

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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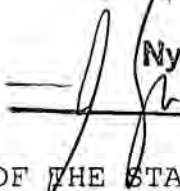
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1 No. CR-9226

2 Dept. No. 2

FILED
FIFTH JUDICIAL DISTRICT

FEB 05 2021


Nye County Clerk
Deputy

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 3

NOVEMBER 6, 2020

8:40 A.M.

PAHRUMP, NEVADA

14 APPEARANCES:

15 For the State:

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24 The Defendant:

COLE D. ENGELSON

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

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20C - Sexual Assault Kit

7

10

10 A-C - Pictures of soap on a rope

19

20

11 - Soap on a rope

20

23

9 - Crime Scene Attendance Log

42

43

17 - White towel with blood spots

52

NA

16 - Transcript of Interview with
defendant and Detective Fernandes

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18 - Picture of defendant's call log
on his cell phone

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19 A-E - Two CDs with parts of Interview
with defendant on the day of
the incident

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20A - Forensic Laboratory Request Form

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21 A-G - Photos of bathroom and items
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2 - Picture of Yessenia

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3 - Medical records for the victim
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3 A-B - Two pictures of victim's chin

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1 PAHRUMP, NYE COUNTY, NEVADA, FRIDAY, NOVEMBER 6, 2020

2 8:40 A.M.

3 -oOo-

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

5
6 THE BAILIFF: All rise.

7 THE COURT: Good morning. Thank you.
8 Please be seated.

9 MR. VITTO: Good morning, Your Honor.

10 THE COURT: Good morning. Just as my
11 bailiff swung open the door, I was saying to my staff,
12 "I'm ready for a nap." So allegedly, Buildings and
13 Grounds got the air on. I don't appreciate rioting
14 and rebellion. I took your note serious.

15 We're on Day 3 of our trial. All 15 jurors
16 are present. We're in the midst of the State's case
17 in chief, and we're going to ask them to call their
18 next witness.

19 MR. VITTO: Your Honor, the State calls
20 Amanda Senger to the stand.

21 THE COURT: Thank you.

22 If you can approach up here to the witness
23 stand, please. Before you sit down, we'll have you
24 raise your right hand and be sworn.

25 / / /

1 Whereupon,

2 AMANDA SENGER,

3 called as a witness on behalf of the State, was sworn
4 and testified as follows:

5 THE WITNESS: I do.

6 THE COURT: We like them to be able to see
7 your face and hear you. And so if you can remove your
8 mask, that would be great. If you won't because
9 you're scared of Covid and stuff, that's fine.

10 THE WITNESS: Okay.

11 DIRECT EXAMINATION

12 BY MR. VITTO:

13 Q. Please state your name for the record
14 spelling your last name.

15 A. Amanda Senger, S-e-n-g-e-r.

16 Q. What is your current occupation, ma'am?

17 A. I am a forensic pathology technician.

18 Q. And where are you currently employed?

19 A. I work at the Clark County Coroner's
20 Office.

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

22 A. I've been there 11 years.

23 Q. And what are your job duties?

24 A. I work alongside the medical examiners in
25 conducting internal and external examinations. I also

1 do photographs on all of our cases, including
2 homicides, suspicious cases, and child death cases. I
3 collect toxicology samples for testing as well as
4 evidence and sexual assault kits.

5 Q. So tell us about your journey. How did you
6 get to be where you are today in that capacity?

7 A. Well, after graduating high school, I
8 worked as a veterinary technician and continued my
9 education at Kent State University where I got a
10 bachelor's of science. After graduation, I worked as
11 a necropsy lab manager at the Kansas State University
12 Veterinary Teaching Hospital where I performed
13 necropsies, which is animal autopsies. In 2009, I
14 moved to Las Vegas and started at the Coroner's Office
15 then.

16 Q. All right. Thank you very much. Let me
17 show you State's Proposed Exhibit 20C.

18 (Whereupon State's Proposed Exhibit

19 No. 20C was marked for identification.)

20 (Showing exhibit to Defense Counsel.)

21 Q. (By Mr. Vitto) Handing you this exhibit, I
22 would like you to take a look at it. Take your time,
23 make yourself familiar with it. I'd like to ask you
24 some questions about it when you've had that
25 opportunity.

1 A. Okay.

2 Q. Do you recognize that?

3 A. Yes, I do.

4 Q. How do you recognize that?

5 A. It's a Sexual Assault Evidence Collection
6 Kit.

7 Q. Initially, do you receive a kit like that
8 in a sealed condition?

9 A. Yes. The kits are received with a
10 tamper-resistant tape on the back.

11 Q. All right. Did you use that kit to
12 preserve samples as it pertains to a little girl named
13 Yessenia Camp?

14 A. Yes, I did.

15 Q. How did that come about?

16 A. It was requested at the time of processing
17 by Nye County Detective Fernandes.

18 Q. So what is the process? How do you utilize
19 that kit?

20 A. You open the kit and collect case
21 appropriate samples and just follow the step-by-step
22 instructions in the protocol that's located within the
23 kit itself.

24 Q. So in this example, what exactly -- or in
25 this case, this situation, what exactly did you do?

1 A. I collected buccal swabs, which is the
2 inside of the cheek. I collected an oral swab, as
3 well vaginal, cervical, and rectal swabs as it
4 pertains to this case.

5 Q. And what exactly is a "buccal swab"?

6 A. It just goes along the inside of the cheek
7 lining.

8 Q. Okay. And it's called a buccal swab
9 because it goes along the cheek?

10 A. Yes.

11 Q. I understand. And is it just a Q-tip that
12 is used or something like a Q-tip?

13 A. It's an Q-tip, yes.

14 Q. What did you do with that exhibit after the
15 samples are collected?

16 A. After the samples are collected, I seal
17 them in their appropriately labeled envelopes, and
18 then all of the envelopes are placed inside of this
19 original large envelope, along with any swabs that
20 weren't obtained at the time of processing. And then
21 it's sealed with evidence tape. I sign it and date
22 it.

23 Q. And that is all according to protocol?

24 A. Yes. That follows the protocol found
25 within the Sexual Assault Collection Kit.

1 Q. And of course according to your testimony,
2 what we have in front of us as State's Proposed
3 Exhibits 20C bears your signature; is that correct?

4 A. Yes.

5 Q. You sealed it?

6 A. Yes.

7 Q. And what did you do with it after that?

8 A. I handed it to Detective Fernandes.

9 Q. And was that the extent of your involvement
10 with this matter?

11 A. Yes, it is.

12 MR. VITTO: Your Honor, I would request
13 that State's Proposed Exhibit 20C be admitted into
14 evidence.

15 MR. MARTINEZ: No objection, Judge.

16 THE COURT: It's admitted.

17 (Whereupon State's Exhibit No. 20C is
18 admitted into evidence.)

19 MR. VITTO: I have no more questions of the
20 witness at this time.

21 THE COURT: Counsel?

22 MR. MARTINEZ: Thank you.

23 CROSS-EXAMINATION

24 BY MR. MARTINEZ:

25 Q. Good morning, Ms. Senger.

1 A. Good morning.

2 Q. You said you have been a forensic pathology
3 tech for 11 years now?

4 A. Yes.

5 Q. The entire time with the Clark County
6 Coroner's Office?

7 A. I worked part-time initially and then
8 started full-time.

9 Q. Great. During that 11 years, any idea how
10 many of these sexual assault kits you've done?

11 A. If I had to guess, it would be around six
12 to a dozen a year.

13 Q. A year?

14 A. Yeah.

15 Q. Okay. So they don't come up all that
16 often?

17 A. They're not terribly common, but about a
18 dozen a year, so one a month.

19 Q. Is there any sort of report that you writer
20 or notes that you take as you're going through the
21 kit?

22 A. There's no report that I write. The only
23 thing that we do on our end at the office is photo
24 document where we're collecting samples from. So that
25 would include vaginal and rectal swabs, just kind of

1 showing where each of those samples were collected
2 from.

3 We also enter into our case notes system in
4 our case management system that we obtained the kit.
5 And it's basically why we obtained the kit, who
6 requested it, and just that basic information.

7 Q. I see. So was there anything that you
8 needed -- that you referenced before taking the stand
9 today to refresh your memory about the collecting of
10 the samples in this case?

11 A. Yes. I pulled up our case management
12 system and just referred to the photos and everything.

13 Q. And did you personally take the photographs
14 in this case?

15 A. I did, yes.

16 Q. Now, I believe you said there were five
17 different swabs as part of the sexual assault kit?

18 A. There are actually more swabs than that
19 within the kit. So you use basically what is
20 appropriate for the case. If memory serves, there's a
21 lot of different ones. But you collect actually
22 undergarments, which wasn't applicable in this case.
23 You collect penile swabs, which aren't applicable in
24 this case; as well as bite marks, secretions, other
25 areas that might be case to case dependent.

1 Q. Okay. So which swabs did you do in this
2 case?

3 A. I did the buccal, oral, vaginal, cervical,
4 and rectal.

5 Q. What is -- you said the buccal is the
6 inside of the cheek; right?

7 A. Yes.

8 Q. So what's the difference between the buccal
9 and the oral swab?

10 A. That's a good question. So the buccal is
11 basically a standard -- it's just showing the DNA of
12 the person that you're taking the swab on. It's what
13 you do when you do DNA testing for paternity. The
14 oral would show if there was any DNA that wasn't from
15 the decedent itself.

16 Q. Is the oral still on the inside of the
17 cheek?

18 A. No. It is in the oral cavity. So you
19 would swipe along the tongue and inside the mouth.

20 Q. I see. And what part of the body -- and
21 this may be a dumb question, but what part of the body
22 do you swipe when you do the cervical swab?

23 A. So you would actually go all the way
24 through the vagina until you hit the cervix, and you
25 would swipe that area.

1 Q. Is the difference between the cervical and
2 the vaginal swab, that the vaginal swab is more the
3 outside of the vagina?

4 A. Yes.

5 Q. And then for the rectal swab, is that
6 inside of the rectum?

7 A. Yes.

8 Q. As you're doing these swabs, are you -- are
9 you examining the inside of the vagina?

10 A. No. That is not within my job description.
11 That would be the medical examiner then that would
12 follow-up after those samples are obtained.

13 Q. You mentioned that one of the swabs in the
14 standard sexual assault kit is a swab for bite marks;
15 right?

16 A. Yes.

17 Q. Did you do that in this case?

18 A. Honestly, I don't recall.

19 Q. And you testified that you collected the
20 samples for the sexual assault kit at the request of
21 Detective Fernandes; right?

22 A. Yes.

23 Q. Did she send that request -- when did she
24 send that request?

25 A. It was verbalized to me when we -- so the

1 decedent came in sealed in a body bag. And I kind of
2 converse with the detective as they come in just
3 getting basics of the case. And at that time, she
4 requested that we collect a sexual assault kit.

5 Q. I understand. I believe you also testified
6 that part of your duties in your capacity there are
7 that you take the toxicology samples as well?

8 A. Yes.

9 Q. Did you do that in this case?

10 A. No.

11 MR. MARTINEZ: I'll pass the witness,
12 Judge.

13 THE COURT: Thank you.

14 Mr. Vitto?

15 MR. VITTO: I do, Judge. Thank you.

16 REDIRECT EXAMINATION

17 BY MR. VITTO:

18 Q. Do you collect any information, any history
19 when you determine what to apply in the kit?

20 A. No, not specifically. It's basically once
21 you open the body bag, you determine at that time what
22 you would need to collect. So if the decedent had
23 undergarments, then you would collect them. If the
24 decedent had secretions on their body somewhere, we
25 would determine them. So it's basically at the time

1 seeing the decedent as-is that you would determine
2 what to collect.

3 Q. Okay.

4 A. So in this situation, since she was a
5 little girl, we would collect the cervical, vaginal,
6 and rectal.

7 Q. Have you ever used a sexual assault kit for
8 a living person?

9 A. No.

10 Q. Do you have any familiarity with the
11 protocol being different as it pertains to a person
12 being deceased or a person being alive?

13 A. I do not. I know that this same kit is
14 used for a person whether they are deceased or alive.

15 MR. VITTO: Great. Thank you. No more
16 questions.

17 THE COURT: Sir?

18 MR. MARTINEZ: Nothing else, Judge.

19 THE COURT: Subject to recall?

20 MR. VITTO: No.

21 THE COURT: You can be permanently excused.
22 Thank you for testifying.

23 THE WITNESS: Thank you very much.

24 MR. VITTO: Jose.

25 THE COURT: Sir, if you're the next

1 witness, could you come on up here to the witness
2 stand? And before you sit down, we'll have you stand
3 and raise your right hand and be sworn in by the clerk
4 of the court.

5 Whereupon,

6 JOSE MARCOS PARRA,
7 called as a witness on behalf of the State, was sworn
8 and testified as follows:

9 THE WITNESS: I do.

10 THE COURT: We'd like for people to be able
11 to see your face and hear you clearly, but if you
12 don't want to take it off because of Covid, that's
13 fine.

