

21 A. I'm sorry? I do not quite --

22 Q. Let me rephrase. So the time logs and all
23 of that type of information, that's inputted by the
24 computer?

25 A. Yes. As soon as we hit accept or enter on

1 a piece of information, it goes in with that date and
2 timestamp that's provided by the computer system.

3 Q. So you have to type in some information
4 first?

5 A. Uh-huh.

6 Q. Okay. In looking at page -- page 5 of the
7 CAD report, there's a lot of different entries in the
8 middle of the page from outside organizations or
9 different people. For example, at 19:19:30, we have
10 an entry from Pahrump Valley Fire & Rescue?

11 A. Yes.

12 Q. When you received information from outside
13 agencies, how is that information inputted into the
14 CAD report?

15 A. So it's typed in using a command. It's
16 called a CCU command. Basically, it logs the
17 information in underneath the name of the person
18 giving it, as well as the name of the dispatcher. So
19 in that one it shows it was logged by me from
20 Pahrump Valley Fire.

21 Q. And is that something Pahrump Valley Fire
22 is telling you over the radio?

23 A. That is correct.

24 Q. And so you are typing in -- for example, on
25 that one, you typed in "Deputy to location. We are

1 not Code 4"?

2 A. That's correct.

3 Q. What does "not Code 4" mean?

4 A. It means that the situation is not okay,
5 that something's happening that they need immediate
6 assistance.

7 MS. REPORTER: Ronni, did you say "not go
8 for"?

9 MS. BOSKOVICH: Not Code 4.

10 MS. REPORTER: Oh, okay. Thank you.

11 Q. (By Ms. Boskovich) So you dispatched
12 Pahrump Valley Fire & Rescue immediately in this case?

13 A. Yes.

14 Q. And you stayed on the line with the caller
15 until they arrived?

16 A. Until they took over for her, yes.

17 Q. What does it mean when the CAD report says
18 "delayed entry"?

19 A. So that means that there was a note that I
20 noticed I missed getting in there. So I noted it at
21 that time with a note "delayed entry" to show that I
22 was late adding it to it.

23 Q. But it was still information you received
24 during that call?

25 A. That is correct.

1 MS. BOSKOVICH: No more questions,
2 Your Honor.

3 THE COURT: Mr. Vitto?

4 MR. VITTO: Nothing.

5 THE COURT: Thank you for testifying. You
6 may step down.

7 Is he subject to recall?

8 MR. VITTO: Subject to recall, Your Honor.

9 THE COURT: Don't talk about the case with
10 anyone but the attorneys.

11 THE WITNESS: Yes, sir.

12 MR. VITTO: Your Honor, the State calls
13 Cody Vigil to the stand.

14 Please step up to the witness chair, sir,
15 and be sworn.

16 THE BAILIFF: Would you please raise your
17 right hand.

18 Whereupon,

19 CODY VIGIL,
20 called as a witness on behalf of the State, was sworn
21 and testified as follows:

22 THE WITNESS: I do.

23 THE COURT: Thank you. Have a seat,
24 please.

25 DIRECT EXAMINATION

1 BY MR. VITTO:

2 Q. Please state your name for the record
3 spelling your last name.

4 A. Cody Vigil, V-i-g-i-l.

5 Q. What is your occupation, sir?

6 A. I'm a detective and a forensic examiner --
7 or digital forensic examiner for the Las Vegas
8 Metropolitan Police Department.

9 Q. And how long have you been so employed?

10 A. I've been with the Department for 11 years,
11 sir.

12 Q. And how long have you been a detective?

13 THE COURT: Can you pull the microphone
14 closer to you there? I'm having trouble hearing you.

15 THE WITNESS: All right. There you go.

16 Q. (By Mr. Vitto) How long have you been a
17 detective?

18 A. Two years.

19 Q. And what is your specialty?

20 A. As a digital forensic examiner, I work with
21 computer forensics, mobile device forensics, and video
22 forensics.

