

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

APPELLANT'S APPENDIX VOLUME 10 OF 22

Ronni Boskovich
State Bar #14484
Daniel Martinez
State Bar #12035
3190 S. Hwy 160
Suite H
Pahrump, NV 89048
(702) 583-4041
Attorneys for Cole Engelson

Electronically Filed
Jul 23 2021 05:55 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

<u>VOLUME</u>	<u>PLEADING</u>	<u>PGS</u>
1	Amended Information (2/7/2019).....	5-8
5	Amended Order Setting Jury Trial (9/14/2020).....	742-743
1	Brief in Support of Admitting Bad Act Evidence (11/25/2019).....	9-24
3	Court Order (7/8/2020).....	518-523
3	Court Order on Motion to Suppress (7/8/2020).....	524-528
1	Defendant Cole D. Engelson's Opposition to Bad Act Evidence (4/29/2020).....	43-51
1	Defendant's Formal Request for Pro Se Self-Representation (3/5/2020).....	30-39
1	Information (11/21/2018).....	1-4
22	Judgment of Conviction (3/12/2021).....	2175-2177
5	Motion to Disqualify the Nye County District Attorney's Office (10/27/2020).....	744-750
1	Motion to Suppress Defendant's Statements (6/4/2020).....	137-147
22	Notice of Appeal (3/26/2021).....	2178-2183
1	Notice of Motion and Motion for Deposition (2/10/22).....	25-29
2	Opposition to Defendant's Motion to Suppress Defendant's Statements, Pages 1-249 (6/12/2020).....	148-397
3	Opposition to Defendant's Motion to Suppress Defendant's Statements, Pages 250-307 (6/12/2020).....	398-454

6	Opposition to the Defendant’s Motion to Disqualify the Nye County District Attorney’s Office (10/29/2020).....	751-771
1	Order Appointing Counsel (3/30/2020).....	40-42
1	Reply to Opposition to Brief in Support of Admitting Bad Act Evidence (5/27/2020).....	52-60
1	Transcript of Proceedings Deposition of Christopher Pullen (5/21/2020).....	61-135
3	Transcript of Proceedings Defendant’s Motion to Suppress/Motion Admitting Bad Act Evidence/Calendar Call (7/6/2020).....	455-517
6	Transcript of Proceedings, Jury Trial Day 1 (11/4/2020).....	794-825
7	Transcript of Proceedings, Jury Trial Day 2 Pages 1-100 (11/5/2020).....	826-925
8	Transcript of Proceedings, Jury Trial Day 2 Pages 101-157 (11/5/2020).....	926-982
9	Transcript of Proceedings, Jury Trial Day 3 Pages 1-118 (11/6/2020).....	983-1100
10	Transcript of Proceedings, Jury Trial Day 3 Pages 119-194 (11/6/2020).....	1101-1176
11	Transcript of Proceedings, Jury Trial Day 3 Pages 195-275 (11/6/2020).....	1177-1257
12	Transcript of Proceedings, Jury Trial Day 4 Pages 1-100 (11/9/2020).....	1258-1357
13	Transcript of Proceedings, Jury Trial Day 4	

	Pages 101-176 (11/9/2020).....	1358-1433
14	Transcript of Proceedings, Jury Trial Day 5 Pages 1-100 (11/10/2020).....	1434-1533
15	Transcript of Proceedings, Jury Trial Day 5 Pages 101-190 (11/10/2020).....	1534-1623
16	Transcript of Proceedings, Jury Trial Day 6 Pages 1-110 (11/12/2020).....	1624-1733
17	Transcript of Proceedings, Jury Trial Day 6 Pages 111-212 (11/12/2020).....	1734-1835
18	Transcript of Proceedings, Jury Trial Day 7 Pages 1-70 (11/13/2020).....	1836-1905
19	Transcript of Proceedings, Jury Trial Day 7 Pages 71-127 (11/13/2020).....	1906-1962
20	Transcript of Proceedings, Jury Trial Day 8 Pages 1-80 (11/16/2020).....	1963-2042
21	Transcript of Proceedings, Jury Trial Day 8 Pages 81-153 (11/16/2020).....	2043-2115
6	Transcript of Proceedings, Motion to Disqualify the Nye County District Attorney's Office (10/29/2020).....	772-793
4	Transcript of Proceedings Petrocelli Hearing Day 1 (8/10/2020).....	529-639
5	Transcript of Proceedings Petrocelli Hearing Day 2 (8/11/2020).....	640-741

21	Transcript of Proceedings, Sentencing Hearing Day 1 (2/1/2021).....	2118-2132
22	Transcript of Proceedings, Sentencing Hearing Day 2 (3/8/2021).....	2133-2174
21	Verdict (11/16/2020).....	2116-2117

1 on scene?

2 A. After reviewing the transcript and report,
3 it was about 1920, 7:20 p.m.

4 Q. Okay. And when you arrived, Pahrump Valley
5 Fire & Rescue, they were already on scene?

6 A. They had left. So when I arrived, there
7 were no -- I don't believe they were on scene. I know
8 the engine was still there, and Chief Lewis was still
9 there.

10 Q. And you spoke to Chief Lewis when you got
11 there; correct?

12 A. Yes, I did.

13 Q. And he also told you about the male that
14 was allegedly irate and upset?

15 A. Yes. He pulled me aside.

16 Q. And when you approached the residence, you
17 made contact with that male that was highly --
18 allegedly highly upset and irate?

19 A. Mr. Engelson, yes.

20 Q. And he wasn't irate, though, when you met
21 with him?

22 A. Not at the time, no.

23 Q. He wasn't combative?

24 A. No.

25 Q. He wasn't being physically aggressive with

1 anyone?

2 A. No, he was not.

3 Q. Wasn't yelling?

4 A. No.

5 Q. He was trying to answer all of your
6 questions that you were asking?

7 A. Yes.

8 Q. And when you approached the residence, you
9 saw Deputy Burke speaking with the male; is that
10 correct?

11 A. He was with the male. I don't recall if
12 they were talking, but I know he was there with him.

13 Q. Do you know if Cole was ever by himself
14 after law enforcement arrived on scene?

15 A. Not to my knowledge, no.

16 Q. So the whole time you were on scene, you
17 were -- either you or Deputy Burke were with Cole?

18 A. Correct.

19 Q. And as you approached, you started
20 questioning Cole about what had happened that night?

21 A. Yes.

22 Q. Yeah, that night.

23 A. Yes.

24 Q. He told you he was giving Yessenia a bath
25 and she became unresponsive?

1 A. Correct.

2 Q. And he told you he didn't really know what
3 happened?

4 A. Correct.

5 Q. He told you that they didn't have a tub in
6 the house; it was only showers?

7 A. Yes.

8 Q. And later you learned that that was
9 incorrect; right?

10 A. Correct; yes.

11 Q. Because there was a bathtub in one of the
12 downstairs bathrooms?

13 A. Yes. I later learned that.

14 Q. And Cole told you he always dries Yessenia
15 off on the counter?

16 A. Correct.

17 Q. And that that's when she went limp and he
18 called her mom?

19 A. Yes.

20 Q. In reference to Cole being intoxicated, you
21 stated that you did notice the smell of alcohol?

22 A. Correct.

23 Q. And you asked him how much he had been
24 drinking?

25 A. Correct.

1 Q. He answered he had about a couple of
2 drinks?

3 A. Yes.

4 Q. And later on, he admitted that he had been
5 drinking vodka?

6 A. Correct.

7 Q. And at one point he showed you the glasses
8 that he was drinking out of?

9 A. Yes.

10 Q. And those were pint glasses?

11 A. I don't -- I'm not good with the sizes. I
12 would say they were like eight or 12 ounce glasses.

13 Q. Okay. At one point during the
14 conversation, you asked him to spell Yessenia's
15 name --

16 A. Uh-huh.

17 Q. -- is that correct?

18 A. Yes.

19 Q. And he actually spelled it incorrectly,
20 didn't he?

21 A. I don't remember if he did.

22 MS. BOSKOVICH: Can I have you grab the
23 transcript which is State's --

24 THE CLERK: It should be 16.

25 Q. (By Ms. Boskovich) And can I have you turn

1 to page 5 of the transcript?

2 A. Okay.

3 Q. And can you read lines 2 through 4 to
4 yourself, please?

5 A. Yes.

6 Q. And how did he spell Yessenia's name on
7 line 4?

8 A. The actual page 5, or just the page?

9 Q. So it would be Engelson 1,009.

10 A. 1,009?

11 Q. Sorry about that.

12 A. That's okay. Okay. On line 4?

13 Q. Yep.

14 A. He spells it Y-e-s-s-i-n-a.

15 Q. And do you know if that's actually the
16 correct spelling?

17 A. At the time I did not, because I didn't
18 have her name written down.

19 Q. Later you learned, though, that that was in
20 fact an incorrect spelling?

21 A. I believe so, yes.

22 Q. Later on in the night, you asked Cole if he
23 ever blacks out from drinking?

24 A. Yes.

25 Q. And he told you that he has?

1 A. Correct.

2 Q. And then he also told you that he's taking
3 Antabuse?

4 A. Yes.

5 Q. And when he told you that, were you
6 familiar with Antabuse?

7 A. I was not, no.

8 Q. He told you that this was the first day he
9 had drank in a while?

10 A. Since July 4th.

11 Q. So about 11 days earlier, he had drank
12 some?

13 A. Yes.

14 Q. You asked him if Yessenia had been sick at
15 all?

16 A. I did.

17 Q. And he responded that she had in fact been
18 sick?

19 A. Yes.

20 Q. That she was actually on breathing
21 treatments?

22 A. Yes.

23 Q. And you asked Cole if anyone else was home?

24 A. Yes.

25 Q. And he told you that he was the only one

1 home?