14 DIRECT EXAMINATION

15 BY MR. VITTO:

16 Q. Please state your name for the record
17 spelling your last name.

18 A. Jose Marcos Parra, P-a-r-r-a.

19 Q. Directing your attention to July 15, 2017,
20 what was your occupation?

21 A. Detective for the Sheriff's Office in
22 Nye County.

23 Q. And how long had you been a detective at
24 that point in time?

25 A. Approximately a year.

1 Q. And how long have you been in law
2 enforcement total?

3 A. Approximately six years.

4 Q. You started on patrol?

5 A. 2009.

6 Q. Got you. On that day, July 15, 2017, did
7 you have opportunity to respond to
8 5320 East Manse Road?

9 A. Yes.

10 Q. Is that in Pahrump Township, Nye County,
11 Nevada?

12 A. Yes.

13 Q. What was your response to that location on
14 that day in reference to?

15 A. To recover anything that resembled a soap
16 or rope in the bathroom, specifically in the shower
17 area.

18 Q. And did you locate anything along those
19 lines?

20 A. Yes.

21 Q. Did you take photographs?

22 A. Yes.

23 Q. Let me show you State's Proposed Exhibits
24 10A through C.

25 / / /

1 (Whereupon State's Proposed Exhibit
2 Nos. 10A through C are marked for
3 identification.)

4 Q. (By Mr. Vitto) Take your time, go through
5 these photographs. And when you've had the
6 opportunity, look up and I will ask you some questions
7 on them.

8 (First shows the exhibit to Defense
9 Counsel.)

10 Q. (By Mr. Vitto) You recognize those
11 photographs?

12 A. Yes.

13 Q. How do you recognize those?

14 A. I had taken them in the shower area.

15 Q. You actually took those photographs?

16 A. Yes.

17 Q. And they're accurate?

18 A. Yes.

19 Q. Starting with 10A, what do we see depicted
20 there?

21 A. It's the shower area with the purple soap
22 in the corner and the string or the rope next to it.

23 Q. Okay. And is that exactly how you
24 initially observed it?

25 A. Yes.

1 Q. And how about 10B?

2 A. That's after collecting it.

3 Q. And 10C?

4 A. The same.

5 Q. Now, I notice -- let me direct your
6 attention to 10B. There appears to be a crack in the
7 soap; would that be accurate?

8 A. Yes.

9 Q. But as I'm looking at 10C, I don't see the
10 crack?

11 A. It's on the other side.

12 Q. Okay. So the crack wasn't all the way
13 through?

14 A. Correct.

15 MR. VITTO: Okay. Your Honor, I request
16 that State's Proposed Exhibits 10A through C be
17 admitted into evidence.

18 MS. BOSKOVICH: No objection.

19 THE COURT: It's admitted.

20 (Whereupon State's Exhibit Nos. 10A
21 through 10C are admitted into evidence.)

22 Q. (By Mr. Vitto) And let me show you
23 State's Proposed Exhibit 11.

24 (Whereupon State's Proposed Exhibit
25 No. 11 was marked for identification.)

1 (Showing it to Defense Counsel.)

2 Q. (By Mr. Vitto) Showing you State's
3 Proposed Exhibit 11. Go ahead and look at that
4 envelope, the chain of custody. When you've had that
5 opportunity, let me ask you some questions about it.

6 A. Okay.

7 Q. Do you recognize that?

8 A. Yes.

9 Q. How do you recognize that?

10 A. Me filling this out between the rope and
11 the soap.

12 Q. Okay. So within that currently sealed
13 envelope -- and that's correct; the envelope is
14 currently sealed?

15 A. Yes.

16 Q. Within that sealed envelope is the soap and
17 the rope depicted in State's Proposed Exhibits 10A
18 through C?

19 A. Yes.

20 Q. And you collected that as evidence from the
21 house, put it in the bag, signed the bag, and booked
22 it?

23 A. Yes.

24 MR. VITTO: Your Honor, I would request
25 that State's Proposed Exhibit 11 be admitted into

1 evidence.

2 I have no more questions of this witness.

3 MS. BOSKOVICH: Your Honor, can we have
4 Detective Parra open the evidence bag?

5 THE COURT: Yes. You can go ahead and open
6 it. Do you need a pair of scissors?

7 THE WITNESS: Yes, please.

8 THE COURT: Here you go.

9 MR. MARTINEZ: Judge, I would assume
10 probably a pair of gloves if he's going to handle it.

11 THE COURT: She asked if you recognize it
12 and so forth.

13 THE WITNESS: Yes.

14 VOIR DIRE EXAMINATION

15 BY MS. BOSKOVICH:

16 Q. And is that the same thing you recognize
17 from when you collected it in the shower?

18 A. Yes.

19 Q. It's in the same condition?

20 A. Yes.

21 Q. Has cracks on one side?

22 A. Yes.

23 Q. And there's hair on the rope?

24 A. Yes.

25 Q. Is that brown hair?

1 A. Different colors -- black, brownish --

2 Q. Dark hair?

3 A. -- there's one white hair.

4 MS. BOSKOVICH: No objection, Your Honor.

5 THE COURT: It's admitted.

6 (Whereupon State's Exhibit No. 11 was
7 admitted into evidence.)

8 THE COURT: I believe Mr. Vitto was done.

9 We can start cross-examination.

10 MS. BOSKOVICH: Thank you, Detective Parra,

11 CROSS-EXAMINATION

12 BY MS. BOSKOVICH:

13 Q. You said you went to the house on July 15th,
14 or July 16th?

15 A. 15th, I believe.

16 Q. So you went the evening when everyone was
17 on scene?

18 A. No.

19 Q. You went the day after?

20 A. Yes.

21 Q. So that would have been July 16th then?

22 A. That would have been, yes.

23 Q. Did you have any other involvement in this
24 case other than collecting the soap and the rope?

25 A. I was watching the interview by

1 Captain Boruchowitz with Mr. Engelson.

2 Q. But you weren't in that interview; you were
3 just watching from a different room?

4 A. Yes.

5 Q. And that was it?

6 A. That was it.

7 MS. BOSKOVICH: No further questions,
8 Your Honor.

9 MR. VITTO: Nothing further. Not
10 permanently excused.

11 THE COURT: Permanently?

12 MR. VITTO: Not permanently excused.

13 THE COURT: You're subject to recall.
14 Don't talk about the case with anyone but the
15 attorneys. He may not call you again, but he may need
16 you and call you back. Thank you. You may step down.

17 MR. VITTO: Your Honor, the State calls
18 Colton Williams to the stand.

19 Please step up to the witness chair, sir,
20 and be sworn.
21 Whereupon,

22 COLTON WILLIAMS,
23 called as a witness on behalf of the State, was sworn
24 and testified as follows:

25 THE WITNESS: I do.

1 THE COURT: We'd like the jury to be able
2 to see your face and hear you clearly, but because of
3 the Covid, if you don't want to remove your mask, you
4 don't have to. Thank you.

5 DIRECT EXAMINATION

6 BY MR. VITTO:

7 Q. Please state your name for the record
8 spelling your last name.

9 A. Colton Williams, W-i-l-l-i-a-m-s.

10 Q. What is your occupation, sir?

11 A. I'm a patrol deputy.

12 Q. I want to direct your attention to July 15
13 and 16 of 2017. How were you employed that day.

14 A. I was working in the Detention facility.

15 Q. How long had you been with the Nye County
16 Sheriff's Office at that time?

17 A. That was my first year.

18 Q. How long have you been in law enforcement
19 at this time?

20 A. Right now, for about four.

21 Q. All right. What was your assignment
22 mid-July 2017?

23 A. I was working the booking process in the
24 Detention facility.

25 Q. Do you recall having contact with

1 Cole Duane Engelson during that time frame?

2 A. I do.

3 Q. How did come about?

4 A. He was brought in by patrol deputies, and I
5 did the booking process for him.

6 Q. Now, what were your job responsibilities as
7 it pertained to that person?

8 A. Get photos, do the intake search, get all
9 of the proper documents to get him booked in.

10 Q. Did you have to pat him out?

11 A. Yes.

12 Q. Dress him out?

13 A. Yes.

14 Q. What does that mean?

15 A. That means that we're in close contact with
16 him, and we've got to make sure he has no weapons and
17 safety of the facility.

18 Q. And you give him new clothes to wear?

19 A. Yes.

20 Q. You actually come into physical contact
21 with him?

22 A. Yes.

23 Q. You're that close?

24 A. Yes.

25 Q. Do you see him in the courtroom today?

1 A. I do.

2 Q. Can you describe an article of clothing
3 he's wearing?

4 A. White shirt.

5 Q. All right. And showing you State's
6 Proposed Exhibit 12 --

7 (Showing the exhibit to Defense Counsel.)

8 Q. (By Mr. Vitto) -- do you recognize that?

9 A. Yes.

10 Q. And what is that?

11 A. That is pretty much the booking process
12 with the charges, offenses, and all of his
13 information.

14 Q. Okay. Height, weight, address, name --
15 that kind of thing?

16 A. Yes.

17 Q. And this is per protocol the same for every
18 person?

19 A. Yes.

20 Q. While working at the Nye County
21 Detention Center, how often do you have contact with
22 persons suspected or obviously being under the
23 influence of drugs, alcohol, or both?

24 A. Most of the time.

25 Q. A lot?

1 A. Yes.

2 Q. On a daily basis?

3 A. Yes.

4 Q. With that experience in mind, did anything
5 stick out in that regard as it pertained to the
6 defendant himself?

7 A. No.

8 Q. Did he smell of alcohol?

9 A. No, not that I can remember.

10 Q. Was he falling down?

11 A. No.

12 Q. Bloodshot eyes?

13 A. No.

14 Q. Slurred speech?

15 A. No.

16 Q. How would you describe his demeanor?

17 A. His demeanor, when we were getting him
18 through the booking process, the thing that stuck to
19 mind is he just fell asleep in his cell. I don't
20 think any other regular person after something like
21 that happened would just fall asleep.

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

24 MR. MARTINEZ: Thank you, Judge.

25 / / /

CROSS-EXAMINATION

BY MR. MARTINEZ:

Q. Good morning, Deputy?

A. Good morning.

Q. I believe you said at that time July 15th of 2017, you had been with the Sheriff's Office here in Nye County for about a year?

A. Yes, sir.

Q. And now, to work for the Sheriff's Office, you have to go through the police academy; right?

A. Yes.

Q. The Police Officer Standardized Training?

A. Yes.

Q. Is that counting your time with the Sheriff's Office.

A. A little bit. I would think so.

Q. After you finished the Academy, you become an officer in training; right?

A. Yes.

Q. And that's -- you spend a period of time where you always have another officer with you to kind of show you the ropes; right?

A. Yes.

Q. Someone who's more senior than you. How long does that process take?

1 A. In that time in the jail, it probably took
2 a couple of months. It was going a little faster than
3 usual.

4 Q. All right. So on July 15th of 2017, were
5 you done with all of that training process?

6 A. Yes.

7 Q. Flying solo at that point?

8 A. Yes.

9 Q. You mentioned one of your duties when you
10 do the booking process is to dress someone out; right?

11 A. Yes.

12 Q. That means you undress them from their
13 street clothes?

14 A. Yes.

15 Q. And you give them the jail attire; right?

16 A. Yes.

17 Q. Are there different types of jail attire?

18 A. No. There is orange.

19 Q. What about a green smock?

20 A. Yes. They have that.

21 Q. Is it commonly referred to as a suicide
22 smock?

23 A. Yes.

24 Q. Why is that?

25 A. It pretty much prevents someone from

1 harming themselves.

2 Q. Why would someone be put in a green smock?

3 A. For the safety of the custodian and that
4 person.

5 Q. Are they put in a green smock because
6 during the intake process, something might come up
7 that leads you to believe --

8 A. That they're suicidal, yes.

9 Q. -- that they're suicidal? Okay. Do you
10 make that decision?

11 A. It's either us, but it's normally the
12 supervisor.

13 Q. Do you remember who the supervisor was that
14 night?

15 A. I believe it was Kevin Jensen.

16 Q. So it would have been Mr. Jensen who made
17 the decision that Mr. Engelson needed to go in a
18 suicide smock?

19 A. Yes.

20 Q. Do you recall if he made that decision?

21 A. I do not.

22 Q. When you book someone in, do you write a
23 report for every person that you book in?

24 A. No. I just do the booking sheet.

25 Q. How many people have you booked into the

1 Detention Center during your time with the
2 Sheriff's Office?

3 A. I would say over 400.

4 Q. Do you remember every single one?

5 A. No.

6 Q. Did you check anything else to refresh your
7 recollection about this case before you took the stand
8 today?

9 A. Probably two weeks ago, just to see what
10 all I did in the booking process.

11 Q. Okay. Mr. Vitto asked you if you recall
12 smelling an odor of alcohol on Mr. Engelson, and your
13 answer is that "not that you recall"?

14 A. Right.

15 Q. Is that the same for all of the clues of
16 intoxication, "not that you recall"?

17 A. No.

18 Q. On that booking sheet, there's nowhere to
19 specifically note if someone seems intoxicated; right?

20 A. Nope.

21 Q. So that's not something that you would have
22 written down; right?

23 A. No.

24 Q. And that's not something that you can
25 refresh your recollection of; right?

1 A. No.

2 Q. You stated he was put in his cell, and he
3 just fell asleep?

4 A. Yes.

5 Q. Almost immediately?

6 A. I would say it probably gave him a couple
7 of minutes, but he fell asleep pretty quick.

8 Q. How much longer was your shift that night?

9 A. I would have to know what time he was
10 booked in.

11 Q. Okay. Do you have a booking sheet in front
12 of you?

13 A. I probably worked until 6:00 in the
14 morning, and that was around 9:00.

15 Q. When someone is first booked in, in the
16 booking area of the Detention Center, there's a bunch
17 of cells there; right?