23 Q. Did you have an opportunity to help
24 Nye County recently in your professional capacity?

25 A. I did.

1 Q. What did you do.

2 A. I clarified the audio of a 911 recording to
3 remove some background noise and make the speech
4 easier to understand.

5 Q. And how did you do that?

6 A. I utilized a program called Audacity which
7 is a program for working with audio, and I reduced the
8 background noise.

9 Q. In so doing, did you affect the original
10 911 recording in any substantive matter?

11 A. No, I did not.

12 Q. You didn't add anything?

13 A. No, sir.

14 Q. So let me show you State's Proposed
15 Exhibit 1B.

16 MR. VITTO: May I approach the witness,
17 Your Honor.

18 THE COURT: Yes.

19 Q. (By Mr. Vitto) Go ahead and take a look at
20 that. I'm going to ask you some questions about it?

21 A. Okay.

22 Q. Is that what you're referencing?

23 A. It is.

24 Q. So there's a version on there that you
25 received from Nye County?

1 A. That is correct.

2 Q. And then there's the version that is the
3 finished product?

4 A. Yes, sir.

5 Q. And I believe, if I'm not mistaken, on that
6 CD, does it say "derivative version"?

7 A. Derivative audio.

8 Q. Derivative audio; okay. So that's your
9 completed product?

10 A. That's correct.

11 MR. VITTO: Your Honor, at this time I
12 request that State's Proposed Exhibit 1B be admitted
13 into evidence and published to the jury.

14 MS. BOSKOVICH: No objection.

15 THE COURT: It's admitted.

16 / / /

17 (Whereupon State's Exhibit No. 1B is
18 admitted into evidence.)

19 (Derivative audio CD played for jurors.)

20 Q. (By Mr. Vitto) Detective Vigil -- Vigil,
21 excuse me -- obviously, we can still hear a lot of
22 background noise. It's still difficult to understand.
23 But do I understand that you simply did the best you
24 could with what you had?

25 A. That's correct.

1 MR. VITTO: I have no more questions of
2 this witness at this time.

3 THE COURT: Counsel?

4 MS. BOSKOVICH: Thank you, Your Honor.

5 CROSS-EXAMINATION

6 BY MS. BOSKOVICH:

7 Q. Detective Vigil, you said you're a digital
8 forensic examiner?

9 A. That's correct.

10 Q. What does that entail?

11 A. Typically, we're going to take some kind of
12 digital evidence, use a forensic process to present
13 that to a court or to a case agent, whatever it may
14 be.

15 Q. What is that forensic process?

16 A. It's going to vary depending on the type of
17 media.

18 Q. How long have you been a digital forensic
19 examiner?

20 A. Approximately two years.

21 Q. Did you have to go through specialized
22 training to become?

23 A. I did.

24 Q. And walk me through that training.

25 A. My two certifications that are relevant to

1 this: One is the CFCE which is a certified forensic
2 computer examiner. That's a certification that's
3 issued by the International Association of Computer
4 Investigative Specialists, which we commonly refer to
5 as IACIS. And then another certification I have is
6 the CFVT which is certified forensic video technician,
7 and that is from LEVA which stands for Law Enforcement
8 & Emergency Services Video Association. It's a video
9 forensic certification.

10 Q. So that first one you referenced CFCE, how
11 long does it take to get that certification?

12 A. I believe the independent or the peer
13 review process is approximately six months. Plus we
14 went to training for two weeks in person.

15 Q. And how long for the CFVT?

16 A. That was -- that's more difficult to say.
17 I guess the best way of saying it would be I went to
18 two separate trainings that were each a week long.

19 Q. And do you have to get certifications every
20 year or so to stay up?

21 A. I do. I maintain all of my certifications,
22 yes.

23 Q. How many -- I assume you've cleaned up
24 audios before like this?

25 A. I use the term clarify, but yes, I've done

1 it before.