2 A. Correct.

3 Q. He didn't mention Dwight being home at any
4 point during the day?

5 A. I don't believe so.

6 Q. Did you learn later that Dwight actually
7 had been home at one point?

8 A. Yes, I did.

9 Q. And at one point Cole took you into the
10 bathroom where he was showering Yessenia?

11 A. Yes.

12 Q. It was a pretty tiny bathroom, wasn't it?

13 A. It was, to me, a normal size bathroom.

14 Q. Was Cole a big guy at the time?

15 A. Yes.

16 Q. Would there have been a lot of room for him
17 to move around in the bathroom?

18 A. In the bathroom itself, yes.

19 Q. When you walked in, the water in the shower
20 was still running?

21 A. Yes, it was.

22 Q. And Cole asked if he could turn it off?

23 A. Yes.

24 Q. He told you that Yessenia didn't like
25 having water in her face?

1 A. Yes.

2 Q. And she kind of flips out when she gets
3 water in her face?

4 A. Correct.

5 Q. Do you remember asking Cole if maybe
6 Yessenia had fallen down at one point?

7 A. I don't recall, but I know I asked a couple
8 of questions or scenarios that could have happened.

9 Q. And he answered maybe to most of those
10 scenarios?

11 A. Either maybe, or he just couldn't tell,
12 couldn't recall -- or I'm sorry, didn't know.

13 Q. And when you were in the bathroom, Cole
14 pointed out the counter that he would dry Yessenia on?

15 A. Yes.

16 Q. Was it a pretty small counter?

17 A. Yes.

18 Q. Not a whole lot of space?

19 A. There was not a lot of space, no.

20 Q. Lots of clutter on the counter?

21 A. There was some, yes.

22 Q. You noticed that there -- you didn't see
23 any evidence that a child had been on the counter at
24 any point?

25 A. Correct.

1 Q. You didn't see any evidence that something
2 wet had been on the counter?

3 A. Correct.

4 Q. And you looked for footprints on the
5 counter?

6 A. I did.

7 Q. And you couldn't find any?

8 A. Yes; correct.

9 Q. You were just looking with your naked eye
10 though; right?

11 A. I was, and I used a flashlight to kind of
12 see if there was any, you know, shadow or imprint.

13 Q. Was it just a regular flashlight?

14 A. Yes.

15 Q. Not a black light?

16 A. No.

17 Q. No forensic instruments?

18 A. No.

19 Q. You didn't use any infrared radiation to
20 look for footprints or anything like that?

21 A. No.

22 Q. Are you trained in collecting trace
23 evidence?

24 A. Yes.

25 Q. Did you do that with this, with the

1 counter?

2 A. With the counter, no, I did not.

3 Q. Do you know how long footprints will remain
4 on a surface?

5 A. I do not.

6 Q. Do you know how long water will stay on a
7 surface before it evaporates?

8 A. Before it evaporates, no, I don't.

9 Q. Do you know how long oils stay on -- like
10 oils from skin stay on the counter before they
11 disappear?

12 A. No.

13 Q. Can you look at Exhibit 21B, as in "boy" --
14 I'm sorry C, as in "Charlie." Is that the photograph?

15 A. Yes, it is.

16 Q. When did you take that photograph?

17 A. I took it a couple of days after the
18 autopsy.

19 Q. What prompted you to go take that
20 photograph?

21 A. The markings on Yessenia's body.

22 Q. And that was after you had attended the
23 autopsy?

24 A. Yes.

25 Q. Did you notice the soap in the shower when

1 you were initially investigating, investigating the
2 scene?

3 A. I think initially, no, just because I was
4 taking -- kind of taking it all in.

5 Q. And then slip to Exhibit 21D, I think would
6 be the next one -- no. Yes, D as in "David"?

7 A. Okay.

8 Q. That's the photograph with the towel and
9 the brush?

10 A. Yes.

11 Q. Do you remember Cole telling you that he
12 normally dries Yessenia off where the brush was
13 sitting?

14 A. Yes.

15 Q. And there's not a whole lot of space right
16 there?

17 A. No, there's not.

18 Q. Not a whole lot of space for a toddler to
19 stand or sit?

20 A. I would think a toddler would be able to
21 stand there.

22 Q. Not much room to move around, though?

23 A. Not much room to move around but...

24 Q. And when you were in the -- when you were
25 in the bathroom, you didn't notice any blood anywhere?

1 (Mr. Martinez interrupts Ms. Boskovich.)

2 THE COURT: All right. We'll take a
3 five-minute recess. During this recess, it's your
4 duty not to converse among yourselves. We'll bring
5 you back in shortly in a moment.

6 THE BAILIFF: All rise.

7 (A short recess is taken. Proceedings
8 resume outside the presence of the jurors.)

9 THE BAILIFF: All rise.

10 THE COURT: Thank you. Please be seated.
11 We're outside the presence of the 15 jurors. We've
12 been handed a Motion For Material Witness Warrant by
13 Mr. Vitto. Inside it, Exhibit A, is an affidavit from
14 Todd Arms.

15 MR. MARTINEZ: Judge?

16 THE COURT: Yes.

17 MR. MARTINEZ: Should we bring the
18 defendant in. Also Ms. Boskovich ran to the restroom.

19 THE COURT: You're welcome to, sir. I was
20 told you guys were ready.

21 MR. MARTINEZ: Okay. That's fine. I can
22 argue it.

23 THE COURT: Sometimes staff will come in
24 and say you guys are all ready, and we're not ready.
25 Did you want to wait for Ms. Boskovich?

1 MR. MARTINEZ: No, Judge. We can proceed.

2 THE COURT: All right. Very good.

3 Mr. Vitto, did you want to brief the
4 record?

5 MR. VITTO: Yeah. Let me address one point
6 real quick. I see here that I made a mistake on
7 page -- well, there's two page 1's. So the second
8 page 1, I said in my conclusion that Mr. Pullen was
9 personally served. But reading Mr. Arms' affidavit,
10 apparently he wasn't.

11 You'll recall that we were here. He
12 testified, he was cross-examined. He promised to
13 appear at that time for a trial date in August which
14 was consistent in regard to when he was due to be
15 released from custody. I believe that, I believe that
16 you ordered him to appear. He agreed to do so. The
17 trial date was vacated. And then reading Mr. Arms'
18 affidavit, he got an oral promise from Mr. Pullen to
19 appear November 2 through November 20.

20 The oral promise is binding here in the
21 State of Nevada. He then mailed a subpoena to
22 Mr. Pullen, and the affidavit then shows that we've
23 done everything we can to try to do what we can to
24 locate Mr. Pullen. We didn't know whether he would
25 not be here until he wasn't here or hasn't had

1 communication with us on November 2.

2 So here we are asking for a warrant for his
3 arrest. It's not like we can take a warrant and go
4 out and pick him up. But we will exhaust every effort
5 to contact North Las Vegas. I have a very good
6 contact in North Las Vegas who has been very good in
7 the past at finding people that I needed. We'll get
8 him the address or any and all addresses that we have
9 and leave no stone unturned with the authority and
10 power the warrant, if in fact you grant it.

11 THE COURT: Very good.

12 Counsel, I'm not even sure the motion is
13 adversarial, but is there anything you would like to
14 add?

15 MR. MARTINEZ: No, Judge. I was thinking
16 in my head that at a certain point throughout all of
17 this, if Mr. Pullen is not present, I will have
18 arguments to make. But I don't think they apply here
19 because the State served him with a subpoena and he's
20 not here. I think that's all they need for their
21 warrant.

22 THE COURT: All right. I'm going to go
23 ahead and sign the Warrant For Material Arrest. As
24 soon as he gets picked up, you'll bring him into court
25 right away, and we'll do what we need to do to have

1 him appear.

2 MR. VITTO: Absolutely, Judge.

3 THE COURT: Thank you, sir.

4 Mr. Bailiff, have you heard the status of
5 our juror, how she's doing?

6 THE BAILIFF: She's better, Judge.

7 THE COURT: Okay.

8 THE BAILIFF: She just needs some -- I will
9 tell you later.

10 THE COURT: Are all of you ready to begin?
11 Should we bring the jury in?

12 MR. MARTINEZ: We're ready, Judge.

13 THE COURT: All right. Let's go ahead and
14 bring the jury in.

15 (The jurors are brought into the courtroom.)

16 THE COURT: All right. We're back in the
17 presence of our 15 jurors. I believe we're in the
18 middle of cross-examination or near the end. Go
19 ahead, Counsel. Resume your cross-examination.

20 MS. BOSKOVICH: Thank you, Your Honor. And
21 I'm actually going to just jump back a couple of
22 questions to make sure that all of the jurors --

23 THE COURT: Sure. You want it to flow
24 right; correct.

25 MR. MARTINEZ: Thank you.

CROSS-EXAMINATION (RESUMES)

BY MS. BOSKOVICH:

Q. So looking at 21, I believe it was D, with the sink and the towels?

A. Yes.

Q. You stated that Cole told you he normally stands Yessenia where the hair brush is sitting to dry her?

A. Yes.

Q. And you stated that there's not a whole lot of extra room on the counter?

A. Correct.

Q. When you were in the bathroom, you didn't notice any blood anywhere?

A. No, I did not.

Q. You didn't notice any signs of a struggle that had happened in the bathroom?

A. No, I did not.

Q. Things weren't disheveled?

A. No.

Q. Nothing was in disarray?

A. No.

Q. And at one point you asked Cole to look at his phone call log?

A. Yes.

1 Q. To help establish a timeline of events?

2 A. Yes.

3 Q. Can you look at that exhibit, please?

4 A. Yes.

5 Q. That's State's Exhibit 18?

6 A. Yes.

7 Q. Do you know what kind of phone this was or
8 is?

9 A. Now, I don't recall what kind of phone it
10 is.

11 Q. At the time were you familiar with the type
12 of phone this was?

13 A. No. Other than it's not an Apple phone.

14 Q. Is that what you have, an Apple phone?

15 A. Yes, I do.

16 Q. So I'm not familiar with this either. On
17 direct, you stated that there was an incoming
18 emergency call at 7:12 p.m.?