18 A. Yes.

19 Q. Is that where someone goes initially?

20 A. Usually, they go in pre-booking. Then we
21 bring them in, do the intake search. And then they
22 sit in the other cells until they go down to housing.

23 Q. So was Mr. Engelson in those cells right in
24 the booking area --

25 A. Yes.

1 Q. -- where you booked him? Were you able to
2 keep an eye on him throughout the night?

3 A. Yes.

4 Q. Did you see if he woke up at all throughout
5 the night?

6 A. I don't remember if he did or not, but I'm
7 sure he had to, to complete his process.

8 Q. Okay. So there's more to the process later
9 on?

10 A. As far as?

11 Q. Like, well, you said he would have had to
12 wake up to complete the process?

13 A. Right. I mean, like, as far as we'd
14 probably get a couple of things done. Then we'd put
15 him in the cell and try to do like other security
16 checks in the facility, bring him back out, and try to
17 finish the process.

18 Q. I see. You said you found it kind of odd
19 that he just fell asleep?

20 A. Yes.

21 Q. Why is that?

22 A. Because I feel like if I was put in his
23 position -- I'm not saying that he did anything, but
24 if I was put in that position, I don't think I would
25 be able to fall asleep right away. It's like there's

1 no remorse to what had happened.

2 Q. Okay. Just from your personal opinion
3 then --

4 A. Yes.

5 Q. -- you found it odd?

6 A. Yes.

7 MR. MARTINEZ: I'll pass the witness,
8 Your Honor.

9 MR. VITTO: I have a little bit of
10 redirect, Judge.

11 THE COURT: Thank you.

12 REDIRECT EXAMINATION

13 BY MR. VITTO:

14 Q. As you sit there today, do you have a
15 recollection of the defendant's booking process in
16 your mind?

17 A. I know what the process is, but I can't
18 remember the whole thing. It was three years ago.

19 Q. I understand that and I appreciate that and
20 thank you for being candid. And that brings me to my
21 point. Now, you've answered questions about the smell
22 of alcohol, falling down, eyes bloodshot, speech
23 slurred. You've answered those questions negatively,
24 in the negative that those things weren't present from
25 your recollection. And so I'm asking you if you

1 specifically recall those things, or if it's just
2 something that if it had happened, you would have
3 noted it somewhere?

4 A. I don't remember noting that particular
5 point.

6 Q. Okay. So as you sit there today, it's your
7 best testimony that you don't recall smelling any
8 alcohol?

9 A. Correct.

10 Q. And you don't recall that he was falling
11 down drunk?

12 A. Correct.

13 Q. Except you remember him going to sleep;
14 right?

15 A. Right.

16 Q. You don't remember his eyes being
17 bloodshot; is that correct?

18 A. Right.

19 Q. And you don't remember his speech being
20 slurred?

21 A. Yes.

22 Q. Did you engage -- yes, he did have slurred
23 speech, or --

24 A. No. I don't remember.

25 Q. So did you engage him in conversation?

1 A. Yes. Through the booking process, you
2 would have to say if he was, like, certain things, do
3 like the medical questionnaires and all that stuff, he
4 would have to answer.

5 Q. Okay. So you had opportunity to hear him
6 speak?

7 A. Yes.

8 Q. And it's your recollection today that there
9 was nothing wrong with his speech as far as being
10 intoxicated?

11 A. No.

12 MR. VITTO: I have no more questions of
13 this witness at this time.

14 THE COURT: Sir?

15 MR. MARTINEZ: Court's indulgence.

16 Briefly, Judge.

17 THE COURT: Thank you.

18 RECROSS-EXAMINATION

19 BY MR. MARTINEZ:

20 Q. Deputy, you testified that there's a
21 pre-booking area; right?

22 A. Yes.

23 Q. Is that for when someone is arrested, but
24 before you get to the booking process?

25 A. Correct.

1 Q. So when Mr. Engelson was arrested, he would
2 have gotten there first?

3 A. Yes.

4 Q. How long do people typically stay in the
5 pre-booking area?

6 A. It usually depends on how fast the dec and
7 all of the charges and offenses get done.

8 Q. So it could be a matter of minutes?

9 A. Yes.

10 Q. Could it be a matter of hours sometime?

11 A. Possibly, yes.

12 Q. Do you remember how long Mr. Engelson was
13 in the pre-booking area?

14 A. I do not.

15 MR. MARTINEZ: Nothing further, Judge.

16 MR. VITTO: Nothing further.

17 THE COURT: Subject to recall?

18 MR. VITTO: Yes, Your Honor.

19 THE COURT: Don't talk about the case with
20 anybody but the attorneys. If we need you in the next
21 couple of weeks, we'll give you a call.

22 THE WITNESS: Yes, sir.

23 MR. VITTO: Cory Fowles.

24 MR. MARTINEZ: Kirk, if you don't mind, I'm
25 going to take your exhibit and give it back to the

1 court clerk.

2 MR. VITTO: Your Honor, the State calls
3 Cory Fowles to the stand.

4 Please step up to the witness chair, sir,
5 and be sworn.

6 Whereupon,

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

10 THE WITNESS: Yes, ma'am.

11 THE COURT: We like the jurors to be able
12 to see your face and hear you, but because of Covid if
13 you don't want to take it off, that's fine.

14 THE WITNESS: Thank you, sir.

15 DIRECT EXAMINATION

16 BY MR. VITTO:

17 Q. Please state your name for the record
18 spelling your last name.

19 A. Cory Fowles, F-o-w-l-e-s.

20 Q. What is your current occupation?

21 A. I'm the detective sergeant for the
22 Nye County Sheriff's Office.

23 Q. And how long have you worked in law
24 enforcement?

25 A. Thirteen years.

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

3 A. At that time I was a patrol sergeant for
4 the Sheriff's Office.

5 Q. And what was your assignment on that date
6 and time?

7 A. I was supervising the uniformed patrol
8 deputies on the day shift that day.

9 Q. Do you recall being dispatched to
10 5320 East Manse Road?

11 A. I do.

12 Q. What time?

13 A. I was dispatched at approximately 7:14 in
14 the evening.

15 Q. Did you provide any directive while
16 en route to that location?

17 A. I did, yes.

18 Q. And what was that?

19 A. I was told that the victim was being
20 transported to the hospital in an ambulance. And I
21 told two of my deputies to meet the victim in the
22 ambulance at Desert View. Those deputies that I told
23 to meet at the hospital was Deputy Teter and
24 Deputy Powell.

25 Q. Anything else?

1 A. I was advised that Deputy Burke was
2 assigned as a primary uniformed deputy to that call,
3 and I also requested that a detective come to the
4 scene as well.

5 Q. And which detective was dispatched; do you
6 recall?

7 A. Yes. It was Detective Fernandes.

8 Q. Do you recall what time you arrived at
9 East Manse Road?

10 A. I arrived at approximately 7:33 in the
11 evening.

12 Q. Who was there first?

13 A. Deputy Burke was the first one there, and
14 Fire Chief was there, and one of his lieutenants was
15 there also.

16 Q. Fernandes was behind you?

17 A. Fernandes was right behind me.

18 Q. What did you observe upon arrival?

19 A. I saw the Fire Chief Scott Lewis and one of
20 his lieutenants standing in the driveway. I went up
21 and talked with him briefly, and then I saw
22 Deputy Burke talking with a white, adult male on the
23 porch of the residence.

24 Q. What happened after that?

25 A. I had a brief discussion with the

1 Fire Chief. He told me his assessment of the scene.

2 And then I went and spoke with Deputy Fernandes.

3 Q. Now, is that basically a thumbnail sketch
4 of the extent of your involvement with this matter?

5 A. Yes.

6 Q. Did you do anything in regard to scene
7 security?

8 A. Yes. After I talked to the Fire Chief and
9 he told me what he knew, I asked Deputy Burke if he
10 thought anybody else was in the house. He told me he
11 did not believe so. So I went back out to my patrol
12 vehicle, and I established a crime scene perimeter by
13 putting barrier tape up across the driveway. And I
14 began docking and maintaining a crime scene attendance
15 sheet.

16 Q. Showing you State's Proposed Exhibit 9.

17 (Whereupon State's Proposed Exhibit
18 No. 9 is marked for identification.)

19 (Showing exhibit to Defense Counsel.)

20 Q. (By Mr. Vitto) Is that what you're
21 referencing you when you mentioned the Crime Scene
22 Attendance Log?

23 A. It is.

24 Q. And what is the purpose of that?

25 A. We maintain this to document who enters the

1 crime scene, what agency they're with when they enter
2 the crime scene, the date and time they enter the
3 crime scene, and the date and time they leave the
4 crime scene, and the reason they were there.

5 Q. All right. Standard operating procedure?

6 A. That's correct.

7 MR. VITTO: Your Honor, I request that
8 State's Proposed Exhibit 9 be admitted into evidence.
9 I have no more questions of this witness at this time.

10 MS. BOSKOVICH: No objection, Your Honor.

11 THE COURT: It's admitted.

12 (Whereupon State's Exhibit No. 9 is
13 admitted into evidence.)

14 CROSS-EXAMINATION

15 BY MS. BOSKOVICH:

16 Q. Is it Detective Sergeant Fowles now?

17 A. Yes, ma'am.

18 Q. In your training and experience, are you
19 trained to document a crime scene?

20 A. Yes, ma'am.

21 Q. And you're trained to secure a crime scene?

22 A. Yes.

23 Q. What goes into the securing of a crime
24 scene?

25 A. It depends on the nature of the crime scene

1 and how dynamic or widespread it is. But it can be
2 anything from closing roads to blocking
3 pedestrian/vehicle access into a crime scene. It
4 depends on the nature of the crime scene we're dealing
5 with.

6 Q. And for this crime scene in particular,
7 what kind of security measures did you take?

8 A. I got the yellow barrier tape, and I strung
9 it across the driveway. To my recollection, the rest
10 of the property was secured by a fence. And this one
11 was a little more simple. All I had to do was string
12 the tape on the open access part of the driveway and
13 maintain the log sheet.

14 Q. And with that Crime Scene Attendance Log,
15 speaking of those generally, are they used in every
16 investigation?

17 A. Not in every investigation, no.

18 Q. What determines when one is needed?

19 A. We maintain one of these when we respond to
20 a major crime scene, which the Nye County
21 Sheriff's Office Policy 3,000 defines a major crime as
22 a death investigation, homicide or attempted homicide,
23 crimes against children, kidnappings, robbery, things
24 of that nature.

25 Q. And is it typical that only one person is

1 in charge of maintaining the crime scene attendance
2 sheet?

3 A. It is typical, but that can change.

4 Q. Depending on what?

5 A. Depending on the discretion of the
6 supervisor on the scene, depending on the dynamics of
7 the scene. Sometimes there may be multiple crime
8 scenes which you would have multiple supervisors at
9 multiple scenes directing security for individual
10 scenes, things like that.

11 Q. And the attendance sheet logs everyone who
12 enters and leaves the scene?

13 A. That's correct.

14 Q. Is it every single time a person enters and
15 leaves the scene? For example, if a detective comes
16 and goes three or four times, is that logged each
17 time?

18 A. It would depend on if they -- if they had
19 left the scene and came back, then they would be
20 logged out and then logged back in, if they left the
21 scene and then returned. But if they come and stay,
22 they stay logged in until they leave.

23 Q. So if they just walked over to their patrol
24 car and then came back onto the scene, they would
25 be --

1 A. They would still be on the scene, yes.

2 Q. Does the crime scene attendance sheet
3 document private citizens as well?

4 A. Yes.

5 Q. And you said when you arrived at the Manse
6 address, Deputy Burke was already there?

7 A. That's correct.

8 Q. Detective Fernandes arrived just a minute
9 or two after you?

10 A. That's correct.

11 Q. And Fire Chief Lewis was there?

12 A. And one of his attendants.

13 Q. Do you remember which one?

14 A. Lieutenant Moody.

15 Q. And you requested a detective to respond to
16 the scene?

17 A. That's correct.

18 Q. Did you request a certain detective or just
19 whoever was available?

20 A. Just whoever was available.

21 Q. And at one point you requested that
22 Chief Lewis fill out a written statement; is that
23 correct?

24 A. That is correct.

25 Q. You didn't request a statement from

1 Lieutenant Moody though?

2 A. My report does not reflect I requested one
3 from him, but I can't remember if I took one from both
4 of them or just from the Fire Chief. I can't
5 remember.