2 Q. Clarify. So how many audio recordings have
3 you clarified in your time as a digital forensic
4 examiner?

5 A. It's not something that we do all that
6 often. I would say maybe five, approximately.

7 Q. Including this one?

8 A. That's correct.

9 Q. And you mentioned the program Audacity?

10 A. That's correct.

11 Q. Is that -- is that a program that just
12 anyone can access, or is that specifically used for
13 law enforcement?

14 A. No, that's a program that's free. Anyone
15 can use it.

16 Q. And so in cleaning up the program -- I'm
17 sorry, in cleaning up the audio recording, you
18 referenced a lot of different tools such as noise
19 reduction tool?

20 A. That's correct.

21 Q. And a compressor tool?

22 A. Correct.

23 Q. Can you explain what those do?

24 A. Sure. So the compression tool is a tool,
25 what it does is it tries to make the difference

1 between the most quiet sound and the loudest sounds,
2 it tries to bring that closer together so it's more --
3 I don't want to use the word compressed, but it's
4 closer together.

5 So if you have something that's very quiet
6 like a whisper and something very loud like a scream,
7 if you were trying to listen to that audio, you're not
8 going to be able to hear very well the whisper, and
9 the scream is going to hurt your ears. So in that
10 case it's bringing the amplitude which is how loud
11 those sounds are closer together.

12 Q. And after you provided -- after you
13 clarified the audio, you provided it back to
14 Investigator Arms at the DA's Office?

15 A. That is correct.

16 MS. BOSKOVICH: No further questions.

17 THE COURT: Mr. Vitto?

18 MR. VITTO: Nothing further, Judge.

19 THE COURT: Thank you, sir. You can step
20 down.

21 Is he subject to recall?

22 MR. VITTO: No, Your Honor.

23 THE COURT: You can be permanently excused.
24 Thank you.

25 THE WITNESS: Thank you.

1 MR. VITTO: Josh Teter.

2 Your Honor, may have permission to move
3 about the well freely without asking permission to
4 approach the witness each time?

5 THE COURT: Yes.

6 MR. VITTO: Thank you.

7 The State calls Josh Teter to the stand.

8 THE BAILIFF: Will you please face the
9 clerk, sir, and raise your right hand.

10 Whereupon,

11 JOSHUA TETER,
12 called as a witness on behalf of the State, was sworn
13 and testified as follows:

14 THE WITNESS: I do.

15 THE COURT: Thank you, sir. Have a seat.
16 You can remove your mask if you're comfortable with it
17 so they can see your face and hear you. But if you
18 want to keep it on because of Covid, that's fine.

19 THE WITNESS: Thank you, Your Honor.

20 MR. VITTO: May I have the Court's
21 indulgence just a moment, please?

22 DIRECT EXAMINATION

23 BY MR. VITTO:

24 Q. Please state your name for the record
25 spelling your last name.

1 A. Joshua Teter, T-e-t-e-r.

2 Q. What is your current occupation?

3 A. I'm a deputy sheriff in Curry County,
4 Oregon.

5 Q. Directing your attention to July 15, 2017,
6 how were you employed on that day?

7 A. I was with the Nye County Sheriff's Office
8 as a K9 deputy.

9 Q. And how long had you been with the
10 Nye County Sheriff's Office at that time?

11 A. About a year-and-a-half.

12 Q. How long have you been in law enforcement
13 total?

14 A. Coming on eight years.

15 Q. I want to direct your attention to
16 approximately 7:15 on the evening of July 15th, 2017.
17 Do you recall being dispatched to Desert View Hospital?

18 A. I do.

19 Q. For what purpose?

20 A. To assist patrol with a report about an
21 unresponsive female. When I arrived there, I noticed
22 it was a juvenile.

23 Q. Can you describe your first visual
24 observation or impression regarding the child that you
25 saw?

1 A. I observed a pin-sized circular and oval
2 shaped bruising from her foot to her head, as well as
3 her buttocks and her back. There was blood exiting
4 from her mouth, and the doctor showed me bruising on
5 her hairline just above the neck, around the neck on
6 the hairline.