19 A. Correct.

20 Q. How did you determine that that was an
21 incoming call?

22 A. Because the arrow -- well, the red arrow
23 down where Victoria is, and then it has the (2), it
24 has like the arrow going out.

25 Q. Okay.

1 A. So I would assume that's an outgoing call.

2 Q. You don't think it was a missed call maybe?

3 A. It could have been.

4 Q. So how often does 911 make outgoing calls?

5 A. They will make outgoing calls if somebody
6 calls 911 and hangs up.

7 Q. Okay. So like a disconnect, they'll call
8 back and try to get in contact with that person again?

9 A. Yes.

10 Q. And on his call log, did you see -- well,
11 there were no other calls from 911; correct?

12 A. Not that I recall, and not in that picture,
13 no.

14 Q. Okay. Looking at the second entry of
15 Victoria where it has the little red arrow.

16 A. Yes.

17 Q. And you said that there's a (2) next to
18 that?

19 A. Uh-huh.

20 Q. Do you have any idea what that (2) means?

21 A. For me, I believe it might be that he -- at
22 that time he tried to call her twice.

23 Q. Okay. Or it could be vice versa that she
24 tried to call him twice?

25 A. Correct.

1 Q. And going up to the next entry where it
2 says Victoria(3)?

3 A. Yes.

4 Q. Would you then take that to mean that there
5 were three calls to Victoria around that 7:08 p.m.
6 time frame?

7 A. Yes. That came in --

8 Q. That --

9 A. -- to her. Or I'm sorry. That came in
10 from her to him.

11 Q. Do you think that was an incoming call from
12 Victoria at 7:08 p.m.?

13 A. Yes.

14 Q. Okay. Was this the only photograph you
15 took of the call log?

16 A. Yes, I do believe so.

17 Q. And you didn't -- did you click on either
18 of these Victoria(2) or Victoria(3) entries?

19 A. I did not.

20 Q. So you didn't get a more detailed timeline
21 of when the additional calls were made, if there were
22 additional calls?

23 A. No, I didn't.

24 Q. So after you went through the call log, you
25 started talking to Cole about what happened again?

1 A. Yes.

2 Q. And he kept telling you that he couldn't
3 remember; he tried to wake her up?

4 A. Yes.

5 Q. He doesn't remember if he called her mom
6 first or the paramedics first?

7 A. Correct.

8 Q. And then he looked like he was going to
9 start crying again?

10 A. Yes.

11 Q. And at that point you placed Cole in
12 handcuffs?

13 A. I believe so. It was towards that -- after
14 that point, yes.

15 Q. You told him he was being detained?

16 A. Correct.

17 Q. Was it you or Deputy Burke that placed him
18 in handcuffs?

19 A. I don't recall.

20 Q. You told him you were going to go check on
21 the status of his daughter?

22 A. Yes.

23 Q. But you still hadn't read him his Miranda
24 warnings yet?

25 A. Correct.

1 Q. After you placed him in handcuffs, you went
2 and spoke with Chief Lewis or Sergeant Fowles, or
3 both?

4 A. It was both.

5 Q. Who did you talk to first?

6 A. Can I refer back to the transcript?

7 Actually, it's in my report. Can I look at
8 my report?

9 MS. BOSKOVICH: Okay.

10 Your Honor, may I approach and see what
11 she's referring to?

12 THE COURT: Yes.

13 MR. VITTO: Ronni.

14 (Mr. Vitto and Ms. Boskovich confer.)

15 Q. (By Ms. Boskovich) So I'm not familiar
16 with that; so I'm going to give you this. This is
17 what we have in discovery.

18 A. Okay.

19 Q. And I believe that is your report.

20 A. So I talked to Sergeant Fowles first.

21 Q. And what did he tell you?

22 A. He advised me that the child was pronounced
23 dead at the hospital.

24 Q. And then after that, you spoke with
25 Chief Lewis?

1 A. Yes.

2 Q. And he told you that the child's body was
3 covered in bruises?

4 A. He stated that she had trauma to her neck
5 and to her face and body.

6 Q. He didn't specifically mention strangle
7 marks though, did he?

8 A. Um, I believe that's what he said to me.

9 Q. If he had referenced strangle marks, would
10 that have been in your report?

11 A. It should have been, yes.

12 Q. And would you agree that there's nothing in
13 there that Chief Lewis told you anything about
14 strangle marks?

15 A. Correct; there's nothing.

16 Q. So when you went back to Cole, eventually
17 you did tell him that there were strangle marks on
18 Yessenia's neck?

19 A. Yes, I did.

20 Q. And that was after you told him that
21 Yessenia had been pronounced deceased?

22 A. Yes.

23 Q. I will take that report back from you, and
24 give it back to the State. Thank you.

25 MR. VITTO: Thank you, ma'am.

1 Q. (By Ms. Boskovich) And when you went back
2 to speak with Cole some more, at that point you read
3 him his Miranda rights?

4 A. Yes.

5 Q. And that's when you told him that Yessenia
6 had been pronounced deceased?

7 A. Yes.

8 Q. He started to cry immediately after hearing
9 that?

10 A. He did.

11 Q. He told you that he loved that little girl?

12 A. Yes.

13 Q. Fair to say that Cole seemed pretty
14 distraught at the news?

15 A. I would say he was upset. I wouldn't say
16 he was distraught.

17 Q. He started sobbing several times throughout
18 the interview process after he learned that she had
19 been deceased; right?

20 A. He did.

21 Q. To one point that at one point you couldn't
22 understand anything he was saying because he was
23 crying so hard?

24 A. I just couldn't understand what he was
25 saying.

1 Q. Okay. Because he was crying?

2 A. Because he was crying, yes.

3 Q. And after he was able to compose himself a
4 little, you asked him about his day?

5 A. Yes.

6 Q. He told you he had worked the night before?

7 A. Correct.

8 Q. He said he works a lot of hours?

9 A. Yes.

10 Q. And he came home that morning and took the
11 kids out to breakfast?

12 A. Yes.

13 Q. Then he came home -- well, he wanted to
14 stop for a beer before he went home; correct?

15 A. Correct.

16 Q. And then Victoria had a problem with that?

17 A. She did.

18 Q. And when they got home, he gave Victoria
19 money so she and Nickole could go get their nails
20 done?

21 A. Yes.

22 Q. And then Cole told you that he had started
23 drinking when they got home from breakfast?

24 A. Yes.

25 Q. Started sneaking drinks without Victoria

1 knowing?

2 A. Correct.

3 Q. Cole told you that -- at one point Cole
4 told you that when he realized Yessenia was
5 unresponsive, he just kind of snapped out of it?

6 A. Correct.

7 Q. And then he started panicking?

8 A. Yes.

9 Q. He told you that he doesn't really lose his
10 temper when he gets angry?

11 A. Correct.

12 Q. That he's usually the calm one?

13 A. Yes.

14 Q. A few minutes later, you asked Deputy Burke
15 to transport him to the Detention Center; correct?

16 A. Yes, I did.

17 Q. Do you remember what time roughly
18 Deputy Burke left the scene with Cole?

19 A. It was sometime around 8:00, after
20 8:00 p.m.

21 Q. Okay. You stayed on scene though after
22 Deputy Burke left?

23 A. Yes, I did.

24 Q. And later on, Detective Cox and
25 Detective Gibbs arrived on scene?

1 A. Yes.

2 Q. Did you request that they come to assist?

3 A. Yes.

4 Q. How come?

5 A. Usually, when we have a homicide, all
6 detectives are called out.

7 Q. Do you remember when they arrived?

8 A. I do not, no.

9 Q. And when they arrived, Detective Cox had
10 applied for a telephonic search warrant for the
11 residence?

12 A. Yes.

13 Q. Did you go back into the residence after
14 that search warrant?

15 A. Yes, after the search.

16 Q. To continue your investigation?

17 A. Yes.

18 Q. Did you take additional photographs at that
19 time?

20 A. I don't recall taking anymore photographs.
21 We usually assign everybody a specific task.

22 Q. Did you collect any physical evidence?

23 A. I personally did not that I recall.

24 MS. BOSKOVICH: Court's indulgence,
25 Your Honor?

1 THE COURT: Yes.

2 Q. (By Ms. Boskovich) And you said you
3 attended the autopsy of Yessenia on July 16th?

4 A. Yes, I did.

5 Q. And that was done in Clark County?

6 A. Yes.

7 Q. At the Coroner's Office there?

8 A. Yes.

9 Q. That was performed by Dr. Roquero?

10 A. Yes.

11 Q. Did you take any of the photographs from
12 the autopsy?

13 A. I don't recall taking photographs there.

14 MS. BOSKOVICH: Okay. No further
15 questions, Your Honor. Thank you.

16 THE COURT: Thank you.

17 Mr. Vitto?

18 MR. VITTO: I have a little bit of
19 redirect, Judge.

20 THE COURT: Thank you, sir.

21 REDIRECT EXAMINATION

22 BY MR. VITTO:

23 Q. You got the information that there was an
24 irate or highly upset male while you were driving to
25 the location; is that correct?