6 Q. When you went to the residence, did you
7 encounter Mr. Engelson?

8 A. No.

9 Q. You didn't see him at all?

10 A. I saw him, but I did not interact with him.

11 Q. Okay. When you saw him, he wasn't acting
12 aggressively?

13 A. No.

14 Q. He wasn't yelling?

15 A. No.

16 Q. Wasn't being physical with anyone?

17 A. No.

18 Q. Directing your attention to State's
19 Exhibit -- I don't remember the number, I apologize,
20 but the Crime Sheet Attendance Sheet that's in front
21 of you. About midway through, I see that
22 Victoria Schlick and I believe an Angie Robinson --

23 A. Yes.

24 Q. -- enters the scene?

25 A. Yes.

1 Q. When a private person enters the crime
2 scene, are they escorted with a law enforcement
3 officer?

4 A. Normally, yes.

5 Q. Do you remember if they were escorted in
6 this case?

7 A. No.

8 Q. Do you remember why they came back on
9 scene?

10 A. They -- according to the sheet, there were
11 dogs in the house, and they came in to get the dogs
12 out of the house.

13 Q. And then about four lines -- no, three
14 lines down, I see somebody from DCFS was on scene?

15 A. Yes.

16 Q. Do you recall why specifically DCFS was on
17 scene?

18 A. I know that Nevada law mandates that DCFS
19 be involved and notified about any cases regarding
20 crimes against children. And I did not coordinate
21 their response or arrival, but they did show up at
22 their discretion.

23 Q. Were there any children on scene when they
24 arrived?

25 A. No, not to my knowledge.

1 Q. And would law enforcement be escorting DCFS
2 around the crime scene as well?

3 A. Normally, yes.

4 Q. Do you know if that happened in this case?

5 A. I don't. I just, I can testify that I
6 logged them coming into the crime scene, but I don't
7 remember if they were escorted or not.

8 Q. This Crime Scene Attendance Sheet, it does
9 not account for people that have been on scene prior
10 to your arrival; correct?

11 A. That's correct.

12 Q. And does it account for anyone who was on
13 scene the day after, the day after the incident?

14 A. It would not.

15 Q. So if any deputies went back to the
16 residence the following day, it wouldn't be on this
17 sheet?

18 A. That's correct.

19 MS. BOSKOVICH: No further questions,
20 Your Honor.

21 MR. VITTO: Thank you, Your Honor.

22 REDIRECT EXAMINATION

23 BY MR. VITTO:

24 Q. Directing your attention to Exhibit 9, when
25 was Parra on scene?

1 A. Parra came on scene -- Parra was not logged
2 into this crime scene, and I believe he went to the
3 hospital.

4 Q. I understand. That log does not have his
5 arrival at the scene?

6 A. Correct.

7 Q. All right. And what time was Victoria on
8 the scene?

9 A. Victoria came on scene at 12:02 in the
10 morning.

11 Q. So on the morning of the 16th?

12 A. Yes, sir.

13 Q. Have you seen -- how many crime scenes have
14 you been at in your law enforcement career?

15 A. Hundreds.

16 Q. Okay. Have you seen intoxicated people at
17 crime scenes?

18 A. Yes, sir.

19 Q. And you were able to see Mr. Engelson at
20 this crime scene?

21 A. That's correct.

22 Q. Was his behavior at this crime scene
23 typical of an intoxicated person?

24 A. No.

25 MR. VITTO: No more questions.

1 MS. BOSKOVICH: Nothing further,
2 Your Honor.

3 THE COURT: Subject to recall?

4 MR. VITTO: Yes.

5 THE COURT: Don't talk about the case with
6 anybody but the attorneys. And if we need you, we'll
7 give you a call back.

8 THE WITNESS: Yes, Judge.

9 THE COURT: Thank you. You can step down.

10 MR. VITTO: Alexandra.

11 Your Honor, Detective Fernandes is going to
12 be a long --

13 THE BAILIFF: She's coming out of the DA's
14 Office.

15 MR. VITTO: It might be a good time for a
16 brief recess.

17 THE COURT: Okay. We'll take a short
18 ten-minute recess.

19 During this recess, don't converse among
20 yourselves or with anyone else on any subject
21 connected with the trial; or to read, watch, or listen
22 to any report of or commentary. And don't form or
23 express an opinion until the end.

24 We'll take a ten-minute recess.

25 THE BAILIFF: All rise.

1 (A short ten-minute recess is taken.)

2 (Whereupon State's Proposed Exhibit
3 No. 17 is marked for identification during
4 the recess.)

5 THE BAILIFF: All rise.

6 THE COURT: Thank you. Please be seated.

7 So my bailiff opens the door and says,
8 "They're ready, Judge." And my secretary says, "Is it
9 cooler in here?" And my bailiff said, "I think
10 they're trying to freeze us out now." So that's the
11 next complaint.

12 All right. We're back in the presence of
13 our 15 jurors. Mr. Vitto can continue his case in
14 chief.

15 MR. VITTO: Thank you, Your Honor. We're
16 calling Detective Alexandra Fernandes to the stand.

17 Please step up to the witness chair and be
18 sworn.

19 Whereupon,

20 ALEXANDRA FERNANDES,
21 called as a witness on behalf of the State, was sworn
22 and testified as follows:

23 THE WITNESS: Yes.

24 THE COURT: We'd like the jury to be able
25 to see your face and hear you clearly, but because of

1 Covid, if you don't want to take your mask off, that's
2 fine.

3 THE WITNESS: Thank you.

4 DIRECT EXAMINATION

5 BY MR. VITTO:

6 Q. Please state your name for the record
7 spelling your last name.

8 A. Alexandra Fernandes, A-l-e-x-a-n-d-r-a,
9 F-e-r-n-a-n-d-e-s.

10 Q. What is your occupation?

11 A. I'm currently an acting detective for death
12 investigations.

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

14 A. Fifteen years.

15 Q. Let me direct your attention to July 15,
16 2017, at 5320 East Manse Road, Pahrump Township,
17 Nye County, Nevada. Were you the first detective on
18 scene?

19 A. Yes, I was.

20 Q. How was it that you arrived to that
21 location at that time?

22 A. I had been advised that there was an
23 unresponsive female --

24 MR. MARTINEZ: Judge?

25 MR. VITTO: Hold on a second.

1 THE WITNESS: Oh, I'm sorry.

2 MR. MARTINEZ: Sorry, Judge. I know a
3 witness just walked in.

4 MR. VITTO: Can I have the Court's
5 indulgence just a moment? I might want to get a
6 couple of things marked.

7 (Investigator Barajas brings in exhibits
8 to be marked for identification.)

9 THE COURT: Just so you lay people
10 understand, whenever we have evidence that goes from a
11 crime scene to the cops to a lab to the court, and so
12 forth, that's called a chain of custody. And by
13 having that person bring it in and give it to the
14 clerk, instead of handing it to Kirk to give to the
15 clerk, it just takes a step out of the chain of
16 custody.

17 MR. VITTO: Thank you, Your Honor.

18 THE COURT: All right. Mr. Vitto.

19 Q. (By Mr. Vitto) And I'm sorry. We were
20 talking about how it was that you were dispatched or
21 arrived at that scene at that time. And you were
22 telling us...

23 A. I was saying that we received a call of a
24 three-year-old that was unresponsive, that CPR was in
25 progress, and that the mother of the child was beating

1 up on the mother's boyfriend, and that the medics were
2 not okay at that time.

3 Q. And the term for that is?

4 A. Code 4 is usually everything is okay. And
5 when they state "Not Code 4," that means there's an
6 emergency.

7 Q. And I'm sorry, your current detail is a
8 detective pertaining to?

9 A. Death investigations.

10 Q. Death investigations; all right. So,
11 Detective, how many interviews have you conducted with
12 witnesses in your 15-year law enforcement career?

13 A. Over a hundred.

14 Q. And specifically with suspects?

15 A. I would say around -- over 50.

16 Q. Do you attend training to develop interview
17 technique?

18 A. Yes, I do.

19 Q. What do they teach you?

20 A. They teach us to look for signs, body
21 language, the tone of voice. We look for signs of
22 lying, just everything to bring in the investigation.

23 Q. So ultimately at a crime scene as a
24 detective, it's your job to collect information?

25 A. Yes.

1 Q. How -- what is your frame of mind when you
2 arrive at a crime scene? The universe is open, it
3 could be anybody that did anything?

4 A. Correct.

5 Q. And where do you go from there?

6 A. When I arrive on scene, everything is wide
7 open. My job is to narrow it down, to find out the
8 facts, to find out everything that occurred during
9 that time period.

10 Q. Looking for any hard evidence?

11 A. Yes.

12 Q. What would be an example of hard evidence,
13 for instance?

14 A. Hard evidence would be, I mean, if you
15 arrived on scene and say the suspect had blood on his
16 hands or a weapon in his hands and a body in front,
17 that would be.

18 Q. Okay. Pretty good stuff. So you collect
19 information and match it to what you see?

20 A. Yes.

21 Q. And in this case, you had information that
22 a naked, badly bruised, injured little girl had been
23 taken to the hospital; correct?

24 A. Correct.

25 Q. Do you happen to recall what time you

1 arrived?

2 A. It was approximately -- it was almost
3 7:00 p.m. in the evening.

4 Q. A little before? A little after? You
5 don't recall?

6 A. I don't recall the exact time. I know I
7 recall I was getting off and my off-duty time is
8 normally 1900 hours. And I know it was just prior to
9 me getting off duty that day.

10 Q. You arrived at the scene. What do you
11 initially observe upon arrival?

12 A. Usually, I try to take everything in just
13 to get a quick snapshot of everything. However, when
14 I arrived, the address on Manse had a long driveway;
15 so it was -- I didn't necessarily see right away what
16 was up front by the house.

17 Q. Okay. So you have to drive up a long
18 driveway?

19 A. I walked up the driveway, yes.

20 Q. Okay. Where did you park?

21 A. I parked on the street on the other side of
22 the crime scene tape.

23 Q. All right. And can you describe the
24 driveway walking in?

25 A. It was a gravel driveway, and it just --

1 from what I recall, it kind of curved up towards the
2 house.

3 Q. Did you have opportunity to make contact
4 with Cole Engelson?

5 A. Yes, I did.

6 Q. Do you see him in the courtroom today?

7 A. Yes, I do.

8 Q. Can you describe an article of clothing
9 he's wearing?

10 A. He's wearing a green tie.

11 MR. VITTO: Your Honor, may the record
12 reflect that this witness has made an in-court
13 identification of the defendant?

14 THE COURT: Yes, it will.

15 Q. (By Mr. Vitto) Do you happen to recall how
16 old he was at the time?

17 A. I believe he was about 37.

18 Q. When did you first learn that Yessenia, the
19 little girl, was deceased?

20 A. I didn't learn Yessenia was deceased until
21 later in my interview with Mr. Engelson.

22 Q. But still while on scene?

23 A. Yes. That is correct.

24 Q. So you began speaking with the defendant
25 and later learned that she had passed away?

1 A. Correct.

2 Q. Did you actually attend the autopsy?

3 A. Yes, I did.

4 Q. Did you take photographs of the autopsy?

5 A. I did not, no.

6 Q. How close did you get to the body during
7 the autopsy?

8 A. I was within feet.

9 Q. Now, you had opportunity to speak with the
10 defendant about what happened; is that correct?

11 A. Yes.

12 Q. And by his own admission, who was the only
13 person with her who could have caused the injury that
14 you personally observed to Yessenia?

15 A. Mr. Engelson was the only one at the
16 residence at that time.

17 Q. And I think you testified that you're
18 taught to observe body language?

19 A. Yes.

20 Q. How close were you able to get to the
21 defendant during your interview process?

22 A. I was within two to three feet of
23 Mr. Engelson.

24 Q. You've been with law enforcement for 15
25 years. During that time working patrol, how many DUI

1 arrests did you make?

2 A. I would say under 20 DUI arrests.

3 Q. In your 15 years working law enforcement,
4 have you routinely come in contact with persons
5 suspected of being under the influence of alcohol?

6 A. Yes, I have.

7 Q. You've seen drunk people?

8 A. Yes.

9 Q. Based on your experience and your
10 observations in law enforcement, do you feel
11 comfortable drawing conclusions regarding whether
12 people are under the influence of alcohol?

13 A. Yes.

14 Q. But to be fair, that will vary to some
15 degree from person to person; right?

16 A. Correct.

17 Q. Some people handle alcohol better than
18 other people?

19 A. Correct.

20 Q. As you approached the defendant, were you
21 recording the event?

22 A. Yes, I was.

23 Q. Did you let him know that you were
24 recording the event?

25 A. Yes, I did.

1 Q. Has that recorded conversation been
2 transcribed?

3 A. Yes, it has.

4 Q. I'd like to show you what will be
5 preliminarily marked as State's Proposed Exhibit 16.

6 (Whereupon State's Proposed Exhibit

7 No. 16 is marked for identification.)

8 (Showing the exhibit to Defense Counsel.)

9 Q. (By Mr. Vitto) Detective, I would like you
10 to take your time, review that exhibit. When you're
11 done, I'd like to ask you some questions about it.