7 Q. And I'm sorry, did you reference her
8 buttocks?

9 A. I did.

10 Q. What did you see in regard to her buttocks?

11 A. There was bruising on her back and
12 buttocks.

13 Q. How long were you there with the child?

14 A. The whole time.

15 Q. How long? What kind of period of time?

16 A. I believe maybe two hours, hour-and-a-half.

17 Q. All right.

18 A. I'm not a hundred percent on the time.

19 Q. I understand. Was there a point in time
20 when James from Lee Funeral Home or Pahrump Valley
21 Mortuary, one or the other, showed up?

22 A. Yes.

23 Q. What was the purpose of that?

24 A. To take her body to the Clark County
25 Coroner's Office.

1 Q. And did you have any involvement with that
2 process?

3 A. I put toe tags on the toe in the body bag,
4 and then I sealed the body bag.

5 Q. So you actually placed a toe tag on the
6 body?

7 A. Yes, sir, on the toe.

8 Q. And you put the tag on the body bag itself?

9 A. Yes.

10 Q. And that's sealed?

11 A. Yes, with a -- I don't know what they call
12 it, but it's just a red seal.

13 Q. All right. And the numbers are the same,
14 the number on the toe tag and the bag?

15 A. They should.

16 Q. All right. And what happened after that?
17 After you did what you did with the tag -- the toe tag
18 and the body tag, what happens next?

19 A. I took photographs before I left.

20 Q. Okay.

21 A. But after that, I wasn't involved.

22 Q. So you photographed the body before the
23 body was sealed in the body bag?

24 A. Yes, sir.

25 Q. I'd like to show you some photographs,

1 State's Proposed Exhibits 7A through M (sic), and 4A.

2 (Whereupon State's Proposed Exhibit
3 Nos. 7A through L and 4A are marked for
4 identification.)

5 Q. (By Mr. Vitto) Do you happen to know what
6 time the child left Desert View Hospital?

7 A. I do not recall, no.

8 Q. I understand that you took some
9 photographs. I'm about to show those to you. Have
10 you seen anything like this before that night?

11 A. I have not.

12 Q. Have you seen anything like this since?

13 A. No.

14 Q. This is an incident that is clear in your
15 mind?

16 A. Yes.

17 MR. VITTO: Ready to go? Thanks.

18 THE CLERK: A through L.

19 MR. VITTO: A through L?

20 THE CLERK: Yeah.

21 MR. VITTO: Thank you very much.

22 Q. (By Mr. Vitto) I would like to show you
23 what has been preliminarily marked --

24 You guys want to see them first?

25 (Defense counsel view the photos.)

1 Q. (By Mr. Vitto) I would like to show you
2 State's Proposed Exhibits 4A, and 7A through L. Take
3 your time, go through these photographs. Look up when
4 you're done. I'll ask you some questions.

5 Have you had time to review those
6 photographs?

7 A. Yes.

8 Q. Do you recognize those?

9 A. Yes.

10 Q. How do you recognize those?

11 A. I took them.

12 Q. Are they accurate?

13 A. Yes.

14 MR. VITTO: Your Honor, I would request
15 that State's Proposed Exhibits 4A, and 7A through L be
16 admitted into evidence.

17 MS. BOSKOVICH: No objection.

18 THE COURT: They're admitted.

19 MR. VITTO: Thank you, Your Honor.

20 (Whereupon State's Exhibit Nos. 4A and
21 7A through L are admitted into evidence.)

22 Q. (By Mr. Vitto) Which photograph best
23 represents the bruises you saw globally from feet to
24 forehead, if you were going to pick out one of those
25 photographs?