1 A. Yes.

2 Q. But that's not what you observed on scene,
3 is it?

4 A. No, it's not.

5 Q. Detective, at any time during your
6 interview with the defendant, did you say to yourself,
7 "Wow! This guy is wasted"?

8 A. No.

9 Q. He remembered her birthday; right?

10 A. I'm sorry.

11 Q. He remembered her birthday?

12 A. Yes, he did. Approximate, I believe.

13 Q. He gave you a month, a day, and a year?

14 A. Yes.

15 Q. Now, during cross-examination, you were
16 asked whether the space on the counter was a small
17 space. You also testified during cross-examination
18 that there was plenty of room for a toddler to stand;
19 is that correct?

20 A. Yes.

21 Q. And the defendant told you that that's
22 always where he dries Yessenia off?

23 A. Correct.

24 Q. And that he was drying her off after the
25 shower on this day?

1 A. Yes.

2 Q. And that while drying her off on the
3 counter, that's when she began to nod, go limp, and
4 became nonresponsive?

5 A. Yes.

6 Q. Now, during cross-examination, you were
7 asked whether you observed any disarray, a sign of
8 struggle, anything disheveled, and you said no?

9 A. Correct.

10 Q. Detective, do you know how much time lapsed
11 between Yessenia's shower and the 911 call?

12 A. I do not, no.

13 Q. Did the defendant tell you what he did
14 between the shower and the 911 call?

15 A. He stated between the -- I'm sorry, can you
16 repeat?

17 Q. Did the defendant tell you what he did
18 between -- and we know from the transcript that he
19 took Yessenia from the shower or drying her off and
20 laid her in bed.

21 A. Correct.

22 Q. Did he tell you what he did between laying
23 her in bed, when he felt something wrong with the back
24 of her head and she was nonresponsive, until the 911
25 call was made?

1 A. He tried to -- he slapped her face, tried
2 to get her to wake up, and he thinks he called either
3 Mom or the paramedics. At that time he stated he
4 didn't know which one.

5 Q. Was the defendant in handcuffs when he was
6 told that Yessenia was deceased?

7 A. Yes, he was.

8 Q. And quickly thereafter, he was transported?

9 A. Yes.

10 Q. When I say quickly, what are we talking
11 about? From the time that he was informed Yessenia
12 was deceased until the time he was transported, what
13 kind of time frame are we talking about?

14 A. I would say no longer than 25, 30 minutes.

15 Q. All right. You testified during
16 cross-examination that multiple detectives were
17 involved with this crime scene; is that correct?

18 A. Yes.

19 Q. Do you happen to know how many?

20 A. There were -- I believe we had three or
21 four detectives, and we had Undersheriff Eisenloffel
22 and Captain Boruchowitz on scene as well, who were
23 also detectives at one point.

24 Q. And I believe your testimony was that with
25 a homicide, all hands on deck?

1 A. Yes.

2 Q. Is there any question in your mind that
3 what you were looking at was a homicide scene?

4 A. After seeing the autopsy, yes.

5 Q. Yes, that was the scene of a homicide after
6 you saw the autopsy?

7 A. Correct.

8 MR. VITTO: No more questions.

9 THE COURT: Counsel.

10 MS. BOSKOVICH: Just a quick recross.

11 THE COURT: Thank you.

12 RECROSS-EXAMINATION

13 BY MS. BOSKOVICH:

14 Q. Have you ever met Cole before?

15 A. No, I have not.

16 Q. You've never been drinking with him?

17 A. No.

18 Q. You don't know how he acts when he's drunk?

19 A. No.

20 Q. You don't know if he has slurred speech?

21 A. No.

22 Q. Or if he gets belligerent when he's drunk?

23 A. No.

24 Q. Or if he's happy-go-lucky when he's drunk?

25 A. I do not know.

1 MS. BOSKOVICH: Nothing further. Thank
2 you.

3 THE COURT: Anything else?

4 MR. VITTO: Quickly.

5 FURTHER REDIRECT EXAMINATION

6 BY MR. VITTO:

7 Q. Following up on that, he told you he was
8 the calm guy; right?

9 A. Yes.

10 Q. But you don't know if he's the calm guy or
11 if he's Dr. Jekyll or Mr. Hyde, do you?

12 A. No, I don't.

13 MR. VITTO: No more questions.

14 THE COURT: Anything else?

15 MS. BOSKOVICH: No, Your Honor.

16 THE COURT: Subject to recall?

17 MR. VITTO: Yes.

18 THE COURT: Please don't talk about the
19 case with anyone but the two attorneys, and we'll get
20 in touch with you if we need you.

21 THE WITNESS: Yes, Your Honor.

22 THE COURT: Thank you. You may step down.

23 MR. VITTO: Steve Kafton.

24 THE BAILIFF: Please face madam clerk and
25 raise your right hand.

1 Whereupon,

2 STEVE KAFTON,

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

5 THE WITNESS: Yes.

6 THE COURT: We'd like the jury to be able
7 to see your face and hear your voice, but you don't
8 have to take off your mask if you're worried about
9 Covid.

10 THE WITNESS: I'm not worried.

11 DIRECT EXAMINATION

12 BY MR. ARABIA:

13 Q. Good afternoon, Mr. Kafton.

14 A. Hi.

15 Q. Would you please state your name and spell
16 your last name for the record?

17 A. Steve Kafton, K-a-f-t-o-n.

18 Q. Where do you live, sir?

19 A. 1570 Pimlico Hills Street, Henderson,
20 Nevada 89014.

21 THE COURT: Steve, the jury is everybody on
22 the left side of the courtroom. The young lady in the
23 far back is one of the jurors. So whenever you're
24 answering these questions, pretend like you're talking
25 to her so she can hear you.

1 THE WITNESS: Okay.

2 Q. (By Mr. Arabia) And what do you do for a
3 living?

4 A. I work at Albertsons grocery store.

5 Q. I would like to turn your attention to
6 Saturday, July 15th, 2017. At the time were you a
7 friend of Victoria Schlick?

8 A. Yes.

9 Q. Were you also a friend of Dwight Camp?

10 A. Yes.

11 Q. That morning, July 15th, what did you do
12 that morning?

13 A. I drove out here because I lived out there.
14 And I picked him up. We went back out to Henderson
15 and Vegas.

16 Q. When you say "here," you're referring to
17 Pahrump?

18 A. Correct.

19 Q. And "him," refers to Dwight?

20 A. Yes.

21 Q. Did you pick him up at the house at
22 5320 Manse?

23 A. Yes.

24 Q. Okay. You mentioned -- about what time did
25 you pick him up?

1 A. About 8:20, -30 in the morning, a.m.

2 Q. You mentioned that you went back to the
3 Henderson area. What did you do during the day there?

4 A. I mean, it was a long time ago. I think
5 we -- I think we went to Toys "R" Us, or -- but yeah,
6 and I'm not sure if we went to the movies or not, but
7 we were hanging out in that area in the house.

8 Q. Were there go-karts involved?

9 A. Yeah. I think we -- well, actually, we did
10 go to the go-karts.

11 Q. Okay.

12 A. Yeah. We went a few times so...

13 Q. Eventually, I want to turn to later in the
14 day, did you bring Dwight back out to the house in
15 Pahrump?

16 A. Correct; yes.

17 Q. Do you recall what time you dropped him
18 off?

19 A. Probably about 5:20, 5:30, somewhere in
20 there.

21 Q. And during the time that you were dropping
22 off Dwight, did you go into the house?

23 A. No. No, I never went in. I mean, when I
24 dropped him off, I just dropped him off, and he got
25 out and off I went.

1 Q. You drove off the property and back towards
2 Henderson?

3 A. Correct.

4 Q. Okay. Thank you.

5 MR. ARABIA: Nothing further.

6 MS. BOSKOVICH: No questions, Your Honor.

7 THE COURT: He can be permanently excused?

8 MR. VITTO: Yes.

9 THE COURT: Subject to recall?

10 MR. VITTO: He can be permanently excused.

11 THE COURT: You can be permanently excused.

12 Thank you, sir.

13 MR. VITTO: Please step up to the witness
14 chair and be sworn.

15 Whereupon,

16 VICTORIA SCHLICK,
17 called as a witness on behalf of the State, was sworn
18 and testified as follows:

19 THE WITNESS: Yes.

20 THE COURT: You can keep your mask on if
21 you're worried about Covid, but we'd like the jury to
22 be able to see your face and hear your voice so if
23 you're okay, you can take it off.

24 THE WITNESS: I'm okay.

25 THE COURT: Thank you.

DIRECT EXAMINATION

BY MR. VITTO:

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

A. Victoria Schlick, S-c-h-l-i-c-k.

Q. Victoria, the jury extends all the way back on this side. You need to speak into the microphone. We want to be sure that they get the opportunity to hear each question and each answer; okay?

A. Okay.

THE COURT: In the courtroom, you're kind of talking to the lady in the far left corner.

THE WITNESS: Okay.