12 A. I'm ready.

13 MR. VITTO: Court's indulgence just a
14 moment?

15 Q. (By Mr. Vitto) So, Detective, in reference
16 to State's Proposed Exhibit 16, what is that?

17 A. This is a transcript of my interview with
18 Mr. Engelson.

19 Q. Is it accurate?

20 A. Yes, it is.

21 MR. VITTO: Your Honor, I request that
22 State's Proposed Exhibit 16 be admitted into evidence.

23 MS. BOSKOVICH: A couple of questions to
24 voir dire the witness, if I can.

25 THE COURT: Go ahead, please.

VOIR DIRE EXAMINATION

BY MS. BOSKOVICH:

Q. Have you read through that transcript prior to today?

A. Yes, I had.

Q. And had you listened to your audio recordings?

A. Yes, I had.

Q. Had you compared the two to ensure the transcript is accurate?

A. I have done both, yes.

Q. You didn't transcribe that, though; correct, yourself?

A. No, I did not.

Q. But you did compare it, and both are accurate?

A. Yes, ma'am.

MS. BOSKOVICH: No objections, Your Honor.

THE COURT: It's admitted.

MR. VITTO: Thank you, Your Honor. Court's indulgence just a moment.

(Whereupon State's Exhibit No. 16 is admitted into evidence.)

Q. (By Mr. Vitto) Now, Detective, as you approached the defendant initially, what was your

1 objective at that moment in time?

2 A. At that moment in time was just to find out
3 what happened to Yessenia.

4 Q. And how are you trained to do that?

5 A. To ask questions, observe the scene,
6 observe the people on scene that may have witnessed
7 what had happened.

8 Q. And how did that process with the defendant
9 begin?

10 A. I walked up to him, and he was with
11 Deputy Burke at the time at the front of the house,
12 and I asked him what was going on today.

13 Q. And how did he respond?

14 A. He stated that he was giving his old lady's
15 daughter a bath, and she had become unresponsive, and
16 that he did not know what happened.

17 Q. Did he say anything in regard to drying her
18 off?

19 A. Yes, he did.

20 Q. What do you recall about that?

21 A. He stated that he always will put Yessenia
22 on the bathroom sink and dry her off on the counter.

23 Q. And how would he dry her off?

24 A. With a towel.

25 Q. And did he say anything else that was his

1 routine?

2 A. Yes.

3 Q. What was that?

4 A. He stated he would lotion her up.

5 Q. What else did he tell you about what
6 happened coming out of the shower?

7 A. Mr. Engelson stated that he had given her a
8 shower because she was sticky or something, and that
9 she may have become unresponsive there, or she may
10 have -- I'm sorry, she became limp near the shower,
11 and she became unresponsive I believe on the sink.

12 Q. Okay. So she was fine going into the
13 shower?

14 A. Yes.

15 Q. And she was fine when she got out of the
16 shower?

17 A. As far as what I was told, yes.

18 Q. By him?

19 A. Correct.

20 Q. And then she started nodding out and became
21 limp?

22 A. Yes.

23 Q. Is that an exact quote from him?

24 A. Yes.

25 Q. Now, going into this conversation we talked

1 a little bit about your experience as an officer being
2 involved with persons suspected of being intoxicated,
3 et cetera. So let me ask you: During this process,
4 what was your observations in regard to whether the
5 defendant had been drinking or whether the defendant
6 was intoxicated?

7 A. I could smell the alcohol on his breath
8 when I was speaking to him.

9 Q. Did you speak with him about that specific
10 topic?

11 A. Yes, I did.

12 Q. And what did he say?

13 A. He stated that he had two drinks.

14 Q. Did he specifically say why he had two
15 drinks?

16 A. He did. He stated that he and his old lady
17 and the kids went to breakfast that morning. And he
18 had wanted to stop at a convenience store to get a
19 beer, and his old lady was giving him a hard time
20 about that. When he got home just before she left, he
21 snuck a drink of vodka. And then shortly after she
22 left, he took another drink of vodka.

23 Q. Okay. Did he appear to you to be drunk?

24 A. No, he did not.

25 Q. Did he have any problem understanding the

1 questions you were asking him?

2 A. No, he did not.

3 Q. Did he have any problem correctly
4 responding to the questions that you asked him?

5 A. No, he did not.

6 Q. Was he stumbling?

7 A. No, he was not.

8 Q. Did you have any problem understanding what
9 he was saying?

10 A. No.

11 Q. In regard to his having a couple of drinks,
12 did he explain to you what his plan was for the
13 afternoon?

14 A. Yes. He stated that he was going to put
15 Yessenia down, and that they were going to take a nap
16 together.

17 Q. And he described two drinks involving
18 vodka?

19 A. Yes.

20 Q. But he was the only adult with Yessenia; is
21 that correct?

22 A. Correct.

23 Q. He was the babysitter?

24 A. Yes.

25 Q. The caretaker?

1 A. Yes.

2 Q. Of a three-year-old child?

3 A. Correct.

4 Q. Did you ask the defendant whether Yessenia
5 was fussy at all?

6 A. Yes, I did.

7 Q. And what did he say?

8 A. He stated that he couldn't say that she was
9 fussy. He couldn't say that she was being aggressive.
10 He just couldn't say.

11 Q. So did he show you the shower scene?

12 A. Yes, he did.

13 Q. What do you recall?

14 A. I recall walking in. He showed me the
15 bathroom that he said he showered Yessenia in. When I
16 walked in, the shower was going. He asked if he could
17 turn the water off. I advised him I just wanted to
18 get a couple of pictures. I asked him if that was
19 okay, and he said, "Please do."

20 Q. So when you walked in, the water was
21 running?

22 A. Yes.

23 Q. And he asked if he could shut it off?

24 A. Yes.

25 Q. What time was that?

1 A. I don't recall the exact time.

2 Q. After 7:00 in the evening?

3 A. Yes.

4 Q. During your interview with him, did he tell
5 you at what time he gave Yessenia a shower?

6 A. I want to -- I don't recall the exact time.

7 Q. Okay. But the water was still running
8 after 7:00 p.m. in the evening?

9 A. Correct, yes.

10 Q. Do you recall his mentioning that at some
11 point he was in a panic?

12 A. Yes.

13 Q. Did he say what he did while in a state of
14 panic?

15 A. He had mentioned that -- he stated that she
16 became unresponsive and limp and that he had called
17 her mom and that he did it.

18 Q. And panic was his word; correct?

19 A. Yes.

20 Q. It's in the transcript?

21 A. Yes.

22 Q. And his saying he did it, those are his
23 words and it's in the transcript?

24 A. Yes.

25 Q. Did he indicate which towel he used to dry

1 her off with?

2 A. Yes, he did.

3 Q. If I showed you -- well, what color was the
4 towel that he said he dried her off with?

5 A. A white towel.

6 Q. If I showed you a white towel, would you be
7 able to identify a white towel I showed you from any
8 other white towel in the world?

9 A. Just that's it a white towel.

10 Q. Okay. Because you didn't collect it as
11 evidence?

12 A. No, I did not.

13 Q. There's no -- nothing about the towel that
14 he showed you would bear any indication that that's
15 the exact towel he showed you from your perspective?

16 A. Correct.

17 Q. And he told you that she was standing on
18 the counter when she began to nod off?

19 A. Yes.

20 Q. Were you able to observe any evidence of
21 the child being dried off on the counter?

22 A. I did not.

23 Q. Did you specifically look?

24 A. Yes, I did.

25 Q. What did you see?

1 A. I didn't see any evidence of anything on
2 the counter, nothing that would have suggested
3 something wet was even on the counter.

4 Q. So the counter was completely dry?

5 A. Yes.

6 Q. Did he provide any detail why he would
7 stand her on the counter?

8 A. Just that that was his normal routine, that
9 he always did that after her shower.

10 Q. That's where he would lotion her up and --

11 A. Yes.

12 Q. Having seen -- after hearing what he said
13 and seeing what you saw, did you voice any concern
14 with what he was telling you?

15 A. Yes, I did.

16 Q. What did you say to him?

17 A. I told him that I was concerned because
18 what he was saying wasn't matching up to what I was
19 not seeing on the counter of the bathroom.

20 Q. And how did he respond to that?

21 A. He stated that -- again, that it was pretty
22 much he was in a panic and he just couldn't remember.

23 Q. All right. So he was telling you what
24 happened; right?

25 A. Yes.

1 Q. And then you confronted him with "I don't
2 see any evidence of that"; right?

3 A. Correct.

4 Q. And his response was, "Well, it all
5 happened really fast. I don't remember"?

6 A. Yes.

7 Q. And this is all in his transcript; right?

8 A. Yes.

9 Q. So at first it was "This is what I do.
10 This is what I always do," and that turned into,
11 "Well, I guess I don't really know"?

12 A. Correct.

13 Q. Did he provide any detail to you about what
14 happened during the shower?

15 A. Yes. He stated that when Yessenia was in
16 the shower, he stated that she will usually freak out
17 when she gets water splashed on her face.

18 Q. And what happened when she freaked out; did
19 he tell you, or is that just what he said?

20 A. That's what he said.

21 Q. Do you happen to recall -- after he
22 explained that to you, do you happen to recall what
23 happened after that?

24 A. Um...

25 Q. Let me ask a better question. Did there

1 come a point in time when you began to take
2 photographs?

3 A. I took a few photographs initially, but the
4 majority of the other photographs were taken by the
5 other detective.

6 Q. But there did come a time when you took
7 some photographs?

8 A. Yes.

9 Q. As you were taking photographs, did he say
10 anything about -- how did he refer to Victoria?

11 A. His old lady.

12 Q. As you were taking the photographs, did he
13 say anything about what happened when his old lady
14 showed up?

15 A. She gave him an ass whooping.

16 Q. That's what he said?

17 A. Yes.

18 Q. Did you think that strange at all?

19 A. Yes.

20 Q. And as I recall and I believe the
21 transcript will bear out, in regard to getting
22 whooped, he said that it happened automatically.

23 A. Correct.

24 Q. Do you remember that?

25 A. Yes.

1 Q. He automatically got whooped?

2 A. Yes.

3 Q. Did you ask if he was taking any
4 medications that day?

5 A. Yes, I did.

6 Q. What did he say?

7 A. He said no, he does not take prescription
8 medication.

9 Q. Did you ask him to show you what he had
10 been drinking out of?

11 A. Yes, I did.

12 Q. What happened?

13 A. We went into the kitchen where he showed me
14 two glasses, and he -- he showed me with his hand
15 where he filled it up with vodka and where he filled
16 it up with water.

17 Q. Okay. Did either glass smell of alcohol?

18 A. Not that I recall.

19 Q. Did he explain why he was home alone with
20 Yessenia?

21 A. Yes, he did.

22 Q. And why was that?

23 A. He stated that he made an appointment for
24 his old lady and her older daughter to get their nails
25 done that afternoon.

1 Q. And did he happen to say about what time
2 that was?

3 A. He stated it was around one o'clock or
4 two o'clock in the afternoon.

5 Q. You have the transcript in front of you?

6 A. Yes, sir.

7 Q. Turn to page 12. I would like you to read
8 page 12 to yourself.

9 A. (The witness complies.)

10 Q. Having read that page, does that refresh
11 your recollection in regard to what he said about when
12 he was -- about what time he was home alone with
13 Yessenia?

14 A. What Engelson number down here is it?

15 Q. It should be your interview. That's
16 State's Proposed Exhibit -- or State's Exhibit 16.

17 THE COURT: She might be looking at a Bates
18 number or page number.

19 MR. VITTO: I got you. Yeah, yeah, yeah.

20 It's transcript page 12.

21 THE COURT: Kirk, why don't you go up and
22 make sure she's looking at the same page as you.

23 MR. VITTO: Roger that.

24 Q. (By Mr. Vitto) Yep. Does that help you
25 remember?

1 A. Yes.

2 Q. What time did he tell you he was alone with
3 Yessenia?

4 A. He stated that he would say maybe
5 two o'clock on.

6 Q. All right. So he was able to provide a
7 version of events of the day; is that correct?

8 A. Yes.

9 Q. He had no trouble recalling or articulating
10 where his old lady and her daughter had gone and why;
11 right?

12 A. Correct.

13 Q. And he made the appointment for them?

14 A. Yes.

15 Q. What time they left?

16 A. Yes.

17 Q. Did he know where his son was?

18 A. Yes.

19 Q. Did he know where Dwight was?

20 A. Yes.

21 Q. And he was able to articulate his plans for
22 the day?

23 A. Yes.

24 Q. In fact, he specifically told you what he
25 was drinking, how much, and exactly how far he filled

1 the glass; is that correct?

2 A. Yes.

3 Q. He had no problem with any of that?

4 A. No.

5 Q. He had no problem with articulating why she
6 needed a shower; right?

7 A. Correct.

8 Q. Something about her being sticky?

9 A. Correct.

10 Q. He was able to tell you which towel he used
11 to dry her off with; right?

12 A. Yes.

13 Q. So where did his recollection break down?

14 A. His recollection would break down when I
15 asked him specific questions about what happened to
16 Yessenia.

17 Q. Everything else was fine; right?

18 A. Yes.

19 Q. "What happened to Yessenia?"

20 "I don't know." Is that what you're
21 saying?