1 A. The one on her chin, or I believe there is
2 one on the forehead.

3 Q. Is there a photograph that is a full-body
4 photograph that best represents the bruising that you
5 saw?

6 A. Yes.

7 Q. And what number?

8 A. And I believe it's her backside.

9 Q. And what number is that?

10 A. One of them is 7I, and that's the front
11 side.

12 Q. Got it. And is there one for the backside?

13 A. Yes. Hold on. 7E.

14 Q. And did -- was there blood coming from her
15 mouth?

16 A. Yes.

17 Q. What photograph is that?

18 A. It's hard to see it, but in photographs 7A
19 and 7I.

20 Q. Got it. Is there a photograph that
21 depicts -- you referenced speaking with the doctor and
22 bruising on the back of her head near her hairline.
23 Is there a photograph that depicts that?

24 A. I don't know. No, there's not.

25 Q. All right. How about a photograph of the

1 toe tag?

2 A. I don't believe I saw it on this one or
3 these ones.

4 Q. You don't see it there?

5 A. I do not see it in any of those.

6 MR. VITTO: Your Honor I request that
7 photographs 7I, E, and A be published to the jury at
8 this time.

9 MS. BOSKOVICH: No objection.

10 THE COURT: You can publish them.

11 MR. VITTO: For the Court's edification,
12 Your Honor, we're going to be publishing them by
13 putting them up on the screen. It will be 7I, 7E, and
14 7A.

15 THE COURT: Is there any juror that doesn't
16 have a good view of the screen?

17 (No response from jurors.)

18 THE COURT: All right.

19 MR. VITTO: And the purpose of, that
20 Your Honor, is with social distancing it's a little
21 awkward. Each person would have to stand up.

22 THE COURT: My only concern is the staff
23 working the technology, and we already sent the only
24 18-year-old we had out of the courtroom.

25 MS. WARD: This is 7A.

1 MR. VITTO: 7A?

2 MR. MARTINEZ: May I approach with the
3 technology first, Judge?

4 THE COURT: Yes, sir.

5 MR. MARTINEZ: Thank you.

6 THE COURT: Would you like a short recess?
7 We'll take a ten-minute recess.

8 During this recess, don't converse with
9 anybody about the trial. Don't form or express an
10 opinion. Don't look at television, Internet, radio.
11 We'll meet back in here about ten minutes.

12 THE BAILIFF: All rise.

13 (A short recess is taken.)

14 (Whereupon State's Proposed Exhibit
15 Nos. 60A, B, and C were marked for
16 identification.)

17 THE BAILIFF: All rise.

18 THE COURT: Thank you. Please be seated.
19 All right. We're back in the presence of our 15
20 jurors. We'll ask the State to continue with their
21 Direct Examination.

22 MR. VITTO: Thank you, Your Honor. We're
23 going to publish three photographs at this time. I
24 believe we're starting with 7A.

25 Go ahead.

1 (State's Exhibits 7A, 7E, and 7I are
2 shown to the jurors.)

3 MR. VITTO: And next. And which one is
4 this?

5 MS. WARD: This is 7E.

6 MR. VITTO: And which one is next?

7 MS. WARD: 7I.

8 MR. VITTO: Thank you.

9 Q. (By Mr. Vitto) Now, Mr. Teter, you
10 mentioned at the very beginning of your direct
11 examination you remember seeing circular oval-shaped
12 bruising all over body. Are those representative of
13 photographs that have been admitted into evidence?

14 A. Yes.

15 Q. I want to show you three more photographs,
16 60A, 60B, and 60C.

17 (State shows them to Defense counsel.)

18 Q. (By Mr. Vitto) I would like you to go
19 ahead and review those. Let me know when you're ready
20 to talk about them?

21 A. I'm done.

22 Q. Do you recognize those?

23 A. Yes.

24 Q. They're accurate?

25 A. Yes.

1 Q. Did you take those?

2 A. Yes.

3 Q. And we talked about, there's been testimony
4 from you regarding your putting a tag on the little
5 girl's toe and also putting a tag on the bag; is that
6 correct?