Q. (By Mr. Vitto) Victoria, what is your occupation?

A. General merchandise manager at Albertsons.

Q. And which Albertsons is that currently?

A. Desert Inn and Pecos, Store 662.

Q. I want to direct your attention to a person named Cole Engelson. Do you see him in the courtroom today?

A. Yes.

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

A. He's wearing a green tie.

1 Q. What color shirt?

2 A. White.

3 MR. VITTO: May the record reflect the
4 in-court identification of the defendant
5 Cole Duane Engelson?

6 THE COURT: Yes, sir, it will.

7 Q. (By Mr. Vitto) Do you remember living with
8 Mr. Engelson?

9 A. I do.

10 Q. Do you know what the defendant weighed when
11 the two of you lived together?

12 A. Around 300 pounds.

13 Q. Do you know how much Yessenia weighed the
14 day she died?

15 A. Forty --

16 Q. Approximately.

17 A. -- 40 to 50 -- 40.

18 Q. Let me show you State's Proposed Exhibit 2.
19 Do you recognize State's Proposed Exhibit 2?

20 A. Yes.

21 Q. And what is that?

22 A. That's my daughter Yessenia Violet Camp.

23 MR. VITTO: Your Honor, I'd request that
24 State's Proposed Exhibit 2 be admitted and published
25 to the jury.

1 MR. MARTINEZ: No objection, Your Honor.

2 THE COURT: It's admitted. You can publish
3 it.

4 MR. VITTO: Thank you, Your Honor.

5 (Whereupon State's Exhibit No. 2 is
6 admitted into evidence and published to
7 the jury.)

8 THE COURT: You can angle that for the jury
9 if you want to.

10 MR. VITTO: Your Honor, can you ask the
11 jury if everybody can see it? If there's a consensus,
12 then I'll ask the record reflect that the jury is able
13 to see this photograph, and we can move on.

14 THE COURT: Everyone can see it okay?

15 THE JURORS: Yes.

16 THE COURT: All right. They're all saying
17 yes.

18 Q. (By Mr. Vitto) Victoria, what was
19 Yessenia's birthday?

20 A. 1/6/14.

21 MR. VITTO: Court's indulgence just a
22 moment, please?

23 Q. (By Mr. Vitto) Victoria, we know that
24 Yessenia is deceased, and we're going to be talking
25 about that. Let's go back a little bit. How long

1 have you known the defendant?

2 A. For a long time, since I was 18, 19 years
3 old.

4 Q. Okay. And how old were you -- how old were
5 you the day Yessenia died?

6 A. Thirty-two.

7 Q. Okay. You're currently 35?

8 A. I am.

9 Q. And is the defendant a little older than
10 you?

11 A. Yes.

12 Q. How old was he the day Yessenia died?

13 A. He's five years older than me -- 36, 37.

14 Q. When did the two of you rekindle your
15 romantic interest?

16 A. It was September of 2016-ish.

17 Q. And were you working at the time?

18 A. Albertsons, same store.

19 Q. And where was he working at the time?

20 A. Little Darlings.

21 Q. Now, the relationship was rekindled in
22 September of 2016. There came a time when you decided
23 to live together; is that correct?

24 A. Correct.

25 Q. When did that happen?

1 A. When was it talked about, or when we
2 actually moved in together?

3 Q. The relationship is rekindled in September
4 of 2016. I'll ask it this way: When did you actually
5 move in together?

6 A. May 2017.

7 Q. And where?

8 A. Pahrump, Nevada.

9 Q. What address?

10 A. 3240 Manse Road.

11 Q. You know it was on Manse Road?

12 A. It was Manse Road, yeah. I can't remember
13 the numbers.

14 Q. That's okay. The location where Yessenia
15 was deceased?

16 A. Yes.

17 Q. Who lived at that residence together?

18 A. Myself, Cole, my son Dwight, Yessenia, and
19 Cole's son Cole Jr.

20 Q. All right. And I'm sorry, did you mention
21 Nickole?

22 A. Nickole came on every other weekend.

23 Q. I understand. Did the both of you compute
24 to work?

25 A. He did. I transferred out here to

1 Albertsons.

2 Q. Got you.

3 MR. VITTO: Your Honor I'd like to show
4 this witness a couple of photographs. Prior to doing
5 that, I think it appropriate to read a proposed jury
6 instruction.

7 (Showing the jury instruction to
8 Defense Counsel.)

9 MR. MARTINEZ: Okay.

10 MR. VITTO: Your Honor, prior to the next
11 couple of exhibits that I'd like to show to this
12 witness, I think it appropriate that the Court read
13 this instruction at this time.

14 THE COURT: Thank you, sir.

15 You are going to receive a jury instruction
16 when you go back into the jury room to deliberate of
17 all of the laws of the State of Nevada. One of the
18 laws is NRS 48.045 subsection (2) which states:
19 "Evidence of other crimes, wrongs, or acts is not
20 admissible to prove the character of a person in order
21 to show that he acted in conformity therewith. It
22 may, however, be admissible for other purposes such as
23 proof of motive, opportunity, intent, preparation,
24 plan, knowledge, identity, or absence of mistake or
25 accident."

1 The attorneys will discuss that more with
2 you in the future and help you to understand it.

3 MR. VITTO: Thank you, Your Honor.

4 (Showing the exhibits to Defense Counsel.)

5 Q. (By Mr. Vitto) So showing you State's
6 Proposed Exhibits 3A and B. Victoria, do you
7 recognize those photographs?

8 A. Yes.

9 Q. What can you tell me about those
10 photographs?

11 A. They were sent to me by Cole because
12 Yessenia had slipped and fell and busted her chin
13 open.

14 Q. Okay. Where were those photographs taken?

15 A. In the bathroom of my apartment.

16 Q. Okay. So let's talk about that just a
17 little bit. So the two of you rekindled your
18 relationship in September. You moved to Pahrump the
19 following May on East Manse Road. So between
20 September and May, where were the two of you living?

21 A. He had his apartment with his mother and
22 his son, and I had my apartment with my two children
23 and my roommate.

24 Q. Okay. And who was your roommate?

25 A. Kishanna Marquez.

1 Q. Okay. And would there be times when you
2 might stay at his place, he might stay at your place,
3 that kind of thing?

4 A. Yes. Yeah, when my children would be at
5 their father's for the weekend, I would go to his
6 place. But he would bring his son over to my place
7 because our sons were close in age.

8 Q. And these photographs were taken at your
9 place?

10 A. Yes.

11 Q. And where was that at in Las Vegas?

12 A. Lake Mead and Hollywood.

13 Q. Okay. And how did he send you those
14 photographs?

15 A. Through text message.

16 Q. Okay. So he texted you, screenshot?

17 A. He took pictures with his phone and sent
18 them to me.

19 Q. Okay. And was -- was it some kind of
20 immediate response like, "Hey, look what happened.
21 You better come home"?

22 A. Yes.

23 Q. When were those photographs taken?

24 A. In April.

25 Q. Of?

1 A. 2017.

2 Q. Before moving to Pahrump?

3 A. Yes.

4 Q. And I believe you testified that the
5 defendant told you she fell off the counter?

6 A. Yes.

7 Q. Was he alone with Yessenia when that
8 picture was taken?

9 A. For the most part, yes. I think Kishanna
10 was home that day.

11 Q. Okay. But at that precise time, was he
12 babysitting?

13 A. Yes, because I had to go to work.

14 Q. You went to work; he was baby-sitting
15 Yessenia?

16 A. Yes.

17 Q. Do you know whether -- based on
18 conversations you had with him contemporaneous to the
19 time those photographs were taken and that incident,
20 do you know if he had been drinking that day?

21 A. No.

22 Q. Have you seen --

23 MR. VITTO: Well, Your Honor, at this time
24 before I move on a little bit, let me do this.

25 Q. (By Mr. Vitto) Showing you State's

1 Proposed Exhibit 3.

2 (Showing the exhibit to Defense Counsel.)

3 THE COURT: The previous two you showed her
4 were 3A and B?

5 MR. VITTO: Correct.

6 THE COURT: And this is 3?

7 MR. VITTO: Yes. This is 3.

8 THE COURT: Okay.

9 Q. (By Mr. Vitto) Do you recognize State's
10 Proposed Exhibit 3?

11 A. Yes.

12 Q. How do you recognize that?

13 A. It was when I took her to UMC for the
14 accident.

15 Q. And what medical care did she receive?

16 A. They cleaned it and put a butterfly stitch
17 on it.

18 Q. Sent her home?

19 A. (The witness nods.)

20 Q. Okay. So the defendant sent you a picture
21 of Yessenia. You got to come home. You went home,
22 you took her to get medical care, and she got a
23 butterfly stitch and sent home?

24 A. Correct.

25 Q. And she healed up?

1 A. Yes.

2 Q. Did she have a little scar?

3 A. Yes.

4 Q. (By Mr. Vitto) Showing you State's
5 Proposed Exhibit 4.

6 (Showing the exhibit to Defense Counsel.)

7 Q. (By Mr. Vitto) Do you recognize what's
8 depicted in State's Proposed Exhibit 4?

9 A. Yes.

10 Q. Can you see the scar from the chin incident
11 in April in that photograph?

12 A. Yes.

13 MR. VITTO: Your Honor, I would ask that
14 State's Proposed Exhibits 3, 3A, 3B, and 4 be admitted
15 into evidence.

16 MR. MARTINEZ: Judge, no objection to 3,
17 3A, and 3B. With regards to State's Exhibit 4, I
18 don't think we have any other foundation about who
19 took the picture, when the picture was taken, those
20 sorts of things. I'm sure it will be coming, and at
21 that point I probably wouldn't have an objection. But
22 as we stand right now, I don't think there's been
23 enough foundation.

24 MR. VITTO: That's fine, Judge. I would
25 ask that 3A and 3B be published to the jury at this

1 time.

2 THE COURT: 3 is admitted, 3A and B are
3 admitted. You can publish them to the jury. We'll
4 reserve 4 based on the foundation.