22 A. Correct.

23 Q. Do you recall at one point his asking you
24 if he could have a glass of water?

25 A. Yes.

1 Q. What happened after that?

2 A. We -- I believe we got him a glass of
3 water.

4 Q. Your conversation picked up after that?

5 A. Yes.

6 Q. He told you that he felt bad?

7 A. Correct.

8 Q. Did you ask him why?

9 A. Yes.

10 Q. What did he say?

11 A. He stated he felt bad because he was the
12 only one home.

13 Q. Let me direct your attention to pages 13
14 and 14. I would like you to review those pages. Look
15 up when you've had the opportunity to review them.

16 A. (The witness complies.)

17 Q. Have you had opportunity to review those
18 pages?

19 A. Yes.

20 Q. Does that refresh your recollection with
21 any specific detail with regard to why he felt so bad?

22 A. Yes.

23 Q. What do you recall after having refreshed
24 your recollection?

25 A. He felt bad because his lady had just beat

1 the shit out of him and that she thought it was his
2 fault. And that he had called her when Yessenia was
3 unresponsive.

4 THE COURT: Can you hear okay in the back?

5 JUROR NO. 15: She could speak up a little.

6 MR. VITTO: Your Honor, I don't know if the
7 witness realizes that in fact the jury extends all the
8 way down.

9 THE WITNESS: I did not, no.

10 THE COURT: That's okay. So whenever you
11 answer a question, talk to the lady in the back.

12 THE WITNESS: Okay.

13 Q. (By Mr. Vitto) And at some point when he
14 was talking about taking the whooping and all of those
15 things, he used the phrase she put hands on me; is
16 that correct?

17 A. Correct.

18 Q. But he didn't want to press charges or
19 anything; right?

20 A. No, he did not.

21 Q. He actually said that?

22 A. Yes.

23 Q. Because he understood why Victoria would
24 react that way?

25 A. Correct.

1 Q. That he was the person responsible?

2 A. Yes.

3 Q. And he said that?

4 A. Yes.

5 Q. And at some point you began to talk about a
6 timeline and looking at his phone to see what could be
7 developed; do you remember that?

8 A. Yes.

9 Q. Did you get a chance to review his call
10 history?

11 A. Yes, I did.

12 Q. And you took a screenshot of that call
13 history?

14 A. Yes, I did.

15 Q. I would like to show you what will be
16 preliminarily marked as State's Proposed Exhibit 18.

17 (Whereupon State's Proposed Exhibit
18 No. 18 is marked for identification.)

19 (Showing the exhibit to Defense Counsel.)

20 Q. (By Mr. Vitto) Showing you State's
21 Proposed Exhibit 18. Take your time. Do you
22 recognize that?

23 A. Yes, I do.

24 Q. What is that?

25 A. That is his call log.

1 Q. That's actually a photograph that you took?

2 A. Yes.

3 Q. And what does it show?

4 A. It shows six calls that he made that day.

5 Q. Between you and he, were you able to
6 identify which calls were made to Victoria?

7 A. Yes.

8 Q. And which ones were those?

9 A. The one that had the -- well, her name on
10 it, as well as the "V" for her initial.

11 Q. At what time was that?

12 A. One was at 6:44 p.m. And the next one,
13 7:08 p.m.

14 Q. And is there an emergency call indicated
15 there?

16 A. Yes.

17 Q. At what time was that call made?

18 A. 7:12 p.m.

19 Q. And he was able to help you look through
20 the call history on his phone and help you identify
21 these phone calls; is that correct?

22 A. Yes.

23 Q. And the calls that you just mentioned --
24 6:44, 7:08, and 7:12 -- those were all outgoing?

25 A. The 6:44 was outgoing and was outgoing to

1 Victoria. The 7:08 one was her calling him.

2 Q. Okay. So the 7:08 call was incoming?

3 A. Yes.

4 Q. And how about the 7:12, 911 call?

5 A. That appears to be an incoming call.

6 Q. Okay. Incoming from 911?

7 A. Correct.

8 Q. Did the defendant tell you that he called
9 911?

10 A. Yes, he did.

11 Q. How many times did he tell you he called
12 911?

13 A. I don't recall how many times, but it was
14 twice.

15 Q. More than once?

16 THE COURT: I'm going to clarify the
17 question. How many times did he tell you he called
18 911 once; so he told her ten times he called 911 once.
19 Or how many times did he say he called 911?

20 MR. VITTO: How many times did he tell this
21 witness that he had called 911.

22 Q. (By Mr. Vitto) More than once?

23 A. More than once.

24 Q. But according to your screenshot that you
25 took directly from his phone, he did not call 911?

1 A. No.

2 Q. But 911 called him?

3 A. Correct.

4 Q. And the shower was because she was sticky
5 from something?

6 A. Correct.

7 Q. Did he describe for you what happened after
8 Yessenia became limp and nonresponsive?

9 A. Yes.

10 Q. What did he say?

11 A. He stated that he shook her, kind of tapped
12 her face saying, "Wake up, wake up. Get up, get up,"
13 and he was holding her in his arms.

14 Q. Did he say anything to you about noticing
15 something wrong besides her being limp and
16 nonresponsive?

17 A. I would have to refer back.

18 Q. Let me direct your attention to page 19.
19 Read that page in its entirety, and I will ask you
20 some questions to see if it's refreshed your
21 recollection at all.

22 A. (The witness complies.) Okay.

23 Q. Has that refreshed your recollection?

24 A. Yes.

25 Q. So you testified that at one point Yessenia

1 was in his arms. He was tapping her face, "Wake up,
2 wake up." Did he say anything about noticing
3 something being wrong?

4 A. Just that she didn't respond. There was
5 nothing when he tried to wake her up.

6 Q. Nothing about the back of her head?

7 A. Just that he could see that something was
8 wrong with the back of her head.

9 JUROR NO. 15: Can you speak up, please?
10 We can't hear you.

11 THE WITNESS: I'm sorry.

12 THE COURT: You said, "Just that he could
13 see that something was wrong with the back of her
14 head"?

15 THE WITNESS: Correct.

16 JUROR NO. 15: Thank you.

17 Q. (By Mr. Vitto) He told that to you?

18 A. Yes.

19 Q. And that was while or as he laid her on the
20 bed?

21 A. Yes.

22 Q. So he lays her on the bed, and he tells you
23 that he knew that something was wrong with the back of
24 her head?

25 A. Correct.

1 Q. And that's directly from the shower?

2 A. Yes.

3 Q. So he's taking her from the shower where
4 she's limp and nonresponsive to lay her in bed, and he
5 can tell that something's wrong with the back of her
6 head?

7 A. Correct.

8 Q. Do you know what the back of your head is
9 referred to as scientifically?

10 A. The skull.

11 Q. Okay. You don't know if it's the occipital
12 region or anything else?

13 A. I don't recall what it is.

14 Q. That's okay. You were at the autopsy;
15 right?

16 A. Yes, I was.

17 Q. Did you see a skull fracture?

18 A. Yes, I did.

19 Q. Was it the back of her head?

20 A. Yes, it was.

21 Q. When was the autopsy?

22 A. It was the day after. It would have been
23 July 16th.

24 Q. And at that autopsy, were you personally
25 able to observe injury to Yessenia?

1 A. Yes.

2 Q. How would you describe that?

3 A. She was basically beaten, bruised from head
4 to toe. She did not have a space on her body that was
5 not bruised or injured.

6 Q. But according to him, Yessenia was fine
7 going into the shower?

8 A. Yes.

9 Q. So if I understand what the defendant has
10 told you so far, Yessenia was fine going into the
11 shower, she was fine coming out of the shower, when
12 she became limp and nonresponsive. He picked her up,
13 went to lay her on the bed when he knew that something
14 was wrong with the back of her head, but he can't
15 remember what happened?

16 A. Correct.

17 Q. That's what he told you?

18 A. That's what he told me.

19 Q. Now, you talked about his tapping her on
20 the face. I think you used the word shaking. "Wake
21 up, wake up," that kind of thing. After he told you
22 that, what happened next?

23 A. He stated that he didn't know if he called
24 his old lady or the paramedics.

25 Q. Okay. And what did he say immediately

1 after that?

2 And if you don't exactly recall, I will ask
3 you to refresh your recollection by reading pages 19
4 and 20 of the transcript admitted into evidence;
5 specifically page 20, lines 9 through 11.

6 A. He said that he called her mom, and that he
7 didn't know if he called the paramedics first, but
8 there was something wrong and that he did it.

9 Q. So in the transcript, it will say, "There
10 was something wrong, and I did it"?

11 A. Correct.

12 Q. And that's recorded; it's right here?

13 A. Yes.

14 Q. We're going to listen to it in a second.
15 But let me ask you this first: What did you do when
16 the defendant said "There was something wrong, and I
17 did it"?

18 A. I said okay. I thanked him for his honesty
19 and his cooperation, and basically, I said, "I know
20 it's scary." And then somehow I observed a marijuana
21 card in his wallet.

22 Q. Okay. Let's go ahead, and I want you to
23 listen to State's Proposed Exhibit 19A. And I'm going
24 to need a little bit of help. Let's see.

25 THE COURT: Do you need a recess?

1 MR. VITTO: You know what, Judge, no I
2 don't need a recess. I just, I'm old. I'm going to
3 be okay. I'm going to get through this.

4 I have a mini transcript prepared, and what
5 I mean by a mini transcript, is I've taken from the
6 transcript that's been admitted into evidence excerpts
7 that match the excerpts that I'm going to be playing
8 so that the jury can follow along. And I would like
9 those admitted and published to the jury at this time.

10 Maybe it would be best to take a recess so
11 we can do it and it's smooth and not --

12 THE COURT: You want to share that with the
13 Defense?

14 MR. VITTO: Yes. We're all good with that.

15 THE COURT: All right. Ladies and
16 gentlemen of the jury, we're going to take a short
17 recess.

18 During this recess, it's your duty not to
19 converse among yourselves or with anyone else on any
20 subject connected with the trial; including, without
21 limitation, newspapers, Internet, radio, TV. Don't
22 form or express an opinion.

23 The bailiff will be in to get you in about
24 five or ten minutes.

25 THE BAILIFF: All rise.

1 (A short recess is taken.)

2 THE BAILIFF: All rise.

3 THE COURT: Thank you. Please be seated.

4 MR. VITTO: Thank you, Your Honor.

5 THE COURT: All right. We're back in the
6 presence of our 15 jurors. We're speaking to the
7 juror in the far back.

8 THE WITNESS: Yes.

9 THE COURT: And we'll ask the State to
10 continue with their direct examination.

11 MR. VITTO: Thank you, Your Honor. I would
12 like to -- I have these proposed as 16B, but each one
13 of them would be 16B. I would like to hand out to
14 each juror a copy of what I'm referring to as a mini
15 transcript so that they can follow along and read what
16 it is that they're hearing when I play the excerpts.

17 THE COURT: In my notes we left off at 19A,
18 but that's all it says; so I'm a little confused now.

19 MR. VITTO: That's okay. 19A is the first
20 excerpt that I'm going to be asking Kassie to play for
21 us.

22 THE COURT: That's a CD?

23 MR. VITTO: It's a CD, and it's actually
24 going to be 19A through D are the calls on this one.
25 And then 19E will be a separate CD. And then I was

1 going to mark these, and I'm willing to take anybody's
2 help and suggestions in regard to -- I don't
3 necessarily think that these need to be marked, and if
4 everybody is okay with that, I'm fine with that. They
5 are excerpts of the worksheet.

6 THE COURT: Let me inquire. Are you fine
7 with these being demonstrative, or do you want them to
8 be admitted and marked?

9 MR. MARTINEZ: I think demonstrative is
10 fine, Judge. We double-checked everything. We know
11 that they come from the same transcript that has
12 already been admitted into evidence.

13 THE COURT: Thank you, sir.

14 MR. VITTO: Your Honor, I will ask your
15 bailiff to hand a copy to each juror.

16 THE COURT: Did I get one?

17 MR. VITTO: I have one for you, Judge.

18 THE COURT: Thank you, sir. And the
19 Defense has theirs?

20 MR. VITTO: Yes.

21 THE COURT: Very good.

22 MR. VITTO: Thanks, Judge. This is 19A
23 through D. One sticker, 19A-D.

24 / / /

25 / / /

1 (Whereupon State's Proposed Exhibit
2 Nos. 19A through D and 19E are marked for
3 identification.)

4 MR. VITTO: Judge, I can do a little
5 housekeeping real quick. I don't believe that State's
6 Proposed Exhibit 18 was admitted into evidence. I
7 would so move.

8 MS. BOSKOVICH: No objection.

9 THE COURT: Admitted.

10 (Whereupon State's Exhibit No. 18 is
11 admitted into evidence.)

12 THE COURT: Have we reached a stipulation
13 on 19A through E yet, or is that still pending?

14 MR. VITTO: I would move 19A through E into
15 evidence, publish to the jury at this time.

16 MS. BOSKOVICH: Sorry, Your Honor. At this
17 point we haven't laid any foundation. We haven't
18 heard what 19A through E are yet.

19 THE COURT: I think earlier he said they
20 were excerpts from the recording of the transcript.
21 And I asked him to share them with you. I don't know
22 if you had time to review it or what you want to do.

23 MR. MARTINEZ: He did, Judge, but I still
24 believe there's foundation that needs to be laid with
25 the witness testifying she saw them, she has heard

1 them, she has initialed them.