7 A. Yes.

8 Q. Is that what we see depicted in those
9 photographs?

10 A. Yes.

11 MR. VITTO: Your Honor, I would request
12 that 60A through C be admitted into evidence.

13 MS. BOSKOVICH: No objection.

14 THE COURT: They're admitted.

15 (Whereupon State's Exhibit Nos. 60A,
16 60B, and 60C are admitted into evidence.)

17 MR. VITTO: I have no more questions of
18 this witness at this time.

19 THE COURT: Counsel?

20 MS. BOSKOVICH: Thank you, Your Honor.

21 CROSS-EXAMINATION

22 BY MS. BOSKOVICH:

23 Q. You said you've been in law enforcement for
24 about eight years?

25 A. In January, it will be eight.

1 Q. And you were only with Nye County
2 Sheriff's Office for a year-and-a-half?

3 A. Two years total almost.

4 Q. Where did you work before that?

5 A. I was up in Carson City. And then I moved
6 to Vegas, went to Clark County School Police, and then
7 Nye County.

8 Q. And now you're in law enforcement still in
9 Oregon?

10 A. Yes.

11 Q. When you became a deputy with the
12 Nye County Sheriff's Office, what kind of training did
13 you go through?

14 A. Just field training, and then K9 training
15 once I got basic handler school once I got a K9.

16 Q. What does field training entail?

17 A. How to train us to take calls and do our
18 job on the streets.

19 Q. Were you trained in report writing?

20 A. Yes.

21 Q. And you were trained to include all
22 important details in your report?

23 A. Yes.

24 Q. And so is it safe to say that if a detail
25 is not in your report, you would consider it

1 unimportant?

2 A. Yes, but I might have forgotten something.

3 Q. That's fair. Was there a policy on how
4 soon you would write a report after an incident
5 occurred?

6 A. I don't recall policy, but if you did a
7 coroner's report, it had to be done before you went
8 home.

9 Q. So same shift?

10 A. Yes.

11 Q. Did you do a coroner's report?

12 A. It was just a report that you send to the
13 coroner's.

14 Q. And you're trained in documenting a crime
15 scene?

16 A. Just the basic from Academy. I haven't
17 done a full detective's thing. They go more in-depth.

18 Q. What does the basic training entail?

19 A. To try to get accurate measurements and
20 up-close pictures.

21 Q. And it's pretty much the same for
22 documenting physical injuries or physical evidence as
23 well?

24 A. Yeah, I believe so.

25 Q. Was there any type of specific training on

1 documenting physical injuries of a deceased victim?

2 A. Just take pictures, and then usually a
3 detective would do all that, because that's what
4 they're trained to do.

5 Q. And when you were dispatched to
6 Desert View Hospital on July 15th, 2017, you were
7 instructed to take photographs?

8 A. Once I got there, yeah, they asked me to.

9 Q. Who asked you to?

10 A. I believe it was a sergeant.

11 Q. Do you remember which sergeant or who it
12 was at that time?

13 A. No. I don't remember the sergeant.

14 Q. Did you stay with -- well, what happened
15 when you arrived to Desert View Hospital?

16 A. I got there just right at the same time as
17 the ambulance, and then we went in. And they
18 conducted CPR on her for about a half-hour.

19 Q. Did you stay with the doctors and Yessenia
20 the whole time you were there?

21 A. I did.

22 Q. You had never met Yessenia before; correct,
23 the victim?

24 A. No.

25 Q. You had never met her mom before?

1 A. No.

2 Q. You indicated that you took measurements of
3 some of the injuries; correct?

4 A. Yes.

5 Q. What determined which injuries you would
6 take measurements of and which ones you wouldn't?

7 A. I just started measuring some, just because
8 the doctor told me he believed she passed due to
9 trauma. So I just took what I could.

10 MS. BOSKOVICH: Okay. No more questions,
11 Your Honor?

12 THE COURT: Mr. Vitto?

13 MR. VITTO: Your Honor, just as a
14 housekeeping matter, just to make sure I have no more
15 questions, would ask that State's Proposed Exhibits 7A
16 through L, 60A through C, and 4A be admitted into
17 evidence.