5 MR. VITTO: Thanks, Judge.

6 MR. MARTINEZ: Thank you, Judge.

7 THE COURT: You're welcome.

8 (Whereupon State's Exhibit Nos. 3,
9 3A, and 3B are admitted into evidence,
10 and 3A and B are published to the jury.)

11 MS. WARD: This is 3A.

12 MR. VITTO: This is 3A?

13 MS. WARD: Yes.

14 THE COURT: Can you see it okay in the
15 back? Everybody can see it? Okay.

16 MR. VITTO: And 3B.

17 THE COURT: Has everyone seen it?
18 Okay. Thank you.

19 MR. VITTO: Thanks, Judge.

20 Q. (By Mr. Vitto) Victoria, have you seen the
21 defendant drink?

22 A. Yes.

23 Q. Have you seen the defendant drunk?

24 A. Yes.

25 Q. Does the defendant have a high tolerance

1 for alcohol?

2 A. Yes.

3 Q. Have you ever known him to experience a
4 blackout?

5 A. No.

6 Q. Have you seen him able to accurately recall
7 events after drinking?

8 A. Yes.

9 Q. And being drunk?

10 A. Yes.

11 Q. Does it take a lot to get drunk for him?

12 A. Yes.

13 Q. Was he able to recall and relate to you
14 what happened after being, according to him, super
15 drunk?

16 A. As far as I remember his stories, yes.

17 Q. What can you tell me about the defendant's
18 use of Antabuse?

19 A. He was supposed to take it daily.

20 Q. When did you first find out that he used
21 it?

22 A. Before New Years.

23 Q. Of 2017?

24 A. New Years of 2000 -- yeah, from '16 to '17.

25 Q. Got you. That's when you first found out?

1 A. Yes.

2 Q. And how did you find out? What was the
3 context?

4 A. He told me about it. He was drinking that
5 night. He came over to my house for New Years.

6 Q. On New Years?

7 A. Yes.

8 Q. All right. When is the defendant's
9 birthday?

10 A. March.

11 Q. Do you recall the defendant asking
12 permission to go off the Antabuse for his birthday?

13 A. Yes.

14 Q. And how did you respond.

15 A. I said that's fine, as long as he goes
16 right back on it.

17 Q. Did you check on him or micromanage his
18 use?

19 A. No. He didn't ask me to.

20 Q. All right. What's your philosophy in that
21 regard?

22 A. He's an adult. He should be able to take
23 it himself.

24 Q. And did he ask to go off the Antabuse after
25 his birthday?

1 A. Yes.

2 Q. When?

3 A. Fourth of July.

4 Q. And did you have an agreement, you and he,
5 about going off and going back on?

6 A. Yes.

7 Q. And what was that agreement?

8 A. He would go off for fourth of July and then
9 go back on when he was able to.

10 Q. Do you recall what he had to drink on his
11 birthday?

12 A. Yes.

13 Q. What was that?

14 A. His friends got him a bottle of Hennessy;
15 so he was drinking Hennessy.

16 Q. Did he drink the whole bottle?

17 A. Yeah.

18 Q. And what did he drink on July 4th?

19 A. I can't remember.

20 Q. Do you happen to remember if it was just
21 drinking beers?

22 A. Beers. There was a lot of beers being
23 drank. I can't remember -- shots. A typical party.

24 Q. All right. So there was a party?

25 A. Yes.

1 Q. Where at?

2 A. At my friend Amy's house.

3 Q. Was that in Las Vegas?

4 A. Yes.

5 Q. From your observation, how familiar was the
6 defendant with the use of Antabuse as far as when he
7 could go off and when he could drink, that kind of
8 thing?

9 A. He had it down to a science on how long it
10 took him to get it out of his system to start drinking
11 to when he could go back and actually take the pill;
12 how long it would take before he could start taking
13 the pill again.

14 Q. Because what were the effects -- what's the
15 effect of drinking while actively drinking Antabuse?

16 A. You get severely sick to your stomach.

17 MR. MARTINEZ: I'm going to object to
18 foundation there, Judge.

19 THE COURT: Sustained.

20 Q. (By Mr. Vitto) After -- Hennessy is
21 Cognac, isn't it?

22 A. Yes.

23 Q. After drinking the Hennessy, how was the
24 defendant affected?

25 A. He was drunk, but he was still walking and

1 talking.

2 Q. Okay. Has it been your observation that
3 the cycle of on and off affects his tolerance at all?

4 A. No.

5 Q. All right. So alcohol didn't affect him
6 differently after going off and drinking?

7 A. No.

8 Q. He wouldn't lose his tolerance?

9 A. No.

10 Q. From your observation cycling like this had
11 no effect at all on him?

12 A. No.

13 Q. So did you see him virtually every day for
14 almost a year before Yessenia died?

15 A. Yes, pretty much.

16 Q. September 2016 to July 15, 2017?

17 A. Yes.

18 Q. Virtually every day. And certainly when
19 you moved in together?

20 A. Correct.

21 Q. Victoria, upon arriving home to find
22 Yessenia the way you did, how would you describe the
23 defendant's level of intoxication, let's say on a ten
24 scale?

25 A. He was sitting on the front porch relaxed

1 when I pulled up. There was no level to even -- I
2 just ran right past him when I got home.

3 Q. How would you describe -- where were you at
4 when you realized you had to get home?

5 A. The nail salon.

6 Q. How would you describe your driving pattern
7 from the nail salon to your home?

8 A. Seventy to a hundred miles an hour.

9 Q. How would you characterize your pulling
10 into the driveway?

11 A. Fishtailing.

12 Q. How would you characterize -- you got out
13 of the vehicle at one point; right?

14 A. When I slammed it in park, yes.

15 Q. And you went into the house?

16 A. Yes.

17 Q. Did you walk into the house?

18 A. No.

19 Q. Did you run into the house?

20 A. I ran past him screaming at him, "Where is
21 she?"

22 Q. You characterized speeding home,
23 fishtailing into the driveway, running into the house,
24 "Where is she?" Why? What did you -- what were you
25 told by the defendant, or what did you know that

1 caused this reaction?

2 A. I was panicking because the second time he
3 called me when I was -- the second time we spoke on
4 the phone when I was already driving home, he said,
5 "There is an accident. I don't know what happened. I
6 don't know what happened. There's something so wrong.
7 You need to be home. You need to get home. You need
8 to get home." He kept repeating himself.

9 Q. And did that create panic within you?

10 A. Yes.

11 Q. Now, I'd like to play for you State's
12 Proposed Exhibit 63. I would like to play this for
13 you, and I would like to ask you some questions on it.

14 MR. MARTINEZ: Judge, I just want you to
15 know my concern and my objection that this is a
16 proposed exhibit that hasn't been admitted, hasn't
17 been requested to be admitted, but it looks like the
18 State is asking to publish it to the jury here.

19 THE COURT: That's correct, sir. I was
20 looking back through to see if this had been with a
21 previous witness and admitted, and I can't find any
22 record.

23 MR. VITTO: It has not.

24 THE COURT: All right. So it's a new
25 exhibit. And what is it, and so forth?

1 MR. VITTO: Go ahead and pop it out.

2 (State confers with Defense Counsel.)

3 MR. VITTO: Judge, can we have a
4 five-minute recess?

5 THE COURT: Ladies and gentlemen, we're
6 going to take a short recess.

7 During this recess, it's your duty not to
8 converse among yourselves or with anyone else on any
9 subject connected with the trial; or to read, watch,
10 or listen to any report of or commentary. And don't
11 form or express an opinion until the matter is finally
12 submitted to you. Short recess.

13 THE BAILIFF: All rise.

14 (A short recess is taken. Proceedings
15 resume outside the presence.)

16 THE BAILIFF: All rise.

17 THE COURT: Thank you. Please be seated.
18 We're outside the presence of our 15 jurors.

19 Counsel?

20 MR. VITTO: Judge, we've resolved the video
21 issue. We'll be fine when we get the jury back.
22 There's one other thing that we want to address
23 outside the presence of the jury. Over the course of
24 the defendant's interviews with law enforcement, he
25 referenced two instances --

1 (State and Defense Counsel confer.)

2 MR. VITTO: There's two instances, Judge.
3 There's an instance where the defendant refers to not
4 wanting to discipline Dwight for fear that if he
5 started, he wouldn't be able to stop. There's also a
6 reference to striking Yessenia. He recognized that
7 he'd hit her too hard on one occasion in the past.

8 And those are instances that he discussed
9 with Victoria; she was aware of those. He had brought
10 those to her attention. And we think that they are
11 relevant and admissible in this trial. This whole
12 trial is about whether Yessenia's death was some kind
13 of accident or a homicide, if it was some kind of
14 drunken accident or a homicide.

15 And during the investigation, res gestae to
16 this investigation, the defendant talked about these
17 incidents when it was trying to be determined whether
18 this was accidental or nonaccidental. And he brought
19 up these two incidents and told law enforcement that
20 he had discussed with Victoria being afraid to
21 discipline Dwight, because if he did, he would never
22 stop, and hitting Yessenia on one occasion too hard.
23 You could really tell from the sound of it that he had
24 cracked her a good one. And he didn't want to do
25 that.

1 The position of the Prosecution is that
2 it's relevant to the mens rea of the defendant and
3 that it is not unfairly prejudicial and that it should
4 be admitted.

5 THE COURT: Counsel?

6 MR. MARTINEZ: Thank you, Judge.

7 Your Honor, I disagree with the State's
8 characterization about how those statements came up in
9 Mr. Engelson's interviews with law enforcement. They
10 weren't excited utterances. He didn't just tell law
11 enforcement about that out of the blue.