2 THE COURT: Fine. We'll lay a foundation.

3 MR. VITTO: Absolutely. I have no problem
4 with that.

5 DIRECT EXAMINATION (RESUMES)

6 BY MR. VITTO:

7 Q. Showing you State's Proposed Exhibit 19A
8 through D and 19E. Do you recognize those exhibits?

9 A. Yes, I do.

10 Q. And how is it that you recognize those?

11 A. I listened to them.

12 Q. And did you mark them as having listened to
13 them?

14 A. Yes, I did. I initialed.

15 Q. And you matched them to the transcript?

16 A. Correct.

17 Q. They're accurate?

18 A. Yes.

19 MR. VITTO: Your Honor, at this time I'm
20 going to ask that they be admitted into evidence and
21 published to the jury.

22 MS. BOSKOVICH: If I can just ask the
23 witness a voir dire question, Your Honor?

24 THE COURT: Yes, please.

25 / / /

VOIR DIRE EXAMINATION

BY MS. BOSKOVICH:

Q. When did you listen to those excerpts?

A. I listened to this one -- I'm sorry, 19A through D, I listened to this October 29th.

Q. And that was when you placed your initials on it?

A. Yes. And then 19E, I listened to today and placed my initials on it.

Q. And they were -- for 19B, you had time to compare and confirm that it was accurate?

A. Yes.

MS. BOSKOVICH: No objections, Your Honor.

THE COURT: It's admitted.

MR. VITTO: Thank you, Your Honor.

(Whereupon State's Exhibit Nos. 19A-D and 19E are admitted into evidence and published to the jury.)

MR. VITTO: I'm going to ask Kassie to come up and play 19A, and then I will ask the witness some questions about it, and sequentially forward.

I need the Court's indulgence a moment.

Okay, yes. If you will play 19A.

(A recording is played.)

/ / /

DIRECT EXAMINATION (RESUMES)

BY MR. VITTO:

Q. Okay. Now, is that the aspect -- as we were doing your direct examination right before we began this process, that was kind of where we left off where he said, "There was something wrong and I did it," and that's exactly what you're talking about?

A. Yes.

Q. So at that point -- and I want to understand your mindset as a detective and the steps that you took. You testified earlier that you enter a crime scene with the universe in mind, and that you begin to receive evidence and information, making deductions, and you're trying to close the gap; is that correct?

A. Yes.

Q. At the point that he says, "I did it," does it go from the universe to a focus?

A. Yes.

Q. So immediately what happened after he said I did it?

A. Immediately after, again, I thanked him for his honesty and his cooperation.

Q. And how was he responding at that time? Was he having an visceral response, some kind of

1 physical response?

2 A. He was starting to get choked up.

3 Q. All right. And at that moment is that when
4 you decided to check on the status of Yessenia?

5 A. Yes.

6 Q. So what did you do in regard to checking,
7 at that moment deciding to check on the status of
8 Yessenia?

9 A. At that moment he was detained, and I
10 advised him that he was detained and that I was going
11 to check on the status of his daughter. Deputy Burke
12 then placed the handcuffs on Mr. Engelson and took
13 custody of him while I stopped my recorder and went
14 outside.

15 Q. Okay. What happened when you went outside?

16 A. When I went outside, I went up to
17 Deputy Fowles -- or I'm sorry, Sergeant Fowles, and he
18 did his Miranda card as well. And he advised me that
19 Yessenia had died.

20 Q. And I'm sorry, Sergeant Fowles advised you
21 of that?

22 A. Yes.

23 Q. And did you confirm that? Did you speak
24 with Chief Lewis?

25 A. I did.

1 Q. All right. And what was that conversation?

2 A. I just wanted to confirm with Chief Lewis
3 what the medics observed, what he observed on
4 Yessenia's body; that she had bruises, and it would
5 appear to be strangle marks.

6 MS. BOSKOVICH: Objection; hearsay.

7 MR. VITTO: The objection is hearsay?

8 MS. BOSKOVICH: Yes.

9 MR. VITTO: Your Honor, I'm not using it to
10 prove the truth of the matter asserted, but only to
11 show why this officer did what she did next.

12 THE COURT: Overruled.

13 Q. (By Mr. Vitto) Go ahead.

14 A. I talked to Chief Lewis just to confirm the
15 injuries.

16 Q. Because you had not seen Yessenia at this
17 time?

18 A. I had not, no. And he advised me that the
19 medics advised him that she had bruising, possible
20 strangulation marks, and possibly what would appear to
21 be bite marks on her legs.

22 Q. So as a result of what you heard and what
23 you had been told, what did you do next?

24 A. I went back up to Mr. Engelson, I turned my
25 recorder on, and I read him his Miranda rights.

1 Q. And he agreed to speak with you?

2 A. Yes, he did.

3 Q. Did you have your Miranda card with you?

4 A. I did not have my own. I had to borrow
5 Sergeant Fowles' card.

6 Q. All right. So if I understand this
7 correctly, he said, "Something was wrong, and I did
8 it." He was cuffed, told he was detained. You
9 checked the status, confirmed her current physical
10 condition, retrieved a Miranda card, read the
11 defendant his rights, and you began to speak with him
12 again; is that correct?

13 A. Correct.

14 Q. Okay. So how did your conversation pick up
15 with the defendant after that?

16 A. After I read him his Miranda rights or --

17 Q. Yes.

18 A. Once I read him his Miranda rights, I asked
19 him if he understood. He stated yes. I asked him if
20 he wanted to continue speaking with me, in which he
21 stated yes. I advised him that his daughter had
22 passed away. At that time he started to cry and
23 stated that he had loved that little girl and that he
24 had taken her whole family in.

25 He needed a moment, and then I continued.

1 And I believe again I thanked him for his honesty, but
2 I told him we needed to find out what exactly happened
3 to Yessenia.

4 Q. At some point did he lament having a bad
5 day?

6 A. Yes, he did.

7 Q. Did he explain what had made his day bad?

8 A. He had explained basically that he had
9 worked the night before. His shift in Vegas was
10 11:00 p.m. to 6:00 a.m. He went out for breakfast
11 with the family. His old lady was giving him a hard
12 time because he wanted a beer, and it progressed to
13 him not knowing what happened to Yessenia, but that it
14 was just a bad day.

15 Q. All right. Do you remember saying to him,
16 "We all have bad days"?

17 A. Yes.

18 Q. Do you remember how he responded?

19 A. He stated, "Not like this."

20 Q. Let's go ahead and play the next excerpt
21 which is 19B.

22 (A recording is played.)

23 Q. (By Mr. Vitto) Now, what was that -- did
24 you hear what he said?

25 A. Yes, I did.

1 Q. And what was that in reference to?

2 A. That was in reference to me asking him how
3 much he had to drink that day.

4 Q. And I believe his response was, "One
5 beforehand and one when she left"?

6 A. Yes.

7 Q. And do you remember having a conversation
8 with him about his use of Antabuse?

9 A. Yes.

10 Q. What was that conversation between you and
11 he?

12 A. When we were talking about him drinking, he
13 stated that he would take Antabuse, but he -- I
14 believe he hadn't taken it for a few days, that he had
15 last drank July 4th, and that sometimes he falls off
16 the wagon and gets back on.

17 Q. All right. Let me direct your attention to
18 page 26 of the transcript. Do you still have that in
19 front of you?

20 A. Yes.

21 Q. I would like you to go ahead and read that
22 page. Let me know when you've had that opportunity.

23 A. (The witness complies.) Okay.

24 Q. Does that refresh your recollection at all
25 about what he said, or did you pretty much cover it?

1 A. It refreshes my recollection.

2 Q. Okay. What did he say about it?

3 A. So I had asked him when he drinks does he
4 black out. And I asked him if he had any medical
5 conditions because he was having a bad day. He stated
6 that he had, and that he takes Antabuse because he's
7 recovering.

8 Q. And that even with the Antabuse, he will
9 periodically go off the Antabuse so he can drink?

10 A. Yes.

11 Q. Now, I know that you testified that he said
12 Yessenia was fine before the shower, she was fine
13 coming out of the shower. Did he say what happened in
14 the shower?

15 A. Just that when she gets water on her face,
16 she freaks out.

17 Q. Okay. And you saw her body at the autopsy,
18 and I think you described the bruising as basically
19 everywhere?

20 A. Yes.

21 Q. So at some point after being fine going
22 into the shower, she was bruised from head to toe, her
23 skull was fractured, and he was the only person in the
24 house. And he doesn't remember anything?

25 A. Correct.

1 Q. But he also admits he was responsible?

2 A. Yes.

3 Q. And he said, "I did it"?

4 A. Correct.

5 Q. Let's go ahead and listen to 19C.

6 (A recording is played.)

7 Q. (By Mr. Vitto) And that's the part where
8 you asked if she was crabby or anything, and he said,
9 "No, she was fine."

10 A. Correct.

11 Q. Let's play 19D.

12 (A recording is played.)

13 Q. (By Mr. Vitto) Detective, do you recall --
14 do you recall volunteering that maybe he just rolled
15 over on top of her?

16 A. Yes, I did.

17 Q. And was he willing to accept that that was
18 a possibility?

19 A. Yes, he was.

20 Q. Because he sleeps heavy?

21 A. Correct.

22 Q. Based on your training and experience, the
23 evidence at the scene, the child you saw at the
24 autopsy, do you have an opinion about what he had told
25 you?

1 A. My opinion is that based on everything and
2 my experience in interviewing suspects, that he was
3 alone there with her and that he is the one who
4 committed the crime.

5 Q. That's just not something that he wanted to
6 outright admit?

7 A. Correct.

8 Q. What made you think that?

9 A. Because he could tell me everything from
10 his evening at work, that he was diplomatic at work
11 when there's issues. He told me about making the nail
12 appointment for his girlfriend and her daughter, where
13 his son was, where Yessenia's brother was. I mean, he
14 could give me everything up until the point where
15 Yessenia was killed and after, but he could not give
16 me information what he had done to her.

17 Q. All right. Let's go ahead and play E, and
18 then we will rapidly finish up your direct
19 examination.

20 (A recording is played.)

21 Q. (By Mr. Vitto) Okay. And that reflects in
22 the transcript where he took you to the scene of the
23 shower, and the water was still running, and he asked
24 permission to shut the water off and he did?

25 A. Yes.

1 Q. Let me show you State's Proposed
2 Exhibit 20A (sic).

3 (Mr. Vitto retrieves the exhibit from
4 court clerk.)

5 THE CLERK: 20C.

6 MR. VITTO: Okay. 20C.

7 (Showing the exhibit to Defense Counsel.)

8 Q. (By Mr. Vitto) Do you recognize what's
9 been admitted into evidence as State's Exhibit 20C?

10 A. Yes.

11 Q. How do you recognize that? I'm sorry, is
12 it 20C or A?

13 A. C.

14 Q. How do you recognize that?

15 A. I collected it from the Clark County
16 Medical Examiner's Office when I was at the autopsy.

17 Q. What can you tell us about that, what 20C
18 is?

19 A. 20C is a Sexual Assault Evidence Collection
20 Kit.

21 Q. And were you there when that kit was used?

22 A. Yes.

23 Q. Do you happen to recall who made the
24 request or the authorization for that to be collected?

25 A. Nye County Sheriff's Office requested it.

1 Q. All right. You don't know exactly why --
2 or you don't know exactly who?

3 A. No.

4 Q. Do you have a general idea of why the
5 decision was made to collect that?

6 A. Yes.

7 Q. And what was that?

8 A. There was reports that Yessenia had
9 possible bite marks in her inner thighs. And in my
10 training as a sexual assault detective, child abuse
11 detective, those bites on the inner thighs are usually
12 indicative of a sex crime.

13 Q. Okay. But to be clear, the results of any
14 testing was negative?

15 A. Correct.

16 Q. Now, you've had training and experience
17 with collecting sexual assault evidence; is that
18 correct?

19 A. Yes.

20 Q. And you did take photographs of the scene;
21 is that correct?

22 A. Of the scene on Manse?

23 Q. Yes.

24 A. I did take some, yes.

25 Q. All right. We're going to look at those.

1 So let me show you initially State's Proposed
2 Exhibit 20A.

3 (Showing the proposed exhibit to
4 Defense Counsel.)

5 (Whereupon State's Proposed Exhibit
6 No. 20A is marked for identification.)

7 Q. (By Mr. Vitto) Showing you State's
8 Proposed Exhibit 20A. Do you recognize that?

9 A. Yes, I do.

10 Q. And how do you recognize that?

11 A. This is a Forensic Laboratory Examination
12 Request.

13 Q. Okay. And how does it relate to 20C?

14 A. It is a request that I filled out for a
15 sexual assault kit.

16 Q. So you're asking -- with 20A, you're asking
17 the lab to examine the contents of 20C?

18 A. Correct.

19 MR. VITTO: I would ask that 20A be
20 admitted into evidence.

21 MS. BOSKOVICH: No objections, Your Honor.

22 THE COURT: Admitted.

23 (Whereupon State's Exhibit No. 20A is
24 admitted into evidence.)

25 Q. (By Mr. Vitto) I would like to show you

1 21A through G.

2 (Whereupon State's Proposed Exhibit
3 Nos. 21A through G are marked for
4 identification.)