18 THE COURT: Yes. They've all been
19 admitted.

20 MR. VITTO: Thank you, Your Honor. I have
21 no more questions.

22 THE COURT: Did you say you had more
23 questions?

24 MR. VITTO: I have no more questions.

25 THE COURT: Okay. Thank you for

1 testifying. You may step down.

2 Is he subject to recall?

3 MR. VITTO: He is not.

4 THE COURT: Okay. You can be permanently
5 excused.

6 Who is the note from, Jamele?

7 THE BAILIFF: Did you put your juror number
8 on there?

9 JUROR NO. 1: Yes.

10 THE BAILIFF: Juror 1.

11 Would you please face madam clerk and raise
12 your right hand?

13 Whereupon,

14 OFFICER JAMES BURKE,
15 called as a witness on behalf of the State, was sworn
16 and testified as follows:

17 THE WITNESS: I do.

18 THE COURT: Thank you. You can have a
19 seat.

20 THE WITNESS: Thank you, Judge.

21 DIRECT EXAMINATION

22 BY MR. VITTO:

23 Q. Please state your name for the record
24 spelling your last name.

25 A. James Burke, B-u-r-k-e.

1 Q. What is your current occupation?

2 A. I'm a detective with the Lincoln City
3 Police Department in Oregon.

4 Q. Let me direct your attention to July 15th,
5 2017, how were you employed on that day?

6 A. I was a deputy sheriff with the Nye County
7 Sheriff's Office.

8 Q. And how long had you been with the
9 Nye County Sheriff's Office at that time?

10 A. Approximately two-and-a-half years.

11 Q. And how long have you been with law
12 enforcement now?

13 A. Six years.

14 Q. Did you respond to 5320 East Manse Road
15 July 15th, 2017?

16 A. I did.

17 Q. Is that in Pahrump Township, Nye County,
18 Nevada?

19 A. Yes.

20 Q. What was your response to that location on
21 that day in reference to?

22 A. It was a medical assist, CPR in progress.

23 Q. And what time did you arrive?

24 A. Approximately 1911 hours.

25 Q. 7:11 that evening?

1 A. Yes.

2 Q. Got you. Detective, what did you observe
3 upon arrival?

4 A. I met with medics in the roadway. They
5 told me that there was a white male adult in the
6 driveway acting erratically and that they had just
7 transported a female child to the hospital that was
8 not breathing.

9 Q. Did you make contact with Cole Duane Engelson
10 on that day contemporaneous to that time of your
11 arrival?

12 A. I did.

13 Q. And how would you describe his behavior?

14 A. I wouldn't say he was acting erratically.
15 It was noticeable that he was upset and crying.

16 Q. Did you involve him with any kind of
17 dialogue?

18 A. Yes. I asked him a few questions such as
19 what had happened. He told me he didn't know. And I
20 asked him if he could take me inside where everything
21 had happened.

22 Q. So you asked him what had happened; he said
23 he didn't know. Was he able to provide any other
24 information?

25 A. Yes. He said he put the child into the

1 shower and that she must have hit her head, because
2 when he checked on her, she wasn't conscious.

3 Q. So you were able to engage him in dialogue
4 at the scene?

5 A. Yes.

6 Q. Was he able to articulate rational
7 responses to your questions?

8 A. Yes.

9 Q. And I'm sorry, how long have you been in
10 law enforcement?

11 A. Six years.

12 Q. Have you seen erratic people?

13 A. Yes.

14 Q. Irrational people?

15 A. Yes.

16 Q. Drunk people?

17 A. Yes.

18 Q. How often do you come into contact with
19 persons that are obviously intoxicated?

20 A. Pretty much on a daily basis.

21 Q. Was he able to show you where everything
22 happened?

23 A. Yes.

24 Q. Where did he take you?

25 A. He took me into a bathroom.