12 In the course of their investigation, as
13 when we talked to Detective Cox and Detective Gibbs
14 and Detective Fancher, they will tell you they asked
15 him about that. They asked him about the relationship
16 with all of the kids and whether or not he disciplined
17 them and what that was like. And that's when
18 Mr. Engelson said this is what happened. "No, I did
19 not discipline Dwight. In fact, I told him once I
20 would never hit him because I would be afraid I
21 wouldn't stop if I started," and then continued on to
22 say, "I said that just to put the fear of God in him
23 in an attempt to get him to behave."

24 I will take the two statements one at a
25 time, Judge. The one regarding Dwight has zero

1 probative value to this case. Dwight Camp is not an
2 alleged victim in this case. Mr. Engelson's
3 relationship with Dwight Camp is not an issue in this
4 case. There's zero probative value there. It would
5 just be an attempt at Mr. Engelson's character, saying
6 if he --

7 THE COURT: Who is Dwight?

8 MR. MARTINEZ: Dwight is Yessenia's brother
9 and Victoria's son.

10 THE COURT: Okay. Thank you.

11 MR. MARTINEZ: But it's an attempt by the
12 State to say Mr. Engelson knows he could have done
13 this, he admitted that he could have done it, that's
14 why we know he committed this crime, and that's it.
15 It's not relevant. There's zero probative value to
16 this case. It is nothing but prejudicial in front of
17 the jury, and that's why I would ask the Court to
18 specifically keep that one out.

19 With Yessenia, I don't think I'm on as firm
20 ground there, Your Honor. Obviously, it's a story
21 that involves the alleged victim in this case, the
22 deceased. But that's a situation where, again, I
23 think it just -- ultimately, it just goes to the
24 defendant's character, which is inadmissible. It
25 needs to be admissible for a reason other than just

1 character evidence, but that's all that it was. It's
2 character evidence to say that he's heavy-handed or he
3 knows when he's gone too far or that he's done this in
4 the past.

5 It doesn't have any probative value to say
6 that -- the State's attempting to say he hit her too
7 hard in the past, he hit her too hard this time, which
8 is not for the purpose it's supposed to be, Judge.
9 That's an inadmissible reason to say that he did it in
10 the past, he acted in conformity therewith. Same
11 reason we had the Petrocelli Hearing on all of the
12 other issues that we had the long two-day Petrocelli
13 Hearing.

14 THE COURT: You're taking all of the words
15 out of my mouth.

16 MR. MARTINEZ: I know, and I thought we
17 were --

18 THE COURT: So the incident with the chin,
19 we had the Petrocelli Hearing, I made the decision,
20 and it wasn't to prove he acted in conformity; it was
21 to show lack of motive, scheme -- I can't remember
22 what the finding was. But anyway, that's what we
23 decided then.

24 Now this is a separate, different incident
25 where he allegedly hit her too hard, and he told

1 Victoria, "I hit her too hard." Same thing, same type
2 of hearing, Petrocelli. Is it to -- not to show he
3 acted in conformity with hitting her too hard? I
4 don't see how it's res gestae at all, except that it
5 occurred in history.

6 MR. MARTINEZ: Correct.

7 THE COURT: But does it meet the standard
8 of that same statute we used to put the damage to the
9 chin in? And we'd have to have Kirk address that
10 issue. But anyway, was there anything else you wanted
11 to say?

12 MR. MARTINEZ: No, Your Honor. You said
13 everything. I don't think either statement should be
14 entered into evidence.

15 THE COURT: Thank you, sir.

16 MR. VITTO: Your Honor, there's certainly
17 nothing wrong with the investigation. You have a
18 little girl who was obviously beaten to death; that's
19 not a question.

20 THE COURT: Then what do we have the jury
21 here for? Let's get rid of them. I'm kidding you.

22 MR. VITTO: Well, let's look at the autopsy
23 report. Multiple blunt force trauma, homicide. We
24 have the pictures of the little girl. This wasn't one
25 injury. This wasn't one smack. This was a raining of

1 blows.

2 THE COURT: And you want to say that it's
3 been ongoing for a while?

4 MR. VITTO: Nope. You will never hear
5 those words out of my mouth.

6 THE COURT: All right.

7 MR. VITTO: The point is the detectives
8 knew what they were working with. They had a crime
9 scene. That crime scene included Yessenia's body,
10 battered and bruised. Pattern bruises, skull
11 fracture. They're asking questions. How do you
12 discipline her? It's an appropriate question to ask.
13 This is a homicide investigation. How do you
14 discipline the other kids? Those are all appropriate
15 questions.

16 He didn't have to say anything, but what he
17 said was, "Yeah, with Dwight, and I told Victoria
18 this, I didn't want to discipline Dwight, because if I
19 did, I wouldn't stop." And that's exactly what we
20 have. That is exactly going to be the position of the
21 Prosecution. He started beating Yessenia, and he
22 couldn't control himself. He couldn't stop, he didn't
23 stop, and he beat her to death. And one time in the
24 past, he admitted that he cracked her too hard. He
25 said you could tell by the sound of it that he cracked

1 that little girl too hard. That's probative evidence.
2 That's relevant evidence. And that evidence should be
3 admissible in this trial.

4 THE COURT: And pursuant to the Petrocelli
5 hearing that we heard about the damage to the chin
6 where you showed the pictures, and I allowed that,
7 what was the finding that you wanted it to be in
8 conformity or -- I can't -- explain it to me again.

9 MR. VITTO: I'm going to use that
10 photograph as it relates to lack of mistake or
11 accident.

12 THE COURT: And this differs from the
13 previous smack. You're not making the same legal
14 argument?

15 MR. VITTO: That -- those two statements,
16 those statements about Dwight and about Yessenia are
17 admissible as they reflect upon the evidence in this
18 case, this case. How did this happen? I mean so far
19 as we can tell, the Defense position is he's not
20 guilty. He pled not guilty. He's not guilty. He did
21 not do this. He did not abuse this child.

22 And we've got a statement, two
23 statements -- one about Yessenia and one about Dwight.
24 I'm not going to discipline Dwight because I won't be
25 able to control myself. And that's what her little

1 body reflects. And then we have the statement in
2 regard to Yessenia, "There was that one time I hit her
3 too hard."

4 MR. MARTINEZ: Judge, the State makes my
5 argument for me. You read the jury instruction to the
6 jury already. Prior bad acts can't be introduced to
7 prove the defendant's conformity therewith in
8 committing this offense. That's what Mr. Vitto just
9 said. I'm introducing this statement to say that's
10 what he did here. I'm introducing this other incident
11 where he admitted he hit the victim too hard. That's
12 what he did in this case as well. He's introducing
13 this for a non-admissible purpose. They should be
14 left out. It's as simple as that, Judge.

15 MR. VITTO: 48.045. Who has that jury
16 instruction? Here it is. 480.45, sub (2): "There
17 are times when evidence is admissible for other
18 purposes." Other purposes, and then we have a list of
19 purposes, but the list of purposes is distinct from
20 other purposes.

21 This evidence should be admitted to explain
22 the severity of the beating that this little girl
23 endured that caused her death.

24 THE COURT: I have to -- I have never
25 thought of myself as an arrogant judge, and I have to

1 tell you that I'm totally perplexed right now, because
2 I concur with you in the reading of the statute. We
3 can't show this prior bad act that he popped the girl
4 too hard to prove that he acted in conformity with
5 here, which is what I think Kirk is arguing; do it.

6 And then the subtlety to Kirk's is he's
7 saying basically that that's a confession. "When I
8 hit the little girl, I hit her too hard. I get
9 carried away like I do with Dwight -- like I would
10 have with Dwight." So he's trying to use it as part
11 of his confession that, "Yeah, I beat this little girl
12 to death because I get carried away, and I popped her
13 too hard previously." That's how he's using it. And
14 it seems to me that it falls within that statute of
15 the chin accident, the Petrocelli hearing we had, that
16 Kirk is saying, "I'm not asking you to have the jury
17 find he's guilty because of this prior incident where
18 he hit her too hard, but rather I'm using it to
19 show" -- and I don't have the statute in front of me.
20 And so it's funny because he's not arguing that to me
21 when I ask him to argue that to me, what he's offering
22 it for. And --

23 MR. MARTINEZ: And, Judge --

24 THE COURT: -- I think it's substantive. I
25 think it's probative. I'm not quite sure yet about

1 the more prejudicial than probative. I'm wasting time
2 talking while I'm running it through my head, making
3 an analysis.

4 Go ahead.

5 MR. MARTINEZ: And, Judge, in my research
6 to my Opposition to all of the bad acts before the
7 Petrocelli hearing, one thing that constantly came up
8 is the State needs to be specific with their purpose.
9 They can't just say, "We'll figure out the purpose.
10 Let it in." They have to tell us this is the purpose
11 I'm introducing it for, and they haven't done that.

12 MR. VITTO: All right. I will do that.

13 MR. MARTINEZ: And one other thing to touch
14 on, Your Honor. Mr. Vitto said this was part of a
15 normal, good investigation. I don't disagree with
16 that. There's plenty of times where the police
17 interview somebody and things are said that are not
18 going to come in at trial.

19 THE COURT: Your investigating me for doing
20 this burglary, and I've done burglaries in the past
21 back when I was a juvenile, and so forth. They don't
22 come in as prior bad acts.

23 MR. MARTINEZ: Exactly, Judge.

24 MR. VITTO: Here's the statute, Judge, and
25 I will be specific. I believe that these statements

1 should be admissible because this is not an accident
2 (handing photographs to the bailiff for the Judge).