5 (Showing the exhibits to Defense Counsel.)

6 Q. (By Mr. Vitto) Showing you State's
7 Proposed Exhibits 21A through G. Take your time
8 review those. Look up when you're done. I will ask
9 you some questions about them.

10 Have you had opportunity to review those?

11 A. Yes.

12 Q. Do you recognize them?

13 A. Yes, I do.

14 Q. Are they accurate?

15 A. Yes.

16 Q. You actually took those photographs?

17 A. Yes.

18 Q. Can you identify each one of those by
19 number, what each depicts, and why you took it
20 starting with 21A?

21 A. 21A is an evidence bag, evidence that was
22 collected. It was a purple bar of soap; it was like a
23 soap on a rope. And we thought some of the bruises
24 and marks on Yessenia's body appeared to be consistent
25 with that bar of soap.

1 Q. Okay.

2 A. 21B is a picture of the bathroom where
3 Yessenia had showered. It's just my initial picture
4 of going in.

5 Q. Was it a relatively small area as you
6 recall?

7 A. Yes. It wasn't large.

8 Q. Small? Normal?

9 A. It was a normal size. It wasn't large. It
10 wasn't small.

11 Q. Okay.

12 A. 21C is the purple bar of soap that I took
13 out of the bag as evidence.

14 21D is a picture of the bathroom counter
15 where Mr. Engelson stated that he dried Yessenia off
16 and where the towel was that he said he used.

17 21E a picture of the bathroom again, the
18 floor by the shower.

19 Q. Let me ask you, the last photograph the
20 floor by the shower.

21 A. Yes.

22 Q. When you got there, the water was still
23 running in the shower?

24 A. Yes.

25 Q. Is there any water on the floor by the

1 shower?

2 A. There appears that there might be.

3 Q. Okay. Go ahead.

4 A. 21F is another picture from another angle
5 of the bathroom showing a different angle of the sink
6 and the counter.

7 And 21G is going to be a photograph in the
8 kitchen where Mr. Engelson showed me the two glasses
9 that he drank vodka in, and he was showing where he
10 filled the vodka up to.

11 Q. Okay. So that's the defendant's hand in
12 that photograph?

13 A. Yes, it is.

14 Q. And his hand actually indicating to you how
15 far he filled up the glass with vodka?

16 A. Correct.

17 Q. And the rest was water?

18 A. Yes.

19 Q. And he used those two glasses?

20 A. Yes.

21 Q. For the two drinks that he had, one before
22 and one after?

23 A. Correct. That is what he said.

24 Q. All right. Did he indicate to you the
25 clothing that Yessenia had been wearing?

1 A. Prior to the shower?

2 Q. At any point, did he say that's her clothes
3 there or anything like that?

4 A. Just the towel. He said that was the towel
5 that he used to dry her off.

6 Q. Nothing specific to the clothing she was
7 wearing?

8 A. I don't recall.

9 MR. VITTO: Your, Honor I would ask that
10 State's Proposed Exhibits 21A through G be admitted
11 into evidence.

12 MS. BOSKOVICH: No objection.

13 THE COURT: They're admitted.

14 (Whereupon State's Exhibit Nos. 21A
15 through G are admitted into evidence.)

16 MR. VITTO: And I think I've moved
17 everything else into evidence. I have no more
18 questions of this witness at this time.

19 THE COURT: Counsel, what would you like to
20 do?

21 MS. BOSKOVICH: Court's pleasure. I know
22 my cross will take more than 15 minutes.

23 THE COURT: Would you like to take a lunch
24 recess now, and then do your cross after lunch?

25 MS. BOSKOVICH: Probably. It's up to

1 Your Honor and the jurors.

2 THE COURT: Well, it's just up to me. But
3 the reason I ask is obviously, I don't want to
4 interrupt your flow. And if you start now and you go
5 for another half hour, we could probably do 12:15. I
6 don't know how much Kirk's rebuttal is going to be. I
7 don't want to work through lunch.

8 MS. BOSKOVICH: I'm fine taking a lunch
9 recess.

10 THE COURT: Ladies and gentlemen, during
11 this lunch recess, it's your duty not to converse
12 among yourselves or with anyone else on any subject
13 connected with the trial; or to read, watch, or listen
14 to any report of or commentary of the trial, including
15 without limitation, newspapers, television, radio and
16 Internet.

17 Don't form or express an opinion until the
18 case is submitted to you at the end. We will have you
19 return at one o'clock.

20 THE BAILIFF: All rise.

21 THE COURT: Anything the attorneys need to
22 do.

23 MR. ARABIA: Your Honor, one brief thing.

24 (The jurors are excused for lunch.)

25 THE COURT: All right. We're outside the

1 presence of the jury.

2 MR. ARABIA: Your Honor, it's really just a
3 minor housekeeping thing. This afternoon Dwight Camp
4 and Nickole Robinson are going to testify; that's the
5 brother and sister of Yessenia.

6 THE COURT: I can't hear you. I'm sorry.

7 MR. ARABIA: Is it okay to take this off
8 (referring to the facial mask)?

9 THE COURT: Yes. Thank you, sir.

10 MR. ARABIA: This afternoon, Dwight Camp
11 and Nickole Robinson who are the brother and sister of
12 Yessenia are going to testify. As you can imagine,
13 that's a difficult thing for an adult, but for a
14 child. They have asked that DDA Kindel be allowed to
15 sit in the courtroom. Christi Kindel and I met with
16 them several times, and I think it would just make
17 them more comfortable if she could be there. She
18 would be behind the bar and not really functioning --
19 not functioning at all as an attorney, but just
20 someone present for them.

21 THE COURT: To sit in the courtroom behind
22 you?

23 MR. ARABIA: No, back in the gallery,
24 which, yeah, that's behind me.

25 THE COURT: Well, that's behind you, behind

1 the bar and the gallery.

2 MR. ARABIA: Yes.

3 THE COURT: I don't know what the problem
4 would be, but let me ask. Maybe I'm not seeing it.

5 MR. MARTINEZ: Judge, I don't think I can
6 have a legal objection to that. Anyone from the
7 State's office can come in and watch a trial at any
8 point.

9 THE COURT: That's what I figured.

10 MR. ARABIA: I just thought it was proper
11 to ask.

12 MR. MARTINEZ: Thank you, and I appreciate
13 that.

14 THE COURT: Okay. We'll take a lunch
15 recess. See you at one o'clock.

16 MR. MARTINEZ: Thanks, Judge.

17 THE CLERK: All rise.

18 (A lunch recess is taken at 11:50 a.m. to
19 1:10 p.m.)

20 (Whereupon State's Proposed Exhibit
21 Nos. 2, 3, 3A-B, 4, 5, 6, 23, 52A-B, and
22 63 are marked for identification.)

23 THE BAILIFF: All rise.

24 THE COURT: Thank you. Please be seated.

25 MR. VITTO: Thank you, Your Honor.

1 THE COURT: All right. We're on the
2 afternoon session of Day 3 of our trial. We have 15
3 jurors and the State's case in chief. I believe the
4 State -- we just passed it to cross-examination.

5 MS. BOSKOVICH: That's correct, Your Honor.
6 Thank you.

7 THE COURT: All right. Thank you. Go
8 ahead, please.

9 CROSS-EXAMINATION

10 BY MS. BOSKOVICH:

11 Q. Good afternoon, Detective. How are you?

12 A. Good. Good afternoon.

13 Q. So on direct, you stated that you are a
14 detective for the Death Investigation Unit?

15 A. I'm an acting detective right now for the
16 death -- for -- I'm the only one, death investigation.

17 Q. Is that a new unit with Nye County?

18 A. They're trying to get it to be a new unit,
19 yes.

20 Q. What was your title on July 15th, 2017?

21 A. I was a detective.

22 Q. And at that time, how long had you been a
23 detective?

24 A. Goodness, maybe -- that was my second time
25 in general assignment so about maybe a

1 year-and-a-half.

2 Q. But you were a detective prior to that?

3 A. I had been. I had been for about
4 two-and-a-half years, about 2007 to 2009.

5 Q. With Nye County?

6 A. Yes.

7 Q. What kind of additional training does it
8 take to become a detective?

9 A. We do sex assault training. We do death
10 investigation training. We do homicide, interview and
11 interrogation, elder abuse training. We do a lot of
12 training.

13 Q. Specifically, in -- for sex assault
14 training, what kind of -- what is that training
15 comprised of?

16 A. I've gone to numerous trainings for sex
17 assault investigations. And each one is different,
18 but they basically all go over just what to look for,
19 find, you know, like different ages of kids to teens
20 to adults.

21 Q. And with homicide investigations, what
22 kind of -- yeah, what kind of training do you go
23 through for homicide investigations?

24 A. We do -- they're just called homicide
25 investigations. So a lot of it is case -- different

1 detectives will go over cases, and they will point out
2 different things on what you want to look for,
3 different ways to, you know, collect evidence. So
4 it's pretty extensive on what they talk about.

5 Q. Are there, like, yearly certifications that
6 you have to get as a detective?

7 A. Yes, there is.

8 Q. What kinds are those?

9 A. There was -- to investigate sexual assault,
10 you needed to do annual training.

11 Q. Anything specific for homicide?

12 A. No.

13 Q. And you're trained to interview suspects?

14 A. Yes.

15 Q. And what kind of training does that entail?

16 A. It was interview and interrogation. So
17 it's, you know, going from just "Hi, how are you.
18 You're not in custody," and transitioning into
19 interrogations or an in-custody interview. So it
20 gives you techniques and different things to look for.

21 Q. Teaches you what kind of questions to ask?

22 A. Sometimes, yes.

23 Q. And have you ever received training on how
24 to document a crime scene?

25 A. Yes.

1 Q. What kind of training does that entail?

2 A. Gosh, that was from my academy. So it was
3 an academy basic, crime scene investigation.

4 Q. And in the academy, that's something that
5 all law enforcement in Nye County have to go through?

6 A. Yes. If you go through Nye County Academy.
7 I don't know what others do.

8 Q. And on direct, you said you've dealt with
9 intoxicated people before?

10 A. Yes.

11 Q. Quite often?

12 A. Often enough, yes.

13 Q. You used to be a patrol deputy?

14 A. Yes.

15 Q. And I assume you've done DUI arrests
16 before?

17 A. I have.

18 Q. Do you know roughly how many?

19 A. I don't. I didn't -- I would work day
20 shift. Day shift didn't usually have DUIs. It was
21 rare. And then I went to school police, like the
22 special unit; so I didn't deal with -- I just haven't
23 dealt with many DUIs in my career so.

24 Q. But you are trained to recognize
25 intoxicated people?

1 A. Yes.

2 Q. Certain signs of intoxication?

3 A. Yes.

4 Q. One of which is an odor of alcohol?

5 A. Correct.

6 Q. And you did notice that with Cole Engelson;
7 correct?

8 A. Yes, I did.

9 Q. And that was actually what prompted you to
10 ask him how many -- or what he had been drinking --

11 A. Yes.

12 Q. Or I guess how many drinks he had had that
13 day?

14 A. Correct.

15 Q. A different question. And you're also
16 trained in report writing; correct?

17 A. Yes.

18 Q. And how soon after an incident occurs,
19 generally, do you write a report?

20 A. Usually, I do it right away.

21 Q. And that's just so you remember all the
22 details accurately?

23 A. Yes.

24 Q. Everything is fresh in your memory?

25 A. Yes.

1 Q. And you're trained to include all of the
2 important details in your report?

3 A. Yes.

4 Q. So is it safe to say that if something is
5 not in your report, it wasn't necessarily important to
6 the investigation?

7 A. Not that it wasn't important, but I may
8 have missed it.

9 Q. So on July 15th, 2017, you were dispatched
10 to 5320 East Manse Road?

11 A. Yes.

12 Q. Were you contacted by telephone?

13 A. I believe via radio.

14 Q. Do you remember who dispatched you?

15 A. I believe it was a Nye dispatcher.

16 Q. You were just told that somebody had
17 requested a detective on scene?

18 A. The call came out that a three-year-old was
19 unresponsive and CPR was in progress. Usually, as a
20 detective when we hear those calls come out, we're
21 usually requested anyhow. So I believe I was already
22 en route, but yes, I was requested.

23 Q. Even though your shift was close to being
24 over, you were already headed in that direction?

25 A. Yes.

1 Q. How long are your shifts typically?

2 A. Typically, they're 12 hours.

3 Q. You had already been working for 12 hours
4 before you got on scene that day?

5 A. Yes.

6 Q. On direct, you mentioned Code 4, Not
7 Code 4?

8 A. Right.

9 Q. What does that mean again?

10 A. So Code 4 for law enforcement, and also for
11 our medics, means that your status when you're on the
12 scene. So dispatch will status us to see if we're
13 okay. We'll say, "Code 4," which means we're good,
14 we're okay. Not Code 4 is, you know, things aren't
15 good.

16 Q. And that was something you heard over the
17 radio before you arrived that day?

18 A. That is what I heard from our dispatchers;
19 that is what they advised.

20 Q. You were also advised that there was a man
21 on scene that was irate?

22 A. Correct.

23 Q. And highly upset?

24 A. Yes.

25 Q. Do you recall roughly what time you arrive