3 THE BAILIFF: You want to see these?

4 THE COURT: What are they, photos?

5 THE BAILIFF: Yes.

6 THE COURT: I don't need to see them.

7 MR. VITTO: Judge, have you seen any
8 photographs of what this dead little girl's body
9 looked like?

10 THE COURT: I believe we showed a couple at
11 the beginning of this trial.

12 MR. VITTO: This is not an accident, Judge.

13 THE COURT: If the defendant says to the
14 mother of the victim, "I better not hit Dwight,
15 because if I do, I'll whale on him," and then three
16 months later, he allegedly hits the little girl and
17 whales on her, is that probative evidence that
18 outweighs the prejudicial value that he himself
19 admitted that if I hit the kids, I'll go too far and
20 whale on them?

21 MR. MARTINEZ: In that specific instance,
22 Your Honor, especially this one, no. There's a whole
23 bunch of context around that discussion and his
24 feelings for Dwight Camp and why he said that
25 specifically that aren't present when we're talking

1 about Yessenia.

2 THE COURT: I understand that. "Dwight is
3 pissing me off. I keep telling him to change the
4 channel, or pick up the plate, or whatever, and he's
5 pissing me off. And I know me, if I ever take it to
6 the step where I'm going to physically discipline him,
7 I'm going to do it to the point where we're calling an
8 ambulance." Three months later, it happens with the
9 little girl. It seems probative to me.

10 MR. MARTINEZ: And, Judge, it's not just
11 that simple that this kid misbehaves and that's what
12 upsets me. Again, there's a whole background and a
13 whole history and a whole context about Dwight
14 throwing things and injuring Little Cole, Cole's son,
15 when they first started hanging out and Cole kind of
16 holding that against him as they got older and it was
17 something that he had some animosity for. Where none
18 of that background information existed at all with
19 regards to Yessenia.

20 Again, if Dwight was the victim in this
21 case, I don't think I would have much a leg to stand
22 on as far as that statement goes. With him not being
23 the alleged victim in this case --

24 THE COURT: Kirk's not making the argument,
25 but let me make it. I allowed at the Petrocelli

1 hearing the damage to the chin, the event that
2 occurred, to show -- and I can't remember the exact
3 finding I made, but to show that how was him hitting
4 the girl so hard that it worried him and he told mom
5 different from the chin incident that I allowed.

6 MR. MARTINEZ: Well, I argued to keep the
7 chin out too at the Petrocelli hearing.

8 THE COURT: I know, but I made the right
9 decision. So how is this different than the chin
10 incident?

11 Go ahead, Counsel. Kirk, why did I let the
12 chin incident in? What was the finding I made on it?

13 MR. VITTO: I'm using it to show lack of
14 mistake, absence of mistake or accident. I don't know
15 what your ruling was.

16 THE COURT: Okay. Is that it, absence of
17 mistake and accident? When he said, "I hit the little
18 girl so hard, it scared me and I told mom," that's the
19 same thing as the chin incident, isn't it?

20 MR. VITTO: Yes.

21 THE COURT: All right, Now we heard the
22 argument. So what's your response to that?

23 MR. MARTINEZ: Judge, that it's not
24 mistake, that it's not being introduced for that
25 purpose. The State started their argument by saying,

1 "That's what happened there. That's what's happened
2 here," which the whole purpose of the statute, bad
3 acts can't be introduced.

4 THE COURT: We can do a jury instruction
5 telling the jury that we're not having this confession
6 that I popped the little girl too hard to show he
7 acted in conformity therewith, but rather to show
8 mistake or accident, and so forth.

9 MR. MARTINEZ: I understand, Judge, but I
10 don't think a jury instruction is going to cure it.

11 THE COURT: Well, they haven't heard any of
12 this yet; so we're kind of brainstorming here before
13 it comes up. It's going to be limited to them.

14 Okay. Anybody want to tell me the right
15 answer that's God's going to agree with and the
16 Supreme Court is going to uphold? All right. Let me
17 think for a second. I'm reading what you guys said.

18 All right. I'm going to allow the "popped
19 the little girl too hard" for the same reason I
20 allowed it with the chin which is to show absence of
21 mistake with a jury instruction that it's not to be
22 used for the act of conformity, but that he knows what
23 he's doing when he pops her too hard.

24 And then I'm going to leave out the Dwight
25 information, because I don't have enough information

1 of the prior history leading up to the fact that "I'm
2 so pissed off, If I hit him, I'm going to whale on
3 him." I'm not taking that as a general confession of
4 his character, but rather an explanation of the
5 incident that occurred at the time. And it's more
6 prejudicial than probative.

7 Anything else?

8 MR. VITTO: Thank you, Your Honor.

9 MR. MARTINEZ: Thank you, Judge. Nothing
10 else.

11 THE BAILIFF: Let the jury back in? Are
12 you guys ready for the jury?

13 MR. VITTO: Yes.

14 THE COURT: It should be noted for the
15 record, by the way, that the Supreme Court may
16 disagree with me, but God will agree with me in the
17 end. Or at least he'll pat me on the head and say,
18 "You gave it a good faith, honest try."

19 (The jurors are brought back in to
20 the courtroom.)

21 THE COURT: All right. We're back in the
22 presence of our 15 jurors, and you left off on direct
23 examination.

24 MR. VITTO: Thank you, Your Honor.

25 THE COURT: Thank you.

1 MR. MARTINEZ: Judge, for the record the
2 Defense will stipulate to the admission of State's
3 Proposed Exhibit 63.

4 THE COURT: Thank you, sir. It's admitted.

5 MR. VITTO: Thank you, Your Honor. We're
6 going to go ahead and publish that to the jury at this
7 time, and then I will be asking the witness some
8 questions about it.

9 (Whereupon State's Exhibit No. 63 is
10 admitted into evidence and published to
11 the jury.)

12 (A short video is watched by the jurors.)

13 MR. VITTO: Thank you, Kassie.

14 DIRECT EXAMINATION (RESUMES)

15 BY MR. VITTO:

16 Q. Victoria, what did we just watch?

17 A. My driveway, from the porch to the road.

18 Q. All right. That's the long, curving
19 driveway that you fishtailed into on the date in
20 question?

21 A. Yes.

22 Q. Does that accurately depict the driveway as
23 you recall it?

24 A. Yes.

25 Q. Would you say that at that time living with

1 him, seeing him on a daily basis, that you knew him,
2 the defendant, as well as just about anybody?

3 A. Yes.

4 Q. You were in love with him at the time?

5 A. Yes.

6 Q. You recall finding Yessenia; is that
7 correct?

8 A. Yes.

9 Q. And where did you see her?

10 A. On the bed.

11 Q. And what did you do when you saw her on the
12 bed?

13 A. I scooped her up and shook her and smacked
14 her face and tried to wake her up.

15 Q. Was there any response?

16 A. No.

17 Q. What did you do after that?

18 A. I picked her up and put her to the floor.

19 Q. And then?

20 A. Screamed at my kids to call 911.

21 Q. Do you remember speaking with a dispatcher
22 at 911?

23 A. Yes.

24 Q. At one point, Victoria, we -- it sounds
25 like we could hear you making a reference to call your

1 dad?

2 A. (The witness nods.)

3 Q. Who were you speaking to; do you recall
4 that?

5 A. I screamed at one of my kids to call their
6 dad.

7 Q. Do they have the same father, Nickole and
8 Dwight?

9 A. No.

10 Q. You don't remember which one you were
11 speaking to at the time?

12 A. No, but I was referring to Yancey.

13 Q. Okay. And Yancey is Yessenia's father?

14 A. Yes.

15 Q. And Dwight's father?

16 A. Yes.

17 Q. And Yancey is currently deceased as well?

18 A. He is.

19 Q. He died a year after Yessenia?

20 A. Yes, a year and two weeks after Yessenia?

21 Q. Now, what happened -- so you were trying --
22 you were performing CPR on your daughter?

23 A. I did.

24 Q. And then medical arrived; is that correct?

25 A. Yes.

1 Q. What happened after that?

2 A. After medical took her?

3 Q. Yes.

4 A. I raged to find Cole.

5 Q. Okay. Did you find him?

6 A. I did.

7 Q. Where did you find him?

8 A. Walking up the driveway.

9 Q. Okay. Did you see him walk down the

10 driveway?

11 A. No.

12 Q. You saw him walking up the driveway?

13 A. Yes.

14 Q. What happened when you saw him walking up

15 the driveway?

16 A. I charged him.

17 Q. What happened after that?

18 A. I was smacking him and pulling his beard

19 and screaming at him what did he do.

20 Q. Did you hit him?

21 A. When I got to him, I closed fists like on

22 his chest.

23 Q. You thumped him with both fists on his

24 chest?

25 A. Yes.

1 Q. How much did you weigh at the time?

2 A. 145, 150.

3 Q. And you struck him on his chest with both
4 fists?

5 A. Yes.

6 Q. And what did you do after that?

7 A. Smacked him and pulled her beard. I
8 smacked him and hit him in his face.

9 Q. Okay. You were yanking him around by his
10 beard?

11 A. I pulled it down. I was pulling it down.

12 Q. Okay. And what was his reaction?

13 A. He was just standing there.

14 Q. And you were amped up, so to speak?

15 A. Yes.

16 Q. You were looking for him?

17 A. I was.

18 Q. You found him?

19 A. I did.

20 Q. And you attacked him?

21 A. I did.

22 Q. And he didn't fall?

23 A. No.

24 Q. And he didn't stumble?

25 A. No.